

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at [www.FargoND.gov/streaming](http://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](http://www.FargoND.gov/citycommission).

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, October 22, 2018).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. 2nd reading and final adoption of an Ordinance Enacting Article 39-01 of Chapter 39 of the Fargo Municipal Code Relating to Collection of Utilities and Services.
- 2. Consent and Subordination to Declaration Establishing a Plan of Condominium Ownership for City Centre Lofts.
- 3. Change Order No. 2 for an increase of \$41,086.40 for the Civic Center Ramp.
- 4. Applications for property tax exemptions for improvements made to buildings:
  - a. Charles B. and Kristy J. Heitkamp, 1922 20th Avenue South (3 year).
  - b. Tracy Green, 1525 32nd Street South (3 year).
  - c. Donna L. Lewis, 1920 20th Avenue South (3 year).
  - d. Jackson L. Strom and Lindsey K. Haverland, 1521 9th Street South (5 year).
  - e. Kristian and Jennifer Nelson, 1714 Prairie Lane South (5 year).
  - f. Wade E. Kline and Ann Arbor Miller, 1349 7th Street South (5 year).
  - g. Le Roy J. and Diann F. Mikula, 1615 14th Avenue South (5 year).
  - h. Conrad J. Barnes, 2815 2nd Street North (5 year).
  - i. Oscar L. and Elda A. DeLeon, 2932 Southgate Drive South (5 year).
  - j. Donita K. Kaspari T/O/D, 1525 8th Street South (5 year).
- 5. Site Authorizations for Games of Chance:
  - a. Fargo Metro Baseball Association at the Empire Tavern Inc.
  - b. Prairie Public Broadcasting Inc. at Peppers.
- 6. Applications for Games of Chance:
  - a. Red River Children's Advocacy Center for a raffle and raffle board on 11/15/18.
  - b. Lend A Hand Up – Dakota Medical Foundation for a raffle on 11/19/18.
  - c. Bethany Vincent Bingo Bash benefit for bingo and a raffle on 11/23/18; Public Spirited Resolution.
  - d. Handi-Wheels Transportation Inc. for a raffle on 12/21/18.
  - e. Davies Eagle Elite for a raffle on 11/17/18.

Engagement letter for auditing services with Eide Bailly, LLP for the 2018-2020 calendar years.

8. Notice of Grant Award with the ND Department of Emergency Services Division of Homeland Security for the FY 18 State Homeland Security Grant for purchase of regional response equipment and training (CFDA #97.067).
9. Notice of Grant Award Amendment with the ND Department of Health for the City Readiness Initiative (CFDA #93.074).
10. Contract Agreement with BNG Team to provide a breastfeeding friendly environment.
11. Purchase of Service Agreement with the ND Department of Human Services for Substance Abuse Prevention.
12. Lease with Option to Purchase Agreement No. 40001568 with CapFirst Equipment Finance, Inc. for a crawler dozer (RFP18123).
13. Bid award for purchase of 10 bus passenger shelters (RFP18292).
14. Change Order No. 3 for a 12-day time extension for Project No. FM-15-F2.
15. Change Order No. 1 for an increase of \$71,861.00 for Project No. BP-00-43.
16. 2019 Capital Improvement Plan.
17. Task Order with Wenck Associates, Inc. in an amount not to exceed \$177,270.00 for Project No. SW 16-03 Phase II.
18. Change Order No. 1 for an increase of \$7,050.00 for Project No. WW1708.
19. 2019 Parking Rates as recommended by the Parking Commission.
20. Resolution Approving Plat of Parkview South Eighth Addition.
21. Maintenance Certification for Urban Federal Aid Projects with the NDDOT.
22. Sole Source Procurement with Cass County Electric Cooperative for electrical improvements at the Sheyenne River Pump Station in the amount of \$40,125.98 (Project No. WA1510).
23. Change Order No. 2 for an increase of \$576.00 for Project No. WA1510.
24. Change Order No. 21 for an increase of \$43,944.00 for Project No. WA1301 (general construction contract).
25. One year guaranteed cost contract extension with Aqua-Pure Inc. for polymer chemicals at the Water Treatment Plant.
26. Contracts and bonds for Project Nos. SW1603 (electrical), SW1603 (mechanical), WA1753 (general contract) and WA1753 (electrical contract).
27. Bills.
28. Joint Powers Agreement with Cass County and Southeast Cass Water Resource District.

Separation of Improvement District No. BR-18-A1 to complete the reconstruction of Main Avenue into two projects with the eastern portion (BR-18-A1) being bid on 3/9/19 and the western portion (BR-19-A1) to be bid in the fall of 2019.

- 30. Change Order No. 1 for a time extension to 12/31/18 for Improvement District No. NN-17-A1.
- 31. Engineering Services Agreement Amendment No. 3 with Apex Engineering Group in the amount of \$97,300.00 for Improvement District No. BR-18-C0.
- 32. Change Order No. 1 for an increase of \$37,845.00 and an 11-day time extension for Improvement District No. BN-18-K1.
- 33. Memorandum of Offer to Landowners for Temporary Easements (construction) for Improvement District No. BN-19-A1:
  - a. Sharon Klukken Caswell.
  - b. Dakota Prep Athletics, LLC.
  - c. Todd L. and Lori A. Funfar Revocable Trust.
  - d. Howard and Barbara Gensler.
  - e. Greenscape Companies, Inc.
  - f. Ken Pawluk LLC.
- 34. Contracts and bonds for Improvement District No. UN-18-C1.

**REGULAR AGENDA:**

- 35. Update on the Fire Department.
- 36. 2nd reading and final adoption of an Ordinance Amending Section 8-1009 of Article 8-10 of Chapter 8 of the Fargo Municipal Code Relating to Parking Regulations; 1st reading 10/8/18; delayed from the 10/22/18 Regular Meeting.
- 37. Public Hearings - 5:15 pm:
  - a. CONTINUE to 11/19/18 – Hearing on a dangerous building located at 826 10th Street North.
  - b. Renewal Plans for District Nos. 2018-01, 2018-02 and 2018-03 for demolition of existing structures, site cleanup, public works improvements and redevelopment to multi-family housing within Blocks 2, 3, and 19 of Beardsley’s Addition; continued from the 10/22/18 Regular Meeting.
  - c. Application filed by Enclave Development LLC for a payment in lieu of tax exemption (PILOT) for a project located at 312 11th Street North, which the applicant will use in the operation of 60-75 housing units and amenity space; continued from the 8/27/18 9/10/18 and 10/8/18 Regular Meetings.
  - d. Gardenia Addition (at 6357 and 6395 27th Street South); approval recommended by the Planning Commission on 7/3/18:
    - 1. Zoning change from AG, Agricultural to SR-2, Single-Dwelling Residential.
    - 2. 1st reading of rezoning Ordinance.
    - 3. Plat of Gardenia Addition.

- e. Text Amendment to Amend Articles 20-02 through 20-07 and Article 20-09, of the Fargo Municipal Code (Land Development Code), relating to the correction of typos and errors, the clarification of existing standards, building material requirements in the DMU zoning district, standards eligible for modification within a PUD zoning district, setbacks for accessory structures, floor area for home occupations, processes for alternative access plans and vehicle drive-thru stacking spaces; approval recommended by the Planning Commission on 10/2/18:

- 1. 1st reading of Ordinance.

38. Recommendation for a Policy for the Determination and Review of Storm Water Service Charges.

39. Recommendation for appointment to the Native American Commission.

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](http://www.FargoND.gov/citycommission).

# CITY OF Fargo Fire Department

MEMORANDUM

(35)

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: FIRE CHIEF STEVE DIRKSEN**

**DATE: OCTOBER 24, 2018**

**SUBJECT: FIRE DEPARTMENT UPDATE**

Fire Chief Steve Dirksen would like to update the Commission regarding the Fire Department.

SD/LS  
Enclosure



Office of the City Attorney

City Attorney  
Erik R. Johnson

Assistant City Attorney  
Nancy J. Morris

November 1, 2018

Board of City Commissioners  
City Hall  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

Dear Commissioners,

Presented for your consideration is an amended Fargo Municipal Code § 8-1009, excluding from the winter parking restrictions the area between 5<sup>th</sup> Street South and the Red River, from 6<sup>th</sup> Avenue South to 12<sup>th</sup> Avenue South. A map of the expanded area is attached hereto to demonstrate the area added between first and second reading of the Ordinance amendment.

Jeremy Gorden presented and discussed the expansion of the area excluded at your meeting on October 22, 2018, and indicated an intention to bring to you an amendment to the Ordinance between the first and second reading in accordance with FMC § 1-0203.

**Suggested Motion:** I move to amend the Ordinance Amending Section 8-1009 of Article 8-10 of Chapter 8 of the Fargo Municipal Code Relating to Night Parking Restrictions, to waive second reading and to adopt Section 8-1009 of Article 8-10 of Chapter 8 of the Fargo Municipal Code, and to waive delay of final passage by two-thirds concurrence.

Please feel free to contact me if you have any questions or concerns.

Regards,

A handwritten signature in cursive script that reads "Nancy J. Morris".

Nancy J. Morris

Enclosures



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 8-1009 OF  
ARTICLE 8-10 OF CHAPTER 8 OF THE  
FARGO MUNICIPAL CODE  
RELATING TO PARKING REGULATIONS

1  
2  
3  
4 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 Century Code; and

5  
6 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

7  
8 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 purpose; and

9  
10 WHEREAS, the Board of City Commissioners deems it necessary and appropriate to  
implement such authority by the adoption of this ordinance;

11 NOW, THEREFORE,

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

13 Section 1. Amendment.

14  
15 Section 8-1009 of Article 8-10 of Chapter 8 of the Fargo Municipal Code is amended to  
read as follows:

16 8-1009. Night parking restrictions.—

- 17  
18 A. Within the central business district (from the Red River west to University  
19 Drive inclusive and from 5th Avenue North [Old Great Northern tracks,  
20 presently Burlington Northern Railroad tracks] to First Avenue South,  
21 inclusive), it shall be unlawful for any person to park any vehicle or trailer  
22 on any north-south street between the hours of 2:00 a.m. and 7:00 a.m. on  
Tuesdays, Thursdays, and Saturdays, or on any east-west avenue between  
23 the hours of 2:00 a.m. and 7:00 a.m. on Mondays, Wednesdays, Fridays, and  
Sundays. Any vehicle or trailer parked in violation of this section is hereby  
declared to be a public nuisance, and may be impounded by the police  
department.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

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B. From November 1 of each year until April 15 of the following year, within the area of the city outside of the central business district from 19th Avenue North to 13th Avenue South, inclusive, and from the Red River to 25th Street North and South, inclusive, excluding the area between the Red River and 5<sup>th</sup> Street South, inclusive, from 6<sup>th</sup> Avenue South to 12<sup>th</sup> Avenue South, inclusive, and in any other area which is designated by appropriate signs, it shall be unlawful for any person to park any vehicle or trailer on any north-south street between the hours of 1:00 a.m. and 7:00 a.m. on Tuesdays, Thursdays, and Saturdays, or on any east-west avenue between the hours of 1:00 a.m. and 7:00 a.m. on Mondays, Wednesdays, Fridays, and Sundays. Any vehicle or trailer parked in violation of this section is hereby declared to be a public nuisance, and may be impounded by the police department.

Section 2. Penalty.

A person who violates this ordinance shall be deemed to have committed a non-criminal offense and shall pay a fee of as provided in Section 1-0305 (12) of the Fargo Municipal Code, as the same may be amended from time to time.

Section 3. Effective Date.

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

\_\_\_\_\_  
Timothy J. Mahoney, Mayor

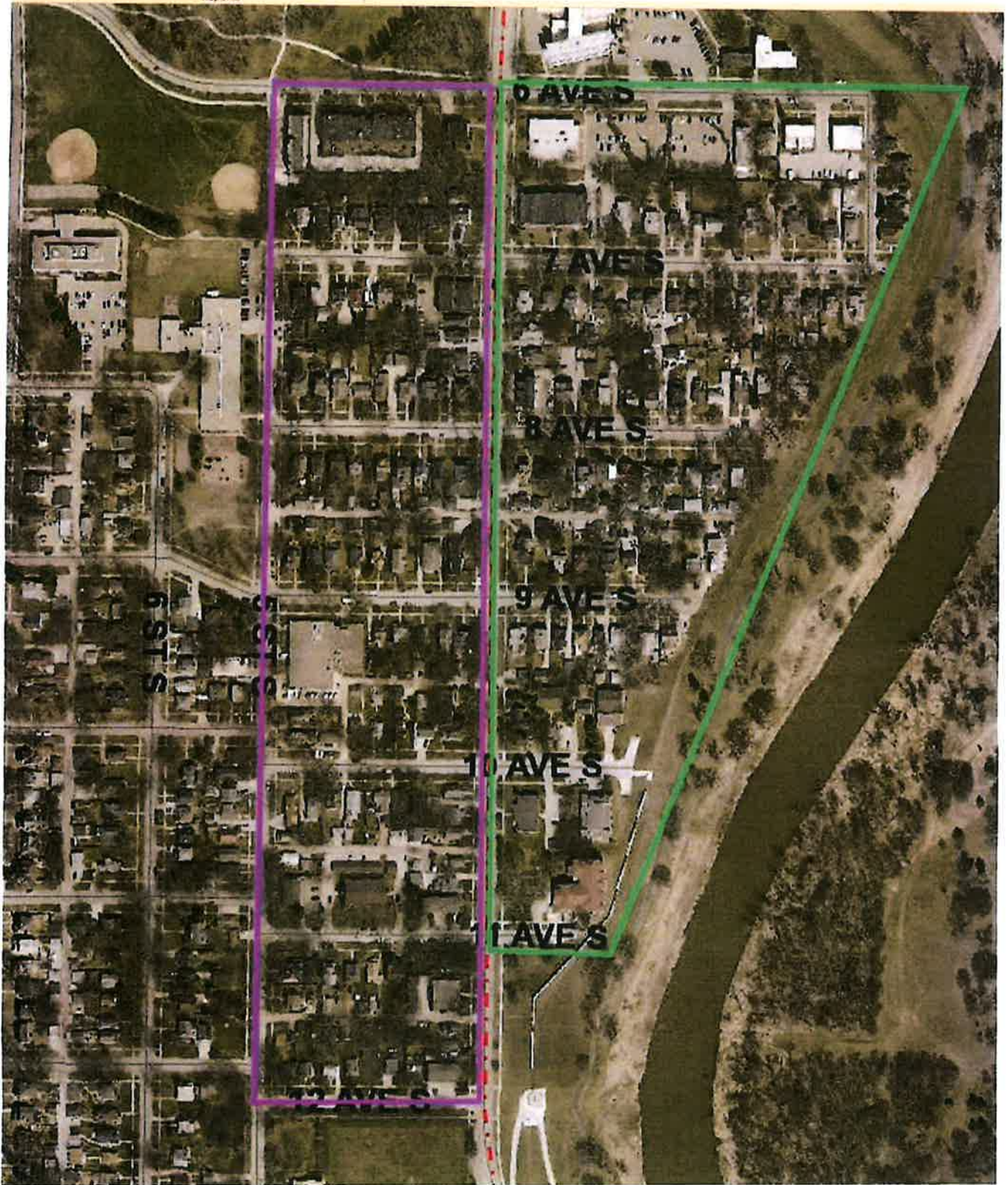
(SEAL)

Attest:

\_\_\_\_\_  
Steven Sprague, City Auditor

First Reading:  
Second Reading:  
Final Passage:  
Publication:







## Fargo Inspections

City of Fargo  
225 Fourth Street North  
701-241-1561  
fax 701-241-1526

37a

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### Memorandum

DATE: October 18, 2018  
TO: Mayor Mahoney and Board of City Commissioners  
FROM: Bruce Taralson, Inspections Administrator  
SUBJECT: Dangerous Building Hearing for 826 10 Street N., Fargo, ND 58102

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A Dangerous Building Hearing has been scheduled for Monday, November 5, 2018 for the building located at 826 10 Street N., Fargo, ND 58102. This request is for a hearing continuance to the Commission Meeting dated Monday, November 19, 2018.




CITY COMMISSION ACTION

Cont. to 11/5/18

376

MEMORANDUM

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: JIM GILMOUR, STRATEGIC PLANNING DIRECTOR** 

**DATE: OCTOBER 12, 2018**

**SUBJECT: RENEWAL PLANS IN THE ROOSEVELT NEIGHBORHOOD**

In July, the City Commission approved a request from Roers Development to prepare four renewal plans for blocks in the Roosevelt Neighborhood. Roers Development acquired numerous properties on these blocks and has plans to redevelop the blocks with new housing.

Three of the Renewal Plans have been prepared for your consideration. Preparation of the Plan for the block of the proposed Newman/Roers development has been delayed pending the outcome of the zoning request.

The three Plans designate the areas as appropriate for redevelopment and have a general description of the Plan for redevelopment. The purpose of the Renewal Plans is to document blighted conditions and to adopt a policy to encourage the removal of dilapidated structures.

Unlike most Renewal Plans, these Plans do not create a Tax Increment Financing (TIF) Districts at this time. However, the plans could be considered at a later time as the first step in the creation of Tax Increment Financing (TIF) Districts to encourage new development.

Creation of the Tax Increment Financing (TIF) Districts, amendment of the renewal areas and approval of a detailed project, could be considered at a future date as amendments to these plans. At this time, demolition costs will be documented and could be eligible for City assistance as part of a future TIF district.

The Planning Commission reviewed the Renewal Plans and determined they were consistent with the GO 2030 Comprehensive Plan.

**RECOMMENDED MOTION:** To approve the three Resolutions Adopting Renewal Plans 2018-01, 2018-02 and 2018-03 for the redevelopment of the three blocks in the Beardsley's Addition.

Attachments

RESOLUTION  
BOARD OF CITY COMMISSIONERS OF THE  
CITY OF FARGO

DISTRICT NO. 2018-01

Commissioner \_\_\_\_\_ moved for approval of the following:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas, or areas consisting of industrial or commercial property, or a combination of those areas of properties, exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment, or a combination thereof, of the area contained within the Renewal Plan for District No. 2018-01, is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area.
3. That there are properties within the area contained within the Renewal Plan with deteriorated conditions, and other conditions existing that discourage redevelopment. The Renewal Area, as defined in the Renewal Plan, is blighted due to the presence of these properties and conditions have substantially impaired the growth of the City, and have slowed the provision of appropriate redevelopment in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in the said area.
4. That comparable replacement dwellings or housing is available to persons displaced by the proposed Renewal Plan, which will not create any undue hardship to those persons. Housing vacancy rates in Fargo are high enough to meet the needs of persons who may be displaced in the future. Properties that are expected to be demolished soon are vacant, so initially no persons will be displaced by the redevelopment.
5. That the area designated as the Renewal Plan for District No. 2018-01 is appropriate for development projects.

6. That such development, rehabilitation, conservation or redevelopment of the area contained in the Renewal Plan for District No. 2018-01 requires the powers and authority granted in Chapter 40-58 NDCC.
7. That the Renewal Plan for District No. 2018-01 is hereby officially adopted by the Board.

Said motion was seconded by Commissioner \_\_\_\_\_ and, upon call of the roll, the motion carried with Commissioner(s) \_\_\_\_\_ not being present, Commissioners \_\_\_\_\_ voting aye, Commissioners \_\_\_\_\_ voting nay and Commissioner(s) \_\_\_\_\_ abstaining and the motion therefore being declared carried.

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**RENEWAL PLAN**

**DISTRICT NO. 2018-01**

**CITY OF FARGO, NORTH DAKOTA**

**September, 2018**

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## RENEWAL PLAN FOR TAX INCREMENT DISTRICT NO. 2018-01

This is a renewal plan for property within Block 19 of Beardsley's Addition. The plan identifies property already appropriate for redevelopment, but does not describe in detail the plans for redevelopment. When the type of redevelopment is available for review, this plan will be amended to describe the project to be constructed. Also, the boundary may be expanded to include the redevelopment of other properties within the block.

### Subsection 1.1. Definitions.

For the purposes of the Renewal Plan, the following terms shall have the meanings specified below, unless the context otherwise requires:

"City" means the City of Fargo, a municipal corporation under the laws of the State of North Dakota.

"City Commission" or "Commission" means the Fargo City Commission.

"Comprehensive Plan" means the City's GO 2030 Comprehensive Plan, including the objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and water within the City as and when such plan is adopted and finalized.

"County" means Cass County, North Dakota.

"Development" means the construction of new buildings, structures, or improvements; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures or improvements; the acquisition of equipment; and the clearing and grading of land on industrial or commercial property in the Renewal Area.

"Renewal Area" means the property described in Subsection 1.4 of this Plan.

"Renewal Plan" or "Plan" means this Plan adopted by the Commission for the Renewal Area.

"State" means the State of North Dakota.

"Tax Increment Financing Act" or "TIF Act" means North Dakota Century Code, Section 40-58-20, as amended.

"Tax Increment Bonds" means any general obligation or revenue tax increment bonds or notes issued by the City to finance the public costs associated with the TIF District as stated in this Plan, or any obligations issued to refund the Tax Increment Bonds.

"Tax Increment Financing District" or "TIF District" means Tax Increment Financing District No. 2018-01.

“Urban Renewal Law” means North Dakota Century Code, Chapter 40-58.

Subsection 1.2. Statutory Authority.

The creation of the Renewal Area is authorized by the Urban Renewal Law. Specifically the creation of the Renewal Area is authorized under North Dakota Century Code, Sections 40-58-01.1(7) and (14), which provide that the local governing body may designate industrial or commercial property, a slum or blighted area, or combination of these properties as appropriate for a development or renewal project.

The Urban Renewal Law provides that communities develop a “workable program” for the use of public and private resources to facilitate the development of industrial or commercial properties, eliminate and prevent the development or spread of slums and urban blight, encourage needed urban rehabilitation, provide for the redevelopment of slum and blighted areas, or undertake these activities or other feasible municipal activities as may be suitably employed to achieve the objectives of the workable program. North Dakota Century Code, Section 40-58-04.

Subsection 1.3. Statement of Public Purpose

In adopting the Renewal Plan 2018-01, the City Commission intends to make the following findings:

- (a) The Renewal Area includes a blighted area.

**Factual basis:** This Renewal Area is blighted due to the presence of deteriorated or deteriorating structures (unsound basements or foundations, inadequate roofing, deteriorated siding and windows) which substantially impairs the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use. Photos of the Renewal Area can be found in Attachment A.

- (b) The Renewal Area is a residential property.

**Factual basis:** The renewal area is residential and considered blighted as described in (a) above. Blighted residential areas are eligible for renewal.

- (c) The Renewal Area is appropriate for a development or renewal project.

**Factual basis:** The renewal area is designated in the Roosevelt/NDSU Neighborhood Land Use Plan for higher-density residential development. The property is zoned University Mixed Use, which allows and requires higher density housing.

- (d) Comparable replacement dwellings or housing is available to persons displaced by the proposed redevelopment project.



**Factual basis:** Many of the properties are vacant. There are vacant houses and apartments in the neighborhood and north Fargo.

- (e) The Plan conforms to the Comprehensive Policy Plan for the City as a whole.

**Factual basis:** The City Commission has found that the proposed development is consistent with the goals that are embodied in the GO 2030 Comprehensive Plan. Most notably, the proposed development seeks to address several key initiatives of the GO 2030 plan, including initiatives for/to Promote Infill, Quality New Development, and High Quality Affordable Housing near NDSU. In addition, the proposed development conforms to the Roosevelt/NDSU Neighborhood Land Use Plan. The proposed use of the property is consistent with zoning, adjacent residential land use and transportation facilities. The proposed development will not burden the existing infrastructure as the property is served with the water and sewer main lines.

#### Subsection 1.4. Description of Renewal Area

The renewal area is located southwest of NDSU in the Roosevelt Neighborhood. This subsection provides maps showing information on properties on the block. The boundary of the renewal area is three areas on the block, with the yellow line as the perimeter.

All of the property within the renewal area on this block is zoned University Mixed Use (UMU). The rest of the block is zoned UMU, except for one property zoned MR-3 which allows multifamily housing. See Attachment B.

There are 22 properties on the block, a mix of single-family and multi-family buildings. There are 12 multi-family buildings with a total of 80 multi-family housing units. Multi-family buildings range in size from two to 24 units. There are also 10 single-family houses. Most of the single-family houses are quite old, with seven over 100 years in age and of the 10 buildings in the renewal area, 9 are over 75 years old. See Attachment C.

There are 10 properties in the renewal area. Of those 10, 7 are single-family houses and three appear to be single-family houses that were converted to apartments with two or four units per building.

Dakota Drive Investments, LLC is the owner of 10 of the 22 properties. Two single-family houses appear to be owner occupied. The other 10 properties are apartments, ranging from 1 to 24 units in size. See Attachment D.

Six houses in the renewal area are vacant, severely blighted and dilapidated. A garage on one of the properties burned recently and is a burned out shell. The owner of these properties plans to demolish these houses with the encouragement of the City. See Attachment E that shows the location of the dilapidated houses.

Subsection 1.5. Demolition of Structures and Redevelopment

Plans for the future redevelopment is not known at this time. It is expected to be multi-family housing for students and staff at North Dakota State University. The type of housing will depend on market conditions at the time of the development. The housing will comply with the current or future zoning of the area.

The Development of the Renewal Area includes the following initial activities:

Demolition & Site Cleaning/Grading – This cost is the estimate of the cost to remove existing buildings and foundations, trees and concrete, and inspect for and remove asbestos, plus fill and grade the site. The estimate is \$15,000 per structure. The City will encourage the owner of dilapidated and substandard properties on this block to demolish the properties and maintain the property as green space until new structures can be developed.

Land Acquisitions – The developer has already acquired the properties. Some additional land may be acquired adjacent to already purchased property. Any public assistance for land purchase would be determined based on a financial review of future redevelopment plans.

Administration – Administration costs are equal to about five percent of the development assistance of the above costs.

These costs represent estimated costs for planning purposes, and may be different when this plan is implemented with a development agreement. The development agreement costs will be determined after a review by City financial advisors. The maximum allowed costs will be specified in the development agreement.

Subsection 1.6. Land Use Attributes.

- (a) Zoning. The property is zoned UMU (University Mixed Use). No zoning or platting changes are required to allow redevelopment on these properties.
- (b) The property is zoned UMU ((University Mixed Use), which allows commercial and requires residential density of 18 units per acre.
- (c) Building Requirements. All properties within this district are subject to the provisions of the City of Fargo Building Codes and the Land Development Code.
- (d) Plan relationship to land use objectives (land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.) The land use objective for this project complies with the UMU (University Mixed Use) zoning district, the redevelopment goals of the GO 2030 Comprehensive Plan and the Roosevelt Neighborhood Plan. The development

provides for new residential dwelling units within an existing residential neighborhood.

Subsection 1.7. Redevelopment and Financing

The City of Fargo may consider providing Tax Increment Financing to assist with redevelopment of this area. However, a Tax Increment Financing is not being created as part of this renewal plan. Creation of a Tax Increment Financing District and an agreement to assist the developer would require amendment of this plan and adoption of a developer's agreement.

