

**BOARD OF PLANNING COMMISSIONERS
MINUTES**

Regular Meeting:

Tuesday:

April 7, 2015:

The Regular Meeting of the Board of Planning Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 4:00 o'clock p.m., Tuesday, April 7, 2015.

The Planning Commissioners present or absent were as follows:

Present: John Paulsen, Shara Fischer, Kristy Fremstad, John Gunkelman, Mike Magelky, Jeff Morrau, Mary Scherling, Rocky Schneider, Terry Steen, Kelly Steffes, Jan Ulferts-Stewart

Absent: None

Chair Paulsen called the meeting to order.

Business Items:

Item A: Approve Order of Agenda

No action was taken by the Board.

Item B: Minutes: Regular Meeting of March 3, 2015

Member Ulferts-Stewart moved the minutes of the March 3, 2015 Planning Commission meeting be approved. Second by Member Schneider. All Members present voted aye and the motion was declared carried.

Item C: Wednesday April 22, 2015 Brown Bag Luncheon: CANCELLED

Item D: Public Hearing Items

Item 1: Amity South At Cottagewood First Addition

a. Hearing on an application requesting a Zoning Change from MR-3, Multi-Dwelling to MR-3, Multi-Dwelling with a PUD, Planned Unit Development Overlay of the proposed Amity South At Cottagewood First Addition. (Located at 3801 and 4101 51st Avenue South) (Verity Homes of Fargo, LLC): **CONTINUED TO MAY 5, 2015**

b. Hearing on an application requesting a Planned Unit Development Master Land Use Plan for a Residential Land Use of the proposed Amity South At Cottagewood First Addition. (Located at 3801 and 4101 51st Avenue South) (Verity Homes of Fargo, LLC): **CONTINUED TO MAY 5, 2015**

c. Hearing on an application requesting a Plat of Amity South At Cottagewood First Addition (Minor Subdivision) a replat of Lots 28 and 29, Block 1,

Cottagewood First Addition to the City of Fargo, Cass County, North Dakota. (Located at 3801 and 4101 51st Avenue South) (Verity Homes of Fargo, LLC): CONTINUED TO MAY 5, 2015

Planner Aaron Nelson presented the staff report for the above proposals at Amity South At Cottagewood First Addition. He explained this preliminary introduction provides the opportunity for discussion and comments from the public, with staff's intention to present the formal report at May's meeting for the Board's recommendation.

Mr. Nelson proceeded with an overview of the proposal, referring to updated images in the PowerPoint presentation to replace copies in the packet. He highlighted details included in the proposal regarding access; a homeowner's association; private sewer and water lines linking each lot to the public system; and the lot layout of the units. Mr. Nelson stated although the proposed development conceptually aligns with several aspects of the GO2030 plan, staff feels the following outstanding issues need to be part of the review process: Private infrastructure; 'Orphan' lots; Amenities; and 'Land-locked' lots. He stated staff is looking for feedback and discussion from the Planning Commission regarding the proposed development as it relates to these concerns.

Board discussion ensued regarding the need to address this issue to enable staff when addressing these types of proposals during their review process, as the number of these types of requests is increasing.

Planning Director Jim Gilmour stated many of these concerns are focus areas staff has identified as part of their 2015 Planning Department work plan.

At 5:05 p.m. the Board took a five minute recess.
After recess: All Members present except Member Morrau.

Item 2: Eddy & Fuller's Outlots

Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling to SR-5, Single-Dwelling on Lot B in Auditor's Subdivision of Outlot 33, Eddy & Fuller's Outlots. (Located at 415 14th Street South) (2112, LLC): CONTINUED TO MAY 5, 2015

Planner Derrick LaPoint presented the staff report for the requested zoning change of Eddy & Fuller's Outlots. Mr. LaPoint shared an overview of a neighborhood plan that was conducted in 2005 to set neighborhood goals and guide future development. He noted the Planning Department held an open house on March 26, 2015 and 12 residents attended sharing their concerns. He also noted staff received additional e-mails, letters and a signed petition, and copies have been submitted to Board Members. Mr. LaPoint explained staff has added the suggestion of a conditional overlay for this proposal and is recommending this item be continued for further review.

Applicants Jacob Manly and Larry Larson spoke on behalf of their proposal.

The following area property owners spoke in opposition of the proposal stating their concerns about the size of the lot and the density of the proposed development; the impact on the historical value of the neighborhood and area homes; additional traffic; increasing the number of rental units in their neighborhood; additional parking issues; and the negative impact on their property value.

