



West Fargo Planning and Zoning Commission  
July 14, 2008 at 7:00 P.M.  
West Fargo City Hall

Members Present: Jason Gustofson  
Kim Keller  
Wayne Nelson  
Terry Potter  
Tom McDougall  
Frank Lenzmeier  
Harriet Smedshammer

Others Present: Larry Weil, Lisa Sankey, Steven Zimmer, Brock Storrusten, Bruce Clapham, Dennis Rheault, Jim Morken, Gary Rockne, Kevin Bucholz, Mike Bernath, Mike Thorstad, Al Hochhalter

The meeting was called to order by Chair Lenzmeier.

Commissioner Potter made a motion to approve the June 9, 2008 meeting minutes as printed. Commissioner Smedshammer seconded the motion. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A08-17 Industrial Builders 1<sup>st</sup> Subdivision & Rezoning from A: Agricultural to M: Heavy Industrial of property located in the SW ¼ of Section 32, T140N, R49W (Reed Township), Cass County, North Dakota.

Steven Zimmer reviewed the following information from the staff report:

The property is located on the east side of County Hwy 17, north of 12<sup>th</sup> Ave NE, between the Sheyenne Diversion's north tie-back levee and the BNSF rail spur. This area was reviewed and approved a year ago for development; however, the applicant is proposing to resubmit the plat in order to include additional property to the northeast.

Lots 1 and 2 of the proposed Preliminary Plat are currently developed and zoned M: Heavy Industrial. Lot 2 has a conditional use permit for a concrete/asphalt crushing facility and stockpiling of crushed concrete/asphalt. The existing company wishes to expand the area used for industrial storage to the east, and thus the property must be zoned from Agricultural to Heavy Industrial and be platted. The property is located on the opposite side (east) of County Hwy #17 from a residential subdivision. The existing business was established prior to the residential subdivision. The property is in the city's Extraterritorial Area. The proposed use is consistent with City Plans and Ordinances.

The proposed subdivision is located in an area that is predominately industrial in nature. The Preliminary Plat provides for 6 lots. Lot 1 Block 1 (±10 acres) is currently developed and has been used by Industrial Builders for several years prior to coming into West Fargo's ET area. Lot 2 Block 1 (±20 acres) to the east of Lot 1 is being used for equipment storage, as well as for the concrete/asphalt crushing facility and the stockpiling of the concrete/asphalt materials. Lot 3 Block 1 would be a newly platted lot along County Hwy #17 directly north of Lot 1. The remaining three lots are intended to be used as lease property for industrial storage uses. Industrial Builders has indicated that the lots would be used for storage and would not have buildings on the property in the near future, and thus would not require services at this time.

The Preliminary Plat shows 13<sup>th</sup> Avenue NW, 2<sup>nd</sup> Street NW, and 14<sup>th</sup> Avenue NW as access easements. However, following discussion with the applicant the easements will be changed to street right-of-ways. Sewer and water services, as well as street improvements will not be requested at this time as no permanent improvements are anticipated, and the overall development plan for the area is not certain. If the development plans change for building construction and other permanent improvements, the applicant may wish to replat to provide for a different lot arrangement and different street configuration. The proposed street right-of-ways are 80' which is adequate. 13<sup>th</sup> Ave NW is the platted access point to County Hwy #17 and is located directly across from a previously approved access to Goldenwood 3<sup>rd</sup> Subdivision.

The City right-of-way dedication standard for the County Hwy #17 is 150' as the street is intended to be a minor arterial street. Cass County Engineering was notified as the road in this area is in the Extraterritorial Area and maintained by the County.

The applicant has also submitted an area plan that shows how the remaining land to the east is proposed to be developed. The properties along Cass County Hwy #17 are located in the Corridor Overlay District and are required to follow a higher development standard for building construction and landscaping. This includes screening storage areas from neighboring properties and traffic. A landscape buffer easement is proposed along Cass County Hwy #17. A preliminary landscape plan has been submitted, though it appears that it is not complete as proposed Spruce trees which are to provide year around screening are not shown.