The City anticipates that implementation of this Renewal Plan may involve certain public costs. Under North Dakota Century Code, Sections 40-58-20 and 40-58-20.1 allow the use of funds received from tax increments to be applied to certain specified costs. If the City decides to provide costs those costs would be for property acquisition, demolition and site cleanup, and public works improvements.

If the City decides to finance certain costs of the Development, it will be through the issuance of a Tax Increment Financing Note to the Developer. The maximum term of the note would be 15 years. Based on current tax rates, annual TIF revenue would be approximately 1.4% of the increased value.

The amount of any public assistance will be based on City of Fargo Tax Increment Financing policies, a review of the financial needs of the project, the vacancy rate for apartments in the vicinity of NDSU and the quality of the new development.

By adoption of this Renewal Plan, the City of Fargo is encouraging owners of dilapidated structures to demolish those structures immediately and to maintain that property as green space until they are ready to build new on the property. Property owners are also encouraged to maintain existing structures to comply with city housing codes, or demolish the structures.

Subsection 1.8. Renewal Plan Amendments

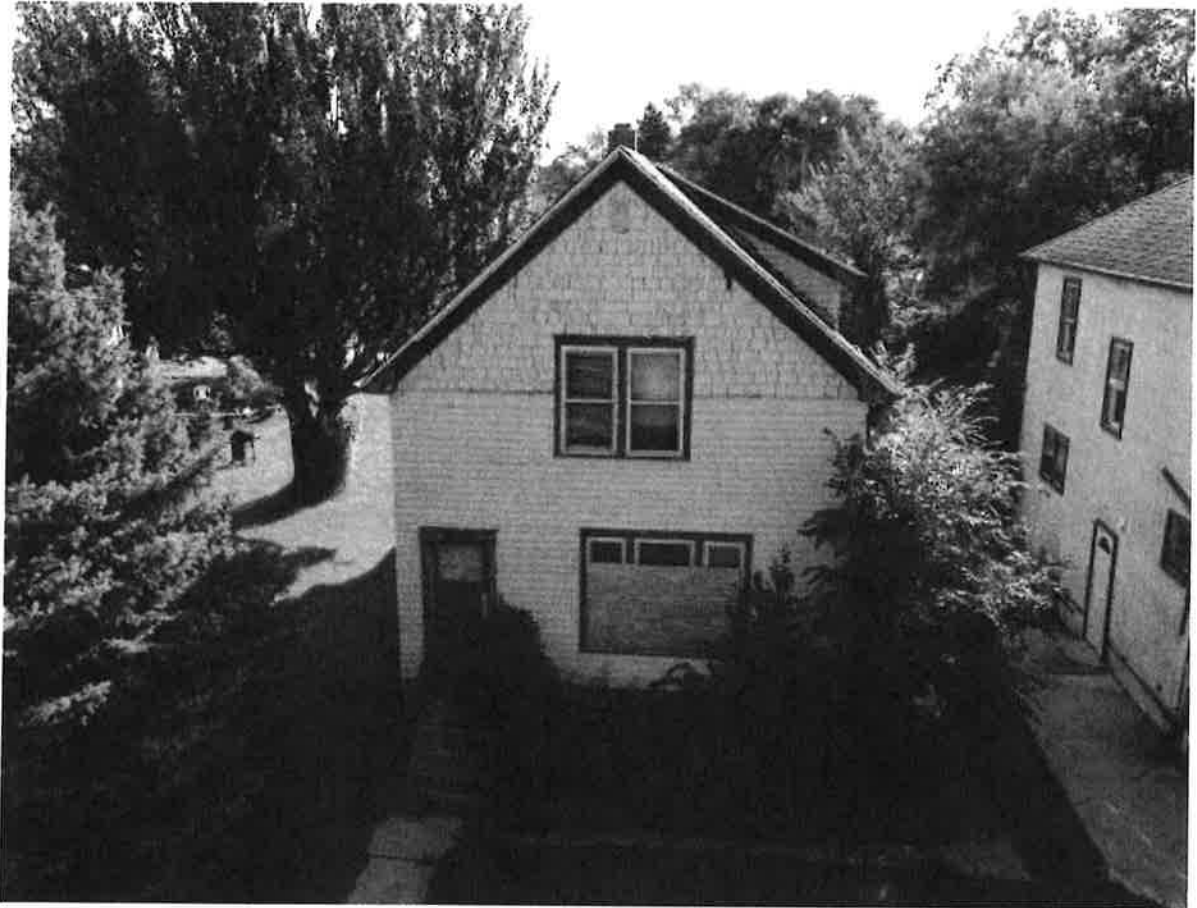
The City anticipates that this Renewal Plan will be amended prior to final implementation. These amendments may expand the renewal area to other properties on the block, provide details on the new buildings, provide incentives to the developer, create a Tax Increment Financing District and incorporate a schedule for implementation.





