

FARGO PLANNING COMMISSION AGENDA  
Tuesday, April 2, 2019 at 3:00 p.m.

- A: Approve Order of Agenda
- B: Minutes: Regular Meeting of March 5, 2019
- C: Brown Bag Luncheon - None
- D: Public Hearing Items:
- 1a. Continued hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential to SR-4, Single-Dwelling Residential on the proposed **Timber Creek Ninth Addition**. (Located at 4726, 4736, 4746, 4756, 4766, 4776, and 4786 34th Street South) (Nate Vollmuth/PLC Investments) (dk): WITHDRAWN
  - 1b. Continued hearing on an application requesting a Plat of **Timber Creek Ninth Addition** (Minor Subdivision) a replat of Lots 16-22, Block 3, Timber Creek First Addition, City of Fargo, Cass County, North Dakota. (Located at 4726, 4736, 4746, 4756, 4766, 4776, and 4786 34th Street South) (Nate Vollmuth/PLC Investments) (dk): WITHDRAWN
  2. Hearing on an application requesting a Plat of **Inland Truck Parts Company Second Addition** (Minor Subdivision) a replat of Lot 1, Block 1, Inland Truck Parts Company Addition, City of Fargo, Cass County, North Dakota. (Located at 3525 and 3545 38th Street South) (Houston Engineering/Inland Truck Parts Company) (an)
  3. Hearing on an application requesting a Zoning Change to repeal and reestablish a C-O, Conditional Overlay on Lot 1, Block 1, **BLU Water Creek Third Addition**. (Located at 4504 32nd Avenue South) (KT Properties/Mike Dragosavich) (me)
  4. Hearing on an application requesting a Zoning Change to repeal and reestablish a C-O, Conditional Overlay on Lot 4, Block 1, **Bentley Place First Addition** and Lot 1, Block 1, **Bentley Place Second Addition**. (Located at 5570 32nd Avenue South and 3240 Veterans Boulevard) (Brandt Crossing, LLC/Mike Dragosavich) (me)
  5. Hearing on an application requesting a Zoning Change to repeal and reestablish a C-O, Conditional Overlay on Lots 3-4, Block 1, **Timber Parkway Third Addition**. (Located at 4801 and 5081 Timber Parkway South) (PLC Investments, LLC/Mike Dragosavich) (me)
  6. Hearing on an application requesting a Zoning Change to repeal and reestablish a C-O, Conditional Overlay on Lot 2, Block 1, **Timber Creek Eighth Addition**. (Located at 5131 Prosperity Way South) (Midwest Restaurant Holdings, LLC/Mike Dragosavich) (me)
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Planning Commission meetings are broadcast live on cable channel TV Fargo 56 and online at [www.FargoND.gov/streaming](http://www.FargoND.gov/streaming). They are rebroadcast each Wednesday at 8:00 a.m. and Sunday at 8:00 a.m.; and are also included in our video archive at [www.FargoND.gov/PlanningCommission](http://www.FargoND.gov/PlanningCommission).

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 701.241.1474 or TDD at 701.241.8258. 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 Web site at [www.FargoND.gov/planningcommission](http://www.FargoND.gov/planningcommission).

7. Hearing on an application requesting a Conditional Use Permit to allow for non-farm commercial uses in the Agricultural zoning district on a portion of the West half of the Southeast quarter of **Section 14, Township 138 North, Range 49 West**. (Located at 2805 88th Avenue South) (Eric Baker) (dk): CONTINUED TO MAY 7, 2019
  8. Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential and AG, Agricultural to P/I, Public and Institutional on the **Fred C. Hagen Addition** and a portion of the unplatted Northeast Quarter of Section 7, Township 139 North, Range 48 West. (Located at 200, 310, and 430 4th Street South) (dk)
  9. Hearing on an application requesting a Right of Way Vacation of the alley between Lots A, B, C, D, E, F, T, and U, the vacated 10 foot alley adjacent to Lots T and U, Hagaman's Subdivision of part of Block 2, **Roberts Addition**. (Located at 624 2nd Avenue North and 613, 617, and 621 1st Avenue North) (dk)
- E: Other Items:
1. Development proposals for City-owned property at Main Avenue and 2<sup>nd</sup> Street South (jg)

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**BOARD OF PLANNING COMMISSIONERS  
MINUTES**

**Regular Meeting:**

**Tuesday, March 5, 2019**

The Regular Meeting of the Board of Planning Commissioners of the City of Fargo, North Dakota, was held in the Commission Chambers at City Hall at 3:00 p.m., Tuesday, March 5, 2019.

The Planning Commissioners present or absent were as follows:

Present: Shara Fischer, John Gunkelman, Mike Magelky, Dawn Morgan,  
Melissa Sobolik, Scott Stofferahn, Maranda Tasa, Jennifer Holtz

Absent: Brad Bachmeier, Mary Scherling, Rocky Schneider

Chair Fischer called the meeting to order.

**Business Items:**

**Item A: Approve Order of Agenda**

Chair Fischer noted the following Agenda items:

-Items 3a and 3b have been continued to April 2, 2019

Member Sobolik moved the Order of Agenda be approved as presented. Second by Member Stofferahn. All Members present voted aye and the motion was declared carried.

**Item B: Minutes: Regular Meeting of February 5, 2019**

Member Tasa moved the minutes of the February 5, 2019 Planning Commission meeting be approved. Second by Member Morgan. All Members present voted aye and the motion was declared carried.

**Item C: Tuesday, March 26, 2019 Joint Meeting with Community Development Committee**

Topic: Core Neighborhood Plan

Mark Williams provided an overview of the new commission chambers and its features.

**Item D: Public Hearing Items:**

**Item 1: NSC Addition**

**Continued hearing on an application requesting an Institutional Master Plan within a portion of the boundaries of the proposed NSC Addition. (Located at 6101 45th Street North) (City of Fargo/Fargo Park District): APPROVED**

A Hearing had been set for August 1, 2017. At the August 1, 2017 meeting, the Hearing was continued to September 5, 2017. At the September 5, 2017 meeting, the Hearing

was continued to October 3, 2017. At the October 3, 2017 meeting, the Hearing was continued to December 5, 2017. At the December 5, 2017 meeting, the Hearing was continued to January 4, 2018. At the January 4, 2018 meeting, the Hearing was continued to February 6, 2018. At the February 6, 2018 meeting, the Hearing was continued to May 1, 2018. At the May 1, 2018 meeting, the Hearing was continued to July 3, 2018. At the July 3, 2018 meeting, the Hearing was continued to September 4, 2018. At the September 4, 2018 meeting, the Hearing was continued to November 6, 2018. At the November 6, 2018 meeting, the Hearing was continued to December 4, 2018. At the December 4, 2018 meeting, the Hearing was continued to February 5, 2019. At the February 5, 2019 meeting, the Hearing was continued to this date and time.

Member Magelky declared a conflict of interest on this item and was excused from voting.

Planning Coordinator Maegin Elshaug presented a brief background of the project and the staff report stating all approval criteria have been met and staff is recommending approval.

Member Stofferahn moved the findings and recommendations of staff be accepted and the Institutional Master Plan be approved as outlined within the staff report as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Section 20-0911.E (1-3) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Morgan. On call of the roll Members Sobolik, Tasa, Stofferahn, Morgan, Holtz, Gunkelman, and Fischer voted aye. Member Magelky abstained from voting. Absent and not voting: Members Scherling, Schneider, and Bachmeier. The motion was declared carried.

**Item 2: Prairie Farms Second Addition  
Hearing on an application requesting a Plat of Prairie Farms Second Addition (Minor Subdivision) a replat of Lots 1-3, Block 4, Prairie Farms Addition, City of Fargo, Cass County, North Dakota. (Located at 6059, 6069, and 6087 Prairie Grove Court South) (Bronson Mathiason/Prairie Grove Inc. and Dietrich Homes Inc.): APPROVED**

A Hearing had been set for February 5, 2019. At the February 5, 2019 meeting, the Hearing was continued to this date and time.

Planning Coordinator Aaron Nelson presented the staff report stating all approval criteria have been met and staff is recommending approval.

Member Sobolik moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat, Prairie Farms Second Addition as outlined within the staff report as the proposal complies with the 2007 Growth Plan, the Standards of Article 20-06 of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Gunkelman. On call of the roll Members Magelky, Holtz,

Sobolik, Stofferahn, Morgan, Gunkelman, Tasa, and Fischer voted aye. Absent and not voting: Members Scherling, Schneider, and Bachmeier. The motion was declared carried.

**Item 3: Timber Creek Ninth Addition**

**3a. Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential to SR-4, Single-Dwelling Residential on the proposed Timber Creek Ninth Addition. (Located at 4726, 4736, 4746, 4756, 4766, 4776, and 4786 34th Street South) (Nate Vollmuth/PLC Investments): CONTINUED TO APRIL 2, 2019**

**3b. Hearing on an application requesting a Plat of Timber Creek Ninth Addition (Minor Subdivision) a replat of Lots 16-22, Block 3, Timber Creek First Addition, City of Fargo, Cass County, North Dakota. (Located at 4726, 4736, 4746, 4756, 4766, 4776, and 4786 34th Street South) (Nate Vollmuth/PLC Investments): CONTINUED TO APRIL 2, 2019**

A Hearing had been set for January 3, 2019. At the January 3, 2019 meeting, the Hearing was continued to February 5, 2019. At the February 5, 2019 meeting, the Hearing was continued to this date and time; however, the applicant has requested this item be continued to April 2, 2019.

**Item 4: Madelyn's Meadows Second Addition**

**4a. Hearing on an application requesting a Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential and SR-5, Single-Dwelling Residential on the proposed Madelyn's Meadows Second Addition. (Located at 7269 25th Street South) (Jon Youness/Eagle Ridge Development): APPROVED**

**4b. Hearing on an application requesting a Plat of Madelyn's Meadows Second Addition (Major Subdivision) a replat of Lot 9, Block 3, Madelyn's Meadows First Addition, City of Fargo, Cass County, North Dakota. (Located at 7269 25th Street South) (Jon Youness/Eagle Ridge Development): APPROVED**

Planning Coordinator Donald Kress presented the staff report stating all approval criteria have been met and staff is recommending approval.

Discussion was held regarding 73rd Avenue South.

Applicant Jon Youness spoke on behalf of the application and noted that 73rd Avenue South was platted with Madelyn's Meadows First Addition.

Member Magelky moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential and SR-5, Single-Dwelling Residential and 2) Subdivision Plat, Madelyn's Meadows Second Addition as outlined within the staff report as the proposal complies with the 2007 Growth Plan, the Standards of Article 20-06, and Section 20-0906.F (1-4) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by

Member Stofferahn. On call of the roll Members Gunkelman, Sobolik, Stofferahn, Holtz, Magelky, Tasa, Morgan, and Fischer voted aye. Absent and not voting: Members Scherling, Schneider, and Bachmeier. The motion was declared carried.

**Item 5: Lenthe's First Addition**

**Hearing on an application requesting a Plat of Lenthe's First Addition (Minor Subdivision) a replat of the East Half of Lot 3, all of Lots 4-10, Teigen's Addition, City of Fargo, Cass County, North Dakota, and a parcel of land in the Southwest Quarter of the Southeast Quarter of Section 2, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 2901, 2903, 2905, 2907, 3001, 3003, 3005, 3007, 3039, 3041, 3043, and 3045 Main Avenue) (Curt Skarphol/Houston Engineering): APPROVED**

Mr. Kress presented the staff report stating all approval criteria have been met and staff is recommending approval.

Member Gunkelman moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat, Lenthe's First Addition as outlined within the staff report as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Article 20-06 of the Land Development Code and all other applicable requirements of the Land Development Code. Second by Member Holtz. On call of the roll Members Gunkelman, Magelky, Morgan, Sobolik, Holtz, Stofferahn, Tasa, and Fischer voted aye. Absent and not voting: Members Scherling, Schneider, and Bachmeier. The motion was declared carried.

**Item 6: Case, Peake, and Hall Addition**

**Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential to MR-2, Multi-Dwelling Residential on Lot 19, Block 5, Case, Peake, and Hall Addition. (Located at 1527 5th Avenue South) (Jessica Thomasson/Lutheran Social Services): APPROVED**

Ms. Elshaug presented the staff report stating all approval criteria have been met and staff is recommending approval.

Randy Engelstad, 1538 5th Avenue North, spoke in opposition to the application questioning if the proposed addition of an accessory structure could be added under the current zoning.

Member Morgan stated that the Jefferson Neighborhood Association has met with the applicant. She noted they were informed this application was more of a zoning clean up and would consist of green space and the addition of a storage shed.

Ms. Elshaug noted that accessory structures must be in the same zoning district as the primary structure and are not permitted on their own.

Member Stofferahn moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Zoning Change from SR-3, Single-Dwelling Residential, to MR-2, Multi-Dwelling Residential as outlined

within the staff report as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Section 20-0906.F (1-4) and all other applicable requirements of the Land Development Code. Second by Member Morgan. On call of the roll Members Holtz, Sobolik, Magelky, Gunkelman, Morgan, Stofferahn, Tasa, and Fischer voted aye. Absent and not voting: Members Scherling, Schneider, and Bachmeier. The motion was declared carried.

**Item E: Other Items:**

**Item 1: Initiation of RFP (Request for Proposals) for Land Development Codes Diagnostic Study: APPROVED**

Assistant Planning Director Mark Williams presented a brief overview and history of the Land Development Codes Diagnostic Study. He noted that phase one of the study involves hiring a consultant to evaluate the current code and provide recommendations.

Discussion was held on the process of funding the study.

Planning Director Nicole Crutchfield spoke on the Planning Services budget and consultant costs.

Member Morgan moved to approve staff's request to draft and publish a RFP (Request for Proposals) for the development codes diagnostic study and to otherwise initiate this project. Second by Member Sobolik. All Members present voted aye and the motion was declared carried.

**Item 2: Renewal plans and the role of the Planning Commission**

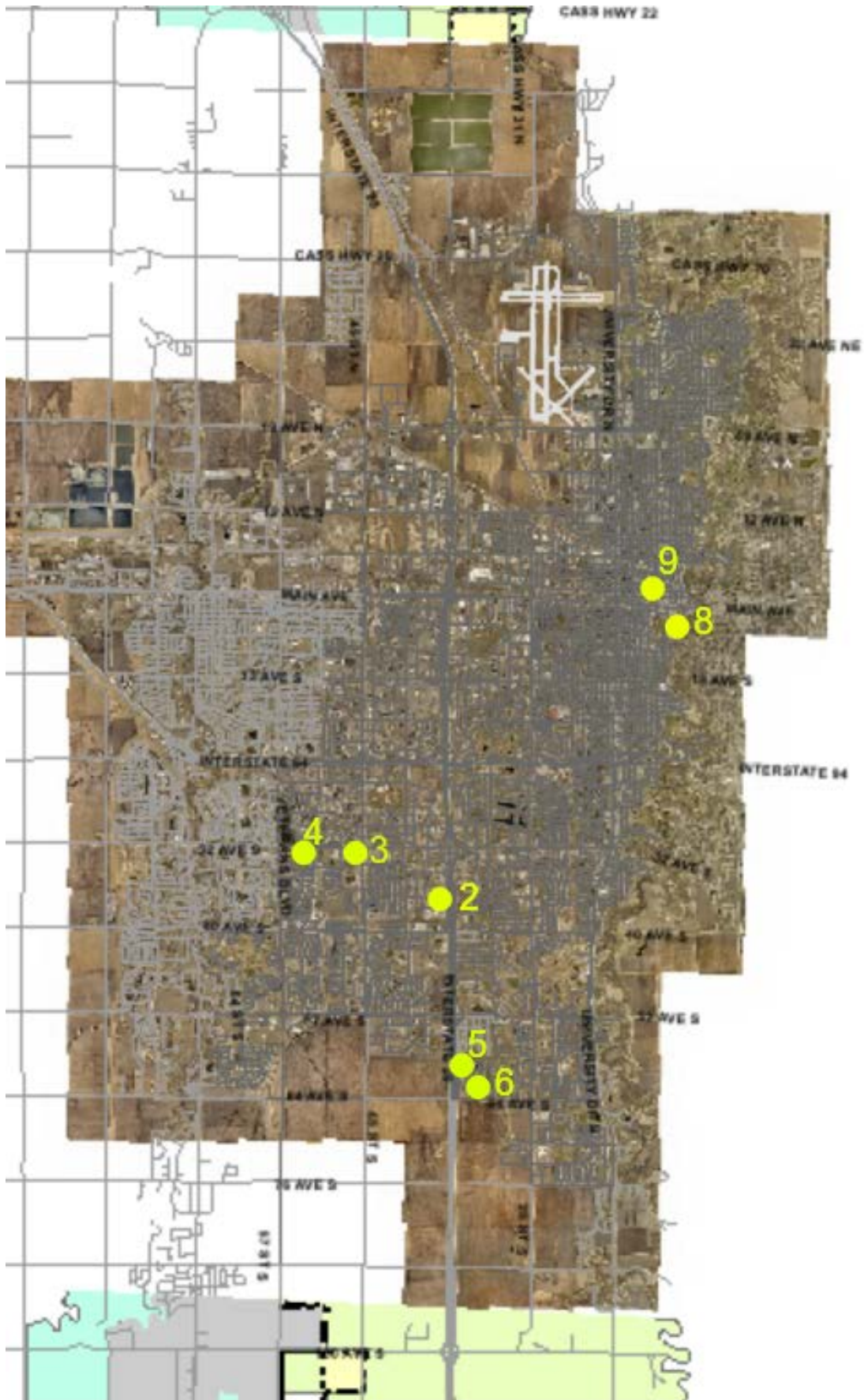
Director of Strategic Planning and Research Jim Gilmour distributed a handout to the Board and presented an overview of what a renewal plan is and how they work. He also provided information regarding the updated TIF (Tax-Increment Financing) policies.

Mr. Gilmour noted that when applications for renewal plans come before the Planning Commission, the role of the Planning Commission is to review the plans to see if they are consistent with the neighborhood development and land use compatibility.

Board discussion ensued regarding previously approved renewal plans, the rehabilitation or conservation of slum of blighted areas, costs, and plan implementation. No action was taken on this item.

The time at adjournment was 3:54 p.m.

MAP OF AGENDA ITEM LOCATIONS—Items 1a, 1b, and 7 continued or withdrawn





<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Inland Truck Parts Company 2 <sup>nd</sup> Addition	<b>Date:</b>	3/25/2019
<b>Location:</b>	3525 & 3545 38 <sup>th</sup> Street South	<b>Staff Contact:</b>	Aaron Nelson
<b>Legal Description:</b>	Lot 1, Block 1, Inland Truck Parts Company Addition		
<b>Owner(s)/Applicant:</b>	Inland Truck Parts Company/Brian Pattengale, Houston Engineering, Inc.	<b>Engineer:</b>	Houston Engineering, Inc.
<b>Entitlements Requested:</b>	<b>Minor Subdivision</b> (Replat of Lot 1, Block 1, Inland Truck Parts Company Addition to the City of Fargo, Cass County, North Dakota )		
<b>Status:</b>	Planning Commission Public Hearing: April 2, 2019		

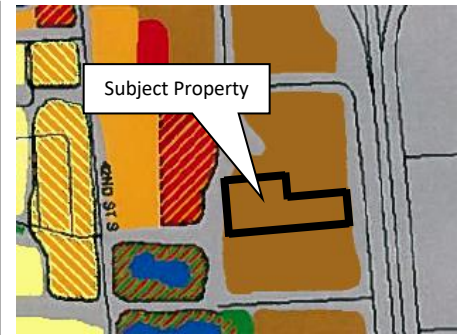
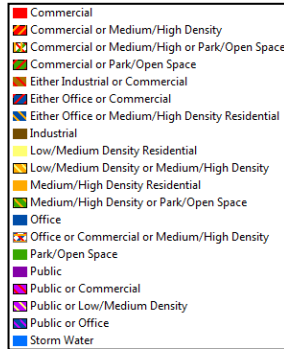
<b>Existing</b>
<b>Land Use:</b> Industrial Service
<b>Zoning:</b> Limited Industrial
<b>Uses Allowed:</b> LI – Limited Industrial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, and major entertainment events.
<b>Maximum Density Allowed:</b> LI, Limited Industrial – 85% maximum building coverage

<b>Proposed</b>
<b>Land Use:</b> Unchanged
<b>Zoning:</b> Unchanged
<b>Uses Allowed:</b> Unchanged
<b>Maximum Density Allowed:</b> Unchanged

<b>Proposal:</b>
<p>The applicant is seeking City approval of a minor subdivision plat entitled <i>Inland Truck Parts Company Second Addition</i>, which would replat one existing lot into two new lots. The proposed Lot 2 is 9.6 acres and would contain the currently developed portion of the subject property. The proposed Lot 1 is 2.1 acres and is currently vacant. In total, the subject property encompasses approximately 11.8 acres.</p> <p>This project was reviewed by the City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: LI, Limited Industrial, with Industrial Services use</li> <li>• East: Across 38<sup>th</sup> Street South is Interstate 29</li> <li>• South: LI, Limited Industrial, with Industrial Services use</li> <li>• West: Across 39<sup>th</sup> Street South is LI, Limited Industrial, with Industrial Service uses</li> </ul>

## Area Plans:

The subject property is located within the Proposed Future Land Use in Southwest Fargo, July 2003 Area Plan, which is an amendment of the Southwest Area Plan as contained within the *Urban Fringe and Extraterritorial Area of the City of Fargo* land use plan. Within this plan, the subject property is identified as being appropriate for industrial land use.



## Schools and Parks:

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

**Neighborhood:** The subject property is located in the Pointe West Neighborhood.

**Parks:** There are no parks located within a quarter-mile of the subject property.

**Pedestrian / Bicycle:** There is a trail located on the west side of 42<sup>nd</sup> Street South, which connects to the metro area bikeway system.

## Staff Analysis:

### Minor Subdivision

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

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

This subdivision is intended to plat two legal lots for office/commercial development. The proposed use is consistent with the existing zoning and the growth plan for the area. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no inquiries about the application. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. **(Criteria Satisfied)**

- Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

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

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed *Inland Truck Parts Company Second Addition* subdivision as presented; as the proposal complies with the adopted Area Plan, Standards of Article 20-06 of the, and all other applicable requirements of the Land Development Code."

