

FARGO CITY COMMISSION AGENDA
Monday, May 6, 2019 - 5:00 p.m.

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, April 22, 2019).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. 1st reading of an Ordinance Amending Section 4-0106 of Article 4-01 of Chapter 4 of the Fargo Municipal Code Relating to the General Provisions Governing City Officials and Employees; Amending Section 11-0814 of Article 11-08 of Chapter 11 of the Fargo Municipal Code Relating to Environmental Nuisances; and Amending Section 1-0305 of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Ordinance Violations.
- 2. Amendment No. 1 to Agreement for Services with Valley Veterinary Hospital, P.C.
- 3. Applications for property tax exemptions for improvements made to buildings:
 - a. Andrew and Alexis L. Scott, 2816 39 1/2 Avenue South (5 year).
 - b. Kathleen Neugebauer, 420 6th Avenue South, Unit 303 (5 year).
- 4. Site Authorization for Games of Chance:
 - a. Plains Art Museum at King Pin Casino (The Bowler), Blue Wolf Casino (West Acres Bowl), Wild Bill's Sports Saloon, Corner Pocket Casino (Fargo Billiards and Gastropub) and Big Top Bingo.
 - b. Boys and Girls Club of the Red River Valley at Red River Lanes and Pickled Parrot.
- 5. Applications for Games of Chance:
 - a. North Dakota Cpa Society Foundation for a raffle on 5/23/19.
 - b. Roger Maris Celebrity Golf Tournament for a raffle on 6/24/19.
- 6. Bid award for mowing noxious or other weeds and tall grasses (RFP19073).
- 7. Notice of Grant Award with the ND Department of Health for Ryan White Part B Program/Case Management for People Living with HIV/AIDS (CFDA #93.917).
- 8. Purchase of Service Agreement with Kindred Public School District for nursing services for the 2019-2020 school year.
- 9. Site Access Agreement with 223 Main Ave LLC.
- 10. Corrected block numbering of the previously approved Renaissance Zone boundary adjustment to Blocks 55 and 56.

11. Request to apply for the 2019 ND Department of Emergency Services State Homeland Security Grant.
12. Bid award for concrete utility cuts restoration (RFP19018).
13. Bid award for one rear load refuse truck (RFP18149).
14. Bid award for Landscape Maintenance Services (RFP19075).
15. Change Order No. 2 for a time extension to 8/30/19 for Project No. SN-18-C2.
16. Bid award for Project Nos. SL-19-A1 and UR-19-A1.
17. Bid advertisement for Project Nos. FM-15-J (Phase 2) and PR-19-C.
18. Bid award for raw water valve improvements Project No. WA1951.
19. Change Order No. 3 for an increase of \$427,492.82 for Project No. DN-18-A1.
20. Adopt Resolutions Approving the following Plats:
 - a. Lenthe's First Addition.
 - b. Inland Truck Parts Company 2nd Addition.
21. Contract and bond for Project No. TR-19-A1.
22. Bills.
23. Change Order No. 3 for a time extension to 5/8/19 for Improvement District No. BN-18-K1.
24. Change Order No. 4 for an increase of \$157,709.00 for Improvement District No. NR-17-B1.
25. Bid awards for Improvement District Nos. SL-19-E1 and TN-19-A1.
26. Create Improvement District Nos. BN-19-F and SL-19-B.
27. Contract and bonds for Improvement District Nos. PR-19-G1 and PR-19-F1.

REGULAR AGENDA:

28. Presentation on the Project list under the Water Utility State Revolving Fund (SRF) Loan.
29. Public Hearings - 5:15 pm:
 - a. **WITHDRAWN** - Bentley Place First Addition (5570 32nd Avenue South) zoning change; denial recommended by the Planning Commission on 4/2/19.
 - b. Zoning Change to repeal and re-establish a C-O, Conditional Overlay on Lot 1, Block 1, BLU Water Creek Third Addition (4504 32nd Avenue South); denial recommended by the Planning Commission on 4/2/19.
 1. 1st reading of Rezoning Ordinance.
 - c. Zoning Change to repeal and re-establish a C-O, Conditional Overlay on Lot 2, Block 1, Timber Creek Eighth Addition (5131 Prosperity Way South); denial recommended by the Planning Commission on 4/2/19.
 1. 1st reading of Rezoning Ordinance.

- d. Zoning Change from SR-2, Single-Dwelling Residential and AG, Agricultural to P/I, Public and Institutional on the Fred C. Hagen Addition and a portion of the unplatted Northeast Quarter of Section 7, Township 139 North, Range 48 West (200, 310 and 430 4th Street South); approval recommended by the Planning Commission:
 1. 1st reading of Rezoning Ordinance.
30. Recommendations to purchase land under the Island Park Ramp and necessary budget increase for the land and GTC renovation and to close the C-1 TIF District beginning with the 2020 tax year.
31. Recommendation to extend the loan with Wells Fargo totaling \$100 million for a two-year period.
32. Recommendation to receive and file the Civic Plaza Contextual Planning and Landscape Master Plan.

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.



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Water Treatment Plant
435 14th Avenue South
Fargo, ND 58103
Office: 701.241.1469 | Fax: 701.241.8110
www.FargoND.gov

May 2, 2019

Honorable Board of City Commissioners
City of Fargo
200 3rd Street North
Fargo, ND 58102

Subject: Project List under Water Utility State Revolving Fund (SRF) Loan

Dear Commissioners:

To fulfill a federal requirement for a Water Utility SRF Loan called 'Fargo Water Supply and Treatment Improvements Project', I am presenting to you a project list that falls under this loan. The addition of this loan is budget neutral in the Water Utility financial model when considering the Membrane WTP SRF loan and other Water Utility debt payments. This SRF loan covers multiple projects and is in the amount of \$24 million. My presentation to the City Commission will make the projects eligible for reimbursement through the SRF program. The new loan has already been approved and closing documents signed. We have recently received our first reimbursement for projects previously eligible. While some of the projects will be constructed in different phases, a high level project list is as follows:

- New Downtown Water Tower
- Drain 27 Conveyance Improvements
- LSWTP Crypto Compliance Improvements
- WTP Ozone Improvements
- Water Treatment Plant Phase 2 Improvements

My presentation to the City Commission will discuss the new SRF loan as budget neutral and present a brief overview of some of the projects listed above.

Your consideration is greatly appreciated in this matter.

Sincerely,

Troy B. Hall
Water Utility Director

C: Bruce Grubb, City Administrator

SUGGESTED MOTION:

No action required for this item.

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City of Fargo Staff Report			
Title:	BLU Water Creek Third Addition	Date:	3/28/2019
		Update:	5/1/2019
Location:	4504 32nd Avenue South	Staff Contact:	Maegin Elshaug
Legal Description:	Lot 1, Block 1, BLU Water Creek Third Addition		
Owner(s)/Applicant:	KT Properties/Mike Dragosavich	Engineer:	N/A
Entitlements Requested:	Zoning Change (to repeal and reestablish a C-O, Conditional Overlay on Lot 1, Block 1, BLU Water Creek Third Addition)		
Status:	City Commission Public Hearing: May 6, 2019		

Existing	Proposed
Land Use: Commercial	Land Use: No change
Zoning: LC, Limited Commercial, with C-O, Conditional Overlay, Ordinance 5128	Zoning: LC, Limited Commercial, with C-O, Conditional Overlay
Uses Allowed: 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, portable signs	Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, <u>off premise advertising signs</u> , commercial parking, retail sales and service, self-service storage, <u>vehicle repair</u> , limited vehicle service, <u>portable signs</u>
Maximum Lot Coverage Allowed: 55% building coverage	Maximum Lot Coverage Allowed: No change

Proposal:

The applicant is seeking a zoning change to repeal and reestablish a C-O, Conditional Overlay on Lot 1, Block 1, BLU Water Creek Third Addition. The subject property is located at 4504 32nd Avenue South. The applicant originally proposed the sign to face 45th Street South but amended the application to face 32nd Avenue South.

The applicant is requesting to repeal and reestablish a Conditional Overlay in order to allow off-premise advertising signs, which are currently prohibited by the existing Conditional Overlay, ordinance 5128, which was established in 2018. Ordinance 4320 was the original Conditional Overlay on the property, which was established in 2003, and also prohibited off-premise advertising. There have been modifications to the original Conditional Overlay (repealed and reestablished through ordinances 4900 and 5128), however, the prohibition of off-premise advertising has remained. The application proposes one sign on the property, with a sign face of 300 square feet and a height of 25 feet. The sign would have a digital side facing east and a static side facing west, along 32nd Avenue South.

Note that if approved, the proposed signs will be reviewed against requirements of the sign code for compliance at the time a permit application is received.

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 32nd Avenue South is LC, Limited Commercial with C-O, Conditional Overlays, with commercial development;
- East: Across 45th Street South is AG, Agricultural with a power substation;

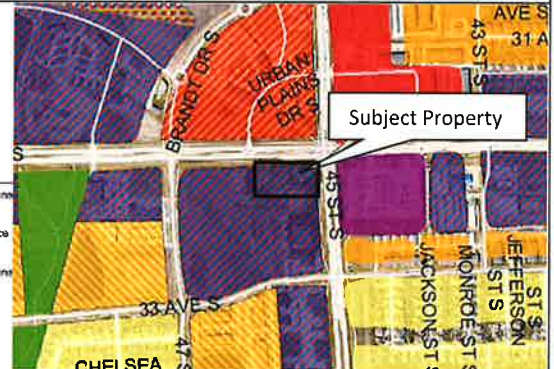
- South & West: LC, Limited Commercial with C-O, Conditional Overlays, commercial development and vacant property;

Area Plans:

The subject property was originally part of the Southwest Area Plan as designated within the *Urban Fringe and Extraterritorial Area of the City of Fargo* land use plan adopted in 2001. In 2003, the Southwest Area Plan was amended (see exhibit to right) as to give priority to mixed-use development which was the underlying theme of the Urban Plains Development.

The area plan shows the subject property as being appropriate for Office or Commercial uses.

Legend	
	Proposed Parkway
	Commercial
	Commercial or Medium/High Density
	Commercial or Medium/High or Park/Open Space
	Commercial or Park/Open Space
	Either Industrial or Commercial
	Either Office or Commercial
	Either Office or Medium/High Density Residential
	Industrial
	Low/Medium Density Residential
	Low/Medium Density or Medium/High Density Residential
	Medium/High Density Residential
	Medium/High Density or Park/Open Space
	Office
	Office or Commercial or Medium/High Density Residential
	Park/Open Space
	Public
	Public or Commercial
	Public or Low/Medium Density Residential
	Public or Office
	Storm Water



As illustrated to the right, the Go2030 Comprehensive Plan identifies this area as a *sustainable retail mixed-use center* (one of three types of *walkable mixed-use centers*), stating that, "These areas have the potential to become denser and incorporate more retail space. These areas can incorporate more dense residential uses, walkability improvements, and public art to become true mixed use centers and a destination for shopping and entertainment."

