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Larry M. Weil, Planning and Community Development Director
Tim Solberg, Senior Planner
Lisa Sankey, Assistant Planner

West Fargo Planning and Zoning Commission
May 9, 2016 at 7:00 P.M.
West Fargo City Hall

Members Present: Scott Diamond
 Shane LeBahn
 David Gust
 Leroy Johnson
 Joe Kolb
 Tom McDougall

Members Absent: Jim Brownlee

Others Present: Larry Weil, Lisa Sankey, Tim Solberg, Matt Welle, Matt Marshall, Dave Paulson, Odee Hendrickson, Mark Weston, Mike Bernath, Tim Kerr, Randy Cramer, Eddie Buell, Nate Vollmuth, Art Goldammer, Jim Swenberger, Dan Farnsworth, Steve Stoner, Austin Morris, Heath Lynnes, Clark Erickson, Peggy Stibbe, Ed Magarian, Loren Thoennes, Wayne Stromme, Duwayne Engness

The meeting was called to order by Chair McDougall.

Commissioner Kolb made a motion to approve the April 11, 2016 meeting minutes as written. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

The first item on the agenda was Detailed Development Plans – A16-6 Highland Meadows.

Tim reviewed the following from the staff report:

At the March 14th Planning and Zoning Commission meeting, Detailed Development Plans for Lots 2 & 3 were approved subject to conditions. At their April 4, 2016 meeting, the City Commission failed to take action on the plat. The applicant has decided to bring the item back through for review of detailed development plan review with all the initial conceptually approved single family residential lots included in the plat. The new plat shows the previously approved portion which would allow for development of the six 26-unit apartment buildings, and has split the western portion of the plan into 92 single family residential lots to be combined into the proposed PUD.

The applicant has provided a revised narrative along with previously submitted images and renderings of typical homes in the single family portion, while continuing the previously submitted proposal for the six 26-unit two-story multiple family buildings. The applicant has provided details that the exterior materials would consist of steel siding, stone, and powder coated aluminum decking. The site plan remains the same for the multiple family portion of the development.

The single family portion with 92 single family lots includes 10 twin home lots within proposed Block 1 which meet the district standards of the R-1SM district. Block 2, Block 4, and portions of Block 5 would not meet the district standards of the R-1SM district as they have multiple lots of 40' wide that are placed side by side, whereas the R-1SM district standards only allow for no more than two lots side by side with widths between 36-40'. The applicant could increase those lot sizes to greater than 40' to comply with the R-1SM district standards. Although it is not stated in the application, it is the understanding that the applicant is proposing this PUD as an alternative to the strict adherence to the R-1SM district standards. The PUD process allows greater flexibility for development, however it should be used to provide such things as conservation and more efficient use of land, higher standards of site and building design, preservation and enhancement of desirable site characteristics, or uniqueness and innovative design. The proposed single family portion of the PUD does not appear to meet these requirements, nor do they provide any public spaces or desirable site characteristics so it would be advised to require the lot sizes at minimum conform to the R-1SM district requirements.

Although the City Commission has not approved the PUD of the multiple family development, the recommendations for that portion would be unchanged from staff as the point was made that density and mix of housing types would be acceptable as it pertains to the Comprehensive Plan. That being said, the type of housing was not acceptable to the City Commission, therefore they did not approve a first reading which indicates they would not accept a land use plan amendment. Staff has recommended to the developer that a different housing type rather than the six 26-unit two-story multiple family buildings should be pursued in order to garner City Commission approval, they have not yet provided an alternative.

Staff has recommended to the developer that they recognize and attempt to provide an alternative to the proposed type of multiple family structures to garner Commission support and would recommend discussion on this topic. With that being said, staff would uphold its recommendation to approve the proposed application on the basis that with an approved land use plan amendment it will be consistent with City plans and ordinances with recommended conditions as follows:

1. That a Land Use Plan Amendment from low density residential to high density residential be considered and approved based on the goals and polices of the Comprehensive Plan at final approval of the Planned Unit Development.
2. Block 2, Block 4, and Block 5 are amended to meet the requirements of the R-1SM district standards.
3. Development will be subject, but not limited to the PUD standards submitted by the developer, following the lot and yard requirements of the R-2 District and R-1SM District, as well as number of units per building, number of specified stories, and total units for the development; 4-400 Supplementary District Regulations; 4-450 Off-Street Parking and Loading Requirements; and 4-460 Sign Regulations.
4. Any possible subsequent changes to the multiple family structures would be reviewed as a PUD Amendment or PUD Minor Modification.
5. A construction schedule is submitted for timing of building construction and site improvements.
6. A signed park or land dedication agreement is provided.
7. A signed PUD/Subdivision Improvement agreement is received.
8. Final Plat with any necessary easements is received.
9. A drainage and utility plan is received and approved by the City Engineer.
10. A mailbox plan is received and approved by the Post Office.
11. An updated Attorney Title Opinion addressed to the City is received.
12. Certificate of Taxes is received showing taxes are current.
13. Sewer hook-up fees are addressed.

