

FARGO CITY COMMISSION AGENDA
Tuesday, January 2, 2018 - 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, December 18, 2017).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Receive and file an Ordinance Amending Section 25-1507 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- 2. 1st reading of an Ordinance Amending Section 35-0102 of Article 35-01 of Chapter 35 of the Fargo Municipal Code Relating to the Sale of Tobacco Products.
- 3. Resolution Authorizing Officers to Make Deposits and Withdrawals and approval of the designated depositories.
- 4. Appointment of Dorsey & Whitney, LLP to serve as the City's bond counsel firm effective 1/1/18.
- 5. Applications for Games of Chance:
 - a. TNT Kid's Fitness for a raffle and raffle board on 1/11/18; Public Spirited Resolution.
 - b. Matt Jensen Benefit for a raffle and raffle board on 2/10/18; Public Spirited Resolution.
 - c. North Central Turf Grass Association for a raffle on 3/1/18.
- 6. Tax exemptions for improvements made to buildings:
 - a. Blake J. and Nicole A. Nelson, 2501 Lilac Lane North (5 year).
 - b. Charles D. Smith, 1526 13 1/2 Street South (5 year).
 - c. Nathan R. Evenson and Jamie L. Heller, 2486 West Country Club Drive (5 year).
 - d. John H. and Kristin E. Osborne, 93 28th Avenue North (5 year).
 - e. Jeffrey J. and Renee Schweitzer, 114 Prairiewood Drive South (5 year).
 - f. Brian D. and Colleen E. Scherer, 1731 Park Boulevard South (5 year).
 - g. Bradley T. and Deborah E. Wimmer, 2501 West Country Club Drive South, Unit B (5 year).
- 7. Contract Agreement with Fargo Park District to implement healthy concession stand options.
- 8. Direct City Attorney's office to review and update Articles 11-0805 through 11-0807.
- 9. Contract Agreement with AE2S to provide marketing and communication for the breastfeeding initiative.

10. Agreement for Services with Janice Tweet to develop and pilot a fruit and vegetable food recovery system for the 2018 growing season.
11. Adopt Resolutions Approving the following Plats:
 - a. Vista Village Sixth Addition.
 - b. Vista Village Seventh Addition.
12. Master Professional Services Agreements for 2018-2020 with Terracon Consultants, Inc., Northern Technologies, LLC and Braun Intertec Corporation for construction materials testing services for Project No. MS-18-A0.
13. Setback Waiver Request for property at 519 Oak Street North.
14. Real Estate Purchase and Sale Agreement with BNSF Railway Company in association with Project No. BR-18-C1 and execution of the Entry and Confidentiality Agreement.
15. Bid award for Project No. QN-17-A1.
16. Bills.
17. Time extension to 11/7/17 for substantial completion of Improvement District No. BN-17-H1.
18. Bid award for Improvement District No. NR-17-A1.

REGULAR AGENDA:

19. Resolutions Prescribing Rates and Charges for Water and Wastewater Utility Services for 2018.
20. Public Hearings - 5:15 pm:
 - a. Hearing on a dangerous building located at 1011 5th Avenue South.
 1. Proposed Finding of Fact and Order and Notice to Property Owner regarding a dangerous building at 1011 5th Avenue South.
 - b. Hearing on a dangerous building located at 1410 1st Avenue South.
 1. Proposed Finding of Fact and Order and Notice to Property Owner regarding a dangerous building at 1410 1st Avenue South.
 - c. Transfer of a Class "FA" Alcoholic Beverage License from Lone Star Steakhouse d/b/a Lone Star Steakhouse at 1545 University Drive South to Clink LLC d/b/a Luna Coffee.
 - d. Application filed by KLP Lodging, LLC d/b/a AmericInn Fargo for a Class "ABH-Limited" Alcoholic Beverage License at 4325 23rd Avenue South.
 - e. Application filed by Hornbacher's Inc. d/b/a Hornbacher's Wine & Spirits for a Class "B-Limited" Alcoholic Beverage License at 4101 13th Avenue South.
 - f. WITHDRAWN - Vacation of a portion of 2nd Street North between 1st Avenue North to 5th Avenue North of North Dakota R-1 Urban Renewal Addition (2nd Street North from 1st Avenue North to 5th Avenue North); approval recommended by the Planning Commission on 6/6/17; continued from the 12/4/17 and 12/18/17 Regular Meetings.

- g. WITHDRAWN - Dedication Plat of 2nd Street North on portions of North Dakota R-1 Urban Renewal Addition, Keeney and Devitt's Second Addition and portions of vacated 2nd Street North, 4th Avenue North and 5th Avenue North (2nd Street North, from 1st Avenue to 5th Avenue North); approval recommended by the Planning Commission on 6/6/17; continued from the 12/4/17 and 12/18/17 Regular Meetings.
- h. Zoning Change to repeal and re-establish a C-O, Conditional Overlay on Lots 2-6, Block 1, BLU Water Creek Addition, Lots 1-3, Block 1, BLU Water Creek Second Addition and Lot 2, Block 1, Bentley Square Addition (4504, 4582, 4600, 4648 and 4682 32nd Avenue South, and 3233 and 3265 45th Street South, and 4507 and 4609 33rd Avenue South); approval recommended by the Planning Commission on 12/5/17.
 - 1. 1st reading of rezoning Ordinance.
- i. Zoning Change to repeal and re-establish a C-O, Conditional Overlay within the boundaries of The District of Fargo Third Addition (3751 53rd Avenue South); approval recommended by the Planning Commission on 11/7/17.
 - 1. 1st reading of rezoning Ordinance.
 - 2. Plat of The District of Fargo Third Addition.
- j. Amendment to the PUD, Planned Unit Development Master Use Plan for Lots 17-18 and portions of Lots 1-2, Block 4, of Harwood's Addition (703 and 707 10th Street North); approval recommended by the Planning Commission on 12/5/17.
 - 1. 1st reading of Ordinance.
- k. Text Amendment to amend Section 20-0402.R.1.b of the Fargo Municipal Code (Land Development Code) relating to the screening of outdoor storage areas; approval recommended by the Planning Commission on 11/7/17.
 - 1. 1st reading of Ordinance.
- l. Zoning Change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial with a C-O, Conditional Overlay on Lot 29 of Ohmer's Addition Subdivision of Lots 65 through 68 (1314 12th Street North); approval recommended by the Planning Commission on 12/5/17.
 - 1. 1st reading of rezoning Ordinance.
- m. Zoning Change from MR-3, Multi-Dwelling Residential to P/I, Public and Institutional with a C-O, Conditional Overlay on Lot 30 of Ohmer's Addition Subdivision of Lots 65 through 68 (1310 12th Street North); approval recommended by the Planning Commission on 12/5/17.
 - 1. 1st reading of rezoning Ordinance.
- 21. Recommendation for appointments and reappointments to the following Boards and Commissions:
 - a. City Hall-Auditorium Commission.
 - b. Human Relations Commission.
 - c. Renaissance Zone Authority.

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

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

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MEMORANDUM

TO: Board of City Commissioners

FROM: Jim Hausauer, Wastewater Utility Director
Troy Hall, Water Utility Director

SUBJECT: Water and Wastewater Utility Rates

DATE: January 2, 2018

Attached are copies of the resolutions prescribing rates and charges for utility services for the Water and Wastewater Utility funds. These rate adjustments were approved by the City Commission as a part of the 2018 annual budget.

Recommended Motion:

Approve the resolutions prescribing rates and charges for Water and Wastewater Utility services for the 2018 calendar year.

Attachments: Resolutions (2)

RESOLUTION PRESCRIBING RATES AND CHARGES FOR WATER UTILITY SERVICE

BE IT RESOLVED by the Board of City Commissioners of the City of Fargo, North Dakota pursuant to the provisions of Section 16-0301 and 16-0701 and 16-0702 of the Fargo Municipal Code of the City as amended, that until otherwise provided by resolution amendatory hereof or supplemental hereto, the following rate, charges and regulations shall be applicable to all services, facilities, and benefits provided and made available by the municipal water utility.

1. The owner or occupant of each premise shall pay a charge for water actually consumed on such premises, during each billing period as defined below, according to the reading or estimated reading of each meter installed on such premise, which charge shall be determined according to the following schedule:

MONTHLY BILLING

- a. **Minimum bill charged for water delivered through one meter to and including 2,000 gallons.**
 - b. **\$4.40 per 1,000 gallons of water delivered through one meter in excess of 2,000 gallons but not exceeding 200,000 gallons.**
 - c. **\$4.15 per 1,000 gallons of water delivered through one meter in excess of 200,000 gallons but not exceeding 2,000,000 gallons.**
 - d. **\$3.75 per 1,000 gallons of water delivered through one meter in excess of 2,000,000 gallons.**
2. The minimum bill in the foregoing charges shall be for water delivered through each meter during each billing period regardless of the meter reading according to the following schedule:

METER SIZE	MONTHLY
5/8"	8.80
3/4"	17.55
1"	25.00
1-1/2"	35.55
2"	55.40
3"	112.90
4"	186.05
6"	373.15
8"	519.55
10"	745.40

3. The billing period for water service shall be approximately one month. The terminal date of the billing period for each premise shall be fixed by the City Auditor or his assignee, in accordance with such schedule as will permit efficient and orderly billing and collections. All meters shall be read once in each billing period provided that if the representatives of the Water Department are unable to obtain access to any meter, the reading in determining the charge for the following billing period may be estimated and proper adjustment made in the statement rendered next following a meter reading. Each bill shall include the charge for water consumed as determined by the estimated or actual

RESOLUTION PRESCRIBING RATES AND CHARGES FOR WATER UTILITY SERVICE

meter reading for the current billing period, plus any additional charges due for special services as provided below. All bills are due and payable on or before the tenth day after the date of billing. At the time of billing, past due accounts will be charged 1.5% interest on any unpaid balance. Fifteen days after a bill has become delinquent the water may be shut off from the premises, and when so shut off, shall not be turned on again until all water rents and all other charges due for services to the consumer, together with \$25.00 for turning water off and on, has been paid. Water will be turned on only during regular working hours. A \$75.00 overtime fee will be charged after regular business hours.

- 3b. For property owners with multiple accounts, all delinquent accounts in that property owners name will be made current if one property is turned off for delinquent payment.
- 3c. Water service turned on and off for short periods will be subject to \$50 on/off fee. (i.e. realtors wanting water services on during and open house or house showing.)
- 3d. Snow Birds, those residents that move south for the winter months, may avoid monthly billing by having the water turned off at the stop box; a \$50 on/off fee will apply. An alternative for those willing to assume the risk of frozen water pipes will be to leave the water service on at the curb and place "T"s in the billing field indicating temporarily do not bill. These residents will also be billed \$50 on/off because they will be "off" the billing cycle.
- 4. The term "residential" shall include all premises occupied exclusively for residential purposes, whether by one of more families; provided that any multiple dwelling in which the water consumed during any year exceeds 150,000 gallons shall be classified as commercial and billed on the commercial basis for water consumed therein during the succeeding year. The term "commercial" is defined to include all premises other than these classified as residential under the foregoing provisions.
- 5. All resolutions heretofore adopted which are in any manner inconsistent with the terms and provisions of this resolution are hereby amended or repealed to the extent necessary to give full force and effect to the provisions of this resolution. This resolution shall be effective for all bills prepared after January 1, 2018.

RESOLUTION PRESCRIBING RATES AND CHARGES FOR WATER UTILITY SERVICE

POLICY: WATER USE, METHODS, PAYMENTS, METERS, ETC.

A. Usage

1. All water used from City fire hydrants will be metered except for use authorized by City departments, i.e., Street, Water, Sewage Plant, Fire, and Engineering Departments.

B. Payment

1. Water for new sod, seeded areas (City property) - Metered (no charge).
2. Water for sawing pavement for street cuts, traffic loops, etc. will be metered - (no charge).
3. Water for dust control affecting property within the City limits will be metered - (no charge).
4. Water for concrete will be metered and billed at current rates. No surcharge.
5. Federal Projects such as I-29 & I-94 - Totally federal and state funded. Water will be metered and billed at current rates.

NOTE: It may be difficult to determine dust control from water used for concrete in certain instances but not impossible. All concrete is batched with a water cement ratio so it is possible to determine quantities.

In the future these determinations should be discussed prior to the project work so agreements can be signed to reduce misinterpretations.

PERMIT PROCEDURE

1. Permits, deposits are issued at the Meter Shop (1404 33rd Avenue South #5).
2. Meters will be obtained at the Meter Shop (1404 33rd Avenue South #5).
3. Meter will be read monthly. Water will be billed at the current City's rate (same as any other user/no surcharge).
4.

Meter Deposit	\$600.00
Monthly Meter Fee	25.00
Handling Fee - Permit Fee	25.00/Service
5. Water cost will be monthly at current rates.
6. Pool Filling - 1-2 days/monthly fee waived

RESOLUTION PRESCRIBING RATES AND CHARGES FOR WATER UTILITY SERVICE

VIOLATIONS OF HYDRANT USE POLICY

1. Theft of City water is illegal and will be considered a theft of product.
2. City staff will investigate any and all violations.
3. A 100% surcharge will be added to the City determination of water used in addition to a fee of \$500.
4. Confiscation of hydrant usage equipment will be considered by City staff if in violation of policy.

**RESOLUTION PRESCRIBING RATES AND CHARGES FOR SEWAGE UTILITY
SERVICE**

BE IT RESOLVED by the Board of City Commissioners of the City of Fargo, North Dakota, under and pursuant to the provisions of Section 17-0107 of the Fargo Municipal Code of the City of Fargo, as amended, the rates and charges stated in this resolution are established and shall be payable by the owners and occupants of all premises to which sewage service is furnished and made available by the municipal sewage utility, effective January 1, 2018, and to be reflected in the statements for sewage service prepared after that date.

1. There shall be collected from each water meter connection to the municipal water works system installed at the residence location of single occupancy a monthly charge of \$16.50.
2. There shall be collected from each water meter connection to the municipal water works system installed in a residence location of dual or multiple occupancy a charge of \$2.10 per 1,000 gallons of water registered by the meter each month, but not less than a charge of \$16.50 each month.
3. There shall be collected from each water meter connection to the municipal water works system installed in a commercial location, a charge of \$2.10 per 1,000 gallons of water registered by the meter in each month, but not less than a charge of \$16.50 each month.
4. The term "residence location of single occupancy" included all premises which are occupied as a dwelling place by no more than a single family and are not divided into apartments. The term "apartment" includes each room, or group of rooms, occupied as a residence by one or more persons, with its own complete bath and sink. The term "residence location of dual or multiple occupancy" includes all premises divided into more than one apartment or occupied as a residence by more than one family. The term "commercial location" includes all premises not embraced within the foregoing definitions, and specifically all buildings owned or occupied by the City of Fargo and any other political subdivisions and any agencies of the state, county, or federal government.
5. The foregoing sums shall be computed on the basis of the water meter readings last made prior to the rendering of statements, except that when utility employees are unable to obtain access to a meter in any billing period, the proper amount the statement may be estimated, and proper adjustment made in the statement rendered next following a meter reading. Sewerage charges shall be due and payable on or before the 10th day after date of billing. Statements shall be prepared for all premises and duplicate copies shall be due and payable as aforesaid, regardless of such mailing. Each sewerage charge shall appear on and be collected as a part of the statement for water service and availability to the same premises by the water utility of the City of Fargo. Sewerage charges not paid when due may be recovered by the City of Fargo in an action at law against the owner or occupant of the premises serviced, or against both jointly and severally.

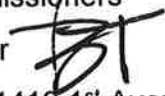


20a

Fargo Inspections

City of Fargo
200 Third Street North
701-241-1561
fax 701-241-1526

Memorandum

DATE: December 27, 2017
TO: Mayor Mahoney and Board of City Commissioners
FROM: Bruce Taralson, Inspections Administrator 
SUBJECT: Dangerous Building Notice and Order at 1410 1st Avenue South, Fargo, ND

This matter is a hearing to be held at your January 3rd regular meeting for the purpose of determining whether sufficient grounds exist for you, the City Commission, to order the destruction of a building located at 1410 1st Avenue South. The property owner of 1410 1st Avenue South, the property that is subject of the attached Notice, has failed to comply with my order to remove the heavily damaged structure at that location within the time allowed for that removal. Pursuant to Fargo Municipal Code Section 21-0405, a hearing was scheduled and an Order to Show Cause issued that required the property owner to appear and show cause why the building should not be ordered to be demolished and removed with the costs of that removal to be assessed against this property. After hearing the presentation at the January 3rd hearing, I will ask for your approval of certain Findings of Fact and that you order the demolition of the building. The City Attorney has prepared proposed Findings of Fact and Order for this property, which are attached for your review and approval.

Suggested motion: I move to approve the determination that the building located at 1410 1st Avenue South be determined to be a dangerous building and that it be ordered to be demolished and, specifically, that the Findings of Fact and Order for the demolition of said building be, and hereby are, approved appropriate staff is hereby directed to secure the removal of this building on or before February 20, 2018, should the owner fail to do so.

ORDER TO SHOW CAUSE AND NOTICE OF HEARING

**In the Matter of an Alleged Dangerous Building
1011 5th Avenue South, Fargo, ND**

TO THE **OWNER** OF THE ABOVE-DESCRIBED PROPERTY, namely Pactium Mortgage and to
any occupant, mortgagee or other person interested in said property: Acquisition Trust d/b/a
Christiana Trust, Trustee

COMES NOW, the Board of City Commissioners of the City of Fargo, a North Dakota Municipal Corporation, and having received the report from the Building Official of the City stating that the building located at 1011 5th Avenue South is of such condition that it is a dangerous building as defined by the Fargo Municipal Code, Article 21-04, and there being grounds for the issuance, hereof;

IT IS HEREBY ORDERED, that the above-named OWNER, being the registered OWNER of the above-described property, SHALL APPEAR before the Board of City Commissioners at its regular meeting occurring on TUESDAY, January 2nd, 2018, at 5:15 p.m. or as soon thereafter as this matter may be heard, in the City Commission room of Fargo City Hall, 200 North Third Street, Fargo, North Dakota 58102, and SHOW CAUSE why said Board should not make a determination that the building or buildings located upon said property are dangerous buildings as defined by law and why said Board should not issue an order requiring the demolition of said building or buildings. This order to show cause is issued pursuant to Fargo Municipal Code Section 21-0405.

DATED this 26th day of December, 2017.

CITY OF FARGO
a North Dakota Municipal Corporation


Steven Sprague, City Auditor

NOTICE OF DANGEROUS BUILDING

TO: PREMIUM MORTGAGE ACQUISITION TRUST, DBA.
CHRISTIANA TRUST TRUSTEE

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.

2. That the building with which this Notice is concerned is commonly known as 1011 5 Avenue South, Fargo, North Dakota, and is located on that tract of land in the city of Fargo, more particularly described as follows:

Lot 10, Block 38, Addition, Northern Pacific

(hereinafter referred to as "the building")

3. That an inspection was made of the building on Sept 8, 2017 by Joseph Girdner, Building Inspector, John Arens, Rental Housing Inspector, Clinton Hildebrand, Building Inspector and Robert Harshberger, Deputy Assessor, of the City of Fargo.

4. That the building inspector for the city of Fargo has found the building, consisting of a multistory, wood-framed structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 108.1.5 concerning Dangerous Structures.

5. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice.

6. That the building is unsafe and is a dangerous building in the following respects: Extensive water damage to upper level roof ceiling, walls, and floor. Water damage to main level ceiling and walls. Structural decay, mold, and faulty electrical. Trees and vegetation growing from the roof.

A. Robert Harschberger, Deputy Assessor, of the City of Fargo has deemed that the building has been damaged or deteriorated to the extent of more than fifty (50) percent of its original value prior to the damage or deterioration.

Source: Fargo Municipal Code, Article 21-0402 concerning Dangerous Buildings.

7. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and Section 116 of the International Building Code as adopted by Article 21-0101 of the Fargo Municipal Code.

8. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Building Code and the owner will be assessed such costs as are provided for therein.

Dated this 2nd day of October, 2017.

A handwritten signature in black ink, appearing to read "Bruce Taralson", with a long horizontal stroke extending to the right.

Bruce Taralson
Administrator

20a1

Finding of Fact and Order

Property Address: 1011 5th Avenue South, Fargo, North Dakota

Owner: Pretium Mortgage Acquisition Trust, DBA Christiana Trust, Trustee

The Board of City Commissioners of the City of Fargo held a hearing on the 18th day of December, 2017 pursuant to a written notice on the property owner, Pretium Mortgage Acquisition Trust, DBA Christiana Trust, Trustee. Bruce Taralson appeared on behalf of the city of Fargo Inspections Department and provided testimony as to the condition of the property. There was no one present on behalf of the owner of the property.

The Board heard the testimony offered by the inspection department, considered the reports, evidence and other information presented, and hereby makes the following written Findings of Fact and Order based on all the information presented to it:

FINDINGS OF FACT

1. Pretium Mortgage Acquisition Trust, DBA Christiana Trust, Trustee is the owner of the following described real property located in the City of Fargo, County of Cass and State of North Dakota:

Lot Ten (10), Block Thirty-eight (38) of Northern Pacific Addition to the city of Fargo, County of Cass, State of North Dakota

Street Address: 1011 5th Avenue South, Fargo, North Dakota.

2. The subject property is vacant.
3. On June 28, 2017, John Arens, Rental Housing Inspector to the city of Fargo, inspected the exterior of the property only and found that numerous code violations exist:
 - The building is not secured-door open, windows open
 - Gutters are rotting off
 - Balcony appears to need structural support
 - Balcony decking has rotted through
 - Interior photos on Zillow show failed ceilings
 - The roof has trees growing out of it and a shredded tarp trying to protect it.
 - This was an exterior inspection only and these findings are not inclusive of all the

possible violations

4. That on September 8, 2017 an inspection was made by Joseph Girdner, Building Inspector, John Arens, Rental Housing Inspector, Clinton Hildebrand, Building Inspector and Robert Harshberger, Deputy Assessor, of the City of Fargo. That the building inspector for the city of Fargo has found the building, consisting of a multistory, wood-framed structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 108.1.5 concerning Dangerous Structures.

5. That the building is unsafe and is a dangerous building in the following respects: Extensive water damage to upper level roof ceiling, walls, and floor. Water damage to main level ceiling and walls. Structural decay, mold, and faulty electrical. Trees and vegetation growing from the roof.

6. The City Commission finds, based on the evidence presented, the following conditions exist with respect to the subject property:

- a. The structure has been damaged or deteriorated for more than fifty percent (50%) of its original value.
- b. The building is unsafe, fails to provide the amenities essential to decent living, and is unfit for human habitation.
- c. The building it is unsafe or dangerous to the health, moral safety or general welfare of the people of the City of Fargo.

7. The information in the files of the Building Inspector's Office, the Code Enforcement Officer, and a City Appraiser stemming from their various inspections of the property on or before, and subsequently on September 8, 2017, with respect to the subject property is hereby accepted as true and correct.

8. The Board of City Commissioners of the city of Fargo hereby finds that the building located at 1011 5th Avenue South, Fargo, North Dakota 58102 is a "dangerous building" for the reasons set forth in Section 6 of these Findings.

9. The owner was notified of the Hearing date and time by letter dated Tuesday, December 26, 2017 mailed by First Class and Certified Mail.

10. Notice of Dangerous Building was posted on the property on or about October 3, 2017, in accordance with Municipal Code § 21-0404. The Notice of Dangerous Building informs the Owner and all occupants, if any, that the “dangerous building” must be vacated and the building demolished within 30 days from the date of the notice.

11. The City Commission finds that the owner has presented no cause why the “dangerous building” should not be demolished.

12. Despite notice that the building on the subject property should be demolished, the owner has failed to do so.

13. The cost of demolition shall be assessed against the property in accordance with Fargo Municipal Code §21-0405 (E).

ORDER

Based on the foregoing Findings of Fact, it is hereby ORDERED that Pretium Mortgage Acquisition Trust, DBA Christiana Trust, Trustee, and anyone else claiming an ownership interest shall demolish the “dangerous building” located at 1011 5th Avenue South, Fargo, North Dakota.

It is further ordered that Pretium Mortgage Acquisition Trust, DBA Christiana Trust, Trustee or anyone else claiming an ownership interest in the building shall have 30 days from the date of service of this Order within which to demolish the “dangerous building” located at 1011 5th Avenue South, Fargo, North Dakota.

It is further ordered that if the owner fails to demolish the “dangerous building,” the City Auditor, Building Inspector and City Attorney are directed to act on behalf of the city of Fargo to cause the “dangerous building” to be demolished, and the cost of said demolition to be assessed against the subject property.

DATED this _____ day of January, 2018.

BOARD OF CITY COMMISSION
CITY OF FARGO, a Municipal Corporation

By _____
Timothy J. Mahoney, Mayor

ATTEST: _____
Steven Sprague, City Auditor

NOTICE TO PROPERTY OWNER

YOU ARE HEREBY GIVEN NOTICE that you shall have 30 days from the date of service of this Order upon you in which to appeal such Order to the District Court of Cass County, North Dakota, or to take such other legal action to enjoin the enforcement of this Order as you deem proper, all in accordance with the appeal procedure set forth in Fargo Municipal Code § 21-0412. You are further given notice that the “dangerous building” on the subject property may be demolished by the city of Fargo at any time on or after 30 days from the date of service hereof.

DATED this _____ day of January, 2018.

