

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at www.FargoND.gov/streaming. They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at www.FargoND.gov/citycommission.

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, January 2, 2019).

CONSENT AGENDA – APPROVE THE FOLLOWING:

1. 1st reading of an Ordinance Amending Section 2-0203 and Enacting Section 2-0205 of Article 2-02 of Chapter 2 of the Fargo Municipal Code Relating to Elections.
2. 2nd reading and final adoption of the following Ordinances; 1st reading 1/2/19:
 - a. Amending Section 7-0302 of Article 7-03 of Chapter 7 of the Fargo Municipal Code Relating to the Fire Department.
 - b. Amending Section 8-0305 and Enacting Section 8-0323 of Article 8-03 of Chapter 8 of the Fargo Municipal Code Relating to Regulations Governing Operators.
 - c. Amending Section 1-0305 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Penalties for Non-Criminal Violations.
 - d. Rezoning Certain Parcels of Land Lying in Egbert, O'Neil and Haggart's Addition.
3. Applications for property tax exemptions for improvements made to buildings:
 - a. Connie J. Payne, 1302 10th Street South (5 year).
 - b. Sam and Leah Melquist, 1311 5th Street South (5 year).
 - c. Stacey M. and Chad Gratton, 3007 2nd Street North (5 year).
 - d. Clyde Trautman, 1626 6th Street South (5 year).
 - e. Bryan S. and Tifanie K. Gelinske, 1602 3rd Street North (5 year).
 - f. Michael S. McMullen, 1409 8th Street South (5 year).
 - g. Rader Family LLC, 1317 14th Street South (5 year).
 - h. Chelsey R. Frydenlund, 2422 Demores Drive South (5 year).
 - i. Chad G. and Karie L. Whiting, 2713 Southgate Drive South (5 year).
 - j. Donald W. Gilbertson, 709 16th Street South (5 year).
 - k. Dave and Denise Kolpack, 1322 6th Avenue South (5 year).
 - l. Long T. Nguyen, 718 26th Street North (5 year).
4. Direct the City Attorney's Office to prepare the necessary Ordinance or Ordinance Amendment to address unlawful snow depositing on private property.
5. Amended Gaming Site Authorizations for Northern Prairie Performing Arts at Pour House and O'Clevy's.
6. Agreement for Provision of Health Services for Cass County by Fargo Cass Public Health.

Grant Agreement with Lutheran Social Services of North Dakota for medical screening/TB follow-up visits.

8. Voluntary National Retail Food Regulatory Program Standards (Retail Standards) Grant Program to provide Fargo Cass Public Health with Standard 2 Training of Regulatory Staff.
9. Direct the City Attorney's Office to amend Article 21-06 of the Fargo Municipal Code to include FEMA's policy on cumulative substantial improvements.
10. 2019 Social Service Fund allocations.
11. Acceptance of a \$1,000.00 donation from Corwin Brothers for the Fargo Police Department Canine Unit.
12. Purchase of one mechanical high dump street sweeper from Northern Truck Equipment Corporation in the amount of \$210,516.00 (RFP19006).
13. May – October residential curbside brush chipping program to follow the 2-week recycling schedule beginning May 1, 2019.
14. Winter closure of the rear yard sidewalks located on the southern side of the 4200 block of 49th Avenue South.
15. Lease Agreement with Jefferson Partners, L.P. to lease space at the GTC.
16. Amendment to Contract No. 38170156A with the ND Department of Transportation.
17. Temporary Encroachment/Use Agreement with Spartan Garages, LLC for property located at 1101 25th Avenue North, as well as a \$500.00 use fee.
18. Updated 2019 Capital Improvement Plan.
19. Contract Amendment No. 4 with AE2S for an increase of \$53,000.00 for Project No. MS-15-P0.
20. Change Order No. 1 for an increase of \$38,270.00 for Project No. SN-17-A1.
21. Rescind the contract award to Mid-American Signal, reject all other proposals and issue a new RFP for Project No. TR-18-A1.
22. Bid advertisement for Project Nos. SN-19-A and SR-19-A.
23. Bills.
24. Memorandum of Offer to Landowner Temporary and Permanent Easements from the University of Northwestern-St. Paul in association with Improvement District No. BN-19-A1.
25. Utility relocation and payment authorization to Minnkota Power in the amount of \$57,000.00 (Improvement District No. BN-19-A2).
26. Receive and file the Main Avenue Street Reconstruction Update (Improvement District No. BR-18-A1).
27. Change Order No. 2 for an increase of \$9,548.09 for Improvement District No. BN-18-G1.

Page 28. Change Order No. 2 for an increase of \$86,199.00 for Improvement District No. DN-18-A1.

29. Contract Amendment No. 4 with Houston Engineering for an increase of \$8,000.00 for Improvement District No. MS-17-A0.

REGULAR AGENDA:

30. Recommendations for On-Street Parking.

31. Recommendation to appoint Heather Keeler-Johnson to the Native American Commission.

32. Public Hearings - 5:15 pm:

a. Transfer of a Class "C" Alcoholic Beverage License from Men's Hair World LLC d/b/a Hair Salon to Men's Hair World LLC d/b/a Men's Hair World at 1801 45th Street South, Suite L1; continued from the 1/2/19 Regular Meeting.

b. Plat of Craigs Oak Grove Addition, a Vacation Plat of 5th Avenue North, and an alley, and a replat of part of Block 27, part of Block 28, and the vacated portions of Elm Street, Block 28 alley and 5th Avenue North, Keeney and Devitt's 2nd Addition, including a Subdivision Waiver to reduce the size of a cul-de-sac and a right-of-way name change (43, 44 and 48 5th Avenue North, 10, 14 and 22 6th Avenue North, and 505, 509, 515 and 519 Oak Street North); approval recommended by the Planning Commission on 6/5/18.

c. St. Paul's Newman Center Addition (1113, 1117, 1119, 1129, 1131 and 1141 North University Drive; 1112, 1118, 1122, 1126, 1130, 1134, 1138, 1142 and 1146 12th Street North; 1201, 1211, 1213, 1215 and 1223 11th Avenue North); approval recommended by the Planning Commission on 12/4/18:

1. Zoning Change from MR-3, Multi-Dwelling Residential, LC, Limited Commercial and SR-3, Single-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay.

2. 1st reading of rezoning Ordinance.

3. Planned Unit Development Master Land Use Plan.

4. 1st reading of Ordinance Establishing a Planned Unit Development.

5. Plat of St. Paul's Newman Center Addition.

33. Small cells:

a. Waive requirement to receive and file an Ordinance one week prior to 1st Reading and 1st Reading of an Ordinance Amending Article 24-04 of Chapter 24 of the Fargo Municipal Code Relating to Wireless Telecommunications.

b. Resolution Authorizing Wireless Telecommunication Facility Guidelines.

34. Recommendation to award bids for Phase 2 of the Police Department Headquarters Remodel Project (AFB18337).

35. Legislative Update.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo website at www.FargoND.gov/citycommission.

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

30

Type: TTAC Parking Recommendations

Location: Block 9 – Broadway btwn 2nd & 3rd Ave

Date of Hearing: 1/7/2019

<u>Routing</u>	<u>Date</u>
City Commission	<u>1/14/2019</u>
PWPEC File	<u>X</u>
Project File	<u>Jeremy Gorden</u>

The Committee reviewed a communication from Transportation Division Engineer, Jeremy Gorden, regarding the Block 9 on-street parking modifications. Traffic Technical Advisory Committee (TTAC) met on December 5 to hear from Keith Leier regarding the proposed on-street parking changes that will come as a result of the Block 9 project. Prior to this coming to TTAC it was before the Parking Commission and the Downtown Business Association for support. Below is the summary of changes unanimously approved by TTAC:

- On the south side of 3rd Ave N, switch from diagonal parking to parallel parking and create two 15-minute parking spots.
- On the east side of Broadway, eliminate all parking on the south half of the block to allow more room for the plaza area, switch from diagonal parking to parallel parking on the north half, and create a Drop Off Zone/Valet Zone using 3 spots.
- On the north side of 2nd Ave N, eliminate all parking on the west half of the block to allow more room for the plaza area.
- On 5th St, no changes.

The Committee discussed the potential benefit to other area businesses with the addition of four more 15-minute parking spots on the south side of 3rd Ave N. This would result in a total of six 15-minute parking spots on the south side of 3rd Ave N between Broadway and the mid-block.

Staff is recommending concurring with TTAC.

On a motion by Brenda Derrig, seconded by Nicole Crutchfield, the Committee voted to approve TTAC's recommendation with the addition of four more 15-minute parking spots on the south side of 3rd Ave N.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the on-street parking recommendations as amended.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

Developer meets City policy for payment of delinquent specials
 Agreement for payment of specials required of developer
 Letter of Credit required (per policy approved 5-28-13)

Yes	No
<u>N/A</u>	<u> </u>
<u>N/A</u>	<u> </u>
<u>N/A</u>	<u> </u>

COMMITTEE

Tim Mahoney, Mayor
 Nicole Crutchfield, Director of Planning
 Steve Dirksen, Fire Chief
 Bruce Grubb, City Administrator
 Ben Dow, Director of Operations
 Steve Sprague, City Auditor
 Brenda Derrig, City Engineer
 Kent Costin, Finance Director

Present	Yes	No	Unanimous
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ATTEST:

C: Kristi Olson


 Brenda E. Derrig, P.E.
 City Engineer

Memorandum

To: Members of PWPEC

From: Jeremy M. Gorden, PE, PTOE
Division Engineer - Transportation

Date: January 2, 2019

Subject: Recommendation from Traffic Technical Advisory Committee regarding Block 9 On-Street Parking modifications

The Traffic Technical Advisory Committee (TTAC) met on December 5 to hear from Keith Leier regarding the Block 9 project and the proposed on-street parking changes that will come as a result of that project. I have attached a letter that Keith put together for the DCP and the map showing the block and the parking modifications proposed for it. The summary of the changes are as follows:

- On the 3rd Ave N side, switch from diagonal to parallel parking on the south side, and create 2 parking spots either 15-minute zones or signed as a drop off zone for RDO.
- On the Broadway side, remove the diagonal parking on the south half of the block to allow more room for the plaza area, switch the diagonal parking to parallel parking on the north half of the east side and create a Drop Off Zone/Valet Zone using 3 spots.
- On the 2nd Ave N side, remove the diagonal parking on the west half of the block to allow more room for the plaza area.
- On the 5th St side, no changes.

There was good discussion on the project and members of TTAC are supportive of the plan.

At the end of the meeting the motion was made by Ryan Erickson, seconded by Jeremy Gorden, and it was as follows:

"The Traffic Technical Advisory Committee recommends to sign the 2 spots on the west end of 3rd Ave N with 15-minute parking signs, and to create a Drop Off Zone/Valet Zone in the 3 spots just north of the future plaza on Broadway." The motion was approved unanimously.

Members present were:

Brenda Derrig, Engineering
Jeremy Gorden, Traffic Engineering
Ryan Erickson, Fire
Ross Renner, Police
Aaron Nelson, Planning

Recommended Action:

"The Traffic Technical Advisory Committee recommends to sign the 2 spots on the west end of 3rd Ave N with 15-minute parking signs, and to create a Drop Off Zone/Valet Zone in the 3 spots just north of the future plaza on Broadway."

Attachment

To the Board of Directors of the Downtown Community Partnership

Thank you for your support of the Block 9 project in Downtown Fargo. Your efforts to share information about the project and address construction concerns and impacts is much appreciated.

As we look forward to the project being complete in the Fall of 2020, the City of Fargo and Block 9 Partners have initiated conversations regarding the long-term parking design of the site and its adjacent public right of ways.

The new parking plan for the site, proposed by Block 9 Partners and approved by City of Fargo Parking Commission on October 25, 2018, includes the following changes.

- Remove parking along the south and west borders of the plaza (-17 spaces). This change enhances pedestrian circulation and public safety through the plaza.
- Convert diagonal parking to parallel parking on Broadway and 3rd Avenue North along main building, reserving 5.5 spots for hotel valet and office operations (-8 spaces).
- Convert diagonal parking to parallel parking on 3rd Avenue North along the new parking ramp (-2 spaces).
- Open new parking garage to public parking (+94 spaces during business hours / +200 spaces after business hours)

The total net gain of public parking spaces to the block is 46 during business hours, and 146 after business hours.

We recognize that difficulty in finding a parking spot feels like an issue. It also feels like a form of success. Our goal is to create a space that draws more people into downtown Fargo, boosting foot traffic for all business owners. According to tourism and downtown development expert Roger Brooks International:

- Plazas have been shown to more than double retail sales in downtowns, and not just at the plaza – surrounding businesses benefit as well
- Roger Brooks International surveyed 100 plaza areas and 85 of them replaced a parking lot. In all 85 cases, the loss of parking had NO effect on retail spending. In fact, the development of the plaza made it worth walking a block or two and retail sales and services more than doubled as a result.
- All 100 of the surveyed communities with plazas, every single one, said it was the “best thing we’ve ever done,” not just for the downtown, but for the community.

The plaza at Block 9 is designed to draw 400,000 people to downtown Fargo each year. These parking changes increase the size of the plaza, widen sidewalks to support the 2016 Downtown Fargo Streetscape Guidelines and the City of Fargo’s InFocus Plan which calls for enhanced outdoor seating for restaurants.

We are asking your support of this parking plan in the form of a letter of support from the Downtown Community Partnership to the Fargo Engineering Department. We also appreciate working with you to address and alleviate the parking concerns of DCP member businesses.

Thank you for your consideration,



PARKING CONCEPT

OWNER
Kilbourne Group
215 Broadway SE, Suite 200
Fargo, ND 58102

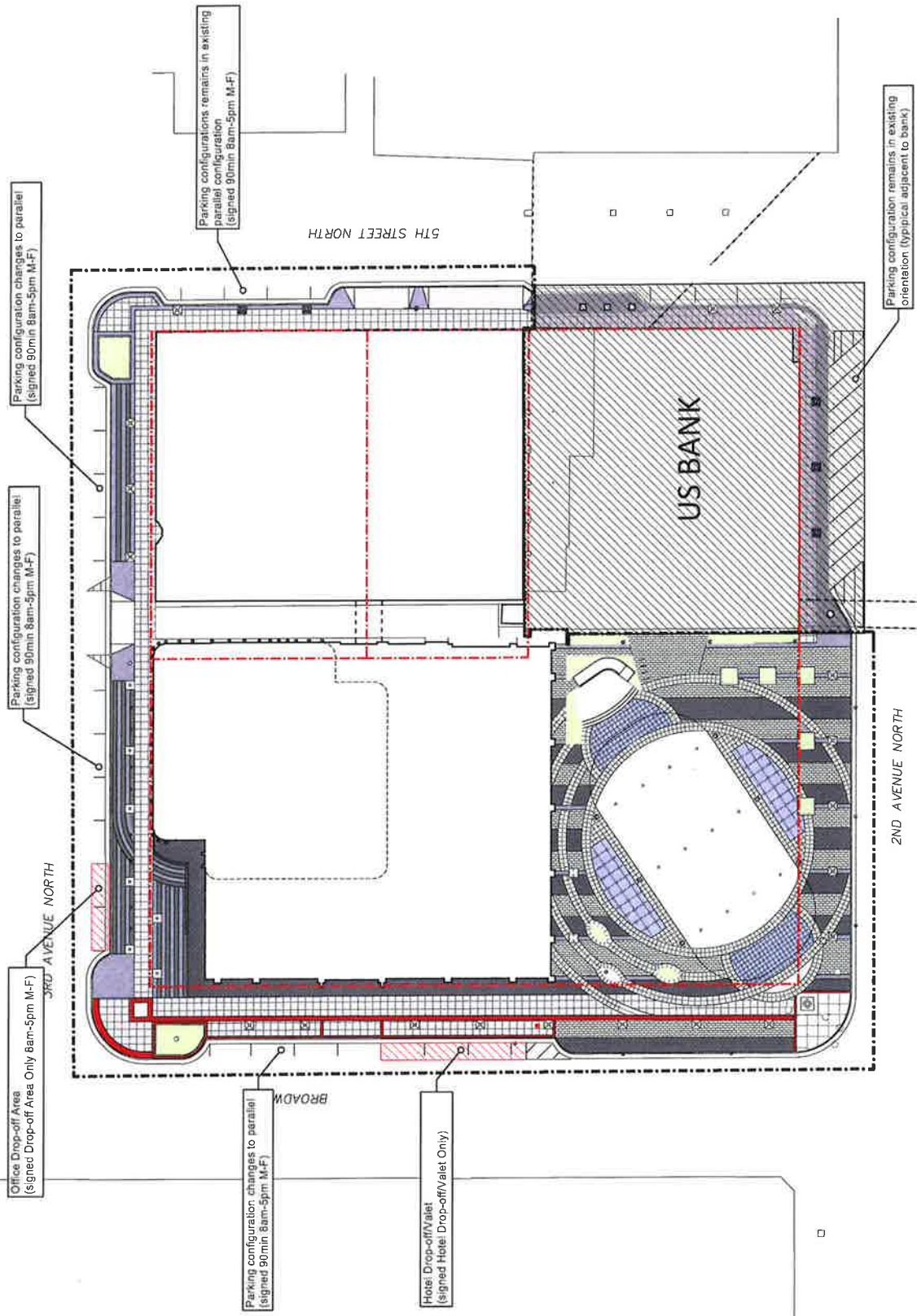
ARCHITECT/ENGINEER
R.D. Gabel Company
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CONSULTANTS
SOM
Shimizu, Odagiri & Merrill LP
215 Broadway SE, Suite 200
Fargo, ND 58102

LAND DEVELOPER
LAND DEVELOPMENT PARTNERS
Page 10 of 2013

ISSUED FOR AN IN-PROGRESS
CONSTRUCTION DOCUMENT
04-27-2017

DATE: 04/27/2017
SHEET NAME: [Blank]
PROJECT NO: [Blank]
DATE: [Blank]
SCALE: [Blank]




Prior Parking Configuration



(31)

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY 

DATE: JANUARY 9, 2019

SUBJECT: NATIVE AMERICAN COMMISSION APPOINTMENT

A vacancy exists on the Native American Commission due to the resignation of Ruth Buffalo.

Heather Keeler-Johnson has expressed interest in serving on the Board; therefore, I am recommending her appointed to fill the unexpired term of Ms. Buffalo expiring on June 30, 2020. I have attached a copy of her application for your information.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: To approve the appointment of Heather Keeler-Johnson to fill the unexpired term of Ruth Buffalo expiring on June 30, 2020.

From: noreply@cityoffargo.com
Sent: Thursday, May 03, 2018 2:33 PM
To: Commissions Applications
Subject: New Form Submission: Getting involved in government
Attachments: HeatherKeeler-JohnsonProfile.pdf

Name:
[Heather Keeler-Johnson]

Mailing Address:
[1905 19th St S]

City:
[MOORHEAD]

State:
[Minnesota]

Zip:
[56560]

Work Phone:
[218-284-2216]

Home Phone:
[605-929-5745]

E-mail:
[hkjohnson@moorheadschoools.org]

Which boards or commissions would you like to be considered for?
[Native American Commission]

Briefly state why you would like to be on this panel:
[I have a passion to be involved with my community and my culture, being a part of this panel brings those two passions together.]

How many hours per month could you volunteer as a panel member?
[I would be available to volunteer 20-30 hours a month.]

Please list any past experience you have with city government here or in other cities:
[Over the past year and a half have been a volunteer for events put on by the Native American Commission, such as the New Years Round Dance and mini Pow Wow, Community picnics, Indigenous People's day, and the new MMIWG/HT task force.]

Please describe any professional experience you have related to the responsibilities of the panel you are interested in:
[I am currently a Native American Liaison, working with students grades 7-12. This position allows me the opportunity to work with our youth and their families to help increase their success by removing barriers around education. Through this role I also help students make the transition to the next phase in life, whether that be helping to find a job or completed applications for college and scholarships. Working so close with so many families has helped me to see the needs of this community, and I would be able to bring those concerns and ideas to the panel.]

We will retain your application for three years and consider you for the board you have indicated interest in when a vacancy arises.

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City of Fargo Staff Report			
Title:	Craigs Oak Grove Addition	Date:	5/25/2018
		Update:	1/10/2019
Location:	43, 44, and 48 5th Avenue North, 10, 14, and 22 6th Avenue North, and 505, 509, 515, and 519 Oak Street North	Staff Contact:	Aaron Nelson
Legal Description:	Part of Block 27, part of Block 28, vacated portion of Elm Street, vacated portion of 5 th Avenue North, Keeney and Devitts 2nd Addition		
Owner(s)/Applicant:	Jesse Craig	Engineer:	KLJ
Entitlements Requested:	Major Subdivision (Vacation plat of 5th Avenue North, and an alley, and a replat of part of Block 27, part of Block 28, vacated portion of Elm Street, vacated portion of 5 th Avenue North, Keeney and Devitts 2nd Addition), including Street Vacation & Subdivision Waiver.		
Status:	City Commission Public Hearing: January 14, 2019		

Existing
Land Use: Household Living (Multi-Dwelling & Detached Housing), vacant, & public right-of-way.
Zoning: MR-2, Multi-Dwelling Residential, DMU, Downtown Mixed-Use, and PUD, Planned Unit Development Overlay.
Uses Allowed: MR-2 allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities
DMU allows detached houses, attached houses, duplexes, multi-dwelling structures, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off-premise advertising, commercial parking, retail sales and service, vehicle repair, limited vehicle service, and major entertainment events.
Maximum Density Allowed: MR-2 allows a maximum of 20 dwelling units per acre, DMU has no limit

Proposed
Land Use: Household Living (Attached & Multi-Dwelling Housing)
Zoning: No Change
Uses Allowed: No Change
Maximum Density Allowed: No Change

Proposal:
<p>The applicant is seeking approval of a major subdivision plat entitled <i>Craigs Oak Grove Addition</i>, which is intended to prepare the subject property for residential redevelopment. The subdivision would vacate a minimally improved portion of 5th Avenue N and mid-block alley, dedicate right-of-way for a cul-de-sac turnaround at the southern dead-end of Oak Street North, consolidate the subject property into one lot of 2.91 acers in area, and accommodate the construction of a permanent flood protection levee.</p> <p>As part of this subdivision application, the applicant is seeking a subdivision wavier in order to amend the standard requirements pertaining to the Oak Street N cul-de-sac. Specifically, the applicant is proposing to:</p> <ul style="list-style-type: none"> • reduce the diameter of the cul-de-sac right-of-way from 140 feet to 106 feet; • reduce the diameter of the cul-de-sac paving from 100 feet to 96 feet; and • waive the requirement to place sidewalk along the cul-de-sac (Sidewalk would still be placed along the north/south length of Oak St N).

This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: Across 6th Ave N are single-dwelling and multi-dwelling homes zoned MR-2, Multi-Dwelling Residential and LC, Limited Commercial;
- East: is a single-dwelling home and park zoned MR-2, Multi-Dwelling Residential and AG, Agricultural;
- South: is a BNSF railroad zoned DMU, Downtown Mixed-Use
- West: are single-dwelling and multi-dwelling homes zoned MR-2, Multi-Dwelling Residential and GC, General Commercial

Area Plans:

No area plans apply

Schools and Parks:

Schools: The subject property is located within the Fargo School District, specifically the Roosevelt/Horace Mann Elementary, Ben Franklin Middle and Fargo North High school attendance areas.

Neighborhood: The subject property is located in the Horace Mann neighborhood.

Parks: The subject property is located west of Wildflower Grove Park, which provides public amenities such as picnic tables and recreational trails.

Pedestrian / Bicycle: There is an existing off road bike facility to the east of the subject property on 6th Ave N which connects to the metro area trail system.

Staff Analysis:

Background

The applicant is proposing this subdivision in preparation for the redevelopment of the subject property. The applicant has stated that his intent is to construct residential housing that would likely consist of both townhomes and multi-dwelling apartment units. To this end, the proposed plat will primarily address:

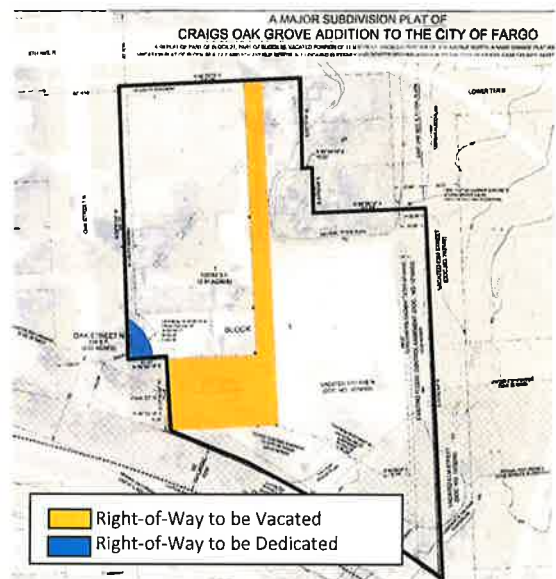
- access and circulation through vacation and dedication of public right-of-way;
- flood protection through construction of a permanent earthen levee; and
- consolidation of property into a single legal lot.

Access, Circulation, & Right-of-Way

The proposed subdivision involves the vacation of a portion of 5th Avenue N and the existing alley, which runs north/south between 5th and 6th Avenue N. The vacation of these two sections of right-of-way would result in Oak Street N dead-ending at 5th Avenue N. The Subdivision standards of the Land Development Code require that a cul-de-sac turnaround be provided at the end of a permanent dead-end street. As such, the proposed subdivision includes the dedication of a small area of right-of-way in order to accommodate a cul-de-sac turnaround at this location.

As noted in the *Proposal* section of this report, the applicant is seeking a subdivision waiver in order to amend the standard requirements pertaining to the cul-de-sac. Specifically, the applicant is proposing to:

- reduce the diameter of the cul-de-sac right-of-way from 140 feet to 106 feet;



- reduce the diameter of the cul-de-sac paving from 100 feet to 96 feet; and
- waive the requirement to place sidewalk along the cul-de-sac (Sidewalk would still be placed along the north/south length of Oak St N).

The proposed cul-de-sac paving diameter is adequate for standard vehicles to turn around and also meets the minimum requirement of the Fire Code for a firetruck turnaround—although on-street parking would be prohibited within the cul-de-sac to accommodate these vehicular turnaround movements. The proposed cul-de-sac right-of-way diameter provides for a five-foot boulevard, which is adequate for purposes of providing infrastructure such as street lighting.

The applicant has also requested to waive the requirement to place a sidewalk along the cul-de-sac. Staff is supportive of this request due to the lack of need at this location, the availability of alternative options for sidewalk connectivity, and for concerns relating to maintenance of the sidewalk. Since Oak Street N will dead-end at this location and the railroad track is a barrier to the south, additional sidewalk would provide no additional connectivity to the sidewalk network. There would be no development adjacent to a majority of the cul-de-sac due to the location of the railroad and river setback area. Development within this area would be able to connect to the sidewalk network along Oak Street N, north of the cul-de-sac. There is an existing sidewalk crossing of Oak Street N at 6th Avenue N, which is about 200 feet north of the cul-de-sac. Additionally, since the cul-de-sac abuts railroad right-of-way, sidewalk maintenance and snow removal would likely be an issue, since these would be the responsibilities of the adjacent property owner, which is the railroad.

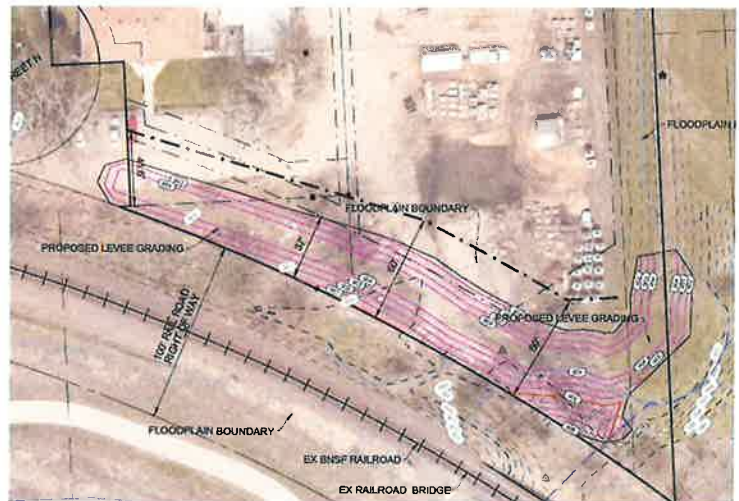
The subdivision plat would also accommodate a right-of-way name change for the small portion of 5th Avenue N adjacent to Oak Street, which is not included in the area to be vacated. This remainder of 5th Avenue N right-of-way will help accommodate the Oak Street cul-de-sac and will, therefore, be renamed as part of Oak Street to remove any reference to 5th Avenue N.

Flood Protection

In the time since development on the subject property originally took place, the City has adopted additional flood protection ordinances. As a result, any new development is subject to the requirements of the City’s current Floodproofing Code. One such standard requires that a primary line of flood protection be provided between the development and the flood source (i.e. the river). Currently, there is an existing flood levee along the eastern side of the subject property and the existing railroad embankment provides some level of flood protection to the south. However, there is a gap between these two lines of flood protection in the southeast corner of the subject property, which the proposed subdivision will address through the dedication of easement and construction of a new levee.

The subdivision will dedicate 0.43 acres of easement to the City of Fargo for purposes of maintaining a permanent flood levee along the southern end of the subdivision. The details of this easement are documented in a separate easement agreement document, which will be signed and recorded along with the plat. A copy of the easement document is attached.

The new levee will be located within this easement area. The levee will extend from the Oak Street N right-of-way to the southeast corner of the subdivision, where it will tie into the existing flood levee that runs along the east side of the subdivision. The developer will work with the City Engineering Department to design and construct a levee, which will be built to certifiable standards. The new levee is graphically illustrated in the image to the right.



River Setbacks – A portion of this subdivision is located within the watercourse setbacks of the Red River. In accordance with Section 20-0610 of the LDC, these watercourse setbacks are represented on the subdivision plat and a declaration of setback restrictive covenant has been drafted for purposes of notifying all subsequent owners of the watercourse setback requirements and restrictions. A copy of the restrictive covenant is attached and will be recorded along with the plat.

Developer Agreement – A developer agreement has been drafted in order to formally outline the details associated with the public improvements necessary to support the development of the subject property, including the flood protection levee and improvements to Oak Street N. The developer agreement will be executed and recorded along with the plat.

Public Comment

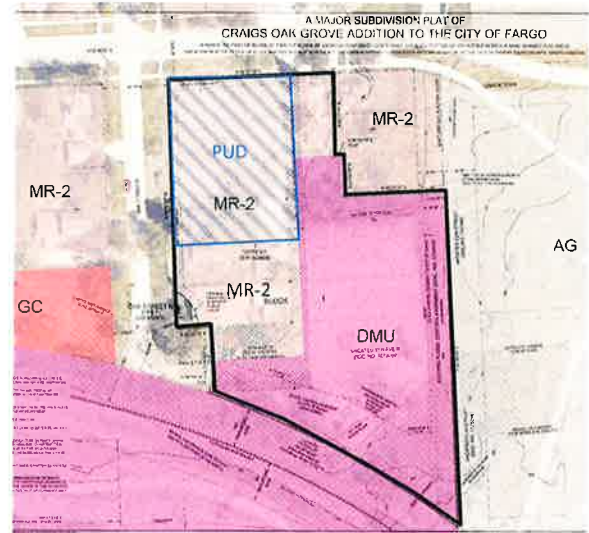
To date, staff has received one letter of written protest regarding this application from a neighboring resident. A copy of this letter is attached. Additionally, staff has received calls or questions regarding this application from about three additional residents. Public notification letters were mailed out to owners of property within 300 feet of the subject property, in accordance with Section 20-0901.F of the Land Development Code.

The applicant has worked over the past couple of years to acquire the parcels included within the subject property. Over this time, the applicant has shared various development concepts for this property. Most recently, the applicant has stated that he intends to construct townhomes in the northwestern area of the subject property an apartment building in the southeastern area. The applicant presented these development concepts to the Fargo Neighborhood Coalition at one of their meetings in the summer of 2017. Additionally, the applicant hosted an information meeting for neighboring residents in September of 2017.

Zoning

The subject property is partially located within both the DMU and MR-2 zoning districts. Although the DMU and MR-2 zoning districts both permit multi-dwelling and attached housing by-right, it is anticipated that the applicant will be applying for a zoning map amendment in order to modify the zoning to accommodate his specific project.

Additionally, a portion of the subject property is located within an existing PUD, Planned Unit Development, Overlay zoning district. This PUD zoning district was approved in 2016 for a townhome project which has now been abandoned, according to the applicant.



Subdivision

The LDC stipulates that the following criteria be met before a major plat can be approved:

1. **Section 20-0907.C.1 of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**
The subject property is located within the DMU (Downtown Mixed-Use) and MR-2 (Multi-Dwelling Residential) zoning districts. The DMU and MR-2 zoning districts both permit household-living by-right (including attached houses and multi-dwelling structures). Additionally, it is anticipated that the developer will pursue a zoning map amendment in order to accommodate the proposed development. **(Criteria Satisfied)**
2. **Section 20-0907.C.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

While there is no growth plan associated with this location within the City, the proposed development is consistent and compatible with the Go2030 Comprehensive Plan. Specifically, the Fargo Go2030 Comprehensive Plan supports infill and density within areas that are already developed, serviced with utilities, and protected by a flood resiliency strategy. The promotion of infill development is the number two ranked priority of Go2030. With the approval of the requested subdivision waiver, the proposed subdivision would comply with the standards of Article 20-06 and all other applicable requirements of the Land Development Code. **(Criteria Satisfied)**

3. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.

Staff has worked with the applicant to develop a draft amenities plan that specifies the terms of securing installation of public improvements to serve the subdivision. This amenities plan will be reviewed by the Public Works Project Evaluation Committee (PWPEC) prior to final action on the application by the Fargo City Commission. Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment policy and procedure. Additionally, a developer agreement has been drafted to formally document the details of the public improvements necessary to support the development of the subject property. **(Criteria Satisfied)**

Subdivision Waiver

The LDC stipulates that the following criteria be met before a subdivision waiver can be approved:

1. A Subdivision Waiver must not be detrimental to the public safety, health or welfare, or injurious to other property or improvements in the area in which the property is located.

As discussed earlier within this report, staff is supportive of the requested subdivision waiver. Staff has no reason to believe that the requested subdivision waiver would be detrimental to the public safety, health or welfare, or injurious to other property or improvements in the area. **(Criteria Satisfied)**

2. The Subdivision Waiver must represent the least deviation from this Land Development Code that will mitigate the hardship or practical difficulty that exists on the subject property.

