

**MEMORANDUM**

**TO:** Board of Adjustment  
**FROM:** Aaron Nelson, Planning Coordinator *AN*  
Maggie Squyer, Assistant Planner *MS*  
**DATE:** October 15, 2019  
**RE:** Board of Adjustment Meeting

The next meeting of the Board of Adjustment will be held on Tuesday, October 22, 2019 at 9:00 a.m. in the Commission Chambers at the **NEW** Fargo City Hall. If you are not able to attend, please contact staff at (701) 241-1474 or [planning@FargoND.gov](mailto:planning@FargoND.gov). Thank you.

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**BOARD OF ADJUSTMENT**  
**Tuesday, October 22, 2019 9:00 a.m.**  
**Commission Chambers**  
**AGENDA**

1. Approve Minutes of August 27, 2019 Meeting
2. New Business
  - a) Variance Request – 703 & 705 10 Avenue North  
*Request for a variance of Section 20-0501 of the LDC. The requested variance is to allow a future townhome project to encroach into the rear setback within the MR-3, Multi-Dwelling Residential, zoning district.*
  - b) Appeal of a Land Management Plan – 430 22 Street South  
*Appeal of an approved Land Management Plan that allows property owners to plant non-traditional landscaping, as defined in City Ordinances 11-0805 through 11-0812.*
3. Other Business
4. Adjournment

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Board of Adjustment meetings are broadcast live on cable channel TV Fargo 56 and can be seen live by video stream on [www.FargoND.gov/streaming](http://www.FargoND.gov/streaming). They are rebroadcast each Tuesday at 9:00 a.m. for one month following the meeting.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 701.241.1474 or TDD at 701.241.8258. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

## **BOARD OF ADJUSTMENT MINUTES**

**Regular Meeting:**

**Tuesday, August 27, 2019**

The Regular Meeting of the Board of Adjustment of the City of Fargo, North Dakota, was held in the Commission Chambers at City Hall at 9:00 a.m., Tuesday, August 27, 2019.

The Members present or absent were as follows:

Present: Deb Wendel-Daub, Matthew Boreen, Russell Ford-Dunker, Michael Love, Mike Mitchell

Absent: None

Chair Love called the meeting to order.

### **Item 1: Approval of Minutes: Regular Meeting of July 23, 2019**

Member Boreen moved the minutes of the July 23, 2019 Board of Adjustment meeting be approved. Second by Member Wendel-Daub. All Members present voted aye and the motion was declared carried.

### **Item 2: New Business**

#### **a) Appeal of an Administrative Decision: DENIED**

***Appellant claims that staff erred in denying a sign permit application.***

Planning Coordinator Aaron Nelson presented the staff report, a background of the project, and reviewed the process for appeals of administrative decisions. Mr. Nelson stated the question before the Board is, did staff err in the denial of the appellant's sign permit application.

Appellant Arch Simonson spoke on behalf of the application.

Discussion was held on the history of the signs on the property, non-conforming signs according to the current sign code, and code interpretation of re-imaging vs. replacing signs.

Plan Reviewer Melissa Gaulrapp spoke on behalf of the Inspections Department.

Member Boreen moved the findings of staff be accepted and to affirm staff's decision to deny the appellant's sign permit application, on the basis that the proposed sign replacement would violate the requirements of the Fargo Sign Code. Second by Member Ford-Dunker. Upon call of the roll Members Wendel-Daub, Boreen, Ford-Dunker, Mitchell, and Love voted aye. The motion was declared carried.

**Item 3: Other Business**

No other business items were presented.

**Item 4: Adjournment:**

Member Mitchell moved to adjourn the meeting at 9:32 a.m. Second by Member Wendel-Daub. All Members present voted aye and the motion was declared carried.

# CITY OF FARGO - Board of Adjustment Variance Staff Report

<b>Item No:</b> 2.a	<b>Date:</b> October 15, 2019
<b>Address:</b> 703 & 705 10 <sup>th</sup> Avenue North	
<b>Legal Description:</b> Lots 12 & 13, Wilson's Subdivision, Block 16, Chapins Addition	
<b>Owner(s)/Applicants:</b> Nate Anderson	
<b>Reason For Request:</b> To construct two sets of townhomes that encroach into the required rear setback area	
<b>Zoning District:</b> MR-3, Multi-Dwelling Residential	
<b>Status:</b> Board of Adjustment Public Hearing: October 22, 2019	

MR-3 Dimensional Standards	Current/Proposed Structure
<b>Setbacks:</b>	<b>Setbacks:</b>
<b>Front (south):</b> 25'	<b>Front (south):</b> 25'
<b>Interior-Side (east):</b> 10'	<b>Interior-Side (east):</b> 10+'
<b>Interior-Side (west):</b> 10'	<b>Interior-Side (west):</b> 10+'
<b>Rear (north):</b> 20'	<b>Rear (north):</b> 7'

## Background:

The subject property is made up of two parcels located at 703 and 705 10<sup>th</sup> Avenue North and is within the MR-3, Multi-Dwelling Residential, zoning district. It is the applicant's intent to construct two sets of townhomes on the two identified parcels as a unified development. Section 20-0501 of the Land Development Code requires that primary structures be set back at least 20 feet from the rear property line in the MR-3 zoning district. The redevelopment would place one set of proposed townhomes 7 feet away from the northern rear lot line. Accordingly, the applicant is requesting a variance to allow the proposed project to encroach 13 feet into the required rear setback area on one of the parcels of the subject property.

## Criteria for Approval & Staff Analysis:

**§20-0914.E.1 of the LDC states that, "A variance may be granted by the Board of Adjustment upon an affirmative finding that all of the following conditions exist."**

**a. The requested variance arises from conditions that are unique to the subject property not ordinarily found in the same zoning district and are not a result of the owner's intentional action;**

The subject property is legally described as Lots 12 & 13, Wilson's Subdivision, Block 16, Chapins Addition. The subject property is made up of two 7,000 square foot parcels, which are 2,000 square feet larger, per lot, than the minimum required lot size of 5,000 square feet in the MR-3 zoning district. Overall, the subject property appears to currently conform to all of the dimensional standards and use regulations of the Land Development Code (LDC). Based on a review of lot size and dimensional standards, staff contends that the subject property is not unique to other properties within the MR-3 zoning district.