Go2030 also identifies 32nd Avenue South as an Active Living Street. Active Living Streets are key corridors that prioritize mobility for all modes of travel with an improved streetscape that enhances the quality and visual appearance of neighborhoods.



Context:

Neighborhood: Brandt Crossing

Schools: The subject property is located within the bounds of the West Fargo School District, within the bounds of Independence Elementary, Liberty Middle, and Sheyenne High schools.

Parks: Urban Plains Park (5050 30th Avenue South) and Brandt Crossing Park (5009 33rd Avenue South) are located within a half-mile of the subject property, providing amenities of basketball, bike rentals, dog parks, playgrounds, recreational trails, shelter amenities, and a wedding venue.

Pedestrian / Bicycle: The subject property is located adjacent to Veterans Boulevard and 32nd Avenue South which have trails adjacent to the roadways, and are a component of the metro area trail system.

Staff Analysis:

Zoning

Section 20-906. 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 zoning map error in regard to the subject properties. The applicant proposes the zoning amendment to repeal and reestablish the Conditional Overlay in order to allow off-premise advertising to construct a 300 square foot billboard with one digital face and one static face. Staff finds that the requested zone change is not justified by a change in conditions since the previous zoning classification was established. The original zoning of the property in 2003 via the Conditional Overlay, ordinance 4320 prohibited off-premise advertising on the property and established the intent of the development.

The City of Fargo has many Conditional Overlays along arterial roadways south of Interstate 29 that prohibit off-premise advertising. As development along corridors in the southwest area of Fargo began, including corridors of 45th Street S, 32nd and 52nd Avenues South, and Veterans Boulevard, many of the areas intended for commercial or mixed-use development were zoned with a Conditional Overlay that established design standards for the development, among other things, and also prohibited off-premise advertising entirely. The intent of this prohibition along the corridors was to not replicate the many off-premise advertising billboards that are found on Main Avenue and University Drive South.

Approving this application would establish a precedent of how these corridors will develop, and it is likely additional applications will be submitted to make a similar request.

The Inspections Department states there has been 13 off-premise advertising signs that have been permitted and constructed since the Fargo Sign Code was adopted in November 2011. This averages to approximately 1.7 per year. The fact that signs have been permitted and constructed since the adoption of the sign code suggests other areas of the City are more appropriate for off-premise advertising, outside of the corridors with Conditional Overlays that prohibit off-premise advertising.

Staff finds there the requested zoning change is not justified by a change in conditions since the previous zoning classification was established. **(Criteria NOT 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. No deficiencies have been noted in the ability to provide all of the necessary services to the site. The subject property abuts public right-of-way. **(Criteria Satisfied)**

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

Staff finds that the application could cause injury to the value of the other property within the neighborhood. Section 20-1301.B.4 of the Fargo Sign Code states that:

Signs can also threaten the public welfare by creating aesthetic concerns and detriments to property values. Such aesthetic concerns and detriments to property values are particularly great when an accumulation or proliferation of signs results in visual clutter, or when one or more signs spoil vistas or views, or when one or more signs add or increase commercialism in noncommercial areas.

Staff finds that the proposed sign is of a size and scale that could create aesthetic concerns which could lead to injury of property value. As context, the conditional overlays along arterial roadways create a cohesive corridor and gateway approach in the city.

As referenced throughout this staff report, the area in which the sign would be located is designated as a walkable mixed-use center and is located within an existing Conditional Overlay zoning district which seeks to advance design standards for human-scale walkable development. Staff contends that the proposed billboard-scale sign is not compatible with the intended development pattern of the area and removes the predictability other developers in the surrounding area have invested in; therefore, the change in zoning could cause injury to the value of the neighboring properties and would remove encouragement to develop in accordance with

the principles of walkable mixed-use centers.

Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has not received any inquiries. Staff finds that the approval may adversely affect the condition or value of the property in the vicinity. **(Criteria NOT Satisfied)**

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

According to Section 20-0104 of the LDC, the purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. The Go2030 Comprehensive Plan targets this area as being a walkable mixed-use center. Walkable mixed-use centers are one of the catalysts identified by the Go2030 Comprehensive Plan which are designed to support and advance all of the guiding principles of the Plan. Specifically, within the Plan, walkable mixed-use centers have the following principles of development:

1. *Pedestrian oriented, mixed use streetscape;*
2. *Strong pedestrian access point across busy automobile corridor;*
3. *Walkable block sizes (250' - 450');*
4. *Building and parking development patterns that create people oriented spaces and street frontage which encourages a walkable environment;*
5. *Connection to greenway;*
6. *Neighborhood park or other prominent neighborhood feature; and*
7. *High quality construction. [Emphasis added]*

Additionally, the GO2030 Comprehensive plan identifies 32nd Avenue South as an Active Living Street. Active Living Streets are key corridors that prioritize mobility for all modes of travel with an improved streetscape that enhances the quality and visual appearance of neighborhoods. Off-premise advertising would be a detriment to the quality and visual appearance along these corridors.

Staff finds that billboard-style off-premise advertising does not align with the principles of development outlined within the Go2030 Comprehensive Plan due to the anti-pedestrian nature of such billboards. That this type of signage is intended to grab the attention of the motoring public at a distance and at high speeds, and does not help create a people-oriented environment or encourage walkability. Staff contents that billboard-style signage has the opposite effect, creating environments in which pedestrians can feel out of place. **(Criteria NOT Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission staff and hereby deny the proposed zoning change to repeal and reestablish a C-O, Conditional Overlay on the basis that it does not comply with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) or other applicable requirements of the LDC."

Planning Commission Recommendation: April 2, 2019

On April 2, 2019, with a 11-0 vote, the Planning Commission accepted the findings and recommendations of staff and recommended denial to the City Commission of the proposed zoning change to repeal and reestablish a C-O, Conditional Overlay on the basis that it does not comply with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) or other applicable requirements of the LDC.

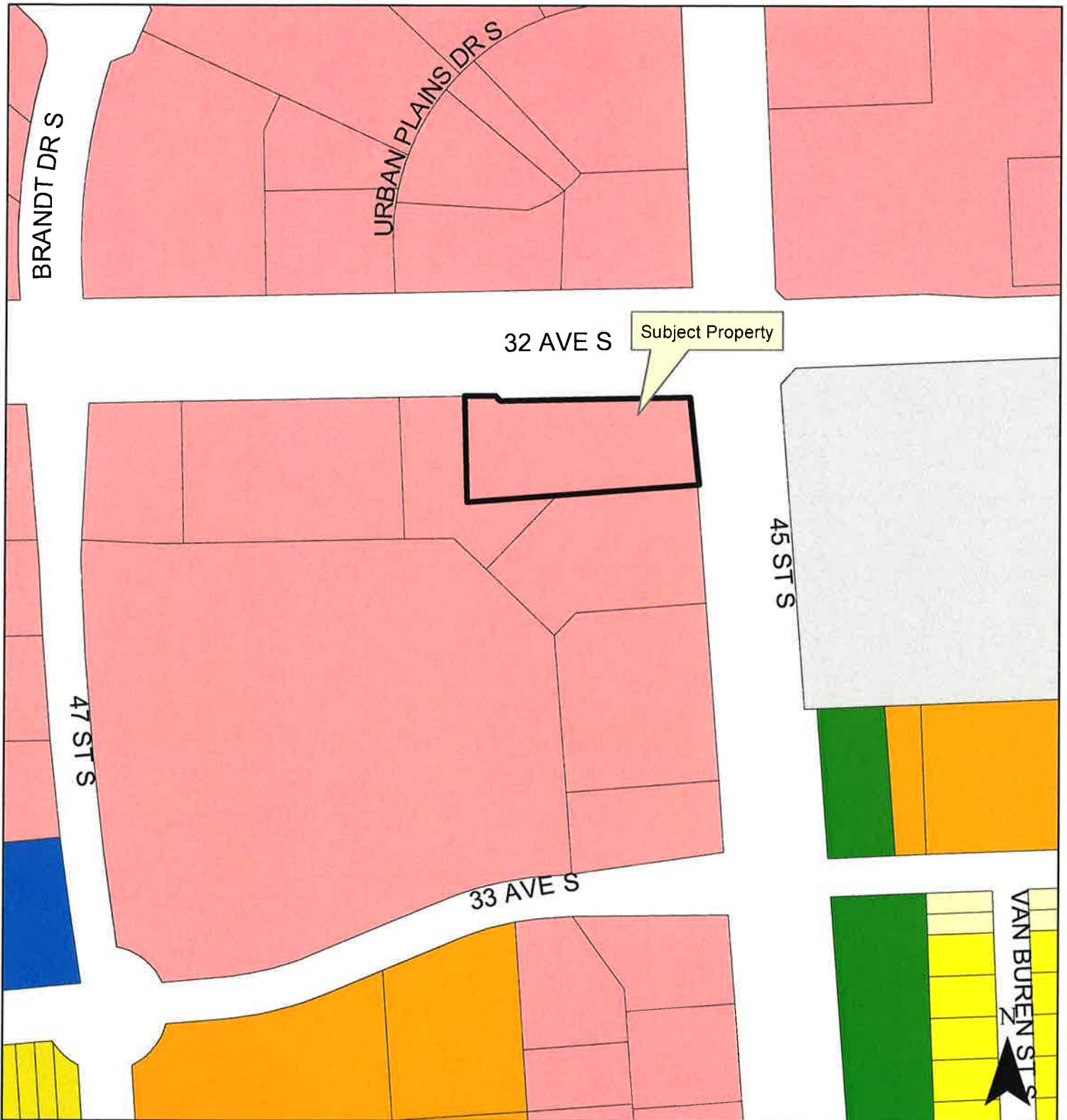
Attachments:

1. Zoning Map
2. Location Map
3. Materials submitted by Applicant

Zone Change (Repeal and Reestablish C-O)

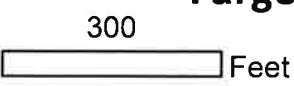
BLU Water Creek 3rd Addition

4504 32nd Avenue South



Legend

AG	DM	LC	MHP	UML	City Limits
GO	MR-3	MR-1	MR-2	MR-3	MR-4
MR-5	MR-6	MR-7	MR-8	MR-9	MR-10
MR-11	MR-12	MR-13	MR-14	MR-15	MR-16



