



West Fargo Planning and Zoning Commission
May 12, 2008 at 7:00 P.M.
West Fargo City Hall

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

Others Present: Larry Weil, Lisa Sankey, Brad Rivers, Al Pritchard, Irv Houkom, Don Dabbert Jr., Steve Iverson

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the April 14, 2008 meeting minutes, with a correction to page 6, 4th paragraph from the bottom. "Herman Rabanus....asked if they could block off the access easement..." instead of of. Commissioner Nelson seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A08-11 Conditional Use Permit for Concrete Crushing/Stockpiling in the W $\frac{1}{2}$ of Section 6, T139N, R49W (Barnes Township), Cass County, North Dakota (Proposed Lot 10, Block 2 of West Fargo 3rd Addition).

Larry reviewed the following information from the staff report:

The property is located on the south side of 8th Avenue NW and to the west of County Highway 19. The subdivision plat and zoning for this property was approved in December 2007 to allow for heavy industrial uses. The Final Plat has not yet been recorded. In order to stockpile crushed concrete on the site a Conditional Use Permit is required. The proposed use is consistent with City Plans and Ordinances.

The applicant proposes to operate a concrete crushing operation on proposed Lot 10, Block 2 of West Fargo 3rd Addition. The operation is being relocated from a previously approved site in The Yards Second Addition. With reference to the criteria for granting conditional uses, the following is noted:

1. Ingress and egress to the property is from 8th Avenue NW.
2. The property would have adequate off-street parking which would not affect traffic circulation on the property.
3. The economic, noise, glare, or odor effect of the proposed use on adjoining properties does not appear to be an issue.
4. Refuse and service areas and utilities do not appear to be problematic.
5. Screening and buffering would be appropriate for any outdoor storage areas where materials are stored. The site is isolated and screened because of the BNSF Railroad to the south and the Sheyenne Diversion to the north.
6. Yards and open space requirements are adequately provided for.
7. The property is located inside the Sheyenne Diversion, so it is protected from flooding.
8. The proposed use is viewed as generally compatible with adjacent properties and other property in the district as per the scale and proposed manner of operation of the use.

Notices were sent to adjacent property owners for review. The City also notified City Departments and SE Cass Water Resource District. SE Cass didn't have an issue with the road; however, are concerned with the use and if there is a lot of truck traffic, the road would need to be kept up. Any deficiencies need to be corrected immediately, as the integrity of the Sheyenne Diversion needs to be protected.

Staff recommends approval on the basis that it is consistent with city plans and ordinances.

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

Commissioner Nelson made a motion for approval. Commissioner Gustofson seconded the motion. Chair Lenzmeier asked if the existing site was going to be discontinued. Larry stated that would be the intent; however, the application didn't formally state that. It could be a condition for approval. Commissioner Nelson made a motion to amend the motion on the floor to include discontinuing The Yards crushing site. Commissioner Gustofson seconded the motion. The commission then voted on the amended motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A08-12 Doll's 5th Addition, Replat of Lot 1, Block 1 of Doll's 3rd Addition & Plat of a parcel in the NE¼ of Section 19, T139N, R49W, City of West Fargo, North Dakota, Rezoning from Agricultural to C: Light Commercial and a Conditional Use Permit to expand a golf cart sales and service business.

Larry reviewed the following information from the staff report:

The proposed subdivision is located south of Interstate 94 and east of Sheyenne Street, directly south of RJ's Conoco. The applicant has submitted an application for a subdivision plat and a request for rezoning of the property to C: Light Commercial. The applicant proposes to plat and rezone his property for sale and development, as well as to sell 20' of property to an existing motorsports sales and services business. If rezoned to Light Commercial the use would require a Conditional Use Permit for expansion of the motorsports business to sell recreational vehicles. The proposed development is consistent with the City's Land Use Plan which depicts the area as General Commercial.

The applicant has submitted an Area Plan, Preliminary Plat and a preliminary site plan. Sheyenne Street alignment will stay as it is currently and it would seem appropriate to reevaluate separate access alternatives that would minimize the negative affects on this property and still serve the development directly east of this property. City staff has reviewed the alternative roadway alignments and have recommended installing a full access in the southwest corner of this plat where the Sheyenne Diversion meets Sheyenne Street.

