

FARGO PLANNING COMMISSION AGENDA
Tuesday, February 4, 2025 at 3:00 p.m.

A: Approve Order of Agenda

B: Minutes: Regular Meeting of January 7, 2025

C: Public Hearing Items

- 1a. Continued hearing on an application requesting a Zoning Change from MR-3, Multi-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay on the proposed **Broadway Commons Addition**. (Located at 1004, 1014, and 1024 Broadway North; 1013 and 1017 7th Street North) (Silver Leaf Properties/MBN Engineering, Inc/Gleason Companies) (dk): CONTINUED TO APRIL 1, 2025
- 1b. Continued hearing on an application requesting a PUD, Planned Unit Development Master Land Use Plan on the proposed **Broadway Commons Addition**. (Located at 1004, 1014, and 1024 Broadway North; 1013 and 1017 7th Street North) (Silver Leaf Properties/MBN Engineering, Inc/Gleason Companies) (dk): CONTINUED TO APRIL 1, 2025
- 1c. Continued hearing on an application requesting a Plat of **Broadway Commons Addition** (Minor Subdivision) a replat of all of Lot 1, all of Auditor's Lots A, B, E, F, and G and a portion of Lot 6 of Marelius' Subdivision of Block 18 of Chapin's Addition and part of Auditor's Lot C of Block 17 of Chapin's Addition to the City of Fargo, Cass County, North Dakota. (Located at 1004, 1014, and 1024 Broadway North; 1013 and 1017 7th Street North) (Silver Leaf Properties/MBN Engineering, Inc/Gleason Companies) (dk): CONTINUED TO APRIL 1, 2025
2. Continued hearing on an application requesting a Conditional Use Permit to allow group living in the SR-2, Single Dwelling Residential zoning district on Lot 11, Block 9, **Edgewood Second Addition**. (Located at 213 Forest Avenue North) (Connecting Point, LLC/Brad McCaslin) (dk)
- 3a. Continued hearing on an application requesting a Zoning Change from AG, Agricultural to LI, Limited Industrial with a C-O, Conditional Overlay on the proposed **Northdale First Addition**. (Located at 4300 County Highway 81 North) (Allstar Land Company/Christianson Companies, Inc.) (dk)
- 3b. Continued hearing on an application requesting a Plat of **Northdale First Addition** (Major Subdivision) a plat of an unplatted portion of the Southeast Quarter of Section 15, Township 140 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota. (Located at 4300 County Highway 81 North) (Allstar Land Company/Christianson Companies, Inc.) (dk)

Planning Commission meetings are broadcast live on cable channel TV Fargo 56 and can be seen live at www.FargoND.gov/streaming. They are rebroadcast each Wednesday at 8:00 a.m. and Sunday at 8:00 a.m.; and are also included in our video archive at www.FargoND.gov/PlanningCommission.

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.

4. Continued hearing on an application requesting a Conditional Use Permit (CUP) to reduce Telecommunications Support Structure (TSS) setback requirements and to allow the TSS to exceed the maximum height requirements in the LC, Limited Commercial zoning district on Lots 23, 24, and 25, Block 14, **Morton & Doty's Addition**. (Located at 1417 University Drive South) (McAllister Real Estate, LLLP/Buell Consulting) (dk)
5. Hearing on an application requesting a Plat of **The Pass at Woodhaven Addition** (Minor Subdivision) a replat of Part of Lot 2, Block 1, Woodhaven Plaza Addition, to the City of Fargo, Cass County, North Dakota. (Located at 4142, 4144, 4148, 4150, 4168, 4170, 4174, and 4176 Arthur Drive) (Brookstone Companies, LLC/Houston Engineering) (dk)

D: Other Items

1. Request for Planning Commission approval of a modification of restrictive covenants on Lot 7, Block 4, **Airport First Addition**. (Located at 1101 19th Avenue North) (Midwest Buttiso, LLC/Cityscapes Development) (dk)

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**BOARD OF PLANNING COMMISSIONERS
MINUTES**

Regular Meeting:

Tuesday, January 7, 2025

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, January 7, 2025.

The Planning Commissioners present or absent were as follows:

Present: Maranda Tasa, Scott Stofferahn, Art Rosenberg, Thomas Schmidt, Brett Shewey, Joseph Cecil, Amy Hass, Tyler Mohs, Paul Gleye, Michael Betlock

Absent: None

Chair Tasa called the meeting to order and welcomed new Planning Commissioner Michael Betlock.

Business Items:

Item A: Approve Order of Agenda

Chair Tasa noted Item 1 has been withdrawn, and Items 2 and 3 have been continued to February 4, 2025.

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

Item B: Minutes: Regular Meeting of December 3, 2024

Member Stofferahn moved the minutes of the December 3, 2024 Planning Commission meeting be approved. Second by Member Rosenberg. All Members present voted aye and the motion was declared carried.

Item C: Public Hearing Items:

Item 1: Section 3, Township 140 North, Range 49 West

**Continued hearing on an application requesting a Conditional Use Permit to allow Non-Farm Commercial Use in the AG, Agricultural zoning district on a portion of the East Half of Section 3, Township 140 North, Range 49 West. (Located at 6987 and 7102 37th Street North) (Tammie Dickerson/Joseph Cecil/Dark Acres, LLC):
WITHDRAWN**

A Hearing had been set for August 6, 2024. At the August 6, 2024 meeting, the Hearing was continued to this date and time, however the applicant has requested this application be withdrawn.

Item 2: Morton & Doty's Addition

Continued hearing on an application requesting a Conditional Use Permit (CUP) to reduce Telecommunications Support Structure (TSS) setback requirements and to allow the TSS to exceed the maximum height requirements in the LC, Limited Commercial zoning district on Lots 23, 24, and 25, Block 14, Morton & Doty's Addition. (Located at 1417 University Drive South) (McAllister Real Estate, LLLP/Buell Consulting): CONTINUED TO FEBRUARY 4, 2025

A Hearing had been set for December 3, 2024. At the December 3, 2024 meeting, the Hearing was continued to this date and time, however the applicant has requested this application be continued to February 4, 2025.

Item 3: Edgewood Second Addition

Hearing on an application requesting a Conditional Use Permit to allow group living in the SR-2, Single Dwelling Residential zoning district on Lot 11, Block 9, Edgewood Second Addition. (Located at 213 Forest Avenue North) (Connecting Point, LLC/Brad McCaslin): CONTINUED TO FEBRUARY 4, 2025

A Hearing had been set for this date and time, however the applicant has requested this application be continued to February 4, 2025.

Item 4: AAB Addition

4a. Hearing on an application requesting a Zoning Change from AG, Agricultural to P/I, Public and Institutional on the proposed AAB Addition. (Located at 4672 100th Avenue South and 10245 45th Street South) (Cass County Joint Water Resources District/Metro Flood Diversion Authority): APPROVED

4b. Hearing on an application requesting a Plat of AAB Addition (Major Subdivision) a plat of portion of the Northeast Quarter of the Northeast Quarter of Section 28, Township 138 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota. (Located at 4672 100th Avenue South and 10245 45th Street South) (Cass County Joint Water Resources District/Metro Flood Diversion Authority): APPROVED

Mr. Kress presented the staff report stating all approval criteria have been met and staff is recommending approval. He noted staff's suggested motion as listed in the staff report as being updated to remove the contingency as the applicant has submitted the necessary information to remove the contingency.

Applicant representative Paul Barthel, FM MetroFlood Diversion Authority Consultant, spoke on behalf of the application.

Member Gleye moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from AG, Agricultural to P/I, Public and Institutional, and 2) Subdivision Plat AAB

Addition, as outlined within the staff report, as the proposal complies with the Standards of Article 20-06, Sections 20-0906.F (1-4) and 20-0907.C of the Land Development Code, and all other applicable requirements of the Land Development Code, and the 2024 Growth Plan. Second by Member Stofferahn. On call of the roll Members Schmidt, Betlock, Cecil, Stofferahn, Mohs, Rosenberg, Gleye, Shewey, Hass, and Tasa voted aye. The motion was declared carried.

Item 5: Skyline Addition

Hearing on an application requesting a Plat of Skyline Addition (Minor Subdivision) a replat of Lots 16-22, Block 3, Beardsley's Addition, to the City of Fargo, Cass County, North Dakota. (Located at 1117, 1121, 1125, 1129, 1133, 1137, and 1141 18th Street North) (Skyline, LLC/Goldmark Design and Development): APPROVED

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

The following residents spoke in opposition to the application stating the following concerns: increased traffic, parking concerns, size of the building, effect on special assessments and taxes, water pressure, and safety.

Sara Nelson, 1106 18th Street North
Brian Nelson 1106 18th Street North

Mr. Kress noted this application is only for a minor subdivision plat and site plan review is a different process.

Assistant Engineering Director Nathan Boerboom spoke on behalf of the Engineering Department.

Discussion was held on the building permit process, and the Planning Commission's jurisdiction with this application.

Applicant representative, Nate Vollmuth, Goldmark Property, spoke on behalf of the application.

Further discussion was held on the number of units allowed by right, the University Mixed-Use (UMU) zoning district allowances, setback requirements, and next steps.

Planning and Development Director Nicole Crutchfield share more information on the UMU, University Mixed-Use zoning district.

Member Rosenberg moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat Skyline Addition, as outlined within the staff report, as the proposal complies with the Core Neighborhoods Plan, the Standards of Article 20-06, Section 20-0907.B and C of

the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Shewey. On call of the roll Members Hass, Mohs, Shewey, Gleye, Cecil, Schmidt, Betlock, Stofferahn, Rosenberg, and Tasa voted aye. The motion was declared carried.

Item 6: EagleRidge Plaza Addition

Hearing on an application requesting a Plat of EagleRidge Plaza Addition (Minor Subdivision) a replat of Lot 6, Block 1, Bentley Place First Addition, to the City of Fargo, Cass County, North Dakota. (Located at 3231, 3241, 3251, 3261, and 3271 Seter Parkway South and 5551, 5591, and 5601 33rd Avenue South) (Bentley Place Properties, LLC/EagleRidge Development): APPROVED

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

Member Schmidt stated he would recuse himself from voting due to being on the project team.

Member Shewey moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat EagleRidge Plaza Addition, as outlined within the staff report, as the proposal complies with the Adopted 2024 Growth Plan, the Standards of Article 20-06, Section 20-0907.B and C of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Stofferahn. On call of the roll Members Cecil, Rosenberg, Mohs, Betlock, Shewey, Gleye, Hass, Stofferahn, and Tasa voted aye. Member Schmidt abstained from voting. The motion was declared carried.

Item 7: Craigs 16th Street Addition

Hearing on an application requesting a Conditional Use Permit to allow industrial service and warehouse uses in the GC, General Commercial zoning district on Lot 2, Block 1, Craigs 16th Street Addition. (Located at 136 16th Street North) (NSK Properties, LLC/Century Builders): APPROVED

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

Applicant representative Brad Garcia, Century Builders, spoke on behalf of the application.

Discussion was held the proposed uses of the property.

Member Stofferahn moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow Industrial Service and Warehouse uses in the GC, General Commercial zoning district on Lot 2, Block 1, Craigs 16th Street Addition be approved, as outlined within the staff report, as the proposal complies with the 2024 Growth Plan, the 2021 Core Neighborhoods Plan, the Standards of Section 20-0909.D,

and all other applicable requirements of the Land Development Code, with the following conditions:

1. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.
2. All refuse containers, including dumpsters, shall be concealed from public view by opaque fence, screen wall or building extension.
3. No outdoor storage of equipment or supplies.
4. Off-street parking, loading, and vehicular circulation areas shall have an all-weather surface, as defined by the Land Development Code.
5. The manufacturing, production, or processing of food and/or animal products or hazardous chemicals and/or materials shall not be permitted.
6. Future permits are generally consistent with the site plan provided in the January 7, 2025 Planning Commission packet. Changes may require review by the Planning Commission as determined by Planning staff.
7. The Conditional Use Permit shall terminate if all industrial uses cease for a period of more than 12 consecutive months.

Second by Member Hass. On call of the roll Members Mohs, Shewey, Hass, Rosenberg, Cecil, Stofferahn, Schmidt, Betlock, and Tasa voted aye. Member Gleye voted nay. The motion was declared carried.

Item 8: Cottonwood Corner Addition
Hearing on an application requesting a Plat of Cottonwood Corner Addition (Minor Subdivision) a replat of Lots 3-5, Block 1, Commerce on 12th Third Addition, to the City of Fargo, Cass County, North Dakota. (Located at 5550, 5570, and 5590 13th Avenue North) (Cottonwood Corner, LLC/Bent Rock Investments, LLC/Century Builders): APPROVED

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

Member Hass moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plan Cottonwood Corner Addition, as outlined within the staff report, as the proposal complies with the Fargo Growth Plan 2024, the Standards of Article 20-06, Section 20-0907.B and C of the Land development Code, and all other applicable requirements of

the Land Development Code. Second by Member Mohs. On call of the roll Members Stofferahn, Betlock, Cecil, Shewey, Schmidt, Rosenberg, Gleye, Mohs, Hass, and Tasa voted aye. The motion was declared carried.

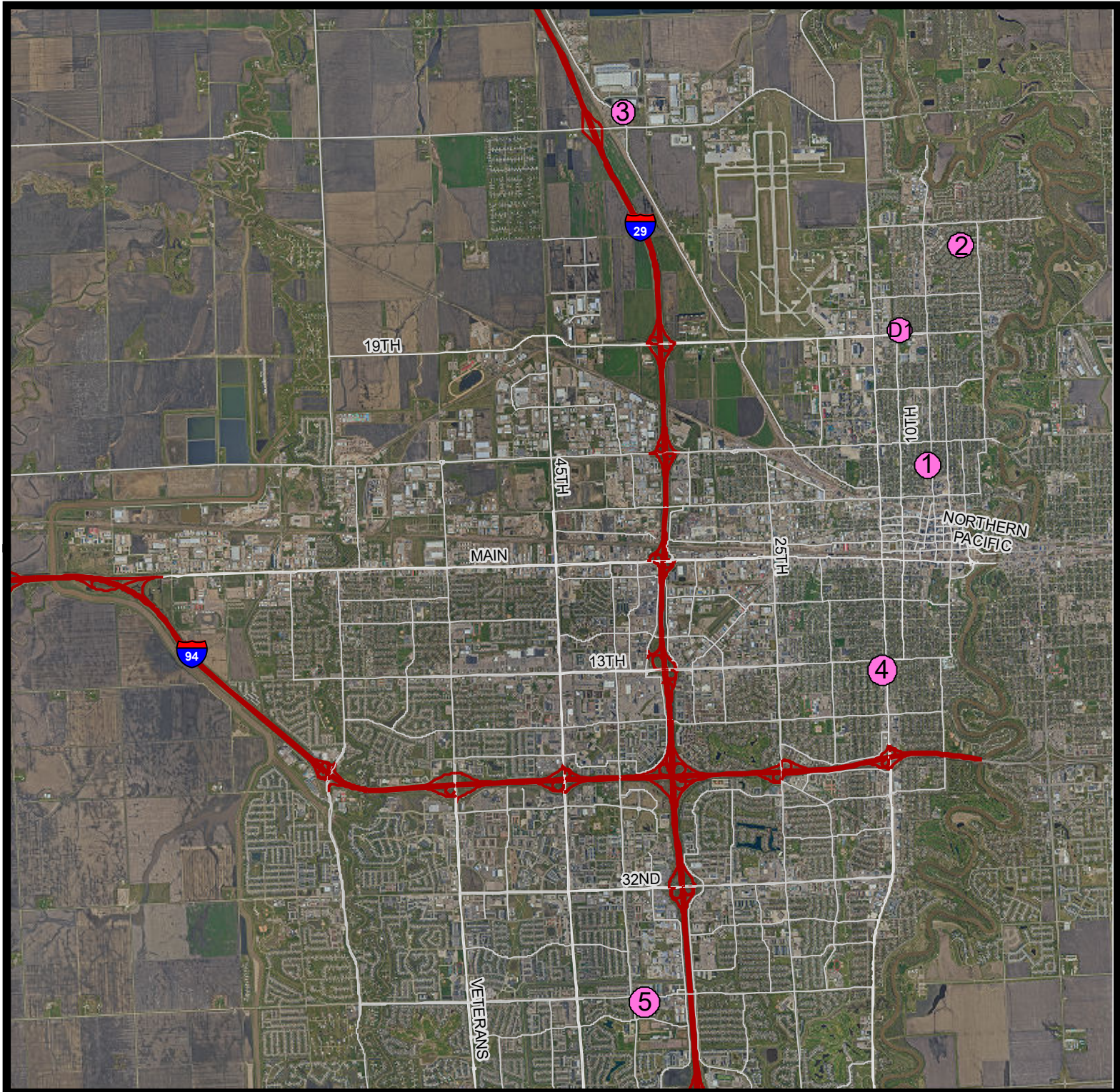
Item 9: Beardsley's Addition

Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential to UMU, University Mixed-Use on Lot 1, Block 4, Beardsley's Addition. (Located at 1142 18th Street North) (Ellis Enterprises, LLC/Mary Killoran Ellis/Fifth Gear, LLC/Andrew Skatvold): APPROVED

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

Member Schmidt 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 UMU, University Mixed-Use for Lot 1, Block 4, Beardsley's Addition, as outlined within the staff report, as the proposal complies with the adopted Fargo Growth Plan 2024, the Core Neighborhoods 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 Rosenberg. On call of the roll Members Betlock, Gleye, Shewey, Stofferahn, Hass, Mohs, Schmidt, Cecil, Rosenberg, and Tasa voted aye. The motion was declared carried.

The time at adjournment was 3:44 p.m.



Agenda Item Number

Continued Items:

1a, b & c -- Broadway Commons Addition

2 -- Edgewood Second Addition

3a & b -- Northdale First Addition

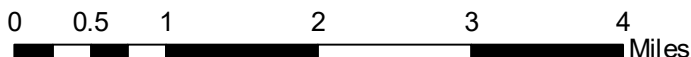
4 -- Morton and Doty's Addition

5 -- The Pass at Woodhaven Addition

Other Items:

D1 -- Airport First Addition


Agenda Items Map
 Fargo Planning Commission
 February 04, 2025



City of Fargo Staff Report			
Title:	Edgewood 2 nd Addition	Date:	1/02/2025
		Update:	1/30/2025
Location:	213 Forest Avenue North	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lot 11, Block 9, Edgewood 2 nd Addition		
Owner(s)/Applicant:	Connecting Point, LLC / Brad McCaslin	Engineer:	None
Entitlements Requested:	Conditional Use Permit (CUP) (to allow Group Living in the SR-2, Single Dwelling Residential zoning district)		
Status:	Planning Commission Public Hearing: February 4th, 2025		
Existing		Proposed	
Land Use: Single Dwelling Residential		Land Use: Single Dwelling Residential	
Zoning: SR-2, Single-Dwelling Residential		Zoning: SR-2, Single-Dwelling Residential	
Uses Allowed: SR-2 Allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, certain telecommunications facilities, and basic utilities		Uses Allowed: In addition to the uses allowed by right in the SR-2 zone, the CUP would allow group living in the SR-2 zone for the subject property only.	
Maximum Density Allowed: SR-2 allows a maximum 5.4 dwelling units per acre		Maximum Density Allowed: No change proposed	
Proposal:			
<p><i>PROJECT HISTORY NOTE: This project was originally scheduled for the January 7th, 2025 Planning Commission agenda. It was continued to the February 4th Planning Commission agenda at the request of the applicant. Two additional public comments have been received since January 7th, as noted below</i></p> <p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. Conditional Use Permit (CUP) (to allow Group Living in the SR-2, Single Dwelling Residential zoning district) <p>Approval and Appeal The Planning Commission is the final decision maker for CUP's. An appeal of the Planning Commission's decision goes to the City Commission. Pursuant of LDC Section 20-0903.B, "Appeals of final decisions made pursuant to the procedures of this article must be filed within 10 days of the date of the decision."</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: SR-2; single-dwelling residences • East: SR-2; single-dwelling residences • South: SR-2; single-dwelling residences • West: SR-2; single-dwelling residences 			
Context:			
Schools: The subject property is located within the Fargo School District, specifically within the Longfellow Elementary, Ben Franklin Middle, and North High schools.			
Neighborhood: The subject property is located within the Northport neighborhood.			
Parks: Longfellow Park, 20 29 th Avenue NW, is approximately 0.20 mile east of the subject property and, provides amenities of baseball/softball fields; basketball court; multi-purpose field; outdoor skating rinks; pickleball court; playground, ages 5-12; warming houses			
Pedestrian / Bicycle: There are no multi-use paths or on-road bike lanes adjacent to the subject property.			

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

Area Plans

The subject property is not included in a neighborhood plan. The Fargo Growth Plan 2024 designates the area of the subject property as “Urban Neighborhood.” The current SR-2 zoning is consistent with this place type designation.

Staff Analysis:

The property owner bought the house at 213 Forest Avenue North for his son and four of his son’s friends, all college students, to live in.

This application for a CUP for group living in the SR-single dwelling zone results from a zoning violation brought to the attention of the City’s Inspections Department in July, 2024. The violation was more than three unrelated persons living in a single residential unit. The Land Development Code prohibits more than three unrelated people living in a single dwelling unit. The Inspections Department advised the applicant that the property would have to come into compliance with the LDC prior to applying for any entitlements, such as this CUP.

The City’s first inspection at the property was on July 9th, 2024. During that inspection, the inspector noted a building code violation relating to the stairway headroom, which related to whether the rooms in the basement could be used as legal bedrooms. Between July 9th and September 13th, the applicant hired a contractor to repair the stairway headroom. On September 13th, there was a final inspection on the remodel permit. On that date there were only three occupied bedrooms and the final building inspection passed.

On October 31st, 2024, the rental inspector went to the subject property for an unscheduled inspection due to the neighbors saying there were more than three tenants living in the house. The inspector asked if she could enter and count beds. She was denied access to the interior at that time. There have been no further inspections.

If the CUP is approved, and that approval is sustained on any potential appeal, the five residents will be allowed to remain. If the CUP is denied, and that denial is sustained on any potential appeal, the number of residents in the residence will remain limited to no more than three.

APPLICANT’S DOCUMENTATION OF SUPPORT

With his CUP application, the applicant submitted documentation regarding the background to his purchase of the residence as well as a petition signed by some neighboring property owners indicating that are not opposed to the five residents living in this residence.

PUBLIC COMMENT

Prior to the scheduled January 7th, 2025 hearing, Planning staff has received three e-mails, one letter, and two phone calls in opposition to this CUP. The general perspective of these comments is that allowing five people to live at 213 Forest Avenue would be disruptive to the neighborhood. Copies of the e-mails and letter are attached. Planning staff also received a couple of phone inquiries about the project in which the callers did not express a particular opinion about the project.

Following the continued January 7th, 2024 hearing, staff received two comments—an e-mail and a phone call—one in support of the CUP and the other opposed to the CUP. Copies are attached.

RECOMMENDATION OF DENIAL

Staff is recommending denial of this CUP, as stated in the findings below. As the recommendation is for denial, there are no conditions proposed.

If the Commission moves to approve the CUP, the Commission would have to make findings to support the approval.

NOTE: In the findings below, reference to the “neighborhood” of the subject property generally refers to the area within a 300 foot radius of the subject property, which is the area in which property owners receive a letter notifying them of the project and the hearing date. This area is shown below for reference.



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

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

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

The purpose of the LDC is to implement Fargo’s Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that, though group living can be permitted by CUP in the SR-2 zone, it is not the intent and purpose of the LDC to create individual properties permitted for group living in neighborhoods that are otherwise consistently single-family neighborhoods when the request for group living is only for the benefit of the property owner or residents. **(Criteria Not Satisfied)**

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

It is staff’s understanding that this is not a general rental property, but was procured by the property owner specifically for their son and four of his friends, who are all college students. The proposed conditional use at the specified location seems to be largely for the benefit of the property owner and the student residents.