**Planning Commission Recommendation:** April 2, 2019

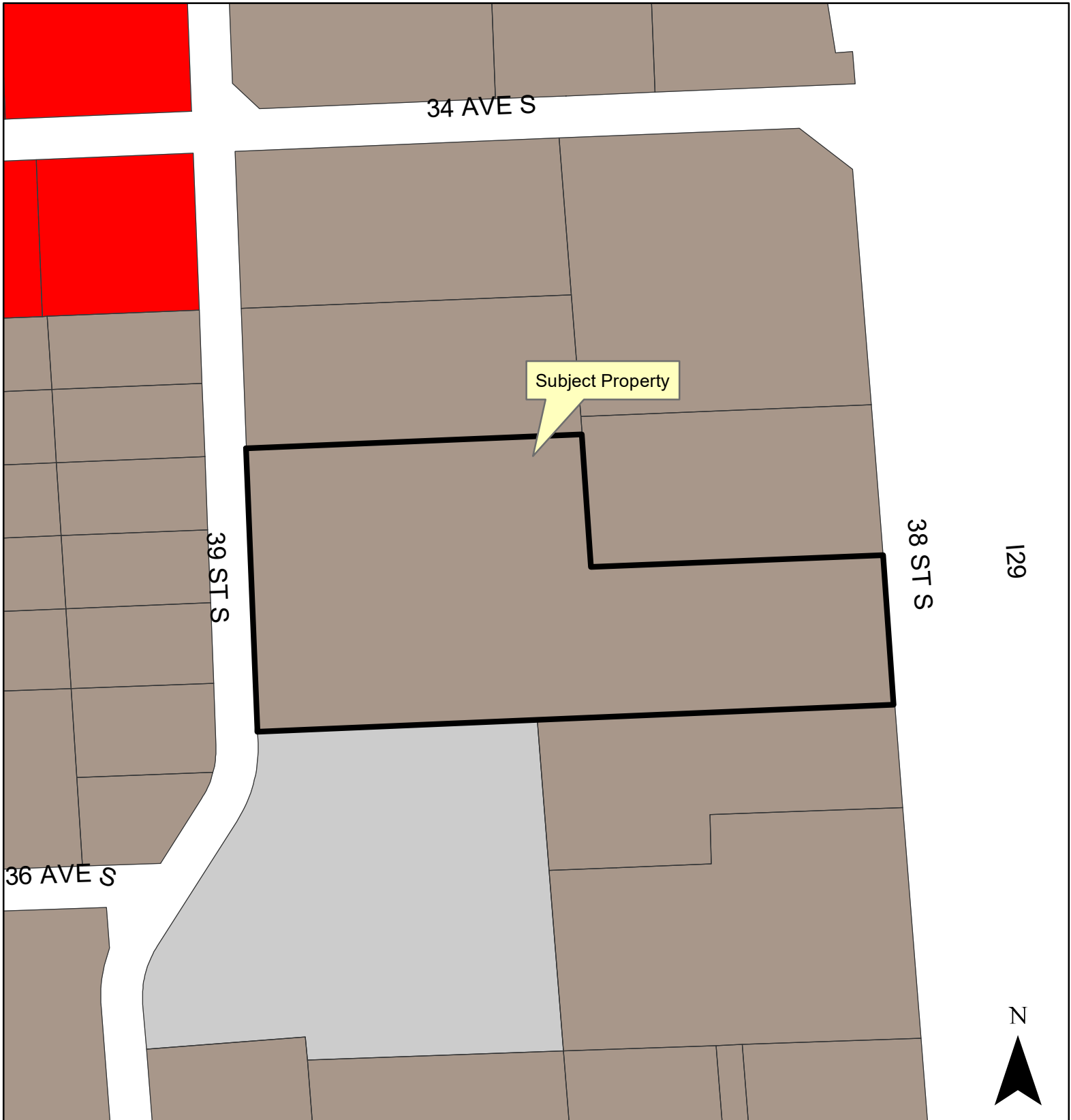
**Attachments:**

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

# Plat (Minor)

## Inland Truck 2nd Addition

3525 38th Street South



### Legend

AG	DMU	GGC	GG	GO	LC	MR-1	MR-2	MR-3	MHP	NO	P/I	UMU	SR-2	SR-3	SR-4	SR-5	City Limits
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300

Feet

# Plat (Minor)

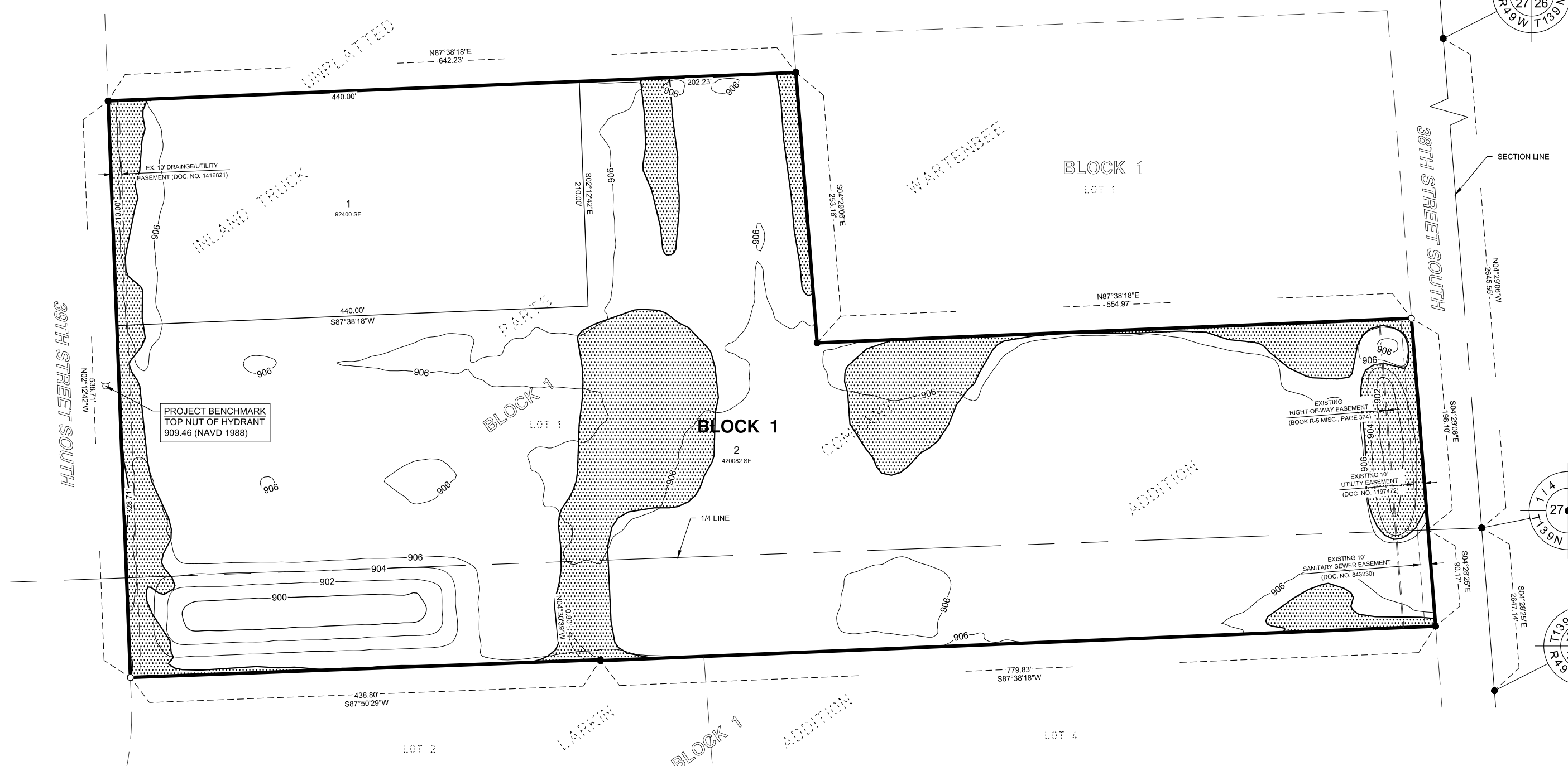
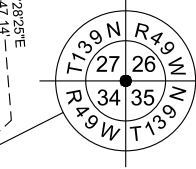
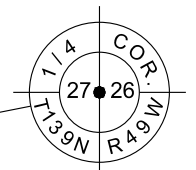
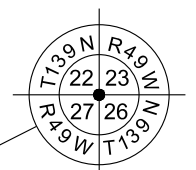
## Inland Truck Parts Company 2nd Addition

3525 38th Street South



# INLAND TRUCK PARTS COMPANY SECOND ADDITION

A MINOR SUBDIVISION  
 BEING A REPLAT OF LOT 1, BLOCK 1, INLAND TRUCK PARTS COMPANY ADDITION  
 TO THE CITY OF FARGO,  
 CASS COUNTY, NORTH DAKOTA



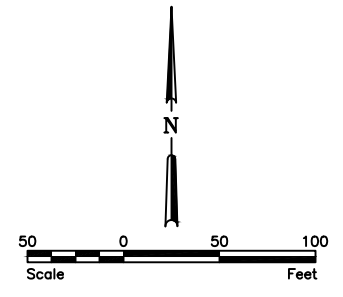
**LEGEND**

IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
MEASURED BEARING	N00°00'00"E
MEASURED DISTANCE	100.00'
PLAT BOUNDARY	—————
LOT LINE	—————
EXISTING LOT LINE	—————
EXISTING UTILITY EASEMENT	—————
AREA WITHIN FEMA 100-YEAR FLOODPLAIN	▨

**NOTES:**

- PROPERTY IS SITUATED IN ZONE AE (100-YEAR FLOODPLAIN) AS DEPICTED ON FEMA FIRM PANEL 38017C0778G & 38017C0779G, DATED JANUARY 16, 2015.
- BASE FLOOD ELEVATION = 905.7' (NAVD 1988)

BEARINGS SHOWN ARE BASED ON THE CITY OF FARGO HORIZONTAL DATUM



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# INLAND TRUCK PARTS COMPANY SECOND ADDITION

BEING A REPLAT OF LOT 1, BLOCK 1, INLAND TRUCK PARTS COMPANY ADDITION  
TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA

**OWNER'S CERTIFICATE:**

KNOW ALL PERSONS BY THESE PRESENTS: That Inland Truck Parts Company, a Minnesota corporation, is the owner and proprietor, and that Commerce Bank, a Missouri state chartered trust company, is a mortgagee of all of Lot 1, Block 1, Inland Truck Parts Company Addition to the City of Fargo, Cass County, North Dakota.

Said tract of land contains 11.765 acres, more or less.

And that said party has caused the same to be surveyed and replatted as **Inland Truck Parts Company Second Addition** to the City of Fargo, Cass County, North Dakota.

**OWNER:**

Inland Truck Parts Company

Greg Klein, President and Chief Executive Officer

State of \_\_\_\_\_ )  
 ) ss  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally appeared Greg Klein, President and Chief Executive Officer of Inland Truck Parts Company, a Minnesota corporation, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the said corporation.

**MORTGAGEE:**

Commerce Bank

Notary Public: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

State of \_\_\_\_\_ )  
 ) ss  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally appeared \_\_\_\_\_, \_\_\_\_\_ for Commerce Bank, a Missouri state chartered trust company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he/she executed the same on behalf of said trust company.

**SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:**

I, James A. Schlieman, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision; that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

James A. Schlieman, Professional Land Surveyor No. 6086

Notary Public: \_\_\_\_\_

State of North Dakota )  
 ) ss  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally appeared James A. Schlieman, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

**CITY ENGINEER'S APPROVAL:**

Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Brenda E. Derrig, City Engineer

Notary Public: \_\_\_\_\_

**FARGO PLANNING COMMISSION APPROVAL:**

Approved by the City of Fargo Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Shara Fischer, Chair  
Fargo Planning Commission

State of North Dakota )  
 ) ss  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally appeared Brenda E. Derrig, Fargo City Engineer, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that she executed the same as her free act and deed.

Notary Public: \_\_\_\_\_

**FARGO CITY COMMISSION APPROVAL:**

Approved by the Board of City Commissioners and ordered filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Timothy J. Mahoney, Mayor

State of North Dakota )  
 ) ss  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Shara Fischer, Chair, Fargo Planning Commission, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that she executed the same on behalf of the Fargo Planning Commission.

Notary Public: \_\_\_\_\_

Attest: \_\_\_\_\_  
Steven Sprague, City Auditor

State of North Dakota )  
 ) ss  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Timothy J. Mahoney, Mayor, City of Fargo; and Steven Sprague, City Auditor, City of Fargo, known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of the City of Fargo.

Notary Public: \_\_\_\_\_

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<b>City of Fargo Staff Report</b>			
<b>Title:</b>	<b>BLU Water Creek Third Addition</b>	<b>Date:</b>	3/28/2019
<b>Location:</b>	4504 32nd Avenue South	<b>Staff Contact:</b>	Maegin Elshaug
<b>Legal Description:</b>	Lot 1, Block 1, <b>BLU Water Creek Third Addition</b>		
<b>Owner(s)/Applicant:</b>	KT Properties/Mike Dragosavich	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (to repeal and reestablish a C-O, Conditional Overlay on Lot 1, Block 1, <b>BLU Water Creek Third Addition</b> )		
<b>Status:</b>	Planning Commission Public Hearing: April 2, 2019		

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

**Proposal:**

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

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

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

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

**Surrounding Land Uses and Zoning Districts:**

- North: Across 32<sup>nd</sup> Avenue South is LC, Limited Commercial with C-O, Conditional Overlays, with commercial development;



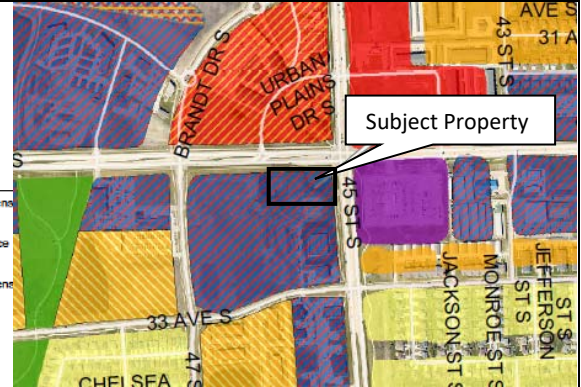
- East: Across 45<sup>th</sup> Street South is AG, Agricultural with a power substation;
- South & West: LC, Limited Commercial with C-O, Conditional Overlays, commercial development and vacant property;

**Area Plans:**

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

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

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



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

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



**Context:**

**Neighborhood:** Brandt Crossing

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

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

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

**Staff Analysis:**

**Zoning**

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning**

**classification was established or by an error in the zoning map?**

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

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

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

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

Staff finds there the requested zoning change is not justified by a change in conditions since the previous zoning classification was established. **(Criteria NOT Satisfied)**

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

City Staff and other applicable review agencies have reviewed this proposal. No deficiencies have been noted in the ability to provide all of the necessary services to the site. The subject property abuts public right-of-way. **(Criteria Satisfied)**

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

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

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

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

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

of the neighboring properties and would remove encouragement to develop in accordance with the principles of walkable mixed-use centers.

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

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

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

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

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

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

**Staff Recommendation:**

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

**Planning Commission Recommendation:** April 2, 2019

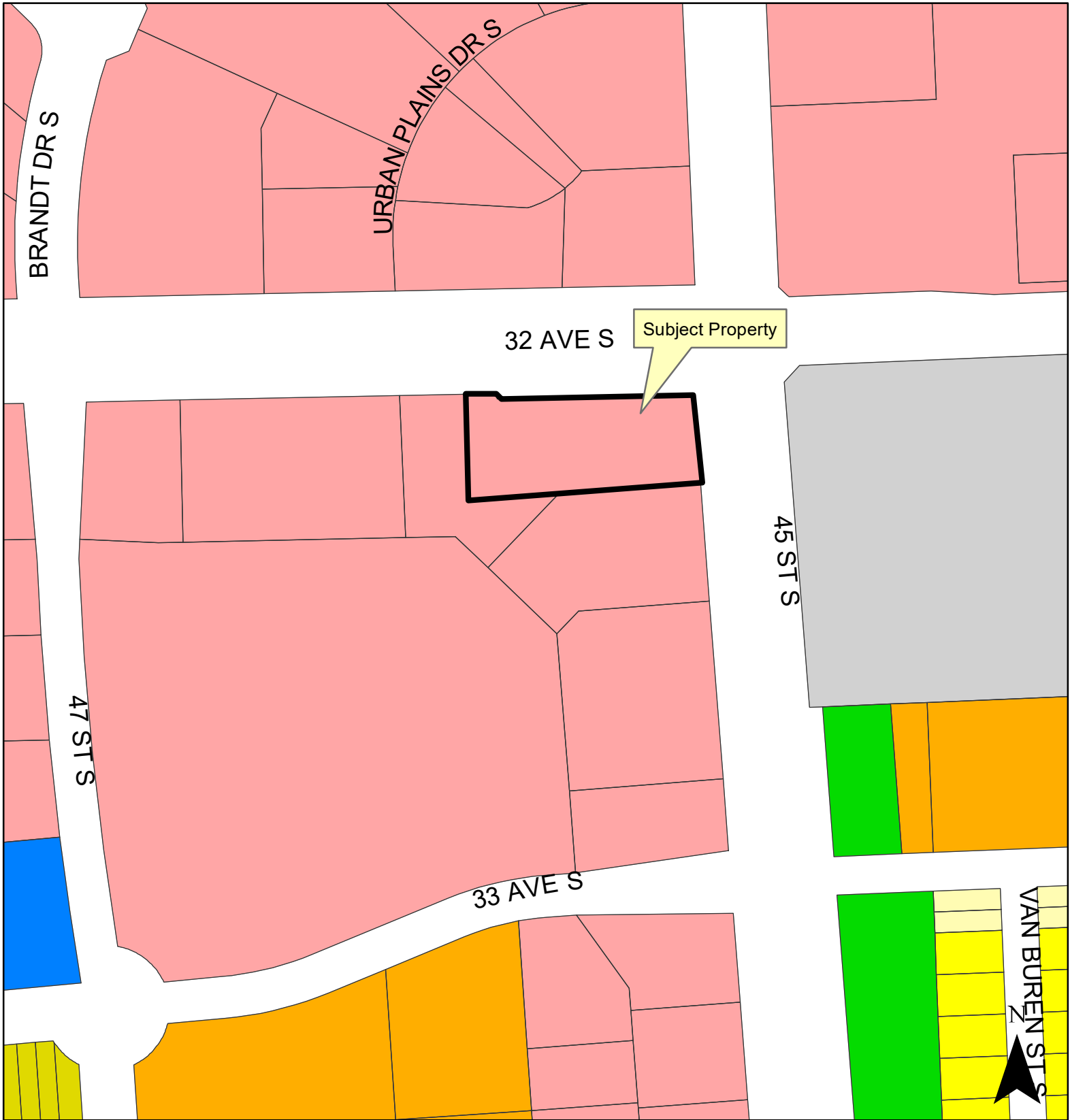
**Attachments:**

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

# Zone Change (Repeal and Reestablish C-O)

## BLU Water Creek 3rd Addition

4504 32nd Avenue South



**Legend**

	AG		LC		MHP		SR-2
	DMU		MVC		NOC		SR-3
	GGC		MR-1		P/J		SR-4
	GG		MR-2		UML		SR-5
	GO		MR-3		City Limits		

300

Feet

Fargo Planning Commission

April 2, 2019

# Zone Change (Repeal and Reestablish C-O)

## BLU Water Creek 3rd Addition

4504 32nd Avenue South



# BLU WATER CREEK ADDITION

A REPLAT OF LOT 1, BLOCK 1 OF BENTLEY SQUARE ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA (A MAJOR SUBDIVISION)

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL  
 Approved by City Engineer, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

April E. Walker, City Engineer  
 State of North Dakota  
 County of Cass

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared April E. Walker, City Engineer, to me known to be the person whose name is subscribed to and who executed the same as a free act and deed.

Notary Public

### OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that Brent Crowding, LLC whose address is Fargo, North Dakota, as owner of a parcel of land located at the intersection of 47 Street South and 32 Avenue South, North Fargo 49 West of the Fifth Principal Meridian, Cass County, North Dakota, and more particularly described as follows:

That said owner has caused the above described tract of land to be replatted according to the record plat thereof on file in the office of the County Recorder, Cass County, North Dakota.

Containing 1,140,858 square feet or 26,190 acre more or less.

Said owner has caused the above described tract of land to be replatted according to the record plat thereof on file in the office of the County Recorder, Cass County, North Dakota.

OWNER:  
 Brent Crowding, LLC  
 Kevin Christensen, President  
 State of North Dakota  
 County of Cass

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared Kevin Christensen, President of Brent Crowding, LLC known to me to be the person who is described in the foregoing instrument and acknowledged to me that he executed the same.

Notary Public

NOTARIZING:  
 Conventions Bank  
 By: Jim Hamrick, Vice President  
 State of North Dakota  
 County of Cass

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared Jim Hamrick, Vice President of Conventions Bank known to me to be the person who is described in the foregoing instrument and acknowledged to me that he executed the same.

Notary Public

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared \_\_\_\_\_ known to me to be the person who is described in the foregoing instrument and acknowledged to me that he executed the same as a free act and deed.

