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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
September 12, 2016 at 7:00 P.M.
West Fargo City Hall

Members Present: Jim Brownlee
Scott Diamond
David Gust
Leroy Johnson
Joe Kolb
Tom McDougall
Jana Reinke

Members Absent: Shane LeBahn

Others Present: Larry Weil, Lisa Sankey, Tim Solberg, Dustin Scott, Matt Welle, Rob Jordahl, Nate Vollmuth, Tina Fisk, Darrell Vanyo, Mark Simmons, Duane Hanson, Mark Wentz, Dan Bueide, Brian Pattengale, Nathan Gemar, Bob Christiansen, Justin Fisher, Matt Sturlaugson, Ed & Shelley Eisenbeisz, Glen Mitzel, Miran Blanchard, Richard Lewis, Sarah Hilsendager, Shirley Kulla, Joel Morris, Bill Fugate, Luther and Paul Simley, Linda Mayo, Rachel Ibes, Dana Eckart, David Schulz

The meeting was called to order by Chair McDougall.

Commissioner Diamond made a motion to approve the August 8, 2016 meeting minutes as written. Commissioner Brownlee seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-45 Planned Unit Development Amendment for office/retail space at 1317 & 1433 Main Avenue East (Lots 3 & 4, Block 1 of Gellers 2nd Addition), City of West Fargo, North Dakota.

Tim reviewed the following:

The applicant intends to construct a 9,000-ft² building for office and retail purposes on Lot 3 with parking on the west side of Lot 4. The PUD approved in 2006 for this property indicates uses should be approved as part of the PUD Amendment process, but that 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 The CM district has since been repealed and replaced with two separate districts, HC: Heavy Commercial and LI: Light Industrial.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 the uses of the C: Light Commercial and HC: Heavy Commercial zoning district would be most appropriate for this property and would be compatible with adjacent properties.

The proposed building fronts along Main Avenue East and therefore is subject to increased building construction requirements of the CO-R: Redevelopment Corridor Overlay District. The building is shown to be faced with glass, brick, and EIFS on the north and east elevations which would meet the building construction requirements of the CO-R district, similar to existing buildings in the development to the east. The east and south elevations are proposed as metal panel.

The property would utilize an existing private drive via an access easement to the south of the building, which provides access to 12th St E and 17th St E. The applicant has stated they would like to begin construction of the building as soon as possible and submitted construction plans for a building permit.

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

The proposed PUD Amendment 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 it is consistent with City plans

and ordinances with recommended conditions of approval as follows:

1. Uses on the property are within the permitted uses of the C: Light Commercial and HC: Heavy Commercial district standards.
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.

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

Commissioner Gust made a motion to approve the request subject to the 3 conditions listed in the staff report. Commissioner Kolb seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A16-46 Conditional Use Permit for Retail and Food Service in a LI: Light Industrial District at 756 Center Street (Lot 6, Block 1 of Armour Industrial Park Addition), City of West Fargo, North Dakota.

Tim reviewed the following information from the staff report:

The LI: Light Industrial zoning district allows for eating and drinking establishments as a conditional use. The property is currently developed with an 8,100-ft² shop to the west and a 1,280 ft², story and a half office along Center Street. The applicant has begun to outfit the property for use as a wholesale distribution facility for their catering company and would like to be able to sell retail and individual food service from the location in the future.

The area is developed with a mix of heavy commercial and light industrial uses. The approval of a conditional use permit may affect neighboring property owners within the LI: Light Industrial District from developing large above ground fuel storage. The proximity to M: Heavy Industrial should be noted, as many of the permitted uses within that district may be considered incompatible with retail and food service. The property is across Center Street from Cargill which would not currently be considered an incompatible use as the property directly adjacent is vacant. The City is not aware of any immediate expansion plans at this site.

Center Street may act as a buffer to some extent between the two districts. Center Street at this location provides over 100' of right of way. It may be appropriate to make clear in the conditional use permit that any nuisance affects from existing and/or future neighboring uses which are already zoned LI: Light Industrial and M: Heavy Industrial are acceptable to ensure existing and future development on this property is clearly informed they will be operating in close proximity to heavier uses.