The practical difficulty is that the cul-de-sac is being retrofitted into an existing area, and that only the property on the eastern side of Oak Street N is being replatted. As a result, all of the additional right-of-way needed to accommodate the cul-de-sac will be dedicated by the proposed subdivision, resulting in the cul-de-sac being shifted off-center towards the east. The proposed subdivision waiver is intended to help offset some of the additional right-of-way needed to accommodate the new cul-de-sac turnaround. In a typical new subdivision, right-of-way for a cul-de-sac would be dedicated equally on both sides of the street. Staff has reviewed the proposed subdivision waiver and has found that the reduced cul-de-sac size meets the minimum turnaround diameter prescribed by the Fire Code, and is adequate to provide for necessary public infrastructure, such as street lighting. Additionally, it is anticipated that the reduced cul-de-sac size should result in public cost savings at the time of construction due to reduced area of paving. As noted above, staff is supportive of the request to not install sidewalk around the cul-de-sac due to the lack of need at this location, the availability of alternative options for sidewalk connectivity, and for concerns relating to maintenance of the sidewalk. **(Criteria Satisfied)**

3. The Subdivision Waiver shall not have the effect of waiving any provisions of this development code other than the Subdivision Design and Improvement Standards of Article 20-06.

As outlined within this report, the requested subdivision waiver is intended to reduce the dimensions of the cul-de-sac as required by Section 20-0611 and the sidewalk standards of Section 20-0609 of the Land Development Code, which are both Subdivision Design and Improvement Standard of Article 20-06. **(Criteria Satisfied)**

ROW Vacation Approval Criteria

The City of Fargo does not currently have any adopted regulation dealing with the vacation of rights-of-way. However, city policy dictates that any applicant wishing to vacate right-of-way must submit a Vacate Application, a one page form wherein the applicant provides: a description of the area to be vacated, and signatures of all property owners adjoining the area to be vacated. In addition, the applicant must submit a vacate plat (a major subdivision). Notwithstanding the Land Development Code's silence on the matter, the North Dakota Century Code (N.D.C.C) does address the opening and vacating of roadways in Chapter 24-07 (outside of municipal limits) and Chapter 40-39 (inside municipal limits). To that end, the balance of this report will focus on the specific approval criteria outlined within the N.D.C.C.

N.D.C.C. 40-39-04. Vacation of streets and alleys where sewers, water mains, pipes, and lines located – Conditions. No public grounds, streets, alleys, or parts thereof over, under, or through which have been constructed, lengthwise, any sewers, water mains, gas, or other pipes or telephone, electric, or cable television lines, of the municipality or the municipality's grantees of the right of way thereof, may be vacated unless the sewers, mains, pipes, or lines have been abandoned and are not in use, or unless the grantee consents, thereto, or unless perpetual easements for the maintenance of sewers, water mains, gas, or other pipes, or telephone, electric facilities, whether underground or aboveground, is subject to the continued right of location of such electric facilities in the vacated streets.

This portion of right-of-way does not contain any sewers, water mains, gas, or other pipes or telephone, electric, or cable television lines. (Criteria Satisfied)

N.D.C.C. 40-39-05. Petition for vacation of streets, alleys, or public grounds – Contents – Verification. No public grounds, streets, alleys, or parts thereof within a municipality shall be vacated or discontinued by the governing body except on a petition signed by all of the owners of the property adjoining the plat to be vacated. Such petition shall set forth the facts and reasons for such vacation, shall be accompanied by a plat of such public grounds, streets, or alleys proposed to be vacated, and shall be verified by the oath of at least one petitioner.

In accordance with the requirement of this section, a petition signed by all adjacent owners has been submitted for review and consideration, along with a plat of such public street. (Criteria Satisfied)

N.D.C.C 40-39-06. Petition filed with city auditor – Notice published – Contents of notice. If the governing body finds that the petition for vacation is in proper form and contains the requisite signatures, and if it deems it expedient to consider such petition, it shall order the petition to be filed with the city auditor who shall give notice by publication in the official newspaper of the municipality at least once each week for four weeks. The notice shall state that a petition has been filed and the object thereof, and that it will be heard and considered by the governing body or a committee thereof on a certain specified day which shall not be less than thirty days after the first publication of the notice.

Documentation of said action is located within both the Planning project file and Auditor's file. (Criteria Satisfied)

N.D.C.C. 40-39-07. Hearing on petition – Passage of resolution declaring vacation by governing body. The governing body, or such committee as may be appointed by it, shall investigate and consider the matter set forth in the petition specified in section 40-39-05 and, at the time and place specified in the notice, shall hear the testimony and evidence of persons interested. After hearing the testimony and evidence or upon the report of the committee favoring the granting of the petition, the governing body, by a resolution passed by a two-thirds vote of all its members, may declare the public grounds, streets, alleys, or highway described in the petition vacated upon such terms and conditions as it shall deem just and reasonable.

Update: 1/10/2019

The Planning Commission held a public hearing for this application on June 5, 2018, at which two citizens voiced concern with the prospect of apartments being constructed at the subject property. One of the two also expressed concern that the applicant is not paying a fee to acquire the vacated right-of-way. Upon question by the Planning Commission, staff confirmed that there is no zoning change proposed as part of this current application. Staff noted that any future proposed zoning change would require review by the Planning Commission and approval by the City Commission, and would require a publicly noticed hearing be held by both of those commissions. Staff would also reiterate, as noted above in this staff report, that the subject property is currently located within zoning districts that permit multi-dwelling structures (i.e. apartment buildings) by-right. Regarding the lack of payment for acquisition of the vacated right-of-way, the City Attorney explained the process for vacation of public right-of-way as outlined within the North Dakota Century Code.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff, and hereby approve the following: 1) Craigs Oak Grove Addition subdivision, 2) vacation plat, and 3) subdivision waiver of Sections 20-0611 and 20-0609 of the LDC as presented, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Chapter 40-39 of the North Dakota Century Code, Standards of Article 20-06, and Section 20-0907 of the LDC, and all other applicable requirements of the LDC; 4) execution of the Declaration of Setback Restrictive Covenant agreement; 5) execution of the Developer Agreement and Waiver of Protest agreement; and 6) acceptance of the Permanent Flood Control Easement."

Planning Commission Recommendation: June 5, 2018

On June 5, 2018, with a 9-0 vote, the Planning Commission accepted the findings and recommendations of staff and recommended approval to the City Commission of the proposed 1) Craigs Oak Grove Addition subdivision, 2) vacation plat, and 2) subdivision waiver of Sections 20-0611 and 20-0609 of the LDC as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Chapter 40-39 of the North Dakota Century Code, Standards of Article 20-06, and Section 20-0907 of the LDC, and all other applicable requirements of the LDC.

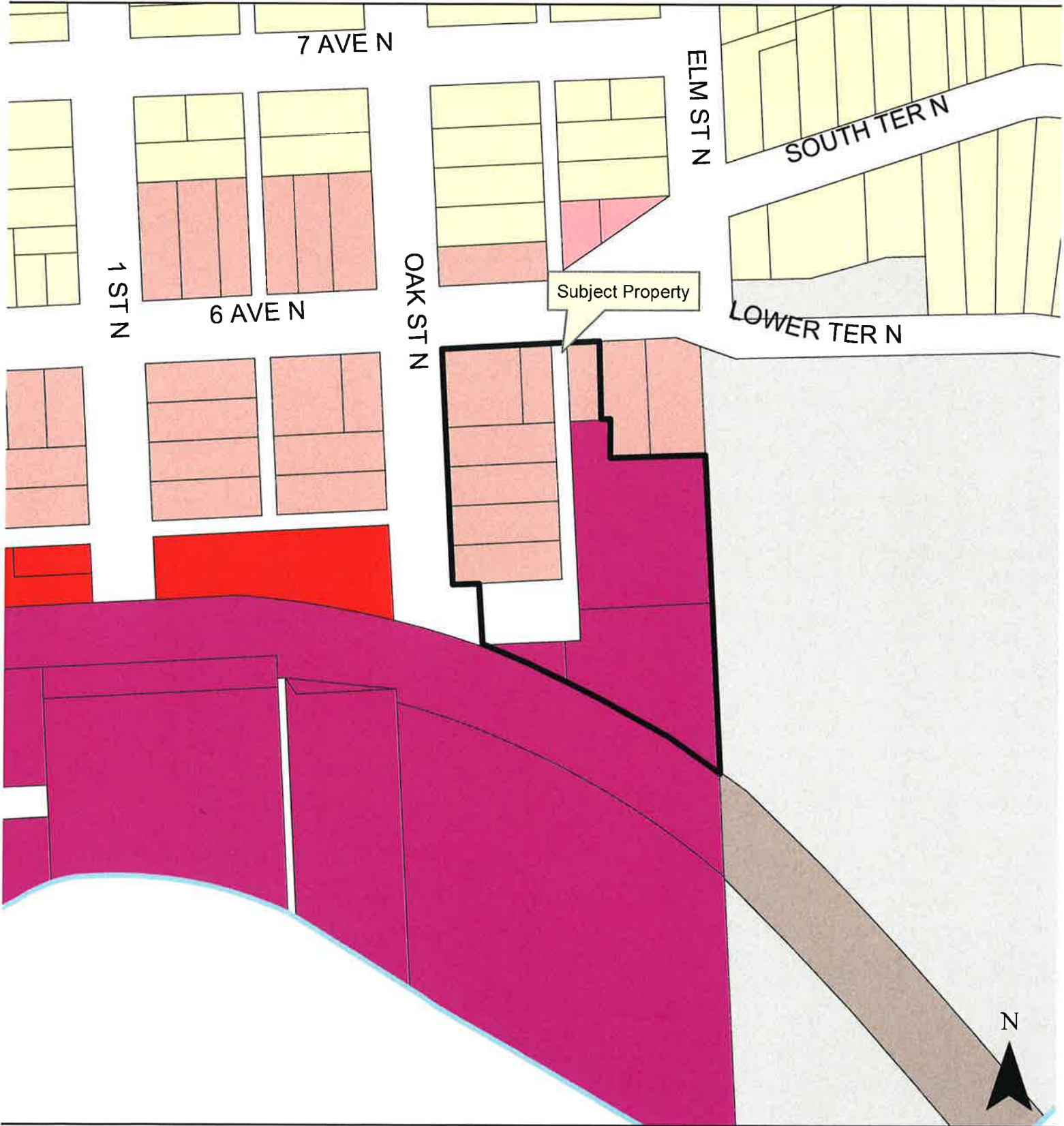
Attachments:

1. Zoning Map
2. Location Map
3. Plat
4. Amenities Plan
5. Permanent Flood Control Easement
6. Declaration of Setback Restrictive Covenant
7. Developer Agreement and Waiver of Protest
8. Flood Levee Graphic
9. Public Comment

Plat (Major)

Craigs Oak Grove Addition

10 - 22 6th Ave N, 43 - 48
5th Ave N & 505 - 519 Oak St N



Craigs Oak Grove Addition

10 - 22 6th Ave N, 43 - 48
5th Ave N & 505 - 519 Oak St N



A MAJOR SUBDIVISION PLAT OF
CRAIGS OAK GROVE ADDITION TO THE CITY OF FARGO
A REPLAT OF PART OF BLOCK 27, PART OF BLOCK 28, VACATED PORTION OF 5TH STREET, VACATED PORTION OF 5TH AVENUE NORTH, A NAME CHANGE PLAT AND A
VACATION PLAT OF BLOCK 28 ALLEY AND 5TH AVENUE NORTH, ALL LOCATED IN KEENEY AND DEWITT'S SECOND ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DESCRIPTION OF AREA TO BE VACATED:
ALL OF THE ALLEYS COMMON TO, ONE'S PORTION 1.2 OF BLOCK 28, AND ALL EXCEPT THE WEST 440 FEET OF CTH AVENUE NORTH, AS LOCATED IN AND ADJACENT TO BLOCK 27 NORTH OF BUNK
RAILROAD AND COOK 28, ALL IN KEENEY AND DEWITT'S SECOND ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA.

DESCRIPTION OF NAME CHANGE:
THE NAME OF 5TH AVENUE NORTH BETWEEN OAK STREET NORTH AND VACATED 5TH AVENUE NORTH SHALL BE RENAMED AND REDENOTED DESIGNATED AND IN THE FUTURE SHALL BE KNOWN BY SAID DESIGNATED NAME
OAK STREET NORTH.

OWNER'S DESCRIPTION, ACCEPTANCE AND DEDICATION

WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE LAND DESCRIBED IN THE PLAT OF "CRAIGS OAK GROVE ADDITION" TO THE CITY OF FARGO, A REPLAT OF
BLOCKS 27 AND 28, PART OF BLOCK 28, VACATED PORTION OF 5TH STREET, VACATED PORTION OF 5TH AVENUE NORTH, A NAME CHANGE PLAT AND A VACATION PLAT OF BLOCK 28 ALLEY AND
5TH AVENUE NORTH, ALL LOCATED IN KEENEY AND DEWITT'S SECOND ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA. WE HEREBY ACCEPT AND DEDICATE TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA, THE VACATED PORTION OF 5TH STREET, VACATED PORTION OF 5TH AVENUE NORTH, A NAME CHANGE PLAT AND A VACATION PLAT OF BLOCK 28 ALLEY AND
5TH AVENUE NORTH, ALL LOCATED IN KEENEY AND DEWITT'S SECOND ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA. WE HAVE DEDICATED TO BE PLATTED WHO LOTS
CITY OF FARGO ALL AS SHOWN ON SAID PLAT.

SAID PLAT CONTAINS 2 1/2 ACRES, MORE OR LESS, AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS BY WAY OF RECORD.

OWNER: LUS INVESTMENTS, LLC

JESSE CHAD WINTERSON
STATE OF NORTH DAKOTA)
COUNTY OF CASS) SS

ON THIS 27th DAY OF October, 2018, BEFORE ME, A
NOTARY PUBLIC WITH AND FOR SAID COUNTY AND STATE, PERSONALLY
APPEARED JESSE CHAD WINTERSON, TO ME KNOWN TO BE THE PERSONAL
AND SOLE OWNER OF THE LAND DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.



MORTGAGE GREAT WESTERN BANK
MORTGAGE LENDER, SPECIAL REPRESENTATIVE

STATE OF NORTH DAKOTA)
COUNTY OF CASS) SS

ON THIS 27th DAY OF October, 2018, BEFORE ME, A
NOTARY PUBLIC WITH AND FOR SAID COUNTY AND STATE, PERSONALLY
APPEARED GREAT WESTERN BANK, TO ME KNOWN TO BE THE PERSONAL
AND SOLE OWNER OF THE LAND DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.



SURVEYORS CERTIFICATE AND ACKNOWLEDGEMENT

I, CLARE E. CLARK, PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF
NORTH DAKOTA, HAVE EXAMINED THE PLAT OF "CRAIGS OAK GROVE ADDITION" TO THE CITY OF FARGO, A REPLAT OF
BLOCKS 27 AND 28, PART OF BLOCK 28, VACATED PORTION OF 5TH STREET, VACATED PORTION OF 5TH AVENUE NORTH, A NAME CHANGE PLAT AND A VACATION PLAT OF BLOCK 28 ALLEY AND
5TH AVENUE NORTH, ALL LOCATED IN KEENEY AND DEWITT'S SECOND ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA. I HEREBY CERTIFY THAT THE PLAT IS
CORRECT AND ACCURATE REPRESENTATION OF THE SURVEY OF THE
LAND DESCRIBED THEREIN, AND THAT THE SURVEY HAS BEEN CONDUCTED IN ACCORDANCE WITH THE SURVEYING LAWS OF NORTH DAKOTA. I HEREBY CERTIFY THAT THE PLAT IS
CORRECT AND ACCURATE REPRESENTATION OF THE SURVEY OF THE
LAND DESCRIBED THEREIN, AND THAT THE SURVEY HAS BEEN CONDUCTED IN ACCORDANCE WITH THE SURVEYING LAWS OF NORTH DAKOTA.



CLARE E. CLARK, PROFESSIONAL LAND SURVEYOR
STATE OF NORTH DAKOTA)
COUNTY OF CASS) SS

ON THIS 27th DAY OF October, 2018, BEFORE ME, A
NOTARY PUBLIC WITH AND FOR SAID COUNTY AND STATE, PERSONALLY
APPEARED CLARE E. CLARK, TO ME KNOWN TO BE THE PERSONAL
AND SOLE OWNER OF THE LAND DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.



CITY OF FARGO PLANNING COMMISSION APPROVAL

APPROVED BY THE CITY OF FARGO PLANNING COMMISSION THIS 27th DAY
OF October, 2018.

EMMA FISHER CHASE
FARGO PLANNING COMMISSION

STATE OF NORTH DAKOTA)
COUNTY OF CASS) SS

ON THIS 27th DAY OF November, 2018, BEFORE ME, A
NOTARY PUBLIC WITH AND FOR SAID COUNTY AND STATE, PERSONALLY
APPEARED EMMA FISHER CHASE, FARGO PLANNING COMMISSION CHAIR, TO ME KNOWN
TO BE THE PERSONAL AND SOLE OWNER OF THE LAND DESCRIBED IN AND WHO EXECUTED THE SAME AS A
FREE ACT AND DEED.



CITY OF FARGO CITY COMMISSION APPROVAL

APPROVED BY THE BOARD OF CITY COMMISSIONERS AND DEWEED FLAB
THIS 27th DAY OF October, 2018.

BRIGITTE EISENBERG CITY ENGINEER

STATE OF NORTH DAKOTA)
COUNTY OF CASS) SS

ON THIS 27th DAY OF October, 2018, BEFORE ME, A NOTARY
PUBLIC WITH AND FOR SAID COUNTY AND STATE, PERSONALLY
APPEARED BRIGITTE EISENBERG, CITY ENGINEER, TO ME KNOWN
TO BE THE PERSONAL AND SOLE OWNER OF THE LAND DESCRIBED IN
AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

NOTARY PUBLIC

**Site Amenities and Project Plan
Craigs Oak Grove Addition
2018**

1. **Location:** The subject property is generally bounded by Oak Street N on the west, 6th Ave N on the north, the BNSF railroad on the south, and an earthen dike on the east.
2. **Details:** The proposed project is anticipated to include ten (10) townhome units (two five-unit townhomes) and a ninety-six (96) unit apartment building. The subdivision comprises approximately 2.9 acres. The base zoning for the property is currently MR-2 and DMU, however, the developer intends to apply for a zoning map amendment in order to accommodate the proposed project.
3. **Access Control:** Vehicular access will meet the driveway spacing requirements of the Land Development Code. Driveways shall be located so as not to impact existing street trees.
4. **River Setbacks:** The subject property is subject to river setbacks as defined by Section 20-0508 of the Land Development Code. Flood protection levee construction within the river setback area is subject to approval by the City Engineer in accordance with Section 20-0508(C.7.) of the Land Development Code.
5. **Storm Water Management:** The subdivision will accommodate storm water quantity and quality through an on-site detention system that will be designed as part of the development project.
6. **Flood Protection:** Craigs Oak Grove Addition will be protected from flooding with the following measures:

Internal Flooding – rainfall or spring event induced:

- Storm sewer systems designed and installed to city standards;
- Storm water detention facilities located on site.

FEMA Floodplain Expansion: All building construction shall meet all Fargo Flood Proofing Code Requirements with the following:

- Point of risk on the lowest opening shall be 2.0 feet above the FEMA Base Flood Elevation (BFE). BFE of 900.0 feet + 2.0 feet = 902.0 feet, NAVD 88);
- The adjacent grades to a structure shall be above the Base Flood Elevation (BFE) for a 15-foot minimum clearance from the structure and shall be graded to have positive drainage away from the structures;
- Sewer service back-up valves shall be installed;
- Materials shall be placed on each lot in a manner that conforms to the City of Fargo standards for compaction and FEMA regulations for Letter of Map Revisions by Fill (LOMR- F). The developer shall prepare a LOMR-F on behalf of the entire development, along with elevation certificates as necessary during each construction phase.
- A permanent line of flood protection will be established prior to development taking place. The developer will work with the City Engineering Department to design and construct a levee along the south portion of the property. The levee shall be built to certifiable standards and shall connect to the existing levee along the eastern boundary of the subdivision to the cul-de-sac of Oak Street N. Construction testing documents pertaining to the flood protection levee installation shall be submitted to and approved by the City of Fargo engineering group to achieve certifiable construction.

7. **Water Supply:** The City of Fargo shall design, own, and operate the public water main system.
8. **Engineering and Construction Improvements:** The developer will rely upon and cooperate with the City Engineer regarding construction of public improvements associated with the proposed development. Additionally, a developer agreement will formally address the public improvements associated with this subdivision.
9. **Funding of Public Infrastructure Improvements:** Public improvements will be special assessed. These improvements may include sidewalks, infrastructure, or other development amenities consistent with the application of special assessments by the City of Fargo.
10. **Right-of-Way:** A section of 5th Avenue N will be vacated with this plat, along with the public alley within the boundaries of the subdivision. The section of 5th Avenue N that is to be vacated is located 40 feet east of the Oak Street N right-of-way. The remaining 40-foot-long section of 5th Avenue N that is not to be vacated will be renamed Oak Street N. Additional right-of-way is to be dedicated with this plat to provide for a cul-de-sac turnaround at the southern end of Oak Street N. There will be no on-street parking allowed within the cul-de-sac.
11. **Subdivision Waiver:** The subdivision includes a waiver (in accordance with Section 20-0612 of the Land Development Code) to the Minimum Turnaround dimensions found in Table 20-0611-2 of the Land Development Code and a waiver of the requirement to place sidewalk along the Oak Street N cul-de-sac as required by Section 20-0609 of the Land Development Code.

Minimum Turnaround

The standard minimum dimensions of a cul-de-sac turnaround are:

- Right-of-way diameter: 140 feet
- Street pavement diameter: 100 feet

The subdivision waiver reduces these dimensions as follows:

- Right-of-way diameter: 106 feet
- Street pavement diameter: 96 feet

There will be no on-street parking allowed within the cul-de-sac, due to the reduced diameter.

Sidewalk

The standard is for sidewalk to be installed along all streets within the City. The subdivision waiver waives the requirement to install sidewalk around the Oak Street N cul-de-sac. Standard sidewalk shall be required to be installed along Oak Street N to the north of the cul-de-sac turnaround.

Site Amenities and Project Plan
Craigs Oak Grove Addition - Page 3

Amenities Plan is hereby approved:



Jesse Craig, Partner
LHS Investments, LLC

10-15-18

Date



Brenda E. Derrig, City Engineer
City of Fargo

12-14-18

Date

PERMANENT EASEMENT
(Levee for Flood Control)

KNOW ALL MEN BY THESE PRESENTS that **LHS INVESTMENTS, LLC**, a North Dakota limited liability company, hereinafter referred to as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO**, a North Dakota municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a permanent and perpetual easement over, under, upon and in the land hereafter described for the purpose of maintaining an earthen dike, together with any and all other appurtenant structures or devices, said tract of land being more particularly described as follows:

A tract of land located in Blocks Twenty-seven (27) and Twenty-eight (28) of Keeney and Devitt’s Second Addition situated in the Southeast Quarter (SE1/4) of Section Six (6), Township One Hundred Thirty-nine North (T139N), Range Forty-eight West (R48W), of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of Block 28, Keeney and Devitt’s Second Addition; thence N 86 degrees 59 minutes 16 seconds E, along the south line of said Block 28, a distance of 40.00 feet; thence S 03 degrees 00 minutes 44 seconds E, a distance of 37.66 feet to the Point of Beginning. Thence S 73 degrees 28 minutes 41 seconds E a distance of 171.06 feet to a point 60 feet distant of the northerly right-of-way (R/W) line of Burlington Northern Santa Fe Railroad Company (BNSF) with said point being on a non-tangential curve concave to the right (southerly) having a radius of 1261.77 feet, a chord bearing S 61 degrees 08 minutes 47 seconds E; thence southeasterly along said curve and parallel with said R/W line 90.25 feet through a central angle of 04 degrees 05 minutes 54 seconds to the end of the curve; thence N 86 degrees 59 minutes 16 seconds E, not tangent to said curve, a distance of 25.94 feet to a point 27 feet distant of the east line of said Keeney and Devitt’s Second Addition and the east line of said SE1/4; thence N 02 degrees 52 minutes 08 seconds W, parallel with said east line, a distance of

293.14 feet to the north line of Lot 4 of said Block 28; thence N 87 degrees 03 minutes 25 seconds E, along the north line of said Lot 4 extended through vacated Elm Street, a distance of 27.00 feet to said east line of Keeney and Devitt's Second Addition and the SE1/4; thence S 02 degrees 52 minutes 08 seconds E on said east line, a distance of 406.57 feet to a point on said northerly R/W line of BNSF, said point being on a non-tangential curve concave to the left (southerly) having a radius of 1201.77 feet, a chord bearing N 62 degrees 15 minutes 06 seconds W; thence northwesterly along said R/W line and curve 346.64 feet through a central angle of 16 degrees 31 minutes 36 seconds to the end of the curve and a point on the north line of Block 27 of said Keeney and Devitt's Second Addition; thence N 86 degrees 59 minutes 16 seconds E, along said north line of Block 27, a distance of 6.34 feet; thence N 03 degrees 00 minutes 44 seconds W a distance of 41.62 feet to the Point of Beginning.

LESS all that part of a previously acquired easement, for flood control purposes, lying within Twenty-two (22) feet of the east line of said Keeney and Devitt's Second Addition and the SE1/4, recorded as Document No. 1216953.

Said easement is shown on the plat for Craigs Oak Grove Addition and contains, 0.42 acres, more or less.

Grantor, its successors and assigns, hereby covenants to and with Grantee that Grantee's officers, contractors, agents and employees may, at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further understand and agree that they will not disturb, injure, molest or in any manner interfere with said earthen dike as constructed and the customary appurtenances, or with material for laying, maintaining, operating or repairing the same, in, over or upon the above-described premises. Grantor, its successors and assigns, further expressly warrants and states that no buildings, trees, shrubs, sprinkler systems or other obstacles of any kind shall be placed or located upon the tract in any manner which may interfere with said earthen dike.

IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this 30th day of November, 2018.

GRANTOR:
LHS Investments, LLC



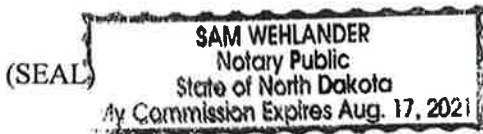
Jesse Craig, Partner

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

On this 30th day of November 2018, before me, a notary public in and for said county and state, personally appeared **Jesse Craig**, to me known to be the person described in and who executed the same as a free act and deed.



Notary Public
Cass County, North Dakota



The legal description was prepared by:
KLJ
3203 32nd Avenue South
Fargo, ND 58103
701-232-5353

This document was prepared by:
Nancy J. Morris
Assistant City Attorney
Erik R. Johnson & Associates, Ltd.
505 Broadway N., Ste. 206
Fargo, ND 58102
701-280-1901
nmorris@lawfargo.com

**DECLARATION
OF
SETBACK RESTRICTIVE COVENANT**

THIS DECLARATION OF SETBACK RESTRICTIVE COVENANT is dated the 15th day of October, 2018, by LHS Investments, LLC, a North Dakota limited liability company, hereinafter sometimes referred to as "Declarant".

RECITALS

- A. LHS Investments, LLC is the owner of Lot 1, Block 1, Craigs Oak Grove Addition to the City of Fargo, Cass County, North Dakota (the "Craigs Oak Grove Lot").
- B. The Craigs Oak Grove Lot is hereinafter referred to as the "Setback Lot".
- C. The City of Fargo ("City") requires the Declarant to record this Agreement for the purpose of notifying all subsequent owners of the Setback Lot of certain setback requirements and restrictions established by and through the ordinances of City.

DECLARATION

NOW THEREFORE, the Declarant declares and agrees the Setback Lot is and shall be held, transferred, sold, conveyed and occupied subject to the covenants and restrictions hereinafter set forth:

1. **Set Back Restrictions:** As required by Fargo Ordinance No. 4818, Fargo Municipal Code Section 20-0610, as the same may be amended from time to time, this Restrictive Covenant shall serve as NOTICE that the Setback Lot is subject to a Minimal Disturbance Zone Setback, a Limited Disturbance Zone Setback, or both, as such areas are depicted on the Plat of Craigs Oak Grove Addition to the City of Fargo. Activities within such areas are restricted, pursuant to certain ordinances of City, including, without limitation Fargo Municipal Code Section 20-0508. For further information about the restrictions, please consult such ordinances.
2. **Term and Amendment:** This Declaration shall be deemed and considered covenants running with the land and shall bind the Declarant, its successors and assigns, and shall continue in perpetuity or the longest period permitted by Law; and may not be amended or

terminated without written approval of City. Any such amendment or termination, to be effective, shall be recorded in the Cass County, North Dakota Recorder's Office.

IN WITNESS WHEREOF, the Declarant hereto has executed this Declaration as of the date first above written.

LHS INVESTMENTS, LLC

By: [Signature]

Its: partner

STATE OF NORTH DAKOTA)

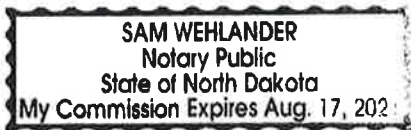
) SS

COUNTY OF CASS)

The foregoing instrument was acknowledged before me this 15th day of October, 2018, by Jesse Craig, the Partner of LHS Investments, LLC, on behalf of the limited liability company.

(SEAL)

[Signature]
Notary Public
My Commission Expires: 8-17-2021



CITY OF FARGO, NORTH DAKOTA

By: _____
Timothy J. Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

On the _____ day of _____, 2018, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

Notary Public

Developer Agreement and Waiver of Protest

This Agreement, made and entered into by and between the City of Fargo, North Dakota, a North Dakota Municipal Corporation (hereafter "Fargo" or "City") and LHS Investments, LLC (hereafter "Developer" or "Owner" and collectively "Parties");

WHEREAS, LHS Investments, LLC is the Owner of property to be platted as Craigs Oak Grove Addition to the City of Fargo, Cass County, North Dakota (hereafter "Development Property"); and

WHEREAS, Developer intends to construct and finance necessary flood protection measures in advance of development activities; and

WHEREAS, Developer intends to grant City a Permanent Levee Easement on the Development Property; and

WHEREAS, Fargo intends to reconstruct and install municipal infrastructure to serve the Development Property as part of its usual and customary practices; and

WHEREAS, Fargo and Developer wish to cooperate as to the design and placement of the municipal infrastructure in order to accommodate the Development Property in the most efficient and economic manner; and

WHEREAS, the parties have agreed to a Site Amenities and Project Plan, which terms are incorporated herein and made part of this Agreement.

NOW, THEREFORE, for good and valuable consideration hereby acknowledged, it is hereby agreed by and between the parties as follows:

1. Developer holds all right, title and interest in the Development Property, specifically Craigs Oak Grove Addition to the City of Fargo, Cass County, North Dakota, which plat is pending approval by the City of Fargo.

3. Developer agrees to grant Fargo a Permanent Levee Easement, in substantial form to Exhibit A, attached hereto.
4. Developer agrees to construct a permanent line of flood protection in accordance with City Standards and Specification in order to provide certifiable protection, such design and construction plans to be approved by City prior to any construction of the levee.
5. Developer shall construct the flood protection levee prior to any development on the Development Property taking place. Developer shall submit as-built drawings of the levee and all soil testing results prior to the commencement of construction of any development. Fargo shall have unlimited access to the easement area provided herein, at all times prior to, during and after construction thereof.
6. Developer shall assign to Fargo any and all warranties related to the construction of the levee, in a form acceptable to City and signed by contractor.
7. City agrees to design and construct public infrastructure improvements in order to serve the Development Property and surrounding area.
8. Developer understands and agrees that paving and other municipal improvements which are enumerated in Section 40-22-01 N.D.C.C. will be completed to serve the Development Property and others, as designated on Exhibit B attached hereto and incorporated herein by reference, and that special assessments will be levied and assessed against the Development Property for such improvements.
9. Developer hereby waives Developer's right to protest the resolution of necessity for any such improvements for which such resolution is required pursuant to Section 40-22-17 N.D.C.C. Developer specifically consents to the paving and construction of such improvements and to the assessment of the costs thereof against the Development Property.
10. Developer understands and agrees that Fargo shall not be liable for any losses or damages due to delay or failure to perform its obligations in this Agreement if such delay or failure is caused (a) by events or circumstances that are beyond its reasonable control, or (b) by events or circumstance that make performance impossible or impracticable. Such events or circumstances include, without limitation, acts of God, acts of war, riots, strikes, lockouts, acts of landowners, acts of government in sovereign or contractual capacity, shortages of or delays in delivery of necessary supplies or materials, accident, fire, water damages, flood, earthquake, tornado or any other natural catastrophes.
11. Developer further agrees and understands that Fargo shall not be responsible for any consequential damages or delays if for any reason the paving and other public improvements are not completed in a time frame requested and proposed by Developer. Fargo agrees it shall take all reasonable steps and efforts to complete the work in a timely manner.
12. This Agreement, including its exhibits, constitutes the entire agreement of the Parties with respect to the subject matter hereof, replacing and superseding all oral and/or written prior discussions, representations and agreements.

13. If any term or other provision of this Agreement is deemed invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall remain in full force and effect. Upon such determination, the Parties shall negotiate in good faith to modify this Agreement so as to give effect to the original intent of the parties, as closely as possible and in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

14. This Agreement shall not be amended or modified in any manner, including the conduct of the Parties, except in writing and duly signed by the Parties hereto.

15. This Agreement was fully-negotiated by the Parties, with each having been afforded the right to legal counsel, and shall be deemed to have been drafted by both of the Parties.

16. Developer may not assign this Agreement without the prior written consent of Fargo. Any such attempted assignment in conflict with the previous sentence shall be void. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.

17. This Agreement shall be governed by and enforced in accordance with the laws of the State of North Dakota.


Dated this 15th day of October, 2018.

LHS Investments, LLC


By: partner
Its:

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

On this 15th day of October, 2018, before me, a notary public in and for said county and state, personally appeared Jesse Craig, to me known to be the Partner of LHS Investments, LLC, described in and who executed the within and foregoing instrument, and acknowledged to me that he executed the same.


