

FARGO PLANNING COMMISSION AGENDA  
Tuesday, September 3 at 3:00 p.m.

- A: Approve Order of Agenda
- B: Minutes: Regular Meeting of August 6, 2019
- C: Brown Bag Luncheon - Wednesday, September 18, 2019
- D: Public Hearing Items:
- 1a. Continued hearing on an application requesting a Zoning Change from MR-2, Multi-Dwelling Residential with a C-O, Conditional Overlay and SR-3, Single-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay, and a request to repeal the existing C-O, Conditional Overlay, on the proposed **Craig's Golden Ridge Addition**. (Located at 3129 7th Avenue North and 802 32nd Street North) (Elevate Communities, LLC and Newton Development, LLC/Craig Development) (dk)
  - 1b. Continued hearing on an application requesting a PUD, Planned Unit Development Master Land Use Plan within the boundaries of the proposed **Craig's Golden Ridge Addition**. (Located at 3129 7th Avenue North and 802 32nd Street North) (Elevate Communities, LLC and Newton Development, LLC/Craig Development) (dk)
  - 1c. Continued hearing on an application requesting a Plat of **Craig's Golden Ridge Addition** (Minor Subdivision) a replat of a portion of Lot 6, Golden Ridge Addition, and a portion of Lot 14 and all of Lot 15, Block 3, Model Cities Subdivision, to the City of Fargo, Cass County, North Dakota with a subdivision waiver for drain dedication. (Located at 3129 7th Avenue North and 802 32nd Street North) (Elevate Communities, LLC and Newton Development, LLC/Craig Development) (dk)
  - 2a. Hearing on an application requesting a Zoning Change from MR-2, Multi-Dwelling Residential, and DMU, Downtown Mixed Use, to MR-2, Multi-Dwelling Residential and DMU, Downtown Mixed Use and a request to repeal the existing PUD, Planned Unit Development Overlay on the proposed **Craigs Oak Grove Second Addition**. (Located at 505, 509, and 515 Oak Street and 2, 6, and 10 6th Avenue North) (Oak Grove River Lofts, LLC/Jesse Craig) (an)
  - 2b. Hearing on an application requesting a Plat of **Craigs Oak Grove Second Addition** (Minor Subdivision) a replat of Lot 1, Block 1 Craigs Oak Grove Addition, a vacated portion of Elm Street, vacated portion of 5th Avenue North, vacated alley, and a portion of Lot 5, 6, and 7, Block 28, Keeney and Devitts 2nd Addition to the City of Fargo, Cass County, North Dakota. (Located at 505, 509, and 515 Oak Street and 2, 6, and 10 6th Avenue North) (Oak Grove River Lofts, LLC/Jesse Craig) (an)
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Planning Commission meetings are broadcast live on cable channel TV Fargo 56 and online at [www.FargoND.gov/streaming](http://www.FargoND.gov/streaming). They are rebroadcast each Wednesday at 8:00 a.m. and Sunday at 8:00 a.m.; and are also included in our video archive at [www.FargoND.gov/PlanningCommission](http://www.FargoND.gov/PlanningCommission).

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

Minutes are available on the City of Fargo Web site at [www.FargoND.gov/planningcommission](http://www.FargoND.gov/planningcommission).

3. Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential on Lots 1-7, Block 1, **Timber Creek Third Addition**. (Located at 3431, 3445, 3457, 3469, 3483, 3495, and 3509 47th Avenue South) (Dabbert Custom Homes, LLC/ PLC Investments) (dk)
4. Hearing on an application requesting a Zoning Change from LC, Limited Commercial to LI, Limited Industrial on a portion of Lot 2, Block 1, **Agassiz Nursery Addition (PKG Contracting)**. (Located at 4203 South University Drive) (PKG Contracting, Inc./Lowry Engineering) (lm)
5. Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential to P/I, Public and Institutional on Lot 1, Block 1, **Agassiz Nursery Addition (City of Fargo)**. (Located at 1421 42nd Avenue South) (City of Fargo) (lm)
6. Hearing on an application requesting an Alley Vacation of the alley in Block 21, **Keeney & Devitt's Second Addition**. (Located at 401 Broadway North) (DFI Mercantile LLC/Keith Leier) (dk)
7. Hearing on an application requesting a Plat of **Kesler First Addition** (Minor Subdivision) a replat of Lots A through F, T, and U, and portions of alleys now vacated all in Hagaman's Subdivision and part of Block 2, Roberts Addition, and all of lots 10-12, Block 2, Roberts Addition to the City of Fargo, Cass County, North Dakota. (Located at 613, 617, 621 1st Avenue North and 624 2nd Avenue North) (DFI Kesler, LLC/Kilbourne Group) (dk)
8. Hearing on an application requesting a Right of Way Vacation on a portion of 33rd Street South between Lots 7 through 11, Block 8, **Burlington Northern I-29 South Industrial Center Addition** and an unplatted portion of Section 11, Township 139 North, Range 49 West to the City of Fargo, Cass County, North Dakota. (Located at 3300 and 3420 Main Avenue) (City of Fargo) (ms)

E: Other Items:

1. Amendments to the 2019 Annual Action Plan

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**BOARD OF PLANNING COMMISSIONERS  
MINUTES**

**Regular Meeting:**

**Tuesday, August 6, 2019**

The Regular Meeting of the Board of Planning Commissioners of the City of Fargo, North Dakota, was held in the Commission Chambers at City Hall at 3:00 p.m., Tuesday, August 6, 2019.

The Planning Commissioners present or absent were as follows:

Present: Shara Fischer, John Gunkelman, Mike Magelky, Dawn Morgan, Mary Scherling, Rocky Schneider, Brad Bachmeier, Jennifer Holtz

Absent: Melissa Sobolik, Scott Stofferahn, Maranda Tasa

Chair Gunkelman called the meeting to order.

**Business Items:**

**Item A: Approve Order of Agenda**

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

**Item B: Minutes: Regular Meeting of July 2, 2019**

Member Magelky moved the minutes of the July 2, 2019 Planning Commission meeting be approved. Second by Member Schneider. All Members present voted aye and the motion was declared carried.

**Item C: August 21, 2019 Brown Bag Luncheon: CANCELLED**

**Item D: Public Hearing Items:**

**Item 1: MBA Investments**

**1a. Continued hearing on an application requesting a Zoning Change from GC, General Commercial to LI, Limited Industrial on the proposed Lot 1, Block 1, MBA Investments Addition. (Located at 1717 1st Avenue North; 112 and 202 16th Street North) (MBA Investments, LLC/Kevin Bartram): APPROVED**

**1b. Continued hearing on an application requesting a Plat of MBA Investments Addition (Minor Subdivision) a replat of Lots 5, 8, and part of Burlington Northern Right of Way, Block 1, P.M. Properties Subdivision and portions of Lots 3 and 9 and all of Lots 4-8, 14, 15, and a portion of vacated alley, Block 16, Reeves Addition to the City of Fargo, Cass County, North Dakota, to include a Subdivision Waiver for drain dedication. (Located at 1717 1st Avenue North; 112 and 202 16th Street North) (MBA Investments, LLC/Kevin Bartram): APPROVED**

A Hearing had been set for June 4, 2019. At the June 4, 2019 meeting, the Hearing was continued to July 2, 2019. At the July 2, 2019 meeting, the Hearing was continued to this date and time.

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

Member Magelky moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from GC, General Commercial to LI, Limited Industrial; 2) Subdivision Plat, MBA Investments Addition; and 3) Subdivision Waiver of the Land Development Code Section 20-0610(F) for drain dedication as outlined within the staff report as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Article 20-06, Section 20-0906(F) (1-4), and Section 20-0907(D)(3), and all other applicable requirements of the Land Development Code. Second by Member Morgan. On call of the roll Members Scherling, Morgan, Bachmeier, Holtz, Schneider, Magelky, Fischer, and Gunkelman voted aye. Absent and not voting: Members Sobolik, Stofferahn, and Tasa. The motion was declared carried.

**Item 2: Woodhaven Plaza Addition**

**Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan in the LC, Limited Commercial zoning district on a portion of Lot 4 and all of Lots 3, 5 and 6, Block 1, Woodhaven Plaza Addition, and a portion of Lot 2, Block 1, Prairie Tech Addition. (Located at 4110, 4137, and 4175 40th Street South, 4014 41st Street South, and 4055 and 4100 41st Avenue South) (Aldevron, LLC/Zerr Berg Architects): APPROVED**

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

Member Schneider moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow for an Alternative Access Plan be approved as the proposal complies with Section 20-0909.D (1-6) and all other applicable requirements of the Land Development Code, with the following conditions:

- 1) One off-street parking space be provided per 570 square feet of medical research office use, excluding primary mechanical spaces.
- 2) Parking requirements may be met anywhere within the properties included in the Conditional Use Permit.
- 3) The Conditional Use Permit will cease if the medical research office use ceases.

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

**Item 3: Prairie Tech Second Addition**

**Hearing on an application requesting a Plat of Prairie Tech Second Addition (Minor Subdivision) a replat of Lot 2, Block 1, Prairie Tech Addition to the City of Fargo, Cass County, North Dakota. (Located at 4110 40th Street South) (Smile Achers, LLP/Goldmark Commercial): APPROVED**

Planning Coordinator Donald Kress presented the staff report stating all approval criteria have been met and staff is recommending approval. He noted an updated plat was submitted to the Board.

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

**Item 4: Craig's Golden Ridge Addition**

**4a. Hearing on an application requesting a Zoning Change from MR-2, Multi-Dwelling Residential and SR-3, Single-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay, on the proposed Craig's Golden Ridge Addition. (Located at 3129 7th Avenue North and 802 32nd Street North) (Elevate Communities, LLC and Newton Development, LLC/Craig Development): CONTINUED TO SEPTEMBER 3, 2019**

**4b. Hearing on an application requesting a PUD, Planned Unit Development Master Land Use Plan within the boundaries of the proposed Craig's Golden Ridge Addition. (Located at 3129 7th Avenue North and 802 32nd Street North) (Elevate Communities, LLC and Newton Development, LLC/Craig Development): CONTINUED TO SEPTEMBER 3, 2019**

**4c. Hearing on an application requesting a Plat of Craig's Golden Ridge Addition (Minor Subdivision) a replat of a portion of Lot 6, Golden Ridge Addition, and a portion of Lot 14 and all of Lot 15, Block 3, Model Cities Subdivision, to the City of Fargo, Cass County, North Dakota with a subdivision waiver for drain dedication. (Located at 3129 7th Avenue North and 802 32nd Street North) (Elevate Communities, LLC and Newton Development, LLC/Craig Development): CONTINUED TO SEPTEMBER 3, 2019**

A Hearing had been set for this date and time; however, the applicant has requested this item be continued to September 3, 2019.

**Item 5: The Pines at the District Addition**

**5a. Hearing on an application requesting a Zoning Change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial on Lot 1, Block 12, The Pines at**

**the District Addition. (Located at 3800 56th Avenue South) (Aurora Ponds II at the District, LLP/Hospice of the Red River Valley): APPROVED**

**5b. Hearing on an application requesting a Growth Plan Amendment on Lot 1, Block 12, The Pines at the District Addition. (Located at 3800 56th Avenue South) (Aurora Ponds II at the District, LLP/Hospice of the Red River Valley): APPROVED**  
Assistant Planner Maggie Squyer presented the staff report stating all approval criteria have been met and staff is recommending approval. She noted staff held an open house on July 31, 2019.

Discussion was held regarding the required landscape buffers.

Attorney Dan Bueide, Bueide Law Firm, spoke on behalf of the applicant, and shared a video created by the Hospice of the Red River Valley.

Tracee Capron, Executive Director of the Hospice of the Red River Valley, spoke on behalf of the application.

Member Morgan moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial, and 2) Growth Plan Amendment as outlined within the staff report as the proposal complies with the Adopted Area Plan, the Standards of Section 20-0905(H) and Section 20-0906.F (1-4), and all other applicable requirements of the Land Development Code. Second by Member Bachmeier. On call of the roll Members Bachmeier, Scherling, Magelky, Morgan, Fischer, Schneider, Holtz, and Gunkelman voted aye. Absent and not voting: Members Sobolik, Stofferahn, and Tasa. The motion was declared carried.

**Item 6: Keeney and Devitt's Second Addition**

**Hearing on an application requesting a Right of Way Vacation of a portion of 5th Street North between Blocks 21 and 22, Keeney and Devitt's Second Addition and lying North of 4th Avenue North and South of Lot B, Block 1, Great Northern Depot Addition to the City of Fargo, Cass County, North Dakota (Located at 410 5th Street North) (DFI Mercantile, LLC/Kilbourne Group): APPROVED**

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

Discussion was held concerning parking access and potential impact to area residents.

City Engineer Brenda Derrig spoke on behalf of the Engineering Department, addressing questions about the remaining portion of 5th Street North in this area.

Keith Leier, Vice President of Development and Construction for Kilbourne Group, spoke on behalf of the application.

Director of Planning and Development Nicole Crutchfield addressed additional questions regarding downtown parking.

Member Magelky moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Vacation of a portion of 5th Street North between Blocks 21 and 22, Keeney and Devitt's Second Addition and lying North of 4th Avenue North and South of Lot B, Block 1, Great Northern Depot Addition as outlined within the staff report as the proposal complies with the Downtown InFocus Master Plan and the Standards of Chapter 40-39 of the North Dakota Century Code. Second by Member Morgan. On call of the roll Members Holtz, Magelky, Fischer, Scherling, Morgan, Schneider, Bachmeier, and Gunkelman voted aye. Absent and not voting: Members Sobolik, Stofferahn, and Tasa. The motion was declared carried.

**Item 7: Chas A. Roberts Addition**

**Hearing on an application requesting a Conditional Use Permit to allow a bed and breakfast in the SR-3, Single-Dwelling Residential zoning district on Lots 2 and 3, Block F, Chas A Roberts Addition. (Located at 611 8th Street South) (Roger and Margaret Nelson): APPROVED**

Planner Kylie Bagley presented the staff report stating all approval criteria have been met and staff is recommending approval. She noted a letter in opposition was submitted to the Board.

Applicant Representative Christine Kloubec spoke on behalf of the application.

The following area property owners spoke in opposition of the proposal sharing the following concerns: existing parking issues; security risks; signage restrictions; allowing a business into a residential area; and snow removal issues.

James Baum, 511 8th Street South

Rusty Papachek, spoke on behalf of F. Scott Neal, 623 8th Street South

Richard Nelson, 515 8th Street South

Carol Baum, 511 8th Street South

Upon questions regarding existing policy, City Attorney Erik Johnson reviewed the City ordinance as it pertains to a bed and breakfast and an AirBnB.

Discussion continued regarding the conditions of the Conditional Use Permit (CUP), clarifying the CUP does transfer with the property as long as it continues as a bed and breakfast.

Member Morgan moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow a bed and breakfast in the SR-3, Single-Dwelling Residential zoning district be approved as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the Land Development Code, with the following conditions:

- 1) Allow for receptions, private parties, or similar activities on site.
- 2) The Conditional Use Permit will cease if the land use changes from a bed and breakfast.

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

**Item 8: Scilley's Addition**

**Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential to NO, Neighborhood Office on Lot 11, Block 1, Scilley's Addition. (Located at 1604 52nd Avenue South) (Holy Resurrection Orthodox Mission Church/Ronald Robson): APPROVED**

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

Alan Koch, 5208 17th Street South spoke in opposition of the proposal, and submitted a petition from area property owners to staff.

Applicant Ronald Robson spoke on behalf of the application.

Upon discussion by the Board, Ms. Squyer reviewed the description and services allowed in the NO zoning district. Ms. Crutchfield addressed questions concerning parking, landscaping standards, and fence requirements per City code.

Member Fischer moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Zoning Change from SR-2, Single-Dwelling Residential to NO, Neighborhood Office as outlined within the staff report as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Section 20-0906.F (1-4) and all other applicable requirements of the Land Development Code. Second by Member Holtz. On call of the roll Members Morgan, Holtz, Fischer, Bachmeier, and Gunkelman voted aye. Members Magelky, Schneider, and Scherling voted nay. Absent and not voting: Members Sobolik, Stofferahn, and Tasa. The motion was declared carried.

At 4:35 p.m., the Board took a ten-minute recess.

After recess: All Members present except Members Sobolik, Stofferahn, and Tasa. Chair Gunkelman presiding.

**Item 9: St. Paul's Newman Center Addition**

**Hearing on an application requesting a Plat of St. Paul's Newman Center Addition (Minor Subdivision) a replat of Lots 1-10, Block 2, College Addition and Lots 1-4 and 15-23, Block 9, Bolley's Addition, City of Fargo, Cass County, North Dakota.**



**(Located at 1113, 1117, 1119, 1129, 1131, 1141 North University Drive; 1112, 1118, 1122, 1126, 1130, 1134, 1138, 1142, 1146 12th Street North; 1201, 1211, 1213, 1215, 1223 11th Avenue North) (Roers Development): APPROVED**

Mr. Kress presented the staff report stating all approval criteria have been met and staff is recommending approval. He briefly reviewed the background of this item, noting upon direction from the City Commission at their February 11, 2019 meeting, the applicant has submitted a revised plat for approval.

Applicant Larry Nygard, Roer's Development, spoke on behalf of the application.

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

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

**Item E: Other Items:**

**Item 1: Planned Unit Development Final Plan for St. Paul's Newman Center Addition**

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

Discussion about plans for moving some of the existing houses to other vacant properties within the City were addressed by Ms. Crutchfield, and Assistant Planning Director Mark Williams.

Mr. Kress and Mr. Nygard addressed questions from Member Scherling regarding the number and location of the proposed townhomes, as shown on the Planned Unit Development Final Plan maps included in the packet.

City Forester Scott Liudahl, City Forester, shared concerns about potential removal of existing trees on this property.

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

Member Holtz moved the findings and recommendations of staff be accepted and the Planned Unit Development Final Plan for St. Paul's Newman Center Addition be

approved as the proposal complies with the PUD Master Land Use Plan, Section 20-0908.D of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Fischer. On call of the roll Members Fischer, Morgan, Holtz, Schneider, Bachmeier, Scherling, and Gunkelman voted aye. Member Magelky abstained from voting. Absent and not voting: Members Sobolik, Stofferahn, and Tasa. The motion was declared carried.

**Item 2: Planned Unit Development Final Plan for Diamond Willow Addition**

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

Member Magelky moved the findings and recommendations of staff be accepted and the Planned Unit Development Final Plan for Diamond Willow Addition be approved as the proposal complies with the PUD Master Land Use Plan, Section 20-0908.D of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Bachmeier, Holtz, Morgan, Magelky, Fischer, Schneider, Scherling, and Gunkelman voted aye. Absent and not voting: Members Sobolik, Stofferahn, and Tasa. The motion was declared carried.

**Item 3: Amendments to the 2019 Annual Action Plan**

Ms. Crutchfield briefly reviewed the process and the proposed amendments to the Community Development Block Grant (CDBG)/HOME 2019 Action Plan. She noted the Board will periodically see this item on the agenda as the action plans are updated. Ms. Crutchfield stated staff is recommending approval.

Member Scherling moved to approve the proposed amendments to the 2019 Annual Action Plan. Second by Member Schneider. On call of the roll Members Morgan, Magelky, Bachmeier, Fischer, Scherling, Schneider, Holtz, and Gunkelman voted aye. Absent and not voting: Members Sobolik, Stofferahn, and Tasa. The motion was declared carried.

**Item 4: Roers/Newman Block – Roosevelt Neighborhood Renewal Plan**

Mr. Nelson provided a brief review of the process and the proposed Renewal Plan. He stated staff is recommending approval.

Member Schneider moved to recommend to the City Commission that this Renewal Plan is consistent with the GO2030 Fargo Comprehensive Plan. Second by Member Fischer.

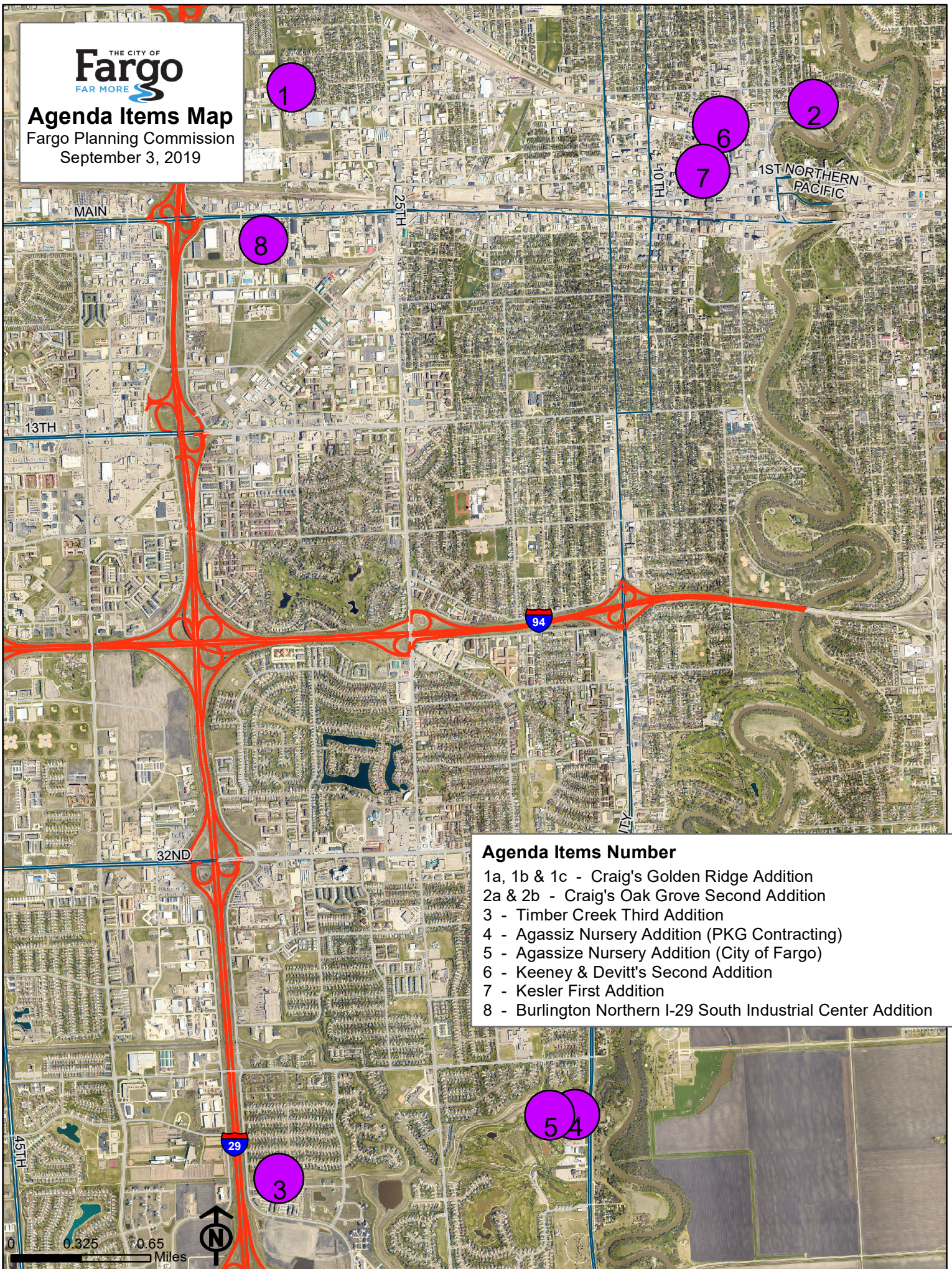
Member Magelky declared a conflict of interest on this item and was excused from voting.

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

**Other Business**

Chair Gunkelman noted information included in the packet regarding the North Dakota Planning Association Annual Conference in September.

Member Schneider moved to adjourn the meeting at 5:19 p.m. Second by Member Bachmeier. All Members present voted aye and the motion was declared carried.



**Agenda Items Number**

- 1a, 1b & 1c - Craig's Golden Ridge Addition
- 2a & 2b - Craig's Oak Grove Second Addition
- 3 - Timber Creek Third Addition
- 4 - Agassiz Nursery Addition (PKG Contracting)
- 5 - Agassize Nursery Addition (City of Fargo)
- 6 - Keeney & Devitt's Second Addition
- 7 - Kesler First Addition
- 8 - Burlington Northern I-29 South Industrial Center Addition



<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Craig's Golden Ridge Addition	<b>Date:</b>	7/31/2019
		<b>Updated:</b>	8/28/2019
<b>Location:</b>	3129 7 <sup>th</sup> Avenue North and 802 32 <sup>nd</sup> Street North	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description:</b>	Portion of Lot 6, Golden Ridge Addition, and a portion of Lot 14 and all of Lot 15, Block 3, Model Cities Subdivision, to the City of Fargo, Cass County, North Dakota		
<b>Owner(s)/Applicant:</b>	Elevate Communities, LLC and Newton Development, LLC/Craig Development	<b>Engineer:</b>	KLJ
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (From MR-2, Multi-Dwelling Residential with a C-O, Conditional Overlay and SR-3, Single-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay, and a request to repeal the existing C-O, Conditional Overlay); a <b>PUD Master Land Use Plan</b> ; and a <b>Minor Plat</b> (replat of a portion of Lot 6, Golden Ridge Addition, and a portion of Lot 14 and all of Lot 15, Block 3, Model Cities Subdivision, to the City of Fargo, Cass County, North Dakota with a subdivision waiver for drain dedication.)		
<b>Status:</b>	Planning Commission Public Hearing: September 3, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Undeveloped	<b>Land Use:</b> Age 55 and over multi-dwelling residential
<b>Zoning:</b> MR-2, Multi-Dwelling Residential, with a C-O, conditional overlay; and SR-3, Single Dwelling Residential	<b>Zoning:</b> MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay
<b>Uses Allowed:</b> <u>MR-2</u> 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; <u>SR-3</u> allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities	<b>Uses Allowed:</b> Allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.
<b>Maximum Density Allowed:</b> <u>MR-3</u> : 20 dwelling units per acre (du/ac); <u>SR-3</u> : 8.7 du/ac;	<b>Maximum Density Allowed:</b> 24 dwelling units per acre <b>PUD proposes increased density of 30 du/ac</b>

<b>Proposal:</b>
<i>Project History Note: This project was originally scheduled for the August 6, 2019 Planning Commission agenda, but was continued to the September 3, 2019 agenda at the request of the applicant.</i>
The applicant requests approval of four entitlements:
1. A zoning change from MR-2, Multi-Dwelling Residential and SR-3, Single Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay; and

2. Repeal of conditional overlay Ordinance No. 4399; and
3. PUD Master Land Use Plan within the boundaries of the proposed Craig's Golden Ridge Addition; and
4. A plat of the **Craig's Golden Ridge Addition**, a replat of a portion of Lot 6, Golden Ridge Addition, and a portion of Lot 14 and all of Lot 15, Block 3, Model Cities Subdivision, to the City of Fargo, Cass County, North Dakota with a subdivision waiver for drain dedication.

The subject property is located between 7<sup>th</sup> and 8<sup>th</sup> Avenues west of 31<sup>st</sup> Street North and adjacent to County Drain No. 10. The applicant, Jesse Craig, intends to redevelop the entire property and build a 114-unit multi-dwelling residence for age 55 and over.

### Zoning Change and PUD Overlay

The applicant has applied for a zoning map amendment and a PUD overlay in order to tailor development standards to the specifics of the proposed project. The modifications to the development standards of the underlying MR-3 zone are shown in the chart below.

	<b>Current LDC development standards for MR-3 zone</b>	<b>PUD modifications to MR-3 development standards</b>	<b>NOTES</b>
Allowed Uses	detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.		
Residential Density	24 du/ac	<i>Increase to 30 du/ac</i>	<i>114 units / 3.82 acres = 29.84 (round to 30) du/ac</i>
Setbacks	Front 25 Street Side 12.5 Interior side 10 Rear 20	<i>Interior side--reduce to 5 feet</i>	
Minimum open space	35%	<i>Reduce to 25%</i>	
Parking-Residential—Multi-dwelling	2.25 spaces per unit (257 total for 114 units)	<i>Reduce to 1.4 spaces per unit</i>	<i>22 single garages (22 spaces) +17 double garages (34 spaces), + 112 open surface parking spaces = 168 spaces / 114 units = 1.4 spaces per unit</i>
Residential Protection Standards (RPS)—Setback from abutting side and rear lot line	Applies to garages on east and south sides; they must be set back 10 feet from the rear lot lines of the lots that face 31 <sup>st</sup> Street and 7 <sup>th</sup> Avenue.	<i>Reduce to 5 feet;</i>	

RPS—building height 75 feet from residential	35 feet max On east, north, and south sides	<i>Modify to 40 feet</i>	<i>Approx.. 38' to center of the Pitched roof. Building is 77' from the south property line, 54'-8" from the north property line and 63'-3" from the east property line.</i>
RPS-residential protection buffers	At least 10 feet with 1 tree and 20 shrubs per 50 lineal feet On east, north, and south sides	<i>Reduce to 5 feet in width. Landscaping to be shrubs only due to the narrow width between garage and property line.</i>	

**Detailed Comment on PUD Modifications**

Allowed Uses: No additional uses are proposed, though the applicant may allow temporary uses of a vacant space for visiting services to serve the residents.

Residential Density: The overall project density is a little less than 30 dwelling units per acre—that is the total number of proposed units (114) divided by the total number of acres (3.82).

Setbacks: The PUD has requested an interior side setback of 5 feet. This request is based on the fact that the required setback from the centerline of the adjacent County drain is 110 feet, which pushes the entire project to the east. If this drain setback were not required, standard MR-3 setbacks along the east side could be met.

Building Coverage: The proposed modification to the MR-3 standards is intended to accommodate the proposed building configuration.

Parking: The proposed parking ratio is 1.4 spaces per unit, including both garage and open surface spaces. The applicant believes this ratio will be sufficient for the intended low-income, over-age-55 residents intended for this building. Staff referred to parking standards published by the Institute of Transportation Engineers (ITE) in their reference manual Parking Generation, 4<sup>th</sup> Edition for comparison, and found that the propose 1.4 parking spaces per unit for senior citizen housing exceeds the ITE number of 0.66 parking spaces per unit.

RPS Building Height 75 feet from residential: The PUD proposes a modification of the residential protection standards (RPS) to increase the building height from 35 feet to 40 feet at the 75 foot from residential zoning range to accommodate the proposed 38-foot tall building.

Open Space: The PUD proposes a reduction of the 35% open space requirement of the MR-3 zone to 25% to accommodate the proposed building design. Note that “open space” in this situation is defined in the Land Development Code (LDC) as “an outdoor, unenclosed area, located on the ground on or a roof, balcony, deck, porch, or terrace design and accessible for outdoor living, recreation, pedestrian access or landscaping, but not including roads, parking areas, driveways, or other areas intended for vehicular travel.” (LDC 20-1202(43)).

