

FARGO CITY COMMISSION AGENDA
Monday, September 18, 2023 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, September 5, 2023).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. 1st reading of an Ordinance Amending Section 8-1321 of Article 8-13 of Chapter 8 of the Fargo Municipal Code Relating to Use of Safety Belts Required in Certain Motor Vehicles.
- 2. 1st reading of an Ordinance Enacting Article 3-24 of Chapter 3 of the Fargo Municipal Code Relating to a Lodging Tax for Fargodome Including Conference Center.
- 3. 1st reading of an Ordinance Enacting Article 3-25 of Chapter 3 of the Fargo Municipal Code Relating to a Sales Tax for Fargodome Including Conference Center.
- 4. Findings of Fact, Conclusions and Order, and Notice of Entry Order for 1449 4th Avenue South.
- 5. City of Fargo Resolution Authorizing Officers to Make Deposits and Withdrawals.
- 6. Resolution (Special Election Matters – Establishing Precinct-Setting Compensation of Election Officials).
- 7. Applications for Games of Chance:
 - a. FM Derby Girls for a raffle on 9/23/23.
 - b. FirstChoice Clinic d/b/a Women's Care Center for bingo on 10/9/23.
- 8. Negative Final Balancing Change Order No. 5 in the amount of -\$62,377.95 for Project No. UR-22-B1.
- 9. ND Department of Transportation Participation, Construction and Maintenance Agreement for LPA Federal Aid Project (Project No. SL-23-B1).
- 10. Declaration of Easement (Utility) at 6375 31st Street South.
- 11. Emergency Water Main Replacement on Mills Avenue North (EM23170).
- 12. Developer Agreements with North Fargo Land, LLC and ARD Properties, LLC for the Interstate Business District Addition.

13. Bid award to Master Construction Company, Inc. in the amount of \$305,425.00 for Project No. BP-23-02.
14. Bid advertisement for Project No. SN-23-A.
15. Change Order No. 2 in the amount of \$7,046.15 and 2-day time extension to the Phase 2 Interim Date, Substantial Completion Date and Milestone Date for Improvement District No. BR-23-F1.
16. Easement (Temporary Access Easement) with Sanford Research North (Improvement District No. BR-23-J1).
17. Change Order No. 1 in the amount of \$83,176.80 for Improvement District No. UR-23-C1 (EM23135).
18. Minimum Payment Policy Waiver and Election Form, Permanent Easement (Bike Trail) and Easement (Temporary Construction Easement) with EA Children Properties, LLC (Improvement District No. SN-23-A1).
19. Create Improvement District No. BR-24-C.
20. Create Improvement District No. BR-24-E.
21. Lease extension with Fargo Baseball, LLC through 10/1/28.
22. Change Orders in the amount of \$3,804.00 for the Fargo Public Library Sunshades Replacement Project (RFP23090).
23. Amendment No. 4 with KLG for the GTC Underground Parking Facility (RFQ18325).
24. Receive and file General Fund – Budget to Actual unaudited monthly financial statements through 8/31/23.
25. Change Orders for Fire Station No. 8 Construction:
 - a. No. 1 in the amount of \$9,881.00.
 - b. No. 2 in the amount of \$38,336.34.
 - c. No. 3 in the amount of -\$12,511.00.
26. Change Orders for Fire Station No. 2 Addition:
 - a. No. 1 in the amount of -\$821.00
 - b. No. 2 in the amount of \$7,871.36.
 - c. No. 3 in the amount of \$3,392.55.
 - d. No. 4 in the amount of \$1,209.44.
 - e. No. 5 in the amount of \$1,948.80.
 - f. No. 6 in the amount of \$1,017.35.
 - g. No. 7 in the amount of -\$203.00.
27. NDDDES Mitigation Grant Application as a sub-applicant and subsequently acting as a pass through entity to receive and pass reimbursement to the resident for a storm shelter.
28. Agreement for Services with Folkways.
29. Grant Agreement with the ND Department of Health and Human Services, Office of Refugee Support Services.

30. Agreement of Affiliation with North Dakota State University, Department of Public Health.
31. Purchase of Service Agreement with Megan Nies.
32. Resolution Approving Plat of Timber Parkway Tenth Addition.
33. Resolution Approving Plat of Village West Fourth Addition.
34. Set October 2, 2023 at 5:15 p.m. as the date and time for a Public Hearing on a dangerous building at 1809 14th Avenue South.
35. UKG Dimensions Agreement for the upgrade of the time and attendance software (RFP23030).
36. Acceptance of the ND Department of Transportation Grant Funding for Occupant Protection, Impaired Driving, Distracted Driving Enforcement, Speed Enforcement and Underage Drinking Enforcement and Education Activities (CFDA #s 20.616 and 20.600).
37. Purchase of Lexipol/PoliceOne Academy Training software using seized asset forfeiture funds in the amount of \$10,757.70.
38. Extension of the 2022/2023 Services Agreements – Snow Hauling Trucking Services with Master Construction; Lenzmeier Trucking Inc.; J D Kraemer Enterprises, LLC; and Diesel Dogs Trucking, LLC for the 2023/2024 snow season (RFP22137).
39. Street Snow Plowing Services Agreement with Master Construction Co., Inc. (RFP23138).
40. ND Department of Transportation State Aid for Public Transit Agreement for FY 2024.
41. ND Department of Transportation Section 5339 Transit Grant Agreement (CFDA #20.526).
42. Bills.

REGULAR AGENDA:

43. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at FargoND.gov/VirtualCommission).**

***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**

44. **PUBLIC HEARING** – Interstate Business District Addition (4753 45th Street North and 4269 40th Avenue North); approval recommended by the Planning Commission on 8/1/23:
 - a. Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and Proposed Park to Industrial and Commercial.
 - b. Zoning Change from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay; GC, General Commercial with a C-O, Conditional Overlay; and P/I, Public and Institutional.
 - c. 1st reading of rezoning Ordinance.
 - d. Plat of Interstate Business District Addition.

45. **PUBLIC HEARING** - Public comment on the 2024 preliminary budget and recommended tax levies.
46. Application for Abatement or Refund of Taxes #4545 and #4544 at 1201 Elm Street North requesting a reduction in value for 2021 from \$257,200.00 to \$97,000.00 and for 2022 from \$282,900.00 to \$125,900.00.
47. Recommendation for appointments to the Civil Service Commission.
48. Liaison Commissioner Assignment Updates.

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

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

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City of Fargo Staff Report			
Title:	Interstate Business District Addition	Date: Update:	4/27/2023 6/1/2023 7/6/2023 7/27/2023 9/14/2023
Location:	4753 45th Street North and 4269 40th Avenue North.	Staff Contact:	Donald Kress, current planning coordinator
Legal Description:	Portion of the West Half of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota		
Owner(s)/Applicant:	ARD Properties, LLC; North Fargo Land, LLC / Tony Eukel, MBN Engineering	Engineer:	Mead & Hunt
Entitlements Requested:	Major Subdivision (Plat of Interstate Business District Addition , a plat of a Portion of the West Half of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota), a Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial, and Proposed Park to Industrial and Commercial; and a Zoning Change from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional		
Status:	City Commission Public Hearing: September 18 th , 2023		
Existing		Proposed	
Land Use: Undeveloped		Land Use: Industrial; commercial; government-owned	
Zoning: AG, Agricultural; LI, Limited Industrial with a conditional overlay, Ordinance No. 4020		Zoning: LI, Limited Industrial, with C-O; GC, General Commercial with C-O; P/I, Public/Institutional	
<p>Uses Allowed: AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production</p> <p>Uses Allowed: LI allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult establishments, 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, basic utilities, certain telecommunications facilities</p> <p>C-O prohibits certain uses as shown above with strikethrough</p>		<p>Uses Allowed:</p> <p><u>LI—Limited Industrial</u> allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult establishments, 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, basic utilities, certain telecommunications facilities,</p> <p><u>GC – General Commercial</u> allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, basic utilities, adult establishments, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, and some telecommunication facilities.</p> <p><u>P/I – Public and Institutional</u> allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services,</p>	

	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. C-O's on the LI and GC zones prohibit uses as shown above with strikethrough, plus prohibit crushing of all materials, including concrete, asphalt, and rock. The P/I zoning has no C-O.
AG--Maximum Density Allowed (Residential): 1 dwelling unit per 10 acres. LI--Maximum Lot Coverage Allowed: 85%	LI--Maximum Lot Coverage Allowed: 85% GC--Maximum Lot Coverage Allowed: 85% P/I--Maximum Lot Coverage Allowed: no max

Proposal:

PROJECT HISTORY NOTE: This project has had four hearings so far, as shown in the chart below.

HEARING DATE	COMMISSION	RECOMMENDATION	MEETING SUMMARY STARTS ON
May 2 nd , 2023	Planning Commission	Continue the hearing to June 6 th , 2023 Planning Commission, vote 7-0	page 7
June 6 th , 2023	Planning Commission	Denial, vote 4-3	page 11
July 10 th , 2023	City Commission	Send back to Planning Commission for further review, vote 5-0	page 13
August 1 st , 2023	Planning Commission	Approval, vote 5-2	page 16

The applicant requests three entitlements:

1. A major subdivision, to be known as **Interstate Business District Addition**, a plat of a Portion of the West Half of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota
2. A **Growth Plan Amendment** from Residential Area, Lower to Medium Density, Commercial, and Proposed Park to Industrial and Commercial; and
3. A **Zoning Change** from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional

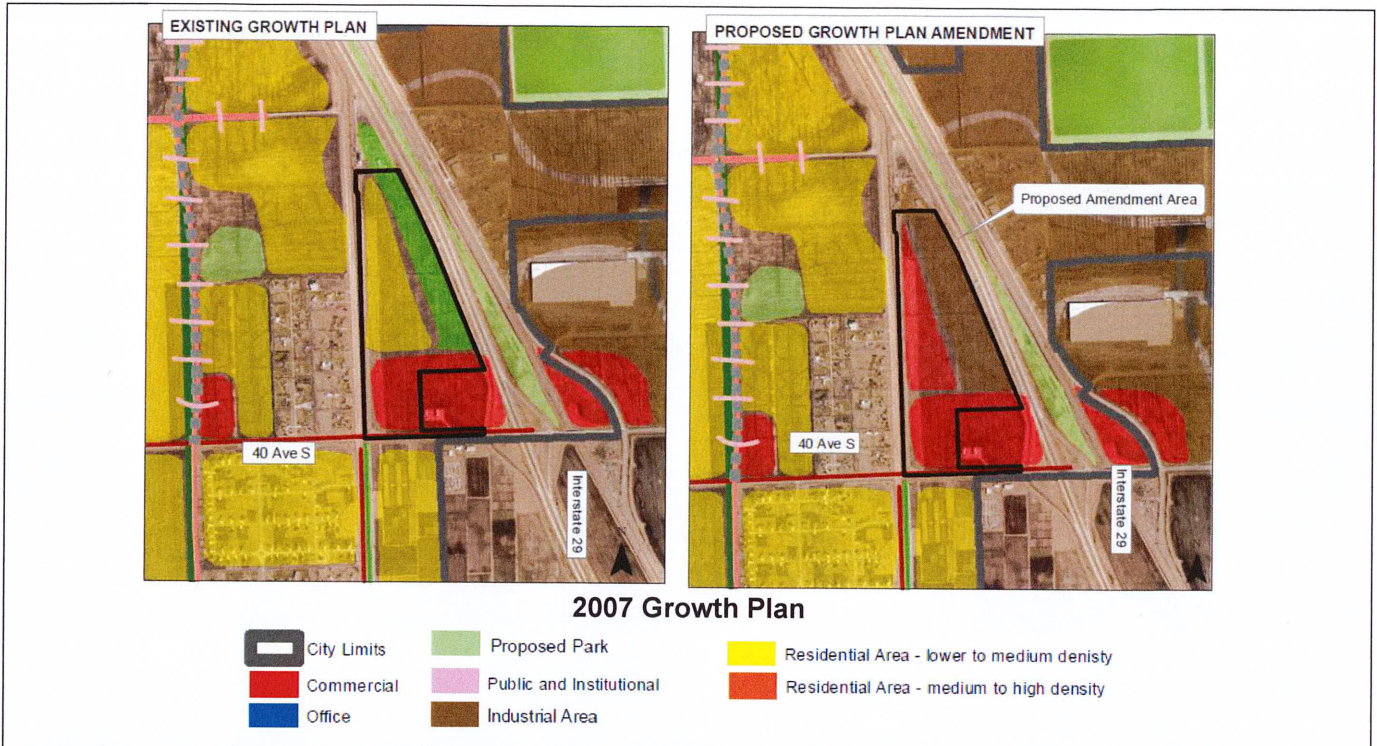
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: LI, Limited Industrial with conditional overlay; Opp Construction Company
- East: No zoning; Interstate 29 right of way (adjacent to proposed Lots 9-15); and
- East: AG, Agricultural; fireworks sales (adjacent to proposed Lot 1)
- South: (across 40th Avenue North within city limits) P/I, Public / Institutional; North Dakota State University with agricultural uses; and
- South: (across 40th Avenue North, outside city limits) Reile's Acres extra-territorial jurisdiction; undeveloped.
- West: (across 45th Street North, outside city limits) Reile's Acres extra-territorial jurisdiction; large lot rural residential uses.

Area Plans:

The subject property is located within the 2007 Future Land Use Plan. This plan designates the subject property as "Commercial," "Residential Area—Lower to Medium Density," and "Proposed Park." The applicant proposes to amend the growth plan to change the land use designation to "Industrial" and "Commercial" as indicated in the graphics below. Specific findings for the growth plan amendment and a summary of the growth plan amendment neighborhood open house are below.



Context:

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

Neighborhood: The subject property is not located within a designated neighborhood.

Parks: The Northern Softball Complex is approximately 0.45 mile northeast of the subject property; however, this park is across Interstate 29 and would require an approximately 1.25 mile trip to access it.

Pedestrian / Bicycle: There are no on-road or off-road bike facilities adjacent to this property.

MATBUS Route: The subject property is not on a MATBUS route at this time.

Staff Analysis:

NOTE: In the analysis below, the term "SE Cass" refers to the Southeast Cass Water Resources District, which owns the drainage channels in this portion of Cass County. The abbreviation "ETJ" means "extra-territorial jurisdiction," the area outside of a city's limits over which that city has planning and zoning jurisdiction. The abbreviation "LDC" means Fargo's Land Development Code.

MAJOR SUBDIVISION

The subdivision plat creates 15 lots in one block. The plat also depicts dedications of right of way for 44th Street North and 40th Avenue North. The plat also depicts existing easements as well as two City of Fargo related easements for sewer facilities and a large water line. The water line easement is between Lots 9 and 10. At one time during the process, it was proposed to relocate this easement, but that relocation did not happen.

ACCESS—DEDICATED PUBLIC STREET: The subdivision will take access from 40th Avenue North and 45th Street North. The subdivision dedicates 44rd Street North, from which all the lots in the subdivision will take access. The northerly end of 44rd will cross Drain 40, which is adjacent to the subdivision, by way of a box culvert crossing. An easement from SE Cass is required in order to construct this crossing.

Access to the lots in the subdivision will be provided only by 44th Street. The east side of the subdivision is bordered by Interstate 29 right of way; there can be no direct access to the lots from this right of way or I-29. The west side of the subdivision is bordered by a 92.25 foot wide lot, Lot 8, which will be dedicated to SE Cass and is not developable. This lot is adjacent to Cass County Drain 40. The only access across the drain

and Lot 8 will be provided at 44th Street. Additionally, there are no pedestrian routes or trails to connect to along the east or west sides of the subdivision.

ACCESS—TRANSITION FROM EXISTING GRAVEL ROAD: An existing gravel road along the west side of the subject property provides access to Opp Construction, adjacent to the northern boundary of the subject property. A temporary access agreement between the applicants, SE Cass, and Opp Construction to guarantee that access to Opp Construction is provided at all times, including how the transition from access provided by this gravel road to access provided by 44th Street will be timed has been created. The City is not a party to this agreement.

ACCESS—40th AVENUE NORTH / CASS COUNTY HIGHWAY 20: The Cass County Highway Department has jurisdiction over 40th Avenue North, which is also Cass County Highway 20. The Cass County Engineer has determined that a turn lane and a bypass lane must be installed on 40th Avenue North at the time 44th Street is installed. Construction of these additional lanes will be the responsibility of the developer. The subdivision includes a 100-foot right of way dedication on the north side of 40th Avenue. A negative access easement, as depicted on the plat, will prohibit direct access to lots from 40th Avenue North.

PUBLIC WATER and SEWER: Public water and sewer to serve the lots in the subdivision will be provided in the dedicated public street, 44th Street North. Additionally, a large-diameter City of Fargo water line will run north along 44th Street and thence northeast in an easement between Lots 9 and 10 and out of the subdivision. This water line is part of a redundant water loop that is part of the City's overall water distribution system.

175 FOOT DRAIN SETBACK: Land Development Code Section 20-0610.F requires that no subdivision may be approved without a notation and delineation of an area 175 feet from the centerline of any legal drain and the applicant for subdivision approval will be required to dedicate such areas to the public for purposes of such drain. This plat accounts for this dedication by dedicating Lot 8, Block 1, to SE Cass.

PROXIMITY AGREEMENT: Presented for the Commission's approval is the proximity agreement to be executed by the parties—City of Fargo and the property owners. This is a standard agreement between the City of Fargo and owners of property in close proximity to Hector International Airport and the overflow sewage lagoons. With this agreement, the property owners acknowledge the existence of these facilities and the potential for aircraft noise and sewage odor. Approval of this proximity agreement is included in the approval motion below. The agreement is attached.

DEVELOPER'S AGREEMENT

The City Engineer has required a developer's agreement between the City and the developer related to the non-protest of future paving of 45th Street North and to the detention basin, Lot 2, Block 1. This development agreement will go to the City Commission as a separate item and is not included in this packet.

GROWTH PLAN AMENDMENT

In order to allow the proposed LI, Limited Industrial zoning, the underlying growth plan, the 2007 Growth Plan, must be amended to change the land use designation for this property from Residential Area, Lower to Medium Density, Commercial, and Proposed Park to Industrial and Commercial. Findings for the growth plan amendment are below.

ZONE CHANGE

While the number, size, and configuration of the lots has remained the same throughout the four hearings on this project, the zoning has evolved during that time. The charts below show that evolution. The Third Revision—Current Version is the one that is before the City Commission for the September 18th, 2023 hearing.

(continued on next page)

ORIGINAL PROJECT---Heard at the May 2nd, 2023 Planning Commission

Lot Numbers	Zoning	Note
1	GC, General Commercial with C-O, conditional overlay	
2	P/I, Public/Institutional— Stormwater detention basin	
3 through 7	LI, Limited Industrial with C-O, conditional overlay	
8	P/I, Public/Institutional—dedicated to SE Cass for Drain 40	
9 through 15	LI, Limited Industrial with C-O, conditional overlay	

FIRST REVISION---Heard at June 6th, 2023 Planning Commission

Lot Numbers	Zoning	Note
1	GC, General Commercial with C-O, conditional overlay	No change
2	P/I, Public/Institutional— Stormwater detention basin	No change
3 through 7	GC, General Commercial with C-O, conditional overlay	CHANGE Zoning change from LI with a C-O to GC with a C-O. Conditional Overlay would require a 3 foot high berm 25 feet wide at the bottom. 4 feet wide at the top along the west side of the GC area and a 6 foot high chain link fence with privacy slats for Lots 3, 4, and 5, Block 1 and to place trees on the west side of the fence to be installed at the time of building permit and paid for by the property owner.
8	P/I, Public/Institutional—dedicated to SE Cass for Drain 40	No change
9 through 15	LI, Limited Industrial with C-O, conditional overlay	No change

SECOND REVISION—Heard at July 10th, 2023 City Commission and August 1st, 2023 Planning Commission

Lot Numbers	Zoning	Note
1	GC, General Commercial with C-O, conditional overlay	No change
2	P/I, Public/Institutional— Stormwater detention basin	No change
3 through 7	GC, General Commercial with C-O, conditional overlay	CHANGE Conditional Overlay would prohibit concrete crushing on all lots; the fence would be eliminated from the buffering requirement; but berm and trees would remain.
8	P/I, Public/Institutional—dedicated to SE Cass for Drain 40	No change
9 through 15	LI, Limited Industrial with C-O, conditional overlay	CHANGE Conditional Overlay would prohibit concrete crushing on all lots;

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THIRD REVISION---CURRENT VERSION---To be heard at September 18th, 2023 City Commission

Lot Numbers	Zoning	Note
1	GC, General Commercial with C-O, conditional overlay	CHANGE Conditional Overlay would prohibit crushing of any materials, including concrete, asphalt, and rock, on all lots
2	P/I, Public/Institutional— Stormwater detention basin	No change
3 through 7	GC, General Commercial with C-O, conditional overlay	CHANGE Conditional Overlay would prohibit crushing of any materials, including concrete, asphalt, and rock, on all lots
8	P/I, Public/Institutional—dedicated to SE Cass for Drain 40	No change
9 through 15	LI, Limited Industrial with C-O, conditional overlay	CHANGE Conditional Overlay would prohibit crushing of any materials, including concrete, asphalt, and rock, on all lots

CONDITIONAL OVERLAYS

Both the LI and GC zones are proposed to have a conditional overlay (C-O). This C-O provide additional land use regulations specific to this project, intended to make the project more compatible with its context. A general overview of the C-O is below; the draft C-O is attached. Approval of this C-O is part of the overall approval for the zoning for this project.

- C-O for LI, LOTS 9-15: Prohibits certain uses that would otherwise be allowed by right in the LI zone and restricts off-premise signage along the I-29 property frontage to no more than four billboards. Staff notes that without this restriction, a maximum of eight billboards could be installed on the lots along the subdivision’s I-29 property frontage.
- C-O for GC, LOT 1: Prohibits certain uses that would otherwise be allowed by right in the GC zone; prohibits off-premise signage.
- C-O for GC, LOTS 3-7: Prohibits certain uses that would otherwise be allowed by right in the GC zone; prohibits off-premise signage; requires buffering.
- Crushing of all materials, including concrete, asphalt, and rock, is prohibited in the GC and LI zones.
- The conditional overlay does not apply to the P/I zoned lots, Lots 2 and 8, Block 1.

PUBLIC MEETING AND HEARING HISTORY

In addition to the four public hearings shown in the chart on page 2 above, there have been two public meetings. This section summarizes the meeting and hearing history.

NEIGHBORHOOD MEETING AND NEIGHBORHOOD COMMENT LETTERS PRIOR TO MAY 2nd PLANNING COMMISSION HEARING:

Pursuant to Land Development Code Section 20-0905.E, a public open house is required for a proposed growth plan amendment. The intent of this open house is to allow residents and property owners in the area an opportunity to meet with the developer to review and comment on the proposed growth plan amendment. This meeting was held on Thursday, April 20th, at City Hall. Property owners within a 300 foot radius of the subject property were notified by mail of this meeting, as required by the code section noted above. There were nine attendees at this meeting. All but one were residents of Reile’s Acres ETJ, which is west across 45th Street North from the subject property. One was a property owner adjacent to the north of the subject property. The applicant and three members of his development team also attended. The meeting was managed by Planning Department staff.

Following that meeting, Planning staff received 10 letters and e-mails from the nearby residential property owners. Copies of these letters and e-mails are attached. Note that several of these letters are similar and have multiple signatures from over 30 property owners in the nearby area.

The neighborhood residents had several comments on the proposed development, including:

- The change from the current least intense land use designations (low density residential and park) to the most intense land use designation (industrial) seems a drastic change.
- Industrial uses will create dust, light, and noise pollution. Particularly, residents are concerned with the concrete crushing operation that the applicant proposes to operate seasonally on the west side of the subdivision.
- Sufficient buffering must be provided on industrial lots that face the residences on the west side of 45th Street North.
- Traffic and safety—this subdivision will bring additional traffic, including heavy truck traffic, to 40th Avenue North. Additionally, due to the configuration of 44th Street, traffic will have access to 45th Street which could increase the traffic load on that road, which is currently a rural gravel road.
- Resale value of these residential properties will be negatively affected.

ACTION AT THE MAY 2nd, 2023 PLANNING COMMISSION HEARING

At the May 2nd, 2023 Planning Commission hearing, staff presented the project and stated the recommendation for approval.

COMMISSIONER QUESTIONS TO STAFF

In response to Commissioner questions, staff clarified that:

- The area depicted on the 2007 Growth Plan as a “proposed park” was actually intended for a wind tower project that never went forward.
- Fargo’s and Reile’s Acres ETJ’s do not overlap. There is an agreement from 2016 that defines the extent of each city’s ETJ and each city’s responsibilities in relation to the ETJ.
- ETJ does not automatically extend with annexation, so the recent annexation of the area including the subject property did not extend Fargo’s ETJ.
- Staff was not aware of any location in Fargo where new Limited Industrial-zoned development was approved adjacent to existing residential development, though an area of the Rocking Horse area along 51st Street South has several General Commercial-zoned properties with conditional use permits for industrial uses that are near existing residential zones.
- There will be no levee on the west side of the subdivision
- All lots will take access from 44th Street North; there will be no direct access to the lots from 40th Avenue North or 45th Street North.

