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Larry M. Weil, Planning Director  
Steven Zimmer, Senior Planner  
Lisa Sankey, Assistant Planner

West Fargo Planning and Zoning Commission  
February 13, 2012 at 7:00 P.M.  
West Fargo City Hall

Members Present: Jason Gustofson  
Connie Carlsrud  
Frank Lenzmeier  
Terry Potter  
Tom McDougall  
Jerry Beck

Members Absent: Edward Sheeley

Others Present: Larry Weil, Lisa Sankey, Steven Zimmer, Dustin Scott, Steve Iverson, Mike Thorstad, Dan Bueide, Jim Bullis, Matt Meyer, John Rutten, Don Dabbert, Jr.

The meeting was called to order by Chair Lenzmeier.

Commissioner McDougall made a motion to approve the January 9, 2012 meeting minutes as printed. Commissioner Potter seconded the motion. No opposition. Motion carried.

Commissioner McDougall made a motion to nominate Frank Lenzmeier as Chair. Commissioner Beck seconded the motion. Commissioner Gustofson made a motion to nominate Tom McDougall as Vice Chair. Commissioner Carlsrud seconded the motion. There were no other nominations. Members then voted on the motions on the floor. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A12-4 South Pond at the Preserve 4<sup>th</sup> Addition, Subdivision & Rezoning from Agricultural to R-1A: Single Family Dwellings, property in part of the SE $\frac{1}{4}$  of Section 20, T139N, R49W, City of West Fargo, North Dakota and Rezoning from R-1A: Single Family Dwellings to R-1: One & Two Family Dwellings, Lots 1-11, Block 6 and Lots 1-11, Block 7 of South Pond at the Preserve 2<sup>nd</sup> Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The developer proposes platting a tract south of the school and park properties and between 4<sup>th</sup> Street East and 7<sup>th</sup> Street East. The subdivision property is proposed to be rezoned to R-1A: Single Family Dwellings. The developer is also proposing to rezone some lots south of 31<sup>st</sup> Avenue East and on each side of 7<sup>th</sup> Street East from R-1A to R-1 to be more consistent with the zoning and development patterns in the area.

The Area Plan shows the location of the subdivision in relation to previously platted subdivisions within the South Pond at the Preserve development, as well as to the Maple Ridge at the Preserve development to the west. The proposed subdivision is platting the storm retention pond in addition to 46 single family lots and two lots intended for parks. The lots vary in width from 75 to over 100' and 125' and greater in depth. Lot areas are between 9,375 and 24,419 square feet. The plat shows R-O-W widths for the local streets at 62'. The width is adequate and meets city standards.

Park dedication is required with the subdivision plat. The Park District is reviewing the proposed subdivision and will be providing recommendations on whether land dedication or cash-in-lieu of land dedication should be provided. Recommendations should be received prior to City Commission approval.

Sewer and water services have not been extended to the property yet. A special improvement district will need to be established to provide for the needed services. 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 out to City departments, Park District, Post Office, SE Cass Water Resource District, utility companies, and neighboring property owners. No comments have been received.

It is recommended that the City Planning and Zoning Commission conditionally approve the proposed application on the basis that it is consistent with City plans and ordinances. The conditions of approval which would need to be satisfied prior to City Commission consideration are as follows:

1. A certificate is received showing that taxes are current.
2. A drainage and utility plan is received and approved by the City Engineer.
3. Any necessary easements are placed on the Final Plat.
4. Landscaping for boulevard trees along 4<sup>th</sup> Street East will be consistent with the plan approved for South Pond at the Preserve First Addition.
5. A mail delivery plan is developed for the subdivision.
6. A subdivision improvement agreement is received from the developer covering the necessary improvements.
7. A park dedication agreement is received.

Dan Bueide, representing Rusty Goose Development, indicated he was available to answer questions. There were no comments from the public. The hearing was closed.

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

Chair Lenzmeier opened public hearing A12-5 Maple Ridge at the Preserve 2<sup>nd</sup> Addition, Subdivision & Rezoning from A: Agricultural to R-1: One & Two Family Dwellings, property in the SW<sup>1</sup>/<sub>4</sub> of Section 20, T139N, R49W, City of West Fargo, North Dakota and replat of Lot 1, Block 6 of Maple Ridge at the Preserve 1<sup>st</sup> Addition, City of West Fargo, North Dakota.