BOARD OF CITY COMMISSION
CITY OF FARGO, a Municipal Corporation

By _____
Timothy J. Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor




Fargo Inspections

City of Fargo
200 Third Street North
701-241-1561
fax 701-241-1526

206

Memorandum

DATE: December 27, 2017
TO: Mayor Mahoney and Board of City Commissioners
FROM: Bruce Taralson, Inspections Administrator 
SUBJECT: Dangerous Building Notice and Order at 1410 1st Avenue South, Fargo, ND

This matter is a hearing to be held at your January 3rd regular meeting for the purpose of determining whether sufficient grounds exist for you, the City Commission, to order the destruction of a building located at 1410 1st Avenue South. The property owner of 1410 1st Avenue South, the property that is subject of the attached Notice, has failed to comply with my order to remove the heavily damaged structure at that location within the time allowed for that removal. Pursuant to Fargo Municipal Code Section 21-0405, a hearing was scheduled and an Order to Show Cause issued that required the property owner to appear and show cause why the building should not be ordered to be demolished and removed with the costs of that removal to be assessed against this property. After hearing the presentation at the January 3rd hearing, I will ask for your approval of certain Findings of Fact and that you order the demolition of the building. The City Attorney has prepared proposed Findings of Fact and Order for this property, which are attached for your review and approval.

Suggested motion: I move to approve the determination that the building located at 1410 1st Avenue South be determined to be a dangerous building and that it be ordered to be demolished and, specifically, that the Findings of Fact and Order for the demolition of said building be, and hereby are, approved appropriate staff is hereby directed to secure the removal of this building on or before February 20, 2018, should the owner fail to do so.

ORDER TO SHOW CAUSE AND NOTICE OF HEARING

**In the Matter of an Alleged Dangerous Building
1410 1st Avenue South, Fargo, ND**

TO THE **OWNER** OF THE ABOVE-DESCRIBED PROPERTY, namely Mable Kause and to any occupant, mortgagee or other person interested in said property:

COMES NOW, the Board of City Commissioners of the City of Fargo, a North Dakota Municipal Corporation, and having received the report from the Building Official of the City stating that the building located at 1410 1st Avenue South is of such condition that it is a dangerous building as defined by the Fargo Municipal Code, Article 21-04, and there being grounds for the issuance, hereof;

IT IS HEREBY ORDERED, that the above-named OWNER, being the registered OWNER of the above-described property, SHALL APPEAR before the Board of City Commissioners at its regular meeting occurring on TUESDAY, January 2nd, 2018, at 5:15 p.m. or as soon thereafter as this matter may be heard, in the City Commission room of Fargo City Hall, 200 North Third Street, Fargo, North Dakota 58102, and SHOW CAUSE why said Board should not make a determination that the building or buildings located upon said property are dangerous buildings as defined by law and why said Board should not issue an order requiring the demolition of said building or buildings. This order to show cause is issued pursuant to Fargo Municipal Code Section 21-0405.

DATED this 26th day of December, 2017.

CITY OF FARGO
a North Dakota Municipal Corporation



Steven Sprague, City Auditor

NOTICE TO PROPERTY OWNER

YOU ARE HEREBY GIVEN NOTICE that you shall have 30 days from the date of service of this Order upon you in which to appeal such Order to the District Court of Cass County, North Dakota, or to take such other legal action to enjoin the enforcement of this Order as you deem proper, all in accordance with the appeal procedure set forth in Fargo Municipal Code §21-0412. You are further given notice that the “dangerous building” on the subject property may be demolished by the city of Fargo at any time on or after 30 days from the date of service hereof.

DATED this _____ day of January, 2018.

BOARD OF CITY COMMISSIONERS
CITY OF FARGO, a North Dakota Municipal
Corporation

By _____
Timothy J. Mahoney, M.D., Mayor

ATTEST:

Steven Sprague, City Auditor

NOTICE OF DANGEROUS BUILDING

TO: Mable Elizabeth Kruesel

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.

2. That the building with which this Notice is concerned is commonly known as 1410 1st Ave S, Fargo, North Dakota, and is located on that tract of land in the city of Fargo, more particularly described as follows:

Lot B, Block 13, Addition, Eddy & Fullers Auditors Outlots

(hereinafter referred to as "the building")

3. That an inspection was made of the building on November 6, 2017 by Bill Thompson, Building Inspector and Rental Housing Inspector, of the City of Fargo.

4. That the building inspector for the city of Fargo has found the building, consisting of a multistory, wood-framed structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 108.1.5 concerning Dangerous Structures.

5. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice.

6. That the building is unsafe and is a dangerous building in the following respects: The structure is dilapidated, decayed, and unsafe for human habitation.

Source: Fargo Municipal Code, Article 21-0403 concerning Dangerous Buildings-nuisances.

7. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and Section 116 of the International Building Code as adopted by Article 21-0101 of the Fargo Municipal Code.

8. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Building Code and the owner will be assessed such costs as are provided for therein.

Dated this 8th day of November, 2017.

A handwritten signature in black ink, appearing to read "Bruce Taralson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bruce Taralson
Administrator



DANGEROUS BUILDING ORDER TO COMMISSION- Detail and Timeline

This is to establish a DANGEROUS BUILDING hearing is required for 1410 1st AVE S. as stipulated in Article 21-0405 of the City of Fargo Municipal Code. If determination is made, that hearing should happen at the next appropriate City Commission meeting.

The hearing is required under Article 21-0405 for the purpose of allowing any interested parties the opportunity to comment, and to allow the Owner of the property the opportunity to appear and show reason why the City of Fargo should not cause the removal of this building.

The Inspections Department has taken this action due to the amount of damage to the building. This building meets the criteria of the Dangerous Building ordinance. Our report on ordinance requirements-

1. Inspections Department received complaint on property.
2. Inspections Department inspected the property.
3. Inspections placed notice on the building.
4. Inspections secured assessors report.
5. Inspections provided notice to Owner giving 30 days.
6. Inspections report to City Commission.

In your packets, you will find my dangerous building notice. Article 21-0404 requires the Inspections Department give a 30-day notice to the Owner of the property prior to any action by the City Commission or staff. Our timeline shows that a dangerous building notice was mailed on November 8, 2017. There was no action taken by the Owner as of the 30-day deadline on December 8, 2017.

Also in your packets, you will find copies of the photos taken of the property along with a copy of the letter of determination of value from the Assessors office. Article 21-0401 stipulates that if this building meets the definition of a dangerous building, it must be demolished or repaired. The assessor's letter states that repairs will exceed or are in excess of 50% of the current value. Article 21-0402 stipulates that if costs to repair the building exceed 50% or more of the current value, the building can be ordered demolished or repaired. We have taken the path of demolition due to the amount of repair required.

PROPERTY INFORMATION- Building is currently vacant and is uninhabitable due to condition and current Inspections order. Deterioration is extensive. Building constructed in 1890. There are back taxes owed on this property as of 12/15/17. This house has been a problem for the Police Department due to vagrants attempting to live in the building.

Description: Two story single family home.

Description of damage: There are many and varied issues with this building including abandoned property, squatters, accumulation of junk, structural damage, structural deterioration, normal wear and tear, building code violations, work without permit, rot and deterioration, etc.

Timeline for our events-

7/10/17- Received complaint on property. Inspector inspected and persons at property said they would clean up.

8/7/17- Inspection- same condition.

8/24/17- Inspection- same condition.

11/6/17- Inspection- same condition. Received complaint of stealing water from neighbor.

11/8/17- Dangerous Building notice/letter sent in mail and posted on building and Dangerous Building notice/placard posted on property/building. No mailings returned to our office.

12/5/17- Received another complaint of persons stealing water to serve this property.

12/11/17- Inspected- Same condition along with newly broken windows and doors open. Dangerous building letter posted on building was illegally removed. Police cleared the building and found evidence of squatters.

12/12/17- Inspected- Mostly same condition with new evidence of squatters. Police cleared the building again. Inspections secured contractor to board up the openings. Reposted notices and letters.

12/13/17- Inspection- same condition. Reposted notices/letters as required.

12/13/17- Inspector Bill Thompson requested Assessor Robert Harshberger to provide a valuation estimation to establish dangerous building. Robert made his assessors determination based upon his inspection and we received his letter today.

12/13/17- Order sent to City Commission office to set up hearing for final determination and order.

Upon your finding for Owner to comply with this demolition order, you are required by Article 21-04, to notify Owner of your determination, and that if an Owner fails to comply with that order for demolition within 10 days, the City Commission can order city staff to take action on demolition and assess costs back to the property.

I suggest you agree with my notice and find this to be a dangerous building, and direct the City Attorney to prepare findings of fact in this matter. I also ask that you direct staff to proceed with all necessary measures to secure removal of this building should the Owner fail to do so. Commission action requires a 10-day allowance for action per Article 21-0405.E. Article 21-0406 also allows court action if that is the course the commission chooses to take. Article 21-0412 allows the Owner to appeal City Commission action.

There may be persons interested in this property that may wish to speak at this hearing. If there is a motion to allow an additional time for demolition, I suggest adding a condition that if the building is not demolished within that timeframe, that our order to demolish be in place and date specified for the City of Fargo to take action.

Thank you,

Respectfully submitted,
Dated this 20th day of December, 2017.

A handwritten signature in blue ink, appearing to read "Bruce Taralson", with a long horizontal stroke extending to the right.

Bruce Taralson
Administrator

DATE: Date of Inspection
TO: Bill Thompson, Building Inspector
FROM: Robert E Harshberger, Deputy Assessor
SUBJECT: 1410 1 Ave S, Fargo, ND
01-0700-00750-000

On December 13, 2017, I inspected the exterior only of the subject residential building from public right-of-way to determine if the damage and/or deterioration of the structure would qualify it as a dangerous building as defined in city ordinance. One requirement of that classification is that the cost to repair would exceed fifty percent (50%) of the building value as established by the Fargo Assessment Department.

The following determination/opinion is based on:

- An exterior only inspection from public right-of-way.
- Prior field notes and sketches maintained by the Assessment Department.
- Items of damage and/or deterioration noted to the exterior of the residential building require certain assumptions regarding interior repairs and/or construction necessary to facilitate the repairs due to the exterior damage and/or deterioration.
- Condition and quality assumptions have been made and are subject to change with a complete property inspection.
- The following determination is subject to change with a complete property inspection.

Based on observed component damage and/or deterioration, and assumptions relative to the condition of other building elements and/or components, I have estimated a cost to repair that exceeds the minimum fifty-percent threshold.

Inspection Field Reporting

Return







Notes for Parcel: 01-0700-00750-000 New


Owner: KRUESEL, MABLE ELIZABETH

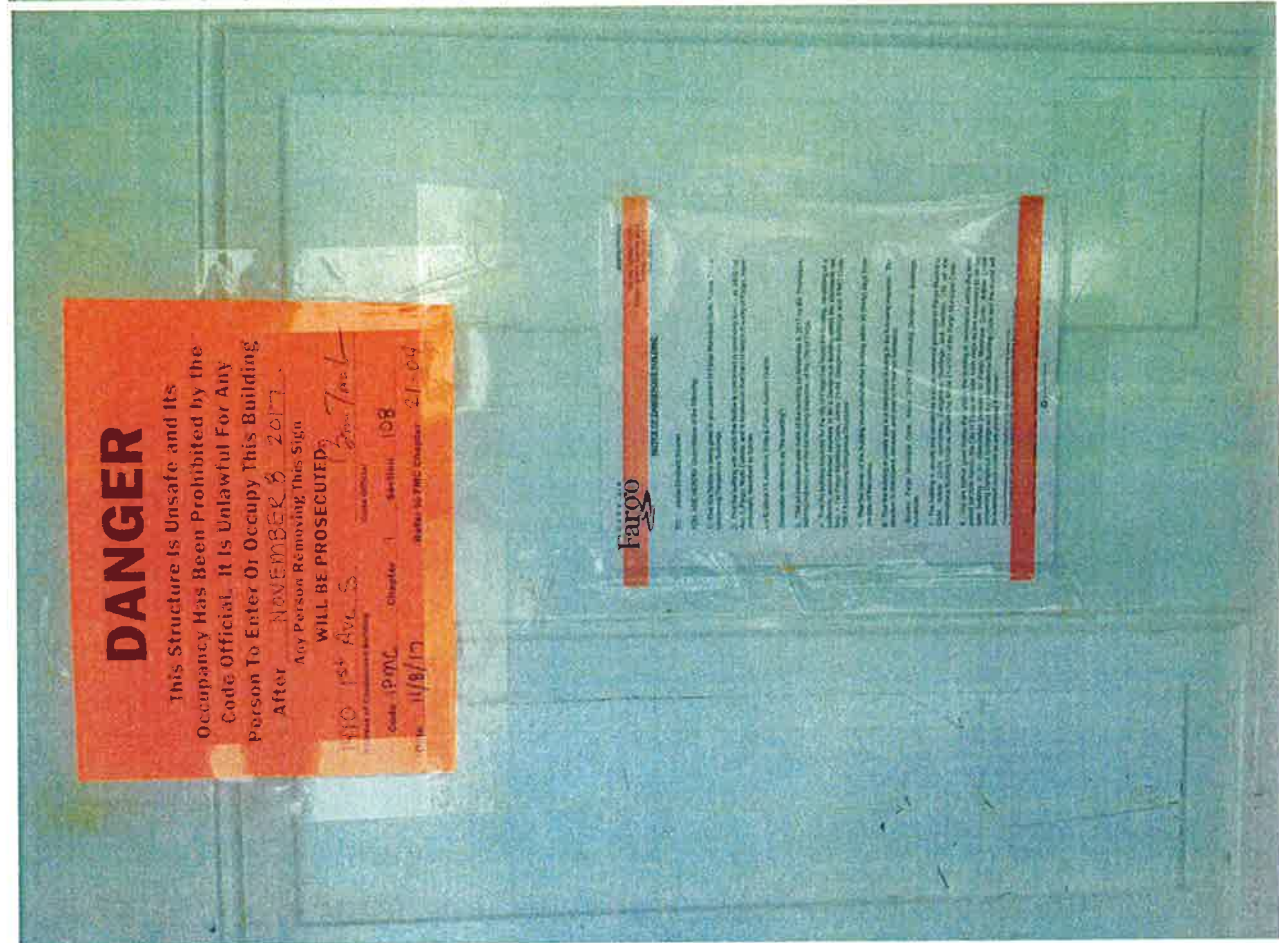
Establishment:

Address: 1410 1 AVE S

Type Details		Inspector	Violations / Notes		
[CI]	Reinspect 12/5/2017	John Arens	Location	Violation	Note
			All - Whole Building	Complaint [CI] \ Rental Complaint	The owner of 1402 has complained of 1410 stealing power and water. nothing hooked to 1402's water or exterior outlet.
[HI]	Reinspect 12/12/2017	Bill Thompson	No Violations / Notes		
[AI]	Passed 12/13/2017	Bill Thompson	Location	Violation	Note
			All - Whole Building	Area Investigation [AI] \ Area Investigation	I re posted a dangerous building letter and took pics. I met the squatter and he was asking about his stuff. I told him he would need permission from the owner to enter.
[HI]	Failed 12/12/2017	Bill Thompson	Location	Violation	Note
			All - Whole Building	Complaint [CI] \ Rental Complaint	Police cleared building again and noticed evidence someone was there the night before. Contractor boarded up rear entry, broken window on east side, and front entry. I reposted dangerous building plaque with tape and staples and took pics.
[HI]	Failed	Bill Thompson	Location	Violation	Note

	12/11/2017		 All - Whole Building	Complaint [CI] \ Rental Complaint	I checked for 30 day dangerous building deadline. There is now a broken out window on east side and the front door is wide open. Someone took down the dangerous building letter I posted on the front door. Police cleared the building. There was evidence in the SE bedroom of squatters occupying the structure.
[CI]	<u>Failed</u> 12/5/2017	John Arens	 All - Whole Building	Violation Complaint [CI] \ Rental Complaint	Note The owner of 1402 has complained of 1410 stealing power and water. nothing hooked to 1402's water or exterior outlet.
[AI]	<u>Passed</u> 11/8/2017	Bill Thompson	 All - Whole Building	Violation Area Investigation [AI] \ Area Investigation	Note I posted dangerous building plaque and letter on the front door. I also posted dangerous building plaque on the back door and took pics.
[CI]	<u>Failed</u> 11/6/2017	Bill Thompson	 All - Whole Building	Violation Complaint [CI] \ Rental Complaint	Note Junk remains on porch and in backyard, it appears the owner has died and the house is controlled by her neice. I took pics and will send updated letters. The owner of 1402 has complained of 1410 stealing power and water.
[CI]	<u>Failed</u> 8/24/2017	John Arens	 All - Whole Building	Violation Complaint [CI] \ Rental Complaint	Note reinspected. So I'm improvement. Most of junk on in backyard. Porch has junk as well as areas in the back and side yard. Garage needs to be demoed.
[CI]	<u>Failed</u> 8/7/2017	John Arens	 All - Whole Building	Violation Complaint [CI] \ Rental Complaint	Note reinspected. So I'm improvement. Most of junk on in backyard. Porch has junk as well as areas in the back and side yard. Garage needs to be demoed.
[CI]		John Arens	Location	Violation	Note

	Failed 7/10/2017		 All - Whole Building	Complaint [CI] \ Rental Complaint	received complaint from Fargo PD regarding junk in the backyard and East side of building. Two guys working to clean it up currently. I said I would be back for reinspection.
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1410 1 AVE S., Fargo, ND 58103 — December 11, 2017 Compliance Check



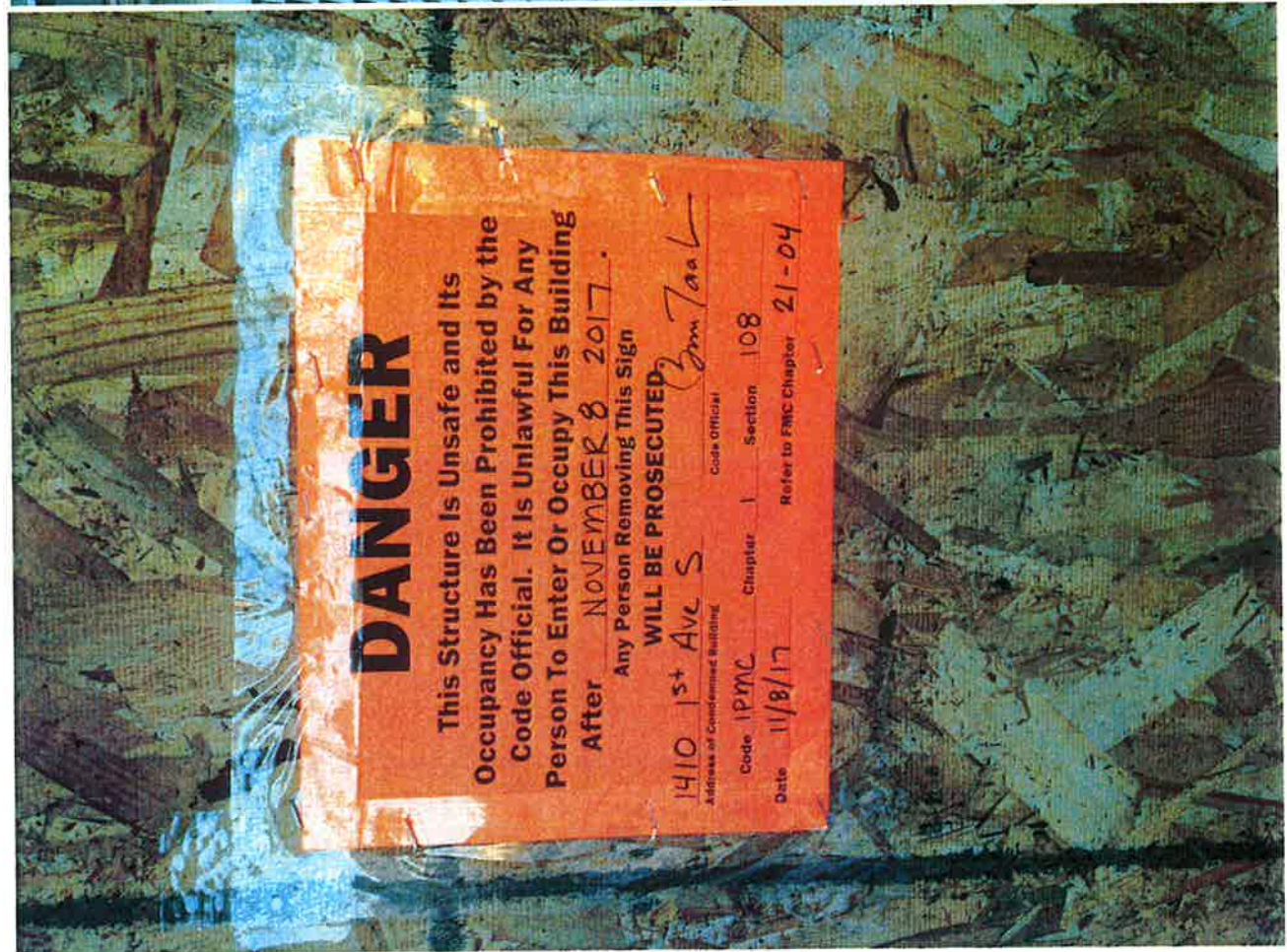
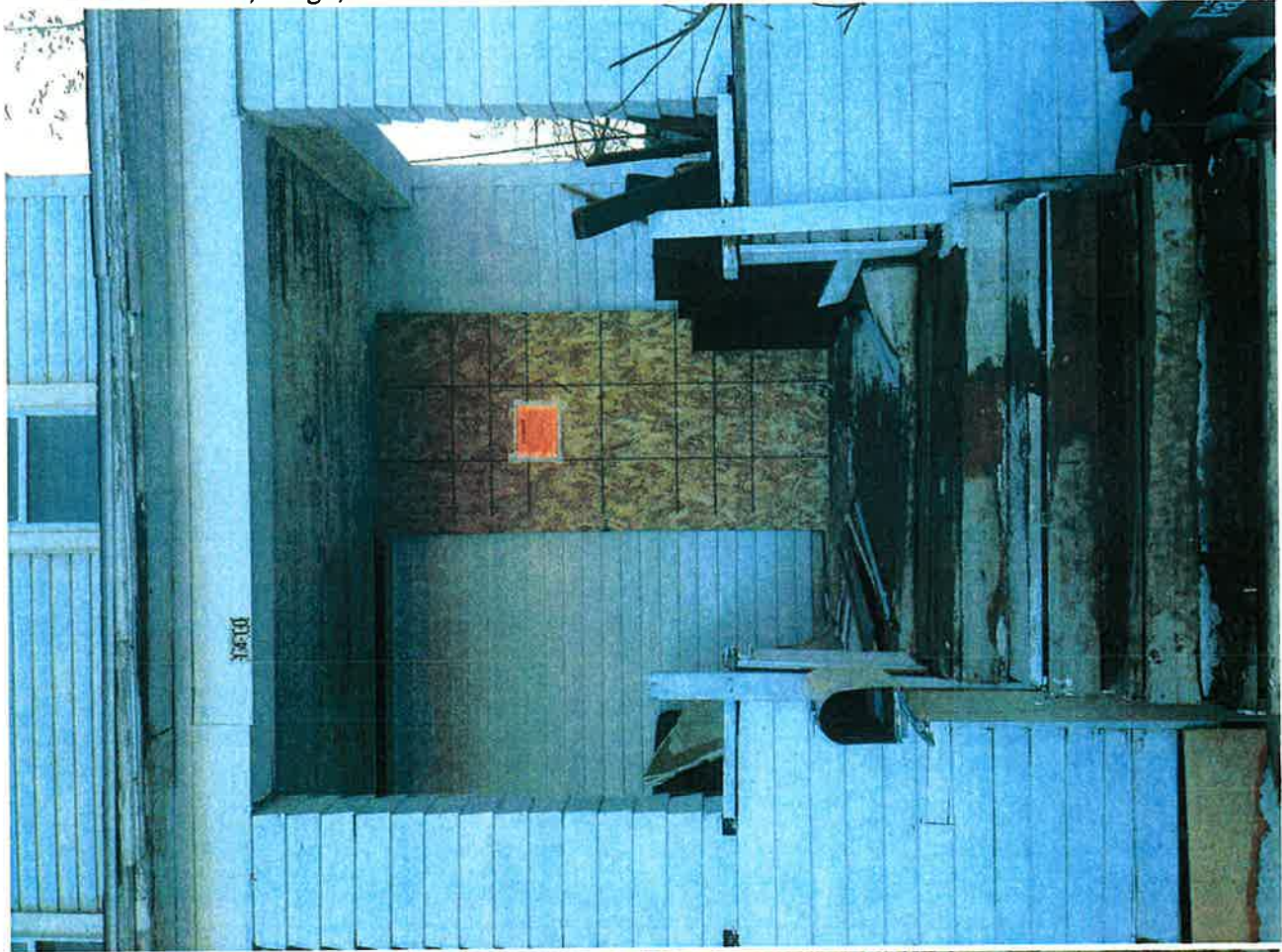




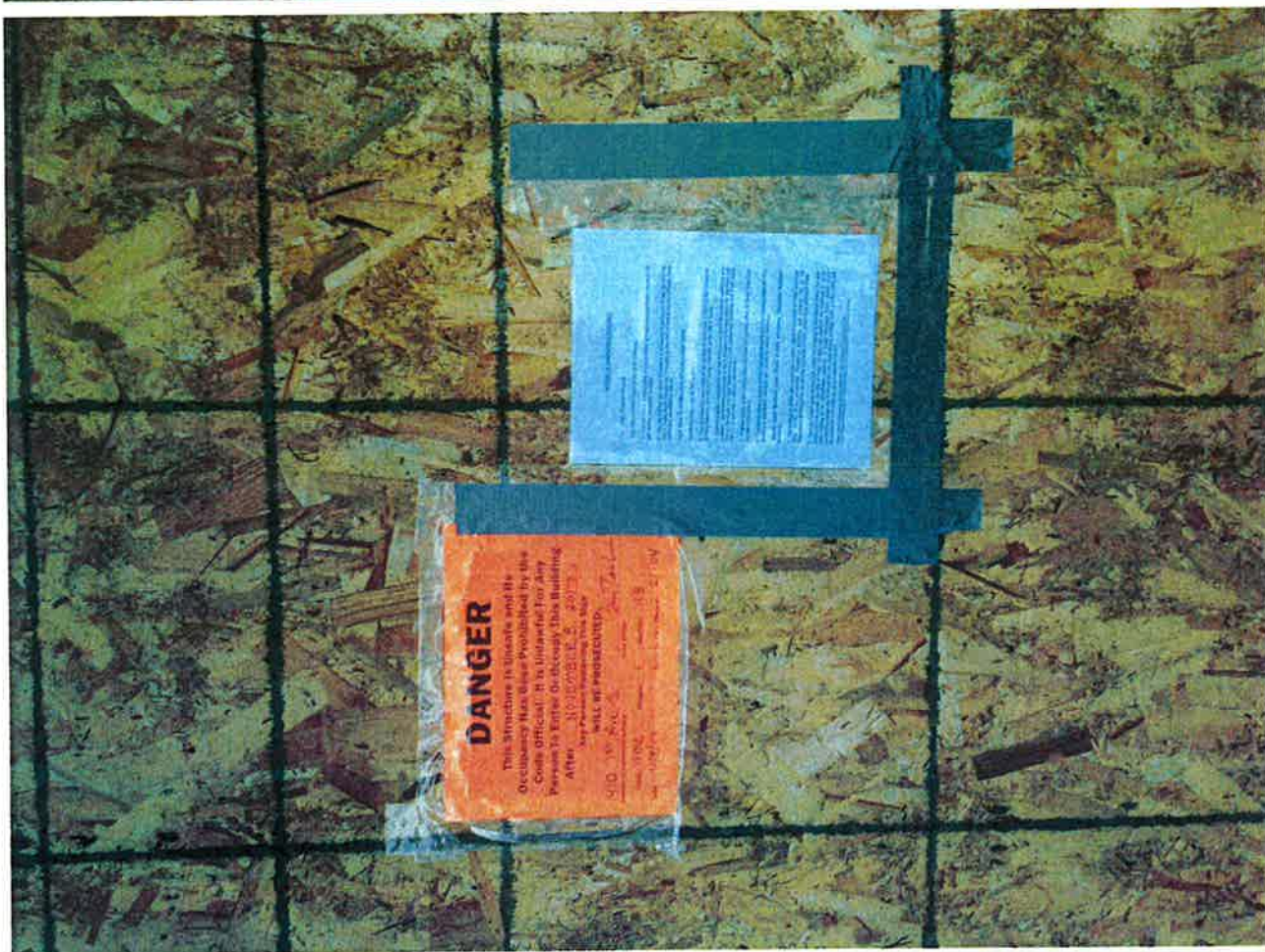


1410 1 AVE S., Fargo, ND 58103 — Rear View of Building











Building Inspections Department

Rental Housing Inspections

200 3rd Street North

Fargo, ND 58102

(701) 476-6708

Page 1 of 1

JUNK REMOVAL NOTICE

DATE: July 17, 2017

LOCATION: 1410 1 Ave S

PROPERTY OWNER: Mable Kruesel

INSPECTOR: John Arens

DATE OF INSPECTION: July 10, 2017

YOU ARE HEREBY ORDERED TO REMOVE THE FOLLOWING DESCRIBED JUNK AND/OR DEBRIS IN ACCORDANCE WITH FARGO MUNICIPAL CODE ARTICLE 13-09 BY August 4, 2017. IF THE JUNK REMAINS AFTER THIS DATE, THIS MATTER WILL BE TURNED OVER TO THE CITY ATTORNEY FOR APPROPRIATE ACTION.

