

Executive Session at 4:30 p.m.

Roll Call.

PLEASE NOTE: The Board of City Commissioners will convene at 4:30 p.m. and retire into Executive Session for the purpose of attorney consultation regarding the pending litigation Northstar Hospitality, LLC, d/b/a SouthTown PourHouse v. City of Fargo, Case No. 09-2020-CV-02871 to discuss negotiating strategy or provide negotiating instructions to its attorney. To discuss these matters in an open meeting will have a negative fiscal effect on the bargaining and/or litigation position of the City of Fargo. An Executive Session for said matters is authorized pursuant to North Dakota Century Code §44-04-19.1 subsections 2 and 9.

Regular Meeting at 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, March 20, 2023).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Grant Agreement with ND Department of Corrections and Rehabilitation and its Division of Juvenile Services, the ND Association of Counties, Cass County, City of West Fargo and Youthworks.
- 2. Receive and file an Ordinance Repealing Section 25-1504.3 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Mandatory Meeting and an Ordinance Amending Section 25-1504.1 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Additional Requirements for Class FA-Entertainment Licenses.
- 3. 1st reading of an Ordinance Amending and Repealing and Replacing Article 18-09 of Chapter 18 of the Fargo Municipal Code Relating Excavation Code.
- 4. Amended Site Authorization for Metro Sports Foundation at Mexican Village.
- 5. Applications for Games of Chance:
 - a. Anne Carlsen Foundation for a raffle on 4/15/23.
 - b. Fargo North High School for a raffle on 4/15/23.
 - c. Hope Blooms for bingo on 4/15/23.
 - d. St. Joseph’s School for a raffle on 4/22/23.
 - e. YWCA Cass Clay for a raffle on 4/24/23.

6. Amendment to Permanent Easement with North Dakota State University.
7. Access Easement (Water Main) with Southeast Cass Water Resource District (Project No. UN-23-A1).
8. Contract Amendment No. 2 with MetroCOG in the amount of \$50,000.00 for Project No. MS-21-H0.
9. 2023 Policy on Stormwater Discharge and Treatment Requirements.
10. Agreement Regarding Special Assessments (Samuel Property) with Clarence W. Samuel, as Trustee of the Clarence W. Samuel Revocable Living Trust #2.
11. Permanent Easements (Street and Utility) and Easements (Temporary Construction Easement) with Robert L. Nelson Revocable Trust and County 20 Storage & Transfer, Inc., and Agreement Regarding Deferral of Special Assessments with County 20 Storage & Transfer, Inc.
12. Memorandum of Offer to Landowner for purchase of a fee acquisition, permanent easement, temporary easement and permanent access easement from 3739I29 Partners, LLP (Project No. NR-23-A1).
13. Bid award to Sun Electric, Inc. in the amount of \$142,000.00 for Project No. NR-23-B1.
14. Amendment No. 1 in the amount of \$99,930.00 with Bolton & Menk, Inc. for Improvement District No. BN-25-A0.
15. Change Order No. 1 in the amount of \$52,250.00 for Improvement District No. BR-23-B1.
16. Easement (Temporary Construction Easement) with the Park District to the City of Fargo (Improvement District No. BR-23-J1).
17. Easement (Temporary Construction Easement) with the YMCA of Cass and Clay Counties (Improvement District No. BR-23-J1).
18. Bid award to Dirt Dynamics in the amount of \$181,034.00 for Improvement District No. AN-22-B1.
19. Bid award to Border States Paving, Inc. in the amount of \$3,773,510.60 for Improvement District No. PR-23-E1.
20. Create Improvement District No. BR-23-H.
21. Create Improvement District No. TN-23-A.
22. Create Improvement District No. PN-23-A.
23. Create Improvement District No. PN-23-C.
24. Bid award and Contract with JLG Architects in the amount of \$17,168.00 for the Fargo Public Libraries Sunshades Replacement Project (RFQ23059).

- Page 6
25. Bid award for Residential Curbside Brush Operations – 2023 to Carr’s Tree Service, Inc. (RFP23047).
 26. Services Agreement - Lawn Maintenance Services with JT Lawn Services (RFP23056).
 27. Bid award for the 2023-2025 Aerial Mosquito Control Services with Airborne Vector Control, LLC and Mosquito Spraying Agreement (RFP23049).
 28. Authorization Application for Airborne Vector Control.
 29. Bob Woodruff Foundation Grant for the ND Cares Veterans Program.
 30. Amendment to the Notice of Grant Award from the ND Department of Health and Human Services for PHEP-EPR All Hazards Allocation (CFDA #93.069).
 31. Notice of Grant Award from the ND Department of Health and Human Services for Title X Family Planning Program (CFDA #93.217).
 32. Amendment to the Notice of Grant Award from the ND Department of Health and Human Services for the PHEP-EPR Statewide Response Team (CFDA #93.069).
 33. Direct the City Attorney’s Office to prepare the necessary changes to the International Residential Code to include a passive radon mitigation system requirement.
 34. Multi-Agency Law Enforcement Agreement with the ND Bureau of Criminal Investigation for the Internet Crimes Against Children Task Force Program.
 35. Sole Source Procurement with Reile’s Transfer and Delivery Inc. for Project No. WA2255 (SSP23068).
 36. Contract and bond for Project No. PR-23-A1.
 37. Bills.

REGULAR AGENDA:

38. **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/GettingInvolved).

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

39. **PUBLIC HEARING** – Erskines Addition (1117 and 1155 13th Avenue South); denial was recommended by the Planning Commission on 3/7/23:
 - a. Zoning Change to repeal and re-establish a Conditional Overlay.
40. **PUBLIC HEARING** – Adams Seventh Addition (2865, 2955, 2959, 2963, 2967, 2971, 2975, 2979, 2983, 2987, 2991, 3825, 3829, 3833, 3837, 3841, 3845, 3849, 3853, 3857 and 3861 Thunder Road South); approval was recommended by the Planning Commission on 3/7/23:
 - a. Zoning Change from GC, General Commercial with a CUP, Conditional Use Permit to LI, Limited Industrial with a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.

- PUBLIC HEARING** – Valley View Estates Fourth Addition (3606-4890 Decorah Way South); approval recommended by the Planning Commission on 2/7/23:
- a. Zoning Change from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential with a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.
 - c. Plat of Valley View Estates Fourth Addition.
42. **PUBLIC HEARING** – Amended Plat of Oak Grove Addition (18, 24, 26, 40, 42, 44, 46, 60, 62, 64, 66, 68, 70, 92, 94, 96, 98, 100, 110, 118, and 124 North Terrace North; 723 and 724 North River Road North; 9 Lower Terrace North; 17, 23, 27, 31, 33, 37, 41, 45, 49, 53, 63, 65, 75, 79, 83, 87, 88, 93, 95, 99, 125, 129, 135, 136, 139, 140, 144 and 145 South Terrace North; 101, 150 and 170 Maple Street North; and 1 River Road North); approval recommended by the Planning Commission on 3/7/23:
- a. Zoning Change from SR-2, Single-Dwelling Residential, SR-3, Single Dwelling Residential, MR-2, Multi-Dwelling Residential and AG, Agricultural to P/I, Public and Institutional.
 - b. 1st reading of rezoning Ordinance.
43. **PUBLIC HEARING** – Application for transfer of a Class “FA-Golf” Alcoholic Beverage License from Living the Dream, LLC d/b/a Legends to Kjerbeersten, LLC d/b/a 19th Hole at Rose Creek to be located at 1500 East Rose Creek Parkway.
44. **PUBLIC HEARING** – Application for a Class “GH” Alcoholic Beverage License for Spaghetti Western, LLC d/b/a Spaghetti Western to be located at 524 Broadway North.
45. Presentation on the proposed Excavation Fees and Guidelines.
46. Spring Flood Outlook.
- a. Recommendation to approve the Emergency Declaration.
47. Legislative Update.
48. Set 7:30 a.m., Tuesday, April 11, 2023, as the date for the Board of Equalization to meet.
49. 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:	Erskine's Addition	Date: Updated:	2/1/2023 3/1/2023 3/30/2023
Location:	1155 and 1117 13 th Avenue South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Parts of Lots 1-6 and 8, all of the Lot 7, Block SS, Erskine's Addition.		
Owner(s)/Applicant:	Steven W. Stremick	Engineer:	None
Entitlements Requested:	Zone Change (repeal and re-establish a conditional overlay in the LC, Limited Commercial zone)		
Status:	City Commission Public Hearing: April 3rd, 2023		

Existing	Proposed
Land Use: Office	Land Use: No change
Zoning: LC, Limited Commercial with a C-O, conditional overlay; SR-3, Single-Dwelling Residential	Zoning: Revise the conditional overlay to allow a taller sign
Uses Allowed: The C-O limits the uses on the LC-zone portion of this property to those allowed in the NC, Neighborhood Commercial Zone, which are: detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, parks and open space, religious institutions, safety services, basic utilities, offices, and retail sales and service. SR-3 allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities	Uses Allowed: No change proposed
Maximum Lot Coverage (LC): 55% Maximum Density (SR-3): 8.7 dwelling unit per acre	Maximum Lot Coverage (LC): no change proposed Maximum Density (SR-3): no change proposed

Proposal:

PROJECT HISTORY NOTE: This item was originally scheduled for the February 7th, 2023 Planning Commission agenda. It was continued to the March 7th, 2023 agenda at the request of the applicant.

The applicant requests one entitlement:

1. A zoning change to repeal and re-establish a conditional overlay in the LC, Limited Commercial zone) to allow a taller monument sign (12 ½ feet) than is currently allowed (8 ½ feet). A copy of the C-O noting the applicant's requested change is attached—shown by strike-through/underline on page 1 of the C-O.

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: SR-3, Single-Dwelling Residential with detached single-dwelling residences
- East: SR-3, Single-Dwelling Residential with detached single-dwelling residences
- South: across 13th Avenue South GO, General Office with religious institution

- West: across University Drive South is LC, Limited Commercial with commercial

Area Plans:

The subject property is located with the 2021 Core Neighborhoods Plan. The future land use map of the Hawthorne Neighborhood brief designates much the subject property for Neighborhood Mixed Use. The existing use is consistent with this land use designation. The remainder of the subject property is designated as single-family residential. There is no residential use on this portion of the property at this time.



	Single-Family Residential		Industrial/Warehousing
	Multi-Family Residential		Park, Open Space and Trails
	Institutional		Commercial
	Schools with recreational amenities		Mixed Use Neighborhood

Context:

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

Neighborhood: The subject property is located in the Hawthorne neighborhood.

Parks: There are no Fargo Park District parks within one-half mile of the subject property.

Pedestrian / Bicycle: There are no trails adjacent to the subject property.

Public Transit: The subject property is along MATbus routes 14 and 15. Stops are located across University Drive South (route 15) and across 13th Avenue South (route 14) from the subject property.

Staff Analysis:

ZONING HISTORY OF THE SUBJECT PROPERTY

1998: The R2 and R2-A zoning was reclassified to MR-2 and SR-3 following adoption of the current Land Development Code.

December, 2000, Ordinance 4097: A portion of the property was rezoned from MR-2, Multi-Dwelling Residential to NC, Neighborhood Commercial, and a special use permit that was granted in 1996 allowing the property to be used for a retail store was terminated.

January, 2008, Ordinance 4648: A portion of the property was rezoned from SR-3, Single-Dwelling Residential to NC, Neighborhood Commercial.

December, 2008, Ordinance 4692: A portion of the property was rezoned to the current LC, Limited Commercial with C-O. The remainder of the property is zoned SR-3, Single-Dwelling Residential, as shown on the attached zoning map.

ZONING AND CONDITIONAL OVERLAY:

The current zoning, Ordinance 4692, approved December 29th, 2008, is LC, Limited Commercial with a C-O, conditional overlay. The C-O limits development on the property to the uses allowed in the NC, Neighborhood Commercial zone. These uses are noted above. The C-O provides limitations on the sign area, sign type, and sign height that are beyond what would be allowed in the NC zone, but less than would be allowed in the LC zone without the overlay.

ORDINANCE 4692 AND NEIGHBORHOOD COMPATIBILITY:

The current ordinance zoned the subject property to what was compatible with the neighborhood in terms of land uses. This C-O allows a monument sign with a maximum height of 8 ½ feet, which is a greater sign height than the C-O on the opposite corner across University Drive South, which allows a monument sign height of only 6 feet. As noted in the findings below, the size of sign allowed by this C-O far exceeds what would be allowed in a residential zone or Neighborhood Commercial zone.

APPLICANT'S REQUEST:

The applicant requests a modification of item 1 of the C-O in Ordinance 4692. This item specifies that the only type of sign permitted on the property is a monument sign, and that sign is limited to a height of 8 ½ feet. The applicant requests that the maximum sign height be increased to 12 ½ feet.

The applicant's existing sign, which is an electronic digital messaging sign, was damaged by a vehicle impact in March, 2022., indicated by the yellow arrow in the photo below. Additional photos of the damage, which were provided by the applicant, will appear in staff's presentation at the City Commission hearing.



The applicant believes that by further elevating the sign, so that the maximum height is four feet higher, the electronic screens part of the sign will be high enough to avoid any damage from future vehicle impacts. A graphic provided by the applicant depicting the proposed sign is attached. The applicant has provided an additional graphic (attached) showing a general layout of how the site of the sign would look with the

proposed reinforcements to protect the sign from future vehicle impacts. Actual diameter of the protecting posts may be slightly smaller than depicted.

NEIGHBORHOOD COMMENTS: As part of the required notification process, the Hawthorne, Jefferson, and Clara Barton neighborhood associations, as well as the Neighborhood Coalition, were notified of this project. As of the time of this writing, a response has been received by a representative of the Jefferson Neighborhood, who had no objection to the proposed sign height increase. A comment e-mail was received from the president of the Hawthorne Neighborhood Association prior to the March 7th, 2023 Planning Commission hearing. Another neighborhood comment letter was received after that hearing. Copies of that documents are attached.

ACTION AT THE MARCH 7th, 2023 PLANNING COMMISSION HEARING: At the March 7th, 2023, Planning Commission hearing, the applicant, Steven Stremick, testified in support of the proposal. He noted that his request for the increased sign height was motivated by the damage done to the sign by a vehicle impact in 2022. He described his plan to raise the sign and install barriers underneath the sign to prevent such damage in the future (see attached graphic).

Planning Commissioners commented on the sign being out of context with the neighborhood, expressed concern that the sign could be a distraction to drivers, and asked if any letters of support for the proposal had been received (no letters of support had been received).

One resident of the adjacent Hawthorne testified in opposition to the proposal, saying that the scale of the sign was not appropriate to the size of the building and that this is a neighborhood setting.

Zoning

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

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

The proposed modification of the C-O is only to allow a greater maximum sign height. Despite the damage to the applicant's existing sign from a vehicle impact, Planning staff believes there has been no change in conditions since the current zoning ---LC, Limited Commercial with a C-O, conditional overlay---was established in December, 2008.

The C-O limits the uses in this zone to the uses allowed in the less intense NC, Neighborhood Commercial zone. The difference between this LC with C-O zone and the NC zone is that this C-O allows greater sign size than the NC zone. It was clearly the intent of this C-O to keep the intensity of use on this property as neighborhood-oriented as possible. The existing C-O makes considerable allowance for a significantly larger sign that allowed in the NC zone. The Fargo sign code that was in effect at the time this C-O was written (2008) would have allowed a sign in the NC zone to be a maximum of 19 square feet in area on this property, with a maximum height of four feet. The C-O, which specifically exempts the property from the NC sign limitations, allows a sign of a maximum of 150 feet in area with a maximum height of 8 ½ feet. This allows a sign almost eight times greater in area and over twice the height that would be allowed in the NC zone.

Note that the sign code was revised in 2010, but the limitations on signs in the NC zone did not change from the 2008 sign code.

Thus, the existing C-O makes considerable allowance for sign size in what is otherwise effectively a Neighborhood Commercial zone. There has been no change in conditions since the 2008 approval of the current C-O to warrant an increase in allowable sign dimensions.

(Criteria NOT Satisfied)

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

Yes. The subject property fronts on existing public rights of way which provide access and utility services. No new development is proposed.

(Criteria Satisfied)

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

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received and responded to three inquiries or comments regarding the proposed zone change.

(Criteria Satisfied)

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo."

Go2030, Fargo's comprehensive plan, identifies both University Drive South and 13th Avenue South as active living streets. As noted above, the Core Neighborhoods Plan (CNP) identifies this property as Mixed Use Neighborhood Commercial. Neither plan addresses signage in these areas.

Nearby residential zones along University Drive South and the north side of 13th Avenue South are zoned SR-3, Single-Dwelling Residential. In this zone, the only signage allowed is that for home occupations. The maximum size of a home occupation sign is one square foot. Thus, the current C-O, which allows a maximum sign area of 150 square feet, means the subject property may have a sign area 150 times greater than the maximum sign sized allowed in the nearby residential areas. Additionally, home occupation signs must be attached to the dwelling unit; under the C-O, a monument sign may be installed in the yard of the subject property.

Thus, the sign dimensions currently allowed on the subject property are clearly well beyond what is allowed in the nearby residential areas; any increase in allowable sign dimensions, such as the requested increase in height, would only make this disparity greater.

