

FARGO PLANNING COMMISSION AGENDA  
Tuesday, July 7 at 3:00 p.m.

A: Approve Order of Agenda

B: Minutes: Regular Meeting of June 2, 2020

C: Brown Bag Luncheon - None

D: Public Hearing Items:

1. Continued hearing on an application requesting a Conditional Use Permit to allow an Alternative Access Plan on a portion of Lot 1, Block 2, **Austin's Subdivision**. (Located at 5451 53rd Street South) (Hockey 52, LLC/Century Builders, LLC) (kb)
- 2a. Continued hearing on an application requesting a PUD, Planned Unit Development Master Land Use Plan within the boundaries of the proposed **Touchmark Addition**. (Located at 1201 35th Avenue South and 1200 Harwood Drive South) (Touchmark LLC/Waterford at Harwood Groves LLC) (dk)
- 2b. Continued hearing on an application requesting a Zoning Change from AG, Agricultural and MR-3, Multi-Dwelling Residential with a PUD, Planning Unit Development to MR-3 with a PUD, Planned Unit Development on the proposed **Touchmark Addition**. (Located at 1201 35th Avenue South and 1200 Harwood Drive South) (Touchmark LLC/Waterford at Harwood Groves LLC) (dk)
- 2c. Continued hearing on an application requesting a Plat of **Touchmark Addition** (Minor Subdivision) an unplatted portion of the Section 25, Township 139 North, Range 49 West and Lots 1, 15, and 16, Block 1, Replat of Waterford Addition, of the Fifth Principal Meridian, Cass County, North Dakota. (Located at 1201 35th Avenue South and 1200 Harwood Drive South) (Touchmark LLC/Waterford at Harwood Groves LLC) (dk)
- 3a. Hearing on an application requesting a Zoning Change from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential, P/I, Public and Institutional, and MR-1, Multi-Dwelling Residential on the proposed **Madelyn's Meadows Third Addition**. (Located at 2613, 2639, 2667, 2689, 2697, 2707, 2729, 2751, 2769, 2791, 2801, 2815, 2827, 2845, 2863, 2875, 2891, 2951 72nd Avenue South, and 7203 and 7231 30th Street South) (Sitka Investments, LLC/Jon Youness) (dk)
- 3b. Hearing on an application requesting a Plat of **Madelyn's Meadows Third Addition** (Major Subdivision) a replat of portions of Lots 1-17, Block 1, Madelyn's Meadows Second Addition; Lots 10 and 11, Block 3, Madelyn's Meadows First Addition; and a portion of Lot 12, Block 3,

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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](http://www.FargoND.gov/planningcommission).

Madelyn's Meadows First Addition to the City of Fargo, Cass County, North Dakota. (Located at 2613, 2639, 2667, 2689, 2697, 2707, 2729, 2751, 2769, 2791, 2801, 2815, 2827, 2845, 2863, 2875, 2891, 2951 72nd Avenue South, and 7203 and 7231 30th Street South) (Sitka Investments, LLC/Jon Youness) (dk)

4. Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential on Lots 25-32, **South Haven Subdivision**. (Located at 2505-2617 65th Avenue South) (Ryland Development Corp) (dk)
5. Hearing on an application requesting a Zoning Change to repeal and reestablish a C-O, Conditional Overlay on Lots 1-7, Block 1, **Timber Parkway Fourth Addition**; Lot 3, Block 1, **Timber Parkway Third Addition**; and Lot 1, Block 1, **Timber Parkway Second Addition**. (Located at 4935 and 5081 Timber Parkway South; 3439, 3375, and 3400 James Way South; and 3360, 3401, 3430, and 3485 Jacks Way South) (PLC Investments, LLC) (kb)
6. Hearing on an application requesting a Plat of **Turf Tamers Addition** (Minor Subdivision) a replat of Lots 2-3, Block 4, Laverne's Addition to the City of Fargo, Cass County, North Dakota. (Located at 4170 and 4200 24th Avenue North) (Laverne A Montplaisir Family Trust/Brian Pattengale) (ms)

E: Other Items:

1. LDC Diagnostic Workshop

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## **BOARD OF PLANNING COMMISSIONERS MINUTES**

**Regular Meeting:**

**Tuesday, June 2, 2020**

The Regular Meeting of the Board of Planning Commissioners of the City of Fargo, North Dakota, was held in the Commission Chambers at City Hall at 3:00 p.m., Tuesday, June 2, 2020.

The Planning Commissioners present or absent were as follows:

Present: John Gunkelman, Rocky Schneider, Scott Stofferahn, Brad Bachmeier, Jennifer Holtz, Dawn Morgan, Art Rosenberg

Absent: Maranda Tasa, Mary Scherling, Melissa Sobolik

Chair Gunkelman called the meeting to order.

### **Business Items:**

#### **Item A: Approve Order of Agenda**

Chair Gunkelman noted the following agenda items:

-Items 3a, 3b, 3c, and 7 have been continued to the July 7, 2020 Planning Commission meeting.

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

#### **Item B: Minutes: Regular Meeting of May 5, 2020**

Member Morgan moved the minutes of the May 5, 2020 Planning Commission meeting be approved. Second by Member Bachmeier. All Members present voted aye and the motion was declared carried.

#### **Item C: June 2020 Brown Bag Luncheon – no meeting scheduled for June**

#### **Item D: Public Hearing Items:**

##### **Item 1: Tice Addition**

**Continued hearing on an application requesting a Plat of Tice Addition (Minor Subdivision) a replat of a portion of Lot 6, and all of Lots 11 and 12, Block 4, Harry A. Schnell Addition to the City of Fargo, Cass County, North Dakota. (Located at 714 and 718 19th Avenue South) (Kenneth and Kimberly Anderson): APPROVED**

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

Mr. Kress stated that a virtual neighborhood meeting was held on Thursday, May 21.

Applicant Ken Anderson spoke on behalf of the application.

Board discussion was held regarding the intention of the project, and reasons for the neighborhood opposition received.

Member Bachmeier moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat Tice Addition as outlined within the staff report, as the proposal complies with the Standards of Article 20-06 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 Holtz, Morgan, Bachmeier, Stofferahn, Rosenberg, Schneider, and Gunkelman voted aye. Absent and not voting: Members Scherling, Tasa, and Sobolik. The motion was declared carried.

**Item 2: Richard 3rd Subdivision**

**Continued hearing on an application requesting a Conditional Use Permit to allow for a Telecommunication Support Structure (TSS) 199 feet in height in the GC, General Commercial zoning district on Lot 2, Block 2, Richard 3rd Subdivision. (Located at 6120 53rd Avenue South) (Magnum Properties/Scott Jones): APPROVED**

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

Member Morgan moved the findings and recommendations of staff be accepted and the Conditional Use Permit be approved to allow for a 199-foot tall Telecommunications Support System (TSS) tower in the GC, General Commercial zoning district 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) The base of the Telecommunications Support System (TSS) must be enclosed by an opaque fence of wall of at least 6 feet in height and of a character necessary to provide adequate visual screening and to limit access to the TSS.
- 2) Upon completing construction of the proposed 199-foot tall TSS, the property owner will have 60 days to remove the remaining 80-foot tower from 5702 52nd Avenue South.
- 3) The Conditional Use Permit will cease if the land use changes from office (radio station).

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



**Item 3: Touchmark Addition**

**3a. Continued hearing on an application requesting a PUD, Planned Unit Development Master Land Use Plan within the boundaries of the proposed Touchmark Addition. (Located at 1201 35th Avenue South and 1200 Harwood Drive South) (Touchmark LLC/Waterford at Harwood Groves LLC): CONTINUED TO JULY 7, 2020**

**3b. Continued hearing on an application requesting a Zoning Change from AG, Agricultural and MR-3, Multi-Dwelling Residential with a PUD, Planning Unit Development to MR-3 with a PUD, Planned Unit Development on the proposed Touchmark Addition. (Located at 1201 35th Avenue South and 1200 Harwood Drive South) (Touchmark LLC/Waterford at Harwood Groves LLC): CONTINUED TO JULY 7, 2020**

**3c. Continued hearing on an application requesting a Plat of Touchmark Addition (Minor Subdivision) an unplatted portion of the Section 25, Township 139 North, Range 49 West and Lots 1, 15, and 16, Block 1, Replat of Waterford Addition, of the Fifth Principal Meridian, Cass County, North Dakota. (Located at 1201 35th Avenue South and 1200 Harwood Drive South) (Touchmark LLC/Waterford at Harwood Groves LLC): CONTINUED TO JULY 7, 2020**

**Item 4: Edition Third Addition**

**4a. Hearing on an application requesting Zoning Change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial on the proposed Edition Third Addition. (Located at 4803 and 4809 38th Street South) (Edition Partners, LLP/Houston Engineering): APPROVED**

**4b. Hearing on an application requesting a Plat of Edition Third Addition (Minor Subdivision) a replat of part of Lot 1, and all of Lot 2, Block 1, Edition Second Addition to the City of Fargo, Cass County, North Dakota. (Located at 4803 and 4809 38th Street South) (Edition Partners, LLP/Houston Engineering): APPROVED**

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

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 to LC, Limited Commercial and 2) Subdivision Plat Edition Third Addition as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the 2003 Southwest Future Land Use Plan, Standards of Article 20-06, Section 20-0906.F (1-4) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Bachmeier. On call of the roll Members Holtz, Stofferahn, Rosenberg, Morgan, Bachmeier, Schneider, and Gunkelman voted aye. Absent and not voting: Members Sobolik, Scherling, and Tasa. The motion was declared carried.

**Item 5: Sanford South Campus Addition**

**5a. Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential and GC, General Commercial with a C-O, Conditional Overlay to GC, General Commercial with a C-O, Conditional Overlay on the proposed Sanford South Campus Addition. (Located at 1720 University Drive South and 1701, 1719, 1723, 1727, 1731, 1735, 1739, 1743, and 1747 11th Street South) (Sanford Medical Center/Cory Bischoff/Meritcare Hospital): APPROVED**

**5b. Hearing on an application requesting a Plat of Sanford South Campus Addition (Minor Subdivision) a replat of Lots 1-12, Block 7, and portion of Block 8, Fargo Investment Company First Addition to the City of Fargo, Cass County, North Dakota. (Located at 1720 University Drive South and 1701, 1719, 1723, 1727, 1731, 1735, 1739, 1743, and 1747 11th Street South) (Sanford Medical Center/Cory Bischoff/Meritcare Hospital): APPROVED**

Planning Coordinator Aaron Nelson presented the staff report stating all approval criteria have been met and staff is recommending approval. He noted that an updated plat was emailed to Board members on June 1.

Mr. Nelson stated that a virtual neighborhood meeting was held on May 26.

Discussion was held regarding the current parking restrictions on 11th Street South, the current parking lots, and the status of the currently zoned residential lots and their acquisitions.

David Meiers, 1710 11th Street South, spoke regarding the application. He noted that he is in favor of the current parking restrictions to continue on 11th Street South.

Applicant representative Phil Siek, spoke on behalf of the application.

Discussion continued regarding access points off 11th Street South.

Member Morgan moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from SR-2, Single-Dwelling Residential and GC, General Commercial with a C-O, Conditional Overlay to GC, General Commercial with a C-O, Conditional Overlay, and 2) Subdivision Plat Sanford South Campus as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Article 20-06, Section 20-0906.F (1-4) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Bachmeier, Morgan, Rosenberg, Schneider, Holtz, Stofferahn, and Gunkelman voted aye. Absent and not voting: Members Scherling, Tasa, and Sobolik. The motion was declared carried.

**Item 6: Craigs Oak Grove Second Addition**

**6a. Hearing on an application requesting a Zoning Change from MR-2, Multi-Dwelling Residential and DMU, Downtown Mixed-Use, to MR-2, Multi-Dwelling**

**Residential and DMU, Downtown Mixed-Use and a request to repeal the existing PUD, Planned Unit Development overlay on the proposed Craigs Oak Grove Second Addition. (Located at 505, 509, and 515 Oak Street and 2, 6, and 10 6th Avenue North) (Jesse Craig/Enclave Development): APPROVED**

**6b. Hearing on an application requesting a Plat of Craigs Oak Grove Second Addition (Minor Subdivision) a replat of Lot 1, Block 1, Craigs Oak Grove Addition, a vacated portion of Elm Street, vacated portion of 5th Avenue North, vacated alley, and a portion of Lots 5, 6, and 7, Block 28, Keeney and Devitts 2nd Addition to the City of Fargo, Cass County, North Dakota. (Located at 505, 509, and 515 Oak Street and 2, 6, and 10 6th Avenue North) (Jesse Craig/Enclave Development): APPROVED**

Mr. Nelson presented the staff report stating all approval criteria have been met and staff is recommending approval. An updated plat was emailed to Board members on June 1.

He noted this item was heard by the Planning Commission on September 3, 2019 and approval was recommended to the City Commission. However, details of the design have now changed and the applicant is partnering with Enclave Development, so the application is back before the Planning Commission for an additional hearing.

Mr. Nelson stated that a virtual neighborhood meeting was held on May 27.

Discussion was held reviewing revisions that were made to the application, neighborhood traffic, and parking concerns.

Tim Gleason, Enclave Development, spoke on behalf of the application.

City Engineer Brenda Derrig spoke on behalf of the Engineering department and noted that traffic concerns can be brought up to the City Traffic tech group.

Austin Morris, Enclave Development, spoke on behalf of the application.

Ms. Derrig noted that with the expansion of the DMU, Downtown Mixed-Use zoning district, the storm water retention requirements would still be in place.

Applicant Jesse Craig spoke on behalf of the application, and stated his intent to continue conversation on the storm water issue with City Engineering.

Member Rosenberg moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from DMU, Downtown Mixed-Use, and MR-2, Multi-Dwelling Residential with a PUD, Planned Unit Development overlay, to DMU, Downtown Mixed-Use Development and MR-2, Multi-Dwelling Residential, and the repeal the existing PUD, Planned Unit Development overlay, and 2) Subdivision Plat Craigs Oak Grove Second Addition as outlined within the staff report, as the proposal complies with the GO2030 Fargo

Comprehensive Plan, the Standards of Article 20-06, Section 20-0906. F (1-4) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Rosenberg, Holtz, Morgan, Schneider, Stofferahn, Bachmeier, and Gunkelman voted aye. Absent and not voting: Members Scherling, Sobolik, and Tasa. The motion was declared carried.

At 4:12 p.m., the Board took a five-minute recess.

After recess: All Members present except Members Sobolik, Scherling, and Tasa.

**Item 7: Austin's Subdivision**

**Hearing on an application requesting a Conditional Use Permit to allow an Alternative Access Plan on a portion of Lot 1, Block 2, Austin's Subdivision. (Located at 5451 53rd Street South) (Hockey 52, LLC/Century Builders, LLC): CONTINUED TO JULY 7, 2020**

**Item 8: Boulger First Addition**

**8a. Hearing on an application requesting a Zoning Change from MR-3, Multi-Dwelling Residential and GC, General Commercial to GC, General Commercial on a portion of the proposed Boulger First Addition. (Located at 113 and 123 10th Street South; 1013, 1015, and 1019 2nd Avenue South) (Bba LLC/Boulger Funeral Home Inc./Houston Engineering): APPROVED**

**8b. Hearing on an application requesting a Plat of Boulger First Addition (Minor Subdivision) a replat of Lots 8-12, Block 15, Original Townsite to the City of Fargo, Cass County, North Dakota. (Located at 113 and 123 10th Street South; 1013, 1015, and 1019 2nd Avenue South) (Bba LLC/Boulger Funeral Home Inc./Houston Engineering): APPROVED**

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

Discussion was held regarding greenspace requirements.

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 MR-3, Multi-Dwelling Residential and GC, General Commercial to GC, General Commercial and 2) Subdivision Plat Boulger First Addition as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Article 20-06, Section 20-0906.F (1-4) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Stofferahn, Schneider, Rosenberg, Morgan, Holtz, Bachmeier, and Gunkelman voted aye. Absent and not voting: Members Tasa, Scherling, Sobolik. The motion was declared carried.

**Item 9: South Forty at Osgood Third Addition**

**Hearing on an application requesting a Plat of South Forty at Osgood Third Addition (Minor Subdivision) a replat of Lot 6, Block 3, South Forty at Osgood Second Addition to the City of Fargo, Cass County, North Dakota. (Located at 5012-5076 53rd Street South and 5044-5256 50th Avenue South) (Linn Grove Centre, LLC/Enclave Development): APPROVED**

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

Member Rosenberg absent.

Member Stofferahn moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat South Forty at Osgood Third Addition as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the 2003 Southwest Future Land Use Plan, the Standards of Article 20-06 of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Bachmeier. On call of the roll Members Morgan, Holtz, Stofferahn, Bachmeier, Schneider, and Gunkelman voted aye. Absent and not voting: Members Rosenberg, Sobolik, Scherling, and Tasa. The motion was declared carried.

Member Rosenberg present.

**Item 10: West Park Fourth Addition**

**Hearing on an application requesting a Plat of West Park Fourth Addition (Minor Subdivision) a replat of Lot 2 and part of Lot 8, Block 4, West Park Second Subdivision to the City of Fargo, Cass County, North Dakota. (Located at 233 41st Street South and 260 42nd Street South) (Minda LLC/Interstate Engineering): APPROVED**

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

Member Bachmeier moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat West Park Fourth Addition as outlined with in the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Article 20-06 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 Schneider, Morgan, Rosenberg, Bachmeier, Stofferahn, Holtz, and Gunkelman voted aye. Absent and not voting: Members Sobolik, Scherling, and Tasa. The motion was declared carried.

**Item 11: Truesdell's Addition**

**Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential to SR-4, Single-Dwelling Residential on Lots 11-14, Block 6,**

**Truesdell's Addition. (Located at 814, 818, and 822 Oak Street North) (Arcadia Park View, LLC/Larry Carcoana): APPROVED**

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

Applicant Larry Carcoana spoke on behalf of the application.

Member Schneider moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Zoning Change from SR-3, Single-Dwelling Residential to SR-4, Single-Dwelling Residential as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, Section 20-0906.F (1-4) 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 Schneider, Holtz, Stofferahn, Morgan, Bachmeier, Rosenberg, and Gunkelman voted aye. Absent and not voting: Members Sobolik, Tasa, and Scherling. The motion was declared carried.

**Item E: Other Items:**

**Item 1: Annexation of approximately 35.44 acres of a portion of the North Half of the South Half of the Southeast Quarter of Section 11, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota. (Sitka Investments, LLC /Jon Youness): APPROVED**

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

Member Stofferahn moved the findings and recommendations of staff be accepted and the Planning Commission find that the proposed annexation of approximately 35.44 acres of a portion of the North Half of the South Half of the Southeast Quarter of Section 11, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota to be consistent with the 2007 Growth Plan. Second by Member Rosenberg. On call of the roll Members Schneider, Bachmeier, Rosenberg, Holtz, Stofferahn, Morgan, and Gunkelman voted aye. Absent and not voting: Members, Sobolik, Tasa, and Scherling. The motion was declared carried.

Planning and Development Assistant Director Mark Williams acknowledged Planning Department staff for their behind the scenes work that helps to make these meetings run smoothly. He noted that three virtual neighborhood meetings were put together and held for this meeting alone.

Chair Gunkelman also extended thanks to the technical staff for their work with the virtual meeting.

The time at adjournment was 4:48 p.m.





**Agenda Items Map**  
Fargo Planning Commission  
July 7, 2020

**Agenda Items Number**

- 1 -- Austin's Subdivision
- 2a, 2b & 2c -- Touchmark Addition
- 3a & 3b -- Madelyn's Meadows Third Addition
- 4 -- South Haven Subdivision
- 5 -- Timber Parkway Second, Third & Fourth Additions
- 6 -- Turf Tamers Addition



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**City of Fargo  
Staff Report**

<b>Title:</b>	Austin's Subdivision	<b>Date:</b>	6/30/2020
<b>Location:</b>	5451 53 <sup>rd</sup> Street South	<b>Staff Contact:</b>	Kylie Bagley
<b>Legal Description:</b>	Portion of Lot 1, Block 2, Austin's Subdivision		
<b>Owner(s)/Applicant:</b>	Chris Schuler	<b>Engineer:</b>	KLJ
<b>Entitlements Requested:</b>	Conditional Use Permit for an Alternative Access Plan		
<b>Status:</b>	Planning Commission Public Hearing: July 7, 2020		

Existing	Proposed
<b>Land Use:</b> Vacant	<b>Land Use:</b> Hockey Rink Facility
<b>Zoning:</b> GC, General Commercial	<b>Zoning:</b> Unchanged
<b>Uses Allowed:</b> Colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.	<b>Uses Allowed:</b> Unchanged
<b>Maximum Lot Coverage Allowed:</b> 85% building coverage	<b>Maximum Lot Coverage Allowed:</b> Unchanged

**Proposal:**

The applicant, Chris Schuler, is requesting a Conditional Use Permit for an Alternative Access Plan to reduce the required parking on site from 87 parking stalls to 44 parking stalls. The Land Development Code requires the hockey facility to have 1 stall per 250 square feet which equates to 87 parking stalls. The hockey rink will be used as a practice facility and will not be used to host tournaments or events. The owner anticipates that there will be no more than 30 people at the facility at one time. The applicant has provided a parking study from KLJ which shows that 44 parking stalls will be sufficient for the site.

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

**Surrounding Land Uses and Zoning Districts:**

- North: Across 52<sup>nd</sup> Ave S the parcels are zoned GC, General Commercial, with warehouse and commercial uses.
- East: GC, General Commercial, zoning district with recreational uses
- South: Across 53<sup>rd</sup> Ave S the parcels are zoned GC, General Commercial, with warehouse and office uses.
- West: GC, General Commercial, zoning district with warehouse uses

**Schools and Parks:**

**Schools:** The subject property is located within the West Fargo School District and served by Deer Creek Elementary, Heritage Middle, and Horace High schools.



**Parks:** Osgood Park (4951 47th Street South) is located approximately 0.5 miles northeast of the subject property. Osgood Park provides basketball, grill, multipurpose field, picnic table, playground, recreational trail, shelter and soccer amenities.

**Pedestrian / Bicycle:** An on-road bike facility is located along 52<sup>nd</sup> Avenue South and an off road bike facility is located along Veterans Boulevard; both of which connect to the metro area trail system.

#### **Staff Analysis:**

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.

#### **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:

- **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. Promoting infill development and exploring reductions in minimum parking standards are both key initiatives meant to promote the Plan's guiding principles. 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)**
- **Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**  
Staff finds that this proposed conditional use permit to allow for a parking reduction at this location will not affect the welfare of the public.  
**(Criteria Satisfied)**
- **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, staff has received one inquiry about the project and no letters of opposition.  
**(Criteria Satisfied)**
- **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 alternative access plan for parking reduction will not dominate the immediate neighborhood or prevent any other sites from being used in the manner allowed by zoning district regulations. The proposed conditions of the CUP are specifically meant ensure off-street parking stalls will be available to citizens frequenting the property and to trigger a review of the CUP if the proposed use is intensified.  
**(Criteria Satisfied)**
- **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)**

- **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 Engineering Department determined that the 44 off-street parking spots would meet the facility's parking needs based on information provided by the applicant, including supporting information from KLJ.

**(Criteria Satisfied)**

**Recommended Conditions:**

- A minimum of 44 parking stalls on site shall be provided
- The Conditional Use Permit will cease if the land use changes from a practice arena
- Expansion of any proposed or existing use will trigger a reevaluation of off-street parking requirements on site

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and hereby move to approve the Conditional Use Permit to allow an alternative access plan as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC, with the following conditions:

- A minimum of 44 parking stalls on site shall be provided
- The Conditional Use Permit will cease if the land use changes from a practice arena
- Expansion of any proposed or existing use will trigger a reevaluation of off-street parking requirements on site

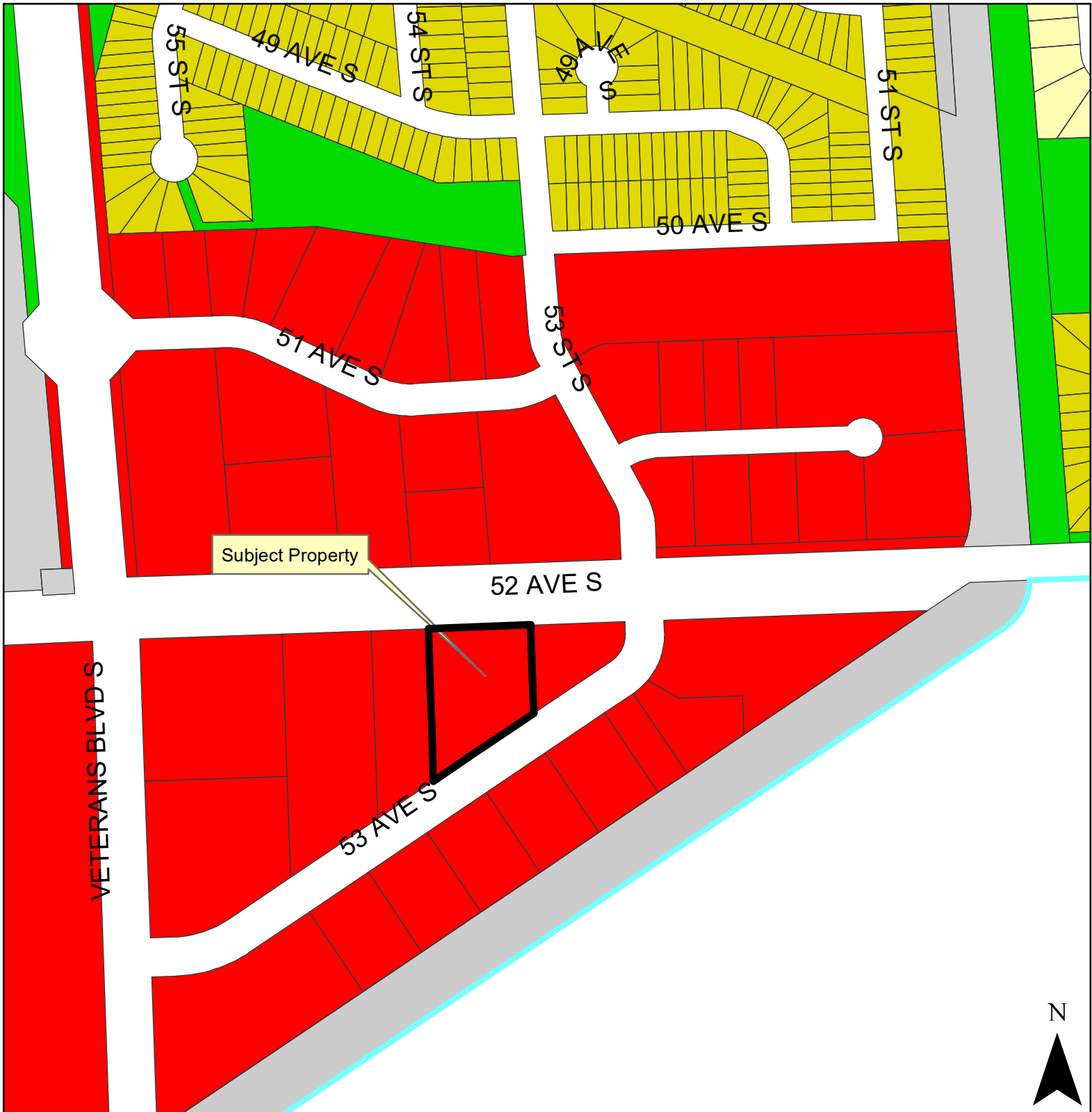
**Planning Commission Recommendation: July 7, 2020**

**Attachments:**

1. Zoning Map
2. Location Map
3. Parking Study

# Conditional Use Permit

## Austin's Subdivision



### Legend

AG	LC	MHP	SR-2
DMU	LL	MNC	SR-3
GC	MR-1	NO	SR-4
GO	MR-2	P1	SR-5
	MR-3	UML	City Limits



# Conditional Use Permit

## Austin's Subdivision

5451 53rd Ave S







ENGINEERING, REIMAGINED

# HOCKEY 52

Parking Demand Study – Draft Report

*May 2020*

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## PARKING DEMAND AND SUPPLY ANALYSIS

### Current Parking Provision

Hockey 52 is a proposed hockey training facility located along 52<sup>nd</sup> Avenue, east of Veterans Boulevard in Fargo. The facility will provide specialized hockey classes. It will not include any tournaments or events. The business owner estimates a maximum attendance of 30 people, including students and staff.

The City of Fargo's parking requirements resulted in a required parking provision of 87 stalls, including four accessible stalls. While the current site plan for the Hockey 52 facility provides a parking lot design that includes 83 standard parking stalls and 4 accessible parking stalls, the owners of this development believe their parking need to be far less. In April 2020, they submitted a conditional use permit to the City of Fargo to reduce their required parking from 87 stalls to 44 stalls. To demonstrate the appropriateness of this request they retained KLJ Engineering to complete a parking study.

### Parking Demand Estimates

Parking demand was estimated first using the Institute of Traffic Engineer's *Parking Generation Manual*, 5<sup>th</sup> Edition, as attached. The manual lacks refined estimates specifically for a hockey school but does have a number of similar uses that may be applicable for the Hockey 52 facility.

- » Ice Skating Rink (ISR) – An ice skating rink is a stand-alone facility used for ice-skating-oriented sports and entertainment activities.
- » Health & Fitness Club (H&F) – facility that primarily focuses on individual fitness or training.
- » Athletic Club (AC) – facility that has courts for racquet sports, basketball courts, fitness rooms, swimming pools, team sport activities, and social facilities.
- » Recreational Community Center (RCC) – stand-alone public facility that typically include meeting rooms and social facilities, swimming pools, courts, outdoor athletic facilities, weightlifting, locker rooms, etc.

These land use types provide a range of expected parking demand for similar facilities. Parking demand for each use type was calculated using the retail sales and services square footage of the Hockey 52 facility (21,600 square feet) and the different parking demand averages from ITE. Demand was rounded up for the most conservative estimates.

*Table 1 - ITE Parking Demand Estimates*

Land Use	Avg. Parking Demand per 1000 Sq. Ft.	Parking Demand Estimate
Ice Skating Rink	1.18	26
Health & Fitness Club	4.73	103
Athletic Club	3.05	66
Recreational Community Center	2.07	45
<b>Average Parking Demand</b>		<b>60</b>

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## Parking Demand Sensitivity

A representative of Century Builders LLC has indicated that the facility will be a hockey school that does not hold any tournaments or events. At most, five instructors will be present at the facility and the maximum class size will be 25 students. Using these numbers, maximum parking demand estimates were generated for three different scenarios:

- » **High Activity** – Five staff members present and back-to-back classes at maximum capacity.
- » **Medium Activity** – Five staff members present and back-to-back classes at 75 percent of maximum capacity.
- » **Low Activity** – Three staff members present and back-to-back classes at 50 percent of maximum capacity.

For each scenario, it was assumed that every staff member and driving-age student present at the facility occupies one parking space. Demand for parking spaces is inferred to be greatest between classes, as a group of students may arrive before the previous class has left. For each scenario in Table 2, the parking demand is calculated as the sum of the number of staff members present and twice the number of driving-age students per class. These estimates represent an upper bound on the demand for parking spaces during the time between the end of one class and the beginning of another.

*Table 2 - Parking Demand Scenario Estimates*

	High Activity	Medium Activity	Low Activity
No driving-age students	5	5	3
25% driving-age students	18	15	10
50% driving-age students	30	24	16
75% driving-age students	43	34	23
100% driving-age students	55	43	29

Based on these scenarios, parking demand at the Hockey 52 will likely be lower than the average demand estimated by the ITE's Parking Generation Manual. Parking provision of 43 spaces would be adequate in all scenarios except for a high activity day in which 100 percent of students occupy a parking space.

## Parking Analysis Summary

Two separate methodologies with multiple scenarios were completed to understand the different parking demands that may arise at the Hockey 52 facility in Fargo. In all cases, demand is not expected to justify a supply of 87 parking spaces. Using information provided by the client about the number of instructors, class size, and class schedule, a provision of 44 parking spaces is estimated to accommodate demand in almost all scenarios.

