

FARGO PLANNING COMMISSION AGENDA
Tuesday, August 1, 2023 at 3:00 p.m.

A: Approve Order of Agenda

B: Minutes: Regular Meeting of July 6, 2023

C: Public Hearing Items:

- 1a. Hearing on an application referred from the July 10, 2023 City Commission meeting requesting a Growth Plan Amendment on the proposed **Interstate Business District Addition** from Residential Area, Lower-to-Medium Density, Commercial, and Proposed Park to Industrial and Commercial. Application originally considered by the Planning Commission on June 6, 2023. (Located at 4753 45th Street North and 4269 40th Avenue North) (North Fargo Land, LLC; ARD Properties, LLC/Tony Eukel, MBN Engineering) (dk)
- 1b. Hearing on an application referred from the July 10, 2023 City Commission meeting requesting a Zoning Change from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed **Interstate Business District Addition**. Application originally considered by the Planning Commission on June 6, 2023. (Located at 4753 45th Street North and 4269 40th Avenue North) (North Fargo Land, LLC; ARD Properties, LLC/Tony Eukel, MBN Engineering) (dk)
- 1c. Hearing on an application referred from the July 10, 2023 City Commission meeting requesting a Plat of **Interstate Business District Addition** (Major Subdivision) a plat of a portion of the West Half of Section 15, Township 140 North, Range 49 West, of the Fifth Principal Meridian, to the City of Fargo, Cass County, North Dakota. Application originally considered by the Planning Commission on June 6, 2023. (Located at 4753 45th Street North and 4269 40th Avenue North) (North Fargo Land, LLC; ARD Properties, LLC/Tony Eukel, MBN Engineering) (dk)
2. Hearing on an application requesting a Plat of **Laverne's Third Addition** (Minor Subdivision) a replat of Lots 5-8, Block 2, Laverne's Second Addition, to the City of Fargo, Cass County, North Dakota. (Located at 2812, 2880, 2924, and 2984 42nd Street North) (Laverne Indy, LLC/Houston Engineering, Inc.) (dk)
3. Hearing on an application requesting a Plat of **Timber Parkway Tenth Addition** (Minor Subdivision) a replat of Lot 2, Block 1, Timber Parkway Fifth Addition to the City of Fargo, Cass County, North Dakota. (Located at 5161 Charles Way South) (First International Bank & Trust/Christianson Companies) (lm)
4. Hearing on an application requesting a Conditional Use Permit to allow manufacturing and production in the GC, General Commercial zoning district on Lot 2, Block 1, **45th Street Park**

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

Minutes are available on the City of Fargo Web site at www.FargoND.gov/planningcommission.

Third Addition. (Located at 200 and 300 45th Street South) (West 45th Development/Goldmark Design and Development) (lm)

5. Hearing on an application requesting a Conditional Use Permit to allow manufacturing and production in the GC, General Commercial zoning district on Lot 2, Block 1, **45th Street Park Fifth Addition.** (Located at 400 45th Street South) (West 45th Development/Goldmark Design and Development) (lm)
6. Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential on Lot 16, Block 6, **Wentz Addition.** (Located at 2320 22nd Street South) (Rob Lugert) (bg)
7. Hearing on an application requesting a Plat of **Buchholz Addition** (Minor Subdivision) a replat of Lots 4-6, Block 11, Industrial Subdivision No.1, and part of Lot 25, Hector's Subdivision, to the City of Fargo, Cass County, North Dakota including a subdivision waiver for drain setback. (Located at 1330 43rd Street North and 1301 45th Street North) (Mark Buchholz/Buchholz Properties) (dk)
8. Hearing on an application requesting a Conditional Use Permit to allow Group Living in the SR-4, Single Dwelling Residential zoning district on Lot 7, Block 1, **Golden Valley Second Addition.** (Located at 2545 69th Avenue South) (Jordahl Custom Homes/A Place to Call Home Care, LLC) (dk)

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**BOARD OF PLANNING COMMISSIONERS
MINUTES**

Regular Meeting:

Thursday, July 6, 2023

The Regular Meeting of the Board of Planning Commissioners of the City of Fargo, North Dakota, was held in the Commission Chambers at City Hall at 3:00 p.m., Thursday, July 6, 2023.

The Planning Commissioners present or absent were as follows:

Present: Rocky Schneider, Maranda Tasa, John Gunkelman, Scott Stofferahn, Art Rosenberg, Jennifer Holtz, Dawn Morgan, Thomas Schmidt, Brett Shewey

Absent: None

Chair Schneider called the meeting to order.

Business Items:

Item A: Approve Order of Agenda

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

Item B: Minutes: Regular Meeting of June 6, 2023

Member Schmidt moved the minutes of the June 6, 2023 Planning Commission meeting be approved. Second by Member Stofferahn. All Members present voted aye and the motion was declared carried.

Chair Schneider shared that the City of Fargo is in the middle of the Growth Plan process. Assistant Director of Planning and Development Mark Williams noted that a survey for residents can be found at www.fargogrowthplan.org.

Member Morgan present.

Item C: Public Hearing Items:

Item 1: EOLA Addition

1a. Continued hearing on an application requesting a Zoning Change from GC, General Commercial with a PUD, Planned Unit Development to GC, General Commercial, with an amended PUD, Planned Unit Development overlay on Lots 1-2, Block 1, EOLA Addition and on the proposed EOLA Second Addition. (Located at 4410, 4415, 4448, 4470, 4471, and 4474 24th Avenue South; 4417 and 4477 26th Avenue South) (Epic Companies/EOLA Landholdings, LLC/MAKT LLC): APPROVED

1b. Continued hearing on an application requesting an application for a PUD, Planned Unit Development Master Land Use Plan amendment on Lots 1-2, Block 1, EOLA Addition and on the proposed EOLA Second Addition. (Located at 4410, 4415, 4448, 4470, 4471, and 4474 24th Avenue South; 4417 and 4477 26th Avenue South) (Epic Companies/EOLA Landholdings, LLC/MAKT LLC): APPROVED

1c. Continued hearing on an application requesting a Plat of EOLA Second Addition (Major Subdivision) a replat of Lots 1-5, Block 2, EOLA Addition and part of Lot 1, Block 1, Anderson Park Second Addition, to the City of Fargo, Cass County, North Dakota, including a waiver for a reduced street Right-of-Way. (Located at 4410, 4448, 4470, and 4474 24th Avenue South; 4417 and 4477 26th Avenue South; 4200 23rd Avenue South) (Epic Companies/EOLA Landholdings, LLC/MAKT LLC): APPROVED

A hearing had been set for June 6, 2023. At the June 6, 2023 meeting, the Hearing was continued to this date and time.

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

Discussion was held on the public streets, size of right-of-way, and sidewalk width.

Member Morgan declared for transparency that she is the President of the Fargo Park Board.

Member Stofferahn moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from GC, General Commercial with a PUD, Planned Unit Development Overlay to GC, General Commercial with an amended PUD, Planned Unit Development Overlay, 2) amended PUD, Planned Unit Development Master Land Use Plan, and 3) Subdivision Plat EOLA Second Addition, including a waiver for a reduced street Right-of-Way, as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Article 20-06, Section 20-0907.C, Section 20-0907.D.3(a-c), Section 20-0906.F(1-4), and Section 20-0908.B(7) of the Land Development Code, and all other applicable requirements of the Land Development Code, contingent on approval by the Fargo Park Board. Second by Member Holtz. On call of the roll Members Holtz, Rosenberg, Morgan, Schmidt, Stofferahn, Tasa, Shewey, Gunkelman, and Schneider voted aye. The motion was declared carried.

Item 2: Airport Second Addition

Hearing on an application requesting a Conditional Use Permit to allow residential living in the LC, Limited Commercial zoning district on part of Lot 2, and all of Lot 3, Block 1, Airport Second Addition. (Located at 1919 University Drive North) (JPR Investments, LLC #14/Goldmark Design & Development): APPROVED

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

Discussion was held on the former use of the first floor space, the amount of space remaining as commercial, site modifications, and parking requirements.

Applicant representative Nate Vollmuth spoke on behalf of the application.

Member Gunkelman moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow residential living in the LC, Limited Commercial zoning district be approved as outlined within the staff report, as the proposal complies with Section 20-0909.D (1-6) of the Land Development Code, and all other applicable requirements of the Land Development Code, with the following conditions:

1. Up to 94 units within the existing building.
2. Expansion of building or expansion and/or change of use may require additional review by the Planning Commission.
3. At least 1,200 square feet internal to the building must remain as commercial space.

Second by Member Schmidt. On call of the roll Members Gunkelman, Holtz, Shewey, Stofferahn, Morgan, Schmidt, Rosenberg, Tasa, and Schneider voted aye. The motion was declared carried.

Item 3: 46th Avenue Industrial Park Addition

3a. Hearing on an application requesting a Zoning Change from AG, Agricultural to LI, Limited Industrial on the proposed 46th Avenue Industrial Park Addition. (Located at 3336 52nd Avenue North) (County 20 Storage & Transfer, Inc. /Lowry Engineering): APPROVED

3b. Hearing on an application requesting a Plat of 46th Avenue Industrial Park Addition (Major Subdivision) a plat of a portion of the South half of the Northwest Quarter of Section 14, Township 140 North, Range 49 West of the Fifth Principal Meridian, to the City of Fargo, Cass County, North Dakota. (Located at 3336 52nd Avenue North) (County 20 Storage & Transfer, Inc. /Lowry Engineering): APPROVED

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

Discussion was held on future street locations and connections, and proposed plans for the site.

Applicant representative Andrew Thill, Lowry Engineering, spoke on behalf of the application.

Discussion continued on the growth plan for the area, and proximity to the sewage lagoons and airport.

City Engineer Brenda Derrig spoke on behalf of the Engineering Department.

Member Shewey moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from AG, Agricultural to LI, Limited Industrial, and 2) Subdivision Plat 46th Avenue Industrial Park Addition, as outlined within the staff report, as the proposal complies with the 2007 Growth Plan, the Standards of Article 20-06, Section 20-0906.F (1-4), Section 20-0907.C of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Morgan. On call of the roll Members Morgan, Schmidt, Gunkelman, Stofferahn, Rosenberg, Holtz, Tasa, Shewey, and Schneider voted aye. The motion was declared carried.

Item 4: University South 4th Addition

4a. Hearing on an application requesting a Zoning Change from MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay, to MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay and GC, General Commercial, with a C-O, Conditional Overlay on the proposed University South Fourth Addition. (Located at 1376 Oak Manor Avenue South) (Beyond Shelter Housing, LLC. /Houston Engineering): APPROVED

4b. Hearing on an application requesting a Plat of University South Fourth Addition (Minor Subdivision) a replat of Lot 1, Block 1, University South Second Addition to the City of Fargo, Cass County, North Dakota. (Located at 1376 Oak Manor Avenue South) (Beyond Shelter Housing, LLC. /Houston Engineering): APPROVED

Planner Brad Garcia presented the staff report stating all approval criteria have been met and staff is recommending approval. He noted that an updated memo of conditions in the C-O, Conditional Overlay, was provided to the Board.

Member Holtz moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay to MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay and GC, General Commercial with a C-O, Conditional Overlay and 2) Subdivision Plat University South 4th Addition, as outlined within the staff report, as the proposal complies with the Adopted Area Plan, the Standards of Article 20-06, Section 20-0906.F (1-4), Section 20-0907.B & C of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Stofferahn. On call of the roll Members Tasa, Gunkelman, Stofferahn, Holtz, Rosenberg, Morgan, Shewey, Schmidt, and Schneider voted aye. The motion was declared carried.

Item 5: Village West Fourth Addition

Hearing on an application requesting a Plat of Village West Fourth Addition (Minor Subdivision) a replat of part of Lots 5-6, Block 1, Village West Addition, to the City of Fargo, Cass County, North Dakota. (Located at 902 40th Street South) (Christianson Companies): APPROVED

Planner Luke Morman presented the staff report stating all approval criteria have been met and staff is recommending approval.

Member Gunkelman moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat Village West Fourth Addition, as outlined within the staff report, as the proposal complies with the Standards of Article 20-06, Section 20-0907.B & C of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Schmidt. On call of the roll Members Schmidt, Shewey, Morgan, Tasa, Gunkelman, Holtz, Stofferahn, Rosenberg, and Schneider voted aye. The motion was declared carried.

Item D: Other Items:

Item 1: Annexation of approximately 14.20 acres of a portion of the Southwest Quarter of the Northwest Quarter of Section 14, Township 140 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota.: APPROVED

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

Member Gunkelman moved to find that the proposed annexation of a portion of the Northwest Quarter of Section 14, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota to be consistent with the 2007 Growth Plan. Second by Member Morgan. On call of the roll Members Rosenberg, Holtz, Shewey, Morgan, Gunkelman, Stofferahn, Tasa, Schmidt, and Schneider voted aye. The motion was declared carried.

Item 2: Annexation of approximately 80.40 acres of portions of the Southwest Quarter of Section 28, the Southeast Quarter of Section 29, and the Northeast Quarter of Section 32, Township 140 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota.: APPROVED

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

Discussion was held on the West Fargo lift station located in the property.

Ms. Derrig spoke on behalf of the Engineering Department.

Member Tasa moved to find that the proposed annexation of portions of the Southwest Quarter of Section 28, the Southeast Quarter of Section 29, and the Northeast Quarter of Section 32, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota to be consistent with the 2007 Growth Plan. Second by Member Stofferahn. On call of the roll Members Shewey, Tasa, Rosenberg, Gunkelman, Morgan, Stofferahn, Schmidt, Holtz, and Schneider voted aye. The motion was declared carried.

Assistant Director of Planning and Development Mark Williams provided an overview of the Growth Plan process and gave a brief walk-through of the <http://www.Fargogrowthplan.org> website. He further encouraged residents to complete the survey.

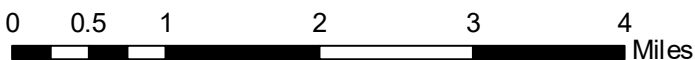
Discussion was held on the effects of the ongoing housing study on the growth plan process, and methods being used to distribute information and connect with residents.

Member Stofferahn moved to adjourn the meeting. Second by Member Rosenberg. All Members present voted aye and the motion was declared carried.

The time at adjournment was 3:53 p.m.




Agenda Items Map
 Fargo Planning Commission
 August 1, 2023



- Agenda Item Number**
- 1a, b & c -- Interstate Business District Addition
 - 2 -- Laverne's Third Addition
 - 3 -- Timber Parkway Tenth Addition
 - 4 -- 45th Street Park Third Addition
 - 5 -- 45th Street Park Fifth Addition
 - 6 -- Wentz Addition
 - 7 -- Buchholz Addition
 - 8 -- Golden Valley Second Addition

City of Fargo Staff Report			
Title:	Interstate Business District Addition	Date: Update:	4/27/2023 6/1/2023 7/6/2023 7/27/2023
Location:	4753 45th Street North and 4269 40th Avenue North.	Staff Contact:	Donald Kress, current planning coordinator
Legal Description:	Portion of the West Half of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota		
Owner(s)/Applicant:	ARD Properties, LLC; North Fargo Land, LLC / Tony Eukel, MBN Engineering	Engineer:	Mead & Hunt
Entitlements Requested:	Major Subdivision (Plat of Interstate Business District Addition , a plat of a Portion of the West Half of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota), a Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial, and Proposed Park to Industrial and Commercial; and a Zoning Change from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional		
Status:	Planning Commission Public Hearing: August 1 st , 2023		
Existing		Proposed	
Land Use: Undeveloped		Land Use: Industrial; commercial; government-owned	
Zoning: AG, Agricultural; LI, Limited Industrial with a conditional overlay, Ordinance No. 4020		Zoning: LI, Limited Industrial, with C-O; GC, General Commercial with C-O; P/I, Public/Institutional	
<p>Uses Allowed: AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production</p> <p>Uses Allowed: LI allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult establishments, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, basic utilities, certain telecommunications facilities</p> <p>C-O prohibits certain uses as shown above with strikethrough</p>		<p>Uses Allowed:</p> <p><u>LI—Limited Industrial</u> allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult establishments, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, basic utilities, certain telecommunications facilities, concrete crushing</p> <p><u>GC – General Commercial</u> allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, basic utilities, adult establishments, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, and some telecommunication facilities.</p> <p><u>P/I – Public and Institutional</u> allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services,</p>	

	<p>schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events.</p> <p>C-O's on the LI and GC zones prohibit uses as shown above with strikethrough, plus prohibit concrete crushing. The P/I zoning has no C-O.</p>
<p>AG--Maximum Density Allowed (Residential): 1 dwelling unit per 10 acres.</p> <p>LI--Maximum Lot Coverage Allowed: 85%</p>	<p>LI--Maximum Lot Coverage Allowed: 85%</p> <p>GC--Maximum Lot Coverage Allowed: 85%</p> <p>P/I--Maximum Lot Coverage Allowed: no max</p>

Proposal:

NOTE TO PLANNING COMMISSION—MEETING SUMMARIES: A summary of action at the June 6th, 2023 Planning Commission starts on page 9 of his staff report. A summary of the July 10th City Commission hearing and subsequent activities starts on page 13.

NOTE TO PLANNING COMMISSION—PROJECT UPDATE--CONCRETE CRUSHING: Following the Planning Commission's denial recommendation at the June 6th, 2023 Planning Commission hearing, the applicant decided to eliminate concrete crushing as a proposed use in this subdivision. The conditional overlay has been updated to reflect this change. The attached subdivision plat, zoning diagram, and conditional overlays apply to the currently proposed version of project, which is summarized under "REVISED PLAN—FOR JULY 10th, 2023 CITY COMMISSION HEARING " on page 11 of this staff report.

NOTE TO PLANNING COMMISSION—CITY COMMISSION ACTION ON JULY 10th, 2023: The City Commission heard this project at their July 10, 2023 meeting. After hearing all the presentations and testimony, the City Commission moved to send the project back to the Planning Commission for further review with emphasis on reviewing what the future growth plan will look like rather than on the specific uses

The applicant requests three entitlements:

1. A major subdivision, to be known as **Interstate Business District Addition**, a plat of a Portion of the West Half of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota
2. A **Growth Plan Amendment** from Residential Area, Lower to Medium Density, Commercial, and Proposed Park to Industrial and Commercial; and
3. A **Zoning Change** from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional

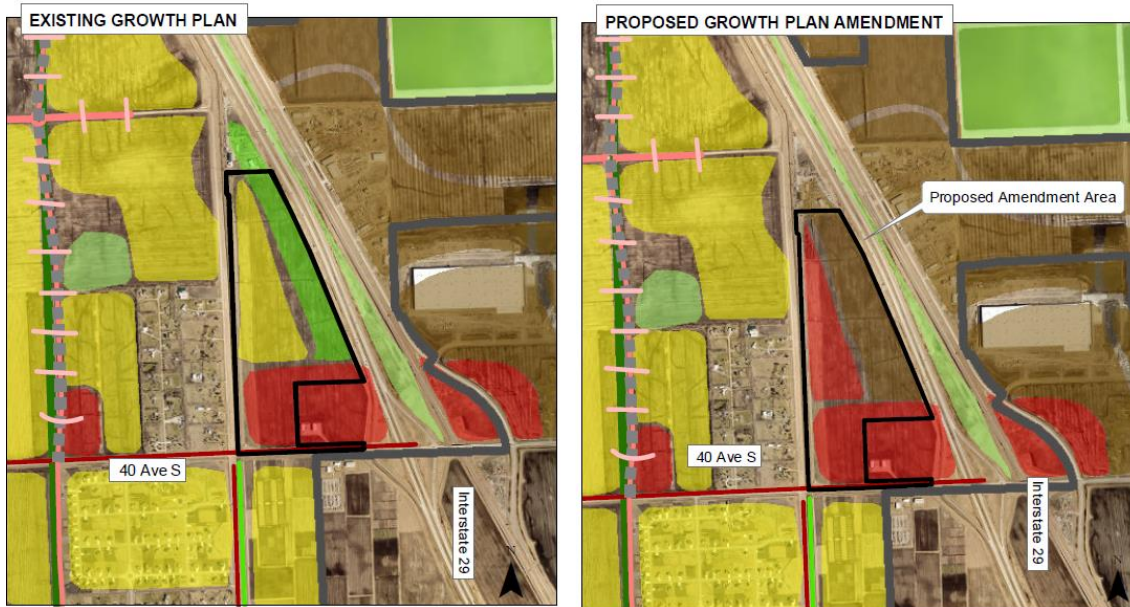
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

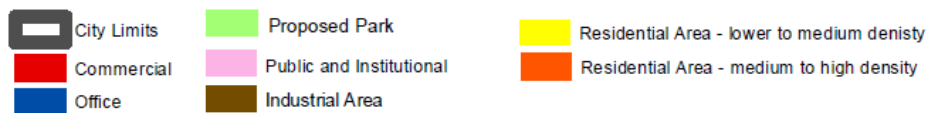
- North: LI, Limited Industrial with conditional overlay; Opp Construction Company
- East: No zoning; Interstate 29 right of way (adjacent to proposed Lots 9-15); and
- East: AG, Agricultural; fireworks sales (adjacent to proposed Lot 1)
- South: (across 40th Avenue North within city limits) P/I, Public / Institutional; North Dakota State University with agricultural uses; and
- South: (across 40th Avenue North, outside city limits) Reile's Acres extra-territorial jurisdiction; undeveloped.
- West: (across 45th Street North, outside city limits) Reile's Acres extra-territorial jurisdiction; large lot rural residential uses.

Area Plans:

The subject property is located within the 2007 Future Land Use Plan. This plan designates the subject property as "Commercial," "Residential Area—Lower to Medium Density," and "Proposed Park." The applicant proposes to amend the growth plan to change the land use designation to "Industrial" and "Commercial" as indicated in the graphics below. Specific findings for the growth plan amendment and a summary of the growth plan amendment neighborhood open house are below.



2007 Growth Plan



Context:

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

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

Parks: The Northern Softball Complex is approximately 0.45 mile northeast of the subject property; however, this park is across Interstate 29 and would require an approximately 1.25 mile trip to access it.

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

MATBUS Route: The subject property is not on a MATBUS route at this time.

Staff Analysis:

NOTE: In the analysis below, the term "SE Cass" refers to the Southeast Cass Water Resources District, which owns the drainage channels in this portion of Cass County. The abbreviation "ETJ" means "extra-territorial jurisdiction," the area outside of a city's limits over which that city has planning and zoning jurisdiction. The abbreviation "LDC" means Fargo's Land Development Code.

MAJOR SUBDIVISION AND ZONING CHANGE

The subdivision plat creates 15 lots in one block, zoned as shown in the chart below. The applicant has now proposed that the zoning on the lots on the west side of the property be GC, General Commercial instead of LI, Limited Industrial zoning. (see "Revised Plan from Developer" below):

Lot Numbers	Zoning	Note
1	GC, General Commercial with C-O, conditional overlay	This C-O prohibits certain uses and off-premise signage
2	P/I, Public/Institutional	Will be acquired by City of Fargo as a stormwater detention basin
3 through 7	GC, General Commercial with C-O, conditional overlay	This C-O requires buffering and prohibits certain uses and off-premise signage
8	P/I, Public/Institutional	Will be dedicated to SE Cass Water Resources District
9 through 15	LI, Limited Industrial with C-O, conditional overlay	This C-O mainly relates to off-premise advertising; also prohibits some uses

CONDITIONAL OVERLAYS

Both the LI and GC zones are proposed to have conditional overlays (C-O's). These C-O's provide additional land use regulations specific to this project, intended to make the project more compatible with its context. A general overview of the C-O's is below; the draft C-O's are attached. Approval of these C-O's is part of the overall approval for the zoning for this project.

- C-O for LI, LOTS 9-15: Prohibits certain uses that would otherwise be allowed by right in the LI zone and restricts off-premise signage along the I-29 property frontage to no more than four billboards. Staff notes that without this restriction, a maximum of eight billboards could be installed on the lots along the subdivision's I-29 property frontage.
- C-O for GC, LOT 1: Prohibits certain uses that would otherwise be allowed by right in the GC zone; prohibits off-premise signage.
- C-O for GC, LOTS 3-7: Prohibits certain uses that would otherwise be allowed by right in the GC zone; prohibits off-premise signage; requires buffering.

ACCESS AND UTILITIES

ACCESS—DEDICATED PUBLIC STREET: The subdivision will take access from 40th Avenue North and 45th Street North. The subdivision dedicates 44rd Street North, from which all the lots in the subdivision will take access. The northerly end of 44rd will cross Drain 40, which is adjacent to the subdivision, by way of a box culvert crossing. An easement from SE Cass is required in order to construct this crossing.

Access to the lots in the subdivision will be provided only by 44th Street. The east side of the subdivision is bordered by Interstate 29 right of way; there can be no direct access to the lots from this right of way or I-29. The west side of the subdivision is bordered by a 92.25 foot wide lot, Lot 8, which will be dedicated to SE Cass and is not developable. This lot is adjacent to Cass County Drain 40. The only access across the drain and Lot 8 will be provided at 44th Street. Additionally, there are no pedestrian routes or trails to connect to along the east or west sides of the subdivision.

ACCESS—TRANSITION FROM EXISTING GRAVEL ROAD: An existing gravel road along the west side of the subject property provides access to Opp Construction, adjacent to the northern boundary of the subject property. The applicant is working to create an agreement between his company, SE Cass, and Opp Construction to guarantee that access to Opp Construction is provided at all times, including how the transition from access provided by this gravel road to access provided by 44th Street will be timed. City staff will review this agreement prior to the City Commission hearing on this project. The City will not be a party to this agreement.

ACCESS—40th AVENUE NORTH / CASS COUNTY HIGHWAY 20: The Cass County Highway Department has jurisdiction over 40th Avenue North, which is also Cass County Highway 20. The Cass County Engineer has determined that a turn lane and a bypass lane must be installed on 40th Avenue North at the time 44th Street is installed. Construction of these additional lanes will be the responsibility of the developer. The subdivision includes a 100-foot right of way dedication on the north side of 40th Avenue. A negative access easement, as depicted on the plat, will prohibit direct access to lots from 40th Avenue North.

PUBLIC WATER and SEWER: Public water and sewer to serve the lots in the subdivision will be provided in the dedicated public street, 44th Street North. Additionally, a large-diameter City of Fargo water line will run north along 44th Street and thence northeast in an easement between Lots 9 and 10 and out of the subdivision. This water line is part of a redundant water loop that is part of the City's overall water distribution system.

175 FOOT DRAIN SETBACK: Land Development Code Section 20-0610.F requires that no subdivision may be approved without a notation and delineation of an area 175 feet from the centerline of any legal drain and the applicant for subdivision approval will be required to dedicate such areas to the public for purposes of such drain. This plat accounts for this dedication by dedicating Lot 8, Block 1, to SE Cass.

PROXIMITY AGREEMENT: A proximity agreement for the subdivision will be signed by the property owners. This is a standard agreement between the City of Fargo and owners of property in close proximity to Hector International Airport. With this agreement, the property owner acknowledges the existence of this facility and the potential for aircraft noise. The Planning Commission takes no action on this agreement, so a copy is not attached to this packet. The City Commission makes the final approval of this agreement.

GROWTH PLAN AMENDMENT

In order to allow the proposed LI, Limited Industrial zoning, the underlying growth plan, the 2007 Growth Plan, must be amended to change the land use designation for this property from Residential Area, Lower to Medium Density, Commercial, and Proposed Park to Industrial and Commercial. Findings for the growth plan amendment are below.

NEIGHBORHOOD MEETING AND NEIGHBORHOOD COMMENT LETTERS PRIOR TO MAY 2nd

PLANNING COMMISSION HEARING:

Pursuant to Land Development Code Section 20-0905.E, a public open house is required for a proposed growth plan amendment. The intent of this open house is to allow residents and property owners in the area an opportunity to meet with the developer to review and comment on the proposed growth plan amendment. This meeting was held on Thursday, April 20th, at City Hall. Property owners within a 300 foot radius of the subject property were notified by mail of this meeting, as required by the code section noted above. There were nine attendees at this meeting. All but one were residents of Reile's Acres ETJ, which is west across 45th Street North from the subject property. One was a property owner adjacent to the north of the subject property. The applicant and three members of his development team also attended. The meeting was managed by Planning Department staff.

Following that meeting, Planning staff received 10 letters and e-mails from the nearby residential property owners. Copies of these letters and e-mails are attached. Note that several of these letters are similar and have multiple signatures from over 30 property owners in the nearby area.

The neighborhood residents had several comments on the proposed development, including:

- The change from the current least intense land use designations (low density residential and park) to the most intense land use designation (industrial) seems a drastic change.
- Industrial uses will create dust, light, and noise pollution. Particularly, residents are concerned with the concrete crushing operation that the applicant proposes to operate seasonally on the west side of the subdivision.
- Sufficient buffering must be provided on industrial lots that face the residences on the west side of 45th Street North.
- Traffic and safety—this subdivision will bring additional traffic, including heavy truck traffic, to 40th Avenue North. Additionally, due to the configuration of 44th Street, traffic will have access to 45th Street which could increase the traffic load on that road, which is currently a rural gravel road.
- Resale value of these residential properties will be negatively affected.

ACTION AT THE MAY 2nd, 2023 PLANNING COMMISSION HEARING

At the May 2nd, 2023 Planning Commission hearing, staff presented the project and stated the recommendation for approval.

COMMISSIONER QUESTIONS TO STAFF

In response to Commissioner questions, staff clarified that:

- The area depicted on the 2007 Growth Plan as a “proposed park” was actually intended for a wind tower project that never went forward.
- Fargo's and Reile's Acres ETJ's do not overlap. There is an agreement from 2016 that defines the extent of each city's ETJ and each city's responsibilities in relation to the ETJ.
- ETJ does not automatically extend with annexation, so the recent annexation of the area including the subject property did not extend Fargo's ETJ.
- Staff was not aware of any location in Fargo where new Limited Industrial-zoned development was approved adjacent to existing residential development, though an area of the Rocking Horse area along 51st Street South has several General Commercial-zoned properties with conditional use permits for industrial uses that are near existing residential zones.
- There will be no levee on the west side of the subdivision

- All lots will take access from 44th Street North; there will be no direct access to the lots from 40th Avenue North or 45th Street North.

APPLICANT'S TESTIMONY

Applicant Trent Duda described his project to the Commission. In response to Commissioner questions, the applicant clarified that:

- After purchasing the subject property, he had originally approached Reile's Acres about annexing the property. Though Reile's Acres at the time supported his proposed development, and sent him a letter stating so, Reile's Acres was not able to annex this property as it was in Fargo's ETJ at the time (it has since been annexed into Fargo city limits). Reile's Acres' request to the City of Fargo to change the boundaries of the ETJ was turned down.
- Fire code requires two access points for a project this size, which is why 44th Street within the project connects to both 40th Avenue and 45th Street. The originally proposed cul-de-sac was not allowed by the City.
- He did not propose zoning the west side of the subdivision to GC, General Commercial rather than LI, Limited Industrial as he felt the site design standards and limitations on uses in the GC did not fit what he had planned for this subdivision.
- He intends to sell most of the lots; he will keep a few on the east side for his excavation business.

PRESENTATION BY CASS COUNTY ENGINEER

At the invitation of the City, Cass County Engineer Jason Benson testified regarding traffic and future development of roads near the subject property. He noted:

- The area near the subject property is a high-traffic, high-growth area.
- Access control requirements restrict the subdivision to one access off of 40th Avenue, which will be 44th Street.
- The applicant will be required to install a turn lane and a bypass lane at the intersection of 40th Avenue and 44th Street
- The 40th Avenue / Interstate 29 interchange will be rebuilt by the North Dakota Department of Transportation within the next few years. To make any modifications to the road system west of this interchange without knowing what that interchange will look like would be short-sighted.

NEIGHBORS' TESTIMONY

Several neighbors to the subject property, who live in Reile's Acres ETJ, testified in opposition to the project. The major points and concerns included:

- The residents of Reile's Acres ETJ refer to their area as Prairie Estates, which comprises 20 landowners with lots from two to five acres in area.
- Benefits of living in the ETJ are that property owners can have horses, there is a rural aspect to life there, and yet it is close to the city of Fargo.
- The proposed project provides no benefit to these residents.
- When deciding on this project, the Planning Commission should consider the best interest of the surrounding communities.
- Any business allowed in the LI zone could be developed on the lots in the subdivision [a few uses are prohibited by the conditional overlay].
- The proposed concrete crushing operation could run more than the two to three weeks a year that the applicant has stated it would.
- The negative effects of the concrete crusher are noise, dust, and piles of concrete rubble to look at rather than a view of an open field.
- Even though buffering in the form of a berm and trees is proposed, this buffering will not stop noise and dust, and the trees will take some time to reach a mature size to be effective visual buffers.
- The increase traffic created by this subdivision will add to what the residents feel is already hazardous traffic in this area.
- There is no way to stop trucks entering this subdivision from using the gravel 45th Street in front of these residents' homes as a way out of the subdivision to get back to 40th Avenue.
- The resale value of these residential properties could decrease by as much as 25%.
- Fargo is not short of industrial-zoned property; why does the subject property have to be zoned industrial?
- Could the connection between 44th Street and 45th Street be limited to cars only—no trucks?

- Will the industrial zoning eventually wrap around to Fargo's ETJ on the north side of Reile's Acres ETJ? This area is currently designated on the 2007 Growth Plan as residential, the same as the subject property.
- The width of 45th Street and Drain 40, coupled with an additional 20 foot buffer, is really not that great a distance separating residential from industrial uses.
- Concern for the wildlife that inhabit or come to the subject property.

FURTHER DISCUSSION BY COMMISSION

Following the testimony, the Commissioners had further discussion, during which Commissioners had the following comments:

- Can the conditional overlay restrict uses in such a way that it would work for both the developer and the neighbors?
- Would concerns about the traffic be the same if the proposed development were residential?
- Support of the approval criteria seems "pretty flimsy."
- It is the responsibility of the landowner to develop the property in the best possible manner for the neighboring community.
- This area is an entrance to Fargo.
- The Commission needs to set a precedent that they listen to the residents (in the area near proposed development).

MOTION TO CONTINUE THE HEARING

Following the discussion, the Commission moved to continue the project to the June 6th, 2023 Planning Commission agenda, and directed that a better plan for traffic on 45th Street be developed and the concerns of the neighbors be addressed.

ACTION AFTER THE MAY 2nd, 2023 PLANNING COMMISSION HEARING

After the May 2nd, 2023 Planning Commission hearing, Planning staff has held another community meeting and received a revised plan from the applicant and other documents as noted below.

DISCUSSION AT THE MAY 18th, 2023 COMMUNITY MEETING

Following the direction of the Planning Commission at the May 2nd hearing, Planning Department staff scheduled a community meeting for Thursday, May 18th, 2023. Notice of the meeting was sent out to all property owners within a 300-foot radius of the subject property, plus all those who had sent in comments for the May 2nd Planning Commission. Attendees included the developer and his team, two members of the Reile's Acres city council, residents of Reile's Acres and Reile's Acres ETJ, three Fargo Planning Commissioners, and Planning Department staff.

The residents expressed the following concerns:

- Concrete Crusher:
 - Noise is constant. Even if operating hours are limited to daytime hours, many neighbors work from home so the noise would be disruptive.
 - Even with the sprinkler dust control measures on the actual crusher operation, there will always be dust from the piles of concrete rubble. Some of this dust may be toxic.
 - Piles of rubble do not make an attractive entrance to the city. Have visual buffering on the Interstate 29 (east) side of the subdivision to block the view of the rubble piles.

There was discussion of relocating the concrete crusher further to the north on the subject property, out of a direct line from the Reile's Acres ETJ residences.

- Traffic
 - Can 44th Street be gated where it connects to 45th Street so that access from 45th Street is limited to emergency vehicles?
 - Will the increased traffic on 45th Street mean that 45th Street would be improved---paved---soon? If so, who pays for those improvements?
 - General comments about the adverse effects of increased traffic. Two recent fatalities on 40th Avenue North were noted.

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- Property Resale Value
 - Resale value of the residential properties will be considerably less if this development is approved.
- Uses
 - Discussion of the uses allowed in the GC, General Commercial and LI, Limited Industrial zones.
 - Residents don't know what they'll get in terms of uses in this development.
- City-owned detention basin
 - What will this look like?
 - Will it be aerated to prevent it from becoming a mosquito habitat?
- Growth Plan
 - Questions on the validity of the 2007 Growth Plan, now 16 years old.
 - Discussion of the current residential land use designation.
 - Discussion of whether the industrial land use designation would carry over to the west side of 45th Street, on the north side of Reile's Acres ETJ.
- City of Reile's Acres position on the proposed development
 - The City of Reile's Acres has changed its position from generally supporting this development to opposing it. (See "City of Reile's Acres Position on the Proposed Development" below.)

REVISED PLAN FROM DEVELOPER

Subsequent to the May 18th, 2023 community meeting, the applicant submitted a revised proposal based on comments at the Planning Commission hearing and the community meeting. The applicant now proposes:

Lots 3 through 7, Block 1, will be zoned GC, General Commercial. The conditional overlay for these lots would require:

- a 3 foot high berm 25 feet wide at the bottom. 4 feet wide at the top along the west side of the GC area
- a 6 foot high chain link fence with privacy slats for Lots 3, 4, and 5, Block 1 and to only place trees on the west side of the fence to be installed at the time of development and paid for by the property owner.

The lots on the east side of the subdivision will remain zoned LI, Limited Industrial, as originally proposed. The draft conditional overlay (attached) has been updated to include these changes. A copy of an e-mail from the developer explaining these changes and a revised proposed zoning map are also attached.

This plan was forwarded to the residents' representative on May 26th, 2023.

RESIDENTS' RESPONSE TO THE REVISED PROPOSAL

Planning staff received a comment letter from the Reile's Acres ETJ residents dated May 29th, 2023 regarding their response to the revised proposal. A copy of that letter is attached. General points in that letter are:

- LI, Limited Industrial zoning on the lots on the east side of the subdivision could still bring in land uses and businesses that do not fit into the community
- The concrete crushing operation has numerous negative effects, including environmental health effects.
- Decreased resale value of the residents' homes due to the commercial/industrial nature of the proposed subdivision.
- Negative effects of significant additional truck traffic.

The letter provides additional details.

ADDITIONAL CORRESPONDENCE AFTER THE MAY 2nd, 2023 PLANNING COMMISSION HEARING

Planning staff received two letters regarding the potential negative health effects of concrete dust, one about commercial lighting / dark skies, and an e-mail from the applicant. Copies of these letters are attached.

CITY OF REILE'S ACRES POSITION ON THE PROPOSED DEVELOPMENT

When the applicant purchased the subject property in 2020, he approached the City of Reile's Acres with a request that the property be annexed into that city. At the time, Reile's Acres was supportive of the applicant's proposed development. However, the subject property was not in Reile's Acres ETJ, so that Reile's Acres could not annex it. Reile's Acres sent a request to the City of Fargo to relinquish its ETJ control of this property and allow Reile's Acres to extend its ETJ control over this property, but Fargo turned down that request. The property remained in Fargo's ETJ and was eventually annexed in March, 2023. A letter of support for the development from Reile's Acres, dated October 21st, 2020, is attached.