Larry reviewed the following information from the staff report:

The property is located east of the Sheyenne River on the north side of 32<sup>nd</sup> Avenue East and west of 4<sup>th</sup> Street East. The area was annexed into the City in 2005. In 2010 the developer platted a 43 acre mixed residential development to the east of this area consisting of single family, and low and high density multiple family properties. Last year the City reviewed and approved platting the final phase of the development and zoning the parcel to R-1A: Single Family. The developer has since redesigned the plat and is proposing to rezone to R-1: One and Two Family Dwellings.

Larry stated that while the plat was not recorded previously, the Zoning Ordinance Amendment was, and currently the area is zoned R-1A: Single Family.

The proposed rezoning is consistent with the City's Land Use Plan, which depicts the area as developing as Low Density Residential. The proposed use is consistent with City Plans and Ordinances.

The developer is proposing to plat a 35.75 acre single family development north of 32<sup>nd</sup> Avenue East which includes replatting a City owned lot along 32<sup>nd</sup> Avenue at the request of the City Engineer. The developer has submitted an application, Area Plan and Preliminary Plat. The Area Plan submitted by the developer shows where the proposed subdivision is located as well as the surrounding properties/developments which are under separate ownership. The Area Plan shows agricultural property to the north which is intended for single family dwellings. Property to the west includes several rural residential lots and an older farmstead.

When the first phase of the Maple Ridge development was proposed, the farmstead property owner had concerns with regards to access to the property. The farmstead is currently accessed via a private access easement through a rural residential development. The Planning and Zoning Commission and City Commission previously required that the Area Plan be revised to show another access to the farmstead. The farmstead is now included within the subdivision with Lot 16 shown as a 70-foot wide access easement accessing the farmstead property (Lots 17 and 19). The access easement includes a turn-around on Lots 17 and 19. It may be appropriate to dedicate the private access easement as street right-of-way and narrow

the right-of-way to 62' unless the private access easement area is intended to be more of an exclusive entrance to the two lots and maintained privately.

The Preliminary Plat consists of two large residential lots, as well as 68 single family lots varying in width from 72' to 86'. Lot depths are 123' and greater. The developer is requesting that the property be rezoned to R-1 because the side yard setback can be 5' rather than 6'. Lot sizes substantially exceed the R-1A standards and would be more appropriately zoned as such. The farmstead lots are over three and 4 acres in size and would be more appropriately zoned R-1E. The farmstead lots each have property on the west side of the Sheyenne River. The property is not developable as it would be within the building control area and is platted as a separate lot (proposed Lot 18) and eventually conveyed to the property owner(s) on that side of the river. The plat also includes a lot intended for a storm sewer easement which is intended to be dedicated for parks and eventually include a pedestrian/bikeway. Also, the City is including the storm retention lot along 32<sup>nd</sup> Avenue East for the purpose of showing the storm sewer and water main easements. This lot would remain zoned as R-2.

The right-of-way for the local streets in the subdivision is shown as 62' which is adequate. There are not enough street numbers to number the north/south streets, so street names will be necessary. A drainage plan is required for the subdivision. Storm water retention areas are shown on the Area Plan and provided for in the first phase of the development.

Park dedication is required for the subdivision. There is a 40-foot lot shown on the north side which is intended to be a storm sewer force main with pedestrian bikeway on top. The required amount of park dedication will need to be calculated for the farmstead and for the balance of the development. 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.

Sewer and water services will be extended to the property from the first subdivision which was serviced last year. A special improvement district will need to be established to provide for the needed services. 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. The City also provided the proposed development plans to City departments, Park District, Post Office, SE Cass Water Resource District, and utility companies. We have not received comments from several of the entities. The Park District is still reviewing the subdivision and likely will not have a recommendation prior to the Planning and Zoning Commission meeting. The Police Department has concern about the length of 31<sup>st</sup> Avenue East without additional access points. The street has multiple intersecting streets throughout the original subdivision and this subdivision. Both subdivisions will also have access from the north, as 2<sup>nd</sup> Street East is planned to extend into future development there.

