

FARGO CITY COMMISSION AGENDA  
Tuesday, January 21, 2025 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, January 8, 2025).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in The District of Fargo Fifth Addition to the City of Fargo, Cass County, North Dakota.
- 2. Memorandums of Understanding between United States Department of Veterans Affairs, Fargo VA Health Care System and Fargo Police Department.
- 3. Gaming Site Authorization for Fargo Park District Foundation at CJ's Tavern.
- 4. Applications for Games of Chance:
  - a. Fargo Ducks Unlimited for a raffle on 2/7/25.
  - b. Fargo-Moorhead Symphony Orchestra for a raffle on 2/22/25.
  - c. Holy Spirit Church for a raffle on 2/16/25.
  - d. ND Nursery, Greenhouse and Landscape Association for bingo and a raffle on 1/28/25.
  - e. NDSU Saddle and Sirloin Club for a raffle on 2/15/25.
  - f. NDSU Saddle and Sirloin Club for a raffle on 3/26/25.
  - g. Outdoor Adventure Foundation for a raffle board on 3/22/25.
  - h. Vietnam Veterans of America Chapter 941 for a raffle and calendar raffle from 2/1/25-2/28/25.
  - i. Whitetails Unlimited, Inc. for a raffle on 2/22/25.
  - j. Women's Care Center (Firstchoice Clinic) for a raffle on 2/13/25.
- 5. Negative Final Balancing Change Order No. 3 in the amount of -\$14,885.23 for Project No. PR-24-F1.
- 6. Bid award to Midwest Seeding, Inc. in the amount of \$89,977.00 for Project No. ER-24-C1.
- 7. Bid award to Master Construction Company, Inc. in the amount of \$526,790.00 for Project No. UR-24-C1.
- 8. Create Improvement District No. BR-25-E (Paving and Utility Rehab/Reconstruction).

9. Reimbursement to Designer Homes in the amount of \$18,083.00 for repair and backfill of the old borrow site located at 5865 31st Street South.
10. Agreement for Construction of Floodwall and Grant of Floodwall Easement with John and Sherian Stern for property located at 1458 South River Road.
11. Supplement No. 4 to Ground Lease with the Park District of the City of Fargo (Carlson Library and Ed Clapp Senior Center).
12. Items from the FAHR Meeting:
  - a. Utilization of donations received during the 2025 Giving Hearts Day campaign to replace two K-9's at the Police Department.
  - b. Grant Agreement with Youthworks.
  - c. Bid award for 2025 contracted forestry services to Cougar Tree Care, Inc., All-Terrain Grounds Maintenance and Carr's Tree Service and related agreements as presented (RFPs 21023, 22002, 24223 and 24291).
  - d. Agreement with the City of West Fargo for the 12th Avenue Industrial Division, which includes \$52,843.72 payment in lieu of public dedication of parkland.
  - e. Allocation of \$372,416.00 from the Public Safety Sales Tax for the Sole Source Procurement of a Modular Vehicle Barrier system.
  - f. Acceptance of up to \$25,000.00 from the Organized Crime Drug Enforcement Task Forces for the reimbursement of overtime hours worked by Task Forces Detectives and related budget adjustment.
13. Change Order No. 1 in the amount of \$7,763.36 for Fire Station No. 5.
14. Notice of Grant Award from the ND Department of Health and Human Services to increase the number of Farm to School/Table Programs (CFDA #93.110).
15. Interim Agreement for Health Officer Services with Dr. Jessie Lindemann, MD.
16. Adjustment of the items to be purchased with the 2025 Project Safe Neighborhoods (PSN) Grant Program dollars.
17. Bid award and Agreement for Services with Valley Veterinary Hospital, P.C. for animal pound services (RFP25007).
18. Subrecipient Agreement with YWCA Cass Clay - 2025 Community Development Block Grant (CDBG) Funds for Emergency Shelter Facility Improvements at 3000 South University Drive.
19. Bid award to Sanitation Products in the amount of \$388,956.00 for two three-wheeled mechanical street sweepers (RFP25027).
20. Bid award to Fargo Freightliner in the amount of \$239,655.00 for the purchase of a heavy-duty tandem axle truck chassis with dump body (RFP24366).
21. Task Order Amendment No. 2 with Stantec in the amount of \$67,289.55 for Project No. SW 23-01.
22. Task Order No. 25-01 from Stantec in the amount of \$282,294.00 for 2025 General Engineering Services.

Interim Financing Agreement, Series E with Garrison Diversion Conservancy District, Lake Agassiz Water Authority and the City of Grand Forks for the 2023-2025 biennial work plan for the Red River Valley Water Supply Project.

24. Resolution Authorizing the Issuance and Sale of \$35,000,000.00 City of Fargo Taxable Sales Tax and Water Revenue Bond for the Lead Service Line Replacement (LSLR) Project (Project No. WA2403).
25. One-year extension to the Electrical Services Agreement with Sun Electric, Inc. for electrical services for the water utility.
26. Bills.

**REGULAR AGENDA:**

27. 2024 Downtown Fargo Business Improvement District Overview.

**PUBLIC HEARINGS - 5:15 pm:**

28. **PUBLIC HEARING** – The Pines at the District Seventh Addition (3960 53rd Avenue South); approval recommended by the Planning Commission on 6/4/24:
  - a. Zoning Change from LC, Limited Commercial with a C-O, Conditional Overlay to LC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay.
  - b. 1st reading of rezoning Ordinance.
  - c. Plat of The Pines at the District Seventh Addition.
29. Recommendation to receive and file an Ordinance Relating to Conference Center and City Lodging Tax.
30. Commissioner Kolpack would like Human Resources to provide an overview of employee exit interviews.
31. Liaison Commissioner Assignment Updates.
32. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at [FargoND.gov/VirtualCommission](http://FargoND.gov/VirtualCommission)).**

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

Minutes are available on the City of Fargo website at [www.FargoND.gov/CityCommission](http://www.FargoND.gov/CityCommission).

27

## MEMORANDUM

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TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Business Improvement District (BID) Year-End Review

DATE: January 2, 2025

As part of the BID contract the DCP is required to update the City Commission on BID activities for the preceding year.

Rocky Schneider, President, Downtown Community Partnership would like the opportunity to address the City Commission with the 2024 year in review. He will be present to share a Power Point summary of 2024 and a look forward to 2025.