There were no comments from the public. The hearing was closed.

Tim stated that the City Commission was primarily concerned with the apartments, so staff asked the developer to try to come up with something different/unique or speak with City Commissioners.

Developer Austin Morris, Enclave Development stated that they provide a variety of housing and price ranges. They're proposing a density of 12 units per acre. The City Commission has issues with apartments in general. He stated that in terms of trips per day, single family averages about 7/day whereas apartments about 4. The rental properties are unique, renting for \$1,400-1,500 per month.

Commissioner Kolb stated this is not the first time this has been before the Planning and Zoning Commission. Tim stated that it's a PUD, so the first time it was reviewed in concept and advertised with the plat. The Planning and Zoning Commission approved the apartments, but it was left at the City Commission with no action taken. It's now back tonight for review of detailed development plans to include the single family structures.

Discussion was held regarding density and land use. Originally the area was intended for low density residential and the City Commission is reluctant to change land use. The City Commission has seen the conceptual plans. The staff recommends altering some of the lot sizes and approval if the Planning and Zoning Commission is comfortable.

Commissioner Gust made a motion for approval subject to the 13 recommendations listed in the staff report. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-22 Brooks Harbor 8th Addition, Replat of Lot 2, Block 1 of Brooks Harbor 5th Addition, City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The area plan is proposing the majority of the area developing as low density residential development. The applicant is proposing to subdivide a previously platted lot into 30 residential lots. Adequate road right-of-way is provided for 10th Street Court West. For 9th Street and 22nd Avenue West, adequate right-of-way was dedicated with previous subdivisions.

The R-1SM district standards allow for a mix in lot sizes to encourage both starter homes and medium priced homes along the same street. The proposed application is consistent with the City plans and ordinances. It is recommended that the City approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. A drainage plan is submitted and approved by the City Engineer.
2. An Attorney Title Opinion to the City of West Fargo is received.
3. A signed subdivision improvement agreement is received.
4. A signed Final Plat is received with any necessary easements.
5. A certificate is received showing taxes are current.

There were no comments from the public. The hearing was closed.

Commissioner Diamond made a motion for approval based on staff recommendations. Commissioner Gust seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-23 Planned Unit Development Amendment to develop a hotel & to expand a conference center at 805 & 815 Beaton Drive East (Lots 1 & 2, Block 1 of Charleswood 30th Addition), City of West Fargo, North Dakota.

Tim reviewed the following from the staff report:

Applicant has submitted detailed development plans for a hotel and addition to an existing conference center. Concept development plans for the proposed hotel were approved in 2012 when the Cambria Hotel and conference center were approved. Detailed development plans have been submitted as a full construction set of plans. Civil site plan, architectural site layout, landscaping plan, exterior elevations, and floor plans have been provided for the purposes of the PUD.

Detailed development plans provide for a 4-story 105 unit hotel with outdoor amenities on the east side. A landscape buffer is provided along the west side adjacent to the residential property to the west which includes an existing berm with new deciduous trees and shrubs and perennials planted around the property. The building will be built with an EIFS and Stone Veneer façade. Buffering concerns have been received regarding the existing buffer. The application includes an approximate 40' buffer yard with an existing berm and deciduous trees. Current landscaping buffering provisions for a Light Commercial property adjacent to a residentially zoned property would require either a 6' architectural screen with 25' buffer yard with large and small evergreens alternated with deciduous trees or a 50' buffer yard with large evergreen trees alternated with deciduous trees, small evergreen trees, and a row of shrubs. It may be appropriate if concerns are continued on this development to require some evergreen trees to be alternated into the proposed buffer. The approved conceptual PUD and the PUD process would allow the Commission to consider alternatives which meet the intent of the ordinance. With the previous PUD for the Cambria and conference center, renderings were submitted of proposed landscaping and not specific.

There is a dumpster and storage location on the west side of the property which would be directly adjacent to residential properties to the west. It should be considered to require this to move as it may be offensive to adjacent residential properties and attracts additional activity which may cause conflicts between the residential and commercial uses. The existing development on proposed Lot 2, Block 1 meets the yard and open space requirements of the CO: Corridor Overlay and CO-I: Interstate Corridor Overlay districts. The underlying land use classification of this property is General Commercial.

Property access is from East Beaton Drive and will remain unchanged. The residential property to the north and west are two separate townhome associations developed each as a PUD. The developments had in the past expressed concern over the development of hotels adjacent to their property. A plan for landscaping and buffering was developed for the site which should be considered and continued with this proposed development. Specifics on the landscaping within the PUD were unclear so the City's landscaping standard has prevailed regarding plant unit requirements as well as boulevard tree size. Evergreen trees on the agreed to berm were of the largest variety the developer could manage to install.