With reference to the criteria for granting conditional uses, specifically regarding #9, General compatibility with adjacent properties and other property in the district, there does not appear to be any uses in the vicinity that may be injurious to such a use; however, it is important to note that if the use is approved it has the potential to limit other conditional use permits in the area that would be incompatible with this use such as aboveground fuel tanks.

Notices were sent to property owners within 350', a neighboring property owner to the south did have questions regarding the proposal, otherwise, no comments were received.

The application may be considered consistent with the Comprehensive Plan. Future consideration of incompatible uses within the district will ensure consistency with the Comprehensive Plan. It is recommended the City approve the proposed application on the basis it is consistent with City plans and ordinances with recommended conditions of approval as follows:

1. Applicant be made aware through the signing of the conditional use permit that the neighboring properties are currently zoned LI: Light Industrial and M: Heavy Industrial and that their permitted uses be not considered a nuisance when lawfully undertaken.
2. A Signed Conditional Use Permit Agreement is received.

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

Commissioner Diamond asked if aboveground fuel tanks were approved by right in some of the zoning districts. Tim indicated they were conditionally permitted uses in the LI and M Districts.

Commissioner Reinke asked if there were safety concerns. Tim stated that was why it is put in as a conditional use, the

potential effect on neighboring property owners and to put it into the record if there are any future requests nearby. Commissioner Reinke asked if the applicant could come in with concerns about neighboring uses. Discussion was held regarding neighboring uses --- Cargill, trucking... Tim referred to recommended conditions for approval; the applicant is aware of area uses and is proposing to cater to those types of businesses. The applicant will be signing a conditional use permit agreement

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

Chair McDougall opened public hearing A16-47 Nitschke Addition, Subdivision and Rezoning from Agricultural to PUD: Planned Unit Development property in the SE¼ of Section 31, T139N, R49W, City of West Fargo, North Dakota.

Tim reviewed the following from the staff report:

The applicant submitted an application, preliminary plat and conceptual site plan. The site plan shows 88 total townhome units which are proposed in clusters of 6, 7, and 8 unit buildings. Each unit would have a two-stall garage with driveways that could accommodate parking for two additional vehicles. The site plan includes two areas for 17 additional parking stalls. The plat shows just one lot as the applicant intends for the units to be rental units. There is one existing approach onto Sheyenne Street for the development. This access is shown to be shifted north slightly to align with the existing 50th Ave E on the east side of Sheyenne St. as it has been proposed in the Sheyenne Street Corridor Study. The existing property is surrounded by mature trees. The proposed plan shows a landscape buffer easement surrounding existing trees. The applicant indicated they plan to keep all of the existing trees. The City Forestry Department is developing an inventory of the trees and will provide a report to identify the species and health.

The City's comprehensive plan shows the plat area and undeveloped area to the north developing as Medium Density Residential. The density proposed equates to approximately 10 units per acre. This would be under the allowable 14 units per acre for attached units of the low density residential land use classification. In contrast to most recently developing land in the metro area, the area in question is primarily low-density development. The overall units per acres in this section is currently at approximately 2 units per acre. Area plans for development of future phases of "The Wilds" indicate they will continue to develop low density residential. There is currently no high-density development (up to 24 units per acre) in this section of land. There are 308 units of medium density residential in the section (up to 16 units per acre) built as twin-home and townhome style structures.

Property owners within 150' and applicable agencies and departments were notified. West Fargo Fire Department and the City Police Department would like the detailed plans to include a secondary emergency means of access. Multiple correspondence has been received from neighboring property owners, as well as a tremendous amount from outside of the notification area regarding density, buffering, etc. Staff provided all emails received to the commissioners.

The proposed application is consistent with the City's land use plan, which depicts the area developing as medium density residential.

