



Larry M. Weil, Planning Director  
Steven Zimmer, Senior Planner

West Fargo Planning and Zoning Commission  
March 10, 2008 at 7:00 P.M.  
West Fargo City Hall

Members Present:           Kim Keller  
                                  Jason Gustofson  
                                  Terry Potter  
                                  Ross Holzmer  
                                  Frank Lenzmeier  
                                  Harriet Smedshammer

Members Absent:           Wayne Nelson

Others Present:   Larry Weil, Lisa Sankey, Steven Zimmer, Brock Storrusten, Benny Polacca, Rob Hasse, Irv Houkum, Goldie Houkum, Larry Hanratty

The meeting was called to order by Chair Lenzmeier.

Commissioner Smedshammer made a motion to approve the February 11, 2008 meeting minutes. Commissioner Gustofson seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A08-6 Conditional Use Permit for detached storage building at 599 45th Avenue West (Lot 4, Block 1 of Nelson Acres Addition), City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property is located on the south side of 45th Ave W, south of 40<sup>th</sup> Avenue, between 4<sup>th</sup> Street W and 9<sup>th</sup> Street W. The applicant is proposing to construct a detached accessory building larger than 1,600 square feet, which requires a conditional use permit. The City's Land Use Plan depicts the Nelson Acres development area as Rural Residential. The applicant's single family dwelling and proposed accessory building use are consistent with City plans and Ordinances.

The applicant has submitted an application and site plan for a 60' x 80' building (4,800 square feet). Elevation plans have been provided showing that the building will be 20' in height.

Oversized accessory buildings have been approved as a CUP within the Nelson Acres subdivisions. In 2004 the City received an application for a 9,600 square foot building which was scrutinized as not being in character with the development. The applicant revised the request to a 4,800 square foot structure which was approved. Other buildings have been held to the same standard. Staff believes that this size precedent should be considered in this instance as well.

The applicant indicated the proposed accessory building will be 100-150' from the front property line, 20-30' from the east side lot line (min. is 20 ft), and a minimum of 390' from the rear property lot line. All setbacks well-exceed the Rural Residential zoning district yard setback requirements. The property is protected from the 100-year flood plain because of the Sheyenne/Horace Diversion. Ingress and egress to the property is from 45th Avenue West.

The large lot rural residential use for the Nelson Acres development is intended for a number of years until there is a need to provide municipal services. Notices were sent to adjacent property owners within 350' for review and no comments have been received.

Staff recommends approval with the following condition:

1. Applicant submits final site plan showing "as built" setbacks along with a site plan showing location of buildings on actual lot.

Applicant Rob Hasse stated that he's not sure of the location until spring, when he can determine where the sewer line is located.

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

Commissioner Gustofson asked about roof pitch, as changes would affect the height. Mr. Hasse stated either 4:12 or 5:12. Steven stated that 35' high is the maximum.

Commissioner Smedshammer asked about the second approach. Mr. Hasse stated that it would also be along 45<sup>th</sup> Avenue. He may need a second one as he doesn't want to be driving over his sewer line. Once he determines the location of the sewer line in the spring, then he can determine if he'll need the second driveway and how wide it will be. Steven stated that it's allowable as long as the total width doesn't exceed 40'.

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

Chair Lenzmeier opened public hearing A08-7 Reserve at Osgood 1<sup>st</sup> Addition, a subdivision and rezoning from A: Agricultural to R-1A: Single Family Dwellings, parcels located in the SW¼ of Section 29, T139N, R49W, City of West Fargo, North Dakota.

Larry stated that staff received a revised area plan and preliminary plat this afternoon, which addresses a number of the concerns listed in the staff report. He then reviewed the following information from the staff report:

The property is located east of the Sheyenne River on the north side of 40<sup>th</sup> Avenue East and west of the 9<sup>th</sup> Grade Academy. The developer is proposing a single family development. The area was annexed into the City in 2005. The proposed development is consistent with the City's Land Use Plan for the intended use; however, there are inconsistencies with the Comprehensive Plan policies and subdivision ordinance standards. The revised plat has taken this into consideration.

The developer proposes to begin a residential subdivision in the SW ¼ of Section 29, east of the Sheyenne River and west of the West Fargo School District property (9<sup>th</sup> Grade Academy). The City's Land Use Plan depicts the majority of the area developing as Low Density Residential. The City may consider four-unit structures along arterial and collector street corridors, provided they are complementary to development in the area. The Area Plan which was submitted for consideration with the Preliminary Plat was very limited in that it did not include the area within Section 29 to show the existing subdivisions, necessary connecting street network, and existing and intended land uses. The Area Plan should be revised to include this information. The Area Plan shows the Osgood development to the south and provides for street modifications to the north for 2<sup>nd</sup> Street East to align with Fargo's 66<sup>th</sup> Street South. The east side of the subdivision borders a quarter section line. A collector street (future 4<sup>th</sup> Street East) is planned for extending from 40<sup>th</sup> Avenue East to north of 32<sup>nd</sup> Avenue East and would not allow residential lot access. The collector street is intended to align with Fargo's 63<sup>rd</sup> Street South. The collector street system for Section 29 was determined when Furnberg 1st Addition was approved. The Shadow Wood 1st Addition developed an area plan which was consistent to the approved collector street system. The location of the collector street system was planned prior to development, because of the number of property owners within Section 29. The quarter lines were common boundaries for ownership.