28

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	The Pines at the District Seventh Addition	<b>Date:</b>	05/30/2024
		<b>Update:</b>	01/16/2025
<b>Location:</b>	3960 53 <sup>rd</sup> Avenue South	<b>Staff Contact:</b>	Luke Morman, Planner
<b>Legal Description:</b>	Lot 1, Block 1 The Pines at the District Sixth Addition		
<b>Owner(s)/Applicant:</b>	Gitty-Up, LLC / Houston Engineering, Inc.	<b>Engineer:</b>	Houston Engineering, Inc.
<b>Entitlements Requested:</b>	1) <b>Zoning Change</b> (from LC, Limited Commercial with a C-O, Conditional Overlay to LC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-dwelling Residential with a C-O, Conditional Overlay) and 2) <b>Minor Subdivision</b> (replat of Lot 1, Block 1, The Pines at the District Sixth Addition, to the City of Fargo, Cass County, North Dakota)		
<b>Status:</b>	City Commission Public Hearing: January 21, 2025		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Undeveloped	<b>Land Use:</b> Commercial and residential
<b>Zoning:</b> LC, Limited Commercial with a C-O, Conditional Overlay (Ordinance 5422)	<b>Zoning:</b> LC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-dwelling Residential with a C-O, Conditional Overlay.
<p><b>Uses Allowed:</b> LC allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, basic utilities, offices, <del>off premise advertising signs</del>, commercial parking, retail sales and service, self-service storage, vehicle repair, limited vehicle service, and certain telecommunications facilities.</p> <p><b>Conditional Overlay No. 5422 prohibits certain uses.</b></p>	<p><b>Uses Allowed:</b> LC allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, basic utilities, offices, <del>off premise advertising signs</del>, commercial parking, retail sales and service, self-service storage, vehicle repair, limited vehicle service, and certain telecommunications facilities.</p> <p>MR-3 allows detached houses, attached houses, duplexes, multi-dwelling structures, group living, community service, day care up to 12 people, parks and open areas, religious institutions, safety services, schools, basic utilities, and certain telecommunication facilities.</p> <p><b>The attached Draft Conditional Overlay applies to both LC and MR-3 properties.</b></p>
<b>Maximum Lot Coverage Allowed:</b> 55%	<p><b>Maximum Lot Coverage Allowed:</b> No Change for LC, 35% for MR-3</p> <p><b>Maximum Density:</b> N/A for LC, 24 Units per Acre for MR-3</p>

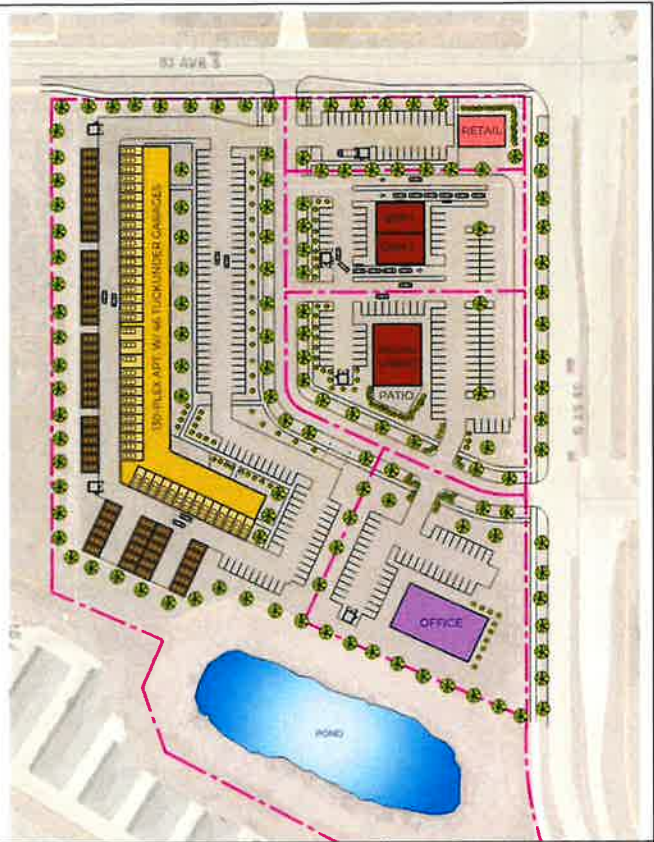
<b>Proposal:</b>
<p>The applicant requests two entitlements:</p> <ol style="list-style-type: none"> <li>1. A <b>Zoning Change</b> from LC, Limited Commercial with a C-O, Conditional Overlay to LC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-dwelling Residential with a C-O, Conditional Overlay.</li> <li>2. A <b>Minor Subdivision</b>, to be known as The Pines at the District Seventh Addition, a replat of Lot 1, Block 1, The Pines at the District Sixth Addition.</li> </ol> <p>The applicant is seeking approval for a zone change and minor subdivision located at 3960 53<sup>rd</sup> Avenue South. The request is to split an existing lot into a 3 lot minor subdivision entitled, <b>The Pines at the District Seventh</b></p>

**Addition.** The applicant provided the preliminary master plan for the development which shows the general building layout and pedestrian connectivity. Some of the lot lines shown in pink are speculative. Please refer to the plat attached for the correct lot configuration. The yellow building indicates the residential multi-dwelling structure proposed that would follow MR-3 zoning regulations with the proposed C-O.

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:**

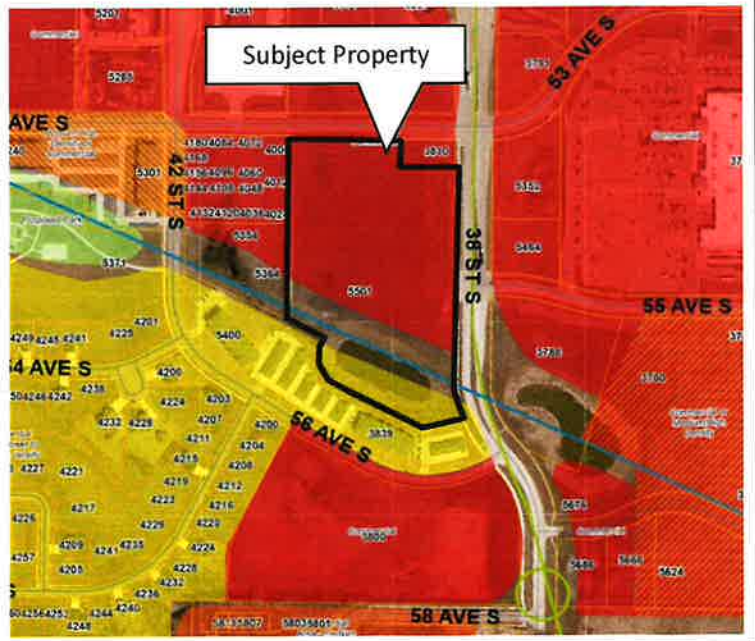
- North: LC, Limited Commercial with a conditional overlay with undeveloped properties;
- East: LC, Limited Commercial with a conditional overlay with undeveloped properties;
- South: MR-3, Multi-Dwelling Residential with Multi-Dwelling Structure uses;
- West: LC, Limited Commercial with a conditional overlay with retail sales and service and offices.