- Under the heading "Land Use and Community Growth"; Goal 3. Objective A. states "To encourage the appropriate integration of multiple family housing throughout the community, as opposed to segregated concentrations";
- Under the heading "Community Development, Design, and Housing"; Goal 2 is "To provide a diversity of residential neighborhoods, both single family and multiple-family, and a balance of housing alternatives to meet the changing life-cycle needs of residents."
- Under the heading "Community Development, Design, and Housing"; Goal 2. Objective H. which states "To provide a housing development pattern with the ratio of single-family dwelling units to multiple-family dwelling units between 60 to 70% single family to 30 to 40% multiple family" provides guidance on analyzing the request. Current development in the Section is as follows:

The ratio of single-family to multiple family development is currently at 32% medium density multiple family (twin home and townhome) and 68% low-density single family residential. If the remainder of The Wilds develops as is provided in the City's Land Use Plan, the ratio will continue to skew higher toward low density residential.

It is recommended the City approve the proposed application in concept on the basis it is consistent with City plans and ordinances and that the Planned Unit Development process allows for increased scrutiny of the compatibility with adjacent

properties. Prior to development and review of detailed plans, it is recommended the following conditions be met:

1. Further discussion with neighborhood takes place and concept plans be reviewed and considered by the City Commission.
2. Recommendations from the Forestry Department concerning the existing trees be reviewed and considered.
3. A secondary emergency access be provided and approved by Fire and Police.
4. Park or land dedication is coordinated with the City and Park District.
5. A drainage plan is submitted and approved by the City Engineer.

Tim stated that several commissioners may have been contacted by area property owners. He reminded them that this is a quasi-judicial discussion; the application meets the requirements of City plans and ordinances. Because the amount of protest received is more than 20% of adjacent property owners within 150', the zoning change would require $\frac{3}{4}$ majority of the City Commission or 4 out of 5, to pass.

Chair McDougall asked people to provide their names and addresses when they speak in order to enter comments into the record.

Chair McDougall asked for clarification regarding the land use plan, if he was correct that it is depicted as medium density. Tim stated yes. The only reason more detailed information is required – concept plans and detailed development plans, is that the applicant is requesting PUD zoning. If it was straight R-2: Limited Multiple Dwelling zoning, it would just be a zoning change without specifics. As per state statutes, in order to zone property, the City is required to have a plan. Tim referred to the 2005 Land Use Plan Amendment to the West Fargo Comprehensive Plan for property south of I-94, which designated this area as medium density residential and again in 2008 with approval of the Comprehensive Plan.

Brian Pattengale, Houston Engineering and representing the developer, reviewed the site plan. He stated this will be 9 units per acre, with 13 buildings and they will preserve the existing trees. They looked at R-2 zoning; however, due to setbacks they'd be required to remove a number of trees. He is aware of neighborhood concerns and has read the comments received. This is not a single large 4-story structure; they will preserve the trees and greenspace with parking toward the middle of the development. These are 3-bedroom townhomes with 2 car garages and higher architectural standards. He indicated he was available to answer questions.

Commissioner Gust asked for clarification if they could tear down the trees and build provided they complied with R-2 zoning. Tim stated they would still have a public hearing on the zoning change, but wouldn't need to provide detailed site plans.

Chair McDougall stated that Commissioner Diamond would be abstaining from commenting and voting due to a conflict.

Commissioner Brownlee asked about similar developments. Mr. Pattengale stated Montgomery Homestead is similar with larger buildings.

Commissioner Gust asked if the intent is to maintain the trees in perpetuity. Mr. Pattengale stated they intend to preserve the landscape buffer and replace as needed. Tim stated that the forestry department will need to do an assessment as some trees may be dying. They'll do an inventory, to provide a solid basis in the agreement for what's required.

Bob Christiansen, 303 50th Place West, stated that he lives in the cul-de-sac directly next to trees. Trees are a big concern. He did a lot of research and spoke with the Nitschke's who planned to do an 11-unit single-family development, which they were comfortable with. There's a 30' utility easement which is going to take out a huge swath of trees. Stormwater runoff will go to the pond, so more trees will be removed. Mr. Pattengale stated they intend to bore underneath to preserve as many trees as possible.