Fargo Planning Commission
April 2, 2019

Zone Change (Repeal and Reestablish C-O)

BLU Water Creek 3rd Addition

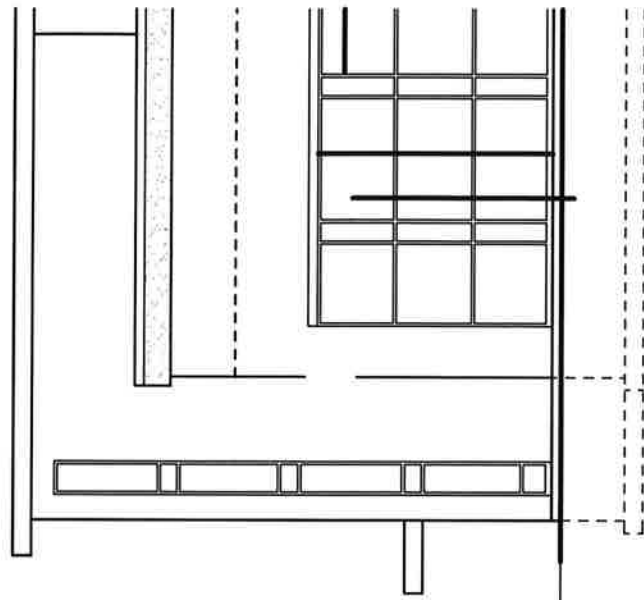
4504 32nd Avenue South



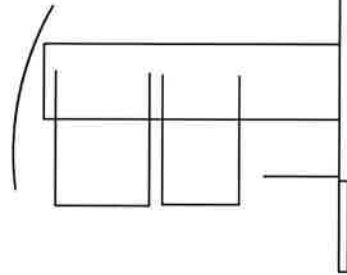
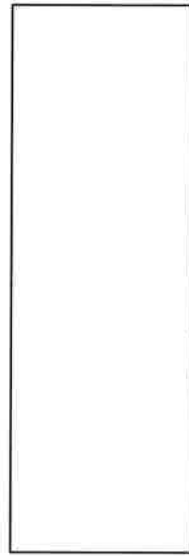


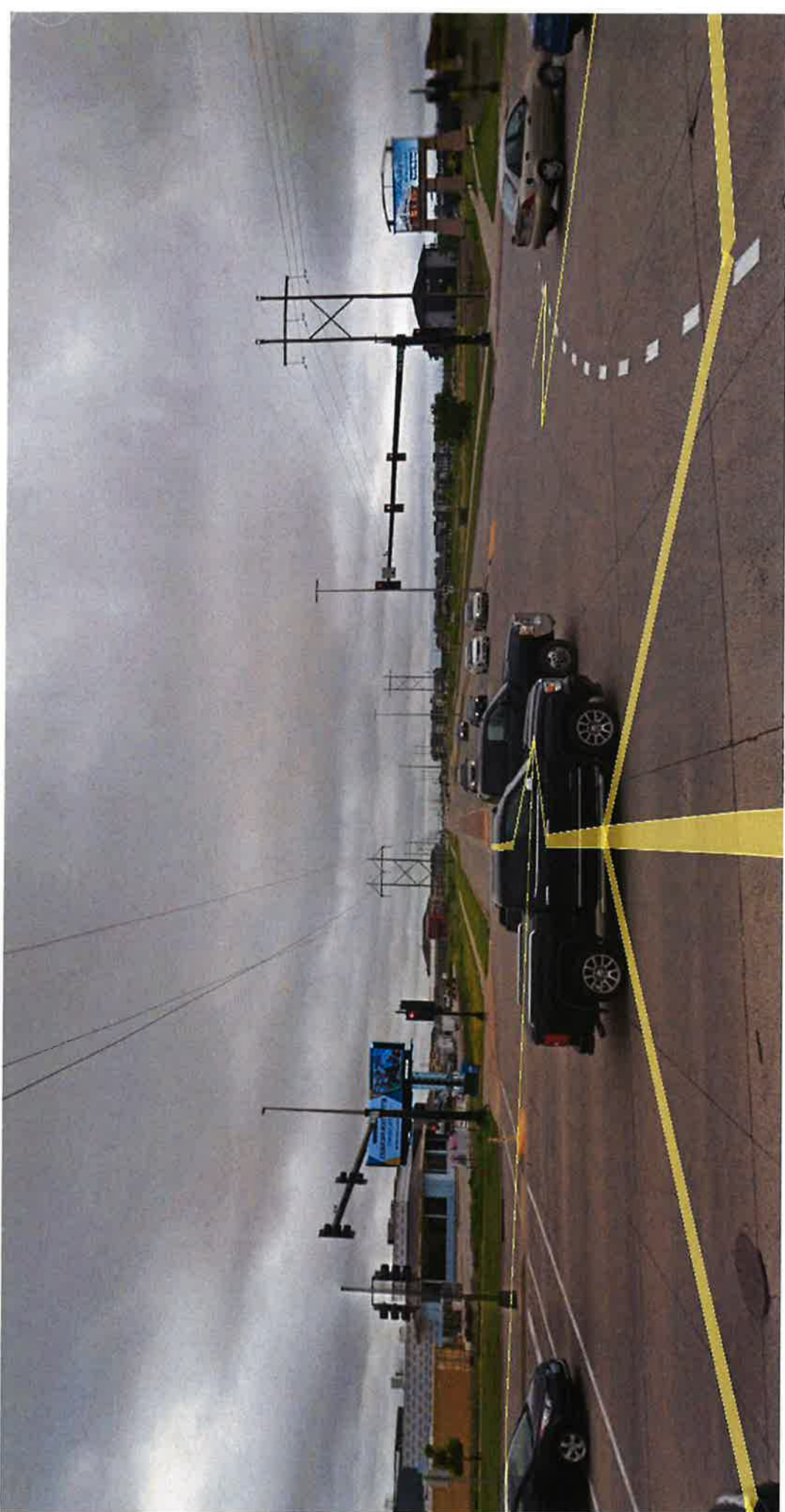
45th St S

© 2018 Google



25'-0"





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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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AN ORDINANCE REZONING A CERTAIN
PARCEL OF LAND LYING IN BLU WATER CREEK THIRD ADDITION,
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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 rezoning of certain parcels of land lying in BLU Water Creek Third Addition, City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended denial of the rezoning request on April 2, 2019; and,

WHEREAS, the rezoning changes were approved by the City Commission on May 6, 2019;

NOW, THEREFORE,

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

Section 1. The following described property:

Lot One (1), Block One (1) of BLU Water Creek Third Addition to the City of Fargo, Cass County, North Dakota,

that is currently zoned as a "LC", Limited Commercial Zoning District, with a "C-O", Conditional Overlay, as established by Fargo City Ordinance Number 5128 is hereby rezoned only to modify and amend the "C-O", Conditional Overlay as established by said Ordinance No. 5128 as follows:

Paragraph 11 of Section 4 of said Ordinance No. 5128 is hereby amended to eliminate the prohibition of off-premise advertising signs.

In all other respects, the Conditional Overlay zoning regulations set forth in said Ordinance No. 5128 shall remain in full force and effect.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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.

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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City of Fargo Staff Report			
Title:	Timber Creek Eighth Addition	Date:	3/28/2019
		Update:	5/1/2019
Location:	5131 Prosperity Way South	Staff Contact:	Maegin Elshaug
Legal Description:	Lot 2, Block 1, Timber Creek Eighth Addition		
Owner(s)/Applicant:	Midwest Restaurant Holdings, LLC/Mike Dragosavich	Engineer:	N/A
Entitlements Requested:	Zoning Change (to repeal and reestablish a C-O, Conditional Overlay on Lot 2, Block 1, Timber Creek Eighth Addition)		
Status:	City Commission Public Hearing: May 6, 2019		

Existing	Proposed
Land Use: Commercial	Land Use: No change
Zoning: GC, Limited Commercial, with C-O, Conditional Overlay, ordinances 5142	Zoning: GC, Limited Commercial, with C-O, Conditional Overlay
Uses Allowed: General Commercial allows colleges, community service, daycare centers of unlimited size, detention facilities , health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers , offices, off-premise advertising and digital billboards , commercial parking, outdoor recreation and entertainment, retail sales and service, self storage , vehicle repair , limited vehicle service, aviation , surface transportation , and major entertainment events.	Uses Allowed: General Commercial allows colleges, community service, daycare centers of unlimited size, detention facilities , health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers , offices, <u>off-premise advertising and digital billboards</u> , commercial parking, outdoor recreation and entertainment, retail sales and service, self storage , vehicle repair , limited vehicle service, aviation , surface transportation , and major entertainment events.
Maximum Lot Coverage Allowed: 85% building coverage	Maximum Lot Coverage Allowed: No change

Proposal:

The applicant is seeking a zoning change to repeal and reestablish a C-O, Conditional Overlay on Lot 2, Block 1, Timber Creek Eighth Addition. The subject property is located at 5131 Prosperity Way South.

The applicant is requesting to repeal and reestablish a C-O in order to allow off-premise advertising signs, which are currently prohibited by the existing Conditional Overlay, ordinance 5142, which was established in 2018. Ordinance 5142 replaced Ordinance 4908, which was the original Conditional Overlay on the property as part of the Timber Creek development, which prohibits off-premise advertising and digital billboards. The application proposes one sign on the property, with a sign face of 300 square feet and height of 35 feet. The sign would have two digital sign faces, facing east and west, adjacent to 52nd Avenue South.

Note that if approved, the proposed signs will be reviewed against requirements of the sign code for compliance at the time a permit application is received.

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.

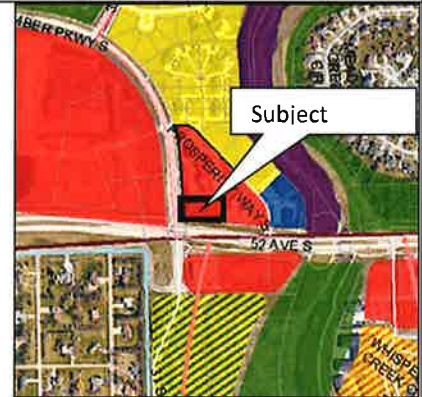
Surrounding Land Uses and Zoning Districts:

- North: GC, General Commercial with a C-O, Conditional Overlay with commercial use;
- East: GC, General Commercial with a C-O, Conditional Overlay with commercial use;
- South: LC, Limited Commercial with commercial use;
- West: GC, General Commercial with a C-O, Conditional Overlay with commercial use;

Area Plans:

The subject property is located within the 2007 Tier 2 South Land Use Plan (image to right). In March of 2014, a growth plan amendment was approved that added additional commercial acreage within the subject property. Pursuant to the growth plan amendment, the area is deemed appropriate for commercial uses.

