

FARGO CITY COMMISSION AGENDA
Monday, January 22, 2024 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, January 8, 2024).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Amendment to Developer Agreement, Certificate of Completion and Tax Increment Note (Tax Increment Financing District No. 2019-02) with NC Land Lease, LLC.
- 2. Interest Buydown Agreement - Pace Program with the Bank of ND for EPIC Unite Real Estate Holdings LLC.
- 3. 2nd reading and final adoption of an Ordinance Rezoning a Certain Parcel of Land Lying in Pracs Second Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 1/8/24.
- 4. 2nd reading and final adoption of an Ordinance Rezoning a Certain Parcel of Land Lying in Gamma Fargo Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 1/8/24.
- 5. Pledged securities as of 12/31/23.
- 6. Applications for Games of Chance:
 - a. Knights of Columbus 11930 Sts. Anne and Joachim for a raffle on 5/16/24.
 - b. Minnesota Farm Bureau Foundation for bingo and a calendar raffle on 2/2-2/3/24; Public Spirited Resolution.
 - c. Muskies Inc. F-M Chapter for a raffle on 2/8/24.
 - d. Bethany Auxiliary for a calendar raffle on various dates throughout the year.
 - e. FM Walleyes Unlimited, Inc. for a raffle on 4/4/24.
 - f. FM Walleyes Unlimited, Inc. for a calendar raffle from 1/26-12/5/24.
- 7. Agreements Regarding Deferral of Special Assessments with Bruce P. Brand and Elwood Jay Brand for properties located at 2101 57th Street North, 5401 19th Avenue North and 5617 19th Avenue North.
- 8. Bid advertisement for Project No. FM-24-A.
- 9. Bid advertisement for Project No. NR-24-B.
- 10. Bid advertisement for Project No. PR-24-C.
- 11. Pipeline Easement and Agreement with Cass Rural Water Users District (Project No. VF-23-B1).

12. Contract and bond for Project No. QR-24-A1.
13. Final Balancing Change Order No. 2 in the amount of \$17,707.16 for Improvement District No. PN-23-E1.
14. Memorandum of Understanding Regarding Easements and Restoration of Parking Surface, Permanent Easement (Street and Utility) and Easement (Temporary Construction Easement) with the Park District of the City of Fargo (Improvement District No. NR-24-A1).
15. Bid award to Strata Corporation in the amount of \$257,758.50 for Improvement District No. TN-23-A2.
16. Create Improvement District No. PR-24-E.
17. Contract and bond for Improvement District No. BR-24-B.
18. Purchase of Service Agreement with Cass Human Service Zone.
19. Notice of Grant Award with ND Department of Health and Human Services to increase the number of Farm to School and/or Farm to Table programs (CFDA #93.110).
20. Letter of Agreement with ND Department of Health and Human Services, Family Health and Wellness Unit.
21. Purchase of Service Agreement with The Milton Earl.
22. Direct the City Attorney to amend Section 31-0102 of the Fargo Municipal Code Relating to the International Property Maintenance Code – Enclosure Requirements.
23. Resolution Approving Plat of The Pines at the District Fifth Addition.
24. Resolution Approving Plat of Northern Sheyenne Land Fourth Addition.
25. Grant Award and Acceptance - Law Enforcement Resiliency Grant from the ND Office of the Attorney General in the amount of \$21,960.00 and related budget adjustments (Grant #RS25004).
26. Grant Award and Acceptance – Project Safe Neighborhoods (PSN) Grant Program from the ND Office of the Attorney General in the amount of \$61,924.74 and related budget adjustments (Grant #PSN2201).
27. Contract with GMV Synchronatics Corporation for fixed route software and hardware (RFP23214)
28. Bills.

REGULAR AGENDA:

29. **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).

***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**

30. **PUBLIC HEARING** – The Pines at the District Fourth Addition (4000 53rd Avenue South and 5461 and 5537 38th Street South); approval recommended by the Planning Commission on 10/3/23:
 - a. Zoning Change to repeal and re-establish a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.
 - c. Plat of The Pines at the District Fourth Addition.
31. **PUBLIC HEARING** – Application requesting a Waiver of Requirement to install a public sidewalk on Lots 13, 14 and 15, Block 16, Woodcrest Third Addition (155, 161 and 167 South Woodcrest Drive North); denial recommended by the Planning Commission on 1/2/24.
32. **PUBLIC HEARING** - Application for an ownership change for a Class “FA” Alcoholic Beverage License for Herd and Horns Sports Bar & Grill, LLC d/b/a Herd and Horns to be located at 1414 12th Avenue North, Suite F.
33. **PUBLIC HEARING** - Application for a Class “GH” Alcoholic Beverage License for Milk Made, LLC d/b/a Milk Made to be located at 612 23rd Street South.
34. **PUBLIC HEARING** - Application for a Class “RZ-V” Alcoholic Beverage License for Synclaire Events Venue d/b/a Synclaire Events Venue to be located at 613 1st Avenue North.
35. **PUBLIC HEARING** - Application filed by John Deere Electronic Solutions, a Division of John Deere & Company for a property tax exemption at 4101 19th Avenue North which the applicant will use primarily for manufacturing and programming of receivers, displays, controllers, modems and inverters; continued from the 12/11/23 and 1/8/24 Regular Meetings.
36. Report from Dr. Nicholas Bauroth on Public Survey.
37. Recommendation for appointment to the Board of Adjustment.
38. Wess Philome would like to address the City Commission about the Discrimination in Policing Act.
39. Liaison Commissioner Assignment Updates.

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

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

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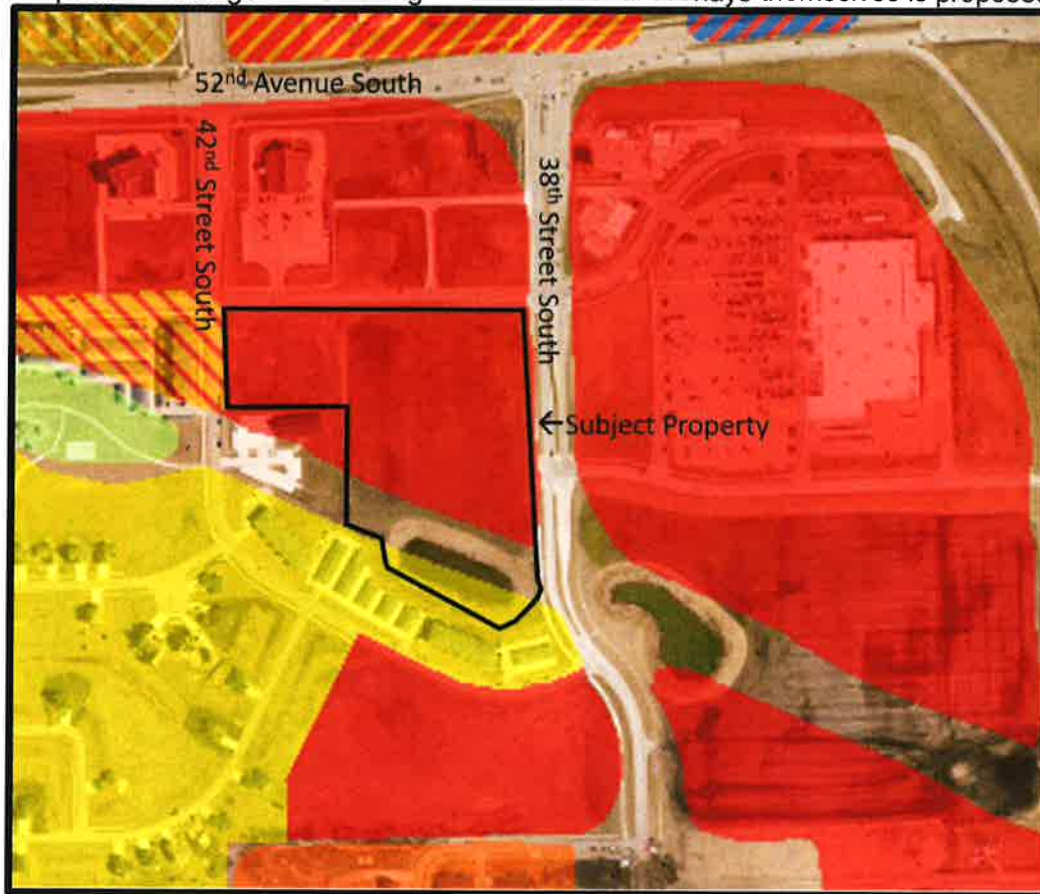
| City of Fargo Staff Report | | | |
|---------------------------------------|---|--------------------------------|--|
| Title: | The Pines at the District Fourth Addition | Date: Update: | 9/27/2023 1/18/2024 |
| Location: | 4000 53rd Avenue South and 5461 and 5537 38th Street South | Staff Contact: | Donald Kress, current planning coordinator |
| Legal Description: | Portion of Lot 1, Block 1, The Pines at the District Third Addition, and part of Lots 1-2, Block 1, The District of Fargo Second Addition, to the City of Fargo, Cass County, North Dakota | | |
| Owner(s)/Applicant: | Gitty-Up, LLC / Houston Engineering, Inc. | Engineer: | Houston Engineering, Inc. |
| Entitlements Requested: | Zoning Change (to repeal and reestablish C-O, Conditional Overlays on the proposed The Pines at the District Fourth Addition.); and a Minor Subdivision (replat of part of Lot 1, Block 1, The Pines at the District Third Addition, and part of Lots 1-2, Block 1, The District of Fargo Second Addition, to the City of Fargo, Cass County, North Dakota) | | |
| Status: | City Commission Public Hearing: January 22 nd , 2024 | | |



| Existing | Proposed |
|--|---|
| Land Use: Undeveloped | Land Use: Commercial |
| Zoning: LC, Limited Commercial with conditional overlays | Zoning: LC, Limited Commercial with conditional overlays |
| LC, Limited Commercial, allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service. Some uses prohibited by conditional overlay Ord No. 4688 | Uses Allowed: No change |
| Maximum Lot Coverage Allowed: LC allows a maximum lot coverage of 55% | Maximum Lot Coverage Allowed: No change |

| Proposal: |
|--|
| <p>The applicant requests two entitlements:</p> <ol style="list-style-type: none"> Zoning Change (to repeal and reestablish a C-O, Conditional Overlay on the proposed The Pines at the District Fourth Addition); and Minor Subdivision (replat of part of Lot 1, Block 1, The Pines at the District Third Addition, and part of Lots 1-2, Block 1, The District of Fargo Second Addition, to the City of Fargo, Cass County, North Dakota) <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: LC with retail/service uses and some undeveloped property. • East: LC with retail/service uses and some undeveloped property. • South: MR-3: Multi-Dwelling Residential with multi-residential dwellings • West: LC with retail/service uses; MR-3: Multi-Dwelling Residential with multi-residential dwellings; P/I, Public/Institutional, with Fargo Park District park |

Area Plans:

The subject property is designated as "commercial" on the 2007 Growth Plan, as amended. The current LC, Limited Commercial zoning is consistent with this land use designation. The current conditional overlays will be repealed and re-established to address the change in lot configuration made the by the subdivision plat. No change to the zoning or the conditional overlays themselves is proposed.



| Proposed Land Uses | |
|---|--|
|  | Residential Area - lower to medium density |
|  | Residential Area - medium to high density |
|  | Residential Area - rural |
|  | Commercial Area |
|  | Industrial Area |
|  | Agricultural Research |

Context:

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

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

Parks: The Pines Park, located at 5341 42nd Street South, is west across 42nd Street from the west portion of the subject property, and provides amenities basketball court, grill, picnic table, playground, ages 2-5, playground, ages 5-12, recreational trails, and a shelter.

Pedestrian / Bicycle: An off-road multi-use trail is adjacent to the east side of the subject property, within the 38th Street South right of way, which is a component of the metro area bikeways system.

Bus Route: MATBUS Route 18 has a stop on the north side of the 52nd Avenue WalMart, approximately 0.25 mile northeast of the east side of subject property.

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Staff Analysis:

Zoning Change

There are two conditional overlays (C-O's) on the subject property, as noted in the chart below.

| Ordinance Number | Date Adopted | Currently Applies to Lots | Will Apply to New Lots | Uses Prohibited | Other Provisions |
|------------------|--------------|--|------------------------|---|--|
| 4634 | 10/08/2007 | Lots 1-2, Block 1, The District of Fargo Addition | Lot 1, Block 1 | None | Architectural standards, landscaping, parking lot landscaping, signage, stormwater, parking, screening |
| 4688 | 11/17/2008 | Lot 1, Block 1, The Pines at the District Third Addition | Lot 2, Block 1 | Detention facilities, adult entertainment centers, off premise signs (with one exception) portable signs, vehicle repair, industrial service, manufacturing and production, warehouse and freight movement, aviation/surface transportation | Architectural standards, landscaping, parking lot landscaping, signage, screening |

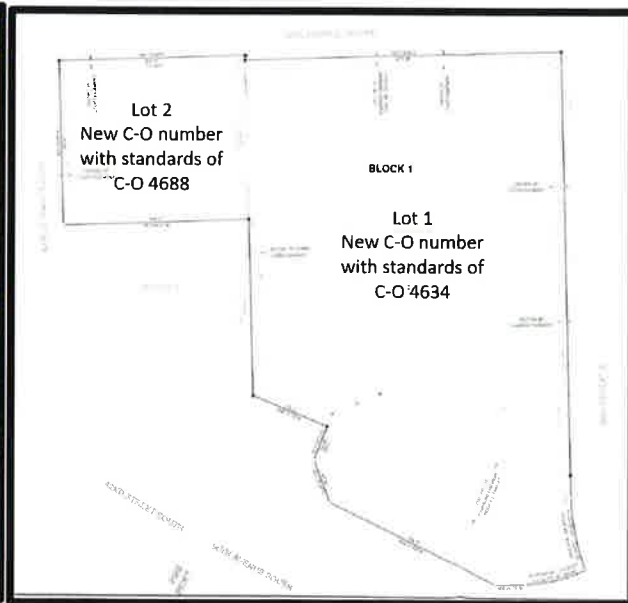
The current conditional overlays will be repealed and re-established to address the change in lot configuration made the by the subdivision plat, so that there are not two different C-O's that apply to Lot 1, Block 1. Note that there will an entirely new ordinance number, and that new ordinance number will include the standards and specifications from the two existing C-O's.

The graphics below show the current and proposed location of where the C-O's apply

CURRENT C-O CONFIGURATION



NEW C-O CONFIGURATION



(continued on next page)

Plat

The plat will create combine all or portions of three existing lots into two lots in one block.

No right of way dedication is required for 53rd Avenue South. The existing right of way is deliberately wider as it approaches 38th Street.

Detention Basin

The existing stormwater detention basin will be part of Lot 1, Block 1. The City has worked with the developer to create a maintenance agreement to be signed by the developer, and the plat will depict an easement to allow access for maintenance. The City will handle the significant maintenance and not the day to day maintenance of the basin.

Amenities Plan

Staff and the applicant have agreed to an amenities plan that specifies the stormwater requirements necessary to serve the subdivision. This amenities plan has been reviewed by the Public Works Project Evaluation Committee (PWPEC).

Access

The lots will be able to take access from 42nd Street and most of 53rd Street. Access along the easterly 150 feet of the 53rd Street property frontage, and all of the 38th Street South property frontage except for one break, is restricted by negative access easements that carry over from previous subdivisions.