Industrial properties located along major streets and adjacent to residential properties are required to install some type of buffer to minimize the negative affects of the industrial uses. The buffer is to consist of year around screening. To fully screen all activity may be impractical as Cass County 17 is elevated to cross the flood control tie-back levy; however a reasonable effort to screen the industrial development is intended.

Park dedication is required for all these properties except for Lot 1, Block 1 and a small portion of Lot 2, Block 1, because they are developed. The applicant is contemplating providing cash-in-lieu of land dedication payment for the subdivision area, as well as a pre-dedication payment for the remaining unplatted area.

The proposed subdivision is located within ¼ mile of the City limits. The City does have the authority to require annexation as a condition of approval. As no municipal services are required at this time it may be appropriate to delay annexation. However, when the existing septic system needs to be replaced, or when buildings with sewer or water needs are constructed, it would be appropriate to require annexation. An agreement was developed a year ago to address the timing of future annexation with the original subdivision plat. This agreement would need to be modified to include the additional platted area.

Notices were sent out to City departments and neighboring property owners and few comments have been received. The developers of the neighboring residential development stated their concern previously regarding the expansion of the industrial area and the affect it would have on their development. The City Engineer indicated we need a drainage plan. The Cass County Engineer submitted comments recommending 100' of right of way along Cass County 17 for Lots 3 and 4 to allow future improvements to the highway and the addition of turn lanes into the new development. Also, it was recommended to preserve the existing right of way south of these lots. Whenever the City has required more right-of-way than the City standard, the added right-of-way has been purchased.

It is recommended to conditionally approve the subdivision plat and rezoning request on the basis that it is consistent with City plans and ordinances. The recommended conditions are as follows:

1. An Attorney Title Opinion is received.
2. A certificate is received showing taxes being current.
3. A drainage plan is received and approved by the City Engineer.
4. A revised landscape plan is received.
5. A park dedication agreement is received.
6. Access easements are converted to dedicated streets and necessary easements are placed on the Final Plat.
7. A subdivision improvement agreement is received.
8. An agreement addressing the timing of future annexation is received.
9. Consideration is given to the County Engineer request of increasing the right-of-way on Cass County 17 to 100' for the north side of the plat.

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

Commissioner Nelson made a motion for approval based on staff recommendations. Commissioner Gustofson seconded the motion.

Commissioner Lenzmeier asked for clarification regarding the updated title opinion. Larry stated that one was done a year or so ago; however, there might be parcels not previously reviewed that would need to be included. The commissioners then voted on the motion on the floor. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A08-18 Charleswood 25<sup>th</sup> Addition & Rezoning from A: Agricultural to C-OP: Commercial Office Park of property in the SE¼ of Section 17, T139N, R49W, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property is located southwest of the Middle School site on 9<sup>th</sup> Street East, to the south of Southridge Lake in Charleswood and east of Bobcat. The applicant proposes to rezone the property from Agricultural to Commercial Office Park. The City's Land Use Plan depicts the area as Office Park, which is consistent with City Plans and Ordinances.

The property is north of Interstate 94 and designated as Office Park on the City's Land Use Plan which serves as a good transition use to the residential development to the north. The proposed development would complete the development between 8<sup>th</sup> Street East and the Bobcat office complex. The applicant has submitted a Preliminary Plat and Area Plan.

The Area Plan shows the commercial office properties to the west and single family and townhouses to the north. There is one remaining unplatted parcel to the east and bound by 9<sup>th</sup> Street East, 19<sup>th</sup> Avenue East, 8<sup>th</sup> Street East, and the future I-94 on-ramp. This lot is shown as a Light Commercial lot, though the Land Use Plan has the property designated as Office Park. The Preliminary Plat shows five lots for development, as well as the Southridge Lake lot. The lot size varies between about 1.5 acres to about 6 acres.