Notary Public

FARGO CITY COMMISSION APPROVAL  
 Approved by the Board of City Commissioners and ordered filed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Timothy J. Mahoney, Mayor  
 Steven Sprague, City Auditor  
 State of North Dakota  
 County of Cass

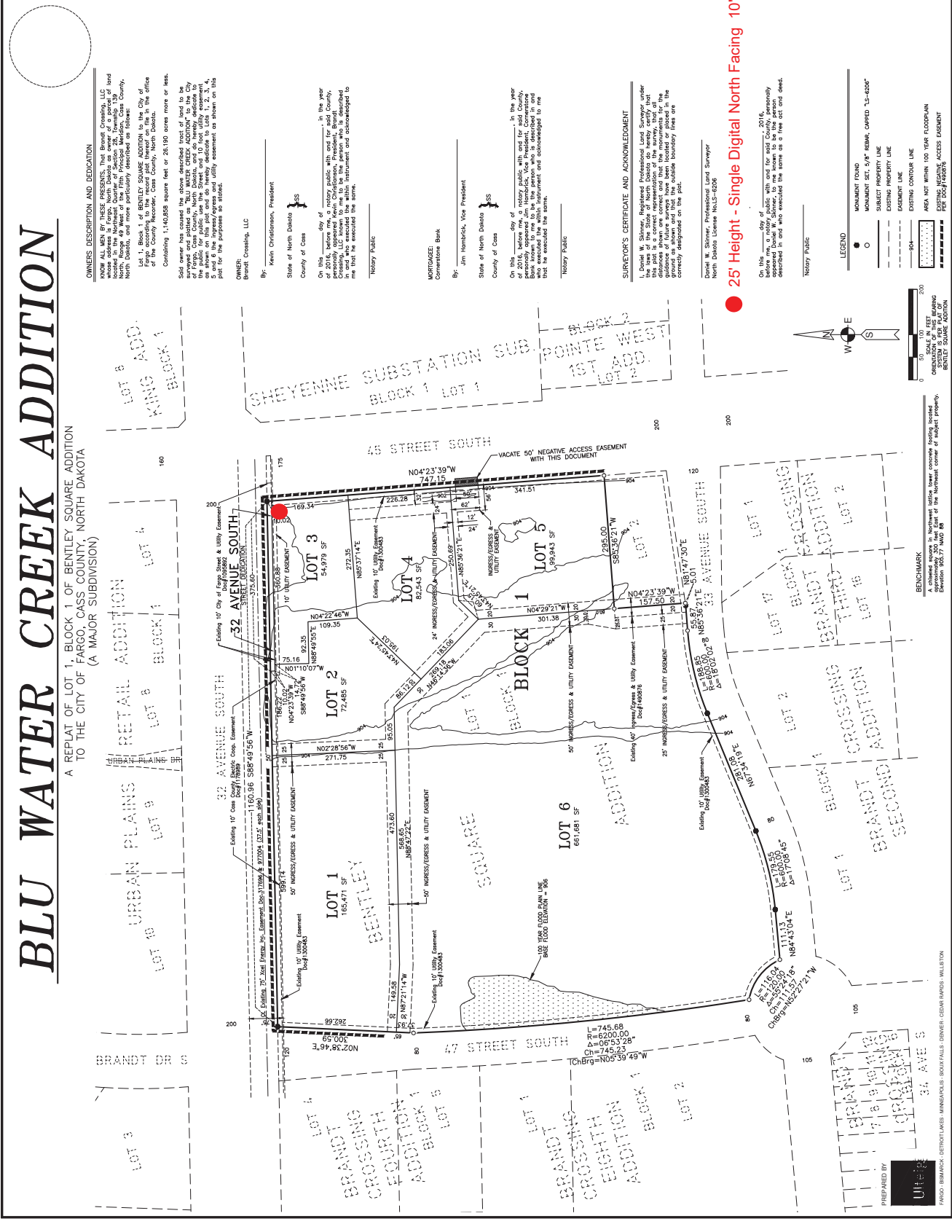
On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared \_\_\_\_\_ known to me to be the person who is described in the foregoing instrument and acknowledged to me that he executed the same as a free act and deed.

Notary Public

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGMENT  
 Daniel W. Saloner, Professional Land Surveyor  
 North Dakota License No. 15-1006

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared Daniel W. Saloner, to me known to be the person whose name is subscribed to and who executed the same as a free act and deed.

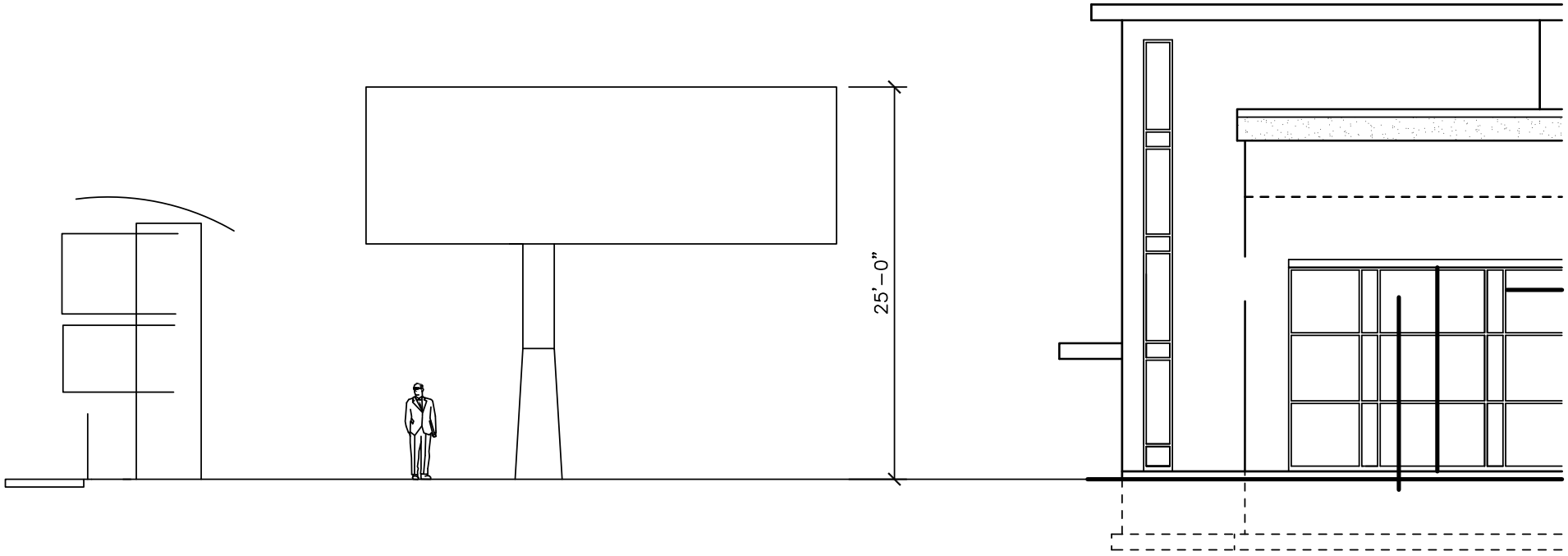
Notary Public



25 Height - Single Digital North Facing 10' x 30', Static South Facing



49th St S







<b>City of Fargo Staff Report</b>			
<b>Title:</b>	<b>Bentley Place First and Second Additions</b> *Note: See update below	<b>Date:</b>	3/28/2019
<b>Location:</b>	5570 32nd Avenue South and 3240 Veterans Boulevard	<b>Staff Contact:</b>	Maegin Elshaug
<b>Legal Description:</b>	Lot 4, Block 1, <b>Bentley Place First Addition</b> and Lot 1, Block 1, <b>Bentley Place Second Addition</b> *Note: See update below		
<b>Owner(s)/Applicant:</b>	Brandt Crossing, LLC/Mike Dragosavich	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (to repeal and reestablish a C-O, Conditional Overlay on Lot 4, Block 1, <b>Bentley Place First Addition</b> and Lot 1, Block 1, <b>Bentley Place Second Addition</b> ) *Note: See update below		
<b>Status:</b>	Planning Commission Public Hearing: April 2, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Vacant	<b>Land Use:</b> Commercial
<b>Zoning:</b> LC, Limited Commercial, with C-O, Conditional Overlay, Ordinance 4900	<b>Zoning:</b> LC, Limited Commercial, with C-O, Conditional Overlay
<b>Uses Allowed:</b> Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, <del>off premise advertising signs</del> , commercial parking, retail sales and service, self-service storage, <del>vehicle repair</del> , limited vehicle service, <del>portable signs</del>	<b>Uses Allowed:</b> Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, <u>off premise advertising signs</u> , commercial parking, retail sales and service, self-service storage, <del>vehicle repair</del> , limited vehicle service, <del>portable signs</del>
<b>Maximum Lot Coverage Allowed:</b> 55% building coverage	<b>Maximum Lot Coverage Allowed:</b> No change

**Proposal:**

The applicant is seeking a zoning change to repeal and reestablish a C-O, Conditional Overlay on Lot 4, Block 1, Bentley Place First Addition. The subject property is located at 5570 32nd Avenue South.

*Note: The request originally included both properties, but the applicant has withdrawn the request for 3240 Veterans Boulevard, which is Lot 1, Block 1, Bentley Place 2<sup>nd</sup> Addition.*

The applicant is requesting to repeal and reestablish a Conditional Overlay in order to allow off-premise advertising signs, which are currently prohibited by the existing Conditional Overlay, ordinance 4900, which was established in 2013. Ordinance 4900 replaced Ordinance 4320, which was the original Urban Plains Conditional Overlay, which was established in 2003, and also prohibited off-premise advertising. The application proposes a sign on the property, with a sign face of 300 square feet and height of 25 feet. The sign is proposed to have one digital face and one static face, facing 32<sup>nd</sup> Avenue South.

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

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

**Surrounding Land Uses and Zoning Districts:**

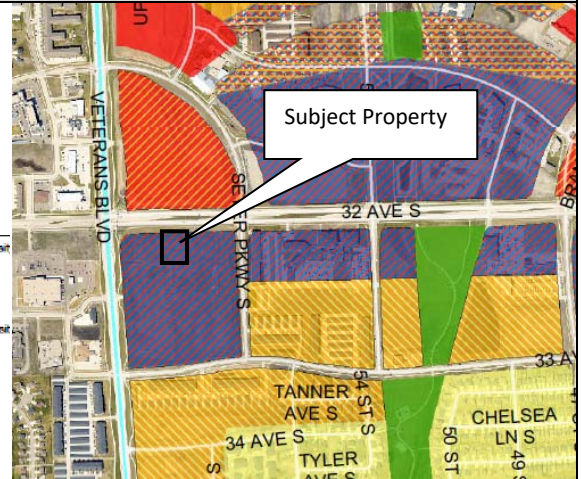
- North: Directly north and across 32<sup>nd</sup> Avenue South is LC, Limited Commercial with C-O, Conditional Overlays, with vacant property;
- East & South: LC, Limited Commercial with C-O, Conditional Overlays, with vacant property;
- West: Across Veterans Boulevard, in the City of West Fargo’s jurisdiction, is commercial development.

**Area Plans:**

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

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

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



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



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

**Context:**

**Neighborhood:** Brandt Crossing

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

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

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

**Staff Analysis:**

**Zoning**

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

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

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

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

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

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

Staff finds there the requested zoning change is not justified by a change in conditions since the previous zoning classification was established. **(Criteria NOT Satisfied)**

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

City Staff and other applicable review agencies have reviewed this proposal. No deficiencies have been noted in the ability to provide all of the necessary services to the site. The subject property abuts public right-of-way. **(Criteria Satisfied)**

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

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

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

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

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

Furthermore, the City of West Fargo is located across Veteran's Boulevard South, west of the subject property. In West Fargo, off-premise advertising is prohibited by the zoning of the property, and is not permitted outside of heavy commercial/light industrial or heavy industrial zoning districts. The existing zoning in West Fargo south of Interstate 29 in this area is not zoned for heavy commercial or industrial, and is unlikely to be rezoned in the future. Currently, no off-premise advertising is permitted in West Fargo along Veterans Boulevard, and is unlikely to be allowed in the future. Allowing off-premise advertising in this location could cause injury of property value to those located in West Fargo along Veterans Boulevard. West Fargo could also become more competitive and attractive to the type of development style that Fargo desires, if off-premise billboards were permitted in the conditional overlay zoning ordinances.

Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has received two phone calls and two written comments from representatives of properties adjacent or near the subject property. The callers stated concern for the impact the billboards could have on visibility of their property and future development. The written comments are attached to this staff report. Staff finds that the approval may adversely affect the condition or value of the property in the vicinity.  
**(Criteria NOT Satisfied)**

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

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

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

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

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

**Staff Recommendation:**

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

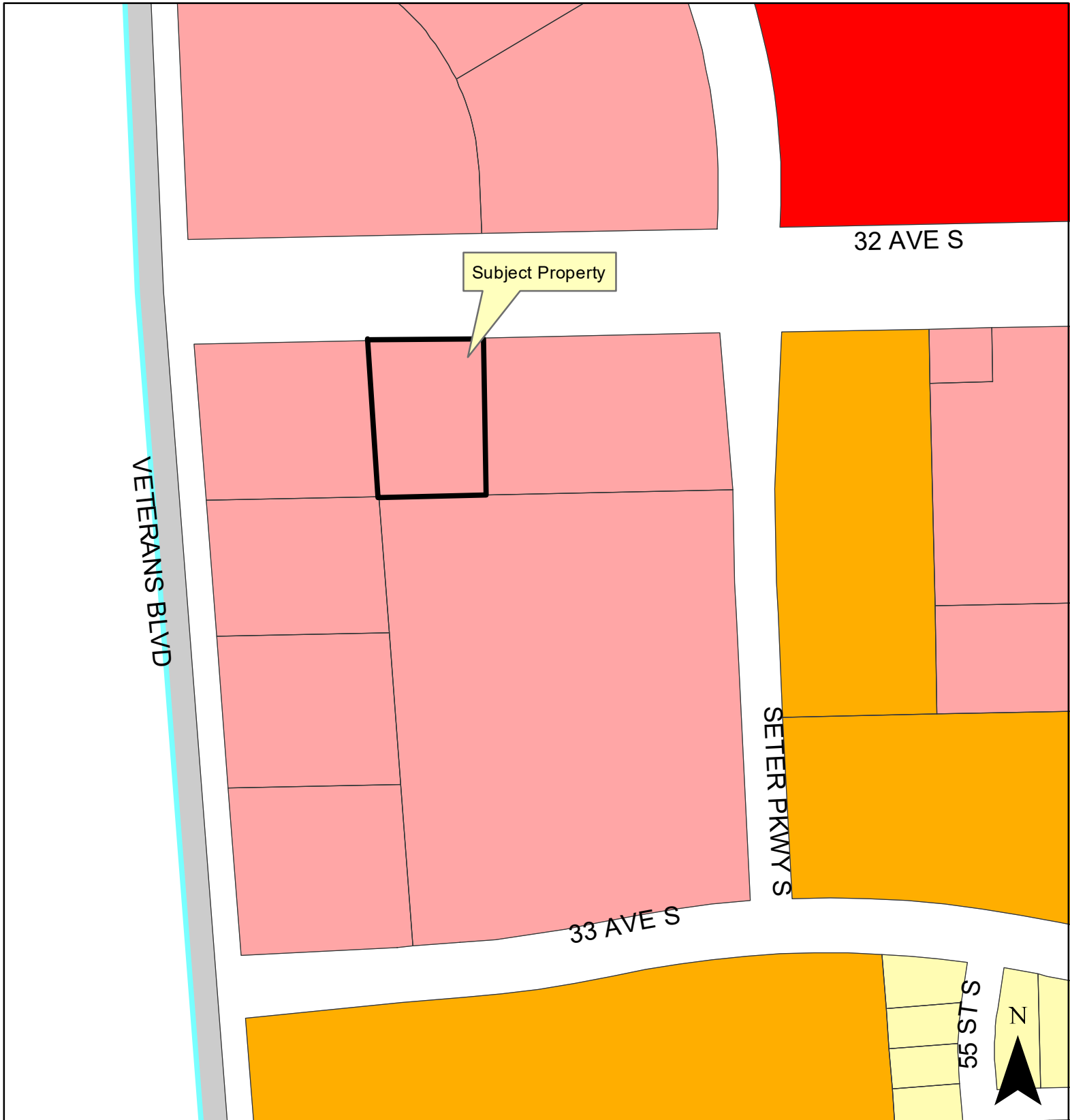
**Planning Commission Recommendation:** April 2, 2019**Attachments:**

1. Zoning Map
2. Location Map
3. Materials submitted by Applicant
4. Public Comment

# Zone Change (Repeal and Reestablish C-O)

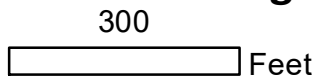
## Bentley Place 1st Addition

5570 32nd Avenue South



**Legend**

AG	DMU	LC	MHP	SR-2
GGC	GO	MR-1	NO	SR-3
GO	MR-2	MR-3	NO	SR-4
			UML	SR-5
				City Limits



**Fargo Planning Commission**  
**April 2, 2019**

# Zone Change (Repeal and Reestablish C-O)

## Bentley Place 1st Addition

5570 32nd Avenue South





# BENTLEY PLACE FIRST ADDITION

A REPLAT OF LOT 1, BLOCK 1 OF BRANDT CROSSING FIRST ADDITION  
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA  
(A MINOR SUBDIVISION)



### CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by City Engineer this 27<sup>th</sup> day of April, 2016.  
*April E. Walker*  
April E. Walker, City Engineer  
State of North Dakota }  
County of Cass }  
On this 27<sup>th</sup> day of January, 2017, before me, a notary public with and for said County, personally appeared April E. Walker, City Engineer, to me known to be the person described in and who executed the same as a free act and deed.  
*Henry Public*  
Notary Public  
My Commission Expires Oct 17, 2019

### OWNER'S DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That Brandt Crossing, LLC whose address is Fargo, North Dakota as owner of a parcel of land located in the Northwest Quarter of Section 26, Township 139 North, Range 49 West of the 7th Principal Meridian, Cass County, North Dakota, and more particularly described as follows:

Lot 1, Block 1 of BRANDT CROSSING FIRST ADDITION to the City of Fargo according to the record plat thereof on file in the office of the County Recorder, Cass County, North Dakota, Containing 1,133,562 square feet or 26,023 acres more or less.

Said owner has caused the above described tract of land to be surveyed and plotted as "BENTLEY PLACE FIRST ADDITION" to the City of Fargo, Cass County, North Dakota, and do hereby dedicate to Lots 1, 2, 3, 4, 5 and 6 the ingress/egress and utility easement as shown on this plat for the purposes so stated.

OWNER:  
Brandt Crossing, LLC  
By: *Kevin Christenson*  
Kevin Christenson, President

State of North Dakota }  
County of Cass }

On this 9<sup>th</sup> day of December, 2016, in the year of 2016, before me, a notary public with and for said County, personally appeared Kevin Christenson, President, Brandt Crossing, LLC known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as a free act and deed.  
*Wendy Lawson*  
WENDY LAWSON  
Notary Public  
State of North Dakota  
My Commission Expires May 17, 2020

MORTGAGEE:  
Commerce Bank  
By: *Jim Hambrick*  
Jim Hambrick, Vice President

State of North Dakota }  
County of Cass }

On this 9<sup>th</sup> day of December, 2016, in the year of 2016, before me, a notary public with and for said County, personally appeared Jim Hambrick, Vice President, Commerce Bank known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as a free act and deed.  
*Wendy Lawson*  
WENDY LAWSON  
Notary Public  
State of North Dakota  
My Commission Expires May 17, 2020

### SURVEYOR'S CERTIFICATE AND ACKNOWLEDGMENT

Daniel W. Shapiro, Professional Land Surveyor  
North Dakota License No. 15-6206  
State of North Dakota }  
County of Cass }

On this 8 day of DECEMBER, 2016, before me, a notary public with and for said County, personally appeared Daniel W. Shapiro, to me known to be the person described in and who executed the same as a free act and deed.  
*Jeff Zeisinger*  
JEFF ZEISINGER  
Notary Public  
State of North Dakota  
My Commission Expires May 20, 2022

REGISTERED LAND SURVEYOR  
L.S. 69  
12-08-16  
NORTH DAKOTA

AUDITOR'S OFFICE  
COUNTY OF CASS, NORTH DAKOTA  
2/23/2017  
Taxes and Special Assessments paid and transfer entered.  
*Albert Gibson*  
ALBERT GIBSON  
AUDITOR  
DEPUTY

1503605  
Page: 1 of 1  
2/23/2017 9:26 AM  
PLAT 120.00

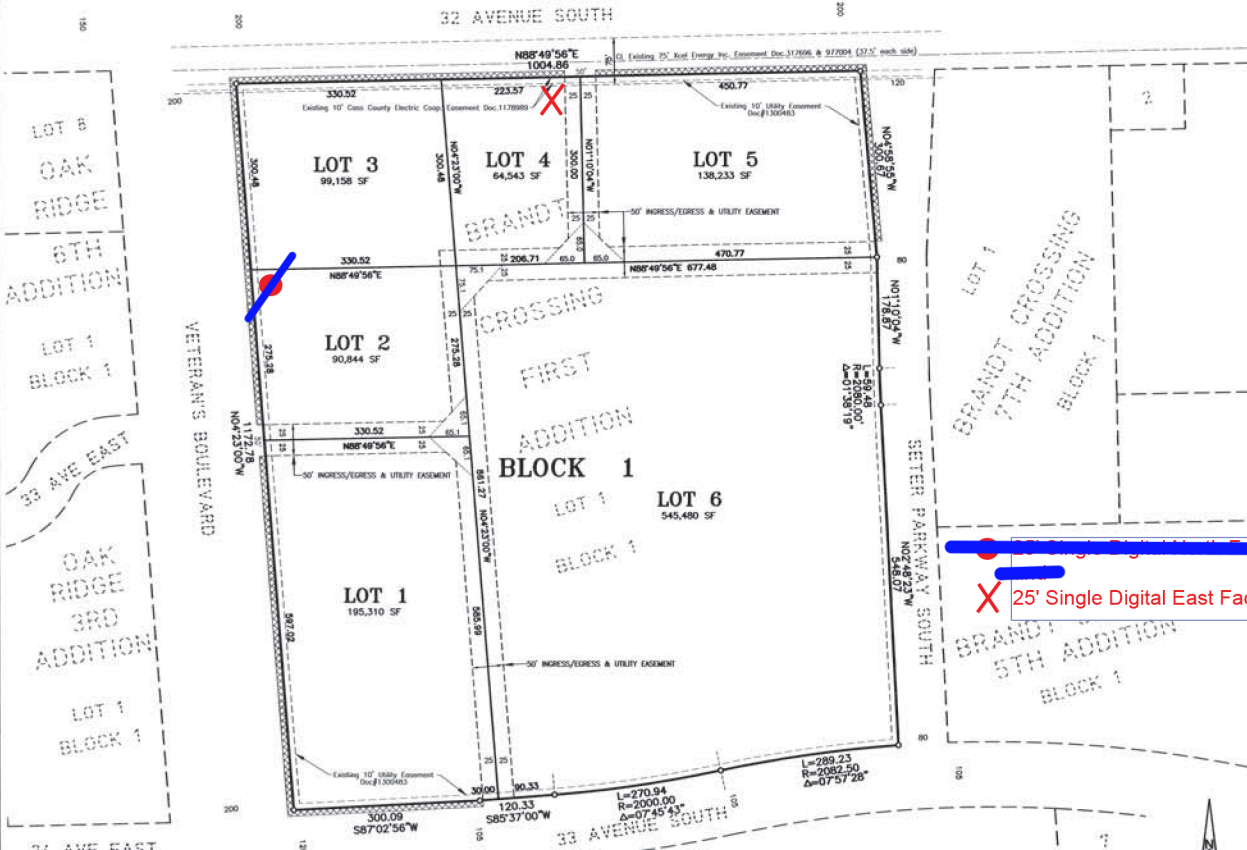
RECORDS OFFICE, CASS COUNTY, ND  
VERIFY THAT THIS INSTRUMENT HAS BEEN FILED FOR RECORDS IN THIS STATE AND A SURETY COUNTY RECORDS  
*Jessica A. Kelly*  
JESSICA A. KELLY, DEP-1503605  
Recorded Electronically



SOUTH POND AT THE PRESERVE 6TH ADD. BLOCK 1 LOT 3

URBAN PLAINS BY BRANDT 1ST ADDITION  
LOT 4 BLOCK 5 LOT 3

URBAN PLAINS CENTER  
LOT 1 BLOCK 4 ADDITION



X 25' Single Digital East Facing 10' x 30', Static West Facing

PREPARED BY  
**Ulteig**  
WOOD  
6TH

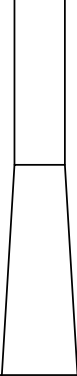
BlueStem Dr

32nd Ave E

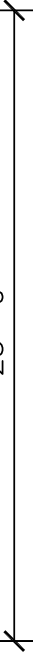
32nd Ave S

Veterans Blvd





25'-0"





Veterans Blvd

STATION ROAD



204 W. Thayer Ave.  
Bismarck, ND 58501  
701.255.0042 1.800.735.6922  
fax 701.255.0000  
capcu.org

March 26, 2019

Fargo Planning & Development  
Attn: Maegin Elshaug  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

Dear Maegin,

We received the letter requesting the conditional overlay on Lot 4, Block 1, Bentley Place First Addition and Lot 1, Block 1, Bentley Place Second Addition also known as 5570 32<sup>nd</sup> Avenue South and 3240 Veterans Boulevard.