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?**

There is no error in the zoning map. There is no change to the base LC, Limited Commercial zoning district. The only change is to adjust where the two existing C-O's apply on the new subdivision so that there are not two C-O's on Lot 1, Block 1.

(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?**

Yes.

(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. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria Satisfied)**

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The zone change only adjusts where the two existing C-O's apply on the new subdivision, so that there are not two C-O's on Lot 1, Block 1. Both C-O's provide architectural and site design standards to bring a higher quality of design to this subdivision than would be required by the Land Development Code requirements alone. The LC zoning is consistent with the "commercial" land use designation of the 2007 Growth Plan.

(Criteria Satisfied)

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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 property within this plat is currently zoned LC, Limited Commercial with conditional overlays (C-O's). This actual zoning will not change. This zoning is consistent with the "commercial" land use designation for the subject property on the 2007 Growth Plan. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received 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. Staff and the applicant have agreed to an amenities plan that specifies the stormwater requirements necessary to serve the subdivision. This amenities plan has been reviewed by the Public Works Project Evaluation Committee (PWPEC). **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the 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 approve the proposed 1) a Zoning Change to repeal and reestablish a C-O, Conditional Overlays on the proposed The Pines at the District Fourth Addition, and 2) plat of **The Pines at the District Fourth Addition** (Minor Subdivision), as outlined in the staff report, as the proposal complies with the Go2030 Fargo Comprehensive Plan; Section 20-0907 (B) and (C); Section 20-0906. F (1-4); and Standards of Article 20-06 of the LDC; 2007 Growth Plan; and all other applicable requirements of the LDC."

Planning Commission Recommendation: October 3rd, 2023

At the October 3rd, 2023 Planning Commission hearing, by a vote of 7-0 with two Commissioners absent and two Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed 1) a Zoning Change to repeal and reestablish a C-O, Conditional Overlays on the proposed The Pines at the District Fourth Addition, and 2) plat of The Pines at the District Fourth Addition (Minor Subdivision), as outlined in the staff report, as the proposal complies with the Go2030 Fargo Comprehensive Plan; Section 20-0907 (B) and (C); Section 20-0906. F (1-4); and Standards of Article 20-06 of the LDC; 2007 Growth Plan; and all other applicable requirements of the LDC."

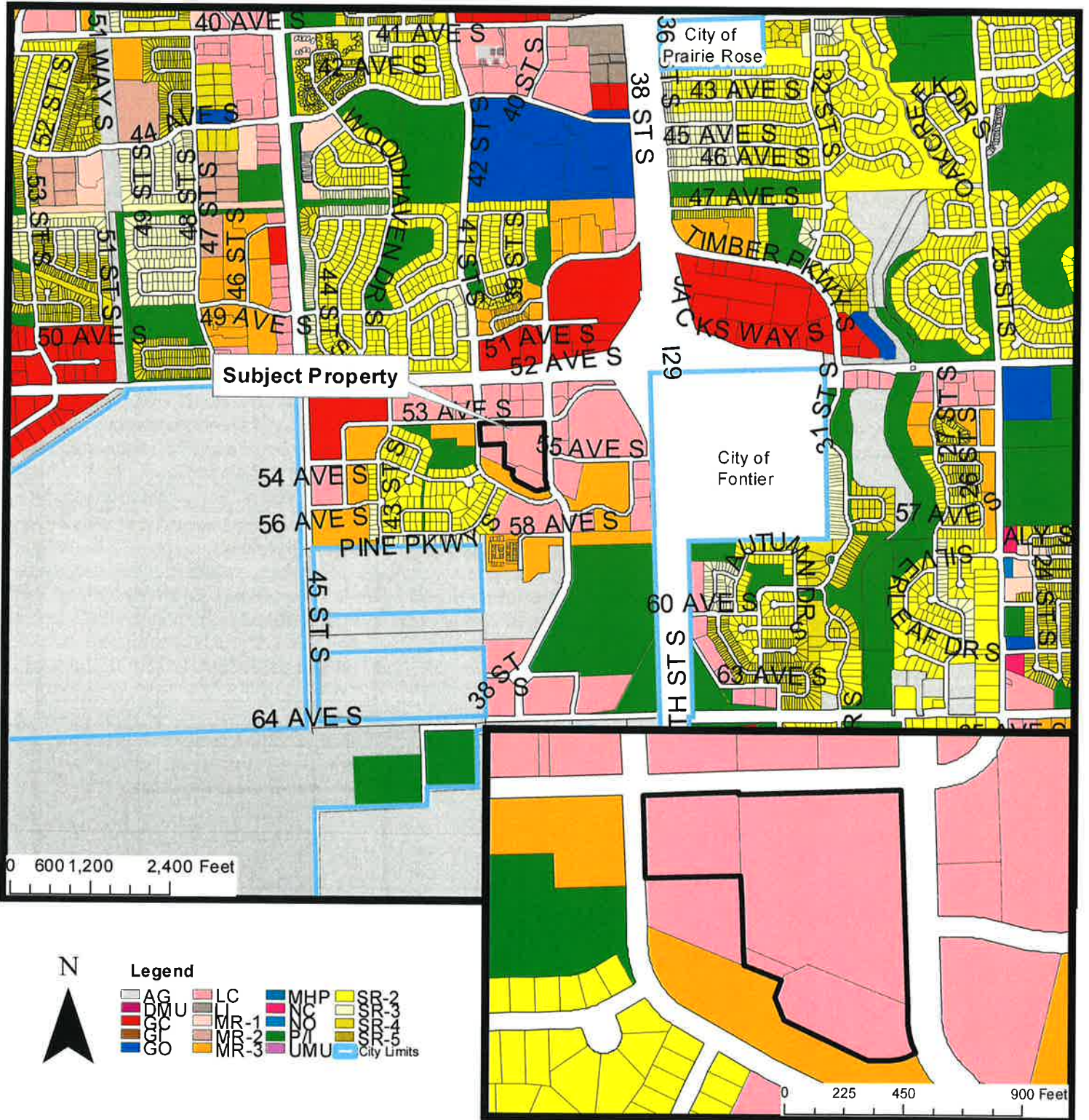
Attachments:

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

Minor Subdivision and Zoning Change to repeal and reestablish a C-O, Conditional Overlay

The Pines at the District Fourth Addition

4000 53rd Avenue South;
5461 & 5537 38th Street South



Minor Subdivision and Zoning Change to repeal and reestablish a C-O, Conditional Overlay

The Pines at the District Fourth Addition

4000 53rd Avenue South;
5461 & 5537 38th Street South



Legend

 City Limits

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ORDINANCE NO. _____

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

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on October 3, 2023; and,

WHEREAS, the rezoning changes were approved by the City Commission on January 22, 2024,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot One (1), Block One (1) of The Pines at the District Fourth Addition to the City of Fargo, Cass County, North Dakota,

that is currently zoned "LC", Limited Commercial, District, subject to the existing "C-O", Conditional Overlay, Districts, as established by Fargo Municipal Ordinance Nos. 4634 and 4688, will hereby retain the base zoning of "LC", Limited Commercial District, and repeal the "C-O", Conditional Overlay, Districts and re-establish the "C-O", Conditional Overlay, District as follows:

Conflicting Provisions.

In the event of a conflict between these standards and provisions found in other adopted codes, ordinances, or regulations of the City of Fargo, the more stringent and/or restrictive provisions shall control.

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Definitions.

1 **Major Tenant/Buildings:** Major Tenants are defined as single tenants or buildings
2 larger than 80,000 SF.

3 **Sub-Major Tenant/Buildings:** Sub-Major Tenants are defined as tenants or buildings
4 larger than 10,000 SF and less than 80,000 SF.

5 **In-Line Shop Buildings:** In-Line Shop Buildings are defined as common depth in-line
6 buildings that can accommodate a variety of tenants in varying width storefronts. Shop
7 buildings are typically less than 16,000 SF.

8 **Village Buildings:** Village buildings are situated in the Village area of the project. They
9 are thematically connected with plazas, hardscape, design, and common outdoor seating
10 areas. Village buildings are defined as individual buildings or tenants typically greater
11 than 6,000 SF and less than 8,000 SF.

12 **Pad Site Buildings:** Pad Site Buildings are defined as individual tenants or buildings
13 typically less than 8,000 SF with dedicated parking. Free standing Restaurants and
14 Banks are representative tenants of this group.

15 **Architectural Design.**

16 **Building Exterior Materials.**

17 Approved Materials:

- 18 • Natural stone
- 19 • Synthetic stone products (bottom of stone 6" above grade minimum) Village
20 shops only
- 21 • Integrally colored ground face or split face concrete block
- 22 • Brick Masonry (clay-fired or concrete cured)
- 23 • Wood
- EIFS (above 6'-0" above grade)
- Accent architectural metal panel (not to exceed 5% of building elevation)
- Architectural steel
- Standing seam metal roofing

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- Storefront or curtain wall glazing systems
- Tilt up/precast concrete panels (with brick/masonry and/or ceramic cladding and/or architecturally detailed finish)
- Wood or synthetic siding (not to exceed 10% of building elevation)

Prohibited Materials and Treatments:

- Metal wall panels exceeding 5% of building elevation.
- Painted concrete masonry units
- Full ceramic tile walls
- Highly reflective wall treatments
- The use of reflective glazing, with over 65% reflectivity
- Exposed neon or color tubing (except with Developer & City of Fargo approval.)
- Untextured concrete or untreated CMU or plain/untextured tilt-up/precast concrete panels

Architectural Features.

Architectural features, which project over the sidewalk, must be a minimum of nine (9) feet above the sidewalk. These include balconies, eaves, decorative roofs, entry features, trellises, canopies and fabric awnings. Internally lit awnings shall not be used. No such improvements shall encroach into bike or street travel lanes.

Roof Top Screening.

Parapets shall conceal flat roofs and rooftop equipment such as HVAC units from public view, from the interior of the site, from a distance of 200 feet. The average height of such parapets shall not exceed fifteen percent (15%) of the height of the supporting wall and such parapets shall not at any point exceed one-third (1/3) of the height of the supporting wall.

Truck Docks/Trash Enclosures.

All truck docks must be fully screened with materials to match the adjacent building. The screen walls shall be a minimum height of 8' -0" above grade. Trash enclosures must be constructed out of a masonry material. Doors must fully screen the interior of the trash enclosure. Trash compactors can be incorporated into Truck Docks. Trash enclosure walls shall be a minimum of 8' -0" above grade.

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Building Entrances.

Each primary building on a site, regardless of size, shall have clearly defined, highly-visible public entrances featuring no fewer than two (2) of the following:

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- Canopies, awnings or porticos.
- Recesses/projections varying the façade
- Arcades
- Raised corniced parapets over the door
- Peaked roof forms
- Arches
- Entry courts
- Planter and wing walls integrated with building
- Outdoor patios
- Display Windows

Each development shall contribute to the establishment or enhancement of community and public spaces by providing at least two (2) of the following which have direct access to the public sidewalk network and such features shall not be constructed of materials inferior to the principal materials of the building and landscape.

- Patio/seating area
- Pedestrian plaza with benches and planters
- Bike parking areas
- Window shopping walkway
- Outdoor playground
- Water feature

Architectural articulation shall be evident at primary entrances. These shall feature gable or hip roof forms clad in standing seam metal with an accent lighted fascia Textural and massing changes are required for visual interest as well as reinforcing "human scale."

Maximum entry feature height and maximum parapet height is as follows:

| | |
|------------------------|---|
| Major Building: | 45'-0"/35'-0" |
| Sub-Major Building: | 42'-0"/30'-0" |
| In-Line Shop Building: | NA/24'-0" w/ Architectural Tower not to exceed 35'-0" |
| Village Building: | 30'-0"/24'-0" w/ Architectural Tower not to exceed 40'-0" |

Scored concrete patterns and textured concrete (non-slip) and/or unit pavers at

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entrances are required. Sidewalk paving patterns at entries must extend from the storefront to the back of curb, or to the established line, or edge, of the street, or vehicle access route, and be at least as wide as the glazing system at the entry.

Building Elevations.

Break down building massing to a human scale eliminating uninterrupted flat facades by articulating a wall plane with the following architectural elements:

- Change in plane at change of material
- Change in color, texture or material
- Windows
- Trellises, awnings or canopies
- Cast stone detailing in horizontal bands
- Raised planters
- Pilasters or over framed elements
- Brick type material (20% of elevation)

Use the above architectural elements to limit uninterrupted wall planes to no more than 75 feet.

All buildings shall be designed to incorporate no fewer than four (4) of the architectural elements from the list below. Buildings over 10,000 square feet must include a minimum of six (6) and buildings over 80,000 square feet must include a minimum of seven (7) of the referenced architectural elements:

- Canopies, awnings or porticos
- Recesses/projections
- Arcades
- Peaked roof forms
- Outdoor patios
- Display Windows
- Architectural details (such as tile work and moldings) integrated into the building façade
- Articulated cornice line
- Integrated planters or wing walls that incorporate landscape and sitting areas
- Offsets, reveals or projecting rib used to express architectural/structural bays
- Accent materials (minimum 15% of exterior façade)
- Varied roof heights
- Other architectural features approved by the City

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Specific Convenience Store and Gas Station Standards.

- Canopies shall not exceed twenty-four (24) feet in height
- The maximum illumination at grade under the canopy shall not exceed twenty (20) foot candles.
- The minimum distance between parallel fuel pump islands shall be twenty-five (25) feet. The minimum distance from the outside edge of the fuel pump island and a required drive lane shall be no less than twelve (12) feet.
- The minimum distance from the end of a fuel pump island and a required drive lane shall be no less than fifteen (15) feet.

Signage Design.

Sign Area.

Sign area shall be measured for all types of signs as follows:

1. Signs with backing shall include, but not limited to, cabinet signs or signs that are outlined or framed. The area of a cabinet sign or sign enclosed by a box, outlined or framed, shall be measured by determining the smallest possible area of any rectilinear geometric shape that utilizes eight or fewer lines that join each other at right angles that enclose the extreme limits of the display surface or face of the sign; including all frames, backing, face plated, nonstructural trim or other component parts not otherwise used for support.
2. Signs without backing. If the sign is composed of individual letters or symbols that are mounted against a surface that has not been painted, textured or otherwise altered to provide a distinctive background for the sign copy, the area of the sign shall be measured by determining the area of the smallest possible area of a rectilinear geometric shape that utilizes eight or fewer lines that join each other at right angles that enclose the extreme limits of each message.
3. Multi-faced signs. Sign area or signs which have two parallel sign faces assembled in such a way that the faces cannot be viewed from any one point at the same time shall be calculated using only the larger of the two sign faces. Sign area for signs which have multiple sign faces not being parallel, which can be viewed from any one point at the same time, such as a v-shaped, triangles or cubes, shall be calculated using the total of all faces.

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4. When a sign is spherical, free form, sculptural or other non-planar form, the sign area is measured as the sum of the area of the four vertical sides of the smallest polyhedron that will encompass the sign structure.
5. An illuminated canopy, awning, or architectural feature of a building is not considered a distinctive background for the purposes of measuring the sign area.
6. Neon or other outdoor building background for the purposes of measuring the sign area. Neon or other outdoor building illumination, which does not identify or convey information, is not considered in the calculation of sign area. All neon lighting must be approved by the Landlord and the City of Fargo.
7. Works of art, architectural features and building decoration, which contain or portray a commercial message suggestive of the on-site business shall be interpreted to constitute a sign, and the area shall be included in the calculation for determining the allowable sign area.