Mr. Christiansen asked where else has multiple family been placed next to single family. Tim stated that the land use plan doesn't distinguish between types of low, medium and high density, it's handled through zoning. He gave the example of Eaglewood with transition in types of housing from low to medium density with a mix of twin homes, single family.... Mr. Christiansen stated that this is a big transition. Why was The Wilds able to build big houses next to this?

Darrell Vanyo, 112 50th Avenue East stated that he served on the City Commission for 13 years and is familiar with long-range plans. Plans shouldn't stay the same because the way development took place with The Wilds, things may have changed from the original intent of the plan. He built his home in McMahon Estates in 1999; in 2000-2001 residents on the

east side of Sheyenne opposed being annexed to Fargo and petitioned to be part of West Fargo. When the 2008 Long Range Plan was approved, they were already there.

Mr. Vanyo asked what the City will do with the trees when expanding Sheyenne Street, which will include a bike path. Will the City be able to guarantee the trees will be maintained? They are in opposition, they were there first. Sheyenne Street is very congested, Metro COG indicated traffic volumes are increasing, and with 88 units this will compound the problem. One access is poor planning and it will line up with his development. The commission needs to take a look at this and be careful to simply allow this development because of a long-range plan.

Tim stated that based on the Trip Generation manual, multiple family traffic generates 6.6 trips per day vs. single family, which has about 10 per day. There could be more traffic with single family.

Justin Fisher, 310 50th Place West stated he's on the pond side to the south. He enjoys the retention pond. He's concerned with rainwater runoff affecting the biological integrity of the pond. The first plan showed a dumpster. The other day he saw a bald eagle, which you don't see in larger cities, this is a small community. He also stated concern with a proposed sidewalk, which will create additional traffic through his neighborhood. The sidewalk really bothers him, as does the storm water issue and potential increased volume from this development. He feels the 2008 plan is antiquated.

Mr. Pattengale stated that the developer has changed the plan from dumpsters to individual collection.

Matt Sturlaugson, 4519 4th Street West, stated there are 30-40 kids coming in each week to see the horses on his 5-acre property to the north. He was concerned when development occurred to the south of him with a sidewalk so close to his horses. He also stated that the shelterbelts are dying and will have to come down.

Ed Eisenbeisz, 106 50th Avenue East, asked why with the conditional use permit application, people within 350' were notified, and with rezoning only 150'. Larry stated that 150' is set by state statute; the conditional use permit notification was set by the community.

Mr. Eisenbeisz asked about Police and Fire Department concerns with the single access point for all 88 units. Tim stated that it was a comment received from the police. Being that this is a concept, access would be reviewed again with detailed development plans. Mr. Eisenbeisz stated that letter he received does not show this. Tim stated that notification to property owners was sent out as soon as the application was received and he's putting up information as soon as he receives it. If anyone wants to be notified when detailed development plans are reviewed, please let Lisa know.

Mr. Eisenbeisz asked about timeframes for the project and road. Tim stated that detailed development plans would have a construction schedule. As for Sheyenne Street, areas to the north are proposed for 2018 and 2019. This section has not been programmed yet. Mr. Eisenbeisz stated that this is now a 2-lane highway and asked how this is going to work with traffic problems. Currently he has difficulty making a left turn to get to work.

Discussion was held regarding the Montgomery Homestead area. Tim stated that medium density allows for 8 units per structure, 12 units if exemplary in design. That development has up to 12-unit structures; this development proposes 6-8 unit buildings. Mr. Eisenbeisz compared property tax info on Montgomery Homestead to McMahan Estates. He believes single family generates 8 times the school tax than apartments. The 11 single family homes originally proposed would be more appropriate.

Glen Mitzel, 166 50th Avenue East, stated that he was part of the annexation mitigation. He stated that it needs to be pointed out that 36 single-family homes would generate 360 trips per day, but 88 apartments would generate 580 and the challenge will be at where the intersection will be located. How will the fire department deal with one ingress for 88 families? He's very disappointed in Houston Engineering that they haven't contacted Cass County Electric.