Notary Public
Cass County, North Dakota

(SEAL)

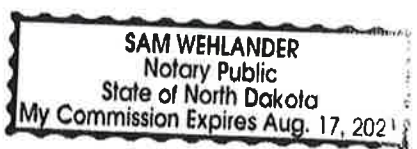


Exhibit A

PERMANENT EASEMENT
(Levee for Flood Control)

KNOW ALL MEN BY THESE PRESENTS that **LHS INVESTMENTS, LLC**, a North Dakota limited liability company, hereinafter referred to as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO**, a North Dakota municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a permanent and perpetual easement over, under, upon and in the land hereafter described for the purpose of maintaining an earthen dike, together with any and all other appurtenant structures or devices, said tract of land being more particularly described as follows:

A tract of land located in Blocks Twenty-seven (27) and Twenty-eight (28) of Keeney and Devitt’s Second Addition situated in the Southeast Quarter (SE1/4) of Section Six (6), Township One Hundred Thirty-nine North (T139N), Range Forty-eight West (R48W), of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of Block 28, Keeney and Devitt’s Second Addition; thence N 86 degrees 59 minutes 16 seconds E, along the south line of said Block 28, a distance of 40.00 feet; thence S 03 degrees 00 minutes 44 seconds E, a distance of 37.66 feet to the Point of Beginning. Thence S 73 degrees 28 minutes 41 seconds E a distance of 171.06 feet to a point 60 feet distant of the northerly right-of-way (R/W) line of Burlington Northern Santa Fe Railroad Company (BNSF) with said point being on a non-tangential curve concave to the right (southerly) having a radius of 1261.77 feet, a chord bearing S 61 degrees 08 minutes 47 seconds E; thence southeasterly along said curve and parallel with said R/W line 90.25 feet through a central angle of 04 degrees 05 minutes 54 seconds to the end of the curve; thence N 86 degrees 59 minutes 16 seconds E, not tangent to said curve, a distance of 25.94 feet to a point 27 feet distant of the east line of said Keeney and Devitt’s Second Addition and the east line of said SE1/4; thence

N 02 degrees 52 minutes 08 seconds W, parallel with said east line, a distance of 293.14 feet to the north line of Lot 4 of said Block 28; thence N 87 degrees 03 minutes 25 seconds E, along the north line of said Lot 4 extended through vacated Elm Street, a distance of 27.00 feet to said east line of Keeney and Devitt's Second Addition and the SE1/4; thence S 02 degrees 52 minutes 08 seconds E on said east line, a distance of 406.57 feet to a point on said northerly R/W line of BNSF, said point being on a non-tangential curve concave to the left (southerly) having a radius of 1201.77 feet, a chord bearing N 62 degrees 15 minutes 06 seconds W; thence northwesterly along said R/W line and curve 346.64 feet through a central angle of 16 degrees 31 minutes 36 seconds to the end of the curve and a point on the north line of Block 27 of said Keeney and Devitt's Second Addition; thence N 86 degrees 59 minutes 16 seconds E, along said north line of Block 27, a distance of 6.34 feet; thence N 03 degrees 00 minutes 44 seconds W a distance of 41.62 feet to the Point of Beginning.

LESS all that part of a previously acquired easement, for flood control purposes, lying within Twenty-two (22) feet of the east line of said Keeney and Devitt's Second Addition and the SE1/4, recorded as Document No. 1216953.

Said easement is shown on the plat for Craigs Oak Grove Addition and contains, 0.42 acres, more or less.

Grantor, its successors and assigns, hereby covenants to and with Grantee that Grantee's officers, contractors, agents and employees may, at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further understand and agree that they will not disturb, injure, molest or in any manner interfere with said earthen dike as constructed and the customary appurtenances, or with material for laying, maintaining, operating or repairing the same, in, over or upon the above-described premises. Grantor, its successors and assigns, further expressly warrants and states that no buildings, trees, shrubs, sprinkler systems or other obstacles of any kind shall be placed or located upon the tract in any manner which may interfere with said earthen dike.

IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this 30th day of November, 2018.

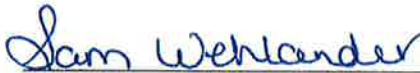
GRANTOR:
LHS Investments, LLC



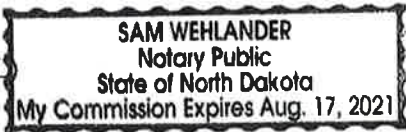
Jesse Craig, Partner

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

On this 30th day of November 2018, before me, a notary public in and for said county and state, personally appeared **Jesse Craig**, to me known to be the person described in and who executed the same as a free act and deed.



Notary Public
Cass County, North Dakota

(SEAL) 

The legal description was prepared by:
KLJ
3203 32nd Avenue South
Fargo, ND 58103
701-232-5353

This document was prepared by:
Nancy J. Morris
Assistant City Attorney
Erik R. Johnson & Associates, Ltd.
505 Broadway N., Ste. 206
Fargo, ND 58102
701-280-1901
nmorris@lawfargo.com

Exhibit B

Water Main Replacement, Street Reconstruction, & Incidentals
on Oak Street North from 6th Avenue North south to the vacated right of way of 5th Avenue
North.

Regarding Oak Grove Apartment Building Project

I am writing this letter as we the neighborhood, feel very strongly about the welfare of our neighborhood. Our concerns on how a proposed large apartment buildings in the Oak Grove area will negatively impact our neighborhood.

My name is Paul Seminary. I have lived in Fargo 57 of my 62 years. I have lived in different areas of Fargo during my life. I purchased my home at 59 6th Ave North in 2001. One of the reasons I decided to make my life in this neighborhood is this great Neighborhood. This part of town is 112 years old, with older homes and neighborhood designs. It is a history of our great city. There are signs of when the city was first started, like a piece of the track from the Trolley cars that used to run up and down the street. The houses are of historical designs. Our home was built in 1905 and there are other homes that were built earlier than ours. Our neighborhood is part of the historical district. The proposed 2 large apartment buildings would not fit the footprint of this neighborhood. We want to keep the historical footprint alive in our neighborhood.

We understand and believe in city growth. But we want to emphasize that the growth should follow the design of the neighborhood. The proposed apartment complex is a very large project that doesn't fit the footprint of this historical neighborhood. It would be like me wanting to build a house in the parking lot of West Acres. That would not fit the footprint of the commercial area. The apartment complex does not fit the footprint of this residential neighborhood.

Some of the concerns of the residents in this neighborhood from my understanding are:

Family. As mentioned above many of the families in this neighborhood are ones with young children. Increase in traffic can impact neighborhood safety.

Traffic. Craig Development has said that the design plan for the apartments is for one car stall per bedroom. This would roughly mean that the traffic up and down our busy street would increase by ~550 per day, not including visitors to the apartment occupants. As to why this would affect the traffic so severely, there are only 2 ways in and out (6th Ave and Oak St) of the complex. This would be in addition to the current busy traffic that already uses 6th Ave North and adjacent streets and avenues. This street is the main transportation to and from Oak Grove school and park area.

Has there been a road and traffic survey done for these streets and avenues? Will the current streets be able to withstand increased traffic flow – we have already been assessed taxes with the lights and sewer projects. Plus the increase in property taxes due to increase in home assessments. Most of the households in this neighborhood are older families or new families – we aren't able to absorb additional assessments.

Safety. Recently on the news there has been several crimes occurring amongst apartment complexes, theft, vandalism, and murder...Savanna Greywind Murder for example. Also in the news on November 7th Stonebridge and another apartment management firm sent their tenants letters about

locking their cars even if they were in the garage due to criminal activity. Please do not put us in that kind of risk by building this large of an apartment complex.

Flood Protection. If Craig Development needs to alter the existing permanent dyke built by the city, Craig Development should have to extend blanket insurance coverage within the parameters of the 300 feet set by the city to protect those individuals within the said footprint. For examples, when the levee broke in Grand Forks/East Grand Forks or the levees in New Orleans and closer to home, when the wall broke at Oak Grove School and many other examples.

As mentioned earlier, Oak Grove is a residential district and to compare our neighborhood to Downtown Fargo which is a business district is like comparing apples to oranges.

Our concern is for our neighborhood and those that live here. Can you show me how the Oak Grove project enhances this neighborhood. I am not aware of any. I can only see that there are 2 entities that will profit from this project, and it is not the people in this neighborhood.

Tax Credit. Why should Craig Development Company receive tax breaks to build HIS buildings when the city has already raised our property taxes. The people are tired of these tax breaks. Especially when the people of this neighborhood do not want these apartment buildings in THEIR neighborhood. The buildings Do Not fit the Footprint of this 112 year old neighborhood.

I know there was another resident in our neighborhood that collected signatures for a petition showing concerns for this project. Unfortunately this person became ill and wasn't able to continue this fight. The collection of signatures from this neighborhood shows us and should show the city that there are many concerns regarding this project in this neighborhood.

Have you been able to acquire the lists from Craig Development on whom he said he has contacted personally and the list of the people he notified from the September meeting?

Has there been any land surveys in the past proposed building site area and if so, what was the results from those surveys. Has this information been taken into account and if so how?

A majority of the people in this neighborhood aren't able to come to a meeting during their work hours. This does not mean that they do not care or are in agreement with this project but just that they can't leave work to come. They may not have vacation time to take or a boss that will allow time away from work. Just because there has been low numbers at the meetings, this does not mean the neighborhood residents do not care about this Oak Grove project, because they do. As the petition you have already received earlier shows that. This is a great neighborhood with historical value to the city of Fargo... we want to preserve these elements, the reason families have chosen to live in Oak Grove area.

Thank you for your time and assistance in this important matter. Please contact myself with any questions. My cell is 701-367-5421. I look forward to your reply and information request.

Paul Seminary

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City of Fargo Staff Report			
Title:	St. Paul's Newman Center Addition	Date: Updated:	8/28/2018 11/28/2018 1/10/2019
Location:	1113, 1117, 1119, 1129, 1131, 1141 North University Drive; 1112, 1118, 1122, 1126, 1130, 1134, 1138, 1142, 1146 12th Street North; 1201, 1211, 1213, 1215, 1223 11th Avenue North	Staff Contact:	Donald Kress, planning coordinator.
Legal Description:	Lots 1-10, Block 2, College Addition and Lots 1-4 and 15-23, Bolley's Subdivision of Block 9 of Chapin's Addition, City of Fargo, Cass County, North Dakota.		
Owner(s)/Applicant:	Diocese of Fargo; NC Investments, LLC / Roers Development—Larry Nygard	Engineer:	Roers
Entitlements Requested:	Minor Plat (replat of Lots 1-10, Block 2, College Addition and Lots 1-4 and 15-23, Bolley's Subdivision of Block 9 of Chapin's Addition, City of Fargo, Cass County, North Dakota) Zoning Change (From MR-3, Multi-Dwelling Residential; LC, Limited Commercial; and SR-3, Single Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay) and a PUD Master Land Use Plan		
Status:	City Commission Public Hearing: January 14, 2019		

Existing	Proposed
Land Use: Single Dwelling Residential; multi-dwelling residential; religious institution	Land Use: Religious institution; multi-dwelling residential, single-dwelling attached residential; group living (1 unit)
Zoning: MR-3, Multi-Dwelling Residential; LC, Limited Commercial; and SR-3, Single Dwelling Residential	Zoning: MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay
Uses Allowed: MR-3 allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities; LC allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service SR-3 allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities	Uses Allowed: Allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities. Plus additional uses noted in PUD

Maximum Density Allowed: MR-3: 24 dwelling units per acre (du/ac); SR-3: 8.7 du/ac; LC Maximum Lot Coverage 55%

Maximum Density Allowed: 24 dwelling units per acre **PUD proposes increased density of 33 du/ac**

Proposal:

The applicant requests approval of three entitlements:

1. A zoning change from MR-3, Multi-Dwelling Residential; LC, Limited Commercial; and SR-3, Single Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay; and
2. PUD Master Land Use Plan within the boundaries of the proposed St. Paul Newman Center Addition; and
3. A plat of the **St. Paul Newman Center Addition**, a replat of Lots 1-10, Block 2, College Addition and Lots 1-4 and 15-23, Bolley's Subdivision of Block 9 of Chapin's Addition, City of Fargo, Cass County, North Dakota., to create three lots as shown in the table below. A copy of the plat is attached.

BLOCK	LOT	AREA (square feet of original lot)*	AREA (square feet of revised lot)*	ZONING	USE
1	1	75,840 sf (1.74 acres)	97,948 sf (2.24 acres)	MR-3 with PUD	Religious institution; 1 unit of group living housing (priests' quarters); Multi-dwelling residential, including 25 units of faith-based housing (See NOTE below)
1	2	90,746 sf (2.0 acres)	43,973 sf (1.01 acres)	MR-3 with PUD	Multi-dwelling residential, including 87 units of market rate housing (See NOTE below)
1	3	Not in original	24,662 sf (0.56 acres)	MR-3 with PUD	Single-dwelling residential with 13 dwelling units

NOTE: In the previous submittal, all the multi-dwelling was on Lot 2. With the current submittal, the faith-based multi-dwelling housing is on Lot 1 along with the Newman Center, which also includes one unit of group living. The multi-dwelling market rate housing is on Lot 2.

The subject property is located on the 1100 block on the east side of University Drive North. The applicants, Diocese of Fargo and Roers Development, intend to redevelop the entire block and build a new St. Paul's Newman Center, 25 units of faith-based housing, and 87 units of market rate housing and one unit of group living housing (priests' quarters).

Note The Following Changes To The Project Between September 4th, 2018 Planning Commission and December 4th, 2018 Planning Commission

Since the September 4th, 2018 Planning Commission hearing, the developer has made several changes to the project, including:

- Reducing the number of market rate housing units from 107 to 87.
- Reducing the number of faith-based housing units from 29 to 25.
- Reducing the number of on-site parking spaces from 274 to 217 for the market-rate and faith-based housing.
- Adding 13 attached single-dwelling townhomes along the east (12th Street North) side of the project site. An elevation rendering of these townhomes is attached.
- Stepping down the number of stories of the market rate housing building from six to five, with a further step down along the 11th Avenue North side to four stories.

- Revising the plat from a two-lot configuration to a three-lot configuration, with St. Paul's Newman Center chapel with attached administration building with faith-based housing and priests' quarters on Lot 1; the market rate housing on Lot 2; and the newly-added townhomes on Lot 3.
- Removing the University Drive access to the underground parking.

Changes to the modifications requested by the PUD are shown in the charts below. Two aerial renderings of the proposed project are attached.

Zoning Change and PUD Overlay

The applicant has applied for a zoning map amendment and a PUD overlay in order to tailor development standards to the specifics of the proposed project. The modifications to the development standards of the underlying MR-3 zone are shown in the chart below. **Note that changes to the project since the September 4th, 2018 Planning Commission hearing are noted in the right-hand column. This is the current request from the developer for PUD modifications.**

	Current LDC Development Standards for the MR-3 Zone	PUD Modifications to MR-3 Development Standards—September 4th Planning Commission	Changes since September 4th Planning Commission
Allowed Uses	detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	<i>Add these uses from LC, Limited Commercial zone: colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off promise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service. A book store and coffee shop are planned for within Lot 1.</i>	<i>Same as previous request.</i>
Residential Density	24 du/ac	<i>Increase to 37 du/ac</i>	<i>Increase to 33 du/ac</i>
Setbacks	Front—25' Rear—20' Street side—12.5' Interior side—10'	<i>Front—decrease to 5' (Lot 1 only) Street side—decrease to 5' (Lot 1 only) Interior side- Decrease to 0' (between Lots 1 and 2)</i>	<i>Front (Lot 1-University Drive side)—decrease to 10'10" Front (Lot 2)—decrease to 19'6" Front (Lot 3)—decrease to 11' Side setback reductions are the same as previous request.</i>
Building Coverage	35% of lot area	<i>Increase to 38% of lot area</i>	<i>Increase to 41%</i>

Parking- Residential – Multi-Dwelling	1.25 stalls per efficiency; 2.0 stalls per 1 BR + 0.25 guest stalls per living unit	0.8 stalls per bed (Market rate housing only)	A separate parking analysis is provided below
Landscaping— Street Trees	1 tree per 50 linear feet of frontage along an arterial; one tree per 35 linear feet of frontage along a local street	Developer will coordinate with City Forester for options along boulevard with overhead power lines	Same as previous request.
Landscaping— Open Space	3 plant units per 1,000 sq. ft. of lot area of fraction or thereof, with 8 sq. ft. per plant unit (LDC 20-0705(C)(3) and table)	Request removal of 70% requirement in front of building	Same as previous request.
Landscaping— Parking Lot Perimeter	Buffer width: 9 feet. Plantings: 1 small tree + 6 shrubs/perennial grasses per 25 linear feet. Berm also an option (LDC 20-0705 (D) and table)	Reduce buffer width to 5 feet. No change proposed to plantings.	Same as previous request.
RPS Building Height 76-100 feet from residential	45 Feet	Increase to 60 feet for Lot 4	Lot 1—increase to 50 feet
RPS-building height 101-150 feet from residential	55 feet	Increase to 60 feet	No modification required.
Open space	35%	Decrease to 25% minimum	Same as previous request.

Detailed Comment on PUD Modifications

Allowed Uses: The PUD proposes small-scale retail (bookstore) and coffee shop use to be possible future uses in the St. Pauls’ Newman Center facility. This PUD modification is necessary as the MR-3 zone does not allow retail or coffee shop type uses.

Residential Density: The overall project density is 33 dwelling units per acre—that is the total number of proposed units (126) divided by the total number of acres (3.82).

This PUD accounts for the entire development on this block, and as such the setbacks, density, parking and all other dimensional standards and permit review information must be conveyed in totality as part of the development permit reviews and for the purposes of the PUD, this applies to the Master Land Use Plan and the Final Site Plan. Lots 1, 2 and 3 are a Unified Development and are all one project.

Setbacks: The PUD has requested an interior side setback of 0 feet, which is necessary as the buildings on Lots 1 and 2 are connected. The other proposed modifications to the MR-3 setbacks are intended to accommodate the proposed building configuration.

Building Coverage: The proposed modification to the MR-3 standards is intended to accommodate the proposed building configuration.

Parking: Please see detailed parking analysis below.

Landscaping—Street Trees: No actual modification to standards is proposed. The City Forester intends that healthy existing trees be preserved and has provided an analysis of the street trees to the applicant.

Landscaping—Open Space: The PUD proposes modification of the landscaping requirement that 70% of the required landscaping be in the front. The PUD does not propose to modify the total amount of landscaping. The developer must provide a landscape plan that indicates where the landscaping will be generally located. Staff has requested the developer consider a landscape plan that would include additional amenities along the 12th Street boulevard, within the parking lot and along the streetscape along University.

Landscaping—Parking Lot Perimeter: The PUD proposes a reduction in the required width of the parking lot perimeter buffer, which will be on the 12th Street (east) side of the project, in order to accommodate additional parking. Staff has requested the developer consider additional parking lot buffer beyond the minimum of the landscape requirements. This could include a double row of ornamental trees, or landscaping within parking lot islands.

Building Design Standards:

The developer has proposed brick, masonry and design standards equal to DMU or UMU, which is above and beyond the standard LDC MR-3 requirements.

RPS Building Height 76-100 feet from residential: The PUD proposes a modification of the residential protection standards (RPS) to increase the building height from 45 feet to 50 feet for Lot 1 (St. Paul's Newman Center facility) at the 76-100 foot from residential zoning range to accommodate the proposed chapel design. Note that this is in relation to the actual building height and not the steeple height (the steeple is exempt from the height regulation).

Open Space: The PUD proposes a reduction of the 35% open space requirement of the MR-3 zone to 25% to accommodate the proposed building design. Note that "open space" in this situation is defined in the Land Development Code (LDC) as "an outdoor, unenclosed area, located on the ground on or a roof, balcony, deck, porch, or terrace design and accessible for outdoor living, recreation, pedestrian access or landscaping, but not including roads, parking areas, driveways, or other areas intended for vehicular travel." (LDC 20-1202(43)). In lieu of the open space, staff has suggested that the developer include decorative paving and additional landscape treatments among the site.

Parking Analysis

The chart below indicates how parking will be allocated to the uses involved in this project. The project site plan indicates 217 spaces on-site. The applicant has provided signed agreements for off-site parking with NDSU (203 spaces in lot AD) and James P. Sabo (45 spaces at 1211 University Drive North). A graphic depicting the parking layout is attached.

USE	LDC REQUIREMENT	NUMBER OF SPACES PROVIDED	MODIFICATION REQUIRED
Lot 1--Multi-dwelling residential (25 units/85 beds total)	2.25 spaces per unit/57 spaces total	77	Modify parking requirements to 0.9 spaces per bedroom
Lot 1—Group Living (1 unit/4 beds total)	1 space per 100 square feet of sleeping area	4	Modify parking requirements to 0.9 spaces per bedroom
Lot 2--Multi-dwelling residential (87 units/138 beds total)	2.25 spaces per unit/196 spaces total	125	Modify parking requirements to 0.9 spaces per bedroom

Lot 3—single dwelling attached residences (13 today units)	2 spaces per unit/26 spaces total	26 spaces	NONE---Meets LDC requirement
Lot 1—chapel/general visitor	The LDC does not have a requirement for parking for religious institutions beyond the 0.4 spaces per seat minimum, which is accounted for by offsite parking as noted below.	11 spaces	The project provides 217 total above-ground and underground parking spaces, excluding the 26 for the single-dwelling. 206 of these spaces are used for the multi-dwelling and group residential at 0.9 spaces per bed. The remaining 11 spaces (217-206) would be surface parking spaces for general use.
Chapel (500 seats)	0.4 spaces per seat/200 spaces total	248 offsite	NONE—meets LDC requirement for number of spaces with the signed agreements for off-site parking

PUD Master Land Use Plan

The applicant has submitted a project narrative and PUD Master Land Use which further describe the proposed development. These documents are attached.

This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: LC with convenience store use; P/I with NDSU office use
- East: SR-3 with single-dwelling residential use
- South: SR-3 with single-dwelling residential use
- West: LC with NDSU parking lot use; MR-3 with multi-dwelling use

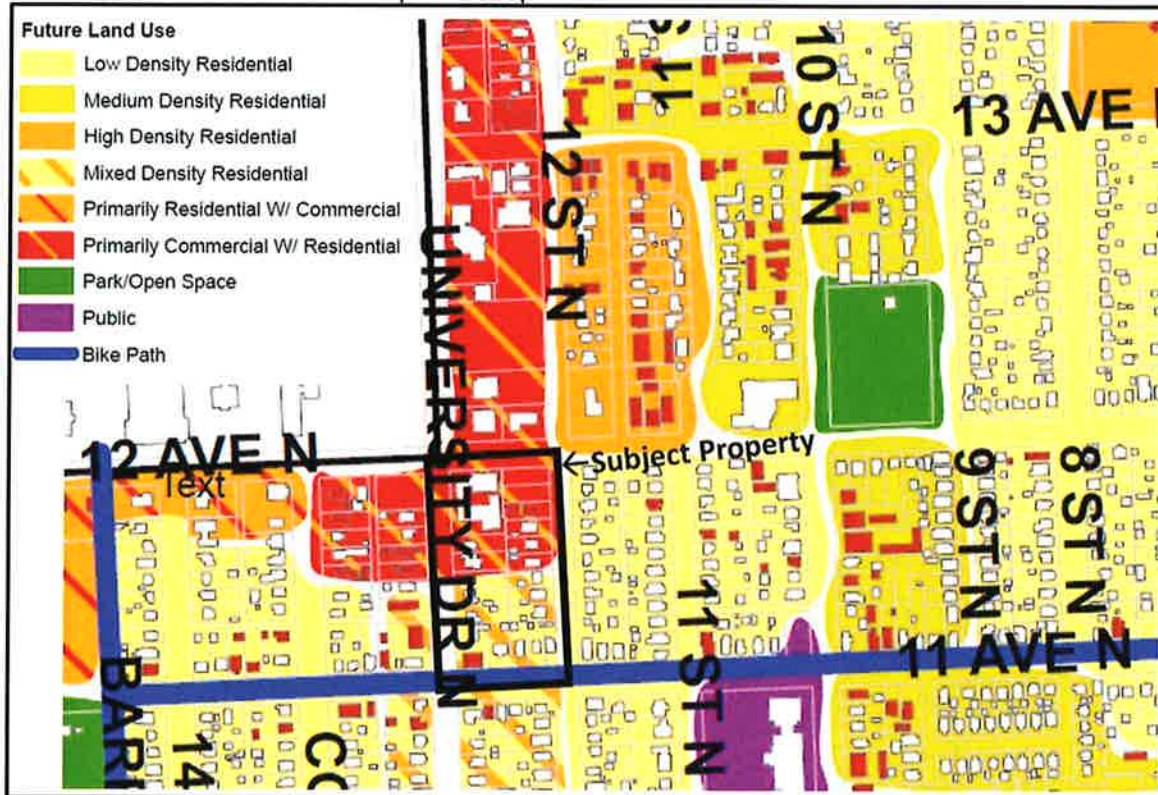
Planning staff notes the following points of analysis in relation to development in this area:

- This project is on the corner of 12th Avenue North (minor arterial) and University Drive North (major arterial). Arterials are generally developed with commercial and multi-family uses rather than single-family residences. Note that the existing single-family residences were built at a time when traffic was significantly less, before University Drive (formerly 13th Street North) became a one-way street (December 15, 1969). Most recent F-M MetroCOG traffic counts (2013; these counts are conducted every five years) indicate that at this location, 12th Avenue North handles and average daily traffic (ADT) volume of between 7,900 and 9,700 vehicles, and University Drive handles and ADT of over 11,000 vehicles.
- Review of the Fargo Public Schools website (<https://www.fargo.k12.nd.us/Page/365>) indicates that enrollment at the combined Horace Mann/Roosevelt Elementary Schools was 350 students on August 27, 2014; on August 23, 2018, the enrollment was 345 students. This is an overall loss of less than 2% in four years, though the level of enrollment did vary over the individual years, peaking at 364 students on August 24, 2017, and having the lowest number, 343 students, on August 27, 2015.

- Review of NDSU’s enrollment numbers as shown on their website (<https://www.ndsu.edu/data/enrollment/annual/>) indicates that, though the 2018 enrollment is 5% lower than 2017’s enrollment, the enrollment numbers have been over 14,000 students since fall of 2009, with a peak of 14, 747 students in the fall term enrollment in 2014. In an October 8, 2015 speech, NDSU President Dean Bresciani stated that in order to become a member of the Association of American Universities, NDSU must, among other things “pursue an enrollment of 18,000 students.”(NDSU website <https://www.ndsu.edu/news/view/detail/22175/>)

Area Plans:

This subject property is outlined in black in the graphic below, within the Roosevelt/NDSU Neighborhood Future Land Use Plan. This plan designates the subject property as “Primarily Commercial with Residential” on the north end of the block and “Mixed Density Residential” on the remainder of the block. No amendment to the land use plan is required.



Schools and Parks:

Schools: The subject property is located within the Fargo School District and is served by Roosevelt Elementary, Ben Franklin Middle, and North High schools.

Parks: Roosevelt Park (1220 10th Street North) is located less than 1,000 feet northeast of the subject property and offers a multipurpose field, outdoor ice skating rinks, warming houses, and playground for ages 2-5. Johnson Soccer Complex (1420 11th Avenue North) is located approximately 1,000 feet west of the subject property and offers a multipurpose field, picnic tables, playgrounds for ages 2-5 and 5-12, restrooms, shelter, and soccer facilities.

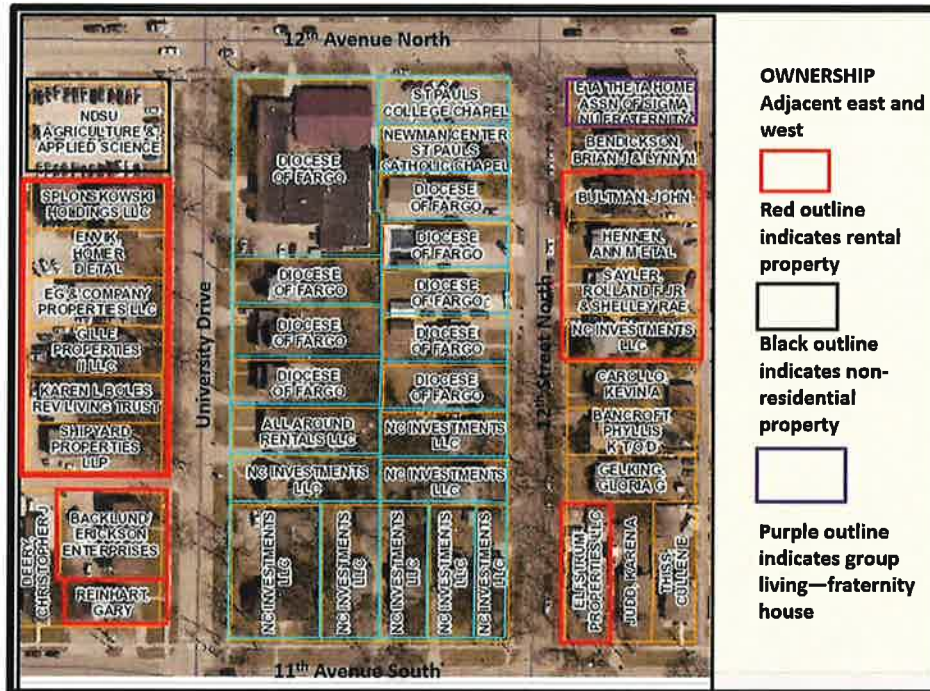
Neighborhood: The subject property is located within the Roosevelt neighborhood.

Pedestrian / Bicycle: There is an on-road bike facility located along University Drive North and 11th Avenue North. This bike facility is a component of the metro area bikeways system.

Staff Analysis:

Housing Tenure in Surrounding Area

One point that often arises in discussion of redevelopment projects is what the nature of housing tenure—rental or owner-occupied—in the area is. All of the lots on the block to be redeveloped are owned by either the Diocese of Fargo, or a property management company. Thus, all residential units, including single-family residences, are rentals at this time. To the north, there are no residential units. Housing tenure to the east, west, and south is identified in the two maps below. These maps show that there are six owner-occupied residences facing the development site—four on the east side of 12th Street North and two on the south side of 11th Avenue North:



Public Utility Easements (PUE): The plat creates 10-foot wide public utility easements along the east, west, and south sides of the project site, as is the standard practice. Due to the shortened setback on the north side of Lot 1, Block 1, and the fact that there are no utilities currently in this location, the City Engineer and the Planning Department have allowed a 5-foot wide public utility easement.

Zoning

Section 20-0906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

1. Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?

Staff is unaware of any error in the zoning map as it relates to this property. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established. The PUD zoning is an overlay with an underlying zoning district. Considering the uses proposed by this project—religious institution and multi-dwelling residential, the MR-3 zone is an appropriate underlying zoning district for the entire project, as the MR-3 is the least intense zoning district that can accommodate these uses. The proposed PUD Overlay zoning district is intended to accommodate the redevelopment of this property and specifically identify the proposed development with a specific land use plan that is to be reviewed concurrently with the zoning change request. **(Criteria Satisfied)**

2. Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing developed public rights-of-way which provide access and public utilities to serve the property. The applicant's utility plan indicates that the proposed buildings can be individually served with public water and sewer. **(Criteria satisfied)**

3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?

Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners within 300 feet of the project site. Staff also notified the Neighborhood Association representative. To date, staff has received several comments which are summarized below. Copies of comment letters and e-mails are attached. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. Staff understands that there are blighted conditions on site and that existing houses have already been removed or scheduled for demolition. While that is an unfortunate circumstance that a property can fall into disrepair to the level that demolition is necessary, staff does not believe that this proposal is a contributing factor to the conditions at the site today. This proposal will improve the conditions on site and add value to the surrounding properties. As part of this case review, staff believes that this proposal and requested zoning change is appropriate for this block only within the Roosevelt Neighborhood and we do not believe supporting this project declares a precedent. **(Criteria satisfied)**

4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed PUD is in keeping with Fargo's Comprehensive Plan. Specifically, the City's Go2030 Comprehensive Plan supports development within areas of the City that are already serviced with utilities. The Go2030 plan also supports quality development near NDSU as well as supports historic preservation. While it may seem that these are contrary goals, the plan points to the fact that each area is slightly unique and that through staff analysis of the overall surrounding area and neighboring context recognizes the higher goal of healthy and quality neighborhoods. As such, staff finds that

the proposed development is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, the Roosevelt/NDSU Neighborhood Plan, and other adopted policies of the City. **(Criteria Satisfied)**

PUD Master Land Use Plan: The LDC stipulates that the Planning Commission and Board of City Commissioners shall consider the following criteria in the review of any Master Land Use Plan (Section 20-0908(B)(7)).

1. The plan represents an improvement over what could have been accomplished through strict application of otherwise applicable base zoning district standards, based on the purpose and intent of this Land Development Code;

The plan represents an improvement over what could have been accomplished through strict application of the base zoning district. It modifies development standards of the MR-3 zone, parking requirements, landscaping, and Residential Protection Standards, in order to provide a larger scale development and higher density housing than would be allowed under the base MR-3 zoning district. Staff finds this appropriate considering that the full block is being redeveloped and there is an opportunity for the property owners to work together for a more campus like development that compliments the campus and the neighborhood. Also with the inclusion of the diocese unique partnerships are created to build a form with orientation on busier corridors of University Drive and 12th Ave North with orientation towards NDSU. The proposed land use plan focuses the higher density towards the busier corridors. The addition of the single family town houses allows for a smaller scale potentially owner occupied housing to buffer the single family housing on the east side of the block. **(Criteria Satisfied)**

2. The PUD Master Land Use Plan complies with the PUD standards of Section 20-0302;

Staff has reviewed the PUD Master Land Use Plan and found that it complies with the PUD standards of Section 20-0302. The PUD modifies some standards of the MR-3 zone as outlined in Section 20-0501 and noted above. All other standards and requirements as set forth in the LDC have been met. While additional conversation between developer and neighborhood is recommended, the purpose of this PUD allows for unique site layouts contrary to a typical multifamily development in south Fargo. By modifying the site layout to accommodate the buildings closer to University, the more intense activity is clustered towards the busier street. The revised application includes the addition of 13 townhouses. This provides a new type of housing within the neighborhood. This provides a good buffer between the apartment scale and the single family scale, and has the potential of adding households in the Roosevelt Neighborhood. **(Criteria Satisfied)**

3. The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development proposed, at the time the property is developed;

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing developed public rights-of-way which provide access and public utilities to serve the property. **(Criteria satisfied)**

4. The development is consistent with and implements the planning goals and objectives contained in the Area Plan, Comprehensive Plan and other adopted policy documents;

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed PUD is in keeping with Fargo's Comprehensive Plan. Specifically:

(from Go2030 Chapter 10—Neighborhoods, Infill, and New Development)

Infill—Develop policies to promote infill and density within areas that are already developed and are protected by a flood resiliency strategy. Control sprawl and focus on areas outside of the floodplain.