Note that the group living use proposed here is not any kind of care facility or what is commonly called a “group home,” as has been the case with some CUP’s for group living in SR-zoned areas that the Planning Commission has recently reviewed. Such facilities are backed by state regulations specific to those uses, which include requirements that such uses be allowed in residential zones.

(Criteria Not Satisfied)

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

Staff has no data to suggest the proposed use would cause substantial injury to the value of other property in the neighborhood. However, it is the understanding that more than three tenants would

create nuisances that could impact the residential neighborhood, such as noise and excess number of cars. In accordance with Section 20-0901.F of the LDC, notices of the proposed CUP have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received the comments noted above in the "Public Comment" section. **(Criteria Not Satisfied)**

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

The subject property is a detached residence, as are the adjacent properties on all sides and across the street. All properties but one within 300 feet of the subject property are owner-occupied. This is a mature neighborhood; there are no undeveloped lots. None of the other detached residences in this neighborhood, including the one that is not owner-occupied, has CUP's for group living.

The neighborhood is part of the larger Northport neighborhood, which is bounded by Elm Street (east), University Drive (west), 32nd Avenue North (north), and 19th Avenue North (south). Almost the entire area of this neighborhood between Elm Street and 3rd Street North is zoned SR-2 and developed with owner-occupied, detached single-dwelling residences. None of these properties has a CUP for group living. The intensity of the proposed group living use here would be greater than a single-family use, and thus out of character with the otherwise single-family neighborhood. The parking situation will be addressed in detail in a parking-specific finding below (20-0402.E.1.b) **(Criteria Not Satisfied)**

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

The property has access to all necessary utilities and services. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property for a single-dwelling residence, for which staff finds that the adequate utility, drainage, and other such necessary facilities and services are in place. However, if the CUP is approved, parking issues and additional paving could result, which is not conducive to the appeal of a single family residence and could adversely impact drainage. **(Criteria Not Satisfied)**

***NOTE:** Finding No. 6, "Have adequate access roads or entrances and exit drives been provided and are they designed to prevent traffic hazards and to minimize traffic congestion in public streets?" has been omitted here as it relates more to conditional uses for large multi-dwelling and commercial projects rather than conditional uses proposed on single-dwelling lots.*

Approval Criteria Specific to CUP's for Group Living in SR-Zoned Property (Section 20-0402.E)

The following is a list of criteria that must be determined satisfied in order for a Conditional Use Permit to allow group living in a Single-Dwelling Residence zone to be approved:

- a. Whether or not the dwelling unit meets all building, housing, and fire codes of the City;**

The property owner has resolved building code violations from earlier this year. There are no fire code violations at this time. The Inspections department was not allowed access to the residence at their October 31st, 2024 unscheduled inspection, so was unable to verify the number of people actually residing at the subject property.

(Criteria Not Satisfied)

- b. Whether or not the property has off-street parking space for every vehicle which is owned, possessed or utilized by occupants of the building. Such parking spaces must meet all applicable standards of the City;**

It does not appear that the applicant can satisfy the parking requirement on the property. The parking requirement for group living for which a conditional use permit is required is that off-street parking space for every vehicle which is owned, possessed, or utilized by the occupants of the building must be provided. In the case of this property, it seems this would be five vehicles, one owned by each resident. However, the LDC only recognizes a maximum of one parking space in a residential driveway. All other parking spaces must be located in a covered garage or in side or rear yards. There is no access to the rear yard, as from an alley, on this property. It does not appear that the side yard would accommodate a parking space. Thus, the maximum number of parking spaces available to meet the parking requirement would be three—two in the garage and one in the driveway. Even if the driveway were widened and a larger area of the lot paved, these parking spaces would still not be counted to meet the required parking requirement. It does not appear that the five parking spaces that are needed to meet the parking requirements of the LDC can be created on this property, to meet the demand of the five vehicles owned by the residents.

(Criteria NOT Satisfied)

c. The general condition of the building and whether or not it is in need of substantial repairs or renovation;

The Inspections Department has stated that they have found the property to be maintained and not in need of substantial repairs or renovation,

(Criteria Satisfied)

d. Whether or not the requested occupancy is compatible with the neighborhood and will not create undue density and congestion.

Staff notes that CUP's for group living in an SR zoned area that have been approved were for uses that are regulated at the state level by the North Dakota Department of Health and Human Services. Those state regulations indicate that these group living uses must be allowed in single-dwelling districts. Further, the maximum number of residents was limited to four, and the residents in the case of the two such CUP's approved in 2023 do not drive, so parking was not a concern to staff.

The current request appears to be only for the benefit of the owner and the residents, and would allow five people, all of whom drive and have cars, to live in a single residential unit. As noted above, staff does not believe that sufficient parking spaces that meet the LDC requirements can be provided on the property.

All but one of the single-dwelling detached residences in this neighborhood are owner occupied; none has a CUP for group living. Allowing more than three unrelated people to live in the residence on the subject property, for the benefit of the owner and the residents, would be inconsistent with how this neighborhood is currently occupied.

(Criteria Not Satisfied)

Staff Recommendation:

Suggested Motion: To accept the findings and recommendations of staff and deny the proposed conditional use permit to allow group living on Lot 11, Block 9, **Edgewood 2nd Addition** as presented, as the proposal does not satisfy all the criteria of Section 20-0909.D and Section 20-0402.E.

Planning Commission Recommendation: February 4th, 2025

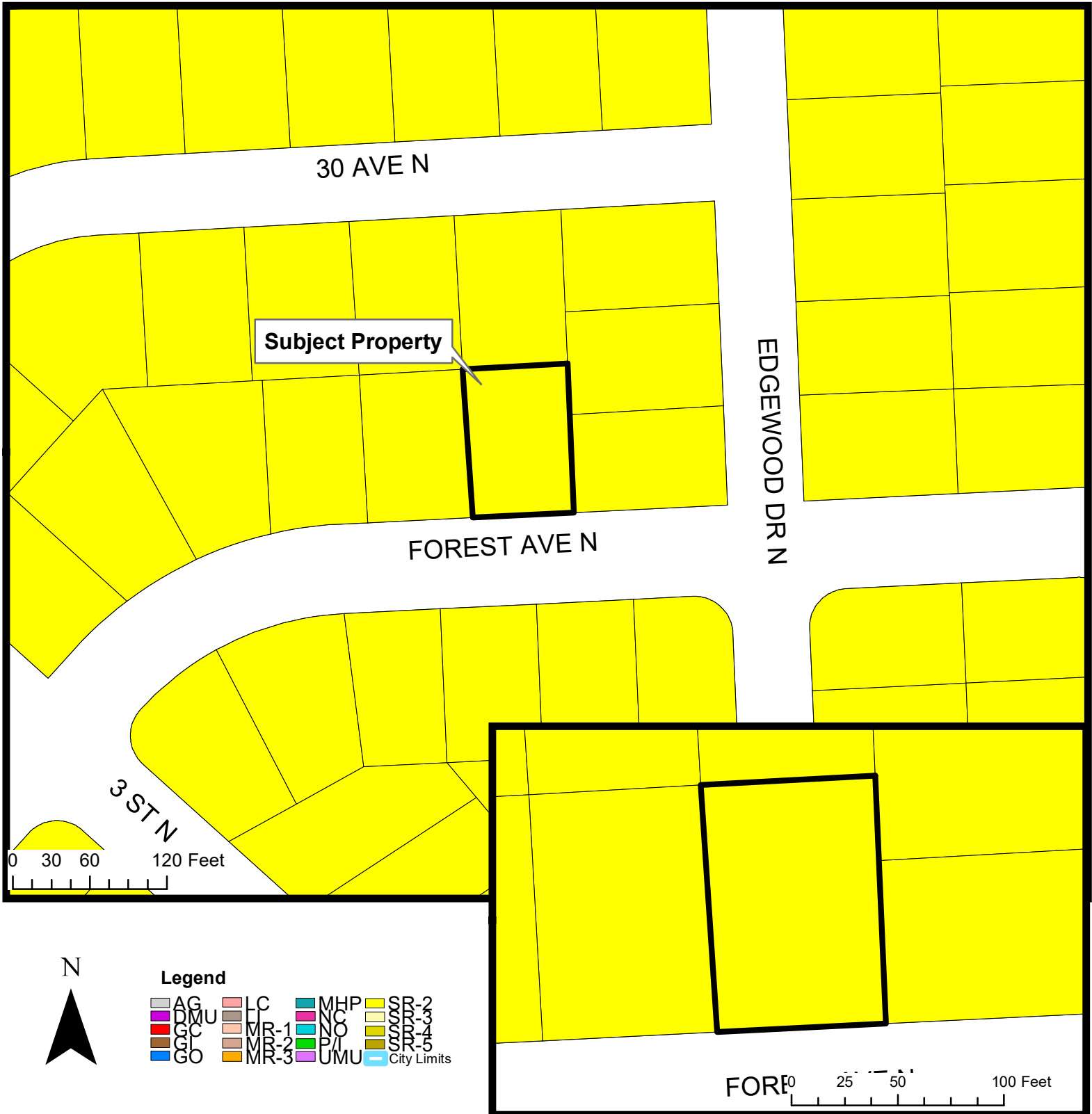
Attachments:

1. Zoning map
2. Location map
3. Applicant's documentation
4. Public comment e-mails

CUP, Conditional Use Permit to allow Group Living in the SR-2, Single-Dwelling Residential zoning district

Edgewood Second Addition

213 Forest Avenue North



**CUP, Conditional Use Permit to allow Group Living
in the SR-2, Single-Dwelling Residential zoning district**

Edgewood Second Addition

213 Forest Avenue North



DOCUMENTATION FROM APPLICANT

**City of Fargo Letter
Application for Conditional Use Permit**

Dear City of Fargo Planning and Development Department,

We, Brad, Erin, and Kelton McCaslin, are the owners of the property at 213 Forest Ave N through our LLC, Connecting Point, LLC. We are writing to respectfully request a conditional use permit that would allow our son Kelton and four fellow NDSU Football teammates to reside in this home.

Explanation of Current Living Situation

The home at 213 Forest Ave N was listed as a five-bedroom house when we purchased it in 2024. After acquiring the property, City officials informed us that the previous owner had not met all the requirements when renovating the basement, meaning the house was not legally recognized as a five-bedroom home at that time. We promptly took the necessary steps to complete the renovation, ensuring the property was up to code and passed all required city inspections.

This critical renovation allowed us to meet city standards. It was essential for the property's financial viability, enabling us to split costs among five tenants to make it sustainable. More importantly, splitting costs in five ways helps alleviate the significant financial burden these students face, making it possible for them to balance their intensive schedules without compromising on the quality or proximity of their housing. This balance is crucial not only for their academic success but also for their ability to perform athletically at a high level.

In addition, throughout this process, we have come to understand just how challenging it is for student-athletes to find safe, adequate housing that meets their needs at an affordable monthly rate and is close enough to campus to support their demanding academic and athletic schedules. Many available options near campus were limited and often in poor condition, creating environments that would not support the well-being or high performance expected of these young men. As student-athletes, they must have a stable and stress-free living environment that allows them to thrive—one that ensures they can study, rest, and recharge without added worries about the condition or safety of their home.

Neighborhood Support

From the outset, Kelton and his teammates have made it a priority to integrate positively into the neighborhood. This commitment is demonstrated by the strong support they have received from the community, with thirteen neighbors signing a letter supporting them. Every neighbor they asked was willing to sign support for them residing in the

home. These neighbors have recognized the boys' respectful demeanor, their willingness to help with community tasks, and their overall contribution to the neighborhood.

Addressing Concerns and Proactive Measures

We are aware of a complaint regarding parking and traffic congestion, which noted that while the boys have been polite and respectful, the code limiting unrelated occupants should be enforced due to these concerns. Kelton also acknowledged that during the first few days while moving in, cars were temporarily parked in the street and sometimes blocked the sidewalk while they moved in. This situation was temporary and continued to get better once access to the garage was restored, as it was being used to store items while the boys cleaned carpets and painted the interior.

The boys are aware of the potential traffic congestion and do their best to utilize the garage and three parking spaces in the driveway. At times, with their busy schedule, cars are temporarily parked where they can get in and out quickly. Admittedly, this is something that can continue to improve. We are open to discussing further measures to mitigate parking congestion, such as encouraging visitors to utilize nearby parking facilities when feasible.

Economic Context and Outdated Regulations

Since 2017, homes like 213 Forest Ave N have become increasingly unattainable for students due to rapidly rising housing costs. The MLS transaction history for this property highlights this sharp escalation: valued at \$159,900 in 2017, it increased to \$330,000 by 2024 when we purchased it. This significant rise in home values reflects a broader trend in the local and national housing market, where prices have surged far beyond the growth in wages or student financial aid.

Even by 2022, when these young men began their studies at NDSU, affording a home of this size as a group of three students was already challenging. However, in just a few short years, this situation has become even more difficult, virtually impossible, due to the continued increase in home prices while housing scholarships have remained unchanged. This has made it essential for student-athletes to pool resources effectively.

The upward trend in home prices is not unique to this property but reflects a broader challenge for students across Fargo. According to data from Redfin and Freddie Mac, the median mortgage payment in the U.S. has reached record levels, increasing by 78% since 2021. This presents unique challenges for students and young professionals striving to establish themselves. The City of Fargo's Land Development Code Diagnostic Report from September 8, 2020, acknowledges that current zoning

regulations are outdated and inflexible, making it difficult to meet contemporary housing needs. While we understand these regulations were developed with good intentions, they may not fully address the current realities facing young adults and students.

Commitment to Being Good Neighbors

Kelton and his teammates have demonstrated their dedication to maintaining a peaceful and well-kept environment. Beyond complying with neighborhood standards, they have engaged with and assisted several neighbors. Recently, for example, the boys helped an elderly neighbor—who was initially concerned about their presence—by moving a heavy item in her backyard. This gesture not only eased her concerns but also reinforced the boys' positive reputation as considerate members of the community. Acts like these are consistent with their character, as highlighted by the numerous neighbors who have signed to support them living together in their neighborhood.

Final Appeal for Consideration

We are mindful of the city's need to maintain its regulations. However, given the overwhelming support from the neighborhood, the proactive steps taken to address any concerns, and the boys' demonstrated positive impact, we respectfully request your approval of our application for a conditional use permit. Allowing these five young men to reside at 213 Forest Ave N will support their academic and athletic pursuits, foster community engagement, and help maintain the stability of our neighborhood.

Thank you for your time and consideration.

Sincerely,

Brad, Erin, and Kelton McCaslin

██████████

City of Fargo Letter
Application For Conditional Use Permit

Dear City of Fargo Planning and Development Department,

We, Brad, Erin, and Kelton McCaslin, are the owners of the property at 213 Forest Ave N through our LLC, Connecting Point, LLC. We are writing to request a conditional use permit allowing our son Kelton and four fellow NDSU Football teammates to continue residing in this home.

Background and Today's Impact

We purchased this property on May 17, 2024. When we began searching for a home in the spring of 2023, our goal was to provide Kelton with a stable living environment that could also serve as a stepping stone for future ownership. Given the rising cost of home ownership, we recognized the importance of securing a property sooner rather than later. We knew that sharing expenses with some teammates, along with our help, would be a doable situation on their limited budgets. It should be noted that this aligns with Fargo's reputation as a great place for young professionals and supports the city's growth strategy by helping young adults establish roots in the community.

This investment was not made with the intention of generating rental income but rather to support our son's transition into home ownership, a challenge that has become increasingly difficult for young people today. This non-commercial, family-oriented motivation underscores our genuine commitment to providing a supportive and stable home for Kelton and his teammates.

Finding both an affordable and liveable home near the campus was a difficult process. We also wanted something that had a chance to appreciate and grow in value. We ultimately chose this property and neighborhood due to its potential, proximity to NDSU, and the presence of other student renters and athletes.

As we all know, the current housing market presents historical challenges. According to Redfin's analysis of MLS data and Freddie Mac's Primary Mortgage Market Survey, the median mortgage payment in the U.S. has risen to a record high of \$2,894 per month. This marks an increase of 14% from last year, 23% from 2022 (the year our son started at NDSU), and a staggering 78% from 2021.

In our many conversations with the neighborhood and community leaders, as well as in reviewing the City's own study, it has become clear that longstanding regulations do not reflect the economic realities and pressures faced today. These regulations, while originally developed with good intentions, have had dramatically different impacts over the last couple of years when

not adjusted for current conditions. It seems more than appropriate to consider these changes to ensure that policies remain relevant and effective in today's economic landscape.

Neighborhood and Community Impact

A call was made to the NDSU Football office expressing concerns about the students living at this property, specifically football players. It was not to report that they had not done anything wrong. The concern was primarily that this is a family neighborhood and not suited for college students.

According to the most recent data from the City of Fargo, 53% of the housing units in this neighborhood are renter-occupied. Due to its proximity to the NDSU campus, one can assume many of these are college students. While we cannot specify how many of these renters are students, we are aware of multiple houses occupied by student renters. Strictly enforcing this ordinance on our property could lead to a cascading event throughout the neighborhood, potentially impacting many residents and students.

Furthermore, Fargo is often billed as a great place for young professionals, but current regulations may not fully support this reputation. Aligning city policies with its growth strategy would ensure Fargo remains attractive to young professionals and aligns with the city's desired development trajectory.

The City of Fargo's Land Development Code Diagnostic Report, dated September 8, 2020, highlights that current zoning regulations are outdated and inflexible, making it difficult to meet contemporary housing needs. These longstanding regulations, while originally developed with good intentions, have had dramatically different impacts over the last couple of years when not adjusted for current conditions. The current financial climate has further exacerbated these challenges, as illustrated by Redfin's analysis of MLS data and Freddie Mac's Primary Mortgage Market Survey. The need to revisit and revise these regulations has become even more urgent to address the significant economic pressures faced by students and young people today.

Notice of Complaints and Initial Concerns

We received a notice from the City of Fargo stating that several complaints were made about overcrowding at our home. The letter was dated the day the boys moved in, which, aside from its appealingly coordinated approach, seems odd given the positive interactions and support they have received from surrounding neighbors.

One neighbor came over on the same move-in day to question Kelton about the number of occupants and the condition of the yard. The previous owner had not maintained the yard for several weeks before our access, but the boys promptly addressed and resolved the issue within two days of moving in. What may have seemed like a legitimate complaint (as we did receive a notice of tall weed/grass violation from the city dated May 31, 2024) was actually a

sign of their care, responsiveness, and character. Before receiving any notice of an issue, their quick and responsible action reflects their genuine commitment to being good neighbors and maintaining the property.

Kelton also acknowledged that during the first two days, cars were temporarily parked in the street and sometimes blocked the sidewalk while they moved in. This situation was temporary and will further improve once access to the garage is restored, as it is currently being used to store items while the boys clean carpets and paint the interior.

We are concerned about further action by this individual, who has expressed that he does not believe college students (specifically athletes) should be living in this neighborhood. His actions have already potentially misrepresented the situation by portraying that multiple complaints were received by the city office. This appears to have been coordinated and prepared for their arrival. We worry about the extent to which he may go to have all the residents removed from the home, causing significant personal and financial impact. We want to ensure we are working through a fair and reasonable process that will not open the door for more extreme measures to reach his desired outcome.

Commitment to the Neighborhood

Our goal is to see the property appreciate in value, just as our neighbors desire for their own homes. We are committed to maintaining a peaceful, well-kept environment that positively contributes to the neighborhood's overall value. The boys have made significant efforts to integrate into the community, introducing themselves to neighbors and offering assistance such as window washing and painting. These are five very able-bodied college athletes who are willing to help neighbors in any way they can. Their actions have garnered the support of multiple neighbors, who have signed a letter endorsing their continued residence in the neighborhood. I would like to add that this was all but one of the homes around their property and that they were not turned down by anyone they approached. Everyone they spoke to welcomed their presence in the neighborhood.

Recently, the boys helped an elderly neighbor, initially one of the complainants, by assisting her with a heavy task in her backyard. This act of kindness further solidified their positive impact and relationship within the community. This neighbor has since signed a letter of support for the boys remaining in the home while also recommending additional neighbors who would do the same.

Summary of Key Points:

- **Home Selection:** We selected a home close to campus in an area where we knew other students and athletes were living and doing well.
- **Economic Hardships:** Current economics make this next to impossible for students these days, necessitating our help, which comes with high expectations of taking care of the investment.

- **Outdated Regulations:** The City of Fargo acknowledged in 2020 that current regulations are outdated, and that is well before the recent rises in home ownership costs, further straining this type of situation.
- **Positive Community Impact:** The boys' quick action in resolving the yard maintenance issue before receiving any formal complaint highlights their proactive and responsible nature, demonstrating their commitment to maintaining the property and community relations.

Request for Support

We respectfully request your consideration of our application for a conditional use permit. Allowing these five young men to remain in their home will not only support their academic and athletic pursuits but also maintain the stability and integrity of the neighborhood.

Thank you for your time and consideration.

Sincerely,

Brad, Erin, and Kelton McCaslin



Letter of Support for Neighbors to Sign

Subject: Letter of Support for Conditional Use Permit Application for 213 Forest Ave N.

We, the undersigned residents of the Northport neighborhood, are writing to express our support for the conditional use permit application submitted by Brad and Erin McCaslin for the property at 213 Forest Ave N. This permit will allow their son Kelton McCaslin and his four fellow NDSU Football teammates to continue residing in the home.

We understand the McCaslins purchased this property through Connecting Point, LLC solely to provide a stable living environment for their son and his teammates during their time at North Dakota State University. These young men have demonstrated high character both on and off the field, in the classroom, and within the community, as attested by the NDSU Football office.

We have interacted with Kelton and his roommates and have found them to be respectful and considerate neighbors. They have made efforts to maintain the property and assist other residents, reflecting their commitment to being good members of our community. Given the presence of other student renters in the area, we believe that strictly enforcing this ordinance could lead to broader disruptions.

We believe that granting this permit will support the academic and athletic pursuits of these students while preserving the integrity and stability of our neighborhood. Denying this request could lead to significant hardship for these young men and potential disruptions throughout our community, especially since we are aware that several other homes in our neighborhood are also rented by student-athletes.

We urge you to approve the McCaslins' application for a conditional use permit.

Sincerely,

Daniel Erichsen
Name

229 Forest Ave N
Address

[Signature]
Signature

Diandra Caly
Name

230 Forest Ave N
Address

Diandra Ballagter
Signature

Jason Quintanilla 313 Forest Ave N.
Name Address

[Signature]
Signature

Melanie Vagts 313 Forest Ave N.
Name Address

[Signature]
Signature

Rolf Brakvatne 302 FOREST AVE N
Name Address

[Signature]
Signature

Diane Brakvatne 302 Forest Ave N
Name Address

[Signature]
Signature

Joseph Pettinizer 214 Forest Ave N.
Name Address

[Signature]
Signature

[Signature] → 225 Forest Ave
Name Address

[Signature]
Signature

Alex Kraft 237 Forest Ave N
Name Address

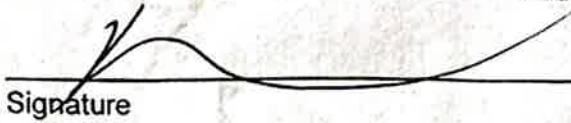
[Signature]
Signature

Sarah Kasin

237 Forest Ave. N. Fargo

Name

Address



Signature

Denise Scuffa

217 Forest Ave N Fargo

Name

Address

Parker Scuffa

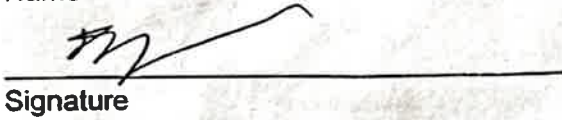
Signature

Parker Scuffa

217 Forest Ave N Fargo

Name

Address



Signature

Name

Address

Signature

Name

Address

Signature

Name

Address

Signature

Name

Address

Signature

Shelley Koskullu
Name

225 Forest Ave. N. Fargo
Address

Signature

Name

Address

Signature

Name

Address

Signature

Name

Address

Signature

Name

Address

Signature

Name

Address

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Name

Address

Signature

PUBLIC COMMENTS

as of

January 2nd, 2025

From: Rich Folden
Sent: Friday, December 6, 2024 11:18 AM
To: Donald Kress <dkress@FargoND.gov>; David R. Slack
Subject: Permit

City of Fargo

Dear City of Fargo planning and development department.