(continued on next page)

**Repeal of Existing Conditional Overlay**

This project also repeals the existing conditional overlay, Ordinance 4399 on the portion of Lot 6, Golden Ridge Addition. This C-O was adopted in May, 2004, at a time when this property was developed with a

church. The C-O limited the amount of additional development on that property. The church was demolished in 2006. This property has remained vacant since that time.

### **PUD Master Land Use Plan**

The applicant has submitted a project narrative and PUD Master Land Use Plan which further describe and depict the proposed development. These documents are attached.

### **Plat**

The plat proposes to replat the existing lots (a portion of Lot 6, Golden Ridge Addition, and a portion of Lot 14 and all of Lot 15, Block 3, Model Cities Subdivision, to the City of Fargo, Cass County, North Dakota) into a single lot, to be known as Lot 1, Block 1, Craig's Golden Ridge Addition.

### **Subdivision Waiver for Drain Dedication**

The property borders the east side of County Drain No. 10 and is subject to the drain setback requirement stated in Land Development Code Section 20-0610(F). This code section requires a 175 foot dedication from the centerline of the drain. Further evaluation by the Fargo City Engineering Department, the Southeast Cass Water Resources District ("SE Cass"), and geotechnical evaluation provided by the applicant and reviewed by the Fargo City Engineering Department, has determined that a 110 foot dedication from the drain centerline will be sufficient for this property. SE Cass intends to grant a license to the applicant to allow a parking lot to be developed within the drain dedication. This subdivision waiver for drain dedication is considered part of the plat and not a separate entitlement.

### **Final PUD Plan Required Prior to Building Permit Approval**

It should also be noted that a PUD has two steps: a Master Land Use Plan and a Final Plan. This hearing does not include the Final Plan. The applicant must submit a PUD Final Plan for review by the Planning Commission when site plans and building permits are submitted. The Planning Commission must find the PUD final plan to be consistent with the PUD Master Land Use Plan prior to building permit approval. Note that the Planning Commission does not approve the actual building permit.

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 single-dwelling residential use
- East: SR-3 and SR-4 with single-dwelling residential use
- South: SR-3 with single-dwelling residential use
- West: Cass County Drain No. 10; LI, Limited Industrial with warehouse use across the drain.

### **Neighborhood Meeting**

An open house meeting was held on July 30, 2019 for neighbors to meet with and hear a presentation from Planning staff and the developer. Four neighboring residents and a Fargo Planning Commissioner attended. The sign-in sheet to the meeting is attached.

### **Comment Received**

Staff has received to comment letters/e-mails. Copies are attached. Main concerns expressed include:

- Wanting the property to be fully fenced in relation to surrounding residential properties to maintain the privacy of those properties
- A large, multi-dwelling building would be disruptive to this mostly single-family neighborhood through high levels of activity and traffic.

### **Area Plans:**

This subject property is located within the Madison Neighborhood Plan, adopted in 2002. This plan does not include a future land use plan.



### Schools and Parks:

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

**Parks:** Madison Park (3010 11<sup>th</sup> Avenue North) is located approximately one quarter mile north of the subject property and offers baseball/softball fields, basketball courts, outdoor ice skating rinks, warming houses, soccer field, skate park, and playgrounds for ages 2-5 and 5-12, and a shelter.

**Neighborhood:** The subject property is located within the Madison/Unicorn Park Neighborhood.

**Pedestrian / Bicycle:** There are no bike facilities in the immediate vicinity of the subject property.

### Staff Analysis:

#### Zoning

Article 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. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established. The PUD zoning is overlain on an underlying zone. The MR-3 zone is an appropriate underlying zone for the entire project, as the project proposes a high-density multi-dwelling building. The proposed PUD Overlay zoning district is intended to accommodate the redevelopment of this property. The existing conditional overlay, Ordinance 4399 on the portion of Lot 6, Golden Ridge Addition, was adopted in May, 2004, at a time when this property was developed with a church. The C-O limited the amount of additional development on that property. The church was demolished in 2006. This property has remained vacant since that time. Thus, the conditions to which the C-O applied no longer exist. **(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 fronts on 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 received two comment letters/e-mails, which are summarized above; copies are attached. **(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 PUD is in keeping with Fargo's Comprehensive Plan. Specifically, the City's Go2030 Comprehensive Plan

supports development within areas of the City that are already serviced with utilities. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City. **(Criteria Satisfied)**

**Master Land Use Plan:** Article 20-090(7)(B)(a-e) of the LDC stipulates that the Planning Commission and Board of City Commissioners shall consider the following criteria in the review of any Master Land Use Plan.

- 1. The plan represents an improvement over what could have been accomplished through strict application of otherwise applicable base zoning district standards, based on the purpose and intent of this Land Development Code;**

The plan represents an improvement over what could have been accomplished through strict application of the base zoning district. It modifies development standards of the MR-3 zone, parking requirements, landscaping, and Residential Protection Standards, in order to provide a higher density housing than would be allowed under the MR-3 zoning. **(Criteria Satisfied)**

- 2. The PUD Master Land Use Plan complies with the PUD standards of Section 20-0302;** Staff has reviewed the PUD Master Land Use Plan and found that it complies with the PUD standards of Section 20-0302. The PUD modifies some standards of the MR-3 zone, parking requirements, landscaping, and Residential Protection Standards, as outlined in Section 20-0501 and noted above. All other standards and requirements as set forth in the LDC have been met. **(Criteria Satisfied)**

- 3. The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development proposed, 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 fronts on existing developed public rights-of-way which provide access and public utilities to serve the property. **(Criteria satisfied)**

- 4. The development is consistent with and implements the planning goals and objectives contained in the Area Plan, Comprehensive Plan and other adopted policy documents;** 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 PUD is in keeping with Fargo's Comprehensive Plan. Specifically:

*(from Go2030 Chapter 10—Neighborhoods, Infill, and New Development)*

Infill—Develop policies to promote infill and density within areas that are already developed and are protected by a flood resiliency strategy. Control sprawl and focus on areas outside of the floodplain.

Design standards—Improve quality of new housing by fostering strong relationship with the development and building community to promote dense, walkable communities with neighborhood centers.

Quality New Development—Require new development to meet site design standards that result in well-designed new neighborhoods.

Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City. **(Criteria Satisfied)**

**5. The PUD Master Land Use Plan is consistent with sound planning practice and the development will promote the general welfare of the community.**

The PUD is consistent with sound planning practice and the development will promote the general welfare of the community by providing a low-income housing option for age 55 and older. **(Criteria Satisfied)**

Article 20-0907 of the LDC stipulates that the following criteria are 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.**

The subject property is located within the Madison/Unicorn Park neighborhood. The Madison Neighborhood Plan does not include a future land use plan. The subject property is proposed to be rezoned from the existing MR-2, Multi-Dwelling Residential with a C-O, Conditional Overlay and SR-3, Single-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay, for the entire block. The MR-3 base zone is the appropriate base zone for high-density multi-dwelling residential. The PUD proposes to modify certain development standards of the MR-3 zone, landscaping, parking, and Residential Protection Standards as indicated above in order to accommodate the proposed development. 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 two comment letters/e-mails, which are summarized above; copies are attached. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code. **(Criteria Satisfied)**

- 2. Section 20-0907.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 principles. **(Criteria Satisfied)**

Article 20-0907(D)(3) of the LDC stipulates that the following criteria are met before a subdivision waiver can be approved:

- 1. Section 20-0907.D.3.a of the LDC stipulates that a Subdivision Waiver must not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the area in which the property is located.**

The City Engineer has determined that, based on review of geotechnical analysis, the 110-foot setback from the drain centerline is sufficient to provide for drain stability. Only minimal development—a parking lot—will be allowed in the drain setback area. The plat will depict this easement in the configuration approved by the City Engineer.

**(Criteria Satisfied)**

- 2. Section 20-0907.D.3.b of the LDC stipulates that a Subdivision Waiver must represent the least deviation from this Land Development Code that will mitigate the hardship or practical difficulty that exists on the subject property.**

The full 175-foot drain setback would leave very little area of the property available for development. Based on review of geotechnical analysis, the 110-foot setback from the drain centerline is sufficient to provide for drain stability, as well as making a larger area of the lot available for development. Only minimal development—a parking lot—will be allowed in the drain setback area. The plat will depict this easement in the configuration approved by the City Engineer. **(Criteria Satisfied)**

- 3. Section 20-0907.D.3.c of the LDC stipulates that a Subdivision Waiver shall not have the effect of waiving any provisions of this development code other than the Subdivision Design and Improvement Standards of Article 20-06.**

This subdivision waiver applies only to the drain setback requirements of Section 20-0610 of the LDC for this particular property  
**(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: “To recommend approval to the City Commission of the proposed: 1) Zoning Change from MR-2, Multi-Dwelling Residential with a C-O, Conditional Overlay and SR-3, Single-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay, and repeal the existing C-O, Conditional Overlay Ordinance 4399; 2) PUD Master Land Use Plan; and 3) a plat of the **Craig’s Golden Ridge Addition**, including a subdivision waiver for drain dedication, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Articles 20-0906(F)(1-4), 20-0907(B)(a-e), 20-0907(D)(3)(a-c), 20-06 and all other applicable requirements of the LDC.”

**Planning Commission Recommendation:** September 3, 2019

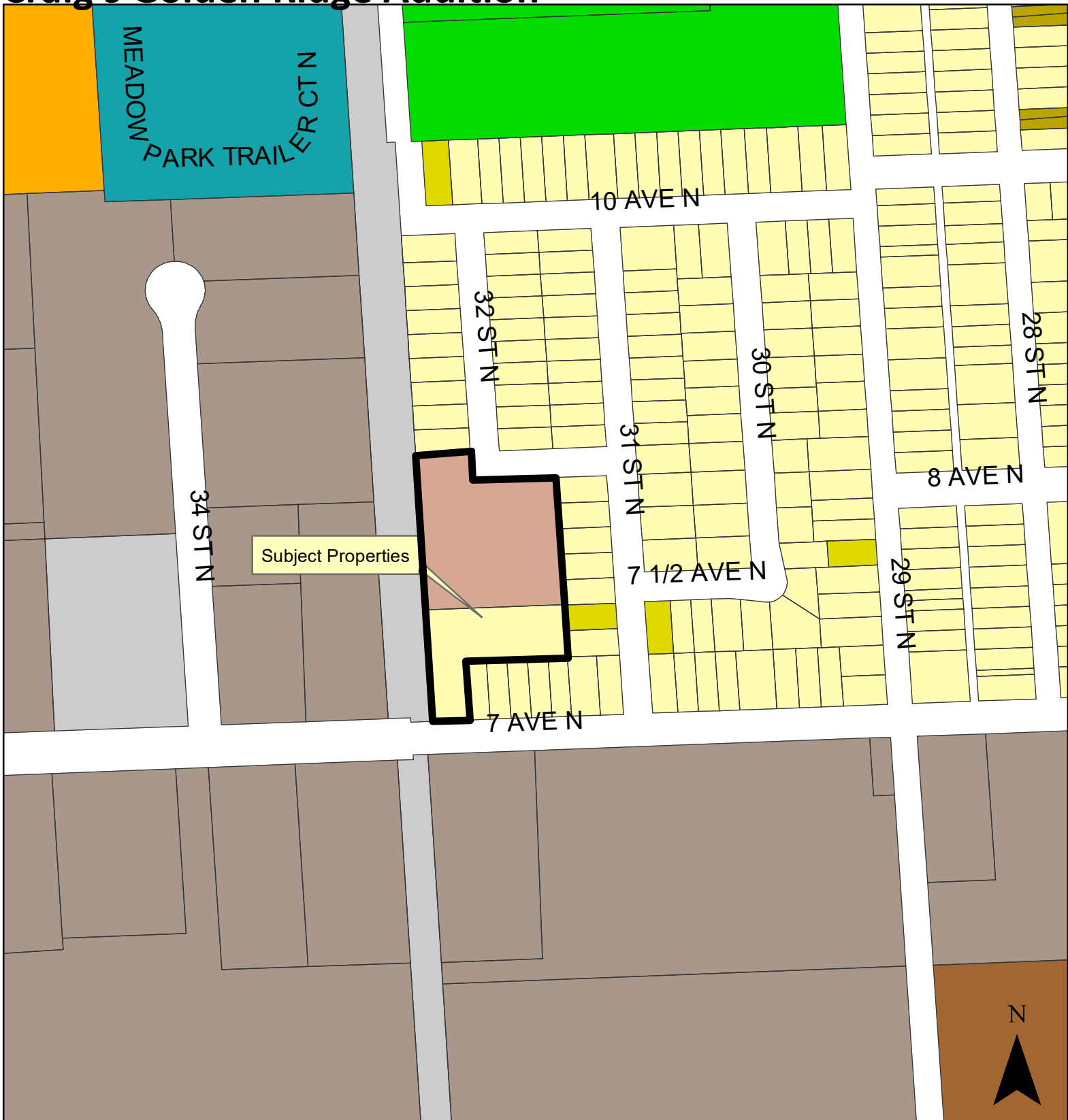
**Attachments:**

1. Zoning Map
2. Location Map
3. Preliminary Plat
4. PUD Master Land Use Plan (site plan)
5. Site Plan with basic dimensions
6. Developer’s project summary and statement of project benefits
7. Architect’s conceptual renderings
8. Public comment letters and e-mails

**Zone Change (MR-2 with Conditional Overlay & SR-3 to MR-3 with PUD and removal of Conditional Overlay)  
Plat (Minor); Planned Unit Development Master Plan**

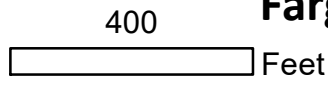
802 32nd Street N  
3129 7th Avenue N

**Craig's Golden Ridge Addition**



**Legend**

AG	LC	MHP	SR-2
DMU	LV	NO	SR-3
GC	MRR-1	P/T	SR-4
GO	MRR-2	UMI	SR-5
	MR-3	City Limits	



**Fargo Planning Commission**  
**August 6, 2019**

**Zone Change (MR-2 with Conditional Overlay & SR-3 to MR-3 with PUD and removal of Conditional Overlay)  
Plat (Minor); Planned Unit Development Master Plan**

802 32nd Street N  
3129 7th Avenue N

**Craig's Golden Ridge Addition**

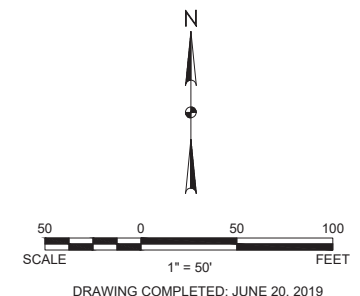
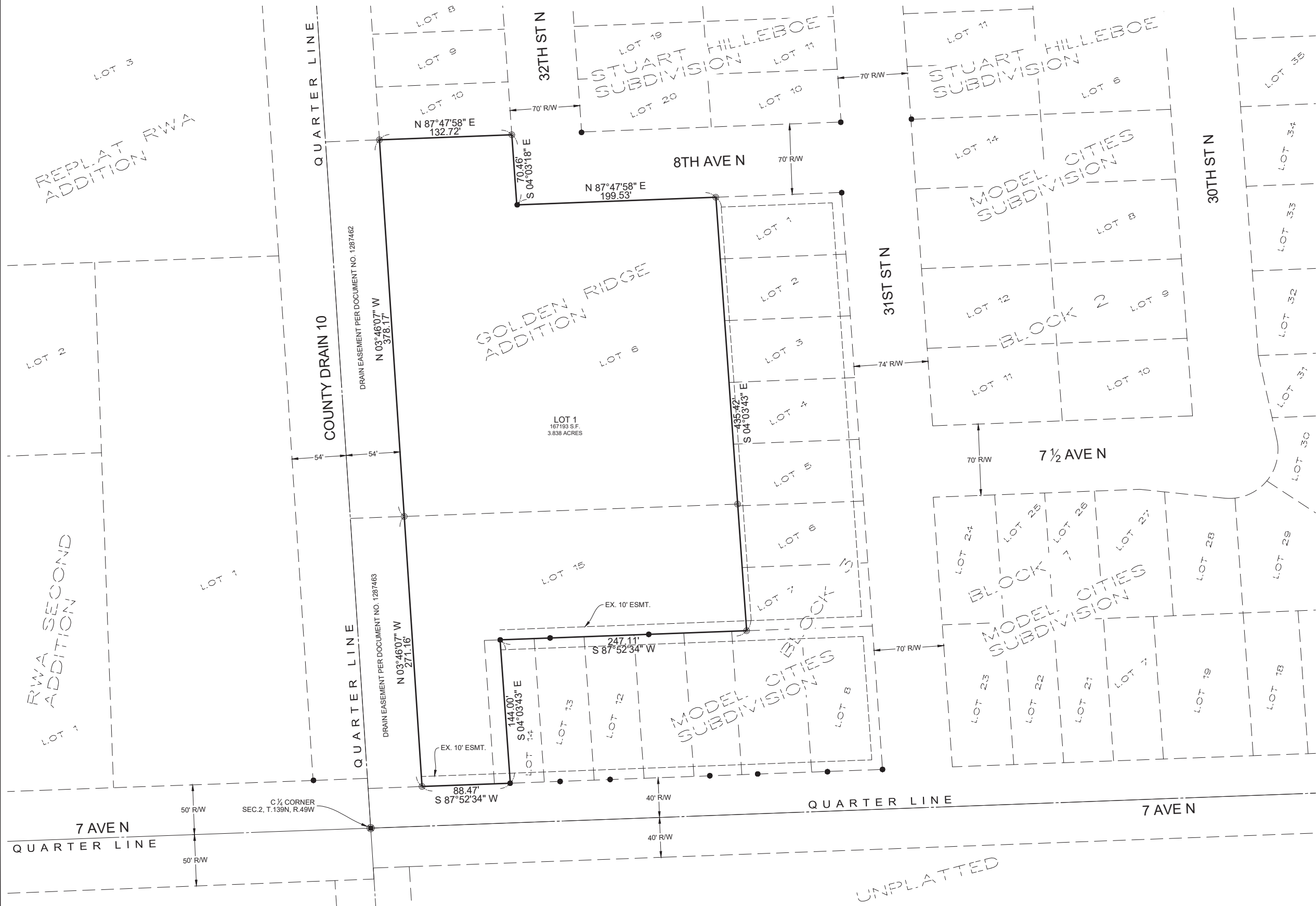


Subject Properties

# CRAIG'S GOLDEN RIDGE

(A MINOR SUBDIVISION)

A REPLAT OF A PORTION OF LOT 6, GOLDEN RIDGE ADDITION AND A REPLAT OF THE WEST 15.9 FEET OF LOT 14 & ALL OF LOT 15, BLOCK 3, MODEL CITIES SUBDIVISION LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 139 NORTH, RANGE 49 WEST, FIFTH PRINCIPAL MERIDIAN, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



- LEGEND**
- SECTION CORNER MONUMENT
  - FOUND PROPERTY MONUMENT
  - 5/8IN REBAR WITH 2IN AC LS 4687 CAP SET
  - ⊙ CALCULATED CORNER

**NOTE:**  
SURVEY IS BASED ON A FARGO GIS HORIZONTAL DATUM, US SURVEY FEET. DISTANCES SHOWN ARE GRID DISTANCES.

SAID TRACT OF LAND IS SUBJECT TO ANY EASEMENT RESTRICTIONS OR RESERVATIONS, EITHER EXISTING OR RECORD.

BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENT.

**ENGINEER:**  
KLJ  
3203 32ND AVE S, SUITE 201  
FARGO, NORTH DAKOTA 58103

**OWNER:**  
ELEVATE COMMUNITIES LLC  
PO BOX 6530  
FARGO, NORTH DAKOTA 58109

UNPLATTED



# CRAIG'S GOLDEN RIDGE

(A MINOR SUBDIVISION)

A REPLAT OF A PORTION OF LOT 6, GOLDEN RIDGE ADDITION AND A REPLAT OF THE WEST 15.9 FEET OF LOT 14 & ALL OF LOT 15, BLOCK 3, MODEL CITIES SUBDIVISION LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 139 NORTH, RANGE 49 WEST, FIFTH PRINCIPAL MERIDIAN, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

## OWNER'S CERTIFICATE

KNOWN TO ALL MEN BY THESE PRESENTS, ELEVATE COMMUNITIES LLC, WHOSE ADDRESS IS PO BOX 426, FARGO, NORTH DAKOTA, IS THE OWNER OF A REPLAT OF A PORTION OF LOT 6, GOLDEN RIDGE ADDITION AND A REPLAT OF THE WEST 15.9 FEET OF LOT 14 & ALL OF LOT 5, BLOCK 3, MODEL CITIES SUBDIVISION LOCATED IN THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 2, TOWNSHIP 139 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA.

SAID TRACT CONTAINS 3.838 ACRES MORE OR LESS.

SAID PARTY HAS CAUSED THE SAME TO BE SURVEYED AND PLATTED AS CRAIG'S GOLDEN RIDGE IN THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA.

\_\_\_\_\_  
ELEVATE COMMUNITIES, LLC  
OWNER OF LOT 1, BLOCK 1, CRAIG'S GOLDEN RIDGE SUBDIVISION

STATE OF NORTH DAKOTA )  
  )SS  
COUNTY OF CASS         )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, \_\_\_\_\_, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING PROPRIETOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

\_\_\_\_\_  
NOTARY PUBLIC  
CASS COUNTY, NORTH DAKOTA

## CITY ENGINEER'S APPROVAL

THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
BRENDA E. DERRIG, CITY ENGINEER

STATE OF NORTH DAKOTA )  
  )SS  
COUNTY OF CASS         )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, BRENDA E. DERRIG, CITY ENGINEER, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING PROPRIETOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

\_\_\_\_\_  
NOTARY PUBLIC CASS COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES: \_\_\_\_\_

## FARGO PLANNING COMMISSION APPROVAL

THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
SHARA FISCHER, CHAIR  
FARGO PLANNING COMMISSION

STATE OF NORTH DAKOTA )  
  )SS  
COUNTY OF CASS         )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, SHARA FISCHER, CHAIR OF THE FARGO PLANNING COMMISSION, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING PROPRIETOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

\_\_\_\_\_  
NOTARY PUBLIC CASS COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES: \_\_\_\_\_

## FARGO CITY COMMISSION APPROVAL

THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
TIMOTHY J. MAHONEY, MAYOR

\_\_\_\_\_  
STEVEN SPRAGUE, CITY AUDITOR

STATE OF NORTH DAKOTA )  
  )SS  
COUNTY OF CASS         )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, TIMOTHY J. MAHONEY, MAYOR, AND STEVEN SPRAGUE, CITY AUDITOR, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING PROPRIETOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

\_\_\_\_\_  
NOTARY PUBLIC CASS COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES: \_\_\_\_\_

## SURVEYOR'S CERTIFICATE

I, CARL P. OLSON, REGISTERED LAND SURVEYOR, UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT THIS PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY OF SAID SUBDIVISION; THAT THE DISTANCES SHOWN ON SAID PLAT ARE CORRECT; THAT THE MONUMENTS FOR THE GUIDANCE OF FUTURE SURVEYS HAVE BEEN LOCATED OR PLACED IN THE GROUND AS SHOWN.

DATE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
CARL P. OLSON  
PROFESSIONAL LAND SURVEYOR  
NORTH DAKOTA LS-4687

STATE OF NORTH DAKOTA )  
  )SS  
COUNTY OF CASS         )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED CARL P. OLSON, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING SURVEYOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

\_\_\_\_\_  
NOTARY PUBLIC  
CASS COUNTY, NORTH DAKOTA





**STROH**  
ARCHITECTS | INTERIORS  
8 Seventh St. N.  
Fargo, N.D. 58102  
Office (701) 239-4198  
Fax (701) 239-9643  
www.tlstroh.com

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Registered Architect under the laws of the State of North Dakota.

Date: 8/26/2019 8:58:47 AM Reg. No. 923

Project:

**7th Ave. N. Apartments  
Fit Plan**

Location:

FARGO, ND

Drawn By:

JS

Date:

8/26/2019

Revision Date:

No.	Description	Date

Job Number:

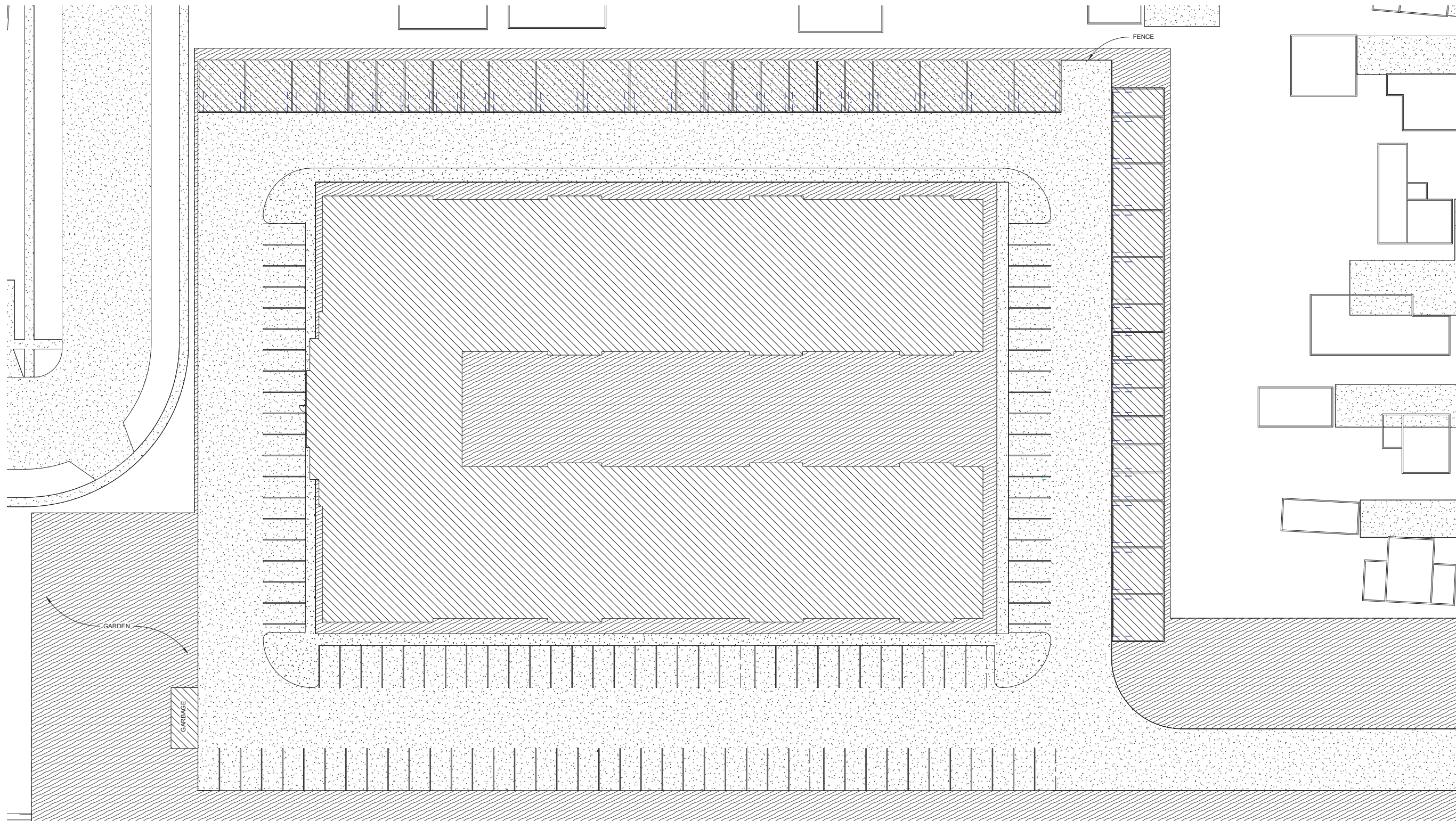
2019.04

Sheet Name:

Site Plan

Sheet Number:

A1.1



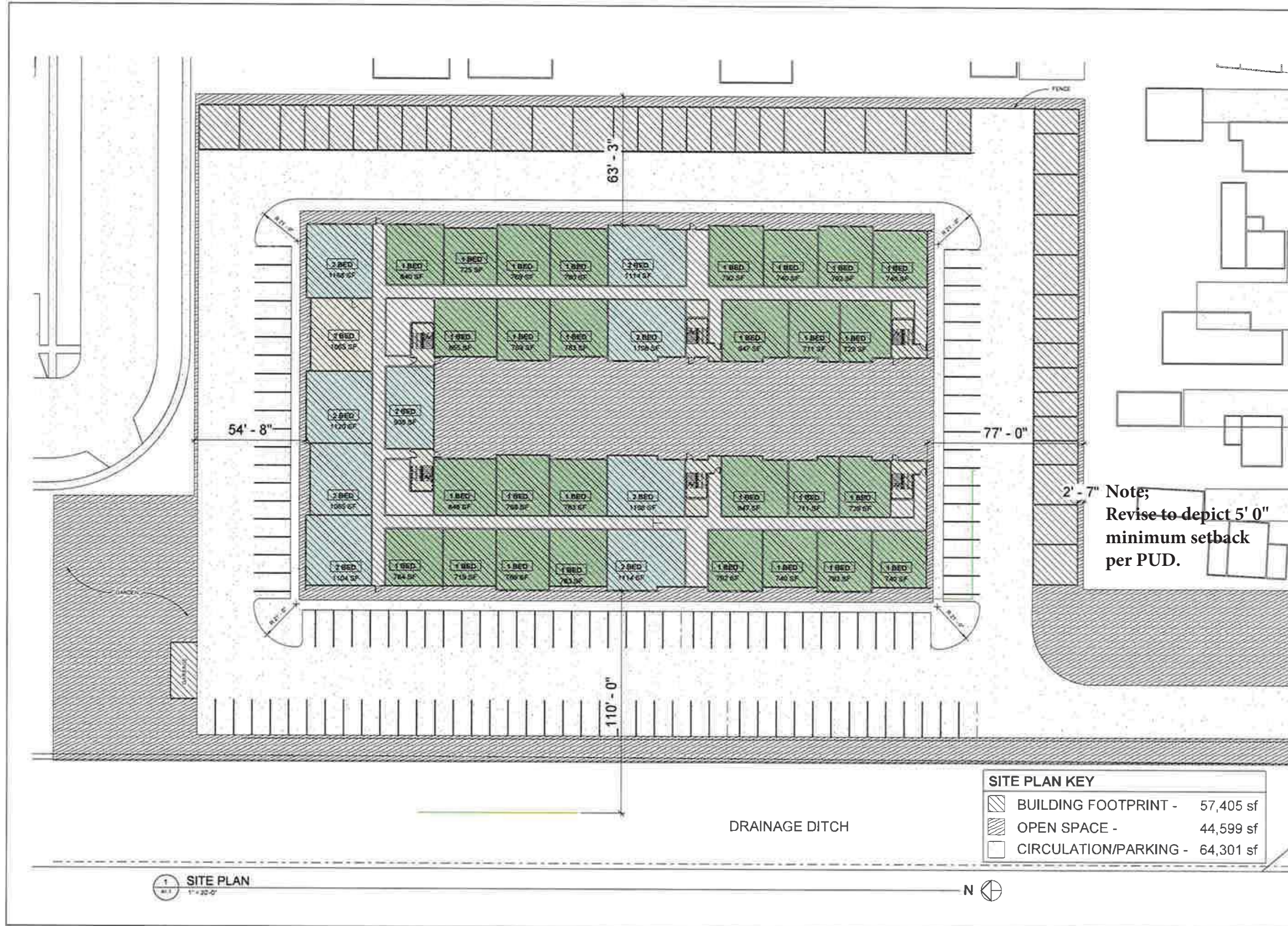
**SITE PLAN KEY**

	BUILDING FOOTPRINT
	OPEN SPACE
	CIRCULATION/PARKING



DRAINAGE DITCH

CRAIG'S GOLDEN RIDGE ADDITION  
 Site Plan With Basic Dimensions



Project:  
 7th Ave. N. Apartments  
 11/22/19

Location:  
 FARGO, ND  
 Drawn By:  
**JS**  
 Date:  
 6/7/2019  
 Revision Date:

No.	Description	Date

Job Number:  
**2019.04**  
 Sheet Name:  
 Site Plan  
 Sheet Number:  
**A1.1**

**SITE PLAN KEY**

	BUILDING FOOTPRINT -	57,405 sf
	OPEN SPACE -	44,599 sf
	CIRCULATION/PARKING -	64,301 sf

1 SITE PLAN  
 A1.1 1" = 20'-0"



# DRAFT PROJECT SUMMARY

Multifamily Development

June 2019

## Golden Ridge Senior Living 114 Unit Apartment

3129 7<sup>th</sup> Avenue North  
Fargo, North Dakota

## OVERVIEW

Golden Ridge Senior Living is a 55 and older low income housing project situated off of 7<sup>th</sup> Avenue North in the Madison neighborhood and offers convenient access to Sanford, shopping and transit services.

