

FARGO CITY COMMISSION AGENDA
Monday, August 22, 2022 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, August 8, 2022).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Letter of Support for the 6 Broadway, LLC Project.
- 2. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of the following Ordinances:
 - a. Relating to Noise Control and Interference.
 - b. Relating to Use and Care of Streets and Sidewalks.
- 3. Settlement Agreement - Tax Increment Financing District No. 2019-02 with Roers Development, Inc. and NC Land Lease, LLC.
- 4. 2nd reading and final adoption of the following Ordinances; 1st reading, 8/8/22:
 - a. Rezoning Certain Parcels of Land Lying in Urban Plains by Brandt Sixth Addition.
 - b. Rezoning Certain Parcels of Land Lying in Valley View Addition.
- 5. Amended Gaming Site Authorization for VFW Post 762 at VFW Club.
- 6. Applications for Games of Chance:
 - a. Fargo South High School for a calendar raffle from 9/1/22 through 2/23/23.
 - b. First Choice Clinic (d/b/a W Care Center) for bingo on 9/22/22.
 - c. Vocational Training Center for a raffle on 9/30/22; Public Spirited Resolution.
 - d. North Dakota Autism Center for a raffle on 9/20/22.
 - e. Impact Foundation for a raffle on 10/15/22.
- 7. Receive and file General Fund – Budget to Actual through July 2022 (unaudited).
- 8. 2023 City Commission meeting dates.
- 9. Contracts and bonds for Project Nos. HD-22-A1 and UR-22-B1.
- 10. Change Order No. 1 in the amount of \$10,307.12 and time extension to the substantial and final completion dates to 8/19/22 and 9/2/22 for Project No. NR-20-A3.
- 11. ND Department of Transportation Cost Participation and Maintenance Agreement.
- 12. Land Use Agreement with Maple Valley Shops, LLC.

13. Bid award for Project No. SR-22-C1.
14. Bid advertisement for Project No. FM-21-A.
15. Amendment to Agreement for Temporary Use of Space with FirstLink.
16. Resolution Authorizing the Issuance and Delivery of Allonge and Amendment to Loan Agreement (Sales Tax Revenue Bonds, Series 2008B).
17. State Water Commission request for cost reimbursement for the Fargo-Moorhead Metropolitan Area Flood Risk Management in the amount of \$3,555,737.95.
18. Purchase of Services Agreement with Cass County Human Service Zone.
19. Notice of Grant Award from the ND Department of Health for Community Grant Program (CFDA #93.991).
20. Amendment to the Notice of Grant Award from the ND Department of Health and Human Services for Childhood Obesity Prevention (CFDA #93.994).
21. Contract Agreement for Services with New Life Center.
22. Addendum to the mowing of tall grass and weeds – code enforcement contract with Valley Green and Associates (RFP22049).
23. Annual Massage Therapy Establishment Fee of \$100.00 to cover the remainder of 2022 and all of 2023, and the annual fee to be assessed again on 1/1/24.
24. Engagement of Baker Tilly to conduct the executive search for the City Administrator position.
25. Set September 6, 2022 at 5:15 p.m. as the date and time for a hearing on a dangerous building at 2315 2nd Avenue South.
26. Resolution Approving Plat of Valley View Estates Third Addition.
27. Application for Project Safe Neighborhoods Grant Funds Request.
28. Memorandum of Understanding with the ND Soybean Processors, LLC and Cass Rural Water Users District.
29. Bills.
30. Final reimbursements to Southeast Cass Water Resource District in the amount of \$247,425.82 and Madelyn Meadow Developer in the amount of \$18,585.46 for Improvement District No. FM-20-C1.
31. Amended Engineer's Report for Improvement District No. BN-22-C.
32. Bid award for the following Improvement Districts:
 - a. No. BN-22-N1.
 - b. No. PN-22-M1.

REGULAR AGENDA:

33. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at FargoND.gov/VirtualCommission).**
34. ***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**
 - a. Hearing on a dangerous building located at 437 23rd Street South.
 - b. Simonson Companies Second Addition (5237 38th Street South and 3825, 3863 and 3901 53rd Avenue South); approval recommended by the Planning Commission on 8/2/22:
 1. Zoning Change to repeal and re-establish a C-O, Conditional Overlay in the LC, Limited Commercial zoning district.
 2. 1st reading of rezoning Ordinance.
 - c. West Acres Seventh Addition (1882 39th Street South); approval recommended by the Planning Commission on 8/2/22:
 1. Zoning Change from GC, General Commercial to MR-3, Multi-Dwelling Residential.
 2. 1st reading of rezoning Ordinance.
 - d. CONTINUE TO 9/6/22 - Application filed by Roosevelt Family Lofts, LLC for a property tax exemption for a project to be located at 711 10th Avenue North which the applicant will use for market rate multi-family housing and property management services.
35. Construction Update.
36. Recommendation to approve Amendment No. 4 with Apex Engineering to add the westbound to northbound right turn lane at 25th Street South for the 32nd Avenue South Reconstruction Project (Improvement District No. BR-22-A1).
37. Recommendation for appointment to the Economic Development Incentives Committee.
38. Liaison Commissioner Assignment Updates.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310 at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo website at www.FargoND.gov/citycommission.



Fargo Inspections

City of Fargo
225 Fourth Street North
701-241-1561
fax 701-476-6779

Memorandum

TO: BOARD OF CITY COMMISSIONERS
FROM: INSPECTIONS DIRECTOR SHAWN OURADNIK
DATE: AUGUST 22, 2022
SUBJECT: DANGEROUS BUILDING NOTICE AND ORDER FOR 437 23RD STREET SOUTH

The property owner of 437 23rd Street South has failed to comply with the order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. Pursuant to Fargo Municipal Code Section 21-0405 a Hearing is scheduled and an Order to Show Cause is issued to require the property owner to appear and show cause as to why the building should not be ordered to be removed and the costs associated with that removal to be assessed against the property.

RECOMMENDED MOTION: To designate 437 23rd Street South as a dangerous building, direct the City Attorney to prepare Findings of Fact and Order in this matter, order its removal on September 30, 2022 and to direct appropriate staff to secure the removal of this building at that time should the owner fail to do so.

PROPERTY INFORMATION- Building is currently vacant and is uninhabitable due to condition and current Inspections order. Deterioration is extensive. Building constructed 1954.

DESCRIPTION: Single Story

LOCATION: 437 23 St. S.

DESCRIPTION OF DAMAGE: The foundation has evidence of shifting and the entire electrical wiring system has evidence of potential fire hazards. The entire basement is covered in black mold and extensive damage to the plumbing system.

Timeline of events:

11/20/2020- Received initial complaint regarding junk in the yard.

12/17/2020- Received 2nd letter of violation.

7/1/2021- Water Department shut off the water for Non-payment.

10/18/2021- Notice of Violation.

11/15/2021- Notice of Dangerous Building with conditions found.

11/22/2021- Deputy Assessor determined building deterioration exceeded 50% of True & Full Improvement Value.

12/8/2021- Secured Building.

5/26/2022- Finding of Unsafe Structure, Order to Vacate, Secure Building, and Make Repairs Notice of Right to Appeal- Sent to Cascade Funding Mortgage Trust HB7, Bex Realty LLC, and REO Management Solutions Sent Certified Mail and Affidavit of Service by Electronic Means

6/22/2022- Re-secured the Building.

8/4/2022- Dangerous Building Notice and Order Memo sent to Mayor and City Commissions.

8/16/22- Notice of Dangerous Building Hearing- Order to Show Cause.

8/22/2022- Dangerous Building Hearing

Additional Information:

Police Call History:

As of 8/4/2022- Still Receiving Police Calls occurring at the Property- 68 Phone Calls in Total.

**NOTICE OF VIOLATION AND
ORDER OF THE BUILDING OFFICIAL TO
CORRECT A BUILDING CODE VIOLATION**



225 4th Street North
Fargo ND 58102
701-241-1561

Betty Walock
437 23 St S
Fargo, ND 58103

Wednesday, December 02, 2020

Filing 20-0790-CJY

ADDRESS OF PROPERTY IN VIOLATION: 437 23 St S

This notice is to inform you that a violation of the Fargo Building Code exists at the above referenced property. The specific code section that has been violated, the items that constitute the violation and the method for correction of the violation are as follows:

Code Section	Description and Method of Correction	Comply By
IPMC 307.1 Rubbish and Garbage Not Allowed to Accumulate	All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage. Garbage to be disposed of properly.	12/17/2020
IPMC 307.2 Rubbish Must Be Properly Disposed OF	Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.	12/17/2020
IPMC 307.2.1 Rubbish Containers Must Be Supplied	The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.	12/17/2020
IPMC 307.2.2 Refrigerators Must Be Properly Disposed Of	Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.	12/17/2020
IPMC 302.1 Sanitation	All exterior property and premises shall be maintained in a clean, safe and sanitary condition.	12/17/2020
FMC 13-0903 Junk, Trash and Abandoned Vehicles in Yard	You have stored or permitted the storage or accumulation of [trash, rubbish, junk, junk automobiles; abandoned vehicles] on private property in the city of Fargo other than in a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer.	12/17/2020

You are responsible for the correction of this violation in the manner described. You are further notified that you may propose alternate methods of correction. These alternate methods must be approved by City staff and will not be allowed to extend the date for compliance.

You are further notified that the Code provides an appeal procedure. Any person aggrieved by any decision of any order, requirement, decision or determination made by any member of the staff of the city shall have the right to appeal to the board. Application forms for the Board of Appeals are available at the City Hall, 225 4th Street North.

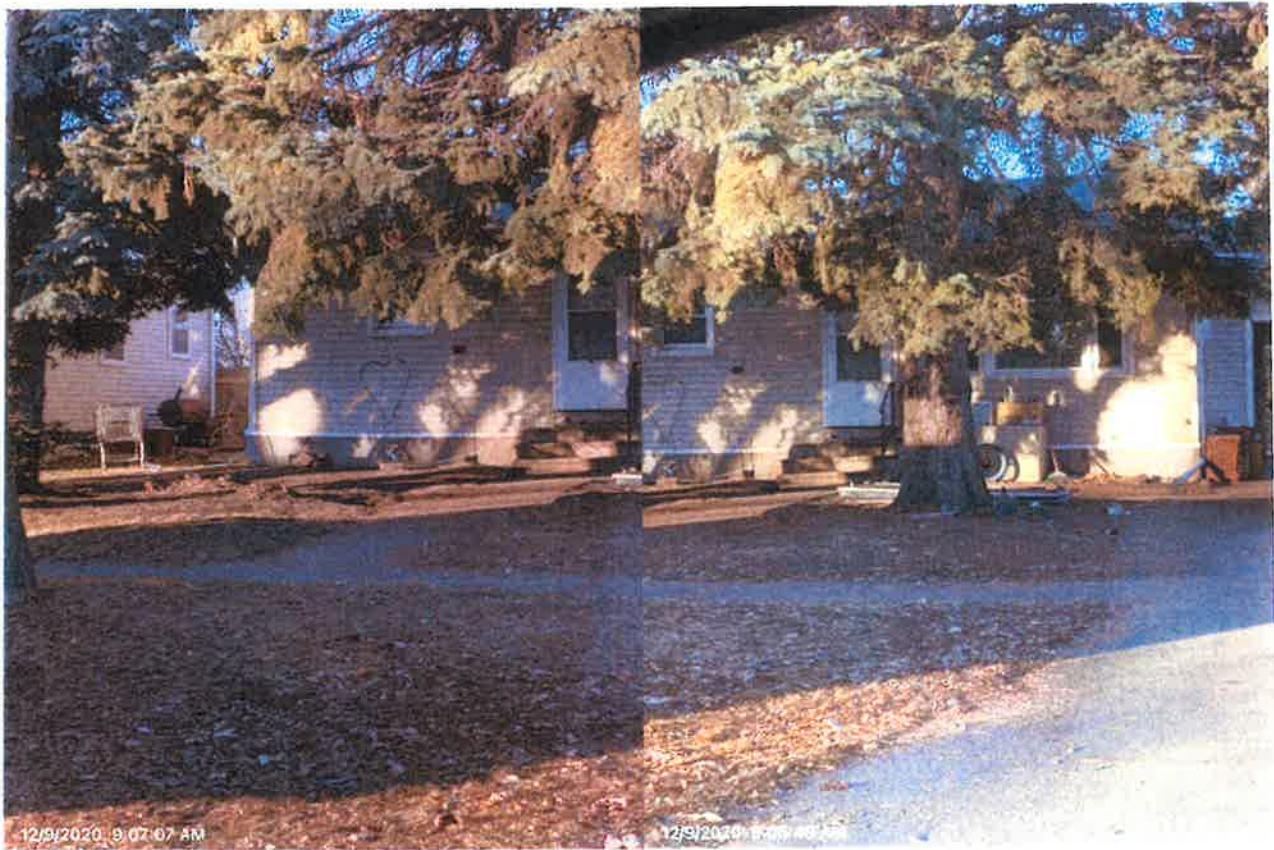
Failure to comply may be construed as a violation of the above referenced Municipal Ordinance and punishable by a Municipal Infraction.