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Touchmark Addition	<b>Date: Updated:</b>	4/29/2020 7/1/2020
<b>Location:</b>	1201 35th Avenue South and 1200 Harwood Drive South	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description:</b>	Unplatted portion of the Section 25, Township 139 North, Range 49 West and Lots 1, 15, and 16, Block 1, Replat of Waterford Addition, of the Fifth Principal Meridian, Cass County, North Dakota		
<b>Owner(s)/Applicant:</b>	Touchmark LLC/Waterford at Harwood Groves LLC / Houston Engineering	<b>Engineer:</b>	Houston Engineering
<b>Entitlements Requested:</b>	<b>Minor Plat</b> (plat of unplatted portion of the Section 25, Township 139 North, Range 49 West and replat of Lots 1, 15, and 16, Block 1, Replat of Waterford Addition, of the Fifth Principal Meridian, Cass County, North Dakota) <b>Zoning Change</b> (From AG, Agricultural and MR-3, Multi-Dwelling Residential with a PUD, Planning Unit Development to MR-3 with a PUD, Planned Unit Development) and a <b>PUD Master Land Use Plan</b>		
<b>Status:</b>	Planning Commission Public Hearing: July 7, 2020		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Continuing care retirement community	<b>Land Use:</b> Continuing care retirement community
<b>Zoning:</b> MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay; AG, Agricultural	<b>Zoning:</b> MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay
<b>Uses Allowed:</b> <u>MR-3</u> allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities; <b>plus additional uses noted in the PUD</b> ; <u>AG</u> allows detached houses, parks and open space, safety services, basic utilities, and crop production.	<b>Uses Allowed:</b> Allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities. <b>Plus additional uses noted in PUD</b>
<b>Maximum Density Allowed:</b> <u>MR-3</u> : 24 dwelling units per acre (du/ac); <u>AG</u> : 1 dwelling unit per 10 acres	<b>Maximum Density Allowed:</b> 24 dwelling units per acre <b>PUD proposes increased density of 26 du/ac</b>

<b>Proposal:</b>
<p><i>PROJECT HISTORY NOTE: Planning staff presented an overview of this project to the Planning Commission at their May 5, 2020 meeting. Staff's recommendation was for continuance to allow the applicant time to finalize certain aspects of the PUD.</i></p> <p>(continued on next page)</p>



The applicant requests approval of three entitlements:

1. A zoning change from AG, Agricultural and MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay; and
2. PUD Master Land Use Plan within the boundaries of the proposed Touchmark Addition; and
3. A plat of the **Touchmark Addition**, a plat of an unplatted portion of the Section 25, Township 139 North, Range 49 West and replat of Lots 1, 15, and 16, Block 1, Replat of Waterford Addition, of the Fifth Principal Meridian, Cass County, North Dakota

Note that the twinhomes that border the north, east, and part of the south sides of the subject property, while included in the retirement community, are not included in this plat, PUD, or zone change.

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: MR-3 with duplexes; LC, Limited Commercial across Harwood Drive with small strip malls
- East: MR-3 with duplexes
- South: MR-3 with duplexes; AG with single-dwelling residences; MR-3 with multi-dwelling residences and P/I, Public/Institutional with elementary school (Eagles)
- West: GC, General Commercial across University Drive with various commercial establishments

#### **Plat:**

The plat will replat Lots 1, 15, and 16 of Replat of Waterford Addition together with an adjacent unplatted property into a single lot and block for the expansion of the existing continuing care retirement community currently in place on this lot.

#### **History of Existing PUD:**

##### Existing Zoning---PUD:

Lots 1, 14, and 15 of Replat of Waterford Addition are zoned MR-3 with a PUD, Planned Unit Development Overlay. The existing PUD was created and amended in two separate actions:

On August 26, 1996, the City Commission approved a PUD to allow a continuing care retirement community on this location. However, the property remained zoned AG, Agricultural. Note that this action was taken in 1996, before the current Land Development Code (LDC) became effective (1999). In 1996, the 1965 zoning ordinance was still in effect. PUD's under that ordinance differ from the PUD's now in use. Specifically, the 1965 zoning ordinance stated

- "the issuance of a planned unit development permit shall not be deemed to be a change in zoning, and the zoning of the property prior to the planned unit development permit will remain unchanged; " and
- "the board of city commissioners may issue a planned unit development permit allowing substantial variances from the provisions of this ordinance relating to uses, setbacks, height and similar regulations, but not including parking requirements, off-street loading, necessary screening and similar requirements for the protection of adjoining properties."  
(1965 zoning ordinance Sec. 23-0323.C (2 and 3).

PUD's created under the current LDC require a zone change to go with the PUD. Parking, screening, and similar requirements can be modified with the PUD.

On June 5, 2006, the City Commission approved a zone change from AG, Agricultural to MR-3, Multi-Dwelling Residential with an amendment to the 1996 PUD to allow “uses permitted in an “LC” (Limited Commercial) District so long as those uses are accessory to, or associated with, the use of the property’ as a continued care retirement facility.” (Ord. 4524)

Existing Conditional Use Permit---Alternate Access (parking reduction)

On June 14, 2006, the Planning Commission approved a conditional use permit (CUP) for an alternative access plan for Lot 1, Block 1, replat of Waterford Addition, to

- reduce the number of required parking spaces from 2.25 per dwelling unit to 0.75 spaces per dwelling unit; and
- reduce the number of required parking spaces for the commercial fitness center from one space per 200 square feet to one space per 267 square feet (this commercial fitness center was added in 2006).

**Need for a New PUD:**

The applicant is intending to expand the continuing care retirement community by

- demolishing an existing building used for parking;
- building a new building that expands the services provided by the community and the resident capacity and also accommodates parking; and
- expanding the overall size the property by incorporating a property adjacent to the south of the current property (the AG-zoned property) which will be zoned to MR-3 and included in the PUD.

In order to facilitate this expansion, the applicant proposes a new PUD that

- updates the existing PUD to the current PUD style and standards;
- revises the parking ratio established in 2006 into the PUD; and
- requests certain modifications to the general development standards and development standards of the MR-3 zone, so the entire site is required to be brought into compliance with the current Land Development Code (LDC).

If this PUD is approved, it will replace the existing PUD and CUP for this property.

A chart provided by the applicant of the proposed PUD modifications is below. The applicant has submitted a project narrative and PUD Master Land Use Plan, which further describe the proposed development. These documents are attached.

<b>Development Standard</b>	<b>Current LDC development standards for MR-3</b>	<b><i>PUD modifications to MR-3 development standards</i></b>	<b>Notes</b>
Allowed Uses	Detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religions institution, safety services, schools, and basic utilities	<i>Include Retail Sales &amp; Services, and Office Uses as accessory uses to, or associate with, the use of the property as a continued care retirement facility</i>	<i>Actually reduces the number of uses allowed—only retail sales and office uses will be allowed, rather than all uses in the LC, Limited Commercial zone.</i>

Residential Density	24 du/acre	26 units/acre	<i>Small increase unit density allows expansion of existing building and reuse of existing facility and infrastructure. Allows for infill on existing open space of site and shared use of supporting facilities.</i>
Building Coverage	35% of lot area	<i>Increase to 38%</i>	<i>Allows the expansion of the existing facility at its current location. Allowing increase building coverage for the site allows the new addition to continue to use the existing facility to serve both the existing building and the new additions.</i>
Minimum open space	35% of lot area	<i>Decrease to 32%</i>	<i>Decrease in open space requirements is to accommodate the increased building coverage of the site.</i>
Parking— Residential— Assisted Living	2.25 spaces per unit	<i>0.75 spaces per dwelling unit</i>	<i>Continues the parking ratio approved in 2006 for this facility. Facility records indicate approximately 6% of assisted living residents have vehicles onsite.</i>
Parking— Residential— Memory Care	1.50 spaces per unit	<i>0.25 spaces per unit</i>	<i>Memory care residents generally do not drive and do not have vehicles onsite. Additionally, though memory care units would generally be considered “group living” under the LDC,</i>

			<i>the way these units are configured and function as efficiency apartments, parking ratio is modified based on the 1.50 spaces per efficiency apartment rather than the 1 space per 100 square feet of sleeping area for Group Living.</i>
Parking— Residential— Independent Living	2.50 spaces per unit	<i>0.75 spaces per unit</i>	<i>Facility records indicate that approximately 16% of independent living residents have vehicles onsite.</i>
Parking--Retail	1 space per 200 SF	<i>1 space per 267 SF</i>	<i>Continues the parking ratio approved in 2006 for this facility.</i>
Landscaping—Open Space	3 plant units per 1,000 SF of area; 8 sf per unit,	<i>No Change to plant unit requirements, Reduce requirement of 70% of plant units located in front of building to 50% required in front of the building and redistribute these plant units throughout the site.</i>	<i>Limited open space along University Drive will make placement of 70% of plant units in front of building unfeasible without remove of existing fire access roadway.</i>
Landscaping— Parking Lot Perimeter	Buffers shall be located between adjacent streets rights of way and off-street parking areas and all vehicular circulation areas within the front or streetside setback per Table 20-0705(D)(3)	<i>Modify parking buffer requirements along existing vehicle circulation routes to 1' minimum width with fence and 6 shrubs/perennial grasses per 25 linear feet. New pavement areas along University Drive to have 6' buffer with Decorative metal fence and 1 small tree or 6 shrubs/perennial</i>	<i>The existing vehicle circulation located in the setback along the west side of the site is currently approximately one foot from the property line. As the existing pavement serves as both fire access and vehicular circulation, relocation/removal of the existing pavement cannot be done.</i>

		grasses per 25 linear feet	<p><i>Thus, modification of the minimum with and buffer requirements is proposed.</i></p> <p><i>New fire access routes constructed as part of the addition would have a parking lot buffer meeting the 6' buffer requirements for lots between 1 and 50 spaces.</i></p>
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**COMMENT ON PARKING RATIOS:** As this is a continuing care retirement community, the residential units are more specialized and the range of residents is more limited than for a standard multi-dwelling residential building. Thus, in the chart above, the parking ratios are broken down for assisted living, independent living, and memory care, as the residents who live in these different units have different levels of activity.

Based on the proposed parking ratios in the chart above, 189 parking spaces would be required to accommodate the residents of the three different care levels. The site will have a total of 234 spaces, thus providing 45 spaces for staff and visitors.

#### **Area Plans:**

This subject property is not covered by an adopted growth plan or neighborhood plan.

#### **Schools and Parks:**

**Schools:** The subject property is located within the Fargo School District and is served by Eagles Elementary, Carl Ben Eielson Middle, and South High schools.

**Parks:** Lemke Park (1000 32<sup>nd</sup> Avenue South) is approximately 0.16 mile northeast of the subject property. This park offers the amenities of multipurpose field, outdoor skating rinks, picnic table, playground---ages 5-12, rentals, soccer, warming houses.

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

**Pedestrian / Bicycle:** There is a 10-foot wide off-road multi-use trail located along the west side of the project site along University Drive South that is a component of the metro area bikeways system.

#### **Staff Analysis:**

##### **Zoning**

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

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

Staff is unaware of any error in the zoning map as it relates to this property. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established. The applicant has added a property, currently zoned AG, to the site that must be rezoned to MR-3 with a PUD to match the rest of the site, and the new PUD

requires an accompanying rezone. Note that, other than for the AG-zoned property, MR-3 is the existing zoning. The proposed PUD Overlay zoning district is intended to accommodate the expansion of the facilities on this property. **(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing developed public rights-of-way which provide access and public utilities to serve the property. **(Criteria satisfied)**

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

Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners within 300 feet of the project site. To date, staff has received one inquiry. 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 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. Redevelopment and expansion of this site, which is already served by public infrastructure, is a form of infill development. Staff finds that the proposed PUD is in keeping with Fargo's Comprehensive Plan. Specifically, the City's Go2030 Comprehensive Plan supports development within areas of the City that are already serviced with utilities. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City. **(Criteria Satisfied)**

**Master Land Use Plan:** The LDC stipulates that the Planning Commission and Board of City Commissioners shall consider the following criteria in the review of any Master Land Use Plan.

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

The plan represents an improvement over what could have been accomplished through strict application of the base zoning district. It modifies development standards of the MR-3 zone in order to allow an expansion of the current continuing care retirement community on this site, as the original development of the site was done under an earlier zoning ordinance. **(Criteria Satisfied)**

2. **The PUD Master Land Use Plan complies with the PUD standards of Section 20-0302;**

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

3. **The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development proposed, at the time the property is developed;**

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing developed public rights-of-way which provide access and public utilities to serve the property. **(Criteria satisfied)**

4. **The development is consistent with and implements the planning goals and objectives contained in the Area Plan, Comprehensive Plan and other adopted policy documents;**  
The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed PUD is in keeping with Fargo's Comprehensive Plan. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City. **(Criteria Satisfied)**
5. **The PUD Master Land Use Plan is consistent with sound planning practice and the development will promote the general welfare of the community.**  
The PUD is consistent with sound planning practice and the development will promote the general welfare of the community by allowing the expansion of capacity and services of the existing continuing care retirement community. **(Criteria Satisfied)**

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

1. **Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**  
The subject property is not covered by an area plan or neighborhood future land use plan. The subject property is proposed to be rezoned from the existing AG and MR-3 with a PUD to MR-3 with a PUD that has been updated to the style and standards of the current LDC. The PUD proposes to modify certain development standards of the MR-3 zone cordance 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 one inquiry. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code. **(Criteria Satisfied)**
2. **Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**  
While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission of 1) zone change from AG, Agricultural and MR-3, Multi-Dwelling

Residential with a PUD, Planned Unit Development to MR-3 with a PUD, Planned Unit Development; 2) PUD Master Land Use Plan; and 3) plat of the proposed **Touchmark Addition**; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, Section 20-0906.F (1-4), Section 20-0908.B (7), and all other applicable requirements of the LDC.”

**Planning Commission Recommendation:** July 7, 2020

**Attachments:**

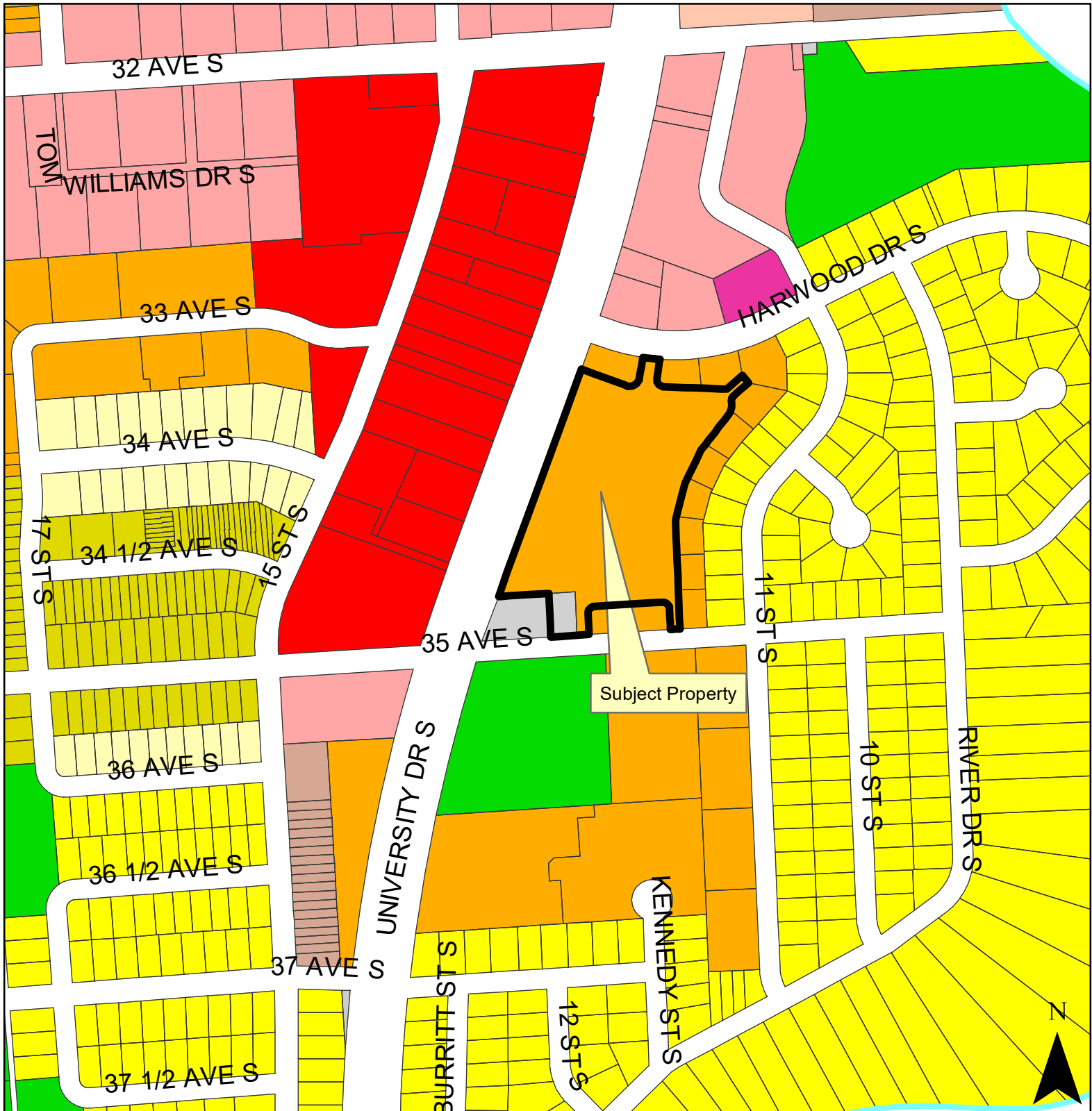
1. Zoning Map
2. Location Map
3. Preliminary Plat
4. PUD Master Land Use Plan (site plan)
5. Parking Plan
6. PUD narrative, including Developer’s Statement of Intent and PUD chart



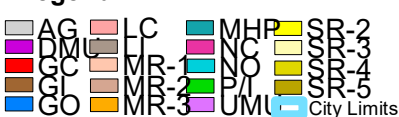
# Zone Change (AG to MR-3 with PUD Overlay), Planned Unit Development Master Plan & Plat (Minor)

## Touchmark Addition

1201 35th Ave S  
1200 Harwood Dr S



### Legend





# Zone Change (AG to MR-3 with PUD Overlay), Planned Unit Development Master Plan & Plat (Minor)

## Touchmark Addition

1201 35th Ave S  
1200 Harwood Dr S

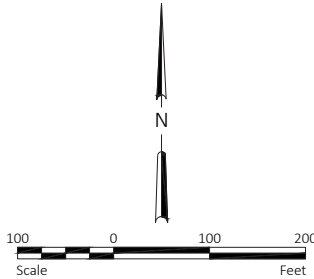




# TOUCHMARK ADDITION

## A MINOR SUBDIVISION

BEING A REPLAT OF LOTS 1, 15 AND 16, BLOCK 1  
OF WATERFORD ADDITION TO THE CITY OF FARGO  
AND PART OF THE SOUTHEAST QUARTER OF THE  
NORTHEAST QUARTER OF SECTION 25, T139N, R49W, 5th P.M.  
TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA



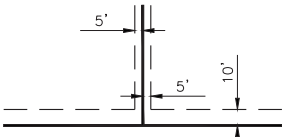
### LEGEND

IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
MEASURED BEARING	N00°00'00"E
PLAT BEARING	(N00°00'00"E)
MEASURED DISTANCE	100.00'
PLAT DISTANCE	(100.00')
PLAT BOUNDARY	—————
LOT LINE	—————
UTILITY EASEMENT	—————
EXISTING LOT LINE	—————
EXISTING UTILITY EASEMENT	—————
NEGATIVE ACCESS EASEMENT	▨
AREA WITHIN FEMA 100-YEAR FLOODPLAIN	▤

BEARINGS SHOWN ARE BASED ON THE  
CITY OF FARGO HORIZONTAL DATUM

### NOTES:

1. NEGATIVE ACCESS EASEMENT, AS NOTED ON THIS PLAT, 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 OF ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.
2. PROPERTY IS SITUATED IN ZONE AE (100-YEAR FLOODPLAIN) AS DEPICTED ON FEMA FIRM PANEL 38017C0783G, DATED JANUARY 16, 2015.
3. BASE FLOOD ELEVATION = 905.0' (NAVD 1988)



BEING 5 FEET IN WIDTH AND ADJOINING LOT  
LINES, AND 10 FEET IN WIDTH AND ADJOINING  
RIGHT-OF-WAY LINES, UNLESS OTHERWISE  
INDICATED ON THE PLAT.

UTILITY EASEMENTS  
ARE SHOWN THUS

Curve Table					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	58.79	33.42	100°46'56"	S59°33'49"W	51.49
C2	59.15	750.00	4°31'06"	N83°43'42"W	59.13
C3	44.03	26.00	97°01'27"	N39°20'23"W	38.95
C4	23.07	22.03	59°59'49"	N19°01'24"E	22.03
C5	47.25	55.50	48°46'48"	N13°24'54"E	45.84
C6	35.83	22.50	91°13'54"	S48°00'23"E	32.16
C7	34.85	22.50	88°43'58"	N42°00'42"E	31.47
C8	7.21	5629.65	0°04'24"	S20°01'31"W	7.20

TOUCHMARK ADDITION

A MINOR SUBDIVISION

BEING A REPLAT OF LOTS 1, 15 AND 16, BLOCK 1  
OF WATERFORD ADDITION TO THE CITY OF FARGO  
AND PART OF THE SOUTHEAST QUARTER OF THE  
NORTHEAST QUARTER OF SECTION 25, T139N, R49W, 5th P.M.  
TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA

OWNER'S CERTIFICATE:

KNOW ALL PERSONS BY THESE PRESENTS: The Waterford at Harwood Groves, LLC, an Oregon limited liability company, and Touchmark, LLC, an Oregon limited liability company, are the owners and proprietors, and that Security First Bank of North Dakota, A North Dakota State Bank, is the mortgagees of Lots 1, 15 and 16, Block 1, Replat of Waterford Addition to the City of Fargo, Cass County, North Dakota together with an unplatted portion of the Southeast Quarter of the Northeast Quarter of Section 25, Township 139 North, Range 49 West of the 5<sup>th</sup> Principal Meridian, Cass County, North Dakota, all being more particularly described as follows:

Commencing at the Northeast corner of said Northeast Quarter; thence Southerly on an assumed Azimuth from North of 179°52'53" along the East line of said Northeast Quarter 2019+/- feet, to the North line of Lemke Addition, according to the pat thereof on file in the Register of Deeds Office, Cass County, North Dakota; thence Westerly 268°43'03" Azimuth along said North line of Lemke Addition, 403.84 feet to a point 323.07 feet East of the East right-of-way line of U.S. Highway Number 81, the Point of Beginning; thence Northerly 359°52'53" Azimuth, parallel to the East line of Said Northeast Quarter 150.00 feet; thence Westerly 268°43'04" Azimuth parallel to the North line of said Lemke Addition 90.00 feet; thence Southerly 179°52'53" Azimuth parallel to the East line of said Northeast Quarter 150.00 feet to the North line of Lemke Addition according to the plat thereof on file in the Register of Deeds Office; thence Easterly 88°43'03" Azimuth 90.00 feet to the Point of Beginning.

Said tract contains 9.889 acres, more or less.

And that said parties have caused the same to be surveyed and platted as **TOUCHMARK ADDITION** to the City of Fargo, Cass County, North Dakota, and do hereby dedicate to the public, for public use, the utility easements shown on the plat.

OWNER:

Waterford at Harwood Groves, LLC, an Oregon limited liability company  
(Lots 1, 15 and 16, Block 1, Replat of Waterford Addition)

OWNER:

Touchmark, LLC, an Oregon limited liability company  
(unplatted portion of the SE 1/4 NE 1/4 of Section 25, T139N, R49W)

Richard M. Wessell, Senior Vice President, Director of Construction

Richard M. Wessell, Senior Vice President, Director of Construction

State of \_\_\_\_\_ )  
 ) ss  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally appeared Richard M. Wessell, Senior Vice President of Waterford at Harwood Groves, LLC, an Oregon limited liability company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of said limited liability company.

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

Mortgagee: Security First Bank of North Dakota

ITS:

State of North Dakota )  
 ) SS  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, personally appeared \_\_\_\_\_,

Security First Bank of North Dakota, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same on behalf of Security First Bank of North Dakota.

Notary Public: \_\_\_\_\_  
Cass County, ND

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, Charles L. Rebsch, 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\_\_\_\_.

Charles L. Rebsch, Professional Land Surveyor No. 6610

State of North Dakota )  
 ) ss  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally appeared Charles L. Rebsch, 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, City Engineer

State of North Dakota )  
 ) ss  
County of Cass )

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

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

FARGO PLANNING COMMISSION APPROVAL:

Approved by the City of Fargo Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

John Gunkelman, Chair  
Fargo Planning Commission

State of North Dakota )  
 ) ss  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared John Gunkelman, 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 she 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: \_\_\_\_\_



## for May 5, 2020 Planning Commission



EXISTING BUILDING

PROPOSED BUILDING

PROPOSED ASPHALT

PROPOSED CONCRETE

35TH AVES

UNIVERSITY DRIVE S

**PRELIMINARY**  
NOT FOR CONSTRUCTION

TOUCHMARK AT HARWOOD GROVES ILMC ADDITION  
1200 HARWOOD DRIVE SOUTH  
FARGO, NORTH DAKOTA

---

**MASTER PLAN**

# 100%



Drawn By

RLA

Checked By

BTP

Date \_\_\_\_\_

-12-20

Scale
-------

Shown

Project No.

618-0002

SHEET

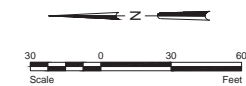
SHEET 1

1.





H:\UN\850505\188518-0002\CAD\PLANS\18-0002 Parking Exhibit.dwg Layout1 4/23/2020 9:23 PM (pattengale)



LEGEND	
EXISTING BUILDING	
PROPOSED BUILDING	
PROPOSED ASPHALT	
PROPOSED CONCRETE	

**PARKING INFORMATION**

**SURFACE STALLS 147**  
**INTERIOR STALLS 87**  
**TOTAL STALLS 234**

**UNITS**  
48 ASSISTED LIVING (AL)  
68 MEMORY CAR UNITS (MC)  
126 INDEPENDENT LIVING UNITS (IL)

**11,045 SQUARE FEET FITNESS CENTER**

**STANDARD PARKING RATIOS**  
48 AL @ 2.25 STALL PER UNIT = 108  
68 MC @ 1.50 STALL PER UNIT = 102  
126 IL @ 2.50 STALL PER UNIT = 315  
11,045 SF @ 1 PER 200 SF = 55.2  
**TOTAL STALLS = 580.2 USE 580 STALL**

MC Units are considered Group Living Use per LDC. As units more closely resemble and function as efficiency apartments, parking ratio is modified to be per unit in lieu of per 100 S.F. of sleeping area.

**PROPOSED PARKING RATIOS**  
48 AL @ 0.75 STALL PER UNIT = 36  
68 MC @ 0.25 STALL PER UNIT = 17  
126 IL @ 0.75 STALL PER UNIT = 94.5  
11,045 SF @ 1 PER 267 SF = 41.4  
**TOTAL STALLS = 188.9 USE 189 STALL**

**PROPOSED ONSITE STALLS 234**

**PARKING RATIO REDUCTIONS ARE JUSTIFIED AS RESIDENTS OF THE FACILITY DO NOT TYPICALLY HAVE VEHICLES ONSITE. PER FACILITY RECORDS APPROXIMATELY 16% OF IL AND 6% OF AL RESIDENTS HAVE VEHICLES. MC RESIDENTS DO NOT HAVE CARS ONSITE.**

**THE PROPOSED RATIOS PROVIDE ADEQUATE PARKING FOR VISITORS, STAFF, AND RESIDENT VEHICLES.**

TOUCHMARK AT HARWOOD GROVES ILMC ADDITION  
1210 HARWOOD DRIVE SOUTH  
FARGO, NORTH DAKOTA

PARKING EXHIBIT



Drawn By	RLA
Checked By	BTP
Date	3-12-20
Scale	As Shown
Project No.	8518-0002
SHEET	1

**PRELIMINARY**  
NOT FOR CONSTRUCTION



**PUD NARRATIVE**  
**Touchmark Addition**  
**Updated July 1, 2020**

DEVELOPER'S STATEMENT OF INTENT: An expanding aging and elderly population requires an expansion of existing facilities to provide for the specialized needs and requirements of this population. The existing facility was constructed prior to the current Land Development Code. This PUD allows for the continued use of existing supporting facilities to support the expanded capacity of the facility as the existing site cannot be brought into compliance with the current Land Development Code.

The PUD will include a site plan for the development that is incorporated here by reference. The PUD will, generally, apply the MR-3 development standards, except as otherwise provided below:

	<b>Current LDC development standards for MR-3</b>	<b><i>PUD modifications to MR-3 development standards</i></b>
Allowed Uses	Detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religions institution, safety services, schools, and basic utilities	<i>Include Retail Sales &amp; Services, and Office Uses as accessory uses to, or associate with, the use of the property as a continued care retirement facility</i>
Residential Density	24 du/acre	26 units/acre
Building Coverage	35% of lot area	<i>Increase to 38%</i>
Minimum open space	35% of lot area	<i>Decrease to 32%</i>
Parking—Residential—Assisted Living	2.25 spaces per unit	<i>0.75 spaces per dwelling unit</i>
Parking—Residential—Memory Care	1.50 spaces per unit	<i>0.25 spaces per unit</i>
Parking—Residential—Independent Living	2.50 spaces per unit	<i>0.75 spaces per unit</i>
Parking--Retail	1 space per 200 SF	<i>1 space per 267 SF</i>
Landscaping—Open Space	3 plant units per 1,000 SF of area; 8 sf per unit,	<i>No Change to plant unit requirements, Reduce requirement of 70% of plant units located in front of building to 50% required in front of the building and redistribute these plant</i>

		<i>units throughout the site.</i>
Landscaping— Parking Lot Perimeter	Buffers shall be located between adjacent streets rights of way and off-street parking areas and all vehicular circulation areas within the front or streetside setback per Table 20-0705(D)(3)	<i>Modify parking buffer requirements along existing vehicle circulation routes to 1' minimum width with fence and 6 shrubs/perennial grasses per 25 linear feet. New pavement areas along University Drive to have 6' buffer with Decorative metal fence and 1 small tree or 6 shrubs/perennial grasses per 25 linear feet</i>

## NOTES ON INDIVIDUAL MODIFICATIONS

### Allowed Uses Notes:

The existing PUD for the property Ordinance No 4524 allows additional used in the MR-3 zoning “Said PUD is hereby amended to allow those uses permitted in an “LC” (Limited Commercial) District so long as those uses are accessory to, or associated with, the used of the property as a continued care retirement facility.” Based on the current Land Development Code and uses at the facility adding the Office Uses and Retail Sales & Services as permitted accessory uses to the MR-3 zoning allows for the provision of services to the Residents of the facility on site. This PUD actually reduces the number of uses allowed—only retail sales and office uses will be allowed, rather than all uses in the LC, Limited Commercial zone.

### Residential Density Notes:

Small increase unit density allows expansion of existing building and reuse of existing facility and infrastructure. Allows for infill on existing open space of site and shared use of supporting facilities. Expansion of site allows for centralized location for services.

### Building Coverage Notes:

The increase in the building coverage allows the expansion of the existing facility at its current location. Allowing increase building coverage for the site allows the new addition to continue to use the existing facility serve both the existing building and the new additions. The existing facility also provides services for the surrounding lots of Replat of Waterford Addition and serves the entire development of surrounding twin homes.



#### Minimum Open Space Notes:

The decrease in open space requirements is accommodate the increase building coverage of the site. Additionally, this lot of the development serves as access for the surrounding twin homes and due to the existing access roads and lot line places additional burden on this lot from the surrounding lots.

#### Parking—Residential—Assisted Living Notes:

The facility is used as continued care retirement facility. Current CUP for an Alternative Access Plan (approved in 2006) has a parking lot reduction to 0.75 spaces per dwelling unit. Reduction to 0.75 spaces per dwelling unit is acceptable as current usage for the facility has excess parking capacity based on staff level and visitor parking. Residents of the of the facility typically do not have personal vehicles so parking is primarily used by staff and visitors. Facility records indicate approximately 6% of assisted living residents have vehicles onsite.

#### Parking—Residential—Memory Care Notes:

Memory care residents generally do not drive and do not have vehicles onsite. Additionally, though memory care units would generally be considered “group living” under the LDC, the way these units are configured and function as efficiency apartments, parking ratio is modified based on the 1.50 spaces per efficiency apartment rather than the 1 space per 100 square feet of sleeping area for Group Living.

#### Parking—Residential—Independent Living

Facility records indicate that approximately 16% of independent living residents have vehicles onsite.

#### Parking—Retail Notes:

The facility is used as continued care retirement facility. Current CUP for an Alternative Access Plan (approved in 2006) has a parking lot reduction to 1.00 spaces per 267 square feet for the commercial fitness center. Proposed PUD would maintain this reduced ratio as the fitness center provide services to the Residents of the facility. As the residents are located on site the reduction in parking requirements is justified.

#### Landscaping—Open Space Notes:

Limited open space along University Drive will make placement of 70% of plant units in front of building unfeasible without remove of existing fire access roadway.

#### Landscape Parking Lot Perimeter Notes:

Front of parcel is located along University Drive South on the west side of the property. The existing site was constructed before the 1998 adoption of the zoning code. Due to the proposed addition to the existing facility exceeding 10% of the existing building square footage the entire site is required to be brought into compliance with the current Land Development Code (LDC). The existing vehicle circulation located in the front setback along the west side of the site is currently approximately 1' off of the front property line. As the existing pavement serves as both fire access and vehicular circulation relocation/removal of the existing pavement cannot be done. Due to the inability to relocate the vehicle circulation routes modification of the minimum with and buffer requirements is proposed.