APPLICANT’S TESTIMONY

Applicant Trent Duda described his project to the Commission. In response to Commissioner questions, the applicant clarified that:

- After purchasing the subject property, he had originally approached Reile’s Acres about annexing the property. Though Reile’s Acres at the time supported his proposed development, and sent him a letter stating so, Reile’s Acres was not able to annex this property as it was in Fargo’s ETJ at the time (it has since been annexed into Fargo city limits). Reile’s Acres’ request to the City of Fargo to change the boundaries of the ETJ was turned down.
- Fire code requires two access points for a project this size, which is why 44th Street within the project connects to both 40th Avenue and 45th Street. The originally proposed cul-de-sac was not allowed by the City.
- He did not propose zoning the west side of the subdivision to GC, General Commercial rather than LI, Limited Industrial as he felt the site design standards and limitations on uses in the GC did not fit what he had planned for this subdivision.
- He intends to sell most of the lots; he will keep a few on the east side for his excavation business.

PRESENTATION BY CASS COUNTY ENGINEER

At the invitation of the City, Cass County Engineer Jason Benson testified regarding traffic and future development of roads near the subject property. He noted:

- The area near the subject property is a high-traffic, high-growth area.

- Access control requirements restrict the subdivision to one access off of 40th Avenue, which will be 44th Street.
- The applicant will be required to install a turn lane and a bypass lane at the intersection of 40th Avenue and 44th Street
- The 40th Avenue / Interstate 29 interchange will be rebuilt by the North Dakota Department of Transportation within the next few years. To make any modifications to the road system west of this interchange without knowing what that interchange will look like would be short-sighted.

NEIGHBORS' TESTIMONY

Several neighbors to the subject property, who live in Reile's Acres ETJ, testified in opposition to the project. The major points and concerns included:

- The residents of Reile's Acres ETJ refer to their area as Prairie Estates, which comprises 20 landowners with lots from two to five acres in area.
- Benefits of living in the ETJ are that property owners can have horses, there is a rural aspect to life there, and yet it is close to the city of Fargo.
- The proposed project provides no benefit to these residents.
- When deciding on this project, the Planning Commission should consider the best interest of the surrounding communities.
- Any business allowed in the LI zone could be developed on the lots in the subdivision [a few uses are prohibited by the conditional overlay].
- The proposed concrete crushing operation could run more than the two to three weeks a year that the applicant has stated it would.
- The negative effects of the concrete crusher are noise, dust, and piles of concrete rubble to look at rather than a view of an open field.
- Even though buffering in the form of a berm and trees is proposed, this buffering will not stop noise and dust, and the trees will take some time to reach a mature size to be effective visual buffers.
- The increase traffic created by this subdivision will add to what the residents feel is already hazardous traffic in this area.
- There is no way to stop trucks entering this subdivision from using the gravel 45th Street in front of these residents' homes as a way out of the subdivision to get back to 40th Avenue.
- The resale value of these residential properties could decrease by as much as 25%.
- Fargo is not short of industrial-zoned property; why does the subject property have to be zoned industrial?
- Could the connection between 44th Street and 45th Street be limited to cars only—no trucks?
- Will the industrial zoning eventually wrap around to Fargo's ETJ on the north side of Reile's Acres ETJ? This area is currently designated on the 2007 Growth Plan as residential, the same as the subject property.
- The width of 45th Street and Drain 40, coupled with an additional 20 foot buffer, is really not that great a distance separating residential from industrial uses.
- Concern for the wildlife that inhabit or come to the subject property.

FURTHER DISCUSSION BY COMMISSION

Following the testimony, the Commissioners had further discussion, during which Commissioners had the following comments:

- Can the conditional overlay restrict uses in such a way that it would work for both the developer and the neighbors?
- Would concerns about the traffic be the same if the proposed development were residential?
- Support of the approval criteria seems "pretty flimsy."
- It is the responsibility of the landowner to develop the property in the best possible manner for the neighboring community.
- This area is an entrance to Fargo.
- The Commission needs to set a precedent that they listen to the residents (in the area near proposed development).

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MOTION TO CONTINUE THE HEARING

Following the discussion, the Commission moved to continue the project to the June 6th, 2023 Planning Commission agenda, and directed that a better plan for traffic on 45th Street be developed and the concerns of the neighbors be addressed. The vote was 7-0.

ACTION AFTER THE MAY 2nd, 2023 PLANNING COMMISSION HEARING

After the May 2nd, 2023 Planning Commission hearing, Planning staff has held another community meeting and received a revised plan from the applicant and other documents as noted below.

DISCUSSION AT THE MAY 18th, 2023 COMMUNITY MEETING

Following the direction of the Planning Commission at the May 2nd hearing, Planning Department staff scheduled a community meeting for Thursday, May 18th, 2023. Notice of the meeting was sent out to all property owners within a 300-foot radius of the subject property, plus all those who had sent in comments for the May 2nd Planning Commission. Attendees included the developer and his team, two members of the Reile's Acres city council, residents of Reile's Acres and Reile's Acres ETJ, three Fargo Planning Commissioners, and Planning Department staff.

The residents expressed the following concerns:

- Concrete Crusher:
 - Noise is constant. Even if operating hours are limited to daytime hours, many neighbors work from home so the noise would be disruptive.
 - Even with the sprinkler dust control measures on the actual crusher operation, there will always be dust from the piles of concrete rubble. Some of this dust may be toxic.
 - Piles of rubble do not make an attractive entrance to the city. Have visual buffering on the Interstate 29 (east) side of the subdivision to block the view of the rubble piles.

There was discussion of relocating the concrete crusher further to the north on the subject property, out of a direct line from the Reile's Acres ETJ residences.

- Traffic
 - Can 44th Street be gated where it connects to 45th Street so that access from 45th Street is limited to emergency vehicles?
 - Will the increased traffic on 45th Street mean that 45th Street would be improved---paved---soon? If so, who pays for those improvements?
 - General comments about the adverse effects of increased traffic. Two recent fatalities on 40th Avenue North were noted.
- Property Resale Value
 - Resale value of the residential properties will be considerably less if this development is approved.
- Uses
 - Discussion of the uses allowed in the GC, General Commercial and LI, Limited Industrial zones.
 - Residents don't know what they'll get in terms of uses in this development.
- City-owned detention basin
 - What will this look like?
 - Will it be aerated to prevent it from becoming a mosquito habitat?
- Growth Plan
 - Questions on the validity of the 2007 Growth Plan, now 16 years old.
 - Discussion of the current residential land use designation.
 - Discussion of whether the industrial land use designation would carry over to the west side of 45th Street, on the north side of Reile's Acres ETJ.
- City of Reile's Acres position on the proposed development
 - The City of Reile's Acres has changed its position from generally supporting this development to opposing it. (See "City of Reile's Acres Position on the Proposed Development" below.)

REVISED PLAN FROM DEVELOPER

Subsequent to the May 18th, 2023 community meeting, the applicant submitted a revised proposal based on comments at the Planning Commission hearing and the community meeting. This plan is summarized on the chart title FIRST REVISION on page 5 above.. A copy of an e-mail from the developer explaining these changes is attached.

This plan was forwarded to the residents' representative on May 26th, 2023.

RESIDENTS' RESPONSE TO THE REVISED PROPOSAL

Planning staff received a comment letter from the Reile's Acres ETJ residents dated May 29th, 2023 regarding their response to the revised proposal. A copy of that letter is attached. General points in that letter are:

- LI, Limited Industrial zoning on the lots on the east side of the subdivision could still bring in land uses and businesses that do not fit into the community
- The concrete crushing operation has numerous negative effects, including environmental health effects.
- Decreased resale value of the residents' homes due to the commercial/industrial nature of the proposed subdivision.
- Negative effects of significant additional truck traffic.

The letter provides additional details.

ADDITIONAL CORRESPONDENCE AFTER THE MAY 2nd, 2023 PLANNING COMMISSION HEARING

Planning staff received two letters regarding the potential negative health effects of concrete dust and one about commercial lighting / dark skies. Copies of these letters are attached.

CITY OF REILE'S ACRES POSITION ON THE PROPOSED DEVELOPMENT

When the applicant purchased the subject property in 2020, he approached the City of Reile's Acres with a request that the property be annexed into that city. At the time, Reile's Acres supported of the applicant's proposed development. However, the subject property was not in Reile's Acres ETJ, so that Reile's Acres could not annex it. Reile's Acres sent a request to the City of Fargo to relinquish its ETJ control of this property and allow Reile's Acres to extend its ETJ control over this property, but Fargo turned down that request. The property remained in Fargo's ETJ and was eventually annexed in March, 2023. A letter of support for the development from Reile's Acres, dated October 21st, 2020, is attached.

Recently, the City of Reile's Acres has become aware of the concerns of the residents of their city and its ETJ about the proposed development. On Tuesday, May 9th, 2023, the City of Reile's Acres held a city council meeting. At that meeting the Council adopted resolution number 2023-03, opposing the proposed development. Major points of opposition are:

- Negative effects of the concrete crushing operation; and
- Decreased property values for the residential homes due to proximity to a commercial / industrial development

The resolution provides additional detail.

Following discussion of this resolution at the May 18th, 2023 community meeting (summarized above), a correction was made regarding the identification of the proposed zoning. A copy of this revised resolution is attached.

CITY OF FARGO RESPONSES TO SOME OF THE CONCERNS EXPRESSED ABOVE

- City-owned detention basin (Lot 2, Block 1): This detention basin will not be aerated. It will not have a buffer along the west side.
- Lot 1, Block 1, corner of 40th Avenue and 45th Street, zoned general commercial: This lot will not have buffer requirements. The area of this lot was designated as "Commercial" on the 2007 Growth Plan and is being zoned GC, General Commercial to match that existing land use designation.
- Connection of 44th Street with 45th Street: This cannot be a gated connection.
- Control of truck traffic on 45th Street (currently a gravel road): This road will be signed with axle weight limits for trucks.

ACTION AT THE JUNE 6th 2023 PLANNING COMMISSION HEARING

At the June 6th, 2023 Planning Commission hearing, staff presented the revised project described above, and noted the laydown items of:

- updated conditional overlay;
- updated subdivision plat; and
- communications from the Reile's Acres ETJ residents since the time the Planning Commission packet was published

Staff stated the recommendation was for approval.

PLANNING COMMISSIONER QUESTIONS TO STAFF

In response to Commissioner questions, Planning staff:

- explained that the boundary between Fargo's ETJ and Reile's Acres ETJ is defined by an agreement from 2016;
- showed on the City's GIS online map the location of City of Fargo, City of Reile's Acres, and their respective ETJ's; and
- explained that there are no specific environmental findings in our ordinance for the growth plan or other entitlements; and

Additionally, the fire marshal explained that dedicated public street within the plat—44th Street North---must connect to both 45th Street and 40th Avenue North to provide two means of access to the subdivision to be in compliance with the City's fire code. This is due to the size of the project. A cul-de-sac street which would connect only to 40th Avenue North, as originally proposed by the developer, is not acceptable.

APPLICANT'S TESTIMONY

In his testimony, the applicant

- Described the proposed berm, fence, and tree buffer along the proposed GC, General Commercial zoned lots 3, 4, 5, 6, and 7, Block 1. This proposed buffering exceeds any requirement in the LDC for commercial uses developed near residential uses.
- Described the dust suppression measures of a concrete crushing operation.
- Gave the opinion that the gravel road (45th Street North) that the homes of many of the project opponents front on creates more dust than a concrete crushing operation would in a year..
- Pointed out that the proposed concrete crushing operation is at least 1,500 feet, and at most 3,500 feet from the residences; in other locations in Fargo, there are residences considerably closer than that—some as close as 800 feet—to concrete crushing operation.
- Showed drone photographs of the subject property and surrounding area, illustration the distance between the Reile's Acres ETJ residences and the subject property, and the nature of the surrounding area in general.
- Observed that several areas along the Interstate corridor are zoned LI, Limited industrial as proposed by this project, and the uses within LI include car dealerships and similar non-industrial uses.
- Believed a new growth plan would not show commercial, single-dwelling residential, and a park this close to the Interstate as the current growth plan does.
- Noted that the properties of some of the opponents in Reile's Acres ETJ include not only residences but some type of business.

In response to Planning Commissioner questions, the applicant;

- Stated a brief history of how he came to acquire the subject property
- Explained he had originally wanted to mitigate traffic going on to 45th Street North with a cul-de-sac street within the subdivision but the City would not allow it (*see "Commissioner Questions to Staff" above*)
- Described the general timeline of the concrete crushing operation and said he had not had a detailed discussion of the scheduling of the crushing with the nearby residents.

NEIGHBORS' TESTIMONY

Several neighbors to the subject property, who live in Reile's Acres ETJ, testified in opposition to the project. Their major points included:

- The proposed change from an open field zoned AG, Agricultural to a developed area zoned LI, Limited Industrial is a dramatic change.

- The 2007 Growth Plan probably designates the subject property as commercial, residential, and park because this area is adjacent to the residences in Reile's Acres ETJ, the City of Reile's Acres itself, and NDSU ag research facilities. That is, the designated uses are fairly low-intensity, as opposed to the proposed industrial land use designation.
- Staff has not provided a better recommendation on the outdated growth plan designation.
- The proposed subdivision provides no benefit to these residents.
- When deciding on this project, the Planning Commission should consider the best interest of the surrounding communities.
- The proposed concrete crushing operation could run more than the two to three weeks a year that the applicant has stated it would.
- Changing the location of the concrete crusher on the subject property does not diminish its overall negative effects of noise, dust, and piles of concrete rubble.
- Even though buffering in the form of a berm and trees is proposed, this buffering will not stop noise and dust, and the trees will take some time to reach a mature size to be effective visual buffers.
- The resale value of these residential properties could decrease by as much as 25%.
- Will approval of the industrial zoning on the subject property set a precedent for the development Fargo's ETJ on the north side of Reile's Acres ETJ? This area is currently designated on the 2007 Growth Plan as residential, the same as the subject property.
- There are no examples in Fargo of situations where industrial zoning was developed near residential zoning. Though some residential areas are located near concrete crushing operations, the crushing operations were there first.
- Applicant North Fargo Land, LLC (Ronald Knutson) did not attend or send a representative to the public meetings. *(NOTE: This applicant's representative followed up on this point by saying that since the North Fargo Land LLC property was already designated as commercial, it was not requesting a growth plan amendment and so this applicant did not feel the need to attend the public meetings)*
- Businesses, like limited liability corporations (LLC's) have strategies and mechanisms to cope with risk and monetary loss that individual homeowners do not.
- No buffer is proposed on the north side of the subdivision, adjacent to the Opp Construction property.
- The concrete crushing operation would create considerable concrete dust, even with the mitigation measures described by the applicant. Concrete dust is cancer-causing; it cannot be easily contained and has a broad area of distribution; and is toxic even in small quantities. *(NOTE: Two of the attached letters detail the health concerns of concrete dust).*

TESTIMONY BY REILE'S ACRES CITY COUNCIL MEMBER

Reile's Acres city council member Tom Krantz testified on behalf of the council. He reiterated points in the May 9th, 2023, resolution by the council regarding this project, including that the council was adamantly opposed to the proposed LI, Limited Industrial zoning and reluctantly accepting of the proposed GC, General Commercial zoning. There was a brief discussion between Planning Commission Chair Schneider and Council Member Krantz about how the Reile's Acres city council had changed their position on the proposed development of this property, from originally supporting to now opposing it. The history of Reile's Acres position on this project is summarized above.

FURTHER DISCUSSION BY PLANNING COMMISSION

Following the testimony, the Commissioners had further discussion, during which Commissioners had the following comments:

- It is surprising that that there appears to be no state or local regulation specific to the health concerns of concrete crushing.
- The decision of whether to approve or deny this project affects not only the Reile's Acres ETJ residents but also the future development of housing in this area.
- The City of Fargo's values include the protection of its residents health, safety, and welfare. Though the Reile's Acres ETJ residents are outside of the City of Fargo, the same values should be applied to them.

MOTION TO APPROVE THE PROJECT

Following the discussion, a motion was made and seconded to approve the project as recommended by staff. On a roll call vote, that motion failed by a vote of 3-4.

MOTION TO DENY THE PROJECT

Following further discussion the discussion, a motion was made and seconded to recommend denial of the project. On a roll call vote, that motion passed by a vote of 4-3. The Commission cited two growth plan approval criteria that were not satisfied.

- **Is the proposed change consistent with surrounding land uses, both existing and future?**

The proposed change was not consistent with the surrounding land uses, both existing and future.

(Criteria NOT Satisfied)

- **How does the proposed change impact the long term sustainability of the city? Does the change contribute to or detract from the walkability and livability of the city?**

The proposed change would have a negative impact on the long-term sustainability of the city, and would detract from the livability of the city.

(Criteria NOT Satisfied)

As the Planning Commission recommended denial of the growth plan amendment, the proposed zone change and subdivision plat could go forward, as neither one of these entitlements is possible without a change the growth plan amendment.

REVISED PLAN—FOR JULY 10th, 2023 CITY COMMISSION HEARING

Subsequent to the June 6th, 2023 Planning Commission hearing, the applicant submitted a revised proposal based on comments at the Planning Commission hearing. This plan is summarized on the chart titled SECOND REVISION on page 5 above.

This plan was forwarded to the Reile's Acres representative on June 16th.

ADDITIONAL CORRESPONDENCE AFTER THE JUNE 6th, 2023 PLANNING COMMISSION HEARING
Planning staff had two lay-down items, including one public comment letter, for the June 6th, 2023 Planning Commission hearing, and received four letters / e-mails, including one from Reile's Acres mayor Shane Amundson, following the June 6th hearing.

These items address:

- Potential health effects of any industrial development
- Opposition to the concrete crushing operation (*NOTE: the applicant has agreed to prohibit concrete crushing as a use on this property, though not all commenters might be aware of that change*)
- Concern about loss of property values
- Concern about increase in traffic in general and truck traffic specifically
- Industrial development not being the appropriate development in this location

Copies of the letters are attached.

ACTION AT THE JULY 10th CITY COMMISSION

At the July 10th, 2023 Planning Commission hearing, staff presented the revised project described above. Staff explained that there were two recommendations before the City Commission:

1. The Planning Commission's recommendation for denial, from the June 6th, 2023 Planning Commission hearing ; and
2. Staff's recommendation for approval, based on the revised project submitted after the June 6th hearing.

APPLICANT'S TESTIMONY

The applicant made the following points:

- Staff has recommended approval twice (at the Planning Commission and City Commission).
- Different businesses other than the applicant's excavation business will be locating in this subdivision.
- Concrete crushing has been eliminated as an allowable use in this subdivision.
- The residential protection buffer between the commercial uses in the subdivision and the existing residences in Reile's Acres ETJ exceed the Land Development Code requirements for residential protection standards.
- The zoning steps down in intensity from the intensive industrial uses along Interstate 29 to the residences in the Reile's Acres ETJ.
- There has been little recent residential development along the Interstates.

- Concerns about having industrial uses along an entrance to Fargo are exaggerated; the properties on the east side of Interstate 29 across from the subject property are zoned Limited Industrial and developed with industrial uses.
- Commented on the position of the Reile's Acres city council in relation to this project and how that position has changed over time.

NEIGHBORS' TESTIMONY

Several neighbors to the subject property, who live in Reile's Acres ETJ, testified in opposition to the project. Their major points included:

- The proposed zoning change from Agricultural to Industrial is a dramatic change
- The subject property was probably designated as "residential" on the 2007 Growth Plan as it was adjacent to existing residential development
- Industrial uses adjacent to existing residential have not developed elsewhere in the city
- There are areas adjacent to the interstates that have residential development
- There is a large demand for housing in north Fargo
- Would a change from residential to industrial land uses on the subject property trigger a similar change from industrial to residential to the area of Fargo's ETJ adjacent to the north of Reile's Acres ETJ?
- The negative effect of rezoning on future property resale values.
- Residents of Reile's Acres ETJ were not involved in the original conversations between the Reile's Acres city council and the developer in 2020.

FURTHER DISCUSSION BY THE CITY COMMISSION

Following the testimony, the Commissioners had further discussion, as well as questions for staff, during which the following points were made:

- The recently released housing study indicates Fargo needs housing of all types in all locations; giving up an area indicated on the growth plan as designated for housing is not a good idea.
- The determination of how much area should be depicted on a growth plan is done through land consumption analysis over time. This process was part of the 2007 growth plan and is part of the growth plan update.
- Staff has not had any requests to develop in the area of Fargo's ETJ north of Reile's Acres ETJ, so has not done any further evaluation of the 2007 Growth Plan for that area.
- The new growth plan will probably be completed in February or March, 2024
- The Commission has concern about developing residential near the interstates due to the noise; in the past, the Commission has had to deal with installing sound walls along interstates that border residential areas.

MOTION TO SEND THE PROJECT BACK TO THE PLANNING COMMISSION

Following their discussion, the Commission moved to send the project back to the Planning Commission, with emphasis on reviewing what the future growth plan will look like rather than on the specific uses. This motion was approved by a vote of 5-0.

Staff scheduled the project for the August 1st, 2023 Planning Commission and noticed this hearing as required.

COMMENTS RECEIVED SINCE THE JULY 10th CITY COMMISSION

The following points were made by a Reile's Acres ETJ resident in a phone conversation with staff:

- The developer should install the tree buffer all at once, rather than on a lot-by-lot basis, for uniformity and consistency.
- The finding regarding property value should be identified as "not satisfied" as staff has no documentation regarding this matter.

One comment letter was received. A copy is attached. Concerns expressed in this letter include:

- There is a high demand for housing city-wide, including north Fargo.
- How will this proposed change in the growth plan and zoning affect the Fargo ETJ property north of Reile's Acres ETJ?

- Uncertainty over the types of manufacturing and production uses that could develop in the LI, Limited Industrial zoned areas of this subdivision
- Industrially-zoned areas belong in the city, not near residential.
- Home values will be negatively impacted by the proposed development

FURTHER ANALYSIS OF THE GROWTH PLAN

Staff has reviewed the concern about if the growth plan on the subject property is amended to designate this property as Commercial and Industrial, will that set a precedent to amend the growth plan on the Fargo ETJ area on the west side of 45th Street adjacent to the north of Reile's Acres ETJ / This area will be referred to as the "North ETJ" in the discussion below.

Staff views the subject property as suited for a different type of development than the North ETJ for the following reasons:

- As the subject property is immediately off an interstate interchange, it is appropriate for the uses on the subject property to make use of that location. Though there are residential developments along the interstates, the areas adjacent to interchanges on I-29 and I-94 in Fargo are developed with commercial and industrial uses. The exceptions are 19th Avenue North, where the land adjacent to the interchange is owned by NDSU on both sides; and the northwest quadrant of the I-94 / 25th Street South interchange, where the residential subdivision was platted approximately 15 years before the interchange was built.
- The subject property is physically separated from the Reile's Acres ETJ and the North ETJ by 45th Street North and Drain 40, a distance of approximately 170 feet. An additional 92.5 feet of separation will be provided by Lot 8, an undevelopable lot that will be dedicated to SE Cass for Drain 40. Traffic from the commercial and industrial development on the subject property was intended to be isolated from the Reile's Acres ETJ. 44th Street within the subdivision was intended to be an entirely internal street ending in a cul-de-sac, so that all commercial and industrial traffic would enter and leave the subdivision by way of 44th Street North connecting to 40th Avenue North. However, fire code requires an additional access onto 45th Street North. The fire marshal has explained that there is no variance or work-around for this regulation.
- Opp Construction and Memory Fireworks, which are clearly limited industrial and commercial uses, were developed adjacent to the subject property some years ago, establishing a precedent for this type of development in the area between 45th Street and I-29. Indeed, Memory Fireworks capitalizes on its accessible location right off the interstate.
- Conversely, the North ETJ is not well suited to commercial and industrial development because it lacks a direct connection to the interstate or other arterial. 45th Street is a "road to nowhere" in this area. It currently downgrades from a gravel road to a minimum maintenance road north of Reile's Acres ETJ, and then stops going north at 52nd Avenue North. There is no right of way available for 45th Street to continue north to the Harwood interchange. There is no interchange or over-crossing of I-29 proposed at 52nd Avenue North to connect to the interstate or to streets and developments on the east side of I-29. Because of these limitations of the road network, it is not anticipated that there will be a request to modify the existing growth plan for the property south of 52nd Avenue North and west of 45th Street North to designate this property for industrial or commercial uses.
- The 262.5 foot Drain 40 / 45th Street North separation between the subject property and the property to the west, referred to above, provides for an appropriate transitional node that accommodates the land use transition from residential on the west to more intense uses toward the interstate. As has been noted several times in the public hearings on this project, there is no such separation between Reile's Acres ETJ and the North ETJ. This fact mitigates against changing the growth plan to have commercial or higher intensity uses adjacent to Reile's Acres ETJ; residential would be the highest and best use here.

STAFF COMMENT ON AIR QUALITY CONCERNS

During the testimony at the several hearings on this project, there have been several public comments regarding a concern for air quality related to industrial development. Staff notes that the City of Fargo and

Fargo/Cass Public Health Department do not enforce air quality regulations. The Air Quality Division of the North Dakota Department of Environmental Quality is the state agency that would address air quality concerns. The federal Environmental Protection Agency (EPA) also deals with air quality. Staff does not have the background to evaluate concerns about air quality related to health.

ACTION AT THE AUGUST 1st, 2023 PLANNING COMMISSION HEARING

At the August 1st, 2023 Planning Commission hearing, the Commission heard a presentation from staff, which included the following points:

- Concrete crushing has been eliminated as a use on all lots in the subdivision
- Regarding the area of Fargo's ETJ adjacent to the north of Reile's Acres ETJ, this area is not expected to be developed as commercial or industrial due to it being not readily accessible.

