

**BOARD OF PLANNING COMMISSIONERS
MINUTES**

Regular Meeting:

Tuesday:

July 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, July 7, 2015.

The Planning Commissioners present or absent were as follows:

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

Absent: Mary Scherling, Terry Steen

Chair Paulsen called the meeting to order.

Chair Paulsen made the following announcements:

- 1) Public Hearing Item No. 1 will be continued to September 1, 2015.
- 2) Public Hearing Item No. 10 has been withdrawn at the request of the applicant.

Business Items:

Item A: Approve Order of Agenda

Member Fremstad moved the Order of Agenda be approved as presented. Second by Member Steffes. All Members present voted aye and the motion was declared carried.

Item B: Minutes: Regular Meeting of June 2, 2015

Member Fremstad moved the minutes of the June 2, 2015 Planning Commission meeting be approved. Second by Member Fischer. All Members present voted aye and the motion was declared carried.

Item C: Wednesday, July 15, 2015 Brown Bag Luncheon

Topic: MetroCOG Southwest Metro Study findings – presentation by SRF and MetroCOG

Item D: Public Hearing Items:

Item 1: Harwood's Addition

Continued Hearing on an application requesting a Planned Unit Development Master Land Use Plan for a Commercial Development Land Use on the West Half of Lot 1, Block 7, Harwood's Addition. (Located at 701 University Drive North) (Stahl Architects): CONTINUED TO AUGUST 4, 2015

A Hearing had been set for May 5, 2015. At the May 5, 2015 meeting the Hearing was continued to June 2, 2015. At the June 2, 2015 meeting the Hearing was continued to this date and time: however, the applicant has requested the application be continued to August 4, 2015.

Item 2: Text Amendment

Continued Hearing on an application requesting a Text Amendment to amend Section 20-1202 (9) of Article 20-12, and Section 20-0701.G of Article 20-07, Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to surface materials for vehicular circulation. (Paces Lodging): DENIED

Planner Aaron Nelson presented the staff report. Mr. Nelson stated staff is recommending denial as the proposal does not meet the approval criteria.

Representative Nate Vollmuth, Paces Lodging, spoke on behalf of the applicant. Mr. Vollmuth submitted a document to the Board illustrating one of their sites as an example, depicting how this proposal would be utilized.

Board discussion included concerns that the proposed amendment changes to code would bring the GC, General Commercial zoning district one step closer to becoming more industrial in nature; the time involved if staff were to review these types of proposals on a case-by-case basis; and possible options the applicant may consider.

Member Ulferts-Stewart moved the findings and recommendations of staff be accepted and denial be recommended to the City Commission of the proposed text amendment relating to Section 20-0701.G of Article 10-07 and Section 20-1202(9) of Article 20-12, Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to All Weather Surfaces as the proposal does not meet the approval criteria of §20-0904.E (1-3) of the Land Development Code. Second by Member Fischer. On call of the roll Members Schneider, Steffes, Morrau, Fischer, Fremstad, Magelky, Ulferts-Stewart, and Paulsen voted aye. Member Gunkelman voted nay. Absent and not voting: Members Scherling and Steen. The motion was declared carried.

Item 3: Section 27 and 28, Township 140 North, Range 49 West

a. Hearing on an application requesting a Growth Plan Amendment within Section 27 & 28, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 2102, 2106, and 2867 45th Street North; 4101 and 4301 19th Avenue North; 4200 32nd Avenue North) (Kjos Investments): APPROVED

b. Hearing on an application requesting an annexation of an unplatted portion of the Northwest Quarter of Section 27, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 2867 45th Street North) (Kjos Investments): APPROVED

Planning Administrator Nicole Crutchfield presented the staff report for the proposed Growth Plan Amendment. She noted the Planning Department held an open house on June 25, 2015 and two residents attended sharing their concerns. Ms. Crutchfield stated all approval criteria have been met and staff is recommending approval.

Harold Mertz, 4570 Adams Drive – Reiles Acres, shared his concerns regarding increased traffic; existing road structure not designed for industrial traffic; and negative impact on property values.

Shelley Rector, 4730 35th Avenue North – Reiles Acres, spoke about her concern regarding lack of a buffer between existing housing, and the proposed increase in the amount of industrial acreage.

Further discussion by the Board included contracting a consultant to further study roadway concerns; addressing possible flood issues; and the need for proper infrastructure.