Sincerely,



Laura Langdahl

Code Enforcement Inspector









**NOTICE OF PAST DUE VIOLATION AND
ORDER OF THE BUILDING OFFICIAL TO
CORRECT A BUILDING CODE VIOLATION**



225 4th Street North
Fargo ND 58102
701-241-1561

Occupants
437 23 St S
Fargo, ND 58103

Friday, March 12, 2021

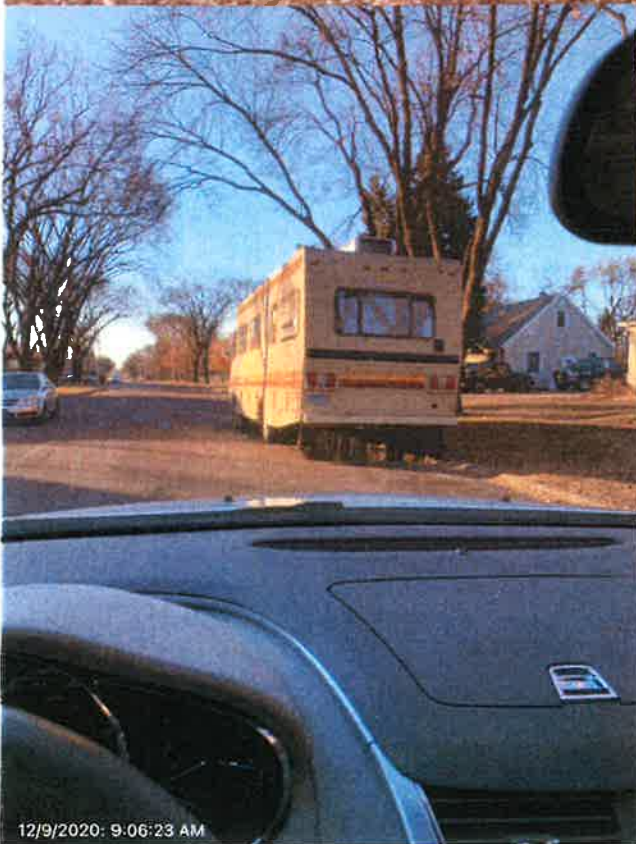
Filing 20-0790-CJY

ADDRESS OF PROPERTY IN VIOLATION: 437 23 St S

This notice is to inform you that a violation of the Fargo Building Code exists at the above referenced property. The specific code section that has been violated, the items that constitute the violation and the method for correction of the violation are as follows:

Code Section	Description and Method of Correction	Comply By
IPMC 307.1 Rubbish and Garbage Not Allowed to Accumulate	All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage. Garbage to be disposed of properly.	12/17/2020
IPMC 307.2 Rubbish Must Be Properly Disposed OF	Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.	12/17/2020
IPMC 307.2.1 Rubbish Containers Must Be Supplied	The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.	12/17/2020
IPMC 307.2.2 Refrigerators Must Be Properly Disposed Of	Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.	12/17/2020
IPMC 302.1 Sanitation	All exterior property and premises shall be maintained in a clean, safe and sanitary condition.	12/17/2020
FMC 13-0903 Junk, Trash and Abandoned Vehicles in Yard	You have stored or permitted the storage or accumulation of trash, rubbish, junk, junk automobiles and abandoned vehicles on private property in the city of Fargo other than in a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer.	12/17/2020

You are responsible for the correction of this violation in the manner described. You are further notified that you may propose alternate methods of correction. These alternate methods must be approved by City staff and will not be allowed to extend the date for compliance.



You are further notified that the Code provides an appeal procedure. Any person aggrieved by any decision of any order, requirement, decision or determination made by any member of the staff of the city shall have the right to appeal to the board. Application forms for the Board of Appeals are available at the City Hall, 225 4th Street North.

Failure to comply may be construed as a violation of the above referenced Municipal Ordinance and punishable by a Municipal Infraction.

Please see attached photos

Sincerely,



Laura Langdahl

Code Enforcement Inspector



**NOTICE OF VIOLATION AND
ORDER OF THE BUILDING OFFICIAL TO
CORRECT A BUILDING CODE VIOLATION**



225 4th Street North
Fargo ND 58102
701-241-1561

Current Occupants of
437 23 St S
Fargo, ND 58103

Monday, October 18, 2021

Filing 21-0745-CIN

ADDRESS OF PROPERTY IN VIOLATION: 437 23 St S

This notice is to inform you that a violation of the Fargo Building Code exists at the above referenced property. The specific code section that has been violated, the items that constitute the violation and the method for correction of the violation are as follows:

Code Section	Description and Method of Correction	Comply By
FMC 13-0903 Junk, Trash and Abandoned Vehicles in Yard	You have stored or permitted the storage or accumulation of trash, rubbish and junk on private property in the city of Fargo other than in a completely enclosed building or upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer. Dispose of accumulated junk and garbage. Including, but not limited to, furniture, clothing, boxes, tires, shopping cart, door, grills, camping or hunting equipment and a pull behind bike cart.	11/2/2021
FLDC 11-0804 Harborage for vermin	It shall be unlawful for any person to accumulate on any premises, improved or vacant, or on any open lots and alleys in the city, any lumber, boxes, barrels, bricks, stones, or similar material that may be permitted to remain thereon, unless the same shall be placed on open racks that are elevated not less than 18 inches from the ground and evenly piled or stacked so that these materials will not afford harborage for vermin. Elevate any building material to be saved.	11/2/2021
IPMC 304.7 Roofs and Flashing Must Be Maintained.	The downspout is clogged. Clean, repair or replace.	11/2/2021
IPMC 307.2 Rubbish Must Be Properly Disposed OF	Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.	11/2/2021
IPMC 302.1 Sanitation	All exterior property and premises shall be maintained in a clean, safe and sanitary condition.	11/2/2021
IPMC 304.1	The exterior of a structure shall be maintained in good repair, structurally sound	11/2/2021

Exterior of Structure Must Be Maintained	and sanitary so as not to pose a threat to the public health, safety or welfare. Remove accumulated junk and garbage and secure door on rear of garage.	
FMC 13-1410.2 Garbage Receptacles	You have stored garbage and refuse within the premises in a manner that is not using watertight, nonabsorbent receptacles which are covered with close fitting lids to prevent access to birds, rodents, and other vermin. You have failed to keep your garbage receptacles in good repair.	11/2/2021
IPMC 505.3 Water Supply	The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices, and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks. Water service must resume if you are to continue to occupy the structure.	11/2/2021
IPMC 108.1.3 Unfit for Human Occupancy and Must Be Condemned	The structure at 437 23 St S is unfit for human occupancy because it is unsafe, unlawful or because of the degree of disrepair or lack of maintenance; it is unsanitary (vermin or rat infested, or contains filth and contamination); or lacks ventilation, illumination, sanitary or heating facilities, or other essential equipment or because the location of the structure constitutes a hazard to the occupants of the structure or to the public). Remove accumulated garbage and resume water service or the structure will be pursued as dangerous.	11/2/2021
IPMC 302.7 Accessory Structures	All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair. Mend or remove fence.	11/2/2021

You are responsible for the correction of this violation in the manner described. You are further notified that you may propose alternate methods of correction. These alternate methods must be approved by City staff and will not be allowed to extend the date for compliance.

You are further notified that the Code provides an appeal procedure. Any person aggrieved by any decision of any order, requirement, decision or determination made by any member of the staff of the city shall have the right to appeal to the board. Application forms for the Board of Appeals are available at the City Hall, 225 4th Street North.

Failure to comply may be construed as a violation of the above referenced Municipal Ordinance and punishable by a Municipal Infraction.

Sincerely,


Laura Langdahl
Code Enforcement Inspector





Lh

Fargo Inspections

City of Fargo
225 4th Street North
701-241-1561
701-476-6779 fax



NOTICE OF DANGEROUS BUILDING AT 437 23 ST S

TO: Betty Walock
437 23 St S

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.

2. That the building with which this Notice is concerned is commonly known as 437 23 St S, and is located on that tract of land in the city of Fargo, more particularly described as follows: Lot: 2 Block: 26 EGBERT ONEIL & HAGGARTS S 22' LOT 2 & N 33' LOT 3 BLK 26

REPLAT (03/03/1950 B-B, P-55)
(hereinafter referred to as "the building")

3. That an inspection was made of the building on the 9th day of November, 2021 by Laura Langdahl, Code Enforcement Inspector.

4. That the building inspector for the City of Fargo has found the building, consisting of a 720 square foot, single story, wood frame, single family home built in 1954 with attached single stall garage to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and the International Property Maintenance Code, Section 108.1.5 concerning Dangerous Structures.

5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.

6. That the owner of the building must demolish the building within **30 days** from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.

7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Property Maintenance Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings, the International Property Maintenance Code and the International Building Code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or **structure must be vacated by the 17th day of November, 2021** as required by Section 108.2 of the International Property Maintenance Code, 2018 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 9th day of November, 2021.

11. Order to secure building. The undersigned building official has determined that the **building must be secured and remain secured by the 17th day of October, 2021**. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance. **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

12. Application for Appeal. Section 111.1 of the International Property Maintenance Code states that any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on the claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Dated this 15th day of November, 2021.

Conditions Found Statement

On the 9th day of October, 2021, Building Inspector Laura Langdahl, was present at 437 23 St S, Fargo, ND to address a code enforcement inspection. The following violations were found:

- Observance of squatter occupied structure which is supposed to be vacant.
- No water service since July 1, 2021 with documented call to Fargo Police for stealing water from neighboring property.
- History of police calls for service to property.
- Fence is damaged and falling.
- Accumulation of junk and trash in front and rear yard allowing for harborage and infestation.
- Gutter and drainage system not maintained and growing vegetation.
- Indoor furniture stored outside allowing for harborage and infestation.
- Cracked and peeling paint compromising weatherproof surface.
- Rear door to garage not secured.
- Overhead door of garage is damaged and not secure.

The following action must be taken:

- Provide engineering on all systems and obtain a permit to repair and make repairs by permit deadline -or-
- Demolish the structure within the deadline provided in this notice.



Laura Langdahl
Code Enforcement Inspector
City of Fargo, ND



Shawn Ouradnik
Inspections Director



Date Signed

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Notice of Dangerous Building – 437 23rd St. S., Fargo, ND 58103-1327
CM Receipt#: 9214 8901 9403 8359 2649 26

Kristi Stoffel, being first duly sworn and being of legal age, deposes and says that on the 15th day of November, 2021, she served the attached notice, upon Betty Walock, by placing true and correct copies thereof in an envelope addressed as follows:

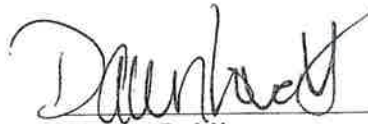
Betty Walock
437 23 St S.
Fargo, ND 58103-1327

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.



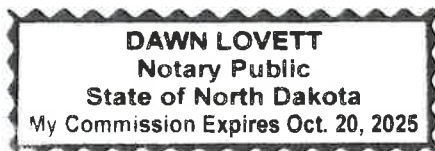
Kristi Stoffel

Subscribed and sworn to before me this 15th day of November, 2021.



Notary Public
Cass County, North Dakota

(SEAL)



AFFIDAVIT OF SERVICE

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

Re: Posting of Dangerous Building Notice 437 23rd St. S., Fargo, ND 58103-1327


Laura Langdahl, being first duly sworn and being of legal age, deposes and says that on the 15th day of November 2021, she posted the attached notice upon the front of the house with attached garage located at the following address:

437 23rd St. S.
Fargo, ND 58103-1327



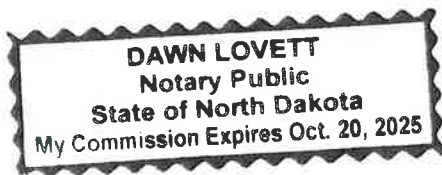
Laura Langdahl

Subscribed and sworn to before me this 15th day of November, 2021.



Notary Public
Cass County, North Dakota

(SEAL)



City of Fargo
225 4 Street N
Fargo ND 58102

USPS CERTIFIED MAIL



9214 8901 9403 8359 2649 26

BETTY L WALOCK
437 23RD ST S
FARGO ND 58103-1327



ASSESSOR'S OFFICE
Fargo City Hall
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1340 | Fax: 701.241.1339
www.FargoND.gov

MEMORANDUM:

DATE: 11/22/2021
TO: Shawn Ouradnik, Inspections Director
FROM: James Haley, Deputy City Assessor
SUBJECT: 437 23 St S

On November 17th, I viewed the exterior; and on November 22nd, I viewed interior photos dated 11/17/2021 of 437 23 St S.

