FARGO CITY COMMISSION AGENDA
Monday, July 12, 2021 - 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, June 28, 2021; Special Meeting, July 1, 2021).

CONSENT AGENDA – APPROVE THE FOLLOWING:

1. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of the following Ordinances:
   a. Relating to Ordinances – Violation.
   b. Relating to Unlawful for Minors to Enter Liquor or Beer Establishments.

2. 1st reading of an Ordinance Relating to Classification of Ordinance Violations (tobacco products to minors).

3. 2nd reading and final adoption of the following Ordinances; 1st reading, 6/28/21:
   a. Rezoning Certain Parcels of Land Lying in Craigs Oak Grove Second Addition.
   b. Relating to Boulevard Gardens.

4. Site Authorizations for Games of Chance:
   a. Fraser Ltd. at Golf Addiction (amended).
   b. Fraser Ltd. at Space Aliens.

5. Applications for Games of Chance:
   a. Legacy Children's Foundation for a raffle on 8/16/21.
   b. Sanford Health Foundation North for a raffle on 8/12/21.
   c. Nativity Knights of Columbus for a raffle on 9/30/21.
   d. River Keepers for a raffle on 8/7/21.
   e. Fargo North High School for a calendar raffle from 8/9/21 to 5/28/22.
   f. Fargo North High School for a calendar raffle from 11/24/21 to 2/13/22.
   g. Knights of Columbus Fourth Degree Assembly 788 for a calendar raffle from 1/1/22 to 1/31/22.
   h. Kringen Club Inc. for bingo from 7/1/21 to 6/30/22.
   i. Villa Nazareth dba CHI Friendship for a raffle on 10/22/21.
   j. YMCA of Cass and Clay Counties for a raffle on 8/3/21.
   k. Benefit for Larry Larson for a raffle and raffle board on 7/14/21; Public Spirited Resolution.

6. Change Order No. 4 for an increase of $65,105.40 for Project No. FM-16-A1.

7. Final Balancing Change Order No. 3 in the amount of $363.65 for Project No. SL-20-A1.

Right of Way Use Agreement with Sigma Psi Housing, LLC and Construction Engineers, Inc.

9. Notice of Grant Award from the ND Department of Health for Regional Environmental Health Services.

10. Notice of Grant Award from the ND Department of Health for State Aid to Local Public Health Units.

11. Notice of Grant Award from the ND Department of Health for Public Health Emergency Preparedness and Response (CFDA #93.089).

12. Purchase of Service Agreement with Fargo Public School District for school years 2021-2024.

13. Notice of Grant Award with the North Dakota Department of Health for increasing immunization rates for local public health units (CFDA #93.268).

14. Collaboration funds in the amount of $2,500.00 from the Bob Woodruff Foundation to the Fargo ND Cares Program.

15. Agreement – Contract Human Resources Manager with Melissa Lurå.

16. Out-of-grade pay request for Chris Helmick and Matt Christianson at the Police Department retroactively effective 5/3/21.

17. Resolution Approving Plat of Thor Addition.

18. Contract and bond for the replacement of the Fire Alarm System at the FARGODOME (RFP21103).

19. Bills.

20. Change Order No. 1 for an increase of $105,831.58 for Improvement District No. PR-21-G1.

21. Negative Final Balancing Change Order No. 3 in the amount of -$43,573.13 for Improvement District No. BN-20-E1.

22. Negative Final Balancing Change Order No. 3 in the amount of -$39,143.94 for Improvement District No. BN-20-F1.

23. Bid award for Improvement District No. AN-21-A1.

24. Contracts and bonds for Improvement District Nos. BN-21-H1, PR-21-F1 and SL-21-C1.

REGULAR AGENDA:

25. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at FargoND.gov/VirtualCommission).**

26. ***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**
    a. Valley View Estates Second Addition (3604 through 3731 50th Street South); approval recommended by the Planning Commission on 4/6/21:

1. Zoning Change from SR-4, Single-Dwelling Residential, MR-1, Multi-Dwelling Residential and MR-2, Multi-Dwelling Residential with a C-O, Conditional Overlay to SR-4, Single-Dwelling Residential, SR-5, Single-Dwelling Residential and MR-1, Multi-Dwelling Residential.
2. 1st reading of rezoning Ordinance.
3. Plat of Valley View Estates Second Addition.

b. Eagle Valley Fifth Addition (7401 and 7501 23rd Street South); approval recommended by the Planning Commission on 4/6/21:
   1. Zoning Change from MR-2, Multi-Dwelling Residential and LC, Limited Commercial to LC, Limited Commercial with a C-O, Conditional Overlay and SR-4, Single-Dwelling Residential.
   2. 1st reading of rezoning Ordinance.
   3. Plat of Eagle Valley Fifth Addition.

c. Plat of South Haven Second Addition a replat of Lots 21-32, South Haven Subdivision (2505, 2511, 2517, 2523, 2529, 2605, 2611, 2617, 2623, 2705, 2717 and 2729 65th Avenue South).

d. Hearing on a dangerous building located at 305 University Drive South.

27. Update on the FM Area Diversion Project.

28. 2nd reading and final adoption of an Ordinance Relating to Classification of Ordinance Violations (Minor in Possession/Consumption of Alcohol).

29. Consider approval of Bankruptcy Plan of Purdue Pharma et al (City Attorney and City Opioid Litigation Counsel, Andrus Anderson LLP).

30. Final design recommendations for Improvement District No. BR-22-A1.

31. Adoption of a Resolution Establishing Reporting Requirements of the Fargo Police Department Related to Hate Crimes.
    a. Quarterly Report through June 2021.

32. Report from the Police and Fire Departments regarding fireworks.

33. Commissioner Gehrig would like to discuss City elections and the possibility of placing the following as questions on the 2022 Primary Election ballot:
    a. Implementation of a Ward System in Fargo.
    b. Increase the number of Commissioners from 5 to 7.
    c. Term limits – keep or remove, as well as a legal interpretation of term limits and how they affect a sitting Commissioner and/or a Mayoral seat after having possibly filled vacancies, to include a clear explanation of when current Commissioners terms are up.

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

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

26a

City of Fargo Staff Report			
Title:	Valley View Estates Second Addition	**Date:** **Update:**	3/31/2021 7/8/2021
Location:	3604 through 3731 50th Street South	**Staff Contact:**	Donald Kress, planning coordinator
Legal Description:	Lots 31 through 50, Block 3; Lots 1 through 14, Block 4, Valley View Estates Addition; and a vacation of a portion of 50th Street South		
Owner(s)/Applicant:	Donald Kounvosky / Jon Youness—Eagle Ridge Development	**Engineer:**	Mead and Hunt
Entitlements Requested:	**Major Subdivision** (replat of Lots 31 through 50, Block 3; Lots 1 through 14, Block 4, Valley View Estates Addition and a vacation of a portion of right of way for 50th Street South) and **Zoning Change** (from SR-4, Single-Dwelling Residential, MR-1, Multi-Dwelling Residential, and MR-2, Multi-Dwelling Residential with a C-O, Conditional Overlay to SR-4,Single-Dwelling Residential; SR-5, Single Dwelling Residential; MR-1, Multi-Dwelling Residential)		
Status:	City Commission Public Hearing: July 12, 2021		

Existing		**Proposed**
Land Use: Platted, not yet developed		**Land Use:** Residential
Zoning: SR-4, Single-Dwelling Residential, MR-1, Multi-Dwelling Residential, and MR-2, Multi-Dwelling Residential with a C-O, Conditional Overlay		**Zoning:** SR-4, Single-Dwelling Residential; SR-5, Single-Dwelling Residential; and MR-1, Multi-Dwelling Residential
Uses Allowed: SR-4 - Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities; MR-1, Multi-Dwelling Residential, allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities MR-2, Multi-Dwelling Residential allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities **with a C-O, Conditional Overlay to restrict density to 16 dwelling units per acre**		**Uses Allowed:** SR-4 - Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities; SR-5 Allows detached houses, attached houses and duplexes, daycare centers, parks and open space, religious institutions, safety services and basic utilities. MR-1, Multi-Dwelling Residential, allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities
Maximum Density Allowed: SR-4 allows a maximum 12.1 units per acre; MR-1 allows a maximum of 16 dwelling units per acre MR-2 allows a maximum of 20 units per acre; **however, the C-O, Conditional Overlay restricts**		**Maximum Density Allowed:** SR-4 allows a maximum 12.1 units per acre; SR-5 allows a maximum of 14.5 units per acre MR-1 allows a maximum of 16 dwelling units per acre

this density to 16 dwelling units per acre *(See "Elimination of Conditional Overlay" below)*		

Proposal:

The applicant requests two entitlements:

1. A major subdivision, entitled **Valley View Estates Second Addition ,** replat of Lots 31 through 50, Block 3; Lots 1 through 14, Block 4, Valley View Estates Addition and a vacation of a portion of right of way for 50th Street South
2. A **zoning change** from SR-4, Single-Dwelling Residential, MR-1, Multi-Dwelling Residential and MR-2, Multi-Dwelling Residential with a C-O, Conditional Overlay to SR-4,Single-Dwelling Residential; SR-5, Single Dwelling Residential; MR-1, Multi-Dwelling Residential

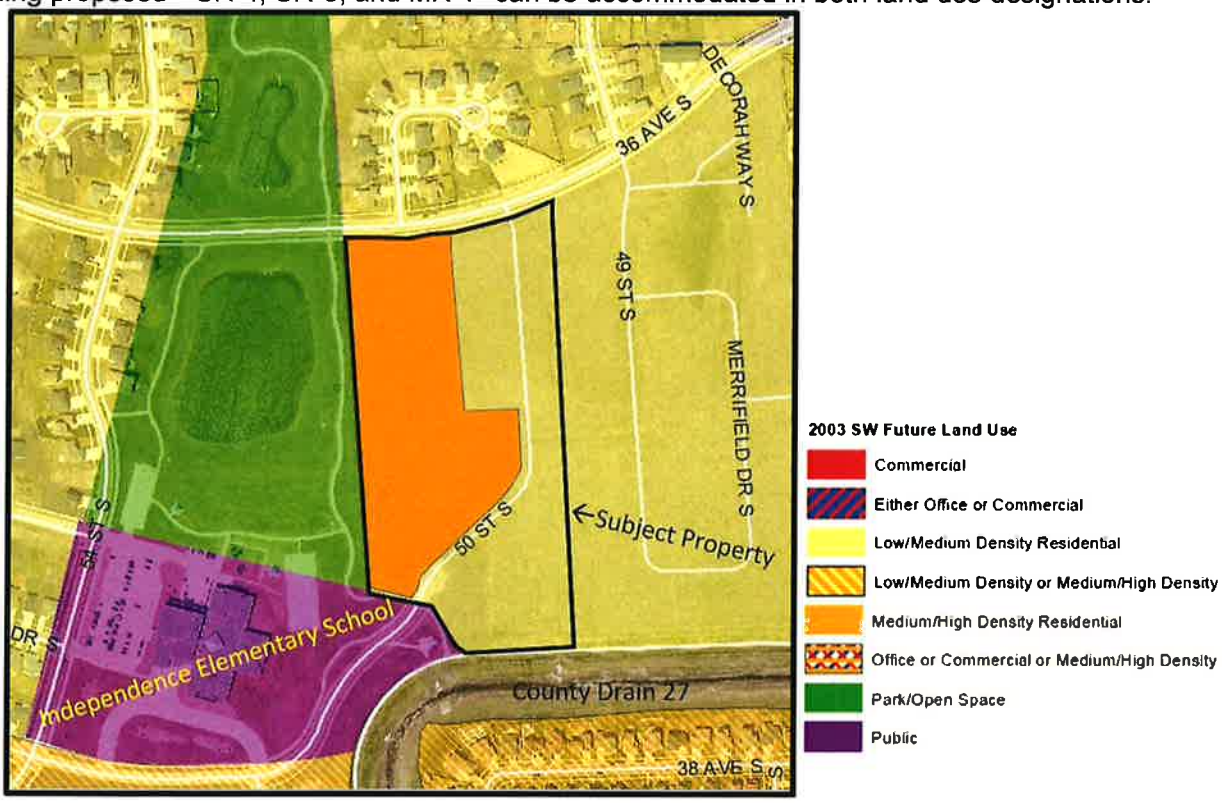
Zoning Note: Though this project was advertised for the April 6 2021 Planning Commission hearing as including P/I, Public/Institutional zoning, a project revision since the time of advertising has eliminated the need for the P/I zoning. No area of this project will be zoned P/I.

Surrounding Zoning Districts and Land Uses:

- North: SR-4, Single-Dwelling Residential; single dwelling residences (both detached and attached)
- East: SR-4, Single-Dwelling Residential; several lots under construction with single-dwelling residences
- South: P/I, Public/Institutional; multi-use trail; Independence Elementary School; and AG, Agricultural; Cass County Drain No. 27
- West: P/I; Valley View Park and detention basin

Area Plans:

The subject property is located within the 2003 Future Land Use Plan. This plan was amended in 2016 and 2020 on this property. A portion of the property is designated as "Residential Area—Lower to Medium Density" (light green color). The 2020 amendment designated a portion the property as "Residential Area—Medium to High Density" (orange color). No amendment to the growth plan is proposed. The zoning proposed—SR-4, SR-5, and MR-1--can be accommodated in both land use designations.



