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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  
July 11, 2016 at 7:00 P.M.  
West Fargo City Hall

Members Present: Jim Brownlee  
Scott Diamond  
Shane LeBahn  
David Gust  
Leroy Johnson  
Tom McDougall

Members Absent: Joe Kolb, Jana Reinke

Others Present: Larry Weil, Lisa Sankey, Tim Solberg, Dustin Scott, Mark Lemer, Lee Dobrinz, Marc Fossaa, Joel Fremstead, Ivan Pomey, Tony Eukel

The meeting was called to order by Chair McDougall.

Commissioner Gust made a motion to approve the June 13, 2016 meeting minutes as written. Commissioner LeBahn seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-38 Conditional Use Permit for an oversized accessory building for personal storage at 314 31<sup>st</sup> Avenue NW (Lot 3, Block 2 of Selberg's 4<sup>th</sup> Subdivision), Cass County, North Dakota.

Tim reviewed the following information:

The request is to construct a 24' x 60' (1,440 ft<sup>2</sup>) building for personal storage in the City's Extraterritorial area. The R-1E: Rural Estate zoning district allows for accessory structures greater than 1,000 ft<sup>2</sup> as a conditional use provided they are in character with the development pattern of the subdivision.

The applicant has provided a site plan showing the new accessory structure will be built in the side yard with a setback of 10' and is setback from the house which meets district yard requirements. The proposed building is a 24'x60', 1,440 ft<sup>2</sup> building with overhead doors on the north and west sides, entry door on west side, and windows on north, east and south sides. The building will need to be less than 20' in height. The applicant has indicated the structure would be built of residential materials which match the exterior color and type of the main structure on the property.

A conditional use permit agreement is required to be signed prior to issuance of a building permit and may include conditions deemed appropriate by the Commission.

With reference to the criteria for granting conditional uses, the following is noted:

Soil conditions, as they relate to on-site sewage disposal, water supply, basement excavating, road construction and related land use, County Sanitarian responded with the following comment related to on-site septic:

*"This property has a rather large footprint for the septic drainfield. The septic code calls for a 20' setback from the drainfield for any building. Also, to prevent compaction of the soil, absolutely no construction vehicle traffic should be allowed on the drainfield. Another reminder, the county planning requires a minimum of 40,000 ft<sup>2</sup> per lot. Part of the rationale for this requirement is to provide a second area for a drainfield in the advent of the failure of the original drainfield. If there is not enough square footage for a new trench system because of the addition of the new building, a mound system would have to be placed in the area of the original drainfield."*

Property owners within 350', Reed Township officials, Cass County Planning and the Cass County Sanitarian were notified.

Cass County Public Health responded with comments on soil issues as they relate to on-site septic systems on this lot. A nearby property owner contacted staff to note the applicant appears to be running a business out of their home that has been a concern of the neighborhood. The applicant and neighbor have been given the provisions for home occupations found in City Ordinance and the applicant has since made an effort to comply. Any complaints on the home occupation will be reviewed and violations would be referred to the City Attorney if they do not cease.

The application is providing an accessory to an existing use within the area outside the Sheyenne Diversion and is not increasing development in a flood prone area, therefore the application may be considered consistent with the Comprehensive Plan. 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 proposed building is constructed of colors and materials consistent with the development pattern of the subdivision and less than 20' in height.
2. That the use of the property comply with the provisions for home occupations.
3. The applicant demonstrate that they can accommodate the concerns of the County Environmental Health office.
4. The applicant is to meet all Federal, State and local requirements for improvements to the site and structures.

Tim stated that the applicant has increased the height of the sidewalls from 10 to 12'; however, has indicated the height will be 20' at the peak, which meets ordinance height requirements.