Capital Credit Union owns the corner lot located at Lot 3, Block 1, Bentley Place First Addition also known as 3216 Veterans Boulevard. This lot is located immediately between the lots requesting the change in conditional overlay.

Capital Credit Union is opposed to the change in conditional overlay. We are making a substantial investment in the land and building and the large off premise billboards will detract from our location. Our lot was purchased in large part for the great visibility and the digital billboards will inhibit the view from both the South and the East. Currently there are limited obstructions to our lot. Our understanding, when we purchased the lot, was that this type of signage was restricted from the area.

We are opposed to billboards being allowed in Bentley Place First Addition as it will detract from the aesthetics of the area and potentially have a negative effect on property values. We respectfully request this zoning change be denied.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vance Reinbold", is written over a light blue rectangular background.

Vance Reinbold  
President/CEO

## Maegin Elshaug

---

**From:** Jon Youness <jyouness@eagleridgecompanies.com>  
**Sent:** Wednesday, March 27, 2019 12:43 PM  
**To:** Maegin Elshaug  
**Cc:** Jim Bullis  
**Subject:** Bentley Place Proposed Zoning Change

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

Maegin,

We own 3260 & 3280 Veterans Boulevard, which are within the Bentley Place First Addition Plat (Lot 1). Our new office building (3280) can be seen in the South looking photo of Veteran's Boulevard, which I believe the applicant provided. Designs are underway for our second office building, which will be located immediately north of the first.

EagleRidge has invested a significant amount of time, money and effort to create a class A office building along Veterans. The proposed billboards would, I think, be detrimental to the overall aesthetics of our project and the Veteran's Corridor as a whole. EagleRidge has developed a number of properties (the Cedars Apartment community just South of our office project and the Shadow Crest Townhomes) along Veteran's Blvd relying upon the City to maintain the aesthetic character of this major corridor through its current restrictive overlay. The requested use is a significant departure from what was described by the developer when we purchased this land.

In short, we object to the requested Zoning Change.

Please let me know if you need any additional information from me. Thanks.

Jon

Jonathan Youness, PE  
Director of Development  
Eagle Ridge Development  
4631 40<sup>th</sup> Avenue South, Ste 150  
Fargo, ND 58104  
(c) 701-306-0799  
(f) 701-281-8007  
(e) [jyouness@eagleridgecompanies.com](mailto:jyouness@eagleridgecompanies.com)

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	<b>Timber Parkway Third Addition</b>	<b>Date:</b>	3/28/2019
<b>Location:</b>	4801 and 5081 Timber Parkway South	<b>Staff Contact:</b>	Maegin Elshaug
<b>Legal Description:</b>	Lots 3-4, Block 1, <b>Timber Parkway Third Addition</b>		
<b>Owner(s)/Applicant:</b>	PLC Investments, LLC/Mike Dragosavich	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (to repeal and reestablish a C-O, Conditional Overlay on Lots 3-4, Block 1, <b>Timber Parkway Third Addition</b> )		
<b>Status:</b>	Planning Commission Public Hearing: April 2, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Vacant	<b>Land Use:</b> Commercial
<b>Zoning:</b> GC, Limited Commercial, with C-O, Conditional Overlay, ordinances 4908 and 5130	<b>Zoning:</b> GC, Limited Commercial, with C-O, Conditional Overlay
<b>Uses Allowed:</b> General Commercial allows colleges, community service, daycare centers of unlimited size, <del>detention facilities</del> , health care facilities, parks and open space, religious institutions, safety services, <del>adult entertainment centers</del> , offices, <del>off-premise advertising and digital billboards</del> , commercial parking, outdoor recreation and entertainment, retail sales and service, <del>self storage</del> , <del>vehicle repair</del> , limited vehicle service, <del>aviation</del> , <del>surface transportation</del> , and major entertainment events.	<b>Uses Allowed:</b> General Commercial allows colleges, community service, daycare centers of unlimited size, <del>detention facilities</del> , health care facilities, parks and open space, religious institutions, safety services, <del>adult entertainment centers</del> , offices, <u>off-premise advertising and digital billboards</u> , commercial parking, outdoor recreation and entertainment, retail sales and service, <del>self storage</del> , <del>vehicle repair</del> , limited vehicle service, <del>aviation</del> , <del>surface transportation</del> , and major entertainment events.
<b>Maximum Lot Coverage Allowed:</b> 85% building coverage	<b>Maximum Lot Coverage Allowed:</b> No change

<b>Proposal:</b>
<p>The applicant is seeking a zoning change to repeal and reestablish a C-O, Conditional Overlay on Lots 3-4, Block 1, Timber Parkway Third Addition. The subject property is located at 4801 and 5081 Timber Parkway South.</p> <p>The applicant is requesting to repeal and reestablish a C-O in order to allow off-premise advertising signs, which are currently prohibited by the existing Conditional Overlay, ordinances 4908 and 5130, which were established in 2014 and 2018, respectively. Ordinance 4908 was the original Conditional Overlay on the property as part of the Timber Creek development, which prohibits off-premise advertising and digital billboards. Ordinance 5130, which repealed and reestablished the Conditional Overlay on 5081 Timber Parkway South, also prohibits off-premise advertising and digital billboards. The application proposes one sign on the property, with a sign face of 300 square feet and height of 40 feet. The sign would have two digital sign faces, facing north and south, adjacent to Interstate 29.</p> <p>The applicant is proposing one billboard at this time, adjacent to Interstate 29. However, if spacing requirements of off-premise advertising allow, additional billboards may be located along 52<sup>nd</sup> Avenue South on these properties.</p> <p>Note that if approved, the proposed signs will be reviewed against requirements of the sign code for compliance at the time a permit application is received.</p>

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

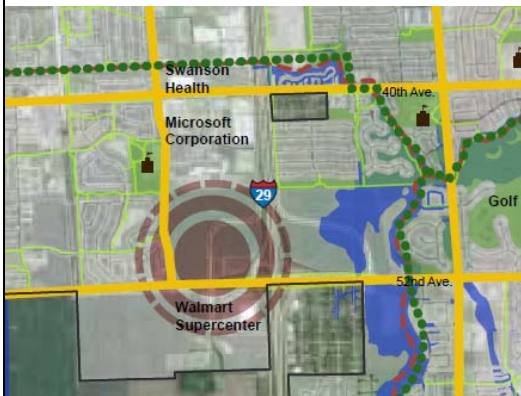
**Surrounding Land Uses and Zoning Districts:**

- North: Directly north and across from Timber Parkway South is MR-3, Multi-Dwelling Residential, SR-2, Single-Dwelling Residential, SR-4, Single-Dwelling Residential, and P/I, Public and Institutional with uses of multi-dwelling residential, attached and detached residential, and a park;
- East: GC, General Commercial with a C-O, Conditional Overlay with commercial use and vacant land;
- South: Across 52<sup>nd</sup> Avenue South is the City of Frontier;
- West: Interstate 29.

**Area Plans:**

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

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



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

**Context:**

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

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

**Parks:** Located across Timber Parkway South is Timber Creek Park (3300 47 Avenue South), with trails, playground, basketball and a shelter.

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

**Staff Analysis:**

**Zoning**

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning**



**classification was established or by an error in the zoning map?**

Staff is unaware of any zoning map error in regard to the subject properties. The applicant proposes the zoning amendment to repeal and reestablish the Conditional Overlay in order to allow off-premise advertising to construct a 300 square foot billboard with two digital faces. Staff finds that the requested zone change is not justified by a change in conditions since the previous zoning classification was established. The original zoning of the property in 2014 via the Conditional Overlay, ordinance 4908 prohibited off-premise advertising on the property and established the intent of the development.

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

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

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

Staff finds there the requested zoning change is not justified by a change in conditions since the previous zoning classification was established. **(Criteria NOT Satisfied)**

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

City Staff and other applicable review agencies have reviewed this proposal. No deficiencies have been noted in the ability to provide all of the necessary services to the site. The subject property abuts public right-of-way. **(Criteria Satisfied)**

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

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

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

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

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

remove encouragement to develop in accordance with the principles of walkable mixed-use centers.

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

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

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

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

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

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

**Staff Recommendation:**

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

**Planning Commission Recommendation: April 2, 2019**

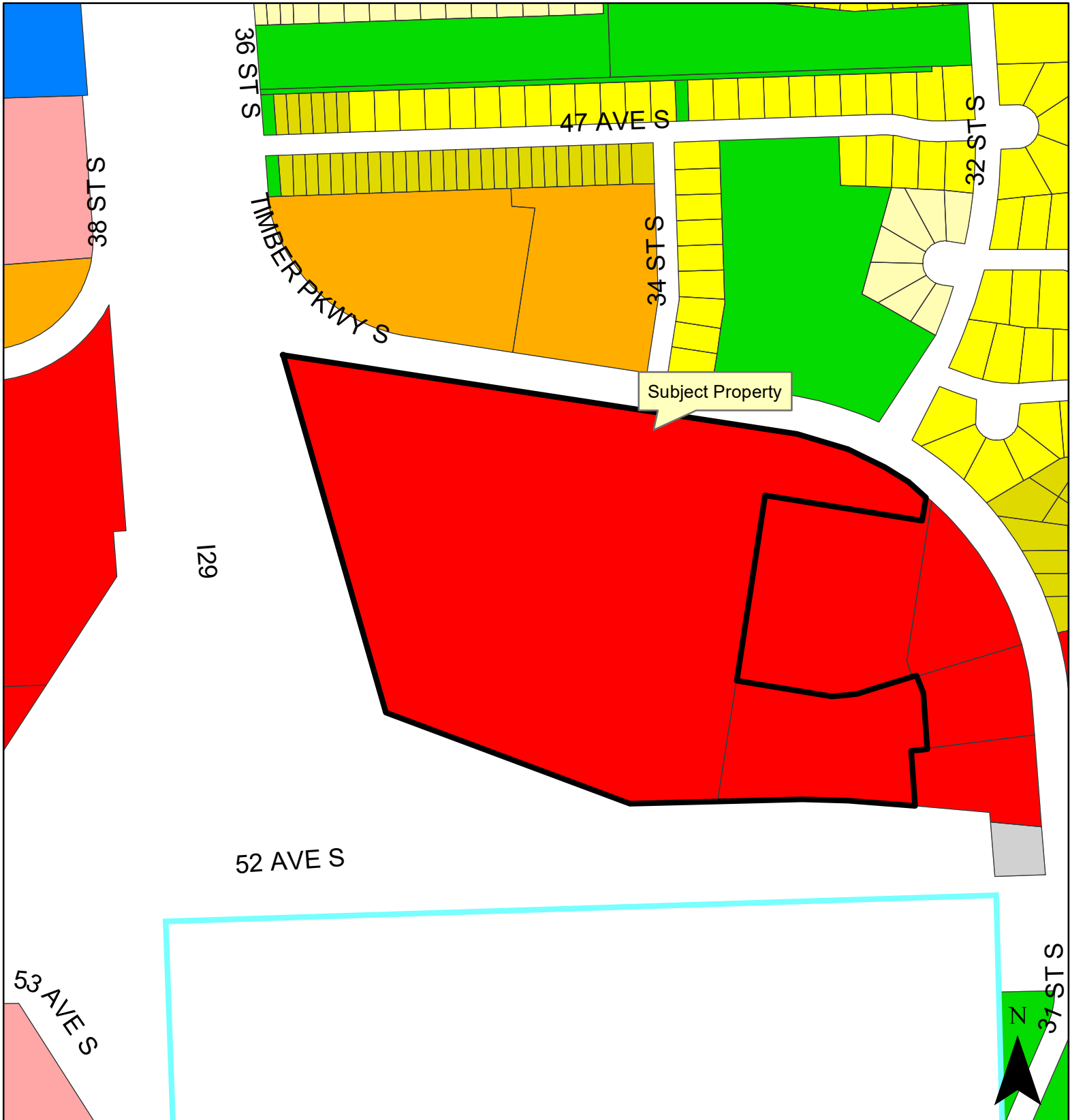
**Attachments:**

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

# Zone Change (Repeal and Reestablish C-O)

## Timber Parkway 3rd Addition

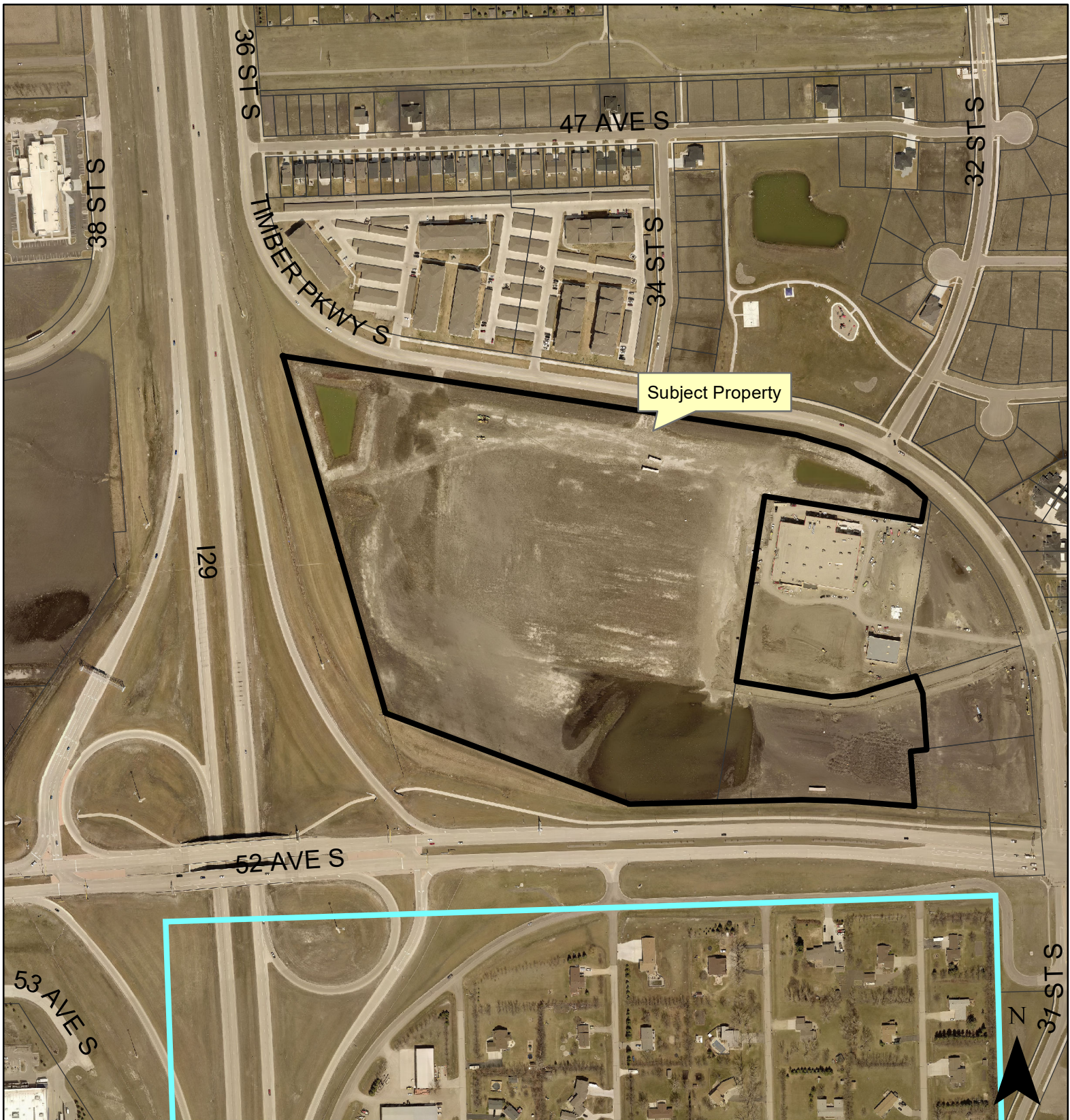
5081 & 4801 Timber Parkway South



# Zone Change (Repeal and Reestablish C-O)

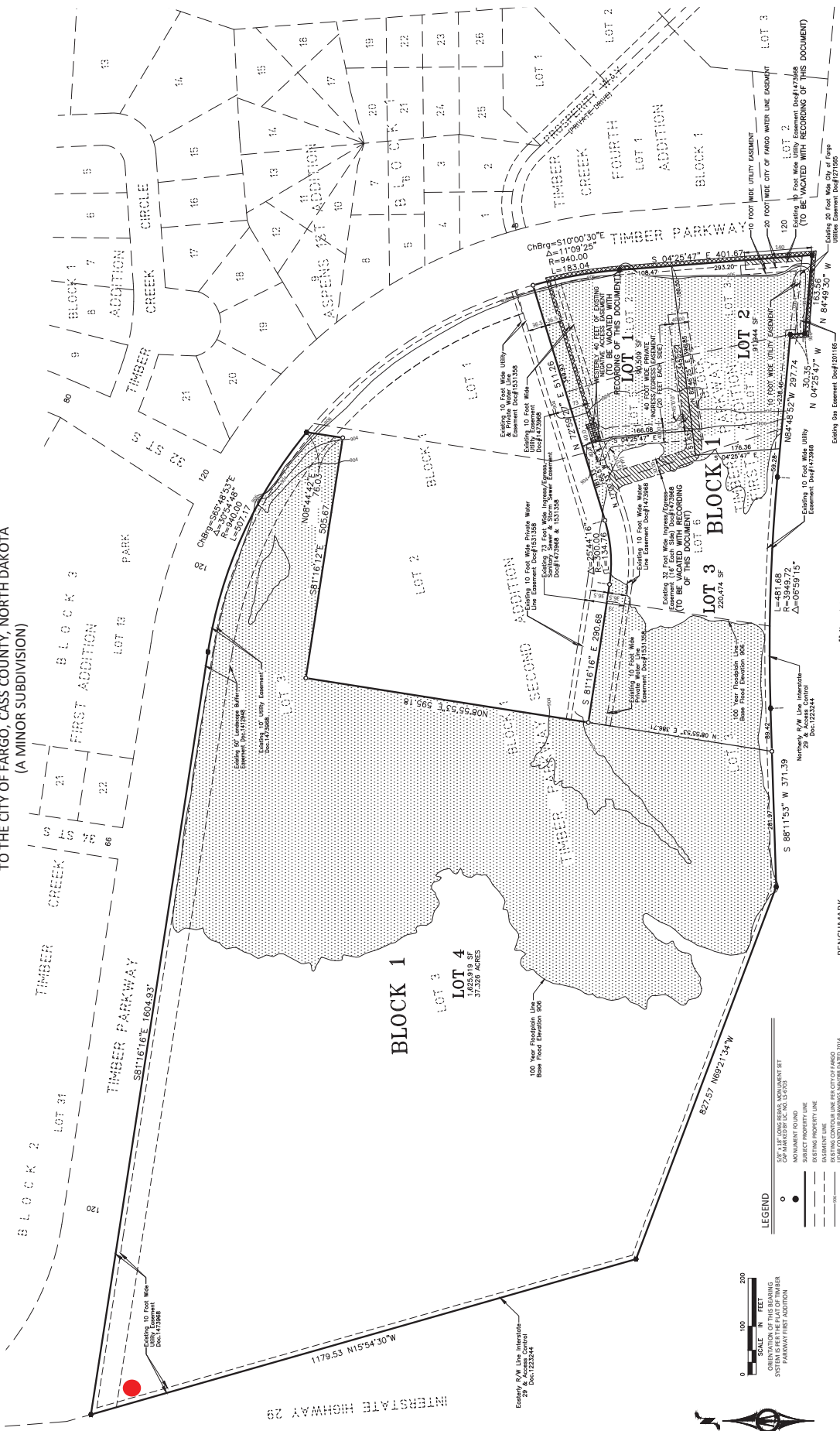
## Timber Parkway 3rd Addition

5081 & 4801 Timber Parkway South



# TIMBER PARKWAY THIRD ADDITION

A REPLAT OF PART OF LOT 3, BLOCK 1 OF TIMBER PARKWAY SECOND ADDITION AND LOTS 2, 3, 4, 5 & 6, BLOCK 1 OF TIMBER PARKWAY FIRST ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA (A MINOR SUBDIVISION)