Don and Holly M. Shoop, 421 14th Street South
O. Marshal Vining, 1424 4th Avenue South
Jay Nelson, Member of the Jefferson Area Neighborhood Association

Member Schneider moved to recommend this item be continued to the May meeting. Second by Member Gunkelman. On call of the roll Members Schneider, Scherling, Steffes, Fremstad, Magelky, Gunkelman, and Paulsen voted aye. Members Steen, Fischer, and Ulferts-Stewart voted nay. Absent and not voting: Member Morrau. The motion was declared carried.

Item 3: Timber Creek Fourth Addition

Hearing on an application requesting a Plat of Timber Creek Fourth Addition (Minor Subdivision) a replat of Lots 25 and 26, Block 5, Timber Creek First Addition to the City of Fargo, Cass County, North Dakota. (Located at 5101, 5131, and 5151 Prosperity Way South) (PLC Investments, LLC): APPROVED

Planner Joe Nigg presented the staff report stating all approval criteria have been met and staff is recommending approval.

Member Steffes moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed subdivision plat, Timber Creek Fourth Addition as outlined within the staff report, as the proposal complies with the adopted Area Plan, the Standards of Article 20-06, and all other applicable requirements of the Land Development Code. Second by Member Fischer. On call of the roll Members Fremstad, Steen, Scherling, Schneider, Steffes, Magelky, Gunkelman, Fischer, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Member Morrau. The motion was declared carried.

At 5:58 p.m. the Board took a five minute recess.

After recess: All Members present except Member Morrau.

Item 4: 42nd Street Addition

Hearing on an application requesting a Zoning Change from P/I, Public and Institutional to LI, Limited Industrial on Lot 5, less street right-of-way, Block 1, 42nd Street Addition. (Located at 4000 36th Avenue South) (City of Fargo): APPROVED

Assistant Planner Maria Olson presented the staff report and reviewed the zoning history of the property. Ms. Olson stated all criteria have been met and staff is recommending approval.

Member Magelky moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed zoning Change from P/I, Public and Institutional, to LI, Limited Industrial, on the basis that it satisfactorily complies with the GO2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the Land Development Code. Second by Member Gunkelman. On call of the roll Members Scherling, Gunkelman, Fremstad, Steffes, Magelky, Steen, Fischer, Schneider, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Member Morrau. The motion was declared carried.

Item 5: Whispering Pines Addition

a. Hearing on an application requesting a Zoning Change from P/I, Public and Institutional to MR-3, Multi-Dwelling of the proposed Whispering Pines Addition. (Located at 4240 53rd Avenue South; 5301 and 5371 42nd Street South) (Paces Lodging): DENIED

b. Hearing on an application requesting a Plat of Whispering Pines Addition (Minor Subdivision) a replat of Lot 1, and part of Lot 2, Block 5, The Pines At The District Addition to the City of Fargo, Cass County, North Dakota. (Located at 4240 53rd Avenue South; 5301 and 5371 42nd Street South) (Paces Lodging): DENIED

Joe Nigg presented the staff report for the zoning change and plat of Whispering Pines Addition. Mr. Nigg noted copies of two additional documents staff received from area property owners in opposition of the proposed zoning request have been submitted to the Board. He briefly reviewed the proposal stating the more complex element of this application relates to the zoning change request by the applicant. A portion of land was dedicated to the Park District by The Pines at the District Addition in 2013. This dedication of 8-9 acres was considered minimum for parkland dedication within residential subdivisions. He explained this proposal is requesting to acquire a portion of land back from the Park District and adding an easement that would retain the land as public park land, and as such the property would continue to be maintained by the Park District. Mr. Nigg stated staff feels that this dedicated park land should not be used to meet site plan needs related to open space requirements of the Land Development Code; and therefore staff is recommending denial based on not all approval criteria having been met.

Applicant Patrick Vasey spoke on behalf of the application, explaining their decision to pursue acquisition of the parcel of land from the Park District to meet the open space requirement. Mr. Vasey also referred to a second option they could propose, that refers to a provision in Section 20-0504.F of the Land Development Code, and explained that if you have property within a one mile radius of a proposed development site, open space on the nearby property can be allocated to the proposed development in order to meet the open space requirement. He noted they would prefer to proceed with their original proposal to acquire this park land to meet the requirement and be able to proceed with the development as soon as possible. He stated if needed they will pursue option 2 with the Commission's approval to use their other property for the required open space.

Monte Baumgarten, 4284 Ponderosa Place South, spoke in opposition of the proposal sharing his concern that the proposal would negatively impact his property value.

Rachel Baumgarten, 4284 Ponderosa Place South, read a letter from an adjacent property owner Eric and Haily Schepp, 4294 Ponderosa Place, who were not able to attend the Hearing, sharing their concerns of the proposed size of the apartment complex, increase in traffic, and the use of park land to meet the open space requirement.

