

**THE CITY COUNCIL
GRAND FORKS, NORTH DAKOTA
9, 1997**

**PROCEEDINGS OF
OF THE CITY OF
Monday, June**

The city council of the city of Grand Forks, North Dakota met in its adjourned session in the council chambers in City Hall on Monday, June 9, 1997 at the hour of 7:30 o'clock p.m. with President Hagness presiding. Present at roll call were Council Members Beach, Polovitz, Hamerlik, Hanson, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 13; absent: none; 1 seat vacant.

President Hagness announced that anyone wishing to speak to any item may do so by being recognized prior to a vote being taken on the matter.

CONTINUE SECOND READING AND PUBLIC HEARING
OF ORDINANCE TO AMEND LAND DEVELOPMENT CODE,
ARTICLE 9, SUBDIVISION REGULATIONS AS IT RELATES
TO ELIMINATING THE 50% UP-FRONT MONEY FOR A
DESIGNATED AFFORDABLE HOUSING PROJECT TO
JUNE 30, 1997

An ordinance entitled "An ordinance to amend the Land Development Code, Article 9, Subdivision Regulations, Section 18-0908 Improvements Required, subsection (1) improvements inside city, paragraph (B) financing, as it relates to eliminating the 50% up-front money for a designated affordable housing project", which had been introduced and passed on first reading on April 7, 1997, and upon which public hearing and second reading of the ordinance had been continued until this evening, was presented and read for consideration on second reading.

The Planning and Zoning Commission reported having considered the matter of the referral from city council for preliminary and final approval of an ordinance to amend the Land Development Code; Article 9. Subdivision Regulations; Section 18-0908 Improvements Required; subsection (1) improvements inside city; paragraph (B) financing, as it relates to eliminating the 50% up-front money for a designated affordable housing project, and recommended tabling and continuing the public hearing until June 23, 1997, with ordinance to be prepared by the city attorney's office.

It was moved by Council Member Polovitz and seconded by Council Member Carpenter that this recommendation be and is hereby approved.

It was moved by Council Member Polovitz and seconded by Council Member Carpenter to amend the motion to table until June 30 to allow for publication of the notice of public hearing. Carried 13 votes affirmative.

Upon call for the question and upon voice vote, the motion carried 13 votes affirmative.

CONTINUE PUBLIC HEARING AND SECOND READING
OF ORDINANCE TO AMEND LAND DEVELOPMENT CODE,
ARTICLE 2, AS IT RELATES TO LOT WIDTHS AND

DEPTHS FOR DESIGNATED AFFORDABLE HOUSING
PROJECT TO JUNE 30, 1997

An ordinance entitled "An ordinance to amend the Land Development Code, Article 2. Zoning Regulations, Section 18-0208 R-1 (Single Family Residence) district, subsection (6) required lot area, lot width and lot depth, paragraph (A) as it relates to lot widths not to exceed 60 feet and lot depths of a minimum of 120 feet for a designated affordable housing project", which had been introduced and passed on first reading on April 7, 1997, and upon which public hearing and second reading of the ordinance had been continued until this evening, was

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presented and read for consideration on second reading.

The City Planning and Zoning Commission reported having considered the matter of the referral from city council for preliminary and final approval of an ordinance to amend the Land Development Code; Article 2. Zoning Regulations; Section 18-0208 R-1 (Single-Family Residence) District; subsection (6) required lot area. lot width and lot depth; paragraph (A) as it relates to lot widths not to exceed 60 feet and lot depths of a minimum of 120 feet for a designated affordable housing project, and recommended tabling and continuing the public hearing until June 23, 1997, ordinance to be prepared by the city attorney's office.

It was moved by Council Member Hanson and seconded by Council Member Babinchak that this recommendation be and is hereby approved.

It was moved by Council Member Hanson and seconded by Council Member Babinchak to amend the motion to table until June 30 to allow for publication of the notice of public hearing. Carried 13 votes affirmative.

Upon call for the question and upon voice vote, the motion carried 13 votes affirmative.

CONTINUE PUBLIC HEARING AND SECOND READING
OF ORDINANCE TO AMEND LAND DEVELOPMENT CODE,
ARTICLE 9, SUBDIVISION REGULATIONS, ADDITIONS
AND SUBDIVISIONS, SURVEY AND PLAT REQUIRED,
AS IT RELATES TO REDUCING MINIMUM R/W
WIDTHS FOR DESIGNATED AFFORDABLE HOUSING
PROJECT TO JUNE 30, 1997

An ordinance entitled "An ordinance to amend the Land Development Code, Article 9, Subdivision Regulations, Section 18-0907 Layout of Additions and Subdivisions, Survey and Plat required, contents of plat, subsection (2) rights of way, para-graph I as it relates to reducing minimum right of way widths to 70 feet for a designated affordable housing project", which had been introduced and passed on first reading on April 7, 1997, and upon which public hearing and second reading of the ordinance had been continued until this evening, was presented and read for consideration on second reading.

