

**BOARD OF PLANNING COMMISSIONERS
MINUTES**

Regular Meeting:

Tuesday:

August 2, 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, August 2, 2016.

The Planning Commissioners present or absent were as follows:

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

Absent: Melissa Sobolik

Chair Ulferts Stewart called the meeting to order.

Business Items:

Item A: Approve Order of Agenda

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

Item B: Minutes: Regular Meeting of July 5, 2016

Member Fischer moved the minutes of the July 5, 2016 Planning Commission meeting be approved. Second by Member Schneider. All Members present voted aye and the motion was declared carried.

Item C: Wednesday, August 17, 2016 Brown Bag Luncheon

Topic: Planner Aaron Nelson will present a report on the recent housing statistics related to 2015 and 2016 building permitting.

Item D: Resolution of Appreciation for Kristy Fremstad

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

WHEREAS, Kristy Fremstad was appointed to the Fargo Planning Commission on August 5, 2002 and served for 14 years; and

WHEREAS, Kristy Fremstad gave of her time to serve her community in a capacity that required careful thought and consideration to benefit the community; and

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

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

WHEREAS, Kristy Fremstad participated as a Member of the Metropolitan Council of Governments Policy Board; and

WHEREAS, Kristy Fremstad participated as a Member of the Comprehensive Plan Steering Committee; and

WHEREAS, Kristy Fremstad allowed City staff, her 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 Kristy Fremstad 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 Ms. Fremstad.

Member Fischer moved the Resolution of Appreciation for Kristy Fremstad be approved. Second by Member Scherling. All Members present voted aye and the motion was declared carried.

Item E: Public Hearing Items:

Item 1: Osgood Estates Fourth Addition

Continued Hearing on an application requesting a Plat of Osgood Estates Fourth Addition (Minor Subdivision) a replat of Lots 38 and 39, Block 1, Osgood Estates Addition to the City of Fargo, Cass County, North Dakota. (Located at 5060 and 5072 43rd Avenue South) (Milestone Properties LLC): WITHDRAWN

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 to April 5, 2016. At the April 5, 2016 meeting the Hearing was continued to May 3, 2016. At the May 3, 2016 meeting the Hearing was continued to this date and time; however, the applicant has requested this item be withdrawn.

Item 2: Tyler's Addition

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): CONTINUED TO SEPTEMBER 6, 2016

A Hearing had been set for this date and time; however, the applicant has requested this item be continued to September 6, 2016.

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

**Item 3: Bentley Square Second Addition
Hearing on an application requesting a Plat of Bentley Square Second Addition (Minor Subdivision) a replat of Lot 1, Block 4, Brandt Crossing 1st Addition to the City of Fargo, Cass County, North Dakota. (Located at 4609 33rd Avenue South) (PACES Lodging): APPROVED**

Planner Maegin Elshaug presented the staff report noting an updated copy of the proposed plat was submitted to the Board. Ms. Elshaug stated 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, Bentley Square Second 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 Stofferahn. On call of the roll Members Brust, Stofferahn, Scherling, Schneider, Steffes, Magelky, Gunkelman, Fischer, and Ulferts Stewart voted aye. Absent and not voting: Member Sobolik. The motion was declared carried.

**Item 4: College 2nd Addition
Continued Hearing on an application requesting a Conditional Use Permit to allow Community Service use and an Alternative Access Plan in an SR-3, Single-Dwelling Residential zoning district on Lots 1-4 and 16-18, Block 30, College 2nd Addition. (Located 724 and 728 27th Street North, and 725 28th Street North) (Legacy Children's Foundation): APPROVED WITH CONDITIONS**

A Hearing had been set for July 5, 2016. At the July 5, 2016 meeting the Hearing was continued to this date and time.

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

Board of Directors Member Morgan Forness, Legacy Children's Foundation, spoke on behalf of the application.

Member Stofferahn moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow Community Service Use within an SR-3, Single-Dwelling Residential zoning district for the property located at 724 and 728 27th Street North, and 725 28th Street North be approved with the following conditions:

1. The Conditional Use Permit will cease if the land use changes from community service.

And to allow an Alternative Access Plan for the property located at 724 and 728 27th Street North be approved with the following conditions:

1. 40 parking spaces are required on-site.
2. Any expansion of the square footage of the community service 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.