Discussion continued regarding the current proposal.

Member Steen stated his concern about setting a precedent if this proposal is approved and it is allowed to utilize designated park land as the required open space.

MOTION #1: Member Ulferts-Stewart moved to recommend this item be continued to the May meeting to allow staff time to review the Section 20-0504.F of the Land Development Code. Second by Member Fremstad. On call of the roll Members Scherling, Fremstad and Ulferts-Stewart voted aye. Members Fischer, Steen, Schneider, Magelky, Gunkelman, Steffes, and Paulsen voted nay. Absent and not voting: Member Morrau. The motion failed for lack of a majority.

MOTION #2: Member Steen moved the findings and recommendations of staff be accepted and denial be recommended to the City Commission of the proposed 1) Zoning Change from P/I, Public and Institutional to MR-3, Multi-Dwelling, and 2) Whispering Pines Addition minor subdivision plat as presented, as the proposal does not comply with the intent of the GO2030 Fargo Comprehensive Plan and the requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Scherling, Fremstad, Fischer, Steen, Schneider, Magelky, Gunkelman, Steffes, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Member Morrau. The motion was declared carried.

MOTION #3: Member Steen moved to invoke Section 20-0504.F of the Land Development Code and allow the Open Space requirements of the Land Development Code to be satisfied at 4240 3rd Avenue South and 5301 42nd Street South by providing 9,000 square feet or an equivalent amount of the deficient open space standards at the nearby Aurora Ponds multi-dwelling development through a permanent easement. Second by Member Magelky. On call of the roll Members Scherling, Fremstad, Fischer, Steen, Schneider, Magelky, Gunkelman, Ulferts-Stewart, and Paulsen voted aye. Member Steffes voted nay. Absent and not voting: Member Morrau. The motion was declared carried.

At 7:06 p.m. the Board took a five minute recess.

After recess: All Members present except Member Morrau.

Item 6: Original Townsite Addition/Section 7, Township 139 North, Range 48 West

Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling and GC, General Commercial to P/I, Public and Institutional on Blocks 19, 20 and 21, all of vacated alleys within Blocks 19-21, Original Townsite Addition and a portion of the North half of Section 7, Township 139 North, Range 48 West. (Located at 333 4th Street South; 302, 410 and 450 7th Street South; 400 and 502 1st Avenue South) (Fargo Park District/Foss Architecture & Interiors): APPROVED

Aaron Nelson presented the staff report stating all criteria have been met and staff is recommending approval.

Applicant Paul Finstad, Director of the YMCA, spoke on behalf of the proposal.

Member Scherling moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed zoning change from SR-2, Single Family Residential and GC, General Commercial to P/I, Public and Institutional on the basis that it satisfactorily complies with the GO2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the Land Development Code. Second by Member Ulferts-Stewart. On call of the roll Members Steffes, Fremstad, Magelky, Gunkelman, Scherling, Fischer, Steen, Schneider, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Member Morrau. The motion was declared carried.

Item 7: Text Amendment

Hearing on an application requesting a City of Fargo initiated Text Amendment to amend Section 20-0805, Arts and Culture Commission, of the Land Development Code, Chapter 20 of the Fargo Municipal Code. (City of Fargo): APPROVED

Maria Olson presented the staff report for this proposed staff-initiated text amendment. Ms. Olson stated the proposal is to change the membership requirements for the Arts and Culture Commission and to move term expiration date from January 1 to June 1, beginning in 2016.

Member Steen moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the ordinance amending Section 20-0805 of Article 20-08 of Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to the Arts and Culture Commission as the proposal meets the approval criteria of Subsection 20-0904(E) (1-3) of the Land Development Code. Second by Member Steffes. On call of the roll Members Gunkelman, Fremstad, Fischer, Steffes, Magelky, Steen, Schneider, Scherling, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Member Morrau. The motion was declared carried.

Other Items:

Item 1: Brief presentation on 2015 Planning Department work plan

Jim Gilmour reviewed a PowerPoint presentation of the Planning Department work plan for 2015. He highlighted a few of the items that are currently in process noting the items staff has listed first on the plan to work on. Mr. Gilmour asked for Board input and ideas of items they would like to focus on for future meetings and possible formation of subcommittees.

Nicole Crutchfield noted a copy of the 2015 Planning Development Work Plan will be emailed to each Board Member. She stated staff is highlighting the common issues they see reoccurring in upcoming proposals, focusing on updating the Land Development Code to address these issues. Ms. Crutchfield also highlighted locations on a map of the growth areas staff will be focusing on during 2015.

The time at adjournment was 7:37 p.m.