- LEGEND**
- 5/8" x 1/8" CONCRETE MONUMENT SET
  - 1/2" x 1/4" CONCRETE MONUMENT SET
  - GRASS
  - EXISTING PROPERTY LINE
  - EASEMENT LINE
  - EXISTING UTILITY LINE
  - EXISTING NEGATIVE ACCESS EASEMENT PER DOCF#173968
  - EXISTING POSITIVE ACCESS EASEMENT PER DOCF#173968
  - EXISTING NEGATIVE ACCESS EASEMENT PER DOCF#173968
  - EXISTING POSITIVE ACCESS EASEMENT PER DOCF#173968
  - TO BE VACATED WITH RECORDING OF THIS DOCUMENT

SCALE IN FEET  
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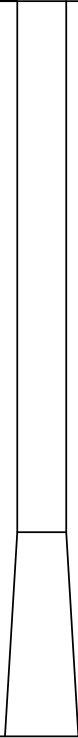
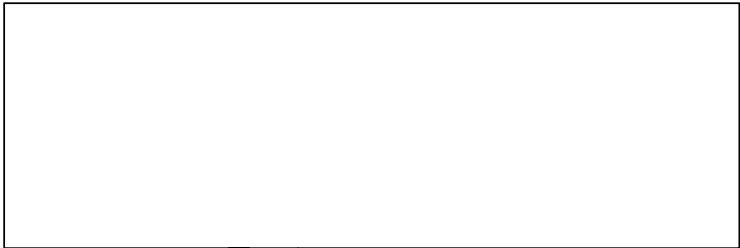


40' Height - Double Side Digital - 10' x 30'



129 Frontage Rd

29



40'-0"





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Attraction Packages  
25% Savings



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

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Commercial	<b>Land Use:</b> No change
<b>Zoning:</b> GC, Limited Commercial, with C-O, Conditional Overlay, ordinances 4908	<b>Zoning:</b> GC, Limited Commercial, with C-O, Conditional Overlay
<b>Uses Allowed:</b> General Commercial allows colleges, community service, daycare centers of unlimited size, <del>detention facilities</del> , health care facilities, parks and open space, religious institutions, safety services, <del>adult entertainment centers</del> , offices, <del>off-premise advertising and digital billboards</del> , commercial parking, outdoor recreation and entertainment, retail sales and service, <del>self storage</del> , <del>vehicle repair</del> , limited vehicle service, <del>aviation</del> , <del>surface transportation</del> , and major entertainment events.	<b>Uses Allowed:</b> General Commercial allows colleges, community service, daycare centers of unlimited size, <del>detention facilities</del> , health care facilities, parks and open space, religious institutions, safety services, <del>adult entertainment centers</del> , offices, <u>off-premise advertising and digital billboards</u> , commercial parking, outdoor recreation and entertainment, retail sales and service, <del>self storage</del> , <del>vehicle repair</del> , limited vehicle service, <del>aviation</del> , <del>surface transportation</del> , and major entertainment events.
<b>Maximum Lot Coverage Allowed:</b> 85% building coverage	<b>Maximum Lot Coverage Allowed:</b> No change

**Proposal:**

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

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

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

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

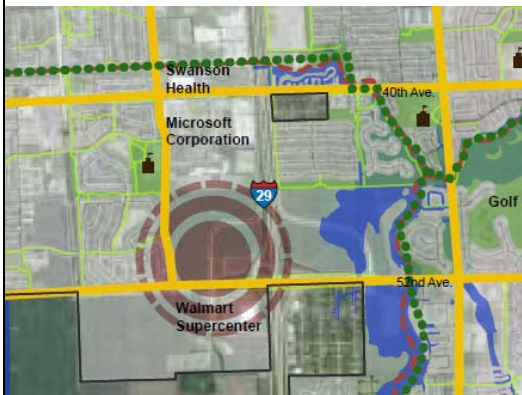
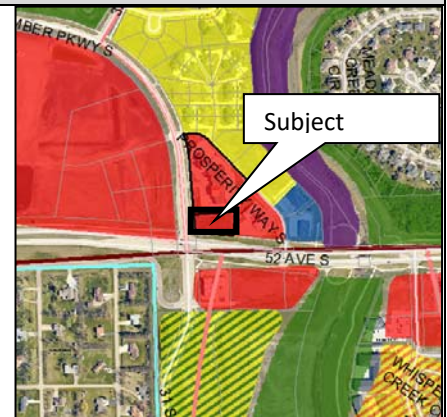
**Surrounding Land Uses and Zoning Districts:**

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

**Area Plans:**

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

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



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

**Context:**

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

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

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

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

**Staff Analysis:**

**Zoning**

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

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

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

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

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

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

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

Staff finds there the requested zoning change is not justified by a change in conditions since the previous zoning classification was established. **(Criteria NOT Satisfied)**

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

City Staff and other applicable review agencies have reviewed this proposal. No deficiencies have been noted in the ability to provide all of the necessary services to the site. The subject property abuts public right-of-way. **(Criteria Satisfied)**

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

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

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

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

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

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

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

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

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

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

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

**Staff Recommendation:**

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

**Planning Commission Recommendation:** April 2, 2019

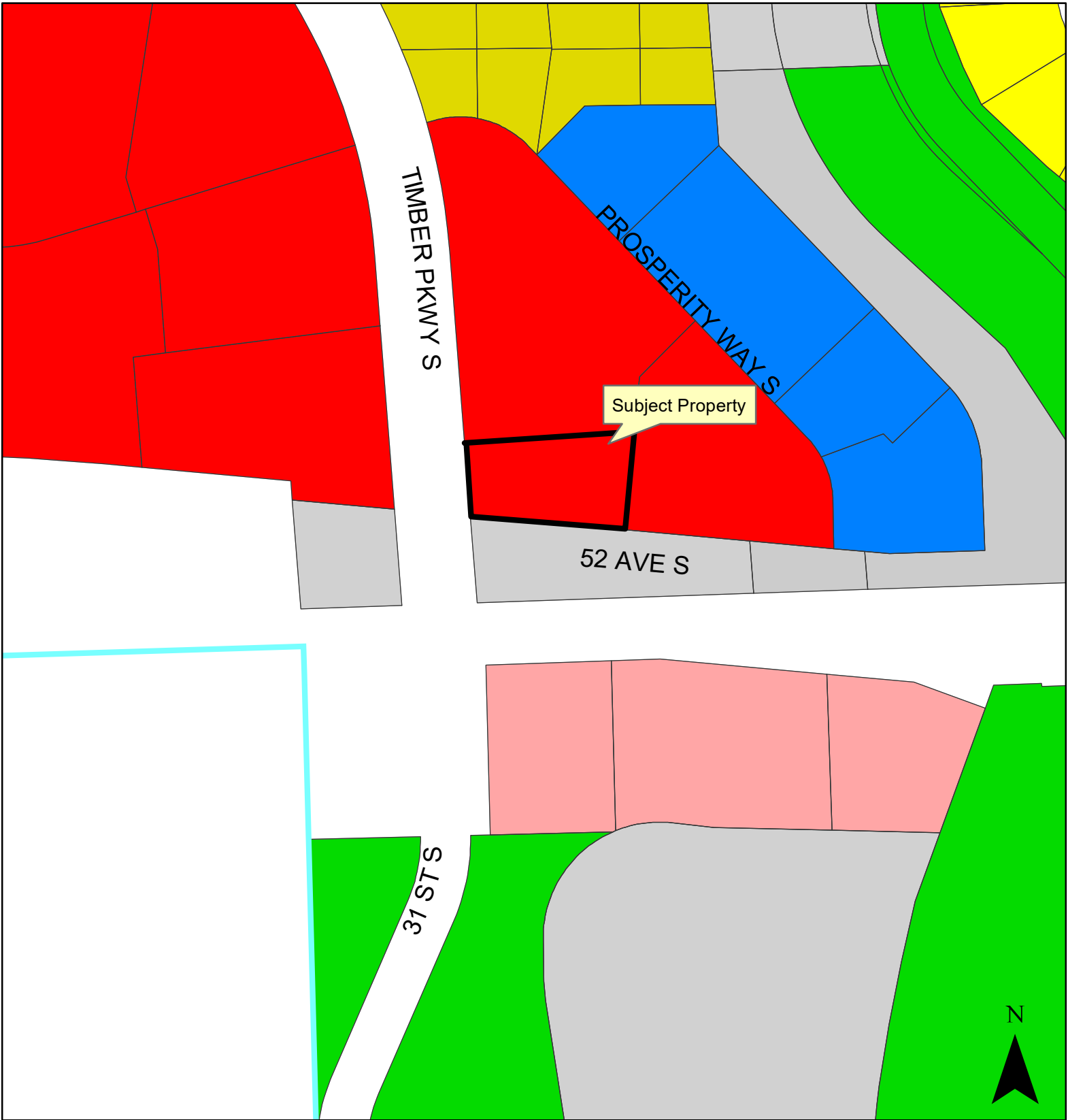
**Attachments:**

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

# Zone Change (Repeal and Reestablish C-O)

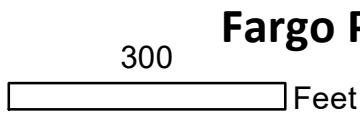
## Timber Creek 8th Addition

5131 Prosperity Way South



**Legend**

AG	LC	MHP	SRR-2
DMU	MR-1	NOC	SRR-3
GC	MR-2	P/T	SRR-4
GI	MR-3	UML	SRR-5
GO			City Limits



Fargo Planning Commission

April 2, 2019



# Zone Change (Repeal and Reestablish C-O)

## Timber Creek 8th Addition

5131 Prosperity Way South



# TIMBER CREEK EIGHTH ADDITION

A REPLAT OF LOTS 1 & 2 BLOCK 1 OF TIMBER CREEK FOURTH ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA (A MINOR SUBDIVISION)

**CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL**  
 Approved by City Engineer this \_\_\_\_\_ day of \_\_\_\_\_  
 Mark H. Bitner, City Engineer  
 State of North Dakota }  
 County of Cass }  
 On this \_\_\_\_\_ day of \_\_\_\_\_, 2017, before me, a Notary Public with and for said County, personally appeared \_\_\_\_\_, the person described in and who executed the same as a free act and deed.

**OWNERS DESCRIPTION AND DEDICATION**  
 KNOW ALL MEN BY THESE PRESENTS, That TIMBER CREEK RETAIL CENTER LLC whose address is Fargo, North Dakota, as owner of a parcel of land located in the Southeast Quarter of Section 35, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, and more particularly described as follows:  
 Lot 1, Block 1 of TIMBER CREEK FOURTH ADDITION to the City of Fargo according to the plat thereon on file in the office of the County Recorder, Cass County, North Dakota.  
 AND THAT MIDWEST RESTAURANT HOLDINGS, LLC, whose address is Fargo, North Dakota, as owner of a parcel of land located in the Southeast Quarter of Section 35, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, and more particularly described as follows:  
 Lot 1, Block 1 of TIMBER CREEK FOURTH ADDITION to the City of Fargo according to the plat thereon on file in the office of the County Recorder, Cass County, North Dakota.  
 Containing 170,802 square feet or 3.92 acres, more or less.

Said owner(s) has caused the above described parcel of land to be surveyed and plotted as shown on this plat, and has caused the same to be recorded in the office of the County Recorder, Cass County, North Dakota, for the purpose as stated, except those easements as shown hereon as "Existing".  
 OWNER: LOT 1  
 TIMBER CREEK RETAIL CENTER, LLC  
 By: Kevin Christianson, President  
 State of North Dakota }  
 County of Cass }

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of \_\_\_\_\_, before me, a Notary Public with and for said County, personally appeared \_\_\_\_\_, the person described in and who executed the same as a free act and deed.  
 OWNER: LOT 2  
 MIDWEST RESTAURANT HOLDINGS, LLC  
 By: \_\_\_\_\_, Title: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 State of North Dakota }  
 County of Cass }

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of \_\_\_\_\_, before me, a Notary Public with and for said County, personally appeared \_\_\_\_\_, the person described in and who executed the same as a free act and deed.  
 Notary Public  
 \_\_\_\_\_  
 State of North Dakota }  
 County of Cass }

**FARGO CITY COMMISSION APPROVAL**  
 Approved by the Board of City Commissioners and ordered filed this \_\_\_\_\_ day of \_\_\_\_\_  
 Timothy J. Mahoney, Mayor  
 Alesha \_\_\_\_\_, Stevens Soraque, City Auditor  
 State of North Dakota }  
 County of Cass }

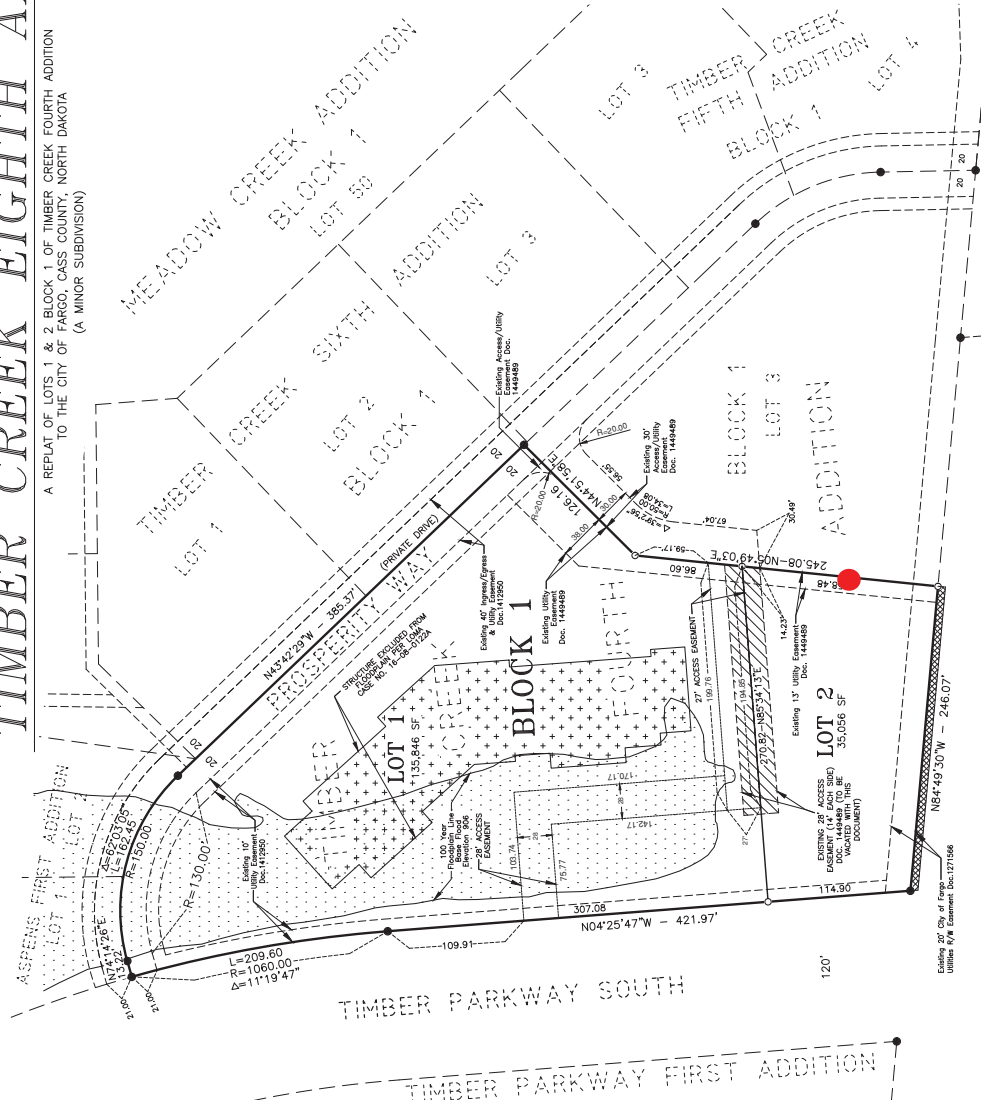
On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of \_\_\_\_\_, before me, a Notary Public with and for said County, personally appeared \_\_\_\_\_, the person described in and who executed the same as a free act and deed.  
 Notary Public  
 \_\_\_\_\_  
 State of North Dakota }  
 County of Cass }

**FARGO CITY COMMISSION APPROVAL**  
 Approved by the Board of City Commissioners and ordered filed this \_\_\_\_\_ day of \_\_\_\_\_  
 Timothy J. Mahoney, Mayor  
 Alesha \_\_\_\_\_, Stevens Soraque, City Auditor  
 State of North Dakota }  
 County of Cass }

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of \_\_\_\_\_, before me, a Notary Public with and for said County, personally appeared \_\_\_\_\_, the person described in and who executed the same as a free act and deed.  
 Notary Public  
 \_\_\_\_\_  
 State of North Dakota }  
 County of Cass }

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of \_\_\_\_\_, before me, a Notary Public with and for said County, personally appeared \_\_\_\_\_, the person described in and who executed the same as a free act and deed.  
 Notary Public  
 \_\_\_\_\_  
 State of North Dakota }  
 County of Cass }

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of \_\_\_\_\_, before me, a Notary Public with and for said County, personally appeared \_\_\_\_\_, the person described in and who executed the same as a free act and deed.  
 Notary Public  
 \_\_\_\_\_  
 State of North Dakota }  
 County of Cass }



**MONUMENT SET, 5/8" IRON, CAPED "S-10497"**  
 EXISTING PROPERTY LINE  
 EXISTING EASEMENT LINE  
 EXISTING NEGATIVE ACCESS EASEMENT

**BENCHMARK**  
 City of Fargo section 24,029  
 corner of the north 24' corner of  
 Section 24,029, T139N, R49W, S1/4  
 Section 24,029, T139N, R49W, S1/4

**LEGEND**  
 MONUMENT SET, 5/8" IRON, CAPED "S-10497"  
 EXISTING PROPERTY LINE  
 EXISTING EASEMENT LINE  
 EXISTING NEGATIVE ACCESS EASEMENT

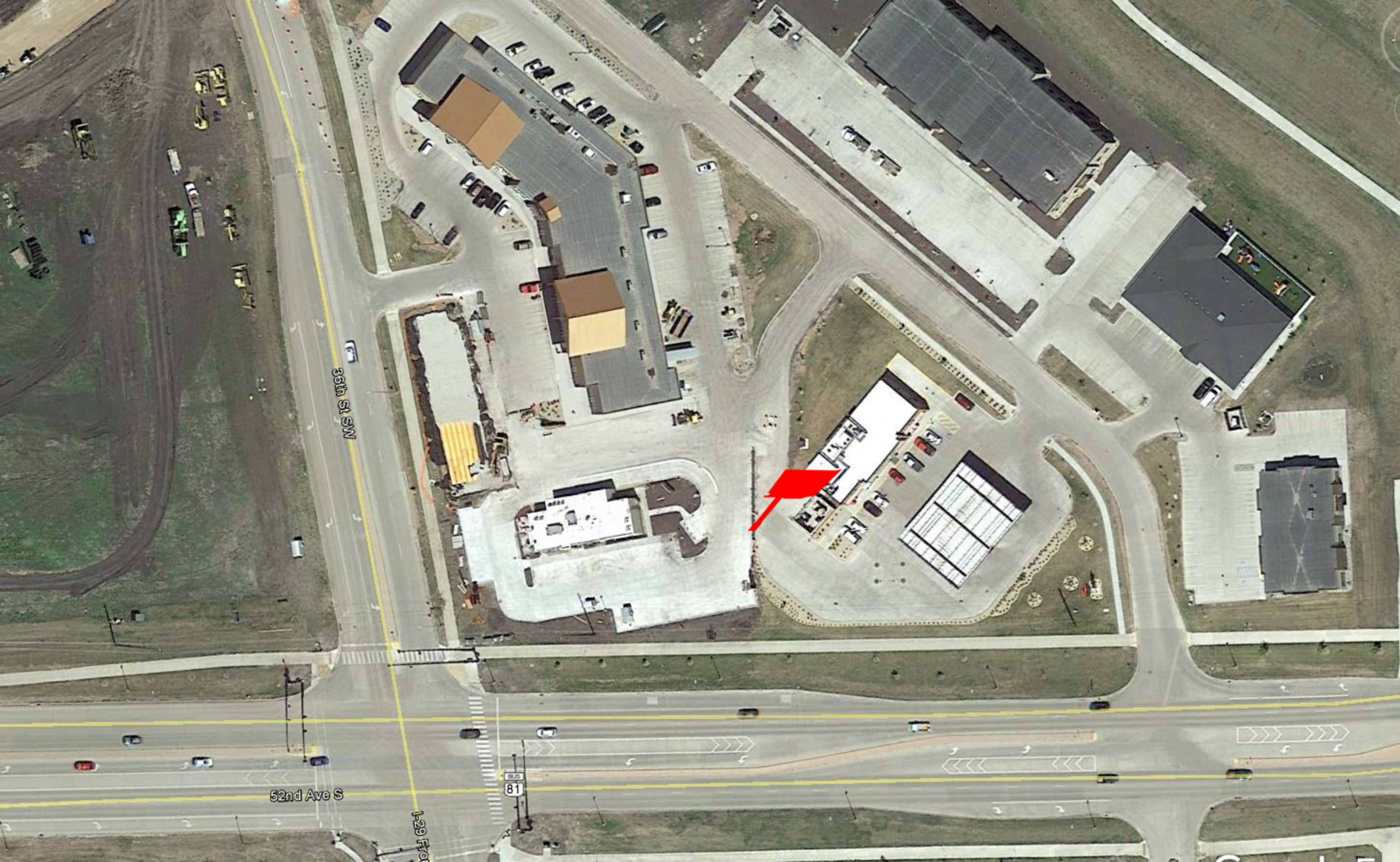
**SURVEYOR'S CERTIFICATE AND ACKNOWLEDGMENT**  
 I, Christopher Blom Sexton, Registered Professional Land Surveyor, make the true and correct representation of the survey of said addition; that all guidance of future surveys have been located or placed in the ground as shown.