New fire access routes constructed as part of the addition would have a parking lot buffer meeting the 6' buffer requirements for lots between 1 and 50 spaces.

City of Fargo Staff Report			
<b>Title:</b>	Madelyn's Meadows Third Addition	<b>Date:</b>	7/1/2020
<b>Location:</b>	2613, 2639, 2667, 2689, 2697, 2707, 2729, 2751, 2769, 2791, 2801, 2815, 2827, 2845, 2863, 2875, 2891, 2951 72nd Avenue South, and 7203 and 7231 30th Street South	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description:</b>	Portions of Lots 1-17, Block 1, Madelyn's Meadows Second Addition; Lots 10 and 11, Block 3, Madelyn's Meadows First Addition; and a portion of Lot 12, Block 3, Madelyn's Meadows First Addition to the City of Fargo, Cass County, North Dakota		
<b>Owner(s)/Applicant:</b>	Sitka Investments, LLC/Jon Youness	<b>Engineer:</b>	Mead & Hunt
<b>Entitlements Requested:</b>	<b>Major Subdivision</b> (replat of portions of Lots 1-17, Block 1, Madelyn's Meadows Second Addition; Lots 10 and 11, Block 3, Madelyn's Meadows First Addition; and a portion of Lot 12, Block 3, Madelyn's Meadows First Addition to the City of Fargo, Cass County, North Dakota) <b>Zone Change</b> (from P/I, Public/Institutional and SR-4, Single-Dwelling Residential to P/I, Public/Institutional; SR-4, Single-Dwelling Residential, and MR-1, Multi-Dwelling Residential)		
<b>Status:</b>	Planning Commission Public Hearing: July 7, 2020		
<b>Existing</b>		<b>Proposed</b>	
<b>Land Use:</b> Platted, not developed		<b>Land Use:</b> Residential	
<b>Zoning:</b> PI, Public/Institutional; SR-4, Single-Dwelling Residential		<b>Zoning:</b> PI, Public/Institutional; SR-4, Single-Dwelling Residential; MR-1, Multi-Dwelling Residential	
<b>Uses Allowed:</b> <u>SR-4</u> allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities <u>Public and Institutional (P/I)</u> allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events.		<b>Uses Allowed:</b> <u>SR-4</u> and <u>P/I</u> same as existing. <u>MR-1</u> allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities	
<b>Maximum Density Allowed (Residential):</b> <u>SR-4</u> allows 12.1 dwelling units per acre; <u>P/I</u> is not a residential zone so has no density standard.		<b>Maximum Density Allowed:</b> <u>SR-4</u> and <u>P/I</u> same as existing; <u>MR-1</u> allows 16 dwelling units per acre	
<b>Proposal:</b>			

The applicant requests two entitlements:

1. A major subdivision, entitled **Madelyn's Meadows Third Addition**, a replat of portions of Lots 1-17, Block 1, Madelyn's Meadows Second Addition; Lots 10 and 11, Block 3, Madelyn's Meadows First Addition; and a portion of Lot 12, Block 3, Madelyn's Meadows First Addition to the City of Fargo, Cass County, North Dakota; and
2. A zone change from P/I, Public/Institutional and SR-4, Single-Dwelling Residential to P/I, Public/Institutional; SR-4, Single-Dwelling Residential, and MR-1, Multi-Dwelling Residential

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

#### Surrounding Land Uses and Zoning Districts:

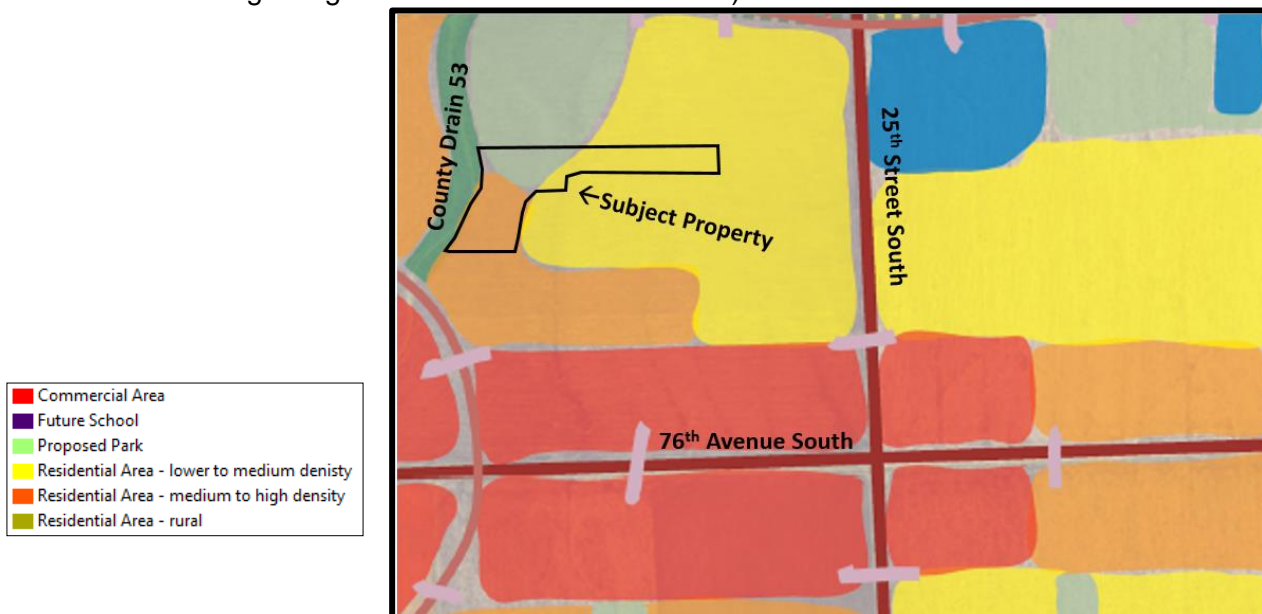
- North: SR-4, Single Dwelling Residential
- East: Single-dwelling residential (Madelyn's Meadows First Addition)
- South: AG, undeveloped
- West: Cass County Drain 53; AG-zoned undeveloped land outside of city limits on the west side of this drain.

#### Area Plans:

The 2007 Tier 1 Southeast Growth Plan, part of the 2007 Growth Plan, designates the area of this project as

- lower to medium density residential development (yellow color), which includes the SR-4 zone;
- medium to high density residential (orange color), which includes the MR-1 zone; and
- proposed park (green color), which includes the P/I zone.

(note that the areas designated in the growth plan are not exact boundaries but approximate areas, whereas the zoning designations are tied to the lot lines)



#### 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 not located within a designated neighborhood.

**Parks:** The subject property includes a portion of Golden Valley Park, a neighborhood park owned by the Fargo Park District, which provides the amenities of basketball court, playground, and shelter.

**Pedestrian / Bicycle:** There are off-road bike facilities along 25<sup>th</sup> Street South that are a component of the metro area bikeways system. A trail along 73<sup>rd</sup> Avenue South, within the 80-foot public right of way, was required as part of Madelyn's Meadows First Addition.

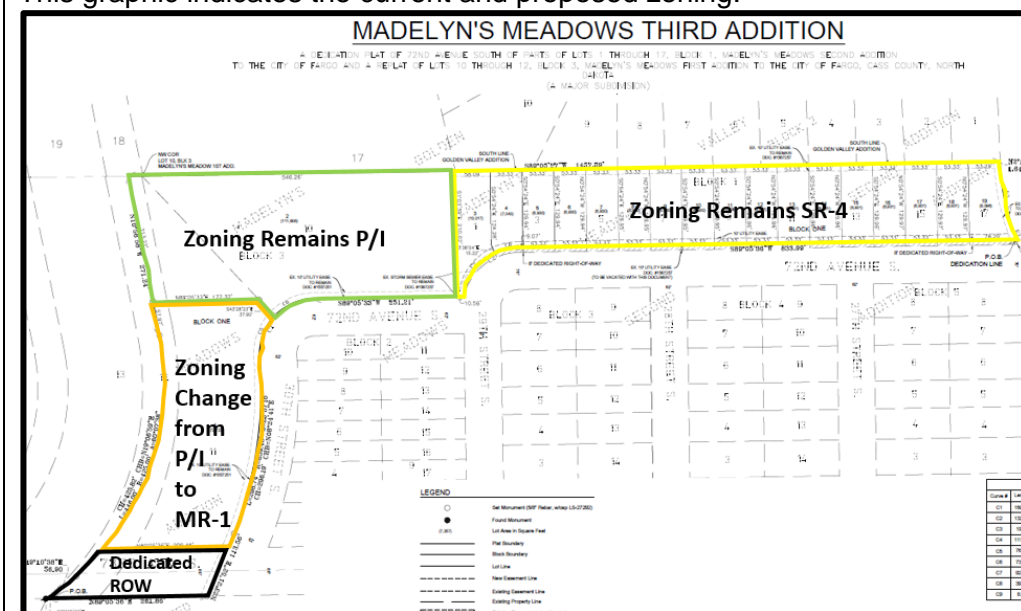
#### Staff Analysis:

#### PLAT AND ZONE CHANGE

The The City and the Fargo Park District have worked with the developer on this plat regarding the right of way width of 72<sup>nd</sup> Avenue South and the size of the park/detention basin lot. The chart below indicates how the existing lots will be changed by this project.

BLOCK	LOTS	CURRENT ZONING / LAND USE	ZONING /LAND USE ON THIS PLAT	CHANGE
1	3-19	SR-4 / Single-Dwelling Residential	No change	These lots will be shortened by eight feet; that eight feet will be dedicated for the widening of 72 <sup>nd</sup> Avenue South. Other lot dimensions will remain the same, as will the total number of lots.
1	2	P/I / Park and stormwater detention basin	No change	This lot will get larger than currently configured to accommodate the increased size of the detention basin in this lot (see "DETENTION BASIN" below).
1	1	P/I / Undeveloped	MR-1/Multi-Dwelling Residential	The northerly part will become part of Lot 2, the detention basin lot. The southerly 80 feet will be dedicated for 73 <sup>rd</sup> Avenue South. This lot was intended for future residential development; the current P/I zoning was temporary until the developer was ready to go forward with development.

This graphic indicates the current and proposed zoning:

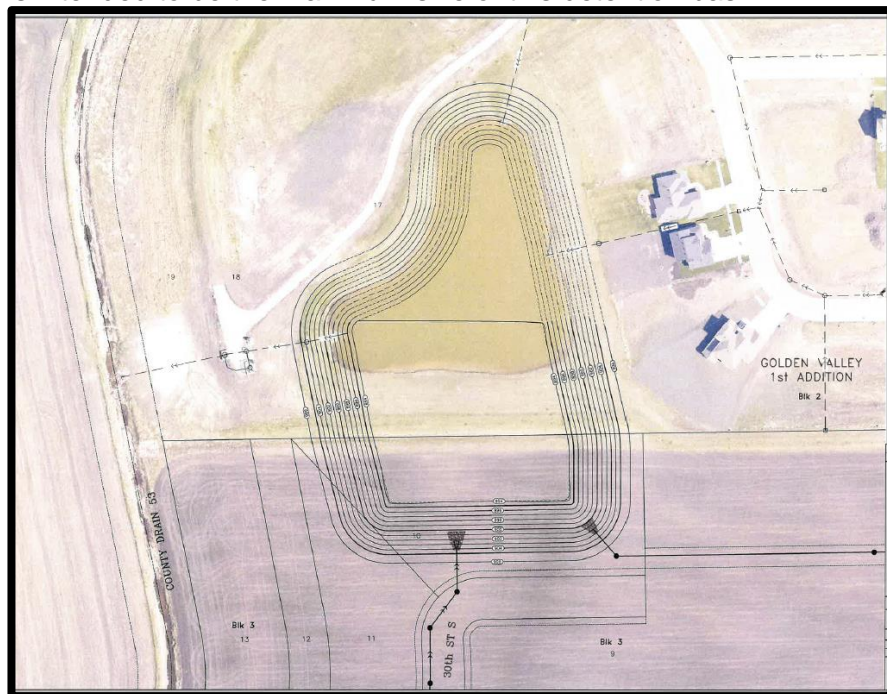


**ZONING:** The SR-4 zoned single-dwelling lots are existing and their zoning will not change. The MR-1 zoned lot will accommodate a maximum of 26 dwelling units. The P/I zoning is the appropriate zoning for the park/detention basin lot. All lots meet the dimensional requirements of their respective zones.

**ACCESS:** The lots will be accessed by way of existing dedicated public streets.

**AMENITIES PLAN:** The applicant has provided a draft amenities plan providing details of the project's streets and trails. This plan will be reviewed by the Public Works Project Evaluation Committee (PWPEC) prior to the project being heard at the City Commission.

**DETENTION BASIN SIZE:** The current size of the detention basin is depicted in the graphic below. This is intended to be the maximum size of this detention basin.



**PUBLIC COMMENT:** Staff received two inquiries about this project. One person followed up with a comment letter (copy attached). Some concerns expressed in these inquiries included:

- Will the existing levee between Golden Valley Addition and the subject property be affected? *(There is no requirement to modify the levee for this project)*
- Will the detention basin get any bigger? *(It will not)*
- Parks for Golden Valley and Madelyn's Meadows should not be merged.
- Multi-dwelling development and smaller lots change the character of the neighborhood in Golden Valley, which was established in the early 2010's.
- Traffic congestion

## Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The only zoning new zoning will be a portion of Lot 1, Block 1 currently zoned P/I, that will be rezoned to MR-1, Multi-Dwelling Residential. This zoning is consistent with the land use designation of "Residential Area—Medium to High Density" of the 2007 Growth Plan. The SR-4 and P/I zoning are existing. **(Criteria Satisfied)**



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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. Lots in the subdivision front on existing dedicated public streets, which will provide access and public utilities to serve the development.

**(Criteria satisfied)**

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

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received two inquiries on this property. A comment letter is attached. Please see "Public Comment" section 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)**

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the 2007 Tier 1 Southeast Growth Plan, part of the 2007 Growth Plan. This plan designates this property as appropriate for

- lower to medium density residential development, which includes the SR-4 zone;
- medium to high density residential, which includes the MR-1 zone; and
- proposed park, which includes the P/I zone..

Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

**Subdivision**

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

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

The only zoning new zoning will be a portion of Lot 1, Block 1 currently zoned P/I, that will be rezoned to MR-1, Multi-Dwelling Residential. This zoning is consistent with the land use designation of "Residential Area—Medium to High Density" of the 2007 Growth Plan. The SR-4 and P/I zoning are existing. 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 two inquiries on this property. A comment letter is attached. Please see "Public Comment" section above.

**(Criteria Satisfied)**

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

The existing and proposed zoning designations are consistent with the 2007 Tier 1 Southeast Growth Plan. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code.

**(Criteria Satisfied)**

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

The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan will be reviewed by the Public Works Project Evaluation Committee (PWPEC) prior to the final plat going to City Commission. The City's standard policy is that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles.

**(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed: 1) zone change from P/I, Public/Institutional and SR-4, Single-Dwelling Residential to P/I, Public/Institutional; SR-4, Single-Dwelling Residential, and MR-1, Multi-Dwelling Residential; and 2) **Madelyn's Meadows Third Addition** subdivision plat as presented; as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

**Planning Commission Recommendation:** July 7, 2020

**Attachments:**

1. Zoning Map
2. Location Map
3. Preliminary Plat
4. Public Comment Letter

# Zone Change (from SR-4 & P/I to SR-4, P/I & MR-1) & Plat (Major)

## Madelyn's Meadows Third Addition

7203 & 7231 30th St S  
2613-2951 72nd Ave S

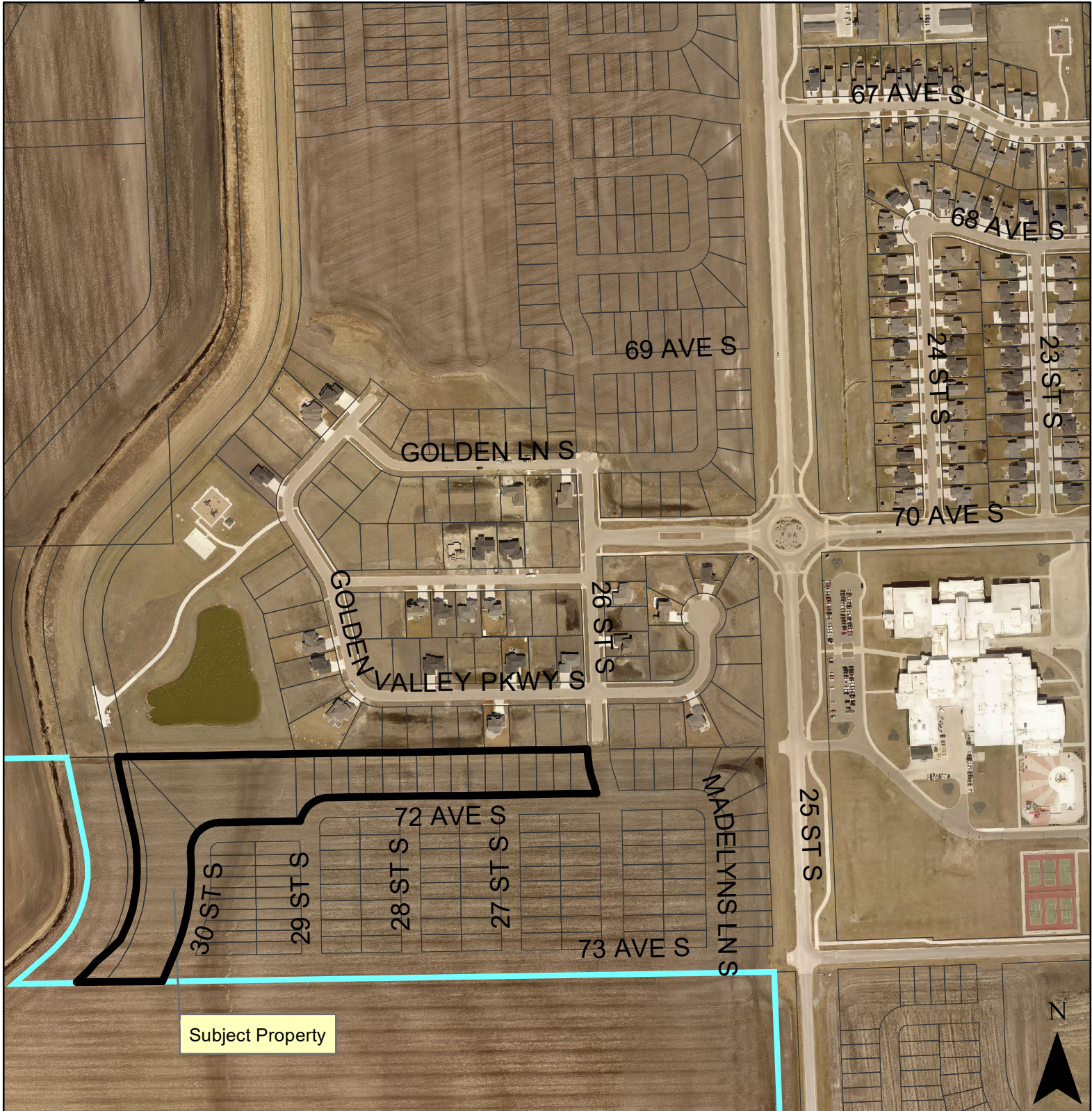




# Zone Change (from SR-4 & P/I to SR-4, P/I & MR-1) & Plat (Major)

## Madelyn's Meadows Third Addition

7203 & 7231 30th St S  
2613-2951 72nd Ave S





# MADELYN'S MEADOWS THIRD ADDITION

A DEDICATION PLAT OF 72ND AVENUE SOUTH OF PARTS OF LOTS 1 THROUGH 17, BLOCK 1, MADELYN'S MEADOWS SECOND ADDITION TO THE CITY OF FARGO AND A REPLAT OF LOTS 10 THROUGH 12, BLOCK 3, MADELYN'S MEADOWS FIRST ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

(A MAJOR SUBDIVISION)

## PLAT BOUNDARY DESCRIPTION:

All of Lots 1 through 17, Block 1 of MADELYN'S MEADOWS SECOND ADDITION to the City of Fargo, as filed an on record at the office of the County Recorder, Cass County, North Dakota.

## EXCEPT

Parts of Lots 1 through 17, Block 1 of said MADELYN'S MEADOWS SECOND ADDITION that are southerly and southeasterly of a line to be described:

Commencing at the southeast corner of Lot 17, Block 3 of said addition; thence northwesterly 8.25 feet along a curve concave to the southwest, said curve has a radius of 262.00 feet, a central angle of 01 degrees 48 minutes 14 seconds, the chord of said curve bears North 15 degrees 00 minutes 30 seconds West 8.25 feet along the east line of said Lot 17 to the point of beginning of the line to be described; thence South 89 degrees 05 minutes 36 seconds West a distance of 833.99 feet; thence southwesterly along a line tangential curve concave to the southeast, having a radius of 90.41 feet and a central angle of 83 degrees 22 minutes 26 seconds, to the southeasterly corner of Lot 1, Block 3 of said addition.

## AND

All of Lots 10 and 11, Block 3 of MADELYN'S MEADOWS FIRST ADDITION to the City of Fargo, as filed and on record at the office of the County Recorder, Cass County, North Dakota.

## AND

That part of Lot 12, Block 3 of MADELYN'S MEADOWS FIRST ADDITION to the City of Fargo, as filed and on record at the office of the County Recorder, Cass County, North Dakota that is easterly of a line to be described:

Commencing at the southwest corner of said Lot 12; thence on an assumed bearing of North 89 degrees 05 minutes 36 seconds East, a distance of 7.63 feet to the point of beginning of the line to be described; thence North 49 degrees 10 minutes 38 seconds East, a distance of 59.90 feet; thence northeasterly and northerly 446.00 feet along a tangential curve concave to the west having a radius of 425.00 feet and a central angle of 60 degrees 07 minutes 38 seconds , the chord of said curve bears North 19 degrees 06 minutes 59 seconds East; thence North 10 degrees 56 minutes 58 seconds West, tangent to said curve, a distance of 271.24 feet to the intersection with the north line of said Lot 12 and said line there terminating.

Said plat contains 7.47 acres, more or less.

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

## OWNER'S DEDICATION

We, the undersigned, do hereby certify that we are the owners of the land described in the plat of "MADELYN'S MEADOWS THIRD ADDITION" to the City of Fargo, a dedication plat of 72nd Avenue South of parts of Lots 1 through 17, Block 1, Madelyn's Meadows Second Addition to the City of Fargo and a replat of Lots 10 through 12, Block 3, Madelyn's Meadows First Addition to the City of Fargo, Cass County, North Dakota; that we have caused it to be platted into lots and blocks as shown by said plat and certification of Joshua J. Nelson, Registered Land Surveyor, and that the description as shown in the certificate of the Registered Land Surveyor is correct. We hereby dedicate all Streets, Lanes, Drives, and Utility Easements shown on said plat to the Public.

Owner: Sitka Investments, LLC

James R. Bullis, President

State of North Dakota )  
 ) SS  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, appeared before me, James R. Bullis, President, 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 on behalf of Sitka Investments, LLC.

Notary Public, Cass County, North Dakota

My commission expires: \_\_\_\_\_

Mortgage Holder: First International Bank & Trust

Matt Mueller, President

State of North Dakota )  
 ) SS  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, appeared before me, Matt Mueller, President 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 on behalf of First International Bank & Trust.

Notary Public, Cass County, North Dakota

My commission expires: \_\_\_\_\_

## 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, Professional Land Surveyor No. LS-27292

State of North Dakota )  
 )ss  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Joshua J. Nelson, 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. Derring, P.E., City Engineer

State of North Dakota )  
 )ss  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Brenda E. Derring, 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\_\_\_\_.

John Gunkelman, Chair  
Fargo Planning Commission

State of North Dakota )  
 )ss  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared John Gunkelman, 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: \_\_\_\_\_

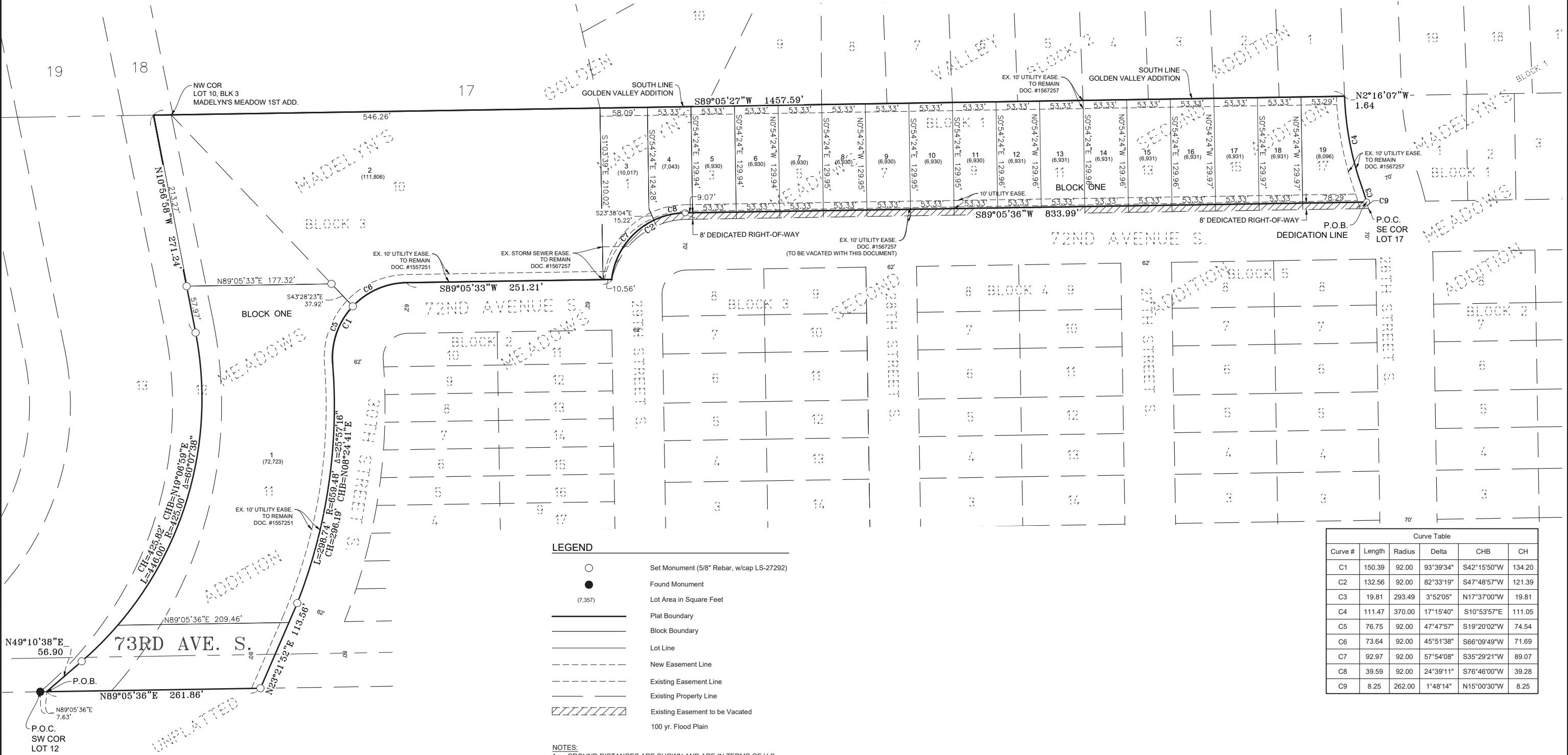
Mead  
& Hunt

Phone: 701-566-6450  
meadhunt.com

PROJECT NO.  
4637000-190431  
SHEET 1 OF 2

# MADELYN'S MEADOWS THIRD ADDITION

A DEDICATION PLAT OF 72ND AVENUE SOUTH OF PARTS OF LOTS 1 THROUGH 17, BLOCK 1, MADELYN'S MEADOWS SECOND ADDITION TO THE CITY OF FARGO AND A REPLAT OF LOTS 10 THROUGH 12, BLOCK 3, MADELYN'S MEADOWS FIRST ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA  
(A MAJOR SUBDIVISION)



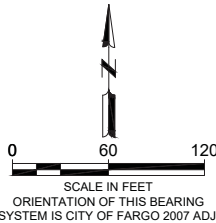
**LEGEND**

- Set Monument (5/8" Rebar, w/cap LS-27292)
- Found Monument
- (7.357) Lot Area in Square Feet
- Plat Boundary
- Block Boundary
- Lot Line
- New Easement Line
- Existing Easement Line
- Existing Property Line
- Existing Easement to be Vacated
- 100 yr. Flood Plain

- 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.
  - PART OF THIS PLAT FALLS IN FLOODPLAIN ZONE 'AE' ACCORDING TO FEMA FIRM MAP 38017C0790G WITH AN EFFECTIVE DATE 1/16/2015. THE BASE FLOOD ELEVATION IN THIS AREA IS 907' (NAVD88) ACCORDING TO FEMA. CONTOUR INFORMATION SHOWN IS DERIVED FROM FIELD SURVEY CONDUCTED NOV. 17, 2017.

Curve Table					
Curve #	Length	Radius	Delta	CHB	CH
C1	150.39	92.00	93°39'34"	S42°15'50"W	134.20
C2	132.56	92.00	82°33'19"	S47°48'57"W	121.39
C3	19.81	293.49	3°52'05"	N17°37'00"W	19.81
C4	111.47	370.00	17°15'40"	S10°53'57"E	111.05
C5	76.75	92.00	47°47'57"	S19°20'02"W	74.54
C6	73.64	92.00	45°51'38"	S66°09'49"W	71.69
C7	92.97	92.00	57°54'08"	S35°29'21"W	89.07
C8	39.59	92.00	24°39'11"	S76°46'00"W	39.28
C9	8.25	262.00	1°48'14"	N15°00'30"W	8.25

X:\4637000\190431\01TECHSURV\DRAWINGS\MADELYN'S MEADOWS THIRD ADDITION\MADELYN'S MEADOWS THIRD ADDITION PLAT REV.DWG  
6/30/2020 11:58:34 AM



**Mead & Hunt**  
Phone: 701-566-6450  
meadhunt.com  
PROJECT NO.  
4637000-190431  
SHEET 2 OF 2

**From:** Todd Kaiser  
**Sent:** Tuesday, June 23, 2020 9:03 AM  
**To:** Donald Kress <dkress@FargoND.gov>  
**Subject:** Madelyn's Meadows Third Addition

Hi Donald-

We talked on the phone yesterday about some concerns I had about the new plans for Madelyns Meadows. Below are points I would like brought to the meeting on July 7th.

1. Too many homes without the roads to support the number of cars. With only 25th St the nearby road to go south the traffic is getting horrible and if homes are going to continue to be built out by Davies they should be getting traffic figured out first.
2. The plans say that Madelyns Meadows and Golden Valley will share a park which is in the Golden Valley Addition. This is not right. They should be required to put in a park in Madelyns Meadows for those people as with the number of kids that will be in that development due to having small lots and more homes they should not have the only park available to them in Golden Valley. Golden Valley is it's own Association and should be treated as such.
3. No apartments!! I'm hoping that the new zone does not include apartments. That was not in the plans when we moved out here and should continue that way! Going back to roads. There is not enough roads out here to handle that much traffic.
4. I do not agree with all these small home additions going around Golden Valley. You have homes that are going for 500, 600, 700K and we are all paying the specials and taxes for having homes like that. Shouldn't have to be surrounded by lower houses that can bring property values down. The city has to start stepping in and stopping these developers from just throwing up houses just to fill space. You can't make one development nice and then surround it with fill ins! Not fair for those you have spent the money and continue to have to pay the high costs of specials and taxes.

Please bring these concerns to your meeting on July 7th.