- Commercial
- Future School
- Industrial
- Low Med Res
- Med High Res
- Proposed Park
- Rural Res



Go2030 identifies 52nd Avenue South as an Active Living Street (see exhibit to left). Active Living Streets are key corridors that prioritize mobility for all modes of travel with an improved streetscape that enhances the quality and visual appearance of neighborhoods.

Context:

Neighborhood: The subject property is located in the Centennial Neighborhood.

Schools: The subject properties are located within the Fargo School District and is served by Centennial Elementary, Discovery Middle and Davies High schools.

Parks: The subject property is located within a half-mile of Timber Creek Park (3300 47 Avenue South), which provides amenities of trails, playground, basketball and a shelter.

Pedestrian / Bicycle: Off road bike facilities are located along Timber Parkway South and 52nd Avenue South. These facilities are a component of the metro area trail system.

Staff Analysis:

Zoning

Section 20-906. 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 zoning map error in regard to the subject properties. The applicant proposes the zoning amendment to repeal and reestablish the Conditional Overlay in order to allow off-premise advertising to construct a 300 square foot billboard with two digital faces, facing 52nd Avenue South. Staff finds that the

requested zone change is not justified by a change in conditions since the previous zoning classification was established. The original zoning of the property in 2014 via the Conditional Overlay, ordinance 4908 prohibited off-premise advertising on the property and established the intent of the development.

The City of Fargo has many Conditional Overlays along arterial roadways south of Interstate 29 that prohibit off-premise advertising. As development along corridors in the southwest area of Fargo began, including corridors of 45th Street S, 32nd and 52nd Avenues South, and Veterans Boulevard, many of the areas intended for commercial or mixed-use development were zoned with a Conditional Overlay that established design standards for the development, among other things, and also prohibited off-premise advertising entirely. The intent of this prohibition along the corridors was to not replicate the many off-premise advertising billboards that are found on Main Avenue and University Drive South.

Approving this application would establish a precedent of how these corridors will develop, and it is likely additional applications will be submitted to make a similar request.

The Inspections Department states there has been 13 off-premise advertising signs that have been permitted and constructed since the Fargo Sign Code was adopted in November 2011. This averages to approximately 1.7 per year. The fact that signs have been permitted and constructed since the adoption of the sign code suggests other areas of the City are more appropriate for off-premise advertising, outside of the corridors with Conditional Overlays that prohibit off-premise advertising.

Staff finds there the requested zoning change is not justified by a change in conditions since the previous zoning classification was established. **(Criteria NOT 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. No deficiencies have been noted in the ability to provide all of the necessary services to the site. The subject property abuts public right-of-way. **(Criteria Satisfied)**

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

Staff finds that the application could cause injury to the value of the other property within the neighborhood. Section 20-1301.B.4 of the Fargo Sign Code states that:

Signs can also threaten the public welfare by creating aesthetic concerns and detriments to property values. Such aesthetic concerns and detriments to property values are particularly great when an accumulation or proliferation of signs results in visual clutter, or when one or more signs spoil vistas or views, or when one or more signs add or increase commercialism in noncommercial areas.

Staff finds that the proposed sign is of a size and scale that could create aesthetic concerns which could lead to injury of property value. As context, the conditional overlays along arterial roadways create a cohesive corridor and gateway approach in the city.

As referenced throughout this staff report, the area in which the sign would be located is a walkable mixed-use development and is located within an existing Conditional Overlay zoning district which seeks to advance design standards for human-scale walkable development. Staff contends that the proposed billboard scale sign is not compatible with the intended development pattern of the area and removes the predictability other developers in the surrounding area have invested in; therefore, the change in zoning could cause injury to the value of the neighboring properties and would remove encouragement to develop in accordance with the principles of walkable mixed-use centers.

Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has not received any inquiries. Staff finds that the approval may adversely affect the condition or value of the property in the vicinity. **(Criteria NOT Satisfied)**

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

According to Section 20-0104 of the LDC, the purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Although the Timber Creek Development is not specifically identified as a walk-able mixed-use center in the Go2030 Comprehensive Plan, it has developed as a walkable mixed-use development that aligns with the principles outlined in the plan, including:

1. *Pedestrian oriented, mixed use streetscape;*
4. *Building and parking development patterns that create people oriented spaces and street frontage which encourages a walkable environment;*
6. *Neighborhood park or other prominent neighborhood feature; and*
7. *High quality construction.* [Emphasis added]

The GO2030 Comprehensive plan identifies 52nd Avenue South as an Active Living Street, which are key corridors that prioritize mobility for all modes of travel with an improved streetscape that enhances the quality and visual appearance of neighborhoods. Off-premise advertising would be a detriment to the quality and visual appearance along these corridors.

The original zoning of the property in 2014 via the Conditional Overlay, ordinance 4908 prohibited off-premise advertising on the property and established the intent of the development as a mixed-use development. Staff finds that billboard-style off-premise advertising does not align with the intent of the mixed-use development, set forth by the design requirements of the Conditional Overlay due to the anti-pedestrian nature of such billboards. That this type of signage is intended to grab the attention of the motoring public at a distance and at high speeds, and does not help create a people-oriented environment or encourage walkability. Staff contends that billboard-style signage has the opposite effect, creating environments in which pedestrians can feel out of place. **(Criteria NOT Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission staff and hereby deny the proposed zoning change to repeal and reestablish a C-O, Conditional Overlay on the basis that it does not comply with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) or other applicable requirements of the LDC."

Planning Commission Recommendation: April 2, 2019

On April 2, 2019, with a 11-0 vote, the Planning Commission accepted the findings and recommendations of staff and recommended denial to the City Commission of the proposed zoning change to repeal and reestablish a C-O, Conditional Overlay on the basis that it does not comply with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) or other applicable requirements of the LDC.

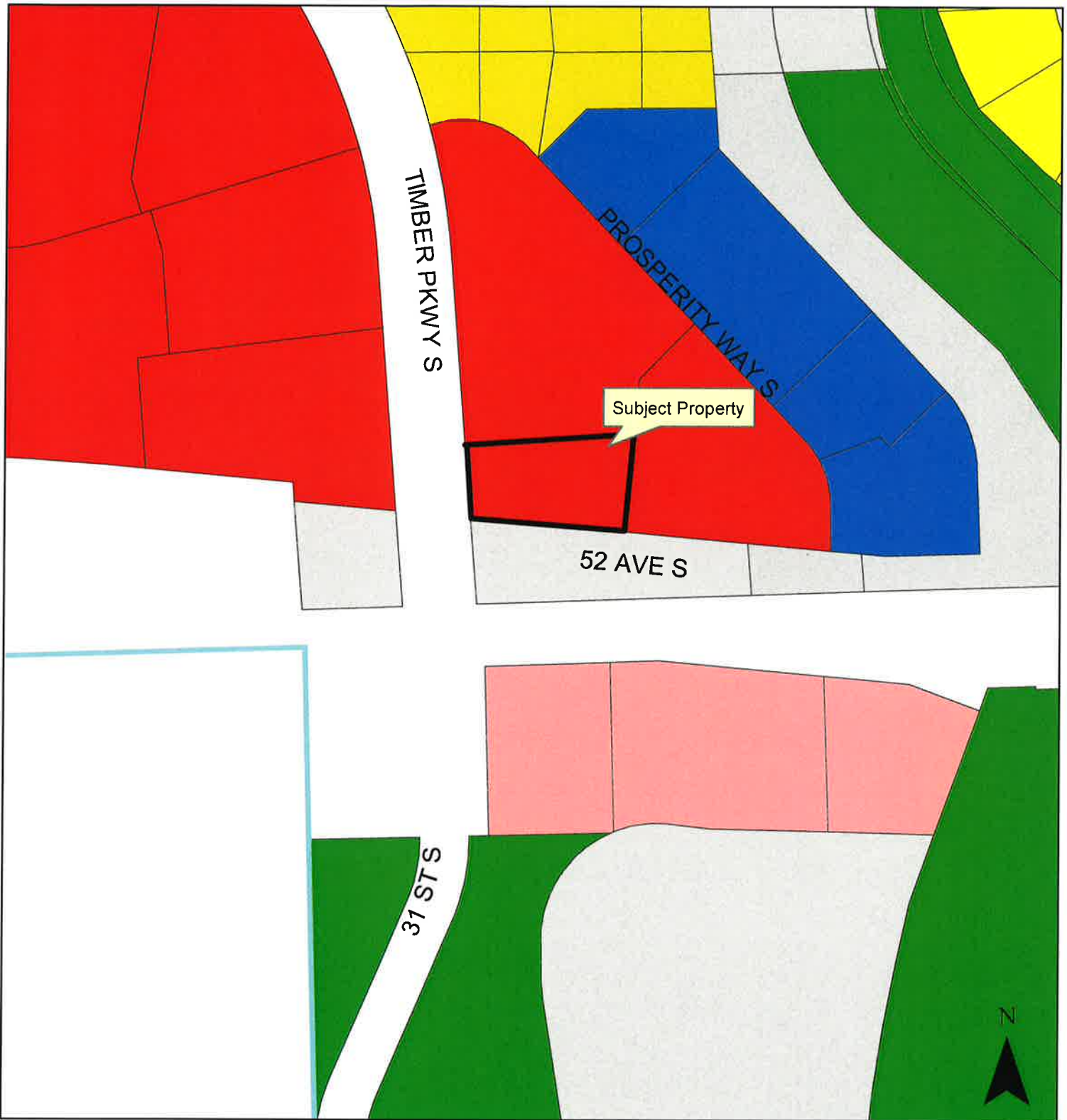
Attachments:

1. Zoning Map
2. Location Map
3. Materials submitted by Applicant

Zone Change (Repeal and Reestablish C-O)