The public street segment being platted as 8<sup>th</sup> Street East is a continuation of the existing street which intersects 19<sup>th</sup> Avenue East. There are no addresses to 8<sup>th</sup> Street East at this point, and with the proposed subdivision it would appear that there would only be one address to the street. The rest of the addresses would be to East Beaton Drive. It may be more appropriate to continue East Beaton Drive to 19<sup>th</sup> Avenue East or 9<sup>th</sup> Street East and either replat the existing portion of 8<sup>th</sup> Street East and/or 19<sup>th</sup> Avenue East as a part of East Beaton Drive or pass a resolution changing the name of the streets to East Beaton Drive. This would minimize the number of street names without other intersecting streets. East Beaton Drive is a Collector street which extends west along the Interstate to Sheyenne Street.

The street right-of-way is 80' for the proposed 8<sup>th</sup> Street East which is adequate. The street right-of-way for East Beaton Drive is 70' which follows the standard established for the street with the Melroe Co. 1<sup>st</sup> Addition. The street runs parallel to I-94, and it was determined that a pedestrian bikeway would be placed on the north side and no sidewalks placed on the south side. A major pipeline runs along the north side of Lot 5 so an easement is shown. The pipeline crosses the Interstate.

Buffering is required on the north side of the commercial properties where there are abutting residential uses. The Zoning Ordinance requires year around screening with a solid fence or green belt planting strip. The green belt planting strip needs to consist of evergreen trees and/or deciduous trees and plants and be of sufficient width and density to provide an effective visual screen. The benefit of evergreen trees would be a better visual screen and some sound reduction from traffic on I-94. The full benefit would not be realized for a number of years until the trees are taller. The Bobcat properties had an existing shelter belt along the north side which provided an excellent screen for the abutting Charleswood residential properties.

Property owners within 150' were notified as well as City Departments, utility companies, and other agencies.

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

1. The Final Plat is received with any necessary easements.
2. The streets are renamed as suggested above.
3. An Attorney Title Opinion is received.
4. A certificate is received showing taxes being current.
5. A drainage plan is received and approved by the City Engineer.
6. A mailbox plan is received and approved by the Post Office.
7. A Subdivision Improvement Agreement is received.

Gary Rockne, 794 Villa Parkway, asked about height restrictions on the buildings and having a higher buffer zone. Larry stated that as far as building height, there isn't a height requirement. Buffering is required in the form of a 6' fence/year-round solid screening. The rationale for the commercial zoning is for a transition of uses. Allowing more of a setback will help buffer the residential areas from the interstate.

Commissioner Gustofson asked about the types of buildings. Applicant Bruce Clapham stated that the intent for Lot 1 is to have a building similar in size and scale to that of Bobcat -- two story. With the rest of the properties, there will be bylaws and restrictive covenants in place. There is a conditional sale on Lot 2, which will be a 9,000 to 10,000 square foot, single story structure with daytime use. Lots 3-5 are currently available for sale.

Steven stated that required parking could also limit the size/height of the structure.

Mr. Clapham stated that the Amoco pipeline limits planting and building along the 50' easement. They will develop landscaping plans. He stated that it's important that this application be approved as soon as possible as the potential buyers for Lot 1 would like to start construction this year. He would like to add additional property to Lot 2, so he's proposing to move the lot line 50' to the east and he may possibly combine lots 3-5 into two instead of three.

Mr. Clapham stated that he took issue with two of the staff recommendations. The drainage plan and mailbox delivery plan shouldn't be a condition for rezoning -- it's not appropriate. The drainage plan will be handled by the City Engineer and mail delivery should be directly into the building. Larry stated that typically the Post Office is asked to review and respond to plat requests.

Brock indicated that the drainage plan hasn't been developed, but they will do so. Chair Lenzmeier asked if the post office's lack of response would delay action. Larry indicated it would not.

Jim Morken, 138 West Beaton Drive, asked about park dedication. Larry stated that was all addressed with the platting of previous Charleswood developments. Mr. Morken also stated that he'd like to see it all named Beaton Drive, so as not to be as confusing. Larry stated that is addressed in the staff report.

Mike Bernath, 722 Villa Parkway, stated that he would like to see the buildings all be single story. He also asked if billboard would be allowed in this area. Larry stated no.