It is recommended that the City Planning and Zoning Commission conditionally approve the proposed application on the basis that it is consistent with City plans and ordinances. The conditions of approval which would need to be satisfied prior to City Commission consideration are as follows:

1. Departmental and agency comments are taken into consideration.
2. An Attorney Title Opinion is received.
3. A certificate of taxes showing taxes being current is received.
4. A Drainage Plan is received and approved by the City Engineer.
5. A Final Plat with any necessary easements is received.
6. Serious consideration is given to rezoning the single family lots to R-1A and R-L1A rather than to the requested R-1 zoning.
7. The required utility hook-up fee is adequately addressed.
8. A park dedication agreement is received.
9. A subdivision improvement agreement is received.
10. An approved mail delivery plan is developed.

Developer Jim Bullis stated that the zoning request is due to builders wanting the extra 1' side yard setback. It's consistent with their covenant requirements. They're just looking for more design flexibility.

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

Commissioner Gustofson asked what the smallest lot width was. Larry indicated 72'.

Commissioner McDougall asked if there was a difference in lot coverage. Steven stated it was the same.

Commissioner Gustofson asked about the lot to the south. Larry stated retention. With the additional property to the west, the owners need to decide if they want to rezone it to R-1E or R-R or keep it as Ag.

Property owner Matt Meyer asked what the current zoning was. Larry stated that it was Agricultural. They could rezone to R-1A; however, they'd be limited to a 1,000 square foot outbuilding. With R-1E they can have larger outbuildings as conditionally permitted uses.

Discussion was held regarding access. Currently access is from the south through the Koppang subdivision.

Chair Lenzmeier asked what kind of traffic there would be, if there were any large trucks or farm equipment. Mr. Meyer stated that it's an old hobby farm, so no combines or big equipment.

Chair Lenzmeier asked about item #6. Larry stated that Staff recommends it remain R-1A; however they need to take into consideration the larger lots to the west and let the property owners decide if they want to rezone to R-1E. Before going to the City Commission, there is ample time to decide on the zoning and advertise the public hearing base on what they want. Mr. Meyer asked if it has to change or if it can stay Ag. Steven stated that any additional buildings would need to go through the conditional use permit process if the property remains Ag. Mr. Meyer asked if there were animal restrictions. Larry stated animals are allowed in the R-1E District as conditionally permitted uses. Steven stated that before we advertise, we can discuss this with the property owner.

Mr. Bullis stated that he'd visited with Mr. Meyer's dad and was going to speak with Steve Stoner as well. There is a big tree buffer in place if they want to construct a pole barn. The intent for including them on this plat is for access.

Discussion was held regarding lot sizes in the other developments to the east and south. Larry indicated the intent is for larger single family lots to the north. He stated that the lots in Maple Ridge 1<sup>st</sup> Addition are 60-70' wide. Commissioner Gustofson stated that this was approved previously with an R-1A zoning. He asked if the lots got smaller. Mr. Bullis stated that they've had setback problems in some of the other developments – Shadow Wood, so the extra 1' is needed and why they're requesting the R-1 zoning.

Commissioner McDougall made a motion for approval based on staff recommendations 1-5, 7-10. Commissioner Beck seconded the motion. Commissioner Gustofson asked about the farmstead. Commissioner McDougall indicated staff and the Meyers will need to get together to determine that zoning. Commissioners then voted on the motion on the floor. No opposition. Motion carried.

Chair Lenzmeier opened public hearing A12-6 The Wild's 2<sup>nd</sup> Addition, Subdivision and Rezoning from Agricultural to R-1A: Single Family Dwellings, property in the S½ of Section 31, T139N, R49W, City of West Fargo, North Dakota.

Steven indicated that after the agenda packets were mailed out, a revised plat was submitted. The area plan remains the same. He indicated that the proposed plat was reconfigured with a larger loop of streets and 4 cul-de-sacs and stops at 11<sup>th</sup> Street West instead of going west to the diversion.

The subdivision is located west of The Wilds First Addition which is west of Sheyenne Street and south of the Westport Beach development. The area was annexed into the City in 2003. In 2011 the developer platted the Wild's 1<sup>st</sup> Addition. The developer now proposes platting additional lots for a single family development. The plat is consistent with City plans and ordinances.