Golden Ridge Senior Living will start construction in Fall 2019. Once construction is completed the property will be managed by Metro Plains Management

The unit finishes will be clean and modern while offering premium amenities to its residents such as a covered main level terrace, raised gardens and community rooms. There will be 84 one-bedroom units, 30 two-bedroom units, 22 single stall garages, 17 double stall garages and 112 parking spaces.

The PUD will allow this project to be built to better utilize the site with ample buffering and landscaping, having adequate parking and amenities such as a community patio as well as a small park located in the Northwest corner of the property. We also hope to add raised gardens and other unique features to add value to the neighborhood and our tenants.

## PROPERTY OVERVIEW

Property Name:	Golden Ridge Senior Living
No. of Units:	114
Addresses:	3129 7 <sup>th</sup> Avenue North, Fargo ND, North Dakota
Est. Construction Costs:	\$11,109,412
Price Per Unit:	\$97,447
Est. Completion:	Aug / Sept 2020
No. of Buildings:	One Building
Unit Mix:	84 One Bedrooms 30 Two Bedrooms
Garages:	22 Single 17 Double

Parking Spaces:

112 Surface

Apartment Heat:

TBD

Apartment Hot Water:

TBD

Electricity (Common Areas):

TBD

Electricity (Apartments):

TBD

Craig's Golden Ridge Addition  
Architect's Conceptual Renderings of Proposed Building



View looking northwest



View from project entry driveway along 7<sup>th</sup> Avenue

**From:** Eddy Kornelsen <[ekornelsen@penner.ca](mailto:ekornelsen@penner.ca)>

**Sent:** Wednesday, August 21, 2019 9:51 AM

**To:** Donald Kress <[dkress@FargoND.gov](mailto:dkress@FargoND.gov)>; Planning E-mails <[planning@FargoND.gov](mailto:planning@FargoND.gov)>

**Subject:** Fwd: DKRESS 08/21/2019 09:42

Hello.

I am wondering if you can tell me on this property that is being talked about if there are any plans to build a fence on the South and east side of this property? As per attached.

I want a 6ft decent looking fence on the south and east side of this property. That fence is supposed to go up before construction starts

Maybe that is already in the deal. If so good. If not put it on there. I do not want people and their visitors coming through my backyard.

If the fence can be, and will be put there, I am OK with this. If not I am a resounding NO!

701-429-1105

Eddy Kornelsen

Owner of Duplex

708/710 31st North

Fargo ND

58102

City of Fargo,

My name is Luke Lubahn and I live @ 3102 8th Ave N in Fargo. The proposed project adjoins to my back yard.

My primary concern is privacy, we spend a lot of time in our back yard and would not appreciate the eyes of 20 to 30 units monitoring us. This would not be an issue if it was a single story dwelling. Fences are easy. But a 3 story building cannot be blocked by fences. It would be neighbors that I would be highly unlikely to meet as well. Our neighbor hood of small houses makes it quiet and easy to meet our neighbors, we can develop relationships and trust each other. I think it is unlikely that any of our apartment neighbors will come say Hi.

Our neighbor hood is quiet enough that children and families can be seen outside most of the year. traffic is ~~low~~ Relatively low on our streets. This project would add considerable traffic to our quiet neighbor hood, making it even harder to cross the already busy 7th Avenue.

Being located @ the corner of the lot, I am concerned with what will be done with trash bins being parked next to my house. I am also concerned about having extra trash being ~~left~~ left to blow around the neighbor hood on windy days. I am also concerned with snow removal / snow piles, ~~where~~ where does



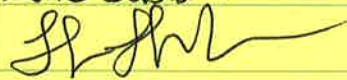
The extra snow get pushed to? especially in a winter like last year

I know the Ridge has a certain Reputation ~~among~~ among Fargo neighborhoods, but I happen to like my block in this city, since I bought my house I have seen many new families move to this neighborhood and try to improve it. I have done many things to increase the curb appeal of my home. I don't want to sound discriminatory, but I think that adding low income housing to our neighborhood will be working against what we have been trying to build here

And finally, I found your letter to be very confusing. with 2 meetings and scheduling and what not. I think I missed one of the meetings but I will be there on August 6th, hopefully I get the right one.

Sincerely

Luke Lubbahn



<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Craigs Oak Grove 2 <sup>nd</sup> Addition	<b>Date:</b>	8/28/2019
<b>Location:</b>	505, 509, and 515 Oak Street and 2, 6, and 10 6th Avenue North	<b>Staff Contact:</b>	Aaron Nelson
<b>Legal Description:</b>	Lot 1, Block 1, Craigs Oak Grove Addition, vacated portion of Elm Street, vacated portion of 5 <sup>th</sup> Ave N, vacated alley, and a portion of Lots 5, 6, and 7, Block 28, Keeney and Devitts 2 <sup>nd</sup> Addition		
<b>Owner(s)/Applicant:</b>	LHS Investments, LLC/Jesse Craig	<b>Engineer:</b>	KLJ
<b>Entitlements Requested:</b>	<b>Minor Subdivision</b> (A replat of Lot 1, Block 1, Craigs Oak Grove Addition, vacated portion of Elm Street, vacated portion of 5 <sup>th</sup> Ave N, vacated alley, and a portion of Lots 5, 6, and 7, Block 28, Keeney and Devitts 2 <sup>nd</sup> Addition) & <b>Zoning Map Amendment</b> (from DMU, Downtown Mixed-Use, and MR-2, Multi-Dwelling Residential, with PUD, Planned Unit Development, overlay to DMU, Downtown Mixed-Use, and MR-2, Multi-Dwelling Residential, and to repeal the existing PUD, Planned Unit Development, overlay)		
<b>Status:</b>	Planning Commission Public Hearing: September 3, 2019		

<b>Existing</b>
<b>Land Use:</b> Household Living (Multi-Dwelling & Detached Housing) & vacant.
<b>Zoning:</b> MR-2, Multi-Dwelling Residential, DMU, Downtown Mixed-Use, and PUD, Planned Unit Development Overlay.
<b>Uses Allowed:</b> 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  DMU allows detached houses, attached houses, duplexes, multi-dwelling structures, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off-premise advertising, commercial parking, retail sales and service, vehicle repair, limited vehicle service, and major entertainment events.
<b>Maximum Density Allowed:</b> MR-2 allows a maximum of 20 dwelling units per acre, DMU has no limit

<b>Proposed</b>
<b>Land Use:</b> Household Living (Attached & Multi-Dwelling Housing)
<b>Zoning:</b> MR-2, Multi-Dwelling Residential, and DMU, Downtown Mixed-Use
<b>Uses Allowed:</b> No Change
<b>Maximum Density Allowed:</b> No Change

<b>Proposal:</b>
<p>The applicant is seeking approval of a minor subdivision and zoning map amendment to accommodate a proposed residential development. The minor subdivision, entitled <i>Craigs Oak Grove 2<sup>nd</sup> Addition</i>, would replat the subject property into two lots. The proposed zoning map amendment would rezone a portion of Lot 2 from MR-2 (Multi-Dwelling Residential) to DMU (Downtown Mixed-Use) and would extinguish an existing PUD (Planned Unit Development) overlay zoning district that currently encompasses the northwest portion of the subject property. The result of these two requests would be for the proposed Lot 1 to be located within the MR-2 zoning district and for</p>

Lot 2 to be located within the DMU zoning district. The applicant is proposing to construct townhomes on Lot 1 and an apartment building on Lot 2.

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

**Surrounding Land Uses and Zoning Districts:**

- North: Across 6<sup>th</sup> Ave N are single-family, duplex, and multi-dwelling homes zoned MR-2, Multi-Dwelling Residential and LC, Limited Commercial;
- East: is a park zoned AG, Agricultural;
- South: is a BNSF railroad zoned DMU, Downtown Mixed-Use
- West: are single-dwelling and multi-dwelling homes zoned MR-2, Multi-Dwelling Residential and GC, General Commercial

**Area Plans:**

No area plans apply

**Schools and Parks:**

**Schools:** The subject property is located within the Fargo School District, specifically the Roosevelt/Horace Mann Elementary, Ben Franklin Middle and Fargo North High school attendance areas.

**Neighborhood:** The subject property is located in the Horace Mann neighborhood.

**Parks:** The subject property is located west of Wildflower Grove Park, which provides public amenities such as picnic tables and recreational trails.

**Pedestrian / Bicycle:** There is an existing off road bike facility to the east of the subject property on 6<sup>th</sup> Ave N which connects to the metro area trail system.

**Staff Analysis:**

**Background**

The applicant is proposing this subdivision and zone change in preparation for the redevelopment of the subject property. The applicant has stated that his intent is to construct residential housing that would consist of both townhomes (on Lot 1) and multi-dwelling apartments, some of which may be condominium units (on Lot 2).

The applicant previously platted a majority of the subject property as Craigs Oak Grove Addition, which was approved in January of 2019. That previous subdivision included vacation and dedication of right-of-way, as well as provisions for permanent flood protection, in preparation for future development. Since then, the applicant has acquired additional property along 6<sup>th</sup> Avenue North, which is included in the proposed Craigs Oak Grove 2<sup>nd</sup> Addition subdivision.

**Public Comment**

The applicant has worked over the past couple of years to acquire the parcels included within the subject property. Over this time, and as his development concept has evolved, the applicant has shared these concepts with interested groups. The applicant has discussed his proposed project at:

- a Fargo Neighborhood Coalition meeting in the summer of 2017,
- an informational meeting he held for neighboring residents in September of 2017,
- a Horace Mann Area Neighborhood Association meeting in February of 2019,
- a neighborhood open house he hosted in March of 2019, and
- a final neighborhood open house on August 27, 2019.

The August 27 open house was attended by 10 neighborhood residents and representatives of the Horace Mann Area Neighborhood Association. There were many questions regarding all aspects of the proposed development as well as the proposed zoning change and subdivision. Most of the concerns raised at the open house seemed to

focus on vehicular parking and circulation throughout the area of the subject property, the aesthetics of the townhomes and apartment building that the applicant intends to construct, and the condition of public infrastructure in this area.

In addition to comments heard at the open houses noted above, to date, staff has received one email regarding this application from a neighboring resident. A copy of this email is attached. Last year, staff received a letter from another neighboring resident regarding the applicant's previous application for major subdivision—Craigs Oak Grove (1<sup>st</sup>) Addition, which is also attached for historical reference since many of the concerns noted in the letter are still applicable to the current application.

Public notification letters were mailed out to owners of property within 300 feet of the subject property, in accordance with Section 20-0901.F of the Land Development Code.

### **Subdivision**

The LDC stipulates that the following criteria be met before a major 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.**

The location of the subject property is not included within an area plan. While there is no growth plan associated with this location within the City, the proposed development is consistent and compatible with the Go2030 Comprehensive Plan. Specifically, the Fargo Go2030 Comprehensive Plan supports infill and density within areas that are already developed, serviced with utilities, and protected by a flood resiliency strategy. The promotion of infill development is the number two ranked priority of Go2030.

The subdivision would replat the property into two lots to be used for residential development. The subject property is located within the DMU (Downtown Mixed-Use) and MR-2 (Multi-Dwelling Residential) zoning districts. The DMU and MR-2 zoning districts both permit household-living by-right (including attached houses and multi-dwelling structures). Additionally, the proposed zone change is intended to align these two existing zoning district boundaries with the proposed lot lines for Lots 1 and 2, in order to accommodate the proposed development.

The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. These departments have found that the plat meets the standards of Article 20-06 and other applicable requirements of the Land Development Code. **(Criteria Satisfied)**

- 2. Section 20-0907.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 principles. Additionally, an amenities plan and developer agreement were established with the applicant's previous subdivision of Craigs Oak Grove (1<sup>st</sup>) Addition, to formally document the details of the public improvements necessary to support the development of the subject property, including flood protection. **(Criteria Satisfied)**

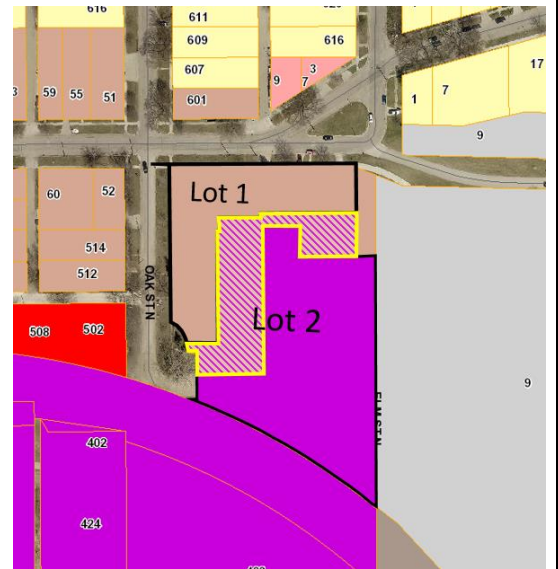
Staff would note that as of the writing of this staff report, the preliminary plat is in need of a few minor corrections/edits. These edits relate to minor technical details and do not change the form or intent of the subdivision plat. The plat would not move forward for consideration by City Commission until these edits are complete.

## Zoning

The subject property is partially located within both the DMU and MR-2 zoning districts. Although the DMU and MR-2 zoning districts both permit multi-dwelling and attached housing by-right, a zoning map amendment is proposed in order to align the boundaries of these zoning districts with the proposed Lots 1 and 2, which would accommodate the layout of the applicant's proposed development. The map to the right illustrates the area of Lot 2 to be rezoned from MR-2 to DMU (hatched area outlined in yellow).

Additionally, the northwest portion of the subject property is located within an existing PUD (Planned Unit Development) overlay zoning district. This PUD zoning district was approved in 2016 via Ordinance No. 5047 for a townhome project that was never constructed. The proposed zoning change would also extinguish and remove this PUD overlay since it is no longer applicable to the proposed development.

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



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

Staff is unaware of any zoning map error in regard to the subject property. Staff finds that the requested zone change is justified by a change in conditions at this location since the previous zoning classification was established. The existing zoning districts were established at a time when there were multiple properties along Oak Street N and 6<sup>th</sup> Avenue N on either side of an alley running through this block. The centerline of the public alley and the centerline of 5<sup>th</sup> Avenue N was the primary boundary between the MR-2 and DMU zoning districts. Since then, the applicant has acquired and consolidated these properties and has vacated the public right-of-way that once divided the subject property. The zone change is requested in order to realign the boundary between the MR-2 and DMU zoning districts along the shared lot line of Lot 1 and Lot 2 of the proposed subdivision, which aligns with the applicants proposed development plans.

**(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?**

The development is served with city services (water, sewer, streets, police/fire protection, etc.). The City Engineer and other applicable review agencies have reviewed this proposal. No deficiencies to provide the necessary public services, facilities and programs to this development have been identified. Additionally, the City Forrester has provided comments to the applicant regarding the protection of mature street trees along 6<sup>th</sup> Avenue N and Oak Street N, which must be accounted for as development plans are developed.

**(Criteria Satisfied)**

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

Staff has no evidence that would suggest this proposal 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, staff has received and heard several comments, which have been summarized above. While some residents are opposed to the applicant's proposed project, staff finds that the change in zoning is relatively minor compared to the current zoning of MR-2 and DMU, and does not substantially change the type of development that can take place on the subject property under the current zoning. Additionally, the applicant is proposing to make a substantial investment in new housing within the vicinity, replacing housing units in need of repair with newly constructed housing units. Ultimately, staff has no

evidence to suggest the zoning change would result in adverse effects on condition or value of 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 believes this proposal is in keeping with adopted plans and the existing zoning of adjacent properties. Specifically, the Fargo Go2030 Comprehensive Plan supports infill and density within areas that are already developed, serviced with utilities, and protected by a flood resiliency strategy. The promotion of infill development is the number two ranked priority of Go2030. Additionally, the subject property is within walking distance of the downtown core, which provides an opportunity for residents to live in close proximity to shopping and work. Staff finds that the proposal is consistent with the purposes of the LDC, the Growth Plan, and other adopted policies of the City. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed 1) Craigs Oak Grove 2<sup>nd</sup> Addition subdivision and 2) zoning map amendment from DMU, Downtown Mixed-Use, and MR-2, Multi-Dwelling Residential, with PUD, Planned Unit Development, overlay to DMU, Downtown Mixed-Use, and MR-2, Multi-Dwelling Residential, and to repeal the existing PUD, Planned Unit Development, overlay, as presented, as the proposal satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06 and Section 20-0906(F) (1-4) of the LDC, and all other applicable requirements of the LDC."

**Planning Commission Recommendation:** September 3, 2019

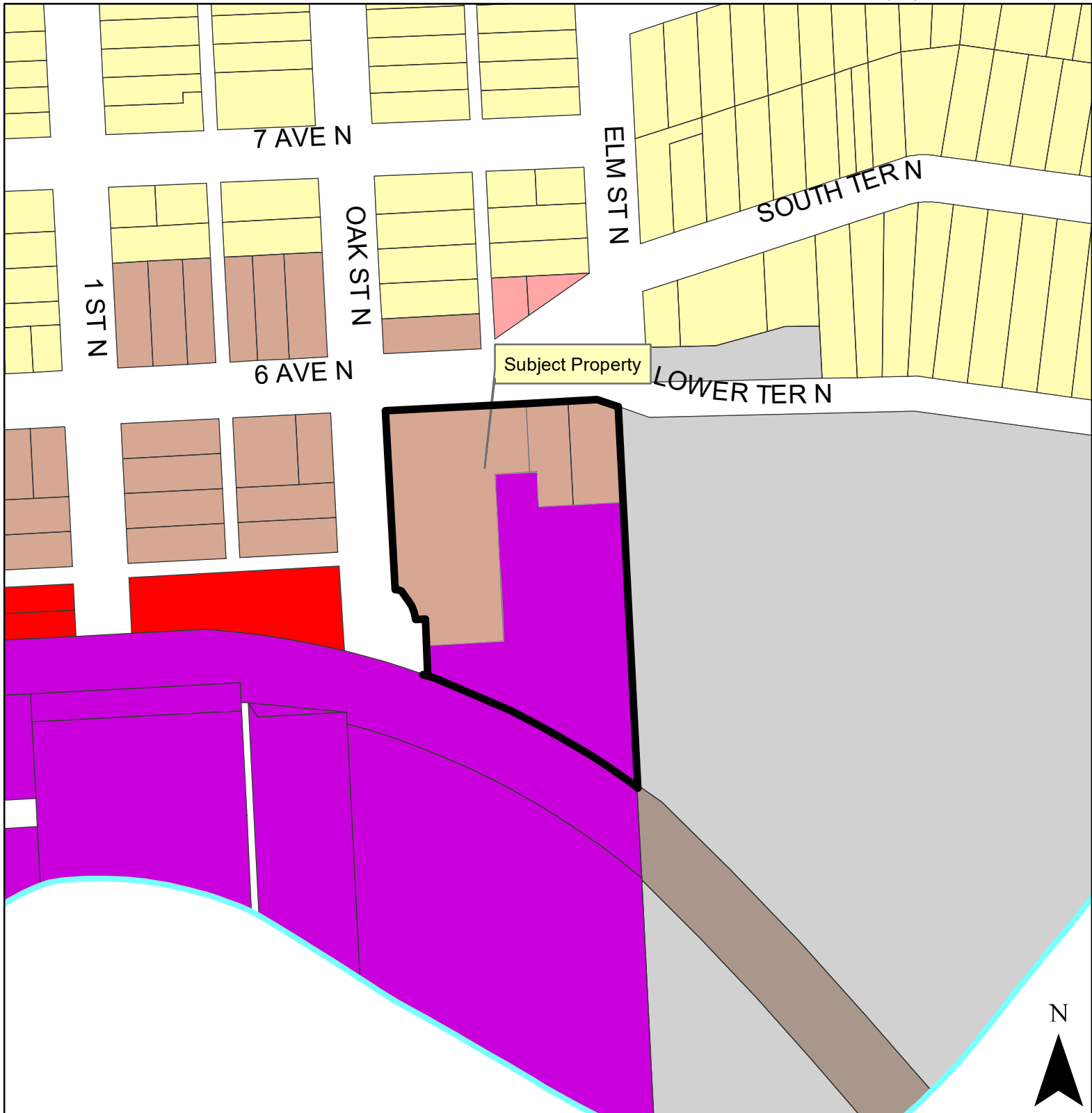
**Attachments:**

1. Zoning Map
2. Location Map
3. Preliminary Plat
4. Public Comments

# Zone Change (MR-2 & DMU with PUD to MR-2 & DMU) Plat (Minor)

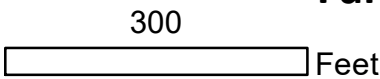
## Craig's Oak Grove Second Addition

505, 509, & 515 Oak St N  
2, 6, & 10 6th Ave N



**Legend**

AG	LC	MHP	SR-2
DMU	LJ	NC	SR-3
GC	MR-1	NO	SR-4
GO	MR-2	P/T	SR-5
	MR-3	UMU	City Limits

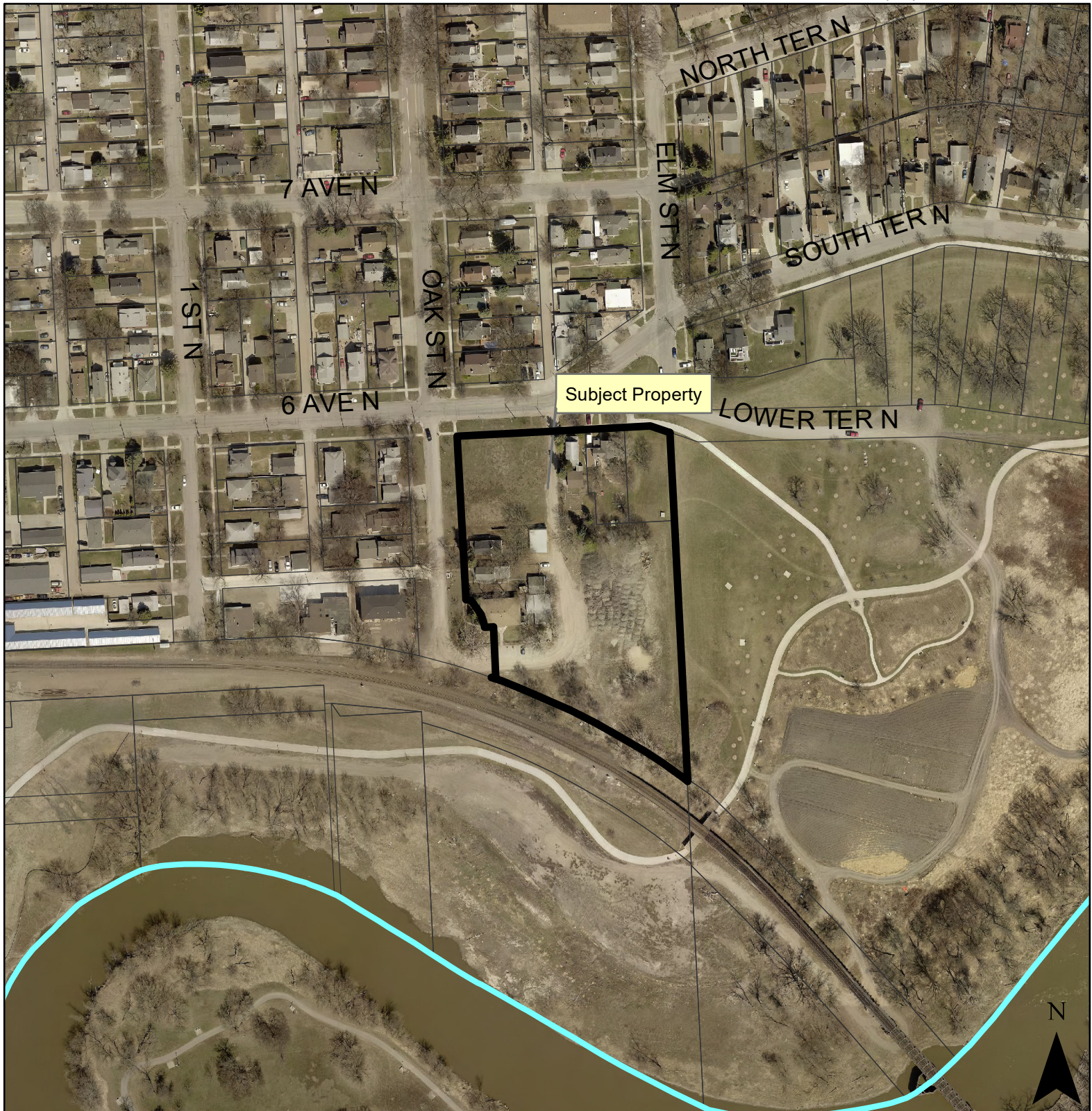


**Fargo Planning Commission**  
**September 3, 2019**

# Zone Change (MR-2 & DMU with PUD to MR-2 & DMU) Plat (Minor)

## Craig's Oak Grove Second Addition

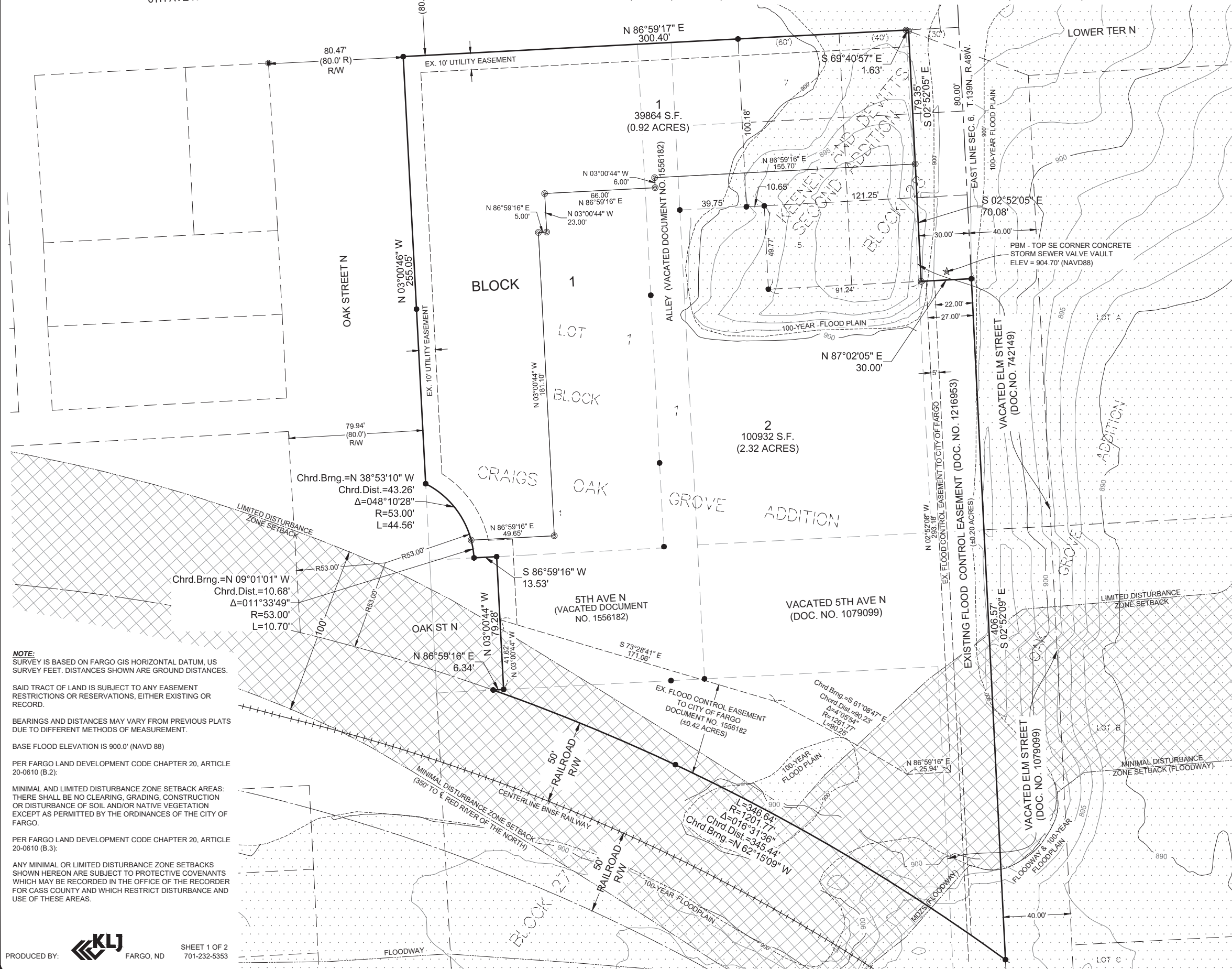
505, 509, & 515 Oak St N  
2, 6, & 10 6th Ave N



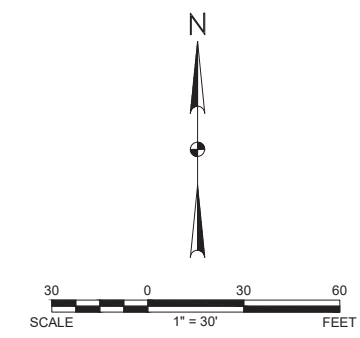


# A MINOR SUBDIVISION PLAT OF CRAIGS OAK GROVE SECOND ADDITION TO THE CITY OF FARGO

A REPLAT OF LOT 1, BLOCK 1, CRAIGS OAK GROVE ADDITION, VACATED PORTION OF ELM STREET, VACATED PORTION OF 5TH AVE N, VACATED ALLEY, AND A PORTION OF LOTS 5, 6 AND 7, BLOCK 28, KEENEY AND DEVITTS 2ND ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



LEGEND	
●	REBAR AND CAP FOUND
●	REBAR FOUND
●	IRON BOLT FOUND
⊙	5/8" REBAR AND LS 4687 CAP SET
---	NEW EASEMENT LINE
- - -	EXISTING EASEMENT LINE
---	ADJACENT LOT LINE
	RAILROAD CENTERLINE
---	PROPERTY BOUNDARY
---	LOT LINE
---	100-YEAR FLOOD PLAIN LINE
---	FEMA SPECIAL FLOOD HAZARD PLAIN AREA
XXXXX	LIMITED DISTURBANCE ZONE SETBACK (LDZS)



**NOTE:**  
SURVEY IS BASED ON FARGO GIS HORIZONTAL DATUM, US SURVEY FEET. DISTANCES SHOWN ARE GROUND DISTANCES.

SAID TRACT OF LAND IS SUBJECT TO ANY EASEMENT RESTRICTIONS OR RESERVATIONS, EITHER EXISTING OR RECORD.

BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENT.

BASE FLOOD ELEVATION IS 900.0' (NAVD 88)

PER FARGO LAND DEVELOPMENT CODE CHAPTER 20, ARTICLE 20-0610 (B.2):

MINIMAL AND LIMITED DISTURBANCE ZONE SETBACK AREAS: THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF SOIL AND/OR NATIVE VEGETATION EXCEPT AS PERMITTED BY THE ORDINANCES OF THE CITY OF FARGO.

PER FARGO LAND DEVELOPMENT CODE CHAPTER 20, ARTICLE 20-0610 (B.3):

ANY MINIMAL OR LIMITED DISTURBANCE ZONE SETBACKS SHOWN HEREON ARE SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE RECORDED IN THE OFFICE OF THE RECORDER FOR CASS COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.

# A MINOR SUBDIVISION PLAT OF CRAIGS OAK GROVE SECOND ADDITION TO THE CITY OF FARGO

A REPLAT OF LOT 1, BLOCK 1, CRAIGS OAK GROVE ADDITION, VACATED PORTION OF ELM STREET, VACATED PORTION OF 5TH AVE N, VACATED ALLEY, AND A PORTION OF LOTS 5, 6 AND 7, BLOCK 28, KEENEY AND DEVITTS 2ND ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

**OWNERS DESCRIPTION, ACCEPTANCE AND DEDICATION:**

WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE LAND DESCRIBED IN THE PLAT OF "CRAIGS OAK GROVE SECOND ADDITION" TO THE CITY OF FARGO, A REPLAT OF LOT 1, BLOCK 1, CRAIGS OAK GROVE ADDITION, VACATED PORTION OF ELM STREET, VACATED PORTION OF 5TH AVE N, VACATED ALLEY, ALL EXCEPT THE EAST 30 FEET OF LOTS 5, 6, 7, AND THE WEST HALF OF VACATED ELM STREET ADJACENT TO LOTS 5, 6, 7, BLOCK 28, KEENEY AND DEVITTS SECOND ADDITION IN THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA; THAT WE HAVE CAUSED IT TO BE PLATTED INTO LOTS AND BLOCKS AS SHOWN BY SAID PLAT. WE HEREBY DEDICATE THE STREET RIGHT OF WAY AND UTILITY EASEMENTS TO THE USE OF THE PUBLIC AND THE FLOOD CONTROL EASEMENT TO THE CITY OF FARGO ALL AS SHOWN ON SAID PLAT.

SAID PLAT CONTAINS 3.24 ACRES, MORE OR LESS, AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS OF WAY OF RECORD.

**OWNER:** LHS INVESTMENTS, LLC

\_\_\_\_\_  
JESSE CRAIG, PARTNER

STATE OF NORTH DAKOTA    )  
  )SS  
COUNTY OF CASS         )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, A NOTARY PUBLIC WITH AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED JESSE CRAIG, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC

**MORTGAGEE:** GREAT WESTERN BANK

\_\_\_\_\_  
BRENT WERSINGER, GROUP PRESIDENT

STATE OF NORTH DAKOTA    )  
  )SS  
COUNTY OF CASS         )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, A NOTARY PUBLIC WITH AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED BRENT WERSINGER, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC

**SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT**

I, CARL P. OLSON, PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA DO HEREBY CERTIFY THAT THE ATTACHED PLAT IS A TRUE AND ACCURATE REPRESENTATION OF THE SURVEY OF SAID SUBDIVISION AND ALL DISTANCES SHOWN ON SAID PLAT ARE CORRECT; THAT THE MONUMENTS FOR THE GUIDANCE OF FUTURE SURVEYS HAVE BEEN CORRECTLY PLACED IN THE GROUND AS SHOWN.

\_\_\_\_\_  
CARL P. OLSON, PROFESSIONAL LAND SURVEYOR  
NORTH DAKOTA LICENSE # LS-4687

STATE OF NORTH DAKOTA    )  
  )SS  
COUNTY OF CASS         )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, A NOTARY PUBLIC WITH AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED CARL P. OLSON, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC

**CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL**

APPROVED BY CITY ENGINEER THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
BRENDA E. DERRIG, CITY ENGINEER

STATE OF NORTH DAKOTA    )  
  )SS  
COUNTY OF CASS         )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, A NOTARY PUBLIC WITH AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED BRENDA E. DERRIG, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC

**CITY OF FARGO PLANNING COMMISSION APPROVAL**

APPROVED BY THE CITY OF FARGO PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
JOHN GUNKELMAN, CHAIR  
FARGO PLANNING COMMISSION

STATE OF NORTH DAKOTA    )  
  )SS  
COUNTY OF CASS         )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, A NOTARY PUBLIC WITH AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED JOHN GUNKELMAN, FARGO PLANNING COMMISSION CHAIR, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC

**CITY OF FARGO CITY COMMISSION APPROVAL**

APPROVED BY THE BOARD OF CITY COMMISSIONERS AND ORDERED FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
TIMOTHY J. MAHONEY, MAYOR

ATTEST: \_\_\_\_\_  
STEVEN SPRAGUE, CITY AUDITOR

STATE OF NORTH DAKOTA    )  
  )SS  
COUNTY OF CASS         )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, A NOTARY PUBLIC WITH AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TIMOTHY J. MAHONEY, MAYOR, CITY OF FARGO, AND STEVE SPRAGUE, CITY AUDITOR, CITY OF FARGO, TO ME KNOWN TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC

## Aaron Nelson

---

**From:** Pearson, Carol <carol.pearson@ndus.edu>  
**Sent:** Tuesday, August 27, 2019 3:23 PM  
**To:** Aaron Nelson  
**Subject:** Fw: Craigs Oak Grove Addition

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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**From:** Pearson, Carol <carol.pearson@ndus.edu>  
**Sent:** Tuesday, August 27, 2019 3:21 PM  
**To:** anelsson@fargond.gov <anelsson@fargond.gov>  
**Subject:** Fw: Craigs Oak Grove Addition

Hi Aaron!

I am sending again my letter as of Feb. 28, 2019, regarding the Craig addition. I wanted to be sure it was recorded as part of public input. The updated report (updated Jan 10 2019) mentions only one letter from a neighbor as well as calls, etc. So I wanted to be sure that my letter from Feb. is acknowledged as part of public input.

Thanks! Carol

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**From:** Pearson, Carol  
**Sent:** Thursday, February 28, 2019 6:06 PM  
**To:** Aaron Nelson <ANelson@fargond.gov>  
**Cc:** Pearson, Carol <carol.pearson@ndus.edu>  
**Subject:** Re: Craigs Oak Grove Addition

Hi Aaron!

I will be on a plane in a few minutes and thus will be unable to attend tonight's meeting.

Below, I list some of my concerns about the Craig development:

I am writing as a neighbor in the Oak Grove neighborhood. I have many concerns about the Craig development.

My issues have to do with the potential development as it has evolved in the last several years, all related to, or under the auspices of, Jesse Craig development entities.

Members of our neighborhood have repeatedly expressed concerns about this development: letters, petitions and people speaking out at planning and commission meetings have all evidenced the strength of the feelings in the neighborhood.

As the Horace Mann Neighborhood Association has articulated:

*There are few other neighborhoods in Fargo Moorhead that have such a tight-knit small-town feel. Tree-lined streets, parks and playgrounds and wonderful gardens entice walkers and bikers of all ages. Accessible downtown local businesses, architectural details on the fine historic homes and friendly neighbors are all a part of this strong neighborhood.*

We want dialog with City of Fargo departments, nearby businesses and institutions, Fargo Police, and the media — in addition to dialog with any developers considering building in our area. This meeting tonight (28 February) represents a coming together of the developer with Horace Mann Neighborhood Association. I'm not yet sure it represents a dialog.

Our neighborhood residents enjoy the diversity of the population that calls this neighborhood home. Seniors and students, families with and without children — appreciation for all walks of life is the backbone to the vibrancy found here. Equally diverse are the homes, ranging from grand and historic to small and quaint. Most of the homes were built between 1890 and 1950. Many properties have benefitted from thoughtful renovations and restorations. Lower-priced, fixer-upper homes with rich details and solid 'bones' can also be found among some of the most reasonably priced single family homes in FM.

Our Oak Grove neighborhood has received designation as a National Historic Neighborhood. Any future development should take this status into consideration. We want to strengthen our strong neighborhood, as it is a unique treasure in FM.

Several points specific to this development:

—Many of the homes included in this plat are among the most historic in Fargo, dating from the 1890s. Renovations that would keep these homes viable and beautiful, instead of being razed, would better contribute to the tenor of our neighborhood. As Jim Laschkewitsch, et al, stated in a recent letter (22 February) to the Forum: "Approving demolition of single-family homes to be replaced by large-scale, high-density developments is not a sustainable, long-term solution for core neighborhoods."

—The development is at the choke point of traffic circulation in our neighborhood.

—Zoning changes represented by PUDs seem to be too easily obtained. Again quoting Laschkewitsch et al: "Skirting the enforcement of residential protection standards by the overapplication of PUDs is problematic and short-sighted".

—If multi-story, high density apartment buildings are raised on the ridge exactly adjacent to the west border of Wildflower Grove park, I feel the beauty and wild feel of the park would be heavily affected by the presence of these apartments looming above the ridge line.

As Paul Seminary stated in a previous letter to planning: "We understand and believe in city growth. But we want to emphasize that the growth should follow the design of the neighborhood....Our concern is for our neighborhood and those that live here. Can you show me how the Oak Grove project enhances this neighborhood? I am not aware of any [benefits]. I can only see that there are 2 entities that will profit from this project and it is not the people in this neighborhood."

I believe, with the Laschkewitsch et al statement in the Forum article, “a pause in zoning modifications from further high-density projects is necessary in core neighborhoods until the city completes its 2019 core neighborhood plan.”

I maintain that supporting and encouraging the unique and vital character of the Oak Grove neighborhood will lead to a better and stronger Fargo-Moorhead community.

Carol Pearson

On Feb 26, 2019, at 3:24 PM, Aaron Nelson <[ANelson@fargond.gov](mailto:ANelson@fargond.gov)> wrote:

All,

As some of you know (or as all of you may know), Jesse Craig will be discussing his preliminary development concept for the recently platted *Craigs Oak Grove Addition* with the Horace Mann Area Neighborhood Association at 7:00pm this Thursday, February 28 at the Northport branch of the Fargo Public Library—2714 Broadway N.

In addition, staff will be working with Jesse for him to try and schedule a larger neighborhood open house, for which there would be a broader notification process (likely involving mailings to adjacent residents and property owners) prior to the submittal of any development applications. Jesse is currently looking at mid-March for possible meeting dates. I will try to keep you all informed as these discussions progress. Jesse suggested that this may be worth discussion at Thursday’s meeting as well.

Thank you,

Aaron M. Nelson, AICP

Planning Coordinator | Department of Planning & Development  
City of Fargo | 225 Fourth Street North | Fargo, ND 58102  
Phone: (701) 241-1475 | Email: [anelson@FargoND.gov](mailto:anelson@FargoND.gov)

## Regarding Oak Grove Apartment Building Project

I am writing this letter as we the neighborhood, feel very strongly about the welfare of our neighborhood. Our concerns on how a proposed large apartment buildings in the Oak Grove area will negatively impact our neighborhood.

My name is Paul Seminary. I have lived in Fargo 57 of my 62 years. I have lived in different areas of Fargo during my life. I purchased my home at 59 6<sup>th</sup> Ave North in 2001. One of the reasons I decided to make my life in this neighborhood is this great Neighborhood. This part of town is 112 years old, with older homes and neighborhood designs. It is a history of our great city. There are signs of when the city was first started, like a piece of the track from the Trolley cars that used to run up and down the street. The houses are of historical designs. Our home was built in 1905 and there are other homes that were built earlier than ours. Our neighborhood is part of the historical district. The proposed 2 large apartment buildings would not fit the footprint of this neighborhood. We want to keep the historical footprint alive in our neighborhood.

We understand and believe in city growth. But we want to emphasize that the growth should follow the design of the neighborhood. The proposed apartment complex is a very large project that doesn't fit the footprint of this historical neighborhood. It would be like me wanting to build a house in the parking lot of West Acres. That would not fit the footprint of the commercial area. The apartment complex does not fit the footprint of this residential neighborhood.

Some of the concerns of the residents in this neighborhood from my understanding are:

Family. As mentioned above many of the families in this neighborhood are ones with young children. Increase in traffic can impact neighborhood safety.

Traffic. Craig Development has said that the design plan for the apartments is for one car stall per bedroom. This would roughly mean that the traffic up and down our busy street would increase by ~550 per day, not including visitors to the apartment occupants. As to why this would affect the traffic so severely, there are only 2 ways in and out (6<sup>th</sup> Ave and Oak St) of the complex. This would be in addition to the current busy traffic that already uses 6<sup>th</sup> Ave North and adjacent streets and avenues. This street is the main transportation to and from Oak Grove school and park area.

Has there been a road and traffic survey done for these streets and avenues? Will the current streets be able to withstand increased traffic flow – we have already been assessed taxes with the lights and sewer projects. Plus the increase in property taxes due to increase in home assessments. Most of the households in this neighborhood are older families or new families – we aren't able to absorb additional assessments.

Safety. Recently on the news there has been several crimes occurring amongst apartment complexes, theft, vandalism, and murder...Savanna Greywind Murder for example. Also in the news on November 7<sup>th</sup> Stonebridge and another apartment management firm sent their tenants letters about

locking their cars even if they were in the garage due to criminal activity. Please do not put us in that kind of risk by building this large of an apartment complex.

Flood Protection. If Craig Development needs to alter the existing permanent dyke built by the city, Craig Development should have to extend blanket insurance coverage within the parameters of the 300 feet set by the city to protect those individuals within the said footprint. For examples, when the levee broke in Grand Forks/East Grand Forks or the levees in New Orleans and closer to home, when the wall broke at Oak Grove School and many other examples.

As mentioned earlier, Oak Grove is a residential district and to compare our neighborhood to Downtown Fargo which is a business district is like comparing apples to oranges.

Our concern is for our neighborhood and those that live here. Can you show me how the Oak Grove project enhances this neighborhood. I am not aware of any. I can only see that there are 2 entities that will profit from this project, and it is not the people in this neighborhood.

Tax Credit. Why should Craig Development Company receive tax breaks to build HIS buildings when the city has already raised our property taxes. The people are tired of these tax breaks. Especially when the people of this neighborhood do not want these apartment buildings in THEIR neighborhood. The buildings Do Not fit the Footprint of this 112 year old neighborhood.

I know there was another resident in our neighborhood that collected signatures for a petition showing concerns for this project. Unfortunately this person became ill and wasn't able to continue this fight. The collection of signatures from this neighborhood shows us and should show the city that there are many concerns regarding this project in this neighborhood.

Have you been able to acquire the lists from Craig Development on whom he said he has contacted personally and the list of the people he notified from the September meeting?

Has there been any land surveys in the past proposed building site area and if so, what was the results from those surveys. Has this information been taken into account and if so how?

A majority of the people in this neighborhood aren't able to come to a meeting during their work hours. This does not mean that they do not care or are in agreement with this project but just that they can't leave work to come. They may not have vacation time to take or a boss that will allow time away from work. Just because there has been low numbers at the meetings, this does not mean the neighborhood residents do not care about this Oak Grove project, because they do. As the petition you have already received earlier shows that. This is a great neighborhood with historical value to the city of Fargo... we want to preserve these elements, the reason families have chosen to live in Oak Grove area.

Thank you for your time and assistance in this important matter. Please contact myself with any questions. My cell is 701-367-5421. I look forward to your reply and information request.

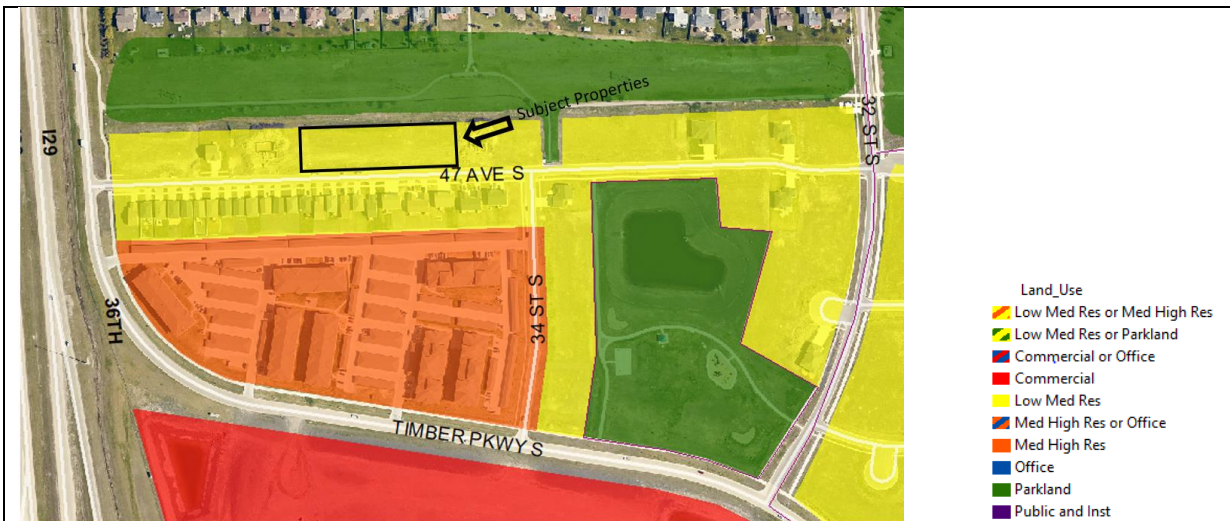
Paul Seminary

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Timber Creek Third Addition	<b>Date: Updated:</b>	8/28/2019
<b>Location:</b>	3431, 3445, 3457, 3469, 3483, 3495, and 3509 47th Avenue South	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description</b>	Lots 1-7, Block 1, <b>Timber Creek Third Addition.</b>		
<b>Owner(s)/Applicant:</b>	Dabbert Custom Homes, LLC/ PLC Investments— Don Dabbert	<b>Engineer:</b>	None
<b>Entitlements Requested:</b>	<b>Zone Change</b> (from SR-2, Single Dwelling Residential to SR-3, Single Dwelling Residential )		
<b>Status:</b>	Planning Commission Public Hearing: September 3, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Platted, not developed	<b>Land Use:</b> Duplexes
<b>Zoning:</b> SR-2, Single Dwelling Residential	<b>Zoning:</b> SR-3, Single Dwelling Residential
<b>Uses Allowed:</b> SR-2 – detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities’	<b>Uses Allowed:</b> SR-3-- detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities
<b>Maximum Density</b> 5.7 dwelling units per acre;	<b>Maximum Lot Coverage</b> 8.7 dwelling units per acre

<b>Proposal:</b>
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> <li>1. A zoning change from SR-2, Single Dwelling Residential to SR-3, Single Dwelling Residential</li> </ol> <p>This project was reviewed by the City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: Fargo Park; P/I, Public/Institutional</li> <li>• East: Detached single-dwelling residence; SR-2</li> <li>• South: Detached single-dwelling residences; SR-4</li> <li>• West: Detached single-dwelling residence; SR-2</li> </ul>
<b>Area Plans:</b>
<p>The 2001 Growth Plan as amended in March, 2014 designates the area of this project as “Low to Medium Density Residential.” This land use designation includes the proposed SR-3 zone.</p>





**Context:**

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

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

**Parks:** Timberline Park/Fox Run Trail is along the northerly boundary of the project site and provides the amenity of recreational trails.

**Pedestrian / Bicycle:** The Fox Run Trail, adjacent to the northerly boundary of the project site, is an off-road bike facility that is a component of the metro area bikeways system.

**Staff Analysis:**

The lots are currently zoned SR-2, Single-Dwelling Residential. The minimum required lot area is 8,000 square feet. The applicant proposes to rezone the lots to SR-3, which has a minimum required lot of 5,000 square feet and which allows duplexes. Duplexes are defined in Fargo’s Land Development Code (LDC) Section 20-1202(54)(c) as “A single structure that contains 2 primary dwelling units on one lot.” The applicant proposed to develop these lots with such duplexes in a side-by-side configuration. The applicant has provided site plans and elevations of two potential building styles, referred to as “Sarah” and “Roberta,” which are attached.

**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?**

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned SR-2. The proposed zoning of SR-3 is consistent with the 2001 Growth Plan designation of “lower to medium density residential.” **(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 existing lots front on dedicated public streets. These streets will provide access and public utilities to serve the development. **(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 some inquiry phone calls about the project. Staff also received an e-mail from a neighbor who indicated she is planning to submit a protest, though that item had not been received at the time this packet was distributed. Any comments received prior to September 3<sup>rd</sup> Planning Commission hearing will be submitted to the Commission at that hearing. 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.” Staff finds this proposal is consistent with the purpose of the LDC, the applicable comprehensive plan, and other adopted policies of the City. **(Criteria satisfied)**

**.Staff Recommendation:**

Suggested Motion: “To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed zone change from SR-2, Single Dwelling Residential to SR-3, Single-Dwelling Residential as presented, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC.”

**Planning Commission Recommendation:** September 3, 2019

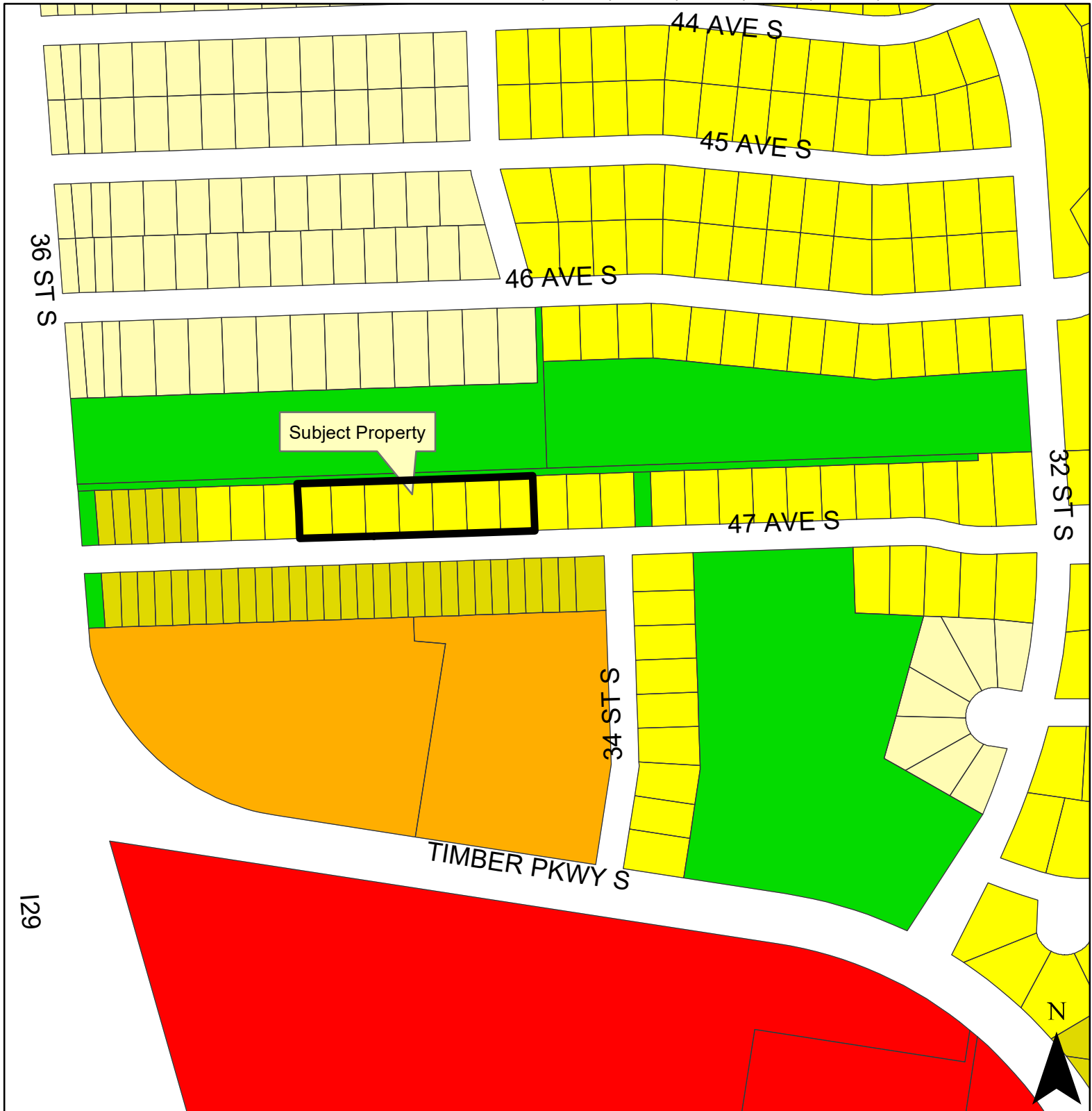
**Attachments:**

1. Zoning Map
2. Location Map
3. Examples of potential building types

# Zone Change (SR-2 to SR-3)

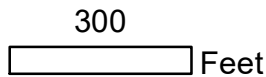
## Timber Creek Third Addition

3431, 3445, 3457, 3469, 3483, 3495, & 3509 47th Ave S



### Legend

AG	LC	MHP	SR-2
DMU	LI	MNC	SR-3
GC	MR-1	NO	SR-4
GO	MR-2	P/I	SR-5
	MR-3	UMU	City Limits



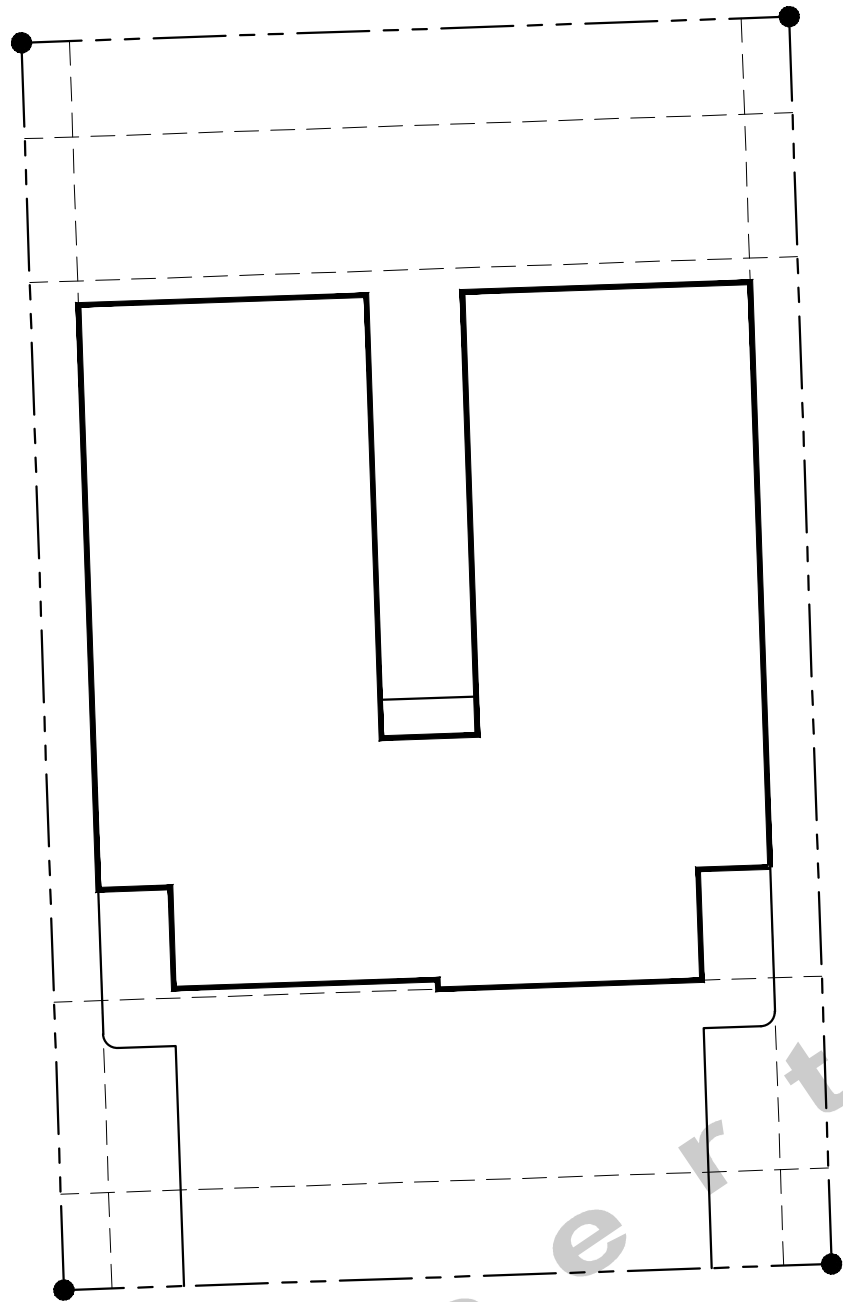
Fargo Planning Commission  
September 3, 2019