Miran Blanchard, 302 50th Place West, thanked Mr. Pattengale for addressing tree and dumpster concerns; however, he suggested reevaluating and changing the land use plan. This doesn't fit the aesthetics of the area regardless of the quality of the trees and landscaping. He also feels that it's important for the buffer needs to be maintained at this level.

Richard Lewis, 103 48th Avenue East stated that when The Wilds was first proposed he was told that would eventually be high-end condos. He felt he wasn't told the truth. Tim asked who said it would be condos. Mr. Lewis stated the developer.

Sara Hilsendager, 4716 Chokecherry Court, stated that she moved from Philadelphia where they lived across the street from a

lovely wooded area that eventually became rental. They couldn't predict the type of residents. She's concerned with quality and maintenance and asked about range in rental costs. Mr. Pattengale stated \$1375-1450. Mrs. Hilsendager asked who absorbs the special assessments for the units that aren't privately owned. Commissioner Brownlee stated that any assessments will go against each building, which the owner will pay. Mrs. Hilsendager asked about timeframes for completion. Mr. Pattengale stated that typically utilities are installed then the developer decides how many buildings to begin to construct.

Shirley Kulla, 154 50th Avenue East, stated she has a problem with rental units. She feels safe where she lives and would be much more comfortable with condominiums. She's lived in her home for 18 years. Tim stated that he checked with the police in terms of whether there was more crime in these types of units and the answer was no. There is a Crime Free Housing Program which the developer's management companies are part of.

Joel Morris, 4735 6th Street West, stated that he can see the trees from his home. He has two boys who go to Legacy Elementary School. It's a small school. This will increase the number of students and traffic. If there's a second exit, it'll go west along tiny streets. This is not a transition; this is putting this right in the middle of single family and will change the dynamic.

Shelley Eisenbeisz, 106 50th Avenue East, stated concern with safety. The same development (Montgomery Homestead) north of Aurora has problems. The police are called there and she won't feel safe if these are built.

Nate Vollmuth, Paces Lodging asked about access points. He represents the Martin family to the south who wish to have it known that they don't want their existing accesses hindered. He also represents the ownership group to the north who also don't want their current access hindered as well. Tim reviewed the Sheyenne Corridor Study which looks to be right in/right out. This should be discussed prior to Detailed Development Plans. Mr. Vollmuth asked if the access points weren't grandfathered in. Tim indicated this is the corridor study. This section of Sheyenne Street is not programmed yet and access has yet to be determined. Dustin stated that this point the City only has the ordinance to fall back on. Tim stated if the current use remains, it would most likely be grandfathered, if it's redeveloped, access could change.

Mr. Blanchard asked if there's no concerns with the safety of rental properties, then why is there a crime free housing program. This was a rhetorical question and he doesn't expect an answer. He also asked if the member of the committee not voting or commenting could disclose why. Commissioner Diamond stated that he has a financial relationship with a person who objected and has a family member who has objected.

Bill Fugate, 255 47th Avenue West, asked if there were any state or local ordinances that would prohibit renting a unit for drug or alcohol treatment. Tim stated that state licensed group homes serving 8 or fewer developmentally disabled persons are a permitted use in the R-2 District. He asked to be given a chance to research this and he'll provide info to Mr. Fugate and commissioners. Mr. Fugate stated that he specifically chose to live here because there weren't any rental properties. Larry stated that in the R-3 District, social service uses such as drug treatment shelters, homeless shelters and shelters for domestic abuse are permitted uses. They are conditionally permitted uses in the R-2 District. With a PUD the uses can be established; however, the developer didn't ask and isn't inclined to do so.

Mr. Eisenbeisz stated that he knew Harvey (Nitschke) for a number of years and knew in his heart he wanted single family. Tim stated that the current owner Patricia Nitschke signed off on the application.

Luther Simley, 118 50th Avenue East, stated that they built their home 20 years ago and knew Harvey very well. He wanted single-family development and proposed to bring in infrastructure for 11 homes. Mr. Simley looked at the density proposed and 88 units looks like they're seeing how many units they can fit into one space. Montgomery Homestead is a concrete jungle. A compromise should be owner occupied units. This is too much density. He's built 300 homes in the metro area and takes pride in that. He can only see this project deteriorating and asked what this will look like 30-35 years from now.