Staff contends that the requested variance arises from conditions that are self-imposed by the applicant, and does not arise from conditions that are unique to the subject property. As noted in the submitted application, the applicant is proposing to construct two sets of attached townhomes on the existing lots. While the applicant provides evidence of the City's desire for infill development in the Go 2030 Comprehensive Plan, increased density in the form of townhomes is already allowed by-right under the traditional dimensional standards of the MR-3 zoning district. The applicant simply prefers to enlarge the structures in a manner which does not comply with the traditional dimensional standards of the Land Development Code. At this time, the City is in the process of establishing a Core Neighborhoods Plan that would create a clearer picture for City staff, developers, and home owners of what infill development

would ideally look like in established neighborhoods. Granting a variance on the basis of supporting infill development could set a negative precedent that leaves core neighborhoods vulnerable to development that does not meet existing LDC standards. **(Criteria NOT satisfied)**

**b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;**

Staff has no data that would identify an adverse impact to adjacent neighbors with this variance. In accordance with the notification requirements of the LDC, neighboring property owners within 300 feet of the subject property were provided notice of the variance request. To date, staff has received one letter of concern on this application noting concerns for traffic and parking in the area. A copy of the letter is attached. **(Criteria satisfied)**

**c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;**

The variance is being requested in order for the applicant to construct townhomes, which is a typical use permitted by-right in the MR-3 zoning district. Staff contends that no hardship exists as the property is capable of accommodating townhomes while still meeting the requirements of the LDC. As noted above, the subject property has larger dimensions than the minimum required for the MR-3 zoning district.

Ultimately, staff suggests that the strict application of the applicable standards should not constitute an unnecessary physical hardship because the subject property can be used for an allowed use without conflict with the LDC. **(Criteria NOT satisfied)**

**d. The variance desired will not adversely affect the public health, safety or general welfare;**

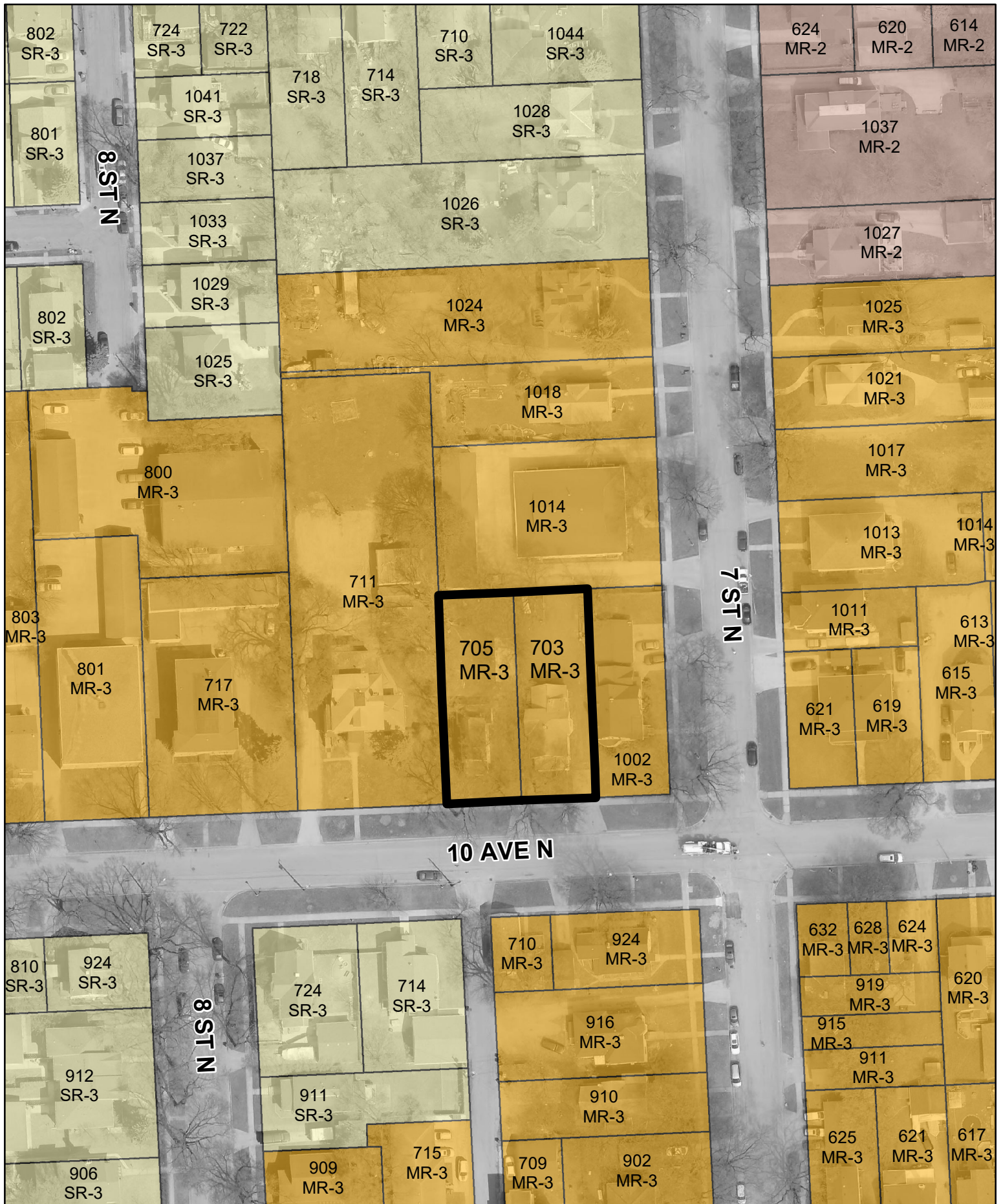
Staff has no data that would identify an adverse effect on public health, safety, or general welfare. No public health, safety, or general welfare issues have been identified. **(Criteria satisfied)**

**e. The variance is the minimum variance that will overcome the hardship;**

As mentioned above, staff suggests that there is no hardship to overcome due to the fact that the property can be used for an allowed use without coming into conflict with applicable site development standards. The desire for the variance is self imposed by the applicant and is not a situation caused by features unique to the subject property. However, if a hardship was found to exist, the proposed variance would be the minimum variance needed for the applicant to construct the townhomes as proposed by the applicant. **(Criteria satisfied)**

**Staff Recommendation:** “To accept the findings of staff and deny the requested variance to allow the proposed addition to encroach into the required rear setback area in the MR-3 zoning district on the basis that the review criteria of Section 20-0914.E.1 (a & c) have not been met.”





October 15, 2019

Planning & Development  
ATTN: Maggie Squyer, Assistant Planner  
225 4<sup>th</sup> Street North  
Fargo, North Dakota 58102

Dear Maggie:

Thank you for taking the time to speak to me last week regarding the proposed townhome project (703-705 10<sup>th</sup> Avenue North in Fargo). As requested, I am following up that conversation with a written copy of my concerns. We live on 7<sup>th</sup> street and given the additional multi-family dwellings that are in the process of construction, we have the following concerns:

- Traffic increase
- Parking: narrow streets are hard to navigate with parking on both sides of the street. We already have to contend with Sanford associates that park on streets and avenues on a daily basis.
- Speeding: Traffic tends to speed in the neighborhood currently, even with stop and yield signs at every block on 7<sup>th</sup> street.