# Zone Change (SR-2 to SR-3)

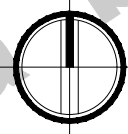
## Timber Creek Third Addition

3431, 3445, 3457, 3469, 3483, 3495, & 3509 47th Ave S

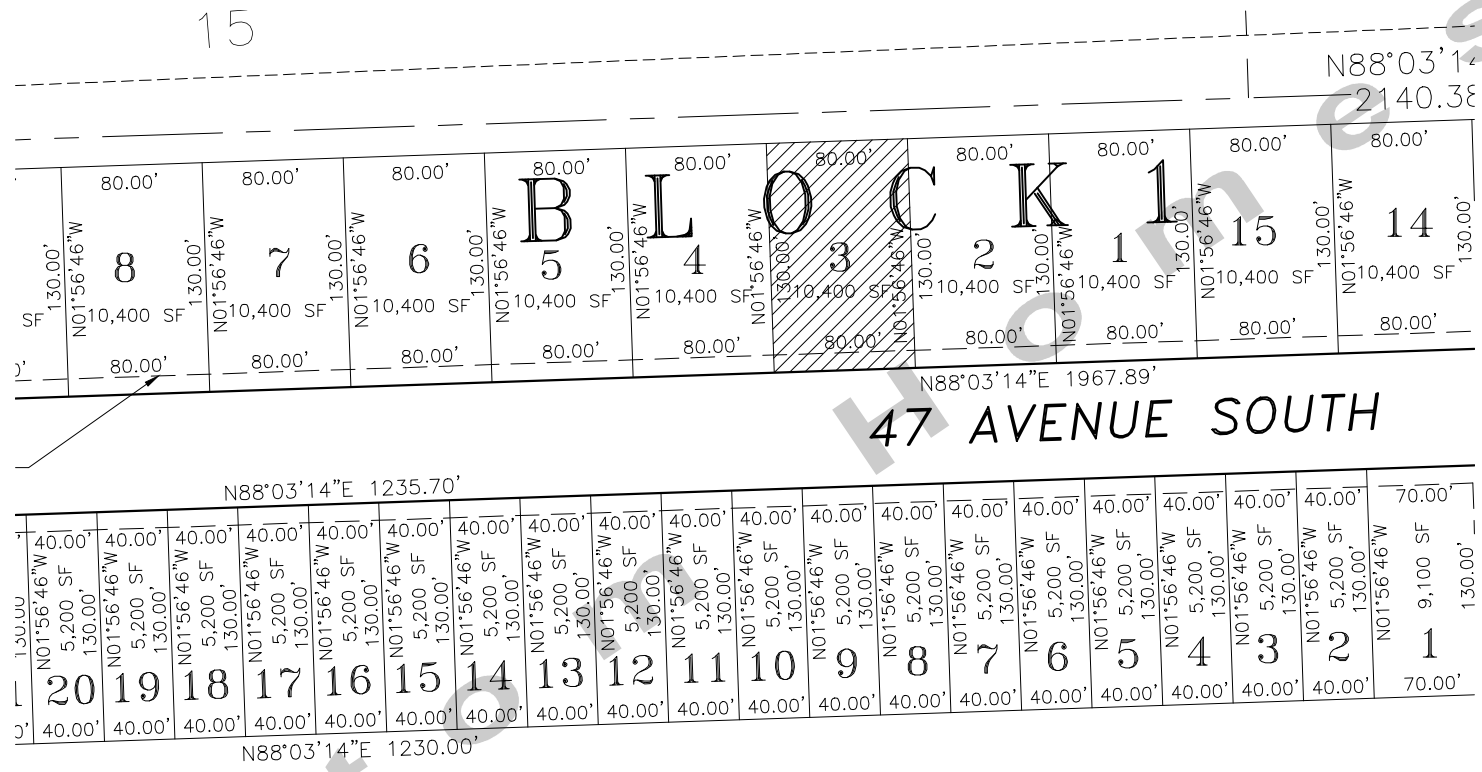




47th Ave S



site plan  
Scale: 1" = 20'



vicinity map  
Scale: not to scale

**NOT FOR CONSTRUCTION**

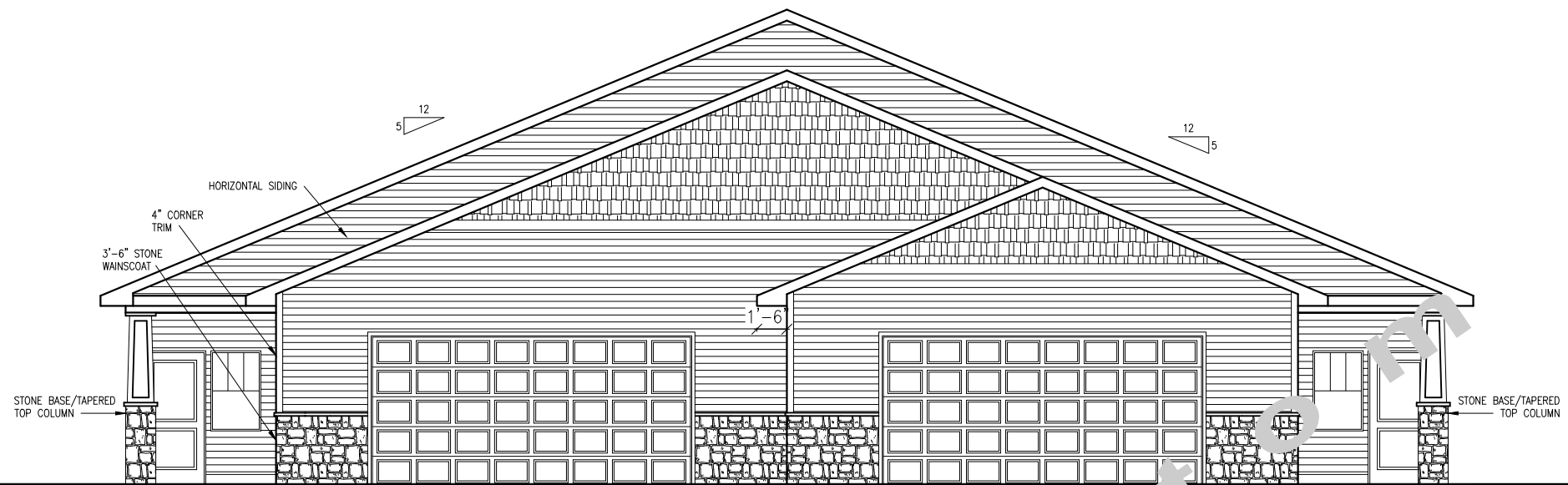


**DCH "Roberta 2.5" Model**  
3457 47th Ave S  
Fargo, ND  
Lot 3, Block 1  
Timber Creek, 3rd Addn

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REVISIONS:  
  
  
drawn by: SS



**Front Elevation**

SCALE 1/8" = 1'

**NOT FOR CONSTRUCTION**

**DCH "Roberta 2.5" Model**

3457 47th Ave S  
 Fargo, ND

Lot 3, Block 1

Timber Creek, 3rd Addn



5522 - 36th Street Southwest  
 Fargo, North Dakota 58104-678  
 ph: 701.280.1805 fax: 701.280.0117

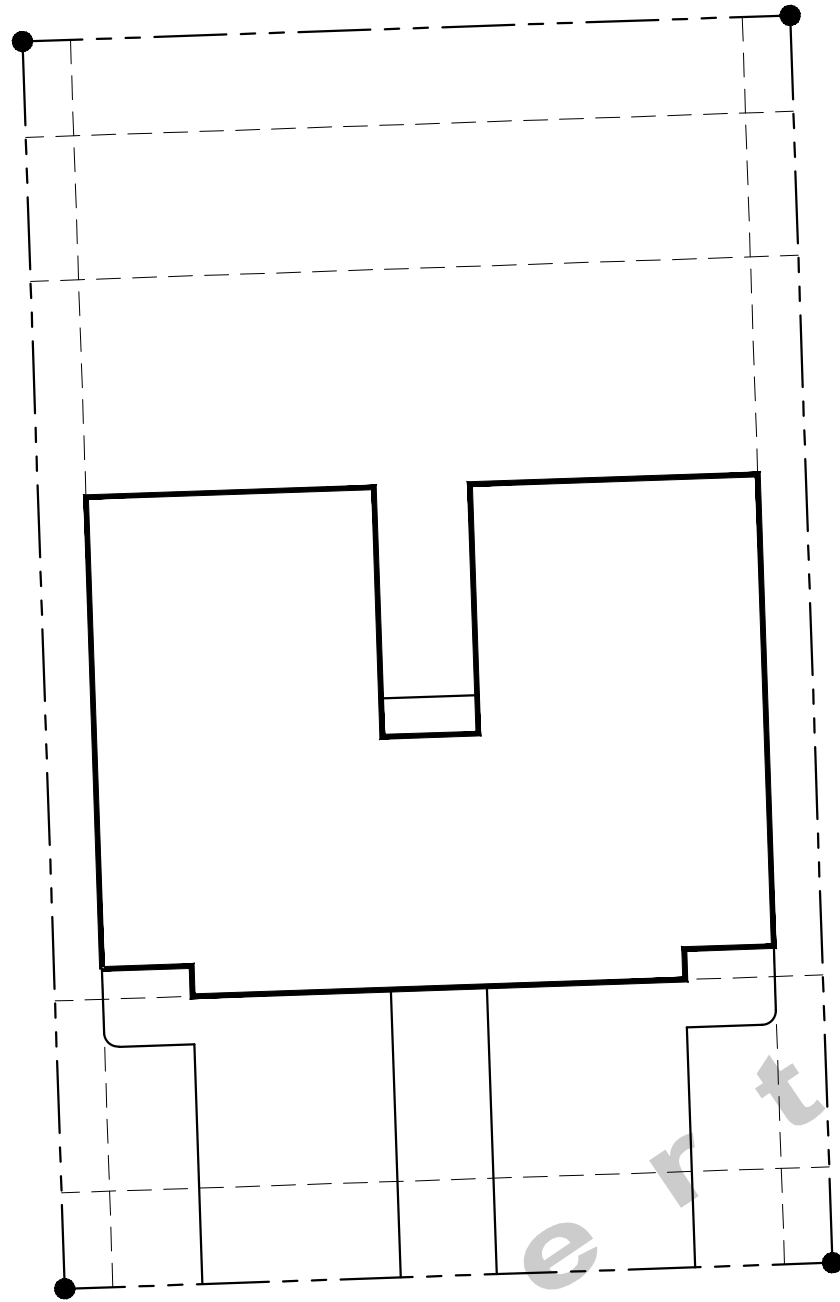
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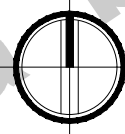
ISSUED: 04.19.1

REVISIONS:

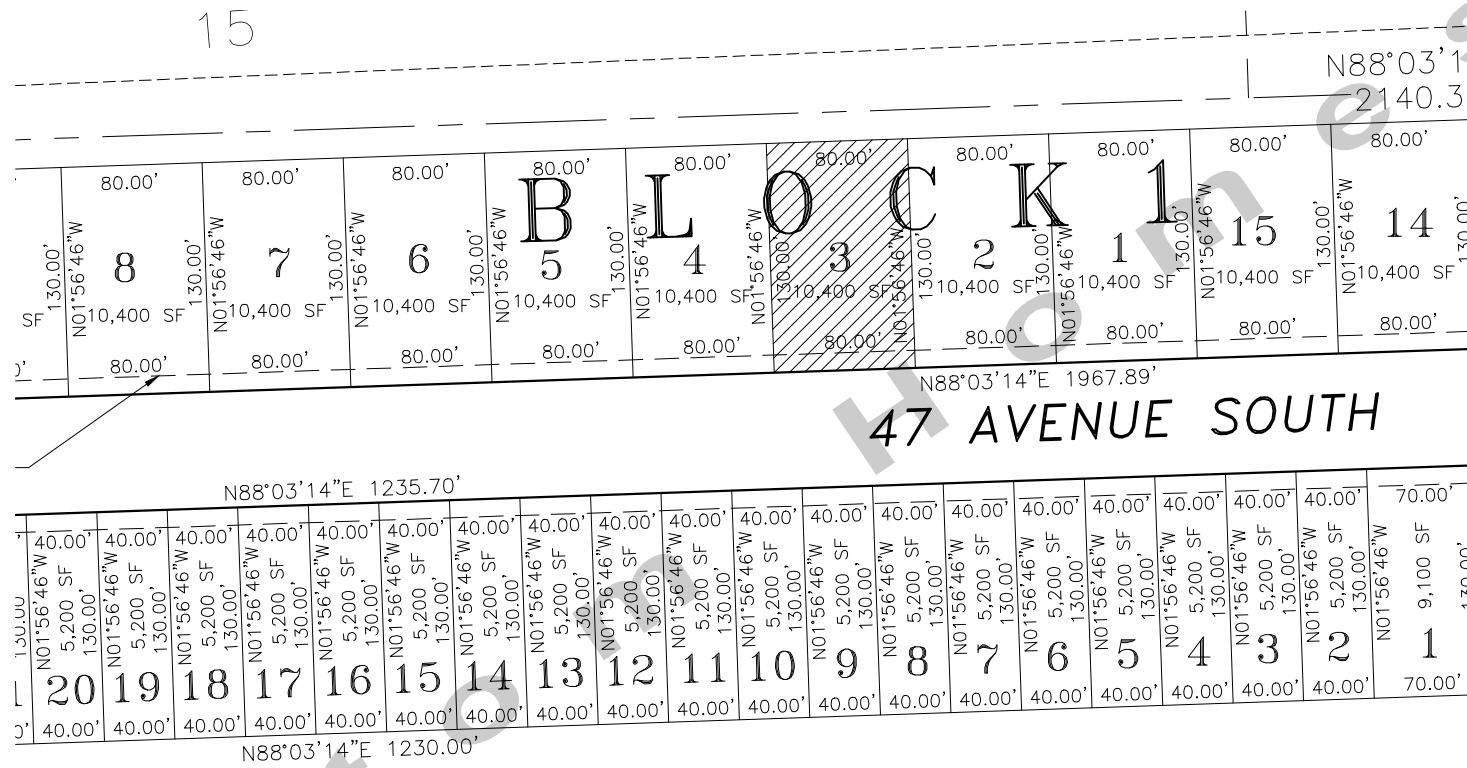

drawn by: SS



47th Ave S



site plan  
Scale: 1" = 20'



vicinity map  
Scale: not to scale

**NOT FOR CONSTRUCTION**

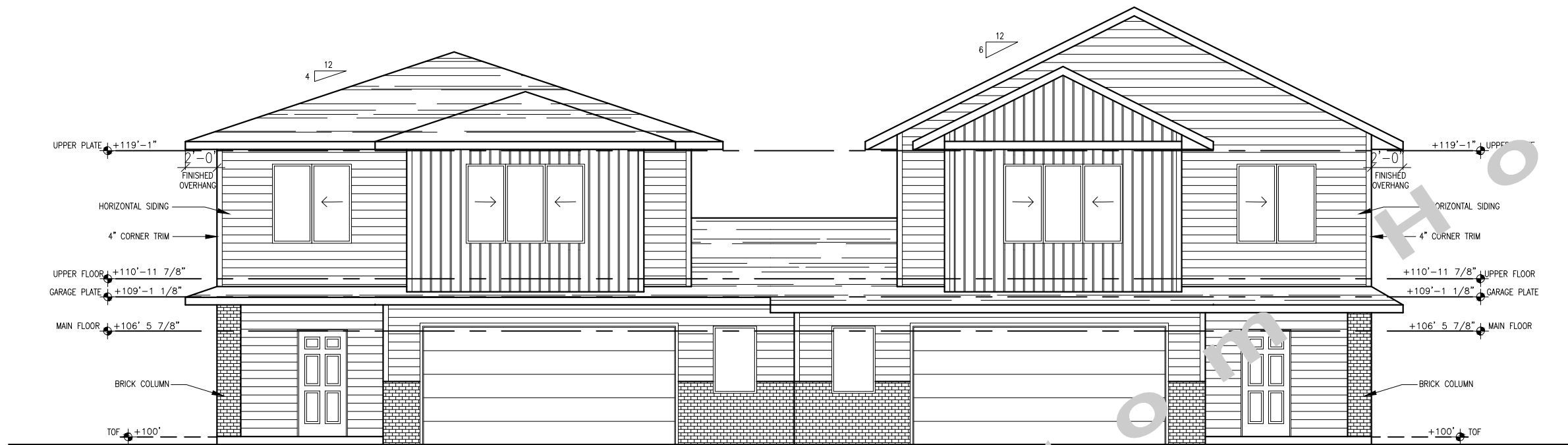


**DCH "Sarah 2.5 EUL" Model**  
3457 47th Ave S  
Fargo, ND  
Lot 3, Block 1  
Timber Creek, 3rd Addn

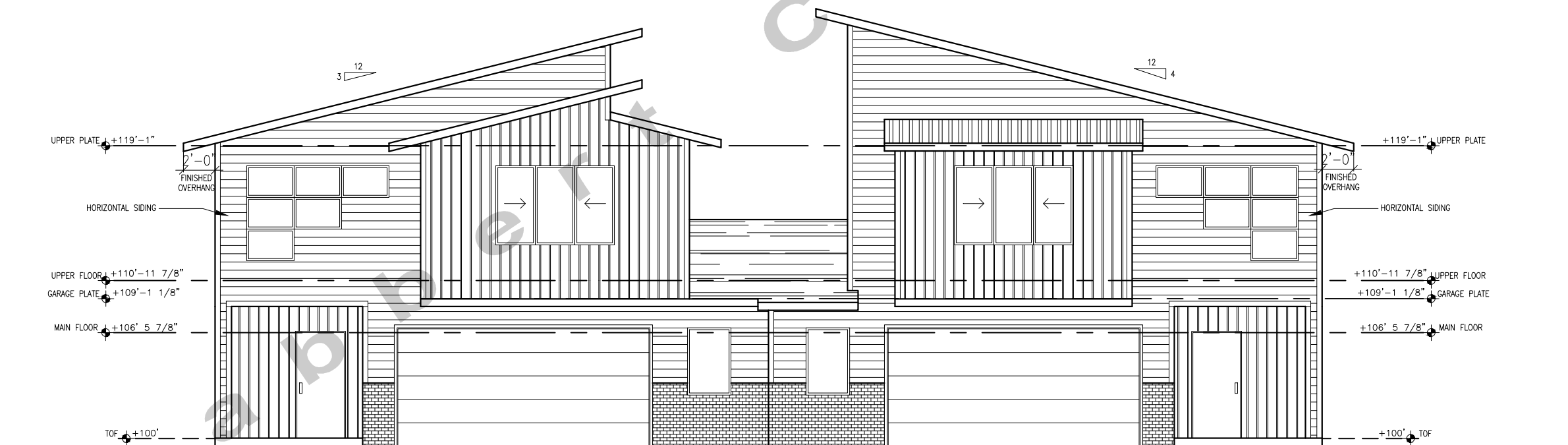
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REVISIONS:	
drawn by:	SS



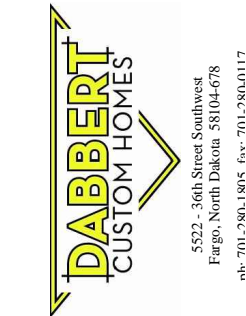
**Front Elevation**  
SCALE 1/8" = 1'



**Front Elevation**  
SCALE 1/8" = 1'

**NOT FOR CONSTRUCTION**

**PDCH "Sarah 2.5 EUL" Model**  
3457 47th Ave S  
Fargo, ND  
Lot 3, Block 1  
Timber Creek, 3rd Addn



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## REVISED PROTEST TO PROPOSED ZONING CHANGES

This document shall serve as a formal protest petition to the following requested changes currently pending before the Fargo Planning Commission:

1. The zoning change from SR-2 to SR-3 on Lots 1-7, Block 1, Timber Creek Third Addition.

Because I have been out of state the last few weeks for work, I was unaware of this proposal until only days ago. As such, I have only had the opportunity to speak with a small number of the affected residents. As an initial matter, I would ask that the Planning Commission please delay consideration of this proposal for another month. Earlier this year, when the same applicant<sup>1</sup> was seeking similar changes to the neighborhood, the matter was continued *twice* at the request of the applicant, first from January to February, and again from February to March. I would appreciate that the same courtesy be extended to the affected residents that was previously afforded the applicant.

As previously noted, this proposal is, in effect, similar to one of three previously proposed changes by the same applicant, namely a replat of the same lots. That proposal involved a replat of the same 7 lots into 9 small lots. This, along with another proposal to replat 7 lots along 34th Street South, were met with opposition from a number of nearby residents. The former was withdrawn prior to the latter, and my revised response to the latter included the following line:

Should the applicant renew this request or seek similar changes in the future, the opposition of the affected homeowners to both projects should be noted by the Fargo Planning Commission.

Indeed, that is precisely the current situation, although the applicant now seeks an even more onerous change than before. While the 7 lots would still remain as 7 lots (rather than 9), the number of potential residences allowed would now be 14. While the opposition statements were technically in response to a differently named proposal, the intent was clear – attempts to turn these lots into higher-density housing are clearly opposed by residents of the neighborhood.

### **Standing / Interest**

This protest is being filed by Alyson Bring and Matthew Bring, owners of the affected property at 4706 34th Street South. (Exhibit 1). The property at 4706 is within 300 feet of the nearest property affected by this proposal.

For purposes of qualifying as a “valid protest” under Land Development Code §20-0906(G), I would only ask that any reviewing body take into the consideration the prior letters from nearby residents. Should the Planning Commission vote to recommend these proposals, I will renew my efforts to obtain formal opposition statements from affected residents.

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<sup>1</sup> For simplicity, the term “applicant” shall hereinafter be interpreted to include Paces Lodging Corporation, PLC Holdings, PLC Investments, Property Resources Group, Dakota Real Estate Investment Trust, Fargo Apartment Homes, Timber Creek Investments, Timber Creek Commercial Property Owners Association, Timber Creek Retail Center, and any other associated or commonly owned entities.

### **Burden of Proof**

Pursuant to Land Development Code §20-0902, the burden of demonstrating that an application meets applicable review and approval criteria is on the *applicant* alone, and not on the city or other affected parties.

### **Standard of Review**

Pursuant to Land Development Code §20-0906(F), all four of the following criteria must be met before any request can be approved:

1. The requested zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
2. The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development allowed by the new zoning classification at the time the property is developed;
3. The approval will not adversely affect the condition or value of property in the vicinity; and
4. The proposed amendment is consistent with the purpose of this Land Development Code, the applicable Growth Plan and other adopted policies of the City.

In the present matter, as with the now-withdrawn proposals from earlier this year, these factors cannot be demonstrated. Once again, it is the burden of the requesting party to establish *all* four of these criteria. Absent a showing of doing so, the requests cannot be approved.

#### Change in Conditions / Error in Zoning Map

The undersigned homeowners are unaware of any errors in the zoning map, or of a “change in conditions” that would justify this proposal. It is of particular note that the use of the term “justify” in the §20-0906(F)(1) dictates that even if a change in conditions *was* present, the request must be connected to the change in some way. The simple existence of a change in conditions alone is insufficient. Instead, the change in conditions must *justify* the requested zoning change. Apart from the applicant’s presumptive desire to maximize their investment in this development, it is unclear what justification exists for such a request.

The undersigned homeowners also note that the vast majority of the property in and around the affected area is (or has been) owned by the applicant. As such, any change in conditions in the surrounding area, has, in effect, been made by the same entity currently requesting the zoning change. Allowing a party to rely upon its own actions to justify future actions violates public policy and the public trust.

Also of note is that the applicant has previously requested similar changes to other properties in the same neighborhood. On March 12, 2018, the City Commission considered Timber Creek Seventh Addition, a similar request to replat and rezone three SR-2 lots into six SR-4 lots. As noted in the official minutes of this meeting:

“Nate Vollmuth, Paces Lodging Corporation, said their request sounds worse than it is. He said it is a maximum of three twin homes or six split twin homes; it is not an apartment building. He said directly north of the lots there is a landscape buffer which is owned by the City.”

Less than a year later, there were additional requests affecting properties in the same neighborhood. What was then described as “sound[ing] worse than it is” and “a maximum or three twin homes or six split twin homes” had expanded into a request to replat 7 large traditional lots (currently SR-2) into 14 high-density twin home lots (SR-4) along 34th Street, and to replat 7 lots along 47th Avenue into 9 smaller lots. Those proposals were only withdrawn following the homeowners’ submission of a valid protest with the support of numerous affected homeowners. Now, the same applicant *again* seeks to change Timber Creek into a higher-density development than planned.

The totality of circumstances reveals that the applicant gained approval to develop the area under the guise of one type of neighborhood (i.e., a mixed development with numerous SR-2 lots), and now again seeks to change a large section of the area from low-density individual homes to higher-density duplexes.

The Staff Report prepared prior to the Planning Commission meeting on September 3, 2019 indicated that Staff is unaware of any error in the zoning map. It is noted therein that the “proposed zoning of SR-3 is consistent with the 2001 Growth Plan designation of “lower to medium density residential.” That the SR-3 designation may be classified as “lower to medium density residential” is immaterial to the plain language meaning of this section of the §20-0906(F)(1). There has been no error demonstrated and no showing of a change in conditions, apart from the proposal itself. In other words, the Planning Department has taken the position that the proposed zoning change is justified by the proposal itself.

#### Affect on Necessary Public Services/Facilities

Empirical evidence of the extent to which the proposed changes will affect public services is extraordinarily difficult for the undersigned homeowners to obtain, particularly in light of the limited notice period. However, should the Fargo Planning Commission vote to recommend the requested changes, further such evidence will be sought to the extent available.

However, anecdotally, the undersigned homeowners note that parking in the neighborhood is already at or near its capacity. The residents of Timber Creek Apartments<sup>2</sup> frequently park along 47th Avenue near the of 34th Street. Despite there being only a handful of houses on the North Side of 47th Avenue near the proposal, there was a vast amount of snow on the North side, as there was already no where left to put it on the South side.

Parking and traffic along this street will no doubt increase as the affected lots are sold and additional houses are built. The additional 7 homes (as currently platted) will certainly affect this to some extent, pushing the capacity of this street to its maximum. Increasing from 7 homes to

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2 These apartments are owned by Fargo Apartment Homes LLC, an extension of the applicant.

14 duplexes, which would no longer be anticipated to have large garages, will increase the parking congestion to untenable levels.

As noted above, this neighborhood was originally designed as containing a number of SR-2 lots. Given the increased number of lots (and by extension, traffic) sought by the applicant (both currently and in the past), the burden rests upon the applicant to demonstrate that the existing street design in the area is sufficient. At present, the affected homeowners are unaware of any such studies or other evidence showing that the current parking and streets would meet the demands of the increased traffic that would result from rezoning this area. Once again, it is the applicant's burden to do so, and absent such a showing thereof, the request cannot be approved.

My understanding is that the Planning Department has taken the position that the traffic/parking needs are met because the street is a sufficient width for a specified number of homes. Such a theoretical approach simply ignores the reality faced by the actual homeowners living in the neighborhood.

#### Adverse Affects on Property Value

Again, given the limited notice available to the affected homeowners, limited formal research or studies can be submitted as to this factor at this time, but will be provided to the extent possible should the matter proceed before the Fargo City Commission. However, it is once again noted that the burden rests not upon the affected homeowners to demonstrate a potential decrease in property value. Instead, the applicant again bears the burden of *affirmatively* demonstrating that the proposed change will not adversely affect the value of the surrounding properties. It is not unreasonable to assume that the neighboring properties changing from single homes to duplexes will negatively affect property values. In addition to the fact that the neighborhood simply cannot sustain the parking and traffic such a change will bring, the overall character of the neighborhood will continue to change significantly. In outreach to the neighborhood, one of the points consistently raised by nearby homeowners was that of the potential increase in the number of renters in the area. Beyond the intrinsic value of developing a lasting neighborhood and community, the potential increase in the number of rental properties will also diminish property values.<sup>3</sup> As I noted in my response to the prior, similar proposals, one of the nearby homeowners along 46th Ave has not only expressed his opposition to that proposal, but also offered his opinion as to the negative affect on property values, in light of his professional experience as a realtor. (Exhibit 18).

As currently platted, the properties along 47th Avenue Street are relatively large lots of approximately 10,400 square feet backing to green space. The property at 4706 was purchased by the undersigned homeowners with the understanding that this neighborhood would contain some high-density twin homes and apartments to the West, but would sit adjacent to a number of higher-end homes backing to a pond and that the lots on the North side of 47th Avenue would be single family detached homes.

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3 Research performed by Realtor.com suggested that "ZIP codes with a higher-than-average concentration of renters have lower property values compared to the county they are located in...by 14%." Pan, Qyqing (2016, March 28), *The Neighborhood Features That Drag Down Your Home Value – Ranked*. Retrieved from <https://www.realtor.com/news/trends/things-that-affect-your-property-value>

Similarly, many of the owners of the current properties along 47th Avenue purchased their twin homes with the understanding that there would be a number of more expensive homes to the East and North. This is precisely the mix of high-, medium-, and low-cost homes the vast majority of new developments in Fargo contain. If the requested changes are approved, it appears that many of the medium lots will be changed to allow for two homes two lot. Changing these seven lots will affect the marketability of the other vacant lots on the North side of 47th Avenue, as well as the lots to the South of 47th Avenue along 34th Street. Frankly, it would be incredible to assert that the proposed changes will not adversely affect the surrounding property values; and again, *absent such an affirmative showing by the applicant*, the proposed changes cannot be approved under §20-0906(F)(3).

It is my understanding the Planning Department's position with respect to this issue is that no such formal analysis is done by the Department or the applicant, and the Department has deemed such an analysis too burdensome or difficult. Once again, it is not the affected homeowners that need to demonstrate values will go down, but rather the applicants burden to demonstrate they will not go down. Here, no such analysis has been done.

#### Other Relevant Considerations

As noted above, the requested changes are likely to increase traffic, strain available parking, and decrease surrounding property values. Moreover, it is against the public's interest to allow a property developer to gain approval for a development based upon one representation of a neighborhood, only to later drastically change the overall character of the neighborhood. Quite simply, the undersigned homeowners would have not have purchased the home at 4706 if the lots along 34th Street had been zoned SR-4, as previously proposed; or if the vacate lots along 47th Avenue had been zoned for duplexes. The undersigned homeowners detrimentally relied on the existing plat and zoning when purchasing their home. For the City to approve the requested changes would not only violate the requirements of §20-0906(F), but also expose the City to potential legal action.

As noted above, the applicant sought a similar change in early-2018 with respect to three (now six) lots along 47th Avenue, which was ultimately approved by the Fargo City Commission on March 12, 2018. As part of the discussion, Mr. Vollmuth (representing the applicant) was specifically questioned by Mayor Timothy Mahoney as to whether the applicant was going to stop at that request, or “come back piece by piece” with further similar requests.<sup>4</sup> Mr. Vollmuth replied, “we are only looking at these three lots” and “we're not gonna try to fit anything else in there other than hopefully three twin homes.” Among Mr. Vollmuth's other stated rationale for the request was that these three lots would act as a “buffer” between the interstate and the rest of the lots along that street. These rationales were subsequently relied on by the Fargo City Commission when approving the request at that time. Then, less than a year later, the applicant sought to do *precisely* what its representative previously asserted it would *not* do when arguing in favor of the prior requested changes. While the three proposals considered by the Planning Department earlier this year were ultimately withdrawn, it is hard to believe they would have been withdrawn had it not been for public opposition. Now, the same applicant is back

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<sup>4</sup> This discussion can be found at approximately 34 minutes into the meeting. Retrieved from: <http://download.fargond.gov/k/151-1.mp4>

approximately 6 months later with yet another require to change the nature of the neighborhood. Quite simply, at what point does the City say “*enough is enough*” to the applicant?