The plat shows a 30' access easement instead of a street which provides a second access point to this development and the residential development to the east. The easement will provide access points on Sheyenne Street and Shiloh Street. The 30' access easement is not adequate for serving the commercial development and surrounding area. The standard for major easements in commercial areas is 50'. If the access easement is approved in place of a street, the design, timing for installation, and installation costs should be provided for in the subdivision improvement agreement. It may be possible to use a portion of the Sheyenne Diversion for part of the access to this property. The City has contacted SE Cass Water Resource District to review this possibility. SE Cass indicated that they did not want any use on their property. Access would need to be beyond their property.

A cross access easement must be provided for access to Lot 8. This should be provided across Lot 7 and should be 40' in width. City access spacing standards need to be applied so that traffic on Sheyenne Street is not affected, and the easement should meet Corridor Overlay District standards.

The Preliminary plat is for 8 lots, 7 new, which vary in size from 38,705 to 96,700 square feet. Lot 1 is being replatted to add ± 5,300 ft², 6' to the south side and 20' to the east side. All Seasons Motorsports is located on Lot 1.

Engineering has stated that there will be an on-site storm water retention area required for this subdivision and that a 10' utility easement must be placed around the perimeter of the property. Also, existing water easements and needed sanitary easements should be shown. The applicant will also need to meet with engineering to discuss sewer needs.

This parcel is located within the CO: Corridor Overlay District and will be required to follow the increased construction and landscaping standards. Buildings within the CO District must be faced with no less than 70% non-metal materials such as stone, brick, wood, precast concrete, etc. The minimum setback for any building within the CO District is 45' from the property line. All subdivisions within the CO District are required to submit a landscape plan that shows it meets the open space landscaping standards set forth in this district.

A drainage plan is required for this development. Park dedication is required for the undeveloped area of this 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 hook up fee. Arrangements for payment need to be made prior to the subdivision plat being recorded.

With regards to the criteria for granting a conditional use, the following is noted:

1. Ingress and egress to the property is from Sheyenne Street via a shared access with the property to the north. The site plan shows one access point off of the Sheyenne Street access if the site is developed as planned.
2. Off-street parking and loading facilities are contained within the property. Parking requirements were calculated for the building and site plans as developed. The added property is primarily to accommodate septic holding tank needs.
3. The economic, noise, glare, or odor effect of the proposed use on adjoining properties and properties generally in the district does not appear to be an issue.
4. Refuse and service areas appear to be adequately located with reference to ingress, egress, and parking areas.
5. Utilities will need to be supplied to this site. Engineering will work with applicant to plan water and sewer service.
6. Screening and buffering for this use is not required.
7. Signage for the property should be addressed through the sign permitting process.
8. Soil conditions appear to be in order for the proposed development.
9. The proposed use would appear to be generally compatible with adjacent property and other property in the district.

Notices were sent to property owners and no comments were received. City Departments, Park District, SE Cass Water Resource District, utility companies and Post Office were also notified. Easements for utilities and access were the issues of primary concern. The Post Office indicated that the mode of delivery depends on the number of deliveries and may be either curbside or Cluster Box Units. Arrangements need to be made with the Post Office.

It is recommended to conditionally approve the proposed subdivision, rezoning and conditional use on the basis that it is consistent with City plans and ordinances. The conditions of approval are as follows:

1. The site is designed according to the Corridor Overlay District regulations.
2. A Title Opinion is received.
3. Arrangement for payment of sewer hook-up fees is received.
4. A Final Plat is received with necessary easements.
5. Either a street is required along the south side or the proposed access easement is increased to 50'. Provision needs to be made for design and installation within the subdivision improvement agreement.
6. A Drainage Plan is received.
7. A Landscape Plan is received for along the west side of the plat along Sheyenne Street.
8. An access cross easement is shown on the Final Plat on Lot 7 between the primary access easement to the south & Lot 8.
9. A Park Dedication Agreement is received.
10. A Certificate is received showing taxes are current.
11. A Subdivision Improvement Agreement is received.