COMMISSION QUESTIONS FOR STAFF

In response to Commissioner questions, Planning staff clarified that:

- The developer will build the berm; trees will be planted by property owners; there will be no fence; and Lot 1 is already designated as "commercial" so there will be no buffer along the west side of that lot; and the buffer does not extend to Lot 9.
- The existing conditional overlay on the Opp property adjacent to the north of the subject property is very restrictive and effectively the Opp company is the only industrial use that can be there.
- The proposed new interchange at 40th Avenue North and I-29 is not related to this project. The new interchange design has not yet been determined but it will not require additional right of way
- The developer will have to make improvements to 40th Avenue North at the access point—44th Street North—to his property.

Staff also recapped comments made at the April 20th neighborhood meeting on the proposed growth plan amendment.

APPLICANT'S TESTIMONY

In his testimony, the applicant's representatives made the following points:

- City staff has already recommended the project for approval three times
- The applicant has made concessions to address neighborhood concerns, such as eliminating concrete crushing
- The buffering the applicant is providing for on the commercial lots that face the Reile's Acres ETJ exceed the requirements of the residential protection standards in the LDC
- The project provides a stepped-down intensity of land use from the industrial along I-29 to commercial, buffer, drain and roadway, to the existing residential.
- The subject property has been for sale for 20 years and no residential developer bought it and developed it.
- If it were developed as residential, it would be the only residential along I-29 from Harwood to the apartments south of 13th Avenue South.
- The term "industrial" has a bad name, though some non-manufacturing uses such as major car dealerships are in industrial zones.
- Denial of the project would be arbitrary and capricious and not based on the development code.

Additionally, the applicant's representatives showed a Powerpoint presentation giving an example of commercial and industrial development of the Fleet Farm area (38th Avenue / 33rd Street South) in relation to the adjacent residential area.

COMMISSION QUESTIONS FOR APPLICANT

In response to questions from the Commission, the applicant stated that he did not know who the buyers of the proposed industrial lots would be and what business those buyers would bring to those lots.

NEIGHBOR'S TESTIMONY

Six neighbors to the subject property, who live in Reile's Acres ETJ, testified in opposition to the project. Their major points included:

- At the June 6th, 2023 Planning Commission hearing, the Commission moved to deny the proposed growth plan amendment because they believed the criteria for two findings had not been satisfied:
 - Is the proposed change consistent with surrounding land uses, both existing and future?

- How does the proposed change impact the long term sustainability of the city? Does the change contribute to or detract from the walkability and livability of the city?

At the June 6th hearing, the Commission found that the proposed change was not consistent with existing and future land uses, and that the proposed change would have a negative impact on the long-term sustainability of the city, and would detract from the livability of the city.

- The zone change finding regarding whether the zoning change would adversely affect the condition or value of the property in the vicinity should have been marked as “not satisfied.”
- The separation distance between the existing residences and the commercial development on the west side of the project is **not** a long distance; residents will be able to see, feel, and experience all the activity on the project site.
- A three-foot berm is not sufficient buffering; there should be multiple rows of evergreen trees planted all at once, including on Lot 1.
- No additional information on the demand for commercial and residential in this part of town has been provided.
- Development of the proposed intensity belongs on 12th Avenue or 19th Avenue North, not in this location.
- The housing study released in June of this year indicates there will be an increased need for housing in north Fargo.
- There are many examples in Fargo of residential development along interstates that do not have sound walls protecting the residences—Prairiewood, Bluemont Lakes, Centennial.
- The Opp property to the north is occupied by a landscaping company, which is not manufacturing.
- Concrete crushing would have violated state and federal environmental laws.
- The developer is not required to identify what actual uses will be on the individual industrial lots.
- North Dakota Administrative Code (NDAC) 33.1-15-05—Air Pollution--regulates particle emissions; this would keep most industrial uses out of the area proposed to be zoned industrial.
- All industrial uses create waste; this waste is often difficult to monitor, contain, and regulate.
- Risk from this waste cannot be attenuated by reducing the concentration.
- The current residential development on the north side of 40th Avenue North in Reile's Acres indicates there's a demand for residential in this area.
- Businesses in the commercial-zoned area will face 44th Street North; the “dirty side” of those business will face the residents in Reile's Acres ETJ.
- Amending the current growth plan at a time when the process for a new growth plan is underway is not a good idea.

Reile's Acres city councilman Tom Krantz reaffirmed that city's position that it stands in opposition to the proposed commercial and industrial zoning.

One testifier cited comments made by Commissioners at the July 10th City Commission hearing on this project (names of Commissioners who made the statements are in parentheses):

- “Has there ever been any analysis of what needs are for industrial land in the City of Fargo as we grow?” (Preston)
- “My concern is that without looking at the bigger picture, is this [growth plan] amendment appropriate?” (Preston)
- “Who wants an isolated piece of industrial here if the rest of the land ends up being something else?” (Preston)
- “We just concluded our housing study and it shows that we need a lot of housing and all kinds of housing, so, to me, for us to talk about removing potential housing sites for commercial---I think that would be a big mistake at this point.” (Piepkorn)
- “South Fargo is growing tremendously. That is great. I think we should also be hoping that north Fargo grows tremendously as well. When we're talking about sound, the interstate is already there [adjacent to the subject property], so when you're moving in after the fact, people are already going to know and developers know how to handle sound.” (Piepkorn)

- “North Fargo schools could use more population and there are a lot of ways this would benefit north Fargo.” (Piepkorn)
- “The other thing is, Reile’s Acres—those people, when they built out there—they knew they were taking a risk, because they’re not part of the City of Fargo. However, we have to be good neighbors to them, and common sense says you can’t put industrial next to residential. We would never do that in the City of Fargo and, to me, I think that our goal is that this should all be residential on this [west] side of the interstate.” (Piepkorn)
- “I would lean to say that there is just no way we’re going to put industrial here.” (Piepkorn)
- “I think we would want to match up a little more with the growth plan and it may need to take the concerns of the public into consideration.” (Mahoney)

One testifier stated that the American Lung Association has just published their annual report where they announced a list of 25 most polluted cities nationwide and Fargo is a new addition to that list. We are currently ranked number 22 out of 25.

Staff review of the American Lung Association website indicates that Fargo ranked 22nd worst for 24-hour particle pollution out of 223 metropolitan areas (<https://www.lung.org/research/sota/city-rankings/msas/fargo-wahpeton-nd-mn#pm24>).

COMMISSION DISCUSSION

Following the close the of the public hearing, the Commission engaged in discussion with staff and the applicant. The discussion included the following topics:

- Staff pointed out that our LDC does not provide any specific environmental findings or require any environmental review, as some other states do.
- Review of the actual use proposed on a property is reviewed by several City departments, and sometimes other state or federal agencies, at the time of building permit review. The Inspections Department does not grant a building permit until all reviewing departments and agencies have signed off that their respective codes and regulations have been met.
- The applicant stated that he had observed that some properties in Reile’s Acres ETJ had businesses that appeared to be commercial or industrial on their lots, even though those lots were also residential. He cited a transportation company, duck decoy company, and cabinet building company.

OTHER COMMISSION COMMENTS

One Commissioner commented that if the growth plan amendment is approved, the City may see multiple proposed growth plan amendments come forward in the near future, attempting to make growth plan changes before the new growth plan is in place. Now it not the time for such activity, as the City is looking ahead to the future of our community with a new growth plan.

One Commissioner proposed requiring the applicant to change the proposed zoning on Lot 9 from LI to GC, as this lot faces 45th Street North and the area of Fargo’s ETJ currently designated as “residential” to the west. He stated that Lot 9 is a bridge to the residential to the west, and if the project is going to have a sliver of LI, it needs to be completely isolated and landlocked so there is no risk of the LI expanding to the west or north. After discussion and a vote of the Commission, this requirement was not added to the motion.

One Commissioner responded to the neighbor’s testimony regarding the possibility that asphalt crushing would be allowed on the industrial lots. After some discussion, the requirement to specify crushing of any materials would be prohibited was included in the motion.

COMMISSION MOTION

The Commission moved to accept the findings and recommendation of staff, as presented, with the additional requirement that the conditional overlay specify that crushing of all materials is prohibited. The motion was approved by a vote of 5 to 2. The conditional overlay has been updated as directed by the Commission.

(continued on next page)

COMMENTS RECEIVED SINCE THE AUGUST 1st, 2023 PLANNING COMMISSION HEARING

No additional comments have been received by the time this packet had to be printed on Thursday morning, September 14th. Any additional comments received will be distributed as lay-down items to the Commission at the September 18th hearing.

FINDINGS

Growth Plan Evaluation Criteria: Section 20-0905(H) of the LDC states that the Planning Commission and City Commission shall consider whether the Growth Plan is consistent with and serves to implement adopted plans and policies of the city.

The 2007 Growth Plan sets forth the following criteria that should be used to evaluate any proposed growth plan amendment:

- **Is the proposed change consistent with surrounding land uses, both existing and future?--**

The area included in the proposed growth plan amendment is smaller than the overall subject property, as depicted on the "Existing / Proposed" growth plan map above.

- Adjacent to the north of the amendment area is an industrial-developed property (Opp Construction) that is in Fargo's ETJ.
- Adjacent to the east of the amendment area is the right of way for Interstate 29, owned by the state of North Dakota.
- To the south of the amendment area, the growth plan designation of "Commercial" is the existing growth plan designation and is not proposed to be amended.

In terms of compatibility, the proposed industrial land use designation is compatible on the north and east sides. The south, the transition from industrial to commercial closer to an arterial street (40th Avenue North) is compatible.

To the west, the amendment area is in a situation that is rarely encountered in that it is close to existing large lot rural residential development in the extra-territorial jurisdiction of another city (Reile's Acres). In terms of compatibility, industrial development is not often found near to such residential development. The LDC provides for residential protection standards (RPS) of Section 20-0704 to mitigate the effects of non-residential development on existing residential development. The application of RPS is based on distance from the non-residential development to the residential zoning. The RPS would not apply in this situation as the residential development is already separated from the non-residential development by a greater distance than would trigger application of the RPS. Nonetheless, the applicant has proposed a 25-foot wide berm/tree buffer be required on the lots along the west side of the Interstate Business District Addition in addition to the already approximately 262.5 feet that separate this subdivision from the existing residential development in Reile's Acres ETJ (that 260 feet includes Cass County Drain 40 and 45th Street North right of way, a distance of approximately 170 feet and a 92.25 -foot wide lot, Lot 8, on the entire west side of the proposed development that will be dedicated to Southeast Cass Water Resources District for drain protection and is not developable). This approximately 287.5 foot separation, including the buffering, is intended to mitigate the effects of the commercial and industrial development in relation to the existing residential development to the west. The width of this buffer and the height of the berm/ tree portion of the buffer is well beyond the requirements of RPS.

With the applicant's revised proposal to have the lots on the west side of the subdivision be zoned GC, General Commercial, the land uses between I-29 and Reile's Acres ETJ follow a progressive step-down in intensity of development:

- Industrial uses on the east side of the subdivision adjacent to I-29, which step down to
- Commercial uses on the west side of the subdivision, which step down to
- A 280-foot wide undevelopable area, which steps down
- The residential development in Reile's Acres ETJ.

(Criteria Satisfied)

- **Does the proposed change involve a street alignment or connection? If so, how does this change affect the transportation system and the land uses in the surrounding area, both existing and future?**

There are no existing streets within the subject property. The growth plan does not indicate any intended street alignments within the subject property. The proposed subdivision will dedicate a public street (44th Street) from which all lots in the subdivision will take access. This will be a local street and will provide an additional connection between 40th Avenue North to 45th Street North, which already intersect at the southwest corner of the subject property. It is not intended that new land uses develop as a result of this new street. This street is intended to only serve this development, and there is no opportunity for east-west cross streets to connect to it. **(Criteria Satisfied)**

- **How does the proposed change work with the larger area in terms of land use balance and other factors that could influence the proposed change? Are there physical features or developments in the vicinity that make the change positive or negative for the City and the area in general?**

The area east of I-29 and north of 40th Avenue North has been developed as industrial, mainly with large warehouses and distribution centers, although all the uses in the LI, Limited Industrial zone are permitted in this area. There are no conditional overlays on these properties (Dakota Commerce Center and Dakota Commerce Center North). The proposed growth plan change would allow industrial development on the west side of I-29. This development could include the uses permitted in the LI zone, other than those prohibited by the proposed conditional overlay.

Additionally, some of the assumptions in the 2007 Growth Plan, on which the current land use designations were based, did not come to pass as expected. In relation to this location, the assumption that there would be significant pressure for residential development north of 19th Avenue North did not pan out; the major areas of residential development turned out to be south and southwest Fargo. Regarding the current "low-to-medium density" land use designation on the subject property, low-density residential development since 2007 has evolved mainly away from the interstate highways. There has been some higher density multi-dwelling development near I-29 south of 13th Avenue South. At least one of these recent multi-dwelling developments has had sound-proofing requirements for the building.

Thus, alternative land uses for this area can be considered, and changes to land use designations be proposed through the growth plan amendment process specified in the LDC.

As noted above, separation distance and buffering are intended to mitigate the effects of the commercial and industrial development in relation to the existing large lot rural residential development west of 45th Street North. **(Criteria Satisfied)**

- **How does the proposed change impact the long term sustainability of the city? Does the change contribute to or detract from the walkability and livability of the city?**

The proposed change provides property for industrial and commercial development that has convenient access to the interstate, an east/west arterial road (40th Avenue North), and City utilities (extended through 44th Street North). Though several areas of the city are already zoned for commercial or industrial uses, it is important to have a variety of commercial and industrial zoned locations as the needs of the different kinds of businesses that can develop in these zones are different. In this location, the focus is on commercial and industrial businesses than have a priority for easy access to an interstate highway and need fairly large lots.

There is no opportunity for pedestrian access on the east or west due to the Cass County Drain 40 and I-29 right of way. Future development or redevelopment of 40th Avenue may include a multi-use path. **(Criteria Satisfied)**

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned AG: Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay. The applicant proposes zoning

of LI, Limited Industrial and GC, General Commercial, both with conditional overlays, and P/I, Public/Institutional. The 2007 Land Use Plan applies to the subject property, as noted above. The GC zoning is consistent with the existing "Commercial" land use designation. The LI zoning will be consistent with the amended growth plan designation of "Industrial." The P/I zoning for government-owned property can be applied under any land-use designation. **(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The plat will dedicate public right of way (44th Street North) through which access and public utilities will be provided. **(Criteria satisfied)**

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

As noted above, the distance and buffering between the proposed development and the existing residences to the west are intended to mitigate the effects of the new development in relation to those residences. Value of a property for tax purposes is determined by the City or County assessor and is not directly based on adjacent zoning. Re-sale value of a property is determined by local real estate market conditions at the time of sale. These conditions are not predictable in the long term. Staff has no documentation to demonstrate 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 the comment letters noted above. 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)**

- **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." The Growth Plan that applies to this property is the 2007 Growth Plan. With the approval of the growth plan amendment noted above, the proposed zoning of Limited Industrial, General Commercial (both with conditional overlays) and Public Institutional will be consistent with these land use designations. **(Criteria satisfied)**

Major Subdivision

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

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

The requested zoning for this subdivision is LI, Limited Industrial with conditional overlay; GC, General Commercial with conditional overlay; and P/I, Public Institutional, which will be consistent with the amended 2007 Growth Plan. 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, Planning staff has received the comments noted above. **(Criteria Satisfied)**

- **Section 20-0907.C.4.c of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The property is proposed to be zoned LI, Limited Industrial with conditional overlay; GC, General Commercial with conditional overlay; and P/I, Public Institutional. As noted in the zone change findings above, this zone is consistent with the amended 2007 Growth Plan designations for this property. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(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.**

The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan was reviewed by the Public Works Project Evaluation Committee (PWPEC).. Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading and move to approve the proposed 1) Growth Plan Amendment from Residential Area, Lower to Medium Density; Commercial; and Proposed Park to Industrial and Commercial; 2) Zoning Change from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional; and 3) major subdivision, to be known as **Interstate Business District Addition**, including the airport proximity agreement, as outlined in the staff report, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Sections 20-0906.F (1-4), 20-0905(H), and 20-0907.C of the LDC, and all other applicable requirements of the LDC."

Planning Commission Recommendation: August 1st, 2023

At the August 1st, 2023 Planning Commission hearing, that Commission, by a vote of 5-2 with two Commissioners absent and two Commission seats vacant, moved to recommend approval to the City Commission of the proposed 1) Growth Plan Amendment from Residential Area, Lower to Medium Density; Commercial; and Proposed Park to Industrial and Commercial; 2) Zoning Change from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional; and 3) major subdivision, to be known as **Interstate Business District Addition**, as outlined in the staff report, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Sections 20-0906.F (1-4), 20-0905(H), and 20-0907.C of the LDC, and all other applicable requirements of the LDC, with the additional requirement that crushing of all materials be prohibited by the conditional overlay.
(NOTE: The airport proximity agreement is not included in the Planning Commission motion as that Commission takes no action on that agreement.)

Attachments:

NOTE ON ORGANIZATION OF ATTACHMENTS

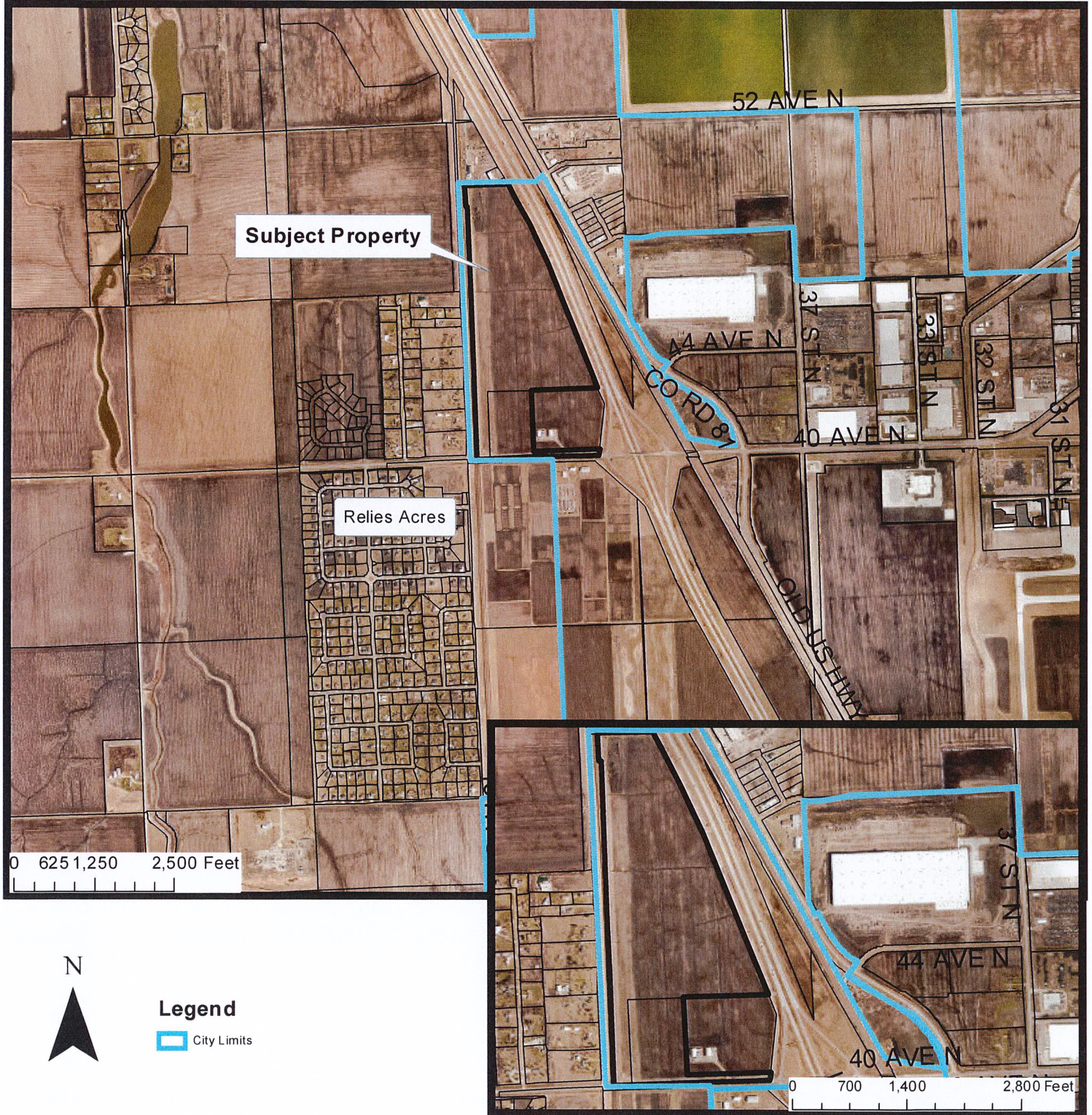
For convenient reference, copies of letters and other documents received most recently are attached first, followed by copies of letters and other documents that appeared in the previous Planning Commission and City Commission packets.

1. Location map
2. Zoning map
3. Growth plan amendment map
4. Preliminary plat
5. Proposed zoning map
6. Draft conditional overlay
7. Public comment letters
8. Airport proximity agreement

Major Subdivision, Zone Change from AG, Agricultural and LI, Limited Industrial with a Conditional Overlay to Limited Industrial and General Commercial with a Conditional Overlay and P/I, Public/Institutional; Growth Plan Amendment from Commercial, Residential Area—Lower to Medium Density and Proposed Park to Industrial and Commercial

Interstate Business District Addition

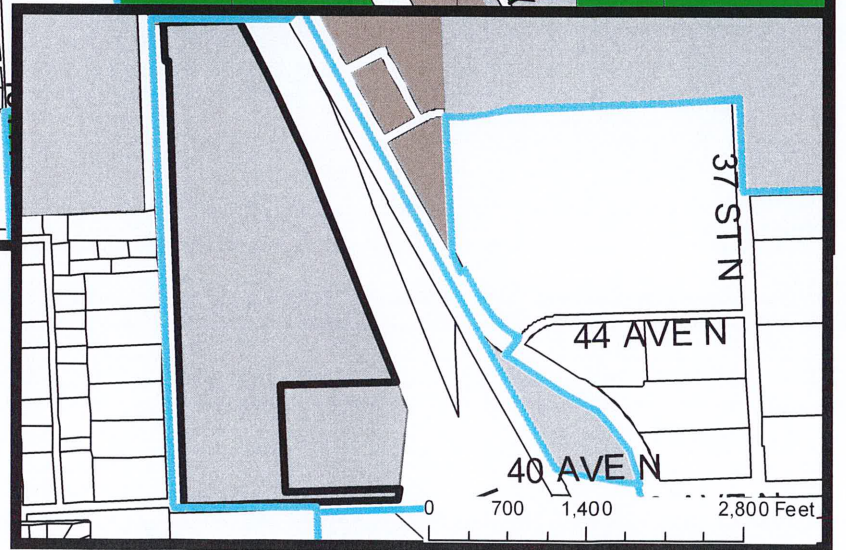
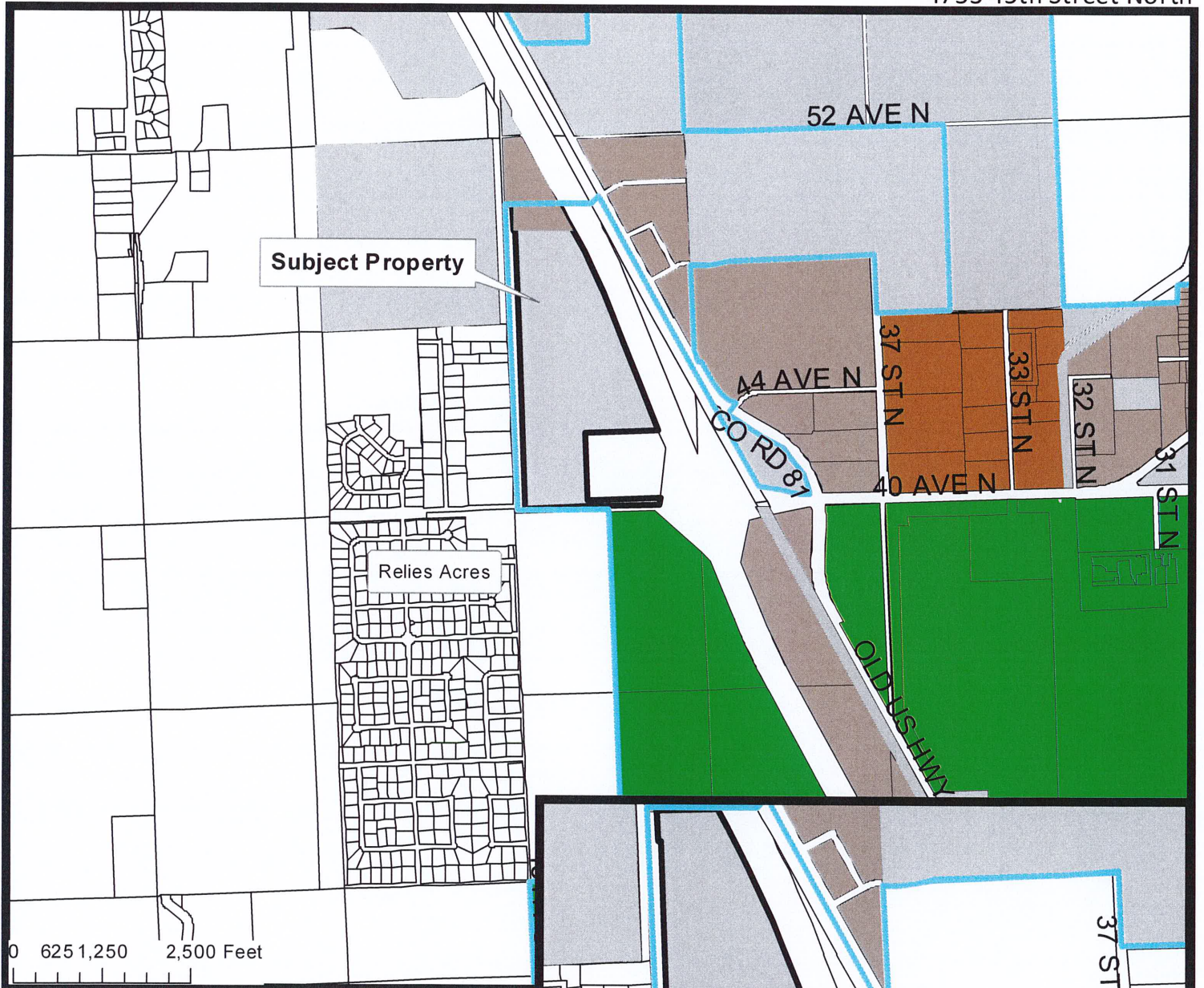
4269 40th Avenue North
4753 45th Street North