We live at 2934 Edgewood Dr. N. We are just 1 of many neighbors that are unhappy with the boys living at 213 Forest Ave. N. I have received a copy of the conditional use permit and don't agree with many of things that are stated. This neighborhood is not 53% renter- occupied. There are apartments west of 3rd St. and they don't even go to the same elementary school. In our neighborhood we now have 3 houses that are rental properties. The owner of 2 of those properties also tried to violate the law and have 5 people move in. We also complained to the city until they moved out. They make it sound like they purchased the property for the family. It was purchased by an LLC for the use of a rental. They make it sound like it's impossible to find housing in Fargo. They also make it sound like the boys have no money and can't afford to live anywhere else. Every one of them drives a newer vehicle than I do. My kids are done with high school and have many friends who live on their own. Most of them are going to NDSU. They are all able to afford their living expenses. For the last 6 months they have deceived and straight out lied to the city about how many people were living in the property. They were informed that the city was going to do an inspection to count beds and see how many people are living there. They told the city officials that only 3 people were living there. Together with the neighbors we have pictures and videos of them moving a bed out, loading it in a truck parking the truck around the corner in front of my house and then after the inspection move it back inside. The city then tried to do an unannounced inspection but they refused to let them in the house. Only now after they got caught are they asking for permission. One of the problems is parking. It's not just the 5 boys that stay there is also their girlfriends and friends. I have seen up to 9 vehicles at one time. It's not just on one night but multiple nights. I have already had problems with my garbage service. I put my garbage can off to the side of my driveway and they parked so close that the garbage truck was not able to dump it. They say that they're doing such a wonderful job with maintaining the property. They didn't do so bad with mowing the yard. They did rake the leaves into a pile but didn't pick them up for weeks. They still ended up blowing all over the neighborhood. We are now into December and have had several days of snow including a blizzard but they have yet to shovel once. Their driveway and the sidewalk are still covered in snow. My problem is not just with the boys but with the owner of the property. It just seems like another landlord that is trying to do whatever they want. My wife grew up on 12th Street by NDSU. They watched their neighborhood go from a nice family neighborhood to all rentals. Every weekend they were on the phone with the police because of loud parties. Eventually her parents sold the house but feel like they lost money because the neighborhood had deteriorated because it was now all rentals. The city ordinance is there for a reason. All we and multiple neighbors are asking is that you enforce the law.

City ordinance LDC 20-0401 Overcrowding

- The limit of unrelated tenants in Fargo is three (3)

Rich Folden

From: David R. Slack
Sent: Sunday, December 15, 2024 9:41 AM
To: Donald Kress <dkress@FargoND.gov>
Cc: Rich Folden
Subject: 213 Forest Ave N

Mr. Kress,

We bought our house 24 years ago in the 200 block of Forest Ave N. We like most of our neighbors, we stay living on the 200 block of Forest Ave N due to being close to Longfellow School, mostly safe neighborhood, family neighborhood and everyone looking out for each other. There is a mix of elderly people that have lived in the 200 block of Forest Ave N since approximately 1970, families with grade school, middle school and high school kids and young couples just starting out. That all changed in May, 2024 when we got our first rental house in the 200 block of Forest Ave N and the renters and owners not following city rules, regulations and codes. I am going to address some of the statements Mr. McCaslin put in the application for a conditional use permit for group living below.

The McCaslin's own 213 Forest Ave N rental property through Connecting Point, LLC. When I checked with the North Dakota Secretary of State's office, Connecting Point, LLC is not registered, which it should be doing business in ND.

When Kelton and his teammates went around to get signatures from thirteen neighbors supporting them, they were also telling neighbors I didn't want them in the neighborhood. I am fine having 3 of them in the rental property which city code allows, not 5 plus girlfriends and friends. There are nights and mornings when there are 9 cars and pickups parked on the property plus both sides of the street.

The parking across the sidewalk still goes on weekly, it was not temporary. Parking across the sidewalk is done by the renters of 213 Forest Ave N, there friends and girl friends. This summer Logan Larson, one of the renters had a window washing business, so his employees/staff would stop almost daily, they parked across the sidewalk a lot. The 200 block of Forest Ave N is a walking route for many people of all ages year around. Parking across the sidewalk is not allowed according to Fargo regulations.

Mr. McCaslin says 213 Forest Ave N showed sharp escalation in value from 2017 till 2024. 213 Forest Ave N had been owned by the same family since it was new and very little updating had been done. When the owner died, his daughters sold it as a flip house due to the basement walls caving in and the amount of updating that needed to be done. When Connecting Point, LLC bought the house it had been sitting empty for approximately 6 months with very little interest from people looking at it due to the asking price.

The elderly neighbor Mr. McCaslin is referring to is Joyce Pettinger, 86 years old who had a large branch fall from one of her backyard trees. The boys hauled the tree from her backyard to the boulevard when she asked for there help. This was great of them to help her

but that's what neighbors do in this neighborhood is help each other out and look out for each other. Good neighbors don't break city rules, regulations and codes.

I called the NDSU football office and spoke to Rachael Kaczor, Football Administrative Assistant since we had no contact numbers of parents of these boys if there was a problem. She told me the boys all came from good families and to call her if there were any problems. I have not returned a call to her but have spoken to Fargo Cass Public Health, City of Fargo Inspections Department and City of Fargo Planning & Development numerous times about city rules, regulations and codes that are not being followed at 213 Forest Ave N.

When Connecting Point, LLC received a notice from the City of Fargo stating that there was overcrowding at 213 Forest Ave N, the renters in the house also received the notice. I had Logan Larson, one of the renters knock on our front door and ask if I had contacted the City of Fargo? I did not lie, I told him I had contacted the City of Fargo to find out the regulations for a rental house. He became upset and raised his voice saying where am I suppose to live if I have to move? I said that was not my problem and that he should talk to the owners because they must not have did there homework before buying the property. We had never locked our garage in the 24 years that we have lived on the 200 block of Forest Ave N except when we were gone for long periods of time. Since Logan Larson came over and expressed his concerns by raising his voice, we lock our garage at all times with fear that there will be retaliations to us or our property.

The boys did not address the lawn issue until having 2 visits from Fargo Cass Public Health official Laura Kahdang, Environmental Health Practitioner. On September 13, 2024 Lynne Olson, Rental Housing Inspector, City of Fargo conducted a planned inspection for overcrowding at 213 Forest Ave N. Nate Forystek, one of the renters was the only renter home during the inspection due to being injured and not traveling during NDSU away football games. Nathan Hayes, Nathaniel Staehling, Kelton McCaslin and Logan Larson, renters were all traveling due to NDSU away football game. Nate Forystek, told Lynne Olson that there were only 3 renters and she only saw 3 beds in the property. After Ms. Olson left, Nate Forystek walked down to the corner of Forest Ave N and Edgewood Drive North. Nathaniel Staehling's pickup was parked there and Nate Forystek drove the pickup into the garage at 213 Forest Ave N. In the bed of the pickup was either 2 mattresses or a mattress and box spring. I contacted Lynne Olson about what I saw and she came back and witnessed the pickup with mattress and box spring in the garage. Logan O'Brien, NDSU Volleyball player helped Nate Forystek carry the mattress and box spring back into 213 Forest Ave N yet that day. All 5 NDSU Football players/Renters, at 213 Forest Ave N lied to Lynne Olson, Fargo City Official. The City of Fargo Inspection Department and Planning & Development Department have pictures of the pickup with mattress and box spring sitting on the corner of Forest Ave N and Edgewood Drive North along with pickup sitting in the garage at 213 Forest Ave N with mattress and box spring in truck bed. There as been at least one unannounced overcrowding inspection tried to be conducted by the City of Fargo Inspection Department since September 13, 2024 and the renters refused the inspection to be done. Lying to the City of Fargo does not maintain the stability and

integrity of our neighborhood as stated at the end of Mr. McCaslin's "Application For Conditional Use Permit".

This winter it took 2 calls to Fargo Public Works before the renters shoveled the snow from there sidewalk at 213 Forest Ave N.

I request that the City of Fargo, Planning & Development, not recommend that Connecting Point, LLC be granted a conditional use permit for group living.

David R. Slack

12/30/2024

Dear Mr. Kress,

My wife and I have lived at 2938 Edgewood Drive N. for 45 years. Our home is right around the corner from 213 Forest Avenue N. Our back yards abut each other. This is a single family neighborhood. There are now five college students residing in the Forest Avenue house! At times, when friends come to visit them, there can be as many as nine vehicles parked at the residence and streets!

As Fargo City code does not allow more than three unrelated people residing in the same rental dwelling, we ask that you please deny the Conditional Use Permit applied for by Connecting Point, LLC. We don't want our neighborhood turned into a rental area.

Thank you,

Mike & Mary Jo Boelke



From: Tom Pettinger

Sent: Monday, December 30, 2024 2:04 PM

To: Donald Kress <dkress@FargoND.gov>

Subject: Conditional Lot 11 Block Use Permit

I live directly across the street from 213 Forest at 214 and wish to express denial of request. Group living causes too much traffic and limits bike and pedestrian in a single family dwelling area.

This is a quiet area close to school and park, with many walkers and bikes etc. Lots of children.

Allowing group living conditional would lead to more requests I feel and it is important to keep this North side area single family low traffic space. Thank you for considering our wishes.

Joyce Pettinger, 214 Forest Ave.

PUBLIC COMMENTS

since

January 2nd, 2025

From: Jason Dannelly
Sent: Wednesday, January 8, 2025 11:42 AM
To: Donald Kress <dkress@FargoND.gov>
Subject: 213 Forest Ave Issue

My name is Jason Dannelly, and I own the property at 414 Forest Ave N. Recently, I learned through local news about a city ordinance issue involving the property at 213 Forest Ave N.

I have lived on Forest Ave since 2020 and frequently walk through the neighborhood with my family and dog, often passing 213 Forest Ave N on our way to Longfellow Park. My experiences with the residents of this property have always been positive. I have never observed anything out of the ordinary and have found them to be respectful and responsible neighbors who maintain their home and contribute positively to the community.

In my opinion, the Fargo Planning Commission should grant a conditional use permit to allow the current residents to continue living together under the same roof. If issues arise with parking, snow removal, or other concerns, I believe neighbors should address them directly with the residents. In my experience, they have been responsive and cooperative when approached.

For context, I live next to several rental properties. Whenever I've encountered minor issues, such as parking or lawn maintenance, I've found that simply communicating with the renters has been effective without involving the city. I believe this approach fosters better community relationships and resolves problems efficiently.

Thank you for considering my request.

--

Jason Dannelly

Phone call in opposition to granting CUP's for group living in residential neighborhoods from
Rodney Rexine 3301 Longfellow Road 9 Jan 25

City of Fargo Staff Report			
Title:	Northdale First Addition	Date:	8/29/2024
		Update:	9/25/2024 1/29/2025
Location:	4300 County Highway 81 North	Staff Contact:	Donald Kress, current planning coordinator
Legal Description:	Unplatted portion of the Southeast Quarter of Section 15, Township 140 North, Range 49 West		
Owner(s)/Applicant:	Allstar Land Company / Christianson Companies, Inc.	Engineer:	Bolton & Menk
Entitlements Requested:	Minor Subdivision (Plat of Northdale First Addition , a plat of an unplatted portion of the Southeast Quarter of Section 15, Township 140 North, Range 49 West, Cass County, North Dakota), and a Zoning Change (from AG, Agricultural to LI, Limited Industrial with a conditional overlay (C-O))		
Status:	Planning Commission Public Hearing: February 4 th , 2025		
Existing		Proposed	
Land Use: Undeveloped		Land Use: Industrial	
Zoning: AG, Agricultural		Zoning: LI, Limited Industrial	
Uses Allowed: AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production		Uses Allowed: LI allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, basic utilities, certain telecommunications facilities Conditional overlay restricts some uses as noted above	
Maximum Density Allowed (Residential) in AG: 1 dwelling unit per 10 acres.		Maximum Lot Coverage Allowed in LI: 85%	
Proposal:			
<i>PROJECT HISTORY NOTE: This project was originally noticed for the September 5th, 2024 Planning Commission agenda. It was continued to the October 1st, 2024, November 5th, 2024 and the February 4th, 2025 agendas at the request of the applicant.</i>			
<i>PROJECT NOTE: Though originally advertised as a “major subdivision,” this subdivision is, in fact, a “minor subdivision.” No dedications of right of way were required.</i>			
The applicant requests two entitlements:			
<ol style="list-style-type: none"> 1. A minor subdivision, entitled Northdale First Addition, a plat of an unplatted portion of the Southeast Quarter of Section 15, Township 140 North, Range 49 West, Cass County, North Dakota; and 2. A zoning change from AG, Agricultural to LI, Limited Industrial with a conditional overlay 			
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.			
(continued on next page)			

Surrounding Land Uses and Zoning Districts:

- North: LI; industrial services
- East: LI; warehousing and industrial services
- South: LI; industrial services
- West: Burlington Northern Santa Fe railroad; Interstate 29 right of way.

Area Plans:

Fargo’s Growth Plan 2024 was adopted on August 19th, 2024. This project was proposed under the previous growth plan, the 2007 Growth Plan. This project is consistent with the future land use designation and place type designation for this property under both plans.

Context:

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

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

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

Pedestrian / Bicycle: There are no multi-use paths adjacent to the subject property.

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

Staff Analysis:

SITE HISTORY: The project site is undeveloped. It has been used for temporary uses, such as fireworks sales.

MINOR SUBDIVISION: The subdivision plat creates one lot in one block intended for industrial development. The lot is proposed to be zoned LI, Limited Industrial with a conditional overlay.

ZONING: The subject property is proposed to be zoned LI, Limited Industrial with a conditional overlay (C-O). The LI zoning designation allows many commercial uses in addition to industrial uses. Residential uses are not allowed in the LI zone.

CONDITIONAL OVERLAY (C-O): The C-O regulates signs, uses, and site design in more detail than the Land Development Code. A copy of the draft C-O is attached.

ACCESS: The subdivision will take access from County Highway 81. Negative access easements (NAE’s) depicted on the plat designate access points along County Highway 81, based on the City’s rules for driveway spacing along arterial streets. No access can be taken from 40th Avenue North.

PUBLIC WATER and SEWER: Public water and sewer will be provided in the dedicated public streets.

FUTURE ANNEXATION: The subject property is within Fargo’s four-mile extra-territorial jurisdiction. The subject property is included in a City-initiated annexation that is expected to go forward within the next few weeks. Staff will work to coordinate City Commission hearings on this project and the proposed annexation.

PROXIMITY AGREEMENT: A proximity agreement for the subdivision will be signed by the applicant. This is a standard agreement between the City of Fargo and owners of property in close proximity to Hector International Airport, by which the property owner acknowledges the existence of this facility and the potential for aircraft noise. The City Commission will take final action on this agreement. No action is required by the Planning Commission. No attachment is included with this packet.

AMENITIES PLAN: Staff and the applicant are working to create an amenities plan to define certain aspects of the development, including stormwater, utility connections, and access. This amenities plan will be reviewed by the Public Works Project Evaluation Committee (PWPEC) prior to the plat going to City Commission public hearing.

(continued on next page)

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned AG: Agricultural and undeveloped. The applicant requests a zoning change to LI, Limited Industrial with a conditional overlay for the development of uses allowed in the LI zone. **(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 an existing 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 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 and responded to one inquiry. There were no concerns. 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." Fargo's Growth Plan 2024 was adopted on August 19th, 2024. This project was proposed under the previous growth plan, the 2007 Growth Plan. The proposed zoning of LI, Limited Industrial is consistent with the designated future land use and place type for this property under both plans, as noted above. **(Criteria satisfied)**

Minor Subdivision

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

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

This subdivision is intended to create a one-lot, one block subdivision. The requested zoning for the industrial development on this property is LI, Limited Industrial, which is consistent with the place type designation of the recently adopted Fargo Growth Plan 2024 as well as the future land use designation of the earlier 2007 Growth Plan. The LI zoning will include a conditional overlay. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry. **(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 principals. Staff and the applicant are working to create an amenities plan to define certain aspects of the development, including stormwater, utility connections, and access. This amenities plan will be reviewed by the Public Works Project Evaluation Committee (PWPEC) prior to the plat going to City Commission public hearing.

(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) Zoning Change from AG, Agricultural LI, Limited Industrial with a conditional overlay; and 2) a plat of **Northdale First Addition**, as presented, as the proposal complies with the Standards of Article 20-06, and Sections 20-0906.F (1-4) and of Section 20-0907.B & C, of the LDC and all other applicable requirements of the LDC, and the 2007 and 2024 Growth Plans."

Planning Commission Recommendation: February 4th, 2025

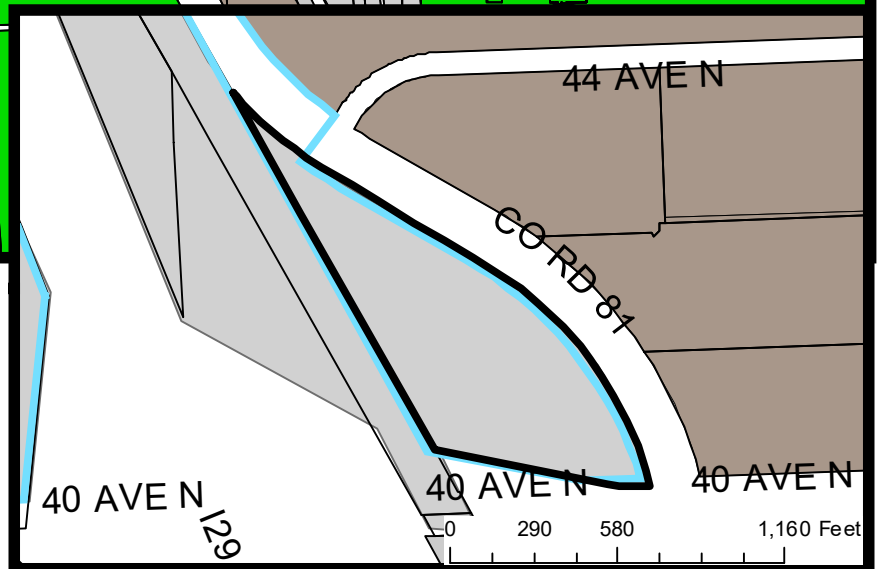
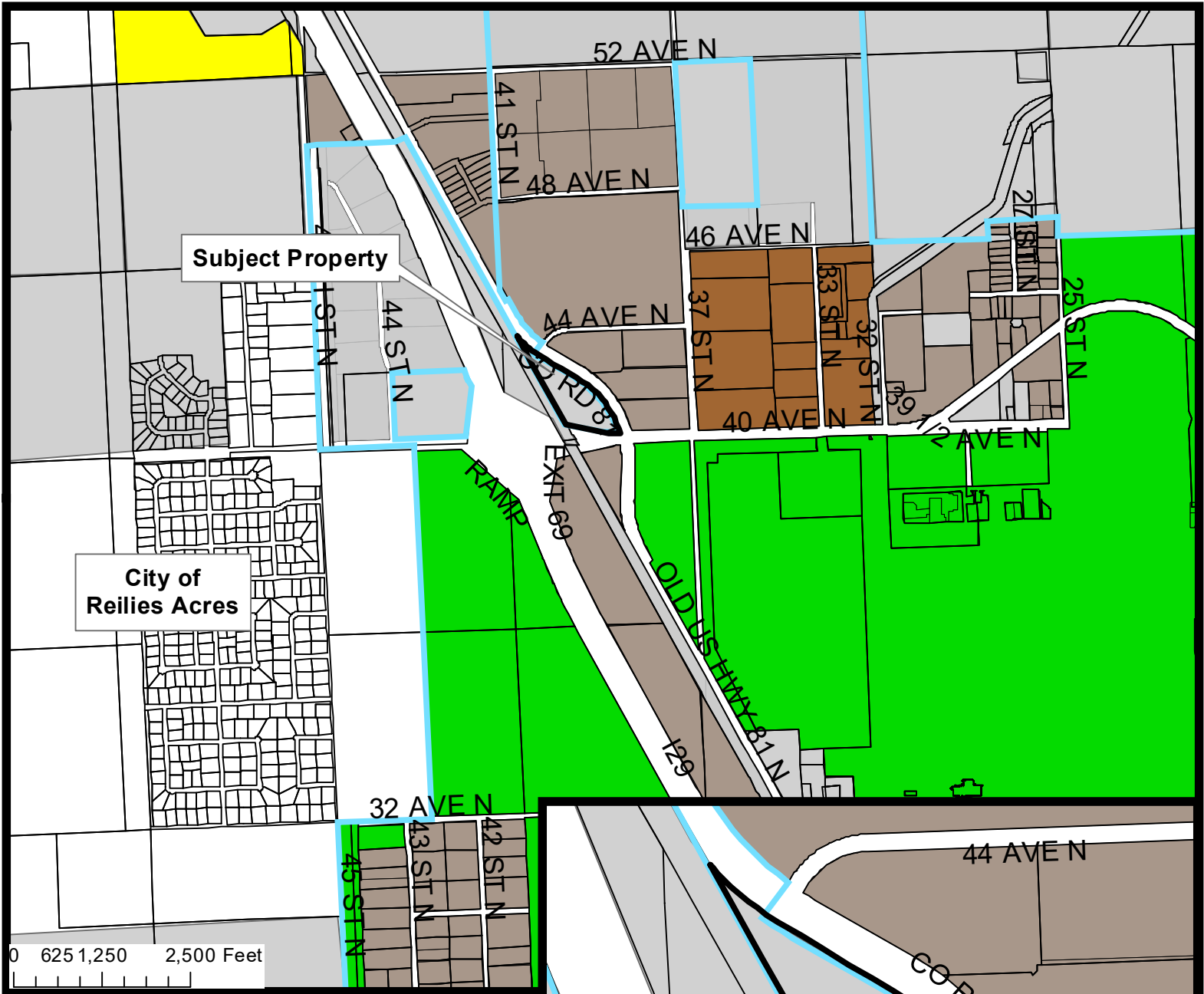
Attachments:

1. Zoning map
2. Location map
3. Preliminary plat
4. Draft conditional overlay

Minor Subdivision and Zone Change from AG, Agricultural to LI, Limited Industrial with CO, Conditional Overlay