(Criteria NOT Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to deny the proposed repeal and re-establishment of conditional overlay Ordinance no. 4692, as the proposal does not comply with all the standards of Section 20-0906.F (1-4) of the LDC."

Planning Commission Recommendation: March 7th, 2023

At the March 7th, 2023 City Commission hearing, that Commission, by a vote of 6-1 with two Commissioners absent and two Commission seats vacant, moved to accept the findings and recommendations of staff and to recommended denial to the City Commission of the proposed repeal and re-establishment of conditional overlay Ordinance no. 4692, as the proposal does not comply with all the standards of Section 20-0906.F (1-4) of the LDC.

Attachments:

1. Location Map
2. Zoning Map
3. Existing Conditional Overlay (Ordinance No. 4692) showing proposed change
4. Graphic of proposed sign
5. Graphic of proposed sign site with protecting reinforcements
6. Neighborhood comment e-mails (2)

Zone Change--modification to Conditional Overlay

Erskines Addition

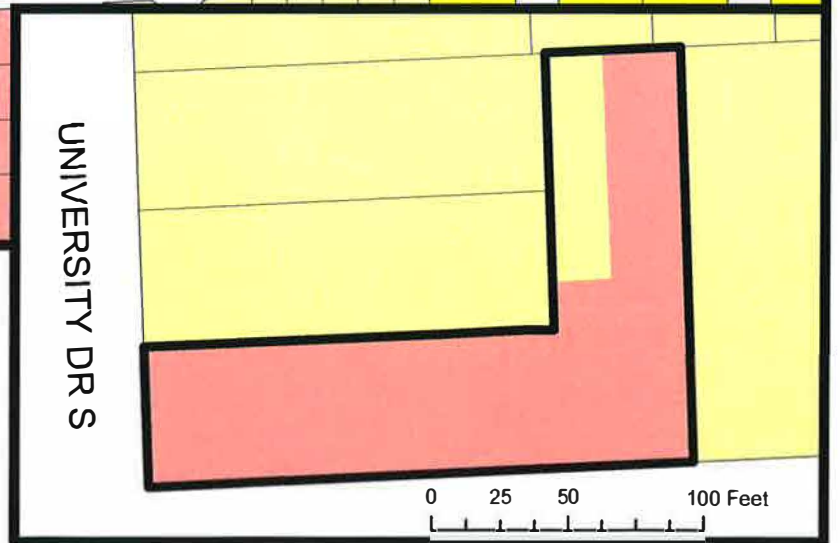
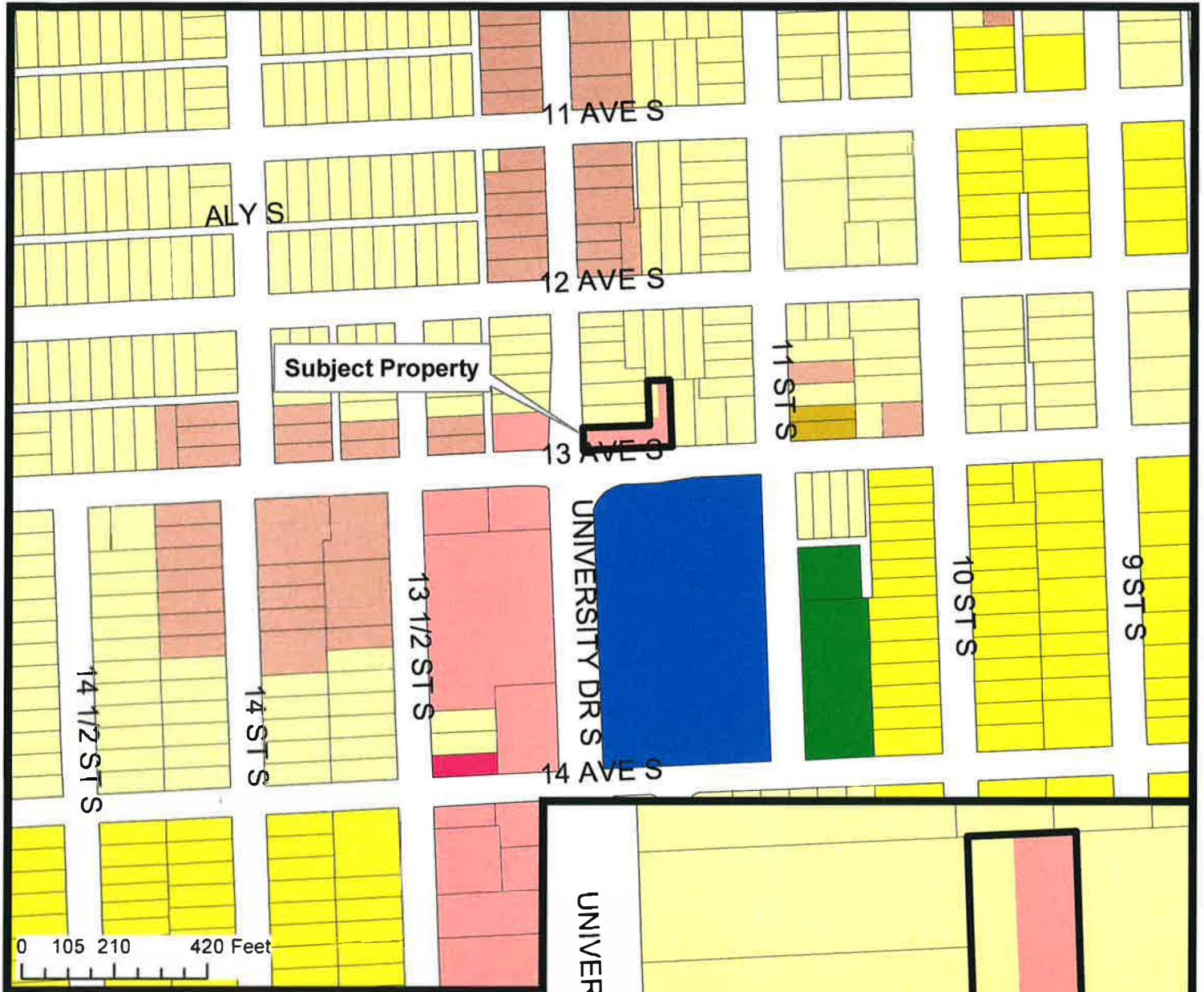
1117 & 1155 13 Avenue South



Zone Change--modification to Conditional Overlay

Erskines Addition

1117 & 1155 13 Avenue South



Legend

AG	DMU	LC	MHP	ERD-2
GC	GC	MR-1	NO	ERD-4
GO	MR-2	MR-3	UMU	ERD-5
				City Limits

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4692

1 AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
2 LYING IN ERSKINES ADDITION TO THE CITY OF FARGO

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

7 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
8 request on November 12, 2008; and,

9 WHEREAS, the rezoning changes were approved by the City Commission on December 1,
10 2008,

11 NOW, THEREFORE,

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

13 Section 1. The following described property:

14 The South 51 feet of Lots One (1), Two (2), Three (3), Four (4) and Five (5); the
15 South 51 feet of the South 101 feet of the West 8.4 feet of Lot Six (6); the Southern
16 70 feet of the East 16.6 feet of Lot Six (6); all of Lot Seven (7); and the West 8.4
17 feet of Lot Eight (8), Block SS, Erskines Addition to the City of Fargo, Cass
18 County, North Dakota,

19 is hereby rezoned from "NC", Neighborhood Commercial, District to "LC", Limited Commercial,
20 District,

21 subject to a "CO", Conditional Overlay, District as follows:

22 The uses and standards of this "LC", Limited Commercial, District shall be limited to the Uses,
23 Dimensional Standards and Additional Standards of a "NC", Neighborhood Commercial, District
as set forth in Section 20-0209 of the Land Development Code, except subparagraphs D.6 and
D.7 thereof, and further subject to the following:

1. Freestanding signs shall be limited to monument signs of a height no greater than ~~8-1/2~~ 12 1/2
feet, measured from the ground level, and of a width no greater than 8 feet. A monument
sign is defined as a sign in which the lowest portion of the sign itself, not including any


OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4692

pole or support, has its base at ground level, said ground level being at grade with the rest of the property.


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2. The total amount of signage shall not exceed 150 square feet.
3. The provisions of the Fargo Sign Code (as authorized pursuant to Section 25-0307 of the Fargo Municipal Code) for a "LC", Limited Commercial, zoning district shall apply.

Section 2. This ordinance shall be in full force and effect from and after its passage and approval.



Dennis R. Walaker, Mayor

(SEAL)
Attest:



Steven Sprague, City Auditor

First Reading: 12-15-2008
 Second Reading: 12-29-2008
 Final Passage: 12-29-2008



Model no: 01-0906-275-1
 (7'10.5" L X 5'10.875" H)

FAIR-PLAY

C6821

Design Proposal

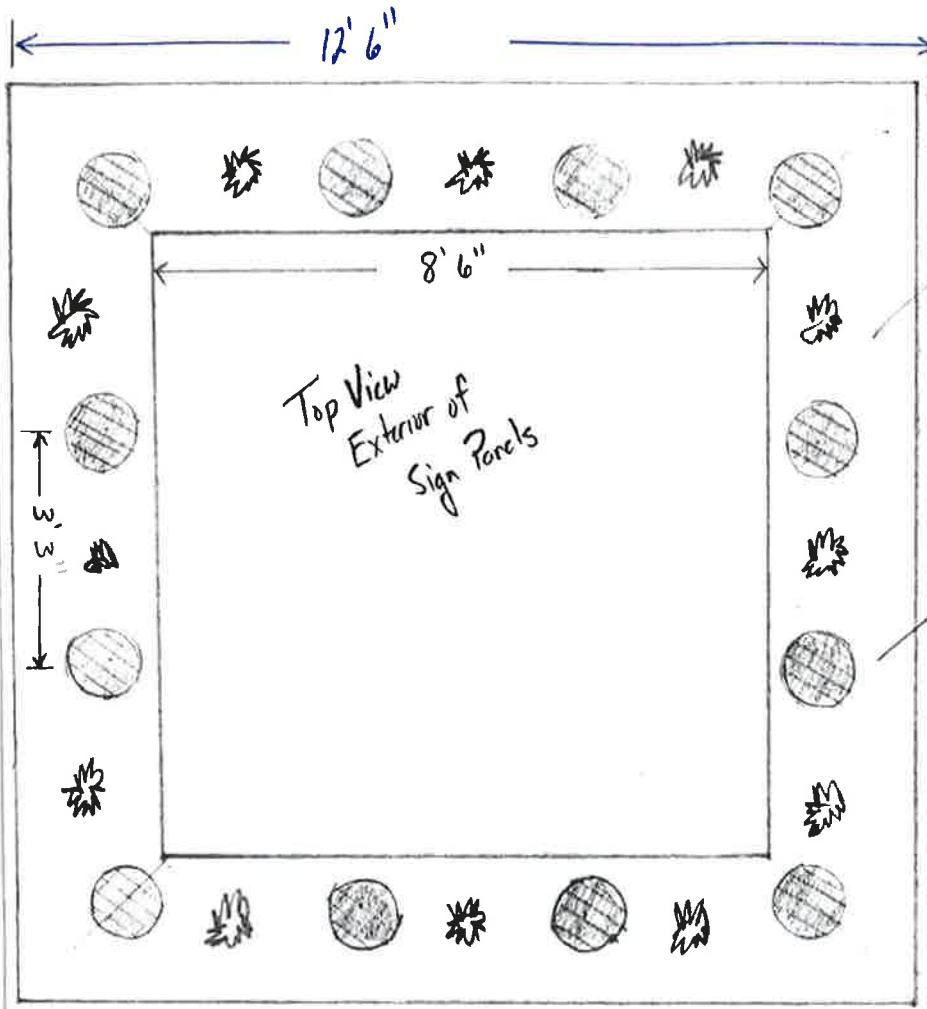
Conceptual illustration only. Customer must provide press-ready custom artwork for best results.
 www.fair-play.com 800.247.0265 ©copyright 2022

All dimensions approximate.
Drawing is attempted at scale.

Steven Stremick
Proposed sign improvements
1155 13th Ave S

Bushes
Flowers
or
Day lilies

Top View



landscape feature

Concrete posts
(barriers) 3'
above ground
flush with dirt
at top of landscaping.

Side View

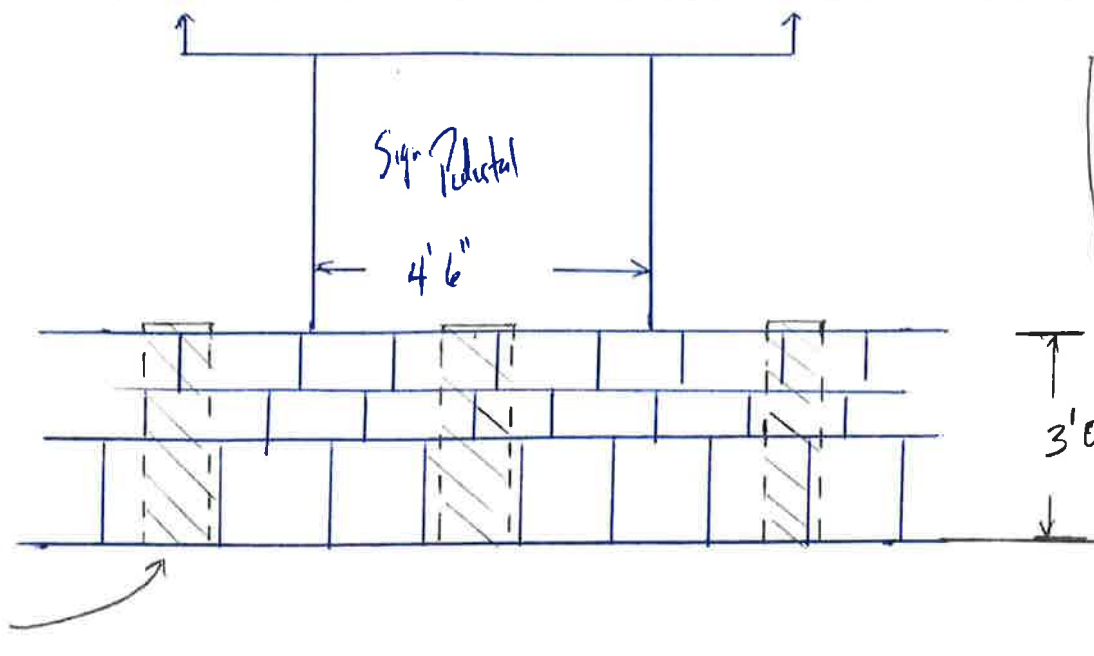
Sign Pedestal

4' 6"

Concrete Posts
3' Above ground.

3' 0" Planter Height

Ground



From: Joe Burgum
Sent: Tuesday, February 7, 2023 11:10 AM
To: Donald Kress
Subject: Re: Proposed zoning change item on tomorrow's PC agenda

Dear Donald Kress,

Thank you for the notification and link to the staff report. After reviewing the report, I am writing to express that the Hawthorne Neighborhood is not in support to the increase hight to the proposed sign. We believe that the sign is out of context with in the neighborhood and did not have neighborhood support in the beginning.

Sincerely,
Joe Burgum

Dear Planning Department Team,

I am reaching out to express concern regarding the recent request to install an even larger digital sign at the intersection of 13th Ave and University Drive South.

As a home-owning resident within the historic Hawthorne neighborhood, I take great pride in the understated, natural beauty our neighborhood has to offer.

Unfortunately, as one approaches our neighborhood from the south off University Drive, the current (and proposed) view includes an obnoxious digital sign. As-is, this sign (which is also currently broken and damaged) is nothing more than an oversized, distracting blight on the neighborhood. In my opinion, not only should the request for a larger sign be flatly denied, I feel the existing sign should be permanently removed.

Thank you for your time and consideration.