Thank you for hearing our concerns. We hope that this may in some way give the feedback to the city to do what is necessary to preserve our neighborhood atmosphere.

Sincerely,

Jill C. Gilleshammer  
1027 7<sup>th</sup> Street North  
Fargo, ND 58102



**Planning & Development**  
225 4th Street North  
Fargo, ND 58102  
Office: 701.241.1474 | Fax: 701.241.1526  
Email: Planning@FargoND.gov  
www.FargoND.gov

## VARIANCES (§20-0914)

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in unnecessary physical (not economic) hardship to the property owner.

### Variance Application Process

- 1) The application and a nonrefundable fee of \$185 are due at the time of submittal
- 2) Notice of the Public Hearing is mailed to property owners within 300 feet of the proposed site at least 15 days prior to the Hearing and published once a week for two consecutive weeks in the newspaper.
- 3) The City Planner reviews your case, develops a staff report and prepares a recommendation to the Board of Adjustment based on the Criteria for Approval, below.
- 4) Board of Adjustment meetings are scheduled as needed.

### Criteria for Approval

A variance may be granted by the Board of Adjustment upon an affirmative finding that all of the following conditions exist.

- a. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;
- b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;
- d. The variance desired will not adversely affect the public health, safety or general welfare; and;
- e. The variance is the minimum variance that will overcome the hardship.

**Acknowledgement** – I hereby acknowledge that I have familiarized myself with the rules and regulations to the preparation of this submittal and that the foregoing information is true and complete to the best of my knowledge. I, the undersigned, do hereby petition the Board of Adjustment of the City of Fargo, North Dakota, to take such action as may be required by law of the City of Fargo to grant a variance pursuant to Section 20-0914 of the Land Development Code of the City of Fargo.

Owner (Signature): [Signature] Date: 9-3-19

**Note:** A nonrefundable filing fee of \$185.00 must be accompanied with the application at time of submittal.

#### Office Use Only

Date Filed: 9-3-19 Planning Contact: \_\_\_\_\_ Nonrefundable Fee \$185.00: CR-#1003

Uptown Lofts LLC  
3560 6th St. E  
West Fargo, ND 58078





## APPLICATION FOR VARIANCE

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in unnecessary physical (not economic) hardship to the property owner.

### Property Owner Information:

Name (printed): Uptown Lofts, LLC

Address: \_\_\_\_\_

Primary Phone: \_\_\_\_\_

Alternative Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

### Representation Information: (if applicable)

Name (printed): Nate Anderson

Address: \_\_\_\_\_

Primary Phone: \_\_\_\_\_

Alternative Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

### Location of property requesting a variance:

Address: 703 10th Ave N

Zoning District: MR-3

Legal Description: L12 B16 WILSON'S SUBD

### Proposed Variance Information:

What Land Development Code Standard are you seeking a variance? (e.g. setback, lot coverage, height)

Rear Setback

Please describe difference between the standard and the proposed (e.g. the standard is 10 ft. and my project would propose a 7' setback).

The standard rear setback is 20 ft and my project would propose a 7 ft rear setback

Please explain your project, describing why you are requesting a variance and why you believe a variance is justified. Along with your project description, please include a site plan/diagram with dimensions. (Attach additional pages, if needed.)

We propose to redevelop the current blighted property to provide additional high quality housing for the workforce near Sanford Hospital and Downtown Fargo. Our project consists of a two sets of attached town homes, one being a structure of three (3) 2-story townhome units with tuck-under garages on 703 10th Ave. N. and the other a structure of four (4) 2-story town home units with tuck-under garages on 705 10th Ave. N. with a shared concrete drive lane between the two structures. Our intent to provide efficient, attractive, affordable housing utilizing existing infrastructure necessitates the land be used to it's full potential. To do so we request a variance to encroach on the current rear setback.



**Criteria for Approval:**

Please explain how your requested variance meets the following five criteria for approval, pursuant to Section 20-0914 of the Land Development Code: (Attach additional pages, if needed.)

1. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;

The proposed project is in response to the Go 2030 Fargo Comprehensive Plan to provided infill development that increases density and which is in walking distance of downtown. The ability to increase the density on the originally platted lot size and under the current Land Development Code is restrictive and contrary to the City's stated goals.

2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

The granting of the permit will not affect the rights of adjacent property owners nor residents as proper fire protection by code will be provided for the subject building encroaching on the current setback.

3. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

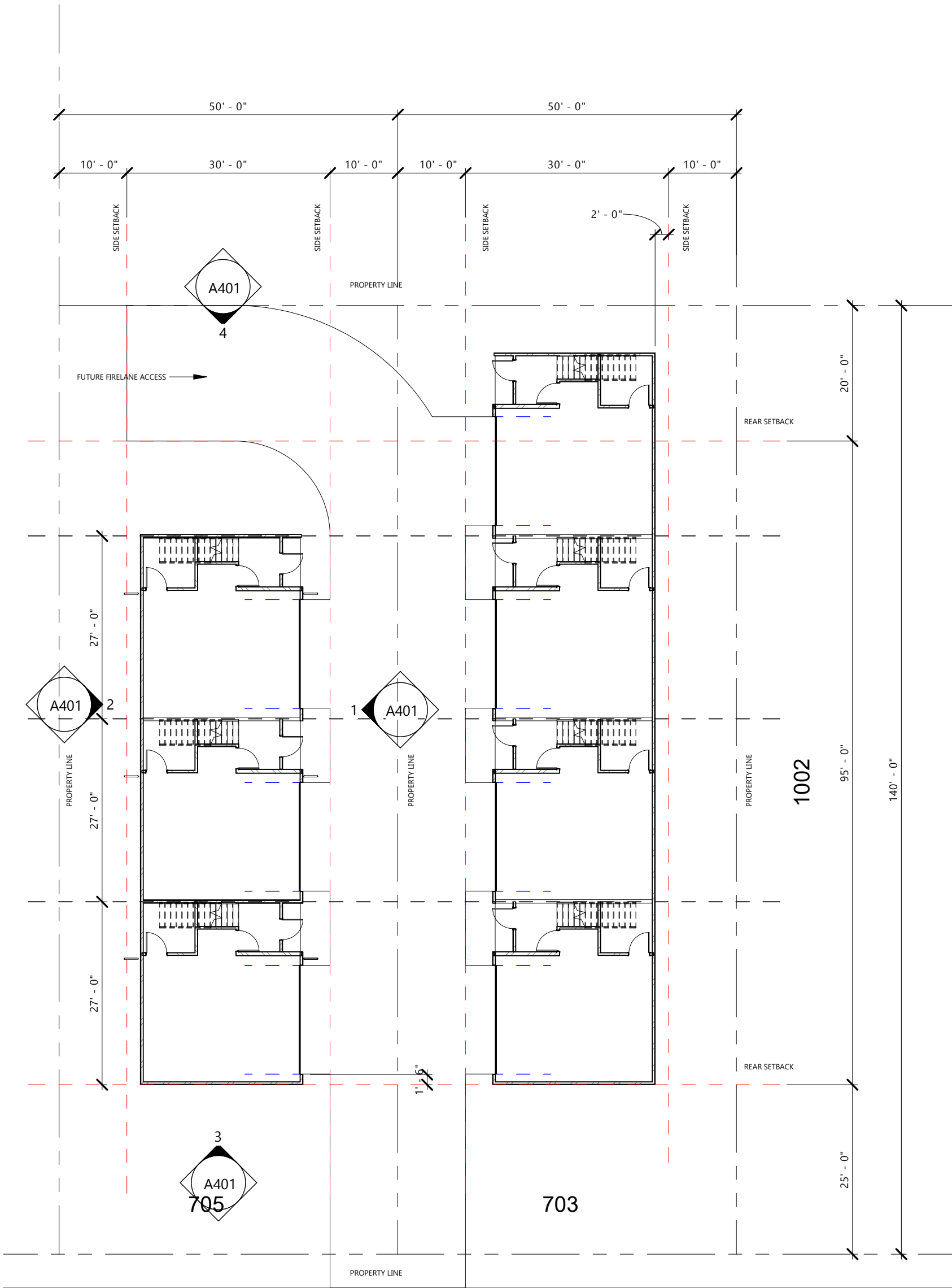
The applicable site development standards conflict with the ability to increase density in the Fargo core. With the goal of creating a form that encourages density at a human scale and walkable neighborhoods, our project looks to set the urban edge of the block to encourage future smart growth.