Design standards—Improve quality of new housing by fostering strong relationship with the development and building community to promote dense, walkable communities with neighborhood centers.

Quality New Development—Require new development to meet site design standards that result in well-designed new neighborhoods.

High Quality Affordable Housing Near NDSU—Develop higher quality affordable housing near North Dakota State University campus.

Neighborhood Support and Communication—Improve communication between City and established neighborhoods. Encourage neighborhoods to establish a vision and create neighborhood plans.

(from Go2030 Chapter 11—Education)

Retention of Neighborhood Schools—A serious issue facing our core neighborhoods is declining enrollment in all its local schools. Once the doors are shuttered, the neighborhood not only loses a school but it loses its sense of community. Fargo will focus in retaining these important neighborhood assets.

Improved Continuity Between NDSU Main and Downtown Campuses—Fargo will work with NDSU to improve continuity between NDSU main and downtown campuses in terms of urban design and services, such as transit. This item is further detailed on page 250 of Go2030, stating “Fargo will also encourage redevelopment of these corridors [10th Street and University Drive] with strong focus on mixed-use development, student oriented facilities and programs but in a manner that is sensitive to the needs and expectations of the citizens living along these corridors in the Roosevelt neighborhood.”

The Roosevelt/NDSU Neighborhood Plan also applies to this area. One of the stated goals of the Roosevelt/NDSU Neighborhood Plan is Housing Objective D(4)(page 15) which states: “Identify ways to moderate the ‘investor’ pressure on neighborhood owner-occupied homes, including policies that will address appropriate redevelopment of property for the creation of new housing. Appropriate redevelopment might increase density and help alleviate pressure from the supply side of the equation.”

The Roosevelt/NDSU Neighborhood Plan—Land Use Plan Update designates the block proposed for development under two land use categories. The north end of the block is designated as “Primarily Commercial with Residential.” The Land Use Plan states that features of this land use designation include

- Development shall be constructed to encourage durability, longevity and quality.
- Residential development shall be accessory and supportive of the commercial development.
- Located to encourage pedestrian traffic and provide services to the area residents and university.

The remainder of the block is designated as “Mixed Density Residential.” The Land Use Plan states that features of this land use designation include

- Primarily located along the University Drive corridor.

- This land use is appropriate for transitional residential areas.
- Serves as a transition between higher density and lower density residential
- It is necessary to understand that transitions will take place over long term.
- Residential can be a mix of densities ranging three units and more per acre.
- Revised plan provides attached single-family residences along 12th Street in order to provide another type of housing option.

Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, the Roosevelt/NDSU Neighborhood Plan, and other adopted policies of the City. **(Criteria Satisfied)**

5. The PUD Master Land Use Plan is consistent with sound planning practice and the development will promote the general welfare of the community.

The PUD is consistent with sound planning practice and the development will promote the general welfare of the community by retaining an existing religious and community institution on its current site as well as providing higher density housing which is appropriate considering the nature of the University Drive corridor and the proximity to NDSU. **(Criteria Satisfied)**

The LDC stipulates that the following criteria are met before a minor plat can be approved:

- 1. Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The subject property is located within the Roosevelt Neighborhood. The future land use plan for the Roosevelt Neighborhood designates the subject property as "Primarily Commercial with Residential" on the north end of the block and "Mixed Density Residential" on the remainder of the block. The proposed zoning is MR-3 with a PUD, Planning Unit Development overlay for the entire block. The MR-3 base zone is the least intense zone that will accommodate the major proposed uses of religious institution and multi-dwelling residential. The PUD proposes to modify certain development standards of the MR-3 zone as indicated above in order to accommodate the proposed development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received several comments which are summarized below. Copies of comment letters and e-mails are attached. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code. **(Criteria Satisfied)**

- 2. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

It should also be noted that a PUD has two steps: a Master Land Use Plan and a Final Plan. This hearing does not include the Final Plan. The Final Plan will come back to the Planning Commission when site plans and building permit is submitted.

Activity between original submittal of July 16th, 2018 and the September 4th, 2018 Planning Commission Hearing

Neighborhood Association Comments

An open house meeting was held on August 20, 2018 for neighbors to meet with and hear a presentation from Planning staff and the developer. Twelve neighborhood residents signed in but approximately 10 more people were in attendance. One submitted written comments at the meeting. Additional comments were received by letter and e-mail after the meeting (copies attached). Those comments, along with oral comments, are summarized below:

Related to the project

1. Can it be something other than apartments? Suggested townhomes or other family-focused type of housing, or a less dense quiet/contemplative building that better fits the mission of the church.
2. The city should try to stop the encroachment of these large projects into neighborhoods.
3. Is student housing near NDSU being overbuilt---noted recent large projects like NDSU Foundation.
4. Concern that the loss of family oriented housing will cause Roosevelt school enrollments to decline to the point the school will be closed. School is the "anchor of the neighborhood."
5. The proposed density is too much for this neighborhood; projects of this density should be built in the UMU-zoned area to the west.
6. This project is not consistent with the Roosevelt Neighborhood plan.
7. Discussion about parking reduction for market rate housing and for church.
8. Discussion with developer about breakdown of unit type (Developer stated 50% one-bedroom, 25% two-bedroom; 25% three- and four-bedroom is the intended mix).
9. Neighbors would support redevelopment of just the Newman Center without the market-rate housing part of the project.
10. Insufficient buffer on the east side facing 12th Street.
11. Scale of the project is out of character for the neighborhood.

Related to the process

1. Questions about the notification radius
2. What's the point of having a neighborhood association if they don't have input into the process? (one neighbor provided a history of the neighborhood association)
3. Concerns on promises made with UMU zoning process several years ago and density proposed west of Johnson Park.

Related to the project background

1. Question about how the diocese and the developer got together (Fargo Diocese employee Earl Wilhelm described an RFQ process)
2. Question about the expected effect on NDSU and the congregation size. Fr. Cheney estimated 4,300 Catholics at NDSU, 15% of which make up his congregation. The new Newman Center will build a broad-based congregation. Facility will have classroom and music room spaces and will partner with NDSU academic departments.
3. Question about financial relationship between the diocese part of the project and the developer part of the project (Larry Nygard of Roers Development stated the two parts are interdependent and there's no way to separate them---buildings are all connected; parking and underground stormwater storage are shared between the two lots)

(continued on next page)

Other comments

1. One neighbor repeatedly referred to the crime and disorderly conduct caused by NDSU students; comments from other neighbors reinforced her remarks.

Additional comments after the meeting

In addition to comments made at the public meeting, staff has received additional comment letters and e-mails which express the following concerns:

1. The overall parking provided by the project is insufficient to adequately serve all the proposed uses.
2. Existing codes, residential protection standards, and neighborhood plans are there to protect the residents and their properties. Overruling them benefits only the developers; there is minimal, questionable benefit to the neighborhood.
3. Block 2 proposal [residential component of the project] does not fit the neighborhood plan, it does not adhere to existing codes, and it is of very little benefit to the neighborhood.
4. The developer's request for PUD modifications to the MR-3 zone are excessive and unreasonable.
5. The combined project of the new St. Paul's Newman Center (including 500-seat chapel) and the proposed 136 units of housing is too intense to all fit on this one block.
6. The density of housing and the size of the multi-dwelling building proposed by the project is more appropriate for the UMU, University Mixed Use zone to the west.
7. Concern that removal of existing single family residences will negatively affect the enrollment at Roosevelt Elementary School and may lead to eventual closing of the school.
8. Residential Protection Standards should never be compromised. They are one of the key elements to providing visual protection from single-family lots.
9. The need for this project for student-oriented housing is not justified by 2018 NDSU fall enrollment numbers, which are 5% lower than the 2017 numbers. Additionally, 1,303 student housing units in and near campus will be coming available in the next nine months.
10. This project should be two separate projects and two separate applications, evaluated individually, instead of one combined project between the Fargo Diocese and Roers Development.
11. Approval of this project may lead to additional similar projects in the neighborhood.

Support for the Newman Center: Despite numerous comments opposing the overall project, the neighborhood was generally supportive of the idea of a new St. Paul's Newman Center, though in the neighbors' view, this should be the only major development on this block.

SUMMARY OF SEPTEMBER 4th, 2018, PLANNING COMMISSION HEARING

As part of the public hearing, Roosevelt Neighborhood Association representatives Ken Enockson and Harold Thompsen gave a presentation of an overview of the neighborhood concerns, including permanent loss of single-family homes affecting neighborhood schools, the cycle of neglect of homes, parking issues, and building height and density concerns.

Eleven property owners spoke in opposition to the proposal stating the following concerns:

- Fargo's current high vacancy rate in apartment housing;
- Excessive building height;
- A need to maintain housing stock in core neighborhoods;
- The attendance decline of the neighborhood schools;
- Declining enrollment at NDSU;
- The noticeable number of vacant rental properties;
- Consistency of the project with the Roosevelt/NDSU Neighborhood plan;
- Parking concerns for the Newman Center and the multi-dwelling residential;

- The concern of having to repeatedly appear before the Planning Commission and City Commission in the interest of the neighborhood.

By a vote of 8-0, with three Commissioners absent, the Commission moved to accept the recommendation of staff and continue this item to the October 2, 2018 Planning Commission meeting.

MEETINGS FOLLOWING THE SEPTEMBER 4th, 2018 PLANNING COMMISSION HEARING

Since the September 4th, 2018 Planning Commission hearing, several meetings have occurred:

Planning staff meeting with the developer--September 6th, 2018

Following the September 4th, 2018, Planning Commission hearing, the developer met with Planning staff to review neighborhood comments from that hearing and discuss possible project modifications based on those comments.

Meeting with RNA representatives—September 13, 2018

Following the September 4th, 2018, Planning Commission hearing, Roosevelt Neighborhood Association representatives met with Planning staff to review neighborhood comments from that hearing and discuss possible project modifications based on those comments.

October 2nd, 2018 Planning Commission hearing: The project was continued to the November 6th, 2018 Planning Commission hearing. No presentations were made, no testimony was heard, and no action was taken.

Planning staff meeting with the developer and diocese--October 12th, 2018

The developer and diocese representatives returned with a design showing reduced overall density plus 13 townhome units, the elimination of the access from University Drive, and a revised height for the market rate housing building. The developer and diocese discussed this design concept with Planning staff, and proposed to present the concept to the Roosevelt Neighborhood Association (RNA) representatives in future meetings. The first meeting, to present the concept to the RNA, was scheduled for October 30th, 2018.

Planning staff meeting with RNA representatives, the developer, and the diocese—October 30th, 2018:

At this meeting, the developer presented the concept that had been discussed with Planning staff at the October 12th meeting. Six RNA representatives attended, and expressed their concerns about boulevard tree preservation, the student parking problem and the need for a comprehensive street parking plan in this neighborhood, project density, and on-site parking in relation to the proposed residential density and church uses. In a letter dated October 31, 2018, the RNA commented that, while the proposed changes are "in the right direction" and welcomed the addition of the 13 townhomes, the revised plan "is still too dense and continues to violate many of the dimensional standards we expect to be enforced." A copy of this letter and of the sign-in sheet for this meeting are attached.

November 6th Planning Commission hearing: The project was continued to the December 4th, 2018 Planning Commission hearing. No presentations were made, no testimony was heard, and no action was taken.

Planning staff meeting with RNA representatives, the developer, and the diocese—November 8th, 2018

Prior to this meeting, the developer and Planning staff conducted a preliminary evaluation of the PUD requirements. Planning staff presented this analysis at the meeting, and the developer presented the plan graphics and provided additional information. The Planning Director provided background on how the Planning Department overall analyzes projects like this, and how comprehensive plan principles, planning best practices, and zoning regulations are interpreted and applied. Five RNA representatives attended, and expressed their concerns that whatever density the Planning Commission approves will

become the new density for the Roosevelt Neighborhood and that even the reduced density proposed by the revised plan is still too great for this neighborhood.

In a follow-up letter of November 19th, 2018, RNA representative Harold Thompsen, an architect, has provided an alternative proposal depicting three different levels of reduced density and reconfigured project design. A copy of this proposal is attached as indicated in the numbered list of attachments below.

COMMENTS FOLLOWING THE SEPTEMBER 4th, 2018 PLANNING COMMISSION HEARING

Since the September 4th, 2018 Planning Commission hearing, 12 additional comments letters and e-mails have been received. A summary of major points of these comments is below:

- The proposed project will have no benefit to the neighborhood
- The proposed project will create an excessive traffic burden in the Roosevelt Neighborhood
- Lack of zoning enforcement by the City leads to neighborhood buildings being run down and neglected.
- Residents should have confidence that zoning regulations will not be modified or interpreted to bring about sudden, dramatic change in a neighborhood.
- The size of the project will truly impact the neighborhood of family houses.
- Preservation of existing housing in older neighborhoods will give young people the opportunity to purchase an affordable house, thus helping to sustain neighborhood schools.
- The proposed project density is too great, the buildings are too tall, and there is insufficient on-site parking—a project of this scope should be in the UMU, University Mixed Use zoning district [west of T-Lot].

Copies of these comment letters and e-mails are attached.

DECEMBER 4th, 2018 PLANNING COMMISSION

As part of the public hearing, Roosevelt Neighborhood Association representatives Ken Enockson, Jim Laschkewitsch, and Harold Thompsen, each spoke of the neighborhood concerns, including building height and density, the need for more detailed conversations between City departments and core neighborhoods, parking issues, Land Development Code integrity, and protecting single family living in the neighborhood.

Three other residents of the Roosevelt neighborhood spoke in opposition to the project, stating the following concerns:

- High-density development in the Roosevelt neighborhood outside of the UMU, University Mixed-Use zoning district;
- The project reduces the quality of life in the neighborhood;
- The project does not bring value to the neighborhood;
- Maintaining Fargo's "small city vs. big city" feel;
- Water retention issues on the property;
- Affordable housing for the neighborhood;
- The project could set a precedent for future high-density developments; and
- Negative effects of the project on neighborhood safety.

COMMENTS FOLLOWING DECEMBER 4th, 2018 PLANNING COMMISSION

Planning staff received one comment letter following the December 4th, 2018 Planning Commission hearing. The letter opposed the project, describing the project as "disastrous" for the Diocese, neighborhood residents, and the "soul and future of Fargo." Particularly, the letter asked:

- How much of this project is tax-free through church status?
- Is "faith-based housing" considered tax-free through church status?
- Is "faith-based housing" limited to members of a certain religion?

A copy of this letter is attached.

PROTEST PETITION—SUPER-MAJORITY VOTE REQUIRED FOR APPROVAL

Land Development Code Section 20-0906(G) provides a process to oppose a zone change by way of a petition signed by surrounding landowners that meets the criteria stated in that code section. Planning staff has received such a petition from property owners within the designated area around this project and has determined that it is a valid petition, as it meets the criteria of this code section. Therefore, if the City Commission would move to approve this project, a supermajority vote—that is, four of the five City Commissioners—would have to vote in favor of the motion to approve the project. If fewer than four would vote in favor of a motion to approve, the project would be denied. If the project is denied, the applicant would have to wait at least three months before reapplying, and would have to start again from the beginning with a new application. This waiting period is a requirement of LDC Section 20-0906(I). A spreadsheet and map of the protesting properties and a copy of the signed petition pages are attached. Note that, according to the petition organizer, three different people went door to door with copies of the petition. The attached document is a combination of the signed pages from all three of these signed petitions.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff, and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on the first reading, and approve the proposed: 1) Zoning Change from MR-3, Multi-Dwelling Residential; LC, Limited Commercial; and SR-3, Single Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay and 2) PUD Master Land Use Plan; and 3) a plat of the **St. Paul Newman Center Addition** as the proposal complies with the Go2030 Fargo Comprehensive Plan, the Roosevelt/NDSU Neighborhood Plan, Standards of Article 20-06, Section 20-0908.B (7), and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

(NOTE that a super-majority vote—4 of 5 Commissioners—is required for approval)

Planning Commission Recommendation: December 4, 2018

At the December 4th, 2018 Planning Commission hearing, by a vote of 5-4 with one Commissioner absent and one who recused himself from voting, the Planning Commission voted to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed: 1) Zoning Change from MR-3, Multi-Dwelling Residential; LC, Limited Commercial; and SR-3, Single Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay and 2) PUD Master Land Use Plan; and 3) a plat of the **St. Paul Newman Center Addition** as the proposal complies with the Go2030 Fargo Comprehensive Plan, the Roosevelt/NDSU Neighborhood Plan, Standards of Article 20-06, Section 20-0908.B (7), and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

Attachments:

1. Zoning Map
2. Location Map
3. Preliminary Plat
4. PUD Master Land Use Plan (site plan)
5. Parking layout
6. Townhome elevations
7. Developer's statement of project benefits
8. Developer's statement of intent
9. Conceptual aerial views (two graphics)
10. RNA/Harold Thompsen's alternative proposal letter and graphics date November 19, 2018.
11. Public comment letters and e-mails
12. Protest petition summary spreadsheet
13. Protest petition property locator map
14. Copies of signed pages of protest petition

Page 59 **Plat (Minor) and Zone Change (MR-3, LC and SR-3 to MR-3 w/ PUD) and a PUD**

1233, 1215, 1213, 1211 & 1201 11th Ave N;
 1146, 1142, 1138, 1134, 1130, 1126, 1122,
 1118 & 1112 12th St N; 1141, 1131, 1129,
 1119, 1117 & 1113 University Dr N

St. Paul Newman Center Addition

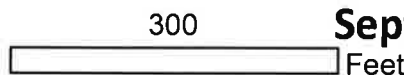


Legend

AG	DMU	GC	GO	LC	MRR-1	MRR-2	MRR-3	MHP	MZC	NO	UML	SS-1	SS-2	SS-3	SS-4	SS-5	City Limits
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Fargo Planning Commission

September 4, 2018



Page 60 **Plat (Minor) and Zone Change (MR-3, LC and SR-3 to MR-3 w/ PUD) and a PUD**

1233, 1215, 1213, 1211 & 1201 11th Ave N;
1146, 1142, 1138, 1134, 1130, 1126, 1122,
1118 & 1112 12th St N; 1141, 1131, 1129,
1119, 1117 & 1113 University Dr N

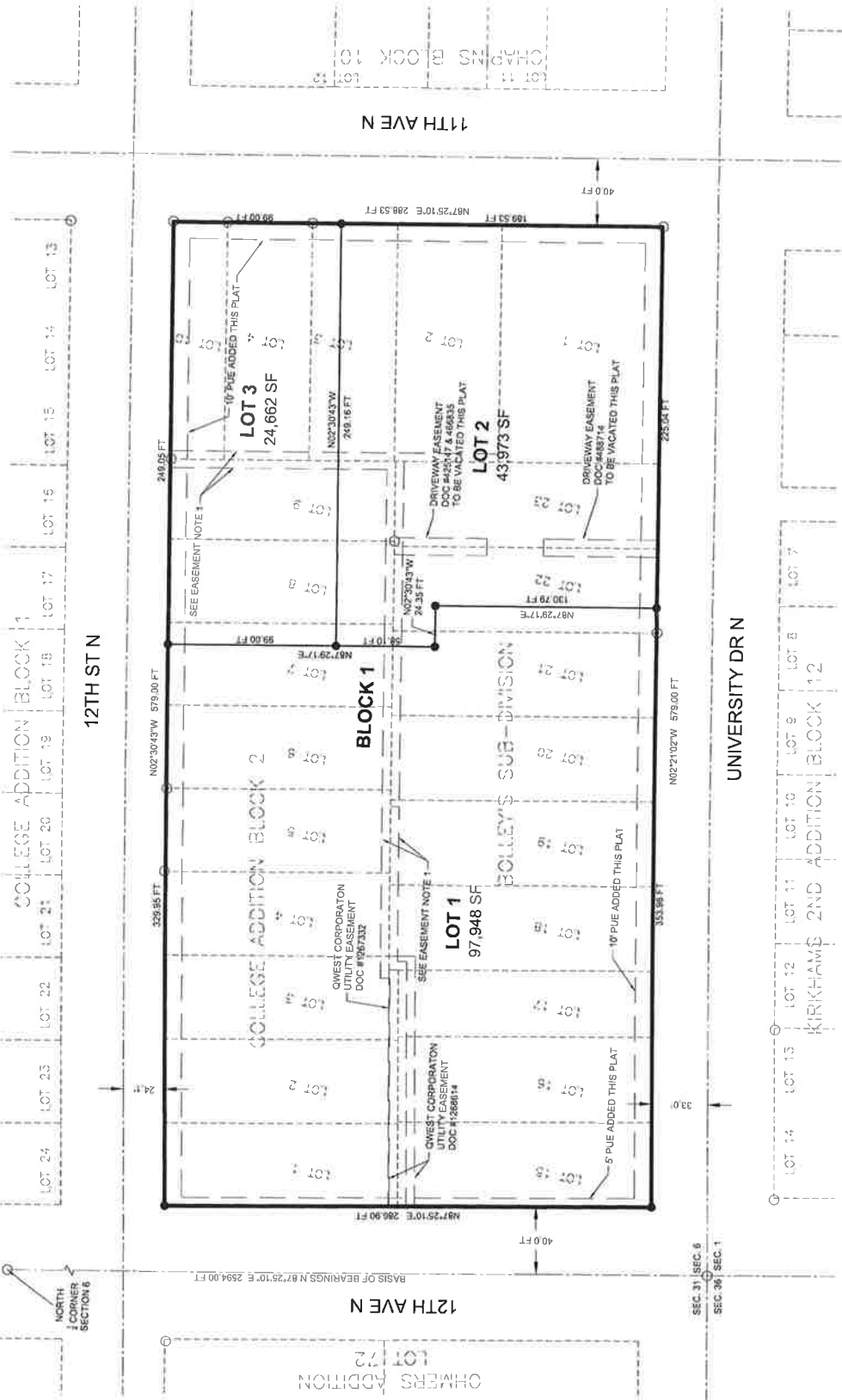
St. Paul Newman Center Addition



ST. PAUL'S NEWMAN CENTER ADDITION

BEING A REPLAT OF LOTS 1 THROUGH 4 & 15 THROUGH 23 OF BOLLEY'S SUB-DIVISION OF PART OF BLOCK 9, CHAPIN'S ADDITION AND LOTS 11 THROUGH 20, BLOCK 2, COLLEGE ADDITION, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA (A MINOR SUBDIVISION)

- LEGEND**
- FOUND MONUMENT
 - SET #5 REBAR
 - SUBDIVISION BOUNDARY
 - LOT LINE THIS PLAT
 - - - EXISTING LOT LINE
 - - - EASEMENT LINE



LANS SUBDIVISION
 2005 S WELLSVILLE, WY
 2005 S WELLSVILLE, WY
 FARGO, NORTH DAKOTA 58103
 PHONE: 701-338-5500

SOCIETY OWNER
 NC WELLSVILLE, LLC
 2307 BELLEVILLE BLVD S, STE A
 FARGO, ND 58103
 PHONE: 701-338-3000



EASEMENT NOTE 1 - WORKMENT COMMUNICATIONS UTILITY EASEMENT BY MOST EACH SIDE OF PROPERTY LINES AS SHOWN. DOC #1187237, 1487216, 1487217, 1487218, 1487219, 1487220, 1487221, 1487222, 1487223, 1487224, 1487225, 1487226, 1487227, 1487228, 1487229, 1487230, 1487231, 1487232, 1487233, 1487234, 1487235, 1487236, 1487237, 1487238, 1487239, 1487240, 1487241, 1487242, 1487243, 1487244, 1487245, 1487246, 1487247, 1487248, 1487249, 1487250, 1487251, 1487252, 1487253, 1487254, 1487255, 1487256, 1487257, 1487258, 1487259, 1487260, 1487261, 1487262, 1487263, 1487264, 1487265, 1487266, 1487267, 1487268, 1487269, 1487270, 1487271, 1487272, 1487273, 1487274, 1487275, 1487276, 1487277, 1487278, 1487279, 1487280, 1487281, 1487282, 1487283, 1487284, 1487285, 1487286, 1487287, 1487288, 1487289, 1487290, 1487291, 1487292, 1487293, 1487294, 1487295, 1487296, 1487297, 1487298, 1487299, 1487300.

ST. PAUL'S NEWMAN CENTER ADDITION

BEING A REPLAT OF LOTS 1 THROUGH 4 & 15 THROUGH 23 OF BOLLEY'S SUB-DIVISION OF PART OF BLOCK 9, CHAPIN'S ADDITION AND LOTS 1 THROUGH 10, BLOCK 2, COLLEGE ADDITION, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA (A MINOR SUBDIVISION)

OWNER'S DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, THAT THE DIOCESE OF FARGO, A NORTH DAKOTA NONPROFIT CORPORATION; ST. PAUL'S COLLEGE CHAPEL, A NORTH DAKOTA NONPROFIT CORPORATION; NEWMAN CENTER, ST. PAUL'S CATHOLIC CHAPEL, A NORTH DAKOTA LIMITED LIABILITY COMPANY AS OWNERS OF TRACTS OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 156 NORTH, RANGE 48 WEST OF THE 5TH PRINCIPAL MERIDIAN, CASS COUNTY NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 1 THROUGH 4 & 15 THROUGH 23, BOLLEY'S SUBDIVISION OF PART OF BLOCK 9, CHAPIN'S ADDITION AND LOTS 1 THROUGH 10, BLOCK 2, COLLEGE ADDITION, CITY OF FARGO, CASS COUNTY NORTH DAKOTA. SAID TRACT OF LAND CONTAINS 3.824 ACRES, MORE OR LESS AND IS SUBJECT TO EASEMENTS AS MAY BE OF RECORD.

SAID OWNERS HAVE CAUSED THE ABOVE DESCRIBED TRACT OF LAND TO BE SURVEYED AND PLATTED AS "ST. PAUL'S NEWMAN CENTER ADDITION" TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, AND DO HEREBY DEDICATE TO THE PUBLIC, FOR PUBLIC USE, ALL UTILITY EASEMENTS AS SHOWN ON THIS PLAT.

DIOCESE OF FARGO

BY: MOST REV. JOHN T. FOLDA, PRESIDENT OF THE DIOCESE OF FARGO

STATE OF NORTH DAKOTA }
COUNTY OF CASS } ss

ON THIS _____ DAY OF _____, 2019, BEFORE ME A NOTARY PUBLIC, PERSONALLY APPEARED MOST REV. JOHN T. FOLDA, PRESIDENT OF THE DIOCESE OF FARGO, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC

ST. PAUL'S COLLEGE CHAPEL

BY: MOST REV. JOHN T. FOLDA, PRESIDENT OF ST. PAUL'S COLLEGE CHAPEL

STATE OF NORTH DAKOTA }
COUNTY OF CASS } ss

ON THIS _____ DAY OF _____, 2019, BEFORE ME PERSONALLY APPEARED MOST REV. JOHN T. FOLDA, PRESIDENT OF ST. PAUL'S COLLEGE CHAPEL, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC

NEWMAN CENTER, ST. PAUL'S CATHOLIC CHAPEL

BY: MOST REV. JOHN T. FOLDA, PRESIDENT OF THE NEWMAN CENTER, ST. PAUL'S CATHOLIC CHAPEL

STATE OF NORTH DAKOTA }
COUNTY OF CASS } ss

ON THIS _____ DAY OF _____, 2019, BEFORE ME PERSONALLY APPEARED MOST REV. JOHN T. FOLDA, PRESIDENT OF THE NEWMAN CENTER, ST. PAUL'S CATHOLIC CHAPEL, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC

NC INVESTMENTS LLC

BY: JAMES P. ROGERS, PRESIDENT OF NC INVESTMENTS LLC

STATE OF NORTH DAKOTA }
COUNTY OF CASS } ss

ON THIS _____ DAY OF _____, 2019, BEFORE ME PERSONALLY APPEARED JAMES P. ROGERS, PRESIDENT OF NC INVESTMENTS LLC, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC

CONSENT OF MORTGAGEE

DATED THIS _____ DAY OF _____, 2019,

AMERICAN FEDERAL BANK

BY: MARK DUBORD, VICE PRESIDENT

STATE OF NORTH DAKOTA }
COUNTY OF CASS } ss

ON THIS _____ DAY OF _____, 2019, BEFORE ME A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED MARK DUBORD, VICE PRESIDENT OF AMERICAN FEDERAL BANK, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC

CONSENT OF MORTGAGEE

DATED THIS _____ DAY OF _____, 2019,

CORNERSTONE BANK

BY: JIM HAMBRICK, SENIOR VICE PRESIDENT

STATE OF NORTH DAKOTA }
COUNTY OF CASS } ss

ON THIS _____ DAY OF _____, 2019, BEFORE ME A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED JIM HAMBRICK, SENIOR VICE PRESIDENT OF CORNERSTONE BANK, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, DOUGLAS W. KUMMER, PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT I HAVE SURVEYED AND PLATTED "ST. PAUL'S NEWMAN CENTER ADDITION" TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA; THAT THIS PLAT IS A CORRECT REPRESENTATION OF SAID SURVEY, THAT ALL IMPROVEMENTS ARE OR WILL BE INSTALLED CORRECTLY IN THE GROUND AS SHOWN.

DATED THIS _____ DAY OF _____, 2019,

DOUGLAS W. KUMMER, PROFESSIONAL LAND SURVEYOR
NORTH DAKOTA LICENSE NO. 1225

STATE OF NORTH DAKOTA }
COUNTY OF CASS } ss

ON THIS _____ DAY OF _____, 2019, BEFORE ME A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED DOUGLAS W. KUMMER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

NOTARY PUBLIC

PROPERTY OWNERS
NC INVESTMENTS LLC
SUCCESSION OF FARGO
2501 S. BOULEVARD, SUITE 500
FARGO, NORTH DAKOTA 58103
PHONE: 701-337-5000

LAND SURVEYOR
DOUGLAS W. KUMMER, P.L.S.
200 EAST BOWLING GREEN, SUITE A
FARGO, NORTH DAKOTA 58103
PHONE: 701-337-3900

CITY OF FARGO PLANNING COMMISSION APPROVAL

APPROVED BY THE BOARD OF CITY COMMISSIONERS AND ORDERED FILED THIS _____ DAY OF _____, 2019.

SHARA FISCHER, PLANNING COMMISSION CHAIR

STATE OF NORTH DAKOTA }
COUNTY OF CASS } ss

ON THIS _____ DAY OF _____, 2019, BEFORE ME A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED SHARA FISCHER, PLANNING COMMISSION CHAIR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

NOTARY PUBLIC

CONSENT OF MORTGAGEE

DATED THIS _____ DAY OF _____, 2019,

WESTERN STATE BANK

BY: BRAD JACOBSON, PRESIDENT

STATE OF NORTH DAKOTA }
COUNTY OF CASS } ss

ON THIS _____ DAY OF _____, 2019, BEFORE ME A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED BRAD JACOBSON, PRESIDENT OF WESTERN STATE BANK, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

NOTARY PUBLIC

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

APPROVED BY CITY ENGINEER THIS _____ DAY OF _____, 2019.

BRENDA L. DERRING, CITY ENGINEER

STATE OF NORTH DAKOTA }
COUNTY OF CASS } ss

ON THIS _____ DAY OF _____, 2019, BEFORE ME A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED BRENDA L. DERRING, CITY ENGINEER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

NOTARY PUBLIC

SHEET 2 OF 2

MASTER LAND USE PLAN

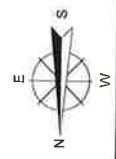
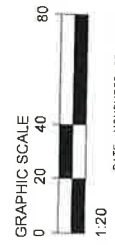
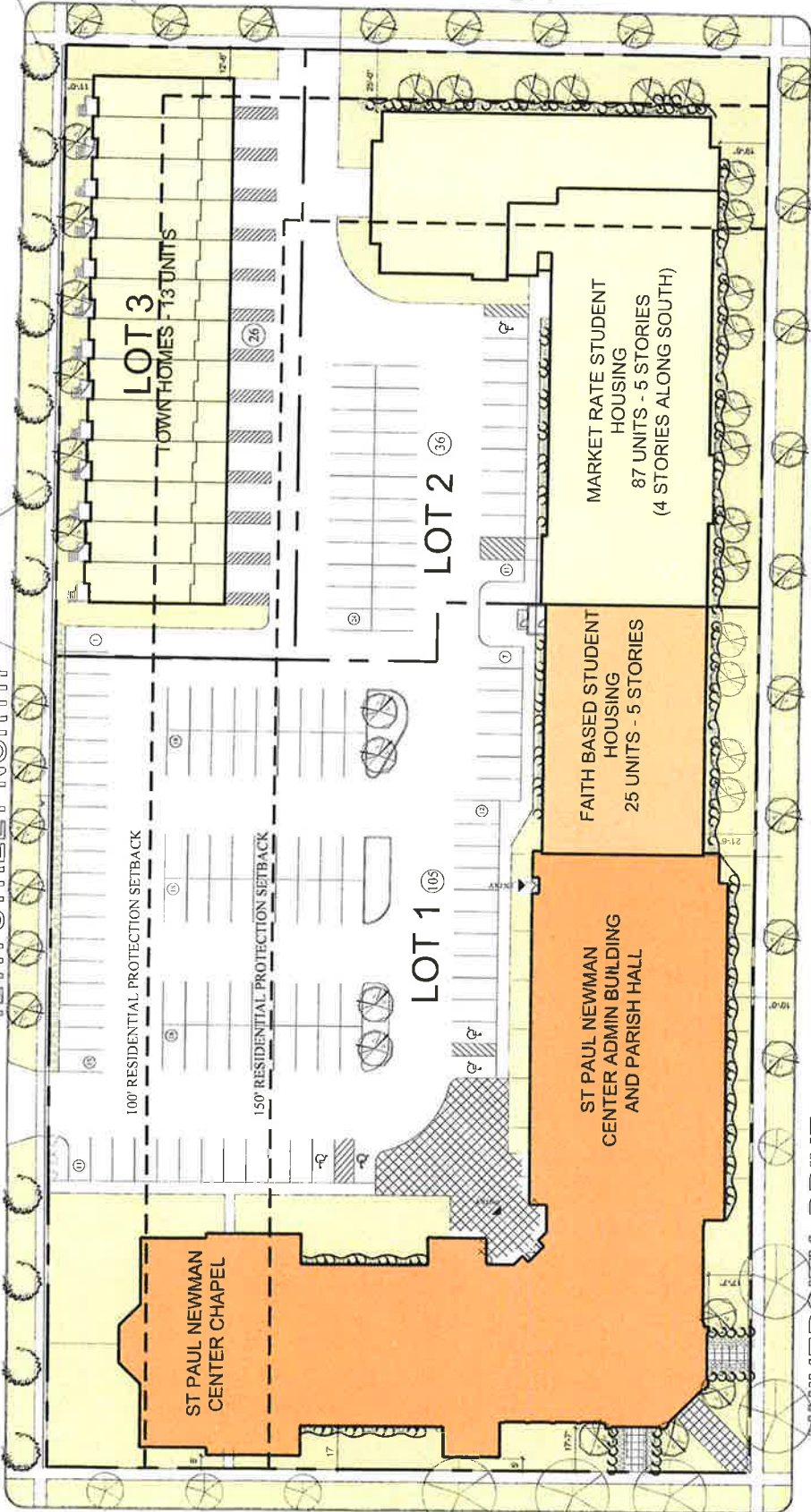
OPEN SPACE LANDSCAPING
 SITE AREA = 166,586 SF
 LDC PLANT UNITS REQ'D = 3 PU / 1,000
 SF SITE = 500 PLANT UNITS REQ'D

PARKING LOT BUFFER =
 EVERGREEN SHRUBS @ 4' O.C.
 STREET TREES 1-1/2" CALIPER =
 12TH ST N : (6) THUNDERCHILD CRABAPPLE @ APPROXIMATE 25' O.C. +
 (11) PRAIRIE GEM PEAR = QTY: 17
 11TH AVE N: (8) THUNDERCHILD CRABAPPLE @ APPROXIMATELY 35' O.C.