Sincerely,
Heather Johnson

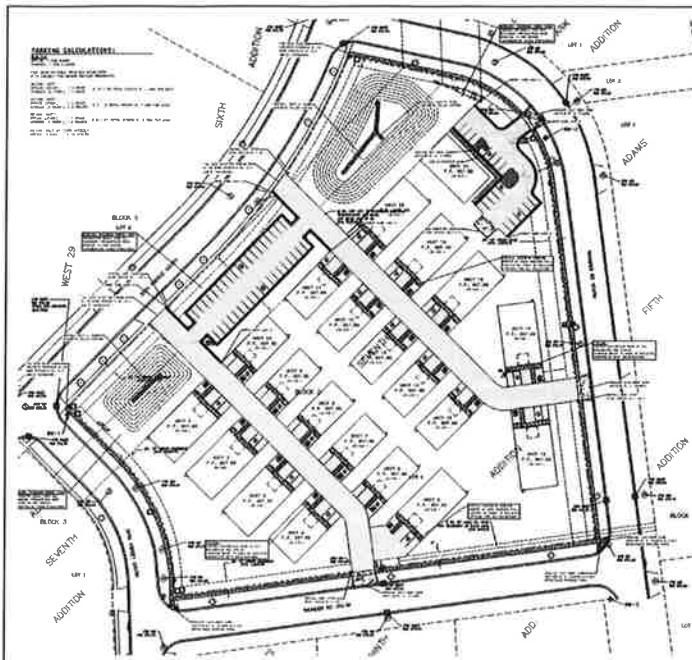
(Received by e-mail March 8, 2023)

(40)

City of Fargo Staff Report			
Title:	Adams Seventh Addition	Date: Updated:	3/2/2023 3/30/2023
Location:	2865, 2955, 2959, 2963, 2967, 2971, 2975, 2979, 2983, 2987, 2991, 3825, 3829, 3833, 3837, 3841, 3845, 3849, 3853, 3857, and 3861 Thunder Road South	Staff Contact:	Luke Morman, Planner
Legal Description	Lot 1, Block 2, Adams Seventh Addition		
Owner(s)/Applicant:	Essjay Thunder Road, LLC	Engineer:	N/A
Entitlements Requested:	Zoning Change from GC, General Commercial to LI, Limited Industrial with a C-O, Conditional Overlay		
Status:	City Commission Public Hearing: April 3, 2023		

Existing	Proposed
Land Use: Commercial and Industrial	Land Use: Unchanged
Zoning: GC, General Commercial with a CUP	Zoning: LI, Limited Industrial with a C-O, Conditional Overlay
Uses Allowed: GC allows colleges, community service, daycare centers of unlimited size, detention facilities , health care facilities, parks and open areas, religious institutions, safety services, basic utilities, adult establishment , offices, off-premise advertising signs , commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, and certain telecommunications facilities. Conditional Use Permit No. 2022-001 (doc. #1663375) allows Industrial uses in the GC, General Commercial zone , in addition to the other permitted uses in the GC zone.	Uses Allowed: LI allows colleges, community service, daycare centers of unlimited size, detention facilities , health care facilities, parks and open areas, religious institutions, safety services, basic utilities, adult establishment , offices, off-premise advertising signs , commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation , surface transportation , and certain telecommunications facilities. The C-O, Conditional Overlay adds restrictions to certain industrial uses.
Maximum Lot Coverage: Maximum 85% building coverage	Maximum Lot Coverage: Unchanged

Proposal:
The applicant requests one entitlements: <ol style="list-style-type: none"> 1. A Zoning Change from GC, General Commercial to LI, Limited Industrial with a C-O, Conditional Overlay. (Continued on next page)



Site plan

The subject property is shown on the left and is currently under construction for shop condo shell buildings that may include industrial uses. The existing CUP was originally put in place to protect the surrounding residential properties while allowing industrial uses per Land Development Code (LDC) Section 20-0402.R. This section has requirements such as restrictions to the location of where an industrial use can be located (i.e. within 300 feet of any residentially zoned property). As the site is being constructed, potential tenants applied for renovation permits to fit-up some buildings that are not allowed under the current zoning and CUP. In seeing how the site was developing, staff determined that this zone change will give the potential tenants flexibility on their proposed uses, and the C-O will include restrictions for the development to continue to protect the surrounding residential properties. As can be seen in the site plan, it is consistent with

the plan that was reviewed during the Planning Commission's review of the Conditional Use Permit to allow Industrial uses here. Section 20-0704, Residential Protection Standards still apply to the subject property.

If the zoning change is approved, Conditional Use Permit 2022-001 (doc. #1663375) is no longer applicable.

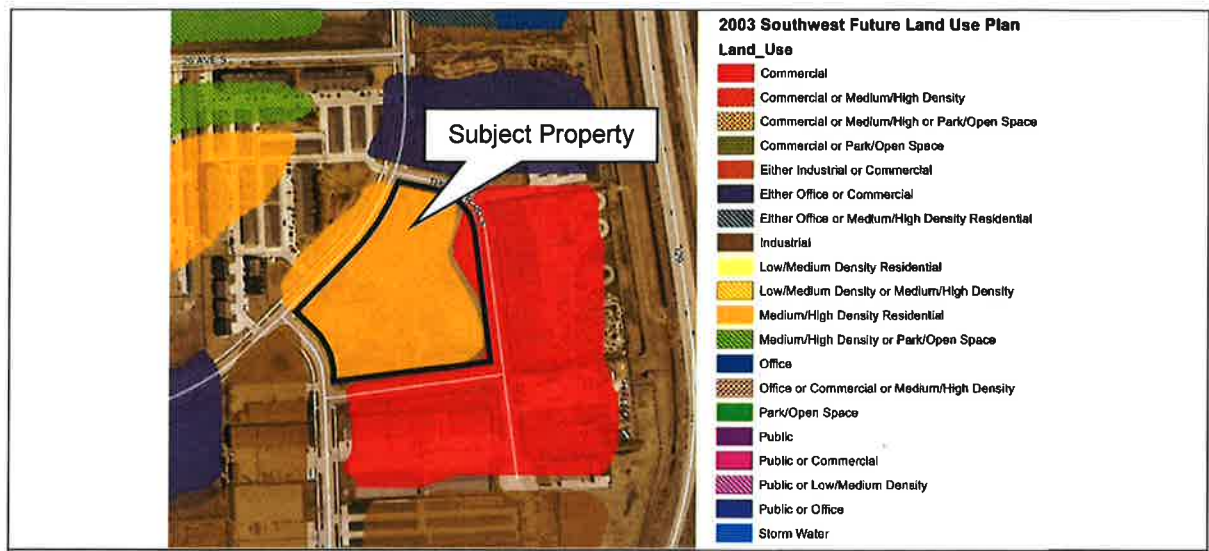
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: GC, General Commercial, undeveloped.
- Northeast: GC, General Commercial, with office.
- East: GC, General Commercial, with retail sales and service.
- South: LI, Limited Industrial, with warehouse and office.
- West: LI, Limited Industrial, with warehouse and office.
- Northwest: MR-3, Multi-Dwelling Residential, with multi-family dwelling units.

Area Plans:

According to the 2003 Growth Plan, the subject property is designated as "Medium/High Density Residential" and "Commercial." When this property was rezoned from MR-3, Multi-Dwelling Residential to GC, General Commercial in 2007, staff deemed it unnecessary to have a Growth Plan Amendment because it was generally consistent with the 2003 Growth Plan and should be reviewed on larger regional requests. With the current zoning change proposal, staff has determined that a Growth Plan Amendment is still not required due to the general consistency with surrounding zoning and the general consistency with the 2003 Growth Plan.



Context:

Schools: The subject property is located within the West Fargo School District and is served by Freedom Elementary, Liberty Middle, and Sheyenne High schools.

Neighborhood: The subject property is located within the Anderson Park Neighborhood.

Parks: The Tharaldson Baseball Complex is located approximately a third of a mile northwest of the subject property and provides amenities of baseball/softball fields, picnic tables, playgrounds (ages 5-12), restrooms, and shelters.

Pedestrian / Bicycle: There are 10' wide trails along 30th Avenue South, 32nd Avenue South, 38th Street South, and 42nd Street South.

Bus Route: MATBUS Route 14 runs along 32nd Avenue South (bus stop along 39th Street South) and 42nd Street South (bus stop along 30th Avenue South). Additionally, Route 18 runs along 32nd Avenue South (bus stop along 29th Street South). All stops described are approximately within a quarter mile of the subject property.

Staff Analysis:

Zoning Change

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**
 Staff is unaware of any error in the zoning map as it relates to this property. The applicant is requesting to rezone the property to allow the use of all industrial uses anywhere on the property. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established. Staff has added additional restrictions on the development to protect the nearby residential with the conditional overlay criteria that were based on the previous conditional use permit criteria.
(Criteria Satisfied)
2. **Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**
 City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property is adjacent to existing developed public rights-of-way, which provide access and public utilities to serve the property.

(Criteria Satisfied)

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

Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners within 300 feet of the project site. To date, staff has not received any comment or inquiry. Staff finds that the proposal will not adversely affect the condition or value of the property in the vicinity.

(Criteria Satisfied)

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed zone change is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, 2003 Southwest Future Land Use Plan, and other adopted policies of the City.

(Criteria Satisfied)

Recommended Conditions:

Planning staff recommends these conditions, stated below, as part of this Conditional Overlay.

Prohibited Uses:

- Detention Facility
- Adult Establishment
- Off-Premise Advertising Signs
- Aviation/Surface Transportation
- Portable Signs

1. A residential protection buffer per the Residential Protection Standards of Section 20-0704.E is required on sides facing residential use.
2. 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.
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. Loading docks, stacked storage above 6 feet in height, storage yards, outdoor storage, and dumpsters shall have a setback of 50 feet from the right-of-way and include an 8 foot opaque fence.
5. Dumpsters must contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor.
6. The manufacturing, production, or processing of hazardous chemicals or materials shall not be permitted.

(Continued on next page)

<p>Staff Recommendation:</p> <p>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 the first reading, and move to approve of the zoning change from GC, General Commercial zone, to LI, Limited Industrial, with a C-O, Conditional Overlay on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, 2003 Growth Plan, standards of Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC, with the following conditions for the C-O:</p> <p>Prohibited Uses:</p> <ul style="list-style-type: none"> • Detention Facility • Adult Establishment • Off-Premise Advertising Signs • Aviation/Surface Transportation • Portable Signs <ol style="list-style-type: none"> 1. A residential protection buffer per the Residential Protection Standards of Section 20-0704.E is required on sides facing residential use. 2. 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. 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. Loading docks, stacked storage above 6 feet in height, storage yards, outdoor storage, and dumpsters shall have a setback of 50 feet from the right-of-way and include an 8 foot opaque fence. 5. Dumpsters must contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor. 6. The manufacturing, production, or processing of hazardous chemicals or materials shall not be permitted.
<p>Planning Commission Recommendation: March 7, 2023</p> <p>At the March 7th, 2023 Planning Commission hearing, by a vote of 7-0 with two Commissioners absent and two Commission seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission for the zoning change from GC, General Commercial zone, to LI, Limited Industrial, with a C-O, Conditional Overlay on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, 2003 Growth Plan, standards of Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC, with the following conditions for the C-O:</p> <p>Prohibited Uses:</p> <ul style="list-style-type: none"> • Detention Facility • Adult Establishment • Off-Premise Advertising Signs • Aviation/Surface Transportation • Portable Signs <ol style="list-style-type: none"> 1. A residential protection buffer per the Residential Protection Standards of Section 20-0704.E is required on sides facing residential use.

2. 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.
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. Loading docks, stacked storage above 6 feet in height, storage yards, outdoor storage, and dumpsters shall have a setback of 50 feet from the right-of-way and include an 8 foot opaque fence.
5. Dumpsters must contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor.
6. The manufacturing, production, or processing of hazardous chemicals or materials shall not be permitted.

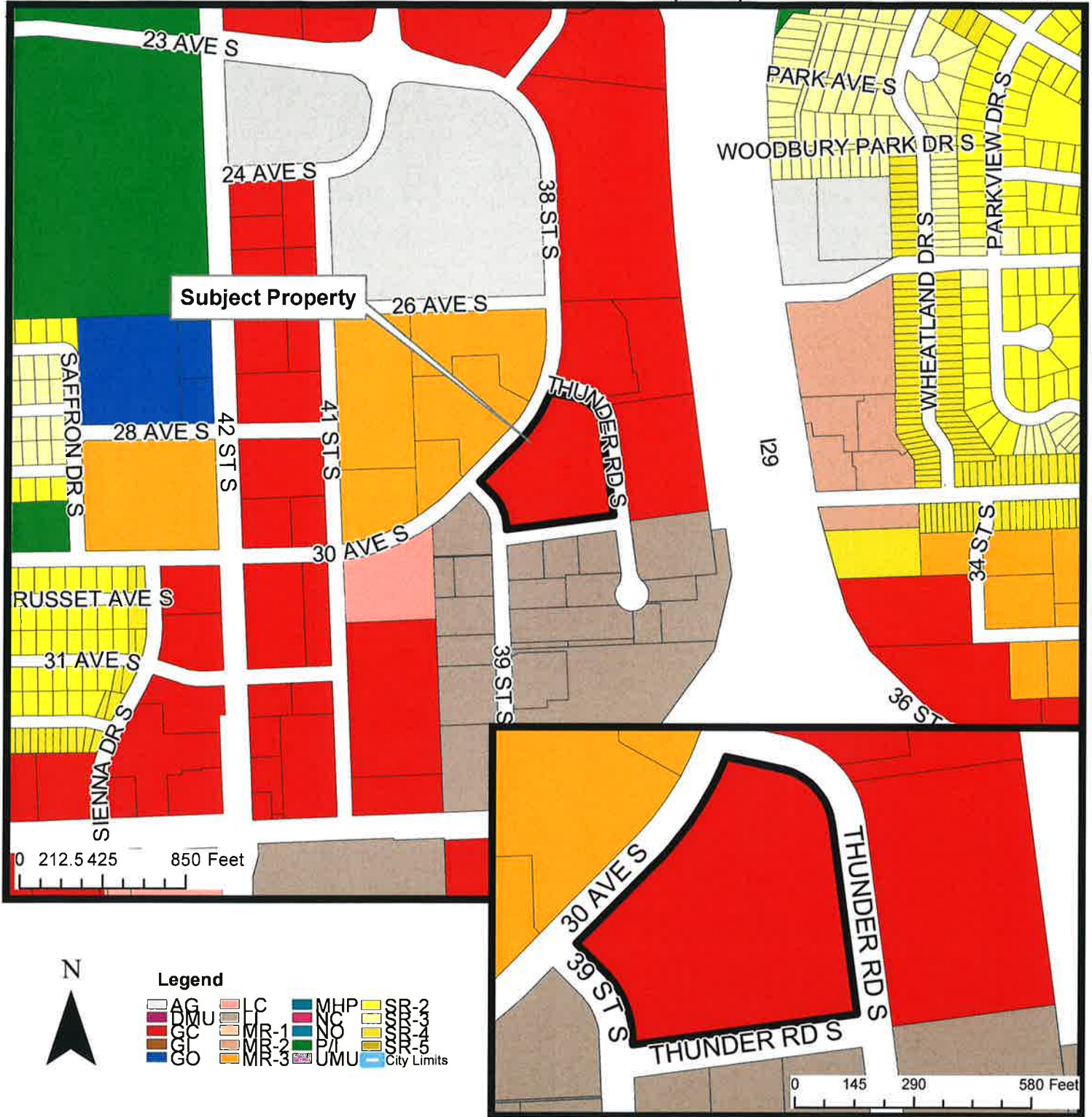
Attachments:

1. Zoning Map
2. Location Map

Zone Change with Conditional Overlay

2865, 2955, 2959, 2963, 2967, 2971, 2975, 2979, 2983, 2987, 2991, 3825, 3829, 3833, 3837, 3841, 3845, 3849, 3853, 3857, and 3861 Thunder Road South

Adams Seventh Addition



Zone Change with Conditional Overlay

2865, 2955, 2959, 2963, 2967, 2971, 2975, 2979, 2983, 2987, 2991, 3825, 3829, 3833, 3837, 3841, 3845, 3849, 3853, 3857, and 3861 Thunder Road South

Adams Seventh Addition



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

406

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN ADAMS SEVENTH ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in Adams Seventh Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on March 7, 2023; and,

WHEREAS, the rezoning changes were approved by the City Commission on April 3, 2023,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot One (1), Block Two (2) of Adams Seventh Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "GC", General Commercial, District subject to a "CUP", Conditional Use Permit, established as Permit No. 2022-01 (Doc. No. 1663375), to "LI", Limited Industrial, District, removing the "CUP", Conditional Use Permit from said property, and to enact a "C-O", Conditional Overlay, District as follows:

A. The following uses are prohibited:

1. Detention Facility;
2. Adult Establishment;
3. Off-Premise Advertising Signs;
4. Aviation/Surface Transportation; and
5. Portable Signs.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- 1 B. A residential protection buffer per the Residential Protection Standards of Section 20-
2 0704.E of the Land Development Code is required on sides facing residential use.
- 3 C. Off-street parking, loading, vehicular circulation areas, and outdoor storage shall have an
4 all-weather surface. No gravel, crushed concrete, or similar material is permitted.
- 5 D. The property shall not be used in whole or in part for storage of rubbish or debris of any
6 kind whatsoever nor for the storage of any property or items that will cause such lot to
7 appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall
8 any substance, item or material be kept on any lot that will emit foul odors, including
9 compost sites and fertilizer.
- 10 E. Loading docks, stacked storage above six (6) feet in height, storage yards, outdoor
11 storage, and dumpsters shall have a setback of fifty (50) feet from the right-of-way and
12 include an eight (8) foot opaque fence.
- 13 F. Dumpsters must contain permanent walls on three (3) sides with the service opening not
14 directly facing any public right-of-way. The fourth side shall incorporate a metal gate to
15 visually screen the dumpster or compactor.
- 16 G. The manufacturing, production, or processing of hazardous chemicals or materials shall
17 not be permitted.