The term "junk" includes, without limitation, trash, rubbish, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal or any other castoff material of any kind, whether or not the same could be put to any reasonable use.

DESCRIPTION OF MATERIAL TO BE REMOVED

Back yard full of trash – loader currently being use to fill truck. Truck box full of trash. Side yard has trash. Front yard has water heater.

1410 1 AVE S., Fargo, ND 58103— 7/10/17 Photos











Building Inspections Department

Rental Housing Inspections

200 3rd Street North

Fargo, ND 58102

(701) 476-6708

Page 1 of 1

JUNK REMOVAL NOTICE

DATE: August 28, 2017

LOCATION: 1410 1 Ave S

PROPERTY OWNER: Mable Elizabeth Krussel 1410 1 Ave S

INSPECTOR: John Arens

DATE OF INSPECTION: August 24, 2017

YOU ARE HEREBY ORDERED TO REMOVE THE FOLLOWING DESCRIBED JUNK AND/OR DEBRIS IN ACCORDANCE WITH FARGO MUNICIPAL CODE ARTICLE 13-09 BY September 29, 2017. IF THE JUNK REMAINS AFTER THIS DATE, THIS MATTER WILL BE TURNED OVER TO THE CITY ATTORNEY FOR APPROPRIATE ACTION.

The term "junk" includes, without limitation, trash, rubbish, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal or any other castoff material of any kind, whether or not the same could be put to any reasonable use.

DESCRIPTION OF MATERIAL TO BE REMOVED

Junk on porch

Junk in back

Dilapidated garage

This is the third and final notice. Failure to comply will result in legal action. I have given two other notices and plenty of time. Progress is being made, however it need to be finished.



Building Inspections Department

Rental Housing Inspections

200 3rd Street North

Fargo, ND 58102

(701) 476-6708

Page 1 of 1

JUNK REMOVAL NOTICE

DATE: August 7, 2017

LOCATION: 1410 1 Ave S

PROPERTY OWNER: Mable Elizabeth Krussel 1410 1 Ave S

INSPECTOR: John Arens

DATE OF INSPECTION: August 7, 2017

YOU ARE HEREBY ORDERED TO REMOVE THE FOLLOWING DESCRIBED JUNK AND/OR DEBRIS IN ACCORDANCE WITH FARGO MUNICIPAL CODE ARTICLE 13-09 BY August 23, 2017. IF THE JUNK REMAINS AFTER THIS DATE, THIS MATTER WILL BE TURNED OVER TO THE CITY ATTORNEY FOR APPROPRIATE ACTION.

The term "junk" includes, without limitation, trash, rubbish, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal or any other castoff material of any kind, whether or not the same could be put to any reasonable use.

DESCRIPTION OF MATERIAL TO BE REMOVED

Junk on porch- carpet pad, hose, glass doors

Junk in back- metal pile, bathtub, windows, scrap wood, loose fence sections

Junk in drive to back- glass panel, hose, wood, and bench

Dilapidated garage

1410 1 AVE S., Fargo, ND 58103— 8/7/17 Photos







2061

Finding of Fact and Order

Property Address: 1410 1st Ave South, Fargo, North Dakota

Owner: Mable Elizabeth Kruesel

The Board of City Commissioners of the City of Fargo held a hearing on the 2nd day of January, 2018, pursuant to a written notice on the property owner, Mabel Elizabeth Kruesel. Bruce Taralson appeared on behalf of the city of Fargo Inspections Department and provided testimony as to the condition of the property. There was no one present on behalf of the owner of the property.

The Board heard the testimony offered by the inspection department, considered the reports, evidence and other information presented, and makes the following written Findings of Fact and Order based on all the information presented to it:

FINDINGS OF FACT

1. Mable Elizabeth Kruesel is the owner of the following described real property located in the City of Fargo, County of Cass and State of North Dakota:

Lot B, Block Thirteen (13), Eddy & Fuller's Auditor's Outlot, city of Fargo,
County of Cass, State of North Dakota

Street Address: 1410 1st Avenue South, Fargo, North Dakota.

2. The subject property is vacant.
3. On November 6, 2017, Bill Thompson, Rental Housing Inspector to the city of Fargo, inspected the property and found that numerous code violations exist:
 - Pursuant to Assessor's Office, repairs will exceed or are in excess of 50% of the current value.
 - Building is currently vacant and is uninhabitable due to condition and current Inspections order. Deterioration is extensive.
 - There are many and varied issues with this building including abandoned property, squatters, accumulation of junk, structural damage, structural deterioration, normal wear and tear, building code violations, work without permit, rot and deterioration,

etc.

4. That on November 6, 2017 an inspection was made by Bill Thompson, Rental Housing Inspector and Robert Harshberger, Deputy Assessor, of the City of Fargo. That the building inspector for the city of Fargo has found the building, consisting of a multistory, wood-framed structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and International Property Maintenance Code (IPMC) Section 108.1.5 concerning Dangerous Structures.

5. That the building is unsafe and is a dangerous building as described in paragraph three above.

6. The City Commission finds, based on the evidence presented, the following conditions exist with respect to the subject property:

- a. The structure has been damaged or deteriorated for more than fifty percent (50%) of its original value.
- b. The building is unsafe, fails to provide the amenities essential to decent living, and is unfit for human habitation.
- c. The building it is unsafe or dangerous to the health, moral safety or general welfare of the people of the City of Fargo.

7. The information in the files of the Building Inspector's Office, the Code Enforcement Officer, and a City Appraiser stemming from their various inspections of the property on or before November 6, 2017, with respect to the subject property is hereby accepted as true and correct.

8. The City Commission of the city of Fargo hereby finds that the building located at 1410 1st Avenue South, Fargo, North Dakota is a "dangerous building" for the reason set forth in paragraph 6 of these Findings.

9. The owner was notified of the Hearing date and time by Order to Show Cause and Notice of Hearing dated Tuesday, December 26, 2017 mailed by both First Class mail and by Certified Mail.

10. Notice of Dangerous Building was posted on the property on or about

NOVEMBER 8, 2017, in accordance with Municipal Code § 21-0404. The Notice of Dangerous Building informs the Owner and all occupants, if any, that the “dangerous building” must be vacated and the building demolished within 30 days from the date of the notice.

11. The Board of City Commissioners finds that the owner has presented no cause why the “dangerous building” should not be demolished.

12. Despite notice that the building on the subject property should be demolished, the owner has failed to do so.

13. The cost of demolition shall be assessed against the property in accordance with Fargo Municipal Code §21-0405 (E).

ORDER

Based on the foregoing Findings of Fact, it is hereby ORDERED that MABLE ELIZABETH KRUESEL, and anyone else claiming an ownership interest shall demolish the “dangerous building” located at 1410 1st Avenue South, Fargo, North Dakota.

It is further ordered that MABLE ELIZABETH KRUESEL or anyone else claiming an ownership interest in the building shall have 30 days from the date of service of this Order within which to demolish the “dangerous building” located at 1410 1st Avenue South, Fargo, North Dakota.

It is further ordered that if the owner fails to demolish the “dangerous building,” the City Auditor, Building Inspector and City Attorney are directed to act on behalf of the city of Fargo to cause the “dangerous building” to be demolished, and the cost of said demolition to be assessed against the subject property.

DATED this _____ day of January, 2018.

BOARD OF CITY COMMISSIONERS
CITY OF FARGO, a North Dakota Municipal
Corporation

By _____
Timothy J. Mahoney, M.D., Mayor

ATTEST: _____
Steven Sprague, City Auditor

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

200

Company name (LLC, Inc): Chink LLC

Doing business as: Una Coffee

Business address (location): 1545 University Dr. S Fargo ND

Mailing address: 1557 University Dr. S. Fargo ND 58103

Business e-mail address: nwl701@gmail.com

Phone number: (701) 293-8818 Other number: (701) 232-6130

The following section to be completed by City Staff:

Date Received by Auditor's Office: _____

Investigations Fee Paid (\$250) _____ Yes _____ No Date Paid: _____ Check # _____

Reviewed – Police Department by: _____ Date: _____

Comments (or see attached report):

_____ Approval Recommendation _____ Denial Recommendation

Chief of Police Date


Reviewed – Liquor Control Committee on (date): _____

_____ Approval Recommendation _____ Denial Recommendation
(See attached comments or minutes)

Reviewed – City Commission on (date): _____

_____ Approval _____ Denial

This application is for the Class or Classes of Licenses checked:

- () Class A Authorizes the licensee to sell "on-sale" only.
- () Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- () Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- () Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- () Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- () Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- () Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- () Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- () Class D Authorizes the licensee to sell beer "off-sale" only.
- () Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- () Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- () Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
-  Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- () Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- () Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.

() Class G	Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.
() Class H	Authorizes the licensee to sell beer "on-sale" only, served at table or booth, with no bar allowed and requires 50% food sales.
() Class I	Authorizes the licensee to sell beer, wine, and sparkling wine "on-sale" only. A physical bar is allowed and requires 65% food sales.
() Class I Entertainment	Authorizes the licensee to sell "on-sale" only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.
() Class J	Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.
() Class L	Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.
() Class M	Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell "on-sale" and "off-sale" offered in conjunction with another license. Allows the sale of Growlers.
() Class N	Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2500.
() Class O	Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
() Class P	Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale". Allows limited beer sales.
() Class RZ-V	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.
() Class W	Authorizes the licensee to sell wine and sparkling wine "on-sale" only. A physical bar is allowed and no food sales required.
() Class Y	Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.
() Class Z	Authorizes the licensee to sell "on-sale" only issued to individuals not currently holding another "A", "AB", "ABH", or "ABH-RZ". A physical bar is allowed and no food sales required.

The following section to be completed by the applicant:

ALL APPLICANTS must initial #1 - #9 and sign in the space provided below.

1. BN All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. BN I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. BN If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. BN I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. BN I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. BN I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages MUST attend Server Training.
7. BN I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. BN I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. BN I understand that the license will expire on June 30 of each year and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: Bernie Ness Signature: Bernie Ness

Applicant printed name: _____ Signature: _____

Applicant printed name: _____ Signature: _____

Address: 1447 7TH STS Fargo ND 58103
(address) (city) (state & zip)

How long have you lived at this address? 40 yrs

From _____ to _____ Address: _____

From _____ to _____ Address: _____

E-mail address: bernieness@yahoo.com

Home phone number: () _____ Other number: (161) 306 7701

Date of Birth: 8-18-47 Place of Birth: Fargo

DL#: N200 073 47 2980 State of Issue: Florida Dates: 8-19-20

DL#: _____ State of Issue: _____ Dates: _____

Has your driver's license ever been suspended or revoked? _____ Yes X No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?
 _____ Yes _____ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) Yes X No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? Yes ☒ No ☐

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

Fargo liquor license offsale class B
W Fargo liquor license offsale
Moorhead liquor license offsale

Have any of the above named licenses ever been suspended or revoked? ☐ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 1971 to current Business name: Bernies Wines & Liquors / Ness Inc
Address: 1557 University Dr. S Position/Title: owner

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?

☒ Yes ☐ No If "yes", list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?

☒ Yes ☐ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?

☒ Yes ☐ No If "yes", describe below:

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

Operator/Manager Information

Are you going to operate/manage this business personally?

_____ Yes X No If "no", who will operate/manage it?

Name: Nicole LYN Berglund Ness
(first) (middle) (last) (maiden name)

Address: 16848 47TH ST SE HORACE ND 580047
(address) (city) (state & zip)

Home phone number: (____) _____ Other number (703) 912-0689

Date of Birth: 5.11.72 Place of Birth: Fargo

(Important: The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

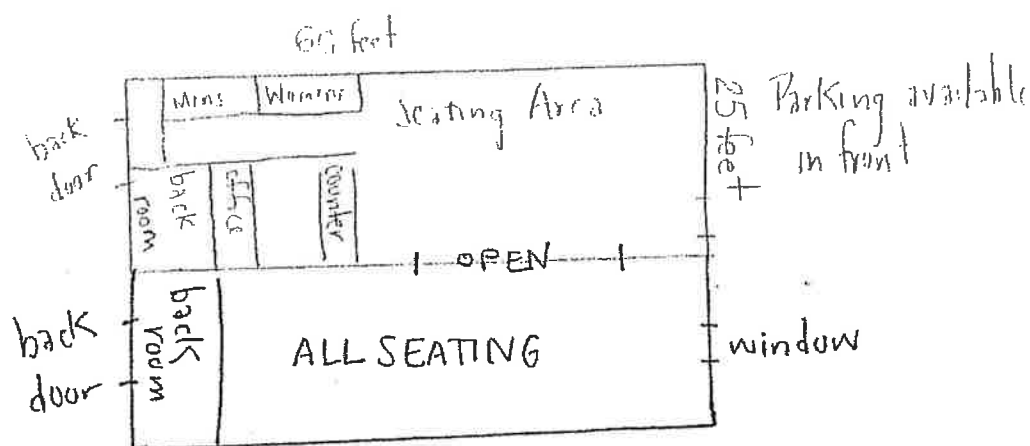
Business Site Plan

On this page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

- The scale should be stated, such as 1" = 20'. The direction N should be indicated towards the top.
- The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.

On this page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

- The scale should be stated, such as 1" = 20'. The direction N should be indicated towards the top.
- The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown



Operational and Financial Issues

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area).

(Use additional pages if necessary)

Luna Fargo is a neighborhood eatery and scratch kitchen. We currently serve wine and beer and our customers have been asking if we would consider adding liquor. Due to space and our goal of only providing a quality experience to our guests, our liquor selection will be small and fairly high end. We won't be offering shots, etc but more for an enhancement of our guest experience.

Describe in detail how you intend to address/prevent each of the following concerns at your Business:

(Use additional pages if necessary)

Over-serving, intoxicated or disorderly patrons:

We do not allow our staff to over serve. Also we are much more of a restaurant than a bar. People generally come to eat and go elsewhere to party.

Safety and security issues, including crowd control:

We have no issues with too many people in the restaurant. (I can only hope for "too many" people. 😊)

Minors on the premises, including consumption by minors:

Our servers are all server trained and have shown complete competence when it comes to identifying minors.

Noise concerns, especially from nearby residences of other businesses:

We have had no issues with noise in the 3 years we have been serving wine and beer. No music.

Do you plan to feature live entertainment? ☐ Yes ☒ No If "yes", describe what you envision at the time, including how often such entertainment will take place.



(20d)

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Company name (LLC, Inc): KLP Lodging, LLC.

Doing business as: AmericInn Fargo South 45th Street

Business address (location): 4325 23rd Ave S. Fargo ND 58104

Mailing address: Same

Business e-mail address: smiller@americinnfargo.com

Phone number: (701) 235-4699 Other number: () _____

The following section to be completed by City Staff:

Date Received by Auditor's Office: 11-28-17

Investigations Fee Paid (\$250) ☒ Yes ☐ No Date Paid: 11-28-17 Check # 7455

Reviewed – Police Department by: _____ Date: _____

Comments (or see attached report):

_____ Approval Recommendation

_____ Denial Recommendation

Chief of Police

Date

Reviewed – Liquor Control Committee on (date): _____

_____ Approval Recommendation

_____ Denial Recommendation

(See attached comments or minutes)

Reviewed – City Commission on (date): _____

_____ Approval

_____ Denial

This application is for the Class or Classes of Licenses checked:

- ☐ Class A Authorizes the licensee to sell "on-sale" only.
- ☐ Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- ☐ Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- ☒ Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- ☐ Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- ☐ Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- ☐ Class D Authorizes the licensee to sell beer "off-sale" only.
- ☐ Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- ☐ Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- ☐ Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- ☐ Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.

- () Class G Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.
- () Class H Authorizes the licensee to sell beer "on-sale" only, served at table or booth, with no bar allowed and requires 50% food sales.
- () Class I Authorizes the licensee to sell beer, wine, and sparkling wine "on-sale" only. A physical bar is allowed and requires 65% food sales.
- () Class I Entertainment Authorizes the Licensee to sell "on-sale" only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.
- () Class J Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.
- () Class L Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.
- () Class M Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell "on-sale" and "off-sale" offered in conjunction with another license. Allows the sale of Growlers.
- () Class N Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2500.
- () Class O Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
- () Class P Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale". Allows limited beer sales.
- () Class RZ-V 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.
- () Class W Authorizes the licensee to sell wine and sparkling wine "on-sale" only. A physical bar is allowed and no food sales required.
- () Class Y Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.
- () Class Z Authorizes the licensee to sell "on-sale" only issued to individuals not currently holding another "A", "AB", "ABH", or "ABH-RZ". A physical bar is allowed and no food sales required.

The following section to be completed by the applicant:

ALL APPLICANTS must initial #1 - #9 and sign in the space provided below.

1. _____ All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. _____ I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. _____ If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. _____ I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. _____ I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. _____ I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
7. _____ I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. _____ I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. _____ I understand that **the license will expire on June 30 of each year** and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: NICHOLAS M. KLAERS

Signature: 

Applicant printed name: _____

Signature: _____

Applicant printed name: _____ Signature: _____

master-signature

The following section to be completed by the applicant:

ALL APPLICANTS must initial #1 - #9 and sign in the space provided below

1. ☒ All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. ☒ I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. ☒ If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. ☒ I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. ☒ I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. ☒ I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
7. ☒ I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. ☒ I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. ☒ I understand that the license will expire on June 30 of each year and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: Walter H. Dyer Signature: [Signature]

Applicant printed name: _____ Signature: _____

Applicant printed name: _____ Signature: _____

copy with initials
to each - Needed to
email as Nick is out
of town.

Applicant Information: (2 pages)

Name: NICHOLAS Michael KLAERS
 (first) (middle) (last) (maiden name)

Address: 1025 38th St SW FARGO ND 58103
 (address) (city) (state & zip)

How long have you lived at this address? 3 yrs

Provide your address history for the past 5 years:

From 8/2014 to Present Address: 1025 38th St #208 FARGO, ND

From 1997 to 8/2014 Address: 314 31st Ave S FARGO, ND

E-mail address: NICK @ KLAERS.COM

Home phone number: () Other number: (701) 371-3066

Date of Birth: 8/1/92 Place of Birth: CAUTIONNA, NY

List each driver's license you have ever had and the state of issue:

DL#: 152A-42-1857 State of Issue: North Dakota Dates: 1987 - Present

DL#: _____ State of Issue: _____ Dates: _____

Has your driver's license ever been suspended or revoked? _____ Yes X No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?

_____ Yes _____ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) _____ Yes X No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? _____ Yes X No

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

LIQUOR license - The Box sports Bar + casino - Fargo
LIQUOR license - Country Pub - Country Inn + Suites
Fargo

Have any of the above named licenses ever been suspended or revoked? ☐ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 10/14 to Present Business name: KLP Lodging, LLC
Address: 4325 23rd Ave S. Fargo ND 58104 Position/Title: President

From: 12/02 to Present Business name: Fargo Inn + Suites
Address: 1025 38th St SW Fargo ND 58103 Position/Title: Secretary

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?

☒ Yes ☐ No If "yes", list each business below:

The Box sports bar + casino, Fargo Inn + Suites
Country Pub - Country Inn + Suites, Fargo, ND

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?

☐ Yes ☒ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?

☒ Yes ☐ No If "yes", describe below: Oversee the management staff
of The Box + Country Pub

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

Applicant Information: (2 pages)

Name: Dana Lynnette Lee Klaers
(first) (middle) (last) (maiden name)

Address: 4141 Evergreen Lane Ne Remick Mn 55001
(address) (city) (state & zip)

How long have you lived at this address? 6 mos

Provide your address history for the past 5 years:

From 1998 to 2011 Address: 607 Maple Ridge Ct NW, Remick, Mn 55001

From _____ to _____ Address: _____

E-mail address: dalee03@live.com

Home phone number: (218) 764-4501 (cell) Other number: (____) _____

Date of Birth: 08-22-1964 Place of Birth: Fairbault, MN

List each driver's license you have ever had and the state of issue:

DL#: K301114515904 State of Issue: MN Dates: 8/2014 - 8/2018

DL#: _____ State of Issue: _____ Dates: _____

Has your driver's license ever been suspended or revoked? _____ Yes X No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?
 _____ Yes _____ No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) _____ Yes X No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? _____ Yes X No
 If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

Have any of the above named licenses ever been suspended or revoked? Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 3/2010 to present Business name: American Lodge & Suites of Permian
 Address: 1200 Paul Bunyan Dr. NW Position/Title: General Manager/owner

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?
 Yes ☒ No ☐ If "yes", list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?
 Yes ☒ No ☐ If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?
 Yes ☒ No ☐ If "yes", describe below:

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

Operator/Manager Information

Are you going to operate/manage this business personally?

 Yes ✓ No If "no", who will operate/manage it?

Name: Sean D. Miller
(first) (middle) (last) (maiden name)

Address: 1533 3rd Ave S Fargo ND 58103
(address) (city) (state & zip)

Home phone number: (701) 367-2926 Other number (____) _____

Date of Birth: 10-9-87 Place of Birth: Fargo, ND

(Important: The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

Business Site Plan

On this page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

- The scale should be stated, such as 1" = 20'. The direction N should be indicated towards the top.
- The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.

KLP Lodging, LLC

DBA: AmericInn Fargo South 45th St.