12TH STREET NORTH

12TH AVENUE NORTH

11TH AVENUE NORTH



12TH STREET NORTH

11TH AVENUE NORTH

12TH AVENUE NORTH

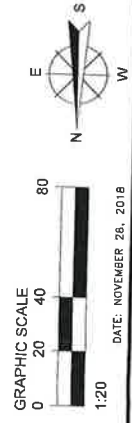
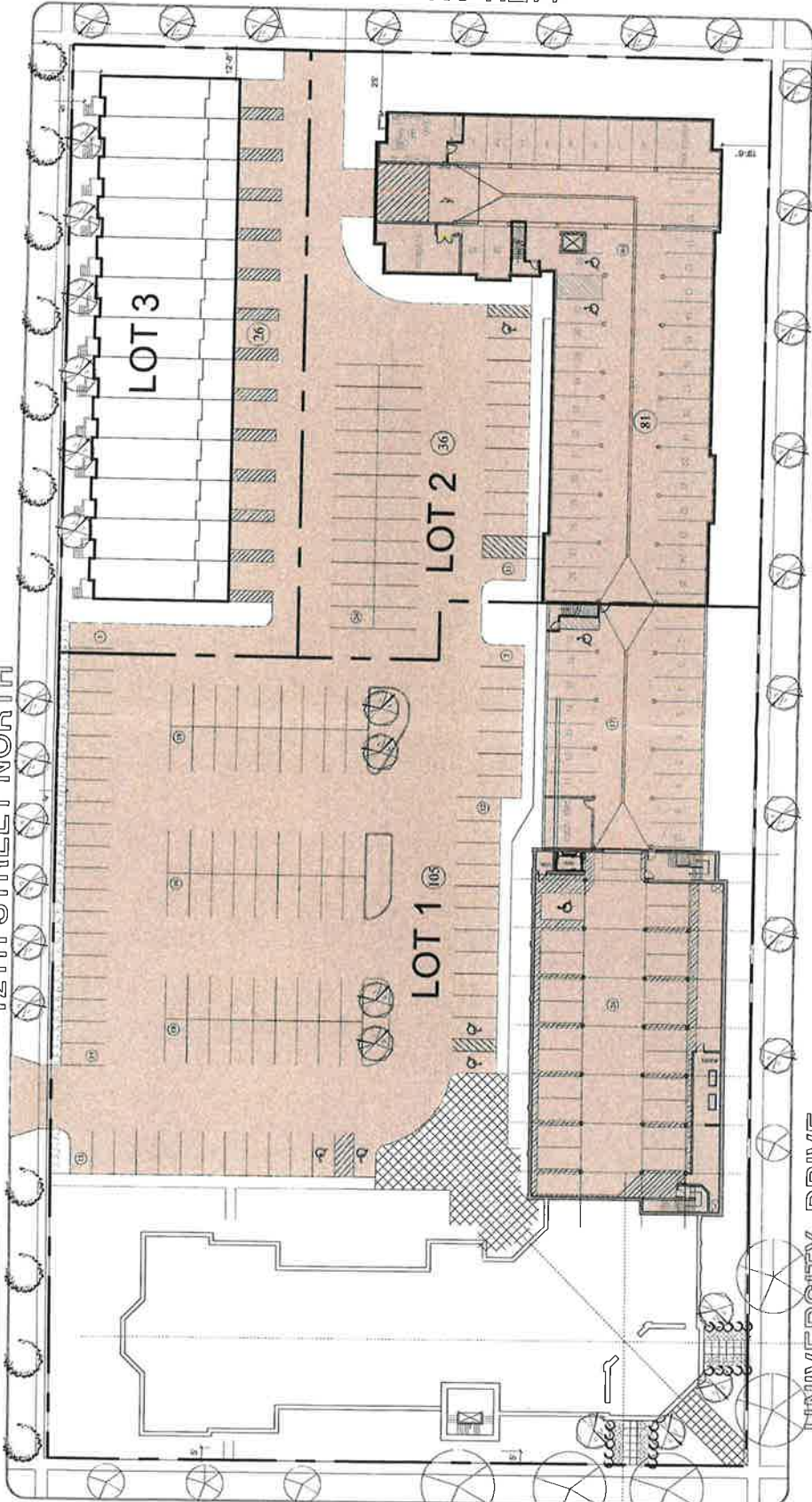
UNIVERSITY DRIVE

LOT 3

LOT 2

LOT 1

PARKING
 TOWNHOME PARKING = 26
 SURFACE PARKING = 141 STALLS
 UNDERGROUND PARKING = 76 STALLS
 TOTAL ON-SITE PARKING = 243 STALLS
 OFF-SITE PARKING = 248 STALLS



DATE: NOVEMBER 26, 2018





- Development
- Construction
- Property Management
- Commercial & Residential Real Estate

August 29, 2018

City of Fargo – Planning and Development
Attn: Donald Kress
200 Third Street North
Fargo, ND 58102

RE: St. Paul's Newman Center Addition

Dear Mr. Kress,

The redevelopment of the St. Paul's Newman Center (SPNC) block presents a unique opportunity for the City of Fargo to benefit from a unified development approach to a landmark parcel of property. Located at the gateway of the NDSU campus, Fargo has the opportunity to significantly improve the aesthetics and purpose of the neighborhood with a new Newman Center and related housing. Located along two major thoroughfares, almost 20,000 vehicles daily will pass by this project. This corner often serves as the "first impression" for NDSU. The use of PUD and a unified development allows significant cross-utilization of public utilities, parking, stormwater retention, and amenities.

The St. Paul's Newman Center (SPNC) Addition block redevelopment project supports the City of Fargo Go 2030 Plan and benefits the community in these ways:

- 1) Promotes infill and density within an already developed area.
- 2) Will follow design guidelines embracing the historical presence of the Newman Center and promoting a dense walkable community.
- 3) Quality new development building and site design standards will be utilized. The project will use the best materials available to achieve high quality and energy efficient buildings.
- 4) High-quality affordable housing will be provided near the NDSU campus. Few could argue that this site is perhaps the most desirable location in Fargo to support the housing needs of both the NDSU and downtown NDSU campuses.
- 5) Affordable housing for workforce and low-income residents will be provided. Access to local bus routes and walkability to the NDSU campus will allow both students and non-students opportunities to live without the need for an expensive vehicle.
- 6) The redevelopment of the St. Paul's Newman Center block has been contemplated for over five years. Public meetings sharing the vision for the project were first held on October 20, 2016. Since that time, the project has had numerous revisions addressing various comments from the neighborhood and city staff.

The use of the PUD zoning overlay will allow us to meet the intent of the community land use goals for this area without the boundaries of existing zoning. We will minimize the impact of the increased utilization of the redeveloped block.



Building success.

Specifically, the PUD allows us to:

- Develop different, yet compatible, land uses not usually combined.
- Take advantage of the shared use of underground parking.
- Optimize the use of existing public utility services.
- Share the surface parking with compatible uses.
- Optimize setbacks to facilitate cross-utilization of building amenities.
- Minimize the building footprints.

Overall, these features combine to optimize the utilization of the site and minimize the impact to the neighborhood.

Anchoring the southeast corner of University Drive N and 12th Avenue N opposite the gateway into NDSU campus, this project will provide for a new St. Paul's Newman Center to serve an estimated 14,500+ NDSU students, which has grown from the 3,250 student population served in 1958 when the current facility was built.

Program elements will include up to a 500-seat chapel, student commons, parish hall, kitchen, coffee shop, Catholic bookstore, offices, classroom space, group meeting space, Priests residence, religious community residence, staff apartments, and faith-based housing that transitions into conventional market-rate housing on the south end of the site.

The housing components that begin in the middle of the University drive block with the Faith-Based Housing and transitions to the conventional Market Rate Housing will enhance housing options near campus and along an established bus route, to provide relief to the dozens of single-family homes within the Roosevelt neighborhood currently leased as rental properties.

We believe in providing a safe and supportive place to work and live with the following strategies:

- Safe campus – secure entries with keyless entrance monitoring, security cameras through-out, and security personnel provided as needed during NDSU events when higher levels of activity are expected.
- Intentional Interactions – Residential staff get to know the residents and help them as they adjust to life in the community.
- Active Communication and Passive Educational Opportunities – Study sessions, message boards/monitors, e-mail, Facebook, and Twitter communications.
- Community Building Events – Housing staff host regular events to foster social connections among residents and collaborate with University partners that bring resources into our communities for staff and students to help meet other people and get involved.

We would like to thank the many neighbors and city staff who have had a hand in shaping this unique redevelopment opportunity.

Sincerely,
Roers Development, Inc.



Larry S. Nygard
Vice President

PUD NARRATIVE

St. Paul Newman Center Block Redevelopment Revised

DEVELOPER'S STATEMENT OF INTENT: The St. Paul Newman Center Block Redevelopment Project intends to expand the presence of the St. Paul Newman Center adjacent to the NDSU campus to provide a new church and admin facility to meet the program space needs today, provide faith-based student housing, and market-rate student housing in higher density near the gateway to campus to relieve the rental demand on single-family homes in the Roosevelt Neighborhood and resolve the blighted status of some homes within this block.

The PUD will include a site plan for the development that is incorporated here by reference. The PUD will, generally, apply the MR-3, Multi-dwelling residential development standards, except as otherwise provided in the chart included in the staff report.





November 19, 2018

Fargo Planning Commission
200 2nd St. N.
Fargo, ND 58102

RE: St. Paul Newman Center Project

To whom it my concern:

Thank you for giving me the opportunity to visit with the development team regarding their proposed changes to the project. We met with them on October 30th and November 8th of this year. We are grateful that they are listening to our concerns. We understand the developer is offering less density with fewer units, reducing the height of the apartments by one story and adding 13 townhomes. We are pleased with the direction of the changes but think it has a longer way to go.

The primary issue for us is the proposed density, i.e. the number of units per acre. Because the density is over the 24 u/a maximum allowed for an MR-3 District, almost all of the dimensional standards proposed are beyond their reasonable limits. The original submittal started out at 36 U/A; the revisions proposed have reduced it to 33 U/A. We would like to see it reduced to 24 units per acre for three specific reasons.

1. PRESERVING THE INTEGRITY OF LDC (Land Development Code)

The dimensional standards of the LDC is the primary document that we as single family home owners and citizens of this community have in place to protect us from our neighbors and adjacent developments. We expect the Planning Commission to preserve and protect single family lots. Any proposed change must be done with orderly growth in mind. Orderly growth can be contained within the dimensional standards of the LDC. We can accept the rezoning of this site to MR-3, but the site plan should be redesigned within the dimensional standards. The Planning Commission must insist that the developer offers a balanced solution to any proposed PUD overlay. i.e. if they want more density than they should offer fewer stories to balance the request; if they want more height than they should offer greater setbacks, etc. The dimensional standards proposed are in excess of what any neighbor should have to expect.

2. PRESERVING THE INTEGRITY OF OUR NEIGHBORHOOD LAND USE PLAN

The north half of the proposed site is currently zoned for 'Commercial with Residential'. The south half is zoned for 'Mixed density residential'. We accept the developer's proposal to rezone it to MR-3. We concur that this would be the maximum allowed by the Land Use Plan. However, the density proposed (33 u/a) falls under the guidelines of our UMU District and has no grounds for being proposed for this location. 33 units per acre density should be denied or at least a public hearing offered to debate the merits of changing the zoning to something this dense.

3. PRESERVING THE NEIGHBORHOOD FROM SIMILAR ILL-SUITED DENSITIES

We are extremely concerned about the precedent this may set if this level of density is approved; not only for our neighborhood but all other neighborhoods within the City. The Planning Commission should not allow this level of density (UMU) on this block or any block not designated for UMU or similar use.

POTENTIAL SOLUTIONS

Several parties have heard our concerns and asked what we would propose for improvements.

Attached, please find a graph with five different density scenarios for your review. The scenarios are in columns numbered 1-5 and include descending densities from 36 units per acre to 24 units per acre. The graph also includes an on-site parking summary for each.

Columns #1 & #2

These columns you will recognize as the developer's original proposal (#1), 136 units and their proposed revision (#2), 125 units that includes 13 townhomes. The original represented 36 units per acre. Their revision is 33 units per acre. Although the revision is in the right direction, we offer three additional scenarios, each leading to a lower density.

Column #3

This column represents a total of 114 units (30 units per acre). 11 more townhomes have been added and 22 market rate units have been removed. It appears the site has the capacity for 24 townhomes along 12th St. The townhomes would make a nice buffer between the single family homes on the east side of 12th St. and the market rate apartments on site. If the developer in their first revision could trade 25 apartment units for 13 townhomes, why couldn't they trade another 22 apartment units for 11 more townhomes. An acceptable buffer would be provided and the apartment building would be one story shorter. The biggest concern with this proposal is the on-site parking meets the developer's standard but not the 2.25 parking spaces/unit required by the LDC. A schematic Site Plan '30 U/A' is attached for your review.

Column #4

This column represents a total of 103 units (27 units per acre). The townhome arrangement is the same as Column #3. The difference is 11 more apartment units have been removed to lower the density to 27u/a. This will allow the apartments along 11th Ave. N. to be lowered to three floors. If you keep the on-site parking count the same than this scenario meets the parking requirements of the LDC and have six extra spaces for the Chapel's weekday use. A schematic Site Plan '27 U/A' is attached for your review.

Column #5 (Our Preference)

This column represents a total of 91 units (24 units per acre). This is the maximum density allowed by the MR-3 District. It includes 24 Townhomes, 25 Faith-based units and 42 Market-rate student units for a total of 91 units. The apartments could be lowered to three stories. With 184 parking spaces available on site for the 67 apartments there would be 33 extra spaces

available for the Chapel's use. (67 units x 2.25 spaces/unit = 151 space + 33 extra = 184 available on site. A schematic Site Plan '24 U/A' is attached for your review.

The 24 unit/acre scenario is our obvious preference. It falls within the dimensional standards of the LDC. It meets the requirements of the neighborhood's Land Use Plan and it sets an acceptable precedent for future development.

Sincerely yours,

A handwritten signature in blue ink that reads "Harold A. Thompsen". The signature is fluid and cursive, with a large, stylized initial "H".

Harold A. Thompsen
1309 N 9th St. - 40+ year resident of the neighborhood

4 attachments

ST. PAUL NEWMAN CENTER PROJECT

FARGO, ND
NOV. 19, 2018

BY DEVELOPED
#1 #2

OPTIONS FOR PLANNING
TO CONSIDER
#3 #4 #5

9/11/18 11/8/18

TOWNHOMES

0 13

24 24 24

FAITH-BASED
UNITS

29 25

25 25 25

(TOTAL UNITS
W/O T.H.)

(136) (112)

(90) (79) (67)

STUDENT
MKT-RATE

107 87

65 54 42

TOTAL UNITS

136 125

114 103 91

DENSITY (U/A)
(UNITS PER ACRE)

36 33

30 27 24*

RIGHT
DIRECTION

HEIGHT (STORIES)

6 5/4

4 4/3 3

UG. PARKING

90 76

76 76 76

SURFACE PRK'G

184 141

108 108 108

TOTAL PRK'G

274 217

184 184 184

PARKING SPACES/
PED

1.0± 0.9±

1.0± 1.2± 1.4±

PARKING SPACES
PER UNIT

2.0± 1.9±

2.0± 2.3± 2.7±

2.25
MAX REQ.
6 EXTRA
SPACES

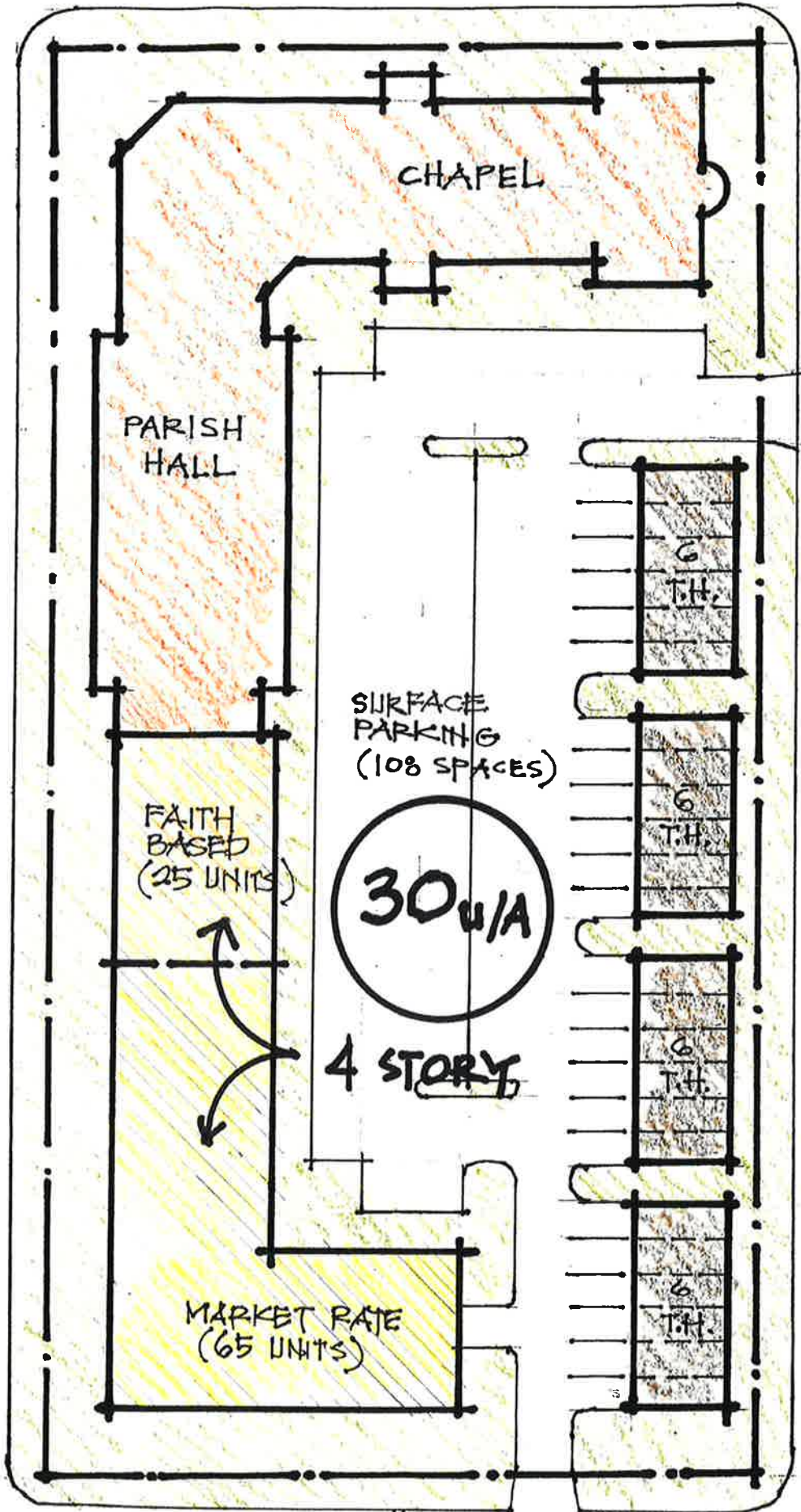
2.25
MAX. REQ.
33 EXTRA
SPACES

* LDC MAX. FOR MR-3

12th AVE N.

UNIVERSITY DR. N

12th ST. N

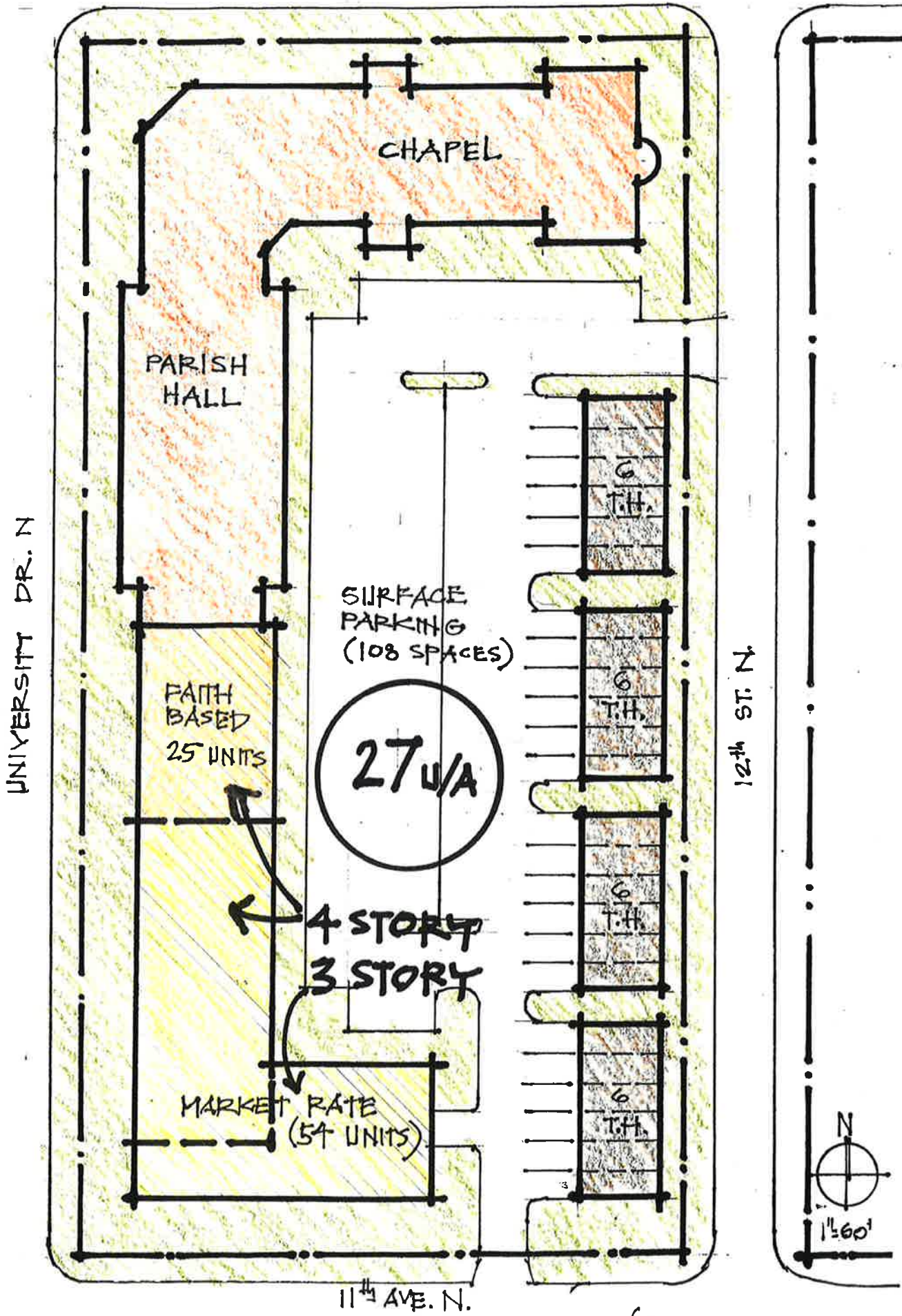


1 1/2 60'

Nov '18

5.

12th AVE N.



UNIVERSITY DR. N

12th ST. N

11th AVE. N.



1/8" = 60'

6.

12th AVE N.

UNIVERSITY DR. N

12th ST. N

24 U/A

3 STORY

CHAPEL

PARISH HALL

SURFACE PARKING
(108 SPACES)

FAITH BASED
(25 UNITS)

U.G. PKG
(76 SPACES)

MARKET RATE
(42 UNITS)



11th AVE. N.

7.



1"=60'
NOV '18

Comment Sheet

St. Paul's Newman Center Project Open House Monday, August 20, 2018

Contact Information

Please Print

Property Owner Name: Ken Enockson

Address of Property: 1202 8th St N

Mailing Address (if different than above) _____

Phone Number: 701-730-6636

Email: kenockson@hotmail.com

Comments: Regarding Lot 2
Population density, scale of project
or height of building on 11th Ave is unacceptable
This is a UMU project proposed outside
the UMU district. It doesn't fit in a residential
neighborhood. Medium density development
would be the appropriate option along 11th Ave
There is no buffer available in this proposal.

From: Ken Enockson <kenockson@hotmail.com>
Sent: Tuesday, August 21, 2018 9:27 AM
To: Donald Kress <dkress@FargoND.gov>; Jim Laschkewitsch <jlaschke@gmail.com>;
berryhill@cableone.net; nathan.a.larson@gmail.com
Cc: Nicole Crutchfield <ncrutchfield@FargoND.gov>; Mark Williams <MWilliams@FargoND.gov>; Tyrone
Grandstrand <TGrandstrand@FargoND.gov>; Elissa Novotny <enovotny@roers.com>
Subject: RE: Information and meeting regarding proposed St. Paul Newman Center project--12th Avenue
and University Drive

<p>CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.</p>
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Hello Donald,

It is my understanding that this request is scheduled to be presented to the Planning Commission on September 4th. If so, the RNA *strongly* recommends that the city push back this date by a month as the timeframe required for the neighborhood to mobilize our objections and concerns is not sufficient. As most of us do not live within the 300 foot radius of the property in question, we only learned barely 2 weeks ago that the project was going forward. As we have pointed out to the Planning Department on several occasions, the window of time between submission of a proposed project and the start of the city approval process is generally too short for neighbors impacted by the project to be able to digest the information and provide relevant feedback. There are serious issues with this current proposal that need to be addressed thoroughly. Please allow neighborhood residents sufficient time to do so.

Thanks,
Ken Enockson

From: Brian Kappel <kappelb@gmail.com>
Sent: Tuesday, August 21, 2018 6:34 AM
To: Planning E-mails <planning@FargoND.gov>
Subject: Newman

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

As I read this mornings paper I am struck by how the planners work. They develop the project and post a date of when they hope the project will be done prior to holding neighborhood meetings.

The cart is before the horse.

I was born in this town in 1951 and what I have observed is how the planners really do not plan.

They listen to the developers

and then propose zoning changes to accommodate. Roers and the church knew what this was zoned. It should have gone to the neighborhood and you before it had gotten this far.

I urge you to modify the plan to any structure will be no taller than a historic 3 story home.

--

Brian Kappel
Fargo North Dakota

HAROLD & JUDY THOMPSEN
1309 N 9TH ST - FARGO
(RESIDENTS OF ROOSEVELT NEIGHBORHOOD FOR 40 YEARS)

City of Fargo
Department of Planning and Development
200 North Third Street
Fargo, ND

August 23, 2018

RE: St. Paul's Newman Center Project

To whom it may concern,

Please know that we are OPPOSED to the project, as submitted, for the following reasons:

1. The proposed plan does NOT meet the intent of the 'Roosevelt Neighborhood Plan' adopted by you and the City Commission. The high-density, market-rate housing should be removed from this site and relocated to the UMU District south of NDSU. The requests for variances to the MR-3 standards are excessive and unreasonable. Use of PUD has been and always should be a 'give and take' proposition in order to keep the impact to the neighbors balanced. This proposal appears to be all take and no give.
2. The block is too small to support both a 500-seat Chapel Expansion and 136 units of student housing. The proposal includes the Chapel Expansion on Lot 1 and the multi-family student housing (faith-based and market-rate) on Lot 2. Lot 2 is only 2.21 acres. If Lot 2 is rezoned to MR-3 then it could only support 53 units (2.21 x 24 units/acre) under the MR-3 dimensional standards. The proposed 136 units on this lot would result in a density of 61.5 units per acre, over 2.5 times the recommended maximum. That is excessive and the market-rate units should be relocated to the UMU District.
3. Destroying 16 single family homes will reduce the inventory of potentially affordable homes for our neighborhood. The Roosevelt School is the anchor to our neighborhood. We, the neighborhood and the City, need to do everything we can to keep the school open. We need young families and they need affordable housing.

Also know that we do SUPPORT the efforts of the St Paul's Newman Center to expand their Chapel. However, a 500-seat Chapel is a significant addition and it appears to us that it will take the entire 3.8 acre block to physically support the chapel, administration building and associated parking. We would like to see the development relocate the market-based units and make an attempt at a creative redesign that considers the reuse of the existing single-family houses for the 'faith-based' housing.

If not reuse, than consider replacing the existing houses with two-story townhomes that are 'family friendly'. The scale would be more appropriate for this location. The future use of these units would be better adapted to supporting the Roosevelt School.

At the least, we would like to see the height of the 'faith-based' units reduced from five stories to three stories or less. We think this can be achieved, physically, if the market-rate units are relocated.

Sincerely yours,



Harold and Judy Thompson
1309 N 9th St - Fargo

From: Ken Enockson <kenockson@hotmail.com>
Sent: Monday, August 27, 2018 2:25 PM
To: Donald Kress <dkress@FargoND.gov>
Cc: 'Martha Berryhill' <Berryhill@cableone.net>
Subject: sending along note from Martha Berryhill

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Hello Don,

I am forwarding along to you some comments and an inquiry from Martha Berryhill. Evidently the emails she sent to you previously bounced back to her so she asked me to resend to ensure you received them:

Comment re Newman Project:

Planning Commissioners,

I have no problem with the Block 1 proposal for a rebuilt sanctuary and supporting facilities.

I object strongly to the Block 2 proposal. It does not fit the neighborhood plan, it does not adhere to existing codes, and it is of very little benefit to the neighborhood. What little benefit it does provide (removing blighted properties) is negated by what the neighborhood loses (single family houses that could be rehabilitated and filled with long-term residents.)

Existing codes, residential protection standards, and neighborhood plans are there to protect the residents and their properties. Overruling them benefits only the developers; there is minimal, questionable benefit to the neighborhood.

Please help us protect our neighborhood by rejecting this proposal!

Martha Berryhill
Friend of the Roosevelt Neighborhood

Inquiry re City notification process:

1. Subject: question
2. Donald,
3. I was looking at past CC meetings and noticed the following from the July 16th City Commission minutes. Who is/are the "appropriate staff"? To my knowledge no one from the RNA has been contacted about this.
4. Commissioner Grindberg moved appropriate staff be directed to prepare four Renewal Plans for blocks in the Roosevelt Neighborhood, and to involve members of the Roosevelt Neighborhood Association.
Second by Piepkorn.
5. -Martha B

Thanks and have a great week.
Ken Enockson



ROOSEVELT NEIGHBORHOOD ASSOCIATION
1026 NORTH 10TH ST
FARGO, ND 58102

City of Fargo
Department of Planning and Development
200 North Third Street
Fargo, ND 58102

August 27, 2018

RE: St. Paul's Newman Center Project - Technical Merits

To whom it may concern,

The Roosevelt Neighborhood Association met tonight to discuss the technical merits of the PUD submitted by the applicant.

The following questions were raised by our committee and the Association asked us to forward them to the Planning Department for review and comment.

(The bold italicized are comments from our committee members)

1. What is a 'Unified Development' and where can we find it in the Land Development Code? It is a term introduced to us by Mr. Donald Kress from the Planning Department after the Open House last Monday. If it's a 'Unified Development' will the housing portion become tax exempt?
2. Front yard setbacks are reported to be only 5 feet by the applicant. Shouldn't they be increased to support the provisions for landscaping?
3. The application indicates the potential for a Bookstore and Coffeehouse, but has not made any provisions for parking. How many on-site parking spaces need to be added to support these features?
4. The application indicates a three-story Administration Building. Based on the footprint, it appears to be 12,000 s.f. x 3 stories = 36,000 s.f. Please confirm the size and the amount of additional parking will be needed by the LDC?
(It appears to us that 80-100 spaces should be added based on 1 parking space per 300 sf of office)

5. Building coverage has been reported to be at 38%, 3% over the 35% limit. 3% represents approximately 5,000 s.f. of building coverage. Will the applicant be required to reduce the housing or the chapel footprint or both?

(Note: 5,000 s.f. of the market rate housing appears to represent 24 units. (4 units per floor x 6 floors)).

6. Parking for the market rate housing has been calculated at .8 spaces per bed. Where does that come from in the LDC? We found a similar analogy in the Traffic Study Report provided by the applicant in the packet of submittals, but the .8 per bed is based on an apartment building in the UMU District. This is MR-3. Isn't that an 'apple to oranges' analogy?

(The total parking spaces needed for housing according to the LDC tables is 306 spaces. 136 units x 2.25. There are only 252 parking spaces for housing on-site. The LDC specifically prohibits off-site parking for residential occupancies. It appears the number of units will need to be decreased to a maximum of 112 units to be supported by available on-site parking.)

7. Parking for the 'Faith-based' housing has been calculated at 2.25 spaces per unit per the LDC. Shouldn't the market rate housing parking be calculated per the LDC, also?

8. Sufficient parking for multi-family housing has always been a significant issue for the Planning Department. The application says it needs 249 parking spaces for their multi-family housing. 68 of the 249 are in the underground garage, leaving 181 on-site. With only 184 spaces on-site, as per the plan, the chapel is left with 3 on-site spaces for visitors, mid-week worshipers, customers at the coffee shop and bookstore and staff overflow. Only 22 underground garage spaces are being provided for a three story Administration Building. Where are the calculations, via the LDC, for the Administration Building?