4. The variance desired will not adversely affect the public health, safety, or general welfare; and

The variance will not adversely affect the public health, safety, nor general welfare in any way.

5. The variance is the minimum variance that will overcome the hardship.

In order to provide the most housing with comfortable housing accommodation the variance is the minimum variance that will overcome the hardship.



10TH AVE N

1  
A101

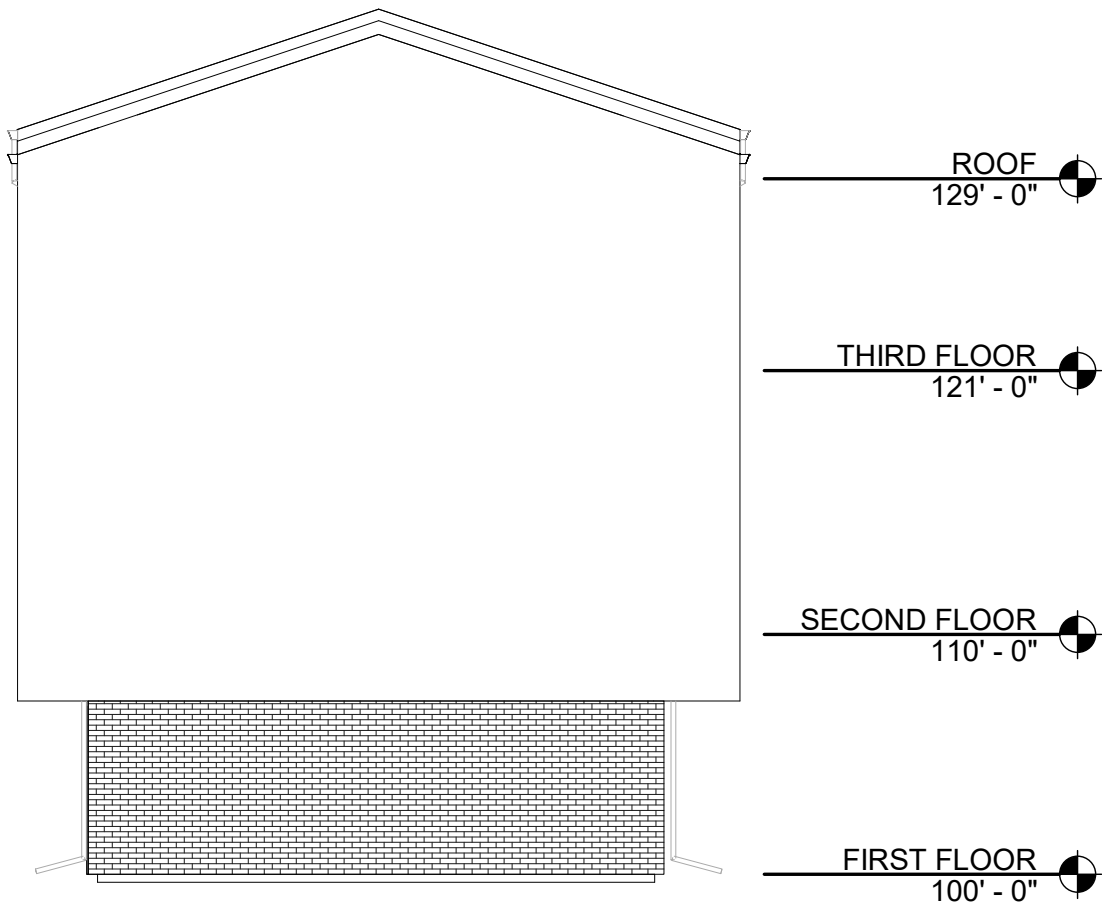
SITE PLAN

1/16" = 1'-0"