The City Planning and Zoning Commission reported having considered the matter of the referral from city council for preliminary and final approval of an ordinance to amend the Land Development Code; Article 9. Subdivision Regulations; Section 18-0907 Layout of Additions and Subdivisions; Survey and Plat Required; contents of Plat; subsection (2) rights of way; paragraph I as it relates to reducing minimum right of way widths to 70 feet for a designated affordable housing project, and recommended tabling and continuing the public hearing until June 23, 1997, ordinance to be prepared by city attorney's office.

It was moved by Council Member Beyer and seconded by Council Member Polovitz that this recommendation be and is hereby approved.

It was moved by Council Member Beyer and seconded by Council Member Polovitz to amend the motion to table until June 30 to allow for publication of the notice of public hearing. Carried 13 votes affirmative.

Upon call for the question and upon voice vote, the motion carried 13 votes affirmative.

INTRODUCE ORDINANCE TO AMEND LAND
DEVELOPMENT CODE RE. GENERAL SIGN PROVISIONS
FOR AREA ENHANCEMENT SIGNS AND DELETION OF
1991 SUNSET CLAUSE THEREIN
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The City Planning and Zoning Commission reported having considered the matter of preliminary approval of an ordinance to amend the Land Development Code, Section 18-0301(2)(X) relating to general sign provisions for area enhancement signs and more specifically the deletion of the 1991 sunset clause therein, and recommended preliminary approval of the ordinance amending the text of the Land Development Code, to introduce the ordinance and to set the date of the public hearing for June 23, 1997.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved. Carried 13 votes affirmative.

Council Member Beyer introduced an ordinance entitled "An ordinance amending the Grand Forks City Code of 1987 as amended, Chapter XVIII. Land Development Code; Article 3, Rules and Regulations; Section 18-0301, Signs, subsection (2) General Sign Provisions, amending paragraph (X) area enhancement signs by deleting the date which limits the period of display", which was presented, read and passed on its first reading.

APPROVE SCHEDULE FOR COMMISSION MEETINGS

The Planning and Zoning Commission reported having considered the matter of holding additional Planning and Zoning Commission meetings, and recommended meeting the first and third Wednesday of the month as necessary and until further notice, with the next two scheduled meetings to be held at 7:00 p.m. on June 18 and July 2, 1997, and determination as to whether to meet on July 16 to be determined at the July 2 meeting.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved. Carried 13 votes affirmative.

APPROVE VARIANCE ALLOWING ACCESS ONTO
NORTH COLUMBIA ROAD TO ALLEVIATE TRAFFIC
CONGESTION AT INTERSECTION OF NORTH
COLUMBIA ROAD AND NORTH FRONTAGE ROAD OF
GATEWAY DRIVE

The Planning and Zoning Commission reported having considered the matter of the request from Dakota Financial and Development on behalf of Fred Madsen for approval of a variance to the subdivision regulations of the Land Development Code, Section 18-0907 and as it more specifically relates to right of way access to minor arterial streets which states that points of access shall be 600 feet from any intersection or from other points of access to the arterial, and recommended approval of a variance allowing access onto North Columbia Road, the center of which is located approximately 170 feet north of the north right of way line of Gateway Drive. to alleviate traffic congestion at the intersection of North Columbia road and the north frontage road of Gateway Drive.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved. Carried 13 votes affirmative.

INTRODUCE ORDINANCE TO AMEND ZONING MAP
TO INCLUDE WITHIN B-3 ALL OF NE QUARTER OF
NE QUARTER OF SECTION 5, T151N, R50W, 5TH P.M.
INCLUDING COLUMBIA ADDITION

The City Planning and Zoning Commission reported having considered the matter of request from Al Hoffarth on behalf of the University of North Dakota or pre-liminary approval of an ordinance to amend the Zoning Map to exclude from the U-D (University) District and to include within the B-3 (General Business) District all of the Northeast Quarter of the Northeast Quarter of Section 5, Township 151 North, Range 50 West of the 5th Principal Meridian which includes a portion of

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Columbia addition to the city of Grand Forks, ND (located west of North Columbia Road between Gateway Drive and 10th Avenue North), and recommended preliminary approval of an ordinance amending the zoning map, to introduce the ordinance and to set the date of the public hearing for June 23, 1997.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved. Carried 13 votes affirmative.