Recently, the City of Reile's Acres has become aware of the concerns of the residents of their city and its ETJ about the proposed development. On Tuesday, May 9th, 2023, the City of Reile's Acres held a city council meeting. At that meeting the Council adopted resolution number 2023-03, opposing the proposed development. Major points of opposition are:

- Negative effects of the concrete crushing operation; and
- Decreased property values for the residential homes due to proximity to a commercial / industrial development

The resolution provides additional detail.

Following discussion of this resolution at the May 18th, 2023 community meeting (summarized above), a correction was made regarding the identification of the proposed zoning. A copy of this revised resolution is attached.

CITY OF FARGO RESPONSES TO SOME OF THE CONCERNS EXPRESSED ABOVE

- City-owned detention basin (Lot 2, Block 1): This detention basin will not be aerated. It will not have a buffer along the west side.
- Lot 1, Block 1, corner of 40th Avenue and 45th Street, zoned general commercial: This lot will not have buffer requirements. The area of this lot was designated as "Commercial" on the 2007 Growth Plan and is being zoned GC, General Commercial to match that existing land use designation.
- Connection of 44th Street with 45th Street: This cannot be a gated connection.
- Control of truck traffic on 45th Street (currently a gravel road): This road will be signed with axle weight limits for trucks.

ACTION AT THE JUNE 6th 2023 PLANNING COMMISSION HEARING

At the June 6th, 2023 Planning Commission hearing, staff presented the revised project described above, and noted the laydown items of:

- updated conditional overlay;
- updated subdivision plat; and
- communications from the Reile's Acres ETJ residents since the time the Planning Commission packet was published

Staff stated the recommendation was for approval.

PLANNING COMMISSIONER QUESTIONS TO STAFF

In response to Commissioner questions, Planning staff:

- explained that the boundary between Fargo's ETJ and Reile's Acres ETJ is defined by an agreement from 2016;
- showed on the City's GIS online map the location of City of Fargo, City of Reile's Acres, and their respective ETJ's; and
- explained that there are no specific environmental findings in our ordinance for the growth plan or other entitlements; and

Additionally, the fire marshal explained that dedicated public street within the plat—44th Street North---must connect to both 45th Street and 40th Avenue North to provide two means of access to the subdivision to be in compliance with the City's fire code. This is due to the size of the project. A cul-de-sac street which would connect only to 40th Avenue North, as originally proposed by the developer, is not acceptable.

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APPLICANT'S TESTIMONY

The applicants made the following points:

- Described the proposed berm, fence, and tree buffer along the proposed GC, General Commercial zoned lots 3, 4, 5, 6, and 7, Block 1
- This proposed buffering exceeds any requirement in the LDC for commercial uses developed near residential uses
- Described the dust suppression measures of a concrete crushing operation
- Gave the opinion that the gravel road (45th Street North) that the homes of many of the project opponents front on creates more dust than a concrete crushing operation would in a year.
- Pointed out that the proposed concrete crushing operation is at least 1,500 feet, and at most 3,500 feet from the residences; in other locations in Fargo, there are residences considerably closer than that—some as close as 800 feet---to concrete crushing operation.
- Showed drone photographs of the subject property and surrounding area, illustration the distance between the Reile's Acres ETJ residences and the subject property, and the nature of the surrounding area in general.
- Observed that several areas along the Interstate corridor are zoned LI, Limited industrial as proposed by this project, and the uses within LI include car dealerships and similar non-industrial uses.
- Believed a new growth plan would not show commercial, single-dwelling residential, and a park this close to the Interstate as the current growth plan does.
- The properties of some of the opponents in Reile's Acres ETJ include not only residences but some type of business.

In response to Planning Commissioner questions, the applicant;

- Stated a brief history of how he came to acquire the subject property
- Explained he had originally wanted to mitigate traffic going on to 45th Street North with a cul-de-sac street within the subdivision but the City would not allow it (*see "Commissioner Questions to Staff" above*)
- Described the general timeline of the concrete crushing operation and said he had not had a detailed discussion of the scheduling of the crushing with the nearby residents.

NEIGHBORS' TESTIMONY

Several neighbors to the subject property, who live in Reile's Acres ETJ, testified in opposition to the project. The major points included:

- The proposed change from an open field zoned AG, Agricultural to a developed area zoned LI, Limited Industrial is a dramatic change.
- The 2007 Growth Plan probably designates the subject property as commercial, residential, and park because this area is adjacent to the residences in Reile's Acres ETJ, the City of Reile's Acres itself, and NDSU ag research facilities. That is, the designated uses are fairly low-intensity, as opposed to the proposed industrial land use designation.
- Staff has not provided a better recommendation on the outdated growth plan designation.
- The proposed subdivision provides no benefit to these residents.
- When deciding on this project, the Planning Commission should consider the best interest of the surrounding communities.
- The proposed concrete crushing operation could run more than the two to three weeks a year that the applicant has stated it would.
- Changing the location of the concrete crusher on the subject property does not diminish its overall negative effects of noise, dust, and piles of concrete rubble.
- Even though buffering in the form of a berm and trees is proposed, this buffering will not stop noise and dust, and the trees will take some time to reach a mature size to be effective visual buffers.
- The resale value of these residential properties could decrease by as much as 25%.
- Will approval of the industrial zoning on the subject property set a precedent for the development Fargo's ETJ on the north side of Reile's Acres ETJ? This area is currently designated on the 2007 Growth Plan as residential, the same as the subject property.
- There are no examples in Fargo of situations where industrial zoning was developed near residential zoning. Though some residential areas are located near concrete crushing operations, the crushing operations were there first.

- Applicant North Fargo Land, LLC (Ronald Knutson) did not attend or send a representative to the public meetings. *(NOTE: This applicant's representative followed up on this point by saying that since the North Fargo Land LLC property was already designated as commercial, it was not requesting a growth plan amendment and so this applicant did not feel the need to attend the public meetings)*
- Businesses, like limited liability corporations (LLC's) have strategies and mechanisms to cope with risk and monetary loss that individual homeowners do not.
- No buffer is proposed on the north side of the subdivision, adjacent to the Opp Construction property.
- The concrete crushing operation would create considerable concrete dust, even with the mitigation measures described by the applicant. Concrete dust is cancer-causing; it cannot be easily contained and has a broad area of distribution; and is toxic even in small quantities. *(NOTE: Two of the attached letters detail the health concerns of concrete dust).*

TESTIMONY BY REILE'S ACRES CITY COUNCIL MEMBER

Reile's Acres city council member Tom Krantz testified on behalf of the council. He reiterated points in the May 9th, 2023, resolution by the council regarding this project, including that the council was adamantly opposed to the proposed LI, Limited Industrial zoning and reluctantly accepting of the proposed GC, General Commercial zoning. There was a brief discussion between Planning Commission Chair Schneider and Council Member Krantz about how the Reile's Acres city council had changed their position on the proposed development of this property, from originally supporting to now opposing it. The history of Reile's Acres position on this project is summarized above.

FURTHER DISCUSSION BY PLANNING COMMISSION

Following the testimony, the Commissioners had further discussion, during which Commissioners had the following comments:

- It is surprising that that there appears to be no state or local regulation specific to the health concerns of concrete crushing.
- The decision of whether to approve or deny this project affects not only the Reile's Acres ETJ residents but also the future development of housing in this area.
- The City of Fargo's values include the protection of its residents health, safety, and welfare. Though the Reile's Acres ETJ residents are outside of the City of Fargo, the same values should be applied to them.

MOTION TO APPROVE THE PROJECT

Following the discussion, a motion was made and seconded to approve the project as recommended by staff. On a roll call vote, that motion failed by a vote of 3-4.

MOTION TO DENY THE PROJECT

Following further discussion the discussion, a motion was made and seconded to recommend denial of the project. On a roll call vote, that motion passed by a vote of 4-3. The Commission cited two growth plan approval criteria that were not satisfied. Findings based on the Planning Commission's motion is stated below under "Growth Plan Findings—Planning Commission Findings." As the Planning Commission recommended denial of the growth plan amendment, the proposed zone change and subdivision plat cannot go forward, as neither one of these entitlements is possible without a change the growth plan amendment.

REVISED PLAN—FOR JULY 10th, 2023 CITY COMMISSION HEARING

Subsequent to the June 6th, 2023 Planning Commission hearing, the applicant submitted a revised proposal based on comments at the Planning Commission hearing. The applicant now proposes:

- a. to prohibit concrete crushing on all LI-zoned lots (concrete crushing is not allowed on GC-zoned lots anyway).
- b. to eliminate the fence from the buffer
- c. to keep all the zones the same as at the June Planning Commission hearing (see attached zoning exhibit)

Additionally, the water line easement for the City of Fargo was returned to its original location between lots 9 and 10, rather than the location between lots 11 and 12 as shown on the plat presented at the June 6th, 2023 Planning Commission.

This plan was forwarded to the Reile's Acres representative on June 16th.

The prohibition of concrete crushing and the modification of the buffer have been added to the proposed conditional overlay.

The chart below recaps the lots, zoning, and conditional overlays.

Lot Numbers	Zoning	Note
1	GC, General Commercial with C-O, conditional overlay	This C-O prohibits certain uses and off-premise signage
2	P/I, Public/Institutional	Will be acquired by City of Fargo as a stormwater detention basin
3 through 7	GC, General Commercial with C-O, conditional overlay	This C-O requires buffering and prohibits certain uses and off-premise signage
8	P/I, Public/Institutional	Will be dedicated to SE Cass Water Resources District
9 through 15	LI, Limited Industrial with C-O, conditional overlay	This C-O mainly relates to off-premise advertising; also prohibits certain uses, one of which is concrete crushing

ADDITIONAL CORRESPONDENCE AFTER THE JUNE 6th, 2023 PLANNING COMMISSION HEARING
Planning staff had two lay-down items, including one public comment letter, for the June 6th, 2023 Planning Commission hearing, and received four letters / e-mails, including one from Reile's Acres mayor Shane Amundson, following the June 6th hearing.

These items address:

- Potential health effects of any industrial development
- Opposition to the concrete crushing operation (*NOTE: the applicant has agreed to prohibit concrete crushing as a use on this property, though not all commenters might be aware of that change*)
- Concern about loss of property values
- Concern about increase in traffic in general and truck traffic specifically
- Industrial development not being the appropriate development in this location

Copies of the letters are attached.

DEVELOPER'S AGREEMENT

The City Engineer has required a developer's agreement between the City and the developer related to the non-protest of future paving of 45th Street North and to the detention basin, Lot 2, Block 1. This development agreement will go to the City Commission separately and is not included in this packet.

STAFF RECOMMENDATION

Staff's recommendation for approval is based on the original project criteria plus the fact that the developer has now proposed to prohibit concrete crushing as a use on all lots.

NOTE ON CONTINGENT APPROVAL

The suggested motion below states that approval is contingent on two things:

1. final technical review of the plat, including the City Engineer's signature; and
2. City Commission approval of the developer's agreement.

The contingent motion below allows the City Commission to approve the plat at this time. Once the final technical review is complete and the City Engineer has signed the plat, and the City Commission has approved the developer's agreement, then the City can then proceed with recording the plat, if approval is received as referenced below. Please note that no building permits can be granted, nor can any lots be sold, until the plat can be recorded.

CITY COMMISSION MOTION OPTIONS.

In this situation, where the Planning Commission's recommendation differs from staff's recommendation, the City Commission may take one of the following actions:

1. Move to deny the project based on the Planning Commission recommendation; or
2. Move to approve the project based on the staff recommendation; or
3. Move to send the project back to the Planning Commission for further review based on the recent project revisions; or
4. Make its own motion.

ACTION AT THE JULY 10th CITY COMMISSION

At the July 10th, 2023 Planning Commission hearing, staff presented the revised project described above. Staff explained that there were two recommendations before the City Commission:

1. The Planning Commission's recommendation for denial; and
2. Staff's recommendation for approval

APPLICANT'S TESTIMONY

The applicant made the following points:

- Staff has recommended approval twice (at the Planning Commission and City Commission).
- Different businesses other than the applicant's excavation business will be locating in this subdivision.
- Concrete crushing has been eliminated as an allowable use in this subdivision.
- The residential protection buffer between the commercial uses in the subdivision and the existing residences in Reile's Acres ETJ exceed the Land Development Code requirements for residential protection standards.
- The zoning steps down in intensity from the intensive industrial uses along Interstate 29 to the residences in the Reile's Acres ETJ.
- There has been little recent residential development along the Interstates.
- Concerns about having industrial uses along an entrance to Fargo are exaggerated; the properties on the east side of Interstate 29 across from the subject property are zoned Limited Industrial and developed with industrial uses.
- Commented on the position of the Reile's Acres city council in relation to this project and how that position has changed over time.

NEIGHBORS' TESTIMONY

Several neighbors to the subject property, who live in Reile's Acres ETJ, testified in opposition to the project. The major points included:

- The proposed zoning change from Agricultural to Industrial is a dramatic change
- The subject property was probably designated as "residential" on the 2007 Growth Plan as it was adjacent to existing residential development
- Industrial uses adjacent to existing residential have not developed elsewhere in the city
- There are areas adjacent to the interstates that have residential development
- There is a large demand for housing in north Fargo
- Would a change from residential to industrial land uses on the subject property trigger a similar change from industrial to residential to the area of Fargo's ETJ adjacent to the north of Reile's Acres ETJ?
- The negative effect of rezoning on future property resale values.
- Residents of Reile's Acres ETJ were not involved in the original conversations between the Reile's Acres city council and the developer in 2020.

FURTHER DISCUSSION BY THE CITY COMMISSION

Following the testimony, the Commissioners had further discussion, as well as questions for staff, during which the following points were made:

- The recently released housing study indicates Fargo needs housing of all types in all locations; giving up an area indicated on the growth plan as designated for housing is not a good idea.
- The determination of how much area should be depicted on a growth plan is done through land consumption analysis over time. This process was part of the 2007 growth plan and is part of the growth plan update.
- Staff has not had any requests to develop in the area of Fargo's ETJ north of Reile's Acres ETJ, so has not done any further evaluation of the 2007 Growth Plan for that area.
- The new growth plan will probably be completed in February or March, 2024

- The Commission has concern about developing residential near the interstates due to the noise; in the past, the Commission has had to deal with installing sound walls along interstates that border residential areas.

MOTION TO SEND THE PROJECT BACK TO THE PLANNING COMMISSION

Following their discussion, the Commission moved to send the project back to the Planning Commission, with emphasis on reviewing what the future growth plan will look like rather than on the specific uses. This motion was approved.

Staff scheduled the project for the August 1st, 2023 Planning Commission and noticed this hearing as required.

COMMENTS RECEIVED SINCE THE JULY 10th CITY COMMISSION

The following points were made by a Reile's Acres ETJ resident in a phone conversation with staff:

- The developer should install the tree buffer all at once, rather than on a lot-by-lot basis, for uniformity and consistency.
- The finding regarding property value should be identified as "not satisfied" as staff has no documentation regarding this matter.
- One comment letter was received. A copy is attached. Concerns expressed in this letter include:
 - There is a high demand for housing city-wide, including north Fargo.
 - How will this proposed change in the growth plan and zoning affect the Fargo ETJ property north of Reile's Acres ETJ?
 - Uncertainty over the types of manufacturing and production uses that could develop in the LI, Limited Industrial zoned areas of this subdivision
 - Industrially-zoned areas belong in the city, not near residential.
 - Home values will be negatively impacted by the proposed development

FURTHER ANALYSIS OF THE GROWTH PLAN

Staff has reviewed the concern about if the growth plan on the subject property is amended to designate this property as Commercial and Industrial, will that set a precedent to amend the growth plan on the Fargo ETJ area on the west side of 45th Street adjacent to the north of Reile's Acres ETJ. This area will be referred to as the "North ETJ" in the discussion below.

Staff views the subject property as suited for a different type of development than the North ETJ for the following reasons:

- As the subject property is immediately off and interstate interchange, it is appropriate for the uses on the subject property to make use of that location. Though there are residential developments along the interstates, the areas adjacent to interchanges on I-29 and I-94 in Fargo are developed with commercial and industrial uses (the exceptions are 19th Avenue North, where the land adjacent to the interchange is owned by NDSU on both sides; and the northwest quadrant of the I-94 / 25th Street South interchange, where the residential subdivision was platted approximately 15 years before the interchange was built).
- The subject property is physically separated from the Reile's Acres ETJ and the North ETJ by 45th Street North and Drain 40, a distance of 260 feet. Traffic from the commercial and industrial development on the subject property was intended to be isolated from the Reile's Acres ETJ. 44th Street within the subdivision was intended to be an entirely internal street ending in a cul-de-sac, so that all commercial and industrial traffic would enter and leave the subdivision by way of 44th Street North connecting to 40th Avenue North. However, fire code requires an additional access onto 45th Street North. The fire marshal has explained that there is no variance or work-around for this regulation.
- Opp Construction and Memory Fireworks, which are clearly limited industrial and commercial uses, were developed adjacent to the subject property some years ago, establishing a precedent for this

type of development in the area between 45th Street and I-29. Indeed, Memory Fireworks capitalizes on its accessible location right off the interstate.

- Conversely, the North ETJ is not well suited to commercial and industrial development because it lacks a direct connection to the interstate or other arterial. 45th Street is a “road to nowhere” in this area. It currently downgrades from a gravel road to a minimum maintenance road north of Reile’s Acres ETJ, and then stops going north at 52nd Avenue North. There is no right of way available for 45th Street to continue north to the Harwood interchange. There is no interchange or over-crossing of I-29 proposed at 52nd Avenue North to connect to the interstate or to streets and developments on the east side of I-29. Because of these limitations of the road network, it is not anticipated that there will be a request to modify the existing growth plan for the property south of 52nd Avenue North and west of 45th Street North to industrial or commercial uses.
- The 260 foot Drain 40 / 45th Street North separation between the subject property and the property to the west, referred to above, provides for an appropriate transitional node that accommodates the land use transition from residential on the west to more intense uses toward the interstate. As has been noted several times in the public hearings on this project, there is no such separation between Reile’s Acres ETJ and the North ETJ. This fact mitigates against changing the growth plan to have commercial or higher intensity uses adjacent to Reile’s Acres ETJ; residential would be the highest and best use here.

STAFF COMMENT ON AIR QUALITY CONCERNS

During the testimony at the several hearings on this project, there have been several public comments regarding a concern for air quality related to industrial development. Staff notes that the City of Fargo and Fargo/Cass Public Health Department do not enforce air quality regulations. The Air Quality Division of the North Dakota Department of Environmental Quality is the state agency that would address air quality concerns. The federal Environmental Protection Agency (EPA) also deals with air quality. Staff does not have the background to evaluate concerns about air quality related to health.

NOTE ON ORGANIZATION OF ATTCHMENTS

For convenient reference, copies of letters and other documents received since the June 6th, 2023 Planning Commission are attached first, followed by copies of letters and other documents that appeared in the previous Planning Commission packets.

Growth Plan Evaluation Criteria: Section 20-0905(H) of the LDC states that the Planning Commission and City Commission shall consider whether the Growth Plan is consistent with and serves to implement adopted plans and policies of the city.

The 2007 Growth Plan sets forth the following criteria that should be used to evaluate any proposed growth plan amendment:

PLANNING DEPARTMENT STAFF FINDINGS

Planning Department staff made the following findings:

- **Is the proposed change consistent with surrounding land uses, both existing and future?--**
The area included in the proposed growth plan amendment is smaller than the overall subject property, as depicted on the “Existing / Proposed” growth plan map above.
- Adjacent to the north of the amendment area is an industrial-developed property (Opp Construction) that is in Fargo’s ETJ.
- Adjacent to the east of the amendment area is the right of way for Interstate 29, owned by the state of North Dakota.

- To the south of the amendment area, the growth plan designation of “Commercial” is the existing growth plan designation and is not proposed to be amended.

In terms of compatibility, the proposed industrial land use designation is compatible on the north and east sides. The south, the transition from industrial to commercial closer to an arterial street (40th Avenue North) is compatible.

To the west, the amendment area is in a situation that is rarely encountered in that it is close to existing large lot rural residential development in the extra-territorial jurisdiction of another city (Reile’s Acres). In terms of compatibility, industrial development is not often found near to such residential development. The LDC provides for residential protection standards (RPS) of Section 20-0704 to mitigate the effects of non-residential development on existing residential development. The application of RPS is based on distance from the non-residential development to the residential zoning. The RPS would not apply in this situation as the residential development is already separated from the non-residential development by a greater distance than would trigger application of the RPS. Nonetheless, the applicant has proposed a 20-foot wide berm/tree buffer be required on the lots along the west side of the Interstate Business District Addition in addition to the already approximately 260 feet that separate this subdivision from the existing residential development in Reile’s Acres ETJ (that 260 feet includes Cass County Drain 40 and 45th Street North right of way, a distance of approximately 170 feet and a 92.25 -foot wide lot on the entire west side of the proposed development that will be dedicated to Southeast Cass Water Resources District for drain protection and is not developable). This approximately 280 foot separation, with buffering, is intended to mitigate the effects of the commercial and industrial development in relation to the existing residential development to the west. The width of this buffer and the height of the berm/ tree portion of the buffer is well beyond the requirements of RPS.

With the applicant’s revised proposal to have the lots on the west side of the subdivision be zoned GC, General Commercial, the land uses between I-29 and Reile’s Acres ETJ follow a progressive step-down in intensity of development:

- Industrial uses on the east side of the subdivision adjacent to I-29, which step down to
- Commercial uses on the west side of the subdivision, which step down to
- A 280-foot wide undevelopable area, which steps down
- The residential development in Reile’s Acres ETJ.

(Criteria Satisfied)

- **Does the proposed change involve a street alignment or connection? If so, how does this change affect the transportation system and the land uses in the surrounding area, both existing and future?**

There are no existing streets within the subject property. The growth plan does not indicate any intended street alignments within the subject property. The proposed subdivision will dedicate a public street (44th Street) from which all lots in the subdivision will take access. This will be a local street and will provide an additional connection between 40th Avenue North to 45th Street North, which already intersect at the southwest corner of the subject property. It is not intended that new land uses develop as a result of this new street. This street is intended to only serve this development, and there is no opportunity for east-west cross streets to connect to it. **(Criteria Satisfied)**

- **How does the proposed change work with the larger area in terms of land use balance and other factors that could influence the proposed change? Are there physical features or developments in the vicinity that make the change positive or negative for the City and the area in general?**

The area east of I-29 and north of 40th Avenue North has been developed as industrial, mainly with large warehouses and distribution centers, although all the uses in the LI, Limited Industrial zone are permitted in this area. The proposed growth plan change would allow industrial development on the west side of I-29. This development could include the uses permitted in the LI zone, other than those prohibited by the proposed conditional overlay.

Additionally, some of the assumptions in the 2007 Growth Plan, on which the current land use designations were based, did not come to pass as expected. In relation to this location, the assumption that there would be significant pressure for residential development north of 19th Avenue North did not pan out; the major

areas of residential development turned out to be south and southwest Fargo. Regarding the current “low-to-medium density” land use designation on the subject property, low-density residential development since 2007 has evolved mainly away from the interstate highways. There has been some higher density multi-dwelling development near I-29 south of 13th Avenue South. At least one of these recent multi-dwelling developments has had sound-proofing requirements for the building.

Thus, alternative land uses for this area can be considered, and changes to land use designations be proposed through the growth plan amendment process specified in the LDC.

As noted above, separation distance and buffering are intended to mitigate the effects of the commercial and industrial development in relation to the existing large lot rural residential development west of 45th Street North. **(Criteria Satisfied)**

- **How does the proposed change impact the long term sustainability of the city? Does the change contribute to or detract from the walkability and livability of the city?**

The proposed change provides property for industrial and commercial development that has convenient access to the interstate, an east/west arterial road (40th Avenue North), and City utilities (extended through 44th Street North). Though several areas of the city are already zoned for commercial or industrial uses, it is important to have a variety of commercial and industrial zoned locations as the needs of the different kinds of businesses that can develop in these zones are different. In this location, the focus is on commercial and industrial businesses than have a priority for easy access to an interstate highway and need fairly large lots.

There is no opportunity for pedestrian access on the east or west due to the Cass County Drain 40 and I-29 right of way. Future development or redevelopment of 40th Avenue may include a multi-use path. **(Criteria Satisfied)**

PLANNING COMMISSION FINDINGS

Contrary to Planning Department staff’s findings, at the June 6th, 2023 Planning Commission hearing, the Planning Commission moved to deny the project on the basis that the project did not satisfy two of the growth plan findings.

- **Is the proposed change consistent with surrounding land uses, both existing and future?**

The proposed change was not consistent with the surrounding land uses, both existing and future. **(Criteria NOT Satisfied)**

- **How does the proposed change impact the long term sustainability of the city? Does the change contribute to or detract from the walkability and livability of the city?**

The proposed change would have a negative impact on the long-term sustainability of the city, and would detract from the livability of the city.

(Criteria NOT Satisfied)

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned AG: Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay. The applicant proposes zoning of LI, Limited Industrial and GC, General Commercial, both with conditional overlays, and P/I, Public/Institutional. The 2007 Land Use Plan applies to the subject property, as noted above. The GC zoning is consistent with the existing “Commercial” land use designation. The LI zoning will be consistent with the amended growth plan designation of “Industrial.” The P/I zoning for government-owned property can be applied under any land-use designation. **(Criteria Satisfied)**

- **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 plat will dedicate public right of way (44th Street North) through which access and public utilities will be provided. **(Criteria satisfied)**

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

As noted above, the distance and buffering between the proposed development and the existing residences to the west are intended to mitigate the effects of the new development in relation to those residences. Value of a property for tax purposes is determined by the City or County assessor and is not directly based on adjacent zoning. Re-sale value of a property is determined by local real estate market conditions at the time of sale. These conditions are not predictable in the long term. Staff has no documentation to demonstrate that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received the comment letters noted above. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

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

The LDC states “This Land Development Code is intended to implement Fargo’s Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo.” The Growth Plan that applies to this property is the 2007 Growth Plan. With the approval of the growth plan amendment noted above, the proposed zoning of Limited Industrial, General Commercial (both with conditional overlays) and Public Institutional will be consistent with these land use designations. **(Criteria satisfied)**

Major Subdivision

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

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

The requested zoning for this subdivision is LI, Limited Industrial with conditional overlay; GC, General Commercial with conditional overlay; and P/I, Public Institutional, which will be consistent with the amended 2007 Growth Plan. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received the comments noted above. **(Criteria Satisfied)**

- **Section 20-0907.C.4.c of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The property is proposed to be zoned LI, Limited Industrial with conditional overlay; GC, General Commercial with conditional overlay; and P/I, Public Institutional. As noted in the zone change findings above, this zone is consistent with the amended 2007 Growth Plan designations for this property. The project has been reviewed by the city’s Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

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

The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan was reviewed by the Public Works Project Evaluation Committee (PWPEC) prior to the plat going to City Commission. Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front

footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff move approve the proposed 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial, and Proposed Park to Industrial and Commercial; 2) Zoning Change from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional; and 3) major subdivision, to be known as **Interstate Business District Addition**, as outlined in the staff report, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Sections 20-0906.F (1-4), 20-0905(H), and 20-0907.C of the LDC, and all other applicable requirements of the LDC."

Planning Commission Recommendation: June 6th, 2023

At the June 6th, 2023 Planning Commission hearing, that Commission, by a vote of 4-3 with two Commissioners absent and two Commission seats vacant, moved to recommend **denial** to the City Commission of the proposed 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial, and Proposed Park to Industrial and Commercial, as the findings were not sufficient to support approval. *(As noted above, if the growth plan amendment is not approved, the proposed zoning change and plat cannot go forward.)*

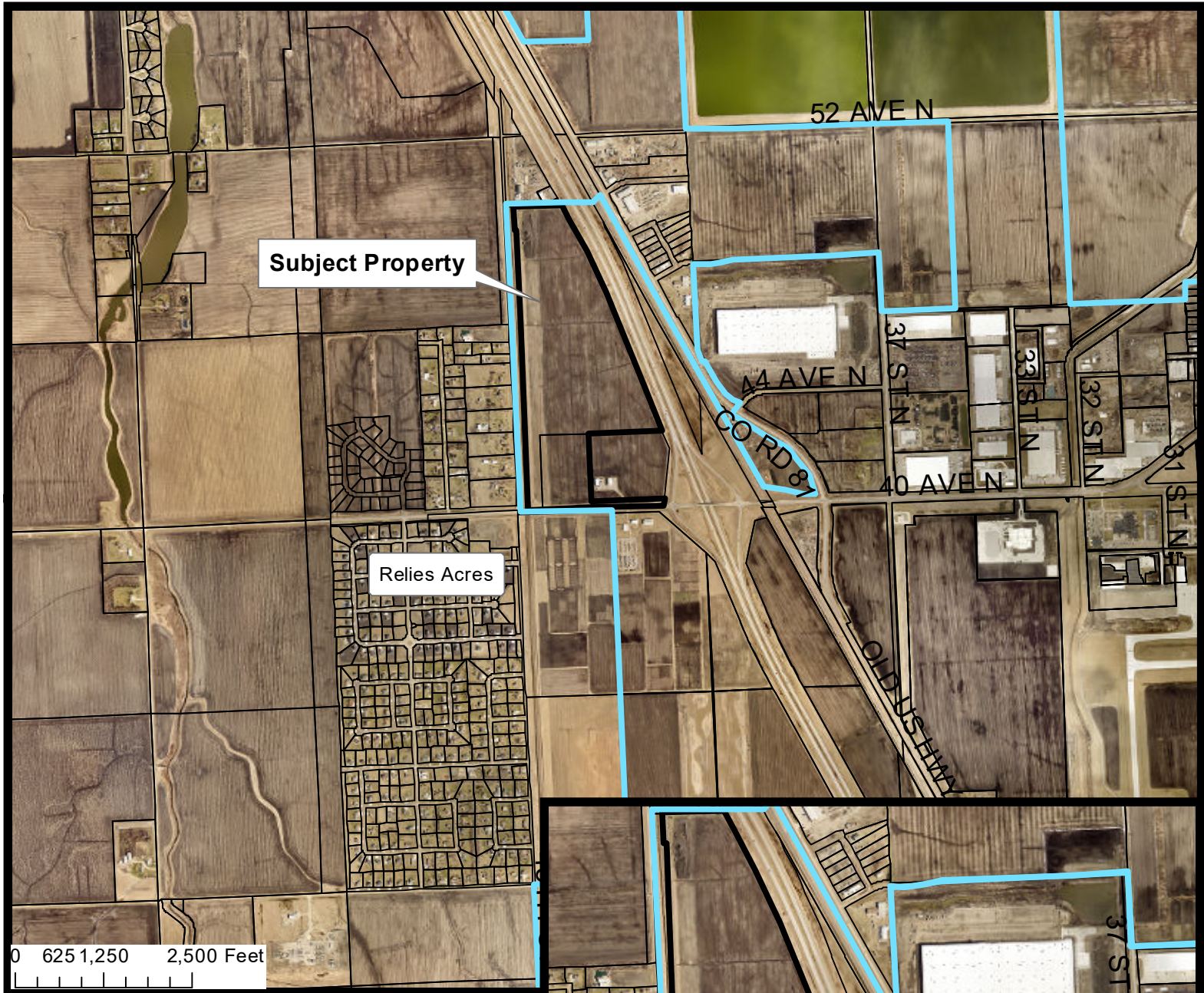
Attachments:

1. Location map
2. Zoning map
3. Growth plan amendment map
4. Preliminary plat
5. Proposed zoning map
6. Draft conditional overlays
7. Public comment letters

Major Subdivision, Zone Change from AG, Agricultural and LI, Limited Industrial with a Conditional Overlay to Limited Industrial and General Commercial with a Conditional Overlay and P/I, Public/Institutional; Growth Plan Amendment from Commercial, Residential Area—Lower to Medium Density and Proposed Park to Industrial and Commercial

Interstate Business District Addition

4269 40th Avenue North
4753 45th Street North



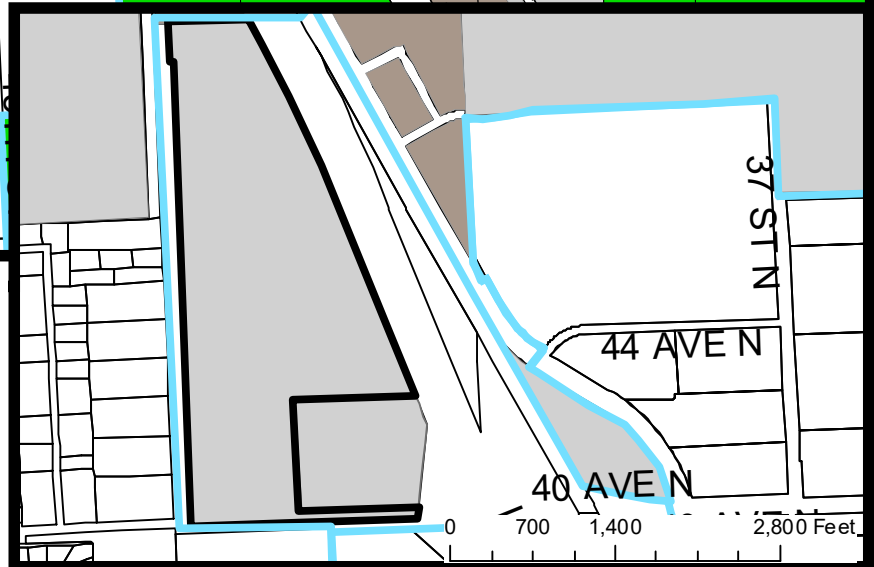
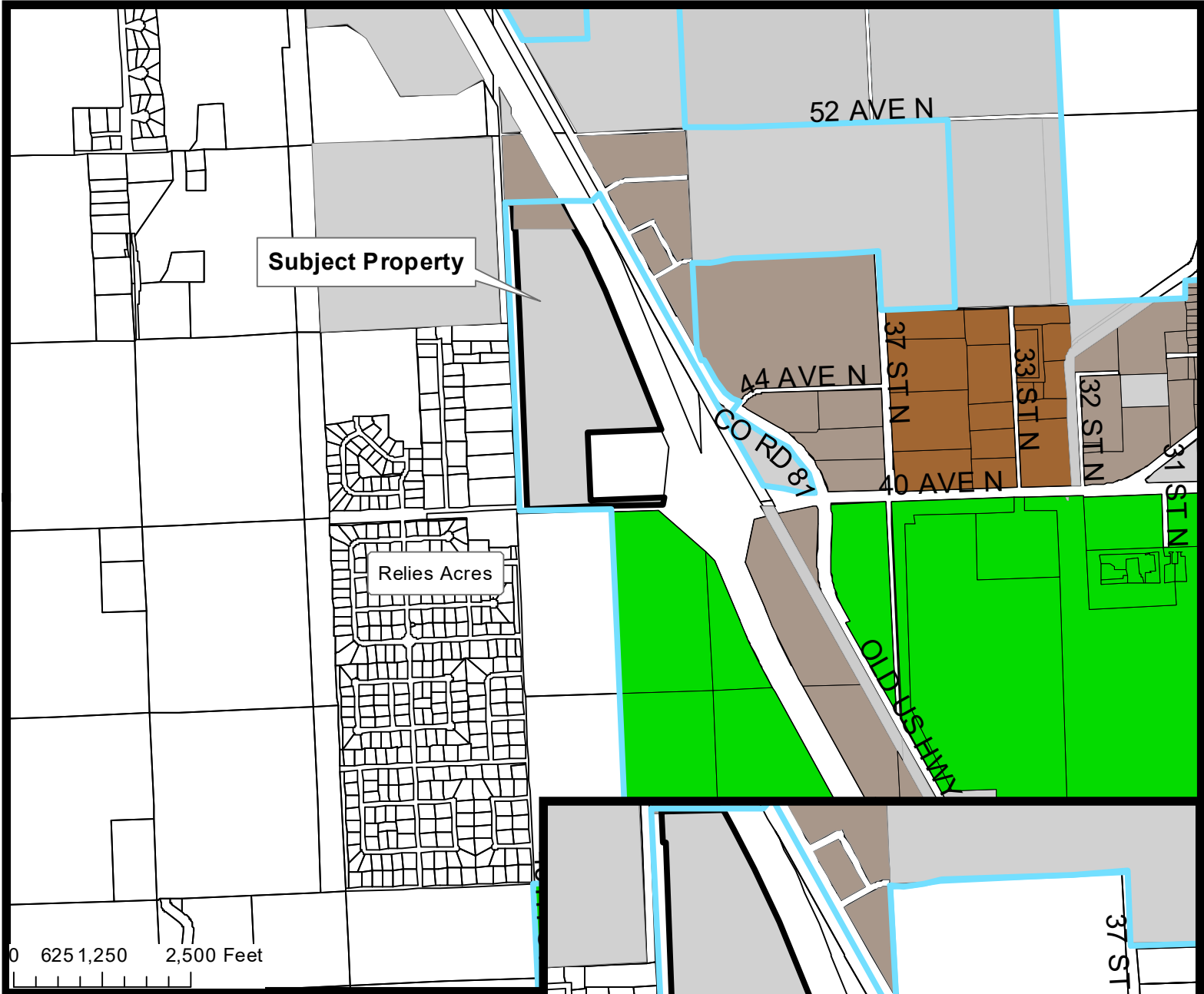
Legend

 City Limits

Major Subdivision, Zone Change from AG, Agricultural and LI, Limited Industrial with a Conditional Overlay to Limited Industrial and General Commercial with a Conditional Overlay and P/I, Public/Institutional; Growth Plan Amendment from Commercial, Residential Area—Lower to Medium Density and Proposed Park to Industrial and Commercial

Interstate Business District Addition

4269 40th Avenue North
4753 45th Street North



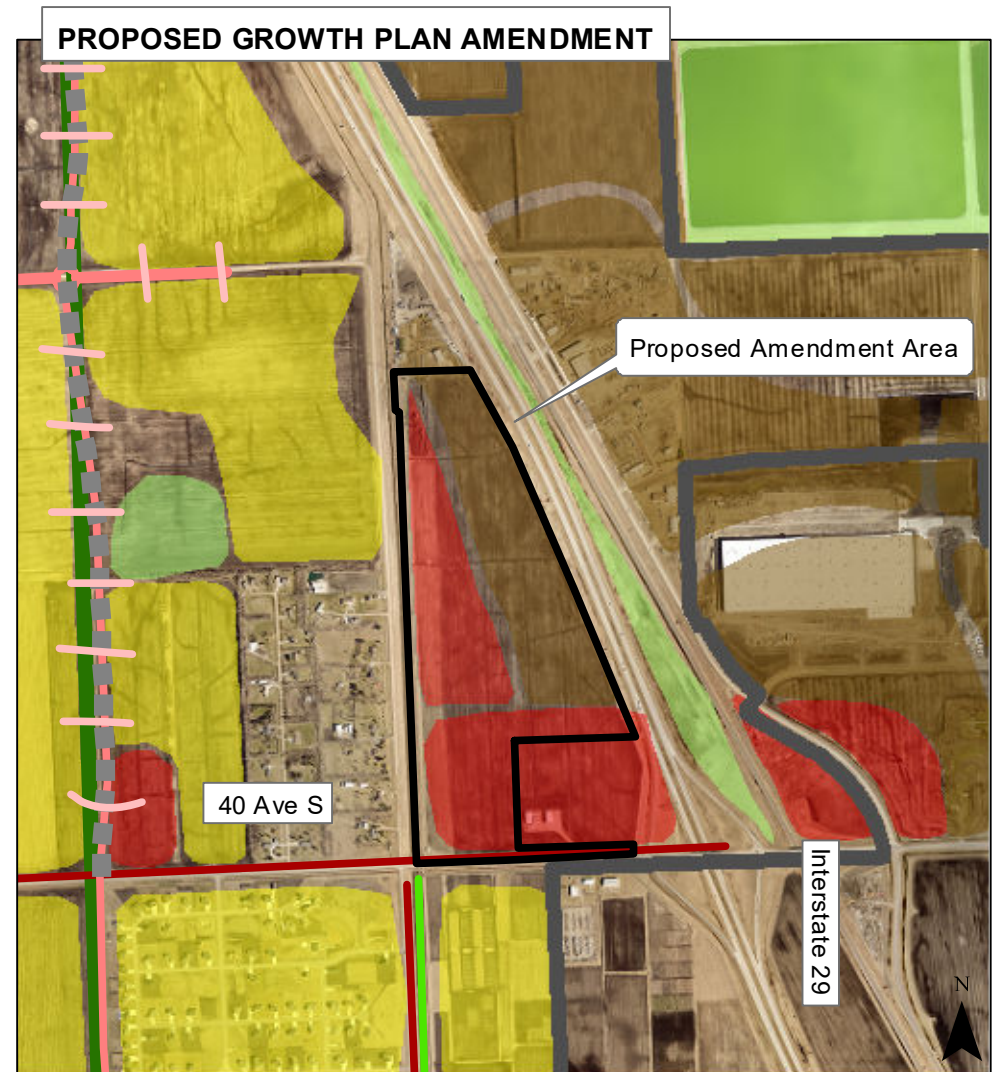
Legend

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

Growth Plan Amendment ("Commercial, Residential—Low to Medium Density, and Proposed Park" to "Industrial and Commercial")

Interstate Business Park Addition

4269 40th Avenue North
4753 45th Street North

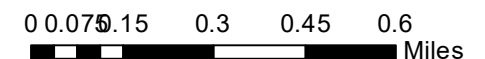


2001 Growth Plan



- | | | |
|-------------|--------------------------|--|
| City Limits | Proposed Park | Residential Area - lower to medium density |
| Commercial | Public and Institutional | Residential Area - medium to high density |
| Office | Industrial Area | |

Fargo Planning Commission
May 2, 2023



INTERSTATE BUSINESS DISTRICT ADDITION

TO THE CITY OF FARGO, A PLAT OF PART OF THE WEST HALF OF SECTION 15, TOWNSHIP 140 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)

OWNER'S CERTIFICATE

KNOW ALL PERSONS BY THESE PRESENTS, That ARD Properties, LLC AND North Fargo Land, LLC AND Southeast Cass Water Resource District as owners of a parcel of land located in that part of the West Half of Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian and part of Auditor's Lot 1 of the Southwest Quarter thereof, and part of Auditor's Lots 1 & 2 of the Northwest Quarter thereof, Cass County, North Dakota being described as follows:

Commencing at the southwest corner of the Southwest Quarter of said Section 15; thence North 87 degrees 58 minutes 39 seconds East, an assumed bearing on the south line of said Southwest Quarter, 173.51 feet to the easterly right-of-way line of Cass County Drain No. 40 and the point of beginning; thence North 02 degrees 35 minutes 17 seconds West on said easterly right-of-way line, being parallel with and 173.50 feet easterly of the west line of said Southwest Quarter, 2,645.81 feet to the north line of said Southwest Quarter; thence North 02 degrees 34 minutes 44 seconds West on said easterly right-of-way line, being parallel with and 173.50 feet easterly of the west line of the Northwest Quarter of said Section 15, a distance of 1,322.84 feet to the north line of said Auditor's Lot 2 also being a northerly right-of-way line of said Drain; thence South 87 degrees 50 minutes 03 seconds West on said north line, 25.00 feet to the northwest corner of said Auditor's Lot 2 also being the easterly right-of-way line of said Drain; thence North 02 degrees 34 minutes 44 seconds West on said easterly right-of-way line being parallel with and 148.50 feet easterly of the west line of said Northwest Quarter, 332.04 feet; thence North 87 degrees 54 minutes 05 seconds East, 663.40 feet to the westerly right-of-way line of Interstate Highway 29; thence South 29 degrees 04 minutes 44 seconds East on said westerly right-of-way line, 235.90 feet; thence continuing southeasterly, on said right-of-way line 1,385.39 feet along an arc of a tangent curve, concave to the southwest, having a radius of 11,259.19 feet, a central angle of 07 degrees 03 minutes 00 seconds, and a long chord which bears South 25 degrees 33 minutes 14 seconds East, 1,384.52 feet; thence South 22 degrees 01 minute 44 seconds East on said westerly right-of-way line, 1,885.62 feet; thence South 87 degrees 58 minutes 39 seconds West, parallel with and 1050.00 feet northerly of the south line of said Southwest Quarter, 1,025.29 feet; thence South 02 degrees 35 minutes 23 seconds East, 950.05 feet; thence North 87 degrees 58 minutes 39 seconds East, parallel with and 100.00 feet northerly of the south line of said Southwest Quarter, 1,005.56 feet to the westerly right-of-way line of Interstate Highway 29; thence South 05 degrees 54 minutes 08 seconds West on said westerly right-of-way line, 100.96 feet to the south line of said Southwest Quarter; thence South 87 degrees 58 minutes 39 seconds West on said south line, 1,877.26 feet to the point of beginning.