The original Preliminary Plat consisted of 79 numbered lots, plus an additional unnumbered lot. The revised plat has incorporated the unnumbered lot. Several lots border the Sheyenne River. The lots range in lot width from about 60' at the building line to approximately 200'. The lot depths vary from 130' to over 450' for a couple of lots along the Sheyenne River. All lots meet or exceed the minimum lot and yard requirements for the R-1A: Single Family Dwelling District. The unnumbered lot divided Lot 1, Block 1 into two lots restricting access of the large river lot to 40<sup>th</sup> Avenue East. Access is not allowed onto 40<sup>th</sup> Avenue East, so the unnumbered lot was combined with the river lot and access eliminated along 40<sup>th</sup> Avenue East. It appears that Lot 6, Block 1 may have building limitations because of its size and proximity to the Sheyenne River. All lots which border the Sheyenne River are required to establish on the plat a 100-foot building control line from the riverbank.

Several of the streets on the original Preliminary Plat are not dimensioned. The revised plat included that information. The minimum street right-of-way for the internal local streets is 62' in width. The street right of way for the north ½ of 40<sup>th</sup> Avenue East is a minimum of 75'. The right of way standards are established by policies in the Comprehensive Plan and requirements within the Subdivision Ordinance. The approved 32<sup>nd</sup> Avenue Corridor Study recommends a minimum right-of-way of 150' with 200' desired. The City approved the Furnberg 1st Addition with 75' of right-of-way on the north side. The subdivision plat needs to provide for the Collector Street located on the quarter line (4<sup>th</sup> Street East). This needs to be coordinated with the property owner to the east, as each property owner should share in the street right-of-way. The current plat would place the burden of providing the entire collector street right-of-way on the adjacent property owner. The right-of-way for the Collector Street should be a minimum of 80'. If future pedestrian/bikeway facilities are provided along the corridor, it would be appropriate to increase the right-of-way to 90' per the subdivision ordinance.

Street names on the Preliminary Plat should be revised to more closely follow the local City street grid. The subdivision borders 40<sup>th</sup> Avenue which is an arterial street and is located in the Corridor Overlay District. Residential subdivisions are required to provide a dedicated buffer strip or provide an easement for the buffering of up to 30'. Buffering techniques may include a 4-6' berm and screening with solid fencing, coniferous trees or both. The Corridor Overlay District requires landscaping along the street corridor and increased building setbacks. Estimated traffic volumes for the future show the need for widening 40<sup>th</sup> Avenue to a 4-lane roadway in this area. Traffic volumes are not projected to be as high as on Sheyenne Street or 9<sup>th</sup> Street East, so fencing with deciduous tree plantings on the street side may adequately address the requirements. If screening with trees is preferred over fencing, the trees should be of the evergreen variety and planted such that they form a visual screen.

A drainage plan is required for the development. The developer proposes being part of the regional storm retention for Section 29. An area plan meeting was held with area property owners to discuss retention requirements. Property owners agreed that regional retention made the most sense. Other municipal service needs were also discussed at the area plan meeting. Park dedication is required for the development. The required amount of park dedication is 10% of the gross undeveloped area (±40.5 acres) which would amount to approximately four acres for this subdivision. When the area for Rendezvous Park (regional/community park) was purchased in Eagle Run, there was an agreement between the Park District and City that a portion of the land dedication required for future subdivisions would be in the form of cash-in-lieu to help cover annual bond payments. A greater percentage of the dedication amount would be cash-in-lieu on the west side of the Sheyenne River than on the east side (70% vs. 50%), because the regional/community park would be more accessible to the residents living on the west side. With the remaining 30-50% land dedication, neighborhood parks would be provided for within developments. The Park District has utilization rights for property on the School District property to the east. Specific neighborhood park areas for Section 29 have not been identified yet by the Park District. The staff has sent the subdivision plat to the Park District for their review and recommendations. By ordinance the Park District has 30 days to provide a recommendation. Final Plat approval should not be given until the City has received the Park District recommendations as this may impact the layout of the plat.

All subdivisions developed south of I-94 which benefit from the major sewer extension services installed through City financing are required to pay a utility hookup fee. Arrangements for payment need to be made prior to the subdivision plat being recorded.

