

**BOARD OF PLANNING COMMISSIONERS
MINUTES**

Regular Meeting:

Tuesday:

May 5, 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 3:00 o'clock p.m., Tuesday, May 5, 2015.

The Planning Commissioners present or absent were as follows:

Present: John Paulsen, Shara Fischer, Kristy Fremstad, John Gunkelman, Mike Magelky, Jeff Morrau, Mary Scherling, Terry Steen, Kelly Steffes, Jan Ulferts-Stewart

Absent: Rocky Schneider

Chair Paulsen called the meeting to order.

Business Items:

Item A: Approve Order of Agenda

No action taken by the Board.

Item B: Minutes: Regular Meeting of April 7, 2015

Member Fremstad moved the minutes of the April 7, 2015 Planning Commission meeting be approved. Second by Member Ulferts-Stewart. All Members present voted aye and the motion was declared carried.

Item C: Wednesday, May 20, 2015 Brown Bag Luncheon - CANCELLED

Item D: Public Hearing Items:

Item 1: Amity South At Cottagewood First Addition

a. Continued Hearing on an application requesting a Zoning Change from MR-3, Multi-Dwelling to MR-3, Multi-Dwelling with a PUD, Planned Unit Development Overlay of the proposed Amity South At Cottagewood First Addition. (Located at 3801 and 4101 51st Avenue South) (Verity Homes of Fargo, LLC): CONTINUED TO JUNE 2, 2015

b. Continued Hearing on an application requesting a Planned Unit Development Master Land Use Plan for a Residential Land Use of the proposed Amity South At Cottagewood First Addition. (Located at 3801 and 4101 51st Avenue South) (Verity Homes of Fargo, LLC): CONTINUED TO JUNE 2, 2015

c. Continued Hearing on an application requesting a Plat of Amity South At Cottagewood First Addition (Minor Subdivision) a replat of Lots 28 and 29, Block 1, Cottagewood First Addition to the City of Fargo, Cass County, North Dakota. (Located at 3801 and 4101 51st Avenue South) (Verity Homes of Fargo, LLC): CONTINUED TO JUNE 2, 2015

A Hearing had been set for April 7, 2015. At the April 7, 2015 meeting the Hearing was continued to this date and time; however, the applicant has requested the application be continued to June 2, 2015.

Item 2: Eddy & Fuller's Outlots

Continued Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling to SR-5, Single-Dwelling on Lot B in Auditor's Subdivision of Outlot 33, Eddy & Fuller's Outlots. (Located at 415 14th Street South) (2112, LLC): WITHDRAWN

A Hearing had been set for April 7, 2015. At the April 7, 2015 meeting the Hearing was continued to this date and time; however the application has been withdrawn by the applicant.

Item 3: Original Townsite Addition

Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan for a Parking Reduction on Block 21, Original Townsite Addition, together with the East Half of the vacated 5th Street South and the North Half of the vacated 2nd Avenue South, both adjacent to Block 21. (Located at 400 1st Avenue South) (Foss Architecture & Interiors): APPROVED

Planner Aaron Nelson presented the staff report, noting the map included in the packet does not reflect the zoning change approved at last month's Planning Commission Meeting. Mr. Nelson stated all approval criteria have been met and staff is recommending approval.

Applicant Paul Finstad, Director of the YMCA, spoke on behalf of the proposal.

Member Steffes moved the findings and recommendations of staff be accepted and the Conditional Use Permit for an Alternative Access Plan on Block 21, Original Townsite Addition, together with the East Half of the vacated 5th Street South and the North Half of the vacated 2nd Avenue South, both adjacent to Block 21 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 minimum of 185 parking spaces shall be required to be provided on-site.
- 2) The Conditional Use Permit shall be void if the property is used for any use other than community service use.

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

Item 4: Butler Business Park Addition

Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan for a Parking Reduction on Lot 1, Block 1 of the proposed Butler Business Park Addition (currently known as part of Lot 1 and all of Lots 2-11, Block 7, Burlington Northern I-29 South Industrial Center, and part of Lot 1, Block 1, Truck Center Addition). (Located at 3500 Main Avenue and 100 36th Street South) (Hyde Development): CONTINUED TO JUNE 2, 2015

A Hearing had been set for April 7, 2015. At the April 7, 2015 meeting the Hearing was continued to this date and time; however, the applicant has requested the application be continued to June 2, 2015.