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Context:

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

Neighborhood: The subject property is located within the Brandt Crossing neighborhood.

Parks: Valley View Park is adjacent to the western boundary of the project site. This park provides playgrounds for ages 2-5 and 5-12, recreational trails, and a shelter. A portion of this park is a stormwater detention basin.

Pedestrian / Bicycle: There is a multi-use trail that runs along the east side of Valley View Park, adjacent to the west side of the project site. A multi-use trail that runs along the County Drain 27 right of way is adjacent to the south side of part of the project site.

Staff Analysis:

The subject property is located at 3604 through 3731 50th Street South and is bounded by 36th Avenue South (north) Cass County Drain No. 27 (south), Valley View Estates Addition (east) and Valley View Park (west).

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.

PLAT AND ZONING CHANGE

The plat will create 100 lots, zoned as follows:

BLOCK	LOTS	ZONING	LAND USE
1	1-19	SR-4	Single-Dwelling Residential
1	20	MR-1	Multi-Dwelling Residential; 16 dwelling units per acre density
2	1-16	SR-4	Single-dwelling residential
3	1-16	SR-4	Single-dwelling residential
4	1-10	SR-5	Single-dwelling residential
5	1-12	SR-5	Single-dwelling residential
6	1-26	SR-4	Single-dwelling residential

The SR-4 zoned lots intended for detached single-dwelling development range in size from approximately 4,300 square feet to 7,900 square feet, with most lots in the 4,300 to 5,000 square foot range. Lot widths range from 36 feet to 60 feet, with most lots being in the 36 to 40 foot range.

The SR-5 zoned lots intended for attached single-dwelling development range in size from approximately 2,400 square feet to 4,900 square feet, with most lots in the 2,400 to 3,800 square foot range. Lot widths range from 22 feet to 36 feet, with most lots being in the 22 to 28 foot range. In addition, this project applies Alternative Residential Development Options—Attached Housing (LDC Section 20-0506 B) to Blocks 4 and 5. This LDC section exempts attached housing from lot width, lot area, and building coverage requirements of the underlying zoning district, and does not require an interior side setback on the "attached" side of a lot containing an attached house. No separate entitlement is required to apply these Alternate Residential Development Standards, as they are allowed by right, but the application is confirmed for compliance with the subdivision process.

NOTE ON SR-5 ZONED LOTS: At staff's direction, the applicant renumbered the original Lots 1-22, Block 4 to be Lots 1-10, Block 4 and Lots 1-12, Block 5. The original Block 5 was renumbered to Block 6. No additional lots were created; no lot configurations or dimensions were changed. This renumbering was done only to meeting lot-and-block numbering standards.

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The MR-1 zoned lot (Lot 20, Block 1) is intended for multi-dwelling development at a density of 16 dwelling units per acre.

All meet the minimum required lot area and lot width of their respective zones.

ACCESS: The project site takes access from 36th Avenue South to the north and 50th Street South to the south. 50th Street is routed through the subdivision to connect with 36th Avenue South. Additional streets depicted on the plat are to be dedicated public streets.

ALLEY: The alley shown between Block 4 and Block 5 is a dedicated public alley, though the homeowners association (HOA) for that block will perform some snow removal.

VACATION OF 50th STREET SOUTH: 50th Street South is being vacated and re-routed from its original configuration by this plat. The new configuration aligns directly with the existing portions of 50th Street South. 50th Street South has not been developed and the right of way does not include any utilities. Findings for vacation of right of way, noted below, are from the North Dakota Century Code (NDCC). Pursuant to NDCC.

STRAIGHTENING OF 50TH STREET SOUTH: As a result of staff's analysis of road design for this subdivision, staff directed the applicant to revise the configuration of the south end of 50th Street South to take out the large curve originally proposed for that street. Staff felt that this would make a safer roadway, particularly in regard to sight distance in relation to the pedestrian/trail crossing of 50th Street immediately to the south of this subdivision. No additional lots were created by this change. Lots 20 through 26, Block 6; Lots 9 through 11, Block 3; and Lot 20, Block 1 were "squared off." Though their areas and configurations were revised, these lots still meet the dimensional standards requirements of their respective zones.

LOT 20 PEDESTRIAN EASEMENT: The pedestrian easement on Lot 20, Block 1, which was established on the Valley View Estates plat (originally Lot 50, Block 3), will remain.

FEWER UNITS THAN ORIGINALLY PROPOSED: The Valley View Estates Second Addition plat will have less density in the area being replatted than the original Valley View Estates Addition. The original Valley View Estates Addition would have allowed a maximum of 222 dwelling units on 34 lots for this area. The Valley View Estates Second Addition would allow a maximum of 157 residential units on 100 lots, as shown in the chart below.

	Number of Single-Dwelling Lots	**Number of Single-Dwelling Units**	**Number of Multi-Dwelling Lots**	**Potential Number of Multi-Dwelling Units***
Original Valley View Estates Add'n	32	32	2	190
Valley View Estates Second Add'n	99	99	1	58

**"Potential Number" based on lot area X allowable dwelling units per acre. Multi-dwelling lots are not always developed to their full capacity.*

WEST FARGO PUBLIC SCHOOLS REVIEW: As representatives of the West Fargo Public Schools administration reviewed the original Valley View Estates project and spoke at the Planning Commission hearing for that project in February of 2020, Planning staff sent information on this project and the project density noted above to the West Fargo Public Schools administration for their review. As the overall density will be less than originally, West Fargo Public Schools had no concerns about this plat.

ELIMINATION OF CONDITIONAL OVERLAY: The Valley View Estates Second Addition will completely replat and rezone Lot 14, Block 4 of the Valley View Estates Addition, which was zoned MR-2, Multi-

Dwelling Residential with a C-O, Conditional Overlay. This replat and rezone will eliminate the MR-2 zoning and conditional overlay on this property.

STORMWATER: This subdivision will be served by an existing regional detention basin adjacent to the west side of the project for up to 65 percent impervious surface on the project site. If the site has greater than 65 percent, impervious surface, additional detention and water quality measures may be required.

PARK ACCESS FROM 50th STREET SOUTH: The applicant and the Fargo Park District have worked together to provide a pedestrian/bike easement access to Valley View Park from 50th Street South by way of an easement between Lots 14 and 15, Block 6

NEIGHBORHOOD OPEN HOUSE: The applicant requested that Planning staff coordinate a neighborhood open house to allow surrounding owners to comment on this project. This event was held virtually on Tuesday, March 30, 2021. One neighbor participated in this open house and talked with Planning staff and the applicant about the project. The neighbor did not state any opposition to the project.

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 applicant is replatting the property and rezoning as appropriate for the proposed lot sizes and land uses. **(Criteria Satisfied)**

2. **Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**
   City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on an existing, developed public right-of-way and will dedicate additional 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?**
   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, staff has received no comment on the application other than the neighborhood open house noted above. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity.**(Criteria satisfied)**

4. **Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?**
   The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the 2003 Growth Plan.

   A portion of the property is designated as "Residential Area—Lower to Medium Density." The 2020 amendment designated a portion the property as "Residential Area—Medium to High Density." No amendment to the growth plan is proposed. The zoning proposed—SR-4, SR-5, and MR-1--can be accommodated in both land use designations. **(Criteria satisfied)**

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Major Subdivision

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

1. **Section 20-0907 of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**
   The requested zoning for the residential development on this property is SR-4: Single-Dwelling Residential, SR-5: Single-Dwelling Residential, and MR-1: Multi-Dwelling Residential. The zoning is consistent with the growth plan designations for this property as noted above. 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 on the application other than the neighborhood open house noted above. **(Criteria Satisfied)**

2. **Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**
   The property is proposed to be zoned SR-4: Single-Dwelling Residential, SR-5: Single-Dwelling Residential, and MR-1: Multi-Dwelling Residential. As noted above, these zones are consistent with the growth plan designations for this property. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments.
   (Criteria Satisfied)

3. **Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
   The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan was reviewed by the Public Works Project Evaluation Committee (PWPEC). 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)

ROW Vacation Approval Criteria: The City of Fargo does not currently have any adopted regulation dealing with the vacation of rights-of-way. However, city policy requires that any applicant wishing to vacate right-of-way must submit a Vacate Application—a one-page form wherein the petitioner provides: a description of the area to be vacated and signatures of all property owners adjoining the area to be vacated. In addition, the applicant must submit a vacation plat (a major subdivision). In this case, the petition for vacation and the plat are included in the applicant's overall subdivision application and plat. Notwithstanding the Land Development Code's (LDC) silence on the matter, the North Dakota Century Code (N.D.C.C) does address the opening and vacating of roadways in Chapter 24-07 (outside of municipal limits) and Chapter 40-39 (inside municipal limits). To that end, the balance of this report will focus on the specific approval criteria outlined within Chapter 40-39 of the N.D.C.C. The final decision on vacation of right of way is made by the City Commission.

> ***N.D.C.C. 40-39-04. Vacation of streets and alleys where sewers, water mains, pipes, and lines located – Conditions. No public grounds, streets, alleys, or parts thereof over, under, or through which have been constructed, lengthwise, any sewers, water mains, gas, or other pipes or telephone, electric, or cable television lines, of the municipality or the municipality's grantees of the right of way thereof, may be vacated unless the sewers, mains, pipes, or lines have been abandoned and are not in use, or unless the grantee consents, thereto, or unless perpetual easements for the maintenance of sewers, water mains, gas, or other pipes, or telephone, electric facilities, whether underground or***

aboveground, is subject to the continued right of location of such electric facilities in the vacated streets.
There are no utilities installed in this right of way. **(Criteria Satisfied)**

N.D.C.C. 40-39-05. Petition for vacation of streets, alleys, or public grounds – Contents – Verification. No public grounds, streets, alleys, or parts thereof within a municipality shall be vacated or discontinued by the governing body except on a petition signed by all of the owners of the property adjoining the plat to be vacated. Such petition shall set forth the facts and reasons for such vacation, shall be accompanied by a plat of such public grounds, streets, or alleys proposed to be vacated, and shall be verified by the oath of at least one petitioner.
In accordance with the requirement of this section, this information is included on the plat and its application. **(Criteria Satisfied)**

N.D.C.C 40-39-06. Petition filed with city auditor – Notice published – Contents of notice. If the governing body finds that the petition for vacation is in proper form and contains the requisite signatures, and if it deems it expedient to consider such petition, it shall order the petition to be filed with the city auditor who shall give notice by publication in the official newspaper of the municipality at least once each week for four weeks. The notice shall state that a petition has been filed and the object thereof, and that it will be heard and considered by the governing body or a committee thereof on a certain specified day which shall not be less than thirty days after the first publication of the notice.
Documentation of said action is located within both the Planning project file and Auditor's file. **(Criteria Satisfied)**

N.D.C.C. 40-39-07. Hearing on petition – Passage of resolution declaring vacation by governing body. The governing body, or such committee as may be appointed by it, shall investigate and consider the matter set forth in the petition specified in section 40-39-05 and, at the time and place specified in the notice, shall hear the testimony and evidence of persons interested. After hearing the testimony and evidence or upon the report of the committee favoring the granting of the petition, the governing body, by a resolution passed by a two-thirds vote of all its members, may declare the public grounds, streets, alleys, or highway described in the petition vacated upon such terms and conditions as it shall deem just and reasonable.
This procedure---hearing by the City Commission following the appropriate notice period--is scheduled for the July 12th, 2021 City Commission agenda. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff, and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading and move to approve the proposed 1) Zoning Change from SR-4, Single-Dwelling Residential, MR-1, Multi-Dwelling Residential, and MR-2, Multi-Dwelling Residential with a C-O, Conditional Overlay to SR-4,Single-Dwelling Residential; SR-5, Single Dwelling Residential; MR-1, Multi-Dwelling Residential and 2) a plat of the **Valley View Estates Second Addition**, including a vacation of right of way, as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2003 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Chapter 40-39.

Planning Commission Recommendation: April 6, 2021

At the April 6, 2021 Planning Commission hearing, by a vote of 6-0 with three Commissioners absent and two Commission seats vacant, the Planning Commission move to accept the findings and recommendations of staff and to recommend approval to the City Commission of the proposed 1) Zoning Change from SR-4, Single-Dwelling Residential, MR-1, Multi-Dwelling Residential, and MR-2, Multi-Dwelling Residential with a C-O, Conditional Overlay to SR-4,Single-Dwelling Residential; SR-5, Single Dwelling Residential; MR-1, Multi-Dwelling Residential and 2) a plat of the **Valley View Estates Second Addition**, including a vacation of right of way, as the proposal complies with the Go2030 Fargo

Comprehensive Plan, 2003 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Chapter 40-39.
Attachments:
1. Zoning map 2. Location map 3. Preliminary plat

Zone Change (from SR-4, MR-1 & MR-2 with a C-O to SR-4, SR-5 & MR-1) & Plat (Major)

Valley View Estates Second Addition

3604 - 3731 50th St S

THE CITY OF Fargo FAR MORE

Legend

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

500 Feet

Fargo Planning Commission
April 6, 2021

Zone Change (from SR-4, MR-1 & MR-2 with a C-O to SR-4, SR-5, and MR-1) & Plat (Major)

Valley View Estates Second Addition

3604 - 3731 50th St S

THE CITY OF Fargo FAR MORE

500 Feet

Fargo Planning Commission
April 6, 2021

VALLEY VIEW ESTATES SECOND ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
A REPLAT OF LOTS 31 THROUGH 50, BLOCK 3 AND LOTS 1 THROUGH 14, BLOCK 4 OF VALLEY VIEW ESTATES ADDITION; AND
A VACATION OF 50TH STREET SOUTH AND ALL EASEMENTS LYING AND BEING WITHIN THE BOUNDARY OF THIS PLAT AS DESCRIBED HEREIN
(A MAJOR SUBDIVISION)

OWNER'S CERTIFICATE AND DEDICATION:

KNOWN ALL PERSONS BY THESE PRESENTS: That Donald Kaunovsky, does hereby certify that I am the owner of the land located in that part of the Southeast Quarter of Section 28, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Lots 31 through 50, Block 3, and Lots 1 through 14, Block 4 of Valley View Estates Addition to the City of Fargo according to the recorded plat thereof, Cass County, North Dakota.