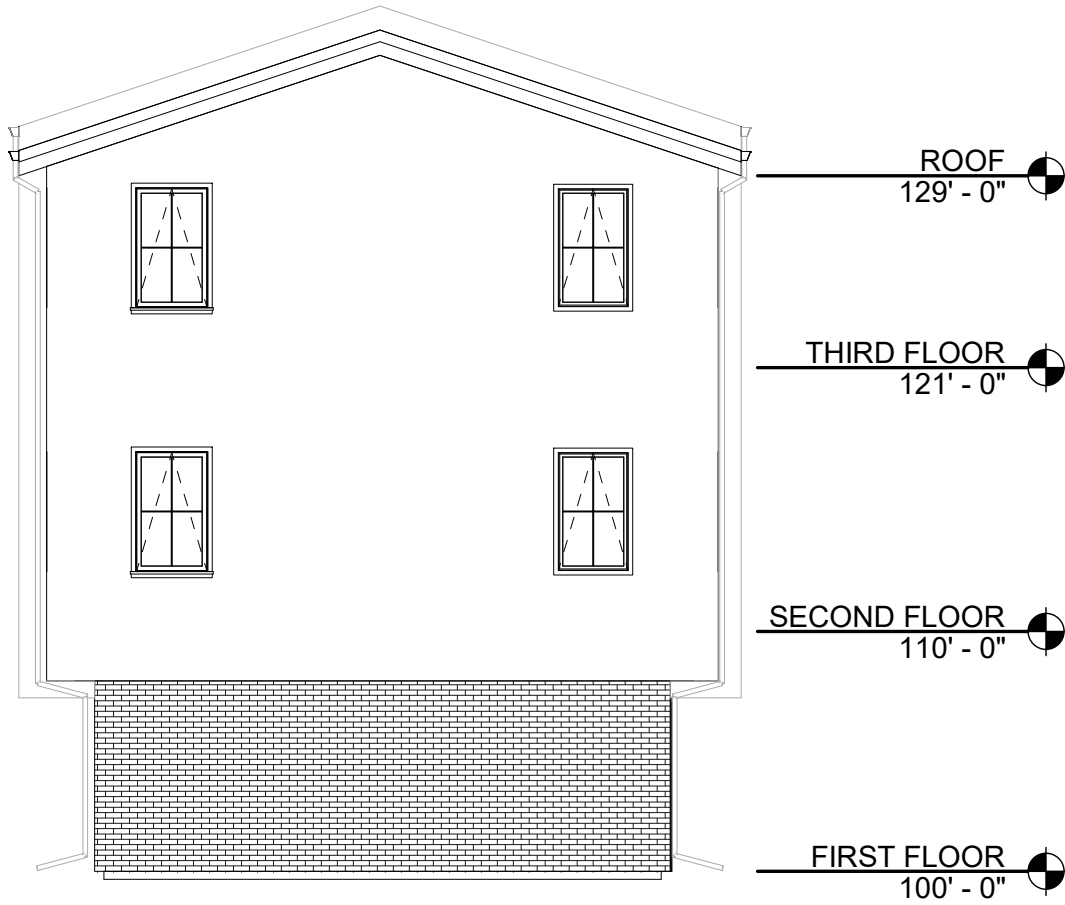
PROJECT: RABOIN  
DEVELOPMENT

PROJECT NO: 2019.01

DRAWING  
**A101**



4 NORTH ELEVATION  
A401 1/8" = 1'-0"



3 SOUTH ELEVATION  
A401 1/8" = 1'-0"



1 EAST/WEST ELEVATION  
A401 1/8" = 1'-0"



2 WEST/EAST ELEVATION  
A401 1/8" = 1'-0"

MFB architecture

TELE 701.775.3000

CLIENT

CLIENT NAME

PROJECT DESCRIPTION

RABOIN  
DEVELOPMENT

CITY

CITY

STATE

STATE

ISSUE DATES

BP1	BID PACKAGE #1 - FOR CONSTRUCTION	09 JUL 2015
MARK	DESCRIPTION	DATE

PROJECT NO: 2019.01  
DRAWN BY: MFB  
CHECKED BY: Checker

COPYRIGHT:  
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Drawing Title

BUILDING ELEVATIONS

A401

To: Michael Love, Chair – Board of Adjustment  
From: Scott Liudahl, City Forester *SL*  
Re: Land Management Plan – 430 22<sup>nd</sup> St S  
Date: 10/22/19

Chapter 11 of the Fargo Municipal Code requires property owners to remove noxious or other weeds, and to maintain the growth of grass so it does not exceed 8" in length. However, these requirements do not apply to property where the owner or person in control of the property has applied for and obtained a land management plan/permit from the city allowing grass growth to exceed 8" in length. This allows property owners the opportunity to promote native and other plants and grasses in their landscape vs. traditional Kentucky blue grass.

This permit process includes:

- Written plan, and map, identifying the areas on the property
- Description of the plants
- Management and maintenance techniques to be utilized
- 4' buffer strip adjacent to neighboring properties unless waived
- Does not include city right-of-way
- 200' mailing to adjacent owners – opportunity to appeal
- Agreeing to mow or cut when ordered to do so

After review, Rebecca Heide, owner of 430 22<sup>nd</sup> St S, received an approved plan/permit. Brenda Slattum, owner of 429 21<sup>st</sup> St S, submitted an appeal to this approved plan/permit.

I have met with both property owners, and developed a supplement to the plan/permit that both owners have agreed upon and signed (see attached).

**Suggested motion:**

**Support the approved land management plan/permit, and the supplemental agreement, as presented.**

Thank you.

LMP 430 22<sup>nd</sup> St S 10-22-19 (projects-areas).doc



## 430 22<sup>nd</sup> St S – Land Management Plan Permit Supplemental Agreement

As a condition of the approved Land Management Plan, property owner agrees to the following:

1. Continuously manage thistle in the yard and circular garden – remove/mow as needed.
2. Mow and maintain back yard grass at 8" in height or less.
3. Complete east yard improvements – weed barrier, soil, and mulch.
4. Continuously maintain 4 ft. mowed buffer along the fence lines – N and S sides of the property.
5. Remove volunteer trees along all fence lines.
6. Dispose of brush pile on east side of garage by October 31. This is potential rodent habitat.
7. Move newly planted arborvitae trees to a minimum of 5 ft. from the east fence. Prune branches as needed.

An owner receiving a land management plan permit agrees to maintain any grass or plantings so as not to present hazards or to create a nuisance for adjoining properties. An owner receiving such permit also agrees to manage and maintain such grass or plantings to enhance the appearance of the property on which they are located.


As a condition of receiving approval of a land management permit, the applicant agrees and understands to mow or cut any grass or plantings when ordered to do so by the health officer or any other city official or designee thereof.

The city may order the cutting of such grass or plantings included within a land management plan at any time the city determines that the growth may constitute a fire or safety hazard. Any costs incurred by the city shall be charged to the owner, occupant, or person in control of the property.

  
\_\_\_\_\_  
Signature (owner) – Rebecca Heide, 430 22<sup>nd</sup> St S

10/10/2019  
Date

I am in agreement with the above stated conditions.

  
\_\_\_\_\_  
Signature – Brenda Slattum, 429 21<sup>st</sup> St S

10/8/19  
Date



## PUBLIC WORKS OPERATIONS

Fleet Management, Forestry,  
Streets & Sewers, Watermeters,  
Watermains & Hydrants  
402 23<sup>rd</sup> STREET NORTH  
FARGO, NORTH DAKOTA 58102  
PHONE: (701) 241-1453  
FAX: (701) 241-8100

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### Land Management Plan Application/Permit

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Property owner, address(s), phone:  
430 22nd st S. Fargo ND 58103 (701)793-0868

Proposed location of landscape:  
NE section of property, behind the garage

Date of application:  
August 28, 2019

Intent and purpose of landscape:

The intent for this section of landscape is to create a pollinator meadow using native prairie plants. The circular garden behind the garage will eventually be converted to naturalized tall grass prairie, and the surrounding lawn will gradually be sown with clover. I may also consider adding other low-growing, pollinator friendly plants such as yarrow (*achillea millefolium*), ground plum (*astragalus crassicaupus*) and harebells (*campanula rotundifolia*) to my lawn as well. I am doing this with the intent of creating habitat for our native pollinators including the Rusty Patched Bumblebee, which is an endangered species in our region.

