

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, July 27, 2020).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. 2nd reading and final adoption of the following Ordinances; 1st reading:
 - a. Rezoning Certain Parcels of Land Lying in the Proposed Edition Third Addition.
 - b. Rezoning Certain Parcels of Land Lying in Boulger First Addition.
- 2. Applications for Games of Chance:
 - a. Legacy Children's Foundation for a raffle on 8/17/20.
 - b. Sts. Anne & Joachim Catholic Church for a raffle on 11/8/20.
- 3. Granting of the Downtown Community Partnership with sole authority to place and manage pedestrian benches in Downtown Fargo.
- 4. Amended Engineer's Report for Project No. FM-16-A.
- 5. Cost Sharing for Underground Building Encroachment Removal Policy 2020.
- 6. Amended Easement (Amends Document #320762) with Fargo Public Schools.
- 7. Memorandum of Offer to Landowner for Permanent and Temporary Easements with the Municipal Airport Authority of the City of Fargo (Project No. FM-16-A).
- 8. Purchase Agreement with Beverly Pearson for property located at 12 North Terrace North.
- 9. Right of Way and Land Use Agreement with Epic Gateway North Real Estate Holdings, LLC.
- 10. Encroachment and Use Agreement with Great Plains 1001 Holdings, LLC.
- 11. Contracts and bonds for the remodeling of the entertainer dressing rooms/catering room/hallway at the FARGODOME.
- 12. Fargo Cass Public Health Mobile/Concessions Food License Application and Agreement.
- 13. Notice of Grant Award with the ND Department of Health for increasing influenza vaccination in high risk adults (CFDA #93.268).

- Page 2
14. Amend the existing Agreement with United Way and Afro American Development Association (on behalf of ESHARA Partners) to increase funding by \$17,870.00.
 15. Change Order No. 1 for an increase of \$20,494.60 for the Ground Transportation Center Remodel Project for the general construction contract.
 16. Amendment No. 1 to Prime Agreement with Lisa Wise Consulting, Inc.
 17. Recipient Agreement with the YWCA, subject to technical review by the Public Health Director and City Attorney.
 18. City of Fargo COVID-19 Temporary Employment Policy – Annual Leave (vacation) Maximum Accrual.
 19. Change in Transit operating hours to end service at 9:45 p.m. Monday thru Saturday through the end of 2020 and resume normal operating hours beginning on 1/1/21.
 20. Transit staff to finalize the draft RFP for transit management, drivers and dispatch services and release it on 8/17/20.
 21. Bills.
 22. Negative Final Balancing Change Order No. 4 in the amount of -\$15,436.13 for Improvement District No. PN-18-C1.
 23. Negative Final Balancing Change Order No. 5 in the amount of -\$43,679.69 for Improvement District No. BN-18-F2.
 24. Change Order No. 3 for an increase of \$10,350.00 for Improvement District No. PN-18-C1.
 25. First Amendment to Joint Powers Agreement with Southeast Cass Water Resource District (Drain 53 Improvement Project 2019-01) (Improvement District No. BN-20-C1).
 26. Bid award for Improvement District No. AN-20-A1.
 27. Contract and bond for Improvement District No. AN-19-J1 and AN-20-B1.

REGULAR AGENDA:

28. Recommendation to approve the Mayor's 2021 Preliminary Budget and set the Public Hearing date for Tuesday, September 8, 2020 at 5:15 p.m.
29. Receive and file the summary of a meeting to discuss the 2020 election.
30. ***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**
 - a. Zoning Change to repeal and reestablish a C-O, Conditional Overlay on Lots 1-7, Block 1, Timber Parkway Fourth Addition; Lot 3, Block 1, Timber Parkway Third Addition; and Lot 1, Block 1, Timber Parkway Second Addition (4935 and 5081 Timber Parkway South; 3439, 3375 and 3400 James Way South; and 3360, 3401, 3430 and 3485 Jacks Way South); approval recommended by the Planning Commission on 7/7/20:
 1. 1st reading of rezoning Ordinance.


- b. Zoning Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential on Lots 25-32, South Haven Subdivision (2505-2617 65th Avenue South); approval recommended by the Planning Commission on 7/7/20:
 1. 1st reading of rezoning Ordinance.
 - c. Sanford South Campus Addition (1720 University Drive South and 1701, 1719, 1723, 1727, 1731, 1735, 1739, 1743 and 1747 11th Street South); approval recommend by the Planning Commission on 6/2/20:
 1. Zoning Change from SR-2, Single-Dwelling Residential and GC, General Commercial with a C-O, Conditional Overlay to GC, General Commercial with a C-O, Conditional Overlay.
 2. 1st reading of rezoning Ordinance.
 3. Plat of Sanford South Campus Addition.
 - d. Annexation of property located on the East Half of Section 15, Township 140 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota:
 1. 1st reading of annexation Ordinance.
 - e. North Fargo Industrial Addition (3701 40th Avenue North and 4201 and 3261 County Road 81 North):
 1. Zoning Change from AG, Agricultural to LI, Limited Industrial.
 2. 1st reading of rezoning Ordinance.
 3. Plat of North Fargo Industrial Addition.
 - f. Application filed by PRx Performance for a payment in lieu of tax exemption (PILOT) for a project located at 4125 24th Avenue North, which the applicant will use in the primary operation of an e-commerce business with fitness related products; continued from the 7/27/20 Regular Meeting.
31. Application for Abatement or Refund of Taxes #4487 submitted by Stephanie Nyhus of Ducharme, McMillan & Associates on behalf of Scheels All Sports Inc. requesting the valuation for 2018 be reduced from \$28,286,000.00 to \$25,397,000.00 for property located at 1551 45th Street South.
 32. Application for a property tax exemption for improvements made to a building filed by Tabitha Meyer, 1405 15th Street South (5 year).
 33. Recommendations for appointments and reappointments to the following Boards and Commissions:
 - a. Planning Commission.
 - b. Fargo Youth Initiative.
 34. ***Public Input Opportunity*** - Mask Directives:
 - a. Mask Directive for the City of Fargo effective 8/17/20.
 - b. Temporary Employment Policy on Mask Usage and Continuing Operations Guidance regarding COVID-19 for City of Fargo employees effective 8/17/20.
 35. Receive and file the Attorney General's letter declining the request for an Attorney General opinion regarding "Firearm Sales" as a prohibited home occupation.
 - a. Commissioner Gehrig would request that this item be placed on the 8/24/20 Regular Agenda as a Public Input Opportunity.

36. Commissioner Gehrig would like to have a discussion about body cameras.
37. Commissioner Gehrig would like to address the Tax Review Policy.
38. **RESIDENT COMMENTS (each Fargo resident will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments).**

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310. 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 website at www.FargoND.gov/citycommission.

(28)

TO: BOARD OF CITY COMMISSIONERS
FROM: MAYOR TIMOTHY J. MAHONEY 
DATE: AUGUST 10, 2020
RE: 2021 PRELIMINARY BUDGET APPROVAL

The Mayor presented his preliminary budget proposal on Friday, July 24, 2020. As part of the preliminary budget approval, Commissioners and Departmental personnel were provided time for a detailed review and dialogue, if desired, with the goal of approving the preliminary budget on August 10, 2020. The Budget Team has received limited feedback on the proposed budget.

The State of North Dakota recently revised its procedures for making COVID-19 stimulus grants to political subdivisions. Because of this new procedure, the City of Fargo should receive a grant award of approximately \$6.7 million. All POST-certified law enforcement salaries and benefits from March 1, 2020 through September 30, 2020 will be eligible. We expect to receive this payment before September 30, 2020. The Budget Review Team recommends this grant funding be accounted for in the General Fund and allocation of funds be considered by the Budget Review Team after the close of this fiscal year.

Last week the City received a preliminary health insurance renewal premium estimate of 18% - 21% from Blue Cross Blue Shield. The budget contained a premium renewal estimate of 15%. The Budget Team recommends that the budget should be increased to 21% to allow for the higher than anticipated policy renewal. We also recommend a cap of 7% on the City employee share of this increase and that the City will fund the balance of the increase for 2021. The total increase in the budget for this item is \$575,000.

Suggested Motion:

Approve the 2021 preliminary budget and schedule the public hearing on the budget for September 8, 2020 at 5:15 p.m.

August 5, 2020

To: Board of City Commissioners
From: Steven Sprague, City Auditor
Re: November 2020 Election

(29)

At the request of the Mayor, Commissioner Preston, Mayor Mahoney and I met with County Auditor Mike Montplaisir and Election Coordinator DeAnn Buckhouse to discuss the election process. Following is a summary of that meeting.

- Voter turnout is expected to be between 80 and 90 thousand for the presidential general election
- Over 28,000 voters have requested an absentee ballot to date
- Absentee ballot signature verification will be conducted as ballots are received, this will allow voters to correct signature verification issues prior to election day
- Absentee ballot counting will begin Monday November 2.
- Vote centers will be utilized for the first time throughout the election process
- Voters will be able to cast a ballot at any vote center, all vote centers will have all ballot types
- Three vote centers will be open for early voting October 19 to 24 and again October 26 to 31 at Ramada on 13th, FargoDome and Doubletree
- Three additional vote centers will be added October 26 to 31, they are Hilton Garden Inn, Fargo Civic Center and Days Inn in Casselton.
- All six vote centers will be open Monday November 2 and on election day Tuesday November 3rd
- This will be the first time early voting will be conducted the day before the election.
- The goal with having absentee, early voting and election day voting options is to spread the voting out to avoid big crowds.
- Covid steps include; personal protective gear for election workers, cleaning crews to wipe down periodically during the day and social distancing reminders
- Protective Plexiglas screens are on order

Recommended motion

No motion, presented for information purposes only



City of Fargo Staff Report			
Title:	Timber Parkway Third Addition	Date:	06/30/2020
		Update:	08/05/2020
Location:	4935 and 5081 Timber Parkway South; 3439, 3375 and 3400 James Way South; and 3360, 3401, 3430 and 3485 Jacks Way South	Staff Contact:	Kylie Bagley
Legal Description:	Lots 1-7, Block 1, Timber Parkway 4 th Addition, Lot 3, Block 1, Timber Parkway 3 rd Addition and Lot 1, Block 1, Timber Parkway 2 nd Addition		
Owner(s)/Applicant:	PLC Investments, LLC	Engineer:	N/A
Entitlements Requested:	Zoning Change (to repeal and reestablish a C-O, Conditional Overlay on Lots 1-7, Block 1, Timber Parkway 4 th Addition, Lot 3, Block 1, Timber Parkway 3 rd Addition and Lot 1, Block 1, Timber Parkway 2 nd Addition)		
Status:	City Commission Public Hearing: August 10, 2020		

Existing	Proposed
Land Use: Vacant	Land Use: Commercial
Zoning: GC, Limited Commercial, with C-O, Conditional Overlay, ordinance 5130	Zoning: GC, Limited Commercial, with C-O, Conditional Overlay
Uses Allowed: General Commercial 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-promise advertising and digital billboards , commercial parking, outdoor recreation and entertainment, retail sales and service, self storage , vehicle repair , limited vehicle service, aviation , surface transportation , and major entertainment events.	Uses Allowed: General Commercial 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-promise advertising and digital billboards , commercial parking, outdoor recreation and entertainment, retail sales and service, self storage , vehicle repair , limited vehicle service, aviation , surface transportation , and major entertainment events. .
Maximum Lot Coverage Allowed: 85% building coverage	Maximum Lot Coverage Allowed: No change

Proposal:

The applicant is seeking a zoning change to repeal and reestablish a C-O, Conditional Overlay on Lots 1-7, Block 1, Timber Parkway 4th Addition, Lot 3, Block 1, Timber Parkway 3rd Addition and Lot 1, Block 1, Timber Parkway 2nd Addition. The subject property is located at 4935 and 5081 Timber Parkway South; 3439, 3375 and 3400 James Way South; and 3360, 3401, 3430 and 3485 Jacks Way South.

The existing Conditional Overlay, Number 5130, was established in 2018 and was specific to the proposed outlet mall development that never came to fruition. The applicant is proposing to remove language specific to the proposed outlet mall development and replace it with standard design standard language that can be found in other Conditional Overlays throughout the City.

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.

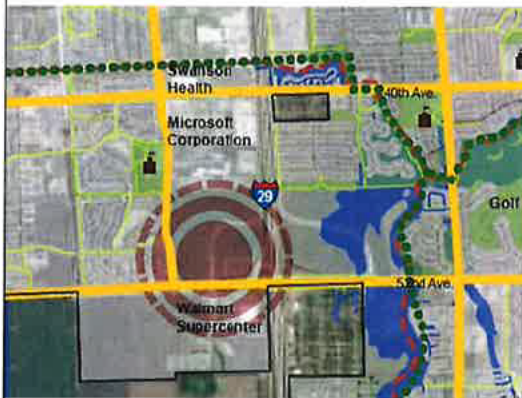
Surrounding Land Uses and Zoning Districts:

- North: Directly north and across from Timber Parkway South is MR-3, Multi-Dwelling Residential, SR-2, Single-Dwelling Residential, SR-4, Single-Dwelling Residential, and P/I, Public and Institutional with uses of multi-dwelling residential, attached and detached residential, and a park;
- East: GC, General Commercial with a C-O, Conditional Overlay with commercial use and vacant land;
- South: Across 52nd Avenue South is the City of Frontier;
- West: Interstate 29.

Area Plans:

The subject property is located within the 2007 Tier 2 South Land Use Plan. In March of 2014, a growth plan amendment was approved that added additional commercial acreage within the subject property. Pursuant to the growth plan amendment, the area is deemed appropriate for commercial uses.

- Commercial
- Future School
- Industrial
- Low Med Res
- Med High Res
- Proposed Park
- Rural Res



Go2030 identifies 52nd Avenue South as an Active Living Street (see exhibit to left). Active Living Streets are key corridors that prioritize mobility for all modes of travel with an improved streetscape that enhances the quality and visual appearance of neighborhoods.

Context:

Neighborhood: The subject property is located in the Centennial Neighborhood.

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

Parks: Located across Timber Parkway South is Timber Creek Park (3300 47th Avenue South), with trails, playground, basketball and a shelter.

Pedestrian / Bicycle: Off road bike facilities are located along Timber Parkway South and 52nd Avenue South. These facilities are 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. The requested zoning change is justified by a change in conditions since the previous zoning classification was established. The applicant has a clear picture of the type of development for the property and is modifying the Conditional Overlay to reflect

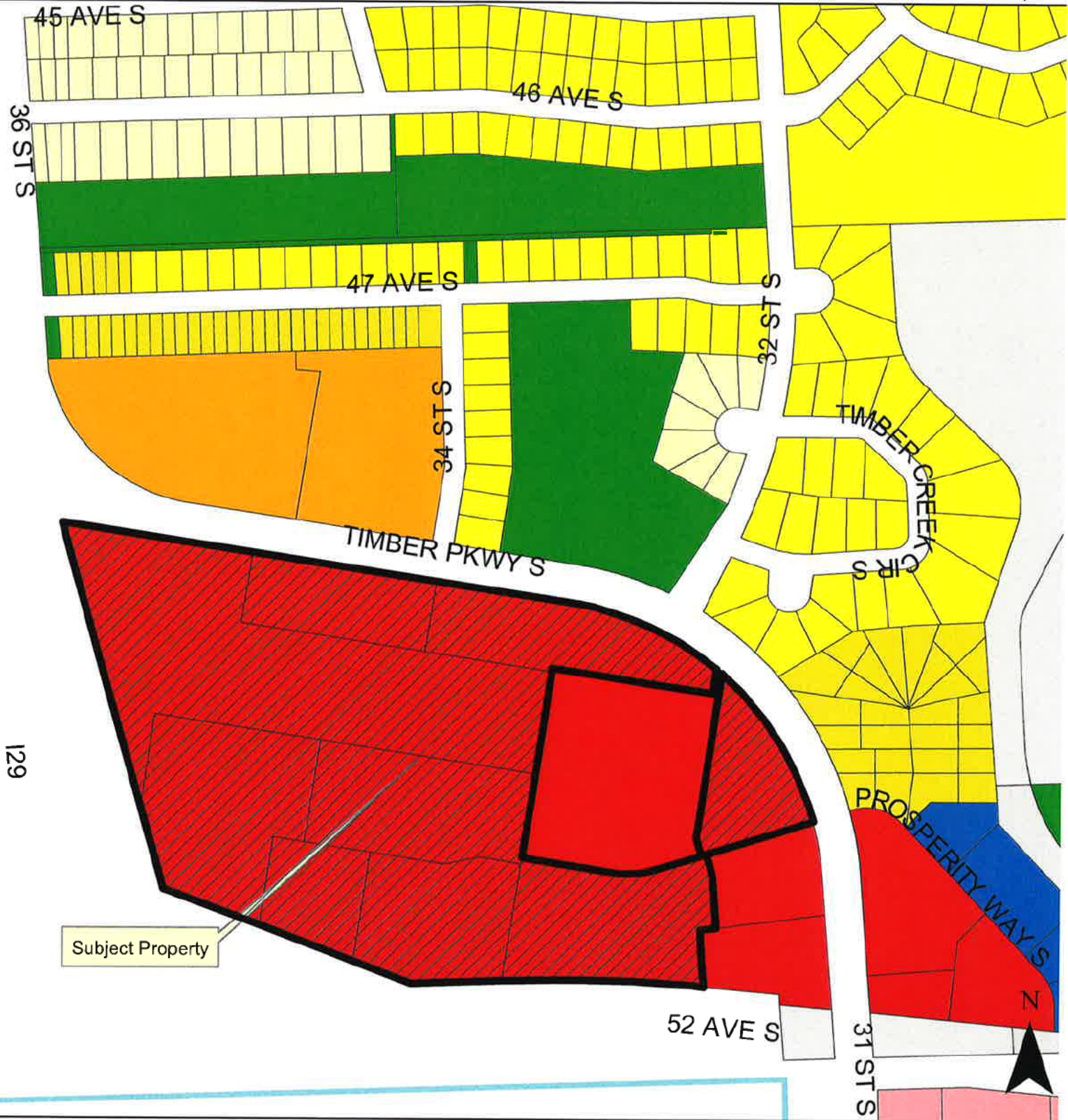
<p>this. (Criteria Satisfied)</p> <p>2. Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed? City Staff and other applicable review agencies have reviewed this proposal. No deficiencies have been noted in the ability to provide all of the necessary services to the site. The subject property abuts public right-of-way. (Criteria Satisfied)</p> <p>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 that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. The proposed zone change is in keeping with adopted plans approved via public process. In addition, 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 verbal concerns or written comments regarding the proposed overlay zoning change. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity. (Criteria Satisfied)</p> <p>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, the Growth Plan, and other adopted policies of the City. GC, General Commercial is a zoning that is included in the 2003 Land Use Plan "Commercial" land use designation. (Criteria Satisfied)</p>
<p>Staff Recommendation:</p> <p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirements to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and move to approve the zoning change to repeal and re-establish the C-O, Conditional Overlay, 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."</p>
<p>Planning Commission Recommendation: July 8, 2020</p> <p>On July 8, with a 5-0 vote, with five Commissioner absent, the Planning Commission accepted the findings and recommendations of staff and recommended approval to the City Commission of the proposed zoning change to repeal and re-establish the C-O, Conditional Overlay, 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..</p>
<p>Attachments:</p> <p>1. Zoning Map 2. Location Map</p>

Zone Change (to repeal and re-establish a Conditional Overlay in the GC)

Timber Parkway

Second, Third & Fourth Additions

4935 & 5081 Timber Pkwy S
3439, 3375 & 3400 James Way S
3360, 3430, 3401 & 3485 Jacks Way S



Zone Change (to repeal and re-establish a Conditional Overlay in the GC)

Timber Parkway Second, Third & Fourth Additions

4935 & 5081 Timber Pkwy S
3439, 3375 & 3400 James Way S
3360, 3430, 3401 & 3485 Jacks Way S



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

30a1

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN TIMBER PARKWAY FOURTH ADDITION, TIMBER PARKWAY THIRD
ADDITION AND TIMBER PARKWAY SECOND ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on July 8, 2020; and,

WHEREAS, the rezoning changes were approved by the City Commission on August 10, 2020,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots One (1) through Seven (7), Block One (1) of Timber Parkway Fourth Addition to the City of Fargo, Cass County, North Dakota;

Lot Three (3), Block One (1) of Timber Parkway Third Addition to the City of Fargo, Cass County, North Dakota;

and

Lot One (1), Block One (1) of Timber Parkway Second Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned to retain the base zoning district for said property of a "GC", General Commercial Zoning District and to repeal the existing "C-O", Conditional Overlay, District and to re-establish

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

the "C-O", Conditional Overlay, District as follows:

1 A. Description: This C-O, Conditional Overlay, district is primarily intended to encourage
2 high-quality, durable, and long-lasting investments.

