

**BOARD OF PLANNING COMMISSIONERS
MINUTES**

Regular Meeting:

Tuesday:

November 1, 2016:

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 3:00 o'clock p.m., Tuesday, November 1, 2016.

The Planning Commissioners present or absent were as follows:

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

Absent: Melissa Sobolik, Kelly Steffes

Chair Ulferts Stewart called the meeting to order.

Business Items:

Item A: Approve Order of Agenda

Chair Ulferts Stewart noted the following Agenda items:

- Items 1 through 4 will be continued to the dates listed.
- Member Gunkelman is excused from voting on Item 6, declaring a conflict of interest.
- Addition of Item E.3 – Review of the Bentley Square Second Addition approval at the August 2, 2016 Planning Commission Meeting.
- Updated documents submitted to the Board for the following items:
 - Item 9 – Bentley Place First Addition
 - Item 10b. – Mid America Steel Addition PUD Mater Land Use Plan
 - Item E.2 – Calico Prairie Addition Appeal of an RPS waiver

Member Gunkelman moved the Order of Agenda be approved as amended. Second by Member Brust. All Members present voted aye and the motion was declared carried.

Item B: Minutes: Regular Meeting of October 4, 2016

Member Magelky moved the minutes of the October 4, 2016 Planning Commission meeting be approved. Second by Member Scherling. All Members present voted aye and the motion was declared carried.

Item C: Wednesday, November 16, 2016 Brown Bag Luncheon

Topic: Round Table Discussion with Area Developers

Item D: Public Hearing Items:

Item 1: Kirkham's Second Addition

a. Continued Hearing on an application requesting a Growth Plan Amendment on Lots 7-11, Block 14, Kirkham's Second Addition. (Located at 1128, 1132, and 1136 14th Street North; 1404 12th Avenue North) (L2H Development, LLC): CONTINUED TO JANUARY 3, 2017

b. Continued Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential, MR-2, Multi-Dwelling Residential, and LC, Limited Commercial with a C-O, Conditional Overlay to LC, Limited Commercial with a PUD, Planned Unit Development Overlay and extinguishment of the existing C-O, Conditional Overlay on Lots 7-11, Block 14, Kirkham's Second Addition. (Located at 1128, 1132, and 1136 14th Street North; 1404 12th Avenue North) (L2H Development, LLC): CONTINUED TO JANUARY 3, 2017

c. Continued Hearing on an application requesting a Planned Unit Development Master Land Use Plan for Commercial and Residential Development on Lots 7-11, Block 14, Kirkham's Second Addition. (Located at 1128, 1132, and 1136 14th Street North; 1404 12th Avenue North) (L2H Development, LLC): CONTINUED TO JANUARY 3, 2017

A hearing had been set for February 2, 2016. At the February 2, 2016 meeting the Hearing was continued to March 1, 2016. At the March 1, 2016 meeting the Hearing was continued April 5, 2016. At the April 5, 2016 meeting the Hearing was continued to June 7, 2016. At the June 7, 2016 meeting the Hearing was continued to this date and time; however, the applicant has requested this item be continued to January 3, 2017.

Member Fischer moved this item be continued to the January 3, 2017 Planning Commission Meeting. Second by Member Gunkelman. All Members present voted aye and the motion was declared carried.

Item 2: Tyler's Addition

Continued Hearing on an application requesting a Street Vacation of 22nd Street North between Block 11 and Block 12, Tyler's Addition. (Located between the 300 and 400 Blocks of 22nd Street North) (Fabricators Unlimited) (an): CONTINUED TO JANUARY 3, 2017

A hearing had been set for August 2, 2016. At the August 2, 2016 meeting the Hearing was continued to September 6, 2016. At the September 6, 2016 meeting the Hearing was continued to this date and time; however, the applicant has requested this item be continued to January 3, 2017.

Member Fischer moved this item be continued to the January 3, 2017 Planning Commission Meeting. Second by Member Gunkelman. All Members present voted aye and the motion was declared carried.

Item 3: Beardsleys Addition

a. Continued Hearing on an application requesting a Zoning Change from LI, Limited Industrial to LI, Limited Industrial with a PUD, Planned Unit Development

Overlay on Lots 7-8, and the East 10 feet of Lot 9, Block 34, Beardsleys Addition. (Located at 2105 7th Avenue North) (Accel Mechanical, LLC): CONTINUED TO JANUARY 3, 2017

b. Continued Hearing on an application requesting a Planned Unit Development Master Land Use Plan on Lots 7-8, and the East 10 feet of Lot 9, Block 34, Beardsleys Addition. (Located at 2105 7th Avenue North) (Accel Mechanical, LLC): CONTINUED TO JANUARY 3, 2017

A hearing had been set for August 2, 2016. At the August 2, 2016 meeting the Hearing was continued to October 4, 2016. At the October 4, 2016 meeting the Hearing was continued to this date and time; however, the applicant has requested this item be continued to January 3, 2017.