Brad Rivers, Horizon Real Estate, representing the seller, stated that they have a purchase agreement on 2 acres and have about \$130,000 in specials forthcoming, so he encouraged the Planning and Zoning Commission to approve the request in a timely manner, so they could sell off the remaining property. He stated that as far as the access easement, he thought this had been adequately addressed by the City Engineer. Larry stated that he just received comments today from SE Cass Water Resource District. He asked if the intent was to set aside Lot 6 for water retention for the entire development.

Mr. Rivers stated that they would like to establish Lot 6 as park dedication instead of cash-in-lieu and is asking for Planning and Zoning support. He stated that they would like to see Lot 6 used for regional water retention. He also asked for clarification on the sewer fee, developer's agreement and if there was going to be a stop light at the intersection by RJs Conoco.

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

Larry stated that the State Highway Department has come back with a study proposing signal lights this summer at the Conoco intersection, as well as on the north side of I-94. Congestion is affecting the on ramps.

He stated that the sewer hookup fee is totally apart from the local sewer and water issues, it's for the lift station on the west side of Sheyenne Street. Every subdivision south of I-94 either paid in cash for it or was assessed. Al Pritchard asked what the

approximate cost of sewer and water would be. Larry stated that he didn't know.

Chair Lenzmeier asked if the 11 staff recommendations met with the applicant's approval. Mr. Rivers stated that it was their understanding that some of these items could be worked into the developer's agreement. Larry stated that typically the developer's agreement addresses the sewer and water issues. Park dedication is a separate issue. He stated that he anticipates hearing from the park district in a few weeks.

Mr. Rivers asked about the beautification/landscaping plan. Larry stated that typically the landscaping plan is developed with platting and installation occurs as property develops.

Commissioner Smedshammer made a motion for approval. Commissioner Potter seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A08-13 Shadow Wood 2nd Addition, Replat of Lot 1, Block 1; Lots 12-14, Block 3, Part of 7th Street East & Part of 36th Avenue East and Plat of Part of the N½ & SE¼ of Section 29, T139N, R49W, City of West Fargo, North Dakota and Rezoning from Agricultural to R-1B: Special Single Family Dwellings.

Larry reviewed the following information from the staff report:

The property is located west of 9th Street East and north of 36th Avenue East. The developer owns several parcels in the North ½ of Section 29. The area was annexed into the City in 2005. The proposed subdivision expands upon the first subdivision approved in August 2007. The proposed development is consistent with the City's Land Use Plan.

Last year the developer submitted Shadow Wood 1st Addition for consideration which was a residential subdivision in Section 29, north of the West Fargo School District property where the 9th Grade Academy is located. The area plan submitted by the developer shows approximately 160 acres which extends from 9th Street East to the Sheyenne River in the north half of the Section. The City's Land Use Plan depicts the majority of the area developing as Low Density Residential. Some High Density Residential is shown along 9th Street East and Medium Density Residential is shown in the northwest portion of the area. The Area Plan indicates that the developer proposes to develop the area primarily with low density residential. An area north of 36th Avenue East and west of 9th Street East does not have a use shown by the developer, though the Land Use Plan depicts this area as high density residential. Also, an area along the Sheyenne River does not have a use shown by the developer, though the Land Use Plan depict this area as low density residential. It appears that the Area Plan scheme is consistent with the City's Land Use Plan. Additionally the Area Plan reflects the City's intended Collector and Arterial Street system with no residential lot access on these streets. The development plans indicate a system of open spaces and connecting pedestrian bikeway linkages for the development. Though curvilinear streets are shown, the developer is intending to create a more traditional neighborhood.

The Preliminary Plat consists of approximately 49 acres of land which provides for development on east, north and west sides of Shadow Wood 1st Addition. The plat has 100 residential lots which includes several lots being replatted from the Shadow Wood 1st Addition. Also, several lots for parks and park linkages are included as well as one lot for an area storm water retention pond. The R-1B: Special Single Family Dwelling District zoning corresponds to the zoning approved for Shadow Wood 1st Addition.