3 B. Design Standards

4 a. Building Massing

- 5 i. All buildings shall have architectural interest and variety to avoid the
6 effect of a single, long or massive wall, and buildings shall include
7 variation in size and shape.
- 8 ii. All building elevations or façades facing or viewable from any right-of-
9 way or parking lot that are greater than two-hundred (200) feet in length,
10 measured horizontally from vertical edge to vertical edge, shall
11 incorporate wall plane projections or recesses. Each projection or recess
12 shall have a depth of at least five (5) feet, and the cumulative total
13 horizontal width of all projections or recesses within a façade shall equate
14 to at least an accumulated total of twenty (20) percent of the overall
15 horizontal length of the façade. No uninterrupted length of any façade
16 shall exceed two-hundred (200) horizontal lengths.
- 17 iii. Ground floor façades that are within two hundred (200) feet of the right-of-
18 way, measured from the exterior wall, shall have arcades, display windows,
19 entry areas, awnings, spandrel glass, ground level landscaping or other such
20 features along no less than sixty (60) percent of its horizontal length. If the
21 façade facing the right-of-way is not the front, it shall include the same
22 features and/or landscaping in scale with the façade.
- 23 iv. All building elevations or façades facing or viewable from any right-of-
24 way or parking lot shall be designed with a similar level of design detail,
25 respective to building massing and building materials.

26 b. Building Materials

- 27 i. All primary buildings shall be constructed or clad with materials that are
28 durable, economically-maintained, and of a quality that will retain their
29 appearance over time, including but not limited to natural or synthetic
30 stone; brick; stucco; integrally-colored textured or glazed concrete
31 masonry units; high-quality pre-stressed concrete systems; EIFS; glass;

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

metal panels (similar to Aluco Bond) and synthetic panels (similar to Trespa). Natural, but durable synthetic materials with the appearance of wood, may be used. Horizontal metal lap siding and vertical metal batten shall be allowed on residential and commercial structures but shall not exceed seventy-five (75) percent of the building elevation for residential structures and fifty (50) percent of the building elevation for commercial structures.

c. Screening of Dumpsters/Refuse Containers and Loading Areas

i. Dumpsters

1. Loading and or service areas shall be located at the side or rear of buildings and screened from public streets by structure and or landscaping, with a minimum capacity of fifty (50) percent.
2. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain a six (6) foot high permanent wall in height on at least three (3) sides. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor; however, if the service side does not face any public right-of-way or residentially zoned property the metal gate shall not be required.

d. Screening of Rooftop and Ground Level Mechanical Equipment

- i. Rooftop mechanical equipment shall be fifty (50) percent concealed from public view, when viewing angle is from the Finish Floor elevation, measured at one hundred and fifty (150) feet from the exterior wall.
- ii. All ground level HVAC units and utility boxes shall be screened from view by a structure, wall, fence or landscaping.

e. Parking Lot Landscaping

- i. A minimum of ten (10) percent of the internal surface area of the parking lot shall be landscaped with plantings, but shall be allowed to be reduced to five (5) percent with approved landscape buffer as outlined in subparagraph B.(f)(i).

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

f. Landscape Buffer

- 1 i. A fifty (50) foot landscape easement was dedicated in March 2014 by
2 Document Number 1412948 on file with the Cass County Recorder's
3 Office along the north side of the development. The developer shall be
4 required to submit a landscape plan for this easement area which shall
5 include a combination of trees and landscaped berms. The Zoning
6 Administrator shall have the authority to approve or disapprove the
7 landscape plan. The buffer is intended to provide a high-quality transition
8 between residential and commercial properties while also providing an
9 added aesthetic element to the development. If, in the opinion of the
10 Zoning Administrator, the proposed landscape plan meets the intended
11 objective and is reflective of high-quality design and materials, the
12 requirement for landscaping internal to parking lots as contemplated under
13 subparagraph 2.(f)(ii) of Ordinance Number 4908 shall be reduced from
14 ten (10) percent to five (5) percent. The landscaping plan shall be
15 implemented within the easement area within twelve (12) months
16 following issuance of any building permit as described in Ordinance
17 Number 4908. Trees shall be of minimum two (2) inch caliper.

18 C. The following uses are prohibited:

- 19 a. Within the Use Category for Retail Sales/Service and Office, sales and leasing of
20 consumer vehicles including passenger vehicles, light/medium trucks and other
21 recreational vehicles that includes outdoor storage/display/sales;
22 b. Detention Facilities;
23 c. Adult Entertainment Center;
24 d. Self-Service Storage;
25 e. Vehicle Repair (excluding tire sales and vehicle service, limited);
26 f. Industrial Service;
27 g. Manufacturing and Production;
28 h. Warehouse and Freight Movement, (excluding furniture/appliance stores);
29 i. Wholesale Sales; and
30 j. Aviation/Surface Transportation.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

D. Site Design

- a. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be provided between building entrances and the following:
- i. Any public sidewalk system along the perimeter streets adjacent to the development, or along the perimeter of the lot;
 - ii. Primary entrances of other buildings on the site; and
 - iii. Adjacent pedestrian origins and destinations – including but not limited to transit stops, residential development, office buildings, and retail buildings – where deemed practical and appropriate by the Zoning Administrator.

E. Signage

- a. Off-premise signs and digital billboards shall be prohibited.
- b. Advertising of businesses within said development is not considered off-premise advertising.
- c. Unless otherwise specified above, all other provisions within the Sign Code shall remain in full force and effect.

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

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

Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

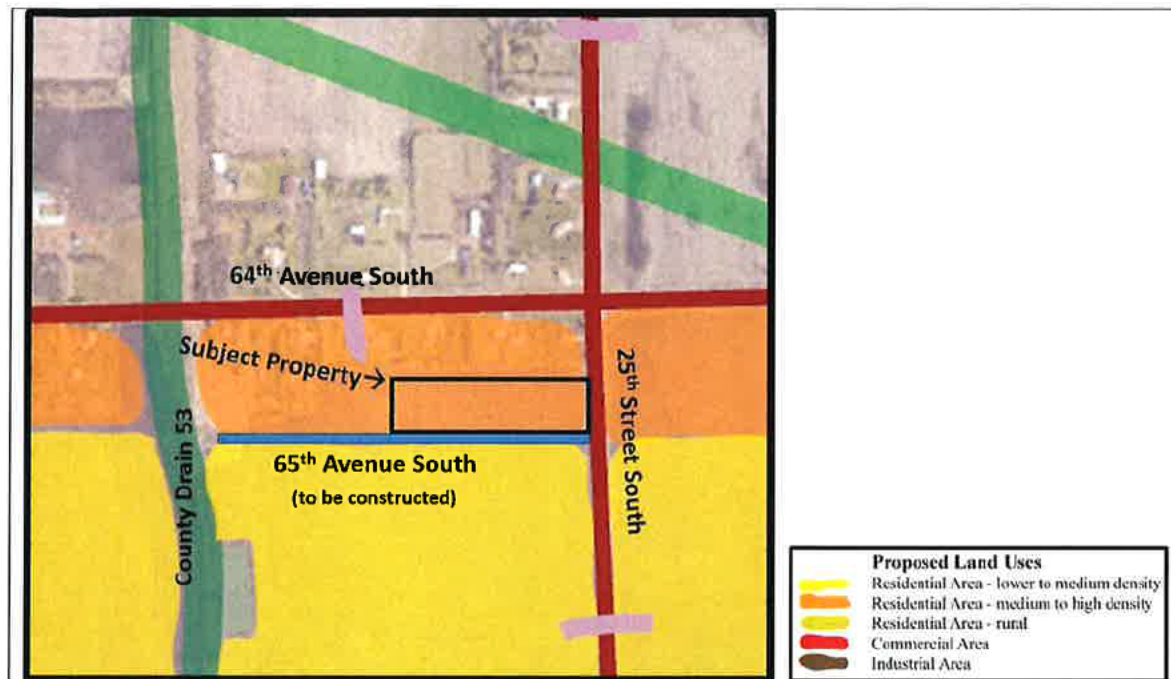
First Reading:
Second Reading:
Final Passage:

306

City of Fargo Staff Report			
Title:	South Haven Subdivision	Date:	7/1/2020
		Updated:	8/6/2020
Location:	2505-2617 65th Avenue South	Staff Contact:	Donald Kress, planning coordinator
Legal Description	Lots 25-32, South Haven Subdivision		
Owner(s)/Applicant:	Ryland Development/ Stan Ryland	Engineer:	None
Entitlements Requested:	Zone Change (from SR-2, Single Dwelling Residential to SR-3, Single Dwelling Residential)		
Status:	City Commission Public Hearing: August 10, 2020		

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

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. A zoning change from SR-2, Single Dwelling Residential to SR-3, Single Dwelling Residential <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>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: Detached single-dwelling residential; SR-2 • East: Multi-dwelling residences; MR-3 • South: Detached single-dwelling residences; SR-4 (platted but not developed) • West: Detached single-dwelling residence; SR-2 (platted but not developed) <p>Area Plans:</p> <p>The 2007 Tier One Southeast Growth Plan designates the area of this project as "Residential Area--Medium to High Density;" it is adjacent to an area designated "Residential Area—Lower to Medium Density" to the south. The areas designated in the growth plan are not exact boundaries but approximate areas. The SR-3 zone is a lower density that would generally be in the "medium to high density" category, but is a reasonable zoning for residential lots facing the local street that 65th Avenue South will be. The "medium to high density" designation is more focused on future development along the arterial 64th Avenue South. The South Haven Subdivision was platted in 1964, before this area was within the Fargo city limits, and well before the 2007 Growth Plan was adopted. Any future development or redevelopment on the lots in this subdivision facing 64th Avenue South would be encouraged to be of higher density. No such development is proposed at this time.</p>



Context:

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

Neighborhood: The subject property is located within the Davies Neighborhood.

Parks: Golden Valley Park (6977 Golden Valley Parkway), Legacy Park (6297 22nd Street South) and Davies Second Addition Park (2207 67th Avenue South) are all located within one-half mile of the subject property. These parks provide basketball courts, playground equipment, recreational trails, and picnic shelters.

Pedestrian / Bicycle: A bike lane exists along the east side of the proposed development on 25th Street South.

Staff Analysis:

The lots are currently zoned SR-2, Single-Dwelling Residential. The applicant proposes to rezone the lots to SR-3. The existing lots, which are undeveloped, will meet the minimum required lot area for the SR-3 zone. The SR-3 provides more residential development options than the SR-2 zone does.

TESTIMONY AT THE JULY 8th, 2020 PLANNING COMMISSION HEARING

At the July 8th, 2020, Planning Commission hearing, one neighbor to the project had questions about development in this area that staff and the applicant's representative provided answer for.

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 lots in this subdivision were platted in 1964 and have never been developed. The lots are currently zoned SR-2, a low-density residential zone. The proposed zoning of SR-3, though also a

single-dwelling zone, is more in line with "medium-high density" designation than SR-2 zone and provides more residential development options than the SR-2 zone. Planning staff finds no basis to oppose the zone change from one low-density zoning to another. **(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 65th Avenue South, a dedicated public street. This street is currently under construction and 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 no comments or inquiries. 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 the Planning Commission and staff and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and move to approve 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, the 2007 Growth Plan, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC."

Planning Commission Recommendation: July 7, 2020

On July 8th, 2020, by a vote of 5-0 with four Commissioners absent and two seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission 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, the 2007 Growth Plan, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC.

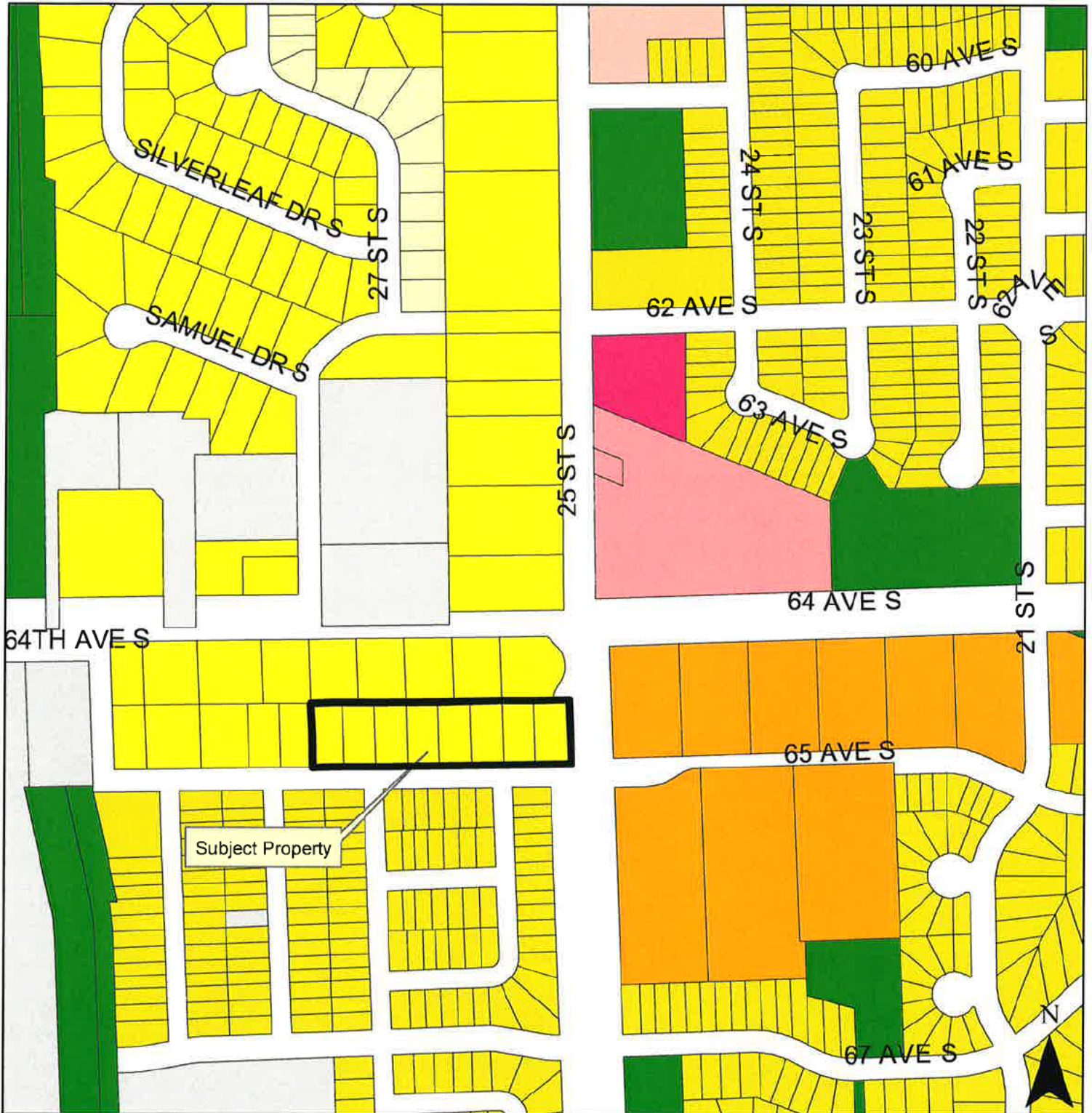
Attachments:

1. Zoning Map
2. Location Map

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

South Haven Addition

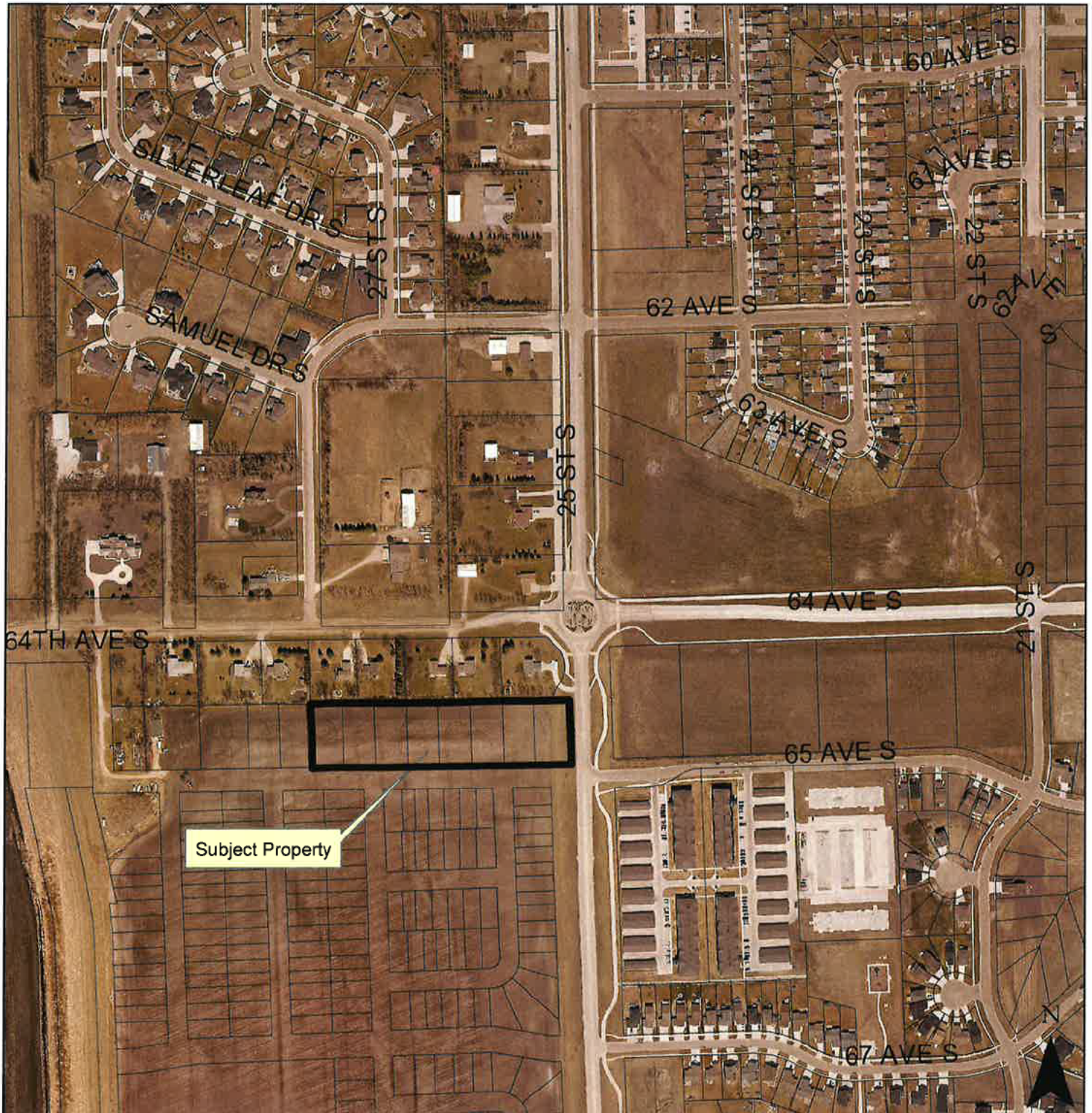
2505-2617 65th Ave S



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

South Haven Addition

2505-2617 65th Ave S



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3061

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN SOUTH HAVEN SUBDIVISION
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on July 8, 2020; and,