A PUD agreement will be required to set the conditions of approval and would require the applicant to meet the requirements set forth in approved detailed development plans. Supplemental City requirements such as signs, landscaping, and off-street

parking requirements are included to ensure any and all City requirements are still met within the PUD.

Property owners within 150', applicable agencies and departments were notified. Written comments were received regarding concern over truck traffic and of the grasses used in the landscaping for the previously approved hotel from the Villas at Charleswood Homeowners Association. Written comments along with notes from the past approval of the existing hotel and conference center were provided by what appears to be a homeowners association for Evergreen Estates of Charleswood. The letter has listed 8 points of concern which generally address traffic, dumpster location, landscaping, and communication with the developer and City. Written comments have been received from an adjacent homeowner at Villa Parkway regarding concern over truck deliveries, landscaping, and the overall maintenance of the existing property. He recommends that these issues of the existing hotel be remedied as part of the approval of this application.

The proposed application is consistent with the City's land use plan which depicts the area developing as general commercial. It is recommended that the City approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. Dumpster and storage location be moved to the east side of the building away from residential property to the west.
2. Evergreen trees be alternated into the required buffer on the west side of the property.
3. Development will be subject, but not limited to CO-I: Interstate Corridor Overlay, 4-400 Supplementary District Regulations, 4-450 Off-Street Parking and Loading Requirements, and 4-460 Sign Regulations.
4. A signed PUD Agreement is received.

Evergreen Estates HOA VP/Secretary Ed Magarian, 1731 Cypress Way, stated that he sent a letter detailing their concerns. They want to be good neighbors and don't want to impede progress, but they want what they didn't get with the original PUD. There was really nice grass on the berm, which was neglected, tore up and replaced with prairie grass. It's filled with weeds and plantings have died. The original PUD plantings called for 10-12' high conifers, which was not done. Garbage pickup was supposed to be on the east side, it's on the north side across from the residential properties. On Sunday mornings at 7 am they are disturbed by garbage trucks.

They were told deliveries would be through the front of the buildings except for a few small catering vans. Most deliveries are made at the back of the hotel and conference center. Mr. Magarian stated that there's a potential accident waiting to happen with trucks unloading during the day onto Beaton Drive, which is becoming increasingly busier as development occurs. Beer trucks park and block a lane and when they drop their kegs off the truck, it's like a small earthquake. Some trucks use the Villa's private drives to turn around. Others try to back in, leaving their cabs sticking out and blocking off traffic. They are also concerned with speeding on Beaton Drive, especially on the curve and during winter months as there have been accidents. Two of which ended up taking out boulevard trees or ending up in their yards. They feel since the developer isn't adhering to the original PUD, they have concerns they won't adhere to requirements of the new one as well.

Commissioner Diamond stated for clarification that neighborhood concerns include the dumpster, landscaping, parking lot arrangement, truck deliveries and parking and speeding along Beaton Drive. Mr. Magarian stated yes.

Loren Thoennes, 1834 Evergreen Way, stated concern with parking on the road especially as it's on a curve. There's a city bike path behind their neighborhood with hundreds of people using it each day, which comes out onto Beaton Drive. He's concerned with traffic, children on bikes getting hit. Also, people from the hotel walking their dogs don't pick up after themselves.

Mike Bernath, 722 Villa Parkway, stated that they would like the existing landscaping issue brought up to the standards that were originally promised, with special consideration given to the size of trees. He doubted they put in the best trees available. He also stated the curb cut and trash should be moved as part of the negotiation with the original PUD was that there would be no other curb cuts.

Villas at Charleswood HOA President Jim Swenberger, 758 Villa Parkway, stated that he's concerned with semis. When the Cambria was under construction, semis blocked traffic. Currently there are several deliveries per day in which semis park across the road and block traffic. This is especially concerning when it occurs along the curve. He showed a photo taken today of a Cisco truck making a delivery, along the curve under a no parking sign. He stated during construction, workers parked along the curve. They want to be good neighbors, but are concerned with increased traffic and potential for accidents and people driving over the curb. Garbage on the west side is also an eyesore. Mr. Swenberger also stated concern with the landscaping. Originally the Cambria hydroseeded and it looked good, was growing nicely. It was replaced with natural grass, but now mainly consists of weeds. He stated that currently they're keeping it mowed.

Mr. Magarian stated that there was supposed to be a contact person within the Charleswood development who they could contact with concerns.

