

**BOARD OF PLANNING COMMISSIONERS
MINUTES**

Regular Meeting:

Tuesday:

September 1, 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, September 1, 2015.

The Planning Commissioners present or absent were as follows:

Present: Mara Brust, Shara Fischer, Kristy Fremstad, John Gunkelman, Mike Magelky, Mary Scherling, Rocky Schneider, Kelly Steffes, Scott Stofferahn, Jan Ulferts Stewart

Absent: None

Chair Ulferts Stewart called the meeting to order.

Business Items:

Item A: Approve Order of Agenda

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

Item B: Minutes: Regular Meeting of August 4, 2015

Member Fischer moved the minutes of the August 4, 2015 Planning Commission meeting be approved. Second by Member Schneider. All Members present voted aye and the motion was declared carried.

Item C: Wednesday, September 16, 2015 Brown Bag Luncheon

Topic: Planning Commission 101

Item D: Resolution of Appreciation for Terry Steen

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF FARGO:

WHEREAS, Terry Steen was appointed to the Fargo Planning Commission on December 19, 2011 and served for 3-1/2 years; and

WHEREAS, Terry Steen gave of his time to serve his community in a capacity that required careful thought and consideration to benefit the community; and

WHEREAS, Terry Steen served as a liaison to the business community; and

WHEREAS, Terry Steen brought to the Planning Commission a better understanding of the concerns and values of Cass County residents representing the extraterritorial jurisdiction; and

WHEREAS, Terry Steen participated with the Planning Commission on supporting the implementation of the GO2030 Fargo Comprehensive Plan; and

WHEREAS, Terry Steen allowed City staff, his fellow Planning Commissioners, and the public the privilege of working with an individual who exhibits exemplary diplomacy, respect, and courteous patience.

NOW, THEREFORE, BE IT RESOLVED, that the Fargo Planning Commission does hereby acknowledge with gratitude and appreciation the time and personal interest Terry Steen devoted to the Fargo Planning Commission.

BE IT FURTHER RESOLVED, that this Resolution be inscribed upon the permanent record of the Planning Commission and thereby the City of Fargo, and that a certified copy be forwarded to Mr. Steen.

Member Fischer moved the Resolution of Appreciation for Terry Steen be approved. Second by Member Gunkelman. All Members present voted aye and the motion was declared carried.

Item E: Resolution of Appreciation for Jeff Morrau

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF FARGO:

WHEREAS, Jeffrey Morrau was appointed to the Fargo Planning Commission on June 21, 2004 and served for 11 years; and

WHEREAS, Jeffrey Morrau gave of his time to serve his community in a capacity that required careful thought and consideration to benefit the community with his architecture and design expertise; and

WHEREAS, Jeffrey Morrau participated with the Planning Commission on several important projects, including; updating the 2007 Growth Plan, and the Fargo Sign Code; and

WHEREAS, Jeffrey Morrau participated with the Planning Commission on the creation and adoption of the GO2030 Fargo Comprehensive Plan; and

WHEREAS, Jeffrey Morrau participated as a Member of the Metropolitan Council of Governments Policy Board; and

WHEREAS, Jeffrey Morrau participated as a Member of the Comprehensive Plan Steering Committee; and

WHEREAS, Jeffrey Morrau allowed City staff, his fellow Planning Commissioners, and the public the privilege of working with an individual who exhibits exemplary diplomacy, respect, and courteous patience.

NOW, THEREFORE, BE IT RESOLVED, that the Fargo Planning Commission does hereby acknowledge with gratitude and appreciation the time and personal interest Jeffrey Morrau devoted to the Fargo Planning Commission.

BE IT FURTHER RESOLVED, that this Resolution be inscribed upon the permanent record of the Planning Commission and thereby the City of Fargo, and that a certified copy be forwarded to Mr. Morrau.

Member Schneider moved the Resolution of Appreciation for Jeffrey Morrau be approved. Second by Member Magelky. All Members present voted aye and the motion was declared carried.

Item F: 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 NOVEMBER 3, 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 July 7, 2015. At the July 7, 2015, the Hearing was continued to August 4, 2015. At the August 4, 2015 meeting, the Hearing was continued to this date and time; however, the applicant has requested the application be continued to November 3, 2015.

