

FARGO CITY COMMISSION AGENDA
Monday, October 23, 2017 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, October 9, 2017).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 20-0401 of Article 20-04 of Chapter 20 of the Fargo Municipal Code Relating to Use regulations.
- 2. Receive and file Third Quarter Financial Status Report for Major Operating Funds through September 30, 2017.
- 3. Receive and file General Fund – Budget to Actual through September 30, 2017 (unaudited).
- 4. Applications for Games of Chance:
 - a. Red River Children’s Advocacy Center for a raffle and raffle board on 11/16/17.
 - b. United Way of Cass-Clay for a raffle on 10/27/17
 - c. American Legion Auxiliary for a raffle on 7/1/18.
 - d. HeartSprings Community Healing Center for a raffle on 12/5/17.
 - e. Pink It Forward for bingo from 11/22/17 to 4/1/18.
 - f. Centennial Elementary PTO for bingo from 10/27/17 to 5/31/18.
 - g. United Way of Cass-Clay for a raffle board on 11/2/17.
 - h. Handi-Wheels Transportation, Inc. for a raffle on 12/12/17.
 - i. Fargo Angels Hockey for a raffle board on 12/3/17.
- 5. Tax exemptions for improvements made to buildings:
 - a. Kevin and Deann M. Pladson, 172 North Woodcrest Drive North (5 year).
 - b. Steven R. and Suzanne M. Anderson, 3009 7th Street North (5 year).
 - c. Trevor and Kathryn Christianson, 1546 5th Street South (5 year).
 - d. New Creations Rentals LLC, 414 Elmwood Avenue South (5 year).
 - e. Marlene and Michael W. Thorstad, 1621 11th Street North (5 year).
 - f. Jeffrey S. and Ivy A. Samson, 1447 3rd Avenue South (5 year).
 - g. Kevin and Nan Schiermeister, 1630 6th Street South (5 year).
 - h. Mary A. Bernier, 513 24th Avenue North (5 year).
 - i. Stephen P. and Shawn R. Lind, 3137 24th Avenue South (3 Year).
- 6. City Commission 2018 meeting schedule.

7. Grant Agreement with Dakota Medical Foundation for the Smarter Lunchrooms Movement and Consulting Services.
8. Purchase of Service Agreement with ND Department of Human Services, Behavioral Health Division for substance abuse prevention community outreach (2017).
9. Purchase of Service Agreement with ND Department of Human Services, Behavioral Health Division for substance abuse prevention community outreach (2018).
10. Services Agreement Recycling Removal Service for City-Owned Receptacles with the Downtown Community Partnership.
11. Services Agreement Trash Removal Service for City-Owned Receptacles with the Downtown Community Partnership.
12. Services Agreement Snow and Ice Management of Railroad Pedestrian Crossings with the Downtown Community Partnership.
13. Change Orders for the City Hall Project:
 - a. No. 13 for an increase of \$240.00 for the general contract.
 - b. No. 6 for an increase of \$4,930.00 for the mechanical contract.
 - c. No. 9 for an increase of \$2,174.00 for the electrical contract.
14. Change Orders for the Police Department Remodeling Project at the Border States Electric Building:
 - a. No. E-3 for an increase of \$1,406.45 for the electrical construction contract.
 - b. No. M-1 for an increase of \$4,080.00 for the mechanical construction contract.
 - c. No. G-1 for an increase of \$2,760.00 for the general construction contract.
 - d. No. G-2 for an increase of \$9,557.00 for the general construction contract.
15. Bid award for the 2017/2018 sidewalk snow and ice removal code enforcement contract (RFP17285).
16. Bid award for the 2017/2018 sidewalk snow and ice removal for city owned properties (RFP17285).
17. Bid award for Project No. FP-17-A1.
18. Final Balancing Change Order No. 2 for an increase of \$4,108.73 for Project No. FM-17-A1.
19. Encroachment Agreement with Salem Evangelical Free Church at 1002 10th Street South, waiving the annual fee.
20. Maintenance Certification/Urban Federal Aid Project with the NDDOT.
21. Concur with the low quote from Key Contracting Inc. in the amount of \$58,000.00 and final payment to the Clay County Highway Department in the amount of \$29,486.92 (Project No. QN-17-B1).
22. Change in local funding from Special Assessments to Sales Tax Funds for Improvement District No. QN-17-A1.
23. Bid advertisement for Project No. QN-17-A.

24. Appointments to the Roberts Commons Condominium Board of Managers and Joint Resolution of Owners and Board of Managers of Roberts Commons Condominium Association.
25. Purchase and Occupancy Agreements with Benjamin and Emily Pitz for 7305 University Drive South.
26. Contract and bond for Project No. TR-17-A1.
27. Bills.
28. Memorandum of Offer for permanent easement with Fred M. Hector, Jr. Improvement District No. UN-15-B1.
29. Contract Work Authorization Request from the NDDOT for an increase of \$103,630.08 for Improvement District No. PR-17-B0.
30. Time Extension No. 1 to 11/10/17 for Improvement District No. BN-17-G1.
31. Time Extension No. 2 to 11/12/17 for Improvement District No. BR-17-J1.
32. Reimbursement Agreement for Utility Infrastructure with Consolidated Communications Enterprise Services, Inc. in an estimated amount of \$26,310.00 (Improvement District No. PR-17-A1).
33. Addition of Improvement District No. BR-18-B1 to the 2018 Capital Improvement Plan.
34. Amendment to Agreement for Reconstruction of Underpass with the NDDOT and BNSF Railway Company for the 10th Street Reconstruction Project (Improvement District No. BR-18-B1).
35. Create Improvement District Nos. BR-18-B and PR-17-B.

REGULAR AGENDA:

36. All in One Recycling Update.
37. State Water Commission requests for Cost Reimbursement for FM Diversion Flood Project Costs:
 - a. Costs totaling \$1,565,228.00.
 - b. Costs totaling \$708,163.00.
38. Public Hearings - 5:15 pm:
 - a. Special Assessment list for Park District 2006-2 Phase V Improvement District No. 7150.
 - b. Special Assessment list for Water Main Replacement, Force Main Construction, Street Reconstruction Improvement District No. BR-16-B; continued from 10/9/17 Regular Meeting.
 - c. Application filed by Daran's Southern Soul Food d/b/a Daran's Southern Soul Food for a Class "GH" Alcoholic Beverage License at 30 University Drive North.

- d. Application filed by Reese & Riley's LLC d/b/a Reese Riley Bistro for a Class "GH" Alcoholic Beverage License at 2653 45th Street South.
 - e. Tunheim Addition (2778 40th Avenue North); approval recommended by the Planning Commission on 9/5/17:
 - 1. Zoning change from AG, Agricultural to LI, Limited Industrial.
 - 2. 1st reading of rezoning Ordinance.
 - 3. Plat of Tunheim Addition.
 - f. Sidewalk Waiver request on Lots 1-5, Block 7, Rocking Horse Farm 2nd Addition (4824, 4838, 4852, 4876 and 4894 Rocking Horse Circle South); approval recommended by the Planning Commission on 10/3/17.
 - g. Proposed change in the Youth Passenger Fare for MATBUS Fixed Route Service.
39. Recommendation to reappoint Heather Fischer and Paul Gleye to the Historic Preservation Commission.
40. Consider funding plan for the demolition of the Old City Hall.
41. Consider Resolution to authorize the filing of an application with the ND Department of Health for a loan under the Clean Water Act for the Membrane Water Treatment Plant and Improvements Project.
42. Election Reform Proposals.

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

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

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Finance Office

P.O. Box 2083
200 3rd Street North
Fargo, North Dakota 58107-2083
Phone: 701-241-1333
Fax: 701-241-1526

TO: BOARD OF CITY COMMISSIONERS
FROM: KENT COSTIN, DIRECTOR OF FINANCE *KC*
RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL
DATE: October 16, 2017

The existing legislation in place for State Water Commission funding related to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project requires that the Fargo City Commission, Cass County Commission, and the Cass Water Resource Board approve all payment reimbursement requests prior to their submission and ultimate payment.

The attached reimbursement request has been prepared by Finance staff and is ready for processing. Your approval of the request for funds is hereby requested as required.

Suggested Motion:

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$1,565,228.

October 16, 2017

Garland Erbele, P.E.
North Dakota State Water Commission
900 East Boulevard Avenue, Dept 770
Bismarck, ND 58505-0850

Dear Garland,

The Metro Flood Diversion Authority is submitting eligible costs for reimbursement request #52 pursuant to the terms and conditions of House Bill 1020 for costs incurred from September 1, 2017 to September 30, 2017 on the Fargo-Moorhead Metropolitan Area Flood Risk Management Project. These costs are summarized in the attached cost summaries and are supported by detailed disbursement records included within this submission.

The total amount of the claim for reimbursement is \$1,565,228.

State Funds Available	Amount Spent Previous Request	Amount Spent This Period	State Cost Share	Reimbursement Request This Period	Balance of State Funds
\$310,500,000	\$171,739,176	\$294,854	100%	\$294,854	
		2,540,749	50%	1,270,374	
		\$2,835,603		\$1,565,228	\$137,195,596

Project Narrative, this request:

Project Number	Project Description
V02805	Pay Application #31 for WP 42A.1/A.3, 4 th St Pump Station and Gatewell and 2 nd Street Floodwall South
V02812	Pay Application #20 for WP 42F.1S 2 nd St North Floodwall, South of the Pump Station
V02821	Pay Application #4 for WP42H.2 – Flood Control 2 nd St S
V03501	Utility relocations for Inlet Structure
N/A	Land for Diversion Channel

We certify that \$77,592,554 has been expended on the acquisition of homes and that these costs are eligible for the local matching share requirements of HB 1020. Records relating to these costs are on file with the City of Fargo in the Office of the City Auditor.

The City of Fargo, Cass County Commission, and the Cass County Joint Water Resource Board have approved our request for funds as required in HB 1020. Copies of their approval letters are included.

If you have any questions relating to our request, please contact me directly.

Sincerely,



Kent Costin
Director of Finance, City of Fargo
Metro Flood Diversion Authority

Required Local Approvals:

City of Fargo

Cass County Commission

Cass County Joint Water Resource Dist.

**FM Metropolitan Area Flood Risk Management Project
 Summary of Cash Disbursements Eligible for SWC Funding
 September 2017**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-0000-206.10-00	9/21/2017	281267	HOUGH INCORPORATED	88,763.35	Pay Retainage PO 185963	V02821	2ND ST S FLOOD CONTROL
790-0000-206.10-00	9/21/2017	281270	INDUSTRIAL CONTRACT SERVICES INC	207,282.21	Retainage PO #174726	V02805	PUMP STATION & FLOODWALL
790-0000-206.10-00	9/21/2017	281270	INDUSTRIAL CONTRACT SERVICES INC	298,791.30	Retainage PO #174727	V02805	PUMP STATION & FLOODWALL
790-0000-206.10-00	9/28/2017	281442	INDUSTRIAL BUILDERS INC	205,250.00	Retainage PO 181346	V02812	2ND ST NORTH FLOODWALL
790-0000-206.10-00	9/28/2017	281442	INDUSTRIAL BUILDERS INC	(50,418.24)	CITY OF FARGO'S SHARE OF PROJ	V02812	2ND ST NORTH FLOODWALL
			Total Retainage	749,618.62			
790-7950-429.73-52	9/21/2017	281267	HOUGH INCORPORATED	9,203.12	FLOOD CONTROL 2 ST N	V02821	2ND ST S FLOOD CONTROL
790-7950-429.73-52	9/21/2017	281270	INDUSTRIAL CONTRACT SERVICES INC	3,490.20	4 ST PUMP&2 ST FLOODWALL	V02805	PUMP STATION & FLOODWALL
790-7950-429.73-52	9/28/2017	281442	INDUSTRIAL BUILDERS INC	11,587.40	2 ST FLOODWALL	V02812	2ND ST NORTH FLOODWALL
			Total ND Construction - Flood Control	24,280.72			
790-7950-429.73-70	10/5/2017	281662	MIDCONTINENT COMMUNICATIONS	37,318.95	COMM TEMP FIBER RELOCATE	V03501	TEMPORARY FIBER RELOCATE
			Total ND Construction - Utilities	37,318.95			
			Total Expense	811,218.29			
			Land - From Local Match Spreadsheet	2,024,384.51			
			Total Expense for Period	2,835,602.80			

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TO: BOARD OF CITY COMMISSIONERS
FROM: KENT COSTIN, DIRECTOR OF FINANCE *Ksc*
RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL
DATE: October 16, 2017

The existing legislation in place for State Water Commission funding related to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project requires that the Fargo City Commission, Cass County Commission, and the Cass Water Resource Board approve all payment reimbursement requests prior to their submission and ultimate payment.

The attached reimbursement request has been prepared by Finance staff and is ready for processing. Your approval of the request for funds is hereby requested as required.

As requested previously by the City Commission, the costs related to the Oxbow Hickson Bakke levee are being presented separately from the rest of the Metro Flood Diversion expenses. This request includes only the OHB levee related costs for September 2017.

Suggested Motion:

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$708,163.

October 16, 2017

Garland Erbele, P.E.
 North Dakota State Water Commission
 900 East Boulevard Avenue, Dept 770
 Bismarck, ND 58505-0850

Dear Garland,

The Metro Flood Diversion Authority is submitting eligible costs for reimbursement request #53 pursuant to the terms and conditions of House Bill 1020 for costs incurred on the OHB Levee project from September 1, 2017 to September 30, 2017. These costs are summarized in the attached cost summaries and are supported by detailed disbursement records included within this submission.

The total amount of the claim for reimbursement is \$708,163.

State Funds Available	Amount Spent Previous Request	Amount Spent This Period	State Cost Share	Reimbursement Request This Period	Balance of State Funds
\$310,500,000	\$173,304,404	\$1,416,325	50%	\$708,163	\$136,487,433

Project Narrative, this request:

Project Number	Project Description
V01204	Commercial relocation assistance for Oxbow Country Club
V02411	Residential relocation assistance for homeowners that will be displaced by the O/H/B ring levee project
V04401	Pay Application #1 for WP 43CD – OHB Ring Levee Phases C and D
V04801	Utility relocation for O/H/B ring levee project

We certify that \$77,592,554 has been expended on the acquisition of homes and that these costs are eligible for the local matching share requirements of HB 1020. Records relating to these costs are on file with the City of Fargo in the Office of the City Auditor.

The City of Fargo, Cass County Commission, and the Cass County Joint Water Resource Board have approved our request for funds as required in HB 1020. Copies of their approval letters are included.

If you have any questions relating to our request, please contact me directly.

Sincerely,


 Kent Costin
 Director of Finance, City of Fargo
 Metro Flood Diversion Authority

Required Local Approvals:

City of Fargo

Cass County Commission

Cass County Joint Water Resource Dist.

**FM Metropolitan Area Flood Risk Management Project
 Summary of Cash Disbursements Eligible for SWC Funding
 September 2017 - OHB Levee Related Costs**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-0000-206.10-00	9/28/2017	281471	MEYER CONTRACTING INC	(79,627.47)	OHB RING LEVEE PHASES C/D	V04401	OHB RING LEVEE PHASES C&D
			Total Retainage	(79,627.47)			
790-7930-429.67-11	10/5/2017	281585	CASS COUNTY JOINT WATER RESOURCE DI	2,299.00	C. JOHNSON & H. WESTLUND	V02411	OXBOW MOU-RESIDENT RLCTN
790-7930-429.67-11	10/5/2017	281585	CASS COUNTY JOINT WATER RESOURCE DI	7,123.00	JEFF AND CATHY ANDERSON	V02411	OXBOW MOU-RESIDENT RLCTN
			Total LERRDS - North Dakota - Residential Buildings	9,422.00			
790-7930-429.67-12	10/5/2017	281585	CASS COUNTY JOINT WATER RESOURCE DI	321,423.89	OXBOW GOLF & COUNTRY CLUB	V01204	Cass Joint Water OCC
790-7930-429.67-12	10/5/2017	281585	CASS COUNTY JOINT WATER RESOURCE DI	340,254.62	OXBOW GOLF & COUNTRY CLUB	V01204	Cass Joint Water OCC
			Total LERRDS - North Dakota - Commercial Buildings	661,678.51			
790-7952-429.73-52	9/28/2017	281471	MEYER CONTRACTING INC	796,274.68	OHB RING LEVEE PHASES C/D	V04401	OHB RING LEVEE PHASES C&D
			Total O/H/B Construction - Flood Control	796,274.68			
790-7952-429.73-70	9/7/2017	280845	CENTURYLINK ASSET ACCOUNTING-BART	28,577.62	RELOCATING BURIED CABLE	V04801	OHB LEVEE UTILITY RELOCATE
			Total O/H/B Construction - Utilities	28,577.62			
			Total Expense	1,416,325.34			
			Land - From Local Match Spreadsheet	-			
			Total Expense for Period	1,416,325.34			

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CITY COMMISSION ACTION ^{on 10/9/17}
continued to 10/23/17

NOTICE OF HEARING
ON SPECIAL ASSESSMENT LIST FOR
WATER MAIN REPLACEMENT, FORCE MAIN CONSTRUCTION, STREET RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-16-B

Notice is hereby given that the Special Assessment Commission has confirmed the special assessment list for installation of Water Main Replacement, Force Main Construction, Street Reconstruction, Improvement District No. BR-16-B, in the City of Fargo, North Dakota; and such confirmed list has been filed with the City Auditor and is now open to public inspection.

The Board of City Commissioners of the City of Fargo, North Dakota will conduct a Public Hearing on such special assessment list in the City Commission Room, City Hall, at 5:15 o'clock p.m. Monday, October 9, 2017.

Any person aggrieved may appeal from the action of the Special Assessment Commission by filing with the City Auditor, prior to this Hearing, a written Notice of Appeal stating therein the grounds upon which the appeal is based. Any person having filed such a Notice may appear before the Board of City Commissioners to present reasons why the action of the Special Assessment Commission should not be confirmed.

When confirmed for collection by the Board of City Commissioners, the listed amounts will become due and payable at the City Auditor's office ten (10) days after approval, and thereafter shall bear interest at a rate not exceeding 1 (one) percent per annum over the net rate on bonds financing said project.

(40-23-13)

City Auditor's Office
(September 11, 2017)

Insertion order for Legal Ad Section of the Forum

Please insert the attached notice(s) in the Legal Ad Section of the Forum.

Publication Date: (September 11), 2017

Bill to:
City of Fargo
Attn: Michelle
Auditor's Office
200 North 3rd Street
Fargo, ND 58102

Send one (1) Affidavit.

Questions, call Michelle at 241-1304.

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MEMORANDUM

TO: Chief David Todd
FROM: Sergeant Matt Christensen
DATE: September 19th, 2017

SUBJECT: Application for a Class "GH" Alcoholic Beverage License for Daran's Southern Soul Food d/b/a: Daran's Southern Soul Food to be located at 30 University Drive North Fargo, ND.

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation I questioned the applicant's criminal background, credit history, past residence history as well as any interaction they have had with law enforcement in any state.

The following information was discovered through this investigation:

Darrell Teon Randle-Owner

Criminal History- No areas of concern

Credit History- Randle has a rather low credit score of 575 out of a Vantage Score range of (501-990). This is due to Randle having seven separate accounts which are currently past due and submitted to collections agencies.

- Goldmark: \$2,818
- T-Mobile: \$1,490
- Medical: \$1,007
- Sprint: \$480
- Cable One: \$447
- FL Power: \$153
- Xcel Energy: \$91

Randle explained that he and his wife are currently working with the collection agencies to bring those accounts current to fix his credit rating.

Investigation Notes

Daran's Southern Soul Food comes to Fargo with the goal of bringing a new style of food to the Fargo-Moorhead area. Mr. Randle said he is attempting to bring the taste of the south to the north and, if successful, expand the business to Grand Forks, ND and the Minneapolis/St. Paul area. I was not able to locate any issues with Mr. Randle's past criminal history or dealings with Law Enforcement. Mr. Randle currently is attempting to fix his credit rating by working with creditors to get his past due accounts current again. At this time, Mr. Randle has seven accounts that are being dealt with by collection agencies with a total balance due of \$6,486.

Business Location

Daran's Southern Soul Food will be located at 30 University Drive North Fargo, ND. Other businesses in the area with an alcoholic beverage license include; The Nestor, Tailgator's, Square One, Duffy's, and Chub's Pub.

Conclusion

I believe I have discovered all information related to the listed applicant(s) and all information related to the issuance of the requested liquor license. I have provided this completed background investigation to Fargo Police Chief David Todd for his review and recommendation.

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Company name (LLC, Inc): Daran's Southern Soul Food

Doing business as: Daran's Southern Soul Food

Business address (location): 30 N. University Fargo, ND 58103

Mailing address: 3037 33rd st. S Unit 4 Fargo, ND 58103

Business e-mail address: ~~Management@Fargo~~ management@daransfargo.

Phone number: (701) 541-5895 Other number: (701) 200-8502

The following section to be completed by City Staff:

Date Received by Auditor's Office: 9-6-17

Investigations Fee Paid (\$250) Yes No Date Paid: 9-6-17 Check # 1034

Reviewed – Police Department by: _____ Date: _____

Comments (or see attached report):

_____ Approval Recommendation

_____ Denial Recommendation

Chief of Police

Date

Reviewed – Liquor Control Committee on (date): _____

_____ Approval Recommendation

_____ Denial Recommendation

(See attached comments or minutes)

Reviewed – City Commission on (date): _____

_____ Approval

_____ Denial

The application is for the Class or Classes of Licenses checked:

- Class A Authorizes the licensee to sell "on-sale" only.
- Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- Class D Authorizes the licensee to sell beer "off-sale" only.
- Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.

Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.

~~Class H~~

Authorizes the licensee to sell beer "on-sale" only, served at table or booth, with no bar allowed and requires 50% food sales.

() Class I

Authorizes the licensee to sell beer, wine, and sparkling wine "on-sale" only. A physical bar is allowed and requires 65% food sales.

() Class I Entertainment

Authorizes the Licensee to sell "on-sale" only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.

() Class J

Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.

() Class L

Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.

() Class M

Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell "on-sale" and "off-sale" offered in conjunction with another license. Allows the sale of Growlers.

() Class N

Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2500.

() Class O

Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.

() Class P

Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale". Allows limited beer sales.