Northdale First Addition

4300 County Highway 81 North



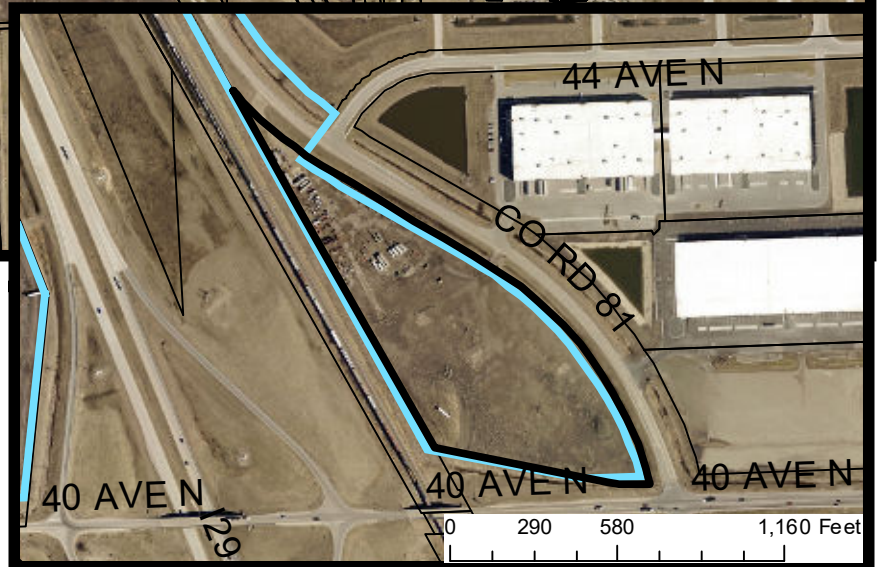
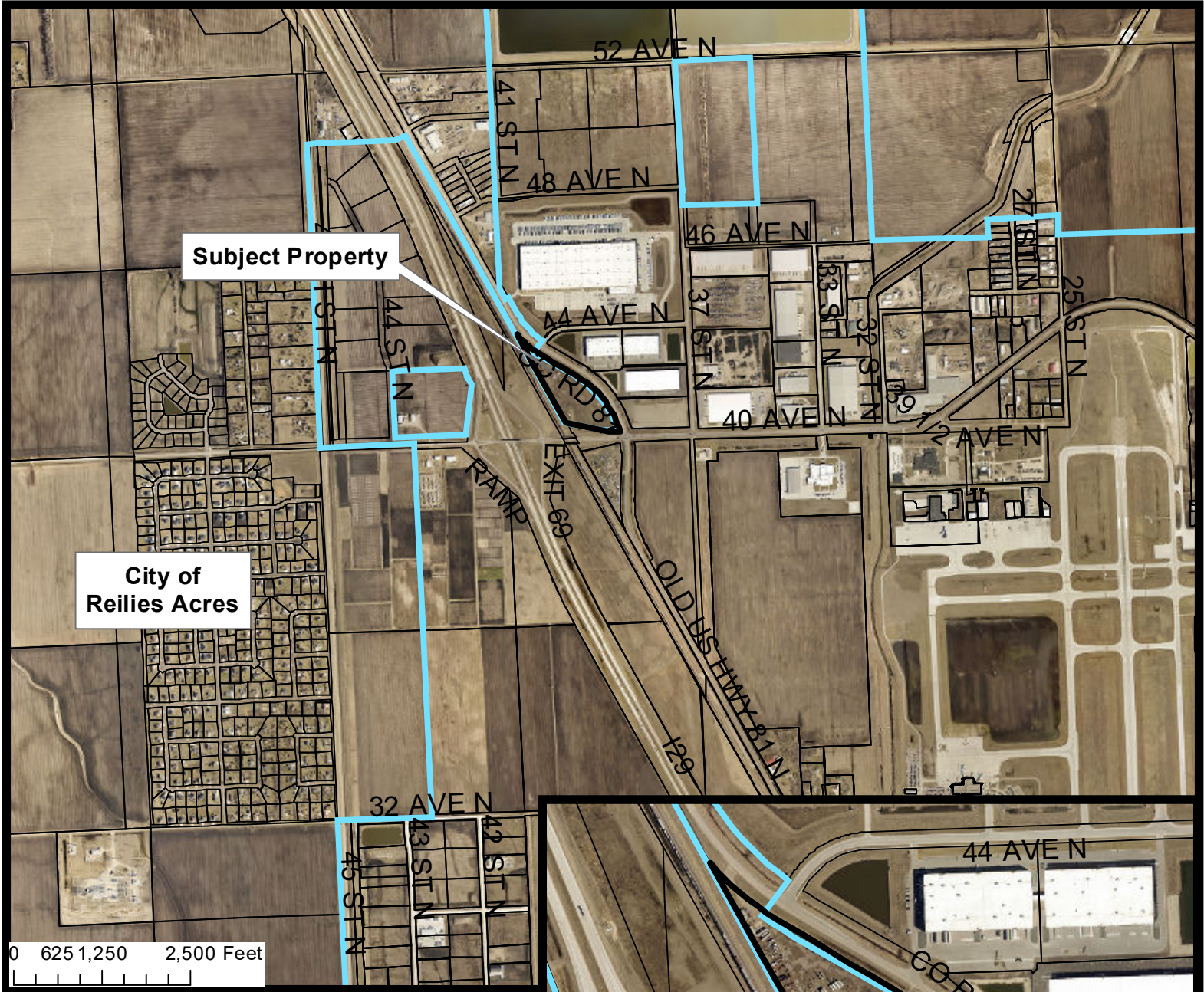
Legend

AG	DMU	GGC	GO	LC	MR-1	MR-2	MR-3	MHP	NO	P/I	UMU	SR-2	SR-3	SR-4	SR-5	City Limits
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Minor Subdivision and Zone Change from AG, Agricultural to LI, Limited Industrial with CO, Conditional Overlay

Northdale First Addition

4300 County Highway 81 North



Legend

 City Limits

NORTHDALE FIRST ADDITION

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

OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That ALLSTAR LAND COMPANY, LLC, a North Dakota limited liability company, as owner of a parcel of land located in that part of the Southeast Quarter of Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

Beginning at a found iron monument at the intersection of the North right-of-way line of County Road Number 20 and the Westerly right-of-way of Highway Number 81; thence on an assumed bearing of South 87°40'14" West, along the North right-of-way line of County Road Number 20 for a distance of 205.77 feet to a found iron monument; thence North 79°13'51" West along the North line of I-29 interchange for a distance of 386.21 feet to a found iron monument; thence continuing North 79°13'51" West along said right-of-way for a distance of 152.39 feet; thence North 29°04'44" West, parallel with the Burlington Northern Railroad tracks for a distance of 1,381 feet more or less to a point on the Westerly right-of-way of Highway Number 81; thence Southeasterly along said highway right-of-way to the point of beginning.

Containing 13.77 acres of land, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

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

OWNER:
ALLSTAR LAND COMPANY, LLC

By: Keith Ernst, President

County of Cass
State of North Dakota

On this _____ day of _____, in the year 2025 before me, a notary public within and for said County and State, personally appeared Keith Ernst, President, ALLSTAR LAND COMPANY, LLC, a North Dakota limited liability company, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of the limited liability company.

Notary Public

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

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

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

State of North Dakota
County of Cass

On this _____ day of _____, 2025, before me, a notary public within and for said County and State, personally appeared Shawn M. Thomasson, Registered Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same.

Notary Public

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by City Engineer this _____ day of _____, 2025.

Tom Knakmuhs, P.E., City Engineer

State of North Dakota
County of Cass

On this _____ day of _____, in the year 2025, before me, a notary public within and for said County and State, personally appeared Tom Knakmuhs, P.E., City Engineer known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same as City Engineer for the City of Fargo.

Notary Public

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this _____ day of _____, 2025.

Maranda R. Tasa, Planning Commission Chair

State of North Dakota
County of Cass

On this _____ day of _____, in the year 2025, before me, a notary public within and for said County and State, personally appeared Maranda R. Tasa, Planning Commission Chair, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Notary Public

FARGO CITY COMMISSION APPROVAL

Approved by the Board of City Commissioners and ordered filed this _____ day of _____, 2025.

Timothy J. Mahoney, Mayor

Attest:
Steven Sprague, City Auditor

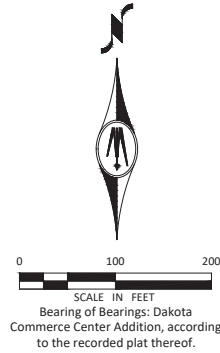
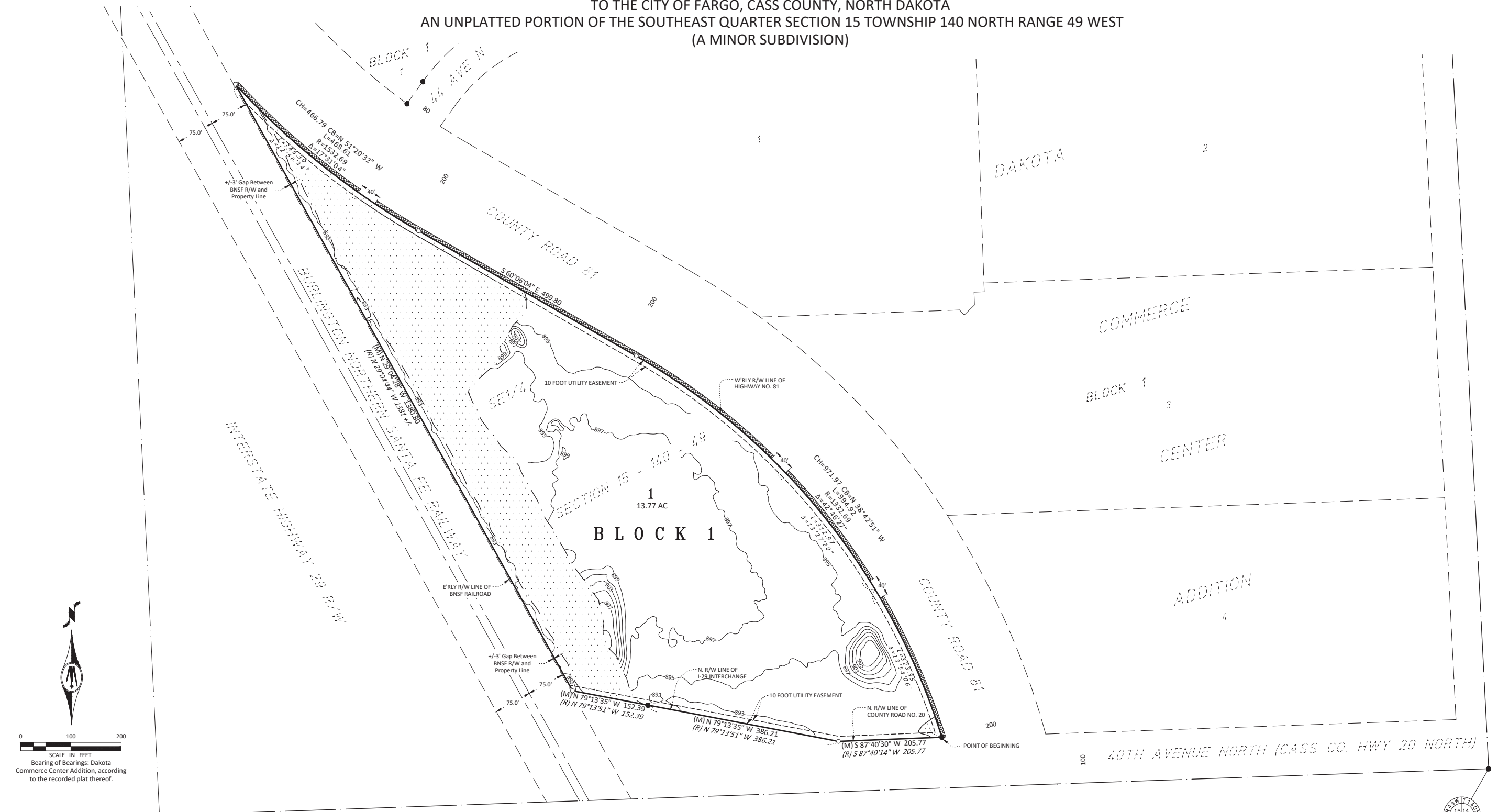
State of North Dakota
County of Cass

On this _____ day of _____, in the year 2025, before me, a notary public within and for said County and State, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor known to me to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same on behalf of the City of Fargo.

Notary Public

NORTHDALE FIRST ADDITION

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



LEGEND	
○	5/8"x18" REBAR MONUMENT SET, CAP MARKED BY LIC. NO. LS-5900
●	MONUMENT FOUND, 5/8" REBAR
(R)	RECORD BEARING OR DISTANCE
(M)	MEASURED BEARING OR DISTANCE
---	SUBJECT PROPERTY LINE
---	SECTION LINE
---	QUARTER LINE
---	EXISTING PROPERTY LINE
---	CENTERLINE RAILROAD TRACKS
---	EASEMENT LINE
---	EXISTING CONTOUR LINE PER CITY OF FARGO
---	LIDAR CONTOUR DRAWINGS NAVD88 DATED 2017
---	AREA NOT WITHIN THE 1% ANNUAL FLOODPLAIN (ZONE X)

Utility easements are shown thus:

LOT
 STREET
 AVENUE

Being 10 feet in width and adjoining street right of way lines as shown on the plat, unless otherwise indicated.

NOTES

THE SUBJECT PROPERTY LIES WITHIN ZONE AE (BASE FLOOD ELEVATIONS DETERMINED) AND ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON THE CURRENT FLOOD INSURANCE RATE MAP NO. 38017C0586G and 38017C0578G, HAVING AN EFFECTIVE DATE OF JANUARY 16, 2015.

BASE FLOOD ELEVATION: 893

BENCHMARK

City of Fargo Benchmark 156003, the Southeast Flange Bolt of Fire Hydrant Located in the Northeast Quadrant of Cass County Highway No. 20 and Highway No. 81.
 ELEV=895.18 NAVD88



DRAFT C-O FOR NORTHDALÉ 1st ADDITION

1. Prohibited Uses:

- Detention Facility
- Adult Establishment
- Aviation/Surface Transportation
- Portable signs
- Crushing of any materials, including concrete, asphalt, and rock or storage of concrete rubble or asphalt rubble (unfinished product)

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

3. Total number of off-premise signs within this property three. Off-premise signs must be spaced no less than 1200 feet apart in every direction. Off-premise signs may be static or digital.

4. For the purpose of sign regulation, this property is not considered "adjacent to Interstate."

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

6. Maximum sign face area of any off-premise sign limited to 300 square feet.

7. All vehicular access, parking, and outdoor storage areas to be paved. Gravel will not be allowed as a surface for parking, driving, or outdoor storage.

City of Fargo Staff Report			
Title:	Morton & Doty's Addition	Date:	11/27/2024
		Update:	1/02/2025 1/30/2025
Location:	1417 University Drive South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lots 23, 24, and 25, Block 14, Morton & Doty's Addition		
Owner(s)/Applicant:	McAllister Real Estate, LLLP / Buell Consulting for Verizon Wireless	Engineer:	None
Entitlements Requested:	Conditional Use Permit (CUP) (to reduce Telecommunications Support Structure (TSS) setback requirements and to allow the TSS to exceed the maximum height requirements in the LC, Limited Commercial zoning district)		
Status:	Planning Commission Public Hearing: February 4 th , 2025		
Existing		Proposed	
Land Use: Undeveloped		Land Use: Undeveloped	
Zoning: LC, Limited Commercial		Zoning: LC, Limited Commercial	
Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, basic utilities, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service, and certain telecommunications facilities.		Uses Allowed: No change proposed	
Maximum Lot Coverage: 55%		Maximum Lot Coverage: 55%	
Proposal:			
<p><i>PROJECT HISTORY NOTE: This project was heard by the Planning Commission at their December 3rd, 2024 hearing. At the end of that hearing, the Commission moved to continue the hearing to the January 7th, 2025 agenda and give direction to the applicant regarding evaluating the location of the TSS. The hearing was continued to the February 4th, 2025 Planning Commission agenda at the request of the applicant.</i></p> <p><i>STAFF'S RECOMMENDATION CHANGE TO "APPROVAL": After further discussion with the applicant and the applicant's agreement to move the proposed TSS further to the east, staff has changed the recommendation from "denial" to "approval," as noted in the findings below. A summary of the activity at the December 3rd, 2024 Planning Commission hearing and since that hearing starts on page 5.</i></p> <p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. Conditional Use Permit (CUP) (to reduce Telecommunications Support Structure (TSS) setback requirements and to allow the TSS to exceed the maximum height requirements in the LC, Limited Commercial zoning district) <p>Approval and Appeal The Planning Commission is the final decision maker for CUP's. Any appeal of the Planning Commission's decision goes to the City Commission. Pursuant of LDC Section 20-0903.B, appeals of final decisions must be filed within 10 days of the date of the decision.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> North: LC, Limited Commercial with commercial and residential uses; SR-3, Single-Dwelling Residential with single-dwelling residential uses 			

- East: LC, Limited Commercial with commercial uses
- South: LC, Limited Commercial with commercial and industrial uses
- West: SR-2 Single Dwelling Residential with religious institution and single-dwelling residences

Context:

Schools: The subject property is located within the Fargo School District, specifically within the Clara Barton /Hawthorne Elementary, Carl Ben Eielson Middle and South High schools.

Neighborhood: The subject property is located within the Lewis and Clark neighborhood.

Parks: Clara Barton Park (1451 6th Street South) is approximately 0.45 mile east of the subject property and provides basketball court, baseball/softball fields, outdoor skating rinks, playground, and a warming house.

Pedestrian / Bicycle: There are no multi-use paths adjacent to the subject property.

MATBUS Route: The subject property is located along MATBus Route 14, which connects the downtown Ground Transportation Center with West Acres shopping center by way of University Drive, 32nd Avenue South, and 42nd Street South.

Staff Analysis:

The applicant proposes a monopole telecommunications support structure (TSS) on the property at 1417 University Drive South. This property is zoned LC, Limited Commercial. The proposed height of the TSS is 79 feet. This height would be beyond the maximum 50-foot height allowed by the LC zone. This TSS would also not meet required setbacks from the nearby single-dwelling residential zones. Thus, the applicant requests a conditional use permit to:

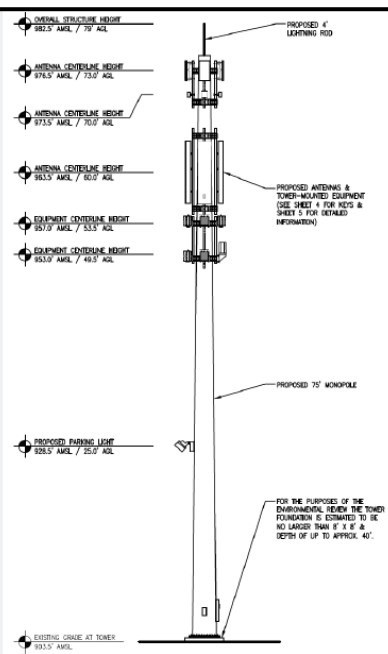
1. allow the TSS exceed the maximum height requirements in the LC, Limited Commercial zoning district; and
2. reduce Telecommunications Support Structure (TSS) setback requirements.

TYPE OF TSS: The applicant describes the proposed TSS as a “SMACRO tower,” and provides the following information on such towers:

A SMACRO tower is a unique stealth design which does not require any ground space other than the foundation. In addition, the antennas and ancillary equipment are flush mounted to the tower which significantly lowers the visibility. Therefore, a SMACRO tower is often implemented in urban areas with small parcels and nearby residential uses.

Proposed Tower

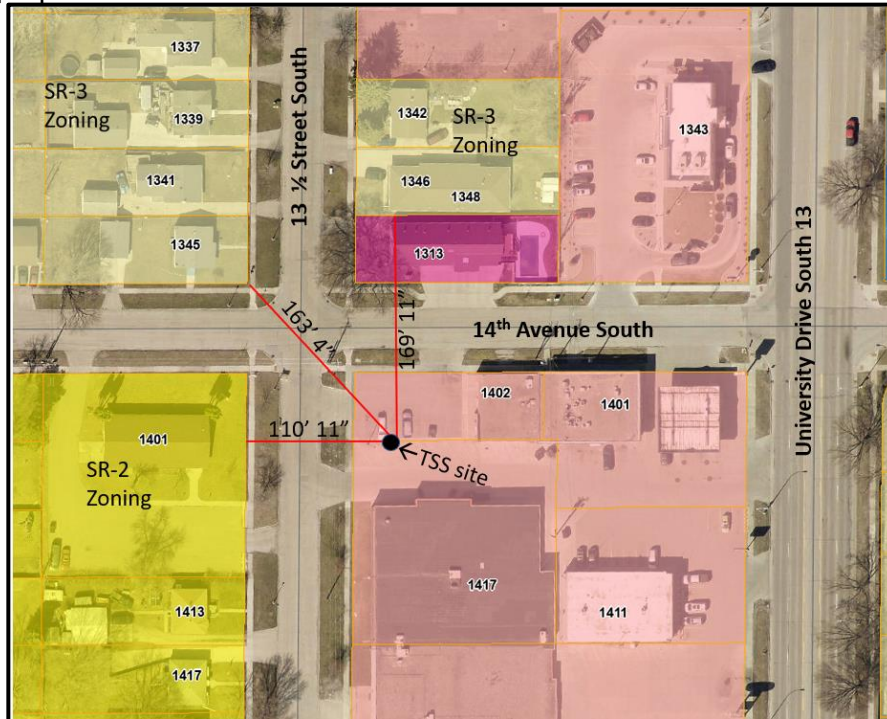
- 79' SMACRO monopole.
- 8' x 8' footprint, no separate ground equipment
- Only one parking spot required.
- Includes parking lot light.
- Flush mount design intended to minimize visual impact.



(Graphic provided by applicant. A larger version is attached)

SPECIFIC SETBACK REDUCTIONS REQUESTED: The TSS is proposed to be located in a property zoned LC, Limited Commercial. The maximum height allowed by right for a TSS in the LC zone is 50 feet. Section 20-0402.N.3.e.4 of the Land Development Code (LDC) specifies that a TSS that exceeds the maximum height for the zone but is not more than 125 feet in height, that is located in a non-residential zoning district must be set back twice the height of the tower, or 200 feet, whichever is greater, from residentially zoned property. Twice the height of the tower is 158 feet, so 200 feet is the greater distance in this case.

Residentially zoned property within 200 feet of the proposed TSS site is located to the north, northwest, and west. The graphic below shows the distances from the TSS site to the property lines of the single-dwelling zoned properties.



The applicant requests reduction of the 200-foot setback as follows:

DIRECTION	REQUIRED SETBACK	PROPOSED SETBACK	REQUESTED REDUCTION--FEET	REQUESTED REDUCTION---PERCENT
North	200 feet	169' 11"	30' 1"	15
Northwest	200 feet	163' 4"	36' 8"	19
West	200 feet	110' 11"	89' 1"	45

Section 20-0402.N.3.k of the LDC specifies that Planning Commission may, through a conditional use permit, reduce the required setbacks by up to 50 percent of the required distance (in this case, by up to 100 feet). Findings specific to this setback reduction are stated below.

TSS OVER HEIGHT ALLOWED IN THE LC ZONE: The proposed TSS is located in a property zoned LC, Limited Commercial. The maximum height allowed by right for a TSS in the LC zone is 50 feet. Section 20-0402.N.3.e of the LDC specifies that TSS's that exceed the maximum height for the district but are not more than 125 feet in height are conditional uses are subject to the CUP review process. Specific findings are below.

LDC Section 20-0402.N.j.4 defines "stealth" design of TSS's:

The term "stealth," as used in this section, shall mean , in referring to freestanding telecommunications TSS's, the ability to blend into the context of the surrounding environment at a given location or to use a TSS design that is as inconspicuous as possible under the existing or planned circumstances by screening, disguising, concealing, or otherwise camouflaging the TSS as a natural feature, as part of a structure, or as an accessory structure consistent with the overall function of the property on which the TSS is located.

Using the photo simulations provided by the applicant shown below, the proposed TSS will be a dominant feature of this neighborhood. It is conspicuous and does not blend into the surrounding environment. It is not screened, disguised, concealed, or otherwise camouflaged.