Item 5: Runck's Fourth Addition

a. Hearing on an application requesting a Zoning Change from AG, Agricultural to LI, Limited Industrial on a part of the proposed Runck's Fourth Addition. (Located at 521 34th Street South) (ACG, LLC): APPROVED

b. Hearing on an application requesting a Plat of Runck's Fourth Addition (Minor Subdivision) a replat of Lot 1, Block 1, Runck's First Addition; Lot 2, Block 1, Runck's Third Addition and part of the Southwest Quarter of Section 11, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 521, 575, and 777 34th Street South) (ACG, LLC): APPROVED

Planner Joe Nigg 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 following: 1) Zoning Change from AG, Agricultural, to LI, Limited Industrial; and 2) Runck's Fourth Addition minor 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 Scherling. On call of the roll Members Morrau, Scherling, Fremstad, Fischer, Steen, Magelky, Gunkelman, Steffes, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Member Schneider. The motion was declared carried.

Item 6: Chapin, Johnson & Barretts Addition

Hearing on an application requesting a Conditional Use Permit to allow Manufacturing and Production Land Use in a DMU, Downtown Mixed-Use zoning district on the South 10 feet of Lot B, and all of Lots C and H, Block C, Chapin, Johnson & Barretts Addition. (Located at 503 7th Street North) (dogIDs): APPROVED

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

Member Fischer moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow Manufacturing and Production Land Use in the DMU, Downtown Mixed-Use 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) Outdoor storage shall not be permitted.
- 2) The manufacturing, production, or processing of animal products shall not be permitted.
- 3) The manufacturing, production, or processing of hazardous chemicals or materials shall not be permitted.
- 4) The Conditional Use Permit shall terminate if the manufacturing and production uses cease for a period of more than 12 consecutive months.

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

Item 7: 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 6, Block 1, Commerce on I29 Addition. (Located at 4000 98th Avenue South) (Jesse Riley): APPROVED

Planner 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 within the 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 or 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 (included 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 east, west and south property boundary for the purposes of protecting abutting land owners and 100 Avenue South from more intense land-uses and providing visual screening. The vegetative buffer shall be in reference to Land Development Code Subsection 20.0704.E.2. For this application, the buffer belt 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 Magelky. On call of the roll Members Gunkelman, Fremstad, Fischer, Steffes, Magelky, Steen, Morrau, Scherling, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Member Schneider. The motion was declared carried.

**Item 8: Northland Addition/Northland Second Addition
Hearing on an application requesting a Zoning Change from GC, General Commercial to LI, Limited Industrial on Lot 1, Block 1, of A Replat of Northland Addition and Lot 1, Block 1, Northland Second Addition. (Located at 3311 and 3333 39th Street South) (Roers Development): APPROVED**

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

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

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

**Item 9: Urban Plains By Brandt Second Addition
Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan for a Parking Reduction on part of Lot 1, Block 5, Urban Plains By Brandt Second Addition. (Located at 2841 and 2921 Seter Parkway South) (ICON Architectural Group): APPROVED**

Maegin Rude 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 the Conditional Use Permit to allow an Alternative Access Plan on part of Lot 1, Block 5, Urban Plains By Brandt 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) Thirty off-street parking spaces are required on-site.
- 2) The Conditional Use Permit shall be void if the property's use changes from medical office.
- 3) Any proposed interior or exterior expansion of the use shall require review and approval by the Planning Commission through the Conditional Use Permit process.

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

Item 10: Titan Machinery Addition

a. Hearing on an application requesting a Zoning Change from LC, Limited Commercial to LI, Limited Industrial on Lot 1, Block 1 of the proposed Titan Machinery Addition. (Located at 4001 40th Street South) (Sterling Properties, LLLP): APPROVED

b. Hearing on an application requesting a Plat of Titan Machinery Addition (Minor Subdivision) a replat of Lot 1, Block 1, Schumacher Subdivision and Lot 1, Block 1, Prairie Tech Addition to the City of Fargo, Cass County, North Dakota. (Located at 4001 38th Street South and 4001 40th Street South) (Sterling Properties, LLLP): APPROVED

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: 1) zone change from LC, Limited Commercial to LI, Limited Industrial on Lot 1, Block 1, on the proposed Titan Machinery Subdivision; and 2) replat of Lot 1, Block 1, Schumacher Subdivision and Lot 1, Block 1, Prairie Tech Addition to the proposed Titan Machinery 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 Fremstad, Scherling, Steen, Fischer, Morrau, Steffes, Magelky, Gunkelman, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Member Schneider. The motion was declared carried.

