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Larry M. Weil, Planning and Community Development Director
Tim Solberg, Senior Planner
Lisa Sankey, Assistant Planner

West Fargo Planning and Zoning Commission
March 10, 2014 at 7:00 P.M.
West Fargo City Hall

Members Present: Connie Carlsrud
 Terry Potter
 Scott Diamond
 LeRoy Johnson
 Tom McDougall
 Jerry Beck

Members Absent: Eddie Sheeley

Others Present: Lisa Sankey, Tim Solberg, Dustin Scott, Austin Gruebele, Mark Bucholz, Dale Bucholz, Sue Kish, John and Debbie Trombley, Brandi Koffler, Kane Hanson, Chris Bruce, Mark and Allison Buske, Krystal Arneson, Cassandra Meyhoff, Casey Baker, Guy Fox, James Wang, Brendan Mulldoon, Mike Morken, Wendy Reuer, Kirk Foster

The meeting was called to order by Chair McDougall.

Commissioner Potter made a motion to approve the February 24, 2014 meeting minutes as written. Commissioner Diamond seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A14-13 Zoning Ordinance Amendment to Section 4-452 Plans and Approval Required section of the Off-Street Parking and Loading Regulations.

Tim reviewed the following information from the staff report:

Staff proposes a Zoning Ordinance Amendment to provide better clarification of the language relating to the plans and approval required for private driveways and off-street parking spaces along streets and alleys that are paved in the future.

The existing ordinance addresses the problem of mud being dragged onto paved streets from unpaved access points and parking lots resulting in the sediments being carried into the storm water system through runoff. Unpaved driveways and parking lots are required to be improved with a concrete or bituminous surface within a 3-year period which started with the adoption of the ordinance last October. In lieu of improving all driveways and off-street parking spaces, a property owner may submit a plan demonstrating improved driveways and off-street parking spaces will, within reason, retain soils, mud or other loose materials from being carried onto public streets by vehicles or equipment, i.e., by improving with concrete or bituminous surface 50' or more of the area on the property where access to the public street(s) is gained. In addition to providing improved driveways and parking areas, industrial areas may need to expand those areas with gravel and/or crushed concrete to avoid carrying soils, mud or other loose materials into the street(s).

The existing ordinance also requires owners of driveways and off-street parking spaces located on public roads or alleys that currently are of a gravel surface to improve those surfaces with concrete or bituminous surfacing within three years following the paving of the public road or alley; however, the ordinance erroneously provided a different standard for improving these driveways and off-street parking spaces, so the proposed amendment calls for the same standard to be applied.

There were no public comments. The hearing was closed.

Commissioner Beck made a motion for approval. Commissioner Carlsrud seconded the motion. No opposition. Motion carried.

Chair McDougall opened public hearing A14-14 Adoption of an Amended Zoning Map.

Tim reviewed the following information from the staff report:

The zoning map for the City was last updated in 2007. A number of rezonings have taken place since that time, as the City has experienced tremendous growth. The West Fargo Zoning Ordinance provides for the replacement of the Official Zoning Map as follows:

The staff has incorporated on a map the rezonings that have taken place from February 2007 through December 2013. A notice was placed in the paper to inform the public that map revisions are being undertaken, and a public hearing will be held to address any zoned areas which might be questioned. We have been receiving inquiries for an updated zoning map. The staff recommends that the map be adopted by ordinance as the new Official Zoning Map.

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

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

Chair McDougall opened public hearing A14-3 Maple Ridge at the Preserve 4th Addition a replat of Lots 16-19, Block 1 of Maple Ridge at the Preserve 2nd Addition and Lots 2 and 3, Block 1 of Koppang's Subdivision, City of West Fargo, North Dakota and Review of Detailed Development Plans.

Tim reviewed the following information from the staff report:

After the last meeting the developer purchased additional land and is now proposing an eleven (11) lot development that will include all of Lots 2 and 3, Block 1 of Koppang Subdivision. They further have changed the circle at the end of the private drive to a hammerhead turnaround. They have also submitted a copy of the proposed covenants and fence plan for review.

The covenants cover the previously submitted PUD standards for setbacks and building control as well as tree preservation, drainage and vehicle parking on the private drive. Generally speaking a circle at the end of the private drive is preferable to the proposed hammerhead. Staff believes that as design is conducted there may be some further discussion on this topic, and the hammerhead could change back to a circle drive. Emergency responders have indicated the hammerhead would be acceptable; however, preference would be for a circle with appropriate dimensions.