As also noted above, the undersigned homeowners engaged much of the local neighborhood concerning the applicant’s prior proposals. In speaking with these individuals, their sentiment toward the proposals was overwhelmingly negative. The owners of at least 16 nearby homes have returned signed statements expressing their opposition to the previously proposed changes. (Exhibits 2-17). As noted above, another nearby homeowner expressed his opposition in an email to Mr. Kress. (Exhibit 18). Maps showing the location of each of these individuals’ homes has also been included. (Exhibits 19-20). The Staff Report prior to the meeting on February 5, 2019 also referenced other individuals who contacted the Planning Department in opposition to the prior proposals. Admittedly, such statements were made with respect to the prior proposals. However, the prior and current proposals are similar enough the overall intent is quite clear – multiple nearby residents believe they are not in the best interests of the neighborhood.<sup>5</sup> The undersigned homeowners respectfully request the members of the Fargo Planning Commission consider the views and opinions of the residents who actually live in the area.

It is also important to recognize that, as the primary developer of this neighborhood, the applicant assumes not only the opportunity for profit, but also the risk of loss. In the event it has struggled to sell the lots in question, the fair and logical solution would be to lower the price of the lots, rather than to rezone/replat much of the neighborhood. Whether a developer requires a change in zoning to make money or “break even” on a project is simply immaterial to this consideration. To approve such a change essentially absolves the applicant of the risks assumed in such a project.

### **Conclusion**

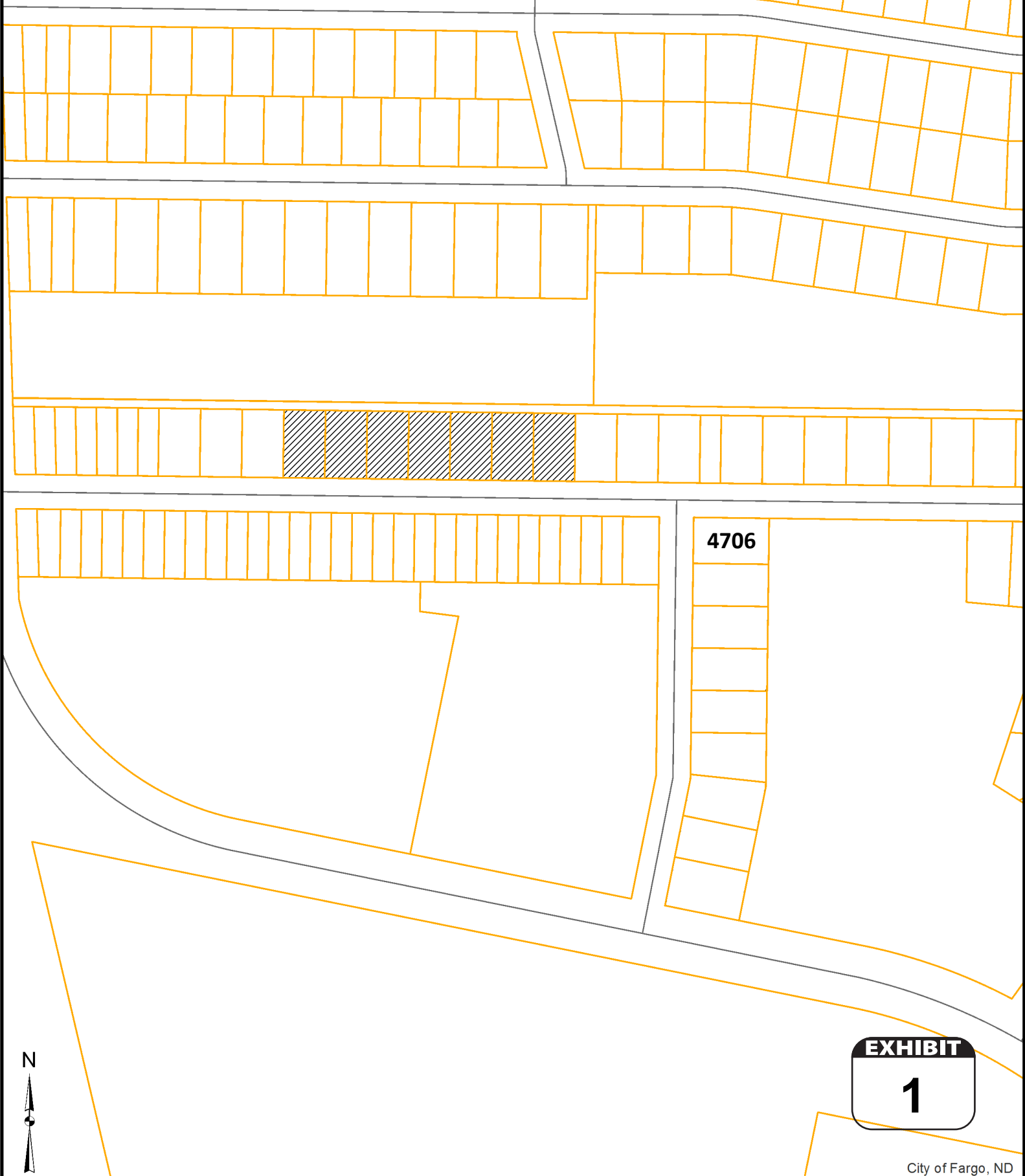
The relevant criteria is *not* whether the applicant asserts that it wants or needs the requested changes. It is also not whether the applicant has struggled to sell the lots in question or whether its business interests are served by such a change. It is not whether a specific percentage of people have objected. Instead, the relevant criteria are found at §20-0906(F), which the *applicant* bears the burden of establishing.

The applicant – and *not* the other affected homeowners – must demonstrate that the change is justified by a change in conditions, will not unduly stress public services, and will not adversely affect the value of surrounding properties. Absent a showing of all these criteria, the request cannot be approved. The applicant has not, and cannot, make such a showing. As such, the Fargo Planning Commission must decline to recommend the requested changes.

Matthew and Alyson Bring  
4706 34th St S  
Fargo, ND 58104

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<sup>5</sup> Of some note is that many of the nearby homes for which the homeowners did not receive statements opposing those changes were occupied by renters.



4706



**EXHIBIT**  
**1**

City of Fargo, ND

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

1:4,179

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



**OPPOSITION TO PROPOSED ZONING CHANGES**

I, KELLY + JOE LEARY, am submitting this document to express my  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."  
print name(s)

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking
- Other: THIS IS NOT HOW THE TIMBER CREEK ADDITIONS WERE ORIGINALLY PRESENTED

Signature: [Handwritten Signature] 1-13-19

Name: KELLY LEARY

Address: 3552 46<sup>TH</sup> AVES FARGO, SD 58104

Phone: 701-388-8430



## OPPOSITION TO PROPOSED ZONING CHANGES

I, Erika Hanson, am submitting this document to express my  
print name(s)  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking

Other: I have lived here +10 years. We were initially told Davis HS would be in our backyard. I'm so disgusted with the sprawl and "leapfrog" development of this city.

Signature: Erik Hanson  
Name: Erika Hanson  
Address: 3510 46<sup>th</sup> Ave S Fargo ND 58104  
Phone: 701.361.0639

**OPPOSITION TO PROPOSED ZONING CHANGES**

I, Jerry Leier, MARY LEIER, am submitting this document to express my  
print name(s)  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes Fox Run
- The projects will increase traffic
- The projects will decrease parking
- Other: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: Jerry Leier, Mary Leier  
Name: Jerry Leier, MARY C LEIER  
Address: 3502 46th AVE South  
Phone: 701-388-0230

**OPPOSITION TO PROPOSED ZONING CHANGES**

I, Joe and Angie Schwab  
print name(s) am submitting this document to express my opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking

Other: We bought our lot 18 years ago. We built our home with the promise it would be single family housing and a school at the time. We have continually fought to keep Walmart out, massive apartment complexes, and now too many twin homes. This is not something we will quit fighting.

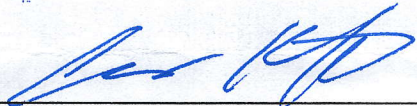
Signature: Angie Schwab / Joe Schwab  
Name: Joe and Angie Schwab  
Address: 3432 46th Ave S.  
Phone: 218-790-6204  
218-790-7577

**OPPOSITION TO PROPOSED ZONING CHANGES**

I, Chris Kraft  
print name(s), am submitting this document to express my  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking
- Other: \_\_\_\_\_  
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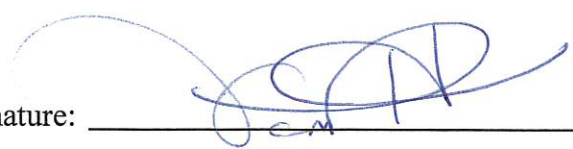
Signature:   
Name: Chris Kraft  
Address: 3416 46<sup>th</sup> Ave S.  
Phone: 701-799-0937

**OPPOSITION TO PROPOSED ZONING CHANGES**

I, Valerie Parrett, am submitting this document to express my  
print name(s)  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking
- Other: \_\_\_\_\_  
\_\_\_\_\_  
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Signature:   
Name: Valerie Parrett  
Address: 3408 46 Ave S, Fargo  
Phone: 701-361-1397

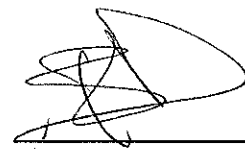
**OPPOSITION TO PROPOSED ZONING CHANGES**

I, BRIAN DRISCOLL, am submitting this document to express my  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."  
print name(s)

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: 

Name: BRIAN DRISCOLL

Address: 3340 46<sup>TH</sup> AVE

Phone: 21-367-6380

**OPPOSITION TO PROPOSED ZONING CHANGES**

I, Kelly Morehouse, am submitting this document to express my  
print name(s)  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking
- Other: Snow removal will become an issue - we  
already have limited space to push and  
move snow to


Signature: Kelly Morehouse  
Name: Kelly Morehouse  
Address: 3558 47<sup>th</sup> Ave S  
Phone: 701-936-5017

**OPPOSITION TO PROPOSED ZONING CHANGES**

I, OSMAN KERIC, am submitting this document to express my  
print name(s)  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking
- Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:   
Name: OSMAN KERIC  
Address: 3526 47<sup>th</sup> AVES  
FARGO, ND 58104  
Phone: 701 729-2697



**OPPOSITION TO PROPOSED ZONING CHANGES**

I, Joseph & Emily Hoehne, am submitting this document to express my  
print name(s)  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking

Other: \_\_\_\_\_  
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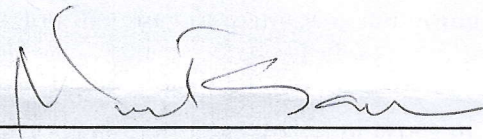
Signature: Joseph Hoehne Emily Hoehne  
Name: Joseph Hoehne Emily Hoehne  
Address: 3508 47th Ave S, Fargo  
Phone: 701-404-9869

**OPPOSITION TO PROPOSED ZONING CHANGES**

I, Minh Tran, am submitting this document to express my  
print name(s)  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking
- Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:   
Name: Minh Tran  
Address: 3488 - 47th Ave S.  
Phone: (832) 660-1011

**OPPOSITION TO PROPOSED ZONING CHANGES**

I, Patrick LaDouceur, am submitting this document to express my  
print name(s)  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking

Other: Traffic in our area is already heavy and congested. Cutting lots in half to benefit real estate developers will only add to traffic and congestion as well as dampen the potential of what the neighborhood could be.

Signature: 

Name: Patrick LaDouceur

Address: 3482 47th Ave S Fargo

Phone: 218-791-5145


**OPPOSITION TO PROPOSED ZONING CHANGES**

I, MASROOR AYUB  
print name(s), am submitting this document to express my  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:   
Name: MASROOR AYUB  
Address: 3470 47th Ave  
Phone: (918) 521-0901

**OPPOSITION TO PROPOSED ZONING CHANGES**

I, Georgia Meyer  
print name(s), am submitting this document to express my  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking
- Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_


Signature: AMeyer  
Name: Georgia Meyer  
Address: 3464 47th Ave S  
Phone: 701-866-0105

**OPPOSITION TO PROPOSED ZONING CHANGES**

I, Joshua Hengel, am submitting this document to express my  
print name(s)  
opposition to the proposed "Timber Creek Ninth Addition."

I object to this project for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking
- Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:   
Name: Joshua Hengel  
Address: 3412 47<sup>th</sup> Ave S  
Phone: 701-388-5362  
Date: 2-17-19

**OPPOSITION TO PROPOSED ZONING CHANGES**

I, Jeff & JoAnn Greenheck, am submitting this document to express my  
opposition to the proposed "Timber Creek Ninth Addition" and "Timber Creek Tenth Addition."  
print name(s)

I object to these projects for the following reasons:

- These projects will negatively affect my property value
- These projects will change the character of the neighborhood
- I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The projects will increase traffic
- The projects will decrease parking
- Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: Jeff Greenheck  
Name: Jeff Greenheck  
Address: 3299 47th Ave S. Fargo  
Phone: 701-371-7817

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**FW: replat and zoning of Timber Creek**

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**Kelly Rott** <kellyrott@yahoo.com>  
To: mbring@gmail.com

Mon, Feb 25, 2019 at 9:06 AM

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**From:** Kelly Rott <kellyrott@yahoo.com>  
**Sent:** Monday, February 04, 2019 4:13 PM  
**To:** 'Donald Kress' <dkress@FargoND.gov>  
**Subject:** replat and zoning of Timber Creek

Mr. Kress

I live in the neighborhood of the proposed zone change of Timber Creek Ninth and Tenth Addition.

I am a co-owner of a Real Estate Company that has both Residential and Commercial Agents. Personally I am a Commercial Realtor.

After much discussion it is my professional opinion that changing the density of a proposed neighborhood in the middle of the sales and building of the said neighborhood could change **the value to the negative of existing single family homes already built** in the 9<sup>th</sup> and 10<sup>th</sup> addition and could change the value of lots that have yet to be sold for building of single family homes. **It is 100% not going to raise the value** of existing home already built.

When this project was first proposed it met with much public outcry from surrounding neighbors and was changed several times to come up with the compromise that is being built now. Making changes to the density now better be investigated before approval because if you change the 9<sup>th</sup> addition request it will only be time before the 10<sup>th</sup> addition request will be before you again and others.

Other factors that need to be addressed along with density change is sewer and water capacities. Street parking is always an issue with Twin Homes, Townhomes, Condo's, and Apartments. Another issue could be traffic flow changes with higher density.

**Kelly Rott**

Commercial Realtor

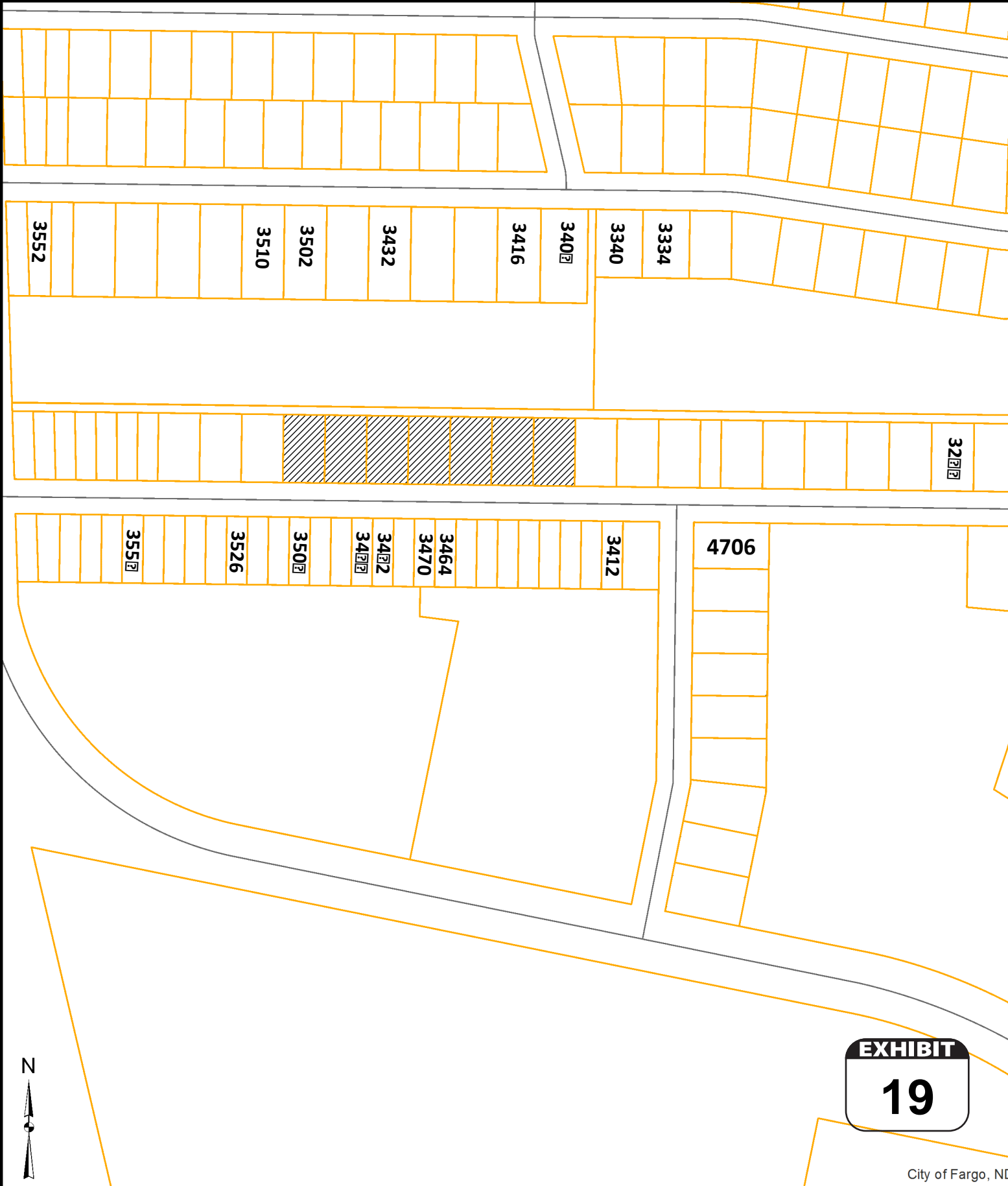
[kellyrott@yahoo.com](mailto:kellyrott@yahoo.com)

701-269-1280 cell

EXHIBIT

18





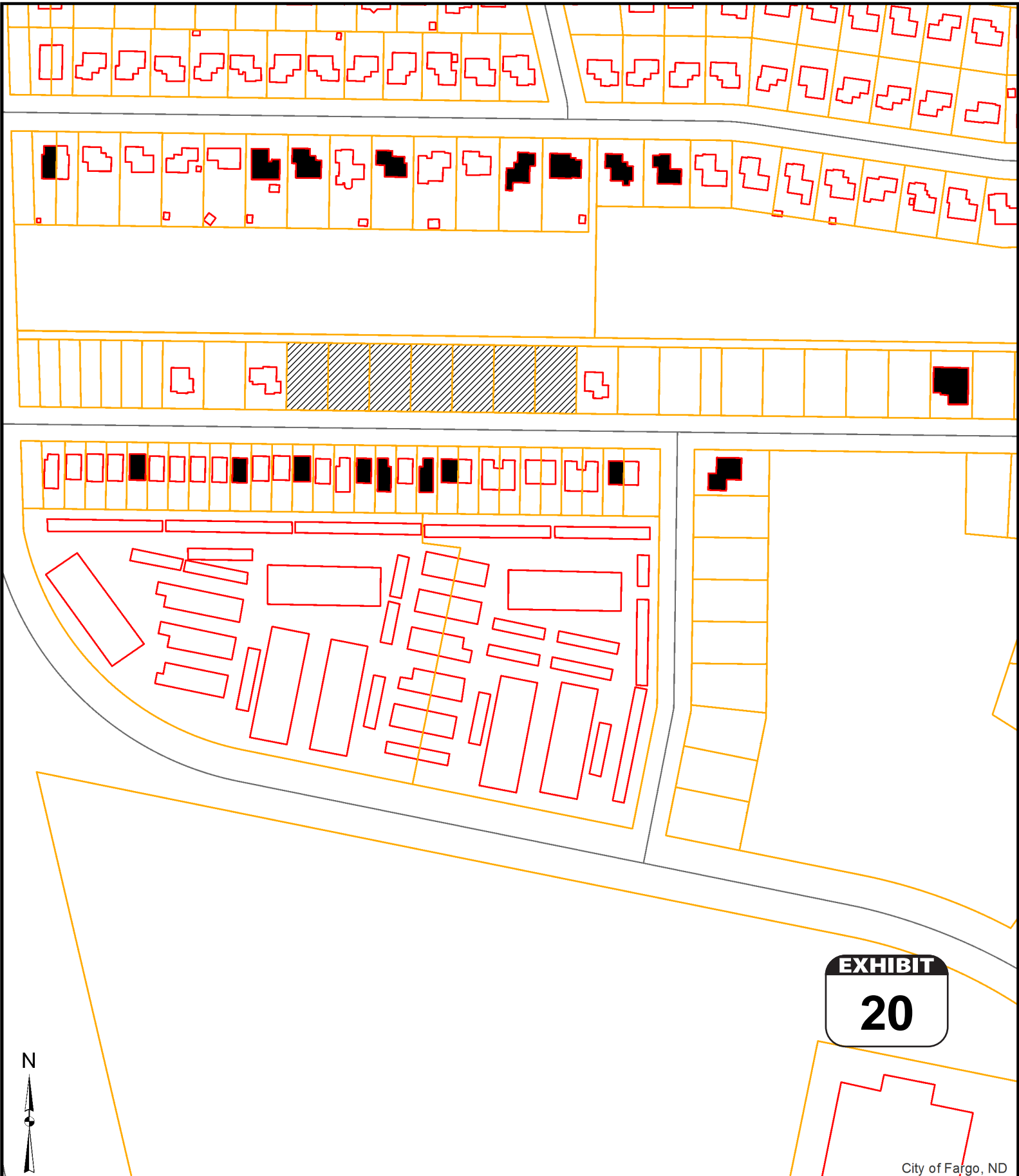
**EXHIBIT**  
**19**

City of Fargo, ND

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

1:4,179	
This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.	





**EXHIBIT**  
**20**



City of Fargo, ND

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1:4,179

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



<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Agassiz Nursery Addition (PKG Contracting)	<b>Date:</b>	8/16/2019
<b>Location:</b>	4203 University Drive South	<b>Staff Contact:</b>	Luke Morman
<b>Legal Description:</b>	Lot 2, Block 1, Agassiz Nursery Addition		
<b>Owner(s)/Applicant:</b>	PKG Contracting, Inc.	<b>Engineer:</b>	Lowry Engineering
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (from LC, Limited Commercial to LI, Limited Industrial)		
<b>Status:</b>	Planning Commission Public Hearing: September 3, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Outdoor storage	<b>Land Use:</b> unchanged
<b>Zoning:</b> LC, Limited Commercial	<b>Zoning:</b> LI, Limited Industrial
<b>Uses Allowed:</b> LC allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self-service storage, vehicle repair, limited vehicle service.	<b>Uses Allowed:</b> LI allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation.
<b>Maximum Lot Coverage Allowed:</b> 55% building coverage	<b>Maximum Lot Coverage Allowed:</b> 85% building coverage

<b>Proposal:</b>
<p>The applicant is seeking a zoning change from LC, Limited Commercial to LI, Limited Industrial. The property is located at 4203 University Drive South and encompasses approximately 2.72 acres.</p> <p>The subject property has the same owner as the adjacent lot to the south at 4301 University Drive South, PKG Office Investments, and is used by the same business, PKG Contracting, Inc. In 2009, PKG Contracting acquired the subject property and began to expand into it for primarily outdoor storage soon after. This zone change's purpose is to better match the existing use to a more suitable zone.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: P/I, Public and Institutional, owned by the Fargo Park District;</li> <li>• East: LC, Limited Commercial with the use of ROW, owned by the NDDOT and directly across University Drive South is SR-2, Single-Dwelling Residential, owned by the City of Fargo;</li> <li>• South: LI, Limited Industrial with office and warehouse use;</li> </ul>

- West: SR-3, Single-Dwelling Residential, owned by the City of Fargo, proposed to be rezoned from SR-3, Single-Dwelling Residential to P/I, Public and Institutional.

**Area Plans:**

This property is not included in any Growth Plan.

**Neighborhood Context:**

**Neighborhood:** Rose Creek

**Schools:** The subject property is located within the boundary of the Fargo School District, specifically Centennial Elementary, Discovery Junior High, and Davies Senior High schools.

**Parks:** Rose Creek Golf Course (1401 & 1501 East Rose Creek Parkway South, 4145 & 4701 University Drive South, and 1451 42<sup>nd</sup> Avenue South) are located adjacent to the subject property, providing amenities of a golf course.

**Pedestrian / Bicycle:** An off-road shared use path are located along the north and west edge of the Rose Creek Golf Course, on one side of 40<sup>th</sup> Avenue South, on both sides of University Drive South, and along one side of East Rose Creek Pkwy S, which is a component of the metro area trail system.

**Staff Analysis:**

**Zoning**

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**  
 Staff is unaware of any zoning map error in regard to the subject property. Staff finds that the requested zone change is justified by a change in conditions, as the owner has expanded his business further into the subject property from 4301 University Drive South (the adjacent property to the south). The zone change is requested in order to align a more suitable zoning for the existing use and to allow future development that is accurate with the zoning.  
**(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?**  
 The development is served with city services (water, sewer, streets, police/fire protection, etc.) as well as other needed utility services as needed. The City Engineer and other applicable review agencies have reviewed this proposal. No deficiencies to provide the necessary public services, facilities and programs to this development have been identified. **(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 evidence that would suggest this proposal 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, staff has not received any phone calls or comments in response to these notices. Staff finds that the approval 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 and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff finds that the proposal is consistent with the purposes of the LDC-and other adopted policies of the City.  
**(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and recommend approval to the City Commission of the proposed zoning change from LC, Limited Commercial to LI, Limited Industrial on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

**Planning Commission Recommendation:** September 3, 2019

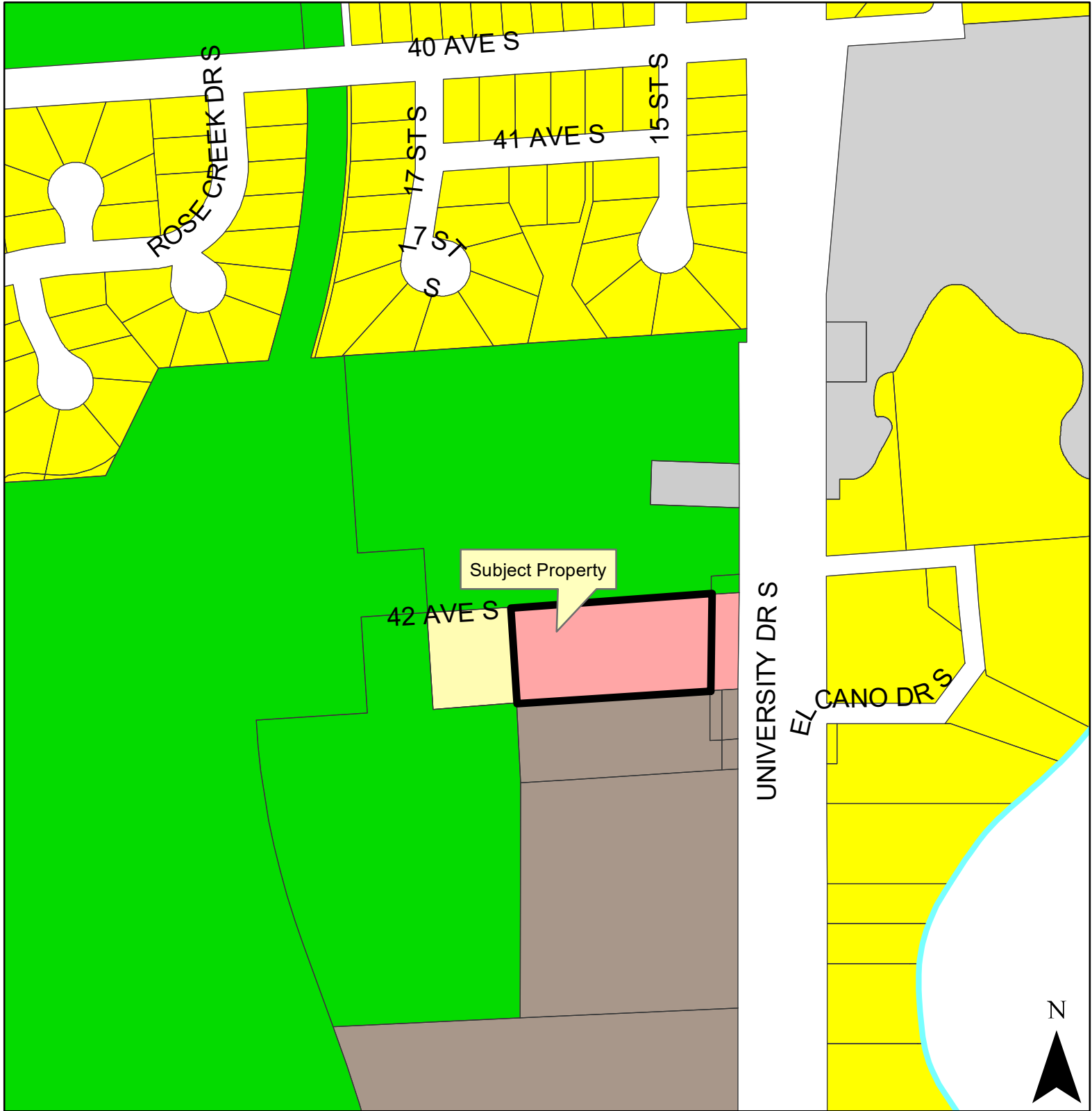
**Attachments:**

1. Zoning Map
2. Location Map

# Zone Change (LC to LI)

Agassiz Nursery Addition, Lot 2 (PKG Contracting, Inc)

4203 University Dr S



**Legend**

AG	DMU	GC	GO	LC	MRR-1	MRR-2	MRR-3	MHP	NC	NO	PT	UMU	SSR-2	SSR-3	SSR-4	SSR-5	City Limits
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300

Feet

Fargo Planning Commission  
September 3, 2019

# Zone Change (LC to LI)

Agassiz Nursery Addition, Lot 2 (PKG Contracting, Inc)