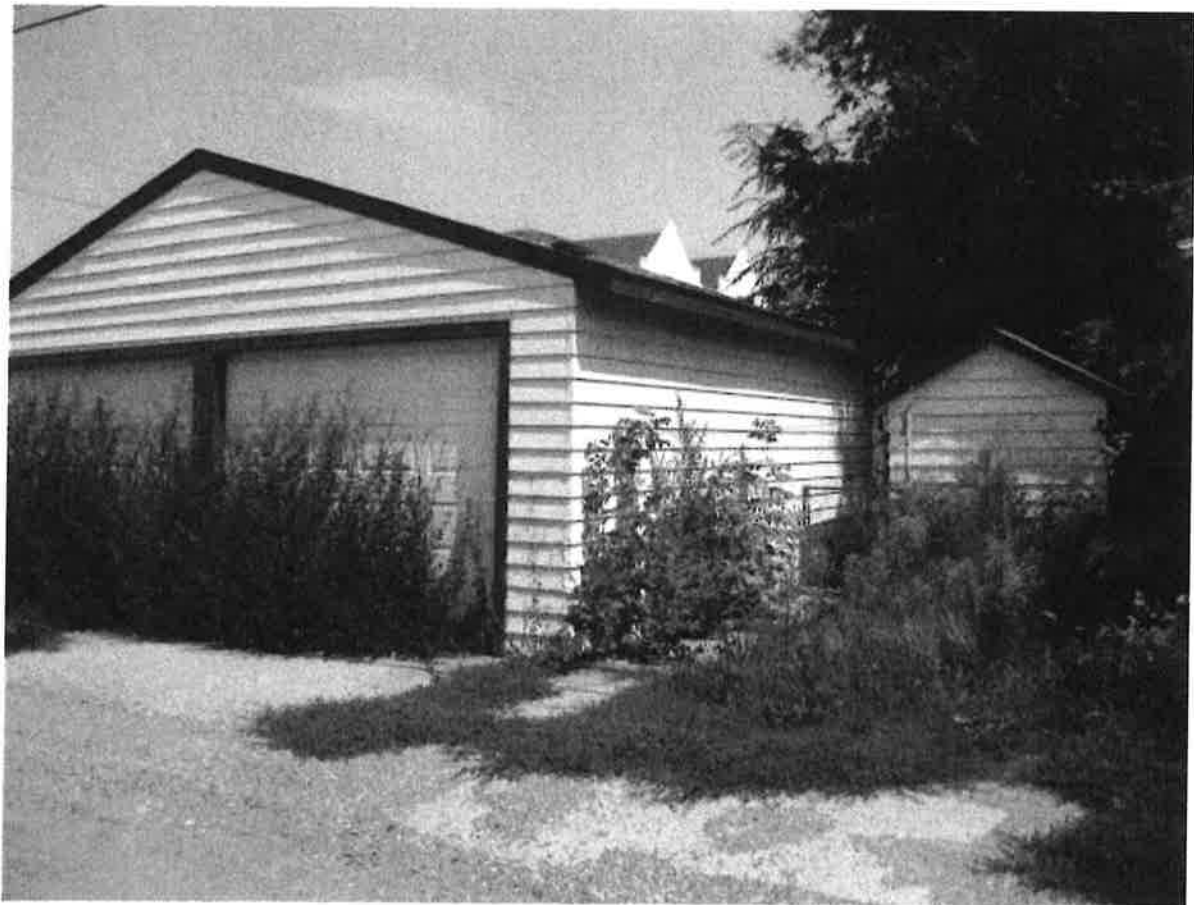




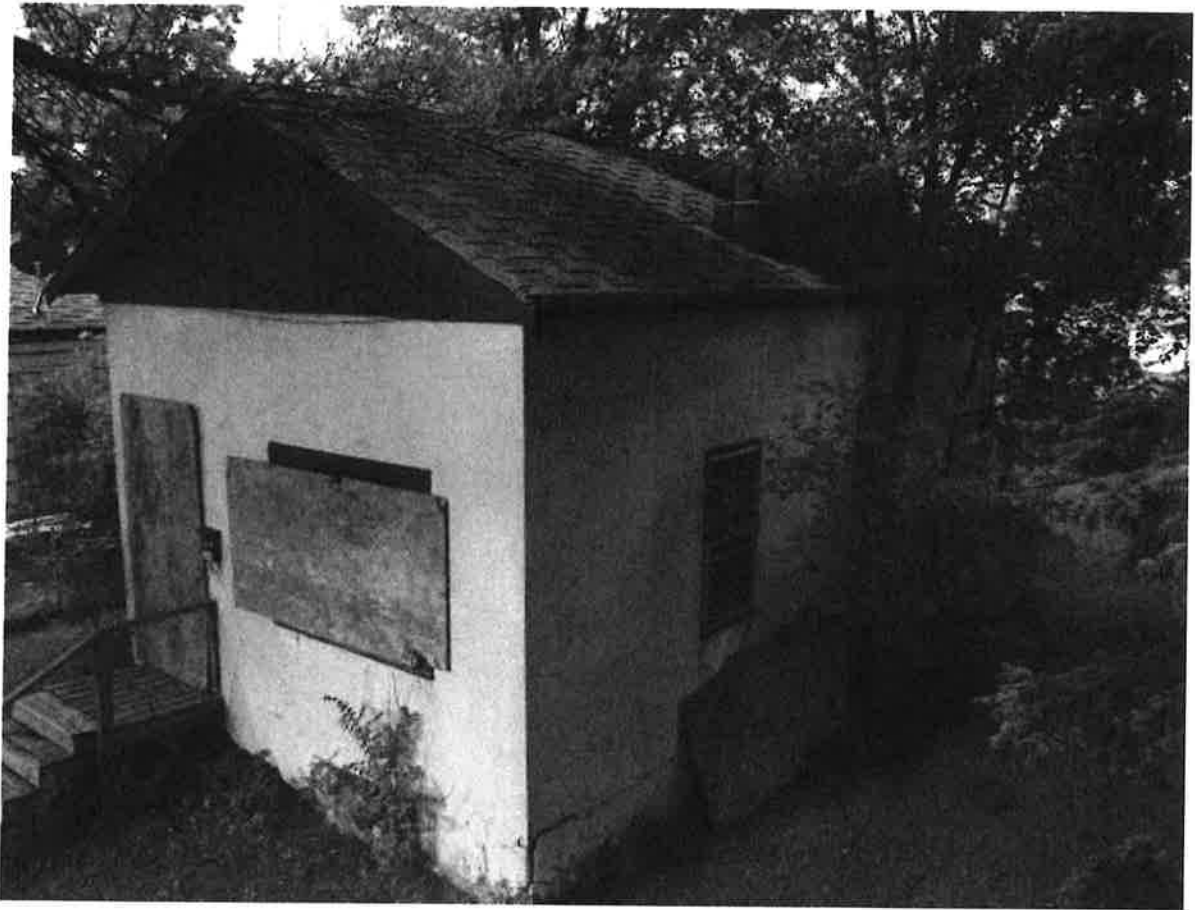






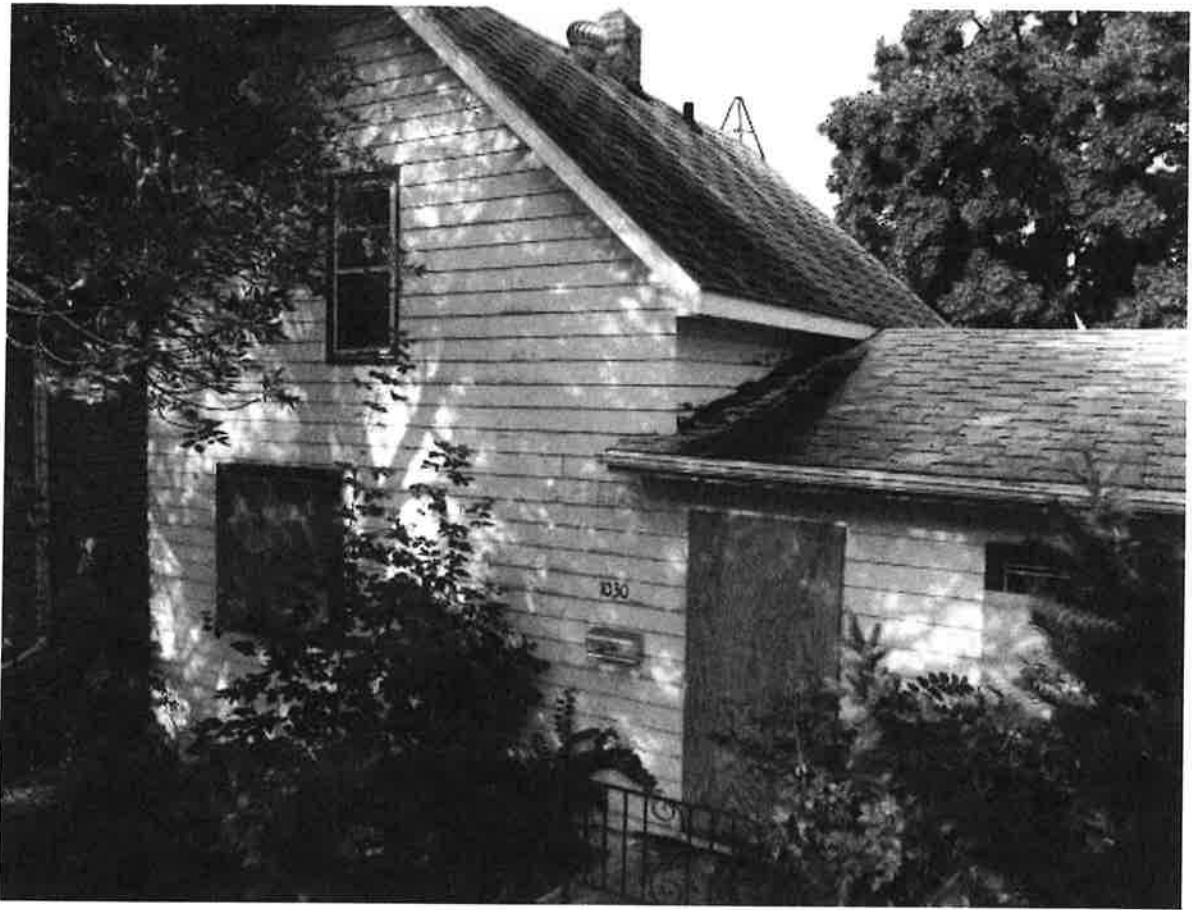






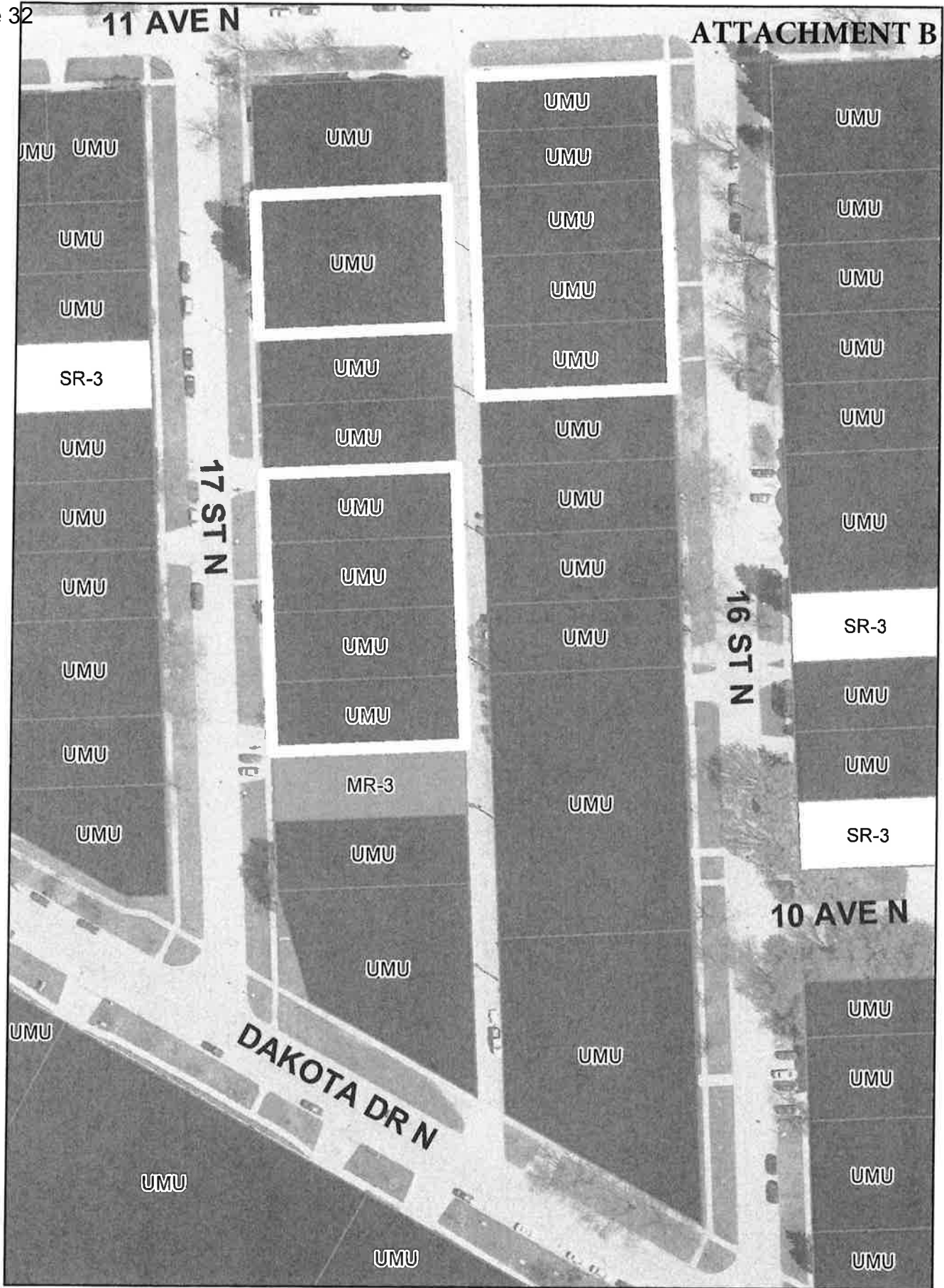






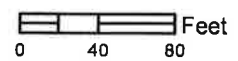
11 AVE N

ATTACHMENT B



Renewal Area

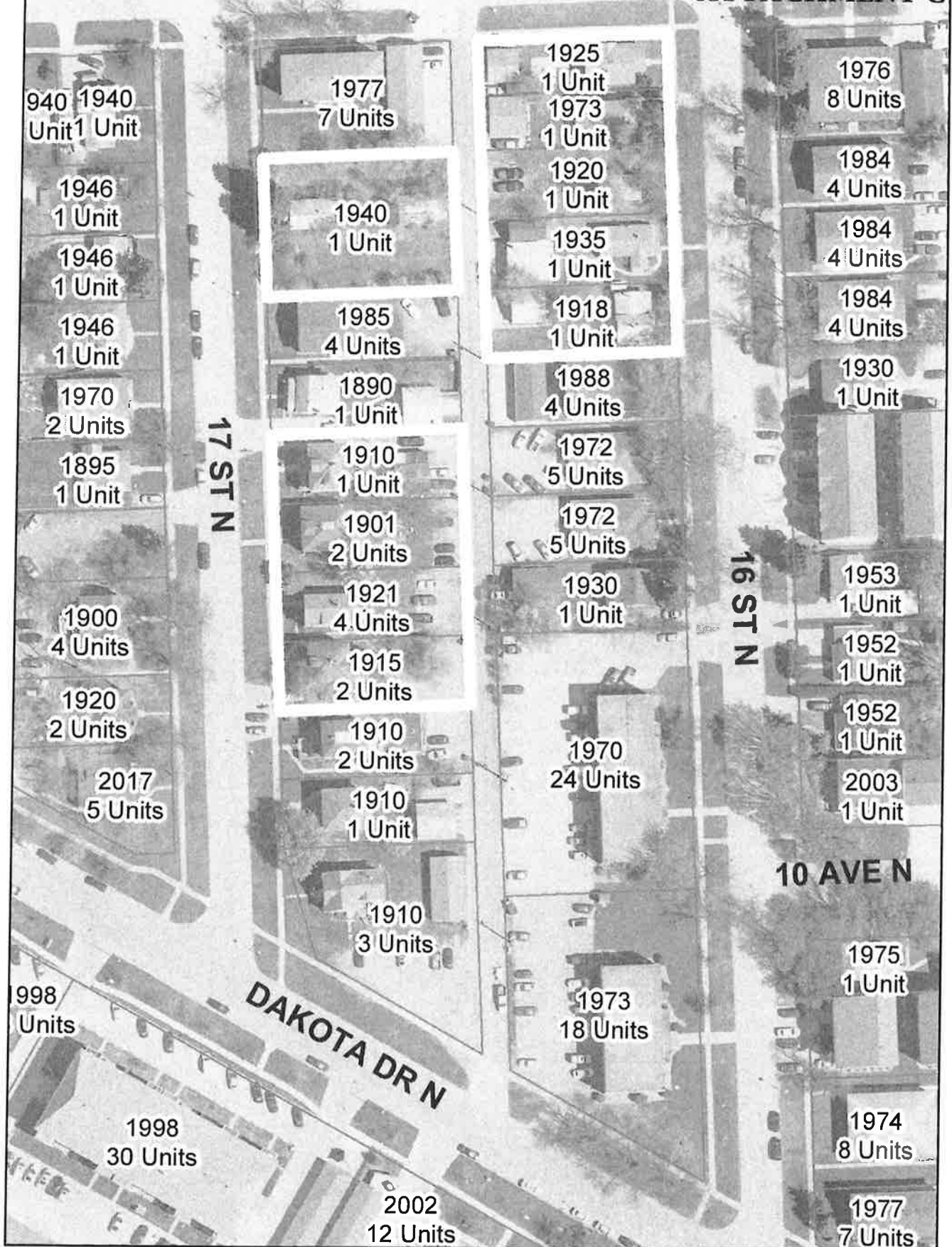
# Renewal Area 2018-01 Zoning





11 AVE N

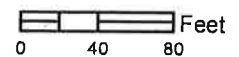
ATTACHMENT C

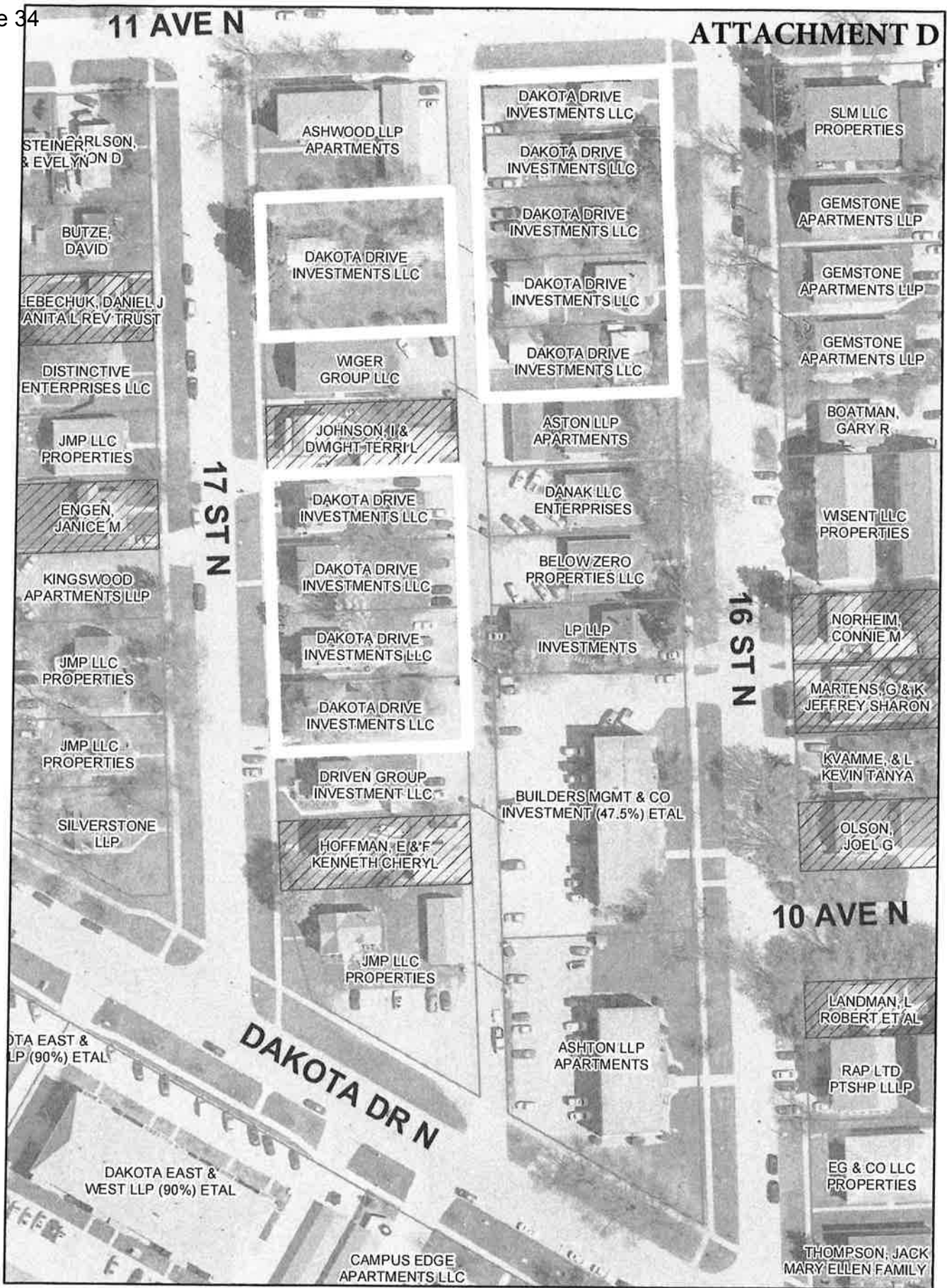


Renewal Area

# Renewal Area 2018-01

Year Built & Unit Count





STEINER, GEARLSON,  
& EVELYN D

BUTZE,  
DAVID

LEBECHUK, DANIEL J  
ANITA L REV TRUST

DISTINCTIVE  
ENTERPRISES LLC

JMP LLC  
PROPERTIES

ENGEN,  
JANICE M

KINGSWOOD  
APARTMENTS LLP

JMP LLC  
PROPERTIES

JMP LLC  
PROPERTIES

SILVERSTONE  
LLP

AKOTA EAST &  
LP (90%) ETAL

AKOTA EAST &  
WEST LLP (90%) ETAL

ASHWOOD LLP  
APARTMENTS

DAKOTA DRIVE  
INVESTMENTS LLC

WIGER  
GROUP LLC

JOHNSON, II &  
DWMIGHT-TERRIL

DAKOTA DRIVE  
INVESTMENTS LLC

DAKOTA DRIVE  
INVESTMENTS LLC

DAKOTA DRIVE  
INVESTMENTS LLC

DAKOTA DRIVE  
INVESTMENTS LLC

DRIVEN GROUP  
INVESTMENT LLC

HOFFMAN, E & F  
KENNETH CHERYL

JMP LLC  
PROPERTIES

DAKOTA DR N

CAMPUS EDGE  
APARTMENTS LLC

DAKOTA DRIVE  
INVESTMENTS LLC

DAKOTA DRIVE  
INVESTMENTS LLC

DAKOTA DRIVE  
INVESTMENTS LLC

DAKOTA DRIVE  
INVESTMENTS LLC

DAKOTA DRIVE  
INVESTMENTS LLC

ASTON LLP  
APARTMENTS

DANAK LLC  
ENTERPRISES

BELOW ZERO  
PROPERTIES LLC

LP LLP  
INVESTMENTS

BUILDERS MGMT & CO  
INVESTMENT (47.5%) ETAL

ASHTON LLP  
APARTMENTS

SLM LLC  
PROPERTIES

GEMSTONE  
APARTMENTS LLP

GEMSTONE  
APARTMENTS LLP

GEMSTONE  
APARTMENTS LLP

BOATMAN,  
GARY R

WSENT LLC  
PROPERTIES

NORHEIM,  
CONNIE M

MARTENS, G & K  
JEFFREY SHARON

KVAMME, & L  
KEVIN TANYA

OLSON,  
JOEL G

10 AVE N

LANDMAN, L  
ROBERT ET AL

RAP LTD  
PTSHP LLLP

EG & CO LLC  
PROPERTIES

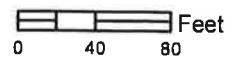
THOMPSON, JACK  
MARY ELLEN FAMILY

Renewal Area



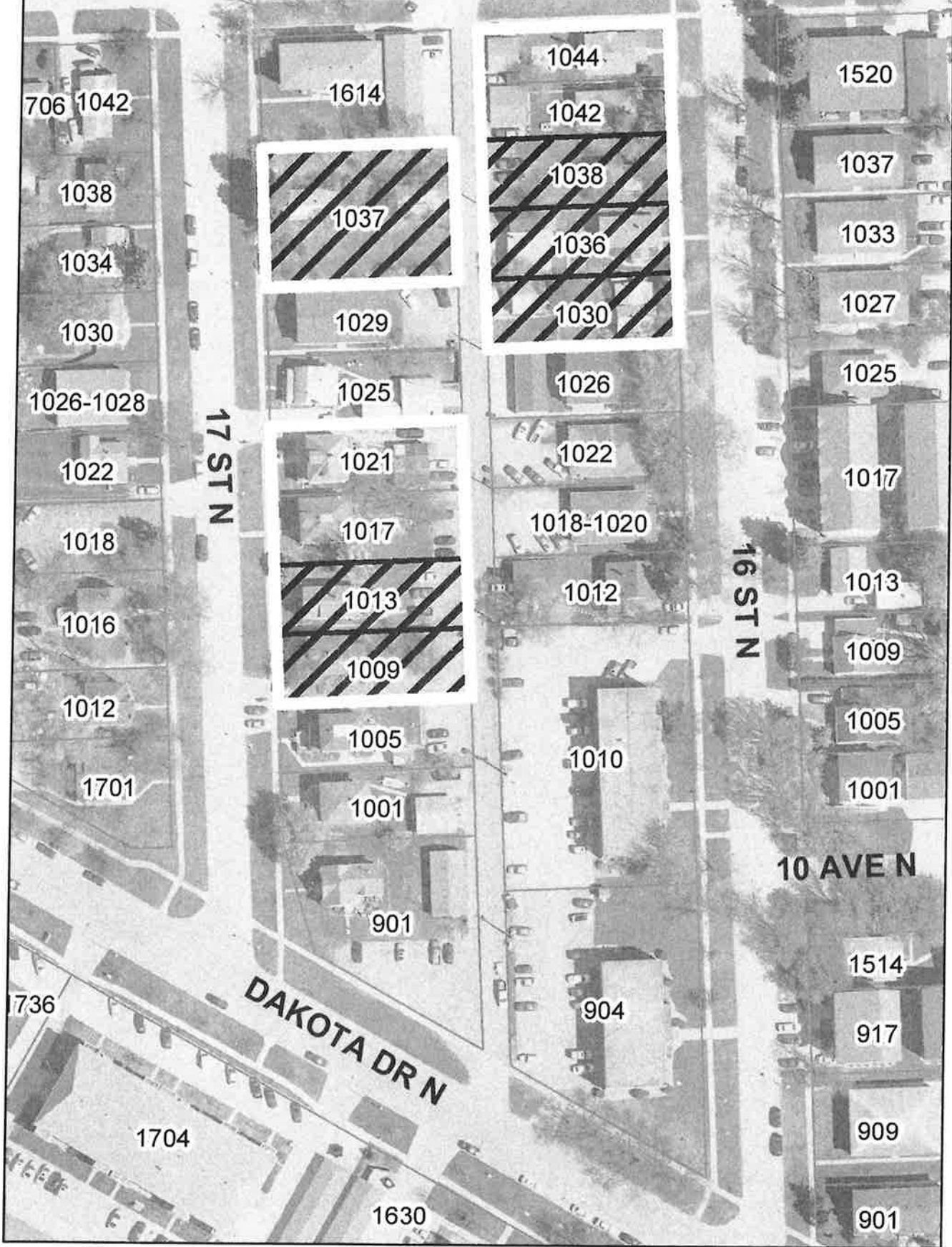
Owner Occupancy


# Renewal Area 2018-01



11 AVE N

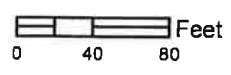
ATTACHMENT E



Renewal Area  
 Dilapidated House

# Renewal Area 2018-01

Dilapidated Houses to be Demolished



RESOLUTION  
BOARD OF CITY COMMISSIONERS OF THE  
CITY OF FARGO

DISTRICT NO. 2018-02

Commissioner \_\_\_\_\_ moved for approval of the following:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas, or areas consisting of industrial or commercial property, or a combination of those areas of properties, exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment, or a combination thereof, of the area contained within the Renewal Plan for District No. 2018-02, is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area.
3. That there are properties within the area contained within the Renewal Plan with deteriorated conditions, and other conditions existing that discourage redevelopment. The Renewal Area, as defined in the Renewal Plan, is blighted due to the presence of these properties and conditions have substantially impaired the growth of the City, and have slowed the provision of appropriate redevelopment in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in the said area.
4. That comparable replacement dwellings or housing is available to persons displaced by the proposed Renewal Plan, which will not create any undue hardship to those persons. Housing vacancy rates in Fargo are high enough to meet the needs of persons who may be displaced in the future. Properties that are expected to be demolished soon are vacant, so initially no persons will be displaced by the redevelopment.
5. That the area designated as the Renewal Plan for District No. 2018-02 is appropriate for development projects.

6. That such development, rehabilitation, conservation or redevelopment of the area contained in the Renewal Plan for District No. 2018-02 requires the powers and authority granted in Chapter 40-58 NDCC.
7. That the Renewal Plan for District No. 2018-02 is hereby officially adopted by the Board.

Said motion was seconded by Commissioner \_\_\_\_\_ and, upon call of the roll, the motion carried with Commissioner(s) \_\_\_\_\_ not being present, Commissioners \_\_\_\_\_ voting aye, Commissioners \_\_\_\_\_ voting nay and Commissioner(s) \_\_\_\_\_ abstaining and the motion therefore being declared carried.

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**RENEWAL PLAN**

**DISTRICT NO. 2018-02**

**CITY OF FARGO, NORTH DAKOTA**

**September, 2018**

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## RENEWAL PLAN FOR TAX INCREMENT DISTRICT NO. 2018-02

This is a renewal plan for property within Block 2 of Beardsley's Addition. The plan identifies property already appropriate for redevelopment, but does not describe in detail the plans for redevelopment. When the type of redevelopment is available for review, this plan will be amended to describe the project to be constructed. Also, the boundary may be expanded to include the redevelopment of other properties within the block.

### Subsection 1.1. Definitions.

For the purposes of the Renewal Plan, the following terms shall have the meanings specified below, unless the context otherwise requires:

"City" means the City of Fargo, a municipal corporation under the laws of the State of North Dakota.

"City Commission" or "Commission" means the Fargo City Commission.

"Comprehensive Plan" means the City's GO 2030 Comprehensive Plan, including the objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and water within the City as and when such plan is adopted and finalized.

"County" means Cass County, North Dakota.

"Development" means the construction of new buildings, structures, or improvements; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures or improvements; the acquisition of equipment; and the clearing and grading of land on industrial or commercial property in the Renewal Area.

"Renewal Area" means the property described in Subsection 1.4 of this Plan.

"Renewal Plan" or "Plan" means this Plan adopted by the Commission for the Renewal Area.

"State" means the State of North Dakota.

"Tax Increment Financing Act" or "TIF Act" means North Dakota Century Code, Section 40-58-20, as amended.

"Tax Increment Bonds" means any general obligation or revenue tax increment bonds or notes issued by the City to finance the public costs associated with the TIF District as stated in this Plan, or any obligations issued to refund the Tax Increment Bonds.

"Tax Increment Financing District" or "TIF District" means Tax Increment Financing District No. 2018-02.

“Urban Renewal Law” means North Dakota Century Code, Chapter 40-58.

Subsection 1.2. Statutory Authority.

The creation of the Renewal Area is authorized by the Urban Renewal Law. Specifically the creation of the Renewal Area is authorized under North Dakota Century Code, Sections 40-58-01.1(7) and (14), which provide that the local governing body may designate industrial or commercial property, a slum or blighted area, or combination of these properties as appropriate for a development or renewal project.

The Urban Renewal Law provides that communities develop a “workable program” for the use of public and private resources to facilitate the development of industrial or commercial properties, eliminate and prevent the development or spread of slums and urban blight, encourage needed urban rehabilitation, provide for the redevelopment of slum and blighted areas, or undertake these activities or other feasible municipal activities as may be suitably employed to achieve the objectives of the workable program. North Dakota Century Code, Section 40-58-04.

Subsection 1.3. Statement of Public Purpose

In adopting the Renewal Plan 2018-02, the City Commission intends to make the following findings:

- (a) The Renewal Area includes a blighted area.

**Factual basis:** This Renewal Area is blighted due to the presence of deteriorated or deteriorating structures (unsound basements or foundations, inadequate roofing, deteriorated siding and windows) which substantially impairs the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use. Photos of the Renewal Area can be found in Attachment A.

- (b) The Renewal Area is a residential property.

**Factual basis:** The renewal area is residential and considered blighted as described in (a) above. Blighted residential areas are eligible for renewal.

- (c) The Renewal Area is appropriate for a development or renewal project.

**Factual basis:** The renewal area is designated in the Roosevelt/NDSU Neighborhood Land Use Plan for higher-density residential development. The property is zoned University Mixed Use, which allows and requires higher density housing.

- (d) Comparable replacement dwellings or housing is available to persons displaced by the proposed redevelopment project.



**Factual basis:** Many of the properties are vacant. There are vacant houses and apartments in the neighborhood and north Fargo.

- (e) The Plan conforms to the Comprehensive Policy Plan for the City as a whole.

**Factual basis:** The City Commission has found that the proposed development is consistent with the goals that are embodied in the GO 2030 Comprehensive Plan. Most notably, the proposed development seeks to address several key initiatives of the GO 2030 plan, including initiatives for/to Promote Infill, Quality New Development, and High Quality Affordable Housing near NDSU. In addition, the proposed development conforms to the Roosevelt/NDSU Neighborhood Land Use Plan. The proposed use of the property is consistent with zoning, adjacent residential land use and transportation facilities. The proposed development will not burden the existing infrastructure as the property is served with the water and sewer main lines.

#### Subsection 1.4. Description of Renewal Area

The renewal area is located southwest of NDSU in the Roosevelt Neighborhood. This subsection provides maps showing information about the properties on the block. The boundary of the renewal area is two areas on the block, with the yellow line as the perimeter.

All of the properties within the renewal area on this block are zoned University Mixed Use (UMU). The rest of the block is zoned UMU, except for one property which is zoned Public Institutional and is a NDSU building. See Attachment B.

There are 14 properties on the block, a mix of single-family and multi-family buildings, a vacant lot, a commercial building with a dry cleaner and an NDSU building. There are 8 multi-family buildings with a total of 56 multi-family housing units. Multi-family buildings range in size from 2 to 24 units. There are also 3 single-family homes. Two of the single-family homes are quite old, at 98 and 100 years old. There is one owner occupied single-family house, which is 50 years old. See Attachment C.

There are 7 properties in the renewal area. Of those seven, two are single-family houses. There are two apartment buildings built in the 1980's, another is a 25-unit apartment building constructed in 1968 and one is a vacant lot.

Roers Development, through three different LLC's, owns 7 of the 14 properties on the block. One single-family house appears to be owner occupied. The other 6 properties include 4 apartment buildings, a NDSU building and a dry cleaner. See Attachment D.

There is one house in the renewal area that is vacant, severely blighted and dilapidated. The owner of the property plans to demolish this house with the encouragement of the City. See Attachment E that shows the location of the dilapidated house.

Subsection 1.5. Demolition of Structures and Redevelopment

Plans for the future redevelopment is not known at this time. It is expected to be multi-family housing for students and staff at North Dakota State University. The type of housing will depend on market conditions at the time of the development. The housing will comply with the current or future zoning of the area.

The Development of the Renewal Area includes the following initial activities:

Demolition & Site Cleaning/Grading – This cost is the estimate of the cost to remove existing buildings and foundations, trees and concrete, and inspect for and remove asbestos, plus fill and grade the site. The estimate is \$15,000 per structure. The City will encourage the owner of dilapidated and substandard properties on this block to demolish the properties and maintain the property as green space until new structures can be developed.

Land Acquisitions – The developer has already acquired the properties. Some additional land may be acquired adjacent to already purchased property. Any public assistance for land purchase would be determined based on a financial review of future redevelopment plans.

Administration – Administration costs are equal to about five percent of the development assistance of the above costs.

These costs represent estimated costs for planning purposes, and may be different when this plan is implemented with a development agreement. The development agreement costs will be determined after a review by City financial advisors. The maximum allowed costs will be specified in the development agreement.

Subsection 1.6. Land Use Attributes.

- (a) Zoning. The property is zoned UMU (University Mixed Use). No zoning or platting changes are required to allow redevelopment on these properties.
- (b) The property is zoned UMU ((University Mixed Use), which allows commercial and requires residential density of 18 units per acre.
- (c) Building Requirements. All properties within this district are subject to the provisions of the City of Fargo Building Codes and the Land Development Code.
- (d) Plan relationship to land use objectives (land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.) The land use objective for this project complies with the UMU

(University Mixed Use) zoning district, the redevelopment goals of the GO 2030 Comprehensive Plan and the Roosevelt Neighborhood Plan. The development provides for new residential dwelling units within an existing residential neighborhood.

Subsection 1.7. Redevelopment and Financing

The City of Fargo may consider providing Tax Increment Financing to assist with redevelopment of this area. However, a Tax Increment Financing is not being created as part of this renewal plan. Creation of a Tax Increment Financing District and an agreement to assist the developer would require amendment of this plan and adoption of a developer's agreement.

The City anticipates that implementation of this Renewal Plan may involve certain public costs. Under North Dakota Century Code, Sections 40-58-20 and 40-58-20.1 allow the use of funds received from tax increments to be applied to certain specified costs. If the City decides to provide costs those costs would be for property acquisition, demolition and site cleanup, and public works improvements.

If the City decides to finance certain costs of the Development, it will be through the issuance of a Tax Increment Financing Note to the Developer. The maximum term of the note would be 15 years. Based on current tax rates, annual TIF revenue would be approximately 1.4% of the increased value.

The amount of any public assistance will be based on City of Fargo Tax Increment Financing policies, a review of the financial needs of the project, the vacancy rate for apartments in the vicinity of NDSU and the quality of the new development.

By adoption of this Renewal Plan, the City of Fargo is encouraging owners of dilapidated structures to demolish those structures immediately and to maintain that property as green space until they are ready to build new on the property. Property owners are also encouraged to maintain existing structures to comply with city housing codes, or demolish the structures.

Subsection 1.8. Renewal Plan Amendments

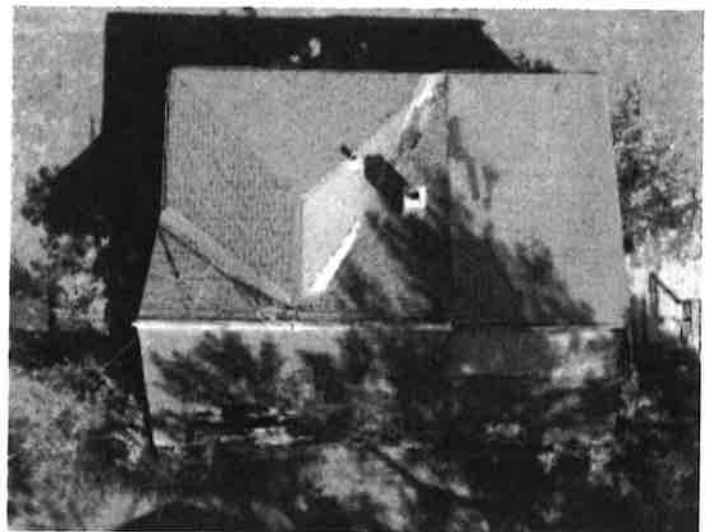
The City anticipates that this Renewal Plan will be amended prior to final implementation. These amendments may expand the renewal area to other properties on the block, provide details on the new buildings, provide incentives to the developer, create a Tax Increment Financing District and incorporate a schedule for implementation.





