

FARGO CITY COMMISSION AGENDA  
Monday, September 10, 2018 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, August 27, 2018).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of the following Ordinances:
  - a. Amending Section 35-0102, of Article 35-01 of Chapter 35 of the Fargo Municipal Code Relating to the Sale of Tobacco Products.
  - b. Amending Section 35-0201, of Article 35-02 of Chapter 35 of the Fargo Municipal Code Relating to the Sale of Tobacco Products.
- 2. 2nd reading and final adoption of the following Ordinances; 1st reading 8/27/18:
  - a. Rezoning Certain Parcels of Land Lying in Champions Gate at Prairie Farms Addition.
  - b. Amending Section 25-1513, of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
  - c. Amending Section 01-0305, of Article 01-03 of Chapter 01 of the Fargo Municipal Code Relating to Classification of Ordinance Violations.
- 3. Applications for Games of Chance:
  - a. Lend-a-Hand Up for a raffle on 9/23/18; Public Spirited Resolution.
  - b. Bobbi Jo Garcia Benefit for a raffle and raffle board on 9/30/18; Public Spirited Resolution.
- 4. Application filed by Coneflower Farmhouse LLC for a five-year tax exemption for improvements made to a building at 13 8th Street South.
- 5. Amendment to Purchase of Service Agreement with the ND Department of Human Services, Behavioral Health Division for substance abuse prevention.
- 6. Proposed 2019 Public Safety Compensation Study.
- 7. Set September 24, 2018 at 5:15 p.m. as the date and time for a hearing on a dangerous building at 1101 7th Street North.

8. Grant Agreement with the ND Department of Corrections and Rehabilitation and the ND Association of Counties (CFDA #16.540) for federal grant funds from the Office of Juvenile Justice and Delinquency Prevention.
9. Amendment to the Bank of North Dakota application for a loan under the Infrastructure Revolving Loan Fund Program.
10. Revision to the 2018 CIP and select Mid American Signal as the vendor for Project No. TR-18-A1.
11. Change Order No. 2 for an increase of \$1,373.35 for Project No. FM-15-K1.
12. Amendment No. 3 with SRF Consulting Group for an increase of \$37,440.19 for Project No. QN-17-A1.
13. Designated Bus Stop Policy.
14. RFP to replace or rehabilitate transit bus shelters, pending approval by the State of ND Transit Division.
15. Transfer of City Paratransit Unit Nos. 1189 and 1217 to Handi-Wheels Transportation, Inc. effective immediately.
16. Declaration of Easement (Utility) and utility permit at 64th Avenue South and I-29.
17. Contracts and bonds for Project Nos. HD-18-A1 and SN-18-C2.
18. Bills.
19. Change Order No. 7 for a time extension to 9/14/18 for Improvement District No. BN-17-B1.
20. Utility relocation and authorize payment to Midco in the amount of \$9,500.00 for Improvement District No. DN-18-A1.
21. Task Order Amendment No. 2 with Apex Engineering for an increase of \$3,774.00 for Improvement District No. NN-17-A0.
22. Change Order No. 4 for an increase of \$75,736.60 for Improvement District No. BR-17-F1.
23. Bid award for Improvement District No. DN-18-A1.
24. Create Improvement District No. UN-18-C.
25. Contract and bond for Improvement District No. BN-18-F2.

**REGULAR AGENDA:**

26. Commissioner Gehrig would like to discuss Public Meetings held in the City Commission Chambers.
  - a. Draft Policy relating to meetings held in the City Commission Chambers.
27. State Water Commission requests for Cost Reimbursement for FM Diversion Flood Project Costs:
  - a. Costs totaling \$125,211.00

b. Costs totaling \$268,273.00

28. Public Hearings - 5:15 pm:

- a. Zoning Change from AG, Agricultural to P/I, Public and Institutional on a portion of the South Half of Section 19, Township 140 North, Range 48 West of the 5th Principal Meridian, Cass County, North Dakota and Lot 1, Block 2, Royal Oaks Addition (3400 and 3500 North Broadway and 610 37th Avenue North); approval recommended by the Planning Commission on 8/7/18:
  1. 1st reading of rezoning Ordinance.
- b. CONTINUE to 10/8/18 - Application filed by Enclave Development LLC for a payment in lieu of tax exemption (PILOT) for a project located at 312 11th Street North, which the applicant will use in the operation of 60-75 housing units and amenity space; continued from the 8/27/18 Regular Meeting.
- c. Application filed by Dakota Beach Capital LLC for a payment in lieu of tax exemption (PILOT) for a project located at 914 and 918 15th Street North which the applicant will use in the operation of the development, management and leasing of a 16-unit apartment near the NDSU campus.

29. Receive and file the following Ordinances:

- a. Amending Section 8-1425, of Article 8-14 of Chapter 8 of the Fargo Municipal Code Relating to Bicycles.
- b. Amending Section 01-0305, of Article 01-03 of Chapter 01 of the Fargo Municipal Code Relating to General Provisions.
- c. Enacting Article 3-23 of Chapter 3 of the Fargo Municipal Code Relating to Collection of Utilities and Services.

30. Communication from City Attorney Erik Johnson regarding the Dangerous Building Proceedings at 427 15th Avenue South.

31. Public Hearing - 6:00 p.m.:

- a. Public comment on the 2018, payable 2019, tax levy and the 2019 preliminary budget.
  1. Adopt the 2019 City of Fargo budget and proposed tax levies.

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

Minutes are available on the City of Fargo website at [www.FargoND.gov/citycommission](http://www.FargoND.gov/citycommission).

26a

The City of Fargo is committed to promoting transparency in government and has made investments in the technology and personnel required to do so.

In support of this mission, it shall be the policy of the City to make all efforts to televise, livestream and webcast regularly scheduled and special meetings of the various committees, commissions, boards and taskforces appointed by the City Commission. This will include brown bag, study and educational sessions.

All meetings held within the City Commission Chambers, where members of the public may attend in person, shall be recorded and broadcast in real-time.

Every effort will be made to record and broadcast City-related public meetings not held within the City Commission Chambers as technology and staffing resources allow.

27a

**TO: BOARD OF CITY COMMISSIONERS**  
**FROM: KENT COSTIN, DIRECTOR OF FINANCE** *KC*  
**RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL**  
**DATE: August 24, 2018**

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 July 2018.

**Suggested Motion:**

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$125,211.

August 24, 2018

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 #72 pursuant to the terms and conditions of House Bill 1020 for costs incurred on the OHB Levee project from July 1, 2018 to July 31, 2018. 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 \$125,211.

State Funds Available	Amount Spent Previous Request	Amount Spent This Period	State Cost Share	Reimbursement Request This Period	Balance of State Funds
\$244,000,000	\$186,951,034	\$250,421	50%	\$125,211	\$56,923,755

**Project Narrative, this request:**


Project Number	Project Description
V02411	Residential relocation assistance for homeowners that will be displaced by the O/H/B ring levee project
V02422	Commercial relocation assistance for Oxbow Park
V01203	Utility relocation for O/H/B ring levee project

We certify that \$79,166,117 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  
 July 2018 - 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	8/2/2018	289005	CASS COUNTY JOINT WATER RESOURCE DI	22,702.64	Pay Retainage	V01203	Cass Joint Water OHB
			<b>Total Retainage</b>	<b>22,702.64</b>			
790-7930-429.67-11	7/5/2018	288304	CASS COUNTY JOINT WATER RESOURCE DI	6,039.00	MIKE & BRENDA PODOLAK	V02411	OXBOW MOU-RESIDENT RLCTN
790-7930-429.67-11	8/2/2018	289005	CASS COUNTY JOINT WATER RESOURCE DI	21,679.47	CHRIS AND SHERI CHAMP	V02411	OXBOW MOU-RESIDENT RLCTN
			<b>Total LERRDS - North Dakota - Residential Buildings</b>	<b>27,718.47</b>			
790-7930-429.67-12	7/12/2018	288559	OXBOW, CITY OF	200,000.00	OXBOW PARK RELOCATION	V02422	OXBOW MOU-PARK RELOCATION
			<b>Total LERRDS - North Dakota - Commercial Buildings</b>	<b>200,000.00</b>			
			<b>Total Expense for Period</b>	<b>250,421.11</b>			



276

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: KENT COSTIN, DIRECTOR OF FINANCE** *KAC*

**RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL**

**DATE: August 24, 2018**

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 \$268,273.

August 24, 2018

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 #71 pursuant to the terms and conditions of House Bill 1020 for costs incurred from July 1, 2018 to July 31, 2018 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 \$268,273.

State Funds Available	Amount Spent Previous Request	Amount Spent This Period	State Cost Share	Reimbursement Request This Period	Balance of State Funds
\$244,000,000	\$186,682,761	\$536,545	50%	\$268,273	\$57,048,966

**Project Narrative, this request:**

Project Number	Project Description
V01701	Land for Diversion Channel Phase 2
V02823	Pay Application #4 and #5 for WP42G – General Landscaping & Plantings along In-Town Flood Walls

We certify that \$79,166,117 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  
July 2018**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Description 1	Project Number	Project Description
790-0000-206.10-00	7/12/2018	288486	HOFFMAN & MCNAMARA NURSERY&LANDSCAP	(284.40)	LANDSCAPING & PLANTINGS	V02823	LANDSCAPING & PLANTINGS
790-0000-206.10-00	7/12/2018	288486	HOFFMAN & MCNAMARA NURSERY&LANDSCAP	(475.75)	LANDSCAPING & PLANTINGS	V02823	LANDSCAPING & PLANTINGS
			<b>Total Retainage</b>	<b>(760.15)</b>			
790-7930-429.67-11	7/5/2018	288304	CASS COUNTY JOINT WATER RESOURCE DI	5,196.55	DAVID & SHANNON CAMPBELL	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.67-11	7/5/2018	288304	CASS COUNTY JOINT WATER RESOURCE DI	7,389.56	ROGER & MELISSA CAMPBELL	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.67-11	8/2/2018	289005	CASS COUNTY JOINT WATER RESOURCE DI	3,590.00	BRAD AND LINDA BERNHARDT	V01701	ND LAND PURCH-OUT OF TOWN
			<b>Total LERRDS - North Dakota - Residential Buildings</b>	<b>16,176.11</b>			
790-7930-429.71-30	7/5/2018	288304	CASS COUNTY JOINT WATER RESOURCE DI	504,925.73	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	8/1/2018	JB07180028	CITY OF FARGO-AUDITORS OFFICE	1,000.00	OIN 9387-ADDITIONAL EXP	V01701	ND LAND PURCH-OUT OF TOWN
			<b>Total LERRDS - North Dakota - Land</b>	<b>505,925.73</b>			
790-7950-429.73-66	7/12/2018	288486	HOFFMAN & MCNAMARA NURSERY&LANDSCAP	5,686.00	LANDSCAPING & PLANTINGS	V02823	LANDSCAPING & PLANTINGS
790-7950-429.73-66	7/12/2018	288486	HOFFMAN & MCNAMARA NURSERY&LANDSCAP	9,515.00	LANDSCAPING & PLANTINGS	V02823	LANDSCAPING & PLANTINGS
			<b>Total ND Construction - Flood Control</b>	<b>15,203.00</b>			
			<b>Total Expense for Period</b>	<b>536,544.69</b>			

280a

City of Fargo Staff Report			
<b>Title:</b>	Section 19, Township 140 North, Range 48 West	<b>Date:</b>	8/1/2018
		<b>Update:</b>	9/5/2018
<b>Location:</b>	3400 & 3500 Broadway N and 610 37 <sup>th</sup> Avenue N	<b>Staff Contact:</b>	Aaron Nelson
<b>Legal Description:</b>	An unplatted portion of the South Half of Section 19, Township 140 North, Range 48 West of the 5th Principal Meridian and Lot 1, Block 2, Royal Oaks Addition.		
<b>Owner(s)/Applicant:</b>	City of Fargo	<b>Engineer:</b>	Apex Engineering Group
<b>Entitlements Requested:</b>	<b>Zoning Map Amendment</b> (from AG, Agricultural, to P/I, Public & Institutional)		
<b>Status:</b>	City Commission Public Hearing: September 10, 2018		

Existing	Proposed
<b>Land Use:</b> Waste-Related Use & Basic Utility	<b>Land Use:</b> Unchanged
<b>Zoning:</b> AG, Agricultural	<b>Zoning:</b> P/I, Public & Institutional
<b>Uses Allowed:</b> AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production.	<b>Uses Allowed:</b> P/I allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events.
<b>Maximum Lot Coverage Allowed:</b> N/A	<b>Maximum Lot Coverage Allowed:</b> N/A

**Proposal:**

The applicant, the City of Fargo, is seeking approval of a 1) zoning map amendment and 2) Institutional Master Plan. The intent of these two applications is to establish development entitlements for planned improvements at the Fargo Wastewater Treatment Facility.

The proposed zoning map amendment from AG, Agricultural, to P/I, Public and Institutional, is intended to establish the permanent zoning district for the Wastewater Treatment Facility. The Land Development Code (LDC) classifies the use of the Wastewater Treatment Facility as both a *waste-related use* and a *basic utility*. However, waste-related uses are not permitted within the AG zoning district. Because the previous zoning code, prior to 1998, permitted public uses within the Agricultural zoning district, the use is legally non-conforming today. The proposed zoning change to P/I would make the use legally conforming with the LDC, which would allow for the proposed improvements to the Fargo Wastewater Treatment Facility.

The applicant is seeking approval of an Institutional Master Plan for the purpose of satisfying the project review requirements for development within the P/I, Public & Institutional, zoning district. Project review of development projects within the P/I zoning district can be accommodated in one of two ways. One option is for each project to be reviewed for compliance with the Land Development Code on an individual bases through Site Plan Review, as is typical with most types of building construction within other zoning districts. The other option is to secure approval of an Institutional Master Plan. Once an Institutional Master Plan is established for an institution, individual development projects within that institution are no longer required to undergo Site Plan Review and are considered to be approved so long as they are consistent with the approved Institutional Master Plan.

The Institutional Master Plan is specific to the P/I zoning district and is intended to accommodate larger public/semi-public institutions that have unique development needs when compared to typical building construction. For example, an office building may undergo Site Plan Review at the time of construction and, once completed,

may exist largely unchanged for decades. In contrast, large institutions, such as a university or airport, are generally not “completed” at the time of original construction. These institutions undergo continuous incremental development and change over time, such as an addition to a residence hall or the extension of a taxiway to accommodate a new aircraft hangar. The Institutional Master Plan is intended to better accommodate these unique development characteristics of institutions. As such, the City of Fargo is seeking approval of an Institutional Master Plan in order to accommodate LDC review of the plans to update and expand the Wastewater Treatment Facility over several phases of construction.

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

**Surrounding Land Uses and Zoning Districts:**

- North: Across 37<sup>th</sup> Ave N are household living uses within the MR-3 zoning district;
- East: Across Broadway N are self-service storage, retail sales & services, day care, and parks & open areas within the AG, GC, and LC zoning districts;
- South: Household living and vacant land uses within the MR-3 and LC zoning districts;
- West: Parks & open areas and household living within the P/I and MHP zoning districts.

**Area Plans:**

N/A – No current area plans apply to this location.

**Schools and Parks:**

**Schools:** The subject property is located within the Fargo Public School District, specifically within the McKinley Elementary school, Ben Franklin Junior High school and Fargo North High school boundaries.

**Parks:** The subject property is located between North Broadway Park and the western end of Trollwood Park.

**Pedestrian/Bicycle:** There is a shared use path located on the east side of Broadway. No sidewalks exist adjacent to the subject property.

**Staff Analysis:**

**Zoning**

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**  
 As noted in the Land Development Code (LDC), the AG zoning district is intended as an “interim” zoning classification pending determination of an appropriate zoning district. The zoning change is justified as the applicant is ready to establish the long-term urban zoning classification for the property, which is consistent and compatible with city policy. Specifically, the proposed zoning map amendment will allow for improvements to the wastewater treatment facility in order to continue to provide an essential city service. **(Criteria Satisfied)**
2. **Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**  
 City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing developed public rights-of-way which provide access and public utilities to serve the property. Additionally, this property is essential to providing wastewater sewer services to all properties within the City. **(Criteria satisfied)**
3. **Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?**  
 Staff has no evidence to suggest that the proposed 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, staff has received a few inquiries regarding the proposed changes at the wastewater treatment facility, but no concerns regarding the change in zoning. Staff received one written comment from a neighboring property owner, relating to City taxes, which is attached. Additionally, staff from the Wastewater and Planning & Development departments held an information meeting for local residents to learn more about the changes that will be taking place with the improvements to the Wastewater Treatment Facility, and the related zoning applications. A few residents attended this meeting and no concerns were voiced.

The Wastewater Treatment Facility has existed at the subject property since before the surrounding neighborhood was developed. Additionally, the specific neighborhood protection strategy is outlined within the proposed Institutional Master Plan. The proposed plan is consistent with the P/I zoning district and development standards of the Land Development Code. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria Satisfied)**

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

Staff finds that the P/I zoning district is specifically intended to accommodate the public use of this property for a wastewater treatment facility, as outlined in Section 20-0304 of the LDC. The proposed amendment is consistent with all applicable portions of the Land Development Code and adopted City Policies. The proposed zoning map amendment will allow for improvements to the wastewater treatment facility in order to continue to provide an essential city service. **(Criteria Satisfied)**

**Institutional Master Plan Criteria:** Section 20-0911(E) of the LDC states that the Planning Commission shall identify and evaluate all factors relevant to the application, and that the following criteria be met before an Institutional Master Plan can be approved:

**1. Does the plan comply with all applicable provisions of the LDC and does it conform to the general intent and purpose of the LDC?**

Staff notes that there are two provisions of the LDC which will be accommodated in unique ways, as outlined within the Institutional Master Plan. The first is regarding the landscaped buffer associated with the Residential Protection Standards of the LDC, which requires a mix of trees and shrubs along property lines shared with residential zoning districts. As outlined within the Institutional Master Plan, there is an existing vegetative buffer consisting of mature evergreen trees located along the south property line where the subject property abuts the MR-3 zoning district. Although this existing vegetative buffer does not consist of the specific type of vegetation prescribed by the LDC, the effect is the same. As such, the intent and purpose of this requirement is satisfied.

Secondly, staff would note that the open space plant units are not able to be accommodated within the next few years, due to the amount and location of underground utilities. The network of underground pipes and infrastructure running throughout the wastewater treatment facility greatly restricts the ability to plant vegetation, due to the damaging effects that their roots can have on this essential infrastructure. As outlined within the Institutional Master Plan, open space plant units will be added to the facility as space becomes available. It is anticipated that many of the existing buildings will be decommissioned and demolished in the future as they become functionally obsolete and are replaced by newer, more efficient and compact technology. This will slowly result in additional green space and opportunities to provide more and more vegetation over the years, until the required open space plant units are provided for. Consequently, the phased installation of open space plant units will take place over an indefinite period of time.

Ultimately, staff finds that the proposed plan complies with the intent and all applicable provisions of the LDC, as outlined within the attached Institutional Master Plan. **(Criteria Satisfied)**

**2. Is the plan consistent with all adopted plans and policies of the City?**

The proposed plan is consistent with the all adopted plans and policies of the City. The proposed plan will allow for improvements to the wastewater treatment facility in order to continue to provide an essential city

service. **(Criteria Satisfied)**

**3. Will the proposed plan not cause substantial injury to the value of the other property in the neighborhood in which is it to be located?**

Staff has no evidence to suggest that the proposed plan will cause substantial injury to the value of the other property in the neighborhood in which it is to be located. The Wastewater Treatment Facility has existed at the subject property since before the surrounding neighborhood was developed. Additionally, the specific neighborhood protection strategy is outlined within the proposed Institutional Master Plan. The proposed plan is consistent with the P/I zoning district and development standards of the Land Development Code. **(Criteria Satisfied)**

**Update 9/5/18:**

The Institutional Master Plan discussed throughout this staff report was approved by the Fargo Planning Commission on August 7, 2018, in accordance with the Land Development Code. Consequently, there is no action required by the City Commission in regards to the Institutional Master Plan. City Commission action is only necessary for the proposed zoning map amendment, which is reflected in the recommended motion below.

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on the first reading, and move to approve the proposed zoning map amendment, as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC."

**Planning Commission Recommendation: August 7, 2018**

On August 7, 2018, by a vote of 8 to 0, the Planning Commission voted to accept the findings and recommendations of staff and approved the Institutional Master Plan and recommended approval to the City Commission of the proposed zoning change, as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and Section 20-0911.E (1-3) of the LDC, and all other applicable requirements of the LDC.