() Class RZ-V

Authorizes the licensee to sell "on-sale" only, located in an approved Renaissance Zone. The venue should be designed and intended to be used as a private event center or entertainment venue with square footage of at least 10,000 square feet and capacity of at least 300 people. The Venue must derive 60% or more of its annual gross receipts from the sale of tickets.

() Class W

Authorizes the licensee to sell wine and sparkling wine "on-sale" only. A physical bar is allowed and no food sales required.

() Class Y

Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.

() Class Z

Authorizes the licensee to sell "on-sale" only issued to individuals not currently holding another "A", "AB", "ABH", or "ABH-RZ". A physical bar is allowed and no food sales required.

The following section to be completed by the applicant:

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ALL APPLICANTS must initial #1 - #9 and sign in the space provided below.

1. DR All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. DR I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. DR If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. DR I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. DR I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. DR I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
7. DR I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. DR I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. DR I understand that **the license will expire on June 30 of each year** and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: Darrell Randle Signature: 

Applicant printed name: _____ Signature: _____

Applicant printed name: _____ Signature: _____

Applicant Information: (2 pages)

Name: Darrell Teon Randle
(first) (middle) (last) (maiden name)

Address: 3037 33rd St. S Unit 4 Fargo ND 58103
(address) (city) (state & zip)

How long have you lived at this address? 3 years

Provide your address history for the past 5 years:

From 10/13 to 10/14 Address: 3101 32nd Ave S Apt. 7 Fargo ND 58103

From 12/11 to 3/13 Address: 3160 33rd St. S Apt. 303 Fargo ND 58103

E-mail address: DarrellTRandle@yahoo.com

Home phone number: (701) 541 5835 Other number: (701) 541 7658

Date of Birth: 11/11/1985 Place of Birth: Miami, FL

List each driver's license you have ever had and the state of issue:

DL#: R534854110 State of Issue: Florida Dates: 2001 - 2012

DL#: Ran-85-7892 State of Issue: North Dakota Dates: 2013 - Present

Has your driver's license ever been suspended or revoked? Yes No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?
 Yes No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) Yes No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? Yes No
If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

N/A

Have any of the above named licenses ever been suspended or revoked? Yes No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 7/17 to Present Business name: Healthcare Service Group

Address: Moorhead, MN Position/Title: Account Manager

From: 4/17 to 6/17 Business name: SuperClean

Address: Dallas, Texas Position/Title: Account Supervisor

From: 8/15 to 9/16 Business name: Carlson Building Maintenance

Address: White Bear Lake, MN Position/Title: District Manager

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?
 Yes No If "yes", list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?
 Yes No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?
 Yes No If "yes", describe below:

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

Operator/Manager Information

Are you going to operate/manage this business personally?

Yes No If "no", who will operate/manage it?

Name:

Darrell Teon Randle
(first) (middle) (last) (maiden name)

Address:

3037 33rd St. S Unit 4 Fargo ND 58103
(address) (city) (state & zip)

Home phone number: (701) 541 5895 Other number (701) 541 7658

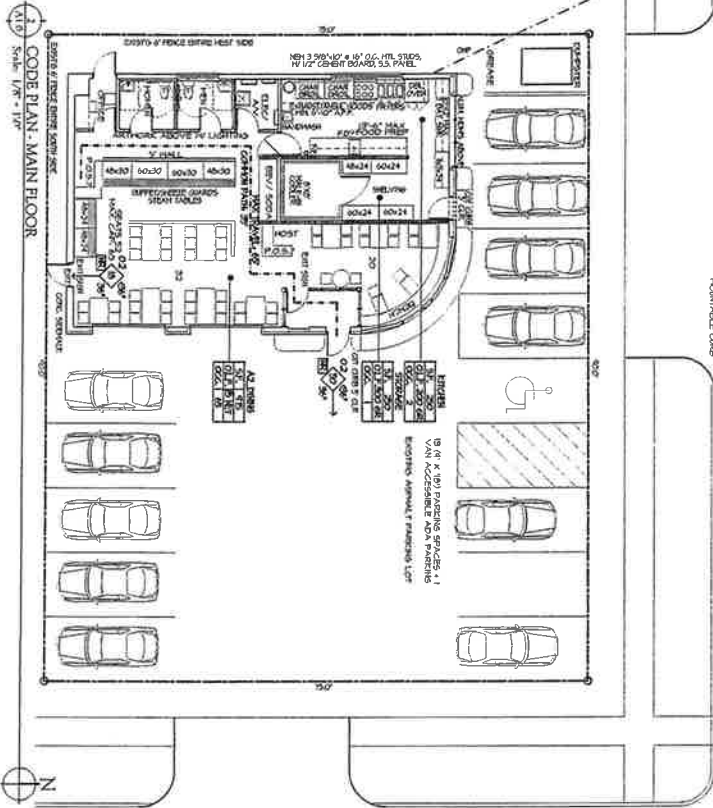
Date of Birth: 11/11/1985 Place of Birth: Miami, FL

(Important: The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

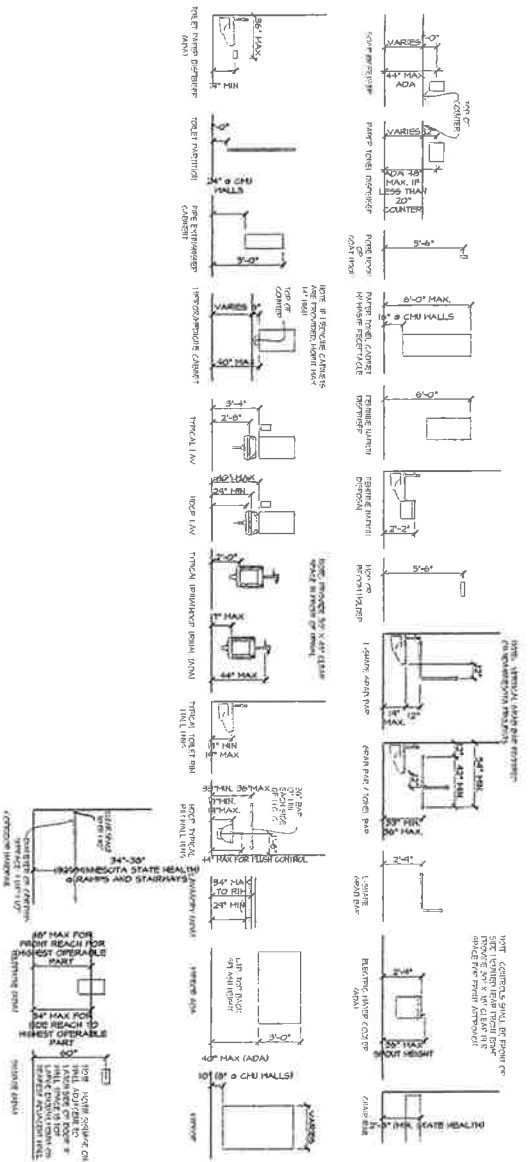
Page 24 Business Site Plan

On this page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

- The scale should be stated, such as 1" = 20'. The direction N should be indicated towards the top.
- The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.



STANDARD ADA GUIDELINES
Scale: 1/8" = 1'-0"



Mechanical Code Info:

MECHANICAL CODE FOR THE 2003 SECTION 021115
SECTION 021115 HANGERS, HOOKS, AND BRACKETS
PART 1 SUMMARY
SECTION INCLUDES
1. HANGERS, HOOKS, AND BRACKETS
2. BRACKETS FOR LIGHT FIXTURES
3. BRACKETS FOR SIGNAGE
4. BRACKETS FOR EQUIPMENT
5. BRACKETS FOR PIPING
6. BRACKETS FOR DUCTWORK
7. BRACKETS FOR CONDUIT
8. BRACKETS FOR CABLES
9. BRACKETS FOR TUBING
10. BRACKETS FOR RAILS
11. BRACKETS FOR HANDRAILS
12. BRACKETS FOR BENCHES
13. BRACKETS FOR SEATING
14. BRACKETS FOR STAIRS
15. BRACKETS FOR ELEVATORS
16. BRACKETS FOR ESCAPE ROUTES
17. BRACKETS FOR SIGNAGE
18. BRACKETS FOR EQUIPMENT
19. BRACKETS FOR PIPING
20. BRACKETS FOR DUCTWORK
21. BRACKETS FOR CONDUIT
22. BRACKETS FOR CABLES
23. BRACKETS FOR TUBING
24. BRACKETS FOR RAILS
25. BRACKETS FOR HANDRAILS
26. BRACKETS FOR BENCHES
27. BRACKETS FOR SEATING
28. BRACKETS FOR STAIRS
29. BRACKETS FOR ELEVATORS
30. BRACKETS FOR ESCAPE ROUTES

Fire Extinguishers:

1. 10% OF THE TOTAL FLOOR AREA SHALL BE COVERED BY FIRE EXTINGUISHERS.
2. EXTINGUISHERS SHALL BE PLACED AT MAXIMUM SPACING OF 75 FEET.
3. EXTINGUISHERS SHALL BE PLACED AT MAXIMUM HEIGHT OF 5 FEET.
4. EXTINGUISHERS SHALL BE PLACED AT MAXIMUM DISTANCE OF 30 FEET FROM ANY POINT IN THE ROOM.

Landscaping Requirements:

1. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE BUILDING.
2. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE PARKING LOT.
3. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE DRIVEWAY.
4. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE SIDEWALKS.
5. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE STAIRS.
6. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE ELEVATORS.
7. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE ESCAPE ROUTES.
8. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE SIGNAGE.
9. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE EQUIPMENT.
10. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE PIPING.
11. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE DUCTWORK.
12. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE CONDUIT.
13. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE CABLES.
14. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE TUBING.
15. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE RAILS.
16. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE HANDRAILS.
17. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE BENCHES.
18. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE SEATING.
19. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE STAIRS.
20. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE ELEVATORS.
21. LANDSCAPING SHALL BE PROVIDED FOR THE ENTIRE PERIMETER OF THE ESCAPE ROUTES.

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	LANDSCAPING	1	SQ. FT.	1.00	1.00
2	LANDSCAPING	1	SQ. FT.	1.00	1.00
3	LANDSCAPING	1	SQ. FT.	1.00	1.00
4	LANDSCAPING	1	SQ. FT.	1.00	1.00
5	LANDSCAPING	1	SQ. FT.	1.00	1.00
6	LANDSCAPING	1	SQ. FT.	1.00	1.00
7	LANDSCAPING	1	SQ. FT.	1.00	1.00
8	LANDSCAPING	1	SQ. FT.	1.00	1.00
9	LANDSCAPING	1	SQ. FT.	1.00	1.00
10	LANDSCAPING	1	SQ. FT.	1.00	1.00

Plumbing Systems:

PLUMBING SYSTEM	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	PLUMBING SYSTEM	1	SQ. FT.	1.00	1.00
2	PLUMBING SYSTEM	1	SQ. FT.	1.00	1.00
3	PLUMBING SYSTEM	1	SQ. FT.	1.00	1.00
4	PLUMBING SYSTEM	1	SQ. FT.	1.00	1.00
5	PLUMBING SYSTEM	1	SQ. FT.	1.00	1.00
6	PLUMBING SYSTEM	1	SQ. FT.	1.00	1.00
7	PLUMBING SYSTEM	1	SQ. FT.	1.00	1.00
8	PLUMBING SYSTEM	1	SQ. FT.	1.00	1.00
9	PLUMBING SYSTEM	1	SQ. FT.	1.00	1.00
10	PLUMBING SYSTEM	1	SQ. FT.	1.00	1.00

Energy Code Information:

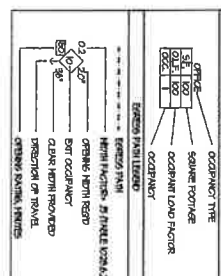
ENERGY CODE	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	ENERGY CODE	1	SQ. FT.	1.00	1.00
2	ENERGY CODE	1	SQ. FT.	1.00	1.00
3	ENERGY CODE	1	SQ. FT.	1.00	1.00
4	ENERGY CODE	1	SQ. FT.	1.00	1.00
5	ENERGY CODE	1	SQ. FT.	1.00	1.00
6	ENERGY CODE	1	SQ. FT.	1.00	1.00
7	ENERGY CODE	1	SQ. FT.	1.00	1.00
8	ENERGY CODE	1	SQ. FT.	1.00	1.00
9	ENERGY CODE	1	SQ. FT.	1.00	1.00
10	ENERGY CODE	1	SQ. FT.	1.00	1.00

Code Information:

CODE	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	CODE	1	SQ. FT.	1.00	1.00
2	CODE	1	SQ. FT.	1.00	1.00
3	CODE	1	SQ. FT.	1.00	1.00
4	CODE	1	SQ. FT.	1.00	1.00
5	CODE	1	SQ. FT.	1.00	1.00
6	CODE	1	SQ. FT.	1.00	1.00
7	CODE	1	SQ. FT.	1.00	1.00
8	CODE	1	SQ. FT.	1.00	1.00
9	CODE	1	SQ. FT.	1.00	1.00
10	CODE	1	SQ. FT.	1.00	1.00

BLDG. PART	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	BLDG. PART	1	SQ. FT.	1.00	1.00
2	BLDG. PART	1	SQ. FT.	1.00	1.00
3	BLDG. PART	1	SQ. FT.	1.00	1.00
4	BLDG. PART	1	SQ. FT.	1.00	1.00
5	BLDG. PART	1	SQ. FT.	1.00	1.00
6	BLDG. PART	1	SQ. FT.	1.00	1.00
7	BLDG. PART	1	SQ. FT.	1.00	1.00
8	BLDG. PART	1	SQ. FT.	1.00	1.00
9	BLDG. PART	1	SQ. FT.	1.00	1.00
10	BLDG. PART	1	SQ. FT.	1.00	1.00

Code Plan Symbols Legend:



Sheet Index:

SHEET NO.	DESCRIPTION
100	MECHANICAL PLAN
101	ELECTRICAL PLAN
102	PLUMBING PLAN
103	LANDSCAPING PLAN
104	MECHANICAL PLAN
105	ELECTRICAL PLAN
106	PLUMBING PLAN
107	LANDSCAPING PLAN
108	MECHANICAL PLAN
109	ELECTRICAL PLAN
110	PLUMBING PLAN
111	LANDSCAPING PLAN



Restaurant - Renovation (701 Collective)

30 University Drive North - Fargo ND 58102
Parcel: 01-2340-03030-000 Legal: Reeves Addn, Blk 20, E 90' of Lots 1, 2 & 3



Operational and Financial Issues

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area).

(Use additional pages if necessary)

Sit down restaurant - will be locally owned + operated + serve the existing neighborhood.

Describe in detail how you intend to address/prevent each of the following concerns at your Business:

(Use additional pages if necessary)

Over-serving, intoxicated or disorderly patrons:

No one over-served. All drunk patrons refused service. Call authorities when appropriate.

Safety and security issues, including crowd control:

Limited capacity - 80 or less. Enforced.

Minors on the premises, including consumption by minors:

Call authorities.

Noise concerns, especially from nearby residences of other businesses:

Corner business location - no loud music played. Should be no issues.

Do you plan to feature live entertainment? _____ Yes No If "yes", describe what you envision at the time, including how often such entertainment will take place.

MEMORANDUM



TO: Chief David Todd

FROM: Sergeant Matt Christensen

DATE: September 18th, 2017

SUBJECT: Application for a Class “GH” Alcoholic Beverage License for Reese & Riley’s LLC d/b/a: Reese Riley Bistro to be located at 2653 45th Street South Fargo, ND.

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation I questioned the applicant’s criminal background, credit history, past residence history as well as any interaction they have had with law enforcement in any state.

The following information was discovered through this investigation:

Jason Halvorson – Owner

Criminal History- Cited for Exhibition Driving in September of 2004. Found guilty and fined \$120. Was also cited in June 2017 for using an electronic device while driving and not wearing a seatbelt. Halvorson also has a history of speeding tickets.

Credit History- Halvorson filed for Ch. 7 Bankruptcy in 2008 which discharged several debts. Since that time, all his accounts are current with no other issues noted.

Investigation Notes

This is the third application for this business after being denied the first two times. This application has a new applicant and the previous applicant information was not included in the application. In speaking with Mr. Halvorson, he stated he has been working with the previous applicants since the beginning and he is going to be buying the business to run it. He will continue to work with the previous owner as a joint operation however. The Reese Riley Bistro will be a restaurant specializing in different types of oils and vinegars. There will be cooking classes and wine tastings at this location. The previous owner, Ms. Deibel, has another similar business in Champlain, MN, which is called Thomas Reese Olive Oil. The liquor license for that business was approved by the Champlain city council in June of 2017. There was a small issue with this business in

December of 2016 when it closed abruptly. It has since re-opened in the same location, and Ms. Deibel explained the reason for the closing was because of a divorce with her then husband who she ran the business with

The previous applicants for the two previous applications that were denied are:

Matthew Michael Berreth-Owner

Criminal History-

- Mr. Berreth was arrested in November of 2016 for Domestic Violence where he threw a water bottle at his girlfriend striking her in the face causing a bruise. Mr. Berreth ended up pleading guilty to Disorderly Conduct in relation to the Domestic Violence and received a deferred sentence for 3 months and 3 months of unsupervised probation.
- Mr. Berreth pled guilty in March of 2017 to Simple Assault that occurred in November of 2016 where he assaulted a male that was in his apartment hanging out with his ex-girlfriend who he lived with at the time. Mr. Berreth received 30 days in jail, all suspended and a \$400 fine.
- Mr. Berreth was charged in September of 2012 with Criminal Trespass for being on the property of his then ex-girlfriend which he had been previously trespassed from. Mr. Berreth was found guilty of Criminal Trespass in February of 2013 and received 16 hours of community service and a \$325 fine.

Credit History-

- Mr. Berreth has a low end Credit Score of 600, because of a small number of accounts (3). Mr. Berreth does currently have one account assigned to a Collection Agency that is past due with an unpaid balance of \$83, which he is working to pay.
- No other credit issues were noted.

Christine Mary Deibel-Operator/Manager

Criminal History-

- Ms. Deibel is currently the Defendant in an ongoing criminal case in Anoka County, MN. The case involves a vehicle of Ms. Deibel's that was stolen in 2008. Ms. Deibel collected an insurance payment for the vehicle. A few months later, the vehicle was recovered and Ms. Deibel took possession of the vehicle. The insurance company then tried to take possession of the vehicle from Ms. Deibel which took several months. Anoka County currently has pending theft charges against Ms. Deibel because of this case.
- Ms. Deibel explained to me that she was contacted by the DMV that her vehicle was recovered and that she needed to pick it up or she would be charged for the storage of the recovered vehicle.

- Ms. Deibel told me that the insurance company would not come and get it and it was not until 2016 that they came to take possession of the vehicle, and are now claiming that she was in possession of the vehicle illegally.
- The next court date related to this is in August of 2017. Ms. Deibel said she is trying to get a resolution to this case but the court proceedings keep getting continued.
- There are no other criminal issues noted for Ms. Deibel.

Credit History-

- Filed for Bankruptcy in 2012. Prior to that there were some outstanding debt issues, including four civil judgements against Ms. Deibel. These were taken care of by the Bankruptcy filing in 2012. Due to these issues, Ms. Deibel does have a low credit rating (568).
- There are no new issues regarding her credit at this time.

Business Location

The Reese Riley Bistro will be located at 2653 45th Street South Fargo, ND. Other businesses in the area with an alcoholic beverage license include; Golf Addiction, La Quinta Inn & Suites, People's Organic Café, Old Chicago, Applebee's, Famous Dave's,

Conclusion

I believe I have discovered all information related to the listed applicant(s) and all information related to the issuance of the requested liquor license. I have provided this completed background investigation to Fargo Police Chief David Todd for his review and recommendation.



APPLICATION FOR ALCOHOLIC BEVERAGE

LICENSE

Company name (LLC, Inc): Reese & Riley's, LLC

Doing business as: Reese Riley Bistro

Business address (location): 21053 45th St S Fargo ND 58101

Mailing address: PO BOX 74 Moorhead MN 56561

Business e-mail address: reeseandrileys@gmail.com

Phone number: (701) 356 8008 Other number: () _____

The following section to be completed by City Staff:

Date Received by Auditor's Office: 9/13/17

Investigations Fee Paid (\$250) Yes No Date Paid: 9/13/17 Check # 10042037

Reviewed – Police Department by: _____ Date: _____

Comments (or see attached report):

_____ Approval Recommendation

_____ Denial Recommendation

Chief of Police

Date

Reviewed – Liquor Control Committee on (date): _____

_____ Approval Recommendation
(See attached comments or minutes)

_____ Denial Recommendation

Reviewed – City Commission on (date): _____

_____ Approval

_____ Denial

This application is for the Class or Classes of Licenses checked:

Authorizes the licensee to sell "on-sale" only.

- () Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- () Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- () Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- () Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- () Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- () Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- () Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- () Class D Authorizes the licensee to sell beer "off-sale" only.
- () Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- () Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- () Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- () Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- () Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- () Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.

Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.

Class H Authorizes the licensee to sell beer "on-sale" only, served at table or booth, with no bar allowed and requires 50% food sales.

() Class I Authorizes the licensee to sell beer, wine, and sparkling wine "on-sale" only. A physical bar is allowed and requires 65% food sales.

() Class I Entertainment Authorizes the Licensee to sell "on-sale" only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.

() Class J Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.

() Class L Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.

() Class M Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell "on-sale" and "off-sale" offered in conjunction with another license. Allows the sale of Growlers.

() Class N Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2500.

() Class O Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.

() Class P Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale". Allows limited beer sales.

() Class RZ-V Authorizes the licensee to sell "on-sale" only, located in an approved Renaissance Zone. The venue should be designed and intended to be used as a private event center or entertainment venue with square footage of at least 10,000 square feet and capacity of at least 300 people. The Venue must derive 60% or more of its annual gross receipts from the sale of tickets.

() Class W Authorizes the licensee to sell wine and sparkling wine "on-sale" only. A physical bar is allowed and no food sales required.


() Class Y Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.

() Class Z Authorizes the licensee to sell "on-sale" only issued to individuals not currently holding another "A", "AB", "ABH", or "ABH-RZ". A physical bar is allowed and no food sales required.

The following section to be completed by the applicant:

ALL APPLICANTS must initial #1 - #9 and sign in the space provided below.