The developer is proposing another phase of single family development which is west of the original subdivision. The developer has submitted an application, Area Plan and Preliminary Plat. The City's Land Use Plan depicts the area as Low Density Residential. The Comprehensive Plan shows Sheyenne Street and 52<sup>nd</sup> Avenue West as Minor Arterial Streets; and 9<sup>th</sup> Street West as a Collector Street.

The Area Plan submitted by the developer shows where the proposed subdivision is located, as well as the surrounding properties/developments.

Park dedication is required for the development. The required amount of park dedication for residential development is 10% of the gross area. The developer proposes to dedicate the open/green spaces throughout the development. The Park District reviewed the developer's original proposal, but we have not received any communication whether they have reviewed and approved any changes. The City is waiting for their formal recommendation.

Notices were sent to property owners within 150', City officials, as well as Post Office, utility companies and SE Cass Water Resource District. 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.

It is recommended that the City Planning and Zoning Commission conditionally approve the proposed application on the basis that it is consistent with City plans and ordinances. The conditions of approval which would need to be satisfied prior to City Commission consideration are as follows:

1. An Attorney Title Opinion is received.
2. Departmental comments are taken into consideration.
3. A revised Area Plan is submitted showing the proposed parks, retention ponds and proposed pedestrian/bikeway connections.
4. A certificate of taxes showing taxes being current is received.
5. A Drainage Plan is received and approved by the City Engineer.
6. A landscape plan for boulevard trees along 9<sup>th</sup> Street West is received.
7. A Final Plat with any necessary easements is received.
8. The required utility hook-up fee is adequately addressed.
9. A park dedication agreement is received.
10. A subdivision improvement agreement is received.
11. A suitable mail delivery plan is in place with the Post Office.

Applicant Steve Iverson indicated he was available to answer any questions.

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

Steven indicated the lots will be zoned R-1A: Single Family. Commissioner Gustofson asked about lot sizes. Larry stated the lot widths vary from 80-100'

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

Chair Lenzmeier opened public hearing A12-7 Planned Unit Development Amendment for apartment complex on Lot 2, Block 1 of South Pond at the Preserve 2<sup>nd</sup> Addition (2915 Bluestem Drive), City of West Fargo, North Dakota.

Steven reviewed the following information from the staff report:

The property is located on the west side of Veteran's Boulevard, north of 32<sup>nd</sup> Avenue East. The property is zoned Planned Unit Development and is located in the Corridor Overlay District. As a requirement of final approval for a PUD, it is required that detailed development plans be submitted including a site plan, floor plan, elevation drawings, and landscape plans. These documents were not submitted at the time of approval. It is the city's policy that in the circumstance that PUD zoning is approved without the detailed development plans that a PUD Amendment is required to allow for a public hearing on the proposed plans. The proposed use is consistent with City Plans and Ordinances.

The applicant has submitted detailed development plans for a 324 unit multi-family apartment complex. The city recently amended its Comprehensive Plan to allow for greater density, in PUD zoning, than is currently allowed (24 units/acre) in the R-3: Multiple Family District. The amendment allows greater density and in turn requires a minimum of 40% open green space. This development is proposed at 29.9 units/acre and is shown with 53% open green space, which exceeds city standards.

This property is located in the Corridor Overlay District which requires a greater standard for building materials and setbacks. The required front yard setback is 45' in the CO district, this building is proposed at 45'. The side yard setback from parking areas is 5', and is shown at 10' on this plan. Rear yard parking setback is also 5'. The plan shows a zero setback for the rear parking area. A PUD does allow for flexibility in setback requirements, but staff would like to see some green space separating any parking area or driving isle and the property line.

Parking for multi-family residential is two spaces/unit. The requirement for this building as proposed would be 648 spaces and the submitted plans show a total of 648 spaces after combing above ground and underground parking.

Notices with maps were sent to City Departments and property owners within 150' and we have not received any comments.

It is recommended to conditionally approve the application on the basis that the application is consistent with City plans and ordinances.

1. Consideration is given to green space separating parking areas and the property line.

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

Chair Lenzmeier asked if there was adequate parking provided. Steven stated they meet the parking requirements exactly.