I calculated the cost to cure the damage indicated by the photos, and stated requirements of the City of Fargo Inspection Department. My calculations indicate that the cost to cure the deterioration of the subject building exceeds 50% of the most recent certified True & Full Improvement Value of the dwelling.

Rec'd
12/7/21 KS

301101

Invoice

SOLD TO City of Fargo		SHIP TO ONS Construction	
ADDRESS		ADDRESS 7711 BRINK DR	
CITY STATE ZIP		CITY STATE ZIP HORACENO 58047	
CUSTOMER ORDER NO	SOLD BY	TERMS	DATE

	437	23	st S		
	Board up house and street in back				
11	Labor	3	hours @ 125	375	00
L	materials	OSB	8 sheets	96	00
	came back	3	Days		
	later	to re Board	window	125	00
	Due to	Break in			
			total	596	00

Dropped off 12-6-21

Fargo Inspections
City of Fargo
225 Fourth Street North
Fargo, North Dakota 58102
Phone: 701-241-1561
Fax: 701-476-6779



**FINDING AND DETERMINATION OF UNSAFE STRUCTURE,
ORDER TO VACATE, SECURE BUILDING, AND MAKE REPAIRS
NOTICE OF RIGHT TO APPEAL**

DATE:	5/26/2022
ADDRESS AND/OR LEGAL	437 23 St S, Fargo, ND 58103
DESCRIPTION OF SUBJECT PROPERTY:	Lot: 2 Block: 26 Egbert Oneil & Haggarts S 22' LOT 2 & N 33' LOT 3 BLK 26
NAME OF PROPERTY OWNER: ADDRESS OF PROPERTY OWNER:	Cascade Funding Mortgage Trust HB7 1 Mortgage Way, Mount Laurel, NJ 08054
NAMES AND ADDRESSES OF MORTGAGE HOLDERS, LIENHOLDERS ET CETERA AND LESSEES OF RECORD:	Cascade Funding Mortgage Trust HB7 1 Mortgage Way, Mount Laurel, NJ 08054 BEX Realty LLC 4800 N. Federal Hwy, Suite A100 Boca Raton, FL 33431 REO Management Solutions LLC 14405 Walters Road, Suite 200 Houston, TX 77014
NAME OF INSPECTOR:	Laura Langdahl, Code Enforcement Inspector

Finding of substandard building. The undersigned building official has determined the above-described subject property to be a substandard building, as is defined by the International Property Maintenance Code, 2018 edition, as adopted by reference in the Fargo Municipal Code at section 31-0101. Specifically, the violations of said housing code have been identified and are described more fully in the conditions found statement of the Inspection Division, a copy of which is attached hereto and incorporated herein as if fully set forth.

Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 108.2 of the International Property Maintenance Code, 2018 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately on this the 26th day of May, 2022.

Order to secure building. The undersigned building official has determined that the building must be secured immediately. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance. **An inspector will continue verify compliance.** Failure to maintain a secure the building will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

Order for repair. The undersigned building official has determined that the building must be repaired. Therefore, it is hereby ordered that **all required permits be secured** for the appropriate repair of the building or structure and the **work physically commenced within 14** days of the date of this order, all exterior work completed within 30 days and all interior work completed within 180 days, which is a period of time for completion determined by the undersigned building official to be reasonable under all of the circumstances.

NOTICE OF RIGHT TO APPEAL

PLEASE BE ADVISED that any person having any record, title, or legal interest in the building, described above, may appeal from this Notice and Order or any action of the undersigned building official to the Housing Advisory and Appeals Board, provided the appeal is made in writing as provided in the International Property Maintenance Code, 2018 edition, and filed with the undersigned building official within 30 days from the date of service of this Notice and Order will constitute a waiver of all right to an administrative hearing and determination of the matter.

The foregoing constitutes the order of the undersigned building official under the authority set forth by the provisions of the Fargo Municipal Code and the International Property Maintenance Code, 2018 edition, and the required notice of right to appeal.

Dated this 26th day of May, 2022.



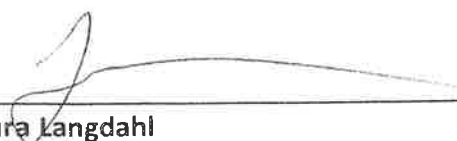
Shawn Ouradnik
Inspections Director
City of Fargo
225 Fourth Street North
Fargo, ND 58102

STATEMENT OF CONDITIONS FOUND

On the 16th day of May, 2022, Code Enforcement Inspector Laura Langdahl, was present at 437 23 St S to address a compliance inspection on an existing Dangerous Building determination. The following violations were found:

- Previous Dangerous Building notice has expired and no permits for either demolition or repair have been secured.
- Damage to electrical equipment including the breaker box, stove, oven, furnace, interior light fixtures, multiple outlets and exterior light fixtures.
- Amateur wiring throughout the house.
- Water damage on main level in the form of ceiling paint cracking and peeling, finish on walls cracking and peeling as well as rotting areas of wood flooring.
- Plumbing has been cut and removed from majority of the fixtures in the house.
- Toilet and kitchen sink are not draining. Both contain waste.
- Removal of fire alarms.
- Signs of infestation in multiple rooms including rodent feces, nests and dead rodents.
- Multiple holes in the walls with objects stored inside the walls.
- Needles and other drug paraphernalia in yard and house.
- Air circulation system has been covered and plugged.
- Cracking and shifting in basement foundation.
- Extensive water damage in the form of mold and staining in the basement.
- Graffiti in multiple areas of the building.
- Daylight is viewable through multiple areas in the block foundation of attached garage.
- Ceiling in garage has collapsed and remaining sheet rock has extensive water damage in the form of mold and staining.
- Building is in an unsanitary state.
- Fire damaged tree in rear yard is hanging over neighboring fence and power lines.
- 36 calls for service to the Fargo Police Department from October 2019 to present.

Dated this 26th day of May, 2022.



Laura Langdahl
Code Enforcement Inspector
City of Fargo
225 Fourth Street North
Fargo, ND 58102

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: FINDING AND DETERMINATION OF UNSAFE STRUCTURE, ORDER TO VACATE, SECURE BUILDING, AND MAKE REPAIRS – NOTICE OF RIGHT TO APPEAL – 437 23 St S, Fargo, ND 58103
CM Receipt#: 9214 8901 9403 8377 6664 81,
CM Receipt#: 9214 8901 9403 8377 6669 00,
CM Receipt#: 9214 8901 9403 8377 6691 78


Kristi Stoffel, being first duly sworn and being of legal age, deposes and says that on the 26th day of May, 2022, she served the attached notice, upon Cascade Funding Mortgage Trust HB7, Bex Realty LLC, and REO Management Solutions LLC, by placing true and correct copies thereof in an envelope addressed as follows:

Cascade Funding Mortgage Trust HB7
1 Mortgage Way
Mount Laurel, NJ 08054-4637

Bex Realty LLC
4800 N. Federal Hwy, Suite A100
Boca Raton, FL 33431-5176

REO Management Solutions LLC
14405 Walters Road, Suite 200
Houston, TX 77014-1345


and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.



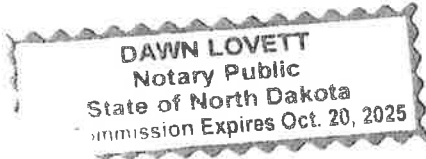
Kristi Stoffel

Subscribed and sworn to before me this 26th day of May, 2022.

(SEAL)



Notary Public
Cass County, North Dakota



**AFFIDAVIT OF SERVICE
BY ELECTRONIC MEANS**

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

**Re: FINDING AND DETERMINATION OF UNSAFE STRUCTURE, ORDER TO VACATE,
SECURE BUILDING, AND MAKE REPAIRS –NOTICE OF RIGHT TO APPEAL-FOR
ADDRESS: 437 23 St S, Fargo, ND**

Laura Langdahl, being first duly sworn and being of legal age, deposes and says that on the 26th day of May, 2022, I electronically served the following-described document(s):

“Finding and Determination of Unsafe Structure, Order to Vacate, Secure Building, and Make Repairs Notice of Right to Appeal” by Order of the Director of Inspections
Upon:

Emerye.Jackson@mortgagefamily.com
Xochitl.Martinez@mortgagefamily.com
PHHCodeViolations@phhreverse.com
jhagan@nfronline.com
code@nfronline.com
Jeffrey.hagel@gmail.com



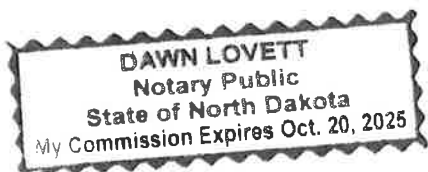
Laura Langdahl

Subscribed and sworn to before me this 26th day of May, 2022.

(SEAL)

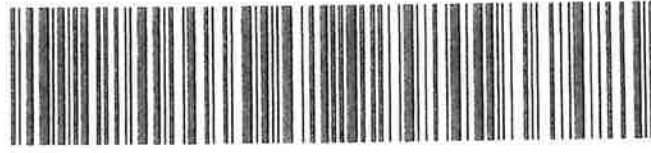


Notary Public
Cass County, North Dakota



City of Fargo
225 4 Street N
Fargo ND 58102

USPS CERTIFIED MAIL



9214 8901 9403 8377 6664 81

CASCADE FUNDING MORTGAGE TRUST HB7
1 MORTGAGE WAY
MOUNT LAUREL NJ 08054-4637

City of Fargo
225 4 Street N
Fargo ND 58102

USPS CERTIFIED MAIL



9214 8901 9403 8377 6669 00

BEX REALTY LLC
STE 100A
4800 N FEDERAL HWY
BOCA RATON FL 33431-5176

City of Fargo
225 4 Street N
Fargo ND 58102

USPS CERTIFIED MAIL



9214 8901 9403 8377 6691 78

REO MANAGEMENT SOLUTIONS LLC
STE 200
14405 WALTERS RD
HOUSTON TX 77014-1345

381121

Invoice

SOLD TO: City of Fargo
 ADDRESS: 7711 BRINK DR.
 CITY STATE ZIP: 58103
 SHIP TO: LYONS CONSTRUCTION
 ADDRESS: 7711 BRINK DR.
 CITY STATE ZIP: HOA ACEN 58047

RECEIVED

CUSTOMER ORDER NO: 437
 SOLD BY: 12/22/18
 TERMS: 23 ST S
 P.O.B. _____ DATE _____

Re Boarded up shed to back of house			
Materials	42.50		
Labor			
			\$ 250.00
			42.50
			<u>292.50</u>

adams 7490



Fargo Inspections

City of Fargo
225 Fourth Street North
701-241-1561
fax 701-476-6779

Memorandum

DATE: August 4th, 2022
TO: Mayor Mahoney and Board of City Commissioners
FROM: Shawn Ouradnik, Inspections Director
SUBJECT: Dangerous Building Notice and Order at 437 23rd St S., Fargo, ND 58103

The property owner of 437 23rd St S, ND, has failed to comply with the order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-0405, a hearing date is scheduled for August 22nd, 2022.

The recommendation is to **designate this a dangerous building, direct the City Attorney to prepare findings of fact in this matter, and order its removal on September 22nd, 2022. Please direct the appropriate staff to secure the removal of this building at that time.**

Fargo Inspections
City of Fargo
225 Fourth Street North
Fargo, North Dakota 58102
Phone: 701-241-1561
Fax: 701-476-6779



Notice of Dangerous Building Hearing – Order to Show Cause

Date: August 16,2022

Location: 437 23rd St. S., Fargo, ND 58103
Property Owner: Cascade Funding Mortgage Trust HB7
Address of Property Owner:1 Mortgage Way, Mount Laurel, NJ 08054-4637

Inspector: Laura Langdahl
Date of Posting: November 15,2021

Ordinance 21-0405 of the Fargo Municipal Code states:

The board of city commissioners shall:

- A. Upon receipt of a report of the building inspector as provided for in § 21-0404, subsection (F) give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building: should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector(s) notice provided for herein in § 21-0404, subsection (E).
- B. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the "dangerous building."

A hearing regarding the dangerous building located at 437 23rd St. S., Fargo, ND has been scheduled for, Monday, August 22, 2022 at 5:00PM. The hearing will take place in the City Commission Chambers, located at 225 4th Street N., Fargo, ND 58102.

Any interested person or party is encouraged to attend.

Dated on this 16th day of August, 2022.