Peggy Stibbe, 701 Villa Parkway, stated she's had two cars drive onto her property that had to be towed away, and two trees taken out. Another hotel is going up and if they don't agree to put in a barrier of trees, people will be looking into her home. They were told this was going to be office and then it changed with the hotel and the Blarney Stone. What kind of message does that send to the children in the school across the street, when there are several cars parked in that lot each morning due to drinking? How would commissioners like having a hotel with people looking down into their homes? They need a higher berm with types of trees with some sort of blocking.

Economic Development Director Matt Marshall stated that there are some valid points and concerns. There was parking on the road when the original hotel was built because there wasn't parking available until the parking lot was installed. In terms of landscaping, these are different owners, so they can't require changing the existing landscaping.

Mr. Swenberger asked who they should contact about the weeds. Commissioner Diamond stated there's the County Weed Control Board. Matt stated that there is also a new City code enforcement officer and he will give the residents his contact information.

Mr. Bernath stated that he heard the owners of the existing hotel are part owners of the new hotel. Matt stated that a local group will own the new hotel, as opposed to the existing hotel which has out of town owners. They will both have the same operation group. Mrs. Stibbe stated she doesn't know why they'd want to work with these types of people. Mr. Swenberger stated that nothing gets done with contacting the hotel.

Tim stated that one of the recommendations within the staff report is that there is a PUD Agreement and the building plans, detailed development plans will be inserted into it as an exhibit. If they don't follow through, it can be enforced and they can be cited in violation. It can be enforced on the new properties, the two parcels being reviewed tonight, but they can't attach it to the Cambria. Comments regarding the dumpster and buffer are addressed as well as conditions in the staff report. Comments can be passed on to various departments --- Public Works for a possible speed study, truck regulatory can be notified, the police regarding speeding. Tim stated that he has not received complaints before tonight regarding the site. Mr. Swenberger asked if the garbage can be changed to the east side. Tim stated it's one of the staff recommendations. Mr. Magarian stated that there's no way to enforce the deliveries. Commissioner Diamond asked if that wasn't covered under item #3 in the staff recommendations. Tim stated under 4-450 off-street parking and loading requirements.

Chair McDougall asked if there wasn't already a PUD in place allowing for a hotel. Tim stated the proposed hotel was conceptually approved. Larry stated that hotels are allowed under the office park district. Tim reiterated that Lots 1 & 2 are under consideration tonight and not any others within the development.

There were no other comments from the public. The hearing was closed.

Commissioner Diamond stated that he's heard a lot of good comments. Some enforceable by the Planning and Zoning Commissioner, some such as speeding, cannot and he suggested the police be contacted. The staff recommendation #1 will take care of the curb cut and dumpster. Item #4 will include the detailed development plans.

Commissioner LeBahn asked if tree size can be set. Tim stated that previously they didn't have a specific landscaping plan, it was conceptual. The submitted landscaping plan for this project lists tree sizes as 2 1/2" caliper and 6' high spruce. 1 1/2" caliper is typical. He would prefer not to go off height as this could vary. Residents indicated they'd prefer 2 1/2" caliper on the boulevard. Discussion was held regarding trees and hours of operation/delivery hours. Tim indicated in the past designation of hours of operation was usually in residential districts with home based businesses and daycares. Commissioners indicated that it would be difficult to designate hours for delivery vehicles.

Commissioner Kolb made a motion for approval based on the 4 conditions listed in the staff report, with an addition to item #1 that no additional curb cut be allowed on the west side of the proposed hotel. Commissioner Johnson seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-24 Eaglewood 5th Addition, Subdivision and Rezoning from Agricultural to R-ISM: Mixed One & Two Family Dwellings, property in the SW 1/4 of Section 19, T139N, R49W, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The applicant proposes to develop 152 single-family residential lots with the zoning being R-ISM: Mixed One & Two Family Dwellings residential development which would be consistent with the development pattern to the south. When the agenda packets were being prepared, we had not yet seen a revised plat. The lots shown on the Preliminary Plat, which was mailed out did not meet the R-ISM District standards. The plat was revised to address the zoning deficiencies and provided to commissioners tonight.

An attorney title opinion has been received. Public and/or park dedication is required for the development, which would be 10% of the plat area for land or cash-in-lieu of land dedication at the established annual rate per square foot of developable land area. Larry spoke to the Park Superintendent and cash-in-lieu is being proposed.

Property owners within 150' and applicable agencies and departments were notified and no comments were received.

The proposed application is consistent with the City's land use plan which depicts the area developing as low density residential. Being the revised plat was provided; it is recommended that the Planning and Zoning Commission approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. A signed subdivision improvement agreement is received.
2. Park or land dedication agreement is received.
3. A drainage plan is submitted and approved by the City Engineer.
4. A signed Final Plat is received with any necessary easements.
5. Sewer hook-up fee is received.

Applicant Nate Vollmuth apologized for not getting the revised plat to Larry on time and indicated he was available to answer any questions.