WHEREAS, the rezoning changes were approved by the City Commission on August 10, 2020,

NOW, THEREFORE,

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

Section 1. The property situate in the city of Fargo, County of Cass, State of North Dakota, described as follows:

Lots Twenty-five (25) through Thirty-two (32) of South Haven Subdivision to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "SR-2", Single-Dwelling Residential, District to "SR-3", Single-Residential, District.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1
2
3 Section 3. This ordinance shall be in full force and effect from and after its passage and
4 approval.
5
6

7 (SEAL)

8 Attest:
9

Timothy J. Mahoney, M.D., Mayor

10
11 _____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

300

City of Fargo Staff Report			
Title:	Sanford South Campus Addition	Date: Update:	5/28/2020 8/6/2020
Location:	1720 University Drive South and 1701, 1719, 1723, 1727, 1731, 1735, 1739, 1743, and 1747 11th Street South	Staff Contact:	Aaron Nelson
Legal Description:	Block 7 and part of Block 8, Fargo Investment Company First Addition to the City of Fargo, Cass County, North Dakota.		
Owner(s)/Applicant:	Sanford Medical Center Fargo /Foss Architecture & Interiors	Engineer:	MBN Engineering, Inc.
Entitlements Requested:	Minor Subdivision (replat of Lots 1-12, Block 7 and part of Block 8 Fargo Investment Company First Addition to the City of Fargo, Cass County, North Dakota.); Zoning Change from SR-2, Single-Dwelling Residential, and GC, General Commercial, with a C-O, Conditional Overlay, to GC, General Commercial, with a C-O, Conditional Overlay.		
Status:	City Commission Public Hearing: August 10, 2020		

Existing	Proposed
Land Use: Health Care Facility & Household Living (Detached Houses)	Land Use: Health Care Facility
Zoning: SR-2, Single-Dwelling Residential, and GC, General Commercial, with C-O Conditional Overlay	Zoning: GC, General Commercial, with C-O Conditional Overlay
Uses Allowed: SR-2 zoning allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities. GC zoning 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, aviation, surface transportation, and major entertainment events.	Uses Allowed: GC zoning 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, aviation, surface transportation, and major entertainment events.
Maximum Density: SR-2 allows up to 5.4 dwelling units per acre. Maximum Building Coverage: SR-2 allows up to 35%. GC allows up to 85%.	Maximum Building Coverage: GC allows up to 85%.

Proposal:

The applicant is seeking approval of a minor subdivision and zoning map amendment to accommodate a proposed entrance addition and parking lot expansion at the existing Sanford South University Drive medical facility. The minor subdivision, entitled *Sanford South Campus Addition*, would replat the subject property into one single lot. The proposed zoning map amendment would rezone five residential lots from a base zoning district of SR-2 (Single-Dwelling Residential) to GC (General Commercial). Additionally, the proposed rezone would establish a C-O (Conditional Overlay) zoning district over the entirety of the subject property. The proposed C-O is intended to ease the transition from the GC zoning district west of 11th Street S to the SR-2 zoning district east of 11th Street S, by providing for additional landscape buffering and restricting the number of driveway access points.

Surrounding Zoning Districts and Land Uses:

<ul style="list-style-type: none"> • North: LC with health care facility and SR-2 with religious institution • East: SR-2 with household living • South: SR-2 with religious institution • West: LC, GC, & SR-3 with health care facility
Area Plans:
N/A
Schools and Parks:
<p>Schools: The subject property is located within the Fargo Public School District, and is served by Clara Barton Elementary, Carl Ben Eielson Middle and Fargo South High schools.</p> <p>Neighborhood: The subject property is located in the Clara Barton neighborhood.</p> <p>Parks: Lindenwood Park is located approximately 0.4 mile east of the subject property.</p> <p>Pedestrian / Bicycle: There are sidewalks adjacent to the subject property and a shared use path located south of 18th Ave S and two blocks east of the subject property.</p>
Staff Analysis:
<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>Conditional Overlay: There is an existing C-O on Lots 1-6, Block 7, which was established in 2007 when these lots were rezoned from SR-2 to GC in preparation for future parking lot expansion. The C-O was established in conjunction with the rezoning of these lots to GC based, in part, on concerns raised by residents and property owners east of 11th Street S. Specifically, the C-O contains the following requirements:</p> <ol style="list-style-type: none"> 1. A nine foot parking buffer shall be required along 17th Avenue South, 11th Street South, and 18th Avenue South consisting of one tree and six shrubs every 25 linear feet with a 3:1 berm intermittent through the buffer. 2. Five percent of the interior parking lot must be landscaped. The five percent may consist of the required open space landscaping requirements (3 plant units per every 1000 square feet of lot), however, the majority of the parking lot landscaping must be made up of shade trees. 3. No more than three drive entrances are allowed onto 11th Street South. The north and south drive entrances shall be a minimum of 100 feet from block corner. The third drive entrance shall be located at mid block. <p>The current zoning map amendment proposes to apply these same standards to the entirety of the subject property. As such, the proposed parking lot along the east side of the subject property would have to comply with these standards.</p> <p>Neighborhood Meeting: City staff hosted a virtual open house meeting on Tuesday, May 26, 2020 in order to provide an opportunity for dialog between the applicant and the adjacent residents and property owners. The applicant was able to present their development plans and answer questions from the public. The virtual meeting was attended by three members of the public who didn't note too much concern with the proposed development. One attendee requested that, with the addition of off-street parking on Sanford's property, that the City remove on-street parking restrictions on 11th Street S. Currently, on-street parking is not permitted 8am-5pm on weekdays, which doesn't leave residents of 11th Street with much flexibility during these hours. Another attendee asked about additional future expansion of the Sanford facility, to which a representative of Sanford stated they have no intention or plans to expand east of 11th Street S.</p>
FINDINGS
<p>Zoning</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"> 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 existing zoning on this property is GC and SR-2. The property owner has requested to rezone the portion of the subject property within the SR-2 zoning district to GC in order to accommodate additional parking and a new building entrance to the existing medical facility. The owner no longer intends for the property to be used for residential purposes. **(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. Lots in the subdivision will 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. Additionally, a virtual open house meeting was held on May 26, 2020, which allowed neighboring property owners the opportunity to discuss the proposed project with the applicant and City staff. To date, Planning staff has received one written comment regarding lack of on-street parking in addition to other comments heard at the open house meeting regarding concern for future development east of the subject property. The proposed C-O standards are intended to provide for visual screening between the development on the subject property and adjacent residential areas. 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)**

Minor Subdivision

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

1. **Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The subdivision is intended to replat the subject property into one lot to accommodate future 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. Additionally, a virtual open house meeting was held on May 26, 2020, which allowed neighboring property owners the opportunity to discuss the proposed project with the applicant and City staff. To date, Planning staff has received one written comment regarding lack of on-street parking in addition to other comments heard at the open house meeting regarding concern for future development east of the subject property. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. **(Criteria Satisfied)**

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

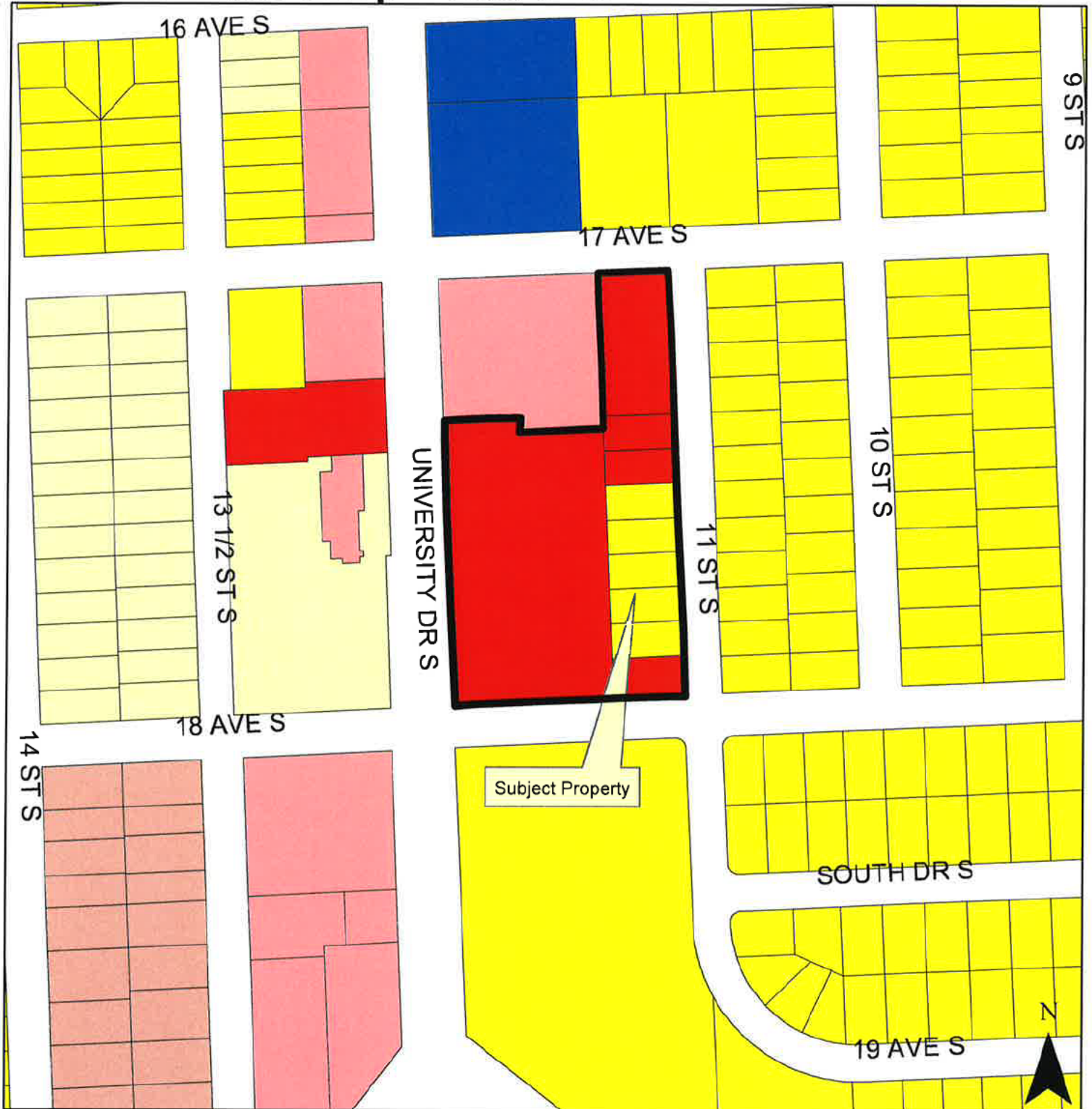
While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure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

<p>Update (8/6/2020)</p> <p>At the June 2, 2020 Planning Commission public hearing, one resident spoke against any changes to the current on-street parking restrictions along 11th Street South. Staff notes that the process for consideration of proposed changes to on-street parking restrictions is separate from the subdivision and zoning map amendment review and approval process. Citizen-initiated on-street parking changes are reviewed by the City's Traffic Technical Advisory Committee, which is administered by the City Engineering Department.</p> <p>Additionally, since the June 2, 2020 Planning Commission meeting, the plat has been updated to remove a reference to a public utility easement that has been determined to be non-existent.</p>
<p>Staff Recommendation:</p> <p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby approve 1) the proposed plat of Sanford South Campus Addition; and 2) zone change from SR-2, Single-Dwelling Residential, and GC, General Commercial, with a C-O, Conditional Overlay, to GC, General Commercial, with a C-O, Conditional Overlay, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, Section 20-0906.F (1-4) and all other applicable requirements of the LDC."</p>
<p>Planning Commission Recommendation: June 2, 2020</p> <p>On June 2, 2020, with a vote of 7-0 with 3 commissioners absent, the Planning Commission recommended approval to the City Commission of 1) the proposed a plat of Sanford South Campus Addition; and 2) zone change from SR-2, Single-Dwelling Residential, and GC, General Commercial, with a C-O, Conditional Overlay, to GC, General Commercial, with a C-O, Conditional Overlay, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, Section 20-0906.F (1-4) and all other applicable requirements of the LDC.</p>
<p>Attachments:</p> <ol style="list-style-type: none"> 1. Zoning map 2. Location map 3. Subdivision plat 4. Public Comment

Zone Change (GC & SR-2 to GC) & Plat (Minor)

1701, 1719, 1723, 1727, 1731, 1735, 1739, 1743 & 1747 11th St S
1720 University Dr S

Sanford South Campus Addition



Zone Change (GC & SR-2 to GC) & Plat (Minor)

1701, 1719, 1723, 1727, 1731, 1735, 1739, 1743 & 1747 11th St S

Sanford South Campus Addition

1720 University Dr S



A REPLAT OF LOTS 14-12, BLOCK 7 AND PART OF BLOCK 8, FARGO INVESTMENT COMPANY FIRST ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MINOR SURVEY)

All of Lots 1 through 12, Block 7, and the South 535.00 feet of Block 8, EXCEPT the following tract of land:

Commencing at a post which is 285.00 feet South of the northeast corner of said Block 8 and said point is the True Point of Beginning; thence West and parallel to North line of said Block 8 for 150.00 feet, thence South and parallel to East line of said Block 8 for 27.25 feet thence East and parallel to said North line for 150.00 feet, thence North and along the said East line for 27.25 feet to the True Point of Beginning.

Inclusive to this FARGO INVESTMENT COMPANY FIRST ADDITION to the City of Fargo, as filed an on record at the office of the County Recorder, Cass County, North Dakota.

Sold plot contains 6.08 acres, more or less.

Subject to Easements, Restrictions, Reservations and Rights of Way of Record

INVESTOR WILL PERSONALLY (OR THESE PRESENTS) IS: THE SANFORD MEDICAL CENTER FARGO, IS THE OWNER OF LOTS ONE THROUGH TWENTY, BLOCK SEVEN AND SOUTH 535.00 FEET OF BLOCK 6, EXCEPT THE FOLLOWING TRACT OF LAND:

Cartography of a perfect day is 25C.00. (Inl. Board of the mechanical cost of said book & art and sold in the True Point of Beginning, hence was and appeared to said book & art for 180C.00. Hence book and map in the East line for 27.25 sold, hence East and parallel to said North line for 150.00, hence North and along the East line for 27.25 sold to the True Point of Beginning.

Inclusive to the True Inland Company that address is the City of Fargo, as they and on record at the County Recorder, Cass County, North Dakota, that they issued the same to be surveyed and registered as **Surfaced Sand Creek Addition to the City of Fargo, Cass County, North Dakota**, and does hereby dedicate to the public, for public use, the Public lands Excesses as shown in this plat.

Scott M. Melville
Owner
Sanford Medical Center Fargo
By: Bill Menzel, Treasurer
State of South Dakota
County of Minnehaha
_____) ss
_____)

On this day of March, 2002, before me personally appearing Bill Markens, Treasurer, known to me to be the person who is designated and who executed the within instrument and acknowledged to me that he executed the same on behalf of Sacred Medical Center, Fargo.

Notary Public: [Signature]
(My Commission Expires 12/31/2025)



1. Gary A. Nease, Professional 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 monuments for the guidance of future surveys have been located or placed in the ground as shown.

Dated this 15th day of June, 2020

Harry A. Rice
Harry A. Rice
Professional Land Surveyor No. LS-345



State of North Dakota)
) ss.
County of Cass)

On this 15th day of June, 2020, before me personally appeared Gary A. Ness, Professional 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: Frank Mast



CITY ENGINEER'S APPROVAL:
Approved by the Fargo City Engineer this _____ day of _____, 20____.

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

Brenda E. Derrig, P.E., City Engineer

State of North Dakota)

1000

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 for her free act and deed.

History Number: _____

APPROVED BY THE CITY OF EL PASO PLANNING COMMISSION

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

John Gunkelmann, Chair
Fargo Planning Commission

State of North Dakota

County of Cass)

On the _____ day of _____, 20____, before me personally appeared John Gurnestian, Chalfi, Fargo Planning Commissioner, 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 _____

APPROVED BY THE BOARD OF CITY COMMISSIONERS AND
FARGO CITY COMMISSION APPROVAL

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

Timothy J. Mahoney, Mayor

Stovon Sprague, City Auditor

State of North Dakota

County of Cass)

On this _____ day of _____, 20____, before me personally appeared Timothy J. Maloney, Mayor, City of Fargo; and Steven Springfield, 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.

**Mead
:lunt**

PROJECT NO.
4289700-200306.01
SHEET 1 OF 2

A. H. PAI OF 1015 1-1/2 BLOCK 7 AND BLOCK 8, FARCO INVESTMENT COMPANY FIRST ADDITION TO T-6 CITY OF FARCO, CAST COUNTY, NORTH DAKOTA (A MINOR SUBDIVISION)



Aaron Nelson

From: ec1275 <ec1275@gmail.com>
Sent: Tuesday, May 26, 2020 6:55 PM
To: Aaron Nelson
Subject: 11th Street South Parking

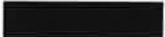
Follow Up Flag: Follow up
Flag Status: Flagged

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

Thanks for allowing me to speak during todays Sanford Hospital meeting. As I said earlier, I own 1706 11th St South and 1746 11th St south. Although its a great neighborhood, my issue with the area has always been not being able to park during business hours on 11th Street. I'm actually surprised that this, or maybe it has, has not been brought up since the home owners are basically being punished because of the lack of parking at the hospital. That issue no longer exists, since most of the hospital staff and patients have been spread out to other medical locations. The employee lot, University lot, 17th Street lot and the Nativity lot are no longer filled to capacity. Now with the new construction of the Sanford 11th Street lot, parking should not be an issue.