Photo Simulations – View 1 (SMACRO)

14th Ave South & 13-1/2 St South



Photo Simulations – View 2 (SMACRO)

13-1/2 St South



Photo Simulations – View 3 (SMACRO)

University Drive South



Regarding alternative locations, the applicant has stated that he has contacted property owners of nearby sites. These nearby sites were either not available, were not viable for tower location due to overhead power lines, or were closer to residential uses that the proposed site and so would require a CUP for even greater setback reduction.

DECEMBER 3rd, 2024 PLANNING COMMISSION HEARING

COMMISSION DISCUSSION AT THE DECEMBER 3rd, 2024 PLANNING COMMISSION

At the December 3rd, 2024 Planning Commission, the Commission heard a presentation from staff and from the applicant. Topics discussed included:

TSS Location: The applicant stated that

- the proposed location is the most effective from a technical perspective of overlapping coverage and offloading overloaded towers nearby.
- the tower separation requirement in the Land Development Code limits how many towers can be installed in a particular area.
- other locations that the applicant researched would either require as much or more reduction in setback from the residential as the proposed site, or the property owners of other sites would not agree to a tower installation on their property.

Stealth: The applicant stated that

- the proposed tower is a stealth tower from their perspective, as this type of tower decreases the profile of the tower and antennas relative to more common styles of cell tower.
- towers that are made to look like something they are not, such as pine trees, are not very convincing. the Land Development Code does not provide a specific definition of “stealth;” it only provides for subjective interpretation.

The Commission pointed out that if the applicant determined what was considered “stealth” rather than following an ordinance definition, the term “stealth” could be interpreted very broadly.

Screening: The applicant stated that screening is generally used in relation to ground equipment, and that the proposed type of tower has no ground equipment.

The applicant, staff, and the Commission discussed the potential for landscape screening in the form of trees planted in boulevards across 13 ½ Street South that currently have no trees, and whether a requirement for screening could be a condition of the CUP.

The Commission observed that, even if the applicant paid to plant new trees in these boulevards, it would probably be 15 to 20 years before they would be of a size to effectively screen the view of the tower.

Public Comments: There were no comments from the public during the public hearing portion of the proceedings.

COMMISSION MOTION AT THE DECEMBER 3rd, 2024 PLANNING COMMISSION

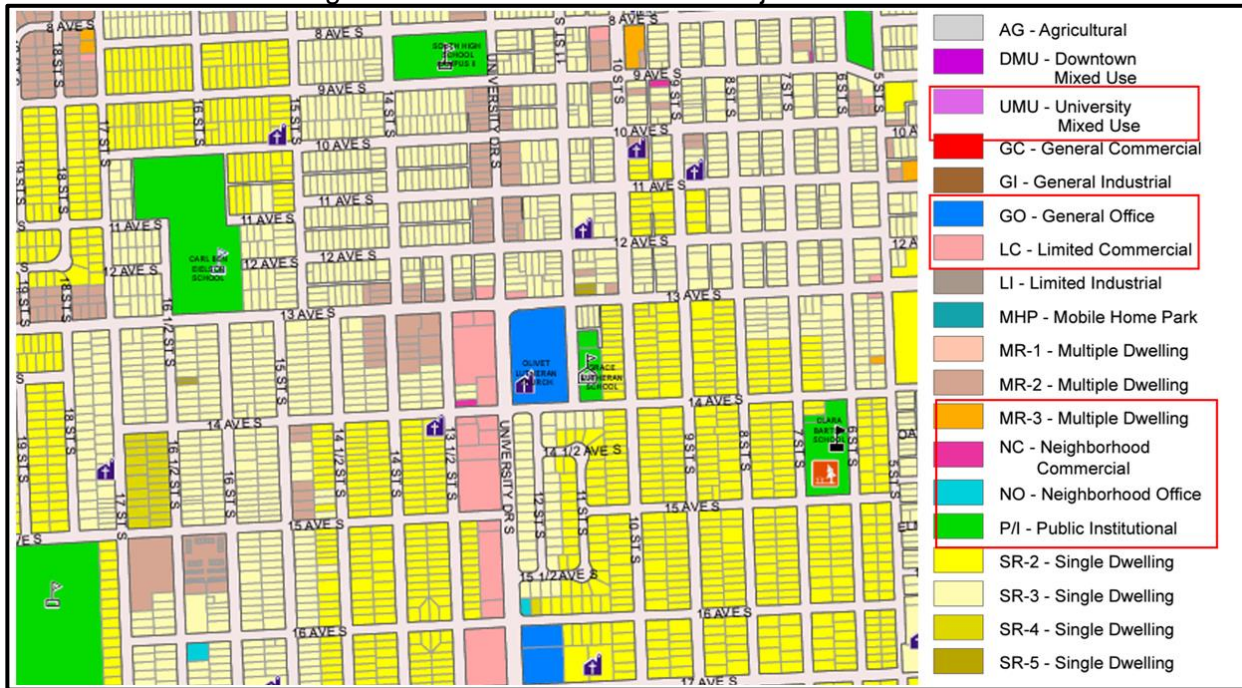
After hearing the presentations from Planning staff and the applicant, including Commissioner questions for Planning staff and the applicant, the Commission moved to continue the hearing to the January 7th, 2025 Planning Commission agenda, with direction to the applicant to

- investigate the possibilities of undergrounding the power lines to the east of the proposed TSS location, and moving the tower location further east, to the northeast corner of the subject property;
- provide examples of completed TSS's that the applicant has done in other, similar situations in other cities; and
- show what the effect of having two by-right height towers would be.

APPLICANT'S RESPONSE TO COMMISSION DIRECTION

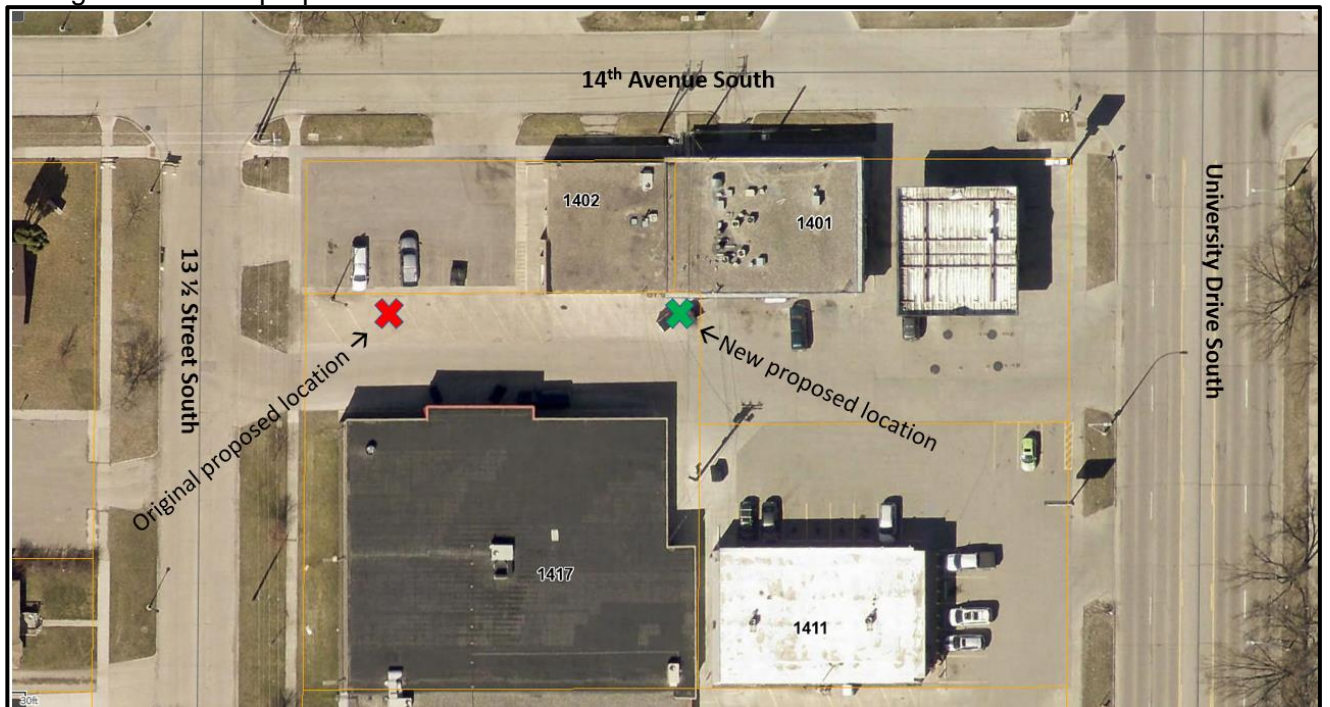
In response to the Commission's direction that the applicant evaluate the possibility of using two by-right height TSS's in this area, the applicant stated “I looked into the possibility of two 50' by-right towers and determined it is not a feasible alternative. Below is a wider view of the area where we could conceivably place towers without being too close to existing sites. The only parcels in by-right districts with space to

accommodate a tower are along the stretch of LC/GO. At maximum we would have about 1,750' in separation and the lower height would not achieve network objectives to the north.



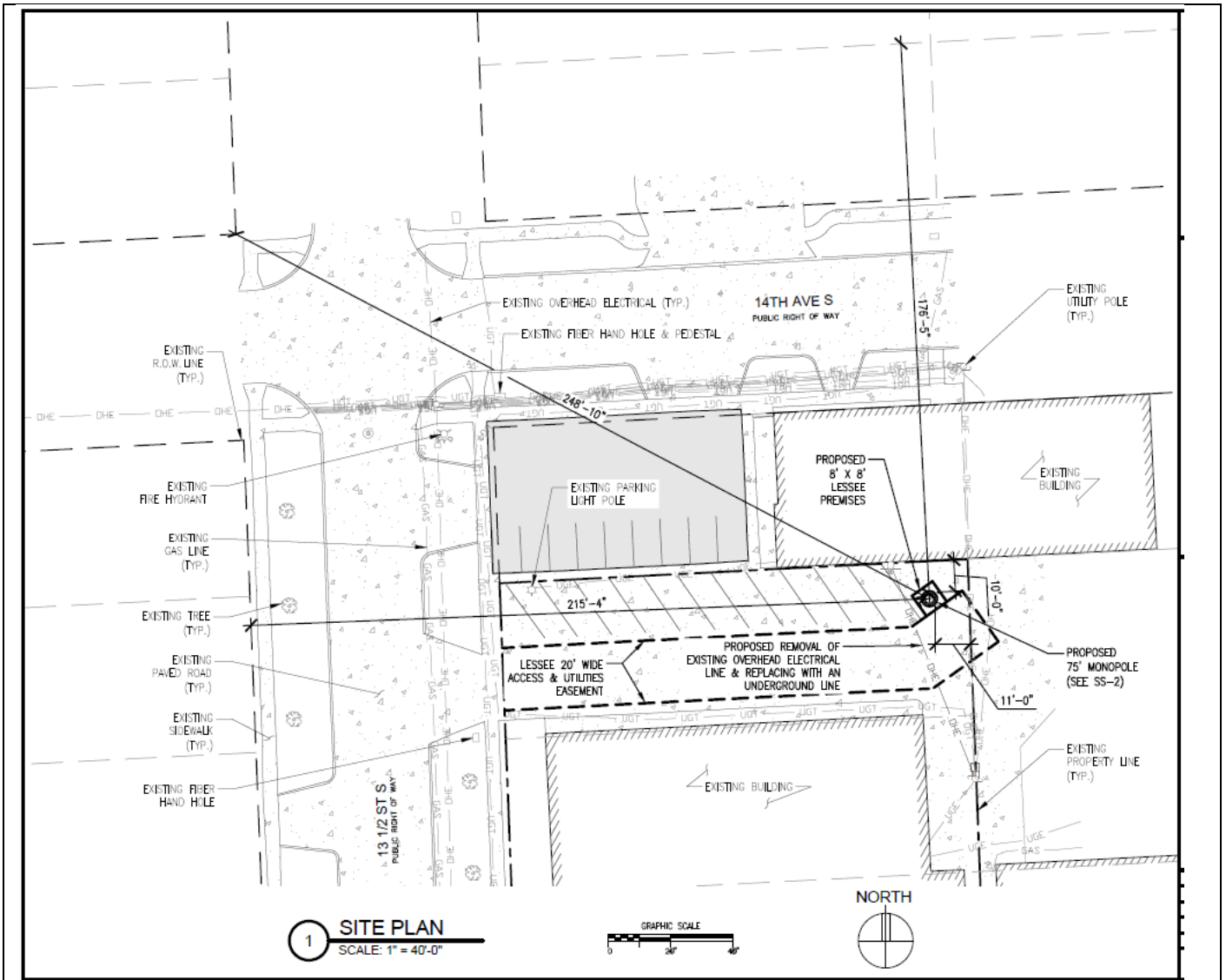
APPLICANT’S REVISED LOCATION OF THE TSS

Planning staff continued to work with the applicant through December and January regarding relocating the TSS. After further review, the applicant determined that the TSS could be relocated approximately 104 feet further toward the east with the undergrounding of existing overhead power lines. A comparison of the original and new proposed locations is shown below.



As a result of this relocation, there would be no requested setback reduction to the west and northwest, and a less than 12 percent setback reduction from the single-dwelling zoned property to the north. The graphic and chart below show the revised setbacks. Staff has determined they can support this proposed setback reduction.

The new proposed location of the TSS is over 200 feet from single-dwelling zoned property to the east, across University Drive South.



DIRECTION	REQUIRED SETBACK	PROPOSED SETBACK	REQUESTED REDUCTION--FEET	REQUESTED REDUCTION--PERCENT
North	200 feet	176' 5"	23' 7"	11.75
Northwest	200 feet	200+ feet	None	0
West	200 feet	200+ feet	None	0

STAFF REVIEW OF THE TERM "STEALTH"

Staff has reviewed the Commission presentation and applicant's further discussion about the "stealth" nature of the tower. The applicant has not proposed a reduction in tower height. However, staff can see that this proposed SMACRO tower, though it will still be a noticeable feature, is not as imposing as a large tower with ground equipment and spreading antennas. Staff agrees with the applicant that an attempt to disguise this tower as something else would not be effective in this location. The applicant has provided the photo sims below of the revised location.

(continued on next page)



University Dr & 14th Ave S



13-1/2 St

STAFF RECOMMENDATION: Staff has changed the original recommendation of denial to approval, with the relocation of the TSS further to the east as described above. Recommended conditions of approval are:

1. TSS height may not exceed 79 feet.
2. TSS location must be as shown in the site plan attached to the February 4th, 2025 Planning Commission packet marked "TSS LOCATION."
3. No ground equipment may be installed on this site.

Note that the motion for approval is only for the CUP. The applicant will have to go through the building permit process when they are ready to install the tower. Approval of the CUP is not approval of a building permit.

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

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

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that, with the re-location of the proposed tower further to the east, the proposed reductions in setbacks from residential zones as noted in the chart on page 7 above are acceptable.

(Criteria Satisfied)

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

The applicant has stated that the TSS at this location will improve coverage and capacity in a highly residential area with significant demand. This TSS is intended to offload high-traffic sites currently serving Sanford Hospital, South High School, and downtown Fargo. The TSS at this site will provide improved 5G coverage for the surrounding area, including for Sanford hospital and nearby schools **(Criteria Satisfied)**

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

Staff has no data to suggest the proposed use would cause substantial injury to the value of other property in the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry about the project from a property owner across University Drive, located outside of the required setback area. **(Criteria Satisfied)**

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

It is staff's perspective that the proposed TSS is less imposing than the monopole tower with ground equipment and spreading antennas, and that an attempt to disguise the tower as something else would not be effective in this location. Relocating the tower further to the east, as described above, moves the tower further away from residential areas to the west and northwest. **(Criteria Satisfied)**

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

The property has access to all necessary utilities and services. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the

property as proposed. Based on this information, staff finds that the adequate utility, drainage, and other such necessary facilities and services are in place. **(Criteria Satisfied)**

(continued on next page)

- 6. Have adequate access roads or entrances and exit drives been provided and are they designed to prevent traffic hazards and to minimize traffic congestion in public streets?**
The subject property is a commercial property with a driveway onto 13 ½ Street South.
(Criteria Satisfied)

Findings Specific to TSS's that exceed the maximum height for TSS's by right in the zone, but that do not exceed 125 feet in height (Section 20-0402.N.3.e 1-5)

- 1. No TSS may be located closer than ½ mile from any existing and/or approved TSS's of over 125 feet in height, and ¼ mile from any existing and/or approved TSS's of 125 or less, as measure from the base of one TSS to the base of another.**
The applicant has provided documentation that the proposed site meets this requirement.
(Criteria Satisfied)
- 2. The TSS shall have a co-location capability of at least one other telecommunications provider, unless stealth design considerations make co-location unfeasible as determined by the City Planner.**
The applicant has stated that the proposed TSS can provide this co-location capability.
(Criteria Satisfied)
- 3. TSS's shall comply with such other conditions as determined by the Planning Commission.**
Staff's recommended conditions are stated above and in the motion below.
(Criteria Satisfied)
- 4. No TSS located in any non-residential zoning district may be located closer than 200 feet or two times the height of the TSS, whichever is greater, from any residentially zoned property, as measured from the base of the TSS to the nearest such residentially zoned property line.**
With the relocation of the tower further to the east as described above, staff can support the proposed setback reductions identified in the chart on page 7 above.
(Criteria Satisfied)
- 5. (not applicable to this project)**

Findings specific to the reduction of setback distances from SR and other residential zoning districts (Section 20-0402.N.3.k 1-3)

- 1. The TSS shall be of stealth design**
In relation to the definition of "stealth" in LDC Section 20-0402.N.3.k.4 noted above, it is staff's perspective that the proposed TSS is less imposing than a monopole tower with ground equipment and spreading antennas, and that an attempt to disguise the tower as something else would not be effective in this location. Relocating the tower further to the east, as described above, moves the tower further away from residential areas to the west and northwest.
(Criteria Satisfied)
- 2. (not applicable to this project)**
- 3. If applicable, the applicant shall submit verification that the communications equipment planned for the proposed TSS cannot be installed on an existing TSS within the area (if any)**
The applicant has stated that he has contacted property owners of nearby sites. These nearby sites were either not available, were not viable for tower location due to overhead power lines, or were closer to residential uses than the proposed site and so would require a CUP for even greater setback reduction. The applicant has stated that Verizon is utilizing all existing TSS's in the area.
(Criteria Satisfied)

Recommended Motion

Suggested Motion: To accept the findings and recommendations of staff and approve the proposed conditional use permit to reduce Telecommunications Support Structure (TSS) setback requirements and to allow the TSS to exceed the maximum height requirements in the LC, Limited Commercial zoning district on Lots 23, 24, and 25, Block 14, Morton & Doty's Addition as presented, as the proposal complies with the Standards of Section 20-0909.D; 20-0402.N.3.e.1-5; N.3.K.1-3; and all other applicable requirements of the LDC, with the following conditions:

1. TSS height may not exceed 79 feet.
2. TSS location must be as shown in the site plan attached to the Planning Commission packet marked "TSS LOCATION."
3. No ground equipment may be installed on this site.

Planning Commission Recommendation: December 3rd, 2024

At the December 3rd, 2024 Planning Commission hearing, that Commission, by a vote of 9-1 with one Commission seat vacant, moved to continue the hearing to the January 7th, 2025 Planning Commission agenda and gave the applicant direction to:

- investigate the possibilities of undergrounding the power lines to the east of the proposed tower location, and moving the tower location further east, to the northeast corner of the subject property;
- provide examples of completed towers that the applicant has done in other, similar situations in other cities; and
- show what the effect of having two by-right height towers would be.

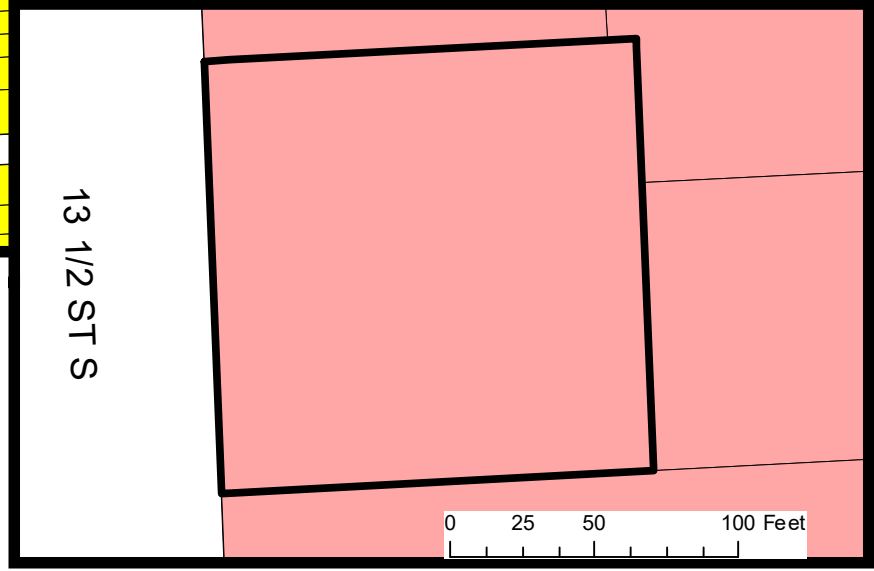
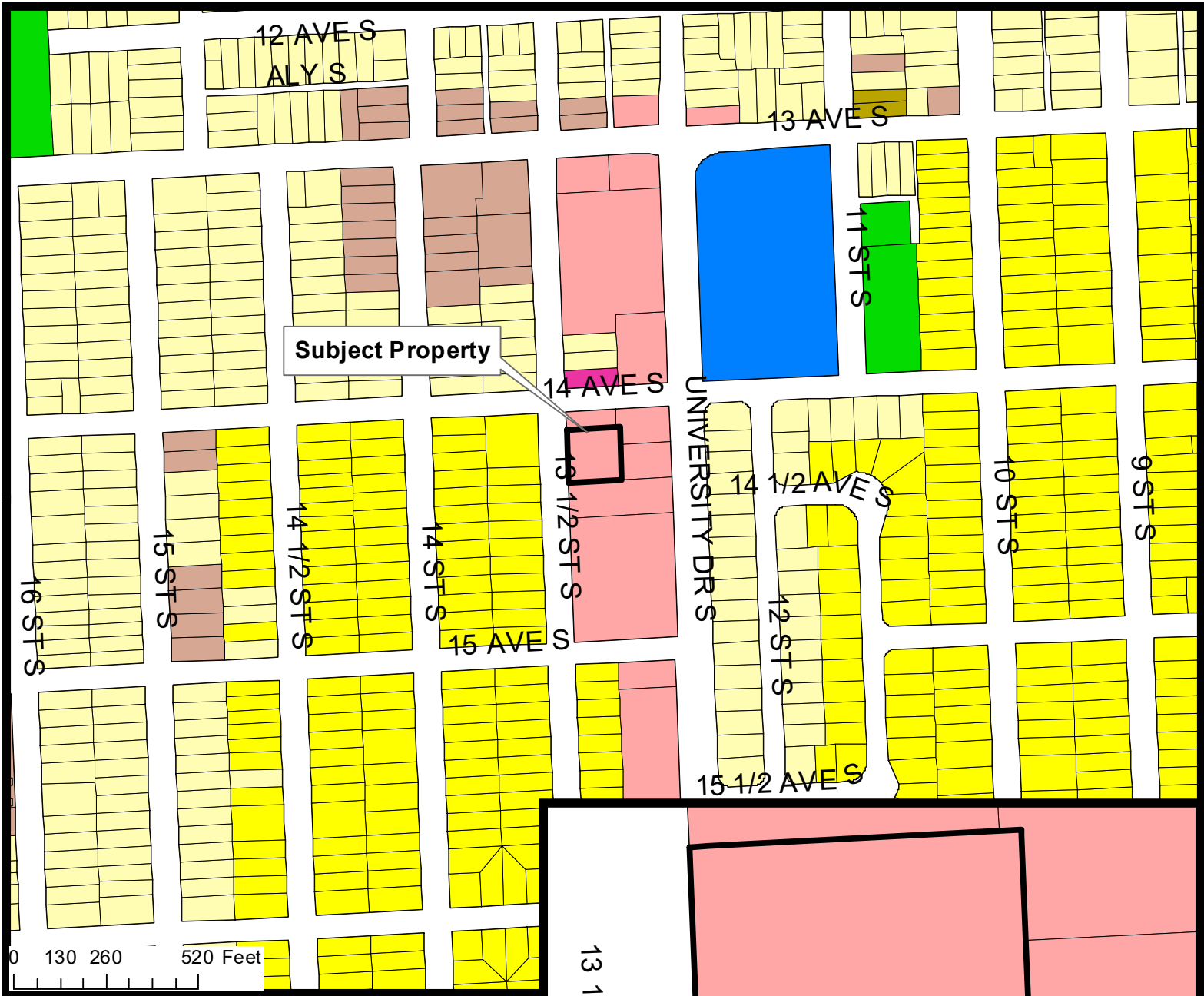
Attachments:

1. Zoning map
2. Location map
3. TSS features
4. Photo simulations of new proposed location
5. Site plan
6. TSS detail
7. Coverage maps

CUP, Conditional Use Permit to reduce Telecommunications Support Structure (TSS) setback requirements and to allow TSS to exceed the maximum height in the LC, Limited Commercial zoning district

Morton & Doty's Addition

1417 University Drive South



Legend

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



Fargo Planning Commission
December 3, 2024

CUP, Conditional Use Permit to reduce Telecommunications Support Structure (TSS) setback requirements and to allow TSS to exceed the maximum height in the LC, Limited Commercial zoning district

Morton & Doty's Addition

1417 University Drive South



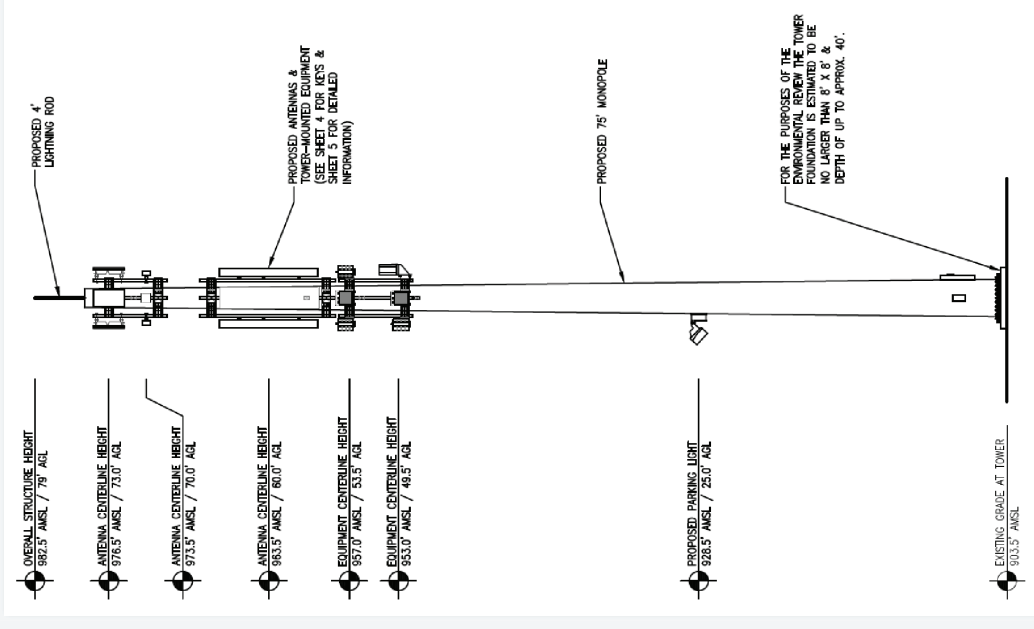
Legend
City Limits



**Fargo Planning Commission
December 3, 2024**

Proposed Tower

- 79' SMACRO monopole.
- 8' x 8' footprint, no separate ground equipment
- Only one parking spot required.
- Includes parking lot light.
- Flush mount design intended to minimize visual impact.





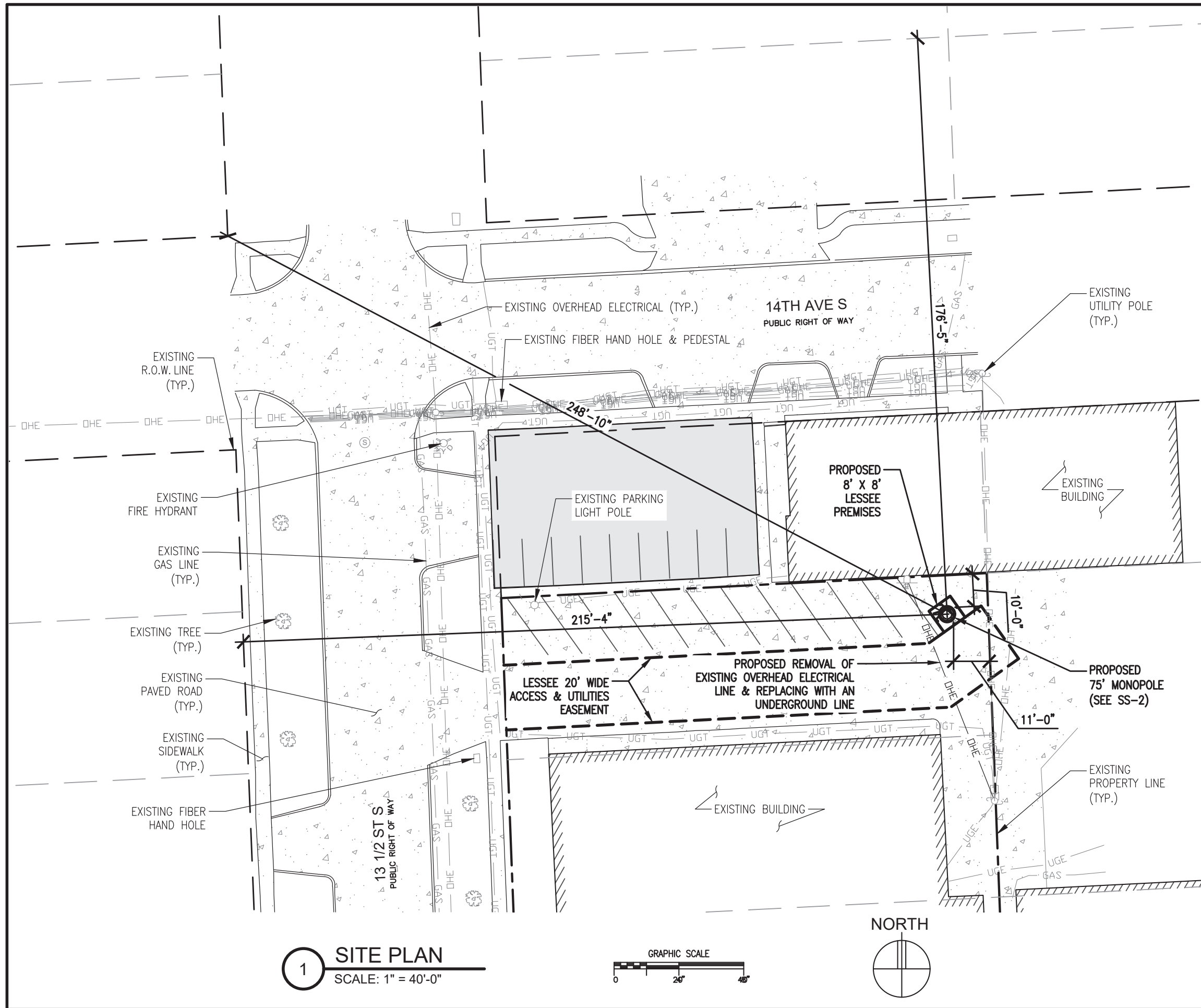
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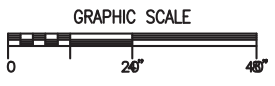
13-1/2 St



13-1/2 St & 14th Ave S

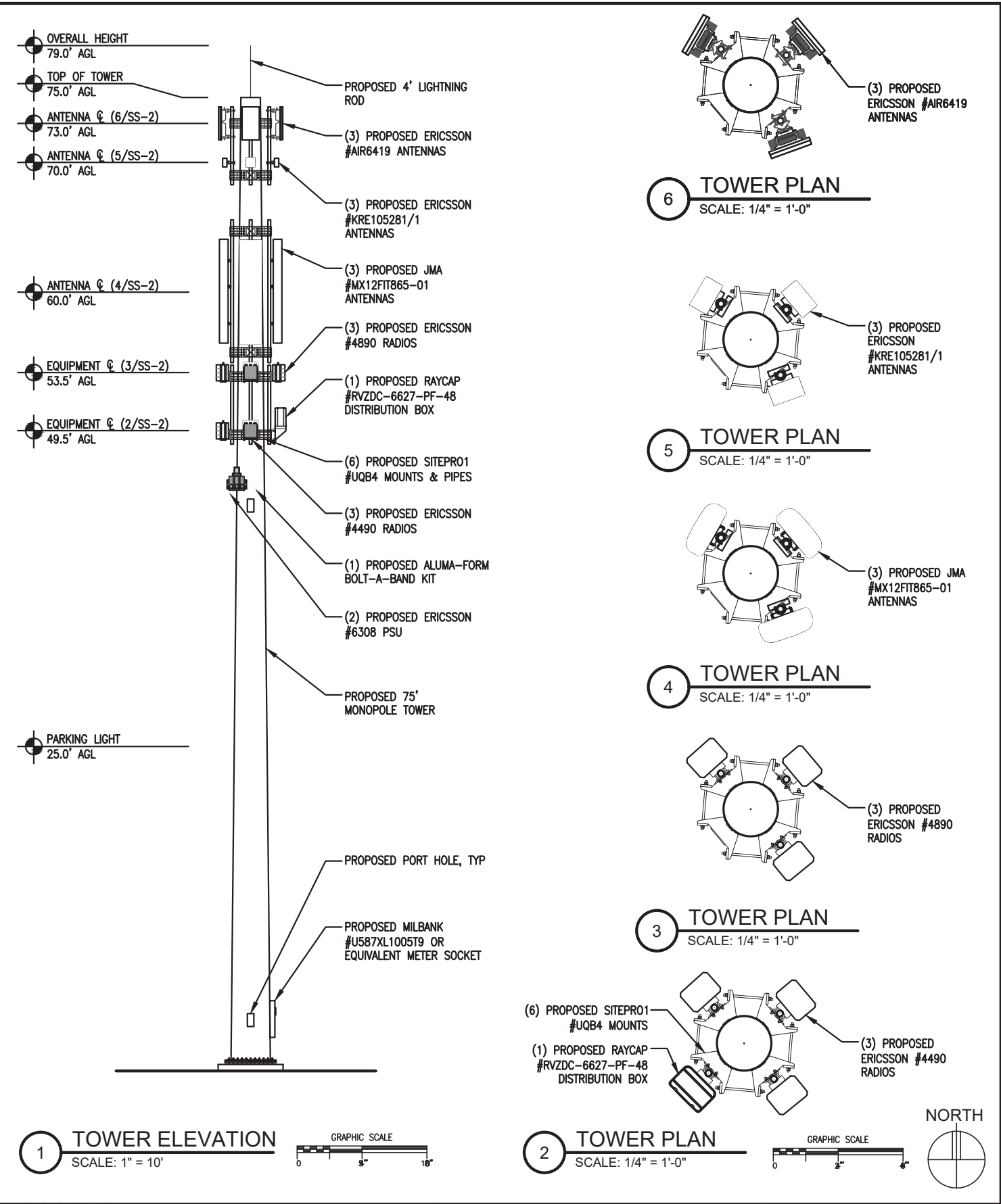


1 SITE PLAN
SCALE: 1" = 40'-0"



V.4	01-29-25
V.3	01-10-25
V.2	01-08-25
V.1	04-19-24

DRAWN BY: JP



SS-2	V-4	01-29-25	PROJECT: FAR BROADWAY 1417 UNIVERSOTY FARGO, ND 58103
	V-3	01-10-25	
	V-2	01-08-25	
	V-1	04-19-24	
	DRAWN BY:	JP	

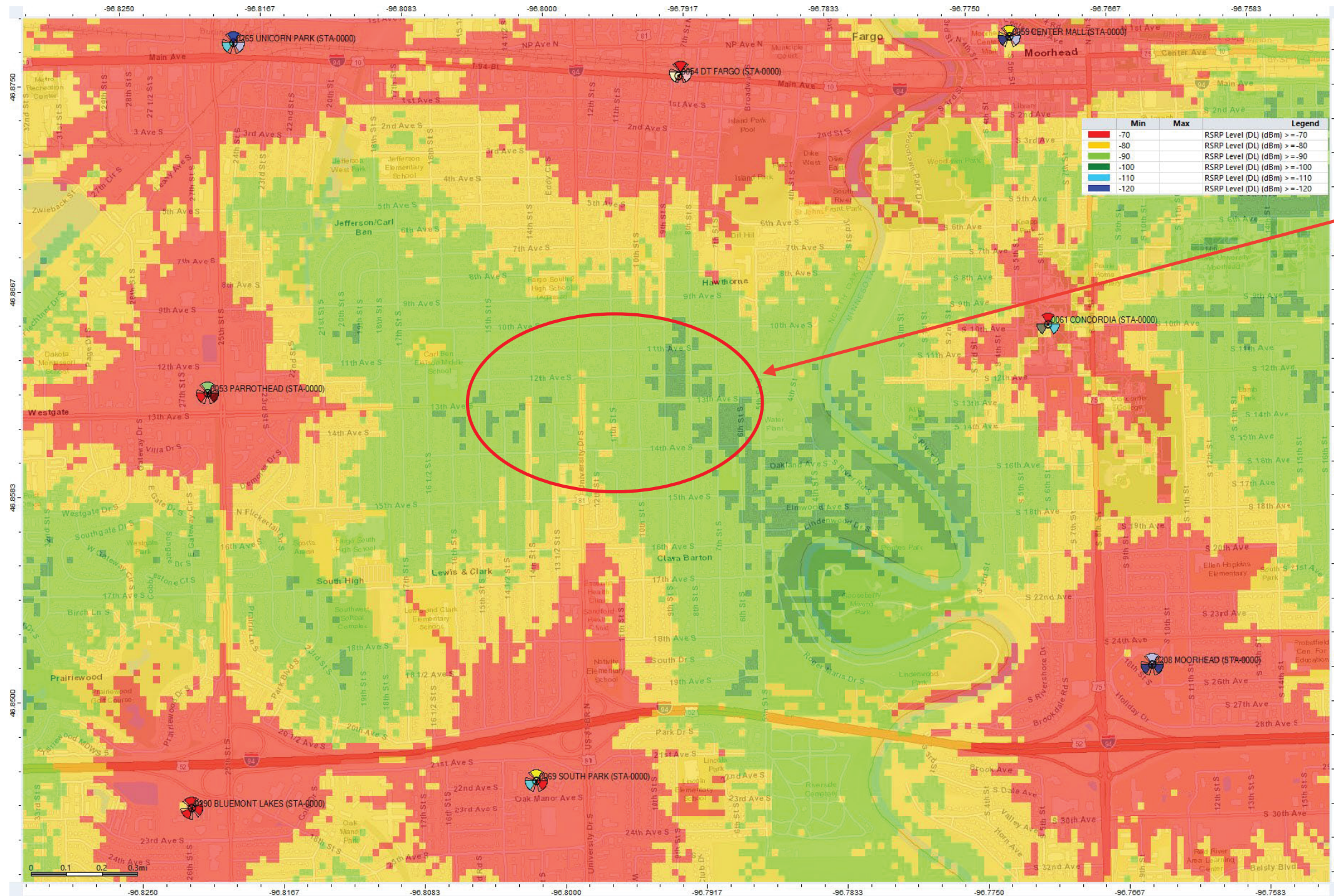
VERIZON WIRELESS

10801 BUSH LAKE ROAD
BLOOMINGTON, MN 55438
(952) 946-4700

DESIGN 1

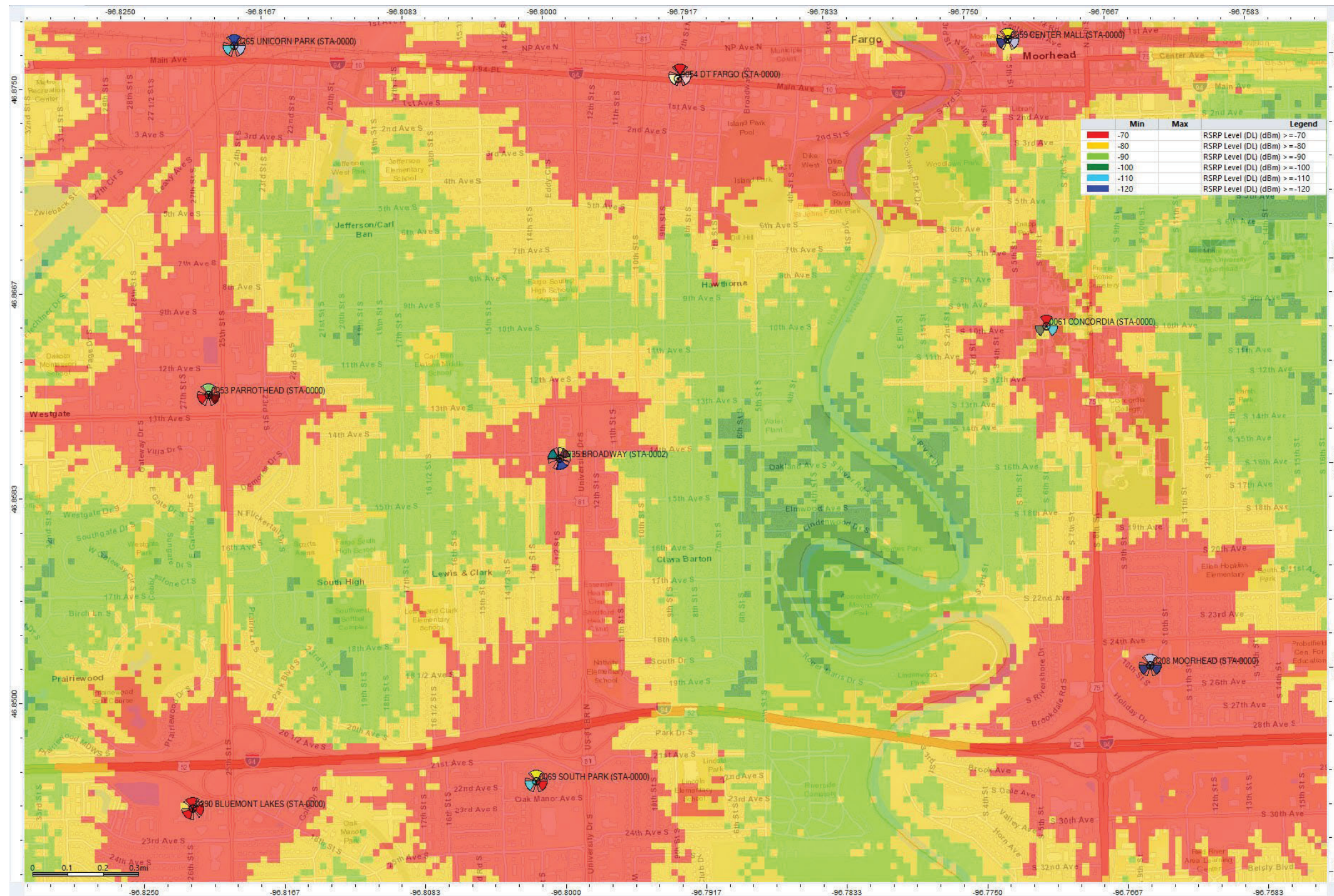
9973 VALLEY VIEW ROAD
EDEN PRAIRIE, MN 55344
(952) 903-9299
WWW.DESIGN1EP.COM

Existing LTE RSRP withOUT BROADWAY Site



There is wide high traffic area with low RSRP levels

LTE RSRP with BROADWAY at 60 ft ACL



- FAR Broadway will improve both coverage and capacity goals.
- Site activation will offload the high traffic from its neighboring sites Parrothead, South Park & DT Fargo.
- FAR Broadway will also improve the RSRP levels in Sanford South University Medical Center, Southside Shopping Center, South High School and many houses in the area.



City of Fargo Staff Report			
Title:	The Pass at Woodhaven Addition	Date:	1/29/2025
Location:	4142, 4144, 4148, 4150, 4168, 4170, 4174, and 4176 Arthur Drive	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Portion of Lot 2, Block 1, Woodhaven Plaza Addition		
Owner(s)/Applicant:	Brookstone Companies, LLC (formerly Zenith Construction Services, LLC)/ Houston Engineering, Inc	Engineer:	Houston Engineering, Inc.
Entitlements Requested:	Minor Subdivision (Plat of The Pass at Woodhaven Addition , a replat of a portion of Lot 2, Block 1, Woodhaven Plaza Addition to the City of Fargo, Cass County, North Dakota)		
Status:	Planning Commission Public Hearing: February 4th, 2025		

Existing	Proposed
Land Use: Undeveloped	Land Use: Attached residential
Zoning: LC, Limited Commercial	Zoning: No change
Uses Allowed: LC, Limited Commercial allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, basic utilities, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service, and certain telecommunications facilities. With Conditional Use Permit No. 2017-012 to allow household living at a maximum density of 24 dwelling units per acre	Uses Allowed: No change. CUP carries through.
Maximum Building Coverage: 55%	Maximum Building Coverage: No change

Proposal:

The applicant requests one entitlement:

1. A minor subdivision, entitled **The Pass at Woodhaven Addition**, a replat of a portion of Lot 2, Block 1, Woodhaven Plaza Addition to the City of Fargo, Cass County, North Dakota.

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: LC with CUP, with commercial and residential uses
- East: LC with commercial/medical research
- South: LC with commercial uses
- West: LC with CUP, with commercial and residential uses

Area Plans:

Fargo Growth Plan 2024 designates the place type of the subject property as Mixed Commercial, Office, and Residential. The existing zoning of LC with a CUP for household living is consistent with this place type designation. No zone change or land use plan amendment is proposed with this project.

Context:

Schools: The subject property is located within the Fargo School District, specifically within the Kennedy Elementary, Carl Ben Eielson Middle and Fargo South High schools.

Parks: Woodhaven North Park and Fishing Pond, 4406 44th Avenue South, is located approximately 0.40 mile southwest of the subject property and provides amenities of ADA fishing ramp, fishing, picnic table, playground, ages 5-12, recreational trails, and a shelter.

Pedestrian / Bicycle: There are off-street shared use paths along the north side of 40th Avenue and the west side of 42nd Street, each approximately a block away from the subject property.

Neighborhood: The subject property is within the Woodhaven neighborhood.

MATBUS Route: MATBUS Route 18, which connects the downtown ground transportation center with the 52nd Avenue South Wal-Mart, has stops at 42nd Street and 40th Avenue South and 42nd Street and 44th Avenue South. These stops are each less than one-quarter mile from the subject property.

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.