Shawn Ouradnik
Inspections Director

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

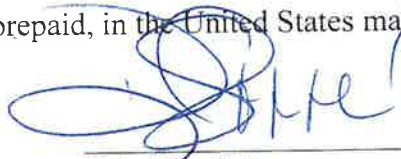
**Re: Notice of Dangerous Building Hearing– Order to Show Cause- 437 23rd St. S., Fargo,
ND 58103**

CM Receipt#: 9214 8901 9403 8386 7389 19

Kristi Stoffel, being first duly sworn and being of legal age, deposes and says that on the 17th day of August, 2022, she served the attached notice, upon by placing true and correct copies thereof in an envelope addressed as follows:

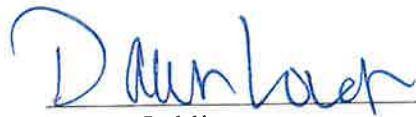
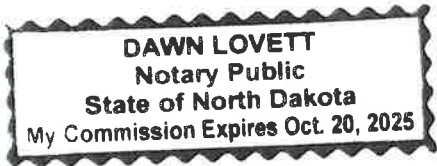
Cascade Funding Mortgage Trust HB7
1 Mortgage Way
Mount Laurel, NJ 08054-4637

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.



Kristi Stoffel

Subscribed and sworn to before me this 17th day of July, 2022.



Notary Public
Cass County, North Dakota
(SEAL)



Name and Address of Sender
 CITY OF FARGO
 225 4 STREET N
 FARGO ND 58102

Check type of mail or service

Adult Signature Required Priority Mail Express
 Adult Signature Restricted Delivery Registered Mail
 Certified Mail Return Receipt for Merchandise
 Certified Mail Restricted Delivery Signature Confirmation
 Collect on Delivery (COD) Insured Mail Restricted Delivery
 Insured Mail
 Priority Mail
 Signature Confirmation Restricted Delivery

USPS Tracking/Article Number

1. 9214 9901 9403 8386 7389 19

CASCADE FUNDING MORTGAGE TRUST HB7
 1 MORTGAGE WAY
 MOUNT LAUREL, NJ 08054-4637

Affix Stamp Here
 (for additional copies of this receipt)
 Postmark with Date of Receipt.

Postage	(Extra Service) Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCRD Fee	SH Fee
0.57	4.00								2.00			

Total Number of Pieces Listed by Sender: 1

Total Number of Pieces Received at Post Office: 1

Postmaster Per (Name of receiving employee)

CASCADE FUNDING MORTGAGE TRUST HB7
1 MORTGAGE WAY
MOUNT LAUREL, NJ 08054-4637

9214 8901 9403 8386 7389 19



USPS CERTIFIED MAIL

City of Fargo
225 4 Street N
Fargo ND 58102

INCIDENT SEARCH
Print Date/Time : 8/4/2022 9:00:57 AM

Incident Number	Call Date/Time	Location	Incident Type
2022-00039762	06/13/2022 06:12:37	437 23RD ST S, FGO	Suspicious
2022-00020838	04/01/2022 12:29:45	437 23RD ST S, FGO	Agency Assist.
2022-00016390	03/13/2022 20:00:35	437 23RD ST S, FGO	Welfare Check
2022-00003173	01/14/2022 19:57:26	437 23RD ST S, FGO	Suspicious
2021-00094534	11/29/2021 14:53:24	437 23RD ST S, FGO	Suspicious
2021-00094123	11/27/2021 19:14:16	437 23RD ST S, FGO	Public Assist
2021-00091791	11/17/2021 12:25:21	437 23RD ST S, FGO	Agency Assist
2021-00091220	11/15/2021 11:44:25	437 23RD ST S, FGO	Disturbance
2021-00065826	08/12/2021 16:36:42	437 23RD ST S, FGO	Suspicious
2021-00057563	07/13/2021 20:29:56	437 23RD ST S, FGO	Warrant - Wanted
2021-00057256	07/12/2021 18:23:06	437 23RD ST S, FGO	Warrant - Wanted
2021-00056697	07/10/2021 18:27:10	437 23RD ST S, FGO	Suspicious
2021-00047238	06/09/2021 01:30:28	437 23RD ST S, FGO	Suspicious
2021-00039393	05/13/2021 21:29:29	437 23RD ST S, FGO	Medical Assist
2021-00026062	03/29/2021 15:28:08	437 23RD ST S, FGO	Suspicious
2021-00018053	03/13/2021 09:07:00	437 23RD ST S, FGO	Medical Assist
2021-00014890	02/21/2021 23:35:23	437 23RD ST S, FGO	Disturbance
2021-00005522	01/20/2021 11:58:23	437 23RD ST S, FGO	Field Contact
2020-00098639	12/24/2020 13:32:14	437 23RD ST S, FGO	Field Contact
2020-00093792	12/08/2020 11:32:29	437 23RD ST S, FGO	Disturbance
2020-00089761	11/16/2020 16:07:09	437 23RD ST S, FGO	Assist Fire
2020-00066311	09/04/2020 13:12:45	437 23RD ST S, FGO	Parking Complaint
2020-00057291	08/11/2020 09:34:55	437 23RD ST S, FGO	Domestic
2020-00054050	08/05/2020 16:20:16	437 23RD ST S, FGO	Domestic
2020-00053698	07/25/2020 20:40:34	437 23RD ST S, FGO	Domestic
2020-00040150	06/07/2020 09:15:30	437 23RD ST S, FGO	Stolen Vehicle
2020-00036200	05/23/2020 14:35:27	437 23RD ST S, FGO	Suspicious
2020-00029029	04/22/2020 15:12:41	437 23RD ST S, FGO	Warrant - Wanted
2020-00026395	04/08/2020 18:39:31	437 23RD ST S, FGO	Disturbance
2020-00020345	03/13/2020 13:36:22	437 23RD ST S, FGO	Disturbance
2020-00019215	03/09/2020 20:23:23	437 23RD ST S, FGO	Requester Offender
2020-00003171	01/13/2020 14:28:09	437 23RD ST S, FGO	Disturbance
2019-00100495	11/28/2019 15:16:18	437 23RD ST S, FGO	Narcotics
2019-00099118	11/23/2019 16:34:42	437 23RD ST S, FGO	Animal Calls
2019-00098362	11/21/2019 11:00:00	437 23RD ST S, FGO	Animal Calls
2019-00090364	10/23/2019 10:16:11	437 23RD ST S, FGO	Stolen Vehicle
2019-00089030	10/18/2019 14:00:55	437 23RD ST S, FGO	Stolen Vehicle
2019-00086658	10/09/2019 18:23:24	437 23RD ST S, FGO	Narcotics
2019-00086595	10/08/2019 15:45:27	437 23RD ST S, FGO	Narcotics - Theft
2019-00086520	09/21/2019 19:08:41	437 23RD ST S, FGO	Welfare Check
2019-00069476	08/14/2019 16:45:52	437 23RD ST S, FGO	Animal Calls
2019-00069269	08/11/2019 00:11:23	437 23RD ST S, FGO	Animal Calls
2019-00068152	07/29/2019 11:02:00	437 23RD ST S, FGO	Suspicious
2019-00064008	07/29/2019 09:47:35	437 23RD ST S, FGO	Warrant - Wanted
2019-00044717	05/30/2019 03:44:11	437 23RD ST S, FGO	Welfare Check
2019-00044707	05/30/2019 03:12:43	437 23RD ST S, FGO	Homeless
2019-00044297	02/20/2019 01:28:12	437 23RD ST S, FGO	Disturbance
2018-00080554	09/29/2018 03:07:30	437 23RD ST S, FGO	Warrant - Wanted
2018-00080517	09/29/2018 00:42:01	437 23RD ST S, FGO	Suspicious
2017-00093783	11/07/2017 19:47:44	437 23RD ST S, FGO	Theft
2017-00037783	05/09/2017 14:15:44	437 23RD ST S, FGO	Narcotics
2017-00007011	01/27/2017 22:35:34	437 23RD ST S, FGO	Suspicious
			Warrant - Wanted

Police calls for 437 23rd St S

2011-00059455	07/21/2011	03:49:32	437	23RD	ST S,	FGO	Suspicious
2011-00040848	04/25/2011	10:10:29	437	23RD	ST S,	FGO	Domestic
2010-00135550	11/11/2010	00:47:33	437	23RD	ST S,	FGO	ATL
2010-00035701	04/03/2010	01:04:22	437	23RD	ST S,	FGO	Suspicious Activity
2004-00074025	10/15/2004	17:49:01	437	23RD	ST S,	FGO	Juvenile Complaint
2004-00069968	10/03/2004	21:09:24	437	23RD	ST S,	FGO	Juvenile Complaint
2004-00068893	09/30/2004	17:01:26	437	23RD	ST S,	FGO	Juvenile Complaint
2004-00068131	09/28/2004	17:43:21	437	23RD	ST S,	FGO	xxx-Criminal Complaint
2000-00008626	03/14/2000	10:28:09	437	23RD	ST S,	FGO	Traffic Complaint
1999-00030176	08/23/1999	19:17:22	437	23RD	ST S,	FGO	Juvenile Complaint
1998-00036138	10/11/1998	16:56:00	437	23RD	ST S,	FGO	Animal Calls
1994-00026370	08/29/1994	21:38:58	437	23RD	ST S,	FGO	Missing Person
1993-00033534	11/07/1991	10:55:19	437	23RD	ST S,	FGO	Disturbance

Total Rows: 68

346

City of Fargo Staff Report			
Title:	Simonson Companies Second Addition	Date:	7-26-22
		Update:	8-18-22
Location:	5237 38 th Street South, 3825, 3863, and 3901 53 rd Avenue South	Staff Contact:	Luke Morman, Planner
Legal Description:	Lots 1-4, Block 1, Simonson Companies Second Addition		
Owner(s)/Applicant:	John Simonson (Simonson Companies, LLC) / Chris Mack (Christianson Companies)	Engineer:	N/A
Entitlements Requested:	Zone Change to repeal and re-establish a C-O, Conditional Overlay in the LC, Limited Commercial zoning district.		
Status:	City Commission Public Hearing: August 22, 2022		

Existing	Proposed
Land Use: Undeveloped	Land Use: Commercial
Zoning: LC, Limited Commercial with a C-O, Conditional Overlay	Zoning: Unchanged
Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open areas, religious institutions, safety services, basic utilities, offices, off-premise advertising , commercial parking, retail sales and service, self-storage, vehicle repair, limited vehicle service, and certain telecommunication facilities. Conditional Overlay No. 5148 prohibits certain uses.	Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open areas, religious institutions, safety services, basic utilities, offices, off-premise advertising , commercial parking, retail sales and service, self-storage, vehicle repair , limited vehicle service, and certain telecommunication facilities. The proposed Conditional Overlay also prohibits detention facilities, adult entertainment center, portable signs, industrial service, manufacturing and production, warehouse and freight movement, and aviation/surface transportation.
Maximum Lot Coverage Allowed: Maximum 55% building coverage	Maximum Lot Coverage Allowed: Unchanged

Proposal:

The applicant is seeking a zoning change to repeal and re-establish a C-O, Conditional Overlay in the LC, Limited Commercial zoning district. The properties are located at 5237 38th Street South, 3825, 3863, and 3901 53rd Avenue South, which are Lots 1-4, Block 1, Simonson Companies Second Addition.

The applicant is requesting to modify the Conditional Overlay by matching the existing C-O to the west (Ordinance 4688), which simplifies the existing C-O to our typical overlay verbiage along arterials. The existing C-O is derived from the "District of Fargo" overlays attached to AutoZone, Starbucks, Panda Express, and Wal-Mart to the east of the subject properties, across 38th Street South. These "District of Fargo" overlays are some of the most complex ones in the entire City of Fargo, thus, the applicant and Planning staff coordinated a solution to simply match the existing overlays to the west (Ordinance 4688). Some extra items the "District of Fargo" overlays includes are defined building styles, adding public community spaces, and additional parking lot design and landscaping requirements. The proposed C-O verbiage is the exact same as the overlay applied to the adjacent/nearby businesses such as Happy Harry's and First Community Credit Union to the west. This solution will simplify future development processes for both the applicant and Planning staff.

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

Surrounding Land Uses and Zoning Districts:

- North: Across 52nd Ave S, GC, General Commercial with C-O (4636), office.
- East: LC, Limited Commercial with C-O (5127), retail sales and service.
- South: LC, Limited Commercial, undeveloped.
- West: LC, Limited Commercial with C-O (4688), retail sales and service.

Area Plans:

According to the 2007 Growth Plan, the subject property is designated as "Commercial."



Legend			
Land Use	Low Med Res or Parkland	Office	Commercial Area
Low Med Res	Med-High Res	Parkland	Residential Area - medium to high density
Low Med Res or Med High Res	Commercial	Public and Instl	Residential Area - lower to medium density
		Tier 1 Northwest Area Plan	Proposed Park
		Industrial Area	Future School
		Agricultural Research	

Context:

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

Neighborhood: The subject property is located within The District neighborhood.