**Attachments:**

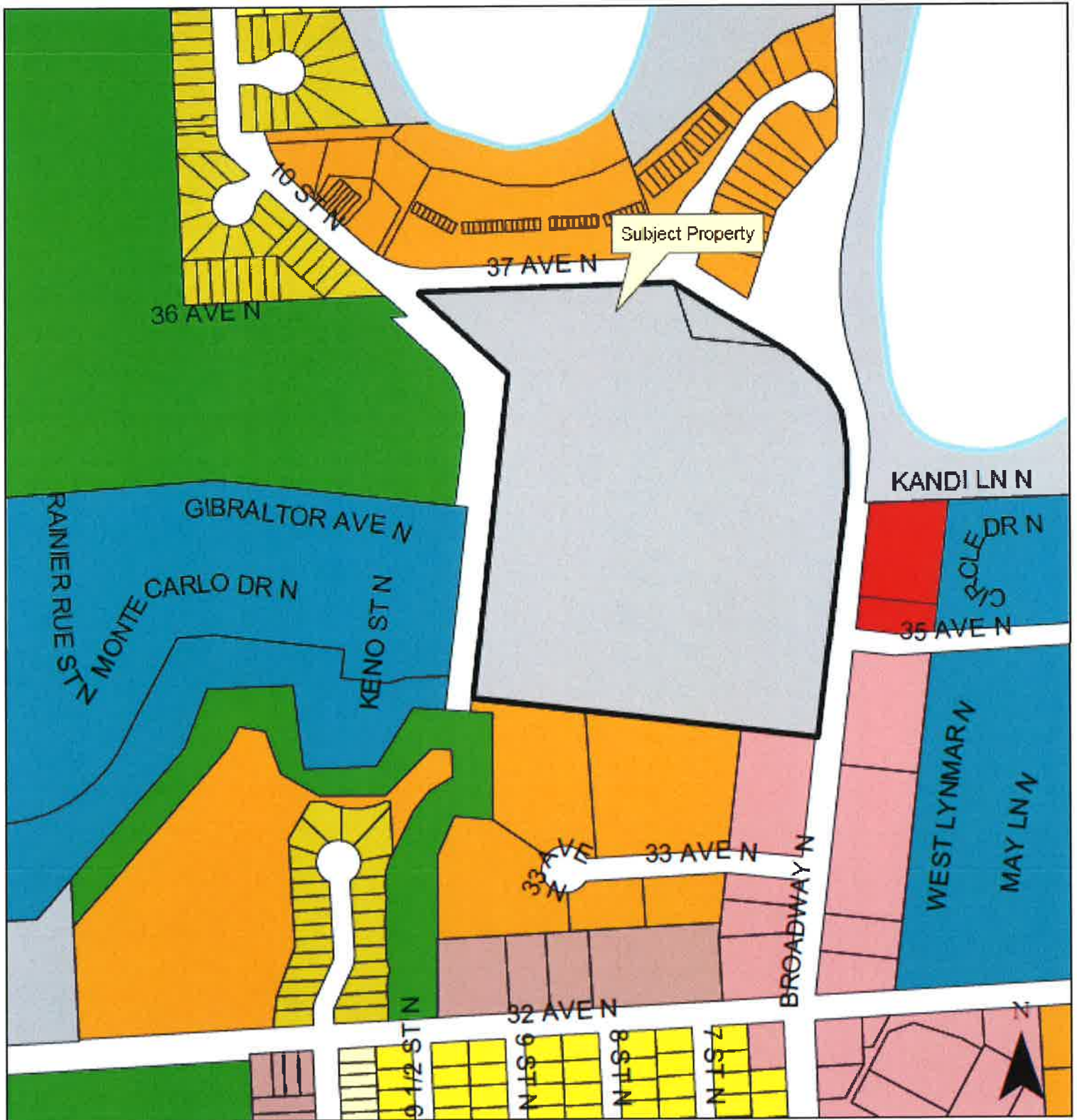
1. Zoning Map
2. Location Map
3. Institutional Master Plan
4. Public Comment(s)



# Zone Change (AG to P/I) & Institutional Master Plan

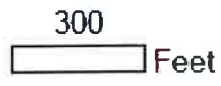
## Section 19, T 140N, R 48W

3400 & 3500 Broadway North  
and 610 37th Avenue North



### Legend

AG	LC	MH	U
GO	MR-1	UO	U-2
GO-C	MR-2	UO-C	U-3
GO-M	MR-3	UO-M	U-4
GO-O	MR-4	UO-O	U-5
GO-P	MR-5	UO-P	U-6
GO-R	MR-6	UO-R	U-7
GO-S	MR-7	UO-S	U-8
GO-T	MR-8	UO-T	U-9
GO-V	MR-9	UO-V	U-10
GO-W	MR-10	UO-W	U-11
GO-X	MR-11	UO-X	U-12
GO-Y	MR-12	UO-Y	U-13
GO-Z	MR-13	UO-Z	U-14
GO-AA	MR-14	UO-AA	U-15
GO-AB	MR-15	UO-AB	U-16
GO-AC	MR-16	UO-AC	U-17
GO-AD	MR-17	UO-AD	U-18
GO-AE	MR-18	UO-AE	U-19
GO-AF	MR-19	UO-AF	U-20
GO-AG	MR-20	UO-AG	U-21
GO-AH	MR-21	UO-AH	U-22
GO-AI	MR-22	UO-AI	U-23
GO-AJ	MR-23	UO-AJ	U-24
GO-AK	MR-24	UO-AK	U-25
GO-AL	MR-25	UO-AL	U-26
GO-AM	MR-26	UO-AM	U-27
GO-AN	MR-27	UO-AN	U-28
GO-AO	MR-28	UO-AO	U-29
GO-AP	MR-29	UO-AP	U-30
GO-AQ	MR-30	UO-AQ	U-31
GO-AR	MR-31	UO-AR	U-32
GO-AS	MR-32	UO-AS	U-33
GO-AT	MR-33	UO-AT	U-34
GO-AU	MR-34	UO-AU	U-35
GO-AV	MR-35	UO-AV	U-36
GO-AW	MR-36	UO-AW	U-37
GO-AX	MR-37	UO-AX	U-38
GO-AY	MR-38	UO-AY	U-39
GO-AZ	MR-39	UO-AZ	U-40
GO-BA	MR-40	UO-BA	U-41
GO-BB	MR-41	UO-BB	U-42
GO-BC	MR-42	UO-BC	U-43
GO-BD	MR-43	UO-BD	U-44
GO-BE	MR-44	UO-BE	U-45
GO-BF	MR-45	UO-BF	U-46
GO-BG	MR-46	UO-BG	U-47
GO-BH	MR-47	UO-BH	U-48
GO-BI	MR-48	UO-BI	U-49
GO-BJ	MR-49	UO-BJ	U-50
GO-BK	MR-50	UO-BK	U-51
GO-BL	MR-51	UO-BL	U-52
GO-BM	MR-52	UO-BM	U-53
GO-BN	MR-53	UO-BN	U-54
GO-BO	MR-54	UO-BO	U-55
GO-BP	MR-55	UO-BP	U-56
GO-BQ	MR-56	UO-BQ	U-57
GO-BR	MR-57	UO-BR	U-58
GO-BS	MR-58	UO-BS	U-59
GO-BT	MR-59	UO-BT	U-60
GO-BU	MR-60	UO-BU	U-61
GO-BV	MR-61	UO-BV	U-62
GO-BW	MR-62	UO-BW	U-63
GO-BX	MR-63	UO-BX	U-64
GO-BY	MR-64	UO-BY	U-65
GO-BZ	MR-65	UO-BZ	U-66
GO-CA	MR-66	UO-CA	U-67
GO-CB	MR-67	UO-CB	U-68
GO-CC	MR-68	UO-CC	U-69
GO-CD	MR-69	UO-CD	U-70
GO-CE	MR-70	UO-CE	U-71
GO-CF	MR-71	UO-CF	U-72
GO-CG	MR-72	UO-CG	U-73
GO-CH	MR-73	UO-CH	U-74
GO-CI	MR-74	UO-CI	U-75
GO-CJ	MR-75	UO-CJ	U-76
GO-CK	MR-76	UO-CK	U-77
GO-CL	MR-77	UO-CL	U-78
GO-CM	MR-78	UO-CM	U-79
GO-CN	MR-79	UO-CN	U-80
GO-CO	MR-80	UO-CO	U-81
GO-CP	MR-81	UO-CP	U-82
GO-CQ	MR-82	UO-CQ	U-83
GO-CR	MR-83	UO-CR	U-84
GO-CS	MR-84	UO-CS	U-85
GO-CT	MR-85	UO-CT	U-86
GO-CU	MR-86	UO-CU	U-87
GO-CV	MR-87	UO-CV	U-88
GO-CW	MR-88	UO-CW	U-89
GO-CX	MR-89	UO-CX	U-90
GO-CY	MR-90	UO-CY	U-91
GO-CZ	MR-91	UO-CZ	U-92
GO-DA	MR-92	UO-DA	U-93
GO-DB	MR-93	UO-DB	U-94
GO-DC	MR-94	UO-DC	U-95
GO-DD	MR-95	UO-DD	U-96
GO-DE	MR-96	UO-DE	U-97
GO-DF	MR-97	UO-DF	U-98
GO-DE	MR-98	UO-DE	U-99
GO-DF	MR-99	UO-DF	U-100



Fargo Planning Commission  
August 7, 2018

# Zone Change (AG to P/I) & Institutional Master Plan

## Section 19, T 140N, R 48W

3400 & 3500 Broadway North  
and 610 37th Avenue North





Water | Transportation | Municipal | Facilities

## INSTITUTIONAL MASTER PLAN

### CITY OF FARGO WASTEWATER TREATMENT FACILITY

#### OVERVIEW

##### Subject Property

- Address: 3400 & 3500 Broadway N and 610 37<sup>th</sup> Ave N, Fargo, ND 58102
- Legal Description: A portion of the South Half of Section 19, Township 140 North, Range 48 West of the 5th Principal Meridian, Cass County, North Dakota and Lot 1, Block 2, Royal Oaks Addition.
- Area: 33.92 Acres

Summary: This Institutional Master Plan is intended to satisfy the project review requirements of the Land Development Code for the Fargo Wastewater Treatment Facility. This Institutional Master Plan outlines three general phases of development over a twenty-year period:

- Phase I – Completed in 2017
- Phase IIA: Bid - June 2018  
Substantial Completion - December 2019
- Phase IIB: Bid - August 2019  
Substantial Completion - July 2022

Planning Commission Approval Date:

This Institutional Master Plan was reviewed and approved in accordance with Section 20-00911 of the Land Development Code.

---

Nicole Crutchfield, Planning Director

---

Date

## INSTITUTIONAL MASTER PLAN – PLANNING REQUIREMENTS (SECTION 20-0911.J)

### PLANNING HORIZON

This institutional Master Plan is intended to cover a planning horizon to 2040. The City of Fargo is in the process of expanding its Wastewater Treatment Facility to accommodate future growth in the City of Fargo, future growth in current outside service areas and potential future regional customers such as West Fargo, Horace and Mapleton. The expansion will occur in a number of phases beginning in 2018 through 2022. Based on current growth projections, the expansion is expected to provide adequate wastewater treatment capacity through the year 2040.

### EXISTING PROPERTY & USES

1. Illustrative Site Plans: See attached.
2. Land and Building Use: Waste-Related Use & Basic Utility (Wastewater treatment facility)
3. Gross Floor Area: See attached.
4. Building Height in Stories and Feet: See attached.
5. Description of Parking & Loading: Most areas of the facility are normally accessible to only city of Fargo personnel for maintenance purposes. These areas will have parking for 2-3 vehicles and services trucks as each building requires. Public parking will be limited to the east side of the administration building. Access to the facility is controlled due to safety and liability reasons.

### NEEDS OF THE INSTITUTION

1. Increase in treatment capacity by adding accessory buildings to the facility to handle City of Fargo growth, existing service area growth, West Fargo, Horace, Harwood, and other potential regional customers.
2. Upgrades to existing equipment as needed.
3. Office space, bathrooms, and meeting rooms for facility personnel.

### DEVELOPMENT ENVELOPE

1. Gross Floor Area: See attached.
2. Average Daily and Peak-Hour Traffic: 20-24 employees; 5-10 visitors
3. Building Heights: See attached.
4. Setbacks: Setbacks refer to the unobstructed, unoccupied open area between the furthestmost projection of a structure and the property line of the lot on which the structure is located, except as modified by the standards of this section. The existing process tanks and buildings will remain in their current locations. The closest new building is approximately 50' from the front property line. Specific setback standards are outlined within the LDC Code Review section, below.



5. **Total Open Space:** Open Space refers to outdoor, unenclosed areas, located on the ground or on a roof, balcony, deck, porch or terrace designed and accessible for outdoor living, recreation, pedestrian access or landscaping, but not including roads, parking areas, driveways, or other areas intended for vehicular travel. There are 15.81 acres of open space on the property; however, due to its use as a wastewater treatment facility and the inherent security and liability issues of such a facility, there is no pedestrian access, recreation or outdoor living allowed.
6. **Platting & Right-of-Way:** The subject property is currently unplatted, except for a small half-acre tract in the northeast boundary of the site. As a result, there is minimal street right-of-way for Broadway N adjacent to the facility, and no public sidewalk exists along the Wastewater Treatment Facility within the adjacent public right-of-way. Although not included within the scope of this Institutional Master Plan, it is anticipated that the property will be platted in the near future. The platting of the property would possibly include additional right-of-way dedication for Broadway N, providing additional space for typical public sidewalks and street trees within the boulevard.

## NEIGHBORHOOD PROTECTION STRATEGY

**Odor Control Systems:** The area is currently used for wastewater treatment and will continue to be used as such. The existing facility has odor control in a few isolated areas of the facility. As part of the phased expansion projects, odor control will be expanded to additional areas. Therefore, there should be a reduction in odor to nearby neighborhoods. The odor control planned for the facility is better than industry standard practices.

**Noise Control:** Sound attenuation will be included on all generators and process blowers to reduce any noise potential to the surrounding neighborhood. There may be an increase in noise as a result of heavy machinery during the construction projects. The project Construction Documents require complying with city noise ordinances and construction generally is limited to the hours of 7 am to 5 pm Monday through Friday. Limited night and weekend work will take place but is possible if required by a facility emergency or construction of time critical piping tie-ins.

**Dust Control:** During construction, dust emissions could increase temporarily. The contractor will be required to employ appropriate measures to minimize the amount of dust produced during construction such as watering the site, planting temporary grass cover and the use of crushed rock in travel areas.

## LAND DEVELOPMENT CODE REVIEW

### USE (ARTICLE 20-04)

The proposed use of property is for a wastewater treatment facility, which has been the property use since the 1930s. The Use Category is Basic Utilities – infrastructure services that need to be located in or near the area where the service is provided. Also Waste-Related use – collects and receives liquid sanitary waste.

The existing facility consists of a primary administration/control building with accessory buildings for various unit treatment processes. As part of the expansion, existing buildings will be retained with the addition of accessory buildings and treatment process tanks to increase the overall treatment capacity.



## DIMENSIONAL STANDARDS (ARTICLE 20-05)

In the P/I zoning district, the dimensional standards of the adjacent zoning district shall apply to all areas of the P/I zoned site located within 150 feet of the adjacent district.

The dimensional standards of the property have been established as follows:

1. **Building Heights:**
  - a. Maximum of 60 feet for all areas located within 150 feet of the LC or MR-3 zoning districts.
  - b. Maximum of 35 feet for all areas located within 150 feet of SR zoning districts.
  - c. No maximum building height applies to areas located within 150 feet of the GC zoning district or to areas located more than 150 feet from any adjacent zoning district.

All proposed buildings are less than 60 feet in height. Buildings that are taller than 35 feet will be located at least 150 feet from any SR zoning district.

2. **Maximum Building Coverage:** Building coverage refers to the area of a lot covered by buildings (principal and accessory) or roofed areas, as measured along the outside wall at ground level, and including all projections, other than open porches, fire escapes, canopies and the first three feet of a roof overhang. The ultimate building coverage after future improvements is 344,945 square feet or 23% of the site total.
3. **Setbacks:** Setbacks refer to the unobstructed, unoccupied open area between the furthestmost projection of a structure and the property line of the lot on which the structure is located. Because this property is within 150 feet of many different zoning districts, many different setback requirements apply at different locations along the perimeter of the property. For purposes of this Institutional Master Plan, the following shall apply:
  - a. **Designation of Lot Lines:**
    - i. The front lot line is the east lot line, along Broadway N
    - ii. The rear lot line is the west lot line, along the vacant right-of-way for 10<sup>th</sup> St N
    - iii. The street-side lot line is the north lot line, along 37<sup>th</sup> Ave N
    - iv. The interior-side lot line is the south lot line.
  - b. **Applicable Standard Setbacks:**
    - i. Front – 50 feet (within 150 feet of AG zoning), 20 feet (within 150 feet of GC zoning), and 10 feet (within 150 feet of LC zoning);
    - ii. Rear – 20 feet (within 150 feet of MR-3 zoning);
    - iii. Street-Side – 12.5 feet (within 150 feet of MR-3 zoning);
    - iv. Interior-Side – 10 feet (within 150 feet of MR-3 zoning).
  - c. **Watercourse Setbacks:** The watercourse setbacks of §20-0508 of the Land Development Code apply to this property. The Wastewater Treatment Facility receives wastewater from the residents, businesses and industries in the service area. The wastewater is then treated to the standards required by the United States Environmental Protection and the City of Fargo's National Pollutant Discharge Elimination System (NPDES) Permit. The reclaimed treated water is then discharged to the Red River. As such, the facility must be located near the permitted discharge point and does not infringe on the Minimal Disturbance Zone and Limited Disturbance Zone. New structures and buildings will be located outside the MDZS and LDZS areas. There will



be new utilities including an outfall pipe, storm water lift station and storm water piping in the MDZ area, which are allowed according to LDC §20-0508.C.1.b. No additional fill will be included and grading to restore the river bank to original condition will be provided.

Proposed new structures will meet these setback requirements, as shown on the attached site plan.

Existing structures that do not meet these setback requirements are considered legally nonconforming. Modifications to these structures will comply with the non-conforming structure standards of §20-1004 of the Land Development Code.

### PARKING & LOADING (SECTION 20-0701)

The site is limited to city of Fargo personnel and limited visitors. Interior roads and parking lots are for use by plant personnel maintenance and monitoring activities. Public parking will be provided on the east side of the Administration building. The facility has controlled access for security, liability and protection of city property. For Basic Utility Use Category, there is no minimum number of spaces required. For waste-related use category, 1 space per 300 square feet is required for office or administrative areas. The new office/administration area is planned to be approximately 3000 square feet, which would require 10 parking spaces. There will be 15 to 20 parking spaces adjacent to the office/administration area, which exceeds the requirement. Three parking spaces per building will be provided, which exceeds the requirements for storage, warehousing or equipment service purposes.

### ROADWAY ACCESS & DRIVEWAY (SECTION 20-0702)

No additional access points to the facility are proposed. Existing roadway access points will remain.

As the existing east train nears the end of its useful life in the year 2040, that process area will be retired. This will free up land area for additional right-of way and road width for Broadway.

### RESIDENTIAL PROTECTION STANDARDS (SECTION 20-0704)

The Residential Protection Standards are intended to protect residential properties and neighborhoods from the adverse impacts sometimes associated with adjacent multi-dwelling development and nonresidential development, whether public or private. During the planning process for the expansion project, the feasibility of moving the wastewater plant was evaluated. The costs to move the plant more than doubled the total project costs, which made it economically prohibitive for the City of Fargo. Therefore, city decision makers elected to retain the existing Wastewater Treatment Facility site for the future. Since the plant site was established in the 1930s, various businesses, apartments and homes have gradually surrounded the facility. The inherent use as a wastewater treatment facility makes the property unique and is difficult to compare to other properties specifically listed in the land use code. However, every effort will be made to comply with residential protection standards when possible.

- **Odor Control Systems:** The area is currently used for wastewater treatment and will continue to be used as such. The existing facility has odor control in a few isolated areas of the facility. As part of the phased expansion projects, odor control will be expanded to additional areas. Therefore, there should be a



reduction in odor to nearby neighborhoods. The odor control equipment installed as part of the expansion projects is better than current industry standards for odor control.

- **Noise Control:** Sound attenuation will be included on all generators and process blowers to reduce any noise potential to the surrounding neighborhood. There may be an increase in noise as a result of heavy machinery during the construction projects. The project Construction Documents require complying with city noise ordinances and construction generally is limited to the hours of 7 am to 5 pm Monday through Friday. Limited night and weekend work will take place but is possible if required by a facility emergency or construction of time critical piping tie-ins.
- **Setbacks from side and back property lines for new buildings** will be at least 10 feet. Principal buildings will be set back at least 15 feet from lot lines shared by residentially zoned property. Front setbacks for new buildings will be 50'. A 50' permanent construction easement exists on the south property line.
- There is an existing row of mature evergreen trees located on the south side of the south property line within a City of Fargo utility easement. This easement (Document No. 781841) allows the City of Fargo to plant and maintain trees within this 50- to 65-foot-wide easement area along the south side of the Wastewater Treatment Facility. This tree row provides visual screening and will remain in place between the facility and the adjacent residential use to the south. Currently trees surround the facility and any trees removed for construction purposes will be replaced, and additional trees will be added to the west of the existing tree row to continue the buffer along the residential property line. These trees will continue to be used as a visual screen and vegetated buffer in lieu of the typical mix of trees and shrubs prescribed for a residential protection buffer, within §20-0704 of the LDC. With this Institutional Master Plan, it has been determined that this evergreen tree row satisfies the intent and purpose of the landscape buffer requirement of the residential protection standards.
- The Wastewater Treatment Facility will be staffed 24 hours a day at times. However, collection of garbage, screenings, grit and biosolids hauling to the landfill will be between the hours of 7 am and 5 pm Monday through Friday unless an unexpected emergency situation arises that threatens the wastewater treatment process. Loading and unloading of equipment will also be between the hours of 7 am and 5 pm, Monday through Friday unless an unexpected emergency situation arises.
- Lighting will be arranged to deflect light away from surrounding residential areas.