DEVELOPMENT HISTORY

Lot 2, Block 1, Woodhaven Plaza Addition was platted in 2006. Woodhaven Plaza Addition was a replat of a portion of the Prairie Tech Addition (1999). The LC, Limited Commercial zoning was established with the Prairie Tech Addition and carried through to the Woodhaven Plaza Addition. In 2017, a conditional use permit (CUP) was approved by the Planning Commission to allow household living the LC zone at a maximum density of 24 dwelling units per acre on this lot. Approximately 75 percent of the lot was developed with attached housing. Each housing unit is on an individual auditor's lot. These auditor's lots were created through Cass County. Lots created by auditor's lots do not go through a City of Fargo process, and are not considered subdivided lots. In 2024, the Cass County finance director determined that the auditor's lot process not be used for situations like this one, but only for the specific purpose described in the North Dakota Century Code. The applicant's plan to divide the final undeveloped area of Lot 2 with auditor's lots thus could not go forward.

City staff, Cass County staff, and the applicant have had extensive discussion over the past year of how to deal with this remaining undeveloped portion of Lot 2. It was eventually determined that the proposed plat, with agreements specifying the ownership and property tax responsibility for Lot 2, would be a solution acceptable to all parties. City staff and the applicant's attorneys will create these agreements prior to the plat going forward to City Commission. No agreement is attached; the Planning Commission takes no action on the agreement.

MINOR SUBDIVISION and REQUIRED AGREEMENT

The subdivision replats a portion of Lot 2, Block 1, Woodhaven Plaza Addition into two lots. Lot 1 is intended for development. Lot 2 is common area and access easement. Staff notes it is a very rare situation where staff would recommend approval of a platted lot that is only common area and easement. In this situation, the applicant will be required to create and agreement, working with City staff, that specifies the ownership and property tax responsibilities for this lot, in order to prevent the lot reverting to the County and, thence, to the City if property taxes are not paid on this lot. The lot itself is not developable.

The conditional use permit allowing household living will continue and carry through to this subdivision.

ACCESS AND UTILITIES

The subject property is surrounded by private streets---Arthur Drive on the north and west and 41st Street South on the east and south. Utilities are provided through easements in these private streets.

Minor Subdivision

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

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

The current zoning is LC, Limited Commercial with a conditional use permit. No zone change is proposed. This zoning is consistent with the Fargo Growth Plan 2024 designation of Mixed Commercial, Office, and Residential place type for the subject property. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry. The project has been reviewed by the city’s Planning, Engineering, Public Works, Inspections, and Fire Departments.

(Criteria Satisfied)

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

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

Staff Recommendation:

Suggested Motion: “To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed plat of **The Pass at Woodhaven Addition**, as outlined in the staff report, as the proposal complies with the Fargo Growth Plan 2024, Standards of Article 20-06, Section 20-0907.B. and C of the LDC, and all other applicable requirements of the LDC.”

Planning Commission Recommendation: February 4th, 2025

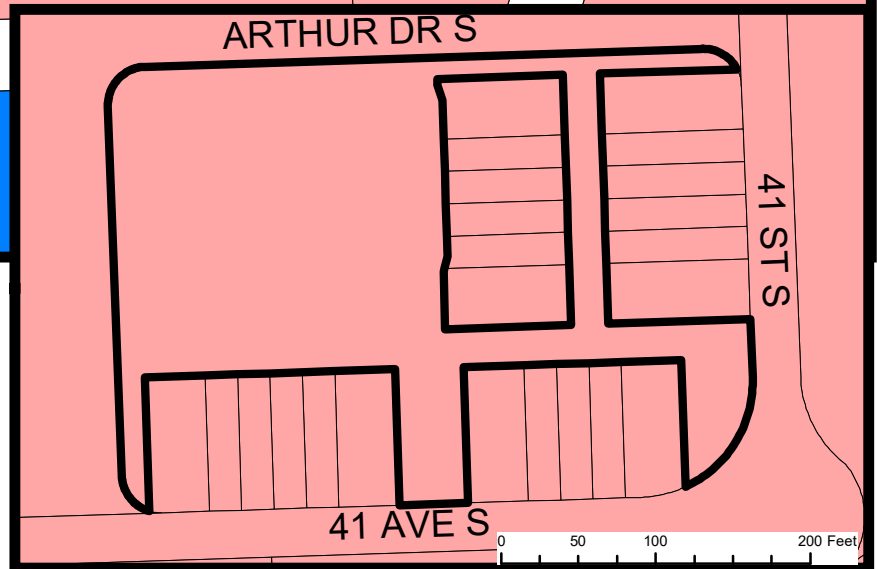
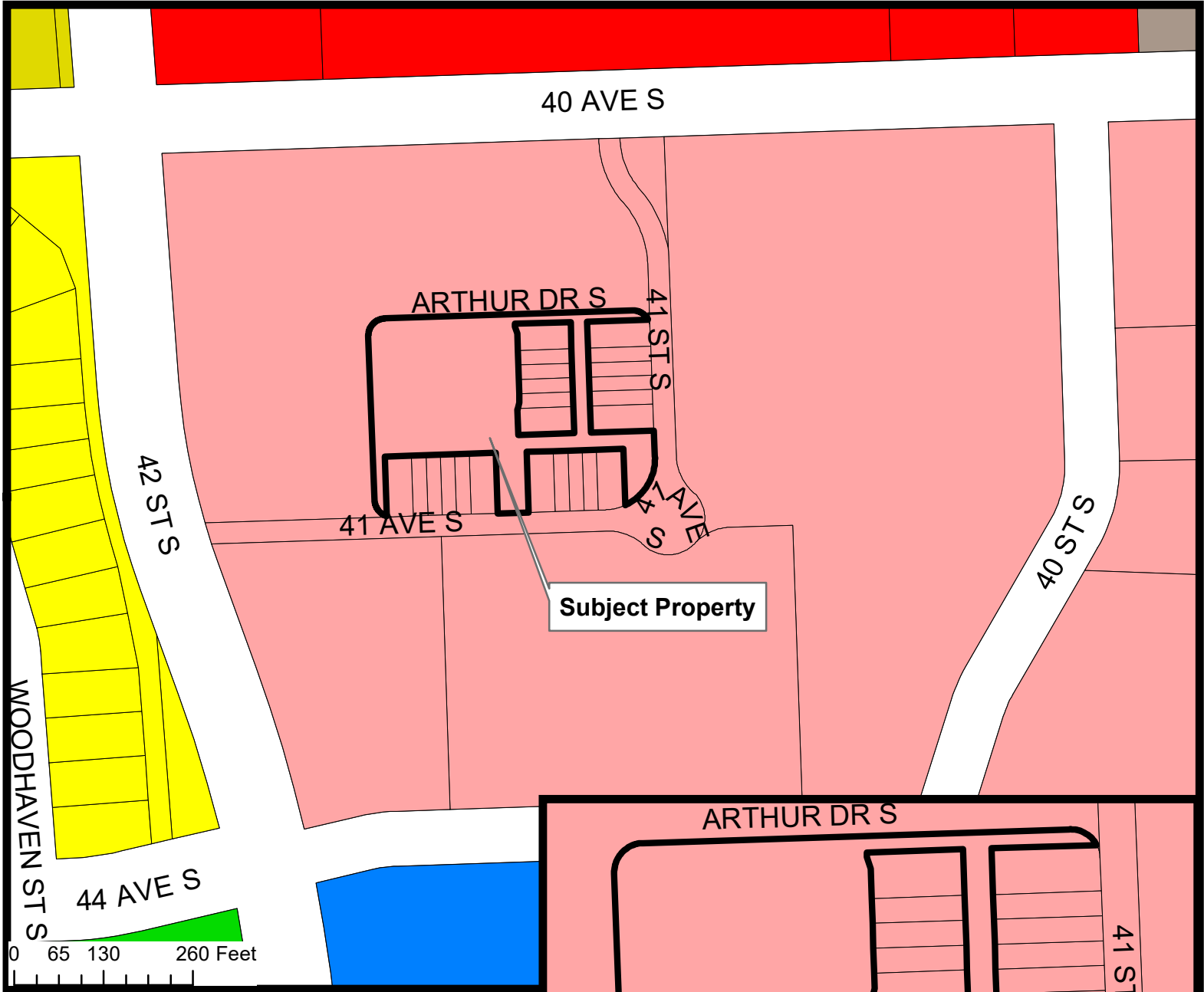
Attachments:

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

Minor Subdivision

The Pass at Woodhaven Addition

4142, 4144, 4148, 4150, 4168,
4170, 4174, and 4176 Arthur Drive



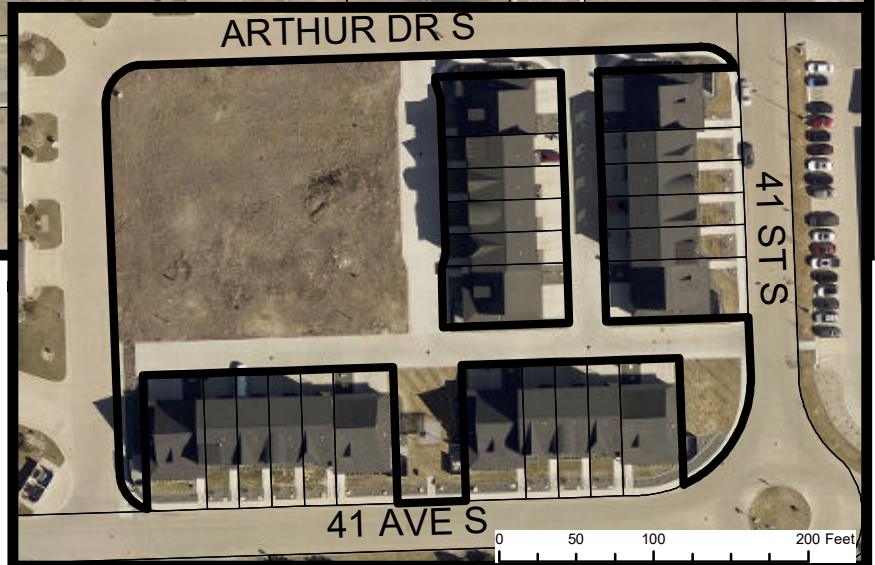
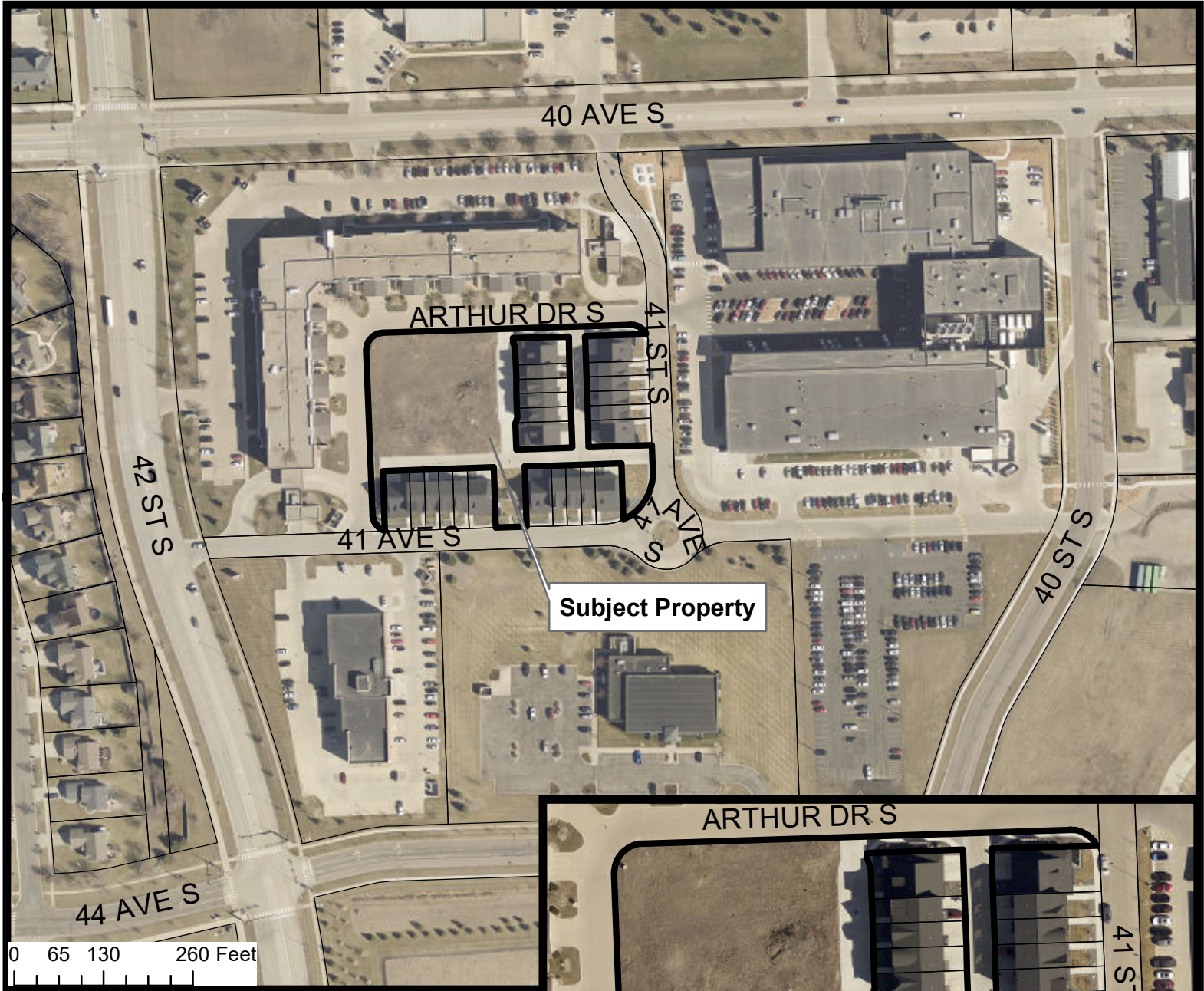
Legend

AG	DMU	LC	MHP	SS-1	SS-2
GC	GC	MRR-1	NC	SS-3	SS-4
GI	GO	MRR-2	PI	SS-5	SS-6
GO		MR-3	UMU	City Limits	

Minor Subdivision

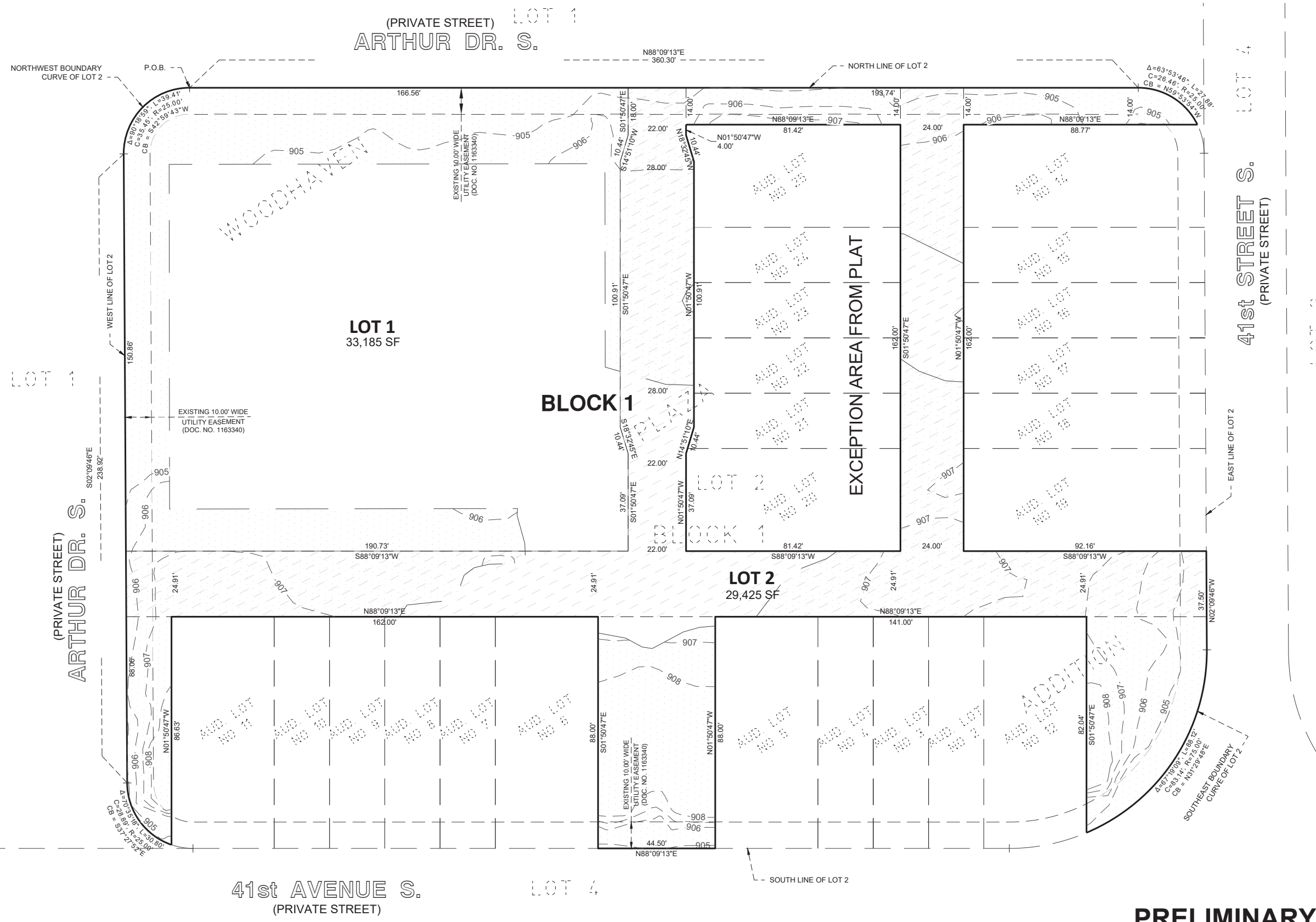
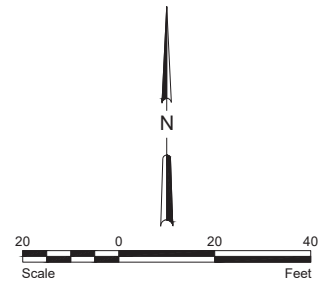
The Pass at Woodhaven Addition

4142, 4144, 4148, 4150, 4168,
4170, 4174, and 4176 Arthur Drive



THE PASS AT WOODHAVEN ADDITION

BEING A REPLAT OF PART OF LOT 2, BLOCK 1,
WOODHAVEN PLAZA ADDITION
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA
A MINOR SUBDIVISION



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	—————
NEW LOT LINE	—————
NEW UTILITY EASEMENT	-----
EXISTING LOT LINE	-----
EXISTING UTILITY EASEMENT	-----
ELEVATION CONTOUR (NAVD 1988)	----- 907 -----
ZONE AE - AREA WITHIN FEMA 100-YEAR FLOODPLAIN	[Stippled Area]
ACCESS EASEMENT	[Dashed Line]

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

- NOTES:**
- LOT 2 AS CREATED BY THIS PLAT IS AN UNBUILDABLE LOT.
 - A PORTION OF THE PROPERTY IS SITUATED IN ZONE AE (100-YEAR FLOODPLAIN) AS DEPICTED ON FEMA FIRM PANEL 38017C0778G DATED JAN. 16, 2015; MODIFIED BY FEMA LOMR-F NO. 25-08-0098A.
 - BASE FLOOD ELEVATION = 905.7' (NAVD 1988)
 - AREAS WITHIN FEMA ZONE AE ARE ONLY DEPICTED WITHIN THE BOUNDARY OF THIS PLAT.
 - ELEVATION CONTOURS ARE NAVD 1988, DERIVED FROM THE 2020 F-M METRO AREA LIDAR COLLECT, AND ARE ONLY SHOWN WITHIN FEMA ZONE AE.

H:\JBM110600\10633\10633_002\CAD\Plat\The Pass at Woodhaven Addition.dwg

PRELIMINARY PLAT

THE PASS AT WOODHAVEN ADDITION

BEING A REPLAT OF PART OF LOT 2, BLOCK 1,
WOODHAVEN PLAZA ADDITION
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA
A MINOR SUBDIVISION

OWNER'S CERTIFICATE AND DEDICATION:

KNOW ALL PERSONS BY THESE PRESENTS: That Brookstone Companies, LLC, a North Dakota limited liability company, f/k/a Zenith Construction Services, LLC, a North Dakota limited liability company, is the owner and proprietor of the following described tract of land:

Lot Two, in Block One, of Woodhaven Plaza Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota, EXCEPTING therefrom Auditor's Lots Numbers Two, Three, Four, Five, Six, Seven, Eight, Nine, Ten, Eleven, Twelve, Fourteen, Fifteen, Sixteen, Seventeen, Eighteen, Nineteen, Twenty, Twenty-one, Twenty-two, Twenty-three, Twenty-four and Twenty-five, of Woodhaven Plaza Addition to the City of Fargo.

Said tract contains 1.732 acres, more or less.

And that said party has caused the same to be surveyed and replatted as **THE PASS AT WOODHAVEN ADDITION** to the City of Fargo, Cass County, North Dakota, and does hereby dedicate to the current and future owners of any portion of Lot 2, Block 1, Woodhaven Plaza Addition, the access easement shown on this plat.

OWNER:

Brookstone Companies, LLC

Matthew Hauff, President

State of _____)
) ss
County of _____)

On this _____ day of _____, 20____ before me personally appeared Matthew Hauff, President of Brookstone Companies, LLC, a North Dakota limited liability company, f/k/a Zenith Construction Services, LLC, a North Dakota limited liability company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of said limited liability company.

Notary Public: _____

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, Curtis A. Skarphol, 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____.

Curtis A. Skarphol, Professional Land Surveyor No. 4723

State of North Dakota)
) ss
County of Cass)

On this _____ day of _____, 20____ before me personally appeared Curtis A. Skarphol, 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____.

Tom Knakmuhs, PE, City Engineer

State of North Dakota)
) ss
County of Cass)

On this _____ day of _____, 20____ before me personally appeared Tom Knakmuhs, PE, Fargo City Engineer, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as Fargo City Engineer.

Notary Public: _____

FARGO PLANNING COMMISSION APPROVAL:

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

Maranda R. Tasa, Chair
Fargo Planning Commission

State of North Dakota)
) ss
County of Cass)

On this _____ day of _____, 20____, before me personally appeared Maranda R. Tasa, 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: _____



City of Fargo Staff Report			
Title:	Airport First Addition	Date:	1/30/2025
Location:	1101 19 th Avenue North	Staff Contact:	Donald Kress, planning coordinator
Legal Description	Lot 7, Block 4, Airport First Addition		
Owner(s)/Applicant:	Midwest Buttiso LLC / Cityscapes Development	Engineer:	None
Entitlements Requested:	Modification of Airport 1st Addition Covenants Sections 1(A)(B)(C) Front, Rear, and Side Yards and 5(B) Landscaping and Buffer Easement		
Status:	Planning Commission Meeting: February 4, 2025 (this is <i>not</i> a public hearing item)		
Existing		Proposed	
Sections 1(A)(B)(C) Front, Rear, and Side Yards and 5(B) Landscaping and Buffer Easement		Modify Sections 1(A)(B)(C) Front, Rear, and Side Yards and 5(B) Landscaping and Buffer Easement of the covenants using the modification process stated in Section 11 of the covenants.	
Proposal:			
<p>CLARIFICATION OF THE TERM “VARIANCE” <i>The Airport First Addition covenants were enacted in 1969, and refer to a modification of those covenants as a “variance.” This is not how the term “variance” is used in the current Land Development Code. Under that code, a “variance” is an entitlement that is heard by the Board of Adjustment, not the Planning Commission. Such a variance—a modification of dimensional standards of the zone---must be based on a physical hardship related to the subject property. The modification of covenants being requested is not such a variance. The covenants specify that the Planning Commission makes the decision on modifications.</i></p> <p>AIRPORT FIRST ADDITION COVENANTS BACKGROUND The Airport 1st Addition plat was recorded in 1969, and the covenants were established at that time. This is a rare situation where the City of Fargo is a party to such covenants. At the time, the City was the primary owner of the property. As stated within the restrictive covenants, the City’s intent was to protect the owners of residential property adjacent to Airport First Addition, which was to be primarily industrial in nature. To this end, the restrictive covenants contain many restrictions and requirements on the property identified within Airport First Addition. These restrictions and requirements include such things as building setbacks, dimensional standards, maintenance of a landscape buffer adjacent to abutting residential lots, and prohibited uses.</p> <p>Section 11 of these covenants allows for a property owner within the subdivision to modify one or all of the requirements of the restrictive covenants upon written approval from:</p> <ul style="list-style-type: none"> • a majority of property owners within the Airport 1st Addition subdivision; • a majority of property owners of Lots 1-13, Block 3; Lots 1-13, Block 6; & Lots 1-11, Block 10, Peter Sway Fifth Addition; and • the Fargo Planning Commission. <p>SUBJECT PROPERTY HISTORY The subject property was platted in 1969. There have been a variety of business on the property over the years. There is not currently an active business on the property.</p> <p>(continued on next page)</p>			

PROPOSED MODIFICATIONS

The owner/applicant is requesting a modification of Sections 1(A)(B)(C) Front, Rear, and Side Yards and 5(B) Landscaping and Buffer Easement. The request, if granted, would allow redevelopment of the subject property over a larger area of the lot that is currently available due to the required setbacks and buffer. The applicant proposes to redevelop the subject property with warehouses for his company's own use. A concept site plan and graphics of the future building are shown below.