Containing 17.50 acres, more or less.

And that said parties have caused the same to be surveyed and platted as "VALLEY VIEW ESTATES SECOND ADDITION" to the City of Fargo, Cass County, North Dakota, and do hereby dedicate all Streets, Avenues, Drives, Lanes, Alleys, Utility Easements and Trail Easements shown on said plat to the Public and do hereby dedicated to the City of Fargo the Storm Sewer Easements shown hereon and hereby vacate all Streets and Easements dedicated on the plat of Valley View Estates Addition that are lying within the boundary of said Valley View Estates Second Addition.

OWNER:

Donald Kaunovsky

Donald Kaunovsky

State of North Dakota)
) SS
County of Cass)

On the 11th day of June, 2021 appeared before me, Donald Kaunovsky, known to me to be the persons whose name is subscribed to the above certificate and did acknowledge to me that he executed the same.

Notary Public: J. Sullivan

JAMES R SULLIVAN
Notary Public
State of North Dakota
My Commission Expires Oct. 15, 2022

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, Jason Ness, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision; that the monuments for the guidance of future surveys have been located or placed in the ground as shown

Dated this 14th day of June, 2021.

Jason Ness, Professional Land Surveyor No. LS-6884

REGISTERED PROFESSIONAL LAND SURVEYOR
JASON NESS
LS-6884
on 6-14-21
NORTH DAKOTA

State of North Dakota)
) SS
County of Cass)

On this 14th day of June, 2021, before me personally appeared Jason Ness, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Notary Public: Leah Martin

LEAH MARTIN
Notary Public
State of North Dakota
My Commission Expires May 3, 2023

CITY ENGINEER'S APPROVAL:

Approved by the Fargo City Engineer this _____ day of _____, 20___

Brenda E. Derrig, P.E., City Engineer

State of North Dakota)
) SS
County of Cass)

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

Notary Public: _____

FARGO PLANNING COMMISSION APPROVAL:

Approved by the City of Fargo Planning Commission this 12th day of April, 2021.

John Gunkelman, Chair
Fargo Planning Commission

State of North Dakota)
) SS
County of Cass)

On this 22nd day of June, 2021, before me personally appeared John Gunkelman, Chair, Fargo Planning Commission, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Notary Public: Miranda Wolf

MIRANDA WOLF
Notary Public
State of North Dakota
My Commission Expires Mar. 18, 2023

FARGO CITY COMMISSION APPROVAL:

Approved by the Board of City Commissioners and ordered filed this _____ day of _____, 20___

Timothy J. Mahoney, Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota)
) SS
County of Cass)

On this _____ day of _____, 20____, before me personally appeared Timothy J. Mahoney, Mayor, City of Fargo; and Steven Sprague, City Auditor, City of Fargo, known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of the City of Fargo.

Notary Public: _____

LOT AREA TABLES

Block 1	
Lot Number	Square Feet
1	7,900
2	5,000
3	5,750
4	4,500
5	4,500
6	5,375
7	4,500
8	4,500
9	7,513
10	4,500
11	4,500
12	5,750
13	4,500
14	4,500
15	5,375
16	4,500
17	4,500
18	7,910
19	4,806
20	156,791

Block 2	
Lot Number	Square Feet
1	4,870
2	4,294
3	4,294
4	4,294
5	4,294
6	4,294
7	4,294
8	4,977
9	4,977
10	4,294
11	4,294
12	4,294
13	4,294
14	4,294
15	4,294
16	4,294

Block 3	
Lot Number	Square Feet
1	4,875
2	4,294
3	4,294
4	4,294
5	4,294
6	4,294
7	4,294
8	4,977
9	4,977
10	4,294
11	4,294
12	4,294
13	4,294
14	4,294
15	4,294
16	4,972

Block 4	
Lot Number	Square Feet
1	2,840
2	2,426
3	2,420
4	2,386
5	2,386
6	2,420
7	2,420
8	2,980
9	2,980
10	2,423
11	2,670
12	2,957

Block 5	
Lot Number	Square Feet
1	4,600
2	2,637
3	2,862
4	2,714
5	2,641
6	2,328
7	2,258
8	2,457
9	2,415
10	3,668

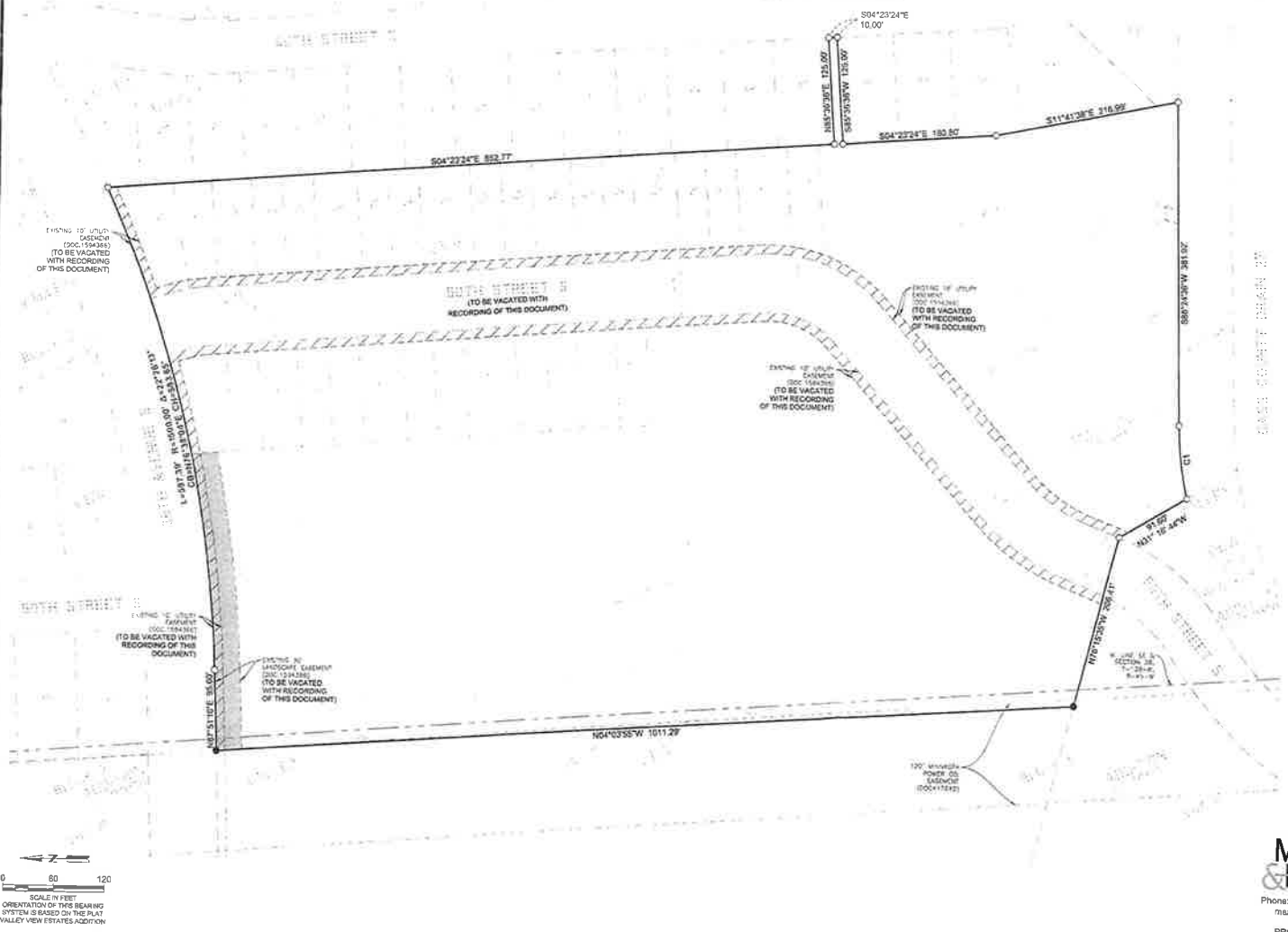
Block 6	
Lot Number	Square Feet
1	4,424
2	5,151
3	4,570
4	4,500
5	3,410
6	3,913
7	3,921
8	3,929
9	3,937
10	3,945
11	3,953
12	3,961
13	3,969
14	4,361
15	5,735
16	4,040
17	4,204
18	4,002
19	4,070
20	4,079
21	4,087
22	4,095
23	4,103
24	4,111
25	4,119
26	5,818

Mead & Hunt
Phone: 701-566-6450
meadhunt.com

PROJECT NO.
4650200-210433.01
SHEET 1 OF 3

VALLEY VIEW ESTATES SECOND ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
A REPLAT OF LOTS 31 THROUGH 50, BLOCK 3 AND LOTS 1 THROUGH 14, BLOCK 4 OF VALLEY VIEW ESTATES ADDITION; AND
A VACATION OF 50TH STREET SOUTH AND ALL EASEMENTS LYING AND BEING WITHIN THE BOUNDARY OF THIS PLAT AS DESCRIBED HEREIN
(A MAJOR SUBDIVISION)



LEGEND

- MONUMENT IN PLACE
- SET MONUMENT (5/8" REBAR CAPPED PLS-6884)
- EXISTING PROPERTY LINE
- EXISTING EASEMENT LINE
- NEW LOT LINE
- NEW BLOCK LINE
- PLAT BOUNDARY
- NEW EASEMENT LINE
- MAJOR CONTOUR
- MINOR CONTOUR
- EXISTING EASEMENT (TO BE VACATED WITH RECORDING OF THIS DOCUMENT)
- EXISTING RIGHT OF WAY (TO BE VACATED WITH RECORDING OF THIS DOCUMENT)
- EXISTING LANDSCAPE EASEMENT (TO BE VACATED WITH RECORDING OF THIS DOCUMENT)

NOTES

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
2. ACCORDING TO THE FEMA FIRM MAPS 38017C0776G WITH AN EFFECTIVE DATE 1/16/2015 PART OF THIS PLAT FALLS IN FLOODPLAIN ZONE 'AE' AND HAS A BASE FLOOD ELEVATION OF 906 FOR THIS AREA.
3. CONTOUR INFORMATION SHOWN IS DERIVED FROM CITY OF FARGO 2017 LIDAR DATA.

BENCHMARKS

1. SOUTHEAST FLANGE BOLT OF HYDRANT LOCATED ± 385' NORTH OF THE INTERSECTION OF 45TH STREET SOUTH AND 38TH AVENUE SOUTH ON THE WEST SIDE OF 45TH STREET SOUTH.
   ELEVATION = 911.41 (NAVD88)
2. SOUTHEAST FLANGE BOLT OF HYDRANT LOCATED ± 465' NORTH OF THE INTERSECTION OF 45TH STREET SOUTH AND 38TH AVENUE SOUTH ON THE WEST SIDE OF 45TH STREET SOUTH.
   ELEVATION = 907.43 (NAVD88)
3. SOUTHEAST FLANGE BOLT OF HYDRANT LOCATED IN THE SOUTHWEST QUADRANT OF THE INTERSECTION OF 45TH STREET SOUTH AND 37TH AVENUE SOUTH.
   ELEVATION = 908.88 (NAVD88)