Built: 2007

Total Square feet: 59,383

Parcel NO: 01-8383-00100-000

Lot size:

Front width: 204.27

Back width: 215

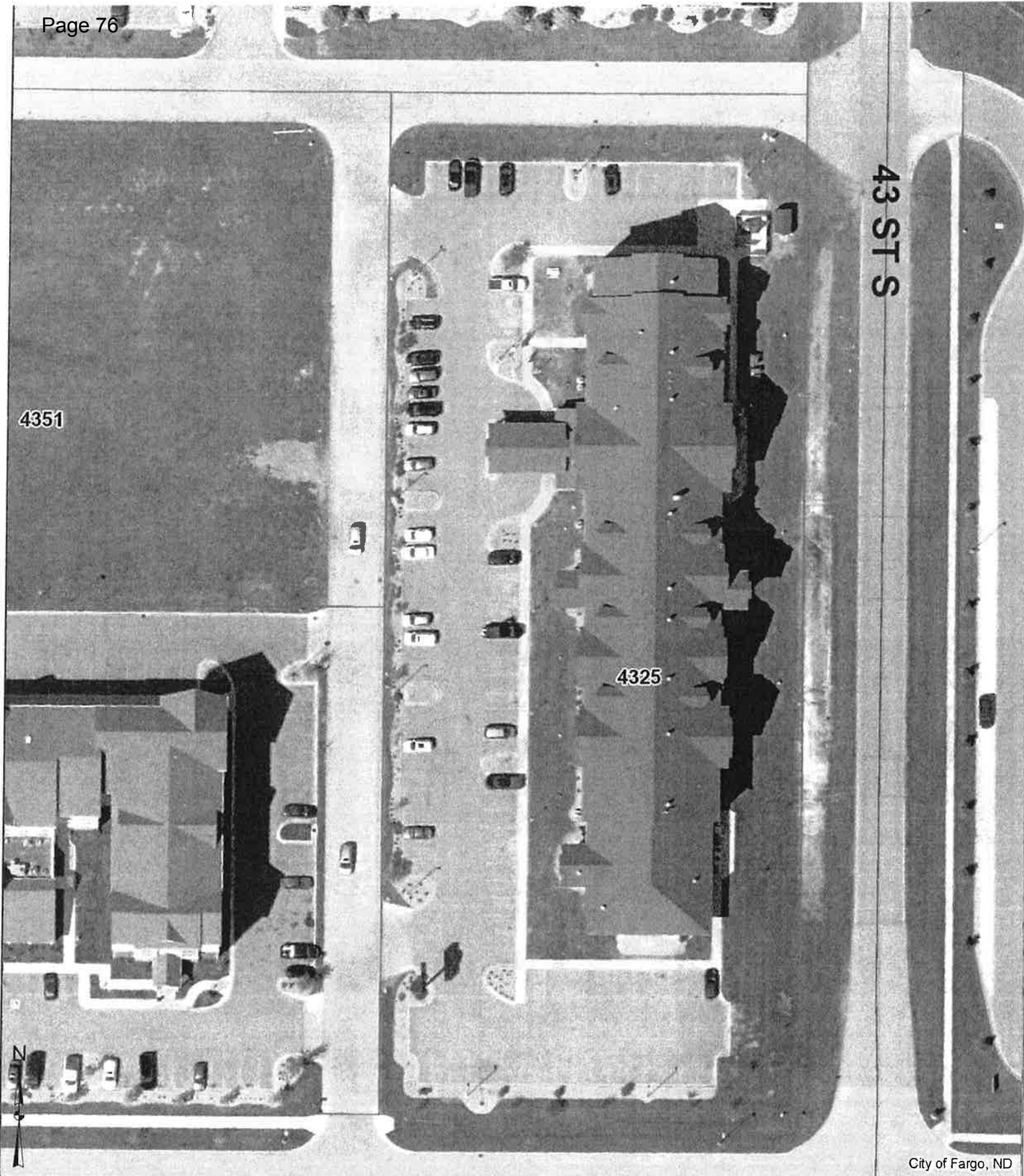
Depth side 1: 523.92

Depth side 2: 513.19

Square footage: 112,106

$\frac{8}{X}$

(see layout
attached)



City of Fargo, ND

These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

AmericInn

CITY OF
Fargo

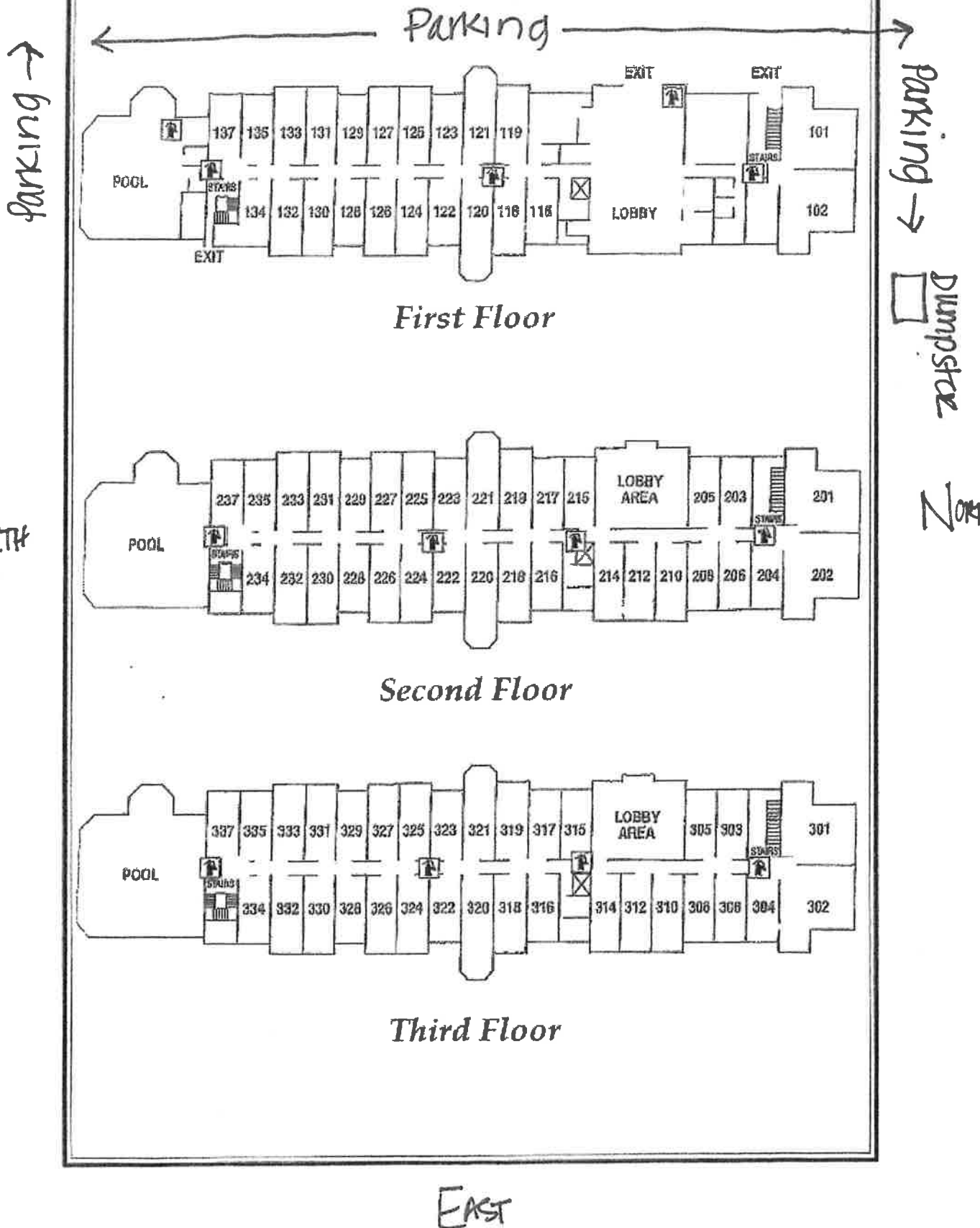
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11/28/2017 9:26:51 AM

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.

WEST

Property Layout



Operational and Financial Issues

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area).

(Use additional pages if necessary)

Our hotel, The Americana is interested in serving wine & beer during our guest reception Monday through Thursday from 5pm-7pm. This is an attempt to meet the needs of our guests which is being demonstrated by several of our competitor hotels. Our hotel is not located in a residential area and fits in with the amenities our neighboring hotels are offering.

Describe in detail how you intend to address/prevent each of the following concerns at your Business:

(Use additional pages if necessary)

Over-serving, intoxicated or disorderly patrons:

Server will not serve intoxicated or disorderly guests. Wine & beer will be served to guests during a two hour window Monday through Thursday.

Safety and security issues, including crowd control:

This license is meant to serve a drink or two to guests during our guest reception from 5pm-7pm. Staff will be in place at the front desk as well as serving wine, beer and reception appetizers.

Minors on the premises, including consumption by minors:

Patrons of the guest reception requesting beer or wine will be carded to ensure we are not serving to minors.

Noise concerns, especially from nearby residences of other businesses:

Our hotel is located in a business area without any residences nearby.

Do you plan to feature live entertainment? ☐ Yes ☒ No If "yes", describe what you envision at the time, including how often such entertainment will take place.

200
APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Company name (LLC, Inc): Hornbacher's, Inc.

Doing business as: Hornbacher's Wine & Spirits

Business address (location): 4101 13th Ave. S., Fargo, ND, 58103

Mailing address: P.O. Box 990 Attn: Licensing, Minneapolis, MN 55440

Business e-mail address: Licensegroup@supervalu.com

Phone number: (952) 828.4857 Other number: () See attached

The following section to be completed by City Staff:

Date Received by Auditor's Office: 11-28-17

Investigations Fee Paid (\$250) ☒ Yes ☐ No Date Paid: 11-28-17 Check # 1429357

Reviewed – Police Department by: _____ Date: _____

Comments (or see attached report):

_____ Approval Recommendation

_____ Denial Recommendation

Chief of Police

Date

Reviewed – Liquor Control Committee on (date): _____

_____ Approval Recommendation

_____ Denial Recommendation

(See attached comments or minutes)

Reviewed – City Commission on (date): _____

_____ Approval

_____ Denial

This application is for the Class or Classes of Licenses checked:

- ☐ Class A Authorizes the licensee to sell "on-sale" only.
- ☐ Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☒ Class B "Limited" Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof. License is Non Transferable.
- ☐ Class AB Authorizes the licensee to sell "on-sale" or "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- ☐ Class ABH Authorizes the licensee to sell "on-sale" or "off-sale", at hotels & motels with 100 or more guest rooms only.
- ☐ Class ABH "Limited" Authorizes license may be issued to persons engaging in "on-sale" of beer and wine or hosting "manager's specials," solely for guests or patrons of extended stay and limited service hotels or motels
- ☐ Class ABH-RZ Authorizes the licensee to sell "on-sale" or "off-sale", to hotel guests in a Renaissance Zone with 15 guestrooms.
- ☐ Class C Authorizes the licensee to sell beer "on-sale" only. No food sales required. Physical bar is allowed.
- ☐ Class D Authorizes the licensee to sell beer "off-sale" only.
- ☐ Class DD License shall only be issued to a domestic distillery owner or operator who has obtained a license from the ND State Tax Commissioner. No food sales required.
- ☐ Class E In nature of a special permit, shall authorize the holder of an existing "on-sale" license in the sale of On-sale only alcoholic beverages on such premises designated on the permit.
- ☐ Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- ☐ Class FA-Golf On USGA Golf Course or 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- ☐ Class FA-Entertainment Authorizes the licensee to sell "on-sale" only, in a place of amusement or in a recreational establishment. Requires non-alcoholic sales to exceed alcohol sales.

- () Class G Authorizes the licensee to sell wine and sparkling wine “on-sale” only, served at table or booth, no bar. Requires 50% food sales.
- () Class H Authorizes the licensee to sell beer “on-sale” only, served at table or booth, with no bar allowed and requires 50% food sales.
- () Class I Authorizes the licensee to sell beer, wine, and sparkling wine “on-sale” only. A physical bar is allowed and requires 65% food sales.
- () Class I Entertainment Authorizes the Licensee to sell “on-sale” only of beer, wine and sparkling wine in a recreational establishment or place of amusement. A physical bar is allowed and 65 % of non-alcohol sales required.
- () Class J Authorizes the licensee to sell “on-sale” only at a non-profit organization for military purposes.
- () Class L Authorizes the licensee to sell “on-sale” only on an excursion boat operating on the Red River.
- () Class M Authorizes the licensee to operate a Microbrew Pub or Domestic Winery and sell “on-sale” and “off-sale” offered in conjunction with another license. Allows the sale of Growlers.
- () Class N Authorizes the licensee to sell “on-sale” only at a stadium with a minimum seating capacity of 2500.
- () Class O Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
- () Class P Authorizes the licensee to operate a domestic winery and to sell wine “on-sale” and “off-sale”. Allows limited beer sales.
- () Class RZ-V 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.
- () Class W Authorizes the licensee to sell wine and sparkling wine “on-sale” only. A physical bar is allowed and no food sales required.
- () Class Y Shall authorize the production brewery to obtain a brewer license and a retailer license. Must be licensed by the State Tax Commissioner. No food sales required.
- () Class Z Authorizes the licensee to sell “on-sale” only issued to individuals not currently holding another “A”, “AB”, “ABH”, or “ABH-RZ”. A physical bar is allowed and no food sales required.

The following section to be completed by the applicant:

ALL APPLICANTS must initial #1 - #9 and sign in the space provided below.

1. ML All applicants must assure there is adequate off-street parking for my business (within the direction of and as approved by the City Commission). Membership in the current City parking program (e.g. "P.O.P") may place me in compliance with this requirement.
2. ML I have received a copy of the Alcoholic Beverage Ordinance(s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
3. ML If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
4. ML I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
5. ML I understand that the premises described in the application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
6. ML I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages **MUST** attend Server Training.
7. ML I am familiar with the question, answers and other information as it appears in the complete application of an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
8. ML I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44-04-21.1 concerning this claim of confidentiality under 44-04-18.4.
9. ML I understand that **the license will expire on June 30 of each year** and a renewal process will need to be completed. This process will include a completed renewal application, payment in full for the required annual fee, a completed roster for each employee who pours or serves alcohol, attendance of Server Training for those listed on the roster, and a copy of your certified food sales if applicable to your license.

Applicant printed name: Matthew Leisen Signature: Matthew Leisen

on behalf of Hornbaches Inc.

Applicant printed name: _____ Signature: _____

Applicant printed name: _____ Signature: _____

Applicant Information: (2 pages)

Name: Matthew Leiseth
 (first) (middle) (last) (maiden name)

Address: 4326 SOUTH RIVERSHORE DRIVE MOORHEAD MN 56560
 (address) (city) (state & zip)

How long have you lived at this address? 8 YEARS

Provide your address history for the past 5 years:

From _____ to _____ Address: _____

From _____ to _____ Address: _____

E-mail address: matthew.leiseth@hornbachers.com

Home phone number: (701) 293-3566 Other number: (____) _____

Date of Birth: 01-22-1972 Place of Birth: AUSTIN, MN

List each driver's license you have ever had and the state of issue:

DL#: V882226629918 State of Issue: MN Dates: 1988 - CURRENT

DL#: _____ State of Issue: _____ Dates: _____

Has your driver's license ever been suspended or revoked? _____ Yes X No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked?

_____ Yes X No If "yes," where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense" – and therefore must be listed) _____ Yes X No

If "yes", provide the date of arrest, location, charge, and sentence of each conviction.

Have you been issued a citation for any alcohol-related offense? _____ Yes X No

If "yes", provide the date of arrest, location, charge of each conviction.

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

Have any of the above named licenses ever been suspended or revoked? ____ Yes ☒ No

If "yes", list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7-year period:

From: 1991 to 2017 Business name: HORNbacher's

Address: 4151 45TH St S. FARGO Position/Title: PRESIDENT - SINCE 2010

From: ____ to ____ Business name: ____

Address: ____ Position/Title: ____

From: ____ to ____ Business name: ____

Address: ____ Position/Title: ____

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages?
____ Yes ☒ No If "yes", list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level?
____ Yes ☒ No If "yes", indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol?
____ Yes ☒ No If "yes", describe below:

Make copies as needed for each shareholder/partner with 5% or greater interest in the company.

NA

XXXXX

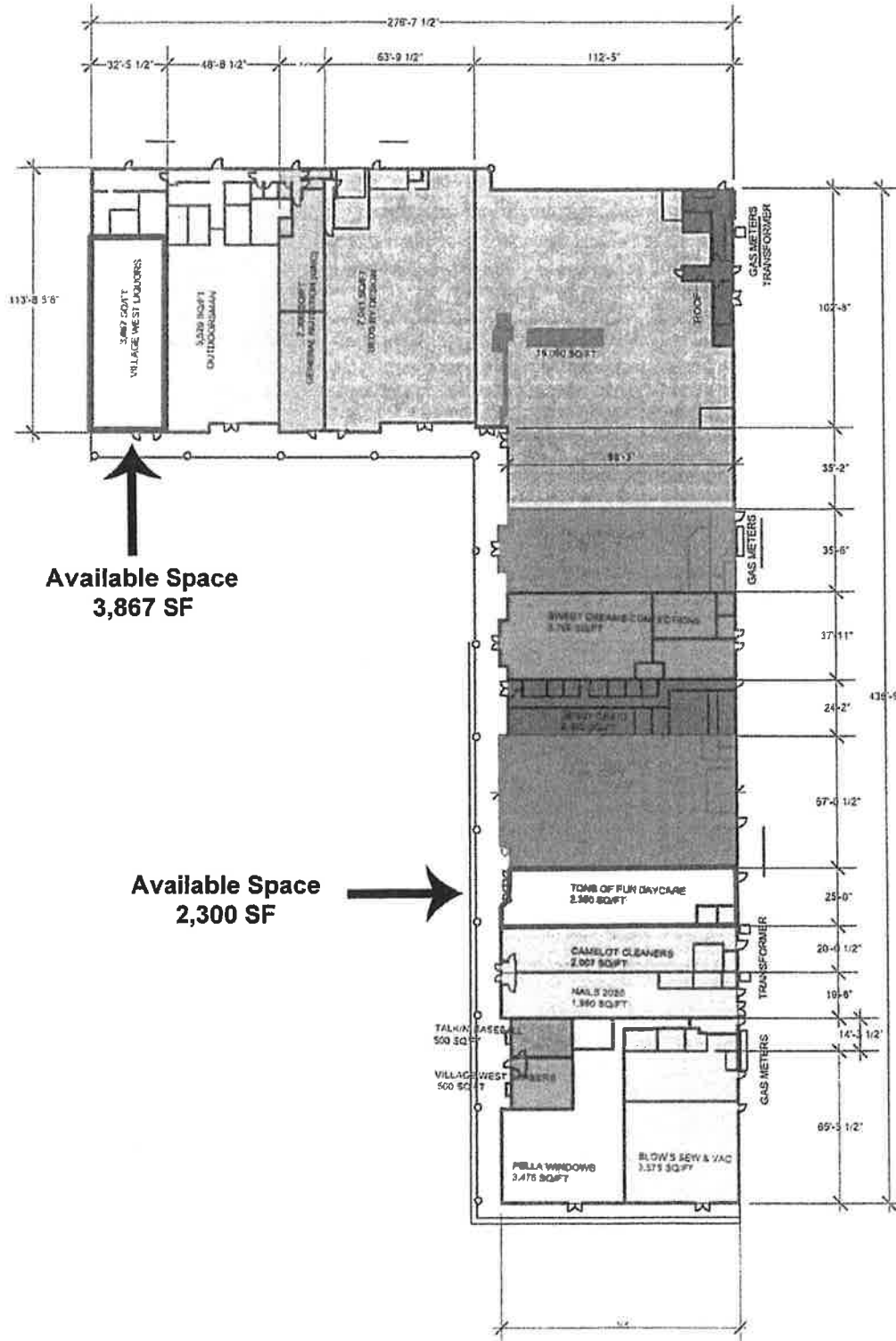
HORNBACHERS

WINE & SPIRITS
7,000 SQFT

DRAWN BY: XXX
MGR: XXX
DATE: 11-29-17
SCALE: NTS

VILLAGE WEST SHOPPING CENTER

4101 13TH AVENUE SOUTH, FARGO, ND 58103



GOLDMARK™
COMMERCIAL REAL ESTATE INC

Drew Kelly
Drew.Kelly@goldmark.com
701.893.2806 (O) 701.367.1067 (C)
www.goldmarkcommercial.com
commercialinfo@goldmark.com

Operational and Financial Issues

Briefly describe your business concept, including your analysis of how this model fits into the proposed location (i.e., describe the suitability of the "fit" into the existing neighborhood or business area).

(Use additional pages if necessary)

This is a proposed Hornbacher's Wine & Spirits Store, which will be a liquor store with a focus on wines and specialty beer.

Floor plans attached.

Describe in detail how you intend to address/prevent each of the following concerns at your Business:

(Use additional pages if necessary)

All off-premise

Over-serving, intoxicated or disorderly patrons:

NA

Safety and security issues, including crowd control:

NA

Minors on the premises, including consumption by minors:

NA

Noise concerns, especially from nearby residences of other businesses:

NA

Do you plan to feature live entertainment? _____ Yes X No If "yes", describe what you envision at the time, including how often such entertainment will take place.

20h

City of Fargo Staff Report			
Title:	BLU Water Creek Addition, BLU Water Creek Second Addition and Bentley Square Addition	Date: Update:	11/28/17 12/28/17
Location:	4504, 4582, 4600, 4648, and 4682 32nd Avenue South, 3233 and 3265 45th Street South, and 4507 and 4609 33rd Avenue South	Staff Contact:	Maegin Elshaug
Legal Description:	Lots 2-6, Block 1, BLU Water Creek Addition, Lots 1-3, Block 1, BLU Water Creek Second Addition, and Lot 2, Block 1, Bentley Square Addition		
Owner(s)/Applicant:	Brandt Crossing, LLC/Nate Vollmuth	Engineer:	N/A
Entitlements Requested:	Zoning Change (to repeal and reestablish a C-O, Conditional Overlay)		
Status:	City Commission Public Hearing: January 2, 2018		

Existing	Proposed
Land Use: Retail Sales and Service; vacant	Land Use: Retail Sales and Service; Commercial Development
Zoning: LC, Limited Commercial with a C-O, Conditional Overlay	Zoning: LC, Limited Commercial with a C-O, Conditional Overlay
Uses Allowed: Colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs , retail sales and service, self service storage, vehicle repair , limited vehicle service	Uses Allowed: No Change
Maximum Lot Coverage Allowed: Maximum 55% building coverage	Maximum Lot Coverage Allowed: No Change

Proposal:

The applicant is proposing a zoning map amendment in order to repeal the existing C-O, Conditional Overlay and reestablish a new C-O, Conditional Overlay on the subject property. The subject properties are located at 4504, 4582, 4600, 4648, and 4682 32nd Avenue South, 3233 and 3265 45th Street South, and 4507 and 4609 33rd Avenue South and are legally described as Lots 2-6, Block 1, BLU Water Creek Addition, Lots 1-3, Block 1, BLU Water Creek Second Addition, and Lot 2, Block 1, Bentley Square Addition.

The applicant is proposing several changes to the Conditional Overlay to design standards and screening requirements. Below are the proposed changes.

5. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than ~~60~~ 50 percent of their horizontal length. If the facade facing the street is not the front, it shall include the same features and/or landscaping in scale with the facade.
6. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets and/or screens, including but not limited to the back of the structure. The average height of such parapets shall not exceed one third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance of greater than 150 feet.
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 services areas shall be screened from the view of adjacent public streets through~~

a structure and/or landscaping. Loading and/or services areas/facilities shall be located at the side or rear of buildings and screened from public streets by structures and/or landscaping, with a minimum opacity of 50%.

Many of the properties along 32nd Avenue South and 45th Street South are either constructed or under construction. The applicant has confirmed that the previously approved projects within the development will not be affected by the changes. A draft of the conditional overlay is attached to this staff report.

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

Surrounding Land Uses and Zoning Districts:

- North: Across 32nd Avenue South, LC, Limited Commercial with commercial and vacant land uses;
- East: Across 45th Street South, AG, Agricultural and P/I, Public and Institutional with utility use;
- South: Across 33rd Avenue South, LC, Limited Commercial and MR-3, Multi-Dwelling Residential with commercial and multi-dwelling land uses
- West: Across 47th Street South, LC, Limited Commercial and GO, General Office with daycare, office, and vacant land uses

Area Plans:

The subject properties are identified in the 2003 Southwest Future Land Use Plan as suitable for "Either Office or Commercial" land uses.



Schools and Parks:

Schools: The subject property is located within the West Fargo School District and is served by Independence Elementary, Liberty Middle and Sheyenne High schools.

Neighborhood: The subject property is located in the Brandt Crossing Neighborhood.

Parks: Brandt Crossing Park (351 21st Street North) is located approximately 750 feet west of the subject property and provides basketball, dog park, playground, recreational trails, and shelter amenities.