9. Why would you allow the applicant to reduce the 9' landscaping buffer to 5'. You are aware there is a significant difference between the two when it comes to the density of planting needed to provide a sufficient screen.

10. Residential Protection Standards should never be compromised. They are one of the key elements to providing visual protection from single-family lots. Will you require the applicant to increase the setback of the six-story apartment or will you require them to reduce the height by one floor?

11. The affected block (Lots 1 plus Lot 2) is 3.8 acres. Under the rules of the LDC, MR-3 District, the block could support 91 housing units without a PUD. (3.8 acres x 24 units per acre) or the block could support a 500 seat Chapel with an Administration Building and 29 units of 'Faith-based Housing' without a PUD. It does not appear the block can support both. Do you agree?

SUMMARY

1. Calculations for on-site parking by the applicant are suspect. We don't believe a PUD should be used to substitute for a lack of on-site parking for the multi-family housing. Because it is student housing your experience as Planners suggests that more spaces per unit should be required rather than less. This density of housing should be moved to the UMU District where a PUD should not be needed.

2. The block is sufficient in size for one or the other, but not both entities. We support an expanded St. Paul Newman Center without the Market Rate Housing. A PUD should not be used in an attempt to combine the two. The block is too small and the impact on the neighborhood would be physically negative.

3. The 11 items above are modifications to the MR-3 that the PUD would require. It is an egregious misuse of the PUD provisions because it does not give anything back to the adjacent lots or the neighborhood. If the PUD wants more height, than it should offer greater setbacks to balance the impact. If the PUD wants greater building coverage, than it should offer lower building heights and greater quantities of landscaping to balance the impact. If they want less parking they should become a housing complex for seniors citizens or the homeless, etc. PUD is used only for the extraordinary and it should always offer a balanced impact to the neighborhood.

Technical Merit Subcommittee
Harold Thompsen, Chair

From: Judith Thompsen <Thompsen2@msn.com>
Sent: Tuesday, August 28, 2018 12:44 PM
To: Donald Kress <dkress@FargoND.gov>
Cc: Jim Laschkewitsch <jlaschke@gmail.com>; Ken Enockson <kenockson@hotmail.com>; Harold Thompsen <hthompsen@msn.com>
Subject: St. Paul's Newman Center parking

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

To the Planning Commission/ in care of Don Kress
re: St. Paul's Newman Center parking

I would like to express my concern about parking at the St. Paul's Newman Center project that is being proposed.

As I understand it,

- (1) There would have to be special considerations made for parking, as there is not enough on the site to allow for the church, the offices, the faith based housing, and the market rate apartments.
- (2) Also, I understand that there are agreements to use off-site parking on Sundays. (The NDSU parking lot to the north, and the Bison Turf)
- (3) This might work if the only time people went to church was on Sunday morning. However, many of us attend our churches all week for various activities. It is part of our lives each day.

My questions:

- (1) What will happen if a Tuesday or Friday morning funeral is scheduled?
- (2) What will happen during committee meetings, banquets, workshops, and fund raisers that occur during the week in the afternoons or evenings?
- (3) Wednesdays in this community have been big evenings for church choir rehearsals, suppers, Lenten or Advent services, and regular worship services. Where will the people park if the Bison Turf and NDSU parking lots are still full of cars from students and patrons?

What I'm seeing in the future is that -

We, living in the surrounding neighborhoods, will have to absorb these cars into our already overflowing parking places on the street.

I definitely feel that we need to think this thing through further.

Thank you for my chance to voice my idea.

On a more positive note:

Sometimes, because you always have to see us complaining about things - you don't know how happy we are to live in this neighborhood. If we didn't enjoy young people and the energy that students bring to our lives, we probably wouldn't live here.

But we like hearing the Gold Star Marching band practicing on beautiful autumn days.

We enjoy seeing the new students walking to their classes - all kinds of hopes and dreams ahead of them.

We love our old, tall, beautiful trees.

We enjoy walking to Bison football games, and the RedHawks - and the festivals out by the Fargodome.

We can take our bikes or walk downtown, where new things are happening every day.

Jumping on the interstate is only a few blocks away, if we want to get out of town.

We pick up people at our wonderful airport - only 10 minutes from home.

Most of us work downtown, so we have a short commute, bike ride or walk each day. No sitting in long traffic lines for us.

We take our bikes to Northport to pick up a few groceries, get something from the hardware, stop at the library, and stop in the drug store.

Living here is what is the best about city living. We would like to see more spaces for families and workers living here with us.

Convenience, close neighbors, good schools and medical care.

We don't take these things for granted - we enjoy our way of life because you and other people like you have done careful, considered planning for it. For that, we thank you, and we hope that we can all work together for a better Fargo. I've never any doubt that is all our goal, anyway.

- Judy Thompsen

1309 N 9th St

Fargo

701-232-2068

b

From: Ken Enockson <kenockson@hotmail.com>
Sent: Monday, August 27, 2018 2:25 PM
To: Donald Kress <dkress@FargoND.gov>
Cc: 'Martha Berryhill' <Berryhill@cableone.net>
Subject: sending along note from Martha Berryhill

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Please help us protect our neighborhood by rejecting this proposal!

Martha Berryhill
Friend of the Roosevelt Neighborhood

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4. Commissioner Grindberg moved appropriate staff be directed to prepare four Renewal Plans for blocks in the Roosevelt Neighborhood, and to involve members of the Roosevelt Neighborhood Association.
Second by Piepkorn.
5. -Martha B

Thanks and have a great week.
Ken Enockson

RECEIVED
8-28-18 SL

City of Fargo
Department of Planning & Development
200 3rd Street North
Fargo, ND 58102

August 28, 2018

Acknowledgement of receipt for the following documents regarding **St. Paul Newman Center**
Addition:

- | | |
|--|---------|
| 1. Roosevelt Neighborhood Association Letter | 3 pages |
| 2. Letter from Judy Wong/Will Shirk | 2 pages |
| 3. Letter from Jim & Barb Laschkewitsch | 2 pages |



ROOSEVELT NEIGHBORHOOD ASSOCIATION

**ROOSEVELT ELEMENTARY SCHOOL
1026 NORTH 10TH STREET
FARGO, ND 58102**

Date: August 28, 2018

To: Planning Commission
City of Fargo

From: Roosevelt Neighborhood Association

Subject: Opposition to the St. Paul Newman Center Addition

The Roosevelt Neighborhood Association (RNA) is opposed to the St. Paul Newman Center Addition as proposed. The proposed project has two lots.

- Lot 1 500-seat Chapel Expansion for the Newman Center
- Lot 2 contains the Faith-Based Student Housing (5 stories – 29 units) and the Market Rate Student Housing (6 stories – 107 units).

We are not opposed to the project for Lot 1 or the Faith-Based Student Housing. The expansion of the Newman Center will be a great asset to NDSU, the city of Fargo and for the Roosevelt Neighborhood.

What we don't understand is why the Faith-Based Student Housing is part of Lot 2 since the 4 properties are owned by the Diocese of Fargo? This could be included as part of Lot 1. Since the St. Paul Newman Center is zoned Limited Commercial, the inclusion of the Faith-Based Student Housing can be allowed with a conditional use permit under Section 20-0401 of the Land Development Code. It should also be noted a coffee shop and bookstore are permitted by right in the same land development code section. There is no need for down zoning to MR-3. The down zoning requires the Diocese of Fargo to request for a variance to allow a retail business.

Is it necessary for Roers who owns the 9 lots that is The Market Rate Student Housing to be attached to the construction of the new cathedral and faith-based housing?

The RNA is opposed to the Market Rate Student Housing (6 stories – 107 units). These 9 lots are owned by Roers (8 single family homes and one 4-plex). The reasons are as follows:

1. Block 9 of Bolly's Addition is currently zoned with classifications from LC to SR-3 to MR-3. The majority of Block 9 is zoned for single family housing (13 of the 23 lots are currently zoned SR-3) which complies with the future land use plan.
2. The Roosevelt/NDSU Neighborhood Plan and the NDSU/Roosevelt Future Land Use Plan which were approved and adopted by the City facilitates the conversion of future uses to single family and preserves the existing single family housing.

3. The proposed development does not comply with the current zoning in place nor does it comply with the intent of future land use plan or map.
4. The Roosevelt Neighborhood sacrificed 28% of its acreage to provide housing for NDSU students. It is the University Mixed-Used (UMU) District. This is where the Market Rate Student Housing should be built. This project AS PROPOSED violates the spirit and the intent of the neighborhood and future land use plans.
5. The goal of the GO 2030 plan to create high quality student housing near NDSU must comply with the current laws and binding agreement of all parties concerned. Residents bought homes in the Roosevelt area trusting that the city would safeguard their neighborhood from encroachment through the neighborhood and future land use plans.
6. A precedent will be set for future developments in any of the city neighborhoods if this project is approved as proposed.

The St. Paul Newman Center Addition is using a Planned Unit Development (PUD).

What is the concept for a PUD? It is:

- A modification of specific terms of zoning restrictions and subdivision regulations for a specific purpose
- To facilitate the development of a large parcel of land
- With tradeoffs from the city for traffic control, green space and parks,
- Environmental benefits such as water retention, vegetation preservation, wild life habitat,
- SAFER neighborhoods, as well as a buffer zone to existing neighborhoods.

There are 9 standards eligible for modification. The St. Paul Newman Center Addition PUD is requesting 8 of these standards to be modified. This is excessive and unreasonable.

The 8 standards the project is requesting to modify are:

- | | |
|---|---|
| 1. Allowed Use (provide retail in a residential area) | <i>[coffee shop and bookstore]</i> |
| 2. Increase the maximum allowed residential density | <i>[24 to 37]</i> |
| 3. Reduce the minimum setbacks | |
| 4. Exceed the maximum height limit | <i>[60 feet to 226 feet]</i> |
| 5. Exceed the maximum building coverage | <i>[35% to 38%]</i> |
| 6. Reduce the minimum parking required | |
| 7. Reduce the minimum landscaping standards | <i>[[front landscaping and parking perimeter]</i> |
| 8. Negate the residential protection standards (RPS) | <i>[increase building height within 76' to 100' of an SR from 45' to 60'; within 101' to 150' of an SR from 55' to 60']</i> |

A request for PUD modifications must include an exchange of additional benefits for each modification. The exchanges must provide additional benefit to the city. This has not been provided.

LDC 20-0302 states that as part of a PUD application, the developer must give a written description of the additional benefits the city will receive that would not occur if the development did not have a PUD overlay.

An excellent example of an exchange can be found in the 2017 PUD Application for Harwood's Addition. It states:

In exchange for allowing more units per acre than what the MR-3 zoning designation allows, the applicant is proposing to provide more parking, a snow removal storage area and aesthetic sit improvement. See Master Plan for addition details.

The required narrative will assist the Planning Commission in deciding if the developer is offering an adequate exchange for the modifications and reductions of the standards.

LDC must be followed and not ignored. It is designed to protect the residential properties and neighborhoods from adverse effects associated with multi-residential development.

Judy Wong/Will Shirk
1121 N 14th Street
Fargo, ND 58102

Planning Commission
City of Fargo
200 3rd Street North
Fargo, ND 58102

August 28, 2018

Dear Members of the Planning Commission:

We are opposed to the St. Paul Newman Center Addition development as proposed. There is no objection to either the new cathedral or the faith-based housing. We do have a problem with the apartment building – Market Rate Student Housing.

The physical size of the apartment building and its high density is a perfect fit for the UMU District located west of Barrett Street. The UMU District was created in 2009 using 28% of the Roosevelt Neighborhood. The District's purpose is to provide student housing for NDSU. There is a substantial number of available lots in the District.

Another problem is co-joining the commercial apartment building with the construction of a church.

Note: The Diocese of Fargo owns the properties of the new cathedral and faith-based housing. The properties for the apartment building – Market Rate Student Housing are owned by Roers.

The developer is using the acreage owned by the Diocese of Fargo to calculate the residential density of his apartment building. By including the land owned by the Diocese of Fargo, the proposed density is 37 dwelling units per acre (37 U/A). Without the land owned by the Diocese of Fargo, the density is 62 U/A. This is an ultra-high density development for an area designated as mixed-low density housing.

Have other developers, in the City of Fargo, used this method to reduce their residential density?
Are we setting a new precedent?

The proposed apartment building is contrary to the Neighborhood Plan and Future Land Use Plan, which were adopted by the City of Fargo. The plans aid in the conversion of high density properties to single family. This project does the opposite.

The Roosevelt School is the anchor of the neighborhood. An important goal of the Neighborhood Plan is to provide support for the continuation of the school. Each development that takes away from the single-family homes and put the school in jeopardy by discouraging families with children from locating or staying in the Roosevelt Neighborhood.

A few years ago, the Fargo School district hired a consultant to provide suggestions for the future direction of the district. Because of declining enrollment, it was suggested to close one or more

schools including Roosevelt and build a new school in South Fargo. The Fargo School District made a commitment to keep the neighborhood schools open. They have invested thousands of property tax dollars from the City of Fargo to upgrade the schools.

If the continuous removal of affordable single-family housing does not subside, the school district will eventually need to close the neighborhood schools. Families will not want to live in North Fargo if they have to bus their children to other schools (*"the death of the neighborhoods"*).

Sincerely,


Judy Wong


Will Shirk

1016 College Street
Fargo, ND 58102
August 28, 2018

Dear Sir or Madam,

These are our beliefs and comments regarding the proposed project. But in talking with many people, it also represents the beliefs of a substantial portion of the residents in our neighborhood.

We believe that this development will split our neighborhood into an East and West half which will impact not only Roosevelt Elementary School one block away, but also Horace Mann Elementary School. It could very well result in closure of one or both schools, and for sure promises to cause huge impacts to not only our middle and high school, but also the rest of the City school system.

We believe the proposed project should be treated as two separate entities because there are two separate lots and interests involved. Each should have to make its own application, and each must be judged as a separate project by its own merits. We do not believe that this "unified project" can technically and legally follow the current LDC and city ordinances. Because this was divided up into two lots but a single unified project, the RNA refers to these as the "Newman Center Project", and the "Roers Project." Our neighborhood supports the Newman Center Project. Our neighborhood is opposed to the ultra-high density project being proposed by Roers.

We believe that this proposed Roers Project will cause neighbors to move and escalate the problem of home ownership in our area. As a neighborhood, we would be forced to view the practical extension of the UMU District to 10th Street North which will be essentially become a new NDSU Student Housing District leaving very little of the neighborhood intact.

We believe this project will be a catalyst for a rush of other like developments in our neighborhood. We know of several projects waiting in the wings for approval on this one so that they can proceed. If this project were to be approved, next year and future years will see a rush of large developer applicants wanting to do the same thing in our neighborhood, and neighborhoods other than Roosevelt.

We believe that a significant portion of students we live, work, and talk with every day don't like huge apartment style living such as is being proposed; don't like the expensive market rates attached to these new buildings; and like this neighborhood the way it is. The narrative of the developer that there is "significant student demand" is questionable. We live amongst these students and are with them daily. We know the truth of what NDSU college students want, and it is not the destruction of the very neighborhood they live in.

We believe that this project is not wanted, not needed, and not justified. NDSU enrollment numbers announced last week were 13,647 students. Last year at this time, enrollment was at 14,432. That is a decline of nearly 800 students - a 5% reduction. The 10-15 year forecast also shows declining enrollment numbers which further puts into question the demand for more high density housing. We have vacancy rates as high as 20% in our neighborhood, with many apartments and houses still not rented. The empty houses represent lost families to our neighborhood and school and many are left to decline by the landlord. At least 1303 new student units are becoming available within the next 9 months from four

buildings near to on campus. These include NDSU Cater Hall (Sophomore Dorm) opening fall 2019 (440 students), NDSU University Village Apartment (180+ students), Roers U32 Apartment, Bldg 2 (320 students), and The Bridges (NDSU Foundation) (363 students). This proves in fact, not theory, that there is no justification for building ultra-high density with the false narrative of huge student demand.

We believe our neighborhood possesses several agreements passed by, and with the City, including a 2003 neighborhood plan, a 2009 future land use plan, and a 2009 University Mixed Use zoning district all put in place to offer certain protections and assurances to us as a neighborhood. These are now being set aside and disregarded.

We believe developers control the Planning application and approval process from start to finish, including setting meeting dates, details of applications, timelines, presentations, and even the very interpretation of our land development code. The City is left unable to offer any real flexibility to the neighborhoods in order to understand projects, or grant us more time, much less allow us to provide an effective counter to such proposals. We play no significant part of the process and exist merely as a final checkbox before the last vote is taken to approve the project. The process, unfortunately, is broken.

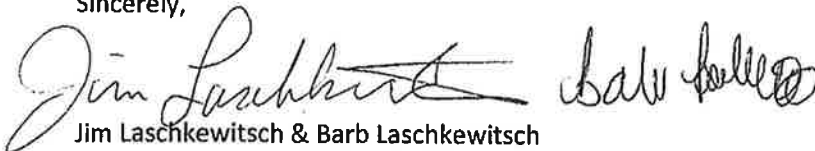
We believe, as a neighborhood, that the protections guaranteed to us in code and ordinance need to be ensured to us, just as they would be in any Fargo neighborhood. We believe the rights of all resident land-owners in our entire City in all neighborhoods, are at risk. The power and money of such development has corrupted the very system intended to help plan our future, in order to force us all into unwanted projects. We stand now saying that all residents and neighborhoods deserve their rights and protections ensured in law through neighborhood protection standards, neighborhood plans, zoning regulations, and our land development code.

We believe that we have a right to survive and thrive as a neighborhood; just as any other neighborhood should have a right to survive and thrive without the threat of being destroyed by unrealistic development projects. We believe that 58102 should be regarded as something special, something historic, and something unique that lends to the real beauty and value of Fargo, ND.

We believe we are here to stand up and to demand as neighborhoods to be part of the process. We demand to be first on the list of entities consulted about a project and not last to simply mark the last checkbox on a form before final approval is passed. Finally, we demand to play a significant role in our future neighborhood development as we have so many times tried to do.

We believe for these and many more reasons, that you should deny this application, and set the precedent that puts this citizens and resident land owners first, not last.

Sincerely,


Jim Laschkewitsch & Barb Laschkewitsch

From: Jason Gates <jgates97@gmail.com>
Sent: Wednesday, August 22, 2018 5:20 AM
To: Planning E-mails <planning@FargoND.gov>
Subject: Newman Center Project

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

I just wanted to give my two cents on this project. There is always going to be pressure on the area immediately adjacent to NDSU to house students, whether it is single family homes converted to student rentals or apartments. The majority of the homes that this project is replacing were already converted to rentals, so I do not see a significant negative transition occurring with building this project.

On the positive side, by adding a large number of housing units close to campus this project could help reduce the pressure on other single family homes in the area to convert to student housing. Another positive aspect of this project is I think it is very well designed, by wrapping the building around the block it is minimizing the amount of surface parking that is exposed to the street, which helps keep the neighborhood looking nice.

Jason Gates - Fargo resident

From: fargo mama <fargomama@gmail.com>
Sent: Thursday, August 30, 2018 12:08 PM
To: Planning E-mails <planning@FargoND.gov>
Subject: Roosevelt Neighborhood development concern

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Attn: City of Fargo Planning Department

I am a wife. I am the mother of 2 kids. I work outside of the home. I have a college degree. I don't have any felonies. I don't sell or do drugs. I'm not a registered sex-offender. I attend church regularly. I am a home owner. I have been on the school PTA. I have been a foster parent. I am an average person. And I have lived in the Roosevelt neighborhood for over 16 years.

In 2002 my husband & I bought a cute little cape cod style foreclosure with hardwood floors in an area that has full grown trees near downtown. We thought it would be a nice starter house. Years passed of fixing up our home, adding a garage, finishing the basement & having 2 kids who then started elementary school. We were in a great location for them to walk or bike to school. Horace Mann/Roosevelt have top-notch teachers & administration who care about kids. The students are achieving some of the highest scores in the district.

So when opportunities came to move. We have stayed. Mostly because of the schools, central location & my home. Sadly though, I have watched the neighborhood change.

Houses don't just become "uninhabitable" unless owners don't care about them & maintain them. Neighborhoods don't just have "high crime rates" unless the landlords in them don't care about who they rent to.

The development company who owns these homes shouldn't get rewarded in the form of tax incentives for what they have allowed to happen in this neighborhood over the years. Tax payers shouldn't have to foot the bill for this development.

I have no doubts about the wonderful things the Newman Center will provide for young adults. But I just can't fathom how a large monstrosity over the entire block between 12th St N & University from 11th Ave N to 12th Ave N will fit into this neighborhood. Form & function need a balance.

Please very carefully consider the outcomes for all involved before allowing re-zoning & modifications to development standards. The idea of a 6 story high building is ridiculous. As I look at all the new apartment buildings on the Northside I wonder how many more are needed.

The City of Fargo has the opportunity to decide the future of this neighborhood. This is NOT a new situation - it has been brought up for several years. But it has not been properly addressed with some clear direction. Development and Revitalization can both have positive outcomes however they are two very different things used in very different circumstances.

I am already imagining how my property value will be going down. Please don't let that be a reality. Listen carefully to the voices of the homeowners...I am one of them.

Alia Bartell
1105 9th Ave N
701-261-4202

Summary of phone message comments from Jean Bultman 1137 11th Street North, Fargo August 31, 2018

- No more apartments on this block; family homes would be much better.
- Preserve 1134 12th Street so people wouldn't have to stare at a parking lot.
- Preserve 1122 12th Street North, where Samuel Traut was murdered in 2015, as a memorial to the murdered and missing.
- Not opposed to church redevelopment.
- Tall apartment building will block the sun.
- Two more years of construction on this project will lead to increased traffic problems.
- The college [NDSU] should go a different direction than into the neighborhoods.
- Increased student population in the neighborhood will bring an increase in crime, drinking, and unruly bike traffic.

Ms. Bultman also comment on her concerns about air pollution from NDSU's coal plant, and possible water pollution related to the underground storage of stormwater on the project site.

From: Judith Thompsen <Thompsen2@msn.com>
Sent: Saturday, September 1, 2018 2:11 PM
To: Donald Kress <dkress@FargoND.gov>
Subject: From the Roosevelt Neighborhood Association Facebook page

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.



[Roosevelt Neighborhood Association](#) added an [event](#).

8 hrs ·

the City of Fargo a plan to raze 16 family homes on the block shared by the Newman Center and erect high-density student housing six stories high in the middle of a residential area. There are other developers waiting to see if this is approved because they have their own plans to clear cut entire neighborhood blocks to build ultra high-density student housing.

The loss of housing stock for families will have a major and immediate impact on the neighborhood school that we all love.

Please Like and Share this with your friends and neighbors. Share with your friends and family located in other Core neighborhoods in Fargo. As goes Roosevelt, so goes Horace Mann and Washington and Hawthorne and Jefferson and Lewis and Clark and Clara Barton.

The City of Fargo needs to hear loud and clear: Keep your promise! High-density off-campus housing should be located in the UMU.

Hope to see you Tuesday at Fargo City Hall.



You are invited to attend -

The Fargo Planning Commission Meeting

at Fargo City Hall

Tuesday, September 4, 2018

3:00 to 5:00 pm

TUE, SEP 4 AT 3 PM

Fargo Planning Commission Meeting

[City of Fargo](#) · Fargo, ND



[Jordan](#) and [Ken](#)

[Going](#)

[5 Comments](#)

[4You, Ken Enockson and 2 others](#)

[Like](#) Show more reactions

[Comment](#)

[Share](#)

Comments



Ken Enockson Adding insult to injury, Roers claims they are doing us a favor by ridding us of "blighted" homes. Take a walk down 12th St between 12th and 11th Avenues and see if you can spot any houses boarded up and falling down. Until very recently, all of these homes were occupied, several by single-family owners. The "blight" begins when landlords and developers purchase the property and let it run down so they can create the false narrative that they are "saving" our neighborhood.

[4](#)

[Manage](#)

Angry

[Reply](#) 7h



Judy Thompsen Right from Google maps, July 2017. Not too blighted.

[Manage](#)



[Like](#)

[Reply](#) 4m



[]

Write a reply...

[]



Sharon Rogness Pederson My thoughts exactly. I wish that these meetings wouldn't occur during working hours. I cannot attend because I am working, as I'm sure many are.

[1](#)

[Manage](#)

[Like](#)

[Reply](#) 6h



Ken Enockson Yes, that is always a problem.

[Manage](#)

[Like](#)

[Reply](#) 3h



[]

Write a reply...

[]



Charlie Francis Unfortunately Roers has everyone by the pocket book so its hard to get anyone's attention in Fargo Government. A citizen's voice means little compared to the \$. BUT bringing attention to that unholy alliance is not something that anyone on Govt likes. Letters to the Editor and Radio Shows are always a good place to start. (Specifically about the houses now being 'blighted')

I am in class till 4:30 so I can't make it.

1

[Manage](#)

[Like](#)

[Reply](#) 5h · Edited



Judy Thompsen Here is what happens when these projects are allowed: This pic is of 12th Street - a pretty little neighborhood, protected by the sheltering trees - where the people get to know each other - and raise their children, and everyone knows each others' dogs and cats.

[Manage](#)



[Like](#)

[Reply](#) 19m



Judy Thompsen Turning around, this is the back of the "Bridges" apartments that front University drive. These neighbors get to look at a bunch of cars and a huge building where "nobody knows your name". The development planned at 12th St and 11th Ave will be taller by 2 stories.

[Manage](#)



From: Mary Ann Schaan <kittypaws7@live.com>
Sent: Sunday, September 02, 2018 12:58 PM
To: Planning E-mails <planning@FargoND.gov>
Subject: "Newman" project

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Just a few thoughts on this proposed project. I am **opposed** to this project as it currently stands.

I think it's unscrupulous and unethical for a development company to align itself with a church, and then ask the city for incentives. The vacancy rate on current apartments is already very high; so why are more being built? Student population is down at NDSU and unlikely to resurge given that even our governor favors more internet-based classes. Yet the city seems to rubber stamp any project to build more apartments and give incentives to do it. If a project can't fly without incentives, it shouldn't be built! Does the church currently pay property taxes? What portion of this "combined" project will get an additional benefit on property taxes?

We already have packs of kids going through the neighborhood drinking and littering, and the addition of more apartments geared toward students will certainly not help that situation. Please honor the agreement made by the neighborhood in good faith and do not approve a variance for the development project. The church and the developer should never have gone together on this project in the first place, and if each isn't able to make it on their own, perhaps neither one should go forward..

It's time for the city to stop giving lip service to preserving north side neighborhoods and actually take a positive step in that direction.

Mary Ann Schaan
Roosevelt neighborhood property owner

From: Derek Martin <derekm0921@gmail.com>
Sent: Monday, September 3, 2018 4:45 PM
To: Donald Kress <dkress@FargoND.gov>
Subject: Newman center/Roers construction apartments

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

To whom it may concern,

I am a concerned neighbor in the Horace Mann/Roosevelt neighborhood. I am unable to make it to the planning meeting on September 4th due to work. I am concerned about the project taking over family houses that could potentially have children in them that would go to school at HMR. I have children of my own in the HMR school system and would be devastated if this project and others would contribute to the low numbers in school and possible school closures. I have already been through a combining of schools such as Horace Mann and Roosevelt into one school but two campuses to keep them open. I feel that the loss of more students or the possibility to lose students would be a detriment to the community. I am all for the catholic church expanding and providing faith based housing, but I am against Roers trying to piggyback onto their design to save money and then turn around and try to make more money off of renting to college students. The design of the block is way too big, tall, and out of place for a community as old as this one. The reason for me being in the neighborhood is to be in a mature area with older homes with character. A new building of this nature would stick out like a sore thumb. The mature trees around the block would be removed and I understand other landscaping can be done, but it won't replace the look of the older neighborhood with big tall trees. I am sorry that I will not be able to make it to the planning meeting, but I would like my input to be heard. Thank you

Derek Martin

-----Original Message-----

From: conwell_e@yahoo.com <conwell_e@yahoo.com>

Sent: Tuesday, September 04, 2018 8:59 AM

To: Planning E-mails <planning@FargoND.gov>

Subject: Planning & Development Department Contact Form

Name: Erin Conwell

Email: conwell_e@yahoo.com

Question/Comment: I'm submitting a comment regarding the Newman Center expansion. I am unable to attend the meeting, but I hope that my comment can be included in the consideration process.

As a resident of the Roosevelt neighborhood, I value deeply the diversity of our community. The block I live on contains a mix of rental and owner-occupied single-family homes. Some of those rental homes are occupied by students and others are occupied by families. The next block contains both single-family housing and multi-family housing. I love that this neighborhood is a hodge-podge of housing types and I think our neighborhood would be strengthened by the availability of additional multi-family housing.

However, this project does not do that. This project is not multi-family housing. It's a dorm, essentially, but a dorm that will give priority to students from a single religious denomination. So it not only fails to provide additional housing for families, it doesn't even provide additional housing for the student population more generally. This would hurt our community because it would reduce the diversity in the neighborhood, which is currently a mixture of people from a wide range of faith backgrounds. My family actively sought a home in this neighborhood in part because we value that mixture.

This would also hurt our community because of the impact it would have on neighborhood schools. Not only would this project render an entire block of the neighborhood unavailable to families with children, thus reducing enrollments at Horace Mann-Roosevelt, its proximity to Roosevelt school is concerning. The increase in traffic in the area will negatively impact children's ability to get to school safely. As an enthusiastic pedestrian, and the parent of a child who walks to Roosevelt school, I know that college student driving behaviors are already a problem. They run stop signs, text and drive, etc. This puts children at risk. I have heard of a number of close calls at the intersections of 10th St N and 11th Ave N, and 11th St N and 11 Ave N, most of them involving college-aged drivers. Increasing traffic volume in this neighborhood will only increase the risk of a terrible accident involving a child. I also suspect that the volume of construction traffic over the next few years would further add to this problem

In short, I would happily support more multi-family housing in our neighborhood, but not of this type, and I strongly encourage the commission to reject the housing plan. The plans for the church and community center are themselves fine.

From: floresboylan@yahoo.com <floresboylan@yahoo.com>
Sent: Monday, September 03, 2018 6:55 PM
To: Planning E-mails <planning@FargoND.gov>
Subject: Planning & Development Department Contact Form

Name: Joanne Boylan

Email: floresboylan@yahoo.com

Question/Comment: Regarding the St. Paul's Newman Center Addition

I have looked through the planning commission packet, and have concerns about this project. Some specific concerns regard increased traffic - mostly the impact of more cars making a left turn from 12th St N onto 12th Ave N. I also think the height of the buildings seems excessive for this part of the Roosevelt neighborhood.

Joanne Boylan
5th St North
Fargo ND

Sept 6, 2018

Planning Coordinator:

First of all I have lived in the Roosevelt neighborhood for 50 years and had 3 children attend Roosevelt school and NDSU. It wasn't until 3 years ago that I had to fence in my back yard because of vandalism,stealing, and littering, but that still hasn't stopped it in the front yard and on the boulevard.

I also resented that the commission letting Larry Nygard carry on for almost an hour and really saying nothing that hadn't been said before(that's called stonewalling.)

As far as the neighborhood being run down and neglected that is due to slum landlords and no restrictions enforced by the city. There are rules in place regarding: parking(such as on front lawns) no ticketing is done about street parking, and the limit of how many occupants can reside in a residence. None of these are enforced. Granted this would take a full time job for 1 or 2 people.

I object to the large 6 story apartment building as it is out of place in a residential neighborhood . The neighborhood can't handle the traffic now, as it is only one way most of the time as street is too narrow and there is not enough spaces for parking. It will make my home worth zero. There are many places around NDSU where it would fit in better, There is a reason for zoning requirements and they should be followed. As it is there are many "for rent " signs in area as the students have found other places to live, so this large building is not necessary.

Do we as citizens have any rights?

Respectfully, Barbara Youngberg

Barbara Youngberg



Barbara Youngberg
1106 11th St. N.
Fargo, ND 58102-3523

FARGO ND 581

06 SEP 2018 PM 2 L

Thinking

*Planning and Development
200 - 3rd St. N.
Fargo ND 58102*

Attn: Donald Kress

5810234809



From: [Debra Ensrud](#)
To: [Donald Kress](#)
Cc: [Nicole Crutchfield](#); [Mark Williams](#)
Subject: FW: Planning & Development Contact Form
Date: Thursday, September 6, 2018 12:05:23 PM

-----Original Message-----

From: tricia.mh1@gmail.com <tricia.mh1@gmail.com>
Sent: Thursday, September 06, 2018 8:41 AM
To: Planning E-mails <planning@FargoND.gov>
Subject: Planning & Development Contact Form

Name: Tricia Hansen

Email: tricia.mh1@gmail.com

Question/Comment: Hello,

I am writing you to urge you to not approve the Newman Center/Roers Development plans that they are currently purposing. I have owned a home in the Roosevelt neighborhood for almost 10 years. While we may not be the highest end neighborhood in town, our neighborhood is full of families that love their community. I am well aware of the issues that plague or neighborhood, but I feel these issues can be combated by holding landlords more responsible for the homes they own and the tenants they rent to. I fail to see how adding more rental units to the neighborhood will improve anything beyond the size of the developers wallet.

My daughter is a 5th grader at Roosevelt and has attended Horace Mann/Roosevelt since Kindergarten. HMR is a wonderful economic and racially diverse school that binds our neighborhoods together and really helps build a community we can all be proud to live in. HMR is already seeing a decline in enrollment, removing single family homes is only going to increase that decline.

I am not saying scrap the plan all together, but the plan needs to be adjusted to fit the neighborhood. It needs to be a benefit to the neighborhood, not a hindrance. Re-zoning the neighborhood to allow this to go through is just plain wrong. You are failing your community if you do this. Why should anyone invest in a home if the city can just make zoning changes to benefit a developer? How do I know if I move to another neighborhood this won't happen there? You will lose the trust of the residence of this city if you allow this plan to continue as is. Please do the right thing.