1119 17<sup>th</sup> St N





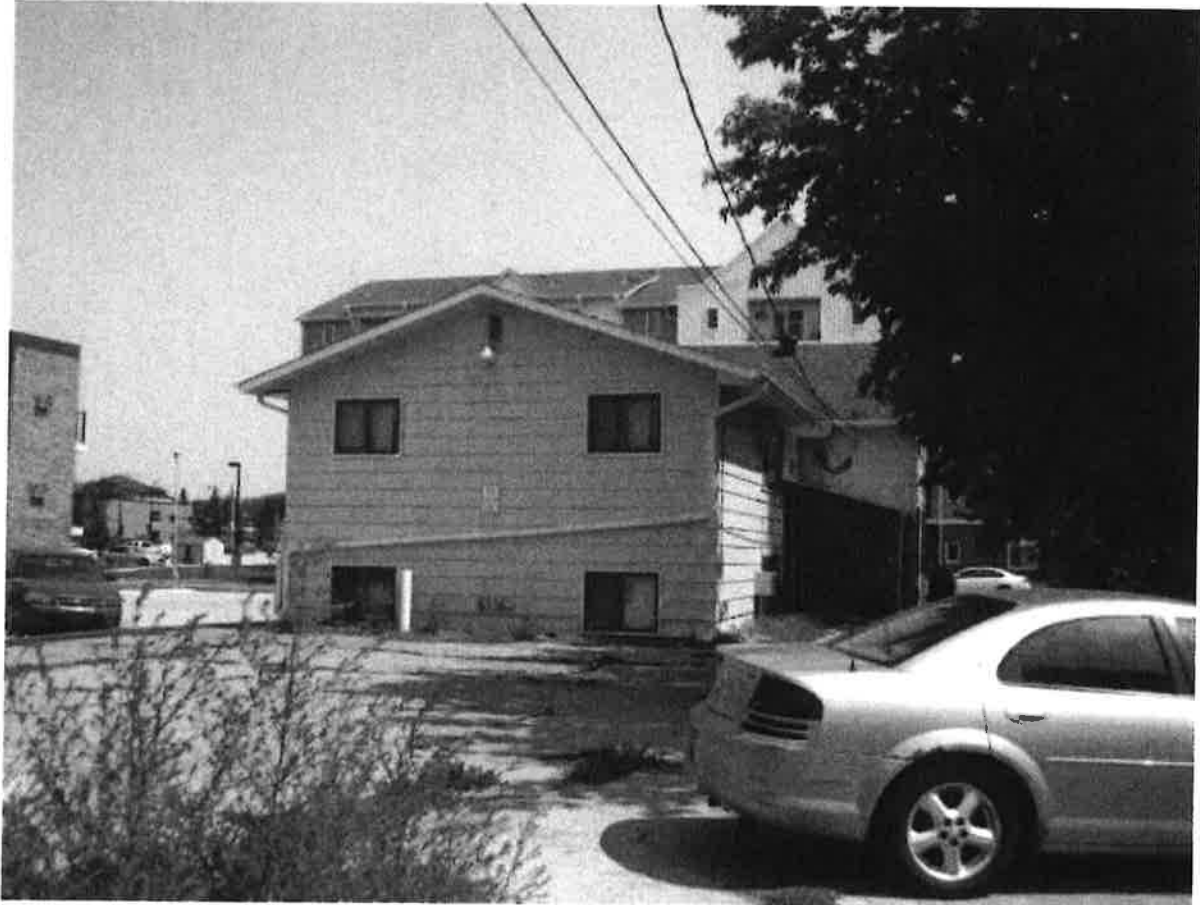
1115 17<sup>th</sup> St N



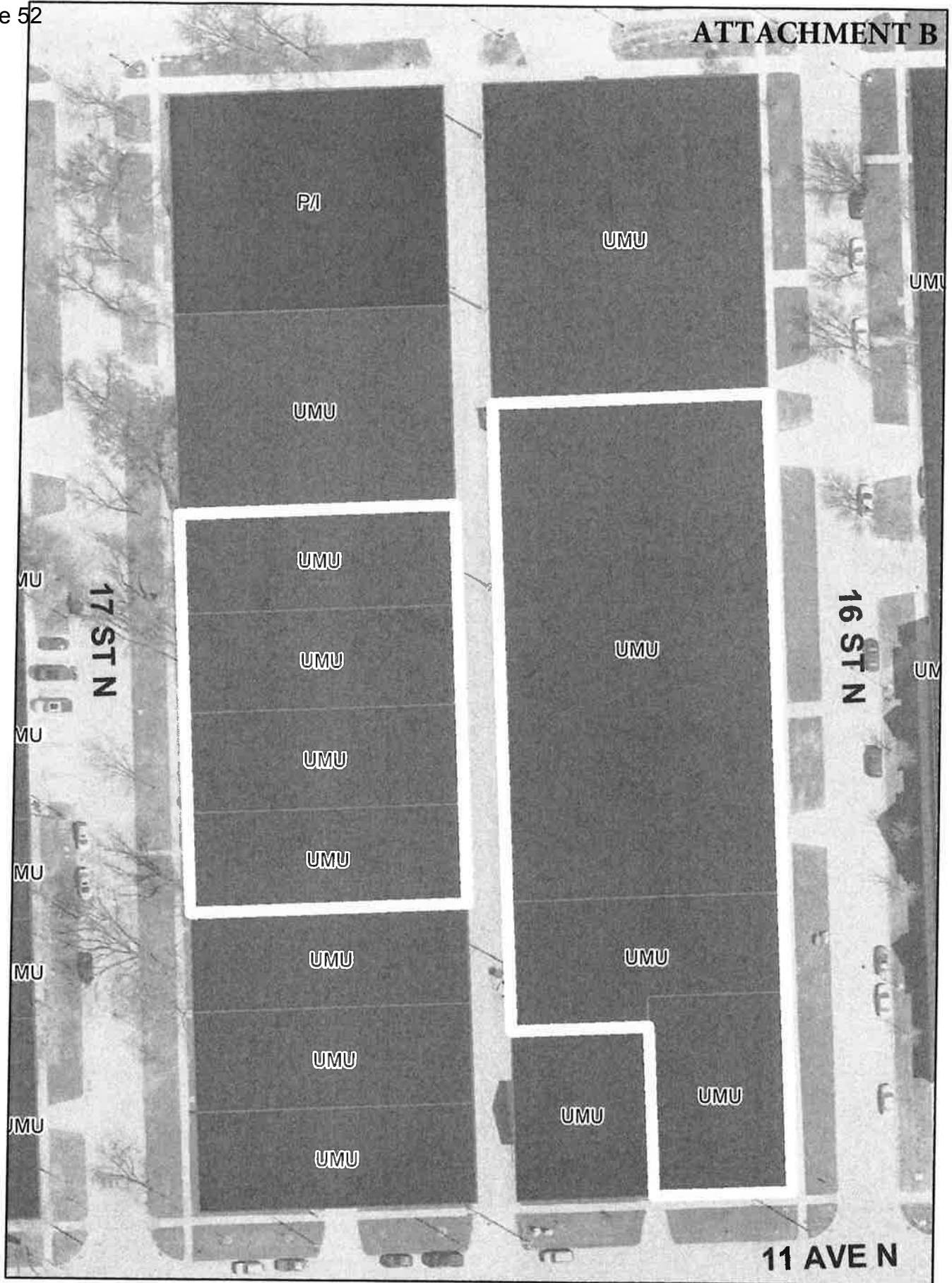


1120 16<sup>th</sup> St N



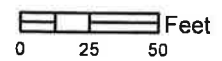


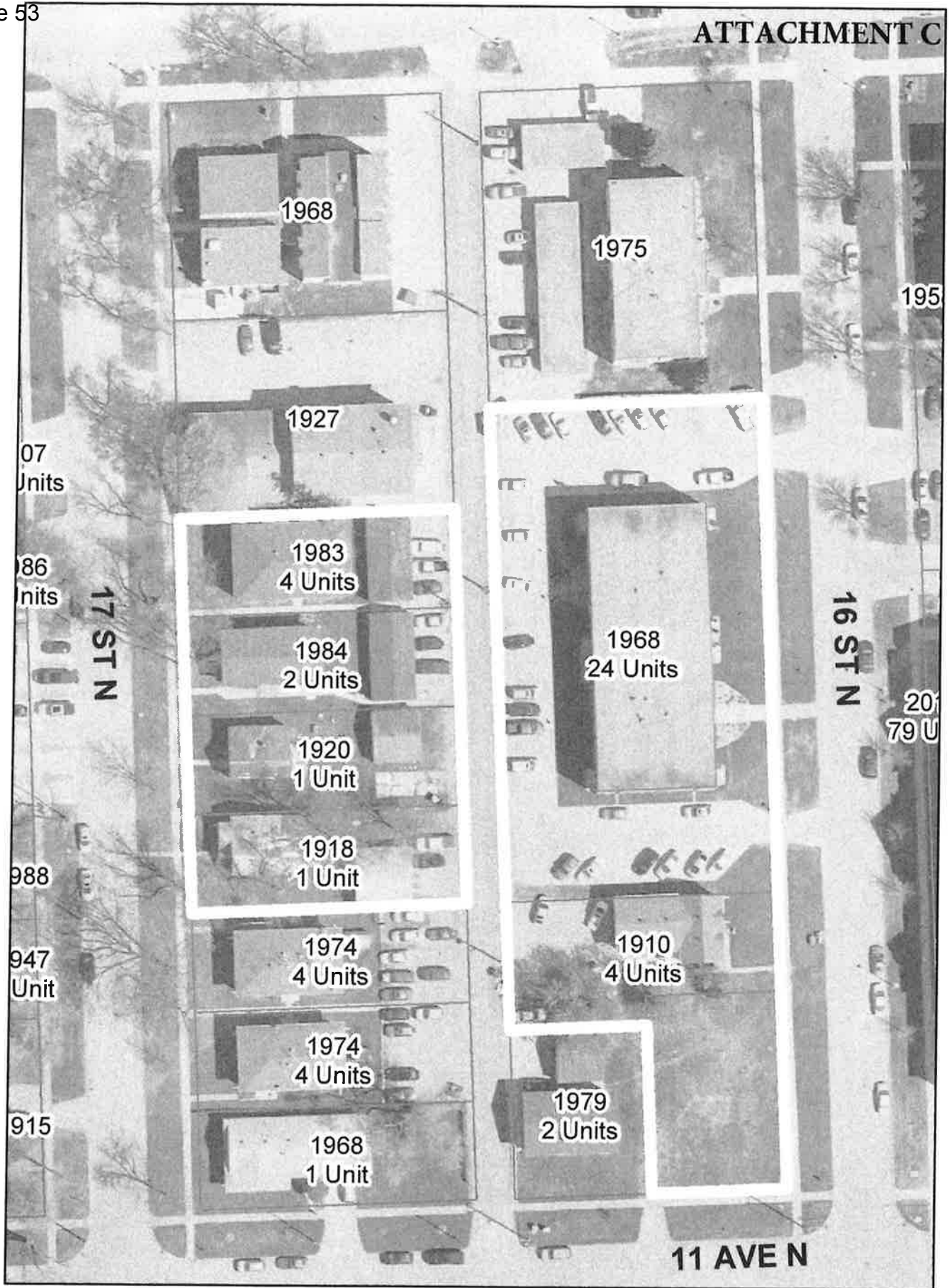




Renewal Area

# Renewal Area 2018-02 Zoning

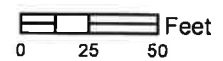


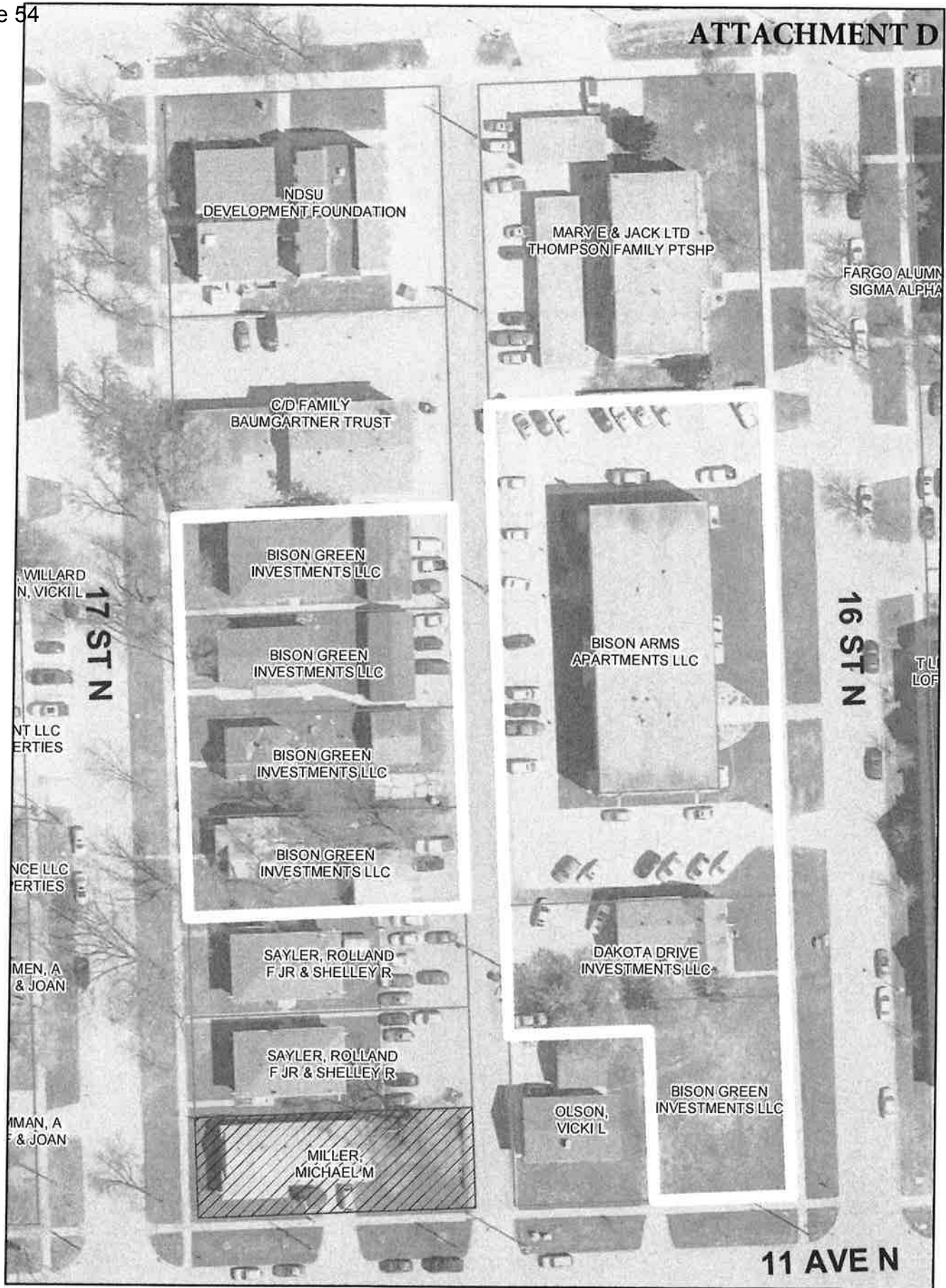




Renewal Area

# Renewal Area 2018-02

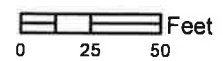
Year Built & Unit Count

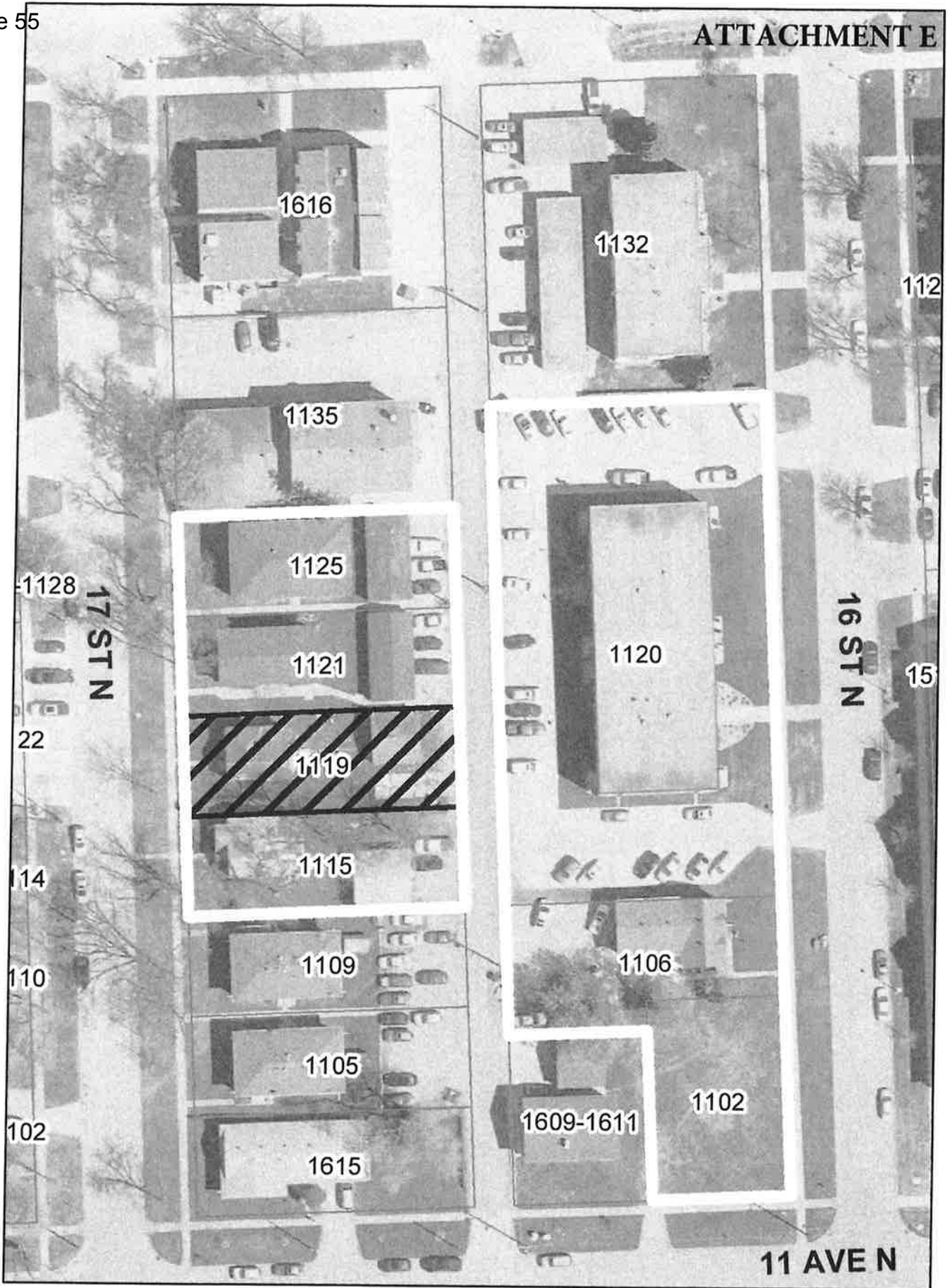






 Renewal Area  
 Owner Occupancy

# Renewal Area 2018-02





 Renewal Area  
 Dilapidated House

**Renewal Area 2018-02**  
 Dilapidated Houses to be Demolished



RESOLUTION  
BOARD OF CITY COMMISSIONERS OF THE  
CITY OF FARGO

DISTRICT NO. 2018-03

Commissioner \_\_\_\_\_ moved for approval of the following:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas, or areas consisting of industrial or commercial property, or a combination of those areas of properties, exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment, or a combination thereof, of the area contained within the Renewal Plan for District No. 2018-03, is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area.
3. That there are properties within the area contained within the Renewal Plan with deteriorated conditions, and other conditions existing that discourage redevelopment. The Renewal Area, as defined in the Renewal Plan, is blighted due to the presence of these properties and conditions have substantially impaired the growth of the City, and have slowed the provision of appropriate redevelopment in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in the said area.
4. That comparable replacement dwellings or housing is available to persons displaced by the proposed Renewal Plan, which will not create any undue hardship to those persons. Housing vacancy rates in Fargo are high enough to meet the needs of persons who may be displaced in the future. Properties that are expected to be demolished soon are vacant, so initially no persons will be displaced by the redevelopment.
5. That the area designated as the Renewal Plan for District No. 2018-03 is appropriate for development projects.



6. That such development, rehabilitation, conservation or redevelopment of the area contained in the Renewal Plan for District No. 2018-03 requires the powers and authority granted in Chapter 40-58 NDCC.
7. That the Renewal Plan for District No. 2018-03 is hereby officially adopted by the Board.

Said motion was seconded by Commissioner \_\_\_\_\_ and, upon call of the roll, the motion carried with Commissioner(s) \_\_\_\_\_ not being present, Commissioners \_\_\_\_\_ voting aye, Commissioners \_\_\_\_\_ voting nay and Commissioner(s) \_\_\_\_\_ abstaining and the motion therefore being declared carried.

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**RENEWAL PLAN**

**DISTRICT NO. 2018-03**

**CITY OF FARGO, NORTH DAKOTA**

**September, 2018**

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## RENEWAL PLAN FOR TAX INCREMENT DISTRICT NO. 2018-03

This is a renewal plan for property within Block 3 of Beardsley's Addition. The plan identifies property already appropriate for redevelopment, but does not describe in detail the plans for redevelopment. When the type of redevelopment is available for review, this plan will be amended to describe the project to be constructed.

### Subsection 1.1. Definitions.

For the purposes of the Renewal Plan, the following terms shall have the meanings specified below, unless the context otherwise requires:

"City" means the City of Fargo, a municipal corporation under the laws of the State of North Dakota.

"City Commission" or "Commission" means the Fargo City Commission.

"Comprehensive Plan" means the City's GO 2030 Comprehensive Plan, including the objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and water within the City as and when such plan is adopted and finalized.

"County" means Cass County, North Dakota.

"Development" means the construction of new buildings, structures, or improvements; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures or improvements; the acquisition of equipment; and the clearing and grading of land on industrial or commercial property in the Renewal Area.

"Renewal Area" means the property described in Subsection 1.4 of this Plan.

"Renewal Plan" or "Plan" means this Plan adopted by the Commission for the Renewal Area.

"State" means the State of North Dakota.

"Tax Increment Financing Act" or "TIF Act" means North Dakota Century Code, Section 40-58-20, as amended.

"Tax Increment Bonds" means any general obligation or revenue tax increment bonds or notes issued by the City to finance the public costs associated with the TIF District as stated in this Plan, or any obligations issued to refund the Tax Increment Bonds.

"Tax Increment Financing District" or "TIF District" means Tax Increment Financing District No. 2018-03.

"Urban Renewal Law" means North Dakota Century Code, Chapter 40-58.

Subsection 1.2. Statutory Authority.

The creation of the Renewal Area is authorized by the Urban Renewal Law. Specifically the creation of the Renewal Area is authorized under North Dakota Century Code, Sections 40-58-01.1(7) and (14), which provide that the local governing body may designate industrial or commercial property, a slum or blighted area, or combination of these properties as appropriate for a development or renewal project.

The Urban Renewal Law provides that communities develop a "workable program" for the use of public and private resources to facilitate the development of industrial or commercial properties, eliminate and prevent the development or spread of slums and urban blight, encourage needed urban rehabilitation, provide for the redevelopment of slum and blighted areas, or undertake these activities or other feasible municipal activities as may be suitably employed to achieve the objectives of the workable program. North Dakota Century Code, Section 40-58-04.

Subsection 1.3. Statement of Public Purpose

In adopting the Renewal Plan 2018-03, the City Commission intends to make the following findings:

- (a) The Renewal Area includes a blighted area.

**Factual basis:** This Renewal Area is blighted due to the presence of deteriorated or deteriorating structures (unsound basements or foundations, inadequate roofing, deteriorated siding and windows) which substantially impairs the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use. Photos of the Renewal Area can be found in Attachment A.

- (b) The Renewal Area is a residential property.

**Factual basis:** The renewal area is residential and considered blighted as described in (a) above. Blighted residential areas are eligible for renewal.

- (c) The Renewal Area is appropriate for a development or renewal project.

**Factual basis:** The renewal area is designated in the Roosevelt/NDSU Neighborhood Land Use Plan for higher-density residential development. The property is zoned University Mixed Use, which allows and requires higher density housing.

- (d) Comparable replacement dwellings or housing is available to persons displaced by the proposed redevelopment project.

**Factual basis:** Many of the properties are vacant. There are vacant houses and apartments in the neighborhood and north Fargo.

- (e) The Plan conforms to the Comprehensive Policy Plan for the City as a whole.

**Factual basis:** The City Commission has found that the proposed development is consistent with the goals that are embodied in the GO 2030 Comprehensive Plan. Most notably, the proposed development seeks to address several key initiatives of the GO 2030 plan, including initiatives for/to Promote Infill, Quality New Development, and High Quality Affordable Housing near NDSU. In addition, the proposed development conforms to the Roosevelt/NDSU Neighborhood Land Use Plan. The proposed use of the property is consistent with zoning, adjacent residential land use and transportation facilities. The proposed development will not burden the existing infrastructure as the property is served with the water and sewer main lines.

#### Subsection 1.4. Description of Renewal Area

The renewal area is located southwest of NDSU in the Roosevelt Neighborhood. This subsection provides maps showing information for properties on the block. The boundary of the renewal area is one area on the block, with the yellow line as the perimeter. This block is zoned University Mixed Use (UMU). See Attachment B.

There are 18 properties on the block, a mix of single-family, duplexes and multi-family buildings. There are three multi-family buildings, each with 12 housing units. Three of the properties are two unit buildings. There are also ten single-family houses. Seven of the single-family homes are quite old, being over 70 years old.

There are 7 properties in the renewal area. Of those seven properties, six are single-family houses and one appears to be single-family house converted to a two unit building. See Attachment C.

Bison Gold Investments is the owner of 7 of the 18 properties on the block. Two single-family houses on the block appear to be owner occupied. The other nine properties appear to be rental housing. See Attachment D.

There are two houses in the renewal area that are vacant, severely blighted and dilapidated. The owner of these properties plans to demolish these houses with the encouragement of the City. See Attachment E that shows the location of the dilapidated houses.

#### Subsection 1.5. Demolition of Structures and Redevelopment

Plans for the future redevelopment is not known at this time. It is expected to be multi-family housing for students and staff at North Dakota State University. The type of housing will depend on market conditions at the time of the development. The housing will comply with the current or future zoning of the area.

The Development of the Renewal Area includes the following initial activities:

Demolition & Site Cleaning/Grading – This cost is the estimate of the cost to remove existing buildings and foundations, trees and concrete, and inspect for and remove asbestos, plus fill and grade the site. The estimate is \$15,000 per structure. The City will encourage the owner of dilapidated and substandard properties on this block to demolish the properties and maintain the property as green space until new structures can be developed.

Land Acquisitions – The developer has already acquired the properties. Any public assistance for land purchase would be determined based on a financial review of future redevelopment plans.

Administration – Administration costs are equal to about five percent of the development assistance of the above costs.

These costs represent estimated costs for planning purposes, and may be different when this plan is implemented with a development agreement. The development agreement costs will be determined after a review by City financial advisors. The maximum allowed costs will be specified in the development agreement.

Subsection 1.6. Land Use Attributes.

- (a) Zoning. The property is zoned UMU (University Mixed Use). No zoning or platting changes are required to allow redevelopment on these properties.
- (b) The property is zoned UMU ((University Mixed Use), which allows commercial and requires residential density of 18 units per acre.
- (c) Building Requirements. All properties within this district are subject to the provisions of the City of Fargo Building Codes and the Land Development Code.
- (d) Plan relationship to land use objectives (land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.) The land use objective for this project complies with the UMU (University Mixed Use) zoning district, the redevelopment goals of the GO 2030 Comprehensive Plan and the Roosevelt Neighborhood Plan. The development provides for new residential dwelling units within an existing residential neighborhood.

Subsection 1.7. Redevelopment and Financing

The City of Fargo may consider providing Tax Increment Financing to assist with redevelopment of this area. However, a Tax Increment Financing is not being created as part of this renewal plan. Creation of a Tax Increment Financing District and an agreement to assist the developer would require amendment of this plan and adoption of a developer's agreement.

The City anticipates that implementation of this Renewal Plan may involve certain public costs. Under North Dakota Century Code, Sections 40-58-20 and 40-58-20.1 allow the use of funds received from tax increments to be applied to certain specified costs. If the City decides to provide costs those costs would be for property acquisition, demolition and site cleanup, and public works improvements.

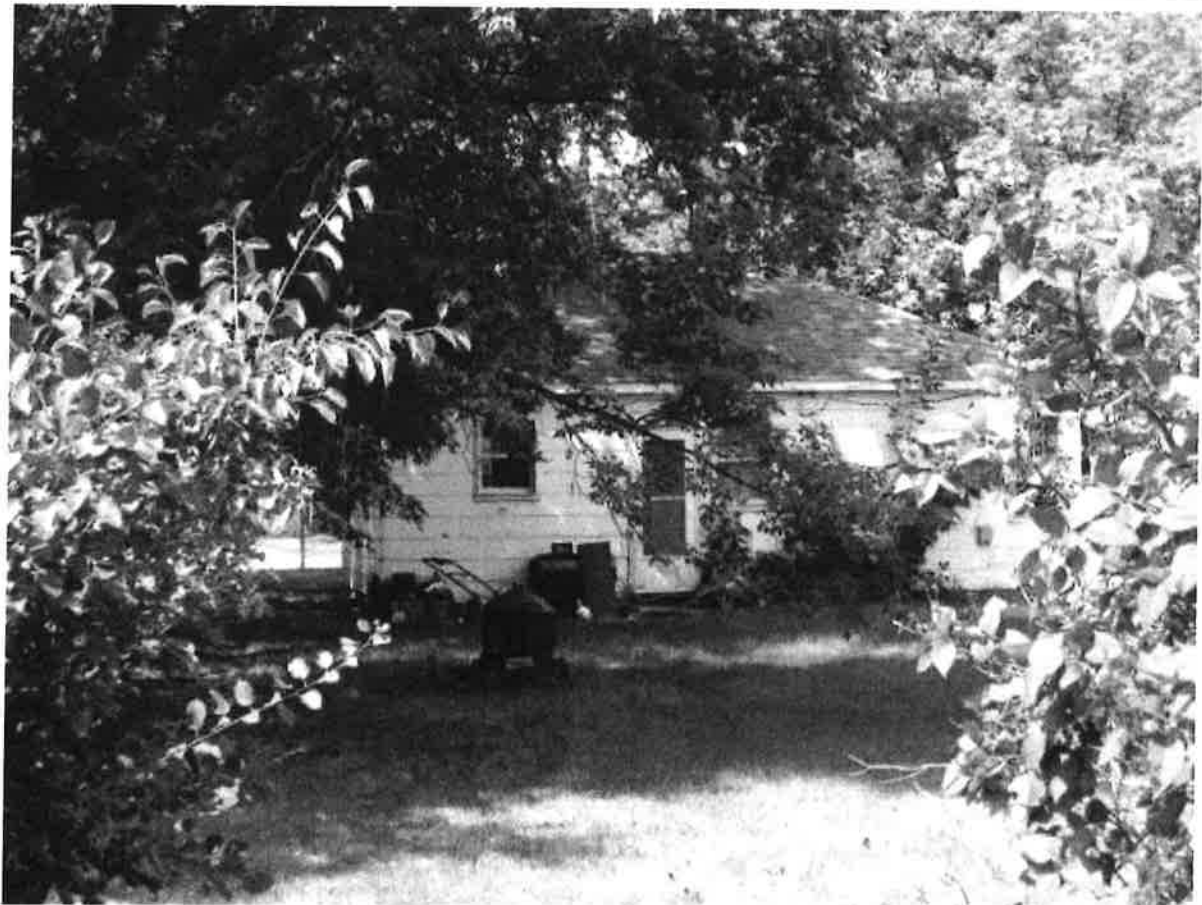
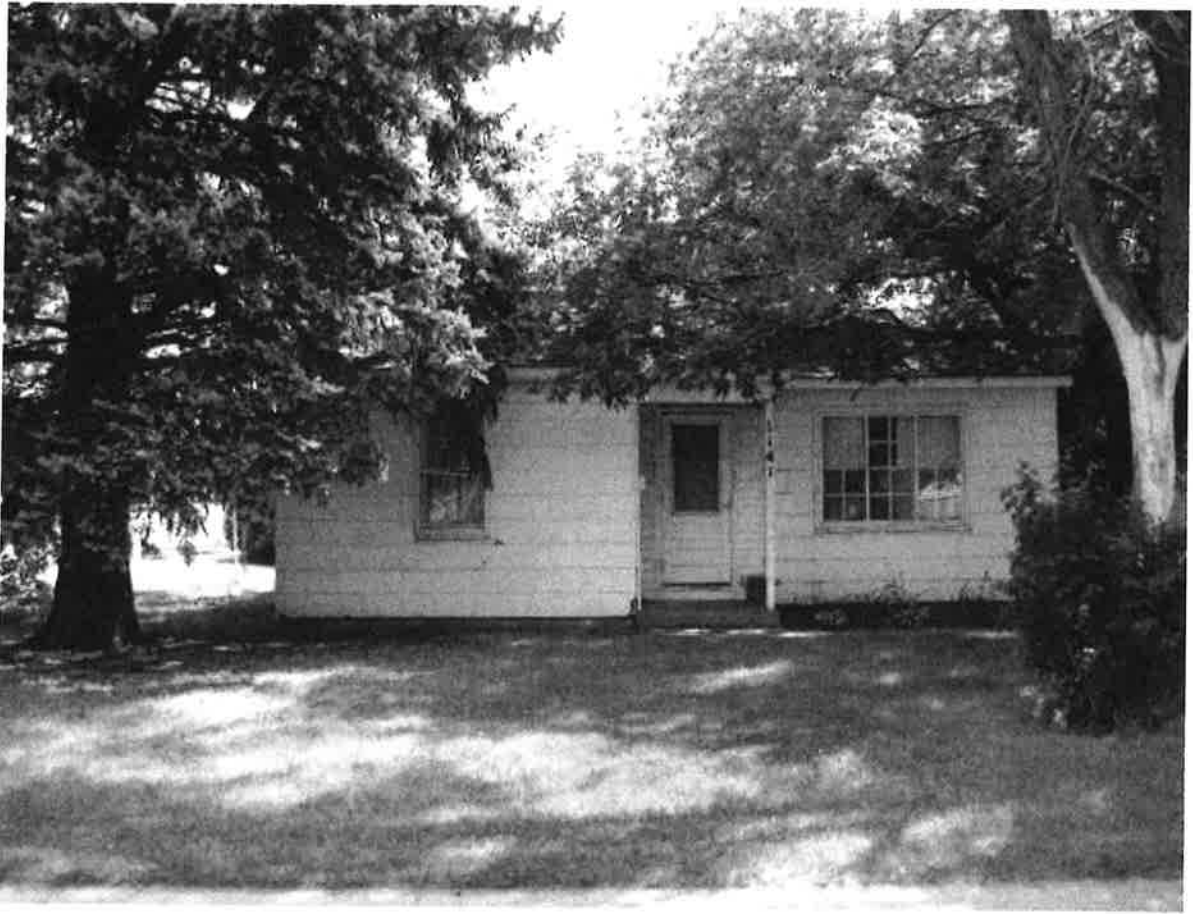
If the City decides to finance certain costs of the Development, it will be through the issuance of a Tax Increment Financing Note to the Developer. The maximum term of the note would be 15 years. Based on current tax rates, annual TIF revenue would be approximately 1.4% of the increased value.

The amount of any public assistance will be based on City of Fargo Tax Increment Financing policies, a review of the financial needs of the project, the vacancy rate for apartments in the vicinity of NDSU and the quality of the new development.

By adoption of this Renewal Plan, the City of Fargo is encouraging owners of dilapidated structures to demolish those structures immediately and to maintain that property as green space until they are ready to build new on the property. Property owners are also encouraged to maintain existing structures to comply with city housing codes, or demolish the structures.