Not being able to park on 11th Street has always been a problem since the homes on this block are older with narrow one car driveways. It becomes an nuisance with residents having to jockey cars around, and is also an issue when scheduling repairs and deliveries. With the new parking lot being constructed, I believe its time to remove the "no parking" signs allow residence to park on their street during normal hours.

Thanks again,

Edward Careaga


OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3007

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN THE PROPOSED SANFORD SOUTH CAMPUS ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on June 2, 2020; and,

WHEREAS, the rezoning changes were approved by the City Commission on August 10, 2020,

NOW, THEREFORE,

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

Section 1. The following described property:

All of Sanford South Campus Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "SR-2", Single-Dwelling Residential, District and "GC", General Commercial, District to "GC", General Commercial, District with a "C-O", Conditional Overlay, District as follows:

1. A nine (9) foot parking buffer shall be required along 17th Avenue South, 11th Street South, and 18th Avenue South consisting of one (1) tree and six (6) shrubs every twenty-five (25) linear feet with a 3:1 berm intermittent through the buffer.
2. Five (5) percent of the interior parking lot shall be landscaped. The five (5) percent may consist of the required open space landscaping requirements (three (3) plant units per every one-thousand (1000) square feet of lot), however, the majority of the parking lot landscaping

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

must be made up of shade trees.

3. No more than three (3) drive entrances are allowed onto 11th Street South. The north and south drive entrances shall be a minimum of one-hundred (100) feet from the block corner. The third drive entrance shall be located at mid-block.

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

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

(SEAL)

Attest:

Steven Sprague, City Auditor

Timothy J. Mahoney, M.D., Mayor

First Reading:
Second Reading:
Final Passage:

30d

MEMORANDUM

TO: Board of City Commissioners

From: Donald Kress, current planning coordinator

Date: August 6, 2020

RE: Annexation of a portion of the East Half, Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota

August 10, 2020 is the date set by the City Commission to confirm petition of protest and take action on an ordinance for annexation of a portion of the East Half, Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota


The petition for annexation was brought forward by the land owner. There are no other property owners within the boundary of the proposed annexation. Advertisements were placed in The Forum and notices were sent to Reed Township and Cass County. Staff has not received any form of protest or concerns from the public.

The property is proposed to be developed as a one-lot industrial subdivision along 37th Street North, adjacent to existing industrial development. The boundaries of the annexation and corresponding legal description, as well as a staff report, are attached.

As this annexation is from a petition by the property owner, the City Attorney has prepared an ordinance that is attached to this package.

RECOMMENDED MOTION:

To accept the findings and recommendations of staff and the Planning Commission and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the annexation Ordinance on the first reading, and move to approve the proposed annexation of a portion of the East Half, Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota

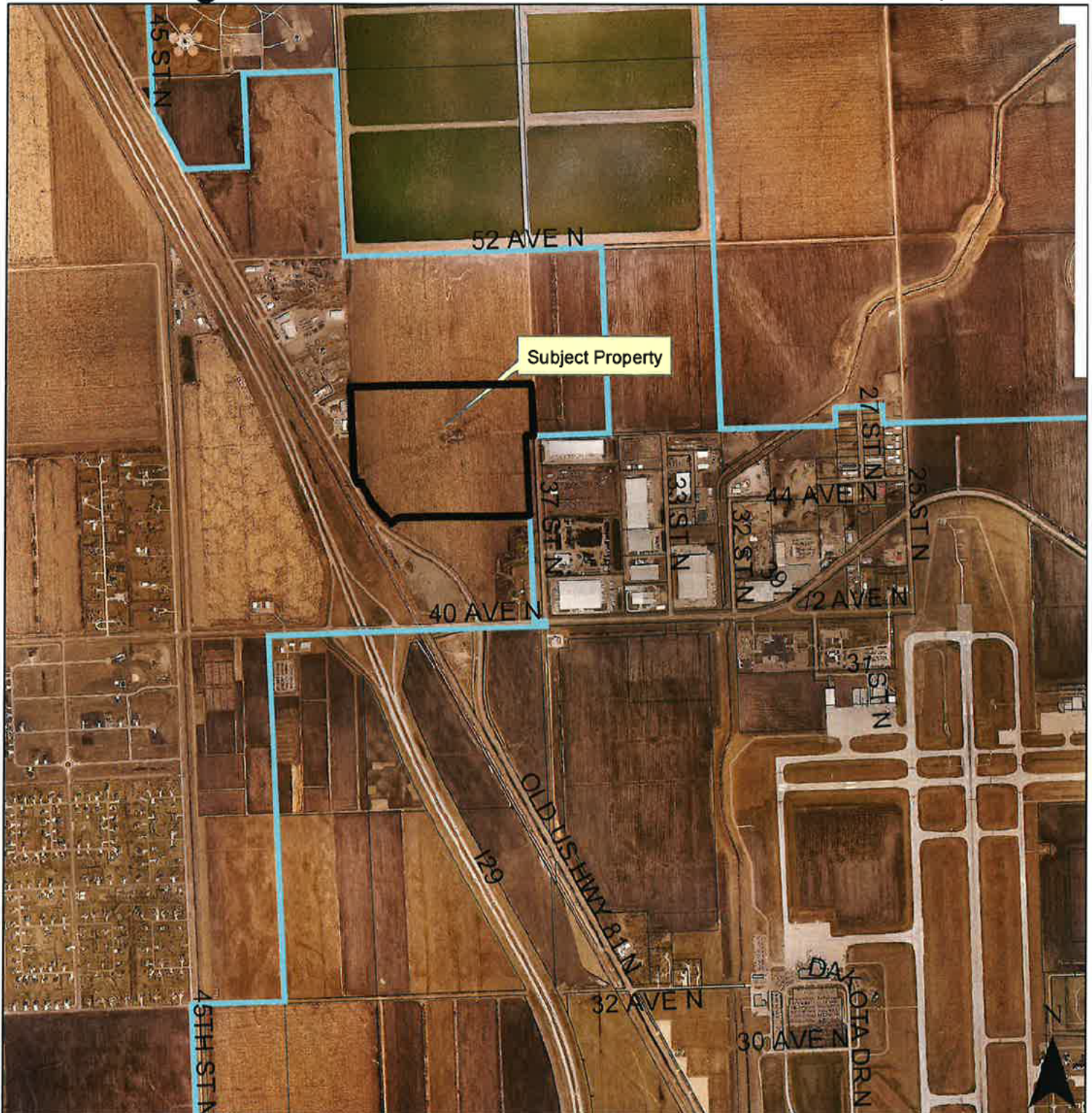
City of Fargo Staff Report			
Title:	Annexation--North Fargo Industrial Addition	Date:	7/29/2020 8/6/2020
Location:	3701 40th Avenue North and 4201 and 3261 County Road 81 North	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Portion of the East Half, Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota		
Owner(s)/Applicant:	Holmquist Family LLC; Ronald Holmquist; Diane and Robert Jonely / Ryan Companies	Engineer:	Ulteig
Entitlements Requested:	Annexation (of a portion of the East Half, Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota)		
Status:	City Commission Public Hearing: August 10, 2020		
Proposal:			
<p>The property owners have petitioned the City to annex approximately 110.22 acres of land that is currently within the city's four-mile extra-territorial jurisdiction. This area is undeveloped. A map of the proposed annexation area is attached. This is an owner-initiated annexation, not a City-initiated annexation, and so is an annexation by ordinance.</p> <p><i>NOTE: A subdivision plat and request for a zone change for the proposed annexed area will be heard as the next item on the August 10, 2020 City Commission agenda.</i></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>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: In ETJ: AG; agricultural uses • East, in ETJ: AG; agricultural uses • East, in city limits: GI, General Industrial; industrial uses • South: In ETJ: AG; agricultural and residential, • West: In ETJ: AG; platted as North 81-20 Subdivision; industrial uses 			
Area Plans:			
<p>The 2007 North Fargo Tier 1 East Growth Plan, part of the 2007 Growth Plan, designates the area of this project as "Industrial" land use. Per that plan, the proposed LI zoning is consistent with this land use designation.</p>			
			
Context:			
<p>Schools: The subject property is located within the Fargo School District and is served by Washington Elementary, Benjamin Franklin Middle and North High schools.</p> <p>Neighborhood: The subject property is not located within a designated neighborhood.</p>			

Parks: The Northern Softball Complex is approximately 1.2 miles northwest of the subject property.
Pedestrian / Bicycle: There are no on-road or off-road bike facilities adjacent to this property.
Staff Analysis:
<p><u>OWNERSHIP</u></p> <p>The entire property involved in the annexation is owned by the petitioners. No existing residences or businesses are included in the annexation area. It is most recently been used as farmland.</p> <p><u>PLAN CONSISTENCY</u></p> <p>This property is outside of the Fargo city limits. The applicant has requested annexation through a petition. The proposed annexation area is depicted on the 2007 North Fargo Tier 1 East Growth Plan map of the 2007 Growth Plan. The 2007 Growth Plan describes the "Tier 1" designation as the "Intended Growth Sector" for the city of Fargo within the next 20 years (that is, by the year 2027).</p> <p>Though the 2007 Growth Plan does not provide actual findings for annexation, it does state that "Tier 1 is planned to handle growth for the next 20 to 25 years [from 2007]" and that "Carefully planned extensions of the city as a result of demand for housing help to counter disruptive leapfrog development." (page 55, 2007 Growth Plan). The proposed development is adjacent to existing industrial development along 37th Street North and County Highway 81. This location corresponds with two of the strategies stated in the 2007 plan to work against leapfrog development:</p> <ul style="list-style-type: none"> • Limit roadway and utility extensions to areas within the 20 year service area [Tier 1] directly adjacent to areas currently receiving services; and • Avoid utility and roadway extensions that traverse areas where property owners are not interested in developing their property. (page 56, 2007 Growth Plan) <p>The proposed development is consistent with the land use designations of the 2007 Growth Plan; no growth plan amendment is necessary for this project.</p> <p><u>ADDITIONAL LANGUAGE IN MOTION</u></p> <p>There is language in addition to the standard wording in the suggested approval motion relating to the timing of the recording of the annexation plat and ordinance. This wording was requested by the current owners and was reviewed by Planning staff and the city attorney.</p>
Staff Recommendation:
Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission and hereby waive the requirement to receive the annexation Ordinance one week prior to the first reading and place the annexation Ordinance on for first reading, and move to approve the proposed annexation of a portion of the East Half, Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota as depicted in the attached map and legal description, and to authorize and direct Planning staff to record the annexation ordinance and the annexation map at the Office of the Cass County Recorder at such time as the conveyance and transfer of ownership of the annexed parcel to Ryan Companies has been completed, as described."
Planning Commission Recommendation: August 4, 2020
On July 8, 2020, by a vote of 8-0 with one Commissioner absent and two Commission seats vacant, the Planning Commission found the proposed annexation of a portion of the East Half, Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota to be consistent with the 2007 Growth Plan.
Attachments:
<ol style="list-style-type: none"> 1. Location Map 2. Zoning Map 3. Annexation Petition and Legal Description 4. Annexation Plat

Annexation, Zone Change (AG to LI) & Plat (Major)

North Fargo Industrial Addition

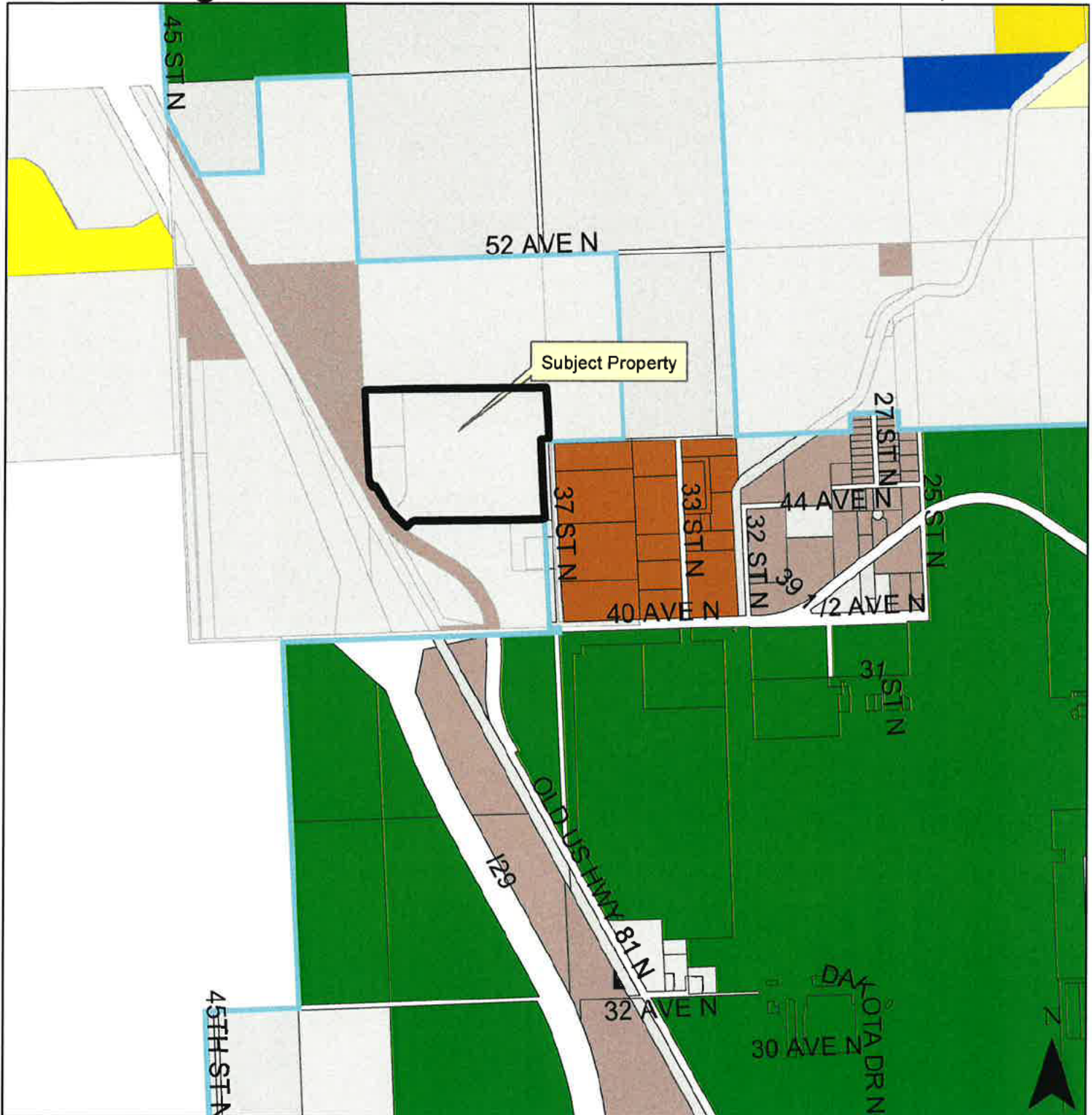
3701 40th Avenue N
3261 & 4201 County Road 81 N



Annexation, Zone Change (AG to LI) & Plat (Major)

North Fargo Industrial Addition

3701 40th Avenue N
3261 & 4201 County Road 81 N



Legend

AG	LC	MHP	SR-2
DMU	LI	NO	SR-3
GC	MDR-1	PA	SR-4
GO	MDR-2	UML	SR-5
	MDR-3		City Limits

1,000
feet



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

PETITION FOR ANNEXATION

To: City of Fargo

The undersigned, being the owner of not less than three-fourths in assessed value of the following described property, hereby petitions the City of Fargo to annex said property pursuant to Section 40-51.2-03 NDCC. The following is a description of the property to be annexed:

See the attached Map. The area is roughly 110 acres, between County Road 81 and 37th Street North, and between 40th Ave North and 52nd Ave North.

The undersigned further certifies that Holmquist Family LLP, Ronald & Holmquist, Diane & Robert Jonely is the owner of at least three-fourths in assessed value of the property hereinabove described. are

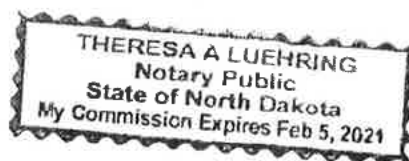
Dated this 30 day of June, in the year 2020

Signature [Signature] Attorney for Owners

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

On this 30th day of June, in the year 2020, before me, a notary public in and for said County and State, personally appeared Timothy G. Richard, who executed to foregoing instrument, and acknowledged to me that he/she executed the same.