Timber Creek 8th Addition

5131 Prosperity Way South



Legend

AG	LC	MHP	SR
GO	MR-1	NO	SR-1
GO	MR-2	PA	SR-2
GO	MR-3	UM	SR-3
			City Limits

Fargo Planning Commission

April 2, 2019

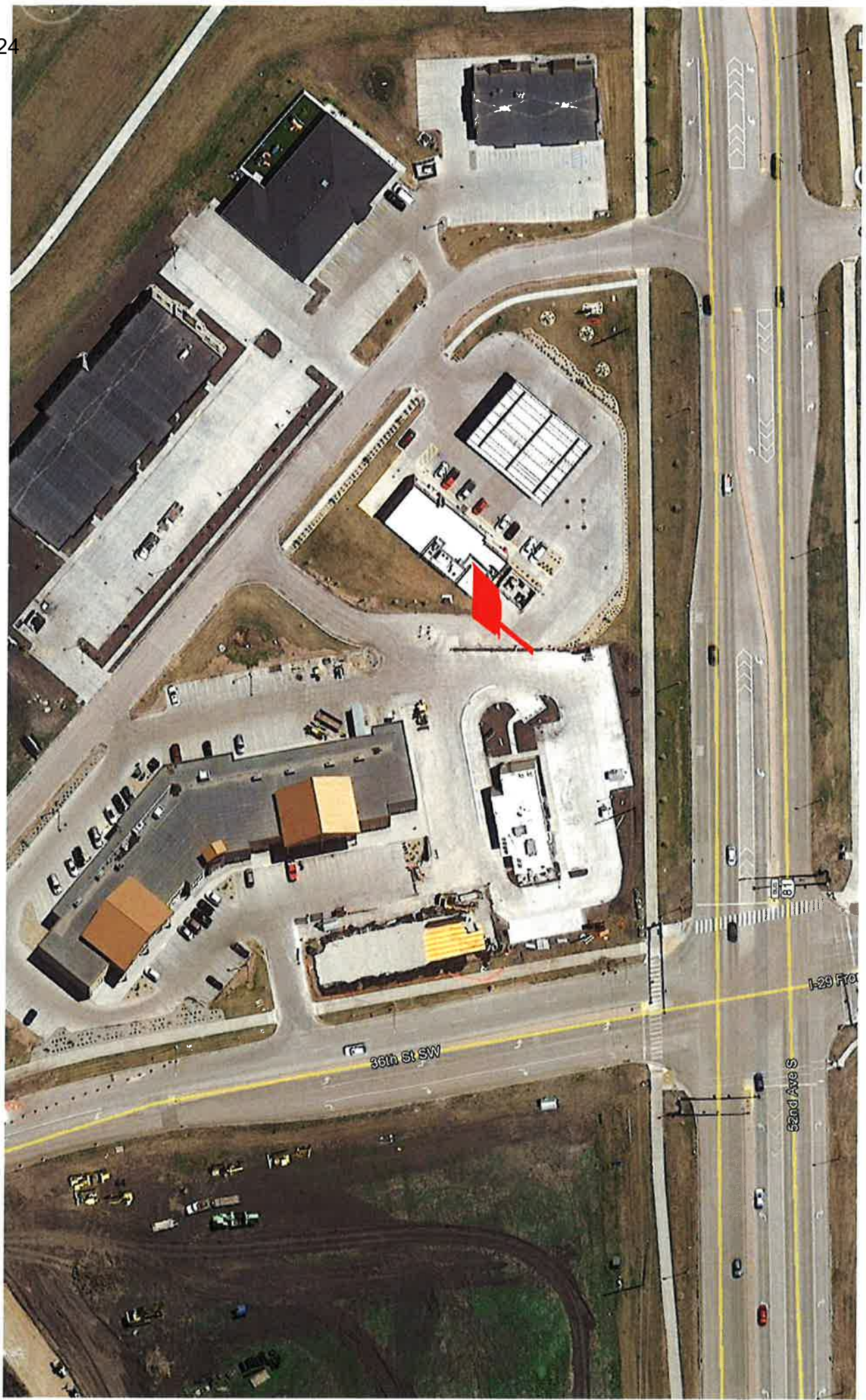
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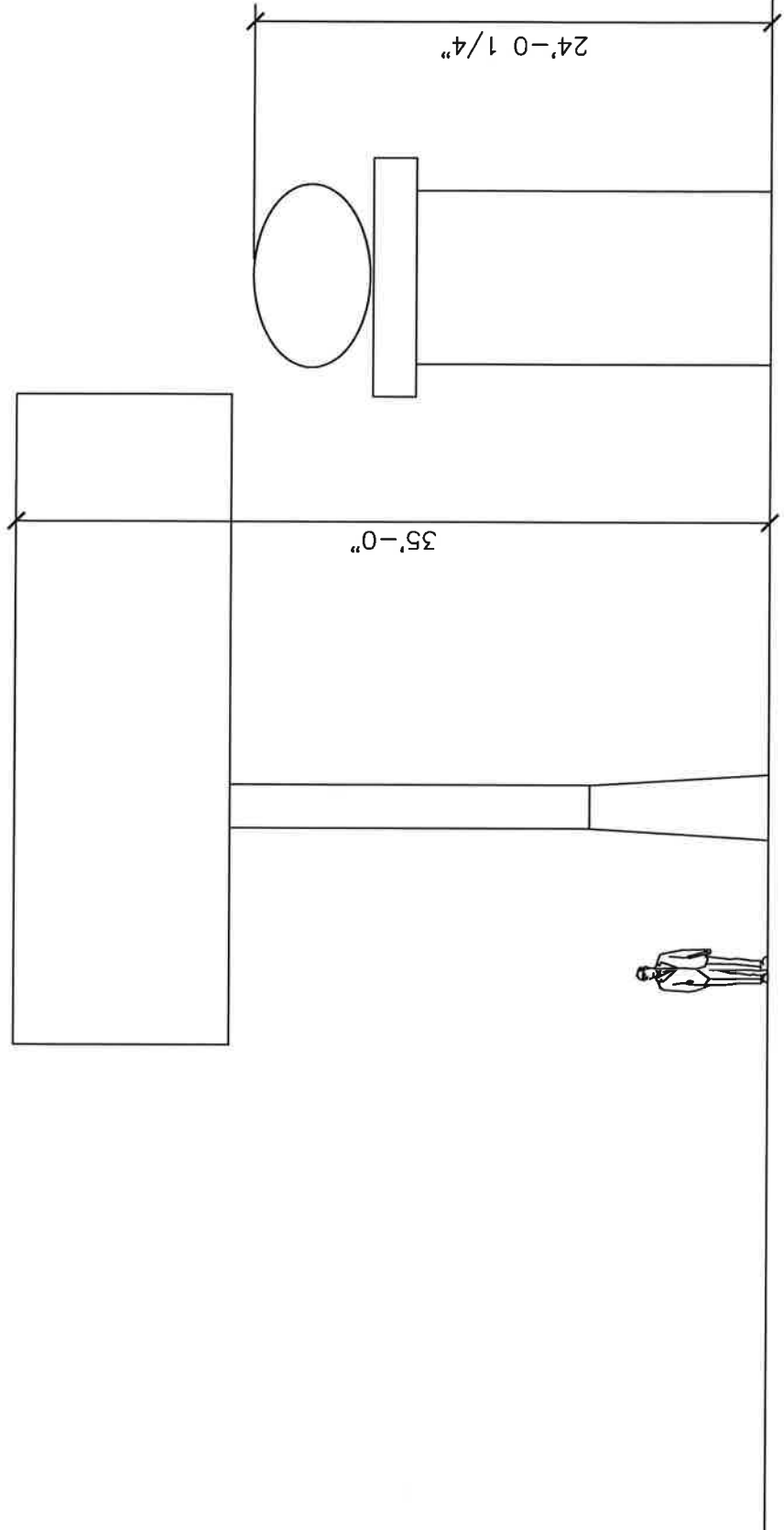
Zone Change (Repeal and Reestablish C-O)

Timber Creek 8th Addition

5131 Prosperity Way South







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Attraction Packages
— up to 25% Savings —
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NEWMAN



Grill & Chill

DOWNLOAD
THE DQ APP
\$5 LUNCH 10-4

WASEY'S
RESTAURANT





OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA



ORDINANCE NO. _____

1 AN ORDINANCE REZONING A CERTAIN
2 PARCEL OF LAND LYING IN TIMBER CREEK EIGHTH ADDITION,
3 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 a certain
6 parcel of land lying in Timber Creek Eighth Addition to the City of Fargo, Cass County, North
7 Dakota; and,

8 WHEREAS, the Fargo Planning Commission recommended denial of the rezoning request
9 on April 2, 2019; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on May 6, 2019,

11 NOW, THEREFORE,

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

13 Section 1. The following described property:

14 Lot Two (2), Block One (1) of Timber Creek Eighth Addition to the City of Fargo,
15 Cass County, North Dakota;

16 that is currently zoned as a "GC", General Commercial, District with a "C-O", Conditional Overlay
17 as established by Fargo City Ordinance Number 5142 is hereby rezoned only to modify and amend
18 the "C-O", Conditional Overlay as established by said Ordinance No. 5142 as follows:

19 Subparagraph "j" of Paragraph 2 of Section 1 of said Ordinance No. 5142 is hereby
20 amended to eliminate the prohibition of off-premise signs and digital billboards.

21 In all other respects, the Conditional Overlay zoning regulations set forth in said Ordinance No.
22 5142 shall remain in full force and effect.