Subsection 1.8. \_\_\_\_\_ Renewal Plan Amendments

The City anticipates that this Renewal Plan will be amended prior to final implementation. These amendments may, provide details on the new buildings, provide incentives to the developer, create a Tax Increment Financing District and incorporate a schedule for implementation.





1137 18<sup>th</sup> St N



1133 18<sup>th</sup> St N



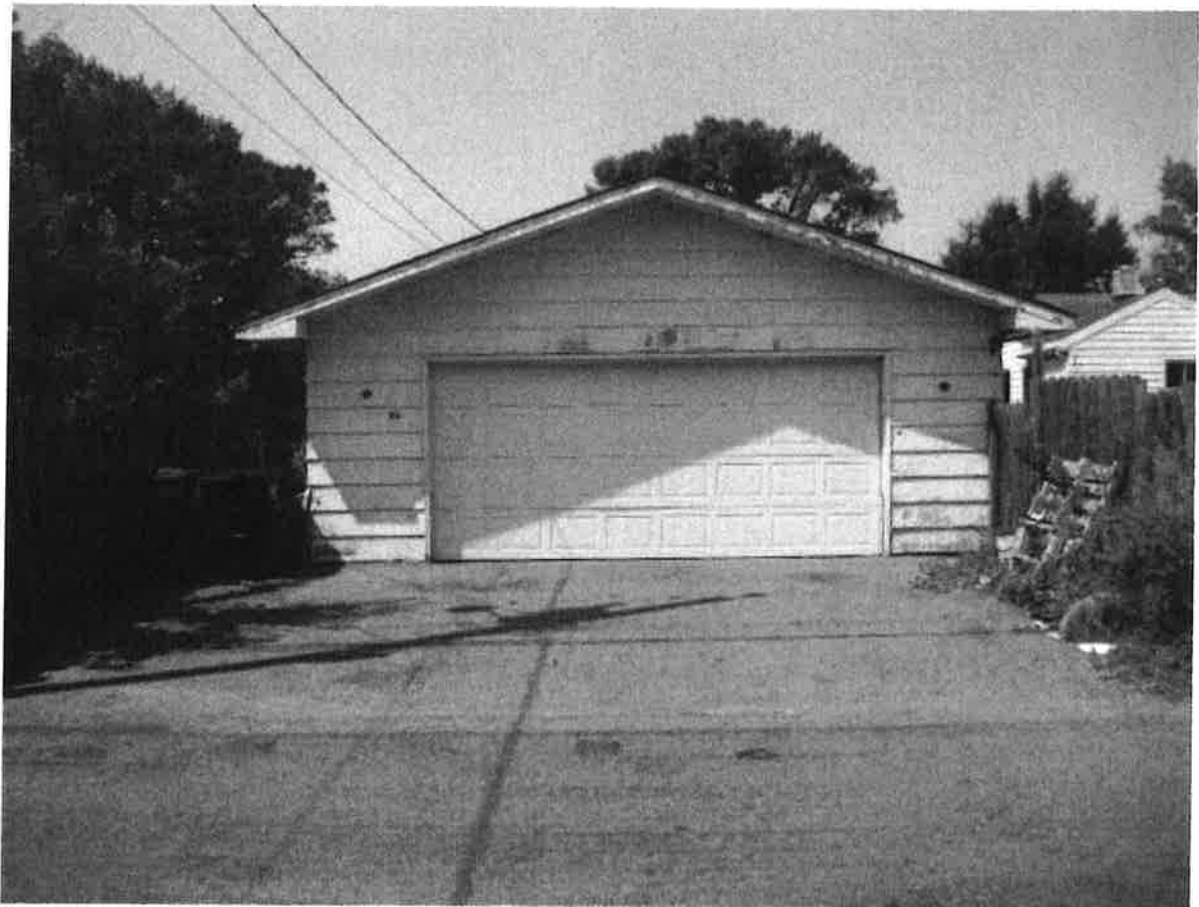
1133 18<sup>th</sup> St N



1129 18<sup>th</sup> St N



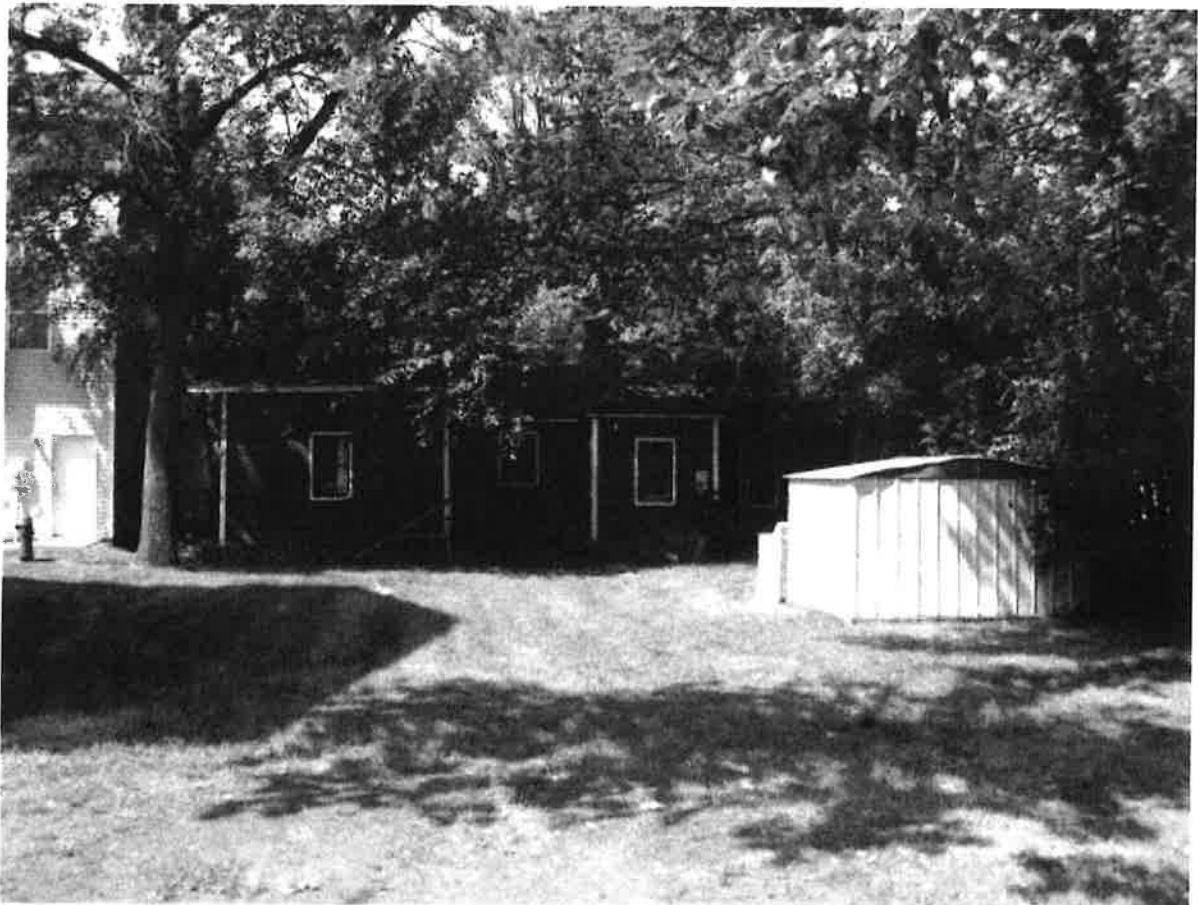
1125 18<sup>th</sup> St N

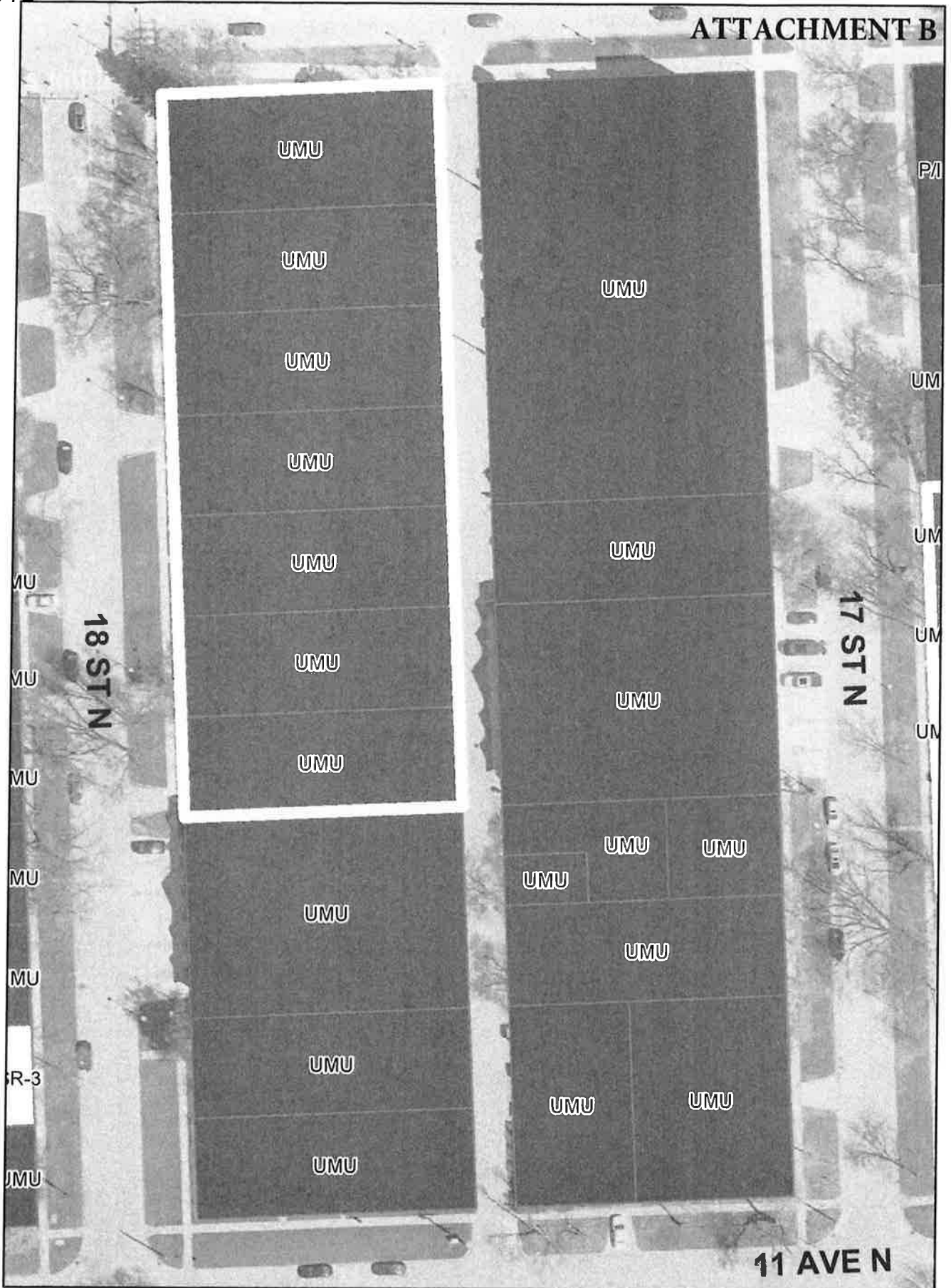


1121 18<sup>th</sup> St N



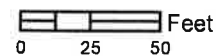
1117 18<sup>th</sup> St N





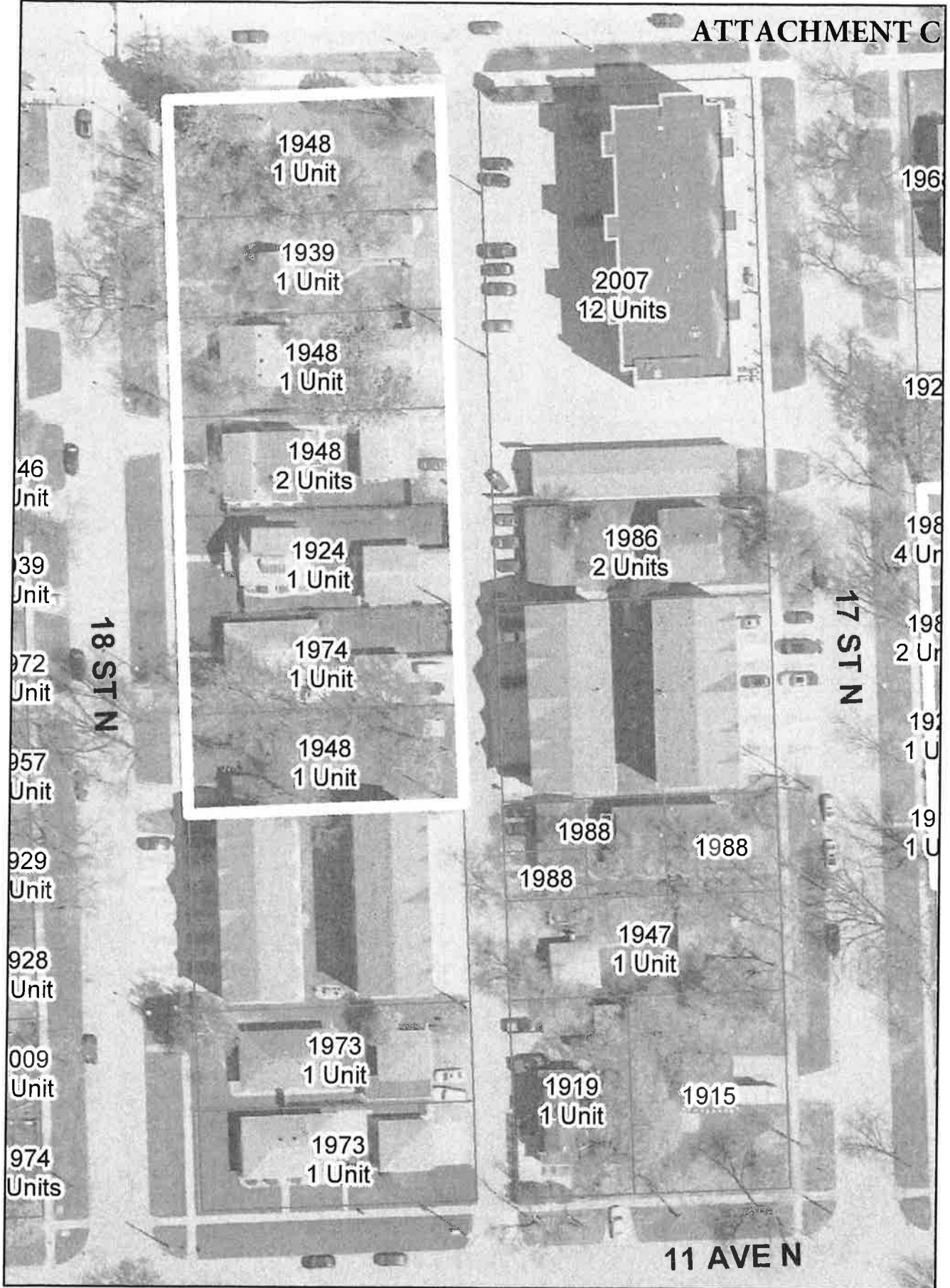
Renewal Area

# Renewal Area 2018-03 Zoning



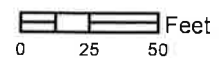


ATTACHMENT C

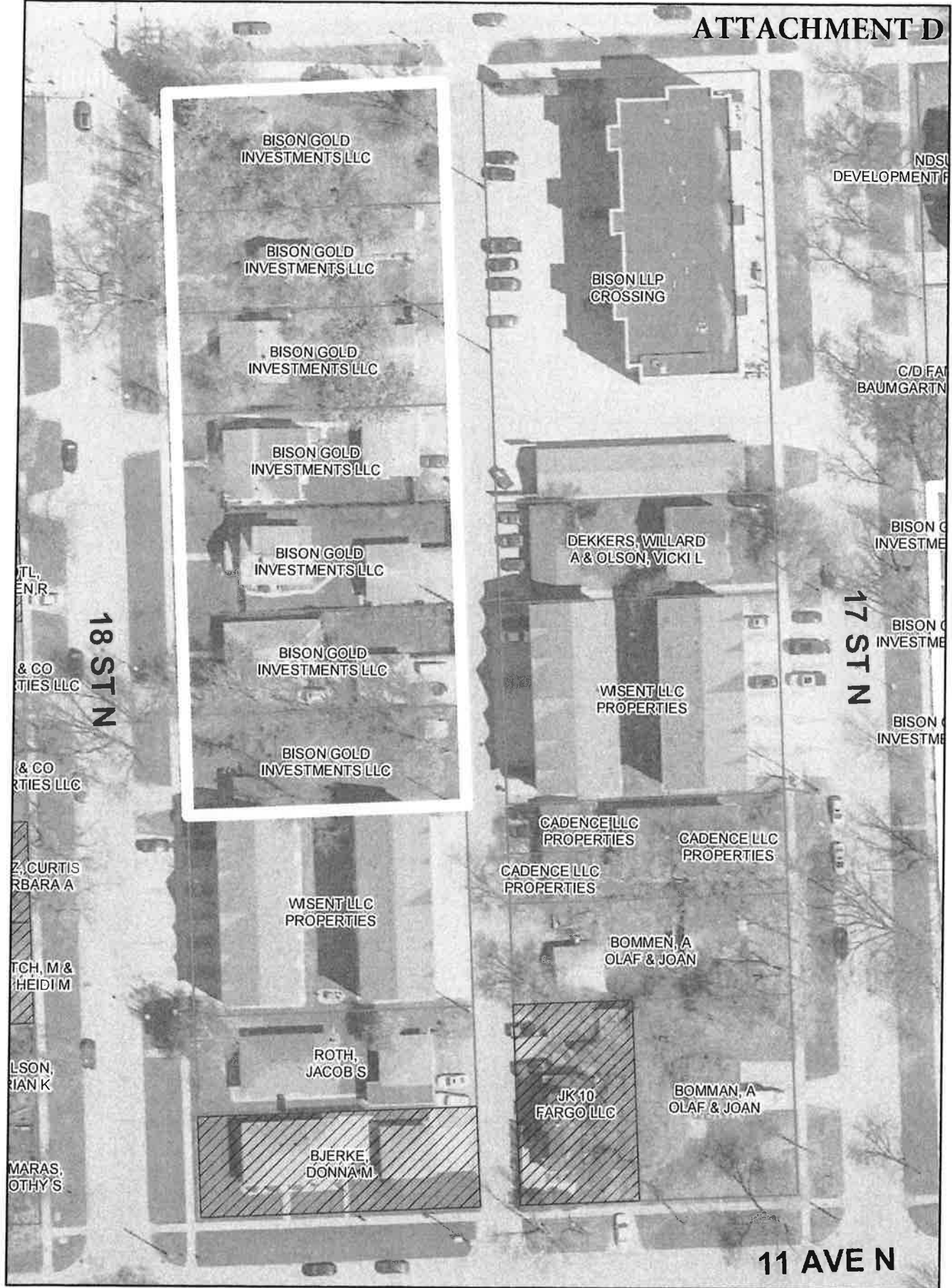




Renewal Area

Renewal Area 2018-03  
Year Built & Unit Count

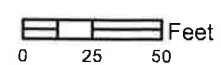


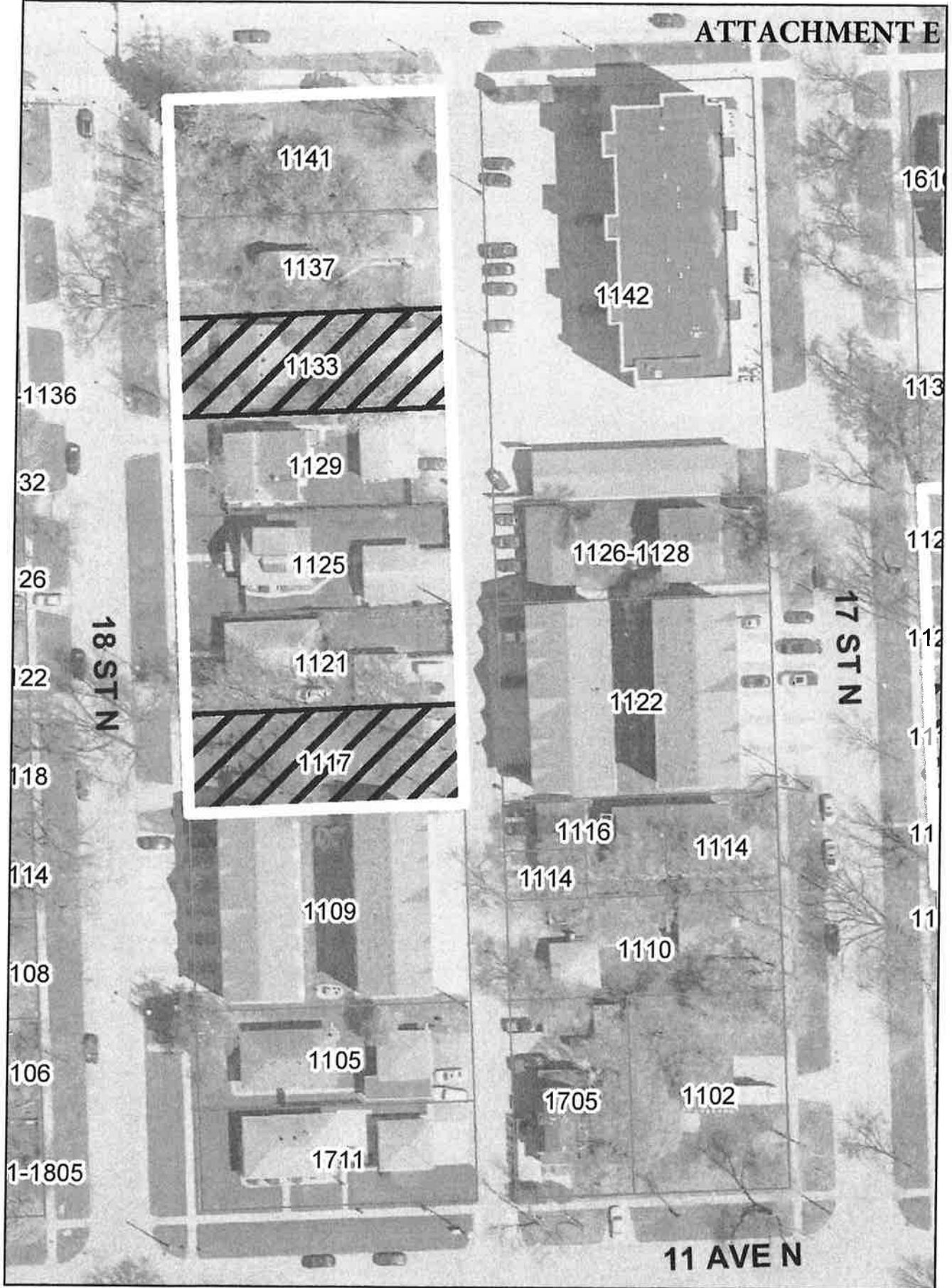
ATTACHMENT D





 Renewal Area  
 Owner Occupancy

# Renewal Area 2018-03





 Renewal Area  
 Dilapidated House

**Renewal Area 2018-03**  
 Dilapidated Houses to be Demolished





310

October 29, 2018

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

Attached is a copy of an application made by Enclave Development, LLC for a payment in lieu of tax (PILOT) according to N.D.C.C. Chapter 40-57.1. The exemption requested is for a project to be located at 302 11 St. N., 306 11 St. N., 312 11 St. N., 316 11 St. N., and 1109 3 Ave. N. where the applicant will construct a new downtown apartment project.

The Tax Exempt Review Committee has met to consider this application. There were no written or verbal protests submitted at the time the committee met and none have been filed to date.

Attached is a "but-for" financial analysis report prepared by PFM analyzing the need for this payment in lieu of tax (PILOT) incentive for this project.

The committee feels this project meets the necessary criteria to be eligible for an exemption due to the result of the "but-for" financial analysis and the need for the addition of apartment units downtown. The committee recommends approval of a 10 year, payment in lieu of taxes based on 5 years at 100% improvement exemption and 5 years at 75% improvement exemption.

**SUGGESTED MOTION:**

**Approval of a 10 year, payment in lieu of tax for the building based on 5 years at 100% exemption and 5 years at 75% exemption according to the attached payment schedule.**

Sincerely,

A handwritten signature in black ink that reads "Ben Hushka". The signature is written in a cursive style.

Ben Hushka  
Tax Exempt Review Committee

**Payment In Lieu of Property Tax**  
**Payment Schedule**

Pursuant to N.D.C.C. Chapter 40-57.1

PROJECT OPERATOR: Enclave Development, LLC

ASSUMPTIONS: **\$8,750,000 Improvement Value**  
Annual Tax Growth = 0%  
Years 1-5 = 100%  
Years 6-10 = 75%

PAYMENT SCHEDULE:

YEAR	IN LIEU PAYMENT
1	\$ 0
2	\$ 0
3	\$ 0
4	\$ 0
5	\$ 0
6	\$ 31,572
7	\$ 31,572
8	\$ 31,572
9	\$ 31,572
10	\$ 31,572

**\*\*Note** - The applicant will pay property tax on the land in addition to these in lieu payments.

RECEIVED

JUL 13 2018

Application For Property Tax Incentives For New or Expanding Businesses

N.D.C.C. Chapter 40-57.1

Project Operator's Application To Fargo City or County

FARGO ASSESSOR BY EMAIL FROM JIM GILMOUR

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

This application is a public record

Identification Of Project Operator

1. Name of project operator of new or expanding business Enclave Development LLC
2. Address of project 312 11th St N plus adjoining parcels owned by Enclave Companies LLC See Attachment B
City Fargo County Cass
3. Mailing address of project operator 1 2nd St N Suite 102
City Fargo State ND Zip 58102
4. Type of ownership of project
[ ] Partnership [ ] Subchapter S corporation [ ] Individual proprietorship
[ ] Corporation [ ] Cooperative [X] Limited liability company
5. Federal Identification No. or Social Security No. 38-3860391
6. North Dakota Sales and Use Tax Permit No. NA
7. If a corporation, specify the state and date of incorporation
8. Name and title of individual to contact Austin J Morris
Mailing address 1 2nd St N Suite 102
City, State, Zip Fargo ND 58102 Phone No. 701-361-4840

Project Operator's Application For Tax Incentives

9. Indicate the tax incentives applied for and terms. Be specific.
[ ] Property Tax Exemption [X] Payments In Lieu of Taxes
Number of years 2019 Beginning year 2029 Ending year
Percent of exemption Amount of annual payments (attach schedule if payments will vary)
10. Which of the following would better describe the project for which this application is being made:
[X] New business project [ ] Expansion of a existing business project

03/11/18

**Description of Project Property**

11. Legal description of project real property

See Attachment B

12. Will the project property be owned or leased by the project operator?  Owned  Leased

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?

Yes  No

If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.