Theresa A. Luehring
 Notary Public
 Cass County, North Dakota
 My Commission Expires:



ANNEXATION PLAT OF:

That part of the East Half of Section 15, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota more particularly described as follows:

Commencing at the southeast corner of said Section 15; thence North 02 degrees 55 minutes 01 seconds West, assumed bearing along the east line of the Southeast Quarter of said Section 15, a distance of 2650.49 feet to the point of beginning; thence South 87 degrees 55 minutes 36 seconds West, along the north line of said Southeast Quarter, also being the north line of the Fargo City Limits per Document No. 1359928, a distance of 150.02 feet; thence South 02 degrees 55 minutes 01 seconds East, 150.00 feet distant and parallel to the east line of said Southeast Quarter, also being the west line of the Fargo City Limits per Document No. 1359928, a distance of 1126.17 feet; thence South 87 degrees 58 minutes 41 seconds West, departing Fargo City Limits per Document No. 1359928, a distance of 1565.10 feet; thence 310.11 feet along a tangential curve concave to the southeast with a radius of 340.00 feet and a central angle of 52 degrees 15 minutes 30 seconds; thence South 35 degrees 43 minutes 11 seconds West, tangent to last described curve, a distance of 52.10 feet to the Northeasterly Right of Way line of U.S. Highway 81; thence northwesterly, and along said Northeasterly Right of Way, a distance of 654.74 feet along a non-tangential curve concave to the northeast with a radius of 1332.69 feet, a central angle of 28 degrees 08 minutes 56 seconds, and a chord which bears North 43 degrees 10 minutes 32 seconds West; thence North 29 degrees 06 minutes 04 seconds West, continuing along said Northeasterly Right of Way and tangent to last described curve, a distance of 208.50 feet; thence South 60 degrees 53 minutes 56 seconds West, and along said Right of Way, a distance of 40.00 feet; thence North 29 degrees 06 minutes 04 seconds West, and along said Right of Way, a distance of 168.47 feet; thence North 02 degrees 45 minutes 09 seconds West, a distance of 1235.96 feet; thence North 87 degrees 14 minutes 51 seconds East, a distance of 243.04 feet; thence North 79 degrees 58 minutes 30 seconds East, a distance of 315.98 feet; thence North 87 degrees 14 minutes 51 seconds East, a distance of 2079.30 feet; thence South 02 degrees 55 minutes 01 seconds East, a distance of 815.78 feet to the point of beginning.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

30d1

AN ORDINANCE ANNEXING A CERTAIN PARCEL OF LAND
LYING IN THE EAST HALF OF SECTION 15, TOWNSHIP 140 NORTH, RANGE 49 WEST,
IN CASS COUNTY, NORTH DAKOTA

WHEREAS, A Petition for Annexation has been submitted by the owners of not less than three-fourths in assessed value of the property described in said Petition for Annexation to the City of Fargo, Cass County, North Dakota, in accordance with Section 40-51.2-03 N.D.C.C.; and,

WHEREAS, Public notice of the submission of such Petition has been given by publication in The Forum as required by Section 40-51.2-05 N.D.C.C.; and,

WHEREAS, Said Section 40-51.2-03 N.D.C.C. requires that such annexation be accomplished by ordinance,

NOW, THEREFORE,

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

Section 1. The following described property located in the East Half of Section 15, Township 140 North, Range 49 West, of the Fifth Principal Meridian, Cass County North Dakota, is hereby annexed to the City of Fargo, Cass County, North Dakota:

Commencing at the southeast corner of said Section 15; thence North 02 degrees 55 minutes 01 seconds West, assumed bearing along the east line of the Southeast Quarter of said Section 15, a distance of 2650.49 feet to the point of beginning; thence South 87 degrees 55 minutes 36 seconds West, along the north line of said Southeast Quarter, also being the north line of the Fargo City Limits per Document No. 1359928, a distance of 150.02 feet; thence South 02 degrees 55 minutes 01 seconds East, 150.00 feet distant and parallel to the east line of said Southeast Quarter, also being the west line of the Fargo City Limits per Document No. 1359928, a distance of 1126.17 feet; thence South 87 degrees 58 minutes 41 seconds West, departing Fargo City Limits per Document No. 1359928, a distance of 1565.10 feet; thence 310.11 feet along a tangential curve concave to the southeast with a radius of 340.00 feet and a central angle of 52 degrees 15 minutes 30 seconds; thence South 35 degrees 43 minutes 11 seconds West, tangent to last described curve, a distance of 52.10 feet to the Northeasterly Right of Way line of U.S. Highway 81; thence northwesterly, and along said Northeasterly Right of Way, a distance of 654.74 feet along a non-tangential curve concave to the northeast with a radius of 1332.69 feet, a central angle of 28 degrees 08 minutes 56 seconds, and a chord which bears North 43

OFFICE OF THE CITY ATTORNEY

degrees 10 minutes 32 seconds West, thence North 29 degrees 06 minutes 04 seconds West, continuing along said Northeasterly Right of Way and tangent to last described curve, a distance of 208.50 feet, thence South 60 degrees 53 minutes 56 seconds West, and along said Right of Way, a distance of 40.00 feet; thence North 29 degrees 06 minutes 04 seconds West, and along said Right of Way, a distance of 168.47 feet; thence North 02 degrees 45 minutes 09 seconds West, a distance of 1235.96 feet; thence North 87 degrees 14 minutes 51 seconds East, a distance of 243.04 feet; thence North 79 degrees 58 minutes 30 seconds East, a distance of 315.98 feet; thence North 87 degrees 14 minutes 51 seconds East, a distance of 2079.30 feet; thence South 02 degrees 55 minutes 01 seconds East, a distance of 815.78 feet to the point of beginning.

Said tract contains 110.23 acres, more or less.

Section 2. Effective Date.

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

CITY OF FARGO

By _____
Timothy J. Mahoney, M.D., Mayor

ATTEST

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

30e

City of Fargo Staff Report			
Title:	North Fargo Industrial Addition	Date:	7/29/2020
		Update:	8/6/2020
Location:	3701 40th Avenue North and 4201 and 3261 County Road 81 North	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Portion of the East Half, Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota		
Owner(s)/Applicant:	Holmquist Family LLC; Ronald Holmquist; Diane and Robert Jonely / Ryan Companies	Engineer:	Ulteig
Entitlements Requested:	Major Subdivision (replat of a portion of the East Half, Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota) Zone Change (from AG, Agricultural to LI, Limited Industrial)		
Status:	City Commission Public Hearing: August 10, 2020		

Existing	Proposed
Land Use: Undeveloped	Land Use: Industrial
Zoning: AG, Agricultural	Zoning: LI, Limited Industrial
Uses Allowed: AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production	Uses Allowed: LI – Limited Industrial. 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.
Maximum Density Allowed (Residential): AG allows a maximum of 1 dwelling unit per 10 acres.	Maximum Density Allowed: Maximum 85% building coverage

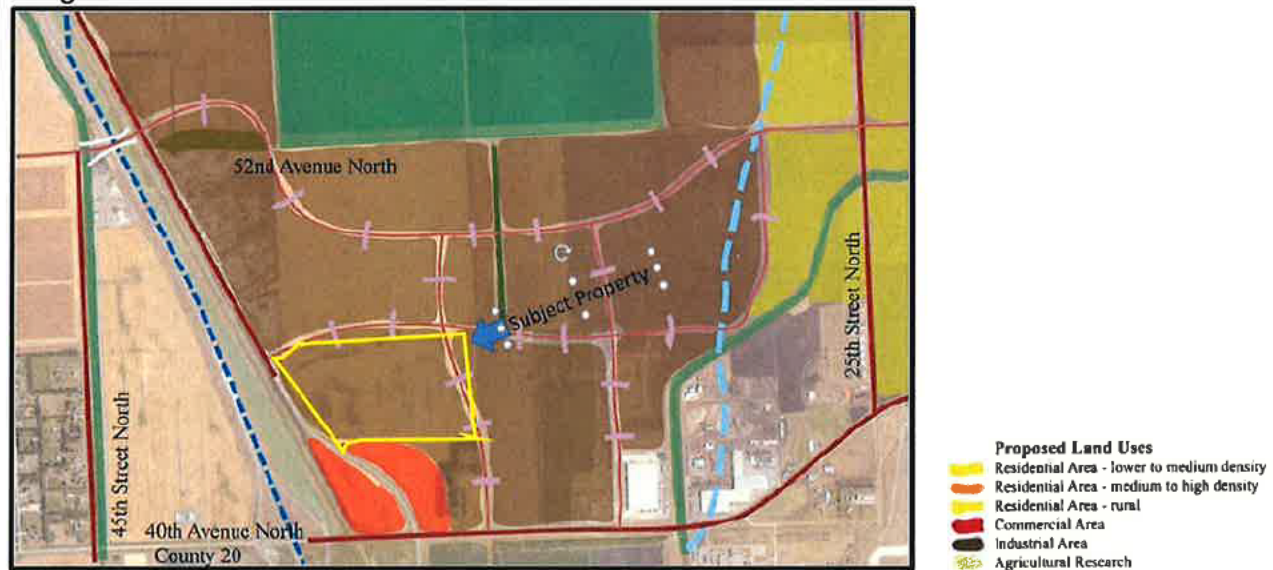
Proposal:
<p>The applicant requests two entitlements:</p> <ol style="list-style-type: none"> 1. A major subdivision, entitled North Fargo Industrial Addition, a one block, one lot subdivision, which is a replat of a portion of the East Half, Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota; and 2. A zone change from AG: Agricultural to LI, Limited Industrial. <p><i>NOTE: This property is currently in the City's extra-territorial jurisdiction (ETJ). The annexation hearing for this property appeared as the previous item on the August 10, 2020, City Commission agenda.</i></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>

Surrounding Land Uses and Zoning Districts:

- North: In ETJ: AG; agricultural uses
- East, in ETJ: AG; agricultural uses
- East, in city limits: GI, General Industrial; industrial uses
- South: In ETJ: AG; agricultural and residential
- West: In ETJ: AG; platted as North 81-20 Subdivision; industrial uses

Area Plans:

The 2007 North Fargo Tier 1 East Growth Plan, part of the 2007 Growth Plan, designates the area of this project as "Industrial" land use. Per that plan, the proposed LI zoning is consistent with this land use designation.

**Context:**

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

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

Parks: The Northern Softball Complex is approximately 1.2 miles northwest of the subject property.

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

Staff Analysis:

PLAT: The plat will create a one lot in one block by platting currently unplatted property. The plat will dedicate right of way for 44th Avenue North and 37th Street North. The right-of-way widths were reviewed by the City Engineer's office and are depicted on the plat.

ZONE CHANGE: The proposed LI, Limited Industrial zoning is consistent with the adjacent zoning to the west and south as well as with the 2007 Growth Plan designation of "Industrial" for this area.

ACCESS: The lot will take access from 37th Street North and 44th Avenue North.

PROXIMITY AGREEMENT: The Fargo Airport Authority's attorney has prepared a proximity agreement for the applicant to sign. This is a standard agreement between the City of Fargo and property owners within the Hector International Airport noise contour and approach and in proximity to the overflow sewage lagoons. It relates to proximity of airport, noise attenuation and odor. The City Commission's

approval of this agreement is recommended in the motion below. A final draft of this agreement is attached.

ANNEXATION: This property is outside of the Fargo city limits. The property owner has requested annexation through an owner-initiated petition. At their August 4, 2020 Planning Commission meeting, that Commission found that the proposed annexation is consistent with the 2007 Growth.

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned AG, Agricultural. The proposed zoning for this property is LI, Limited Industrial, which will accommodate the proposed development. The LI zoning designation is consistent with the "industrial" designation for this property in the 2007 Growth Plan—North Fargo Tier 1 East. **(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. The project site will become eligible to receive City services after it has been annexed. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subdivision will front on dedicated public streets. The necessary rights of way for these streets will be dedicated with the plat. 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, staff has not received any public comment or inquiries. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the 2007 Growth Plan—North Fargo Tier 1 East. This plan designates this property as appropriate for industrial development, which includes the LI zone. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

Subdivision

The LDC stipulates that the following criteria are met before a major plat can be approved

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

The proposed zoning for this property is LI, Limited Industrial, which will accommodate the proposed development. The LI zoning designation is consistent with the "industrial" designation for this property in the 2007 Growth Plan—North Fargo Tier 1 East. 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 not received any public comment or inquiries. **(Criteria Satisfied)**

2. Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.

The proposed zoning is LI, Limited Industrial. This zoning is consistent with the "industrial" designation for this property in the 2007 Growth Plan—North Fargo Tier 1 East. 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)**

3. 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.

The applicant has provided a draft amenities plan that specifies the terms of securing installation of public improvements to serve the subdivision. This amenities plan was reviewed by the Public Works Project Evaluation Committee (PWPEC). The City's standard policy is 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)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading and move to approve the proposed: 1) zone change from AG, Agricultural to LI, Limited Industrial; 2) plat of **North Fargo Industrial Addition** as presented; as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC; and 3) the airport proximity agreement."

Planning Commission Recommendation: August 4, 2020

On August 4th, 2020, by a vote of 8-0 with one Commissioner absent and two seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed: 1) zone change from AG, Agricultural to LI, Limited Industrial; and 2) plat of **North Fargo Industrial Addition** as presented; as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC.

Attachments:

1. Zoning Map
2. Location Map
3. Preliminary Plat
4. Airport Proximity Agreement

3701 40th Avenue N
3261 & 4201 County Road 81 N



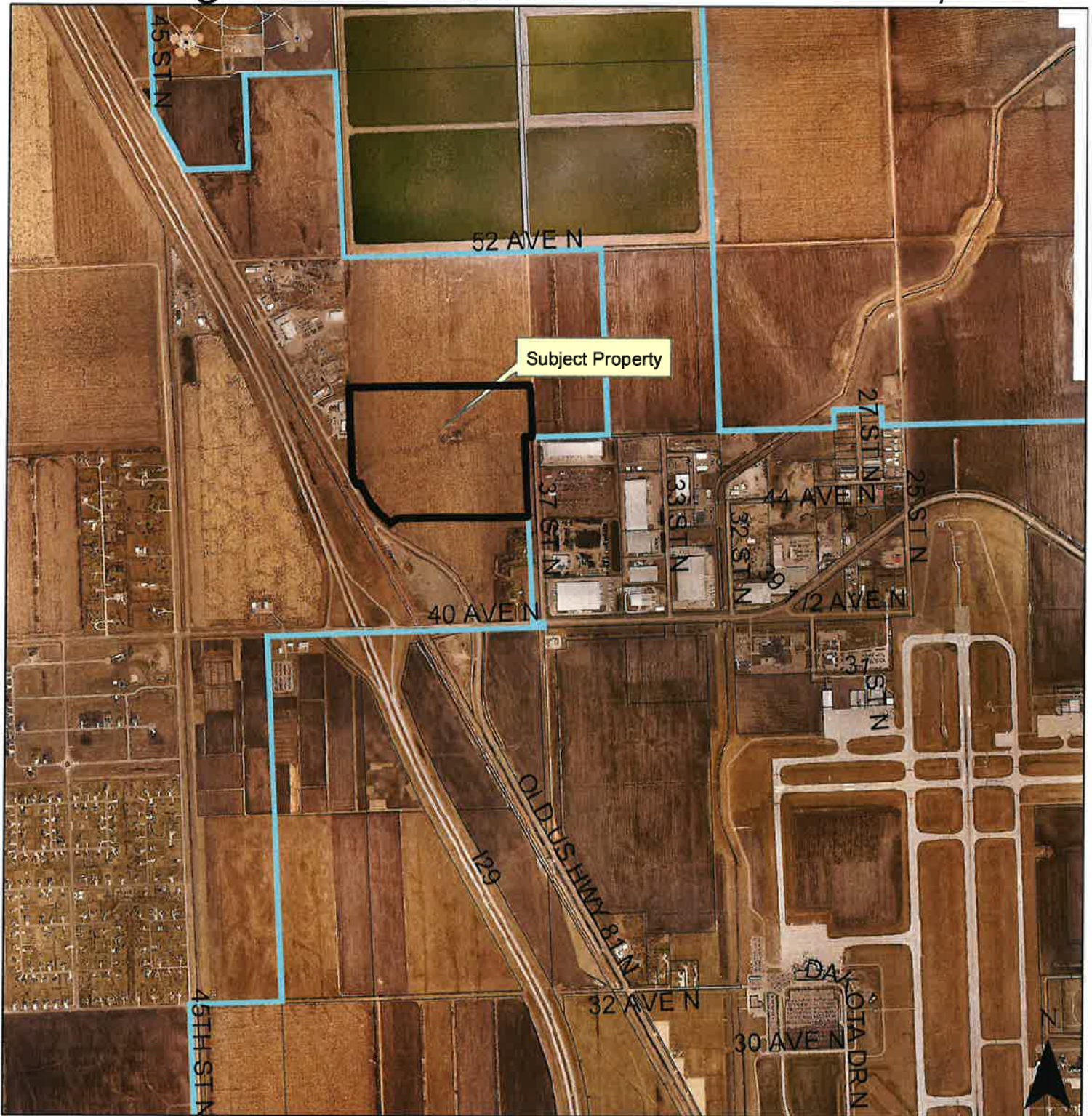
AG DM LC MHP SR-2
 GGC MR-1 NNC SR-3
 GGC MR-2 P/I SR-4
 GO MR-3 UMI SR-5
 City Limits

Fargo Planning Commission
August 4, 2020

Zone Change (AG to LI) & Plat (Major)

North Fargo Industrial Addition

3701 40th Avenue N
3261 & 4201 County Road 81 N



TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA,
AN UNPLATTED PORTION OF THE EAST HALF, SECTION 15, TOWNSHIP 140 NORTH, RANGE 49 WEST
(A MAJOR SUBDIVISION)

KNOW ALL MEN BY THESE PRESENTS, That HOLMQUIST FAMILY LP, RONALD HOLMQUIST, AND DAVID AND ROBERT JONELY, as owners of a parcel of land located in the East Half of Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, and more particularly described as follows:

Sort claims not raising the above-described parcel will tend to be answered and settled as "NORTH PARK INDUSTRIAL ADJUNCT" to the City of Fresno, Cass County, North Dakota and does hereby dedicate to the public, for public use, the aforesaid and utility easements shown on this plat.

County of Cass

Primary Puberty

State of North Dakota } ss.
County of Cass }

Nagary Public

PREPARED BY
Ulteig
PROFESSIONAL SERVICE
510 EAST 2ND STREET
ST. PAUL, MN 55101
TEL: 612-222-2222
FAX: 612-222-2222

County of Cook } ss.

[illegible]

1. North Vaux, registered right-of-way for Surveyor under the laws of the State of North Dakota, do hereby certify that this plot is a true and correct representation of the survey of said section. That all distances shown on said plot are true and the measurements for the quarter of North survey, were located as shown in the ground as shown.

County of Hennepin

Copyright © 2004 by The McGraw-Hill Companies, Inc.

Approved by City Engineer this _____ day of _____

County of Cass } ss.

