

ms 8/22/12

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN ERSKINE'S ADDITION
TO THE CITY OF FARGO – HISTORIC OVERLAY DISTRICT

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

5 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
6 request on June 5, 2012; and,

7 WHEREAS, the rezoning changes were approved by the City Commission on June 11,
8 2012; and,

9 WHEREAS, pursuant to Section 20-0804 of the Fargo Land Development Code (LDC) the
10 Historic Preservation Commission has the power, among other powers and duties enumerated
11 therein, to perform functions which may be assigned or delegated to it by the Board of City
12 Commissioners; and,

13 WHEREAS, the Board of City Commissioners has found and deemed said certain parcels
14 to be an area that has historic or cultural significance and, in accordance with LDC §20-0305, has
15 determined that establishment of an H-O, Historic Overlay District, is appropriate;

16 NOW, THEREFORE,

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

18 Section 1. The following described property:

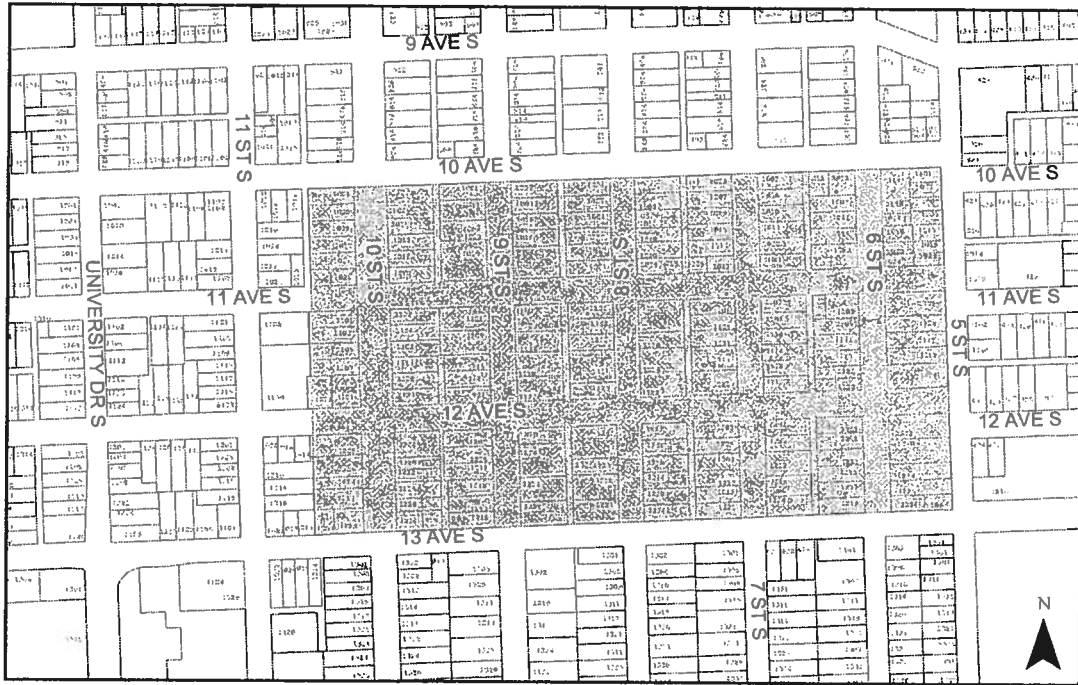
19 All of Blocks Aa, Bb, Gg, Hh, Ii, Kk, Ll, Mm, Nn, Oo, Pp, Qq, Y, X, Z; together
20 with Lots 2, 3, 4,5, 6 of Block Rr all of the Erskine's Addition to the City of
21 Fargo; Lots 1,2,3,4 and 5 & the East 10 Feet of Lots 6 and 7 of the Nelson
22 Addition to the City of Fargo; Lots 7,8,9,10,11 and 12 of the Phelp's Subdivision
23 of Part of Block 2 of the Erskine's Addition to the City of Fargo; Lots 1,2,3,and 4
of Block 1 of the Northrop's Addition to the City of Fargo,

a map of which is as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

Erskine's Historic Overlay District Boundary Map



is hereby rezoned to apply a "H-O", Historic Overlay, District".

Said property shall be referred to as the "Erskine's Addition Historic Overlay District".

Pursuant to LDC §20-0305.C, the following special development standards which shall apply to all properties, new and existing, within Erskine's Addition Historic Overlay District.