Types of plants/grasses to be used (Buffalo Grass, Blue Grama, etc). Include plant name and mature height:

The plants used in my meadow to date are:

*Achillea millefolium* (1-3')  
*Allium cernuum* (16")  
*Amorpha nana* (2')  
*Anemone cylindrica* (2-3')  
*Asclepias syriaca* (2-6')  
*Astragalus crassicaupus* (6-15")  
*Baptisia alba* (3-4')  
*Baptisia australis* (2-4')  
*Campanula rotundifolia* (4-20")  
*Dalea candida* (1-3')  
*Dalea purpurea* (1-3')  
*Echinacea purpurea* (3-4')  
*Iris virginica* 'shrevei' (2-3')  
*Lilium philadelphicum* (1-3')  
*Monarda fistulosa* (2-4')  
*Penstemon digitalis* (2-3')  
*Rosa arkansana* (1-3')  
*Rudbeckia hirta* (1-3')  
Honeycrisp apple tree (15')

I will continue to add native prairie plants and grasses to this space as my budget allows.

Management and maintenance techniques to be utilized:

Over the next several growing seasons I will be continuing to naturalize this space by weeding out thistles, lawn grass, etc. and continue to add more native prairie plants until the whole garden bed has been naturalized. The garden bed will be watered and pruned

Central Fueling  
Fleet Purchase  
And Vehicle Maintenance

Right of Way Maintenance  
Sanitary & Storm  
Sewer Maintenance

Snow Removal  
Street Maintenance  
Street Name Sign Maintenance

Urban Forestry  
Watermeters  
Watermain Distribution



## PUBLIC WORKS OPERATIONS

Fleet Management, Forestry,  
Streets & Sewers, Watermeters,  
Watermains & Hydrants  
402 23<sup>rd</sup> STREET NORTH  
FARGO, NORTH DAKOTA 58102  
PHONE: (701) 241-1453  
FAX: (701) 241-8100

as necessary, and as my budget allows I will be adding a path and garden bench to the space, as well. Due to a limited budget, this will be done gradually.

Maintenance for my lawn will include continuing to seed with clover, and as my budget allows, I plan to begin introducing other low-growing native pollinator-friendly plants (such as campanula and crassicaupus) and native grasses. We will continue to mow until we have integrated more flowers and native grasses. The end goal is to have the majority of the lawn converted to garden beds, or to flowering plants that do not exceed 6-8" in height (the exception being tall flower stalks, when certain plants are in bloom). We will keep the piece of lawn in front of our property between our house and the street (including the boulevard) as normal grass lawn and maintain it as such.

Attach diagram/plan:

**Note: No area of city owned property within any street right-of-way may be included within a land management plan. This shall include the property between the sidewalk and the street and not less than fifteen (15) feet adjacent to the street where there is no sidewalk. As a condition of receiving approval of a land management permit, the applicant agrees and understands to mow or cut any grass or vegetation when ordered to do so by the health officer or any other city official or designee thereof.**

**A four (4) foot buffer adjacent to neighboring properties is required unless waived. Any writing by adjacent to neighboring property lines waiving the buffer zone must be attached to the application.**

Approved ☒ Denied - Inspector signature/date Scott Lindale 9/12/19

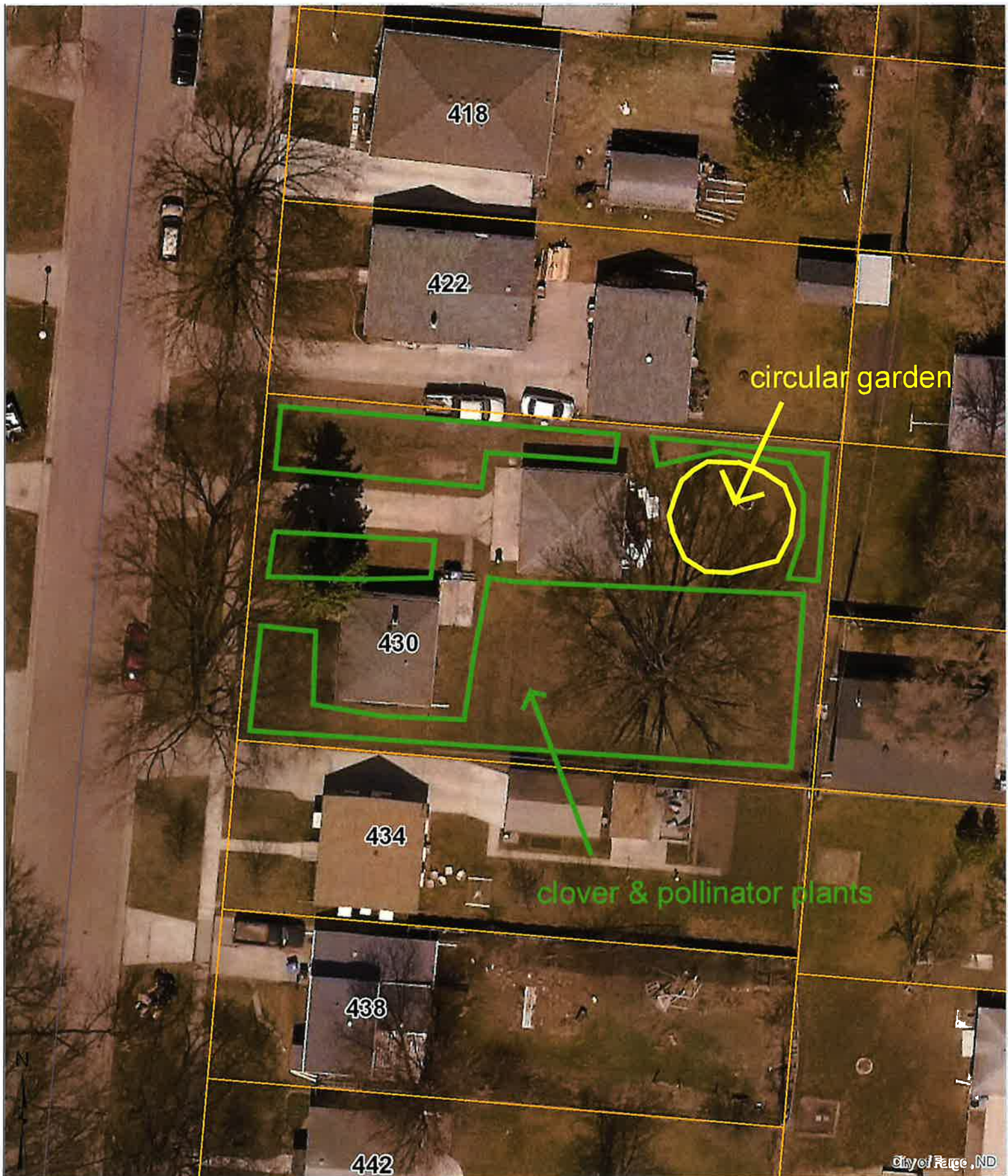
Applicant signature/date Rebecca Hilo 9/12/2019

### Comments:

LMP1.doc

Property owner shall be responsible for managing/removing designated ND Dept. of Agriculture Noxious Weeds (including Canada thistle) and any added city or county weeds.