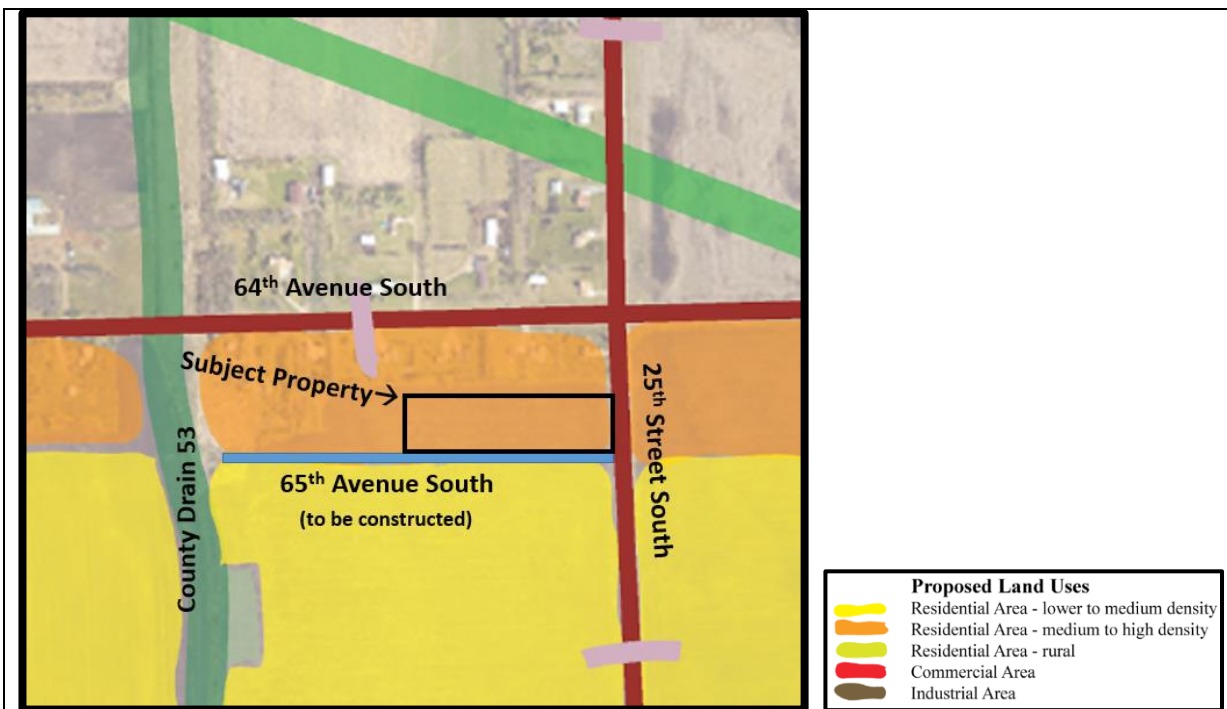
Thanks

Todd Kaiser

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

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

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



#### Context:

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

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

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

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

#### Staff Analysis:

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

#### Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The lots in this subdivision were platted in 1964 and have never been developed. The lots are currently zoned SR-2, a low-density residential zone. The proposed zoning of SR-3, though also a single-dwelling zone, is more in line with “medium-high density” designation than SR-2 zone and provides more residential development options than the SR-2 zone. Planning staff finds no basis to oppose the zone change from one low-density zoning to another. **(Criteria Satisfied)**



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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The existing lots front on 65<sup>th</sup> Avenue South, a dedicated public street. This street is intended to be constructed this summer (2020) and will provide access and public utilities to serve the development. **(Criteria satisfied)**

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

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has no comments or inquiries. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." Staff finds this proposal is consistent with the purpose of the LDC, the applicable comprehensive plan, and other adopted policies of the City. **(Criteria satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission the proposed zone change from SR-2, Single Dwelling Residential to SR-3, Single-Dwelling Residential as presented, as the proposal complies with the Go2030 Fargo Comprehensive Plan, the 2007 Growth Plan, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC."

**Planning Commission Recommendation:** July 7, 2020

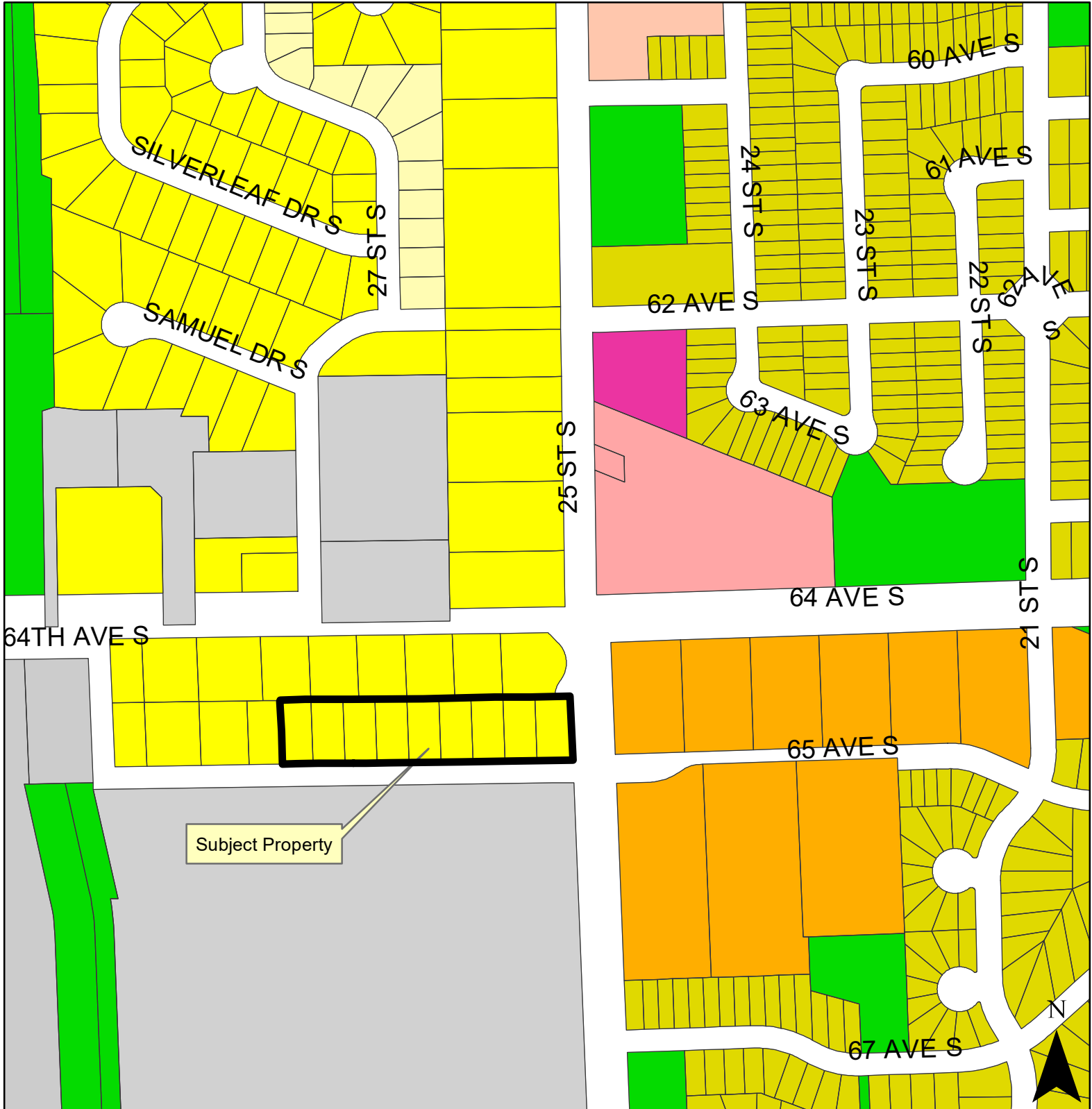
**Attachments:**

1. Zoning Map
2. Location Map

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

## South Haven Addition

2505-2617 65th Ave S

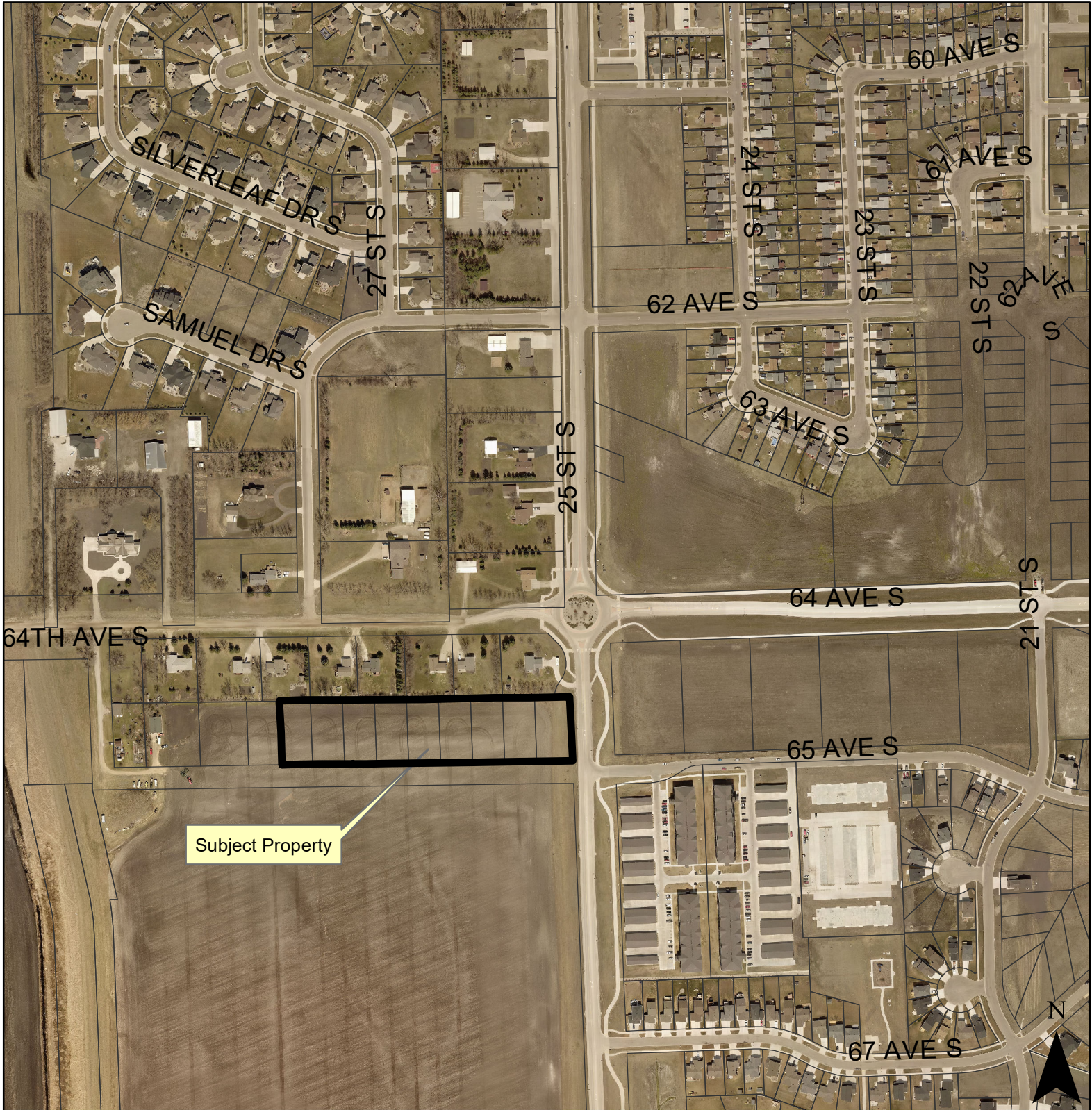




# Zone Change (from SR-2 to SR-3)

## South Haven Subdivision

2505-2617 65th Ave S





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

Existing	Proposed
<b>Land Use:</b> Vacant	<b>Land Use:</b> Commercial
<b>Zoning:</b> GC, Limited Commercial, with C-O, Conditional Overlay, ordinance 5130	<b>Zoning:</b> GC, Limited Commercial, with C-O, Conditional Overlay
<b>Uses Allowed:</b> General Commercial allows colleges, community service, daycare centers of unlimited size, <del>detention facilities</del> , health care facilities, parks and open space, religious institutions, safety services, <del>adult entertainment centers</del> , offices, <del>off-premise advertising and digital billboards</del> , commercial parking, outdoor recreation and entertainment, retail sales and service, <del>self storage</del> , <del>vehicle repair</del> , limited vehicle service, <del>aviation</del> , <del>surface transportation</del> , and major entertainment events.	<b>Uses Allowed:</b> General Commercial allows colleges, community service, daycare centers of unlimited size, <del>detention facilities</del> , health care facilities, parks and open space, religious institutions, safety services, <del>adult entertainment centers</del> , offices, <del>off-premise advertising and digital billboards</del> , commercial parking, outdoor recreation and entertainment, retail sales and service, <del>self storage</del> , <del>vehicle repair</del> , <del>limited vehicle service</del> , <del>aviation</del> , <del>surface transportation</del> , and major entertainment events. .
<b>Maximum Lot Coverage Allowed:</b> 85% building coverage	<b>Maximum Lot Coverage Allowed:</b> No change

Proposal:
<p>The applicant is seeking a zoning change to repeal and reestablish a C-O, Conditional Overlay on Lots 1-7, Block 1, Timber Parkway 4<sup>th</sup> Addition, Lot 3, Block 1, Timber Parkway 3<sup>rd</sup> Addition and Lot 1, Block 1, Timber Parkway 2<sup>nd</sup> Addition. The subject property is located at 4935 and 5081 Timber Parkway South; 3439, 3375 and 3400 James Way South; and 3360, 3401, 3430 and 3485 Jacks Way South.</p> <p>The existing Conditional Overlay, Number 5130, was established in 2018 and was specific to the proposed outlet mall development that never came to fruition. The applicant is proposing to remove language specific to the proposed outlet mall development and replace it with standard design standard language that can be found in other Conditional Overlays throughout the City.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p>

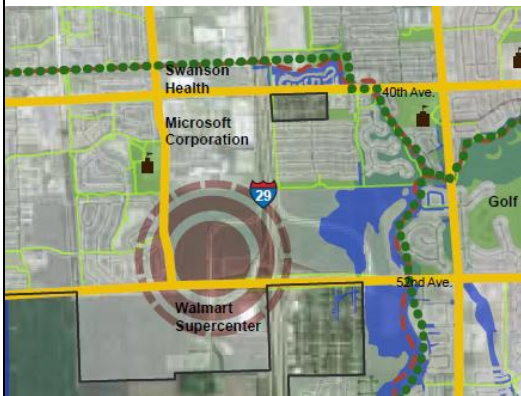
### Surrounding Land Uses and Zoning Districts:

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

### Area Plans:

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

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



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

### Context:

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

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

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

**Pedestrian / Bicycle:** Off road bike facilities are located along Timber Parkway South and 52<sup>nd</sup> Avenue South. These facilities are a component of the metro area trail system.

### Staff Analysis:

#### Zoning

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

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

Staff is unaware of any zoning map error in regard to the subject property. The requested zoning change is justified by a change in conditions since the previous zoning classification was established. The applicant has a clear picture of the type of development for the property and is modifying the Conditional Overlay to reflect

this.

**(Criteria Satisfied)**

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

City Staff and other applicable review agencies have reviewed this proposal. No deficiencies have been noted in the ability to provide all of the necessary services to the site. The subject property abuts public right-of-way.

**(Criteria Satisfied)**

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

Staff has no documentation or evidence that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. The proposed zone change is in keeping with adopted plans approved via public process. In addition, written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has not received any verbal concerns or written comments regarding the proposed overlay zoning change. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity.

**(Criteria Satisfied)**

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff finds that the proposal is consistent with the purposes of the LDC, the Growth Plan, and other adopted policies of the City. GC, General Commercial is a zoning that is included in the 2003 Land Use Plan "Commercial" land use designation.

**(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and recommend approval to the City Commission of the proposed zoning change to repeal and reestablish a C-O, Conditional Overlay on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) or other applicable requirements of the LDC."

**Planning Commission Recommendation: July 7, 2020**

**Attachments:**

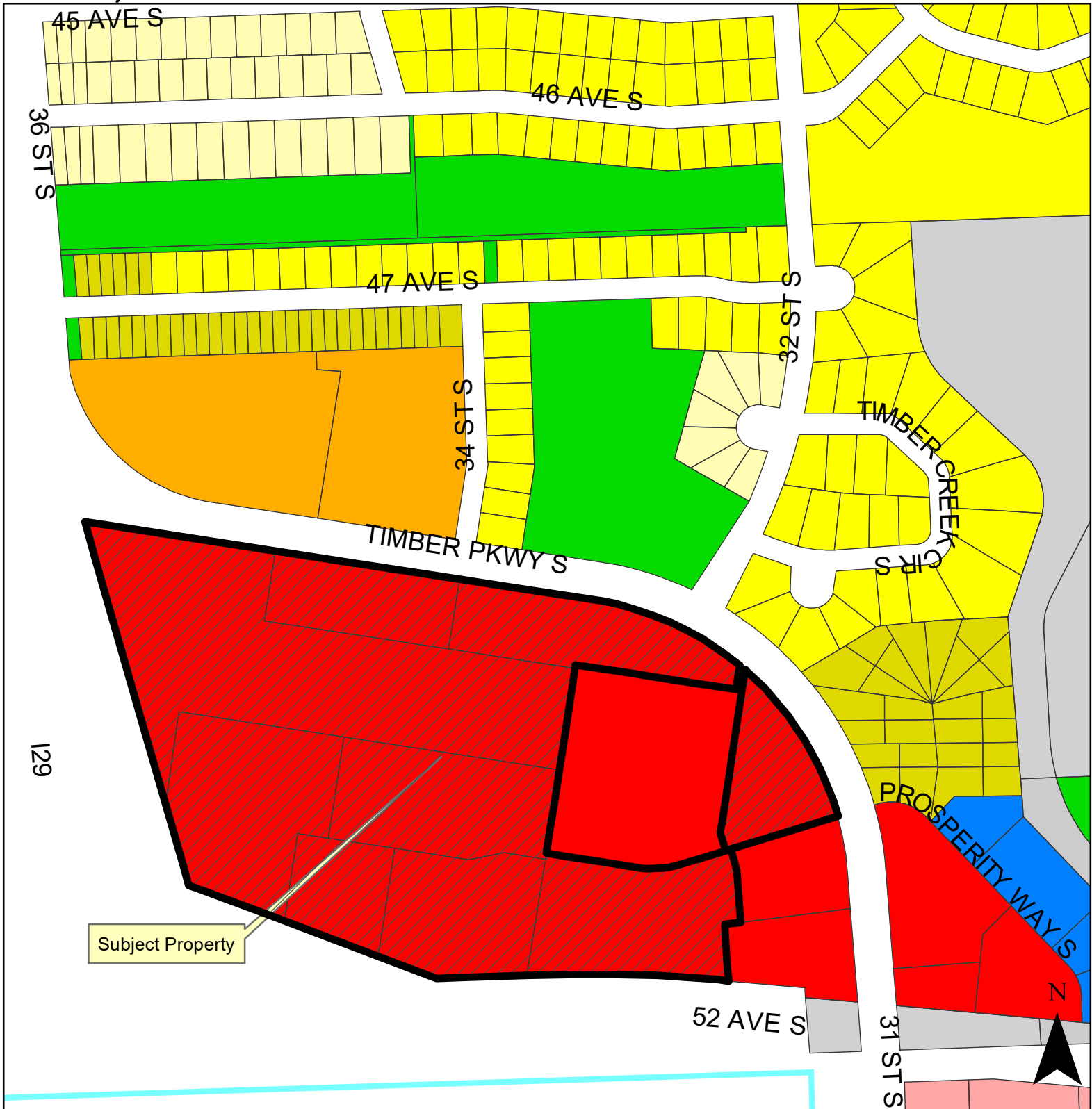
1. Zoning Map
2. Location Map
3. Proposed Conditional Overlay



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

## Timber Parkway Second, Third & Fourth Additions

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



### Legend

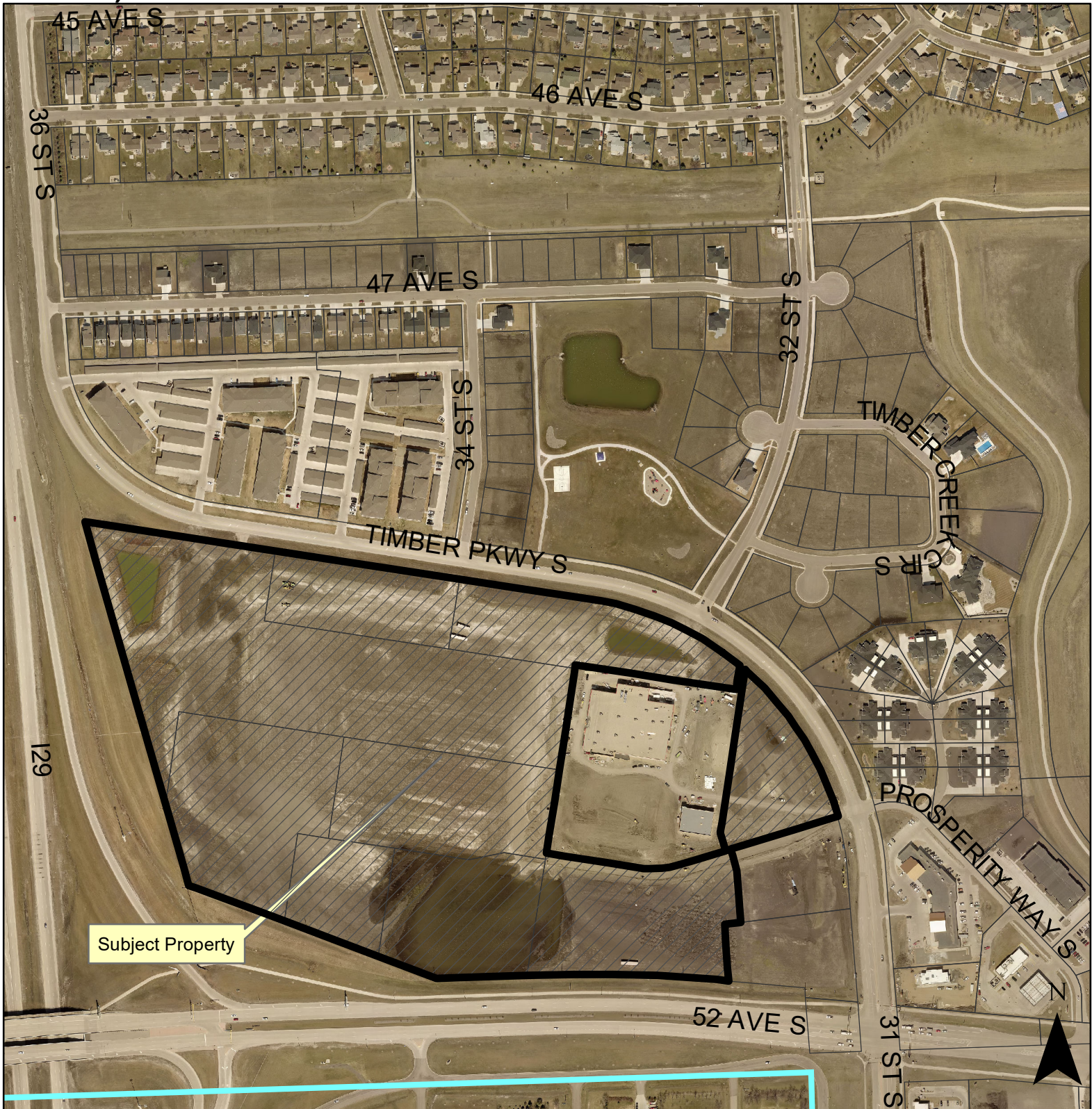




# Zone Change (to repeal and re-establish a Conditional Overlay in the GC)

## Timber Parkway Second, Third & Fourth Additions

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





A. Description

- a. This C-O, Conditional Overlay, district is primarily intended to encourage high-quality, durable, and long-lasting investments.

B. Design Standards

a. Building Massing

- i. All buildings shall have architectural interest and variety to avoid the effect of a single, long or massive wall; buildings shall include variation in size and shape.
- ii. All building elevations or facades facing or viewable from right-of-ways or parking lots that are greater than 200 feet in length, measured horizontally from vertical edge to vertical edge, shall incorporate wall plane projections or recesses. Each projection and/or recess shall have a depth of at least five feet, and the cumulative total horizontal width of all projections and/or recesses within a façade shall equate to at least an accumulated total of 20 percent of the overall horizontal length of the façade. No uninterrupted length of any façade shall exceed 200 horizontal lengths. ~~Attached or adjacent permanent wall projections that screen maintenance/loading/delivery/dumpster areas that exceed 9 feet in height shall count as projections and recesses.~~
- iii. Ground floor facades that are within 200' of the right-of-way, measured from the exterior wall, shall have arcades, display windows, entry areas, awnings, spandrel glass, ground level landscaping or other such features along no less than 60% of its horizontal length. ~~If the façade facing the right of way is not the front, it shall include the same features and or landscaping in scale with the façade.~~
- iv. All building elevations or facades facing or viewable from right-of-ways or parking lots shall be designed with a similar level of design detail, respective to building massing and building materials.

b. Building Materials

- i. ~~All primary buildings shall be constructed or clad with materials that are durable, economically-maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; EIFS; glass; metal panels (similar to Aluco Bond) and synthetic panels (similar to Trespa). Natural but durable synthetic materials with the appearance of wood may be used. Horizontal metal lap siding and vertical metal batten~~

shall be allowed on residential and commercial structures but shall not exceed 75% of the building elevation for residential structures and 50% for commercial.

- ~~ii. All walls shall be constructed or clad with natural stone, synthetic stone, brick, stucco, EIFS, fiber cement, curtain walls, glass, high quality pre-stressed concrete systems, architectural metal panels, colored precast concrete panels, or similar high quality material as may be approved by the Zoning Administrator. All materials shall be durable and have a multi-generational life span.~~
- ~~iii. Prohibited materials shall be steel siding exceeding 25% of building elevation, untreated CMU's, ceramic tile walls, highly reflective wall treatments, exposed neon or color tubing that is not used in an accent capacity, un-textured concrete, untreated concrete masonry unit, or un-colored precast concrete panels; unless otherwise approved by the Zoning Administrator.~~

c. Screening of Dumpsters/Refuse Containers and Loading Areas

i. Dumpsters

1. Loading and or service areas shall be located at the side or rear of buildings and screened from public streets by structure and or landscaping, with a minimum opacity of 50%
2. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain 6' high permanent walls in height on at least three (3) sides. The forth side shall incorporate a metal gate to visually screen the dumpster or compactor: however if the service side does not face any public right-of-way or residentially zoned property the metal gate shall not be required.
- ~~3. Lot 3: Dumpster and loading areas that are attached or adjacent to the primary structure shall be screened on three sides by permanent walls. The fourth side shall be screened a minimum of 40% from perpendicular view by permanent walls. Permanent walls shall be a minimum of 9 feet in height.~~
- ~~4. Lots 1 and 2: Dumpster and loading areas that are attached or adjacent to the primary structure shall be screened on three sides by permanent walls. Permanent walls shall be a minimum of 9 feet in height.~~

- ~~ii. Stand-alone outdoor dumpster areas shall be screened on three sides by permanent walls. The fourth side shall be screened by a metal gate. Permanent walls shall be a minimum of 8 feet in height.~~

d. Screening of Rooftop and Ground Level Mechanical Equipment

- i. Rooftop mechanical equipment shall be 50% concealed from public view, when viewing angle is from the Finish Floor elevation, measured at 150' from the exterior wall.
  - ii. All ground level HVAC units and utility boxes shall be screened from view by a structure, wall, fence or landscaping.
- e. Parking Lot Landscaping
  - i. A minimum of 10% of the internal surface area of the parking lot shall be landscaped with plantings, but shall be allowed to be reduced to 5% with approved landscape buffer as outlined in subparagraph B.(f)(i).
- f. Landscape Buffer
  - i. A 50-foot landscape easement was dedicated in March 2014 by Document Number 1412948 on file with the Cass County Recorder's Office along the north side of the development. The developer shall be required to submit a landscape plan for this easement area which shall include a combination of trees and landscaped berms. And the overall landscape plan shall be approved by the Zoning Administrator. The developer intends this buffer to provide a high quality transition between residential and commercial properties while also providing an added aesthetic element to the development. If, in the opinion of the Zoning Administrator, the proposed landscape plan meets the intended objective and is reflective of high quality design and materials; the requirement for landscaping internal to parking lots as contemplated under subparagraph 2.(f)(ii) of Ordinance Number 4908 shall be reduced from 10 percent to 5 percent. The landscaping plan shall be implemented within the easement area within 12 month following issuance of any building permit as described in Ordinance Number 4908. Trees shall be of minimum 2-inch caliper.

### C. Prohibited Uses

- a. Within the Use Category for Retail Sales/Service and Office, sales and leasing of consumer vehicles including passenger vehicles, light/medium trucks and other recreational vehicles that includes outdoor storage/display/sales are prohibited
- b. Detention Facilities
- c. Adult Entertainment Center
- d. Self-Service Storage
- e. Vehicle Repair (excluding tire sales and vehicle service, limited)
- f. Industrial Service
- g. Manufacturing and Production
- h. Warehouse and Freight Movement, excluding furniture/appliance stores from the prohibition

- i. Wholesale Sales
- j. Aviation/Surface Transportation

D. Site Design

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

E. Signage

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



**City of Fargo  
Staff Report**

<b>Title:</b>	Turf Tamers Addition	<b>Date:</b>	06/30/2020
<b>Location:</b>	4170 & 4200 24 Avenue North	<b>Staff Contact:</b>	Maggie Squyer
<b>Legal Description:</b>	Lots 2 & 3, Block 4, Laverne's Addition		
<b>Owner(s)/Applicant:</b>	Laverne A. Montplaisir Family Trust/ Brian Pattengale	<b>Engineer:</b>	Houston
<b>Entitlements Requested:</b>	<b>Minor Subdivision</b> (Replat of Lots 2 & 3, Block 4, Laverne's Addition)		
<b>Status:</b>	Planning Commission Public Hearing: July 7, 2020		

<b>Existing</b>
<b>Land Use:</b> Vacant
<b>Zoning:</b> LI, Limited Industrial
<b>Uses Allowed:</b> LI, Limited Industrial allows colleges, community service, day care facilities, detention facilities, health care facilities, parks and open areas, religious institutions, safety services, basic utilities, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and services, self-service storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation and telecommunications facilities.
<b>Maximum Building Coverage</b> 85%

<b>Proposed</b>
<b>Land Use:</b> Office & Warehouse
<b>Zoning:</b> Unchanged
<b>Uses Allowed:</b> Unchanged
<b>Maximum Building Coverage:</b> Unchanged

**Proposal:**

The applicant is requesting a minor subdivision plat, entitled **Turf Tamers Addition**, which would replat two existing lots into two new lots. Access to each lot will come from 24<sup>th</sup> Avenue North. Office and warehouse buildings are expected to occupy proposed Lot 1 of the new subdivision. The property is currently zoned LI, Limited Industrial, and no change in zoning is requested.

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: Vacant LI, Limited Industrial land
- East: Vacant LI, Limited Industrial land
- South: LI, Limited Industrial with light manufacturing
- West: Vacant LI, Limited Industrial land

Continued on next page.

### Area Plans:



The subject property is located within the 2007 North Fargo Tier 1 West Growth Plan. This plan identifies the subject property as part of a large industrial area.

#### Legend

- Agricultural Research
- Commercial Area
- Industrial Area
- Proposed Park
- Residential Area - lower to medium density

### Schools and Parks:

**Schools:** The subject property is located in the West Fargo School District and is served by Harwood Elementary, Cheney Middle, and West Fargo High Schools.

**Neighborhood:** N/A

**Parks:** No parks exist within a mile of the subject party.

**Pedestrian / Bicycle:** A shared use path exists along the south side of 19<sup>th</sup> Avenue North.

### 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.**  
In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent to property owners within 300 feet of the subject property. To date, staff has received no comments. The zoning district allows for the proposed development and complies with the adopted area plan. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspection and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code.  
**(Criteria Satisfied)**
2. **Section 20-907.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 of the proposed **Turf Tamers Addition** as presented; as the proposal complies with the adopted Area Plan, Standards of Article 20-06, and all other applicable requirements of the Land Development Code."