Erskine's Addition Historic Overlay District Special Development Standards

A. Authority

In accordance with Section 20-0305.C of the Fargo Land Development Code, the following special development standards or regulations shall apply to all properties (new and existing) within the Erskine's Addition Historic Overlay District.

B. Definitions

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
1. **Historic Neighborhood Structure (HNS)** is any residential structure built within the Erskine's Addition Historic Overlay District prior to 1945.
 2. **Open Space** is defined in Section 20-1202(43) of the Fargo Land Development Code as "an outdoor, unenclosed area, located on the ground or on a roof, balcony, deck, porch or terrace designed and accessible for outdoor living, recreation, pedestrian access or landscaping, but not including roads, parking areas, driveways or other areas intended for vehicular travel."
 3. **Principal Building** refers to the primary structure on a property, i.e. a house or commercial structure.
 4. **Accessory Building or Structure** refers to a structure that is subordinate to the principal building, i.e. a garage, shed, or guest house.
 5. **Style** is the vocabulary used to classify structures according to their appearance, structure, materials, and historic period. Important elements to include when assigning style are:
 - overall scale and relationship of height to width
 - façade proportions and relationship of solids to voids
 - window/door size, design, and operation
 - size, shape and proportions of entrances and porches
 - materials, texture, and pattern
 - roof forms
 - orientation, spacing, and site coverage of structures
 - landscaping, walls, and fences

17 Style Reference: A Field Guide to American Houses, Virginia and Lee McAlester,
18 Alfred A. Knopf, Inc., 1984.

19 **C. Certificate of Appropriateness**

20 In accordance with Section 20-0912 of the Fargo Land Development Code, a Certificate
21 of Appropriateness shall be issued prior to the review and issuance of any permit required
22 for the following: (*Note: A Certificate of Appropriateness is not applicable if no permit
is required*)

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

1. Any change to the **exterior** appearance of any principal building, accessory building or structure. (*Note: A Certificate of Appropriateness is not applicable for interior changes*)
2. Any new construction of a principal building, accessory building or structure.
3. The demolition of any principal building, accessory building or structure.
4. The moving of any principal building, accessory building or structure.
5. Placement or construction of a sign.

D. Special Development Standards – General

1. Open Space

At least 70% of a parcel's front yard shall be maintained as open space.

2. Front Yard Parking

Except for parking on driveways that run through the front yard to a garage, no parking is allowed in the front yard.

3. Side Yard Fencing

Standalone side yard fencing shall terminate a minimum of 2-feet behind the front façade of the principal structure.

E. Special Development Standards – Exterior Renovation

In conjunction with Section 20-0912.C(1) of the Fargo Land Development Code, the City Planner shall consider the following criteria in review of a request for a Certificate of Appropriateness regarding the exterior renovation of a principal building, accessory building or structure. A request that satisfies all of the following criteria shall be approved.

1. Principal Building

a. Exterior Cladding

1. Exterior cladding shall match the original principal building in design, dimension, detail, texture, and pattern. The use of substitute materials is permissible if matching the existing material is not technically or economically feasible.
2. If the principal building is void of its original exterior cladding, full replacement cladding shall be of a design compatible with the historic style of structures located within the district. Repair or

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

partial replacement of non-original exterior cladding shall be exempt from this regulation.

b. Windows and Doors

1. Windows and doors shall match the original principal building in design and operation. The use of substitute materials is permissible if matching the existing material is not technically or economically feasible.
2. If the principal building is void of its original windows or doors, replacement windows and doors shall be of a design compatible with the historic style of structures located within the district. The use of substitute materials is permissible if matching the existing material is not technically or economically feasible.
3. Window or door openings shall not be increased or decreased by more than 10% in dimension or total area. Any changes in dimension or area will require review by the Fargo Historic Preservation Commission.

c. Roofs

1. Roof functional and decorative features, such as roofing materials, cresting, dormers, chimneys, cupolas, vents, and gutters shall match the original in design, dimension, detail, texture, and pattern. The use of substitute materials is permissible if matching the existing material is not technically or economically feasible.
2. Skylights are prohibited on all roof planes parallel to and facing the street.

2. Accessory Buildings or Structures

- a. Alterations to accessory buildings and structures shall be compatible with the style of the principal building, and shall be subordinate to the principal building.