## TREES & LANDSCAPING (SECTION 20-0705)

Section 20-0705 of the Land Development Code provides for three types of landscaping requirements: street trees, open space landscaping, and parking lot perimeter landscaping.

### 1. Street Trees:

Broadway is functionally classified as an arterial roadway, which requires one street tree per 50 linear feet of street frontage. The facility has about 1,440 linear feet of frontage along Broadway, which equates to 28 street trees along Broadway.

37<sup>th</sup> Avenue N is functionally classified as a local roadway, which requires one street tree per 35 linear feet of street frontage. The facility has about 1,100 linear feet of frontage along 37<sup>th</sup> Avenue N, which equates to 31 street trees along 37<sup>th</sup> Avenue N.





As noted above, within this Institutional Master Plan, the subject property is currently unplatted with minimal dedication of street right-of-way for Broadway. As such, there is limited space for street trees within the Broadway right-of-way. City staff will work with the City Forester to determine appropriate locations for street trees, given the limitations of the adjacent right-of-way. It is anticipated that the property will be platted at some point in the future, which would likely include additional street dedication. Street trees will be added as future right-of-way is platted, at the direction of the City Forester.

2. Open Space Landscaping:

The Land Development Code requires approximately 4,434 plant units based on the 33.92 acres of property within the P/I zoning district. The facility currently has roughly half of the required open space landscaping, predominantly on the perimeter of the facility. Trees cannot be planted in the interior of the property due to the network of various underground utilities required for the wastewater treatment process such as process piping, water piping, sewer piping, heating piping, underground power and underground fiber optic cable. With the proposed phases of development, every effort to plant trees on site will be made but must be kept to the outside perimeter of the property. However, due to space limitations and the underground utilities in the vicinity, this quantity may not be possible in the near future. The City of Fargo will work to determine new tree types and locations for planting while ensuring the underground utilities remain undisturbed. When the existing chain of treatment facilities on the east side of the property (the east train) reaches the end of its useful life in the year 2040, that process area will be retired. This will allow additional trees and landscaping on-site to more closely meet the facility and land development requirements. Additionally, efforts will be made to assess opportunities for additional plantings as changes to the facility occur over time. In this manner, landscaping will be phased in over an indefinite number of years.

3. Parking Lot Perimeter Landscaping:

A four-foot-wide parking lot perimeter buffer with continuous plantings of shrubs or perennial grasses will be installed along the east side of the new administration building parking lot.

### CORNER VISIBILITY (SECTION 20-0706)

Corner visibility as required by Section 20-0706 will be maintained throughout the planning horizon.





CITY OF FARGO WASTEWATER TREATMENT FACILITY

EXISTING FACILITIES



5/2/2016 12:26:45 AM Admin:Submittal - Project:161816:102-2057 FOC - WWTF Equipment Phase 2A/WWTF Design/015/Map/16:102-2057\_FOC/WWTF\_Existing\_Central.mxd



**LEGEND**

- Existing Tree
  - Remove/Replace/Replant
  - New Large Tree (10 Planting Units)
  - New Small Tree (5 Planting Units)
  - New Shrubs (1 Planting Unit)
  - Road Right-of-Way
  - Permanent Easement
  - Phase IIA Piping
  - Phase IIB Piping
  - Property Line
  - Phase IIA
  - Phase IIB
  - Proposed Pavement
- POST PHASE IIB**
- Effluent Reuse Addition
  - 10ft Concrete or Asphalt Trail
  - Levee Contours

**Approx. Quantities**

Item	Amount	Planting Units
Existing Tree	126	1260
Large Tree	100	1000
Small Tree	30	150
Shrubs	100	100
<b>Total</b>		<b>2510</b>



CITY OF FARGO WASTEWATER TREATMENT FACILITY

PROPOSED PHASE II TREE AND LANDSCAPING

**LEGEND**

-  Existing Tree/Shrub
-  New Large Tree (10 Planting Units)
-  New Small Tree (5 Planting Units)
-  Road Right-of-Way
-  Permanent Easement
-  10ft Concrete or Asphalt Trail
-  Levee Contours
-  Property Line
-  Phase III

**Approx. Quantities**

Item	Amount	Planting Units
Existing Tree/Shrub	356	2510
Large Tree	40	400
Small Tree	80	400
<b>Total</b>		<b>3310</b>



CITY OF FARGO WASTEWATER TREATMENT FACILITY

PROPOSED PHASE III (2040) TREE AND LANDSCAPING

## EXISTING GROSS FLOOR AREA AND BUILDING HEIGHTS



Existing Facility Name	Gross Floor Area (sf)	Building Height Above Grade (ft)	Stories Above Grade
Admin Building	8155	14.0	1
Garage	4350	17.3	1
Grit/Aeration Building	4601	12.7	1
Influent Lift Station	1336	13.3	1
Primary Clarifier #1	2124	10.7	Dome Cover
Primary Clarifier #2	3019	9.2	Dome Cover
Primary Clarifier #3	3019	9.2	Dome Cover
Primary Clarifier #4	2124	10.7	Dome Cover
Primary Clarifier #5	2124	10.7	Dome Cover
Primary Clarifier #6	4072	12.9	Dome Cover
Primary Clarifier #7	4072	12.9	Dome Cover
Trickling Filter Pump Station (TFPS)	2383	11.3	1
BOD Trickling Filter #1	12668	37.5	Dome Cover
BOD Trickling Filter #2	12668	38.3	Dome Cover
BOD Trickling Filter #3	18146	38.0	Dome Cover
Intermediate Clarifier #1	9852	28.0	Dome Cover
Intermediate Clarifier #2	9852	28.0	Dome Cover
Nitrification Trickling Filter #1	12725	37.5	Dome Cover
Nitrification Trickling Filter #2	12668	39.0	Dome Cover
Final Clarifier #1	18146	.75 (Wall)	Open Tank
Pond Transfer Pump Station	1257	16.5	1
Chlorination Building	2995	15.5	1
Chlorine Contact Basin	5153	Walls @ Grade	Open Tank
Effluent Pump Station	399	Top @ Grade	Vault
Strom Pump Station	95	N/A	1
Effluent Reuse Facility (ERF)	12999	19.5	1
Digester Gallery	4974	19.5	1
Primary Digester #1	5542	Below Grade	Below Grade
Primary Digester #2	5542	Below Grade	Below Grade
Primary Digester #3	5542	19.5	1
Secondary Digester #1	2552	Below Grade	Below Grade
Secondary Digester #2	2552	5.2 - 11.6	Floating Cover
Secondary Digester #3	2552	6.3 - 12.7	Floating Cover
Secondary Digester #4	2552	6.3 - 12.7	Floating Cover
Secondary Digester #5	2552	10.5	Fixed Cover
Secondary Digester #6	2552	7.1 - 12.4	Floating Cover
Biosolids Transfer Station #1	1074	9.9	1
Biosolids Transfer Station #2	456	Below Grade	Below Grade
Belt Filter Press Building (BFP)	14363	40.0	2
Biosolids Holding Tank	2463	17.0	1

Total Gross Floor Area	226264
------------------------	--------

**PROPOSED GROSS FLOOR AREA AND BUILDING HEIGHTS**



<b>Proposed Facility Name</b>	<b>Gross Floor Area (sf)</b>	<b>Building Height Above Grade (ft)</b>	<b>Stories Above Grade</b>
Vacuum Truck Receiving Bay	2388	5.0	Open Bay
IFAS (1,2,3,4)	65340	8.0	Open Tank
Blower Building	2819	15.0	1
Final Clarifier #1	18146	20.0	Dome Cover
Final Clarifier #2	18146	20.0	Dome Cover
RAS / WAS Building	1773	15.0	1
Thickening Building	7840	36.0	2
Primary Digester #4	5366	20.0	1
Headworks Building	10574	30.0	1
Garage Addition	1185	17.3	1
Generator Building	3300	18.0	1
Secondary Digester #5	2552	8 - 14.4	Floating Cover
Secondary Digester #6	2552	7.4 - 13.75	Floating Cover

<b>Total Gross Floor Area</b>	<b>141980</b>
-------------------------------	---------------

RECEIVED  
7/30/18 DS

7-27-18

I am not able to attend any of your meetings regarding the planned improvements, to the Fargo Wastewater treatment facility.

I live in Wildtree Townhomes, and live on social security as my income, like alot of people here in Wildtree do.

I am against anything that will raise my taxes again, as taxes went way up here, in Fargo, last year!

I would appreciate your help in this matter.  
Thank-you  
Rosalie Babke

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

2807

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

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
LYING IN SECTION 19, TOWNSHIP 140 NORTH, RANGE 48 WEST  
AND ROYAL OAKS 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 Section 19, Township 140 North, Range 48 West and Royal Oaks Addition, Fargo, Cass County, North Dakota; and,

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

WHEREAS, the rezoning changes were approved by the City Commission on September 10, 2018,

NOW, THEREFORE,

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

Section 1. The following-described property:

UNPLATTED, PT OF S 1/2 SEC 19, TWP 140N, RGE 48W, DESC AS FOLL: BEG AT A PT ON W R/W LN OF BDWY 875 FT NELY OF S LN OF SW 1/4 OF SEC 19, THEN NELY ALG SD R/W LN A DIST OF 990 FT, THEN N 80 DEG 25 MIN W A DIST OF 20.12 FT, THEN N 08 DEG 28 MIN W A DIST OF 251.02 FT, THEN N 80 DEG 25 MIN W A DIST OF 439.40 FT, THEN S 36 DEG 47 MIN 30 SEC W A DIST OF 268.36 FT, THEN N 80 DEG 25 MIN W A DIST OF 450 FT, THEN S 09 DEG 35 MIN W A DIST OF 990 FT, THEN S 80 DEG 25 MIN E A DIST OF 1110 FT TO PT OF BEG, ALSO THAT PT OF SW 1/4 SEC 19, TWP 140N, RGE 48W DESC AS PARCELS 1, 2 & 3 DESC AS FOLL: PARCEL 1: THAT PT SW 1/4 SEC 19, TWP 140N, RGE 48W DESC AS FOLL: BEG AT NELY MOST COR OF RIVIERA HEIGHTS 1 ADDN, SD PT BG ON E R/W LN OF 10 ST N & ON W PROP LN OF FARGO WASTEWATER TREATMENT PLANT, THEN ALG AN ASSMD BRG OF N 09 DEG 3 MIN 42 SEC E A DIST OF 374.62 FT TO THE TRUE PT OF BEG, THEN CONT ALG SD 10 ST N R/W LN N 09 DEG 34 MIN 42 SEC E A DIST OF 62.05 FT, THEN N 44 DEG 22 MIN 00 SEC W A DIST OF 381.23 FT, SD PT BG THE INTER



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 OF THE E R/W OF 10 ST N & S R/W OF 37 AVE N, THEN ELY ALG S R/W LN OF  
2 37 AVE AT A BRG OF S 89 DEG 15 MIN 34 SEC E A DIST OF 813.04 FT, SD PT BG  
3 NW COR OF BLK 2 OF ROYAL OAKS ADDN THEN S 14 DEG 35 MIN 44 SEC E A  
4 DIST OF 189.33 FT, SD PT BG THE SW COR OF BLK 2, ROYAL OAKS ADDN,  
5 THEN S 36 DEG 47 MIN 30 SEC W ALG PROP LN OF FARGO WASTEWATER  
6 TREATMENT PLANT, A DIST OF 268.36 FT, THEN N 80 DEG 25 MIN 00 SEC W  
7 ALG PROP LN OF WASTEWATER TREATMENT PLANT A DIST OF 450 FT TO  
8 THE PT OF BEG, PARCEL 2: THAT PT OF SW 1/4 OF SEC 19, TWP 140N, RGE  
9 48W DESC AS: A 40 FT STRIP OF LD PARA WITH & WLY OF FOLL DESC LN:  
10 BEG AT NELY MOST COR OF REPLAT OF RIVIERA HEIGHTS 1 ADDN, BG ON  
11 ELY R/W LN OF 10 ST N, THEN AT AN ASSMD BRG OF N 80 DEG 25 MIN 18  
12 SEC W A DIST OF 80 FT, SD PT BG ON WLY R/WLN OF 10 ST N & TRUE PT OF  
13 BEG, THEN N 09 DEG 34 MIN 42 SEC E ALG WLY R/W LN OF 10 ST N A DIST OF  
14 243.28 FT TO A PT OF TANGENTIAL CURVE, CONCAVE TO SW, WITH A  
15 RADIUS OF 300 FT, THEN ALG SD CURVE FOR AN ARC LENGTH OF 282.46 FT,  
16 A CENT ANGLE OF 53 DEG 56 MIN 42 SEC TO A PT OF TANGENCY, THEN  
17 CONT ALG WLY R/W LN OF SD 10 ST N A BRG OF N 44 DEG 22 MIN 00 SEC W  
18 A DIST OF 169.01 FT, SD PT BG INTER OF WLY R/W LN OF 10 ST N & SLY LN  
19 OF PERM EASEMENT FOR 37 AVE N. PARCEL 3: THAT PT OF SW 1/4 SEC 19,  
20 TWP 140N, RGE 48W DESC AS FOLL: BEG AT NELY MOST COR OF REPLAT OF  
21 RIVIERA HEIGHTS 1 ADDN BG ON ELY R/W LN OF 10 ST N & TRUE PT OF  
22 BEG, THEN N 09 DEG 34 MIN 42 SEC E (ASSMD BRG) ALG NLY EXT OF ELY  
23 R/W LN OF SD 10 ST N FOR A DIST OF 436.67 FT THEN N 44 DEG 22 MIN 00 SEC  
W FOR A DIST OF 381.23 FT TO A PT OF INTER WITH S R/W LN OF 37 AVE N,  
THEN N 89 DEG 22 MIN 00 SEC W FOR A DIST OF 113.14 FT TO SE COR OF LT  
16 OF ROYAL OAKS 3 ADDN, THEN S 44 DEG 22 MIN 00 SEC E FOR A DIST OF  
267.84 FT TO A PT OF TANGENTIAL CURVE, CONCAVE TO SW, RADIUS OF  
300 FT, THEN ALG SD CURVE FOR AN ARC LENGTH OF 282.46 FT, CENT  
ANGLE OF 53 DEG 56 MIN 42 SEC TO A PT OF TANGENCY, THEN S 09 DEG 34  
MIN 42 SEC W ALG NLY EXT OF WLY R/W OF 10 ST N FOR A DIST OF 243.28  
FT TO A PT OF INTER WITH NLY LN OF SD REPLAT OF RIVIERA HEIGHTS 1  
ADDN, THEN S 80 DEG 25 MIN 18 SEC E FOR A DIST OF 80 FT TO TRUE PT OF  
BEG of Section 19, Township 140 North, Range 48 West to the City of Fargo, Cass  
County, North Dakota;

AND;

Lot One (1), Block Two (2), Royal Oaks Addition to the City of Fargo, Cass County,

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

North Dakota;

1 is hereby rezoned from "AG", Agricultural, District to "P/I", Public and Institutional, District;

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

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

6

7

8

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

9

(SEAL)

10

11

Attest:

12

First Reading:  
Second Reading:  
Final Passage:

13

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

14

15

16

17

18

19

20

21

22

23

280

MEMORANDUM

**TO: BOARD OF CITY COMMISSIONERS**

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

**DATE: SEPTEMBER 6, 2018**

**SUBJECT: REQUEST FOR PILOT FINANCING**



The City of Fargo received a request for assistance from the Payment In Lieu of Taxes (PILOT) Program, for a proposed project to be located at 914 and 918 15th Street North near North Dakota State University. The request is from James Pladson and Austin Morris representing Dakota Beach Capital, LLC. The proposed project would be the removal of two older houses and the construction of a new 16-unit apartment building with interior and exterior parking. A map showing the location of the project is attached. The project conforms to the existing UMU, University Mixed-Use zoning.

In June, the Fargo City Commission directed staff to work with the developer on the project and forward the PILOT application and financials to the City financial advisors for review. The report from PFM is attached, and it indicates that the PILOT incentives are necessary for the project to be feasible.

Cass County and Fargo Schools have been informed of the project, and both elected to participate in the incentive if it was approved by the Fargo City Commission.

The Tax Exempt Review Committee is recommending a 10 year PILOT incentive based on the attached schedule. Property taxes would remain at the current level for the first 5 years, and be based on 50% of the increased property in years 6 through 10.

**RECOMMENDED MOTION:** Approve the recommendation of the Tax Exempt Review Committee for a PILOT incentive and direct the City Attorney prepare a development agreement for adoption by the City Commission.

Attachments

CC: Ben Hushka  
Erik Johnson



## Dakota Beach Capital Project Location

914 & 916 15 St.

# City of Fargo, North Dakota

Payment in Lieu of Taxes Program

“But-For” Report

914 and 918 15<sup>th</sup> Street North Housing Project

University Mixed Use Zoning District

---



August 24, 2018



## Table of Contents

---

	<u>Page</u>
1. Purpose	1
2. Project	2
3. Project Financing	5
4. Return Analysis	6
5. Conclusion	8

## Purpose

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

PFM first reviewed the application to ensure that appropriate assumptions regarding property value, rent, vacancy, and expenses were used by the Developer. Based on those assumptions, PFM projected a 10-year cash flow, calculating an internal rate of return. We also made sure the Developer followed the City of Fargo's (the "City") Payment in Lieu of Taxes Policy including the allowable costs and the Developer's calculations for determining the amount of allowable subsidy. The following report details PFM's analysis and conclusions concerning the viability of the proposed project without the subsidy. The proposed project will be an investment of the Developer so PFM also calculated an internal rate of return for the project.



## Project

The project being proposed by Dakota Beach Capital LLC includes constructing 16 apartment units at 914 and 918 15<sup>th</sup> St North. The apartments will range from efficiency units at 600 square feet to two bedroom/2 bathroom units at 1,060 square feet. There will be some tuck-under garages as well as exterior parking. Exterior finishes include brick/stone and siding. As noted in the previous section, the proposed project is to be an investment property for the Developer.

The application states the construction will be completed by June 2019 with occupancy immediately following. The application notes the Developer will own and operate the building upon completion. The Developer has requested PILOT financing assistance in the amount of \$127,102 to complete the project. This amount is based on projections of the future tax payments less the projected PILOT payments. Both the estimated tax payments and estimated PILOT payments assume a property value increase of 2% per year. This amount assumes five years of 100% exemption and five years of 50% exemption.





## Project Financing

The Developer is investing 25% equity, or \$465,874, and will be privately financing \$1,397,621. The Developer is additionally requesting PILOT assistance through annual property tax savings. The private financing is estimated to be a 25-year loan at a 5.00% interest rate resulting in an annual principal and interest payment of \$99,165. The application states the project will be occupied by June 2019.



## Return Analysis

In calculating the internal rate of return, PFM first analyzed the Developer's assumptions including expected monthly rent, vacancy rate, and the operating expenses. The Developer is proposing a rent of \$850 per month for efficiency units, \$900 per month for one bedroom/one bathroom, and \$1,125 per month for two bedroom/two bathroom units. Policy #12 states that rents should not substantially exceed, by more than 50%, fair market rents in Fargo. The Developer is proposing rents for the one-bedroom/one-bathroom units of \$900/month and two-bedroom/two-bathroom rents of \$1,125/month which, based on fair market rents of \$643 and \$810, respectively, is reasonable. Based on an efficiency unit fair market rent of \$521, the Developer has proposed a rent that is more than a 50% increase (approximately 63% increase) to the fair market rent in Cass County. The average weighted rent the Developer is proposing is \$915 which is less than a 50% increase of the average weighted fair market rent of \$633. The Developer provided estimates of operating expenses, as follows; Repairs/Maintenance - \$52/unit/month, Management - 9% of rent, Insurance - \$3,881, Utilities - \$65/unit/month, Lawn/Snow - \$2,700; Replacement Reserve - \$1,600/year, Miscellaneous - \$1,184 and Real Estate Taxes - \$21,067. The total expenses are approximately 40% of gross operating income. The operating expense assumptions appear to be a little low, but still reasonable. As no cash flow projection was provided by the Developer, PFM used the given assumptions for Year 1 and, using a 2% inflationary factor, developed a 10-year cash flow. PFM assumed Year 1 vacancy rate would be 50% for 7 months of the year assuming a June 1 occupancy, Year 2 vacancy rate would be 10%, and 7% beyond Year 2.

The second step in determining the internal rate of return is to determine the earned incremental value of the property over the 10-year period. That value, along with the net operating income cash flows, was used to calculate the internal rate of return. PFM determined that without PILOT assistance the Developer would have about an 11.50% internal rate of return. The Developer would have about a 13.52% internal rate of return if it received the public assistance for the full 10 years and 12.98% if the Developer received public assistance for 5 years. A reasonable rate of return for the proposed project is 10% - 15%.