Mr. Bernath asked if on-street parking would be allowed. Larry stated that it isn't likely as it's designated as a collector street. Brock stated that currently neither Beaton Drive, nor 19<sup>th</sup> Avenue East allow parking. Mr. Bernath asked for clarification on setbacks on Lot 5 and if changing the lot lines would require a replat. Discussion was held regarding the side and rear yard setbacks, as well as the utility easement. A replat would not be required because the property is still in the process of being platted, so changes could still be made.

Mr. Bernath asked about stoplights at the intersection of 19<sup>th</sup> Avenue and 9<sup>th</sup> Street East. Brock stated that currently 19<sup>th</sup> Avenue doesn't meet warrants. City Engineer Kevin Bucholz stated that the ND-DOT will reanalyze the need for signals at the ramps in the future.

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

Commissioner Gustofson stated that he agreed with the street name issue and asked who decides on the name change. Larry stated that they're waiting for comments from City Departments -- Fire, Police...

Discussion was held regarding West Beaton Drive and issues with the interchange at that location and the "hairpin" curve. Kevin stated that the DOT is not proposing any changes to the design at this point; however signals will be added to Sheyenne Street at the ramp locations this year. He stated that the section of West Beaton drive was put in by the State years ago and was originally a township road, outside the City limits.

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

Chair Lenzmeier opened public hearing A08-19 Rezoning from A: Agricultural to R-1E: Rural Estate District, Lot 1, Block 1 of Houkom 1<sup>st</sup> Subdivision, Cass County, ND (3718 2<sup>nd</sup> Street East, West Fargo, ND) and parcel in the SW ¼ of Section 29, T139N, R49W, City of West Fargo, ND (3804 2<sup>nd</sup> Street East, West Fargo, ND); and Conditional Use Permit for Accessory Building at 3718 2<sup>nd</sup> Street East, West Fargo, ND.

Steven reviewed the following information from the staff report:

The property is located north of 40<sup>th</sup> Ave E, along the east side of the Sheyenne River, along future 2<sup>nd</sup> St E. The property is located outside the City Limits, but within West Fargo's ET area, in an area surrounded by property which was annexed in 2005. The proposed use requires a Conditional Use Permit within the R-1E: Rural Estate District. The unplatted property was platted using metes and bounds descriptions and has been a lot of record in Cass County since 1990. The Houkum Subdivision was platted in 1999.

The area has been developed as a rural residential subdivision. The applicant is proposing a detached garage that is larger than 1,000 square feet, which requires a conditional use permit.

The applicant has submitted a site plan and is proposing a 2,000 ft<sup>2</sup> detached garage. Rezoning from A to R-1E will reduce the side yard setback from 20' to 10'. The site plan submitted to the city shows a 10' side yard setback for the proposed garage, which would meet proposed zoning requirements. Rezoning small areas exclusive of the property around it may be considered spot zoning, which is illegal; however, in this case staff believes that the size, 3 acres, and characteristics of this property would exclude this property from such classification. The area around these properties is beginning to develop into residential uses and the rezoning of these properties will be compatible with the future use of the land around it.

We have received elevation plans for the accessory building and the exterior finish shown is consistent with the existing development pattern in the area. According to the site plan, the proposed accessory building meets setback requirements. The property is protected from the 100-year flood plain because of the Sheyenne Diversion.

Notices were sent to property owners within 350' review and no comments have been received. It is recommended to conditionally approve the Conditional Use Permit and rezoning request based on the applicant's consistency with City plans and ordinances. The conditions of approval are as follows:

1. The applicant is made aware that there is the potential for riverbank settlement in the area in the future. The applicant should take measures to protect the proposed accessory structure on the property so it is not likely to be affected from riverbank settlement.

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

Commissioner Nelson made a motion for approval based on staff recommendations. Commissioner Keller seconded the motion.