Notary Public

August 2020

State of North Carolina

M. Ward
Moffitt Public

Approved by the Board of City Commissioners and ordered
Filed this _____ day of _____, 20____

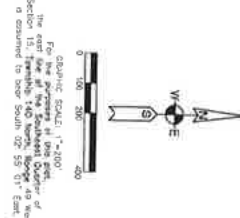
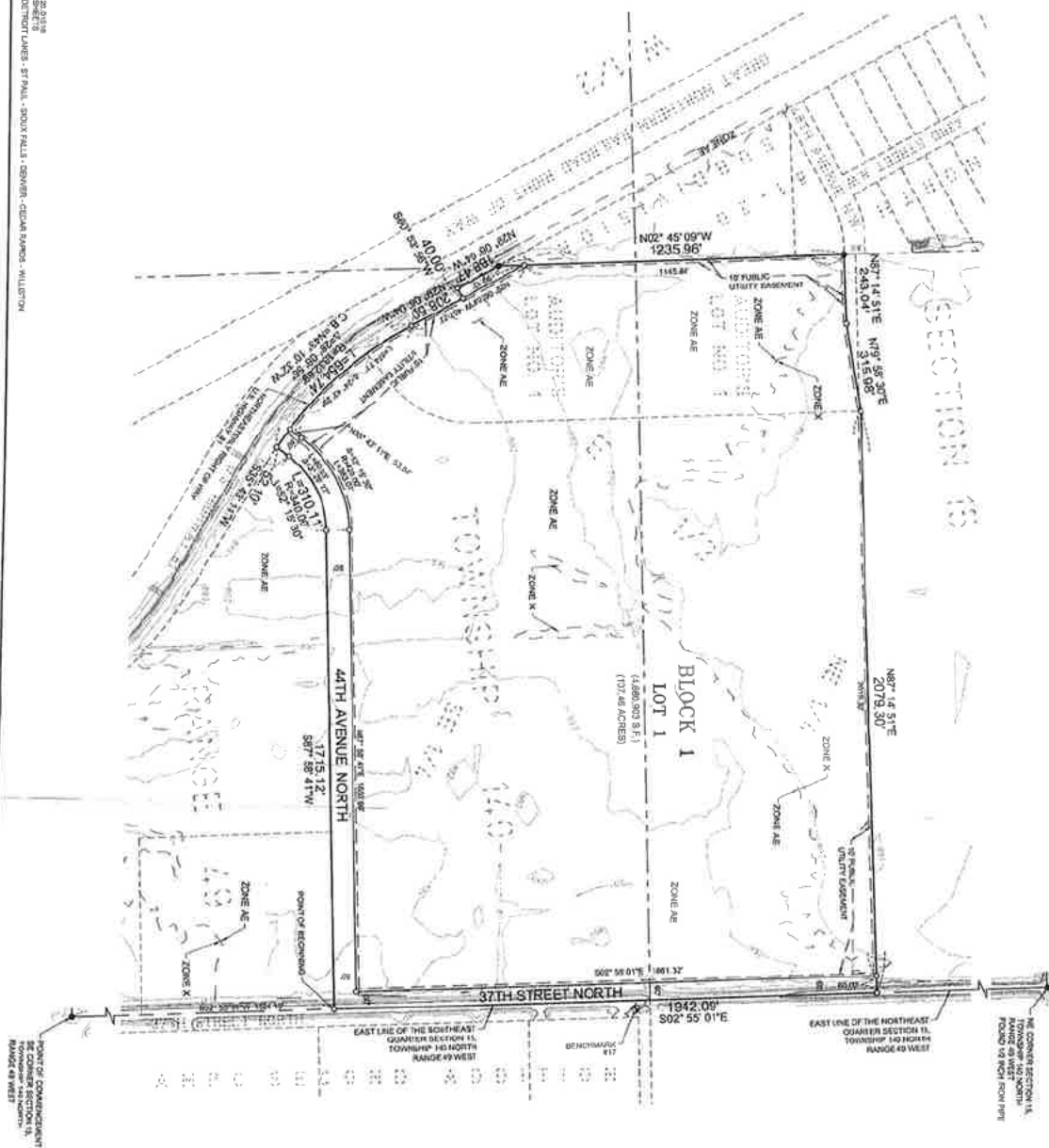
Slavko Soroque, City Audio

Sheldon W. Norton, Dakota
College of Arts

Notary Public

NORTH FARGO INDUSTRIAL ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA,
AN UNPLATTED PORTION OF THE EAST HALF, SECTION 15, TOWNSHIP 140 NORTH, RANGE 49 WEST
(A MAJOR SUBDIVISION)



- LEGEND
- | | |
|-----|---------------------------------------------|
| ● | UNPAIDMENT FUND |
| 0 | MANAGEMENT SET 5/8" REBAR, COLORED 15-45797 |
| --- | SUBJECT PROPERTY LINE |
| --- | SECTION/QUARTER LINE |
| --- | EXISTING PROPERTY LINE |
| --- | DEEDLINE LINE |
| --- | DIVISION EXTERIOR LINE |
| --- | TRAIL ZONE, AC LINE |

[illegible]

AGREEMENT

(Proximity of Airport, Noise Attenuation and Sewage Lagoons)

THIS AGREEMENT, Made and entered into this ____ day of August, 2020, by and between NORTH FARGO INDUSTRIAL ADDITION, hereinafter referred to as "Owner," and CITY OF FARGO, A NORTH DAKOTA MUNICIPAL CORPORATION, hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the Owner is the record owner of a tract of land located in Cass County, North Dakota, said tract being more particularly described hereinafter; and,

WHEREAS, said tract is located within the extraterritorial jurisdiction (ETJ) of City of Fargo but will be annexed as a part of the overall project; and,

WHEREAS, Owner has made a development request of the City for a change in zoning from agricultural (AG) to limited industrial (LI) zoning; and,

WHEREAS, the Board of City Commissioners of the City have approved and enacted a zoning ordinance to effect such change upon the condition that the Owner and Owner's

successors in interest be bound to a covenant acknowledging the proximity of Hector International Airport and the City's sewage lagoons to Owner's property; and,

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

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

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

Block 1, Lot 1, North Fargo Industrial Addition

[hereinafter referred to as the "Subject Property"]

2. As a condition of City's approval of said platting and zoning, Owner does hereby covenant and agree with the City that said Owner will never institute any suit or action at law or otherwise against the City, nor institute, prosecute or in any way aid in the institution or prosecution of any claim, demand, action or cause of action for damages, costs, loss of service, expenses or compensation against the City for or on account of any damage, loss or injury either to person or property, or both, resulting or which may result by reason of the use of the Subject Property in relation to the location and use of Hector International Airport and specifically for damages caused or allegedly caused by the noise of the take-off or landing of jet-propelled or other aircraft from the present runways or any future runways of the present Hector International Airport or for any other noise incidental to the operation of said airport; also from any vibration generated by said aircraft or from any pollutants or contaminants created from such aircraft usage, unless such actions or causes of actions, claims, demands, liabilities, losses, damages, or expenses are caused directly by commercially unreasonable or unlawful actions. This provision shall include the Municipal Airport Authority of the City of Fargo, as well as any subsequently formed regional airport authority that may be formed to operate the airport facilities.

3. Owner agrees that it will at all times indemnify City, and hold and save the City harmless from and against any and all actions or causes of actions, claims, demands, liability, loss, damage, or expense of whatsoever kind and nature, including counsel or attorneys fees, which the City shall or may at any time sustain or incur by reason or in consequence of the use of the Subject Property for any lawful purposes and specifically for any damages caused or allegedly caused to the Subject Property by the noise of the take-off or landing of jet-propelled or other aircraft from the present runway or any future runways of the present Hector International

Airport or for any other noise incidental to the operation of said airport, or which the City may sustain or incur in connection with any litigation, investigation or other expenditures incident to such use of the Subject Property, including any suit instituted to enforce the obligations of this agreement of indemnity, and Owner agrees to pay to City all sums of money, with interest, which the City shall or may pay or cause to be paid, or become liable to pay, on account of or in connection with such use of the Subject Property, unless such actions or causes of actions, claims, demands, liabilities, losses, damages, or expenses are caused directly by commercially unreasonable or unlawful actions. This provision shall include the Municipal Airport Authority of the City of Fargo, as well as any subsequently formed regional airport authority that may be formed to operate the airport facilities.

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

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

FAIR DISCLOSURE STATEMENT

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

Airport -- The tract of land hereby conveyed and legally described lies within the vicinity of Hector International Airport and may be impacted by noise associated with the operations of said airport including noise from the take-off or landing of jet propelled or other aircraft from the present runways or any future runways of the present Hector International Airport or for any other noise incidental to the operation of said airport; or from any vibration generated or from any pollutants or contaminants created from such aircraft usage. The airport normally operates seven days per week throughout the entire year and is open for flight operation at all hours. The present level of operations will continue and expand for the foreseeable future.

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

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

Airport Environs

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

These site suitability classifications are further defined by HUD as:

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

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

3. Clearly acceptable: The noise exposure is such that the activities associated with the land use may be carried out with

essentially no interference from aircraft noise. (Residential areas: both indoor and outdoor noise environments are pleasant.)

Certification

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

Owner

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

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

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

NORTH FARGO INDUSTRIAL ADDITION

By: _____

STATE OF NORTH DAKOTA)
) ss
COUNTY OF CASS)

On this _____ day of August, 2020, before me, a notary public within and for said county and state, personally appeared _____, to me known to be the Managing Partner of NORTH FARGO INDUSTRIAL ADDITION, described in and that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

Notary Public

(S E A L)

CITY OF FARGO, A NORTH DAKOTA
MUNICIPAL CORPORATION

By: _____
Dr. Timothy Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

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

On this ____ day of August, 2020 before me, a notary public within and for said county and state, personally appeared DR. TIMOTHY MAHONEY, MAYOR and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the CITY OF FARGO, A NORTH DAKOTA MUNICIPAL CORPORATION, described in and that executed the foregoing instrument, and acknowledged to me that such municipal corporation executed the same.

Notary Public

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3062

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

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on August 4, 2020; and,

WHEREAS, the rezoning changes were approved by the City Commission on August 10, 2020,

NOW, THEREFORE,

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

Section 1. The following described property:

All of the North Fargo Industrial Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "LI", Limited Industrial, District.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

3
4
5
6 (SEAL)

Timothy J. Mahoney, M.D., Mayor

7 Attest:

8
9
10 _____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

August 6, 2020

30f

Board of City Commissioners
City Hall
Fargo, ND 58102

RE: Payment in Lieu of Tax (PILOT) for PRx Performance

Dear Commissioners:

Attached is the application made by PRx Performance for a payment in lieu of tax (PILOT) according to N.D.C.C. Chapter 40-57.1. This application is for a newly constructed building to expand their operation, which involves e-commerce of foldable workout equipment.

Notices to competitors have been published. The Tax Exempt Review Committee has met to consider this application. No potential competitors appeared at the Tax Exempt Review meeting. This project meets our current policy. The application contains information regarding projected value of the expansion, the nature of jobs to be created, and a description of the product line. The applicant will pay the full land tax estimated at approximately \$17,000.

The recommendation of the Tax Exempt Review Committee is to approve a 10-year payment in lieu of tax (PILOT).

SUGGESTED MOTION:

Approval of a 10-year payment in lieu of tax for PRx Performance at 4125 24th Ave N with the following terms:

	% of Tax	Amount
Year 1-5	0%	\$0
Year 6	10%	\$14,041
Year 7	30%	\$42,124
Year 8	50%	\$70,207
Year 9	70%	\$98,289
Year 10	90%	\$126,372

Sincerely,



Mike Splonskowski
City Assessor

Application For Property Tax Incentives For New or Expanding Businesses

N.D.C.C. Chapter 40-57.1

Project Operator's Application To Fargo
City or County

RECEIVED

JUL 15 2020

FARGO ASSESSOR

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

This application is a public record

Identification Of Project Operator

1. Name of project operator of new or expanding business PRx Performance
2. Address of project 4125 24th Ave N
City Fargo County Cass
3. Mailing address of project operator 2402 8th Ave N
City Fargo State ND Zip 58102
4. Type of ownership of project
☐ Partnership ☐ Subchapter S corporation ☐ Individual proprietorship
☒ Corporation ☐ Cooperative ☐ Limited liability company
5. Federal Identification No. or Social Security No. [REDACTED]
6. North Dakota Sales and Use Tax Permit No. [REDACTED]
7. If a corporation, specify the state and date of incorporation 12/17/2013 North Dakota
8. Name and title of individual to contact Mike Harlan
 Mailing address 2402 8th Ave N
 City, State, Zip Fargo, ND 58102 Phone No. 701-566-0452

Project Operator's Application For Tax Incentives

9. Indicate the tax incentives applied for and terms. Be specific.

<input type="checkbox"/> Property Tax Exemption _____ Number of years <u>2022</u> _____ Percent of exemption <u>10</u>	<input checked="" type="checkbox"/> Payments In Lieu of Taxes Beginning year <u>2031</u> Ending year _____ Amount of annual payments (attach schedule if payments will vary)
-------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------
10. Which of the following would better describe the project for which this application is being made:
☐ New business project ☒ Expansion of a existing business project

Description of Project Property

11. Legal description of project real property

Lots 1, 2, 3, 4, 5 Block 3 Laverne's Addition, Cass County, Fargo ND

12. Will the project property be owned or leased by the project operator?
- ☒
- Owned
- ☐
- Leased

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?

☐ Yes ☐ No

If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.

13. Will the project be located in a new structure or an existing facility?
- ☒
- New construction
- ☐
- Existing facility

If existing facility, when was it constructed? _____

If new construction, complete the following:

- a. Estimated date of commencement of construction of the project covered by this application
- 09/01/20

- b. Description of project to be constructed including size, type and quality of construction

140,000 sq ft headquarters, industrial, and a 30,000 Sq ft manufacturing facility for a total of 170,000 sq ft.
Steel or concrete construction.

- c. Projected number of construction employees during the project construction
- 75-100

14. Approximate date of commencement of this project's operations
- September 2021

15. Estimated market value of the property used for
- this project
- :

a. Land..... \$ 1,264,105b. Existing buildings and structures for which an exemption is claimed..... \$ 0c. Newly constructed buildings and structures when completed \$ 10,200,000d. Total..... \$ 11,464,105e. Machinery and equipment..... \$ 3-5,000,000

16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:

a. Land (not eligible) b. Eligible existing buildings and structures..... \$ 0c. Newly constructed buildings and structures when completed..... \$ 573,205d. Total taxable valuation of property eligible for exemption (Add lines b and c)..... \$ 573,205e. Enter the consolidated mill rate for the appropriate taxing district 275.32f. Annual amount of the tax exemption (Line d multiplied by line e) \$ 157,815.00

Description of Project Business

Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.

17. Type of business to be engaged in: ☐ Ag processing ☒ Manufacturing ☐ Retailing
☐ Wholesaling ☐ Warehousing ☐ Services
18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).

PRx is primarily an e-commerce business that ships to customers across all 50 states and is currently one of FedEx's largest clients in the Fargo area. We are in the process of launching in Europe within the next year. Products consist of: steel weight lifting racks, steel rack accessories, barbells, dumbbells, and other fitness related products. Most steel products are sourced from local manufacturers as individual pieces which are assembled/kitted/boxed onsite for order fulfillment and shipping.

19. Indicate the type of machinery and equipment that will be installed

Pallet racking system to house all product inventory. Workstations will be installed for product assembly/kitting. Several forklifts will be purchased for use in daily operations. Conveyor belt system in second phase of expansion for product picking proces, Tube Lasers, Powder Coat set up and Brake Press.

20. For the project only, indicate the projected annual revenue, expense, and net income (before tax) from either the new business or the expansion itself for each year of the requested exemption.

	New/Expansion Project only Year 1	New/Expansion Project only Year 2	New/Expansion Project only Year 3	New/Expansion Project only Year 4	New/Expansion Project only Year 5
Year (12 mo. periods)					
Annual revenue	42,000,000 ⁺	46,666,667	51,851,852	57,613,169	64,014,632
Annual expense	37,380,000	41,533,333	46,148,148	51,275,720	56,973,022
Net income	4,620,000	5,133,334	5,703,704	6,337,449	7,041,610

21. Projected number and salary of persons to be employed by the project for the first five years:

Current positions & positions added the initial year of project

# Current Positions	New Positions Under \$13.00	New Positions \$13.01-\$15.00	New Positions \$15.01-\$20.00	New Positions \$20.01-\$28.00	New Positions \$28.01-\$35.00	New Positions Over \$35.00
50		57	21	17	4	

Year	(Before project)	Year 1	Year 2	Year 3	Year 4	Year 5
No. of Employees	(1) 50	73	96	117	138	149
	(2)					
Estimated payroll	(1) 2,017,944 ⁺	3,990,000 ⁺	4,433,332 ⁺	4,925,920 ⁺	5,473,260 ⁺	6,081,390 ⁺
	(2)					

(1) - full time
(2) - part time

Previous Business Activity

22. Is the project operator succeeding someone else in this or a similar business? ☐ Yes ☒ No
23. Has the project operator conducted this business at this or any other location either in or outside of the state?
☒ Yes ☐ No
24. Has the project operator or any officers of the project received any prior property tax incentives? ☐ Yes ☒ No
- If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary).
- ~~Current location is: 2402 8th Ave N, Fargo ND~~

Business Competition

25. Is any similar business being conducted by other operators in the municipality? ☐ Yes ☒ No
- If YES, give name and location of competing business or businesses
- Percentage of Gross Revenue Received Where Underlying Business Has ANY Local Competition %

Property Tax Liability Disclosure Statement

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it? ☐ Yes ☒ No
27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property? ☐ Yes ☒ No
- If the answer to 26 or 27 is Yes, list and explain

Use Only When Reapplying

28. The project operator is reapplying for property tax incentives for the following reason(s):
- ☐ To present additional facts or circumstances which were not presented at the time of the original application
- ☐ To request continuation of the present property tax incentives because the project has:
- ☐ moved to a new location
 - ☐ had a change in project operation or additional capital investment of more than twenty percent
 - ☐ had a change in project operators
- ☐ To request an additional annual exemption for the year of _____ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

Notice to Competitors of Hearing

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, Mike Harlan, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

Signature

Title

Date

PILOT Application: PRx Performance

Schedule : Question 9 - Amount of Annual Payments

	% of Tax	Amount
Year 1-5		\$0.00
Year 6	10%	\$ 15,781.50
Year 7	30%	\$ 47,344.50
Year 8	50%	\$ 78,907.50
Year 9	70%	\$ 110,470.50
Year 10	90%	\$ 142,033.50

PRx Performance 2020	PRx Performance
Project Operator	01-6695-02500-000
Parcel Number	4125 24 Ave N
Address	7/13/2020
Date Application Received	
1st Publication Date	
2nd Publication Date	
TRC Meeting Date	7/28/2020
Commission Hearing Date	
Notice Delivery To School/County	
School/County 30-Day Response	
Exemption Type	PILOT
Estimated Improvements Value	\$10,260,000
Building Value to Remain Taxable	\$0
Estimated Land Value	\$1,264,105
County Share of Levy (%)	17.8%
Anticipated Tax Growth	0.0%
Current Mill Levy	279.32
Number of Years Granted	32
Discount Rate (for Present Value)	4.50%
Total Gross Estimated Benefit	\$1,053,099
Present Value of Benefit	\$717,200

Year	% B'd Ex	PILOT Pymt	Full Bldg Tax	Benefit	PV of Benefit	PILOT & Land Tax
2022	100%	\$0	\$140,413	\$140,413	\$134,400	\$17,402
2023	100%	\$0	\$140,413	\$140,413	\$129,600	\$17,402
2024	100%	\$0	\$140,413	\$140,413	\$123,000	\$17,402
2025	100%	\$0	\$140,413	\$140,413	\$117,700	\$17,402
2026	100%	\$0	\$140,413	\$140,413	\$112,700	\$17,402
2027	90%	\$14,041	\$140,413	\$126,372	\$97,000	\$31,443
2028	70%	\$42,124	\$140,413	\$98,289	\$72,200	\$59,528
2029	50%	\$70,207	\$140,413	\$70,207	\$49,400	\$87,609
2030	30%	\$98,289	\$140,413	\$42,124	\$28,300	\$115,691
2031	10%	\$126,372	\$140,413	\$14,041	\$9,000	\$143,774
TOTALS		\$351,033	\$1,404,132	\$1,053,090	\$872,300	\$369,436
Building Tax To Remain		\$0	Current Land Tax			

[illegible]

CALCULATION OF ADDITIONAL TAX DUE TO COUNTY						
Land Value	Improvment Value	Year	Mill Levy	CO Levy	%	Co Share
\$1,264,105	\$10,200,000	2022	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2023	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2024	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2025	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2026	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2027	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2028	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2029	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2030	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2031	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2032	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2033	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2034	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2035	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2036	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2037	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2038	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2039	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2040	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2041	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2042	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2043	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2044	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2045	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2046	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2047	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2048	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2049	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2050	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2051	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2052	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2053	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2054	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2055	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2056	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2057	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2058	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2059	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2060	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2061	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2062	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2063	275.32	49.00	17.8%	\$24,960
\$1,264,105	\$10,200,000	2064	275.32	49.00	17.8%	\$24,960

August 5, 2020

Fargo City Commission
Fargo City Hall
225 4th Street North
Fargo, ND 58102

Honorable Commissioners:

The Greater Fargo Moorhead Economic Development Corporation (GFMEDC) respectfully requests to submit our support for the property tax incentive request by PRx Performance being considered by the Fargo City Commission on August 10, 2020.

The tremendous market growth experienced by PRx Performance has led this company to choose to expand their current operations by building a new 170,000 square foot warehouse, fulfillment, office, and manufacturing facility to begin construction in September 2020. The economic and tax impacts to local business and jurisdictions will be significant both during the construction phase and under ongoing operations.