These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

## 430 22nd St S - plan

1:564

9/11/2019 12:01:54 PM

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.

THE CITY OF  
**Fargo**  
FAR MORE

September 13, 2019

Dear property owner,

Your neighbor at 430 22<sup>nd</sup> St S has applied for a Land Management Permit (LMP). This permit has been approved.

The LMP and related city ordinance (11-0805 through 11-0812) is intended for property owners who choose to go with a “not so traditional” landscape. Tall grasses, wildflowers, mulch, and a variety of trees and shrubs can be included. There are rules and regulations in place to help monitor this type of landscaping.

The attached material and application outlines the property owner’s intent, purpose, types of plants, and maintenance strategies. Please review and comment if you wish.

Affected property owners may appeal this decision. The appeal must be made in writing **within 15 days** of the date that the permit is approved. Mail (please notify me as well) any written appeal you wish to make to:

City of Fargo  
Board of Adjustment  
Attention: Aaron Nelson/Maggie Squyer  
225 4<sup>th</sup> St N  
Fargo, ND 58102

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

Scott Liudahl  
Fargo Forestry Department  
402 23<sup>rd</sup> St N, Fargo, ND 58102  
701-241-1466  
[sliudahl@fargond.gov](mailto:sliudahl@fargond.gov)



Owner1	LandAddr	MailAddr	MailCity	MailSt	MailZip
CHRISTOPHERSON, MELANIE B & MARK L	405 22 ST S	405 22 ST S	FARGO	ND	58103
RAMSETT, SHANE E	409 22 ST S	409 22 ST S	FARGO	ND	58103
NISSSEN HOMES LLC	413 22 ST S	513 24 AVE S	FARGO	ND	58103
WHALEN, DEREK P & COALWELL, CRYSTAL A	417 22 ST S	417 22 ST S	FARGO	ND	58103
CROCKER, TANYA	421 22 ST S	421 22 ST S	FARGO	ND	58103
SCHARES, PAUL E & DAWN J	425 22 ST S	425 22 ST S	FARGO	ND	58103
PETERSEN, JAMES A	405 21 ST S	405 21 ST S	FARGO	ND	58103
MONTGOMERY, JENNIFER M	407 21 ST S	407 21 ST S	FARGO	ND	58103
ANSLEY, ANTRON	409 21 ST S	409 21 ST S	FARGO	ND	58103
BARTHELEMY, CURT	413 21 ST S	413 21 ST S	FARGO	ND	58103
PAUMEN, FRANK J & PATRICIA E	421 21 ST S	421 21 ST S	FARGO	ND	58103
FARGO HOUSING AUTHORITY	425 21 ST S	BOX 430	FARGO	ND	58107
SLATTUM, BRENDA L	429 21 ST S	429 21 ST S	FARGO	ND	58103
HEIDE, DRAKE S & REBECCA A	430 22 ST S	430 22 ST S	FARGO	ND	58103
ONSUREZ, HILARIO B & LACEY A	422 22 ST S	422 22 ST S	FARGO	ND	58103
SALINAS, CARLOS G & ANGELA M	418 22 ST S	418 22 ST S	FARGO	ND	58103
KOPLIN, GAIL	414 22 ST S	414 22 ST S	FARGO	ND	58103
SINNER, JOHN & SARAH	410 22 ST S	410 22 ST S	FARGO	ND	58103
SHIRLEY, BRUCE M	406 22 ST S	406 22 ST S	FARGO	ND	58103
ELLINGSON, CLOVER	429 22 ST S	429 22 ST S	FARGO	ND	58103
PEDERSEN, ELAINE J	433 22 ST S	433 22 ST S	FARGO	ND	58103
MURPHY, CHRISTOPHER & NARA	437 22 ST S	437 22 ST S	FARGO	ND	58103
JOHNSON, JOHN	441 22 ST S	441 22 ST S	FARGO	ND	58103
VERDE PROPERTIES INC	433 21 ST S	BOX 6525	FARGO	ND	58109
JOHNSON, MICHAEL G	437 21 ST S	437 21 ST S	FARGO	ND	58103
MITCHELL, DEBORAH K	441 21 ST S	441 21 ST S	FARGO	ND	58103
SCHATZ, GARY L & PAMELA G	445 21 ST S	445 21 ST S	FARGO	ND	58103
SETTAMBRINO, STEPHEN	2105 5 AVE S	4256 RUSSET AVE S	FARGO	ND	58104
SCHATZKE, DONALD L & ADA M	2109 5 AVE S	2109 5 AVE S	FARGO	ND	58103
DEVORAK, THOMAS A & MARIKO E NAGATOMO-DEVORAK	450 22 ST S	450 22 ST S	FARGO	ND	58103
SCHAEFER, RICHARD N & SUSAN M	2117 5 AVE S	2117 5 AVE S	FARGO	ND	58103
WAGNER, ROBERT J	446 22 ST S	446 22 ST S	FARGO	ND	58103
SUNRAM, MICHAEL	442 22 ST S	442 22 ST S	FARGO	ND	58103
VELENCHENKO, SKYE D	438 22 ST S	BOX 10952	FARGO	ND	58106
JACOBS, ANGELA M	434 22 ST S	434 22 ST S	FARGO	ND	58103

9-18-19

Aaron Nelson / Maggie Sgoyer  
225 4th N  
Fargo ND 58102

Hello, This is Brenda and Brad Slattom.  
We live at 429 21 St So. our Backyard  
is next to 430 22 St So

She has live their over 24rs

She has not maintained her yard.

• She has unopened bags of wood chips  
in the So. East corner of her yard  
Canadian thistle and other weeds growing  
thru - when they pull out - The seed  
spread all over the neighborhood - we  
en have spread weed killer 6-7 times so  
far this year - we will need to do  
it again before freeze.