F. Special Development Standards - Additions

In conjunction with Section 20-0912.C(2) of the Fargo Land Development Code, the Historic Preservation Commission shall consider the following criteria in review of a request for a Certificate of Appropriateness regarding an addition to a principal building,

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

accessory building or structure. A request that satisfies all of the following criteria shall be approved.

1
2 **1. Principal Building**

3 a. Exterior Cladding

- 4 1. Exterior cladding of the addition shall match the original principal
5 building in design, dimension, detail, texture, and pattern. The use
6 of substitute materials permissible if matching the existing material
7 is not technically or economically feasible.
8 2. If the principal building is void of its original exterior cladding, the
cladding of the addition shall match the existing cladding of the
principal structure. The use of substitute materials is permissible if
matching the existing material is not technically or economically
feasible.

10 b. Windows and Doors

- 11 1. Windows and doors of the addition shall match the original
12 principal building in style, design and operation. The use of
13 substitute materials is permissible if the original material is not
14 technically or economically feasible.
15 2. If the principal building is void of its original windows or doors,
16 the window and doors of the addition shall match the existing
17 principal building. The use of substitute materials is permissible if
the existing material is not technically or economically feasible
18 3. A garage door of an attached, front-yard entered garage addition
shall not exceed 10 feet in width or 8 feet in height. A double-stall
garage will require 2 doors.

19 c. Roofs and Dormers

- 20 1. The roof form of an addition to the principal building shall be
21 consistent with the roof style and pitch of the principal building.
22 2. Flat roofs and shed roofs are prohibited, except on porches and
where consistent with the roof form of the original principal
23 building.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

- 1
2
3
4
5
6
7
8
10
11
12
3. All gable roofs shall have a minimum pitch of 6:12. All hip roofs must have a minimum pitch of 3:12.
 4. The reconstruction or addition of dormers to an existing principal building, or the addition of dormers to an addition to a principal building shall be consistent with the style of an HNS.
 5. Roof functional and decorative features, such as roofing materials, cresting, dormers, chimneys, cupolas, vents, and gutters shall match the original principal building in design, dimension, detail, texture, and pattern. The use of substitute materials is permissible if matching the existing material is not technically or economically feasible.
 6. If the roof of the principal building is void of its original functional and decorative features, the roof of the addition shall match the existing roof of the principal structure. The use of substitute materials is permissible if matching the existing material is not technically or economically feasible.
 7. Skylights are prohibited on all roofs parallel to and facing the street.

13 d. Entrances, Porches, and Decks

- 14
15
16
17
18
19
20
21
23
1. A new front entrance addition to the principal building shall face the street.
 2. A new front entrance addition to the principal building shall have no fewer than four steps, or an equivalent ramp distance, from the ground level to the bottom of the front entrance door, or shall have the first floor plane in a style compatible with an HNS.
 3. Reconstruction of an open or screened porch (not an enclosed porch which provides year-round living space) which was historically a part of the original principal building shall be allowed to be rebuilt, and as may be necessary to accurately reconstruct, shall be allowed to vary by right from any existing zone district setback standards of the Fargo Land Development Code. The burden of establishing that a porch was part of the original structure is the owner's burden, not the City's.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

4. Decks are prohibited in front yards.
5. On corner lots, decks are allowed on street side yards with screening, either by fence or landscaping.

e. Height and Elevation

1. The height of a new addition to a principal building shall not exceed the overall scale of an HNS with a maximum eave height of 25 feet.
2. The height of a new addition to the principal building shall not be greater than the height of the principal building, except in the case of a second story addition to a single story principal building, the result of which is the creation of a two-story principal building consistent with an HNS.

2. Accessory Buildings or Structures

- a. Additions to existing accessory buildings or structures shall be subordinate in scale and compatible with the design and style of the principal structure.
- b. An addition to an existing accessory building that does not meet the dimensional setback standards of the LDC and does not increase in total floor area of the existing accessory building by more than 40%, is permissible by right, provided that: 1) the existing non-conforming setback is not increased; 2) the property line from which the non-conforming setback is determined is verified by a registered land surveyor; and 3) the new accessory building addition is limited in height to no more than one-story with 10-foot maximum sidewalls.