At 4:03 p.m. the Board took a five minute recess.

After recess: All members present except Member Schneider.

Item 11: Schatz Third Addition

Hearing on an application requesting a Zoning Change from MR-1, Multi-Dwelling to MR-3, Multi-Dwelling on Lot 1, Block 2, Schatz Third Addition. (Located at 5601 34th Avenue South) (Eagle Ridge Development): APPROVED

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

Member Steen moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed zoning change from MR-1, Multi-Dwelling Residential to MR-3, Multi-Dwelling Residential, 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 Fremstad. On call of the roll Members Steen, Scherling, Steffes, Morrau, Fischer, Fremstad, Magelky, Gunkelman, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Member Schneider. The motion was declared carried.

Item 12: Schatz Fourth Addition

a. Hearing on an application requesting a Growth Plan Amendment within the boundaries of the proposed Schatz Fourth Addition. (Located at 5634 34th Avenue South) (Eagle Ridge Development): APPROVED

b. Hearing on an application requesting a Zoning Change from MR-1, Multi-Dwelling to MR-3, Multi-Dwelling and LC, Limited Commercial with a C-O, Conditional Overlay on a portion of the proposed Schatz Fourth Addition. (Located at 5634 34th Avenue South) (Eagle Ridge Development): APPROVED

c. Hearing on an application requesting a Plat of Schatz Fourth Addition (Minor Subdivision) a replat of Lot 1, Block 1, Schatz Third Addition to the City of Fargo, Cass County, North Dakota. (Located at 5634 34th Avenue South) (Eagle Ridge Development): APPROVED

Joe Nigg presented the staff report for the proposed growth plan amendment, zoning change, and plat of Schatz Fourth Addition. He noted copies of the draft of the conditional overlay and an e-mail staff received from the applicant, were submitted to

the Board. Mr. Nigg stated staff is presenting two possible motions for discussion, to address the appropriate recommendation from the Planning Commission.

Board discussion ensued regarding private drives versus public roads; public or private water distribution systems; fire code access requirements being met; and the option of voting on the components separately.

Applicant Jon Youness of Eagle Ridge Development spoke on behalf of the proposal, and addressed the concerns discussed.

Ryan Schuster, 4933 Spencer Lane, shared his concern about the potential size of the development if the zoning change is approved.

Member Ulferts-Stewart stated she feels this item needs to be addressed separately, and made the following motion for approval of the Growth Plan Amendment and Zoning Change request:

Member Ulferts-Stewart moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the following: 1) Growth Plan Amendment, and 2) Zoning Change from MR-1, Multi-Dwelling Residential to MR-3, Multi-Dwelling Residential and LC, Limited Commercial with a Conditional Overlay, as the proposal complies with the GO2030 Fargo Comprehensive Plan and City growth plans, 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 Fischer. On call of the roll Members Steen, Scherling, Steffes, Morrau, Fischer, Fremstad, Magelky, Gunkelman, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Member Schneider. The motion was declared carried.

Member Ulferts-Stewart moved the findings and recommendations of staff be accepted and denial be recommended to the City Commission of the proposed Schatz Fourth Addition minor subdivision plat as presented, as the proposal does not comply with the GO2030 Fargo Comprehensive Plan and the intent of City growth plans. Second by Member Magelky.

Mr. Youness responded to the motion to deny, offering to respond to the reasons for the Board's opposition to the minor subdivision plat as proposed.

On call of the roll Members Steen, Scherling, Fischer, Ulferts-Stewart, and Paulsen voted aye. Members Steffes, Morrau, Fremstad, Magelky, and Gunkelman voted nay. Absent and not voting: Member Schneider. The motion failed for lack of a majority.

Member Magelky moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed subdivision plat, Schatz Fourth Addition, as presented as the proposal complies with the G2030 Fargo Comprehensive Plan and City growth plans, 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 Steffes. On call of the roll Members Scherling, Paulsen, Fischer, Gunkelman, Magelky, Morrau, Steen, Ulferts-Stewart, Fremstad voted aye. Member Steffes voted nay. Absent and not voting: Member Schneider. The motion was declared carried.

At 5:22 p.m. the Board took a five minute recess.