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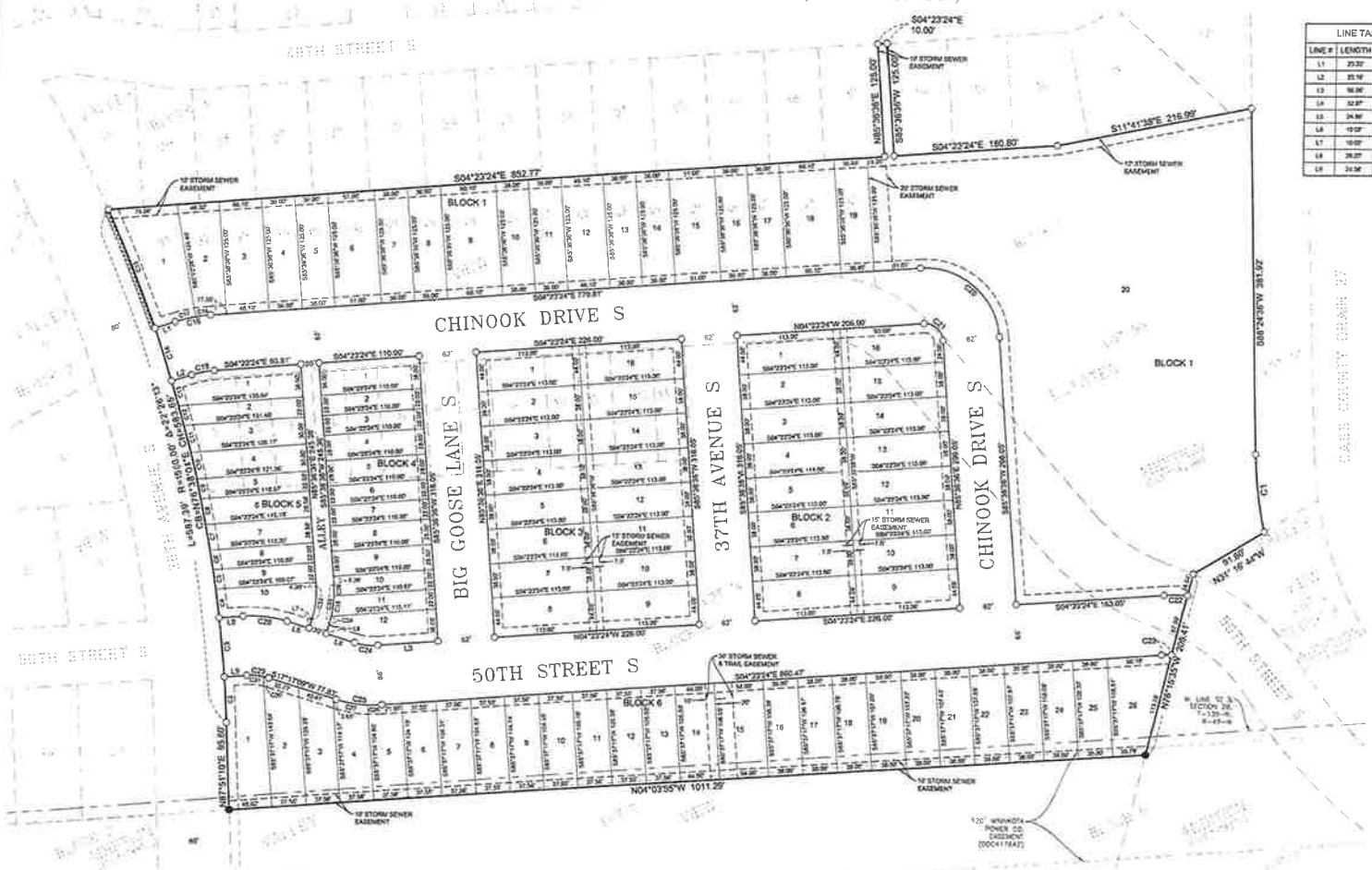
PROJECT NO.
4650200-210433.01
SHEET 2 OF 3

VALLEY VIEW ESTATES SECOND ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
A REPLAT OF LOTS 31 THROUGH 50, BLOCK 3 AND LOTS 1 THROUGH 14, BLOCK 4 OF VALLEY VIEW ESTATES ADDITION; AND
A VACATION OF 50TH STREET SOUTH AND ALL EASEMENTS LYING AND BEING WITHIN THE BOUNDARY OF THIS PLAT AS DESCRIBED HEREIN
(A MAJOR SUBDIVISION)



LINE TABLE		
LINE #	LENGTH	BEARING
L1	23.32'	S17°39'09"E
L2	23.16'	S17°39'09"E
L3	16.36'	N04°22'24"W
L4	32.87'	S17°17'09"E
L5	24.90'	N17°17'09"E
L6	10.00'	S72°42'51"E
L7	10.00'	S72°42'51"E
L8	26.27'	N04°51'38"W
L9	24.36'	S04°51'38"E

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	88.53'	435.00'	11°25'58"	S82°42'31"W	88.43'
C2	50.92'	1500.00'	1°55'48"	N88°52'17"E	50.91'
C3	86.52'	1500.00'	3°18'19"	N84°36'44"E	86.52'
C4	31.87'	1500.00'	1°13'00"	N82°47'54"E	31.87'
C5	28.28'	1500.00'	1°04'32"	N81°42'46"E	28.28'
C6	22.87'	1500.00'	0°52'23"	N80°35'13"E	22.87'
C7	28.72'	1500.00'	1°05'49"	N79°37'06"E	28.72'
C8	28.78'	1500.00'	1°05'58"	N78°31'07"E	28.78'
C9	28.28'	1500.00'	1°04'51"	N77°25'41"E	28.28'
C10	30.30'	1500.00'	1°09'24"	N76°12'08"E	30.30'
C11	30.45'	1500.00'	1°09'48"	N75°02'41"E	30.45'
C12	22.47'	1500.00'	0°51'21"	N74°42'13"E	22.47'
C13	28.28'	1500.00'	1°04'48"	N73°41'08"E	28.28'
C14	62.01'	1500.00'	2°22'06"	N72°00'43"E	62.00'
C15	141.88'	1500.00'	5°24'43"	N68°57'18"E	141.82'
C16	39.80'	175.00'	13°01'40"	S11°06'45"E	39.80'
C17	23.36'	175.00'	7°50'22"	N13°35'35"W	23.34'
C18	18.53'	175.00'	6°04'21"	N07°10'34"W	18.53'
C19	25.34'	105.00'	13°26'43"	S11°06'45"E	25.29'
C20	125.81'	83.00'	86°36'36"	S42°36'36"W	114.18'
C21	31.42'	20.00'	90°00'00"	N40°36'36"E	28.28'
C22	25.61'	166.00'	8°49'29"	N06°51'31"E	25.36'
C23	11.01'	104.12'	6°02'49"	N01°20'02"W	11.00'
C24	26.10'	83.00'	21°16'02"	N08°26'52"E	25.96'
C25	51.07'	135.00'	21°16'02"	S08°26'52"W	50.77'
C26	15.74'	135.00'	6°40'46"	S01°18'06"E	15.73'
C27	36.30'	135.00'	14°38'42"	S09°41'16"W	36.23'
C28	48.73'	131.00'	21°18'44"	N06°37'47"E	48.45'
C29	24.18'	65.00'	21°18'44"	S06°37'47"W	24.04'
C30	5.52'	65.00'	5°48'57"	N14°24'40"E	5.52'
C31	17.50'	65.00'	15°32'47"	N02°42'18"E	17.50'
C32	37.83'	100.00'	21°16'02"	S07°26'52"E	37.61'
C33	45.48'	120.00'	21°16'02"	N07°26'52"W	45.19'
C34	15.25'	125.00'	4°32'47"	S75°59'43"E	15.25'
C35	22.48'	125.00'	10°43'58"	S82°16'52"E	22.44'
C36	12.87'	125.00'	5°52'50"	N82°38'52"E	12.86'

LEGEND

- MONUMENT IN PLACE
- SET MONUMENT (5/8" REBAR CAPPED PLS-6884)
- QUARTER SECTION LINE
- EXISTING NEGATIVE ACCESS EASEMENT (DOC 1594366)
- EXISTING PROPERTY LINE
- EXISTING EASEMENT LINE
- NEW LOT LINE
- NEW BLOCK LINE
- PLAT BOUNDARY
- NEW EASEMENT LINE

0 60 120
SCALE IN FEET
ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE PLAT VALLEY VIEW ESTATES ADDITION

NOTES

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
2. UTILITY EASEMENTS HEREON ARE 10 FEET IN WIDTH AND ADJOINING STREET RIGHT OF WAY LINES AS SHOWN ON THE PLAT, UNLESS OTHERWISE INDICATED.
3. NEGATIVE ACCESS EASEMENT, AS NOTED ON THIS PLAT, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OF PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OR LAND OF ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.

Mead & Hunt
Phone: 701-568-6450
meadhunt.com

PROJECT NO.
4650200-210433.01
SHEET 3 OF 3

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN VALLEY VIEW ESTATES SECOND ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in Valley View Estates Second Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on April 6, 2021; and,

WHEREAS, the rezoning changes were approved by the City Commission on July 12, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots One (1) through Nineteen (19), Block One (1); Lots One (1) through Sixteen (16), Block Two (2); Lots One (1) through Sixteen (16), Block Three (3); and Lots One (1) through Twenty-six (26), Block Six (6) of Valley View Estates Second Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "SR-4", Single-Dwelling Residential, District and "MR-2", Multi-Dwelling Residential, District with a "C-O", Conditional Overlay to "SR-4", Single-Dwelling Residential, District.

Section 2. The following described property:

Lots One (1) through Twelve (12), Block Four (4) and Lots One (1) through Ten (10), Block Five (5) of Valley View Estates Second Addition to the City of Fargo, Cass County, North Dakota;

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

is hereby rezoned from "SR-4", Single-Dwelling Residential, District and "MR-2", Multi-Dwelling Residential, District with a "C-O", Conditional Overlay District to "SR-5", Single-Dwelling Residential, District.

Section 3. The following described property:

Lot Twenty (20), Block One (1) of Valley View Estates Second Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "MR-2", Multi-Dwelling Residential with a "C-O", Conditional Overlay, District, and "MR-1", Multi-Dwelling Residential, District to "MR-1", Multi-Dwelling Residential, District.

Section 4. 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.

Section 5. This ordinance shall be in full force and effect from and after its passage and approval.

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

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

266

City of Fargo Staff Report			
Title:	Eagle Valley Fifth Addition	**Date:** **Update:**	3/31/2021 7/8/2021
Location:	7401 and 7501 23rd Street South	**Staff Contact:**	Donald Kress, current planning coordinator
Legal Description:	Lots 1 and 2, Block 7, Eagle Valley Addition		
Owner(s)/Applicant:	EagleRidge Development, LLC--Jon Youness	**Engineer:**	Mead and Hunt
Entitlements Requested:	**Major Subdivision** (Plat of **Eagle Valley Fifth Addition,** a replat of Lots 1 and 2, Block 7, Eagle Valley Addition, including a vacation of Right of Way for a portion of 23rd Street South and a subdivision waiver for street alignment.) and **Zoning Change** (from LC, Limited Commercial and MR-2, Multi-Dwelling Residential to LC with a conditional overlay (C-O) and SR-4, Single-Dwelling Residential)		
Status:	City Commission Public Hearing: July 12, 2021		

Existing		**Proposed**
Land Use: Undeveloped; platted for multi-dwelling residential and commercial lots		**Land Use:** Single-Dwelling Residential; Commercial
Zoning: LC, Limited Commercial and MR-2, Multi-Dwelling Residential		**Zoning:** LC, Limited Commercial with a Conditional Overlay (C-O); SR-4, Single-Dwelling Residential
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. MR-2 Allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities		**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 C-O, Conditional Overlay to prohibit certain permitted and conditionally permitted uses and to provide design guidelines.** SR-4 - Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities;
Maximum Density Allowed: MR-2 zone allows a maximum of 20 units per acre **Maximum Lot Coverage Allowed:** LC zone allows maximum 55% lot coverage		**Maximum Density Allowed:** SR-4 zone allows a maximum 12.1 units per acre; **Maximum Lot Coverage Allowed:** LC zone allows maximum 55% lot coverage

Proposal:
PROJECT HISTORY NOTE: At the November 3, 2021 Planning Commission, the applicant brought forth a proposed growth plan amendment (GPA), proposing to change the land use designation on this property from "Commercial" to "Residential." Planning staff did not support this proposal, and the Planning Commission opposed it, as well. This project went to City Commission on November 30, 2020, and that Commission moved that the growth plan amendment be referred back to the Planning Commission for a possible compromise. The applicant has now revised the project to keep a portion of

commercial (Block 1, Lot 1) and also have some single-dwelling lots (Lots 1-27, Block 2). Please see the "Area Plans" section below for further information.