The proposed fence plan shows a 6' black aluminum fence from the north end of the eastern property lines of the plat heading south to the access onto Claire Dr. At Claire Dr there is a 24' double drive gate. After the gate the east property line is bordered with a 6' vinyl fence, the developer has provided two options they are considering, both of which are guaranteed not to fade for the life of the product and approved wind resistant to Dade County, FL standards. At the south property line of the plat adjacent to 32nd Ave E there is a 24' double drive gate at the entrance and a 4' black aluminum fence that heads west to the west property line. The plat is bounded 95' north on the west side by a 6' black aluminum fence.

Further details on requirements such as maintenance of the private drives, gate specifications, lighting, landscape plan, contingency flood protection, landscaping, and yard requirements will need to be further detailed and agreed upon by City and the developer in developers agreements prior to final plat approval.

The detailed development plans and a letter to the residents from the developer seeking further input on the plans as submitted were sent to adjacent property owners within 150' and to any other interested persons who attended the January 13th meeting or who submitted comments in regards to the concept plan. Although there had been comments from the neighborhood in opposition to the concept plan, we've not yet received any comments on the detailed plans. Because the boundary of the subdivision and rezoning request was increased to include additional lots and property within Koppang Subdivision an additional public hearing has been scheduled for this evening.

Tim stated that a number of emails have been received over the past few days and placed on the commissioners' desks with both pros, cons and the developer's response. Those documents should be received as public comment and entered into the record.

Tim indicated in terms of existing trees, the landscaping ordinance protects and preserves trees. It also addresses issues regarding the removal of unhealthy or diseased trees. The developer indicated they intend to work to preserve as many as possible. This would be laid out in the developer's agreements. The City doesn't have restrictions regarding gates, gated communities unless there are issues with cutting things off or connectivity.

Staff would uphold its previous recommendation for approval 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. Neighborhood concerns are considered in development of detailed development plans.
3. An Attorney Title Opinion is received.
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 Final Plat with any necessary easements is received.
7. A subdivision improvement/PUD agreement is received.
8. An approved mail delivery plan is developed.

Austin Gruebele, 3008 Katherine Drive, stated that he did research on gated communities and there are 4 different models: Prestige, Physical Safety, Lifestyle and Need (Culture/Religion). He believes this development falls under the prestige and safety model. He doesn't feel unsafe and gated communities give people a false sense of security, that some criminals target gated communities, that residents may ostracize the outside residents. He also stated concern with internal policing of the development. What if he goes looking for his dog and runs across someone concerned with protecting their property.

Mr. Gruebele stated that the developers are gearing this development toward out of town professionals and proceeded to quote the City webpage that West Fargo is: Boasting opportunities for both families and businesses, West Fargo combines all the benefits of a small town atmosphere but also remains competitive in the growing metropolitan area of Fargo/Moorhead. Welcome to the City on the Grow!

Mr. Gruebele stated that people within gated communities want to separate themselves from the rest of the community. He stated that this development will create economic factors which will artificially inflate property values and sets a precedence. What's next a 300 unit gated development? Mr. Gruebele also asked that the City amend the ordinances so that the notification area is more than 150'. They can do what they want without notifying property owners.

Developer Mark Bucholz thanked Austin for his comments. He stated that the gate is to provide for privacy. Residents along Claire Drive were concerned with the private drive behind their homes. The intent is to decrease excess traffic by limiting access to residents and their guests. The gate along Claire Drive would be a breakthrough gate only to be used in emergencies with traffic/access via 32nd Avenue. The driveway will be maintained by the Homeowners Association.

Mr. Bucholz stated that the best use for the land is low density residential and they intend to preserve the trees and area. He read up on some of the comments received. He stated that with lot sizes similar to those to the east, they could have 16, 80-foot wide lots; however, they intend to have nine, 120' wide lots.

Chair McDougall asked why there are two different types of fencing. Mr. Bucholz indicated for the gate transitioning. Fencing would be similar to the one in Shadow Wood or Reserve at Osgood. There would also be a berm for the one along 32nd Avenue.

Brandi Koffler, 3006 Claire Drive, stated that the biggest issue they had before was with houses going back there, now it's gated for people who think they're better than others. It's not needed. The people along the west side of Claire Drive spent more money on their lots than others in their development because there was nothing behind them. When they built their home, they researched the area and were told it was two separated lots/homes. Now there's a massive fence, trees being cut down. There's no guarantee that they won't be using the gate. They're going to constantly be hearing the gate opening and closing. A letter they received had other options that were fair for everyone, not just this neighborhood. The other gated community in West Fargo only affects two people, why does there have to be segregation?

Brendan Muldoon asked for clarification regarding residents on the west side of Claire Drive paying more for their lots. Mrs. Koffler stated that they paid \$15,000 more for their lot than people to the east along Katherine Drive.