**Planning Commission Recommendation:** July 7, 2020

**Attachments:**

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



# Plat (Minor)

## Turf Tamers Addition

4170 & 4200 24th Ave N

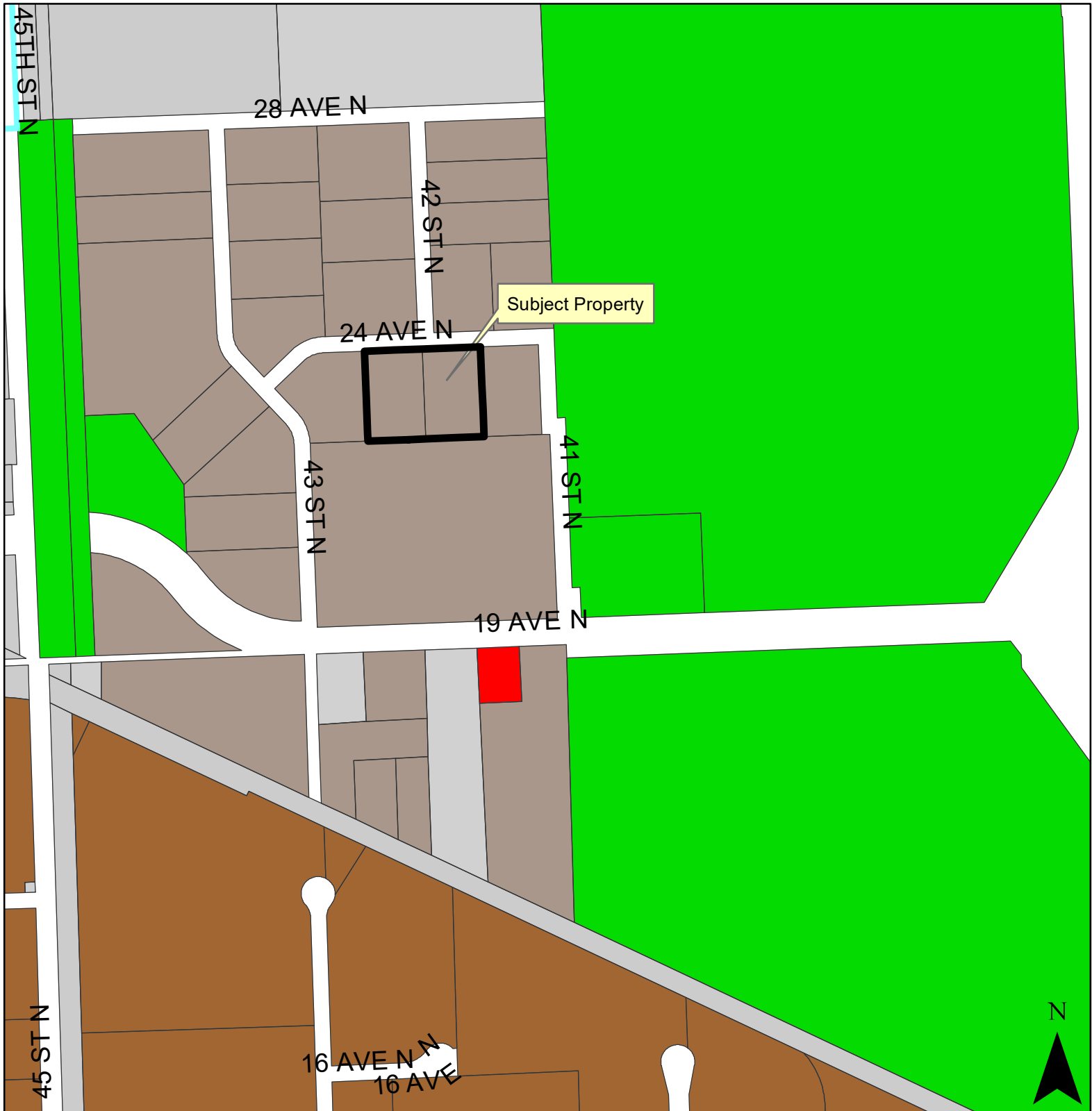




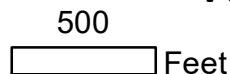
# Plat (Minor)

## Turf Tamers Addition

4170 & 4200 24th Ave N



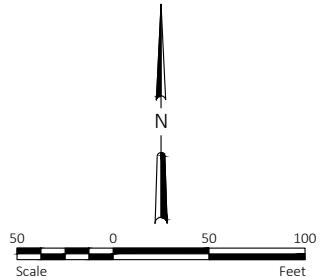
### Legend





# TURF TAMERS ADDITION

A MINOR SUBDIVISION  
BEING A REPLAT OF LOTS 2 AND 3, BLOCK 4, LAVERNE'S ADDITION  
SECTION 27, T. 140 N., R. 49 W., 5th P.M.  
TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA

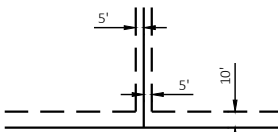


LEGEND	
IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
MEASURED BEARING	N00°00'00"E
PLAT BEARING	(N00°00'00"E)
MEASURED DISTANCE	100.00'
PLAT DISTANCE	(100.00')
PLAT BOUNDARY	—————
LOT LINE	—————
UTILITY EASEMENT	-----
EXISTING LOT LINE	-----
EXISTING UTILITY EASEMENT	-----
AREA WITHIN FEMA 100-YEAR FLOODPLAIN (BFE = 895.0)	

BEARINGS SHOWN ARE BASED ON THE CITY OF FARGO HORIZONTAL DATUM

NOTE:

PROPERTY IS SITUATED IN ZONE X (SHADED - AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD.)



BEING 5 FEET IN WIDTH AND ADJOINING LOT LINES, AND 10 FEET IN WIDTH AND ADJOINING RIGHT-OF-WAY LINES, UNLESS OTHERWISE INDICATED ON THE PLAT.

UTILITY EASEMENTS  
ARE SHOWN THUS

H:\BNI\7400\7489\7489\_0076\CAD\Plat\7489-0076\_PREPLAT.dwg-plat-7/1/2020 4:10 PM-(dbudholtz)



TURF TAMERS ADDITION
A MINOR SUBDIVISION
BEING A REPLAT OF LOTS 2 AND 3, BLOCK 4, LAVERNE'S ADDITION
SECTION 27, T. 140 N., R. 49 W., 5th P.M.
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA

OWNER'S CERTIFICATE AND DEDICATION:

KNOW ALL PERSONS BY THESE PRESENTS: That Montplaisir Ag and Rental, LLP a North Dakota limited liability partnership; is the owner and proprietor of the following described tract of land:

Lots 2 and 3, Block 4, Laverne's Addition of Fargo, Cass County, North Dakota.

Said tract of land contains 5.992 acres, more or less.

And that said parties have caused the same to be surveyed and re-platted as TURF TAMERS ADDITION to the City of Fargo, Cass County, North Dakota.

OWNER:
Montplaisir Ag and Rental, LLP
(an undivided 42% interest in the subject property)

Perry Montplaisir, General Partner

State of North Dakota
County of Cass

On this day of , 20, before me personally appeared Perry Montplaisir, General Partner of Montplaisir Ag and Rental, LLP a North Dakota limited liability partnership, 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 said limited liability partnership.

Notary Public:

OWNER:
LaVerne Montplaisir Family Trust created by Trust Agreement dated December 28, 2012
(an undivided 58% interest in the subject property)

Perry Montplaisir, Trustee

State of North Dakota
County of Cass

On this day of , 20, before me personally appeared Perry Montplaisir, Trustee of the LaVerne Montplaisir Family Trust created by Trust Agreement dated December 28, 2012, 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 trust.

Notary Public:

SURVEYOR'S CERTIFICATE:
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
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, City Engineer

State of North Dakota
County of Cass

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

Notary Public:

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

John Gunkelman, Chair
Fargo Planning Commission

State of North Dakota
County of Cass

On this day of , 20, before me personally appeared John Gunkelman, 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
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:

**MEMORANDUM**

**TO:** Fargo Planning Commission

**FROM:** Aaron Nelson, Planning Coordinator *AN*

**DATE:** July 1, 2020

**SUBJECT:** Land Development Code Diagnostic – Planning Commission Workshop

---

The City of Fargo is in the process of conducting an evaluation of the Land Development Code (LDC) in order to identify and address any existing deficiencies. The project consultant, Lisa Wise Consulting (LWC), has been working since last fall at assessing the City's development regulations. This process has included an early conversation with the Planning Commission in November 2019, as well as input from 23 interviews with 39 individual stakeholders and 34 attendees to a public open house. LWC has drafted a diagnostic report, which details their findings from these efforts. A copy of the Land Development Code Diagnostic Report is attached for your review.

At the July 7 Planning Commission meeting, the project consultant team will provide an overview of the Diagnostic Report, including their key findings, and will facilitate discussion with the Planning Commission and other stakeholders in attendance at the meeting. Additionally, they will begin discussion on the final phase of this project, which includes development of alternative approaches to addressing identified issues within the LDC.

In the near future, LWC will then work with the Planning Commission to identify a preferred approach and to outline the necessary steps towards implementing the preferred approach.

Attachment



# City of Fargo Land Development Code Diagnostic Report

Public Review Draft

June 05, 2020



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***Lisa Wise Consulting Inc.  
983 Osos Street  
San Luis Obispo, CA 93401***



***SRF Consulting  
2370 Vermont Avenue  
Bismarck, ND 58504***

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## Executive Summary

The objectives of the Land Development Code Diagnostic Report are to analyze the Land Development Code (LDC) based on its effectiveness as tool to achieve the land use and development goals expressed in Fargo's Comprehensive Plan, *Go2030*, whether it provides a user-friendly set of regulations that provide clear direction about the City's expectations, a predictable development review process, legal consistency with relevant State and Federal laws, how it could impact City finances, and to assess its ability to facilitate the development of quality projects that advance City goals while offering best practices as models.

This Report has two purposes. First, it analyzes existing challenges and shortfalls with Chapter 20 (Land Development Code) of the City of Fargo Code of Ordinances (Municipal Code), considering zoning districts, development regulations, organization, form, and style. Second, it helps prepare the City to evaluate alternatives, develop appropriate recommendations, and establish clear priorities for future LDC revisions or amendments.

The Report identifies several issues with the existing LDC that need to be addressed. The issues range from the Code having certain identified conflicts and ambiguities including a lack of available up-to-date information; an unpredictable discretionary application process; inclusion of subjective standards; and, not being coordinated with the City's *Go2030* Comprehensive Plan Vision for future development. As part of the overall analysis, LWC was tasked with providing an analysis of the economic and fiscal implications of the existing Code. The diagnostic review found that the current Code inhibits the development of economically productive spaces within Fargo. Further, the LDC does not take advantage of the opportunity to produce dense urban spaces that are more efficient in terms of their use of infrastructure or the delivery of public services. Additionally, the lack of suitable land use designations that support mixed-use or denser projects can be seen as discouraging the private investment that would be required to meet the goals of the *Go2030* Comprehensive Plan.

Key takeaways to expand upon include:

- Absence of built-form standards
- Parking and building location (Creating a pedestrian friendly streetscape)
- Parking regulations
- Infill development
- Paving standards in industrial areas
- Creation of new parks, public spaces, and open spaces
- Mixed-use and affordable housing development
- Landscaping standards

- Subdivision regulations
- Lack of graphics and diagrams
- Zoning Map discrepancies
- Planned Unit Development and Conditional Overlay approval processes
- Residential Protection Standards
- Discretionary review process
- Availability of information (Zoning Map, Site Plan Application etc.)
- Subdivision Parkland Dedication
- Sign Code
- Economic and fiscal implications of LDC policies.

As the next step, LWC and City staff will work together to create a list of alternative actions to address the issues identified within the LDC. In coordination with the City planning staff, Planning Commission, Board of City Commissioners, residents, and stakeholders, LWC will create preferred alternatives for how the LDC may be updated, as well as a work plan for implementation.

---

## Section 1 Introduction

### Subsections:

- 1.1 Summary of the Project
- 1.2 What are Land Development Codes
- 1.3 Why Analyze the Land Development Code
- 1.4 Overview of this Report
- 1.5 Next Steps

---

### 1.1 Summary of the Project

The City of Fargo (City) hired Lisa Wise Consulting, Inc. (LWC) to evaluate the City's Land Development Code (LDC) and related ordinances, document any deficiencies or opportunities for improvement, and develop a preferred alternative to remedying any noted deficiencies. The Land Development Code Diagnostic Report is the first step in this project.

This Report has two purposes. First, it analyzes existing challenges and shortfalls with [Chapter 20 \(Land Development Code\)](#) of the City of Fargo Code of Ordinances ([Municipal Code](#)), considering zoning districts, development regulations, organization, form, and style. Second, it helps prepare the City to evaluate alternatives, develop appropriate recommendations, and set clear priorities for future LDC revisions or amendments. The topics covered in this report were borne out of conversations with City officials, City staff, stakeholders, residents, and industry best practices based on LWC's experience writing Code Diagnosis reports for cities and towns throughout the country.

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### 1.2 What are Land Development Codes?

While *Go2030* establishes a wide-ranging and long-term vision for the City, the LDC specifies how each individual property can be used to achieve those objectives. Land development codes are the body of rules and regulations that control what is built on the ground, as well as what uses can occupy buildings and sites.

The use regulations and development standards established in land development codes provide adjacent and nearby property owners with assurance of which land uses are permitted and the scale to which they may be developed. Developers benefit from knowing exactly what they can build. City staff benefit too since the need for case-by-case discretionary review of development applications is reduced.



### 1.2.1 What Land Development Codes Can Do.

Land development codes implement the community goals expressed in a Comprehensive Plan and other long-term policy documents. Land development codes include the following:

- **Development and Design Standards.** Land development codes reflect the desired physical character of the community by providing development standards that control the height and bulk of buildings, building placement on a lot, and landscaping and open space requirements. Land development codes can also provide design, streetscape, building frontage, and building form standards.
- **Use Regulations.** Land development codes specify which uses are permitted, prohibited, or require specified standards or limitations. In this way, land development codes determine the appropriate mix of compatible uses.
- **Performance Standards.** Land development codes often include standards that control the “performance” of uses to ensure land use compatibility between new and existing neighborhoods or uses. Performance standards typically address items such as noise, glare, vibration, and stormwater runoff.
- **Review Procedures.** Land development codes identify the level of review required for project approval, including the required number of hearings with the Planning Commission and/or City Commission.
- **Subdivision Regulations.** Subdivision and public improvement standards can also be included in Land Development Codes to capture all forms of development in one place within the Municipal Code.

### 1.2.2 What Land Development Codes Cannot Do.

There are things that land development codes typically cannot do. However, issues not addressed in a land development code are usually addressed by other planning tools, such as master plans and design guidelines. The land development code will not do the following:

- **Dictate Architectural Style.** Although land development codes can improve the overall physical character of the community, they typically focus on objective, quantifiable criteria when it comes to design. The architectural style of individual projects is usually addressed in master plans, neighborhood plans, historic guidelines, and design guidelines adopted separate from the land development code.
- **Dictate Market Demand.** Land development codes cannot create a market for new development. For example, they cannot determine the exact mix of tenants or number of units in a private development or require a grocery store to be built on a vacant lot. They can, however, create opportunities in the real estate market by removing barriers such as onerous review processes and offering incentives for desirable uses.

- **Establish Land Use Policy.** Land development codes are a tool for implementing land use policy, not setting it. As such, land development codes are not the appropriate means for planning analysis. Land development codes are informed by the policy direction in the *Go2030* and other relevant plans and policies.

### 1.3 Why Analyze the Land Development Code

---

Before beginning any updates or revisions to the LDC, it is important to first document its issues or deficiencies. This allows the City to understand the extent of the potential modifications to existing regulations, and to develop an approach in response that is most effective and efficient. The Land Development Code, [Chapter 20](#) of the Municipal Code, was last comprehensively updated 20 years ago. While it has been amended numerous times, including significant revisions in 1999, the LDC does not reflect best practices in the field of planning and development regulation. A thorough assessment will highlight opportunities for the City to improve the LDC, keep up with national trends and best practices, and more effectively implement *Go2030*.

Furthermore, the LDC may not completely align with current City goals or priorities. *Go2030* provides a vision for the future, establishes a framework for how the City should grow and change over the next decade, and addresses all aspects of City growth and development including economic development, housing, education, environmental sustainability, and transportation, among other topics. *Go2030* emphasizes:

- High quality, mixed-use and infill development in the downtown area;
- The preservation and enhancement of residential neighborhoods;
- The creation of open space and resource protection;
- A vibrant local economy; and
- A community with a variety of housing options.

This Report observes and identifies areas of the LDC which are inconsistent with or ineffective in achieving the vision articulated in *Go2030*.

### 1.4 Overview of this Report

---

This Report documents the LDC's ability to achieve the type of development the City desires with the effective implementation of *Go2030* policies (see Section 2). Additionally, the report summarizes the principal findings and conclusions of an assessment of existing regulatory tools across a variety of topics based on best practices and discussions with code users and City staff (see Sections 3 through 6). Some topics, such as infill development, are addressed in more than one section.

The findings in this Report cover the following topics:

- Implementing the *Go2030* Comprehensive Plan;
- Land Development Code Overview and Analysis;
- Administration and Procedures;
- Legal Compliance; and
- Economic and Fiscal Implications.

## 1.5 Next Steps

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The conclusions and recommendations included in this Report will be presented at a virtual work session of the Planning Commission to which members of the City Commission will be invited. The work session will focus on the major issues identified with the current regulations, review *Go2030*'s direction for new/modified regulations, and any other key issues that need to be addressed. After the work session and a call with City staff to discuss alternative approaches to the identified issues, the LWC team will prepare a memo summarizing up to three primary alternative approaches to addressing issues identified within the LDC Diagnosis Report. This memo will eventually lead to another work session with the Planning Commission and City Commission to develop a preferred alternative and work plan.

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## Section 2 Implementing the Comprehensive Plan

### Subsections:

- 2.1 Comprehensive Plan Overview
- 2.2 Other Policies Overview
- 2.3 Effectiveness in Policy Implementation

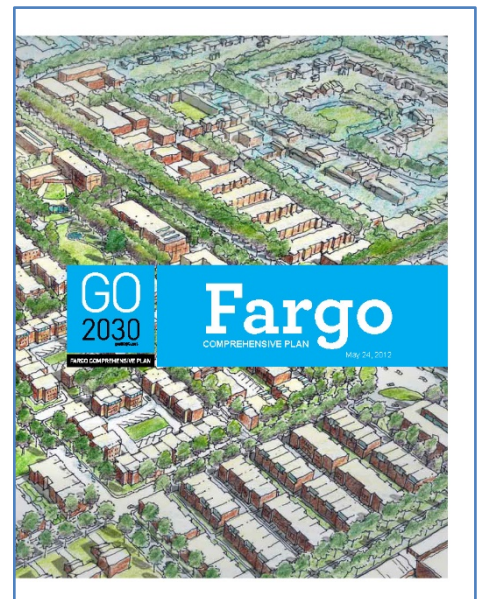
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### 2.1 Comprehensive Plan Overview

#### 2.1.1 Comprehensive Plan Policy Objectives

[\*Go2030\*](#) is Fargo's current Comprehensive Plan that was adopted in 2012. It covers a wide range of elements that guide how the City should grow and change through the year 2030. These elements are called "guiding principles" and build on the Plan's vision. The guiding principles listed below demonstrate the comprehensive nature of the Plan:

- Water and Environment
- Energy
- Arts and Culture
- Health
- Transportation
- Economy
- Neighborhoods, Infill, and New Development
- Education
- Safety.



*Go2030 Comprehensive Plan*

Each guiding principle is described in a chapter of the Plan and includes multiple initiatives with recommendations on how to implement each initiative.

*Go2030* does not include a stand-alone guiding principle or chapter focused solely on land use policy. Rather, *Go2030* integrates land use policy throughout all the guiding principles, where applicable. The guiding principle that provides the most direction to the City's land use policy is Neighborhoods, Infill, and New Development. Example initiatives that follow from this guiding principle and most impact land use policy include the following:

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

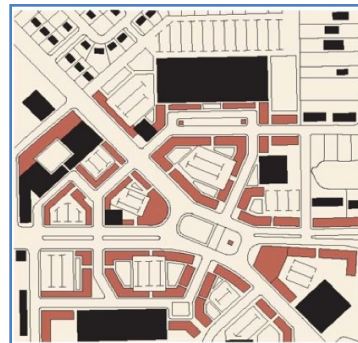


- **Design Standards** - Develop a Commercial Design Zone District and continue to follow the [Design Guidelines for Growth Areas of the City of Fargo](#) (2007) for infill and new residential development. Improve quality of new housing by fostering strong relationships with the development and building community to promote dense, walkable communities with neighborhood centers.
- **Quality New Development** - Support homebuilders and developers that construct high quality, energy efficient buildings, and require new development to meet site design standards that result in well-designed new neighborhoods.

Land use policy in the Plan is also envisioned through many of the “catalysts.” The catalysts are ideas that “...have the biggest potential to impact Fargo as it continues to grow and develop.” (pg.33). The catalysts are visually established in the Catalysts Map below, showing the areas of the City where these catalysts should be applied. Some of the catalysts that most impact land use policy includes walkable mixed-use centers, signature streets, and active living streets. “Walkability” is a key term used throughout *Go2030* as a strategy create a vibrant pedestrian realm and its associated positive effects of increased retail sales due to patrons spending more time in commercial areas, lessening automobile traffic, increasing overall public health. A walkable area has wide-ranging effects on its population and the land use goals in *Go2030* are centered on this as a driving force in new development. *Go2030* also indicates which catalysts are tied to the initiatives. For example, the Design Standard initiative of the Neighborhoods, Infill, and New Development guiding principle can be applied through the mixed-use centers

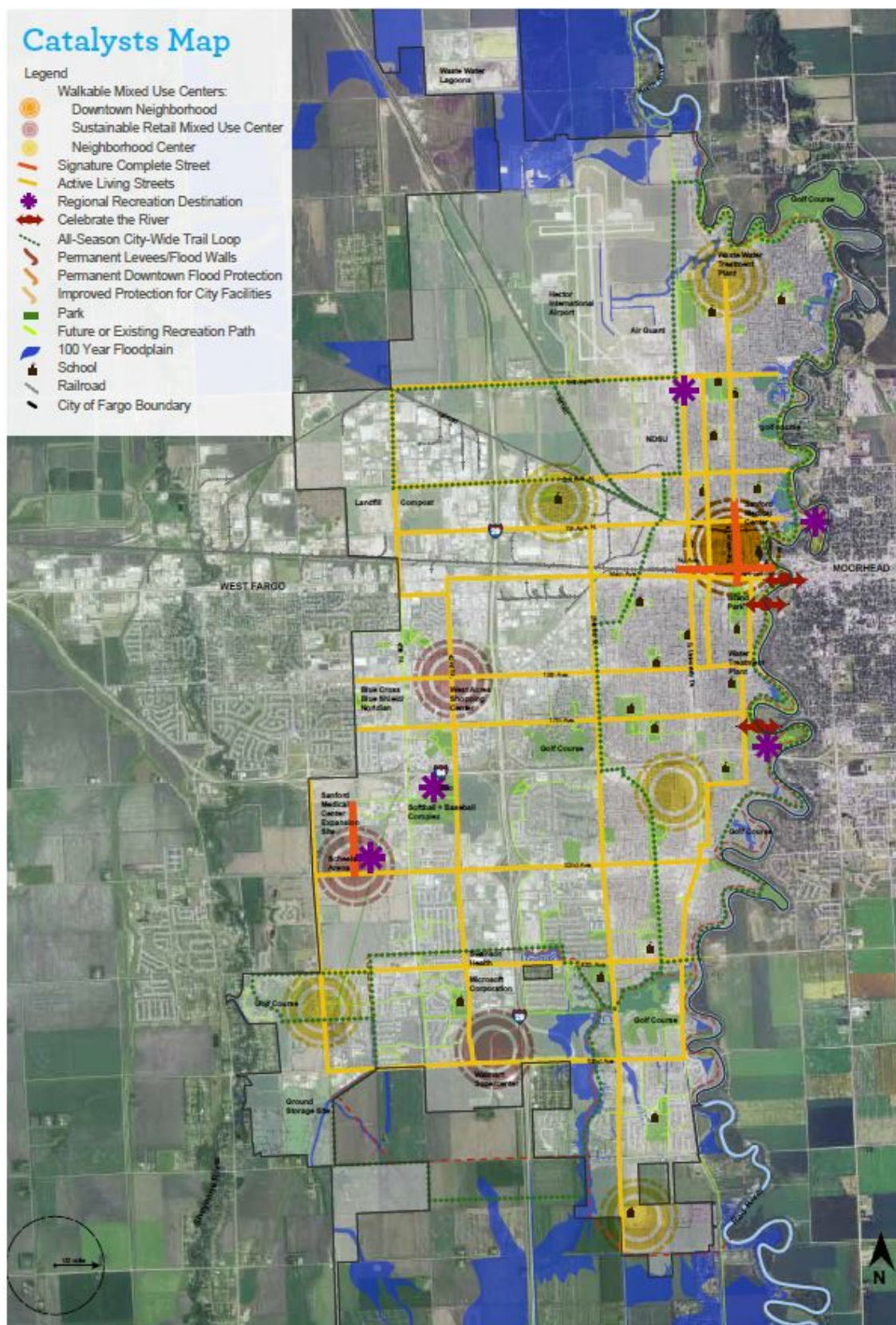


*Automobile-Oriented Development*



*Walkable, Mixed-Use Development*





## 2.2 Other Policies Overview

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In addition to the *Go2030 Comprehensive Plan*, there are several other policies and plans which define the long-term vision for Fargo. These include:

### **Downtown InFocus**

*Downtown InFocus* is an implementation-focused plan for the revitalization of Downtown Fargo. The plan lays out seven specific goals with multiple strategies to accomplish each goal. Specifically, the City wants Downtown to become an active neighborhood beyond the normal weekday business hours and a cultural destination in the region, particularly for the arts. To turn Downtown into a true neighborhood, the Plan focuses on housing and transportation, all through the lens of an inclusive development process that limits displacement and gentrification. In addition, creating a vibrant sense of place is key to the long-term success of Downtown which can be achieved through investments in streetscape improvements, new parks/public spaces, and high-quality development that accentuates the pedestrian experience by creating attractive storefronts, ground-floors, and building façades.

The Plan also highlights the need for middle-income housing due to the dominating presence of both affordable housing and expensive housing. Various plans and studies from years prior were utilized to inform the overall strategies including the *Go2030 Comprehensive Plan*, 2015's *Riverfront Design Study*, 2015's *Fargo Housing Study*, 2016's *Bicycle and Pedestrian Plan*, among others. Overall, the Plan serves as a guidebook for the community's vision of a future Downtown and how to make that vision a reality.

### **Fargo/West Fargo Parking & Access Plan**

The *Fargo/West Fargo Parking & Access Plan* assesses existing conditions in terms of development patterns, roadway classifications, zoning procedures, parking utilization, and incorporating stakeholder feedback. The Plan establishes seven different street types that take a holistic view of the factors that must be incorporated into a street such as land use, pedestrian crossings, and speed limits. The goal in creating these street typologies is to align the street design with the surrounding land uses. The study lays out a number of achievable goals as next steps for both cities which include a more in-depth look at parking minimums and maximums along with the associated land uses, promoting alternative modes of transportation by requiring more pedestrian amenities, Transportation Demand Management plans for new developments, exploring a fee in-lieu of parking programing, and shared parking provisions for new developments. The Plan creates a path for establishing development typologies based on land use (e.g. commercial, mixed-use, or residential) that have best practices associated with connectivity, parking ratios, building orientation, and traffic flow.

### **Public Art Master Plan**

The City of Fargo's Arts and Culture Commission completed a *Public Art Master Plan* that provides action items for the City and its residents to foster its growing arts scene. The Plan enables the *Go2030* goal of more art and culture in the City and to use art to transform public spaces as well as increase public gathering and community interaction. The Arts and Culture Commission identifies public art not only as a cultural benefit but also an economic benefit for the City's ability to attract and retain professionals, students, and creative talent.

### **Fargo-Moorhead Metropolitan Council of Government's Bicycle and Pedestrian Plan**

In 2016, the City of Fargo participated in the creation of a Plan to develop action items which will foster an increase in bicycle and pedestrian activity throughout the City. The Plan is a vital element in the overall land use and transportation planning process for the City and will ensure that transportation-related bicycle and pedestrian needs are considered eligible for future federal funding. The Bicycle and Pedestrian Plan is intended to enhance the bicycling and pedestrian experience in the metropolitan area and improve the health, safety, and quality of life for all citizens.

### **Roosevelt/NDSU Neighborhood Plan**

The City of Fargo's Planning Commission and Community Development Committee together with the citizens of the Roosevelt Neighborhood and NDSU completed the Roosevelt/NDSU Neighborhood Plan in 2004. The purpose of the Plan was to bring residents of the area together to discuss shared concerns and develop shared goals for the neighborhood. Primary goals developed in the Plan include stabilizing the neighborhood housing stock, making the neighborhood a safe place to live, and preserving the neighborhood's rich history and overall quality of life. In addition, the City is currently in the process of creating a new plan that will encompass the City's Core Neighborhoods, including the Roosevelt Neighborhood.

### **City's Analysis of Impediments to Fair Housing Choice**

In 2010, the City prepared this document to fulfill a HUD requirement to certify compliance with the Consolidated Plan Final Rule. It serves several purposes: as a housing and community development document; a strategy to help carry out HUD programs; an action plan providing the basis for assessing performance; and as an



application for a variety of HUD grant programs. The Analysis of Impediments document is used by HUD to establish the measure of fair housing for CDBG grantees such as the City of Fargo.

## 2.3 Effectiveness in Policy Implementation

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### 2.3.1 - Initiatives: Promote Infill

#### Overview

*Go2030* identifies the following initiatives related to infill.

1. Promote Infill. Develop policies to promote infill and density within areas that are already developed and are protected by a flood resiliency strategy. Control sprawl and focus on areas outside of the floodplain.
2. Promote Connections and Infill within Strip Commercial Developments. Direct future development around strip commercial areas to increase the amount of retail space, density, and promote walkability to increase the competitiveness of these shopping destinations.

#### Related Initiatives

In addition to *Go2030*, the City's *Analysis of Impediments to Fair Housing Choice* (2010) includes an initiative focused on infill:

- Review zoning to determine the effect on housing affordability and new neighborhood development.
  - Examine zoning requirements for the redevelopment of “non-conforming” infill residential land.

The *Fargo-Moorhead Metropolitan Council of Government's Bicycle and Pedestrian Plan* (2016) also includes initiatives focused on infill:

- **Improve bikeability/walkability within the region.**
  - Promote infill, increase density, and enhance urban design in order to encourage livability and more bicycle and pedestrian use.
- **Urban Design/Planning.**
  - Local jurisdictions should revisit current planning standards to allow and encourage more density, mixed-use developments, infill, and complete streets to encourage livability and encourage more bicycle and pedestrian use.

## Analysis/Findings

Recognition and direction on how infill lots can be developed helps to promote infill. The term “infill” is only used once in the LDC where it is not used as a descriptor of any type of development but rather in the description of a type of design standard.

In addition to not addressing infill directly, the Code includes a limited set of zoning-related tools to promote infill in developed portions of the City. Two zoning districts, Downtown Mixed Use (DMU) and University Mixed Use (UMU), provide considerable flexibility that has proven to promote and facilitate development on older City lots in Downtown and south of North Dakota State University (NDSU). Outside of both the DMU and UMU districts, residential, commercial, and industrial district regulations provide little if any flexibility to develop older lots. With the lack of flexibility, developers are forced to request zoning changes, density modifications, and variances to setbacks, lot coverage, and parking. Many developers have relied upon negotiated zoning (Planned Unit Development and Conditional Overlay Zoning) to secure needed flexibility, density, and protections often necessary to develop on older lots. For more detail, see Section 3.4.3 (Land Use & Housing Development).

The LDC’s subdivision regulations can also create impediments to the infill process. Unwritten Engineering Department standards not listed in the Code (or provided with a link/reference to another document), such as utility placement requirements ([Section 20-0608.A](#)), can also pose challenges to the development of infill lots that may be smaller or shaped differently than conventional suburban lots. Infill development that proposes to create lot sizes and associated rights-of-way similar to historic development in the City core may not be feasible using existing subdivision standards. For example, traditional residential development with alley access poses challenges with current right-of-way standards and easements requirements. For more detail, see Section 3.4.4 (Subdivisions).

As envisioned in *Go2030*, infill is also an opportunity within suburban strip commercial development. Commercial retail parking requirements are high, especially for big box retail and shopping centers. These uses are grouped under “All other Retail Sales & Service uses not specifically listed” in [Section 20-0701.B.1](#), requiring one space per 250 square feet. A reduction in parking requirements for retail commercial uses such as big box retail and shopping centers could open parking lots within strip commercial areas of the City to infill opportunities.

## **2.3.2 - Initiatives: Design Standards and Quality New Development**

### **Overview**

The *Go2030* Comprehensive Plan highlights the desire for design standards for new development as well as standards that produce high quality new development. The intent of new standards would be to improve the quality of housing and also create well-designed, higher intensity, and walkable communities with neighborhood centers.

### **Analysis/Findings**

The majority of the LDC's base zoning districts do not include design standards intended to control building form (i.e. the standards pertaining to the building envelope, including features such as materials, transparency, and overall building articulation), which leads to unpredictable built results throughout most of the City. The two districts that do include building form standards are the Downtown Mixed-Use (DMU) and University Mixed Use (UMU). See also 3.4.2 (Development Standards) for more details. In addition, the use of Planned Unit Developments (PUD) and Conditional Overlays (CO) also add a layer of unpredictability to development in the City. PUDs and COs have an equal number of examples that either show developers requesting changes to certain LDC provisions or adding provisions to support their development, such as design standards. For example, PUD's can be used by a developer to make sure that all aspects of approval are to benefit them or to add additional design provisions that are not reflected in the LDC.

Similarly, COs are utilized to add certain protections to mitigate impacts on surrounding properties, such as design provisions or Residential Protection Standards. See also Section 3.4.1 (Zoning Districts) and Section 4.1 (Legal Compliance) for more information.

Furthermore, when Conditional Use Permits (CUPs) are approved with conditions recommended by staff and approved as part of a CUP the conditions often include standards intended to control site design and/or building form. While there are no City-wide or neighborhood-specific design standards, CUPs tend to be used as a tool to implement design standards. Since CUPs are approved on a case-by-case basis, design standards included as conditions tend to be subjective and vary from one development to another. Given the lack of codified design standards, CUPs are a convenient way to bridge the gap where the existing Code's standards do not meet the needs of a project.