Council Member Beyer introduced an ordinance entitled "An ordinance to amend the Zoning Map of the city of Grand Forks, North Dakota to rezone and exclude from the U-D (University) District and to include within the B-3 (General Business) District all of the Northeast Quarter of the

Northeast Quarter of Section 5, Township 151 North, Range 50 West of the 5th Principal Meridian which includes a portion of Columbia Addition to the city of Grand Forks, North Dakota", which was presented, read and passed on its first reading.

TABLE REQUEST TO AMEND ZONING MAP TO INCLUDE WITHIN SUN LAND WEST PUD, CONCEPT DEVELOPMENT PLAN, AMENDMENT NO. 1, ALL OF SUN LAND WEST FIRST, SECOND AND THIRD RE-SUBDIVISIONS PART OF BLOCK 1 AND ALL OF BLOCK 2, RYDELL-WEST SUBDIVISION, INCLUDING VACATED STREETS TO JUNE 16, 1997

The City Planning and Zoning Commission reported having considered the matter

of request from Dan Schmaltz on behalf of Sun Land West LLC and the UND Foundation for preliminary approval of an ordinance to amend the Zoning Map to exclude from Sun Land West PUD (Planned Unit Development), Concept Development Plan and to exclude from the B-3 (General Business) District and to include within Sun Land West PUD (Planned Unit Development), Concept Development Plan, Amendment No. 1, all of Sun Land West First, Second and Third resubdivisions, Lots 13 and 14, Block 1 and all of Block 2, Rydell-West Subdivision, Grand Forks, North Dakota, including vacated streets adjacent thereto, (area of substantial change lies between a line 130 feet north of and parallel with 7th Avenue North to 12th Avenue North and between North 51st Street and North 55th Street), and recommended to deny the ordinance amending the zoning map.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved.

It was moved by Council Member Beyer and seconded by Council Member Hafner to table this matter to June 16, 1997 as requested by Mr. Schmaltz. Carried 13 votes affirmative.

TABLE MATTER OF REQUEST FOR ORDINANCE TO AMEND ZONING MAP TO INCLUDE WITHIN GATEWAY COMMONS PUD, CONCEPT DEVELOPMENT PLAN, AMENDMENT NO. 2, WITH SUBSTANTIAL CHANGE PERTAINING TO LOT 1, BLOCK 1, AIRPORT 3RD RESUBDIVISION, INCLUDING SURPLUS HIGHWAY NO. 2 R/W UNTIL JUNE 16, 1997

The City Planning and Zoning Commission reported having considered the matter of the request from Roger Mattern on behalf of Sherman Associates, Inc. for preliminary approval of an ordinance amending the Zoning Map to exclude from Gateway Commons PUD (Planned Unit Development) Concept Development Plan, Amendment Number 1, and to include within Gateway Commons PUD (Planned Unit Development) Concept Development Plan, Amendment Number 2, with substantial change pertaining to Lot 1, Block 1, Airport 3rd Resubdivision, Grand Forks, North Dakota, including Highway No. 2 right of way (located east of North 51st Street between Gateway Drive and 12th Avenue North), and recommended denial of the ordinance amending the zoning map.

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It was moved by Council Member Beyer and seconded by Council Member Klave

that this recommendation be and is hereby approved.

It was moved by Council Member Beach and seconded by Council Member Beyer that this matter be tabled to June 16, 1997. Carried 13 votes affirmative.

INTRODUCE ORDINANCE TO AMEND LAND DEVELOPMENT
CODE, ARTICLE 2, RETAIL SALES OF ANTIQUES
AND COLLECTIBLES, TO LOCATE AN ANTIQUE SHOP
AS A HOME OCCUPATION IN OLDER RESIDENTIAL
NEIGHBORHOOD ON TEMPORARY BASIS OR BY CONDITIONAL
USE PERMIT

The City Planning and Zoning Commission reported having considered the matter of the request from Roger Sannes Antiques of 119 DeMers Avenue for approval to locate an antique shop as a home occupation in an older residential neighborhood, either on a temporary basis (2 to 3 years) or by conditional use permit (located at 1020 Cottonwood Street), and recommended preliminary approval of the ordinance, to introduce the ordinance and to set the date of the public hearing for June 23, 1997, ordinance to be prepared by city attorney's office.

It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved.

Roger Sannes, 1020 Cottonwood Street, stated that he is asking for approval from council.

Council Member Hamerlik questioned if there should be sunset clause in the ordinance. Mr. Swanson reported that there is no sunset clause but permits will be issued in five-year increments, that Planning and Zoning did not include sunset clause on the ordinance but rather to handle it as a conditional use permit; and it is a permanent amendment to the Code.