Mr. Bucholz stated that the gate won't be operational. It will be breakaway for emergency use and won't be opening and closing. Mrs. Koffler asked if the developer was open to other options, to not have a road in their backyard and a better than thou, here's our gate attitude.

Tim stated that the area is designated low density residential in the land use plan. It is not the City's land; the developer purchased the property and submitted a use for review. City staff is not in the position to design this for them.

Susan Kish, 3036 Claire Drive, asked why she didn't receive a letter that the ownership had changed. Tim stated that Planning staff isn't going to know when land is sold.

Chair McDougall asked about the zoning. Tim stated that zoning request is from R-R: Rural Residential to PUD: Planned Unit Development. The use has to be based on something, so R-1A: Single Family Dwellings. With a PUD everything has to be laid out in the Detailed Development Phase. The Meyers were going to develop it one way, changed their minds and sold their property to someone else.

Mrs. Kish also stated that they paid more for their lots because there was nothing behind them. Tim stated that along the river, the lot price would've more than doubled.

Mrs. Kish asked about the option of placing the driveway along the river. Tim stated that due to riverbank soil erosion, there's a 100' riverbank control line which severely limits anything being placed in that area. Also potential buyers would want their homes along the river. He pointed out the riverbank control line on the map.

Kane Hanson, 3864 Reserve Drive stated that he lived in a gated community in Scottsdale. The intent was more to control access so they'd know the cars coming into the development. He lives in the Reserve at Osgood development and there are several large houses in the development along the river that are enticing. People make it a point to drive by, especially during Parade of Homes to check out the houses.

Chair McDougall asked Mr. Hanson if when he lived in Scottsdale if he felt superior to outside residents. Mr. Hanson stated no, the gate was simply to keep random people from driving through their development.

Mark Buske, 3021 1st Street East, asked if this was going to increase traffic flow into their neighborhood and if the trees will be preserved.

Cassandra Meyhoff, 3048 Claire Drive, stated that they moved there because of nature, trees and river. This will limit who can access the river; only people living there will be able to use it. She asked that they preserve as many trees as possible because with other developments all the trees are gone.

Mr. Bucholz stated that regardless of the gate, this is private property. In terms of trees, the individual who developed Lots 21-23 eliminated trees to make room for homes on Claire Drive. The restrictive covenants include preservation of trees and in order to eliminate trees they have to get approval and provide replacements. Trees equal value.

Tim indicated that the Sheyenne River is non-navigable and the property line goes to the middle of the river, is owned by property owners. There is a small piece of property along 32nd Avenue, which is owned by the City which will have a small parking area, be available for public use.

Casey Baker, 3019 Claire Drive, stated that he's a landscaper by trade. The people who want to build are going to put in landscaping, put in much nicer trees, unlike the ratty looking maples they have by their mailboxes.

Krystal Arneson, 3004 Ridge Drive, stated that they moved here from Iowa. What goes up must come down and the gates will. Eventually the economic boom will fall, the homes will go into foreclosure and nobody will be able to afford these homes and they'll end up being vacant. There were gated communities in Iowa and they could go in whenever they wanted. They have friends who live on Claire Drive and people are going to want to go back there to look at the homes and traffic will increase. A gated community is not for West Fargo.

Mrs. Koffler asked about the document regarding gated communities which was sent to them anonymously and if it could be submitted into the record as public comment. Mr. Gruebele indicated that although he didn't send it, he would ask that it be

accepted into the record under his name. He stated that he received it on Wednesday and assumed it was from someone on Claire Drive as it mentioned increased traffic, safety of children. He's not opposed to building, if they want to seclude their homes they could place the homes behind trees rather than a fence. He asked why they'd want to build where people don't want them and wondered if the developers already lined up buyers for these lots.

Mrs. Koffler stated concern with their value and taxes increasing because of this and wanted a guarantee. Tim indicated that the developer pays specials for 32nd Avenue, Sheyenne Street, as well as park dedication. He can't predict how taxes or property value increases. This would be a question for the assessor.

Guy Fox, 3054 Claire Drive, stated that he plans to landscape and fence in the spring and wondered about tying into the development fence. He stated that his lot is a foot higher and wondered about timeframes for fencing and if he should wait. Dustin stated that a drainage plan was established with Maple Ridge at the Preserve 2nd Addition, which needs to be adhered to. The fencing and road would be a privately funded project and the developer will need to submit plans for review, which he anticipates will be sometime this spring.

Mr. Bucholz stated that they have to work with the engineers on the grading plans and drainage plans, there shouldn't be any impact to Mr. Fox's property and he could tie into the fence. He suggested talking to the fencing installers, as they could probably run his fence at the same time and give him a similar price.

Mrs. Koffler asked if the gate couldn't go in first as a lot of them would like to landscape this spring. Mr. Bucholz stated that he can't guarantee a timeline, but could try to coordinate with property owners.