Thank you for your time,

Tricia Hansen
Roosevelt Homeowner

From: [Miranda Wolf](#)
To: [Donald Kress](#)
Subject: FW: Planning & Development Department Contact Form
Date: Thursday, September 6, 2018 3:12:31 PM

-----Original Message-----

From: janis.kirsch@gmail.com <janis.kirsch@gmail.com>
Sent: Thursday, September 06, 2018 2:40 PM
To: Planning E-mails <planning@FargoND.gov>
Subject: Planning & Development Department Contact Form

Name: Janis Kirsch

Email: janis.kirsch@gmail.com

Question/Comment: I live in the Roosevelt neighborhood; my son, now an adult, went to Horace Mann. Roosevelt neighborhood has so many rentals already that destroying single family units in favor of apartment complexes would only add to the problem. Reconsider please; require the homeowners of the houses that are delapidated to bring their units up to code so families with children can fill our elementary schools and bring back vibrancy to the neighborhood. Don't get me started on parking. I have called PD often because there are vehicles hanging over into my driveway while parked in the street. I'm on 8th St and 11th Ave. Newman Center should be allowed to build, but not to the height being proposed. Thank you!

From: [Miranda Wolf](#)
To: [Donald Kress](#)
Subject: FW: Planning & Development Contact Form
Date: Friday, September 7, 2018 2:08:55 PM

-----Original Message-----

From: kristimarks@gmail.com <kristimarks@gmail.com>
Sent: Friday, September 07, 2018 10:56 AM
To: Planning E-mails <planning@FargoND.gov>
Subject: Planning & Development Contact Form

Name: Kristi Marks

Email: kristimarks@gmail.com

Question/Comment: I was unable to attend the meeting last Tuesday at 3:00 PM concerning the large apartment building wishing to be built within the Roosevelt school area. I feel a need to support the Roosevelt Neighborhood Association's position for you to deny the Roer request. While I do not live in that neighborhood, I taught students at Roosevelt for 28 years. I know that families and have already seen how houses that were purchased to use as rentals have had an impact. I also live in Fargo.

There was a prior apartment building that was added to the religious organization on the corner of University and 12th Ave. N. The Neighborhood was reasonable about that one. However, this new one is too large because of the size which will truly impact the neighborhood of family houses.

The reason the Planning Commission has guidelines is so that when houses are purchased in our city, the homeowners will feel that the neighborhoods will be kept intact. Without that being followed, I would suggest that homeowners will move to other cities where this does not become an issue.

Looking at the numbers of increased students enrolled in West Fargo and Moorhead, I wonder if that has already begun. The size of the building will impact the neighborhood by its physical size, as well as the size of students that could be renting. Hence, less family units for the Neighborhood, as well as a lack of physical unity of types of homes. Please deny the request to build this.

From: [Debra Ensrud](#)
To: [Donald Kress](#)
Cc: [Nicole Crutchfield](#); [Mark Williams](#)
Subject: FW: Planning & Development Department Contact Form
Date: Tuesday, September 11, 2018 7:47:45 AM

-----Original Message-----

From: vandamtrkg@cs.com <vandamtrkg@cs.com>
Sent: Monday, September 10, 2018 10:17 PM
To: Planning E-mails <planning@FargoND.gov>
Subject: Planning & Development Department Contact Form

Name: John van Dam

Email: vandamtrkg@cs.com

Question/Comment: Hello,

After joining the public meeting of September 4 and reading the Forum Editorial regarding the proposed plans around the Newman Center

(<http://www.inforum.com/opinion/editorials/4495697-editorial-when-zoning-lines-are-drawn-they-should-mean-something>)

I want to express my support for the position expressed in that editorial.

In my opinion, efforts should be made to preserve existing housing in the older neighborhoods of our city.

This will give young people an opportunity to purchase an affordable home, which in turn will help to sustain the neighborhood schools.

From: HAROLD A <hthompson@msn.com>
Sent: Wednesday, September 19, 2018 6:37 PM
To: Donald Kress <dkress@FargoND.gov>; Nicole Crutchfield <ncrutchfield@FargoND.gov>; Mark Williams <MWilliams@FargoND.gov>
Cc: Jim Laschkewitsch <jlaschke@gmail.com>; Ken Enockson <kenockson@hotmail.com>
Subject: St Paul Newman Center Project

Don,

We had a very good visit with Nicole and Mark last Friday. In fact they thought it was the last 'official' meeting in the old planning office. Nice to be a part of City History.

I will be out of town for the October Planning Commission Meeting. **Please share the following with the Planning Commissioners for that meeting.**

It appears that the Diocese will need the entire block to accomplish their long-range physical goals.

With the property they presently own, approximately 2.3 acres of the 3.8 acre block, it will take all 2.3 acres to fit the chapel, administration building, 29 units of 'faith based' housing and the on-site parking to take care of the offices and housing. I assume the applicant's architect could confirm. The remaining 1.5 acres, apparently controlled by Roers, is the area that should be used for the 200 car on-site parking for the Chapel or reserved for future expansion of the 'faith based' housing.

The Diocese could request the City to replat what they own into one lot; ask to rezone it to MR-1 and only have to ask for a height exemption for the chapel in the PUD overlay. All other dimensional standards could be met.

It appears that the proposal is asking to substitute a six-story, 107 unit, market-rate student housing for the area that should or could be used for the 200 car on-site chapel parking. These market-rate apartments are too dense, too tall and don't have enough on-site parking. Needing relief from 10 of the 11 dimensional standards in their application confirms the premise.

Although we would like to see the existing homes on the south end of the block preserved, it would serve our neighborhood better if that end of the block were in Diocese control and used for parking and/or more 'faith-based' housing. We would hate to see some other half block of the neighborhood removed for Chapel parking when the off-site parking lease expires.

We do not want to discount the value Roers and other developers bring to our neighborhood. Their investment into our neighborhood will help keep it strong and viable. They, too, deserve an understanding of how orderly growth will be supported by the City and the neighborhood. We expected that this dense of student housing was reserved for our UDU District.

Our goal has always been and continues to be the preservation of as many single-family homes as possible in order to support our neighborhood school.

We support orderly growth and expect our planning office and planning commissioners to enforce the residential protection standards included in our Land Development Code. We look forward to future meetings to help plan and draw the lines that will protect our single-family homes and provide some stability to future investment.

Harold Thompsen
1309 N 9th St - Roosevelt Neighborhood Resident

Planning Commissioners

9/24/2018

The City of Fargo has building codes and zoning regulations to provide for orderly and consistent development within our city. The Roosevelt Neighborhood has a city-approved neighborhood plan to maintain and enhance the character of this neighborhood.

I encourage you to study the appropriate documents. Please study what the development championed by Roers Development on Block 2 proposes for an area that, until recently, was occupied by families. This plan asks for wholesale changes to zoning and usage, with no consideration to the surrounding neighborhood.

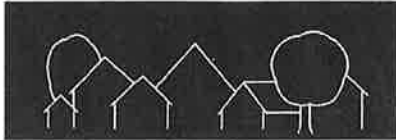
Please deny the zoning and usage changes requested for Block 2 of this development. It will destroy another area of the Roosevelt Neighborhood as it exists today. Protect the integrity of Roosevelt, and ultimately the city, by denying an intrusion that will benefit Roers' financial bottom line, but do nothing for the neighborhood.

Please, DO YOUR JOB.

Sincerely,
Martha Berryhill

ROERS /RNA MEETING 30 OCT 18

<u>Name</u>	<u>Position</u>
Donald Knoss	Planning Dept
Connie Norheim	neighborhood member
HAROLD THOMPSEN	RNA
Martha Berryhill	RNA
Earl A. Wilhelm	Diocese of Fargo
Kevin Barstrom	MBA Architects
Larry Nygard	
MARK WILLIAMS	
JIM LASCHKREWITZ	
Ken Enockson	
Dawn Morgan	Fargo Neigh coal



ROOSEVELT NEIGHBORHOOD ASSOCIATION
1026 NORTH 10TH ST
FARGO, ND 58102

City of Fargo
Department of Planning and Development
200 North Third Street
Fargo, ND 58102

October 31, 2018

RE: St. Paul's Newman Center Project - Revised Plan Review

To Don, Mark and Nicole,

The Technical Merit Committee of the Roosevelt Neighborhood Association met this morning to discuss the merits of the revised development plans shared with us yesterday at your office.

Thank you for giving us the opportunity to meet the development team and their revised plans. We also thank you for encouraging them to make those revisions.

Asked if the changes were 'in the right direction', we responded with 'yes'. We were pleased that the project was less dense and the apartments had fewer stories. The addition of townhomes was a sensitive and welcome gesture, thank you. However, the revised plan is still unacceptable because it is still too dense and continues to violate too many of the dimensional standards we expect will be enforced. i.e. parking, setbacks, buffers, etc.

We have shared with the City our desire to see the project designed within the limits of the MR-1 District. This would allow 66 units (3 times the current density). You indicated that an MR-3 might be acceptable. That would allow for a density of 91 units. The developer is offering a plan with 125 units. Do you see our dilemma? We need Planning to declare the limits of an acceptable density within the parameters of the current Land Use Plan on or before the November 8th meeting.

Please know that we are firm in our resolve to remove or reduce the number of market rate student housing units on this site. At the density proposed, those units belong in the UMU District.

Technical Merit Committee
Harold Thompsen



Barb Youngberg <bdyoungberg@gmail.com>

NeumanCenter

Barb Youngberg <bdyoungberg@gmail.com>
Draft

Tue, Nov 20, 2018 at 5:10 PM

I would like to address the parking situation around the proposed zoning change in the 12th Street, 11th avenue area.. Since the restricted parking became effective on November 1st there has been a shortage of parking spaces and people are having a hard time finding places. If you add more living places, this is only get worse. As far as I can tell parking restrictions are not enforced either, as that would solve some of the problems. Maybe then the landlords would have to provide spaces for parking as they sure don't do it now.

Also on this past Saturday night someone came into my driveway and just missed hitting my house by a foot as they flatten the rain spout that was next to the house as they drove over the front yard. and *do not live on the corner.*

I am just voicing my concern and don't believe you really care as you are just after the money being made from the proposed project.

Sincerely,
Barbara Youngberg



FARGO ND 581

21 NOV 2018 PM 2 L



*City of Fargo
Planning and Development
% Donald Reese
200 3rd St North
Fargo ND 58102*

58102-4809



1016 College St N
Fargo, ND 58102
November 26, 2018

Fargo Planning Commission
225 4th St N
Fargo, ND 58102
Dear Sir or Ma'am,

As a neighborhood association, we have tried to work toward a Newman Center project that is successful in balancing the needs of the neighborhood with the needs of the developer and the Catholic Diocese. We have reviewed the proposed plans at both meetings with the developer and Catholic Diocese on October 30 and November 8, as well as what has been submitted thus far with the City Planning Department.

The single largest issue with the proposed development is that it is too dense for our existing neighborhood. At 33 units per acre, it is above the 24 units per acre that is allowed under our land development code for MR-3. When you couple that with the fact that the housing essentially only covers about half of the acreage (with the other half taken up by the chapel, administrative, and parish hall buildings), it is effectively about 66 units per acre, nearly 3 times the allowed limit of MR-3. It will dwarf our neighborhood in terms of height, density, and setbacks.

We would like to note that the Fargo Planning and City Commissions down-zoned the 11th Avenue and 12th Street North area in 1976, according to the 1987 report compiled by Earl Stewart & Associates entitled "Improvement Program for NDSU Neighborhood" (p. 29 map, Government Actions in the NDSU Project Area). It appears that the plan was, and is, to preserve the lower density flavor of this neighborhood, and this has been reaffirmed through more recent down zonings, our neighborhood plan from 2004, and the Land Use Plan from 2009.

Our neighborhood has worked to come up with alternatives shared previously with the Commission, in a letter dated November 19 by Harold Thompsen that will assist the developer in implementing a project that brings the density down to a more reasonable level. It shows a plan that would allow a unified project that includes 91 units of housing that would fit into MR-3 zoning. This allows the project to fit into the requirements of our neighborhoods 2009 Land Use Plan and the Land Development Code.

Please ensure this project fits within the alternative that we have worked on diligently, and respect the rights and protections offered in our Land Development Code and previous agreements.

Sincerely,



Jim and Barb Laschkewitsch

From: HAROLD A <hthompson@msn.com>
Sent: Monday, November 26, 2018 6:44 PM
To: Donald Kress <dkress@FargoND.gov>
Cc: Nicole Crutchfield <ncrutchfield@FargoND.gov>; Mark Williams <MWilliams@FargoND.gov>; Shara Fischer <Sharamfischer@gmail.com>; Erik Johnson <EJohnson@lawfargo.com>; Jim Laschkewitsch <jlaschke@gmail.com>; Ken Enockson <kenockson@hotmail.com>
Subject: Re: Density issue: St. Paul Newman Center Project

Thank you for such a prompt response to our questions. Please know that we will continue to lobby for less density on this block. 37U/A to 33U/A is certainly the right direction but we expect the applicant can do better. The time spent since the 'continuance' has been productive with positive results. We hope you can act on your original instincts to deny the request and ask the applicant to resubmit with something less dense. MR-1 would be an ideal density (16U/A). MR-3 (24U/A) without the PUD would be a reasonable and acceptable compromise.
Harold

Sent from my iPhone

On Nov 26, 2018, at 5:07 PM, "Donald Kress" <dkress@FargoND.gov> wrote:

Harold,

As part of our original review of this project, staff evaluated the project in relation to the Roosevelt/NDSU Neighborhood Future Land Use Plan designation, and determined a land use plan amendment was not required for this project in the proposed location. The Roosevelt Plan does not state any maximum density for the land use designations on this block, nor does the plan indicate which zones are specific to each land use designation. The PUD process does not put a limit on the scope of change of individual development standards, such as density, that can be requested. The Commission decisions made at public hearings determine the extent that the requested modifications under the PUD will be approved.

Thank you.

From: HAROLD A <hthompson@msn.com>
Sent: Tuesday, November 20, 2018 12:37 PM
To: Donald Kress <dkress@FargoND.gov>
Subject: Re: Density issue: St. Paul Newman Center Project



Sent from my iPhone

On Nov 20, 2018, at 12:35 PM, "Donald Kress" <dkress@FargoND.gov> wrote:

Harold,

Received. Thanks. We will review your questions and get back with you soon.

From: HAROLD A <hthompson@msn.com>
Sent: Tuesday, November 20, 2018 10:52 AM
To: Donald Kress <dkress@FargoND.gov>; Mark Williams <MWilliams@FargoND.gov>; Nicole Crutchfield <ncrutchfield@FargoND.gov>; shara@heartlandtrust.com; Erik Johnson <EJohnson@lawfargo.com>
Cc: Jim Laschkewitsch <jlaschke@gmail.com>; Ken Enockson <kenockson@hotmail.com>
Subject: Density issue: St. Paul Newman Center Project

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Dear Don,

Thank you for keeping us, the RNA, up to date with the changes proposed by the developer. Reducing the density from 36 units/acre to 33 is certainly the right direction, but no where near where we think it should be. We still favor an MR-1 density that would provide the developer all of the Diocese needs including up to 61 units for faith-based students.

However, it appears that MR-3 will have to be our point of compromise. Yesterday, we dropped off a packet of schematic site plan diagrams that show how the developer could get to 24 units per acre. We think the plans achieve the 'mixed-use' and the 'urban feel' desired by the planning staff.

In the meantime, could you answer the following question? Is it legal to accept 33 units/acre for this site without a hearing to modify the Land Use Plan?

We ask this question understanding the following:

1. The LDC limits MR-3 Districts to 24 units/acre. How can a PUD overlay increase it to a UMU density without calling it UMU?
2. 33 units per acre is UMU Density and we (the neighborhood, City and NDSU) have agreed to established a UMU District in our neighborhood for this kind of density; and
3. High density housing (UMU District) is not identified at this site on the Land Use Plan. Doesn't it require a public hearing to modify this site to a UMU density?

It seems to us if the developer is requesting a zoning change to MR-3 then they should provide you a site plan that lives within those density limits. If not, the project should be put on hold until the merits of changing this site to a UMU District can be debated in a public forum.

Thank you for your consideration. We wait your reply.

Harold Thompson

Fargo City Commission
225 4th St N
Fargo, ND 58102

December 10, 2018

Dear City Commission,

Hello. I'm Deborah Krueger, 1258 10th St N #203, Fargo. I consider myself a "cousin" of the Roosevelt Neighborhood Association.

I oppose the zoning change to allow St. Paul's Newman Center Addition.

During one Christmas, my 10-year old granddaughter was visiting from California. As we stepped outside on morning, she looked up at me and asked, "You LIVE like this?"

That's my moral question to the Catholic Diocese and Roers Development. Could the answer be as simple as Ego + Power? I call this the 'Let them eat cake' reasoning... We know what's best for you. Look how (tall, big, top-shelf, land-scaped) this is. Don't bother yourself with the bulldozers. It's for your own good.

Not knowing the intricacies of zoning, planning, et al, this seems to be only short-term gain for developers and city, including bragging rights, employment of trades, increase in tax revenue (or write-off if not profitable).

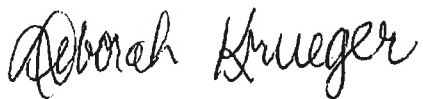
Long-term is disastrous for the reputation of the Diocese (a bully, greedy, anti-family) and disastrous to the residents of the neighborhood through broken promises and loss of home, and disastrous to the soul and future of Fargo.

p.s. How much of this project is tax-free through church tax status?

Is "faith-based housing" considered tax-free through church tax status?

Is "faith-based housing" limited to members of a certain religion?

Sincerely,


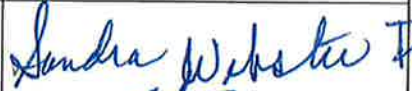





1258 10th St. N #203
Fargo, ND 58102
(701) 293-3873

Newman Center Protest Petition

We whose signatures appear on this petition certify that we own the lots or parcels of land described following the names subscribed hereto and;

We respectfully protest the change in zoning from MR-3, Multi-Dwelling Residential, LC, Limited Commercial, and SR-3, Single-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay on the proposed St. Paul's Newman Center Addition per Chapter 20 of the Land Development Code, Section 20-0906 - Protest Petitions.

PRINTED NAME	PROPERTY ADDRESS	SIGNATURE
BULTMAN, JOHN P	1146 11 ST N	
BULTMAN, JOHN P	1142 11 ST N	
OSBORN, JOHN H & KRISTIN E	1140 11 ST N	
BULTMAN, JOHN P	1134 11 ST N	
HGH PROPERTIES LLP	1130 11 ST N	
BEEBOUT, DWIGHT J & DIANA L	1126 11 ST N	
HAGEN, MARK H	1122 11 ST N	
WEBSTER, SANDRA	1118 11 ST N	
CARLSON, RHETT	1116 11 ST N	
CORWIN, ROSSALYN C	1110 11 ST N	
YOUNGBERG, BARBARA D LIFE ESTATE	1106 11 ST N	
HOLDMAN, SCOTT R & ERIN A	1102 11 ST N	
ELFSTRUM PROPERTIES LLC	1123 11 AVE N	

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CARLSON, RHETT	1116 11 ST N	
CORWIN, ROSSALYN C	1110 11 ST N	
YOUNGBERG, BARBARA D LIFE ESTATE	1106 11 ST N	<i>Barbara D. Youngberg</i>
HOLDMAN, SCOTT R & ERIN A	1102 11 ST N	
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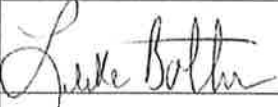
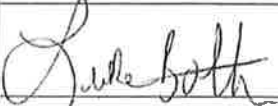
JUDD, KAREN A	1119 11 AVE N	
THISS, CULLEN E	1115 11 AVE N	
GELKING, GLORIA G	1113 12 ST N	
BANCROFT, PHYLLIS K T/O/D	1117 12 ST N	<i>P K Bancroft</i>
CAROLLO, KEVIN A	1121 12 ST N	
NC INVESTMENTS LLC	1125 12 ST N	
SAYLER, ROLLAND F JR & SHELLEY RAE	1129 12 ST N	
HENNEN, ANN M ETAL	1133 12 ST N	
BULTMAN, JOHN	1137 12 ST N	
BENDICKSON, BRIAN J & LYNN M	1141 12 ST N	
ETA THETA HOME ASSN OF SIGMA NU FRATERNITY	1145 12 ST N	
HAGEN, CHRISTOPHER S & LACY, PAMELA H	1029 12 ST N	
FOWDR LLC	1033 12 ST N	
ANDERSON, DANIELLE E	1035 12 ST N	<i>Danielle Anderson</i>
ULMER, CHRISTOPHER A	1041 12 ST N	<i>Ch Ulmer</i>
ELFSTRUM PROPERTIES LLC	1045 12 ST N	
NESS, JACQUELINE D	1108 11 AVE N	<i>Jackie Ness</i>
MC CORMICK, JOSEPH P	1042 11 ST N	

JUDD, KAREN A	1119 11 AVE N	
THISS, CULLEN E	1115 11 AVE N	<i>Cullen E. Thiss</i>
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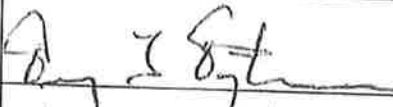
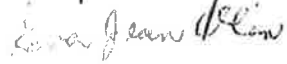
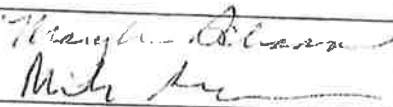
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SAYLER, ROLLAND F JR & SHELLEY RAE	1129 12 ST N	
HENNEN, ANN M ETAL	1133 12 ST N	
BULTMAN, JOHN	1137 12 ST N	<i>John Bultman</i>
BENDICKSON, BRIAN J & LYNN M	1141 12 ST N	<i>Lynn M. Bendickson</i>
ETA THETA HOME ASSN OF SIGMA NU FRATERNITY	1145 12 ST N	<i>12/10/1</i>
HAGEN, CHRISTOPHER S & LACY, PAMELA H	1029 12 ST N	
FOWDR LLC	1033 12 ST N	
ANDERSON, DANIELLE E	1035 12 ST N	
ULMER, CHRISTOPHER A	1041 12 ST N	
ELFSTRUM PROPERTIES LLC	1045 12 ST N	<i>Tom Elfstrum</i>
NESS, JACQUELINE D	1108 11 AVE N	
MC CORMICK, JOSEPH P	1042 11 ST N	

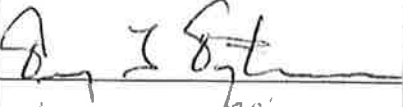

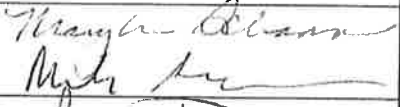
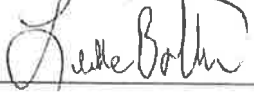
MCCORMICK, JOHN L JR & JOSEPH P	1038 11 ST N	
ENGLISH, COREY	1027 UNIVERSITY DR N	
BERG, FREDERICK J	1031 UNIVERSITY DR N	
MARTIN P LONSKI & CHERYL G LONSKI FAMILY TRUST	1035 UNIVERSITY DR N	
BAUM, JAMES & CAROL LIVING TRUST	1224 11 AVE N	
J2H PROPERTIES LLC	1220 11 AVE N	
ROSEMORE, DAMEAN	1218 11 AVE N	
FORSMAN, RUSSELL L	1202 11 AVE N	
BUNKE, GABE & THORA	1216 11 AVE N	
SLATOR, BRIAN M & RITA L	1044 12 ST N	
ADAMS, ROBERT & CATHLEEN	1036 12 ST N	
FOWDR LLC	1032 12 ST N	
BOTHUM, LUKE M	1028 12 ST N	
MB&A PROPERTY MANAGEMENT LLC	1028 UNIVERSITY DR N	
JMP PROPERTIES LLC	1030 UNIVERSITY DR N	
BLUE HARBOR PROPERTIES LLC	1034 UNIVERSITY DR N	
TWOGOOD, JARED & BUSH, SARA	1040 UNIVERSITY DR N	
VERDE PROPERTIES INC	1042 UNIVERSITY DR N	

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BAUM, JAMES & CAROL LIVING TRUST	1224 11 AVE N	
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VERDE PROPERTIES INC	1042 UNIVERSITY DR N	

JPO RENTALS LLP	1041 COLLEGE ST N	
MELTING, JAMES A & LEINGANG-MELTING, NANCY A	1035 COLLEGE ST N	
BARNHART, THOMAS C ETAL	1033 COLLEGE ST N	
TEGTMEIER, TERRY L & LINDA S	1315 11 AVE N	<i>Terry L Tegtmeier</i>
GREGORY P BALDWIN LLC	1109 COLLEGE ST N	<i>Gregory P Baldwin</i>
HAAN, BRIAN S	1307 11 AVE N	
DEERY, CHRISTOPHER J	1305 11 AVE N	
REINHART, GARY	1102 UNIVERSITY DR N	
BACKLUND/ ERICKSON ENTERPRISES	1104 UNIVERSITY DR N	
SHIPYARD PROPERTIES LLP	1114 UNIVERSITY DR N	
KAREN L BOLES REV LIVING TRUST	1118 UNIVERSITY DR N	
GILLE PROPERTIES II LLC	1122 UNIVERSITY DR N	<i>Dan Mills</i>
EG & COMPANY PROPERTIES LLC	1126 UNIVERSITY DR N	
ENVIK, HOMER D ETAL	1130 UNIVERSITY DR N	
SPLONSKOWSKI HOLDINGS LLC	1134 UNIVERSITY DR N	
NDSU AGRICULTURE & APPLIED SCIENCE	1302 12 AVE N	
GCK RENTAL 1316 LLC	1316 12 AVE N	<i>[Signature]</i>
GCK RENTAL 1320 LLC	1320 12 AVE N	<i>[Signature]</i>

GCK RENTAL 1131 LLC	1131 COLLEGE ST N	
DREAM TEAM RENTALS LLC	1129 COLLEGE ST N	
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C/D TEGTMEIER, TERRY L & LINDA S	1123 COLLEGE ST N	
OLIN, EVA JEAN	1117 COLLEGE ST N	
MARY ANN SCHAAN T/O/D	1115 COLLEGE ST N	
BOTHUM, LUKE M	1201-1205 11 1/2 ST N	
AMBLE PROPERTIES LLC	1105 12 AVE N	
NDSU DEVELOPMENT FOUNDATION	1201 12 AVE N	
MINIMART INC	1201 UNIVERSITY DR N	
SABO, JAMES P & GRANDBOIS, DONNA M	1211 UNIVERSITY DR N	
ALPHA TAU OMEGA FRATERNITY CORP	1155 12 AVE N	
NDSU DEPT 3000	1225 UNIVERSITY DR N	
PUPPO, JUAN BATTISTA	1218 11 1/2 ST N	
NDSU DEPT #3000	1301 ALBRECHT BLVD N	

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

3262

ORDINANCE NO. _____

1 AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
2 LYING IN BOLLEY'S SUBDIVISION OF PART OF
3 BLOCK 9, CHAPIN'S ADDITION AND COLLEGE ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

4 WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the
5 City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain
6 parcels of land lying in Bolley's Subdivision of Part of Block Nine 9, Chapin's Addition and
College Addition to the City of Fargo, Cass County, North Dakota; and,

7 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
8 request on December 4, 2018; and,

9 WHEREAS, the rezoning changes were approved by the City Commission on January 14,
2019,

10 NOW, THEREFORE,

11 Be It Ordained by the Board of City Commissioners of the City of Fargo:

12 Section 1. The following described property:

13 Lots One (1) through Ten (10), Block Two (2), College Addition to the City of Fargo, Cass
14 County, North Dakota;

15 is hereby rezoned from "SR-3", Single-Dwelling, Residential, District to "MR-3", Multi-Dwelling,
16 Residential, District;

17 Section 2. The following described property:

18 Lots Two (2) through Four (4), Bolley's Subdivision of Part of Block Nine (9), Chapin's
19 Addition to the City of Fargo, Cass County, North Dakota;

20 is hereby rezoned from "SR-3", Single-Dwelling, Residential, District to "MR-3", Multi-Dwelling,
21 Residential, District;

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

3264

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A PLANNED
UNIT DEVELOPMENT OVERLAY
ON ST. PAUL'S NEWMAN CENTER ADDITION
TO THE CITY OF FARGO

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WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the proposed Planned Unit Development Overlay on St. Paul's Newman Center Addition, Fargo, Cass County, North Dakota; and,

WHEREAS, the Board of City Commissioners has approved the Plat of St. Paul's Newman Center Addition, consisting of Lots One (1) through Three (3) of Block One (1) of said Addition, which Addition is a replat of Lots 1-10, Block 2, College Addition and Lots 1-4 and Lots 15-23, Bolley's Subdivision of Block Nine (9), Chapin's Addition to the City of Fargo, Cass County, North Dakota,

WHEREAS, the Fargo Planning Commission approved the request for approval of the planned unit development overlay and the master land use plan for development, on December 4, 2018; and

WHEREAS, the Planned Unit Development Overlay and the Master Land Use Plan for development, were approved by the City Commission on January 14, 2019,

NOW, THEREFORE,

Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. There is hereby established a Planned Unit Development Overlay on all of the property located in St. Paul's Newman Center Addition, to the City of Fargo, Cass County, North Dakota as set forth herein and, therefore, the standards for development for the underlying zoning district shall hereby be modified as follows:

OFFICE OF THE CITY ATTORNEY
 FARGO, NORTH DAKOTA

ORDINANCE NO. _____

	Current LDC Development Standards for the MR-3 Zone	PUD Modifications to MR-3 Development Standards
Allowed Uses	detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	<i>Add these uses as allowed uses: colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, retail sales and service</i>
Residential Density	24 du/ac	<i>Increase to 33 du/ac</i>
Setbacks	Front—25' Rear—20' Street side—12.5' Interior side—10'	<i>Front (Lot 1-University Drive side)—decrease to 10'10" Front (Lot 2)—decrease to 19'6" Front (Lot 3)—decrease to 11' Street side—decrease to 5' (Lot 1 only) Interior side- Decrease to 0' (between Lots 1 and 2)</i>
Building Coverage	35% of lot area	<i>Increase to 41%</i>
Parking- Residential – Multi-Dwelling	1.25 stalls per efficiency; 2.0 stalls per 1 BR + 0.25 guest stalls per living unit	<i>0.9 stalls per bed</i>
Group Living	1 space per 100 square feet of sleeping area	<i>0.9 stalls per bed</i>

OFFICE OF THE CITY ATTORNEY
 FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 2 3 4 5 6 7 8 9 10	Landscaping— Open Space	3 plant units per 1,000 sq. ft. of lot area of fraction or thereof, with 8 sq. ft. per plant unit (LDC 20-0705(C)(3) and table)	<i>Request removal of 70% requirement in front of building</i>
	Landscaping— Parking Lot Perimeter	Buffer width: 9 feet. Plantings: 1 small tree + 6 shrubs/perennial grasses per 25 linear feet. Berm also an option (LDC 20-0705 (D) and table)	<i>Reduce buffer width to 5 feet.</i>
	Residential Protection Standards Building Height 76-100 feet from residential	45 Feet	<i>Lot 1—increase to 50 feet</i>
	Open space	35%	<i>Decrease to 25% minimum</i>

In all other respects, development on said property shall be subject to the development standards for the underlying zoning district.

Section 2. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 3. This ordinance shall be in full force and effect from and after its passage and approval.

Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

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33a-b

Office of the City Attorney

City Attorney
Erik R. Johnson

January 10, 2019

Assistant City Attorney
Nancy J. Morris

Board of City Commissioners
City Hall
225 4th Street North
Fargo, ND 58102

Dear Commissioners,

Presented to you for your consideration and approval are minor revisions to Article 24-04 of the Fargo Municipal Code relating to the Wireless Telecommunication Facilities in the Public Rights of Way, commonly referred to as "small cells." The Small Cell Ordinance was adopted in 2017 in anticipation of the deployment by multiple providers of the new and changing 5g technology. Although there have been some applications received and that are in process, no "small cells" have been deployed in the city right of way.

On September 27, 2018, the Federal Communication Commission issued an order with extensive pronouncements to facilitate the rapid deployment of 5g technology, including directives to municipalities pertaining to the providers' use of the right of way. This order is not without controversy. Nevertheless, as was the Engineering Department's previous recommendation, the revisions to the Ordinance presented today are an effort to arrive at a "controlled yes" and demonstrates a good faith effort to work with the providers to facilitate the deployment of this emerging technology for the benefit and protection of the inhabitants of Fargo, in conformance with the FCC Order.

Also presented for your consideration is a Resolution for the adoption of Telecommunication Facility Guidelines -Amendment #2. In addition to a change in the fee recommendation, which will be discussed further, the amended Guidelines are intended to clarify and give effect to the FCC Order, to the extent practicable. Detailed Application Criteria and Aesthetics Guidelines have been developed in order to facilitate review of permit applications, and ensure that the restrictive time limitations imposed by the FCC Order, referred to as "shot clocks" are satisfied. The Guidelines encourage the providers to request a meeting prior to filing an application in order to engage in a dialogue, and further offers the opportunity to waive the shot clock provided communications are productive in order to avoid denials and tolling of the shot clock. These provisions are included in the spirit of cooperation, again in an effort to get to a "controlled yes" use of the city rights of way in this manner.

The FCC Order directly addressed fees, including attachment fees and application fees. The matter of fees was presented to PWPEC on Monday, January 7, 2019, PWPEC's fee recommendation is presented to you for consideration in the attached ROA. The proposed Guidelines adopt the fee approved by PWPEC, as well as the application fee structure directed in the FCC Order. A resolution to adopt the Wireless Telecommunication Facility Guidelines- Amendment 2 is presented for your approval.

Finally, as mentioned previously, the Engineering Staff has been hard at work developing Application Criteria and Design and Material Finish (Aesthetics). Because this is a new and emerging process, the Wireless Telecommunication Facility Guidelines and the ordinance provide for the delegation of this very complex and detailed process to the City Engineer, who shall be responsible for development, publication



January 10, 2019

Page 2

and enforcement of the deployment requirements, including aesthetic requirements. The ordinance further provides that a provider may appeal the decision of the City Engineer to the City Commission in most instances.

I will be present at the time of the meeting to discuss the Ordinance and FCC Order. More importantly, Brenda Derrig and Kevin Gorder intend to address the Commission as to the revisions to the Guidelines, including the fee structure, as well as provide a summary of the Application criteria and Design and Material Standards (Aesthetics directives).

I make the following suggested motions for your consideration of the material presented herewith:

Suggested Motion: (1) I move to waive the receipt and filing of the enclosed ordinance one week prior to first reading and that this be the first reading, by title, of An Ordinance Amending Article 24-04 of Chapter 24 of the Fargo Municipal Code Relating to Wireless Telecommunications; and (2) Approve the Resolution Authorizing the Fees applicable to small cell installations and Adopting the Wireless Facility Guidelines- Amendment #2.