Mr. Sannes stated that there are a lot of small businesses hurting in Grand Forks and thinks there are a lot of businesses that would work very well in residential areas. He also stated that he petitioned his neighbors and they have agreed to what he wants to do.

Upon call for the question, the motion carried 13 votes affirmative.

Council Member Beyer introduced an ordinance entitled "An ordinance amending Section 18-0209(3) of the Grand Forks City Code relating to the Land Development Code", which was presented, read and passed on its first reading.

GRANT VARIANCE TO STANDARD CONSTRUCTION
SPECIFICATIONS TO ALLOW ASSOCIATED POTATO GROWERS,
INC. TO POUR CONCRETE SLABS WITHIN STREET R/W

The Planning and Zoning Commission reported having considered the matter of the referral from the Public Service Committee regarding a petition from associated Potato Growers, Inc. etal, for approval to vacate a portion of North 6th Street as platted on the plat of Great Northern First Addition, Grand Forks, North Dakota, being bounded on the south by the westerly extension of the southerly lot line of Lot C, Block 2, Great Northern First Addition, Grand Forks, North Dakota, being a Replat of

Lots 20 through 50 of Block 2, and Lots 1 through 56 of Block 3 and bounded on the northeast by the extension of the southwesterly right of way of Alpha Avenue, and recommended to deny a resolution to vacate and recommend approval of a variance to the Standard Construction Street Specification so that the petitioner, namely Associated Potato Growers, Inc., be allowed to continue pouring concrete slabs within the street right of way.

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It was moved by Council Member Beyer and seconded by Council Member Klave that this recommendation be and is hereby approved.

Mr. Swanson reported that it appears there were sufficient protests at Planning and Zoning that would preclude vacation of the right of way (including one adjoining property owner, Northern States Power Company, fire department and engineering department raised concerns), and the discussion at Planning and Zoning was to allow a variance to the standard city specifications on curb and gutter as well as the concrete itself. He also noted that Planning and Zoning has no authority or jurisdiction to approve a variance. Al Grasser, asst. city engineer, reported that their recommendation was to vacate so Assoc. Potato could pour the slab and no problem with addressing this matter tonight.

It was moved by Council Member Beyer and seconded by Council Member Hafner to approve the variance as recommended by Planning and Zoning Commission. Carried 13 votes affirmative.

Upon call for the question on the original motion, as amended, and upon voice vote, the motion carried 13 votes affirmative.

APPROVE CHANGE IN TIME OF COUNCIL MEETINGS

The Flood Response Committee reported having considered the matter of meeting time for city council meetings, and recommended that the regular council meetings be changed to 7:00 p.m.

It was moved by Council Member Glassheim and seconded by Council Member Hafner that this recommendation be and is hereby approved. Carried 13 votes affirmative.

Council Member Hanson introduced an ordinance entitled "An ordinance amending Section 2-0101 of the Grand Forks City Code relating to meetings of the Grand Forks city council", which was presented, read and passed on its first reading.

RECONSIDER MATTER OF ELIMINATION OF TAX EXEMPTION FOR NEW CONSTRUCTION BEGINNING AFTER JUNE 10

It was moved by Council Member Beyer and seconded by Council Member Klave to reconsider the matter of elimination of the tax exemption for new construction beginning after June 10, 1997 and which was defeated by a vote of 5 to 8 by the council at its June 2, 1997 meeting.

Council Member Glassheim expressed concern about the state of the city's tax base, that there are going to be re-evaluations with about \$1 million loss of income from tax base as re-evaluate property damaged, and that there were discussions about assisting people in getting into new homes at most affordable level possible, City going to be looking at short fall in property taxes and can't afford to give two-year exemptions to new construction.

Upon call for the question and upon voice vote, the motion carried 12 votes affirmative, Council Member Hamerlik voted against the motion for reconsideration.

It was then moved by Council Member Glassheim and seconded by Council Member Polovitz to eliminate all property tax exemptions for new construction beginning after June 10, 1997.