After recess: All Members present except Members Schneider and Steen.

Item 13: Crofton Coves Second Addition

Hearing on an application requesting a Plat of Crofton Coves Second Addition (Major Subdivision) a replat of Lot 1, Block 1, Crofton Coves First Addition to the City of Fargo, Cass County, North Dakota. (Located at 6501 21st Street South) (Crofton Coves LLC): APPROVED

Joe Nigg 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 Crofton Coves Second Addition major subdivision plat as presented, as the proposal complies with the GO2030 Fargo Comprehensive Plan, Standards of Article 20-06 and Section 20-0907 of the Land Development Code and all other applicable requirements of the Land Development Code. Second by Member Steffes. On call of the roll Members Scherling, Gunkelman, Fremstad, Morrau, Steffes, Magelky, Fischer, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Schneider and Steen. The motion was declared carried.

Item 14: Erskine's Addition

Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling to LC, Limited Commercial on part of Lots 6-8, Block SS, Erskine's Addition. (Located at 1117 13th Avenue South) (Steven Stremick): DENIED

Joe Nigg outlined past applications considered by the Planning and City Commissions regarding this property and presented the staff report for the current proposal. Mr. Nigg explained only the northern end of the property is under consideration from SR-3 to LC, which would allow the applicant to pursue parking on 1117 13th Avenue South to facilitate expansion of the existing business at 1155 13th Avenue South. He stated staff contends there is not a justifiable change in conditions since the previous zoning classification was established and is recommending denial.

Applicant Steven Stremick stated he wants to pursue a growth opportunity and submitted an additional site plan to the Board Members depicting a cement pad so individuals can drive forward and not back into traffic on 13th Avenue South.

Derrick Arneson, 1123 11th Street South, stated his wish to save the residential neighborhood, saying he does not want to see more degradation in the neighborhood.

Dan Mosser, 1109 13 Avenue South, questioned if the zoning change will impact him any more than the existing zoning and noted the City of Fargo's online zoning map is not up-to-date. He stated his concern with the safety of his children.

Discussion ensued regarding light pollution, the addition of commercial next to a residential area, and current vehicle storage on the lot.

Member Fischer moved the findings and recommendations of staff be accepted and denial be recommended to the City Commission of the proposed zoning change from SR-3, Single-Dwelling Residential to LC, Limited Commercial, on the basis that it does not satisfactorily 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 Fremstad. On call of the roll Members Morrau, Scherling, Fremstad, Fischer, Magelky, Gunkelman, Steffes, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Schneider and Steen. The motion was declared carried.

Item 15: Harwood's Addition

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 JUNE 2, 2015

Derrick LaPoint presented the staff report for the proposal. He explained staff is bringing this item before the Board to allow preliminary discussion and to hear public comments. Mr. LaPoint noted the developer is working with surrounding property owners regarding shared parking to meet the LDC requirements. He stated staff is recommending this item be continued to the June 2, 2015 Planning Commission meeting for the Board's recommendation.

Discussion ensued regarding the busy intersection of 7th Avenue and University Drive North, as well as the lack of parking.

Member Steffes moved this item be continued to the June 2, 2015 Planning Commission Meeting. Second by Member Magelky.

Applicant Jay Nielson, Phil Stahl of Stahl Architects, and Roosevelt Neighborhood Association Member Martha Berryhill spoke on behalf of the proposal, stating their desire to preserve the historic building.

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

Item 16: Text Amendment

Hearing on an application requesting a Text Amendment to amend Section 20-0402.N, Telecommunication Facilities, of Article 20-04, Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to telecommunication support structures (TSS). (Buell Consulting, Inc.):

APPROVED

Aaron Nelson reviewed the proposed amendments to the code noting the need to update language to be more specific and less objective. He explained the changes proposed in the definition of "stealth" as it relates to a TSS and showed examples of disguised towers.

Member Steffes moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed text amendment relating to Section 20-0402.N of Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to Telecommunications Facilities, as the proposal meets the approval criteria of Subsection 20-0904.E (1-3) of the Land Development Code. Second by Member Fremstad. On call of the roll Members Gunkelman, Fremstad, Fischer, Steffes, Magelky, Morrau, Scherling, Ulferts-Stewart, and Paulsen voted aye. Absent and not voting: Members Schneider and Steen. The motion was declared carried.

Item E: Other Items:

No other items were discussed.

The time at adjournment was 7:12 p.m.