23 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. _____

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

4 (SEAL)

Timothy J. Mahoney, M.D., Mayor

5 Attest:
6

7 _____
Steven Sprague, City Auditor

8 First Reading:
9 Second Reading:
10 Final Passage:
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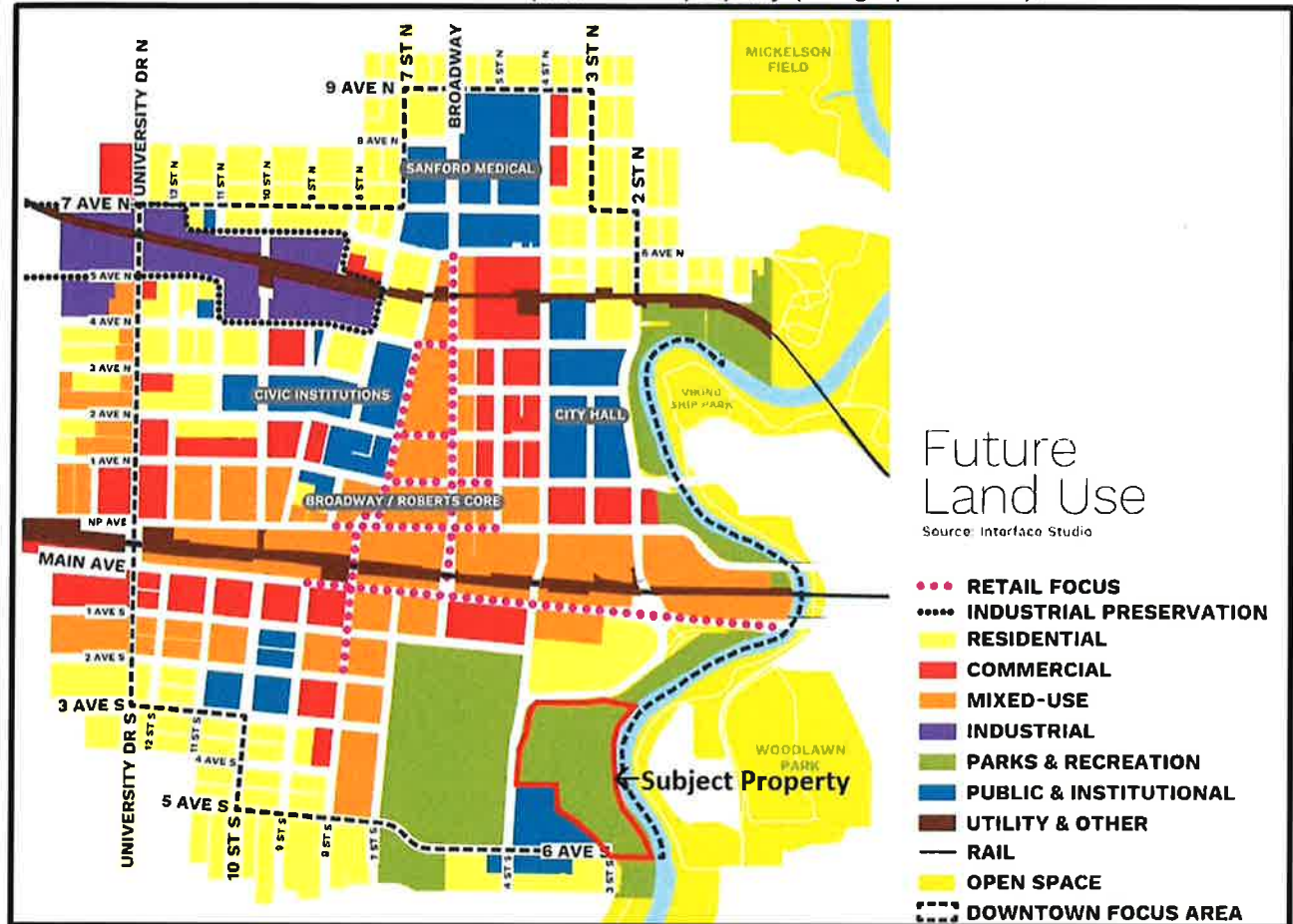
City of Fargo Staff Report			
Title:	Fred C. Hagen Addition	Date: Updated:	3/28/2019 5/1/2019
Location:	200, 310, and 430 4 th Street South	Staff Contact:	Donald Kress, planning coordinator
Legal Description	Fred C. Hagen Addition and portion of the unplatted Northeast Quarter of Section 7, Township 139 North, Range 48 West.		
Owner(s)/Applicant:	City of Fargo; Fargo Park District / Fargo Park District	Engineer:	None
Entitlements Requested:	Zone Change (from SR-2, Single Dwelling Residential and AG, Agricultural to P/I, Public / Institutional with a C-O, conditional overlay to restrict land uses)		
Status:	City Commission Public Hearing: May 6, 2019		

Existing	Proposed
Land Use: Park/Open Space, flood protection levee	Land Use: No change
Zoning: SR-2, Single Dwelling Residential	Zoning: P/I, Public/Institutional
Uses Allowed: SR-2 – detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities’ AG-- detached houses, parks and open space, safety services, basic utilities, and crop production.	Uses Allowed: P/I-- colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events. The Conditional Overlay would restrict land uses in the P/I zone as shown above
Maximum Density SR-2 allows 5.7 dwelling units per acre; A allows 0.1 dwelling units per acre	Maximum Lot Coverage None

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. A zoning change from SR-2, Single Dwelling Residential and AG, Agricultural to P/I, Public / Institutional with a C-O, conditional overlay to restrict land uses <p><i>NOTE: Three properties within this zone change are identified as “zoning unknown,” which the LDC indicates is to be considered AG, Agricultural zoning.</i></p> <p>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.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: DMU, Downtown Mixed Use; parks, trails, residential and commercial across 2nd Street South • East: None; Red River • South: MR-3, Multi Dwelling Residential; Prairie St. John’s hospital • West: P/I; Island Park, Island Park Playhouse

Area Plans:

The subject property is included in the Downtown In Focus Master Plan. Rezoning of the subject property from SR-2 and AG to P/I is consistent with and reinforces the “parks and recreation” land use designation of the Downtown In Focus future land use plan for this property (see graphic below).



Future Land Use
Source: Interface Studio

Context:

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

Neighborhood: The subject property is located within Downtown neighborhood.

Parks: The project site itself includes Dike East and Dike West parks and a skatepark ,with off-road trails that are part of the metro area bikeways system.

Pedestrian / Bicycle: There is an off-road bike facility along 4th Street South, just west of these properties that is a component of the metro area bikeways system.

Staff Analysis:

CURRENT USES: The current uses on these properties are parking, City of Fargo lift station, skate park, and Dike East and Dike West parks.

Zoning

Section 20-906. 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. The six properties involved in this zone change are owned by the Fargo Park District or City of Fargo. Three of the properties are zoned SR-2, Single Dwelling Residential and three of the properties are identified as "zoning unknown," which the LDC indicates is to be treated as AG, Agricultural zoning. However, due to their location in relation to the Red River and the flood protection levee, they could not be developed with residences. The appropriate zoning for these government-owned properties that can only be used for parks, open space, flood protection (safety services), parking, and outdoor recreation is Public/Institutional, with a conditional overlay to restrict the uses in the P/I zoning to the ones stated. These uses are effectively the ones that are in place on these properties at this time. **(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 for the limited uses for which this site can be developed. **(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 evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received no comment about the project. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(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 LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." This rezone follows the Permanent Flood Risk Reduction initiative of GO2030 by rezoning an area that is not appropriate for residential development to a more practical zoning designation. The subject property is included in the Downtown In Focus master plan. Rezoning of the subject property from SR-2 and AG to P/I is consistent with and reinforces the "parks and recreation" land use designation of the Downtown In Focus future land use plan for this property. Staff finds this proposal is consistent with the purpose of the LDC, the applicable comprehensive plan, and other adopted policies of the City. **(Criteria satisfied)**

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 for first reading, and move to approve the proposed zone change from SR-2, Single Dwelling Residential and AG, Agricultural to P/I, Public / Institutional with a C-O, conditional overlay to restrict land uses as presented, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Downtown In Focus master plan, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC."

Planning Commission Recommendation: April 2, 2019

At the April 2, 2019 Planning Commission, by a vote of 11-0, the Planning Commission voted to accept the findings and recommendations of staff and recommended to the City Commission approval of the proposed zone change from SR-2, Single Dwelling Residential and AG, Agricultural to P/I, Public / Institutional with a C-O, conditional overlay to restrict land uses as presented, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Downtown In Focus master plan, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC.

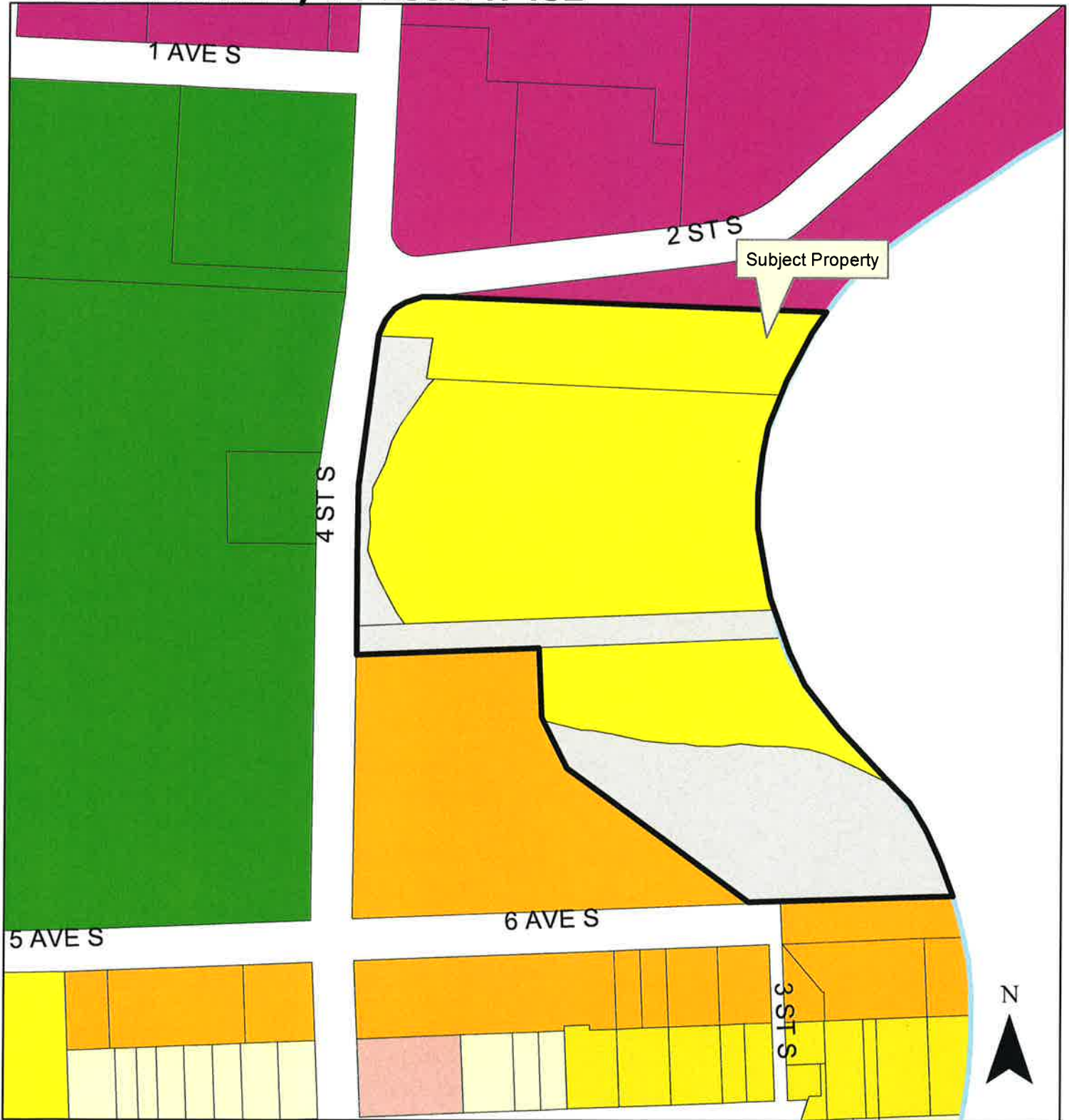
Attachments:

- | |
|---|
| <ol style="list-style-type: none">1. Zoning Map2. Location Map |
|---|

Zone Change (SR-3 & AG to P/I)

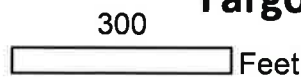
Fred C. Hagen Addition & Portion of NE 1/4 T 139N R 482

200, 310 and 430 4th Street South



Legend

AG	LC	MHP	SR-3
DMU	MM-1	NO	SR-5
CC	MM-2	P/I	SR-5-1
GO	MM-3	UML	SR-5-2
	MM-3		SR-5-3
			SR-5-4
			SR-5-5
			SR-5-6
			City Limits



Fargo Planning Commission
April 2, 2019

Zone Change (SR-2 & AG to P/I)

Fred C. Hagen Addition & Portion of NE 1/4 S 7 T 139N R 48

200, 310 and 430 4th Street South



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

29rd

ORDINANCE NO. _____

1 AN ORDINANCE REZONING CERTAIN PARCELS
2 OF LAND INCLUDING ALL OF FRED C. HAGEN ADDITION
3 AND ADJACENT UNPLATTED PARCELS
4 IN THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

5 WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the
6 City of Fargo have held hearings pursuant to published notice to consider the rezoning of all of Fred
7 C. Hagen Addition and certain adjacent unplatted parcels in the City of Fargo, Cass County, North
8 Dakota; and,

9 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
10 request on April 2, 2019; and,

11 WHEREAS, the rezoning changes were approved by the City Commission on May 6, 2019,

12 NOW, THEREFORE,

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

14 Section 1. The following described property:

15 All of Fred C. Hagen Addition to the City of Fargo, County of Cass and State of North
16 Dakota;

17 is hereby rezoned from "SR-2", Single-Dwelling Residential, District to "P/I", Public and
18 Institutional District;

19 Section 2. The following described property:

20 Those parcels, in addition to the Fred C. Hagen Addition, land lying east of the right of way of
21 Fourth (4th) Street South, lying north of the right of way for Sixth (6th) Avenue South and lying
22 south of the right of way for Second (2nd) Street South;

23 LESS those certain parcels described as:

All of St. John's Addition to the City of Fargo; and,

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Block Three (3), North Dakota R2 Urban Renewal Addition to the City of Fargo,
recorded at the Office of the Cass County Recorder on July 7, 1972 in Book T of
Plats, Page 69, as Document Number 460026

is hereby rezoned from "SR-2", Single-Dwelling Residential, District or "AG", Agricultural,
District to "P/I", Public and Institutional District;

Section 3. 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.

Section 4. 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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MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS
FROM: JIM GILMOUR, STRATEGIC PLANNING DIRECTOR
DATE: MAY 1, 2019
SUBJECT: C-1 TIF DISTRICT

A handwritten signature in black ink, appearing to be "JG", is written over the name "JIM GILMOUR" in the "FROM" line of the memorandum.

Bank of the West and Wells Fargo have proposed that the purchase price for the land under the Island Park Ramp be priced at \$20 a square foot, which is \$870,000.00. The previous City ordered appraisal was \$16.75 a square foot, which is \$728,625.00.

City Assessor Ben Hushka reviewed the bank appraisal and did not see any reasons for concern. The Finance Committee recommended that the budget for the land purchase be increased to \$870,000.00 and that the City Commission approve purchase agreements with the Bank of the West and Wells Fargo for \$20 a square foot.

Previously approved budgets for the C-1 TIF District included purchase of the land under the Island Park Ramp, restoration work to the Island Park Ramp and restoration work to the GTC parking garage. The attached sheet shows the budget approved in 2017 and the amended budget approved in 2018.

TIF revenue for the 2019 tax year will increase available money for these activities to \$1.9 million. In addition to the budget increase for the land, the Finance Committee is recommending that the budget for the GTC restoration work be increased to \$665,638.00. A summary sheet also shows the proposed 2019 budget with the amendments.

After the purchase of the land is complete, the City of Fargo is required to end the C-1 TIF District, beginning with the 2020 tax year.

Recommended Motion: To approve the purchase of land under the Island Park Ramp for \$20 a square foot, approve the budget increases for the land purchase and GTC renovation, and to close the C-1 TIF District beginning with next year's 2020 tax year.

<u>Activity</u>	<u>2017 Budget</u>	<u>2018 Amended</u>	<u>2019 Proposed</u>
Island Park Ramp Restoration/Repairs/Cameras	\$ 200,000	\$ 380,078	\$ 380,078
Island Park Ramp - Land Purchase	\$ 450,000	\$ 728,625	\$ 870,000
Parking Control Equipment	\$ 15,000	\$ -	\$ -
Ground Transportation Center - Parking	\$ 453,140	\$ 559,297	\$ 665,638
Total Budget	\$ 1,118,140	\$ 1,668,000	\$ 1,915,716
TIF Estimate	\$ 1,118,140	\$ 1,668,140	\$ 1,915,716

2017 Budget was approved in July 2017	
2018 Amended Budget was approved in December 2018	
Balance on July 3, 2017	\$ 1,118,140
TIF Received in 2018	\$ 256,147
TIF Received in 2019, ytd	\$ 267,802
Total	\$ 1,642,089
TIF Estimate for 2019 tax year (March 2020)	\$ 273,627
	<u>\$ 1,915,716</u>

<u>Activity Status</u>
<u>Island Park Ramp</u>
Restoration Repairs nearing completion (\$239,833)
Camera Project to be bid (\$140,245)
<u>GTC Renovation</u>
Repair work nearing completion (\$121,649)
Mechanical to be bid (\$83,000 Estimate)
Balance for other repairs (\$460,989)

31

TO: BOARD OF CITY COMMISSIONERS
FROM: KENT COSTIN, DIRECTOR OF FINANCE *KAC*
RE: EXTENSION OF WELLS FARGO BANK LOAN FOR FM DIVERSION
DATE: MAY 1, 2019

The City of Fargo and Cass County have existing loans outstanding with Wells Fargo to fund FM Diversion project costs. Each entity has a \$100 million loan authorization. The County has drawn all of their loan funds, while the City of Fargo has drawn \$50,250,000 of their loan authorization.

These loans have a maturity date of July 31, 2019. The Finance teams from Cass County and the City of Fargo have requested renewal terms to extend these loans for a two-year period with similar terms and conditions.

These loans are variable rate loans tied to the LIBOR interest rate index. Current interest rates are 2.39%. The FM Diversion Authority approved the full 2019 budget last month. Land acquisitions are a major component of this budget that need to precede the construction of the FM Diversion project.

We anticipate the need to utilize loan proceeds within the next two-year period as this project progresses.

Suggested Motion:

Approve an extension of the City of Fargo bank loan with Wells Fargo totaling \$100 million for a two-year period using similar terms and conditions.

CERTIFICATE OF APPROVAL

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

We, Timothy J. Mahoney and Steven Sprague, the duly elected Mayor and the duly acting City Auditor, respectively, of the City of Fargo, North Dakota, do hereby certify that the attached TERM SHEET, DATED APRIL 3, 2019, RELATING TO THE EXTENSION OF THE MATURITY DATE AS DEFINED IN THE EXISTING LOAN AGREEMENT WITH WELLS FARGO BANK, NATIONAL ASSOCIATION (the "Term Sheet"), was reviewed and accepted by the governing body of the City of Fargo at the meeting of the governing body held on May 6, 2019; and that the governing body authorized the Mayor and the City Auditor to sign this Certificate evidencing the Fargo City Commission's acceptance of the Term Sheet.

Dated this _____ day of May, 2019.

CITY OF FARGO, NORTH DAKOTA

Timothy J. Mahoney, Mayor

Steven Sprague, City Auditor



April 3, 2019

Mr. Kent Costin
Director of Finance
City of Fargo
225 4th St N
Fargo, ND 58102

Dear Mr. Costin:

We are pleased to provide a Summary of Updated Terms and Conditions ("Term Sheet") relating to the extension of the Maturity Date, as defined in the Loan Agreement dated as of July 1, 2017 (the "Existing Loan Agreement"), by and between the City (as hereinafter defined) and the Bank (as hereinafter defined).

Other than the terms and conditions noted below, all other terms and conditions shall remain substantially consistent with the Related Documents (as defined in the Existing Loan Agreement).

- Obligor:** City of Fargo, North Dakota (the "City" or "Obligor").
- Lender:** Wells Fargo Bank, National Association ("Wells Fargo" or the "Bank").
- Facility Amount:** Up to \$100,000,000 in principal.
- Purpose:** Extension of the Maturity Date.
- Term:** Two years with maturity expected to be July 30, 2021 (the "Proposed Maturity Date").
- Security:** Substantially similar to what is described in the Existing Loan Agreement.
- Undrawn Fee:** 15 bps
- Interest Rate:** The interest rate on the Loans will be reset monthly at 80% of One Month LIBOR plus an Applicable Spread of .40% (40 basis points)
- At any time when One Month LIBOR is less than 0.0% One Month LIBOR shall be deemed to be 0.0% for purposes of calculating the Interest Rate.
- The definitions in the Existing Loan Agreement relating to LIBOR will be amended to reflect the Bank's standard definitions of such terms.

Downgrade Pricing:

The Applicable Spread and Undrawn Fee are subject to the maintenance of the current ratings assigned to the long term, General Obligation debt of the Obligor. The Applicable Spread and Undrawn Fee will be increased upon each downgrade of any Parity Debt below its current ratings of Aa1 by Moody's by the additional basis points reflected below:

Credit Rating (Moody's/S&P/Fitch)	Undrawn Fee Adjustment	Applicable Spread Adjustment
Aa2 or above/AA or above	+0bps	+0bps
Aa3/AA	+5bps	+7.5bps
A1/A+	+5bps	+10bps
A2/A	+10bps	+15bps
A3/A-	+15bps	+25bps
Baa1/BBB+ or below	+25bps	+35bps

Tax Treatment:

Interest on the Loan shall be excludable from gross income for federal income tax purposes. The Obligor shall take all steps necessary to maintain such tax exempt status for the Loan. The Bank shall be provided an opinion of tax counsel satisfactory to the Bank which concludes that interest on the Loan is excludable from gross income for federal income tax purposes.