13. Will the project be located in a new structure or an existing facility?  New construction  Existing facility

If existing facility, when was it constructed? \_\_\_\_\_

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application 09/01/2018

b. Description of project to be constructed including size, type and quality of construction  
60-75 unit apartment community with enclosed, secure parking, and various amenities for future residents

c. Projected number of construction employees during the project construction 100+

14. Approximate date of commencement of this project's operations 09/01/18

15. Estimated market value of the property used for this project:

a. Land..... \$ 196,000

b. Existing buildings and structures for which an exemption is claimed..... \$ 0

c. Newly constructed buildings and structures when completed ..... \$ 8,750,000

d. Total..... \$ 8,946,000

e. Machinery and equipment ..... \$ 0,

16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:

a. Land (not eligible) .....                     

b. Eligible existing buildings and structures..... \$ 0,

c. Newly constructed buildings and structures when completed..... \$ 437,500

d. Total taxable valuation of property eligible for exemption (Add lines b and c)..... \$ 437,500

e. Enter the consolidated mill rate for the appropriate taxing district ..... 285.49

f. Annual amount of the tax exemption (Line d multiplied by line e) ..... \$ 124,902.00

**Description of Project Business**

**Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.**

17. Type of business to be engaged in:  Ag processing  Manufacturing  Retailing  
 Wholesaling  Warehousing  Services

18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).

Develop and manage/lease 60-75 units of housing and amenity space on the fringe of  
Fargo's downtown.

19. Indicate the type of machinery and equipment that will be installed  
NA

20. For the project only, indicate the projected annual revenue, expense, and net income (before tax) from either the new business or the expansion itself for each year of the requested exemption.

Year (12 mo. periods)	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only	New/Expansion Project only
	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
Annual revenue	See Attached Pro Forma				
Annual expense					
Net income					

21. Projected number and salary of persons to be employed by the project for the first five years:

Current positions & positions added the initial year of project

# Current Positions	New Positions Under \$13.00	New Positions \$13.01-\$15.00	New Positions \$15.01-\$20.00	New Positions \$20.01-\$28.00	New Positions \$28.01-\$35.00	New Positions Over \$35.00
0			1			

Year	(Before project)	Year 1	Year 2	Year 3	Year 4	Year 5
No. of Employees	(1) 0	1	1	1	1	1
	(2)					
Estimated payroll	(1) 0	30,000	30,000	30,000	30,000	30,000
	(2)					

(1) - full time  
(2) - part time



**Previous Business Activity**

22. Is the project operator succeeding someone else in this or a similar business?  Yes  No

23. Has the project operator conducted this business at this or any other location either in or outside of the state?  
 Yes  No

24. Has the project operator or any officers of the project received any prior property tax incentives?  Yes  No  
 If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary). 300 Lime at 303 11th St N, Fargo ND 58102---Multifamily housing

**Business Competition**

25. Is any similar business being conducted by other operators in the municipality?  Yes  No

If YES, give name and location of competing business or businesses  
Owners, operators, managers of apartment and townhouse rentals in FM area

Percentage of Gross Revenue Received Where Underlying Business Has ANY Local Competition %

**Property Tax Liability Disclosure Statement**

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it?  Yes  No

27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property?  Yes  No

If the answer to 26 or 27 is Yes, list and explain

**Use Only When Reapplying**

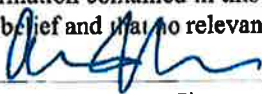
28. The project operator is reapplying for property tax incentives for the following reason(s):

- To present additional facts or circumstances which were not presented at the time of the original application
- To request continuation of the present property tax incentives because the project has:
  - moved to a new location
  - had a change in project operation or additional capital investment of more than twenty percent
  - had a change in project operators
- To request an additional annual exemption for the year of \_\_\_\_\_ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

**Notice to Competitors of Hearing**

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, Austin J Morris, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

 Managing Member \_\_\_\_\_  
 Signature Title Date

**Application for Property Tax Incentives- Schedule B**

**2. Address of project:**

**302 11<sup>th</sup> Street North  
306 11<sup>th</sup> Street North  
312 11<sup>th</sup> Street North  
316 11<sup>th</sup> Street North  
1109 3<sup>rd</sup> Ave. North**

**11. Legal Description of property**

**302 11<sup>th</sup> St N- Lot 12 Block 36 Roberts 2<sup>nd</sup> Add S40' of E90' Lot 12 Block 36  
306 11<sup>th</sup> St N- Lot 11 Block 36 Roberts 2<sup>nd</sup> Add E 90' Lot 11 Blk 36 and 10'of E 90' Lot 12  
312 11<sup>th</sup> St N- Lot 10 Block 36 Roberts 2<sup>nd</sup> Add  
316 11<sup>th</sup> St N- Lot 9 Block 36 Roberts 2<sup>nd</sup> Add  
1109 3<sup>rd</sup> Ave- Lot 11 Block 36 Roberts 2<sup>nd</sup> Add W 50' lots 11 & 12 Blk 36**

# City of Fargo, North Dakota

Payment in Lieu of Taxes Program

“But-For” Report

312 11<sup>th</sup> Street North

Downtown District

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October 25, 2018



## Table of Contents

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1. Purpose	1
2. Project	2
3. Project Financing	5
4. Return Analysis	6
5. Conclusion	8

## Purpose

The purpose of this report is to establish and determine the allowable value of the payment in lieu of taxes (PILOT) tax exemption for West 300 LLC (the "Developer").

PFM first reviewed the application/proforma to ensure that appropriate assumptions regarding property value, rent, vacancy, and expenses were used by the Developer. Based on those assumptions, PFM projected a 10-year cash flow, calculating an internal rate of return. The following report details PFM's analysis and conclusions concerning the viability of the proposed project without the subsidy. The proposed project will be an investment of the Developer so PFM also calculated an internal rate of return for the project.



## Project

The project being proposed by West 300 LLC includes constructing 64 apartment units at 312 11<sup>th</sup> Street North. The apartments will range from efficiency units at approximately 600 square feet to three bedroom/2 bathroom units at approximately 1,270 square feet. There will also be underground/covered parking available. As noted in the previous section, the proposed project is to be an investment property for the Developer.

The Developer has stated that the construction will be completed by Spring 2020 with occupancy immediately following. The Developer has requested PILOT financing assistance in an amount in excess of \$800,000 on a present value basis to complete the project. This amount is based on projections of the future tax payments less the projected PILOT payments. Both the estimated tax payments and estimated PILOT payments assume a property value increase of 2% per year. This amount assumes five years of 100% exemption and five years of 75% exemption.



## Project Financing

The Developer is investing 25% equity, or \$2,647,006, and will be privately financing \$7,941,018. The Developer is additionally requesting PILOT assistance through annual property tax savings. The private financing is estimated to be a 25-year loan at a 5.60% interest rate resulting in an annual principal and interest payment of \$597,788.



## Return Analysis

In calculating the internal rate of return, PFM first analyzed the Developer's assumptions including expected monthly rent, vacancy rate, and the operating expenses. The Developer is proposing a rent of \$895 per month to \$1,350 per month (furnished) for efficiency units, \$1,020 per month to \$1,550 per month (furnished) for one bedroom/one bathroom, \$1,650 per month to \$1,800 per month (furnished) for two bedroom/two bathroom, and \$1,850 per month for three bedroom/two bathroom units. The Developer provided estimates of operating expenses, as follows; Repairs/Maintenance - \$54/unit/month, Administration - \$121/unit/month, Insurance - \$26,470/year, Utilities - \$70/unit/month, Lawn/Snow - \$2,700; Replacement Reserve - \$6,500/year, Miscellaneous - \$4,675/year, and PILOT - \$2,803. The total expenses, assuming the Developer pays full real estate taxes, are approximately 37% of gross operating income. The operating expense assumptions appear to be a little low, but still reasonable. PFM used the given assumptions for Year 1 and, using a 2% inflationary factor for expenses and 1% for revenues, developed a 10-year cash flow. PFM assumed Year 1 vacancy rate would be 50% for 8 months of the year assuming a May 1 occupancy, Year 2 vacancy rate would be 10%, and 5% beyond Year 2.

The second step in determining the internal rate of return is to determine the earned incremental value of the property over the 10-year period. That value, along with the net operating income cash flows, was used to calculate the internal rate of return. PFM determined that without PILOT assistance the Developer would have about a 4.20% internal rate of return. The Developer would have about a 7.72% internal rate of return if it received the public assistance for the full 10 years. A reasonable rate of return for the proposed project is 10% - 15%.

Another measure of feasibility and project viability is the debt coverage ratio. PFM has projected a maximum debt coverage ratio of 0.99x without assistance in the first 10 years with a Year 4 coverage of 0.97x. If the City provided assistance to the project the maximum debt coverage is projected to be 1.18x with a Year 4 coverage of 1.18x. The minimum coverage of 1.08x occurs in Year 2 when the project is still assumed to be in the rent-up period. Debt coverage is important to developers when securing financing for their projects. Many times banks will require a minimum coverage in the range of 1.10x - 1.50x.

Using PFM's "without assistance" cash flow as the base scenario, PFM ran sensitivity analyses in order to determine if the project would be likely to occur without public assistance. For the first sensitivity analysis, PFM analyzed how much project funds would have to decrease in order to produce a reasonable internal rate of return. We also looked at how much the rental rates would have to fluctuate in order to achieve a reasonable internal rate of return. Lastly, we looked at a combination of the two scenarios. For the sensitivity analyses, we assumed a minimum debt coverage of 1.15x and a minimum internal rate of return of 10.00%.

### Sensitivity Scenario 1 – Project Costs

The project would have to be reduced by \$1,388,024 or 13.1% in order for the project to become viable without assistance. This reduces the amount to be financed from \$2,647,006 to \$2,330,000 and reduces the annual debt service payment from \$597,788 to \$519,422. It is somewhat unlikely that a reduction in project costs of this magnitude would occur at this stage in the process.

### Sensitivity Scenario 2 – Rental Rates

In order for the project to be viable without public assistance, the rental rate would have to increase by 19.7%. PFM believes this is a very large increase to the Developer's proposed rents. This increases annual revenue from \$973,044 to \$1,161,256 in Year 5. PFM believes this is a large increase to rents and is unlikely to occur.

### Sensitivity Scenario 3 – Combination of Project Costs and Rental Rates





The final scenario looks at both a reduction of project costs and an increase in rental rates. The analysis showed that project costs would have to be reduced by \$828,024 or 7.8% and rental rates would have to increase by 8.0%. Both of these options occurring is unlikely, but it is possible so it should be considered.

The above scenarios show the circumstances in which the project would become viable without public assistance. Based on the information provided PFM's analysis demonstrates that the project as currently anticipated is unlikely to occur "but-for" the public assistance.



## Conclusion

The Developer will bear all the risk involved with the project. The Developer is dependent on a number of factors before and after the project is completed, including project costs, occupancy of the units, the rental market, and monthly expenses. Both the internal rate of return without assistance and the debt service coverage are very low. The base scenario without assistance along with the sensitivity analyses demonstrate that the project would likely not be feasible without assistance.

PFM determines that with public assistance, based on 5 years of 100% property tax exemption followed by 5 years of 75% exemption, the Developer's internal rate of return, based on the assumptions outlined in this report, would be 7.72%. Furthermore, the Year 4 debt coverage ratio increases from 0.97x to 1.18x when assistance is provided. Based upon the information provided, the project would not be feasible "but-for" public assistance as it is currently shown by the Developer.



37d

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Gardenia Addition	<b>Date:</b>	6/26/2018
		<b>Update:</b>	10/31/2018
<b>Location:</b>	6357 & 6395 27 <sup>th</sup> St S (formerly addressed as 2705 64 <sup>th</sup> Ave S)	<b>Staff Contact:</b>	Aaron Nelson
<b>Legal Description:</b>	Auditor's Lot 10, SE ¼ Sec 2, T138N, R49W		
<b>Owner(s)/Applicant:</b>	Robert Kost	<b>Engineer:</b>	LJA
<b>Entitlements Requested:</b>	<b>Major Subdivision</b> (Auditor's Lot 10 in the Southeast Quarter of Section 2, Township 138 North, Range 49 West of the 5 <sup>th</sup> Principal Meridian City of Fargo, Cass County, North Dakota) and <b>Zone Change</b> (from AG, Agriculture to SR-2, Single-Dwelling Residential)		
<b>Status:</b>	City Commission Public Hearing: November 5, 2018		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Residential	<b>Land Use:</b> Unchanged
<b>Zoning:</b> AG, Agricultural	<b>Zoning:</b> SR-2, Single-Dwelling Residential
<b>Uses Allowed:</b> AG Allows detached houses, parks and open space, safety services, basic utilities, and crop production	<b>Uses Allowed:</b> SR-2 Allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities
<b>Maximum Density Allowed:</b> AG allows a maximum of 1 dwelling unit per 10 acres.	<b>Maximum Density Allowed:</b> SR-2 allows a maximum of 5.4 units per acre.

**Proposal:**

The subject property was annexed into the City in 2009, and remains unplatted and within the AG, Agricultural, zoning district. There is currently one detached house on the subject property, which was constructed prior to annexation, in 1977.

The applicant is seeking approval of a 1) major subdivision and 2) zoning map amendment. The intent of these two applications is to establish two legal lots for residential use.

The proposed subdivision would dedicate 100 feet of 64<sup>th</sup> Avenue S right-of-way, and would establish two legal lots for residential use. Lot 1 would be vacant and Lot 2 would contain the existing house. A negative access easement along 64<sup>th</sup> Avenue S would prevent vehicular access to/from this minor arterial street. Access to both lots is provided via 27<sup>th</sup> Street S.

The proposed zoning change to SR-2, Single-Dwelling Residential, would allow the proposed residential use of the property. The existing lot is currently non-conforming with the density requirement of the AG zoning district, which requires at least 10 acres of land for each dwelling unit.

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:**

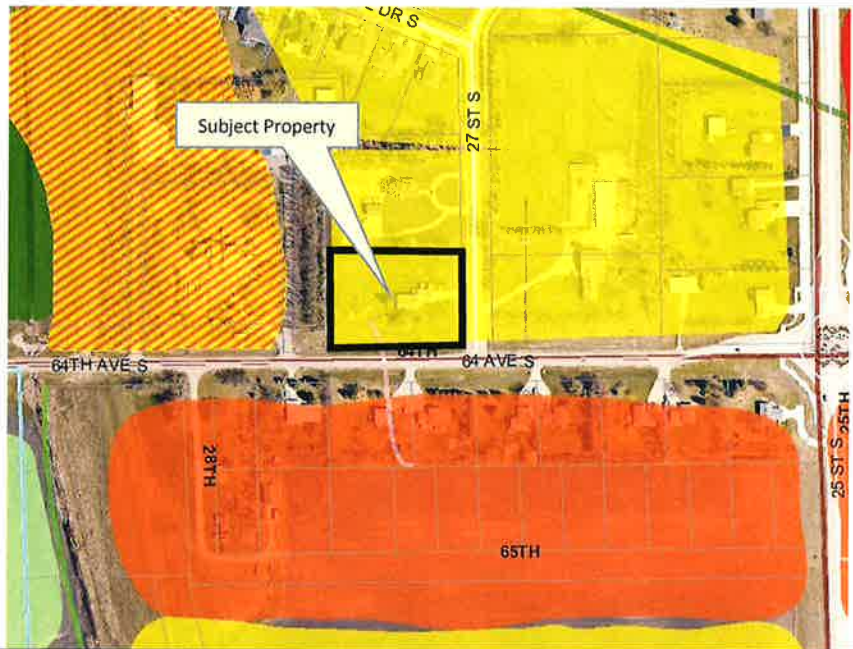
- North: SR-2, single-dwelling residential
- East: AG, single-dwelling residential
- South: SR-2, single-dwelling residential
- West: AG & SR-2, single-dwelling residential

**Area Plans:**

The subject property is located within the 2001 City of Fargo Growth Plan, as referenced within the 2007 Growth Plan. The plan identifies this area as low/medium density residential.

**Legend**

-  Low/Medium and Medium/High Density Residential
-  Commercial and Medium/High Density Residential
-  Low/Medium Density Residential
-  Medium/High Density Residential
-  Proposed\_Parkland
-  School



**Context:**

**Schools:** The subject property is located within the Fargo School District specifically Discovery Elementary, Bennett Middle and Davies High schools.

**Parks:** There are no parks within a half mile of the subject property.

**Pedestrian / Bicycle:** East of the property on 25<sup>th</sup> Street South there is an on road bike facility running north and south that connects to 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?**  
As noted in the Land Development Code (LDC), the AG zoning district is intended as an "interim" zoning classification pending determination of an appropriate zoning district. The zoning change is justified as the applicant is ready to establish the long-term urban zoning classification for the property, which is consistent and compatible with 2007 Growth Plan and compatible with the surrounding land uses. **(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 each residence 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 evidence that would suggest this proposal 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, staff has not received any comments. 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?**

Staff suggests that the SR-2 zoning district is intended to accommodate residential land use as outlined in Section 20-0203 of the LDC. The proposed amendment is consistent with all applicable portions of the Land Development Code and adopted City Policies. **(Criteria Satisfied)**

**Minor Subdivision**

The LDC stipulates that the following criteria is 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.**

This subdivision is intended to plat two legal lots for single-dwelling houses. The proposed use is consistent with the proposed zoning and the growth plan for the area. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. **(Criteria Satisfied)**

- 2. Section 20-907.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)**

**Planning Commission Recommendation: July 3, 2018**

On July 3, 2018, by a vote of 8-0, the Planning Commission accepted the findings and recommendations of staff and recommended approval to the City Commission of the proposed subdivision plat, *Gardenia Addition* and zoning map amendment from AG, Agricultural, to SR-2, Single-Dwelling Residential, on the basis that it satisfactorily complies with the 2007 Growth Plan, standards of Article 20-06, standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

**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 first reading and place the rezoning Ordinance on first reading, and to hereby approve the proposed subdivision plat, *Gardenia Addition* and zoning map amendment from AG, Agricultural, to SR-2, Single-Dwelling Residential, on the basis that it satisfactorily complies with the 2007 Growth Plan, standards of Article 20-06, standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

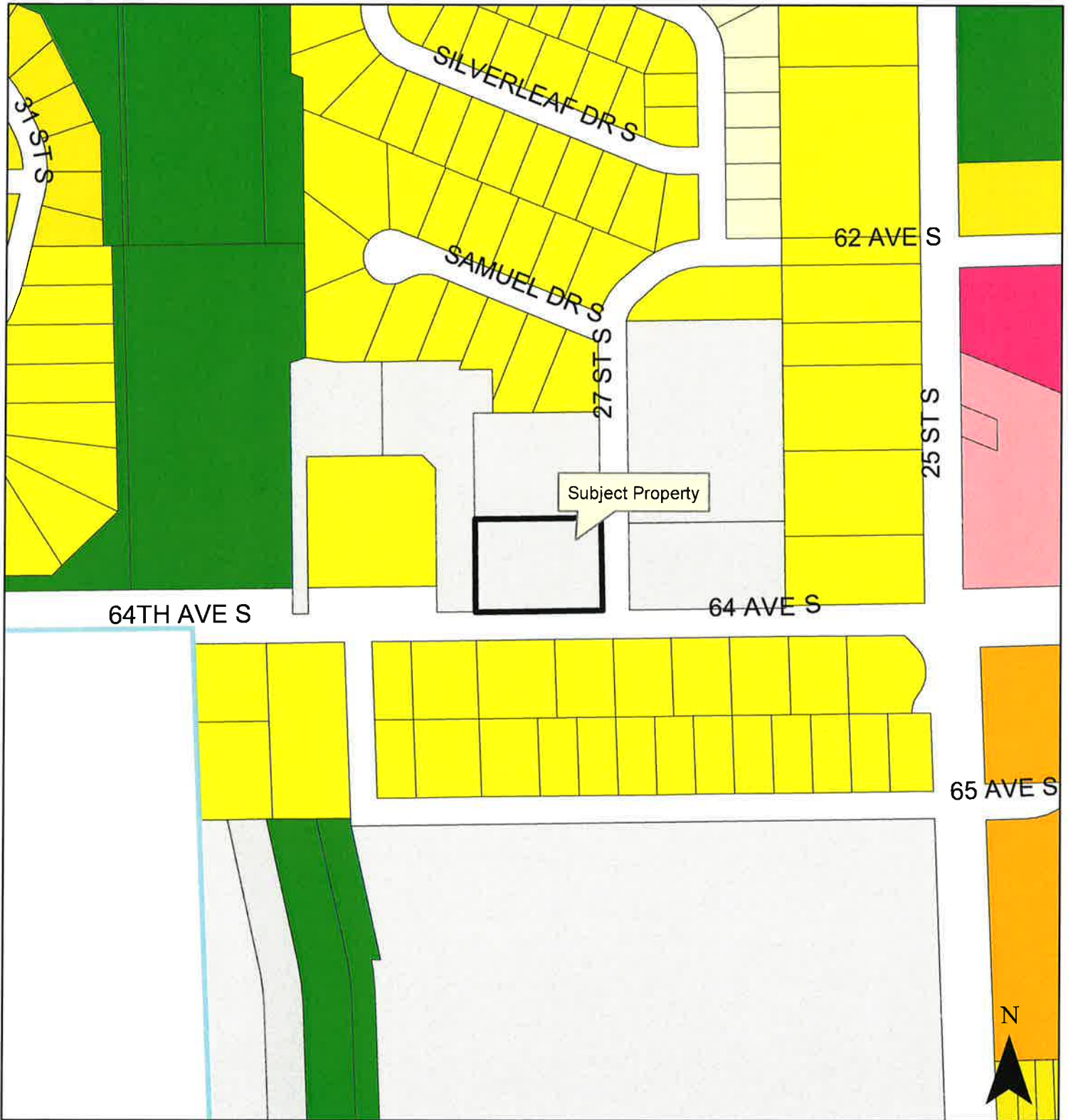
**Attachments:**

1. Zoning Map
2. Location Map
3. Preliminary Plat

# Plat (Major) and Zone Change (AG to SR-2)

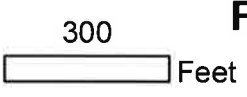
## Gardenia Addition

2705 64th Avenue South



### Legend

AG	DM	GC	GG	GO	LC	MR-1	MR-2	MR-3	MHP	NC	NO	PA	UMI	SR-2	SR-3	SR-4	SR-5	City Limits
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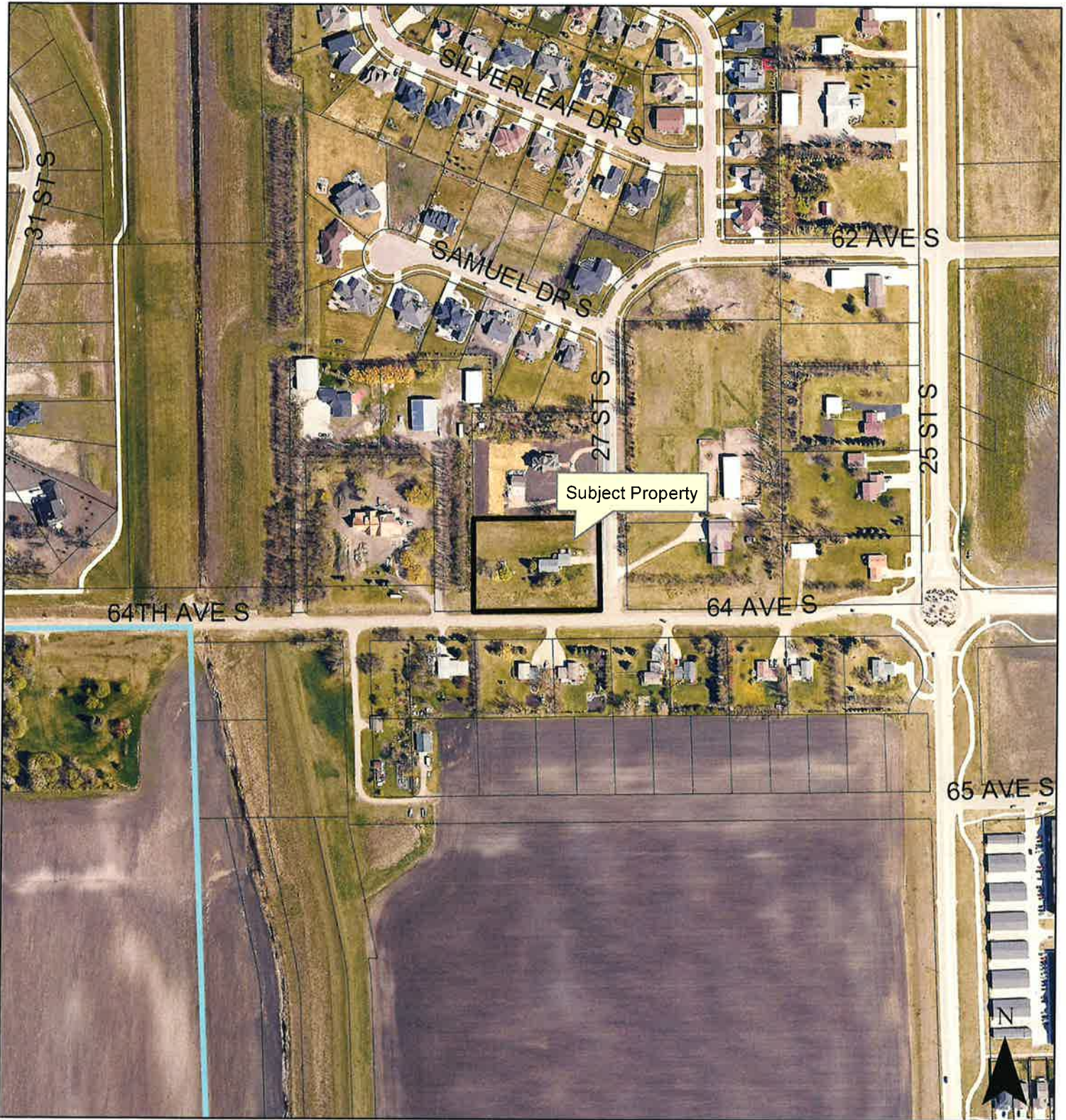


Fargo Planning Commission  
July 3, 2018

# Plat (Major) and Zone Change (AG to SR-2)

## Gardenia Addition

2705 64th Avenue South



**OWNER CERTIFICATE**  
 Auditor's lot for of the Southeast Quarter of Section Two, Township One Hundred  
 Thirty-eight North, Range Forty-one West of the Fifth Principal Meridian, is within of the City  
 of Fargo, the County of Cass and the State of North Dakota.  
 Tract contains 2.00 acres, more or less.  
 Above description is in reference to Document No. 1537555, on the one of record in the  
 office of the County Recorder, Cass County, North Dakota.  
 Said owner has reviewed the above described plat and is to be surveyed and platted as  
 to be within the limits of the said City of Fargo, North Dakota, and is hereby certifying  
 that the same is in accordance with the provisions and conditions of the said plat  
 and is hereby certifying that the same is in accordance with the provisions and conditions  
 of the said plat.

STATE OF NORTH DAKOTA  
 COUNTY OF CASS  
 On this 20th day of September, 2018 before me, a Notary Public in and for the County of Cass, State of North Dakota, personally appeared Robert D. Kohn, Mayor, to me  
 known, who being duly sworn, depose and say that he is the Mayor of the City of Fargo, North Dakota,  
 and that the above described plat is in accordance with the provisions and conditions of the said  
 plat and is hereby certifying that the same is in accordance with the provisions and conditions  
 of the said plat.  
 My Commission Expires 9-9-2022.