Sign Type Descriptions.

The Master plan Project signage includes the following:

Tenant Highway Monument/Pylon Sign (Sign Type A):

Signs are located along 1-29. Monuments are allowed for Major tenants 1, 2,. Maximum height is 34'-2".

Single Tenant Monument (Sign Type B):

Signs are located at interior access points. Maximum height 6' -9".

Project Identity/City Gateway Monument (Sign Type C):

Sign is placed on the islands located inside the ponds at the intersection of 38th Street and 52nd Avenue.

Entry Tower Multi Tenant Monument (Sign Type D):

Tower is located at the site entry along 38th Street. Stores under 80,000 SF are permitted (1) one-2'-1" x 10' -8" panel each side. Stores over 80,000 SF are permitted (1) one-4'-2" x 10'-8" panel each side. Maximum height 45'-0".

Prohibited Signage.

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Animated Sign means a sign having an intermittent or continuing variation in the illumination or physical position of any part of the device, except variations required for displaying time or temperature information.

Awning sign means a sign attached to an awning.

Billboards mean a sign advertising products not made, sold, used or served on the premises displaying the sign or that conveys an informational or ideological message.

Fence Signs means a sign affixed in any way to or painted on a fence.

Off Site Sign means a sign directing attention to a business commodity, service, product, or property not located, sold or conducted on the same property or site as that on which the sign is located. Off site signs are not permitted except as indicated in the Signage Master plan.

Pennant means a flag tapering to a point usually strung together by line or rope.

Portable Sign means any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

Roof Sign means a sign erected above the highest point of a flat roof or mounted on a gable pitched or hipped roof.

Vehicular Sign means a sign or business identification affixed to any vehicle, including but not limited to automobiles, trucks, tractors, trailers, wagons, carts, manufactured homes and similar vehicles and their accessories.

Exterior Window Sign means any sign painted or applied to the interior/exterior of the window of a tenant.

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Sign Requirements.

Walls

| Sign Criteria | |
|---------------------------------|--|
| Maximum Sign Area | <p>Major and Sub-Major Tenants:</p> <ul style="list-style-type: none"> • 90 square feet or 17.5% of the square footage of the largest elevation of a single user building on a zone lot or the end cap of a Sub Major bar, whichever is greater shall be used to determine the maximum sign area. • The maximum percentage on any one face is not to exceed 8% of the largest elevation • If the building is a joint use building with 2 elevations available for signage, 60 square feet or 12% of the square footage of the largest leased exterior wall of a leased space shall be used to determine the maximum sign area. |
| Maximum Number of Signs: | No limit |
| Maximum Height: | Determined by the wall the sign is attached to |
| Illumination: | Only concealed illumination |
| Special Requirements: | |

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| Sign Criteria | |
|---------------------------------|---|
| Maximum Sign Area | <p>Village and In-Line Shop Tenants:</p> <ul style="list-style-type: none"> • 6% of the square footage of the front building elevation of a single tenant of a Village shop or In-Line shop shall be used to determine the maximum sign area for the front of the building. Maximum sign height is 2'-0" • 5% of the square footage of the rear building elevation of a single tenant of a Village shop or In-Line shop shall be used to determine the maximum sign area for the rear of the shop. Maximum sign height is 2'-0". <p>3% of the square footage of the side building elevation of a single tenant end cap of a Village shop or In-Line shop shall be used to determine the maximum sign area for the exposed side of the shop. Maximum sign height is 2' -0".</p> |
| Maximum Number of Signs: | No limit |
| Maximum Height: | Determined by the wall the sign is attached to |
| Illumination: | Only concealed illumination |
| Special Requirements: | If there are continuous Village or In-Line shops sign faces for the different spaces must be centered in the sign band and have a minimum of 5'-0" separating the signs. |

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Highway Monument/Pylon Signs

| Sign Criteria | |
|--------------------------|--|
| Maximum Sign Area | Refer to Sign Type A |
| Maximum Number of Signs: | 2 |
| Maximum Height: | 34'-2" |
| Illumination: | Concealed illumination or up lights with shielded fixtures |
| Special Requirements: | |

Monuments Signs

| Sign Criteria | |
|--------------------------|--|
| Maximum Sign Area | Refer to Sign Type B Entry Single Tenant Identity Monument: |
| Maximum Number of Signs: | Refer to Signage Location Plan |
| Maximum Height: | 6'-9" Sign Type B |
| Illumination: | Concealed illumination or up lights with shielded fixtures |
| Special Requirements: | |

Canopy Signs (Gas Station)

| Sign Criteria | |
|--------------------------|--|
| Maximum Sign Area | 60 square feet |
| Maximum Number of Signs: | 2 per canopy |
| Maximum Height: | Below top of canopy |
| Illumination: | Only concealed illumination. Illuminated sign(s) on canopy. Canopy fascia not to be illuminated. |
| Special Requirements: | |

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Menu Signs

| Sign Criteria | |
|--------------------------|-----------------------------|
| Maximum Sign Area | 30 square feet |
| Maximum Number of Signs: | 2 per drive through |
| Maximum Height: | 6' -0" |
| Illumination: | Only concealed illumination |
| Special Requirements: | |

Construction Signs

| Sign Criteria | |
|--------------------------|--|
| Maximum Sign Area | 32 square feet |
| Maximum Number of Signs: | 1 per Major, Sub-Major or Pad Site tenant only |
| Maximum Height: | 6' -0" |
| Illumination: | Not Permitted |
| Special Requirements: | |

Future Use Identification Signs

| Sign Criteria | |
|--------------------------|--|
| Maximum Sign Area | 32 square feet |
| Maximum Number of Signs: | 1 per Major, Sub-Major or Pad Site tenant only |
| Maximum Height: | 6' -0" |
| Illumination: | Not Permitted |
| Special Requirements: | |

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Landscape Design.

Access and Circulation.

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

- the primary entrance or entrances to each commercial building, including pad site buildings
- any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development
- parking areas or structures that serve such primary buildings
- 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
- any public sidewalk system along the perimeter streets adjacent to the commercial development
- where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings

Walkways or sidewalks shall be a minimum of five (5) feet in width. At each point that the on-site pedestrian walkway system crosses a parking lot or internal street or driveway, the walkway or crosswalk shall be clearly marked through the use of a change in paving materials distinguished by their color, texture or height, such as brick, concrete pavers, scored or patterned colored concrete.

Provide "mid-block" pedestrian corridors on long blocks.

Continuous pedestrian walkways of eight feet (8') wide should be provided along the full length of a primary building along any façade featuring a customer entrance and along any facade abutting customer parking areas. Such walkways should be located at least six feet (6') from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.

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Public Right-of-Way.

The following landscape requirements shall be applicable for all areas within public rights-of-way.

At least one (1) street tree is required for every 35 feet of local street frontage unless the City Forester determines that additional space between trees is necessary to address specific siting or other conditions. All areas of right-of-way for streets and utilities not covered by concrete, asphalt or such other material for vehicular, bicycle or pedestrian travel shall be covered by grass or groundcover, unless otherwise approved by the Zoning Administrator.

At least one (1) street tree is required for every 50 feet of collector and arterial street frontage unless the City Forester determines that additional space between trees is necessary to address specific siting or other conditions. All areas of right-of-way for streets and utilities not covered by concrete, asphalt or such other material for vehicular, bicycle or pedestrian travel shall be covered by grass, unless otherwise approved by the Zoning Administrator.

Required street trees shall be installed within the street right-of-way or within ten (10) feet of the street right-of-way. If street trees are to be located outside of the right-of-way, the City shall be authorized to require the establishment of a 15-foot landscape easement. The proposed location of street trees must be shown on the Amenities Plan that accompanies the subdivision plat.

Street trees need not be placed exactly at 35 or 50 foot intervals, but they must be placed fairly evenly along the street frontage. The City Forester shall have the authority to determine the final location of street trees, based on site factors such as the location of utilities and driveways, intersection visibility requirements and other factors.

Street trees must comply with the following minimum size standards (all sizes to be measured in accordance with American Standards for Nursery Stock published by the American Association of Nurserymen.)

- Street trees planted adjacent to local streets must be a minimum size of 3 1/2-inch caliper.
- Street trees planted adjacent to collector streets must be a minimum size of 3 1/2- inch caliper.

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- Street trees planted adjacent to arterial streets must be a minimum size of 4-inch caliper.

Organic mulch (woodchips) shall be installed to a minimum coverage thickness of 2 inches around street tree plantings within a radius to 3 feet of the trunk base.

Views into parking lots shall be screened from all public and private right of ways.

Plant materials must be located such that a minimum two-foot clear zone behind the back of curb allows for car bumper overhang unless curb stops are utilized.

Shrubs shall be massed in order to strengthen street edges and buffer parking lots.

Medians in public rights-of-way shall be landscaped pursuant to City of Fargo Land Development Code or as approved in the Development Permit process.

Open Area Landscaping.

The following landscape requirements shall be applicable for all landscape open areas.

Landscaping provided to meet the Site Perimeter and Parking Lot Landscaping standards may not be counted towards meeting a project's Open Space Landscaping requirements. Landscaping provided in excess of either of these standards may count to Open Space Landscaping requirements.

All developments are required to provide at least five (5) plant units for each 1,000 square feet of lot area or fraction thereof based on the following table, and ten (10) square feet per plant unit shall be provided

| Type of Plant Material | Size | Equivalent Plant Units |
|------------------------------|--|------------------------|
| Large, Mature Deciduous Tree | 2 to 3.5-inch caliper >30 foot mature height | 10 |
| Large, Mature Evergreen Tree | 8/10 foot height >30 foot mature height | 10 |
| Small, Mature Deciduous Tree | 1.5 to 3-inch caliper 12 to 30 foot mature height | 5 |
| Small, Mature Evergreen Tree | 4 to 5 foot height 12 to 30 foot mature height | 5 |
| Mature Shrub | 2 gallon | 1 |
| Perennial Plants | 2 gallon 1 gallon | 1 0.5 |

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A minimum of 70 percent of the plant units required shall be installed in required front or street side setback areas.

1 A maximum of 50% of the total landscape area of each property may be
2 planted with approved turf.

3 **Parking.**

4 All developments shall meet the Off-Street Parking Schedules in Section 20-0701 B
5 of the Land Development Code. All developments shall be allowed to have a maximum
6 of 20% more spaces than the required minimum. Any additional spaces above the
7 required 20% shall be allowed only through a conditional use permit. The conditional
8 use permit shall be granted in accordance with Section 20-0909 upon the finding that
9 additional spaces are needed. The applicant and City shall agree to a specified amount
10 of additional plant units to be provided for the increased amount of parking starting at
11 a base of 5% additional plant units provided for each 5% increase in parking.

12 All developments seeking to provide fewer off-street parking spaces than required in
13 the Off-Street Parking Schedule of Sec. 20-0701-B, shall secure approval of an
14 Alternative Access Plan in accordance with Sec. 20-0701-E. Shared parking between
15 adjacent businesses and/or developments is highly encouraged whenever practical.

16 Off-street parking must be provided within 500 feet from the principal use and must
17 not be located where crossing of a roadway classified as a collector or higher is
18 required.

19 In order to reduce the scale of parking areas, the total amount of parking provided
20 shall be broken up into parking blocks containing no more than 90 spaces which:

- 21 • Are separated from each other by landscaping, access drives or public streets,
22 pedestrian walk ways or buildings.
- 23 • Have a consistent design angles for all parking within the block.
- Are oriented to buildings to allow pedestrian movement down and not across rows
so that they are walking parallel to moving cars and the need to cross parking aisles
and landscaped areas is minimized.

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Where parking blocks are not easily defined, there shall be no more than fifteen (15) spaces without an intervening, landscaped island at least nine (9) feet wide. A minimum of 25% of the islands shall have a tree.

1 All parking plans shall identify areas for snow storage in the winter months.

2 As applicable, shopping cart return stations shall be evenly distributed within and
3 between separate parking blocks and be identified on the final plan.

4 Required off-street parking areas are to be used solely for the parking of licensed,
5 motor vehicles in operating condition. Required spaces may not be used for the display
6 of goods for sale or lease or for long-term storage of vehicles, boats, motor homes,
7 campers, mobile homes, or building materials.

8 **Parking Lot Landscaping.**

9 The following additional landscape requirements shall be applicable for all landscaped
10 parking lots.

11 Landscaping provided to meet Site Perimeter and Open Space Landscaping standards
12 shall not be counted toward meeting the Parking Lot Landscaping standards.

13 Parking lot perimeter buffers shall be required for any off-street parking area
14 containing more than six (6) parking spaces that is within 100 feet (100') of a public
15 street or within 50 feet (50') of an adjoining residential use or zoning district. Parking
16 lot screening shall be required to be:

- 17 • Provided within ten feet (10') of the perimeter of the parking lot or driveway to be
18 screened.
- 19 • At least three feet (3') in height above the adjacent finished surface of the parking
20 area.
- 21 • Encompass a minimum of 100% of the linear distance of the parking area and/or
22 driveway(s). The maximum distance between screening shall be fifteen feet (15').
- 23 • Of one of the following materials:
 - 24 i. Plant material screen - a compact shrub of evergreen or densely
25 twigged deciduous shrubs planted at three feet (3') on center in one
26 row or at six feet (6') on center in two (2) staggered rows.
 - 27 ii. An architecturally compatible solid wall or solid fence.

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- iii. A berm. Berms shall have a minimum crown width of two feet (2') and shall be planted with vegetation. The height, slope and area required for the berm shall be appropriate to the prevention of erosion and to facilitate safe maintenance of the berm. The maximum slope for any berm shall be 3:1.
- iv. Plant materials, architecturally compatible walls, and berms may be used in combination to screen.

Each parking block shall be separated from other parking blocks by a landscaped median or berm that is at least eight feet (8') wide, or by a landscaped median with a pedestrian walkway or sidewalk that is at least ten feet (10') wide, or by a low decorative fence or wall that has a maximum height of three feet (3') bordered by landscaping on at least one side.

The primary landscaping material to be used within a parking lot shall be trees which provide shade or are capable of proving shade at maturity. Shrubbery, hedges and other planting materials may be used to complement the tree landscaping.

Trees should be located throughout the parking lot and not simply at the ends of parking aisles. In order to be considered within the parking lot, trees should be located in planters that are bounded on at least three (3) sides by parking area paving.

Within parking lot islands and medians, trees shall be a minimum of four feet (4') from any curb edge. All parking lot islands shall maintain an eighteen inch (18") clear zone from any curb edge. In no circumstance shall any shrub, perennial or ornamental grass have a mature height of more than three feet (3').

Plant materials must be located such that a minimum two-foot clear zone behind the back of curb allows for car bumper overhang unless curb stops are utilized.

Shrubs shall be massed in order to strengthen street edges and buffer parking lots.

At 18' and wider islands, a 3' wide band of 3" to 6" diameter cobble mulch over filter fabric shall be provided behind the curb. Top of cobble shall not be higher than the adjacent top of curb. All cobble shall be hand laid with flat sides down. Interior to the cobble mulch shall be Shredded Hardwood mulch.

At 9' and up to 18' wide islands, a 2' wide band of 3" to 6" diameter cobble mulch

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1 or river rock over filter fabric shall be provided behind the curb. Top of cobble/river
2 rock shall not be higher than adjacent top of curb. All cobble/river rock shall be
3 hand laid with flat sides down. Interior to the cobble/river rock mulch shall be
4 Shredded Hardwood mulch.