**Area Plans:**

Fargo's Growth Plan 2024 was adopted on August 19<sup>th</sup>, 2024. This project is consistent with the place type designation of Mixed Commercial, Office, and Residential for this property. This project was originally proposed and went to the Planning Commission hearing under the 2007 Tier 1 Southwest Land Use Plan as described below.

The subject property was designated as "commercial" and "low/medium density residential" on the 2007 Tier 1 Southwest Land Use Plan. Although the land use designations weren't specifically a "medium/high density residential" as we often saw with MR-3 zoned properties, staff determined it unnecessary to have a Growth Plan Amendment because it was generally consistent with the Growth Plan and should be reviewed on larger regional requests. The current LC, Limited Commercial, zoning and the proposed MR-3, Multi-dwelling Residential, zoning were consistent with the land use designations.



<b>Context:</b>
<p><b>Neighborhood:</b> The Subject property is located within The District Neighborhood.</p> <p><b>Schools:</b> The subject property is located within the Fargo School District, specifically within Kennedy Elementary, Carl Ben Eielson Middle, and South High schools.</p> <p><b>Parks:</b> The subject property is located within 0.08 miles of the Pines Park (5371 42<sup>nd</sup> Street South). Amenities include Basketball court, grill, picnic table, playground for ages 2-5, playground for ages 5-12, recreational trails and provides a shelter.</p> <p><b>Pedestrian / Bicycle:</b> There is a shared use path that runs along the south side of 53<sup>rd</sup> Avenue South that meets up with a shared use path that runs along the west side of 38<sup>th</sup> Street South.</p> <p><b>MATBUS Route:</b> MATBUS Route 18 has a stop on the north side of the 52nd Avenue Wal-Mart, approximately one quarter of a mile northeast of the subject property.</p>
<b>Staff Analysis:</b>
<p>The applicant is seeking approval for a zoning change and minor subdivision located at 3960 53<sup>rd</sup> Avenue South. The request is to split an existing lot into a 3-lot minor subdivision entitled, <b>The Pines at the District Seventh Addition</b>. The proposed lot on the west/southwest (Lot 3, Block 1, The Pines at the District Seventh Addition) will be MR-3, Multi-dwelling Residential with a C-O property and the lots on the east side of the property (Lots 1-2, Block 1, The Pines at the District Seventh Addition) will remain LC, Limited Commercial with a C-O. Staff has worked with the applicant to simplify the C-O from what is there currently in addition to including an access and utility easement that travels along the shared lot lines through the middle of the subject property. The existing C-O will be replaced by a new C-O that will apply to all of the proposed lots. The C-O consists of design standards, parking lot landscaping, and pedestrian connectivity. All other existing easements have been carried over from the previous subdivisions.</p> <p><b>Zoning</b> Section 20-0906.F(1-4) of the LDC stipulates that the following criteria be met before a zone change can be approved:</p> <ol style="list-style-type: none"> <li>1. <b>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?</b> Staff is unaware of any error in the zoning map as it relates to the subject property. The property is currently zoned LC, Limited Commercial with a C-O, Conditional Overlay and is proposed to be changed to LC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-dwelling Residential with a C-O, Conditional Overlay. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established, as the applicant is proposing a multi-dwelling structure on the proposed Lot 3, Block 1, The Pines at the District Seventh Addition. <b>(Criteria Satisfied)</b></li> <li>2. <b>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?</b> 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 properties are adjacent to existing developed public rights-of-way, which provide access and public utilities to serve them. <b>(Criteria Satisfied)</b></li> <li>3. <b>Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?</b> Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property</li> </ol>

owners within 300 feet of the project site. To date, staff has received and responded to two inquiries about the project noting no concern. Staff finds that the proposal will not adversely affect the condition or value of the property in the vicinity.

**(Criteria Satisfied)**

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed zone change is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City.

**(Criteria Satisfied)**

**Minor Subdivision**

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

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

This subdivision is intended to replat the existing lot into 3 new lots. The current zoning is LC, Limited Commercial with a C-O, and is proposed to be changed to LC, Limited Commercial with a C-O and MR-3, Multi-dwelling Residential with a C-O. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received two inquiries about the application with no noted concern. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code.

**(Criteria Satisfied)**

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

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

**(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of Planning Commission and staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading and move to approve the proposed 1) Zoning Change from LC, Limited Commercial with a C-O, Conditional Overlay to LC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-dwelling Residential with a C-O, Conditional Overlay, and 2) Minor subdivision plat entitled, **The Pines at the District Seventh Addition** as outlined within the staff report, as the proposal complies with the adopted Fargo Growth Plan 2024, the standards of Article 20-06, Section 20-0906.F (1-4), Section 20-0907.B. and C of the LDC, and all other applicable requirements of the Land Development Code."

**Planning Commission Recommendation: June 4, 2024**

To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed 1) Zoning Change from LC, Limited Commercial with a C-O, Conditional Overlay to LC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-dwelling Residential with a C-O, Conditional Overlay,



and 2) Minor subdivision plat entitled, **The Pines at the District Seventh Addition** as outlined within the staff report, as the proposal complies with the adopted 2007 Tier 1 Southwest Land Use Plan, the standards of Article 20-06, Section 20-0906.F (1-4), Section 20-0907.B. and C of the LDC, and all other applicable requirements of the Land Development Code.”

*NOTE: The Fargo Growth Plan 2024 had not been adopted at the time this plat was before the Planning Commission.*