1. JA All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. JA I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. JA If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. JA I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. JA I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. JA I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
7. JA I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. JA I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. JA I understand that **the license will expire on June 30 of each year** and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: Jason Halverson Signature: 

Applicant printed name: _____ Signature: _____

Applicant printed name: _____ Signature: _____

Applicant Information: (2 pages)

Name: Jason Allen Halverson

(first)

(middle)

(last)

(maiden name)

Page 34

Address: 1074 Broadway N. Apt 6 Fargo N-D 58102
(address) (city) (state & zip)

How long have you lived at this address? 8 years

Provide your address history for the past 5 years:

From _____ to _____ Address: _____

From _____ to _____ Address: _____

E-mail address: SasonHederson89@gmail.com

Home phone number: (201) 261-3581 Other number: (____) _____

Date of Birth: 09-29-1980 Place of Birth: Fargo

List each driver's license you have ever had and the state of issue:

DL#: Hel-80-1021 State of Issue: ND N-D. Dates: 9-10-17

DL#: _____ State of Issue: _____ Dates: _____

Has your driver's license ever been suspended or revoked? _____ Yes No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?
_____ Yes No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) _____ Yes No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? _____ Yes No
If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

mobile Food & cater license N-D.

Page 35 Have any of the above named licenses ever been suspended or revoked? Yes No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 2010 to 2010 Business name: Patterson Utah Energy

Address: Deerhorn N-D. Position/Title: Floor/Manager

From: 2008 to 2010 Business name: Tejas Toyota

Address: Humble Texas Position/Title: Sales

From: 2007 to 2009 Business name: Ruby Tuesday

Address: 13th Ave SW Position/Title: Manager/Bartender

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages? Yes No If "yes", list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level? Yes No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol? Yes No If "yes", describe below:

Bartender, Manager Ruby Tuesday 13th Ave Fargo 2007 to 2009

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

Operator/Manager Information

Are you going to operate/manage this business personally?

Yes No If "no", who will operate/manage it?

Page 36

Name:

(first) (middle) (last) (maiden
name)

Address:

(address) (city) (state & zip)

Home phone number: (____) _____ Other number (____) _____

Date of Birth: _____ Place of Birth: _____

(**Important:** The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

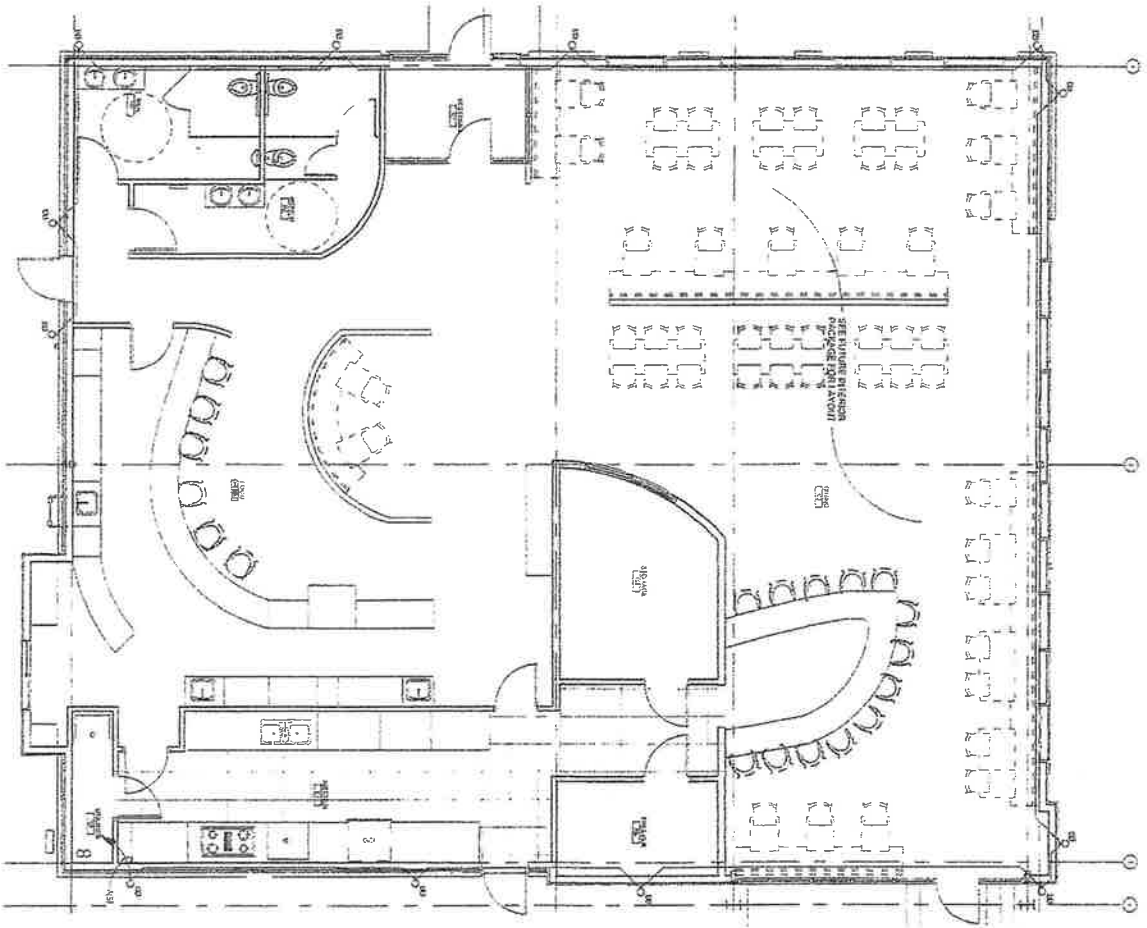
On this page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

Page 37 *4223 sq feet*

- The scale should be stated, such as 1" = 20'. The direction N should be indicated towards the top.
- The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.

Attached floor plans

FLOOR PLAN - LIGHTING



GENERAL NOTES
 A SEE FINISH SPECIFICATIONS FOR LIGHTING FIXTURES

E201
 FLOOR PLAN - LIGHTING

NOT FOR CONSTRUCTION
 Brian Pedersen
 10/20/13

#	Description	Quantity	Notes
1	Lighting Fixtures		
2	Lighting Fixtures		
3	Lighting Fixtures		
4	Lighting Fixtures		
5	Lighting Fixtures		
6	Lighting Fixtures		
7	Lighting Fixtures		
8	Lighting Fixtures		
9	Lighting Fixtures		
10	Lighting Fixtures		

Peoples Organic Cafe
 Urban Plains Land Company
 Urban Plains
 Fargo, ND

URBAN PLAINS
 ARCHITECTS
 4000 COLLEGE AVENUE, SUITE 100
 GRAND FORK, ND 58005
 TEL: 701.775.1111
 FAX: 701.775.1112
 WWW.URBANPLAINSARCHITECTS.COM



Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area).

(Use additional pages if necessary)

Business concept hosting a retail area selling EVOO and balsamic vinegars several speciality items from all over the world. We will have a bakery, wine area and hold cooking classes. This concept fits the proposed location because the area hosts a variety of other restaurants, baseball diamonds, retail stores and nearby areas for social events. The location also has outdoor seating for wine tastings & classes to teach the public on the health benefits of EVOO & Balsamic. The surrounding neighborhood hosts many houses & homes with a need to experience fresh whole foods & a fresh new concept hosting amazing flavor

Describe in detail how you intend to address/prevent each of the following concerns at your Business:

(Use additional pages if necessary)

Over-serving, intoxicated or disorderly patrons:

Training staff on over-serving, and signs of intoxication, portion control for pouring. Provide education to recognize per intoxicated signals & know how to handle. Most of our disorderly patrons under the influence. Most our guests enjoy just a couple glasses of wine or beers with their dinner so I don't see a issue with over-serving or over intoxicated patrons

Safety and security issues, including crowd control:

Will not have anything that attracts large crowds like football games on TV or such as we will not even have TVs. We will also be well staffed to handle retail purchasing and longer wait times for tables. small waiting area will help accommodate people

Minors on the premises, including consumption by minors:

Not the type of establishment to attract minors. We will appeal to higher income crowd people that like to cook and shop for food products.

Noise concerns, especially from nearby residences of other businesses:

No noise concerns given nature of business
Only open till 9pm

Do you plan to feature live entertainment? Yes No If "yes", describe what you envision at the time, including how often such entertainment will take place.

Page 41

Possibly one time a month, single soloist/
band, someone playing guitar

What is your total **business** indebtedness for the entity, excluding lease costs? 0

Does any one creditor represent more than 10% of that sum? Yes No

If "yes", list each creditor below. (Total must equal 100%)

<u>Name</u>	<u>Address</u>	<u>Phone #</u>	<u>% Owed</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Have you ever filed a petition of bankruptcy? Yes No

If "yes", when and what were the circumstances?

I had alot of debt, my girlfriend and I split and she ran out
business I lost one of my 3 jobs, and my other business sold out
I lost everything

Please list at least three business references:

<u>Name</u>	<u>Address</u>	<u>Phone #</u>
<u>Eric Richeart</u>	<u>W. Fargo</u>	<u>701-412-8227</u>
<u>Kyle McCann</u>	<u>Fargo</u>	<u>701-477-4877</u>
<u>Kyle Holten</u>	<u>Fargo</u>	<u>701-412-7949</u>

Is this application for a motel or hotel with 100 or more guest rooms? Yes No

Is this application for a lodge or club? Yes No

If "yes", number of members in good standing _____

Date of organization incorporation _____

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City of Fargo Staff Report			
Title:	Tunheim Addition	Date: Updated	8/30/2017 10/18/2017
Location:	2778 40 th Avenue North	Staff Contact:	Donald Kress, senior planner
Legal Description:	Part of the SE Quarter, Sec. 14, T149N, R49W, City of Fargo, Cass County, North Dakota		
Owner(s)/Applicant:	Tunheim Construction / Nate Anderson-LJA	Engineer:	LJA
Entitlements Requested:	Major Subdivision (plat of Part of the SE Quarter, Sec. 14, T149N, R49W, City of Fargo, Cass County, North Dakota) Zoning Change (from AG, Agricultural to LI, Limited Industrial)		
Status:	City Commission Public Hearing: October 23, 2017		

Existing	Proposed
Land Use: mostly undeveloped; storage	Land Use: Industrial
Zoning: AG, Agricultural	Zoning: LI: Limited Industrial
Uses Allowed: AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production	Uses Allowed: LI allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation.
Maximum Density Allowed (Residential): AG allows a maximum of 1 dwelling unit per 10 acres.	Maximum Lot Coverage Allowed: Maximum lot coverage is 85%

Proposal:								
<p>The applicant requests approval of two entitlements:</p> <ol style="list-style-type: none"> 1. A zoning change from AG, Agricultural to LI: Limited Industrial; and 2. A plat of the Tunheim Addition, a major subdivision which is a plat of Part of the SE Quarter, Sec. 14, T149N, R49W, City of Fargo, Cass County, North Dakota to create one lot for industrial development as shown in the table below. <table border="1" style="margin: 10px auto; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">BLOCK</th> <th style="width: 15%;">LOT</th> <th style="width: 25%;">AREA (acres)</th> <th style="width: 45%;">ZONING</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">1</td> <td style="text-align: center;">6.89</td> <td style="text-align: center;">LI</td> </tr> </tbody> </table> <p>This project was reviewed by the City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”), whose comments are included in this report.</p>	BLOCK	LOT	AREA (acres)	ZONING	1	1	6.89	LI
BLOCK	LOT	AREA (acres)	ZONING					
1	1	6.89	LI					

Surrounding Land Uses and Zoning Districts:

- North: LI, Industrial; warehouse and office
- East: P/I, Public/Institutional; airport
- South: LI and AG, Agricultural; residential and agricultural use
- West: Zoning unknown; residential use

Area Plans:

No area plans apply.

Schools and Parks:

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

Parks: Riverwood Park is located approximately 1.5 miles northeast of the project site and provides playground for ages 5-12, a shelter, and fields for several sports.

Pedestrian / Bicycle: There are off-road bike facilities along North University Drive north of 40th Avenue North that are located approximately 1.13 miles east of the project site that are a component of the metro area bikeways system.

Staff Analysis:

PLAT AND ZONE CHANGE

ACCESS: The lot will be accessed from 25th Street North. The required right of way for 25th Street North is 80 feet. A 66-foot right of way exists. The plat will dedicate 14 feet of right of way, for a total of 80 feet.

AMENITIES PLAN: The applicant has provided an amenities plan providing details of the project's street, stormwater, and utilities within the project. This plan has been reviewed by staff and is being updated by on staff's review comments.

PARKS AND TRAILS: No park dedication is required, nor are there any trail connections to this property.

AIRPORT PROXIMITY AGREEMENT: The Airport Authority has prepared, and the applicant has signed, and airport proximity agreement. Recommendation for execution of this agreement by the City Commission is included in the suggested motion below.

Zoning

Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

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

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned AG: Agricultural. The proposed zoning of LI is consistent with adjacent properties to the north and south

(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 lot in the subdivision will front on a dedicated public street, 25th Street North. Additional right of way for this street will be dedicated with the plat. This street will provide access and public utilities to serve the development. **(Criteria satisfied)**

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

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received no inquiries about the project. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." Staff finds this proposal is consistent with the purpose of the LDC and other adopted policies of the City. **(Criteria satisfied)**

Subdivision

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

- 1. Section 20-0907(C)(1)(Development Review Procedures—Subdivisions—Major Subdivisions) of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**

The proposed zoning for this property is LI: Limited Industrial. The LI zoning will accommodate the proposed industrial development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no inquiries about the project. **(Criteria Satisfied)**

- 2. Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The proposed zoning is LI, which will accommodate the proposed industrial development. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code. **(Criteria Satisfied)**

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

The applicant has provided an amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan has been reviewed by the Public Works Project Evaluation Committee (PWPEC). 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: September 5, 2017

By a vote of 9-0, the Planning Commission on September 5, 2017 voted to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed: 1) zone change from AG, Agricultural to LI, Limited Industrial and 2) **Tunheim Addition** subdivision plat as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC.”

Staff Recommendation

Suggested Motion: “To accept the findings and recommendations of staff and the Planning Commission, and hereby waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and move to approve the proposed: 1) zone change from AG, Agricultural to LI, Limited Industrial and 2) **Tunheim Addition** subdivision plat as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC, and 3) execution of the Airport Proximity Agreement.”

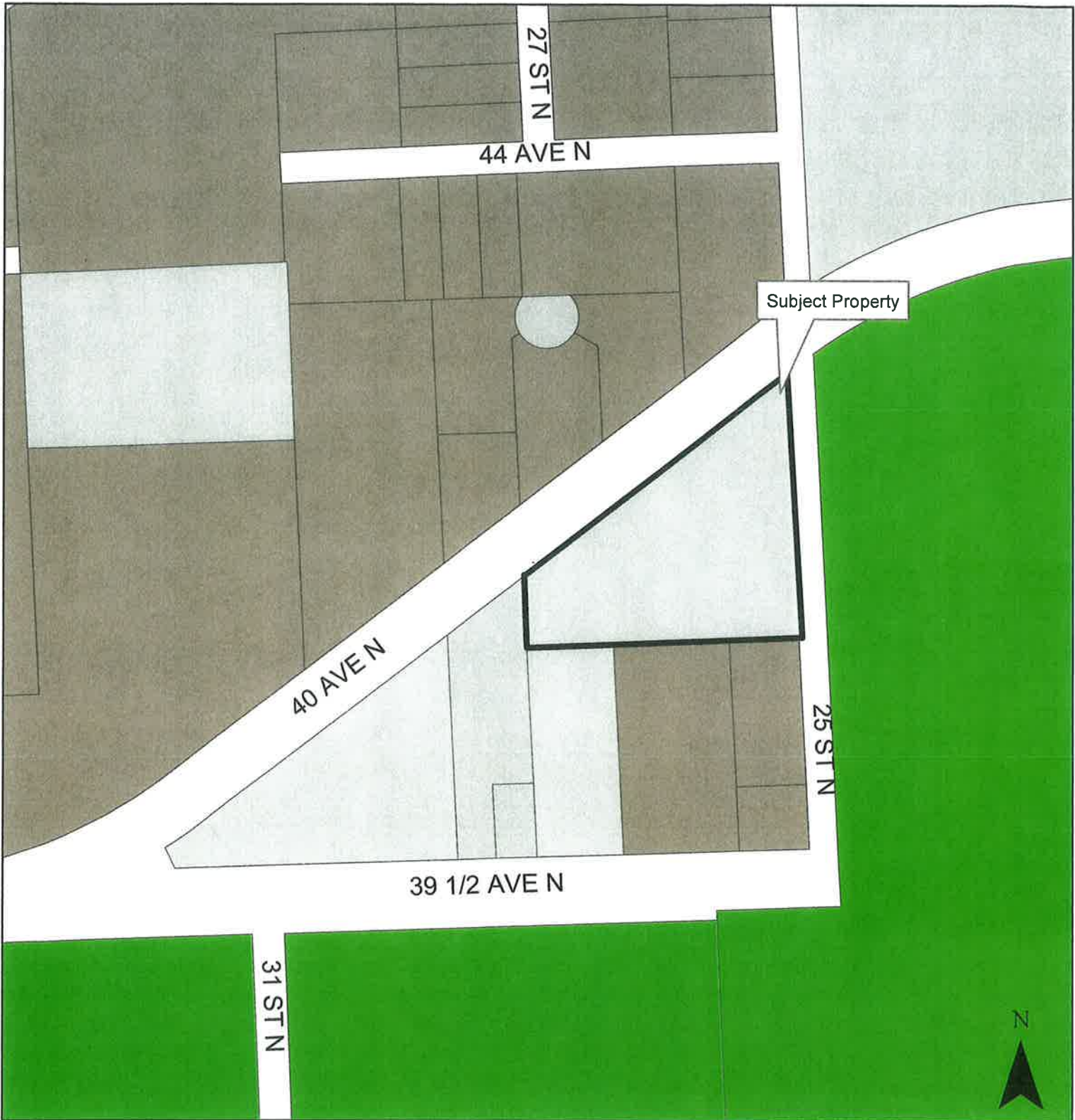
Attachments:

1. Zoning Map
2. Location Map
3. Preliminary Plat
4. Airport Proximity Agreement

Plat (Major) and Zone Change (AG to LI)

Tunheim Addition

2778 40th Avenue North

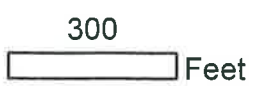


Subject Property



Legend

AG	LC	MHP	SR-2
DD	MM	NC	SR-3
CC	MR-1	NO	SR-4
GG	MR-2	PA	SR-5
GO	MR-3	UMU	City Limits



Fargo Planning Commission
September 5, 2017

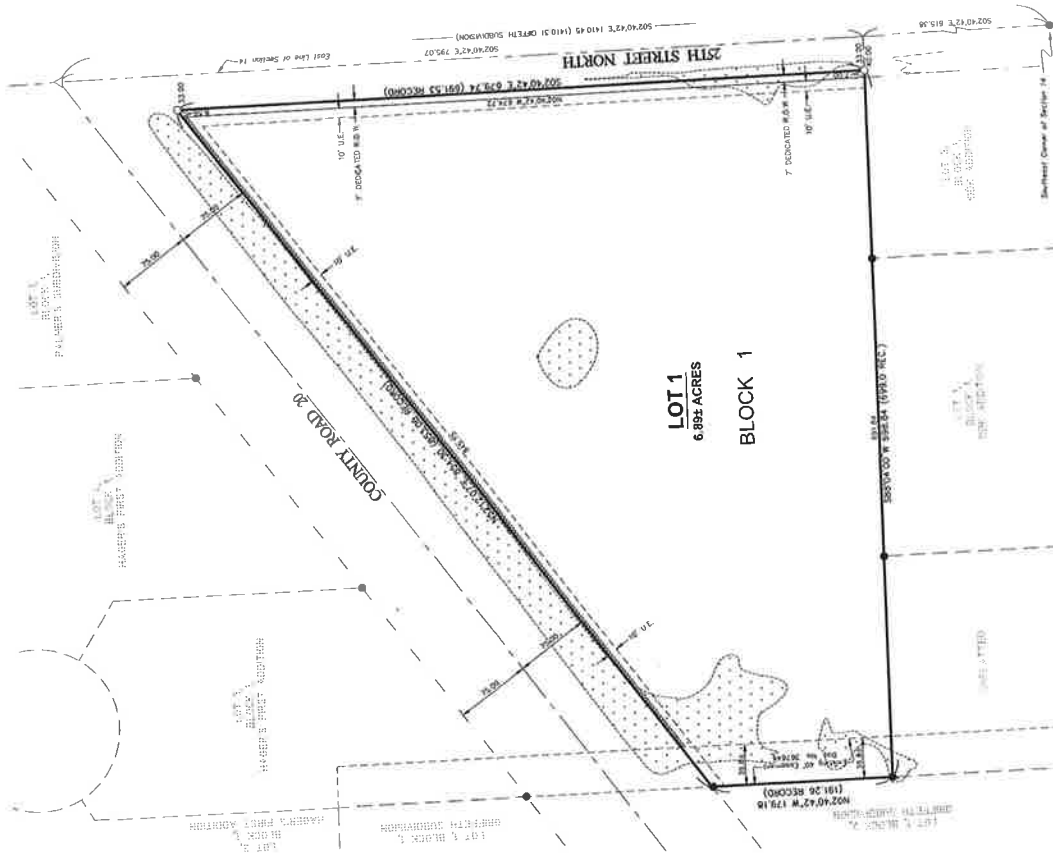
Plat (Major) and Zone Change (AG to LI)

Tunheim Addition

2778 40th Avenue North



TUNHEIM ADDITION
 PART OF THE SOUTHEAST QUARTER
 SECTION 14, TOWNSHIP 140, RANGE 49 WEST
 CITY OF FARGO, COUNTY OF CASS, STATE OF NORTH DAKOTA
 (A MINOR SUBDIVISION)



LEGEND

- DENOTES FOUND SURVEY MONUMENT
- DENOTES PROPERTY REBARS SET AND MARKED LS-8024
- △ DENOTES COMPUTED POSITION (NOTHING SET)
- DENOTES BOUNDARY LINE
- - - DENOTES ADJACENT LOT LINE
- - - DENOTES SECTION LINE
- - - DENOTES RIGHT OF WAY
- - - DENOTES EASEMENT LINE
- U.E. DENOTES UTILITY EASEMENT
- DENOTES NEGATIVE ACCESS EASEMENT
- DENOTES 100 YEAR FLOOD PLAN



LJA
 L. J. JENSEN, INC. 11273
 Agricultural Engineering
 Planning Land Surveying
 1001 1st Ave. S.W.
 Fargo, ND 58103
 www.lja.com

TUNHEIM ADDITION
PART OF THE SOUTHEAST QUARTER
SECTION 14, TOWNSHIP 140, RANGE 49 WEST
CITY OF FARGO, COUNTY OF CASS, STATE OF NORTH DAKOTA
(A MINOR SUBDIVISION)

OWNER CERTIFICATE

A tract of land located in the East half (E 1/2) of Section 14, Township 140 North, Range 49 West, County of Cass, State of North Dakota, containing seven hundred thirty-two (732) feet West and Six Hundred Fifteen (615) feet North of the Southeast corner of said Section 14, thence North and parallel with the East line 20 feet to the South right-of-way of Cass County Highway #20, thence Northwesterly along said Cass County Highway #20, right-of-way for a distance of eight hundred thirty-three and six (833.6) feet West to the East line of said Section 14, thence South and parallel to the East line of said Section 14 for a distance of six hundred ninety-nine and fifty-three (691.53) feet to the East line of said Section 14, thence East and parallel to the East line of said Section 14 for a distance of eight hundred ninety-nine and fifty-three (891.53) feet to the point of beginning. Said tract contains 7.03 acres, more or less.