Member Fischer moved this item be continued to the January 3, 2017 Planning Commission Meeting. Second by Member Gunkelman. All Members present voted aye and the motion was declared carried.

Item 4: Interstate Business Park Addition

a. Continued Hearing on an application requesting a Zoning Change from AG, Agricultural to GC, General Commercial within the boundaries of the proposed Interstate Business Park Addition. (Located at 3801 26th Avenue South and 2852 Thunder Road South) (Kjos Investments, LLC): CONTINUED TO DECEMBER 6, 2016

b. Continued Hearing on an application requesting a Plat of Interstate Business Park Addition (Major Subdivision) a replat of Lot 1, Block 1, Adams 7th Addition, and part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West to the City of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota. (Located at 3801 26th Avenue South and 2852 Thunder Road South) (Kjos Investments, LLC): CONTINUED TO DECEMBER 6, 2016

A hearing had been set for August 2, 2016. At the August 2, 2016 meeting the Hearing was continued to September 6, 2016. At the September 6, 2016 meeting the Hearing was continued to October 4, 2016. At the October 4, 2016 meeting the Hearing was continued to this date and time; however, the applicant has requested this item be continued to December 6, 2016.

Member Magelky moved this item be continued to the December 6, 2016 Planning Commission Meeting. Second by Member Brust. All Members present voted aye and the motion was declared carried.

Item 5: CBC Addition

Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan on Lots 1 and 2, Block 1, CBC Addition. (Located at 3535 and 3541 25th Street South) (PACES Lodging): APPROVED WITH CONDITIONS

Member Stofferahn present.

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

Applicant Nate Vollmuth spoke on behalf of the application. He noted his concern regarding condition 1 of staff's recommended motion for a minimum of 108 parking spaces. Mr. Vollmuth asked the Board to change the minimum of 108 parking spaces to a minimum of 105 parking spaces to be required between the two lots.

Mr. LaPoint added that staff would be agreeable to amend condition one, per Mr. Vollmuth's request.

Member Brust moved the findings and recommendations of staff be accepted and the Conditional Use Permit for an Alternative Access Plan on Lots 1 and 2, Block 1, CBC Addition be approved as amended, 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 minimum of 105 parking spaces shall be required between the two lots.
2. Any expansion of the square footage of office or seating capacity of the religious institution will require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
3. The Conditional Use Permit will cease if the land use changes from office or religious institution.

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

**Item 6: West Acres Business Park 6th Addition
Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan on Lot 1, Block 1, West Acres Business Park 6th Addition. (Located at 4324 20th Avenue South) (TL Stroh Architects, Ltd.):
APPROVED WITH CONDITIONS**

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

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

Applicant Terry Stroh, TL Stroh Architects, Ltd., spoke on behalf of the application.

Member Magelky moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow for an Alternative Access Plan 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. 44 parking spaces are required on site.
2. Any expansion of the square footage of the day care use or seating capacity of the religious institution will require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
3. The Conditional Use Permit will cease if the land use changes from day care or religious institution.

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

Item 7: Woodhaven Plaza Addition

Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan on Lot 3, Block 1, Woodhaven Plaza Addition. (Located at 4055 41st Avenue South) (Aldevron LLC): APPROVED WITH CONDITIONS

Maegin Elshaug presented the staff report stating all approval criteria have been met and staff is recommending approval.

Applicant Ronald Robson, Aldevron LLC, spoke on behalf of the application.

Member Brust moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow for an Alternative Access Plan be approved, as the proposal complies with Section 2-0909.D (1-6) and all other requirements of the Land Development Code, with the following conditions:

1. One off-street parking space be provided per 570 square feet of medical research office use.
2. In order to accommodate future change of use of the medical research office, the site plan shall depict undeveloped area sufficient to accommodate the Land Development Code's parking requirement of other office, which is currently 1 space per 300 square feet of gross floor area.
3. The Conditional Use Permit will cease if the medical research office use ceases.

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

Item 8: Noridian Center Addition

Hearing on an application requesting a Zoning Change from GC, General Commercial to P/I, Public and Institutional on Lots 1-10, Block 2, Noridian Center Addition. (Located at 4814, 4830, 4908, and 4920 14th Avenue South; 4809, 4825, 4905 and 4917 15th Avenue South; and 1403 and 1441 48th Street South) (West Fargo Public Schools): APPROVED

Planner Aaron Nelson presented the staff report stating 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 P/I, Public and Institutional on the basis that it satisfactorily complies with the GO2030 Fargo Comprehensive Plan, the 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 Stofferahn, Fischer, Gunkelman, Schneider, Brust, Scherling, Magelky, and Ulferts Stewart voted aye. Absent and not voting: Members Sobolik and Steffes. The motion was declared carried.