The city auditor reported that one of the reasons for the recommendation for the exemption is based on the fact that those homeowners presently paying property taxes, unlike other property tax exemptions in the past where the argument has

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been it's revenue we don't have we should forgive it, that isn't the case here. He stated that the amount in lost revenue is somewhere between \$1.2 and \$1.5 million which is 17 mills in our tax base. He stated that Tri-chairs discussed and don't believe services will be reduced to that extent but believe service requirements will go up; that they are looking at potential for assisting home-owners to move into new developments by paying special assessments in those areas for infrastructure of approx. \$15,000 per lot, and that assumption based on fact that they have paid assessments in their present area so would seem somewhat fair to allow that, that there is some consideration for assistance in down payments in new housing to help reduce principal that they would have to mortgage and trying to get them closer to a position that they may presently be in. He reported that those are some of the things they are looking at and certainly in the CDBG funds the primary usage of those funds is for housing and business redevelopment and in the infrastructure area. He stated they realize that this is all contingent upon how much funding they receive; and in looking at potential for future, costs won't be reduced; therefore, it's a choice of having those taxpayers who move into developments pick up their share of the tax load or it's going to be passed on to other taxpayers, that there isn't substitute of money to make up for what they will lose.

Council Member Klave stated that as of April 7, 1997 they did change the structure for the tax exemption, that any home that has a value in excess of \$125,000 gets no exemption, that house has to fall into certain category to receive exemption.

After further discussion it was moved by Council Member Hafner and seconded by Council Member Hanson to table this matter to June 16, 1997. Carried 13 votes affirmative.

REFER VARIOUS MATTERS TO COMMITTEE

Various items were presented to the council for consideration and/or referral to committee.

1) Council Member Bakken presented the matter of City engineers or HUD planners could draw up community plan for housing areas so public can see what new developments are going to look like.

ADOPT PROPOSED TIMELINE FOR PRESENTATION
OF INFORMATION, PUBLIC INPUT AND DECISION-
MAKING FOR FUTURE FLOOD PROTECTION

Council Member Hafner reported that council members had received copy of Grand Forks Future Flood Protection proposed timeline for presentation of information, public input, and decision-making and presented to the council for adoption.

Council Member Hamerlik stated that on Thursday, June 19 the proposed timeline indicates that the Flood Response Committee will make a recommendation to the council re. future flood protection plan, that it seems appropriate that the council meet as a committee of the whole to discuss it rather than going through it a second time and that any changes, amendments, etc. could be made at that time. He suggested that the committee of the whole meet to make a recommendation to the city council regarding the protection plan. Council Member Hamerlik moved to adopt as presented with the committee of the whole meeting on the 19th at 5:00 p.m., seconded by Council Member Hafner. Carried 13 votes affirmative.

REFER VARIOUS ITEMS TO COMMITTEE

2) Council Member Glassheim presented the matter of letter from constituent asking whether they should adopt an ordinance requiring disclosure of damage on property transfers and on deeds so future owners will know extent of damage to

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homes. President Hagness referred the matter to the Flood Response Committee.

3) Council Member Carpenter asked what status was of Phase I buyout. Mr. Swanson reported he hasn't issued formal opinion, that he met with Mr. Christensen this morning and then met with representatives of FEMA; that he will also have telephone conference with representatives of FEMA and their general counsel, as well as with HUD representatives and their general counsel. He stated that he doesn't anticipate issuing ruling this week. He reported that he reviewed existing program with Mr. O'Leary and Mr. Manske as well as some proposed redrafts, and will be coming back sometime in the future.

ADOPT FLOW CHART FROM MAYOR'S TASK FORCE
ON BUSINESS REDEVELOPMENT

The city auditor reported that copies of a flow chart from the Mayor's Task Force on Business Redevelopment had been distributed to council members, that Jim Kennelly who heads the committee on business

facilitation has asked that this be presented to the council for consideration and adoption of their work flow. He stated this signifies goals of each of the subcommittees of that group, and represents the integration of these units. It was moved by Council Member Hafner and seconded by Council Member Bakken that the flow chart be adopted as presented. Carried 13 votes affirmative.

REPORT FROM CITY ATTORNEY

Mr. Swanson reported that last week the council had directed that his office obtain further information from FEMA regarding the application of flood insurance proceeds to any net amount paid under property acquisition. He stated that he did receive the information from Ed Conley, FEMA, and will be preparing a memo and providing that to the city council.

Mr. Swanson also reported that two other items of discussion had to do specifically with demolition of damaged structures and the impact any demolition might have on the fair market value as well as the cost of debris removal from demolished premises having an impact, and anticipates that they will be receiving written response from FEMA on both of those issues, and anticipates in both cases that neither the demolition nor the cost of removal will be deducted from the market value of any structure that's acquired.

ADJOURN

It was moved by Council Member Hamerlik and seconded by Council Member Beyer that we do now adjourn until Monday, June 16, 1997 at 7:00 o'clock p.m. Carried 13 votes affirmative.

Respectfully submitted,

John M. Schmisek
City Auditor

Approved:

Thomas M. Hagness, President of Council