To demonstrate the broader economic impacts of this project throughout our local economy, the GFMEDC has enlisted the services of Dean Bangsund, Research Scientist with North Dakota State University using nationally recognized economic impact modeling tool IMPLAN. Dean has 30 years of experience conducting economic impact assessments and is currently employed by North Dakota State University as a Research Scientist in the Department of Agribusiness and Applied Economics.

The following is a brief synopsis of the economic and tax impacts reference above:

- **The 99 jobs added by PRx Performance support the addition of 57 indirect and induced jobs (156 total jobs).**
- **The project supports \$2.6 million annually in indirect and induced employee compensation across all sectors.**
- **\$17.9 million increase in regional sales from operations, of this \$9.1 million is direct and \$8.8 million is indirect and induced.**
- **The construction project is expected to require 87 direct jobs with an estimated \$4.5 million payroll.**
- **The direct construction jobs for the project, support 67 indirect and induced jobs in other sectors.**
- **These 67 secondary jobs generate \$3.3 million payroll and support \$7.7 million in indirect and induced sales is supported in other sectors.**
- **Tax revenues supported by the operations of PRx's project amount to \$36,500 each year, excluding their direct property tax.**
 - (such as sales tax, indirect and induced property tax and indirect and induced special assessments)
- **After 10 years of operating at full capacity, PRx will have generated about \$600,000 in tax revenues to the City of Fargo**

• Tax revenue supported by one-time construction activities amounts to about \$55,000 to the City
Page 70 of Fargo.

We appreciate the thoughtful consideration by the Commission for this request and look forward to answering any questions you might have regarding the broader economic and tax impacts of this project.

Most sincerely,

A handwritten signature in black ink, appearing to read 'Ryan Aasheim', with a stylized, cursive script.

Ryan Aasheim
Chief Business Development Officer



**County
Administrator**

Robert W. Wilson
701-241-5770
wilsonro@casscountynd.gov

August 4, 2020

Mr. Jim Gilmour
Strategic Planning & Research Director
City of Fargo
225 4th Street North
Fargo, ND 58102

Re: Cass County Participation in PILOT Incentive – PRx Performance

Dear Jim:

On August 3rd the Cass County Commission received input and considered participating in a 10-year Payment in Lieu of Taxes (PILOT) Incentive for PRx Performance.

The Commission voted to participate in the 10-year PILOT incentive.

Please contact me if you have questions or need additional information.

Sincerely,

Robert W. Wilson
Cass County Administrator

PO Box 2806
211 Ninth Street South
Fargo, North Dakota 58108

www.casscountynd.gov



31

August 6, 2020

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Attached is the *Application for Abatement or Refund of Taxes #4487* for the 2018 tax year filed by Scheels All Sports, Inc. Application #4487 is requesting a reduction in value from \$28,286,000 to \$25,397,000 for 2018. This is subsequent to a reduction in the 2020 value performed for an appeal during the 2020 Board of Equalization process.

The Scheels All Sports is primarily a large retail facility, with adjoining office space, which serves as their corporate headquarters. The building also has an extensive basement area, with office and warehouse space.

We have included information regarding how this property was valued and how the value under appeal compares to similar properties for equity purposes. The reduction in value was a result of a correction in data and a recalculation given the new information.

SUGGESTED MOTIONS:

Approval of Application for Abatement or Refund of Taxes #4487 on 1551 45th St. S. and reduction of the value to \$25,397,000 for the 2018 tax year.

Sincerely,

A handwritten signature in black ink that reads "Mike Splonskowski".

Mike Splonskowski
Fargo City Assessor

City of Fargo Assessment Department

Scheels All-Sports

2018 ~ True & Full Value Appeal



Summary

Scheels All-Sports is appealing the 2018 assessed valuation via an authorized entity. The appellant is not, at this time, filing for abatement on the 2019 tax year. They are considering future appeals for 2019 and 2020 based on a potentially lower fee appraisal. The appellant requests a value of \$25,397,000. This would be a reduction of \$2,889,000 or approximately 10%.

The abatement application stems from a reduction by the 2020 City of Fargo Board of Equalization. The appellant is requesting the same valuation be placed on the property for the 2018 tax year. For the 2020 tax year, the Assessment Department made corrections to the building characteristics.

The corrected building characteristics included: total square footage (+912sf), basement square footage (+626sf), paving amounts and pricing, dock leveler counts, added mezzanine, basement occupancy and finishing changes, fire sprinkler changes, wall-heights, and building quality changes on the retail portion.

The property was re-valued for equalization via our cost model. We arrived at a reduced value of \$25,397,000, representing a decrease of \$2,889,000. That valuation was approved at the City Board of Equalization Meeting on May 5th 2020.

We examined the income approach, analyzed sales of retail properties, valued the property with our cost model, and performed an equity analysis. The cost model remains the best way to value this property, both in terms of equity (all other properties are valued this way), and appraisal theory (successful, operating big box stores rarely sell in a fee-simple manner). In addition, the availability of reliable information on terms of sale, income and expenses, and capitalization rates for a property of this complexity makes going outside of our valuation model problematic at best.

In terms of price per square foot, the equity analysis suggests the 2018 value is on the high end (above the 3rd quartile) of the comparable properties with regard to the retail space and office space. The trend is exaggerated if looking at above grade area only. These conclusions hold true when looking at the equity analysis for building values only.

For 2018, we recommend reducing the value to \$25,397,000, representing a decrease of \$2,889,000 or approximately 10%.

ASSESSMENT DEPARTMENT RECOMMENDATION

Reduce the value to \$25,397,000 for 2018 assessment.

Scheels All-Sports

Parcel Number: 01-7640-00100-000

1554 45 St S

Owner: Scheels All Sports, Inc.

Appellant

On June 1st, 2020 our office received an "Application For Abatement Or Refund Of Taxes", dated 05/20/2020, from Scheels All Sports, Inc. (Scheels) via an authorized entity. The tax firm representing Scheels is Ducharme, McMillen & Associates (DMA). The primary contact at DMA is Stephanie Nyhus. Ms. Nyhus lists her business address as Eden Prairie, Minnesota.

Appellant Analysis

The appellant requests a value of \$25,397,000. This would be a reduction of \$2,889,000 or approximately 10%. The requested valuation is for the 2018 tax year only. Per Ms. Nyhus of DMA, the appellant may file similar abatements for the 2019 and 2020 tax years based on a potentially lower fee appraisal that would be obtained at a later date.

The appellant asks for the lower valuation for the following reason:

"The assessor decreased the market value for the 2020 assessment for taxes payable 2021 due to correcting the property characteristics and a change in the model. We request the same changes be made for the 2018 assessment for taxes payable in 2019."

Property Information

The property in question is the flagship Scheels retail store and attached corporate headquarters.

Construction began on the property in 2005. The building was valued as complete for the 2007 tax year. The building contains 164,107 square feet above grade. It is divided into retail and office space, with the former occupying approximately 77% of the building. There is also a full basement underneath, which measures 84,557 square feet. The building is divided up as follows:

	<i>Size (SF)</i>
Retail	126,362
Office	37,745
Above Grade Building Area:	164,107
Basement Office (GBA Office)	33,803
Basement Warehouse (GBA Retail)	44,815
Basement Light Mfct (GBA Retail)	6,547
Gross Building Area:	249,272
Retail (Gross Building Area)	177,724
Office (Gross Building Area)	71,548

The property is located at 1554 45 St S. That location experiences high visibility and heavy traffic counts. The street is a primary arterial road that has access to Interstate-94 and Interstate-29 via the adjacent 45th Street and 13th Avenue corridors. This is the retail heart of the Fargo-Moorhead metropolitan area.

Construction & Financing History

Scheels was constructed via conventional financing. There is a mortgage history for the land acquisition and subsequent construction. Also on file, there is a second mortgage on the entire property. Exact construction costs are unknown to this office.

Doc#	Instrument	Date	Loan Amt	LTV Min	LTV Max	Ind. Value Low	Ind. Value High	Sale Price	Notes
962113	Mortgage	08/03/2000	1,890,000	-	-	-	-	2,100,000	Land Loan
1137371	Mortgage	05/12/2005	32,000,000	70%	90%	45,714,286	35,555,556	-	Construction Loan with UCC Filing
1201142	Mortgage	05/01/2007	108,692	-	-	-	-	-	Mortgage Redemption with UCC Filing
1281511	Mortgage	11/12/2009	31,000,000	60%	85%	51,666,667	36,470,588	-	8-Year Re-finance with UCC Filing
1592523	Mortgage	05/04/2020	65,000,000	60%	80%	108,333,333	81,250,000	-	Revolving Line of Credit, UCC Filing, Collateral bundled

**Loan to value ratios provided by RealtyRates.com. They are historical to the year of mortgage.*

Based on the mortgage from 2005, we estimate the total construction cost (including fixtures and other business assets) to be between \$35.5M and \$45.5M. The land cost is unclear due to the convoluted nature of acquisition. A 398,362 square foot portion of the current land configuration was bought in August 2000 for \$2,100,000 or \$5.27 per square foot. The remaining 122,061 square feet was acquired later at an undisclosed price. That portion of the cost of construction appears irrelevant because the lot loan was satisfied with the construction mortgage.

In 2009, secondary financing appears to have been secured via mortgage. It is possible to extrapolate a fee appraised value from this \$31M loan. Loan to appraised value ranges in the Fall of 2009 were surveyed to be between 60% and 85%. These ratios indicate an appraised value (including fixtures and other business assets) of between 36.5M and 51.5M.

The 2020 mortgage was dated May 4th. It was recorded on June 2nd, 2020. Per Scheel's, the mortgage was in response the COVID-19 pandemic and was not needed. The \$65,000,000 lien included the Fargo Scheels flagship store, the Billings Montana property (192,714 sf retail space, built 2013), and business assets in the Fargo market area. This was confirmed with Bell Bank (the lender), and via UCC filings for the three Fargo properties, and the Deed of Trust recorded for the Billings property. Scheels representatives also assume that UCC filings were included for the Billings Montana property. Despite requests from the Assessment Department, Scheels has not provided an allocation of collateral used for this loan. Per Scheels representatives, there was no fee appraisal completed.

Scheels All-Sports

Parcel Number: 01-7640-00100-000

1554 45 St S

Owner: Scheels All Sports, Inc.

Assessment History

The 2018 valuation of 1554 45 St S is \$28,286,000. That valuation represents an increase of 3% on the prior year's valuation due to a reappraisal of retail property.

Year	Land Value	Building Value	Total Value	% Change	Change Reason
2020	5,464,000	19,933,000	25,397,000	-10%	City BOE
2019	5,464,000	22,822,000	28,286,000	0%	
2018	5,464,000	22,822,000	28,286,000	3%	Reappraisal
2017	3,382,000	24,088,000	27,470,000	0%	
2016	3,382,000	24,088,000	27,470,000	-	

The Scheels value can be broken up into two parts: the retail portion and the office portion. The retail portion is deemed to include the above grade retail area, and the below grade warehouse and light manufacturing. The office portion is deemed to include all building area dedicated to office use, including the training portion in the basement. The 2018 value of 28,286,000 can be allocated by using the depreciated cost breakdown of the building without extras. Then taking those ratios and applying them to the total value.

We estimate the retail portion of Scheels to compromise about 62% of the value, and the office portion to be worth 38%:

	2018 Value	% of Value	Size (Above Grade)	\$/SF (Above Grade)	Size (Gross)	\$/SF (Gross)
Retail	17,449,382	61.7%	126,362	138.09	177,724	98.18
Office	10,836,618	38.3%	37,745	287.10	71,548	151.46
Total	28,286,000		164,107	172.36	249,272	113.47

	Proposed 2018 Value	% of Value	Size (Above Grade)	\$/SF (Above Grade)	Size (Gross)	\$/SF (Gross)
Retail	15,667,183	61.7%	126,362	123.99	177,724	88.15
Office	9,729,817	38.3%	37,745	257.78	71,548	135.99
Total	25,397,000		164,107	154.76	249,272	101.88

Scheels All-Sports

Parcel Number: 01-7640-00100-000

1554 45 St S

Owner: Scheels All Sports, Inc.

Equity Analysis

Comparing the Scheels property to others is filled with peril. The Scheels property has a full basement. There are few properties of this size, retail or office, which have this feature. The presence of the basement inflates the value per square foot of above grade area, and deflates the value per square foot of gross building area. It remains beneficial to examine how Scheels compares to its competitors. Overall, the 2018 values appear to be on the high-end of the range for both retail and office property values. This is true in both above grade area (albeit, exaggerated), and based on gross building area (higher than the 3rd quarter) in both cases.

Retail

We examined the 2018 assessed values of non-mall anchored retail properties that were larger than 50,000 square feet. We found 21 properties within Fargo that fit this criteria. The average value per square foot was \$87.03, the median was \$87.13.

Address	Building Name	Bldg Value	T&F Value	GBA	\$/SF	\$/SF Bldg
5100 14 AVE S	GORDMAN'S	4,446,000	5,968,000	55,723	107.10	79.79
1600 45 ST S	ASHLEY FURNITURE	5,377,900	7,354,900	83,407	88.18	64.48
2121 43 ST S	GANDER MOUNTAIN	3,888,900	7,594,900	66,282	114.58	58.67
1321 19 AVE N	CVS / CHILDREN OF HOPE	2,932,100	3,418,100	50,909	67.14	57.59
4601 23 AVE S	HOM FURNITURE	6,798,700	9,825,700	120,419	80.77	55.88
3730 36 ST S	FLEET FARM	12,044,000	18,974,000	217,776	87.13	55.30
3757 55 AVE S	WALMART	10,525,300	20,535,300	191,151	107.43	55.06
4444 13 AVE S	KOHL'S	5,518,000	8,844,000	100,658	87.86	54.82
4202 13 AVE S	TARGET	6,774,000	11,080,000	132,550	83.59	51.11
4427 13 AVE S	HOBBY LOBBY	4,840,000	8,134,000	95,096	85.53	50.90
4700 17 AVE S	HOME DEPOT	5,518,000	10,298,000	118,193	87.13	46.69
5001 13 AVE S	LOWES	6,270,000	12,555,000	141,474	88.74	44.32
1623 38 ST S	SAVERS	2,246,000	4,730,000	52,208	90.60	43.02
4831 13 AVE S	SAM'S WHOLESALE	5,694,000	10,258,000	137,554	74.57	41.39
4731 13 AVE S	WAL-MART	8,589,000	17,858,000	218,579	81.70	39.29
2301 UNIVERSITY DR S	KMART	2,076,700	5,136,700	92,800	55.35	22.38
4305 13 AVE S	BURLINGTON COAT FACTORY	1,995,000	5,647,000	93,288	60.53	21.39

Here are the summary statistics:

Retail, 2018 Assessed Values

	\$/SF	\$/SF Bldg Only
Maximum	114.58	79.79
3rd Quartile	88.74	55.88
Median	87.13	51.11
1st Quartile	80.77	43.02
Minimum	55.35	21.39
Average	85.17	49.53
Scheels Retail (Above Grade)	138.09	111.42
Scheels Retail (Gross)	98.18	79.22
Scheels Retail (Proposed, Above Grade)	123.99	97.31
Scheels Retail (Proposed, Gross)	88.15	69.19

Scheels All-Sports

Parcel Number: 01-7640-00100-000

1554 45 St S

Owner: Scheels All Sports, Inc.

Office

We examined the 2018 assessed values of office properties that were larger than 25,000 and built after 1990. We found 29 properties that matched this criteria. The average value per square foot was \$131.54, the median was \$133.73.

Address	T&F Value	GBA	\$/SF GBA
4568 42 ST S & 4550 42 St S	34,582,800	170,752	202.53
4334 18 AVE S	4,931,000	26,864	183.55
4000 GREAT PLAINS DR S	14,375,000	88,956	161.60
4340 18 AVE S	6,985,000	45,529	153.42
4310 17 AVE S	10,746,900	73,446	146.32
4575 23 AVE S	4,254,000	29,135	146.01
1750 NDSU RESEARCH PARK DR N	6,067,700	42,154	143.94
1635 43 ST S	3,908,100	27,457	142.34
1707 - 1715 GOLD DR s	17,908,800	127,505	140.46
3247 47 ST S	4,716,300	33,743	139.77
3900 GREAT PLAINS DR S	16,955,900	122,201	138.75
4656 40 AVE S	4,476,000	32,736	136.73
4850 32 AVE S	7,610,200	55,790	136.41
4314 20 AVE S	3,813,000	28,076	135.81
1810 NDSU RESEARCH CIR N	5,637,600	42,157	133.73
1655 43 ST S	4,106,600	31,144	131.86
4150 19 AVE S	4,022,000	31,543	127.51
4321 20 AVE S	11,767,000	93,099	126.39
3223 32 AVE S	6,154,500	50,117	122.80
1900 44 ST S	8,003,000	65,776	121.67
4150 40 AVE S	7,583,700	65,448	115.87
4325 17 AVE S	16,904,800	146,131	115.68
474 45 ST S	4,687,000	42,072	111.40
1201 PAGE DR S	2,761,900	25,255	109.36
2000 44 ST S	19,321,900	178,049	108.52
1001 28 ST S	2,927,100	29,257	100.05
3350 38 AVE S	5,172,900	52,254	99.00
200 45 ST S	12,961,000	135,235	95.84
4170 41 AVE S	2,928,000	33,531	87.32

Here are the summary statistics:

Office, 2018 Assessed Values

	\$/SF	\$/SF Bldg Only
Maximum	202.53	154.30
3rd Quartile	142.34	113.03
Median	133.73	103.44
1st Quartile	115.68	91.21
Minimum	87.32	62.84
Average	131.54	102.03
Scheels Office (Above Grade)	287.10	231.64
Scheels Office (Gross)	151.46	122.20
Scheels Office (Proposed, Above Grade)	257.78	202.32
Scheels Office (Proposed, Gross)	135.99	106.73

Scheels All-Sports*Parcel Number: 01-7640-00100-000****1554 45 St S****Owner: Scheels All Sports, Inc.***Cost Analysis**

Commercial assessment equalization in Fargo is based on the cost approach. Fargo uses Marshall & Swift Commercial Estimator for the purpose of developing cost based valuation models. The 2018 valuation of Scheels All-Sports, and other retail properties in the West Acres area were re-valued in a mass appraisal effort.

Scheels was included in this re-appraisal effort. The value for 2018 increased by \$816,000 (3%) over the 2017 valuation. The valuation was reviewed for the 2020 tax year. Building characteristics were corrected. The corrected building characteristics included: total square footage (+912sf), basement square footage (+626sf), paving amounts and pricing, dock leveler counts, added mezzanine, basement occupancy and finishing changes, fire sprinkler changes, wall-heights, and building quality changes on the retail portion.

We applied the new building characteristics, and valued the property with the same local multipliers as the other retail properties in the area. Here is a summary of the cost approach:

	Units	Cost	Total
Basic Structure Cost	164,107	104.47	17,145,070
Basement Cost	84,445	64.70	5,463,591
Extras			715,350
Replacement Cost New	164,107	142.13	23,324,011
Physical & Functional Depr	14.5%		(3,391,310)
Depreciated Cost			19,932,701
Rounded Cost (000)			19,933,000
Land Value			5,464,000
Indicated Value via C.A.			25,397,000

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

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

RECEIVED

State of North Dakota

Assessment District City of Fargo

JUN 1 2020

County of Cass

Property I.D. No. 01-7640-00100-000

Name Scheels All Sports Inc

Telephone No.