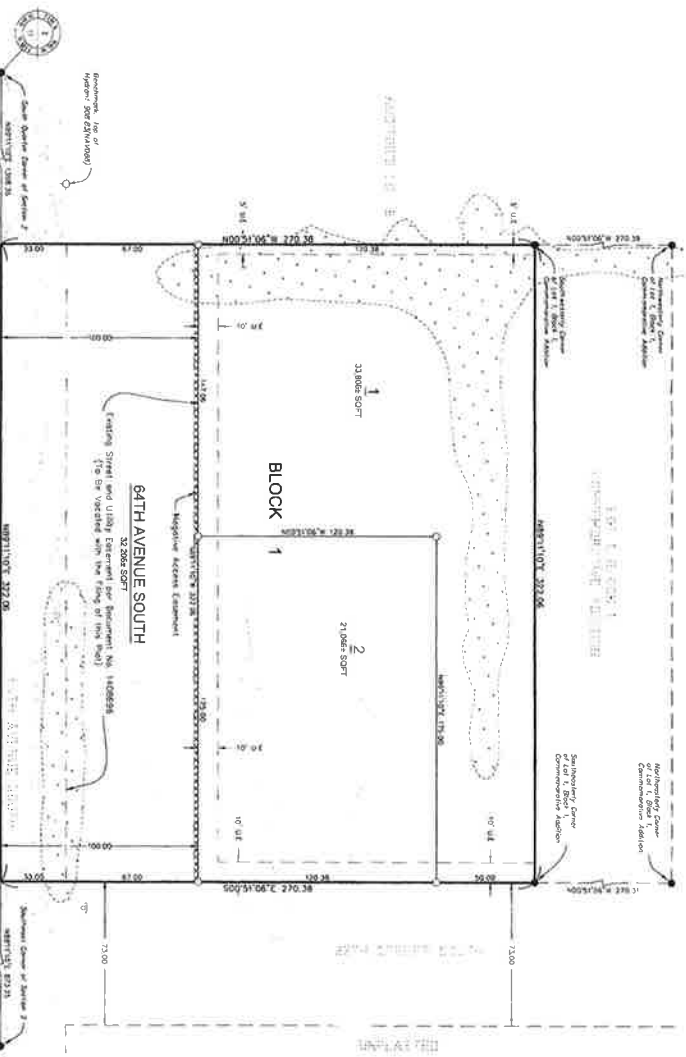


**SUBJECTS CERTIFICATE AND ACKNOWLEDGMENT**  
 I, William E. Anderson, Registered Land Surveyor under the laws of the State of North  
 Dakota, do hereby certify that the above described plat is in accordance with the provisions and  
 conditions of the said plat and is hereby certifying that the same is in accordance with the  
 provisions and conditions of the said plat.  
 My Commission Expires 9-9-2022.

**PUBLIC CITY ENGINEER APPROVAL**  
 This plat in the City of Fargo is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, 2018.  
 Bruce E. Young, City Engineer

**STATE OF NORTH DAKOTA**  
 COUNTY OF CASS  
 On this 20th day of September, 2018, before me, a Notary Public in and for the County of Cass, State of North Dakota, personally appeared Robert D. Kohn, Mayor, to me  
 known, who being duly sworn, depose and say that he is the Mayor of the City of Fargo, North Dakota,  
 and that the above described plat is in accordance with the provisions and conditions of the said  
 plat and is hereby certifying that the same is in accordance with the provisions and conditions  
 of the said plat.  
 My Commission Expires 9-9-2022.

**GARDENIA ADDITION**  
 AUDITORS LOT 10, IN THE SOUTHEAST QUARTER  
 SECTION 2, TOWNSHIP 138 NORTH, RANGE 49 WEST  
 CITY OF FARGO, COUNTY OF CASS, STATE OF NORTH DAKOTA  
 (A MAJOR SUBDIVISION)



- LEGEND**
- FOUND SURVEY MONUMENT
  - 50' BEAR SET AND MARKED
  - 15'-80"
  - DEVIATE BOUNDARY LINE
  - NEW LOT LINE
  - EXISTING LOT LINE
  - SECTION LINE
  - EASEMENT LINE
  - MAJOR CONTOUR
  - MINOR CONTOUR
  - LOT LINE
  - 100 YEAR FLOOD PLAIN
  - NECANTINE ACCESS EASEMENT

**NOTES**

1. The proposed Right-of-Way (ROW) boundary line is shown in red. The ROW boundary line is shown in red. The ROW boundary line is shown in red.

2. The proposed ROW boundary line is shown in red. The ROW boundary line is shown in red. The ROW boundary line is shown in red.

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10. The proposed ROW boundary line is shown in red. The ROW boundary line is shown in red. The ROW boundary line is shown in red.

**PUBLIC CITY ENGINEER APPROVAL**  
 This plat in the City of Fargo is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, 2018.  
 Bruce E. Young, City Engineer

**STATE OF NORTH DAKOTA**  
 COUNTY OF CASS  
 On this 20th day of September, 2018, before me, a Notary Public in and for the County of Cass, State of North Dakota, personally appeared Robert D. Kohn, Mayor, to me  
 known, who being duly sworn, depose and say that he is the Mayor of the City of Fargo, North Dakota,  
 and that the above described plat is in accordance with the provisions and conditions of the said  
 plat and is hereby certifying that the same is in accordance with the provisions and conditions  
 of the said plat.  
 My Commission Expires 9-9-2022.

**NOTARY PUBLIC**  
 STATE OF NORTH DAKOTA  
 COUNTY OF CASS  
 On this 20th day of September, 2018, before me, a Notary Public in and for the County of Cass, State of North Dakota, personally appeared Robert D. Kohn, Mayor, to me  
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 and that the above described plat is in accordance with the provisions and conditions of the said  
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 of the said plat.  
 My Commission Expires 9-9-2022.





OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

37d2

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
LYING IN GARDENIA ADDITION  
TO THE 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 the proposed Gardenia Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on July 3, 2018; and,

WHEREAS, the rezoning changes were approved by the City Commission on November 5, 2018,

NOW, THEREFORE,

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

Section 1. The following described property:

All of Gardenia Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "SR-2", Single-Dwelling Residential, 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.

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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.

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(SEAL)

Attest:

\_\_\_\_\_  
Steven Sprague, City Auditor

\_\_\_\_\_  
Timothy J. Mahoney, Mayor

First Reading:  
Second Reading:  
Final Passage:

37e

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	LDC Text Amendment	<b>Date:</b>	9-26-2018
		<b>Update:</b>	11-1-2018
<b>Location:</b>	N/A	<b>Staff Contact:</b>	Barrett Voigt/Aaron Nelson/Donald Kress
<b>Owner(s)/Applicant:</b>	City of Fargo/Zoning Administrator	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>LDC Text Amendment</b> (Amending Articles 20-02 through 20-07 and Article 20-09 of the Fargo Municipal Code (Land Development Code) relating to the correction of typos and errors; the clarification of existing standards; building material requirements in the DMU, Downtown Mixed-Use, zoning district; standards eligible for modification within a PUD, Planned Unit Development, zoning district; setbacks for accessory structures; floor area for home occupations; and vehicle drive-thru stacking spaces.)		
<b>Status:</b>	Planning Commission Public Hearing: October 2, 2018		

<b>Proposed Text Amendment</b>
<p><b>PROPOSAL:</b></p> <p>City staff is seeking approval of text amendment of Sections 20-02 through 20-07 and Section 20-09 of the Fargo Municipal Code (Land Development Code) relating to the correction of typos and errors; the clarification of existing standards; building material requirements in the DMU, Downtown Mixed-Use, zoning district; standards eligible for modification within a PUD, Planned Unit Development, zoning district; setbacks for accessory structures; floor area for home occupations; and vehicle drive-thru stacking spaces.</p> <p><b>BACKGROUND:</b></p> <p>For the past couple of years, the Planning and Development Department staff has compiled and maintained a list of Land Development Code (LDC) language edit proposals. Staff would like to take the opportunity at this Planning Commission meeting to provide the Planning Commission with a list of some of these LDC language edit proposals for review. The purpose and intent of the proposed edits are to correct grammar errors or clarify language so that it may more effectively convey how the ordinance is implemented in practice. Proposed edits to the effected LDC sections are provided below in a manner whereby only the relevant paragraph with edits in red font are displayed. Extensive section language was removed from this staff report document so that the report could maintain a short and concise format. If a more comprehensive investigation is needed to view the effected sections in their entirety, the Land Development</p>

Code document can be accessed online at the following Uniform Resource Locator (URL):  
[https://library.municode.com/nd/fargo/codes/code\\_of\\_ordinances?nodeId=CH20LADECO](https://library.municode.com/nd/fargo/codes/code_of_ordinances?nodeId=CH20LADECO)

### PROPOSED LDC ORDINANCE LANGUAGE EDITS:

The Zoning Administrator and staff proposed the following changes to Sections 20-02 through 20-07 and Section 20-09:

**a.) 20-0212D.3.b. (DMU Design Standards Language)**

*3. Building Siting and Design*

*The standards of this subsection apply to all development.*

*a. Front Setback*

*No front setback shall be required unless buildings immediately adjacent to the subject site are set back, in which case a setback equal to the average setback of the adjacent buildings shall be required. In no case shall setbacks of greater than 10 feet be required.*

*b. Materials*

*(1) Required*

*All walls ~~visible from the street~~ that front a public street shall be finished with architectural materials such as brick, glass, stone, ceramic, stucco, precast panels, exterior insulation finish systems (e.g. dryvit), or curtain walls. When the DMU development is detached/attached single family or small scale multi-dwelling in nature, typical residential structure exterior materials may be accepted (e.g. residential grade vinyl siding, composite brick, residential grade steel siding).*

**b.) 20-0216D. (UMU Design Standards Language Section)**

~~DE~~. *Alternative Design Standards.*

**c.) 20-0302E. (PUD Eligible Modifications Language)**

*E. Standards Eligible for Modification*

*The following otherwise applicable standards may be modified by the Board of City Commissioners during the PUD Master Land Use Plan approval process. Standards not listed are not eligible for modification.*

*1. Allowed Uses*

*The Board of City Commissioners shall establish the list of uses allowed in a PUD zoning district during the PUD Master Land Use Plan approval process (See Sec. 20-0908).*

*2. Lot Size*

*The minimum lot size standards of the underlying zoning district may be modified by the Board of*

*City Commissioners during the PUD review and approval process.*

**3. Residential Density**

*The maximum density standards of the underlying zoning district may be modified by the Board of City Commissioners during the PUD review and approval process.*

**4. Setbacks**

*The minimum setback standards of the underlying zoning district may be modified by the Board of City Commissioners during the PUD review and approval process.*

**5. Height**

*The maximum height limits of the underlying zoning district may be modified by the Board of City Commissioners during the PUD review and approval process.*

**6. Building Coverage**

*The maximum building coverage standards of the underlying zoning district may be modified by the Board of City Commissioners during the PUD review and approval process.*

**7. Parking**

*The minimum off-street parking standards of the underlying zoning district may be modified by the Board of City Commissioners during the PUD review and approval process.*

**8. Landscaping**

*The minimum landscaping standards, including, without limitation, Street Tree, Ground Cover Planting, Open Space Landscaping and Parking Lot Perimeter standards of the underlying zoning district may be waived and/or altered by the Board of City Commissioners during the PUD review and approval process.*

**9. Residential Protection Standards**

*The residential protection standards of the LDC may be modified by the Board of City Commissioner during the PUD review and approval process and the residential protection standards shall apply to an approved PUD unless they are so modified.*

**10. Open Space**

*The minimum Open Space standards of the underlying zoning district may be waived and/or altered by the Board of City Commissioners during the PUD review and approval process.*

**d.)20-0402.N.3.e (TSS Use Standards)**

~~As provided by Sec. 20-0401, TSSs in DMU and P/I zoning districts and TSSs which exceed the maximum building height for the applicable zoning district, but are not more than 125 feet in height in AG, SR-0-SR4, MR-1-MR-3, UMU, NC, NO, LC and GO zoning districts are Conditional Uses and are therefore subject to the Conditional Use review process of Sec. 20-0909:~~

As provided by Sec. 20-0401, in AG, SR-0—SR-5, MR-1—MR-3, UMU, MHP, NO, NC, GO, LC, DMU, and P/I zoning districts, TSSs which exceed the maximum height for TSSs permitted by-right for the applicable zoning district, but are not more than 125 feet in height are Conditional Uses and are therefore subject to the Conditional Use review process of Sec. 20-0909:

**e.)20-0403B.3 (Accessory Use Dimensional Standards Language)**

**3. Rear Setback**

a. In all zoning districts, ~~other than excluding the~~ UMU zoning district, when located within the rear yard area, accessory structures ~~shall be~~ are exempt from the rear and interior-side setback requirements, ~~provided that they of the underlying zoning district and~~ shall be set back at least 3 feet from rear and interior-side lot lines. This 3-foot setback shall not apply to fences or walls.

**f.) 20-0403C. (Accessory Home Occupations Definitions)**

**C. Home Occupations**

Many types of work can be conducted at home with little or no effect on the surrounding neighborhood. The home occupation regulations of this section are intended to permit residents to engage in home occupations, while ensuring that home occupations will not be a detriment to the character and livability of the surrounding neighborhood. The regulations require that home occupations (an accessory use) remain subordinate to the allowed principal use (household living) and that the residential viability of the dwelling unit is maintained. For the purposes of this section, a home includes a dwelling unit and/or a garage.

\* \* \*

**2. Minor Home Occupations - Defined**

A Minor Home Occupation is one in which residents use up to 25 percent of the floor area of their home as a place of work, but in which no employees come to the site. Minor Home Occupations allow up to four customers per day, with a maximum of 12 customers per week, only between the hours of 7:00 a.m. and 9:00 p.m. No more than one customer is permitted on the site at any given time. Examples include, but are not limited to, artists, crafts people, writers, professional consultants personal care and grooming services, and employees of off site businesses who work from their home. In addition, tutors, such as piano or other music teachers, who provide lessons to no more than 60 students per week and do not have non-resident employees coming to the site, shall be deemed minor home occupations. In addition, dog grooming services that would qualify as a Minor Home Occupation as a result of percentage of floor area of the home, customer activity and hours of operation may be allowed after it has been reviewed and approved in accordance with Conditional Use Review procedures of Sec. 20-0909. Unless otherwise expressly stated, any Conditional Use Permit for such dog grooming service granted pursuant to Section 20-0909 shall automatically terminate upon sale or transfer of the property. For purposes of calculating floor area of a minor or major home occupation in which the home occupation occupies a garage that is attached or detached from the primary home structure, the sum of the home and garage square footage shall be included in the total square footage from which the 25 percent maximum floor area is computed.

**3. Major Home Occupations - Defined**

A Major Home Occupation is one in which residents use up to 25 percent of the floor area of their home as a place of work and that has a nonresident employee and/or customers coming to the site.

*Examples are counseling, tutoring, and hair cutting and styling.*

**g.) 20-0502 (Non-Residential Dimension Standards Language)**

*§20-0502 - Nonresidential District Standards*

*The dimensional standards of Table 20-0502 apply to all development in nonresidential zoning districts.*

*Table 20-0502*

Dimensional Standard						
	GO	LC	DMU	GC	LI	GI
Minimum Lot Size						
Minimum Setbacks (Ft.)						
Front	20	10	0	20	20	50
Interior Side	5	5	0	5 <sup>[3]</sup>	10 <sup>[1]</sup>	20 <sup>[1]</sup>
Street Side	20	10	0	20	20	50
Rear	15	15	0	15	20	20
Watercourse Setback	<sup>[3]</sup>	<sup>[3]</sup>	<sup>[3]</sup>	<sup>[3]</sup>	<sup>[3]</sup>	<sup>[3]</sup>
Maximum Building Coverage (Pct. of Lot)	65	55	100	85	85	85
Maximum Height (Ft.)	60	35/60 <sup>[2]</sup>	None	None	None	None

*Source: 4039 (2000), 4225 (2002), 4818 (2012).*

<sup>[1]</sup> No setback required when adjacent to DMU

<sup>[2]</sup> The 35-foot height restriction applies whenever residential protection standards apply, or when the Limited Commercial parcel is within 300 feet of SR zoning. Otherwise, the height limit shall be 60 feet in Limited Commercial zoning districts.

<sup>[3]</sup> Watercourse setbacks for all residential, nonresidential and overlay/special purpose zoning districts are as set forth in Section 20-0508.

**h.) 20-0612 (Subdivision Design and Improvements Language)**

*§20-0612 - Waivers*

*The Planning Commission shall be authorized to recommend and the Board of City Commissioners shall be authorized to approve Modifications or Waivers of the Subdivision Design and Improvement Standards of this article in accordance with the Subdivision Waiver provisions of Sec. ~~20-0907-E20-0907-D.~~*

**i.) 20-0701G. (Parking and Loading Language)**

*G. Parking and Loading Area Design*

*Off-street parking and loading areas must be designed and constructed to accepted construction standards in the industry. Unless otherwise expressly stated in this Land Development Code or approved by the City, all ~~required~~ off-street parking spaces shall have an all-weather surface. In LI or GI zoning districts only, rear yard vehicular circulation area, not including parking spaces, may be crushed concrete or similar material as approved by the Zoning Administrator. In addition, the use of gravel as an off-street parking and loading area surface material is permitted in any SR zoning district per Sec. 20-0701.D.2.b.*

**j.) 20-0701I.2.b. (Parking and Loading Language)**

*2. Design and Layout*

*Required stacking spaces are subject to the following design and layout standards.*

*a. Size*

*Stacking spaces must be a minimum of 8 feet by 20 feet in size.*

*b. Location*

*Stacking spaces may not impede on- or off-site traffic movements or movements into or out of required off-street parking spaces.*

*c. Design*

*Stacking spaces must be separated from other internal driveways by raised medians if deemed necessary by the City Engineer for traffic movement and safety.*

**k.) 20-0704A.2 (Residential Protection Standards Language)**

*§20-0704 - Residential Protection Standards*

*A. General*

*1. Purpose*

*The Residential Protection Standards of this section are intended to protect residential properties and neighborhoods from the adverse impacts sometimes associated with adjacent multi-dwelling development and nonresidential development, whether public or private.*

*2. Applicability [1]*

*The standards of this section apply to:*

- a. All multi-dwelling development when such development occurs on a site located within*



150 feet of any SR or MHP zoning districts; and

b. All non-residential development when such development occurs on a site located within 150 feet of any SR, MR or MHP zoning districts.

[1] For purposes of the residential protection buffers, property zoned AG-Agricultural that is identified as being future residentially-zoned property on any growth plan approved under §20-0905 shall be deemed to be SR-, MR-, or MHP-zoned property.

**I.) 20-0705C.1 (Landscape Opens Space Requirements Language)**

*C. Open Space Landscaping*

*1. Applicability*

The Open Space Landscaping standards of this subsection shall apply to ~~all any~~ development that contains three or more attached dwelling units in SR-3, ~~or~~ SR-4, or SR -5 zoning districts ~~developments containing three or more attached dwelling units~~ and to in all any development in MR-1 ~~or and~~ more intensive zoning districts.

**m.) 20-0901 (Development Review Procedures Compliance with North Dakota Century Code Table)**

Procedure	Sec. No.	Review (R), Decision-Making (DM) and Appeal (A) Bodies				
		Staff	HPC	BOA	PC	BCC
LDC Text Amendments	20-0904	R			R	DM
Area Plan	20-0905	R			R	DM
Zoning Map Amendments	<del>20-0201</del> 20-0906	R	R <sup>[1]</sup>		R	DM
<b>Subdivision</b>	20-0907					
Minor					R	DM
Major		R			R	DM
<b>Planned Unit Developments</b>	20-0908					
Master Land Use Plan		R			R	DM

PUD Rezoning		R			R	DM
Final Development Plan		R			DM	A
Conditional Use Permits	20-0909	R			DM	A
Site Plan Review	20-0910	DM			A	A <sup>[2]</sup>
Institutional Master Plan	20-0911	R			DM	A
Certificates of Appropriateness	20-0912	R & DM <sup>[3]</sup>	DM & A <sup>[3]</sup>			A <sup>[2]</sup>
Building Permits/Certificates of Occupancy	20-0913	DM		A		
Variances	20-0914			DM		A
Written Interpretations	20-0915	DM		A		
Appeals of Administrative Decisions	20-0916			DM		A
n.) 20-0907B. (Subdivision Process Illustration Graphic)						

## Minor Subdivisions



**o.) 20-09141.3. (Variance Appeal Language)**

*3. Action on Appeal*

*The Board of City Commissioners shall consider the appealed decision as a new matter in a public hearing and, at the close of the public hearing, act to approve or deny the original application for a Variance. The procedure and required notice shall be the same as required of the original action before the Board of Adjustment. A favorable vote of ¾ of all the members of the Board of City Commissioners shall be required to approve any variance request.*

**Staff Analysis:**

In accordance with §20-0904.E Review Criteria of the Land Development Code, the proposed text amendments that satisfy all of the following criteria may be approved.

**1. The amendment must be consistent with the purpose of this Land Development Code;**

Section 20-0104 of the LDC stipulates that the purpose and intent of the Land Development Code 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 above-mentioned edits have already received review for purpose and intent to implement City plans and policies that protect the health safety, and general welfare of the citizens of Fargo. It is the intention of staff to provide the edits so that grammar errors are corrected and clarification is provided to the language so that implementation of the ordinances are more transparent to the public. The proposed edits would not alter or change the original purpose and intent of the language.

**(Criteria Satisfied)**

**2. The amendment must not adversely affect the public health, safety, or general welfare;**

Staff finds that the amendments do not adversely affect public health, safety, or general welfare. The proposed edits above are intended to clarify the language so that public health, safety, and general welfare may be preserved.

**(Criteria Satisfied)**

**3. The amendment is necessary because of changed or changing social values, new planning concepts or other social or economic conditions in the areas affected.**

Staff advocates that the proposed amendments are necessary so that by proactively providing clarification and transparency, it is anticipated that the LDC language will be further enabled to confront or resolve any challenges that result from changes in social values, new planning concepts or economic conditions.

**(Criteria Satisfied)**

**Planning Commission Recommendation: October 2, 2018**

On October 2, 2018, with a 8-0 vote, the Planning Commission accepted the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed text amendment to Sections 20-02 through 20-07 and Section 20-09 of the Fargo Municipal Code (Land Development Code), relating to the correction of typos and errors; the clarification of existing standards; building material requirements in the DMU, Downtown Mixed-Use, zoning district; standards eligible for modification within a PUD, Planned Unit Development, zoning district; setbacks for accessory structures; floor area for home occupations; and vehicle drive-thru stacking spaces, as the proposal meets the approval criteria of §20-0904.E(1-3) of the LDC."

**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 move approve of the proposed text amendment to Sections 20-02 through 20-07 and Section 20-09 of the Fargo Municipal Code (Land Development Code), relating to the correction of typos and errors; the clarification of existing standards; building material requirements in the DMU, Downtown Mixed-Use, zoning district; standards eligible for modification within a PUD, Planned Unit Development, zoning district; setbacks for accessory structures; floor area for home occupations; and vehicle drive-thru stacking spaces, as the proposal meets the approval criteria of §20-0904.E(1-3) of the LDC."

**Attachments:**

1. Draft LDC Text Amendment Ordinance

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FARGO, NORTH DAKOTA

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ORDINANCE NO. \_\_\_\_\_

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AN ORDINANCE AMENDING SECTIONS  
20-0212, 20-0216, 20-0302, 20-0402, 20-0403, 20-0502, 20-0612, 20-0701,  
20-0704, 20-0705, 20-0901, 20-0907, AND 20-0914  
OF ARTICLES 20-02 THRU 20-07 AND  
20-09 OF CHAPTER 20 OF  
THE FARGO MUNICIPAL CODE RELATING TO  
THE LAND DEVELOPMENT CODE OF THE CITY OF FARGO

WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in accordance with Chapter 40-50.1 of the North Dakota Century 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 supercede state laws in conflict therewith and shall be liberally construed for such purpose; 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.

Subparagraph 20-0212.D.3.b. of Section 20-0212 of Article 20-02 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

\* \* \*

**b. Materials**

**(1) Required**

All walls ~~visible from the street~~ that front a public street shall be finished with architectural materials such as brick, glass, stone, ceramic, stucco, precast

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panels, exterior insulation finish systems (e.g. dryvit), or curtain walls. When the DMU development is detached/attached single family or small scale multi-dwelling in nature, typical residential structure exterior materials may be accepted (e.g. residential grade vinyl siding, composite brick, residential grade steel siding).

\* \* \* \*

Section 2. Amendment.

Subsection 20-0216D. of Section 20-0216 of Article 20-02 of Chapter 20 (Land Development Code) is hereby amended to re-number the subsection as follows:

\* \* \*

~~D~~E. Alternative Design Standards.

\* \* \* \*

Section 3. Amendment.

Subsection 20-0302E. of Section 20-0302 of Article 20-03 of Chapter 20 (Land Development Code) is hereby amended to add a paragraph to read as follows:

\* \* \*

10. Open Space

The minimum Open Space standards of the underlying zoning district may be waived and/or altered by the Board of City Commissioners during the PUD review and approval process.

Section 4. Amendment.

Subparagraph 20-0402.N.3.e. of Section 20-0402 of Article 20-04 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

- e. ~~As provided by Sec. 20-0401, TSSs in DMU and P/I zoning districts and TSSs which exceed the maximum building height for the applicable zoning district, but are not more than 125 feet in height in AG, SR-0-SR4, MR-1-MR-3, UMU, NC, NO, LC and GO zoning districts are Conditional Uses and are therefore subject to the Conditional Use review process of Sec. 20-0909~~

As provided by Sec. 20-0401, in AG, SR through SR-5, MR-1 through

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MR-3, UMU, MHP, NO, NC, GO, LC, DMU, and P/I zoning districts, TSSs which exceed the maximum height for TSSs permitted by-right for the applicable zoning district, but are not more than 125 feet in height are Conditional Uses and are therefore subject to the Conditional Use review process of Sec. 20-0909:

\* \* \* \*

Section 5. Amendment.

Paragraph 20-0403B.3 of Section 20-0403 of Article 20-04 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

3. Rear Setback

- a. In all zoning districts, other than except the UMU zoning district, accessory structures, when located within the rear yard area, ~~shall be~~ are exempt from the rear and interior-side setback requirements, ~~provided that they of the underlying zoning district and~~ shall be set back at least 3 feet from rear and interior-side lot lines. This 3-foot setback shall not apply to fences or walls.
- b. In a UMU district, accessory structures, other than fences or walls shall meet the rear setback requirements of Sec. 20-0501. As in districts other than UMU zoning districts, said setback requirements do not apply to fences or walls.

Section 6. Amendment.