Containing 122.17 acres, more or less.

Said owners of the above described property, have caused the same to be surveyed and platted as "INTERSTATE BUSINESS DISTRICT ADDITION" to the City of Fargo, and does hereby dedicate to the public, for public use, all streets, avenues and easements on this plat, except those easement as shown hereon as "Existing".

OWNER: Lots 2-7 & Lots 9-15, Block 1

ARD PROPERTIES, LLC

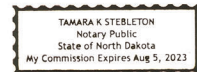
By: Trent Duda

Trent Duda, President

State of North Dakota)
) SS
County of Cass)

On this 12th day of May, 2023, appeared before me, Trent Duda, President, ARD PROPERTIES, LLC, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

Notary Public: Tamara K. Stebleton



OWNER: Lot 1, Block 1

NORTH FARGO LAND, LLC

By: RLK

Ronald Knutson, member

State of North Dakota)
) SS
County of Borleigh)

On this 3 day of May, 2023, appeared before me, Ronald Knutson, member, NORTH FARGO LAND, LLC, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

Notary Public: Alicia Rogstad



SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

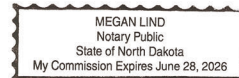
I, Jason Ness, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision; that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

Dated this 4th day of MAY, 2023.

Jason Ness
Jason Ness, PLS
Professional Land Surveyor
Registration No. LS-6884



State of North Dakota)
) SS
County of Cass)



On this 4th day of MAY, 2023, appeared before me, Jason Ness, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Notary Public: Megan Lind

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this ___ day of ___ 20__.

Rocky Schneider, Chair
Planning Commission Chair

State of North Dakota)
) SS
County of Cass)

On this ___ day of ___ 20__, before me, a notary public in and for said county, personally appeared Rocky Schneider, Planning Commission Chair, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public: _____

OWNER: Lot 8, Block 1

SE CASS WATER RESOURCE DISTRICT

By: _____

State of North Dakota)
) SS
County of _____)

On this ___ day of ___ 20__, appeared before me, _____, SE CASS WATER RESOURCE DISTRICT, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

Notary Public: _____

FARGO CITY COMMISSION APPROVAL

Approved by the Board of Commissioners and ordered filed this ___ day of ___ 20__.

Timothy J. Mahoney
Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota)
) SS
County of Cass)

On this ___ day of ___ 20__, before me, a notary public in and for said county, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor, known to me to be the persons described in and who executed the same as a free act and deed.

Notary Public: _____

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by the City Engineer this ___ day of ___ 20__.

Brenda E. Derrig, P.E.
City Engineer

State of North Dakota)
) SS
County of Cass)

On this ___ day of ___ 20__, before me, a notary public in and for said county, personally appeared Brenda E. Derrig, P.E., City Engineer, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public: _____

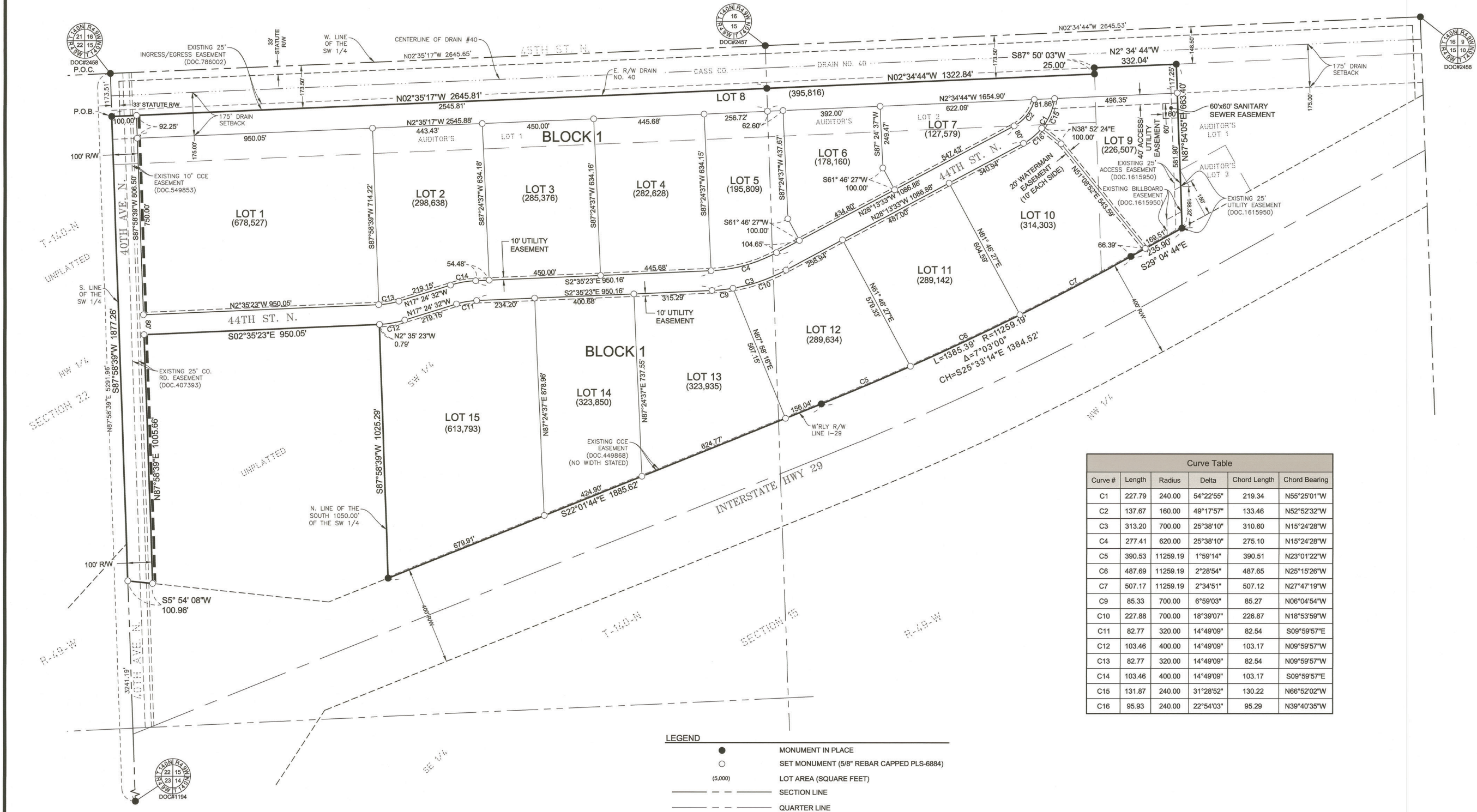


Phone: 701-566-6450
meadhunt.com

PROJECT NO.
4666132-212541.01
SHEET 2 OF 2

INTERSTATE BUSINESS DISTRICT ADDITION

TO THE CITY OF FARGO, A PLAT OF PART OF THE WEST HALF OF SECTION 15, TOWNSHIP 140 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)

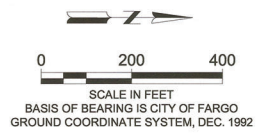


Curve Table					
Curve #	Length	Radius	Delta	Chord Length	Chord Bearing
C1	227.79	240.00	54°22'55"	219.34	N55°25'01"W
C2	137.67	160.00	49°17'57"	133.46	N52°52'32"W
C3	313.20	700.00	25°38'10"	310.60	N15°24'28"W
C4	277.41	620.00	25°38'10"	275.10	N15°24'28"W
C5	390.53	11259.19	1°59'14"	390.51	N23°01'22"W
C6	487.69	11259.19	2°28'54"	487.65	N25°15'26"W
C7	507.17	11259.19	2°34'51"	507.12	N27°47'19"W
C9	85.33	700.00	6°59'03"	85.27	N06°04'54"W
C10	227.88	700.00	18°39'07"	226.87	N18°53'59"W
C11	82.77	320.00	14°49'09"	82.54	S09°59'57"E
C12	103.46	400.00	14°49'09"	103.17	N09°59'57"W
C13	82.77	320.00	14°49'09"	82.54	N09°59'57"W
C14	103.46	400.00	14°49'09"	103.17	S09°59'57"E
C15	131.87	240.00	31°28'52"	130.22	N66°52'02"W
C16	95.93	240.00	22°54'03"	95.29	N39°40'35"W

- LEGEND**
- MONUMENT IN PLACE
 - SET MONUMENT (5/8" REBAR CAPPED PLS-6884)
 - (5,000) LOT AREA (SQUARE FEET)
 - SECTION LINE
 - QUARTER LINE
 - EXISTING PROPERTY LINE
 - EXISTING RIGHT OF WAY
 - EXISTING EASEMENT LINE
 - NEW LOT LINE
 - NEW BLOCK LINE
 - PLAT BOUNDARY
 - NEW EASEMENT LINE
 - NEGATIVE ACCESS EASEMENT

NOTES

- GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
- NEGATIVE ACCESS EASEMENT, AS NOTED ON THE PLAT OF GOLDEN VALLEY THIRD ADDITION, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OR PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OF LAND OR ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.

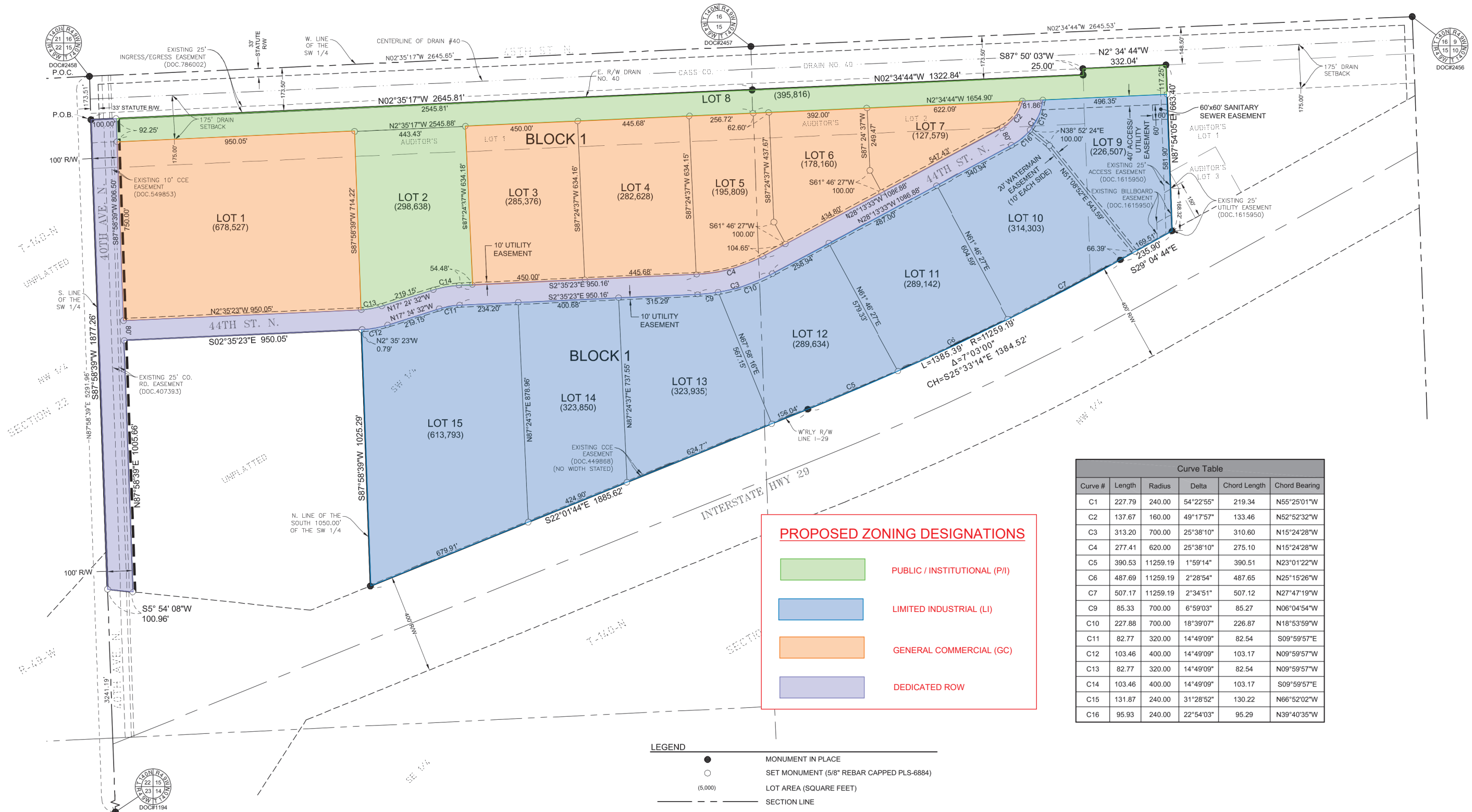


Mead & Hunt
 Phone: 701-566-6450
 meadhunt.com
 PROJECT NO.
 4666132-212541.01
 SHEET 1 OF 2

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INTERSTATE BUSINESS DISTRICT ADDITION

TO THE CITY OF FARGO, A PLAT OF PART OF THE WEST HALF OF SECTION 15, TOWNSHIP 140 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)



PROPOSED ZONING DESIGNATIONS

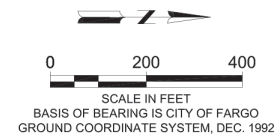
- PUBLIC / INSTITUTIONAL (P/I)
- LIMITED INDUSTRIAL (LI)
- GENERAL COMMERCIAL (GC)
- DEDICATED ROW

Curve Table					
Curve #	Length	Radius	Delta	Chord Length	Chord Bearing
C1	227.79	240.00	54°22'55"	219.34	N55°25'01"W
C2	137.67	160.00	49°17'57"	133.46	N52°52'32"W
C3	313.20	700.00	25°38'10"	310.60	N15°24'28"W
C4	277.41	620.00	25°38'10"	275.10	N15°24'28"W
C5	390.53	11259.19	1°59'14"	390.51	N23°01'22"W
C6	487.69	11259.19	2°28'54"	487.65	N25°15'26"W
C7	507.17	11259.19	2°34'51"	507.12	N27°47'19"W
C9	85.33	700.00	6°59'03"	85.27	N06°04'54"W
C10	227.88	700.00	18°39'07"	226.87	N18°53'59"W
C11	82.77	320.00	14°49'09"	82.54	S09°59'57"E
C12	103.46	400.00	14°49'09"	103.17	N09°59'57"W
C13	82.77	320.00	14°49'09"	82.54	N09°59'57"W
C14	103.46	400.00	14°49'09"	103.17	S09°59'57"E
C15	131.87	240.00	31°28'52"	130.22	N66°52'02"W
C16	95.93	240.00	22°54'03"	95.29	N39°40'35"W

- LEGEND**
- MONUMENT IN PLACE
 - SET MONUMENT (5/8" REBAR CAPPED PLS-6884)
 - (5,000) LOT AREA (SQUARE FEET)
 - SECTION LINE
 - QUARTER LINE
 - EXISTING PROPERTY LINE
 - - - EXISTING RIGHT OF WAY
 - - - EXISTING EASEMENT LINE
 - NEW LOT LINE
 - NEW BLOCK LINE
 - PLAT BOUNDARY
 - - - NEW EASEMENT LINE
 - - - NEGATIVE ACCESS EASEMENT

NOTES

- GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
- NEGATIVE ACCESS EASEMENT, AS NOTED ON THE PLAT OF GOLDEN VALLEY THIRD ADDITION, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OF PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OF LAND OR ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.



Mead & Hunt
 Phone: 701-566-6450
 meadhunt.com
 PROJECT NO. 4666132-212541.01
 SHEET 1 OF 2

X:\4666132\212541.01\TECHSURVEY\DRAWINGS\211541 INTERSTATE BUSINESS DISTRICT ADDITION.DWG 5/10/2023 11:04:16 AM

FOR LOT 1, BLOCK 1, ZONED GC WITH CONDITIONAL OVERLAY:

Prohibited Uses:

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

1. Exterior lighting must meet the standards of Land Development Code Section 20-0704.G.

2. Off-street parking, loading, vehicular circulation areas, and outdoor storage shall have an all-weather surface. No gravel, crushed concrete, or similar material is permitted.

3. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.

FOR LOTS 3 THROUGH 7, BLOCK 1, ZONED GC WITH CONDITIONAL OVERLAY:

Prohibited Uses:

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

1. Exterior lighting must meet the standards of Land Development Code Section 20-0704.G.

2. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.

3. The developer shall install 3 foot high berm 25 feet wide at the bottom and 4 feet wide at the top along the west side of Lots 3-7.

4. The property owner of Lots 3, 4, and 5, Block 1 shall install trees on the west side of the berm at time of development of these individual lots.

FOR LOTS 9 THROUGH 15, BLOCK 1, ZONED LI WITH CONDITIONAL OVERLAY:

Prohibited Uses:

- Detention Facility
- Adult Establishment
- Aviation/Surface Transportation
- Concrete Crushing

1. Exterior lighting must meet the standards of Residential Protection Standards 20-0704.G.

2. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.

3. Maximum height of any off-premise sign is limited to 35 feet.

4. Total number of off-premise signs is limited to four.

NOTE: Lots 5 and 8, which will be zoned P/I, Public/Institutional, do not have a conditional overlay.

COMMENTS RECEIVED SINCE THE
JULY 10th, 2023 CITY COMMISSION
HEARING

July 24 2023

Regarding Continued Objection to Zoning Proposal for: Interstate Business District Addition

This letter is in Opposition to the following application with the Fargo Planning Commission for:

1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and proposed park to L1 Industrial and General Commercial

2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition.

This letter is regarding continued opposition to the above zoning proposal, on behalf of the residents of Prairie Estates, and ETJ of Reiles Acres, many residents of Reiles Acres, with support from the City of Reiles Acres.

In addition to the multiple letters that you have received from our community that were presented in the May 2nd and June 6th Planning Commission and what was presented to the Fargo City Council on July 10th, there are many concerns that we have and hope that you would review all information.

The zoning area we are discussing has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, for the community as a whole. The residents in Prairie Estates and those in Reiles Acres will have to look at, and deal with the effects of whatever type of businesses that are on above stated property.

The current growth plan of 2007 has this area listed as proposed zoning of residential and a park. There must have been a good reason for the growth plan to list it as residential Why? Because it is right next to an existing residential areas, and also borders NDSU crop research land, and the City of Reiles Acres.

In the hearings previously held with the Planning Commission, discussions and comments surrounded several key points, which resulted in a vote to deny these zoning amendments. The Fargo City Council recommended that this go back to the Planning Department to do the due diligence and take a look at what really makes sense for zoning long term because this borders existing communities.

This is a complex and unique situation. There are no examples of where the city of Fargo has put in commercial & industrial zoning next to an existing residential area. It is important to consider what is the appropriate growth plan considering the existing communities it borders.

There are many reasons for the city to consider why this is not the right zoning for the neighboring community.

1. The city should not be afraid of leaving it as residential zoning. Look at areas like Fox Run in Fargo, those homes are closer to I29 then this area would be. And Fox Run was built after I29 was already there. There are also areas on I94 between I29 and Veterans Blvd where neighborhoods were built and border a current interstate, and do not have sound barriers.

2. Based on recent Fargo studies on housing needs, it indicates the need for up to 15,000 more homes and there is a large demand for housing including the north side of Fargo. With large employers like the VA, NDSU, technology park, Amazon, FedEx and others – potential homeowners are looking for areas that they can enjoy space, where they can have a larger lot than they can find in city limits.
3. There is also the question of the Fargo ETJ area to the north of Prairie Estates (Reiles ETJ) and City of Reiles Acres New Haven division, and border residents of Lake Shur south of Harwood. If this zoning goes through – how will this zoning decision impact the section of Fargo ETJ to the north of us - if this section is commercial/industrial – how will that work to the north? Again, it is another deterrent to the entire surrounding community which has to be considered, especially when there is no buffer between. This could also mean more traffic concerns on 45th Street N.
4. Developer and real estate representatives for the New Haven division of Reiles Acres testified in June that prospective homeowners are concerned about the potential zoning for this section and having second thoughts in terms of purchasing lots
5. When it comes to the current zoning proposal, there is **strong opposition for industrial development. This means manufacturing and production.** Through our discussions over the last several months, our voices have not been heard and no concession given to removing that type of zoning. Although the overlay has now been amended to exclude concrete crushing from any lot, the land owner has not indicated what his intentions are with the property. How many lots will he keep? What type of operations will he put in for his existing businesses of earth moving operations? Once the lots are sold, all they have to do is file for a permit. There is no control, and concerns over what types of businesses that may be built. We do not want an impact of additional trucking in and out of an already crowded area, causes traffic and safety concerns. Any type of manufacturing brings additional environmental concerns and brings additional noise.

Earthworks has been stockpiling dirt on this property for over two years, some days there are over 30 trucks coming in and dumping – how do we know they will not continue to use lots for additional stockpiling of other materials like crushed concrete, gravel or sand – which means it all has to be moved and moved out.

This small section of land does not warrant this type of zoning for this area. Especially industrial which is open to manufacturing and production. Fargo has industrial parks to the east of I-29, and along 19th Ave N and 12th Ave N. This type of zoning belongs in other areas of the city where this is not residential. There is no benefit to our existing surrounding community. The land owner knew when he purchased this property that it was originally zoned for residential development, and that it bordered existing residential development. How could you not think about the effect to the neighborhood? Or that people would object to your proposal?

Another big concern is how this zoning will affect our home value. We are not convinced the research was done by Planning to guarantee no negative effects on surrounding land values. Yet on the staff notes, they continue to state that the “criteria has been met” however they did not provide

the true research of the effect. When it comes to the impact on neighboring home value – this is a huge concern and we have done our research.

We have statements from real estate professionals about the negative impact commercial/industrial zoning will have on our existing properties.

When we are looking at a potential 25% decreased value of a home, **that represents a loss of value of close to \$1M.** This is a significant concern. I ask – how would we get to recoup this loss?

It does not matter the distance between our residential lots and this proposed zoning area, as we are currently in open space. Today there is no buffer and a tree line will take 15 years + to develop. Individuals that live across from this property, and those that have to travel past it each day or see it from the I-20 bridge, or look at it from their property – will be affected.

The **City of Reiles Acres** supports these concerns on behalf of their residents and our ETJ and have sent in a letter to object their concerns as well.

Again – we ask you to consider: Is this the type of zoning YOU would like to live next to?

Would you like the noise? Potential environmental concerns? The negative effect on your property value? The view from your property? The safety of your family?

There currently are no good examples of where the City of Fargo has put in Industrial/Commercial zoning directly next to a residential area. Again I reiterate that this type of zoning does not make sense.

This is an opportunity for the City of Fargo to consider doing the right thing for an existing community and truly be a good neighbor in terms of your growth planning. The revised Growth Plan apparently will not be done until next year. **It does not make sense to approve something when you do not have the plan in place.** We look to you to take all of this into consideration and hope that you would support the denial of this zoning amendment.

Regards,

Paul & Paula Peterson

Along with all of the residents that have previously signed all of the already submitted letters.

TWO LAYDOWN ITEMS FROM THE
JUNE 6th, 2023 PLANNING COMMISSION
HEARING AND COMMENTS RECEIVED
AFTER THE THAT DATE

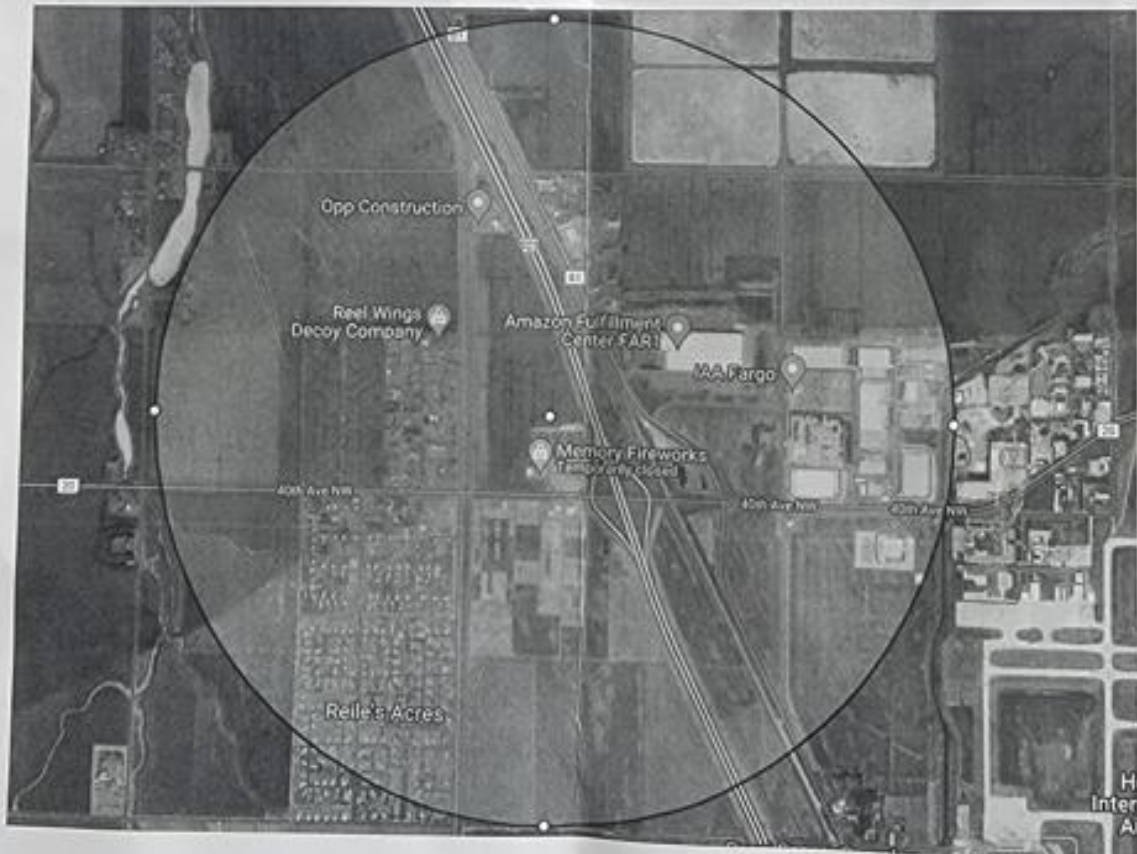
IMPORTANT! PLEASE READ ASAP

There are current plans to build a cement crushing plant in our neighborhood. This may expose us to cement dust, which has been demonstrated to **significantly increase the risk of multiple types of cancer**. There may also be chronic decreased pulmonary function due to scarring of lung tissue. Don't take my word for it, simply google "cement dust cancer." Further, the affected area may be wide and difficult to control, given the windy conditions of our state. Studies demonstrate a possible environmental effect radius of several kilometers.

Should residents be afraid to enjoy the outdoors with their families? Should our children be afraid to play at the baseball diamond and other parks? Does your family deserve to live in fear of cancer?

We need to come together as a community. **A decision will be made at an upcoming meeting, held on June 6th at 3:00 pm, at the Fargo City Hall 225 4th Street North. Please attend in person to prevent this potential disaster.**

2 Kilometer Radius



June 6, 2023

City of Fargo
Planning Commission
225 4th St N
Fargo, ND 58102

RE: Interstate Business District Addition

Planning Commissioners:

I am writing in opposition to the proposed zoning changes at 4753 45th St N and 4269 40th Ave N. With the opposition to placing a cement crushing facility near a residential area from a medical professional, a professor of chemical engineering, and the 40 or so residents that have signed a letter of protest or stated their opposition in person, I cannot believe the planning commission has continued to entertain this request.

- A case study published August 28, 2021, in the International Journal of Environmental Research and Public Health noted:

*Different associations have been observed between cement dust and various types of cancer, mortality, bone disease, kidney disease, respiratory disease, or cardiovascular disease. The risk of cancer by inhalation or aspiration of cement dust is very high, especially for people living near cement factories. Silica dust causes silicosis and severe lung disease, and the presence of chromium compounds in cement dust can lead to cancer. The severity of the conditions depends on the duration of exposure, the concentration and constituent of the dust, and the individual sensitivity, but no researcher rules out the possibility of disease. Long-term effects exist, **especially in children born and raised near cement plants.***

- The case study also notes that with wet processing the dust emissions can still reach 24% for PM10 and 7% for PM2.5; so, in my opinion, that's not an acceptable "solution". Installation of electrostatic precipitators/bag filters have led to significant reductions in dust emissions; *however*, those techniques must be installed and maintained, the plant must be properly managed, and the air quality must be continuously monitored. I put no faith in the self-regulation of this proposed facility by its owner or future management.

For the long-term health and well-being of the current and future residents of that area, your neighbors, people that share the same county, state and country with you, I ask that you make the conscionable decision to decline the request to rezone to Limited Industrial.

With Respect,



Sarah Larson
4970 38 ½ Ave N
Reiles Acres, ND 58102

July 5, 2023

TO: City of Fargo - City Council

Regarding Continued Objection to Zoning Proposal for: Interstate Business District Addition

This letter is in Opposition to the following application with the Fargo Planning Commission for:

- 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and proposed park **to L1 Industrial and General Commercial**
- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

Background Information

This letter is a follow-up to the initial letters and testimony presented to the Planning Commission on May 2 2023 and on June 6 2023 by the residents of Reiles Acres ETJ that live along 45th Street N and 47th Street N of Fargo, along with additional Reiles Acres residents.

As a follow-up from previous Planning Commission meetings, along with our concerns, we heard the following points from the Planning Commission which resulted in a vote to Deny the proposed zoning amendment:

1. Review the 15 year Growth Plan for the city of Fargo taking into consideration the large residential area adjacent and surrounding this property
2. What should the view be for people coming into Fargo?
3. Does this type of zoning fit the surrounding community and fit Fargo's values
4. Concerns regarding noise, traffic, environmental effects to the entire community

Summary of Concerns from the collective community

This property mentioned above has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, not only for those residents that live across from this property – but also for the community as a whole. The residents on 47th Street N and those in Reiles Acres will have to look at and deal with the effects of whatever type of businesses that are on above stated property.

Specific Concerns

We want to address each of the above areas below.

Zoning

1. Our preference is to stay with the existing Growth Plan of Fargo of residential development. This is particularly important considering the best fit for the entire existing surrounding community. Prairie Estates has been in existence since 1973, even before Reiles Acres and was designed for 2-5 acre size lots that allow country living. The entire neighborhood has grown with the expansion of Reiles Acres. Our concern is also that the land to the north of Prairie Estates is also part of Fargo's ETJ – which borders Reiles Acres & Reiles ETJ. The zoning of this land sets the precedent for the entire community long term.

According to Fargo research studies and demands of residents, Fargo is looking to offer residential housing on the north side of the city, and this is the opportunity. The demand is there for people that want to live on the north side of Fargo, with large employers such as NDSU, VA, Amazon, FedEx, etc. Individuals are looking for properties that allow them to have larger lots. Living along an interstate is not an issue – look at all the neighborhoods along I-29 south of I-94 – they are much closer to the interstate.

2. We do not want an Industrial Commercial in the zoning. Despite discussions – there has been no change to the East lots, the land owner still wants zoning of L1 Industrial – which includes manufacturing and production. Although the land owner has since decided to prohibit concrete crushing from any lot, the concern is that the zoning of Industrial Commercial on the east lots still leaves too much room for business types that do not fit this type of adjacent community of residential. We have asked for a change in this zoning for over two months and no concession has been given.
3. We do not feel that Industrial Commercial fits this area. Those types of businesses belong in an industrial park, which Fargo has built on the east side of I-29, and along corridors of 19th and 12th Ave N.
4. There is currently no, or proposed tree line or other buffer between this property and existing residential homes

Concerns on Decreased Valuation of Existing Homes

Having talked with several local realtors, they have validated this fact. Potential homeowners will do their research and check the zoning surrounding them and see their surroundings. They purchase a home based on quality of life.

The current Planning Conditions & Overlay statements do not do justice, they did not do the research, and state they do not believe it has effect. However we have done our research and it is a major concern.

The current estimate from realtors is that we could lose up to ¼ of the estimated resale value of our homes based upon what is located across the street. This is a huge concern and well worth our voicing our concerns and fighting for our properties that have been in families for over 50 years.

When we are looking at a potential decreased value in homes that just face this land, **that represents a loss of value of close to \$1M.** This is a significant concern.

Supporting Statement from Local Realtor

It has come to my attention that the homeowners on the West side of Reiles Acres on 45th St N have recently received notice that the agricultural land to the East of them has or will be zoned Commercial/Industrial from the original zone of agriculture. Having commercial or industrial buildings across the road from a residential area can negatively impact the home values in the neighborhood. Homeowners in these residential areas usually choose to live there because of the peacefulness, privacy, and tranquility that such areas offer, especially in a rural setting.

➔ *Putting up commercial or industrial buildings close to residential homes could create noise pollution, increase traffic, and decreased air quality, leading to a general decrease in the quality of life for residents.*

Moreover, the presence of these buildings may not appeal to potential buyers, which could hurt the marketability of the homes in the area. Prospective buyers may be discouraged from buying a house that is located close to commercial or industrial buildings due to the perceived negative impacts on their quality of life. This can lead to lower demand for homes in the area and a decrease in their market value.

Therefore, it is not beneficial to put up commercial or industrial buildings across the road from residential areas. It can cause a decline in the quality of life for residents and lower the marketability and home values in the area.

Jeremy Qualley

Qualley & Associates by eXp Realty - Realtor in the FM Area

Consider the Best Interest Of Neighboring Communities

Again – we ask you to consider: Is this the type of zoning YOU would like to live next to?

What is the view that Fargo wants to represent for people coming into the City of Fargo?

There currently are no good examples of where the City of Fargo has put in Industrial/Commercial zoning directly next to an existing residential area. This is an opportunity for the City of Fargo to consider doing the right thing for an existing community.

Our biggest question is this: Why are you not considering keeping with the original growth plan of a mix-used development plan of residential, low-density as a transition between a current residential area? Despite this section of land being next to an interstate, there are established communities around it that need to strongly be considered. The proposed zoning brings no benefit to the surrounding community.