Another measure of feasibility and project viability is the debt coverage ratio. PFM has projected a maximum debt coverage ratio of 1.06x without assistance in the first 10 years with a Year 4 coverage of 0.94x. If the City provided assistance to the project the maximum debt coverage is projected to be 1.16x with a Year 4 coverage of 1.12x. The minimum coverage of 1.07x occurs in Year 6 when the subsidy is reduced to 50%, but continues to grow to 1.16x in Year 10. If the City offered the Developer 100% subsidy for the first five years, the maximum debt coverage is projected to be 1.15x, but then declines to 0.98x in Year 6 before rising to 1.06x in Year 10. Debt coverage is important to developers when securing financing for their projects. Many times banks will require a minimum coverage in the range of 1.10x - 1.50x.

Using PFM's "without assistance" cash flow as the base scenario, PFM ran sensitivity analyses in order to determine if the project would be likely to occur without public assistance. For the first sensitivity analysis, PFM analyzed how much project funds would have to decrease in order to produce a reasonable internal rate of return. We also looked at how much the rental rates would have to fluctuate in order to achieve a reasonable internal rate of return. Lastly, we looked at a combination of the two scenarios. For the sensitivity analyses, we assumed a minimum debt coverage of 1.10x.

### **Sensitivity Scenario 1 – Project Costs**

The project would have to be reduced by \$363,494 or 20% in order for the project to become viable without assistance. This reduces the amount to be financed from \$1,397,621 to \$1,125,000 and reduces the annual debt service payment from \$99,165 to \$79,822. It is somewhat unlikely that a reduction in project costs of this magnitude would occur at this stage in the process.

### **Sensitivity Scenario 2 – Rental Rates**

In order for the project to be viable without public assistance, the rental rate would have to increase by 12%. PFM believes this is a large increase to the Developer's proposed rents. This increases annual rental



revenue from \$167,904 to \$188,053 in Year 5. While an increase this large is unlikely to occur at this point, it is still a possibility to consider.

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

The final scenario looks at both a reduction of project costs and an increase in rental rates. The analysis showed that project costs would have to be reduced by \$163,494 or 8.8% and rental rates would have to increase by 7.5%. Both of these options occurring is unlikely, but it is possible so it should be considered.

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



## Conclusion

The Developer will bear all the risk involved with the project. The Developer is dependent on a number of factors before and after the project is completed, including project costs, occupancy of the units, the rental market, and monthly expenses. While the internal rate of return without assistance is in the range of acceptability, the coverage is very low, even below 1.0x in some years. The base scenario without assistance along with the sensitivity analyses demonstrate that the project would likely not be feasible without assistance.

PFM determines that with public assistance, based on 5 years of 100% property tax exemption followed by 5 years of 50% exemption, the Developer's internal rate of return, based on the assumptions outlined in this report, would be 11.50%. Furthermore, the Year 4 debt coverage ratio increases from 0.94x to 1.12x when assistance is provided. Based upon the information provided, the project would not be feasible "but-for" public assistance as it is currently shown by the Developer.



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

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

PROJECT OPERATOR: Dakota Beach Capital, LLC

ASSUMPTIONS: **\$1,584,000 improvement value**

**PILOT payment schedule is based on the equivalent of 100% exempt for 5 years and 50% exempt for 5 years on the incremental difference in tax between the existing improvements assessment value and the new improvements value until the grant amount has been amortized.**

**The current tax on the existing improvements is \$4,800, rounded.**

PAYMENT SCHEDULE:

<u>YEAR</u>	<u>IN LIEU PAYMENT</u>
1	\$ 4,800
2	\$ 4,800
3	\$ 4,800
4	\$ 4,800
5	\$ 4,800
6	\$ 16,105
7	\$ 16,105
8	\$ 16,105
9	\$ 16,105
10	\$ 16,105

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



29a-b

Office of the City Attorney

City Attorney  
Erik R. Johnson

Assistant City Attorney  
Nancy J. Morris

September 6, 2018

Board of City Commissioners  
City Hall  
200 3<sup>rd</sup> Street North  
Fargo, ND 58102

Dear Commissioners,

I am enclosing for your consideration ordinance amendments to the fines applicable to bicyclists, as discussed.

While Fargo Municipal Code Section 8-1425 imposes a penalty of \$5 for all offenses in the Article, in fact there are already other penalties identified in Fargo Municipal Code section 1-0305 for violations of provisions in the Article. Specifically, a violation of 8-1415 (right of way emerging from alley or driveway), 8-1417 (parking restriction), and 8-1420 (bicycle- age restriction) are presently subject to a \$40 fine, as stated in section 1-0305(C)(5).<sup>1</sup> Further, while most of the bicycle sections are identified in 1-0305 (C)(1), some are not identified at all in 1-0305 (8-1410- traffic laws apply to persons riding bicycles and 8-1422- reporting bicycle accidents). It is recommended these sections be added to 1-0305 (C)(2) imposing a fine of \$20. In addition, it is recommended that section 8-1420 (bicycle- age restriction) be moved to section 1-0305 (C)(1), imposing a \$5 fine, and sections 8-1411 (obey traffic signals) and 8-1418 (riding bicycle on sidewalk when prohibited by proper signs) be moved to section 1-0305 (C)(2), imposing a \$20 fine, in accordance with related traffic offenses.

**Suggested Motion:** I move to receive and file ordinance amendments to Fargo Municipal Code sections 1-0305 and 8-1425 relating to fines for violations relating to bicycles.

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

Regards,

Nancy J. Morris

Enclosures

<sup>1</sup> Section 8-1403(D) is also identified in section 1-0305(C)(5), but that section has been repealed so this has been stricken from 1-0305.



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE AMENDING SECTION 8-1425, OF ARTICLE 8-14  
OF CHAPTER 8 OF THE FARGO MUNICIPAL CODE RELATING TO  
BICYCLES

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

Section 8-1425 of Article 8-14 of Chapter 8 of the Fargo Municipal Code is hereby amended to read as follows:

Penalties imposed.--All persons convicted of (violating) any provisions of this chapter (article) shall be punished by a fine not to exceed \$5 found to have violated provisions of this Chapter shall be punished as stated in section 01-0305 (C)(1)(2) or (5).

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 2. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading:  
Final Passage:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE AMENDING SECTION 01-0305, OF ARTICLE 01-03 OF CHAPTER 01 OF THE FARGO MUNICIPAL CODE RELATING TO GENERAL PROVISIONS

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

Section 01-0305 of Article 01-03 of Chapter 01 of the Fargo Municipal Code is hereby amended to read as follows:

C. Violations of the following ordinances are noncriminal offenses and shall require payment of a fee as follows:

1. For a violation of the following ordinances, a fee of \$5.00.  
~~Section 8-1411 (bicyclist to obey traffic control devices),~~ section 8-1412 (riders/passengers restricted), section 8-1413 (riding on roadway/bike paths--restrictions), section 8-1414 (operate bicycle too fast for conditions), section 8-1416 (carrying packages-restrictions), ~~section 8-1418 (riding bicycle on sidewalks--restrictions),~~ section 8-1419 (equipment on bicycles), section 8-1420 (bicycles- age restrictions).

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23
2. For a violation of the following ordinances, a fee of \$20.00. Section 8-0105 (driving wrong way on one-way street), section 8-0106 (obey temporary traffic sign/barrier), section 8-0113 (unlawful use of skates/coasters), section 8-0303(B) (parent/guardian allow unlicensed/under 16 to drive), section 8-0303(C) (owner allowing unlicensed/under 16 to drive), section 8-0304 (registration card to be carried in the driver's compartment-- inspection of card), section 8-0305(a)(1), section 8-0305(A)(4) (current registration required), section 8-0305(B) (current license required), section 8-0306 (violation of restricted license), section 8-0316 (permit unauthorized person to drive), section 8-0318 (operating motor vehicle on bicycle trail), section 8-0403 (disobey traffic control device (barricade)), section 8-0405 (traffic control signals), section 8-0406 (pedestrian-control signal), section 8-0407 (flashing signals), section 8-0411 (alter traffic or railroad sign), section 8-0412 (display unauthorized signs, signals or marking), section 8-0506 (impeding traffic), article 8-06 (regulating turning movements), section 8-0707 (pedestrian crossing street where prohibited), section 8-0709(A) (pedestrian walking in roadway), section 8-0710 (pedestrian soliciting rides or business), section 8-0712 (pedestrian obstructing traffic), section 8-0901 (fail to display flag/light rear of load), section 8-0902 (improper tires), section 8-0903 (improper horn), section 8-0904 (brakes required), section 8-0905 (mirrors required), section 8-0906 (obstructed vehicle windshield/windows), section 8-0907 (windshield wipers required), 8-0908 (mufflers/exhaust system required), section 8-0909 (leaking or loose load), section 8-0910 (lights/lamps fail to conform to state law), section 8-0911 (fail to display lighted lamps), section 8-0913 (illegal spotlights), section 8-0914 (improper towing connection), section 8-0915 (reflectors/taillight required on trailer), section 8-0916 (flashing lights prohibited), section 8-0917 (illegal light on vehicle), section 8-0919(A) (riding on exterior of vehicle), section 8-0919(B) (more passengers than capacity), section 8-0919 (C) (allow body to protrude from moving vehicle), section 8-0928 (modified suspension system), section 8-0929 (driving of vehicle in unsafe condition unlawful), section 8-1003 (A) thru (J) and (L) thru (S) (stopping, standing, parking prohibited in specific places), section 8-1010 (motor vehicle left unattended-- brakes to be set, engine stopped, and keys removed), section 8-1011 (drive or park on private property), section 8-1013 (improper parking/obstructing traffic), section 8-1111 (vehicle required to stop at railroad crossing), section 8-1201 (following too closely), sections 8-1202 thru 8-1218(D) (general rules of the road), section 8-1301(A) (following fire apparatus), section 8-1301(B) (driving vehicle within block of fire apparatus), section 8-

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 1301(C) (driving over fire hose), section 8-1301(D) (driving through/around  
2 barricade), section 8-1302 (driving through parade/funeral procession), section 8-  
3 1304 (failure to obtain parade permit), section 8-1305 (driving vehicle on  
4 sidewalk), section 8-1306 (improper backing), section 8-1307 (opening and  
5 closing vehicle doors), 8-1308 (helmet required-- operator/passenger), section 8-  
6 1309 (number of riders on motorcycle limited), section 8-1310 (clinging to a  
7 vehicle or allowing same), section 8-1311 (improper start of parked vehicle),  
8 section 8-1313 (unlawful riding on vehicle), section 8-1315 (unlawful towing),  
9 section 8-1316(A) (operating motor vehicle with view obstructed by  
10 load/passengers), section 8-1316(B) (passenger obstructing driver's view), section  
11 8-1317 (coasting vehicle on downgrade prohibited), section 8-1318 (littering),  
12 section 8-1319 (unlawful operation of motor vehicle private property), section 8-  
13 1320(A) (operating snowmobile under 16 or allowing when prohibited), section  
14 8-1320(B) (operating snowmobile in restricted area), section 8-1321 (use of seat  
15 belts required), section 8-1410 (traffic laws apply to persons riding bicycles),  
16 section 8-1411 (bicyclist to obey traffic control devices), section 8-1418 (riding  
17 bicycle on sidewalks – restrictions), section 8-1422 (bicycle accidents), section 8-  
18 1804 (driving through school patrols), section 8-1902 (cruising prohibited), article  
19 8-20 (motorized scooters).

- 20
- 21
- 22
- 23
3. For a violation of the following ordinance, a fee of \$25.00.  
Section 8-0931 (child restraint devices required), section 10-0103(B) (tobacco possession by minors prohibited).
  4. For a violation of the following ordinances, a fee of \$30.00.  
Section 8-0301 (failure to have vehicle under control), section 8-03013 (careless driving), section 8-0501 (speed-care required).
  5. For a violation of the following ordinances a fee of \$40.00.  
Section 8-1018 (taking on or discharging passengers), ~~section 8-1403 (D) (failure to register/display license on bike)~~, section 8-1415 (right-of-way emerging from alley or driveway), section 8-1417 (parking restriction); ~~section 8-1420 (bicycles-age restrictions).~~

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 2. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading:  
Final Passage:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23



290

Office of the City Attorney

City Attorney  
Erik R. Johnson

Assistant City Attorney  
Nancy J. Morris

September 6, 2018

Board of City Commissioners  
City Hall  
200 3<sup>rd</sup> Street North  
Fargo, ND 58102

Dear Commissioners,

I am enclosing for your consideration a new Article 3-23 to Chapter 3 - Finances. Steve Sprague, City Auditor, previously requested permission to work with our office to propose ordinances that would assist in the collection of city utilities and services. In particular, collection of utilities has proven difficult in landlord/tenant situations and when the ability to discontinue water service for lack of payment is not available. The proposed Article would recognize the joint responsibility of the owner and the occupant for payment for utilities and services provided to the premises by the city of Fargo, and would further permit unpaid charges be added to the property taxes, similar to nuisance abatement. It is important to note that this method of collection is already permitted by existing ordinances, in particular waste collection services in accordance with section 13-0521.

The new Article makes the practice of holding the owner and occupant responsible applicable to all utilities and services provided by the city of Fargo, and clarifies the parties' responsibilities in the event of default. This Article is necessary to improve collection of existing charges and in anticipation of a change in the methodology of determine storm water charges.

**Suggested Motion:** I move to receive and file an Ordinance enacting Fargo Municipal Code Article 3-23 of Chapter 3 of the Fargo Municipal Code relating to Finances.

Please feel free to contact me or Steve Sprague if you have any questions or concerns regarding this recommended Article enactment.

Regards,

A handwritten signature in black ink, appearing to read "Nancy J. Morris".

Nancy J. Morris

Enclosure



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE ENACTING ARTICLE 3-23 OF CHAPTER 3  
OF THE FARGO MUNICIPAL CODE RELATING TO COLLECTION OF  
UTILITIES AND SERVICES

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

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

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

WHEREAS, the board of city commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be It Ordained by the board of city commissioners of the city of Fargo:

Section 1. Enactment.

Article 3-23 of Chapter 3 of the Fargo Municipal Code is hereby enacted as follows:

ARTICLE 3-23 – COLLECTION OF  
UTILITIES AND SERVICES

Section 3-2301 – Tenant and Owner Jointly and Severally Liable. -- The owner and occupant of each premise shall be jointly and severally liable for all charges for all municipal utilities and services provided to the property, including but not limited to water, sanitary sewer, street lighting, vector control, solid waste, forestry, and storm water service during the period of their respective ownership or occupancy.

Section 3-2302 – Charges to Constitute Lien on Premises; Assessment and Collection of Lien. -- All unpaid municipal utilities and services shall constitute a lien upon the respective lots, tracts and premises receiving such utility or service; and all such charges which have been properly billed to the owner or occupant of the premises served and which are more than thirty days past

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 due may be charged as an assessment against the lot or parcel of land. In August of each year  
2 the board of city commissioners shall review all assessments, and hear all complaints against the  
3 same, and approve the same as finally adjusted, and the city, in so certifying such charges, shall  
4 specify the amount thereof, the description of the premises served and the name of the owner  
5 thereof. The amount so certified shall be extended by the county on the tax rolls against such  
6 premises and collected by the county and paid to the city in the same manner as other county and  
7 municipal taxes are assessed, certified, collected and returned.

8 Section 2. Effective Date.

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

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

13 (SEAL)

14 Attest:

15 First Reading:  
16 Second Reading:  
17 Final Passage:

18 \_\_\_\_\_  
19 Steven Sprague, City Auditor



30

## Office of the City Attorney

City Attorney  
Erik R. JohnsonAssistant City Attorney  
Nancy J. Morris

September 6, 2018

Board of City Commissioners  
City Hall  
200 3<sup>rd</sup> Street North  
Fargo, ND 58102**RE: Dangerous Building Proceeding—427 15<sup>th</sup> Avenue South**

Dear Commissioners:

You will, I am sure, recall that at your August 13<sup>th</sup>, 2018 regular meeting, a public hearing was held in the matter of an alleged dangerous building located at 427 15<sup>th</sup> Avenue South in Fargo. The legal owner of the building is James Peter Sabo. At the public hearing, you took testimony from Inspections Administrator Bruce Taralson, from home owners in the neighborhood of the alleged dangerous building and from the property owner himself, Mr. Sabo. After closing the public hearing, a motion was approved determining that said building to be a "dangerous building", that the City Attorney's office be directed to prepare and serve the owner with the appropriate Findings of Fact and Order and that the appropriate staff be directed to secure removal of the structure if it is not removed within the time allowed by the Board's Order.

Lack of Written Notice. Several days after the hearing, Mr. Sabo's attorney, Jonathan Garaas, submitted a letter to the City Commission, a copy of which is enclosed herewith. In his letter, Mr. Garaas asserts a number of arguments challenging the validity of the Commission's determination at the August 13th meeting. The letter represents that Mr. Sabo is capable of bringing the alleged dangerous building into full compliance with code if the appropriate permits may be allowed to be issued and if he is given until January 1, 2019. With respect to the legal and factual assertions made by Mr. Sabo through his attorney, the Inspections Administrator and this office do not find those arguments to have legal or factual permit with one exception: that of the lack of proper written notice being given to Mr. Sabo. Fargo Municipal Code §21-0405 required Mr. Sabo to have been given written notice of the public hearing scheduled for August 13th, said notice to be delivered by certified mail and said notice to be posted at the location of the alleged dangerous building. FMC §§21-0405(A) and 21-0408. After conferring with the staff at the Inspections Department, we acknowledge that Mr. Sabo was not delivered, by certified mail, a written notice of the August 13th hearing nor was such





notice posted at the subject property. Having said this, however, Mr. Sabo did have *actual* notice of the August 13th hearing as reflected by the affidavits of Gretchen Morlan, Bruce Taralson, Christine Rose, Joseph Girdner and Nancy Turner, all from the Inspections Department, and the affidavits of Alissa R. Farol and Erik R. Johnson of the City Attorney's Office. These affidavits establish that as early as July 27, 2018, Mr. Sabo was fully aware of Bruce Taralson's memorandum to the City Commission for the Commission's July 30th (at which time the hearing was scheduled for August 13<sup>th</sup>). After the July 30<sup>th</sup> City Commission meeting and before the August 13<sup>th</sup> hearing, Mr. Sabo was informed of the hearing by telephone by Joseph Girdner of the Inspections Department, he had numerous telephone calls and visits with the Inspections office regarding his request to be allowed to get the subject property into compliance prior to the August 13th hearing and, on Friday, August 10th, Mr. Sabo called the Inspections office requesting information on the file for the subject property and he stopped by the Inspections office to retrieve those documents and at that time he was informed of the time, date and location for the August 13th public hearing. In summary, Mr. Sabo had actual notice of, and he did appear, at the August 13th public hearing. He was not prejudiced by the lack of formal written notice. Even so, in the interest of fairness and to provide Mr. Sabo with full opportunity to present testimony or other information, I recommend that the City Commission take the matter up, once again, at a regular meeting and that the City Commission accept additional testimony and other information regarding the dangerous building proceeding for the subject property. In a telephone conversation with Mr. Sabo's attorney, Mr. Garaas on Thursday, August 23rd, I advised him of my intention to make this recommendation to the City Commission and advised him that the matter would be placed before the City Commission at its regular meeting on Monday, September 10, commencing at 5:00 p.m. I expect that Mr. Sabo and his attorney will be present to provide additional testimony and other information. Furthermore, I expect that, in addition to the materials submitted herewith, the Inspections Administrator, Bruce Taralson, will also be available to provide additional information as may necessary or appropriate.

Findings of Fact and Order -- proposed. As mentioned, the August 13th motion of the City Commission directed my office to prepare proposed Findings of Fact and Order pertaining to the subject property. Enclosed are proposed Findings of Fact and Order for your review and consideration.

**SUGGESTED MOTIONS:**

Motion No. 1. I move to receive and file, as part of this matter, the letter to the Commission from the City Attorney of September 6, 2018, along with the enclosures therewith, including affidavits of Bruce Taralson, Christine Rose, Gretchen Morlan, Joseph Girdner, Alissa R. Farol and Erik Johnson and including the August 17<sup>th</sup> letter from Mr. Sabo's attorney, Jonathon Garaas.

Motion No. 2. Regarding this dangerous building proceeding, I move to allow additional testimony to be provided.

**After receiving additional testimony:**

Motion No. 3. I move to approve and adopt the Findings of Fact and Order pertaining to the 427 15<sup>th</sup> Avenue South dangerous building matter as proposed [...or, as modified by motion of the City Commission].

Sincerely,

A handwritten signature in black ink, appearing to be 'ERJ', with a long horizontal flourish extending to the right.

Erik R. Johnson

ERJ/lmw

Enclosures

cc by email: Jonathon Garaas, Attorney for James Peter Sabo

**FINDINGS OF FACT AND ORDER**  
**of the**  
**BOARD OF CITY COMMISSIONERS**  
**OF THE CITY OF FARGO**

Property Address: 427 15<sup>th</sup> Avenue South, Fargo, North Dakota

Owner: James Peter Sabo

A hearing was held before the Board of City Commissioners of the City of Fargo on the 13<sup>th</sup> day of August, 2018 regarding property located at 427 15<sup>th</sup> Avenue South, Fargo, North Dakota. Bruce Taralson, Building Official, appeared on behalf of the city of Fargo Inspections Department and provided testimony as to the condition of the property. James Peter Sabo, the owner of the property, appeared and provided testimony. In addition, owners of property nearby the subject property appeared and offered testimony, including, J. Michael Johnson, Leroy Anderson, and Teresa Roberts.