As the proposal complies with Section 20-0909.D (1-6) and all other requirements of the Land Development Code. Second by Member Scherling. On call of the roll Members Scherling, Gunkelman, Stofferahn, Steffes, Magelky, Brust, Fischer, Schneider, and Ulferts Stewart voted aye. Absent and not voting: Member Sobolik. The motion was declared carried.

Item 5: Rocking Horse East Second Addition

Hearing on an application requesting a Conditional Use Permit to allow Manufacturing and Production, and Industrial Services uses in a GC, General Commercial zoning district on Lot 4, Block 1, Rocking Horse East Second Addition. (Located at 5475 51st Avenue South) (NAI North Central): APPROVED WITH CONDITIONS

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

Member Steffes moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow Manufacturing and Production, and Industrial Services in a GC, General Commercial zoning district on Lot 4, Block 1, Rocking Horse East Second Addition 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. No outdoor storage of equipment or supplies.
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. The manufacturing, production, or processing of food and/or animal products shall not be permitted.
5. The manufacturing, production, or processing of hazardous chemicals or materials shall not be permitted.

6. Any expansion of the manufacturing and production, or industrial service use shall require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
7. The Conditional Use Permit shall terminate if the manufacturing and production, and industrial service uses cease for a period of more than 12 consecutive months.

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

Item 6: Dakota Land Second Addition

Hearing on an application requesting a Conditional Use Permit to allow Household Living in a GC, General Commercial zoning district on Lot 4, Block 2, Dakota Land Second Addition. (Located at 1825 35th Street South) (Houston Engineering, Inc.): DENIED

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

Planner Aaron Nelson presented the staff report. He referred to an email included in the packet from the North Dakota Department of Transportation (NDDOT). Mr. Nelson stated staff is recommending denial as not all of the approval criteria have been met.

Applicant Brian Pattengale from Houston Engineering, Inc., spoke in behalf of the proposal.

Board discussion ensued regarding the proximity of the existing billboards in relation to the proposed residential additions; and the 2009 revisions of the existing sign code.

Member Stofferahn moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow Household Living within the GC, General Commercial zoning district be denied, as the proposal does not comply with Section 20-0909.D (1 & 2) of the Land Development Code. Second by Member Magelky. On call of the roll Members Magelky, Scherling, Fischer, Stofferahn, and Ulferts Stewart voted aye. Members Steffes, Gunkelman, and Schneider voted nay. Member Brust abstained from voting. Absent and not voting: Member Sobolik. The motion was declared carried.

Item 7: Ed Clapp Park Second Addition

Hearing on an application requesting a Plat of Ed Clapp Park Second Addition (Major Subdivision) a replat of part of Lot 2, Block 2, Bluemont Park First Addition, to the City of Fargo, Cass County, North Dakota. (Located at 2751 32nd Avenue South and 3131 28th Street South) (Fargo Park District): APPROVED

Senior Planner Donald Kress presented the staff report. He noted an update to the staff recommended motion that was included in the packet information. Mr. Kress stated all approval criteria have been met and staff is recommending approval.

Polly Olson, 2902 30th Avenue South, spoke in favor of the proposal.

Member Magelky moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Ed Clapp Park Second Addition subdivision plat as presented, as the proposal complies with the GO2030 Fargo Comprehensive Plan, Standards of Article 20-06, and all other applicable requirements of the Land Development Code. Second by Member Gunkelman. On call of the roll Members Gunkelman, Fischer, Steffes, Magelky, Brust, Stofferahn, Schneider, Scherling, and Ulferts Stewart voted aye. Absent and not voting: Member Sobolik. The motion was declared carried.

**Item 8: Fargo Park District North Maintenance Addition
Hearing on an application requesting a Zoning Change from GC, General Commercial to DMU, Downtown Mixed-Use on Lot 5, Block 1, Fargo Park District North Maintenance Addition. (Located at 1202 7th Avenue North) (Fargo Park District): APPROVED**

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

Jim Larson, Director of Finance for the Fargo Park District, spoke on behalf of the proposal.