5 Parking lot islands in front of all buildings shall be a minimum 18 feet wide and 18
6 feet long and contain a minimum of 3 TE per island or as approved in the
7 Development Permit process.

8 **Building Perimeter and Pad Site Foundations.**

9 Building foundations shall be planted with ornamental plant material, such as
10 ornamental trees, flowering shrubs and perennials, and ground covers. Landscaping
11 should also include benches.

12 Regularly maintained turf areas are acceptable.

13 In lieu of foundation plantings and/or turf areas adjacent to the building entryways and
14 areas bordering public parking; raised landscape planters and/or plaza-like treatment of
15 the ground plane will be considered pending review of the City.

16 **Service Area, Loading Dock and Utility Device Screening.**

17 Service, loading and utility areas shall be screened by fences, walls, landscaping,
18 berms, or any combination thereof.

19 Service areas must double (2x) the open space landscaping requirements.
20 See requirements of Plant Material Standards & Upgrades.

21 Service, loading, and utility areas visible from residential areas shall be screened with
22 a wall, berm, trellising or combination, in addition to landscape requirements.

23 **Detention, Retention, Water Quality Ponds and Bio-Swales.**

Detention, retention, and water quality ponds shall be integrated physically,
functionally, and aesthetically into the adjacent landscape design. Vegetated slopes
shall not exceed 4:1 and all pond turf areas shall be properly drained. Water quality

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enhancement areas within the bottom of the pond shall be planted with vegetation that is appropriate with the presence of saturated soils and fluctuating water levels.

Pond depth should be limited to not more than ten feet. Pond grading should be designed to accommodate access for maintenance equipment. Rock-scaped or riprap slopes are prohibited except when necessary for erosion control and when approved by the City of Fargo. Ponds shall be designed with natural sides and bottoms and shrub beds adjacent to the top for transition to traditional, cultivated landscapes. Wetland plantings in low spots will be encouraged.

Additional landscaped requirements for areas surrounding detention, retention and water quality ponds are as follows:

- The area within the tract surround the pond(s) shall be double (2x) the requirements of open space landscaping.
- All natural seeded areas shall be watered by a permanent automatic irrigation system

Bio Swales are encouraged in lieu of underground storm sewer whenever practical. The use of Bio Swales will allow the reduction of parking lot landscaping by 50%.

Plant Material Standards & Upgrades.

Plant material standards shall be upgraded at Service Areas, Loading Docks and Utility Device areas. To provide a more immediate screening of these areas. Other locations, as identified during the Development Permit process shall meet the "Upgraded" provisions as noted below:

Plant material for all landscape areas utilized as Service Areas, Loading Docks, and Utility Device areas shall be installed in the following minimum sizes:

- Deciduous and Ornamental trees - B&B or tree spade, 3" caliper or 10' height clump.
- Evergreen Trees - B&B or tree spade, 10' to 12' height
- Deciduous and evergreen shrubs - #5 container
- 50% of evergreen trees to have 12' height minimum
- 75% of all trees to be evergreen

Plant material for all landscape areas identified as Upgraded Landscape Areas, shall be installed in the following minimum sizes:

- Deciduous and Ornamental trees - B&B or tree spade, 3" caliper or 10' height clump.
- Evergreen Trees - B&B or tree spade, 8' to 12' height

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- Groundcover - #1 container
- Deciduous and evergreen shrubs - #5 container
- 50% of evergreen trees to have 12' height minimum
- 50% of all trees to be evergreen

Plant material for all landscape areas shall be installed in the minimum sizes established in the Open Space Landscaping requirements of these Standards.

Organic and Inorganic Mulches and Landscape Materials.

The following mulches shall be used as described below:

Perennial, ground cover and ornamental grass shrub beds shall include 3" depth Shredded Hardwood mulch over filter fabric. Re-apply wood mulch as necessary due to settlement.

Landscape parking lot islands shall include a band of 3" to 6" diameter cobble mulch or river rock behind the curb over filter fabric. Cobble mulch shall be keyed-in with brown breeze crusher fines. Interior to the cobble mulch/river rock shall be 3" depth Shredded Hardwood mulch.

Remaining planting beds shall include 1-1/2" diameter river rock mulch with filter fabric, as approved in the Development Permit process.

Mulches shall match development type and samples shall be provided to Developer's Landscape Architect for review and approval prior to installation.

Landscape Design Requirements.

Tree diversity requirements shall be met as follows: 10-19 trees (no more than 50% of any one species), 20 and over trees (no more than 33% of any one species).

Section 2. The following described property:

Lot Two (2), Block One (1) of The Pines at the District Fourth Addition to the City of Fargo, Cass County, North Dakota,

that is currently zoned "LC", Limited Commercial, District, subject to the existing "C-O",

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Conditional Overlay, District, as established by Fargo Municipal Ordinance No. 4688, will hereby retain the base zoning of "LC", Limited Commercial, District, and retain the "C-O", Conditional Overlay, District as follows:

- 1
2 1. This Conditional Overlay is intended to provide for a higher quality of design than is
3 afforded by the City of Fargo Land Development Code regarding the future commercial
4 development.
- 5 2. All primary buildings shall be constructed or clad with materials that are durable,
6 economically-maintained, and of a quality that will retain their appearance over time,
7 including but not limited to natural or synthetic stone; brick; stucco; integrally-colored,
8 textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; or
9 glass. Natural wood or wood paneling shall not be used as a principal exterior wall material,
10 but durable synthetic materials with the appearance of wood may be used.
- 11 3. Color schemes shall tie building elements together, relate pad buildings within the same
12 development to each other, and shall be used to enhance the architectural form of a
13 building.
- 14 4. All building facades greater than 150 feet in length, measured horizontally, shall
15 incorporate wall plane projections or recesses having a depth of at least three percent of the
16 length of the facade, and extending at least 20 percent of the length of the facade. No
17 uninterrupted length of any facade shall exceed 150 horizontal feet. An articulated façade
18 would emphasize elements on the face of a wall including change in setback, materials,
19 roof pitch or height.
- 20 5. Ground floor facades that face public streets shall have arcades, display windows, entry
21 areas, awnings, or other such features along no less than 60 percent of their horizontal
22 length. If the facade facing the street is not the front, it shall include the same features
23 and/or landscaping in scale with the facade.
- 24 6. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public
25 view by parapets, including but not limited to the back of the structure. The average height
26 of such parapets shall not exceed one third of the height of the supporting wall, and such
27 parapets shall not be of a constant height for a distance of greater than 150 feet.

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7. Loading facilities shall not be located at the front of structures where it is difficult to adequately screen them from view. All loading and service areas shall be screened from the view of adjacent public streets through a structure and/or landscaping.
 8. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way or residentially zoned property. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor.
 9. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:
 - a. The primary entrance or entrances to each commercial building, including pad site buildings.
 - b. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
 - c. Parking areas or structures that serve such primary buildings.
 - d. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network.
 - e. Any public sidewalk system along the perimeter streets adjacent to the commercial development.
 - f. Where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings.

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10. On-premise signs

- a. Every structure and complex should be designed with a precise concept for adequate signing. Provisions for sign placement, sign scale in relationship with the building, and sign readability should be considered in developing the signing concept.
- b. Signage size, color and form should complement the architecture of the building and should not compete or become the focal point of the building form.
- c. Signage must not extend horizontally or vertically past the building
- d. Signage text should be legible from arterial streets, use of recognizable imagery can be substituted for legibility of text. Sign should not be larger than necessary to achieve this legibility from the street.
- e. Sign surface areas must be less than 10% of the building surface.
- f. Signs should be located horizontally above first floor doors and windows, on awnings, or adjacent to building entrances if mounted on a wall.
- g. Corporate logos should be appropriately scaled.
- h. Separate pedestrian oriented signs should be provided when pedestrians cannot see the facade signage which is oriented to the street.
- i. Each development site should be appropriately signed to give directions to loading and receiving areas, visitor parking and other special areas.
- j. Multi-tenant buildings or developments may have one monument or ground mounted sign per street frontage listing all of the tenants. Monument or ground mounted signs for individual businesses in multi-tenant buildings or developments are prohibited. Monument-type signs are the preferred alternative for business identification whenever possible.

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- k. Signs should advertise a specific building or business, not products, trademarks, or special events.
- l. Window signs used for shop fronts or mixed-use buildings are permitted provided that the aggregate total of all window signs for each business shall not exceed 25% of its respective window area.

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

12. The following use(s) are prohibited:

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

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

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

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

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

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

31

| City of Fargo Staff Report | | | |
|---|--|--|------------------------------------|
| Title: | Woodcrest Third Addition | Date: | 12/27/2023 |
| | | Update: | 1/18/2024 |
| Location: | 155, 161, and 167 South Woodcrest Drive North | Staff Contact: | Donald Kress, planning coordinator |
| Legal Description: | Lots 13, 14, and 15, Block 16, Woodcrest Third Addition | | |
| Owner(s)/Applicant: | Mark and Barbara McCourt/Jon and Sadie Erickson/Justin Hanson and Jenaah McLeod-Hanson | Engineer: | None |
| Entitlements Requested: | Waiver of requirement to install a public sidewalk on Lots 13, 14, and 15, Block 16, Woodcrest Third Addition | | |
| Status: | City Commission Public Hearing: January 22 nd , 2024 | | |
| 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, and basic utilities | | Uses Allowed: No change | |
| Maximum Density Allowed: SR-2 allows a maximum 5.4 dwelling units per acre; | | Maximum Density Allowed: No change proposed | |
| Proposal: | | | |
| The applicants request one entitlement: | | | |
| <ol style="list-style-type: none"> 1. Waiver of requirement to install a public sidewalk on Lots 13, 14, and 15, Block 16, Woodcrest Third Addition | | | |
| Surrounding Land Uses and Zoning Districts: | | | |
| <ul style="list-style-type: none"> • North: SR-2; single-dwelling residences • East: SR-2; single-dwelling residences and flood buy-out properties (City-owned) • 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, Ben Franklin Middle, and North High schools. | | | |
| Neighborhood: The subject property is located within the Longfellow neighborhood. | | | |
| Parks: Elephant / Percy Goodwin Park, 100 19th Avenue North, is approximately 0.75 from the subject properties and provides amenities of baseball/softball fields; disc golf; grill; picnic table; playground, ages 5-12; restrooms; soccer field; tennis court. | | | |
| Pedestrian / Bicycle: At the east end of the cul-de-sac is an access to the future multi-use trail along the Red River, which is a component of the metro area bikeways system. This particular trail segment, from 32 nd Avenue north to Woodland Drive, cover a distance of 2.07 miles. This multi-use trail and proposed access to this trail is a regional missing link to a metro wide trail system. | | | |
| MATBUS Route: The subject property is not located along a MATBUS route. | | | |
| Area Plan | | | |
| The subject properties are not located within a growth plan or neighborhood plan. However, MetroC ² OG regional studies indicate the northside gaps in parks and recreational trails when compared to the recreational standards of southside neighborhoods. | | | |

Staff Analysis:

Requests for waiver of sidewalk in residential areas have rarely come before the Planning Commission and City Commission in the last decade. The process for waiver being applied in this case is in Fargo Municipal Code Chapter 18.0201.1(E). Though this is not in Chapter 20, the Land Development Code, this section of Chapter 18 refers to the Planning Commission hearing process, and so this project is being brought forward by the Planning Department rather than the City Engineer, the department that is otherwise responsible for Chapter 18. This project had a hearing at the Planning Commission on January 2nd, 2024. The Planning Commission made a recommendation, as noted below. The project is now before the City Commission for a final decision.

SITE HISTORY TIMELINE

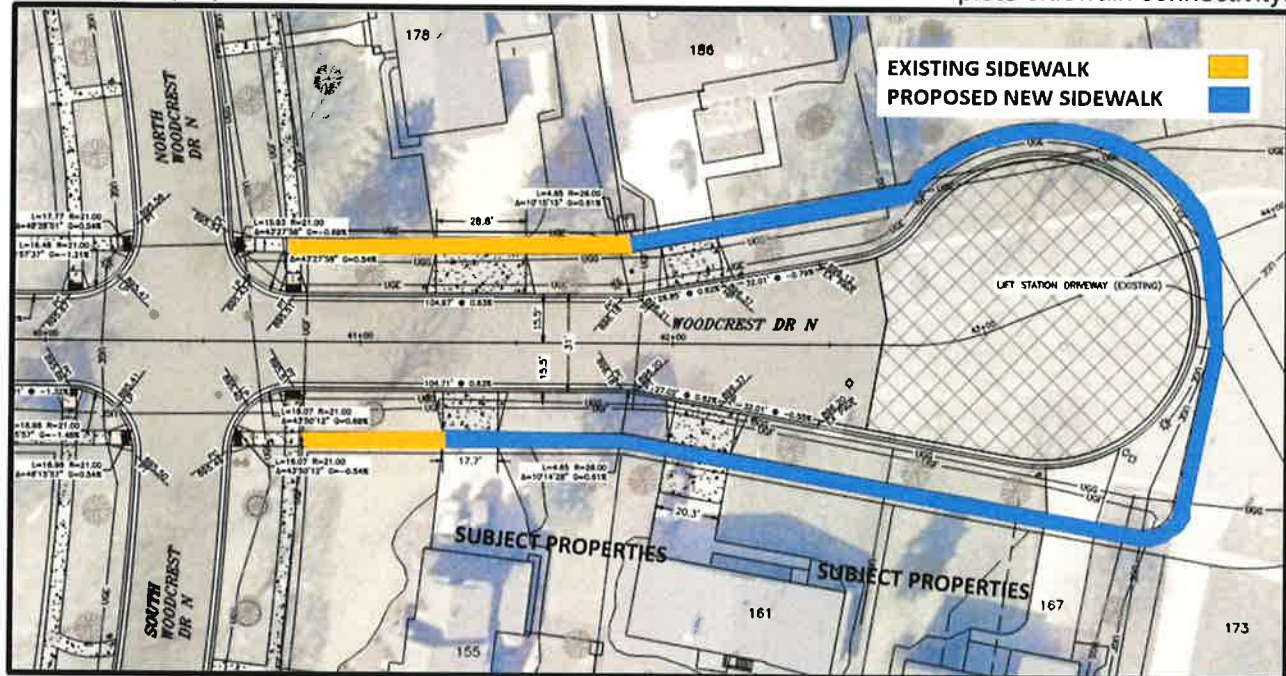
- 1968: Woodcrest Third Addition was platted.
- 1969: The current cul-de-sac street was installed. As shown in the photo below, sidewalk was only installed at the westerly end of the cul-de-sac, not all the way around, even though the entire cul-de-sac was developed with single-dwelling residences. Staff has no documentation as to why sidewalk was not installed around the entire cul-de-sac. Note this photo is from 2011, before the flood buy-outs, as it's easier to see the sidewalk before the trees all grew large.



- Post-2009 Flood: Lots 16 through 20, Block 16 of Woodcrest Third Addition on the east end of the cul-de-sac were bought-out by the City and a levee was installed as a flood protection measure. A stormwater lift station was installed. The driveway from the public street in the cul-de-sac to the lift station will also be a connection to the future trail to be established on the east (wet) side of the levee along the Red River.
- 2023: City Engineer's office announced plans to reconstruct the streets in the Woodcrest area as part of the normal maintenance cycle. It is the City's policy to install sidewalks where there currently are not any, even if there were none originally installed.
- 2023: The residents of the subject properties became aware of the proposed installation of sidewalk on their cul-de-sac, and engaged Engineering and Planning staff in a discussion of how to protest the installation of the sidewalk, which led to this public hearing.