Item 2: Maple Valley Second Addition

a. Continued Hearing on an application requesting a Zoning Change from LC, Limited Commercial and AG, Agricultural to SR-4, Single-Dwelling Residential of the proposed Maple Valley Second Addition. (Located at 3281 63rd Avenue South and 3019 64th Avenue South) (Advantage Realtors): CONTINUED TO OCTOBER 6, 2015

b. Continued Hearing on an application requesting a Plat of Maple Valley Second Addition (Major Subdivision) a vacation plat of certain easements, a replat of Lot 1, Block 8, Maple Valley Addition, and a plat of part of the West Quarter of Section 2, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 3281 63rd Avenue South and 3019 64th Avenue South) (Advantage Realtors): CONTINUED TO OCTOBER 6, 2015

This was the date and time set; however, the applicant has requested the application be continued to October 6, 2015.

Item 3: Timber Creek Fifth Addition

a. Continued Hearing on an application requesting a Zoning Change from GO, General Office with a C-O, Conditional Overlay to GO, General Office with a modification of the C-O, Conditional Overlay of the proposed Timber Creek Fifth Addition. (Located at 5100, 5170, and 5180 Prosperity Way South) (PACES Lodging): APPROVED

b. Continued Hearing on an application requesting a Plat of Timber Creek Fifth Addition (Minor Subdivision) a replat of Lots 23 and 24, Block 5, Timber Creek First Addition to the City of Fargo, Cass County, North Dakota. (Located at 5100, 5170, and 5180 Prosperity Way South) (PACES Lodging): APPROVED

This item was presented after Item 9.

A Hearing had been set for August 4, 2015. At the August 4, 2015 meeting, the Hearing was continued to this date and time.

Planning Administrator Nicole Crutchfield presented the staff report. Ms. Crutchfield stated 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 minor subdivision and zoning change from GO, General Office with a C-O, Conditional Overlay to GO, General Office with a modified C-O, Conditional Overlay as outlined within the staff report, 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 Schneider. On call of the roll Members Fremstad, Brust, Scherling, Schneider, Steffes, Magelky, Gunkelman, Fischer, and Ulferts Stewart voted aye. Absent and not voting: Member Stofferahn. The motion was declared carried.

Item 4: Commerce on I29 Addition

Hearing on an application requesting a Zoning Change from GC, General Commercial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay on all of Commerce on I29 Addition. (Located at 3800, 3801, 3900, 4000, 4100, and 4101 98th Avenue South; 9500, 9501, 9600, 9601, and 9700 39th Street South; 9505 42nd Street South) (PACES Lodging): DENIED

This item was presented after Item 9.

Nicole Crutchfield presented the staff report and briefly explained the background relating to the added condition staff is including with the recommendation. Ms. Crutchfield stated all approval criteria have been met and staff is recommending approval.

Board discussion included concerns about dust control, stormwater and impervious cover, and the cost of paving versus gravel in the rear of any future developments.

Applicant Nate Vollmuth, Paces Lodging, spoke on behalf of the proposal.

Jesse Riley, area property owner, spoke in favor of the proposal.

Member Schneider moved the findings and recommendations of staff be denied and denial be recommended to the City Commission of the zoning change from GC, General Commercial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay on the basis that it does not comply 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 Brust. On call of the roll Members Scherling, Fremstad, Brust, Fischer, Schneider, and Ulferts Stewart voted aye. Members Gunkelman, Steffes, and Magelky voted nay. Absent and not voting: Member Stofferahn. The motion was declared carried.

**Item 5: Subdivision of Lots 65, 66, 67, and 68, Ohmer's Subdivision
Hearing on an application requesting a Conditional Use Permit to allow Group Living in an SR-3, Single-Dwelling Residential zoning district on Lot 20, Subdivision of Lots 65, 66, 67, and 68, Ohmer's Subdivision. (Located at 1350 12th Street North) (Steve and Rachelle Bill): DENIED**

Planner Aaron Nelson presented the staff report. Mr. Nelson explained this request is to allow occupancy of four unrelated occupants in the existing house; however, the Land Development Code for this SR-3 zoning district classification does not allow occupancy of more than 3 persons in the existing house. He noted a signed petition included in the packet from neighborhood residents in opposition of the request. Mr. Nelson stated all approval criteria have been met and staff is recommending approval with conditions.