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

At 3:55 p.m. the Board took a five-minute recess.

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

Item 9: DK First Addition

a. Hearing on an application requesting a Growth Plan Amendment within the boundaries of the proposed DK First Addition. (Located at 3475 39th Street South and 4001 36th Avenue South) (SoFar Properties, LLP): APPROVED

b. Hearing on an application requesting a Zoning Change from AG, Agricultural to LI, Limited Industrial on Lots 1-14, and LI, Limited Industrial with a C-O, Conditional Overlay on Lots 1-7, within the boundaries of the proposed DK First Addition. (Located at 3475 39th Street South and 4001 36th Avenue South) (SoFar Properties, LLP): APPROVED

c. Hearing on an application requesting a Plat of DK First Addition (Minor Subdivision) of part of the Northeast Quarter of Section 27, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 3475 39th Street South and 4001 36th Avenue South) (SoFar Properties, LLP): APPROVED

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

Derrick LaPoint presented the staff report and noted staff held an open house for the public on July 26, 2016. Mr. LaPoint stated all approval criteria have been met and staff is recommending approval.

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; 2) Zoning Change from AG, Agricultural to LI, Limited Industrial with a C-O, Conditional Overlay on Lots 1-7; and 3) Subdivision Plat DK First 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 Fischer, Magelky, Steffes, Gunkelman, Scherling, Schneider, Stofferahn, and Ulferts Stewart voted aye. Member Brust abstained from voting. Absent and not voting: Member Sobolik. The motion was declared carried.

Item 10: 45th Street Park Fifth Addition

a. Hearing on an application requesting a Zoning Change from AG, Agricultural, GC, General Commercial, and LI, Limited Industrial with a C-O, Conditional Overlay to GC, General Commercial, LI, Limited Industrial, and P/I, Public and Institutional within the boundaries of the proposed 45th Street Park Fifth Addition. (Located at 307 43-1/2 Street South, 401 43-1/2 Street South, 445 43-1/2 Street South, 400 45th Street South, and 474 45th Street South) (West 45th Business Center, LLC): APPROVED

b. Hearing on an application requesting a Plat of 45th Street Park Fifth Addition (Major Subdivision) a replat of Lot 1 and part of Lot 2, Block 1, 45th Street Park Third Addition; Lot 3, Block 1, 45th Street Park Fourth Addition; and part of the Northwest Quarter of Section 10, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 307 43-1/2 Street South, 401 43-1/2 Street South, 445 43-1/2 Street South, 400 45th Street South, and 474 45th Street South) (West 45th Business Center, LLC): APPROVED

c. Hearing on an application requesting a Street Vacation of part of 43-1/2 Street South contained within the boundaries of the proposed 45th Street Park Fifth Addition to the City of Fargo, Cass County, North Dakota. (Located at 307 43-1/2 Street South, 401 43-1/2 Street South, 445 43-1/2 Street South, 400 45th Street South, and 474 45th Street South) (West 45th Business Center, LLC): WITHDRAWN

Aaron Nelson presented the staff report noting that part c of this item requesting a street vacation, has been withdrawn by the applicant. Mr. Nelson stated all approval criteria have been met and staff is recommending approval.

Jeremy Easum, Civil Engineer at Roers Construction, spoke on behalf of the application.

Member Steffes moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed: 1) zone change from AG, Agricultural, LI, Limited Industrial, and GC, General Commercial to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial, and P/I, Public and Institutional; and 2) 45th Street Park Fifth Addition subdivision plat as presented, as the proposal complies with the GO2030 Fargo Comprehensive Plan, Standards of Article 20-06 and Section 20-0906.F (1-4) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Gunkelman. On call of the roll Members Scherling, Brust, Fischer, Stofferahn, Steffes, Schneider, Magelky, Gunkelman, and Ulferts Stewart voted aye. Absent and not voting: Member Sobolik. The motion was declared carried.