Major Subdivision, Zone Change from AG, Agricultural and LI, Limited Industrial with a Conditional Overlay to Limited Industrial and General Commercial with a Conditional Overlay and P/I, Public/Institutional; Growth Plan Amendment from Commercial, Residential Area—Lower to Medium Density and Proposed Park to Industrial and Commercial

Interstate Business District Addition

4269 40th Avenue North
4753 45th Street North



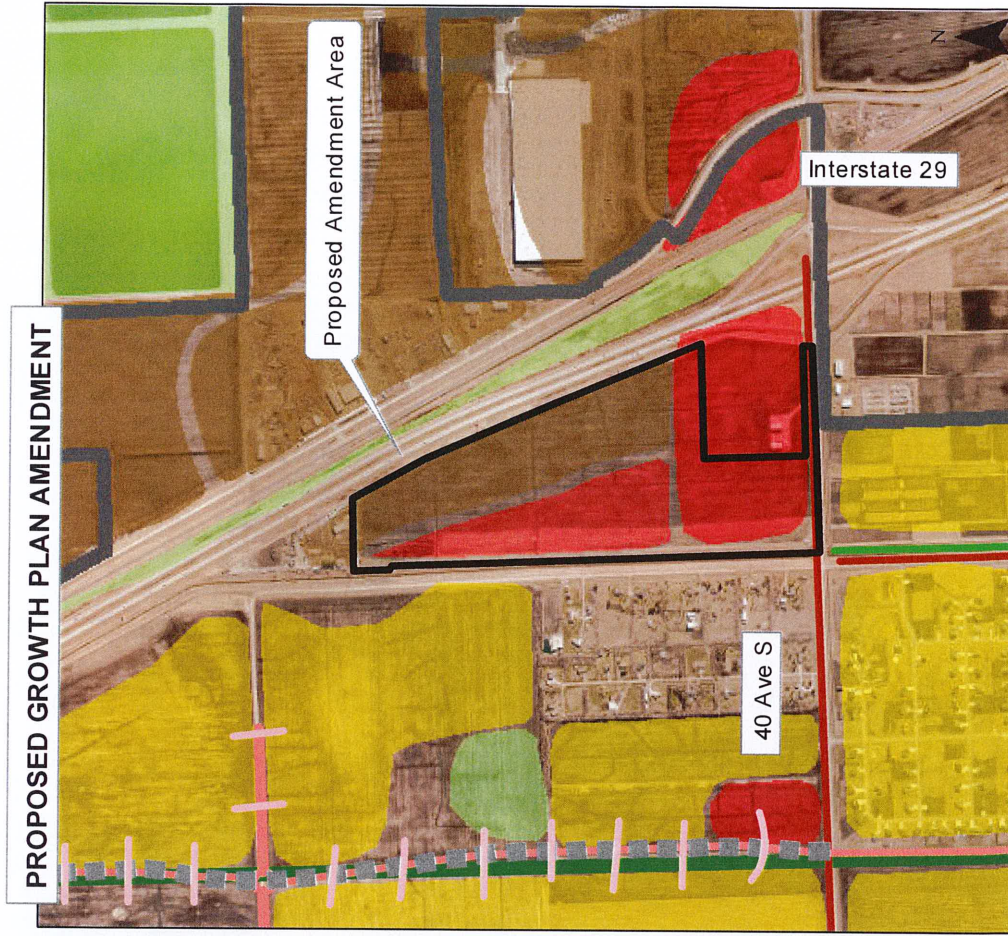
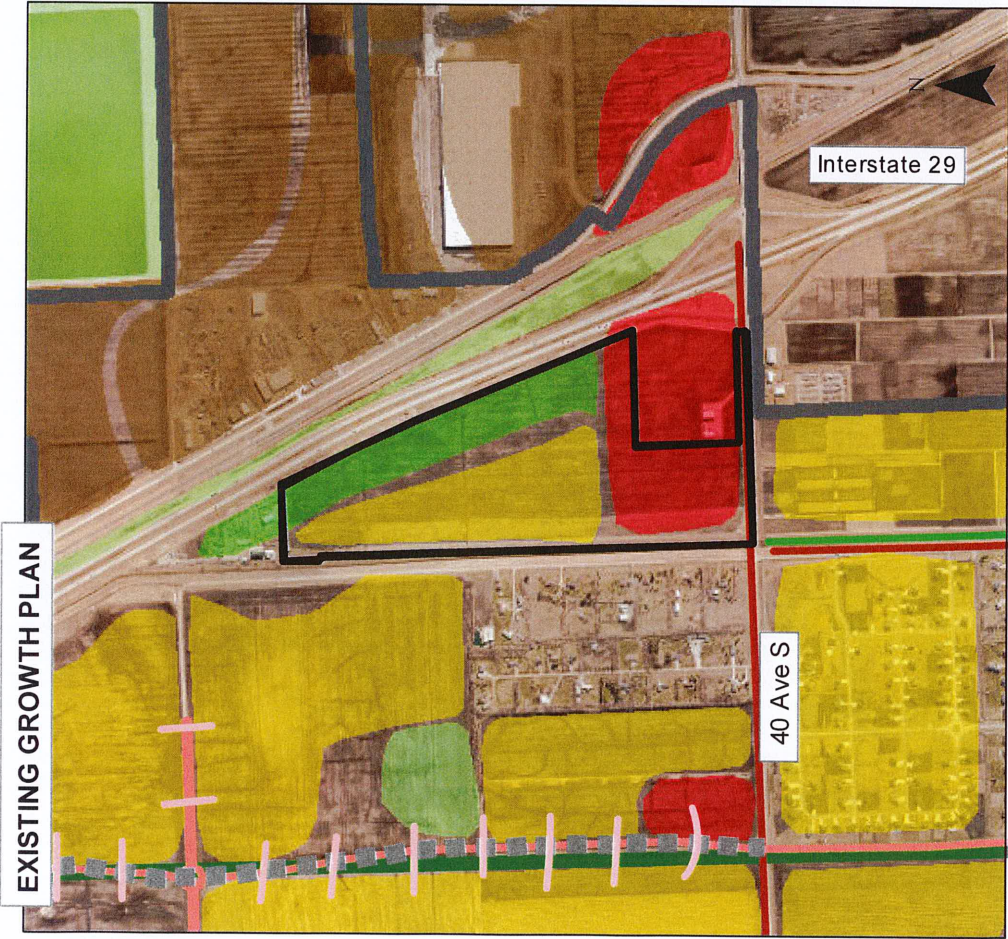
Legend

AG	DMU	GC	GO	LC	LI	MR-1	MR-2	MR-3	MHP	NC	NO	P/I	UMU	SR-2	SR-3	SR-4	SR-5	City Limits
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Growth Plan Amendment ("Commercial, Residential—Low to Medium Density, and Proposed Park" to "Industrial and Commercial")



Interstate Business Park Addition

4269 40th Avenue North
4753 45th Street North



2001 Growth Plan

-  City Limits
-  Proposed Park
-  Commercial
-  Public and Institutional
-  Office
-  Industrial Area

-  Residential Area - lower to medium density
-  Residential Area - medium to high density

Fargo Planning Commission

May 2, 2023



INTERSTATE BUSINESS DISTRICT ADDITION

TO THE CITY OF FARGO, A PLAT OF PART OF THE WEST HALF OF SECTION 15, TOWNSHIP 140 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA (A MAJOR SUBDIVISION)

OWNER'S CERTIFICATE

KNOW ALL PERSONS BY THESE PRESENTS, That AAD Properties, LLC AND North Fargo Land, LLC AND Southeast North Fargo District are the owners of a parcel of land located in that part of the West Half of Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota being described as follows:

Commencing at the southwest corner of the Southwest Quarter of said Section 15; thence North 87 degrees 58 minutes 33 seconds East on the south line of said Southwest Quarter, 1725.51 feet to the easterly right-of-way line of Cass County Highway 25; thence North 87 degrees 58 minutes 33 seconds East on said easterly right-of-way line, being parallel with and 1730.50 feet easterly of the west line of said Southwest Quarter, 2845.81 feet to the north line of said Southwest Quarter; thence North 02 degrees 54 minutes 44 seconds West on said Section 15, a distance of 1322.84 feet to the north line of said Auditor's Lot 2 also being a northerly right-of-way line of said District; thence South 87 degrees 50 minutes 03 seconds West on said north line, 200.00 feet to the southwest corner of said Auditor's Lot 2 also being the easterly right-of-way line of said District; thence North 02 degrees 54 minutes 44 seconds East on said easterly right-of-way line of said Auditor's Lot 2, a distance of 1322.84 feet to the north line of said Auditor's Lot 2 also being a northerly right-of-way line of said District; thence North 87 degrees 54 minutes 05 seconds East on said right-of-way line of Interstate Highway 25, thence South 28 degrees 04 minutes 44 seconds East on said easterly right-of-way line, 1885.82 feet to a point of intersection with a parcel line as described in document number 1815948, on the east of record in the office of the County Recorder of said Cass County, North Dakota; thence North 87 degrees 54 minutes 05 seconds East on said easterly right-of-way line, 235.50 feet; thence continuing southeasterly, on said right-of-way line 1,395.39 feet along an arc of a right angle curve, convex to the southwest, having a radius of 1,258.19 feet, a central angle of 07 degrees 03 minutes 52 seconds East, to the southeast corner of said Southwest Quarter, 1025.29 feet to a point, said point being a point of intersection with a line parallel with the west line of said Southwest Quarter passing through a point which is located on the east line of said Southwest Quarter, 1680.00 feet from the southwest corner of said Southwest Quarter; thence South 02 degrees 54 minutes 44 seconds West on said Section 15, a distance of 1010.00 feet to the south line of said Southwest Quarter; thence North 87 degrees 58 minutes 39 seconds East, parallel with and 1010.00 feet northerly of said south line, 1005.87 feet to the westerly right-of-way line of Interstate Highway 25; thence South 87 degrees 58 minutes 39 seconds West on said south line, 1877.28 feet to the point of beginning.

Said owners of the above described property, have caused the same to be surveyed and plotted as "INTERSTATE BUSINESS DISTRICT ADDITION" to the City of Fargo, and does hereby dedicate to the public, for public use, all streets, avenues and easements on this plat, except those easements otherwise noted or shown hereon as "Easeling", and does hereby dedicate to the City of Fargo the watermain and sanitary sewer easements as shown hereon.

OWNER: Lots 2-7 & Lots 9-15; Block 1
AAD PROPERTIES, LLC

By: _____
State of North Dakota)
County of _____) SS

On this _____ day of _____, 20____, appeared before me, _____, Notary Public, _____, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

OWNER: Lot 1, Block 1
NORTH FARGO LAND, LLC

By: _____
State of North Dakota)
County of _____) SS

On this _____ day of _____, 20____, appeared before me, _____, Notary Public, _____, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, Jason Neas, Professional Land Surveyor, of the State of North Dakota, do hereby certify that I am the duly qualified and licensed Surveyor of the above described land, and that the person(s) for the guidance of future surveys have been located or placed in the ground as shown:

Dated this _____ day of _____, 20____.
Jason Neas, P.L.S.
Professional Land Surveyor
Registration No. LS-5884
State of North Dakota)
County of Cass) SS

On this _____ day of _____, 20____, appeared before me, Jason Neas, P.L.S., known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Notary Public: _____

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this _____ day of _____, 20____.

Ricky Schneider, Chair
Fargo Planning Commission
State of North Dakota)
County of Cass) SS

On this _____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Ricky Schneider, Chair, Fargo Planning Commission, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public: _____

OWNER: Lot 8, Block 1
SOUTHEAST CASS WATER RESOURCE DISTRICT

Kath A. Weston, Chair
Alicia Carol Harbeck-Lewis, Secretary/Treasurer
State of North Dakota)
County of _____) SS

On this _____ day of _____, 20____, appeared before me, Kath A. Weston, Chair, Southeast Cass Water Resource District, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

Notary Public: _____

FARGO CITY COMMISSION APPROVAL

Approved by the Board of Commissioners and ordered filed this _____ day of _____, 20____.

Tiffany J. Mahoney
Mayor
Steven Sprague, City Auditor
State of North Dakota)
County of Cass) SS

On this _____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Tiffany J. Mahoney, Mayor, and Steven Sprague, City Auditor, known to me to be the persons described in and who executed the same as a free act and deed.

Notary Public: _____

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by the City Engineer this _____ day of _____, 20____.

Tom Krakomulis, P.E.
City Engineer
State of North Dakota)
County of Cass) SS

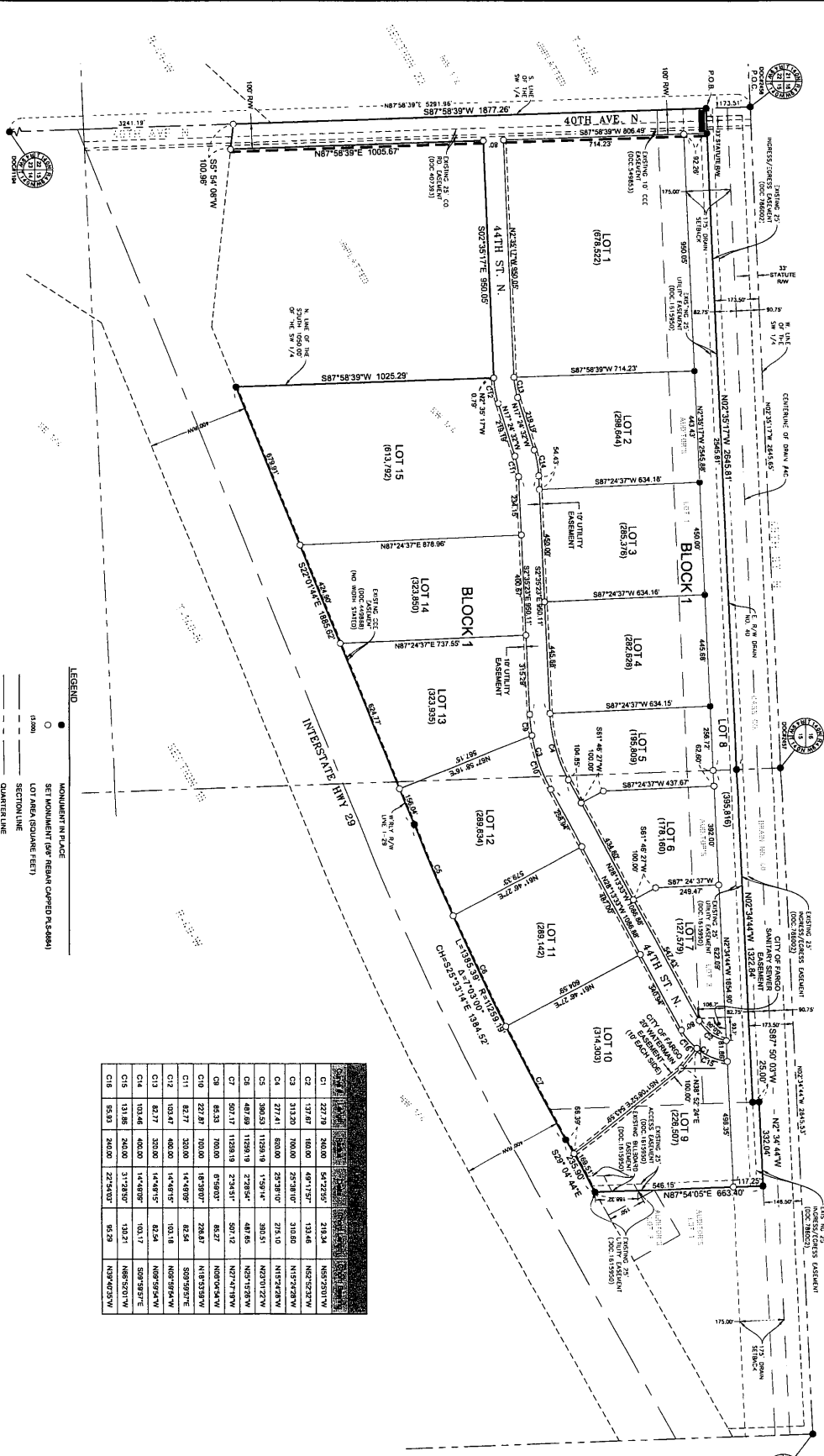
On this _____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Tom Krakomulis, P.E., City Engineer, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public: _____



INTERSTATE BUSINESS DISTRICT ADDITION

TO THE CITY OF FARGO, A PART OF PART OF THE WEST HALF OF SECTION 15, TOWNSHIP 140 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)



- NOTES**
- GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
 - NEGATIVE ACCESS EASEMENT, AS NOTED ON THE PLAT OF INTERSTATE BUSINESS DISTRICT ADDITION, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT BEINGS DIRECT VEHICULAR ACCESS TO A NEARBY STRIP OF LAND OR ANY CERTAIN POINT ON SAID STRIP OF EASEMENT WITH THE SUBDIVISION OF THE SUBJECT LOT OR LOTS.

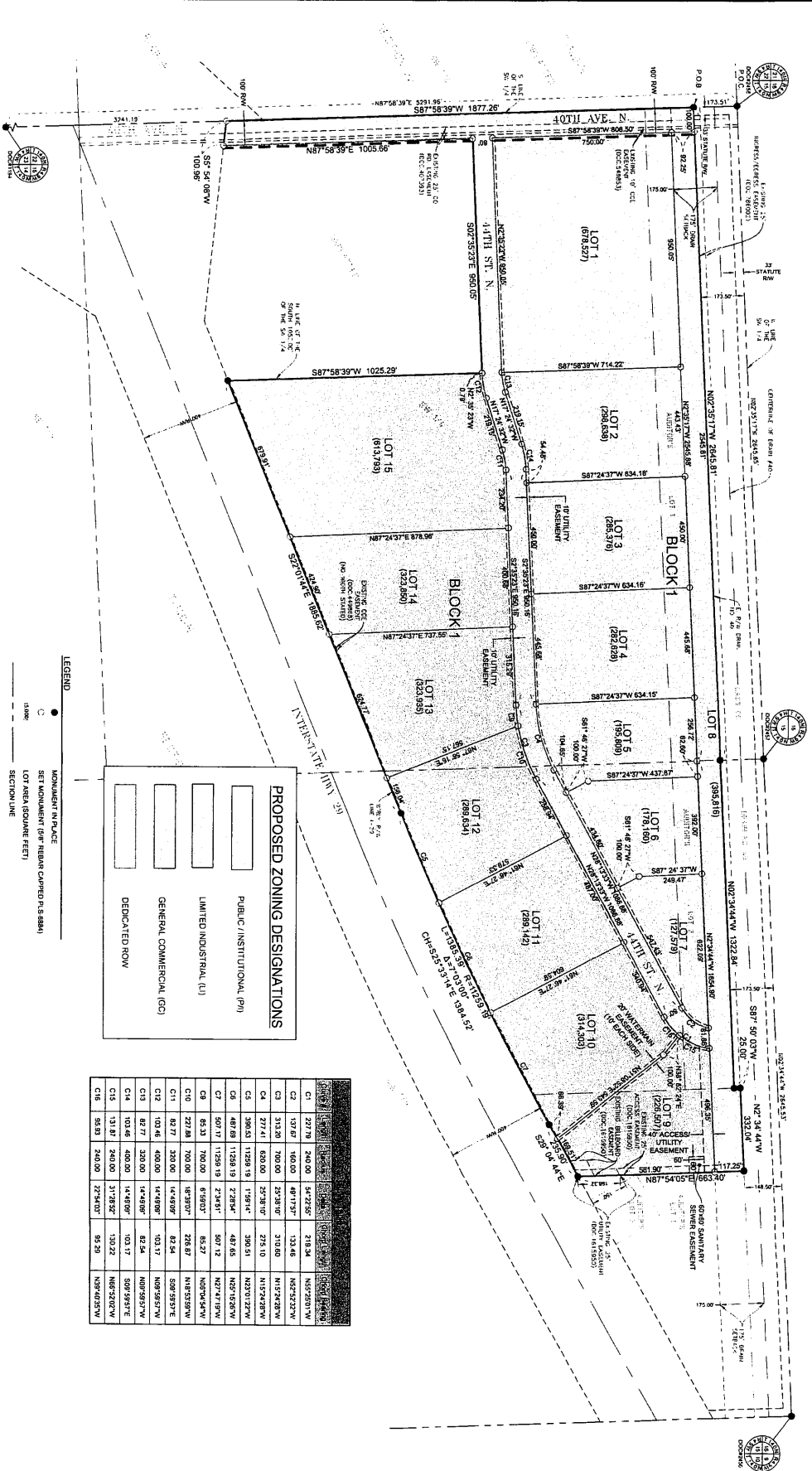
- LEGEND**
- MONUMENT IN PLACE
 - SET MONUMENT (SMP) BEARING CAPTURED PL 548864
 - LOT AREA (SQUARE FEET)
 - SECTION LINE
 - QUARTER LINE
 - EXISTING PROPERTY LINE
 - EXISTING RIGHT-OF-WAY
 - EXISTING EASEMENT LINE
 - NEW LOT LINE
 - NEW BLOCK LINE
 - PLAT BOUNDARY
 - NEW EASEMENT LINE
 - NEGATIVE ACCESS EASEMENT

LOT	AREA (SQ. FT.)	BEARING	DISTANCE	AREA (SQ. FT.)	BEARING	DISTANCE
C1	227.79	S67°22'25"	219.34	N85°28'31"W		
C2	171.87	S67°22'25"	133.46	N85°28'31"W		
C3	313.20	S67°22'25"	253.81	N85°28'31"W		
C4	277.41	S67°22'25"	215.10	N85°28'31"W		
C5	380.53	S67°22'25"	302.51	N85°28'31"W		
C6	487.69	S67°22'25"	487.65	N85°28'31"W		
C7	502.17	S67°22'25"	507.12	N85°28'31"W		
C8	65.28	S67°22'25"	65.27	N85°28'31"W		
C9	227.27	S67°22'25"	228.43	N85°28'31"W		
C10	82.77	S67°22'25"	82.54	N85°28'31"W		
C11	103.47	S67°22'25"	103.16	N85°28'31"W		
C12	103.47	S67°22'25"	103.16	N85°28'31"W		
C13	82.77	S67°22'25"	82.54	N85°28'31"W		
C14	103.46	S67°22'25"	103.17	N85°28'31"W		
C15	131.95	S67°22'25"	132.21	N85°28'31"W		
C16	53.39	S67°22'25"	53.29	N85°28'31"W		

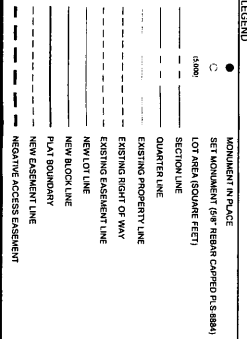
0 200 400
SCALE IN FEET

Mead Stunt
PHOTOGRAPHY & SURVEYING
PHONE: 701-566-6480
FAX: 701-566-6481
PROJECT NO. 4888132-212541.01
SHEET 1 OF 2

INTERSTATE BUSINESS DISTRICT ADDITION



- NOTES**
1. DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET
 2. NEGATIVE ACCESS EASEMENT: ADJACENT TO THE PLAT FOR GOV. HWY. TRIMM ADJON. IS AN EASEMENT OPERATED AS PART OF THE RIGHT-OF-WAY REDUCTION WHICH EASEMENT REMAINS DIRECT VEHICULAR ACCESS TO STREET OF PUBLIC HWY FROM THE LOT ON LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A TYPE OF EASEMENT BUT IS A LINE CONTIGUOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS



PROPOSED ZONING DESIGNATIONS

- PUBLIC INSTITUTIONAL (PI)
- LIMITED INDUSTRIAL (LI)
- GENERAL COMMERCIAL (GC)
- DEDICATED ROW

Lot No.	Area (sq. ft.)	Area (ac.)	Permit Fee	Record Fee	Total Fee
C1	22718	240.00	\$42250	\$18.54	\$42268.54
C2	13187	140.00	\$27125	\$13.26	\$27138.26
C3	31520	700.00	\$252810	\$10.00	\$252820
C4	27174	600.00	\$252810	\$75.10	\$252885.10
C5	30643	11258.19	\$15814	\$30.51	\$15844.51
C6	48168	11258.19	\$22854	\$47.65	\$22901.65
C7	50117	11258.19	\$22854	\$47.12	\$22901.12
C8	8523	700.00	\$75937	\$8.24	\$75945.24
C9	22188	700.00	\$75937	\$8.87	\$75945.87
C10	8217	350.00	\$44908	\$8.24	\$44916.24
C11	10146	400.00	\$44908	\$10.17	\$44918.17
C12	8217	350.00	\$44908	\$8.24	\$44916.24
C13	10146	400.00	\$44908	\$10.17	\$44918.17
C14	13187	240.00	\$17852	\$10.22	\$17862.22
C15	13187	240.00	\$17852	\$10.22	\$17862.22
C16	8523	240.00	\$22901	\$8.24	\$22909.24

Mead & Hunt

PLANNING ARCHITECTURE ENGINEERS

1601 E. 15TH ST. SUITE 200
MINNEAPOLIS, MN 55414

PHONE: 763-555-5450
FAX: 763-555-5451
WWW.MEADANDHUNT.COM

PROJECT NO. 468817/2024.01
SHEET 1 OF 2

DRAFT CONDITIONAL OVERLAY INTERSTATE BUSINESS DISTRICT 13 September 23

FOR LOT 1, BLOCK 1, ZONED GC WITH CONDITIONAL OVERLAY:

1. Prohibited Uses:
 - Detention Facility
 - Adult Establishment
 - Off-Premise Advertising Signs
 - Aviation/Surface Transportation
 - Portable signs
 - Crushing of any materials, including concrete, asphalt, and rock
2. Exterior lighting must meet the standards of Land Development Code Section 20-0704.G.
3. Off-street parking, loading, vehicular circulation areas, and outdoor storage shall have an all-weather surface. No gravel, crushed concrete, or similar material is permitted.
4. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.