There were no comments from the public. The hearing was closed.

Chair McDougall asked about the plat marked in red. Larry stated it was the preliminary plat with suggested changes. The plat submitted tonight reflects changes. The majority of the lots are 40-45' and meet the requirements of the R-ISM district. Mr. Vollmuth stated that each block had a lot removed to meet the guidelines.

Commissioner Diamond made a motion for approval based on the 5 conditions reviewed by Larry. Commissioner Gust seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-25 Nelson Acres 1st Addition, Replat of Lot 1, Block 1 of Nelson's 1st Subdivision, City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The applicant is proposing to split a previously subdivided lot into two lots. There is an existing single family dwelling on the proposed Lot 1. The preliminary plat shows proposed Lot 1 would be a nonconforming lot within its current zoning district. District requirements of the R-R: Rural Residential district require a minimum 2.5 acre lot size, whereas the proposed lot would be approximately 2.2 acres. Lot 2 is intended to be developed as a retention pond due to regional road improvements which will be owned by the City.

Road right of way appears to be adequate on Sheyenne Street, although consideration for additional right of way needs in the future could be handled sufficiently on the City owned lot. Access to proposed Lot 1 is an existing approach onto 40th Avenue West; access to Lot 2 would be a minimally used maintenance access for a future pump station. Access to arterial and collector roadways is governed both in the City Subdivision Ordinance and by Ordinance 2-0119 with guidance from the City's Subdivision Ordinance.

Zoning on the retention pond lot could be changed to P: Public at the next adoption of an Official City Zoning Map. The proposed application is consistent with the City plans and ordinances.

It is recommended that the City approve the proposed application on the basis that it is consistent with City plans and

ordinances with recommended conditions of approval as follows:

1. The square footage of Lot 1 be increased to comply with R-R: Rural Residential district standards.
2. A revised drainage plan is received and approved by the City Engineer.
3. An Attorney Title Opinion to the City of West Fargo is received.
4. Signed Final Plat is received with any necessary easements.
5. A certificate is received showing taxes are current.

Duwayne Engness, 225 40th Avenue West, stated that he's the landowner and didn't know anything about this until he read the hearing notice in the Forum. Tim stated that staff was given an application from the City Engineer on behalf of the City. Mr. Engness stated that nobody from the City has contacted him. Engineer Matt Welle stated that it's his understanding the City has been in negotiations to purchase proposed Lot 2 for a retention pond.

Discussion was held regarding the lot size. Mr. Engness was concerned about his trees.

Commissioner Kolb asked Mr. Engness for clarification, if he had been speaking with the City about this. Mr. Engness stated that he only dealt with Dustin Scott twice. Commissioner Kolb asked if he wanted the commission to move forward or delay. Mr. Engness stated yes, he'd like to move forward now that the City knows he needs the extra square footage so he doesn't lose his tree row.

There were no comments from the City. The hearing was closed.

Commissioner Kolb made a motion to approve the replat subject to the 5 conditions listed in the staff report. Commissioner Diamond seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-26 Conditional Use Permit for oversized accessory building for personal storage at 310 51st Avenue East (Lot 4, Block 3 of McMahan Estates 3rd Addition), City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The R-1E: Rural Estate zoning district allows for accessory structures greater than 1,000 ft² as a conditional use provided they are in character with the development pattern of the subdivision they are in. The applicant has provided a site plan which shows the new accessory structure will be built in the rear yard with a side yard setback of 12' 4". The applicant has indicated that the structure would be built of residential materials which match the exterior color and type of the main structure on the property.

With reference to the criteria for granting conditional uses, there are no issues of concern. The application is providing an accessory to an existing use and therefore the application may be considered consistent with the Comprehensive Plan. Property owners within 350' feet were notified and no comments were received. It is recommended that the City approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. The accessory building is constructed of the same color and materials as the primary residential structure.
2. A Signed Conditional Use Permit Agreement is received.

There were no comments from the public. The hearing was closed.

Commissioner Diamond asked location of the building and access. Applicant Clark Erickson stated there's a 12' pad by the existing garage which he'll use for access.

Commissioner Diamond made a motion for approval based on the two conditions listed in the staff report. Commissioner Kolb seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-27 Planned Unit Development Amendment for a 2,800 square foot building at 1265 East Main Avenue (Lot 2, Block 1 of Gellers 2nd Addition) City of West Fargo, North Dakota.

Tim reviewed the following from the staff report:

The applicant intends to construct 2,800 square foot building for retail service and storage along the south side of the property for an adjacent business. The PUD approved in 2006 for this property indicates uses should be approved as part of the PUD Amendment process, and permitted uses would include those generally included in the CM: Heavy Commercial/Light Industrial zoning district with the exception of manufacturing, particularly of larger components, or those use that are listed as conditional uses in the CM District. The CM district has since been repealed and replaced with two separate districts, HC: Heavy Commercial and LI: Light Industrial. Staff would believe that the uses of the HC: Heavy Commercial zoning district would be most appropriate for this property and would be compatible with the adjacent properties.