G. Special Development Standards - New Construction

In conjunction with Section 20-0912.C(2) of the Fargo Land Development Code, the Historic Preservation Commission shall consider the following criteria in review of a request for a Certificate of Appropriateness regarding the new construction of a principal building, accessory building or structure. A request that satisfies all of the following criteria shall be approved.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

1. Principal Building

a. Proportion

1. The size and mass of the principal building in relation to open spaces, windows, door openings, porches, and balconies, must be visually compatible with the structures and places to which it is visually related.
2. The relationship of the width of the principal building to the height of the front elevation must be visually compatible with structures to which it is visually related.
3. The relationship of solids to voids in the front facade of a principal building must be visually compatible with structures to which it is visually related.
4. The relationship of the principal building to the open space between it and adjoining structures must be visually compatible with structures and places to which it is visually related.

b. Exterior Cladding

1. The relationship of the materials, detail, and pattern of the facade of a principal structure must be visually compatible with structures and places to which it is visually related.

c. Windows and Doors

1. The relationship of the width of the windows and doors to the height of windows and doors in the principal structure must be visually compatible with structures to which it is visually related.
2. Any garage door visible from the street shall not exceed 10 feet in width and 8 feet in height.

d. Roofs and Dormers

1. The roof shape of the principal building must be visually compatible with structures, to which it is visually related.
2. Flat roofs and shed roofs are prohibited, except on porches and where consistent with the roof form of an HNS.
3. All gable roofs shall have a minimum pitch of 6:12. All hip roofs must have a minimum pitch of 3:12.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

4. Dormers of the principal building shall be consistent with the style of the structure.
5. Skylights are prohibited on all roofs parallel to and facing the street.

e. Entrances, Porches, and Decks

1. The front entrance of the principal building shall face the street.
2. The front entrance to the principal building shall have no fewer than four steps, or an equivalent ramp distance, from the ground level to the bottom of the front entrance door, or shall have the first floor plane in a style compatible with an HNS.
3. Decks are prohibited in front yards.
4. On corner lots, decks are allowed on street side yards with screening, either by fence or landscaping.

f. Height and Elevation

1. The height of the principal building must be visually compatible with structures to which it is visually related.
2. The height of the principal building shall not exceed the overall scale of HNS with a maximum eave height of 25 feet.
3. The principal building shall be constructed to have the first floor plane in a style compatible with an HNS.

2. Accessory Buildings or Structures

- a. New accessory building or structures shall be subordinate in scale and compatible with the design and style of the principal building.
- b. Except an HNS designed with an attached garage, all garage structures shall be located in the rear yard. Any garage door visible from the street shall not exceed 10 feet in width or 8 feet in height.
- c. Reconstruction (included its enlargement by up to 40% in total floor area) of an existing accessory building, which does not meet the dimensional setback standards of the Fargo Land Development Code, is permissible by

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

1 right, provided that: 1) the existing non-conforming setback is not
2 increased; 2) the property line from which the setback is determined is
3 verified by a registered land surveyor; and 3) the new accessory building is
4 limited in height to no more than one-story with 10-foot maximum
5 sidewalls.

6
7
8 **H. Special Development Standards - Demolition**

9 In conjunction with Section 20-0912.C(2) of the Fargo Land Development Code, the
10 Historic Preservation Commission shall consider the following criteria in review of a
11 request for a Certificate of Appropriateness regarding the demolition of a principal
12 building, accessory building or structure. A request that satisfies all of the following
13 criteria shall be approved.

- 14 1. The requested demolition is justified by the state of deterioration, disrepair and
15 structural stability of the structure, or the building has been condemned.
- 16 2. The requested demolition is not detrimental to the overall style of the historic
17 district.
- 18 3. The requested demolition is consistent with the purpose of the Comprehensive
19 Plan and other adopted policies of the City.

20
21 **I. Variance of Special Development Standards**

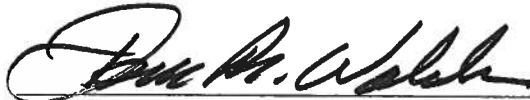
22 To allow for a variance of hardships that may arise from the strict application of any of
23 the foregoing Special Development Standards, the Historic Preservation Commission
may consider requests to deviate from any applicable standards and allow for an
exceptions. A vote of two-thirds of all the members of the Historic Preservation
Commission is required for approval of any exception to the Special Development
Standards.

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.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4821

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

3 

Dennis R. Walaker, Mayor

4 (SEAL)

5 Attest:

6 

7 Steven Sprague, City Auditor

First Reading: 06-11-2012
Second Reading: 06-25-2012
Final Passage: 06-25-2012

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23