### **2.3.3 – Initiative: Historical Preservation**

#### **Overview**

*Go2030* identifies one initiative related to historic preservation.

- *Historical Preservation*. Strengthen historical preservation incentives.

#### **Related Initiatives**

In addition to *Go2030*, the City's Roosevelt-NDSU Neighborhood Plan (2004) includes a goal related to historic preservation:

- *Goal 3 – Quality of Life*: Preserve the neighborhood's rich history and general quality of life.

#### **Analysis/Findings**

The LDC supports a well-established historic preservation program. The Code establishes the [Historic Preservation Commission \(Section 20-0804\)](#) to oversee the program for the preservation, protection, and regulation of historic properties and to serve other functions related to historic preservation. Historic Overlay Districts are also in place as a zoning tool ([Section 20-0305](#)) requiring additional effort in conserving historic structures and the historic character of designated areas.

Multiple financial incentives are available and promoted by the City for historic preservation incentives. These include: Federal Historic Tax Credits (20 percent credit), Fargo Renaissance Zone (property and state income tax exemptions), and Residential Remodeling program (tax exemption). Another incentive not specifically tied to the structure's historic qualities but that is available for existing housing stock is the Neighborhood Revitalization Initiative which provides low-interest loans. The LDC itself does not provide financial or non-financial incentives. For more details, refer to Section 5 (Economics and Fiscal Implications).

### **2.3.4 – Initiative: Housing**

#### **Overview**

*Go2030* identifies two initiatives related to housing.

- *High Quality Affordable Housing Near NDSU*. To develop higher quality affordable housing near the North Dakota State University campus.



- *Housing for Workforce and Low-Income Residents*. To pursue strategies to increase access to housing for workforce and low-income residents.

## **Related Initiatives**

In addition to *Go2030*, the City has other policies regarding housing, including the following from the City's *Analysis of Impediments to Fair Housing Choice* (2010):

- Study how regulations, such as zoning regulations, may cause impediments to fair housing.
- Review zoning to determine the effect on housing affordability and new neighborhood development.
  - Examine zoning requirements for the redevelopment of “non-conforming” infill residential land.
  - Make allowances in the City Code for mixed density/mixed income residential developments.
  - Actively promote creative use of the LDC to facilitate affordable and diverse housing development,

The *Roosevelt-NDSU Neighborhood Plan* (2004) includes policies regarding housing particularly for the neighborhood area:

- Promote improved landlord and tenant behaviors.
- Facilitate the maintenance and rehabilitation of existing housing units.
- Address parking concerns associated with neighborhood housing.
- Develop planning policies that encourage a balanced mix of quality housing.

The *Downtown InFocus* Plan (2018) includes policies regarding housing particularly for the Downtown area:

- Encourage a mix of housing types for a range of price points.
- Preserve existing single-family housing in near neighborhoods.
- Provide a range of housing options within Downtown, at a range of price points.

## **Analysis/Findings:**

The LDC does not allow for high-quality affordable housing near North Dakota State University (NDSU) in a straightforward manner. Some zoning districts, such as University Mixed Use (UMU), allow a certain degree of design flexibility and density for projects that can provide high quality, affordable housing units. Other districts that allow multi-family housing near NDSU limit development opportunities due to suburban-style dimensional standards on lots originally designed to accommodate narrower buildings with less restrictive dimensional

standard constraints (in an area platted prior to the advent of conventional suburban development and zoning control). For more details, refer to Section 3.4.1 (Zoning Districts) and Section 3.4.2 (Development Standards).

The LDC provides a straightforward and predictable path for the review and approval of multi-family and small lot single-family housing (including housing for workforce and low-income residents) in new parts of the City outside of Downtown and the core neighborhoods through the provision of base zoning districts planned in accordance with a future land use map and lot sizes that conform to base zoning districts. As a result, the need for negotiated zoning through tools such as PUD or CO zoning is greatly diminished, and the approval process is generally predictable.

However, in regard to housing in the older parts of the City where there is a demand for redevelopment or infill projects (such as in the Core Neighborhoods), the LDC does not provide a straightforward or predictable path for multi-family and small lot single-family development. In older residential neighborhoods there are many cases where lot sizes do not easily accommodate the standards of the existing base zoning districts. As a result, many multi-family and small lot single-family projects have relied upon negotiated zoning tools such as PUD or CO zoning. For more details, refer to Section 3.4.1 (Zoning Districts).

Regarding negotiated zoning tools, the negotiations required to effectuate a PUD, for example, require a protracted process between the developer and the neighborhood. The process is unpredictable for all parties involved and does not always lead to a satisfactory outcome. Based on stakeholder feedback, neither the developers nor the residents see this method as an effective tool for development.

The LDC lacks any mandates or incentives for new development to provide affordable housing. The Bonus Density provision ([Section 20-0505 \(Bonus Density\)](#)) allows added density but includes qualifying standards, such as a minimum open space requirement of 40 percent and requiring that 70 percent of the building footprint contain tuck-under or underground parking. These requirements may be counterproductive to increasing development density and the potential for affordable housing. For more details, refer to Section 3.4.2 (Development Standards).

Setback constraints, both through district standards and easement constraints increase development cost and ultimately housing affordability by increasing the minimum lot size needed to accommodate housing. Comments from stakeholders often noted that minimum

setback regulations in residential districts, especially in South Fargo, are too large. Unique to Downtown, constraints associated with the accommodation of utilities can impact opportunities for affordable housing. Housing cost can be impacted in many cases where utilities along the edge of the right-of-way requires the use of expensive shoring techniques. In many cases, it is more cost effective to move back the building façade and to build less than the code allows. For more details, refer to Section 3.4.2 (Development Standards).

City staff and stakeholders noted an increasing market demand for smaller single-family housing types that offer more affordable home ownership options. This has resulted in the use of PUD and CO zoning to accommodate housing types and associated neighborhood design that do not fit the design parameters established by the City's base zoning districts. The market demand for housing compatible in scale with detached single-family housing, often referred to as "missing middle housing", is not directly or easily allowed by the LDC. For more details, refer to Section 3.4.1 (Zoning Districts).

"Missing Middle Housing" is defined as lower-scale housing development such as a duplex, triplex, or fourplex that are generally affordable to most income groups. These low-unit multi-family structures can seamlessly integrate into most neighborhood types without the impacts associated with high-rise multi-family developments. The "missing" refers to the fact that this type of housing is not being coded for or developed in today's housing market. Most housing being is either low-income, affordable housing or high-end, luxury housing. The graphic below illustrates how "missing middle housing" integrates into the built environment within the overall spectrum of housing types.



*Missing Middle Housing Types*

It is also important to weigh the impact of other LDC have on housing cost and affordability. Parking, subdivision, and other “ancillary standards” can increase development and associated housing cost. For more details, refer to Section 3.4.2 (Development Standards).

It is also important to weigh the impact other LDC standards on housing cost and affordability. Parking, landscaping, subdivision, and other “ancillary standards” can increase development and associated housing cost. For more details, refer to Section 3.4.2 (Development Standards).

### **2.3.5 – Initiative: Parking**

#### **Overview**

*Go2030* identifies one initiative related to parking.

- *Parking.* Pursue creative parking strategies to fund and activate parking structures, explore reducing minimum parking standards, and share parking between daytime and nighttime uses.

#### **Related Initiatives**

In addition to *Go2030*, the Fargo-Moorhead Metropolitan Council of Governments has established the following parking recommendations from the *Fargo/West Fargo Parking and Access Study* (2018):

- Adopt parking maximums in combination with minimum requirements.
- To provide parking above the maximum requirement, development should provide a Transportation Demand Management (TDM) or shared parking analysis to prove the need for additional parking.
- To provide parking below the minimum requirement, development should provide a fee-in-lieu of parking to fund alternative transportation initiatives, creating additional shared parking supply, or upgrading existing parking assets.
- Take steps that encourage the use of shared parking including variance alterations, establishing parking management districts around key commercial nodes, and encouraging the use of on-street parking.

The *Roosevelt-NDSU Neighborhood Plan (2004)* includes policies regarding parking particularly for the neighborhood area:

- Address parking concerns associated with neighborhood housing.



The *Downtown InFocus Plan (2018)* includes policies regarding parking particularly for the Downtown area:

- Create a tiered parking management approach.
- Advocate for metered parking.
- Make it easy for visitors to park once, when spending the day in Downtown.
- Make desirable parking spaces available to customers, even at night.
- Pursue a shared parking model.
- Work with willing local employers to incentivize alternative modes of commute.
- Create an on-street parking permit for Downtown employees.
- Consider implementing parking maximums.
- Beautify parking lots.

### **Analysis/Finding**

The LDC is not effective in implementing parking-related initiatives from *Go2030*, the *Fargo/West Fargo Parking & Access Plan*, and related policy documents. The off-street parking tables for parking space requirements ([Section 20-0701.B \(Off-Street Parking Schedules\)](#)) only include minimum space requirements and do not include maximum requirements. Also, the minimum parking requirements have not been reduced or adjusted since the adoption of the LDC, and they do not reflect current trends and practices. Interviews with City staff and community stakeholders revealed that some land uses have a minimum parking requirement that is too high (e.g. large retail stores) and other uses (e.g. offices) may have a minimum parking requirement that is too low. Also, parking needs vary geographically or within different contexts. For more details, refer to Section 3.4.2 (Development Standards).

The LDC does provide a limited degree of flexibility from the minimum parking requirements. The “Alternative Access Plans” provision ([Section 20-0701.E \(Alternative Access Plans\)](#)) lists several methods to achieve a reduction in required parking, including Transportation Demand Management (TDM), off-site parking, shared parking, bicycle parking, and valet parking. “Schedule C” is another tool available ([Section 20-0701.B \(Off-Street Parking Schedules\)](#)) for uses that “have widely varying parking demand characteristics” where a parking study can be used to determine parking needs. City staff and stakeholders have noted that this tool has been widely used in recent years, but some have questioned whether there may be a better option to determining parking needs for unique uses. Input from stakeholders indicated that the Alternative Access Plan provision for large parking facilities ([Section 20-0701.E](#)) was less utilized due to the requirement to obtain a Conditional Use Permit, which adds additional time and cost to gain approval. For more details, refer to Section 3.4.2 (Development Standards).

The application of maximum parking requirements in addition to minimums could have the effect of forcing some uses to apply alternative strategies as allowed by the Alternative Access Plan provision. Maximum parking requirements may increase the use of alternative parking strategies as envisioned in *Go2030* and related policy documents.

A pattern of development that has continued to promote an auto-centric environment, especially in newer parts of Fargo, has been how off-street parking has been incorporated into development site design. For example, some recent mixed-use development in South Fargo includes parking located between the building and the street, degrading the pedestrian realm in favor of automobiles. Concerns were expressed by City staff and stakeholders that existing regulations do not provide guidance to best locate off-street parking within a site, creating the potential to impede City initiatives focused on creating active, walkable, or multi-modal environments. For more details, refer to Section 3.4.2 (Development Standards).

Despite the promotion of funding and activating parking structures identified in *Go2030*, the LDC does not provide design guidance for parking structures, such as how they should interface with the street or required placement to maximize use. For example, the DMU district already includes several parking structures, with the potential for more as growth and activity increases in Downtown Fargo. However, the DMU district provides no standards on the preferred location of parking structures and adjacent uses. While [Section 20-0212 \(DMU, Downtown Mixed-Use\)](#) does include a section on screening of parking lots and structures, the standards are minimal and could produce different results per project due to lack of design specificity. For more details, refer to Section 3.4.2 (Development Standards).

### **2.3.6 – Initiatives: Trees, Landscaping, and Green Stormwater Infrastructure**

#### **Overview**

*Go2030* identifies one initiative related to landscaping and the LDC.

1. *Tree Canopy*. Increase the amount of trees in Fargo by preserving and planting new trees in new developments, planting trees in parks, and increasing the number of street trees along Fargo's main corridors.

**Related Initiatives:** In addition to *Go2030*, the Downtown InFocus Plan (2018) includes policies regarding parking particularly for the Downtown area:

- Beautify parking lots.

## **Analysis/Finding:**

The LDC includes clear but inconsistent requirements for providing trees and landscaping in greenfield developments, adaptive reuse sites, and for infill projects. The Code stipulates requirements for trees and landscaping along streets, for open space areas in most zoning districts, and in parking lots ([Section 20-0705 \(Trees and Landscaping\)](#)). City staff and stakeholders noted that tree and landscaping planting requirements were satisfactory and supported city initiatives for a greater tree canopy. However, stakeholders noted that tree and associated landscaping requirements were not right-sized to appropriate zoning districts and areas of the City with unique needs. Stakeholders also highlighted a lack of functionality/practicality with the application of some landscaping and tree requirements. For more detail, please see Section 3.4.2 (Development Standards).

### **2.3.7 - Initiatives: Parks, Public Gathering Spaces, Festivals and Events**

#### **Overview**

Go2030 identifies three initiatives related to parks, events, and open space:

- *Parks, Open Space, and Habitat.* To ensure all neighborhoods have access to safe and well-maintained neighborhood parks, improve quality and amenities of parks, and protect habitat and open spaces.
- *Public Gathering Spaces.* To develop space for public gathering or neighborhood centers.
- *Festivals and Cultural Events.* To develop space for festivals and events.

#### **Analysis/Findings:**

The LDC is not effective in implementing the parks, open space, and habitat initiative as well as the public gathering spaces initiative. The LDC defines 'open space' as "an outdoor, unenclosed area, located on the ground or on a roof, balcony, deck, porch or terrace designed and accessible for outdoor living, recreation, pedestrian access or landscaping, but not including roads, parking areas, driveways, or other areas intended for vehicular travel" while it does not have specific definitions for parks, habitats, or public gathering spaces. Through discussions with City staff, there is a parkland dedication procedure in all subdivision applications, but this process is not codified in the LDC. While the creation of parkland in subdivision developments is a viable way of creating new park space in the city, it is not standardized and done on an ad hoc basis. Also, there are codified open space requirements and habitat protection provisions, they are only required in very specific circumstances such as a new cluster development or a multi-family development utilizing the [Bonus Density](#) program. In addition, there are no

requirements for the creation or development of public gathering spaces within the LDC. For more details, refer to Section 3.4.2 (Development Standards).

While the LDC does not specifically address the development of space for festivals and cultural events, the City does have permit applications for "[General Special Permit/Street Closing/Block Party Request](#)" and "[Outdoor Amplified Sound Permit Request](#)" available on the website. These permit applications are not Planning Department initiatives and they are managed by either the Engineering Department or the Police Department, respectively. Existing right-of-way sidewalk space and streets can be utilized for events via the "General Special Permit/Street Closing/Block Party Request" permit. While the existence of these processes does not guarantee there will be more festivals and cultural events, the fact that the City has official processes set up to make them happen, is notable. For more details, refer to Section 3.4.2 (Development Standards).

### **2.3.8 - Catalyst: Walkable Mixed-Use Centers**

All walkable mixed-use centers are defined by:

- A pedestrian-oriented streetscape with wide sidewalks, street furniture, appropriately scaled lighting, amenities such as bicycle parking etc.
- A density of destinations with a range of uses including residential, commercial, and office.
- Block sizes ranging between 200 and 400 feet to keep walking distances short, creating a streetscape for pedestrians with smaller storefronts. Ideally, pedestrians would encounter a different storefront every 40 feet.
- Transparent storefronts with minimal blank walls.
- Building orientation standards that ensure walkability by building to the sidewalk or a very low setback and locating any parking lots behind buildings or within them rather than in front.
- Requiring public spaces to be constructed with new developments, for more people-oriented spaces along the street that encourage walking such as pocket parks.
- Connecting these mixed-use centers to greenspace, such as Island Park or Pioneer Prairie, providing pedestrians with open space and recreation space within walking distance of their residence.

#### **Analysis/Findings:**

The characteristics listed above are only possible within the Downtown Mixed-Use (DMU) district and the University Mixed-Use (UMU) district. Many stakeholders expressed the desire for more walkable mixed-use centers, but these are hard to develop given the limitations of



the base zoning districts outside of the DMU and UMU zones. Other than the two mixed-use zones, the only way to achieve these goals would be with a PUD rezoning. For more analysis on the zoning tools to achieve walkability and the challenges of mixed-use development outside of downtown and the UMU district, see Section 3.4.1 (Zoning Districts) and Section 3.4.2 (Development Standards).



*Typical Urban Mixed-Use Building*



*Typical Walkable, Mixed-Use Neighborhood (Credit: CNU-Atlanta)*

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## Section 3 Land Development Code Overview and Analysis

### Subsections:

- 3.1 LDC Organization and Structure
- 3.2 Zones Overview
- 3.3 Standards and Allowed Uses Overview
- 3.4 Diagnosis and Findings

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### 3.1 LDC Organization and Structure

The LDC consists of 13 Articles (see Table 3-1 (Land Development Code Articles)). Each Article is divided into Sections and Subsections for an overall hierarchy as shown below:

#### **Chapter > Article > Section > Subsection**

The Chapter number is the first number to appear in the titling sequence. Articles are numbered sequentially in increments of one. (e.g. Article 20-01, Article 20-02). Sections are also numbered sequentially, with the two-digit section number added to the article number (e.g. Section 20-0101, Section 20-0102, etc.).

Table 3-1 – Land Development Code Articles	
Article	Title
20-01	General Provisions
20-02	Base Zoning Districts
20-03	Overlay and Special Purpose Districts
20-04	Use Regulations
20-05	Dimensional Standards
20-06	Subdivision Design and Improvements
20-07	General Development Standards
20-08	Review and Decision-Making Bodies
20-09	Development Review Procedures
20-10	Nonconformities
20-11	Violations and Enforcement
20-12	Definitions
20-13	Fargo Sign Code

The LDC is a traditional use-based, or “Euclidean”, code. Use-based codes, which originated in the early twentieth century out of a need for cities to protect public health, welfare, and safety by regulating incompatible uses, are characterized by an emphasis on separation of uses. While use-based codes regulate building form to some degree (e.g. with setbacks, FAR, lot coverage, and building height) , the use inside the building is prioritized over the shape or size of the building. By focusing on use regulations rather than the built form and development pattern, communities often struggle to achieve predictable built results that better respond to changing market trends.

## 3.2 Zones Overview

[Article 20-02 \(Base Zoning Districts\)](#) establishes 20 unique use-based base zoning districts for the City. The following sixteen sections in the [Article \(20-0201 – 20-0216\)](#) contain descriptions of each zoning district, references to the allowed use table for each district, and references to the standards within [Article 20-05 \(Dimensional Standards\)](#). The base zoning districts include 10 residential districts, five commercial districts, two mixed-use districts, two industrial districts, and one agricultural district. [Article 20-03 \(Overlay and Special Purpose Districts\)](#) establishes three overlay and two special districts along with their respective applicability, use regulations, and dimensional standards.

### 3.2.1 Base Zoning Districts

Table 2-3 (Base Zoning Districts) lists the purpose and intent for each base zoning district organized by the overall zoning district category.

Table 3.2.1 (Base Zoning Districts)		
Zoning District		Purpose and Intent
<b>Agricultural Zoning District</b>		
AG	Agricultural District	The AG District is intended to accommodate agricultural land uses and provide an interim zoning classification for lands pending a determination of an appropriate permanent zoning designation
<b>Residential Zoning Districts</b>		
SR-O, SR-1, SR-2, SR-3, SR-4, SR-5	Single-Dwelling Residential	The SR Districts are intended to preserve land for housing and to provide housing opportunities for individual households. The regulations are intended to create, maintain, and promote single-dwelling neighborhoods. The regulations accommodate a variety of single-dwelling housing styles and residential densities. The dimensional standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.
MR-1	Multi-Dwelling District	The MR-1 District is primarily intended to accommodate household living in detached houses, attached houses, duplexes and small multi-dwelling structures. The district allows up to 16 dwelling units per acre

**Table 3.2.1 (Base Zoning Districts)**

<b>Zoning District</b>		<b>Purpose and Intent</b>
		of land. Development within the district will be characterized by one- and two-story buildings with relatively low building coverage.
MR-2	Multi-Dwelling District	The MR-2 District is primarily intended to accommodate household living in detached houses, attached houses, duplexes and multi-dwelling structures. The district allows up to 20 dwelling units per acre of land. Development within the district will be characterized by one- to three-story buildings with slightly higher building coverage than in the MR-1 district.
MR-3	Multi-Dwelling District	The MR-3 District is primarily intended to accommodate household living in detached houses, attached houses, duplexes and multi-dwelling structures. The district allows up to 24 dwelling units per acre of land. Development within the district will be characterized by one- to five-story buildings with higher building coverage than in the MR-2 district.
MHP	Mobile Home Park District	The MHP District is intended to accommodate mobile home park developments.
<b>Commercial Zoning Districts</b>		
NO	Neighborhood Office District	The NO District is primarily intended to accommodate very low-intensity office uses on small sites in or near residential areas or between residential and commercial areas. The district regulations are intended to ensure that allowed uses do not adversely affect nearby neighborhoods. Development is intended to be of a scale and character similar to nearby residential areas in order to ensure compatibility.
NC	Neighborhood Commercial District	The NC District is primarily intended to accommodate small retail sales and service uses on small sites in or near residential neighborhoods. Uses are restricted in size to promote a local orientation and to limit adverse impacts on nearby residential areas. Development is intended to be compatible with the scale of nearby residential areas.
GO	General Office District	The GO District is primarily intended to accommodate office development. The GO district regulations help to prevent the appearance of strip commercial development by allowing office uses but not other commercial uses.
LC	Limited Commercial District	The LC District is primarily intended to accommodate low-intensity office and retail sales and service uses.
GC	General Commercial District	The GC District is primarily intended to accommodate commercial uses. It allows a full range of retail, service, office, and commercial uses.
<b>Mixed-Use Zoning Districts</b>		
DMU	Downtown Mixed-Use District	The DMU district is intended to preserve and enhance the City's downtown area. The district allows a broad range of uses in order to enhance downtown Fargo's role as a commercial, cultural, governmental, and residential center. Development is intended to be



**Table 3.2.1 (Base Zoning Districts)**

Zoning District		Purpose and Intent
		pedestrian-oriented with a strong emphasis on a safe and attractive streetscape.
UMU	University Mixed-Use District	<p>The UMU district is intended to provide for the location and grouping of compatible uses. The appropriate location for this district will meet three factors. 1) The location will be in close proximity to a university or campus setting. The term campus includes large medical or business settings. 2) The location will have access to public transportation routes and alternative transportation corridors. 3) The location will be in a setting where the neighborhood is in transition from owner-occupied housing to rental housing or where blighted conditions are present.</p> <p>The objective of the zoning district is to encourage high-quality, durable, and long-lasting investments in order to enhance the quality of life and discourage blight. To achieve this objective, the University Mixed-Use zoning district allows higher overall residential density and limited commercial uses while incorporating design standards to achieve quality housing. Development is intended to be pedestrian oriented and neighborhood friendly.</p>
<b>Industrial Zoning Districts</b>		
LI	Limited Industrial District	The LI District is primarily intended to accommodate manufacturing, wholesale, warehousing, and distribution related uses.
GI	General Industrial District	The GI district is intended to serve as an exclusive industrial district and to protect manufacturing and industrial operations from encroachment by lower intensity, incompatible uses.

### 3.2.2 Overlay and Special Purpose Districts

[Article 20-03 \(Overlay and Special Purpose Districts\)](#) establishes five unique overlay and special purpose zoning districts for the City. Given the nature of these districts, they have separate and distinct applicability, land use, development, and approval requirements. Noteworthy is [Section 20-0303 \(C-O Conditional Overlay\)](#) which allows limited modification and restriction of the standards of the underlying base zone. While the P/I (Public and Institutional) zoning district is listed as a Special Purpose District within Article 20-03, City staff have indicated that it is considered as a base zoning district.

Table 3-3 (Overlay and Special Purpose Districts) lists the purpose and intent for each overlay and special purpose district.

**Table 3.2.2 (Overlay and Special Purpose Districts)**

Zoning District		Purpose and Intent
<b>Overlay Districts</b>		
H-O	Historic Overlay	The H-O district may be applied in areas of historic or cultural significance that have been designated by the U.S. Department of the Interior, the North Dakota State Historical Society, or the Board of City Commissioners.
HIA-O	Hector International Airport Overlay	The HIA-O, Hector International Airport Overlay district is intended to reduce airport hazards that endanger the lives and property of users of the Hector International Airport and of occupants of land in its vicinity
C-O	Conditional Overlay	By providing for flexible use or property development standards tailored to individual projects or specific properties, the C-O, Conditional Overlay district is intended to: <ul style="list-style-type: none"> <li>- Ensure compatibility among incompatible or potentially incompatible land uses;</li> <li>- Ease the transition from one zoning district to another;</li> <li>- Address sites or land uses with special requirements; and</li> </ul> guide development in unusual situations or unique circumstances
<b>Special Purpose Districts</b>		
P/I	Public and Institutional	The P/I, Public and Institutional district is intended to accommodate uses of a governmental, civic, public service or quasi-public nature, including major public facilities. It offers an alternative (versus residential) zoning classification for public and institutional uses, thereby increasing development predictability within residential neighborhoods.
PUD	Planned Unit Development	The PUD, Planned Unit Development district is an overlay zoning district that permits greater flexibility of land planning and site design than conventional zoning districts.

### 3.3 Standards and Allowed Uses Overview

[Article 20-04 \(Use Regulations\)](#) and [Article 20-05 \(Dimensional Standards\)](#) specify development standards and permitted use regulations for each individual base zoning district.

#### 3.3.1 - Land Uses

The LDC includes 39 use categories that are organized in five groups, including residential, commercial, institutional, industrial, and other uses.

The land use table in [Section 20-0401\(Use Table\)](#) establishes permit requirements for each land use, by zoning district, regulated as follows:

**P** - Permitted By-Right

**C** - Conditional Uses

**/C** - Uses Subject to Specific Conditions

- - Uses Not Allowed

See [Article 20-09 \(Development Review Procedures\)](#) for more information on review and approval procedures

Some uses (e.g., Adult Entertainment Center, Household Living/Group Living, and Bed and Breakfast) are subject to additional requirements established in [Section 20-0402 \(Use Standards\)](#).

### **3.3.2 – Zoning District Standards**

[Article 20-05 \(Dimensional Standards\)](#) establishes development standards for residential uses (Table 20-0501) and nonresidential uses (Table 20-0502), including standards for height, setbacks, minimum lot size, density, building coverage, open space, and floor area ratio. These standards vary by zoning district and apply to any development or use located within the given zoning district.

### **3.3.3 – Citywide Standards**

[Article 20-07 \(General Development Standards\)](#) establishes development standards applicable to uses and zoning districts Citywide. The standards include parking and loading, roadway access and driveways, residential protection standards, trees and landscaping, and corner visibility.

## **3.4 Diagnosis and Findings**

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### **3.4.1 – Zoning Districts**

Findings from the review and analysis include:

- The Code does not have the right zoning tools to implement *Go2030*;
- The City relies on negotiated zoning (PUDs, COs, etc.) for flexibility, increased density, additional protections, etc.; and
- There is a limited applicability of the UMU and DMU zones.

Achieving the goal of walkable mixed-use centers is only possible through the University Mixed-Use (UMU) and the Downtown Mixed-Use (DMU) districts. The UMU and DMU are only applied in a very limited area of the City. The land area these districts represent is roughly one square mile out of an estimated 48 square miles throughout the entire City. Eventually, these two districts will be fully built-out and there will not be opportunities to create these centers in

the remaining 47 square miles of the City. See Section 3.4.2 (Development Standards) below for details on LDC regulations that help create walkable mixed-use centers.

PUDs are frequently utilized to provide flexibility that does not normally exist within the LDC because the base zoning districts make it difficult to achieve walkable neighborhoods. The negotiations required to effectuate a PUD, for example, require a protracted process between the developer and the neighborhood. The process is unpredictable for all parties involved and does not necessarily always end up with the desired result. Based on stakeholder feedback, neither the developers nor the residents see this approach as an effective tool for development.

### 3.4.2 – Development Standards

#### *Absence of built-form standards*

The LDC does not contain many built-form standards, such as building and frontage requirements. Two base zoning districts, out of 21 (including the Public and Institutional Zone), contain some standards that would ordinarily produce more predictable results in terms of how the building will integrate into the existing urban fabric, i.e. the DMU district and the UMU district. The DMU district incorporates no minimum front setback, specific facade materials, ground-floor transparency standards, while the UMU incorporates building orientation standards, specific facade materials and articulation standards, and ground-floor articulation standards.

Most of the City contains no built-form standards to promote walkability, especially within the residential neighborhoods. *Downtown InFocus* specifically highlights a goal to “Tweak the DMU” by developing form-based requirements that guide the placement of buildings, parking, and other key design considerations of for Downtown (Page 35, [Downtown InFocus](#)). This goal is detailed by including recommendations for standards such as transparency, pedestrian access, height, parking, setbacks, and street trees. Lastly, there is also a proposed Build-to-Zone (BTZ) in with

City of Las Vegas Form-Based Code

19.09.050.E.012 T5 Main Street Zone (T5-M5)

**Key for Diagrams**

- Lot Line
- Buildable Area
- Building Setback Line
- Facade Zone

**E. Building Placement**

Setback Distance (Distance from ROW/Lot Line)	Front <sup>1,2</sup> L	Corner Side <sup>1,2</sup> M	Interior Side N	Rear O
Min.	10 ft	10 ft	0 ft <sup>3</sup>	10 ft
Max.	20 ft	20 ft	--	15 ft

**Primary Building Facade within Facade Zone**

Front (min.)	70%
Side Street (min.)	60%

**Miscellaneous**

A building form with a chamfered corner is only allowed on corner lots and only if a corner entry is provided.

**Notes:**

- <sup>1</sup> Additional setback and/or easement may be required where street ROW or a utility easement is needed.
- <sup>2</sup> Sidewalk must be extended into the setback area to meet the building.
- <sup>3</sup> Buildings and structures located ≤ 5 feet from a property line must comply with all applicable Building and Fire Code requirements.

**F. Building Form Standards**

Building Height	Stories	P
Primary Building	2 min. - 7 max.	
Accessory Building	2 max.	

**Primary Building Ground Floor Finish Level<sup>1,2</sup>**

Height above curb	Q
Residential	1.50 ft min.
Service or Retail uses	0.50 ft max.

Ground floor lobbies and common areas in multi-unit buildings may have a ≤ 0.50 ft ground floor finish level.

**Floor-to-Ceiling**

Ground floor	14 ft min.	R
Upper floors	9 ft min.	S

**Footprint**

Lot coverage	70% max.
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**Depth**

Ground floor space	30 ft min.	T
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**Notes:**

- <sup>1</sup> Buildings existing at the time of adoption of the Form-Based Code and additions to those buildings that are less than 50% of the existing gross floor area are exempt.
- <sup>2</sup> Primary buildings located on lots sloping down and away from the street are exempt.

**Key for Tables**

- No Requirement

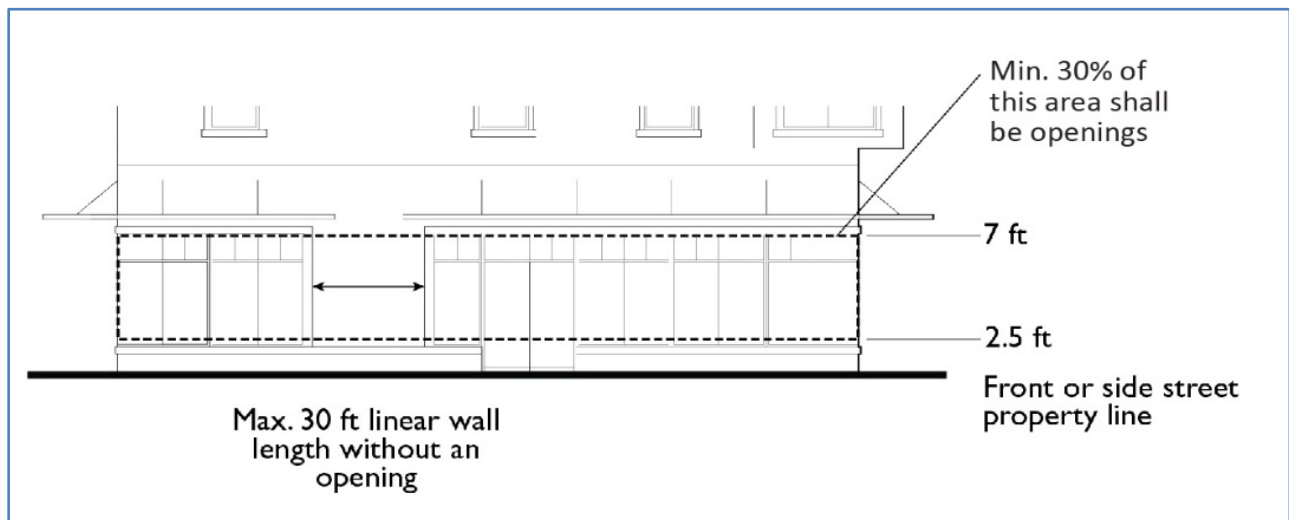
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*An Example of a Page From a Form-Based Code*



a percentage of the façade must be located along primary (and secondary) streets, establishing a maximum setback to ensure that buildings are placed closer to the sidewalk edge, and establish guidelines for parking location in the rear or side of the lot. These proposed regulations are in line with form-based best practices and could solve the problem of a lack of built-form standards in the LDC.



