

**BOARD OF PLANNING COMMISSIONERS
MINUTES**

Regular Meeting:

Tuesday:

August 4, 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, August 4, 2015.

The Planning Commissioners present or absent were as follows:

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

Absent: Jeff Morrau, Kelly Steffes

Vice Chair Ulferts Stewart called the meeting to order.

Vice Chair Ulferts Stewart made the following announcements:

- 1) Item C: The Brown Bag Luncheon on Wednesday, August 19, 2015 will be a joint meeting between the City Commission and the Planning Commission, discussing a Workforce Housing Study.
- 2) Item D: The Resolution of Appreciation for Terry Steen – continued to September 1, 2015.
- 3) Public Hearing Items F: Nos. 1; 12a and 12b; and 15a and 15b – continued to September 1, 2015.

Business Items:

Item A: Approve Order of Agenda

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

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

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

Item C: Wednesday, August 19, 2015 Brown Bag Luncheon

Topic: Workforce Housing Study

**Item D: Resolution of Appreciation for Terry Steen: CONTINUED TO
SEPTEMBER 1, 2015**

Item E:

Item 1: Appeal of an Administrative Decision to Approve a Residential Protection Standard Waiver on the East 1/2 of Lots 4 and 5, Block W, Chas A. Roberts Addition. (Located at 915 5th St S) (Vocational Training Center): APPROVED

Planner Aaron Nelson presented the staff report for the appeal of an administrative decision. Mr. Nelson explained the appellant is proposing to install a six-foot tall opaque fence along the interior lot lines of the subject property, in lieu of the following requirements: (1) a landscape buffer along the interior lot lines and (2) the parking lot is set back at least 10 feet from the interior lot lines of the property. He noted staff has received a few phone calls from area residents, and two written appeals. Mr. Nelson stated staff is recommending approval with the condition that a six-foot-tall fence be installed along the north, west, and south lot lines in lieu of the two standards.

Operations Manager Steve Pederson, Vocational Training Center, stated the requested waiver will provide additional parking spaces to an existing parking lot on the property that will be undergoing renovation including a paved surface.

Board discussion began regarding the facilities' need for staff and client parking, and providing parking spaces off-street to align with the City's seasonal parking restrictions.

Joe Burgum, 514 10th Avenue South, spoke in opposition of the proposal.

Member Gunkelman moved the findings and recommendations of staff be accepted and the waiver of the applicable residential protection standards, as outlined within Section 210-0704.B and Section 20-0704.D of the Land Development Code be approved, with the condition that a 6-foot opaque fence be required along the north, west, and south property lines. Second by Member Fischer. On call of the roll Members Scherling, Fischer, Magelky, Gunkelman, and Ulferts Stewart voted aye. Members Fremstad, Brust, and Schneider voted nay. Absent and not voting: Members Morrau and Steffes. 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 SEPTEMBER 1, 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 this date and time; however, the applicant has requested the application be continued to September 1, 2015.

Public Hearing Items Nos. 2 – 5 were presented together:

Item 2: Urban Plains by Brandt First Addition
Continued Hearing on an application requesting a Conditional Use Permit to allow off-premise advertising on Lot 1, Block 4, Urban Plains By Brandt First Addition. (Located at 2633 55th Street South) (Scheels Arena): DENIED

Item 3: Urban Plains by Brandt First Addition
Continued Hearing on an application requesting a Conditional Use Permit to allow off-premise advertising on Lot 4, Block 5, Urban Plains By Brandt First Addition. (Located at 3151 Seter Parkway South) (Scheels Arena): DENIED

Item 4: Urban Plains Retail Addition
Continued Hearing on an application requesting a Conditional Use Permit to allow off-premise advertising on Lot 4, Block 1, Urban Plains Retail Addition. (Located at 4525 32nd Avenue South) (Scheels Arena): DENIED

Item 5: Urban Plains Northeast Retail Addition
Continued Hearing on an application requesting a Conditional Use Permit to allow off-premise advertising on part of Lots 3 and 4, Block 1, Urban Plains Northeast Retail Addition. (Located at 2911 45th Street South) (Scheels Arena): DENIED
Member Brust declared a conflict of interest on this item and was excused from voting.

Aaron Nelson presented an overview of these continued items from the July 7, 2015 Planning Commission Meeting. He noted after further review with the applicant by staff and Board Members, staff does not feel this proposal aligns with the initial focus and the principles of development outlined within the GO2030 Plan. Mr. Nelson stated staff is recommending denial, as the approval criteria for the requested Conditional Use Permit have not been met.

Board discussion evolved regarding the existing zoning on the properties; staff's recommendations to the applicant regarding the scale and design of the signage to meet the criteria; concerns about the type of advertising allowed and any code restrictions that are in place; and if approved, the precedent this would set regarding future proposals of this type.

At 5:00 p.m. the Board took a seven minute recess.
All Members present after recess except Members Morrau and Steffes.

General Manager Jon Kram from Scheels Arena spoke in favor of the proposals.