18 Section 2. The City Auditor is hereby directed to amend the zoning map now on file in his
19 office so as to conform with and carry out the provisions of this ordinance.
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

41

City of Fargo Staff Report			
Title:	Valley View Estates Fourth Addition	Date: Updated:	2/1/2023 3/30/2023
Location:	3606-4890 Decorah Way South	Staff Contact:	Luke Morman, Planner
Legal Description:	Lots 1-11, Block 1, Valley View Estates Third Addition and Lots 1-7, Block 1, Valley View Estates Addition		
Owner(s)/Applicant:	Thomsen Homes, LLC / Jon Youness—Eagle Ridge Development	Engineer:	Bolton & Menk
Entitlements Requested:	Zoning Change (SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential with a C-O, Conditional Overlay) and Minor Subdivision (Replat of Lots 1-11, Block 1, Valley View Estates Third Addition and Lots 1-7, Block 1, Valley View Estates Addition)		
Status:	City Commission Public Hearing: April 3, 2023		

Existing	Proposed
Land Use: Residential.	Land Use: Unchanged
Zoning: SR-4, Single-Dwelling Residential; P/I, Public and Institutional.	Zoning: SR-4, Single-Dwelling Residential with a C-O, Conditional Overlay
Uses Allowed: SR-4 – Single-Dwelling Residential allows detached houses, attached houses, duplexes, daycare centers up to 12 children, parks and open areas, religious institutions, safety services, schools, basic utilities, and certain telecommunications facilities; P/I – Public and Institutional allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events	Uses Allowed: SR-4 – Single-Dwelling Residential allows detached houses, attached houses, duplexes, daycare centers up to 12 children, parks and open areas, religious institutions, safety services, schools, basic utilities, and certain telecommunications facilities;
Maximum Density Allowed: SR-4 allows a maximum 12.1 units per acre; P/I has no density or lot coverage standards.	Maximum Density Allowed: Unchanged C-O, Conditional Overlay, limits the density to a maximum 7.3 units per acre.

Proposal:
<p>The applicant requests two entitlements:</p> <ol style="list-style-type: none"> Zoning Change (from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential with a C-O, Conditional Overlay); and Minor Subdivision (replat of Lots 1-11, Block 1, Valley View Estates Third Addition and Lots 1-7, Block 1, Valley View Estates Addition). <p>The proposal is to combine the existing eighteen lots into a one lot minor subdivision entitled Valley View Estates Fourth Addition, remove the P/I zoning, and add a C-O to limit the maximum density. Currently there are 18 lots, with 17 possible residences. The applicant proposes 27 residences, but under the SR-4 zone, this 3.74 acre lot could accommodate for 45 residences. The C-O limits the density to 7.3 units per acre, which is a maximum of 27 dwelling units.</p>



The proposed plan functions similarly to the previous layouts but with houses available for a retirement community. The existing lot 6 is a private drive lot owned by a Home Owner's Association (HOA) that has been planned since this area was originally platted with Valley View Estates subdivision. For the current proposal, the developer clarified that the proposed lot will be under one owner who will be responsible for the maintenance. The developer additionally provided the following summary:

"Valley View Estates 4th Addition is a custom developed 55+ single-family rental community. The neighborhood with feature a variety of floorplan and exterior elevation options to give it a more traditional neighborhood feel. Proximity to existing amenities as an infill development create an ideal setting for aging in place residents who are no longer interested in the hassles and maintenance requirements of home ownership. A single-family house rental provides an alternate option to the apartment and townhome developments in the area."

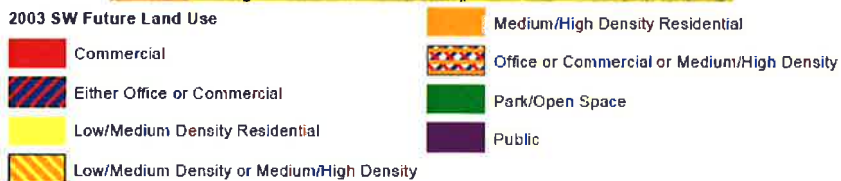
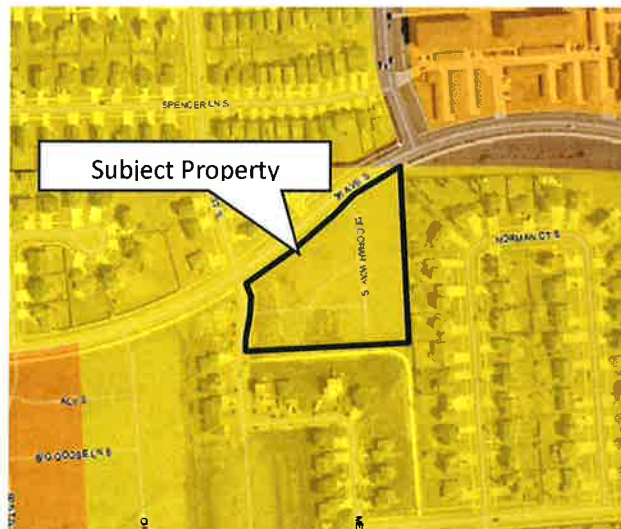
The project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: SR-4: Single-Dwelling Residential; single family residences (both detached and attached)
- East: SR-4: Single-Dwelling Residential; single family residences
- South: P/I: Parks/Institutional, multi-use trail
- West: SR-4: Single-Dwelling Residential; single family residences

Area Plans:

The subject property is located within the 2003 Future Land Use Plan. Within this growth plan, the subject property is identified as being suitable Low/Medium Density Residential uses. The proposed zoning is consistent with this land use designation.



Context:

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

Neighborhood: The subject property is located within the Brandt Crossing neighborhood.

Parks: Valley View Park is within a quarter mile to the west of the subject properties. This park provides playgrounds for ages 2-5 and 5-12, recreational trails, and a shelter. A portion of this park is a stormwater detention basin.

Pedestrian / Bicycle: There are shared-use trails running along the south side of the subject properties, through Valley View Park to the west, and along County Drain 27 right of way to the south.

Bus Route: The subject property is not near a MATBUS route.

Staff Analysis:

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The applicant is requesting to rezone the property in order to develop a series of single-family rental homes available for an age 55 and up community. The existing P/I zoned lot was previously planned as an amenity space for the surrounding lots, which would be maintained by a Home Owners Association, but the current proposal intends the combined lots to be owned and maintained all together. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established.

(Criteria Satisfied)

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property is adjacent to existing developed public rights-of-way, which provide access and public utilities to serve the property.

(Criteria Satisfied)

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

Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners within 300 feet of the project site. To date, staff has not received any comment or inquiry. Staff finds that the proposal will not adversely affect the condition or value of the property in the vicinity.

(Criteria Satisfied)

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed zone change is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City.

(Criteria Satisfied)

Recommended Conditions:

1. The maximum density of this district shall be limited to 7.3 dwelling units per acre, rather than the 12.1 dwelling units per acre that would normally be allowed in the "SR-4" zone.

Minor Subdivision

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

1. **Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of**

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

This subdivision is intended to combine eighteen existing lots into one new lot. The properties within this plat are currently zoned SR-4, Single-Dwelling Residential, and P/I, Public and Institutional, which is consistent with that land use designation, and the proposed zone change will only remove the P/I zoning. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received and responded to one inquiry about the application. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code.

(Criteria Satisfied)

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

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

(Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of 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 the first reading, and move to approve the proposed 1) zoning change from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential with a C-O, Conditional Overlay and 2) minor subdivision, **Valley View Estates Fourth Addition** as outlined within the staff report, as the proposal complies with the 2003 Growth Plan, standards of Section 20-0906.F(1-4), Section 20-0907.B & C, standards of Article 20-06, and all other applicable requirements of the Land Development Code, with the following conditions:"

1. The maximum density of this district shall be limited to 7.3 dwelling units per acre, rather than the 12.1 dwelling units per acre that would normally be allowed in the "SR-4" zone.

Planning Commission Recommendation: February 7, 2023

At the February 7th, 2022 Planning Commission hearing, by a vote of 7-0 with two Commissioner absent and two Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed 1) zoning change from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential with a C-O, Conditional Overlay and 2) minor subdivision, **Valley View Estates Fourth Addition** as outlined within the staff report, as the proposal complies with the 2003 Growth Plan, standards of Section 20-0906.F(1-4), Section 20-0907.B & C, standards of Article 20-06, and all other applicable requirements of the Land Development Code, with the following conditions:"

1. The maximum density of this district shall be limited to 7.3 dwelling units per acre, rather than the 12.1 dwelling units per acre that would normally be allowed in the "SR-4" zone.

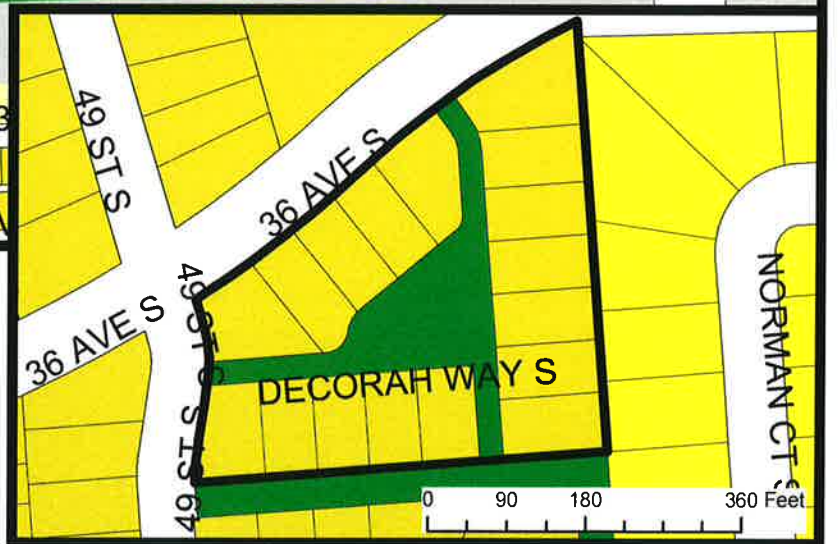
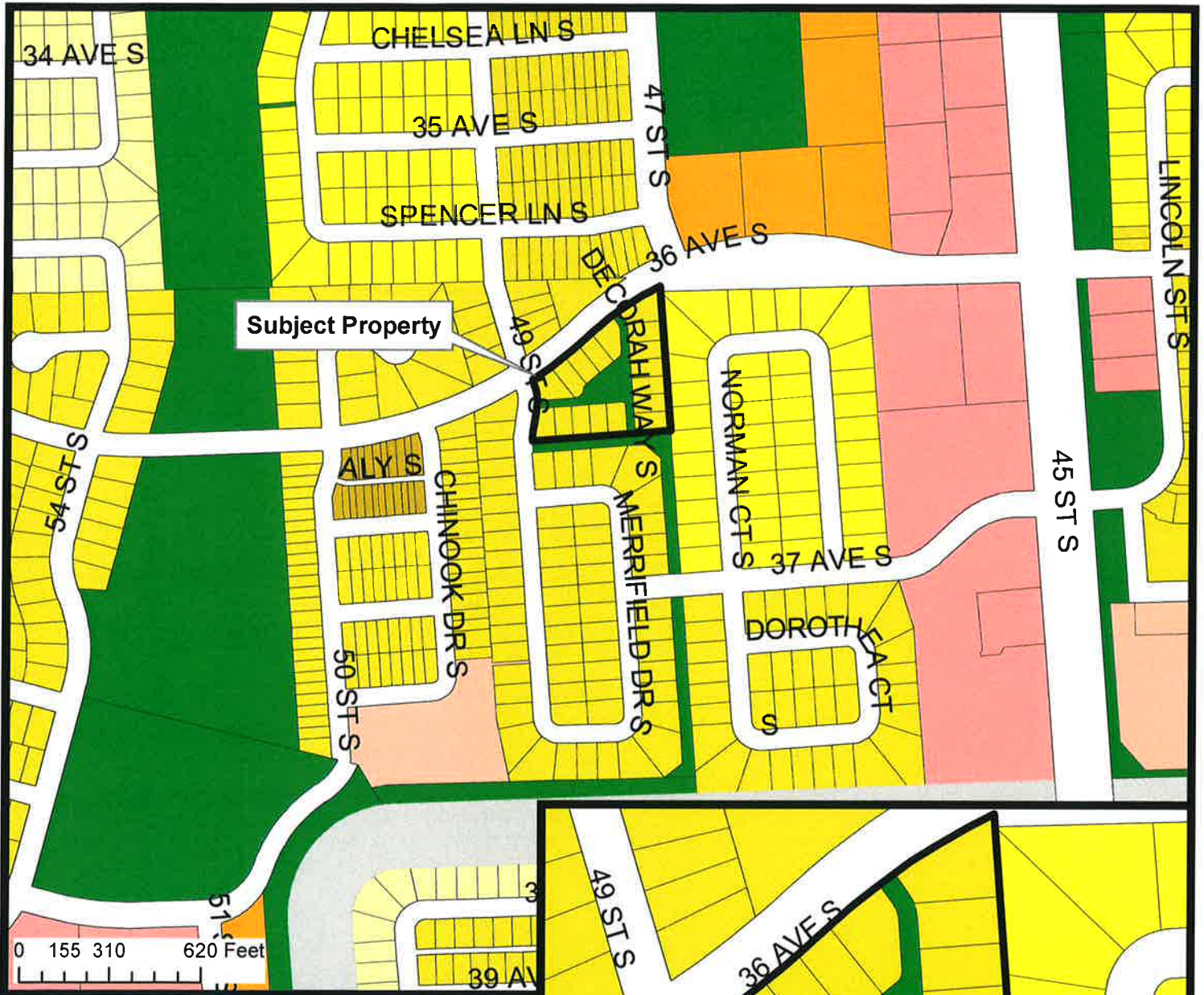
Attachments:

1. Zoning map
2. Location map
3. Preliminary plat

Minor Subdivision & Zone Change from SR-4, Single Dwelling Residential and P/I, Public and Institutional, to SR-4 with a Conditional Overlay

Valley View Estates Fourth Addition

3606 - 4890 Decorah Way South



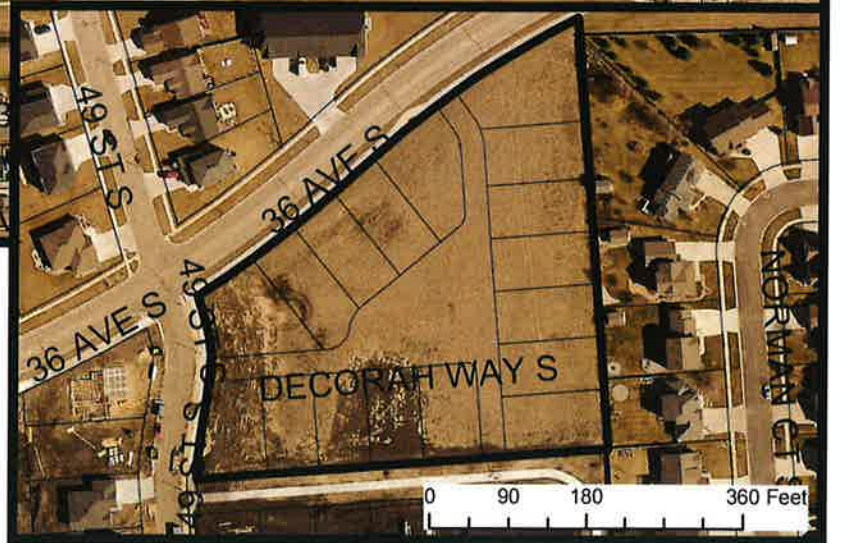
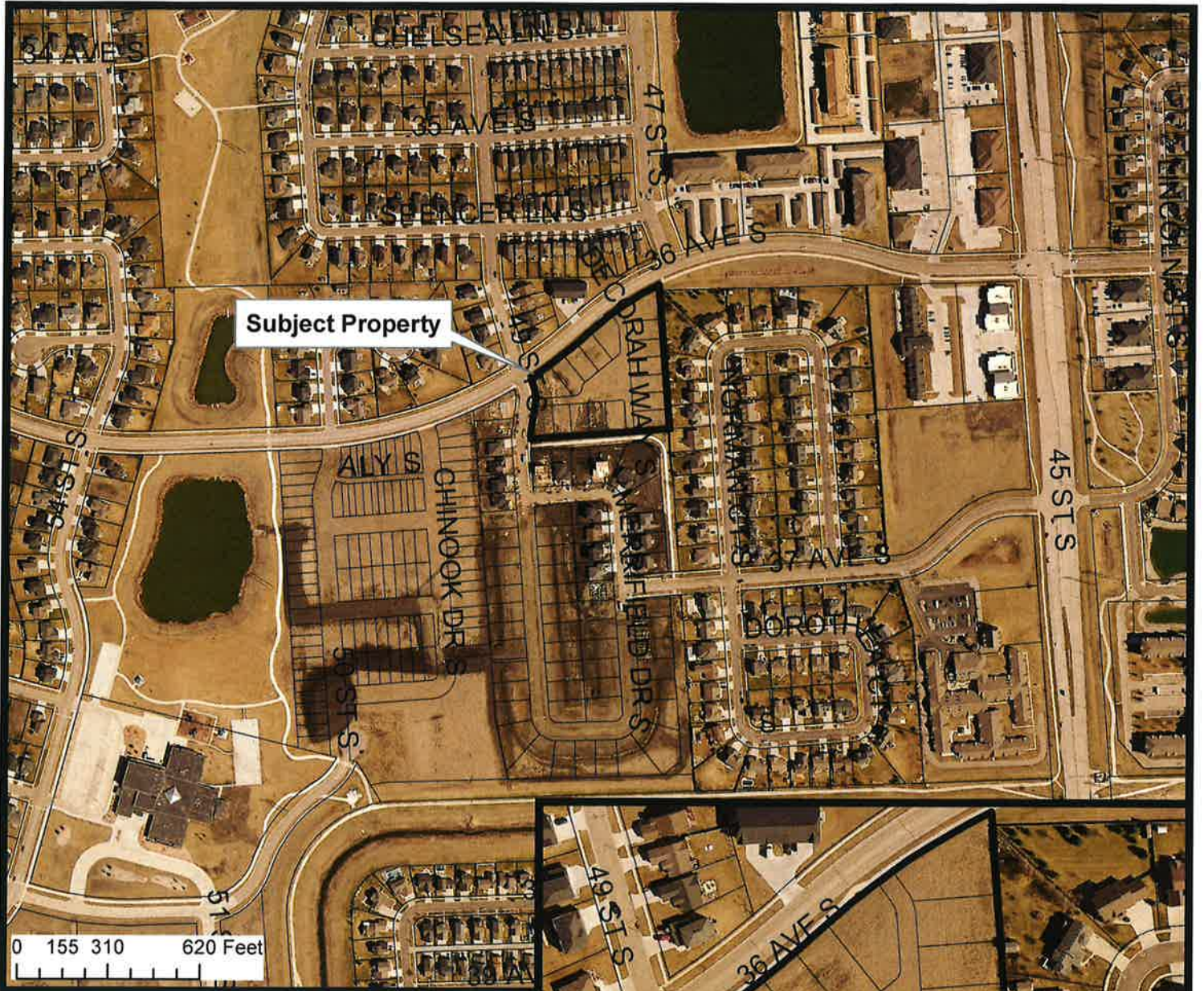
Legend