Said owner has caused the above described tract of land to be surveyed and plotted as TUNHEIM ADDITION to the City of Fargo, North Dakota, consisting of 1 Block and 1 Lot and do hereby dedicate to the public, for public use, all utility easements as shown on this plat.

Christopher Tunheim, President
TUNHEIM HOLDINGS, LLC
COUNTY OF CASS

On this _____ day of _____, 20____, before me, a Notary Public within and for said County and State, personally appeared Christopher Tunheim, President of TUNHEIM HOLDINGS, LLC, who acknowledged that they executed same as their free act and deed.

Notary Public, Cass County, ND
My Commission Expires _____

CITY OF FARGO PLANNING COMMISSION APPROVAL

This plat in the City of Fargo is hereby approved this _____ day of _____, 20____.

Steve Fischer, Chairperson
Fargo Planning Commission

STATE OF NORTH DAKOTA
COUNTY OF CASS

On this _____ day of _____, 20____, before me, a Notary Public within and for said County and State, personally appeared Steve Fischer, Chairperson, Fargo Planning Commission, to me known to be the persons designated in and who executed the foregoing instrument and acknowledged that they executed same as their free act and deed.

Notary Public, Cass County, ND
My Commission Expires _____

REGISTERED PROFESSIONAL LAND SURVEYOR

I, the undersigned, Registered Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that I have surveyed and plotted the property described on this plat as TUNHEIM ADDITION to the City of Fargo, Cass County, North Dakota; that this plat is a true and correct representation of the survey and that the measurements shown on the plat and boundaries of a lot, that all monuments are or will be installed correctly in the ground as shown, and that the exterior boundary lines are correctly designated.

Dated this _____ day of _____, 20____.

William A. Fisher
Registered Professional Surveyor
ND Reg. No. LS-8054

STATE OF NORTH DAKOTA
COUNTY OF CASS

On this _____ day of _____, 20____, before me, a Notary Public within and for said County and State, personally appeared William A. Fisher, Registered Professional Surveyor, to me known to be the person designated in and who executed the foregoing instrument and acknowledged that they executed same as their free act and deed.

Notary Public, Cass County, ND
My Commission Expires _____

This plat in the City of Fargo is hereby approved this _____ day of _____, 20____.

Notary Public, Cass County, ND

STATE OF NORTH DAKOTA
COUNTY OF CASS

On this _____ day of _____, 20____, before me, a Notary Public within and for said County and State, personally appeared Mark H. Blumer, City Engineer, to me known to be the person designated in and who executed the foregoing instrument and acknowledged that they executed same as their free act and deed.

Notary Public, Cass County, ND
My Commission Expires _____

FARGO CITY COMMISSION APPROVAL

This plat in the City of Fargo is hereby approved this _____ day of _____, 20____.

Notary Public, Cass County, ND
STATE OF NORTH DAKOTA
COUNTY OF CASS

On this _____ day of _____, 20____, before me, a Notary Public within and for said County and State, personally appeared _____, to me known to be the person designated in and who executed the foregoing instrument and acknowledged that they executed same as their free act and deed.

Notary Public, Cass County, ND
My Commission Expires _____

COUNTY ENGINEER'S APPROVAL
I hereby certify that all delinquent taxes and special assessments on the above plat are paid and transfers interest.

Notary Public, Cass County, ND

LIA
ARCHITECTURE ENGINEERING
PLANNING LAND SURVEYING
FARGO, ND
701.781.1111
www.LIA-ND.com

AGREEMENT
(Proximity of Airport and Noise Attenuation)

THIS AGREEMENT, Made and entered into this ___ day of _____, 2017, by and between CHRISTOPHER TUNHEIM, President of TUNHEIM HOLDINGS, LLC, hereinafter referred to as "Owner," and THE CITY OF FARGO, NORTH DAKOTA, a municipal corporation, hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the Owner is the record owner of a tract of land located in Cass County, North Dakota, said tract being more particularly described hereinafter; and,

WHEREAS, said tract is within the City of Fargo; and

WHEREAS, the Owner will make a development request of the City for a plat; and,

WHEREAS, the Board of City Commissioners of the City of Fargo have approved and enacted a zoning ordinance to effect such change upon the condition that the Owner and Owner's successors in interest be bound to a covenant acknowledging the proximity of Hector International Airport to Owner's property; and,

WHEREAS, Owner is willing to execute and to have recorded an agreement wherein Owner recognizes the proximity of said facilities as regards all of the property owned or to be owned by Owner hereinafter described and including all other terms mentioned above;

NOW, THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, IT IS HEREBY AGREED as follows:

1. The subject of this agreement, and the covenant herein, is the Owner's property, situate in the County of Cass and State of North Dakota, depicted by Exhibit "A" attached hereto and more particularly described as:

Lot 1, Block 1, Tunheim Addition to the City of Fargo, County of Cass and State of North Dakota.

[hereinafter referred to as the "Subject Property"]

2. As a condition of City's approval of said platting and zoning, Owner does hereby covenant and agree with the City that said Owner will never institute any suit or action at law or otherwise against the City, nor institute, prosecute or in any way aid in the institution or prosecution of any claim, demand, action or cause of action for damages, costs, loss of service, expenses or compensation for or on account of any damage, loss or injury either to person or property, or both, resulting or which may result by reason of the use of said property in relation to the location and use of The Municipal Airport and specifically for damages caused or allegedly caused by the noise of the take-off or landing of jet-propelled or other aircraft from the present runways or any future runways of the present Hector Airport or for any other noise incidental to the operation of said airport; also from any vibration generated by said aircraft or from any pollutants or contaminants created from such aircraft usage. This provision shall include the Municipal Airport Authority of the City of Fargo, as well as any subsequently formed regional airport authority that may be formed to operate the airport facilities.

3. Owner agrees that it will at all times indemnify City, and hold and save the City harmless from and against any and all actions or causes of actions, claims, demands, liability, loss, damage, or expense of whatsoever kind and nature, including counsel or attorneys fees, which the City shall or may at any time sustain or incur by reason or in consequence of the use of said tract of land for any lawful purposes and specifically for any damages caused or allegedly caused by the noise of the take-off or landing of jet-propelled or other aircraft from the present runway or any future runways of the present Hector Airport or for any other noise incidental to the operation of said airport, or which the City may sustain or incur in connection with any litigation, investigation or other expenditures incident to such use of said tract, including any suit instituted to enforce the obligations of this agreement of indemnity, and Owner agrees to pay to City all sums of money, with interest, which the City shall or may pay or cause to be paid, or become liable to pay, on account of or in connection with such lawful use or other use of said tract of land. This provision shall include the Municipal Airport Authority of the City of Fargo, as well as any subsequently formed regional airport authority that may be formed to operate the airport facilities.

4. The owner agrees that this agreement may be recorded on the above-described property and specifically agrees that the following covenants shall apply to the above-described property:

FAIR DISCLOSURE STATEMENT

Airport -- The tract of land hereby conveyed and legally described lies within the vicinity of Hector International Airport and may be impacted by noise associated with the operations of said airport including noise from the take-off or landing of jet propelled or other aircraft from the present runways or any future runways of the present Hector International Airport or for any other noise incidental to the operation of said airport; or from any vibration generated or from any pollutants or contaminants created from such aircraft usage. The airport normally operates seven days per week throughout the entire year, and is open for flight operation at all hours. The present level of operations will continue and expand for the foreseeable future.

The noise rating of this tract, due to airport operations at the above-named airport according to the Noise Evaluation and Land Use Compatibility Study (1990-91) is above 65 in the Lnd rating system.

The United States Department of Housing and Urban Development (HUD), Circular 1390.2 of 4 August 1971, Subject: Noise Abatement and Control: Departmental Policy, Implementation Responsibilities, and Standards, as well as any subsequent or replacement provisions established the following external noise exposure standards for the new construction of residential and other noise sensitive utilization:

Airport Environs

Land Zone	Site Suitability Classification
Above 75	Clearly unacceptable
65-75	Discretionary: Normally unacceptable
Below 65	Clearly acceptable

These site suitability classifications are further defined by HUD as:

1. Clearly unacceptable: The noise exposure at the site is so severe that construction costs to make the indoor environment acceptable for the performance of activities would be prohibitive. (Residential areas: the outdoor environment would be intolerable for normal residential use.)

2. Normally unacceptable: The noise exposure is significantly more severe so that unusual and costly building constructions are necessary to ensure adequate performance of activities. (Residential areas: barriers must be erected between the site and prominent noise sources to make the outdoor environment tolerable.)

3. Clearly acceptable: The noise exposure is such that the activities associated with the land use may be carried out with essentially no interference from aircraft noise. (Residential areas: both indoor and outdoor noise environments are pleasant.)

Certification

The undersigned purchaser of said tract of land, certifies that (s)he (they) has (have) read the above statement and acknowledge(s) the preexistence of the airport named above and the right of said airport to continue to operate and also recognizes the City of Fargo sewage lagoon existence.

Purchaser

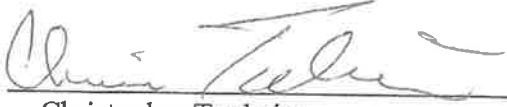
Purchaser

In the event Owner does not include the foregoing statement in the purchase agreement or deed, it shall, nonetheless, constitute a covenant and restriction running with the land and shall bind any future owner to recognition of the herein referenced facts.

5. This Agreement shall be binding upon the heirs, executors, administrators and assigns of the parties hereto and shall constitute a covenant running with the property described hereinbefore.

IN WITNESS WHEREOF, The parties hereto have hereunto set their hands the day and year first above written.

TUNHEIM HOLDINGS, LLC

By: 
Christopher Tunheim
Its: President

THE CITY OF FARGO, NORTH DAKOTA,
a municipal corporation

By: _____
Timothy J. Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

38e2

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS
OF LAND LYING IN TUNHEIM ADDITION,
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 Tunheim Addition, Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on September 5, 2017; and,

WHEREAS, the rezoning changes were approved by the City Commission on October 23, 2017,

NOW, THEREFORE,

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

Section 1. The following described property:

All of Tunheim Addition to the City of Fargo, County of Cass, State of North Dakota,

is hereby rezoned from "AG", Agricultural, District to "LI", Limited Industrial, 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. _____

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

Timothy J. Mahoney, Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

38f

City of Fargo Staff Report			
Title:	Rocking Horse Farm Second Addition	Date: Update:	9/27/2017 10/19/2017
Location:	4824, 4838, 4852, 4876, 4894 Rocking Horse Circle South	Staff Contacts:	Maegin Elshaug Donald Kress
Owner(s)/Applicant:	Rocking Horse Farm LLC / Houston Engineering, Inc	Engineer:	N/A
Reason for Request:	Sidewalk Waiver		
Status:	City Commission Public Hearing: October 23, 2017		

Existing
Land Use: Commercial and vacant
Zoning: GC, General Commercial
Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.
Maximum Building Coverage: 85%

Proposed
Land Use: unchanged
Zoning: unchanged
Uses Allowed: unchanged
Maximum Building Coverage: unchanged

Details:
<p>The city has received a sidewalk waiver request along the inner circle of Rocking Horse Circle South, located within the Rocking Horse development. The applicant is requesting to waive the sidewalk and has proposed an alternative sidewalk plan.</p> <p>Section 18.0201.1 of the city Municipal Code states that property owners shall maintain sidewalks in good repair and that the construction of sidewalks and/or repairs may be ordered in by the city. City policy dictates that the property owner has the ability to construct the sidewalk at his own expense or the work can be completed by the city and the cost would be assessed against the property for a period not to exceed 10 years.</p> <p>Additional information: This sidewalk was contemplated at the time of the Rocking Horse Farm Second Addition plat in 2014. At the time of the plat, the owner requested a sidewalk waiver, but ultimately withdrew the waiver application and it was the City's impression the applicant intended to construct the 4.5' sidewalk inside the circle. This stretch of sidewalk was intended to be constructed with the roadway infrastructure project of the Rocking Horse development in 2015. However, at the time of installation, the owner requested the sidewalk not be installed and intended to pursue a waiver, which is this application.</p>
Context:
<p>Schools: This property is located within the West Fargo School District.</p> <p>Neighborhood: The subject property is located in the Osgood Neighborhood.</p> <p>Parks: The subject property is located within a half-mile of Osgood Golf Course and Rocking Horse Farm Park (6101 Wildflower Dr S), which provides amenities of trails and a playground.</p>

Pedestrian / Bicycle: An shared use trail is located along a portion of the outside of Rocking Horse Circle South, which is intended to connect to Veterans Boulevard South and the metro area trail system.

Analysis / Criteria:

Land Development Code: As cited in Section 18 of the Municipal Code and as further set forth in Section 20.0609 of the Land Development Code the Planning Commission is tasked with reviewing the waiver request based on the guidelines outlined below and the facts surrounding the waiver request.

1. Sidewalks are a shared amenity and asset of the community. As such, the public interest in sidewalks transcend specific individuals, lots, subdivisions, or periods of time.
2. Sidewalks represent an important element of the transportation system, and as such, they provide an element of safety for both the automobile user and the pedestrian, including children on bikes.
3. Sidewalks are an important element in the inventory of recreational assets of the community.
4. To meet their potential as elements of the transportation and recreational components of the community, accessibility and convenience are factors of real importance.
5. Sidewalks, both as a transportation facility and as a recreational asset, must also consider and assume that vulnerable populations should be and will be found in most areas of the city. Availability and functionality are particularly important to children under 14, person with disabilities and senior citizens.
6. Sidewalks that are not built can create an uneven or unfair burden of cost, maintenance, and use.
7. Sidewalk plans that offer creative solutions but that are substantially equal substitutes to the traditional sidewalk should be encouraged.

Comprehensive Plan: The City's adopted GO2030 Comprehensive Plan includes a number of initiatives that relate to this requested waiver, as follows:

Transportation; Initiative 02: Implement complete streets: to enhance Fargo's roadway network as a continuous and connected network.

Neighborhoods; Vision: Fargo will promote attractive and welcoming neighborhoods by promoting a diverse and affordable housing stock. Fargo will create neighborhoods where residents can age in place, children can walk to school and essential services are only a short walk away.

Neighborhoods; Initiative 02: Evaluate, review and improve regulations to create more walkable neighborhoods and commercial districts.

Education, Initiative 01: Safe Routes to School – Fargo will work with local school officials, neighborhood leaders, parents and children to develop policies and programs that advocate for the safe walking and bicycling to and from schools, and in daily life, to promote a healthy lifestyle of children and their families.

The exhibit to the right indicates the nearly ½-mile location of sidewalk waiver. In lieu of providing the sidewalk, the applicant has proposed several connections from the outside of the circle, crossing Rocking Horse Circle South, and connecting into some structures and some parking lots (see proposed alternative sidewalk plan, attached to this packet).

The Engineering Department is not supportive of the application, as City sidewalks are part of necessary pedestrian infrastructure.

The Public Works Department may support the application; however, public easements, construction and maintenance must be established. The owner would be responsible for construction and maintenance of sidewalks.



Based on the input of the other departments, and review of the ordinances and policeis, Planning staff does not support this request. Planning staff has requested consideration on how public pedestrian activity occurs among buildings within the commercial development circle and has also asked for amendments that seek pedestrian access that are absent of needing to walk through a parking lot. Since this street is classified as a local collector the need for sidewalks allows for equal access to parks, schools and trails and the surrounding arterial roadway system.

Update 10/18/2017: At the October Planning Commission meeting, the Planning Commission overturned staff's recommendation of denail and reccomended approval of the application with a 4-3 vote.

Planning staff is still recomending denial to the City Commisison. Staff's primary concerns are the lack of public access easements and the necessity for the sidewalks to be built to City Standards with concrete paving.

Planning Commission Recommendation: October 3, 2017

On October 3, 2017, with a 4-3 vote the Planning Commission denied the findings and recommendations of staff and recommended approval to the City Commission of the sidewalk waiver on the basis the the proposal does meet the intent of the Comprehensive Plan or the intent of the guidelines as set forth within Section 20-0609.A (1-7) of the Land Development Code.

Staff Recommendation:

Planning Commission's Suggested Motion: "To accept the findings and recommendations of Planning Commission and move to approve the sidewalk waiver on the basis the the proposal does not meet the intent of the Comprehensive Plan or the intent of the guidelines as set forth within Section 20-0609.A (1-7) of the Land Development Code."

Staff's Suggested Motion: "To accept the findings and recommendations of staff and move to deny the sidewalk waiver on the basis the the proposal does not meet the intent of the Comprehensive Plan or the intent of the guidelines as set forth within Section 20-0609.A (1-7) of the Land Development Code."

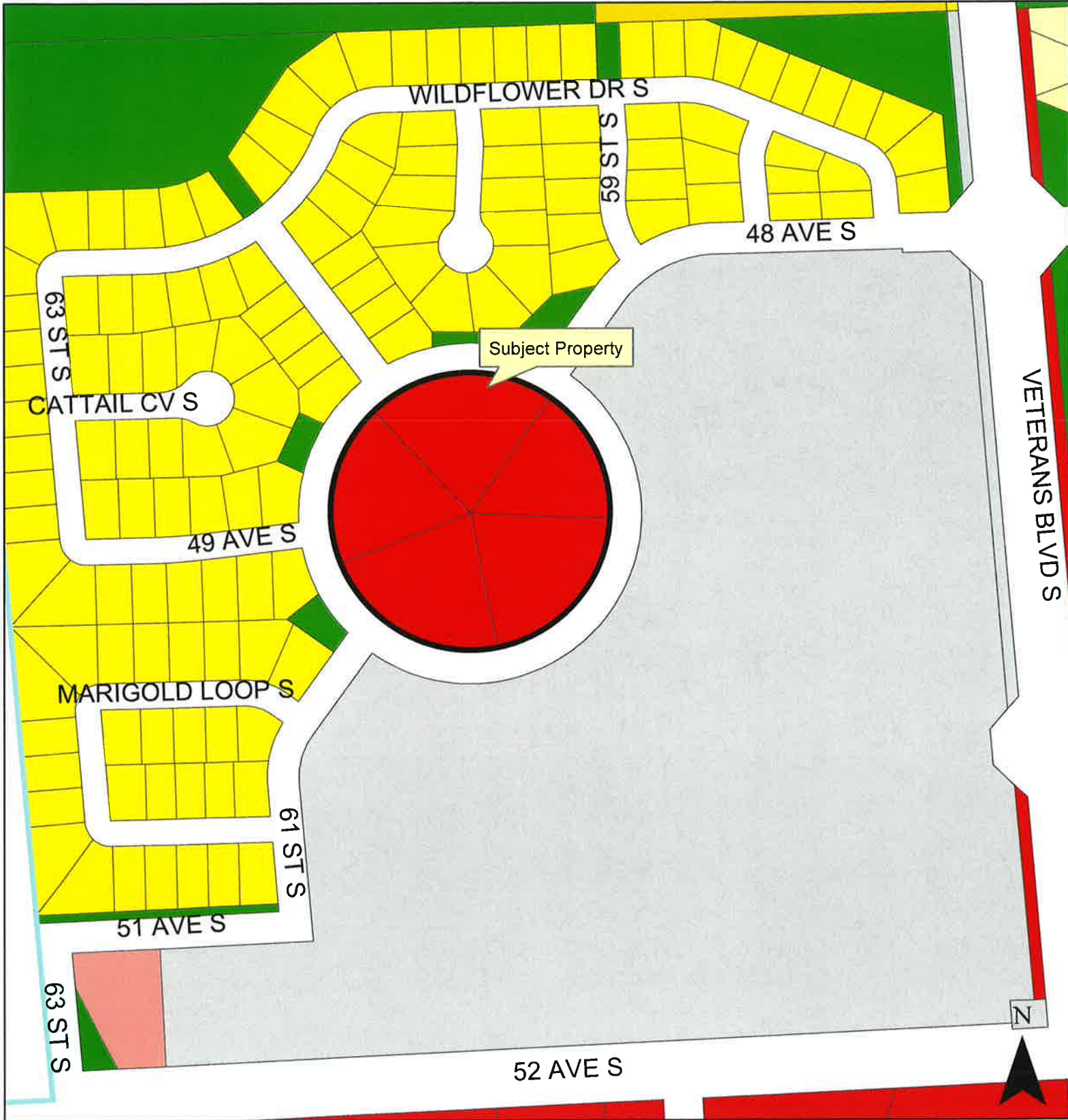
Attachments:

1. Zoning Map
2. Location Map
3. Proposed Alternative Sidewalk Plan Submitted by Applicant
4. Supplemental Information provided by Applicant