Christopher Blom Sexton, Professional Land Surveyor  
 North Dakota License No. 15-10497  
 State of North Dakota }  
 County of Cass }

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of \_\_\_\_\_, before me, a Notary Public with and for said County, personally appeared \_\_\_\_\_, the person described in and who executed the same as a free act and deed.  
 Notary Public  
 \_\_\_\_\_  
 State of North Dakota }  
 County of Cass }

**PREPARED BY**  
 URS  
 4000 BROADWAY, DETROIT, MI 48226-1600  
 PHONE: 313.487.4000

35' Height - Double Side Digital - 10' x 30'



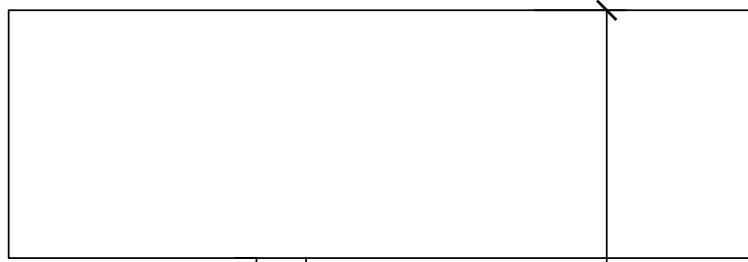
36th St SW

52nd Ave S

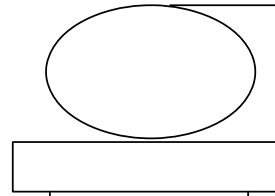
1-29 Fro

81





35'-0"



24'-0 1/4"



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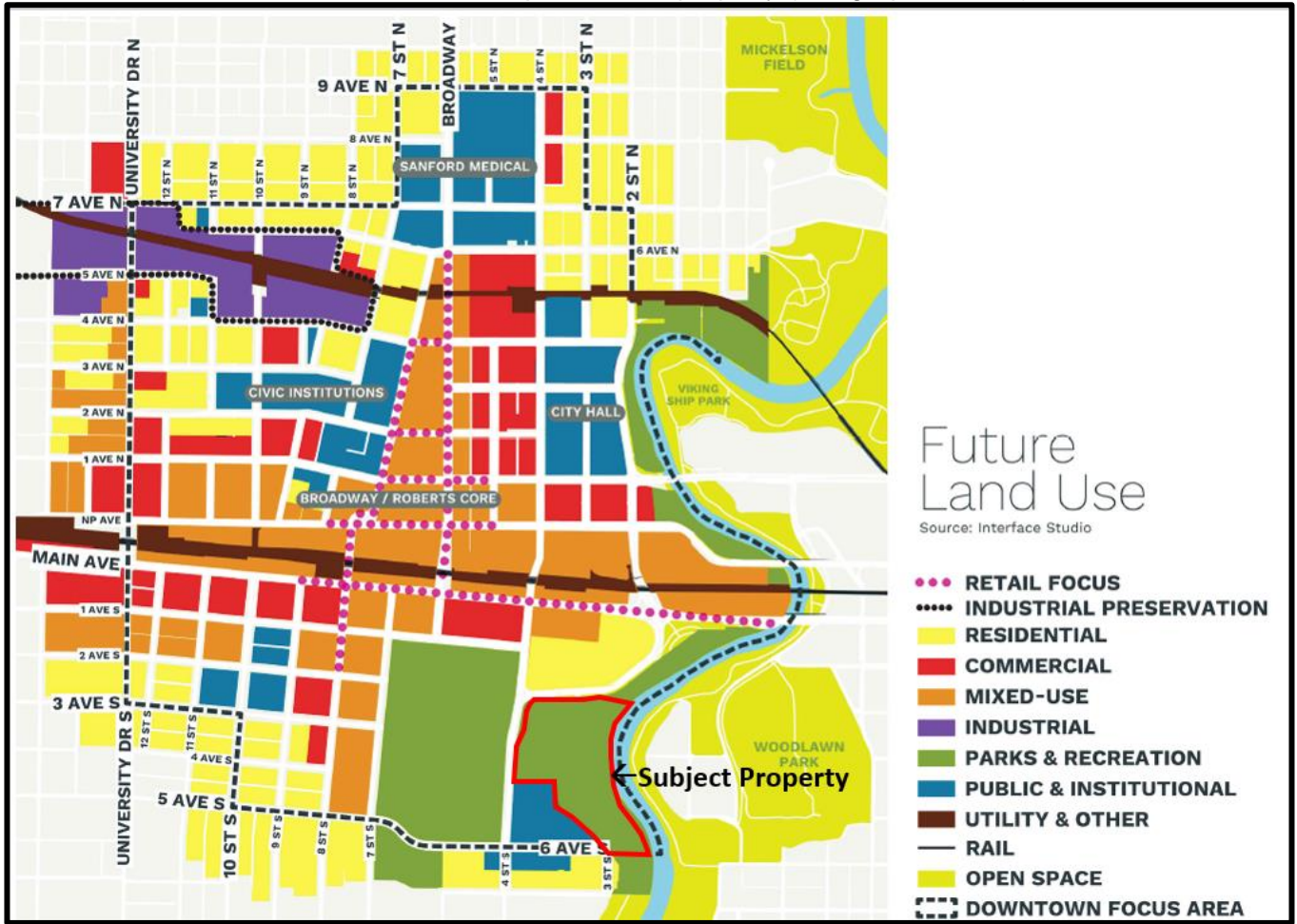
<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Fred C. Hagen Addition	<b>Date: Updated:</b>	3/28/2019
<b>Location:</b>	200, 310, and 430 4 <sup>th</sup> Street South	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description</b>	Fred C. Hagen Addition and portion of the unplatted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

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Park/Open Space, flood protection levee	<b>Land Use:</b> No change
<b>Zoning:</b> SR-2, Single Dwelling Residential	<b>Zoning:</b> P/I, Public/Institutional
<b>Uses Allowed:</b> SR-2 – detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities’ AG-- detached houses, parks and open space, safety services, basic utilities, and crop production.	<b>Uses Allowed:</b> P/I-- <del>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.</del> <b>The Conditional Overlay would restrict land uses in the P/I zone as shown above</b>
<b>Maximum Density</b> SR-2 allows 5.7 dwelling units per acre; A allows 0.1 dwelling units per acre	<b>Maximum Lot Coverage</b> None

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

**Area Plans:**

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



**Context:**

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

**Neighborhood:** The subject property is located within Downtown neighborhood.

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

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

**Staff Analysis:**

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

**Zoning**

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The six properties involved in this zone change are owned by the Fargo Park District or City of Fargo. Three of the properties are zoned SR-2, Single Dwelling Residential and three of the properties are identified as “zoning unknown,” which the LDC indicates is to be treated as AG, Agricultural zoning. However, due to their location in relation to the Red River and the flood protection levee, they could not be developed with residences. The appropriate zoning for these government-owned properties that can only be used for parks, open space, flood protection (safety services), parking, and outdoor recreation is Public/Institutional, with a conditional overlay to restrict the uses in the P/I zoning to the ones stated. These uses are effectively the ones that are in place on these properties at this time. **(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site for the limited uses for which this site can be developed. **(Criteria satisfied)**

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

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

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

The LDC states “This Land Development Code is intended to implement Fargo’s Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo.” This rezone follows the Permanent Flood Risk Reduction initiative of GO2030 by rezoning an area that is not appropriate for residential development to a more practical zoning designation. The subject property is included in the Downtown In Focus master plan. Rezoning of the subject property from SR-2 and AG to P/I is consistent with and reinforces the “parks and recreation” land use designation of the Downtown In Focus future land use plan for this property. Staff finds this proposal is consistent with the purpose of the LDC, the applicable comprehensive plan, and other adopted policies of the City. **(Criteria satisfied)**

**Staff Recommendation:**

Suggested Motion: “To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed zone change from SR-2, Single Dwelling Residential and AG, Agricultural to P/I, Public / Institutional with a C-O, conditional overlay to restrict land uses as presented, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Downtown In Focus master plan, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC.”

**Planning Commission Recommendation:** April 2, 2019

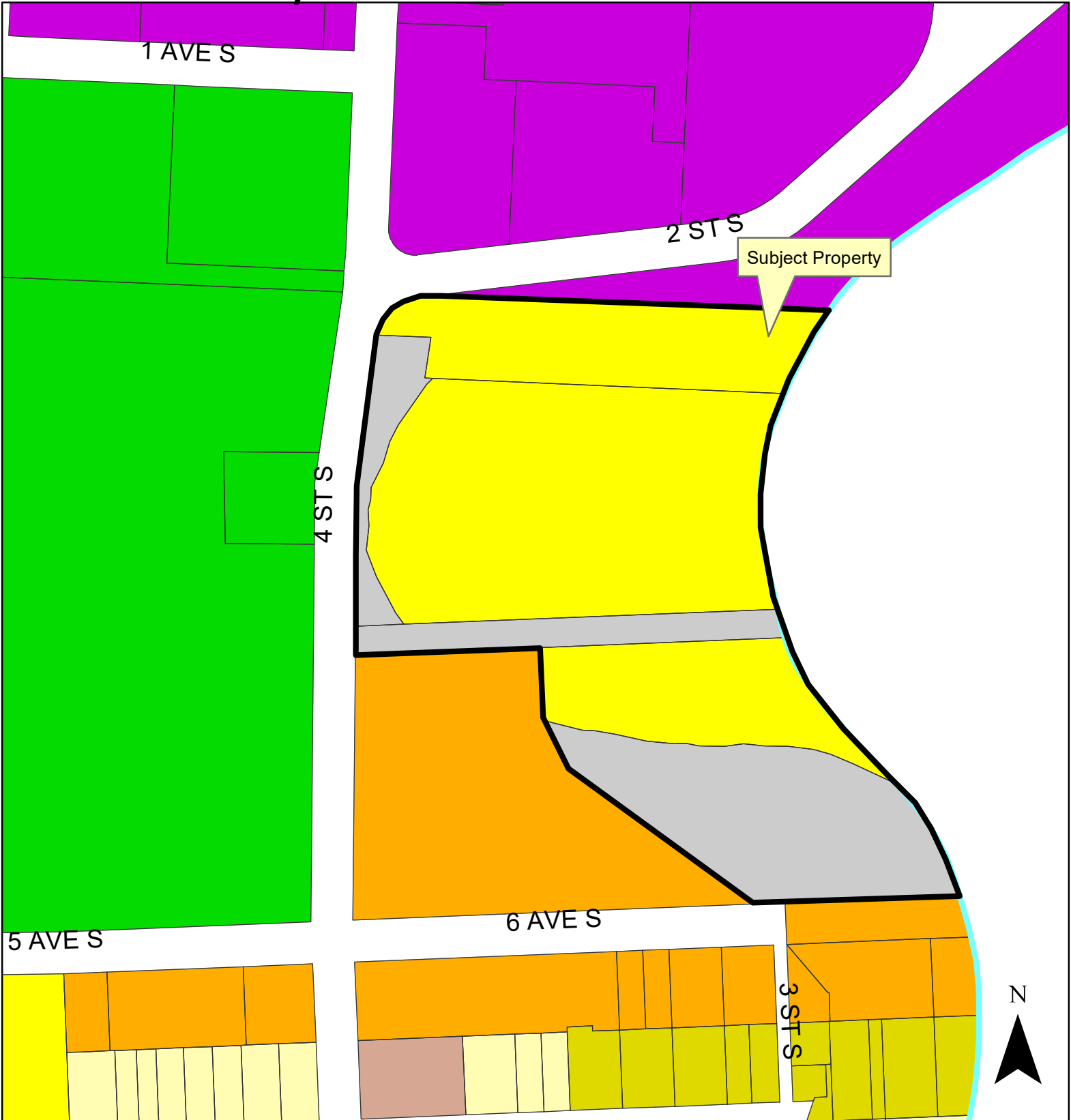
**Attachments:**

1. Zoning Map
2. Location Map

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

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

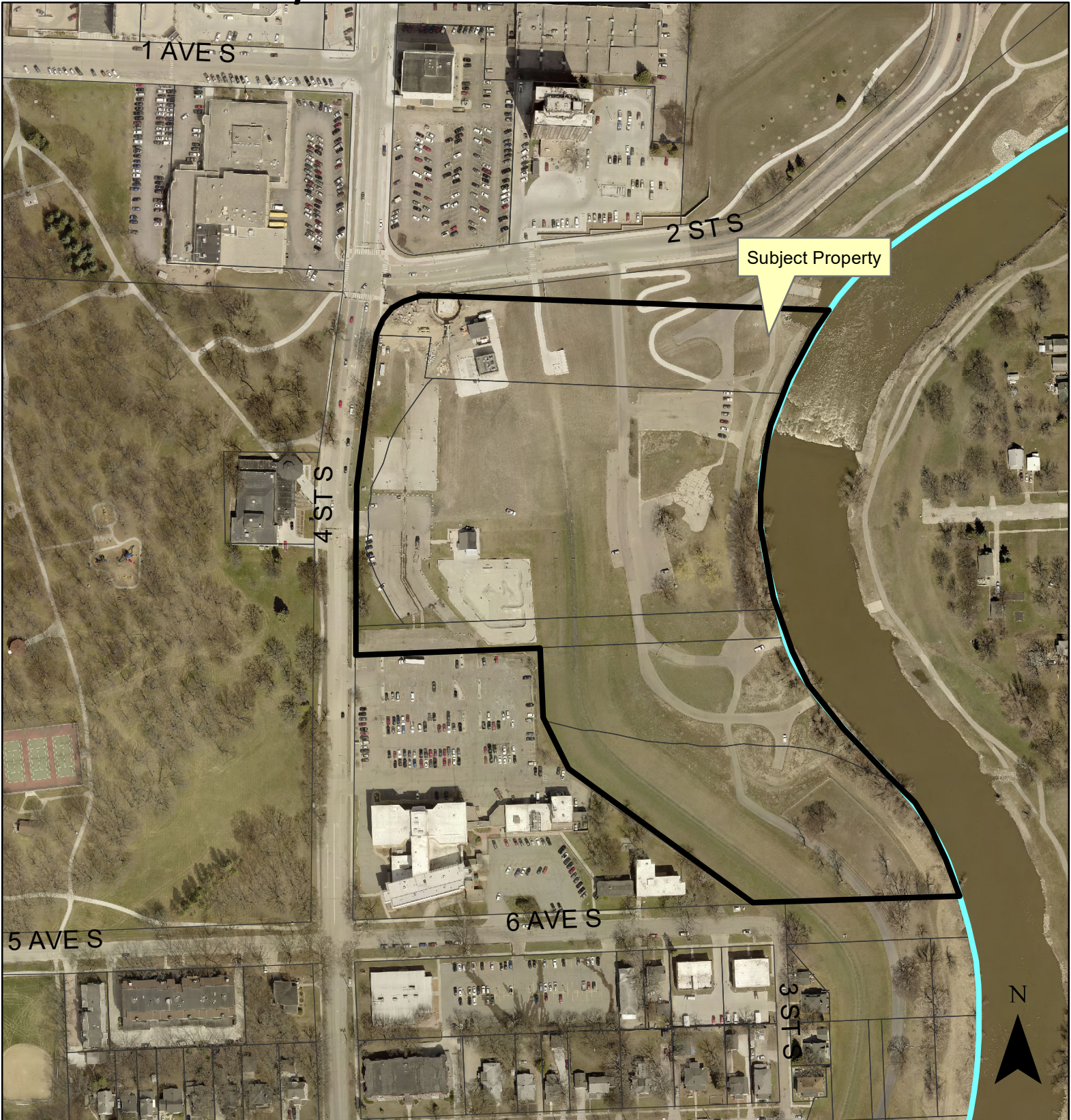
200, 310 and 430 4th Street South



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

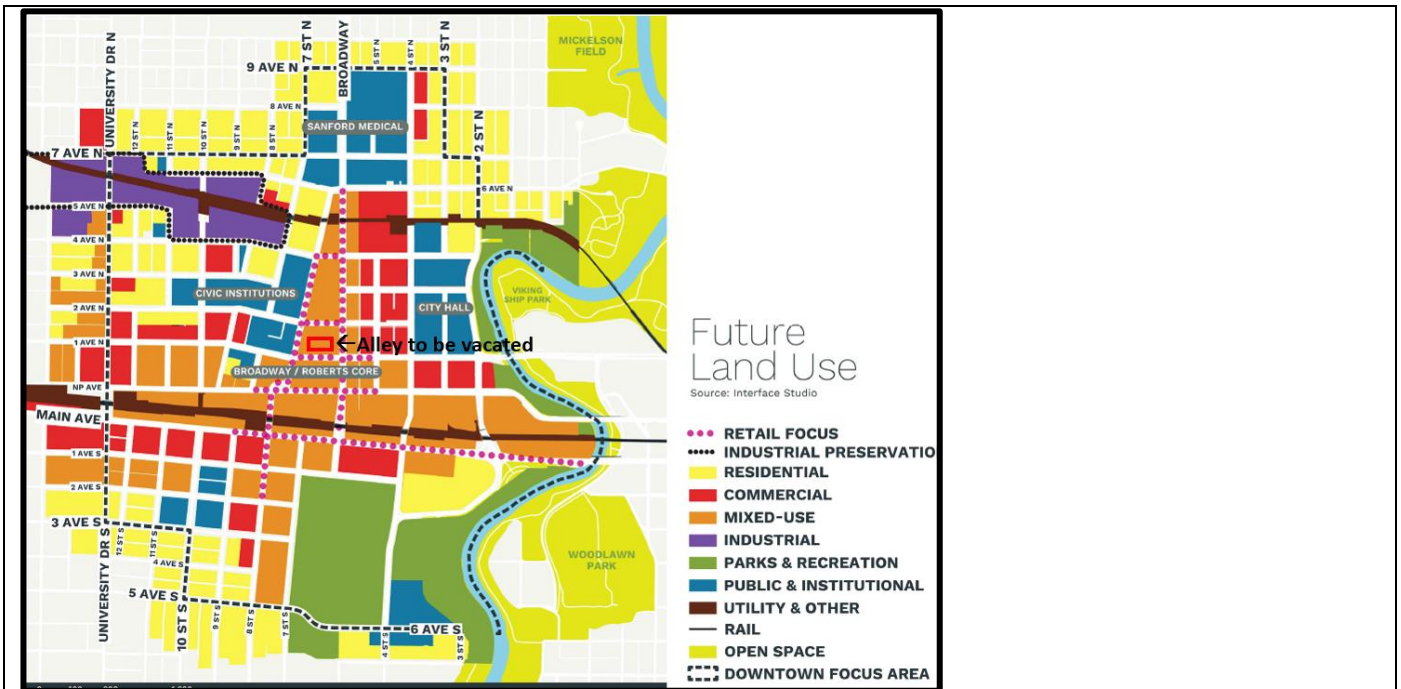
## Fred C. Hagen Addition & Portion of NE 1/4 S 7 T 139N R 48

200, 310 and 430 4th Street South





<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Roberts Addition	<b>Date:</b>	3/28/2019
<b>Location:</b>	624 2nd Avenue North and 613, 617, and 621 1st Avenue North	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description:</b>	Alley between Lots A, B, C, D, E, F, T, and U, the vacated 10 foot alley adjacent to Lots T and U, Hagaman’s Subdivision of part of Block 2, <b>Roberts Addition.</b>		
<b>Owner(s)/Applicant:</b>	DFI Kesler LLC, DFI BJ LLC, DFI BG LLC, Swanson Properties LLC/ Kilbourne Group—Mike Zimney	<b>Engineer:</b>	Moore Engineering
<b>Entitlements Requested:</b>	<b>Vacation of Right of Way</b> (Alley between Lots A, B, C, D, E, F, T, and U, the vacated 10 foot alley adjacent to Lots T and U, Hagaman’s Subdivision of part of Block 2, <b>Roberts Addition</b> )		
<b>Status:</b>	Planning Commission Public Hearing: April 2, 2019		
<b>Proposal:</b>			
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> <li>1. A vacation of right of way (alley) between Lots A, B, C, D, E, F, T, and U, the vacated 10 foot alley adjacent to Lots T and U, Hagaman’s Subdivision of part of Block 2, <b>Roberts Addition</b></li> </ol> <p>The plat will vacate an existing alley located between Lots A, B, C, D, E, F, T, and U, the vacated 10 foot alley adjacent to Lots T and U, Hagaman’s Subdivision of part of Block 2, Roberts Addition to allow the full width of the block between 1<sup>st</sup> and 2<sup>nd</sup> Avenue North to be developed with a single mixed use building.</p> <p>This project was reviewed by the City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”), whose comments are included in this report.</p>			
<b>Area Plans:</b>			
<p>The alley to be vacated is included in the Downtown In Focus Master Plan. Vacation of this alley helps facilitate the development of this property as a mixed-use project, consistent with the “mixed-use” land use designation of the Downtown In Focus future land use plan (see graphic below).</p>			
(continued on next page)			



**Schools and Parks:**

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

**Neighborhood:** The subject property is located within the Downtown neighborhood.

**Parks:** Ole Tangen Park (10 Roberts Street) is located approximately 650 feet southwest of the subject property and offers the amenities of a park bench.

**Pedestrian / Bicycle:** There right of way proposed to be vacated does not include any bicycle facilities or multi-use trails.

**Staff Analysis:**

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

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

***mains, gas, or other pipes, or telephone, electric facilities, whether underground or aboveground, is subject to the continued right of location of such electric facilities in the vacated streets.***

The right-of-way in question has no street improvements or City underground utilities. No easement for the City is required. **(Criteria Satisfied)**

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

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

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

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

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

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed **alley vacation in Hagaman's Subdivision of a portion of Block 2 of Roberts Addition**, as presented, as the proposal complies with the Downtown In Focus master plan and standards of Chapter 40-39 of the North Dakota Century Code."