FOR LOTS 3 THROUGH 7, BLOCK 1, ZONED GC WITH CONDITIONAL OVERLAY:

1. Prohibited Uses:
 - Detention Facility
 - Adult Establishment
 - Off-Premise Advertising Signs
 - Aviation/Surface Transportation
 - Portable signs
 - Crushing of any materials, including concrete, asphalt, and rock
2. Exterior lighting must meet the standards of Land Development Code Section 20-0704.G.
3. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.
4. The developer shall install 3 foot high berm 25 feet wide at the bottom and 4 feet wide at the top along the west side of Lots 3-7. This will be part of the project for 44th Street North.
5. The property owner of Lots 3, 4, and 5, Block 1 shall install trees on the west side of the berm at time of development of these individual lots.

FOR LOTS 9 THROUGH 16, BLOCK 1, ZONED LI WITH CONDITIONAL OVERLAY:

1. Prohibited Uses:
 - Detention Facility
 - Adult Establishment
 - Aviation/Surface Transportation
 - Portable signs
 - Crushing of any materials, including concrete, asphalt, and rock
2. Exterior lighting must meet the standards of Residential Protection Standards 20-0704.G.
3. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.
4. Maximum height of any off-premise sign is limited to 35 feet.
5. Total number of off-premise signs is limited to four, not all of which can be digital billboards.

NOTE: Lots 2 and 8, which will be zoned P/I, Public/Institutional, do not have a conditional overlay.

**COMMENTS RECEIVED SINCE THE
JULY 10th, 2023 CITY COMMISSION
HEARING**

July 24 2023

Regarding Continued Objection to Zoning Proposal for: Interstate Business District Addition

This letter is in Opposition to the following application with the Fargo Planning Commission for:

- 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and proposed park to L1 Industrial and General Commercial
- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition.

This letter is regarding continued opposition to the above zoning proposal, on behalf of the residents of Prairie Estates, and ETJ of Reiles Acres, many residents of Reiles Acres, with support from the City of Reiles Acres.

In addition to the multiple letters that you have received from our community that were presented in the May 2nd and June 6th Planning Commission and what was presented to the Fargo City Council on July 10th, there are many concerns that we have and hope that you would review all information.

The zoning area we are discussing has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, for the community as a whole. The residents in Prairie Estates and those in Reiles Acres will have to look at, and deal with the effects of whatever type of businesses that are on above stated property.

The current growth plan of 2007 has this area listed as proposed zoning of residential and a park. There must have been a good reason for the growth plan to list it as residential Why? Because it is right next to an existing residential areas, and also borders NDSU crop research land, and the City of Reiles Acres.

In the hearings previously held with the Planning Commission, discussions and comments surrounded several key points, which resulted in a vote to deny these zoning amendments. The Fargo City Council recommended that this go back to the Planning Department to do the due diligence and take a look at what really makes sense for zoning long term because this borders existing communities.

This is a complex and unique situation. There are no examples of where the city of Fargo has put in commercial & industrial zoning next to an existing residential area. It is important to consider what is the appropriate growth plan considering the existing communities it borders.

There are many reasons for the city to consider why this is not the right zoning for the neighboring community.

1. The city should not be afraid of leaving it as residential zoning. Look at areas like Fox Run in Fargo, those homes are closer to I29 then this area would be. And Fox Run was built after I29 was already there. There are also areas on I94 between I29 and Veterans Blvd where neighborhoods were built and border a current interstate, and do not have sound barriers.

2. Based on recent Fargo studies on housing needs, it indicates the need for up to 15,000 more homes and there is a large demand for housing including the north side of Fargo. With large employers like the VA, NDSU, technology park, Amazon, FedEx and others – potential homeowners are looking for areas that they can enjoy space, where they can have a larger lot than they can find in city limits.
3. There is also the question of the Fargo ETJ area to the north of Prairie Estates (Reiles ETJ) and City of Reiles Acres New Haven division, and border residents of Lake Shur south of Harwood. If this zoning goes through – how will this zoning decision impact the section of Fargo ETJ to the north of us - if this section is commercial/industrial – how will that work to the north? Again, it is another deterrent to the entire surrounding community which has to be considered, especially when there is no buffer between. This could also mean more traffic concerns on 45th Street N.
4. Developer and real estate representatives for the New Haven division of Reiles Acres testified in June that prospective homeowners are concerned about the potential zoning for this section and having second thoughts in terms of purchasing lots
5. When it comes to the current zoning proposal, there is **strong opposition for industrial development. This means manufacturing and production.** Through our discussions over the last several months, our voices have not been heard and no concession given to removing that type of zoning. Although the overlay has now been amended to exclude concrete crushing from any lot, the land owner has not indicated what his intentions are with the property. How many lots will he keep? What type of operations will he put in for his existing businesses of earth moving operations? Once the lots are sold, all they have to do is file for a permit. There is no control, and concerns over what types of businesses that may be built. We do not want an impact of additional trucking in and out of an already crowded area, causes traffic and safety concerns. Any type of manufacturing brings additional environmental concerns and brings additional noise.

Earthworks has been stockpiling dirt on this property for over two years, some days there are over 30 trucks coming in and dumping – how do we know they will not continue to use lots for additional stockpiling of other materials like crushed concrete, gravel or sand – which means it all has to be moved and moved out.

This small section of land does not warrant this type of zoning for this area. Especially industrial which is open to manufacturing and production. Fargo has industrial parks to the east of I-29, and along 19th Ave N and 12th Ave N. This type of zoning belongs in other areas of the city where this is not residential. There is no benefit to our existing surrounding community. The land owner knew when he purchased this property that it was originally zoned for residential development, and that it bordered existing residential development. How could you not think about the effect to the neighborhood? Or that people would object to your proposal?

Another big concern is how this zoning will affect our home value. We are not convinced the research was done by Planning to guarantee no negative effects on surrounding land values. Yet on the staff notes, they continue to state that the “criteria has been met” however they did not provide

the true research of the effect. When it comes to the impact on neighboring home value – this is a huge concern and we have done our research.

We have statements from real estate professionals about the negative impact commercial/industrial zoning will have on our existing properties.

When we are looking at a potential 25% decreased value of a home, **that represents a loss of value of close to \$1M**. This is a significant concern. I ask – how would we get to recoup this loss?

It does not matter the distance between our residential lots and this proposed zoning area, as we are currently in open space. Today there is no buffer and a tree line will take 15 years + to develop. Individuals that live across from this property, and those that have to travel past it each day or see it from the I-20 bridge, or look at it from their property – will be affected.

The **City of Reiles Acres** supports these concerns on behalf of their residents and our ETJ and have sent in a letter to object their concerns as well.

Again – we ask you to consider: Is this the type of zoning YOU would like to live next to?

Would you like the noise? Potential environmental concerns? The negative effect on your property value? The view from your property? The safety of your family?

There currently are no good examples of where the City of Fargo has put in Industrial/Commercial zoning directly next to a residential area. Again I reiterate that this type of zoning does not make sense.

This is an opportunity for the City of Fargo to consider doing the right thing for an existing community and truly be a good neighbor in terms of your growth planning. The revised Growth Plan apparently will not be done until next year. **It does not make sense to approve something when you do not have the plan in place.** We look to you to take all of this into consideration and hope that you would support the denial of this zoning amendment.

Regards,

Paul & Paula Peterson

Along with all of the residents that have previously signed all of the already submitted letters.

TWO LAYDOWN ITEMS FROM THE
JUNE 6th, 2023 PLANNING COMMISSION
HEARING AND COMMENTS RECEIVED
AFTER THE THAT DATE

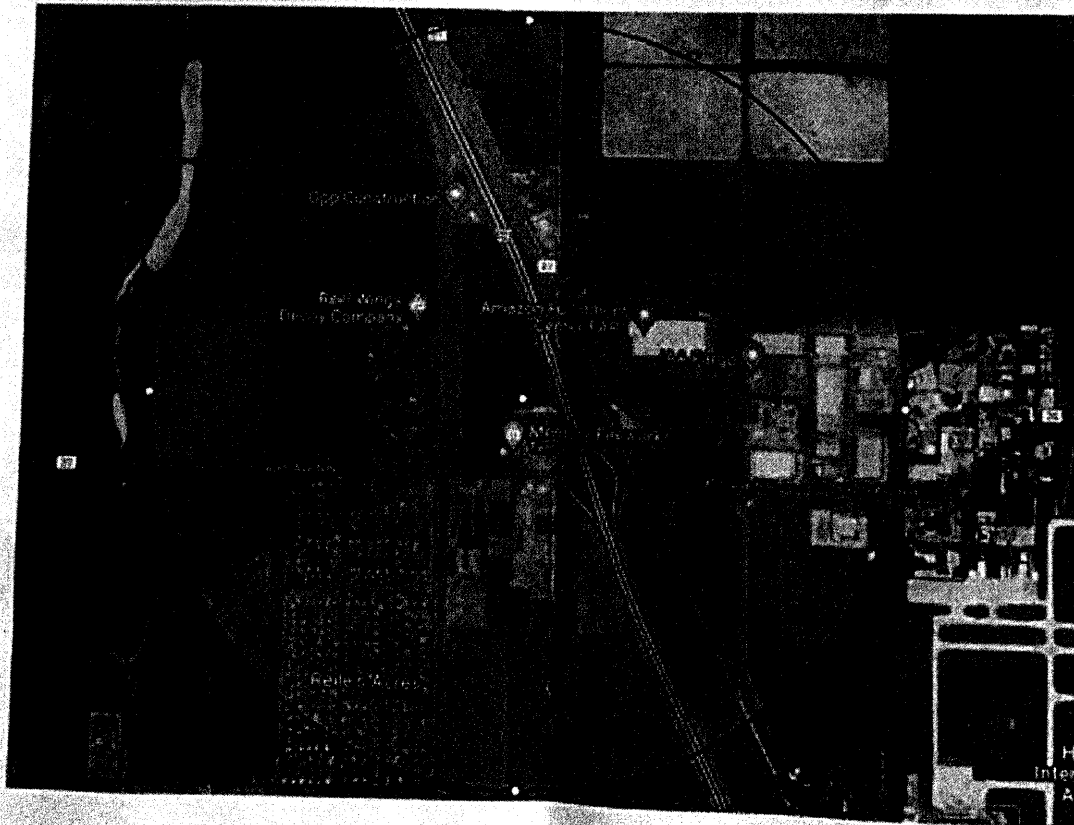
IMPORTANT! PLEASE READ ASAP

There are current plans to build a cement crushing plant in our neighborhood. This may expose us to cement dust, which has been demonstrated to **significantly increase the risk of multiple types of cancer**. There may also be chronic decreased pulmonary function due to scarring of lung tissue. Don't take my word for it, simply google "cement dust cancer." Further, the affected area may be wide and difficult to control, given the windy conditions of our state. Studies demonstrate a possible environmental effect radius of several kilometers.

Should residents be afraid to enjoy the outdoors with their families? Should our children be afraid to play at the baseball diamond and other parks? Does your family deserve to live in fear of cancer?

We need to come together as a community. **A decision will be made at an upcoming meeting, held on June 6th at 3:00 pm, at the Fargo City Hall 225 4th Street North. Please attend in person to prevent this potential disaster.**

2 Kilometer Radius



June 6, 2023

City of Fargo
Planning Commission
225 4th St N
Fargo, ND 58102

RE: Interstate Business District Addition

Planning Commissioners:

I am writing in opposition to the proposed zoning changes at 4753 45th St N and 4269 40th Ave N. With the opposition to placing a cement crushing facility near a residential area from a medical professional, a professor of chemical engineering, and the 40 or so residents that have signed a letter of protest or stated their opposition in person, I cannot believe the planning commission has continued to entertain this request.

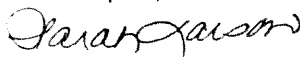
- A case study published August 28, 2021, in the International Journal of Environmental Research and Public Health noted:

*Different associations have been observed between cement dust and various types of cancer, mortality, bone disease, kidney disease, respiratory disease, or cardiovascular disease. The risk of cancer by inhalation or aspiration of cement dust is very high, especially for people living near cement factories. Silica dust causes silicosis and severe lung disease, and the presence of chromium compounds in cement dust can lead to cancer. The severity of the conditions depends on the duration of exposure, the concentration and constituent of the dust, and the individual sensitivity, but no researcher rules out the possibility of disease. Long-term effects exist, **especially in children born and raised near cement plants.***

- The case study also notes that with wet processing the dust emissions can still reach 24% for PM10 and 7% for PM2.5; so, in my opinion, that's not an acceptable "solution". Installation of electrostatic precipitators/bag filters have led to significant reductions in dust emissions; however, those techniques must be installed and maintained, the plant must be properly managed, and the air quality must be continuously monitored. I put no faith in the self-regulation of this proposed facility by its owner or future management.

For the long-term health and well-being of the current and future residents of that area, your neighbors, people that share the same county, state and country with you, I ask that you make the conscionable decision to decline the request to rezone to Limited Industrial.

With Respect,



Sarah Larson
4970 38 ½ Ave N
Reiles Acres, ND 58102

July 5, 2023

TO: City of Fargo - City Council

Regarding Continued Objection to Zoning Proposal for: Interstate Business District Addition

This letter is in Opposition to the following application with the Fargo Planning Commission for:

- 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and proposed park **to L1 Industrial and General Commercial**
- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

Background Information

This letter is a follow-up to the initial letters and testimony presented to the Planning Commission on May 2 2023 and on June 6 2023 by the residents of Reiles Acres ETJ that live along 45th Street N and 47th Street N of Fargo, along with additional Reiles Acres residents.

As a follow-up from previous Planning Commission meetings, along with our concerns, we heard the following points from the Planning Commission which resulted in a vote to Deny the proposed zoning amendment:

1. Review the 15 year Growth Plan for the city of Fargo taking into consideration the large residential area adjacent and surrounding this property
2. What should the view be for people coming into Fargo?
3. Does this type of zoning fit the surrounding community and fit Fargo's values
4. Concerns regarding noise, traffic, environmental effects to the entire community

Summary of Concerns from the collective community

This property mentioned above has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, not only for those residents that live across from this property – but also for the community as a whole. The residents on 47th Street N and those in Reiles Acres will have to look at and deal with the effects of whatever type of businesses that are on above stated property.

Specific Concerns

We want to address each of the above areas below.

Zoning

1. Our preference is to stay with the existing Growth Plan of Fargo of residential development. This is particularly important considering the best fit for the entire existing surrounding community. Prairie Estates has been in existence since 1973, even before Reiles Acres and was designed for 2-5 acre size lots that allow country living. The entire neighborhood has grown with the expansion of Reiles Acres. Our concern is also that the land to the north of Prairie Estates is also part of Fargo's ETJ – which borders Reiles Acres & Reiles ETJ. The zoning of this land sets the precedent for the entire community long term.

According to Fargo research studies and demands of residents, Fargo is looking to offer residential housing on the north side of the city, and this is the opportunity. The demand is there for people that want to live on the north side of Fargo, with large employers such as NDSU, VA, Amazon, FedEx, etc. Individuals are looking for properties that allow them to have larger lots. Living along an interstate is not an issue – look at all the neighborhoods along I-29 south of I-94 – they are much closer to the interstate.

2. We do not want an Industrial Commercial in the zoning. Despite discussions – there has been no change to the East lots, the land owner still wants zoning of L1 Industrial – which includes manufacturing and production. Although the land owner has since decided to prohibit concrete crushing from any lot, the concern is that the zoning of Industrial Commercial on the east lots still leaves too much room for business types that do not fit this type of adjacent community of residential. We have asked for a change in this zoning for over two months and no concession has been given.
3. We do not feel that Industrial Commercial fits this area. Those types of businesses belong in an industrial park, which Fargo has built on the east side of I-29, and along corridors of 19th and 12th Ave N.
4. There is currently no, or proposed tree line or other buffer between this property and existing residential homes

Concerns on Decreased Valuation of Existing Homes

Having talked with several local realtors, they have validated this fact. Potential homeowners will do their research and check the zoning surrounding them and see their surroundings. They purchase a home based on quality of life.

The current Planning Conditions & Overlay statements do not do justice, they did not to the research, and state they do not believe it has effect. However we have done our research and it is a major concern.

The current estimate from realtors is that we could lose up to ¼ of the estimated resale value of our homes based upon what is located across the street. This is a huge concern and well worth our voicing our concerns and fighting for our properties that have been in families for over 50 years.

When we are looking at a potential decreased value in homes that just face this land, **that represents a loss of value of close to \$1M.** This is a significant concern.

Supporting Statement from Local Realtor

It has come to my attention that the homeowners on the West side of Reiles Acres on 45th St N have recently received notice that the agricultural land to the East of them has or will be zoned Commercial/Industrial from the original zone of agriculture. Having commercial or industrial buildings across the road from a residential area can negatively impact the home values in the neighborhood. Homeowners in these residential areas usually choose to live there because of the peacefulness, privacy, and tranquility that such areas offer, especially in a rural setting.

- *Putting up commercial or industrial buildings close to residential homes could create noise pollution, increase traffic, and decreased air quality, leading to a general decrease in the quality of life for residents.*

Moreover, the presence of these buildings may not appeal to potential buyers, which could hurt the marketability of the homes in the area. Prospective buyers may be discouraged from buying a house that is located close to commercial or industrial buildings due to the perceived negative impacts on their quality of life. This can lead to lower demand for homes in the area and a decrease in their market value.

Therefore, it is not beneficial to put up commercial or industrial buildings across the road from residential areas. It can cause a decline in the quality of life for residents and lower the marketability and home values in the area.

Jeremy Qualley
Qualley & Associates by eXp Realty - Realtor in the FM Area

Consider the Best Interest Of Neighboring Communities

Again – we ask you to consider: Is this the type of zoning YOU would like to live next to?

What is the view that Fargo wants to represent for people coming into the City of Fargo?

There currently are no good examples of where the City of Fargo has put in Industrial/Commercial zoning directly next to an existing residential area. This is an opportunity for the City of Fargo to consider doing the right thing for an existing community.

Our biggest question is this: Why are you not considering keeping with the original growth plan of a mix-used development plan of residential, low-density as a transition between a current residential area? Despite this section of land being next to an interstate, there are established communities around it that need to strongly be considered. The proposed zoning brings no benefit to the surrounding community.

Continued Concerns:

Traffic & Safety– Increased traffic will happen, and will bring additional trucking running at whatever hours the business needs. Currently 40th Ave N has a large amount of traffic already due to City of Reiles Acres and their new addition being built. We do not want businesses that bring additional traffic to the overall neighborhood.

The design of this plat will incorporate a city street through the middle with a secondary exit on the northwest corner, including a bridge across 45th street drain. This will also mean that traffic could now exit on the north end and come down 45th Street N – meaning additional potential traffic including trucks in front of a residential area. These concerns have still not been addressed.

Summary

It is the consensus of all those that have previously posted opposition in previous letters and for those signing this additional letter, that we object to the current proposed zoning and would like the City of Fargo to strongly reconsider our concerns of the entire residential community.

The following individuals have the above concerns and objections and are hereby supporting this by signing:

<u>Paul & Paula Peterson</u>	<u></u>	<u>4314 48th St N Fargo</u>
Name	Signature	Address
		58102

Mike Lestina MIKE LESTINA 4406 45th SE. N. FARGO
Name Signature Address
58102

Gail Prudhomme GAIL Prudhomme 4302 45th ST N FARGO
Name Signature Address
58102

James Prudhomme Jim Prudhomme 4302 45th ST N FARGO
Name Signature Address

Kyla DuBord Kyla DuBord 4101 45th St N Fargo
Name Signature Address

Dave & Leah Heide D Heide 4006 45th ST N Fargo
Name Signature Address

Name Signature Address

Name Signature Address

Name Signature Address

From: Shane Amundson
Date: June 28, 2023 at 10:15:42 CDT
To: Tim Mahoney
Subject: Rezoning Opposition

Mayor Mahoney,

I am writing today on behalf of the Reile's Acres' city council, our ETJ, and municipal residents. The council and residents are concerned about the rezoning of a parcel of land known as Interstate Business District Addition (IBDA) – Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West. The IBDA rezoning plan calls for a combination of LI and GC from its current AG designation.

The rezoning and proposed project would transform the land into an industrial park containing a concrete crushing operation right off of I-94 and 40th Ave. NW.

Your Planning Commission sided with the our ET and municipal residents in early June and voted 4-3 against the project, noting it wasn't in line with other zoning in the neighborhood.

Property values and possible negative health implications are our primary concerns.

We are asking that you and your Commissioners accept the findings and the vote of your Planning Commission. Your team found the project being proposed as not consistent with the 2007 growth plan and therefore they voted against it.

Very Respectfully,
Shane J. Amundson

May 5th, 2023

To: City of Fargo - City Planning & Development

Dear City Commission Members,

I am writing to you to express strong objection to the proposed zoning changes for the Interstate Business District Addition.

Re-zoning to limited industrial opens the gate to numerous manufacturing operations that carry inherent environmental and health hazards. In my experience as a chemical engineer and materials expert, I cannot think of a single industrially-graded operation that can be deemed safe for residents in its proximity. Generating waste is part of any manufacturing operation, whether solid, wastewater, air pollution, gases, noise, and/or vibration. In practice, it is often a combination of all.

For example, a cement crushing operation was recently suggested as a plausible manufacturing operation to be located in the discussed area. If approved, this would have resulted in devastating consequences to the neighboring community (please see accompanying letter). Even though it is no longer being considered, cement crushing is just one of many alike operations that can be suggested in the future if the re-zoning takes place. I will state it again – there is no harmless industrial process.

Discussions at previous meetings have also exposed the lack of state/city laws and regulations with respect to industrial operations placed in the vicinity of residential areas. I plead to your morality, please stay ahead of the curve, even in the absence of defined laws/regulations. Just a few decades ago asbestos and lead-paints have been widely used in commercial products. It led to the morbidity and tragic loss of numerous lives before much needed laws were implemented. Cases as such require meticulous studies carried out by of a large number of specialized experts to prevent adverse outcomes.

I implore to your consciousness and prudence in carrying out the decision that will benefit the city and its people.

Sincerely,

Mariia Goriacheva

Mariia V Goriacheva, Ph.D.

Department of Chemical Engineering

University of North Dakota

Dear Planning Commission Members,

Upon attending the hearing on May 18th, I have come to realization that the potential hazards of the exposure to the cement dust have not been properly addressed and to a large extent were downplayed. As a professor of chemical engineering and a materials expert, I feel obliged to bring your attention to the following information.

Cement in a solidified form (i.e., concrete slab) does not pose danger to human beings. However, in the form of a fine dust, cement becomes lethal. Aerosolized particles can enter the body either through respiratory tract (inhalation) and/or gastrointestinal tract (swallowing). In both routes, individuals become exposed to numerous harmful substances, including but not limited to lead, mercury, cobalt, chromium, aluminum, cadmium, arsenic, silica, asbestos. All are recognized as extremely toxic and prone to cause numerous adverse health effects (Jaishankar *et. al.*, 2014).