Notices were sent to area property owners, as well as City departments, Park District, Post Office and Fargo Planning office. The Park District is still reviewing the subdivision and did not have a recommendation yet. The Post Office has indicated that the area will be serviced with Cluster Box Units (CBUs) as the mode of delivery. The developer needs to coordinate with the Post Office and make provision for the mode of delivery as part of the street improvement district. Departmental comments received include questions on access to Lot 1, Block 1; zoning for Lot 1, Block 1 and if animals will continue to be raised; dimension of streets not being reflected on the Preliminary Plat; need to address municipal services; need for identifying the appropriate building control line along the Sheyenne River; need for coordinating collector street right-of-way with the property owner to the east; need to coordinate 2<sup>nd</sup> Street East connection with existing roadway to the north; adequate provision for utility easements; and the appearance that Lot 6, Block 1 may be an unbuildable lot.

The City still needs to receive a revised Area Plan and Preliminary Plat addressing the issues identified above, certificate showing taxes being current, drainage plan, necessary easements on the Final Plat, berming/buffering/landscape plan for 40<sup>th</sup> Avenue East, park dedication agreement, subdivision improvement agreement, CBU location placement plan, changes relating to street issues reflected on the Final Plat, and restrictive covenants which at minimum addresses the continued maintenance of the buffering along 40<sup>th</sup> Avenue East.

Additional items to be considered with a revised Preliminary Plat and Area Plan that address the issues identified above include

the following:

1. Departmental and other public comments are taken into consideration.
2. A certificate of taxes showing taxes being current is received.
3. A berming/buffering/landscape plan is received which provides for adequate buffering for the subdivision and landscaping with trees.
4. A Drainage Plan is received and approved by the City Engineer.
5. A Final Plat is received with any necessary utility easements.
6. Recommendation from the Park District and a park dedication agreement is received.
7. The required utility hook-up fee is adequately addressed.
8. A CBU location plan is reviewed and approved by the Post Office and City.
9. A Subdivision Improvement Agreement is received.
10. Restrictive covenants are received and filed with the Final Plat.

Developer Steven Iverson stated he was available to answer any questions.

Larry Hanratty, 3804 2<sup>nd</sup> Street East, asked where the proposed bike paths would be located. Larry stated that there's a 40<sup>th</sup> Avenue planned bike path; however, the reference was made regarding 4<sup>th</sup> Street East being a collector with a linkage to 40<sup>th</sup> Avenue.

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

Commissioner Gustofson asked if staff was okay with the revised plat. Larry stated that he hasn't had much of a chance to review it.

Commissioner Gustofson asked how the Vetter property will be incorporated. Larry stated that everything west of 2<sup>nd</sup> Street East belongs to the Vetter's and he's proposing to sell a portion to the developer, so it all needs to be platted.

Chair Lenzmeier asked about access and right-of-way needs. Larry stated that there was discussion regarding which street should be the collector -- 2<sup>nd</sup> Street or along the quarter section line. From a traffic standpoint it was more appropriate to move it to 4<sup>th</sup> Street East. Larry referred to the aerial photo on the wall and indicated that 2<sup>nd</sup> Street will be moved to the east, to line up with 66<sup>th</sup> Street to the south.

Larry stated that the right-of-way will be platted, timing and development would be indicated in the developer's agreement.

Mr. Iverson stated that Mr. Vetter will be signing off on the plat, he's working on several of the conditions listed in the staff report.

Commissioner Gustofson asked if there were any added recommendations. Larry stated that there was a letter received from Cass County regarding setbacks from the river and there is some question as to whether Lot 6 is buildable. He asked if Lot 7 was going to be included in the plat. Mr. Iverson stated that the ordinal plat was incorrect, showing the building control line from the center of the river instead of the riverbank. He stated that Lot 7 is not their lot, so should not be included in the plat.

Discussion was held regarding having a special meeting. Larry stated that a lot of the concerns with the preliminary plat have been addressed. The single biggest issue would be the park district and if they don't want what is proposed.

Commissioner Gustofson made a motion for approval based on Staff recommendations. Commissioner Potter seconded the motion. No opposition. Motion carried.

The next item on the agenda was review of the P&Z Rules of Conduct.

Larry stated that a couple of months ago these were brought before the commission for review. They've been in place for a number of years and it's been awhile since any changes have been made. Larry then reviewed the changes.

On page 2, Item D -- Urban Renewal Law was added. The Planning and Zoning Commission needs to review any changes or addition to the Urban Renewal Plan and district. Items F&G were updated due to changes in the ordinance codification.

On the bottom of page two regarding two full terms, it's always been interpreted that a commissioner can serve a fill term and go on to serve out two full terms. On page 4 -- changed from clerk to Assistant Planner maintaining the minutes. On page 5, the meeting time changed about 4 years ago from 7:30 p.m. to 7:00 p.m.

Larry stated that changes were mainly clean up. Chair Lenzmeier stated that on Page 6, item 7.2, regarding order for presenting -- he hadn't been doing it that way, so this evening he had the applicant present prior to taking public comments.

Chair Lenzmeier asked about yearly priorities. Larry stated that it's been very difficult because the budget needs to be completed in September.

Commissioner Smedshammer made a motion to adjourn. Meeting adjourned.