The matter came on for further proceedings before the Board of City Commissioners at the Board's regular meeting of September 10, 2018 at which meeting the Board allowed additional testimony, including that of Mr. Sabo, to be presented.

The Board heard the testimony offered by the inspections department, owner, and neighboring property owners, and considered the reports, evidence and other information presented, and hereby makes the following Findings of Fact:

**FINDINGS OF FACT**

1. That James Peter Sabo is the owner of the following described real property located in the City of Fargo, County of Cass and State of North Dakota:

Lot 113 in Belmont Park Addition to the city of Fargo

The street address for which is: 427 15<sup>th</sup> Avenue South, Fargo, North Dakota, 58103.

2. That the subject property is vacant.
3. That on June 12, 2018, Joseph Girdner, Residential Housing Inspector to the city of Fargo, inspected the property and found the building, consisting of a multistory, wood-framed

structure to be a dangerous building within the standards set forth in Article 21-04 of the Fargo Municipal Code and Section 108 of the International Property Maintenance Code concerning dangerous structures. Additionally, Joseph Girdner observed and reported that numerous code violations exist and the deterioration of the property is extensive.

4. That on June 22, 2018, Robert E. Harshberger, Deputy Assessor of the city of Fargo, performed an inspection on the property and determined that the estimated cost to repair the property would exceed fifty percent (50%) of the building value as established by the Fargo Assessment Department.

5. That the building is unsafe and is a dangerous building in the following respects: the building is structurally unsound, there are many and various code violations, multiple permits have been issued for work that has never been completed, that work has been completed without necessary permits and that there is substandard workmanship.

6. Further, the City Commission finds that the following conditions exist with respect to the subject property:

- a. The structure has been damaged or deteriorated for more than fifty percent (50%) of its original value;
- b. The building is unsafe, fails to provide the amenities essential to decent living, and is unfit for human habitation; and
- c. The building it is unsafe or dangerous to the health, moral safety or general welfare of the people of the City of Fargo.

7. That the information in the files of the Inspection Department, and the City Assessor's Office stemming from various inspections of the property on or before June 22, 2018, with respect to the subject property is hereby accepted as true and correct.

8. That the building located at 427 15<sup>th</sup> Avenue South, Fargo, North Dakota 58103, is hereby found to be a "dangerous building."

9. Notice of Dangerous Building was posted on the property on or about June 25, 2018, in accordance with Municipal Code § 21-0404. The Notice of Dangerous Building informed the owner and all occupants, if any, that the "dangerous building" must be vacated and

the building demolished within 30 days from the date of the notice.

10. The owner was properly served by certified mail with the Notice of Dangerous Building, dated Monday, June 25, 2018.

11. The owner has not sufficiently presented cause why the “dangerous building” should not be demolished.

12. Despite being ordered that the building on the subject property should be demolished or necessary permits be obtained within 30 days of the notice, the owner has failed to do so.

13. A hearing was held on August 13, 2018 at which time the owner appeared and presented testimony.

14. Subsequent to said August 13th hearing said owner, through his attorney, alleged that proper notice of the hearing had not be served upon the owner, to-wit: Fargo Municipal Code Section 21-0405(A) requires that the Board of City Commissioners give written notice to the owner to appear before it to show cause why the building or structure reported to be a “dangerous building” should not be repaired, vacated, or demolished, said written notice to be delivered by certified mail (according to Fargo Municipal Code §21-0408) and said notice to be posted in a conspicuous place at the location of the alleged dangerous building.

15. City officials have acknowledged that in fact, the required delivery by certified mail, of the notice of hearing did not occur nor was said notice posted on the alleged dangerous building , however, the owner acknowledged knowing about the August 13th hearing as early as July 27, 2018 and the owner actually appeared at the August 13th hearing. Therefore, the owner had actual notice of the hearing and was not prejudiced by the failure to receive written notice by certified mail or the posting of the notice on the property.

16. Based upon the foregoing, the Board of City Commissioners hereby finds that the property owner, James Peter Sabo, had actual notice of the August 13th hearing, he appeared at the hearing and, therefore, he suffered no prejudice as a result of the lack of formal written notice.

**ORDER**

Based on the foregoing Findings of Fact, it is hereby ORDERED that James Peter Sabo or anyone else claiming an ownership interest shall demolish the “dangerous building” located at 427 15<sup>th</sup> Avenue South, Fargo, North Dakota.

It is further ordered that James Pete Sabo or anyone else claiming an ownership interest in the building shall have 30 days from the date of service of this Order within which to demolish the “dangerous building” located at 427 15<sup>th</sup> Avenue South, Fargo, North Dakota.

It is further ordered that if the owner fails to demolish said “dangerous building,” the City Auditor, Building Inspector and City Attorney are directed to act on behalf of the city of Fargo to cause the “dangerous building” to be demolished, and the cost of said demolition to be assessed against the subject property as provided in Section 21-0405 of the Fargo Municipal Code.

DATED this \_\_\_\_\_ day of September, 2018.

BOARD of CITY COMMISSIONERS of the CITY  
OF FARGO,  
a North Dakota Municipal Corporation

By \_\_\_\_\_  
Timothy J. Mahoney, M.D., Mayor

ATTEST:

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

**NOTICE TO PROPERTY OWNER**

TO: JAMES PETER SABO

YOU ARE HEREBY GIVEN NOTICE that you shall have 30 days from the date of service of Findings of Fact and Order of the Board of City Commissioners of the City of Fargo (“Order”) upon you in which to appeal the Order to the District Court of Cass County, North Dakota, or to take such other legal action to enjoin the enforcement of this Order as you deem proper, all in accordance with the appeal procedure set forth in Fargo Municipal Code § 21-0412. You are further given notice that the “dangerous building” on the subject property may be demolished by the city of Fargo at any time on or after 30 days from the date of service hereof.

DATED this \_\_\_\_\_ day of September, 2018.

BOARD OF CITY COMMISSIONERS  
CITY OF FARGO, a North Dakota Municipal  
Corporation

By \_\_\_\_\_  
Timothy J. Mahoney, M.D., Mayor

ATTEST:

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

**AFFIDAVIT OF BRUCE TARALSON**

**IN THE MATTER OF THE DANGEROUS BUILDING PROCEEDING - 427 15<sup>th</sup> AVE. S.**

---

**COMES NOW**, Bruce Taralson, after being duly sworn on oath, deposes and says:

1. I am the Inspections Administrator for the City of Fargo Inspections Department.
2. It is my understanding that James Peter Sabo is the legal owner of 427 15<sup>th</sup> Avenue South, Fargo, North Dakota 58103.
3. Mr. Sabo has had numerous phone calls and visits with the Inspections Department regarding how to get his property at 427 15<sup>th</sup> Avenue South into compliance before the hearing on August 13, 2018.
4. On Friday, July 27<sup>th</sup>, Mr. Sabo came into the Inspections Department again to discuss his property, and he specifically requested a copy of the Memorandum to the Board of City Commissioners, dated July 26, 2018, recommending a motion to set August 13, 2018 as the date for the hearing regarding the Notice of Dangerous Building and Order for the structure located at 427 15<sup>th</sup> Avenue South.
5. Office Associate III Gretchen Morlan provided Mr. Sabo with a copy of the memo.
6. Mr. Sabo told me he would be visiting the City Attorney's Office after we met to further discuss the process.



Further your affiant sayeth naught.

Dated: 9/6/18

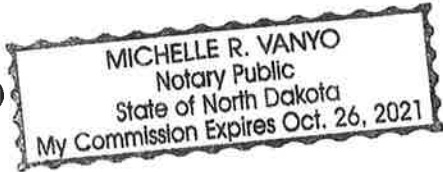
Bruce Taralson  
Bruce Taralson

Subscribed and sworn to before this 6 day of September, 2018.

Michelle R Vanyo

Notary Public  
Cass County, North Dakota

(SEAL)



**AFFIDAVIT OF ERIK R. JOHNSON**

**IN THE MATTER OF THE DANGEROUS BUILDING PROCEEDING - 427 15<sup>th</sup> AVE. S.**

---

**COMES NOW**, Erik R. Johnson, after being duly sworn on oath, deposes and says:

1. I am the City Attorney for the City of Fargo, North Dakota. Our office is at 505 Broadway North, Suite 206, Fargo, North Dakota.

2. It is my understanding that James Peter Sabo is the legal owner of 427 15<sup>th</sup> Avenue South, Fargo, North Dakota 58103.

3. On the afternoon of Friday, July 27, 2018, Mr. Sabo arrived at our office and met with me and Alissa Farol, an Assistant City Attorney. Mr. Sabo stated that he had just come from the City of Fargo Inspections Department.

4. Mr. Sabo had in his possession, along with several other documents, the Memorandum to the Board of City Commissioners, dated July 26, 2018, from Bruce Taralson recommending a motion to set August 13, 2018 as the date for the hearing regarding the Notice of Dangerous Building and Order for the structure located at 427 15<sup>th</sup> Avenue South. Alissa Farol subsequently made copies of these documents provided by Mr. Sabo.

5. Mr. Sabo said that the Inspections Department gave him the memo.

6. During this discussion, Mr. Sabo acknowledged that he was aware of the hearing to occur on August 13, 2018, and his purpose for the visit was to determine if some kind of arrangements could be made with the City before the August 13<sup>th</sup> hearing, so that the hearing would not be necessary.

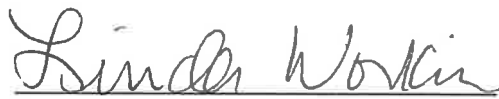
Further your affiant sayeth naught.

Dated: September 4, 2018

  
\_\_\_\_\_  
Erik R. Johnson

Subscribed and sworn to before this 6<sup>th</sup> day of September, 2018.



  
\_\_\_\_\_  
Notary Public  
Cass County, North Dakota

**AFFIDAVIT OF ALISSA R. FAROL**

**IN THE MATTER OF THE DANGEROUS BUILDING PROCEEDING - 427 15<sup>th</sup> AVE. S.**

---

**COMES NOW**, Alissa R. Farol, after being duly sworn on oath, deposes and says:

1. I am an Assistant City Attorney for the City of Fargo, North Dakota. Our office is at 505 Broadway North, Suite 206, Fargo, North Dakota.
2. It is my understanding that James Peter Sabo is the legal owner of 427 15<sup>th</sup> Avenue South, Fargo, North Dakota 58103.
3. On the afternoon of Friday, July 27, 2018, Mr. Sabo arrived at our office and met with me and Erik Johnson, City Attorney. Mr. Sabo stated that he had just come from the City of Fargo Inspections Department.
4. Mr. Sabo had in his possession, along with several other documents, the Memorandum to the Board of City Commissioners, dated July 26, 2018, from Bruce Taralson recommending a motion to set August 13, 2018 as the date for the hearing regarding the Notice of Dangerous Building and Order for the structure located at 427 15<sup>th</sup> Avenue South. I subsequently made copies of these documents provided by Mr. Sabo.
5. Mr. Sabo said that the Inspections Department gave him the memo.
6. During this discussion, Mr. Sabo acknowledged that he was aware of the hearing to occur on August 13, 2018, and his purpose for the visit was to determine if some kind of arrangements could be made with the City before the August 13<sup>th</sup> hearing, so that the hearing would not be necessary.

Further your affiant sayeth naught.


Dated: 09/05/2018

  
\_\_\_\_\_  
Alissa R. Farol

Subscribed and sworn to before this 5<sup>th</sup> day of September, 2018.

(SEAL)



  
\_\_\_\_\_  
Notary Public  
Cass County, North Dakota

**AFFIDAVIT OF JOSEPH GIRDNER**

**IN THE MATTER OF THE DANGEROUS BUILDING PROCEEDING - 427 15<sup>th</sup> AVE. S.**

---

**COMES NOW**, Joseph Girdner, after being duly sworn on oath, deposes and says:

1. I am a Residential Building Inspector for the City of Fargo Inspections Department.
2. It is my understanding that James Peter Sabo is the legal owner of 427 15<sup>th</sup> Avenue South, Fargo, North Dakota 58103.
3. After the dangerous building hearing was set, and over the week of July 30, 2018, I called Mr. Sabo to inform him of the upcoming meeting on August 13, 2018.
4. A short discussion ensued regarding the hearing, and I told Mr. Sabo that he could present his information regarding his property at 427 15<sup>th</sup> Avenue South to the City Commission at the August 13, 2018 meeting.

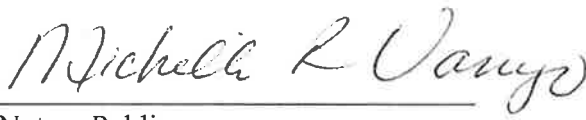
Further your affiant sayeth naught.

Dated: Sept 6 2018

  
Joseph Girdner

Subscribed and sworn to before this 6 day of September, 2018.



  
Notary Public  
Cass County, North Dakota

**AFFIDAVIT OF CHRISTINE ROSE**

**IN THE MATTER OF THE DANGEROUS BUILDING PROCEEDING - 427 15<sup>th</sup> AVE. S.**

---

**COMES NOW**, Christine Rose, after being duly sworn on oath, deposes and says:

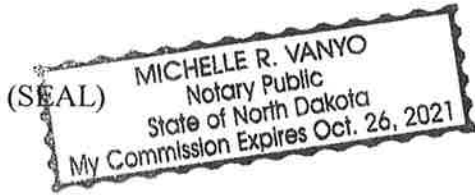
1. I am the Deputy Administrator for the City of Fargo Inspections Department.
2. It is my understanding that James Peter Sabo is the legal owner of 427 15<sup>th</sup> Avenue South, Fargo, North Dakota 58103.
3. On Friday, August 10, 2018, Mr. Sabo called me at our office and requested information on file for his property located at 427 15<sup>th</sup> Avenue South. Upon requesting the engineering documents he had previously submitted to the Inspections Department, I questioned him on the location of his personal copy. Mr. Sabo stated that he needed to obtain copies of engineering documents and all documents pertaining to his property for his lawyer, Mr. Jonathan Garaas.
4. After our phone conversation, I asked Gretchen Morlan and Nancy Turner to compile the information we have on file for Mr. Sabo regarding this property and let me know when it was complete.
5. I called Mr. Sabo when the documents were compiled, and I informed him of the price to retrieve the documents. He notified me that he would stop by our office that day before we closed to obtain the documents.
6. Included in the documents provided to Mr. Sabo was the memo to City Commission stating the date of the hearing as August 13, 2018.

Further your affiant sayeth naught.

Dated: 9.6.18

Christine Rose  
Christine Rose

Subscribed and sworn to before this 6 day of September, 2018.



Michelle R Vanyo  
Notary Public  
Cass County, North Dakota



**AFFIDAVIT OF GRETCHEN MORLAN**

**IN THE MATTER OF THE DANGEROUS BUILDING PROCEEDING - 427 15<sup>th</sup> AVE. S.**

---

**COMES NOW**, Gretchen Morlan, after being duly sworn on oath, deposes and says:

1. I am an Office Associate III for the City of Fargo Inspections Department.
2. It is my understanding that James Peter Sabo is the legal owner of 427 15<sup>th</sup> Avenue South, Fargo, North Dakota 58103.
3. On Friday, August 10, 2018, I was instructed by Deputy Administrator, Christine Rose, to compile records from a property folder associated with 427 15<sup>th</sup> Avenue South, Fargo, North Dakota 58103. After compilation was complete, I notified Ms. Rose that the files were printed and ready for pick up.
4. Later that afternoon, Mr. Sabo came to the Inspections Office to pay for and obtain the printed documents.
5. After making payment to Office Associate, Nancy Turner, Mr. Sabo asked me if the hearing for his house was still scheduled for Monday night, August 13, 2018. I confirmed and said “yes, the hearing is scheduled for this coming Monday night.”
6. Mr. Sabo asked where the meeting would be held. I stated: “the meeting will be held upstairs in the Commission Chambers. Go upstairs to the second floor, take a left and follow the signs. You will see the Commission Chambers on your right.” Mr. Sabo acknowledged my instructions and left the Inspections Office.
7. Office Associate II, Nancy Turner, and Plan Reviewer I, Melissa Gaulrapp, for the City of Fargo Inspections Department were present at the time of my conversation with Mr. Sabo and can attest that what I have stated is true and accurate.

8. The documents given to Mr. Sabo included the entire packet sent to the Commissioners for the upcoming hearing. The memo included on the front page of the packet specifies the date of the upcoming hearing as August 13, 2018.

Further your affiant sayeth naught.

Dated: 9/6/18

Gretchen Morlan  
Gretchen Morlan

Subscribed and sworn to before this 6 day of September, 2018.



Michelle R Vanyo  
Notary Public  
Cass County, North Dakota

**AFFIDAVIT OF NANCY TURNER**

**IN THE MATTER OF THE DANGEROUS BUILDING PROCEEDING - 427 15<sup>th</sup> AVE. S.**

---

**COMES NOW**, Nancy Turner, after being duly sworn on oath, deposes and says:

1. I am the Office Associate II for the City of Fargo Inspections Department.
2. It is my understanding that James Peter Sabo is the legal owner of 427 15<sup>th</sup> Avenue South, Fargo, North Dakota 58103.
3. On Friday, August 10, 2018, Mr. Sabo came into the Inspections Department to pick up documents he requested regarding 427 15<sup>th</sup> Avenue South.
4. I provided him with the documents and collected a fee for the paperwork provided. Our office has a copy of the cash log and receipt from this exchange.
5. I observed Gretchen Morlan inform Mr. Sabo of the time, date, and location for the upcoming hearing on August 13, 2018.


Further your affiant sayeth naught.

Dated: 9-6-2018

  
Nancy Turner

Subscribed and sworn to before this 6 day of September, 2018.



  
Notary Public  
Cass County, North Dakota

**GARAAS LAW FIRM**

ATTORNEYS AT LAW  
DeMores Office Park  
1314 23rd Street South  
Fargo, North Dakota 58103

Telephone  
Area Code 701  
293-7211

Jonathan T. Garaas  
David Garaas

August 17, 2018

Fargo City Commission  
Fargo City Hall  
200 3<sup>rd</sup> Street North  
Fargo, North Dakota 58102

~~HAND DELIVERY~~

*attempted at  
4:51 p.m., then  
mailed*

**RE: Hearing on Dangerous Building located at  
427 15<sup>th</sup> Avenue South, Fargo, North Dakota**

Dear Sirs:

I am writing as the attorney for James Peter Sabo, the owner of the following described real property located in Fargo, Cass County, North Dakota:

Lot 113, Belmont Park Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota.

Mr. Sabo indicates that the City of Fargo attempted to hold a "(h)earing on a dangerous building located at 427 15<sup>th</sup> Avenue South" on Monday, August 13, 2018, at 5:15 p.m., at which time he reports an order to demolish his property was issued by unanimous decision of the Fargo City Commission.

In that the laws of North Dakota, and the ordinances of the City of Fargo would not allow such action, there must be some mistake. Let me explain my understanding of applicable law relating to any governmental taking of private property, and while the over-riding legal concept is set forth in the Fourteenth Amendment of the Constitution of the United States, Article I, § 16 of the North Dakota Constitution, and N.D.C.C. Chapter 32-15, I will begin my comments with the process involving nuisances/dangerous buildings under the laws of North Dakota.

In Bergquist v. Eichelberger, 262 N.W.2d 19, 21 (N.D. 1978), it was decided that "a city has the power to order the demolition of private buildings if it enacts an appropriate ordinance pursuant to Section 40-05-02, N.D.C.C., and complies therewith. The City of Fargo enacted such an ordinance, Article 21-04, and it was under that ordinance that the city acted in this case." *Emphasis added.*

According to the documents reviewed by me, the City of Fargo did not comply with either

North Dakota's statutory requirements, or Fargo's ordinances.

First, North Dakota's authorization under N.D.C.C. § 40-05-02(23), entitled "Substandard buildings or structures", only extends to three (3) circumstances, none of which are herein presented. This authorizing statute only allows for the demolition, repair, or removal of buildings or structures which (1) "creates a fire hazard", (2) "is dangerous to the safety of the occupants or persons frequenting such premises", or (3) "is permitted by the owner to remain in a dilapidated condition."

Second, the North Dakota statute contains a mandatory due process notice - "Any such ordinance must provide for written notice to the owner of a hearing by the governing body before final action is taken by such body."

Third, the North Dakota statute contains a second mandatory due process requirement - "It (meaning the ordinance) must also provide a reasonable time within which an appeal may be taken by the owner from any final order entered by such governing body to a court of competent jurisdiction."

When applied to the factual and legal circumstances known by James Peter Sabo, possibly all three (3) North Dakota statutory requirements fail to exist. The remodeling efforts of James Peter Sabo have not created a fire hazard, nor are they dangerous to the workmen (there are no occupants), and the remodeling effort is being undertaken so as to avoid any claims of dilapidation.