The applicant requests two entitlements:

1. A major subdivision, entitled **Eagle Valley Fifth Addition,** which is a replat of Lots 1 and 2, Block 7, Eagle Valley Addition, including a vacation of Right of Way for a portion of 23rd Street South and a subdivision waiver for street alignment.; and
2. A zoning change from LC, Limited Commercial and MR-2, Multi-Dwelling Residential to LC with a conditional overlay (C-O) and SR-4, Single-Dwelling Residential

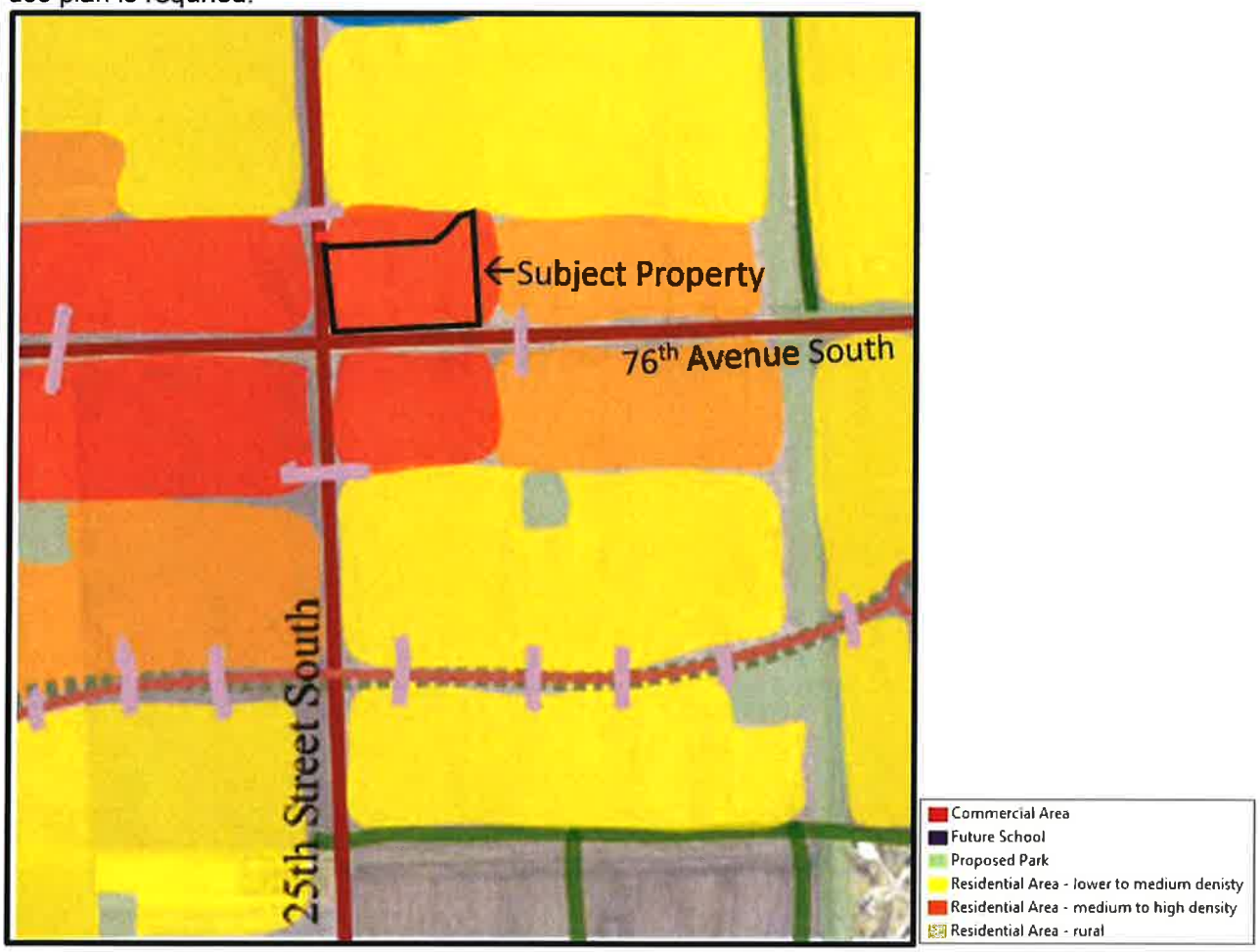
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: SR-4: Single-Dwelling Residential, single dwelling residences
- East: P/I: Public/Institutional; Fargo Park District park
- South: AG; Agricultural; undeveloped
- West: AG: Agricultural; undeveloped

Area Plans:

The subject property is located within the 2007 Tier 1 Southeast Future Land Use Plan. This plan designates the subject proeprty as "Commercial." Staff has determined that though the property is not specifically designated for "residential" land use, the adjacent land use designation across 23rd Street South is a "residential" one. Due to the inexact boundaries of land use designations, staff finds that the proposed SR-4 residential zoning is acceptable on a portion of this property; no amendment to the land use plan is requried.



(continued on next page)

Schools and Parks:

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

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

Parks: Eagle Valley Park (7400-75—23rd Street South) is located across 23rd Street from the subject property, and offers playground slides, a basketball court, grill, picnic tables and a shelter.

Pedestrian / Bicycle: There are no trails adjacent to the subject property. There is a multi-use trail across 23rd Street South from the subject property that also crosses Eagle Valley Park.

Staff Analysis:

PLAT AND ZONING CHANGE

The plat creates 28 lots zoned as follows:

Lot Number	Block Number	Zoning
1	1	LC, Limited Commercial with a Conditional Overlay (C-O)
1-27	2	SR-4

The SR-4 zoned lots are intended for detached single-dwelling development and range in size from approximately 4,900 square feet to 7,900 square feet, with most lots in the 4,900 to 5,400 square foot range. Lot widths range from 34 feet to over 63 feet, with most lots being in the 40 foot range.

CONDITIONAL OVERLAY: The zone change includes a conditional overlay, that will regulate signs, prohibit certain land uses on the property, and provide design standards for the LC, Limited Commercial-zoned portion of the site. The conditional overlay is appropriate for this area that is along two arterials yet still close to multi-dwelling and single-dwelling residential. A copy of the draft conditional overlay is attached.

ACCESS: The plat dedicates 24th Street South, which will provide access to the commercial lot and the residential lots on the west side of Block 2. Access to the lots on the east side of Block 2 will come from 23rd Street South. The existing negative access easements, created on the original Eagle Valley plat in 2015, remain along 25th Street, 74th Avenue, and 75th Avenue except where necessary to be vacated to allow for 24th Street.

VACATION OF RIGHT-OF-WAY: This plat includes a vacation of a portion of right-of-way for 23rd Street South, as depicted on the plat. This right-of-way is not developed as a road. The existing storm sewer main in this right of way will remain. The plat narrows the existing right of way from 80 feet to 70 feet. The 70 foot width, which will allow parking on one side of the street only, is acceptable for the surrounding zoning pursuant to Land Development Code street standards. Findings for vacation of right of way, noted below, are from the North Dakota Century Code (NDCC).

SUBDIVISION WAIVER FOR STREET ALIGNMENT: LDC Section 20-0611.K. relates to alignment of streets at intersections. As the plat shows, the proposed 24th Street South does not directly align with the existing portion of 24th Street South to the north. Though generally streets should align, in this case the traffic engineer found the proposed location of 24th Street South acceptable as the intersections are offset so as not to be a crash concern. Additionally, the proposed 24th Street is located further from the intersection of 74th Avenue and 25th Street, so is actually in a better position to serve the area of commercial development that will be part of this plat. Thus, staff can support a waiver of the requirements of Section 20-0611.K related to alignment of streets at intersections for this plat. Separate findings for this subdivision waiver are noted below.

Zoning

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**
   Staff is unaware of any error in the zoning map as it relates to this property. The applicant is replatting the property and rezoning as appropriate for the proposed lot sizes and land uses. The conditional overlay will mitigate the impact of commercial development in relation to the nearby residential 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 and existing, developed public right-of-way and will dedicate additional 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?**
   Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity.**(Criteria satisfied)**

4. **Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?**
   The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the 2007 Growth Plan.

   The subject property is located within the 2007 Tier 1 Southeast Future Land Use Plan. This plan designates the subject property as "Commercial." The proposed LC, Limited Commercial zoning is consistent with this land use designation. Though the property is not specifically designated for "residential" land use, the adjacent land use designation across 23rd Street South is a "residential" one. Due to the inexact boundaries of land use designations, staff finds that the proposed SR-4 residential zoning is acceptable on a portion of this property; no amendment to the land use plan is requried. **(Criteria satisfied)**

Major Subdivision

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

1. **Section 20-0907 of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**
   The requested zoning for the development on this property is SR-4, Single-Dwelling Residential for the residential portion and LC, Limited Commercial with a C-O, Conditional Overlay for the commercial portion. These zones will accommodate the proposed development. The 2007 Growth Plan designates the subject property as "Commercial." The proposed LC, Limited Commercial zoning is consistent with this land use designation. Though the property is not specifically designated for "residential" land use, the adjacent land use designation across 23rd Street South is a "residential" one. Due to the inexact boundaries of land use designations, staff finds that the proposed SR-4 residential zoning is acceptable for a portion of this property. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry. **(Criteria Satisfied)**

2. **Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the**

proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.
The property is proposed to be zoned SR-4, Single-Dwelling Residential for the residential portion and LC, Limited Commercial with a C-O, Conditional Overlay for the commercial portion. As noted in the zone change findings above, these zones are consistent with the 2007 Growth Plan designation. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

3. **Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan was reviewed by the Public Works Project Evaluation Committee (PWPEC). 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)

Subdivision Waiver
The LDC stipulates that the following criteria are met before a subdivision 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.**
Though generally streets should align, in this case the traffic engineer found the proposed location of 24th Street South acceptable as the intersections are offset so as not to be a crash concern. **(Criteria Satisfied)**

2. **Section 20-0907.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.**
The proposed 24th Street is located further from the intersection of 74th Avenue and 25th Street, so is actually in a better position to serve the area of commercial development that will be part of this plat **(Criteria Satisfied)**

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.**
This subdivision waiver applies only to the intersection alignment requirements of Section 20-0611 of the LDC for this particular intersection.
(Criteria Satisfied)

ROW Vacation Approval Criteria: The City of Fargo does not currently have any adopted regulation dealing with the vacation of rights-of-way. However, city policy requires that any applicant wishing to vacate right-of-way must submit a Vacate Application—a one-page form wherein the petitioner provides: a description of the area to be vacated and signatures of all property owners adjoining the area to be vacated. In addition, the applicant must submit a vacation plat (a major subdivision). In this case, the petition for vacation and the plat are included in the applicant's overall subdivision application and plat. Notwithstanding the Land Development Code's (LDC) silence on the matter, the North Dakota Century Code (N.D.C.C) does address the opening and vacating of roadways in Chapter 24-07 (outside of municipal limits) and Chapter 40-39 (inside municipal limits). To that end, the balance of this report will focus on the specific approval criteria outlined within Chapter 40-39 of the N.D.C.C. The final decision on vacation of right of way is made by the City Commission.

N.D.C.C. 40-39-04. Vacation of streets and alleys where sewers, water mains, pipes, and lines located – Conditions. No public grounds, streets, alleys, or parts thereof over, under, or through which have been constructed, lengthwise, any sewers, water mains, gas, or

other pipes or telephone, electric, or cable television lines, of the municipality or the municipality's grantees of the right of way thereof, may be vacated unless the sewers, mains, pipes, or lines have been abandoned and are not in use, or unless the grantee consents, thereto, or unless perpetual easements for the maintenance of sewers, water mains, gas, or other pipes, or telephone, electric facilities, whether underground or aboveground, is subject to the continued right of location of such electric facilities in the vacated streets.

There existing City storm sewer main installed in this right of way will remain, and will still be in the right of way. No additional easement is necessary. **(Criteria Satisfied)**

N.D.C.C. 40-39-05. Petition for vacation of streets, alleys, or public grounds – Contents – Verification. No public grounds, streets, alleys, or parts thereof within a municipality shall be vacated or discontinued by the governing body except on a petition signed by all of the owners of the property adjoining the plat to be vacated. Such petition shall set forth the facts and reasons for such vacation, shall be accompanied by a plat of such public grounds, streets, or alleys proposed to be vacated, and shall be verified by the oath of at least one petitioner.

In accordance with the requirement of this section, this information is included on the plat and its application. **(Criteria Satisfied)**

N.D.C.C 40-39-06. Petition filed with city auditor – Notice published – Contents of notice. If the governing body finds that the petition for vacation is in proper form and contains the requisite signatures, and if it deems it expedient to consider such petition, it shall order the petition to be filed with the city auditor who shall give notice by publication in the official newspaper of the municipality at least once each week for four weeks. The notice shall state that a petition has been filed and the object thereof, and that it will be heard and considered by the governing body or a committee thereof on a certain specified day which shall not be less than thirty days after the first publication of the notice.

Documentation of said action is located within both the Planning project file and Auditor's file. **(Criteria Satisfied)**

N.D.C.C. 40-39-07. Hearing on petition – Passage of resolution declaring vacation by governing body. The governing body, or such committee as may be appointed by it, shall investigate and consider the matter set forth in the petition specified in section 40-39-05 and, at the time and place specified in the notice, shall hear the testimony and evidence of persons interested. After hearing the testimony and evidence or upon the report of the committee favoring the granting of the petition, the governing body, by a resolution passed by a two-thirds vote of all its members, may declare the public grounds, streets, alleys, or highway described in the petition vacated upon such terms and conditions as it shall deem just and reasonable.

This procedure---hearing by the City Commission following the appropriate notice period—is scheduled for the July 12th, 2021 City Commission agenda. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff, and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and move to approve the proposed 1) Zoning Change from LC, Limited Commercial and MR-2, Multi-Dwelling Residential to LC with a conditional overlay (C-O) and SR-4, Single-Dwelling Residential and 2) a plat of the **Eagle Valley Fifth Addition**, including vacation of right of way, and subdivision waiver for street alignment, as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2007 Growth Plan, Standards of Article 20-06, Section 20-0906.F (1-4), Section 20-0907.D. 3 (a—c) of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Chapter 40-39.