GROWTH PLAN AMENDMENT MOTION: Member Magelky moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission the proposed growth plan amendment as the proposal complies with the GO2030 Fargo Comprehensive Plan, Growth Plan and all other applicable requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Fremstad, Morrau, Schneider, Magelky, Steffes, Gunkelman, Fischer, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Scherling and Steen. The motion was declared carried.

Ms. Crutchfield presented the proposed annexation portion of this item. She noted the City Commission has approved a resolution for this annexation, and a public hearing is scheduled for Monday, August 17, 2015. Ms. Crutchfield stated staff is requesting the Board's recommendation to proceed.

Joe Burgum, 514 10th Avenue South, shared his concerns regarding the proposed annexation.

ANNEXATION MOTION: Member Magelky moved approval of the annexation be recommended to the City Commission. Second by Member Ulferts-Stewart. On call of the roll Members Fremstad, Morrau, Schneider, Steffes, Magelky, Gunkelman, Fischer, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Scherling and Steen. The motion was declared carried

At 5:00 p.m. the Board took a five minute recess.

All members present after recess except Members Morrau, Scherling, and Steen.

Public Items Nos. 4 – 7 were presented together:

Item 4: Urban Plains By Brandt First Addition: Hearing on an application requesting a Conditional Use Permit to allow off-premise advertising on Lot 1, Block 4, Urban Plains By Brandt First Addition. (Located at 2633 55th Street South) (Scheels Arena): CONTINUED TO AUGUST 4, 2015

Item 5: Urban Plains By Brandt First Addition: Hearing on an application requesting a Conditional Use Permit to allow off-premise advertising on Lot 4, Block 5, Urban Plains By Brandt First Addition. (Located at 3151 Seter Parkway South) (Scheels Arena): CONTINUED TO AUGUST 4, 2015

Item 6: Urban Plains Retail Addition: Hearing on an application requesting a Conditional Use Permit to allow off-premise advertising on Lot 4, Block 1, Urban Plains Retail Addition. (Located at 4525 32nd Avenue South) (Scheels Arena): CONTINUED TO AUGUST 4, 2015

Item 7: Urban Plains Northeast Retail Addition: Hearing on an application requesting a Conditional Use Permit to allow off-premise advertising on part of Lots 3 and 4, Block 1, Urban Plains Northeast Retail Addition. (Located at 2911 45th Street South) (Scheels Arena): CONTINUED TO AUGUST 4, 2015

Aaron Nelson presented the staff reports for the proposals to allow off-premise advertising at the above locations. Mr. Nelson stated staff is recommending denial as review criteria 1, 3, and 4 have not been met.

Board discussion ensued concerning the rights of adjacent property owners; the size and scale of the proposed signage and how it compares to other off-premise signs within Fargo and Grand Forks; the types of digital advertising these signs would be displaying; the lack of any conditions attached to the CUP's being presented today; and the need for more time so staff and the Board can further review the proposals.

Representative Joel Fremstad, Attorney with Fremstad Law Firm, spoke on behalf of the proposals and submitted a handout to the Board.

General Manager Jon Kram from Scheels Arena spoke in favor of the proposals.

Applicant and property owner Ace Brandt spoke on behalf of the proposals, stating they are willing to work with the City and staff to provide off-premise signage that is compliant with criteria and guidelines.

Member Schneider moved to continue Item Nos. 4-7 to the August 4, 2015 meeting. Second by Member Gunkelman. On call of the roll Members Gunkelman, Fremstad, Steffes, Magelky, Fischer, Schneider, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Morrau, Scherling, and Steen. The motion was declared carried.

At 6:10 p.m. the Board took a five minute recess.
All members present after recess except Members Morrau, Scherling, and Steen.

Item 8: Rocking Horse Farm 3rd Addition

Hearing on an application requesting a Plat of Rocking Horse Farm 3rd Addition (Minor Subdivision) a replat of Lots 1-3, Block 6, Rocking Horse Farm 2nd Addition to the City of Fargo, Cass County, North Dakota. (Located at 4728 and 4772 Foxtail Lane South; 5720 Wildflower Drive South) (Houston Engineering, Inc.): APPROVED

Planner Derrick LaPoint presented the staff report stating all approval 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 subdivision plat, Rocking Horse Farm 3rd 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 Steffes. On call of the roll Members Steffes, Fischer, Gunkelman, Fremstad, Schneider, Magelky, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Morrau, Scherling, and Steen. The motion was declared carried.