• It is a health hazzard to us having  
to use so much weed killer, and  
having allergies that need medicine daily  
and at times E.R visits

• The smell of the compost some  
day (most day) can not enjoy our

- If there is a buffer zone what does that mean - who maintain it? who is on it?
- who make her mow lawn?
- we have enclosed pictures of her yard so you can see what we deal with

Brenda, Brad Statter  
 429 21 St So  
 FARO ND  
 58103

701 793 9268

- She has not cleaned up the branches that have fallen from her big tree over the summer
- she also has not cleaned up around her garage (tall grass / weeds) trees





Since this mess  
started we have by  
Fhe s lots of them  
and mosigees you cannot  
keep killing them  
almost given up sitting  
up on our deck

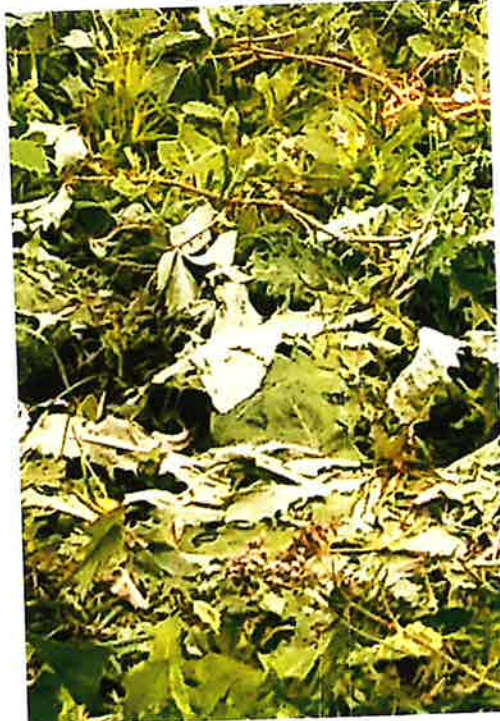
Brad can only  
be outside if

he carries his  
Epi pen



430 225450

our  
Back yard  
Neighbors









11-0805. - Control of stagnant water, noxious or other weeds, tall grass.

No stagnant water shall be allowed to stand or remain, noxious or other weeds, or grass allowed to grow more than eight inches (8") in length upon or along the line of any railroad, street, highway, alley, public place, along or upon any vacant or other lot or real estate parcel, public or private, or other place within the city. For purposes of this article, "noxious weeds" shall mean any species of plant or vegetation recognized by the North Dakota State Weed Board as a noxious weed.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006), 5143 (2018).

11-0806. - Duty of property owners to control stagnant water, fill excavations, remove dirt piles, noxious or other weeds, tall grasses.

It shall be the duty of all property owners, occupants, or persons having control over private property to remove or drain stagnant water, to fill excavations, to remove dirt piles, to remove noxious or other weeds, and to maintain the growth of grass on such property so that it does not exceed eight inches (8") in length. These requirements apply to areas along and upon any railroad, street, highway, alley, public place or along or upon any vacant or other lot or place within the city.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006), 5143 (2018).

11-0807. - Failure to drain stagnant water, fill excavations, remove dirt piles, remove weeds, maintain grass.

Notice of a violation of this article shall be mailed to the record property owner as shown in the property tax records maintained in the city assessor's office, upon any agent of the property owner, and upon any occupant of the property when appropriate. The owner, agent, tenant or person in charge of the property shall take appropriate action to remove the stagnant water, fill excavations, remove dirt piles, fill holes or depressions, cut and/or keep down the growth of any noxious or other weeds, and maintain all grasses not to exceed eight inches (8") in height, as directed by the health department within the specified period of time. If the property owner, tenant, or agent fails to take such appropriate action within the time period as directed by the health department, the health department shall have authority to remove or drain off any stagnant water, fill all excavations, holes, or depressions, and cut or mow any noxious or other weeds and grasses.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006), 5143 (2018).

11-0808. - Control of noxious and other weeds, grass—exceptions to general requirements.

The requirements in this article requiring control of noxious and other weeds and grasses do not apply to property where the owner or person in control of the property has applied for and obtained a land management plan permit from the city allowing grass growth to exceed eight inches (8") in length.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

**11-0809. - Land management plan permit—Issuance.**

To obtain a land management plan permit, the applicant must submit a written plan identifying the specific area where the plantings or grass is planned to exceed eight inches (8") in length, a statement of intent and purpose for the area, a drawing, plot plan and/or survey showing the location of the planting on the applicant's property, a detailed description of the plant types and plant succession involved, and specific management and maintenance techniques to be employed. The land management plan must include provisions for maintaining plantings at a length not to exceed eight inches (8") in the area between the sidewalk and the street, or a strip not less than fifteen feet (15') adjacent to the street where there is no sidewalk, as well as a strip not less than four feet (4') adjacent to neighboring property lines unless waived in writing by the abutting property owner on the side so affected. Any such waiver of the requirements shall be affixed to the application and plan. No area of city owned property within any street right-of-way may be included within a land management plan. This shall include the property between the sidewalk and the street and not less than fifteen (15) feet adjacent to the street where there is no sidewalk. As a condition of receiving approval of a land management permit, the applicant agrees and understands to mow or cut any grass or plantings when ordered to do so by the health officer or any other city official or designee thereof.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

**11-0810. - Permit application—Review.**

An application for a land management plan permit shall be on a form provided by the city shall be submitted to the forestry department. A copy of the application shall be mailed to each of the owners of record, as listed in the office of the City Assessor, who are owners of the property situated in whole or in part within 200 feet of the boundaries of the properties affected. The application and any related information shall be considered by the city forester. The city forester shall have authority, after reviewing all appropriate materials and information, to approve or deny the application. An applicant who has had a permit denied or revoked, or an affected property owner in the event a permit is granted, may appeal the decision of the city forester to the board of adjustment. Such appeal must be made in writing within fifteen (15) days of the city forester's decision and shall be heard at a regular meeting of the board of adjustment.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

**11-0811. - Owner or occupant's responsibilities concerning land management plan.**

An owner or occupant receiving a land management plan permit agrees to maintain any grass or plantings so as not to present hazards or to create a nuisance for adjoining properties, or to persons or vehicles traveling on the public ways. An owner or occupant receiving such permit also agrees to manage and maintain such grass or plantings such that they do not present a hazard to structures on affected land and to maintain such plantings as to enhance the appearance of the property on which they are located.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0812. - Authority of city to manage and control grass and plantings within an area included within a land management plan.

Notwithstanding issuance of a land management pan permit, the city may order the cutting of such grass or plantings included within a land management plan at any time the city determines that the growth may constitute a fire or safety hazard as to cause danger to the safety of the inhabitants of any residential structure on located on the premises or to the citizens and residents of the neighborhood. Any costs incurred by the city shall be charged to the owner, occupant, or person in control of the property as authorized under this article.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).