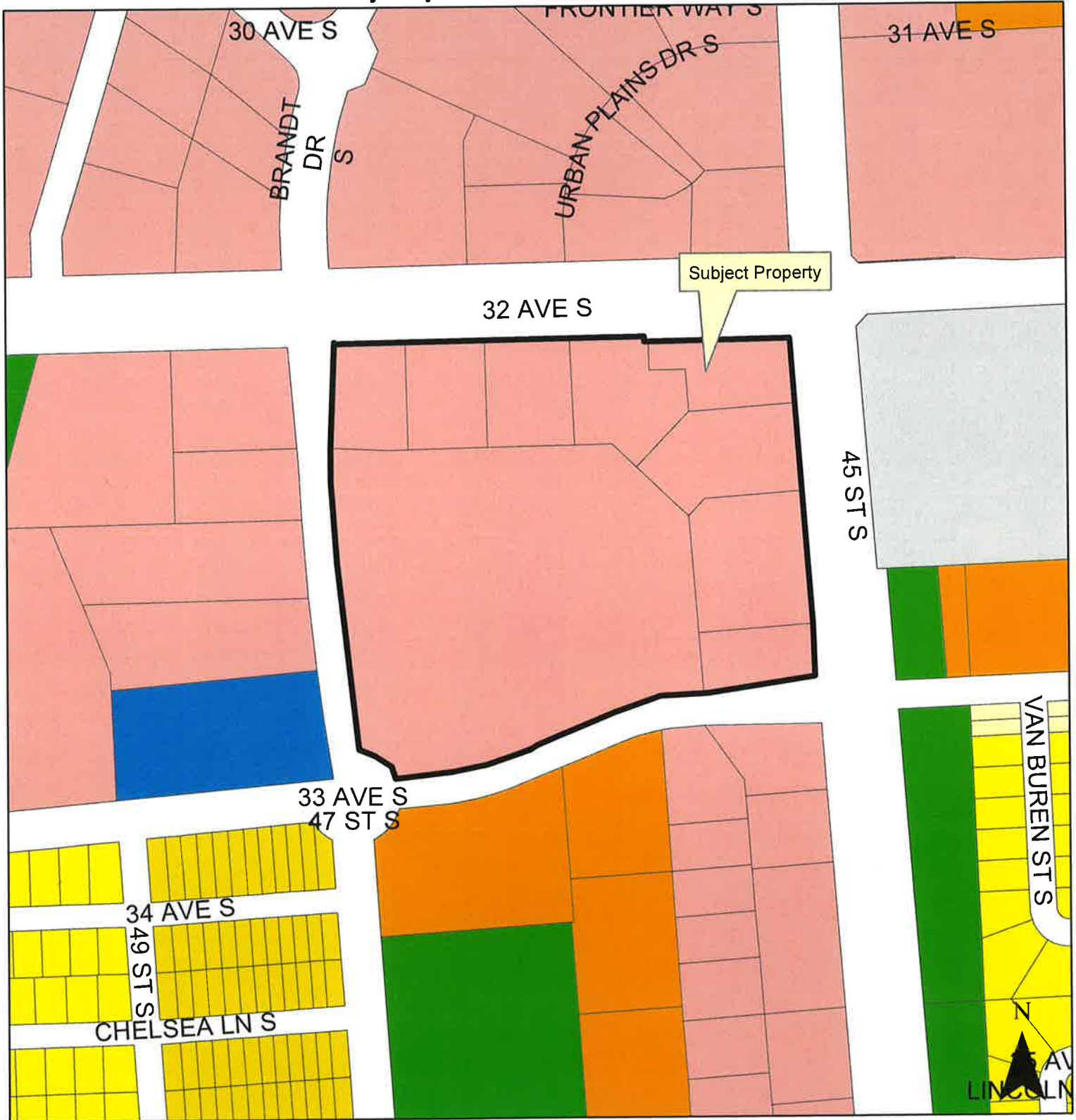
Pedestrian / Bicycle: There are off-road bike facilities located on both 32nd Avenue South and 45th Street South. Both bike facilities are a component of the metro area bikeways system.

Staff Analysis:
<p>Zoning</p> <p>Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:</p> <ol style="list-style-type: none"> <p>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?</p> <p>Staff is unaware of any zoning map error in regards to the subject property. The requested zoning change is justified by a change in conditions since the previous zoning classification was established. The applicant is proposing changes to design standards and screening requirements to allow for greater flexibility. (Criteria Satisfied)</p> <p>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?</p> <p>The development will be served with city services (water, sewer, streets, police/fire protection, etc.) as well as other utility services as needed. Many of the properties along 32nd Avenue South and 45th Street South are either constructed or under construction. The City Engineer and other applicable review agencies have reviewed this proposal. No deficiencies to provide the necessary public services, facilities and programs to this development have been identified. (Criteria Satisfied)</p> <p>3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?</p> <p>Staff has no documentation or evidence that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. The proposed zone change is in keeping with adopted plans approved via public process. In addition, written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has not received any verbal concerns or written comments regarding the proposed overlay zoning change. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity. (Criteria Satisfied)</p> <p>4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?</p> <p>The purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff finds that the proposal is consistent with the purposes of the LDC, the Growth Plan, and other adopted policies of the City. (Criteria Satisfied)</p>
Planning Commission Recommendation: December 5, 2017
<p>On December 5, 2017, with a 5-0 vote, the Planning Commission accepted the findings and recommendations of staff and recommend approval to the City Commission of the proposed zoning change to repeal and reestablish a C-O, Conditional Overlay, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."</p>
Staff Recommendation:
<p>Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission, and hereby waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and move to approve the proposed zoning change to repeal and reestablish a C-O, Conditional Overlay, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."</p>
Attachments:
<ol style="list-style-type: none"> 1. Zoning Map 2. Location Map

Zoning Change (Repeal and Reestablish C-O)

Blu Water Creek Addition, BLU Water Creek 2nd Addition & Bentley Square Addition

3233 and 3265 45 Street S &
4504-4682 32 Ave S & 4507, 4609 33 Ave S



Zoning Change (Repeal and Reestablish C-O)

Blu Water Creek Addition, BLU Water Creek 2nd Addition & Bentley Square Addition

3233 and 3265 45 Street S &
4504-4682 32 Ave S & 4507, 4609 33 Ave S



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

20h1

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND RE-ESTABLISHING
A CONDITIONAL OVERLAY DISTRICT ON CERTAIN
PARCELS OF LAND LYING IN BLU WATER CREEK ADDITION,
BLU WATER CREEK SECOND ADDITION, AND
BENTLEY SQUARE ADDITION,
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 rezoning of certain parcels of land lying in BLU Water Creek Addition, BLU Water Creel Second Addition, and Bentley Square Addition, City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on December 5, 2017; and,

WHEREAS, the rezoning changes were approved by the City Commission on January 2, 2018; and,

WHEREAS, it is intended by this ordinance that the base zoning districts applicable to the property described herein shall remain unchanged and that the intended effect hereof is to repeal one or more a "C-O", Conditional Overlay, District and to re-establish a modified version of a "C-O", Conditional Overlay, District;

NOW, THEREFORE,

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

Section 1. The following described property:

Lots Two (2) through Six (6), Block One (1) of BLU Water Creek Addition to the City of Fargo, Cass County, North Dakota,

is hereby rezoned to retain the base zoning district for said property and to repeal and re-establish the "C-O", Conditional Overlay, District such that the re-established "C-O", Conditional Overlay, District be, and hereby is, as set forth in Section 4 of this ordinance, below,

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 Section 2. The following described property:

2 Lots One (1) through Three (3), Block One (1) of BLU Water Creek Second Addition to
3 the City of Fargo, Cass County, North Dakota,

4 is hereby rezoned to retain the base zoning district for said property and to repeal and re-establish
5 the "C-O", Conditional Overlay, District such that the re-established "C-O", Conditional Overlay,
6 District be, and hereby is, as set forth in Section 4 of this ordinance, below,

6 Section 3. The following described property:

7 Lot Two (2), Block One (1) of Bentley Square Addition to the City of Fargo, Cass
8 County, North Dakota,

9 is hereby rezoned to retain the base zoning district for said property and to repeal and re-establish
10 the "C-O", Conditional Overlay, District such that the re-established "C-O", Conditional Overlay,
11 District be, and hereby is, as set forth in Section 4 of this ordinance, below,

11 Section 4. The "C-O", Conditional Overlay, District terms are as follows:

- 12 1. This Conditional Overlay is intended to provide for a higher quality of design than is
13 afforded by the City of Fargo Land Development Code regarding future commercial and
14 residential development within the described property.
- 15 2. All primary buildings shall be constructed or clad with materials that are durable,
16 economically-maintained, and of a quality that will retain their appearance over time,
17 including but not limited to natural or synthetic stone; brick; stucco; integrally-colored,
18 textured or glazed concrete masonry units; high-quality pre-stressed concrete systems;
19 EIFS (exterior insulation finishing system), glass, metal panes similar to 'Aluco Bond'
20 and synthetic panels similar to 'Trespa'. Natural wood or wood paneling shall not be used
21 as a principal exterior wall material, but durable synthetic materials with the appearance
22 of wood may be used. Horizontal metal lap siding and vertical metal batten shall be
23 allowed on residential and commercial structures but shall not exceed 75% of the
24 building elevation for residential structures and 50% for commercial.

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FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.
4. All building façades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade, and extending at least 20 percent of the length of the façade. No uninterrupted length of any façade shall exceed 150 horizontal feet. An articulated façade would emphasis elements on the face of a wall including change in setback, materials, roof pitch or height.
5. Ground floor façades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 50 percent of their horizontal length. If the façade facing the street is not the front, it shall include the same features and/or landscaping in scale with the façade.
6. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets and/or screens, including but not limited to the back of the structure. The average height of such parapets shall not exceed one third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance of greater than 150 feet.
7. Loading and/or services areas/facilities shall be located at the side or rear of buildings and screened from public streets by structures and/or landscaping, with a minimum opacity of 50%.
8. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain permanent walls on at least three (3) sides The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor; however, if the service side does not face any public right-of-way or residentially zoned property the metal gate shall not be required.
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.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 b) any sidewalks or walkways on adjacent properties that extend to the boundaries
2 shared with the commercial development.

3 c) parking areas or structures that serve such primary buildings.

4 d) connections between the on-site (internal) pedestrian walkway network and any
5 public sidewalk system located along adjacent perimeter streets shall be provided
6 at regular intervals along the perimeter street as appropriate to provide easy access
7 from the public sidewalks to the interior walkway network.

8 e) any public sidewalk system along the perimeter streets adjacent to the commercial
9 development.

10 f) where practical and appropriate, adjacent land uses and developments, including
11 but not limited to residential developments, retail shopping centers, office
12 buildings.

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

16 11. The following uses are prohibited.

17 a) Detention Facilities

18 b) Adult Entertainment Center

19 c) Off-Premise Advertising Signs (directional signs that are less than 50 square feet
20 in size are exempt for this prohibition)

21 d) Portable Signs

22 e) Vehicle Repair

23 f) Industrial Service

 g) Manufacturing and Production

 h) Warehouse and Freight Movement

 i) Aviation/Surface Transportation

Section 5. The City Auditor is hereby directed to amend the zoning map now on file in his
office so as to conform with and carry out the provisions of this ordinance.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 6. This ordinance shall be in full force and effect from and after its passage and approval.

Timothy J. Mahoney, Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

206

City of Fargo Staff Report			
Title:	District of Fargo 3rd Addition	Date:	11/2/2017
		Updated:	12/27/2017
Location:	3751 53 rd Avenue South	Staff Contact:	Donald Kress, senior planner
Legal Description:	Lots 1 through 3, Block 1, District of Fargo 3 rd Addition		
Owner(s)/Applicant:	Batis Properties / Elissa Novotny Leino (Roers)	Engineer:	Roers
Entitlements Requested:	Zoning Change (repeal and re-establish a C-O, Conditional Overlay)		
Status:	City Commission Public Hearing: January 2, 2018		

Existing	Proposed
Land Use: Undeveloped	Land Use: Proposed for restaurant and retail development
Zoning: LC, Limited Commercial with C-O, Conditional Overlay no. 4634	Zoning: LC, Limited Commercial with revised C-O, Conditional Overlay
Uses Allowed: 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. .	Uses Allowed: No change.
Maximum Lot Coverage Allowed: 85%	Maximum Lot Coverage Allowed: 85%

Proposal:
<p>The applicant is requesting a zoning amendment to repeal and re-establish a C-O, Conditional Overlay, on Lots 1 through 3, Block 1, The District of Fargo Third Addition. The subject properties are located at 3751 53rd Avenue South and encompass approximately 3.7 acres.</p> <p>The applicant is proposing modifications in the C-O to accommodate national retail brands as well as to broaden the sign regulations to be more in keeping with the current sign code. (The original C-O was drafted prior to the adoption of the current sign code). In addition to the modifications to the C-O requested by the applicant, Planning staff has worked with the applicant to include additional modifications of the C-O intended to make certain sections of the C-O conform with typical language now used in C-O's since the original C-O was created in 2007 and was one of the first design districts created in the southwest section of Fargo.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: Across 52nd Avenue South, GC, General Commercial, with agricultural and vacant land uses • East: North Dakota Department of Transportation right of way. No zoning designation. Interstate 29 highway use • South: Across 53rd Avenue South, LC, Limited Commercial, with retail and vacant land uses.

- West: Across 38th Street South, LC, Limited Commercial, with vacant land use

Area Plans:

The subject property is located within the 2007 Tier 1 Southwest Land Use Growth Plan. This plan designates the subject property as the most suitable for "Commercial Area" use.

■	Commercial Area
■	Future School
■	Medium High Density or Commercial
■	Proposed Park
■	Residential Area - lower to medium density
■	Residential Area - medium to high density
■	Residential Area - rural



Schools and Parks:

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

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

Parks: The Pines Park (5371 42nd Street S) is located approximately 0.24 miles southwest of the subject property and offers the amenities of baseball, softball, playgrounds, recreational trails, and shelters.

Pedestrian / Bicycle: An off-road bike facility is located along 38th Street South and is a component of the metro area trail system.

Staff Analysis:

PROJECT OBJECTIVE

The proposed modifications to the current C-O, Ordinance 4634, include changes in the following sections of that ordinance in order to accommodate franchise chain stores design considerations. Except for the section regarding sign design, the existing language is presented, as well as the proposed amendment, with language to be added indicated by underline and language to be deleted indicated by ~~strikethrough~~. A staff comment follows each approved amendment. A copy of the revised C-O ordinance, with the changes noted below, is included in your packet.

Architectural Design

Building Exterior Materials

Approved Materials

_(Existing language and proposed amendment both shown on the list below)

- Natural stone
- Synthetic stone products (bottom of stone 6: above grade minimum) Village Shops only

- Integrally colored ground face or split face concrete block
- Brick Masonry (clay fired or concrete cured)
- Wood
- EIFS (~~above 6'-0" above grade~~)
- Accent architectural metal panel (not to exceed 5% of building elevation)
- Architectural steel
- Standing seam metal roofing
- 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 (note to exceed 10% of building elevation.
- Masonry coated with elastomeric finish

Prohibited Materials and Treatments

- Metal wall panels exceeding ~~5%~~ 25% 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.

STAFF COMMENT: This amendment removes the requirement to install EIFS no lower on the building than six feet above grade, thus allowing EIFS to cover the full height of the building wall. The requirement to have EIFS no lower than six feet above grade is based on the fact that EIFS is not a durable material, and keeping EIFS at least six feet above the ground (grade) will limit exposure of this material to incidental damage from pedestrians, snow removal, and vehicles.

This amendment also broadens the allowable materials to include painted CMU block and to increase the allowable metal materials.

Staff is not opposed to these amendments but cautions that the perception and creation of the original CO established design standards that surrounding property owners also comply with. By relaxing these standards it could be perceived as unfair by neighboring properties. In addition, new housing developments, including single family developments, are within ¼ mile of this development. The savvy property owner researched their surrounding zoning prior to investing in building a new house.

Architectural Features

EXISTING LANGUAGE: 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 should not be used. No such improvements shall encroach into bike or street travel lanes.

PROPOSED AMENDMENT: 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 should not be used~~ 7'-0" or as required to meet the International Building Code adopted by the City of Fargo, whichever minimum is greater shall prevail. No such improvements shall encroach into bike or street travel lanes

STAFF COMMENT: Staff has no concerns on this amendment, and the resulting visible difference in the construction will not be significant to the pedestrian or people frequenting the property.

Rooftop Screening

EXISTING LANGUAGE: 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.

PROPOSED AMENDMENT : ~~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.~~ Flat roofs and rooftop mechanical equipment, such as HVAC units, shall be concealed from public view at ground level by parapets or other enclosures.

STAFF COMMENT: Staff agrees that the proposed edits will allow for clarity during permit review and on-site enforcement.

Building Entrances

EXISTING LANGUAGE: 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	43'-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 45'-0"

PROPOSED AMENDMENT : ~~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."~~ Architectural articulation shall be evident at primary entrances with material or massing changes to provide 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	43'-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 45'-0"
Pad Site Building	26'-0"/20'-0"

STAFF COMMENT: The addition of the pad site language is necessary due to this proposed development as pad site development was not in the original development plans. The edits also for more flexibility for the project designers. The original drafting was controlled and suggested by the developers of the Wal-Mart site.

Signage Design:

Note: The "Signage Design" section of the current C-O includes six-and-a-half pages of sign standards (pages 6 through 12 of the attached ordinance), including

- Sign area calculation

- *Types of signs,*
- *Prohibited signs*
- *Maximum sign area*
- *Maximum number of signs of each type within the development*
- *Maximum height of signs*
- *Illumination restrictions*
- *Special requirements*

Of particular concern to staff are the following items.

- *The current C-O prohibits off-premise signs*
- *The maximum tenant pylon sign height is 34'-2"*

These particular items were part of a concept of a "design district" at the intersection of 52nd Avenue south and Interstate 29, seeking to avoid the common highway interchange area look of ever-taller signs competing for the motorist's attention.

The applicant proposes to eliminate the entire "Signage Design" section and replace and instead have signage regulated by the Fargo Sign Code, which would allow off-premise signs as well as tenant pylon signs higher than 34'-2", thus largely defeating the concept of the "design district."

STAFF COMMENT: Counter to the applicant's proposal to remove all sign ordinance controls within the Conditional Overlay ordinance, staff suggests limiting the on-premise signage height to 25'. One pylon to be shared with all three businesses is allowed for proximity next to the interstate with height limit of 60'.

Building Perimeter and Pad Site Foundations

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

Regularly maintained turf areas are acceptable.

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

PROPOSED AMENDMENT: Building foundations shall be planted with ornamental plant material, such as ornamental trees, flowering shrubs and perennials, and ground covers. ~~Landscaping should also include benches.~~

Regularly maintained turf areas are acceptable.

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

STAFF COMMENT: Staff has no concerns with this edit.

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The properties are currently zoned LC: Limited Commercial. The modification to the C-O, conditional overlay, is considered by the developer based on considerations of the national retailers. The original Conditional Overlay was drafted in tandem with staff for a design aesthetic and standards that would apply to the entire shopping center. Now that pad sites are being created the applicant is wanting to modify these standards to make them more universal for individual buyers/business owners. **(Criteria Satisfied)**

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

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

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

While 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; staff is mindful that the surrounding property owners, including nearby residential property developers considered the existing zoning and design standards when purchasing and developing their land. In addition, the existing standards are somewhat representative of the direction and vision adopted by previous commissions and can be seen as similar ordinance language on the other intersections of the interstate exchange. Each interchange intersection has been customized per design standards relative to the entire 52nd Ave corridor in addition to reflection of the abutting residential neighborhoods.

Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has not received any comments. 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 project site is included within the 2007 Tier 1 Southwest Land Use Growth Plan. This plan designates the subject properties as "Commercial" land use. The existing zoning, C-O, and proposed development are consistent with that land use designation. 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."

Though the applicant's request is to amend certain design standards, staff recommends that these amendments be kept to a minimum, as staff does not wish to lose sight of the direction of Fargo's comprehensive plan, Go2030. This plan sets "design standards" and "quality development" among its goals necessary "to create the Fargo desired by the community in 2030," and notes that "it is critical that every project be thought about over the course of its entire lifecycle," and not just be considered as what will sell in the short term. Quality development allows the larger community to get lasting value out of a project. Though Go2030 does not specify particular design standards, it makes clear that design standards back up quality development by not only improving the appearance of the city but also improving the health and safety of residents. One emphasis of both design standards and quality development is walkability. Even though the development proposed on this site is largely auto-oriented, that does not mean that elements of walkability should be dismissed. Likewise, amendments to

design standards should be minimized in order to keep with the original vision of The District of Fargo, which is to “set a high quality of design compatibility throughout The District and establish a sense of commercial destination demonstrating a clearly defined district.” The intent statement that accompanies the original District of Fargo plan advocates that the architectural design standards will establish “an attractive, comfortable environment where people can shop and work in a stimulating community atmosphere.” With the above commentary in mind, staff does find that this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. At the same time, staff is respectful of the Planning Commission and City Commission who may desire to provide commentary and guidance related to design standards as they are applied along key locations at the city as the positions stated as part of this case review could be precedent setting to other design districts/ conditional overlays along the 52nd Avenue corridor. **(Criteria satisfied)**

Planning Commission Recommendation: November 7, 2017

On November 7, 2018, by a vote of 9-0, the Planning Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed: zone change to repeal and re-establish a C-O, Conditional Overlay on Lots 1 through 3, Block 1, The District of Fargo Third Addition, as presented; as the proposal complies with the LDC Sections 20-0906.F (1-4) and all other applicable requirements of the LDC.

Staff Recommendation: January 2, 2018

Suggested Motion: “To accept the findings and recommendations of staff and the Planning Commission, and hereby waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and approve the proposed zone change to repeal and re-establish a C-O, Conditional Overlay on Lots 1 through 3, Block 1, The District of Fargo Third Addition, as presented; as the proposal complies with the LDC Sections 20-0906.F (1-4) and all other applicable requirements of the LDC.”

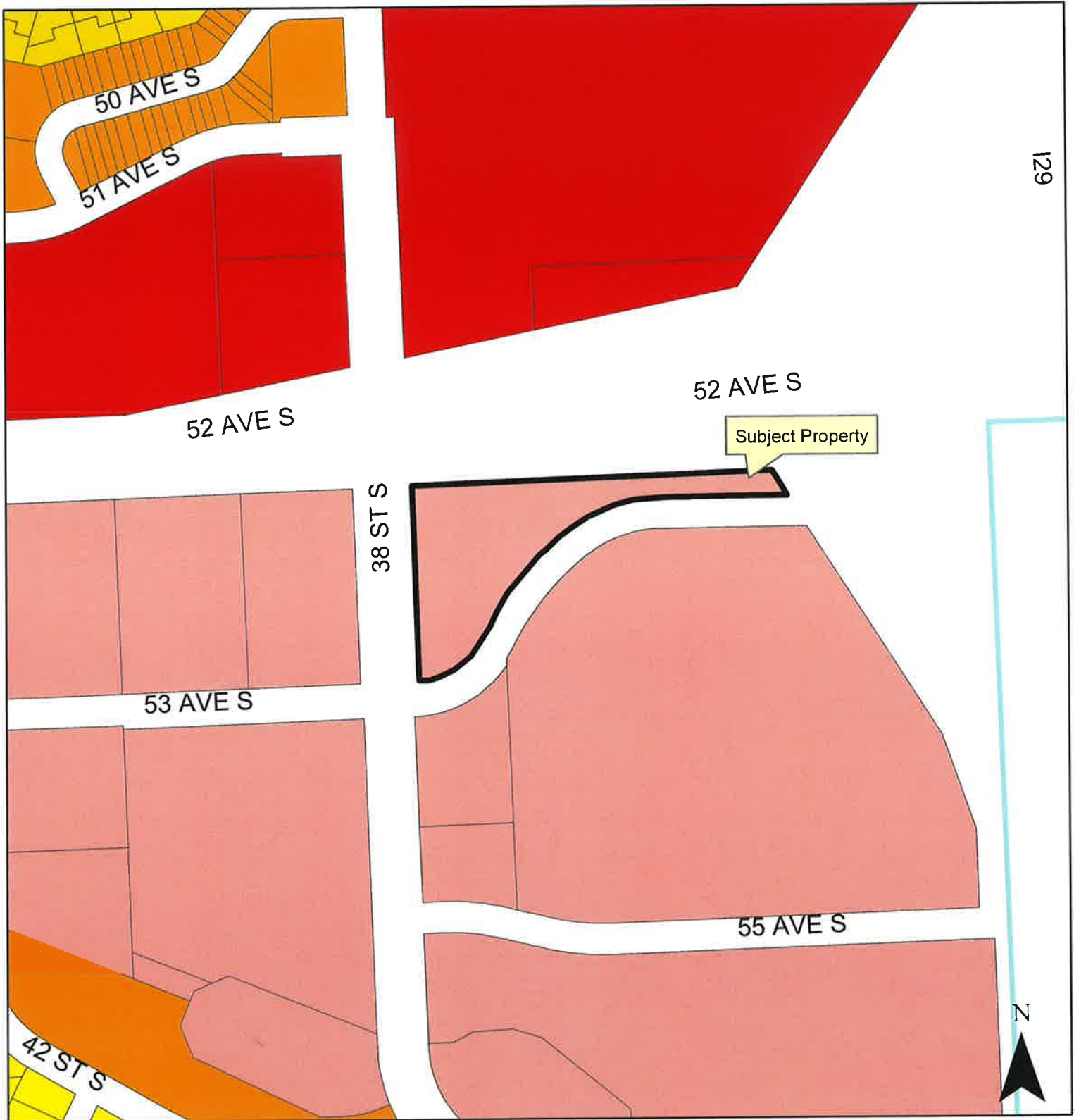
Attachments:

1. Zoning Map
2. Location Map

Zone Change (Repeal and Reestablish C-O)