Linda Mayo, 105 50th Avenue East, stated concern with traffic. She sat on the I-94 bridge waiting to get onto Sheyenne Street.

Rachel Ibes, 319 50th Place West, stated that she's speaking for the children who can't speak for themselves. She's concerned with strangers. She knows all the families in her cul-de-sac.

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

Commissioner Reinke asked for clarification regarding the additional access point to the west. Tim stated that a proposed pedestrian/bikeway is shown to connect with a future path along Sheyenne Street, but not developed yet. The Comp Plan focuses on connectivity of bikeway/pedestrian facilities. Vehicular access is a whole different question and we've requested the police and fire department take a look at it. Commissioner Gust asked if a second vehicular access would be to the east. Tim stated that the only way it would go west would be platting to the west.

Chair McDougall stated that this is what happens when relatively small tracts of land are sold off and developed separately. Commissioner Brownlee stated that plans change over time. Rocking Horse Farm in Fargo was to be commercial, yet developed as single family. It's market driven. With the price of land, a million dollar piece of property, single family won't work. If not single family, then what can they do with the property? It's not going to stay this way forever. Nelson Acres was in the country and now it's in the middle of the City. The developer is looking at maintaining the trees. The land cost is too high to support single family.

Commissioner Reinke asked what the intention of the commission would be as she's new. Larry stated that with Sheyenne Street, medium density was the transition. With the huge amount of infrastructure costs, this area will be hit very hard with special assessments.

Commissioner Gust stated that he's an extraterritorial representative from Raymond Township. The Planning and Zoning Commission is an advisory board to the City Commission. As long as the project meets all the rules, it's hard for them to turn it down. He doesn't see as a board how they can do that. The City Commission has the final say; the developer is willing to maintain the shelterbelt.

Commissioner Gust made a motion for approval of the concept subject to the 5 conditions listed in the staff report. Commissioner Brownlee seconded the motion. Commissioners Kolb, Brownlee, McDougall and Gust voted in favor of the motion. Commissioners Johnson and Reinke opposed. Commissioner Diamond abstained. Motion carried 4-2.

Chair McDougall stated that property owners within 150' would be notified when the Detailed Development Plans would be reviewed. Any other individuals could write down their email addresses on the sign-in sheet to be notified. The next Planning and Zoning Commission meeting would be October 10th.

Chair McDougall opened public hearing A16-48 West Fargo 6th Addition, Subdivision in the S½ of Section 31, T140N, R49W, including part of Auditor's Lot 2 in the SE¼ of said Section 31, City of West Fargo, North Dakota.

Larry reviewed the following from the staff report:

The subdivision has been in the process for a number of years and waiting to clear up title work for the Title Opinion. The applicant is proposing to develop the property into 8 lots.

Lot 1 is undevelopable property between 12th Avenue NW and the Sheyenne River; Lot 2 is developed as the City Public Works Facility; Lot 3 is part of Cass County Drain #21; Lot 4 is area being used for Public Works storage; Lots 5-6 are Sheyenne Diversion lots; Lot 7 is Cass County Drain #21; and Lot 8 is a small left over lot.

Applicable agencies and departments were notified. SE Cass Water Resource District commented to verify that the east line of lot 5, Block 1 is a minimum of 15' from the outside levee toe.

The proposed application is consistent with the City's land use plan which depicts the area developing as Institutional/Community/School. 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 received and approved by the City Engineer.
2. An Attorney Title Opinion to the City of West Fargo is received.
3. Signed Final Plat is received with any necessary easements.
4. A certificate is received showing taxes are current.
5. Verify lot line per SE Cass Water Resource District comments.
6. Clarify the right-of-way along 12th Avenue NW.