Discussion was held regarding the parking and the setback issues. Steven indicated 5 parking spots are affected.

Commissioner McDougall 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 Discussion on Extraterritorial Extension and Zoning Transition.

Larry stated that since the last meeting, a couple maps were put together showing the existing extraterritorial areas and the proposed extension area.

Prior to the Legislative changes in 2009, the City had an exclusive 2 mile ET area. Those changes placed the outer half or 1 mile under joint jurisdiction with the township. In 2010 there was a meeting with the townships regarding the NDCC changes, coordination within the joint ET areas, City Planning efforts in terms of the Comprehensive Plan as well as Zoning, Subdivision and Flood Plain Administration.

With the Census, the City can increase to 4 miles with 2 miles being exclusive and 2 being under joint jurisdiction, so the City is looking at the possibility of increasing to what it was prior to the legislative changes. With the City's exclusive 2 mile jurisdiction, we would continue to inform townships and the county of ET applications and request comments. With the proposed joint jurisdiction area, the township/county has jurisdiction for review and approval of applications and the City would be given notice and the opportunity to comment.

Larry indicated that members of the Mapleton township board were present this evening as well as the Cass County Planner, Tim Solberg. In Mapleton Township, there were several areas that were rezoned when it was under West Fargo 2 mile exclusive jurisdiction, so there needs to be some coordination regarding those areas. Larry stated that he wasn't sure how it was coordinated when it reverted back to the township.

Mapleton Township Chair John Rutten asked for clarification regarding joint jurisdiction. Larry stated that the City can take on two miles with an additional 2 miles of joint city/township jurisdiction.

Discussion was held regarding the proposed West Fargo extension areas. Larry stated that the intent is to look more closely at these areas and hold a public hearing on March 12<sup>th</sup>, with City Commission review some time in April. Mr. Rutten indicated that they've adopted the County standards and intend to visit with the other townships next month. They haven't had any issues with West Fargo.

Commissioner McDougall made a motion to schedule a public hearing regarding the Extraterritorial changes for the next meeting. Commissioner Gustofson seconded the motion. No opposition. Motion carried.

The next item on the agenda was proposed Ordinance Amendments.

Larry stated that this item is informational, to give Commissioners an opportunity to review prior to the public hearing next month. A lot of the issues are cleanup – adding religious institutions and places of worship instead of just churches.

Larry then referred to the cheat sheet listing the proposed changes which was provided to commissioners last month.

He then reviewed the following:

Access spacing standards and traffic analysis needs as well as street naming & address development standards.

In the R-2 and R-3 Districts, increased setbacks for taller principal structures adjacent to one and two-family properties.

Added social service uses to provide for alcohol treatment facilities.

In the Corridor Overlay Districts, clarification in the language for building standards.

Sheyenne River Corridor Overlay District – Establishing district to regulate expansions within the building control area along the Sheyenne River because of unstable soil conditions.

Supplementary District Regulations – Decrease open area requirements for front yard fences in residential districts; clarify building construction standards for structures; clarify accessory building area standards for Rural Residential District and Rural Estate District; Swimming pool fence height revised; include additional (new) residential districts to licensed motorized vehicle equipment parking standards; clarification to parking requirements for small trailers in residential districts; Providing for additional landscaping standards; providing for wind energy systems regulations; clarification of review and improvements for driveways and off-street parking spaces.

In terms of the driveway and parking areas, there are some established areas with gravel lots and with storm water regulations, the City needs to address this issue by requiring paved driveways and lots within a certain timeframe. If it's unreasonable to pave the whole lot then the apron area is paved. Discussion was held regarding EPA/storm water violations and fines.

Landscaping and Wind Energy Standards.

Chair Lenzmeier asked if we have anything currently on Wind Energy. Steven stated currently we don't. It's not really realistic to have them in town, maybe in rural areas.

Commissioner McDougall asked what the next step would be. Larry stated schedule a public hearing.

Don Dabbert, Jr., representing the Homebuilders Association, stated that they'd like the opportunity to review the information and meet with the City to address concerns they have.

Steven reviewed the Sheyenne Street and Main Avenue Corridor information.

Commissioner Beck made a motion to adjourn. Meeting adjourned.