Item 9: Bentley Place First Addition

Hearing on an application requesting a Plat of Bentley Place First Addition (Minor Subdivision) a replat of Lot 1, Block 1, Brand Crossing First Addition to the City of Fargo, Cass County, North Dakota. (Located at 5503 33rd Avenue South) (PACES Lodging): CONTINUED TO DECEMBER 6, 2016

Assistant Planner Kylie Murphy presented the staff report noting an update submitted to the Board regarding page 3. She explained the update refers to the applicant's proposed ingress/egress access easement along 32nd Avenue South, which does not meet the spacing requirements as outlined within Section 20-0702 Roadway Access and Driveways of the Land Development Code. Ms. Murphy stated all other approval criteria have been met and staff is recommending approval of the proposed plat with the condition that the ingress/egress access easement be removed from the plat.

Board discussion was held regarding roadway access and driveway spacing requirements stated in the Land Development Code, as it relates to the different types of roadways within the City.

Applicant Nate Vollmuth, PACES Lodging, spoke on behalf of the application. Mr. Vollmuth explained why he feels the ingress/egress access easement is important for this proposed plat.

At 4:00 p.m. the Board took a five-minute recess.

After recess: All Members present except Members Sobolik and Steffes. Chair Ulferts Stewart presiding.

Planning Director Jim Gilmour spoke on behalf of staff, reaffirming their review process and the criteria followed to meet the requirements stated in the Land Development

Code. Mr. Gilmour noted the importance of safety, and how traffic numbers and traffic flow impact the City's various types of roadways and developments.

City Engineer Jeremy Gordon added staff is working on the Land Development Code to update the guidelines and regulations staff follows when reviewing the City's future roadways and access points.

Board discussion continued regarding the traffic and access issues faced by staff and developers as the City continues to grow.

Member Schneider moved this item be continued to the December 6, 2016 Planning Commission Meeting. Second by Member Fischer. On call of the roll Members Fischer, Magelky, Gunkelman, Brust, Scherling, Schneider, Stofferahn, and Ulferts Stewart voted aye. Absent and not voting: Members Sobolik and Steffes. The motion was declared carried.

Item 10: Mid America Steel Addition

a. Hearing on an application requesting a Zoning Change from AG, Agricultural to GI, General Industrial with a PUD, Planned Unit Development Overlay within the boundaries of the proposed Mid America Steel Addition. (Located at 5617 19th Avenue North) (Mid America Steel, Inc.): APPROVED

b. Hearing on an application requesting a Planned Unit Development Master Land Use Plan and Final Plan within the boundaries of the proposed Mid America Steel Addition. (Located at 5617 19th Avenue North) (Mid America Steel, Inc.): APPROVED

c. Hearing on an application requesting a Growth Plan Amendment within the boundaries of the proposed Mid America Steel Addition. (Located at 5617 19th Avenue North) (Mid America Steel, Inc.): APPROVED

d. Hearing on an application requesting a Plat of Mid America Steel Addition (Major Subdivision) of part of the Southwest Quarter of Section 28, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 5617 19th Avenue North) (Mid America Steel, Inc.): APPROVED

Senior Planner Donald Kress presented the staff report. Mr. Kress noted that Mid America Steel is relocating to this site from their current site at 92 NP Avenue North, and an updated site plan has been submitted to the Board. He also shared staff held an open house on October 26, 2016, and have not received any opposition from area property owners to-date. Mr. Kress stated all approval criteria have been met and staff is recommending approval.

The applicant's Attorney Dan Bueide, and Owner/Manager of Mid America Steel John Simonson, spoke on behalf of the application.

Member Gunkelman moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed: 1) growth plan amendment to the 2007 Growth Plan to change the designation of approximately 19.6 acres from “commercial” to “industrial”; 2) zone change from AG, Agricultural to GI, General Industrial; 3) Planned Unit Development Master Land Use Plan; and 4) Mid America Steel Addition subdivision plat as presented, as the proposal complies with the GO2030 Fargo Comprehensive Plan; the 2007 Growth Plan; the Standards of Article 20-06; and Sections 20-0906.F (1-4), 20-0907, and 20-0908(B)(7)(a-e) of the Land Development Code; and all other applicable requirements of the Land Development Code. Second by Member Stofferahn. On call of the roll Members Scherling, Brust, Fischer, Stofferahn, Schneider, Magelky, Gunkelman, and Ulferts Stewart voted aye. Absent and not voting: Members Sobolik and Steffes. The motion was declared carried.