Item 9: Urban Plains Recreational Addition

Hearing on an application requesting a Zoning Change from GC, General Commercial with a C-O, Conditional Overlay to GC, General Commercial with a modification of the C-O, Conditional Overlay on Lot 1, Block 1, Urban Plains Recreational Addition. (Located at 5225 31st Avenue South) (ICON Architectural Group): APPROVED

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

Jon Kram, General Manager of Scheels Arena, spoke on behalf of the proposal.

Member Ulferts-Stewart moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed zoning change from GC, General Commercial with a C-O, Conditional Overlay to GC, General Commercial with the extinguishment of the existing C-O, Conditional Overlay, and establishment of a modified C-O, Conditional Overlay on Lot 1, Block 1, Urban Plains Recreational Addition 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 Fischer. On call of the roll Members Fischer, Magelky, Steffes, Gunkelman, Fremstad, Ulferts-Stewart, and Paulsen voted aye. Member Schneider voted nay. Absent and not voting: Members Morrau, Scherling, and Steen. The motion was declared carried.

**Item 10: Section 14, Township 140 North, Range 49 West
Hearing on an application requesting a Street Vacation of 46th Avenue North, a part of the southwest quarter of Section 14, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 4512, 4455, 4551, and 4583 33rd Street North; 3414 46th Avenue North; 4551 37th Street North) (County 20 Storage & Transfer, Inc.): WITHDRAWN**

A Hearing had been set for this date and time; however, the applicant has requested the application be withdrawn.

Item 11: Commerce on I29 Addition

Hearing on an application requesting a Conditional Use Permit to allow Industrial Service Land Uses in a GC, General Commercial zoning district on Lot 3, Block 2, Commerce on I29 Addition. (Located at 3801 98th Avenue South) (26 & 2 Properties LLC): APPROVED

Derrick LaPoint 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 the Conditional Use Permit to allow Industrial Use in a GC, General Commercial zoning district be approved as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the Land Development Code, with the following conditions:

1) The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever, nor for the storage of any property or items that will cause such lot to appear untidy, unclean, or unsightly as determined by the Zoning Administrator; nor shall any substance, item, or material be kept on any lot that will emit foul odors including compost sites and fertilizer. All garbage containers, including dumpsters, shall be concealed from public view by fence, screen wall, or building extension.

2) Outdoor storage areas shall not cover more than 50% of the open space of the development, nor be located within the front or street side setback areas of the development. Outdoor storage areas shall be fenced in a manner that is not visible from public right-of-way and shall have fence heights that will visually block any items stored within. Fences exceeding 8.5 feet in height must follow the required building setbacks as outlined within the Land Development Code. For the purposes of determining allowable outdoor storage area, open space shall be defined as the total area of the lot minus the area of the sum of the area of all building footprints on the lot.

3) Off-street parking, loading, and vehicular circulation areas, (including circulation areas internal to storage yards), shall have an all-weather surface as defined by the Land Development Code.

4) A vegetative buffer shall be provided along the north and west boundary for the purposes of protecting abutting land owners from more intense land-uses and providing visual screening. The vegetative buffer shall be in reference to Land Development Code §20.0704.E.2. For this application, the landscape buffer shall be either a "Type A"

landscape buffer with a minimum width of 10 feet, with a minimum of 1 tree and 20 shrubs per 50 linear feet of buffer; or a "Type B" landscape buffer with a minimum width of 20 feet, with a minimum of 1 tree and 10 shrubs per 50 linear feet of buffer.

5) The Conditional Use Permit shall terminate if the industrial service use ceases for a period of more than 12 consecutive months.

Second by Member Gunkelman. On call of the roll Members Schneider, Steffes, Fischer, Fremstad, Magelky, Gunkelman, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Morrau, Scherling, and Steen. The motion was declared carried.

Item 12: Lavelle Third Addition

Hearing on an application requesting a Plat of Lavelle Third Addition (Minor Subdivision) a replat of Lot 7, Block 2, Burlington Northern I-29 South Industrial Center and all of Lavelle Second Addition to the City of Fargo, Cass County, North Dakota. (Located at 2867 and 3101 4th Avenue South; 315 27th Circle South) (Vogel Law Firm): APPROVED

Planner Derrick LaPoint presented the staff report, noting an updated plat has been submitted to the Board. Mr. LaPoint stated all approval criteria have been met and staff is recommending approval.

Member Ulferts-Stewart moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed subdivision plat, Lavelle Third 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, Schneider, Steffes, Magelky, Gunkelman, Fischer, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Morrau, Scherling, and Steen. The motion was declared carried.

The time at adjournment was 6:45 p.m.