Applicant and property owner Ace Brandt spoke on behalf of the proposals, restating the need for this type of signage for these properties.

Member Fischer moved the findings and recommendations of staff be accepted and the Conditional Use Permits to allow off-premise advertising for the following be denied: Lot 1, Block 4, and Lot 4, Block 5, Urban Plains by Brandt First Addition; Lot 4, Block 1, Urban Plains Retail Addition; and part of Lots 3 and 4, Block 1, Urban Plains Northeast Retail Addition be denied, as the proposal does not comply with Section 20-0909.D (1,3, & 4) and other requirements of the Land Development Code. Second by Member Schneider.

Further discussion by the Board stated a need to revisit the existing sign code and add additional clarification to address these types of proposals in the future.

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

**Item 6: Urban Plains Retail Addition
Hearing on an application requesting a Conditional Use Permit to allow Residential Land Use within a LC, Limited Commercial zoning district on Lots 11 and 12, Block 1, Urban Plains Retail Addition. (Located at 2888 and 2970 Brandt Drive South) (Dietrich Construction): APPROVED**

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

Mr. Nelson presented the staff report for the requested Conditional Use Permit. He noted staff received one phone call in opposition from area property owner Dale Buchholz. Mr. Nelson stated all approval criteria have been met and staff is recommending approval with conditions.

Applicant Clay Dietrich, Dietrich Construction, spoke on behalf of the proposal.

Member Magelky moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow residential land use within a 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 zoning district (24 units per acre).
- 2) A minimum of 35% of the lot shall remain as open space.
- 3) Parking lot approaches must be spaced at least 100 feet away from the roundabouts located on Brandt Drive South as measured along the existing public access easements beginning at the Brandt Drive South right-of-way and ending at the centerline of such parking lot approach.

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

Item 7: Roberts' Second Addition

Hearing on an application requesting a Zoning Change from SR-4, Single-Dwelling Residential and LC, Limited Commercial to DMU, Downtown Mixed-Use on Lots 1-6, Block 36; Lots 1-6, Block 35; and Lots 1, 2 and the East Half of Lots 3, 4, and 5, Block 46, Roberts' Second Addition. (Located at 1117, 1119-1121, and 1123 3rd Avenue North; 1115, 1119, 1120, 1122, 1123, 1124, 1201, 1205 and 1209 4th Avenue North; 309, 311, and 315-315 ½, 407, 411, 412, 414, 415, 417, 418, and 421 12th Street North; 401 University Drive North) (City of Fargo): APPROVED

Planner Joe Nigg presented the report for the proposed staff initiated zoning change. He noted a neighborhood meeting was held in the City Commission Room on July 23, 2015, to allow residents and area property owners an opportunity to review and provide input on the proposal. He added staff has not received any formal opposition to-date. Mr. Nigg stated all approval criteria have been met and staff is recommending approval.

Fred Spitzer, 1201 4th Avenue North, spoke in opposition 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 SR-4, Single-Dwelling and LC, Limited Commercial to DMU, Downtown Mixed Use, as outlined within the staff report, on the basis that it satisfactorily complies with the GO2030 Fargo Comprehensive Plan, Standards of Section 20-0907.F (1-4) and all other applicable requirements of the Land Development Code. Second by Member Fremstad. On call of the roll Members Fischer, Gunkelman, Fremstad, Schneider, Brust, Scherling, and Ulferts Stewart voted aye. Member Magelky voted nay. Absent and not voting: Members Morrau and Steffes. The motion was declared carried.

At 5:57 p.m. the Board took a seven minute recess.

All members present after recess except Members Morrau, Steffes, and Schneider.

Item 8: Sincebaugh Second Addition

a. Hearing on an application requesting a Conditional Use Permit to allow Group Living within a LC, Limited Commercial zoning district on Lots 1 and 2, Block 1, Sincebaugh Second Addition. (Located at 4500 and 4552 36th Avenue South) (Enclave Development): APPROVED

b. Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan for a Parking Reduction on Lots 1 and 2, Block 1,

Sincebaugh Second Addition. (Located at 4500 and 4552 36th Avenue South) (Enclave Development): APPROVED

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

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

Applicant Representative Austin Morris, Enclave Development, spoke on behalf of the proposal.

Member Magelky moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow 1) group living within a LC, Limited Commercial zoning district and 2) Alternative Access Plan for a Parking Reduction 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) 97 Off-street parking spaces required on-site.
- 2) The Conditional Use Permit will cease if the land use changes from memory care facility/assisted living.
- 3) Any expansion of the square footage of the group living use will require an amendment to the Conditional Use Permit for parking reduction with review and approval by the Planning Commission.

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

Item 9: CBC Addition

Hearing on an application requesting a Conditional Use Permit to allow a wireless telecommunication support structure within a LC, Limited Commercial zoning district on Lot 1, Block 1, CBC Addition. (Located at 3535 25th Street South) (Buell Consulting, Inc.): APPROVED

Planner Derrick LaPoint presented the staff report for the requested Conditional Use Permit. He noted staff did receive one phone call, but no opposition from area property owners. Mr. LaPoint stated all approval criteria have been met and staff is recommending approval.