**Planning Commission Recommendation:** April 2, 2019

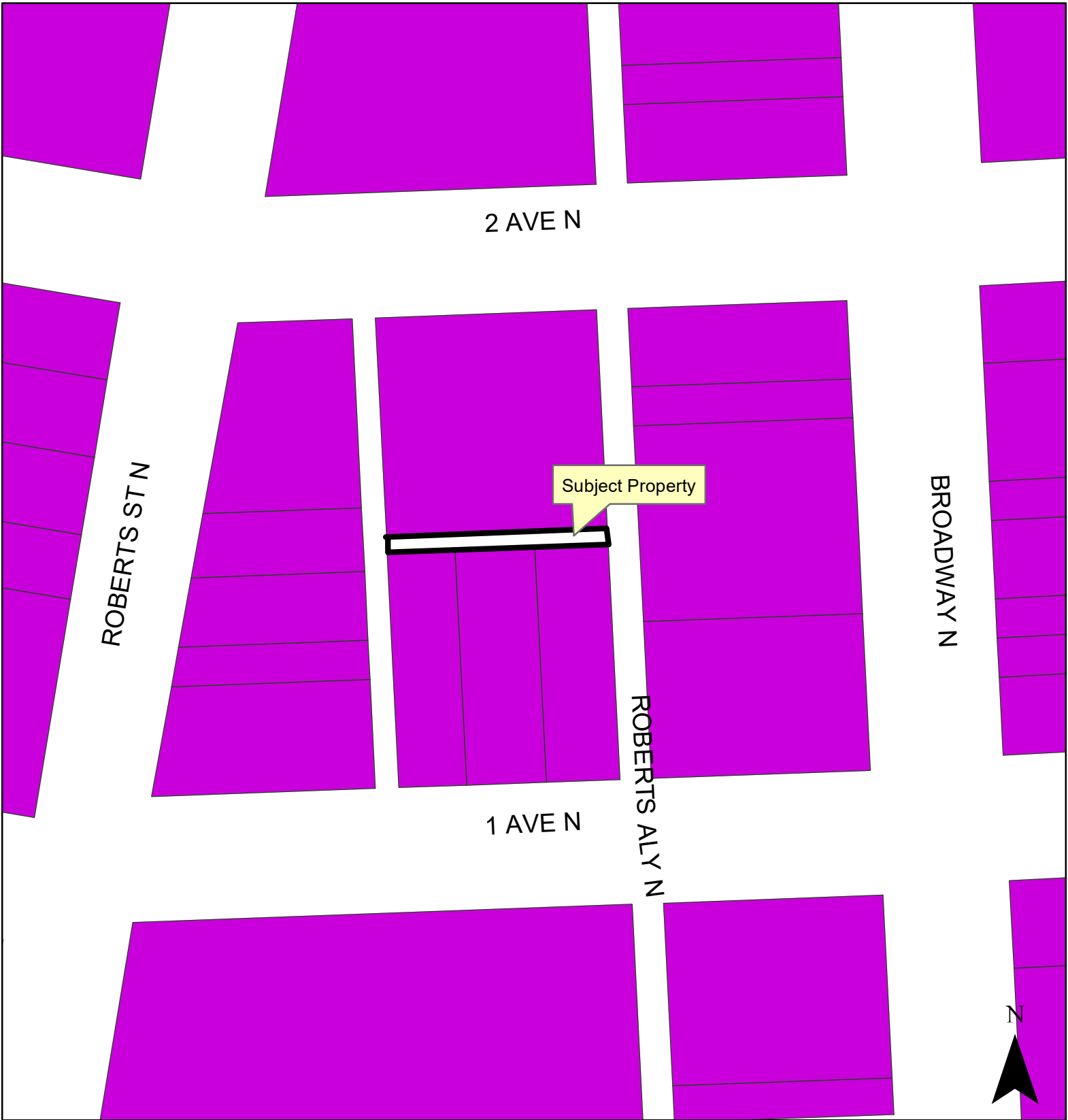
**Attachments:**

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

# Plat (Vacation)

## Roberts - Hagaman Subdivision

624 2nd Avenue North and  
621 & 617 1st Avenue North



### Legend

AG	DMU	GG	GO	LC	MV	MR-1	MR-2	MR-3	MHP	NO	P/I	UMI	SR-2	SR-3	SR-4	SR-5	City Limits
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300

Feet

Fargo Planning Commission

April 2, 2019



# Plat (Vacation)

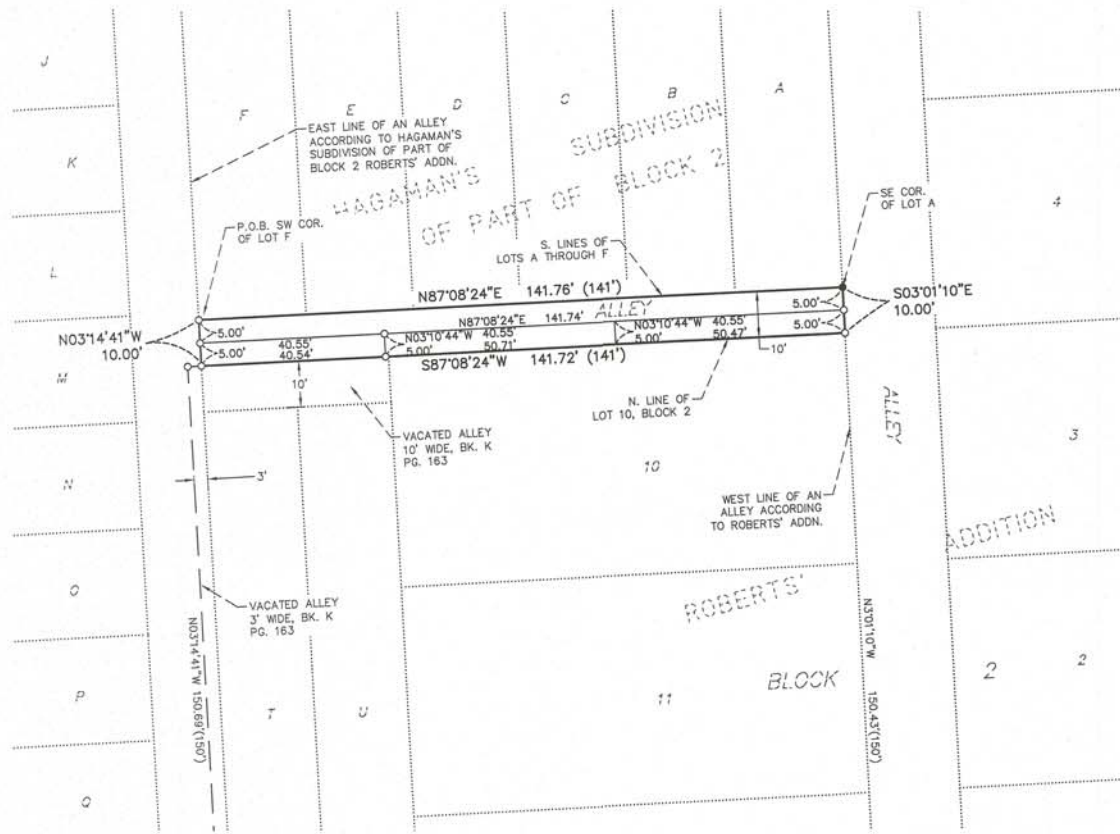
## Roberts Addition

624 2nd Avenue North and  
621 & 617 1st Avenue North



# ALLEY VACATION PLAT

OF A DEDICATED ALLEY BETWEEN LOTS A THROUGH F AND T,U OF HAGAMANS' SUBDIVISION OF PART OF BLOCK 2 ROBERTS ADDITION, AND LOT 10, BLOCK 2 ROBERTS ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA.



**FARGO PLANNING COMMISSION APPROVAL**

THIS VACATION PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

SHARA FISCHER, CHAIR

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED SHARA FISCHER, CHAIR OF THE FARGO PLANNING COMMISSION, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME IN THE NAME OF THE FARGO PLANNING COMMISSION.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

**FARGO CITY COMMISSION APPROVAL**

THIS VACATION PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

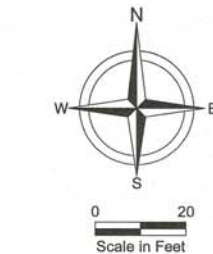
TIMOTHY J. MAHONEY, MAYOR

STEVEN SPRAGUE, CITY AUDITOR

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TIMOTHY J. MAHONEY, MAYOR AND STEVEN SPRAGUE, CITY AUDITOR, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN THE NAME OF THE CITY OF FARGO.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA



**LEGEND**

- IRON MONUMENT FOUND
- SET 5/8"x18" REBAR WITH YELLOW PLASTIC CAP #6571
- PLAT BOUNDARY LINE
- LOT LINE
- EXISTING LOT LINE

BASIS OF BEARINGS: THE CITY OF FARGO GIS HORIZONTAL DATUM

**CITY ENGINEER'S APPROVAL**

THIS VACATION PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

BRENDA E. DERRIG, CITY ENGINEER

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED BRENDA E. DERRIG, CITY ENGINEER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME AS HER FREE ACT AND DEED.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

**DESCRIPTION OF ALLEY TO BE VACATED**

THAT PART OF AN ALLEY ORIGINALLY PLATTED IN HAGAMAN'S SUBDIVISION OF A PART OF BLOCK 2 ROBERTS' ADDITION TO THE CITY OF FARGO, ACCORDING TO THE RECORDED PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE RECORDER, CASS COUNTY, NORTH DAKOTA DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT F OF SAID PLAT; THENCE NORTH 87 DEGREES 08 MINUTES 24 SECONDS EAST ON AN ASSUMED BEARING ALONG THE SOUTH LINES OF LOTS A THROUGH F FOR A DISTANCE OF 141.76 FEET TO THE WEST LINE OF AN ALLEY ORIGINALLY PLATTED IN ROBERTS' ADDITION ACCORDING TO THE RECORDED PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF SAID RECORDER; THENCE SOUTH 03 DEGREES 01 MINUTE 10 SECONDS EAST ALONG THE WEST LINE OF SAID ALLEY A DISTANCE OF 10.00 FEET TO THE NORTHEAST CORNER OF LOT 10, BLOCK 2 SAID ROBERTS' ADDITION; THENCE SOUTH 87 DEGREES 08 MINUTES 24 SECONDS WEST ALONG SAID NORTH LINE AND THE WESTERLY EXTENSION THEREOF FOR A DISTANCE OF 141.72 FEET TO THE EAST LINE OF A NORTH-SOUTH ALLEY ORIGINALLY PLATTED IN SAID HAGAMAN'S SUBDIVISION OF A PART OF BLOCK 2 ROBERTS' ADDITION; THENCE NORTH 03 DEGREES 14 MINUTES 41 SECONDS WEST ALONG SAID EAST LINE FOR A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1,732 SQUARE FEET, MORE OR LESS, AND IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD, IF ANY.

**SURVEYOR'S CERTIFICATE**

I, STEVEN W. HOLM, REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT THIS PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE AREA VACATED.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

STEVEN W. HOLM  
REGISTERED LAND SURVEYOR  
REG. NO. LS-6571

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED STEVEN W. HOLM, REGISTERED LAND SURVEYOR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

**OWNER'S CERTIFICATE**

DFI BJ, LLC, A NORTH DAKOTA LIMITED LIABILITY COMPANY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY ADJOINING THE AREA TO BE VACATED AND THAT THIS PLAT AND DESCRIPTION ARE CORRECT.

OWNER OF LOTS T & U EXCLUDING THE EAST 8 INCHES OF THE SOUTH 100 FEET OF LOT U TOGETHER WITH A STRIP OF LAND 3 FEET WIDE IMMEDIATELY ADJACENT AND RUNNING ALONG THE ENTIRE WEST SIDE OF LOT T AND A STRIP OF LAND 10 FEET WIDE IMMEDIATELY ADJACENT AND RUNNING ACROSS THE ENTIRE NORTH END OF LOTS T & U OF HAGAMAN'S SUBDIVISION OF A PART OF BLOCK 2 ROBERTS' ADDITION, AND LOT 10, BLOCK 2, ROBERTS' ADDITION: DFI BJ, LLC

MICHAEL ALLMENDINGER, PRESIDENT

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MICHAEL ALLMENDINGER, PRESIDENT, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF DFI BJ, LLC.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

**OWNER'S CERTIFICATE**

DFI BG, LLC, A NORTH DAKOTA LIMITED LIABILITY COMPANY AND SWANSON HEALTH PRODUCTS CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY ADJOINING THE AREA TO BE VACATED AND THAT THIS PLAT AND DESCRIPTION ARE CORRECT.

OWNERS OF THE WEST 50 FEET OF LOTS 10 THRU 12, BLOCK 2 OF ROBERTS ADDITION AND THE EAST 8 INCHES OF THE SOUTH 100 FEET OF LOT U OF HAGAMAN'S SUBDIVISION OF A PART OF BLOCK 2 ROBERTS' ADDITION: DFI BG, LLC & SWANSON HEALTH PRODUCTS

MICHAEL ALLMENDINGER, PRESIDENT

LEE SWANSON, PRESIDENT

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MICHAEL ALLMENDINGER, PRESIDENT, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF DFI BG, LLC.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED LEE SWANSON, PRESIDENT, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF SWANSON HEALTH PRODUCTS, LLC.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

**OWNER'S CERTIFICATE**

DFI KESLER, LLC, A NORTH DAKOTA LIMITED LIABILITY COMPANY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY ADJOINING THE AREA TO BE VACATED AND THAT THIS PLAT AND DESCRIPTION ARE CORRECT.

OWNER OF LOTS A THRU F OF HAGAMAN'S SUBDIVISION OF PART OF BLOCK 2 ROBERTS' ADDITION: DFI KESLER, LLC

MICHAEL ALLMENDINGER, PRESIDENT

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MICHAEL ALLMENDINGER, PRESIDENT, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF DFI KESLER, LLC.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

**OWNER'S CERTIFICATE**

DFI BG, LLC, A NORTH DAKOTA LIMITED LIABILITY COMPANY AND SWANSON HEALTH PRODUCTS CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY ADJOINING THE AREA TO BE VACATED AND THAT THIS PLAT AND DESCRIPTION ARE CORRECT.

OWNERS OF THE EAST 50 FEET OF LOTS 10 THRU 12, BLOCK 2 OF ROBERTS ADDITION: DFI BG, LLC & SWANSON HEALTH PRODUCTS

MICHAEL ALLMENDINGER, PRESIDENT

LEE SWANSON, PRESIDENT

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MICHAEL ALLMENDINGER, PRESIDENT, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF DFI KESLER, LLC.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

STATE OF NORTH DAKOTA)  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED LEE SWANSON, PRESIDENT, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF SWANSON HEALTH PRODUCTS, LLC.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

## MEMORANDUM

**TO:** Planning Commission

**FROM:** Donald Kress, Current Planning Coordinator

**DATE:** March 28, 2019

**RE:** Agenda Item E(1): Development proposals for City-owned property

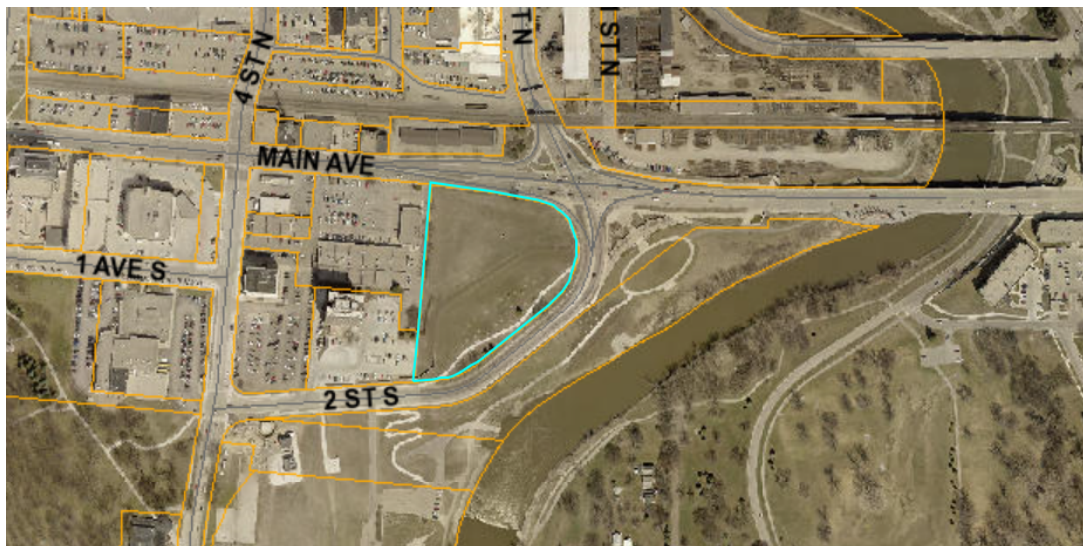
A request for development proposals for the development of the vacant site at 1-2 2nd Street South (formerly Park East) that is now owned by the City was sent out in February, 2019. This location is highlighted in the aerial photo below. The request stated that the City's development goals for this property are:

- High quality new construction and a structure(s) with a mix of uses (commercial and residential) and an attractive building fitting for one of the high traffic entrances into Fargo.
- A scale of development with consideration to the surrounding development.

Attached are images of development proposals for this site submitted by three different developers

1. Beyond Shelter, Incorporated
2. Enclave (Gateway Apartments)
3. Fargo Housing Authority

At the April 2, 2019 Planning Commission meeting, Fargo's Director of Strategic Planning and Research Jim Gilmour will present and discuss further these development proposals. He is presenting these to keep the Planning Commission advised of the process of the development of this site. The Commission is not being requested to take any action on any of the proposals at this time.



# DEVELOPMENT PROPOSAL FOR 1 SOUTH 2<sup>ND</sup> STREET

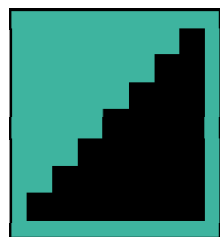
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*A Mixed-Use Affordable Senior Housing Development*



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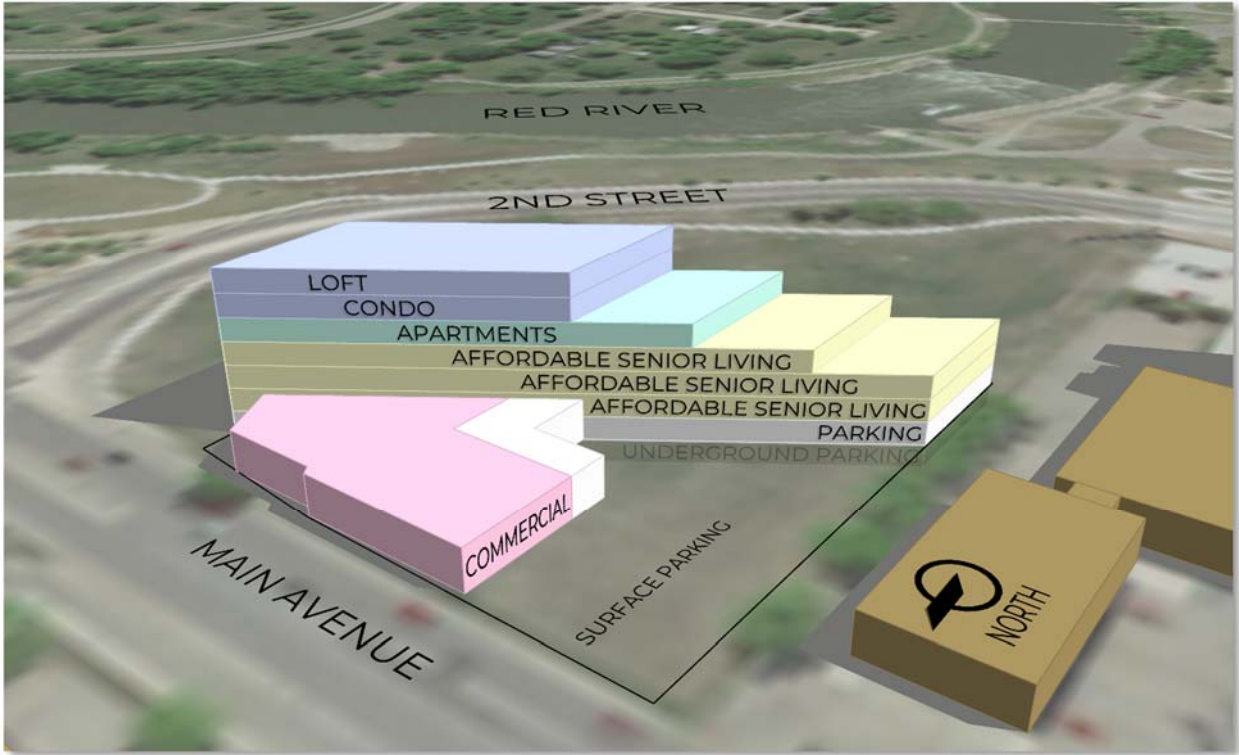
**Submitted by:**