AG	DMU	GC	GO	IC	MHP	MHP-1	MHP-2	MHP-3	MHP-4	MHP-5	MHP-6	MHP-7	MHP-8	MHP-9	MHP-10	MHP-11	MHP-12	MHP-13	MHP-14	MHP-15	MHP-16	MHP-17	MHP-18	MHP-19	MHP-20	MHP-21	MHP-22	MHP-23	MHP-24	MHP-25	MHP-26	MHP-27	MHP-28	MHP-29	MHP-30	MHP-31	MHP-32	MHP-33	MHP-34	MHP-35	MHP-36	MHP-37	MHP-38	MHP-39	MHP-40	MHP-41	MHP-42	MHP-43	MHP-44	MHP-45	MHP-46	MHP-47	MHP-48	MHP-49	MHP-50	MHP-51	MHP-52	MHP-53	MHP-54	MHP-55	MHP-56	MHP-57	MHP-58	MHP-59	MHP-60	MHP-61	MHP-62	MHP-63	MHP-64	MHP-65	MHP-66	MHP-67	MHP-68	MHP-69	MHP-70	MHP-71	MHP-72	MHP-73	MHP-74	MHP-75	MHP-76	MHP-77	MHP-78	MHP-79	MHP-80	MHP-81	MHP-82	MHP-83	MHP-84	MHP-85	MHP-86	MHP-87	MHP-88	MHP-89	MHP-90	MHP-91	MHP-92	MHP-93	MHP-94	MHP-95	MHP-96	MHP-97	MHP-98	MHP-99	MHP-100
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Minor Subdivision & Zone Change from SR-4, Single Dwelling Residential and P/I, Public and Institutional, to SR-4 with a Conditional Overlay

Valley View Estates Fourth Addition

3606 - 4890 Decorah Way South





SCALE: 1" = 100'
Based on the Plat of Valley View Estates Addition, according to the recorded plat thereof.

VALLEY VIEW ESTATES FOURTH ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
A REPLAT OF ALL OF LOTS 1 THRU 11, BLOCK 1, VALLEY VIEW ESTATES THIRD ADDITION
AND A REPLAT OF ALL OF LOTS 1 THRU 7, BLOCK 1, VALLEY VIEW ESTATES ADDITION
(A MINOR SUBDIVISION)

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL
Approved by City Engineer on _____, City of Fargo.
Sandra E. Dreyer, P.E., City Engineer

State of North Dakota }
County of Cass }
City of Fargo }
City Engineer }
Sandra E. Dreyer, P.E., City Engineer and City Engineer Approver }
I hereby certify that the above plat is a correct and true copy of the original as filed with me and that I have caused the same to be recorded and transmitted to the proper authorities for their approval. Witness my hand and the seal of the City of Fargo, North Dakota, this _____ day of _____, 2023.

Notary Public

CITY OF FARGO PLANNING COMMISSION APPROVAL
Approved by the City of Fargo Planning Commission on _____, City of Fargo.

State of North Dakota }
County of Cass }
City of Fargo }
City Engineer }
Sandra E. Dreyer, P.E., City Engineer and City Engineer Approver }
I hereby certify that the above plat is a correct and true copy of the original as filed with me and that I have caused the same to be recorded and transmitted to the proper authorities for their approval. Witness my hand and the seal of the City of Fargo, North Dakota, this _____ day of _____, 2023.

Notary Public

FARGO CITY COMMISSION APPROVAL
Approved by the Board of City Commissioners and endorsed by the City Engineer on _____, 2023.

State of North Dakota }
County of Cass }
City of Fargo }
City Engineer }
Sandra E. Dreyer, P.E., City Engineer and City Engineer Approver }
I hereby certify that the above plat is a correct and true copy of the original as filed with me and that I have caused the same to be recorded and transmitted to the proper authorities for their approval. Witness my hand and the seal of the City of Fargo, North Dakota, this _____ day of _____, 2023.

Notary Public

OWNERS DESCRIPTION AND DEDICATION
KNOW ALL MEN BY THESE PRESENTS, that _____ of the County of Cass, North Dakota, do hereby certify that the above plat is a correct and true copy of the original as filed with me and that I have caused the same to be recorded and transmitted to the proper authorities for their approval. Witness my hand and the seal of the City of Fargo, North Dakota, this _____ day of _____, 2023.

All of lots 1 thru 11, Block 1, VALLEY VIEW ESTATES ADDITION, according to the recorded plat thereof, on file and of record in the office of the Recorder, and City of Fargo.

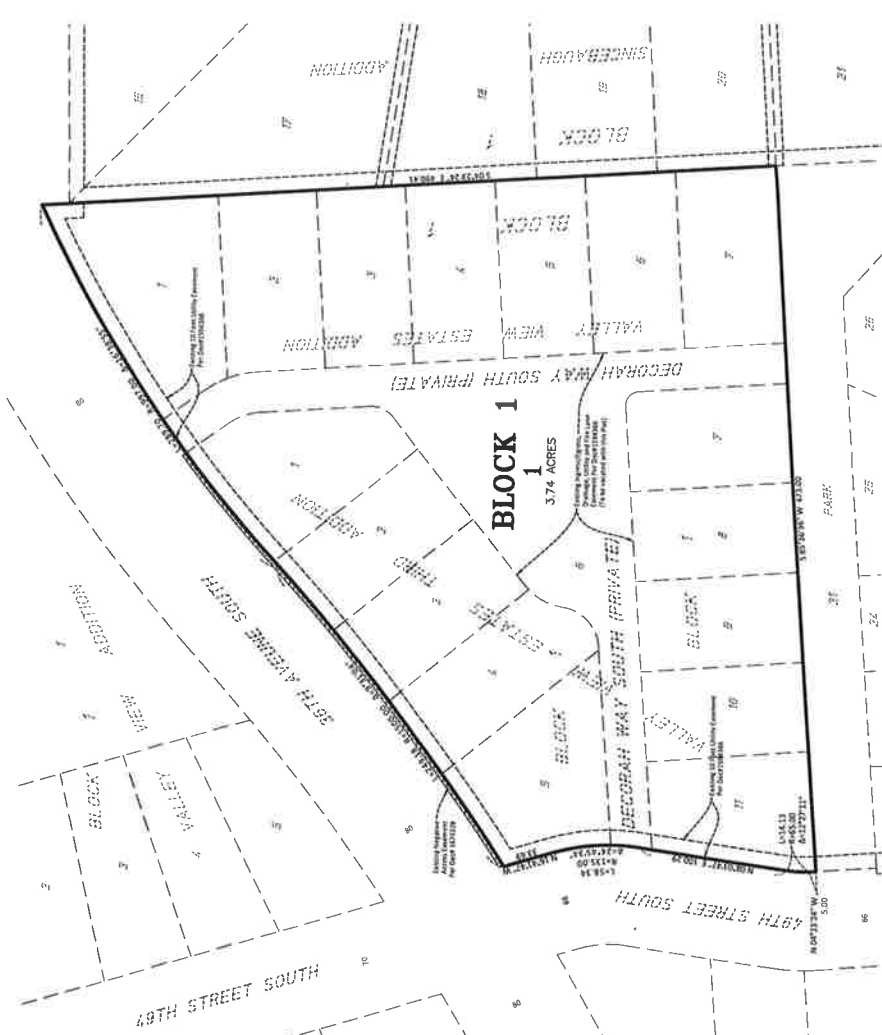
By: Chris Thomson, Managing Member
State of North Dakota }
County of Cass }
City of Fargo }
City Engineer }
Sandra E. Dreyer, P.E., City Engineer and City Engineer Approver }
I hereby certify that the above plat is a correct and true copy of the original as filed with me and that I have caused the same to be recorded and transmitted to the proper authorities for their approval. Witness my hand and the seal of the City of Fargo, North Dakota, this _____ day of _____, 2023.

Notary Public

SURVYORS CERTIFICATE AND ACKNOWLEDGEMENT
I, _____, a duly qualified and licensed Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that the above plat is a correct and true copy of the original as filed with me and that I have caused the same to be recorded and transmitted to the proper authorities for their approval. Witness my hand and the seal of the State of North Dakota, this _____ day of _____, 2023.

State of North Dakota }
County of Cass }
City of Fargo }
City Engineer }
Sandra E. Dreyer, P.E., City Engineer and City Engineer Approver }
I hereby certify that the above plat is a correct and true copy of the original as filed with me and that I have caused the same to be recorded and transmitted to the proper authorities for their approval. Witness my hand and the seal of the City of Fargo, North Dakota, this _____ day of _____, 2023.

Notary Public



- LEGEND**
- SURVEY MONUMENT SET, CAP MARKED BY U.C. NO. 15500
 - MONUMENT FOUND
 - DIRECT PROPERTY LINE
 - - - - - ADJACENT PROPERTY LINE
 - ==== ACCESS EASEMENT
 - 100' DMS NODRAW ACCESS EASEMENT
 - 100' DMS NODRAW



PREPARED BY
BOLTON & MENK

preliminary

FILE NUMBER: 2023-15500-PLAT-35

416

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
2 LYING IN VALLEY VIEW ESTATES FOURTH ADDITION
3 TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

4 WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the
5 City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain
6 parcels of land lying in the proposed Valley View Estates Fourth Addition to the City of Fargo,
7 Cass County, North Dakota; and,

8 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
9 request on February 7, 2023; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on April 3, 2023,

11 NOW, THEREFORE,

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

13 Section 1. The following described property:

14 All of Valley View Estates Fourth Addition to the City of Fargo, Cass County,
15 North Dakota;

16 is hereby rezoned from "SR-4", Single-Dwelling Residential, District and "P/I", Public and
17 Institutional, District to "SR-4", Single-Dwelling Residential, District with a "C-O", Conditional
18 Overlay, District as follows:

19 The maximum density of this district shall be limited to 7.3 dwelling units per acre, rather
20 than the 12.1 dwelling units per acre that would normally be allowed in the "SR-4" zone.

21 Section 2. The City Auditor is hereby directed to amend the zoning map now on file in his
22 office so as to conform with and carry out the provisions of this ordinance.
23

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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(SEAL)

Attest:

Steven Sprague, City Auditor

Timothy J. Mahoney, M.D., Mayor

First Reading:
Second Reading:
Final Passage:

42

City of Fargo Staff Report			
Title:	Amended Plat of Oak Grove Addition	Date: Update:	2/28/2023 3/28/2023
Location:	18, 24, 26, 40, 42, 44, 46, 60, 62, 64, 66, 68, 70, 92, 94, 96, 98, 100, 110, 118, and 124 North Terrace North; 723 and 724 North River Road North; 9 Lower Terrace North; 17, 23, 27, 31, 33, 37, 41, 45, 49, 53, 63, 65, 75, 79, 83, 87, 88, 93, 95, 99, 125, 129, 135, 136, 139, 140, 144, and 145 South Terrace North; 101, 150, and 170 Maple Street North; and 1 River Road North.	Staff Contact:	Maegin Elshaug, planning coordinator
Legal Description:	portions of Lots 1-4 and all of Lots 5-17 and 19-49, Block 1; portions of Lots 5 and 9, and all of Lots 6-8, Block 3; all of Lots 17-43 and portion of Lot 16, Block 4; all of Lots 1-15 and 17-25, and a portion of Lot 16, Block 5; Lots 1-41, Block 6; Lots 1-35, Block 7; Blocks E, F, G, and H, and vacated portions of North Terrace North; Amended Plat of Oak Grove Addition.		
Owner(s)/Applicant:	Oak Grove Lutheran High School, City of Fargo, and Fargo Park District	Engineer:	N/A
Entitlements Requested:	Zoning Change (from SR-2, Single-Dwelling Residential, SR-3, Single Dwelling Residential, MR-2, Multi-Dwelling Residential, and AG, Agricultural to P/I, Public and Institutional)		
Status:	City Commission Public Hearing: April 3, 2023		

Existing	Proposed
Land Use: School, open space and vacant	Land Use: unchanged
Zoning: SR-2, SR-3, MR-2 and AG	Zoning: P/I
<p>Uses Allowed: SR-2 allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities.</p> <p>SR-3 Allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities</p> <p>MR-2 Allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities</p> <p>AG Allows detached houses, parks and open space, safety services, basic utilities, and crop production.</p>	<p>Uses Allowed: P/I allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, major entertainment events, basic utilities and some telecommunications facilities.</p>
Maximum Density Allowed: SR-2 allows 5.4 units per acre; SR-3 allows 8.7 units per acre, and MR-2 allows 20 units per acre. AG allows a maximum of 1 dwelling unit per 10 acres.	Maximum Lot Coverage Allowed: P/I is based on the dimensional standards of adjacent zoning district

Proposal:

Oak Grove Lutheran High School, the City of Fargo and the Fargo Park District are proposing a zoning map amendment to change from SR-2, Single-Dwelling Residential, SR-3, Single Dwelling Residential, MR-2, Multi-Dwelling Residential, and AG, Agricultural to P/I, Public and Institutional. The Fargo Park District property is Oak Grove Park. The City owned property is from flood buyouts of residential lots and will not be redeveloped. Since they can no longer be used for their current zoning of residential land use, the City is proposing to rezone them to P/I, the appropriate zoning district for government-owned property. While parks are allowed in residentially zoned districts, Fargo Park District has been supportive of rezoning their property to P/I, typically when the opportunity comes up, such as when an adjacent property is applying to rezone.

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: P/I with property owned by the Fargo Park District and the Red River;
- East: Red River;
- South: P/I with property owned by the Fargo Park District and the Red River;
- West: SR-3 with detached homes. West of the subject property is also the Oak Grove Historic Overlay.

Area Plans:

The Future Land Use Map of the Horace Mann neighborhood implementation brief within the Core Neighborhoods Plan identifies Schools with recreational amenities and Park, Open Space and Trails for the subject property. There is a portion of the property that proposes single-family residential, however, the property is owned by the City of Fargo.



Context:

Neighborhood: Horace Mann

Schools: The subject property is located within the Fargo Public School District, specifically Horace Mann Roosevelt elementary, Ben Franklin middle and North High schools.

Parks: Oak Grove Park (170 Maple Street North) is one of the subject properties, providing amenities of disc golf, horseshoes, tennis courts, playgrounds, trails and shelters.

Pedestrian / Bicycle: Shared use paths are located on and nearby several of the subject properties, including those owned by the City of Fargo and the Fargo Park District. This application has prompted discussion for future

improvements to trail connectivity in this area.

Transit: There are no MATBus routes nearby the subject property.

Staff Analysis:

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The properties are currently zoned SR-2, Single-Dwelling Residential, SR-3, Single-Dwelling Residential, MR-2, Multi-Dwelling Residential and AG. Agricultural. The applicants are requesting to rezone the properties to a more appropriate zoning district of P/I for land owned by public agencies, such as the City of Fargo and the Fargo Park District, and also for land owned by schools. **(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property has direct access to several public rights-of-way. **(Criteria Satisfied)**

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

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property, and staff also notified the Neighborhood Coalition and contact for the neighborhood. A neighborhood open house meeting was held on Thursday, February 23rd for both the zoning change and the institutional master plan applications and had four in attendance. Topics of the meeting included details of the zoning change application, future expansion and intuitional master plan of Oak Grove High School, parking on Oak Grove property and the street. To date, Planning staff has received and responded to five inquiries outside of the neighborhood open house, with no noted concern. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria Satisfied)**

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The plan that applies to this property is the Horace Mann Future Land Use Plan, which designates the land use as Schools with Recreational Amenities and Park, Open Space and Trails, and Single-Family Residential. P/I, Public & Institutional is an appropriate zoning district for property owned by the schools, and public agencies, like the City of Fargo and the Fargo Park District. P/I is intended to accommodate uses of a governmental, civic, public service, or quasi-public nature, including major public facilities, offering an alternative zoning classification for public and institutional uses, thereby increasing development predictability within residential neighborhoods, as any future private development would need to be rezoned. **(Criteria Satisfied)**

Update 3/29/23: Since the Planning Commission meeting, staff has received two calls and one email of inquiry with no noted concern.