Parks: The Pines Park is within a quarter mile to the southwest of the subject property. This park provides a basketball court, grills, picnic tables, playgrounds for ages 2-5 and 5-12, recreational trails, and a shelter.

Pedestrian / Bicycle: There are ten foot wide tails along 52nd Avenue South, eight foot wide tails along 53rd Avenue South, eight foot wide trails on the west sides of 42nd Street South and 38th Street South, and shared-use paths within The Pines Park.

Bus Route: There are no bus routes within a quarter mile of the subject property.

Staff Analysis:

Zoning

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?** Staff is unaware of any error in the zoning map as it relates to this property. The applicant is requesting to modify the conditional overlay to simplify the verbiage from the existing C-O on the subject properties, by matching the C-O verbiage on the properties to the west. In reviewing the existing C-O, staff found that simplifying the verbiage will sufficiently match our typical overlays on arterial roadways.
(Criteria Satisfied)

2. **Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**
City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property is adjacent to existing developed public rights-of-way, which provide access and public utilities to serve the property.
(Criteria Satisfied)

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

4. **Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?**
The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed amended C-O is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, 2007 Growth Plan, and other adopted policies of the City.
(Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and hereby waive the requirement of receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for the first reading, and move to approve the proposed zone change to repeal and re-establish a C-O, Conditional Overlay in the LC, Limited Commercial zoning district, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, 2007 Growth Plan, Standards of Section 20-0906.F(1-4), and all other applicable requirements of the LDC.

Planning Commission Recommendation: August 2, 2022

At the August 2nd, 2022 Planning Commission hearing, by a vote of 6-0 with three members absent and two Commission seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and recommend approval to the City Commission on the proposed zone change to repeal and re-establish a C-O, Conditional Overlay in the LC, Limited Commercial zoning district, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, 2007 Growth Plan, Standards of Section 20-0906.F(1-4), and all other applicable requirements of the LDC.

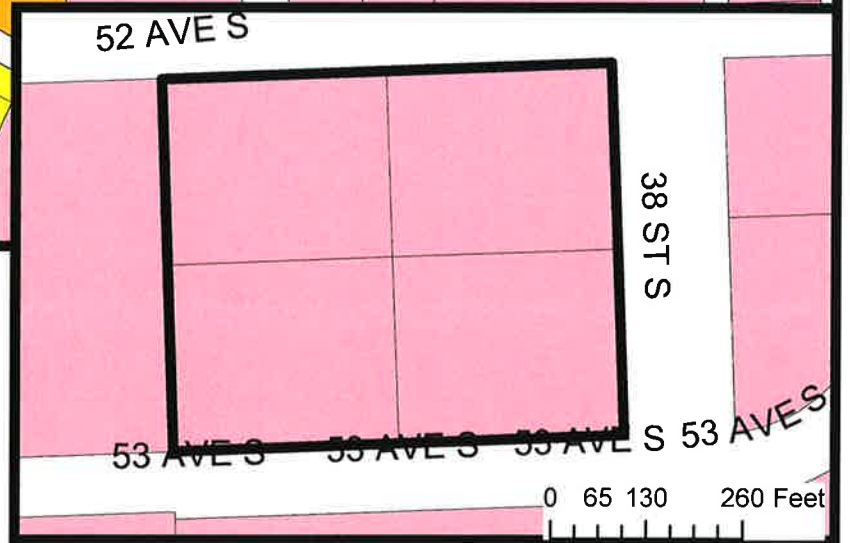
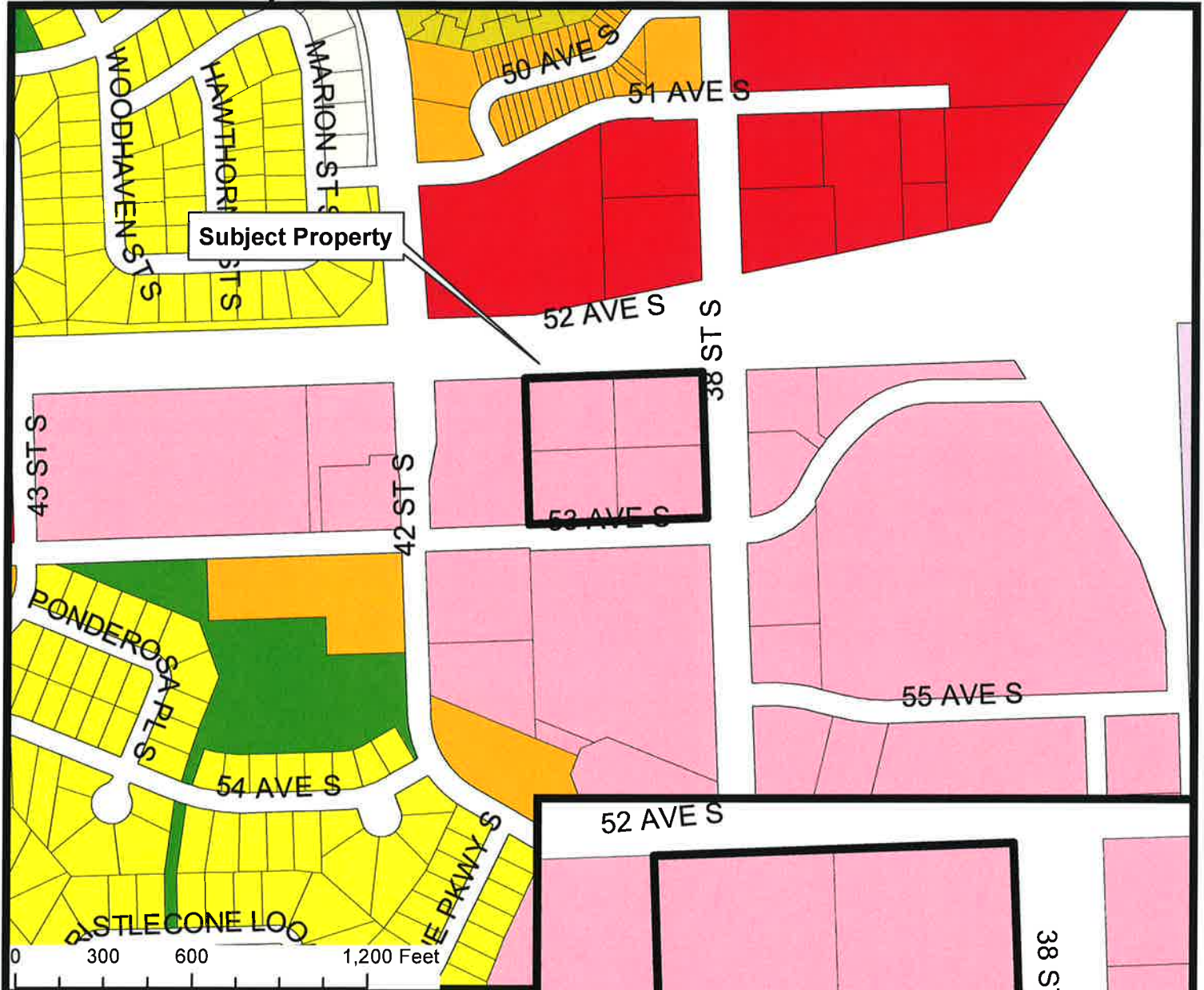
Attachments:

1. Zoning map
2. Location map
3. Draft Conditional Overlay

Zone Change (repeal and re-establish a C-O)

Simonson Companies Second Addition

5237 38th St S & 3825,
3863 and 3901 53rd Ave S



Legend

AG	DMU	LC	MHP	SS
GGC	GO	MR-1	NZO	SS-1
MR-2	MR-3	PJ	UMU	SS-2
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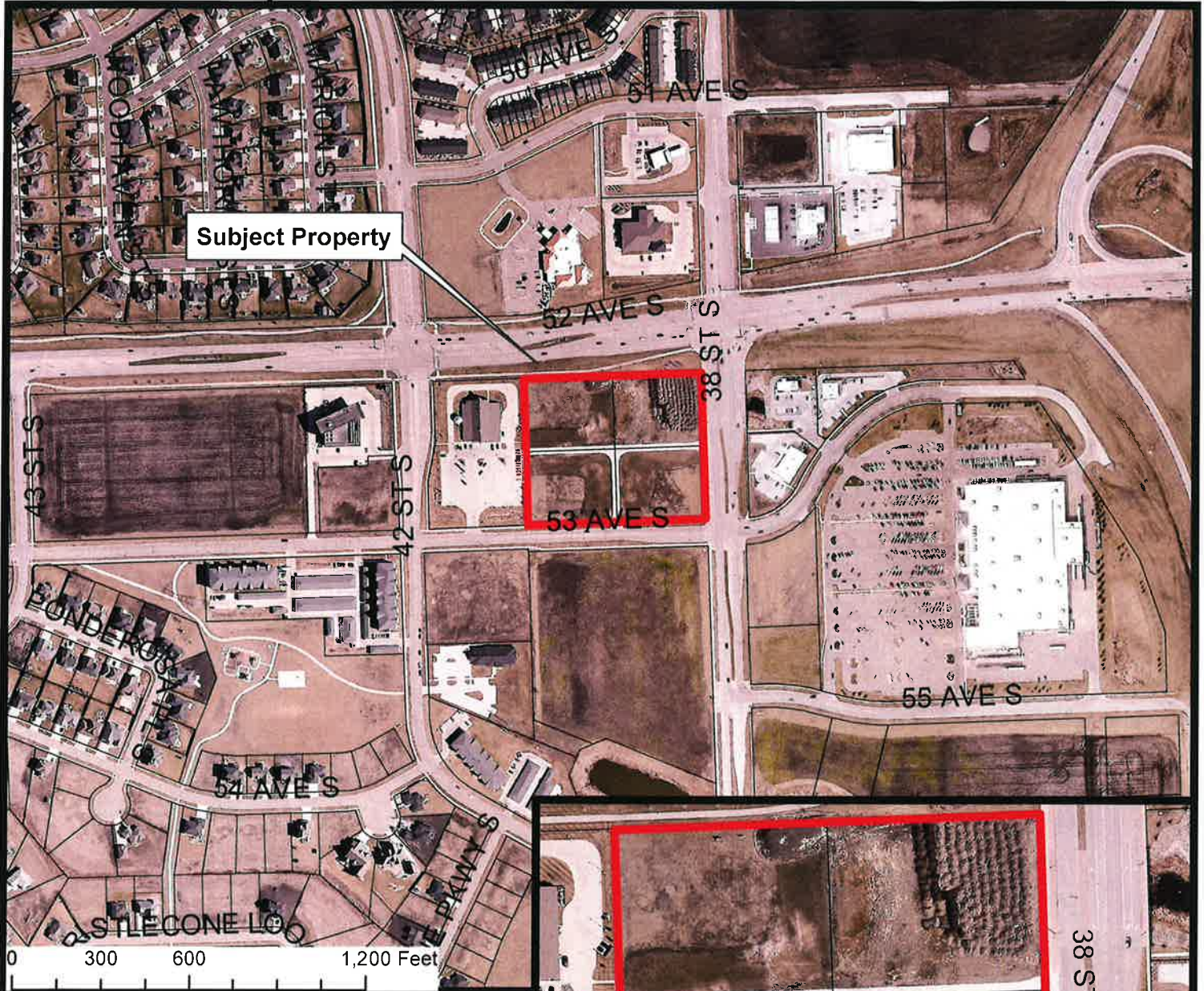


Fargo Planning Commission
August 2, 2022

Zone Change (repeal and re-establish a C-O)

Simonson Companies Second Addition

5237 38th St S & 3825,
3863 and 3901 53rd Ave S



Simonson Companies Second Addition Draft Conditional Overlay REVISED August 2, 2022

Applies to Lots 1-4, Block 1 of Simonson Companies Second Addition, zoned LC, Limited Commercial

1. This Conditional Overlay is intended to provide for a higher quality of design than is afforded by the City of Fargo Land Development Code regarding the future commercial development.
2. All primary buildings shall be constructed or clad with materials that are durable, economically-maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; or glass. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the appearance of wood may be used.
3. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.
4. All building facades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the facade, and extending at least 20 percent of the length of the facade. No uninterrupted length of any facade shall exceed 150 horizontal feet. An articulated façade would emphasize elements on the face of a wall including change in setback, materials, roof pitch or height.
5. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60 percent of their horizontal length. If the facade facing the street is not the front, it shall include the same features and/or landscaping in scale with the facade.
6. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets, including but not limited to the back of the structure. The average height of such parapets shall not exceed one third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance of greater than 150 feet.
7. Loading facilities shall not be located at the front of structures where it is difficult to adequately screen them from view. All loading and service areas shall be screened from the view of adjacent public streets through a structure and/or landscaping.
8. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way or residentially zoned property. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor.
9. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of

pedestrian walkways shall be designed to provide direct access and connections to and between the following:

- a. The primary entrance or entrances to each commercial building, including pad site buildings.
- b. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
- c. Parking areas or structures that serve such primary buildings.
- d. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network.
- e. Any public sidewalk system along the perimeter streets adjacent to the commercial development.
- f. Where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings.