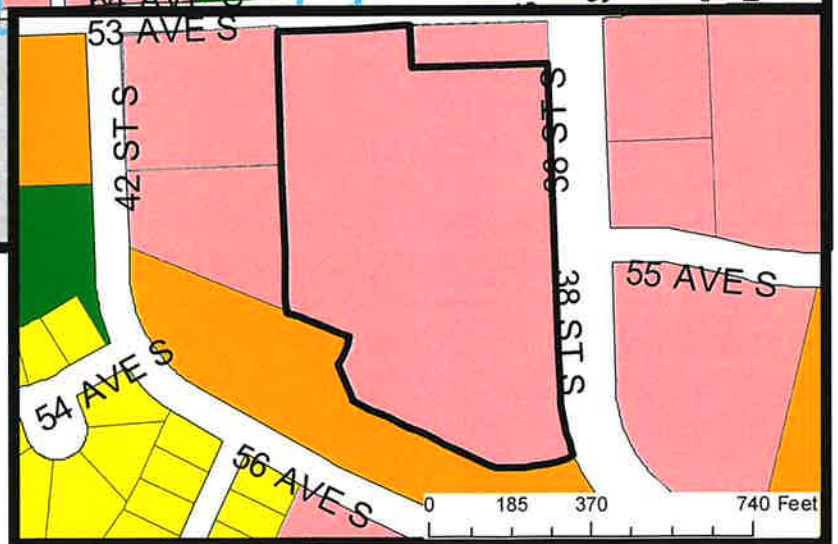
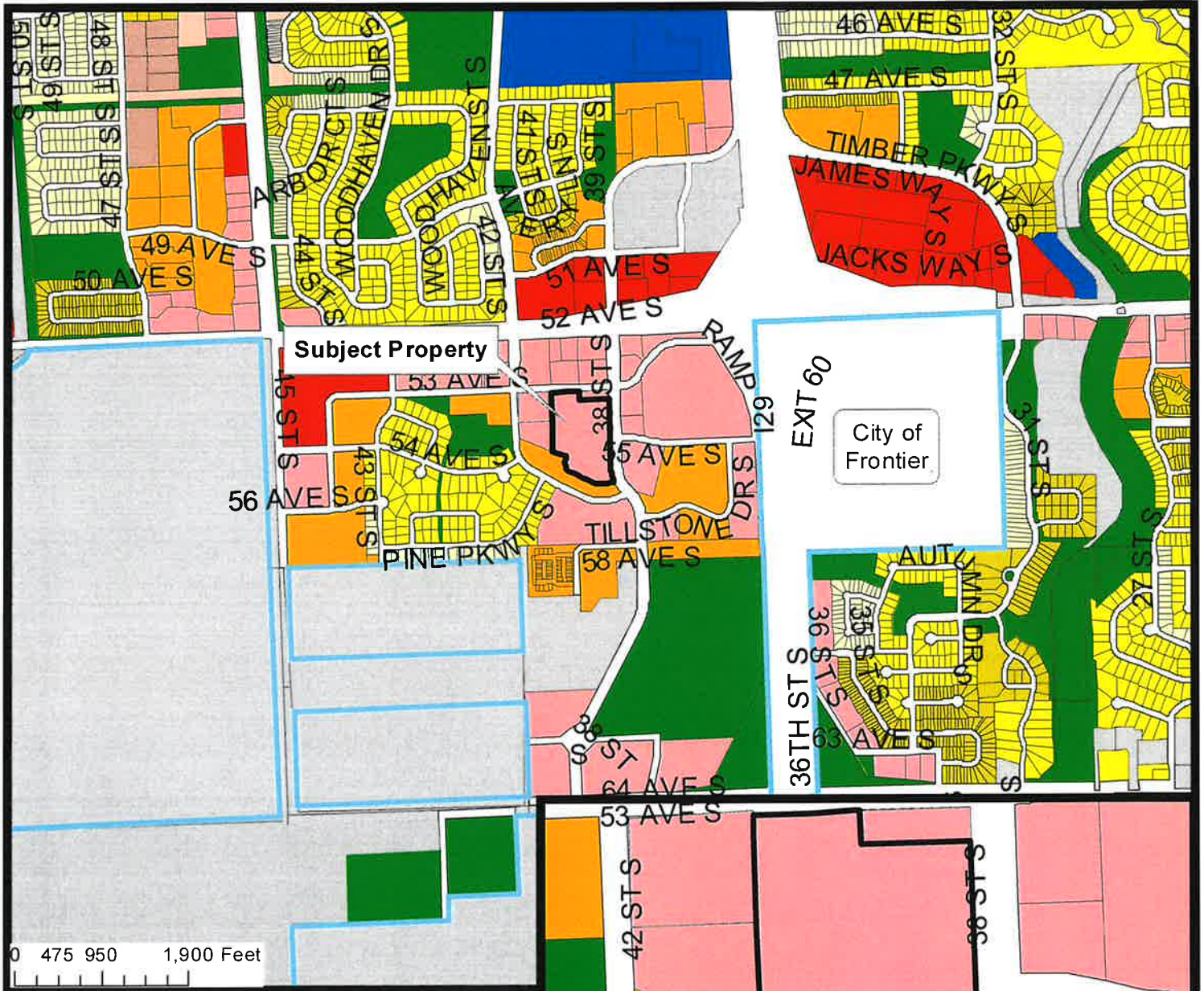
**Attachments:**

1. Zoning Map
2. Location Map
3. Preliminary Plat
4. Draft C-O

**Minor Subdivision, Zone Change from LC, Limited Commercial with a C-O, Conditional Overlay to LC, Limited Commercial and MR-3 with a C-O, Conditional Overlay**