Continued Concerns:

Traffic & Safety– Increased traffic will happen, and will bring additional trucking running at whatever hours the business needs. Currently 40th Ave N has a large amount of traffic already due to City of Reiles Acres and their new addition being built. We do not want businesses that bring additional traffic to the overall neighborhood.

The design of this plat will incorporate a city street through the middle with a secondary exit on the northwest corner, including a bridge across 45th street drain. This will also mean that traffic could now exit on the north end and come down 45th Street N – meaning additional potential traffic including trucks in front of a residential area. These concerns have still not been addressed.

Summary

It is the consensus of all those that have previously posted opposition in previous letters and for those signing this additional letter, that we object to the current proposed zoning and would like the City of Fargo to strongly reconsider our concerns of the entire residential community.

The following individuals have the above concerns and objections and are hereby supporting this by signing:

<u>Paul & Paula Peterson</u>	<u>Paul S Peterson</u>	<u>4314 48th St N Fargo</u>
Name	Signature	Address

58102

Mike Lestina

MIKE LESTINA

4406 45th St. N. Fargo
58102

Name

Signature

Address

Gail Prudhomme

GAIL Prudhomme

4302 45th St N Fargo
58102

Name

Signature

Address

James Prudhomme

Jim Prudhomme

9302 95th St N Fargo

Name

Signature

Address

Kyla DuBord

Kyla DuBord

4106 45th St N Fargo

Name

Signature

Address

Dave Leah Heide

DHeide

4006 45th St N Fargo

Name

Signature

Address

Name

Signature

Address

Name

Signature

Address

Name

Signature

Address

From: Shane Amundson
Date: June 28, 2023 at 10:15:42 CDT
To: Tim Mahoney
Subject: Rezoning Opposition

Mayor Mahoney,

I am writing today on behalf of the Reile's Acres' city council, our ETJ, and municipal residents. The council and residents are concerned about the rezoning of a parcel of land known as Interstate Business District Addition (IBDA) – Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West. The IBDA rezoning plan calls for a combination of LI and GC from its current AG designation.

The rezoning and proposed project would transform the land into an industrial park containing a concrete crushing operation right off of I-94 and 40th Ave. NW.

Your Planning Commission sided with the our ET and municipal residents in early June and voted 4-3 against the project, noting it wasn't in line with other zoning in the neighborhood.

Property values and possible negative health implications are our primary concerns.

We are asking that you and your Commissioners accept the findings and the vote of your Planning Commission. Your team found the project being proposed as not consistent with the 2007 growth plan and therefore they voted against it.

Very Respectfully,
Shane J. Amundson

May 5th, 2023

To: City of Fargo - City Planning & Development

Dear City Commission Members,

I am writing to you to express strong objection to the proposed zoning changes for the Interstate Business District Addition.

Re-zoning to limited industrial opens the gate to numerous manufacturing operations that carry inherent environmental and health hazards. In my experience as a chemical engineer and materials expert, I cannot think of a single industrially-graded operation that can be deemed safe for residents in its proximity. Generating waste is part of any manufacturing operation, whether solid, wastewater, air pollution, gases, noise, and/or vibration. In practice, it is often a combination of all.

For example, a cement crushing operation was recently suggested as a plausible manufacturing operation to be located in the discussed area. If approved, this would have resulted in devastating consequences to the neighboring community (please see accompanying letter). Even though it is no longer being considered, cement crushing is just one of many alike operations that can be suggested in the future if the re-zoning takes place. I will state it again – there is no harmless industrial process.

Discussions at previous meetings have also exposed the lack of state/city laws and regulations with respect to industrial operations placed in the vicinity of residential areas. I plead to your morality, please stay ahead of the curve, even in the absence of defined laws/regulations. Just a few decades ago asbestos and lead-paints have been widely used in commercial products. It led to the morbidity and tragic loss of numerous lives before much needed laws were implemented. Cases as such require meticulous studies carried out by of a large number of specialized experts to prevent adverse outcomes.

I implore to your consciousness and prudence in carrying out the decision that will benefit the city and its people.

Sincerely,

Mariia Goriacheva

Mariia V Goriacheva, Ph.D.

Department of Chemical Engineering

University of North Dakota

Dear Planning Commission Members,

Upon attending the hearing on May 18th, I have come to realization that the potential hazards of the exposure to the cement dust have not been properly addressed and to a large extent were downplayed. As a professor of chemical engineering and a materials expert, I feel obliged to bring your attention to the following information.

Cement in a solidified form (i.e., concrete slab) does not pose danger to human beings. However, in the form of a fine dust, cement becomes lethal. Aerosolized particles can enter the body either through respiratory tract (inhalation) and/or gastrointestinal tract (swallowing). In both routes, individuals become exposed to numerous harmful substances, including but not limited to lead, mercury, cobalt, chromium, aluminum, cadmium, arsenic, silica, asbestos. All are recognized as extremely toxic and prone to cause numerous adverse health effects (Jaishankar *et. al.*, 2014).

Inhaled cement particles were shown to cause lung function impairment, chronic obstructive lung disease, restrictive lung disease, pneumoconiosis, and cancer of the lungs, throat, stomach, and colon. (Meo, 2004) Owing to its aerodynamic diameter, cement particles can also enter the bloodstream and thereby reach essential internal organs and affect various tissues including heart, liver, spleen, bone, and muscles, ultimately changing their microstructure and physiological performance (Gharpure *et. al.*, 2021). Respirable particles were also demonstrated to cause disorders in the nervous system. (Heusinkveld *et. al.*, 2016)

It is simply inaccurate to state that the danger exists only for the individuals directly participating in cement milling operations. Studies conducted on the soil and vegetation show that the cement dust particles can travel the distances of up to 5 kilometers (Shukla *et. al.*, 2008). Further, I would like to disclose the details of the study conducted by Tajudeen and Okpuzor in 2011. To quantify the impact of the cement dust, the researchers placed rats at 250 m and 1000 m away from a cement company. The subsequent examination of the lung tissues revealed presence of chemicals associated with cement dust in both groups of animals. Specifically, lung tissues of the exposed rats showed significant levels of calcium, silicon, aluminum, chromium, and lead compared to the unexposed rats. The histopathology study of the lung tissues of the exposed rats showed abnormal alveolar architecture, disrupted bronchus, damaged bronchioles, degenerated epithelium lining, weak respiratory connective tissues, inflammations, and blue-black pigments. Some of the exposed rats died before the end of the exposure. The experiment lasted only 180 days. (Tajudeen *et. al.*, 2011)

Taking into consideration the strong winds in North Dakota and the absence of natural forest/vegetation, it is safe to assume that the proposed location of the cement crushing plant will expose a large number of residents to the severe risks of the cement dust. Establishing cement crushing plant adjacent to a residential area will have an unnecessary detrimental impact on so many innocent lives. I plead to your consciousness and prudence – please do not allow harm to come to our community.

Sincerely Yours,
Mariia Goriacheva, Ph.D.



References:

Jaishankar *et. al.* Toxicity, Mechanism, and Health Effects of Some Heavy Metals. *Interdiscip Toxicol* **2014**, 7, 60–72.

Meo. Health Hazards of Cement Dust. *Saudi Med J* **2004**, 25, 1153-1159.

Gharpure *et.al*, Characterization and Hazard Identification of Respirable Cement and Concrete Dust from Construction Activities. *Int. J. Environ. Res. Public Health* **2021**, 18, 10126.

Heusinkveld *et. al*, Neurodegenerative and Neurological Disorders by Small Inhaled Particles. *Neurotoxicology* **2016**, 56, 94–106.

Shukla *et. al*, Impact of Dust Emission on Plant Vegetation in the Vicinity of Cement Plant. *Environ Eng and Manag J* 2008, 7, 31-35.

Tajudeen *et. al.* Variation in Exposure to Cement Dust in Relation to Distance from Cement Company. *Research Toxicology* **2011**, 5, 203-212.

July 5, 2023
Fargo City Commission
225 4th St N
Fargo, ND 58102

Dear Commission Members,

I am writing this letter in strong opposition of zoning changes at 4753 45th Street North and 4269 40th Avenue North.

I am a resident and a physician of the Fargo community. At prior meetings, I had discussed the extremely dangerous health consequences of cement dust exposure, including multiple types of cancer. I now understand that the proprietor may be pivoting to other limited industrial options, following the unfavorable recommendation of the planning committee.

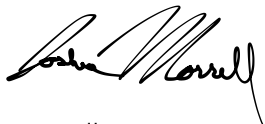
I want to specifically highlight that nearly all production processes generate waste that cause environmental contamination in the neighboring area. Without specific details of what is planned, I can't say for certain whether the risk will be higher or lower vs cement dust, but regardless risk will remain. It will be difficult to contain, monitor, or regulate.

This risk cannot be sufficiently attenuated by reduction in concentration. Even very low levels of exposure, given enough time, will result in disease development. Given that many of us live in the area, we are the proverbial rats in a cage. Most individuals don't appreciate the full impact of cancer, how often it actually occurs. I diagnose and monitor cancer every day, and have personally seen several thousand cases. I know the devastation, the fallout, the bleakness. The people of this community do not deserve to live in fear of cancer.

Further, to echo the recommendations of the planning committee, limited industrial does not fit the future plans of this area. Fargo will undoubtedly be expanding to the northwest, and roads such as 45th St N will be a gateway to that expansion. Industrial operations will blemish the area, deterring both business and residential growth.

Again, I plead to your decency and morality, please do not endanger our community.

Kind regards,



Joshua Morrell, MD
Chairman, UND Radiology
Board Certified Radiologist, Department of Veterans Affairs

Autumn Kraft
City of Fargo – City Hall

June 19, 2023

225 4th Street North
Fargo, ND 58102

Subject: Concerns Regarding the Proposed Concrete Crushing Plant near City of Reile's Acres

Dear City of Fargo,

I hope this letter finds you well. As a former resident of Fargo, a graduate of North Dakota State University, and someone who holds affection for the city, I write to express my support for my sister, Kelly Donahue, who is a resident of the City of Reile's Acres. She, along with many other concerned residents, firmly believes that the construction of a concrete crushing plant in proximity to their residential neighborhood will have significant detrimental effects on neighborhood health, well-being, and property values. I urge you to take these concerns seriously and carefully consider the potential consequences before deciding.

One of the primary concerns raised by my sister and other residents is the potential impact on neighborhood health. Concrete crushing plants have been known to emit harmful pollutants, including but not limited to silica, mercury, asbestos, and lead. These pollutants can have detrimental effects on public health in these nearby neighborhoods. It is of utmost importance to prioritize the health and safety of the community by consolidating industrial activities, such as concrete crushing, an appropriate distance from residential zones.

Furthermore, the proposed construction and operation of a concrete crushing plant near residential areas may have a negative effect on the overall well-being of the neighborhood. The noise, dust, and vibrations generated by such facilities can disrupt the tranquility and peacefulness that residents have come to appreciate. It is crucial to recognize the significance of a harmonious living environment and consider alternative locations that minimize potential disturbances and preserve the well-being of the community. This industrial zoning would only exacerbate the activity from the increasingly busy Interstate 29 traffic not far from the zone of concern.

In addition to health and well-being concerns, the establishment of a concrete crushing plant near residential zones could have adverse effects on property values. Potential homebuyers are likely to be deterred by the proximity to industrial activities, which can lead to a decline in property values. This not only impacts the financial well-being of homeowners but also hampers the overall growth and development of the community. It is vital to consider the long-term economic implications of industrial developments and prioritize the preservation of property values for the benefit of all residents.

As a former resident who has experienced firsthand the unique charm and strong community ties that define Fargo, I urge the City of Fargo to give serious consideration to the concerns raised by my sister and other residents of the City of Reile's Acres. I implore you to reasonably accommodate the requests of the residents of the City of Reile's Acres by thoroughly exploring alternative locations for the proposed concrete crushing plant that would mitigate potential negative impacts on the health, well-being, and property values within these residential neighborhoods. By doing so, we can ensure continued prosperity and quality of life for all residents.

Thank you for your attention to this matter. I trust that you will carefully weigh the concerns of the community and make a decision that upholds the best interests of all parties involved.

Warm regards and Go Bison!

Autumn Kraft, Ph.D.



COMMENTS RECEIVED PRIOR TO THE
JUNE 6th, 2023 PLANNING COMMISSION
HEARING

From: Trent Duda
Sent: Tuesday, May 30, 2023 10:27 AM
To: Donald Kress ; Mark Williams
Subject:

Donald, I would like to have this email and the Reiles Acres letter to the city of Fargo entered into the packet for this agenda. I would like to start by saying thank you for working with me on this. It has been a long process. When I originally got a purchase agreement for this land I had it stipulated I could get out of buying the land at the time if I couldn't get approval from relies acres to do what I wanted to do on the land. I went and talked with the city at a city council meeting. They agreed they wanted me to start the industrial park and allowed me to crush concrete as you can see in the letter they sent the city of Fargo that I attached here. If they would have said no, I would have bought where Amazon is now which was for sale at the time also. After I went through with the purchase I came to find out the city doesn't have the right to put industrial waste into the Fargo Sewer System which they didn't tell me about. So that meant I had to have Fargo annex me if I wanted industrial. It's now that they are saying they don't want industrial there, which i believe is because they couldn't annex me. After all this, I am willing to do GC along the west side of my project with a 25 foot vegetation buffer and a 3 foot high berm 25 feet wide at the bottom 4 feet wide at the top along all the lots on the west side and a fence on lots 3,4, and 5 on top the berm with the vegetation buffer on the west side of the fence. This would be put in when a building permit is put on these lots and paid for by the new owners of the land. This is more than is required of me and I feel I am meeting more than half way. Thanks for your consideration.

Thank you,

Trent Duda
Owner/President

Earthwork Services Inc
345 12th Ave NE, West Fargo, ND 58078



City of Reile's Acres
4635 35th Ave N.
Reile's Acres, ND 58102
www.reilesacresnd.org

October 21, 2020

City of Fargo

City Hall

225 4th Street North

Fargo, ND 58102

Dear City of Fargo:

The City of Reile's Acres has received a written request from property owner Trent Duda and ARD Properties, LLC with respect to the property located north of Memory Fireworks and west of Interstate 29, north of the City of Fargo.

Mr. Duda is acquiring the property for an expansion of his contracting business, Earthwork Services, Inc. His plans are to use the property for commercial and industrial uses that will include excavating sand and gravel and crushing concrete, beginning on site in Spring 2021. The City of Reile's Acres supports this use of the property.

Mr. Duda requested that the City of Reile's Acres extend its extraterritorial jurisdiction over the property and connect the property to municipal sewer and water services.

The City of Reile's Acres is supportive of this request. By this letter, the City of Reile's Acres requests that the City of Fargo relinquish its extraterritorial jurisdiction with respect to the property, and allow the City of Reile's Acres to extend its extraterritorial jurisdiction over the property, including the possibility of annexation of the property into the City of Reile's Acres.

Very truly yours,

Shane Amundson, Mayor

City of Reile's Acres



City of Reile's Acres
4635 35th Ave N.
Reile's Acres, ND 58102
www.reilesacresnd.org

(RESOLUTION 2023-3)

5/9/23

RESOLUTION OBJECTING THE ZONING PROPOSAL FOR THE INTERSTATE BUSINESS DISTRICT ADDITION

BE IT RESOLVED BY THE ELECTED COUNCIL OF THE CITY OF REILE'S ACRES:

The City of Reile's Acres objects to the Interstate Business District Addition- Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West, request for zoning change.

A. Opposition

1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and Proposed park **to Industrial and Commercial**

2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

Our opposition to the zoning change is to the following issues the change will create for our city and its ETJ residents if this parcel is allowed to be L1, with a C-O.

B. Details of objections

1) The landowner wishes to build a concrete crushing plant on a portion of this land.

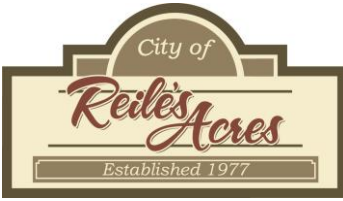
a. This will not only create an environmental hazard with dust as there is nothing to contain it with the open space and mostly Northerly wind patterns in our area for the majority of the year.

b. It will also create noise pollution to a normally quiet area.

c. Additional lighting that would be needed for safety of an operation like this will cause excessive light pollution to an area that has normally not had a great deal of man-made light.

d. The significant increase in large and heavier trucks/equipment that would be traveling in and out of this parcel would create many additional safety risks to our residents.

2) The application allows for a broad spectrum of business and manufacturing to occur on this parcel that could potentially impact home values negatively for our entire city and ETJ residents.



City of Reile's Acres
4635 35th Ave N.
Reile's Acres, ND 58102
www.reilesacresnd.org

a. Only a few areas within Fargo's own boundaries in which single family homes are abutting the similar zoning to this application. By allowing the application to be approved as requested, in our instance, there is no stepped "buffer" system planned. With this designation no one would develop a multi-family housing area when it would be more lucrative to build commercial or industrial properties.

C. Closing

Our request is to not allow the LI zoning. In 2020 our council was in favor of this and we can only assume it was because of the desire to annex this property into the City of Reile's Acres. Today, the residents are opposed to it. Having received communication objecting to this re-zoning request from many our residents, the City of Reile's is officially objecting to the LI re-zoning changes while reluctantly accepting the GC zoning changes.

PASSED AND ADOPTED this 9th Day of May 2023. CITY OF REILE'S ACRES, ND

Mayor Shane J. Amundson, Attest _____
City Auditor Nic Miller, Approved _____

The motion for the adoption of the foregoing resolution was duly made by Member Hager, seconded by Member Krantz, and upon vote being taken hereon, the following voted in favor: Hager, McCamy, Krantz, Dick; the following voted against the same: None; and the following were absent: None; whereupon the resolution was declared duly passed and adopted and was signed by the Mayor and attested by the City Auditor.

May 29 2023

TO: City Of Fargo - City Planning & Development

Regarding Continued Objection to Zoning Proposal for: Interstate Business District Addition

This letter is in opposition to the following application with the Fargo Planning Commission for:

- 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and proposed park **to L1 Industrial and General Commercial**
- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

Background Information

This letter is a follow-up to the initial letters and testimony presented to the Planning Commission on May 2 2023 by the residents of Reiles Acres ETJ that live along 45th Street N and 47th Street N of Fargo, along with additional Reiles Acres residents.

As a follow-up from the May 2nd meeting, along with our concerns, we heard the following points from the Planning Commission which resulted in a vote of issuing a continuance to this zoning proposal:

1. Review the 15 year Growth Plan for the city of Fargo taking into consideration the large residential area surrounding this property
2. What should the view be for people coming into Fargo
3. Reiles Acres was not informed, how do you include their opinion
4. Need to rethink the West side of this property
5. Concerns regarding noise, traffic, environmental effects

Summary of Concerns from the collective community

The Section 15 property as described above has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, not only for those residents that live across from this property – but also for the community as a whole. The residents on 47th Street N and those in Reiles Acres will have to look at and deal with the effects of whatever type of businesses that are on above stated property.

Specific Concerns

Zoning

In recent discussion with the property owner, these are points regarding the zoning application:

1. West lots to be zoned as General Commercial
2. No change to the East lots, still wants zoning of L1 Industrial – which includes manufacturing and production.
3. For the buffer zone between Lots 3 -5 only, would be 25 feet with a chain-link fence with slats. Trees would be the responsibility of new lot owner based on conditional overlay instructions
4. Lot 1 is owned by Dr. Knutson, who was not present in discussions and has not offered any buffering

We want to address each of the above areas below.

Zoning

In our meeting on May 18th, we asked the City Planning if they had reviewed the long term growth plan. They stated they are not making any changes. Therefore, we assume that the current zoning of Residential and a Park is still their long term intention.

The updated Zoning proposal indicates that L1 Industrial still stays on the East Lots. Again, this is not what people want. With manufacturing and production still being on the options for L1, it still opens the door for businesses that will not fit into the community.

Mr. Duda wants to own some of these lots and wants to put in a concrete crushing plant - which all affected residents, including city of Reiles Acres, strongly object to.

- This type of operation involves the constant stock piling of concrete which means large truck traffic. Today on Mr. Duda's land, he has a large dirt pile which means up to 40 trucks per day witnessed, and the noise of banging truck tailgates sounds like gun shots which can be heard from within our homes.
- The crushing of concrete involves a process that is environmentally unhealthy. Please refer to the letters that have been submitted by accredited individuals and references to the studies on the long term effects. Fine particles will be carried by the wind not only across the interstate but to neighboring residential areas, represent significant concerns to health, and hazards are absorbed into the ground for up to 5 KM.
- It is not an attractive business to have along the interstate. Other concrete crushing plants in the FM metro area are located in industrial areas at the edge of the city behind other buildings, and no where near residential areas. This is not something the city should allow.

The City of Reiles Acres supports these concerns on behalf of their residents and our ETJ and have sent in a letter to object their concerns as well.

Concerns on Decreased Valuation of Existing Homes

Putting in a chain-link fence with privacy slats is not the answer. It is still very unattractive and will be a garbage collector.

Lot 1, owned by Dr Knutson, contains no buffering allotments in the Conditional Overlay - which again is a major concern for home owners, and everyone traveling by on County Road 20 will have to look at. He has not been present in discussions.

When we are looking at a potential decreased value in homes that just face this land, that represents a loss of value of close to \$1M. This is a significant concern.

Consider the Best Interest Of Neighboring Communities

Again – we ask you to consider: Is this the type of zoning YOU would like to live next to?

Here is a view of the land from the 40th Ave N & I-29 Interchange Bridge looking to the northwest. Here is a high amount of traffic not only on the interstate, but by individuals that use 40th Ave N and cross this bridge every day. This is their view – **what do you want them to see in the future?**



There currently are no good examples of where the City of Fargo has put in Industrial/Commercial zoning directly next to a residential area. This is an opportunity for the City of Fargo to consider doing the right thing for an existing community.

Our biggest question is this: Why are you not considering keeping with the original growth plan of a mix-used development plan of residential, low-density as a transition between a current residential area? Despite this section of land being next to an interstate, there are established communities around it that need to strongly be considered. The proposed zoning brings no benefit to the surrounding community.

Continued Concerns:

Property Value – The current estimate from realtors is that we could lose up to ¼ of the estimated resale value of our homes based upon what is located across the street. This is a huge concern and well worth our fighting for our properties that have been in families for over 50 years.

Traffic & Safety– Increased traffic will happen, and will bring additional trucking running at whatever hours the business needs. Currently 40th Ave N has a large amount of traffic already due to City of Reiles Acres and their new addition being built. We do not want businesses that bring additional traffic to the overall neighborhood.

The design of this plat will incorporate a city street through the middle with a secondary exit on the northwest corner, including a bridge across 45th street drain. This will also mean that traffic could now exit on the north end and come down 45th Street N – meaning additional potential traffic including trucks in front of a residential area. These concerns have still not been addressed.

Summary

It is the consensus of all those that have previously posted opposition in previous letters and for those signing this additional letter, that we object to the current proposed zoning and would like the City of Fargo to strongly reconsider our concerns of the entire residential community.

The following individuals have the above concerns and objections and are hereby supporting this by signing:

<u>Paul & Paula Peterson</u>	<u>Paul Peterson</u>	<u>4314 45th St N Fargo</u>
Name	Signature	Address

MIKE LESTINA

Mike Lestina

4406 45th St. N. Fargo

Name

Signature

Address

JAMES PRUDHOMME

James Prudhomme

4302 45th St N, Fargo

Name

Signature

Address

Dail Prudhomme

Dail Prudhomme

4302 45th St N Fargo

Name

Signature

Address

Don DuBord

[Signature]

4106 45th St N Fargo

Name

Signature

Address

Dave :Lean Heide

DHeide

4006 45th ST N Fargo

Name

Signature

Address

Name

Signature

Address

Name

Signature

Address

Name

Signature

Address

From: Tim D
Sent: Thursday, May 18, 2023 8:56 PM
To: Donald Kress
Subject: Interstate Business District Addition

Hi Mr. Kress,

Thank you for chairing the meeting on May 18 with nearby residents to the proposed concrete crushing station about possible changes.

The residents that live along 45th St N have a much more pressing issue than mine. One of the comments they made included business lighting.

I believe that business lighting can be effective and at the same time economical and esthetic. Night skies in Fargo have disappeared due to the type of street lighting that is being used.

There are better lighting products available than the "Cobra" Head street lamps and lanterns used for house lighting.

[Search by Use \(darksky.org\)](#) This link leads to a page where lighting styles can be perused.

I used to travel 32nd Ave S between 25th St and I29. The type of lighting used in that neighborhood made it difficult to read the road surface, as my eyes were being hit by light from many different light poles. I have attached a document from the same website with additional information on wasted energy based on improperly directed and contained light.

Properly directed light will place the light where it is needed; while uncontrolled light will allow the light to go in any direction. Uncontrolled light makes it harder to see and wastes energy to produce light that is unusable.

According to the International Dark Sky Association (IDA),
Lighting should be directed downward or shielded in all situations.
Approximately \$5 Billion is spent every year on unneeded lighting. The unneeded lighting is costing 21 Million Tons of CO₂. Also, unnecessary lighting is confusing birds and other animals.

I believe that Fargo can reduce its sky glow by a significant portion, just as Tucson has also done, by choosing appropriate lighting for streets and other outdoor uses.

There are even Urban locations that have been designated as Dark Sky locations based on what they have done with the lighting within the city. [Urban Night Sky Places Archives - International Dark-Sky Association \(darksky.org\)](#)

Thank you very much for reading and considering IDA approved lighting which will make the neighborhood more appealing.

Thanks.
Tim Dockter

LIGHT POLLUTION COSTS MONEY AND WASTES RESOURCES

HOW DOES ENERGY WASTE HARM THE ENVIRONMENT?

Excess lighting pumps millions of tons of carbon into our atmosphere every year, and also causes light pollution.

Light pollution:

- Increases greenhouse gas emissions
- Contributes to climate change
- Increases our energy dependence

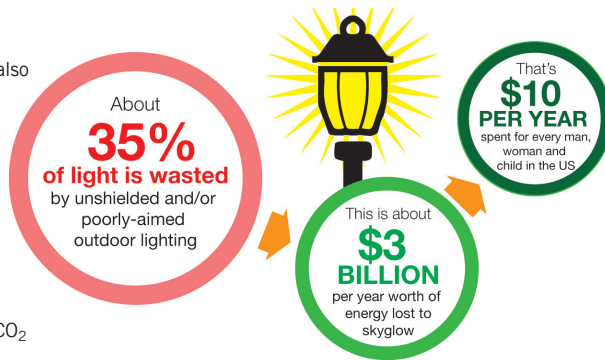
WHAT ABOUT OUR CARBON FOOTPRINT?

In the U.S. alone, about 15 million tons of CO₂ are emitted each year to power residential outdoor lighting. That equals the emissions of about 3 million passenger cars and adds up to 40,000 tons per day. To offset all that carbon dioxide, we'd need to plant about 600 million trees annually!



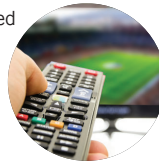
WHAT DOES LIGHT POLLUTION COST?

About \$3 billion dollars per year of energy is lost to bad lighting. This is about \$10 a year for every man, woman, and child in the U.S.



HOW MUCH ENERGY AM I WASTING?

The average house with poorly designed outdoor lighting wastes 0.5 kilowatt-hours (kWh) per night. A kilowatt-hour is a unit of energy equivalent to one kilowatt of power for an hour. It's enough energy to power a 50-inch plasma TV for one hour or run one load in your dishwasher!



It just takes small changes to save energy, money and our night skies. You can make a difference today.

Keep light on the ground



ENERGY EFFICIENCY SOLUTIONS

Shielding outdoor lighting saves energy and money, reduces our carbon footprint and helps protect the natural nighttime environment. The solutions are easy. Work with your neighbors and local government to keep the light on the ground and the skies natural. It's a win-win for everyone. You save money while preserving a valuable natural resource.

Tips to help you conserve energy and use light efficiently:

- Install quality outdoor lighting to cut energy use by 60-70%, save money and cut carbon emissions.
- Fully shield all outdoor lighting — light should go down on the ground where it's needed, not up into the sky.
- Be aware that fully shielded fixtures can provide the same level of illumination as unshielded fixtures, but with lower cost and less energy waste.
- Turn off indoor lights in office buildings or homes when not in use to save money and energy.

Visit darksky.org for more information.

Good vs. Bad Lighting

This photo (right) shows examples of good and poor lighting design. The unshielded light fixture on the left throws light into the sky and creates glare, impairing visibility. The shielded light fixture on the right directs light to the ground where it is needed and does not create lighting pollution. To learn about light fixtures that are environmentally friendly, energy efficient and certified with the IDA Fixture Seal of Approval, visit darksky.org.



Energy use and its impact on our environment has become one of the top concerns facing humanity.



Poorly designed outdoor lighting wastes energy by not being shielded, emitting more light than necessary or shining when and where it's not needed. Wasting energy in this way has huge economic and environmental consequences.

Leaving lights on overnight – such as those in office buildings – wastes energy and contributes to the general skyglow of the city. Dark sky friendly lighting does not mean “no light.” It means using the light that you need for a specific task in the most efficient manner possible.

“We can create a more sustainable, cleaner and safer world by making wiser energy choices.”

— Robert Alan Silverstein,
children's science book author

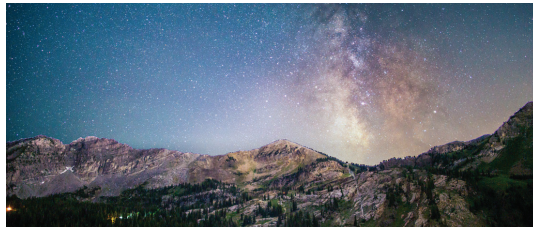


WHY DARK SKIES?

The need to protect and restore the natural nighttime environment is more urgent than ever. Light pollution, defined as light where it is not wanted or needed, affects our health, the environment, wildlife, and our ability to find awe in the natural night. Research indicates that light pollution is increasing at a global average rate of two percent per year.

ABOUT IDA

The International Dark-Sky Association, a 501(c)(3) nonprofit organization based in Tucson, Arizona, is dedicated to preserving and protecting the natural nighttime environment.



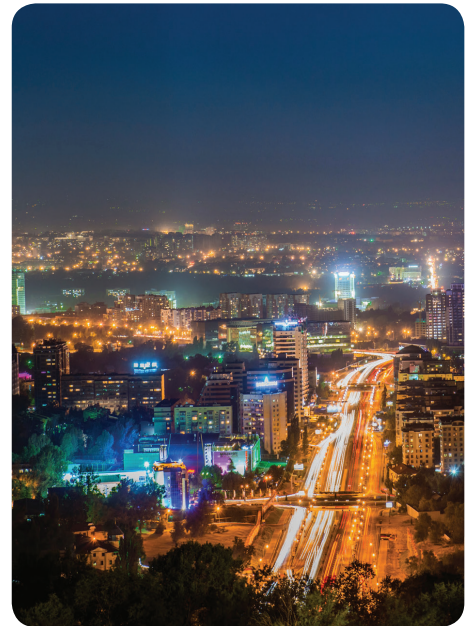
HELP US PROTECT THE NIGHT

Our work is made possible by support from IDA members. Become a member and support our work in protecting the natural nighttime environment. Please join us today!

**DARK
SKY.
ORG**

International Dark-Sky Association
3223 N. First Avenue
Tucson, AZ 85719 USA
+1-520-293-3198

Light Pollution Wastes Energy and Money



INTERNATIONAL DARK-SKY ASSOCIATION

Dear Planning Commission Members,

Upon attending the hearing on May 18th, I have come to realization that the potential hazards of the exposure to the cement dust have not been properly addressed and to a large extent were downplayed. As a professor of chemical engineering and a materials expert, I feel obliged to bring your attention to the following information.

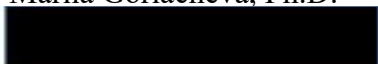
Cement in a solidified form (i.e., concrete slab) does not pose danger to human beings. However, in the form of a fine dust, cement becomes lethal. Aerosolized particles can enter the body either through respiratory tract (inhalation) and/or gastrointestinal tract (swallowing). In both routes, individuals become exposed to numerous harmful substances, including but not limited to lead, mercury, cobalt, chromium, aluminum, cadmium, arsenic, silica, asbestos. All are recognized as extremely toxic and prone to cause numerous adverse health effects (Jaishankar *et. al.*, 2014).

Inhaled cement particles were shown to cause lung function impairment, chronic obstructive lung disease, restrictive lung disease, pneumoconiosis, and cancer of the lungs, throat, stomach, and colon. (Meo, 2004) Owing to its aerodynamic diameter, cement particles can also enter the bloodstream and thereby reach essential internal organs and affect various tissues including heart, liver, spleen, bone, and muscles, ultimately changing their microstructure and physiological performance (Gharpure *et. al.*, 2021). Respirable particles were also demonstrated to cause disorders in the nervous system. (Heusinkveld *et. al.*, 2016)

It is simply inaccurate to state that the danger exists only for the individuals directly participating in cement milling operations. Studies conducted on the soil and vegetation show that the cement dust particles can travel the distances of up to 5 kilometers (Shukla *et. al.*, 2008). Further, I would like to disclose the details of the study conducted by Tajudeen and Okpuzor in 2011. To quantify the impact of the cement dust, the researchers placed rats at 250 m and 1000 m away from a cement company. The subsequent examination of the lung tissues revealed presence of chemicals associated with cement dust in both groups of animals. Specifically, lung tissues of the exposed rats showed significant levels of calcium, silicon, aluminum, chromium, and lead compared to the unexposed rats. The histopathology study of the lung tissues of the exposed rats showed abnormal alveolar architecture, disrupted bronchus, damaged bronchioles, degenerated epithelium lining, weak respiratory connective tissues, inflammations, and blue-black pigments. Some of the exposed rats died before the end of the exposure. The experiment lasted only 180 days. (Tajudeen *et. al.*, 2011)

Taking into consideration the strong winds in North Dakota and the absence of natural forest/vegetation, it is safe to assume that the proposed location of the cement crushing plant will expose a large number of residents to the severe risks of the cement dust. Establishing cement crushing plant adjacent to a residential area will have an unnecessary detrimental impact on so many innocent lives. I plead to your consciousness and prudence – please do not allow harm to come to our community.

Sincerely Yours,
Mariia Goriacheva, Ph.D.



References:

Jaishankar *et. al.* Toxicity, Mechanism, and Health Effects of Some Heavy Metals. *Interdiscip Toxicol* **2014**, 7, 60–72.

Meo. Health Hazards of Cement Dust. *Saudi Med J* **2004**, 25, 1153-1159.

Gharpure *et.al*, Characterization and Hazard Identification of Respirable Cement and Concrete Dust from Construction Activities. *Int. J. Environ. Res. Public Health* **2021**, 18, 10126.

Heusinkveld *et. al*, Neurodegenerative and Neurological Disorders by Small Inhaled Particles. *Neurotoxicology* **2016**, 56, 94–106.

Shukla *et. al*, Impact of Dust Emission on Plant Vegetation in the Vicinity of Cement Plant. *Environ Eng and Manag J* 2008, 7, 31-35.

Tajudeen *et. al.* Variation in Exposure to Cement Dust in Relation to Distance from Cement Company. *Research Toxicology* **2011**, 5, 203-212.

May 25, 2023
City of Fargo - Planning and Development
225 4th St N
Fargo, ND 58102

Dear Committee Members,

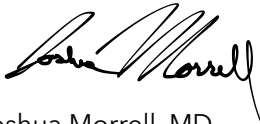
I am writing this letter in strong opposition of zoning changes at 4753 45th Street North and 4269 40th Avenue North.

I am a resident and a physician of the Fargo community. I want to highlight the extremely dangerous health consequences of cement dust exposure. There is irrefutable evidence of significantly increased risk of multiple types of cancer, pulmonary fibrosis, and other health aberrations.

This risk cannot be sufficiently attenuated by reduction in concentration. Even very low levels of exposure, given enough time, will result in disease development. Given that many of us live in the area, we are the proverbial rats in a cage.

I will be available in person for any questions at the upcoming meeting, June 6th. If needed, I can provided numerous scientific papers supporting my statements. Again, I plead to your decency and morality, please do not endanger our community.

Kind regards,



Joshua Morrell, MD
Chairman, UND Radiology
Board Certified Radiologist, Department of Veterans Affairs

COMMENTS RECEIVED PRIOR TO THE
MAY 2nd, 2023 PLANNING COMMISSION
HEARING

From: Joe Ring
Sent: Wednesday, April 26, 2023 12:06 PM
To: Donald Kress
Subject: Growth Plan amendment-located @ 4753 45th St N

Donald,

I am writing you today to express my concerns about the proposed zoning changes to the parcel of land located at 4753 45th St. N.

County Rd 20 is a 2 lane road with no turn lanes into Reiles Acres south or north of County road 20. We have seen an increase in traffic with the Amazon Distribution Center and the Marvin Windows facility. If this proposed zoning change is accepted, this will add even more traffic and safety issues while navigated this already busy county road. In addition to this, there is a new residential addition going in North of Reiles 9th addition and this again will add more traffic along this county road. Much of which will be stop and go for residents turning into editions to the north and south of County road 20. I have not been made aware of any proposals or enhancements to county rd 20. At a minimum, this needs to be a consideration before being allowed to move forward with an extensive project such as this one. And the majority of the cost of said project should not fall onto the residents of Reiles Acres.

In addition to the traffic safety issues that this proposal creates, a big part of why the residents of Reiles Acres have chosen to live in this area is because it has been surrounded by agriculture zoned land which has provided its residents an area to enjoy with little to no industrial noise and the hustle and bustle of large vehicle traffic. The proposed changes to Light Industrial gives these future land owners many options for businesses that will be allowed to run heavy trucks and equipment in and out of this area. It is known that a desire for a concrete crushing plant is also being contemplated which would create a large amount of noise in very close proximity to residential homes. This is unacceptable to consider when people have been enjoying this quite area for decades.

The last concern that I have is that 2 years down the road, the owners of this land/property can propose further changes to zoning and request more changes that could contribute to even higher amounts of industrial equipment and heavy truck travel in and around our residential neighborhoods.

I am not in favor of the proposed zoning changes for the above reasons.

I appreciate your time and consideration.

Joe Ring
4752 38 1/2 Ave N
Reiles Acres, ND 58102

Jason & Faulkner Lydia



4422 45th St N
Fargo, ND, 58102

Date 04-24-2023

TO: City of Fargo - City Planning & Development

RE: Zoning Proposal Objection to Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West

Interstate Business District Addition – Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West

This letter is in Opposition to the following application with the Fargo Planning Commission for:

- 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and proposed park to Industrial and Commercial
- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

Background Information:

Prairie Estates (our informal name) was established in the early 1970's within Reed Township, and now represents approximately 78 acres of single home residential lots between 5 – 2 acre lots each, owned by 30 separate landowners. Nine properties currently located on 45th Street N on the west side of Section 15 of the above District Addition, do face east toward this property. Our addition provides country living at its best with large lots, ability to have horses, has developed mature tree lines, quiet atmosphere, and yet close enough to city limits. This is considered prime real estate for all these factors.

This area is an ET Area for the City of Reiles Acres.