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

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

Chair McDougall opened public hearing A16-49 West Fargo 7th Addition, Replat of Block 1 and Lots 1 & 2, Block 2 of West Fargo 3rd Addition and Subdivision and Rezoning from Agricultural to P: Public Facilities and M: Heavy Industrial, property in the NE¼ of Section 6, T139N, R49W, City of West Fargo, North Dakota; Rezoning from Agricultural to M: Heavy Industrial Lot 5, Block 2 of West Fargo 3rd Addition, from P: Public Facilities to M: Heavy Industrial Lot 12, Block 2 of West Fargo 3rd Addition; And from Agricultural to P: Public Facilities Lot 14, Block 2 of West Fargo 3rd Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The applicant is proposing to develop the property into 4 lots following the re-alignment of Cass County Highway #19/9th Street NW. The intent is to zone the properties Public Facilities which belong to SE Cass Water Resource District and accommodating Cass County Drain No. 21, as well as the property (Lot 3, Block 1) which is intended to house the City's salt/sand storage. The remaining property (Lot 2, Block 1) is intended for industrial use and would be zoned Heavy Industrial.

Most of the area was platted with West Fargo 3rd Addition. Some additional area was acquired from Central Livestock Association for the re-alignment of Cass County Highway 19/9th Street NW.

Property owners within 150' and applicable agencies and departments were notified and SE Cass Water Resource District needs to have an easement for Cass County Drain No. 21 across Cass County Highway #19/9th Street NW.

The proposed application is consistent with the City's land use plan which depicts the area developing as General Industrial. 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 be approved and provided on the final plat.
2. A drainage plan is received and approved by the City Engineer.
3. An Attorney Title Opinion is received and addressed to the City of West Fargo.
4. Signed Final Plat is received with any necessary easements.
5. A certificate is received showing taxes are current.
6. An easement is provided to SE Cass Water Resource District for Cass County Drain No. 21 across Cass County Highway #19/9th Street NW.

Larry stated that this is a result of the realignment of Cass County Hwy #19/9th Street NW when the street relocation created new parcels. Additional parcels are being rezoned to clean things up after the rezoning was approved, but those parcels were left out when the ordinance was developed. The parcels are proposed as P: Public Facilities except along 12th Avenue. The proposed M: Heavy Industrial could be sold by the City.

Larry stated that there is a question regarding a possible change in lot lines with Lot 2 of West Fargo 3rd and he has asked for clarification.

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

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

The next item on the agenda was Minor PUD Modification for private walkway at 250 Beaton Drive East (Lots 1-4, Block 1 of Melroe 1st Addition), City of West Fargo, North Dakota.

Tim stated that the applicant has requested a minor revision to the Detailed Development Plans as previously approved for Melroe 1st Addition. The request is to amend the approved Planned Unit Development (PUD) to allow an extension to a proposed walking path and changes to the existing landscape plan. The original PUD shows a proposed walking path located along the north and east sides of the property. The applicant intends to place landscaping north of the approved walking path to buffer it from single-family homes to the north. Additionally, the applicant proposes to extend the path to the west and remove a portion which connects to the City sidewalk on the south, and instead extend it into their property for internal connections only. The applicant has submitted a site plan illustrating these changes.

Notices were sent to neighboring properties. Comments received from two property owners were included with the agenda packets. The applicant was provided the comments, but staff is not aware of any changes yet to the submitted plan.

Comments were also received on the previously approved path after construction began to which the complainant brought forth to the City Commission. Staff and the Commission concurred a path was acceptable as it was approved in the PUD and is not prohibited within the buffer requirements found in the City's Landscaping Standards (4-449-A of City Ordinances). The applicant is far exceeding the requirements of the City's plant unit requirements found within the landscaping standards and has been maintaining, removing, and replacing trees and vegetation on the property.

Staff reviewed the proposed changes and recommends approval of the Minor PUD Modification. It may be appropriate to request the applicant work to the greatest extent possible with adjacent homeowners to find compromise; however, staff believes the path is acceptable within the buffer requirements between the two uses.

Dana Eckart, 623 20½ Avenue East, stated that he lives directly behind Bobcat and at previous meetings he asked about property values, landscaping and never once was a walking path discussed. His neighbor Troy Hefta received a letter in 2014 regarding a bike path along the shelterbelt. Mr. Eckart stated concern with his daughter playing in the backyard 4' from the proposed walking path. He doesn't feel comfortable. It's just for employees, but asked how they'll prevent the public from using the path. There are no gates. People could hide in the trees.