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

Chair McDougall asked about the concerns with the business. Tim stated it's a zoning issue and the City now has a code enforcement officer who could deal with this should it become an issue. Commissioner Gust asked Tim to review the Home Occupation guidelines. Tim reviewed the following:

- No person other than members of the family residing on the premises shall be engaged in such occupations.
- The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the main floor area of the dwelling unit shall be permanently set aside to be used in the conduct of the home occupation.
- There shall be no change to the outside appearance of the premises that would reflect the presence of a home occupation other than one sign, not to exceed one square foot, non-illuminated, and mounted flat against the wall of the principal building.
- No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance detectable to the normal senses off the lot or in a neighboring dwelling unit. In the case of electrical interference, no equipment shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- All parking associated with the principal use and the home occupation shall be accommodated on site. Parking spaces exceeding the required spaces for the principal use shall be included within the lot coverage for the property. The lot coverage for the property cannot exceed that allowed by the district in which the use is located.

Tim indicated on street parking and increased activity was one of the issues mentioned by a property owner.

- Certain types of uses are not viewed as customary home occupations and are therefore prohibited within residential zoning districts. Such prohibited uses include the following:
  - a. Vehicle and large equipment repair, including any type of repair or assembly of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chainsaws, and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to automobiles and their parts. Such uses may be considered as a conditional use in the Rural Residential District.
  - b. Dispatch centers where employees come to the site to be dispatched to other locations.

Commissioner Gust asked about the comments received from an area property owner. Tim stated that the action has since ceased and staff hasn't received a formal complaint.

Commissioner Johnson indicated that the building construction would probably clean up the yard and address these issues.

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

Chair McDougall opened public hearing A16-39 Conditional Use Permit to allow for an off-premise digital sign at 2248 Main Avenue East (Lot 1, Block 1 of Midway 2<sup>nd</sup> Addition), City of West Fargo, North Dakota.

Larry reviewed the following:

The HC: Heavy Commercial zoning district allows for off-premise signage as a conditional use. The area is developed with a mix of heavy commercial and light industrial uses. The applicant submitted an application, site and building plans and photo image of the proposed sign. The proposed sign is a digital sign (billboard) which has mostly off-premise advertising, but has on premise signage as well.

The property is developed with a multi-tenant building with the primary use being auto sales. The site plan shows the proposed sign location. The applicant indicated on the site plan that the proposed sign will be 14' west of the eastern property line and 14' north of the southern property line. The photo site plan submitted with the signed application indicated there would be a 10' setback from the south property line and a 47' setback from the east property line. The applicant also noted that the nearest off-premise sign is 1,497' west and 1,074' north of the proposed location.

The applicant indicated that the structure would be a 10 x 30' sign (300 ft<sup>2</sup>) structure, and would be thirty (30) feet in height. The specific conditions for off-premise signs in the Heavy Commercial District are that no two off-premise signs may be placed less than 250' apart, unless said signs are separated by buildings or other obstructions in such a manner that only one sign is visible from the roadway at any time; and the off-premise sign is not located within a Corridor Overlay District or an Interstate Overlay District. Off-premise signs cannot exceed 750 ft<sup>2</sup>. The Redevelopment Corridor Overlay District requires a minimum front yard setback of 10' and side yard setback of 10'. The setback would be measured from the sign face edges.

In reviewing the application information, the plans adequately address the ordinance conditions for off-premise signs. The photo image of the proposed sign shows the intent to also provide additional on-premise signage for Ness Auto Sales. The property is a corner lot which provides for an additional freestanding sign, so two freestanding signs for on-premise advertising are allowed. Currently there are two existing freestanding signs on the property, one for Ness Auto Sales and one for the other tenants in the building. If on-premise advertising is to take place on the proposed sign structure, one of the other existing freestanding signs would need to be eliminated. Also, the area of on-premise signage for the property would need to be evaluated to determine if there is additional signage available and if the proposed signage is within the sign size requirements, as well any other on-premise sign regulations for the property.

A conditional use permit agreement is required to be signed prior to issuance of a building permit and may include conditions deemed appropriate by the Commission.