Summary of Concerns from the collective community:

The Section 15 property as described above has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, not only for those residents that live across from this property – but also for the community. The residents on 47th Street N and those in Reiles Acres will have to look at and deal with the effects of whatever type of businesses that are on above stated property.

Specific Concerns

Zoning:

The proposed amendments would move the zoning from agricultural to Limited Industrial and Commercial. This would also include manufacturing and production. If this zoning is approved, any developer can purchase the lots and put in any type of business that fit this definition. There is nothing precluding a developer from purchasing several lots and putting in a business within these guidelines, it could be a 5-story building, or an asphalt facility, etc.

Jason & Faulkner Lydia



4422 45th St N
Fargo, ND, 58102



Date 04-24-2023

ARD properties LLC is the official landowner per ND parcel viewer. Trent Duda is the name behind the LLC. He is associated with Earthworks services. The owner of this land has stated that he bought this land to expand his business. He currently has properties in West Fargo for Earthworks and his trucking business.

He stated that he will keep 2-3 lots on the east side, and he wants to put in a concrete crushing facility. This will bring added noise and large amount of truck hauling traffic, which we are opposed to. This type of business does not run just two weeks a year, it can run if the weather permits. He stated that his property off 12th Ave N is not large enough for a concrete business. His current businesses are in industrial areas and not near residential.

Consider the Best Interest Of Neighboring Communities - Is this the type of zoning you would like to live next to?

There currently are no good examples of where the City of Fargo has put in Industrial/Commercial zoning directly next to a residential area. This is an opportunity for the City of Fargo to consider doing the right thing for an existing community.

Our biggest question is this: Why are you not considering keeping with the original growth plan of a mix-used development plan of residential, low-density as a transition between a current residential area? Despite this section of land being next to an interstate, there are established communities around it that need to strongly be considered. The proposed zoning brings no benefit to the surrounding community.

Although an overlay plan can include requirements for buffers, which include tree-lines – it does not matter how far that buffer is. We will still be impacted by the noise, lights, and traffic.

Concerns:

Property Value – The current estimate from realtors is that we could lose up to ¼ of the estimated resale value of our homes based upon what is located across the street. This is a huge concern and well worth our fighting for our properties that have been in families for over 50 years.

Traffic & Safety– Increased traffic will happen and will bring additional trucking running at whatever hours the business needs. Currently 40th Ave N has a large amount of traffic already due to City of Reiles Acres and their new addition being built. With the lack of turning lanes and controlled intersections, this poses additional safety concerns for the entire community.

The design of this plat will incorporate a city street through the middle with a secondary exit on the northwest corner, including a bridge across 45th street drain. This will also mean that traffic could now exit on the north end and come down 45th Street N – meaning additional potential traffic including trucks in front of a residential area.

Lights – despite any buffers, lighting cannot be a hinderance to the community residents.

Jason & Faulkner Lydia



4422 45th St N
Fargo, ND, 58102



Date 04-24-2023

Summary:

It is the consensus of all that have signed this letter, that we object to the current proposed zoning and would like the City of Fargo to strongly reconsider an adjusted zoning proposal that would consider our concerns of the entire residential community. This could include light industrial only along the interstate, but to not include manufacturing or production in remaining areas.

We do plan to attend all related hearings to voice our objections and concerns. Thank you for the consideration and reviewing this information.

The following individuals have the above concerns and objections and are hereby supporting this by signing:


Signature

Jason Faulkner
Printed Name

4422 45th St N Fargo ND 58102
Address

4.24.2023
Date


Signature

Lydia Faulkner
Printed Name

4422 45th St. N. Fargo ND 58102
Address

4.24.2023
Date

April 24, 2023

TO: City Of Fargo - City Planning & Development

Regarding Objection to Zoning Proposal:

Interstate Business District Addition – Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West

This letter is in Opposition to the following application with the Fargo Planning Commission for:

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Background Information

Prairie Estates (our informal name) was established in the early 1970's within Reed Township, and now represents approximately 78 acres of single home residential lots between 5 – 2 acre lots each, owned by 30 separate landowners. Nine properties currently located on 45th Street N on the west side of Section 15 of the above District Addition, do face east toward this property. Our addition provides country living at its best with large lots, ability to have horses, has developed mature tree lines, quiet atmosphere, and yet close enough to city limits. This is considered prime real estate for all of these factors.

This area is an ET Area for the City of Reiles Acres.

Summary of Concerns from the collective community

The Section 15 property as described above has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, not only for those residents that live across from this property – but also for the community as a whole. The residents on 47th Street N and those in Reiles Acres will have to look at and deal with the effects of whatever type of businesses that are on above stated property.

Specific Concerns

Zoning

The proposed amendments would move the zoning from agricultural to Limited Industrial and Commercial. This would also include manufacturing and production. If this zoning is approved, any developer can purchase the lots and put in any type of business that fit this definition. There is nothing precluding a developer from purchasing several lots and putting in a business within these guidelines, it could be a 5 story building, or an asphalt facility, etc.

ARD properties LLC is the official landowner per ND parcel viewer. Trent Duda is the name behind the LLC. He is associated with Earthworks services. The owner of this land has stated that he bought this land to expand his business. He currently has properties in West Fargo for Earthworks and his trucking business.

He stated that he will keep 2-3 lots on the east side and he wants to put in a concrete crushing facility. This will bring added noise and large amount of truck hauling traffic, which we are opposed to. This type of business does not run just two weeks a year, it can run as long as the weather permits. He stated that his property off of

12th Ave N is not large enough for a concrete business. His current businesses are in industrial areas and not near residential.

Consider the Best Interest Of Neighboring Communities

Is this the type of zoning you would like to live next to?

There currently are no good examples of where the City of Fargo has put in Industrial/Commercial zoning directly next to a residential area. This is an opportunity for the City of Fargo to consider doing the right thing for an existing community.

Our biggest question is this: Why are you not considering keeping with the original growth plan of a mix-used development plan of residential, low-density as a transition between a current residential area? Despite this section of land being next to an interstate, there are established communities around it that need to strongly be considered. The proposed zoning brings no benefit to the surrounding community.

Although an overlay plan can include requirements for buffers, which include tree-lines – it does not matter how far that buffer is. We will still be impacted by the noise, lights and traffic.

Concerns:

Property Value – The current estimate from realtors is that we could lose up to ¼ of the estimated resale value of our homes based upon what is located across the street. This is a huge concern and well worth our fighting for our properties that have been in families for over 50 years.

Traffic & Safety– Increased traffic will happen, and will bring additional trucking running at whatever hours the business needs. Currently 40th Ave N has a large amount of traffic already due to City of Reiles Acres and their new addition being built. With the lack of turning lanes and controlled intersections, this poses additional safety concerns for the entire community.

The design of this plat will incorporate a city street through the middle with a secondary exit on the northwest corner, including a bridge across 45th street drain. This will also mean that traffic could now exit on the north end and come down 45th Street N – meaning additional potential traffic including trucks in front of a residential area.

Lights – despite any buffers, lighting cannot be a hinderance to the community residents.

Supporting Statement from Local Realtor

To whom it may concern,

It has come to my attention that the homeowners on north side of Reiles Acres on 45th St N have recently received notice that the agricultural land to the East of them has or will be zoned Commercial/Industrial from the original zone of agriculture. Having commercial or industrial buildings across the road from a residential area can negatively impact the home values in the neighborhood. Homeowners in these residential areas usually choose to live there because of the peacefulness, privacy, and tranquility that such areas offer, especially in a rural setting. Putting up commercial or industrial buildings close to residential homes could create noise pollution, increase traffic, and decreased air quality, leading to a general decrease in the quality of life for residents.

Moreover, the presence of these buildings may not appeal to potential buyers, which could hurt the marketability of the homes in the area. Prospective buyers may be discouraged from buying a house that is located close to commercial or industrial buildings due to the perceived negative impacts on their quality of life. This can lead to lower demand for homes in the area and a decrease in their market value.

Therefore, it is not beneficial to put up commercial or industrial buildings across the road from residential areas. It can cause a decline in the quality of life for residents and lower the marketability and home values in the area.

Best Regards,

Jeremy Qualley
Realtor in the FM Area

Summary

It is the consensus of all that have signed this letter, that we object to the current proposed zoning and would like the City of Fargo to strongly reconsider an adjusted zoning proposal that would take into account our concerns of the entire residential community. This could include light industrial only along the interstate, but to not include manufacturing or production in remaining areas.

We do plan to attend all related hearings to voice our objections and concerns. Thank you for reviewing this information and your consideration.

The following individuals have the above concerns and objections and are hereby supporting this by signing:

<u>JAMES PRUDHOMME</u>	<u>James Prudhomme</u>	<u>4302-45th St N, Fargo ND</u>
Name	Signature	Address

<u>Gael Prudhomme</u>	<u>Gael Prudhomme</u>	<u>4302 45th St N Fargo ND 58102</u>
Name	Signature	Address

<u>Debbie Moos</u>	<u>D Moos</u>	<u>4112 47th St N Fargo ND 58102</u>
Name	Signature	Address

<u>James Moos</u>	<u>James Moos</u>	<u>4112 47th St N Fargo ND 58102</u>
Name	Signature	Address

Name Signature Address
Roger Parrow [Signature] 4209-47th St N.

Name Signature Address
Judy Parrow Judy Parrow 4209 47th St N

Name Signature Address
Robert Bohmer [Signature] 4115 47th ST N
FARGO, ND 58102

Name Signature Address
Brenda Bohmer Brenda Bohmer 4115 47th ST N
FARGO, ND
58102

Name Signature Address
Branden + Liz Katz [Signature] 4414 47th St. N Fargo, ND 58102

Name Signature Address
Donnette Gustafson [Signature] 4306 47th St. No Fargo, ND
58102

Name Signature Address
Norman Gustafson Norman Gustafson 4306 47th St. No.

Name Signature Address
Sharon Lorz Sharon Lorz 4319-47th St. N. Fargo, ND
58102

Name Signature Address
Harold Lorz Harold Lorz 4319 47th St N, Fargo ND
58102

Name Signature Address
Kayh Lorz [Signature] 4519 47th St N Fargo ND 58102

Name Signature Address

Name

Josh Loge

Signature

Josh Loge

Address

4519 47th St N

Name

Katie Kram

Signature

Katie Kram

Address

4518 47th St. N

Name

Wyatt Kram

Signature

Wyatt Kram

Address

4518 47th St. N.

Name

Pat Bresnahan

Signature

Pat Bresnahan

Address

4505 47th St. N

Name

Nicolette Bresnahan

Signature

Nicolette Bresnahan

Address

4505 47th St. N

Name

Bernice Kram

Signature

Bernice Kram

Address

4502-36th Ave N.

Name

Roger Kram

Signature

Roger Kram

Address

4502-36th Avenue N.

Name

Signature

Address

Name

Signature

Address

Name

Signature

Address

Name

Signature

Address

April 24, 2023

TO: City Of Fargo - City Planning & Development

Regarding Objection to Zoning Proposal:

Interstate Business District Addition – Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West

This letter is in Opposition to the following application with the Fargo Planning Commission for:

- 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and proposed park **to Industrial and Commercial**
- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

Background Information

Prairie Estates (our informal name) was established in the early 1970's within Reed Township, and now represents approximately 78 acres of single home residential lots between 5 – 2 acre lots each, owned by 30 separate landowners. Nine properties currently located on 45th Street N on the west side of Section 15 of the above District Addition, do face east toward this property. Our addition provides country living at its best with large lots, ability to have horses, has developed mature tree lines, quiet atmosphere, and yet close enough to city limits. This is considered prime real estate for all of these factors.

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ARD properties LLC is the official landowner per ND parcel viewer. Trent Duda is the name behind the LLC. He is associated with Earthworks services. The owner of this land has stated that he bought this land to expand his business. He currently has properties in West Fargo for Earthworks and his trucking business.

He stated that he will keep 2-3 lots on the east side and he wants to put in a concrete crushing facility. This will bring added noise and large amount of truck hauling traffic, which we are opposed to. This type of business does not run just two weeks a year, it can run as long as the weather permits. He stated that his property off of

12th Ave N is not large enough for a concrete business. His current businesses are in industrial areas and not near residential.

Consider the Best Interest Of Neighboring Communities

Is this the type of zoning you would like to live next to?

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Our biggest question is this: Why are you not considering keeping with the original growth plan of a mix-used development plan of residential, low-density as a transition between a current residential area? Despite this section of land being next to an interstate, there are established communities around it that need to strongly be considered. The proposed zoning brings no benefit to the surrounding community.

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Concerns:

Property Value – The current estimate from realtors is that we could lose up to ¼ of the estimated resale value of our homes based upon what is located across the street. This is a huge concern and well worth our fighting for our properties that have been in families for over 50 years.

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The design of this plat will incorporate a city street through the middle with a secondary exit on the northwest corner, including a bridge across 45th street drain. This will also mean that traffic could now exit on the north end and come down 45th Street N – meaning additional potential traffic including trucks in front of a residential area.

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Summary

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The following individuals have the above concerns and objections and are hereby supporting this by signing:

Thomas Keutz



4563 38 1/2 Ave. N
Reile's Acres

Name

Signature

Address

April 24, 2023

TO: City Of Fargo - City Planning & Development

Regarding Objection to Zoning Proposal:

Interstate Business District Addition – Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West

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Realtor in the FM Area

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<u>Janice Kenowski</u>	<u></u>	<u>4786 38th Ave Reites Acres</u>
Name	Signature	Address
<u>Rachel Kenowski</u>	<u></u>	<u>4786 38th Ave Reites Acres</u>
Name	Signature	Address
<u>Susan Young</u>	<u></u>	<u>3838 50th St N. Reites Acres</u>
Name	Signature	Address
<u>Michael Young</u>	<u></u>	<u>3838 50th St N Reites Acres</u>
Name	Signature	Address

April 24, 2023

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Lights – despite any buffers, lighting cannot be a hinderance to the community residents.

Summary

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We do plan to attend all related hearings to voice our objections and concerns. Thank you for reviewing this information and your consideration.

The following individuals have the above concerns and objections and are hereby supporting this by signing:

MARIJA GORJACHEVA		4534 39th AVE N
JOSHUA MORRELL	Signature	Address

April 24, 2023

TO: City Of Fargo - City Planning & Development

Regarding Objection to Zoning Proposal:

Interstate Business District Addition – Plat of portion of the West Half of Section 15, Township 140 North, Range 49 West

This letter is in Opposition to the following application with the Fargo Planning Commission for:

- 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial and proposed park **to Industrial and Commercial**
- 2) Zoning Change from AG, Agriculture and L1, Limited Industrial with a C-O, Conditional Overlay to L1, Limited Industrial with a C-O, Conditional Overlay, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition

Background Information

Prairie Estates (our informal name) was established in the early 1970's within Reed Township, and now represents approximately 78 acres of single home residential lots between 5 – 2 acre lots each, owned by 30 separate landowners. Nine properties currently located on 45th Street N on the west side of Section 15 of the above District Addition, do face east toward this property. Our addition provides country living at its best with large lots, ability to have horses, has developed mature tree lines, quiet atmosphere, and yet close enough to city limits. This is considered prime real estate for all of these factors.

This area is an ET Area for the City of Reiles Acres.

Summary of Concerns from the collective community

The Section 15 property as described above has always been agricultural zoned. With it being recently annexed to the City of Fargo, the proposed changes in zoning are a very dramatic change, not only for those residents that live across from this property – but also for the community as a whole. The residents on 47th Street N and those in Reiles Acres will have to look at and deal with the effects of whatever type of businesses that are on above stated property.

Specific Concerns

Zoning

The proposed amendments would move the zoning from agricultural to Limited Industrial and Commercial. This would also include manufacturing and production. If this zoning is approved, any developer can purchase the lots and put in any type of business that fit this definition. There is nothing precluding a developer from purchasing several lots and putting in a business within these guidelines, it could be a 5 story building, or an asphalt facility, etc.

ARD properties LLC is the official landowner per ND parcel viewer. Trent Duda is the name behind the LLC. He is associated with Earthworks services. The owner of this land has stated that he bought this land to expand his business. He currently has properties in West Fargo for Earthworks and his trucking business.

He stated that he will keep 2-3 lots on the east side and he wants to put in a concrete crushing facility. This will bring added noise and large amount of truck hauling traffic, which we are opposed to. This type of business does not run just two weeks a year, it can run as long as the weather permits. He stated that his property off of

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Consider the Best Interest Of Neighboring Communities

Is this the type of zoning you would like to live next to?

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The following individuals have the above concerns and objections and are hereby supporting this by signing:

<u>Bryan Nelson</u>	<u>Bryan Nelson</u>	<u>4502 45th St N</u>
Name	Signature	Address

Name

Signature

Address

Aaron Young



4533 38¹/₂ AVE N Reiles Acres
ND
58102

Name

Signature

Address

Lisa Prudhomme



3353 50th St S Reiles Acres, ND
58102

Name

Signature

Address

Joel Prudhomme



3353 50th St S Reiles Acres, ND
58102

Name

Signature

Address

Name

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Supporting Statement from Local Realtor

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Moreover, the presence of these buildings may not appeal to potential buyers, which could hurt the marketability of the homes in the area. Prospective buyers may be discouraged from buying a house that is located close to commercial or industrial buildings due to the perceived negative impacts on their quality of life. This can lead to lower demand for homes in the area and a decrease in their market value.

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Best Regards,

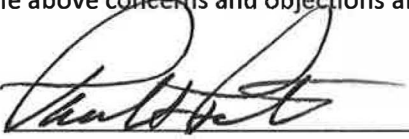
Jeremy Qualley
Realtor in the FM Area

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<u>Paul & Paula Peterson</u>	<u></u>	<u>4314 45th ST N Fgo</u>
Name	Signature	Address

<u>DUANE & MARLENE THORSTEINSON</u>	<u></u>	<u>4015 47th St N Fargo ND</u>
Name	Signature	Address

<u>MIKE LESTINA</u> <u>GRETCHEN LESTINA</u>	<u></u>	<u>4406 45th St. N. FARGO, ND</u> <u>58102</u>
Name	Signature	Address

<u>DAVE + LEAH HEIDE</u>	<u>DAVE HEIDE</u> 	<u>4006 45th St. N. FARGO, ND</u> <u>58102</u>
Name	Signature	Address

Ryan Carlson [Signature] 4482 45th St. N
Name Signature Address Fargo, ND 58102

Jerome Kohle [Signature] 4442 45th St N Fargo
Name Signature Address ND 58102

Tad Bjordahl [Signature] 337245th St N Reids Acres
Name Signature Address ND 58102

Melinda Bjordahl Melinda Bjordahl 3372 45 St N Reids Acres ND
Name Signature Address 58102

Name Signature Address

Name Signature Address

Name Signature Address

Name Signature Address

Name Signature Address

Name Signature Address

Name Signature Address

GERALD RAMBERG *Gerald Ramberg*

4206 45th ST. N. FARGO, ND
58102

Name

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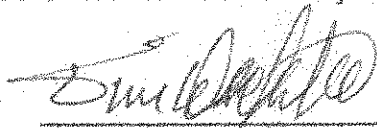
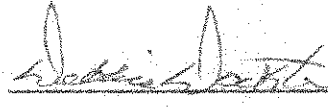
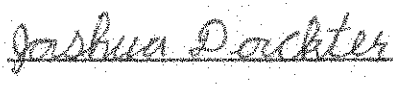

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<u>Tim Dackter</u>	<u></u>	<u>3635 49th St N 58102</u>
Name	Signature	Address
<u>Debbie Dackter</u>	<u></u>	<u>3635 49 St N 58102</u>
Name	Signature	Address
<u>Joshua Dackter</u>	<u></u>	<u>3635 49th St. N 58102</u>
Name	Signature	Address
<u>Lashai Pfeiffer</u>	<u></u>	<u>4634 35th Ave N 58102</u>
Name	Signature	Address

Nelson, Susan
Name

Susan Nelson
Signature

4732 35th Ave N Reiles Acres
Address

Nelson, Tony
Name

Tony Nelson
Signature

4770 35th Ave N, Reiles Acres, ND
Address

Giese, Brendan
Name

Brendan Giese
Signature

4725 37th Ave N, Reiles Acres, ND 58102
Address

R. Nelson
Name

R. Nelson
Signature

4730 35th Ave N Reiles Acres ND
Address

Missa Nelson
Name

Missa Nelson
Signature

4770 35th Ave N, Reiles Acres, ND 58102
Address

Adam DuBord
Name

Adam DuBord
Signature

4106 45th St N Fargo ND 58102
Address

Kyla DuBord
Name

Kyla DuBord
Signature

4106 45th St N 58102
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Name

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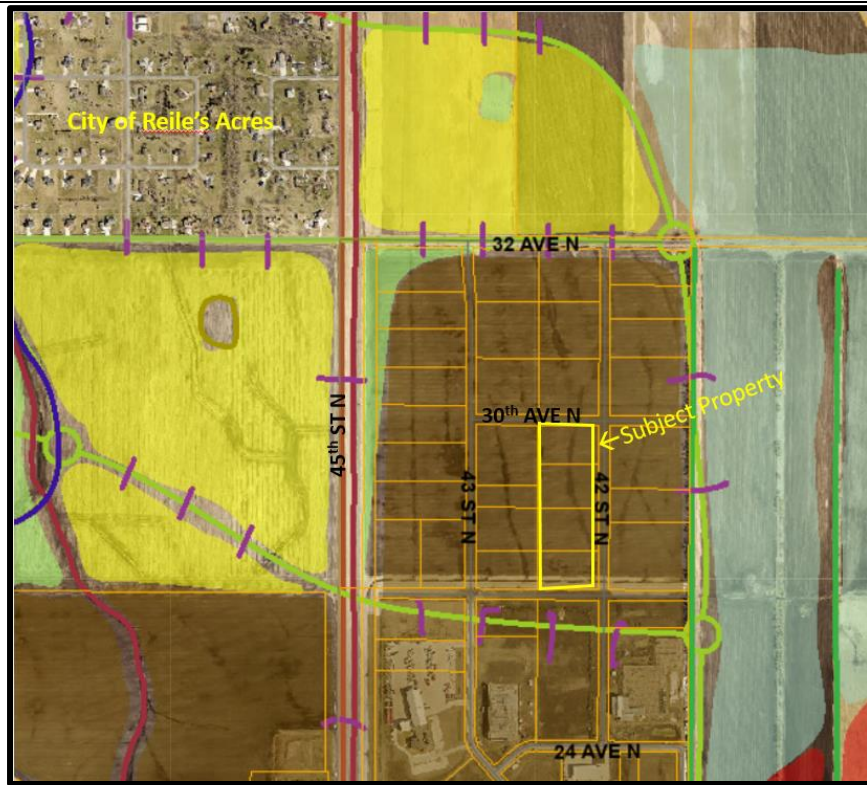
<u>Erleen McCanna</u>	<u>Erleen McCanna</u>	<u>4504 38 1/2 Ave N</u>
Name	Signature	Address

<u>John McCanna</u>	<u>John McCanna</u>	<u>4504 38 1/2 Ave N</u>
Name	Signature	Address

_____	_____	_____
Name	Signature	Address

_____	_____	_____
Name	Signature	Address

City of Fargo Staff Report			
Title:	Laverne's Third Addition	Date:	7/27/2023
Location:	2812, 2880, 2924, and 2984 42 nd Street North	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lots 5, 6, 7, and 8, Block 2, Laverne's Second Addition		
Owner(s)/Applicant:	Laverne Indy LLC / Houston Engineering, Inc.	Engineer:	Houston Engineering, Inc.
Entitlements Requested:	Minor Subdivision (Plat of Laverne's Third Addition , a replat of Lots 5, 6, 7, and 8, Block 2, Laverne's Second Addition to the City of Fargo, Cass County, North Dakota)		
Status:	Planning Commission Public Hearing: August 1 st , 2023		
Existing		Proposed	
Land Use: Industrial--warehouse		Land Use: No change	
Zoning: LI, Limited Industrial		Zoning: No change	
Uses Allowed: LI allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, basic utilities, certain telecommunications facilities		Uses Allowed: No change proposed	
Maximum Lot Coverage Allowed: 85%		Maximum Density Allowed: No change proposed	
Proposal:			
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. A replat of Lots 5, 6, 7, and 8, Block 2, Laverne's Second Addition (minor subdivision) to be known as Laverne's Third Addition. <p>Surrounding Zoning Districts and Land Uses:</p> <ul style="list-style-type: none"> • North: LI; platted; lots currently undeveloped • East: LI; platted; some lots under development with industrial uses • South: LI; platted; some lots under development with industrial uses • West: LI; platted; lots currently undeveloped <p>Area Plans:</p> <p>The subject property is located within the 2007 South Fargo Tier 1 East Future Land Use Plan. This plan, amended in 2016 on this property, designates the subject property as "Industrial." This land use designation includes the current LI zoning. No growth plan amendment is required.</p>			
(continued on next page)			



Proposed Land Uses	
■	Residential Area - lower to medium density
■	Residential Area - medium to high density
■	Residential Area - rural
■	Commercial Area
■	Industrial Area

Context:

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

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

Parks: There are no Fargo parks within one mile of the subject property.

Pedestrian / Bicycle: A off-street multi-use path is intended to be developed within the 42nd Street right of way

Transit: The subject property is not along a MATBus route.

Staff Analysis:

The subject property is bounded by 42nd Street North (east); 28th Avenue North (south); and 30th Avenue North (north). The existing lots were platted as part of Laverne’s Second Addition in 2022 and have not been developed.

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.

SUBDIVISION

The subdivision combines four existing lots into a single lot for industrial development. The current LI, Limited Industrial zoning will remain.

ACCESS: The subdivision will take access from the surrounding dedicated public streets.

(continued on next page)

Minor Subdivision

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

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

The current zoning is LI, Limited Industrial. No zone change is proposed. This zoning is consistent with the 2007 Growth Plan land use designation of "Industrial" for this property. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

- 2. **Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

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

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed a plat of the **Laverne's Third Addition**, as outlined in the staff report, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, Section 20-0907.B. and C of the LDC, and all other applicable requirements of the LDC."

Planning Commission Recommendation: August 1st, 2023

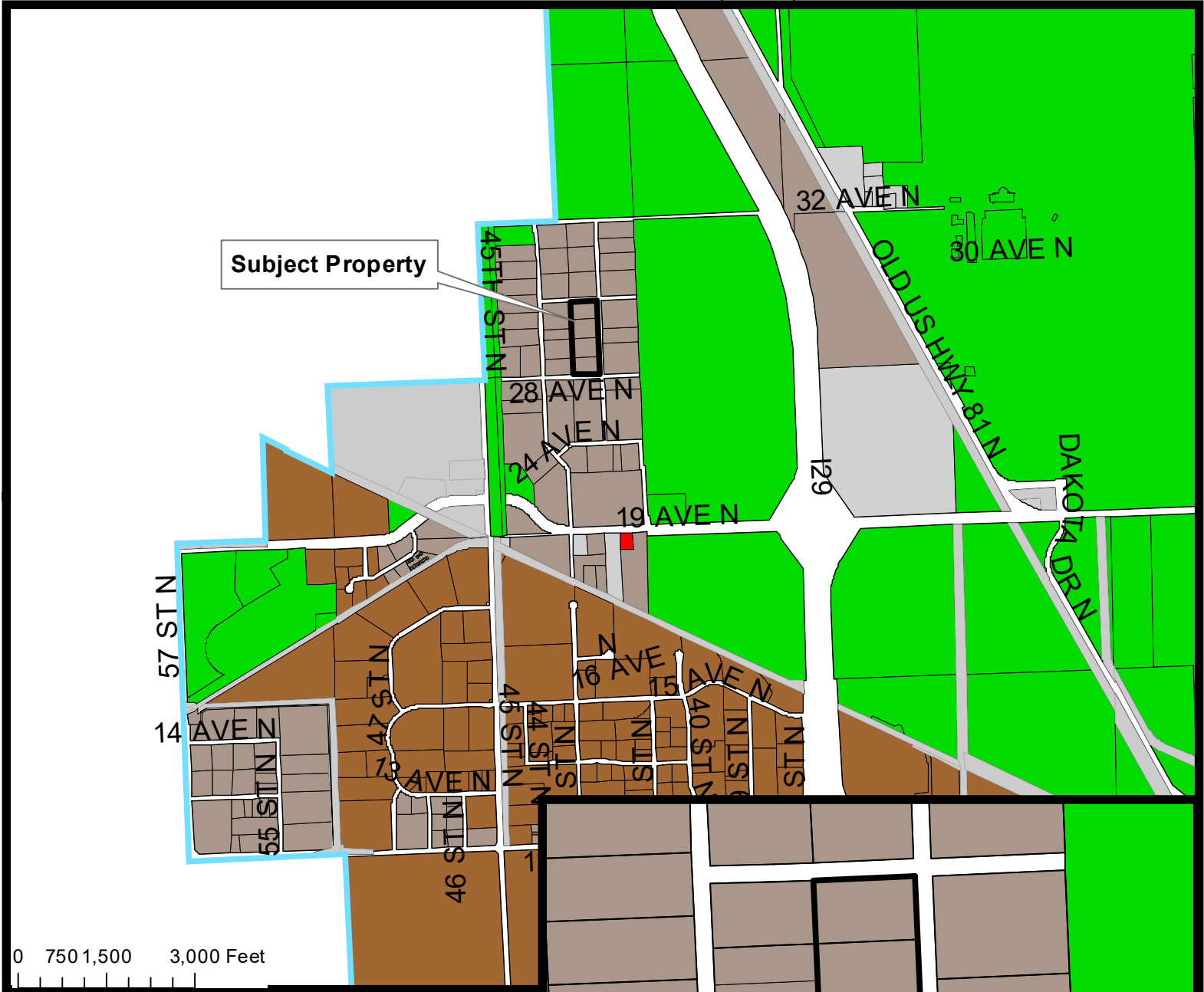
Attachments:

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

Minor Subdivision

Laverne's Third Addition

2812, 2880, 2924 and 2984 42nd Street North



Legend

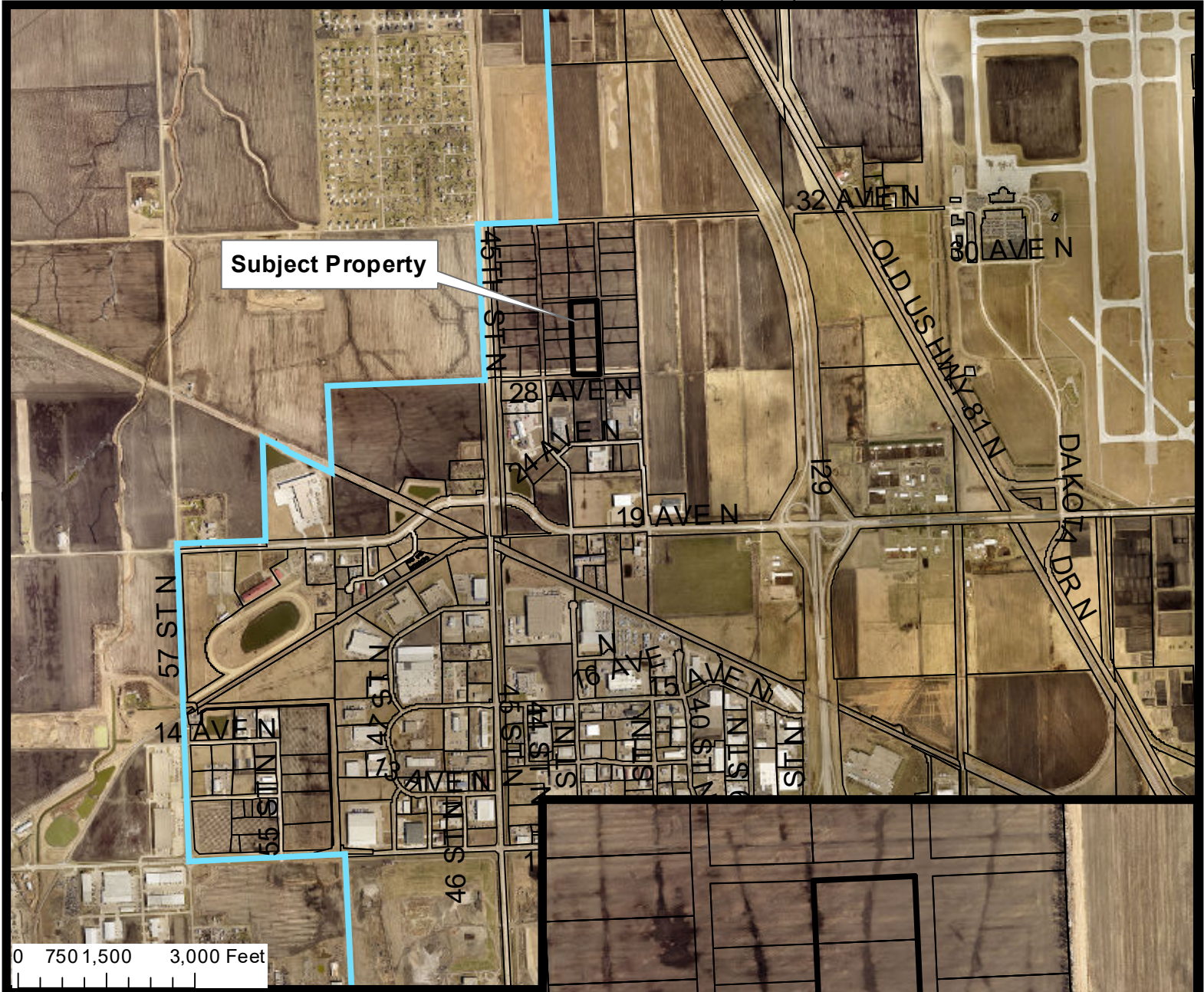
AG	LC	MHP	SS
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GO	MR-2	P/I	SR-2
GO	MR-3	UMU	SR-3
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			SR-5
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			SR-99
			SR-100



Minor Subdivision

Laverne's Third Addition

2812, 2880, 2924 and 2984 42nd Street North



Legend
City Limits

LAVERNE'S THIRD ADDITION

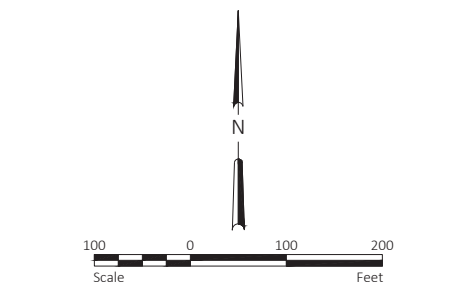
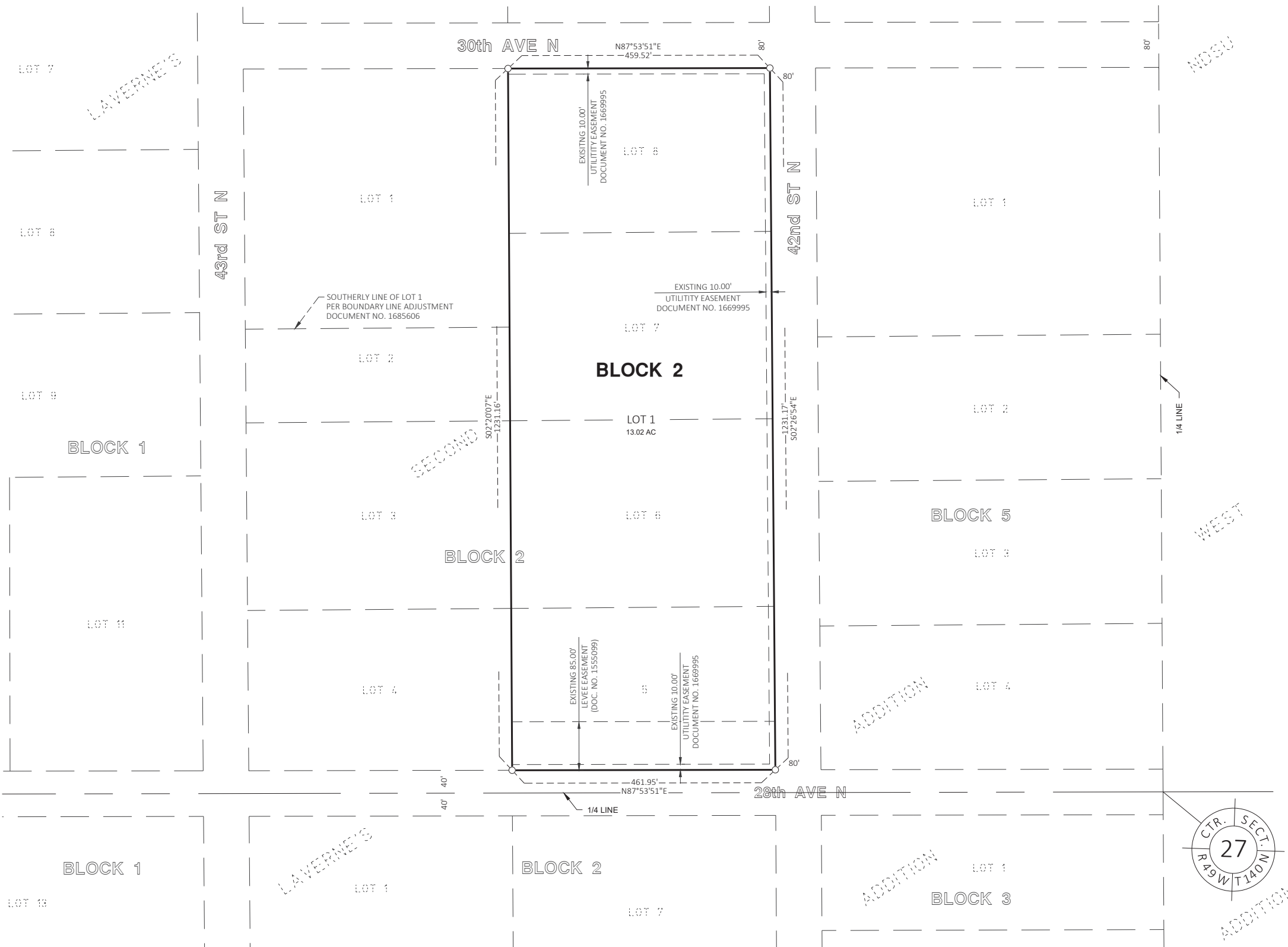
A MINOR SUBDIVISION

BEING A REPLAT OF LOTS 5, 6, 7 & 8, BLOCK 2

LAVERNE'S SECOND ADDITION

CITY OF FARGO,

CASS COUNTY, NORTH DAKOTA

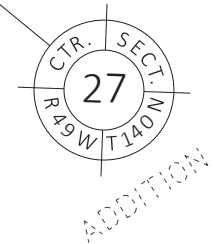


LEGEND

IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
PLAT BOUNDARY	—————
LOT LINE	-----
UTILITY EASEMENT	- - - - -
EXISTING LOT LINE	- - - - -
EXISTING UTILITY EASEMENT	- - - - -

BEARINGS SHOWN ARE BASED ON CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992.

H:\BNA\10500\10535\10535_001\CAD\Plat\Preliminary Plat - Laverne's 3rd Addition.dwg PLAT-5/15/2023 3:21 PM (dbuchholz)



LAVERNE'S THIRD ADDITION

A MINOR SUBDIVISION

BEING A REPLAT OF LOTS 5, 6, 7 & 8, BLOCK 2

LAVERNE'S SECOND ADDITION

CITY OF FARGO,

CASS COUNTY, NORTH DAKOTA

OWNER'S CERTIFICATE:

NOW ALL PERSONS BY THESE PRESENTS: That Laverne Indy, LLC, a North Dakota limited liability company, are the owners and proprietors of the following described tract of land:

Lots 5, 6, 7 and 8, Block 2, Laverne's Third Addition, to the City of Fargo, Cass County, North Dakota.