As to the ordinances of the City of Fargo, it appears that Fargo would probably rely upon FMC Article 21-04 as its process. My initial observation is that FMC § 21-0412, entitled "Appeal" does authorize an "appeal from such order to the district court of Cass County, North Dakota, or to take such other steps to enjoin the enforcement of such order as he may deem proper", such appeal is made contingent upon other things, to include a \$500 undertaking "to be approved by the city auditor and conditioned that the appellant will prosecute the appeal without delay and will pay all costs that may be adjudged against him in the district court. Such undertaking shall be payable to the city of Fargo." Nothing within the State's authorizing statute allows for conditions to be imposed upon the absolute right to appeal to a "court of competent jurisdiction" if that person felt aggrieved by the city's actions.

No written notice of the hearing of August 13, 2018, was ever served upon James Peter Sabo, or anyone having the right to act on his behalf.

As I understand the underlying issues, the City of Fargo has attempted to interfere with James Peter Sabo's remodeling efforts, and has actually voided building permits properly issued to James Peter Sabo, without notice, and while remodeling activities were actually being accomplished. Indeed, Fargo's employees or agents have actually tried to prevent my client from accomplishing appropriate repairs and improvements in a timely manner are allowed by state law.

Perhaps it is appropriate to identify my client's objective, now that he has secured full access to the property after a failed contract for deed arrangement with another individual. Mr. Sabo intends to add trusses to the front of the home so as to increase the available space, and create a new roofed area. The City of Fargo was concerned about the structural integrity of the existing structure, and my client secured the services of Sandman Structural Engineers who investigated the remodeling effort, and on July 5, 2018, identified, in writing, those deficiencies that require remediation. I have attached the July 5, 2018, letter of Kurt Sandman, PE, of Sandman Structural Engineers, along with his drawings and calculations prepared by him on May 24, 2018, and later construction drawings prepared by Wolf Steel Construction, Inc. Sandman Structural Engineers - Exhibit A; construction drawings in Exhibit B. I have also enclosed a 2006 study from Sandman Structural Engineers indicating that the skylight and trusses with load transfers are adequate, and reinforced. There is no known structural inadequacies, and the addition of the steel beam will be sufficient for the intended enhancement on the second floor.

Mr. Sabo indicates that he is willing to comply with each area of deficiency identified by the structural engineer, and he has even purchased the suggested steel beam that must be added to support the second-floor joists. I am enclosing a copy of July 26, 2018, billing statement of Wolf Steel Construction, Inc., showing payment in full for the fabrication of the required steel beams in the amount of \$2,976.68, and also, the quotation from which it originates. Mr. Sabo has been assured the installation of the steel can be accomplished by payment of an additional \$2,000 for labor, which he fully intends to have accomplished if permitted so to do. Wolf Steel Construction, Inc. - Exhibit B; to include construction drawings.

In a similar fashion, James Peter Sabo has indicated to the City of Fargo's own inspectors that he intends to install electrical and plumbing systems meeting all applicable codes, along with new trusses/roof/shingles where construction was to occur, and he spent considerable time going over such requirements with a City of Fargo Inspector prior to initiating the remodeling effort.

Pursuant to permits issued by the City of Fargo, my client, and his laborers were conducting remodeling activities and physically interfered with precluding any additional work. The City of Fargo hired an independent contractor to put up an unsightly chipboard plywood sheet over an entrance, creating great consternation to the neighbors. The roof is intact, and there are no utilities presently being provided to the premises – it is not a fire hazard, nor is it susceptible to flood, mold, or invasive waters. It was being remodeled, so that it could again be occupied by tenants, or by a purchaser. Mr. Sabo should not be condemned for attempting to make improvements to his property.

As to the City of Fargo's ordinances found within Article 21-04, it appears that the City of Fargo has exceeded its authority. As noted above, only three (3) areas of authority with respect to such structure(s) exist, and the municipality is limited with respect to "dangerous" conditions –

allowed only if the structure “is dangerous to the safety of the occupants or persons frequenting such premises”.

As to the property at 427 15<sup>th</sup> Avenue South, Fargo, North Dakota, there are no occupants, and any person frequenting such premises with legal authority would be those involved in the remodeling project – either James Peter Sabo, or his employees, agents, or representatives, to include structural engineers and other independent contractors.

When the City of Fargo attempts, at FMC § 21-0401, to define buildings or structures having any one (1), or more of ten (10) definitions as being a “dangerous building, the municipality exceeds the authority granted by the State of North Dakota. The City of Fargo does not have the right to define “dangerous building” so as to dictate what is “dangerous to the safety of the occupants or persons frequenting such premises” – it must actually be dangerous, and when there is no occupants, nor others frequenting the building or structure, such cannot be the basis for this action.

Nor can the City of Fargo create definitions that would be impossible to comply with during the remodeling process (or during first construction), or are so broad to be laughable, such as FMC § 21-0401(10) – I believe that I can state with certainty that every existing building in the City of Fargo will have at least one (1) violation of “any provision of the Building Code, zoning ordinances, any provisions of the Fire Prevention Code or other ordinances of this city.” It was extremely amusing when I was once involved in the identification of multiple violations of those codes at a Fargo Fire Station”, all displayed with pictures.

My review of the background material for item 44d suggests that the standard utilized by some employees is that of “unsafe” – see Notice of Dangerous Building, ¶s 6 and 7. Such standard is not defined by the ordinance, and all buildings can be “unsafe” at times (if not at all times if people do stupid things). At no place within FMC § 21-0401 is there anything to indicate that a “fifty (50) percent of its original value prior to the damage or deterioration” standard exists for a “dangerous building”.

Under FMC § 21-0402(A), if the building “can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.” James Peter Sabo intends to make such repairs, and he certainly has no difficulty agreeing to undertake such repairs so as to comply with applicable code – so long as he is not singled out for unprecedented or unreasonable interpretations of code requirements.

Under FMC § 21-0402(C), there must be a finding that a “dangerous building” exists, before the standard for the appropriate action is implemented. As to value and condition of the property, there is nothing that has occurred in the recent past that gives rise to some 50% rule under either standard – the building is fully capable of being repaired for a reasonable investment; it need not be demolished.

As to other aspects of FMC Article 21-04, it is clear that the building inspector did not comply with the written notice requirements of FMC § 21-0404(D)&(E), and I have been unable to find the “report to the board of city commissioners (of) any noncompliance with the ‘notice’ provided for in subsections (D) and (E) hereof.” In addition, I have been unable to locate any proof of placement of the notice mandated by FMC § 21-0404(H), and note that the postings actually done do not comply with this ordinance’s mandatory requirements.

I have been unable to locate any written notice to the “owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before (the board of city commissioners) on the date specified in the notice of show cause why the building or structure reported to be a ‘dangerous building’ should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector(s) notice provided for herein in § 21-0404, subsection (E).”

It obvious that the board of city commissioners cannot hold a hearing without the required service of the order to show cause required by the ordinance, so non-compliance with FMC § 21-0405(B) is presumed. Further, my client advises me that he was not allowed to address the board, nor introduce documents that support his position, and also, neighbors were allowed to vent anger, some of which should be addressed to remedial actions taken by the city of Fargo’s employees or independent contractors. According to the ordinance, only “the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer (testimony) relative to the ‘dangerous building.’” *Id.*

So far as is known to me, no “written findings of fact from the testimony offered” now exist, a clear violation of FMC § 21-0405(C).

Similarly, so far as is known to me, there is no written “order based upon findings of fact made pursuant to subsection (C) hereof commanding the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to repair, vacate, or demolish any building found to be a ‘dangerous building’ within the terms of this article and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said ‘dangerous building.’” This ordinance mandates the right of vacating or repairing, and any attempt to preclude the owner from doing so is a violation of the equal protection of the law under known constitutional standards – moreover, such ordinance is nonsensical. My client most assuredly will make sure there is a lessee that can avail himself of the right of repair should it ever come to that. There is no reason not to repair this property, and it will be done to existing standards.



Until the existence of a proper order, along with compliance with due process of law,<sup>1</sup> the board of city commissioners is not in a position to “cause such building or structure to be repaired, vacated, or demolished as the facts may warrant” – obviously there would have to be another evidentiary hearing to ascertain the circumstances to implement FMC § 21-0405(E) and (F), and equally assured, the repairs are going to take more than ten (10) days. It is incumbent upon the board of city commissioners to create a reasonable period of time for the repairs. My client assures me that all will be accomplished by January 1, 2019.

Please be aware that non-compliance with due process of law amounts to a “taking” for which just compensation is always required as a matter of law, of constitutional dimensions. James Peter Sabo asks for a reasonable time to accomplish the necessary repairs, which requires issuance of proper permits to allow access and construction. See, Blanchard v. City of Ralston, 559 N.W.2d 735 (Nebr. 1997) for a discussion of applicable concepts should Mr. Sabo be denied meaningful notice of the alleged dangers and opportunity to remedy any deficiencies, and defend his case.

Please acknowledge the intent of the City of Fargo to abandon the course of action verbally directed on Monday, August 13, 2018, and issue appropriate permits so that Mr. Sabo can accomplish necessary repairs. He pledges completion to the reasonable expectations of all applicable code requirements by January 1, 2019, and he is willing to pay appropriate permit charges.

May we hear from you please?

Very truly yours,

  
Jonathan T. Garaas

JTG:j  
Enclosures

---

<sup>1</sup> FMC § 21-0408 requires certified mail, along with a posting in a conspicuous place. As previously mentioned, no posting contained the mandatory language required by ordinance, and no certified mailings with the appropriate notices have ever occurred. While a document entitled “Notice of Dangerous Building” was sent by certified mail on June 26, 2018, it did not contain the information required by FMC § 21-0404(D) & (E), and James Peter Sabo attempted to comply with the “actions (that) must be taken”, but was prevented from doing so by voiding issued building permits, and apparent refusal to accept or automatic rejection of whatever was presented. A meaningful opportunity to act must exist, and the city should not countenance anyone being subjected to a process that is impossible to honor.



**SANDMAN**  
Structural Engineers

---

July 5, 2018

Pete Sabo  
1221 9<sup>th</sup> Ave N  
Fargo, ND 58102

RE: 427 15<sup>th</sup> Ave S, Fargo ND

Sandman Structural Engineers (SSE) was retained to review the property at 427 15<sup>th</sup> Avenue South, Fargo, ND. The purpose of the visit was to review the residence which is currently being remodeled and provide opinion as to what areas need attention. A site visit was made on 7/2/18 to review the current progress and condition of the property. The list below identifies the items discussed during the site visit as deficient that require remediation.

**Observations:**

**1. Main Floor Openings/Headers**

**a. Current Condition:**

i. The original construction did not utilize headers above the main floor window or door openings.

**b. Recommendation:**

i. Due to the additional level, new (2)-2x8 headers must be added to the openings on the main floor to support the loads from above. The opening framing also needs to have one additional king stud added to each supporting end of the opening.

**2. Interior Beam**

**a. Current Condition:**

i. There is lack of interior bearing support for the second-floor joists.

**b. Recommendation:**

i. A new W12x26 steel beam must be added to support the second-floor joists. This steel beam shall have a 2x6 wood plate bolted to the top flange and the second-floor joists shall have full bearing on the beam. The south end of the steel beam shall be supported by an HSS 3x3x 3/16 steel column down to the basement slab level and rest on a new 30" square footing. The north end of the beam will have a W12x26 transfer beam to allow for the stair opening below. Each end of the transfer is to be supported by an HSS 3x3x 3/16 steel column down to the basement slab level and rest on a new 24" square footing. The steel fabricator to provide shop drawings for review.

**EXHIBIT A**

**3. Second Floor Joists**

- a. Current Condition:
  - i. The second-floor joists are inconsistent and have discontinuous members and members with notches and holes in them. Several plies have been added in attempt to make a continuous floor joist. There are also existing floor penetrations that were part of the framing that were infilled.
- b. Recommendation:
  - i. The existing laminated floor joists must be abandoned, and a new continuous un-notched joist be added in each location that there is not a true continuous un-notched member. The new joists must bear on the exterior wall a minimum of 3" and have full bearing on the new steel beam line supporting the interior bearing location. The existing floor penetrations must be removed to allow for continuous joists to span from the exterior wall to the interior beam.

**4. Existing Second Floor Piping**

- a. Current Condition:
  - i. There is second level bathroom piping that has been run through second floor joists.
- b. Recommendation:
  - i. This piping must be removed and placed in a chase or below the framing, so joists will not be cut, or holes bored in them.

**5. Upper Stair Bearing Wall**

- a. Current Condition:
  - i. There is new bearing wall installed to support shortened second-floor joists at the stair location. This wall bears on the first-floor joists.
- b. Recommendation:
  - i. If this wall is to remain, a bearing wall must be placed below the first-floor joists directly under this wall supported by the basement slab as the first-floor joists cannot support a bearing wall.

**6. Foundation Walls**

- a. Current Condition:
  - i. There are wide horizontal cracks in the foundation wall as a result of inward movement due to the active soil pressure.
- b. Recommendation:
  - i. New W4x13 vertical steel braces should be placed on either side of basement window locations and otherwise spaced at 6'-0" on center all around the basement foundation. These braces shall be grouted in at the base and properly blocked in to the floor framing at the first floor with bolted blocking. The braces shall be in contact with the wall and the gap shall be grouted solid with non-shrink grout.

**7. Second Floor Sub-Floor**

- a. Current Condition:
  - i. There are areas of non-uniform sub-flooring on the second level.
- b. Recommendation:

- i. Continuous  $\frac{3}{4}$ " tongue and groove sub-flooring shall be nailed and glued to the second-floor joists. Filler plywood may be used below the  $\frac{3}{4}$ " sub-floor if it is competent non-degraded plywood to make up any elevation differential.

SSE appreciates the opportunity to provide this evaluation and recommendations. If you have any questions, please feel free to call at any time.

Thank you,

A handwritten signature in black ink, appearing to read "KURT SANDMAN". The signature is stylized and somewhat cursive.

Kurt Sandman, PE  
Owner/Principal



**SANDMAN**  
Structural Engineers

PROJ. # \_\_\_\_\_ DATE 5.24.18 BY KS PAGE \_\_\_\_\_

HOUSE BEAM

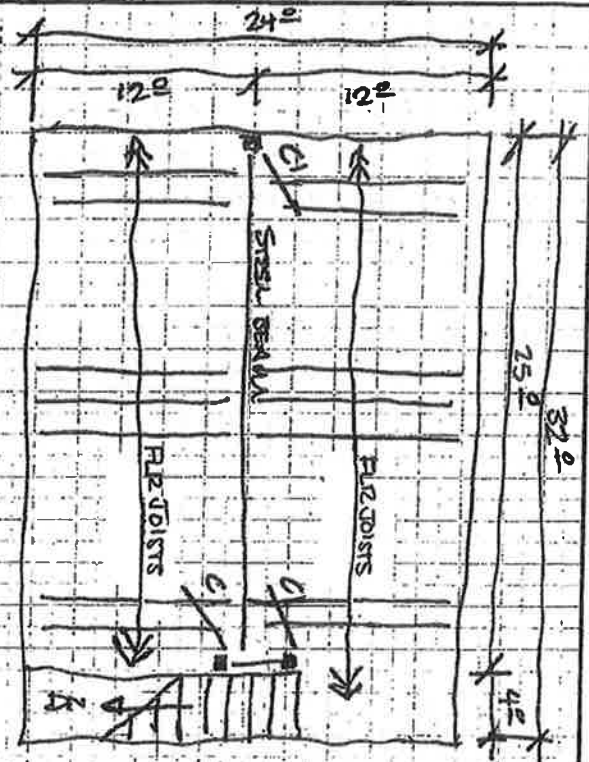
PETE SABO 427 15TH AVE S

FLOOR LOADS

LIVE LOAD = 40 PSF

DEAD LOAD = 20 PSF

Ⓢ FIRST FLOOR LOADS ONLY  
UPPER LEVEL CLEAR SPANS

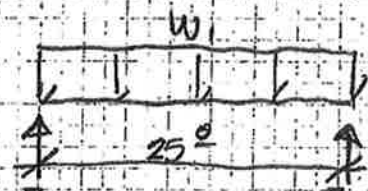


BEAM DESIGN

$W_1 = 40 \text{ PSF} (12) = 480 \text{ LB} = U$

$20 \text{ PSF} (12) = 240 \text{ LB} = DL$

$R_{UD} = 9.4 \text{ K}$



→ USE: **W12X26**  $U = .63$   $\phi = 1.13$   $\frac{1}{269}$   
**W14X22**  $U = .70$   $\phi = 1.14$   $\frac{1}{264}$

\* FUNCH HOLES IN TOP FLANGE FOR WOOD PLATES

COLUMN DESIGN

$l = 8'$   $P = 9.4 \text{ K}$

USE **C1 HSS 3X3X3/16**  $P_{ALL} = 28.5 \text{ K}$  OK

- 1/2" CAP PL W/ (2) - 5/8 BOLTS
- 1/2X8X8 BASE PL W/ (4) - 5/8 EXP BOLTS

FOOTING DESIGN

$P = 9.4 \text{ K}$

$Q_{ALL} = 1500 \text{ PSF}$

$A_f = \frac{9400 \text{ LB}}{1500 \text{ PSF}} \approx 6.3 \text{ SF}$

ONE END BEARS ON FDN WALL W/ CORBELING WILL ENGAGE 10.5 SF OF FTG - OK.  
 THE OTHER END WILL HAVE TRANSFER BEAM W/ 2 POSTS SO LOAD @ EACH POST IS 4.7 K, 4" SLAB ADEQUATE TO SUPPORT THIS LOAD - OK



**Steel Beam**

File = C:\Users\TIMGLE-1\SSE\Desktop\KS.ec6  
 ENERCALC, INC. 1983-2017, Build:10.17.7.24, Ver:10.17.7.24  
 Licensee : Sandman Consulting, PC

Lic. #: KW-06008681

Description : 427 15th Ave S - 25' span

Load Combination	Segment Length	Span #	Max Stress Ratios		Summary of Moment Values						Summary of Shear Values			
			M	V	Mmax+	Mmax-	Ma Max	Mnx	Mnx/Omega	Cb	Rm	Va Max	Vnx	Vnx/Omega
Dsgn. L = 25.00 ft		1	0.134	0.036	12.47		12.47	155.00	92.81	1.00	1.00	2.00	84.18	56.12

**Overall Maximum Deflections**

Load Combination	Span	Max. " Defl	Location in Span	Load Combination	Max. " Defl	Location in Span
+D+L+H	1	1.1134	12.571		0.0000	0.000

**Vertical Reactions**

Load Combination	Support notation : Far left is #1		Values in KIPS	
	Support 1	Support 2		
Overall MAXimum	9.325	9.325		
Overall MINimum	1.995	1.995		
+D+H	3.325	3.325		
+D+L+H	9.325	9.325		
+D+L+H	3.325	3.325		
+D+S+H	3.325	3.325		
+D+0.750L+0.750L+H	7.825	7.825		
+D+0.750L+0.750S+H	7.825	7.825		
+D+0.60W+H	3.325	3.325		
+D+0.70E+H	3.325	3.325		
+D+0.750L+0.750L+0.450W+H	7.825	7.825		
+D+0.750L+0.750S+0.450W+H	7.825	7.825		
+D+0.750L+0.750S+0.5250E+H	7.825	7.825		
+0.60D+0.60W+0.60H	1.995	1.995		
+0.60D+0.70E+0.60H	1.995	1.995		
D Only	3.325	3.325		
Lr Only				
L Only	6.000	6.000		
S Only				
W Only				
E Only				
H Only				





**Steel Beam**

File = C:\Users\TIMGLE-1\SSE\Desktop\PKS.ec6  
 ENERCALC, INC. 1983-2017, Build 10.17.7.24, Ver:10.17.7.24  
 Licensee : Sandman Consulting, PC

Lic. #: KW-06008681

Description: 427 15th Ave S - 25' span (W14 Option)

Load Combination	Segment Length	Span #	Max Stress Ratios		Summary of Moment Values						Summary of Shear Values			
			M	V	Mmax +	Mmax -	Ma Max	Mnx	Mnx/Omega	Cb	Rm	Va Max	Vnx	Vnx/Omega
	Desgn. L = 25.00 R	1	0.148	0.031	12.28		12.28	138.33	82.83	1.00	1.00	1.97	94.63	63.02

**Overall Maximum Deflections**

Load Combination	Span	Max. "+" Defl	Location in Span	Load Combination	Max. "-" Defl	Location in Span
+D+L+H	1	1.1352	12.571		0.0000	0.000

**Vertical Reactions**

Load Combination	Support notation : Far left is #1		Values in KIPS	
	Support 1	Support 2		
Overall MAXimum	9.275	9.275		
Overall MINimum	1.965	1.965		
+D+H	3.275	3.275		
+D+L+H	9.275	9.275		
+D+Lr+H	3.275	3.275		
+D+S+H	3.275	3.275		
+D+0.750Lr+0.750L+H	7.775	7.775		
+D+0.750L+0.750S+H	7.775	7.775		
+D+0.80W+H	3.275	3.275		
+D+0.70E+H	3.275	3.275		
+D+0.750Lr+0.750L+0.450W+H	7.775	7.775		
+D+0.750L+0.750S+0.450W+H	7.775	7.775		
+D+0.750L+0.750S+0.5250E+H	7.775	7.775		
+0.60D+0.60W+0.60H	1.965	1.965		
+0.60D+0.70E+0.60H	1.965	1.965		
D Only	3.275	3.275		
Lr Only				
L Only	6.000	6.000		
S Only				
W Only				
E Only				
H Only				

**Column on Slab**

**Project Name** 427 15th Ave  
**Project #**  
**Calc ID:** Point Load at Transfer Post  
**Solving For:** Existing Slab Check  
**Date:** 6/20/2018

**INPUT**

$P_u$  = Factored column load 6345 lb  
 $f_{c'}$  3000  
 $k$  100 pci  
 $b$  = base plate dimension 7.5 in  
 $LF$  = 1.55 Conversion Between Service and Ultimate  
 $t$  = Slab thickness 4 in

**VARIABLES**

A 0.000548  
 B 50116614.0  
 C 316406.25

**RESULTS**

**Allowable Load ( $P_{all}$ )**

$P_u$  = 7292 lbs  
 $P_{all}$  = 4705 lbs

4.70 k OK

\*to solve for Load, do not input  $P_u$  above.