**The Pines at the District Seventh Addition**

5461 38th Street South



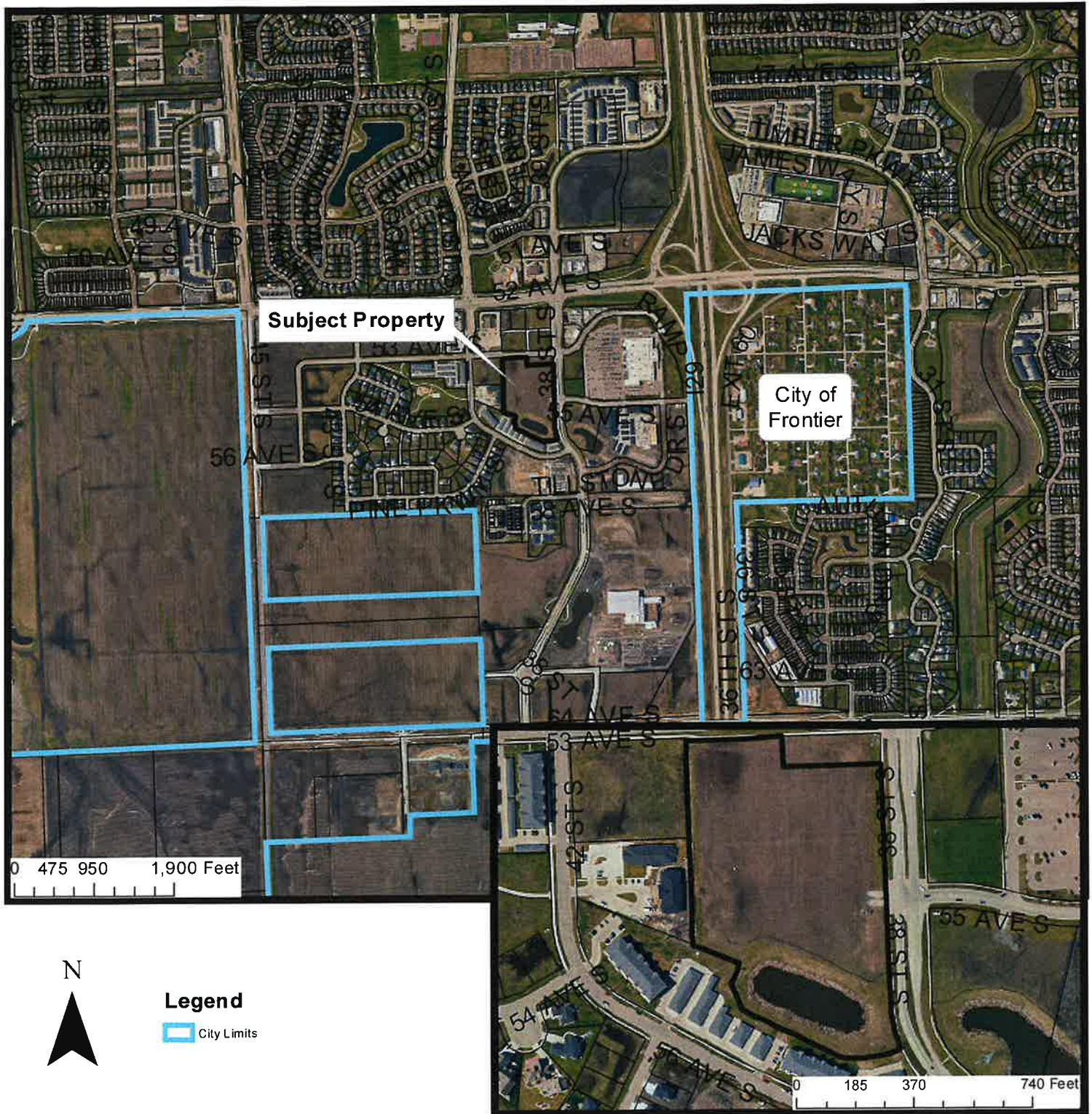
**Legend**

- AG
- DMU
- GC
- GO
- LC
- MR-1
- MR-2
- MR-3
- MHP
- NOC
- P/O
- UMU
- SS
- SS-1
- SS-2
- SS-3
- SS-4
- SS-5
- City Limits

**Minor Subdivision, Zone Change from LC, Limited Commercial with a C-O, Conditional Overlay to LC, Limited Commercial and MR-3 with a C-O, Conditional Overlay**

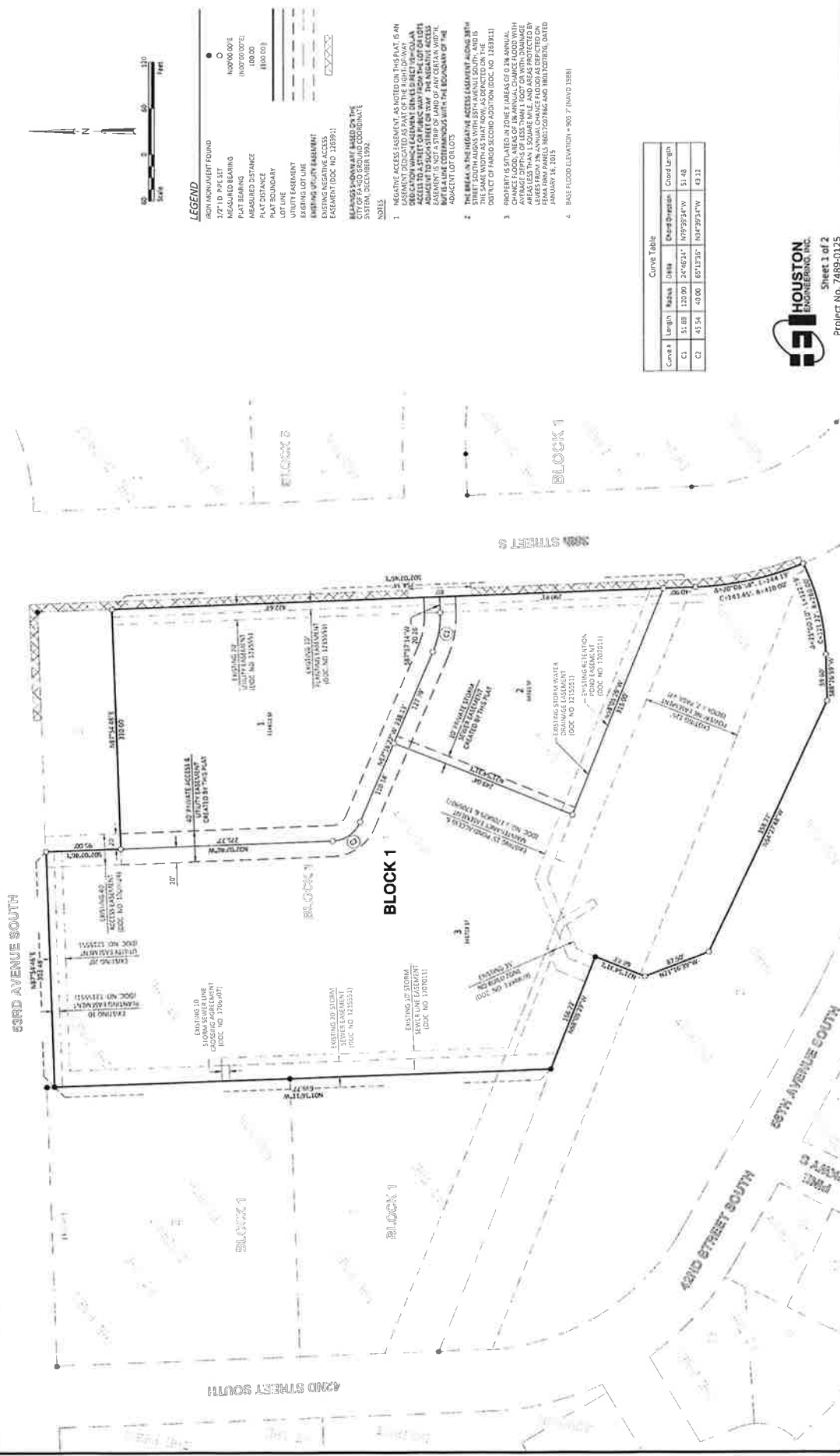
**The Pines at the District Seventh Addition**

5461 38th Street South



# THE PINES AT THE DISTRICT SEVENTH ADDITION

A MINOR SUBDIVISION  
BEING A REPLAT OF LOT 1, BLOCK 1, THE PINES AT THE DISTRICT SIXTH ADDITION  
TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA



**LEGEND**

- IRON MONUMENT FOUND
- MEASURED BEARING
- MEASURED DISTANCE
- PLAT BOUNDARY
- UTILITY EASEMENT
- EXISTING UTILITY EASEMENT
- EXISTING NEGATIVE ACCESS EASEMENT (DOC NO. 118991)
- RELAYS POINTS BASED ON THE SURVEY OF 1900 COORDINATE SYSTEM, 25 AUGUST 1976.