Inhaled cement particles were shown to cause lung function impairment, chronic obstructive lung disease, restrictive lung disease, pneumoconiosis, and cancer of the lungs, throat, stomach, and colon. (Meo, 2004) Owing to its aerodynamic diameter, cement particles can also enter the bloodstream and thereby reach essential internal organs and affect various tissues including heart, liver, spleen, bone, and muscles, ultimately changing their microstructure and physiological performance (Gharpure *et. al.*, 2021). Respirable particles were also demonstrated to cause disorders in the nervous system. (Heusinkveld *et. al.*, 2016)

It is simply inaccurate to state that the danger exists only for the individuals directly participating in cement milling operations. Studies conducted on the soil and vegetation show that the cement dust particles can travel the distances of up to 5 kilometers (Shukla *et. al.*, 2008). Further, I would like to disclose the details of the study conducted by Tajudeen and Okpuzor in 2011. To quantify the impact of the cement dust, the researchers placed rats at 250 m and 1000 m away from a cement company. The subsequent examination of the lung tissues revealed presence of chemicals associated with cement dust in both groups of animals. Specifically, lung tissues of the exposed rats showed significant levels of calcium, silicon, aluminum, chromium, and lead compared to the unexposed rats. The histopathology study of the lung tissues of the exposed rats showed abnormal alveolar architecture, disrupted bronchus, damaged bronchioles, degenerated epithelium lining, weak respiratory connective tissues, inflammations, and blue-black pigments. Some of the exposed rats died before the end of the exposure. The experiment lasted only 180 days. (Tajudeen *et. al.*, 2011)

Taking into consideration the strong winds in North Dakota and the absence of natural forest/vegetation, it is safe to assume that the proposed location of the cement crushing plant will expose a large number of residents to the severe risks of the cement dust. Establishing cement crushing plant adjacent to a residential area will have an unnecessary detrimental impact on so many innocent lives. I plead to your consciousness and prudence – please do not allow harm to come to our community.

Sincerely Yours,
Mariia Goriacheva, Ph.D.



References:

Jaishankar *et. al.* Toxicity, Mechanism, and Health Effects of Some Heavy Metals. *Interdiscip Toxicol* **2014**, 7, 60–72.

Meo. Health Hazards of Cement Dust. *Saudi Med J* **2004**, 25, 1153-1159.

Gharpure *et.al.*, Characterization and Hazard Identification of Respirable Cement and Concrete Dust from Construction Activities. *Int. J. Environ. Res. Public Health* **2021**, 18, 10126.

Heusinkveld *et. al.*, Neurodegenerative and Neurological Disorders by Small Inhaled Particles. *Neurotoxicology* **2016**, 56, 94–106.

Shukla *et. al.*, Impact of Dust Emission on Plant Vegetation in the Vicinity of Cement Plant. *Environ Eng and Manag J* 2008, 7, 31-35.

Tajudeen *et. al.* Variation in Exposure to Cement Dust in Relation to Distance from Cement Company. *Research Toxicology* **2011**, 5, 203-212.

July 5, 2023
Fargo City Commission
225 4th St N
Fargo, ND 58102

Dear Commission Members,

I am writing this letter in strong opposition of zoning changes at 4753 45th Street North and 4269 40th Avenue North.

I am a resident and a physician of the Fargo community. At prior meetings, I had discussed the extremely dangerous health consequences of cement dust exposure, including multiple types of cancer. I now understand that the proprietor may be pivoting to other limited industrial options, following the unfavorable recommendation of the planning committee.

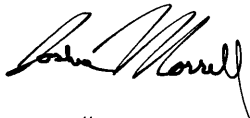
I want to specifically highlight that nearly all production processes generate waste that cause environmental contamination in the neighboring area. Without specific details of what is planned, I can't say for certain whether the risk will be higher or lower vs cement dust, but regardless risk will remain. It will be difficult to contain, monitor, or regulate.

This risk cannot be sufficiently attenuated by reduction in concentration. Even very low levels of exposure, given enough time, will result in disease development. Given that many of us live in the area, we are the proverbial rats in a cage. Most individuals don't appreciate the full impact of cancer, how often it actually occurs. I diagnose and monitor cancer every day, and have personally seen several thousand cases. I know the devastation, the fallout, the bleakness. The people of this community do not deserve to live in fear of cancer.

Further, to echo the recommendations of the planning committee, limited industrial does not fit the future plans of this area. Fargo will undoubtedly be expanding to the northwest, and roads such as 45th St N will be a gateway to that expansion. Industrial operations will blemish the area, deterring both business and residential growth.

Again, I plead to your decency and morality, please do not endanger our community.

Kind regards,



Joshua Morrell, MD
Chairman, UND Radiology
Board Certified Radiologist, Department of Veterans Affairs

Autumn Kraft
City of Fargo – City Hall

June 19, 2023

225 4th Street North

Fargo, ND 58102

Subject: Concerns Regarding the Proposed Concrete Crushing Plant near City of Reile's Acres

Dear City of Fargo,

I hope this letter finds you well. As a former resident of Fargo, a graduate of North Dakota State University, and someone who holds affection for the city, I write to express my support for my sister, Kelly Donahue, who is a resident of the City of Reile's Acres. She, along with many other concerned residents, firmly believes that the construction of a concrete crushing plant in proximity to their residential neighborhood will have significant detrimental effects on neighborhood health, well-being, and property values. I urge you to take these concerns seriously and carefully consider the potential consequences before deciding.

One of the primary concerns raised by my sister and other residents is the potential impact on neighborhood health. Concrete crushing plants have been known to emit harmful pollutants, including but not limited to silica, mercury, asbestos, and lead. These pollutants can have detrimental effects on public health in these nearby neighborhoods. It is of utmost importance to prioritize the health and safety of the community by consolidating industrial activities, such as concrete crushing, an appropriate distance from residential zones.

Furthermore, the proposed construction and operation of a concrete crushing plant near residential areas may have a negative effect on the overall well-being of the neighborhood. The noise, dust, and vibrations generated by such facilities can disrupt the tranquility and peacefulness that residents have come to appreciate. It is crucial to recognize the significance of a harmonious living environment and consider alternative locations that minimize potential disturbances and preserve the well-being of the community. This industrial zoning would only exacerbate the activity from the increasingly busy Interstate 29 traffic not far from the zone of concern.

In addition to health and well-being concerns, the establishment of a concrete crushing plant near residential zones could have adverse effects on property values. Potential homebuyers are likely to be deterred by the proximity to industrial activities, which can lead to a decline in property values. This not only impacts the financial well-being of homeowners but also hampers the overall growth and development of the community. It is vital to consider the long-term economic implications of industrial developments and prioritize the preservation of property values for the benefit of all residents.

As a former resident who has experienced firsthand the unique charm and strong community ties that define Fargo, I urge the City of Fargo to give serious consideration to the concerns raised by my sister and other residents of the City of Reile's Acres. I implore you to reasonably accommodate the requests of the residents of the City of Reile's Acres by thoroughly exploring alternative locations for the proposed concrete crushing plant that would mitigate potential negative impacts on the health, well-being, and property values within these residential neighborhoods. By doing so, we can ensure continued prosperity and quality of life for all residents.

Thank you for your attention to this matter. I trust that you will carefully weigh the concerns of the community and make a decision that upholds the best interests of all parties involved.

Warm regards and Go Bison!

Autumn Kraft, Ph.D.



CITY OF REILE'S ACRES RESOLUTIONS

From: Trent Duda

Sent: Tuesday, May 30, 2023 10:27 AM

To: Donald Kress ; Mark Williams

Subject:

Donald, I would like to have this email and the Reiles Acres letter to the city of Fargo entered into the packet for this agenda. I would like to start by saying thank you for working with me on this. It has been a long process. When I originally got a purchase agreement for this land I had it stipulated I could get out of buying the land at the time if I couldn't get approval from relies acres to do what I wanted to do on the land. I went and talked with the city at a city council meeting. They agreed they wanted me to start the industrial park and allowed me to crush concrete as you can see in the letter they sent the city of Fargo that I attached here. If they would have said no, I would have bought where Amazon is now which was for sale at the time also. After I went through with the purchase I came to find out the city doesn't have the right to put industrial waste into the Fargo Sewer System which they didn't tell me about. So that meant I had to have Fargo annex me if I wanted industrial. It's now that they are saying they don't want industrial there, which i believe is because they couldn't annex me. After all this, I am willing to do GC along the west side of my project with a 25 foot vegetation buffer and a 3 foot high berm 25 feet wide at the bottom 4 feet wide at the top along all the lots on the west side and a fence on lots 3,4, and 5 on top the berm with the vegetation buffer on the west side of the fence. This would be put in when a building permit is put on these lots and paid for by the new owners of the land. This is more than is required of me and I feel I am meeting more than half way. Thanks for your consideration.

Thank you,

Trent Duda

Owner/President

Earthwork Services Inc

345 12th Ave NE, West Fargo, ND 58078



City of Reile's Acres
4635 35th Ave N.
Reile's Acres, ND 58102
www.reilesacresnd.org

October 21, 2020

City of Fargo

City Hall

225 4th Street North

Fargo, ND 58102

Dear City of Fargo:

The City of Reile's Acres has received a written request from property owner Trent Duda and ARD Properties, LLC with respect to the property located north of Memory Fireworks and west of Interstate 29, north of the City of Fargo.

Mr. Duda is acquiring the property for an expansion of his contracting business, Earthwork Services, Inc. His plans are to use the property for commercial and industrial uses that will include excavating sand and gravel and crushing concrete, beginning on site in Spring 2021. The City of Reile's Acres supports this use of the property.

Mr. Duda requested that the City of Reile's Acres extend its extraterritorial jurisdiction over the property and connect the property to municipal sewer and water services.

The City of Reile's Acres is supportive of this request. By this letter, the City of Reile's Acres requests that the City of Fargo relinquish its extraterritorial jurisdiction with respect to the property, and allow the City of Reile's Acres to extend its extraterritorial jurisdiction over the property, including the possibility of annexation of the property into the City of Reile's Acres.

Very truly yours,

Shane J. Amundson

Shane Amundson, Mayor

City of Reile's Acres



City of Reile's Acres
4635 35th Ave N.
Reile's Acres, ND 58102
www.reilesacresnd.org

(RESOLUTION 2023-3)

5/9/23

RESOLUTION OBJECTING THE ZONNING PROPOSAL FOR THE INTERSTATE BUSINESS DISTRICT ADDITION

BE IT RESOLVED BY THE ELECTED COUNCIL OF THE CITY OF REILE'S ACRES:

The City of Reile's Acres objects to the Interstate Business District Addition- Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West, request for zoning change.

A. Opposition

- 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and Proposed park to Industrial and Commercial
- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

Our opposition to the zoning change is to the following issues the change will create for our city and its ETJ residents if this parcel is allowed to be L1, with a C-O.

B. Details of objections

- 1) The landowner wishes to build a concrete crushing plant on a portion of this land.
 - a. This will not only create an environmental hazard with dust as there is nothing to contain it with the open space and mostly Northerly wind patterns in our area for the majority of the year.
 - b. It will also create noise pollution to a normally quiet area.
 - c. Additional lighting that would be needed for safety of an operation like this will cause excessive light pollution to an area that has normally not had a great deal of man-made light.
 - d. The significant increase in large and heavier trucks/equipment that would be traveling in and out of this parcel would create many additional safety risks to our residents.
- 2) The application allows for a broad spectrum of business and manufacturing to occur on this parcel that could potentially impact home values negatively for our entire city and ETJ residents.



City of Reile's Acres
4635 35th Ave N.
Reile's Acres, ND 58102
www.reilesacresnd.org

a. Only a few areas within Fargo's own boundaries in which single family homes are abutting the similar zoning to this application. By allowing the application to be approved as requested, in our instance, there is no stepped "buffer" system planned. With this designation no one would develop a multi-family housing area when it would be more lucrative to build commercial or industrial properties.

C. Closing

Our request is to not allow the LI zoning. In 2020 our council was in favor of this and we can only assume it was because of the desire to annex this property into the City of Reile's Acres. Today, the residents are opposed to it. Having received communication objecting to this re-zoning request from many our residents, the City of Reile's is officially objecting to the LI re-zoning changes while reluctantly accepting the GC zoning changes.

PASSED AND ADOPTED this 9th Day of May 2023. CITY OF REILE'S ACRES, ND

Mayor Shane J. Amundson, Attest _____
City Auditor Nic Miller, Approved _____

The motion for the adoption of the foregoing resolution was duly made by Member Hager, seconded by Member Krantz, and upon vote being taken hereon, the following voted in favor: Hager, McCamy, Krantz, Dick; the following voted against the same: None; and the following were absent: None; whereupon the resolution was declared duly passed and adopted and was signed by the Mayor and attested by the City Auditor.

**COMMENTS RECEIVED AFTER THE
MAY 2nd, 2023 PLANNING COMMISSION
HEARING**

May 29 2023

TO: City Of Fargo - City Planning & Development

Regarding Continued Objection to Zoning Proposal for: Interstate Business District Addition

This letter is in Opposition to the following application with the Fargo Planning Commission for:

- 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and proposed park to **L1 Industrial and General Commercial**
- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

Background Information

This letter is a follow-up to the initial letters and testimony presented to the Planning Commission on May 2 2023 by the residents of Reiles Acres ETJ that live along 45th Street N and 47th Street N of Fargo, along with additional Reiles Acres residents.

As a follow-up from the May 2nd meeting, along with our concerns, we heard the following points from the Planning Commission which resulted in a vote of issuing a continuance to this zoning proposal:

1. Review the 15 year Growth Plan for the city of Fargo taking into consideration the large residential area surrounding this property
2. What should the view be for people coming into Fargo
3. Reiles Acres was not informed, how do you include their opinion
4. Need to rethink the West side of this property
5. Concerns regarding noise, traffic, environmental effects

Summary of Concerns from the collective community

The Section 15 property as described above has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, not only for those residents that live across from this property – but also for the community as a whole. The residents on 47th Street N and those in Reiles Acres will have to look at and deal with the effects of whatever type of businesses that are on above stated property.

Specific Concerns

Zoning

In recent discussion with the property owner, these are points regarding the zoning application:

1. West lots to be zoned as General Commercial
2. No change to the East lots, still wants zoning of L1 Industrial – which includes manufacturing and production.
3. For the buffer zone between Lots 3 -5 only, would be 25 feet with a chain-link fence with slats. Trees would be the responsibility of new lot owner based on conditional overlay instructions
4. Lot 1 is owned by Dr. Knutson, who was not present in discussions and has not offered any buffering

We want to address each of the above areas below.

Zoning

In our meeting on May 18th, we asked the City Planning if they had reviewed the long term growth plan. They stated they are not making any changes. Therefore, we assume that the current zoning of Residential and a Park is still their long term intention.

The updated Zoning proposal indicates that L1 Industrial still stays on the East Lots. Again, this is not what people want. With manufacturing and production still being on the options for L1, it still opens the door for businesses that will not fit into the community.

Mr. Duda wants to own some of these lots and wants to put in a concrete crushing plant - which all affected residents, including city of Reiles Acres, strongly object to.

- This type of operation involves the constant stock piling of concrete which means large truck traffic. Today on Mr. Duda's land, he has a large dirt pile which means up to 40 trucks per day witnessed, and the noise of banging truck tailgates sounds like gun shots which can be heard from within our homes.
- The crushing of concrete involves a process that is environmentally unhealthy. Please refer to the letters that have been submitted by accredited individuals and references to the studies on the long term effects. Fine particles will be carried by the wind not only across the interstate but to neighboring residential areas, represent significant concerns to health, and hazards are absorbed into the ground for up to 5 KM.
- It is not an attractive business to have along the interstate. Other concrete crushing plants in the FM metro area are located in industrial areas at the edge of the city behind other buildings, and no where near residential areas. This is not something the city should allow.

The City of Reiles Acres supports these concerns on behalf of their residents and our ETJ and have sent in a letter to object their concerns as well.

Concerns on Decreased Valuation of Existing Homes

Putting in a chain-link fence with privacy slats is not the answer. It is still very unattractive and will be a garbage collector.

Lot 1, owned by Dr Knutson, contains no buffering allotments in the Conditional Overlay - which again is a major concern for home owners, and everyone traveling by on County Road 20 will have to look at. He has not been present in discussions.

When we are looking at a potential decreased value in homes that just face this land, **that represents a loss of value of close to \$1M.** This is a significant concern.

Consider the Best Interest Of Neighboring Communities

Again – we ask you to consider: Is this the type of zoning YOU would like to live next to?

Here is a view of the land from the 40th Ave N & I-29 Interchange Bridge looking to the northwest. Here is a high amount of traffic not only on the interstate, but by individuals that use 40th Ave N and cross this bridge every day. This is their view – **what do you want them to see in the future?**



There currently are no good examples of where the City of Fargo has put in Industrial/Commercial zoning directly next to a residential area. This is an opportunity for the City of Fargo to consider doing the right thing for an existing community.

Our biggest question is this: Why are you not considering keeping with the original growth plan of a mix-used development plan of residential, low-density as a transition between a current residential area? Despite this section of land being next to an interstate, there are established communities around it that need to strongly be considered. The proposed zoning brings no benefit to the surrounding community.

Continued Concerns:

Property Value – The current estimate from realtors is that we could lose up to ¼ of the estimated resale value of our homes based upon what is located across the street. This is a huge concern and well worth our fighting for our properties that have been in families for over 50 years.

Traffic & Safety– Increased traffic will happen, and will bring additional trucking running at whatever hours the business needs. Currently 40th Ave N has a large amount of traffic already due to City of Reiles Acres and their new addition being built. We do not want businesses that bring additional traffic to the overall neighborhood.

The design of this plat will incorporate a city street through the middle with a secondary exit on the northwest corner, including a bridge across 45th street drain. This will also mean that traffic could now exit on the north end and come down 45th Street N – meaning additional potential traffic including trucks in front of a residential area. These concerns have still not been addressed.

Summary

It is the consensus of all those that have previously posted opposition in previous letters and for those signing this additional letter, that we object to the current proposed zoning and would like the City of Fargo to strongly reconsider our concerns of the entire residential community.

The following individuals have the above concerns and objections and are hereby supporting this by signing:

<u>Paul : Paula Peterson</u>	<u>Paul Peterson</u>	<u>4314 45th St N Fargo</u>
Name	Signature	Address

MIKE LESTINA

Name

Mike Lestina

Signature

4406 45th St. N. Fargo

Address

JAMES PRUDHOMME

Name

James Prudhomme

Signature

4302-45th St N, Fargo

Address

Dail Prudhomme

Name

Dail Prudhomme

Signature

4302 45th ST N Fargo

Address

Idan DuBord

Name

Idan DuBord

Signature

4106 45th st n Fargo

Address

Dave & Leah Heide

Name

DHeide

Signature

4006 45th ST N Fargo

Address

Name

Signature

Address

Name

Signature

Address

Name

Signature

Address

From: Tim D
Sent: Thursday, May 18, 2023 8:56 PM
To: Donald Kress
Subject: Interstate Business District Addition

Hi Mr. Kress,

Thank you for chairing the meeting on May 18 with nearby residents to the proposed concrete crushing station about possible changes.

The residents that live along 45th St N have a much more pressing issue than mine. One of the comments they made included business lighting.

I believe that business lighting can be effective and at the same time economical and esthetic. Night skies in Fargo have disappeared due to the type of street lighting that is being used.

There are better lighting products available than the "Cobra" Head street lamps and lanterns used for house lighting.

[Search by Use \(darksky.org\)](#) This link leads to a page where lighting styles can be perused.

I used to travel 32nd Ave S between 25th St and I29. The type of lighting used in that neighborhood made it difficult to read the road surface, as my eyes were being hit by light from many different light poles. I have attached a document from the same website with additional information on wasted energy based on improperly directed and contained light.

Properly directed light will place the light where it is needed; while uncontrolled light will allow the light to go in any direction. Uncontrolled light makes it harder to see and wastes energy to produce light that is unusable.

According to the International Dark Sky Association (IDA),
Lighting should be directed downward or shielded in all situations.
Approximately \$5 Billion is spent every year on unneeded lighting. The unneeded lighting is costing 21 Million Tons of CO₂. Also, unnecessary lighting is confusing birds and other animals.

I believe that Fargo can reduce its sky glow by a significant portion, just as Tucson has also done, by choosing appropriate lighting for streets and other outdoor uses.

There are even Urban locations that have been designated as Dark Sky locations based on what they have done with the lighting within the city. [Urban Night Sky Places Archives - International Dark-Sky Association \(darksky.org\)](#)

Thank you very much for reading and considering IDA approved lighting which will make the neighborhood more appealing.

Thanks.
Tim Dockter

LIGHT POLLUTION COSTS MONEY AND WASTES RESOURCES

HOW DOES ENERGY WASTE HARM THE ENVIRONMENT?

Excess lighting pumps millions of tons of carbon into our atmosphere every year, and also causes light pollution.

Light pollution:

- Increases greenhouse gas emissions
- Contributes to climate change
- Increases our energy dependence

WHAT ABOUT OUR CARBON FOOTPRINT?

In the U.S. alone, about 15 million tons of CO₂ are emitted each year to power residential outdoor lighting. That equals the emissions of about 3 million passenger cars and adds up to 40,000 tons per day. To offset all that carbon dioxide, we'd need to plant about 600 million trees annually!



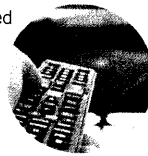
WHAT DOES LIGHT POLLUTION COST?

About \$3 billion dollars per year of energy is lost to bad lighting. This is about \$10 a year for every man, woman, and child in the U.S.

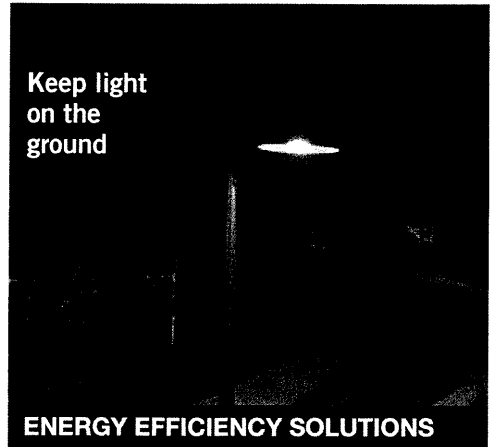


HOW MUCH ENERGY AM I WASTING?

The average house with poorly designed outdoor lighting wastes 0.5 kilowatt-hours (kWh) per night. A kilowatt-hour is a unit of energy equivalent to one kilowatt of power for an hour. It's enough energy to power a 50-inch plasma TV for one hour or run one load in your dishwasher!



It just takes small changes to save energy, money and our night skies. You can make a difference today.



Shielding outdoor lighting saves energy and money, reduces our carbon footprint and helps protect the natural nighttime environment. The solutions are easy. Work with your neighbors and local government to keep the light on the ground and the skies natural. It's a win-win for everyone. You save money while preserving a valuable natural resource.

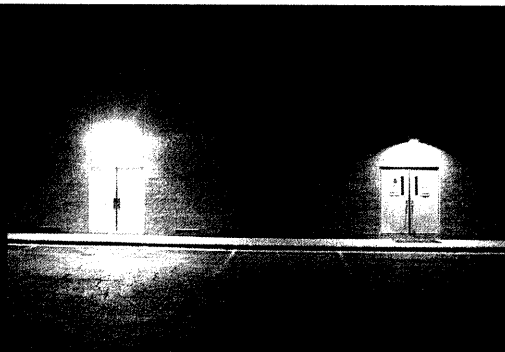
Tips to help you conserve energy and use light efficiently:

- Install quality outdoor lighting to cut energy use by 60-70%, save money and cut carbon emissions.
- Fully shield all outdoor lighting — light should go down on the ground where it's needed, not up into the sky.
- Be aware that fully shielded fixtures can provide the same level of illumination as unshielded fixtures, but with lower cost and less energy waste.
- Turn off indoor lights in office buildings or homes when not in use to save money and energy.

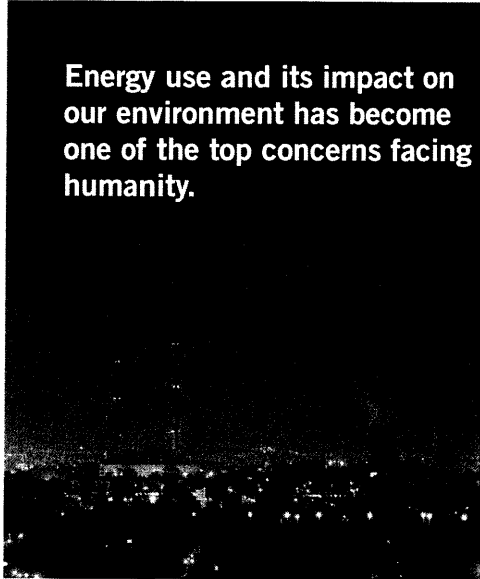
Visit darksky.org for more information.

Good vs. Bad Lighting

This photo (right) shows examples of good and poor lighting design. The unshielded light fixture on the left throws light into the sky and creates glare, impairing visibility. The shielded light fixture on the right directs light to the ground where it is needed and does not create lighting pollution. To learn about light fixtures that are environmentally friendly, energy efficient and certified with the IDA Fixture Seal of Approval, visit darksky.org.



Energy use and its impact on our environment has become one of the top concerns facing humanity.



Poorly designed outdoor lighting wastes energy by not being shielded, emitting more light than necessary or shining when and where it's not needed. Wasting energy in this way has huge economic and environmental consequences.

Leaving lights on overnight – such as those in office buildings – wastes energy and contributes to the general skyglow of the city. Dark sky friendly lighting does not mean “no light.” It means using the light that you need for a specific task in the most efficient manner possible.

“We can create a more sustainable, cleaner and safer world by making wiser energy choices.”

– Robert Aian Silverstein, children's science book author



WHY DARK SKIES?

The need to protect and restore the natural nighttime environment is more urgent than ever. Light pollution, defined as light where it is not wanted or needed, affects our health, the environment, wildlife, and our ability to find awe in the natural night. Research indicates that light pollution is increasing at a global average rate of two percent per year.