Other Fees:

Usual and customary for this type of financing, including amendment fees, termination fees and attorney's fees.

Margin Rate Factor:

The Interest Rate will be subject to adjustment by a Margin Rate Factor. The Margin Rate Factor means the greater of (i) 1.0, and (ii) the product of (a) one minus the prevailing Maximum Federal Corporate Tax Rate multiplied by (b) the quotient of (A) one divided by (B) (1) one minus (2) the Maximum Federal Corporate Tax Rate at closing. The effective date of any change in the Margin Rate Factor shall be the effective date of the decrease or increase (as applicable) in the Maximum Federal Corporate Tax Rate resulting in such change.

The Maximum Federal Corporate Tax Rate is currently 21% such that the current Margin Rate Factor equals 1.0. The Margin Rate Factor will not go below 1.0.



Conditions Precedent To Closing:

Substantially similar to what is set forth in the Existing Loan Agreement but considerably more narrow for execution of an amendment to the Existing Loan Agreement.

Reporting Requirements:

Substantially similar to the requirements set forth in the Existing Loan Agreement; *provided* the Bank will remove the requirement to confirm that the Sales Tax Revenues collected (from the State) and available to pay interest on the County Loan equaled or exceeded 200% of said interest (Section 5.03 (c)).

Taxability:

In the event a determination of taxability shall occur, in addition to the amounts required to be paid with respect to the Loan under the Related Documents, the City shall be obligated to pay to the Bank an amount equal to a) the positive difference, if any, between the amount of interest that would have been paid during the period of taxability if the Loan had borne interest at the Taxable Rate and the interest actually paid to the Bank as the owner of the Loan and b) any payments, including any taxes, interest, penalties or other charges, such Bondholder (or Beneficial Owner) or former Bondholder (or Beneficial Owner) shall be obligated to make as a result of the determination of taxability.

Taxable Rate:

The product of (i) the Interest Rate and (ii) one divided by one minus the prevailing Maximum Federal Corporate Tax Rate in effect on the date of calculation.

Bank Counsel Fee:

Estimated at \$15,000 for the proposed structure.

Fees and expenses payable to Bank counsel may be increased if the transaction is not closed within 60 days, the security and/or structure of the transaction changes materially, or if other complexities develop once documentation has commenced.

Confidentiality:

This Term Sheet is confidential and proprietary, and terms herein may not be disclosed without our prior written consent, except to your professional advisors in connection with this Financing who agree to be bound by such confidentiality requirements, or as may be required by law.

Notwithstanding anything herein to the contrary, any party hereto may disclose to any and all persons, without limitation of any kind the tax treatment or tax structure of this transaction. Furthermore, the parties to this transaction may disclose, as required by federal or state laws, any information as required to comply with such federal or state laws.



Unless this Term Sheet is earlier rescinded, it shall expire automatically without further action or notice by the Bank 30 days from the date thereof.

Please be advised that the transaction described herein between Wells Fargo and you is a bank-purchased bond transaction ("Direct Purchase") or Loan and a product offering of Wells Fargo Bank, N.A. ("WFBNA") or Wells Fargo Municipal Capital Strategies, LLC, a subsidiary of WFBNA ("WFMCS"), as purchaser/investor ("Purchaser"). Wells Fargo Securities will not participate in any manner in any Direct Purchase or Loan transaction between you and Purchaser, and Wells Fargo employees involved with a Direct Purchase or Loan transaction are not acting on behalf of or as representatives of Wells Fargo Securities. Information contained in this document or provided to you regarding Direct Purchase or Loan is for discussion purposes only in anticipation of engaging in arm's length commercial transactions with you in which Purchaser would be acting solely as a principal to purchase securities from you or a conduit issuer (in the case of a conduit transaction), and not as a municipal advisor, financial advisor or fiduciary to you or any other person or entity regardless of whether Purchaser, or an affiliate has or is currently acting as such on a separate transaction. Additionally, Purchaser has financial and other interests that differ from your interests. Any information relating to a Direct Purchase or Loan transaction is being provided to you pursuant to and in reliance on the bank exemption under the municipal advisor rules ("Muni Advisor Rules") of the Securities and Exchange Commission ("SEC") or the SEC's guidance in its Registration of Municipal Advisors Frequently Asked Questions and Answers dated May 19, 2014 and the general information exclusion to advice under the Muni Advisor Rules. Purchaser will not have any duty or liability to any person or entity in connection with the information provided herein.

In submitting this proposal (a) Wells Fargo Bank, N.A. ("Wells Fargo") is not acting as an advisor to The City of Fargo, North Dakota (the "City") and does not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to the City with respect to the information and material contained in this proposal; (b) Wells Fargo is acting for its own interests; and (c) the City should discuss any information and material contained in this proposal with any and all internal or external advisors and experts that it deems appropriate before acting on this information or material.

Best Regards,

A handwritten signature in cursive script that reads "Thomas M. Harkless".

Thomas Harkless
Senior Vice President
Wells Fargo Bank, N.A.

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MEMORANDUM

TO: CITY COMMISSION

FROM: NICOLE CRUTCHFIELD, PLANNING DIRECTOR *nc*

DATE: MAY 2, 2019

RE: FARGO CIVIC PLAZA CONTEXTUAL PLANNING AND LANDSCAPE MASTER PLAN

On November 19, 2018, the City Commission approved a contract with Bishop Land Design, LCC to provide professional services for contextual and site programming services for the Fargo Civic Plaza. Over the past four months, Scott Bishop has studied the area for the future design and development of the Fargo Civic Plaza. This work included several stakeholder interviews, public meetings, public survey and integrated work with the Performing Arts Center Task Force.

As a result of this work, Scott Bishop has synthesized this work into a final report that will be presented at the May 6th City Commission meeting. This presentation will include highlighting unique influencers to the master plan, including a commitment to place the Luis Jimenez Sodbuster sculpture in Fall 2019. In 2015, the City Commission committed the placement of refurbished sculpture at the Civic Plaza to the Plains Art Museum. Attached is an article from the Forum from 2015, highlighting the restoration efforts of Sodbuster.

Bishop Land Design was a consultant on the Downtown InFocus planning team, in which the civic plaza was integrated into the plan's vision. Scott Bishop will present further analysis of the civic plaza, primarily connecting the vision from the Downtown InFocus plan and the work he has conducted over the past five months.

Staff will seek feedback and discussion concluding the presentation and at future City Commission meetings.

Recommended Motion:

Receive and file the Fargo Civic Plaza Contextual Planning and Landscape Master Plan.

'Sodbuster' is heading out: Sculpture to be repaired, put on display outside

FARGO - After 13 years in storage, the "Sodbuster" is on the move. The Plains Art Museum on Monday announced plans to restore the colorful sculpture and place it at the proposed Fargo City Hall Civic Plaza in 2018. On Wednesday, the 24-foot-long,...

Written By

John Lamb

Nov 16th 2015 - 8pm



The Sodbuster sculpture by artist Luis Jimenez is housed at the Plains Art Museum and will be transported to the McKay Lodge Conservation Laboratory in Oberlin, Ohio for renovation. David Samson / The Forum

FARGO – After 13 years in storage, the "Sodbuster" is on the move.

The Plains Art Museum on Monday announced plans to restore the colorful sculpture and place it at the proposed Fargo City Hall Civic Plaza in 2018.

On Wednesday, the 24-foot-long, 1,300-pound piece of art will be shipped from the Plains' basement to the McKay Lodge Conservation Laboratory in Oberlin, Ohio, for repairs.

"The city is thrilled," Fargo City Commissioner Melissa Sobolik said at a news conference announcing the developments. "I cannot think of a more appropriate place."

The conservation work, as well as transportation and reinstallation of the art, is being paid for by a \$143,000 grant from the Institute of Museum and Library Services.

Sobolik, who has worked with the city's arts and culture commission and briefly for the Plains Art Museum earlier this year, said the reinstallation partially addresses the community's interest in more public art.

"The No. 1 question I am always asked is, 'Where is 'Sodbuster?'" she said.

The sculpture, fully named "Sodbuster, San Isidro," a reference to the patron saint of agriculture, was created by the late New Mexico-based artist Luis Jiménez. It shows a determined farmer and a pair of oxen plowing a field. It was commissioned in 1979 by the Fargo Parking Authority for \$40,000, with half of that coming from the National Endowment for the Arts.

It is the first work of art commissioned by the city of Fargo and was given to the Plains Art Museum in 1991.

The work was stationed on the northwest corner of Main Avenue and Broadway from 1982 to 2002, when it was removed and placed in storage. The fiberglass structure didn't weather the extreme seasons well, and vibrations from the nearby train tracks contributed cracks.

"It's in pretty tough shape," said Mark Ryan, the Plains' director of collections and operations.

"Sodbuster" was Jiménez's first commission for an outdoor fiberglass piece. He had been in talks with the Plains to repair the piece before he died in 2006, when a sculpture he was working on fell on him and severed an artery.

Other Jiménez sculptures are displayed publicly outside the Smithsonian American Art Museum, the Denver International Airport and various museums around the country.

While Jimenez was commissioned to make "Sodbuster" for Fargo, he cast five more versions of it, with the closest being in Wichita, Kan.

Ryan said the conservators at McKay Lodge will use newer materials and refined techniques to restore the work and make it more weather-resistant, but maintain as much of the original material as possible. He added that the Plains will be responsible for maintenance and upkeep.

Because it was Jiménez's first outdoor fiberglass sculpture, "Sodbuster" was considered a piece of national significance, helping the Plains to land the grant.

Ryan said the piece is on par with James Rosenquist's "North Dakota Mural" as one of the most significant pieces in the Plains' collection. He said the Plains had a "responsibility" to put "Sodbuster" back in public view.

The exact spot "Sodbuster" will occupy has yet to be determined because plans for Fargo City Hall Civic Plaza haven't been finalized. Sobolik said, however, that while the piece of art will be stationed outside, it will be positioned to benefit from buildings and structures blocking some of the weather.

When it was first installed in 1982, it sparked both praise and condemnation, with one letter to the editor in The Forum calling it a "piece of trash."

Sobolik knows not everyone likes it, but she thinks the iconic work could be used as a marketing tool for tourism and will become one of Fargo's iconic landmarks, like the Fargo Theatre marquee.



(all images Dave Samson / The Forum)