Sidewalk Waiver

Rocking Horse Farm 2nd Addition

4824 - 4894 Rocking Horse Circle S

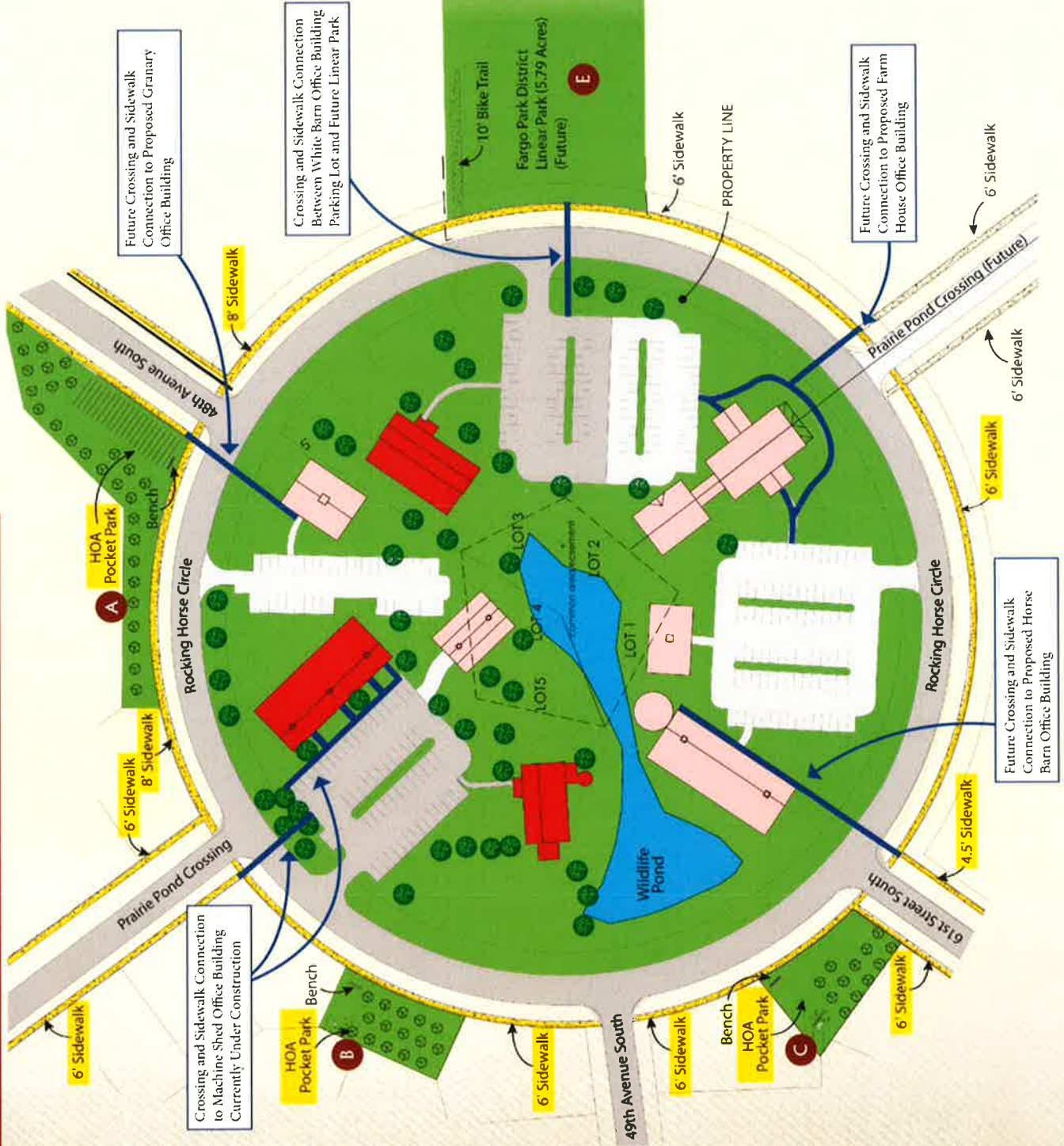


Rocking Horse Farm 2nd Addition

4824 - 4894 Rocking Horse Circle S



Alternative Sidewalk Plan (Farmstead Office Park)



Key:

- Future Building
- Current Building
- Future Parking Lot
- Current Parking Lot
- Proposed 4.5'
- Concrete Sidewalk
- Current Sidewalk
- Grass/Turf
- Trees

Farmstead Office Park Alternative Sidewalk Plan



Red Barn



White Barn



Machine Shed



Standard City Sidewalk Plan (Farmstead Office Park)

Why The Standard Design Is Not Appropriate for the Farmstead Office Park

- Provides poor connectivity to office buildings** - This plan requires that people walk in on the driveway if they want to access the site (see page 3 and 4 for examples)
- Detracts from the pristine agrarian aesthetic of the Farmstead** - The office park was designed to mimic a rural farmstead which maximizes green space. A sidewalk around the perimeter of the site is contrary to this design.

- Approximately 2,300 LF of unnecessary sidewalk** - There is already a 6' and 8' wide shared use path circling the outside of Rocking Horse Circle. This wider path is more suited for walkers, bikers, and wheelchairs compared to a 4.5' wide sidewalk. A 4.5' sidewalk, that basically goes nowhere, would likely see little to no use.

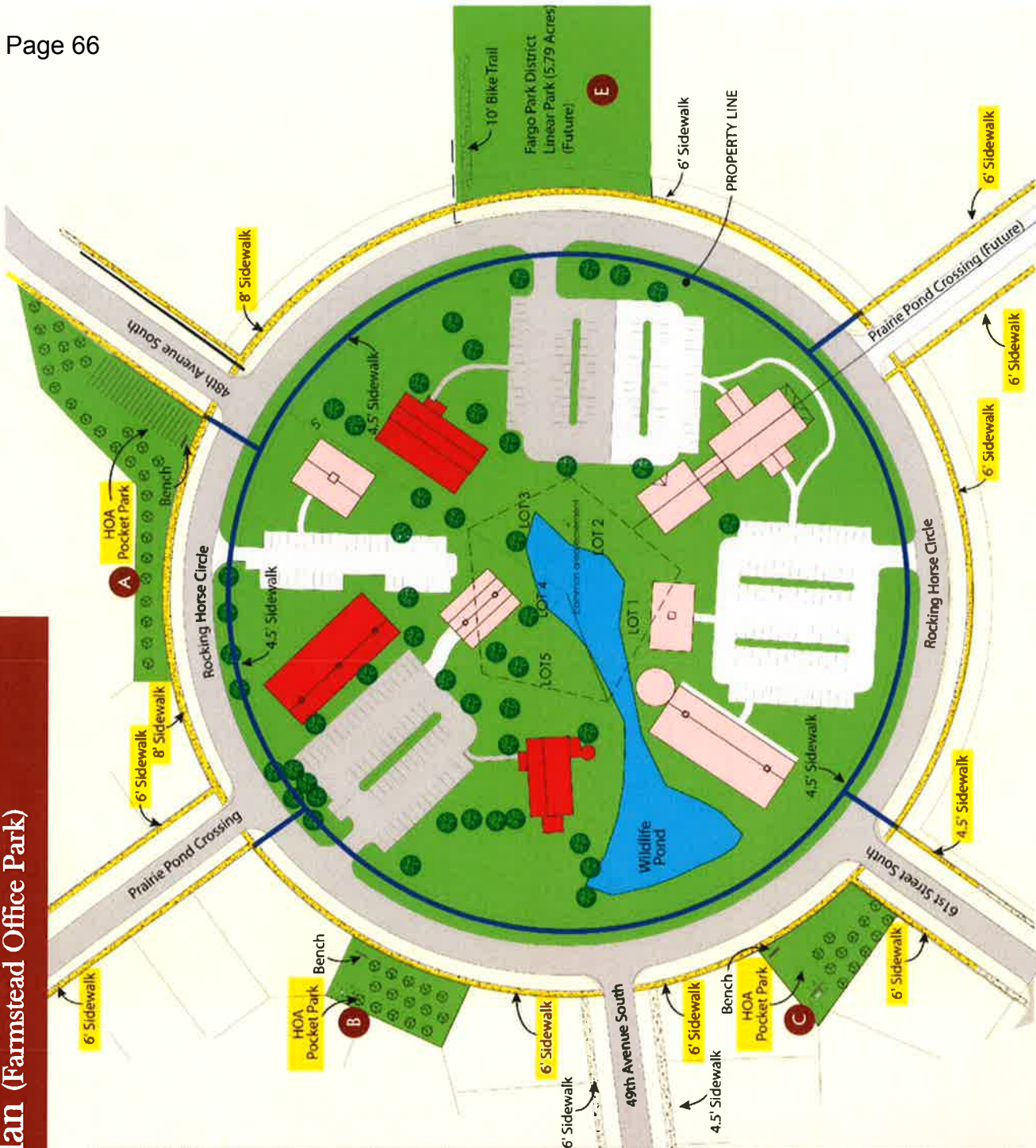
Key:

- Future Building
- Current Building

- Proposed 4.5' Concrete Sidewalk
- Current Sidewalk

- Future Parking Lot
- Current Parking Lot

- Grass/Turf
- Trees

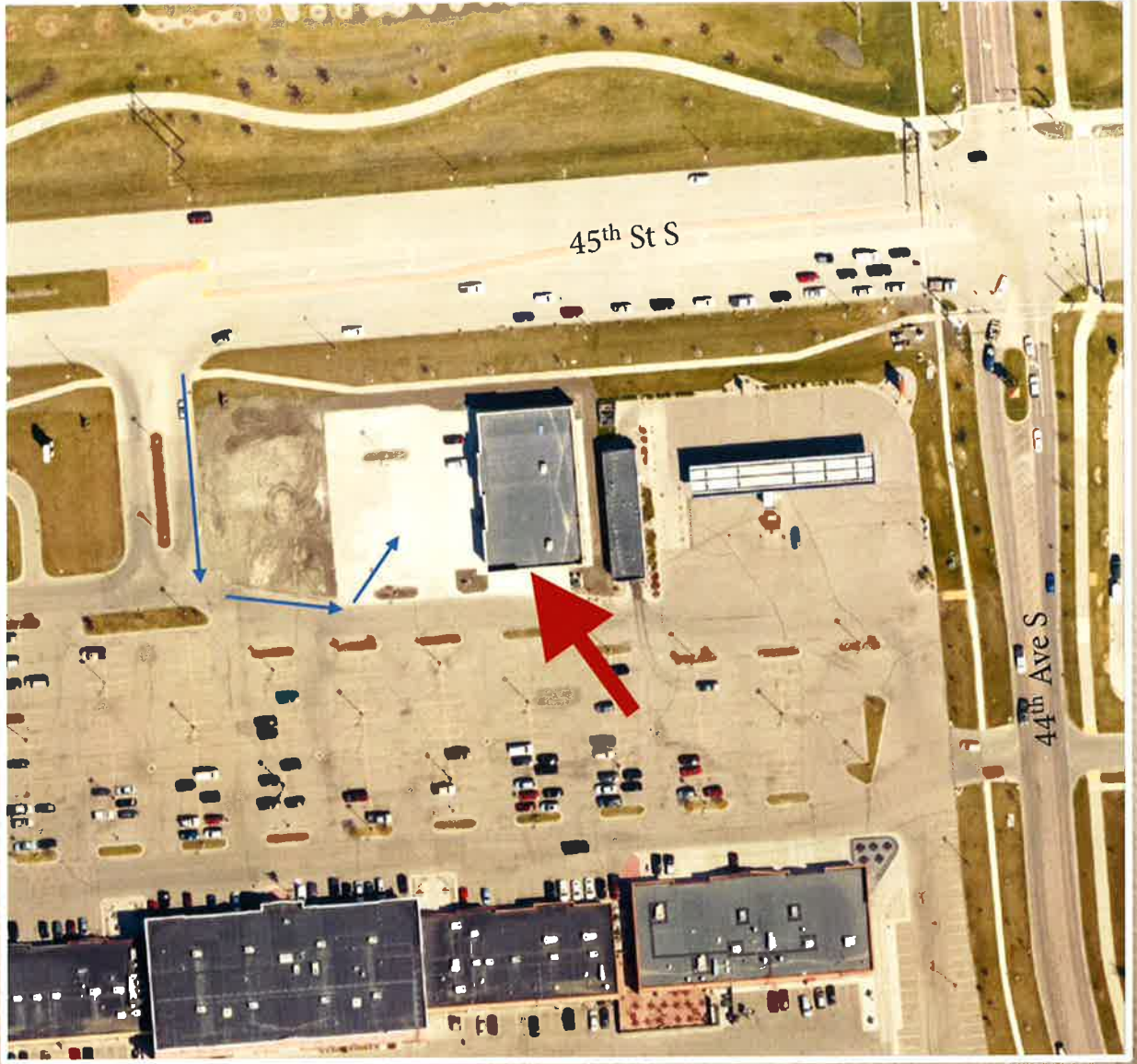


NOTE: Parking lot schematics were updated 9/11/17

Standard City Sidewalk Plan (Recent Example #1)

The Shoppes at Osgood T-Mobile Store (2017)

4281 42nd St. S, Suite 112, Fargo, ND 58104



No direct access to T-Mobile store from pedestrian transportation network
Pedestrians must enter side by walking in on driveway



Standard City Sidewalk Plan (Recent Example No. 2)

Enterprise Rent-A-Car (2017)

4861 45th St. S, Fargo, ND 58104



No direct access to Enterprise Rent-A-Car store from pedestrian transportation network

Pedestrians must enter side by walking in on driveway









Alternative Sidewalk Plan (Farmstead Office Park)

Why the Alternative Sidewalk Plan is right for the Farmstead Office Park and Rocking Horse Farm:

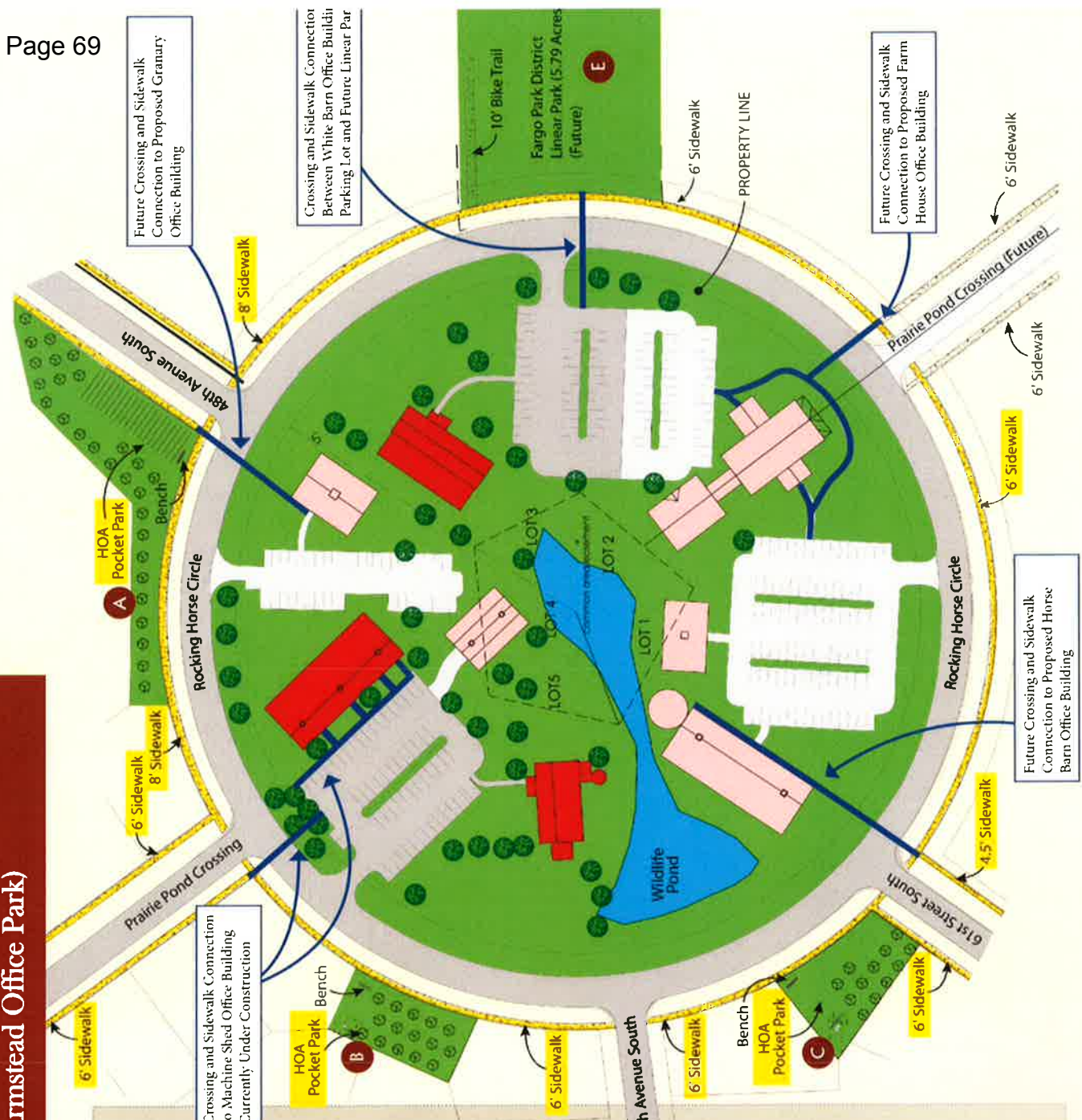
- 1. Farmstead will consist of office buildings only** - No public destination points (i.e. retail, etc.)
- 2. The proposed plan provides better pedestrian access to the Farmstead office buildings** - More direct access to buildings that does not require use of driveways to enter the site
- 3. Pedestrians will utilize the wider 6' and 8' shared use path** - This infrastructure already exists and is more suited for walkers, bikers, and wheelchairs than a 4.5' wide sidewalk
- 4. Eliminates unneeded redundant infrastructure** - A 4.5' wide sidewalk on the inside of Rocking Horse Circle will see little to no use
- 5. Maximizes green space and reinforces the agrarian aesthetic of the Farmstead Office Park**

Key:

-  Future Building
-  Current Building
-  Proposed 4.5' Concrete Sidewalk
-  Current Sidewalk

-  Future Parking Lot
-  Current Parking Lot

-  Grass/Turf
-  Trees



Rocking Horse Farm Amenities



Pocket Park Key

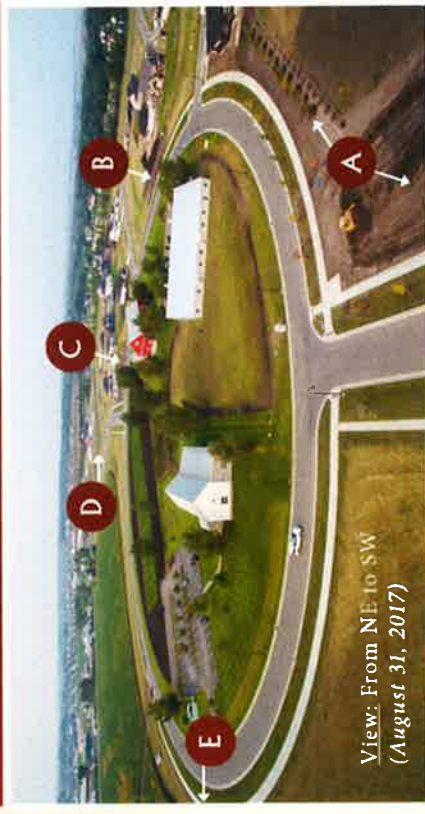
- A** Field Crop Park
- B** Berry Patch Park
- C** Apple Orchard Park
- D** Native Tree Park
- E** Future 5.79 Acre Park

10' Recreational trail along north and east boundary
 Four Learning-Oriented Pocket Parks (A, B, C, D)
 Future Fargo Park District linear park connecting
 Rocking Horse Circle and Veterans Boulevard (E)

*** ALL AMENITIES ARE ACCESSIBLE WITHOUT THE NEED FOR A SIDEWALK AROUND THE INSIDE OF THE FARMSTEAD OFFICE PARK**



Farmstead Office Park Aerial View

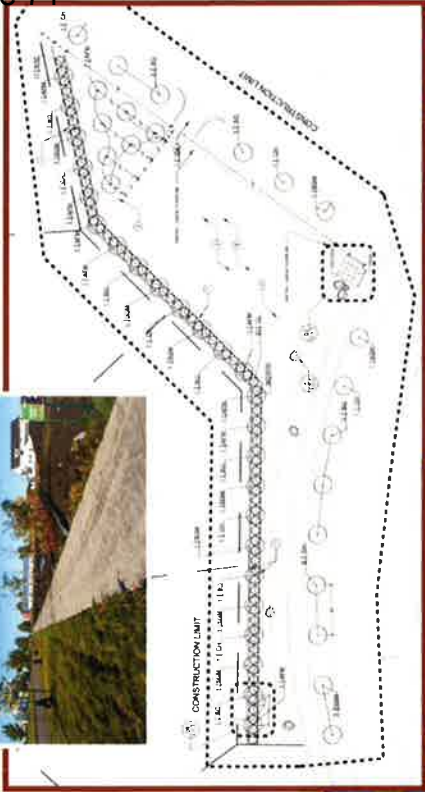


View: From NE to SW (August 31, 2017)

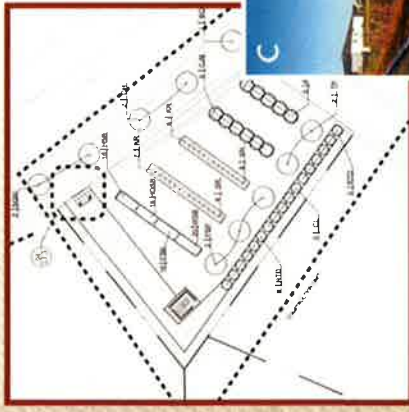
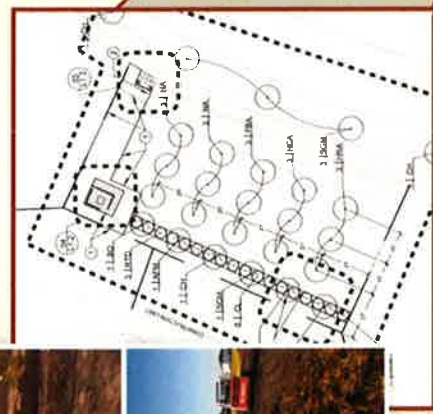
Pocket Park Detailed Schematics



A Field Crop Park



B Berry Patch Park



C Apple Orchard Park



D Native Tree Park



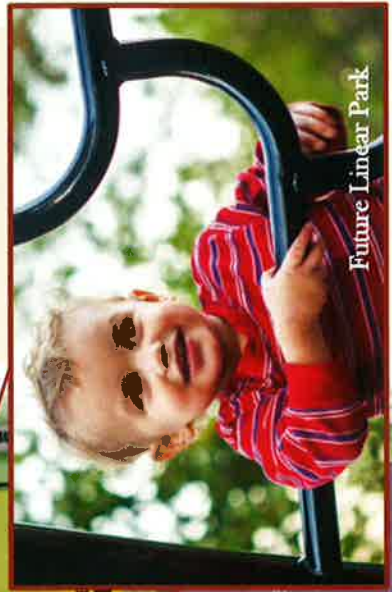
Raspberry

Chokeberry

Strawberry

Significant Public Walking Destinations

* All public walking destinations are accessible without the need for a sidewalk around the inside of the Farmstead Office Park.