The Application and Design and Material Finish (Aesthetics) documents are presented for your information, to fully inform as to the process and intent of the City Engineer.

Please feel free to contact me, Kevin Gorder or Brenda Derrig should you have any questions or concerns.

Sincerely,



Nancy J. Morris

Enclosures

cc: Brenda Derrig
Kevin Gorder

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 24-04 OF CHAPTER 24 OF
THE FARGO MUNICIPAL CODE RELATING TO WIRELESS
TELECOMMUNICATIONS

WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Code; and,

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City shall have the right to implement home rule powers by ordinance; and,

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purposes; and,

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance.

NOW, THEREFORE,

Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Amendment.

Section 24-0402 of Article 24-04 of Chapter 24 of the Fargo Municipal Code is hereby amended to read as follows:

* * *

N. "Guidelines" or "Wireless Telecommunication Facility Guidelines" means any procedure or description from the city engineer, which may be modified and amended from time to time, concerning wireless facility application process and siting requirements. Any such Wireless Telecommunication Facilities Guidelines shall be consistent with this article.

* * *

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Section 2. Amendment.

1 Section 24-0403 of Article 24-04 of Chapter 24 of the Fargo Municipal Code is
2 hereby amended to read as follows:

3 The location of any new wireless communication facility shall be, when possible, on
4 existing structures in the public right-of-way, such as utility poles or street lights, or the
5 replacement of an existing such structure as provided herein. Installation of additional wireless
6 support structures for the secondary purpose of supporting a wireless communication facility
7 within the public right-of-way will be permitted only as provided for in Section 24-0409 of this
8 article.

7 Section 3. Amendment.

8 Section 24-0404 of Article 24-04 of Chapter 24 of the Fargo Municipal Code is
9 hereby amended to read as follows:

10 * * *

11 B. Permit Issuance. Before a permit is issued, a written application must be
12 filed with the city engineer containing such information as may be required by the
13 city engineer. The application shall include, but not be limited to, the following:

14 * * *

15 6. Other information required by this article, the detailed permit application,
16 and the Wireless Telecommunication Facilities Guidelines ("Guidelines") adopted by the
Board of City Commission of the city of Fargo.

17 C. Fees . The issuing authority may require payment of a nonrefundable permit
18 application fee at the time a permit application is submitted, as approved by the
19 Board of City Commission and adopted in the ~~Wireless Facilities~~ Guidelines.
20 Such fee shall be set to recoup some or all of the cost of permit review, processing
21 and issuance, and will be in addition to any other applicable fee or any separate
22 payments that may be required in the event a permit is granted for use of the
23 public right-of-way or the use of city-owned structures. The city reserves the right
to charge permit holders a fee for their use of the public right-of-way to the extent
that such charges are allowed under state law, as well as all other fees provided in

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1 article 24-03. All such fees shall be described in the ~~Wireless Facility~~ Guidelines
and may be in addition to any fee charged for attachment to city-owned structures.

2 * * *

3 E. Timeframe for Review. The city engineer shall comply with applicable
4 federal, state and local law concerning the time period for review following
5 receipt of a completed application to install or modify a wireless communications
6 facility or wireless support structure in the public right-of-way. Specific
timeframes shall be described in ~~Wireless Facility~~ Guidelines.

7 * * *

8 Section 4. Amendment.

9 Section 24-0406 of Article 24-04 of Chapter 24 of the Fargo Municipal Code is
10 hereby amended to read as follows:

11 The city engineer may approve a permit for the installation of a wireless communication
12 facility in the public right-of-way, provided the applicant certifies compliance with the following
13 general conditions, and subject to other use-specific conditions and other requirements set forth
in this article and in any ~~Wireless Application~~ the Guidelines.

14 A. General Design Standards :

15 * * *

16 3. Antennas shall be as small as possible. To address the physical and aesthetic
17 impact on the public right-of-way, the city engineer may limit the physical size of the
antenna as provided by law.

18 * * *

19 6. All other wireless equipment associated with the structure, including the wireless
20 equipment associated with the antenna and any pre-existing associated equipment on
the structure, shall be as small as possible, but no more than as permitted by law.

21 ~~6. Wireless communication facilities in historic areas shall comply with any
22 special requirements applicable to such areas, and may be subject to additional city
23 review.~~

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1 * * *

2 Section 5. Amendment.

3 Section 24-0407 of Article 24-04 of Chapter 24 of the Fargo Municipal Code is
4 hereby amended to read as follows:

5 In addition to the general conditions described in section 24-0406, any wireless
6 communication facility for which a permit is requested under this article shall meet the
7 following requirements, in addition to applicable specifications within any current
8 Guidelines.

9 * * *

10 C. Electrical power-. The acquisition of electrical power shall be the sole
11 responsibility of the applicant.

12 Section 6. Amendment.

13 Section 24-0408 of Article 24-04 of Chapter 24 of the Fargo Municipal Code is
14 hereby amended to read as follows:

15 In addition to the requirements set forth in section 24-0406 and applicable
16 provisions in section 24-0407, the following conditions will apply to a wireless
17 communication facility attached to a city-owned structure.

18 A. ~~The management of attachments to city-owned structures is undertaken by~~
19 ~~the city in its proprietary capacity, as landlord.~~ The grant of attachment rights
20 does not waive any zoning or other public right-of-way management
21 requirements that may also apply.

22 * * *

23 E. Training - At the request of the city, the permit holder shall host on-site
training for city maintenance staff. The training will be offered for each wireless
communication facility project on one or more city-owned structures. The training
shall include occupational safety, personal protection, proximity limits,

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emergency procedures and contact information.

Section 7. Amendment.

Section 24-0409 of Article 24-04 of Chapter 24 of the Fargo Municipal Code is hereby amended to read as follows:

24-0409. - Replacement of City-Owned Structures, ~~or~~ Addition of City Owned Structures by Stealth or the Addition of a New Wireless Support Structure.

In addition to the general conditions described in sections 24-0406 and applicable provisions in sections 24-0407 and 24-0408, the proposed replacement of an existing city-owned structure or placement of a new stealth city owned structure or the addition of a new wireless support structure shall be subject to the following requirements.

A. The replacement of a city-owned structure, ~~or~~ the addition of a new stealth city owned structure or the addition of a new wireless support structure shall be ~~entirely at the discretion of the city engineer~~ considered a discretionary function of the city engineer in conformance with this article and the Guidelines.

B. At a minimum, the applicant must demonstrate the following, to the satisfaction of the city engineer:

* * *

5. In order to place a new wireless support structure, the applicant must first establish that placement of the facility outside of the right-of-way on private property would be unduly burdensome, there are no existing or replacement structures that would provide the necessary capabilities, and that a new stealth facility is not feasible.

6. The city may require payment of an encroachment fee or other compensation, which may be in addition to any application fee, permit fee, or right-of-way use fee.

C. Ownership-. A replacement structure or a new stealth structure under this section shall be dedicated to and owned by the city upon completion, to the satisfaction of the city engineer. The permit holder shall provide city a Bill of Sale, free and clear of all liens and encumbrances.

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1 D. Acquisition and use of electrical power to serve a wireless communication facility
2 on a replacement wireless support structure, ~~or~~ stealth facility or wireless support
3 structure shall be the sole responsibility of the permit holder.

4 E. Stocked Poles-. To enable prompt replacement in the event of a knockdown or
5 structural compromise of a city owned replacement structure or stealth structure, a permit
6 holder shall provide the city with ~~one~~ stock poles substantially identical to the initial city
7 owned replacement pole, as follows: ~~one (1) stock pole for the first permitted~~
8 replacement structure, and one (1) stock pole for each set of five additional replacement
9 structures as required by the Guidelines.

10 F. Stealth facilities and new wireless support structures placed in the right-of-way shall
11 be maintained in accordance with the terms of this article and as provided for in a
12 separate agreement.

13 * * *

14 Section 8. Amendment.

15 Section 24-0410 of Article 24-04 of Chapter 24 of the Fargo Municipal Code is
16 hereby amended to read as follows:

17 * * *

18 B. Ground-Mounted Equipment.

19 * * *

20 (e) ~~In any historical area, that~~ The ground mounted equipment does not
21 detrimentally affect the historical nature aesthetics of the area, as provided for in
22 the Guidelines, to the satisfaction of the city engineer;

23 (f) That no reasonable alternative exists that is more favorable to adjacent
property owners and to effective use and management of the public right-of-way;
and

(g) The ground mounted equipment will not adversely impact the health, safety

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or welfare of the community.

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2. Underground equipment-. The city engineer may require, ~~at his or her discretion,~~ that equipment and utilities be placed underground when aesthetically appropriate and as provided for in the Guidelines, necessary for public safety and compliance with State and Federal laws, and may prohibit the installation of ground mounted equipment unless technically infeasible or otherwise cost prohibitive.

Section 9. Amendment.

Section 24-0417 of Article 24-04 of Chapter 24 of the Fargo Municipal Code is hereby amended to read as follows:

24-0417. - Duty to Remove and Relocate Facilities.

A. The city may amend the permit and may order a permit holder to remove and relocate its wireless communication facility and wireless support structure in the public right of way, including all related equipment at the permit holder's expense, if the facility or wireless support structure interferes with the use of the public right-of-way or city facilities or services.

* * *

Section 10. Amendment.

Section 24-0419 of Article 24-04 of Chapter 24 of the Fargo Municipal Code is hereby amended to read as follows:

24-0419. -- Wireless Telecommunication Facility Guidelines.

Due to rapidly changing technology and regulatory requirements, the ~~b~~Board of ~~e~~City ~~e~~Commissioners may ~~authorize the city engineer to issue~~ adopt Wireless Telecommunication Facility Guidelines ("Guidelines") by Resolution to serve as further regulatory guidance and clarification, consistent with this article and applicable law, and further may designate the City Engineer with such authority as necessary to develop, revise and enforce Application criteria and

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1 Aesthetics requirements. The Guidelines may be amended and updated by
2 Resolution ~~at the discretion of the city engineer~~ to adjust for new technologies,
3 regulations, and city objectives. All permit holders shall comply with such
4 Guidelines for any new facility installations subject to this article.

5 Section 11. Effective Date.

6 This ordinance shall be in full force and effect from and after its passage and approval.

7 _____
8 Timothy J. Mahoney, M.D., Mayor

9 Attest:

10 _____
11 Steven Sprague, City Auditor

12 First Reading:
13 Second Reading:
14 Final Passage:

COMMISSIONER _____ introduced the following resolution and moved its adoption:

RESOLUTION AUTHORIZING WIRELESS TELECOMMUNICATION FACILITY GUIDELINES

WHEREAS, the City of Fargo has enacted Article 24-04 of the Fargo Municipal Code which authorizes the installation of Wireless Telecommunication Facilities in the public right of way; and

WHEREAS, Section 24-0404 of the Fargo Municipal Code authorizes the Board of City Commission to adopt Wireless Telecommunication Facilities Guidelines establishing application and permit fees; and

WHEREAS, Section 24-0408 of the Fargo Municipal Code authorizes the Board of City Commission to adopt Wireless Telecommunication Facilities Guidelines establishing attachment fees.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF CITY COMMISSIONERS,

1. The Wireless Telecommunication Facility Guidelines are hereby Amended as provided in the attached Wireless Telecommunication Facility Guidelines – Amendment 2, including but not limited to the fees as stated therein, in accordance with Article 24-04 of the Fargo Municipal Code.

The motion for the adoption of the foregoing resolution was duly seconded by COMMISSIONER _____, and upon roll call vote, the following voted in favor thereof: COMMISSIONERS _____. The following were absent and not voting: _____, and the following voted against the same: _____, whereupon the resolution was declared duly passed and adopted.

Timothy J. Mahoney, M.D. Mayor

ATTEST:

Steve Sprague, City Auditor

Wireless Telecommunication Facility Guidelines – Amendment 2

The following Guidelines are in addition to the requirements of Article 24-04 *Wireless Telecommunication Facilities in the Public Right-of-Way Requirements and Permits* and are an amendment to the original *Wireless Facility Guidelines* adopted by Commission on January 30, 2017. All guidelines previously adopted, including amendments, apply unless otherwise stated herein.

The guidance found in this document is based on the FCC order released September 27, 2018. The City of Fargo reserves their right to modify these guidelines should anything change regarding the FCC order. If an applicant feels the guidelines create insurmountable obstacles in providing service, the applicant must document and submit evidence that supports waiving any of these guidelines. Cost savings will not be allowed as the sole reason to waive any guidelines. The City Engineer will make the determination regarding the waiver of any of these guidelines. The City of Fargo reserves their right to restrict locations or use as a regulatory function for public safety. The primary use of City owned infrastructure is to provide for transportation purposes, including but not limited to, roadway/street pavement, traffic control, and street lighting. City operations, maintenance and repair take priority over User's operations.

Wireless Telecommunication Facility (WCF):

- The applicant shall consider locations in the City in the following order:
 1. Private property installations
 2. Use an existing City Structure or modify an existing City Structure
 3. Install a new structure in the City Right of Way.

- **All-in-One Principle**
Equipment submitted shall be of a nature which encompasses multiple technologies, frequency bands, protocols, coverage objectives, and capacity goals. Attached equipment shall be compact and scaled to the public utility structure. Equipment that is customary for normal cell site or tower application may not be approved for installation or operation on a City owned structure.

- **Infrastructure Providers**
Infrastructure providers are Permit Holders that do not have FCC licenses to directly operate a WCF, but lease Equipment (or space) to those companies that have FCC licenses. Infrastructure providers shall design using "all-in-one" principles as described above. Infrastructure providers shall design facilities to accommodate more than one wireless provider, and combine "all-in-one" principles across technologies, frequency band, protocols, coverage objectives, and capacity goals. Infrastructure providers shall disclose, in construction documents, which equipment is for a specific wireless provider and which equipment is for multiple wireless provider at each WCF.

Preliminary Meeting:

The City recommends scheduling a pre-application meeting to discuss the proposed siting locations prior to starting the application process. The purpose of this meeting would be to discuss and develop a basic understanding of the proposed permit application and give both parties an opportunity to share their goals and objectives on the proposed project. The applicant has the option to opt out of the detailed all in one application process which includes the shot clock requirement. The applicant would have to sign the waiver form to opt out of the all in one application process which would include waiving the shot clock requirements. The applicant reserves the right to rescind this waiver at any point in the application process by notifying the City of Fargo in writing. Waiving the all in one application process does not waive the guidelines.

Application:

Application information can be found in the Wireless Telecommunication Facility Application. All information must be provided or the application will be denied, without prejudice. Reasons for denial will be given.

Permits and Fees:

- Permit and Fees required in accordance with Chapter 24-0404. \$500 for the first 5 sites with an additional \$100 per site after 5.
- Installations in the City right-of-way and located on existing franchised utility poles owned by others
 - No annual fee
 - Right of Occupancy Permit may be required
- Installation on City owned pole, stealth, or structure
 - Annual fee of \$175
 - Right of Occupancy Permit may be required
 - Master Attachment Agreement will be entered into by all parties
- Excavator Permit will be required
- A complete as-built, in AutoCAD dwg format using city coordinates must be submitted to the City within 90 days of project completion. Failure to do so may result in the forfeiture of the permit.

General Design Standards:

All equipment, material, and finishes shall be designed and constructed in accordance with the City of Fargo Standard Specifications.

A pole attachment or excavation permit for a wireless telecommunication facility that has ground mounted equipment will be issued only if the City Engineer or designee finds the following:

- Ground mounted equipment will not disrupt traffic or pedestrian circulations
- Ground mounted equipment will not create a safety hazard
- Ground mounted equipment complies with ADA requirements
- The location of the ground equipment minimizes impacts on adjacent property
- Ground mounted equipment will not interfere with the maintenance of the public right-of-way (PROW) or operations of the City.
- Ground mounted equipment will not adversely impact the health, safety, or welfare of the community

Ground mounted equipment will not be allowed within the Downtown Mixed Use District. Ground Mounted Equipment shall be installed in the Public Utility Easement (PUE) unless the applicant can document service cannot be provided.

The wireless telecommunication facility shall not block light emanating from the public utility structure and shall not otherwise interfere with the original use of the public utility structure.

Unless the applicant can prove service cannot be provided, no small cell wireless facilities shall be installed on the following streets:

1. Broadway between 1st Ave S and 6th Ave N.
2. 8th Street South between 1st Avenue South and 17th Avenue South

Tree preservation – Every effort to protect the root zone of trees shall be taken. At a minimum, no disturbance shall be allowed within 20' of a tree.

The City reserves the right to deny any permit to protect the health, safety, welfare of the community.

Fargo City Commission grants the City Engineer the authority to determine application requirements, design standards, and material finish requirements.

Design Standards and Material Finish Requirements
For Wireless Telecommunication Facility

Pole Attachments and Replacements:

1. The wireless telecommunication facility shall be mounted on a structure no more than 10% taller than adjacent structures. In addition, structures cannot exceed 50' in height. If the applicant can prove the number of small cells installations can be reduced, a waiver of the 10% requirement could be granted at the discretion of the City Engineer.
2. The antenna shall be as small as possible, shall not be larger than 3 cubic feet, and shall have no individual surface larger than four square feet.
3. The wireless telecommunication facility shall not extend outward from the existing pole by more than 2 feet, except that an antenna one half inch in diameter or less may extend an additional six inches.
4. The replacement City owned structure, including lightning rods and all other attachments, shall not exceed the height requirements of the existing City owned structure by more than 10%. Once the height of the City owned structure has been increased under the provisions of this section, the height shall not be further increased.
5. The replacement City owned structure diameter shall not exceed the existing City owned structure by more than 50 percent.
6. The replacement City owned structure shall match the original or surrounding City owned structures in materials and color.
7. The applicant shall provide stock poles to be used when damage occurs to existing structures. One stock pole of each type shall be provided with an additional pole for every five installed poles until four poles of each type have been provided. The required inventory must be maintained by the applicant.
8. Antennas shall not exceed 30 inches in vertical length nor exceed 15 inches in width or depth. Round, whip, or cylindrical antennas will only have width.
9. Antennas and Antenna Accessories - City owned structure attached equipment shall not exceed 75 pounds (combined weight). These include but are not limited to filters, combiners, splitters, remote radio heads, tower-mounted amplifiers, line-mounted amplifiers, and low-noise amplifiers. All equipment shall be arranged evenly, proportionate, equidistant, and aligned as practical to function and operations. Cabling and wiring between accessories to antennas shall be minimized and consolidated. Cabling and wiring schematics are required as part of the construction documents.
10. Structure mounted equipment shall be mounted at least eight feet above grade.
11. Ground Mounted Equipment associated with the wireless telecommunication facility shall meet the following performance standards:
 - a. Be separated from the sidewalk by minimum of 2 feet;
 - b. Be set back a minimum of 20 feet from the nearest intersecting right-of-way line;
 - c. Be separated from the nearest wireless telecommunication equipment installation on the same block face by a minimum of 300 feet unless the equipment is placed underground;
 - d. Ground mounted equipment shall be as small as possible and not more than 28 cubic feet in cumulative size

12. Area of installation shall be restored to a condition equal to or better than prior to construction.
13. Stand-alone poles shall not be placed in front of the main windows of a house in residential areas. Stand-alone poles shall be placed on a lot line between two residential lots when possible. Minimum spacing of stand-alone poles shall be 300', unless otherwise permitted by the City Engineer.

Material and Finish Requirements:

Finishes

All replacement poles and equipment, including mounts, attached to the City owned structure shall match the finish of the existing or new City owned structure. Finishes shall be permanent or long-lasting. No temporary finishes will be approved. The City reserves the right to direct any permit holder to renew or maintain any finish to attached equipment.

Fasteners

All fasteners for equipment use shall be denoted in construction documents for the strength, composition, coating, and exposure rating. No plastic fasteners shall be allowed, to include tie wraps and jacketed cable ties. Fasteners must be compatible to adjacent material to inhibit corrosion. All fasteners shall be the same color as the pole.

Mounts

Any accessory mounting hardware shall be included in structural analysis performed for the Wireless Telecommunication Facility by a Professional Engineer as part of the construction documents. Mechanical connections by compressive force (e.g., collar or banded mounts) are permitted. Chain and magnetic mounts, along with chemical bonding or adhesive attachment methods are prohibited. Mount dimensions and weight should be included in the measurement of antennas and equipment to determine whether the antennas or equipment are within the size limitations established in the guidelines. A mount shall be as compact as possible, trimmed where practical, and not reserving space for future equipment attachments.

Conduits

All exposed conduit shall match the finish of the City owned structure as follows:

1. Stainless steel or galvanized City owned structure shall have stainless steel or galvanized conduit.
2. Fiberglass City owned structure shall have matching fiberglass or be painted to match metal conduit.
3. Painted City owned structure shall have paint to match metal conduit.
4. No plastic conduit (e.g., PVC or HDPE) shall be attached to an exposed surface of a City owned structure. Any plastic conduit shall be below grade or within the hollow cavity of a City owned structure. Flexible metal conduit shall be allowed at transitions but limited to less than 36 inches in length.

5. All conduit shall be neatly dressed, plumb and level. No reserved conduit or unutilized pathways shall be attached. Conduit shall be of a nominal inner diameter sufficient to hold the cables and wires needed for the Wireless Telecommunication Facility along with any additional capacity required to maintain and repair the Wireless Telecommunication as currently approved. Reserving future conduit capacity is not permitted. Any dig-once policy does not apply. Junction boxes must meet the same requirements as conduits. Plastic conduits must be joined by appropriate adhesive or chemical weld. Metal conduit must be mechanically joined.

Cables and Wires

Cables, including wires, must be neatly dressed and not containing any exposed slack other than drip loops. Drip loops shall be used with minimum excess cable to promote water egress. All cables and wires shall be jacketed and insulated; and concealed or enclosed where applicable and practical. Cables and wires must transition to conduit or City owned structure via weather tight and pest-resistant ports. Ports shall be mechanically sealed with weather heads or boots. Sealer to close voids (e.g., spray foam, silicone, and fire stop) are not permitted. Xcluder gaskets must be installed at the base of the pole.

Grounding and Bonding

All metallic and energized components of equipment must be bonded and have a separate ground from the pole. There shall be a common ground wire from the highest above-grade attached equipment to below grade. The central ground wire will not be smaller than 6AWG stranded. All ground wire shall be insulated in a green-colored nonconductive manufacturer-applied covering. The below-grade ground will consist of one half-inch ground rod, ten feet in length, driven to below grade. A connection to ground rods shall be made by exothermic weld. All equipment with manufacturer- installed ground posts shall be bonded to ground using a hydraulically crimped lug. All ground connections shall be tool-tight and not able to be loosened by hand. A non- corrosive bonding agent shall be used between all dissimilar ground metals. Ground plans are to be depicted on construction documents. Permit holders are to provide resistance to ground testing after a completed installation to be made part of the construction documents.

Application Instructions

Two paper copies of all applications, revisions, additions, and supporting attachments must be submitted. In addition, one electronic file in pdf format must be submitted on an external storage device.

Only one pole type is allowed per application and the maximum number of sites per application is fifteen (15).

An application is considered incomplete until the application fee has been received.

Items that must be included in the application:

1. Applicant Names, Address, and Contact information
2. Local contact name, number, and address
3. Provider Names, Address, and Contact Information
4. Local Agent Name, Address, and Contact Information
5. Line or CAD drawings showing the location and materials of all planned installations plus an Engineer's list of materials required and construction methods. This drawing should also include the following information:
 - a. This drawing should show the proposed location of the wireless support structure along with all easements, property boundaries, and existing structures within two hundred (200) feet of the proposed wireless support structure.
 - b. Closest City street address and photo of City owned structure along with an aerial view of the location the applicant is proposing to use, if applicable
 - c. Includes the identity and qualifications of each person directly responsible for the design and construction
 - d. Includes signed and sealed with a wet stamp documentation to proportional scale from a Professional Engineer licensed in North Dakota describing the proposed wireless communication facilities in detail, including
 - i. a structural, loading, and wind-speed analysis for existing, proposed, and reserved loading,
 - ii. a schematic describing the communications properties of the facility, including EMF and RF propagation and off-site data connections
 - e. Power source and route to each device
 - f. Elevation drawing of the pole that is completed to scale
 - g. Electrical connection breakaway details
 - h. Detailed drawing that includes all utilities in the proposed location and potential utility conflicts
 - i. Location, type, and size of any ground mounted equipment
 - j. Emergency Response Plan
 - k. Graffiti Mitigation Plan

- l. Sight Distance analysis by Professional Traffic Operation Engineer for all new equipment placed in the Public Right of Way
 - m. Interference Review
 - n. Information and training on how the site can be temporarily shut down so the City can complete work without exposing employees to unnecessary radio waves.
 6. A plan that is written for construction that:
 - a. Demonstrates to the satisfaction of the City Engineer that the aesthetic impact and physical structure of the wireless communication facility is comparable to prevailing standards of similar structures in the immediate area
 - b. Replacement / Stealth Structure or Attachment only. If the existing City Owned Structure is to be replaced or a Stealth Structure is required, stamped shop drawings shall be submitted with the application.
 - c. Location and path of any supporting communication fibers, wires, or backhaul equipment. The installation of fiber, communication lines, or backhaul equipment associated with small cells shall be a separate application under the City of Fargo Article 24-03
 7. Proof of One Call Registration including who be responsible for locating and protecting installation
 8. In residential areas a fall zone shall be established for public safety. The fall zone would be defined by the height of the pole plus 20 feet. The pole shall not be placed in an area where an existing permanent structure would be inside the fall zone.
 9. Overhead wires are not allowed between poles or between feed points and poles.
 10. At least 15 days prior to application, notify the Public within 300' of each proposed installation and include any comments received. Provide copies of correspondence and the area of notification. Any comments received during the application review shall be forwarded to the City of Fargo to include with the application.
 11. Parts of the City of Fargo have restricted airspace for the approach to the multiple runways at Hector International Airport. FAA Airspace Permits may be needed. The applicant needs to verify if an FAA Airspace Permit is required and include the Permit with the application.
 12. The applicant needs to ensure all applicable permits have been obtained and included in the application submittal.

It is the applicant's responsibility to read and comply with Ordinance 24-04 and the Wireless Telecommunication Facility Guidelines within the application.

After the application has been approved, the applicant shall provide the Name, Address, and Contact Information of the Contractor completing the work. The Contractor must be a licensed excavator with the City of Fargo. A separate excavation permit will be required prior to starting work. This information shall be provided at least 30 days prior to work starting.

A preconstruction meeting shall also be scheduled at least 15 days prior to work starting. Information provided at this meeting should include but is not limited to schedule, work hours, primary contact information, staging areas off the public right of way, etc.

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Small Cell Fee Discussion

Location: Citywide

Date of Hearing: 1/7/2019

<u>Routing</u>	<u>Date</u>
City Commission	1/14/2019
PWPEC File	X
Project File	Kevin Gorder

The Committee reviewed communication from Division Engineer, Kevin Gorder, regarding the annual fee to be charged for small cells.

Small cells are equipment that mounts to existing street lights, traffic signals, bus stops, buildings, etc. and have emerged as wireless companies develop their 5G systems. Each small cell is approximately 3 CF in size and could include a ground mounted cabinet up to 28 CF in size. The FCC has issued an order on small cells limiting local communities in their response to installation of small cells as well as provisions on what can be charged by local communities. The FCC has capped this at \$270 per small cell per year. Minnesota has state laws that are more restrictive regarding fees and has capped the fee at \$175 per small cell per year. We have met with Verizon and they are only willing to pay \$175 per small cell per year. Verizon has stated that any fee greater than \$175 per small cell per year would indefinitely delay their implementation of a 5G system in the City of Fargo

The Committee decided to recommend an annual fee of \$175 per small cell with the condition that small cell providers furnish a replacement pole that is capable of supporting small cells and an adequate supply of stock poles.

On a motion by Bruce Grubb, seconded by Ben Dow, the Committee approved \$175 per small cell per year plus replacement pole and stock pole to be placed in the Wireless Facility Guidelines to be approved by resolution of the Fargo City Commission

RECOMMENDED MOTION

Concur with the recommendation of PWPEC.

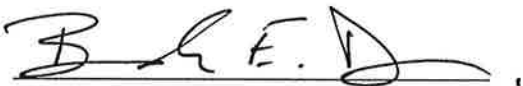
PROJECT FINANCING INFORMATION:

Recommended source of funding for project:	<u>Infrastructure Sales Tax Funds</u>	Yes	No
Developer meets City policy for payment of delinquent specials		<u>N/A</u>	<u> </u>
Agreement for payment of specials required of developer		<u>N/A</u>	<u> </u>
Letter of Credit required (per policy approved 5-28-13)		<u>N/A</u>	<u> </u>

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
Tim Mahoney, Mayor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Bruce Grubb, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Kent Costin, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:


 Brenda E. Derrig, PE
 City Engineer

Memorandum

To: Members of PWPEC
From: Kevin Gorder
Division Engineer
Date: January 4, 2019
Subject: Small Cell Fee Discussion

Small Cell technology is starting to emerge as the wireless companies develop their 5G systems. Small cells are equipment that mounts to existing street lights, traffic signals, bus stops, buildings, etc. They are approximately 3 CF in size and include two way wireless transmission capabilities. Connections to their network can be by fiber at each location or by separate antennas that wirelessly transmit signal back to a fiber connection. Each small cell could include a ground mounted cabinet up to 28 CF in size.

The FCC has issued an order on small cells limiting local communities in their response to installation of these small cells. Engineering and Planning, along with the City Attorney, have been meeting to update our Ordinance, publish guidelines for their installation, and develop an application process with design standards. All of this has to be complete by January 14, 2019 as per the FCC order.

The FCC order includes provisions on what can be charged by local communities and it presumes a charge of \$270 per small cell per year as acceptable. Minnesota has state laws that are more restrictive regarding fees and it basically amounts to \$175 per small cell per year. We have met with Verizon and they have basically told us that if the City of Fargo wants 5G, they will only pay \$175.

Recommended Motion:

Discuss and determine the annual amount per small cell to be placed in the Wireless Facility Guidelines to be approved by resolution of the Fargo City Commission.



FARGO POLICE DEPARTMENT

222 Fourth Street North, Fargo, North Dakota 58102

David E. Todd, Chief of Police

January 9, 2019



Board of City Commissioners
City Hall
Fargo, ND 58102

RE: Fargo Police Department Renovation of BSE – Bid Acceptance and Award Recommendations

Dear Commissioners:

In November 2018, the Fargo Police Department published a Request for Proposals for phase 2 of our Fargo Police Station project. Bids were received on December 19, 2018 from eight General Contractors, seven Mechanical Contractors, and eight Electrical Contractors. Based on the bids and alternates, we recommend the acceptance of the bids and the following bid awards.

General Construction Award Recommendation – Meinecke-Johnson Company	
Base Bid	\$ 890,600.00
Alternate #1: Fragmentation Film	\$ 25,100.00
Alternate #2: South Addition Finishes	\$ 37,400.00
Alternate #3: Patrol Lockers	\$ 107,500.00
Alternate #6: Exterior Bollards	\$ 13,700.00
Recommended Award – General Construction	\$ 1,074,300.00

Mechanical Construction Award Recommendation – Peterson Mechanical, Inc.	
Base Bid	\$ 202,900.00
Alternate #2: South Addition Finishes	\$ 0.00
Alternate #5: HVAC Shutdown	\$ 500.00
Recommended Award – Mechanical Construction	\$ 203,400.00

Electrical Construction Award Recommendation – Grotberg Electric, Inc.	
Base Bid	\$ 344,200.00
Alternate #2: South Addition Finishes	\$ 17,700.00
Alternate #3: Patrol Lockers	\$ 1,100.00
Alternate #4: Re-Cable Second Floor	\$ 80,000.00
Recommended Award – Electrical Construction	\$ 443,000.00

Total Recommended Award \$ 1,720,700.00

Recommended Motion:

Accept the bids and award the contracts listed for phase 2 of the Fargo Police Department Headquarters building. (This project is funded in the 2019 City of Fargo Budget)

Please contact me if you have any questions or concerns.

Sincerely,

Chief David E. Todd

ADMINISTRATION
Phone: 701-241-1427
Fax: 701-297-7789

INVESTIGATIONS
Phone: 701-241-1405
Fax 701-241-1407

RECORDS
Phone: 701-241-1420
Fax: 701-241-8272

NON EMERGENCY
Phone: 701-235-4493



SHULTZ+ASSOCIATES
ARCHITECTS

612 1/2 Main Avenue
Fargo, ND 58103

December 21, 2018

Deputy Chief Joe Anderson
Fargo Police Department
222 4th Street North
Fargo, ND 58102
JAnderson@FargoND.gov

Re: Bid Award Recommendation
Fargo Police Department Headquarters

Dear Deputy Chief Anderson:

Competitive Bids were received on December 19, 2018 from eight General Contractors, seven Mechanical Contractors, and eight Electrical Contractors. We are pleased to report that the bids, including all alternates, are below the project estimate and budget.

Based on our discussion regarding acceptance of proposed alternates, we recommend award to Meinecke-Johnson Company for General Construction, Peterson Mechanical, Inc. for Mechanical Construction, and Grotberg Electric, Inc. for Electrical Construction as follows.

General Construction Award Recommendation – Meinecke-Johnson Company

Base Bid	\$	890,600.00
Alternate #1: Fragmentation Film	\$	25,100.00
Alternate #2: South Addition Finishes	\$	37,400.00
Alternate #3: Patrol Lockers	\$	107,500.00
Alternate #6: Exterior Bollards	\$	13,700.00
Recommended Award – General Construction	\$	1,074,300.00

Mechanical Construction Award Recommendation – Peterson Mechanical, Inc.

Base Bid	\$	202,900.00
Alternate #2: South Addition Finishes	\$	0.00
Alternate #5: HVAC Shutdown	\$	500.00
Recommended Award – Mechanical Construction	\$	203,400.00

Electrical Construction Award Recommendation – Grotberg Electric, Inc.

Base Bid	\$	344,200.00
Alternate #2: South Addition Finishes	\$	17,700.00

Alternate #3: Patrol Lockers	\$ 1,100.00
Alternate #4: Re-Cable Second Floor	\$ 80,000.00
Recommended Award – Electrical Construction	\$ 443,000.00
Total Recommended Award	\$ 1,720,700.00

Project Award

Shultz + Associates will prepare a Notice of Award and Contracts upon approval to do so. Congratulations on reaching this next important milestone!

Sincerely,



David R. Shultz, AIA, LEED AP
Shultz + Associates Architects