ABOUT IDA

The International Dark-Sky Association, a 501(c)(3) nonprofit organization based in Tucson, Arizona, is dedicated to preserving and protecting the natural nighttime environment.

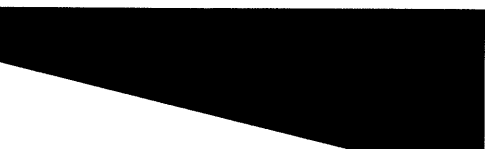


HELP US PROTECT THE NIGHT

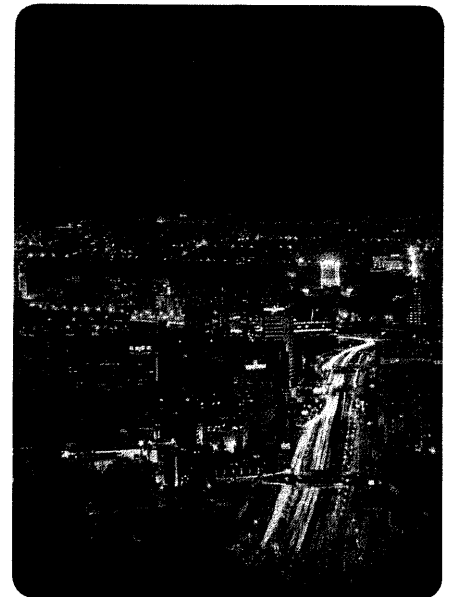
Our work is made possible by support from IDA members. Become a member and support our work in protecting the natural nighttime environment. Please join us today!

DARK SKY.ORG

International Dark-Sky Association
3223 N. First Avenue
Tucson, AZ 85719 USA
+1-520-293-3198



Light Pollution Wastes Energy and Money



INTERNATIONAL DARK-SKY ASSOCIATION

Dear Planning Commission Members,

Upon attending the hearing on May 18th, I have come to realization that the potential hazards of the exposure to the cement dust have not been properly addressed and to a large extent were downplayed. As a professor of chemical engineering and a materials expert, I feel obliged to bring your attention to the following information.

Cement in a solidified form (i.e., concrete slab) does not pose danger to human beings. However, in the form of a fine dust, cement becomes lethal. Aerosolized particles can enter the body either through respiratory tract (inhalation) and/or gastrointestinal tract (swallowing). In both routes, individuals become exposed to numerous harmful substances, including but not limited to lead, mercury, cobalt, chromium, aluminum, cadmium, arsenic, silica, asbestos. All are recognized as extremely toxic and prone to cause numerous adverse health effects (Jaishankar *et. al.*, 2014).

Inhaled cement particles were shown to cause lung function impairment, chronic obstructive lung disease, restrictive lung disease, pneumoconiosis, and cancer of the lungs, throat, stomach, and colon. (Meo, 2004) Owing to its aerodynamic diameter, cement particles can also enter the bloodstream and thereby reach essential internal organs and affect various tissues including heart, liver, spleen, bone, and muscles, ultimately changing their microstructure and physiological performance (Gharpure *et. al.*, 2021). Respirable particles were also demonstrated to cause disorders in the nervous system. (Heusinkveld *et. al.*, 2016)

It is simply inaccurate to state that the danger exists only for the individuals directly participating in cement milling operations. Studies conducted on the soil and vegetation show that the cement dust particles can travel the distances of up to 5 kilometers (Shukla *et. al.*, 2008). Further, I would like to disclose the details of the study conducted by Tajudeen and Okpuzor in 2011. To quantify the impact of the cement dust, the researchers placed rats at 250 m and 1000 m away from a cement company. The subsequent examination of the lung tissues revealed presence of chemicals associated with cement dust in both groups of animals. Specifically, lung tissues of the exposed rats showed significant levels of calcium, silicon, aluminum, chromium, and lead compared to the unexposed rats. The histopathology study of the lung tissues of the exposed rats showed abnormal alveolar architecture, disrupted bronchus, damaged bronchioles, degenerated epithelium lining, weak respiratory connective tissues, inflammations, and blue-black pigments. Some of the exposed rats died before the end of the exposure. The experiment lasted only 180 days. (Tajudeen *et. al.*, 2011)

Taking into consideration the strong winds in North Dakota and the absence of natural forest/vegetation, it is safe to assume that the proposed location of the cement crushing plant will expose a large number of residents to the severe risks of the cement dust. Establishing cement crushing plant adjacent to a residential area will have an unnecessary detrimental impact on so many innocent lives. I plead to your consciousness and prudence – please do not allow harm to come to our community.

Sincerely Yours,
Mariia Goriacheva, Ph.D.



References:

Jaishankar *et. al.* Toxicity, Mechanism, and Health Effects of Some Heavy Metals. *Interdiscip Toxicol* **2014**, 7, 60–72.

Meo. Health Hazards of Cement Dust. *Saudi Med J* **2004**, 25, 1153-1159.

Gharpure *et.al*, Characterization and Hazard Identification of Respirable Cement and Concrete Dust from Construction Activities. *Int. J. Environ. Res. Public Health* **2021**, 18, 10126.

Heusinkveld *et. al*, Neurodegenerative and Neurological Disorders by Small Inhaled Particles. *Neurotoxicology* **2016**, 56, 94–106.

Shukla *et. al*, Impact of Dust Emission on Plant Vegetation in the Vicinity of Cement Plant. *Environ Eng and Manag J* 2008, 7, 31-35.

Tajudeen *et. al*. Variation in Exposure to Cement Dust in Relation to Distance from Cement Company. *Research Toxicology* **2011**, 5, 203-212.

May 25, 2023
City of Fargo - Planning and Development
225 4th St N
Fargo, ND 58102

Dear Committee Members,

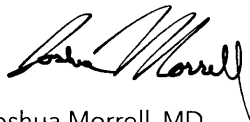
I am writing this letter in strong opposition of zoning changes at 4753 45th Street North and 4269 40th Avenue North.

I am a resident and a physician of the Fargo community. I want to highlight the extremely dangerous health consequences of cement dust exposure. There is irrefutable evidence of significantly increased risk of multiple types of cancer, pulmonary fibrosis, and other health aberrations.

This risk cannot be sufficiently attenuated by reduction in concentration. Even very low levels of exposure, given enough time, will result in disease development. Given that many of us live in the area, we are the proverbial rats in a cage.

I will be available in person for any questions at the upcoming meeting, June 6th. If needed, I can provide numerous scientific papers supporting my statements. Again, I plead to your decency and morality, please do not endanger our community.

Kind regards,



Joshua Morrell, MD
Chairman, UND Radiology
Board Certified Radiologist, Department of Veterans Affairs

COMMENTS RECEIVED PRIOR TO THE
MAY 2nd, 2023 PLANNING COMMISSION
HEARING

From: Joe Ring
Sent: Wednesday, April 26, 2023 12:06 PM
To: Donald Kress
Subject: Growth Plan amendment-located @ 4753 45th St N

Donald,

I am writing you today to express my concerns about the proposed zoning changes to the parcel of land located at 4753 45th St. N.

County Rd 20 is a 2 lane road with no turn lanes into Reiles Acres south or north of County road 20. We have seen an increase in traffic with the Amazon Distribution Center and the Marvin Windows facility. If this proposed zoning change is accepted, this will add even more traffic and safety issues while navigated this already busy county road. In addition to this, there is a new residential addition going in North of Reiles 9th addition and this again will add more traffic along this county road. Much of which will be stop and go for residents turning into editions to the north and south of County road 20. I have not been made aware of any proposals or enhancements to county rd 20. At a minimum, this needs to be a consideration before being allowed to move forward with an extensive project such as this one. And the majority of the cost of said project should not fall onto the residents of Reiles Acres.

In addition to the traffic safety issues that this proposal creates, a big part of why the residents of Reiles Acres have chosen to live in this area is because it has been surrounded by agriculture zoned land which has provided its residents an area to enjoy with little to no industrial noise and the hustle and bustle of large vehicle traffic. The proposed changes to Light Industrial gives these future land owners many options for businesses that will be allowed to run heavy trucks and equipment in and out of this area. It is known that a desire for a concrete crushing plant is also being contemplated which would create a large amount of noise in very close proximity to residential homes. This is unacceptable to consider when people have been enjoying this quite area for decades.

The last concern that I have is that 2 years down the road, the owners of this land/property can propose further changes to zoning and request more changes that could contribute to even higher amounts of industrial equipment and heavy truck travel in and around our residential neighborhoods.

I am not in favor of the proposed zoning changes for the above reasons.

I appreciate your time and consideration.

Joe Ring
4752 38 1/2 Ave N
Reiles Acres, ND 58102

Jason & Faulkner Lydia



4422 45th St N
Fargo, ND, 58102

Date 04-24-2023

TO: City of Fargo - City Planning & Development

RE: Zoning Proposal Objection to Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West

Interstate Business District Addition – Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West

This letter is in Opposition to the following application with the Fargo Planning Commission for:

- 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and proposed park to Industrial and Commercial
- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

Background Information:

Prairie Estates (our informal name) was established in the early 1970’s within Reed Township, and now represents approximately 78 acres of single home residential lots between 5 – 2 acre lots each, owned by 30 separate landowners. Nine properties currently located on 45th Street N on the west side of Section 15 of the above District Addition, do face east toward this property. Our addition provides country living at its best with large lots, ability to have horses, has developed mature tree lines, quiet atmosphere, and yet close enough to city limits. This is considered prime real estate for all these factors.

This area is an ET Area for the City of Reiles Acres.

Summary of Concerns from the collective community:

The Section 15 property as described above has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, not only for those residents that live across from this property – but also for the community. The residents on 47th Street N and those in Reiles Acres will have to look at and deal with the effects of whatever type of businesses that are on above stated property.

Specific Concerns

Zoning:

The proposed amendments would move the zoning from agricultural to Limited Industrial and Commercial. This would also include manufacturing and production. If this zoning is approved, any developer can purchase the lots and put in any type of business that fit this definition. There is nothing precluding a developer from purchasing several lots and putting in a business within these guidelines, it could be a 5-story building, or an asphalt facility, etc.

Jason & Faulkner Lydia



4422 45th St N
Fargo, ND, 58102

Date 04-24-2023

ARD properties LLC is the official landowner per ND parcel viewer. Trent Duda is the name behind the LLC. He is associated with Earthworks services. The owner of this land has stated that he bought this land to expand his business. He currently has properties in West Fargo for Earthworks and his trucking business.

He stated that he will keep 2-3 lots on the east side, and he wants to put in a concrete crushing facility. This will bring added noise and large amount of truck hauling traffic, which we are opposed to. This type of business does not run just two weeks a year, it can run if the weather permits. He stated that his property off 12th Ave N is not large enough for a concrete business. His current businesses are in industrial areas and not near residential.

Consider the Best Interest Of Neighboring Communities - Is this the type of zoning you would like to live next to?

There currently are no good examples of where the City of Fargo has put in Industrial/Commercial zoning directly next to a residential area. This is an opportunity for the City of Fargo to consider doing the right thing for an existing community.

Our biggest question is this: Why are you not considering keeping with the original growth plan of a mix-used development plan of residential, low-density as a transition between a current residential area? Despite this section of land being next to an interstate, there are established communities around it that need to strongly be considered. The proposed zoning brings no benefit to the surrounding community.

Although an overlay plan can include requirements for buffers, which include tree-lines – it does not matter how far that buffer is. We will still be impacted by the noise, lights, and traffic.

Concerns:

Property Value – The current estimate from realtors is that we could lose up to ¼ of the estimated resale value of our homes based upon what is located across the street. This is a huge concern and well worth our fighting for our properties that have been in families for over 50 years.

Traffic & Safety– Increased traffic will happen and will bring additional trucking running at whatever hours the business needs. Currently 40th Ave N has a large amount of traffic already due to City of Reiles Acres and their new addition being built. With the lack of turning lanes and controlled intersections, this poses additional safety concerns for the entire community.

The design of this plat will incorporate a city street through the middle with a secondary exit on the northwest corner, including a bridge across 45th street drain. This will also mean that traffic could now exit on the north end and come down 45th Street N – meaning additional potential traffic including trucks in front of a residential area.

Lights – despite any buffers, lighting cannot be a hinderance to the community residents.

Jason & Faulkner Lydia



4422 45th St N
Fargo, ND, 58102


Date 04-24-2023

Summary:

It is the consensus of all that have signed this letter, that we object to the current proposed zoning and would like the City of Fargo to strongly reconsider an adjusted zoning proposal that would consider our concerns of the entire residential community. This could include light industrial only along the interstate, but to not include manufacturing or production in remaining areas.

We do plan to attend all related hearings to voice our objections and concerns. Thank you for the consideration and reviewing this information.

The following individuals have the above concerns and objections and are hereby supporting this by signing:



Signature

Jason Faulkner

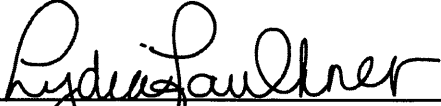
Printed Name

4422 45th St N Fargo ND 58102

Address

4.24.2023

Date



Signature

Lydia Faulkner

Printed Name

4422 45th St. N. Fargo ND 58102

Address

4.24.2023

Date

April 24, 2023

TO: City Of Fargo - City Planning & Development

Regarding Objection to Zoning Proposal:

Interstate Business District Addition – Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West

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- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

Background Information

Prairie Estates (our informal name) was established in the early 1970's within Reed Township, and now represents approximately 78 acres of single home residential lots between 5 – 2 acre lots each, owned by 30 separate landowners. Nine properties currently located on 45th Street N on the west side of Section 15 of the above District Addition, do face east toward this property. Our addition provides country living at its best with large lots, ability to have horses, has developed mature tree lines, quiet atmosphere, and yet close enough to city limits. This is considered prime real estate for all of these factors.

This area is an ET Area for the City of Reiles Acres.

Summary of Concerns from the collective community

The Section 15 property as described above has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, not only for those residents that live across from this property – but also for the community as a whole. The residents on 47th Street N and those in Reiles Acres will have to look at and deal with the effects of whatever type of businesses that are on above stated property.

Specific Concerns

Zoning

The proposed amendments would move the zoning from agricultural to Limited Industrial and Commercial. This would also include manufacturing and production. If this zoning is approved, any developer can purchase the lots and put in any type of business that fit this definition. There is nothing precluding a developer from purchasing several lots and putting in a business within these guidelines, it could be a 5 story building, or an asphalt facility, etc.

ARD properties LLC is the official landowner per ND parcel viewer. Trent Duda is the name behind the LLC. He is associated with Earthworks services. The owner of this land has stated that he bought this land to expand his business. He currently has properties in West Fargo for Earthworks and his trucking business.

He stated that he will keep 2-3 lots on the east side and he wants to put in a concrete crushing facility. This will bring added noise and large amount of truck hauling traffic, which we are opposed to. This type of business does not run just two weeks a year, it can run as long as the weather permits. He stated that his property off of

12th Ave N is not large enough for a concrete business. His current businesses are in industrial areas and not near residential.

Consider the Best Interest Of Neighboring Communities

Is this the type of zoning you would like to live next to?

There currently are no good examples of where the City of Fargo has put in Industrial/Commercial zoning directly next to a residential area. This is an opportunity for the City of Fargo to consider doing the right thing for an existing community.

Our biggest question is this: Why are you not considering keeping with the original growth plan of a mix-used development plan of residential, low-density as a transition between a current residential area? Despite this section of land being next to an interstate, there are established communities around it that need to strongly be considered. The proposed zoning brings no benefit to the surrounding community.

Although an overlay plan can include requirements for buffers, which include tree-lines – it does not matter how far that buffer is. We will still be impacted by the noise, lights and traffic.

Concerns:

Property Value – The current estimate from realtors is that we could lose up to ¼ of the estimated resale value of our homes based upon what is located across the street. This is a huge concern and well worth our fighting for our properties that have been in families for over 50 years.

Traffic & Safety– Increased traffic will happen, and will bring additional trucking running at whatever hours the business needs. Currently 40th Ave N has a large amount of traffic already due to City of Reiles Acres and their new addition being built. With the lack of turning lanes and controlled intersections, this poses additional safety concerns for the entire community.

The design of this plat will incorporate a city street through the middle with a secondary exit on the northwest corner, including a bridge across 45th street drain. This will also mean that traffic could now exit on the north end and come down 45th Street N – meaning additional potential traffic including trucks in front of a residential area.

Lights – despite any buffers, lighting cannot be a hinderance to the community residents.

Supporting Statement from Local Realtor

To whom it may concern,

It has come to my attention that the homeowners on north side of Reiles Acres on 45th St N have recently received notice that the agricultural land to the East of them has or will be zoned Commercial/Industrial from the original zone of agriculture. Having commercial or industrial buildings across the road from a residential area can negatively impact the home values in the neighborhood. Homeowners in these residential areas usually choose to live there because of the peacefulness, privacy, and tranquility that such areas offer, especially in a rural setting. Putting up commercial or industrial buildings close to residential homes could create noise pollution, increase traffic, and decreased air quality, leading to a general decrease in the quality of life for residents.

Moreover, the presence of these buildings may not appeal to potential buyers, which could hurt the marketability of the homes in the area. Prospective buyers may be discouraged from buying a house that is located close to commercial or industrial buildings due to the perceived negative impacts on their quality of life. This can lead to lower demand for homes in the area and a decrease in their market value.

Therefore, it is not beneficial to put up commercial or industrial buildings across the road from residential areas. It can cause a decline in the quality of life for residents and lower the marketability and home values in the area.

Best Regards,

Jeremy Qualley
Realtor in the FM Area

Summary

It is the consensus of all that have signed this letter, that we object to the current proposed zoning and would like the City of Fargo to strongly reconsider an adjusted zoning proposal that would take into account our concerns of the entire residential community. This could include light industrial only along the interstate, but to not include manufacturing or production in remaining areas.

We do plan to attend all related hearings to voice our objections and concerns. Thank you for reviewing this information and your consideration.

The following individuals have the above concerns and objections and are hereby supporting this by signing:

<u>JAMES PRUDHOMME</u>	<u><i>James Prudhomme</i></u>	<u>4302 - 45th St N, Fargo ND</u>
Name	Signature	Address
<u><i>David Prudhomme</i></u>	<u><i>David Prudhomme</i></u>	<u>4302 45th St N Fargo ND 58102</u>
Name	Signature	Address
<u>Debbie Moos</u>	<u><i>D Moos</i></u>	<u>4112 47th St N Fargo ND 58102</u>
Name	Signature	Address
<u>James Moos</u>	<u><i>James Moos</i></u>	<u>4112 47th St N Fargo ND 58102</u>
Name	Signature	Address

Name	Signature	Address
<u>Roger Parrow</u>	<u>[Signature]</u>	<u>4209-47th St N.</u>

Name	Signature	Address
<u>Judy Parrow</u>	<u>Judy Parrow</u>	<u>4209 47th St N</u>

Name	Signature	Address
<u>Robert Bohmer</u>	<u>[Signature]</u>	<u>4115 47th St N</u> <u>FARGO, ND 58102</u>

Name	Signature	Address
<u>Brenda Bohmer</u>	<u>Brenda Bohmer</u>	<u>4115 47th St N</u> <u>FARGO, ND 58102</u>

Name	Signature	Address
<u>Branden + Liz Korte</u>	<u>[Signature]</u>	<u>4414 47th St N Fargo, ND 58102</u>

Name	Signature	Address
<u>Donnette Gustafson</u>	<u>[Signature]</u>	<u>4306 47th St. N, Fargo, ND</u> <u>58102</u>

Name	Signature	Address
<u>Norman Gustafson</u>	<u>Norman Gustafson</u>	<u>4306 47th St. No.</u>

Name	Signature	Address
<u>Sharon Lorz</u>	<u>Sharon Lorz</u>	<u>4319-47th St. N. Fargo, ND</u> <u>58102</u>

Name	Signature	Address
<u>Harold Lorz</u>	<u>Harold Lorz</u>	<u>4319 47th St N, Fargo, ND</u> <u>58102</u>

Name	Signature	Address
<u>Kayh Lorz</u>	<u>Kayh Lorz</u>	<u>4519 47th St N Fargo ND 58102</u>

Name	Signature	Address
<u>Josh Loge</u>	<u>Josh Loge</u>	<u>4519 47th St N</u>

Name	Signature	Address
<u>Katie Kram</u>	<u>Katie Kram</u>	<u>4518 47th St. N</u>

Name	Signature	Address
<u>Wyatt Kram</u>	<u>Wyatt Kram</u>	<u>4518 47th St. N</u>

Name	Signature	Address
<u>Pat Bresnahan</u>	<u>Pat Bresnahan</u>	<u>4505 47th St. N</u>

Name	Signature	Address
<u>Nicolette Bresnahan</u>	<u>Nicolette Bresnahan</u>	<u>4505 47th St. N</u>

Name	Signature	Address
<u>Bernice Kram</u>	<u>Bernice Kram</u>	<u>4502-36th Ave N.</u>

Name	Signature	Address
<u>Roger Kram</u>	<u>Roger Kram</u>	<u>4502-36th Avenue N.</u>

Name	Signature	Address
_____	_____	_____

Name	Signature	Address
_____	_____	_____

Name	Signature	Address
_____	_____	_____

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<u>Thomas Krutz</u>		<u>4563 38 1/2 Ave. N</u> Reile's Acres
Name	Signature	Address

April 24, 2023

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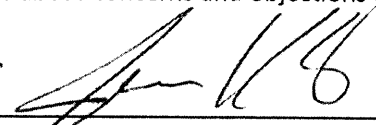
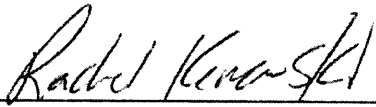
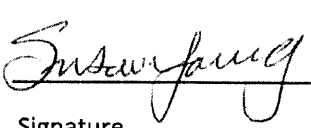
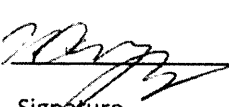
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<u>Jamie Kenowski</u>	<u></u>	<u>4786 38th Ave Reites Acres</u>
Name	Signature	Address
<u>Rachel Kenowski</u>	<u></u>	<u>4786 38th Ave Reites Acres</u>
Name	Signature	Address
<u>Susan Young</u>	<u></u>	<u>3838 50th St N Reites Acres</u>
Name	Signature	Address
<u>Michael Young</u>	<u></u>	<u>3838 50th St N Reites Acres</u>
Name	Signature	Address

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Although an overlay plan can include requirements for buffers, which include tree-lines – it does not matter how far that buffer is. We will still be impacted by the noise, lights and traffic.

Concerns:

Property Value – The current estimate from realtors is that we could lose up to ¼ of the estimated resale value of our homes based upon what is located across the street. This is a huge concern and well worth our fighting for our properties that have been in families for over 50 years.

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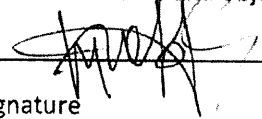
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Summary

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We do plan to attend all related hearings to voice our objections and concerns. Thank you for reviewing this information and your consideration.

The following individuals have the above concerns and objections and are hereby supporting this by signing:

<p>MARIJA GORSACHEVA JOSHUA A MORRELL Name</p>	 Signature	<p>4534 39th AVE N Address</p>
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April 24, 2023

TO: City Of Fargo - City Planning & Development

Regarding Objection to Zoning Proposal:

Interstate Business District Addition – Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West

This letter is in Opposition to the following application with the Fargo Planning Commission for:

- 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and proposed park **to Industrial and Commercial**
- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

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Prairie Estates (our informal name) was established in the early 1970's within Reed Township, and now represents approximately 78 acres of single home residential lots between 5 – 2 acre lots each, owned by 30 separate landowners. Nine properties currently located on 45th Street N on the west side of Section 15 of the above District Addition, do face east toward this property. Our addition provides country living at its best with large lots, ability to have horses, has developed mature tree lines, quiet atmosphere, and yet close enough to city limits. This is considered prime real estate for all of these factors.

This area is an ET Area for the City of Reiles Acres.

Summary of Concerns from the collective community

The Section 15 property as described above has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, not only for those residents that live across from this property – but also for the community as a whole. The residents on 47th Street N and those in Reiles Acres will have to look at and deal with the effects of whatever type of businesses that are on above stated property.

Specific Concerns

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ARD properties LLC is the official landowner per ND parcel viewer. Trent Duda is the name behind the LLC. He is associated with Earthworks services. The owner of this land has stated that he bought this land to expand his business. He currently has properties in West Fargo for Earthworks and his trucking business.