Current uses on the property have not been reviewed since this PUD was initially approved leaving in a state of current non-compliance. It is appropriate to consider at this time and address the display/parking/storage that is occurring on the east side of the lot. This area is gravel, whereas the requirements of the CO-R: Redevelopment Corridor Overlay would require all parking areas to be paved. This area should be paved, and should meet the requirements of the City's landscaping standards. It may be acceptable to give the applicant time to comply with the City standard as this is the first notification of the violation.

The preliminary site plan shows setbacks and yard requirements to be met. There is a 20' utility easement on the south side of the property and a 40' access and public utility easement north of the proposed building that the applicant will need to avoid. The site plan shows that the building will stay out of these easements. The applicant has stated they would like to begin construction of the building as soon as possible and hope to finish by mid-July of this year.

Property owners within 150' and applicable agencies and departments were notified. A phone call was received regarding the unsightly area to the south and east, including storage of vehicles.

The proposed PUD Amendment is consistent with the City's Land Use Plan, which depicts the area developing as General Commercial. The PUD which was previously approved would also allow for the uses proposed with this application.

It is recommended that the City approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. Applicant provide a parking/paving plan of lot for review by City Planner and City Engineer which meets the requirements of the CO-R: Redevelopment Corridor Overlay, 4-449-A Landscaping Standards, and 4-450 Off-Street Parking and Loading Requirements. Plan should be provided prior to issuance of Certificate of Occupancy for new building with a schedule of completion to be no later than June 1, 2017.
2. A signed PUD Agreement is received.
3. Development will be subject, but not limited to CO-R: Redevelopment Corridor Overlay, 4-400 Supplementary District Regulations, 4-450 Off-Street Parking and Loading Requirements, and 4-460 Sign Regulations.

Dave Paulson, Dave's Tire at 1225 East Main Avenue, stated that when he purchased the property from Gellers in 2002, he was responsible for tree planting to the south, which he thought was dedicated toward parks. He encouraged commissioners to take a look at all the cars parked and stored on the property. Mr. Paulson stated he understands what Mr. Weston is proposing, but he doesn't want to see the increased traffic, is concerned with snow storage and doesn't feel this proposal is very appealing. He feels there's better uses for the property than a snow removal business.

Odee Hendrickson stated he owns the property to the west. There are always cars parked on his side of the property. He was also told the property to the south was park and couldn't be used. He also stated he's got a gas line going through a portion of his property, which can't be built on.

Chair McDougall asked if here is actually a street with a building proposed on the south side. Matt Welle stated the sanitary sewer runs along the private drive. The building itself won't be on any easements.

Applicant Mark Weston stated that the gas pipeline runs north south. When he purchased the property 3-4 years ago, he was told he could build on the property to the south as long as he didn't build on any easements. The building is for Brenco, who has run out of room. Mr. Weston stated that Autowerks and Autotranz do work for people and sometimes they don't pay; however, they're working on cleaning up the cars. The building will be centered on the lot to allow for snow to be pushed to the sides and will also have snow hauled away should there be a need. He intends to put in an impervious parking surface.

Discussion was held regarding the pipeline. Mr. Thoennes stated under this property, there is no gas line. Mr. Weston stated

that he was contacted by Xcel Energy about the natural gas pipeline, but declined because he knew they'd never be able to put a building on it.

Chair McDougall asked for clarification on the greenspace/park. Larry stated that he's not sure where the idea of a park came from, because if dedicated, it would've been a separate park. Geller's original plan showed buildings and parking along the south side, the road design showed trees and the fence was mandatory for a buffer between the mobile home park and businesses. Tim stated that there have been complaints about the fence, which is maintained by the businesses, but mobile home park residents have damaged.

Mr. Paulson showed commissioners an agreement drawn up by Dorsey Whitney Law Firm which he understood was regarding tree planting for parks. He stated paragraph 3 refers to maintaining the fence and trees and remembers being told it was park, assumed it was the entire greenspace south of the road. Tim stated that the proposed building will be located on the north side of the 20' buffering easement.

There were no other comments from the public. The hearing was closed.

Chair McDougall asked if there were any trees on the south side of the lot. Mr. Weston stated yes.

Commissioner Diamond stated that this plan won't infringe on the 20' buffer easement, that they meet the plan. Larry referred to the developer's agreement when the area was platted and stated that the private drive was created during platting to ensure the middle property owners would have access as the Main Avenue project was going to eliminate the frontage road. There's a 20' storm sewer easement, but there was no discussion at the time about this being park.