4203 University Dr S



<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Agassiz Nursery Addition (City of Fargo)	<b>Date:</b>	8/19/2019
<b>Location:</b>	1421 42 <sup>nd</sup> Avenue South	<b>Staff Contact:</b>	Luke Morman
<b>Legal Description:</b>	Lot 1, Block 1, Agassiz Nursery Addition		
<b>Owner(s)/Applicant:</b>	City of Fargo	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (from SR-3, Single-Dwelling Residential to P/I, Public and Institutional)		
<b>Status:</b>	Planning Commission Public Hearing: September 3, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Vacant Land	<b>Land Use:</b> unchanged
<b>Zoning:</b> SR-3, Single-Dwelling Residential	<b>Zoning:</b> P/I, Public and Institutional
<b>Uses Allowed:</b> 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.	<b>Uses Allowed:</b> 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, and major entertainment events.
<b>Maximum Density Allowed:</b> 8.7 units per acre	Takes dimensional standards of adjacent zoning district(s)

<b>Proposal:</b>
<p>The applicant is seeking a zoning change from SR-3, Single-Dwelling Residential to P/I, Public and Institutional. The property is located at 1421 42<sup>nd</sup> Avenue South and encompasses approximately 1.16 acres.</p> <p>A single-family house used to be on the subject property, but was removed in about 2017 to place a flood control levee which was built through the subject property soon after the removal. This zone change's purpose is to better match the existing use to a more suitable zone.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: P/I, Public and Institutional, owned by the Fargo Park District;</li> <li>• East: LC, Limited Commercial with the use of outdoor storage, proposed to be rezoned from LC, Limited Commercial to LI, Limited Industrial;</li> <li>• South: P/I, Public and Institutional, owned by the Fargo Park District;</li> <li>• West: P/I, Public and Institutional, owned by the Fargo Park District.</li> </ul>



<b>Area Plans:</b>
This property is not included in any Growth Plan.
<b>Neighborhood Context:</b>
<p><b>Neighborhood:</b> Rose Creek</p> <p><b>Schools:</b> The subject property is located within the boundary of the Fargo School District, specifically Centennial Elementary, Discovery Junior High, and Davies Senior High schools.</p> <p><b>Parks:</b> Rose Creek Golf Course (1401 &amp; 1501 East Rose Creek Parkway South, 4145 &amp; 4701 University Drive South, and 1451 42<sup>nd</sup> Avenue South) are located adjacent to the subject property, providing amenities of a golf course.</p> <p><b>Pedestrian / Bicycle:</b> An off-road shared use path are located along the north and west edge of the Rose Creek Golf Course, on one side of 40<sup>th</sup> Avenue South, on both sides of University Drive South, and along one side of East Rose Creek Pkwy S, which is a component of the metro area trail system.</p>
<b>Staff Analysis:</b>
<p><b>Zoning</b></p> <p>Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:</p> <ol style="list-style-type: none"> <li> <p><b>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?</b></p> <p>Staff is unaware of any zoning map error in regard to the subject property. Staff finds that the requested zone change is justified by a change in conditions, as the subject property used to have a house located on it, but was purchased by the City and removed to build a flood control levee. The zone change is requested in order to align a more suitable zoning for the existing use. <b>(Criteria Satisfied)</b></p> </li> <li> <p><b>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?</b></p> <p>The City Engineer and other applicable review agencies have reviewed this proposal. This property is City-owned for flood control and cannot be developed upon, thus there is no need to provide any additional public services, facilities and programs to this development. <b>(Criteria Satisfied)</b></p> </li> <li> <p><b>3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?</b></p> <p>Staff has no evidence that would suggest this proposal 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, staff has not received any phone calls or comments in response to these notices. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity. <b>(Criteria Satisfied)</b></p> </li> <li> <p><b>4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?</b></p> <p>The purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff finds that the proposal is consistent with the purposes of the LDC-and other adopted policies of the City. <b>(Criteria Satisfied)</b></p> </li> </ol>
<b>Staff Recommendation:</b>

Suggested Motion: "To accept the findings and recommendations of staff and recommend approval to the City Commission of the proposed zoning change from SR-3, Single-Dwelling Residential to P/I, Public and Institutional on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

**Planning Commission Recommendation:** September 3, 2019

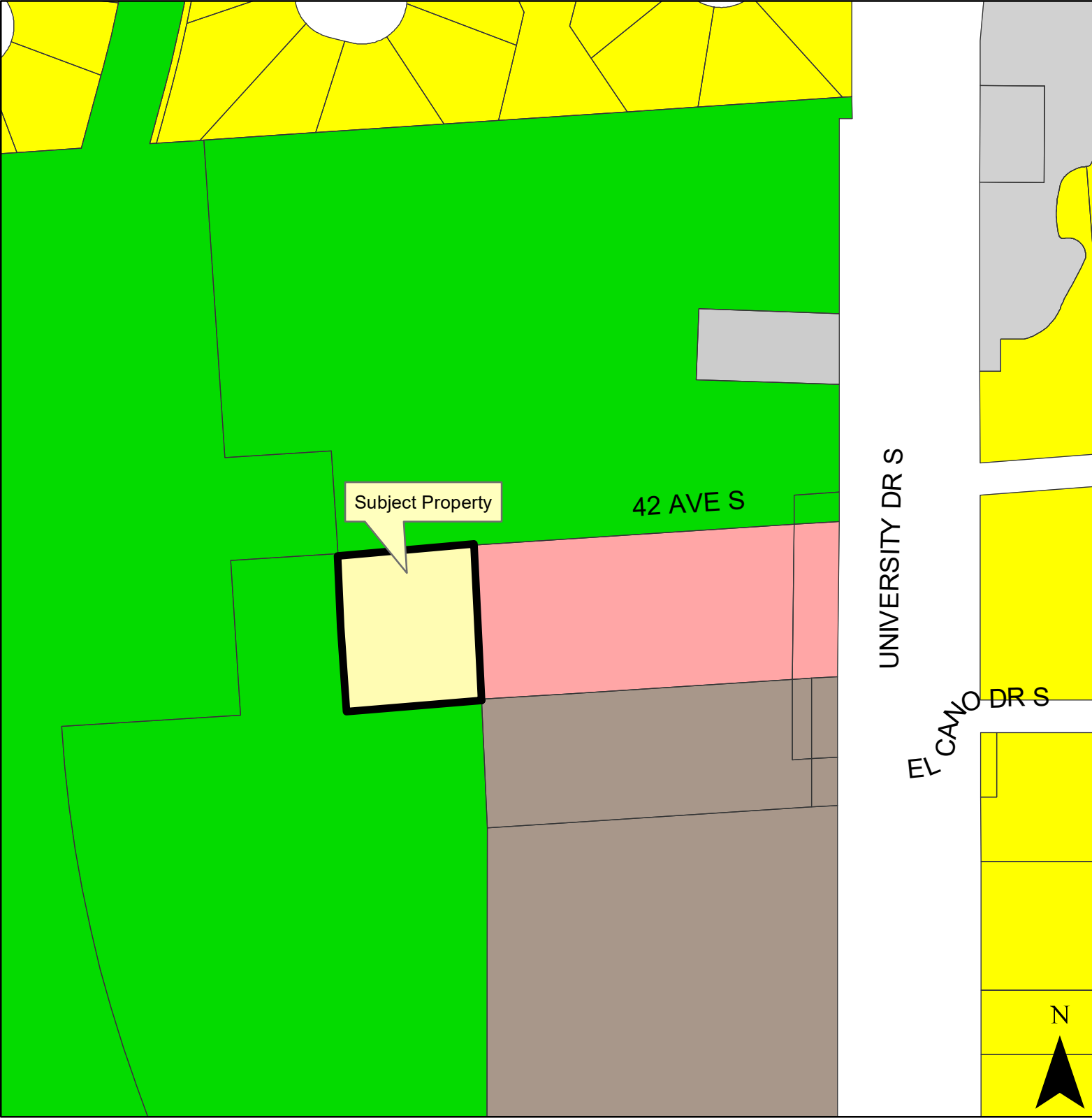
**Attachments:**

1. Zoning Map
2. Location Map

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

**Agassiz Nursery Addition, Lot 1 (City of Fargo)**

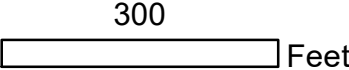
1421 42nd Ave S



**Legend**

AG	LC	MHP	SR-2
DMU	LC	NC	SR-3
GC	MR-1	P/I	SR-4
GO	MR-2	UMU	SR-5
	MR-3	City Limits	

**Fargo Planning Commission**  
**September 3, 2019**



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

Agassiz Nursery Addition, Lot 1 (City of Fargo)

1421 42nd Ave S



**City of Fargo  
Staff Report**

<b>Title:</b>	Keeney and Devitts Second Addition	<b>Date:</b>	8/28/2019
<b>Location:</b>	401 Broadway North	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description:</b>	Vacation of the alley in Block 21, <b>Keeney &amp; Devitt’s Second Addition</b> to the City of Fargo, Cass County, North Dakota		
<b>Owner(s)/Applicant:</b>	DFI Mercantile, LLC/ Kilbourne Group—Keith Leier	<b>Engineer:</b>	Houston Engineering
<b>Entitlements Requested:</b>	<b>Vacation of Right of Way (major subdivision)</b> (alley in Block 21, <b>Keeney &amp; Devitt’s Second Addition</b> to the City of Fargo, Cass County, North Dakota)		
<b>Status:</b>	Planning Commission Public Hearing: September 3, 2019		

**Proposal:**

The applicant requests one entitlement:

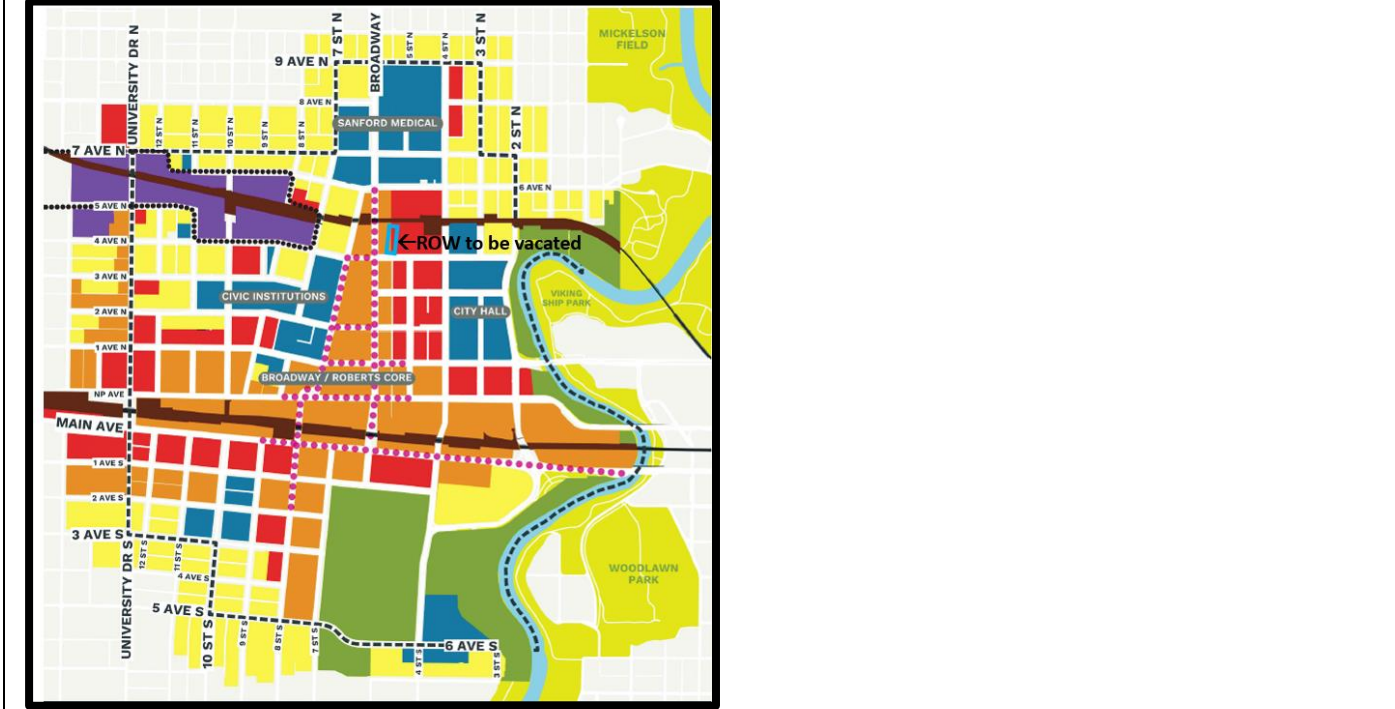
1. A vacation of alley in Block 21, **Keeney & Devitt’s Second Addition** to the City of Fargo, Cass County, North Dakota

The plat proposes to vacate the alley in Block 21 Keeney and Devitt’s Second Addition. This alley vacation helps facilitate the development of this property as a project known as “The Mercantile,” which is intended to be a parking ramp surrounded by retail and residential uses, similar to the recently developed Roberts Commons (or “RoCo”) structure on 2<sup>nd</sup> Avenue North and Roberts Street.

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.

**Area Plans:**

The area of the right of way (ROW) to be vacated is included in the Downtown In Focus Master Plan. Vacation of this ROW helps facilitate the development of this property as a commercial/mixed-use project, consistent with the “commercial” and “mixed-use” land use designations of the Downtown In Focus future land use plan for this property between Broadway and 5<sup>th</sup> Street North (see graphic below).



**Schools and Parks:**

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

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

**Parks:** The Civic Plaza (200 3<sup>rd</sup> Street North) is located approximately 0.20 miles southeast of the subject property and is being developed as an interactive public space.

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

**Staff Analysis:**

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

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

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

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

In accordance with the requirement of this section, a petition signed by all adjacent owners has been submitted for review and consideration, along with a plat of such public street. It is the applicant's responsibility to provide any necessary agreements or easements to accommodate private utilities that will remain or be re-routed in the future. **(Criteria Satisfied)**

***N.D.C.C 40-39-06. Petition filed with city auditor – Notice published – Contents of notice. If the governing body finds that the petition for vacation is in proper form and contains the requisite signatures, and if it deems it expedient to consider such petition, it shall order the petition to be filed with the city auditor who shall give notice by publication in the official newspaper of the municipality at least once each week for four weeks. The notice shall state that a petition has been filed and the object thereof, and that it will be heard and***

**considered by the governing body or a committee thereof on a certain specified day which shall not be less than thirty days after the first publication of the notice.**

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

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

These actions will take place subsequent to the Planning Commission hearing. (Criteria Satisfied)

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed vacation of alley in Block 21, **Keeney & Devitt's Second Addition** to the City of Fargo, Cass County, North Dakota as presented, as the proposal complies with the Downtown In Focus master plan and standards of Chapter 40-39 of the North Dakota Century Code."

**Planning Commission Recommendation:** September 3, 2019

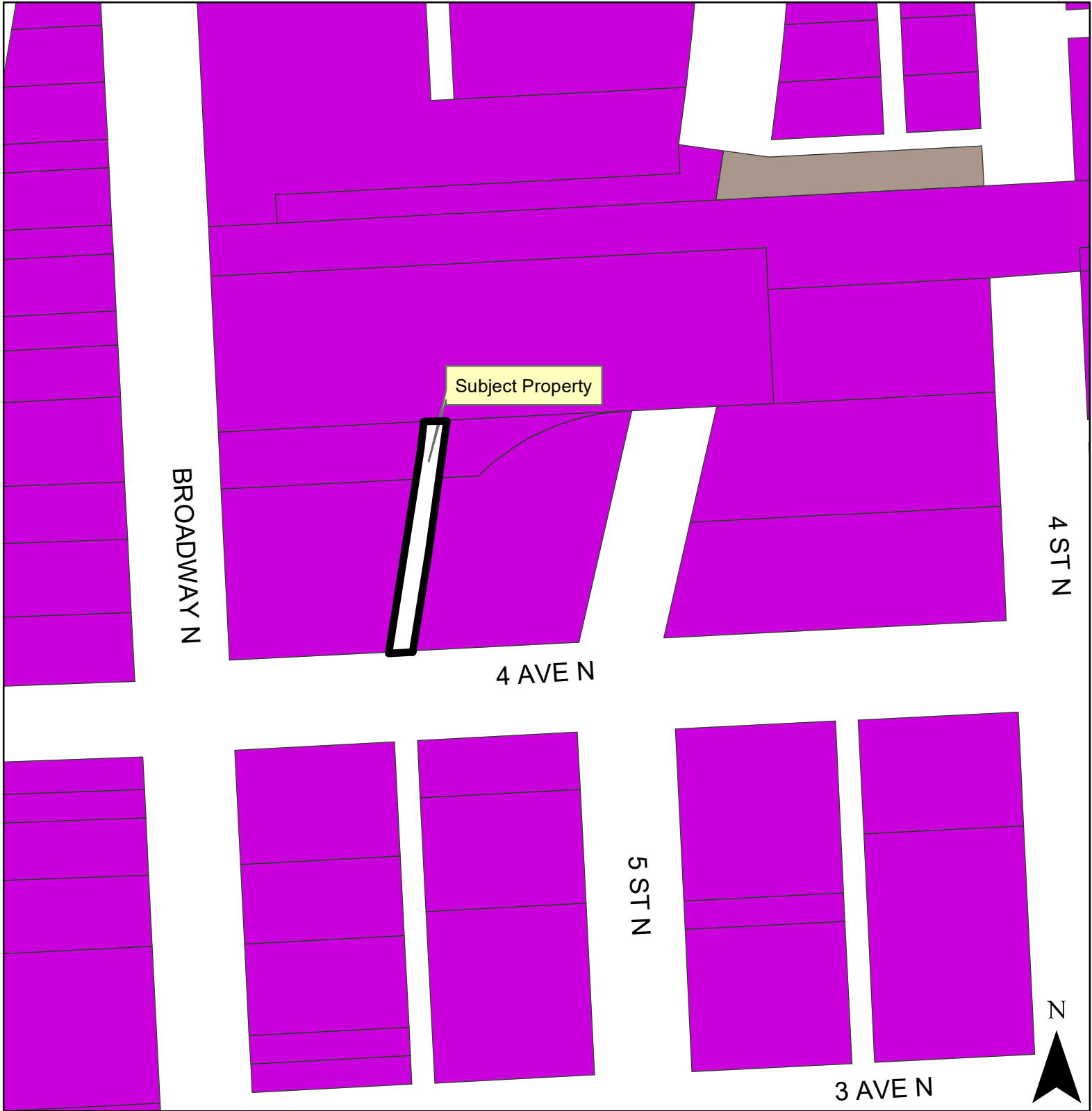
**Attachments:**

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

# Alley Vacation

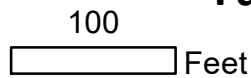
## Keeney and Devitts Second Addition

401 Broadway N



**Legend**

AG	LC	MHP	SSR-2
DDMU	LC	NC	SSR-3
GC	MR-1	NO	SSR-4
GO	MR-2	P/I	SSR-5
	MR-3	UMU	City Limits





# Alley Vacation

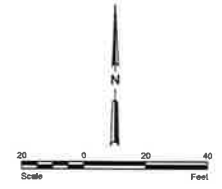
## Keeney & Devitt's Second Addition

401 Broadway N



# VACATION PLAT

THE ALLEY IN BLOCK 21,  
KEENEY AND DEVITT'S SECOND ADDITION  
CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA



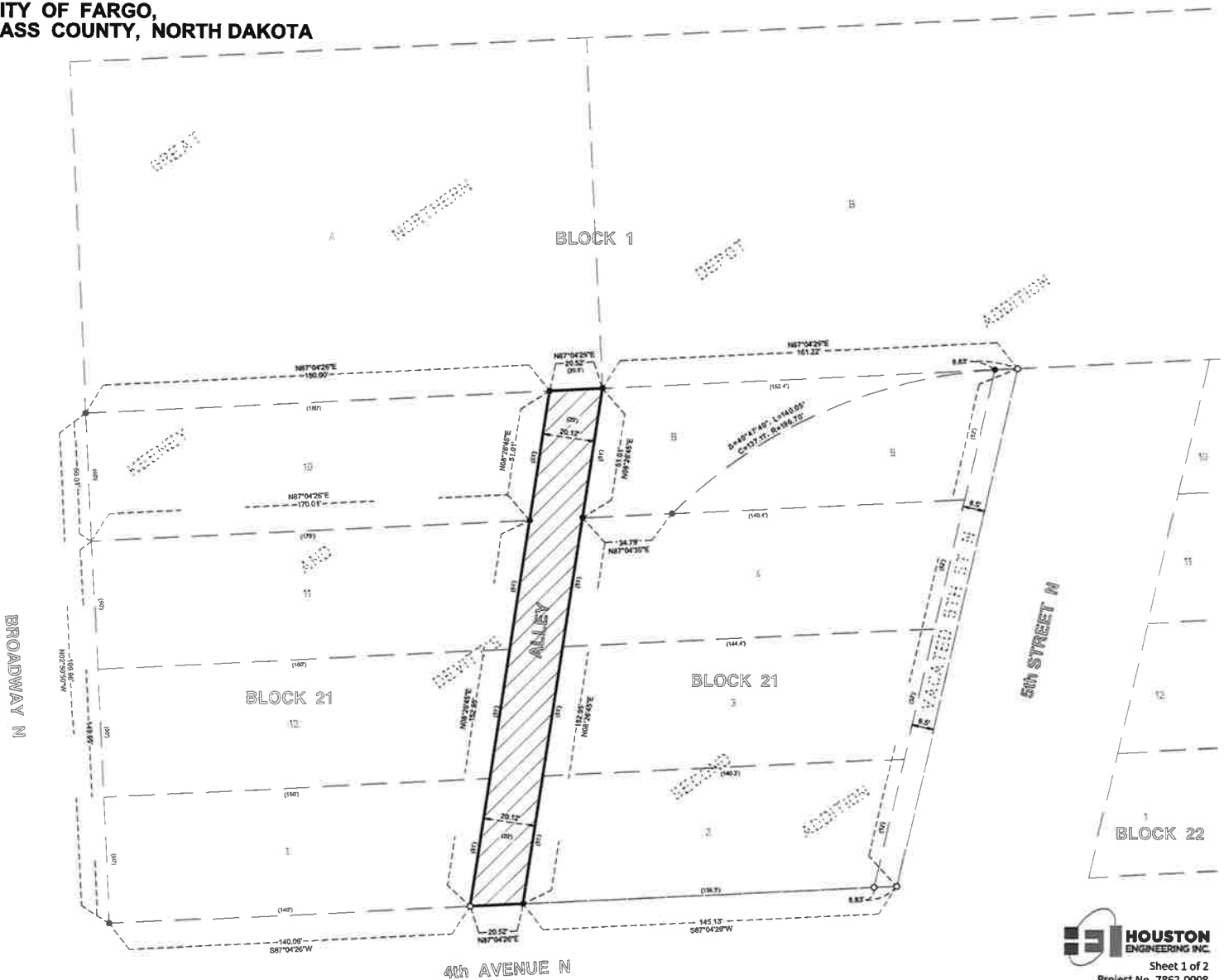
**LEGEND**

IRON MONUMENT FOUND ●

1/2" I.D. PIPE SET ○

INDICATES ALLEY AREA VACATED WITH THIS PLAT

BEARINGS SHOWN ARE BASED ON FARGO GIS HORIZONTAL DATUM



H:\Fargo\BIN\7862\7862\_008\CAD\PLAT\PLAT\VACATION PLAT\_Mercantile.dwg - sheet 1 of 2 (13/2019 4:09 PM) (xtrouff)

OWNER:  
DFI Mercantile LLC  
Owner of Lots 1 - 5 and 10 - 12, Block 21, Keeney and Devitt's Second Addition,  
and part of Lot B, Block 1, Great Northern Depot Addition

NAME, TITLE \_\_\_\_\_

OWNER:  
5<sup>th</sup> Floor Apartments LLC  
Owner of Lot 10, Block 21 Keeney and Devitt's Second Addition

NAME, TITLE \_\_\_\_\_

OWNER:  
Thomas K. and Kari D. Smith, husband and wife  
Owner of Lot A and part of Lot B, Block 1, Great Northern Depot Addition

Thomas K. Smith \_\_\_\_\_ Kari D. Smith \_\_\_\_\_

**SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT**

I, Curtis A. Skarphol, Registered Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the area vacated.

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

Curtis A. Skarphol  
Registered Land Surveyor No. 4723

**CITY ENGINEER'S APPROVAL:**  
Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Brenda E. Derrig, City Engineer

**FARGO PLANNING COMMISSION APPROVAL:**  
Approved by the City of Fargo Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

John Gunkeiman, Chair  
Fargo Planning Commission

**FARGO CITY COMMISSION APPROVAL:**  
Approved by the Board of City Commissioners and ordered filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Timothy J. Mahoney, Mayor

Attest:

Steven Sprague, City Auditor

State of North Dakota )  
County of Cass ) SS

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

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

State of North Dakota )  
County of Cass ) SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ before me personally appeared NAME, TITLE of DFI Mercantile LLC, a North Dakota Limited Liability Company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of said Limited Liability Company.

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

State of North Dakota )  
County of Cass ) SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ before me personally appeared NAME, TITLE of 5<sup>th</sup> Floor Apartments LLC, a North Dakota Limited Liability Company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of said Limited Liability Company.

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

State of North Dakota )  
County of Cass ) SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ before me personally appeared Thomas K. and Kari D. Smith, husband and wife, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of said Limited Liability Company.

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

State of North Dakota )  
County of Cass ) SS

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

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

State of North Dakota )  
County of Cass ) SS

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

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

State of North Dakota )  
County of Cass ) SS

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

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

# VACATION PLAT

THE ALLEY IN BLOCK 21,  
KEENEY AND DEVITT'S SECOND ADDITION  
CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA

**DESCRIPTION OF AREA TO BE VACATED:**

The alley situated in Block 21 of Keeney and Devitt's Second Addition to the City of Fargo, Cass County, North Dakota, lying north of 4<sup>th</sup> Avenue North and south of Block 1, Great Northern Depot Addition.

**OWNERS' CERTIFICATE:**

DFI Mercantile LLC, a North Dakota Limited Liability Company; 5<sup>th</sup> Floor Apartments LLC, a North Dakota Limited Liability Company; and Thomas K. and Kari D. Smith, husband and wife, certify that they are the owners of the property adjoining the area to be vacated and that this plat and description are correct.



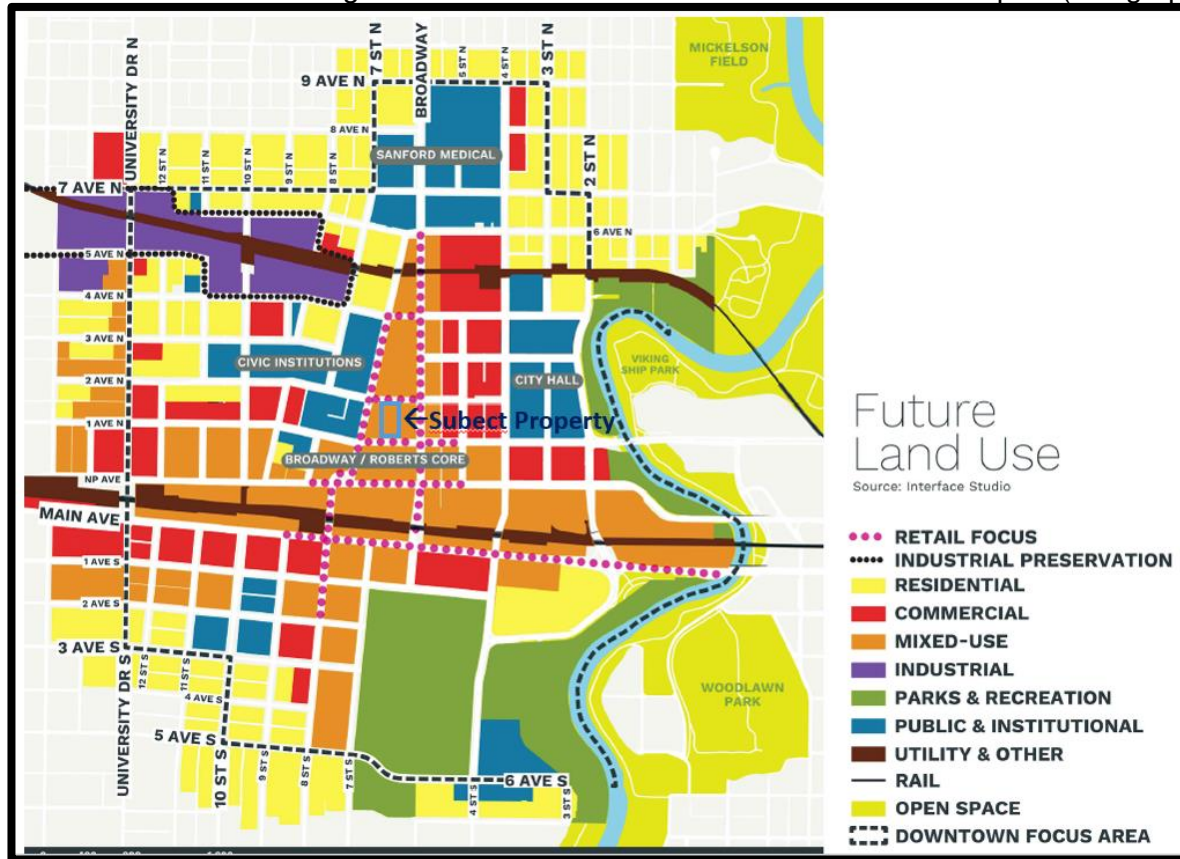
<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Kesler First Addition	<b>Date:</b>	8/28/2019
<b>Location:</b>	624 2nd Avenue North and 613, 617, and 621 1st Avenue North	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description:</b>	Lots A, B, C, D, E, F, T, and U, the vacated 10 foot alley adjacent to Lots T and U, Hagaman’s Subdivision of part of Block 2, <b>Roberts Addition</b> , and all of Lots 10 through 12, Block 2, Roberts Addition to the City of Fargo, Cass County, North Dakota.		
<b>Owner(s)/Applicant:</b>	DFI Kesler LLC, DFI BJ LLC, DFI BG LLC, Swanson Properties LLC/ Kilbourne Group—Mike Zimney	<b>Engineer:</b>	Moore Engineering
<b>Entitlements Requested:</b>	Minor Plat (replat of Lots A, B, C, D, E, F, T, and U, the vacated 10 foot alley adjacent to Lots T and U, Hagaman’s Subdivision of part of Block 2, <b>Roberts Addition</b> , and all of Lots 10 through 12, Block 2, Roberts Addition to the City of Fargo, Cass County, North Dakota.)		
<b>Status:</b>	Planning Commission Public Hearing: September 3, 2019		
<b>Existing</b>		<b>Proposed</b>	
<b>Land Use:</b> Parking lot; commercial building		<b>Land Use:</b> New mixed-use building; existing commercial building (613 1 <sup>st</sup> Ave. North) to remain	
<b>Zoning:</b> DMU, Downtown Mixed Use		<b>Zoning:</b> No change	
<b>Uses Allowed:</b> Allows detached houses, attached houses, duplexes, multi-dwelling structures, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off-premise advertising, commercial parking, retail sales and service, vehicle repair, limited vehicle service, and major entertainment events.		<b>Uses Allowed:</b> No change	
<b>Maximum Lot Coverage Allowed:</b> 100%		<b>Maximum Density Allowed:</b> No change	
<b>Proposal:</b>			
<p>The applicant requests one entitlement:            Minor plat to be known as <b>Kesler First Addition</b>, a replat of Lots A, B, C, D, E, F, T, and U, the vacated 10 foot alley adjacent to Lots T and U, Hagaman’s Subdivision of part of Block 2, <b>Roberts Addition</b>, and all of Lots 10 through 12, Block 2, Roberts Addition to the City of Fargo, Cass County, North Dakota.</p> <p>The plat will replat the properties noted above into three lots to accommodate both the proposed development of a new mixed use building and the existing building at 613 1<sup>st</sup> Avenue North, known as the Stone Building, which was erected in 1910.</p> <p>This project was reviewed by the City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”), whose comments are included in this report.</p>			

### Pending Alley Vacation

The applicant previously applied to vacate an existing alley on this property. This vacation was recommended for approval by the Planning Commission on April 2, 2019 but has not been heard by the City Commission pending the applicant resolving how to accommodate the existing private utilities. The applicant has been working with the utility providers to create the necessary easements or agreements. Technical review on the Kesler First Addition plat cannot go forward until the alley vacation has been approved by City Commission and recorded. Note that this does not prevent the Planning Commission from recommending the Kesler First Addition plat for approval.