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<u>Bryan Nelson</u>	<u>Bryan Nelson</u>	<u>4502 45th St N</u>
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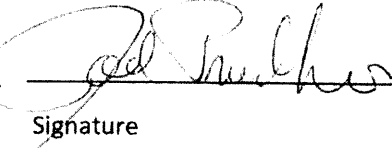
Name

Signature

Address

Name	Signature	Address
<u>Aaron Young</u>	<u></u>	<u>4533 38^{1/2} AVE N Reiles Acres ND 58102</u>

Name	Signature	Address
<u>Lisa Prudhomme</u>	<u></u>	<u>3353 50th ST S Reiles Acres, ND 58102</u>

Name	Signature	Address
<u>Joel Prudhomme</u>	<u></u>	<u>3353 50th ST S Reiles Acres, ND 58102</u>

Name	Signature	Address
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Name	Signature	Address
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Name	Signature	Address
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Name	Signature	Address
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Supporting Statement from Local Realtor

To whom it may concern,

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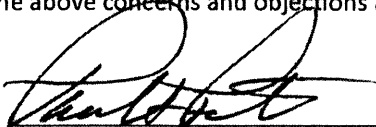
Jeremy Qualley
Realtor in the FM Area


Summary

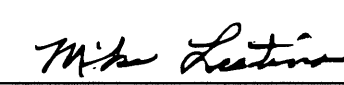
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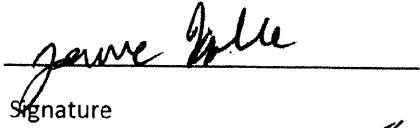
<u>Paul & Paula Peterson</u>	<u></u>	<u>4314 45th St N Fgo</u>
Name	Signature	Address


<u>DUNN MARLENE THORSTEINSON</u>	<u></u>	<u>4015 47th St N Fargo ND</u>
Name	Signature	Address

<u>MIKE LESTINA GRETCHEN LESTINA</u>	<u></u>	<u>4406 45th St N. FARGO, ND 58102</u>
Name	Signature	Address

<u>DAVE + LEAH HEIDE</u>	<u>DAVE HEIDE</u>	<u>4006 45th St. N. FARGO, ND 58102</u>
Name	Signature	Address

Ryan Carlson  4482 45th St N
Name Signature Address Fargo, ND 58102

Jerome Korte  4442 45th St N
Name Signature Address Fargo ND 58102

Todd Bjordahl  337245th St N
Name Signature Address Reilas Acres ND 58102

Melinda Bjordahl Melinda Bjordahl 3372 45 St N
Name Signature Address Reilas Acres ND 58102

Name Signature Address

Name Signature Address

Name Signature Address

Name Signature Address

Name Signature Address

Name Signature Address

Name Signature Address

GERALD RAMBERG *Gerald Ramberg* 4206 45th ST. N. FARGO, ND
58102

Name Signature Address

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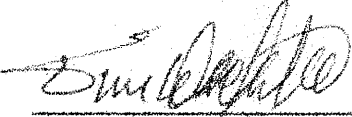

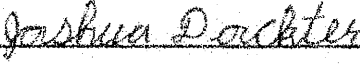
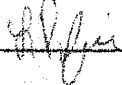
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<u>Tim Dockter</u>	<u></u>	<u>3635 49th St N 58102</u>
Name	Signature	Address
<u>Debbie Dockter</u>	<u></u>	<u>3635 49 St N 58102</u>
Name	Signature	Address
<u>Joshua Dockter</u>	<u></u>	<u>3635 49th St. N 58102</u>
Name	Signature	Address
<u>LaShai Pfeiffer</u>	<u></u>	<u>4534 35th Ave N 58102</u>
Name	Signature	Address

Nelson, Susan

Name

Susan Nelson

Signature

4730 35th Ave N, Reiles Acres, ND

Address

Nelson, Tony

Name

Tony Nelson

Signature

4770 35th Ave N, Reiles Acres, ND

Address

Giese, Brendan

Name

Brendan Giese

Signature

4725 31st Ave N, Reiles Acres, ND 58102

Address

R. Nelson

Name

R. Nelson

Signature

4730 35th Ave N, Reiles Acres, ND

Address

Mison Nelson

Name

Mison Nelson

Signature

4770 35th Ave N, Reiles Acres, ND 58102

Address

Adam DuBord

Name

Adam DuBord

Signature

4106 45th St N, Fargo 58102

Address

Kyla DuBord

Name

Kyla DuBord

Signature

4106 45th St N 58102

Address

Name

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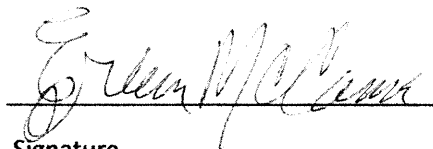
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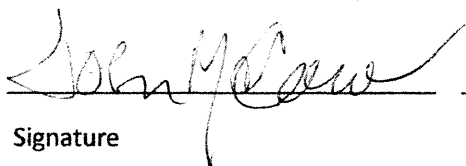
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<u>Erlean McCanna</u>	<u></u>	<u>4504 38 1/2 Ave N</u>
Name	Signature	Address

<u>John McCanna</u>	<u></u>	<u>4504 38 1/2 Ave N</u>
Name	Signature	Address

_____	_____	_____
Name	Signature	Address

_____	_____	_____
Name	Signature	Address

AGREEMENT

(Proximity of Airport, Noise Attenuation and Sewage Lagoons)

THIS AGREEMENT, Made and entered into this ____ day of _____, 2023, by and between ARD Properties, LLC (owner of Lots 3 through 7 and 9 through 15, Block 1); North Fargo Land, LLC (owner of Lot 1, Block 1); and the Southeast Cass Water Resource District (owner of Lot 8, Block 1), hereinafter referred to as "Owners," and CITY OF FARGO, A NORTH DAKOTA MUNICIPAL CORPORATION, hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the Owners are the record owners of tracts of land located in Cass County, North Dakota, said tracts being more particularly described hereinafter; and,

WHEREAS, said tracts are located within the City of Fargo; and

WHEREAS, Owners have made a development request of the City for a change in zoning from Agricultural (AG) to Limited Industrial (LI), General Commercial (GC), and Public/Institutional (P/I) zoning; and,

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

WHEREAS, Owners are willing to execute and to have recorded an agreement wherein Owners recognize the proximity of said facilities in regard to all of the property owned or to be owned by Owners hereinafter described and including all other terms mentioned above; and,

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

1. The subject of this Agreement, and the covenant herein, is the Owners' property, situate in the County of Cass and State of North Dakota, more fully described as:

Lots 1-15, Block 1, Interstate Business District Addition to the city of Fargo.

[hereinafter referred to as the "Subject Property"]

2. As a condition of City's approval of said platting and zoning, Owners do hereby covenant and agree with the City that said Owners will never institute any suit or action at law or otherwise against the City, nor institute, prosecute or in any way aid in the institution or prosecution of any claim, demand, action or cause of action for damages, costs, loss of service, expenses or compensation against the City for or on account of any damage, loss or injury either to person or property, or both, resulting or which may result by reason of the use of the Subject Property in relation to the location and use of Hector International Airport and specifically for damages caused or allegedly caused by the noise of the take-off or landing of jet-propelled or other aircraft from the present runways or any future runways of the present Hector International Airport or for any other noise incidental to the operation of said airport; also from any vibration generated by said aircraft or from any pollutants or contaminants created from such aircraft usage, unless such actions or causes of actions, claims, demands, liabilities, losses, damages, or expenses are caused directly by commercially unreasonable or unlawful actions. This provision shall include the Municipal Airport Authority of the City of Fargo, as well as any subsequently formed regional airport authority that may be formed to operate the airport facilities. All parties agree that this provision and all of the terms and conditions of this Agreement shall be deemed to be covenants running with the land and shall be binding upon, inure to the benefit of, and be enforceable against all parties, and their respective successors, assigns, tenants, lessees, invitees, agents, heirs, executors, administrators, and personal representatives. The parties agree that this provision and

Agreement shall be binding upon all future owners, lessees, tenants, and users of the Subject Property.

3. ARD Properties, LLC and North Fargo Land, LLC agree that they will at all times indemnify City, and hold and save the City harmless from and against any and all actions or causes of actions, claims, demands, liability, loss, damage, or expense of whatsoever kind and nature, including counsel or attorney's fees, which the City shall or may at any time sustain or incur by reason or in consequence of the use of the Subject Property for any lawful purposes and specifically for any damages caused or allegedly caused to the Subject Property by the noise of the take-off or landing of jet-propelled or other aircraft from the present runway or any future runways of the present Hector International Airport or for any other noise incidental to the operation of said airport, or which the City may sustain or incur in connection with any litigation, investigation or other expenditures incident to such use of the Subject Property, including any suit instituted to enforce the obligations of this agreement of indemnity, and Owners agree to pay to City all sums of money, with interest, which the City shall or may pay or cause to be paid, or become liable to pay, on account of or in connection with such use of the Subject Property, unless such actions or causes of actions, claims, demands, liabilities, losses, damages, or expenses are caused directly by commercially unreasonable or unlawful actions. This provision shall include the Municipal Airport Authority of the City of Fargo, as well as any subsequently formed regional airport authority that may be formed to operate the airport facilities.

4. Paragraphs two (2) and three (3) above shall also apply in all regards to the sewage lagoons owned by the City of Fargo and specifically concerning any odors emanating from said lagoons.

5. Owners agree that this agreement shall be recorded on the above-described property and specifically agrees that the following covenants shall apply to the above-described property:

FAIR DISCLOSURE STATEMENT

Sewage Lagoons – The tract of land hereby conveyed and legally described lies within the vicinity of certain sewage lagoons owned and maintained by the City of Fargo and may be impacted by odors emanating from said lagoons. The level of usage of said lagoons may vary, from time to time, so that at times the lagoons are “dry” and at other times the lagoons may contain sewage for treatment purposes and that, as a result, there may be no appreciable odor emanating from the lagoons and at other times there may be an appreciable odor emanating from the lagoons.

Airport -- The tract of land hereby conveyed and legally described lies within the vicinity of Hector International Airport and may be impacted by noise associated with the operations of said airport including noise from the take-off or landing of jet propelled or other

aircraft from the present runways or any future runways of the present Hector International Airport or for any other noise incidental to the operation of said airport; or from any vibration generated or from any pollutants or contaminants created from such aircraft usage. The airport normally operates seven days per week throughout the entire year and is open for flight operation at all hours. The present level of operations will continue and expand for the foreseeable future.

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

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

Airport Environs

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

These site suitability classifications are further defined by HUD as:

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

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

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

Certification

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

Owner

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

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

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

(Signature pages to follow.)

OWNER:
Southeast Cass Water Resource District
((Lot 8, Block 1)

KEITH A. WESTON, Chairman

ATTEST:

CAROL HARBEKE-LEWIS, Secretary/Treasurer

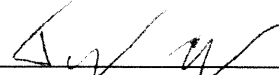
STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

On this _____ day of _____, 20__, before me, a notary public within and for said county and state, personally appeared **KEITH A. WESTON, Chairman of the Southeast Cass Water Resource District**, to me known to be the person described in and that executed the foregoing instrument, and acknowledged to me that he executed the same.

Notary Public

(S E A L)

OWNER:
ARD Properties, LLC
(Lots 3 through 7 and 9 through 15, Block 1)

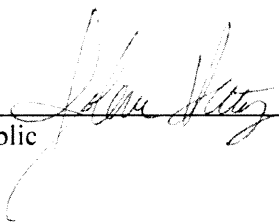


TRENT DUDA, President

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

On this 11 day of Sept, 2023, before me, a notary public within and for said county and state, personally appeared **TRENT DUDA, President of ARD Properties, LLC**, to me known to be the person described in and that executed the foregoing instrument, and acknowledged to me that he executed the same.

JOLENE HARTY
Notary Public
State of North Dakota
My Commission Expires Jan 26, 2027



Notary Public

OWNER:
NORTH FARGO LAND, LLC
(Lot 1, Block 1)



RONALD KNUTSON, Member

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

On this 11 day of September, 2023, before me, a notary public within and for said county and state, personally appeared **RONALD KNUTSON, Member of North Fargo Land, LLC** to me known to be the person described in and that executed the foregoing instrument, and acknowledged to me that he executed the same.



Notary Public

(SEAL)



THE CITY OF FARGO, NORTH DAKOTA,
a municipal corporation

By: _____
TIMOTHY J. MAHONEY, Mayor

ATTEST:

STEVEN SPRAGUE, City Auditor

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

On this ____ day of _____, 20__, before me, a notary public within and for said county and state, personally appeared **TIMOTHY J. MAHONEY** and **STEVEN SPRAGUE**, to me known to be the Mayor and City Auditor, respectively, of THE CITY OF FARGO, NORTH DAKOTA, the municipal corporation described in and that executed the foregoing instrument, and acknowledged to me that such municipal corporation executed the same.

Notary Public

(S E A L)

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS
OF LAND LYING IN INTERSTATE BUSINESS DISTRICT ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

1
2 WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the
3 City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain
4 parcels of land lying in the proposed Interstate Business District Addition to the City of Fargo, Cass
County, North Dakota; and,

5 WHEREAS, on June 6, 2023, the Fargo Planning Commission recommended denial of the
6 rezoning request; and on July 10, 2023, the Fargo City Commission moved that the rezoning request
7 be referred back to the Planning Commission for further reconsideration; and on August 1, 2023,
the Planning Commission recommended approval of the zoning request; and

8 WHEREAS, the rezoning changes were approved by the City Commission on September
9 18, 2023,

10 NOW, THEREFORE,

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

12 Section 1. The following described property:

13 Lot One (1), Block One (1) of the Interstate Business District Addition to the City of
14 Fargo, Cass County, North Dakota;

15 is hereby rezoned from "AG", Agricultural, District to "GC", General Commercial, District with a
16 "C-O", Conditional Overlay as follows:

- 17 1. The following uses are prohibited:
- 18 a. Detention Facilities
 - 19 b. Adult Establishments
 - 20 c. Off-Premise Advertising Signs
 - 21 d. Aviation/Surface Transportation
 - 22 e. Portable Signs
 - 23 f. Crushing of any materials, including concrete, asphalt, and rock
2. Exterior lighting must meet the standards of Land Development Code Section 20-0704.G.
3. Off-street parking, loading, vehicular circulation areas, and outdoor storage shall have an all-weather surface. No gravel, crushed concrete, or similar material is permitted.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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4. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.

4 Section 2. The following described property:

5 Lots Three (3) through Seven (7), Block One (1) of the Interstate Business District
6 Addition to the City of Fargo, Cass County, North Dakota;

7 are hereby rezoned from "AG", Agricultural, District to "GC", General Commercial, District with a
8 "C-O", Conditional Overlay as follows:

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1. The following uses are prohibited:
 - a. Detention Facilities
 - b. Adult Establishments
 - c. Off-Premise Advertising Signs
 - d. Aviation/Surface Transportation
 - e. Portable Signs
 - f. Crushing of any materials, including concrete, asphalt, and rock
 2. Exterior lighting must meet the standards of Land Development Code Section 20-0704.G.
 3. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.
 4. The developer shall install a three (3) foot-high berm that must be twenty-five (25) feet wide at the bottom and four (4) feet wide at the top along the west side of Lots Three (3) through Seven (7). Installation of this berm will be part of the project for 44th Street North.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

5. The property owner of Lots Three (3), Four (4), and Five (5), Block One (1) shall install trees on the west side of the berm at the time of development of these individual lots.

1
2 Section 3. The following described property:

3 Lots Two (2) and Eight (8), Block One (1) of the Interstate Business District
4 Addition to the City of Fargo, Cass County, North Dakota;

5 are hereby rezoned from “AG”, Agricultural, District to “P/I”, Public and Institutional, District.

6 Section 4. The following described property:

7 Lots Nine (9) through Fifteen (15), Block One (1) of the Interstate Business District
8 Addition to the City of Fargo, Cass County, North Dakota;

9 are hereby rezoned from “AG”, Agricultural, District and “LI”, Limited Industrial, District with a
10 “C-O”, Conditional Overlay to “LI”, Limited Industrial, District with a “C-O”, Conditional Overlay
11 as follows:

- 12 1. The following uses are prohibited:

- 13 a. Detention Facilities
14 b. Adult Establishment
15 c. Aviation/Surface Transportation
16 d. Concrete Crushing
17 e. Crushing of any materials, including concrete, asphalt, and rock

- 18 2. Exterior lighting must meet the standards of Land Development Code Section 20-0704.G.

- 19 3. The property shall not be used in whole or in part for storage of rubbish or debris of any
20 kind whatsoever nor for the storage of any property or items that will cause such lot to
21 appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall
22 any substance, item or material be kept on any lot that will emit foul odors, including
23 compost sites and fertilizer.

4. The maximum height of any off-premise sign is limited to thirty-five (35) feet.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

5. The total number of off-premise signs is limited to four (4).

1 Section 5. The City Auditor is hereby directed to amend the zoning map now on file in his
2 office so as to conform with and carry out the provisions of this ordinance.

3 Section 6. This ordinance shall be in full force and effect from and after its passage and
4 approval.

7 (SEAL)

Timothy J. Mahoney, M.D., Mayor

8 Attest:

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11 _____
Steven Sprague, City Auditor


First Reading:
Second Reading:
Final Passage:

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MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY 

DATE: SEPTEMBER 18, 2023

SUBJECT: 2024 PRELIMINARY BUDGET PUBLIC HEARING

The Board of City Commissioners approved the Preliminary Budget on August 7th.

A Public Hearing, which is required by North Dakota Century Code, is to allow for Public Comment on the Preliminary Budget and recommended tax levies.

The City Commission will consider the Final Budget for 2024 on October 2, 2023.



(46)

ASSESSOR'S OFFICE
Fargo City Hall
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1340 | Fax: 701.241.1339
www.FargoND.gov

August 28, 2023

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Attached are the Applications for Abatement or Refund of Taxes #4545 and #4544. The applications are for a residence located at 1201 Elm St N. The applications request the following:

#4545 – for 2022, a reduction from \$282,900 to \$125,900

#4544 – for 2021, a reduction from \$257,200 to \$97,000

We have provided information regarding the valuation of this property and the reasons for a value adjustment. With the information provided by the owner and our staff appraiser's review, and based on the current conditions and issues of the property, we created new approaches to value and we feel a reduction is warranted.

SUGGESTED MOTION:

Approve a reduction of the property value at 1201 Elm St N in the following manner:

#4545 – reduce the 2022 certified value to \$151,000

#4544 – reduce the 2021 certified value to \$125,300

Sincerely,

Michael Splonskowski

Michael Splonskowski
Fargo City Assessor

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1 of the year following the year in which the tax becomes delinquent.

State of North Dakota Assessment District 7
County of Cass Property I.D. No. 01-790-00070-000
Name Jon/Kimmi Sieman Telephone No. _____
Address 1701 Elm St W Fargo, ND 58102

Legal description of the property involved in this application:
Lot 5 Block 3 Anna L Homes

Total true and full value of the property described above for the year 2017 is:

Land \$ Unknown
Improvements \$ Unknown
Total \$ 285,900

Total true and full value of the property described above for the year 2017 should be:

Land \$ Unknown
Improvements \$ Unknown
Total \$ 125,900

The difference of \$ 160,000 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption
- 6. Duplicate assessment
- 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
- 10. Other (explain): property incorrectly assessed

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go directly to question #5.

1. Purchase price of property: \$ 257,000 Date of purchase: 10-10-2020
 Terms: Cash Contract _____ Trade _____ Other (explain) _____
 Was there personal property involved in the purchase price? no Estimated value: \$ _____
yes/no

2. Has the property been offered for sale on the open market? no If yes, how long? _____
yes/no
 Asking price: \$ _____ Terms of sale: _____

3. The property was independently appraised: no Purpose of appraisal: _____
yes/no
 _____ Market value estimate: \$ _____
 Appraisal was made by whom? _____

4. The applicant's estimate of market value of the property involved in this application is \$ 125,900

5. The estimated agricultural productive value of this property is excessive because of the following condition(s): N/A

Applicant asks that over payment of property tax be refunded

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) _____ Date _____ Signature of Applicant _____ Date 8-14-23

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____
 On _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

 Dated this _____ day of _____, _____
 City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
 Approved/Rejected
 Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached.

Dated _____

 County Auditor _____ Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows.

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor _____ Date _____

**Application For Abatement
Or Refund Of Taxes**

Jon & Kimmi Sierman

Name of Applicant

4543

County Auditor's File No.

Date Application Was Filed With The County Auditor

8/21/2023

Date County Auditor Mailed Application to Township Clerk or City Auditor

8/23/2023

(insert to within two business days of filing date)

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1 of the year following the year in which the tax becomes delinquent.

State of North Dakota Assessment District 1
 County of Cass Property I.D. No. 017290-00070-000
 Name Don / Kimmi Sierman Telephone No. [REDACTED]
 Address 1701 Elm St N, Fargo ND 58102

Legal description of the property involved in this application:

Lot 5 Block 3 Anna L. Homes

Total true and full value of the property described above for the year ~~2020~~ 2021:

Land \$ unknown
 Improvements \$ unknown
 Total \$ 257,000

Total true and full value of the property described above for the year 2021 should be:

Land \$ unknown
 Improvements \$ unknown
 Total \$ 97,000

The difference of \$ 160,000 true and full value between (1) and (2) above is due to the following reason(s):

- 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- 2. Residential or commercial property's true and full value exceeds the market value
- 3. Error in property description, entering the description, or extending the tax
- 4. Nonexisting improvement assessed
- 5. Claimant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- 6. Duplicate assessment
- 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- 8. Error in noting payment of taxes, taxes erroneously paid
- 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
- 10. Other (explain): Property incorrectly assessed

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go directly to question #5.

1. Purchase price of property: \$ 257,000 Date of purchase: 10-10-2020
 Terms: Cash Contract _____ Trade _____ Other (explain) _____
 Was there personal property involved in the purchase price? no Estimated value: \$ _____

2. Has the property been offered for sale on the open market? no If yes, how long? _____
 Asking price: \$ _____ Terms of sale: _____

3. The property was independently appraised: no Purpose of appraisal: _____
 Market value estimate \$ _____
 Appraisal was made by whom? _____

4. The applicant's estimate of market value of the property involved in this application is \$ 97,000

5. The estimated agricultural productive value of this property is excessive because of the following condition(s): N/A

Applicant asks that Over payment of taxes collected
Returned

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) _____ Date _____ Signature of Applicant _____ Date 8-14-23

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

Dated this _____ day of _____, _____

 City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.

 Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from \$ _____ to \$ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of \$ _____. The Board accepts \$ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

Dated _____

County Auditor _____ Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest? yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

County Auditor _____ Date _____

Application For Abatement
Or Refund Of Taxes

Name of Applicant Jon Kimmi Sieman

County Auditor's File No. 4544

Date Application Was Filed With The County Auditor 8/21/2023

Date County Auditor Mailed Application to Township Clerk or City Auditor 8/23/2023
(must be within five business days of filing date)

Appeal of Assessment for Year: 2022 & 2021

Name of Applicant: Jon Sierman

Assessed Value(s)	2022	285,900	
	2021	257,200	
Applicants Requested Value(s)	2022	125,900	-55.96%
	2021	97,000	-62.2%

General Property Information

Property Type		Residential
Year Built		1974
Building Area (Total Above Grade)	1,805 sf	158.39 / sf
Land Area	13,535 sf	6.76 / sf

Last Sale: 10/09/2020 262,600



Summary

The owner appealed the value during the Board of Equalization process in March, citing structural issues with the house, which were discovered after the 2020 purchase. Upon review of the property, the appraiser found that the garage was sinking and pushing against the house foundation walls, causing instability, and allowing snow to come into the basement. The owner provided a bid for foundation repair of \$110,000. The appraiser also noted that there was significant structural pressure on some windows due to the shifting foundation, water leaks from windows and doors, and potential drywall damage from moisture issues. The property was also reviewed in 2018, and the condition was changed from average to fair, however the foundation issues were either not known, or not disclosed to us at that time.

The cost approach was used to revalue this house and adjustments were made, accounting for all the deferred maintenance and repairs that would be necessary. This, along with an updated review of the condition of the entire house, led to a reduction in value for the 2023 assessment, which was approved at the 2023 Board of Equalization. The owner is seeking a reduction in value for the two prior years' certified values, since the issue was present at the time of sale.

Based on the information presented by the owner and the information of our onsite review of the property, we agree that the condition of the house was likely present at the time of sale and has a negative effect on the value, and that a reduction is warranted.

Recommended Action(s):

- Reduce the value to \$151,000 for the 2022 tax year
- Reduce the value to \$125,300 for the 2021 tax year

(47)

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY

DATE: SEPTEMBER 18, 2023

SUBJECT: CIVIL SERVICE COMMISSION APPOINTMENTS

The terms of Paul Grindeland and Kurt Losee on the Civil Service Commission expired on June 30, 2023. Mr. Losee is no longer wishing to continue his service on the Board and Mr. Grindeland is willing to continue his service until December 31, 2023.

I have attached a web application for Barb Ransom who has expressed interest in serving on the Board and I am therefore recommending her appointment.

Your favorable consideration of this recommendation is greatly appreciated.

RECOMMENDED MOTION: To approve the reappointment of Paul Grindeland to the Civil Service Commission for a partial term ending December 31, 2023 and to appoint Barb Ransom to the Civil Service Commission for a three-year term ending June 30, 2026.

Kember Anderson

From: noreply@cityoffargo.com
Sent: Saturday, July 10, 2021 9:27 AM
To: Commissions Applications
Subject: New Form Submission: Getting involved in government

Name:
[Barb Ransom]
Mailing Address:
[REDACTED]
City:
[Fargo]
State:
[North Dakota]
Zip:
[58102]
Work Phone:
[BLANK]
Home Phone:
[REDACTED]
E-mail:
[REDACTED]

Which boards or commissions would you like to be considered for?
[Civil Service Commission]

Briefly state why you would like to be on this panel:
[I believe everyone regardless of title, political connections, religious belief, gender, race or community status needs to be treated with the same guidelines and follow through.]

How many hours per month could you volunteer as a panel member?
[10 - 20]

Please list any past experience you have with city government here or in other cities:
[None]

Please describe any professional experience you have related to the responsibilities of the panel you are interested in:
[I'm a retired nurse, parent, grandmother willing to share my experience and do the research to make an informed decision.]

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