Commissioner Kolb made a motion for approval based on the 3 recommendations listed in the staff report. Commissioner Diamond seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-28 Conditional Use Permit for institutional signage on a wireless communications tower in a residential district at 1222 6th Street East (Lot 8-15, Block 2 of Meyer's 2nd Addition), City of West Fargo, North Dakota.

Larry reviewed the following from the staff report:

Except as provided for as a conditional use, churches are allowed only one sign per street frontage which may not exceed 32 square feet and a maximum height of 8 feet for freestanding signs. The front yard setback for the sign is 15 feet and side yard setback on a corner lot is 10 feet.

Currently the applicant has one freestanding monument sign which is located on the 6th Street side and front of the church which meets City requirements. The applicant proposes three signs mounted on the proposed tower structure. The signs contain the church logo which is composed of a flame and the cross. Each sign is 105 square feet in area. The signs are on the three faces of the tower which have angles exceeding 20 degrees. The height of the signs would be about 75 feet. The setbacks to the tower structure exceed the setback requirements, so setbacks would not be an issue. The three proposed signs exceed the number of signs by two, exceed the area limitations by 73 square feet for each sign, and exceed the height limitations by about 67 feet. Freestanding signs in commercial districts are limited to 35 feet in height.

The zoning ordinance provides for exceptions to height regulations. Height requirements do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, solar energy collectors and equipment used for the mounting or operation of such collectors, or other appurtenances usually required to be placed above roof level and not intended for human occupancy. It would seem reasonable to conclude that if the logos were removed, and only the crosses displayed, that the intent of the ordinance would be met.

Larry stated that property owners within 350' were notified and no comments were received.

The application does not meet the ordinance requirements for the number of signs, area of signs, or height of signs. It is recommended that the City deny the proposed application on the basis that it is not consistent with City plans and ordinances.

Eddie Buell, Buell Consulting, representing Verizon Wireless and Flame of Faith church stated that they've received no negative comments on this tower design. This is signage for a non-profit organization. The square footage is because it's so high in the air. He asked that this be looked at as a special case.

There were no comments from the public. The hearing was closed.

Commissioner Johnson asked if this hadn't already been reviewed. Commissioner Kolb stated that the tower was reviewed by not the signage. Chair McDougall stated that Larry is concerned with setting precedence. If all they did was put a cross on the tower, it would be allowable. The logo is the issue.

Commissioner LeBahn asked what would happen if the tower was no longer needed. Larry stated that the Conditional Use Permit agreement stipulates the tower would then be removed.

Commissioner Gust made a motion to approve the signage. Commissioner LeBahn seconded the motion. Commissioners Gust and LeBahn voted in favor of the request. Commissioners Kolb, Johnson, McDougall and Diamond voted against it. Motion failed 2-4.

Commissioner Diamond made a motion to deny the Conditional Use Permit. Commissioner Johnson seconded the motion. Commissioners Kolb, Johnson, McDougall and Diamond voted in favor of the motion. Commissioners LeBahn and Gust voted against it. Motion to deny carried 4-2.

Chair McDougall opened public hearing A16-29 Rivers Bend at the Preserve 3rd Addition, Replat of Lots 1-4 & Lot 11, Block 3 of River's Bend at the Preserve 2nd Addition and Subdivision and Rezoning from Agricultural to R-1A: Single Family Dwellings, property in the NW¼ of Section 20, T139N, R49W, City of West Fargo, North Dakota.

Tim reviewed the following:

The applicant proposes to develop 4 single-family residential lots into river lots and combine 2 trail park lots. The applicant is needs to rezone the vacant land to R-1A: Single Family Dwelling District which will be combined with the existing zoned lots. The proposed lots meet the district yard requirements.

Property owners within 150' and applicable agencies and departments were notified and a comment was received from SE Cass Water Resource District noting that no modifications shall be made by developers or homeowners to the existing berm elevations along the Sheyenne River. A letter sent to homeowners along the river was included for reference.

The proposed application is consistent with the City's land use plan which depicts the area developing as low density residential. It is recommended that the City approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. Park or land dedication agreement is received.
2. An Attorney Title Opinion is received.
3. A revised drainage plan is received and approved by the City Engineer.
4. Final Plat is received with any necessary easements.
5. A certificate is received showing taxes are current.

There were no public comments. The hearing was closed.

Commissioner Kolb asked about the rezoning. Tim stated that the lots are already zoned; the portion being added to those lots needs to be rezoned.

Mr. Welle stated that the initial intent was to have park property with a bike path, which they're getting rid of to create river lots.

Commissioner Kolb made a motion for approval based on the 5 conditions listed in the staff report. Commissioner Diamond seconded the motion. No opposition. Motion carried.

The next item on the agenda was A16-30 Access Request at 524 7th Avenue NE.