ROCKING HORSE FARM
 A Handcrafted Community

Builder's Perspective



“This development is unique and reminiscent of bigger cities who have planned communities - the golf course views, pond lots, and commitment to architectural excellence has been a big draw for many of our clients.”

-Kirsten Waverek, Studio West Homes



CONFERENCE CRUSHER
The Forum
 OF TAIPOO, COSTA MESA, CA
 SEPTEMBER 10, 2011

HOMES WITH HISTORY

Architectural variety in F-M reveals character in Los Angeles' historic homes

Los Angeles' historic homes are a testament to the city's rich architectural heritage. From the grand mansions of the early 20th century to the more modest bungalow houses of the 1920s and 30s, the city's housing stock is a diverse and fascinating mix of styles. This variety is a result of the city's long history of immigration and its position as a major center of commerce and industry. The result is a city where every street corner offers a glimpse into a different era of American history.

Once seen as voice for Native American children, woman now accused of scam

Women's rights activist and Native American advocate, Mary Kay Vaughan, has been accused of a multi-million dollar scam. Vaughan, who was once a prominent voice for Native American children, is now facing charges of fraud and conspiracy. The alleged scam involved the sale of Native American artifacts and land to unsuspecting buyers. Vaughan's actions have caused significant damage to the Native American community and have led to her current legal troubles.

Today's weather

Forecast for the week of September 10-16, 2011:

Day	High/Low	Conditions
Mon	75/55	Partly Cloudy
Tue	78/58	Sunny
Wed	80/60	Partly Cloudy
Thu	82/62	Sunny
Fri	85/65	Partly Cloudy
Sat	88/68	Sunny
Sun	90/70	Partly Cloudy

Job

Find your next job opportunity at www.job.com

Farm Land

Buy or sell farm land. www.farm-land.com

INSIDE TODAY'S FORUM

SPORTS: 2008
 NEWS: 100
 CULTURE: 100
 BUSINESS: 100
 PAGE D1

The Roaming Horse Farm Difference



2. "Modern Agrarian"

- Simplified Roof Framing
- Expanded Deck Entry
- Removal of Unnecessary Rooms
- Simplified Floor Plans

Upgraded Price Point



1. "Contemporary Colonial"

- Simplified Roof Framing
- Design Flexibility



3. "Prairie School"

- Addressed Detail
- Premium Finishes

Upgraded Price Point



Roaming Horse Farm Housing Design Guide

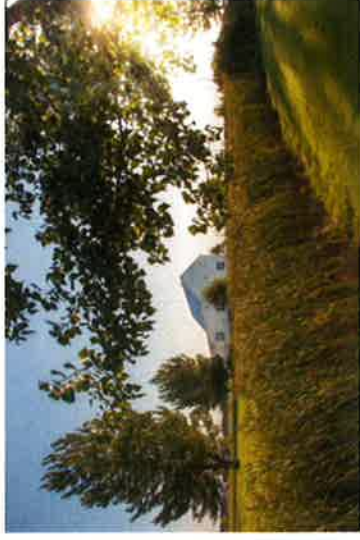


Additional Design Efforts



1. Farmstead Office Park

Created a one-of-a-kind office park with tastefully designed buildings, a wildlife pond, abundant amounts of green turf, and many transplanted trees.



2. Communications Pedestal Consistency

Developed a plan with the three major cable providers, Midco, CableOne and Century Link to utilize the same pedestal design and color to help avoid pedestal clutter. Rocking Horse Farm paid the upgrade costs to ensure more consistent, attractive pedestals.



3. Minnkota Power Control

Rocking Horse Farm designed a “well house” looking building for Minnkota Power within which to place their electronic switching equipment.



4. Bright Futures Early Learning Center

Located on 52nd Avenue and 63rd Street South, we sold land to Bright Futures for their new state-of-the-art childcare center. To help ensure an attractive agrarian-styled building was placed at a future main entrance to Rocking Horse Farm, we guided the building's exterior design and paid a portion of the architectural fee.

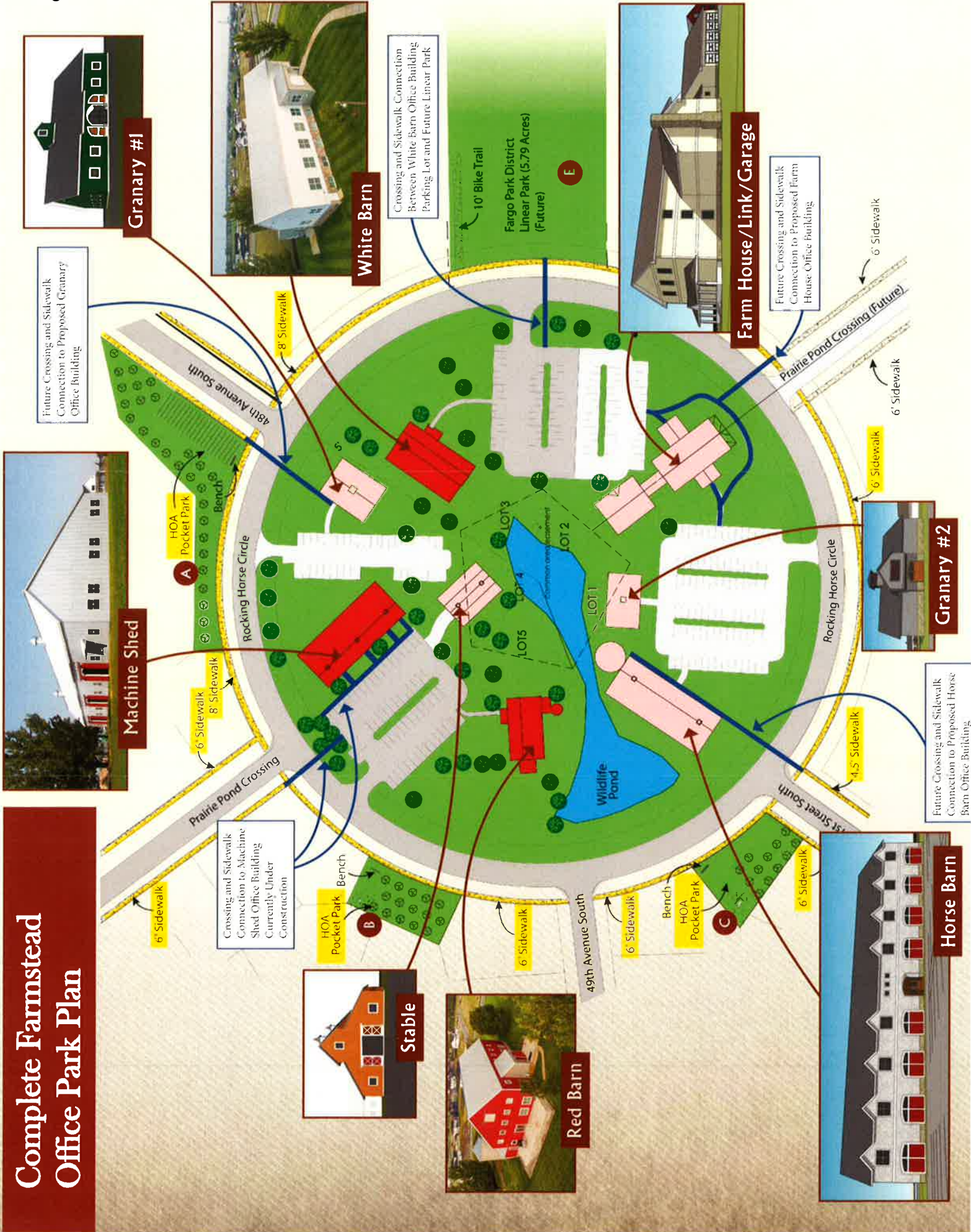


5. Entrance Signage

Landscape architect, Land Elements, designed a major entrance sign which is located at the two main entrances to the 136-lot 2nd and 3rd Addition. The 50' long x 5' tall fieldstone signage wall will have our red rocking horse located on top. All 50' of wall will be lit with soft intensity LED lighting. In turn, the red horse will also be lit.



Complete Farmstead Office Park Plan



Farmstead Office Park Alternative Sidewalk Plan



Red Barn



White Barn



Machine Shed



ROCKING HORSE
FARM

**Motion Approved By Planning Commission
on October 3, 2017:**

"To accept the requested alternative sidewalk plan and recommend approval to the City Commission as the proposed plan is consistent with the GO2030 Comprehensive Plan and meets the requirements of Section 20-0609 of the Land Development Code."



389

October 19, 2017

City of Fargo Commission
 200 N 3rd Street
 Fargo, ND 58102

Commissioners:

MATBUS offers a discount fare to youth, persons with disabilities and senior citizens. The 30-day pass discount fare is \$26. MATBUS also offers a Summer Youth Pass to youth in Kindergarten through 12th Grade. This pass is available for \$26 and is valid July 1st through August 31st of the year purchased. The Summer Youth Pass is essentially three months unlimited rides for the cost of one month.

Youth ridership and pass sales have been declining over the past two years. Youth ridership was down 13% in 2015 and 12% in 2016. MATBUS staff has completed an analysis on youth sales over the past four (4) years. Staff has determined that by converting the Summer Youth Pass to a year-around Youth 90-Day Pass, we could increase youth ridership throughout the metro area. This is especially important, as our youth are our adult riders of the future. The 90-day period would start with the first use of the pass. For schools that let out in May, the youth could begin using the pass for whenever their activities start.

There is a potential loss in fare revenue of approximately \$1,900, which would be shared with Moorhead based on ridership. Fargo's estimated two-thirds share would be approximately \$1266. However, the new fare structure could generate increased sales and ridership and a marketing campaign would be initiated if the fare change is approved. The sales analysis is provided below. The 2018 Mass Transit Budget for farebox revenue would not be revised.

4-Year Average Youth Pass Sales 2013 to 2016						
Type	Current Pricing			90-Day Pricing		Difference
	# Sold	Price Ea.	Cost	# Projected (divided by 3)	Cost	
Youth 30-day Smartcard	43	\$ 26.00	\$1,118.00	14	\$372.67	-\$745.33
Youth 30-day Ticket	67	\$ 26.00	\$1,742.00	22	\$580.67	-\$1,161.33
Summer Youth Pass 90-day	204	\$ 26.00	\$5,304.00	204	\$5,304.00	\$0.00
Total	314		\$8,164.00	\$240.67	\$6,257.33	-\$1,906.67

* 10-ride tickets, 1-ride tickets and cash fare payments were excluded from this computation, as these are casual riders.

RECOMMENDATION: The City Commission is asked to approve the proposed changes to the youth passenger fare for the MATBUS Fixed Routes to become effective January 1, 2018. The Metro Area Transit Coordinating Board approved the change at the August 2, 2017 meeting.

Julie Bommelman
 Julie Bommelman
 Transit Director
 City of Fargo




(39)

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

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY 

DATE: OCTOBER 16, 2017

SUBJECT: APPOINTMENTS TO THE HISTORIC PRESERVATION COMMISSION

The terms of Heather Fischer and Paul Gleye on the Historic Preservation Commission expired on October 31, 2017. Both Ms. Fischer and Mr. Gleye are willing to continue their service on the Board.

I am, therefore, recommending their reappointment.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: Approve the reappointment of Heather Fischer and Paul Gleye to the Historic Preservation Commission for three-year terms ending October 31, 2020.

mmappt17hpc



OFFICE OF THE CITY ADMINISTRATOR
Bruce P. Grubb

October 19, 2017

MEMORANDUM

To: Honorable Board of City Commissioners
From: Bruce P. Grubb, City Administrator *BPG*
Re: Demolition of Old City Hall

The construction of new City Hall is expected to be complete in the spring of 2018. Once all departmental operations have been moved into the new building, we would like to initiate the demolition and removal of the old City Hall. To that end, TL Stroh has prepared a budget level estimate for the demolition. The City Hall demolition project has been estimated at \$795,000 and is itemized below:

Mobilization	\$ 40,000
Demolition	\$445,000
Disposal Fees	\$100,000
Backfilling and Topsoil Spreading	\$ 90,000
Miscellaneous	\$ 20,000
Hazardous Materials Removal	<u>\$100,000</u>
Total	\$795,000

As you may recall, the original design for a new City Hall was bid on March 30, 2015. The low bids were \$31,148,713 and did not include the demolition of old City Hall. In an effort to reduce costs, a new City Hall was redesigned and rebid on May 26, 2016, with the low bids coming in at \$22,496,900. Similarly, the demolition of old City Hall was not included in the rebid for purposes of comparison to the original bid. On June 2, 2016, the City Commission awarded the low bids associated with the construction of a redesigned City Hall.

To that end, the demolition and removal of old City Hall is currently a non-budgeted project. Based on the estimate of costs, the following funding plan is recommended:

Remaining Balance on the Harwood Township Land Sale	\$319,000
Vector Control Surplus	\$243,000
Capital Projects Fund	<u>\$233,000</u>
Total	\$795,000

This item was discussed at the September 25, 2017, Finance Committee meeting. The Committee recommended that a funding recommendation be developed and forwarded on to the City Commission.

Your consideration in this matter is greatly appreciated.

Recommended Motion:

Approve the funding plan for the demolition of old City Hall as presented.

C: Michael Redlinger, Assistant City Administrator
Kent Costin, Finance Director
Ben Dow, Public Works Director
Terry Stroh, TL Stroh Architects

p 701.239.4198
f 701.239.9643

8 Seventh Street N Fargo, ND 58102

tlstroh.com

tlstroh.com



Bruce Grubb
City Administrator
Fargo, ND

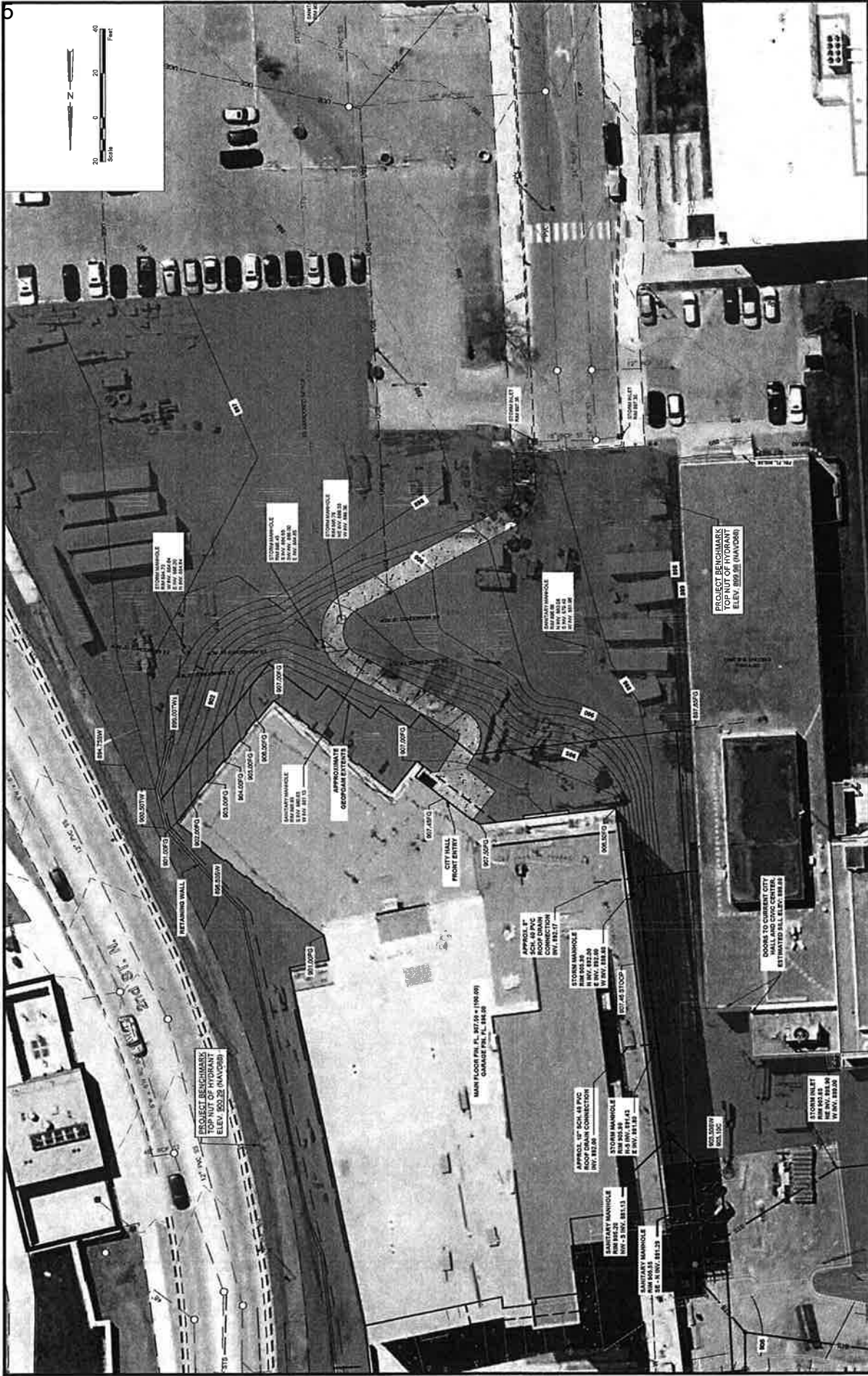
RE: Estimate for Demo of exist City Hall

Mobilization:	\$40,000
Demolition:	\$445,000
Disposal fees:	\$100,000
BackFill/Topsoil:	\$90,000
Misc:	\$20,000
Hazards Material Removal:	\$100,000
Total demo	<u>\$795,000</u>

Terry L. Stroh AIA

A handwritten signature in black ink, appearing to read 'T. Stroh'.

TL Stroh Architects & Interiors



No.	Revision	Date	By	<p>PRELIMINARY Not for Construction</p>		Fargo P: 701.237.5065 F: 701.237.5101	Drawn by TRK	Date 9-28-17	Checked by RGE	Scale AS SHOWN	NEW FARGO CITY HALL - SOUTH GRADING EXHIBIT CITY OF FARGO FARGO, NORTH DAKOTA	PROPOSED GRADING DISPLAY PROJECT NO. 7028-006	SHEET 2 of 2

H:\p\m\70047002815_006_City Hall 150717-02 West Parking Lot Grading\Proposed Grades - South of City Hall [15-11-17] South Side\wk\wg\Proposed Grades [09/17/17] 15-11-17.dwg (15/09/17) 1:18 PM (Revised)



(41)



Fargo Water Treatment Plant
435 14th Avenue South
Fargo, North Dakota 58103
Phone (701) 241-1469
FAX (701) 241-8110

October 19, 2017

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

Subject: Resolution for SRF Loan Application – Membrane Water Treatment Plant

Dear Commissioners:

Water Utility staff is seeking approval for the attached resolution to authorize filing of a new loan application for the Membrane Water Treatment Plant (MWTP). Due to improved interest rates (1.5%), this application will refinance terms of the 2012 approved loan and provide funding to complete construction. This will result in an **interest savings of approximately \$500,000 per year during the initial years of the loan** compared to the financing strategy shown at bid award for the second MWTP bid. As with the initial loan, the new loan will be under the federal State Revolving Fund program administered by the North Dakota Department of Health (NDDH). The attached Report of Action (ROA) was unanimously approved by the Utility Committee on September 28, 2017. The following are important factors regarding the resolution and new loan application for the MWTP:

- On a cost per gallon of treatment capacity basis, the final MWTP cost will closely match other recent reverse osmosis (RO) plants in the region (within about 5%).
- The bonds for the existing WTP are now paid in full. The loan payment for the MWTP should be about \$4.35 million annually compared to about \$4 million for the existing plant. The first MWTP P&I payment will be in 2019.
- The Revenue-Adequacy (R-A) model for the Water Utility has been frequently updated through design, bidding, and construction to ensure the loan payment for the MWTP is manageable.
- Once complete and operational, the MWTP should be a valuable asset to the City of Fargo and regional customers for the next few generations.

Water Utility staff is recommending approval of the attached Resolution.

Your consideration is greatly appreciated in this matter.

Sincerely,

Troy B. Hall
Water Utility Director

C: Bruce Grubb, City Administrator

SUGGESTED MOTION:

Approve the Resolution to authorize filing of a new SRF loan application for the MWTP.

RESOLUTION OF GOVERNING BODY OF APPLICANT
(Suggested Format)

RESOLUTION NO. _____

Resolution authorizing filing of application with the North Dakota Department of Health for a Loan under the Clean Water Act.

WHEREAS, under the terms of the Clean Water Act, the United States of America has authorized the making of loans to authorized applicants to aid in the construction of specific public projects:

Now, Therefore, BE IT RESOLVED Fargo City Commission
(Governing Body of Applicant)

1. That Troy Hall be and is hereby authorized to execute
(Designate Official)
and file an application on behalf of City of Fargo, North Dakota with the North
(Legal Name of Applicant)

Dakota Department of Health for a loan to aid in the construction of:

the Fargo Membrane Water Treatment Plant and Improvements Project

(Brief Project Description)

2. That Troy Hall, Water Utility Director, be and is
(Name of Authorized Representative) *(Title)*
hereby authorized and directed to furnish such information as the North Dakota Department of Health may reasonably request in connection with the application which is herein authorized to be filed, to sign all necessary documents, and, on behalf of city, to accept loan offer and receive payment of loan funds.