**Required Slab Thickness ( $t$ )**

$t_1$  = 16  
 $t_2$  = 13.921761

\*to solve for  $t$ , input  $P_u$  and adjust  $t$  above until  $t_1$  and  $t_2$  match.



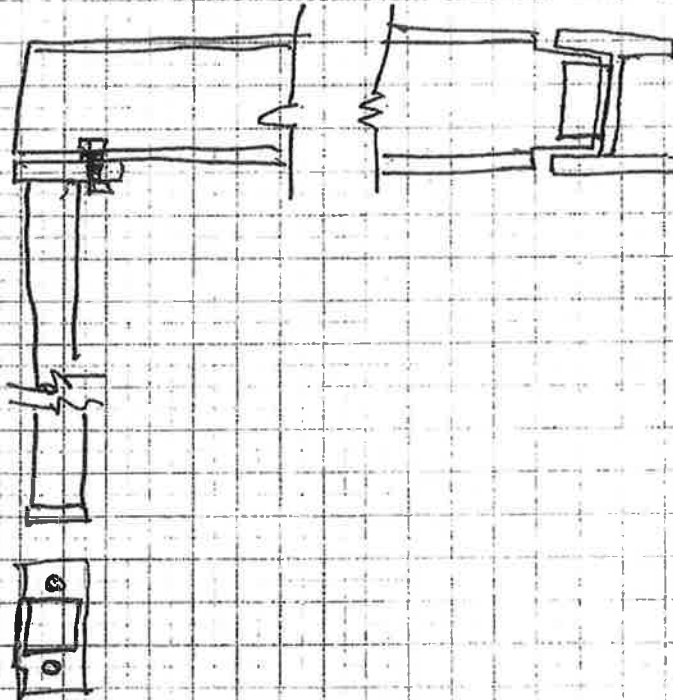
**SANDMAN**  
Structural Engineers

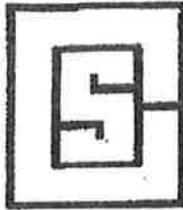
PROJ. #

DATE

BY

PAGE





**SANDMAN CONSULTING PC  
STRUCTURAL ENGINEERING**

810 4th AVENUE SOUTH SUITE 106  
MOORHEAD MN 56560  
PH 218-227-0022 FX 218-227-0024  
email: kurt@sandmanconsultingpc.com

**FAX**

**Date:** 10/25/06 4:19 PM

**To:** Pete Sabo

**Company:**

**Fax #:** 237-6231

**Cc:** File

**From:** Kurt Sandman

**# of Pages:** 3

**RE:** 427 15th AVE So.

**Message:**

Pete,  
Please find the requested information on the residence at 427 15th AVE S. Fargo.

Please call if you have any questions.

Thank you,

Kurt Sandman, PE  
Owner / Principal

NOTICE: This electronic communication and attachments are privileged to the sender and to the intended recipient. If you have erroneously received this e-mail please advise Sandman Consulting PC and delete the communication and attachments. If you are not the intended recipient any use, redistribution, modification, copying, or any action taken is prohibited. The unauthorized use relieves Sandman Consulting PC from any liability for use of information.  
Thank you.

From: Sandman Consulting, PC

2182270024

10/25/2006 16:21 #034 P.002/003

1

Pete Sabo  
1221 9th AVE N.  
Fargo, ND 58102

10/25/06



**SANDMAN CONSULTING PC  
STRUCTURAL ENGINEERING**

810 4th AVENUE SOUTH SUITE 106  
MOORHEAD MN 56560  
PH 218-227-0022      FX 218-227-0024

RE:    427 15th Ave So.  
       Fargo, ND  
       Roof Truss Evaluation

Pete,  
Sandman Consulting PC (SCPC) was retained to evaluate the capacity of the adjacent trusses to a skylight opening at the said residence. The purpose of the analysis is due to the fact the one truss at the skylight has been cut and its loads transferred to the adjacent trusses. A site visit was made on Tuesday October 24th, 2006.

Description

The header location of the truss is approximately six feet from the east end of the truss. The load is transferred to the bottom chord via a combination of headers and joist hangers. This loads transfer is adequate. Once the load is delivered to the adjacent trusses, overstresses occur and build up of the existing adjacent trusses is required.

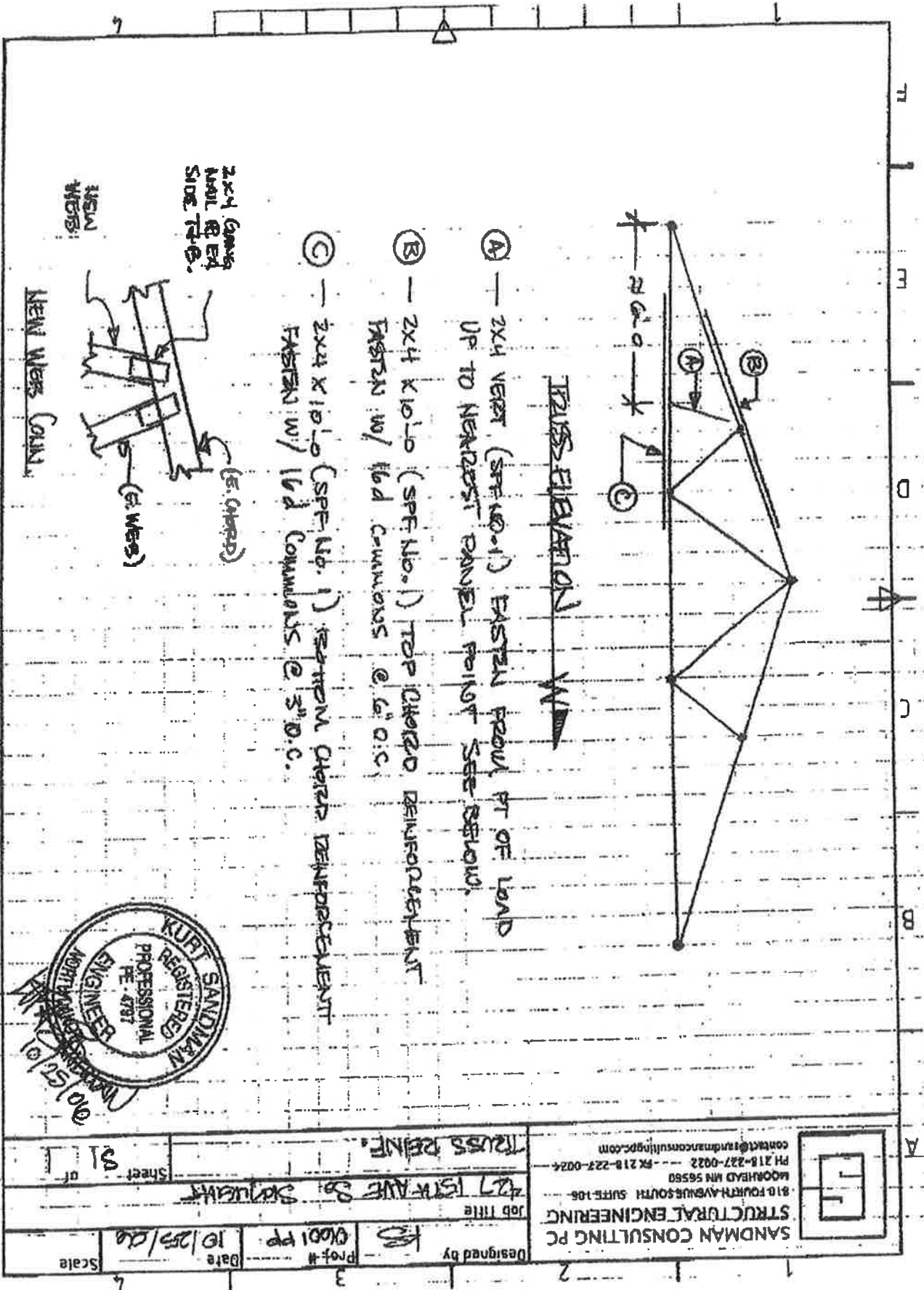
Reinforcement

The reinforcement of the trusses adjacent to the skylight can be viewed on attached 1. This truss reinforcement detail consists of adding a vertical 2x4 from point of load transfer on the bottom chord, up nearest the top chord panel point. This 2x4 vertical web, ends beveled for slope, shall be SPF No.1 and fastened at each end with 2x4 gang nail plates each side. Additionally, the top and bottom chord shall have a 2x4 x 10'-0 (centered at the point of load transfer) added using 16d common nails at 3' o.c. The chord reinforcement shall be SPF No. 1 as well.

SCPC appreciates the opportunity to provide its services. If you have any questions feel free to call at any time.

Sincerely,

Kurt Sandman PE  
Owner/Principal  
Cc: File  
Att: 1



SANDMAN CONSULTING PC STRUCTURAL ENGINEERING 810 FOURTH AVENUE SOUTH SUITE 106 MOONBAY MN 56560 PH 218-227-0022 FX 218-227-0024 contact@sandmanconsultingpc.com	Job Title 427 1ST AVE S. ST. JOHNS TRUSS DETAIL	Sheet 21 of 1
Designed by Prof. # 0601 PP Date 10/25/06 Scale		

Wolf Steel Construction Inc.

1408 2nd Ave North  
 Fargo, ND 58102

# Invoice

Date	Invoice #
7/26/2018	9294

<b>Bill To</b>
Pete Sabo

**PAID**  
 7/26/2018

<b>Ship To</b>

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
	Due on receipt		7/26/2018			

Quantity	Item Code	Description	Price Each	Amount
1	Fabrication	Materials Only- 2 beams , 3 columns primed. 1 field measure trip Jobsite delv. Sales Tax	2,769.00	2,769.00T
			7.50%	207.68

**EXHIBIT B**

God Bless Our Friends "Indeed"			<b>Total</b>	\$2,976.68
Phone #	E-mail	Web Site		
7012396968	DONNA@WOLFSTEEL.COM	www.wolfsteel.com		



1408 2nd Avenue North • Fargo, North Dakota 58102

Office: 701-239-6968 • Fax: 701-232-1099 • E-mail: Curtis@wolfsteel.com • [www.wolfsteel.com](http://www.wolfsteel.com)

July 2, 2018

To: Pete Sabo

Regards to: House Beam  
Fargo, ND

Based on the drawings dated 5/24/18, I have determined that we will supply the materials for the items listed below. **Base off from Sandman Structural drawings only.**

**Base Bid:**

**Materials only**

1. 05 1200 Structural Steel
  - 2 – Beams
    - i. Primed
  - 3 – Columns
    - i. Primed
    - ii. Base and Top Plates
  - 1 – Field Measurement Trip
  - Job Site Delivery (Fargo, ND)

**Total: \$2,769.00 Plus tax**

**Exclusions:**

- (1) Taxes
- (2) Unloading, Installation, & Erection (Erection will bid separate)
- (3) Touchup paint, galvanizing repair, and field painting
- (4) Shoring of any kind
- (5) Grout and grouting
- (6) Engineering or design work of any kind
- (7) Expansion joint covers and column wraps covers
- (8) Access doors or panels
- (9) Deck supports at small openings and/or around columns (unless specifically included above)

Project Name: House Beam – Pete Sabo      Date: July 2, 2018



- (10) Plate 1/8" (10 Ga.) or lighter unless specifically included, & Pre-engineered metal framing
- (11) Field planning, field measuring, field surveys, or as-built surveys
- (12) Finish paint systems
- (13) AISC certified shop
- (14) All Aluminum and Stainless Steel
- (15) Bolts and supports for other trades, wood to Steel Fasteners
- (16) All steel shown on Electrical, Mechanical, and Plumbing Drawings
- (17) Items not sized or specified on drawings
- (18) All special inspection costs, or per-diems from an outside inspector or agency
- (19) Rebar, rebar couplers, and welding of the same to structural steel
- (20) Supply and install of DBA's
- (21) Unistrut materials of any kind

**Qualifications:**

1. Price is F.O.B Jobsite
2. All schedules must be mutually agreed upon by the customer and Wolf Steel Construction – Delivery schedule to be determined
3. No back charges will be accepted without Wolf Steel Construction's written acceptance of the back charge prior to commencement of the work
4. All work to be performed in a standard 40 hour work week
5. Price based on no retainage, penalties, or liquidated damages
6. Stairs to be supplied broken down – not in assemblies
7. The drawings are owned by Wolf Steel Construction and is not to be shared with others for manufacturing purposes.
8. Wolf Steel Construction reserves the right to review material pricing and adjust per market conditions.
9. No "pay if paid" or "pay when paid" terms to be accepted
10. Cash or net 30 days for customers with Pre-Approved Credit. Interest will be charged on past due accounts
11. Payment for fabricated and un-fabricated materials that are suitably stored and assured in our yard is required
12. Paint: One coat standard gray shop primer
13. Cleaning: Hand Tool/SSPC-SP2

We acknowledge (0) addendums

This bid is good for 15 calendar days.

Terms: This proposal document, as amended by mutual agreement, shall become a part of the subcontract agreement. NET 30, No Retainage allowed, 18% annual rate on unpaid balance, plus collection fees.

Respectfully Yours,

*Curtis L Pederson*

Curtis L Pederson

Estimator

**NOTE: CONTRACT MUST BE SIGNED BEFORE MATERIAL CAN BE ORDERED. Acceptance of this proposal constitutes acceptance of Wolf Steel Construction's Standard Terms and Conditions.**

Accepted:

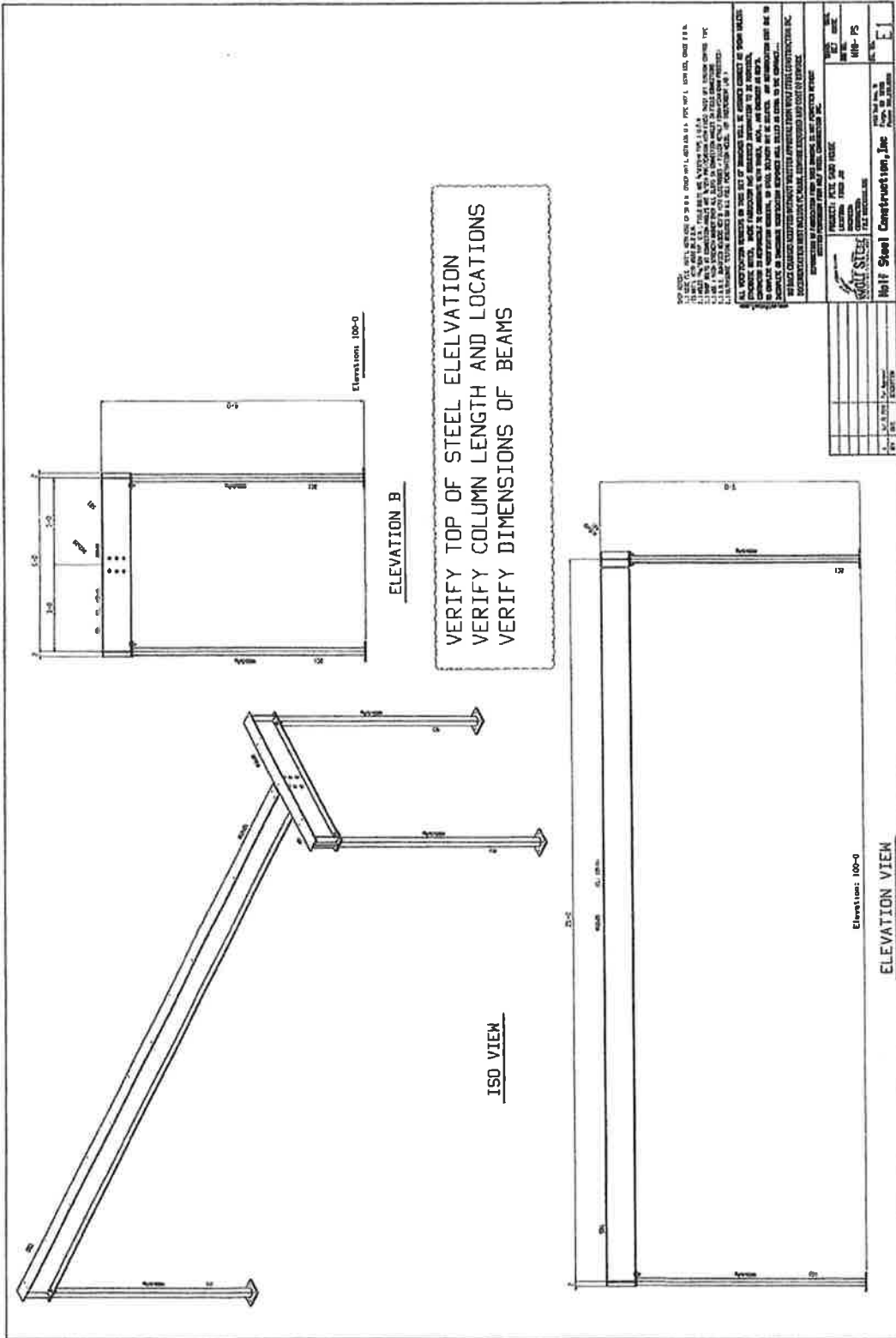
*Pete Sabo*

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Date



VERIFY TOP OF STEEL ELEVATION  
 VERIFY COLUMN LENGTH AND LOCATIONS  
 VERIFY DIMENSIONS OF BEAMS

NOTES:  
 1. ALL DIMENSIONS ARE IN FEET AND INCHES (F.I.C.).  
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 3. ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.  
 4. ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.  
 5. ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.  
 6. ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.  
 7. ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.  
 8. ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.  
 9. ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.  
 10. ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.

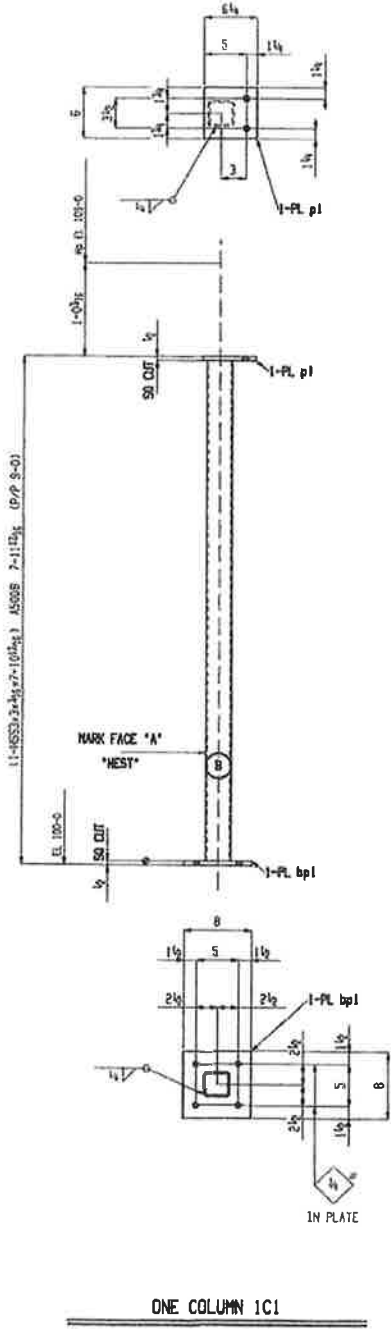
PROJECT: [REDACTED]		DATE: [REDACTED]
LOCATION: [REDACTED]		SCALE: [REDACTED]
DRAWN BY: [REDACTED]		CHECKED BY: [REDACTED]
DATE: [REDACTED]		PROJECT NO.: [REDACTED]
DRAWING NO.: [REDACTED]		REV. NO.: [REDACTED]
PROJECT: [REDACTED]		DATE: [REDACTED]
LOCATION: [REDACTED]		SCALE: [REDACTED]
DRAWN BY: [REDACTED]		CHECKED BY: [REDACTED]
DATE: [REDACTED]		PROJECT NO.: [REDACTED]
DRAWING NO.: [REDACTED]		REV. NO.: [REDACTED]

ELEVATION VIEW

ELEVATION B

ISO VIEW

Half Steel Construction, Inc.  
 1000 [REDACTED]  
 [REDACTED]



- SUP NOTES:
1. ALL WELDS SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4, AND SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4, AND SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4.
  2. ALL WELDS SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4, AND SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4.
  3. ALL WELDS SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4, AND SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4.
  4. ALL WELDS SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4, AND SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4.
  5. ALL WELDS SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4, AND SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4.
  6. ALL WELDS SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4, AND SHALL BE MADE TO THE WELDER QUALIFICATION REQUIREMENTS OF AWS D1.1, SECTION 5.4.