With reference to the criteria for granting conditional uses, the following is noted:

- Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
  - The property has adequate access and the improvements will not affect the current access. The sign structure will be located within an auto display lot.
- Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.
  - No concerns noted – sign is subject to review if nuisance or traffic hazard is caused because of lighting glare, focus, animation or flashing. Visual nuisance or traffic hazard effects may be minimized through the use of static images or messages (no flashing or scrolling messages), time sequencing of images or messages, i.e., 8 second standard changes and reduced intensity in lighting.
  - Additional information for on-premise signage is needed if the applicant proposes on-premise advertising on the proposed sign structure.

Property owners within 350' were notified and no comments were received.

The application is providing an accessory use to an existing use and therefore the application may be considered consistent with the Comprehensive Plan. 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 Signed Conditional Use Permit Agreement is received.
2. A minimum setback of 10' from the sign face edges to the property lines is maintained.
3. The sign does not cause a visual nuisance or traffic hazard due to lighting glare, focus, animation or flashing.
4. Revised construction plans are submitted showing the applicable property.
5. The property complies with off-premise and on-premise sign regulations. On-premise sign information is submitted if on-premise signage is displayed on the sign structure.

Joel Fremstead, on behalf of Sky Digital, stated that this is the first such sign in West Fargo. They have about 32 total within the area. The technology can be adjusted, so he's confident they can address any issues or concerns. He intends to work with City Staff and the owner regarding the Ness Auto Sales sign. It'll either be on the new sign or they will retain both on-premise signs and forgo placing advertising on the new sign. He's available to answer any questions.

Commissioner Gust stated this is a high traffic area and asked how the sign might affect safety. Mr. Fremstead gave the example of a similar sign on Highway 10 near the Detroit Lakes Walmart and using 8 second transitions, reducing content --- too much content and the information is too small to read --- no animation, decreasing the brightness at night. He's not aware of any issues at that site.

Commissioner Brownlee asked for clarification on the sign that may have to come down. Larry stated that because it's a corner lot, two freestanding on-premise signs are allowed. Mr. Fremstead stated that if they use the new sign for on-premise signage, then the blue, freestanding Ness Auto Sales sign would be removed.

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

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

The next item on the agenda was Minor Planned Unit Development Modification for landscape structure at 738 Villa Park Way (Lot 18, Block 1 of Charleswood 20<sup>th</sup> Addition), City of West Fargo, North Dakota.

Tim stated that the applicant requested a minor revision to the Detailed Development Plans as previously approved for Charleswood 20<sup>th</sup> Addition. The request is to amend the approved Planned Unit Development (PUD) to allow installation of a gas fire structure on the property line between Lot 18 and Lot 19, Block 1 of Charleswood 20<sup>th</sup> Addition. The original PUD and covenants allow full use of the side yards for landscaping; however, the proposed structure is affixed to the ground and supplied with a gas line leaving staff to interpret it more as a structure that would require a 3' setback from the side property line. The applicant wishes to place the structure on the property line to which the adjacent property owner has expressed their approval. The applicant has submitted a site plan and letter of support from the adjacent property owner.

Notices have been sent out to neighboring properties and an email was received in support. Staff has reviewed these changes and recommends the approval of the Minor PUD Modification.

Commissioner Diamond asked for clarification and how this might be affected if either of the properties were sold. Tim stated it becomes part of the PUD.

Applicant Ivan Pomey stated that when they bought, they had to sign the covenants and this is included within the covenants. Each homeowner is given exclusive access to one side yard. Discussion was held regarding setbacks and lot lines. Mr. Pomey asked about gazebos. Tim indicated that if the structures are less than 120 ft<sup>2</sup> a building permit isn't required. The reason this is being reviewed by the Planning and Zoning Commission as a Minor PUD Modification is because Mr. Pomey had to apply for a permit to tie into the gas line for his fire pit.

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

The next item on the agenda was a review of Detailed Development Plans for Eagle Run Plaza 5th Addition.