Paragraph 20-0403C.2. of Section 20-0403 Article 20-04 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

**2. Minor Home Occupations - Defined**

A Minor Home Occupation is one in which residents use up to 25 percent of the floor area of their home as a place of work, but in which no employees come to the site. Minor Home Occupations allow up to four customers per day, with a maximum of 12 customers per week, only between the hours of 7:00 a.m. and 9:00 p.m. No more than one customer is permitted on the site at any given time. Examples include, but are not limited to, artists, crafts people, writers, professional consultants personal care and grooming services, and employees of off-site businesses who work from their home. In addition, tutors, such as piano or other music teachers, who provide lessons to no more than 60 students per week and do not have non-resident employees



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1 coming to the site, shall be deemed minor home occupations. In addition, dog  
 2 grooming services that would qualify as a Minor Home Occupation as a result of  
 3 percentage of floor area of the home, customer activity and hours of operation may be  
 4 allowed after it has been reviewed and approved in accordance with Conditional Use  
 5 Review procedures of Sec. 20-0909. Unless otherwise expressly stated, any  
 6 Conditional Use Permit for such dog grooming service granted pursuant to Section  
 7 20-0909 shall automatically terminate upon sale or transfer of the property. For  
 8 purposes of calculating floor area of a minor or major home occupation in which the  
 9 home occupation occupies a garage that is attached or detached from the primary  
 10 home structure, the sum of the home and garage square footage shall be included in  
 11 the total square footage from which the 25 percent maximum floor area is computed.

12 Section 7. Amendment.

13 Section 20-0502 of Article 20-05 of Chapter 20 (Land Development Code) is hereby  
 14 amended to read as follows:

15 §20-0502 - Nonresidential District Standards

16 The dimensional standards of Table 20-0502 apply to all development in  
 17 nonresidential zoning districts.

18 **Table 20-0502**

Dimensional Standard						
	GO	LC	DMU	GC	LI	GI
Minimum Lot Size						

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Minimum Setbacks (Ft.)						
Front	20	10	0	20	20	50
Interior Side	5	5	0	5 <sup>[3]</sup>	10 <sup>[1]</sup>	20 <sup>[1]</sup>
Street Side	20	10	0	20	20	50
Rear	15	15	0	15	20	20
Watercourse Setback	[3]	[3]	[3]	[3]	[3]	[3]
Maximum Building Coverage (Pct. of Lot)	65	55	100	85	85	85
Maximum Height (Ft.)	60	35/60 <sup>[4]</sup>	None	None	None	None

[1] No setback required when adjacent to DMU

[2] The 35-foot height restriction applies whenever residential protection standards apply, or when the Limited Commercial parcel is within 300 feet of SR zoning. Otherwise, the height limit shall be 60 feet in Limited Commercial zoning districts.

[3] Watercourse setbacks for all residential, nonresidential and overlay/special purpose zoning districts are as set forth in Section 20-0508.

Section 8. Amendment.

Section 20-0612 of Article 20-06 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

\* \* \*

**§20-0612 Waivers**

The Planning Commission shall be authorized to recommend and the Board of City Commissioners shall be authorized to approve Modifications or Waivers of the Subdivision

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Design and Improvement Standards of this article in accordance with the Subdivision Waiver provisions of Sec. ~~20-0907-E~~20-0907.

Section 9. Amendment.

Subsection 20-0701G. of Section 20-0701 of Article 20-07 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

G. Parking and Loading Area Design

Off-street parking and loading areas must be designed and constructed to accepted construction standards in the industry. Unless otherwise expressly stated in this Land Development Code, including paragraph D.2. of this section pertaining to gravel surfaces in rear yards within single-family (SR) zoning districts, or approved by the City, all ~~required~~ off-street parking spaces shall have an all-weather surface. In LI or GI zoning districts only, rear yard vehicular circulation area, not including parking spaces, may be crushed concrete or similar material as approved by the Zoning Administrator

Section 10. Amendment.

Subparagraph 20-0701.I.2.b. of Section 20-0701 of Article 20-07 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

**2. Design and Layout**

Required stacking spaces are subject to the following design and layout standards.

a. Size

Stacking spaces must be a minimum of 8 feet by 20 feet in size.

b. Location

Stacking spaces may not impede on- or off-site traffic movements or movements into or out of required off-street parking spaces.

Section 11. Amendment.

Paragraph 20-0704A.2 of Section 20-0704 of Article 20-07 of Chapter 20 (Land Development Code) is hereby amended to add a footnote reference to the existing footnote 1 of said section so that it reads as follows:

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§20-0704A.2 Residential Protection Standards

\*\*\*

2. Applicability <sup>[1]</sup>

The standards of this section apply to:

- a. All multi-dwelling development when such development occurs on a site located within 150 feet of any SR or MHP zoning districts; and
- b. All nonresidential development when such development occurs on a site located within 150 feet of any SR, MR or MHP zoning districts.

[1] For purposes of the residential protection buffers, property zoned AG-Agricultural that is identified as being future residentially-zoned property on any growth plan approved under §20-0905 shall be deemed to be SR-, MR-, or MHP-zoned property.

Section 12. Amendment.

Subsection 20-0705C.1 of Section 20-0705 of Article 20-07 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

C. Open Space Landscaping

1. Applicability

The Open Space Landscaping standards of this subsection shall apply to ~~all any~~ development that contains three or more attached dwelling units in SR-3, ~~or SR-4, or SR-5 zoning districts~~ ~~developments containing three or more attached dwelling units~~ and to in all any development in MR-1 ~~or and~~ more intensive zoning districts.

Section 13. Amendment.

Subsection 20-0901.K. of Section 20-0901 of Article 20-09 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

**K. Compliance with North Dakota Century Code**

The development review procedures of this Article are intended to implement the procedural requirements of the North Dakota Century Code. In the event of conflict between the procedures of this article and those required by the Century Code, the North

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Dakota Century Code shall control.

Procedure	Sec. No.	Review (R), Decision-Making (DM) and Appeal (A) Bodies				
		Staff	HPC	BOA	PC	BCC
LDC Text Amendments	20-0904	R			R	DM
Area Plan	20-0905	R			R	DM
Zoning Map Amendments	<del>20-0201</del> 20-0906	R	R <sup>[1]</sup>		R	DM
Subdivision	20-0907					
Minor					R	DM
Major		R			R	DM
Planned Unit Developments	20-0908					
Master Land Use Plan		R			R	DM
PUD Rezoning		R			R	DM
Final Development Plan		R			DM	A
Conditional Use Permits	20-0909	R			DM	A
Site Plan Review	20-0910	DM			A	A <sup>[2]</sup>
Institutional Master Plan	20-0911	R			DM	A

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1	<b>Certificates of Appropriateness</b>	20-0912	R & DM <sup>[3]</sup>	DM & A <sup>[3]</sup>			A <sup>[2]</sup>
2	<b>Building Permits/Certificates of Occupancy</b>	20-0913	DM		A		
3	<b>Variances</b>	20-0914			DM		A
4	<b>Written Interpretations</b>	20-0915	DM		A		
5	<b>Appeals of Administrative Decisions</b>	20-0916			DM		A

■ BOA = Board of Adjustment ■ PC = Planning Commission  
 ■ BCC = Board of City Commissioners ■ HPC = Historic Preservation Commission

[1] HPC is involved only on H-O District application, pursuant to §20-0305.

[2] Appeals are not required to go to Planning Commission and Board of City Commissioners. Board of City Commissioners acts as appellate body only if the Planning Commission's decision is appealed.

[3] Review, Decision Making and Appeals process is different depending on nature of request. See §20-0912.

Section 14. Amendment.

Subsection 20-0907B. of Section 20-0907 of Article 20-09 of Chapter 20 (Land Development Code) is hereby amended to revise the subdivision process illustrative graphic so that it reads as follows:

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## Minor Subdivisions



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\* \* \* \*

Section 15. Amendment.

Subsection 20-1202(24) of Section 20-1202 of Article 20-12 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

**Home Occupation:** A business, profession, occupation or trade conducted for gain, conducted within a dwelling unit, including an attached or detached garage accessory to the dwelling unit, for gain or support by a resident of the dwelling unit.

Section 16. Amendment.

Paragraph 20-0914.I.3. of Section 20-0914 of Article 20-09 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

3. Action on Appeal

The Board of City Commissioners shall consider the appealed decision as a new matter in a public hearing and, at the close of the public hearing, act to approve or deny the original application for a Variance. The procedure and required notice shall be the same as required of the original action before the Board of Adjustment. A favorable vote of ¾ of all the members of the Board of City Commissioners shall be required to approve any variance request.

Section 17. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$1000; the court to have power to suspend said sentence and to revoke the suspension thereof.



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Section 18. Effective Date.

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

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5 (Seal)

\_\_\_\_\_  
Timothy J. Mahoney, Mayor

6 Attest:

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Steven Sprague, City Auditor

First Reading:  
Second Reading:  
Final Reading:  
Publication:

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November 5, 2018

Board of City Commissioners  
City Hall  
200 North Third Street  
Fargo, ND 58102

Dear Commissioners:

I am enclosing the Determination and Review Policy related to the Storm Water Service Charge and Resolution establishing the guidelines for applying and implementing the new storm water service charge. A final public meeting was held on October 30<sup>th</sup>, 2018 for discussion of the service charge. The Engineering Department is recommending the adoption of the Policy for the Determination and Review of the Storm Water Service Charge and approval of the Resolution.

**Recommended Motion:** I move to adopt the Policy for the Determination and Review of the Storm Water Service Charge and approve the Resolution.

Sincerely,

Jody Bertrand P.E.  
Division Engineer  
Storm Water Utility

Enclosures

**Policy for the  
Determination and Review  
of Storm Water Service Charges**

**October 2018**

**City of Fargo, ND  
Engineering Department  
Storm Sewer Utility**

## **Introduction and Statement of Purpose**

The City of Fargo has adopted an ordinance establishing a Storm Water Service Charge for paying a portion of the cost of construction, reconstruction, repair, enlargement, and improvements necessitated for the maintenance, operation, and use of the storm sewer system. The storm sewer system includes all facilities pertaining to the management of storm water discharged from all property, including but not limited to natural or manmade drainage ways, ponds, detention basins, pump stations, flood preventative measures, catch basins, storm sewer pipe, curb and gutters.

The Storm Water Service Charge shall be based on a parcel's anticipated contribution of storm water runoff to the storm sewer system, which is a function of the parcel's size and impervious surface area. Typically, more intensely developed land uses have a higher percentage of impervious surfaces (i.e. a surface which water can't or will minimally penetrate such as rooftops, pavement, or hard packed gravel surfaces) and contribute a greater volume of storm water to the storm sewer system. Similarly, a large parcel would contribute more runoff than a smaller parcel with similar development characteristics or impervious area.

Under the charging system established in City ordinance and outlined in this policy statement, a parcel that contributes a higher peak storm water runoff rate and volume based on size and impervious surface area will pay a higher Storm Sewer System Charge; as a result, charges allocated under this methodology will better reflect a parcel's fair share of the costs of operating and maintaining the storm sewer system. It is not feasible to inspect every parcel in the City of Fargo to determine its individual hydrological response to storm water. Therefore, to implement this Storm Water Service Charge policy, parcels will be charged based on their land use (Single-Family or Non-Single Family) and a calculation of their land surface area and impervious surface percentage taken from aerial photography and incorporated into the cities Geographical Information System (GIS). Thus, two parcels of the same size and same level of impervious surface with different land uses would pay an equal share of the costs of the storm sewer system.

The City has recognized that assigning costs and making charges based upon size and amount of impervious surfaces is now available thru the use of Light Imaging Detection and Ranging (LIDAR) aerial imagery and GIS technology. However, due to land subdividing, or re-platting, parcel sizes may change over time and improvements to properties may increase or decrease impervious areas after the City has completed the most recent LIDAR data collection (which is proposed to occur on a three year cycle). In these cases, this policy will allow changes to be made to a parcel billing to provide the most accurate up to date data and the respective computations of charges.

## **Determination of the Storm Water Service Charge**

As Fargo continues to grow, more of our City, which used to be open fields, wooded areas, and agricultural sites, is now covered by homes, businesses, roads, and parking lots. Those areas with largely unimproved drainage conditions, at one time soaked up water from rains and snowmelt. As these areas are annexed into the City and improved, they now force storm water to find a natural or manmade drainage ways, ponds, detention basins, pump stations, flood preventative measures, catch basins, storm sewer pipe, curb and gutters maintained by the City Storm Water Utility. Improvements to the drainage of vacant annexed lands and increases in impervious areas from development pose greater challenges to storm water quality, runoff control, storm water maintenance, and floodplain management. The funding provided to address these challenges is largely provided by the City's Storm Water Utility.

The board of city commissioners of the City of Fargo shall periodically adopt a revised Storm Water Service Charge based on the anticipated expense to construct, operate, and maintain the storm sewer system. The Service Charge may be revised or amended by resolution.

The Storm Water Service Charge is based on land use (i.e. single family residential or non-single family use) and the amount of total and impervious surface area on each property within the Fargo city limits. All single-family residential homes within the City limits of Fargo pay a minimum service charge set by resolution of the Fargo City Commission. Non-Single Family properties are charged based upon a formula with inputs of the total area of the property and the total impervious area on the property. Details of the residential and non-residential charge and billing are listed as follows:

### **Developed Single-family Residential Properties Billing:**

The Storm Water Service Charge Ordinance establishes a storm water drainage system service charge. Based on a comprehensive review of the City's total parcel data, single-family residential properties are most often of similar size and impervious surface area. For this reason, the City of Fargo will administer through this policy a common residential minimum monthly Storm Water Service Charge for developed single-family residential properties. The minimum service charge will be added to the utility bill for single-family properties already receiving water, sanitary, or solid waste services. The charge will be collected at the parcel level of a development, which may require the parent parcel, or master utility bill, to split out the charge to tenants in the instance of common utility service circumstances for duplex, townhome, condo, or other multiple single-family unit development circumstances with common utility billing arrangements. A separate Storm Water Service Charge bill is created for properties not currently receiving a bill for other City services.

**Undeveloped Single-family Residential Properties Billing:**

In the case of single family parcels that has been created through recent rezoning or subdivision activity, the proposed single-family minimum service charge will not be applicable until other utility services are requested for the property. The newly subdivided parcels will be assigned a new utility account for Storm Water Utility service only. These new parcels will continue to be charged as they would have been under previous zoning or development circumstances and the total fee prior to subdividing will be proportioned based on the area of the new parcels created.

**Non-single Family Residential Properties Billing:**

Multi-family housing, apartments, businesses, retail, commercial and industrial properties are examples of non-single family residential properties. As stated previously, these properties have been evaluated to determine the actual amount of total and impervious surface on the property. Aerial photography maps were used for impervious area determinations, with site investigations performed where necessary. All Non-single family properties will be charged either a monthly minimum or a calculated Storm Water Service Charge, to be determined by resolution. Larger or more intensely developed parcels will be charged based on the Storm Water Service Charge formula as included to the most recent rate resolution approved by the Fargo City Commission and as amended from time to time. Non-single Family parcels with a fee calculation from the Storm Water Service Charge formula that does not exceed the adopted minimum in the rate resolution shall be charged the adopted minimum. The charge will be collected at the parcel level of a development, which may require the parent parcel, or master utility bill, to split out the charge to tenants in the instance of common utility service circumstances for condo or other multiple unit/tenant developments with common utility billing arrangements. In certain instances where no other utility service is being provided to a parcel, a separate bill may be required for Storm Water Utility service only.

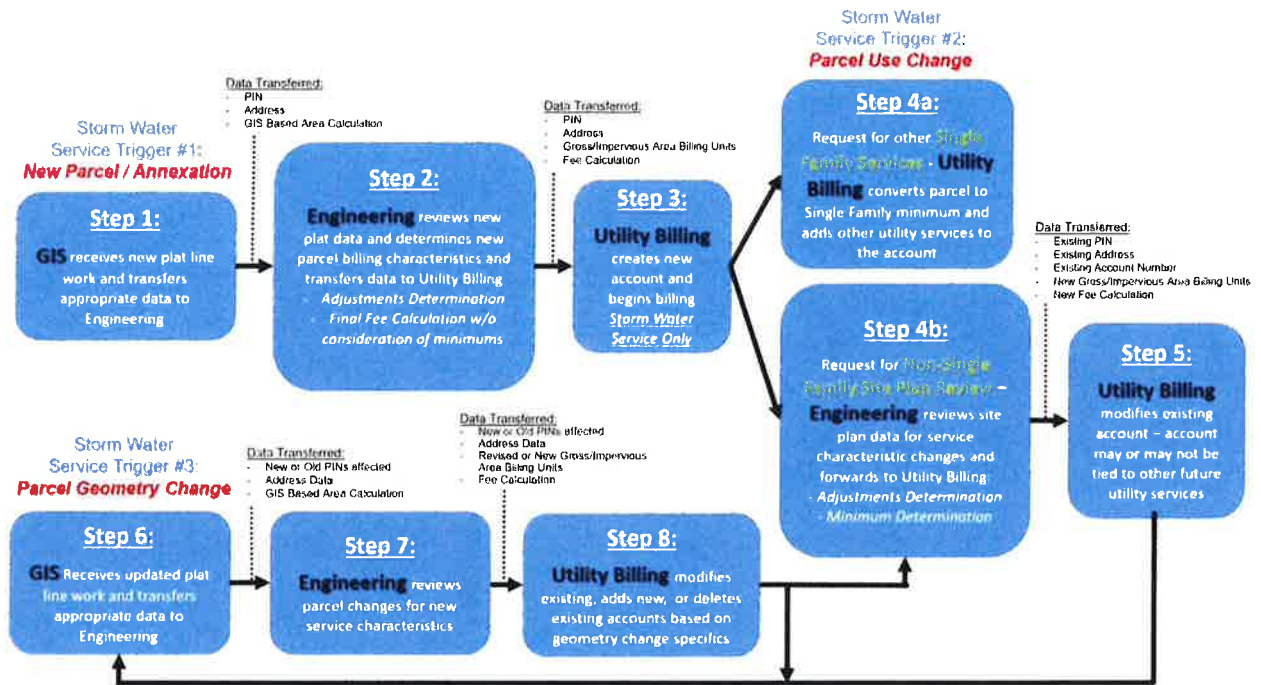
**Modifications to Non-single Family Residential Properties:**

In the case of non-single family parcels that have been modified through recent rezoning, subdivision, or development activity, the proposed minimum service charge will not be applicable until other utility services are requested for the property or until revised site plan data is submitted to the City for review. The newly subdivided parcels will be assigned a new utility account for Storm Water Utility service only. These new parcels will continue to be charged as they were under previous zoning or development circumstances and the total fee prior to subdividing will be proportioned based on the area of the new parcels created.

The issuance of any building permit or other action, which changes or intensifies an existing land use, shall be cause for an adjustment of the Storm Water Service Charges

to an appropriate level. Upon receipt of site plans that include revisions to a parcels impervious surface characteristics, the City will make determinations for revisions to a parcels Storm Water Service Charge including determinations regarding whether the parcel is subject to the minimum or calculated service charge for larger or more intensely developed parcels. The Storm Water Service Charge is also subject to further revisions after the collection of updated aerial imagery data as noted prior in this Policy.

**Figure 1** below outlines the protocol to be used by the City of Fargo in making determinations for a parcel’s specific Storm Water Service Charge.



**FIGURE 1: Billing Database Management Protocol – Parcel Billing Lifecycle**

## Request for Adjustment of Non-Residential Storm Water Service Charge

The City Engineer or designee may verify and adjust the parcel’s Storm Water Service Charge to an appropriate level in accordance with the following guidelines. A parcel’s Storm Water Service Charge shall be subject to increases as well as decreases by this procedure and by action of the City Commission.

To receive the non-residential Storm Water Service Charge Adjustment, the owner of the parcel that wishes to apply for the adjustment must submit an application in the form of a cover letter requesting the adjustment. In certain instances and depending upon the complexity of the adjustment, the request may be required to be accompanied by a stamped and signed analysis

conducted by a Professional Engineer or Land Surveyor in the State of North Dakota describing the adjustment being requested.

**Request for Adjustment based on Parcel Size or Impervious Percentage:**

Any non-residential parcel that disputes the total site area or impervious surface utilized in the calculation of their respective Storm Water Service Charge may request an adjustment to their charge by submitting appropriate application materials. The City Engineering Department will perform an initial review of the parcels drainage characteristics in order to make a determination on the merits of an adjustment. In certain instances, and depending upon the complexity of the request, further information such as site survey or site map prepared and certified to by a ND Registered Land Surveyor may be required.

**Request for Adjustment for On-site Structural Drainage Controls Exceeding City Standards:**

Property owners who reduce their service needs from the City storm water system by installing structural storm water management measures can receive a reduction in their Storm Water Service Charge. All adjustments are determined on a case-by-case basis through the City Engineer's office. These storm water charge adjustments are applicable if a property owner takes measures to reduce the storm water flow rate (cfs), or volume (ac-ft) from his or her property to the City storm water system that exceeds the current City minimum requirements for managing storm water discharges. A monthly storm water charge may be reduced by:

- a) Up to ten (10) percent for reduction in flow rate. Incremental one (1) percent reduction for every ten (10) percent reduction in storm water flow from the site, above and beyond the maximum set forth in the storm water management manual.
- b) Up to fifteen (15) percent for increased storage. Incremental one (1) percent for every three (3) percent increase in storm water storage on-site, beyond the minimum set forth in the storm water management manual. (standard pond design shall include two feet of free board)
- c) The rate reduction may be calculated using a combination of reductions in flow or increased storage, but the storm water monthly charge may not be reduced overall by more than twenty five (25) percent.
- d) Minimum five (5) percent reduction required to have a measurable impact to the reductions prior to a rate modification.

To permit for an accurate assessment of any on-site drainage controls, the request for review must include, but is not limited to:

1. A site plan showing locations of all buildings and other development contained within the parcel.
2. The total parcel area and area of impervious surfaces shall be shown.



3. Site topography and contours of sufficient detail to ascertain flow directions, rates, and volumes. The flow directions, rates, and volumes shall be computed and certified by a ND Registered Professional Engineer
4. Size, details and/or volumetric characteristics of any drainage control facilities.
5. All maps of site characteristics shall be prepared and certified to by a ND Registered Land Surveyor. A ND Registered professional Engineer shall prepare all computations and conclusions.

**Periodic Inspection and for Structural Drainage Control Charge Adjustments:**

The City Engineer reserves the right to inspect periodically all storm drainage control facilities to ascertain that they are operating properly. If such a system due to improper maintenance or other reason, fails to detain storm water runoff in an effective manner, the City Engineer shall issue an order to complete the repair of the facility within 60 days. If such repairs are not completed in a timely manner, the City Engineer may eliminate or reduce Storm Water Service Charge Adjustments to an appropriate level.

**Adjustment for Service to Public and MS4 Parcels:**

All parcels receiving service determined to be in the public interest and have local property taxation authority under North Dakota Statute, or individual Municipal Separate Storm Sewer System Authority (MS4) as per North Dakota Department of Health requirements, may be subject to an adjustment per this policy. Adjustments of this nature shall be adopted by resolution of the board of City Commissioners of the city of Fargo.

**Special Cases**

For special and unusual cases where the above procedures do not result in an appropriate Storm Water Service Charge, the City Engineer or designee has the authority to make adjustments consistent with the intent of the ordinance establishing the Storm Water Service Charge and with this policy.

**Citywide Storm Sewer Service Charge Map**

Property owners may determine the storm sewer service charge for individual parcels by visiting the City of Fargo storm sewer utility webpage. A link to the storm sewer service charge map is available to view through either a parcel address search or alternately by clicking the desired parcel for an information dialog box to appear. The identification box will display the measured impervious area and the applicable service charge for the selected parcel.

COMMISSIONER \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION AUTHORIZING STORM WATER SERVICE CHARGE**

**WHEREAS**, the City of Fargo has enacted Article 39-01 of the Fargo Municipal Code relating to collection of Utilities and Services; and

**WHEREAS**, Section 39-0105 of the Fargo Municipal Code authorizes the board of city commissioners to establish service charges by resolution; and

**WHEREAS**, Section 39-0107 of the Fargo Municipal Code authorizes the board of city commissioners of the city of Fargo to adopt policies and guidelines for purposes of determining the Storm Water Service Charge.

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

1. Single Family Residential Flat Rate: \$4.00
2. Non-Single Family Monthly Storm Water Service Charge: The charge shall be based upon a calculation established by the City Engineer which considers both a parcel's total area and impervious surface area percentage as follows:

$$\text{Storm Water Service Charge per 1,000 Square Feet of Total Property Area} = (0.6188 \times \text{Impervious Surface Percentage}) - 0.0159$$

3. Minimum Non-Single Family Monthly Storm Water Service Charge: \$8.00
4. Public Interest and Municipal Separate Storm Sewer System Parcels: The charge for qualifying parcels shall be 50% of the Non-Single Family Monthly Storm Water Service Charge but not less than the Minimum Non-Single Family Monthly Storm Water Service Charge. Included shall be parcels owned by the Airport Authority, city of Fargo, Cass County, Fargo Public School District, Fargo Park District, North Dakota State University, State of North Dakota, and Federally owned parcels.

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, Mayor

ATTEST:

\_\_\_\_\_  
Steve Sprague, City Auditor



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**Dr. Timothy J. Mahoney, Mayor**  
Fargo City Hall  
200 3rd Street North  
Fargo, ND 58102  
Phone 701.241.1310 | Fax: 701.476.4136  
TMahoney@FargoND.gov

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: MAYOR TIMOTHY J. MAHONEY**

**DATE: NOVEMBER 1, 2018**

**SUBJECT: APPOINTMENT TO THE NATIVE AMERICAN COMMISSION**

A vacancy exists on the Native American Commission from the resignation of Clinton Alexander. His term would have expired on June 30, 2019.

I have attached Anna Johnson's web application expressing interest in serving on the Native American Commission. I am recommending that Ms. Johnson be appointed to fill the unexpired term of Clinton Alexander for a term ending June 30, 2019.

Your favorable consideration of these recommendations will be greatly appreciated.

**RECOMMENDED MOTION:** To approve the appointment of Anna Johnson to the Native American Commission for a term ending June 30, 2019.

Attachment

mmappts18nac3

**Kember Anderson**

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**From:** noreply@cityoffargo.com  
**Sent:** Monday, January 22, 2018 2:25 PM  
**To:** Commissions Applications  
**Subject:** New Form Submission: Getting involved in government

**Name:**

*[Anna Johnson]*

**Mailing Address:**

*[1622 9th Ave S ]*

**City:**

*[Fargo]*

**State:**

*[North Dakota]*

**Zip:**

*[58103]*

**Work Phone:**

*[701-476-5963]*

**Home Phone:**

*[701-550-9829]*

**E-mail:**

*[Anna.R.Johnson82@gmail.com]*

**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:**

*[As a Native American I am interested in being involved in my community to make things better in or city for Native Americans. I see the hardships that Natives face in our community as I work for the bus company and I can not take anymore the blind eye that is turned towards our native people. ]*

**How many hours per month could you volunteer as a panel member?**

*[As many as needed. 40? ]*

**Please list any past experience you have with city government here or in other cities:**

*[I don't have any experience really, but I am currently the Safety Supervisor for Matbus, and am the one the does the hiring a training for our bus drivers. ]*

**Please describe any professional experience you have related to the responsibilities of the panel you are interested in:**

*[I am a Native American Artist in the community and have been involved in community events. Also working with Matbus I have a hand in helping natives in our communities get to where they need to be and try to reach out and help with the homeless issues. ]*

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