John Trombley, 3000 Claire Drive, stated that he shared his thoughts in January. He's visited with Mr. Bucholz and doesn't want to see a solid fence. The way his house sits, he'd feel boxed in. Does it have to be a solid fence? Can't it be a berm and landscaping? Can't the commission facilitate finding a solution for privacy without a solid wall?

Allison Buske, 3021 1st Street East, asked if the gate would remain open to allow for construction vehicles. Can an assessor address what their taxes/value will be? Tim stated that he can't answer the assessing question as there are a number of variables such as lot size, sales, land type, marketability. He asked Mr. Bucholz about construction of the private road. Mr. Bucholz stated that sanitary needs to be installed first and that the road could be used for construction. Dustin indicated that they'd need to get an approved construction entrance for the development.

Mr. Bucholz indicated that they've also paid specials for area improvements, which included improvements to Claire Drive, 31st Avenue, sewer and water.

Mrs. Koffler asked why Fargo had denied a gated community. Tim indicated that it was in an unincorporated area and apparently the developer hadn't gotten as far into the planning process as this project. It was withdrawn, not necessarily denied.

Mrs. Koffler stated that it's unfortunate that this is going to go in anyway. They thought long and hard when they built their home with the understanding there would only be two homes behind them.

Discussion was held regarding fencing. Chair McDougall asked if a fence wasn't installed by the developer, what are the rules regarding fencing? Could there be 8 different fencing styles for each home. Mr. Bucholz stated that they have restrictive covenants that all fencing needs to match. Dustin indicated that a building permit is required for a fence to insure it's placed on the property, not in a utility easement. Mrs. Koffler stated that they have a pool and don't intend to have a privacy fence. They plan to talk to their neighbors not wall them out. Mrs. Kish stated that they have a fence and now another one will go behind their fence.

A property owner asked why there needs to be an entrance onto Claire Drive. Tim indicated that the City requires an additional access into the development for safety.

James Wang, 79 31st Avenue East, asked if they'll be using the Maple Ridge Park. Dustin stated that they were special assessed for the park. Tim stated that park dedication was also required and paid by the developer. Discussion was held regarding park dedication.

Discussion was held regarding special assessments. Dustin stated that it's based on square footage of property.

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

Commissioner Diamond asked about the roundabout and how to insure it works for emergency vehicles. Tim indicated that department agency comments are taken into consideration. Mr. Trombley didn't want the roundabout behind his house, so the developer was trying to accommodate him with the hammerhead.

Discussion was held regarding comments received in support of the development.

Tim indicated that the Concept Development Plans were approved on January 13, 2014. Based on discussion at the time regarding buffering the private drive, the developer was directed to make a decision. Under item #2 in the staff recommendations --- Neighborhood concerns are considered in development of detailed development plans --- the developer came up with the uniform fencing scheme rather than a berm and landscaping.

Commissioner Johnson made a motion for approval based on the eight conditions listed in the staff report, with emphasis on item #2, Neighborhood concerns are considered in development of Detailed Development Plans. Commissioner Beck seconded the motion. No opposition. Motion carried.

Tim indicated that this will go onto the City Commission in April and another public hearing as well as 1st and 2nd Readings on the rezoning will be held.

The next item on the agenda was Review Midland Industrial Area Development Plan for Conformity to Plans.

Tim reviewed the following information:

The Nordick Group owns approximately 76 acres of property of which only one lot is substantially developed with a garage door manufacturing facility (Midland Garage Door Manufacturing Company) and industrial business lease space in several other buildings. Several years ago, at the request of the developer the City established a Tax Increment Financing (TIF) District to finance key infrastructure costs including sewer and water for the area, as well as street improvements and street lighting on 7th Street NE from 11th Avenue NE to 12th Avenue NE.

The developer proposes to provide additional lease space for industrial and light industrial businesses on Lot 1, Block 3 of Midland 3rd Addition.

The proposed project will not cause any displacement of families or businesses. The proposed Midland Industrial Area Development Plan III conforms to the City's General Plan for Urban Renewal and Urban Development and the West Fargo Comprehensive Plan. The proposed Development Plan will afford maximum opportunity, consistent with the sound needs of the City as a whole, for the development of the development area by private enterprise.

Commissioner Potter made a motion for approval on the basis the request is consistent with the City of West Fargo's General Plan for Urban Renewal and Urban Development and the Comprehensive Plan. Commissioner Beck seconded the motion. No opposition. Motion carried.

Under non-agenda, Chair McDougall indicated that Tom Kiewel has resigned from the Planning and Zoning Commission.

Commissioner Carlsrud made a motion to adjourn. Meeting adjourned.