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 approve the proposed zone change from SR-2, Single-Family Residential, SR-3, Single-Family Residential, MR-2, Multi-Dwelling Residential and AG, Agricultural, to P/I, Public & Institutional, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Core Neighborhoods Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.”

Planning Commission Recommendation: March 7, 2023

At the March 7, 2023 Planning Commission hearing, by a vote of 7-0 with two Commissioners absent and two Commission seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed zoning change from SR-2, Single-Family Residential, SR-3, Single-Family Residential, MR-2, Multi-Dwelling Residential, and AG, Agricultural, to P/I, Public & Institutional, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Core Neighborhoods Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

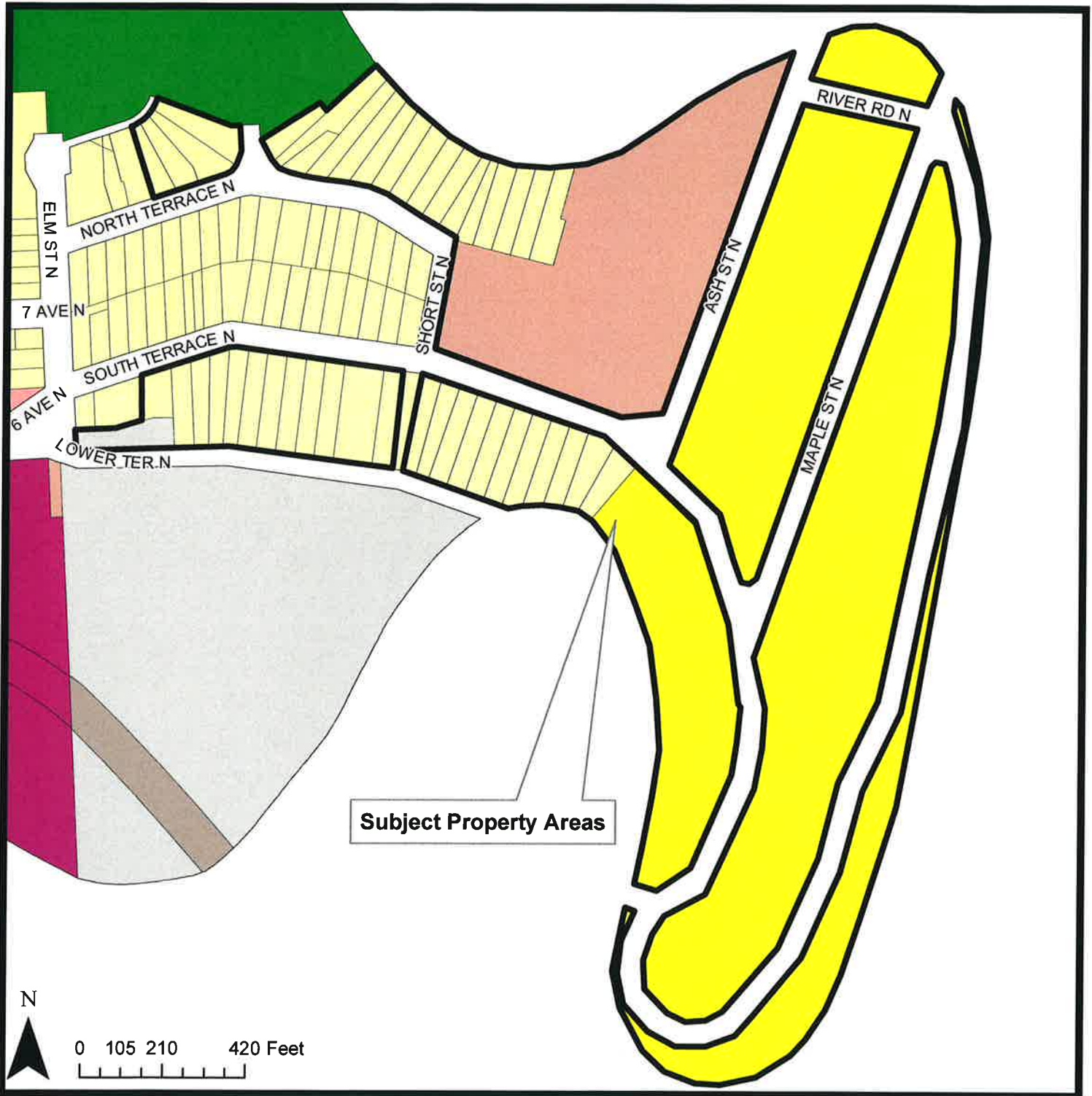
Attachments:

1. Zoning Map
2. Location Map

Zone Change

Oak Grove Addition (Amended Plat)

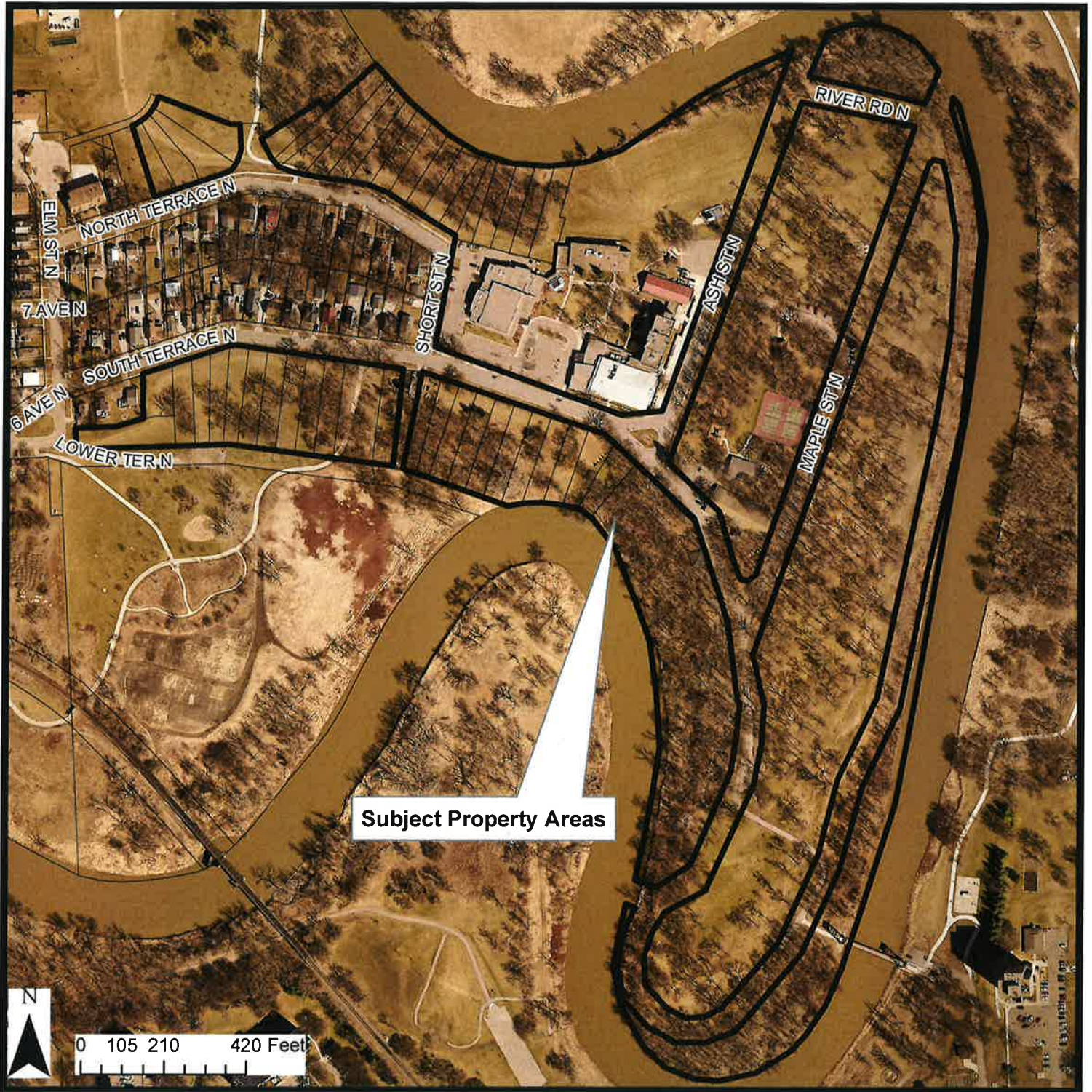
18, 24, 26, 40, 42, 44, 46, 60, 62, 64, 66, 68, 70, 92, 94, 96, 98, 100, 110, 118, 124 North Terrace North; 723 and 724 North River Road North; 9 Lower Terrace North; 17, 23, 27, 31, 33, 37, 41, 45, 49, 53, 63, 65, 75, 79, 83, 87, 88, 93, 95, 99, 125, 129, 135, 136, 139, 140, 144, 145 South Terrace North; 101, 150, 170 Maple Street North; and 1 River Road North



Zone Change

Oak Grove Addition (Amended Plat)

18, 24, 26, 40, 42, 44, 46, 60, 62, 64, 66, 68, 70, 92, 94, 96, 98, 100, 110, 118, 124 North Terrace North; 723 and 724 North River Road North; 9 Lower Terrace North; 17, 23, 27, 31, 33, 37, 41, 45, 49, 53, 63, 65, 75, 79, 83, 87, 88, 93, 95, 99, 125, 129, 135, 136, 139, 140, 144, 145 South Terrace North; 101, 150, 170 Maple Street North; and 1 River Road North



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

426

ORDINANCE NO. _____

AN ORDINANCE REZONING A CERTAIN PARCEL
OF LAND LYING IN AMENDED PLAT OF OAK GROVE ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in Amended Plat of Oak Grove Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on March 7, 2023; and,

WHEREAS, the rezoning changes were approved by the City Commission on April 3, 2023,

NOW, THEREFORE,

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

Section 1. The following described property:

S 50 Ft. of Lot One (1) and S 50 Ft. of Lot Two (2), Lots Three (3) and Four (4), Less a Tract of LD Desc as Foll: Beg at NW cor of Lot Three (3); then at an assmd brg of N 71 Deg 51 Min 52 Sec E along N Line of Block One (1) a Dist of 77.70 Ft; then S 02 Deg 52 Min 4 Sec E a Dist of 113.75 Ft; then S 74 Deg 33 Min 56 Sec W a Dist of 76.81 ft, more or less, to a pot on W line of Lot Three (3); then N 02 Deg 52 Min 32 Sec W a Dist of 110 ft, more or less, to point of beg and S 76 ft of Lot Five (5), Lots Five (5) through Seventeen (17), and Lots Nineteen (19) through Forty-Nine (49), Block One (1) of Amended Plat of Oak Grove Addition to the City of Fargo, Cass County, North Dakota;

and,

Lot Five (5), exc that PC Desc as Foll: Comm at a point where the W line of said Lot Five (5) inter with the S line of said Lot, then E along the S line of said Lot Five (5) 19 ft, then in a northerly direction in a straight line to a point where the N line of Lot

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 Five (5) inter with the W line of Lot Five (5), then a southerly direction along the W
2 line of Lot Five (5) to point of beginning, Pt of Lot Nine (9) Desc as Foll: Beg at a
3 point on E line of Lot Nine (9) where same adj to Lot Eight (8), then N 10 Ft, W
4 24.12 ft to inter line between Lot Eight (8) and Nine (9), then in south easterly
5 direction along said inter line between Lot Eight (8) and Lot Nine (9) a distance of
6 26.11 ft. to beginning, and Lots Six (6) through Eight (8), Block Three (3) of
7 Amended Plat of Oak Grove Addition;

8 and,

9 The portion of Lot Sixteen (16) Beg at SW cor of Lot Sixteen (16), E 192 Ft. NW 30
10 Ft., SW 150 Ft. S 63 Ft. to beginning, Lots Seventeen (17) through Forty-Three (43),
11 Block Four (4) of Amended Plat of Oak Grove Addition;

12 and,

13 Lots One (1) through Fifteen (15), Lots Seventeen (17) through Twenty-five (25),
14 and Lot Sixteen (16), less the portion of adjacent dedicated right-of-way, Block Five
15 (5) of Amended Plat of Oak Grove Addition;

16 and,

17 Lots One (1) through Forty-One (41), Block Six (6) of Amended Plat of Oak Grove
18 Addition;

19 and,

20 Lots One (1) through Thirty-five (35), Block Seven (7) of Amended Plat of Oak
21 Grove Addition;

22 and,

23 All of Blocks E, F, G, and H of Amended Plat of Oak Grove Addition;

and,

All of North Terrace North between Short Street North and Ash Street North,

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

adjacent to Lots Twenty-Five (25) through Thirty-Seven (37), Block Four (4), and
Lots One (1) through Eleven (11), Block Five (5) of Amended Plat of Oak Grove
Addition,

are hereby rezoned from "SR-2", Single-Dwelling Residential, District, "SR-3", Single-Dwelling,
Residential, "MR-2", Multi-Dwelling Residential, and "AG", Agricultural, District to, "P/I", Public
and Institutional, District.

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

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

Dr. Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

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NOTICE OF HEARING

Application for Alcoholic Beverage License Transfer

Notice is hereby given that the Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing in the City Commission Room, City Hall, on Monday, April 3., 2023 at 5:15 o'clock p.m. to consider an application for transfer of a Class "FA-Golf" Alcoholic Beverage License from Living the Dream, LLC d/b/a Legends, to Kjerbeersten, LLC, d/b/a 19th Hole at Rose Creek, 1500 East Rose Creek Parkway, Fargo.

Any interested person may appear and will be heard.

City Auditor's Office
(March 8, 2023)

MEMORANDUM

TO: Liquor Control Board

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Application – 19th Hole at Rose Creek

DATE: March 21, 2023

The following application for a liquor license was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class: FA-Golf – Full Service liquor license for Golf Course
Business Name: 19th Hole at Rose Creek
Location: 1500 Rose Creek Parkway
Applicants: Kjersten Skatvold & Justin Blanford

This application is for the transfer of a Class FA Golf liquor license. This facility will continue to operate as a full service golf course.

Being no significant concerns, staff & Liquor Control recommend approval of the issuance of a Class FA Golf alcoholic beverage license to Kjerbeersten, LLC d/b/a 19th Hole at Rose Creek. The complete application is available for review in the Auditor's Office.

Recommended Motion:

Move to approve the issuance of a Class FA Golf alcoholic beverage license to Fargo Kjerbeersten, LLC d/b/a 19th Hole at Rose Creek.



FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

CRIMINAL INVESTIGATIONS DIVISION

MEMORANDUM

To: Chief David Zibolski

From: Sergeant Tom Morris *TM*

Date: 02.24.2023

RE: Alcoholic Beverage License Application, Class "FA-Golf", 19th Hole at Rose Creek

Application for a Class "FA-Golf" Alcoholic Beverage License transfer from Living the Dream, LLC d/b/a Legends, to Kjerbeersten, LLC d/b/a 19th Hole at Rose Creek located at 1500 Rose Creek Parkway, Fargo

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

During this investigation, I examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:

Skatvold, Kjersten – Owner/Manager – Maiden Name (Nerland)

Criminal History-

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (<https://chs.state.mn.us/>) showed no criminal activity.

Credit History-

Kjersten Skatvold's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

RECEIVED
FARGO POLICE DEPARTMENT
FEB 24 2023
MICHAEL BERNIER *MB*
LIEUTENANT
REF: *Carl Jason*

RECEIVED
FARGO POLICE DEPARTMENT
FEB 24 2023
GEORGE VINSON *GV*
CAPTAIN
REF: *AC*

RECEIVED
FARGO POLICE DEPARTMENT
FEB 27 2023
TRAVIS STEFONOWICZ
ASSISTANT CHIEF OF POLICE
REF: *Chief Zibolski*

Blanford, Justin – Owner/Manager

Criminal History-

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (https://chs.state.mn.us/) showed no criminal activity.

Credit History-

Justin Blanford's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Investigation Notes

This application is for a class "FA-Golf" alcoholic beverage license (Authorizes the licensee to sell beer, wine and spirits "on-sale" only, located on 9 holes or more on a USGA Golf Course. Requires 25% (April-October) or 50% (November-March) or more of its annual gross receipts from non-alcohol sales.) for 19th Hole at Rose Creek, 1500 East Rose Creek Parkway, Fargo, ND.

Business Location

19th Hole at Rose Creek is located at 1500 East Rose Creek Parkway, Fargo, ND. Other business in the area with alcoholic beverage licenses include Woody's Bar and Frank's Lounge.

Conclusion

This background investigation is being forwarded for your review and recommendation to the City of Fargo Liquor Control Board.