Said tract contains 9.648 acres, more or less.

And that said party has caused the same to be surveyed and platted as **LAVERNE'S THIRD ADDITION** to the City of Fargo, Cass County, North Dakota.

OWNER:

Laverne Indy, LLC, a North Dakota limited liability company
 By: Syndica, LLP, a North Dakota limited liability partnership
 Its: Managing General Partner

 Austin J. Morris, Managing Partner

State of _____)
) ss
 County of _____)

On this _____ day of _____, 20____ before me personally appeared Austin J. Morris, Managing Member of Laverne Indy, LLC, a North Dakota limited liability company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of said limited liability partnership.

Notary Public: _____

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, James A. Schlieman, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision; that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

Dated this _____ day of _____, 20____.

 James A. Schlieman, Professional Land Surveyor No. 6086

State of North Dakota)
) ss
 County of Cass)

On this _____ day of _____, 20____ before me personally appeared James A. Schlieman, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Notary Public: _____

CITY ENGINEER'S APPROVAL:

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

 Brenda E. Derrig, PE, City Engineer

State of North Dakota)
) ss
 County of Cass)

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

Notary Public: _____

FARGO PLANNING COMMISSION APPROVAL:

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

 Rocky Schneider, Chair
 Fargo Planning Commission

State of North Dakota)
) ss
 County of Cass)

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

Notary Public: _____

FARGO CITY COMMISSION APPROVAL:

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

 Timothy J. Mahoney, Mayor

Attest: _____
 Steven Sprague, City Auditor

State of North Dakota)
) ss
 County of Cass)

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

Notary Public: _____

H:\BNA\10500\10535\10535_001\CAD\Plat\Preliminary Plat - Laverne's 3rd Addition.dwg:PLAT (2)/6/15/2023 3:21 PM-(dbuchholz)



City of Fargo Staff Report			
Title:	Timber Parkway Tenth Addition	Date:	7/27/23
Location:	5161 Charles Way South	Staff Contact:	Luke Morman, Planner
Legal Description:	Lot 2, Block 1, Timber Parkway Fifth Addition		
Owner(s)/Applicant:	First International Bank & Trust / Christianson Companies	Engineer:	Bolton & Menk
Entitlements Requested:	Minor Subdivision (Replat of Lot 2, Block 1, Timber Parkway Fifth Addition)		
Status:	Planning Commission Public Hearing: August 1, 2023		

Existing	Proposed
Land Use: Undeveloped	Land Use: Commercial
Zoning: GC, General Commercial, with a C-O, Conditional Overlay	Zoning: Unchanged
Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, detention facilities , health care facilities, parks and open areas, religious institutions, safety services, basic utilities, adult establishments offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair , limited vehicle service, and certain telecommunication facilities. Conditional Overlay No. 4908 prohibits certain uses.	Uses Allowed: Unchanged
Maximum Lot Coverage Allowed: Maximum 85% building coverage	Maximum Lot Coverage Allowed: Unchanged

Proposal:
<p>The applicant is seeking approval of a minor subdivision located at 5161 Charles Way South. The request is to split an existing lot into a two lot minor subdivision entitled Timber Parkway Tenth Addition.</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: GC, General Commercial, undeveloped and restaurant. • East: Across Timber Pkwy S, GC, General Commercial, with retail sales and service. • South: Across 52nd Avenue South, City of Frontier. • West: GC, General Commercial; restaurant.

Area Plans:

According to the 2001 Growth Plan, the subject property is designated as "Commercial."

2001 Growth Plan Legend

-  Low Med Res or Med High Res
-  Low Med Res or Parkland
-  Commercial or Office
-  Commercial
-  Low Med Res
-  Med High Res or Office
-  Med High Res
-  Office
-  Parkland
-  Public and Institutional



Context:

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

Neighborhood: The subject property is located within Centennial neighborhood.

Parks: Timber Creek Park is within a quarter mile to the north 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 and along the east sides of Timber Parkway South and 31st Street South. There are eight foot wide tails along 32nd Street South and shared-use paths within Timber Creek Park.

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

Staff Analysis:

Minor Subdivision

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

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

This subdivision is intended to split an existing lot into a two lot minor subdivision entitled Timber Parkway Tenth Addition. The properties within this plat are currently zoned GC, General Commercial, with a Conditional Overlay, and no change is proposed. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no inquiries about the application. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code.

(Criteria Satisfied)

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

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

(Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission the proposed subdivision plat, **Timber Parkway Tenth Addition** as outlined within the staff report, as the proposal complies with the 2001 Growth Plan, standards of Section 20-0907.B & C, standards of Article 20-06, and all other applicable requirements of the Land Development Code."

Planning Commission Recommendation: August 1, 2023

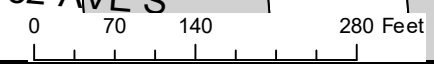
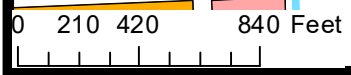
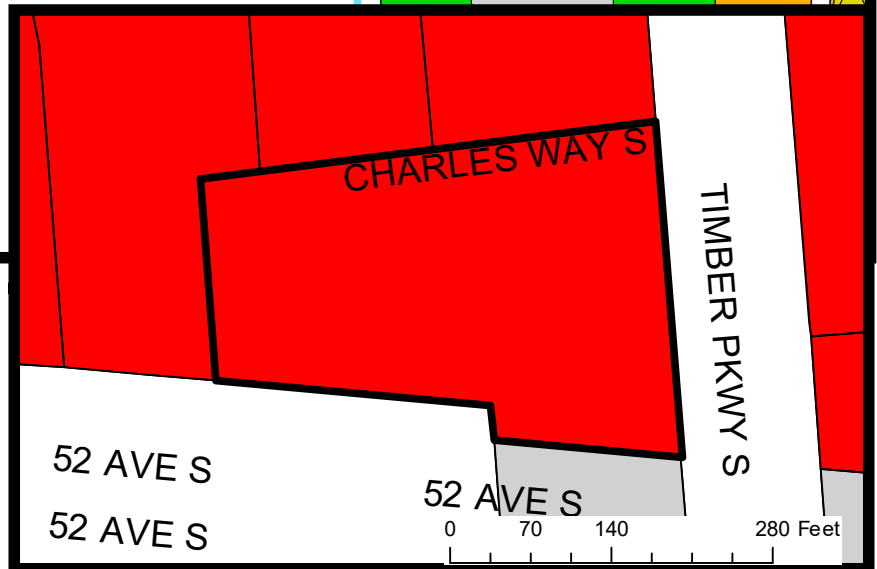
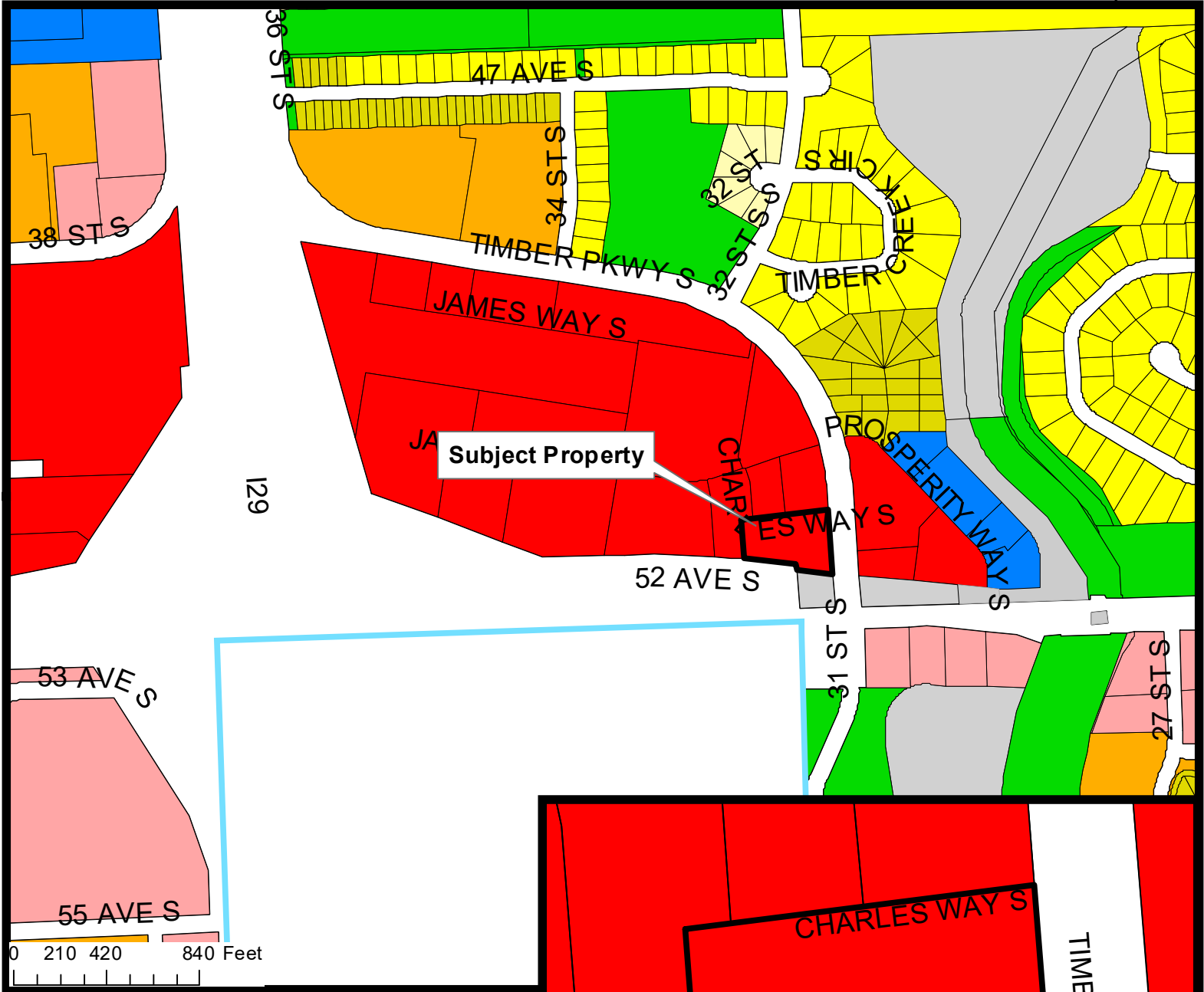
Attachments:

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

Minor Subdivision

Timber Parkway Tenth Addition

5161 Charles Way South



Legend

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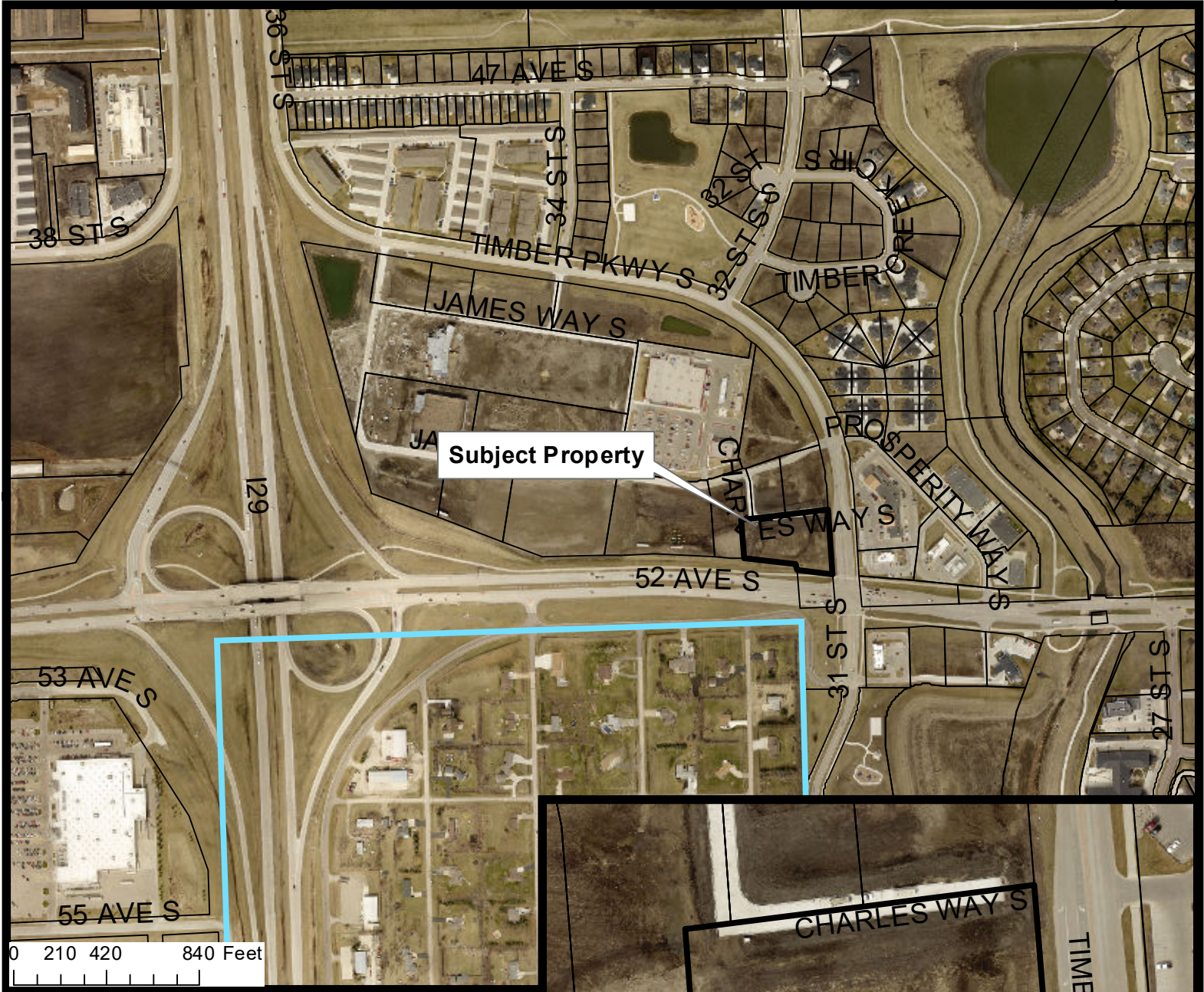


Fargo Planning Commission
August 1, 2023

Minor Subdivision

Timber Parkway Tenth Addition

5161 Charles Way South



Legend

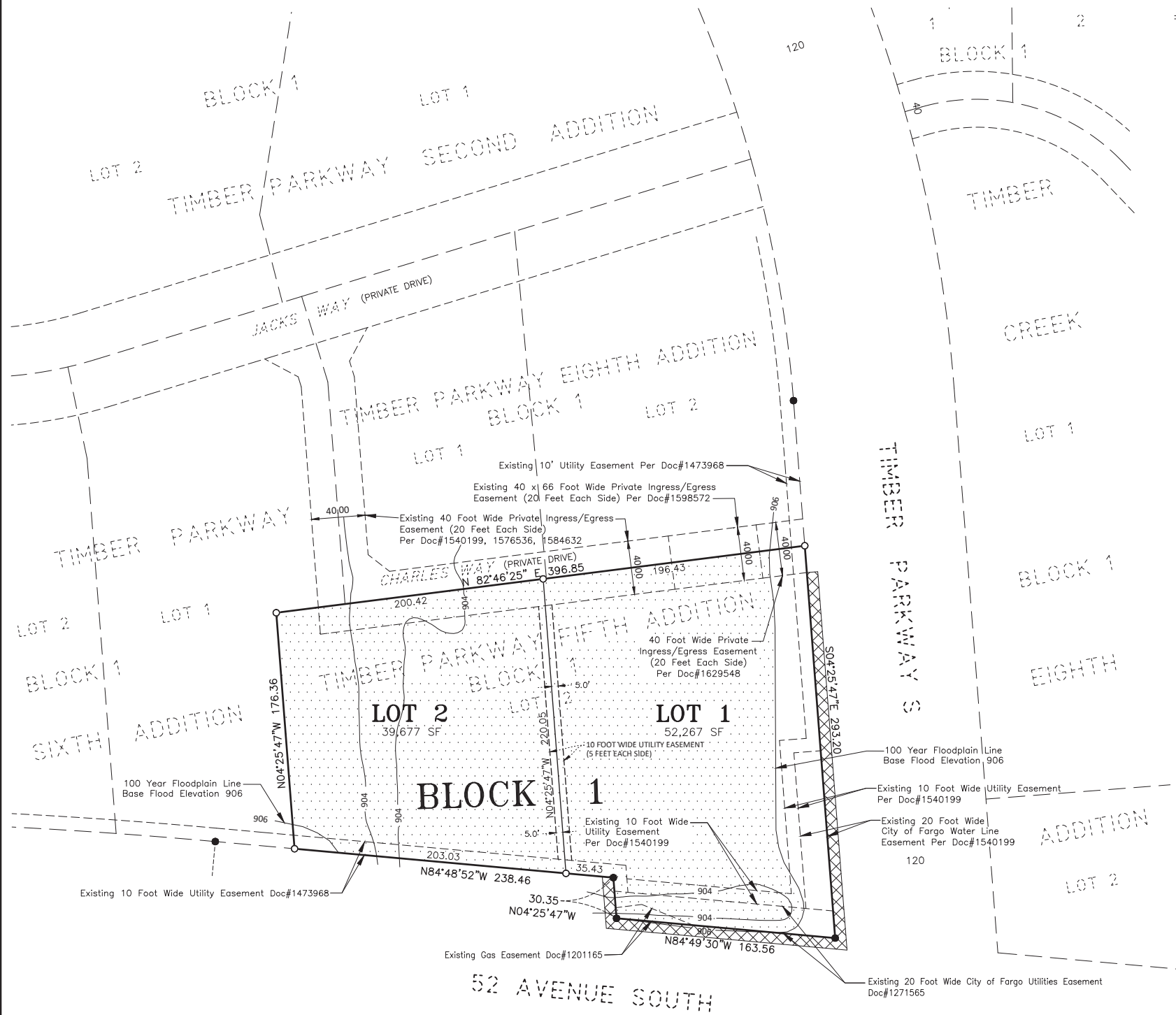
 City Limits

TIMBER PARKWAY TENTH ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
 A REPLAT OF ALL OF LOT 2, BLOCK 1, TIMBER PARKWAY FIFTH ADDITION
 (A MINOR SUBDIVISION)



0 50 100
 SCALE IN FEET
 ORIENTATION OF THIS BEARING SYSTEM IS PER
 THE PLAT OF TIMBER PARKWAY FIFTH ADDITION



BENCHMARK

CITY OF FARGO BENCHMARK 245029 LOCATED APPROXIMATELY 2,500 FEET EASTERLY OF THE SOUTHEAST CORNER OF SUBJECT PROPERTY. SOUTHEAST FLANGE BOLT OF FIRE HYDRANT. ELEVATION=909.42 NAVD88

LEGEND

- 5/8"x18" REBAR MONUMENT SET, CAP MARKED BY LIC. NO. LS-5900
- MONUMENT FOUND
- SUBJECT PROPERTY LINE
- - - EXISTING PROPERTY LINE
- - - EASEMENT LINE
- - - EXISTING CONTOUR LINE PER CITY OF FARGO
- ▨ LIDAR CONTOUR DRAWINGS NAVD88 DATED 2014
- ▨ AREA WITHIN 100 YEAR FLOODPLAIN
- XXXXXXXXXX EXISTING NEGATIVE ACCESS EASEMENT PER DOC#1473968 & 1629548

OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That First International Bank & Trust, owner of a parcel of land located in part of the South Half of Section 35, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

All of Lot 2, Block 1, TIMBER PARKWAY FIFTH ADDITION to the City of Fargo, according to the recorded plat thereof on file in the office of the County Recorder, Cass County, North Dakota.

Containing 91,944 square feet of land, more or less and subject to all easements, restrictions, reservations and rights of way of record, if any.

Said owner has caused the above described parcel of land to be surveyed and platted as "TIMBER PARKWAY TENTH ADDITION" to the City of Fargo, Cass County, North Dakota and does hereby dedicate to the public for public use forever the utility easement as shown on this plat.

OWNER:
 First International Bank & Trust

By: Brian Hagen, East Market President

State of North Dakota
 County of Cass

On this ____ day of _____, in the year 2023, before me, personally appeared Brian Hagen, East Market President, First International Bank & Trust known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of First International Bank & Trust.

Notary Public

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, Shawn M. Thomasson, Registered Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a correct representation of the survey, that all distances shown are correct and that the monuments for the guidance of future surveys have been located or placed in the ground as shown, and that the outside boundary lines are correctly designated on the plat.

Shawn M. Thomasson, Professional Land Surveyor
 North Dakota License Number LS-5900

State of North Dakota
 County of Cass

On this ____ day of _____, 2023, before me, a notary public within and for said County and State, personally appeared Shawn M. Thomasson, Registered Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same.

Notary Public

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by City Engineer this ____ day of _____, 2023.

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

State of North Dakota
 County of Cass

On this ____ day of _____, in the year 2023, before me, a notary public within and for said County and State, personally appeared Brenda E. Derrig, P.E., City Engineer known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that she executed the same as City Engineer for the City of Fargo.

Notary Public

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this ____ day of _____, 2023.

Rocky Schneider, Planning Commission Chair

State of North Dakota
 County of Cass

On this ____ day of _____, in the year 2023, before me, a notary public within and for said County and State, personally appeared Rocky Schneider, Planning Commission Chair, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Notary Public

FARGO CITY COMMISSION APPROVAL

Approved by the Board of City Commissioners and ordered filed this ____ day of _____, 2023.

Timothy J. Mahoney, Mayor

Attest: Steven Sprague, City Auditor

State of North Dakota
 County of Cass

On this ____ day of _____, in the year 2023 before me, a notary public within and for said County and State, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor known to me to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same on behalf of the City of Fargo.

Notary Public

PRELIMINARY



City of Fargo Staff Report			
Title:	45 th Street Park Third Addition	Date:	7/27/2023
Location:	200 and 300 45 th Street South	Staff Contact:	Luke Morman, Planner
Legal Description	Lot 2, Block 1, 45th Street Park Third Addition		
Owner(s)/Applicant:	West 45 th Development / Goldmark Design and Development	Engineer:	N/A
Entitlements Requested:	Conditional Use Permit (to allow Manufacturing and Production uses in the GC, General Commercial zone)		
Status:	Planning Commission Public Hearing: August 1, 2023		

Existing	Proposed
Land Use: Office	Land Use: Office, manufacturing, and production
Zoning: GC, General Commercial	Zoning: GC, General Commercial with a CUP for manufacturing and production uses in the GC zone.
Uses Allowed: GC allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, basic utilities, adult establishments, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, and some TSS structures.	Uses Allowed: GC allows colleges, community service, daycare centers of unlimited size, detention facilities , health care facilities, parks and open space, religious institutions, safety services, basic utilities, adult establishments , offices, off-premise advertising , commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, aviation, surface transportation , and some TSS structures. The Conditional Use Permit would allow manufacturing and production uses in the GC, General Commercial zone , in addition to the other permitted uses in the GC zone.
Maximum Lot Coverage: Maximum 85% building coverage	Maximum Lot Coverage: Maximum 85% building coverage

Proposal:
<p>The applicant requests a Conditional Use Permit (CUP) to allow Manufacturing and Production uses in the GC, General Commercial zone.</p> <p>The applicant proposes a medical device manufacturer to fit-up tenant space in the existing building. This item is just north of item 5 on the agenda.</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 2nd Avenue South is LI, Limited Industrial, with warehouse and office. • East: LI, Limited Industrial, with parking. • South: GC, General Commercial, with office. • West: GC, General Commercial, with parking and across 45th Street South is the City of West Fargo.
Area Plans:
There are no recent growth plans which apply directly to the subject property.

Context:

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

Neighborhood: The subject property is located within the Village West Neighborhood.

Parks: Village West Park and Van Eid Park are within one half of a mile to the south of the subject property. Amenities for Village West Park include a basketball court, dog park, picnic tables, playground for ages 5-12, recreational trails, restrooms, skate park, and warming houses. Amenities for Van Eid Park include picnic tables and playgrounds for ages 2-12.

Pedestrian / Bicycle: There are shared use trails along 45th Street South and within Village West Park, connecting to the metro area trail system.

Bus Route: MATBUS Route 20 runs along 9th Avenue South (bus stop along 44th Street South) and 7th Avenue South (bus stop along 23rd Street East and 21st Street East). All stops described are within one half of a mile from the subject property.

Staff Analysis:

Approval and Appeal

The Planning Commission is the final decision maker for CUP's. Any appeal of the Planning Commission's decision goes to the City Commission. Pursuant to LDC Section 20-0903(B), appeals of final decisions must be filed within 10 days of the date of the decision.

Conditional Use Permit Approval Criteria (Section 20-0909.D)

The following is a list of criteria that must be determined satisfied in order for a Conditional Use Permit to be approved:

- 1. Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff believes this proposal is in keeping with adopted plans and policies of the City. The CUP would allow manufacturing and production uses. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City.

(Criteria Satisfied)

- 2. Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**

Staff believes that the location of the proposed conditional use will contribute and promote the welfare and convenience of the public. Staff is proposing conditions which would address potential negative impacts of the proposed uses but that also allow the public to utilize the convenience of future businesses.

(Criteria Satisfied)

- 3. Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**

Staff has no data to suggest that the proposed use would cause substantial injury to the value of other property in the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the CUP were sent out to property owners within 300 feet of the subject property. To date, staff has received no inquiries or protest regarding the project or proposed use.

(Criteria Satisfied)

- 4. Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature,**

and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.

Staff does not believe that the location, size, nature or intensity of the use will prevent development and use of neighboring property in accordance with applicable zoning districts. The potential uses are consistent with the adjacent commercial and industrial properties. In addition to the proposed CUP conditions, Industrial Uses in General Commercial Zoning standards of Section 20-0402.R apply to industrial uses in the GC zoning district and provide for additional protection of the surrounding area.

(Criteria Satisfied)

5. Are adequate utility, drainage, and other such necessary facilities and services provided or will they be at the time of development?

The subject property is located within an area of the City that is largely developed with public infrastructure. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property as proposed. In addition, the requested CUP has been reviewed by staff from other applicable departments and no concerns have been raised. Based on this information, staff finds that adequate utility, drainage, and other such necessary facilities and services are in place.

(Criteria Satisfied)

6. Have adequate access roads or entrances and exit drives been provided and are they designed to prevent traffic hazards and to minimize traffic congestion in public streets?

The subject property is currently developed with office buildings, with the collector street 2nd Avenue South as well as the arterial street 45th Street South. Future and existing access roads, entrances, and exit drives are subject to Roadway Access and Driveway requirements in Section 20-0702 of the LDC. In addition, the Engineering Department has had an opportunity to review the proposal and no comments or concerns have been forthcoming to indicate that there is a deficiency with the access roads or entrances and exit drives. To that end, staff finds that the proposed conditional use will not create traffic hazards or traffic congestion in the public streets

(Criteria Satisfied)

Recommended Conditions:

Planning staff has developed standard conditions for industrial uses in the GC zone. Staff recommends these conditions, stated below, as part of this CUP. Additionally, all applicable sections of the LDC apply to industrial uses in the GC, including, but not limited to, the Residential Protection Standards of Section 20-0704 and Industrial Uses in General Commercial Zoning standards of Section 20-0402.R.

Prohibited Uses:

- Detention Facility
 - Adult Establishment
 - Aviation/Surface Transportation
 - Off-Premise Advertising
 - Portable Signs
1. Off-street parking, loading, and vehicular circulation areas (including circulation areas internal to storage yards) shall have an all-weather surface, as defined by the Land Development Code.
 2. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.
 3. Outdoor storage and truck parking areas within 500 feet of residentially zoned properties shall have an opaque fence or landscape buffers as required per the Residential Protection Standards in order to sufficiently screen.

4. Dumpsters must contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor.
5. The manufacturing, production, or processing of hazardous chemicals or materials shall not be permitted.
6. Any expansion of the manufacturing and production uses shall require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
7. The Conditional Use Permit shall terminate if manufacturing and production uses cease for a period of more than 12 consecutive months.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval of the conditional use permit to allow Industrial uses in the GC, General Commercial zone, as presented, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Section 20-0909.D (1-6) of the LDC, and all other applicable requirements of the LDC, with the following conditions for the CUP:

Prohibited Uses:

- Detention Facility
 - Adult Establishment
 - Aviation/Surface Transportation
 - Off-Premise Advertising
 - Portable Signs
1. Off-street parking, loading, and vehicular circulation areas (including circulation areas internal to storage yards) shall have an all-weather surface, as defined by the Land Development Code.
 2. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.
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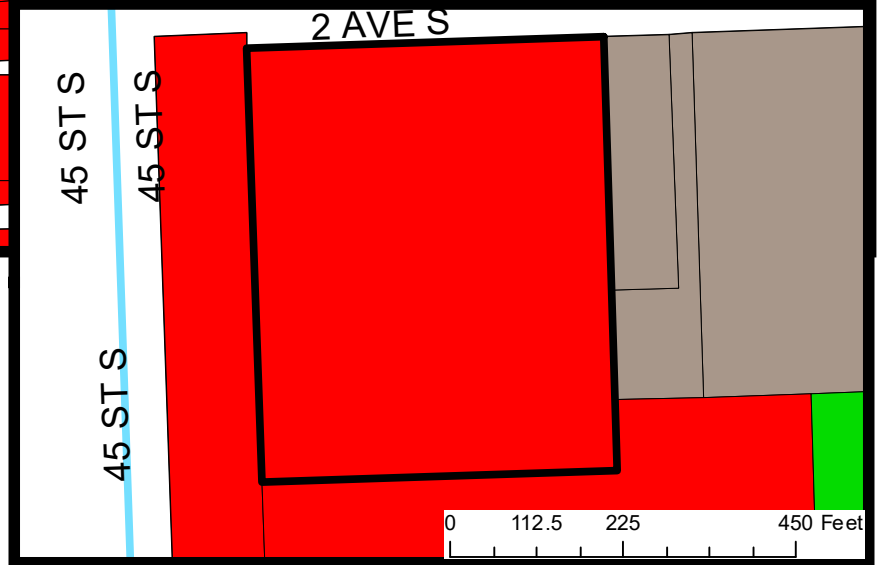
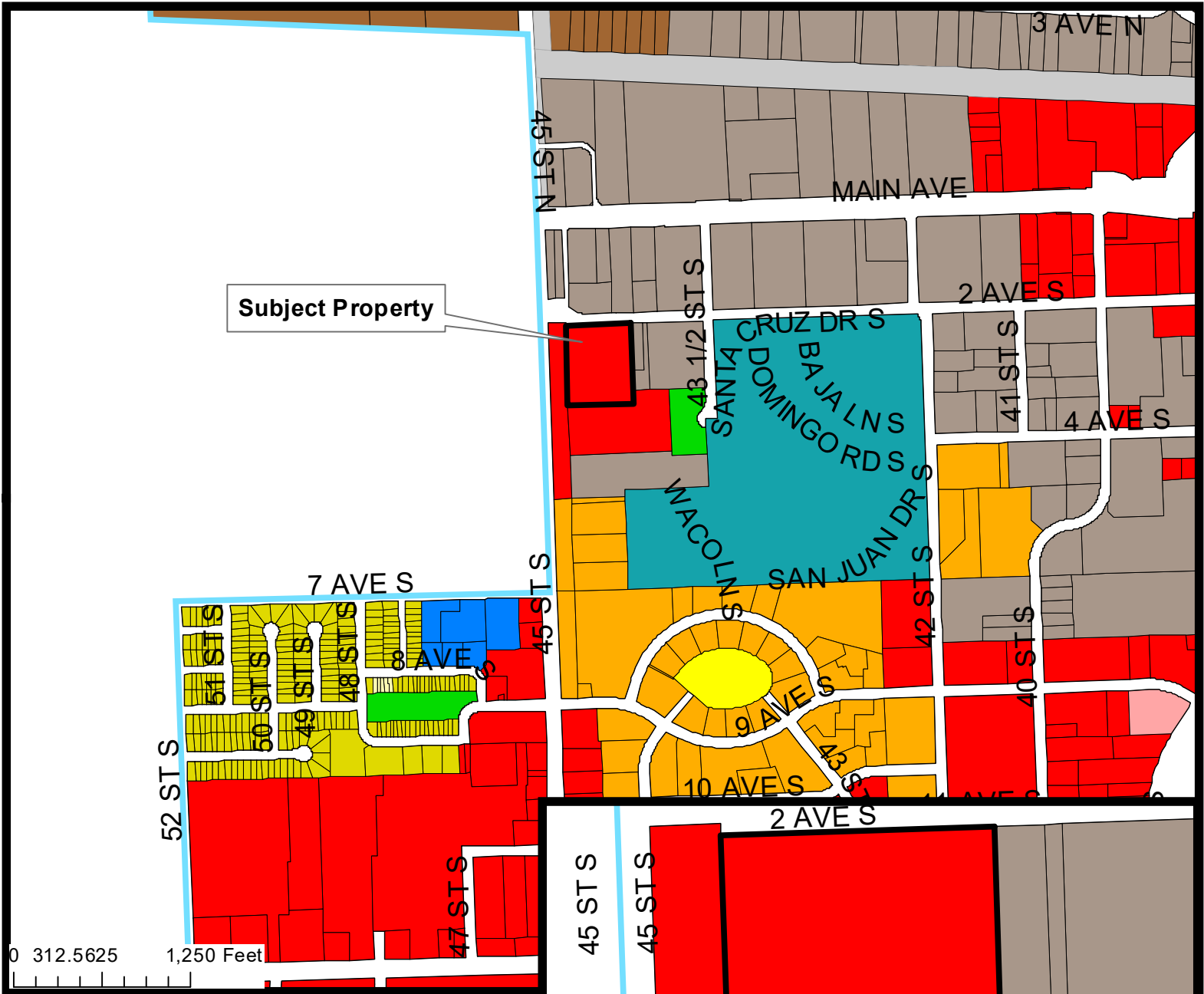
Attachments:

1. Zoning Map
2. Location Map

Conditional Use Permit to allow manufacturing and production in the GC, General Commercial zoning district

45th Street Park Third Addition

200 & 300 45th Street South



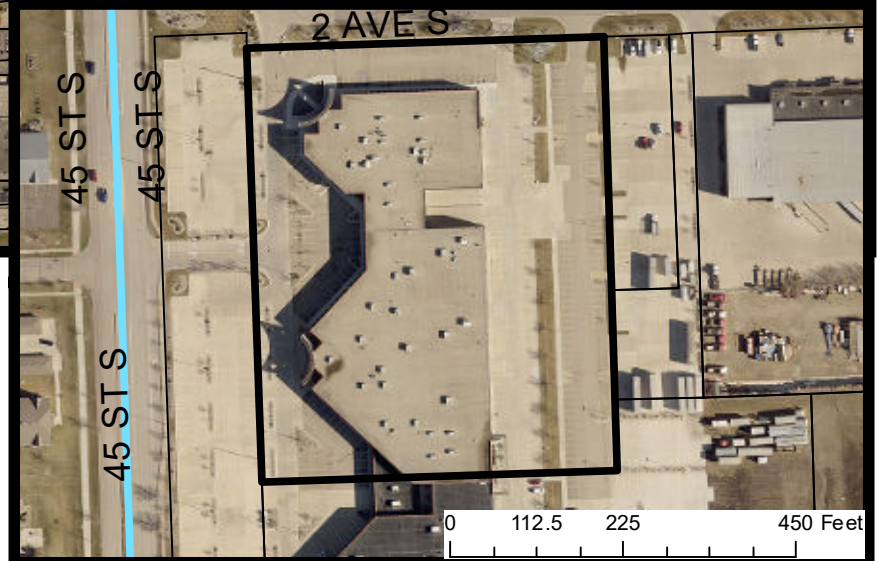
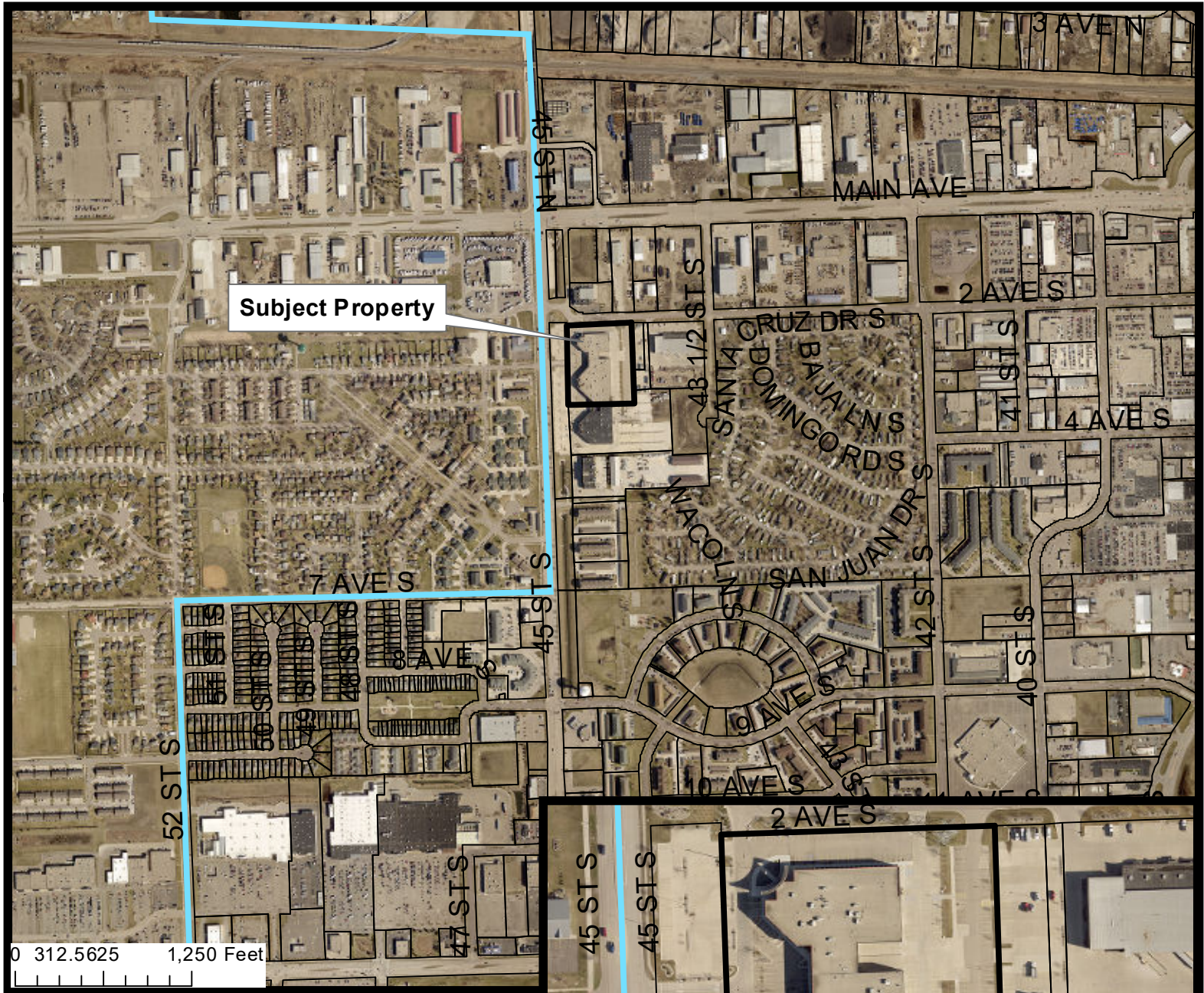
Legend

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|----|-----|----|----|----|------|------|------|-----|-----|----|-----|------|------|------|------|-------------|
| AG | DMU | GC | GO | LC | MR-1 | MR-2 | MR-3 | MHP | NOC | P1 | UMU | SR-2 | SR-3 | SR-4 | SR-5 | City Limits |
|----|-----|----|----|----|------|------|------|-----|-----|----|-----|------|------|------|------|-------------|

Conditional Use Permit to allow manufacturing and production in the GC, General Commercial zoning district

45th Street Park Third Addition

200 & 300 45th Street South



Legend

 City Limits

City of Fargo Staff Report			
Title:	45 th Street Park Fifth Addition	Date:	7/27/2023
Location:	400 45 th Street South	Staff Contact:	Luke Morman, Planner
Legal Description	Lot 2, Block 1, 45th Street Park Fifth Addition		
Owner(s)/Applicant:	West 45 th Development / Goldmark Design and Development	Engineer:	N/A
Entitlements Requested:	Conditional Use Permit (to allow Manufacturing and Production uses in the GC, General Commercial zone)		
Status:	Planning Commission Public Hearing: August 1, 2023		

Existing	Proposed
Land Use: Office	Land Use: Office, manufacturing, and production
Zoning: GC, General Commercial	Zoning: GC, General Commercial with a CUP for manufacturing and production uses in the GC zone.
Uses Allowed: GC allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, basic utilities, adult establishments, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, and some TSS structures..	Uses Allowed: GC allows colleges, community service, daycare centers of unlimited size, detention facilities , health care facilities, parks and open space, religious institutions, safety services, basic utilities, adult establishments , offices, off-premise advertising , commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, aviation, surface transportation , and some TSS structures. The Conditional Use Permit would allow manufacturing and production uses in the GC, General Commercial zone , in addition to the other permitted uses in the GC zone.
Maximum Lot Coverage: Maximum 85% building coverage	Maximum Lot Coverage: Maximum 85% building coverage

Proposal:
<p>The applicant requests a Conditional Use Permit (CUP) to allow Manufacturing and Production uses in the GC, General Commercial zone.</p> <p>The applicant proposes a medical device manufacturer to fit-up tenant space in the existing building. This item is just south of item 4 on the agenda.</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: GC, General Commercial, with office. LI, Limited Industrial with parking, warehouse, and office. • East: LI, Limited Industrial, with parking. • South: LI, Limited Industrial with a Conditional Overlay, with warehouse. • West: GC, General Commercial, with parking. Across 45th Street South is the City of West Fargo.
Area Plans:
There are no recent growth plans which apply directly to the subject property.