CERTIFICATE OF RECORDING OFFICER

The undersigned duly qualified and acting City Auditor of the
(Title of Officer)

City of Fargo, North Dakota does hereby certify:
(Legal Name of Applicant)

That the attached resolution is a true and correct copy of the resolution, authorizing the filing of application with the North Dakota Department of Health, as regularly adopted at a legally convened meeting of the Fargo City Commission duly held on the 23rd day of

October, 2017; and further that such resolution has been fully recorded in the journal of proceedings and records in my office.
(Name of Governing Body of Applicant)

In WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 20__.

(SEAL)
If applicant has
an official seal,
impress here.

(Signature of Recording Officer)

City Auditor

(Title of Recording Officer)

REPORT OF ACTION

UTILITY COMMITTEE

Project No. WA1301 Type: SRF Loan Application
Membrane Water Plant

Location: Membrane Water Treatment Plant

Date of Hearing: 9/28/17

<u>Routing</u>	<u>Date</u>
City Commission	10/23/17
Project File	

Troy Hall, Water Utility Director, presented the attached memo regarding a new State Revolving Fund (SRF) loan application for the Membrane Water Treatment Plant (MWTP). Due to lower interest rates now available, there will be an interest saving of approximately \$500,000 annually in the initial years of the loan and will fund the MWTP construction to the end of the project. This loan application essentially refinances the funding approved at bid award. It is in the City of Fargo's financial best interest to refinance the full loan needed. The following are relevant elements of MWTP funding:

- MWTP cost matches other regional Reverse Osmosis plants on cost per gallon of capacity basis.
- All-in cost of the MWTP includes construction, engineering, and direct City-paid items.
- All-in MWTP cost has been updated in the Water Utility Revenue-Adequacy model for 2nd bid and has been adjusted as the project progressed.
- Current SRF loan terms are very good: 1.5% interest + 0.5% admin fee, 30 years term
- Annual payment will be about \$4.35 million. Existing plant annual payment was about \$4.00 million, which is now paid in full. First large MWTP principal payment will be in 2019.
- We are now in position to predict approximate final MWTP costs. The SRF loan application is for \$98 million to cover the remainder of construction.

MOTION:

On a motion by Jim Hausauer, seconded by Don Tucker, the Utility Committee voted to approve submitting the new State Revolving Fund (SRF) loan application for the Membrane Water Treatment Plant.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>	<u>X</u>
					<u>Proxy</u>
Anthony Gehrig, City Commissioner		X			
Mark Bittner, Director of Engineering		X			
Kent Costin, Director of Finance					
Brian Ward, Water Plant Supt.		X			
Don Tucker, Wastewater Plant Supt.		X			
Bruce Grubb, City Administrator		X			
Scott Liudahl, City Forester					
Terry Ludlum, Solid Waste Utility Director		X			
James Hausauer, Wastewater Util. Director		X			
Troy Hall, Water Utility Director		X			
Ben Dow, Public Works Operations Director		X			
Vacant--, City Engineer					

ATTEST:


Troy B. Hall
Water Utility Director

C: Tim Mahoney, Mayor
Commissioner Strand
Commissioner Piepkorn
Commissioner Grindberg

Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

MEMO

DATE: Oct. 9, 2017

TO: Commissioner Tony Grindberg

FROM: Erik Johnson, City Attorney

RE: Election matters

You have asked me to address two topics or questions:

1. Should the City Commission be expanded from “the mayor and 4 commissioners” to “the mayor and 6 commissioners”?
2. Should the City adopt an election process with a “primary” in June and the actual election in November?

Expansion to Seven Commissioners—HRC Amendment. The number of city commissioners is set by Fargo’s Home Rule Charter and a change in that number requires an amendment to the home rule charter. The first step will be for the city commission to approve a resolution identifying the proposed amendment to the home rule charter and directing the city auditor to place the matter before the voters at an election. The city auditor then publishes a notice in The Forum that places the voters on notice as to the city commission resolution and as to the precise wording changes to the home rule charter being proposed. The city auditor then prepares the ballot language. Fargo’s city auditor has traditionally also presented the ballot language to the city commission for their approval, although this step is not a requirement. If the voters approve the ballot measure, the home rule charter amendment takes effect ten (10) days after the election results are certified. **Enclosed as Appendix “A” is a draft resolution proposing an amendment to the Fargo Home Rule Charter to expand the number of commissioners from four to six.**

Change to Primary Election/General Election. The election commission has suggested that the question of having a city primary election in June followed by a general election in November be accomplished by a home rule charter amendment. This is how the run-off election was established and then repealed by HRC amendments in 1986 and 2000. I undertook some research to evaluate the best approach to be used to accomplish a transition to a primary/general election process. After reviewing both Fargo City law (HRC and ordinances) and state election law, it seems that the simplest approach for the transition would be for the City to simply adopt and follow the rules already established in North Dakota law for the primary/general election process. County commissioners are elected with the two-stage process. It would make sense to simply pattern Fargo’s laws—the Home Rule Charter and city ordinances—after the two-stage election process for county commissioners. The city could even adopt by reference the



~~applicable existing state statutes~~ necessary to establish the two-stage process for election of the mayor and Fargo city commissioners.¹ It is important to note that Fargo's existing Home Rule Charter authorizes the city commission to "... provide for all matters pertaining to city elections, except as to qualifications of electors." Fargo HRC, Art. 3.F. This power provides an appropriate level of flexibility in the adoption of a two-stage primary/general election process. First, the basic question could be presented to a city-wide vote, either a home rule charter amendment or an advisory vote: shall the Fargo mayor and city commission election process be established with primary election followed by a general election? If the voters approve the change, then the city commission can establish the details of the two-stage process by city ordinance. In that way, the city commission will be able to accommodate any needed changes that might arise in the future merely by adoption of an ordinance. If all the details were contained within the home rule charter, all such changes would need to be approved by another city-wide vote. I have researched state law to identify various state-law provisions (in the Century Code) that the City Commission would adopt by ordinance after the city voters gave approval to the two-stage primary election/general election process; however, I have not yet prepared the actual ordinance to accomplish this task. Please let me know if you would like me to draft a proposed ordinance that would follow an HRC amendment. **Enclosed as Appendix "B" is a preliminary draft resolution proposing an amendment to the Fargo Home Rule Charter to incorporate a two-stage primary election/general election process for the election of the city's mayor and city commissioners.**

¹ The municipal judge is also a city elected official. The Election and Governance Commission did not address the question of whether the municipal judge position should also follow the two-stage primary/general election process.

APPENDIX "A"

PRELIMINARY DRAFT RESOLUTION

EXPANSION OF CITY COMMISSION

COMMISSIONER _____ introduced the following resolution and moved its adoption:

RESOLUTION

WHEREAS, the Home Rule Charter presently establishes the members of the Board of City Commissioners to consist of the mayor and four (4) commissioners; and

WHEREAS, the Board of City Commissioners finds it necessary and desirable to propose for city-wide vote an amendment to the Home Rule Charter to expand the number of commissioners from the mayor and four (4) commissioners to the mayor and six (6) commissioners and to propose other revisions to the Home Rule Charter to accommodate said expansion,

NOW, THEREFORE, BE IT RESOLVED that an amendment to the Home Rule Charter be proposed to the voters that, if approved by the voters, would expand the number of commissioners, as follows:

Article 2 – Governing body and mayor

A. Subject to the limitations imposed by the constitution of the United States of America, the constitution of the state of North Dakota, state law, and this charter, all powers of the city shall be vested in the elected governing body. The elected governing body shall enact ordinances, adopt annual and long-range budgets, raise revenue, determine policies and prescribe the functions of government to be performed by the city's elected and appointed officials under the authority of this charter.

1. The Fargo city government shall operate with the commission form of government. The governing body shall consist of the mayor and ~~four~~six commissioners, forming the board of city commissioners. The mayor is the presiding officer of the commission and the city's chief executive officer. The mayor may participate in all respects in commission action.

2. The mayor and all other members of the governing body

shall hold office for four years and until a successor has been duly elected and qualified. To qualify after election, the governing board members shall take the following oath or affirmation, filing a signed copy of same with the city auditor.

"I do solemnly swear (or affirm) that I will support the constitution of the United States, constitution of the state of North Dakota, and the home rule charter of the city of Fargo, so help me God (if an oath) under the pains and penalties of perjury (if an affirmation)".

* * *

- 10. The mayor and each of the commissioners shall be elected by all the voters in the city, and shall serve four-year terms. The mayor will be elected in the regular 1986 city election and every four years thereafter. The mayor's term will start such day as is specified by city ordinance.
- 11. Two city commissioners shall be elected in the 1986 city election and two in the 1988 city election. As to the added two city commission positions established by amendment of this home rule charter to expand the number from four to six such commissioners, the two city commissioners shall be elected in the 2020 city election, with the term of one such added commissioner to end in 2022 and term of the second to end in 2024. The terms shall begin on such day as is specified by city ordinance following each election and shall expire on such day as is specified by city ordinance four years thereafter.

* * * *

BE IT FURTHER RESOLVED that said question be placed before the voters at the regular election to be held the ____ day of _____, 20__.

Mayor

Attest:

City Auditor

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.

APPENDIX "B"

PRELIMINARY DRAFT RESOLUTION

ESTABLISHING PRIMARY/GENERAL ELECTION OF MAYOR AND CITY COMMISSIONERS

COMMISSIONER _____ introduced the following resolution and moved its adoption:

RESOLUTION

WHEREAS, under current city law, biennial city elections are held in the city of Fargo on the same date as the primary election as specified in North Dakota state law in each even-numbered year, which state law currently identifies as occurring on the second Tuesday in June of each such year (See generally: Fargo Municipal Code §2-0202 and N.D.C.C. §16.1-11-01); and,

WHEREAS, the Board of City Commissioners finds it necessary and desirable to propose an amendment to the Home Rule Charter to adopt an election process for all elections of the city's mayor and city commissioners that requires a primary election for the nomination of candidates to be elected at a subsequent general election, said process to be similar to the election process under North Dakota law for the nomination and election of county commissioners, county officers, judges of the state supreme court and district court, elected state officials, members of the state legislative assembly, members of the United States house of representatives and United States senators (See: N.D.C.C. §16.1-11-01);

NOW, THEREFORE, BE IT RESOLVED that an amendment to the Home Rule Charter be proposed to the voters to establish a two-stage primary election/general election process for all elections of the mayor and city commissioners of the city, as follows:

Article 2 - Governing body and mayor

- A. Subject to the limitations imposed by the constitution of the United States of America, the constitution of the state of North Dakota, state law, and this charter, all powers of the city shall be vested in the elected governing body. The elected governing body shall enact ordinances, adopt annual and long-range

budgets, raise revenue, determine policies and prescribe the functions of government to be performed by the city's elected and appointed officials under the authority of this charter.

1 through 14 (no change)

- 14. The regular city election shall be held in every even-numbered year on the date specified by city ordinance. The governing body shall be the judge of the election and qualifications of its own members. Beginning in the year 2020, all elections of the mayor and city commissioners shall occur by a primary election followed by a general election with the time of said elections and the methods and procedure for said elections to be implemented by ordinance.

15 through 19 (no change)

BE IT FURTHER RESOLVED that said proposal be placed before the voters at the regular election to be held on the ____ day of _____, 20____.

Mayor

Attest:

City Auditor

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.

[[FOR REFERENCE, THE ENTIRE ARTICLE 2 OF THE FARGO HOME RULE ORDINANCE, WITH THE PRIMARY/GENERAL ELECTION LANGUAGE INSERTED THEREIN, IS AS FOLLOWS:

Article 2 - Governing body and mayor

- A. Subject to the limitations imposed by the constitution of the United States of America, the constitution of the state of North Dakota, state law, and this charter, all powers of the city shall be vested in the elected governing body. The elected governing body shall enact ordinances, adopt annual and long-range budgets, raise revenue, determine policies and prescribe the functions of government to be performed by the city's elected and appointed officials under the authority of this charter.
1. The Fargo city government shall operate with the commission form of government. The governing body shall consist of the mayor and four commissioners, forming the board of city commissioners. The mayor is the presiding officer of the commission and the city's chief executive officer. The mayor may participate in all respects in commission action.
 2. The mayor and all other members of the governing body shall hold office for four years and until a successor has been duly elected and qualified. To qualify after election, the governing board members shall take the following oath or affirmation, filing a signed copy of same with the city auditor.

“I do solemnly swear (or affirm) that I will support the constitution of the United States, constitution of the state of North Dakota, and the home rule charter of the city of Fargo, so help me God (if an oath) under the pains and penalties of perjury (if an affirmation)”.
 3. The governing body shall by ordinance, resolution or other appropriate action take such steps as may be necessary to make effective the provisions of this home rule charter.
 4. Each member of the governing body shall act as the governing body's representative in examining and reporting on the operations and performance of the major city departments. The individual assignments will be proposed by the mayor and approved by the governing body.
 5. At the first meeting of the new governing body after each biennial election, the governing body shall elect one of its members as deputy mayor. The deputy mayor shall perform all of the duties of the office of mayor in the absence or inability of the mayor to act. If the mayor's office becomes vacant, the deputy mayor shall become the acting mayor until the vacancy is filled as provided for in this charter.

6. The governing body shall have the sole authority to pass and adopt ordinances, rules and regulations concerning the organization, management and operation of all departments of the city and other agencies created by it for the administration of city affairs.

7. A member of the governing body may serve as a participating member on any board, commission, or other governmental units as may be determined by the governing body. Appointments to these entities shall be made by the mayor and confirmed by the governing body.

8. The governing body shall determine the annual salaries paid to each of its members, including the mayor. The salary levels shall be determined as part of the annual budget.

9. Each elected official before entering the duties of office shall furnish bond in the penal sum which is required by North Dakota state law.

10. The mayor and each of the commissioners shall be elected by all the voters in the city, and shall serve four-year terms. The mayor will be elected in the regular 1986 city election and every four years thereafter. The mayor's term will start such day as is specified by city ordinance.

11. Two city commissioners shall be elected in the 1986 city election and two in the 1988 city election. The terms shall begin on such day as is specified by city ordinance following each election and shall expire on such day as is specified by city ordinance four years thereafter.

12. Candidates for the governing body must be qualified electors of the city of Fargo, and must have been in continuous residence in the city for at least six months prior to filing their nomination papers.

13. Any elector desiring to become a candidate for the governing body shall file with the city auditor a statement of such candidacy. The filing must meet the deadline required by law. Each filing shall be accompanied by a filing fee of one hundred dollars (\$100), or in lieu thereof, by a petition signed by 300 qualified electors of the city.

14. The regular city election shall be held in every even-numbered year on the date specified by city ordinance. The governing body shall be the judge of the election and qualifications of its own members. Beginning in the year 2020, all elections of the mayor and city commissioners shall occur by a primary election followed by a general election with the time of said elections and the methods and procedure for said elections to be implemented by ordinance.

15. Every resident of Fargo who is qualified to vote in North Dakota general elections is qualified to vote in Fargo city elections. The governing body shall

establish all the necessary election procedures by ordinance.

16. Members of the governing body shall be residents of the city of Fargo and shall surrender their office if such residency is terminated. No member of the governing body shall hold a position of remuneration in the employment of the city or any of its agencies or utilities.

17. Whenever it is necessary for the more efficient supervision and direction of city affairs, the governing body may summon and compel the attendance of witnesses and the production of books and papers, including computer information, before it. The governing body may cite reluctant witnesses for contempt, and may punish contempt with the same fines and penalties as the county judge may impose for contempt of county court.

18. Any member of the governing board may resign by filing a written resignation with the city auditor. When a vacancy occurs or whenever a resignation is submitted pursuant to section 12 of this Article, the governing body must call a special election to fill such vacancy for the unexpired term unless a city-wide election occurs within the next six months. In that case, the governing body may fill the position by appointment until the vacancy is filled by election.

19. The governing body shall meet in regular sessions at such time as the governing body may establish. Special meetings may be called by the mayor or any two members of the governing body to consider matters listed in the call of such meeting. Written notice of any special meeting shall be given to each member of the governing body.

{END OF HRC, ARTICLE 2}}


BOARD OF CITY COMMISSIONERS

 City Hall
 200 North 3rd Street
 Fargo, ND 58102

 Phone: 701-241-1310
 Fax: 701-241-1526

MEMORANDUM

TO: FARGO CITY COMMISSION

FROM: COMMISSIONERS GRINDBERG AND GEHRIG

DATE: AUGUST 1, 2016

SUBJECT: ELECTION AND CITY GOVERNANCE TASK FORCE

This memo is a follow up to the initial discussion at the July 5, 2016 City Commission meeting regarding "election issues", and is offered as a proposal for the Board of City Commissioners to consider.

Establish task force. A task force would be established by the City Commission to review a list of topics. We propose that former Mayor Bruce Furness and former City Commissioner Arlette Preston serve on the task force as former elected officials. Both Furness and Preston served as elected city leaders during the time the Home Rule Charter election ordinances were changed. Mayor Furness will serve as chair of the task force. The task force would be comprised of seven members, each of whom must be a resident of the City and would be selected as follows:

- Bruce Furness and Arlette Preston, former elected officials
- Five community members appointed by the Fargo City Commission. Community members reflect Fargo's demographic population with consideration given from the following community organizations: League of Women Voters, Chamber of Commerce, Home Builders Association. Each Commissioner and the Mayor appoint one member.
- Commissioners Gehrig and Grindberg serve as non-voting liaison members.

Steve Sprague, Fargo City Auditor serves as resource staff member for the task force. Mike Montplaisir, Cass County Auditor will also be invited to participate with the task force as well as up to two political science professors from Tri-College member institutions. The city and county auditors as well as political science members are non-voting participants.

We believe it is appropriate that no current City Commissioners, nor any recent City Commission candidate(s) serve on the Task Force. The Task Force would be asked to establish a regular schedule of meetings with the objective of proposing one or more

TO: FARGO CITY COMMISSIONERS
FROM: ELECTION AND CITY GOVERNANCE TASK FORCE
DATE: FEBRUARY 14, 2017

At its August 1, 2016, meeting the Fargo City Commission created an Election and City Governance Task Force. The reasons for this Task Force creation are explained in a memorandum of that date, a copy of which is included as an addendum to this report.

The voting members of the task force are Sean Foss, Bruce Furness, Jed Limke, Arlette Preston, Daryl Ritchison, Rick Steen and Kevin Wilson. Non-voting advisory members are Barb Headrick, League of Women Voters; Mark Johnson, Instructor of Political Science at MSCTC; Mike Montplaisir, Cass County Auditor; Carol Sawicki, League of Women Voters and Steve Sprague, City of Fargo Auditor. Commissioners Gehrig and Grindberg served as non-voting liaison members.

The first meeting of the Election and City Governance Task Force occurred on September 29th. We continued to meet every other week for a total of eight meetings.

We initially established several goals to guide our discussions and decisions:

- Increased voter turnout
- Simple voting procedures
- Efficient and effective governance model
- Fair and equitable representation

We had a great deal of discussion relating to all five areas of review we were asked to study. It is important to note that these areas, as expected, are generally quite intertwined. Discussion in some areas influenced discussion in others, ensuring consideration of effects on the governance and election system as a whole as well as consideration of any changes to its constituent parts. All of our deliberations were framed with this in mind.

1. Election Timing/Voting System

We discussed how we might solve the "plurality" problem, whereby, in multiple candidate elections, candidates can win with relatively small percentages, such as less than 20% of the votes cast. We asked ourselves "do we care?" And is it essential that winning candidates receive large numbers of votes? We answered those two questions affirmatively.

Several possible solutions were examined to address this plurality issue:

- Primary/General Elections
- Approval Voting
- Instant Runoff Voting
- Proportional Voting

After examining different possibilities, it was concluded that the June election should remain as the "City" election. This would include election of School Board and Park District candidates. We feel that waiting until November for a run-off election would be undesirable for the following reasons:

- Increased campaign length, putting unnecessary financial burden on candidates
- Focus can be more squarely on city races in June
- In presidential years, the race would dominate the conversation, drowning out the city races
- Ballot fatigue on long November ballots

The Task Force recommends that an Approval Voting System be adopted for all City of Fargo elections for the Mayor and City Commissioners.

We spent much time on Approval Voting and even used it ourselves to become more familiar with the concept. It is nearly identical to our current system of voting for candidates. Rather than asking voters to vote for only up to the number of seats available, voters are allowed to vote for as many candidates as they wish. The candidate(s) with the highest total will still win the election just as in our current system. Cass County Auditor Mike Montplaisir has

Why Approval Voting is Unworkable in Contested Elections

And How the Borda Count, Score Voting, Range Voting and Bucklin Voting are Similarly Flawed Due to Vulnerability to Strategic Voting

An Analysis by FairVote, July 2011

Summary

Approval voting is a method of voting to elect single winners that has adherents among some voting theorists, but is unworkable in contested elections in which voters have a stake in the outcome. Once aware of how approval voting works, strategic voters will always earn a significant advantage over less informed voters. This problem with strategic voting far outweighs any other factor when evaluating the potential use of approval voting in governmental elections.

Among other methods that should not be used in meaningfully contested elections are range voting, score voting, the Borda Count and Bucklin voting. They all share approval voting's practical flaw of not allowing voters to support a second choice without potentially causing the defeat of their first choice. Such voting methods have their potential value, but only in elections where voters have no particular stake in the outcome.

The only voting methods that should be weighed seriously for governmental elections are methods that do not violate this "later-no-harm" criterion (plurality voting and forms of runoff elections and instant runoff voting [<http://www.instantrunoff.com>]) or only do so indirectly (such as Condorcet voting methods).

We support our claims about approval voting and similar voting methods both with theoretical analysis and with a broad range of evidence, including the failure of these voting methods in every single significant use in meaningfully contested elections.

Highlights of Analysis

- Approval voting is not a viable method of voting because it is highly vulnerable to strategic voting in contested elections. It violates the "later-no-harm" criterion, meaning that indication of support for a lesser choice can help defeat a voter's most preferred candidate. It is a system that only will work when voters don't understand the system or have no stake in the outcome.
- All voting methods have certain theoretical flaws, but having a practical flaw that inevitably leads to tactical voting is qualitatively different. Creating incentives for strategic voting is not just another undesirable property. It makes a system unworkable in elections with active campaigns and meaningful choices. Quite simply, it is unacceptable that voters who vote tactically by casting a single vote for their favorite candidate will gain an advantage over those voters who indicate support for more than one candidate in the manner suggested by the ballot instructions.

quite different from using these methods in elections where candidates campaign aggressively and voters care about who wins and who loses.