LOCATION OF PROPOSED SIDEWALK

The proposed sidewalk would be installed in the public right of way in front of the individual lots, all round the cul-de-sac within standard sidewalk alignment, as shown in the graphic below. Standard alignment is installation of 1 foot outside the property line, and not on the private property of the individual homeowners. Regardless of the outcome of the petition hearing and, following city design standards, the City Engineer has stated that the sidewalk will be installed in the right of way in front of the City-owned flood-buyout properties at the east end of the cul-de-sac in order to have complete sidewalk connectivity.



APPLICANT'S STATEMENT

As part of their petition to waive the requirements for the installation of sidewalk, the applicants included a statement of their position in opposition to the sidewalk. The applicants state:

We, the residents of South Woodcrest Drive North cul-de-sac, have since the initial platting of the subdivision in 1968, for as long as we have resided in this neighborhood, been content to live on our quasi-rural street without sidewalks. Consider that we have endured many years of home removals, street construction, and levee building, and we are now requesting that no further disruption of our remaining tranquility be instigated by the construction of a sidewalk through our yards. We regard this sidewalk as unnecessary. It will not increase the safety of pedestrians who can access the riparian greenspace via the expansive cul-de-sac. The sidewalk only leads to a pumping station which is accessible by means of the roadway. The sidewalk will invite additional pedestrian traffic which is unwelcome, and will constitute a burden on homeowners to keep free of snow in winter months. Note that the construction of this sidewalk will cost the city (and us, indirectly) money which could more effectively be used for other, more important purposes. We respectfully request that this sidewalk project be cancelled.

The attached petition contains additional homeowner comments.

PLANNING COMMISSION POLICY ON SIDEWALKS

The Planning Commission's adopted policy on sidewalks is stated in LDC Section 20-0609.A, which codifies Ordinance No. 4700, adopted February 23, 2009 (these were initially codified in 1999 and modified in 2009 to reinstate the clarity in waiver process):

The Planning Commission shall make its recommendation on a sidewalk waiver request based on the guidelines of this subsection and the facts surrounding the waiver request. Based on such factors, the Planning Commission may recommend denial of a sidewalk waiver request even though the request may

be technically eligible for such a waiver. The Planning Commission has established the following statement of principles as a foundation for reviewing requests for sidewalk waivers:

1. Sidewalks are a shared amenity and asset of the community. As such, the public interest in sidewalks transcend specific individuals, lots, subdivisions, or periods of time.
2. Sidewalks represent an important element of the transportation system, and as such, they provide an element of safety for both the automobile user and the pedestrian, including children on bikes.
3. Sidewalks are an important element in the inventory of recreational assets of the community.
4. To meet their potential as elements of the transportation and recreational components of the community, accessibility and convenience are factors of real importance.
5. Sidewalks, both as a transportation facility and as a recreational asset, must also consider and assume that vulnerable populations should be and will be found in most areas of the City. Availability and functionality are particularly important to children under 14, persons with disabilities and senior citizens.
6. Sidewalks that are not built can create an uneven or unfair burden of cost, maintenance, and use.
7. Sidewalk plans that offer creative solutions but that are substantially equal substitutes to the traditional sidewalk should be encouraged.

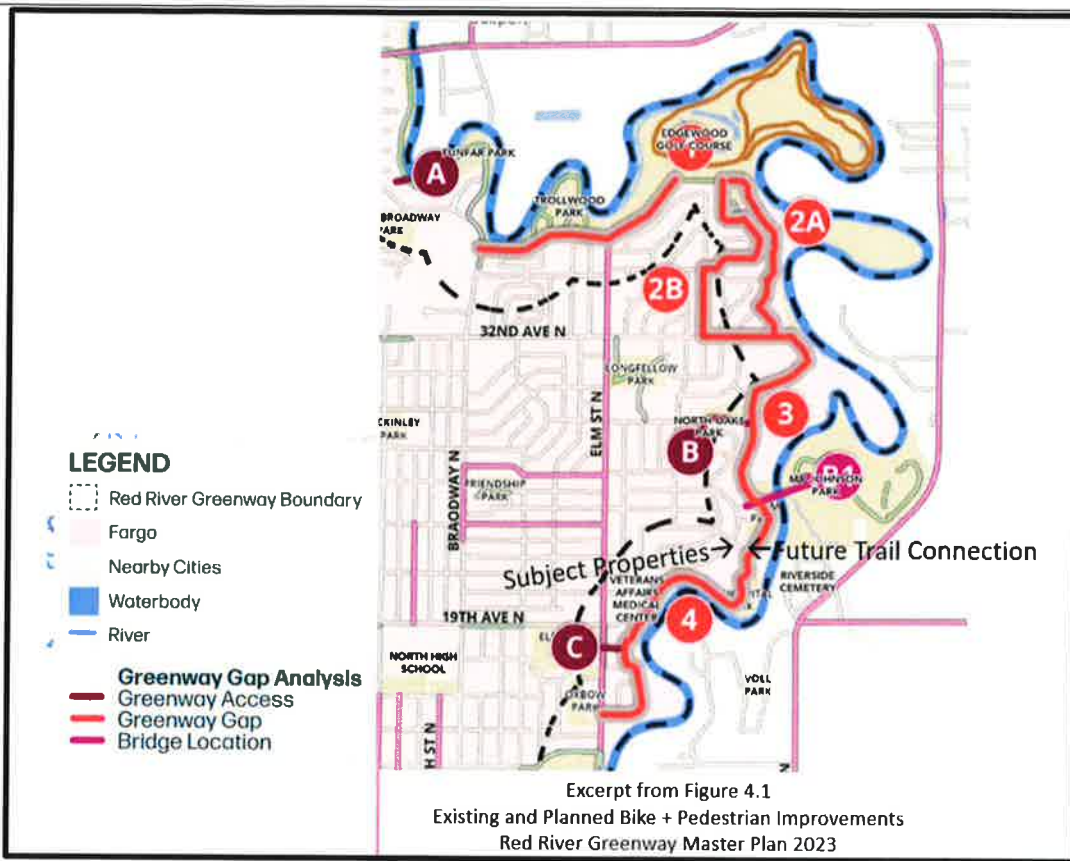
Staff believes that having an incomplete sidewalk around this cul-de-sac would be opposed to the principles stated above. Additionally, Fargo's Go2030 comprehensive plan supports sidewalks in all areas:

Comprehensive Plan: The City's adopted GO2030 Comprehensive Plan includes a number of initiatives that relate to this requested waiver, as follows:

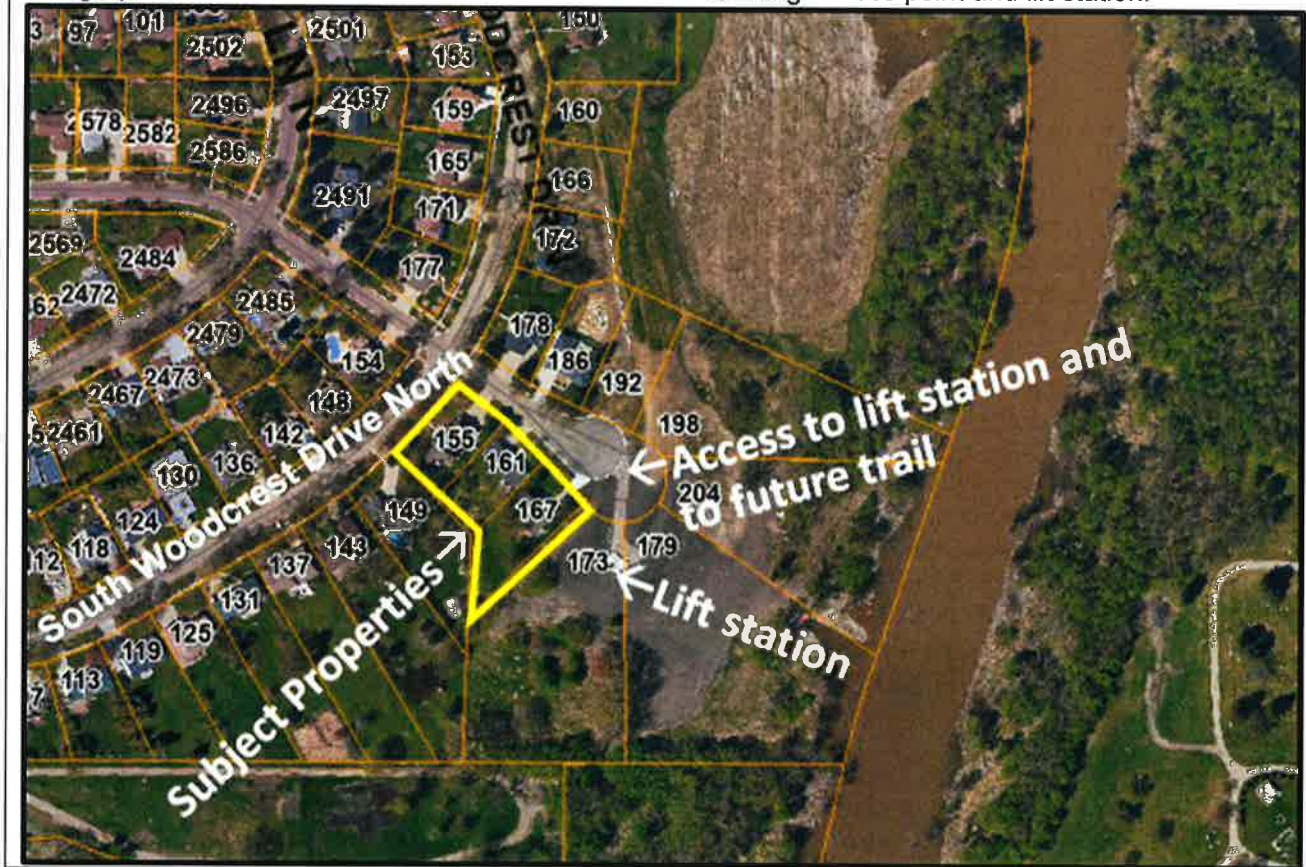
- Transportation; Initiative 02:* Implement complete streets: to enhance Fargo's roadway network as a continuous and connected network.
- Neighborhoods; Vision:* Fargo will promote attractive and welcoming neighborhoods by promoting a diverse and affordable housing stock. Fargo will create neighborhoods where residents can age in place, children can walk to school and essential services are only a short walk away.
- Neighborhoods; Initiative 02:* Evaluate, review and improve regulations to create more walkable neighborhoods and commercial districts.
- Education, Initiative 01:* Safe Routes to School – Fargo will work with local school officials, neighborhood leaders, parents and children to develop policies and programs that advocate for the safe walking and bicycling to and from schools, and in daily life, to promote a healthy lifestyle of children and their families.

The Fargo-Moorhead Metropolitan Council of Governments (FM MetroCOG) serves as the transportation policy making organization for the greater Fargo-Moorhead metropolitan area. They have recently produced two plans that address pedestrian connectivity, among other topics:

Red River Greenway Study: The 2023 Red River Greenway study depicts a future trail along the Red River from 32nd Avenue North to South Woodcrest Drive near the Veterans Administration hospital on Elm Street. As noted above, when the lift station was installed, an access was provided to that lift station that will also be an access from the cul-de-sac to this trail. The City has recently received grant funding for the portion of the trail from this cul-de-sac going south to Woodland/EI Zagal. Long term goal is to continue it north but immediate plans are from Woodland/EI Zagal to here. The graphic below depicts this trail.



The graphic below shows a detail of the cul-de-sac and existing access point and lift station.



This connectivity follows one of the points of Goal 1—Connectivity and Access Improvement, to “provide options for more neighborhood connections and access points to the greenway” and one of the points of Goal 5—Inclusivity, to “improve perpendicular connections from all neighborhoods in the greenway trail system.” The installation of sidewalk will be part of the connectivity of this trail, which is a multi-use trail and not just a bike trail.

Bicycle and Pedestrian Plan: The 2022 Fargo-Moorhead Metropolitan Bicycle and Pedestrian Plan “describes a Vision, Guiding Principles, Objectives, and Performance Measure” to “create better bicycle and pedestrian transportation systems, policies, and programs (page 6 and 9).” Guiding Principle 3—Connectivity—includes as one of its objectives “Close missing links in sidewalk and bicycle networks.” This object supports installing the sidewalk as proposed by the City.

SUMMARY OF DISCUSSION AT THE JANUARY 2nd, 2024 PLANNING COMMISSION

At the January 2nd, 2024 Planning Commission, Planning staff summarized the case and presented staff’s recommendation.

Commissioners made the following points:

- *(regarding the proposed trail along the river, east of the cul-de-sac):* The Park Board has been working on the greenway project for a long time, and is making headway on getting access through the Veterans Hospital property. There has been some opposition to the trail from people who live along the river.
- This trail is part of a larger plan; it’s not something specific to just this cul-de-sac.
- Sidewalks make sense in this cul-de-sac because it has the trail connection.

The Assistant City Engineer made the following points:

- The timeline for the trail project is that it will be bid in 2025 and constructed in 2026
- The driveway the City installed as part of the flood control project will serve as access to the lift station as well as to the Park District property for pedestrians and bikes onto that future trail.
- Explained how the grant funding for this trail project works.
- Clarified that the City Public Works Department will clear the sidewalks of snow in the winter along the City-owned flood buy-out lots at the east end of the cul-de-sac.

The applicants made the following points:

- The City’s requirement to install the sidewalk is “a solution to a problem that doesn’t exist.”
- No one in the cul-de-sac has ever said they wanted a sidewalk.
- City planners in 1968 did not err when they decided not to put a sidewalk in this cul-de-sac or nearby ones. Is the City now going to install sidewalks in all of those cul-de-sacs?
- There could be a better use of taxpayer dollars than spending money on this sidewalk.
- People will access this area with their bikes.
- There is no issue here with safety or use.
- Two summers of construction have been disruptive to the neighborhood. This summer should be a quiet one to spend with family.
- Residents became aware of the sidewalk installation plan through contact they initiated with the City, not through a specific notification from the City.
- Cul-de-sacs in Hartford, Connecticut and Peoria, Illinois where one applicant lived did not have sidewalks.
- The driveway from the cul-de-sac to the lift station provides sufficient access to the trail.

PUBLIC COMMENT

Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has not received any comments from other owners on the cul-de-sac or other neighboring properties regarding the proposed waiver of sidewalk.