Pedestrian/bikeway linkages are provided for through the subdivision. To meet subdivision regulation requirements, it appears that two additional pedestrian walkways are necessary along the north side of Block 1 which is a very long block. The walkways would provide for pedestrian circulation between the Shadow Wood development and the development to the north.

The street right-of-ways which vary between 62-66' for local streets meet the standards under the City's Subdivision Ordinance. The right-of-way for 4th Street East (Collector Street) is shown as 100' because the developer desires a median. With the Reserve at Osgood 1st Addition to the south, the minimum right-of-way of 80' proposed by the developer was deemed to be adequate by the City even though a pedestrian/bikeway is planned. The right-of-way for 36th Avenue East (Collector Street) is shown as 100', except east of 7th Street East which is shown as 90'. An additional 15' landscaping/bike path easement is shown along the north side of the street. It would seem that a 100-foot right-of-way throughout the corridor would be adequate, and the 15' landscaping/bike path easement could be eliminated, as traffic volumes are not anticipated to be very high. The street right-of-way for 36th Avenue East extends south into the southeast quarter which is owned by another party. The owner would need to agree to the plat arrangement, or the street layout would need to be revised back to the quarter line. A drainage plan is required for the development. The developer proposes regional storm retention areas for the development

which will meet the retention standards. Two of the retention ponds for Section 29 are intended to be located in the Shadow Wood development and are already designed.

Park dedication is required for the development. The required amount of park dedication is 10% of the gross area which would amount to approximately 16 acres for the overall development reflected in the Area plan. The developer proposes dedicating more passive open space/park areas throughout the 160-acre development area. When the regional/community park land 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 (7% vs. 5%), because the regional/community park would be more accessible to the residents living on the west side. With the remaining 3-5% land dedication, neighborhood parks would be provided for the developments. The Park District has utilization rights for property on the School District property to the south. 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. It would be appropriate to identify all land dedication areas for the entire Shadow Wood development prior to Final Plat approval for the proposed Shadow Wood 2nd Addition, so that a proper park dedication agreement can be developed addressing park lands and cash-in-lieu of land dedication.

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. We received an inquiry from the property owner in the SE ¼ which is affected by the proposed 36th Avenue East street configuration. The City also provided the proposed development plans to City departments, Park District, Post Office and Utility Companies. The Park District is still reviewing the subdivision and likely will not have a recommendation prior to the Planning and Zoning Commission meeting. The Post Office has indicated that the mode of delivery will be Cluster Box Units (CBU), so the developer will need to work with the Post Office and City to site the location of the units throughout the development. The City Engineer has indicated that the landscape/bikeway easement shown along 36th Street East is not needed with the 100' of right-of-way. Also, right-of-way would need to be purchased from the property owner to the south, and a sanitary lift station needs to be provided in the southwest corner of the plat. Additionally, necessary easements need to be shown on the Final Plat. Finally, access control should be placed on the Final Plat for the Collector streets.

It is recommended that the subdivision plat and rezoning request be conditionally approved on basis the request is consistent with City plans and ordinances. The conditions of approval for the application are as follows:

1. Departmental comments are taken into consideration.
2. Additional pedestrian walkways are provided along the north side of Block 1.
3. An Attorney Title Opinion is received.
4. A certificate of taxes showing taxes being current is received.
5. Restrictive covenants are received if applicable.
6. A Drainage Plan is received and approved by the City Engineer.
7. A Final Plat is received with any necessary utility easements.
8. The Final Plat is not approved until the City receives an overall park dedication plan from the developer and recommendation from the Park District, as well as a park dedication agreement.
9. The required utility hook-up fee is adequately addressed.
10. A CBU location plan is reviewed and approved by the Post Office and City.
11. A Subdivision Improvement Agreement is received.

Applicant Don Dabbert, Jr. indicated he was available to answer questions.

Irv Houkom stated that his mother owns the property to the south, where the plat shows the road going through. This area hasn't been purchased and not acceptable to them as proposed.

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

Chair Lenzmeier asked for clarification on the 5th Street connection to the north and south and if there is existing right-of-way.

