

**BOARD OF PLANNING COMMISSIONERS  
MINUTES**

**Regular Meeting:**

**Tuesday:**

**March 3, 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, March 3, 2015.

The Planning Commissioners present or absent were as follows:

Present: John Paulsen, John Gunkelman, Jeff Morrau, Mary Scherling, Rocky Schneider, Terry Steen, Jan Ulferts-Stewart

Absent: Shara Fischer, Kristy Fremstad, Mike Magelky, Kelly Steffes

Chair Paulsen called the meeting to order.

**Business Items:**

**Item A: Approve Order of Agenda**

Member Ulferts-Stewart 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 February 3, 2015**

Member Ulferts-Stewart noted a correction to the first motion for Item No. 1 and that it should state the motion failed for lack of a majority. Member Ulferts-Stewart moved the minutes of the February 3, 2015 Planning Commission meeting be approved with the noted change. Second by Member Schneider. All Members present voted aye and the motion was declared carried.

**Item C: Wednesday, March 18, 2015 Brown Bag Luncheon**

Topic: Planning Department Work Plan for 2015

**Item D:**

**Item 1: Mercedes First Addition**

**Hearing on an application requesting a Planned Unit Development Final Plan on all of Mercedes First Addition. (Located at 1417 8th Avenue North) (SRS Properties): APPROVED**

Planner Aaron Nelson presented the staff report for the Planned Unit Development Final Plan of Mercedes First Addition. Mr. Nelson noted this is the third and final step of a three-step process. He gave an overview of the first two steps of the process that were presented to the Board in July 2014 as part of the Kirkham's Addition Planned Unit Development. He explained the third step is to confirm that the final development plans are consistent with the intent and layout of the approved Planned Unit Development.

Mr. Nelson stated all approval criteria have been met and staff is recommending approval.

Ken Lepper, 1021 8th Avenue North, shared his concerns regarding the City's notification process to the public regarding upcoming hearing items, and the public's accessibility to the legal documentation that defines the charge set forth by the State for the Planning Commission and Planning Staff, in relation to the citizens of Fargo.

Assistant City Attorney Jason Loos referred Mr. Lepper to Section 20-0802 of the Land Development Code which sets out the powers and duties of the Planning Commission; as well as Sections 40-4706 and 40-4803 of the North Dakota Century Code which outlines the powers given from the State to Cities in developing Planning Commissions.

Member Ulferts-Stewart moved the findings and recommendations of staff be accepted and the Planned Unit Development Final Plan be approved as presented, as the proposal complies with Section 20-0908.D and all other requirements of the Land Development Code. Second by Member Gunkelman. On call of the roll Members Scherling, Steen, Morrau, Schneider, Gunkelman, Ulferts-Stewart and Paulsen voted aye. Absent and not voting: Members Fischer, Magelky, Steffes, and Fremstad. The motion was declared carried.

**Item 2: Building Inspections Annual Report Presentation**

Ron Strand, Inspections Administrator, submitted copies of the Building Inspections 2014 Annual Report to the Board. He summarized the report highlighting areas of significant increases compared to the 2013 Annual Report.

**Item E: Public Hearing Items:**

**Item 1: Section 15, Township 138 North, Range 49 West**

**Continued Hearing on an application requesting a Conditional Use Permit to allow Animal Confinement land uses within an AG, Agricultural zoning district on a portion of the Northeast Quarter of the Northwest Quarter of Section 15, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 4306 76th Avenue South) (Charlotte Tuhy): APPROVED**  
A Hearing had been set for November 4, 2014. At the November 4, 2014 meeting the Hearing was continued to December 2, 2014. At the December 2, 2014 meeting the Hearing was continued to January 6, 2015. At the January 6, 2015 meeting the Hearing was continued to February 3, 2015. At the February 3, 2015 meeting the Hearing was continued to this date and time.

Aaron Nelson presented the staff report and background of this continued item. Mr. Nelson noted the continuation from February's meeting provided staff time to prepare optional conditions that might be appropriate for the Planning Commission's consideration. He referred to the staff-recommended conditions listed in the packet, which are intended to address some of the concerns raised by neighboring residents as well as the items discussed at the February 2015 Planning Commission meeting. He

also distributed to the Board an additional letter staff received in opposition to the proposal. Mr. Nelson stated that based on the criteria and guidelines used by staff for review of this proposal, staff is recommending denial for the requested Conditional Use Permit.

Member Schneider asked if the application is denied, can the existing business continue to operate as it currently is. Mr. Nelson stated yes. He added staff did contact the County and confirmed the original Conditional Use Permit was granted by Stanley Township in 1989, and the business is legally nonconforming according to code with grandfathering rights that allow the business to continue to operate as it exists today.

Joel Hildebrandt, husband of the applicant, spoke on behalf of the proposal, thanking the Board and staff for all their time during the past few months. He restated the proposal is to construct a new building with limited outdoor kennels.

Member Schneider moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow Animal Confinement land uses with the AG, Agricultural zoning district be denied, as the proposal does not comply with Section 20-0909.D and all other applicable requirements of the Land Development Code. The motion failed for the lack of a second.

Discussion continued among the Board members to determine which of the suggested conditions, as presented by staff, would be appropriate for the application. Several options were discussed.