Context:

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

Neighborhood: The subject property is located within the Village West Neighborhood.

Parks: Village West Park and Van Eid Park are within one half of a mile to the south of the subject property. Amenities for Village West Park include a basketball court, dog park, picnic tables, playground for ages 5-12, recreational trails, restrooms, skate park, and warming houses. Amenities for Van Eid Park include picnic tables and playgrounds for ages 2-12.

Pedestrian / Bicycle: There are shared use trails along 45th Street South, within Village West Park, and within Van Eid Park, connecting to the metro area trail system.

Bus Route: MATBUS Route 20 runs along 9th Avenue South (bus stop along 44th Street South) and 7th Avenue South (bus stop along 23rd Street East and 21st Street East). All stops described are within one half of a mile from the subject property.

Staff Analysis:

Approval and Appeal

The Planning Commission is the final decision maker for CUP's. Any appeal of the Planning Commission's decision goes to the City Commission. Pursuant to LDC Section 20-0903(B), appeals of final decisions must be filed within 10 days of the date of the decision.

Conditional Use Permit Approval Criteria (Section 20-0909.D)

The following is a list of criteria that must be determined satisfied in order for a Conditional Use Permit to be approved:

1. **Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff believes this proposal is in keeping with adopted plans and policies of the City. The CUP would allow manufacturing and production uses. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City.

(Criteria Satisfied)

2. **Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**

Staff believes that the location of the proposed conditional use will contribute and promote the welfare and convenience of the public. Staff is proposing conditions which would address potential negative impacts of the proposed uses but that also allow the public to utilize the convenience of future businesses.

(Criteria Satisfied)

3. **Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**

Staff has no data to suggest that the proposed use would cause substantial injury to the value of other property in the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the CUP were sent out to property owners within 300 feet of the subject property. To date, staff has received no inquiries or protest regarding the project or proposed use.

(Criteria Satisfied)

4. **Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature,**

and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.

Staff does not believe that the location, size, nature or intensity of the use will prevent development and use of neighboring property in accordance with applicable zoning districts. The potential uses are consistent with the adjacent commercial and industrial properties. In addition to the proposed CUP conditions, Industrial Uses in General Commercial Zoning standards of Section 20-0402.R apply to industrial uses in the GC zoning district and provide for additional protection of the surrounding area.

(Criteria Satisfied)

5. Are adequate utility, drainage, and other such necessary facilities and services provided or will they be at the time of development?

The subject property is located within an area of the City that is largely developed with public infrastructure. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property as proposed. In addition, the requested CUP has been reviewed by staff from other applicable departments and no concerns have been raised. Based on this information, staff finds that adequate utility, drainage, and other such necessary facilities and services are in place.

(Criteria Satisfied)

6. Have adequate access roads or entrances and exit drives been provided and are they designed to prevent traffic hazards and to minimize traffic congestion in public streets?

The subject property is currently developed with office buildings, with the collector street 2nd Avenue South as well as the arterial street 45th Street South. Future and existing access roads, entrances, and exit drives are subject to Roadway Access and Driveway requirements in Section 20-0702 of the LDC. In addition, the Engineering Department has had an opportunity to review the proposal and no comments or concerns have been forthcoming to indicate that there is a deficiency with the access roads or entrances and exit drives. To that end, staff finds that the proposed conditional use will not create traffic hazards or traffic congestion in the public streets

(Criteria Satisfied)

Recommended Conditions:

Planning staff has developed standard conditions for industrial uses in the GC zone. Staff recommends these conditions, stated below, as part of this CUP. Additionally, all applicable sections of the LDC apply to industrial uses in the GC, including, but not limited to, the Residential Protection Standards of Section 20-0704 and Industrial Uses in General Commercial Zoning standards of Section 20-0402.R.

Prohibited Uses:

- Detention Facility
 - Adult Establishment
 - Aviation/Surface Transportation
 - Off-Premise Advertising
 - Portable Signs
1. Off-street parking, loading, and vehicular circulation areas (including circulation areas internal to storage yards) shall have an all-weather surface, as defined by the Land Development Code.
 2. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.
 3. Outdoor storage and truck parking areas within 500 feet of residentially zoned properties shall have an opaque fence or landscape buffers as required per the Residential Protection Standards in order to sufficiently screen.

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5. The manufacturing, production, or processing of hazardous chemicals or materials shall not be permitted.
6. Any expansion of the manufacturing and production uses shall require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
7. The Conditional Use Permit shall terminate if manufacturing and production uses cease for a period of more than 12 consecutive months.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval of the conditional use permit to allow Industrial uses in the GC, General Commercial zone, as presented, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Section 20-0909.D (1-6) of the LDC, and all other applicable requirements of the LDC, with the following conditions for the CUP:

Prohibited Uses:

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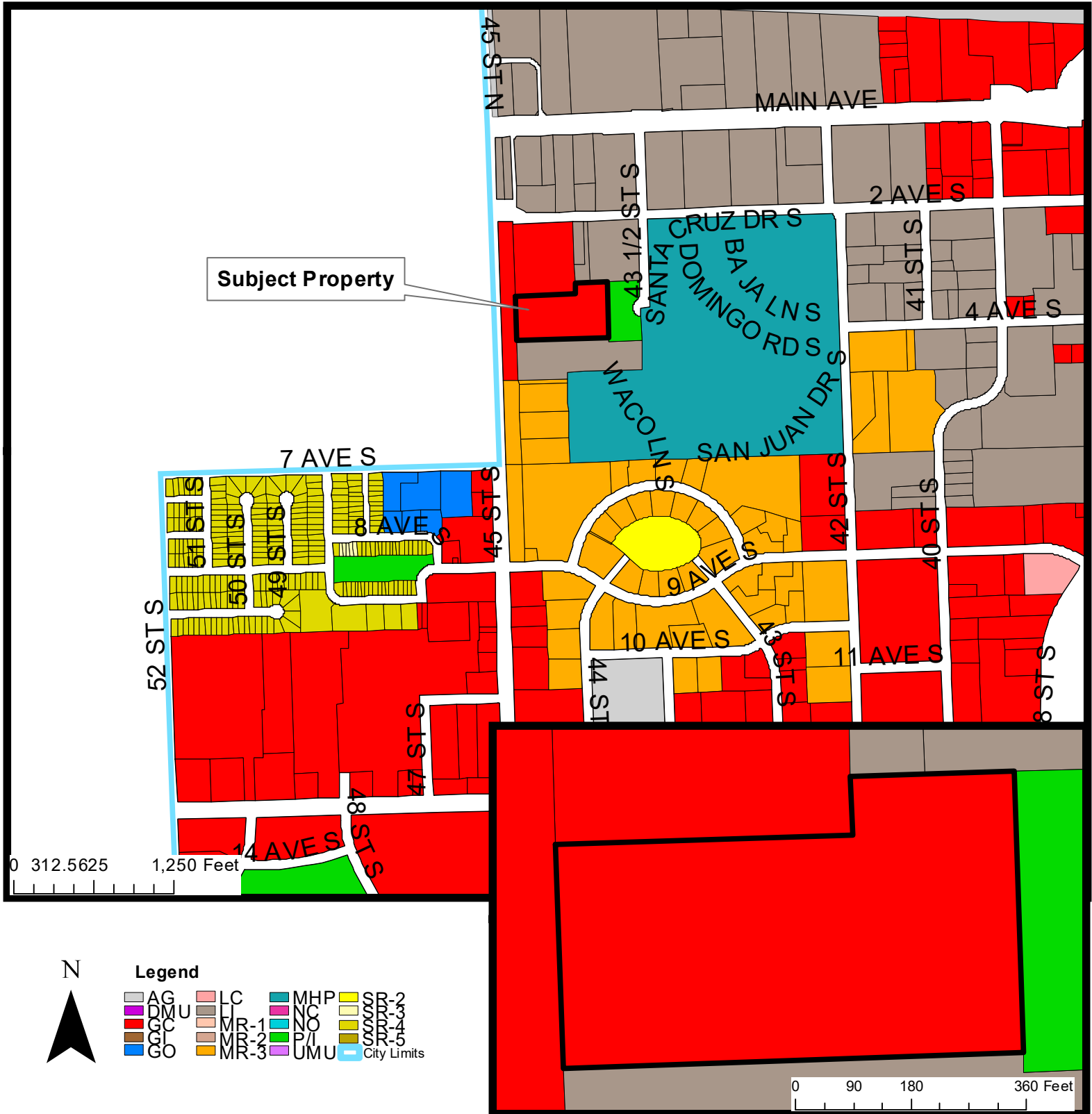
Attachments:

1. Zoning Map
2. Location Map

Conditional Use Permit to allow manufacturing and production in the GC, General Commercial zoning district

45th Street Park Fifth Addition

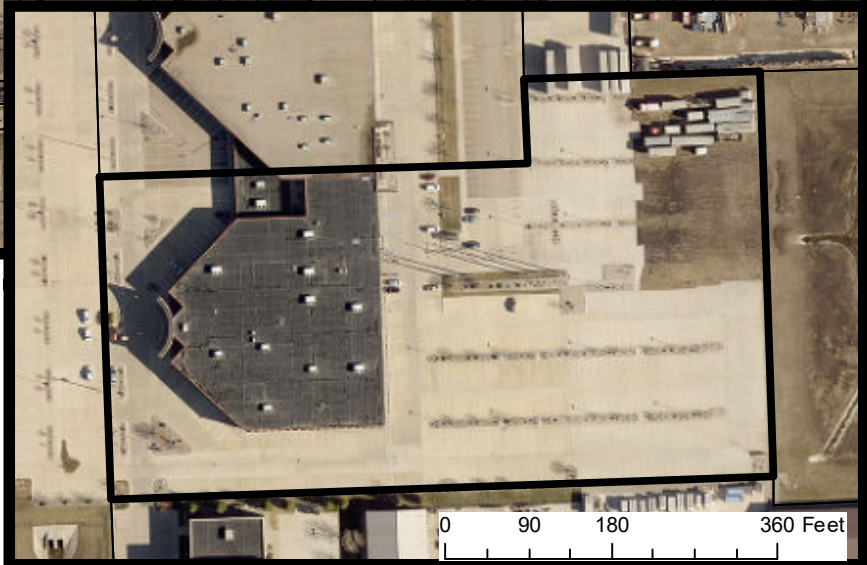
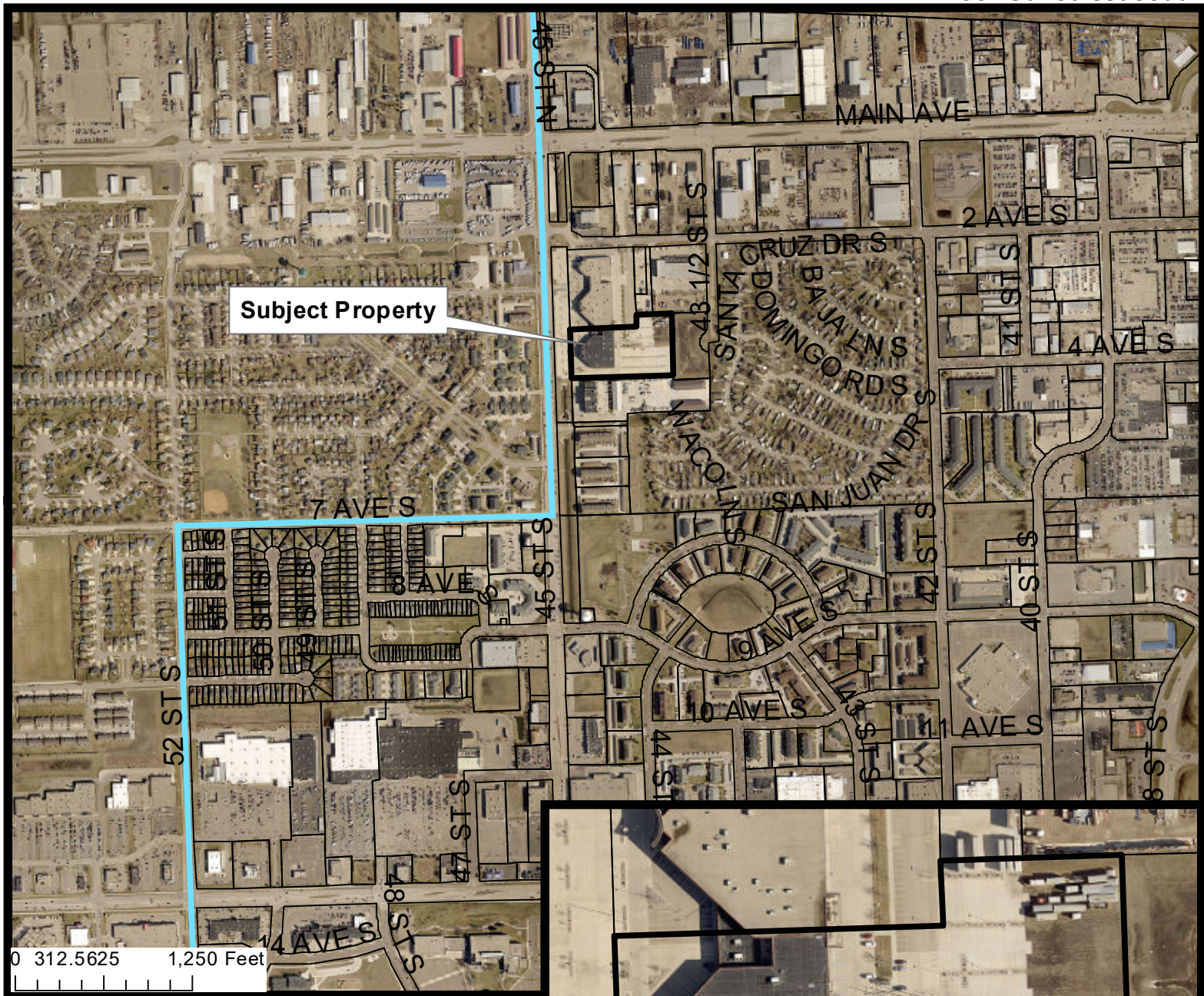
400 45th Street South



Conditional Use Permit to allow manufacturing and production in the GC, General Commercial zoning district

45th Street Park Fifth Addition

400 45th Street South



Legend

 City Limits

City of Fargo Staff Report			
Title:	Wentz Addition	Date:	07/26/2023
Location:	2320 22nd St S	Staff Contact:	Brad Garcia, Planner
Legal Description:	Lot 16, Block 6, Wentz Addition to the City of Fargo, Cass County, North Dakota		
Owner(s)/Applicant:	Rob Lugert, Owner	Engineer:	N/A
Entitlements Requested:	Zoning Change (from SR-2, Single Dwelling Residential to SR-3, Single Dwelling Residential)		
Status:	Planning Commission Public Hearing: August 1 st , 2023		

Existing	Proposed
Land Use: Residential	Land Use: No Change
Zoning: SR-2, Single Dwelling Residential	Zoning: SR-3, Single Dwelling Residential
Uses Allowed: SR-2 Allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities	Uses Allowed: SR-3 Allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities
Maximum Density Allowed: 5.4 units per acre	Maximum Density Allowed: 8.7 units per acre

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> Zoning Change (from SR-2, Single Dwelling Residential to SR-3, Single Dwelling Residential) <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> North: MR-3, Multi-Dwelling Residential with household living East: SR-3, Single-Dwelling Residential with household living South: SR-2, Single-Dwelling Residential with household living West: SR-3, Single-Dwelling Residential with household living
Area Plans:
The subject property is not included in a growth plan or area plan.
Context:
<p>Neighborhood: The subject property is located in the Brunsdale neighborhood.</p> <p>Schools: The subject properties are located within the Fargo School District and served by Lincoln Elementary school, Carl Ben Middle school and South High school.</p> <p>Parks: The subject property is located within a half mile of Lincoln Park (2120 9th Street S), Brunsdale park (1702 27th Avenue S) and Oak Manor Park (2400 18th Street S).</p> <ul style="list-style-type: none"> Brunsdale Park has two youth baseball fields, one full-size baseball field, nine pickleball courts, a batting cage, concessions, picnic tables and shelter, playground, recreational trails, restrooms, StoryWalk and a warming house.

- Oak Manor Park is a neighborhood park that features picnic tables, a playground and recreational trails.
- Rheault Farm 15-acres and owned and operated by the Fargo Park District. The park has a picnic shelter, bunkhouse, playground, brick farmhouse, barn, granary, year round restrooms and a Quonset.

Pedestrian / Bicycle: A shared use path exists within a half-mile located along the Milwaukee Trail. One bike routes exist within a half-mile distance, which is located west located along 17th St S.

Staff Analysis:

Background

The owner of the subject property is seeking to make an addition to the existing home but limitations on current setbacks would not allow the proposed addition. Additionally, setbacks for SR-2 are more restrictive for corner lots, as the primary structure must meet a 15-foot street side setback. In comparison, an adjacent property (non-corner lot) of a similar area requires only 5-foot side setbacks.

The existing home does not meet current setbacks of the SR-2 zoning district as shown below. The proposed zoning would bring the existing home into zoning compliance, as all setbacks would be met.

Proposed SR-3 Zoning



Existing SR-2 Zoning



Zoning

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

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

The proposed change in zoning is not the result of any error in the zoning map as it relates to this property. The subject property is currently zoned SR-2, Single Dwelling Residential and restricts any development to residential uses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities. These types of uses will be maintained with the proposed zoning change to SR-3, Single Dwelling Residential. Additionally, adjacent properties to the Southeast and properties located to the Northwest are similarly zoned SR-3, Single Dwelling Residential.

(Criteria Satisfied)

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

The subject property is already served by existing public services and infrastructure. Current service is expected to be sufficient to accommodate any proposed addition.

(Criteria Satisfied)

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

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. The proposed zoning change does not deviate from the existing neighborhood context or limit any future development to single-family housing. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. Staff received one inquiry about the project but did not have any objections. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity.

(Criteria Satisfied)

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

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

The subject property is not covered by a growth plan, area plan, or neighborhood plan however the proposed zoning change is consistent with the Go2030 Fargo Comprehensive Plan.

(Criteria Satisfied)

Staff Recommendation:

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

Planning Commission Recommendation: August 1, 2023

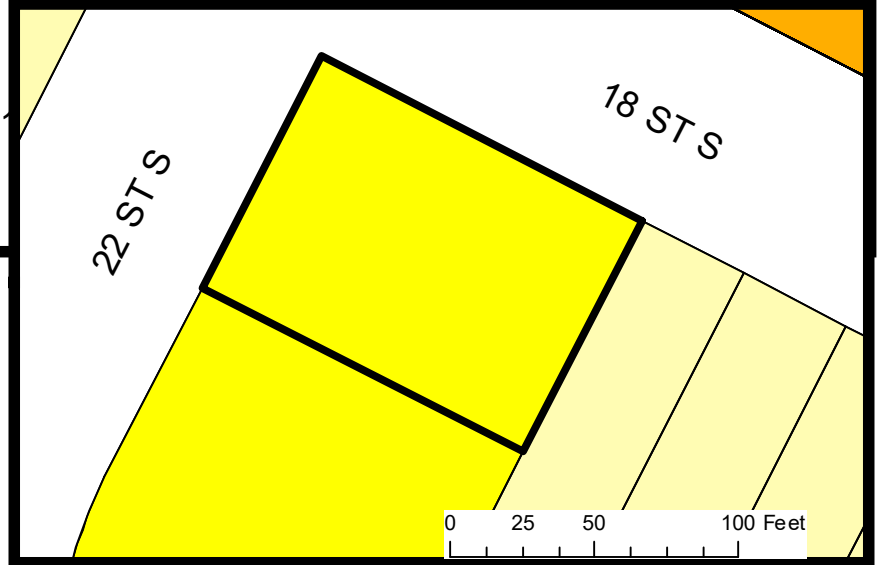
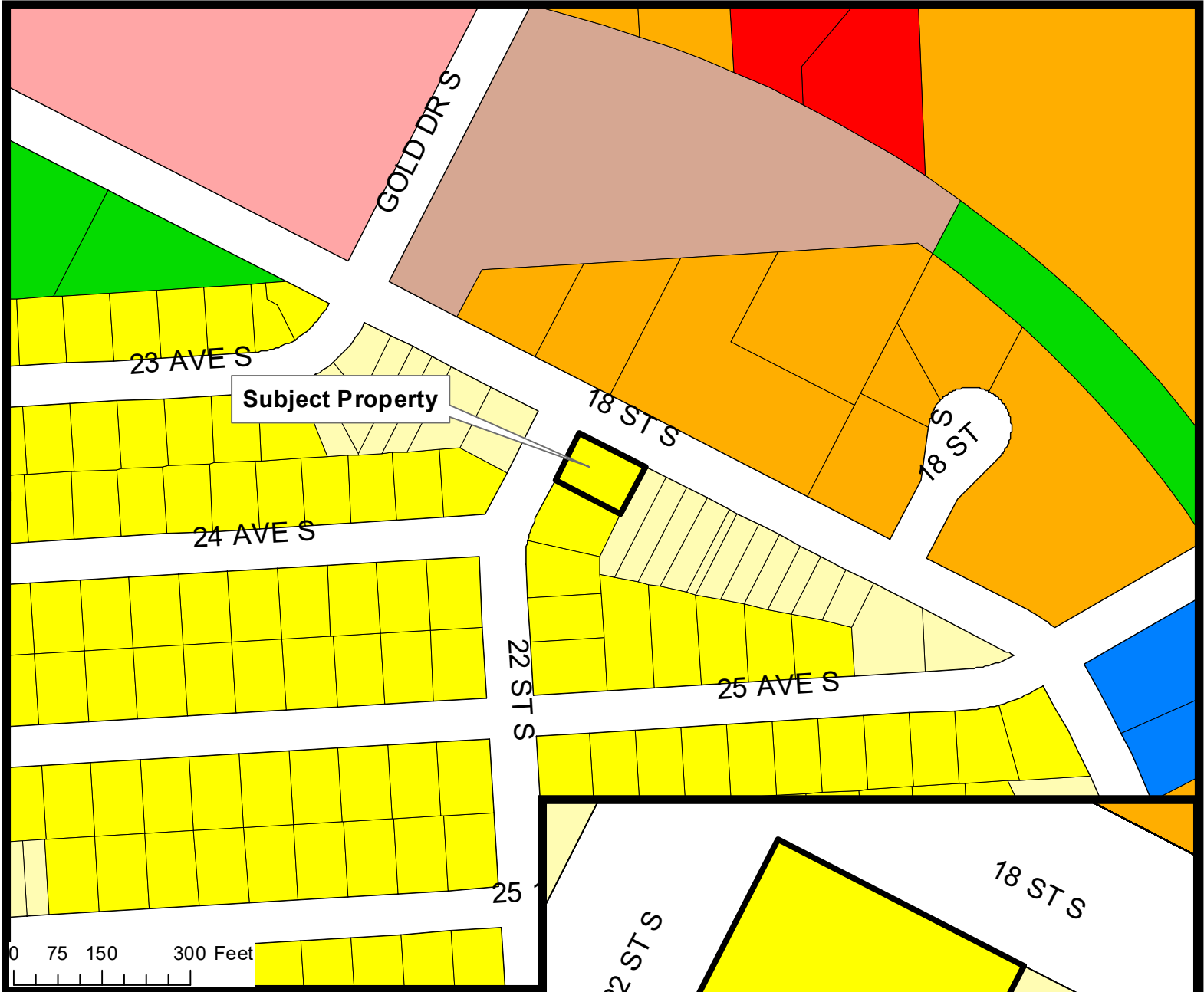
Attachments:

- 1. Zoning Map
- 2. Location Map

Zone Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential

Wentz Addition

2320 22nd Street South



Legend

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

Zone Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential

Wentz Addition

2320 22nd Street South



Legend

 City Limits

City of Fargo Staff Report			
Title:	Buchholz Addition	Date:	7/27/2023
Location:	1330 43rd Street North and 1301 45th Street North	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lots 4-6, Block 11, Industrial Subdivision No.1, and part of Lot 25, Hector's Subdivision		
Owner(s)/Applicant:	Buchholz Exchange, LLC; Norgren Exchange, LLC / Mark Buchholz	Engineer:	RJN Survey
Entitlements Requested:	Minor Subdivision (Plat of Buchholz Addition , a replat Lots 4-6, Block 11, Industrial Subdivision No.1, and part of Lot 25, Hector's Subdivision to the City of Fargo, Cass County, North Dakota)		
Status:	Planning Commission Public Hearing: August 1st, 2023		
Existing		Proposed	
Land Use: Industrial and undeveloped		Land Use: Industrial	
Zoning: GI, General Industrial		Zoning: No change	
Uses Allowed: GI - General Industrial. Allows detention facilities, health care facilities, safety services, adult entertainment centers, off-premise advertising, commercial parking, industrial service, manufacturing and production, warehouse and freight movement, waste related use, wholesale sales, aviation, surface transportation, mining, basic utilities, and some telecommunications facilities		Uses Allowed: No change	
Maximum Lot Coverage: 85%		Maximum Lot Coverage: No change	
Proposal:			
The applicant requests one entitlement: <ol style="list-style-type: none"> 1. A minor subdivision, entitled Buchholz Addition, which is a replat of Lots 4-6, Block 11, Industrial Subdivision No.1, and part of Lot 25, Hector's Subdivision 			
Surrounding Land Uses and Zoning Districts:			
<ul style="list-style-type: none"> • North: GI, with industrial uses • East: GI, with industrial uses • South: GI, with industrial uses • West: Cass County Drain No. 40 			
Area Plans:			
The subject property is not located within a growth plan or area plan.			
Context:			
Schools: The subject property is located within the West Fargo School District, specifically within the Westside Elementary, Cheney Middle and West Fargo High schools.			
Neighborhood: The subject property is not located within a named neighborhood.			
Parks: There are no Fargo parks within one mile of the subject property.			
Pedestrian / Bicycle: There are no shared use paths adjacent to the subject property.			
Transit: The subject property is not along a MATBus route.			

Staff Analysis:

The subject property is bounded by 14th Avenue North (north), 43rd Street North (east) and Cass County Drain No. 40 (west), and an adjacent property (south).

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.

SUBDIVISION

This plat replats Lots 4-6, Block 11, Industrial Subdivision No.1, and part of Lot 25, Hector’s Subdivision into three lots zoned GI, General Industrial. The existing buildings will remain.

ACCESS: The subdivision takes access from 14th Avenue North and 43rd Street North. An “L”-shaped 40-foot wide access and utility easement within the subdivision provides additional access.

175 FOOT DRAIN SETBACK: The subject property abuts Cass County Drain No. 40 on the west side. Land Development Code Section 20-0610.F requires that no subdivision may be approved without a notation and delineation of an area 175 feet from the centerline of any legal drain and the applicant for subdivision approval will be required to dedicate such areas to the public for purposes of such drain. This plat depicts an easement to the Southeast Cass Water Resources District for this purpose.

Minor Subdivision

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

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

The current zoning is GI, General Industrial. No zone change is proposed. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has not received any comments or inquiries. **(Criteria Satisfied)**

- 2. **Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

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

Staff Recommendation:

Suggested Motion: “To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed a plat of the **Buchholz Addition**, as outlined in the staff report, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, Section 20-0907.B. and C of the LDC, and all other applicable requirements of the LDC.”

Planning Commission Recommendation: August 1st, 2023

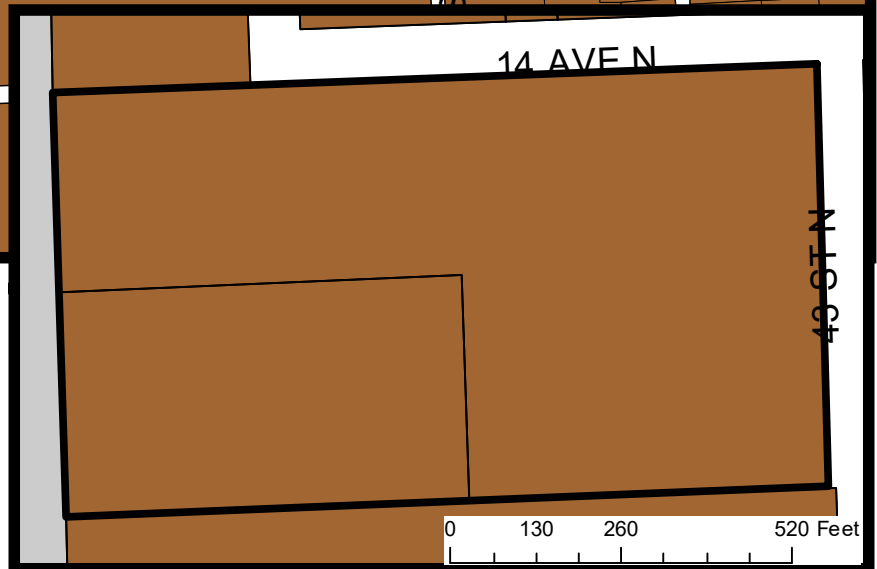
Attachments:

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

Minor Subdivision

Buchholz Addition

1330 43th Street North & 1301 45th Street North



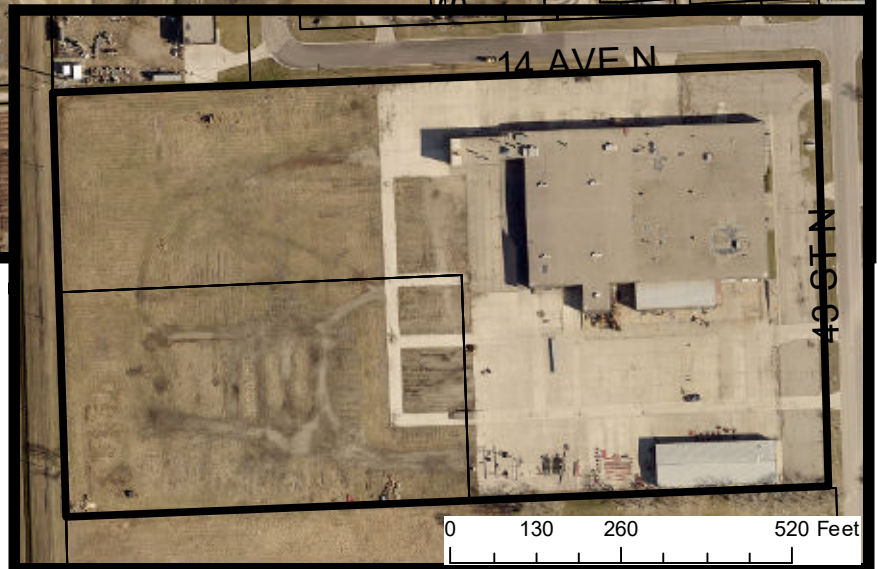
Legend

AG	DMU	GC	GL	GO	LC	MR-1	MR-2	MR-3	MHP	N/C	P/I	UMU	SSR-2	SSR-3	SSR-4	SSR-5	City Limits
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Minor Subdivision

Buchholz Addition

1330 43rd Street North & 1301 45th Street North



Legend

 City Limits

BUCHHOLZ ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
A REPLAT OF LOTS 4 THROUGH 6, BLOCK 11 OF INDUSTRIAL SUBDIVISION NO. 1 AND PART LOT 25 OF HECTOR'S SUBDIVISION
CASS COUNTY, NORTH DAKOTA
(A MINOR SUBDIVISION)

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, Joshua J. Nelson, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision; that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

Dated this ____ day of _____, 20____.

Joshua J. Nelson, PLS
Professional Land Surveyor
Registration No. LS-27292

State of North Dakota)
) SS
County of Cass)

On this ____ day of _____, 20____, appeared before me, Joshua J. Nelson, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Notary Public: _____

OWNER'S CERTIFICATE

KNOW ALL PERSONS BY THESE PRESENTS, That Norgren Exchange LLC and Buchholz Exchange LLC, both a Minnesota Limited Liability Company, as owners of a parcel of land located in that part of the Southwest Quarter of Section 34, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

All of Lots 4 through 6, Block 11 of INDUSTRIAL SUBDIVISION NO. 1, according to the recorded plat thereof, on file and of record in the office of the Recorder, Cass County, North Dakota.

AND

Part of Lot 25 of HECTOR'S SUBDIVISION, according to the recorded plat thereof, on file and of record in the office of the Recorder, Cass County, North Dakota

Plat containing 17.39 acres, more or less, and is subject to Easements, Reservations, Restrictions and Rights-of-Way of record.

Said owners of the above described property, have caused the same to be surveyed and platted as "**BUCHHOLZ ADDITION**" to the City of Fargo, Cass County, North Dakota. and does hereby dedicate to the public for public use the access and utility easements shown on this plat for purposes specified.

OWNER:
Norgren Exchange LLC
By: Steve Norgren, President

Mark Buchholz

State of Minnesota)
) SS
County of Clay)

On this ____ day of _____, 20____, appeared before me, Steve Norgren, President, Norgren Exchange LLC a Minnesota limited liability company, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same on behalf of said company.

Notary Public: _____

OWNER:
Buchholz Exchange, LLC
By: Mark Buchholz, Owner

Mark Buchholz

State of Minnesota)
) SS
County of Clay)

On this ____ day of _____, 20____, appeared before me, Mark Buchholz, Owner, Buchholz Exchange, LLC a Minnesota limited liability company, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same on behalf of said company.

Notary Public: _____

MORTGAGE HOLDER:
American Federal Bank, Mortgagee

Adam Braunberger, Assistant Vice President

State of North Dakota)
)ss
County of Cass)

On this ____ day of _____, 20____, before me personally appeared Matt Braunberger, Assistant Vice President, American Federal Bank, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of American Federal Bank.

Notary Public: _____

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

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

Tom Knakmuhs, P.E.
City Engineer

State of North Dakota)
) SS
County of Cass)

On this ____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Tom Knakmuhs, P.E., City Engineer, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public: _____

FARGO CITY COMMISSION APPROVAL

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

Timothy J. Mahoney
Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota)
) SS
County of Cass)

On this ____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor, known to me to be the persons described in and who executed the same as a free act and deed.