### Area Plans:

The area of the plat is included in the Downtown In Focus Master Plan. Replatting these existing lots into fewer lots helps facilitate the development of this property as a mixed-use project, consistent with the “mixed-use” land use designation of the Downtown In Focus future land use plan (see graphic below).



### Schools and Parks:

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

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

**Parks:** The Civic Plaza, currently under development, is approximately 0.20 miles east of the subject property and will offer a variety of amenities, artworks, and public gathering spaces.

**Pedestrian / Bicycle:** There are no bicycle facilities in the public streets adjacent to this property.

**Staff Analysis:**

Article 20-0907 of LDC stipulates that the following criteria are 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.**

The subject property is located within the Downtown neighborhood. The future land use plan for the Downtown neighborhood, the Downtown In Focus plan, designates the subject property as "Mixed Use." The subject property is zoned DMU, Downtown Mixed Use, which is consistent with the future land use designation. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no comments. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code. **(Criteria Satisfied)**

- 2. Section 20-0907.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 principles. **(Criteria Satisfied)**

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed **Kesler First Addition** subdivision plat, as presented, as the proposal complies with the Go2030 Plan, the Downtown in Focus Future Land Use Plan, Standards of Article 20-06, and all other applicable requirements of the LDC."

**Planning Commission Recommendation:** September 3, 2019

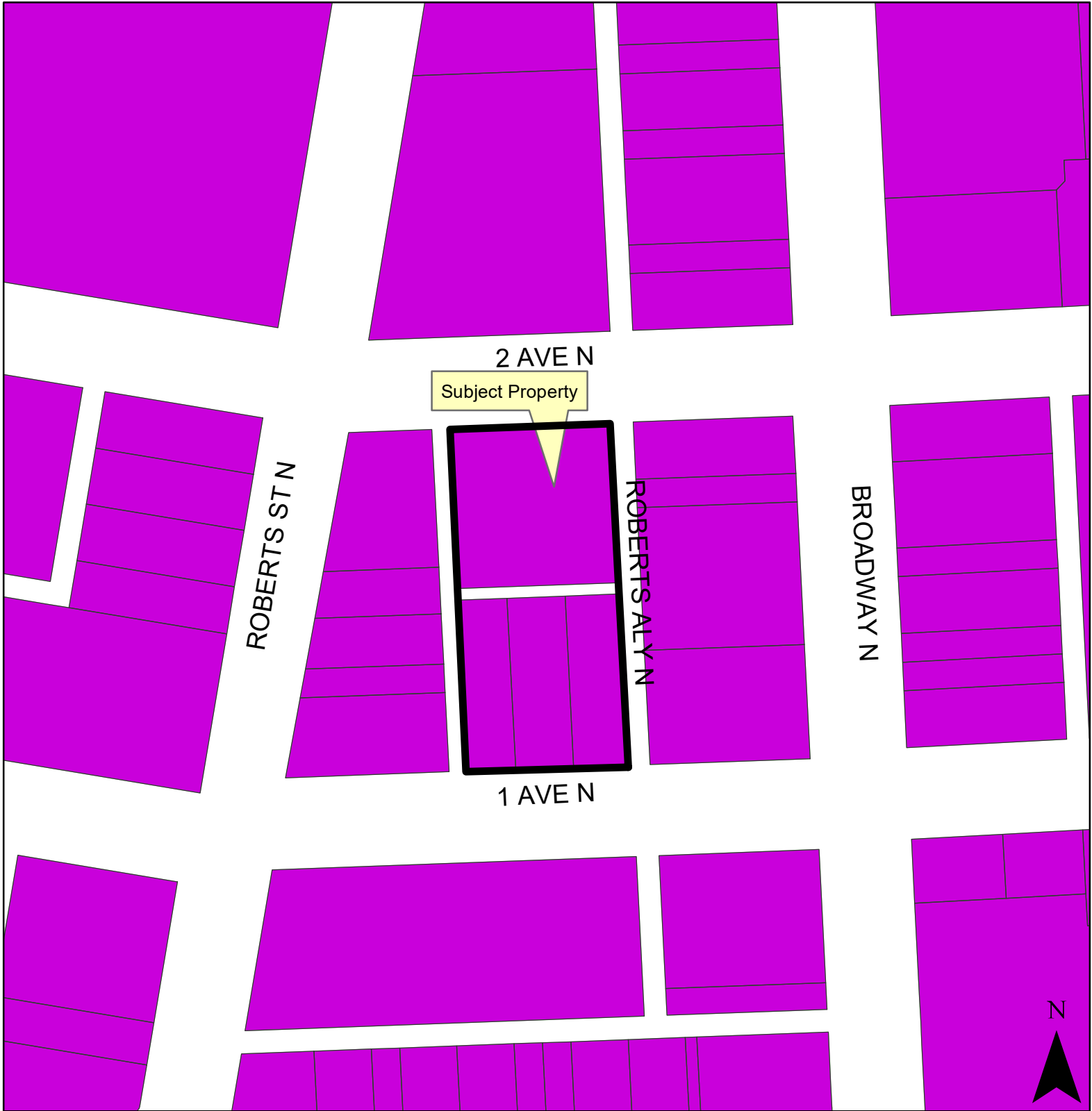
**Attachments:**

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

# Plat (Minor)

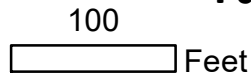
## Kesler First Addition

624 2nd Ave N  
613, 617, & 621 1st Ave N



Legend

AG	LC	MHP	SR-2
DDMU	MI-1	NC	SR-3
GGC	MR-2	NO	SR-4
GO	MR-3	P/I	SR-5
		UML	City Limits



Fargo Planning Commission  
September 3, 2019



# Plat (Minor)

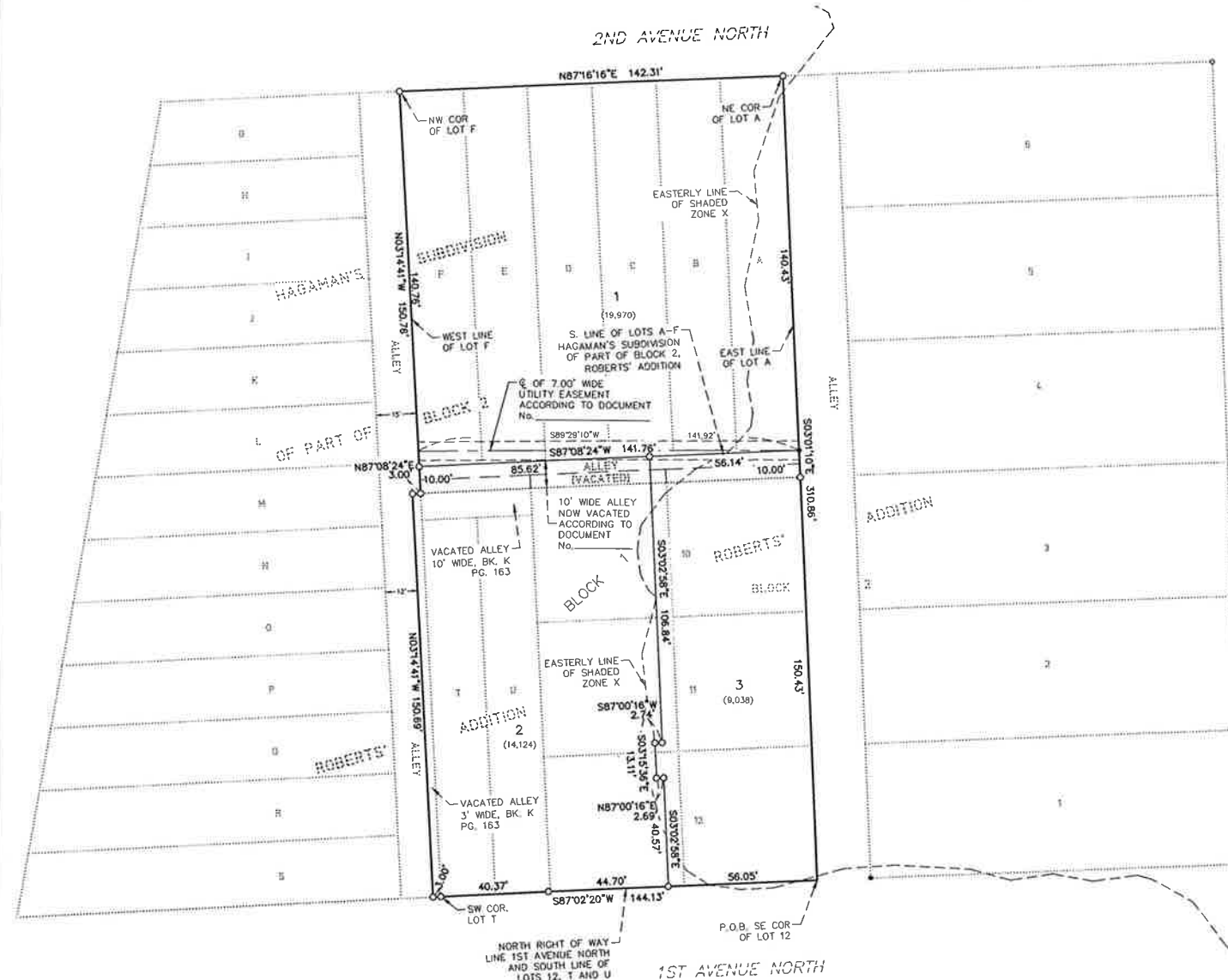
## Kesler First Addition

624 2nd Ave N  
613, 617, & 621 1st Ave N





**A MINOR SUBDIVISION PLAT OF  
KESLER FIRST ADDITION**  
TO THE CITY OF FARGO, A REPLAT OF LOTS A THROUGH F AND LOTS T AND U, AND  
PORTIONS OF ALLEYS NOW VACATED ALL IN HAGAMAN'S SUBDIVISION OF PART OF  
BLOCK 2 ROBERTS ADDITION, AND ALL OF LOTS 10 THROUGH 12, BLOCK 2, ROBERTS  
ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA.



**CERTIFICATE**  
STEVEN W. HOLM, BEING DULY SWORN, DEPOSES AND SAYS THAT HE IS THE REGISTERED LAND SURVEYOR WHO PREPARED AND MADE THE ATTACHED PLAT OF "KESLER FIRST ADDITION" TO THE CITY OF FARGO, A REPLAT OF LOTS A THROUGH F AND LOTS T AND U, AND PORTIONS OF ALLEYS NOW VACATED, ALL IN HAGAMAN'S SUBDIVISION OF PART OF BLOCK 2 ROBERTS ADDITION, AND ALL OF LOTS 10 THROUGH 12, BLOCK 2, ROBERTS ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA; THAT SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY THEREOF; THAT ALL DISTANCES ARE CORRECTLY SHOWN ON SAID PLAT; THAT MONUMENTS HAVE BEEN PLACED IN THE GROUND AS INDICATED FOR THE GUIDANCE OF FUTURE SURVEYS AND THAT SAID ADDITION IS DESCRIBED AS FOLLOWS, TO WIT:

THAT PART OF LOTS A THROUGH F AND LOTS T AND U, AND PORTIONS OF ALLEYS NOW VACATED ALL IN HAGAMAN'S SUBDIVISION OF PART OF BLOCK 2 ROBERTS ADDITION, SAID PLAT IS ON FILE AND OF RECORD IN THE OFFICE OF THE RECORDER, CASS COUNTY, NORTH DAKOTA, AND ALL OF LOTS 10 THROUGH 12, BLOCK 2, ROBERTS ADDITION TO THE CITY OF FARGO, SAID PLAT IS ON FILE AND OF RECORD IN THE OFFICE OF SAID RECORDER DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 12; THENCE SOUTH 87 DEGREES 02 MINUTES 20 SECONDS WEST ON AN ASSUMED BEARING TO THE SOUTH LINE OF SAID LOT 12, ALONG THE SOUTH LINE OF SAID LOTS T AND U AND THE WESTERLY EXTENSION THEREOF FOR A DISTANCE OF 144.13 FEET; THENCE NORTH 03 DEGREES 14 MINUTES 41 SECONDS WEST FOR A DISTANCE OF 150.69 FEET; THENCE NORTH 87 DEGREES 08 MINUTES 24 SECONDS EAST FOR A DISTANCE OF 3.00 FEET TO THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID LOT F; THENCE NORTH 03 DEGREES 14 MINUTES 41 SECONDS WEST ALONG THE WEST LINE OF SAID LOT F AND ITS SOUTHERLY EXTENSION FOR A DISTANCE OF 150.76 FEET TO THE NORTHWEST CORNER OF SAID LOT F; THENCE NORTH 87 DEGREES 16 MINUTES 16 SECONDS EAST ALONG THE NORTH LINE OF SAID LOTS A THROUGH F FOR A DISTANCE OF 142.31 FEET TO THE NORTHEAST CORNER OF SAID LOT A; THENCE SOUTH 03 DEGREES 01 MINUTE 10 SECONDS EAST ALONG THE EAST LINE OF SAID LOT A AND THE SOUTHERLY EXTENSION THEREOF AND ALONG THE EAST LINE OF SAID LOTS 10 THROUGH 12 FOR A DISTANCE OF 310.86 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 0.99 ACRE, MORE OR LESS, AND IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD, IF ANY.



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

STATE OF NORTH DAKOTA )  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED STEVEN W. HOLM, REGISTERED LAND SURVEYOR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

**DEDICATION**

WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE LAND DESCRIBED IN THE PLAT OF "KESLER FIRST ADDITION" TO THE CITY OF FARGO, A REPLAT OF LOTS A THROUGH F AND LOTS T AND U, AND PORTIONS OF ALLEYS NOW VACATED, ALL IN HAGAMAN'S SUBDIVISION OF PART OF BLOCK 2 ROBERTS ADDITION, AND ALL OF LOTS 10 THROUGH 12, BLOCK 2, ROBERTS ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA; THAT WE HAVE CAUSED IT TO BE PLATTED INTO LOTS AND BLOCKS AS SHOWN BY SAID PLAT AND CERTIFICATE OF STEVEN W. HOLM, REGISTERED LAND SURVEYOR, AND THAT THE DESCRIPTION AS SHOWN IN THE CERTIFICATE OF THE REGISTERED LAND SURVEYOR IS CORRECT.

OWNER OF LOT 1, BLOCK 1: DFI KESLER LLC.	OWNER OF LOT 2, BLOCK 1: DFI BJ LLC	CONTRACT FOR DEED SELLER LOT 3, BLOCK 1: SWANSON PROPERTIES, LLP	CONTRACT FOR DEED PURCHASER OF LOT 3, BLOCK 1: DFI BG LLC
_____ MICHAEL ALLMENDINGER, PRESIDENT	_____ MICHAEL ALLMENDINGER, PRESIDENT	_____ LELAND SWANSON, PRESIDENT	_____ MICHAEL ALLMENDINGER, PRESIDENT
STATE OF NORTH DAKOTA ) COUNTY OF CASS )	STATE OF NORTH DAKOTA ) COUNTY OF CASS )	STATE OF NORTH DAKOTA ) COUNTY OF CASS )	STATE OF NORTH DAKOTA ) COUNTY OF CASS )
ON THIS _____ DAY OF _____, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MICHAEL ALLMENDINGER, PRESIDENT, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF DFI KESLER LLC.	ON THIS _____ DAY OF _____, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MICHAEL ALLMENDINGER, PRESIDENT, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF DFI BJ LLC.	ON THIS _____ DAY OF _____, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED LELAND SWANSON, PRESIDENT, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF SWANSON PROPERTIES, LLP.	ON THIS _____ DAY OF _____, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MICHAEL ALLMENDINGER, PRESIDENT, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF DFI BG LLC.
_____ NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA	_____ NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA	_____ NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA	_____ NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

MORTGAGEE OF LOT 1 AND LOT 2, BLOCK 1:  
STARION BANK

**FARGO PLANNING COMMISSION APPROVAL**  
THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

STATE OF NORTH DAKOTA )  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED \_\_\_\_\_, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN THE NAME OF STARION BANK.

\_\_\_\_\_  
NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

JOHN GUNKELMAN, CHAIR  
STATE OF NORTH DAKOTA )  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED JOHN GUNKELMAN, CHAIR OF THE FARGO PLANNING COMMISSION, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF THE FARGO PLANNING COMMISSION.

\_\_\_\_\_  
NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

**FARGO CITY COMMISSION APPROVAL**  
THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

TIMOTHY J. MAHONEY, MAYOR  
STEVEN SPRAGUE, CITY AUDITOR

STATE OF NORTH DAKOTA )  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TIMOTHY J. MAHONEY, MAYOR AND STEVEN SPRAGUE, CITY AUDITOR, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN THE NAME OF THE CITY OF FARGO.

\_\_\_\_\_  
NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

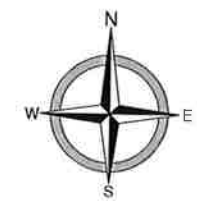
**CITY ENGINEER'S APPROVAL**  
THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

BRENDA E. DERRIG, CITY ENGINEER  
STATE OF NORTH DAKOTA )  
COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED BRENDA E. DERRIG, CITY ENGINEER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME AS HER FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

- LEGEND**
- IRON MONUMENT FOUND
  - SET 5/8"x18" REBAR WITH YELLOW PLASTIC CAP #6571
  - (31,963) LOT AREAS IN SQ. FT.
  - P.O.B. POINT OF BEGINNING
  - PLAT BOUNDARY LINE
  - LOT LINE
  - EASEMENT LINE
  - EASEMENT CENTERLINE
  - EXISTING LOT LINE



0 30  
Scale in Feet

BASIS OF BEARINGS: THE SOUTH LINE OF LOT 12, BLOCK 2, ROBERTS ADDITION HAS AN ASSIGNED BEARING OF S87°02'20"W.



**City of Fargo  
Staff Report**

<b>Title:</b>	Burlington Northern I-29 South Industrial Center Addition	<b>Date:</b>	8/27/2019
<b>Location:</b>	Between 3240 & 3300 Main Avenue	<b>Staff Contact:</b>	Maggie Squyer
<b>Legal Description:</b>	33 <sup>rd</sup> Street South between Lots 7-11, Block 8, <b>Burlington Northern I-29 South Industrial Center Addition</b> and unplatted portion of Section 11, Township 139, Range 49 West.		
<b>Owner(s)/Applicant:</b>	City of Fargo—Shawn Bullinger	<b>Engineer:</b>	City of Fargo
<b>Entitlements Requested:</b>	<b>Vacation of Right-of-Way</b> (33 <sup>rd</sup> Street South between Lots 7-11, Block 8, <b>Burlington Northern I-29 South Industrial Center Addition</b> and unplatted portion of Section 11, Township 139, Range 49 West)		
<b>Status:</b>	Planning Commission Public Hearing: September 3, 2019		

**Proposal:**

The applicant requests one entitlement:  
A vacation of a portion of 33<sup>rd</sup> Street South right-of-way between Lots 7-11, Block 8, **Burlington Northern I-29 South Industrial Center Addition** and unplatted portion of Section 11, Township 139, Range 49 West

The plat will vacate a portion of 33<sup>rd</sup> Street South located between Lots 7-11, Block 8, Burlington Northern I-29 South Industrial Center Addition and unplatted portion of Section 11, Township 139, Range 49 West due to its underutilization by the public and its lack of connectivity to other public rights-of-way.

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. The Engineering Department will provide an updated plat based on staff’s comments.

**Area Plans:**

The identified right-of-way is not included in any area plan that provides relevant information to this request for vacation.

**Schools and Parks:**

**Schools:** The subject property is located within the West Fargo School District and is served by L. E. Berger Elementary, Cheney Middle and West Fargo High schools.

**Neighborhood:** The subject property is not included in a specific neighborhood.

**Parks:** Metro Recreation Center (3110 Main Avenue) is located approximately 500 feet east of the subject property and offers an indoor recreation center including batting cages, horseshoes, and archery range.

**Pedestrian / Bicycle:** The subject property does not include any bicycle facilities or multi-use trails.

**Staff Analysis:**

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

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

The City is planning to obtain utility easements from both landowners for the entire width of the right-of-way. **(Criteria Satisfied)**

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

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

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

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

***N.D.C.C. 40-39-07. Hearing on petition – Passage of resolution declaring vacation by governing body. The governing body, or such committee as may be appointed by it, shall investigate and consider the matter set forth in the petition specified in section 40-39-05 and, at the time and place specified in the notice, shall hear the testimony and evidence of persons interested. After hearing the testimony and evidence or upon the report of the committee favoring the granting of the petition, the governing body, by a resolution***

***passed by a two-thirds vote of all its members, may declare the public grounds, streets, alleys, or highway described in the petition vacated upon such terms and conditions as it shall deem just and reasonable.***

These actions will take place subsequent to the Planning Commission hearing. **(Criteria Satisfied)**

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed **vacation of a portion of 33<sup>rd</sup> Street South right-of-way between Lots 7-11, Block 8, Burlington Northern I-29 South Industrial Center Addition and unplatted portion of Section 11, Township 139, Range 49 West**, as presented, as the proposal complies with the standards of Chapter 40-39 of the North Dakota Century Code."

**Planning Commission Recommendation:** September 3, 2019

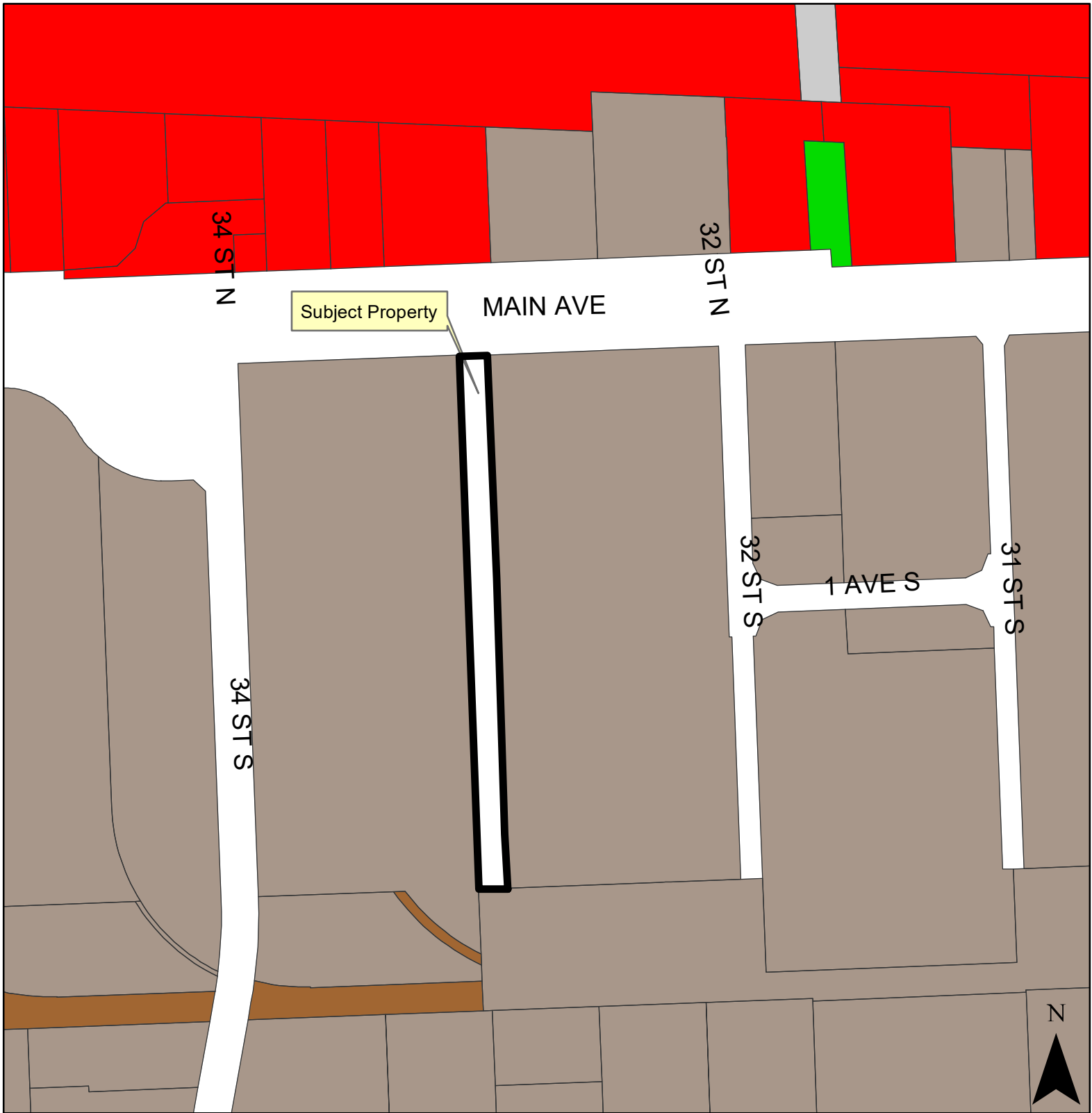
**Attachments:**

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

# Vacation of Right-of-Way

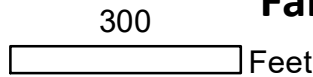
## BN I-29 South Industrial Center Addition

3300 & 3240 Main Ave



**Legend**

AG	LC	MHP	DD-2
DMU	LJ	NC	DD-3
GC	MR-1	NO	DD-4
GO	MR-2	P/I	DD-5
	MR-3	UMI	City Limits



Fargo Planning Commission  
September 3, 2019

# Vacation of Right-of-Way

## BN I-29 South Industrial Center Addition

3300 & 3240 Main Ave



MEMORANDUM

**TO: PLANNING COMMISSION**

**FROM: TIA BRASETH, COMMUNITY DEVELOPMENT PLANNING COORDINATOR** *T.B.*

**DATE: AUGUST 26, 2019**

**RE: NOTICE OF AMENDMENTS TO COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)/HOME 2019 ACTION PLAN**

The Department of Planning & Development is considering amendments to the City of Fargo's Community Development Block Grant (CDBG)/HOME 2019 Action Plan, previously approved by the Planning Commission (5/7/19), Community Development Committee (4/23/19), and the City Commission (6/17/19). Proposed amendments include:

- Identified scope, location, and budget for activities under the previously approved HOME Senior Affordable Housing Development project

Each proposed amendment is detailed in the attached public notice, which was published in the August 26, 2019 Forum newspaper. This proposal will also be presented to the Community Development Committee and the City Commission. The timeline for this amendment, including the 30-day public comment period, is outlined in the attached public notice. Once approved by citizens and the City, the amendment will be submitted to HUD for approval.

It is part of the City's adopted Citizen Participation Plan to take all substantial amendments to the Community Development Committee, Planning Commission, and City Commission as part of the review and approval process.

**Recommended Motion:** Approve proposed amendments.

**Notice of Public Hearing & Public Comment Period  
Amendments to 2019 Action Plan  
Community Development Block Grant (CDBG)  
& HOME Investment Partnerships Programs**

The City of Fargo is considering amendments to its 2019 Action Plan, previously approved by City Commission on June 17, 2019. Specific locations have recently been identified for 2019 projects and must be included in the plan. Location updates are considered substantial amendments and must go through a citizen participation process. The details and timeline for this process are outlined below. Upon City Commission action on October 7, 2019, a recommendation regarding these amendments will be forwarded to HUD for their consideration and approval.

**30-Day Public Comment Period:** August 27, 2019 through September 26, 2019

**Send written comments or phone:** City of Fargo  
Planning and Development Department  
Attn: Community Development Planning Coordinator  
225 4th Street North, Fargo ND 58102  
701.476.4144

**Electronic Comments:** [planning@FargoND.gov](mailto:planning@FargoND.gov)

**Public Hearing:** Monday, September 23, 2019 - 5:15 p.m.  
Fargo City Commission Chambers  
225 4th Street North, Fargo ND 58102

**Final City Commission Consideration:** Monday, October 7, 2019

**Summary of Proposed Amendments:**

**1. Amendments to 2019 HOME Senior Affordable Housing Activity**

**a. Project site/budget identified – 3129 7 Avenue North – \$350,000**

Activities include acquisition and future construction of a multi-family senior rental housing complex in partnership with Craig Properties (LLC).

**b. Project site/budget identified – 4225 28 Avenue South – \$347,826**

Activities include construction of a multi-family senior rental housing complex in partnership with Homefield 3/Beyond Shelter, Inc. Full request was for \$515,000. If other HOME senior affordable housing activities are cancelled, those funds will be reallocated to this project up to the full request and be subject to a substantial amendment and 30-day public comment period if change exceeds \$50,000.

**Comments & Suggestions**

Comments and suggestions from the public are encouraged through a public comment period and/or at the public hearing. The 2019 amended draft plan and activity amendments are available online at [www.fargond.gov/planninganddevelopment/plansandstudies](http://www.fargond.gov/planninganddevelopment/plansandstudies) or by request through the Planning and Development Department. See contact information below.

The facility is accessible and can accommodate persons with disabilities. Alternative formats of this information or reasonable accommodations for persons with hearing loss, vision loss, disabilities or limited English proficiency, including the availability of interpretation and translation services, will be made upon request (48 hours notice is required). Anyone who requires these services or an auxiliary aid to fully participate should contact the Planning and Development Department at 701.241.1474/Planning@FargoND.gov, or the City of Fargo's Section 504/ADA Coordinator Brock Morrison at 701.298.6966 to arrange for services. To access TDD/Relay service dial 701.241.8258. In accordance with Federal regulations and City of Fargo policies, the City of Fargo provides services without regard to race, color, national origin, sex, disability, age, familial status, religion, marital status, veteran status, sexual orientation, gender identity, public assistance, domestic violence, lawful activity, or condition protected by applicable federal and state laws. The City is an equal employment/equal housing opportunity agency.