Ultimately, Member Ulferts-Stewart moved the findings and recommendations of staff be denied and the Conditional Use Permit to allow Animal Confinement land uses be approved with the following conditions:

- 1) The Conditional Use Permit shall not run with the land, but shall automatically terminate upon sale or transfer of property.
- 2) All areas of the property used for animal confinement must be completely fenced so as to reasonably prohibit animals from getting out. The Zoning Administrator shall determine if fencing meets the requirement of this condition.
- 3) All indoor and outdoor areas used for the boarding, grooming, or care of household animals shall be no closer than 300 feet from the south and east property lines.
- 4) Roadway access and driveway spacing from the property onto 76th Avenue South shall be spaced a minimum of 600 feet unless otherwise approved by the City Engineer.
- 5) Improvements, structures, and buildings shall be set back a minimum of 150 feet from the centerline of 76th Avenue South.

- 6) At which time the property is platted and rezoned, the following requirements must be met:
  - a. Landscape regulations per the Land Development Code in effect at the time of platting and zoning, shall be installed.
  - b. All non-conforming uses per the proposed zoning district shall be terminated.
  
- 7) Three (3) years after the property is annexed into the City of Fargo, the following requirements must be met:
  - a. All agricultural uses of the property—including the keeping or boarding of non-household animals—must cease.
  - b. Exterior surfaces such as parking areas, driveways and sidewalks must be paved or improved to meet the applicable standards for such surfaces as required by the Municipal Code.

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

**Item 2: FTC Addition**

**Continued Hearing on an application requesting a Plat of FTC Addition (Minor Subdivision) a replat of part of Lot 2 and all of Lot 3, Block 1, Burlington Northern I-29 South Industrial Center to the City of Fargo, Cass County, North Dakota. (Located at 3501 4th Avenue South) (360 Partners, LLC): APPROVED**

A Hearing had been set for February 3, 2015. At the February 3, 2015 meeting the Hearing was continued to this date and time.

Assistant Planner Maria Olson presented the staff report for the requested plat of FTC Addition. She noted staff did receive one inquiry from an area property owner, but no concerns were noted. Ms. Olson 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 subdivision plat, FTC 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 Morrau. On call of the roll Members Steen, Morrau, Scherling, Schneider, Gunkelman, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Fischer, Magelky, Steffes, and Fremstad. The motion was declared carried.

**Item 3: Section 36, Township 140 North, Range 49 West**

**Continued Hearing on an application requesting a Conditional Use Permit to allow an attached telecommunication facility on an unplatted part of the Northeast Quarter of Section 36, Township 140 North, Range 49 West of the 5th Principal**

**Meridian, Cass County, North Dakota. (Located at 1800 North University Drive)  
(Insite - Real Estate Services): APPROVED**

A Hearing had been set for February 3, 2015. At the February 3, 2015 meeting the Hearing was continued to this date and time.

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

Verizon Representative Jerod Hanaman, spoke on behalf of the proposal. He explained the need for the requested expansion is to provide better coverage for the Fargodome and surrounding area.

Member Schneider moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow an attached telecommunications facility be approved, as the proposal complies with Section 20-0909.D (1-6) and all other applicable requirements of the Land Development Code, with the following conditions:

- 1) Attached telecommunications facilities may not exceed the height of the building to which it is attached.
- 2) In order to minimize their visibility from adjacent properties, attached telecommunications facilities shall be designed and painted to match the exterior of the building to which they are attached.

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

**Item 4: The Aspens First Addition**

**Hearing on an application requesting a Plat of The Aspens First Addition (Minor Subdivision) a replat of Lot 22, Block 5, Timber Creek First Addition to the City of Fargo, Cass County, North Dakota. (Located at 5000 Prosperity Way South) (Durell & Jackson, PLC): APPROVED**

Aaron Nelson presented the staff report stating 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 'cluster development' subdivision plat, The Aspens 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 Morrau. On call of the roll Members Morrau, Scherling, Steen, Schneider, Gunkelman, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Fischer, Magelky, Steffes, and Fremstad. The motion was declared carried.

**Item 5: Butler Business Park Addition**

**Hearing on an application requesting a Plat of Butler Business Park Addition (Major Subdivision) a plat of part of the Northwest Quarter of Section 11, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 3500 Main Avenue and 100 36th Street South) (Butler Business Park LLC): APPROVED**

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

Applicant Paul Hyde, from Hyde Development of Minneapolis, MN, spoke on behalf of the project.

Member Steen moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed subdivision plat, Butler Business Park 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; with the condition that there is resolution to the stormwater infrastructure issues prior to City Commission. Second by Member Gunkelman. On call of the roll Members Gunkelman, Scherling, Steen, Morrau, Schneider, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Fischer, Magelky, Steffes, and Fremstad. The motion was declared carried.

**Item 6: Text Amendment**

**Hearing on an application requesting a City of Fargo initiated Text Amendment to amend Article 20-13 (Fargo Sign Code), Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to the interpretation of functional classifications of adjacent roadways. (City of Fargo): APPROVED**

Aaron Nelson presented the staff report for the proposed staff-initiated text amendment to Article 20-13, Chapter 20 of the Fargo Municipal Code. Mr. Nelson explained the amendment is intended to further clarify on-premise signage located on properties that are adjacent to frontage roads. He noted in January of this year, an appeal of an administrative decision to deny a sign request was heard before the Board of Adjustment, who directed staff to investigate possible text amendments in relation to this section of the Fargo Sign Code. 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 text amendment to Article 20-13 (Fargo Sign Code), Chapter 20 (Land Development Code) of the Fargo Municipal Code, as the proposal meets the approval criteria of subsection 20-0904.E (1-3) of the Land Development Code. Second by Member Gunkelman. On call of the roll Members Gunkelman, Steen, Morrau, Schneider, Scherling, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Fischer, Magelky, Steffes, and Fremstad. The motion was declared carried.

The time at adjournment was 5:41 p.m.