Notary Public: _____

CITY OF FARGO PLANNING COMMISSION APPROVAL

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

Rocky Schneider
Planning Commission Chair

State of North Dakota)
) SS
County of Cass)

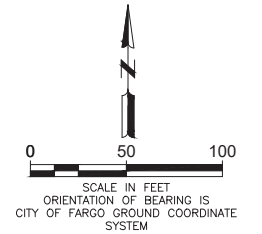
On this ____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Rocky Schneider, Planning Commission Chair, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public: _____



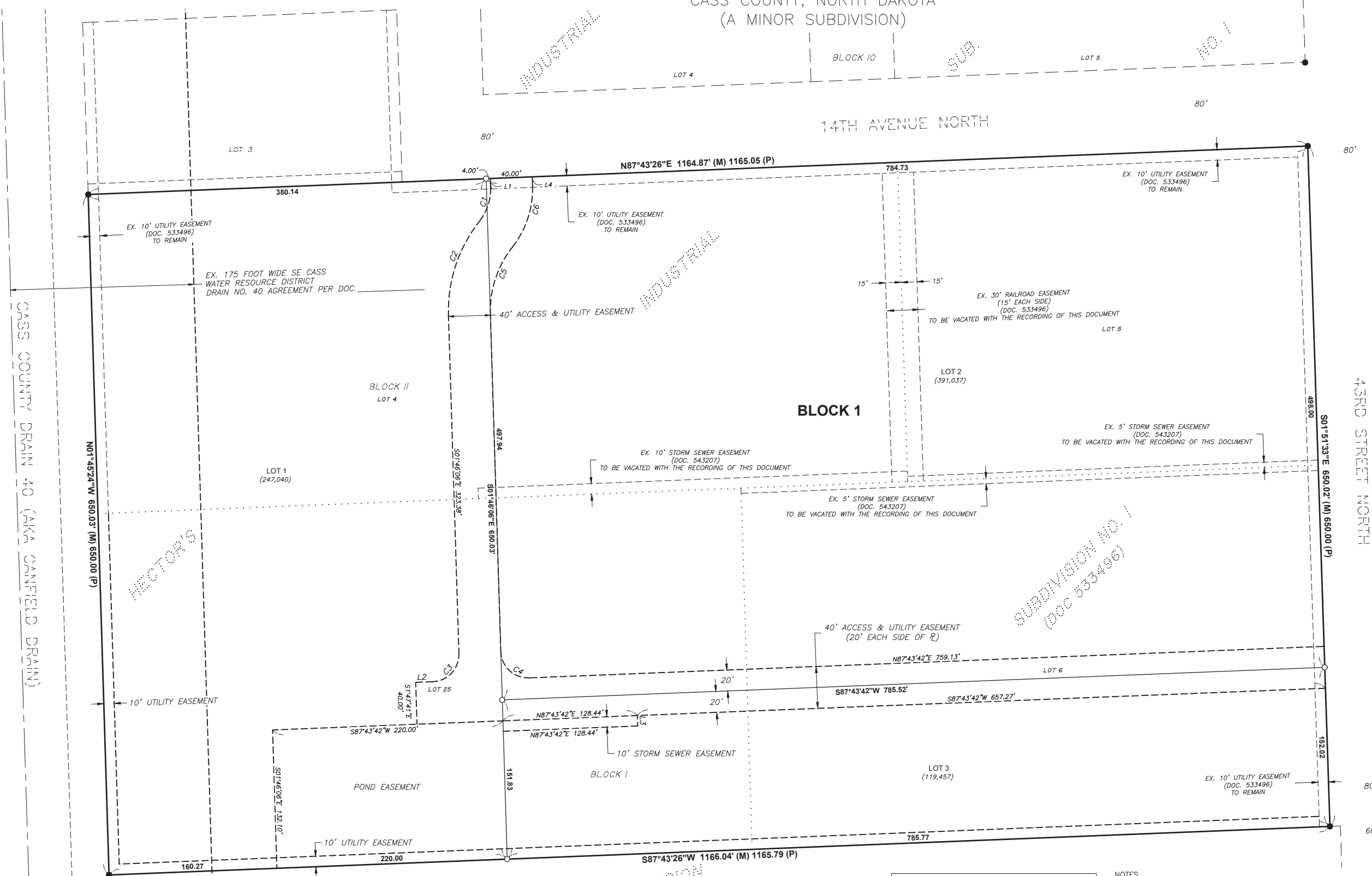
BUCHHOLZ ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
 A REPLAT OF LOTS 4 THROUGH 6, BLOCK 11 OF INDUSTRIAL SUBDIVISION NO. 1 AND PART LOT 25 OF HECTOR'S SUBDIVISION
 CASS COUNTY, NORTH DAKOTA
 (A MINOR SUBDIVISION)



LEGEND

○	SET 5/8" REBAR CAP LS-27292
●	FOUND MONUMENT
(M)	MEASURED DISTANCE
(P)	PLATTED DISTANCE
---	EXISTING PROPERTY LINE
---	ORIGINAL PLATTED LINE
---	EXISTING EASEMENT LINE
---	CASS COUNTY DRAIN SETBACK LINE
---	PLAT OVERALL BOUNDARY
---	PLAT INTERIOR LOT LINES
---	PLAT NEW EASEMENT
▨	EASEMENTS VACATED BY THIS PLAT



LINE TABLE

#	DISTANCE	BEARING
L1	8.32	S01°46'06"E
L2	16.30	S87°43'42"W
L3	10.00	N01°43'38"W
L4	8.67	S01°46'06"E

CURVE TABLE

#	LENGTH	RADIUS	DELTA	CHORD DISTANCE	CHORD BEARING
C1	34.91	50.00	040°00'28"	34.21	N18°14'08"E
C2	96.36	138.00	040°00'28"	94.42	S18°14'08"W
C3	40.61	26.00	089°29'48"	36.61	N42°58'48"E
C4	41.07	26.00	090°30'12"	36.93	S47°01'12"E
C5	68.43	98.00	040°00'28"	67.05	S18°14'08"W
C6	62.84	90.00	040°00'28"	61.58	N18°14'08"E

- NOTES**
- GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
 - UTILITY EASEMENTS ARE 10' WIDE ALONG AND ADJACENT TO ALL STREET RIGHT-OF-WAYS AND REAR PROPERTY LINES AS SHOWN UNLESS OTHERWISE NOTED.
 - CONTOUR INFORMATION SHOWN IS DERIVED FROM SURVEY DATA OBTAINED APRIL 2023.

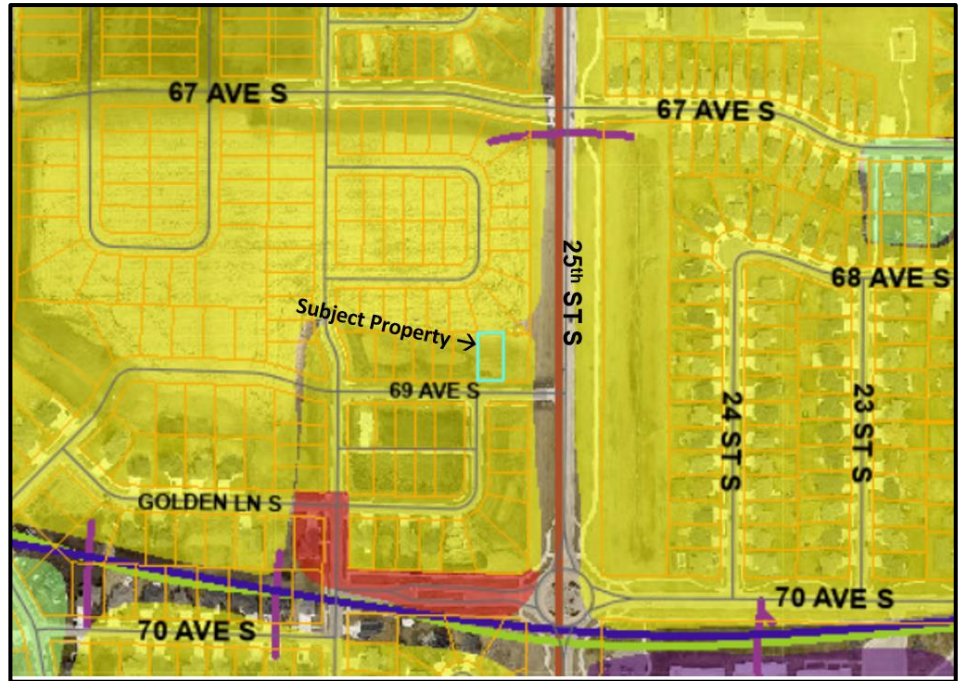
Plot Date & Time: 26 July 2023 4:08 PM
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1218 55th Street North
 Fargo, ND 58102
 Email: josh@rjnsurvey.com

City of Fargo Staff Report			
Title:	Golden Valley Second Addition	Date:	7/27/2023
Location:	2545 69th Avenue South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lot 7, Block 1, Golden Valley Second Addition		
Owner(s)/Applicant:	Jordahl Custom Homes/A Place to Call Home Care, LLC	Engineer:	None
Entitlements Requested:	Conditional Use Permit (CUP) (to allow Group Living in the SR-4, Single Dwelling Residential zoning district)		
Status:	Planning Commission Public Hearing: August 1st, 2023		
Existing		Proposed	
Land Use: Residential (Undeveloped)		Land Use: Residential	
Zoning: SR-4, Single-Dwelling Residential		Zoning: SR-4, Single-Dwelling Residential	
Uses Allowed: SR-4 - Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities;		Uses Allowed: No change proposed	
Maximum Density Allowed: SR-4 allows a maximum 12.1 units per acre;		Maximum Density Allowed: No change proposed	
Proposal:			
The applicant requests one entitlement: <ol style="list-style-type: none"> 1. Conditional Use Permit (CUP) (to allow Group Living in the SR-4, Single Dwelling Residential zoning district) 			
Approval and Appeal			
The Planning Commission is the final decision maker for CUP's. Any appeal of the Planning Commission's decision goes to the City Commission. Pursuant of LDC Section 20-0903.B, appeals of final decisions must be filed within 10 days of the date of the decision.			
Surrounding Land Uses and Zoning Districts:			
<ul style="list-style-type: none"> • North: SR-4, undeveloped; platted for single-dwelling residences • East: SR-4, undeveloped; platted for single-dwelling residences; across 25th Street South: P/I, Public/Institutional with City-owned stormwater detention basin • South: SR-4 with some single-family residences • West: SR-4, undeveloped; platted for single-dwelling residences 			
Area Plans:			
The subject property is located within the 2007 Southwest Growth Plan, which designates the property for "Residential Area—Lower to Medium Density" land use. The current SR-4, Single-Dwelling Residential zoning is consistent with this land use designation. No zone change is proposed.			
(continued on next page)			

- Commercial Area
- Future School
- Proposed Park
- Residential Area - lower to medium density
- Residential Area - medium to high density
- Residential Area - rural



Context:

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

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

Parks: Golden Valley Park (6977 Golden Valley Parkway South) is approximately one-half mile west of the subject property. This park provides basketball court, grill, picnic table, playground for ages 2-5, playground for ages 5-12, and a shelter.

Pedestrian / Bicycle: There is a multi-use path across 25th Street South from the subject property.

MATBUS Route: The subject property is not located along a MATBUS route.

Staff Analysis:

The applicant, Giselle Ishimwe / A Place To Call Home, LLC, is a registered nurse. She intends to use the residence being constructed on the property as an agency foster home for adults. This is a setting where a survivor of brain injury, dementia, and stroke could receive home and community-based services. Services can be provided for up to four adults, up to 24 hours per day. Ms. Ishimwe and her sister will provide the care. They are intending to live on-site.

The care facility is regulated by the North Dakota Department of Health and Human Services, based on North Dakota Century Code (NDCC) statutes. NDCC 50-11-00.1 defines “agency foster care home for adults” as “a residential home in which foster care for adults is regularly provided by professional staff trained to provide services to older adults or adults with a disability, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.”

A conditional use permit for group living is required to allow more than three unrelated people to reside in a single-dwelling residence, in order to be consistent with the Fargo Land Development Code.

A site plan, rendering, and floor plan of the residence are attached for the Commission’s reference. Note that approval of the CUP is only an approval for the land use and is not a building permit for the residence.

Staff recommends the following condition:

1. If the property is transferred, the new owner must apply for a new conditional use permit to continue the group living use.

COMMENT LETTERS

Staff received two comment letters; one from a neighbor to the subject property and one from the developer. Concerns expressed in the letters include:

- The proposed use could lower the property values of surrounding homes and could deter future home buyers in the neighborhood
- Construction in this area could create an unsafe environment for the facility residents
- Heavy winter snowstorms may make it hard for emergency vehicles to access this property.
- Additional traffic created by this use.
- Potential for other businesses to request to be in this subdivision.

Copies of these letters are attached.

Conditional Use Permit Approval Criteria (Section 20-0909.D)

The following is a list of criteria that must be determined satisfied in order for a Conditional Use Permit to be approved:

1. **Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**

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. As noted above, provisions of the LDC will apply and additional conditions will be added to insure that this project is developed in a manner that is appropriate to the context of the surrounding properties and uses. Staff finds this proposal is consistent with the purpose of the LDC, the 2007 Growth Plan, and other adopted policies of the City. **(Criteria Satisfied)**

2. **Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**

Staff believes that the location of the proposed conditional use will contribute and promote the welfare and convenience of the public. The CUP will help the applicant create a care environment in a residential setting for survivors of brain injury, dementia, and stroke. **(Criteria Satisfied)**

3. **Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**

Staff has no data to suggest the proposed use would cause substantial injury to the value of other property in the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. To date, Planning staff has received one comment letter, as noted above. **(Criteria Satisfied)**

4. **Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature, and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.**

The proposed CUP for group living in a single-dwelling residential zone will not dominate the immediate neighborhood or prevent any other sites from being used in the manner allowed by zoning district regulations. The property will be developed to the Land Development Code standards of a single-dwelling residence. The CUP condition requires that if the property is transferred, the new owner must apply for a new CUP if they want the group living use to continue. **(Criteria Satisfied)**

5. **Are adequate utility, drainage, and other such necessary facilities and services provided or will they be at the time of development?**

The property has access to all necessary utilities and services. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property as proposed. Based on this information, staff finds that the adequate utility, drainage, and other such necessary facilities and services are in place. **(Criteria Satisfied)**

- 6. Have adequate access roads or entrances and exit drives been provided and are they designed to prevent traffic hazards and to minimize traffic congestion in public streets?**
The subject property is a residential property with a driveway onto 69th Avenue South.
(Criteria Satisfied)

Staff Recommendation:

Suggested Motion: To accept the findings and recommendations of staff and approve the proposed conditional use permit to allow group living on Lot 7, Block 1, **Golden Valley Second Addition** as presented, as the proposal complies with the 2007 Growth Plan, Standards of Section 20-0909.D, and all other applicable requirements of the LDC, with the following condition:

1. If the property is transferred, the new owner must apply for a new conditional use permit in order to continue the group living use.

Planning Commission Recommendation: August 1st, 2023

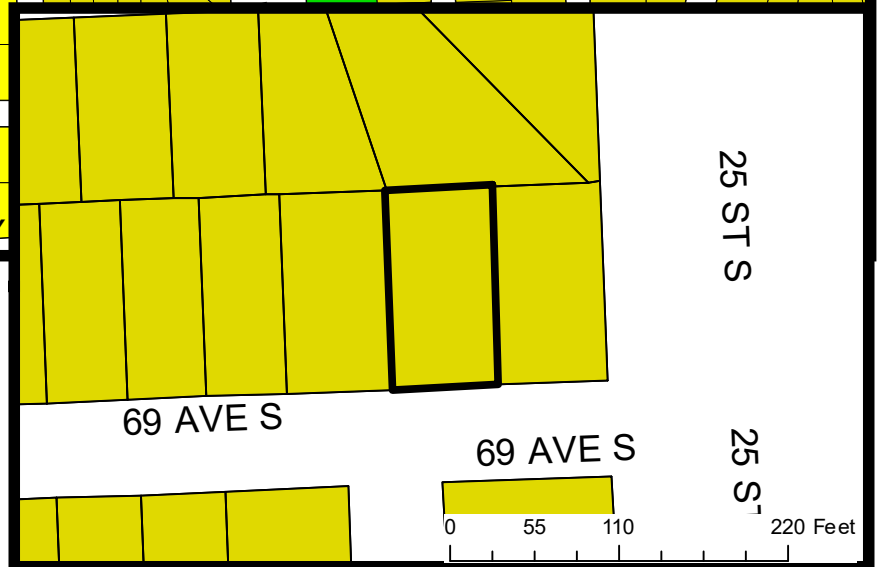
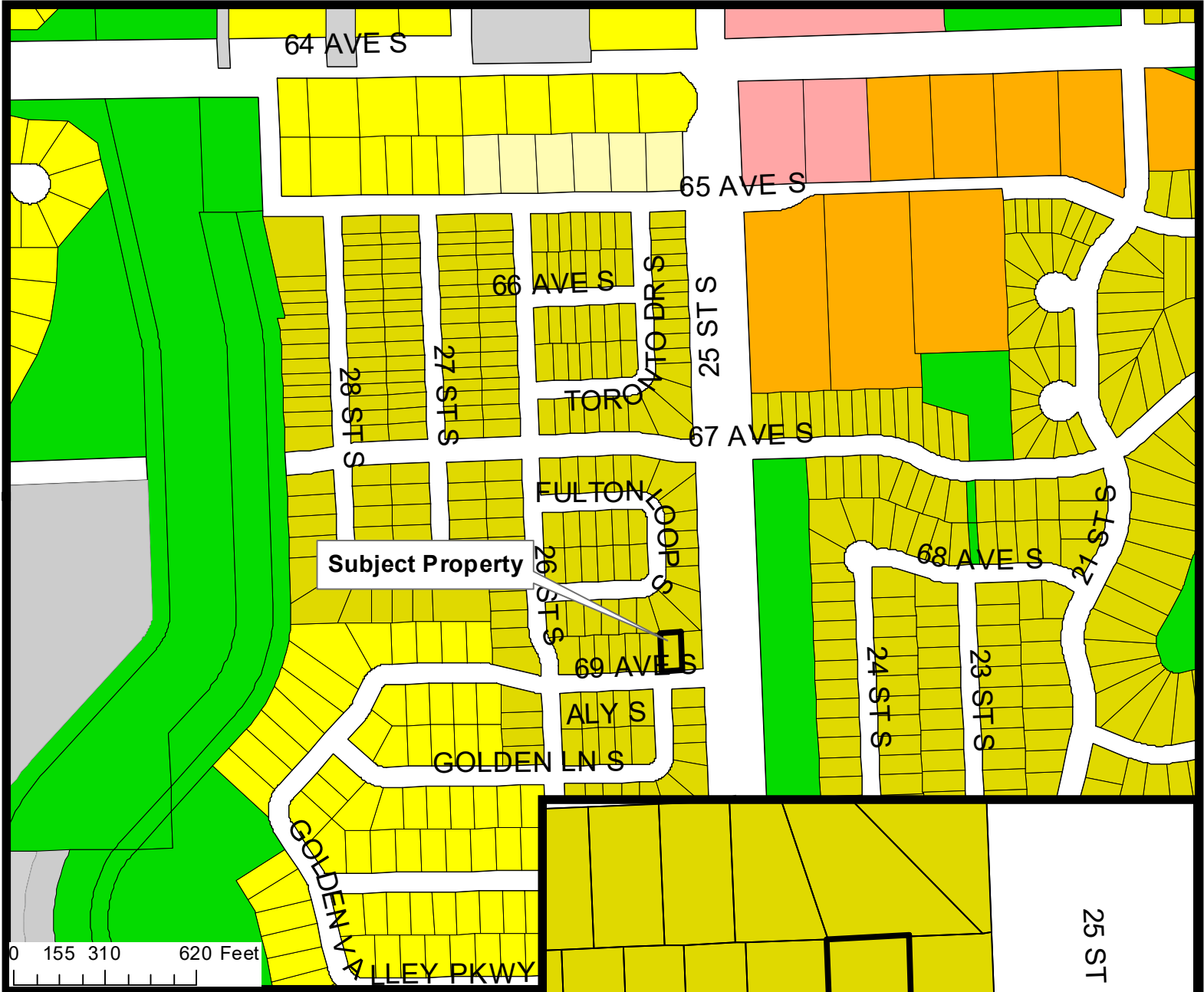
Attachments:

1. Zoning map
2. Location map
3. Site plan, rendering, floor plan
4. Comment letters

Conditional Use Permit to allow Group Living in the SR-4, Single Dwelling Residential zoning district

Golden Valley Second Addition

2545 69th Avenue South



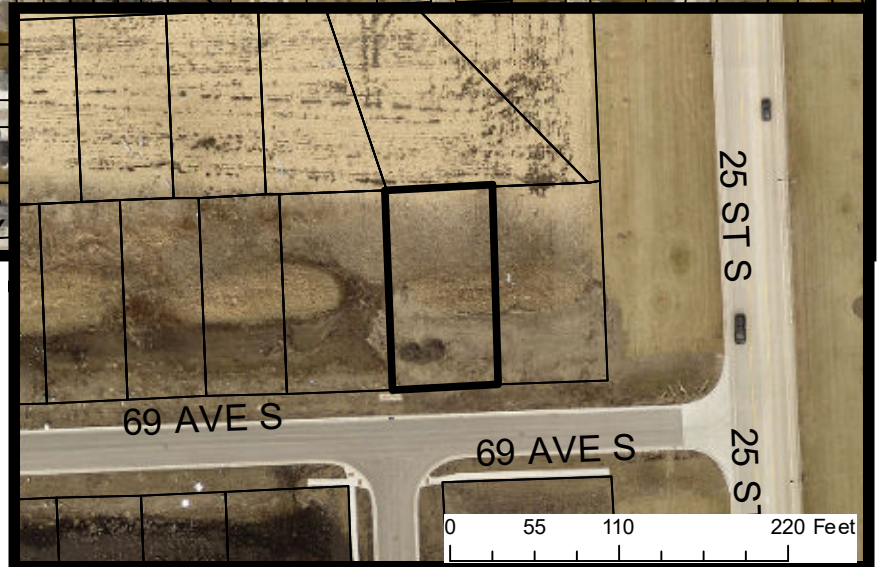
Legend

AG	DMU	GC	GO	LC	MRR-1	MRR-2	MRR-3	MHP	NC	NO	P/I	UMU	SR-2	SR-3	SR-4	SR-5	City Limits
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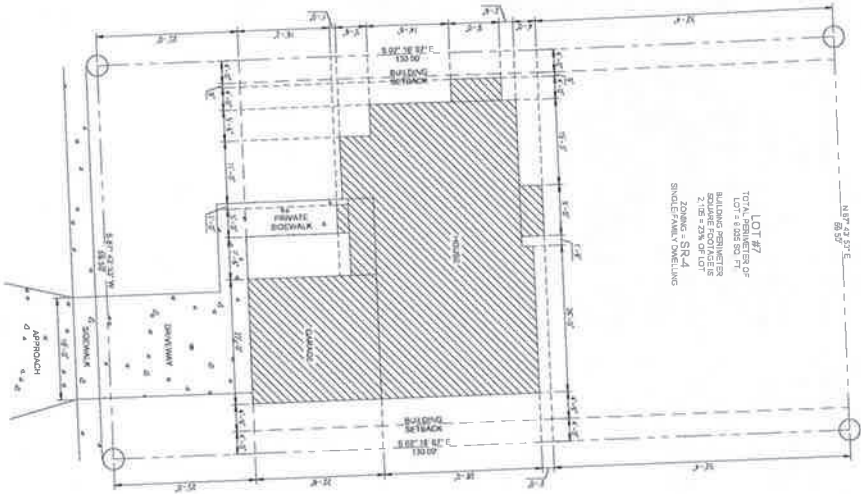
Conditional Use Permit to allow Group Living in the SR-4, Single Dwelling Residential zoning district

Golden Valley Second Addition

2545 69th Avenue South



Legend
City Limits



ISHIMWE-DUSABE RESIDENCE
 GOLDEN VALLEY 2ND ADDITION
 LOT #7 / BLOCK #1
 CITY OF FARGO, ND 58104

SITE PLAN LAYOUT



Custom Homes Inc.
 Jordan Custom Homes
 2025 Sycamore Street
 West Fargo, North Dakota 58078
 Phone: 701-282-4343
 Fax: 701-282-4342
 www.jordancustomhomes.com

FINAL PERMITS FOR
 CONSTRUCTION
 CUSTOMER APPROVAL

DATE

PLAN SET REVISIONS:
 1. INITIAL REVISION OF THE PLAN SET
 2. REVISIONS TO THE PLAN SET
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DRAWN BY: JUSTIN H. *
 CHECKED BY: APR. 3, 2002
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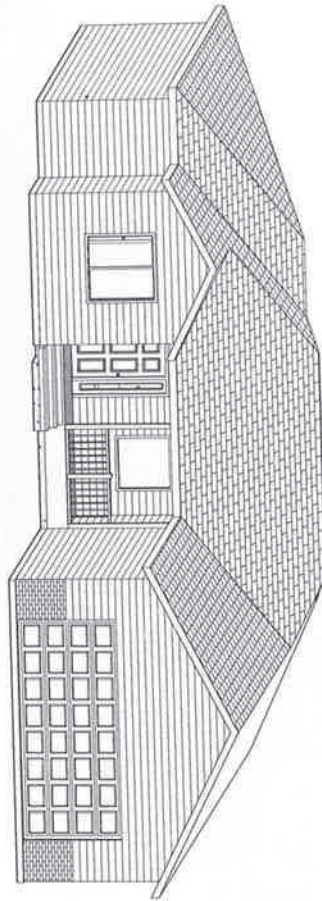
ISHIMWE-DUSABE RESIDENCE

2545 69TH AVENUE SOUTH
 CITY OF FARGO, ND 58104
 LOT #7 / BLOCK #1
 GOLDEN VALLEY 2ND ADDITION

SHEET DESCRIPTION
 SITE PLAN

HOUSE TYPE OR DESCRIPTION
 PIKE - 2 STALL

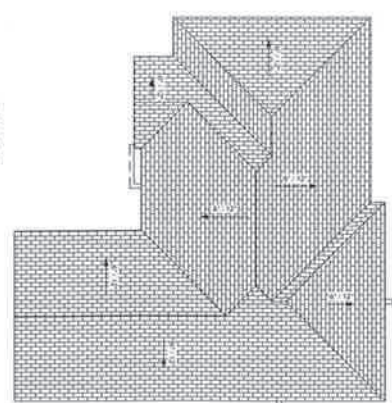
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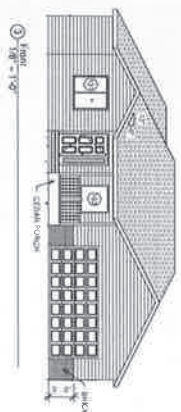
GARAGE SQUARE FOOTAGE	
LEVEL	AREA
GARAGE	491.30 SF
2 Stalls	491.30 SF

HOUSE SQUARE FOOTAGE	
LEVEL	AREA
MAIN LEVEL	1464.50 SF
BASEMENT	1287.04 SF
Finishing	2771.54 SF
BASEMENT	2071.45 SF
Unfinished	2071.45 SF
Grand Total	2800.00 SF

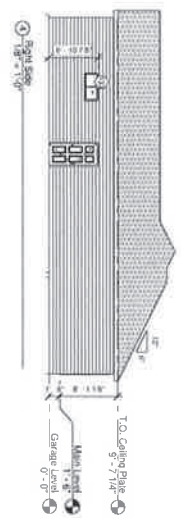
WINDOW SCHEDULE			
Window #	Type	Size	#
115	Casement	30" x 60"	2
120	Casement	24" x 48"	2
163	Picture	48" x 48"	1
130	Slider	60" x 60"	1
133	Slider	60" x 60"	1
135	Slider	48" x 24"	1
136	Slider	60" x 48"	2
Grand Total			10



2 Roof Plan
1/8" = 1'-0"



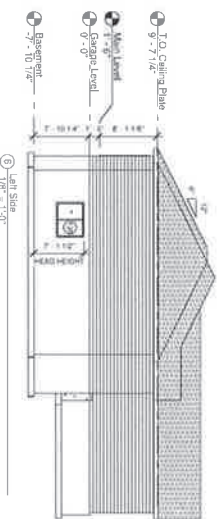
1 Front
1/8" = 1'-0"



4 Right Side
1/8" = 1'-0"



3 Back
1/8" = 1'-0"



5 Left Side
1/8" = 1'-0"

ISHIMWE-DUSABE RESIDENCE

2545 69TH AVENUE SOUTH
CITY OF FARGO, ND 58104
LOT #7 / BLOCK #1
GOLDEN VALLEY 2ND ADDITION

Jordahl
Custom Homes Inc.
Jordahl Custom Homes
2892 Strayhorn Street
West Fargo, ND 58103
www.jordahlcustomhomes.com
Fax: 701-282-4542

FINAL DRAWINGS FOR
CONSTRUCTION
CUSTOMER APPROVAL
DATE:

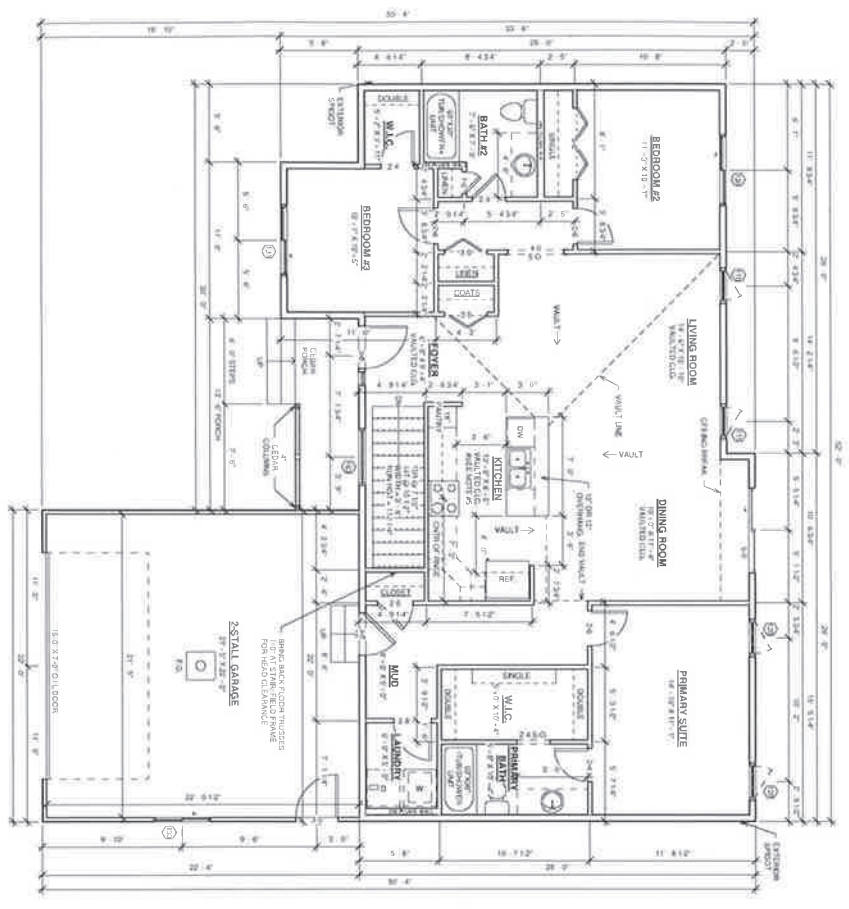
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OR TRANSMISSION OF THESE PLANS
WITHOUT THE WRITTEN CONSENT OF
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PROHIBITED AND A VIOLATION OF THE AUTHOR'S
RIGHTS UNDER FEDERAL AND STATE LAWS.
© 2004 JORDAHL CUSTOM
HOMES INC.

DRAWN BY: JH
CHECKED BY: JH
DATE: APR 3, 2023
REVISION #1:
REVISION #2:
REVISION #3:
REVISION #4:
REVISION #5:
REVISION #6:

SHEET DESCRIPTION
ELEVATIONS & ROOF PLAN
HOUSE TYPE AND DESCRIPTION
PIKE 2 STALL

A1

Main Level Floor Plan



- NOTES:**
1. EXTERIOR WALL HEIGHT - SEE SECTION
 2. EXTERIOR WALL FINISH - SEE SECTION
 3. EXTERIOR WALL FINISH - SEE SECTION
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Window	Type	Size	Grid	Expts	Level	Head	#
115	Casement	30" x 60"	No Grids	No	Main Level	6' - 10 7/8"	2
120	Casement	36" x 48"	No Grids	Yes	Main Level	6' - 10 7/8"	2
123	Picture	48" x 48"	No Grids	No	Main Level	6' - 10 7/8"	1
130	Slider	60" x 48"	No Grids	No	Main Level	6' - 10 7/8"	1
131	Slider	60" x 60"	No Grids	Yes	Main Level	6' - 10 7/8"	1
132	Slider	48" x 48"	No Grids	No	Change Level	6' - 10 7/8"	1
133	Slider	48" x 48"	No Grids	No	Change Level	6' - 10 7/8"	1
GRAND TOTAL							8

Main Level Windows

GARAGE SQUARE FOOTAGE	
LEVEL	AREA
2ND	481.33 SF
1ST	481.33 SF
HOUSE SQUARE FOOTAGE	
LEVEL	AREA
FINISHED	1464.50 SF
UNFINISHED	584.50 SF
GRAND TOTAL	2049.00 SF

GARAGE SQUARE FOOTAGE	
LEVEL	AREA
2ND	481.33 SF
1ST	481.33 SF
HOUSE SQUARE FOOTAGE	
LEVEL	AREA
FINISHED	1464.50 SF
UNFINISHED	584.50 SF
GRAND TOTAL	2049.00 SF

ISHIMWE-DUSABE RESIDENCE

2545 69TH AVENUE SOUTH
CITY OF FARGO, ND 58104
LOT #7 / BLOCK #1
GOLDEN VALLEY 2ND ADDITION

DATE: 04/11/2024
DRAWN BY: JH
CHECKED BY: APR 3 2023
REVISION #1:
REVISION #2:
REVISION #3:
REVISION #4:
REVISION #5:

FINAL DRAWINGS FOR CONSTRUCTION
CUSTOMER APPROVAL
DATE:

Jordanh
Custom Homes Inc.
2832 Brynmar Street
Fargo, ND 58103
Phone: 701-254-6632
Fax: 701-252-4542
www.jordanh.com

HOUSE TYPE OR DESCRIPTION
PIKE - 2 STALL
A2

SHEET DESCRIPTION
MAIN LEVEL FLOOR PLAN

FINAL DRAWINGS FOR
 CONSTRUCTION
 CUSTOMER APPROVAL
 DATE:

ANY USE IN CONSTRUCTION
 WITHOUT THE ORIGINAL
 DRAWINGS IS AT THE USER'S
 RISK. THE USER ASSUMES ALL
 LIABILITY FOR ANY DAMAGE
 CAUSED BY SUCH USE.

DRAWN BY: JH
 CHECKED BY: JH
 DATE: APR. 3, 2023
 REVISION #1:
 REVISION #2:
 REVISION #3:
 REVISION #4:
 REVISION #5:

ISHIMWE-DUSABE RESIDENCE
 2545 69TH AVENUE SOUTH
 CITY OF FARGO, ND 58104
 LOT #7 / BLOCK #1
 GOLDEN VALLEY 2ND ADDITION

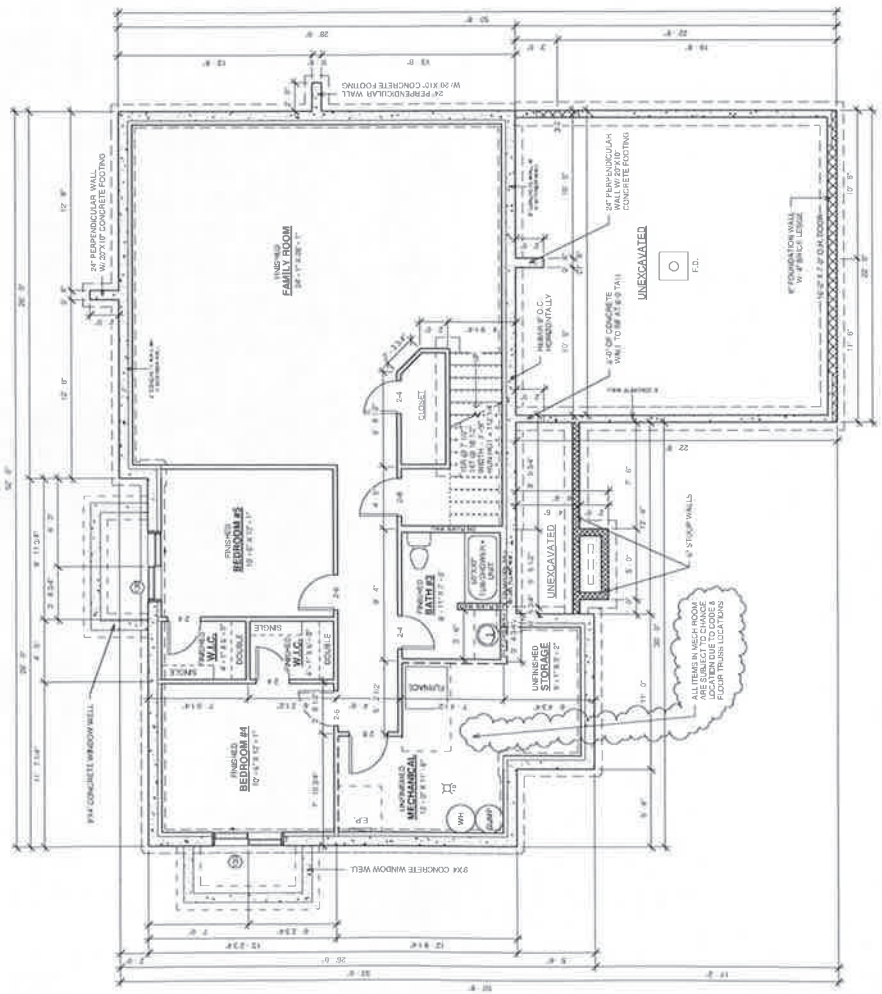
SHEET DESCRIPTION
 BASEMENT LEVEL FLOOR
 PLAN

HOUSE TYPE DESCRIPTION
 PINE - 2 STALL

A3

- NOTES:**
1. UNFINISHED GARTH UNDER FLOORING
 2. 2" FLOOR FINISH
 3. 2" FLOOR FINISH
 4. MANUFACTURE FOR WALLS UP TO MATCH
 5. TOP OF FLOOR FINISH
 6. FLOOR FINISH TO MATCH
 7. FLOOR FINISH TO MATCH
 8. VERIFY ALL WINDOW SIZES WITH MANUFACTURER
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****FLOOD PROOF FOUNDATION****



GARAGE SQUARE FOOTAGE

LEVEL	AREA
GARAGE	481.33 SF
2.5 Stalls	481.33 SF

HOUSE SQUARE FOOTAGE

LEVEL	AREA
MAIN LEVEL	1464.00 SF
Basement	1464.00 SF
Basement	1464.00 SF
Unfinished	1464.00 SF
Grand Total	2928.00 SF

Basement Windows

Window #	Type	Size	Exterior	Interior	Height	#
1	Sliding	60" x 66"	Yes	Yes	7'-1 1/2"	2
2	Sliding	60" x 66"	Yes	Yes	7'-1 1/2"	2

Basement Level Floor Plan

Fargo Planning & Development
225 4th St N
Fargo ND 58102

To Whom This May Concern,

I am writing to express my strong opposition to the Conditional Use Permit request to allow Group Living in the SR-4, Single Dwelling Residential zoning district on Lot 7, Block 1, **Golden Valley Second Addition**. Located at 2545 69th Ave S.

This is not the right neighborhood for that type of facility. All homes built in this neighborhood need to remain Single Family Homes. I fear it will bring our property values down. If one needs to sell their home, it may deter buyers from purchasing in this neighborhood.

Also, this neighborhood has heavy construction going on. The whole area behind this particular home is going to be having sewer and underground work done this fall. Doesn't seem like a very safe place for this type of facility. In the winter if there is heavy snowstorm it may be hard for emergency vehicles to access if an emergency should arise.

I respectfully insist that this conditional use permit request be denied.

Thank You

Theresa Berg

From: Jon Youness

Sent: Wednesday, April 26, 2023 4:30 PM

To: Mark Williams (Fargo Department of Planning and Development)

Subject: Golden Valley 2nd

Hey Mark!

As the Golden Valley real estate developer and homeowners' association manager, I wanted to share some concerns regarding the proposed business in our residential neighborhood.

We have spent the last 7 years working with City staff and the building community to develop the Golden Valley single family neighborhood in south Fargo. A part of this is creating an expectation for the existing residents of how this neighborhood will be built out and single family nature of the development. I worry that introducing a business could change that dynamic. Specifically, I am concerned about the additional traffic that the business could bring due to the number of workers and visitors. I also see approving the conditional use permit as a slippery slope that could lead to more businesses requesting to set up shop in our residential neighborhood. This could affect the quality of life for our residents and potentially change the unique identity of this and other neighborhoods.

I respectfully ask that you refrain from granting the conditional use permit for the business. We believe that it may not be in the best interest of our community and that it could detract from the quality of life of our residents. There are plenty of locations in the immediate vicinity that could be a better location for the proposed business. We would be happy to work with staff, the business owner, and the builder to help find a more suitable location!

Thank you for taking the time to consider our concerns.

Jonathan Youness, PE

Eagle Ridge Development

3280 Veterans Blvd – Suite 300

Fargo, ND 58104