ALL VERIFICATION REQUESTS ON THIS SET OF DRAWINGS SHALL BE ASSIGNED CORRECT AS SHOWN UNLESS OTHERWISE NOTED. MAKE PARTICULAR NOTICE OF ANY CHANGES TO BE PROVIDED, AND BE RESPONSIBLE TO CORRECT WITH THESE, AND, AND CHANGE AS NOTED. ANY REVISIONS COST DUE TO IN COMPLETE VERIFICATION REQUESTS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. ANY REVISIONS COST DUE TO INCOMPLETE VERIFICATION REQUESTS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.

NO BACK CHARGES ACCEPTED WITHOUT WRITTEN APPROVAL FROM WOLF STEEL CONSTRUCTION INC. DOCUMENTATION MUST INCLUDE PLANK, NETWORK REQUIRED AND COST OF NETWORK.

REPRODUCTION OR FABRICATION FROM THESE DRAWINGS IS NOT PERMITTED WITHOUT WRITTEN PERMISSION FROM WOLF STEEL CONSTRUCTION INC.

PROJECT: PETE SAHO HOUSE  
 LOCATION: FARM JOE  
 CONTRACTOR: FILE INCORPORATED  
 COUNTY: FULTON, GA

DATE: 10/24/14  
 DRAWN BY: TEJ  
 CHECKED BY: MIB-PS  
 SCALE: 1/4" = 1'-0"

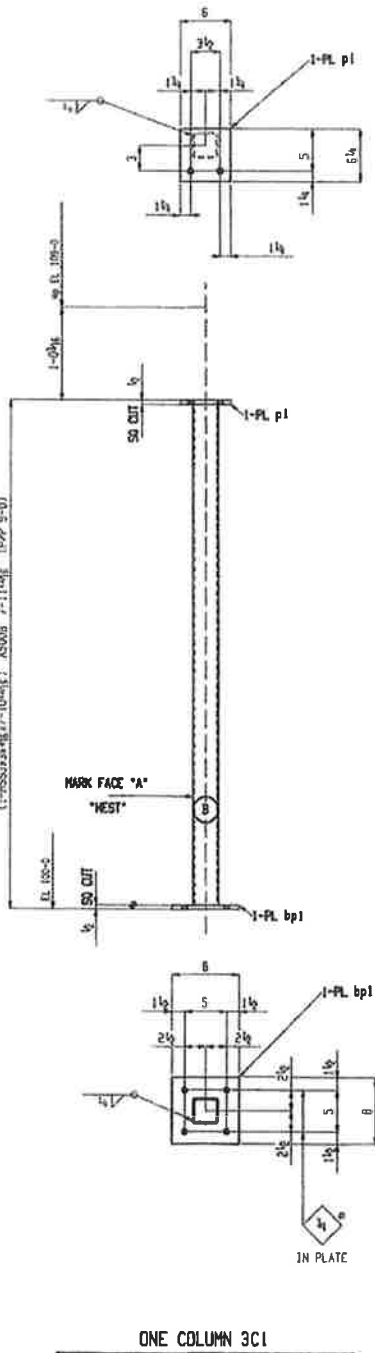
FINISH NOTE: ONE COAT OXIDE PRIMER

ITEM NO.	QTY	DESCRIPTION	UNIT	REMARKS	AMOUNT
1	1	ONE COLUMN 1C1			

Total weight: 0



(1:--SSS2.3.1g.47--024.1): AS008 7-1154g (P.P. 9-0)



ONE COLUMN 3C1

- 1. 1/2\"/>

ALL VORATION REQUESTS ON THIS SET OF DRAWINGS WILL BE ASSUMED CORRECT AS SHOWN UNLESS OTHERWISE NOTED. WHERE FABRICATOR HAS REQUESTED INTERVENTION TO BE PROVIDED, CONTRACTOR IS RESPONSIBLE TO COORDINATE WITH TRADES, AGENCIES, AND AGENCIES AS NOTED. TO COMPLETE VORATION REQUESTS, OR STEEL DELIVERY NOT BE DELAYED, ANY REWORKING COST DUE TO INCOMPLETE OR INACCURATE VORATION RESPONSES WILL BE HELD AS EXTRA TO THE CONTRACT... NO BACK CHARGES ACCEPTED WITHOUT WRITTEN APPROVAL FROM WOLF STEEL CONSTRUCTION INC. DOCUMENTATION MUST INCLUDE PC-MARK NETWORK REQUIRED AND COST OF NETWORK REPLICATION OR FABRICATION FOR THIS WORK IS NOT REQUESTED RETRACT WRITTEN PERMISSION FROM WOLF STEEL CONSTRUCTION INC.

FINISH NOTE: ONE COAT OXIDE PRIMER

**BILL OF MATERIAL**

NO.	PC	QTY	DESCRIPTION	UNITS	REMARKS	SCALE
1	20	1	1-PL bp1	1		10
2	20	1	1-PL bp1	1		10
3	20	1	1-PL bp1	1		10
4	20	1	1-PL bp1	1		10
5	20	1	1-PL bp1	1		10
6	20	1	1-PL bp1	1		10
7	20	1	1-PL bp1	1		10
8	20	1	1-PL bp1	1		10
9	20	1	1-PL bp1	1		10
10	20	1	1-PL bp1	1		10
11	20	1	1-PL bp1	1		10
12	20	1	1-PL bp1	1		10
13	20	1	1-PL bp1	1		10
14	20	1	1-PL bp1	1		10
15	20	1	1-PL bp1	1		10
16	20	1	1-PL bp1	1		10
17	20	1	1-PL bp1	1		10
18	20	1	1-PL bp1	1		10
19	20	1	1-PL bp1	1		10
20	20	1	1-PL bp1	1		10

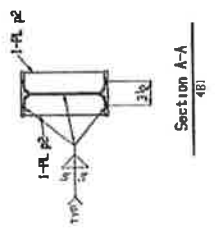
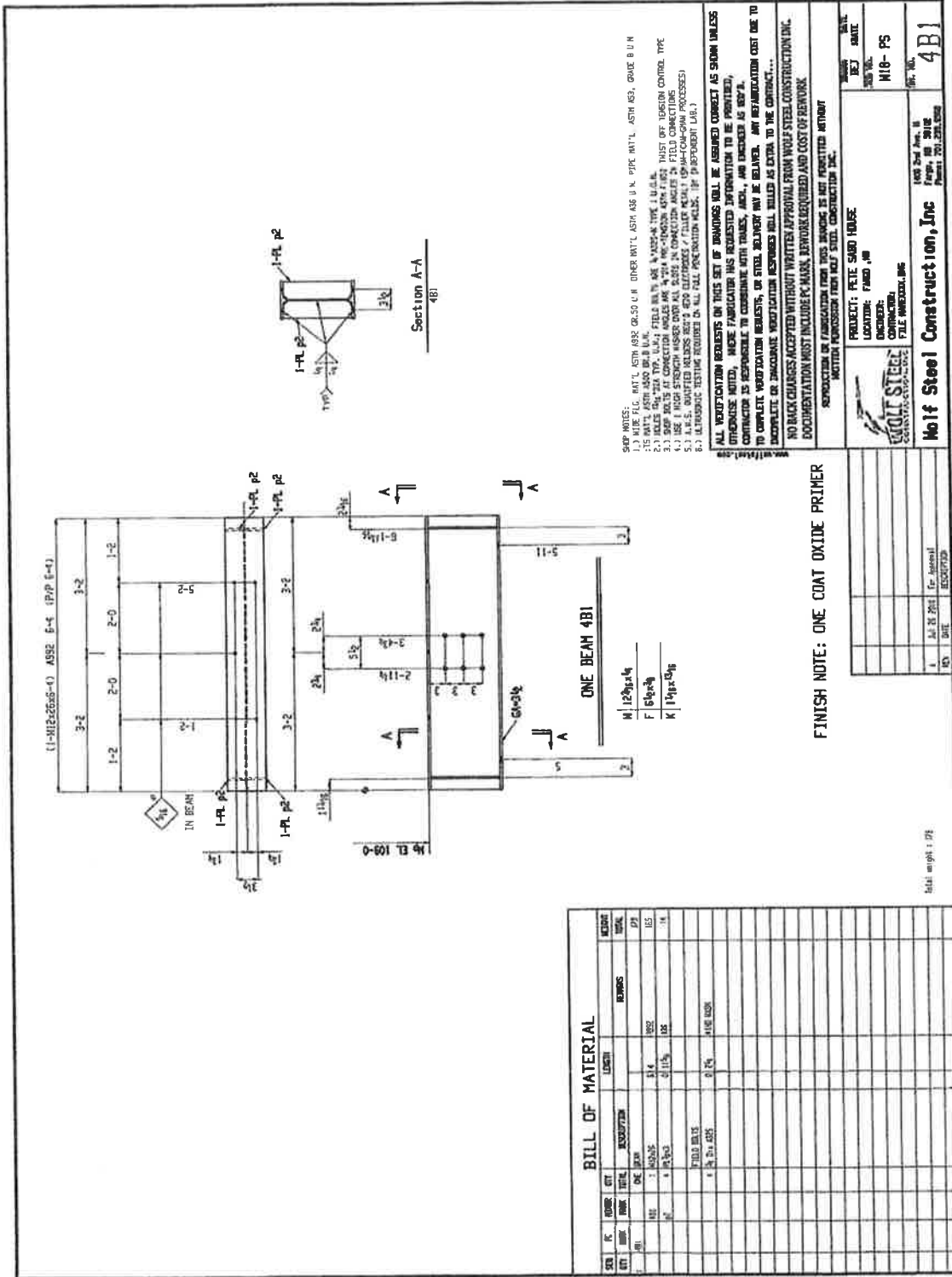
Total weight: 50

WOLF STEEL CONSTRUCTION INC.  
 PROJECT: PETE SAND HURSE  
 LOCATION: FARM JOB  
 ENGINEER:  
 CONTRACTOR:  
 FILE NUMBER: 018

DATE: 3/1/04  
 BY: [Signature]  
 CHECKED: [Signature]

NO. 3C1

1900 3rd Ave. N  
 Farm, MN 55128  
 Phone: 763.428.8888



**BILL OF MATERIAL**

QTY	R.	QTY	UNIT	DESCRIPTION	LENGTH	WEIGHT	MARKS	REMARKS
1	4	1	PLATE	1/4" x 12" x 4'	12'	12.5		
1	4	1	PLATE	3/8" x 6" x 4'	12'	105		
1	4	1	PLATE	1/4" x 12" x 4'	12'	114		
1	4	1	PLATE	3/8" x 6" x 4'	12'	110		
1	4	1	PLATE	1/4" x 12" x 4'	12'	110		

SHOP NOTES:

- 1.3 WELD FILE, WELD WITH ASSE 06-50 C.H. ORDER INT'L ASTM A58 U.S.A. PIPE INT'L ASTM A53, GRADE B U.S.A.
- 2.1 WELD FILE, WELD WITH ASSE 06-50 C.H. ORDER INT'L ASTM A58 U.S.A. PIPE INT'L ASTM A53, GRADE B U.S.A.
- 2.2 WELD FILE, WELD WITH ASSE 06-50 C.H. ORDER INT'L ASTM A58 U.S.A. PIPE INT'L ASTM A53, GRADE B U.S.A.
- 3.1 WELD FILE, WELD WITH ASSE 06-50 C.H. ORDER INT'L ASTM A58 U.S.A. PIPE INT'L ASTM A53, GRADE B U.S.A.
- 4.1 USE 1/4" HIGH STRENGTH BOLTS (TYPE 304) WITH 1/4" HIGH STRENGTH WASHERS (TYPE 304) FOR ALL CONNECTIONS.
- 5.1 ALL WELDING SHALL BE DONE IN ACCORDANCE WITH THE WELDING PROCEDURE SPECIFICATION (WPS) AND QUALIFICATION RECORD (QUR) FOR THE WELDER.
- 5.2 ALL WELDING SHALL BE DONE IN ACCORDANCE WITH THE WELDING PROCEDURE SPECIFICATION (WPS) AND QUALIFICATION RECORD (QUR) FOR THE WELDER.

ALL VENTILATION REQUIREMENTS ON THIS SET OF DRAWINGS SHALL BE ASSURED CORRECT AS SHOWN UNLESS OTHERWISE NOTED. THESE FABRICATOR HAS REQUESTED INFORMATION TO BE PROVIDED BY CONTRACTOR IS RESPONSIBLE TO CORRECTIVE WITH TOLERANCES, AND, AND BEING AS NOTED TO COMPLETE OR INCOMPLETE VENTILATION REQUIREMENTS, OF STEEL BEAMER MAY BE DELIVERED. ANY REVISIONS COST ONE TO INCOMPLETE OR INCOMPLETE VENTILATION REQUIREMENTS WILL BE HELD AS EXTRA TO THE CONTRACT...

NO BACK CHANGES ACCEPTED WITHOUT WRITTEN APPROVAL FROM WOLF STEEL CONSTRUCTION INC. DOCUMENTATION MUST INCLUDE PK MARK, WORKSHEET REQUIRED AND COST OF REWORK.

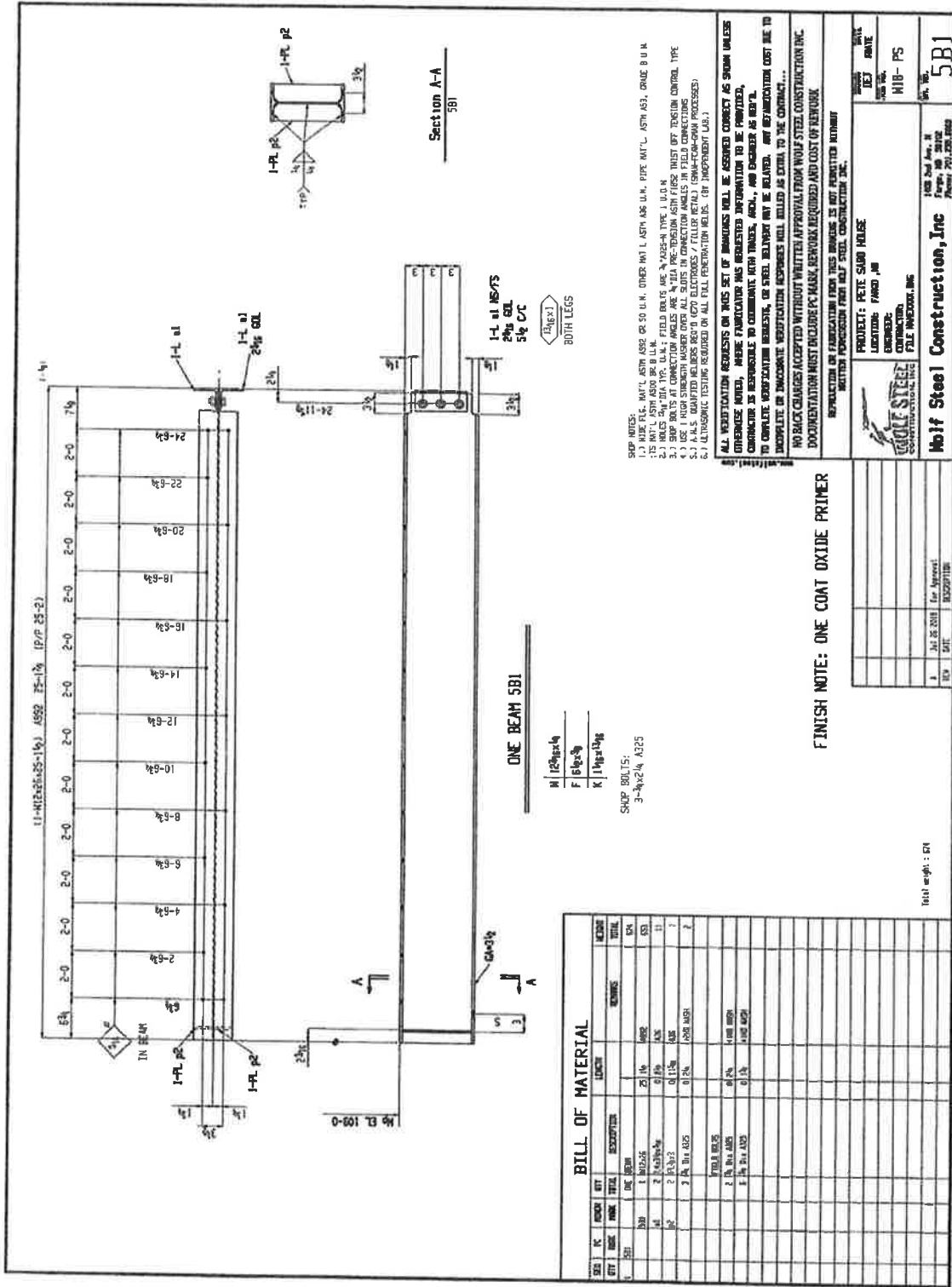
REVISIONS OF INFORMATION FROM THIS DRAWING IS NOT PERMITTED WITHOUT WRITTEN APPROVAL FROM WOLF STEEL CONSTRUCTION INC.

FINISH NOTE: ONE COAT OXIDE PRIMER

PROJECT: PETE SMOKE HOUSE  
 LOCATION: FARM, MO  
 DRAWING: M18-PS  
 DATE: 10/23/2018  
 DRAWN BY: J. B. BROWN  
 CHECKED BY: J. B. BROWN  
 PROJECT NO.: 2018-0002

**Wolf Steel Construction, Inc**  
 481

Sheet weight: 78



### BILL OF MATERIAL

SEQ.	LC	QTY	DESCRIPTION	REMARKS	QTY	UNIT
1		1	11 MS/FS 2 1/2 SBL 5 1/2 C/C		1	EA
2		2	1-PL 3/8		2	EA
3		2	2-1/2" BOLTS		2	EA
TOTAL QTY'S						
1		1	11 MS/FS 2 1/2 SBL 5 1/2 C/C		1	EA
2		2	1-PL 3/8		2	EA
3		2	2-1/2" BOLTS		2	EA

SHOP BOLTS:  
 3-3/4" x 3/4" A325

M 125lb/ft  
 F 64lb/ft  
 K 110lb/ft

ONE BEAM SBI

- SHOP NOTES:
- 1.2 SEE THE MILL/ASTM SPEC OR 50 U.S. ORDER NO. 1, LAST AND U.S. PIPE MIL., 15TH ED., OR 8 U.S.
  - 2.2 UNLESS OTHERWISE NOTED, ALL DIMENSIONS ARE IN INCHES UNLESS OTHERWISE NOTED.
  - 3.2 SHOP BOLTS AT CONNECTION ANGLES ARE A709 PRE-TENSION ASH FIBER TRUST OFF-TENSION CONTROL TYPE
  - 5.1 USE 1/2" HIGH STRENGTH WAGON WHEEL ALL SLOTS IN CONNECTION ANGLES IN FIELD CONNECTIONS
  - 6.1 ULTRASONIC TESTING REQUIRED ON ALL FIELD CONNECTIONS. (BY INSTRUMENT ONLY)

ALL VERIFICATION REQUESTS ON THIS SET OF DRAWINGS WILL BE ASSUMED CORRECT AS SHOWN UNLESS OTHERWISE NOTED. THESE FABRICATOR HAS REQUESTED INFORMATION TO BE PROVIDED, CONTRACTOR IS RESPONSIBLE TO CONTACT WITH THESIS, AREA, AND ENGINEER AS NOTED. TO COMPLETE VERIFICATION REQUESTS, OR STEEL DELIVERY MAY BE DELAYED. ANY VERIFICATION COST ARE TO BE PAID BY CONTRACTOR. VERIFICATION REQUESTS WILL BE HELD AS EXTRA TO THE CONTRACT... NO BACK CHARGES ACCEPTED WITHOUT WRITTEN APPROVAL FROM WOLF STEEL CONSTRUCTION INC. DOCUMENTATION MUST INCLUDE PC MARK, REWORK REQUIRED AND COST OF REWORK.

REPRODUCTION OR MODIFICATION OF THIS DRAWING IS NOT PERMITTED WITHOUT WRITTEN APPROVAL FROM WOLF STEEL CONSTRUCTION INC.

**WOLF STEEL CONSTRUCTION INC.**  
 PROJECT: PETS SUB HOUSE  
 LOCATION: FAND JM  
 ENGINEER: [NAME]  
 FILE NUMBER: [NUMBER]

DATE: Jul 28, 2011  
 FOR APPROVAL: [NAME]  
 RECEIPT: [NAME]

Scale: 1/4" = 1'-0"

**Wolf Steel Construction, Inc**

1435 5th Ave. N.  
 Grand Rapids, MI 49508  
 Phone: 269.223.8800

5BI

FINISH NOTE: ONE COAT OXIDE PRIMER