(graphics provided by applicant)

The proposed modifications are shown in the chart below.

Covenant Section Number	Description	Requirement In Covenants	Proposed Modification	Notes
1A	Front Setback	25 feet	Reduce to 20 feet	South (19 th Avenue) side
1A	Rear Setback	25 feet	Reduce to 20 feet	North Side
1B	Side Yard Width	10% of lot width; maximum 25 feet	Reduce to 10 feet	East and West Sides
1C	Distance From Buffer Easement	No closer than 25 feet west of the easement	Eliminate buffer easement entirely	
5B	Landscaping and Buffer Easement	Maintain six rows of trees between the subject property and adjacent residential to the east	Remove existing trees and brush; plant new trees in 10-foot wide buffer; install privacy fence	East side of the property. the tree buffer would be in addition to the 10-foot side yard setback .

Surrounding Land Uses and Zoning Districts:

- North: LI, with mini-storage
- East: SR-2, Single Dwelling Residential, with detached residences
- South: (across 19th Avenue North) LC, Limited Commercial with commercial uses
- West: LC, Limited Commercial with commercial uses

Context:

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

Neighborhood: The subject property is located within Northport neighborhood.

Parks: Yunker Farm is located approximately 0.45 miles north of the project site and provides playgrounds for ages 5-12, picnic table, and dog park.

Pedestrian / Bicycle: There is an on-road bike facility along the north side of 19th Avenue North that is a component of the metro area bikeways system.

MATBUS: MATBUS Route 13, which serves north Fargo and NDSU, has a stop at 19th Avenue and University Drive North, approximately 0.16 mile from the subject property

Staff Analysis:

To meet the requirement that the applicant must obtain written approval for the proposed change of covenants from a majority of property owners in the Airport 1st Addition and portions of the Peter Sway 5th Addition as noted above. Staff will present the final verification of the signature numbers at the February 4th, 2025 Planning Commission.

The applicant has been working on this project with since the summer of 2023. In that time, Planning staff has received and responded to two e-mail inquiries. Staff is aware that the City Commission received a comment letter (attached).

Because there is no entitlement request related to the Land Development Code, Fargo Municipal Code, or any other applicable laws at this time, there are no standard review criteria. Staff makes the findings below:

- The proposed modifications do not violate the intent or requirements of the Land Development Code (LDC).
- Development standards of the LDC not covered by the covenants still apply to any future development.
- The proposed modifications only apply to the subject property, 1101 19th Avenue North (Lot 7, Block 4, Airport First Addition).
- The Fargo Growth Plan 2024 designates the place type of the subject property as “Mixed Commercial, Office, and Residential,” a place type designation that can include distribution and warehousing, the uses proposed by the applicant.

Staff Recommendation:

Suggested Motion: “To accept the findings and recommendations of staff and hereby approve the proposed variance to the restrictive covenants of Airport 1st Addition, as presented, on Lot 7, Block 4, Airport 1st Addition, contingent upon staff’s final verification of sufficient signatures supporting the proposed change from property owners in the Airport 1st Addition.”

Planning Commission Recommendation: February 4, 2025

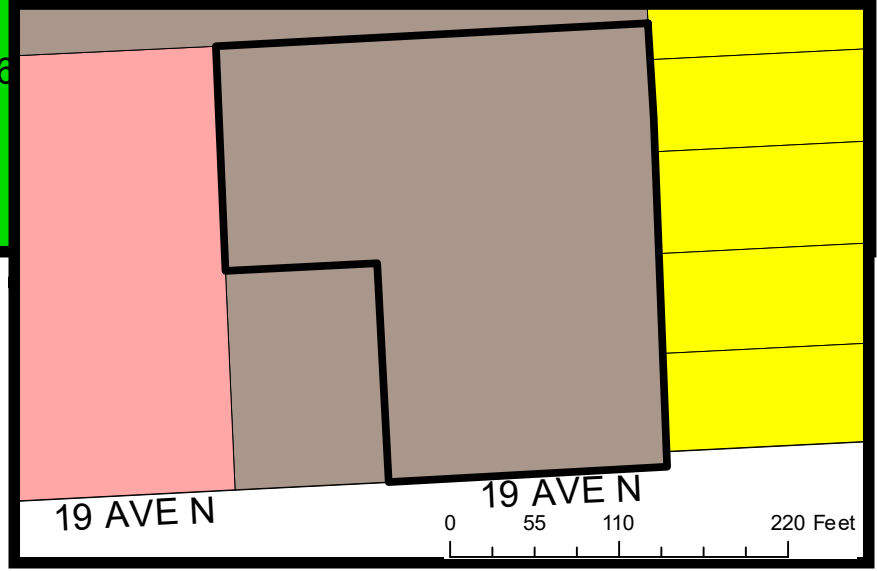
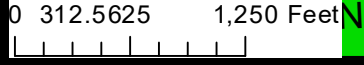
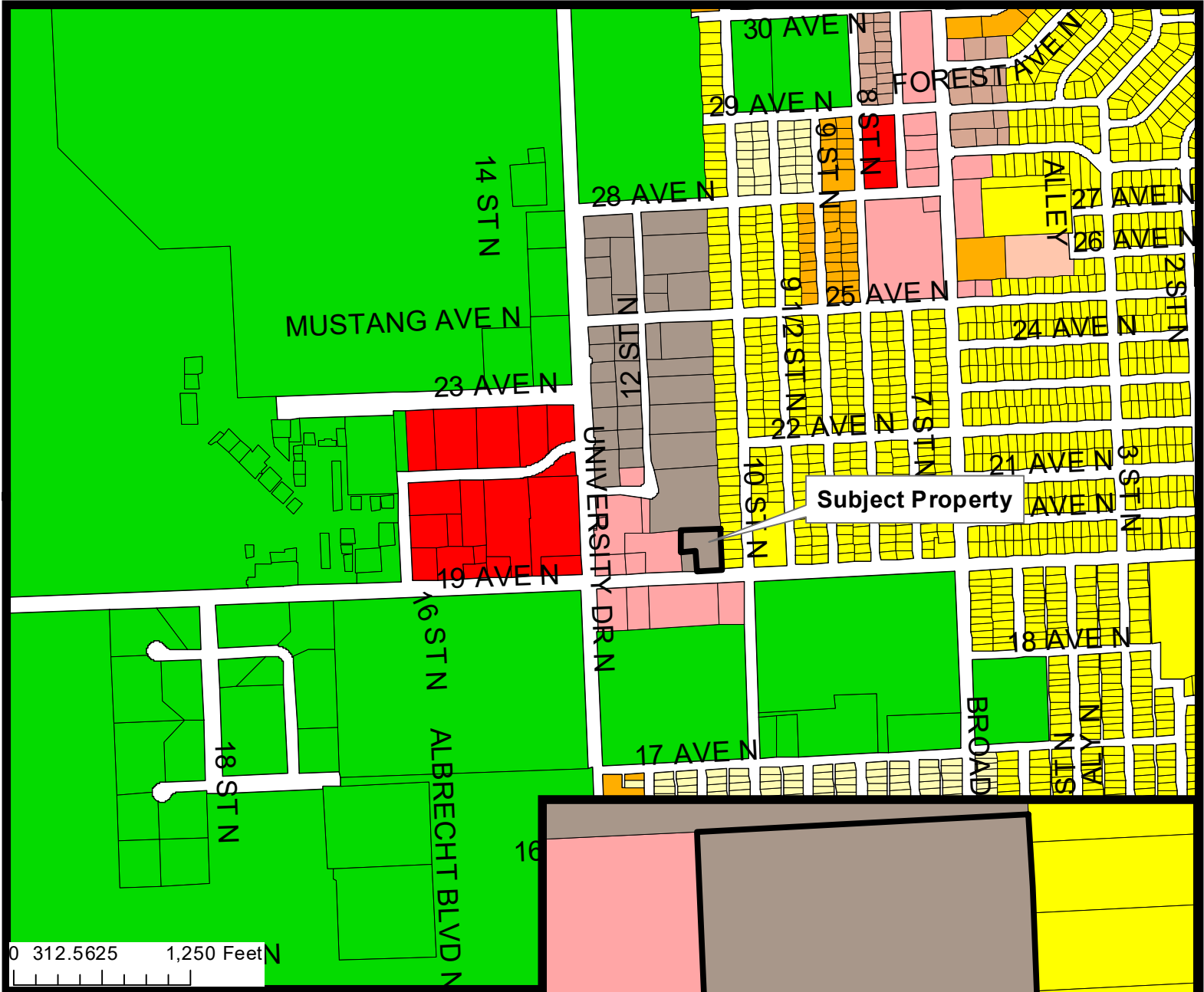
Attachments:

1. Zoning Map
2. Location Map
3. Copy of restrictive covenants for Airport 1st Addition
4. Applicant’s proposal letter
5. Copy of applicant’s petition form for property owners
6. Public comment letter

Modification of Airport First Addition Covenants

Airport First Addition

1101 19th Avenue North



Legend

AG	DMU	GCC	GO	LC	LI	MR-1	MR-2	MR-3	MHP	NC	NO	PI	UMU	SP	SR	SR-2	SR-3	SR-4	SR-5	City Limits
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Fargo Planning Commission
February 04, 2025

Modification of Airport First Addition Covenants

Airport First Addition

1101 19th Avenue North



Legend
City Limits

Deb @ Engineering 8101		Date	5/25	# of pages	4
Post-It® Fax Note	7671	To	Barb Grande		
		Co./Dept.			
		From	Shawn Dobberstein		
		Co.	Airport		
		Phone #	293-4001		
		Fax #	293-3423		
		Phone #	241-1501		
		Fax #	241-1538		

RESTRICTIVE COVENANTS

AIRPORT FIRST ADDITION
TO THE CITY OF FARGO

WHEREAS, The City of Fargo, a municipal corporation is the owner of all of Airport First Addition to the City of Fargo except Lots 8, 9, 10, 11 and 12 in Block 4 and,

WHEREAS, Said City of Fargo is desirous of protecting the community home owners near said Airport First Addition and subsequent purchasers of lots in this addition.

NOW THEREFORE, The City of Fargo does hereby prescribe and declare that all of said Airport First Addition except Lots 8, 9, 10, 11, 12, 14, 15 and 16 in Block 4 shall be subject to the restrictions and conditions as hereinafter set forth, and that such restrictions and conditions shall apply to and be a part of every conveyance or deed to said property or any part thereof, the same as though fully incorporated in any deed or conveyance thereof. Said restrictions and conditions shall be deemed and considered as covenants running with the land when conveyed or deeded, and shall be binding on the heirs, executors, administrators, successors and assigns of any person to whom said land may be conveyed until January 1, 1975, at which time said covenants shall be automatically extended for successive periods of ten years unless by a vote of the majority of the then owners, it is agreed to change or modify said covenants.

Any violation or attempted violation of any of the conditions, restrictions or prohibitions hereinafter set forth shall entitle any owner of the above described property to institute and prosecute appropriate proceedings, at law or in equity, for said violation or attempted violation. Invalidation of any of these covenants by judgement or court order shall in no way affect any of the other covenants which shall remain in full force and effect.

1. Front, Rear and Side Yards:

A. No structure shall be permitted nearer than twenty-five (25) feet to the front lot line nor nearer than twenty-five (25) feet to the rear lot line.

B. Side yard shall be ten percent (10%) of the width of the lot with a maximum requirement of twenty-five (25) feet.

C. Those properties containing the buffer easement shall not build closer than twenty-five (25) feet west of the line of the buffer easement.

2. Height Restrictions: No building, smoke stack, sign, antenna, materials storage, or any other appurtenance in connection with the use of the property shall be in excess of thirty-five (35) feet above the ground.

3. Architectural Treatment: All buildings shall have a finished appearance and architectural treatment acceptable to the City of Fargo. No structure shall be commenced or erected, nor shall any addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, plan and location of such structure shall have been submitted to and approved in writing by the undersigned City of Fargo, a municipal corporation, its successors and assigns. In the event said parties fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to them and receipted therefor, or in the event that no suit to enjoin the erection of such building or the making of such alteration has been commenced prior to the completion thereof, such approval will not be required and said covenant will be deemed to have been fully complied with.

4. Parking and Loading Requirements: Each property shall provide sufficient off-street parking for all personnel and clients plus adequate space for loading and unloading of trucks and other carriers used in connection with the property. All parking and loading areas shall be hard surfaced with a material suitable to prevent structural failure and the raising of any dust.

5. Landscaping and Buffer Easements:

A. Each designated lot owner or sub-lot owner shall devote a minimum of ten percent of the area of said lot or sub-lots to grass, trees, shrubs, flowers or other forms of ornamental landscaping.

B. The owners of property containing the buffer easement, with the exception of the City of Fargo, a municipal corporation, shall in addition maintain that easement with grass, shrubs, flowers and six (6) rows of trees in healthy condition suitable for a visual screen. The buffer strip shall also be kept free of weeds, debris and any other unsightly substance and the grass, trees and shrubs thereon shall be maintained and trimmed in a manner similar to park property in the City of Fargo.

6. Underground Utilities:

A. All electrical, telephone, telegraph or other wires, shall be placed underground. Transformers and other hardware connected with the previously mentioned wires may be mounted on grade if screened with a well constructed ornamental fence or high shrubbery.

7. Outdoor Lighting: No outdoor lighting, including signs, shall be arranged so as to cause any annoyance or inconvenience to residential properties in the vicinity. No blinking or flashing lights or signs nor any lights which shine on residential property may be used.

B. Claims for Damages: No owner, lessee, or other user of land in the Airport First Addition to the City of Fargo shall have any claim against the City of Fargo or the airport utility for damages due to noise, vibrations or any other factor related in any way to the use of the airport.

9. Permitted Uses:

A. Business, professional, governmental or institutional offices.

B. Light manufacturing, except those types which by virtue of emission of odor, dust, smoke, gas, steam, vibrations or noise would impair the health, safety, value or amenity of the residential property in the vicinity.

C. Wholesaling or shipping, with the condition that an outdoor storage yards used in connection with such enterprises shall be hard surface and kept free of junk, cars, machinery and other objects which are likely to be stored indefinitely.

D. Public and Semi-public Utilities.

E. Sales, Service and Housing of Aircraft or Airport Related products and Facilities for use in training of aircraft or airport related personnel.

F. Warehousing, provided any structure used for this purpose shall meet the requirements of paragraph three above.

10. Prohibited uses:

A. Homes, apartments, trailer courts, dormitories or any other use which is residential in nature.

B. All stores and shops which sell any commodity to the final user or which is otherwise retail in nature.

C. The manufacturing, processing or selling of any food or drink product, whether for human or animal consumption.

D. Bowling alleys, pool halls, amusement centers or any other type of commercial recreation.

E. Lodges, churches, schools, meeting rooms, auditoriums, theaters or any other type of buildings used for assembly purposes.

F. Hotels, motels, tourist courts or any other type of lodging facilities.

G. Any use which by virtue of emission of odor, dust, smoke, gas, steam, vibration or noise would impair the health, safety, value or amenity of residential property in the vicinity.

11. Variance: The covenants, agreements, conditions, reservations, restrictions and charges created and established herein for the benefit of said tract, and each lot therein, may be waived, abandoned and terminated, modified, altered or changed as to the whole of said tract or a portion thereof with the written consent of the owners of a majority of the owners of all the lots in

Airport First Addition together with a majority of the owners of Lots 1 through 13 in Block 3, Lots 1 through 13 in Block 6, and Lots 1 through 11 in Block 10, of Peter Sway Fifth Addition and the approval of the Fargo Zoning Commission. No such waiver, abandonment, termination, modification, or alteration shall become effective until the proper instrument in writing shall be executed and recorded in the office of the Recorder of Deeds for Cass County, North Dakota.

IN TESTIMONY WHEREOF, The said municipal corporation has caused these presents to be executed in its corporate name by its President and City Auditor and its corporate seal to be hereunto affixed the day and year first above written.

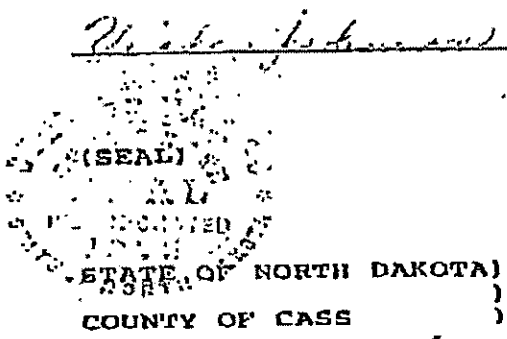
CITY OF FARGO, a municipal corporation

By Herschel Lashkowitz
Herschel Lashkowitz, President of the Board of City Commissioners of the City of Fargo, North Dakota

Signed, Sealed and Delivered in the presence of:

[Signature]

ATTEST:
Frank R. Fahrlander
Frank R. Fahrlander, City Auditor



On this 25th day of August, 1967, before me a Notar Public in and for said County and State personally appeared HERSCHEL LASHKOWITZ and FRANK R. FAHRLANDER, to me known to be the President of the Board of City Commissioners and City Auditor, respectively, of the City of Fargo, and the persons described in and who executed the above and foregoing instrument and acknowledged to me that such corporation executed the same.

Carol J. Kraft
Notary Public

My Commission Expires: _____

CAROL J. KRAFT
Notary Public, CASS COUNTY, N. DAK.
My Commission Expires SEPT. 11, 1973

DOCUMENT No. _____ Filed for record on the 21st day of Aug,
A. D. 1967, at 1:22 o'clock P.M.
R. Friedman
RECORDING CLERK

January 29, 2025

Mr. Donald Kress
City of Fargo Department of Planning and Development
225 4th St N.
Fargo, ND 58102

Mr. Kress

This letter is an official request to receive a variance from the restrictive covenants that pertain to the property we are in the process of purchasing at 1101 19th Ave. N. in Fargo. We are requesting to receive a variance which pertains to the setback required on the buffer easement. Our request is to reduce the front setback on the south side of the property (19th Ave side) from 25 feet to 20 feet. Reduce the side yard width setbacks on the east and west side of the property to 10 feet. Reduce the rear setback on the property (north side) from 25 feet to 20 feet. We are also requesting the landscape and easement buffer on the east side of the property to allow us to remove the current six rows of trees and brush and plant new trees in a 10-foot wide buffer and install a privacy fence. The tree buffer would be in addition to the 10-foot side yard setback.

Per the requirement of the restrictive covenants, a variance requires the following items:

- Written approval from the majority of the property owners within the Airport First Addition. The has been completed.
- Written approval from the majority of the property owners within Lots 1-13 of Block 3, Lots 1-13 of Block 6, and Lots 1-11 of Block 10 of the Peter Sway 5th Addition. This has been completed.
- Approval from the City of Fargo Planning and Zoning Commission

The purpose of this request is to allow us to demolish the abandoned building on the property and clean up the lot so that we may be able to develop it for our own use and purpose. We do not plan to have any commercial or retail business on the property. The buildings will be for our own use for storage and possible rental of any remaining space.

We believe that the variance should be approved for the following reasons:

- All of the requirements stated in the covenant to approve a variance request have been met, with the exception of the approval from the City of Fargo Planning and Zoning Commission.
- The property has been vacant for some time, which has caused the building to be vandalized many times and been unlawfully used by homeless people.



Page two

- The shelter belt has become overgrown with dead trees and shrubs making for an unsightly mess, and become a location for homeless people to set up camp.
- The property is located on a high profile street in Fargo and has been an unsightly mess for nearby businesses and residents.
- We have had overwhelming comments from nearby businesses and residents to clean up the property.
- Without the variance we will not purchase the property.

Thank you for considering our request. Please contact me with any questions you may have regarding our submittal for the change in covenants.

Sincerely

A handwritten signature in blue ink, appearing to read 'R. Flacksbarth', with a long horizontal flourish extending to the right.

Rick Flacksbarth
Cityscapes Development/Bullinger Enterprises

APPLICANT'S MAILING TO PROPERTY OWNERS

SECOND REQUEST

VARIANCE PETITION

1101 19TH AVE N, FARGO, ND



The undersigned, as owner or authorized agent for the owner(s) of the property with an address of [REDACTED], Fargo, ND, 58102, hereby approves the requested variances of the restrictive covenants for the Airport First Addition as per the diagram.

Signature: _____ Printed Name: _____ Date: _____

CITYSCAPES DEVELOPMENT
COMMERCIAL REALTORS & DEVELOPERS

RICK FLACKSBARTH | 701.280.5885 | 474 45TH ST S, FARGO, ND | CITYSCAPESDEVELOPMENT.COM

FROM THE DESK OF

DAVID HJELLE

January 18, 2025

Commissioner John Strand
225 4th Street North
Fargo, ND 58102

Dear Commissioner Strand,

We recently received a petition to adjust the setbacks at 1109 19th Ave N from Cityscapes Development. We really would love someone to actively develop that property! We do not, however, support changing the east-side setbacks and removing the natural buffer. Our property is not directly affected, but we would hate for our neighbors to lose the band of trees and associated natural beauty and wildlife that come with it!

I've attached the letter I wrote to Cityscapes Development and a copy of their proposal as well.

Sincerely yours,



David Alan Hjelle

Enclosures

FROM THE DESK OF

DAVID HJELLE

January 18, 2025

Mr. Rick Flacksbarth
Cityscapes Development
PO Box 2426
Fargo, ND 58108-2426

Dear Mr. Flacksbarth,

Thank you for the information about your proposal to develop 1101 19th Ave N. We would love to see the property developed and used well! However, my wife and I **want to reiterate our concerns** about the proposed changes to the setbacks and buffer on the east side – which is why we are writing this letter instead of returning your petition. I am also sending a copy of this letter to the City Commission. Is it possible to keep the existing row of trees and the setback in the plan?

As we said in our previous letter, we **love** having the rows of trees behind our home, and while our property is not directly affected by your proposal, we would be deeply saddened to lose “our” trees by a similar plan in the future. We had no idea when we moved in how many birds would be able to visit us just because of a few feet of trees! We love the extra privacy the trees afford and the smell of blooming lilac in the spring. Further to the north, we’ve enjoyed the seclusion of the wooded walking trails. The trees provide far more than just a nice appearance. You mentioned you would be planting new trees – but it is unclear to me where they will be placed.

I hope and trust that you will be able to make developments to your property **without removing our neighbors’ tree line**. We could be **happy to support** a development plan that keeps the trees in place.

Sincerely yours,



David Alan Hjelle