*A Typical Building Transparency Diagram*

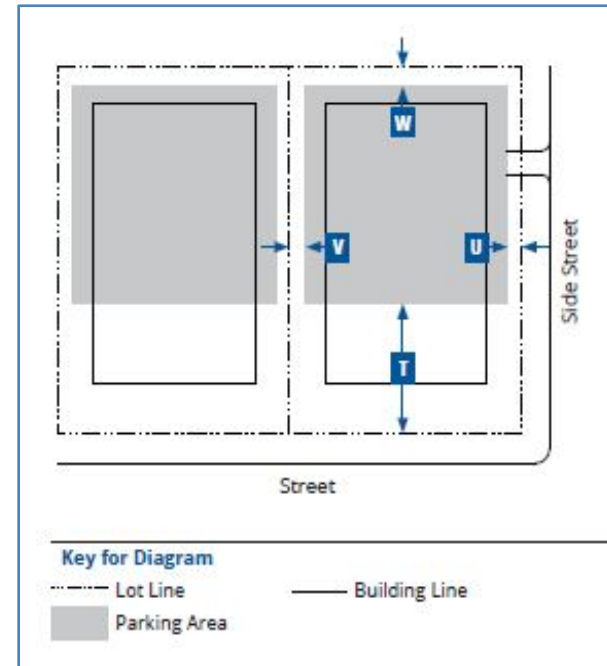
Even in the DMU district and the UMU district regulations are difficult to implement. For example, stakeholder feedback indicated that, new developments in the DMU are rarely built to the sidewalk edge, due to challenges with utility placement and access. As the requirements for utilities are typically inflexible, buildings tend to be pushed away from the street which further erodes the potential for a quality pedestrian-friendly environment that the standards intend to promote. While coordination between the Planning Department and the Engineering Department to find a solution to the utility placement issue would need to occur, best practices dictate that the base zoning districts, for example, include requirements for buildings to be placed at the sidewalk edge and to integrate similar built-form standards, (e.g. ground-floor transparency standards), into the other commercial districts outside of downtown and the University area. Fostering walkable commercial areas through built-form standards can be achieved by adding these types of regulations.

### ***Parking and Building Location (Impact on Pedestrian Friendly Streetscape)***

Many stakeholders and residents reported that the current regulations create large expanses of surface parking in nonresidential areas. While the LDC's minimum required parking standards are one factor, the required placement of parking on the site is also an issue. The required large front setbacks typically tend to influence the placement of parking in front of

buildings along the fronting street. Parking placed in front of buildings severely limits an area's walkability due to the distance of the buildings from the street and the prioritization of automobiles over pedestrians.

[Section 20-0701 \(Parking and Loading\)](#) does not apply any standard for parking location relative to the primary building. One exception is within [Section 20-0701.D \(Location of Required Parking\)](#) which has a parking location requirement within Single-Family Districts. The combination of large minimum setbacks ([Section 20-0502](#)), high minimum parking standards ([Section 20-0701](#)), and the lack of parking location standards leads to an unfriendly pedestrian streetscape with large parking lots occupying most of the properties. As mentioned in the previous section, *Downtown InFocus* recommends establish guidelines for parking location in the rear or side of the lot. Best practices to remedy the issue include requiring parking to be located behind buildings or to the side of a building when possible or establishing a maximum front setback. Either of these regulations would reduce the negative impact of parking lots on the pedestrian streetscape.



*A Typical Building and Parking Area Location Diagram from a Form-Based Code*

### ***Parking Regulations***

The existing parking regulations do not account for how parking needs might vary based on location or context within the City. Instead, uniform requirements are provided. For example, the restaurant parking requirement of 1 space per 75 square feet for “Restaurant, General, Bars, Taverns and Lounges”) near NDSU where a range of transportation options are viable should not be the same as the amount of parking for a restaurant on the southern suburban fringe adjacent to Interstate 29 where driving is the most viable option of transport ([Section 20-0701.B.1 \(Parking and Loading\)](#)). Some areas, such as adjacent to NDSU and other areas where the existing land use context promotes walkability and other viable forms of transportation, the demand for off-street parking may be lower than for other more auto-centric parts of the City.

The increasing use of “Schedule C” to identify alternative parking requirements indicates that the listed requirements (Schedules A and B) may not be adequate and that other alternatives

to the parking requirements may be needed. The original intent of the provision documented in [Section 20-0701.B.3 \(Parking and Loading\)](#) is for “uses that have widely varying parking demand characteristics, making it impossible to specify a single off-street parking standard.” Heavy use of Schedule C shows that the listed parking requirements do not reflect the current (and possibly the projected) development market. Overuse of Schedule C creates an added administrative burden on City staff and adds time and cost to development proposals.

Regarding the location of off-street parking within a development site, design guidance is lacking in zoning districts where the City has planned for active streets, or in other words, a walkable environment. “Walkable Mixed-Use Centers” are envisioned in *Go2030* throughout the City and the same concept is promoted throughout Downtown as documented in the *Downtown InFocus Plan*. In the absence of design criteria to better locate off-street parking on a development site, off-street parking has the potential to degrade walkability in Downtown Fargo or impede the creation of a more walkable environment in areas where *Go2030* envisions a walkable mixed-use center.

### ***Challenges in Residential Compatibility (Standards and Consistency in Application)***

[Section 20-0704 \(Residential Protection Standards\)](#) includes an extensive list of Residential Protection Standards that apply to all multi-dwelling developments located within 150 feet of any SR or MHP zoning districts and all nonresidential development when the development occurs on a site located within 150 feet of any SR, MR or MHP zoning districts.

The standards consist of additional setback provisions, screening, building height, landscape buffers, operating hours, lighting, and odors. Each standard is based on distances from the nearest residentially zoned property and can change depending on how close the development is to residential base zoning districts. [Section 20-0704.I \(Waivers\)](#) provides flexibility to reduce or waive one or more of the Residential Protection Standards. If any reductions or waivers are issued, a notice is sent to all properties within 300 feet of the development. Lastly, the LDC has a provision for residents to appeal the waiver. The appeal may be heard by either the Planning Commission or the City Commission.

Based on stakeholder and community feedback, it is evident that the Residential Protection Standards have been utilized frequently, especially due to the amount of new multi-family structures and industrial parcels within close proximity to single-family residential base zoning districts. Many stakeholders were split on the issue of Residential Protection Standards, either because they are not adhered to and developers consistently sought waivers, or the standards are too rigid and need to be better defined.

## ***Infill Development***

Infill is promoted in the City of Fargo through the application of two zoning districts, Downtown Mixed Use (DMU) and University Mixed Use (UMU). Key elements of both districts that promote infill that are unique from the rest of the LDC's base zoning districts include:

- DMU: The district allows 100 percent lot coverage and does not have any lot size, setback, or height requirements ([Section 20-0502 \(Nonresidential District Standards\)](#)).
- UMU: In comparison to the Code's other residential districts, UMU has the smallest minimum lot size requirement, some of the smallest setback requirements, has the greatest lot coverage allowance, and the greatest height allowance ([Section 20-0501 \(Residential District Standards\)](#)).

Other than DMU and UMU, all the LDC's base districts make development difficult on most infill lots in the City's core areas. The dimensional standards for the other districts are crafted for conventional suburban development ([Sections 20-0501 \(Residential District Standards\)](#) and [20-0502 \(Nonresidential District Standards\)](#)). For example, many existing lots in the Horace Mann neighborhood are approximately 40 feet by 140 feet and are zoned SR-2. The SR-2's district dimensional standards result in many existing lots in core neighborhoods being nonconforming. In addition, many existing homes and accessory structures in core neighborhoods do not meet current setback standards. Therefore, it is difficult for any property owner or developer to develop a vacant, nonconforming lot and to meet all current dimensional standard requirements to simply create development consistent with what currently exists throughout much of the neighborhood. As a result, many property owners/developers resort to negotiated zoning and related tools, such as variances, Planned Unit Development zoning, or Conditional Overlay zoning. Whether or not the use of negotiated zoning tools to allow infill development is the appropriate path the City should provide, a roadmap that explains how to successfully present an infill development project is missing from the Code or from general policy guidance provided by the City online or otherwise. An infill development "roadmap" is especially lacking for the City's core neighborhoods outside of the DMU and UMU districts.

## ***Paving Standards in Industrial Areas***

Multiple stakeholders commented on the paving requirements as being very costly, and potentially rendering projects infeasible. The stakeholders agreed that there should be more flexibility for allowing alternative materials, such as gravel or crushed concrete.

[Section 20-0701.G \(Parking and Loading\)](#) states that in the Limited Industrial district and the General Industrial district, "... rear yard vehicular circulation area, not including parking spaces, may be crushed concrete or similar material as approved by the Zoning Administrator." The key is that the parking areas may not be crushed concrete or another material, and the City is requiring it to be an "All Weather Surface", which consists of concrete, asphalt, paving blocks, brick etc. In addition, [Section 20-0704.3 \(Residential Protection Standards\)](#) states that any structural alteration of an existing building that increases the building footprint by more than 1,000 square feet or increases the height by 10 percent requires the property to come into full zoning compliance. These two standards have the effect of making some industrial-specific improvement projects financially infeasible. Industrial-zoned sites in Fargo tend to be much larger than almost all other properties in the City. The required paving of parking areas in industrial districts, rather than gravel or a similar material, has been a challenge for many business owners and could result in fewer properties being improved due to these regulations.

### ***Inadequate Provisions to Create New Parks, Public Spaces, Open Spaces and to Protect Existing Habitats***

Parks and Open Areas, defined in [Section 20-1203 \(Use Categories\)](#) as "natural areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares" are a land use allowed throughout the City except in the University Mixed Use (UMU) and General Industrial (GI) districts. However, neither parks nor open areas appear [in Article 20-12 \(Definitions\)](#). Further, there are no design or development criteria for parks to ensure adequate size, access, or amenities, and, the LDC does not include a requirement for parkland dedications within large developments or new subdivisions. City staff have confirmed that an unwritten process for requiring parkland dedications is utilized for these projects. Best practices going forward would be to codify the parkland dedication process as a part of subdivision approvals in order to ensure that new parkland will be created with each application and to provide clear requirements for applicants. [Section 20-0705 \(Trees and Landscaping\)](#) contains tree planting requirements based on the size of the lot (e.g. 3 plantings per 1,000 square feet of lot area). While these requirements ensure trees and shrubs are incorporated throughout a site, these regulations do not guarantee dedicated area for usable open space, recreation, or public gathering.

The LDC contains provisions for the creation of open space and the protection of existing habitats but only in limited circumstances. [Section 20-0302.F.3 \(PUD, Planned Unit Development\)](#) states that at least 10 percent of the gross land area in PUDs must consist of open space. The next provision, in [Section 20-0302.F.3](#) states that a PUD must preserve natural



features such as mature trees, vegetative cover, watercourses, and other natural site features “... to the greatest extent possible.” The question regarding the open space and natural features protection policies is how often developers seek and are granted waivers from this provision.

Uses such as religious institutions and schools are required to provide minimum of 35 percent of the site area as landscaped open space. Only the multi-family residential base zoning districts (MR-1, MR-2, MR-3) include Minimum Open Space requirements, as a percentage of the lot, at a minimum of 35 percent. The Bonus Density program contains the most stringent minimum open space requirement of 40 percent of the lot area as one of three standards for which compliance is needed in order to allow a maximum density of 30 dwelling units per acre.

[Section 20-0506 \(Alternative Residential Development Options\)](#) contains provisions for Open Space requirements, but only regarding Cluster Developments. In general, Cluster Developments are subject to the minimum on-site open space standards of the base zoning district. The Section contains separate requirements for Common Open Space which is defined as, “Open space within a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents or occupants of the development. Common Open Space does not include areas used for streets, alleys, driveways, or off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be counted as common open space.” This provision represents a very specific case of open space being required for a new development but likely on a limited scale.



*Typical Common Open Space in a Cluster Development*

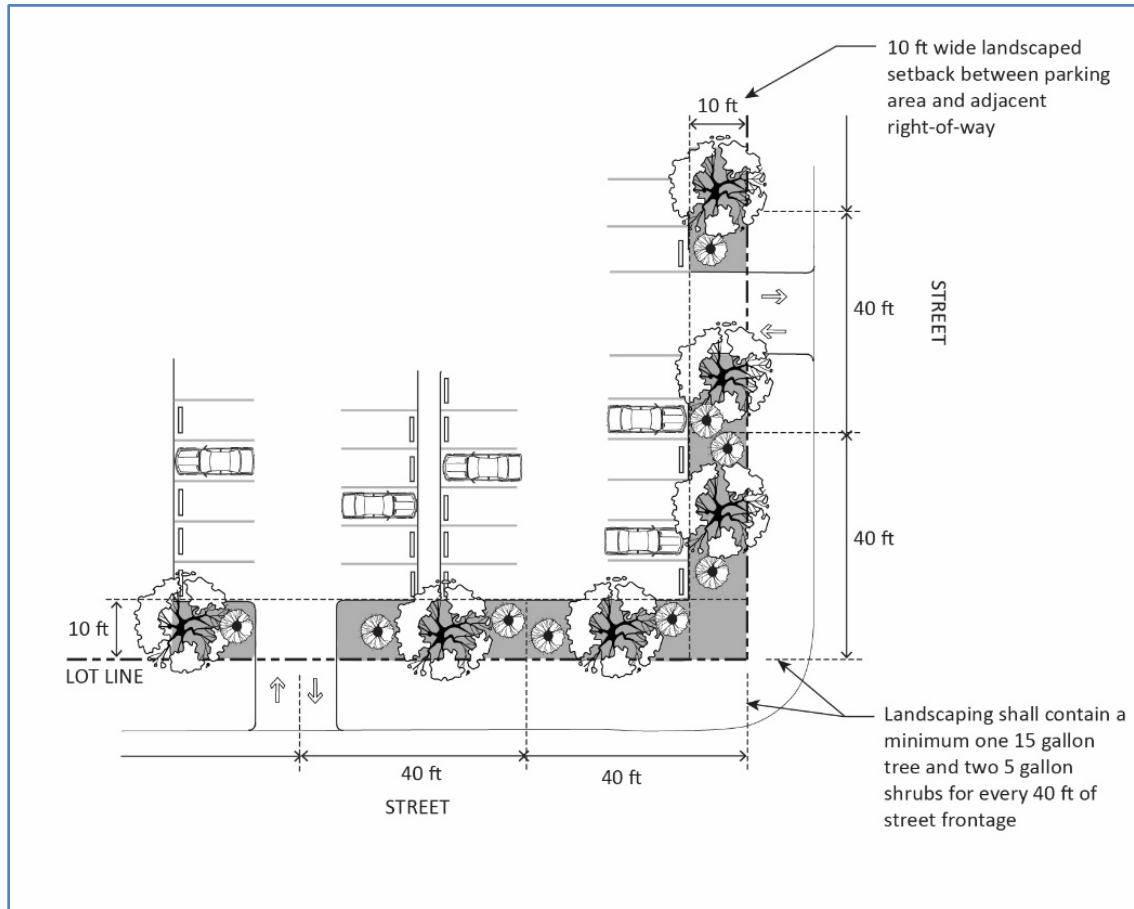
### ***Inflexible Landscaping Standards***

The Land Development Code’s tree and landscaping requirements for new commercial and residential development in greenfield areas are robust and understood through stakeholder and City staff input to work well and to result in high quality development. However, the tree and landscaping requirements lack flexibility when it comes to infill and adaptive reuse projects in older parts of the City. [Section 20-0705 \(Trees and Landscaping\)](#) of the Code contains one set of requirements for all new development in the City whether it is an infill,

greenfield, or adaptive reuse project. [Section 20-0705](#) does include some exemptions that are effective. Yet the flexibility afforded by these exemptions is limited when it comes to infill and adaptive reuse development outside of the University Mixed Use (UMU) district. Exemptions include development in the UMU district and improvements to existing development that does not involve more than 1,000 square feet or ten percent of the building, whichever is greater. Two examples regarding the Code's lack of flexibility pertaining to Section 20-0705 are outlined below:

- Trees and landscaping required through [Section 20-0704 \(Residential Protection Standards\)](#) cannot be counted toward the total tree and plant units required in [Section 20-0705](#). Since the Residential Protection Standards are often triggered with infill or adaptive reuse projects, this can have the effect of limiting development, especially those on smaller lots in the older parts of the City. The Code lacks a comprehensive recognition of the total planting requirements placed on a single development, based on all the individual standards that require landscaping.
- The required location of planting units can also limit development on smaller or irregularly shaped lots in older parts of the City. [Section 20-0705.C.4](#) requires a minimum of 70 percent of the required plant units to be installed along the development's street frontage. Such a high percentage may work well on wide suburban lots but presents significant challenges for older narrow lots common throughout the City's core.

Since much of [Section 20-0705 \(Trees and Landscaping\)](#) concerns spatial requirements (e.g. the location of required planting units, buffer standards, etc.), the lack of illustrations presents a challenge to the layperson, especially to those new to the Land Development Code.



*A Typical Parking Area Landscaping Diagram*

With regard to industrial development, especially large industrial sites involving expansive parking, loading, and circulation areas, stakeholders generally noted that the Land Development Code's requirements pertaining to landscaping and the improvement of parking/circulation areas were not practical and made some new development and additions cost-prohibitive. Since large industrial sites are typically planned and zoned to be located away from high-visibility corridors (such as arterial routes) and do not cater to the general public, some Code requirements for industrial development should not be the equivalent of requirements for commercial development. Outlined below is an assessment of how landscaping and parking requirements compare for new industrial and commercial development:

- Tree and Landscaping Requirements. [Section 20-0705.D](#) includes planting requirements for the parking lot perimeter that are the same for commercial and industrial development ([Section 20-0705.D](#)). However, [Section 20-0705.C](#) does require a lesser amount of planting units in industrial districts than for commercial districts.

- Parking and Loading Area Surfacing Requirements. [Section 20-0701.G](#) allows the rear yard circulation area in the Light Industrial and General Industrial Districts to be crushed concrete or similar material. Depending on development location and the context (i.e. existing buffers or landscaping), practical factors that may allow for crushed concrete or a similar material for industrial development are not considered in the section. Considerations for dust control and the mitigation of storm water runoff are also missing from the section.

### 3.4.3 – Housing Development

The LDC's predominant multi-family housing zoning districts are MR-1, MR-2, and MR-3. These districts are intended to allow development on large suburban lots. For example, front setback requirements are 25 feet and building coverage requirements range from 35 to 37.5 percent ([Article 20-05 \(Dimensional Standards\)](#)). Such restrictive dimensional standards push up development costs by requiring the use of larger lots and making infill or redevelopment in older portions of the City more difficult where smaller lots predominate. As a result, these restrictive requirements decrease the affordability of multi-family housing.

New multi-family housing development on infill or vacant property that requires a zone change or Conditional Use Permit is benefited in areas where the City has identified a future land use designation for the site. However, many developed areas of the City outside of the boundaries of the *Downtown InFocus Plan* and the *Roosevelt-NDSU Neighborhood Plan* do not have an adopted future land use map in place to guide zoning decisions. Therefore, in cases where applicants are seeking to develop higher density housing where a zone change or Conditional Use Permit is necessary, approval cannot be based on a future land use map. This lack of development predictability can easily jeopardize housing projects (such as multi-family and/or affordable housing) that are often supported by complex financing arrangements dependent upon certainty in local land use policies and regulations. The recent Craig's Oak Grove Second Addition proposal including townhomes and an apartment building is a good example of a situation where there was no future land use designation to help guide the proposed change in zoning. While the subdivision and zone change request was approved in late 2019 (for more information, refer to Planning Commission staff report and minutes from September 3, 2019), the lack of future land use direction added a substantial burden on the applicant to prove consistency with *Go2030*. The City is presently moving to provide future land use and policy direction for the City's Core Neighborhoods with the current development of the Core Neighborhoods Plan.

City staff and stakeholders noted the success of the UMU district in providing housing for the NDSU student population. As provided in [Section 20-0501 \(Residential District Standards\)](#), the UMU district allows multi-family housing without less restrictive dimensional standards than

the MR zones (10-foot front setback and 75 percent maximum building coverage). These standards provide an opportunity to create affordable units through development savings on lot size requirements, in addition to less restrictive parking requirements. However, areas zoned UMU are close to build-out, and the district is limited in its application throughout the City to areas “in close proximity to a university or campus setting” ([Section 20-0216 \(UMU, University Mixed Use\)](#)).

The Bonus Density provision ([Section 20-0505 \(Bonus Density\)](#)) as an incentive to increase density and the potential for affordable housing has less potential due to overly restrictive qualifying standards. The qualifying standards include requirements for tuck-under parking, provision of minimum open space of 40 percent, and no allowance for a height increase above the district standards. Combined, the standards have the potential to increase the necessary lot size to earn the added density and, thereby, significantly to increase development costs. The standards also limit the geographical application of the provision to properties large enough to accommodate these standards, making infill and redevelopment difficult.

Other ancillary standards have an impact on the potential for housing affordability. The cost of on-site parking should be considered as part of the cost of the associated housing. The UMU district stands out from other zoning districts that allow multifamily housing, as the district allows a 38 percent reduction in required off-street parking ([Section 20-0701\(Parking and Loading\)](#)). Comments from City staff and stakeholders were generally positive about the functionality of the UMU district, including parking. Subdivision regulations can also have a considerable impact on housing cost. Stakeholder comments related to the development of more affordable single-family housing noted that regulations pertaining to right-of-way improvement standards ([Section 20-0611 \(Streets\)](#)) create cost concerns and impediments to the design of smaller lot, higher density single family residential neighborhoods. As a result, some recent subdivisions have relied on private streets and alternative zoning mechanisms such as PUD or Conditional Overlay zoning.

### **3.4.4 – Subdivisions**

Infill developments that involve a subdivision application to create new lots and rights-of-way in any of the City’s core neighborhoods, are subject to similar limitations noted with the LDC’s zoning regulations. The Code’s street standards ([Section 20-0611 \(Streets\)](#)) allow for a range of local street cross sections, but do not include allowances for alleys, or at least a right-of-way cross section similar to existing alleys in the City’s core neighborhoods. Another element critical to right-of-way cross sections is utility placement. City staff noted that utilities are typically placed in a corridor ten feet in width beginning on the outside edge of the sidewalk. The concern is that utility placement requirements are not referred to directly in the Code.



Rather, the City Engineer is referenced as providing utility “standards and requirements” ([Section 20-0608 \(Utilities\)](#)).

To modify subdivision requirements like the street and utility requirements, some projects in South Fargo have utilized Planned Unit Development (PUD) zoning and private access easements. Infill developers would be expected to use similar tools for subdivision development. The LDC lacks mechanisms that could better facilitate small lot subdivisions, such as greater right-of-way and utility placement flexibility. This flexibility would not only benefit greenfield development in South Fargo but also infill projects in the core neighborhoods.

### **3.4.5 – Code Usability and Format**

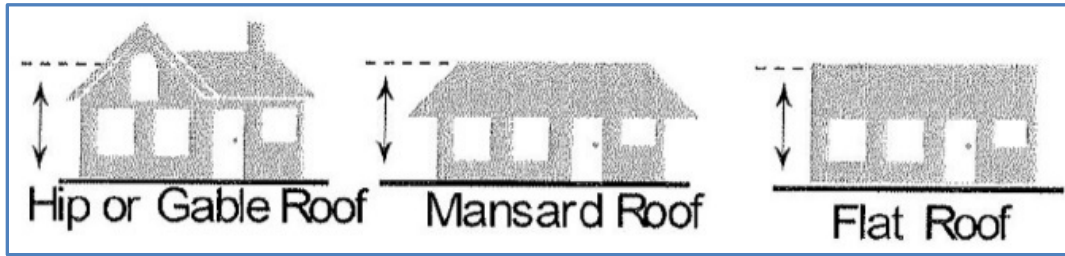
The ability to use and navigate a zoning code is vital to its effectiveness. Easy-to-use and understand land development codes are well organized and formatted, provide necessary cross-references, and utilize tables, graphics, and illustrations. This subsection provides a summary of the usability and format issues which are potential barriers to understanding and using the LDC.

#### ***Submittal Requirements on Application Forms***

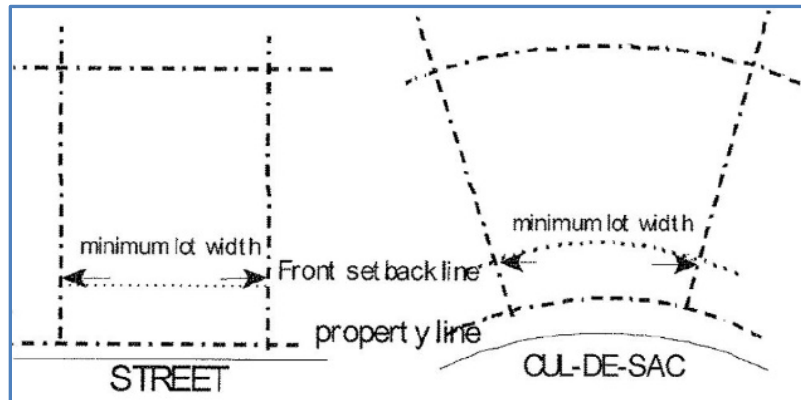
While [Article 20-09 \(Development Review Procedures\)](#) does not include specific submittal requirements for each application type, [Article 20-13 \(Fargo Sign Code\)](#) includes specific application requirements in [Section 20-1303 \(General Standards\)](#). An applicable best practice is to include all submittal requirements on applicable permit/application forms. The advantage of this approach is that if the submittal requirements change they can be adjusted administratively. However, if submittal requirements are included in the LDC, then any change to the requirements will require approval of a text amendment by the City Commission, a process that can be time consuming.

#### ***Need for More Graphics and Diagrams***

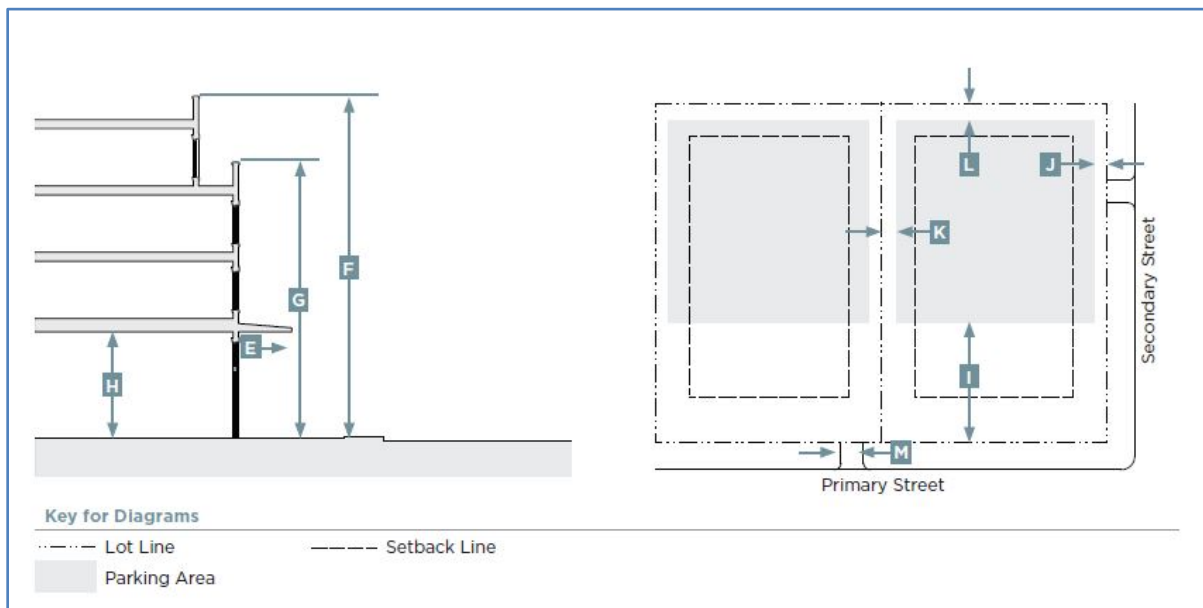
The LDC lacks graphics and diagrams to illustrate and explain its regulatory intent, particularly with dimensional regulations. While [Article 20-05 \(Dimensional Regulations\)](#) includes two graphics for lot width and building height (see diagrams below from [Section 20-0504](#)), it does not include any graphics for other standards such as setbacks and building coverage. Graphics or diagrams are important to illustrate how a setback is measured or how a single-family home can occupy only 25 percent of lot and must comply with minimum setbacks. Land development codes that include clear user-friendly diagrams frequently result in fewer calls to City staff by people seeking clarification of otherwise written code standards.



*Building Height Diagram from the Fargo LDC*



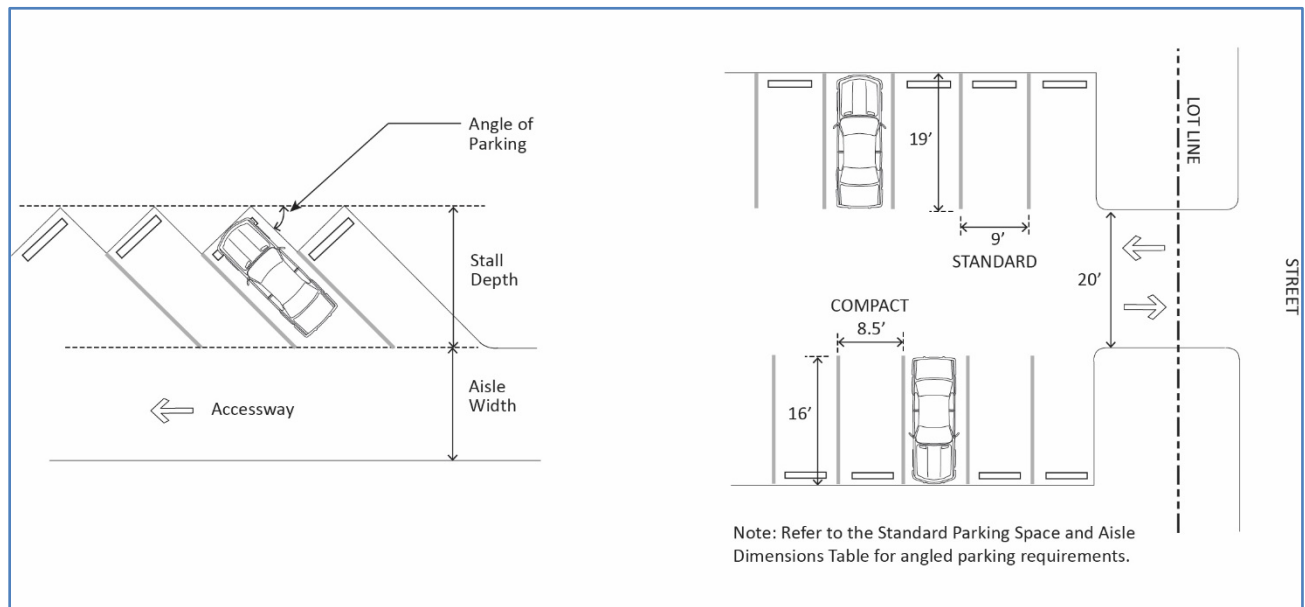
*Lot Width Diagram from the Fargo LDC*



*A Typical Building Height and Setback Diagram*

Another Article that would benefit from graphics and/or diagrams is [Article 20-07 \(General Development Standards\)](#). Like [Article 20-05 \(Dimensional Regulations\)](#), development standards tend to be inherently visual concepts such as the design and layout of an off-street parking lot. A scaled diagram for the off-street parking could display the dimensional requirements of each space, how a lot could conform to the vehicle stacking area requirements, the parking lot

landscape requirements by showing the dimensional areas that would require planting, and the corner visibility requirements for entry and exit in relation to the required landscaping.



*A Typical Off-Street Parking Diagram*

## Section 4 Administration and Procedures

### Subsections:

4.1 LDC Administration and Development Review Procedures

4.2 Diagnosis and Findings

### 4.1 Administration and Procedures

#### 4.1.1. Permits and Approvals

The LDC establishes several procedural requirements that applicants must follow depending on the proposed use, configuration, site design, or if a variance or other exceptions are requested. Procedures include legislative processes, such as rezoning and LDC amendments, and administrative processes such as planning permits and approvals. Certain projects must undergo Site Plan Review in compliance with [Section 20-0910 \(Site Plan Review\)](#). The threshold for Site Plan Review varies by project type (e.g. residential, commercial, industrial) and other factors, such as the size or location of the development.

Table 4-1 (Permits and Approvals) identifies the responsible review authority and noticing and hearing requirements for all types of LDC procedures.