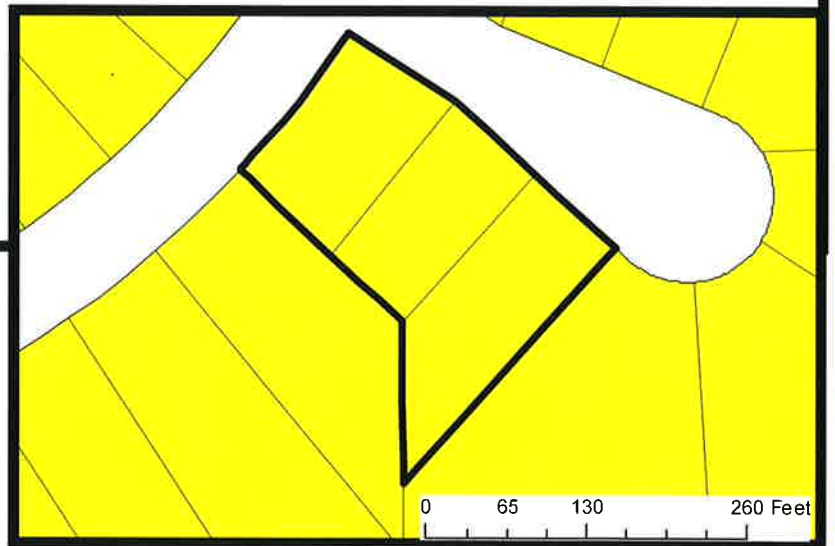
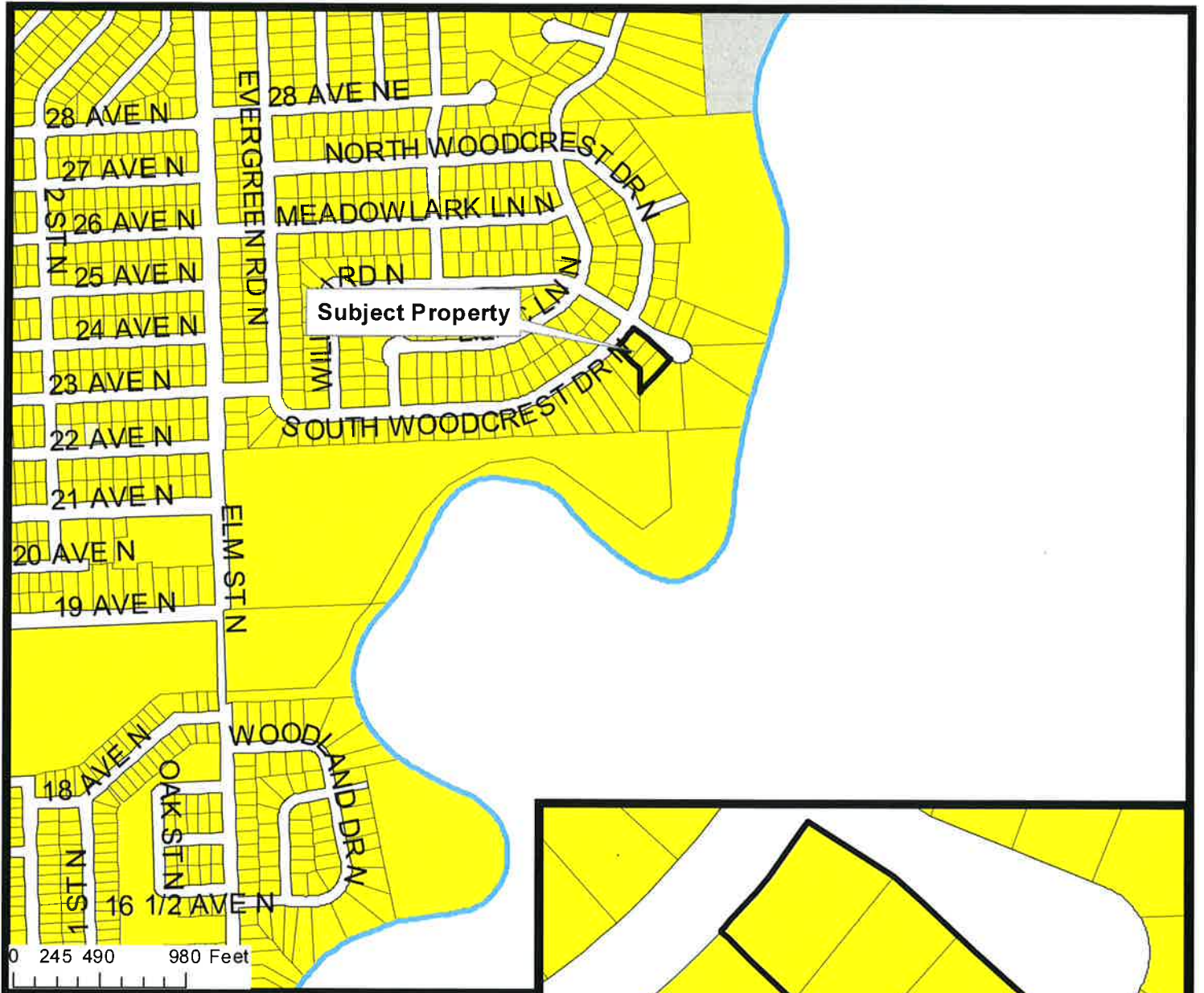
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|---|
| Staff Recommendation: |
| Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and deny the proposed waiver of requirement to install a public sidewalk on Lots 13, 14, and 15, Block 16, Woodcrest Third Addition as presented, on the basis that the proposal does not meet the intent of the Go2030 Comprehensive Plan and related plans, or the intent of the guidelines as set forth within Section 20-0609.A (1-7) of the Land Development Code." |
| Planning Commission Recommendation: January 2nd, 2024 |
| At the January 2 nd , 2024 Planning Commission hearing, that Commission, by a vote of 6-2 with one Commissioner absent and two Commission seats vacant, moved to accept the findings and recommendations of staff and recommended denial to the City Commission of the proposed waiver of requirement to install a public sidewalk on Lots 13, 14, and 15, Block 16, Woodcrest Third Addition as presented, on the basis that the proposal does not meet the intent of the Go2030 Comprehensive Plan and related plans, or the intent of the guidelines as set forth within Section 20-0609.A (1-7) of the Land Development Code. |
| Attachments: |
| <ol style="list-style-type: none">1. Zoning map2. Location map3. Applicants' petition for waiver |

Waiver of Sidewalk

Woodcrest Third Addition

155, 161 & 167 South Woodcrest Drive North



N

Legend

| | | | | | | | | | | | | |
|----|-----|----|----|----|-----|-----|-----|-----|-----|----|-----|-------------|
| AG | DMU | GC | GO | LC | M-1 | M-2 | M-3 | MHP | NZC | OC | UMU | City Limits |
|----|-----|----|----|----|-----|-----|-----|-----|-----|----|-----|-------------|



Fargo Planning Commission
January 2, 2024

Waiver of Sidewalk

Woodcrest Third Addition

155, 161 & 167 South Woodcrest Drive North



Legend
City Limits



Fargo Planning Commission
January 2, 2024

PETITION FOR SIDEWALK WAIVER

We, the undersigned owners of property with frontage on South Woodcrest Drive North, petition the City of Fargo to waive the requirements to install a public sidewalk in the right of way for that portion of South Woodcrest Drive North cul de sac southeast of the intersection with Willow Road, as depicted on the attached graphic, pursuant to the procedure described in Fargo Municipal Code Section 18-0201.1.E. 1-6.

OWNER NAME (as it appears on deed)

Mark and Barbara McCourt
167 S. Woodcrest Dr. N.
Fargo, ND 58102

Mark and Barbara McCourt

Jon and Sadie Erickson
161 S. Woodcrest Dr. N.
Fargo, ND 58102

Jon Erickson

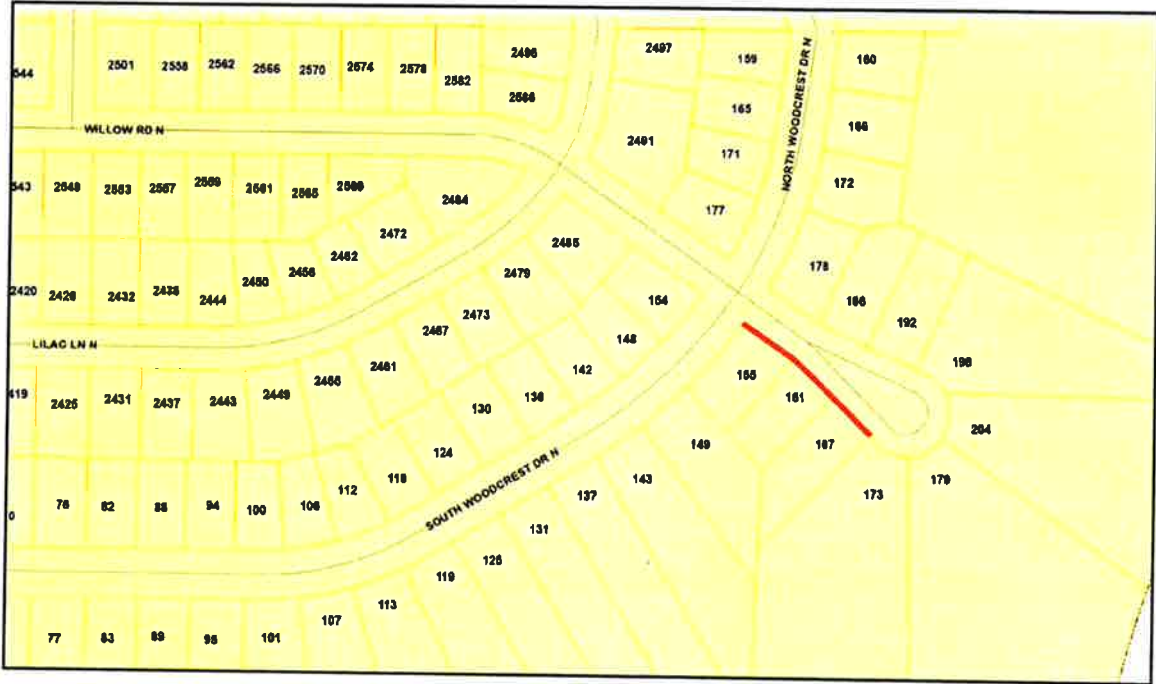
Justin Hanson and Jenaah McLeod-Hanson
155 S. Woodcrest Dr. N.
Fargo, ND 58102

Justin Hanson Jenaah McLeod Hanson

We, the residents of South Woodland Drive North cul-de-sac, have since the initial platting of the subdivision in 1968, for as long as we have resided in this neighborhood, been content to live on our quasi-rural street without sidewalks. Consider that we have endured many years of home removals, street reconstruction, and levee building, and we are now requesting that no further disruption of our remaining tranquility be instigated by the construction of a sidewalk through our yards. We regard this sidewalk as unnecessary. It will not increase the safety of pedestrians who can access the riparian greenspace via the expansive cul-de-sac. The sidewalk leads only to a pumping station which is accessible by means of the roadway. The sidewalk will invite additional pedestrian traffic which is unwelcome, and will constitute a burden on homeowners to keep free of snow in winter months. Note as well that the construction of this sidewalk will cost the city (and us, indirectly) money which could more effectively be used for other, more important, purposes. We respectfully request that this sidewalk project be canceled.

Jon Erickson remarks: For as long as we have lived here, since 2005, the absence of a sidewalk has never been a concern. We have raised two children, now age 11, in our home. We have enjoyed our front yard without a sidewalk. The past few years of heavy construction have been a burden and a hindrance to the enjoyment of our property. Any further construction will further diminish our enjoyment and use of our property with no value to us as homeowners. The years that remain while our children are under age 18 are invaluable. I'd like no further obstruction to the use of my property from the City of Fargo that would result from this sidewalk project, nor the added burden of maintenance described above.

AREA OF PROPOSED SIDEWALK WAIVER OUTLINED IN RED



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AUDITOR'S OFFICE

Fargo City Hall
225 4th Street North
PO Box 2471
Fargo, ND 58108
Phone: 701.241.8108 | Fax: 701.241.8184
www.FargoND.gov

MEMORANDUM

TO: Liquor Control Board
FROM: Steven Sprague, City Auditor
SUBJECT: Liquor License Application – Herd & Horns
DATE: January 10, 2024

The following application for a liquor license transfer was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class: FA – Full Alcohol in a restaurant, Bar allowed
Business Name: Herd & Horns
Location: 1414 12th Ave North
Applicants: Roger Gilbertson, Rebecca Gilbertson, Brent Tehven, Michael Dragosavich, Steven Saxlund & Todd Fuller

This application is to add an owner to the Herd & Horns liquor license. The new ownership group intends to continue operating the restaurant as they have in the past.

Being no significant concerns, staff recommends approval of the issuance of a Class FA alcoholic beverage license to Herd & Horns Sports Bar & Grill LLC d/b/a Herd & Horns. The complete application is available for review in the Auditor's Office.

Recommended Motion:

Move to approve the issuance of a Class FA alcoholic beverage license to Herd & Horns Sports Bar & Grill, LLC d/b/a Herd & Horns.



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Legal Company Name: The Herd & Horns Sports Bar & Grill LLC
(Must match State of North Dakota registration name)

DBA Name: _____

Is the establishment applying for (or has) a food license under the same name? Yes No

Business location address: 1414 12th Ave N Suite F, Fargo ND 58102

Mailing address: 1414 12th Ave N Suite F, Fargo ND 58102

Business E-mail address: gm@herdandhorns.com

Local Manager E-mail address: gm@herdandhorns.com

Best Contact Phone number: (701)-551-7000

Anticipated Date of Opening: _____

Please contact the Auditor's Office at 701-241-1301 or 241-8108 to determine the appropriate License Classification Type that would fit your business model.

The following section to be completed by City Staff:

Date Received: 12/12/23 Class of License: FA Transfer: Yes No

Investigations Fee Paid (\$250) Yes No Date Paid: 12/12/23

Police Department review completed by: _____ Date: _____

(Attached recommendation report):

Approval Recommendation

Denial Recommendation

David B. J...
Chief of Police

01-04-24
Date

**THE HERD & HORNS SPORTS BAR & GRILL LLC
WRITTEN ACTION OF MEMBERS**

This Written Action is declared by the Members of The Herd & Horns Sports Bar & Grill LLC (herein the "LLC"), with the intention that such Written Action shall have full force and effect as an action of the LLC.

WHEREAS, the undersigned Members of the LLC are parties to a Member Control Agreement, which limits the right of any Member to transfer a Membership Interest in the LLC, without the consent of the other Members; and

WHEREAS, Roger Gilbertson has formed Snowbird Brewing LLC to hold his 33.33% Membership Interest; and

WHEREAS, Roger Gilbertson has requested the consent of the Members to transfer a 50% Membership Interest in Snowbird Brewing LLC to Rebecca Gilbertson; and

WHEREAS, the undersigned Members of the LLC desire to provide conditional consent to Roger Gilbertson's request.

Based on the recitals above, the Members declare the following Written Action:

1. Retroactive to December 1, 2023, the Members consent to the transfer by Roger Gilbertson of a 50% interest in Snowbird Brewing LLC to Rebecca Gilbertson; provided, however, such transfer shall have no legal effect, and shall not be entered upon the books of the LLC, until such time as Rebecca Gilbertson satisfies any background check requirements and any other qualifying requirements, necessary for the LLC to retain its liquor license. In the event that Rebecca Gilbertson fails to so satisfy such requirements, with the result that her ownership will prevent the LLC from retaining its liquor license, this consent shall be deemed withdrawn.

Dated this 8th day of December, 2023.