Planning Commission Recommendation: April 6, 2021

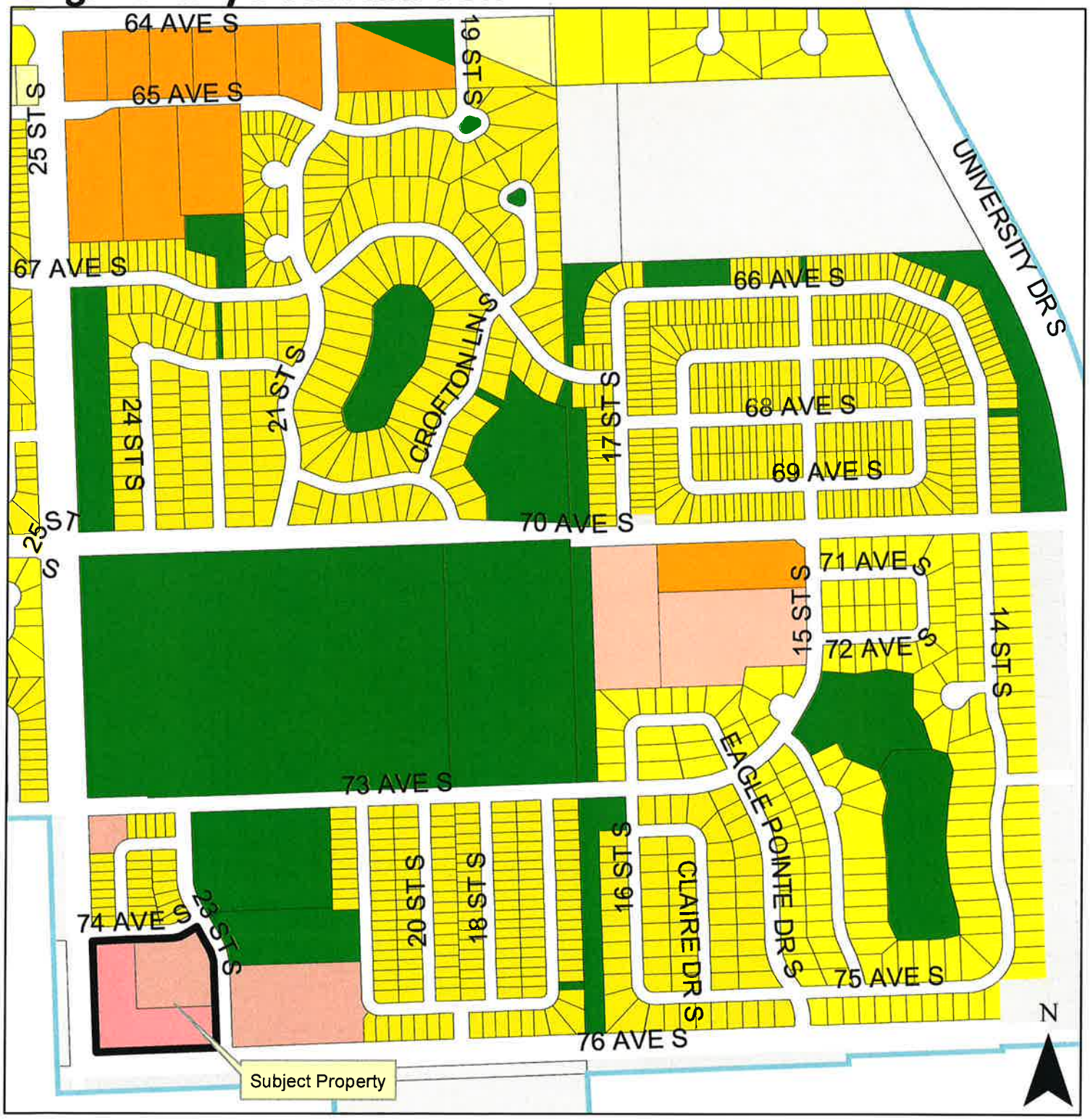
At the April 6, 2021 Planning Commission hearing, by a vote of 6-0 with three Commissioners absent and two Commission seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and to recommend approval to the City Commission of the proposed 1) Zoning Change from LC, Limited Commercial and MR-2, Multi-Dwelling Residential to LC with a conditional overlay (C-O) and SR-4, Single-Dwelling Residential and 2) a plat of the **Eagle Valley Fifth Addition**,

including vacation of right of way, and subdivision waiver for street alignment, as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2007 Growth Plan, Standards of Article 20-06, Section 20-0906.F (1-4), Section 20-0907.D. 3 (a—c) of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Chapter 40-39.
Attachments:
1. Zoning map 2. Location map 3. Preliminary plat 4. Draft conditional overlay

Zone Change (LC & MR-2 to LC with a C-O & SR-4) & Plat (Major)

Eagle Valley Fifth Addition

7401 & 7501 23rd St S



THE CITY OF Fargo FAR MORE

Legend

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

500 Feet

Fargo Planning Commission
April 6, 2021

Zone Change (LC & MR-2 to LC with a C-O & SR-4) & Plat (Major)

Eagle Valley Fifth Addition

7401 & 7501 23rd St S

THE CITY OF Fargo FAR MORE

500 Feet

Fargo Planning Commission
April 6, 2021

EAGLE VALLEY FIFTH ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA,
A REPLAT OF LOTS 1 & 2, BLOCK 7, TOGETHER WITH A PORTION OF 23RD STREET SOUTH;
BEING A VACATION PLAT OF A PORTION OF 23RD STREET SOUTH, EAGLE VALLEY ADDITION
(A MAJOR SUBDIVISION)

PLAT BOUNDARY DESCRIPTION:
Lots 1 and 2, Block 7, Eagle Valley Addition, according to the record plat on file and of record in the Office of the Recorder, Cass County, North Dakota and a vacation of a portion of 23rd Street South

Said plat contains 7.82 acres, more or less

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

OWNER'S DEDICATION
We, the undersigned, do hereby certify that we are the owners of the land described in the plat of "EAGLE VALLEY FIFTH ADDITION" to the City of Fargo, a replat of Lots 1 and 2, Block 7, Eagle Valley Addition to the City of Fargo, Cass County, North Dakota; and a vacation of that part of 23rd Street South within the boundary of said Eagle Valley Fifth Addition; that we have caused it to be platted into lots and blocks as shown by said plat and certification of Joshua J. Nelson, Professional Land Surveyor, and that the description as shown in the certificate of the Professional Land Surveyor is correct. We hereby dedicate all Streets, Lanes, Drives, and Utility Easements shown on said plat to the use of the Public and hereby vacate all utility easements dedicated on the plat of Eagle Valley Addition contained in the boundary of Eagle Valley Fifth Addition.

OWNER/VENDOR
76th Street Holdings, LLC, Contract Vendor
By: James R. Butts, President

State of North Dakota)
) SS
County of Cass)

On this 2nd day of April, 2021, appeared before me, James R. Butts, President, 76th Street Holdings, LLC, a North Dakota Limited Liability Company, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as their own free act and deed.

Notary Public, Cass County, North Dakota

TERESA KUZNIA
Notary Public
State of North Dakota
My Commission Expires Sept. 24, 2022

CONTRACT VENDEE
Eagle Ridge Development, LLC, Contract Vendee
By: Jonathan Youness, Secretary

State of North Dakota)
) SS
County of Cass)

On this 5th day of April, 2021 appeared before me, Jonathan Youness, Secretary, Eagle Ridge Development, LLC, a North Dakota Limited Liability Company, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as their own free act and deed.

Notary Public, Cass County, North Dakota

TERESA KUZNIA
Notary Public
State of North Dakota
My Commission Expires Sept. 24, 2022

MORTGAGE HOLDER
First International Bank and Trust, Mortgagee
By: Matt Mueller, Vice President

State of North Dakota)
) SS
County of Cass)

On this 6th day of April, 2021 appeared before me, Matt Mueller, Vice President known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same on behalf of First International Bank & Trust.

Notary Public, Cass County, North Dakota

KARNA RICHTSHEIR
Notary Public
State of North Dakota
My Commission Expires July 18, 2021

My commission expires:

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:
I, Joshua J. Nelson, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision; that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

Dated this 2nd day of April, 2021

Joshua J. Nelson, Professional Land Surveyor No. LS-27292

REGISTERED PROFESSIONAL LAND SURVEYOR
JOSHUA J. NELSON
LS-27292
DATE 4/2/21
NORTH DAKOTA

State of North Dakota)
) ss
County of Cass)

On this 2nd day of April, 2021, before me personally appeared Joshua J. Nelson, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Notary Public

TERESA KUZNIA
Notary Public
State of North Dakota
My Commission Expires Sept. 24, 2022

CITY ENGINEER'S APPROVAL:
Approved by the Fargo City Engineer this _____ day of _____, 20___

Brenda E. Derrig, P.E., City Engineer

State of North Dakota)
) ss
County of Cass)

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

Notary Public: _____

FARGO PLANNING COMMISSION APPROVAL:
Approved by the City of Fargo Planning Commission this 6th day of April, 2021

John Gunkelman, Chair
Fargo Planning Commission

State of North Dakota)
) ss
County of Cass)

On this 6th day of April, 2021, before me personally appeared John Gunkelman, Chair, Fargo Planning Commission, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Notary Public: Miranda Wolf

VIRANDA WOLF
Notary Public
State of North Dakota
My Commission Expires May 18, 2022

FARGO CITY COMMISSION APPROVAL:
Approved by the Board of City Commissioners and ordered filed this _____ day of _____, 20___.

Timothy J. Mahoney, Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota)
) ss
County of Cass)

On this _____ day of _____, 20___, before me personally appeared Timothy J. Mahoney, Major, City of Fargo and Steven Sprague, City Auditor, City of Fargo, known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of the City of Fargo.

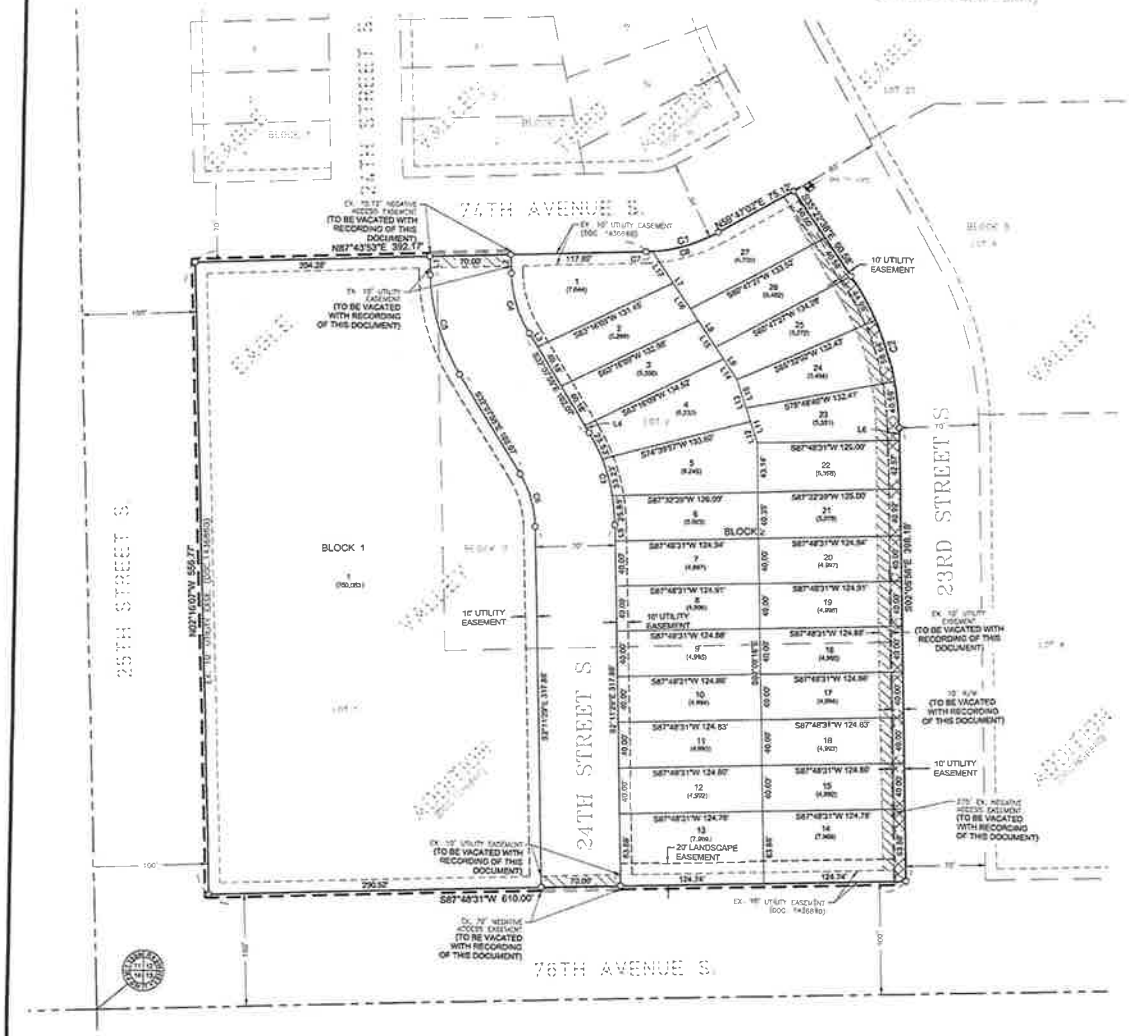
Notary Public: _____

Mead & Hunt
Phone: 701-566-6450
meadhunt.com

PROJECT NO.
4650200-202030
SHEET 1 OF 2

EAGLE VALLEY FIFTH ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
A REPLAT OF LOTS 1 & 2, BLOCK 2, TOGETHER WITH A PORTION OF 23RD STREET SOUTH
BEING A VACATION PLAT OF A PORTION OF 23RD STREET SOUTH, EAGLE VALLEY ADDITION
(A MAJOR SUBDIVISION)



CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	65.82'	135.00'	27°56'53"	N73°45'27"E	65.20'
C2	142.24'	245.00'	33°15'51"	N18°44'51"W	140.25'
C3	84.65'	162.00'	29°58'28"	N17°09'42"W	83.69'
C4	56.29'	108.00'	29°51'48"	S17°12'01"E	55.66'
C5	92.78'	176.00'	29°51'48"	S17°12'01"E	91.73'
C6	48.08'	92.00'	29°56'26"	N17°09'42"W	47.53'
C7	5.56'	135.00'	2°24'03"	N86°31'52"E	5.55'
C8	60.19'	135.00'	25°32'49"	N72°33'28"E	59.70'

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	16.21	S02°16'07"E
L2	16.21	S02°16'07"E
L3	14.22	N32°07'55"W
L4	7.49	N32°07'55"W
L5	13.98	N02°11'29"W
L6	16.81	S02°06'56"E
L7	50.80	S34°18'07"E
L8	40.50	S34°18'07"E
L9	34.10	S34°18'07"E
L10	25.92	S18°44'58"E
L11	31.83	S18°44'58"E
L12	19.49	N18°44'58"W
L13	38.25	N18°44'58"W
L14	31.67	N34°18'07"W
L15	40.35	N34°18'07"W
L16	40.35	N34°18'07"W
L17	33.04	N34°18'07"W

LEGEND

- BENCHMARK
- MONUMENT IN PLACE
- SET MONUMENT (5/8" REBAR CAPPED PLS-27292)
- (5,000) LOT AREA (SQUARE FEET)
- EXISTING NEGATIVE ACCESS EASEMENT (DOC. 1436880)
- EXISTING PROPERTY LINE
- EXISTING EASEMENT LINE
- NEW LOT LINE
- NEW BLOCK LINE
- PLAT BOUNDARY
- NEW EASEMENT LINE
- MAJOR CONTOUR
- MINOR CONTOUR
- EXISTING RIGHT-OF-WAY (TO BE VACATED WITH THE RECORDING OF THIS DOCUMENT)
- EXISTING EASEMENT (TO BE VACATED WITH THE RECORDING OF THIS DOCUMENT)
- EXISTING NEGATIVE ACCESS EASEMENT (TO BE VACATED WITH THE RECORDING OF THIS DOCUMENT)

NOTES

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
2. UTILITY EASEMENTS ARE 10' WIDE ALONG AND ADJACENT TO ALL STREET RIGHT-OF-WAYS. AS SHOWN UNLESS OTHERWISE NOTED.
3. ACCORDING TO THE FEMA FIRM MAP 38017C0790G WITH AN EFFECTIVE DATE 1/16/2015 ALL OF THIS PLAT FALLS WITHIN FLOOD ZONE "AE" AND HAS A BASE FLOOD ELEVATION THAT VARIES FROM 908.3 ON THE NORTHERLY END TO 908.9 ON THE SOUTHERLY END. CONTOUR INFORMATION SHOWN IS DERIVED FROM FIELD SURVEY CONDUCTED DECEMBER 14, 2020
4. BENCHMARK TOP NUT HYDRANT IN THE SOUTHWEST QUADRANT OF THE INTERSECTION OF 74TH AVE S AND 23RD STREET SOUTH ELEVATION = 911.97 (NAVD88)
5. NEGATIVE ACCESS EASEMENT, AS NOTED ON THIS PLAT, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OF PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OF LAND OF ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.

0 50 100
SCALE IN FEET
ORIENTATION OF THIS BEARING SYSTEM IS CITY OF FARGO GROUND

Mead & Hunt
Phone: 701-566-6450
meadhunt.com

PROJECT NO.
4650200-202030
SHEET 2 OF 2

Eagle Valley Fifth Addition Draft Conditional Overlay
Lot 1, Block 1
Zoned LC, Limited Commercial with a C-O, Conditional Overlay

1. This Conditional Overlay is intended to provide for a higher quality of design than is afforded by the City of Fargo Land Development Code regarding future commercial and residential development within the described property.

2. All primary buildings shall be constructed or clad with materials that are durable, economically-maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality prestressed concrete systems; EIFS (exterior insulation finishing system), glass, metal panes similar to 'Aluco Bond' and synthetic panels similar to 'Trespa'. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the appearance of wood may be used. Horizontal metal lap siding and vertical metal batten shall be allowed on residential and commercial structures but shall not exceed 75% of the building elevation for residential structures and 60% for commercial.

3. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.

4. All building facades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections, architectural material changes, or recesses having a depth of at least three percent of the length of the facade, and extending at least 20 percent of the length of the facade. No uninterrupted length of any facade shall exceed 150 horizontal feet. An articulated façade would emphasis elements on the face of a wall including change in setback, materials, roof pitch or height.

5. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets, 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. View line shall be measured from property line.

6. 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.

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

a. The primary entrance or entrances to each commercial building, including pad site buildings.
b. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
c. Parking areas or structures that serve such primary buildings.
d. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network.
e. Any public sidewalk system along the perimeter streets adjacent to the commercial development.
f. Where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings.

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

9. The following use(s) are prohibited:

a. Detention Facilities;
b. Self Service Storage;
c. Adult Entertainment Center;
d. Off-Premise Advertising Signs (directional signs that are less than 50 square feet in size are exempt for this prohibition);
e. Portable Signs (portable signs will be allowed until June 30, 2025 or until the development has been completed and certificates of occupancy have been issued within the completed development, whichever comes first);
f. Vehicle Repair;
g. Industrial Service;
h. Manufacturing and Production;
i. Warehouse and Freight Movement; and
j. Aviation/Surface Transportation.

10. Multi-tenant buildings or developments may have one monument or ground mounted sign per street frontage listing all of the tenants. Monument or ground mounted signs for individual businesses in multi-tenant buildings or developments are prohibited. Monument-type signs are the preferred alternative for business identification whenever possible.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

2662

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN EAGLE VALLEY FIFTH ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in Eagle Valley Fifth Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on April 6, 2021; and,

WHEREAS, the rezoning changes were approved by the City Commission on July 12, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots One (1) through Twenty-seven (27), Block Two (2) of Eagle Valley Fifth Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "LC", Limited Commercial, District and "MR-3", Multi-Dwelling Residential, District to "SR-4", Single-Dwelling Residential, District.

Section 2. The following described property:

Lot One (1), Block One (1) of Eagle Valley Fifth Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "LC", Limited Commercial, District and "MR-3", Multi-Dwelling Residential, District to "LC", Limited Commercial, District with a "C-O", Conditional Overlay, District as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1. This Conditional Overlay is intended to provide for a higher quality of design than is afforded by the City of Fargo Land Development Code regarding future commercial and residential development within the described property.

2. All primary buildings shall be constructed or clad with materials that are durable, economically-maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality prestressed concrete systems; EIFS (exterior insulation finishing system), glass, metal panes similar to 'Aluco Bond' and synthetic panels similar to 'Trespa'. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the appearance of wood may be used. Horizontal metal lap siding and vertical metal batten shall be allowed on residential and commercial structures but shall not exceed 75% of the building elevation for residential structures and 60% for commercial.

3. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.

4. All building facades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections, architectural material changes, or recesses having a depth of at least three percent of the length of the facade, and extending at least 20 percent of the length of the facade. No uninterrupted length of any facade shall exceed 150 horizontal feet. An articulated façade would emphasis elements on the face of a wall including change in setback, materials, roof pitch or height.

5. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets, 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. View line shall be measured from property line.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

6. 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.

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

    a. The primary entrance or entrances to each commercial building, including pad site buildings.
    b. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
    c. Parking areas or structures that serve such primary buildings.
    d. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network.
    e. Any public sidewalk system along the perimeter streets adjacent to the commercial development.
    f. Where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings.

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

9. The following use(s) are prohibited:

    a. Detention Facilities
    b. Self Service Storage
    c. Adult Entertainment Center

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

d. Off-Premise Advertising Signs. However, directional signs that are less than 50 square feet in size are allowed.
e. Portable Signs shall be prohibited except for the period commencing the effective date of this ordinance and ending upon the earlier to occur of the following two dates: (a) June 30, 2025 and (b) the date upon which development has been completed. Development shall be deemed to have been completed when certificates of occupancy have been issued for all building permits issued prior to June 30, 2025, for buildings within the area of this Conditional Overlay District.
f. Vehicle Repair
g. Industrial Service
h. Manufacturing and Production
i. Warehouse and Freight Movement
j. Aviation/Surface Transportation

10. Multi-tenant buildings or developments may have one monument or ground mounted sign per street frontage listing all of the tenants. Monument or ground mounted signs for individual buildings in multi-tenant buildings or developments are prohibited. Monument-type signs are the preferred alternative for business identification whenever possible.

Section 3. 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.

Section 4. This ordinance shall be in full force and effect from and after its passage and approval.

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

(SEAL)

Attest:

First Reading:
Second Reading:
Final Passage:

_____
Steven Sprague, City Auditor

26a

City of Fargo Staff Report			
Title:	South Haven Second Addition	**Date:** **Update:**	12/30/2020 7/8/2021
Location:	2505, 2511, 2517, 2523, 2529, 2605, 2611, 2617, 2623, 2705, 2717, and 2729 65th Avenue South	**Staff Contact:**	Donald Kress, current planning coordinator
Legal Description	Lots 21-32, South Haven Subdivision, Cass County, North Dakota		
Owner(s)/Applicant:	Ryland Development/ Stan Ryland	**Engineer:**	Houston Engineering
Entitlements Requested:	**Major Subdivision** (plat **South Haven Second Addition,** a replat of Lots 21 through 32, South Haven Subdivision, City of Fargo, Cass County, North Dakota)		
Status:	City Commission Public Hearing: July 12, 2021		

Existing		**Proposed**
Land Use: Platted, not developed		**Land Use:** Residential
Zoning: SR-2, Single Dwelling Residential (current lots 21-24) and SR-3 , Single Dwelling Residential (current lots 25-32)		**Zoning:** No change
Uses Allowed: SR-2 – allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities SR-3—allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities		**Uses Allowed:** No change
Maximum Density SR-2 allows 5.4 dwelling units per acre; SR-3 allows 8.7 dwelling units per acre		**Maximum Density** No change

Proposal:

The applicant requests one entitlement:

1. A major subdivision, entitled **South Haven Second Addition,** which is a replat of Lots 21 through 32, South Haven Subdivision, Cass County, North Dakota

The existing lots are zoned SR-2 and SR-3. Uses allowed in these zones are noted above. No zone change is proposed along with this plat.

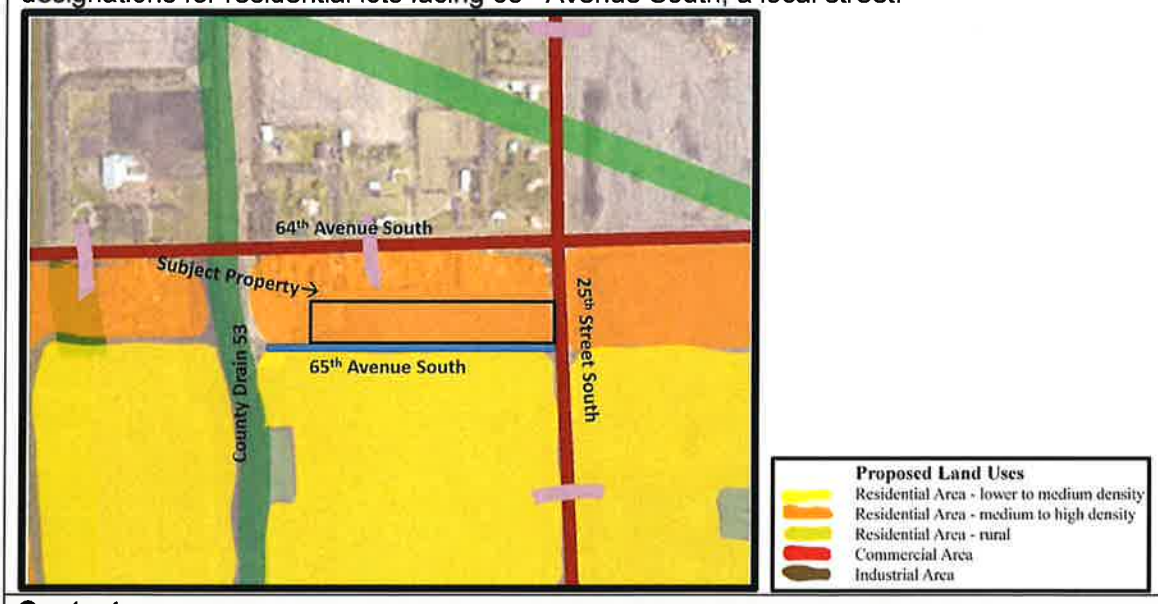
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: Detached single-dwelling residential; SR-2
- East: Multi-dwelling residences; MR-3
- South: Detached single-dwelling residences; SR-4 (platted but not developed)
- West: Detached single-dwelling residence; SR-2

Area Plans:

The South Haven Subdivision was platted in 1964, before this area was within the Fargo city limits and before the current growth plan was created. The 2007 Tier One Southeast Growth Plan designates the area of this project as "Residential Area--Medium to High Density." It is adjacent to an area designated "Residential Area—Lower to Medium Density" to the south. The areas designated in the growth plan are not exact boundaries but approximate areas. The existing SR-2 and SR-3 zonings allow a lower density that would generally be in the "medium to high density" category, but are reasonable zoning designations for residential lots facing 65th Avenue South, a local street.