Tim reviewed the following:

The applicant proposing access onto a minor arterial with a right turn exit only approach controlled by electronic gate. The applicant has indicated the access would be used only for vendor trucks to exit the new store. Access to arterial and collector

roadways is governed both in the City Subdivision Ordinance and by Ordinance 2-0119 with guidance from the City's Subdivision Ordinance.

It is recommended that the City approve the proposed application on the basis that it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. Access is granted as right out only.
2. Access is controlled by gate or designed in a manner to prevent turn-in movements as approved by the City Engineer and Public Works Director.

Commissioner Gust made a motion for approval based on the two conditions listed in the staff report. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

The next item on the agenda was an Intro to Downtown Project, by Economic Development Director Matt Marshall. Several properties are being acquired at once for the Sheyenne Plaza, which encompasses two blocks along Sheyenne Street. The bottom floor would be retail, on the south side there would be professional offices. The entire 2nd and 3rd floors would be office and the 4th and 5th floors living space. There would also be underground parking.

Tim stated that when the City Commission reviews this, it'll be in the news, so staff wanted to give the Planning and Zoning a brief overview of the project. Next month a formal site plan will be introduced.

Commissioner Kolb asked about location. Matt stated the bowling alley, Sheyenne Appliance, laundromat, liquor store, fish store area.

Matt stated that a public hearing will be published on Monday, with a special meeting of the City Commission on Thursday, May 26th.

The next item on the agenda was a presentation on the Sheyenne Street Corridor Study Phase I.

Dan Farnsworth from the Fargo Moorhead Metropolitan Council of Governments reviewed the following key recommendations from the study from Main Avenue to 52nd Avenue.

- **Sheyenne St from 13th Ave to 19th Ave** - four lane section with center left turn lane, shared use path on one side and sidewalk on other side of roadway as currently exists.
- **I-94 Interchange** – reconfiguration of interchange to accommodate future traffic conditions and six lane Sheyenne St roadway section under I-94. Shared use path along Sheyenne St. Construction programmed for 2018 and 2019.
- **Sheyenne St from 19th Ave to 32nd Ave** – six lane section with median and turn lanes where necessary. Shared use path on both sides of Sheyenne St. Construction programmed for 2018.
- **Sheyenne St from 32nd Ave to 40th Ave** – initial four lane section with design for a six lane section when traffic warrants. Roadway will have median and turn lanes where necessary. Shared use path on both sides of Sheyenne St. Construction programmed for 2019.
- **Sheyenne St from 40th Ave to 52nd Ave** – initial four lane section with design for a six lane section when traffic warrants. Roadway will have median and turn lanes where necessary. Shared use path on both sides of Sheyenne St. Construction intended to occur within the next five years
- **52nd Ave W from Sheyenne River Diversion to Sheyenne St** – two lane section with median and turn lanes where necessary. Shared use path on both sides of 52nd Ave and traffic control for crossings to Legacy Elementary School. Construction to occur at an unspecified later time.
- **52nd Ave E from Sheyenne St to 4th St E** – to be studied as part of larger 52nd Ave corridor study.

Tim stated that Dan Bueide submitted a letter with comments regarding the study and the Beaton property. A copy of the letter was submitted into the record.

Commissioner Kolb asked when a decision would be made on the interchange. Mr. Farnsworth stated in the next year, year and a half.

The next item on the agenda was continued - A16-18 The Wilds 8th Addition, Subdivision, Rezoning from Agricultural to R-1: One & Two Family Dwellings and Land Use Plan Amendment to establish land use as Low Density Residential on part of Government Lots 3 & 4 in the NW¹/₄ of Section 6, T138N, R49W, Cass County, North Dakota.

Larry stated that the developer called this afternoon and asked this be continued until the next meeting.

Commissioner Johnson made a motion to continue this until the next item. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

Tim stated that the developer for A15-57 Gateway West Addition, Subdivision in the SE¹/₄ of Section 18, T139N, R49W and Replat of Lot 13, Block 4 of Elmwood Court Addition, City of West Fargo, North Dakota has also asked this be continued. Commissioner Gust made a motion to continue this item. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

The developer for A16-9 Eagle Run Plaza 5th Addition thinks they can still make part of the project work, so has asked that this be continued as well. Commissioner Gust made a motion to continue this item. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

Under non-agenda, Tim stated that a few years ago the City Commission approved a Zoning Ordinance Amendment which proposed all parking areas be improved with a concrete or bituminous surface within the City. This requirement included properties which were already developed, giving those three years to comply. The Commission has realized the tremendous impact this may be to property owners and is now considering removing the portions of the Ordinance that would require existing properties to fully comply.

Commissioner Johnson made a motion to adjourn. Commissioner Gust seconded the motion. Meeting adjourned.