Chair Lenzmeier asked the applicant if he had a chance to review staff recommendations. Applicant Dennis Rheault stated that he hasn't seen any issues with the river at this location. The commissioners then voted on the motion on the floor. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A08-20 DMI 2<sup>nd</sup> Addition, a replat of Lot 1, Block 1 of Dakota Machine 1<sup>st</sup> Addition, City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property, which is located on the north side of Main Avenue East, is zoned CM: Heavy Commercial/ Light Industrial. The applicant proposes to move the lot line between Lots 1 and 2 of Dakota Machine First to the east 15' to allow for building expansion.

The developer is proposing to move the lot line between Lots 1 and 2 of Dakota Machine First to the east 15' to allow for building expansion. This was required to meet minimum requirements of the International Building Code, as administered by our Building Administrator.

The replat will retain the original layout of two (2) lots. Also, the plat shows vacation of the 10' public utility easement that exists along the existing lot line and is proposing to move it to the proposed lot line. The proposed subdivision is consistent with City plans and ordinances.

Staff recommends approval with the following conditions:

1. A certificate is received showing taxes are current.

2. A drainage plan is received and approved by the City Engineer.
3. All necessary easements are shown on the Final Plat.

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

Commissioner Keller 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 A08-16 Minor PUD Modification for Lots 10 & 11, Block 1 of Charleswood 20<sup>th</sup> Addition and Lots 2-5, Block 1 of Charleswood 22<sup>nd</sup> Addition, City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

Building Concepts Inc., the developer of Charleswood 20<sup>th</sup> and 22<sup>nd</sup> Additions, has requested a minor revision to the Detailed Development Plans as previously approved. The request is to amend the PUD to allow for Twin Home Villas as an option to replace the Court Yard Villas that have been approved for lots 2, 3, 4, & 5 of Charleswood 22<sup>nd</sup> Addition and Lots 10 & 11 of Charleswood 20<sup>th</sup> Addition. The developer has submitted a map depicting the lots that are affected by this modification as well as elevations and floor plans.

The setbacks for these buildings, if built, would be:

- a. Side yard – 6’
- b. Rear yard – 25’
- c. Front yard – 25’
- d. Lot coverage – 45% max.

All setbacks are equal to the required setbacks spelled out in the R-2: Limited Multiple Dwelling District. Staff has reviewed these changes and recommends approval.

Applicant Al Hochhalter, Building Concepts, stated that they’re not asking for increased lot coverage. They’ve had some requests for twin homes, which fits into the original design.

Commissioner Keller indicating that she is the listing agent for the properties and would abstain from voting.

Commissioner Gustofson made a motion for approval. Commissioner McDougall seconded the motion. No opposition. Motion carried.

The next item on the agenda was Update on A08-10 Dakota Territory 11<sup>th</sup> Addition, Replat & Planned Unit Development (PUD) Amendment to allow for townhouse development on Lots 1, 2 & 5, Block 1 of Dakota Territory 5<sup>th</sup> Addition, City of West Fargo, North Dakota

Larry reviewed the following information from the staff report:

At their April 14, 2008 meeting, much public input was received by the Planning and Zoning Commission. The area residents did not believe that the development was compatible with area development and believed that there were many safety issues with the development. They believe that the development is intended for families with many children, but no parks, little open space, and no fencing to keep children from running into 10<sup>th</sup> Avenue East. The residents indicated that a comparable development in Westport Beach does not provide adequate setbacks to prevent blocking of the narrow access. Also, setbacks for the units are not adequate as decks are very close to the street.

The staff provided comments at the Planning and Zoning Commission meeting that the structures were similar as those in Westport Beach; however the setbacks for the proposed PUD Amendment were greater. The Planning and Zoning Commission conditionally approved the Planned Unit Development Amendment request on the basis that it is consistent with City plans and ordinances. The conditions of approval are as listed above, as well as an additional recommendation to strongly encourage the developer to construct a fence along 10<sup>th</sup> Avenue East.

On April 21, 2008 the City Commission reviewed the Planned Unit Development Amendment and Final Plat request with a

revised site plan dated 4/16/08. The Commission tabled action until the developer could meet with the property owners to address their concerns.