Applicants and property owners Steve and Rachelle Bill, 1009 63rd Avenue North, Moorhead, MN, spoke on behalf of their request.

The following area property owners spoke in opposition of the proposal stating their concerns about current issues with existing renters; adding more rental properties in the neighborhood; and setting a precedent if this request is approved:

Martha Berryhill, 1354 12th Street North
Jim Laschkewitsch, 1016 College Street

Discussion by the Board ensued regarding the City's rental inspection procedures, review schedules, and permitting requirements; setting a precedent if approved; the need for the CUP in order to allow a fourth occupant in the house that is currently occupied by three renters; and if the CUP is revocable upon inappropriate/disruptive behavior by the renter(s).

Member Schneider moved the Conditional Use Permit to allow Group Living in an SR-3, Single-Dwelling Residential zoning district be denied, as it does not comply with Section 20-0909.D (1-6) and all other requirements of the Land Development Code. Second by Member Fremstad. On call of the roll Members Stofferahn, Scherling, Fremstad, Fischer, Brust, Schneider, Magelky and Steffes voted aye. Members Gunkelman and Ulferts Stewart voted nay. The motion was declared carried.

**Item 6: Hinks Addition
Hearing on an application requesting a Zoning Change from GC, General Commercial to LC, Limited Commercial on part of Lot 4 and all of Lot 5, Block 1, Hinks Addition. (Located at 4445 17th Avenue South; 1650, 1680, and 1690 45th Street South) (Jonathan Casper): APPROVED**

Nicole Crutchfield presented the staff report. Ms. Crutchfield stated all approval criteria have been met and staff is recommending approval.

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

GC, General Commercial to LC, Limited Commercial as outlined within the staff report, 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 Schneider. On call of the roll Members Steffes, Fremstad, Magelky, Gunkelman, Scherling, Fischer, Brust, Stofferahn, Schneider, and Ulferts Stewart voted aye. The motion was declared carried.

At 4:55 p.m. the Board took a recess.

All Members present after recess except Member Stofferahn.

Item 7: Hector's Subdivision

Hearing on an application requesting a Zoning Change from GC, General Commercial with a C-O, Conditional Overlay to LI, Limited Industrial with the extinguishment of the C-O, Conditional Overlay on part of Lot 13, Hector's Subdivision. (Located at 1801, 1809, 1811, 1817, 1833, and 1841 43rd Street North) (Eastland Investments): APPROVED

Member Brust declared a conflict of interest on this item as was excused from voting.

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

Member Schneider 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 LI, Limited Industrial with the extinguishment of the C-O, Conditional Overlay, 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 Gunkelman, Fremstad, Fischer, Steffes, Magelky, Schneider, Scherling, and Ulferts Stewart voted aye. Member Brust abstained from voting. Absent and not voting: Member Stofferahn. The motion was declared carried.

Item 8: Urban Plains Rec Facility Addition

Hearing on an application requesting a Conditional Use Permit to allow Residential Land Use within a LC, Limited Commercial zoning district on Lots 1-6, Block 1, Urban Plains Rec Facility Addition. (Located at 4920 and 4974 30th Avenue South; 4921, 4955, and 4973 32nd Avenue South; 3131 49th Street South) (Enclave Development, LLC): APPROVED

Member Brust declared a conflict of interest on this item and was excused from voting.

Aaron Nelson presented the staff report. Mr. Nelson stated all approval criteria have been met and staff is recommending approval with conditions.

At 5:07 p.m. the applicant was present.

Applicant Austin Morris, Enclave Development, spoke on behalf of the proposal, and submitted a document to the Board depicting a site plan of the proposed apartment complex and mixed-use building.