The District of Fargo 3rd Addition

3751 53rd Avenue South



Legend

AG	LC	MHP	SS
DMU	LC	NC	SS
GC	MR-1	NO	SS
GO	MR-2	P/I	SS
	MR-3	UMU	SS
			City Limits

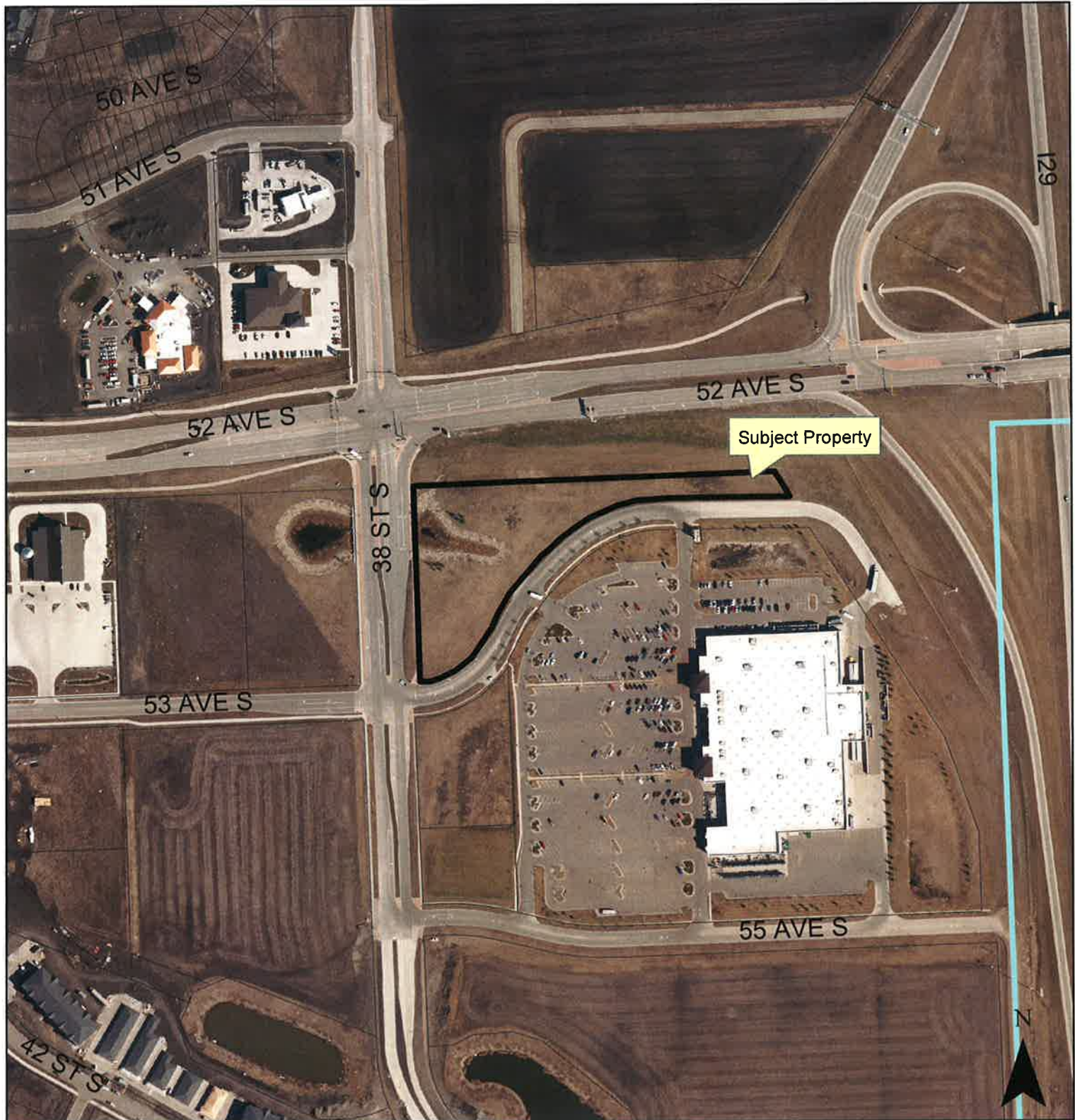
300

Feet

Zone Change (Repeal and Reestablish C-O)

The District of Fargo 3rd Addition

3751 53rd Avenue South



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ORDINANCE NO. _____

AN ORDINANCE REPEALING AND RE-ESTABLISHING
A CONDITIONAL OVERLAY DISTRICT ON CERTAIN
PARCELS OF LAND LYING IN THE DISTRICT OF
FARGO THIRD ADDITION,
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 rezoning of certain parcels of land lying in The District of Fargo Third Addition, City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on November 7, 2017; and,

WHEREAS, the rezoning changes were approved by the City Commission on January 2, 2018; and,

WHEREAS, it is intended by this ordinance that the base zoning districts applicable to the property described herein shall remain unchanged and that the intended effect hereof is to repeal one or more a "C-O", Conditional Overlay, District and to re-establish a modified version of a "C-O", Conditional Overlay, District;

NOW, THEREFORE,

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

Section 1. The following described property:

All of The District of Fargo Third Addition to the City of Fargo, Cass County, North Dakota,

is hereby rezoned to retain the base zoning district for said property and to repeal and re-establish the "C-O", Conditional Overlay, District such that the re-established "C-O", Conditional Overlay, District be, and hereby is, as set forth below:

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Conflicting Provisions

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

Definitions

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

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

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

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

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

Architectural Design

Building Exterior Materials

Approved Materials:

- Natural stone
- Synthetic stone products (bottom of stone 6" above grade minimum) Village Shops only
- Integrally colored ground face or split face concrete block
- Brick Masonry (clay fired or concrete cured)
- Wood
- EIFS
- Accent architectural metal panel (not to exceed 5% of building elevation)
- Architectural steel

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- Standing seam metal roofing
- 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)
- Masonry coated with elastomeric finish

Prohibited Materials and Treatments:

- Metal wall panels exceeding 25% of building elevation.
- 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 7'-0" or as required to meet the International Building Code adopted by the City of Fargo, whichever minimum is greater shall prevail. No such improvements shall encroach into bike or street travel lanes.

Roof Top Screening

Flat roofs and rooftop mechanical equipment, such as HVAC units, shall be concealed from public view at ground level by parapets or other enclosures.

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:

- Canopies, awnings or porticos
- Recesses/projections varying the facade
- 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 with material or massing changes to provide 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"
Pad Site Building	26'-0"/20'-0"

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

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as wide as the glazing system at the entry.

Building Elevations

Break down building massing to a human scale eliminating uninterrupted flat façades 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 land 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 for 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.
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

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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 I-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

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

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1 is located. One pylon sign to be shared with all three businesses is allowed for proximity
2 next to the Interstate with a height limit of 60 ft. Otherwise off site signs are not permitted
3 except as indicated in the Signage Master plan.

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

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

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

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

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

Wall Signs

Sign Criteria	
Maximum Sign Area	Major and Sub-Major Tenants: <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:	25'0"
Illumination:	Concealed illumination or up lights with shielded fixtures
Special Requirements:	

Monument 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 façade abutting customer parking areas. Such walkways should be located at least six feet (6’) from the façade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the façade.

Public Rights-of-Way

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

At last 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.
- 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.

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FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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 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 projects 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

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

3 **Parking**

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

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

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

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

- 20 • Are separated from each other by landscaping, access drives or public streets,
21 pedestrian walkways or buildings.
- 22 • Have a consistent design angles for all parking within the block.
- 23 • 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.

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.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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

Parking Lot Landscaping

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

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

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

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Building Perimeter and Pad Site Foundations

Building foundations shall be planted with ornamental plant material, such as ornamental trees, flowering shrubs and perennials, and ground covers.

Regularly maintained turf areas are acceptable.

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

Service Area, Loading Dock and Utility Device Screening

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

Service areas must double (2x) the open space landscaping requirements

See requirements of Plant Material Standards & Upgrades.

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

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 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.

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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
- 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

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ORDINANCE NO. _____

Organic and Inorganic Mulches and Landscape Materials

The following mulches shall be used as described below:

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

Timothy J. Mahoney, Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:



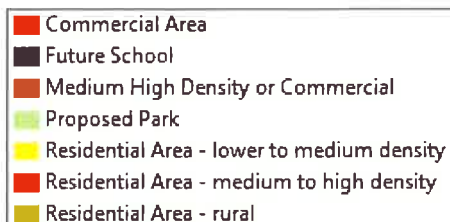
City of Fargo Staff Report			
Title:	The District of Fargo 3 rd Addition	Date: Updated:	9/27/2017 12/27/2018
Location:	3751 53 rd Avenue South	Staff Contact:	Donald Kress, senior planner
Legal Description:	Lot 1, Block 6, The District of Fargo Addition		
Owner(s)/Applicant:	Batis Development/Jeremy Easum (Roers)	Engineer:	Roers
Entitlements Requested:	Minor Subdivision (Replat of Lot 1, Block 6, The District of Fargo Addition and Sidewalk Waiver on Lots 1-3, Block 1 of the proposed plat)		
Status:	City Commission Public Hearing: January 2, 2018		

Existing	Proposed
Land Use: Undeveloped	Land Use: Commercial
Zoning: LC, Limited Commercial with C-O, Conditional Overlay no. 4634	Zoning: No change
Uses Allowed: 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.	Uses Allowed: No change
Maximum Lot Coverage Allowed: 85%	Maximum Lot Coverage Allowed: No change

Proposal:
<p>The applicant requests a minor subdivision, entitled The District of Fargo Third Addition, which is a replat of Lot 1, Block 6, The District of Fargo Addition into a three lot, one block subdivision. Lot sizes will range between 0.90 and 3.70 acres in area. The applicant also requests a Sidewalk Waiver to waive the requirements that the public sidewalk be extended along the full length of the property frontage of Lot 3 of the proposed plat.</p> <p>The property is zoned LC, Limited Commercial. No zone change is proposed. The existing conditional overlay applies design standards to development in The District of Fargo Addition.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: Across 52nd Avenue South, GC, General Commercial, with agricultural and vacant land uses • East: North Dakota Department of Transportation right of way. No zoning designation. Interstate 29 highway use • South: Across 53rd Avenue South, LC, Limited Commercial, with retail and vacant land uses. • West: Across 38th Street South, LC, Limited Commercial, with vacant land use

Area Plans:

The subject property is located within the 2007 Tier 1 Southwest Land Use Growth Plan. This plan designates the subject property as the most suitable for "Commercial Area" use.

**Schools and Parks:**

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

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

Parks: The Pines Park (5371 42nd Street S) is located approximately 0.24 miles southwest of the subject property and offers the amenities of baseball, softball, playgrounds, recreational trails, and shelters.

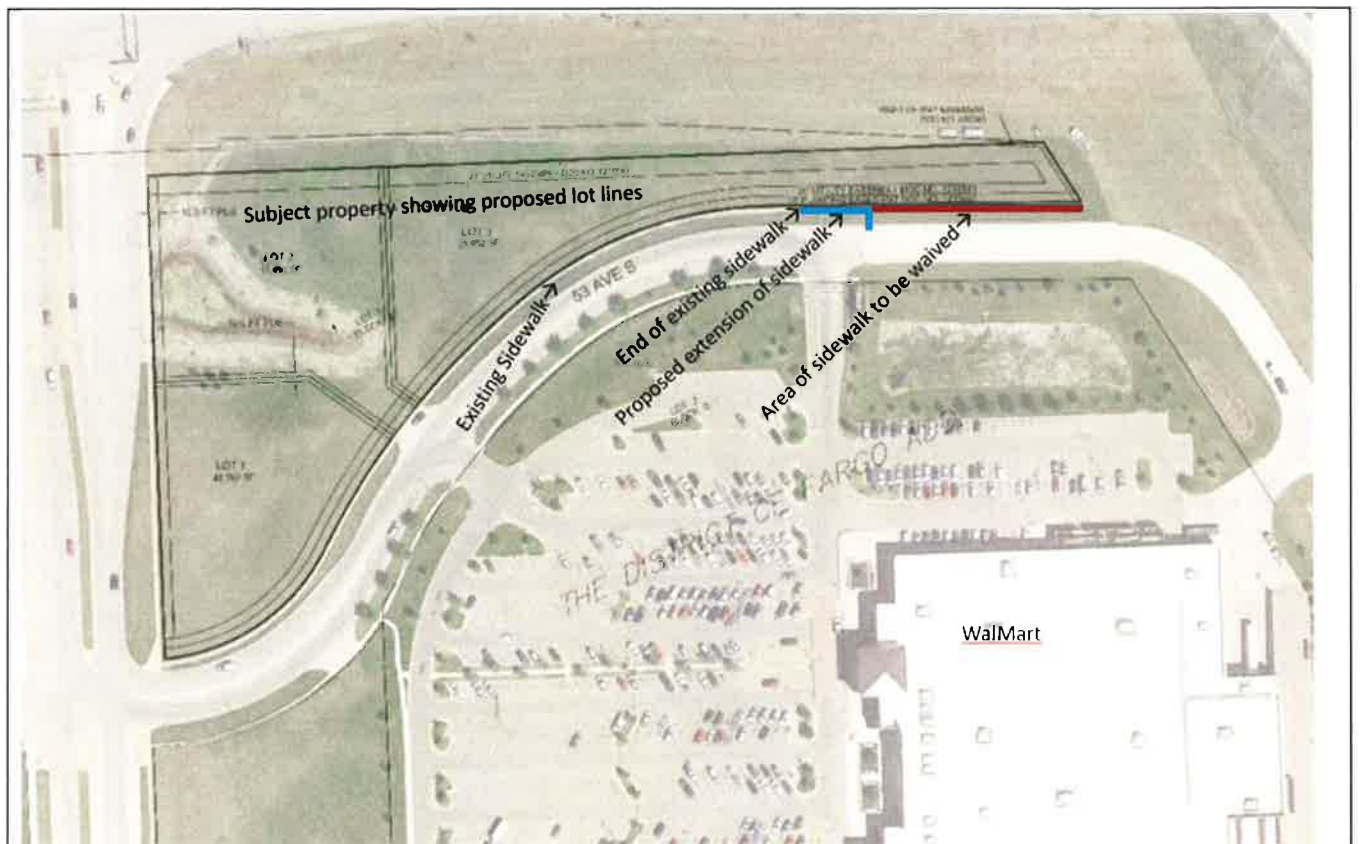
Pedestrian / Bicycle: An off-road bike facility is located along 38th Street South and is a component of the metro area trail system.

Staff Analysis:

ACCESS: The lots will take access from 53rd Avenue South, an existing dedicated public street.

PUBLIC WATER AND SEWER: Public water and sewer area available in 53rd Avenue South.

SIDEWALK WAIVER: The applicant requests a subdivision waiver for the sidewalk requirements ("sidewalk waiver") that are stated in Section 20-0609 of the LDC. Specifically, the applicant requests that the requirement to extend the existing sidewalk along 53rd Avenue South further eastward along the full length of the property frontage of proposed Lot 3 be waived. As an alternative, the applicant proposes that the existing sidewalk be extended approximately 70 feet to the east and a crosswalk be provided for to align with a short sidewalk on the east side of the driveway entrance to WalMart, as depicted in the graphic below



City staff has determined that extending the existing sidewalk the full width of the property frontage along 53rd Avenue South would serve no purpose of connectivity or accessibility, as the sidewalk is blocked from extension to the east beyond the property by the right of way for Interstate 29. Additionally, as 53rd Avenue South continues past the driveway entrance to Walmart, it terminates as an entrance to the WalMart loading dock, an area not intended for pedestrians. Findings for the sidewalk waiver are below.

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

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

The subject property is located within the 2007 Growth Plan. This plan designates the subject property as the most suitable for "Commercial" land use. The zoning for the project site is LC, Limited Commercial, which falls within the "Commercial" land use designation. This zoning will accommodate the proposed commercial development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no comment or inquiries from the public. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code.

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

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

The LDC stipulates that the following criteria are met before a sidewalk waiver can be approved:

- 1. Section 20-0907.D.3.a of the LDC stipulates that a Subdivision Waiver must not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the area in which the property is located.**

Extending the existing sidewalk the full width of the property frontage of proposed Lot 3 along 53rd Avenue South would serve no purpose of connectivity or accessibility, as the sidewalk is blocked from extension beyond the property by the right of way for Interstate 29. Additionally, as 53rd Avenue South continues past the driveway entrance to Walmart, it terminates as an entrance to the WalMart loading dock, an area not intended for pedestrians. Approval of the sidewalk waiver does not cut off access to adjacent properties.

- 2. Section 20-0901.D.3.b of the LDC stipulates that a Subdivision Waiver must represent the least deviation from this Land Development Code that will mitigate the hardship or practical difficulty that exists on the subject property.**

Approval of the sidewalk waiver would waive the requirement to construct approximately 220 feet of sidewalk which would have no further connection to the east of the subject property.

- 3. Section 20-0907.D.3.c of the LDC stipulates that a Subdivision Waiver shall not have the effect of waiving any provisions of this development code other than the Subdivision Design and Improvement Standards of Article 20-06.**

Only the sidewalk requirement of Section 20-0609 of the LDC would be affected by approval of this waiver.

Planning Commission Recommendation: October 3, 2017

On October 3, 2017, by a vote of 8-0 with two Commissioners absent, the Planning Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed 1) **The District of Fargo Third Addition** subdivision plat; and 2) Sidewalk Waiver, as presented, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06 of the LDC and all other applicable requirements of the LDC."

Staff Recommendation: January 2, 2018

Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission and approve the proposed 1) **The District of Fargo Third Addition** subdivision plat; and 2) Sidewalk Waiver, as presented, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06 of the LDC and all other applicable requirements of the LDC."

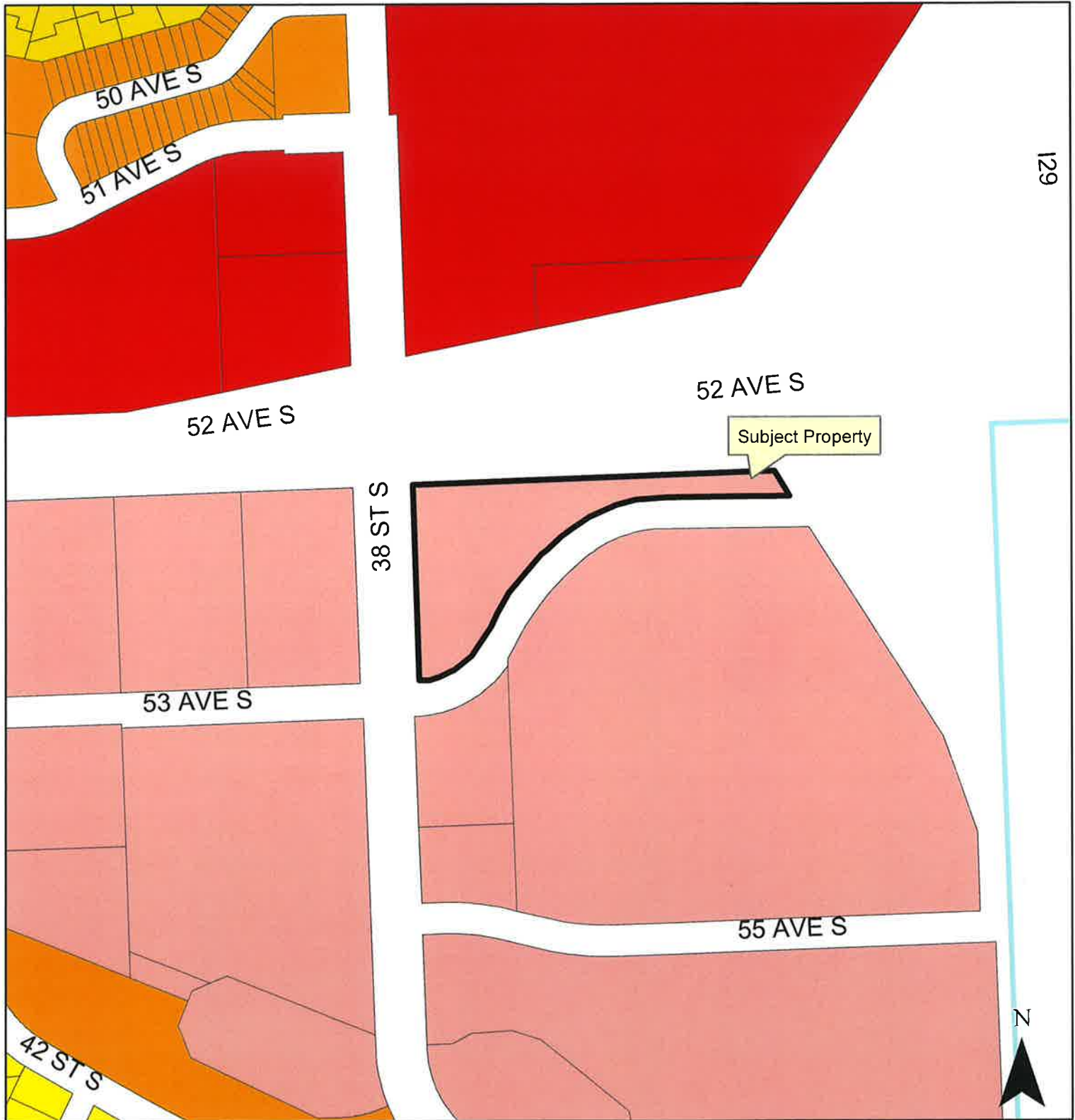
Attachments:

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

Plat (Minor) & Sidewalk Waiver

The District of Fargo 3rd Addition

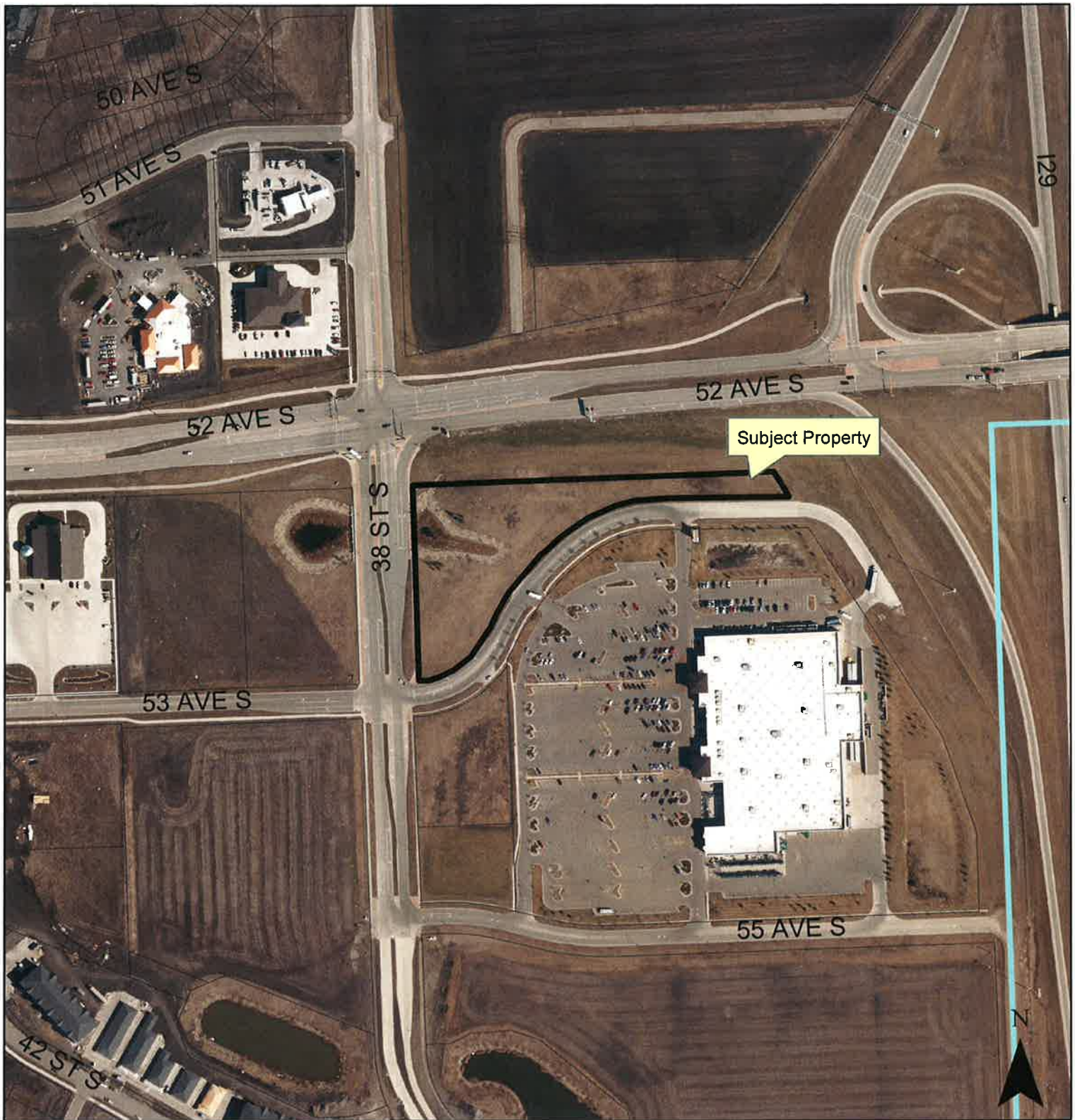
3751 53rd Avenue South



Plat (Minor) & Sidewalk Waiver

The District of Fargo 3rd Addition

3751 53rd Avenue South



BEING A REPLAT OF LOT 1 BLOCK 6 OF THE DISTRICT OF FARGO ADDITION
WITHIN THE NE 1/4 SECTION 3, TOWNSHIP 138 NORTH, RANGE 49 WEST
CITY OF FARGO, CASS COUNTY, ND
(A MINOR SUBDIVISION)



THE DISTRICT OF FARGO 3RD ADDITION

BEING A REPLAT OF LOT 1 BLOCK 6 OF THE DISTRICT OF FARGO ADDITION
WITHIN THE NE 1/4 SECTION 3, TOWNSHIP 138 NORTH, RANGE 49 WEST
CITY OF FARGO, CASS COUNTY, ND
(A MINOR SUBDIVISION)

OWNER'S DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, THAT BATIS DEVELOPMENT COMPANY A NORTH DAKOTA CORPORATION WHOSE ADDRESS IS TOPICA, KANSAS AS OWNER OF A TRACT OF LAND LOCATED IN THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT 1 BLOCK 6 OF THE DISTRICT OF FARGO ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, SAID TRACT OF LAND CONTAINS 3.886 ACRES, MORE OR LESS AND IS SUBJECT TO EASEMENTS AS MAY BE OF RECORD.

SAID OWNERS HAVE CAUSED THE ABOVE DESCRIBED TRACT OF LAND TO BE SURVEYED AND PLATTED AS "THE DISTRICT OF FARGO 3RD ADDITION" TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, AND DO HEREBY DEDICATE TO THE PUBLIC, FOR PUBLIC USE, ALL UTILITY EASEMENTS AS SHOWN ON THIS PLAT.