Larry stated that it should actually be labeled 4th Street and currently there is not a connection, it's conceptual. He stated that if 4th is developed, it would be the westerly boundary of the development.

Commissioner Gustofson asked how 36th Avenue could be platted if they don't own the land. Larry stated that before the final plat is approved they could either purchase the property or relocate it.

Mr. Dabbert stated that a meeting has been set up later in the week with the property owner to discuss the proposed retention pond, placement of utilities, etc. The plans for curvilinear streets are for traffic calming.

Chair Lenzmeier asked if property owners to the north had been notified and are aware of the development plans. Larry identified the property owners who were been notified.

Commissioner Nelson asked about moving the plat forward and how to address the 36th Avenue issue. Larry stated that it could be added as a condition for approval --- "Agreement on purchase of property or plat readjustment prior to City Commission review".

Commissioner Gustofson made a motion for approval subject to the 11 conditions listed in the staff report, as well as an additional condition regarding an agreement for 36th Avenue East of either purchase of property or plat readjustment prior to City Commission review. Commissioner Nelson seconded the motion. No opposition. Motion carried.

The next item on the agenda was revised Elevation and Landscape Plan for Office Building on Lot 2, Block 1 of Dakota Territory 10th Addition.

Larry stated that a Planned Unit Development Amendment was approved for the Moore Engineering office building on May 21, 2007. Construction on the building is substantially complete, though some site work is still needed. The business has made changes to the color of some brick and modified the roofline. A detailed landscape plan was developed by a landscape architect, which revises some of the plantings originally submitted. It appears that the revised plan adds additional landscaping and enhances the site. The changes are very insignificant, but being submitted for Planning and Zoning Commission acknowledgement. A Minor PUD Modification does not seem necessary.

Commissioner Nelson made a motion indicating that the Planning and Zoning Commission received the information on the changes. Commissioner Keller seconded the motion. No opposition. Motion carried.

The next item on the agenda was consideration for Planned Unit Development for Christianson 1st Addition.

Larry stated that when the Planning and Zoning Commission approved the subdivision and rezoning request in September of 2006, it was with the understanding that rather than requiring a PUD Amendment for the development of each lot, a list of uses would be established along with any special conditions, so the developer knows which uses are allowed. This would be completed prior to the second reading and be reviewed by both Planning and Zoning Commission and City Commission, which would establish the terms of the PUD. The Interstate Corridor Overlay District requires site and building review by the Planning and Zoning Commission and City Commission for all development, but does not require a public hearing or notice to property owners. A copy of the original staff report was included in the agenda packets, along with the proposed PUD statement of intent, list of uses, and site development standards.

Discussion was held regarding the plat. Lots 6 & 7 would be tied together unless a provision is made regarding the property to the north.

Commissioner Nelson made a motion for approval of the PUD's Statement of Intent, Permitted Uses, and Site Development Standards with the following conditions: If a mini-storage use is developed, there will be permitted PUD uses in front, the mini-storage unit doors will face inward, and increased landscaping is to be provided along the side property lines. This would be similar in character to what was previously proposed. The following conditions of plat approval are still appropriate:

1. An Attorney Title Opinion is received.
2. A drainage and utility plan is reviewed and approved by the City Engineer.
3. A certificate is received showing taxes are current.
4. A Park Dedication Agreement is received.
5. Lot 7 is combined with Lot 6 unless used for regional retention purposes.

6. A Final Plat is received with necessary easements.
7. A Subdivision Improvement Agreement is received.
8. The lots are developed according to the Commercial Office Park District and
9. Interstate Corridor Overlay District provisions.
10. A mail delivery plan is approved by the Post Office.
11. Right-of-way issues are adequately addressed.

Commissioner Gustofson seconded the motion. No opposition. Motion carried.

The next item on the agenda was Consideration of Rules of Conduct Changes. Larry stated that a couple of months ago this was reviewed by the Commission; however, no action was taken on them.

Commissioner Nelson made a motion for approval. Commissioner Smedshammer seconded the motion. No opposition. Motion carried.

Commissioner Gustofson made a motion to adjourn. Meeting adjourned.