Drago and Tehven Enterprises, LLC

By [Signature]
Its: President

Brewing Buddies, LLC

By [Signature]
Its: President

Snowbird Brewing LLC

By [Signature]
Its: PRESIDENT



FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

CRIMINAL INVESTIGATIONS DIVISION

MEMORANDUM

To: Chief David Zibolski

From: Sergeant Adam Melquist *Am*

Date: 1/3/2023

RE: Alcoholic Beverage License Application Change of Ownership, Class "FA", Herd and Horns

RECEIVED
 FARGO POLICE DEPARTMENT
 JAN 03 2024
 MATT CHRISTENSEN
 LIEUTENANT
 REF: *CAPT AHLFELDT*

RECEIVED
 FARGO POLICE DEPARTMENT

JAN 03 2024

WILLIAM S AHLFELDT
CAPTAIN

REF: *A.C. SHERMAN*
- forward
- In Form 22-22

Application for change of ownership for the class "FA" Alcoholic Beverage License for
 Herd and Horns Sports Bar & Grill LLC d/b/a Herd and Horns, Located at 1414 12th Ave N Suite F, Fargo.

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation, I examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:

Gilbertson II, Roger

Criminal History -

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (<https://chs.state.mn.us>) showed no criminal history.

Credit History -

Roger Gilbertson's credit history was reviewed. There are no prior bankruptcies or debts turned over to collections. Roger Gilberston has one account that was 30 days past due about a year and a half ago, but has since been paid in full.

Gilbertson (Lerum, Thorstad), Rebecca

Criminal History - A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (https://chs.state.mn.us) showed no criminal history.

Credit History - Rebecca Gilbertson's credit history was reviewed. There are no prior bankruptcies or debts turned over to collections. Rebecca Gilbertson has one account that was 60 days delinquent about a year and a half ago, but the account has since been paid in full.

Tehven, Brent

Criminal History - A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (https://chs.state.mn.us) showed Tehven was written a citation for "minor in liquor establishment" in 2001. This was not disclosed on the application. However, it was disclosed on the Herd and Horns liquor license application from 2014.

Credit History - Tehven's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Dragosavich, Michael

Criminal History - A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (https://chs.state.mn.us) showed Dragosavich was arrested in 2009 for DUI. This charge was not disclosed on the application. However, the charge was disclosed on the Herd and Horns liquor license application from 2014.

Credit History - Dragosavich's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Saxlund, Steven

Criminal History - A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (https://chs.state.mn.us) showed no criminal history.

Credit History - Saxlund's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Fuller, Todd

Criminal History -

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (https://chs.state.mn.us) showed Fuller had his driver's license revoked twice in Minnesota. Police records also showed Fuller received a citation in Fargo for loud noise with relation to a loud party in 2001, and received a DUS citation in Cass County in 2005. Public records shows Fuller pled guilty to misdemeanor "licenses to hunt, trap, or fish required of nonresidents" in 2023. None of these incidents were listed on Fuller's application.

Credit History -

Fuller's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Investigation Notes

This application is for a change of ownership for the class "FA" alcoholic beverage license (Authorizes the licensee to sell beer, wine and spirits "on-sale" only, bar is allowed and 50% of sales must come from food) for Herd and Horns Sports Bar & Grill LLC d/b/a Herd and Horns.

I spoke with Brent Tehven over the phone about the "minor in liquor establishment" charge from 2001. Tehven was very apologetic about not listed the charge on the application and admitted it happened. Tehven said he didn't think he needed to disclose the charge since it happened so long ago. Tehven was cooperative during the conversation.

I spoke with Michael Dragosavich over the phone about the DUI that was not disclosed on the application. Dragosavich said he thought the charge was old enough that it did not need to be put on the application, and he had already been approved for a liquor license since the DUI. He said he was not trying to hide the charge. Dragosavich was cooperative during the conversation.

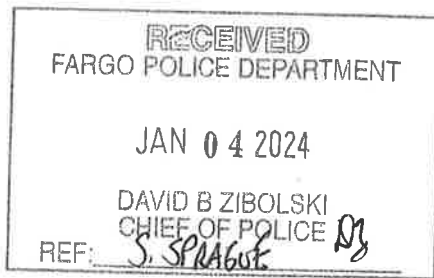
I spoke with Todd Fuller over the phone with regards to the information not disclosed on the application. Fuller admitted to being arrested in 2018 for driving under suspension. Fuller explained his license was suspended for not having proof of insurance, but he had provided the insurance after the fact. Fuller said the state admitted they had made a mistake and the DUS charge was dismissed. I brought up the DUS charge from 2005. Fuller was able to remember the traffic stop from 2005, but does not remember anything about his driver's license being suspended. I described the report and documentation from public records, to include obtaining a public defender for the case and Fuller still did not remember the incident. I also brought up the loud party in 2001. Fuller admitted to having parties and it is possible police showed up at one point. He could not specifically remember if or what citations would have been issued at the time. Lastly, I brought up the fishing without a license charge from 2023. Fuller said he was fishing and was stopped by the Game Warden. Fuller said he usually pays for a combination hunting/fishing license every year, but this year he must have only purchased the hunting license. Fuller said he was issued a citation which he paid. Fuller was cooperative during our conversation.

Business Location

Herd and Horns is located at 1414 12th Ave N Suite F. The other business in the area with an alcoholic beverage license is The Bison Turf.

Conclusion

This background investigation is being forwarded for your review and recommendation to the City of Fargo Liquor Control Board.



- Recommend Approval

(33)

M E M O R A N D U M

TO: Liquor Control Board
FROM: Steven Sprague, City Auditor
SUBJECT: Liquor License Application – Milk Made, LLC
DATE: January 10, 2024

The following application for a liquor license was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class: GH – beer and wine – No bar allowed, food sales must exceed alcohol
Business Name: Milk Made
Location: 612 23rd St S
Applicants: Megan Lewis

This application is for the issuance of a Class GH liquor license. This facility is a cheese-centric catering company that will focus on charcuterie platters, classes creating platters, and a small retail area. They will serve beer and wine during their business hours.

Being no significant concerns, staff & Liquor Control recommend approval of the issuance of a Class GH alcoholic beverage license to Milk Made, LLC, d/b/a Milk Made. The complete application is available for review in the Auditor's Office.

Recommended Motion:

Move to approve the issuance of a Class GH alcoholic beverage license to Milk Made, LLC d/b/a Milk Made.



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Legal Company Name: Milk Made, LLC
(Must match State of North Dakota registration name)

DBA Name: Milk Made, LLC

Is the establishment applying for (or has) a food license under the same name? Yes No

Business location address: 612 23rd St. S, Fargo, ND 58103

Mailing address: Same as above

Business E-mail address: megan.milkmade@gmail.com

Local Manager E-mail address: megan.milkmade@gmail.com

Best Contact Phone number: (701) 302-0440

Anticipated Date of Opening: 8/15/23

Please contact the Auditor's Office at 701-241-1301 or 241-8108 to determine the appropriate License Classification Type that would fit your business model.

The following section to be completed by City Staff:

Date Received: 12/12/23 Class of License: GH Transfer: Yes No

Investigations Fee Paid (\$250) Yes No Date Paid: 12/12/23

Police Department review completed by: _____ Date: _____

(Attached recommendation report):

Approval Recommendation
David B. J. [Signature]
Chief of Police

Denial Recommendation
01-04-24
Date



FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

CRIMINAL INVESTIGATIONS DIVISION

MEMORANDUM

To: Chief David Zibolski

From: Sergeant Adam Melquist *Am*

Date: 1/2/2023

RE: Alcoholic Beverage License Application, Class "GH", Milk Made

Application for a class "GH" Alcoholic Beverage License from
Milk Made, LLC d/b/a Milk Made, Located at 612 23rd St S, Fargo.

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation, I examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:

Lewis (Jury), Megan

Criminal History -

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (<https://chs.state.mn.us>) showed no criminal history.

Credit History -

Lewis' credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Investigation Notes

This application is for a class "GH" alcoholic beverage license (Authorizes the licensee to sell wine and beer "on-sale" only, no bar, 50% of sales must be from food) for Milk Made, LLC d/b/a Milk Made.

Business Location

Milk Made is located at 612 23rd St S. There are no other businesses in the area that have an alcoholic beverage license.

Conclusion

This background investigation is being forwarded for your review and recommendation to the City of Fargo Liquor Control Board.

RECEIVED
FARGO POLICE DEPARTMENT

JAN 03 2024

MATT CHRISTENSEN
LIEUTENANT
REF: CAPT AHLFELDT

RECEIVED
FARGO POLICE DEPARTMENT

JAN 03 2024

WILLIAM S AHLFELDT
CAPTAIN
REF: A.C. STEFONOWICZ

- Forward
- Information

RECEIVED
FARGO POLICE DEPARTMENT

JAN 04 2024

TRAVIS STEFONOWICZ
ASSISTANT CHIEF OF POLICE
REF: Chief Zibolski - FYE

RECEIVED
FARGO POLICE DEPARTMENT

JAN 04 2024

DAVID B ZIBOLSKI
CHIEF OF POLICE
REF: S. SPRAGUE

- Recommend Approval

34

AUDITOR'S OFFICE

Fargo City Hall
225 4th Street North
PO Box 2471
Fargo, ND 58108
Phone: 701.241.8108 | Fax: 701.241.8184
www.FargoND.gov

MEMORANDUM

TO: Liquor Control Board
FROM: Steven Sprague, City Auditor
SUBJECT: Liquor License Application – Synclaire Events Venue
DATE: January 10, 2024

The following application for a liquor license was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class: RZ-V – On sale only - Renaissance Zone – private event or entertainment venue - must meet 60% or more of its annual gross receipts from the sale of tickets.
Business Name: Synclaire Events Venue
Location: 613 1 Ave N
Applicants: Jennifer Pokrzywinski

This application is for the issuance of a Class RZ-V liquor license. This facility will operate as a wedding and events venue with full service of alcoholic beverages.

Being no significant concerns, staff & Liquor Control recommend approval of the issuance of a Class RZ-V alcoholic beverage license to Synclaire Events Venue, d/b/a Synclaire Events Venue. The complete application is available for review in the Auditor's Office.

Recommended Motion:

Move to approve the issuance of a Class RZ-V alcoholic beverage license to Synclaire Events Venue d/b/a Synclaire Events Venue.



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Company name (LLC, Inc): Synclaire Events Venue

Doing business as: Synclaire Events Venue

Business address (location): 613 1st Ave. N, Fargo, ND 58102

Mailing address: 613 1st Ave. N, Fargo, ND 58102

Business e-mail address: synclairevenue@gmail.com

Phone number: (701) 426-5440 Other number: ()

The following section to be completed by City Staff:

Date Received by Auditor's Office: 12/7/23

Investigations Fee Paid (\$250) Yes No Date Paid: 12/7/23 Check # 1657

Reviewed – Police Department by: _____ Date: _____

Comments (or see attached report):

Approval Recommendation Denial Recommendation

David B. J...
Chief of Police

01-04-24
Date

Reviewed – Liquor Control Committee on (date): _____

Approval Recommendation Denial Recommendation
(See attached comments or minutes)

Reviewed – City Commission on (date): _____

Approval Denial



FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

CRIMINAL INVESTIGATIONS DIVISION

MEMORANDUM

To: Chief David Zibolski

From: Sergeant Adam Melquist *Am*

Date: 12/20/2023

RE: Alcoholic Beverage License Application, Class "RZ-V", Synclaire Events Venue

**Application for a class "RZ-V" Alcoholic Beverage License from
Synclaire Events Venue d/b/a Synclaire Events Venue, Located at 613 1st Ave N, Fargo.**

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation, I examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:

Pokrzywinski (Sayler), Jennifer

Criminal History -

A search of Fargo Police Department criminal records, North Dakota public records (publicsearch.ndcourts.gov) and Minnesota public records (<https://chs.state.mn.us>) showed no criminal history.

Credit History -

Pokrzywinski's credit history was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Investigation Notes

This application is for a class "RZ-V" alcoholic beverage license (Authorizes the licensee to sell "on-sale" only, located in an approved Renaissance Zone. The venue should be designed and intended to be used as a private event center or entertainment venue with square footage of at least 10,000 square feet and capacity of at least 300 people. The venue must derive 60% or more of its annual gross receipts from the sale of tickets) for Synclaire Events Venue d/b/a Synclaire Events Venue.

Business Location

Synclaire Events Venue is located at 613 1st Ave N. The business is located in the downtown business district with Wurst Bier Hall, Bottle Barn Off-Broadway, and District 64 located within about a block. There are also several other businesses with Alcoholic beverage licenses to the north and south of the location.

Conclusion

This background investigation is being forwarded for your review and recommendation to the City of Fargo Liquor Control Board.

RECEIVED
FARGO POLICE DEPARTMENT

DEC 20 2023

MATT CHRISTENSEN
LIEUTENANT
REF: *CAPT AHLFELDT*

RECEIVED
FARGO POLICE DEPARTMENT

DEC 22 2023

WILLIAM S AHLFELDT
CAPTAIN

REF: *A.C. STEFONOWICZ*

*- Forward
- Information*

RECEIVED
FARGO POLICE DEPARTMENT

DEC 25 2023

TRAVIS STEFONOWICZ
ASSISTANT CHIEF OF POLICE
REF: *Chief Zibolski*

RECEIVED
FARGO POLICE DEPARTMENT

JAN 04 2024

DAVID B ZIBOLSKI
CHIEF OF POLICE
REF: *D. SPRAGUE*

- Recommend approve



Tax Exempt Review Committee
Fargo City Hall
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1340 | Fax: 701.241.1339
www.FargoND.gov

(35)

January 17, 2024

Board of City Commissioners
City Hall
Fargo, ND 58102

RE: New Industry Exemption for John Deere Electronic Solutions.

Dear Commissioners:

Attached is the application made by John Deere Electronics Solutions, for a 5 year, new industry property tax exemption, according to N.D.C.C. Chapter 40-57.1. This application is for an expansion of the current location at 4101 19th Ave N. The project has been certified as primary sector.

Notices to competitors have been published. The Economic Development Incentive Committee has met to consider this application. No potential competitors appeared at the Economic Development Incentive Committee meeting. This project meets our current policy. The application contains information regarding projected value of the project upon completion, the nature of jobs to be created, and a description of the service to be provided. The applicant will pay the full land taxes of approximately \$47,000.

The recommendation of the Economic Development Incentive Committee is to approve a 5-year tax exemption.

SUGGESTED MOTION:

Approval of a 5-year, 100% new industry property tax exemption for John Deere Electronic Solutions, located at 4101 19 AVE N.

Sincerely,



Mike Splonskowski
City Assessor

Application For Property Tax Incentives For New or Expanding Businesses

N.D.C.C. Chapter 40-57.1

Project Operator's Application To Fargo
City or County

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

This application is a public record

Identification Of Project Operator

| | |
|----|--|
| 1. | Name of project operator of new or expanding business <u>John Deere Electronic Solutions, a Division of Deere & Com</u> |
| 2. | Address of project <u>4101 19th Avenue North</u> City <u>Fargo</u> County <u>Cass</u> |
| 3. | Mailing address of project operator <u>1441 44th Street N</u> City <u>Fargo</u> State <u>ND</u> Zip <u>58102</u> |
| 4. | Type of ownership of project <input type="checkbox"/> Partnership <input type="checkbox"/> Subchapter S corporation <input type="checkbox"/> Individual proprietorship <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Cooperative <input type="checkbox"/> Limited liability company |
| 5. | Federal Identification No. or Social Security No. <u> </u> |
| 6. | North Dakota Sales and Use Tax Permit No. <u> </u> |
| 7. | If a corporation, specify the state and date of incorporation <u>Delaware</u> |
| 8. | Name and title of individual to contact <u>Rich Malmgren</u> Mailing address <u>1441 44th Street N</u> City, State, Zip <u>Fargo, ND 58102</u> Phone No. <u> </u> |

Project Operator's Application For Tax Incentives

| | |
|-----|---|
| 9. | Indicate the tax incentives applied for and terms. Be specific. <input checked="" type="checkbox"/> Property Tax Exemption <input type="checkbox"/> Payments In Lieu of Taxes <u>5</u> Number of years Beginning year Ending year <u>100</u> Percent of exemption Amount of annual payments (attach schedule if payments will vary) |
| 10. | Which of the following would better describe the project for which this application is being made: <input type="checkbox"/> New business project <input checked="" type="checkbox"/> Expansion of a existing business project |

Description of Project Property

11. Legal description of project real property

Lot: 1 Block: 1 Addition: Phoenix Addition Additional: PHOENIX ADDN LT 1 BLK 1

12. Will the project property be owned or leased by the project operator? Owned Leased

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?