Applicant Representative Eddy Buell, Buell Consulting, spoke on behalf of the proposal.

Member Scherling 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 requirements of the Land Development Code. Second by Member Fremstad. On call

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

Item 10: CBS Addition

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

Mr. LaPoint presented the staff report. He noted the Community Baptist Church is requesting a Conditional Use Permit, as they are currently non-compliant with regards to the number of on-site parking spaces provided as required by the Land Development Code. Mr. LaPoint stated all approval criteria have been met and staff is recommending approval, with the condition a minimum of 78 parking spaces shall be required to be provided on-site.

Applicant Brian Berg, Community Baptist Church, spoke on behalf of the proposal.

Board discussion clarified the Conditional Use Permit with the condition does run with the land.

Member Fischer moved the findings and recommendations of staff be accepted and the Conditional Use Permit for an Alternative Access Plan on Lots 1 & 2, Block 1, CBC 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 condition:

- 1) A minimum of 78 parking spaces shall be required to be provided on-site.

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

Item 11: Southeast Quarter of Section 20, Township 140 North, Range 49 West

Hearing on an application requesting a Conditional Use Permit to allow a wireless telecommunication support structure on part of the Southeast Quarter of Section 20, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 3214 57th Street North) (Buell Consulting, Inc.): APPROVED

Mr. 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 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 requirements of the Land Development Code. Second by Member Scherling. On call of

the roll Members Fremstad, Brust, Scherling, Magelky, Gunkelman, Fischer, and Ulferts Stewart voted aye. Absent and not voting: Members Morrau, Steffes, and Schneider. The motion was declared carried.

Item 12: Maple Valley Second Addition

a. 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 SEPTEMBER 1, 2015

b. 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 SEPTEMBER 1, 2015

This was the time and date set; however, the applicant has requested the application be continued September 1, 2015.

Item 13: Anne Carlsen Center First Addition

Hearing on an application requesting a Plat of Anne Carlsen Center First Addition (Minor Subdivision) a replat of Lot 1, Block 5, Valley View Fifth Addition to the City of Fargo, Cass County, North Dakota. (Located at 3749 56th Street South) (Heritage Homes): APPROVED

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

Mr. 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 subdivision plat, Anne Carlsen Center First Addition as outlined within the staff report, as the proposal complies with the adopted Area Plan, the Standards of Article 20-07, and all other applicable requirements of the Land Development Code. Second by Member Fischer. On call of the roll Members Scherling, Fremstad, Fischer, Magelky, Gunkelman, and Ulferts Stewart voted aye. Member Brust abstained from voting. Absent and not voting: Members Morrau, Steffes, and Schneider. The motion was declared carried.

Item 14: Calico Prairie Addition

Hearing on an application requesting a Zoning Change from SR-4, Single-Dwelling Residential to MR-1, Multi-Dwelling Residential on Lots 7 and 8, Block 1, Calico Prairie Addition. (Located at 2800 and 2950 Calico Drive South) (Roers' Development): APPROVED

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

Mr. Nelson presented the staff report for the requested zoning change. He added staff has not received any comments from area property owners. Mr. Nelson stated all approval criteria have been met and staff is recommending approval.

Architect Elissa Novotny Leino, 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 SR-4, Single-Dwelling Residential to MR-1, Multi-Dwelling Residential 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 Fremstad, Magelky, Gunkelman, Scherling, Fischer, and Ulferts Stewart voted aye. Member Brust abstained from voting. Absent and not voting: Members Morrau, Steffes, and Schneider. The motion was declared carried.

Item 15: Timber Creek Fifth Addition

a. 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): CONTINUED TO SEPTEMBER 1, 2015

b: 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): CONTINUED TO SEPTEMBER 1, 2015

This was the time and date set; however, the applicant has requested the application be continued September 1, 2015.

Item G: Other Items:

1. Nomination and Election of Officers

Member Ulferts Stewart called for nominations for Chair and Vice Chair of the Planning Commission.

Member Fischer moved to nominate Jan Ulferts Stewart for Planning Commission Chair. Second by Member Gunkelman. All Members present voted aye and the motion was declared carried.

Member Fischer moved to nominate Kelly Steffes as Vice Chair of the Planning Commission. Second by Member Fremstad. All Members present voted aye and the motion was declared carried.

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

Member Ulferts Stewart stated this item will be continued to the September 1, 2015 Planning Commission Meeting.

Member Scherling asked staff if the Rules of Internal Procedure and Operations mandated the start time of 4:00 p.m. for the monthly Planning Commission Meetings. She stated the recent long agendas have resulted in longer meetings, and perhaps an earlier start time would be more favorable for all parties involved.

Planning Director Jim Gilmour answered the 4:00 p.m. start time can be altered.

Member Ulferts Stewart suggested this be reviewed by staff and the Board, for discussion at an upcoming meeting.

The time at adjournment was 6:48 p.m.