10. On-premise signs

- a. Every structure and complex should be designed with a precise concept for adequate signing. Provisions for sign placement, sign scale in relationship with the building, and sign readability should be considered in developing the signing concept.
- b. Signage size, color and form should complement the architecture of the building and should not compete or become the focal point of the building form.
- c. Signage must not extend horizontally or vertically past the building
- d. Signage text should be legible from arterial streets, use of recognizable imagery can be substituted for legibility of text. Sign should not be larger than necessary to achieve this legibility from the street.
- e. Sign surface areas must be less than 10% of the building surface.
- f. Signs should be located horizontally above first floor doors and windows, on awnings, or adjacent to building entrances if mounted on a wall.
- g. Corporate logos should be appropriately scaled.

- h. Separate pedestrian oriented signs should be provided when pedestrians cannot see the facade signage which is oriented to the street.
 - i. Each development site should be appropriately signed to give directions to loading and receiving areas, visitor parking and other special areas.
 - j. Multi-tenant buildings or developments may have one monument or ground mounted sign per street frontage listing all of the tenants. Monument or ground mounted signs for individual businesses in multi-tenant buildings or developments are prohibited. Monument-type signs are the preferred alternative for business identification whenever possible.
 - k. Signs should advertise a specific building or business, not products, trademarks, or special events.
 - l. Window signs used for shop fronts or mixed use building are permitted provided that the aggregate total of all window signs for each business shall not exceed 25% of its respective window area.
11. A minimum of 4.5% of the internal surface area of the parking lot shall be landscaped. The cumulative open space (green space) of each lot shall consist of at least 15% of the lot.
12. The following use(s) are prohibited:
- a. Detention Facilities
 - b. Adult Entertainment Center
 - c. Off-Premise Advertising Signs (directional signs that are less than 50 square feet in size are exempt for this prohibition)
 - d. Portable Signs
 - e. Vehicle Repair
 - f. Industrial Service
 - g. Manufacturing and Production
 - h. Warehouse and Freight Movement
 - i. Aviation/Surface Transportation
13. The Zoning Administrator shall review each applicable Site Plan to determine compliance with this Conditional Overlay and act to approve or deny the Site Plan application.
14. The decision of the Zoning Administrator may be appealed to the Planning Commission.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

3162

ORDINANCE NO. _____

1 AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
2 LYING IN SIMONSON COMPANIES SECOND ADDITION
3 TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

8 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
9 request on August 2, 2022; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on August 22,
11 2022,

12 NOW, THEREFORE,

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

14 Section 1. The following described property:

15 Lots One (1) through Four (4), Block One (1) of Simonson Companies Second Addition to
16 the city of Fargo, Cass County, North Dakota,

17 that is currently zoned "LC", Limited Commercial, District, with a "C-O", Conditional Overlay,
18 District, as established by Fargo Municipal Ordinance No. 5148, will hereby retain the base zoning
19 of "LC", Limited Commercial, District, and repeal and re-establish the existing "C-O", Conditional
20 Overlay, District to read as follows:

- 21 1. This Conditional Overlay is intended to provide for a higher quality of design than is
22 afforded by the City of Fargo Land Development Code regarding the future commercial
23 development.
2. All primary buildings shall be constructed or clad with materials that are durable,
economically-maintained, and of a quality that will retain their appearance over time,

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 including but not limited to natural or synthetic stone; brick; stucco; integrally-colored,
2 textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; or
3 glass. Natural wood or wood paneling shall not be used as a principal exterior wall
4 material, but durable synthetic materials with the appearance of wood may be used.

- 5
- 6 3. Color schemes shall tie building elements together, relate pad buildings within the same
7 development to each other, and shall be used to enhance the architectural form of a
8 building.
- 9
- 10 4. All building facades greater than 150 feet in length, measured horizontally, shall
11 incorporate wall plane projections or recesses having a depth of at least three percent of
12 the length of the facade, and extending at least 20 percent of the length of the facade. No
13 uninterrupted length of any facade shall exceed 150 horizontal feet. An articulated façade
14 would emphasize elements on the face of a wall including change in setback, materials,
15 roof pitch or height.
- 16
- 17 5. Ground floor facades that face public streets shall have arcades, display windows, entry
18 areas, awnings, or other such features along no less than 60 percent of their horizontal
19 length. If the facade facing the street is not the front, it shall include the same features
20 and/or landscaping in scale with the facade.
- 21
- 22 6. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public
23 view by parapets, including but not limited to the back of the structure. The average
height of such parapets shall not exceed one third of the height of the supporting wall,
and such parapets shall not be of a constant height for a distance of greater than 150 feet.
7. Loading facilities shall not be located at the front of structures where it is difficult to
adequately screen them from view. All loading and service areas shall be screened from
the view of adjacent public streets through a structure and/or landscaping.
8. Dumpsters and outdoor storage areas must be completely screened from view. Collection
area enclosures shall contain permanent walls on three (3) sides with the service opening
not directly facing any public right-of-way or residentially zoned property. The fourth

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

side shall incorporate a metal gate to visually screen the dumpster or compactor.

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9. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:

- a. The primary entrance or entrances to each commercial building, including pad site buildings.
- b. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
- c. Parking areas or structures that serve such primary buildings.
- d. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network.
- e. Any public sidewalk system along the perimeter streets adjacent to the commercial development.
- f. Where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings.

10. On-premise signs

- a. Every structure and complex should be designed with a precise concept for adequate signing. Provisions for sign placement, sign scale in relationship with the building, and sign readability should be considered in developing the signing concept.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- b. Signage size, color and form should complement the architecture of the building and should not compete or become the focal point of the building form.
- c. Signage must not extend horizontally or vertically past the building
- d. Signage text should be legible from arterial streets, use of recognizable imagery can be substituted for legibility of text. Sign should not be larger than necessary to achieve this legibility from the street.
- e. Sign surface areas must be less than 10% of the building surface.
- f. Signs should be located horizontally above first floor doors and windows, on awnings, or adjacent to building entrances if mounted on a wall.
- g. Corporate logos should be appropriately scaled.
- h. Separate pedestrian-oriented signs should be provided when pedestrians cannot see the facade signage which is oriented to the street.
- i. Each development site should be appropriately signed to give directions to loading and receiving areas, visitor parking and other special areas.
- j. Multi-tenant buildings or developments may have one monument or ground mounted sign per street frontage listing all of the tenants. Monument or ground mounted signs for individual businesses in multi-tenant buildings or developments are prohibited. Monument-type signs are the preferred alternative for business identification whenever possible.
- k. Signs should advertise a specific building or business, not products, trademarks, or special events.
- l. Window signs used for shop fronts or mixed-use building are permitted provided that the aggregate total of all window signs for each business shall not exceed

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FARGO, NORTH DAKOTA

ORDINANCE NO. _____

25% of its respective window area.

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11. A minimum of 4.5% of the internal surface area of the parking lot shall be landscaped. The cumulative open space (green space) of each lot shall consist of at least 15% of the lot.

12. The following use(s) are prohibited:

- a. Detention Facilities
- b. Adult Entertainment Center
- c. Off-Premise Advertising Signs (directional signs that are less than 50 square feet in size are exempt for this prohibition)
- d. Portable Signs
- e. Vehicle Repair
- f. Industrial Service
- g. Manufacturing and Production
- h. Warehouse and Freight Movement
- i. Aviation/Surface Transportation

13. The Zoning Administrator shall review each applicable Site Plan to determine compliance with this Conditional Overlay and act to approve or deny the Site Plan application.

14. The decision of the Zoning Administrator may be appealed to the Planning Commission.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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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:



City of Fargo Staff Report			
Title:	West Acres Seventh Addition	Date: Update:	7-26-22 8-18-22
Location:	1882 39 th Street South	Staff Contact:	Luke Morman, Planner
Legal Description:	Lot 1, Block 1, West Acres Seventh Addition		
Owner(s)/Applicant:	Jonathan Casper (Interstate Office, LLC), Charles Cobb (Blue Bills, LLC), and Scott Houle (Dynasty Holdings, LLC) / Kevin Hochman (Great States Construction)	Engineer:	N/A
Entitlements Requested:	Zone Change (GC, General Commercial to MR-3, Multi-Dwelling Residential)		
Status:	City Commission Public Hearing: August 22, 2022		

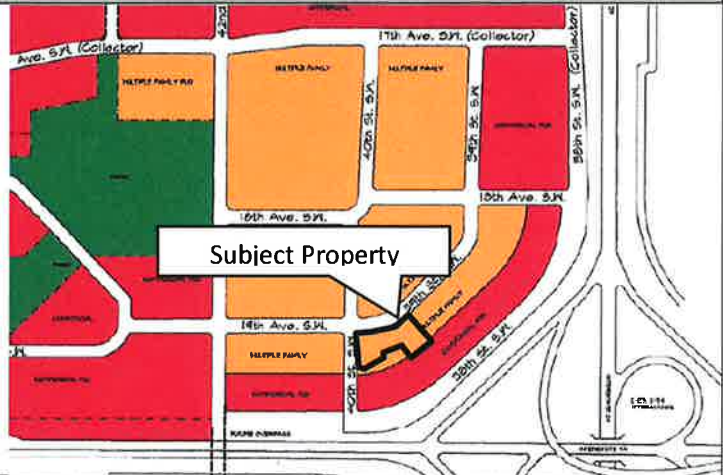
Existing	Proposed
Land Use: Undeveloped	Land Use: Multi-dwelling structure
Zoning: GC, General Commercial with a CUP, Conditional Use Permit	Zoning: MR-3, Multi-Dwelling Residential.
Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care 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, major entertainment events, and certain telecommunication facilities. CUP West Acres 4 th Addition allows a multi-dwelling structure.	Uses Allowed: Allows detached houses, attached houses, duplexes, multi-dwelling structures, group living, daycare centers up to 12 children or adults, parks and open areas, religious institutions, safety services, schools, and basic utilities. CUP West Acres 4 th Addition is nullified with this zone change.
Maximum Lot Coverage Allowed: Maximum 85% building coverage	Maximum Density Allowed: Maximum of 24 units per acre.

Proposal:
<p>The applicant is seeking approval of a Zone Change on the subject property located at 1882 39th Street South. The proposed zoning map amendment would rezone the subject property from GC, General Commercial to MR-3, Multi-Dwelling Residential.</p> <p>A Conditional Use Permit for multi-dwelling structure was approved in May of 2010 for West Acres 4th Addition under a previously planned project that was never completed. The CUP is written for a "multi-dwelling structure on a General Commercial zoned property," therefore it no longer applies with the approval of the requested zone change from GC to MR-3.</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: Across 19th Ave S, MR-3, Multi-Dwelling Residential, with multi-family dwelling units

- East: MR-3, Multi-Dwelling Residential, with multi-family dwelling units; GC, General Commercial, undeveloped
- South: GC, General Commercial; office
- West: GC, General Commercial; school

Area Plans:

There are no recent growth plans which apply directly to this location. There is, however, an area plan that was put together for this area in the 1990's. This area plan designates the property adjacent to the interstate interchange as future commercial, while identifying areas further from the interchange as multi-family.



Context:

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

Neighborhood: The subject property is located within the West Acres neighborhood.

Parks: Rabanus Park is within a quarter mile to the northwest of the subject property. This park provides basketball courts, grills, picnic tables, playgrounds for ages 2-5 and 5-12, recreational trails, sand volleyball courts, shelters, and warming houses. This is also the location of The Fargo Project: World Garden Commons and also a stormwater detention basin.

Pedestrian / Bicycle: There are sidewalks running along all street rights of way abutting the property and shared-use paths within Rabanus Park.

Bus Route: The subject property is within a quarter mile of routes 14 and 24 which run along 42nd St S. These routes have bus stops are located near the crossing streets of 19th Ave S and 18th Ave S.