Outline of Analysis

- The Significance of the Practical Flaw of Violating “Later-No-Harm”
- Lessons from Problems with the Borda Count
- How Strategic Actors Would Game Approval Voting
- Real-World Failures for Approval Voting and Variants
- Lessons from Bucklin Voting in 20th Century Elections in the United States
- Examples of Actual Single Winner Elections Where Approval Voting Would Have Failed
- A Place for Approval Voting: Where “Honest Behavior” Can Be Expected
- Conclusion: Focus on Viable Voting Methods for Governmental Elections

The Significance of the Practical Flaw of Violating “Later-No-Harm”

Approval voting is a single-winner voting method based on a simple concept: “just count all the votes.” It is a form of “range voting” (sometimes called “score voting”) in which voters are able to cast equally weighted votes for as many candidates as they want (meaning awarding to each of them a score of “1” or “0”). The candidate with the most votes is the winner and theoretically is the candidate with the highest rate of acceptability among voters.

But while simple to describe and tally, approval voting is highly unlikely to be won and sustained in governmental elections or in any private elections in which campaigners seek to influence voters in a competitive election. Its Achilles heel is a practical flaw that, by making it highly vulnerable to strategic voting, prevents it from working as advocates expect in meaningfully contested elections. It creates unrepresentative outcomes and justified controversy surrounding the legitimacy of “winners.”

Before explaining this flaw, it is important to distinguish between a *practical flaw* and a *theoretical flaw*. As true of all voting methods, approval voting has theoretical flaws. A theoretical flaw is one that runs counter to what logic suggests a fair method should do. For example, in an approval voting election a candidate who is the first choice of more than 50% of voters could lose to a candidate who is not the first choice of even a single voter, but who wins after securing a large number of lesser votes of approval from backers of other candidates. Approval voting has other similar theoretical flaws that make it vulnerable to criticism on grounds that are not addressed in this analysis.

While approval voting’s violation of the common sense definition of majority rule is sure to make it hard to win and sustain politically, however, it is not in itself a reason to oppose its use in elections. *Every* voting system has at least one theoretical flaw that, viewed in isolation, can make the system seem unsupportable. As true of theoretical flaws associated with other voting methods, approval voting’s theoretical flaws are not in themselves likely to interfere with the conduct of campaigns nor affect voter and candidate strategy – in other words, they will not cause a break down in the system’s basic functioning, even if potentially leading to

decide to cast approval votes for both candidates Jill and Jack. The three backers of Jack all could tolerate Jill as a winner, but are well-informed about voting methods. They have concluded that Harry won't be able to win and that Jill is in fact the most important opponent. They decide to cast a single "bullet vote" for Jack.

As a result, Jack wins the election with 8 votes rather than Jill, who has 70% first choice support and in fact would have had 100% backing if every voter had cast a sincere vote. In such ways less informed voters and candidates either will vote in a way that hurts their own interests or, far more likely, quickly join more informed voters in engaging in tactical behavior that undermines the legitimacy of the election and the goal of avoiding "split votes" and "spoilers."

Violation of the later-no-harm criterion explains the low ratings approval voting receives for resistance to strategic voting. For example, Nicolaus Tideman in his book *Collective Decisions and Voting* (Ashgate 2006) [http://books.google.com/books/about/Collective_decisions_and_voting.html?id=RN5q_LuByUoC] ranked approval voting last among 25 systems in its resistance to strategic voting. In 2010, James Green-Armytage's *Strategic Voting and Nomination* [<http://www.econ.ucsb.edu/~armytage/svn2010.pdf>] analyzed eight voting methods, finding instant runoff voting (which he calls "Hare") to be the least vulnerable to strategy and finds approval voting and other systems that violate the later-no-harm criterion to be most vulnerable.

Accurate Democracy [http://www.accuratedemocracy.com/l_data.htm] explains how these findings confirm and extend the conclusions of researchers such as John Chamberlin and Samuel Merrill. Accurate Democracy quotes this section of a paper co-authored by Chamberlin:

"The most striking result is the difference between the manipulability of the Hare system [instant runoff voting] and the other systems. Because the Hare system considers only 'current' first preferences, it appears to be extremely difficult to manipulate. To be successful, a coalition must usually throw enough support to losing candidates to eliminate the sincere winner (the winner when no preferences are misrepresented) at an early stage, but still leave an agreed upon candidate with sufficient first-place strength to win. This turns out to be quite difficult to do.....One other factor also distinguishes the Hare system from the other[s]. The strategy by which Hare can be manipulated, on the occasions when this is possible, is quite complicated in comparison with the strategies for the other methods."

Lessons from Problems with the Borda Count

Understanding that violation of the later-no-harm criterion is a problem is nothing new. More than two centuries ago, French mathematician Jean-Charles de Borda developed a similar voting method that still bears his name: "the Borda count." Like instant runoff voting (IRV), the Borda count is a ranked choice voting system, but one where each ranking is assigned a point value in a way that violates the later-no-harm criterion. As one example, your first choice might earn three points, your second choice two points and your third choice one point, with the winner being the candidate with the most points.

The Borda count can work without much controversy for some award contests like college football's Heisman Trophy because most voters in these elections (sportswriters in a Heisman Trophy vote, for example) may care about who wins, but are not so deeply invested in the outcome that they will vote insincerely and urge

biggest competitor second. And anybody who tells you otherwise doesn't know what he or she is talking about.

The main thing to keep in mind when you fill out a Best Picture ballot is that you are simply casting one vote, for one movie. That vote goes to the movie ranked first on your ballot, and it stays there until that movie has either won, or been eliminated from contention. If your favorite is eliminated, then and only then will the vote shift to your second choice. If this happens, you can rest assured that you had absolutely nothing to do with your top choice being knocked out, and there's not a thing you could have done to prevent it (short of persuading more people to vote for your movie).

Pond can so forcefully reject the anonymous producer's strategic advice about casting insincere rankings only because instant runoff voting (IRV) does not violate later-no-harm. If the Borda count indeed were used in these elections instead of IRV, the producer would be absolutely right. The word would spread in Hollywood that Academy voters should not vote the way the directions suggest they do – that instead they should rank their favorite first and either not rank the perceived strongest competitors or insincerely put them last. Once people realized the system could be gamed and in fact was being gamed, it would be quickly replaced.

How Strategic Actors Would Game Approval Voting

Approval voting magnifies the failure of Borda count due to tactical voting because indicating support for a second choice not only counts directly against a first choice, but counts *equally* with that first choice. Confident in mathematical theory, approval voting advocates will explain how voters "should" vote, suggesting that the optimum strategy is to vote for the candidate who is minimally acceptable and all other candidates favored more than that candidate. They then produce arguments, charts and simulations (a particularly misleading one [<http://zesty.ca/li/yee-oca-transferable-vote-3.pdf>] by mathematician Ka-Ping Yee) that show approval voting working wonderfully well, based on the false supposition that voters will act like Borda's "honest men" – e.g., they will vote like rational computers who all have read and understood recommendations by approval voting advocates on how to vote.

But these theorists are better in math than human psychology and electoral politics 101. Real-world voting in fact is much more about psychology than math. The Best Picture Oscar debate highlighted by Steve Pond provides one example, but imagine the climate in elections for president, governor and any other office in which there is a real contest with campaign consultants, 24-hour-news-cycle punditry and voters who care deeply about who wins and who loses. Violation of later-no-harm becomes utterly devastating – not just as a theoretical problem, but as a practical problem that makes the system unworkable.

Suppose you have an approval voting election with two candidates who each have the first choice loyalty of about 45% of voters, but are strongly opposed by the other candidate's voters – a situation that is common for nominees of the two major parties in the United States. In addition to these two candidates, there is a third candidate who has 10% first choice support and is a tepid "second choice" of from many backers of the other two candidates. Suppose further that polls indicate that while this third candidate would lose badly with a plurality vote, he or she might have a chance to win with approval voting if all voters were Borda's "honest men."

every single instance where such an election has gotten competitive, approval voting has suffered a major breakdown due to violation of the later-no-harm criterion.

Early U.S. presidential elections: One example showcasing approval voting's flaws was the first form of the Electoral College in U.S. Presidential elections, as detailed in Jack Nagel's fascinating article *The Burr Dilemma in Approval Voting* [http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1065909]. Under the Constitution's original Electoral College rules, each state's electors cast two votes rather than one. The candidate with the most electoral votes would become president and the candidate with the second most electoral votes would become vice-president. Although technically this system was a two-winner election rather than an approval voting election, the system can fairly be analyzed as a single-winner election, as the choice of president was far more important to electors.

Because the framers of the Constitution failed to anticipate that politicians would establish groupings that evolved quickly into political parties, they did not structure a voting rule based on "tickets" forming – "tickets" tied to early party-like groupings that wanted leaders of its party to win both the presidency and vice-presidency. By the first presidential election without George Washington in 1796, however, party politics was already in full force [Source: http://www.senate.gov/artandhistory/history/common/generic/VP_Thomas_Jefferson.htm]. The Federalists backed John Adams and his de facto running mate Thomas Pinckney, while the Democratic-Republicans backed Thomas Jefferson and his running mate Aaron Burr.

Supporters of John Adams believed that their candidate had enough votes in the Electoral College to win, but also grasped the problem of later-no-harm: if every backer of Adams also voted for Pinckney and Pinckney picked up any other votes, then Pinckney might win –or at the very least Adams and Pinckney would tie, in which case the U.S. House of Representatives would have to pick the president, with each state's House delegating casting one vote. Adams' backers therefore spread the word that a certain number of Federalist electors should not vote for Pinckney.

In the midst of a competitive election overall, however, the Federalists could not coordinate exactly how many electors should not vote for Pinckney. As a result, too many electors in fact failed to do so. The result was a final electoral vote total of 71 for Adams, 59 for Pinckney and 68 for John Adams' main opponent Thomas Jefferson. Although elected Vice-President, Jefferson stayed well away from the nation's capital during most of Adams' presidency.

In 1800, Adams and Jefferson again sought the presidency, with the same de facto running mates. This time, the underlying vote was narrowly in Jefferson's favor. To avoid Adams becoming vice-president, however, Jefferson's electors rigorously voted for both Jefferson and his running mate Aaron Burr. The result was an electoral vote tie, just as Federalist strategists had feared might happen in 1796. The election was thrown to the U.S. House of Representatives, where Burr unexpectedly decided to compete for the presidency. After seven days of turmoil, with thirty-six votes of the U.S. House delegations, Jefferson finally cut enough deals to become president.

In the approval voting election, the ballot-qualified candidate won, even though he earned approval votes from only 41.5% of student voters. The strongest write-in candidate trailed just behind with 38.6%. With 1,665 students, the total number of extra votes was only 96, meaning almost 95% of voters cast a single bullet vote in their very first election with a flawed system that violates later-no-harm.

Institute of Electrical and Electronics Engineers: Many private associations use other alternative single winner voting systems, particularly instant runoff voting. A few associations have adopted approval voting, although mostly in elections that are not meaningfully contested.

The largest and most important such use of approval voting was in elections for the Institute of Electrical and Electronics Engineers (IEEE), the world's largest professional association with more than 400,000 members. After adopting approval voting in 1987 the IEEE board voted to eliminate it in 2002. The Institute's newsletter reported that about 80% of members were voting plurality-style for only one candidate. Rather than have some voters get a tactical advantage over others, it decided to accept plurality outcomes rather than a system prone to tactical voting. In the IEEE's 2009 presidential elections, the winner earned less than 40% of the vote. Perhaps the IEEE will again look to reform – but presumably not to approval voting.

Lessons from Bucklin Voting in 20th Century Elections in the United States

The list of elections where approval voting did not work well might suggest that we are cherry-picking results and ignoring other successful implementations. But that's not the case. Approval voting simply has a very limited record in elections that are meaningfully contested and has apparently failed in every single such implementation, especially if used multiple times.

For that reason we turn to Bucklin voting, a form of ranked choice voting used for important elections in a number of states and cities in the early decades of the 20th century. Bucklin voting was backed by advocates with arguments similar to those used for the ranked choice voting method of instant runoff voting today.

As with IRV, Bucklin voting allowed voters to indicate a first choice and a second choice (and sometimes more). Ballots were counted differently than with IRV, however. With Bucklin voting, no candidates were ever eliminated. Instead the system operated like a "time delay" form of approval voting, with all second choices simultaneously added to all first choices in the event there were no initial majority winner, and then all third choices added and so on. These rules meant, of course, that second choices counted directly against first choices, which is why Bucklin voting violates later-no-harm.

Bucklin voting in practice led to a massive dropoff between the number of voters indicating a first choice and second choice. In Alabama, for example, sixteen statewide primary election races were used with Bucklin voting between 1916 and 1930. On average, 87% of voters cast only a single bullet vote for one choice, in sharp contrast to competitive instant runoff voting elections. Not a single Bucklin voting race in Alabama led to a winner earning a majority of votes who didn't win a majority of first choice votes.

As a result, some Alabama civic leaders suggested requiring voters to express a second choice – in other words, they sought to force them to be "honest men" – but this was rejected out of respect for voters who genuinely had no second choice. Even if this rule had been passed, however, it would have failed to

In contrast to the massive dropoff in second choices by Bucklin voters, such as the 87% of Alabama voters casting a bullet vote, far higher percentages of voters indicate second choices with instant runoff voting, a system that does not violate later-no-harm. There is typically some degree of dropoff in rounds of counting in IRV elections where voters have the option not to rank people second, but relatively little. In Oakland's hotly contested IRV race for mayor in 2010, for example, more than 85% of voters ranked more than one candidate. (And about three in four of the remaining 15% had backed one of the two frontrunners as a first choice, meaning that their ballot counted for that first choice in every round and a second choice would never have come into play.)

Examples of Actual Single Winner Elections Where Approval Voting Would Have Failed

To underscore how approval voting, Bucklin voting, the Borda count and range voting would not work as promised, we review recent elections in the United States in which voters had more than two choices and consider how those campaigns might have developed with approval voting. Each example shows just how problematic approval voting and similar systems would be in practice.

One obvious example is a special election that took place in Hawaii for a vacant U.S. House seat in 2010. Although a large number of candidates participated, the race quickly boiled down to three frontrunners: Republican Charles Djou and two Democrats, Colleen Hanabusa and Ed Case. An Asian American state senator, Hanabusa was backed by more of the party's traditional backers than Case, who a few years earlier had given up his U.S. House seat to challenge Sen. Daniel Akaka in a Democratic primary. There was a good deal of ill will between backers of Case and Hanabusa, connected to issues involving race, party loyalty and issue positions. As a result, while backers of the Democratic candidate would support either candidate over the Republican, many fiercely wanted their favorite to be the winner.

In an election decided by plurality voting, Republican Djou won with 39.4%. Hanabusa finished second with 30.8% and Case was third with 27.6%. The combined majority vote split by the top two Democrats was 58.4%, which was nearly 20% more than the Republican. With instant runoff voting or traditional runoffs, the outcome almost certainly would have been different. The majority of Case and Hanabusa backers would have backed the other Democrat ahead of Djou, and in this case Hanabusa very likely would have won – and indeed, in the regularly scheduled election later in the year that took place without another Democrat on the ballot, Hanabusa defeated Djou with 53.2% of the vote.

If approval voting had been used in the special election, it's quite likely that Djou would still have won because too many Democrats would have cast bullet votes in the hope that their preferred candidate could win. Just as with plurality voting, then, the winner would have been the candidate who would have lost to each of his top competitors in a one-on-one race. Finger pointing among Democrats after the election would have been rampant – indeed, even if a Democrat had won, backers of the other Democrat who had voted for both Democrats might well have wished they could have had their ballot back in order to cast a bullet to vote to help their favorite.

As another example, consider hotly contested races both major parties held in 2008 to determine their presidential nomination. On the Democratic side, the first caucuses in Iowa were dominated by Barack

Strategic dilemmas again would have run rampant. After all the pundits had made their arguments and campaigns had made their case to their backers, most voters likely would have cast bullet votes, just as if it were a plurality voting race. Perhaps some voters might have done a “reverse bullet vote” against their last choice by approving everyone except that candidate – but only if they really didn’t care which candidate won and only wanted to make sure their least preferred candidate was defeated.

Few voters would have done what the approval voting theorists say they “should” do (e.g., vote for any candidate they found acceptable and everyone they liked more than that candidate) because it would have been clear that doing so might have led to the defeat of their favorite candidate. Instead, all the “organized” voters influenced by campaigns would have cast bullet votes and then hoped that the “unorganized” backers of other candidates would naïvely give out extra approval votes due to not having much of a preference or not understanding the underlying incentives of the system. Bloggers and pundits would have a field day with conjectures and tactical suggestions, and partisans would regularly have pointed fingers at other campaigns and cried foul for alleged insincerity – insincere tactics that all of them in fact would have been surreptitiously urging their strongest backers to pursue.

Both of these hypothetical national primaries would have been chaotic and controversial. And worse, just as in the Hawaii example, it’s quite possible that the winner would not have been the candidate who truly had the widest backing among voters, but instead would be the candidate whose campaign did the best job at manipulating the vote.

A Place for Approval Voting: Where “Honest Behavior” Can Be Expected

Even if approval voting and other methods that violate later-no-harm rarely should be used in meaningfully contested elections, they have a useful place in our society: for surveys or private elections where honest, non-strategic behavior is to be expected. A group deciding on where to have dinner might sensibly use approval voting or perhaps might want to turn to range voting with a wider range of numerical options that allow voters to give extra weight to passionate support for a meal option. A hiring committee might decide to narrow the field to their top three candidates with approval voting. Some sports awards voting might want to consider such systems as long as voters were expected to vote sincerely, as is the case with uses of the Borda Count in such contests.

Approval voting might even work in certain contested candidate elections that have provisions for repeated voting, with repeated voting until candidates earn a certain minimum level of support. With such rules, a voter might choose to bullet vote for their true favorite without risk of helping to elect their least favored candidates. Voters in later rounds of voting would be forced to consider compromise choices and, as with the political conventions of old, eventually a winner would emerge with enough acceptability to be considered legitimate. Provisions for repeated voting would be impractical for governmental elections and many private elections, but can be used for in-person gatherings where participants are willing to spend a lot of time voting and for elections where it is possible to do repeated elections online.

Even in such uses, however, a first requirement would be that all voters would need to be fully informed about how approval voting works in order to avoid “organized” voters having an advantage over less

Des Moines

- A runoff is required unless a candidate receives a majority of the votes.

City Ordinance Sec. 2-5. - Runoff elections.

(a) A runoff election, as provided in I.C. § 376.9, shall be held in lieu of a primary election for the choosing of persons for elective offices.

(b) A runoff election shall be held only for positions unfilled because of failure of a sufficient number of candidates to receive a majority vote in the regular city election.

(c) Candidates who do not receive a majority of the votes cast for an office, but who receive the highest number of votes cast for that office in the regular city election, to the extent of twice the number of unfilled positions, are candidates in the runoff election.

(d) Runoff elections shall be held four weeks after the date of the regular city election and shall be conducted in the same manner as regular city elections.

(e) Candidates in the runoff election who receive the highest number of votes cast for each office on the ballot are elected to the extent necessary to fill the positions open.

Lincoln, NE

- City Charter Article IV: <https://lincoln.ne.gov/city/attorn/lmc/charter.pdf>
- City Charter: Municipal candidate are elected through a non-partisan primary and general election.
- These elections include school board candidates, and are separate from the legislative and statewide primary/general elections.
- At Large Candidates – 3 seats
 - Vote for top 6 candidates - Primary
 - Vote for top 3 candidates - General
- District Candidates – 4 seats
 - Vote for top 2 candidates – Primary
 - Vote for single candidate – General
- City of Omaha is very similar except that there are only district council members, and does not include the school board.

Fargo, ND

- NDCL 40-21-17. Highest number of votes elects in municipal election - Procedure on tie vote.

Minnesota Statutes.

<https://lf.rochestermn.gov/Ordinances/ElectronicFile.aspx?docid=3391&dbid=0>

- **MN Statute 205.065 PRIMARIES. ... the two candidates for each office who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to the office, who receive the highest number of votes, shall be the nominees for the office named. Their names shall be certified to the municipal clerk who shall place them on the municipal general election ballot without partisan designation and without payment of an additional fee.**

70502.0200

Fiftieth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2344

Introduced by
Senator Holmberg

1 A BILL for an Act to amend and reenact sections 16.1-11-24,
2 16.1-11-25, 16.1-11-37, and 16.1-15-01 of the North Dakota Century
3 Code, relating to no-party primary ballots.

4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
5 STATE OF NORTH DAKOTA:

6 SECTION 1. AMENDMENT. Section 16.1-11-24 of the North
7 Dakota Century Code is hereby amended and reenacted to read as
8 follows:

9 16.1-11-24. No-party primary ballot - Contents. There shall be a
10 separate ballot at all primary elections which shall be entitled
11 "no-party primary ballot". The names of aspirants for nomination to
12 each office shall be arranged on the no-party primary ballot in
13 separate groups in their order. In precincts in which voting
14 machines are used, the list of offices and candidates shall be
15 entitled "no-party primary ballot" in a manner to indicate clearly
16 the separation of the no-party list of offices and candidates from
17 the party list of offices and candidates. The names of all
18 candidates for any of the offices mentioned in section 16.1-11-08
19 shall be placed thereon without party designation. All no-party
20 ballots must be prepared to allow voting for one or more of the
21 candidates for each position. Immediately under the name of each
22 office shall be placed the language, "Vote for ----- name (or
23 names) only one or more names." The number inserted shall be the
24 number to be elected to the office at the next succeeding general
25 election.

26 SECTION 2. AMENDMENT. Section 16.1-11-25 of the North
27 Dakota Century Code is hereby amended and reenacted to read as
28 follows:

Fiftieth
Legislative Assembly

1 that voter's ballot shall be is invalidated only insofar as his that
2 voter's vote for such office is concerned, and the balance of his
3 that voter's ballot, if otherwise proper, shall may not be
4 invalidated. However, at primary elections only, a ballot shall be
5 is void if the elector votes for candidates of more than one party.