BATIS DEVELOPMENT COMPANY

BY: MATTHEW D. WERNER, VICE PRESIDENT

STATE OF KANSAS)
COUNTY OF SHAWNEE) ss

ON THIS _____ DAY OF _____, IN THE YEAR OF 2017, BEFORE ME PERSONALLY APPEARED MATTHEW D. WERNER, VICE PRESIDENT, BATIS DEVELOPMENT COMPANY, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC, SHAWNEE COUNTY, KANSAS

CITY OF FARGO PLANNING COMMISSION APPROVAL

APPROVED BY THE CITY OF FARGO PLANNING COMMISSION ON THIS _____ DAY OF _____, 2017.

SHARA FISCHER, CHAIR
FARGO PLANNING COMMISSION

STATE OF NORTH DAKOTA)
COUNTY OF CASS) ss

ON THIS _____ DAY OF _____, 2017, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED SHARA FISCHER, PLANNING COMMISSION CHAIR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, DOUGLAS W. KUMMER, PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT I HAVE SURVEYED AND PLATTED "THE DISTRICT OF FARGO 3RD ADDITION" TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA; THAT THIS PLAT IS A CORRECT REPRESENTATION OF SAID SURVEY; THAT ALL MONUMENTS ARE OR WILL BE INSTALLED CORRECTLY IN THE GROUND AS SHOWN.

DATED THIS _____ DAY OF _____, 2017.

DOUGLAS W. KUMMER, PROFESSIONAL LAND SURVEYOR
NORTH DAKOTA LICENSE NO. 1225

STATE OF NORTH DAKOTA)
COUNTY OF CASS) ss

ON THIS _____ DAY OF _____, 2017, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED DOUGLAS W. KUMMER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

FARGO CITY COMMISSION APPROVAL

APPROVED BY THE BOARD OF CITY COMMISSIONERS AND ORDERED FILED THIS _____ DAY OF _____, 2017.

TIMOTHY J. MAHONEY, MAYOR

STEVEN SPRAGUE, CITY AUDITOR

STATE OF NORTH DAKOTA)
COUNTY OF CASS) ss

ON THIS _____ DAY OF _____, 2017, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TIMOTHY J. MAHONEY, MAYOR, AND STEVEN SPRAGUE, CITY AUDITOR, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED "THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME IN THE NAME OF THE FARGO CITY COMMISSION

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

APPROVED BY CITY ENGINEER THIS _____ DAY OF _____, 2017.

MARK H. BITTNER, CITY ENGINEER

STATE OF NORTH DAKOTA)
COUNTY OF CASS) ss

ON THIS _____ DAY OF _____, 2017, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED MARK H. BITTNER, CITY ENGINEER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

PROPERTY OWNER:
Batis Development Company
1000 13th Street SW
Suite 200
Fargo, ND 58103
Phone: 701-774-4400

LAND SURVEYOR:
Batis Professional, Inc.
1000 13th Street SW
Suite 200
Fargo, ND 58103
Phone: 701-358-5650

SHEET 2 OF 2

(20j)

City of Fargo Staff Report			
Title:	Harwood's Addition	Date:	11-29-2017
		Update:	12-15-2017
Location:	703 and 707 10th Street North	Staff Contact:	Barrett Voigt
Owner(s)/Applicant:	710 Lofts, LLC/Kevin Bartram	Engineer:	None
Entitlements Requested:	Planned Unit Development (PUD) amendment to Master Land Use Plan on Lots 17–18 and portions of Lots 1–2, Block 4, of Harwood's Addition		
Status:	City Commission Public Hearing: January 2, 2017		

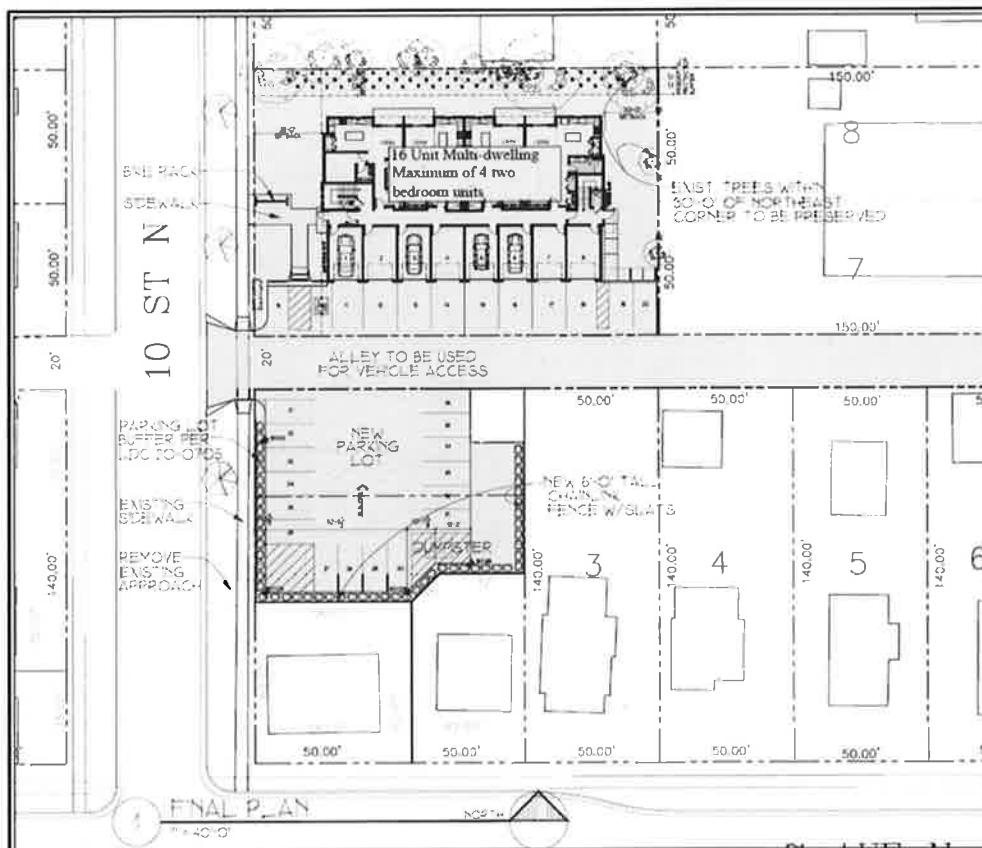
Existing	Proposed
Land Use: Multi-Dwelling Residential	Land Use: No Change
Zoning: MR-3, Multi-Dwelling Residential with a PUD Overlay and MR-3, Multi-Dwelling Residential	Zoning: MR-3, Multi-Dwelling Residential with a PUD Overlay
Uses Allowed: MR-3, Multi-Dwelling allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	Uses Allowed: No Change
Maximum Density Allowed: Maximum of 38 units per acre (per PUD)	Maximum Density Allowed: Maximum 32 units per acre (per PUD)

Proposal:
<p>The applicant is seeking approval of an amended zoning ordinance to include a PUD overlay amendment to the Planned Unit Development (PUD) Master Land Use Plan and Final Plan to incorporate an additional land parcel for a multi-dwelling development. The subject properties are located at both 703 and 707 10th Street North (Lots 17–18 and portions of Lots 1–2, Block 4, of Harwood's Addition) and encompasses approximately 0.509 acres.</p>

Prior to this application, a zoning map amendment to establish PUD overlay was approved for the property of 707 10th Street North to allow for the current three story multi-dwelling structure and adjoining parking lot area. After the construction of the development was complete, the applicant had a change in business plans. The applicant would like to include an additional parcel south of the property (703 10th Street North) into the PUD development to provide additional parking, dumpster area, and an area for snow removal storage.

The PUD amendment application would request that the property maintain the right to exceed LDC dimensional standard requirements and continue to provide 16 units. However, the amendment would expand the geographical area of the PUD onto the southern parcel to provide 9 additional parking stalls. In exchange, the parcels south of the alley would provide an opaque 6-foot fence on the south and eastern property lines and a parking lot buffer that meets LDC §20-0705 along the western property line. In addition, the driveway access point onto 10th Street North would be removed and replaced with a standard boulevard improvement. For additional information, please refer to the illustration below and the attached draft PUD ordinance.

On November 28th, staff facilitated an open-house meeting to solicit comments on the application proposal. As a result, one (1) citizen attended the meeting and provided written comments in support of the project. For further information, please see the attached comments provided with the report.



Proposed parking lot expansion

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

Surrounding Zoning and Land Uses Include:

North: SR-3, Single-Dwelling Residential, with detached housing use;

East: MR-3, Multi-Dwelling Residential, with multi-dwelling use;

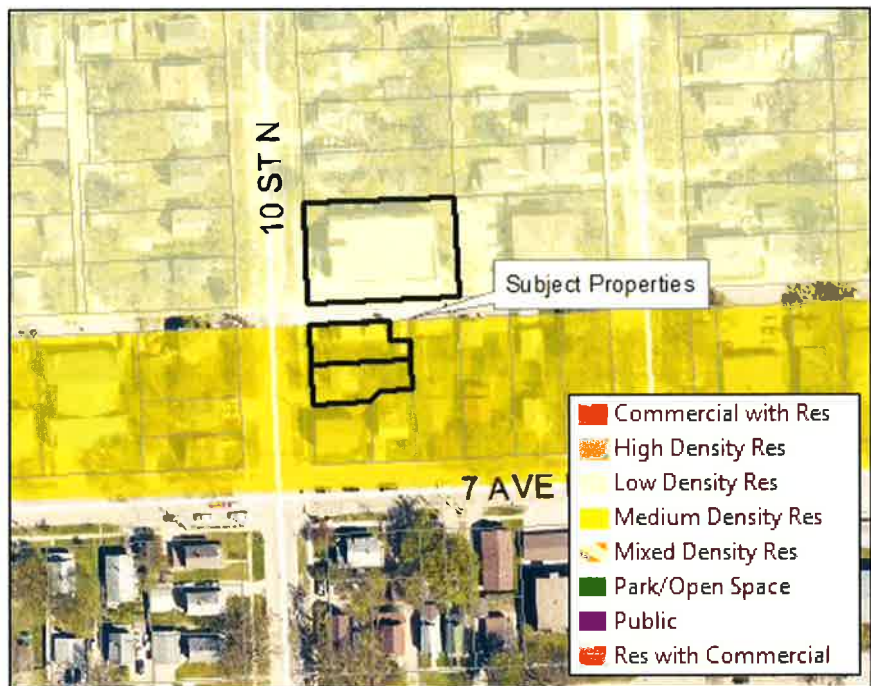
South: MR-3, Multi-Dwelling Residential, with multi-dwelling and detached housing use;

West: 10th Street North directly abuts the property, with SR-3, Single-Dwelling Residential, and MR-3, Multi-Dwelling Residential across the street, with detached housing and a multi-dwelling uses.

Area Plans:

The subject properties are located within the Roosevelt–NDSU Neighborhood. The Roosevelt–NDSU Neighborhood Plan was adopted in 2004 to address the escalating issues of parking, over-occupancy, loud parties, housing transitions from owner-occupancy to renter-occupancy, and property maintenance.

One goal outlined in the plan is to stabilize the neighborhood's housing stock. Within this goal, the plan notes strategies that encourage a balanced mix of quality housing.



A Future Land Use Plan for the Roosevelt–NDSU Neighborhood (adopted in late 2009 as an amendment to the 2004 Neighborhood Plan) was created to provide a framework for development and to provide guidance in decision making for homeowners, landlords, and developers. The Future Land Use Plan identifies this area as being appropriate for "Low Density Residential" and "Medium Density Residential" land uses.

Schools and Parks:

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

Neighborhood: The subject properties are located in the Roosevelt Neighborhood.

Parks: There are no parks located within a quarter-mile of the subject properties.

Pedestrian/Bicycle: An on-road bike facility is located along 10th Street North, which abuts the subject properties, and connects to the metro area trail system.

Staff Analysis:

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The requested zoning change resulted from a change in conditions of an opportunity to expand the parking lot for the development.

(Criteria Satisfied)

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

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

(Criteria Satisfied)

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

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. In addition, an open house was held on November 28th. One resident attended the meeting and there were no objections.

(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 proposed amendment is consistent with the LDC, the Go2030 Comprehensive Plan, and the Future Land Use Plan for the Roosevelt–NDSU Neighborhood in that the parking lot addition

provides an additional amenity for high quality housing near NDSU in an area demarcated for medium density residential land use.

(Criteria Satisfied)

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

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

The plan represents an improvement over what could have been accomplished through strict application of the base MR-3 zoning district. In exchange for allowing more units per acre than what the MR-3 zoning designation allows, the applicant is proposing to provide more parking, a snow removal storage area, and aesthetic site improvements. This PUD will continue to provide and maintain the improvements provided with the original PUD. See attached Master Plan for additional details.

(Criteria Satisfied)

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

Staff has reviewed the PUD Master Land Use Plan and found that it complies with the PUD standards of §20-0302. The PUD modifies the maximum number of units allowed in the MR-3 zoning district per LDC §20-0501. The LDC only allows for 12 units on the proposed site. The prior PUD has allowed and would continue to allow for 16 units. However, the number of parking stalls will increase from 27 to 36 stalls and meet current parking ratio standards. All standards and requirements as set forth in the LDC have been met.

(Criteria Satisfied)

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

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

(Criteria Satisfied)

- 4. The development is consistent with and implements the planning goals and objectives contained in the Area Plan, Comprehensive Plan and other adopted policy documents;**

The PUD is consistent with planning objectives set forth in the City Comprehensive Plan. The development proposal aligns with the Go2030 Key Initiatives of:

- Promote Infill
- Quality New Development

- High Quality Affordable Housing near NDSU
(Criteria Satisfied)

5. The PUD Master Land Use Plan is consistent with sound planning practice and the development will promote the general welfare of the community.

The PUD is consistent with sound planning practice and the development will promote the general welfare of the community. The PUD would provide an improvement to the overall aesthetics of the property and maintain the increased density within a core area of the City.

(Criteria Satisfied)

Planning Commission Recommendation: December 5, 2017

On December 5, 2017, with a 5-0 vote, the Planning Commission accepted the findings and recommendations of staff and recommended approval to the City Commission of the proposed: 1) Amend the zoning ordinance to include a PUD overlay amendment to the PUD Master Land Use Plan, and approve: 2) the PUD Final Plan, contingent on City Commission approval of the PUD Master Plan, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0908.B (7), and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission, and hereby waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and move to approve the proposed: 1) Amend the zoning ordinance to include a PUD overlay amendment to the PUD Master Land Use Plan, and approve: 2) the PUD Master Plan, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Section 20-0908.B (7), and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

Attachments:

1. Zoning Map
2. Location Map
3. Narrative submitted by Applicant
4. PUD Master Land Use Plan
5. PUD Ordinance
6. Comments

PUD

Harwood's Addition

703 & 707 10th Street North



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

Fargo Planning Commission

December 5, 2017

300

Feet



Harwood's Addition

703 & 707 10th Street North



710 LOFTS PUD NARRATIVE 20 OCT 17

Donald/Barrett,

Following is a quick narrative per our conversation this morning. Please review it and let me know if you feel anything should be added or modified.

"After completing the 710 Lofts project we were contacted by the Owner of the home at 703 10th Street about purchasing the property. The home was run down, was an eyesore, and frequently had cars parked in the yard so we agreed to purchase the property with the idea of demolishing it to clean up the property and enhance the appearance of our 710 Lofts project. It also provides us the chance to add some additional overflow parking along with space to pile snow in the winter. The parking improvements include removal of an existing approach to 10th Street, a new fence around the perimeter of the property and additional landscaping. The site will be sloped toward the existing alley for drainage."

Thanks.

Kevin Bartram

M | B | A |

505 North Broadway, Suite 201

Fargo, North Dakota 58102



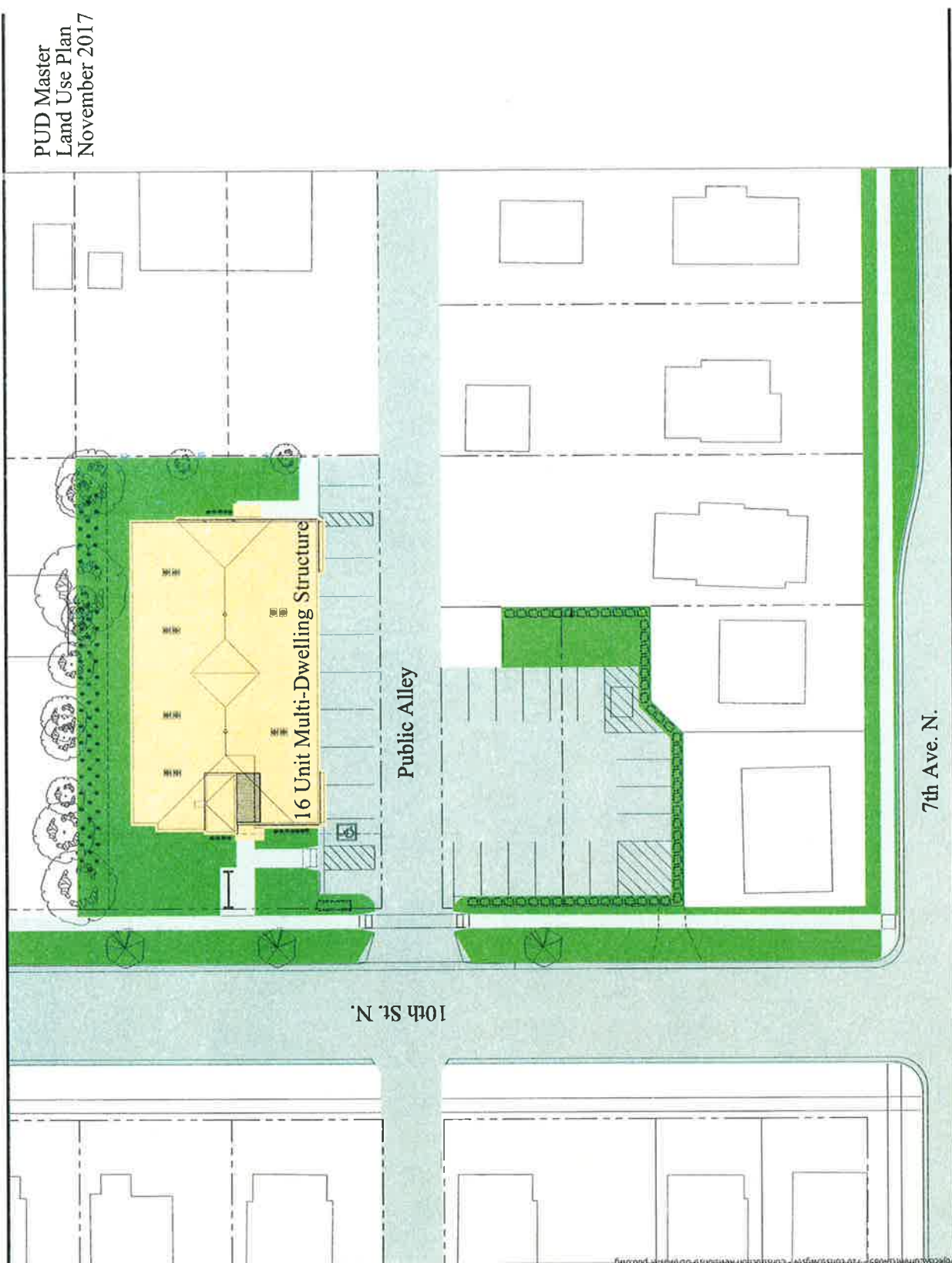
(701) 235-5563



(701) 235-5435



kbartram@mbapc.com



Comment Sheet

Neighborhood Meeting – November 28, 2017

Contact Information

Please Print

Property Owner Name: Martha Berryhill

Address of Property: formerly 1354-12 St N

Mailing Address (if different than above) 2437 Lilac Ln

Phone Number: _____

Email: _____

Comments:

Harwood Addition - seems like a good thing. Note
that neighbors and RNA reps said more parking
was needed when original plan was going through
planning. No one listened to neighborhood.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

20j1

AN ORDINANCE AMENDING THE PLANNED UNIT
DEVELOPMENT USE MASTER LAND USE PLAN
AND FINAL PLAN FOR CERTAIN PARCELS
OF LAND LYING IN HARWOOD'S ADDITION
TO THE CITY OF FARGO

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 amendment to Planned Unit Development (PUD) Master Land Use Plan and Final Plan of certain parcels of land lying in Harwood's Addition, Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the requested amendment to the PUD Master Land Use Plan and Final Plan on December 5, 2017; and,

WHEREAS, the Planned Unit Development Master Land Use Plan amendment was approved by the City Commission on January 2, 2018,

NOW, THEREFORE,

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

Section 1. The following described property:

That part of Lots One (1) and Two (2), in Block Four (4), of Harwood's Addition to the City of Fargo, Cass County, North Dakota, described as follows: Beginning sixty (60) feet north of the southwest corner of Lot One (1); thence east fifty-eight (58) feet parallel with the south line of said Block; thence in a northeasterly direction fifteen (15) feet to a point which is thirty-two (32) feet west of the east line of Lot Two (2); thence east parallel to the south line of said Block, thirty-two (32) feet to the east line of Lot Two (2); thence north to a point forty (40) feet south of the northeast corner of Lot Two (2); thence west to the west line of Lot One (1), parallel with the south line of said Block; thence south to the point of beginning;

will be included with the existing Planned Unit Development of the following described property:

Lots Seventeen (17) and Eighteen (18) and the north forty (40) feet of Lots One (1) and Two (2), excluding the north twenty (20) feet of the east twenty (20) feet of Lot Two (2), all in Block Four (4) of Harwood's Addition to the City of Fargo, North Dakota,

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 to amend the "PUD", Planned United Development overlay as follows:

2 Residential Density: The maximum residential density allowed shall be ~~37.5~~ 32 units per
3 acre; ~~(16 dwelling units total)~~

4 Parking: The minimum off-street parking required shall be ~~26~~ 36 parking spaces;

5 Landscaping: ~~South of the alley, a landscape buffer will be required along the western~~
6 ~~property line and shall comply with the LDC requirements of §20-0705D. or §20-~~
7 ~~0212D.4.~~

8 Residential Protection Standards: ~~South of the alley, a 6-foot opaque fence will be~~
9 ~~required along the south and east property lines.~~

10 Additional Conditions:

- 11 1) ~~North of the alley, a~~All existing deciduous trees located within 30 feet of the
12 northeast property corner shall be preserved and shall not be removed or
13 damaged ~~during the redevelopment of the subject property.~~ In addition, existing
14 trees located within 10 feet of any interior-side or rear lot line should be
15 preserved to the extent practicable. ~~The owner should coordinate with the City~~
16 ~~Forester to develop a tree protection plan during permitting and construction;~~
17 Street tree placement and permitting should be coordinated with City Forester;
- 18 2) The existing approach onto 10th Street North shall be removed and replaced by a
19 standard street boulevard. Vehicular access to the property shall be provided
20 from the public alley only;
- 21 3) A pedestrian sidewalk shall remain ~~be installed~~ from the public sidewalk along
22 10th Street North to the entrance of the building;
- 23 4) No more than 16 dwelling units shall be permitted. There shall be a maximum of
four (4) two-bedroom dwelling units permitted. Dwelling units having three (3)
or more bedrooms shall be prohibited;
- 5) ~~No fewer than twenty-six (26) parking spaces shall be provided on-site; and~~
- 6) Bicycle parking facilities, such as a bike rack or bike lockers, shall ~~be remain~~
provided on-site.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1
2
3 Section 2. The City Auditor is hereby directed to enter the Planned Unit Development on
4 the zoning map now on file in his office so as to conform with and carry out the provisions of this
5 ordinance.

6 Section 3. This ordinance shall be in full force and effect from and after its passage and
7 approval.
8
9

10 _____
Timothy J. Mahoney, Mayor

11 (SEAL)
12 Attest:

13 _____
Steve Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

City of Fargo Planning and Development Staff Report			
Title:	LDC Text Amendment	Date:	11/1/2017
Location:	Citywide	Update:	12/28/2017
Owner(s)/Applicant:	Roers / Precision Lawn Care & Landscaping	Staff Contact:	Maegin Elshaug
Reason for Request:	LDC Text Amendment (Amending Section 20-0402.R.1.b of Article 20-04, Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to screening of outdoor storage areas.		
Status:	City Commission Public Hearing: January 2, 2018		

Proposed Text Amendment:

The applicant is seeking approval of a text amendment of Section 20-0402.R.1.b of the Land Development Code relating to the screening of outdoor storage areas. Section 20-0402.R applies to industrial uses located within the GC, General Commercial zoning districts, that have been approved by the Planning Commission as a conditional use (Conditional Use Permit). The requirements of Section 20-0402.R must be met for approved industrial uses, along with any conditions with the approval.

The current Section 20-0402.R.1.b is:

- b. All outdoor storage areas must be fenced with a 6 foot high opaque fence.*

The applicant is proposing the following changes to Section 20-0402.R.1.b:

- b. All outdoor storage areas must be screened ~~fenced~~ with an 6-foot-high opaque fence, building, wall, berm or landscape buffer, that is at least six feet tall.*

The proposed revision would be:

- b. All outdoor storage areas must be screened with an opaque fence, building, wall, berm or landscape buffer, that is at least six feet tall.*

In accordance with §20-0904.E Review Criteria of the Land Development Code, proposed text amendments that satisfy all of the following criteria may be approved.