**Curve Table**

Curve #	Length	Bearing	Chord Bearing	Chord Length
C1	51.89	120.00	S24°45'34"W	51.48
C2	45.54	40.00	S81°13'35"W	43.12

**H HOUSTON ENGINEERING, INC.**  
Sheet 1 of 2  
Project No. 7489-0125

H:\M7\00X\M87\489 0157\07\Plat1ThePinesAtTheDistrictSeventhAddition.dwg Sheet 1 10/27/2024 8:55 AM (rbchho1)

# THE PINES AT THE DISTRICT SEVENTH ADDITION A MINOR SUBDIVISION BEING A REPLAT OF LOT 1, BLOCK 1, THE PINES AT THE DISTRICT SIXTH ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

**OWNERS CERTIFICATE:**  
NOW ALL PERSONS BY THESE PRESENTS: That Gilly-Up, LLC, a North Dakota limited liability company, is the owner and proprietor of the following described tract of land:

Lot 1, Block 1, The Pines at the District Sixth Addition, to the City of Fargo, Cass County, North Dakota.

Said tract contains 11 9/16 acres, more or less.  
And that said party has caused the same to be surveyed and platted as THE PINES AT THE DISTRICT SEVENTH ADDITION to the City of Fargo, Cass County, North Dakota, and do hereby dedicate to the owners of Lots 1, 2 and 3 created by this plat, and the owner of Lot 2, Block 1, The Pines at the District 6th Addition to the City of Fargo, Cass County, North Dakota, for private use, the 40' private access and easement shown on the plat attached hereto, and that the same be and lawfully remain the property of the owner of Lot 1 created by this plat, for private use, the 40' access easement shown on the plat.

**OWNERS:**  
Gilly-Up, LLC  
By: [Signature], its Manager  
Austin J. Morris, Partner



State of North Dakota )  
  ) ss  
County of Cass )

The foregoing instrument was acknowledged before me this 12 day of October, 2024, by Austin J. Morris, Partner of Gilly-Up, LLC, a North Dakota limited liability partnership, and its authorized signatory, and I, James A. Schlemmer, a North Dakota limited liability company, on behalf of the limited liability partnership.

Notary Public: [Signature]

**SURVEYORS CERTIFICATE AND ACKNOWLEDGEMENT:**

I, James A. Schlemmer, 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 12 day of October, 2024.  
James A. Schlemmer, Professional Land Surveyor No. 61668

State of North Dakota )  
  ) ss  
County of Cass )

On this 12th day of October, 2024, before me personally appeared James A. Schlemmer, a Professional Land Surveyor under the laws of the State of North Dakota, and who executed the within instrument and acknowledged to me that she executed the same as his free act and deed.



Notary Public: [Signature]

**CITY ENGINEERS APPROVAL:**

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

Tom Krakumuh, PE, City Engineer

State of North Dakota )  
  ) ss  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Tom Krakumuh, 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 the top and end deed.

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

**FARGO PLANNING COMMISSION APPROVAL:**

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

Miranda R. Teas, Chair  
Fargo Planning Commission

State of North Dakota )  
  ) ss  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Miranda R. Teas, 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

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: \_\_\_\_\_



Project No. 7489-0125  
Sheet 3 of 2

Conditional Overlay Items  
The Pines at the District Seventh Addition  
3960 53 Ave S

1. Description: This Conditional Overlay is intended to provide for a higher quality of design than is afforded by the City of Fargo Land Development Code regarding development within the described property.
  - a. All buildings shall have architectural interest and variety through the use of articulated façades to avoid the effect of a single, long or massive wall.
  - b. Four sided design – all building facades shall be designed with a similar level of design detail, respective to building massing and building materials.
2. All primary buildings shall be constructed or clad with materials that are durable, economically maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; EIFS (exterior insulation finishing system), glass, metal-cladding similar to 'Aluco Bond', 'MAC', 'Pac-Clad', and synthetic panels similar to 'Trespa' and 'Nichiha'. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with a wood look may be used. Horizontal lap siding and vertical board & batten shall be allowed on residential structures but shall not exceed 75% of the building elevation for residential.
3. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.
4. All building facades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the facade, and extending at least 20 percent of the length of the facade. No uninterrupted length of any facade shall exceed 150 horizontal feet. An articulated facade would emphasize elements on the face of a wall including change in setback, materials, roof pitch or height.
5. Ground floor façades that front public right-of-way shall have arcades, windows, entry areas, awnings, or other such features along no less than 60 percent of their horizontal length for commercial and 30 percent of their horizontal length for residential. If the façade facing the street is not the front, it shall include the same features and/or landscaping in scale with the façade.
6. The total building footprint for all accessory buildings shall be a maximum of 45 percent of the primary building coverage.
7. No accessory structures shall be allowed between the primary structure and the front or street side property line or in the front of the building.
8. Individual accessory structures shall have a maximum length of 140 feet.
9. A minimum of 40 percent of the primary building footprint shall be designated for parking integrated into the structure for residential.

10. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view at ground level by parapets or other structures. All ground level HVAC units and utility boxes shall be screened from view by a structure, wall, fence, or landscaping.
11. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain permanent walls on at least three (3) sides. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor; however, if the service side does not face any public right-of-way or residentially zoned property the metal gate shall not be required.
12. Separate vehicular and pedestrian circulation systems shall be provided. An onsite system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:
  - a. The primary entrance or entrances to each commercial building, including pad site buildings.
  - b. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
  - c. Parking areas or structures that serve such primary buildings.
  - d. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network.
  - e. Any public sidewalk system along the perimeter streets adjacent to the commercial development.
  - f. Where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings.
13. A minimum of 5% of the internal surface area of the parking lot shall be landscaped with plantings. The cumulative open space (green space) of each property shall consist of at least 10% of the total property acreage.
14. As to the Use Categories applicable to the base, "LC", zoning district, the following uses are prohibited.
  - a. Detention Facilities
  - b. Self-Service Storage
  - c. Adult Establishment
  - d. Off-Premise Advertising
  - e. Portable Signs
  - f. Vehicle Repair
  - g. Industrial Uses
15. Definitions:
  - a. Façade: Any exterior side of a building as viewed from a single direction, typically perpendicular to the exterior side of the building being viewed.
  - b. Depth: A horizontal distance perpendicular to a building façade.
  - c. Elevation: A horizontal orthographic projection of a building onto a vertical plane, parallel to one side of the building.
  - d. Landscaped: To make an area of land more attractive by adding plants.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

286

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
2 LYING IN THE PINES AT THE DISTRICT SEVENTH ADDITION TO THE  
3 CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

8 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning  
9 request on June 4, 2024; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on January 21,  
11 2025,

12 NOW, THEREFORE,

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

14 Section 1. The following described property:

15 All of The Pines at the District Seventh Addition to the City of Fargo, Cass County,  
16 North Dakota,

17 that is currently zoned "LC", Limited Commercial, District, with an existing "C-O", Conditional  
18 Overlay, District, as established by Fargo Municipal Ordinance No. 5422, is hereby rezoned to  
19 "LC", Limited Commercial, District, and "MR-3", Multi-Dwelling Residential, District, repealing  
20 said "C-O", Conditional Overlay, District, and establishing a new "C-O", Conditional Overlay,  
21 District as follows:

- 22 1. Description: This Conditional Overlay is intended to provide for a higher quality of  
23 design than is afforded by the City of Fargo Land Development Code regarding  
development within the described property.