Lee Dobrinz from JLG Architects introduced the project. He indicated they intend to bid out the project in two phases, with the footings, foundation, shell and ice the end of July. The landscaping plan has been updated with plantings. He then

reviewed the building layout, parking and access easements. The front of the building will face the east for walkability to future retail/commercial development to the east. There are plans for a 3<sup>rd</sup> rink along the west side in the future.

Engineer Tony Eukel, MBM Engineering, reviewed the access and utilities. Currently they have 420 parking stalls, which is under capacity by ordinance standards, so they will work with planning, look at shared parking for overflow or possibly apply for a reduction in parking. Mr. Dobrinz stated with the seating capacity, they're required to have 489 parking spots.

Mr. Dobrinz reviewed the floor plans --- 2 sheet ice facility for school programs. The main (south rink) has the most seating. Both rinks have fixed seating (bleachers). Locker rooms are located between the two sheets of ice. One of the rinks is intended for year-round ice and the auxiliary rink for other sports. They want to allow for flexibility. He then reviewed the exterior materials --- Kallwall, metal, and brick panels. Kallwall lets light in during the day and shows light at night. Elevations show they're exceeding the 30% limitation of exposed metal.

Discussion was held regarding the parking to the west and distance from the main entrance. Mr. Dobrinz indicated that lot would most likely be for staff and players, who'd be able to enter the building from the west.

Commissioner Brownlee asked about construction access and staging. Mr. Dobrinz thought the property to the east.

Commissioner Gust asked about timeframes for the 3<sup>rd</sup> rink. West Fargo Schools Business Manager Mark Lemer stated it would most likely be for youth hockey and they're thinking 4-5 years. Chair McDougall asked how many people attend hockey games. Mr. Dobrinz indicated if there's a big rivalry they've had 900-1000 at Vets Arena with about 600 parking spots used. They've researched other rinks and this is comparable.

Discussion was held regarding the exterior materials. Larry stated that the south side is along the 32<sup>nd</sup> Avenue and needs to meet the ordinance requirements that any exposed metal or fiberglass on all buildings shall be limited to no more than 30% of any wall which fronts on a public street. Mr. Dobrinz stated they're asking for some flexibility, that they meet the intent of the ordinance by not having a "metal box", that this design is good enough. Commissioner Gust stated as long as staff is okay with what is proposed, then the Planning and Zoning Commission should be. Tim stated that the ordinance states 70% of any wall (facade area) which fronts on a public street shall be constructed of glass, brick, wood, stone, architectural concrete cast in place or precast concrete panels, or, as approved by the Commission(s), other integrated materials per the architectural design and specifically states that no more than 30% shall be fiberglass or metal.

Discussion was held regarding the Kallwall. Mr. Dobrinz stated the Kallwall is only 8%. Mr. Lemer stated that in the end, they need direction to guide them in terms of what's next for this design. This metal exterior differs a lot from the bus barn, Brooks Harbor Elementary school is a wood style metal panel. Chair McDougall asked about a darker metal. Mr. Dobrinz stated that using another material would be too busy from a visual standpoint. Commissioners indicated concern with having something different than a big wall facing 32<sup>nd</sup> Avenue. Mr. Lemer stated that precast concrete would comply, but it would look the same. He asked about a variance. Tim indicated there is nothing unique about this to meet the variance criteria. He would recommend a zoning ordinance amendment if they want to see something different.

Larry stated that staff and the commission cannot be arbitrary. The ordinance has to be applied uniformly.

Mr. Dobrinz stated that they wanted to include the exterior with the bids for the shell; however, they could do the frame and add the skin on to the next bid package. They feel it would benefit the City to allow more metal as it would lead to a lot of design opportunities. They appreciate the feedback and will come back in August with an update.

Tim indicated Gateway West Addition is still being continued. The ND-DOT is seeking the City's input on alternatives for the interchange.

Under non-agenda, Larry stated that NDPA will be held in conjunction with the League of Cities meeting in Bismarck in September if any commissioners are interested in attending.

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