Mr. Eckart asked if there would be any limitations to him putting anything up to screen his property. Tim indicated he could put up a 6' privacy fence. Mr. Eckart indicated he didn't have a question before on the walking path because he didn't know about it. Tim stated that it wasn't on the site plan, but was in the narrative, which was sent out with property owner notification. The site plan was further developed after property owners were notified. Tim reviewed the narrative. When sending out notification it's to try to get people to the meetings, not everything is sent out. By the time detailed development plans were reviewed, it was added. Mr. Eckart stated it was added after he was notified. Tim stated the final plans aren't usually sent to residents.

Chair McDougall asked if there wasn't a buffer of trees along the proposed walking path. Mr. Eckart stated he's concerned more trees could be taken out. As for the fence, someone could still see into his house. The narrative said along the trees, not through the trees.

Commissioner Reinke asked if the buffers were met. Tim stated yes.

Chair McDougall asked if the fence is on the property line. Discussion was held regarding the fence. Larry thought it was inside Bobcat's property line by 6'. Mr. Eckart stated that if that's the case, then why when a tree is damaged, they're responsible for removal.

Attorney Dan Bueide stated that back in 2003 when Charleswood River Estates 5th was replatted to Charleswood River Estates 6th Addition, 6' of Clark's (Bobcat) property was platted. A 6' strip was deeded to the developer of Charleswood and two property owners to the north. Clark gave up 6' though due to concerns with storm drainage, restrictive covenants were placed on that 6' that there be no fence, no gardens, the residents can't place anything in the 6' and are required to maintain the trees, replace if necessary. No sheds, dog runs or clotheslines allowed. This was included in restrictive covenants, which were recorded. The path is located south of the fence.

Tim stated the property is zoned PUD because it was developed prior to the City's C-OP: Commercial Office Park District being established. Because it became a PUD, it's the only reason they're going through this procedure. There are numerous walking paths through West Fargo, through neighborhoods. Bobcat has the right to use their property.

Architect David Schulz, Schulz and Associates, stated that previously a straight path was proposed. He reviewed the site plan. Trees were not removed for path installation; they removed dead/dying ones, which will be replaced. They moved the buffer to between the fence and path. The original intent was to connect with one along Beaton Drive, but due to concerns from area property owners, that portion was disconnected. It will be signed private property.

Commissioner Diamond asked about material. Mr. Schulz stated concrete. Discussion was held regarding the path. It's only for employees and is signed private property. The west portion dead ends/ties into the parking lot.

Mr. Eckart asked how commissioners would feel if they thought one thing was going to happen and something different did. He doesn't have a say because it's Bobcat. Chair McDougall stated that there is a 6' privacy fence. Mr. Eckart stated it's

chain-link. Chair McDougall stated there are 20' trees, additional buffering and it is their property. There has to be give in both directions. Tim stated that Titan Machinery could come in and put in a path because they are zoned C-OP. Larry stated that there was a lot of discussion when Melroe came in. There were concerns with multi-family along the interstate and the best development was determined to be office. With single family there would be sound wall requirements. Charleswood wanted single family along the interstate and the City said no, they wanted a buffer to create distance. The shelterbelt was maintained.

Commissioner Reinke stated that the chain-link fence isn't a privacy fence. Larry stated that at the time, no fencing was required. Buffering was the shelterbelt. Today there are different requirements. Mr. Eckart stated that he couldn't put up a fence. Mr. Bueide stated not within the 6', it's in the restrictive covenants. Tim stated that restrictive covenants are between the property owners and not a city issue.

Commissioner Johnson made a motion for approval of the Minor PUD Modification for private walkway based on staff recommendations. Commissioner Brownlee seconded the motion. No opposition. Motion carried.

Commissioner Diamond made a motion to adjourn. Commissioner Gust seconded the motion. No opposition. Motion carried.