FARGO ASSESSOR

Address 4550 15th Ave S, Fargo, ND 58103

WITHOUT COUNTY
FILE #

Legal description of the property involved in this application:

Lot 1, Block 1 Scheels All Sports Center Addition

Total true and full value of the property described above for the year 2018 is:

Land \$ 5,464,000

Improvements \$ 22,822,000

Total \$ 28,286,000

(1)

Total true and full value of the property described above for the year 2018 should be:

Land \$ 5,464,000

Improvements \$ 19,993,000

Total \$ 25,397,000

(2)

The difference of \$ 2,889,000.00 true and full value between (1) and (2) above is due to the following reason(s):

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

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

1. Purchase price of property: \$ _____ Date of purchase: 2005

Terms: Cash _____ Contract _____ Trade _____ Other (explain) New Construction

Was there personal property involved in the purchase price? _____ Estimated value: \$ _____

yes/no

2. Has the property been offered for sale on the open market? No If yes, how long? _____

yes/no

Asking price: \$ _____ Terms of sale: _____

3. The property was independently appraised: No Purpose of appraisal: _____

yes/no

Market value estimate: \$ _____

Appraisal was made by whom? _____

4. The applicant's estimate of market value of the property involved in this application is \$ 25,397,000

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

Applicant asks that The assessor decreased the market value for the 2020 assessment for taxes payable in 2021 due to correcting the property characteristics and a change in the model. We request the same changes be made for the 2018 assessment for taxes payable in 2019.

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

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

Stephanie Nyhus _____

5/19/2020

Signature of Preparer (if other than applicant)

Date

Signature of Applicant

Date

Application For Abatement
Or Refund Of Taxes

Name of Applicant Scheers Ace Sports, Inc.

County Auditor's File No. 4487

Date Application Was Filed With The County Auditor 6/1/2020

Date County Auditor Mailed Application to Township Clerk or City Auditor 6/1/2020

(insert the within five business days of filing date)

County Auditor _____ Date _____

Year	Reduction in Taxable Valuation	Reduction in Taxes
------	--------------------------------	--------------------

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

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

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

Certification of County Auditor

County Auditor _____ Chairperson _____

Dated _____

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

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

Application was _____ Approved/Rejected _____ by action of _____ County Board of Commissioners.

Action by the Board of County Commissioners

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

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

Recommendation of the Governing Body of the City or Township



32

July 28, 2020

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1405 15 St S as submitted by Tabitha Meyer. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2020, 2021, 2022, 2023 & 2024.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$1025 with the City of Fargo's share being \$175.

Sincerely,

A handwritten signature in black ink that reads "Mike Splonskowski".

Mike Splonskowski
City Assessor

bsb
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**
North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner	<u>Tabitha Meyer</u>	Phone No.	<u>701/200-5661</u>
2. Address of Property	<u>1405 15th St. S.</u>		
City	<u>FARGO</u>	State	<u>ND</u> Zip Code <u>58103</u>
3. Legal description of the property for which the exemption is being claimed.	<u>Lot 2 Block 10 Morton & Dotys addition</u>		
4. Parcel Number	<u>01-2040-02340-000</u>	Residential <input checked="" type="checkbox"/>	Commercial <input type="checkbox"/> Central Business District <input type="checkbox"/>
5. Mailing Address of Property Owner	<u>Same as above address</u>		
City		State	Zip Code

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary).	<u>Addn and floor addition & remodeling Main & bsmt floors</u>		
7. Building Permit No.	<u>162232</u>	8. Year Built	<u>1960</u>
9. Date of Commencement of making the improvement	<u>1/20/17</u>		
10. Estimated market value of property before improvement	<u>\$ 146,000</u>		
11. Cost of making the improvement (all labor, material and overhead)	<u>\$ 90,000</u>		
12. Estimated market value of property after improvement	<u>\$ 236,000</u>		

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.	
Applicant's Signature	<u>Tabitha Meyer</u> Date <u>07/13/20</u>

Assessor's Determination

14. The local assessor finds that the improvements in this application has <input type="checkbox"/> has not <input type="checkbox"/> met the qualifications for exemption for the following reason(s):
Assessor's Signature _____ Date _____

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied <input type="checkbox"/> Approved <input type="checkbox"/>
Approval subject to the following conditions: _____
Chairman of Governing Body _____ Date _____

3300

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY

DATE: AUGUST 10, 2020

SUBJECT: APPOINTMENTS TO THE PLANNING COMMISSION

The terms of Rocky Schneider and Dawn Morgan on the Planning Commission expired on June 30th. Mr. Schneider and Ms. Morgan are willing to continue their service on the Board and I am, therefore, recommending their reappointments.

Your favorable consideration of these recommendations is greatly appreciated.

RECOMMENDED MOTION: Approve the reappointment of Rocky Schneider and Dawn Morgan to the Planning Commission for three-year terms ending June 30, 2023.

mmappt20planningcommission

336

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: COMMISSIONER TONY GEHRIG

DATE: AUGUST 10, 2020

SUBJECT: FARGO YOUTH INITIATIVE (FYI)

Since its inception in 2012 the Fargo Youth Initiative (FYI) have met monthly (sometimes more) to discuss opportunities and issues facing young people in our community. These smart, caring and committed young leaders represent the public and private schools in Fargo. Below you will find a list of interested participants for this year. I am recommending they be appointed as the Fargo Youth Initiative members for the 2020-2021 academic year.

I appreciate your support of the Fargo Youth Initiative and the inclusion of new and young voices in the public process.

RECOMMENDED MOTION: To appoint the following to serve as Fargo Youth Initiative members for the 2020-2021 academic school year.

Returning Members: Olivia Drake (Davies-12), Yvonnah Marshall (South-12), Aarya Panwalkar (North-11), Erika Spanjer (North-11), Kha (Andy) Tao (Davies-11) Sophie Brantner (Oak Grove-10), Andrew Green (Oak Grove-10), Jayden Lindgren (Davies-10).

New Members: Fatima Alaa Attia (North-11), Anne Lougheed (South-12), Laila Kantarevic (South-12), Samuel Swenson (Shanley-11), Abhijna Kavasseri (North-9).



Dr. Timothy J. Mahoney, Mayor

Fargo City Hall
200 3rd Street North
Fargo, ND 58102

Phone 701.241.1310 | Fax: 701.476.4136

TMahoney@FargoND.gov

Memorandum

To: Board of City Commissioners

From: Mayor Dr. Tim Mahoney

Date: August 6, 2020

Re: Mask Directives

Commissioners,

At the July 27 meeting of the Fargo City Commission, an agenda item introducing a series of "options" regarding potential masking directives to combat the community spread of COVID-19 were introduced, and three were subsequently passed by the Commission. One action regarding mask requirements for MATBUS users is already in effect. City Staff, including Administration, Human Resources, Public Health and Communications met to review the Commission actions. A summary of the two actions which have not yet taken effect are below:

- **Option A:** The Commission voted to approve a City-wide mask directive. "Option A" directs all residents, visitors and businesses within public spaces to utilize facial coverings as protective equipment when six foot distancing is not possible or unlikely to be attainable. This directive is to be re-visited by the Commission every three months. This Commission Directive has been drafted and attached for your reference.
- **Option B.1:** The Commission voted to approve a mask directive pertaining to all City of Fargo employees and facilities. When six foot distancing is not possible or unlikely to be attainable, City of Fargo employees are required to wear a mask within City-owned facilities and vehicles. This directive will be accomplished through the adoption of a temporary employment policy, which has been drafted and attached for your reference.

Recommended Motions:

- Approval of the attached Commission Mask Directive for The City of Fargo, effective Monday, August 17.
- Approval of the attached Temporary Employment Policy regarding mask usage for City employees and City facilities, effective Monday, August 17.

Mask Directive of the Fargo City Commission

The City of Fargo

Each resident, visitor and business within Fargo plays a crucial role in the mitigation of the spread of the COVID-19 virus, limitation of hospitalizations due to complications of the virus and minimization of the tragic loss of life from the novel 2019 Coronavirus. The Fargo City Commission is placing trust in the community to prevent widespread community infection and protect Fargo's vulnerable population.

Now, therefore, the Board of Commissioners of the City of Fargo strongly appeals to the good judgement and common sense of the residents, visitors and businesses of Fargo to comply with the following directives:

- Residents and visitors within public place, common areas and private businesses in the City of Fargo are strongly encouraged to utilize face coverings when in public places and unable or unlikely to maintain six feet of space between themselves and other people, as recommended by Centers for Disease Control guidance.
- Residents and visitors are strongly encouraged to continue practicing proper distancing whenever possible.
- Residents and visitors are strongly encouraged to practice healthy handwashing and hygiene habits, including the regular disinfection of commonly touched surfaces.

All Fargo residents, families, business and property owner and visitors are strongly encouraged to actively participate in the mitigation of the COVID-19 virus; which is crucial in the preservation of:

1. The lives of at-risk and immunocompromised community members
2. The livelihoods of local business owners and the Fargo Metro economy
3. The quality of life within Fargo, including the ability to host large scale sporting and entertainment events

This directive shall take effect **Monday, August 17**, and shall be reexamined by the Fargo City Commission on **Monday, November 9**.

City of Fargo
Temporary Employment Policy
Mask Usage

Effective: August 17, 2020 until repealed

In conjunction with Commission approved directive on July 27th, 2020 to develop a mask usage policy for the City of Fargo, the City of Fargo makes the following policy.

Requirements:

- In accordance with CDC recommendations, face masks or coverings shall be worn over the nose and mouth as follows.
 - Whenever in a public indoor space such as a lobby, elevator, hallway, or any type of public setting indoors where 6' distancing cannot be maintained.
 - Whenever an employee is unable to maintain 6' of distance between themselves and others
 - When riding in a vehicle with others.
 - Communicating or working in the same room as a citizen, guest or outside vendor when 6' distancing cannot be maintained
 - When directed to do so by Employee Health for return to work under CDC guidelines
 - When directed to do so by employee's own medical provider
 - When directed to do so by a supervisor/department level work procedure
 - When CDC recommendations change regarding the usage of face masks

Employees shall follow this policy with the spirit and intent of preventing the spread of COVID-19.

Considerations:

- Employees who feel they are unable to wear face coverings can call Employee Health at 476-4030 to schedule a consultation.
- Employees unable to wear a mask but find themselves in a mask usage situation will be required to wear face shields.
- Mask usage may be discontinued if there is a safety concern or situation that it is immediately dangerous to life and health (IDLH).
- Departments shall ensure an adequate amount of supplies are on hand for easy access by all employees to comply with this policy.
- Employees shall ensure masks are cleaned properly
<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>
- Employees shall carry the appropriate face covering with them while on duty.
- Employees shall work with their respective supervisor to address any concerns with the face mask usage policy and compliance with policy by others

- Employee health and wellness is a key spread prevention tool. Further guidance can be found at <https://fargond.gov/city-government/departments/human-resources/covid-19-employee-information/city-of-fargo-covid-19-employee-guidance>

Enforcement:

Refusal to wear a mask or face covering when directed by a supervisor, under the direction of this policy, or in accordance with departmental procedures, may be subject to disciplinary action under 300-008 Disciplinary Guidelines.

Working with the public:

- Employees shall engage a supervisor in the event that guest or member of the public either refuses to wear a mask or refuses to comply with distancing or other spread prevention instructions while on COF premises.

Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

August 5, 2020

Board of City Commissioners
City Hall
225 4th Street North
Fargo, ND 58102

RE: Attorney General reply to City Commission request for opinion—Firearms sales/Home Occupation

Dear Commissioners,

Enclosed for your review, and for receipt and filing along with this letter, is a letter from the Attorney General's office. This is regarding the Land Development Code (LDC) text amendment matter and your request for an opinion of the Attorney General. The Attorney General's office has declined to issue an opinion, as noted in the attached letter, indicating that "... some situations are unsuited for an opinion, including when the question calls for interpreting an ordinance. The city attorney continues to be ultimately responsible for interpreting city ordinances and advising city officials on legal issues."

As you may recall, at the June 15th City Commission meeting the City Commission took two actions, one of which was to "table" the proposed text amendment (amending ordinance) to the LDC and the second of which was to request an opinion from the Attorney General as to whether the state statute that prohibited cities from establishing greater restrictions on the sale of firearms (etc.) was exceeded by Fargo's Land Development Code provision that prohibited firearm sales and certain other activities as "home occupations". For ease of reference, an excerpt from the June 15th meeting minutes is attached and the two motions, themselves, are pasted below.

SUGGESTED MOTION: I move to receive and file the letter from the City Attorney, including the enclosed letter from the Attorney General's Office declining to provide a written opinion on the Firearm sales/home occupation question requested by the City Commission.

Sincerely,



Erik R. Johnson

Enclosures



Wayne Stenehjem
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL
STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
BISMARCK, ND 58505-0040
(701) 328-2210
www.attorneygeneral.nd.gov

received
7-30-2020

July 28, 2020

Erik R. Johnson
 Fargo City Attorney
 505 Broadway Street North #206
 Fargo ND 58102

Dear Mr. Johnson:

I am responding on behalf of the Attorney General to your recent letter requesting an opinion on the restrictions contained in one of the City's zoning ordinances.

Your letter included a research memorandum and legal advice to the city commission on the existing ordinance and proposed changes, and minutes of the June 15, 2020, meeting at which the commission heard public comment in support and opposition of the existing ordinance. The minutes indicate you advised the commission that you do not believe there are any statutory or constitutional concerns with the existing ordinance and you also provided commentary on the proposed amendments before the commission. From the other materials included with your letter, it appears to us that you have researched the issue and advised the city at length on its options and the legal positions. The Commission decided not to take final action but instead voted to request an Attorney General Opinion.

There are some situations that are unsuited for an opinion, including when the question calls for interpreting a local ordinance. The city attorney continues to be ultimately responsible for interpreting city ordinances and advising city officials on legal issues.

While we appreciate the deliberation involved in submitting the request, in view of the foregoing, I am sure you will understand why we must decline to provide an opinion on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Seibel".

Troy Seibel
Chief Deputy Attorney General

EXCERPT OF MINUTES OF JUNE 15, 2020, MEETING OF THE FARGO CITY COMMISSION (RE FIREARM SALES HOME OCCUPATION) [[highlighting added]]

* * *

Mayor Mahoney closed the public hearing.

Commissioner Gehrig said he would like to split the question into two parts. There is a section about gun sales and transfers, he said, and there is the idea of loading and selling ammunition, which he feels is a separate issue altogether.

Commissioner Gehrig moved the restriction for the transfer and purchase of firearms from homes be removed from the Land Development Code.
Second by Grindberg.

Commissioner Strand said his observation is that this a community value that needs to be sorted out. He said it would be a fair goal to ascertain what the people want in their neighborhoods.

Commissioner Grindberg said the LDC revision process is separate from the Core Neighborhood Plan.

Ms. Crutchfield said what may be confusing is that the LDC and the zoning laws are separate from the Second Amendment discussion. She said zoning laws nationwide is pretty silent to this issue and when talking about retail as allowed in home occupation, the talk would not be about guns in particular. She said three different consultants declined to provide research or input on this due to zoning and gun discussions are similar to talking about other moral issues in the community and do not belong in land use code. The discussion should be about performance standards in home occupation, she said, and what is or is not appropriate.

Commissioner Strand said he would like a discussion of every single restriction, not only the one on the table. The list includes things such as vehicles and repairs, dispatch centers, mortuaries, animal care grooming and boarding and adult entertainment, he said.

Ms. Crutchfield said the plan for the Planning Department is the Core Neighborhood Plan and a LDC rewrite, which is in the diagnostic stage. She said the Core Neighborhood Plan is due back in December. What is before the Board is actually an application, she said, so there is another constitutional right to due process.

Commissioner Grindberg said his sense is this will not go away no matter the vote now and may go to the Attorney General's office or to the North Dakota Legislature. He said the facts, data and information shared by the industry suggest the FFL license works fine in West Fargo, Grand Forks, Bismarck and Moorhead, and perhaps 20 years ago the City went too far with the FFL license. He agrees there are two different issues and he would not support the manufacturing of ammunition; however, he said, he does not have a problem with the FFL change.

Commissioner Gehrig said some people do not like guns, and that is their right; however, not liking something does not mean it should be made illegal. He said opposition even though well-intended, are misguided opinions and not backed up by facts. He said it is said a home-based FFL is more dangerous than a storefront when in fact the ATF is saying the exact opposite. FFLs follow the exact same regulations and background checks in a home occupation setting, he said, and having a handful of additional FFLs in the City does not mean there will be more guns in the street. An argument is that ammunition is dangerous and can blow up; however, he said, that has not happened and few people will manufacture it for sale because it is not economical. He said an individual can stockpile ammo; there is no regulation that says they cannot and FFLs all go through the same background checks and there will not be volumes of people.

In response to a question from Commissioner Strand asking whether the position is legally defensible or whether he has concerns about defending current or potential changes in status, City Attorney Erik Johnson said it is defensible and he does not believe there is a legal hook either way, it is a values issue. He said he does not think there is a Second Amendment-type issue related to this and similarly there is a State statute that precludes cities from regulating the sale and transfer of firearms that does not prohibit local regulations from determining locations where firearm sales can occur. Other states with similar situations have had court decisions that support city zoning regulations that are not impacted by the pre-emptive statute that North Dakota has, he said. As far as the motion on the floor to remove only the restriction of the transfer of sales from a home, he said, the Ordinance can be amended as Commissioner Gehrig proposes. He said it can be amended to remove the firearm sales restriction and leave the restriction on ammunition in place.

Commissioner Strand said he is going to advance a motion of higher precedence. He said he would like the topic tabled until that committee has come back to the Board with citizen-directed recommendations regarding all of these uses in neighborhoods.

Commissioner Strand moved the discussion be delayed until such time it has been properly vetted by the Core Neighborhood Plan Committee, and to direct appropriate staff to study all restricted uses of commercial uses in homes to include vehicles and larger equipment, dispatch centers, mortuaries, animal care grooming and boarding facilities, adult entertainment centers and firearms and ammunition uses of production.

Second by Piepkorn. On call of the roll Commissioners Strand, Piepkorn and Mahoney voted aye.

Commissioners Gehrig and Grindberg voted nay.

The motion was declared carried.

Commissioner Gehrig said he would like to push this question to the Attorney General. He said the Board can ask the AG whether this is legal in the first place and as he understands it the Board cannot make any laws more restrictive than the State. Clearly there are home-based FFLs all over the state, yet Fargo is saying it cannot be done, he said, so he would like an opinion by the AG.

Commissioner Gehrig moved to direct the City Attorney to seek an opinion from the Attorney General's office.

Second by Grindberg. On call of the roll Commissioners Gehrig, Grindberg, Strand and Mahoney voted aye.

Commissioner Piepkorn voted nay.

The motion was declared carried.

At 6:10 p.m. the Board took a five-minute recess.