**Beyond  
Shelter, Inc.**

**March 19, 2019**

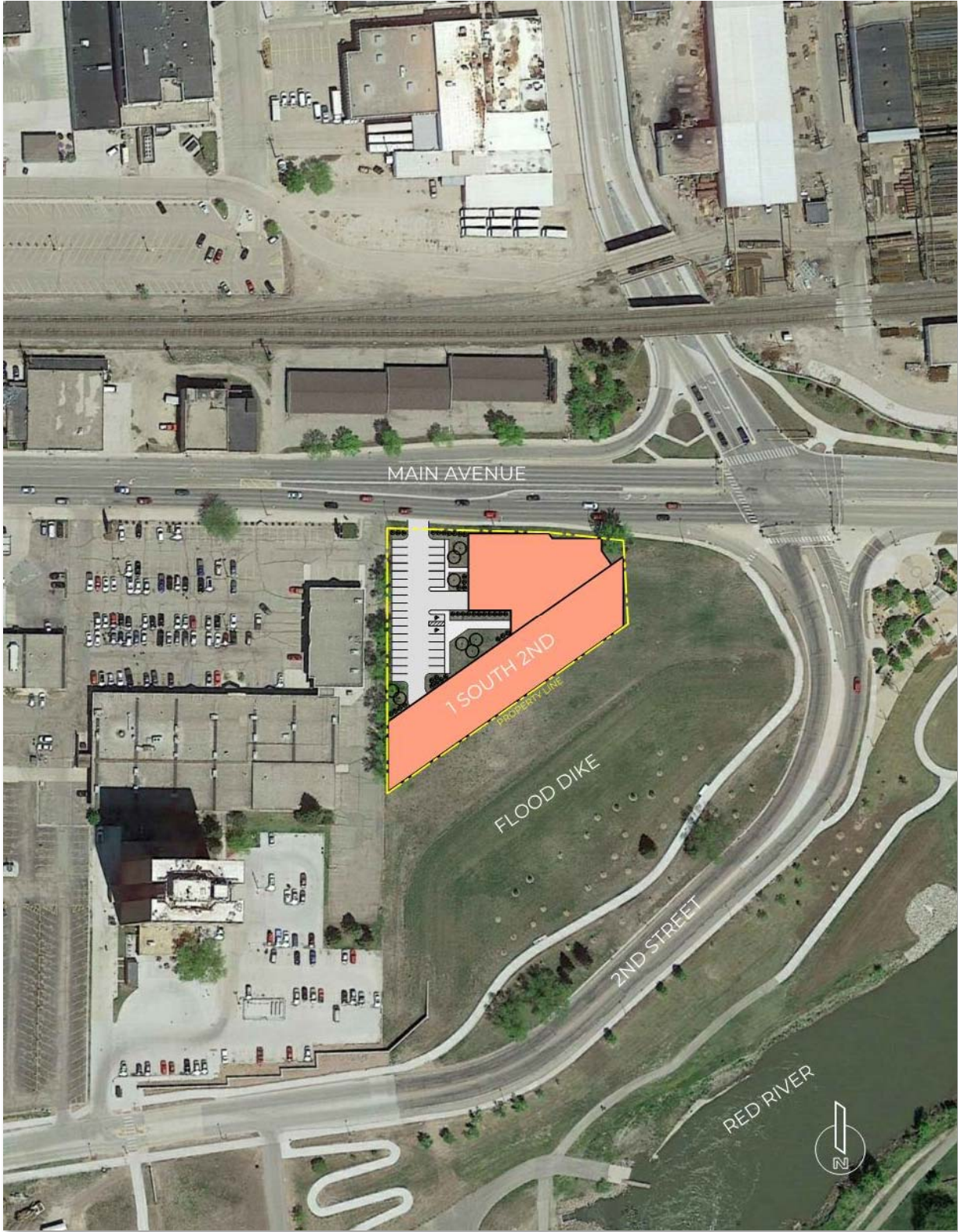




BUILDING USE DIAGRAM



BIRD'S EYE VIEW FROM NORTHWEST



SITE PLAN

gateway apartments



perspective



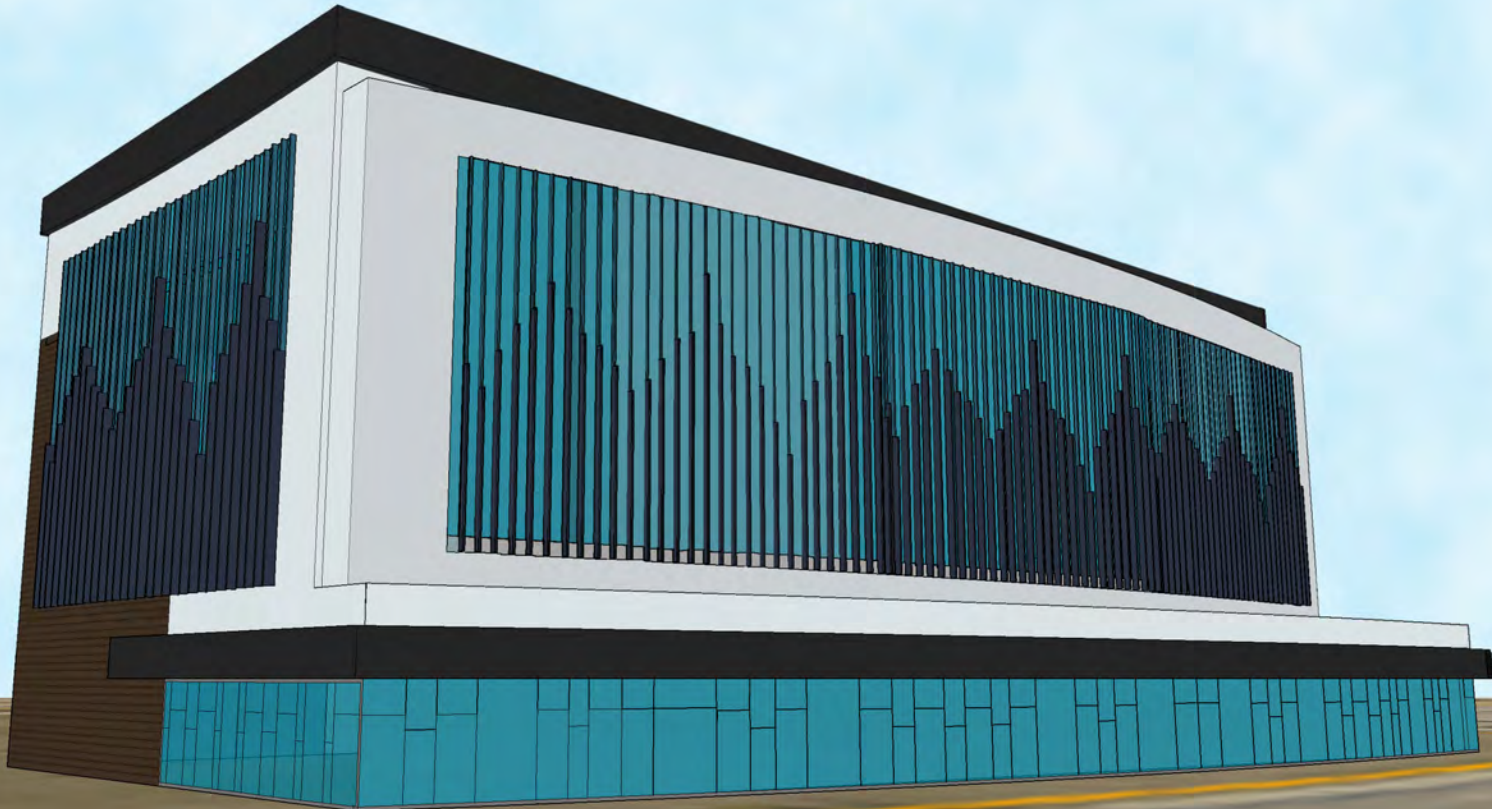
perspective

# new site plan





Principal Contact  
**G. Matthew Pike**  
Executive Director & CEO  
701.293.6262  
matthewp@fargohousing.org



**City of Fargo, North Dakota**  
**1-2nd Street South Development**  
Statement of Qualifications and Proposal for Development

Prepared for  
**Jim Gilmour**  
Director of Strategic Planning & Research

Proposal issued  
**03/19/2019**

# LET'S BUILD SOMETHING GREAT TOGETHER

Parcel 4A provides an unmatched opportunity to create a signature design that becomes a gateway into the City of Fargo from the east.

## PROJECT

# | SCHEMATIC

### PROPOSED REDEVELOPMENT CONCEPT

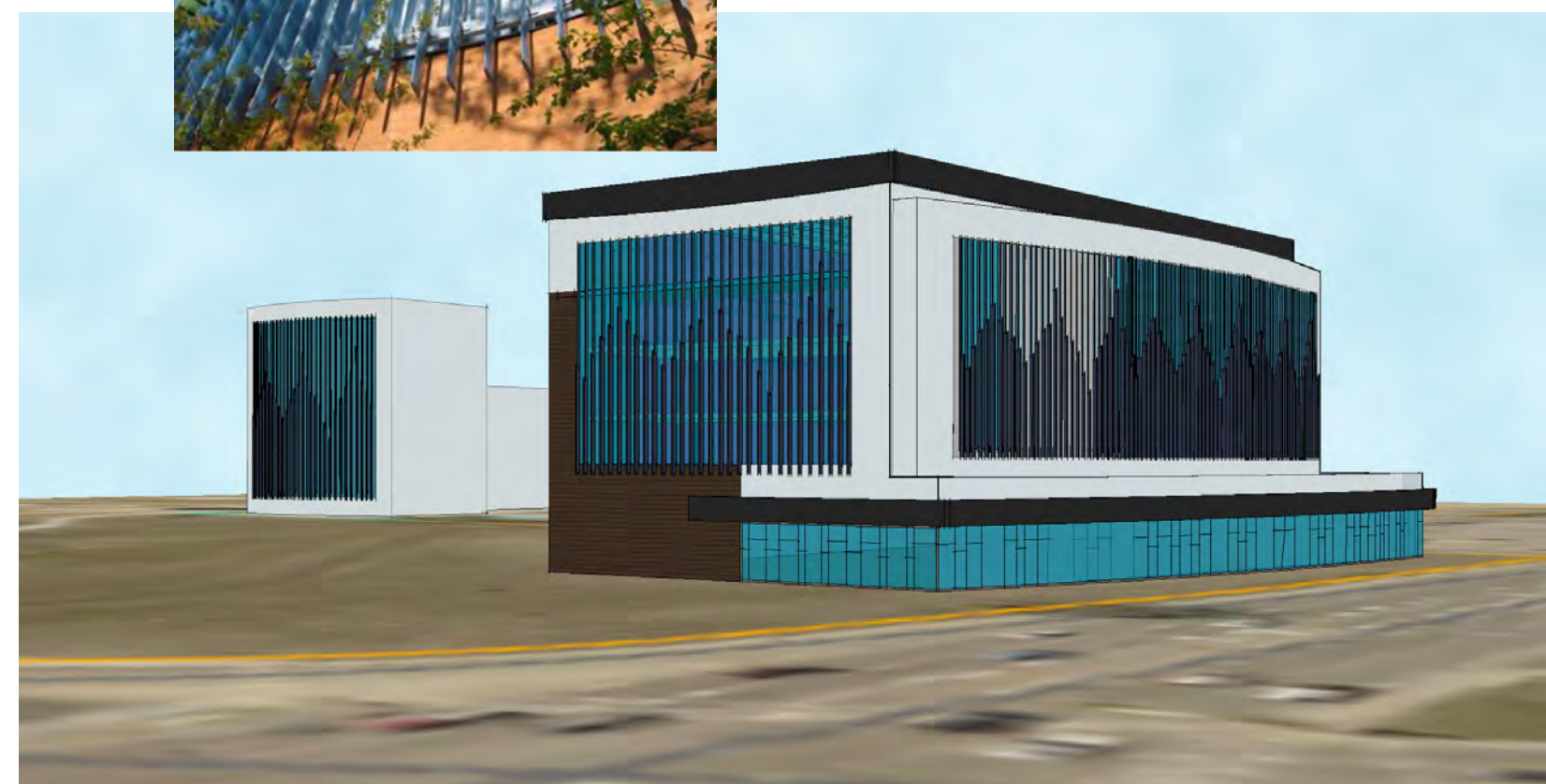
Our design constitutes a five-story multi-use building with underground parking, four commercial spaces on the first floor, and 40-60 residential units on the second through fifth floors. The grounds feature additional uncovered parking and an open, green space patio area for the residents.

Water is used as a design concept given the close proximity of the site to the Red River and the significant impact water has had throughout the

history of the city and that location. The theme is expressed through the curved building forms and the vertical sun shades on the large spans of glass. The sun shades are arranged with varying depths and colors that create a modern, subtle visual of waves along the building's prominent, curving side. Wall cladding with wood tones and concrete combined with the glass and metal accents create the unique design we feel will welcome people into the city as well as enhance the site.



◀ *Design Inspiration*

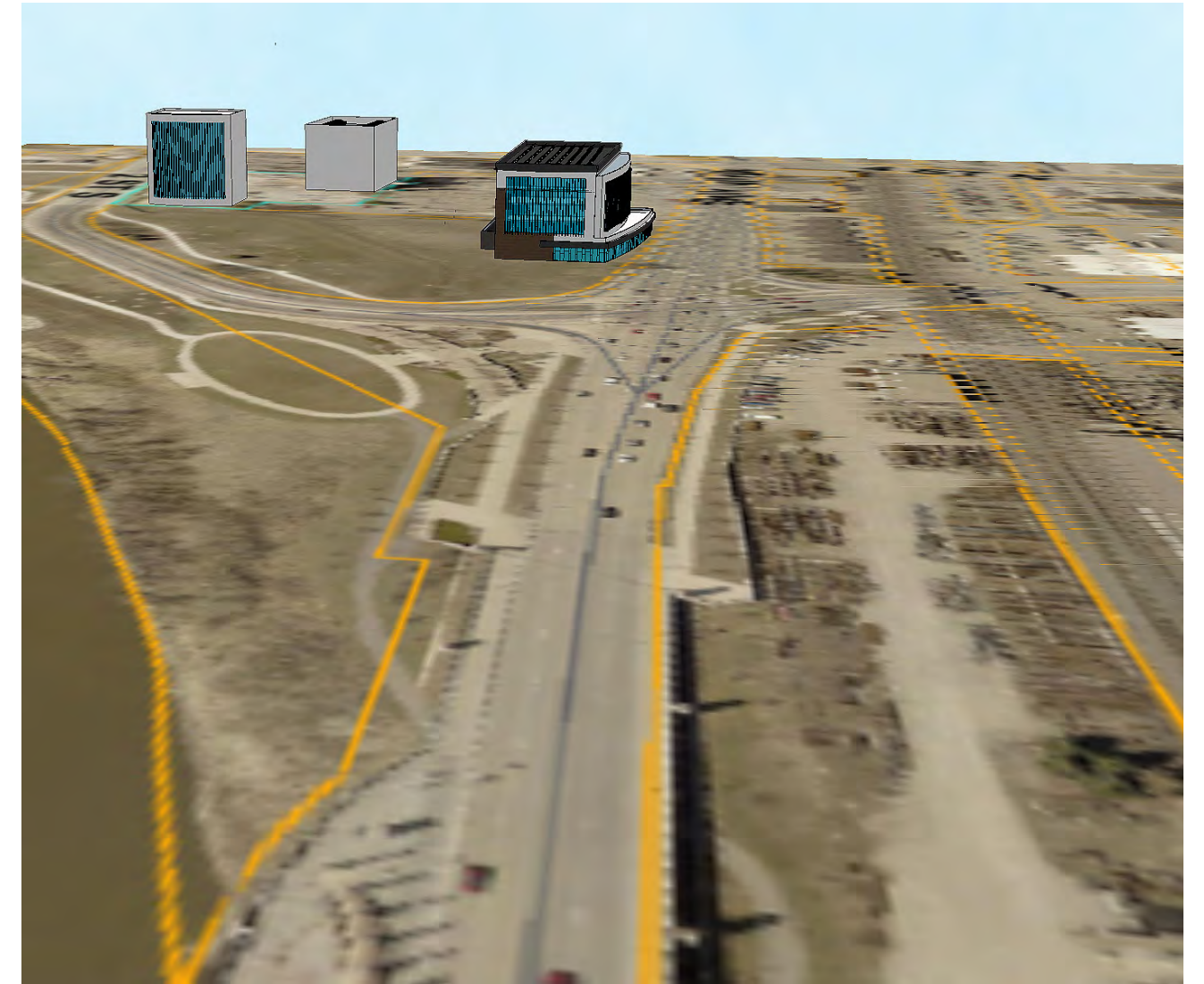
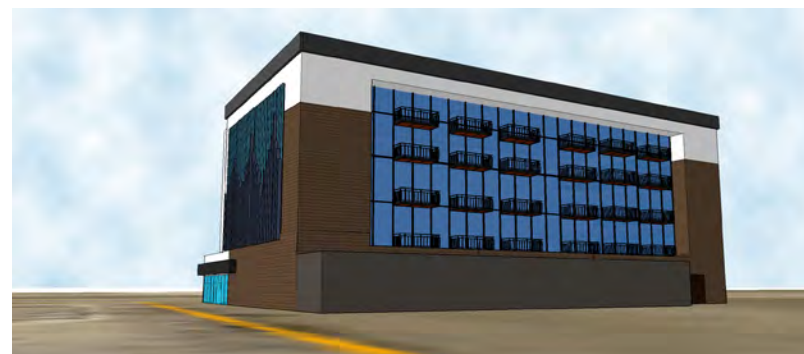
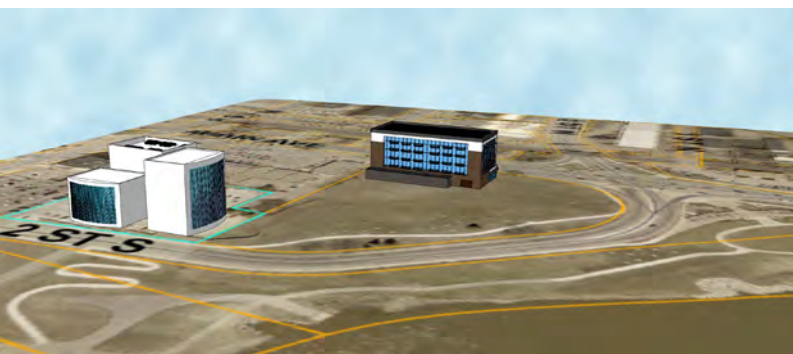
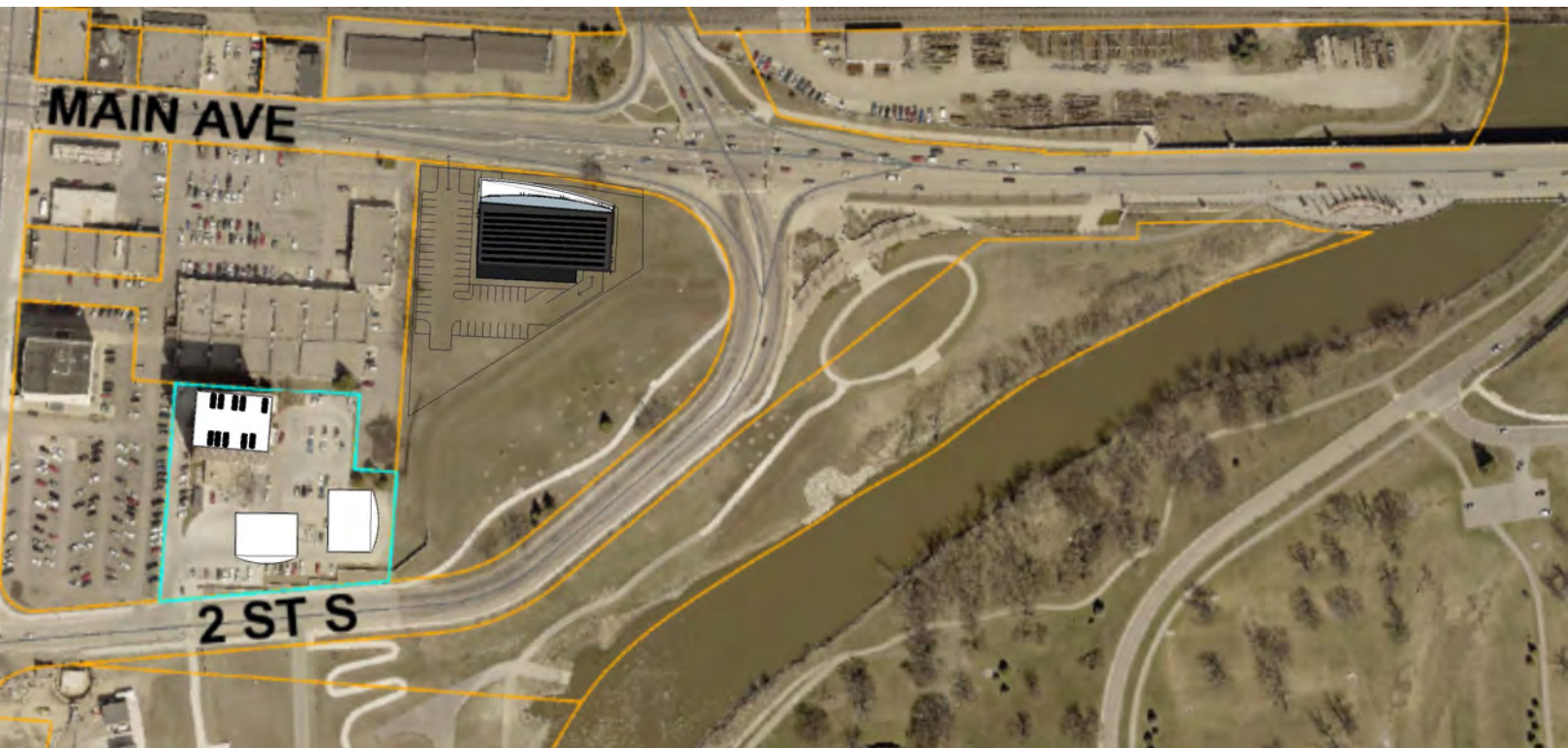




■ PROJECT SCHEMATIC

### MAIN AVENUE ACCESS

From the earliest stages of design development in response to this RFP, the FHRA/EAPC team recognized the importance of addressing the traffic flow on Main Street into this property. Accordingly, the proposed design mitigates any changes to the normal and current vehicular flow by integrating into the design a point of egress at the most westerly point of the property – not to exclude the possibility of shared egress with the immediately adjacent property.



### REQUESTED INCENTIVES

If awarded the opportunity to develop the property adjacent to the Lashkowitz High Rise, FHRA will explore all opportunities to develop both Parcel 4A and the Lashkowitz property in tandem with one another. Incentives and financing programs available to for-profit developers, as well as those available more uniquely to not-for-profit entities and public housing authorities, will be explored. These include both 4% and 9% Low-Income Housing Tax Credits (LIHTC), Federal Home Loan Bank and North Dakota Housing Finance Authority funding, as well as other support from private entities and commercial lending institutions.