The Board discussed parkland that was dedicated at the time of initial platting, and the proposed layout of the site plan regarding the buildings identified for mixed-use and for apartments only

Member Magelky moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow Residential Land Use within the LC, Limited 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 maximum residential density shall be that of the MR-3, Multi-Dwelling Residential zoning district (24 units per acre).
2. A minimum of 35% of the lot shall remain as open space.

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

Item 9: Richard 3rd Subdivision

Hearing on an application requesting a Conditional Use Permit to allow Industrial Service Land Use within a GC, General Commercial zoning district on Lot 4, Block 1, Richard 3rd Subdivision. (Located at 6219 53rd Avenue South) (Lowry Engineering): APPROVED

Nicole Crutchfield presented the staff report explaining the applicant is requesting the CUP to allow Greenscape Companies, Inc. to store landscaping equipment and/or materials on-site. Ms. Crutchfield noted staff's concern regarding this location's proximity as it relates to the City's future growth plan, and she read the conditions that are being recommended to the Board. Ms. Crutchfield stated all approval criteria have been met and staff is recommending approval with conditions.

Applicant representative Andrew Thill, Lowry Engineering, asked if an amendment could be added to allow the option of an earthen burum in lieu of a fence to hide the storage areas from public right-of-way. Ms. Crutchfield responded stating the current Land Development Code requirement is a fence.

Joe Burgum, 514 10th Avenue South, spoke about his concern regarding this location and setting a precedent of what can be constructed in the future.

Chris Stokke, owner of Greenscape Companies, Inc., spoke on behalf of the request.

Member Steffes moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow Industrial Service land 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. A Land Development Code compliant site plan approval must be obtained within 8 months.
2. All non-compliant issues must be addressed within 12 months of the building permit approval.
3. 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
4. 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.
5. 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.
6. The Conditional Use Permit shall terminate if the following conditions are not satisfied and/or 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 Fischer, Magelky, Steffes, Gunkelman, Scherling, and Ulferts Stewart voted aye. Members Fremstad, Brust, and Schneider voted nay. Absent and not voting: Member Stofferahn. The motion was declared carried.

Item 10: South Ridge First Addition

a. Hearing on an application requesting a Zoning Change from AG, Agricultural to MR-3, Multi-Dwelling Residential of the proposed South Ridge First Addition. (Located at 1990 and 2270 64th Avenue South) (PACES Lodging): CONTINUED TO OCTOBER 6, 2015

b. Hearing on an application requesting a Plat of South Ridge First Addition (Major Subdivision) an unplatted portion of the Northwest Quarter, Section 12, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 1990 and 2270 64th Avenue South) (PACES Lodging): CONTINUED TO OCTOBER 6, 2015

This was the date and time set; however, the applicant has requested the application be continued to October 6, 2015.

6:00 p.m. recess taken

All Members present after recess except Member Stofferahn.

Item G: Other Items:

1. Review and Adopt Rules of Internal Procedure and Operations of the City of Fargo Planning Commission: CONTINUED TO OCTOBER 6, 2015

This was the time and date set; however, this item will be continued to October 6, 2015.

2. Consideration of 2nd Avenue North / Roberts Street Tax Increment Financing Plan (TIF): APPROVED

3. Consideration of 4th Avenue North / Broadway Tax Increment Financing Plan (TIF): APPROVED

Planning Director Jim Gilmour presented the Tax Increment Financing (TIF) Renewal Plans for items G2 and G3. He noted these two sites are recommended by the Parking Commission upon their review of five identified sites in the downtown area. Mr. Gilmour stated he is requesting the Board's recommendation to the City Commission that both plans are consistent with the City's GO2030 Comprehensive Plan. He added, upon approval, the next step in the process will be to sell bonds for the building of a parking structure on one of these two sites.

Member Schneider moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the Renewal Plans 2015-03 and 2015-02, and that it is consistent with the GO2030 Fargo Comprehensive Plan. Second by Member Brust. On call of the roll Members Brust, Schneider, Scherling, Steffes, Fischer, Fremstad, Magelky, Gunkelman, and Ulferts Stewart voted aye. Absent and not voting: Member Stofferahn. The motion was declared carried.

The time at adjournment was 6:28 p.m.