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

- a. All buildings shall have architectural interest and variety through the use of articulated façades to avoid the effect of a single, long or massive wall.
- b. Four-sided design – all building facades shall be designed with a similar level of design detail, respective to building massing and building materials.

- 2. All primary buildings shall be constructed or clad with materials that are durable, economically maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; EIFS (exterior insulation finishing system), glass, metal-cladding similar to ‘Aluco Bond’, ‘MAC’, ‘Pac-Clad’, and synthetic panels similar to ‘Trespa’ and ‘Nichiha’. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with a wood look may be used. Horizontal lap siding and vertical board & batten shall be allowed on residential structures but shall not exceed 75% of the building elevation for residential.
- 3. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.
- 4. All building facades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the facade, and extending at least 20 percent of the length of the facade. No uninterrupted length of any facade shall exceed 150 horizontal feet. An articulated facade would emphasis elements on the face of a wall including change in setback, materials, roof pitch or height.
- 5. Ground floor façades that front public right-of-way shall have arcades, windows, entry areas, awnings, or other such features along no less than 60 percent of their horizontal length for commercial and 30 percent of their horizontal length for residential. If the façade facing the street is not the front, it shall include the same features and/or landscaping in scale with the façade.
- 6. The total building footprint for all accessory buildings shall be a maximum of 45 percent of the primary building coverage.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

- 1 7. No accessory structures shall be allowed between the primary structure and the front or  
2 street side property line or in the front of the building.
- 3 8. Individual accessory structures shall have a maximum length of 140 feet.
- 4 9. A minimum of 40 percent of the primary building footprint shall be designated for  
5 parking integrated into the structure for residential.
- 6 10. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public  
7 view at ground level by parapets or other structures. All ground level HVAC units and  
8 utility boxes shall be screened from view by a structure, wall, fence, or landscaping.
- 9 11. Dumpsters and outdoor storage areas must be completely screened from view. Collection  
10 area enclosures shall contain permanent walls on at least three (3) sides. The fourth side  
11 shall incorporate a metal gate to visually screen the dumpster or compactor; however, if  
12 the service side does not face any public right-of-way or residentially zoned property the  
13 metal gate shall not be required.
- 14 12. Separate vehicular and pedestrian circulation systems shall be provided. An onsite system  
15 of pedestrian walkways shall be designed to provide direct access and connections to and  
16 between the following:
  - 17 a. The primary entrance or entrances to each commercial building, including pad site  
18 buildings.
  - 19 b. Any sidewalks or walkways on adjacent properties that extend to the boundaries  
20 shared with the commercial development.
  - 21 c. Parking areas or structures that serve such primary buildings.
  - 22 d. Connections between the on-site (internal) pedestrian walkway network and any  
23 public sidewalk system located along adjacent perimeter streets shall be provided  
at regular intervals along the perimeter street as appropriate to provide easy access  
from the public sidewalks to the interior walkway network.
  - e. Any public sidewalk system along the perimeter streets adjacent to the  
commercial development.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

1 f. Where practical and appropriate, adjacent land uses and developments, including  
2 but not limited to residential developments, retail shopping centers, office  
3 buildings.

4 13. A minimum of 5% of the internal surface area of the parking lot shall be landscaped with  
5 plantings. The cumulative open space (green space) of each property shall consist of at  
6 least 10% of the total property acreage.

7 14. As to the Use Categories applicable to the base, "LC", zoning district, the following uses  
8 are prohibited.

- 9 a. Detention Facilities
- 10 b. Self-Service Storage
- 11 c. Adult Establishment
- 12 d. Off-Premise Advertising
- 13 e. Portable Signs
- 14 f. Vehicle Repair
- 15 g. Industrial Uses

16 15. Definitions:

- 17 a. Façade: Any exterior side of a building as viewed from a single direction,  
18 typically perpendicular to the exterior side of the building being viewed.
- 19 b. Depth: A horizontal distance perpendicular to a building façade.
- 20 c. Elevation: A horizontal orthographic projection of a building onto a vertical  
21 plane, parallel to one side of the building.
- 22 d. Landscaped: To make an area of land more attractive by adding plants.

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

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

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

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\_\_\_\_\_  
Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Steve Sprague, City Auditor

First Reading:  
Second Reading:  
Final Passage:

Erik R. Johnson  
Assistant City Attorney - Fargo

29

January 14, 2025

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

RE: Enacting ordinance for new lodging tax and conference center – Article 3-14 of Fargo Municipal Code

Dear Commissioners,

Enclosed for receipt and filing is a draft ordinance enacting a new Article 3-14 to the Fargo Municipal Code. As you know, in the recent election a majority of City electors voted to approve a home rule charter amendment which authorized the City Commission to impose an additional lodging tax of up to 3% on hotel and motel lodging receipts within the City. The lodging tax proceeds are authorized to be used to finance the construction of a new conference center within the City of Fargo. The enclosed draft ordinance provides, among other things:

- The proceeds from this 3% lodging tax, to be collected by the City Auditor, are to be initially deposited into a conference center capital construction fund and the proceeds, along with earnings from the proceeds, are to be utilized for construction costs of a conference center "...at a location within the city...to be determined by a request for proposal process established by the board of city commissioners of the city, and with ongoing capital projects, maintenance, operation and functionally-related facilities ... all as the board of city commissioners of the city may select." See proposed ordinance at Section 3-1404.
- The tax is to be collected over a period not exceeding twenty-five (25) years. The collection of the tax is only to be commenced once the city commission has identified a specific project, as provided in the new home rule charter provision, at Fargo Home Rule Charter Article 3.V. See proposed ordinance at Section 3-1407.
- The ordinance imposes a 3% lodging tax on the gross receipts of retailers for the leasing or renting of hotel or motel rooms or other accommodations for periods of less than thirty consecutive calendar days within the Fargo corporate limits. See proposed ordinance at Sections 3-1401 and 3-1402.

Customarily, home rule charter provisions are not self-executing; rather, they must be implemented by ordinance. In this particular case, the new lodging tax HRC provision requires the City Commission to authorize or approve a number of things. First, the Commission must establish a request for proposal process to identify the

Letter to City Commission  
City Lodging Tax/Conference Center Ordinance  
Page 2

location for the conference center. Presumably, as part of choosing the winning proposal and agreeing upon the terms of an agreement with the successful proposer, the City Commission will consider and approve the means and methods by which a new conference center will be designed, built, financed, owned, operated and maintained—all matters are authorized by the new HRC amendment. The actual collection of the 3% lodging tax may not be commenced and the precise term over which such collection will occur (not exceeding 25 years) until the City Commission has identified the location for the conference center project. As a result, this ordinance does not contain a commencement date for collection of the tax nor does it identify the end-date for such collection. Those important details will be inserted, by amendment of this ordinance, once the RFP and selection process is completed.