Table 4.1.1 – Permits and Approvals								
Type of Procedure	Review Authority					Notice Required	Hearing Required	Article/Section
	Staff	HPC	BOA	PC	BCC			
<b>LDC Text Amendments</b>	Review	-	-	Review	Decision	Yes	Yes	Article 20-09 (Section 20-0904)
<b>Area Plan</b>	Review	-	-	Review	Decision	Yes	Yes	Article 20-09 (Section 20-0905)
<b>Zoning Map Amendments</b>	Review	Review	-	Review <sup>1</sup>	Decision	Yes	Yes	Article 20-09 (Section 20-0906)
<b>Subdivision</b>								Article 20-09 (Section 20-0907)
Minor	-	-	-	Review	Decision	Yes	Yes	
Major	Review	-	-	Review	Decision	Yes	Yes	
<b>Planned Unit Developments</b>								Article 20-09 (Section 20-0908)
Master Land Use Plan	Review	-	-	Review	Decision	Yes	Yes	
PUD Rezoning	Review	-	-	Review	Decision	Yes	Yes	
Final Development Plan	Review	-	-	Decision	Appeal	Yes	Yes	
<b>Conditional Use Permit</b>	Review	-	-	Decision	Appeal	Yes	Yes	Article 20-09 (Section 20-0909)

**Table 4.1.1 – Permits and Approvals**

Type of Procedure	Review Authority					Notice Required	Hearing Required	Article/Section
	Staff	HPC	BOA	PC	BCC			
<b>Site Plan Review</b>	Decision	-	-	Appeal	Appeal <sup>2</sup>	No	No	Article 20-09 (Section 20-0910)
<b>Institutional Master Plan</b>	Review	-	-	Decision	Appeal	Yes	Yes	Article 20-09 (Section 20-0911)
<b>Certificates of Appropriateness</b>	Review & Decision <sup>3</sup>	Decision & Appeal <sup>3</sup>	-	-	Appeal <sup>2</sup>	No	No	Article 20-09 (Section 20-0912)
<b>Building Permits/Certificates of Occupancy</b>	Decision	-	Appeal	-	-	No	No	Article 20-09 (Section 20-0913)
<b>Variances</b>	-	-	Decision	-	Appeal	Yes	Yes	Article 20-09 (Section 20-0914)
<b>Written Interpretations</b>	Decision	-	Appeals	-	-	No	No	Article 20-09 (Section 20-0915)
<b>Appeals of Administrative Decisions</b>	-	-	Decision	-	Appeal	Yes	Yes	Article 20-09 (Section 20-0916)

**Key:**

HPC – Historic Preservation Commission;

BOA – Board of Adjustment;

PC- Planning Commission;

BCC- Board of City Commissioners

**Notes:**

1) Historic Preservation Commission is involved only on H-O District applications, pursuant to Section 20-0305

2) Appeals are not required to go to Planning Commission and Board of City Commissioners. Board of City Commissioners acts as appellate body only if the Planning Commission's decision is appealed.

3) Review, Decision Making and Appeals process is different depending on nature of request. See Section 20-0912

**4.1.2. Review Process**

The Fargo Planning Department manages the review process from application submission until the review authority's final decision. All applications must be on a form required by the Department and accompanied by applicable fees. Detailed review procedures are established for each permit or approval type, ([Sections 20-0904 - 20-0916](#)), and include information regarding application requirements, review and approval criteria, and any post decision procedures such as appeals and expiration.

Apart from a Site Plan application, the City's website offers all applications regarding land use and zoning, variances, subdivisions, and administrative review along with their associated fees.



## 4.2 Diagnosis and Findings

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### 4.2.1 Zoning Map Discrepancies

The City's website contains two different zoning maps, one is a PDF that was last updated in May of 2017 and the other is an interactive GIS map that seems to be updated regularly. While neither the North Dakota Century Code nor the LDC contain any specific requirement for an 'up-to-date and accurate zoning map', keeping only one zoning map on the website will provide more clarity to residents visiting the website. It is a common best practice to have a single zoning map on a City's website that can be updated regularly with ease, not only with new property information but new layers such as Planned Unit Development designations and Renaissance Zones, which is a State program that incentivizes development in certain areas via tax credits. Given that the interactive GIS map contains much more information and is up to date, it would be advantageous to eliminate the May 2017 PDF zoning map from the website entirely to avoid confusion.

### 4.2.2 Predictability and Clearer Thresholds in the PUD Approval Process

Many stakeholders commented on the unpredictability of the PUD approval process for both developers and residents. Some residents contend that the use of PUDs is too widespread and that they are not being implemented with the neighborhood context in mind. Residents also assumed that PUDs are a tool for developers to be able to build what they want, without having to follow the standards in the established base zoning district. Some of the recent PUDs were approved after lengthy negotiations with neighborhood groups, but this important part of the process is not reflected in the LDC. On the other hand, some developers said that the PUD allows them to build denser, mixed-use developments with abundant on-site parking, and that the approval process is lengthy, contentious, and political. Both groups agreed that the process does not work for either side; residents feel that PUDs erode their neighborhood character while developers see it as the only tool to build denser residential or mixed-use buildings outside of the UMU and DMU districts. Despite disagreement on the use of PUDs, both sides agree that the process is inherently unpredictable and there are no discernable thresholds within the LDC when utilizing the PUD process as a zoning tool.

### 4.2.3 Consistency in Implementation of Residential Protection Standards

Like PUD's, stakeholders identified the Residential Protection Standards as needing more clarity, not only in the approval process but also with enforcement. Residents stated that the standards are not being followed and developers regularly obtain waivers for some standards.

On the other hand, developers said that the standards are not clear enough, which presents issues with interpreting the regulations, and they do not have enough built-in flexibility.

[Section 20-0704 \(Residential Protection Standards\)](#) of the LDC lays out all the additional standards for non-residential properties adjacent to residential zoning districts. These standards serve as buffers between the residential and non-residential properties in addition to the setback required by the property's base zoning district. The Residential Protection Standards consist of requirements for additional setbacks, visual screening of dumpsters and outdoor storage areas, building height, landscape buffers, additional light and odor provisions, and reduced operating hours for refuse and loading. Each standard has a level of specificity that would make it difficult for every project to be fully compliant without a waiver. For example, "Residential Protection Landscape Buffers must be installed or preserved along lot lines adjacent to any SR-, MR-, or MHP-zoned property. Plantings in Residential Protection Landscape Buffers are not counted toward the plant unit requirements of the Open Space Landscaping Requirements of [Section 20-0705.C.](#)" The Landscape Buffer standards, in addition to the Landscaping Requirements, may make compliance difficult due to several limiting factors including lot sizes, lot occupation, setbacks, and cost. As a result, an applicant is forced to abide by two sets of standards, which opens the door for inconsistency in implementation. The Residential Protection Standards make the base zoning district standards seem inadequate or irrelevant in many parts of the City. In addition, if waivers are being granted on a consistent basis, it is indicative that many of these standards cannot be practically applied in the way they were intended.

#### **4.2.4 Transparency with the Creation and Management of Conditional Overlays**

Conditional Overlays (CO) are a zoning tool intended to provide additional protections to properties to ensure compatibility among incompatible uses, ease the transition between zoning districts, address sites or uses with special requirements, and to aid development in unique circumstances. While COs can act as a safety-net for some projects, many stakeholders feel that the process to approval is arduous and can yield some unwanted results. [Section 20-0303](#) contains six specific standards for which restrictions and conditions could be imposed:

- Prohibiting otherwise permitted or conditional uses and accessory uses or making a permitted use a conditional use;
- Decreasing the number or average density of dwelling units that may be constructed on the site or limiting the size of nonresidential buildings that may be placed on a site;
- Increasing minimum lot size or lot width;
- Increasing minimum yard and setback requirements;

- Restricting access to abutting properties and nearby roads; and
- Creating and enhancing design standards, landscaping requirements, and pedestrian and vehicular traffic guidelines and standards for development within the district.

As part of the approval of a Conditional Overlay, a new allowable use that was otherwise prohibited may not be allowed nor can a CO reduce dimensional standards, such as a setback; Similarly through a CO, standards may only be increased and not decreased. Additionally, the [Section 20-0303.C](#) clearly states that “requirements of a C-O district are in addition to and supplement all other applicable standards and requirements of the underlying zoning district”. The concern with Conditional Overlays is that they inherently treat similarly situated properties differently and it can be hard to find a rational basis for the variation in applied standards. Conditional Overlays are often included as part of a negotiation between a property owner/developer and nearby residents in a zoning case in which the property owner receives the rezoning in return for agreeing to certain conditions, such as a prohibition of certain uses or a height limit on the building(s).

Despite how specific standards in a CO may be, many stakeholders felt a sense of an overall lack of transparency with how the CO standards are created and how they are enforced once a project is completed. In addition, CO’s are sometimes a request made by the City to an applicant, usually to implement design standards in commercial districts. According to City staff, most design standards are created without any references to the Code or based on any approved guidelines.

Typical best practices suggest that when a tool such as a CO is used to establish, for example, design standards in commercial districts, then it is preferred to adopt design standards for those commercial districts and to include them in the Code. Under this approach, all developments in commercial districts would be subject to the same standards and the need for COs would be eliminated, with the added benefits of reducing costs to both the City and developers, providing certainty for all parties, and consistency in the application of design standards.

#### **4.2.5 Clear Thresholds for Discretionary Review**

Both City staff and stakeholders expressed concern with unclear review processes, particularly with vague language embedded into approvals. One example is that Historic Overlay approvals frequently contain vague conditions such as, “... [buildings] must match the original building in design, dimension, detail, texture, and pattern.” None of the terms listed are defined in an objective way and are enforced subjectively as a result. The approval of a building in this

Historic Overlay could become confusing for an applicant given there are no specifically defined parameters for approval.

Similarly, many of the CO districts contain subjective design language that is difficult to enforce and vague for any potential applicant. For example, “All primary buildings shall be constructed or clad with materials that are durable, economically maintained, and of a quality that will retain their appearance over time...”. Terms such as ‘durability’ and ‘quality’ are subjective in nature and can only be determined by the Planning Director or his/her designee, leading to project approvals based on opinion-driven design decisions. Similarly, attempts to dictate the color of buildings by saying, “Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building” are inherently subjective. This regulation attempts to address cohesion and a unified rhythm to a building façade but without any sort of dimensional requirement or enforceable provision. While the idea of the Conditional Overlay is to provide more protections where they are necessary, they frequently result in widespread subjective approvals that are unlikely to be enforced later due to vague regulatory language.

#### **4.2.6 Availability of Information**

##### ***Official Zoning Map***

As noted above, the City’s discrepancy between the PDF Zoning Map and the GIS Zoning Map could potentially be a source of confusion for applicants given that the PDF version has not been updated with the same regularity as the GIS version.

The location of the two Zoning Maps on the City website is also a noted issue for applicants or other members of the public. Ordinarily, zoning maps are located on the Planning Department page due to their departmental relevance. The City of Fargo’s website has a dedicated page labeled as “City Maps” that is meant to be a one-stop-shop for all City maps. Once on that page, it is not immediately clear where the zoning map would be located. A user must first assume that it would be found in the “PDF Maps” page and then find a link labeled “Fargo Property Zoning”. In addition, there are no other external links to the Zoning Map within the other pages of the website, and it can only be accessed through the City Maps page which is only on the front page of the website. City staff have mentioned the amount of public inquiries they receive regarding the location of the Zoning Map, which is likely due to its unapparent location within the website.

### ***Site Plan Application***

The internal practice of “Site Plan Applications” within the Planning Department is a crucial missing piece in information available to the public on processes and procedures. While, in [Section 20-09 \(Development Review Procedures\)](#), the LDC calls out Site Plan Review as one facet of the City’s Development Review Procedures, the Site Plan Application form is not available on the Land Use & Zoning Applications & Requests page. In addition, there is no physical Site Plan Application that is processed by the Planning Department as Site Plan Review is based on Building Permit Applications routed to the Planning Department after a discretionary decision that the application requires Site Plan Review. Although the LDC does establish thresholds for applications that require Site Plan Review in [Section 20-0910 \(Site Plan Review\)](#), it is unclear whether these are strictly adhered to. This is just one example of an established internal process that is not reflected in the LDC or any other available public document.

### ***Subdivision Parkland Dedication***

The Subdivision Park District dedication practice is another example of a process that is not codified. The subdivision regulations within the LDC do not require parkland dedication for each approval yet staff as an internal practice recommends the applicant negotiate with the Fargo Park District, which is a separate taxing entity not affiliated with the City, to dedicate parkland. An average of 8 percent of land ends up dedicated to parkland. In addition, an uncoded option allows an applicant to pay an in-lieu fee for parkland dedication.



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## Section 5 Legal Compliance

A review of the LDC, supplemented by information provided by City staff (Memorandum: Legal Considerations for Fargo Land Development Code Diagnostic, February 5, 2020) yielded some potential legal concerns relevant to the LDC Diagnostic Report. Important topic areas are identified in the narrative below that warrant further review and discussion with the City Attorney's office to ensure any update to the LDC is consistent with state and federal law.

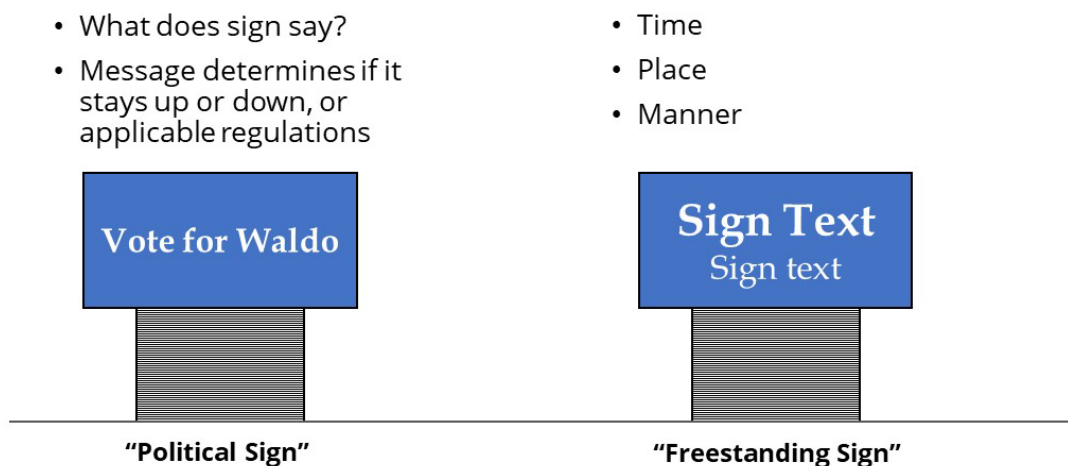
### 5.1.1 Compliance with *Reed v. Town of Gilbert*

The City's sign regulations are located in [Article 20-13 \(Fargo Sign Code\)](#). In June 2015, the U.S. Supreme Court decision in *Reed v. Town of Gilbert* (No. 135 S.Ct. 2218, 2015) affirmed that sign regulations generally must be "content-neutral" to survive a legal challenge. Content-based regulations are subject to what is called a "strict scrutiny" standard – that is, a compelling governmental interest must be demonstrated, and regulations must be narrowly tailored to serve that interest.

Since the *Reed* decision, several lower courts have invalidated content-based regulations of noncommercial speech, particularly those relating to political signs (*Marin v. Town of Southeast*). The lower courts have also upheld several examples of content-neutral time, place, and manner regulations, including restrictions on painted wall signs (*Peterson v. Village of Downers Grove*), murals (*Kersten v. City of Mandan*), and a New York City prohibition on illuminated signage extending more than 40 feet above curb level (*Vosse v. City of New York*). In *Central Radio, Inc. v. City of Norfolk*, the lower court looked unfavorably at incomplete exemptions for artwork, and flags of certain jurisdictions.

"Time, place, and manner" restrictions, as the name suggests, limit the length of time, the manner, and place or location of a sign. As an example, well-written sign regulations may include a limitation on the length of time the sign may be displayed, especially for portable or temporary signs, such as A-frames or banner signs; restrictions on the total area, maximum height, or illumination of a sign; and where the sign may be placed (i.e. so as not to encroach within the public right-of-way)

## Content-Based Regulations vs. Content-Neutral Regulations



*The Distinction Between a Content-Based and Content-Neutral Sign*

### 5.1.2 Conditional Overlays

See Section 4.2 (Diagnosis and Findings) for more on Conditional Overlays.

Conditional Overlays are used in a number of US cities of all sizes, yet there is growing concern that while conditional overlays are a tool to promote development, and potentially to allow surrounding property owners to be involved in the development to ensure they too benefit from it.

It is recommended that further discussions with City staff and the City Attorney's office should be conducted to determine how best to address those Conditional Overlays that are already approved and in place, and whether Conditional Overlays should be allowed in the future.

### 5.1.3 Exactions for the Dedication of Parklands

See Section 4.2 (Diagnosis and Findings) for more on Exactions for the Dedication of Parklands.

It is recommended that the LDC include a new section that specifically authorizes and establishes procedures for the dedication of parkland and circumstances and procedures for the payment of in-lieu fees.

#### **5.1.4 Increasing the Notification Boundary Beyond 300 Feet**

The LDC (e.g. [Article 20-09.F \(Notices\)](#)) requires that letters be sent to owners of property within 300 feet of the boundary of a new development that may be subject to, for example, development review, conditional use permit approval, or a zone change. Like most jurisdictions, City staff will increase this boundary when deemed appropriate to ensure that additional property owners are notified, especially in rural locations where the parcel size is large or when a development application is expected to be controversial so that as many people as possible may be informed.

It is recommended that the noticing section of the LDC include specific language that grants the Director of Planning & Development authority to expand the notification boundary subject to specific conditions and/or criteria. This is a typical best practice utilized by many planning jurisdictions across the country.

#### **5.1.5 Telecommunications Regulations**

The Telecommunications Act of 1996 as amended (47 U.S.C. § 332(c)(7)(B)) limits state or local governments' authority to regulate the placement, construction, and modification of personal wireless service facilities. State or local governments must not unreasonably discriminate against the providers of functionally equivalent services and not prohibit or effectually prohibit the use of personal wireless devices. Further, state or local governments must not regulate the placement, construction, and modification of personal wireless service facilities based on the environmental effect of radio frequency emissions, to the extent that such facilities comply with FCC regulations. With regard to development applications for telecommunication facilities, state or local governments must act on applications within a reasonable time. If the application is denied, the reason(s) for the denial must be in writing supported by substantial evidence.

It is recommended that a thorough review of the LDC existing provisions for telecommunications facilities ([Section 20-0402.N \(Telecommunications Facilities\)](#)) be conducted to ensure that all new requirements are included in the Code, including for example, for small cell wireless (which may be located in the City's Public Works or Engineering Standards instead) and any updated notification procedures.

### **5.1.6 Zoning of State and Federal Land**

In most US states, local zoning regulations, such as the City's LDC, do not apply to land owned and managed by the state or the federal government. It is our understanding that this is also true in North Dakota. Therefore, while agreements may be established between federal agencies such as the US Post Office or state agencies such as North Dakota State University, that permit the City to apply all or a portion of its zoning regulations on these properties, technically they are exempt from zoning regulation.

The applicability chapter of the LDC should include a statement(s) clarifying the applicability of the City's zoning regulations on federal and state lands.

### **5.1.7 Overly Vague Language in Conditional Overlays**

City staff have identified some provisions in the Historic Overlay and Conditional Overlay Districts that are overly vague, subjective, and difficult to apply. This is typical of many older zoning codes like the Fargo LDC that has received many incremental updates over time. And as noted previously, one of the concerns with Conditional Overlays is that they may impose similar yet varying requirements (e.g. design standards) from one property to another.

### **5.1.8 Overly Vague Language in Historic Districts**

It is recommended that all design standards must be reviewed and updated using established best practices to ensure that they are written as objectively as possible. Statements like "...additions over XX square feet must match the original building ..." can be rewritten as "...additions over XX square feet must be designed using the same materials, form, window treatments, and architectural details of the original building ...





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## Section 6 Economic and Fiscal Implications

### 6.1.1 Introduction

As part of the overall analysis of the LDC, LWC has been asked to provide information on economic and fiscal implications of the existing development code. As specific recommendations for modifications to the Code will be provided after the diagnostic phase of this assignment, it is useful to contextualize the economic and fiscal implications of the typologies that are identified in *Go2030* and its implementing documents. This section provides overview information about the economic performance of urban design standards and the creation of walkable mixed-use developments and districts from a general perspective.

### 6.1.2 Benefits of Urban Design

A comprehensive and balanced approach to urban design can produce a number of benefits for a community. In general, spaces that are conducive to longer term use and convivial public life can create several economic benefits, namely, the desire for people to congregate in pleasing and comfortable spaces leads to an increased length of stay within a district. The extended stay results in economic premiums for businesses and residents located within these areas. Overall, desirable spaces create economic returns. Beyond increased rents, land values and economic activity, many other kinds of 'value', both tangible and intangible, can be considered including environmental, social, or cultural benefits. The benefits of good urban design often accrue to the wider community; therefore, many stakeholders have an interest in what takes place at both the scale of an individual project and the scale of the community's over all distribution of land use. This logic is supportive of the goals of the North Dakota Main Street Program that seeks to assist economic competitiveness by creating spaces in communities that will be attractive to new investment and employment.

Experience in communities throughout the United States and internationally lead to some broad conclusions that are relevant for Fargo. Examples that illustrate the opportunities and benefits that can come from integrated mixed-use approaches are described below.

The Aksarben village neighborhood in Omaha, NE was developed between 2006 and 2010. This mixed-use neighborhood integrates a variety of residential typologies along with commercial uses. The community was an infill project that reused the site for a former horse racing track.

Aksarben Village has evolved into a major employment center and is the locations of the headquarters for Blue Cross Blue Shield of Nebraska, First Data, a leading Omaha based technology firm, and several other key professional service companies. Within the village itself



*Aksarben Village - Mixed-Use Buildings and Public Plaza (Credit: Lamp Rynearson)*

Aksarben Village has evolved into a major employment center and is the locations of the headquarters for Blue Cross Blue Shield of Nebraska, First Data, a leading Omaha based technology firm, and several other key professional service companies. Within the village itself there are multifamily residential buildings that are integrated into the overall site plan of the district. Other amenities within the Aksarben development include a Marriott Hotel, and a multiplex cinema. The University of Nebraska-Omaha is also a major presence within the neighborhood having contributed a student housing and an arena to the site. The development has been an important catalyst in the overall growth and development of Omaha.

Stapleton, CO in Denver, is seen as a national model for an integrated, mixed-use approach to community development. Located on the site of Denver's former international airport, the community's design standards focused on creating a walkable mix of energy-efficient residential neighborhoods, retail districts, schools, offices connected by a network of parks and open spaces. Stapleton has seen some of the fastest appreciation for real estate in the metropolitan area since its development and has served as a model for Denver's approach of integrated neighborhood development.



*Stapleton, CO - Walkable, Mixed-Use Development (Credit: Great American Country)*

The experience of developments such as Aksarben and Stapleton have illustrated the following general themes:

- Good urban design integrates a mix of uses. This can offer significant benefits to the community in terms of economic returns, stability and improved adjacencies and synergies.
- Integrated mixed-use development approaches can sometimes require greater capital investment than conventional development. While this may be true at the level of the individual building, often it is a matter of intelligently considering the placement of structures on a development site, considering the relationships to the street and neighboring buildings or simply thinking creatively about the use of space within a project. In general, a well-produced project will generate better returns over the long run that will offset some initial costs that may be incurred. In addition, careful consideration of how sites are used can lead to a reduction in long-term costs.
- Communities tend to value the better quality of life that good urban design can deliver.



- Urban design can help make communities safer and more secure by creating active public spaces.

Urban design that promotes a higher density of buildings and public spaces (in conjunction with other conditions, such as mixed use, good building design and adequate open space) can:

- Provide cost savings in terms of land, infrastructure requirements and energy use.
- Reduce opportunity costs associated with congestion and additional vehicle trips.
- Support spaces for higher value economic activities, including retail districts and higher value employment spaces.
- Promote social connectedness and vitality.

Synergies can be created that offer increasing returns and create premium rents and land values stemming from increased economic performance. The performance increase can come through internalizing consumer expenditures within a mixed-use district from residents, employees, and visitors.

### ***LDC issues***

The current LDC does not allow Fargo to take advantage of the economic benefits that accrue from good urban design. The LDC's base zoning districts, other than DMU and UMU, do not include any reference to design standards. The approach of including design standards in a flexible and strategic manner can be an important feature that would be supportive towards the implementation of the goals that are included in *Go2030*. These development standards, when clearly articulated, can serve to support economic development by promoting higher quality development that is best suited to produce external benefits to the district and community at large while producing space that meets the requirements of the development program on site.

#### **6.1.3 Benefits of Walkable Mixed-Use Districts**

Walkable and mixed-use districts in urban centers have repeatedly been shown to lower some costs of local government associated with capital costs for infrastructure and service delivery. Mixed use and denser walkable cores are almost always linked to greater land values due to fundamental land use economics. When zoning allows for more programming to be placed in the same space, the underlying value of the land increases. The increase can establish a self-reinforcing system where higher land costs encourage greater density and compact development within urban nodes.



*Typical Walkable, Mixed-Use Neighborhood (Credit: PlaceMakers)*

Since the 1970s, significant research has studied the relationship between compact development and infrastructure costs. A series of reports by the federal government, including the seminal Cost of Sprawl report published in 1974 by the Real Estate Research Corporation, found that water, sewer, and road infrastructure cost was reduced on a per capita basis in denser developments. Later independent research has corroborated these findings. In general, a consensus has developed that compact development patterns substantially reduce infrastructure costs across a range of services including transportation capital investment, utilities, and infrastructure maintenance. Maintenance of existing infrastructure is also reduced in a compact development scenario.

Walkable Mixed-Use Centers can have the following benefits:

- Dense development lowers infrastructure costs because each mile of road or sewer line serves more development. Mixing uses also creates infrastructure efficiencies because it eliminates the need to provide parallel infrastructure systems to residential and nonresidential areas.
- In addition to lower infrastructure costs, dense, mixed-use development generates more revenue and fewer costs for the City budget. Multifamily housing produces more tax



revenue and requires less infrastructure and service costs per unit. Denser retail and office developments also produce more property and sales tax revenue.

- Dense development consumes less land and saves open space for agriculture and habitat. Studies from around the country have found that dense development alternatives consume between 10-40 percent less land.
- Higher density, mixed use areas are more aesthetically pleasing than homogenous, low density areas. Walkable mixed-use centers support promoting and cherishing places with distinct identities, character, and appearance.
- It has been well documented that a community viewed as having a high quality of life will attract and retain population and households within the City, which is in line with the goals of the North Dakota Main Street initiatives. Additionally, walkable mixed-use centers provide a greater range of local services and amenities and encourage people to walk, shop, and consume a meal.
- Denser areas are better able to support entertainment uses or cultural institutions. Savings on infrastructure and development costs leave more resources to invest in public art and cultural amenities.
- Dense, mixed use areas have more eyes on the street, which reduced opportunities for crime.

### ***LDC Issues***

Within the current LDC, mixed-use development is only envisioned as occurring within the Downtown Mixed-Use (DMU) and University Mixed Use (UMU) zones. This kind of space can also be produced through the use of Planned Unit Developments (PUD), Conditional Overlays (CO) and Conditional Use Permits (CUP). However, the application of these two tools have the possibility of creating irregular and uneven development standards and can introduce additional uncertainties and costs for a project. The lack of certainty within the LDC serves to disincentivize the production of walkable mixed-use projects.

#### **6.1.4 Potential Economic Barriers**

Although popular with many stakeholders and increasingly common in cities across the US, there are certain barriers to implementation for walkable mixed-use developments. Some of these barriers are related to inadequate or antiquated land use regulations but others are result of the financial and investment climate. The financing of mixed-use development can be more complicated than if each individual program element was to be developed independently. Lenders have been slow to accept the important change in the design and approach to mixed-use development especially in secondary markets, although an established track record of success can lead to increased investor interest. Lending institutions typically tend to overlook the unique circumstances of pedestrian-friendly projects and for these institutions, high parking requirements are typically a precondition of financing. Further

complicating this is the tendency for developers to concentrate on specific programs. For example, residential developers are often unfamiliar with the requirements for commercial projects and the same is true for developers who specialize in commercial projects. Similarly, a division exists between developers and investors who favor new greenfield sites as opposed to those comfortable working in an infill or redevelopment context. The recruitment and attraction of experienced developers can be a significant impediment to the successful implementation of walkable mixed-use projects.

Related to financing, capital construction costs can also be an issue. The main savings from the investment side in producing a mixed-used development project comes from the reduction in parking requirements. Structured parking, which is often required when projects are developed at urban destinies, can be prohibitively expensive. Shared parking programs, internal trip capture, and a reduction in off street parking requirements are often required as part of any strategy to produce mixed use projects. Other capital costs can increase as projects become denser. Projects that need to shift to from a modified Type V construction to Type I construction can be difficult to develop due to increased construction costs. When projects are developed at on an infill or redevelopment site, retrofitting of existing infrastructure or off-site improvements may be required. These costs can add to the complexity of successfully developing these projects. However, costs for new infrastructure improvements to the public realm and off-site requirements can be mitigated through public private partnerships and development agreements where there are opportunities for appropriate public investments.

Finding an appropriate tenant mix can also be a challenge within mixed-use development projects. Correctly sizing the retail and commercial mix to overall market demand can be a critical factor of success with these projects. Often, development codes can require more retail space than can be supported by the market. Allowing flexibility in programming within development codes can serve as an incentive for developers by allowing them to react more specifically to highly local conditions or in reaction to the competitive market. Development codes that focus on the form and performance of mixed-use developments tend to yield better results than codes that are focused on specific targets or requirements of specific program elements. For example, ground-floor retail requirements have been found to inhibit successful implementation of mixed-use projects particularly in contexts with height limitations or for projects that are located away from commercial areas. Smaller amounts of retail development can be successful in these contexts when they largely serve to amenitize the residential component. Codes that allow for live/workspace, commercial office, or other types of program on the ground floor can help encourage the production of mixed-use projects.

Related to issues of program mix within projects, is the need to identify suitable sites for walkable mixed-use projects. These projects typically require sites with high visibility and accessibility. Often, the best sites for these types of projects and districts require a redevelopment approach. This approach can include the need to assemble parcels to establish a site with enough scale to support a meaningful walkable mixed-use development project, redistrict or an infill approach to insert the project within the existing urban fabric. This is less of an issue in greenfield development sites on the margins of an urban area, however frequently the most attractive locations for these types of projects require a level of urban intensity that is associated with existing commercial corridors and districts. The ability to assemble large enough sites to develop supportable projects along with the need to coordinate development with the needs of complex field of existing stakeholders and neighbors can also serve as an impediment towards implementation.

### **6.1.5 Summary and conclusions**

The desire to create walkable mixed-use urban projects and districts within Fargo is likely to produce an increase in economic vitality, reduction in service delivery costs, and increasing returns on investment for successful projects. In order to realize these benefits, it is important to develop supportive policies that leverage the inherent advantage of mixed-use development programs within Fargo's development codes. Potential policies could include a strategy that recognizes the need to reduce the provision of structured parking spaces, opportunities to increase overall site density and flexibility on program within the building envelope. Additional supportive policies can include public-private partnerships for the provision of infrastructure and improvements to the public realm and where appropriate assistance with site assembly or redevelopment of existing property.

Developers face challenges with walkable mixed-use projects due to the complex nature and program mix. Communities generally find it is not enough to change development codes to attract this kind of investment. Additional supportive policies are a critical factor in success for implementation of these types of projects. Appropriate sites and districts must be identified that are suitable for higher intensity development with land use controls that allow for flexible and dynamic approach to market in order to attract the interest of investors.

The existing LDC can be modified to address the regulatory impediments to producing mixed use projects. Areas of particular concern include limited locations where these projects are clearly allowed as of right and the need to engage in an uncertain or lengthened process for CO or PUD based approvals. Beyond land use designations, future revisions to the Code should allow for value capture that can come from this type of development via reduced infrastructure costs—particularly for parking. Shared parking and reduced parking

requirements that recognize internal trip capture can serve as an incentive to develop these types of projects. Amending the LDC to provide a dependable and favorable regulatory framework will be required in order to allow for the production of the types of projects identified in *Go2030*.

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## Section 7 Conclusion

This Diagnostic Report evaluates the City of Fargo's Land Development Code and highlights problem areas. Diagnostic reports serve as a foundation for short-term and long-term revisions to the LDC, not only to fix issues that are uncovered, but also they provide a framework for updating and modernizing regulatory standards. Overall, the LDC fails to implement the goals of the *Go2030* Comprehensive Plan in certain key areas. For example, the goal of creating walkable, mixed-use centers is only possible in a small portion of the City whereas *Go2030* strives to make this possible in areas outside of downtown.

Moving forward, LWC and City staff will work together to create a list of alternative actions to address the issues identified within the LDC. In coordination with the City planning staff, Planning Commission, Board of City Commissioners, residents, and stakeholders, LWC will create preferred alternatives for how the LDC may be updated, as well as a work plan for implementation.



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