- 1. The amendment must be consistent with the purpose of this Land Development Code;**
Section 20-0104 of the LDC stipulates that the purpose and intent of the Land Development Code is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. The proposed amendment seeks add options to screen outdoor storage areas. The proposed amendment is consistent with the intent and purpose of the LDC.
(Criteria Satisfied)
- 2. The amendment must not adversely affect the public health, safety, or general welfare;**
Staff contends that the amendment does not adversely affect the public health, safety, or general welfare.
(Criteria Satisfied)

<p>3. The amendment is necessary because of changed or changing social values, new planning concepts or other social or economic conditions in the areas affected.</p> <p>Staff suggests that the proposed amendment is necessary because of changing social and economic conditions. The proposed amendment provides additional options for screening of outdoor storage areas. (Criteria Satisfied)</p>
<p>Planning Commission Recommendation: November 7, 2017</p>
<p>On November 7, 2017, with a 9-0 vote, the Planning Commission accepted the findings and recommendations of staff and hereby recommend approval to the City Commission the proposed text amendment to amend Section 20-0402.R.1.b of Article 20-04 of Chapter 20 of the Fargo Municipal Code (Land Development Code), as the proposal meets the approval criteria of §20-0904(E)(1-4) of the LDC."</p>
<p>Staff Recommendation:</p>
<p>Suggested Motion "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the Ordinance one week prior to first reading and place the Ordinance on first reading, and move to approve the proposed text amendment to amend Section 20-0402.R.1.b of Article 20-04 of Chapter 20 of the Fargo Municipal Code (Land Development Code), as the proposal meets the approval criteria of §20-0904(E)(1-4) of the LDC."</p>
<p>Attachments:</p>

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

20K1

AN ORDINANCE AMENDING SECTION 20-0402.R.1.b
OF ARTICLE 20-04 OF CHAPTER 20 OF
THE FARGO MUNICIPAL CODE (LAND DEVELOPMENT CODE)
RELATING TO SCREENING OF OUTDOOR STORAGE AREAS

WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in accordance with Chapter 40-50.1 of the North Dakota Century Code; and

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

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

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

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

Section 1. Amendment.

Section 20-0402.R.1.b of Article 20-04 of Chapter 20 (Land Development Code) is hereby amended to read as follows:

* * *

R. Industrial Uses in General Commercial Zoning

1. Within GC zoning districts, Industrial Service, Manufacturing and Production, Warehouse and Freight Movement, and Wholesale Sales shall be allowed uses under the following conditions:
 - a. The proposed facility may not be within 300 feet of any residentially zoned property, measured from proposed industrial development to the property line of the residentially zoned property.
 - b. All outdoor storage areas must be screened ~~fenced~~ with an 6-foot high opaque fence, building, wall, berm or landscape buffer, that is at least six feet in height.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 (1) Outdoor storage areas shall not cover more than 50 percent of the open space
2 of the development.

3 (2) Outdoor storage areas shall not be located within the front setback area of the
4 development.

5 c. No truck parking will be allowed in the front setback area, or on any side of the
6 development directly visible from residentially zoned property. Truck parking
7 areas directly visible from rights-of-way shall be buffered with an opaque fence or
8 continuous hedge and large tree species placed 35 feet on center. Trees shall be a
9 minimum of 1.5 inch caliper at the time of installation and do not count toward
10 open space or parking lot buffer requirements.

11 d. No truck docks or unloading areas will be allowed in the front, or any side of the
12 development directly visible from residentially zoned property or street rights-of-
13 way. Unloading and docking areas visible from rights-of-way shall be buffered
14 with an opaque fence or continuous hedge and large tree species placed 35 feet on
15 center. Trees shall be a minimum of 1.5 inch caliper at the time of installation
16 and do not count toward open space or parking lot buffer requirements.

17 e. Residential protection standards for landscaping buffers shall apply to any side of
18 the development within 600 feet of residential zoning districts, or within 600 feet
19 of vacant land illustrated as residential in the Growth Plan.

20 f. These standards do not apply to aggregate or soil and/or construction debris
21 storage, concrete batching, or asphalt mixing uses listed under industrial service.
22 Therefore, aggregate storage, concrete batching, and asphalt mixing are prohibited
23 in the GC zoning district.

* * * *

Section 2. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person,
firm or corporation violating an ordinance which is punishable as an infraction shall be punished
by a fine not to exceed \$500; the court to have power to suspend said sentence and to revoke the
suspension thereof.

ORDINANCE NO. _____

This ordinance shall be in full force and effect from the and after its passage, approval and publication.

(Seal)

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Reading:
Publication:

202

City of Fargo Staff Report			
Title:	Ohmer's Addition Subdivision of Lots 65 through 68.	Date:	11/29/2017
		Updated:	12/27/2018
Location:	1314 12 th Street North	Staff Contact:	Donald Kress, senior planner
Legal Description:	Lots 29, Ohmer's Addition Subdivision of Lots 65 through 68.		
Owner(s)/Applicant:	Alpha Gamma Rho House Corporation /Eric J. Miller	Engineer:	None
Entitlements Requested:	Zone Change (from MR-3, Multi-Dwelling Residential to LC, Limited Commercial)		
Status:	City Commission Public Hearing: January 2, 2018		

Existing	Proposed
Land Use: Parking lot	Land Use: Parking Lot
Zoning: MR-3	Zoning: LC, Limited Commercial
Uses Allowed: MR-3, Multi-Dwelling allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	Uses Allowed: LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service. With a Conditional Overlay (C-O) to restrict land uses to commercial parking only
Maximum Density Allowed (Residential): MR-3 allows a maximum of 24 dwelling units per acres.	Maximum Lot Coverage Allowed: The LC zone allows a maximum of 55% lot coverage

Proposal:
<p><i>Project History Note: This agenda item and the next one (item 13) address requests for zone changes on adjacent properties. These properties are under different ownerships and are proposed to change to different zones. The property owners are working together and are represented by the same project representative.</i></p> <p><i>Plat Designation Note: Ohmer's Addition Subdivision of Lots 65 through 68 was recorded in 1882 and does not use the now-standard naming convention and designation of lots and blocks.</i></p> <p>The applicant requests one entitlement:</p> <ul style="list-style-type: none"> A zoning change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial with a C-O, Conditional Overlay on Lot 29 Ohmer's Addition Subdivision of Lots 65 through 68. <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: SR-3, Single Dwelling Residential; Residential land use East: MR-3 and SR-3; Residential land use South: P/I, University Lutheran Center

- West: MR-3, fraternity houses (group living)

Area Plans:

The Roosevelt-NDSU Neighborhood Area Plan designates the area of this project as “primarily commercial with residential” land uses.



Context:

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

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

Parks: Roosevelt Park is located approximately 0.19 miles southeast of the project site and provide the amenities of multipurpose field, outdoor skating/warming house, and playground.

Pedestrian / Bicycle: There are on-road bike facilities in close proximity to the subject site along University Drive North that are a component of the metro area bikeways system.

Staff Analysis:

CONDITIONAL OVERLAY

The project site is used as a parking lot. Commercial parking is not a permitted use in the MR-3 zone. The applicant proposes to rezone this property from MR-3 to LC, a zone in which commercial parking is a permitted use. The conditional overlay (C-O) will restrict land uses on this property to commercial parking only. Any proposed change of land use would require a modification of the C-O, which is done through a public hearing process.

ACCESS: These parking lot takes access both from 12th Street North and the alley between 12th Street North and University Drive.

FUTURE SITE DEVELOPMENT: The parking lot on Lot 29 is currently unpaved. The property owner will be required to pave and stripe the lot and install a residential protection buffer on the north side of the lot in relation to the adjacent residence. This buffering follows the requirements of the Land Development Code (LDC) as well as the Roosevelt-NDSU Neighborhood Area Plan, which states “When in close proximity to residential, especially single family residential dwelling, commercial shall be buffered to protect the residential land uses.” A draft site plan for this parking lot is attached.

NEIGHBORHOOD OPEN HOUSE: An open house to allow neighbors of the project site to learn more about the proposed zone change was held on the afternoon of Tuesday, November 28, 2017. One person attended the open house, and made comments expressing concern about the conversion of residential lots to other uses upon demolition of the residence. A copy of these comments is attached.

Roosevelt Neighborhood Association representatives were notified of this project by e-mail. One representative attended the open house, as noted above. No further comments have been received at the time this staff report was published.

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned MR-3, Multi-Dwelling Residential. The proposed zoning of LC is consistent with the Roosevelt Neighborhood Land Use Plan designation of "primarily commercial with residential."

(Criteria Satisfied)

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

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

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

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received one phone inquiry about the project plus the comments noted above from the open house. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the Roosevelt Neighborhood Future Land Use Plan; this plan designates this property as appropriate for "primarily commercial with residential," which would include the LC zone. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

Planning Commission Recommendation: December 5, 2017

On December 5, 2017, by a vote of 5-0 with four Commissioners absent, the Planning Commission move to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed zone change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial for Lot 29, with a C-O, Conditional Overlay, for Ohmer's **Addition Subdivision of Lots 65 through 68** as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan,

Roosevelt Neighborhood Future Land Use Plan, Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC.”
Staff Recommendation: January 2, 2018
Suggested Motion: “To accept the findings and recommendations of staff and the Planning Commission, and hereby waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and approve the proposed zone change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial for Lot 29, with a C-O, Conditional Overlay, for Ohmer’s Addition Subdivision of Lots 65 through 68 as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Roosevelt Neighborhood Future Land Use Plan, Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC.”
Attachments:
<ol style="list-style-type: none">1. Zoning Map2. Location Map3. Neighborhood comments4. Draft site plan of future parking lot

Zoning Change (MR-3 to LC w/ a C-O)

Ohmers Addition

1314 12th Street North



Legend

AG	DM	GO	LC	MR-1	MR-2	MR-3	MHP	NC	NO	PI	SR-2	SR-3	SR-4	SR-5	City Limits
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300

Feet

Fargo Planning Commission

December 5, 2017

Zoning Change (MR-3 to LC w/ a C-O)

Ohmers Addition

1314 12th Street North



Comment Sheet

Neighborhood Meeting – November 28, 2017

Contact Information

Please Print

Property Owner Name: Martha Berryhill

Address of Property: formerly 1354-12 St N.

Mailing Address (if different than above) 2437 Lila Ln.

Phone Number: _____

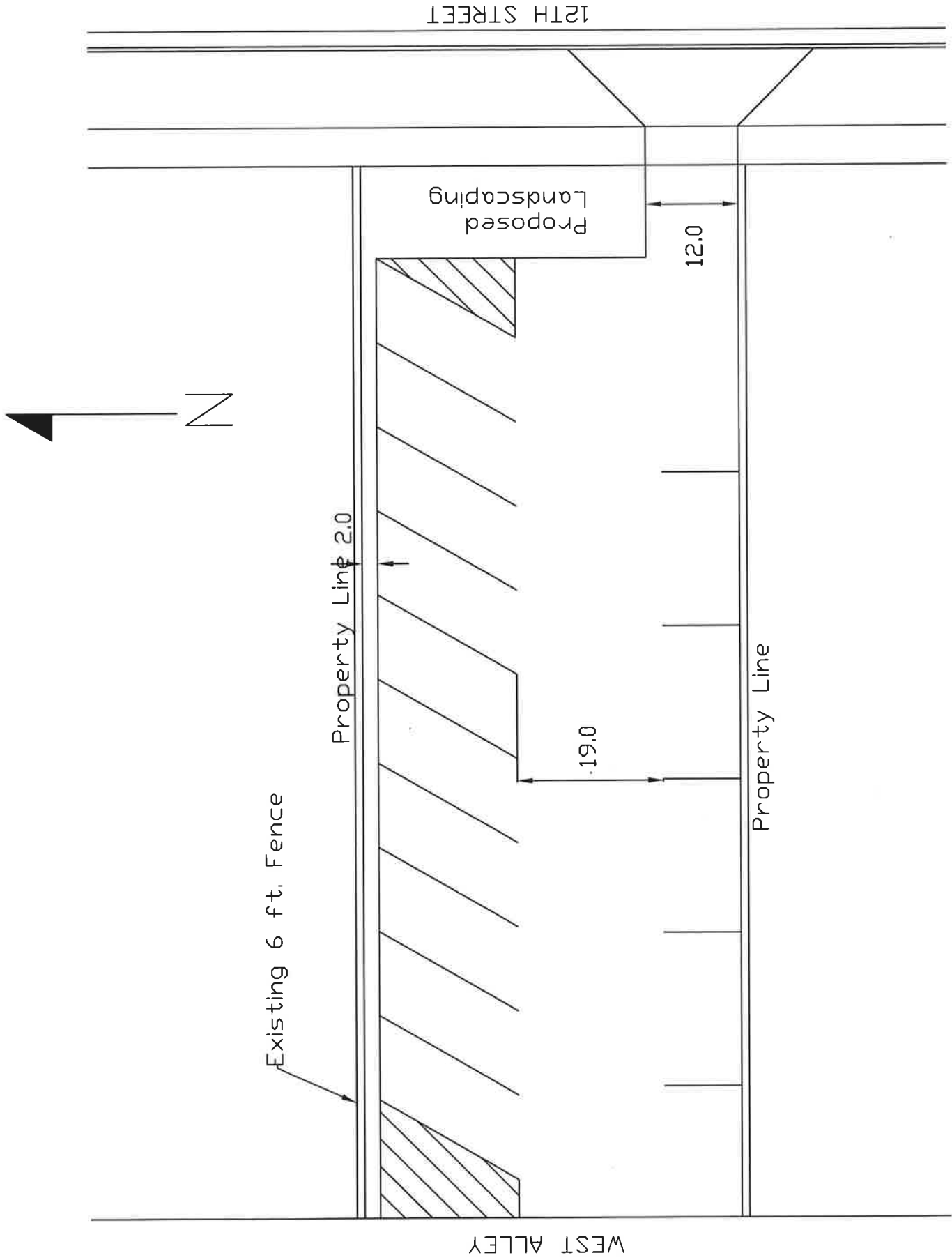
Email: _____

Comments:

Owners Addition 1314-12 St N.

The house that was torn down was a disaster, so no loss there. BUT allowing tear-downs and conversions to parking before city approval sets a bad precedent. It also discourages neighbors since they feel their voice means nothing.

The houses at 1310 and 1314-12th St N were not worth restoring, but that is not always the case. What can be done to prevent conversions before proper approval steps have been taken? The process is in need of improvement: consequences for premature actions? Fines? Time delays?



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

2011

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS
OF LAND LYING IN OHMER'S ADDITION SUBDIVISION
OF LOTS 65 THROUGH 68,
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 rezoning of certain parcels of land lying in Ohmer's Addition, subdivision of Lots 65 through 68, City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on December 5, 2017; and,

WHEREAS, the rezoning changes were approved by the City Commission on January 2, 2018,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot Twenty-nine (29), in the Subdivision of Lots Sixty-five (65) through Sixty-eight (68), inclusive, of Ohmer's Subdivision of the Southwest $\frac{1}{4}$ of Section Thirty-one (31), in Township One Hundred Forty (140) North of Range Forty-eight (48) West of the Fifth Principal Meridian, situate in the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "MR-3", Multi-Dwelling Residential, District to "LC", Limited Commercial, District; with a "C-O", Conditional Overlay on Lot Twenty-nine (29), Ohmer's Addition, Subdivision of Lots Sixty-five (65) through Sixty-eight (68), as follows:

- Land use is limited to commercial parking use category only

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1
2
3 Section 3. This ordinance shall be in full force and effect from and after its passage and
4 approval.
5
6

7 _____
8 Timothy J. Mahoney, Mayor

9 (SEAL)

10 Attest:

11 _____
12 Steven Sprague, City Auditor

13 First Reading:
14 Second Reading:
15 Final Passage:
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20m

City of Fargo Staff Report			
Title:	Ohmer's Addition Subdivision of Lots 65 through 68.	Date: Updated:	11/29/2017 12/27/2017
Location:	1310 12 th Street North	Staff Contact:	Donald Kress, senior planner
Legal Description:	Lot 30, Ohmer's Addition Subdivision of Lots 65 through 68.		
Owner(s)/Applicant:	Lutheran Campus Council of Fargo ND/Eric Miller	Engineer:	None
Entitlements Requested:	Zone Change (from MR-3, Multi-Dwelling Residential to P/I, Public/Institutional)		
Status:	City Commission Public Hearing: January 2, 2018		

Existing	Proposed
Land Use: Parking lot	Land Use: Parking Lot
Zoning: MR-3	Zoning: P/I, Public/Institutional
Uses Allowed: MR-3, Multi-Dwelling allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	Uses Allowed: P/I – Public and Institutional. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events. With a Conditional Overlay (C-O) to restrict land uses to commercial parking and religious institutions only
Maximum Density Allowed (Residential): MR-3 allows a maximum of 24 dwelling units per acres.	Maximum Lot Coverage Allowed: P/I has no maximum

Proposal:
<p><i>Project History Note: This agenda item and the previous one (item 12) address requests for zone changes on adjacent properties. These properties are under different ownerships and are proposed to change to different zones. The property owners are represented by the same project representative.</i></p> <p><i>Plat Designation Note: Ohmer's Addition Subdivision of Lots 65 through 68 was recorded in 1882 and does not use the now-standard naming convention and designation of lots and blocks.</i></p> <p>The applicant requests one entitlement:</p> <ul style="list-style-type: none"> A zoning change from MR-3, Multi-Dwelling Residential to P/I, Public/Institutional with a C-O, Conditional Overlay on Lot 30, Ohmer's Addition Subdivision of Lots 65 through 68. <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p>

Surrounding Land Uses and Zoning Districts:

- North: SR-3, Single Dwelling Residential; Residential land use
- East: MR-3 and SR-3; Residential land use
- South: P/I, University Lutheran Center
- West: MR-3, fraternity houses (group living)

Area Plans:

The Roosevelt-NDSU Neighborhood Area Plan designates the area of this project as “primarily commercial with residential” land uses.

**Context:**

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

Neighborhood: The subject property is not located within the Roosevelt neighborhood.

Parks: Roosevelt Park is located approximately 0.19 miles southeast of the project site and provide the amenities of multipurpose field, outdoor skating/warming house, and playground.

Pedestrian / Bicycle: There are on-road bike facilities in close proximity to the subject site along University Drive North that are a component of the metro area bikeways system.

Staff Analysis:**CONDITIONAL OVERLAY**

The project site is developed as a parking lot, with paving and striping. No further development of this site is planned at this time. The applicant proposes to rezone this property from MR-3 to P/I, a zone in which commercial parking is a permitted use. The P/I zoning is also consistent with the adjacent property to the south, the University Lutheran Center, which is under the same ownership as the subject property. The conditional overlay (C-O) will restrict land uses on this property to commercial parking and religious institutions only. Any proposed change of land use would require a modification of the C-O, which is done through a public hearing process.

ACCESS: These parking lot takes access both from 12th Street North and the alley between 12th Street North and University Drive.

FUTURE SITE DEVELOPMENT: No further development of this site is planned at this time.

NEIGHBORHOOD OPEN HOUSE: An open house to allow neighbors of the project site to learn more about the proposed zone change was held on the afternoon of Tuesday, November 28, 2017. One person attended the open house, and made comments expressing concern about the conversion of residential lots to other uses upon demolition of the residence. A copy of these comments is attached.

Roosevelt Neighborhood Association representatives were notified of this project by e-mail. One representative attended the open house, as noted above. No further comments have been received at the time this staff report was published.

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned MR-3, Multi-Dwelling Residential. The proposed zoning of P/I is consistent with the adjacent zoning of the University Lutheran Center, which had previously been zoned P/I, and both properties are under the same ownership. Thus, this is considered a unified development.

(Criteria Satisfied)

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

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

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

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received one phone inquiry about the project plus the comments noted above from the open house. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the Roosevelt Neighborhood Land Future Use Plan; this plan designates this property as appropriate for "primarily commercial with residential." The proposed conditional overlay for the P/I zoning restricts the uses on this property to religious institutions and commercial parking, both of which are allowed uses in a commercial zone. The C-O thus does not allow any other uses than would be allowed in a commercial zone, which the Roosevelt Neighborhood Future Land Use Plan designates as appropriate zoning for this site. Staff finds this proposal is

consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. (Criteria satisfied)
Planning Commission Recommendation: December 5, 2017
By a vote of 5-0 with four Commissioners absent, the Planning Commission on December 5, 2017, voted to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed zone change from MR-3, Multi-Dwelling Residential to P/I, Public/Institutional with a C-O, Conditional Overlay for Lot 30, Ohmer's Addition as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Roosevelt Neighborhood Future Land Use Plan, Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."
Staff Recommendation: January 2, 2018
Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission, and hereby waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and approve the proposed zone change from MR-3, Multi-Dwelling Residential to P/I, Public/Institutional with a C-O, Conditional Overlay for Lot 30, Ohmer's Addition as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Roosevelt Neighborhood Future Land Use Plan, Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."
Attachments:
<ol style="list-style-type: none"> 1. Zoning Map 2. Location Map 3. Neighborhood comments

Zoning Change (MR-3 to P/I w/ a C-O)

Ohmers Addition

1310 12th Street North



Legend

AG	DMU	LC	MHP	SS	SR-2
GC	GO	MR-1	MR-2	MR-3	UML
GO	MR-3	UML	City Limits		

300

Fargo Planning Commission
December 5, 2017

Feet

Zoning Change (MR-3 to P/I w/ a C-O)

Ohmers Addition

1310 12th Street North



Comment Sheet

Neighborhood Meeting – November 28, 2017

Contact Information

Please Print

Property Owner Name: Martha Berryhill

Address of Property: formerly 1354-12 St N.

Mailing Address (if different than above) 2437 Lilac Ln.

Phone Number: _____

Email: _____

Comments:

Owners Addition 1314-12 St N.

The house that was torn down was a disaster, so no loss there. BUT allowing tear-downs and conversions to parking before city approval sets a bad precedent. It also discourages neighbors since they feel their voice means nothing.

The houses at 1310 and 1314-12th St N were not worth restoring, but that is not always the case. What can be done to prevent conversions before proper approval steps have been taken? The process is in need of improvement; consequences for premature actions? Fines? Time delays?

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

20m1

AN ORDINANCE REZONING CERTAIN PARCELS
OF LAND LYING IN OHMER'S ADDITION SUBDIVISION
OF LOTS 65 THROUGH 68
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 rezoning of certain parcels of land lying in Ohmer's Addition, subdivision of Lots 65 through 68, City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on December 5, 2017; and,

WHEREAS, the rezoning changes were approved by the City Commission on January 2, 2018,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot Thirty (30), in the Subdivision of Lots Sixty-five (65) through Sixty-eight (68), inclusive, of Ohmer's Subdivision of the Southwest ¼ of Section Thirty-one (31), in Township One Hundred Forty (140) North of Range Forty-eight (48) West of the Fifth Principal Meridian, situate in the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "MR-3", Multi-Dwelling Residential, District to "P/T", Public Institutional, District; with a "C-O", Conditional Overlay on Lot Thirty (30), Ohmer's Addition, Subdivision of Lots Sixty-five (65) through Sixty-eight (68), as follows:

- Land uses are limited to commercial parking and religious institution use categories only

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1
2
3 Section 3. This ordinance shall be in full force and effect from and after its passage and
4 approval.
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7
8 (SEAL)

Timothy J. Mahoney, Mayor

9 Attest:
10

11
12 _____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:




Dr. Timothy J. Mahoney, Mayor
Fargo City Hall
200 3rd Street North
Fargo, ND 58102
Office: 701.241.1310 | Fax: 701.476.4136
www.FargoND.gov

21a

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY 

DATE: DECEMBER 27, 2017

SUBJECT: APPOINTMENT TO THE CITY HALL-AUDITORIUM COMMISSION

The term of Tom Thompson on the City Hall-Auditorium Commission expires on January 1, 2018. Mr. Thompson is willing to serve another term and I am recommending that he be reappointed.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: Approve the reappointment of Tom Thompson to the City Hall-Auditorium Commission for a three-year term ending January 1, 2021.


mmappt17chac



216

Dr. Timothy J. Mahoney, Mayor
Fargo City Hall
200 3rd Street North
Fargo, ND 58102
Office: 701.241.1310 | Fax: 701.476.4136
www.FargoND.gov

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS
FROM: MAYOR TIMOTHY J. MAHONEY 
DATE: DECEMBER 19, 2017
SUBJECT: HUMAN RELATIONS COMMISSION APPOINTMENT

Tanya RedRoad, who serves on the Human Relations Commission, has resigned her position. Her term would have expired on July 1, 2019.

I am recommending the appointment of Laetitia Hellerud, who has been serving on the Board as an ex-officio member, to fill the vacancy created by the resignation of Ms. RedRoad. Ms. Hellerud's appointment to the Board will expire on July 1, 2019.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: To approve the appointment of Laetitia Hellerud to the Human Relations Commission to fill the unexpired term of Tanya RedRoad for a term ending July 1, 2019.


mmappts17hrchellerud



21c

Dr. Timothy J. Mahoney, Mayor
Fargo City Hall
200 3rd Street North
Fargo, ND 58102
Office: 701.241.1310 | Fax: 701.476.4136
www.FargoND.gov

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS
FROM: MAYOR TIMOTHY J. MAHONEY 
DATE: DECEMBER 28, 2017
SUBJECT: RENAISSANCE ZONE AUTHORITY APPOINTMENTS

The terms of Steve Swiontek and Cari Luchau on the Renaissance Zone Authority expire on January 1, 2018.

Both Mr. Swiontek and Ms. Luchau have agreed to continue serving on the Board and I am recommending their reappointments for three-year terms.

Your favorable consideration of this recommendation is greatly appreciated.

RECOMMENDED MOTION: To approve the reappointment of Steve Swiontek and Cari Luchau for three-year terms ending January 1, 2021.

mmappt18rza