Therefore, please find the enclosed draft ordinance, submitted herewith for receipt and filing. A suggested motion is provided below.

**Suggested Motion:** I move to receive and file An Ordinance Enacting Sections 3-1401 through 3-1409 of Article 3-14 of Chapter 3 of the Fargo Municipal Code Relating to Lodging Tax and Conference Center and to place the ordinance on for first reading at the next regularly-scheduled city commission meeting.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'ERIK R. JOHNSON', written over a horizontal line.

Erik R. Johnson  
Assistant City Attorney

Enclosure

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ENACTING ARTICLE 3-14 OF CHAPTER 3  
OF THE FARGO MUNICIPAL CODE RELATING TO CONFERENCE CENTER  
AND CITY LODGING TAX

WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code; and

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the city shall have the right to implement home rule powers by ordinance; and

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purpose; and

WHEREAS, the board of city commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be It Ordained by the board of city commissioners of the city of Fargo:

Section 1. Enactment.

Article 3-14 of Chapter 3 of the Fargo Municipal Code is hereby enacted as follows:

ARTICLE 3-14 – CONFERENCE CENTER AND CITY LODGING TAX

3-1401. Definition.--

1. "Gross receipts" - shall mean receipts of retailers for the leasing or renting of a hotel or motel room or other accommodations occupied by the same natural person or persons for residential housing, for periods of fewer than thirty consecutive calendar days within the corporate limits of the city of Fargo.

2. "Retailer" - shall mean any person, firm or corporation in the business of leasing or renting hotel, motel or other accommodations for periods of fewer than thirty consecutive calendar days or one month.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

1 3-1402. Tax on gross receipts.--A tax is hereby imposed upon gross receipts as defined  
2 herein, which tax shall be computed on a monthly basis by each and every hotel, motel or other  
3 accommodations located within the corporate limits of the city of Fargo. Said tax must be in addition  
4 to the state sales tax on rental accommodations provided in chapter 57-39.2 and said tax must be in  
5 addition to the existing city lodging tax imposed pursuant to Fargo municipal code, article 3-13. The  
6 amount of such tax shall be three percent (3%) of the gross receipts to be initially placed in an  
7 improvement construction fund of the city of Fargo in accordance with the home rule charter of the  
8 city of Fargo, Article 3.V.

9 3-1403. Collection of tax.--The tax hereby imposed shall be computed by every retailer and  
10 paid to the city of Fargo. Such computation shall be on a monthly basis and payment for each month  
11 shall be made to the city on or before the 10th day of the following month. The payment shall be  
12 accompanied by a report indicating the amount of gross receipts for the reporting period and shall be  
13 certified by a certified public accountant or by the retailer, or managing officer thereof. The city may  
14 retain up to 3% of the total amount collected for administrative costs.

15 3-1404. Dedication of Tax Proceeds—Conference Center Capital Construction Fund.--There  
16 is hereby created a fund to be known as the conference center capital construction fund, and all taxes  
17 collected pursuant to this ordinance, less costs of administration as hereinabove provided, shall  
18 initially be placed in this fund and said fund, along with interest and other authorized investment  
19 earnings, shall be utilized for costs associated with construction of a conference center, at a location  
20 within the city of Fargo to be determined by a request for proposal process established by the board  
21 of city commissioners of the city, and with ongoing capital projects, maintenance, operation and  
22 functionally-related facilities (the "Projects"), all as the board of city commissioners of the city may  
23 select. Such expenditures may be used to acquire property; enter into agreements; make, install,  
construct or build improvements and engage in projects and activities as are necessary and appropriate  
for such purposes. Interest earnings on such proceeds may be utilized for other such capital  
improvements. Proceeds from such tax may be used to make direct payment for such expenditures  
or improvements or may be pledged to amortize bonds or other debt instruments which may be sold  
to finance such costs.

3-1405. Administration of fund.--The conference center capital construction fund shall be  
administered by the city director of finance unless otherwise established by the board of city  
commissioners by resolution or ordinance.

3-1406. Management, Operations, Maintenance and Budget.—Upon completion of  
construction of the Projects, the city will be responsible for the management, operations and  
maintenance of the Projects unless otherwise established by the board of city commissioners by



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

1 resolution or ordinance. The city may enter into one or more agreements by which some or all of the  
2 tasks associated with such management, operations and maintenance are delegated to a third party.  
3 An operating budget for the conference center and functionally-related facilities shall be established  
4 annually by a person, firm or entity as determined by the board of city commissioners and such  
5 operating budget shall be submitted to the board of city commissioners for its approval.

6 3-1407. Term.—The collection of the tax imposed by this article shall be for a term not to  
7 exceed a period of twenty-five (25) years and the collection of the tax shall only be commenced once  
8 the board of city commissioners has identified a specific project in accordance with the requirements  
9 set forth in Article 3.V of the home rule charter of the city of Fargo. The date of commencement of  
10 the collection of said tax and the period for such collection shall be established either by amendment  
11 of this section or by separate ordinance. Furthermore, as provided by Article 3.V of the home rule  
12 charter of the city of Fargo, if no project is identified, and the collection of the tax is not implemented  
13 by December 31, 2028, authorization of the tax shall expire.

14 3-1408. Failure to comply—Penalty.--If any retailer shall fail to make payment as required  
15 by this article or to file the necessary report within the time provided, or, if upon audit, is found to  
16 owe additional tax, such retailer shall be subject to a penalty of 5% of the amount of tax due, plus  
17 interest of 1% of such tax for each month of delay or a fraction thereof. The board of city  
18 commissioners, if satisfied that the delay was excusable, may waive all or any part of such penalty  
19 and interest. Any penalty and interest paid shall be utilized in the same manner as other receipts  
20 under this chapter.

21 Section 2. Effective Date.

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

23 \_\_\_\_\_  
Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

First Reading:  
Second Reading:  
Final Passage:

\_\_\_\_\_  
Steven Sprague, City Auditor



30

**Denise Kolpack, City Commissioner**  
Fargo City Hall  
225 4th Street North  
Fargo, ND 58102-4817  
Phone: 701.715.4895 | Fax: 701.476.4136  
[www.FargoND.gov](http://www.FargoND.gov)

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: COMMISSIONER DENISE KOLPACK** 

**DATE: JANUARY 21, 2025**

**SUBJECT: EXIT INTERVIEWS**

Given the recent story about employee exit interviews who leave the City of Fargo, I would like to ask Human Resources to provide an overview of the exit interview process, including the subsequent steps taken if any corrective actions need to be implemented, and how the information is shared with respective department managers.

**RECOMMENDED MOTION:** No action necessary for informational purposes only.