Item 11: Bison Meadows Addition

a. Hearing on an application requesting a Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential and P/I, Public and Institutional within the boundaries of the proposed Bison Meadows Addition. (Located at 6811 and 6875 University Drive and 1804-1848 67th Avenue South) (Crofton Coves, LLC): APPROVED

b. Hearing on an application requesting a Plat of Bison Meadows Addition (Major Subdivision) a replat of Lot 53, Block 4 and Lots 13-16, Block 6, Crofton Coves First Addition; and part of the South Half of the Northeast Quarter of Section 12, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 6811 and 6875 University Drive and 1804-1848 67th Avenue South) (Crofton Coves, LLC): APPROVED

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

The Board further discussed concerns regarding flood protection plans, and adequate emergency access to the property.

Applicant Steve Iverson, Crofton Coves, LLC, spoke on behalf of the application.

Member Stofferahn moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed: 1) zone change from AG, Agricultural to SR-4, Single-Dwelling Residential with a Conditional Overlay and P/I Public and Institutional; and 2) Bison Meadows Addition subdivision plat as presented, as the proposal complies with the GO2030 Fargo Comprehensive Plan, Standards of Article 20-06 and Section 20-0906.F (1-4) of the Land Development Code,

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

Item 12: Beardsleys Addition

a. 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 OCTOBER 4, 2016

b. 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 OCTOBER 4, 2016

A Hearing had been set for this date and time; however, the applicant has requested this item be continued to October 4, 2016.

Member Brust moved this item be continued to the October 4, 2016 Planning Commission meeting. Second by Member Steffes. All Members present voted aye and the motion was declared carried.

Item 13: Interstate Business Park Addition

a. 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 SEPTEMBER 6, 2016

b. 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, Cass County, North Dakota. (Located at 3801 26th Avenue South and 2852 Thunder Road South) (Kjos Investments, LLC): CONTINUED TO SEPTEMBER 6, 2016

A Hearing had been set for this date and time; however, the applicant has requested this item be continued to September 6, 2016.

Member Gunkelman moved this item be continued to the September 6, 2016 Planning Commission meeting. Second by Member Fischer. All Members present voted aye and the motion was declared carried.

Item 14: Golden Valley Second Addition

a. Hearing on an application requesting a Growth Plan Amendment within the boundaries of the proposed Golden Valley Second Addition. (Located at 6737

25th Street South) (Eagle Ridge Development): CONTINUED TO SEPTEMBER 6, 2016

b. Hearing on an application requesting a Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential with a C-O, Conditional Overlay and MR-1, Multi-Dwelling Residential, within the boundaries of the proposed Golden Valley Second Addition. (Located at 6737 25th Street South) (Eagle Ridge Development): CONTINUED TO SEPTEMBER 6, 2016

c. Hearing on an application requesting a Plat of Golden Valley Second Addition (Major Subdivision) of part of the Northeast Quarter of Section 11, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 6737 25th Street South) (Eagle Ridge Development): CONTINUED TO SEPTEMBER 6, 2016

A Hearing had been set for this date and time; however, the applicant has requested this item be continued to September 6, 2016.

Member Gunkelman moved this item be continued to the September 6, 2016 Planning Commission meeting. Second by Member Fischer. All Members present voted aye and the motion was declared carried.

Item 15: Westrac Second Addition

Hearing on an application requesting a Conditional Use Permit to allow an Alternative Access Plan on Lots 1 and part of 2, Block 4, Westrac Second Addition. (Located at 801 Page Drive South) (Jeremiah Program): WITHDRAWN

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

Item F: Other Items:

Item 1: Review of the proposed annexation of portions of Sections 12 and 13, Township 138 North, Range 49 West; and a portion of Section 7, Township 138 North, Range 48 West: APPROVED

Donald Kress presented the staff report for this City-initiated proposal and briefly reviewed the background on this item. Mr. Kress noted the City Commission has approved a resolution for this annexation, and a public hearing is scheduled for Monday, September 12, 2016. Mr. Kress stated staff is requesting the Board's recommendation to proceed with this item to the City Commission.

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

The time at adjournment was 4:45 p.m.