A handwritten signature in black ink, appearing to read "R. Stoy". The signature is stylized and cursive.

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Company name (LLC, Inc): Kjerbearsten, LLC

Doing business as: 19th hole at Rose Creek

Business address (location): 1500 E. Rose Creek Pkwy S. Fargo, ND

Mailing address: 705 18th Ave N. Moorhead, MN 56560

Business e-mail address: ANDY@99BOTTLES.BIZ

Phone number: (701) 261-3687 Other number: () _____

The following section to be completed by City Staff:

Date Received by Auditor's Office: 2/14/23

Investigations Fee Paid (\$250) Yes No Date Paid: 2/14/23 Check # 53453

Reviewed – Police Department by: _____ Date: _____

Comments (or see attached report): Transfer "Legends"

Approval Recommendation Denial Recommendation

David S. Jilk
Chief of Police

02-27-23
Date

Reviewed – Liquor Control Committee on (date): _____

Approval Recommendation Denial Recommendation
(See attached comments or minutes)

Reviewed – City Commission on (date): _____

Approval Denial

Steve Sprague

From: John Krings <John@kaler-doeling.com>
Sent: Wednesday, February 15, 2023 8:11 AM
To: Steve Sprague
Cc: MHanson@nilleslaw.com; andy@99bottles.biz; Marissa West
Subject: Rose Creek FA-Golf liquor license

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

Hi Steve,
John Krings here on behalf of Livin' the Dream LLC following up on the FA-Golf liquor license for Rose Creek which was put in suspended status last fall. Livin' the Dream has reached an agreement to transfer the license to Kjerbeersten LLC, the new tenant at Rose Creek (I am including Andy Skatvold as the manager/officer of Kjerbeersten LLC). As you know, Big Erv's Bar & Grill LLC continues to hold a security interest in the license. As such, I am cc'ing Mark Hanson, its attorney, as well. Please let me know if there are any specific forms I need to have my client fill out to effect a timely transfer of the license to Kjerbeersten LLC, or if this email is sufficient to get the ball rolling. I'm in the office all day should you prefer to speak over the phone.
Thanks, John.

John M. Krings Jr.
Kaler Doeling, PLLP
3429 Interstate Blvd
PO Box 9231
Fargo, ND 58106-9231
(701) 232-8757
(701) 232-0624 (fax)

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NOTICE OF HEARING

Application for Alcoholic Beverage License

Notice is hereby given that the Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing in the City Commission Room, City Hall, on Monday, April 3., 2023 at 5:15 o'clock p.m. to consider an application for a Class "GH" Alcoholic Beverage License from Spaghetti Western, LLC d/b/a Spaghetti Western to be located at 524 Broadway N, Fargo.

Any interested person may appear and will be heard.

City Auditor's Office
(March 8, 2023)

MEMORANDUM

TO: Liquor Control Board

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Application – Spaghetti Western

DATE: March 21, 2023

The following application for a liquor license was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class: GH – Beer & Wine in a restaurant, no bar allowed
Business Name: Spaghetti Western
Location: 524 Broadway
Applicants: Fabrizio DiGianni & Brigid Maguire

This application is for the transfer of a Class GH liquor license. This facility will operate as a restaurant and the alcohol will be served as an adjunct to the dining experience. Alcohol will be served at a table or booth, there will not be a physical bar.

Being no significant concerns, staff & Liquor Control recommend approval of the issuance of a Class GH alcoholic beverage license to Spaghetti Western, LLC d/b/a Spaghetti Western. The complete application is available for review in the Auditor's Office.

Recommended Motion:

Move to approve the issuance of a Class GH alcoholic beverage license to Fargo Spaghetti Western, LLC d/b/a Spaghetti Western.



FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

CRIMINAL INVESTIGATIONS DIVISION

MEMORANDUM

To: Chief David Zibolski

From: Sergeant Tom Morris *Tom*

Date: 02.27.2023

RE: Alcoholic Beverage License Application, Class "GH", Spaghetti Western

**Application for a Class "GH" Alcoholic Beverage License from
Spaghetti Western, LLC d/b/a Spaghetti Western to be located at 524 Broadway N, Fargo**

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

During this investigation, I examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:

Di Gianni, Fabrizio – Owner/Manager

Criminal History- A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov), Minnesota public records (<https://chs.state.mn.us/>) and an internet search of California public records showed no criminal activity.

Credit History- Fabrizio Di Gianni's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

RECEIVED
FARGO POLICE DEPARTMENT
FEB 28 2023
MICHAEL BERNIERI *MB*
LIEUTENANT
REF: *Capt. VanSoren*

Maguire, Brighid – Owner/Manager

Criminal History-

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov), Minnesota public records (<https://chs.state.mn.us/>) and an internet search of California public records showed no criminal activity. Brighid did disclose a 2010 DUI in California on the application. I did not inquire about this as it did not show up in any record check and it was almost 13 years ago.

Credit History-

Brighid Maguire's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Investigation Notes

This application is for a class "GH" alcoholic beverage license (Authorizes the licensee to sell beer and wine "on-sale" only, no bar area allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and food products and not from the sale of alcoholic beverages.) for Spaghetti Western, LLC d/b/a Spaghetti Western located at 524 Broadway N, Fargo, ND.

Business Location

Spaghetti Western is to be located at 524 Broadway N, Fargo, ND. Other business in the area with alcoholic beverage licenses include Bismarck Tavern and Cowboy Jacks (both in the 500blk of Broadway). There are numerous other businesses on Broadway, further to the south that have alcoholic beverage licenses.

Conclusion

This background investigation is being forwarded for your review and recommendation to the City of Fargo Liquor Control Board.

A handwritten signature in black ink, appearing to read "R. Hoey", is written over a large, faint, circular stamp or watermark.



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Legal Company Name: SPAGHETTI WESTERN, LLC
(Must match State of North Dakota registration name)

DBA Name: SPAGHETTI WESTERN

Is the establishment applying for (or has) a food license under the same name? Yes No

Business location address: 524 N. BROADWAY DR, FARGO 58102

Mailing address: 804 10TH ST. S. UNIT A6, FARGO ND 58103

Business E-mail address: SPAGHETTIVESTERFARGO@GMAIL.COM

Local Manager E-mail address: MAGUIRE5000@YAHOO.COM

Best Contact Phone number: (310) 880.2391

Anticipated Date of Opening: APRIL 17, 2023

Please contact the Auditor's Office at 701-241-1301 or 241-8108 to determine the appropriate License Classification Type that would fit your business model.

GH
The following section to be completed by City Staff:

Date Received: 2/16/23 Class of License: GH Transfer: Yes No

Investigations Fee Paid (\$250) Yes No Date Paid: 2/16/23

Police Department review completed by: _____ Date: _____

(Attached recommendation report):

Approval Recommendation

Denial Recommendation

Amil B. Jhal
Chief of Police

03-01-23
Date

45

March 30, 2023

Honorable Board of City
Commissioners
City of Fargo
Fargo, North Dakota

Re: Excavation Fees and Guidelines

Dear Commissioners:

At the January 24, 2022 City Commission meeting, the City Attorney was authorized to update Section 18-09 Section of our City Ordinances. After reviewing this Ordinance, and the extent of the revisions, it was decided to repeal and replace this Code and add "Excavation Fees and Guidelines" to the requirements. The Guidelines would be approved by a Resolution of the City Commission and would make future updates more efficient. Attached is a draft copy of proposed Excavation Fees and Guidelines for your review.

The Guidelines are in draft form tonight and we plan to place them on the agenda at the next meeting for approval by the Commission along with the final reading and adoption of the new Excavation Code. This will give you two weeks to review and offer any comments on the new items in the Guidelines.

I plan to give a short presentation on some of the changes proposed in the Guidelines. PWPEC has reviewed the Guidelines and they have been approved as submitted.

Changes included in the new Ordinance and Guidelines include:

1. Changes in the fee structure. There will be a fee for removal items but we removed fees for additional roadway removal. We also added a new fee for impacts to the public during excavation. The intent is to encourage our excavators to complete the work as quickly as possible.
2. We also want to include some additional requirements for Protected Streets. Protected streets include arterials, collectors, and any street that has a structural improvement that is 10 years old or newer. Protected Streets are the more heavily traveled streets or streets that have had a significant investment in the last 10 years. We want to ensure the best street patch possible and try to reduce the occurrence of potholes in our repairs.
3. A new section has been added to better define the process for revoking a permit and/or City Excavation License.

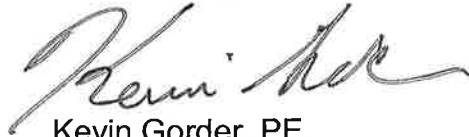
4. Increasing the Bond requirement to obtain a City Excavator License

We will highlight additional changes during our presentation. During this process of developing this new Ordinance, we have also tried to be very cognizant of the impacts to our residents and the costs incurred when they need to repair their sewer service or water service.

Recommended Motion:

No motion needed tonight, the Excavation Fees and Guidelines will be on the consent agenda at the next meeting for approval by the City Commission.

Respectfully,

A handwritten signature in black ink, appearing to read "Kevin Gorder". The signature is fluid and cursive, with a prominent initial "K" and a long, sweeping tail.

Kevin Gorder, PE
Division Engineer

Excavation Fees and Guidelines

The following fees and guidelines supplement the requirements of Fargo Municipal Code Article 18-09 (Excavation Code). All work must also comply with the Specifications for Construction, except as modified herein.

I. Fee, Insurance, and Bond Requirements

- A. The fee for a City-issued Excavator's License shall be \$250 annually due at the time of application. All City-issued Excavator Licenses expire on March 1.
- B. An applicant must file proof of liability insurance with the City Auditor and must agree in writing, on forms provided by the City Auditor, to hold the City harmless from any and all damages claimed by reason of negligence, carelessness, incompetence, or omission on the part of the applicant in the performance of its work, the same to include, but not be limited to, careless guarding of excavations or failure to restore all public properties to as good a condition as they were before such work was done. The minimum amount of insurance shall be \$1,000,000 per occurrence.
- C. No license shall be granted by the City Auditor unless the applicant shall have given a bond that shall be in effect for two years, with good and sufficient surety, conditioned, among other things, that the applicant will save harmless the City from damages caused by reason of any negligence or faulty work by the applicant or any employee of the applicant, and that the material used and the work done shall be strictly in accordance with the requirements of 18-0909. The minimum amount of the bond shall be \$100,000 with the effective date of March 2.

II. General Permit Conditions

- A. Requirements before starting excavation
 1. Any Excavator that places concrete on City Streets must also submit proof of ACI Concrete Flatwork Certification as required in Section 2100 of the Specifications.
 2. The Permittee shall give all businesses affected by the project a minimum of 7 calendar days written notice of the project and the anticipated impacts to their business. This notice allows the Permittee and the adjacent businesses the time needed to coordinate garbage pickup, deliveries, etc. This written notice shall include the name of the Permittee and contact information for the onsite supervisor.
 3. The Permittee shall give all residents affected by the project a minimum of 2 calendar days written notice of the project and the anticipated impacts to their residence. Impacted residents include all residents affected by a water main shutdown and also residents that are in an area where the roadway is rerouted. This written notice shall include the name of the Permittee and the contact information for the onsite supervisor.
 4. The Permittee shall give the City Engineer a minimum notice of 2 business days prior to beginning a project so a press release can be created and distributed for the general public. This notice shall include a start date, impacts, and duration of the impacts.

5. The Permittee shall develop a traffic control plan if the work requires a sidewalk, parking lane, traffic lane, or road closure. The traffic control plan must include details on how traffic and pedestrians will be managed during the project. The sidewalk on one side of the street must remain open to the public at all times unless an alternate plan is approved by the City Engineer. The traffic control plan must be approved by the City Engineer at least two business days prior to work starting. Any changes to the traffic control plan must be approved by the City Engineer.

Traffic control on arterials and collectors shall meet all requirements for Traffic Control – Type 2 as specified in Section 4100 of the Specifications. Traffic control on all other roadways shall meet Traffic Control – Type 1 in Section 4100 of the Specifications. Permittee is responsible for all costs associated with traffic control.

6. Business Signing – Permittee shall provide business signing as specified by the City Engineer. Businesses that are impacted by a closed roadway shall have signs along the detour route indicating the best option for access to their business.
7. Trees – The Permittee shall use care to protect trees within the work area that are to remain during construction. In order to minimize tree damage the critical root zone (CRZ) must be protected from heavy construction activities at all times. The Permittee will be required to establish and mark out the CRZ areas prior to construction or staging occurring.

In the event the Permittee has work that must be performed within the CRZ, every effort must be made to minimize damage to the trees within the CRZ. Prior to commencing work within the CRZ, the Permittee will be required to present a plan of action to City Engineering that may include using smaller equipment, boring utilities, or other means of non-evasive action that will protect the trees. All branches and any roots over 4” diameter that are to be cut will require an inspection by a Forestry Department representative or other designated individual. Exposed roots shall be cut clean and backfilled as quickly as possible to avoid drying out.

If damage is caused to any existing tree due to the Permittee failure to adhere to the tree protection requirements, the City Forester will assess the damage to determine if the damage can be repaired or if the tree must be removed. Any action plan, as determined by the City Forester, to repair damaged trees shall be done by a certified arborist at the Permittee’s expense. If damage is so severe that tree removal is necessary, then the City will bill the Permittee for the appraised value of the trees, as determined by the City Forester utilizing the most recent edition of the Guide for Plant Appraisal by the Council of Tree and Landscape Appraisers. The Permittee shall make payment within 30 days or interest will accrue until paid in full, in accordance with City policy.

8. The excavation work shall be performed and conducted so as not to interfere with access to emergency facilities such as fire hydrants, fire stations, fire escapes and any other emergency facilities designated by the City Engineer. If it becomes necessary to impact any of these facilities, the Permittee must contact the City Engineer and obtain approval prior to conducting any work that interferes with emergency facilities.

9. Permittee will have 30 days from the date of notice to complete all work in the Right of Way. The City will take necessary actions to complete temporary patches at any locations where the sidewalk or street are not finished. Any items in the right of way that are considered a hazard to the public will also be remedied by the City. The definition of hazard will be determined by the City Engineer. The cost to complete this work by the City or by any party contracted with the City will be the responsibility of the Permittee. Payment must be made by the Permittee within 30 days or interest will be charged.

B. Requirements during excavation

1. Permittee shall conduct and carry out excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the excavation work, the Permittee shall take appropriate measures to reduce, to the fullest extent practicable, noise, dust and unsightly debris.
2. Boring or other methods to prevent cutting of pavement may be required by the City Engineer.
3. Permittee must comply with City noise ordinances, except in cases of emergency with written approval of the City.
4. Permittee shall install and maintain all traffic control and add additional devices as needed or as directed by the City Engineer.
5. The Permittee shall preserve and protect from damage any adjoining property by providing adequate support and taking all necessary measures. The Permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the work and shall be responsible for all damage to public or private property resulting from its failure to properly protect and carry out said work.
6. No cleated equipment, buckets, or outriggers may be used on pavement unless pavement can be protected from damage to surface or subgrade.
7. The Permittee shall spot the location of all underground facilities within the excavation area by exposing prior to machine digging and protect the same against damage.
8. Permittee shall not inhibit or alter existing drainage patterns during or after the permitted work has been completed and restored.
9. Potholing shall be allowed under permit in City sidewalk or ADA ramps for locating purpose. Potholed sections shall be replaced during restoration. Partial section replacement is not permitted. The entire section of sidewalk and/or ADA ramp shall be removed and replaced to the nearest score line. Refer to Section 2300 of the Specifications. Additional ADA ramp layouts are available at www.fargond.gov Permittee shall contact the City Engineer prior to potholing in the street pavement section.

C. Removals

1. Removals shall follow Section 1050 of the Specifications. The use of heavy duty pavement breakers is not allowed. For removal of concrete pavement, the Permittee shall “double saw” the pavement at the removal lines to eliminate the risk of spalling

the pavement that is to remain. The Permittee shall repair all spalled concrete by removing and replacing the entire spalled panel to the next joint at his sole expense.

2. All excavated material piled adjacent to the trench or in any street must not endanger those working in the trench, pedestrians or users of the streets, and minimize inconvenience to those using the streets and adjoining property. The City Engineer may require the Permittee to remove the excavation material from the worksite. Permittee must secure the necessary permission and make all necessary arrangements (permits, plans, etc.) for all required storage and disposal sites.
3. As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work

D. Excavation

1. The Permittee shall verify that field conditions match the records provided during project planning. Any deviations from the approved plan must be approved by the City Engineer.
2. If the existing conditions do not match the approved site plan, the Engineer that designed the project must be contacted to redesign the work in the Right of Way. This revised plan must be resubmitted to the City Engineer for approval prior to work continuing.
3. Unstable pavement shall be removed over cave-outs and over-breaks and the restoration shall be treated as part of the main excavation.
4. Pavement edges shall be free of spalls and a full depth saw cut to leave a vertical face. Concrete pavement shall be removed a minimum of 1' from the edge of trench and shall follow existing joints. Asphalt pavement removals shall be normal or perpendicular to the roadway.
5. All damage to the existing surfaces must be repaired by the Permittee. Damage repair must be approved and accepted by the City Engineer.
6. Protection and Relocation of Utilities – Interference with existing facilities is prohibited without the written consent of the City Engineer and the facility owner.
 - a) City facilities may not be moved without prior written authorization from the City Engineer. When authorization is given, the Permittee shall be solely responsible for the cost of moving the City facilities.
 - b) Permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus impacted by the excavation work at the direction of the facility owner.
 - c) Permittee may not move private facilities without the express written consent and the direction of the facility owner. The City is not responsible for any costs associated with the relocation or restoration.
 - d) Permittee must comply with North Dakota One Call requirements and locate and expose all vertical and horizontal underground facilities before starting excavation.
7. Damage to City facilities – Permittee is responsible for repair and replacement of any damaged City facilities. Any Permittee repairing or replacing damaged City facilities must be approved by the City Engineer prior to starting repair or replacement. City shall inspect the repair to ensure it adheres to the latest Plumbing or applicable Code, and City Specifications. Failure to repair the damage within 48 hours will result in City undertaking and completing the work, at Permittee's sole expense.