Staff Analysis:

Zoning

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

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

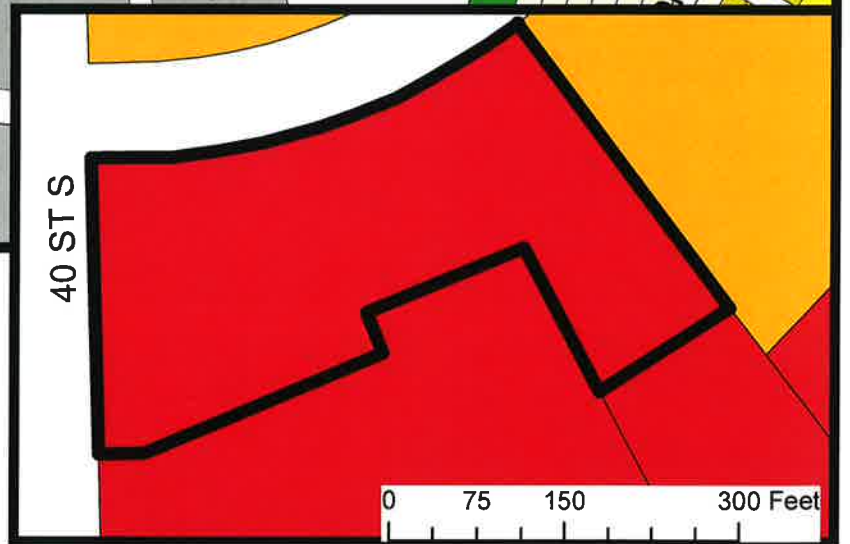
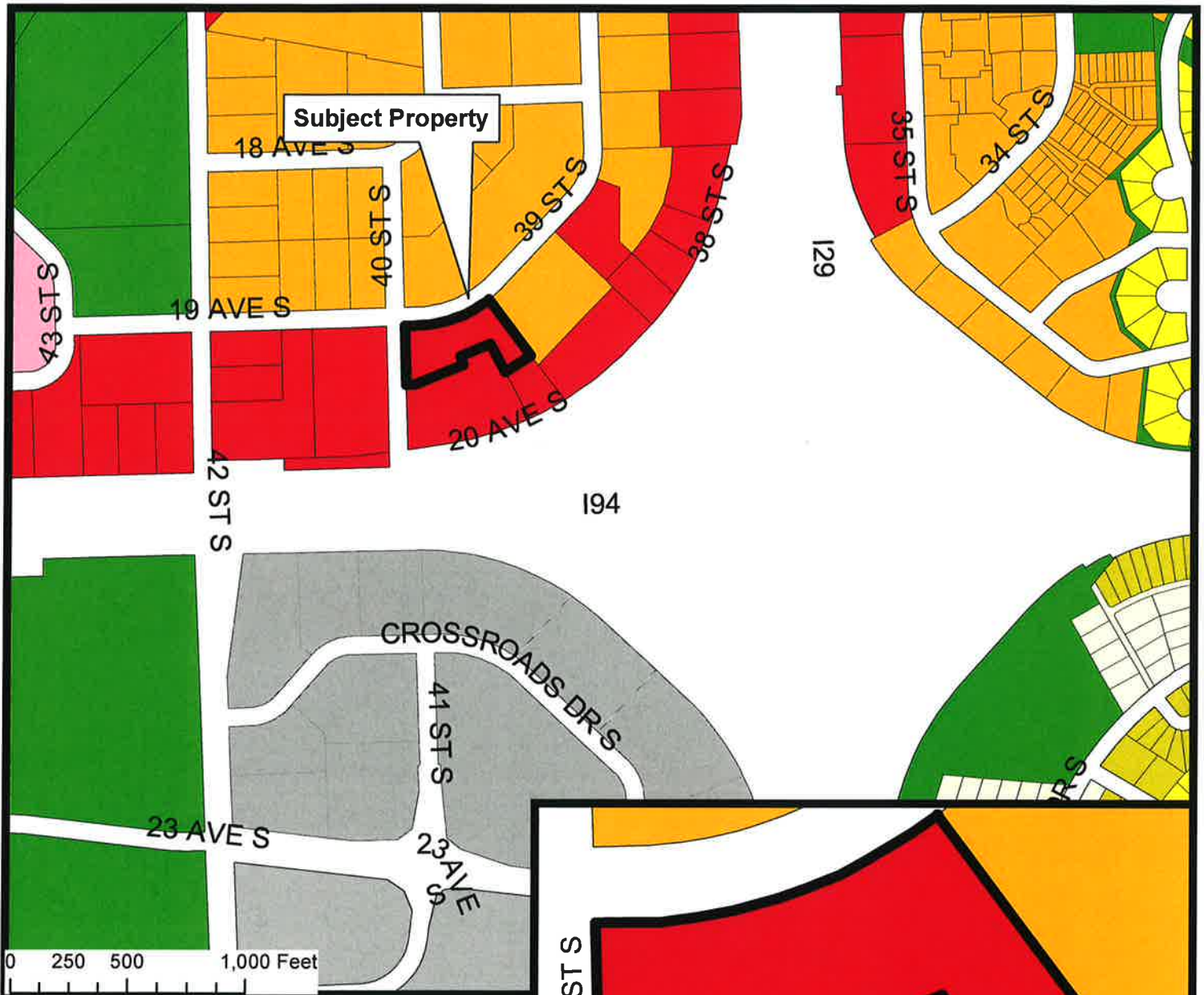
Staff is unaware of any error in the zoning map as it relates to this property. The applicant is requesting to rezone the property in order to construct an apartment building. For the use to be allowed, the applicant is requesting the property to be rezoned to MR-3, Multi-dwelling Residential. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established. **(Criteria Satisfied)**

<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. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property is adjacent to existing developed public rights-of-way, which provide access and public utilities to serve the property. (Criteria Satisfied)</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 supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners within 300 feet of the project site. To date, staff has not received any comment or inquiry. Staff finds that the proposal will not adversely affect the condition or value of the property in the vicinity. (Criteria Satisfied)</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 in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed zone change is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City. (Criteria Satisfied)</p>
<p>Staff Recommendation:</p> <p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement of receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for the first reading, and move to approve the proposed zone change from GC, General Commercial to MR-3, Multi-dwelling Residential on Lot 1, Block 1, West Acres Seventh Addition, as the proposal complies with the standards of the adopted Area plan, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC."</p>
<p>Planning Commission Recommendation: August 2, 2022</p> <p>At the August 2nd, 2022 Planning Commission hearing, by a vote of 6-0 with three members absent and two Commission seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and recommend approval to the City Commission on the proposed zone change from GC, General Commercial to MR-3, Multi-dwelling Residential on Lot 1, Block 1, West Acres Seventh Addition, as the proposal complies with the standards of the adopted Area plan, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC.</p>
<p>Attachments:</p> <ol style="list-style-type: none"> 1. Zoning map 2. Location map

Zone Change from GC to MR3

West Acres Seventh Addition

1882 39 St S



Legend

AG	DMU	GC	MHP	Office
GO	LC	MR3-1	HC	Office
	MR3-2	MR3-3	UMU	City Limits

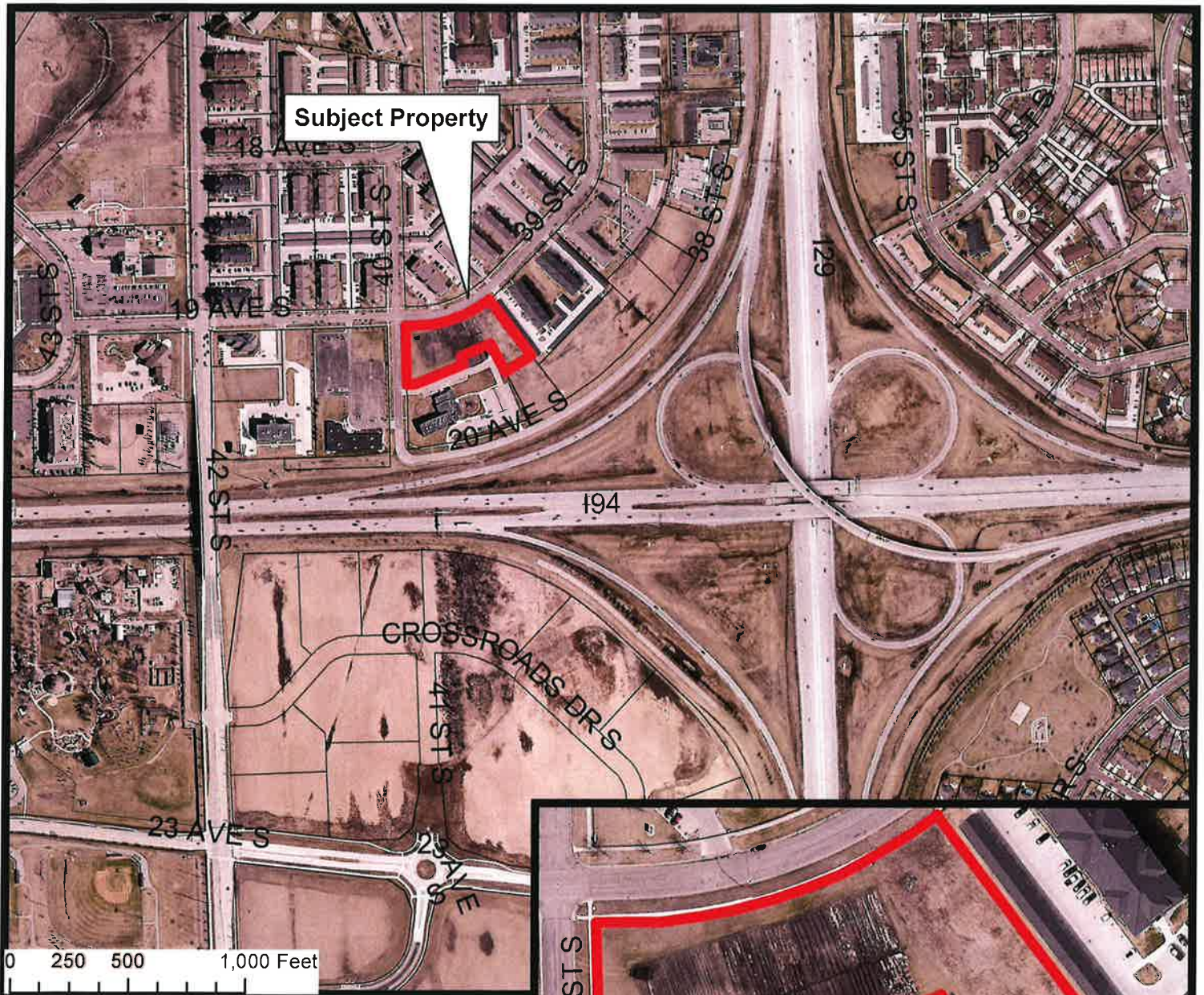


Fargo Planning Commission
August 2, 2022

Zone Change from GC to MR3

West Acres Seventh Addition

1882 39 St S



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

3A02

ORDINANCE NO. _____

1 AN ORDINANCE REZONING A CERTAIN PARCEL
2 OF LAND LYING IN WEST ACRES SEVENTH ADDITION
3 TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

8 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
9 request on August 2, 2022; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on August 22,
11 2022,

12 NOW, THEREFORE,

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

14 Section 1. The following described property:

15 Lot One (1), Block One (1) of West Acres Seventh Addition to the City of Fargo,
16 Cass County, North Dakota;

17 is hereby rezoned from "GC", General Commercial, District to "MR-3", Multi-Dwelling
18 Residential, District.

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

ORDINANCE NO. _____

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

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6 (SEAL)

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

7 Attest:

8
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10 _____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

36

August 18, 2022

Honorable Board of
City Commissioners
City of Fargo
225 North Fourth Street
Fargo, ND 58102

Re: 32nd Ave S Reconstruction Project – 32nd St S to 22nd St S
City of Fargo Improvement District No. BR-22-A1
NDDOT Project No. SU-CVD-8-984(168)

Dear Commissioners:

On July 25th the City Commission requested that Engineering amend the Documented CATEX to include the westbound to northbound right turn lane and assemble the engineering and construction cost associated with this addition. Attached you will find the Report of Action for Amendment #4 for the Engineering Consultant to complete the associated work in the amount of \$9,696. This includes completing the paperwork to amend the Documented CATEX, a partial redesign with updated plan sheets, and a change order with the associated documentation that is estimated to be \$54,000 using the bid prices.

Engineering will be back to Commission for approval of the Amended Documented CATEX and the final change order for the work.

Recommended Motion:

Approve adding the westbound to northbound right turn lane at 25th Street South to the project and Amendment #4 in the amount of \$9,696 to Apex Engineering to perform the associated work.

Respectfully Submitted,



Brenda E. Derrig, P.E.
City Engineer

Attachments

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BR-22-A0 Type: Amendment #4
 Location: 32nd Ave S, 22nd St – 32nd St Date of Hearing: 8/15/2022

<u>Routing</u>	<u>Date</u>
City Commission	<u>8/22/2022</u>
PWPEC File	<u>X</u>
Project File	<u>Eric Hodgson</u>

The Committee reviewed the accompanying correspondence from Project Manager, Eric Hodgson, for Amendment #4 in the amount of \$9,696.00 for additional work.

Staff is recommending approval of Amendment #4 in the amount of \$9,696.00, bringing the total contract amount to \$937,720.00.