On May 5, 2008 the developer met with the area property owners, City staff, and City Commissioners Brenda Warren and Mark Simmons. No resolution was found at the meeting, but the developer indicated that he would examine an option of taking the alley to the north to 10<sup>th</sup> Avenue East, as well as other possibilities. The developer indicated that he did not want to lose any additional units and did not know how long it would take to examine options.

On July 7, 2008 a revised site plan was submitted to the Planning Office. The site plan eliminates the alley in Block 1, changes the four 8-unit condo structures in the block to eight 4-unit townhouses with four fronting on 10<sup>th</sup> Avenue East and four fronting on 11<sup>th</sup> Avenue East, and changes the three condo structures in Block 2 to two 6-unit townhouse structures and one 7-unit townhouse structure. The site plan was revised further and submitted on July 9, 2008 showing the 6-unit and 7-unit structures in Block 2 as 3-unit and 4-unit structures. The development plan would result in more vehicles utilizing 10<sup>th</sup> Avenue for access and fewer vehicles on the other streets.

Access on 10<sup>th</sup> Avenue East is limited, because the street is classified as a Collector Street. The City Public Works Department proposes to change the classification of the street to a local street which would allow direct access. The City Commission will need to approve changing the street classification.

The City's Off-Street Parking and Loading Regulations within the Zoning Ordinance provides for up to 4-unit structures to have individual driveways onto the local public street or alley. Structures with more than 4 units must provide a suitable means of turnaround at maximum design capacity so no vehicle shall back onto public streets or alleys. There is some question whether the Planned Unit Development zoning district provides the legal basis to allow the direct public street access to the units of the 6-unit and 7-unit structures. It would seem to be most appropriate to change the design of the structures on the south side of 11<sup>th</sup> Avenue East to 4-unit structures or less. The developer can accomplish this without losing any units.

A meeting was scheduled with the developer and area property owners on Thursday, July 10, 2008 to review the revised plans for the development. The area property owners were also notified that the Planning and Zoning Commission would review the revised plans at the July 14, 2008 meeting.

Following review of the revised site plan, the staff recommends conditional approval of the proposed development request based on its consistency with City Plans and Ordinances. The conditions for approval are as follows:

1. The revised site plan showing 3-unit and 4-unit structures are approved as the development plan.
2. Setback information is provided on the site plan.
3. Building elevations and floor plans are provided for the 3-unit and 4-unit structures prior to City Commission approval.
4. An Attorney Title Opinion is received.
5. A Final Plat is received showing the townhouse lots and any necessary easements.
6. A drainage and utility plan is approved by the City Engineer.
7. A certificate is received showing that taxes are current.
8. A revised landscape plan is received showing boulevard plantings where possible and possibly some plantings along the west side of the development.
9. A revised mail box plan is received.
10. An outline is received for scheduling of all improvements.
11. Fencing within rear yards of the development is to meet City standards, and fencing for front and side yards, as well as along the west border of the development would need to be approved as part of the PUD and be of a common type.
12. Any restrictive covenants should be filed with the Final Plat. Any accessory buildings should be provided for within the PUD Development Plans and in the restrictive covenants.
13. A Subdivision/PUD agreement is received which includes the timely installation of all improvements.
14. An agreement is developed between the existing condominium associations and City for the City to assume the maintenance responsibilities for the private drive and installation of sidewalks.

Commissioner Nelson asked how many accesses would there be along 10<sup>th</sup> Avenue East. Larry stated that there would be 16 units, with 8 accesses total.

Commissioner Gustofson made a motion for approval based on staff recommendations, with an additional recommendation to the City Commission that 10<sup>th</sup> Avenue East be reclassified from a Collector Street to a local street. Commissioner Nelson

seconded the motion. No opposition. Motion carried.

Under Non-Agenda, Jim Morken, who had missed the Industrial Builders public hearing, indicated concern with the lack of screening and buffering along Cass County Highway #17. He would like to see the ordinance followed and adequate buffering provided.

Commissioner Gustofson made a motion to adjourn. Commissioner Nelson seconded the motion. Meeting adjourned.