8. Whenever a substructure is abandoned, except the abandonment of service lines three inches or less in diameter designed to serve single properties, the entity owning, using, controlling or having an interest therein shall, within 30 days after such abandonment, file with the City Engineer a statement in writing giving, in detail, the location of the substructure so abandoned. If such abandoned substructure is in the way or subsequently becomes in the way of an installation by the City or any other public body, which installation is pursuant to a governmental function, the owner shall remove such abandoned substructure or interfering portions thereof, or pay the cost of its removal during the course of excavation for construction of the facility by the City or the public body.

E. Backfilling

All backfilling must be completed within 48 hours of the commencement of the excavation unless prior authorization has been granted by the City Engineer for a longer duration. Backfilling of the excavation shall meet the requirements as detailed in the Specifications.

1. Compaction testing will be performed by the City Engineer except for protected streets defined in Section II.G. The City Engineer reserves the right to waive compaction testing. If the area is paved prior to compaction tests being performed, the Permittee shall remove the patch material at its sole expense for testing purposes.
2. Backfill material shall meet Specifications for the area that is backfilled. If aggregate material is contaminated during removal, new material meeting Specifications shall be used by the Permittee.
3. Under all pavement conditions, the aggregate base depth shall match the surrounding aggregate base and the base material must meet Specifications.

F. Restoration

1. Concrete, dowel requirements, and curb and gutter shall meet Section 2100 of the Specifications.
2. Asphalt shall meet Section 2400 of the Specifications. Corrective measures for any items not meeting Specifications will be at the discretion of the City Engineer up to and including removal and replacement.
3. All patches must be inspected after they are prepared and prior to placing any final road surfacing material.
4. All site restoration, including pavement replacement, sidewalk, curb and gutter, ADA ramp replacement, top soil depth requirements, fine grading, seeding, and mulching shall meet Specifications. Any surface disturbed by excavation shall be restored to as good a condition as it was prior to excavation. Restoration shall be made within 72 hours of the completion of backfilling unless a written time extension is granted by the City Engineer.
5. All cleanup operations at the location of such excavation shall be accomplished at the expense of the Permittee.
6. Immediately after completion of said work the Permittee shall clean up and remove all refuse and unused materials of any kind resulting from said work. Upon failure to

do so, within 24 hours after having been notified, said work may be done by the City and the cost charged to the Permittee.

7. Whenever it may be necessary for the Permittee to excavate through any landscaped area the area shall be re-established in a manner that is as good as or better than before the work started.
8. All construction and maintenance work shall be done in a manner designed to leave the area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began.
9. Permittee is responsible for all restoration.
10. Striping – Restoration of epoxy striping and plastic markings will be completed by the City Engineer. The Permittee will be responsible for payment of these items based on the prices in Appendix D.

G. Protected Streets

Protected Streets fall into two categories. The first is arterials or collectors that carry larger volumes of traffic and impact more users. The second category is streets that have a structural pavement surface that is 10 years old or less. Both categories have additional requirements that are listed in this section including traffic impact fees and possible re-inspection fees as shown in Appendix A.

1. The City Engineer will provide a map with a list of Protected Streets.
2. Fees for Protected Streets can be found in Appendix A. Fees for Protected Streets do not apply to private service connections on owner occupied single family residences.
3. An Inspection Checklist can be found in Appendix B that must be followed for work performed on all Protected Streets. The Permittee shall contact the City Engineer after each item is complete for inspection. If any of the checklist items are covered prior to inspection, the Permittee will be required to uncover so it can be inspected by and at the Permittee's expense. Inspection fees for inspection of covered work will be the responsibility of the Permittee.
4. Compaction tests must be performed on Protected Streets. The Permittee shall hire a testing firm approved by the City to perform all backfill test requirements. Backfill shall be placed in 12" lifts with a compaction test every 2' or as directed by the City Engineer. All costs associated with the required testing and any additional work needed to meet backfilling requirements to meet Specifications shall be the sole responsibility of the Permittee. The Permittee must provide proof the backfilling meets or exceeds compaction requirements prior to paving the excavated area. If the area is paved prior to compaction tests being performed, the Permittee shall remove the patch material by and at their expense for testing purposes.
5. If work is suspended for more than 48 hours, the Permittee shall remove lane closures and reopen any portion of the roadway that can be safely reopened.
6. Roadway Surface
 - a) Concrete placed shall meet Specifications and a mix design shall be submitted one week before placement for approval by the City Engineer. Curing compound shall

be on site prior to concrete placement. Joints shall be sawed and sealed prior to roadway opening.

- b) Asphalt placed shall meet Specifications and a mix design shall be submitted one week prior to placement for approval by the City Engineer. Asphalt shall be Class 43 and asphalt oil shall meet PG58H-34 at a minimum.
- c) Roadway smoothness of all patches shall meet Specifications and any corrective measures needed to meet the specifications shall be arranged by the Permittee. All costs for corrective measures shall be the responsibility of the Permittee.

IV. Permit to Excavate

A. An application for a permit allowing excavation or obstruction of the right-of-way shall be made to the City Engineer. Incomplete applications will not be considered and will be returned to the Permittee. An application is complete only upon compliance with the requirements of the following provisions:

- 1. The applicant is a current "Licensed Excavator" with the City of Fargo unless exempted by Article 18-0904(A).
- 2. Applicant has reviewed and agrees to meet all General Permit Conditions.
- 3. Submission of details that include the proposed work, traffic control, and other information needed to complete the work.
- 4. A drawing or detailed explanation of the proposed work and the distance between the proposed installation and City utilities. Any proposed work over one (1) block long must have a drawing to scale showing the proposed installation and the distance from City utilities. A block is defined as 350'.
- 5. A traffic control plan if the work requires a sidewalk, parking lane, traffic lane, or road closure.
- 6. A schedule of major activities in the right of way including durations.
- 7. List of subcontractors working in the right of way.
- 8. List of other agencies permitting the proposed project and the status of those permit applications.
- 9. Any impacts to boulevard trees must be noted in the application. Tree impacts include impacts to the Critical Root Zone (CRZ) and compliance with City Ordinance. The CRZ is an area defined by the diameter of the tree as measured at a point 4.5 feet above the ground line. For every 1 inch of tree diameter, a 1 foot clear zone must be established to protect the CRZ. For a 24 inch diameter tree, the CRZ would be a 24 foot radius from the base of the tree.

B. Issuance of Permit – The City Engineer may impose reasonable conditions upon the issuance of the permit to protect the structural integrity of the right-of-way and to protect safe passage of the public through the permitted area. The City Engineer may require a design locate and an onsite meeting with representatives of the Permittee, Contractor,

Crew Chief, Utility Engineer, and Utility Inspector prior to issuing a permit. A 4 hour notice must be provided prior to scheduling an onsite meeting.

- C. Fees – The City will bill the Permittee and the Permittee shall make payment within 30 days or interest will accrue in accordance with City policy until paid in full. The City may require permit fees be paid prior to the issuance of the permit.
1. Administrative Fees – Administrative fees include permit fees and fees associated with failing to comply with these Guidelines, such as working without a permit and working without a license. Administrative fees are listed in Appendix A.
 2. Public Impact Fees – Public Impact Fees are fees based on impacts to the public during work when sidewalks, roadways, or parking is restricted or limited. Public Impact fees are listed in Appendix A.
 3. Inspection Fees – Inspection fees apply to any rework caused by installation of items without previous items getting inspected and approved by the City Engineer. Inspection fees are listed in Appendix A.

V. Final Acceptance

For sanitary sewer service connections completed prior to November 1, the City will video the sewer main by March 1 of the following year. Any defects detected on the video must be repaired by the Permittee no later than June 1.

After restoration is completed, Permittee shall contact the City Engineer for Final acceptance. City will inspect the work and notify the contractor of any defects. If defects are discovered, the City will notify the Permittee and the Permittee will have 30 calendar days to complete repairs. If repairs are not complete within 30 calendar days, no further permits will be issued to the Permittee and the City Engineer will make arrangements for repair. All costs incurred to complete repairs will be billed to the Permittee. Permits will not be issued until full payment is received by the City Engineer. All permits are considered open until a written Final Acceptance is issued by the City Engineer.

Permittee shall guarantee all work for 2 years from the date of Final Acceptance on all work completed. Permittee will continue to be responsible for any damage incurred that is not clearly visible at the time of final acceptance. Any damage discovered after Final Acceptance remains the responsibility of the Permittee. The Permittee will make the necessary arrangements to repair this damage within 30 calendar days of notification.

VI. Winter construction

Winter construction shall generally be from December 1 to May 1, but may be modified by the City Engineer based on current and forecasted weather conditions. The City Engineer will notify active excavators of the winter construction dates a minimum of 2 weeks prior to the

start of winter construction. Non-emergency excavations will not be allowed during winter construction dates. Exceptions to the winter construction may be granted at the discretion of the City Engineer.

Emergency excavations during the winter shutdown will require all trenches under the traveled way be backfilled with gravel that is not frozen and tamped in six inch lifts or layers to at least one foot back of curb line. The upper 1.0 feet of the trench shall be composed of concrete slurry to be kept at grade at all times during winter construction dates and then restored to permanent resurfacing within 30 days of winter construction date removal in the spring. The permit will remain open and the Permittee is responsible for all maintenance of the patched area until permanent restoration of the pavement and sidewalk is completed and accepted.

VII. Violations

Failure to follow applicable Local Ordinances, State or Federal Laws, or Standards published by the City of Fargo will result in verbal or written notices and/or additional fees. Penalties may include fees, cancellation of permit, and/or revocation of their Fargo Excavator License. Details are located in Appendix C.

Appendix A

Administrative Fees

Permit Fee	\$100
Excavating without a permit	\$500
Street Excavation	\$50
Sidewalk Excavation	\$50
Inspection Fees	\$20/day for any rework required due to covering work that has not been inspected.

Public Impact Fees – Applicable to each route impacted during excavation

Private Service repairs for owner occupied single family residence

Sidewalk Closure	\$100/week after 2 weeks until completion
Lane	\$100/week after 2 weeks until completion An additional week will be allowed for a concrete street

Public Impact Fees – Not applicable to owner occupied residence private service work

Sidewalk Closure	\$100/week
Parking Spot Closure	\$100/week less than 5 spots
Parking Spot Closure	\$250/week 5 or more spots

Protected Streets

Arterial Streets

Lane Closure	\$300/week
Full Closure	\$500/week

Collector Streets

Lane Closure	\$150/week
Full Closure	\$300/week

Residential Streets

Lane Closure	\$100/week
Parking Lane Closure	\$40/day

All other Streets

Lane Closure	\$100/week
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Appendix B – Inspection Checklist

1. Traffic control – The applicant is responsible for providing a traffic control plan that meets MUTCD and Specifications. The traffic control plan must be approved by the City prior to work starting. Traffic control installation must be approved prior to the applicant starting the removal process.
2. Removal Limits – Prior to starting work a meeting shall be held with the City Engineer to determine removal limits and traffic control requirements.
3. Removal Items – Special attention shall be given to colored concrete, brick, ADA ramps, structural soil, reinforcing fabric, sidewalk, and roadway surface.
4. Backfilling of the excavation shall be in 12” lifts with compaction tests performed by an approved testing firm after completing 2 12” lifts. All coordination and costs will be the responsibility of the Permittee.
5. Reinforcing Fabric – When reinforcing fabric exists, the removal limits shall be extended to allow for a 12” overlap of the reinforcing fabric during backfilling operations.
6. Base material – Refer to Section 2070 of the Specifications for requirements. The City must inspect the base prior to completion of the restoration. If the restored area is paved prior to City inspection, the Permittee shall remove any material requested by the City to verify material depth by and at the Permittee’s expense unless the Permittee provides proof of depth and compaction results to the City.
7. Asphalt Patch – Refer to Section 2400 of the Specifications. Asphalt patch material must be FA 43 with PG 58H-34 oil. The applicant shall submit a mix design prior to starting the excavation. All mix designs must be approved by the City before asphalt can be placed in the patch area. Placement of the asphalt material must meet the latest version of the Specifications.
8. P.C. Concrete w/Asphalt Overlay - Asphalt shall be trimmed with asphalt spade or concrete saw. P.C. concrete shall be placed to a depth matching the surrounding concrete thickness and shall be reinforced in accordance with the Specifications. After a curing time, as approved by the City Engineer, the patch shall be painted with asphaltic cement and filled with compacted hot mix asphalt in accordance with Section 2400 of the Specification.
9. P.C. Concrete – Refer to Section 2100 of the Specifications. Dowel bars and reinforcing shall meet the same section of the Specifications. All concrete material properties must be tested by an approved testing firm during placement of the concrete. All coordination and costs will be the responsibility of the Permittee.
10. Graveled Surfaces – Refer to Section 2800 of the Specifications. Gravel surfaces shall be bladed, shaped and resurfaced with a minimum of six inches of gravel.
11. ADA Ramps and Sidewalks – Refer to Section of 2300 of the Specifications. Partial removals of ADA ramps are not permitted. Complete replacement of the ADA ramp or sidewalk ramp shall be replaced to conform to the latest edition of the Specifications. If the existing sidewalk isn’t ramped, it shall be replaced with an ADA ramp only if the curb is also removed. Additional sidewalk details can be found at www.fargond.gov
12. Curb & Gutter – Refer to Section 2100 of the Specifications.

13. Colored concrete – Every effort must be made to match the existing color of the concrete in place on the roadway.
14. Bricks – Care must be taken by the applicant to salvage all bricks in the removal area. Any damaged bricks must be replaced by the applicant. Every effort must be made to match the existing color of the brick in place on the roadway.
15. Berms are to be restored as nearly as possible to their original condition. Seeding and fine grading shall conform to Section 3100 of the Specifications.

Appendix C
Violation Schedule

Failure to use approved traffic control	\$500/day
Failure to maintain traffic control	\$100/day
Failure to follow approved plan	\$250
Failure to give notice to residents and/or Engineering	\$100

All violations can also include permit revocation and/or license revocation

Appendix D – Striping Fees

4" Epoxy	\$3.00/LF
4" Plastic	\$8.00/LF includes 4" contrast marking tape
Wider tape is prorated by width. Example: 24" is 6x the 4" price	
Epoxy Message	\$13/SF
Thermoplastic	\$50/SF
Plastic Message	\$25/SF



**CITY OF FARGO, NORTH DAKOTA
EMERGENCY DECLARATION**

WHEREAS, Winter weather and other conditions in the Red River Basin during the winter of 2022-2023 are such that there will likely be a significant flood occurrence in and around the City of Fargo in the Spring of 2023; and

WHEREAS, The National Weather Service Flood Forecast Center has predicted flood stages being reached in the City of Fargo with the potential to exceed "major" flood stage on the Red River of the North; and

WHEREAS, The City of Fargo, in preparation and anticipation of this significant flood event, is expending presently, and will continue to expend, funds beyond normal budgets for equipment, materials and other resources as may be required to protect public health, safety and welfare; and

WHEREAS, Section 10-0318 of the Fargo Municipal Code authorizes the Mayor of the City of Fargo to declare a state of emergency if the Mayor finds that the City, or any part thereof, is suffering, or is in imminent danger of suffering, civil disturbance, disorder, riot, or other occurrence, including danger of flooding of the City, or any part of the City, which will seriously and substantially endanger the health, safety, and property of the citizens.

NOW, THEREFORE, BE IT RESOLVED, That I, Timothy J. Mahoney, Mayor of the City of Fargo, do hereby find that the City of Fargo is in danger of suffering a substantial flood event and therefore hereby proclaim that a State of Emergency exists in the City of Fargo.

BE IT FURTHER RESOLVED, That I hereby authorize measures by departments of the City, agencies of local government and federal agencies to take action to limit hardships of this pending emergency upon the citizen of Fargo.

This Declaration of Emergency shall extend for a period of four (4) weeks from the date hereof, unless it is sooner amended or terminated in accordance with Section 10-0318, but may be extended for additional periods of two weeks thereafter.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Fargo, North Dakota, to be affixed this 3rd day of April 2023.

TIMOTHY J. MAHONEY, M.D.
MAYOR
FARGO, NORTH DAKOTA