Item 11: 39th Street South

Hearing on an application requesting a Name Change Plat for 38th Street South, located south of the City of Fargo within the Commerce on I-29 Addition, to be renamed 39th Street South. (City of Fargo): APPROVED

Aaron Nelson 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 recommended to the City Commission of the Name Change Plat on the basis that it satisfactorily complies with the Comprehensive Plan, the Standards of Article 20-06, and all other applicable requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Brust, Schneider, Scherling, Stofferahn, Fischer, Magelky, Gunkelman, and Ulferts Stewart voted aye. Absent and not voting: Members Sobolik and Steffes. The motion was declared carried.

Item E: Other Items:

Item 1: Annexation of approximately 42.6 acres of the Southwest Quarter of Section 28, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Bruce Brand and Elwood (Jay) Brand): APPROVED

Donald Kress presented the staff report for the proposed annexation stating all approval criteria have been met and staff is recommending approval.

Member Stofferahn moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed annexation of a portion of Section 28, Township 140 North, Range 49 West, Cass County, North Dakota as it is consistent with the 2007 Growth Plan. Second by Member Scherling. On call of the roll Members Scherling, Gunkelman, Stofferahn, Magelky, Brust, Fischer, Schneider, and Ulferts Stewart voted aye. Absent and not voting: Members Sobolik and Steffes. The motion was declared carried.

Item 2: Appeal of an Administrative Decision to Approve a Residential Protection Standard (RPS) Waiver on a property located at 2840 and 2860 Calico Drive South. (Calico Prairie Addition): APPROVED WITH CONDITIONS

Maegin Elshaug presented the staff report for the appeal of an administrative decision. Ms. Elshaug noted staff has received two written appeals, as well as a petition from area property owners. She reported the applicant held a neighborhood meeting on Thursday, October 27, 2016. Ms. Elshaug stated staff does support the granting of the applicant's waiver application with conditions, and is recommending approval.

Applicant Elissa Novotny Leino, Roers Development, spoke on behalf of the proposal.

Kelly Patensky, 2845 UMBER Court South, shared her concern about the safety of parking spots along the property line.

The Board further discussed the concern by area property owners regarding the 5-foot tall opaque fence under condition 2. The petition included the property owners' request that this fence be provided along the entire east property line of the proposed primary structures, in lieu of the applicant's proposed 40-foot length fence between the proposed primary structures.

Member Stofferahn moved the findings and recommendations of staff be accepted and the request for a waiver of the residential protection standards be approved as presented, with the requirements that in lieu of a standard landscape buffer and 10-foot parking setback as outlined in the Land Development Code, Section 20-0704, the petitioner shall be required to meet the following conditions as outlined in the staff report, with condition 2 amended as follows:

1. One tree per 25 linear feet be provided along the east property line that requires a buffer.
2. A 5-foot tall opaque fence be provided along the east property line adjacent to SR, Single-Dwelling Residential zoned property.

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

At 5:30 p.m. the Board took a five-minute recess.

After recess: All Members present except Members Sobolik and Steffes. Chair Ulferts Stewart presiding.

Item 3: Bentley Square Second Addition – Revisit previous Board approval and new updates: APPROVED

Maegin Elshaug referred to the documents staff submitted to the Board regarding Bentley Square Second Addition. She explained this item was approved at the

August 2, 2016 Planning Commission Meeting, and will be presented to the City Commission on November 7, 2016. Ms. Elshaug noted the applicant has since revised his proposal requesting to vacate a portion of the existing negative access easement for an added driveway access on 45th Street South. Ms. Elshaug stated staff is not in support of this revision, and is requesting the Board review the application changes and the resulting change to staff's recommendation, which is to recommend approval of the plat with the condition that the plat be amended to remove the access to 45th Street South.

Discussion ensued concerning the legality of this change after recommending approval to City Commission. City Attorney Erik Johnson explained there is nothing in the law that prevents a project from being revised from the time the Planning Commission recommends approval, to the time it is presented before City Commission.

Applicant Nate Vollmuth, PACES Lodging, explained why the approved proposal is being revised prior to being heard by the City Commission.

Member Schneider moved to direct staff to work with industry representatives to analyze the driveway spacing issue separate from this application. Second by Member Magelky. On call of the roll Members Magelky, Gunkelman, Scherling, Brust, Stofferahn, Schneider, and Ulferts Stewart vote aye. Member Fischer voted nay. Absent and not voting Members Sobolik and Steffes. The motion was declared carried.

Further discussion by the Board and staff clarified that the above motion will not remove this item from the November 7, 2016 City Commission Meeting.

Member Fischer moved to recommend to the City Commission approval of the plat with the condition that the plat be amended to remove the access to 45th Street South. Second by Member Brust. On call of the roll Members Gunkelman, Fischer, Magelky, Brust, Stofferahn, Schneider, Scherling, and Ulferts Stewart voted aye. Absent and not voting: Members Sobolik and Steffes. The motion was declared carried.

The time at adjournment was 6:16 p.m.