Yes No

If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.

13. Will the project be located in a new structure or an existing facility? New construction Existing facility

If existing facility, when was it constructed? _____

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application Nov 2023

b. Description of project to be constructed including size, type and quality of construction
84,000 sq ft addition to existing building of warehouse, manufacturing, R&D lab space.

c. Projected number of construction employees during the project construction ~500 employees

14. Approximate date of commencement of this project's operations July 2025

15. Estimated market value of the property used for this project:

a. Land..... \$ _____

b. Existing buildings and structures for which an exemption is claimed..... \$ _____

c. Newly constructed buildings and structures when completed \$ 16,800,000

d. Total \$ 16,800,000

e. Machinery and equipment \$ 600,000
R&D

16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:

a. Land (not eligible) [REDACTED]

b. Eligible existing buildings and structures..... \$ _____

c. Newly constructed buildings and structures when completed..... \$ 840000

d. Total taxable valuation of property eligible for exemption (Add lines b and c)..... \$ 840000

e. Enter the consolidated mill rate for the appropriate taxing district 283.22

f. Annual amount of the tax exemption (Line d multiplied by line e) \$ 237,905.00

Description of Project Business

Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.

17. Type of business to be engaged in: Ag processing Manufacturing Retailing
 Wholesaling Warehousing Services

18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).

Manufacturing and Programming of Receivers, Displays, Controllers, Modems, and Inverters.

The Warehousing for electronic components items

Expanding and Growing Electrification Lab Capabilities

19. Indicate the type of machinery and equipment that will be installed

Manufacturing Lines, Programming Stations, Final Assembly Stations, Pallets & Racking, Fork Trucks, and Electrification Lab Equipment etc.

20. For the project only, indicate the projected annual revenue, expense, and net income (before tax) from either the new business or the expansion itself for each year of the requested exemption.

| Year (12 mo. periods) | New/Expansion Project only | New/Expansion Project only | New/Expansion Project only | New/Expansion Project only | New/Expansion Project only |
|-----------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>Year 5</u> |

We are a publicly traded, not able to disclose.

| | | | | | |
|----------------|-------|-------|-------|-------|-------|
| Annual revenue | _____ | _____ | _____ | _____ | _____ |
| Annual expense | _____ | _____ | _____ | _____ | _____ |
| Net income | _____ | _____ | _____ | _____ | _____ |

21. Projected number and salary of persons to be employed by the project for the first five years:

Current positions & positions added the initial year of project

| # Current Positions | New Positions Under \$13.00 | New Positions \$13.01-\$15.00 | New Positions \$15.01-\$20.00 | New Positions \$20.01-\$28.00 | New Positions \$28.01-\$35.00 | New Positions Over \$35.00 |
|---------------------|-----------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|----------------------------|
| 188 | | | | 38 | | |

| Year | (Before project) | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> | <u>Year 4</u> | <u>Year 5</u> |
|-------------------|------------------|---------------|---------------|---------------|---------------|---------------|
| No. of Employees | (1) <u>157</u> | <u>195</u> | <u>195</u> | <u>195</u> | <u>195</u> | <u>195</u> |
| | (2) _____ | _____ | _____ | _____ | _____ | _____ |
| Estimated payroll | (1) <u>20M</u> | <u>22M</u> | <u>22.5M</u> | <u>23M</u> | <u>23.5M</u> | <u>24M</u> |
| | (2) _____ | _____ | _____ | _____ | _____ | _____ |

**Not new, Moved from West Fargo

(1) - full time
(2) - part time

**Moved from other locations. New positions TBD on site positions, helps with job retention.

Additional 24 FTE Contingents (Contract Employee) are planning to move to Fargo from West Fargo. Workforce is variable so not included in 38 total above.

Previous Business Activity

22. Is the project operator succeeding someone else in this or a similar business? Yes No

23. Has the project operator conducted this business at this or any other location either in or outside of the state?
 Yes No

24. Has the project operator or any officers of the project received any prior property tax incentives? Yes No

If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary).
Received Tax Exemption when originally built the building

Business Competition

25. Is any similar business being conducted by other operators in the municipality? Yes No

If YES, give name and location of competing business or businesses
Appareo, They produce electronics components; however, competing in different industries. Compete for engineering talent

Percentage of Gross Revenue Received Where Underlying Business Has ANY Local Competition _____ %

Property Tax Liability Disclosure Statement

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it? Yes No

27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property? Yes No

If the answer to 26 or 27 is Yes, list and explain

Use Only When Reapplying

28. The project operator is reapplying for property tax incentives for the following reason(s):

- To present additional facts or circumstances which were not presented at the time of the original application
- To request continuation of the present property tax incentives because the project has:
 - moved to a new location
 - had a change in project operation or additional capital investment of more than twenty percent
 - had a change in project operators
- To request an additional annual exemption for the year of _____ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

Notice to Competitors of Hearing

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, Rich Malmgren, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.


 Signature

Accounting Manager
 Title

12/13/2023
 Date

Business Incentive Agreement

1. In fulfillment of the requirements of N.D.C.C. § 54-60.1-03, Grantor and Recipient enter into this Business Incentive Agreement.

Grantor

| | |
|---------|---|
| Name | City of Fargo |
| Address | 225 4th Street North Fargo, ND 58102 |

Recipient

| | | |
|---|--|--|
| Name | John Deere Electronic Solutions, a Division of Deere & Company | |
| Address | 4101 19th Avenue North Fargo, ND 58104 | |
| Contact Person | Rich Malmgren | <div style="background-color: black; width: 150px; height: 15px;"></div> |
| Recipient Parent Company (If applicable) | a Division of Deere & Company | |
| Business Type (NAICS Code) | 333100 | |
| Location of Recipient Prior to Receiving Incentive (If different) | N/A | |

2. Description of project.

| |
|--|
| <p>Expansion of our current PES (Power Electronic Solutions) building. Exiting leased space in West Fargo and adding footprint of 84,000 square feet to our PES facility in Fargo for manufacturing space to support potential growth, adding power electronics warehouse space, increased space for last time buy parts, and electrification lab space and capabilities. Moving 38 full time Deere employees from leased space in West Fargo to PES Building in Fargo. Additional 24 Contingents (contract employees) will also be moving from West Fargo to Fargo; however, this workforce is variable, so not included in 38 total above.</p> |
|--|

3. Grantor(s) agrees to provide recipient with a business incentive described as follows:

Property Tax Exemption for 5 years.

3.a. Is this incentive tax increment financing? Yes No
If yes, describe the type of district:

N/A

4. The business incentive will be provided on 1-1-2026.
This date is the benefit date.

5. The public purpose(s) of the business incentive are:

- Assisting community development
- Increase tax base
- Directly create employment opportunities
- Indirectly increase employment opportunities
- Job retention
- Other _____

6. Value of Business Incentive: \$ 238,000.00 / Year

7. Recipient currently employs 157 people, located in 4101 19th Ave, Fargo, ND 58102.

8. In return for the business incentive, Recipient shall, within two years **move** 38 _____
Number of full-time equivalent jobs

| | | | | | |
|------------------------------------|----------|--|----------|--|--|
| <u>\$25.50</u> | + | <u>\$10.20</u> | = | <u>\$35.70</u> | |
| <small>Average hourly wage</small> | | <small>Benefits per hour value</small> | | <small>Average hourly compensation</small> | **Not new - moved from West Fargo |

9. The Recipient shall continue operations in the jurisdiction in which the business incentive was issued for five years or more after the benefit date.

10. Recipient shall file a recipient report with the Grantor, as described in N.D.C.C. § 54-60.1-05 annually on or before March 1st of each year for two years, beginning in 2007, following the benefit date or until the goals of paragraph 8 are met, whichever is later.

10.a. Grantor shall mail the recipient a warning letter if no report is received by March 8th. Recipient shall file the progress report within 14 days of the postmarked date of the warning letter.

10.b. If a recipient report is not received within 14 days of the warning letter, Recipient agrees to pay to Grantor a \$100 penalty for each subsequent day until the report is filed. The maximum penalty under this section may not exceed \$1,000.

11. Recipient shall pay back the value of the incentive to the Grantor, prorated to reflect any partial fulfillment of the job and compensation goals, if, after two years, the job and compensation goals listed in paragraph 8 are not met.

- 11.a. Paragraph 11 does not apply if the job and compensation goals were not met as a result of an act of God or terrorism.
12. This business incentive agreement shall only be modified or extended by the Grantor pursuant to N.D.C.C. § 54-60.1-04.
13. If the terms of this business incentive agreement are not met, Recipient shall not receive a business incentive from any grantor for five years from the date of failure or until a recipient satisfies the repayment obligation.
14. The Recipient has disclosed, in attachment "A" of this agreement, all additional financial assistance received from state or political subdivision Grantors for this project since inception.
15. By signing this agreement, Recipient verifies that it has not failed to meet the terms of any business incentive agreement in the last five years.

Dated this _____ day of _____, 20 ____.

Grantor: _____ on behalf of _____

Dated this 13 day of December, 20 23.

Recipient:  on behalf of John Deere Electronic Solutions

| Exemption Evaluation Calculator | | 168.0 | | 168.0 | |
|---|----------------|--------------|------|--------------------|------|
| John Deere | | Points | | Points | |
| Project Type Code (Ctrl-C to view) | 1 | 1 | 38.0 | 1 | 38.0 |
| Current Number Of Employees | 188 | 188 | | 188 | |
| Hourly Salary Without Benefits | | | | | |
| Under \$13.00 | | | | | |
| \$13.01-\$15.00 | | | | | |
| \$15.01-\$20.00 | | | | | |
| \$20.01-\$28.00 | | | 25.0 | Pts. For # Jobs-> | 25.0 |
| \$28.01-\$35.00 | | | 30.0 | Pts. For \$ Jobs-> | 30.0 |
| Over \$35.00 | 38 | | | | |
| TOTAL # OF JOBS CREATED | 38 | | | | |
| % GI w/ Local Competition (not downtown) | | | 25.0 | 0% | 25.0 |
| Value of Proposed Buildings | \$ 16,800,000 | | 50.0 | \$ 16,800,000 | 50.0 |
| Downtown Location (Y/N) | N | | 0.0 | N | 0.0 |
| Startup Firm (Y/N) | N | | 0.0 | N | 0.0 |
| Has Const Started or Has Bldg Been Occupied If Existing (Y/N) | N | | 0.0 | N | 0.0 |
| Number of Years (Exemption) | 5 | | | 5 | |
| Company Safety Experience Rating | | | 0.0 | 0 | 0.0 |
| RECOMMENDATION IS TO | APPROVE | | | APPROVE | |
| Description | Manufacturing | | | Manufacturing | |
| Estimated New Annual Payroll | \$2,845,440 | | | \$2,845,440 | |
| Estimated Annual Real Estate Tax | \$237,905 | | | \$237,905 | |
| Estimated PV of Exemption | \$1,030,003 | | | \$1,030,003 | |
| Payroll / PV of Exemption | 2.8 | | | 2.8 | |
| Property Value / # of Jobs | \$ 442,105 | | | \$ 442,105 | |
| Total Value Of Benefit | \$ 1,189,524 | | | \$ 1,189,524 | |

(36)

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: CITY COMMISSIONERS ARLETTE PRESTON AND JOHN STRAND

DATE: JANUARY 22, 2024

SUBJECT: REPORT ON PUBLIC SURVEY

Dr. Nicholas Bauroth, Director of the Upper Midwest Center on Public Policy at NDSU, recently conducted a survey of Fargo residents on their perceptions regarding the form of city governance including how well the City provides services.

This information is very relevant to our work as elected members of the governing board and deserves additional attention.


Dr. Bauroth has been invited to present his results and is open to answering additional questions.

This is an item for informational purposes only.

(31)

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY 

DATE: JANUARY 22, 2024

SUBJECT: APPOINTMENT TO THE BOARD OF ADJUSTMENT

The term of Jared Heller on the Board of Adjustment expired on June 30, 2023. Mr. Heller no longer wishes to serve on the Board.

Marcia Pulczynski has submitted an application indicating an interest in serving on the Board and I am recommending her appointment. I have attached a copy of her application for your information.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: Approve the appointment of Marcia Pulczynski to the Board of Adjustment for a three-year term ending June 30, 2026.

mmappt24boardjust

Kember Anderson

From: noreply@cityoffargo.com
Sent: Friday, December 22, 2023 5:07 PM
To: Commissions Applications
Subject: New Form Submission: Getting involved in government

Name:
[Marcia Pulczynski]

Mailing Address:
[REDACTED]

City:
[Fargo]

State:
[North Dakota]

Zip:
[58103]

Work Phone:
[REDACTED]

Home Phone:
[REDACTED]

E-mail:
[REDACTED]

Which boards or commissions would you like to be considered for?
[Board of Adjustment]

Briefly state why you would like to be on this panel:
[I would like to get involved again and enjoyed my previous experience working on a City Board. The opening for an Alternate Member on the Board of Adjustment was forwarded to me by a City employee.]

How many hours per month could you volunteer as a panel member?
[Approximately 4 hours]

Please list any past experience you have with city government here or in other cities:
[I was Chair and Co-Chair of the short lived City of Fargo Administrative Enforcement Board]

Please describe any professional experience you have related to the responsibilities of the panel you are interested in:
[I am an Architect with 27 years of Architectural experience working in the City of Fargo.]

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

38

The D.I.P. Act

(The Discrimination in Policing Act)

To date, the Fargo Police Department has continually violated its policy 401.6, which states that "Each year, the Field Services Division Commander shall review the efforts of the Department to prevent racial or bias-based profiling and submit an overview in this annual report, including public concerns and complaints, to the Chief of Police. This annual report should not contain any identifying information regarding any specific complaint, citizen or officer. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service. Supervisors shall review the annual report for the Department and discuss the results with those they are assigned to supervise."

Policy 401.7 states that, "Training on fair and objective policing and review of this policy should be conducted as directed by the Training Unit."

Currently there are no publicly available records reflecting adherence to the aforementioned policies. As such, I, Wess Philome, would like to request a motion that would require the Fargo city commission to direct our city attorney to draft a measure that would codify, through our city government, the requirement of the Fargo Police Department to adhere to its policies 401.6 and 401.7, which were created to provide transparency and direction on the department's efforts to combat biased-based policing.



Wess Philome

1/15/24

"We shall overcome because the arc of the moral universe is long, but it bends towards justice." - MLK Jr.