On a motion by Tim Mahoney, seconded by Bruce Grubb, the Committee voted to recommend approval of Amendment #4 to Apex.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve Amendment #4 in the amount of \$9,696.00, bringing the total contract amount to \$937,720.00 to Apex.

PROJECT FINANCING INFORMATION:


Recommended source of funding for project: Sales Tax & Special Assessments

	<u>Yes</u>	<u>No</u>
Developer meets City policy for payment of delinquent specials	<u>N/A</u>	<u> </u>
Agreement for payment of specials required of developer	<u>N/A</u>	<u> </u>
Letter of Credit required (per policy approved 5-28-13)	<u>N/A</u>	<u> </u>

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
Tim Mahoney, Mayor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Bruce Grubb, Temporary City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Vacant, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:



 Brenda E. Derrig, P.E.
 City Engineer

C: Kristi Olson

Memorandum

To: Members of PWPEC
From: Eric Hodgson, Civil Engineer II
Date: August 15, 2022
Re: Improvement District No. BR-22-A0 – Amendment #4
32nd Avenue South, 32nd Street South to 22nd Street South

Background:

On May 11, 2020, staff members met to review proposals for Improvement District No. BR-22-A0 at which time Apex Engineering was selected for the work. Award of contract was approved at PWPEC on May 11, 2020, and then at City Commission on May 18, 2020.

The bid opening for the rebid of this project was June 10, 2022, and approval for recommended award was received at the July 11, 2022, City Commission Meeting.

Since that time there has been further discussion and interest in building a westbound to northbound right turn lane at 25th Street. The right turn lane had originally been omitted from the project in an attempt to make this corridor more pedestrian friendly and reduce the crossing distance needed to make a North-South movement.

In order to add the turn lane to the project, the Documented CATEX will need to be updated, a partial redesign with updated plan sheets will be performed, and a change order with associated documentation will need to be executed.

Recommended Motion:

Approve adding the westbound to northbound right turn at 25th Street to the project, and Apex's Amendment #4 in the amount of \$9,696 to perform the additional work.

EBH/klb

Attachments:
Apex Cover Letter and Amendment #4
Estimated Additional Project Cost (Change order cost)



Water | Transportation | Municipal | Facilities

701.373.7980
4733 Amber Valley Parkway
Fargo, ND 58104

Engineering Services Agreement
Amendment #4 – City Improvement District No. BR-22-A

Project: Amendment #4 for Phase III – Construction Services
32nd Avenue South Reconstruction – 32nd St S to University Drive
City Improvement District No. BR-22-A
Apex Project No. 20.103.0063

Client: City of Fargo (Engineering Department)
Attn: Eric Hodgson, PE – Engineering Department

Background / Description of Work:

This amendment includes additional time required by Apex Engineering Group to modify the Documented Categorical Exclusion, design, and impacted plan sheets to include the westbound to northbound right turn lane at 25th Street South and 32nd Ave S which will be added through a Change Order on the awarded construction contract.

The major modifications/changes to the environmental document and final design include the following:

- Amend the executive decision document in the Documented CATEX to include the additional cost of the westbound right turn lane at 32nd Ave S & 25th St S.
- Re-design the northeast quadrant radius and adjacent ADA ramps at 32nd Ave S and 25th St S. Roadway model will be updated to include the additional turn lane and sidewalk modifications to match the new section.
- Update impacted plan sheets, digitally re-sign, and include in the final Change Order.
- Update Quantities and Cost Estimate associated with addition of the right turn lane.

The additional time to modify the design, revise the plan set, and resubmit the revised plans with a change order to the City of Fargo and / or the NDDOT is represented in the following attachments:

1. Attachment #1 – Scope of Services and Summary of Hours / Fee - **\$9,696**

Fee Amendment Request:

Amendment #4: Phase III – Construction Services = **\$9,696**

Contract Terms & Conditions:

Apex Engineering Group, Inc. (“Consultant”) hereby proposes, and the City of Fargo (“City”) hereby authorizes, the above-described Amendment #4 and additional services described here in, including attachments, to be completed under the same Terms & Conditions of the original agreement signed by both parties and approved by the City of Fargo on June 23rd, 2020.

City of Fargo Authorization:

Consultant:

Signature: _____
Dr. Tim Mahoney

Signature: _____
Joshua C. Olson

Title: _____
Mayor

Title: _____
Vice President

Date: _____

Date: _____
May 3, 2022

ATTACHMENT #1

Amendment Request - #4 Scope of Services and Summary of Hours / Fee Additional Work in Phase III: Construction Engineering 32nd Avenue South Reconstruction – 32nd Street to 22nd Street City Improvement District No. BR-22-A

Apex Engineering Group, Inc.
Client: City of Fargo

PHASE III: CONSTRUCTION ENGINEERING – SUPPLEMENTAL SERVICES

This scope of services pertains to the supplemental request for additional work on 32nd Ave South from 32nd Street to 22nd Street. The additional services within this request includes the time necessary to modify the original plan submittal to include the westbound 32nd Ave S to northbound 25th St S right turn lane. This was originally included in preliminary design phases but was omitted per the executive decision document included in the Documented CATEX.

The major modifications / changes to the plan set and specifications included the following:

- Amend the executive decision document in the Documented CATEX to include the additional cost of the westbound right turn lane at 32nd Ave S & 25th St S.
- Re-design northeast quadrant radius and adjacent ADA ramps. Update roadway model to include grading modifications to this quadrant.
- See below for plan section updates

9.01 Additional - Final Design / Plan Preparation Modifications:

- Digital signatures, Minor Plan Revisions, and compiling plan sections per NDDOT requirements
 - Senior Engineer: 3 Hrs x \$189 = \$567
 - Design Engineer: 5 Hrs x \$152 = \$760
 - Engineering Technician III: 8 Hrs x \$107 = \$856
 - **Subtotal = \$2,183**

Documented CATEX Modifications

- Amend executive Decision Document.
 - Senior Engineer: 2 Hrs x \$189 = \$378
 - Design Engineer: 4 Hrs x \$152 = \$608
 - **Subtotal = \$986**

Plan Production:

- Section 04
 - Adjust scope of work to include right turn lane.
 - Engineering Technician III: 1 Hrs x \$107
 - **Subtotal = \$107**
- Section 08

- Additional Concrete, Salvaged Base Course, Geosynthetic Type G Material, Inlet Pipe quantity, and Pavement Markings. Reduction in Sidewalk Concrete, Pigmented Imprinted Concrete, and subsequent Salvaged Base Course quantity.
 - Design Engineer: 8 Hrs x \$152 = \$1,216
 - **Subtotal = \$1,216**
- Section 10
 - Geogrid Quantity Update.
 - Design Engineer: 1 Hrs x \$152 = \$152
 - **Subtotal = \$152**
- Section 11
 - Changes to Earthwork Quantity and Salvaged Base Course Summary.
 - Design Engineer: 1 Hrs x \$152 = \$152
 - **Subtotal = \$152**
- Section 30
 - Modifications to typical sections showing westbound right turn lane.
 - Graduate Engineer: 2 Hrs x \$124 = \$248
 - **Subtotal = \$248**
- Section 50
 - Update inlet locations in right turn lane.
 - Design Engineer: 2 Hrs x \$152 = \$304
 - **Subtotal = \$304**
- Section 55
 - Update inlet location in right turn lane. Adjust pipe quantities and inverts.
 - Engineering Technician III: 4 Hrs x \$107=\$428
 - **Subtotal = \$428**
- Section 56
 - Update design reference and replot
- Section 60
 - Update mainline concrete and adjacent sidewalk concrete to reflect the westbound right turn lane. Update intersection and sidewalk grading information.
 - Design Engineer: 8 Hrs x \$152 = \$1,216
 - **Subtotal = \$1,216**
- Section 77
 - Update inlet protection locations.
- Section 80
 - Update ADA grading information and sidewalk quantities.
 - Graduate Engineer: 8 Hrs x \$124 = \$992
 - **Subtotal = \$992**
- Section 85
 - Update design reference and replot
- Section 90
 - Extend transverse jointing to additional turn lane concrete.
 - Graduate Engineer: 2 Hrs x \$124 = \$248
 - **Subtotal = \$248**

- Section 100
 - Update design reference and replot
- Section 110
 - Update design reference and replot
- Section 120
 - Additional 8" white channel line and right turn arrows.
 - Graduate Engineer: 2 Hrs x \$124 = \$248
 - **Subtotal = \$248**
- Section 150
 - Modify 3 section vehicle signal head (head #8) on signal #10 to a 5 section vehicle signal head
- Section 160
 - Update design reference and replot
- Section 200
 - Update model to include turn lane in cross sections
 - Design Engineer: 8 Hrs x \$152 = \$1,216
 - **Subtotal = \$1,216**

Total for Supplemental Services #4 = \$9,696

Additional Turn Lane Cost - 32nd Ave South / 25th Street South									
SPEC	CODE	ITEM DESCRIPTION	UNIT	UNIT PRICE	ORIGINAL QUANTITY	TURN LANE QUANTITY	REVISED QUANTITY	ADDITIONAL COST	
203	101	COMMON EXCAVATION-TYPE A	CY	\$20.00	11,810.00	100.00	11,910.00	\$2,000.00	
302	101	SALVAGED BASE COURSE	CY	\$70.00	12,518.00	100.00	12,618.00	\$7,000.00	
550	310	10IN NON REINF CONCRETE PVMT CL AE-DOWELED	SY	\$110.00	25,599.00	318.00	25,917.00	\$34,980.00	
709	100	GEOSYNTHETIC MATERIAL TYPE G	SY	\$4.00	30,325.00	333.00	30,658.00	\$1,332.00	
714	315	PIPE CONC REINF 18IN CL III-STORM DRAIN	LF	\$166.00	1,695.00	11.00	1,706.00	\$1,826.00	
750	30	PIGMENTED IMPRINTED CONCRETE	SY	\$165.00	865.00	-17.00	848.00	-\$2,805.00	
750	120	SIDEWALK CONCRETE 5IN REINF	SY	\$65.00	4,635.00	-12.00	4,623.00	-\$780.00	
762	122	PREFORMED PATTERNED PVMT MK-MESSAGE(GROOVED)	SF	\$40.00	550.00	32.00	582.00	\$1,280.00	
762	1309	PREFORMED PATTERNED PVMT MK 8IN LINE-GROOVED	LF	\$12.00	3,349.00	200.00	3,549.00	\$2,400.00	
								Potential Contractor Markup	\$7,084.95
								GRAND TOTAL (ADDITIONAL COST)	\$54,000.00

(37)

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY

DATE: AUGUST 22, 2022

SUBJECT: APPOINTMENT TO THE ECONOMIC DEVELOPMENT INCENTIVES COMMITTEE

Scott Beaulier was appointed to the Economic Development Incentives Committee in May of this year. Mr. Beaulier has recently moved outside of the area and will no longer be eligible to serve on the Committee.

Attached you will find an application for Lucas Paper. Mr. Paper is willing to serve and I am, therefore, recommending his appointment.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: Approve the appointment of Lucas Paper as a member of the Economic Development Incentives Committee.

From: noreply@cityoffargo.com
Sent: Friday, April 01, 2022 11:32 AM
To: Commissions Applications
Subject: New Form Submission: Getting involved in government
Attachments: LP_1PG_Resume.pdf

Name:

[Lucas Paper]

Mailing Address:

[REDACTED]

City:

[Fargo]

State:

[North Dakota]

Zip:

[58102]

Work Phone:

[BLANK]

Home Phone:

[REDACTED]

E-mail:

[REDACTED]

Which boards or commissions would you like to be considered for?

[Economic Development Incentives Committee]

Briefly state why you would like to be on this panel:

[As an active member in the local and statewide policy and economic development community for the past decade, I care deeply about the future of the Fargo and our region.

Economic incentives play a significant role in shaping how our city grows and plans. My experience in public policy, economic development, and real estate and real estate development give me a great understanding of how incentives affect community investment.

I'd like to serve on the Economic Development Incentives Committee Members to help create a favorable environment for business and residents to make smart investments in our community.]

How many hours per month could you volunteer as a panel member?

[4-5 hours]

Please list any past experience you have with city government here or in other cities:

[I've worked with many local and city elected officials over the past decade to help shape their campaigns and policy platforms. I've also helped organize candidate forums and other election related education campaigns.

As an engaged citizen, I've attend many city meetings like State of the Cities, Economic Development Incentives Committee, Fargo City Commission meetings and advised members of the Human Rights Commission.]

Please describe any professional experience you have related to the responsibilities of the panel you are interested in:

[As a former realtor, local board member, political advisor, consultant and manager of economic development projects, I have a significant amount of experience and understanding and evaluating political policy, tax and economic incentives.]

We will retain your application for three years and consider you for the board you have indicated interest in when a vacancy arises.