Context:

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

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

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

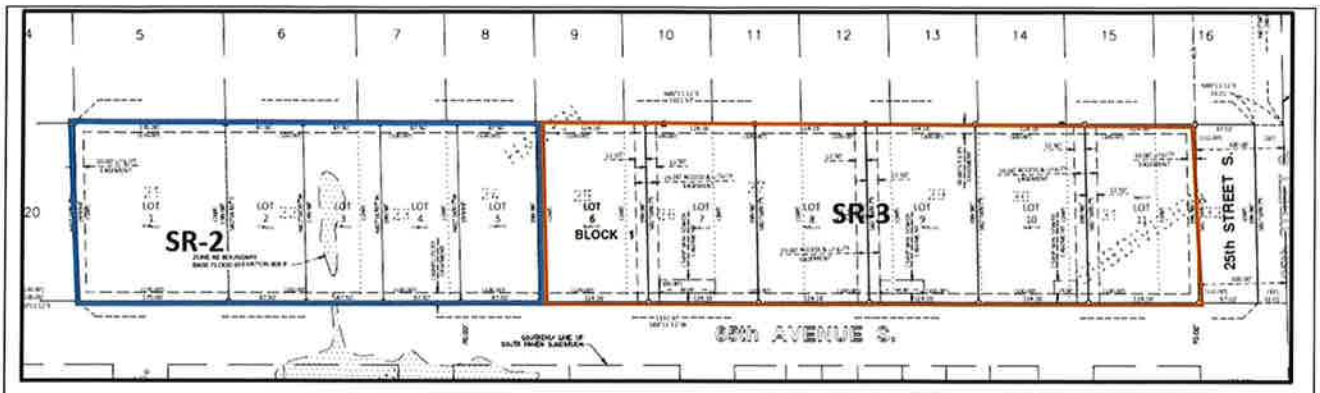
Pedestrian / Bicycle: An off-road multi-use trail is located west across 25th Street South from the subject property. This trail is part of the metro trails system.

Staff Analysis:

The lots are currently zoned SR-2, Single-Dwelling Residential (existing lots 21-24) and SR-3, Single-Dwelling Residential (existing lots 25-32). The plat proposes to subdivide the current 12 lots into 11 residential lots, zoned as shown in the chart below:

Lot Number	Zoning
1-5	SR-2, Single Dwelling Residential
6-11	SR-3, Single Dwelling Residential

This zoning is depicted in the graphic below:



The SR-2 zoning allows only detached, single-dwelling residences.

The SR-3 zoning allows single-dwelling as well as attached residential. The easements between the three pairs of lots---Lots 6 and 7; Lots 8 and 9; and Lots 10 and 11---are intended to provide vehicular and utility access to a three unit attached residence on each lot.

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

1. **Section 20-0907(C))(1)(Development Review Procedures—Subdivisions—Major Subdivisions) of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**
The proposed zoning designations—SR-2 and SR-3—will accommodate the proposed development of detached single-dwelling (SR-2) and attached single-dwelling (SR-3) residences. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received no inquiries on this property. **(Criteria Satisfied)**

2. **Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**
The existing and proposed zoning designations are consistent with the 2007 Tier 1 Southeast Growth Plan, as described above. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code. **(Criteria Satisfied)**

3. **Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
The City's standard policy is that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. No amenities plan was requested for this subdivision as existing streets and right of way improvements are already in place. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the proposed plat of **South Haven Second Addition**, 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."
Planning Commission Recommendation: January 5, 2021
At the January 5, 2021 Planning Commission hearing, by a vote of 6-0 with three Commissioners absent and two Commission seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and to recommend approval to the City Commission the proposed plat of **South Haven Second Addition**, 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 (Major)

South Haven Second Addition

2505-2729 65th Ave S

Legend

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

300 Feet

THE CITY OF Fargo FAR MORE

Fargo Planning Commission
January 5, 2020

Plat (Major)

South Haven Second Addition

2505-2729 65th Ave S

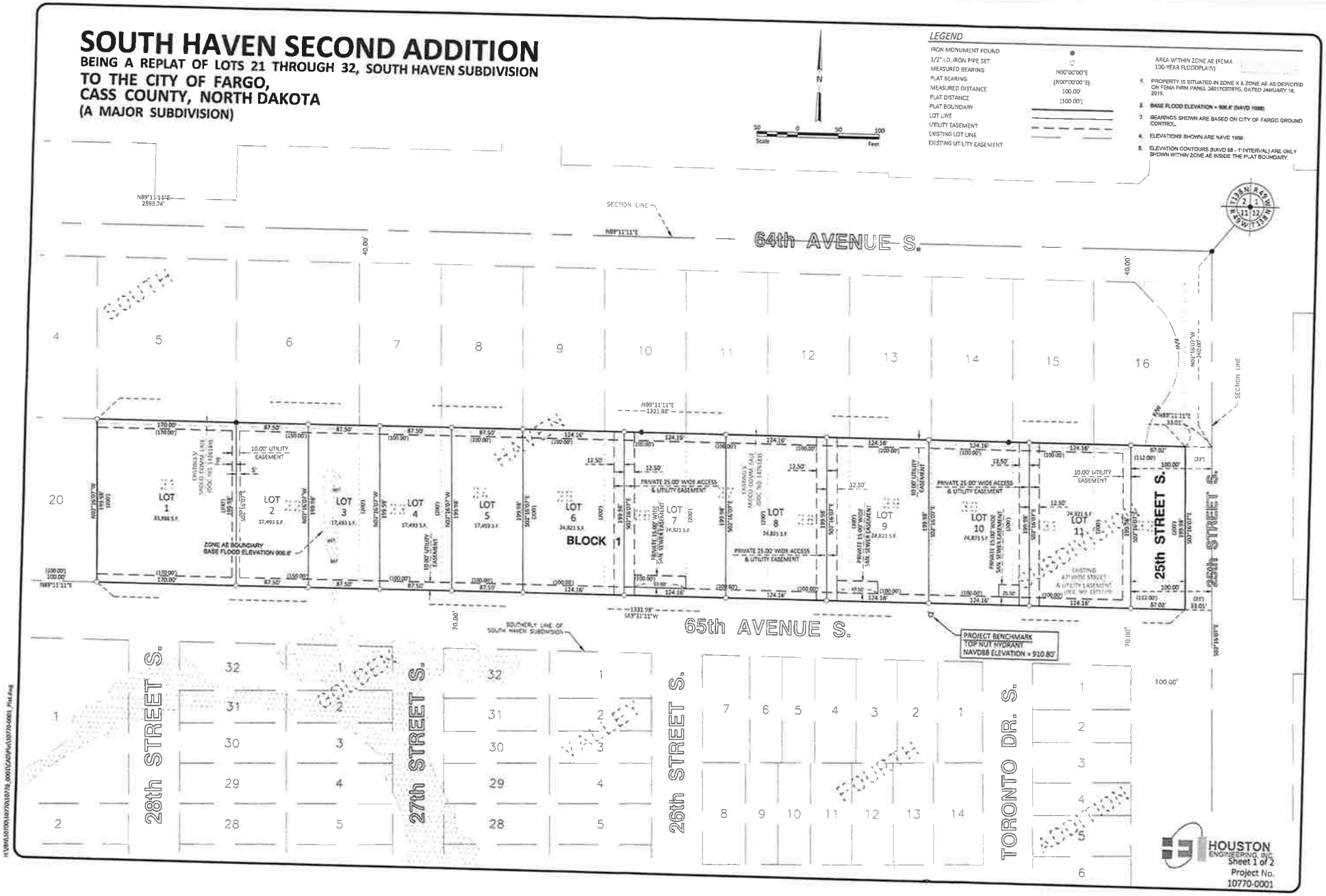
THE CITY OF Fargo FAR MORE

300 Feet

Fargo Planning Commission
January 5, 2020

SOUTH HAVEN SECOND ADDITION

BEING A REPLAT OF LOTS 21 THROUGH 32, SOUTH HAVEN SUBDIVISION
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)



SOUTH HAVEN SECOND ADDITION

BEING A REPLAT OF LOTS 21 THROUGH 32, SOUTH HAVEN SUBDIVISION
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)

KNOW ALL PERSONS BY THESE PRESENTS: That Ryland Development Corporation, a North Dakota corporation; and Stanley L. Ryland and Patricia J. Ryland, husband and wife; are the owners and proprietors of the following described tract of land:

Lots 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32, South Haven Subdivision, City of Fargo, Cass County, North Dakota.

Said tract of land contains 6.113 acres, more or less.

And that said parties have caused the same to be surveyed and re-platted as **SOUTH HAVEN SECOND ADDITION** to the City of Fargo, Cass County, North Dakota, and do hereby dedicate to the public for public use the public street and the public utility easements depicted on this plat, and do hereby dedicate to the current and future owners of Lots 6 and 7, Lots 8 and 9, and Lots 10 and 11, the private access, sanitary sewer, and utility easements, as depicted on this plat, being coincident to, and for the benefit of, each said pair of lots depicted.

OWNERS:

Lots 21 & 22
Ryland Development Corporation

Stanley L. Ryland, President

State of North Dakota)
) ss
County of Cass)

On this 17th day of June, 2021, before me personally appeared Stanley L. Ryland, President of Ryland Development Corporation, a North Dakota corporation, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of said corporation.

Notary Public: _____

MEGAN DOYLE
Notary Public
State of North Dakota
My Commission Expires Nov. 23, 2020

Lots 23 - 32
Stanley L. Ryland and Patricia J. Ryland

Stanley L. Ryland

Patricia J. Ryland

State of North Dakota)
) ss
County of Cass)

On this 17th day of June, 2021, before me personally appeared Stanley L. Ryland and Patricia J. Ryland, husband and wife, known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same as their free act and deed.

Notary Public: _____

MEGAN DOYLE
Notary Public
State of North Dakota
My Commission Expires Nov. 23, 2020

SURVEYOR'S CERTIFICATE:
I, Curtis A. Skarphol, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision; that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

Dated this 1st day of JUNE, 2021.

Curtis A. Skarphol
Professional Land Surveyor No. 4723

CURTIS A. SKARPHOL
LS-4723
PE-4723
DATE 6/1/21
NORTH DAKOTA

State of North Dakota)
) ss
County of Cass)

On this 1 day of June, 2021, before me personally appeared Curtis A. Skarphol, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Notary Public: _____

BRIGIT KOSLER
Notary Public
State of North Dakota
My Commission Expires July 10, 2023

CITY ENGINEER'S APPROVAL:
Approved by the Fargo City Engineer this 2nd day of July, 2021

Brenda E. Derrig, City Engineer

REGISTERED PROFESSIONAL ENGINEER
BRENDA E. DERRIG
PE-5833
DATE 7-2-2021
NORTH DAKOTA

State of North Dakota)
) ss
County of Cass)

On this 2nd day of July, 2021, before me personally appeared Brenda E. Derrig, Fargo City Engineer, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that she executed the same as her free act and deed.

Notary Public: _____

KRISTI OLSON
Notary Public
State of North Dakota
My Commission Expires Oct. 17, 2023

FARGO PLANNING COMMISSION APPROVAL:
Approved by the City of Fargo Planning Commission this 5th day of July, 2021

John Gunkelman, Chair
Fargo Planning Commission

State of North Dakota)
) ss
County of Cass)

On this 6TH day of July, 2021, before me personally appeared John Gunkelman, Chair, Fargo Planning Commission, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Notary Public: _____

ALBERT GIBSON
Notary Public
State of North Dakota
My Commission Expires Sept. 16, 2022

FARGO CITY COMMISSION APPROVAL:
Approved by the Board of City Commissioners and ordered filed this

_____ day of _____, 20____.

Timothy J. Mahoney, Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota)
) ss
County of Cass)

On this _____ day of _____, 20____, before me personally appeared Timothy J. Mahoney, Mayor, City of Fargo; and Steven Sprague, City Auditor, City of Fargo, known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of the City of Fargo.

Notary Public: _____

HOUSTON ENGINEERING, INC

Sheet 2 of 2
Project No. 10770-001

H:\10770\10770\10770_001\CAD\Plat\10770-001_Plat.dwg

THE CITY OF Fargo FAR MORE

Inspections Office
Fargo City Hall
225 Fourth Street North
Fargo, ND 58102
Phone: 701.241.1561
Fax: 701.476.6779
www.FargoND.gov

26d

Memorandum

DATE: July 8, 2021

TO: Mayor Mahoney and Board of City Commissioners

FROM: Bruce Taralson, Inspections Director

SUBJECT: Dangerous Building Notice and Order 305 University Dr S., Fargo, ND 58103

The property owner of 305 University Drive S., Fargo, ND, has failed to comply with my order to obtain a permit to repair or demolish the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-0405, a hearing date is scheduled for July 12, 2021.

The recommendation is to **designate this building to be a dangerous building, direct the City Attorney to prepare findings of fact in this matter, and order its removal on September 9, 2021. Please direct the appropriate staff to secure the removal of this building at that time. If the Owner takes responsibility and obtains a permit to repair this property prior to September 9, 2021, this property will be required to comply with all current codes and ordinances.**

THE CITY OF Fargo FAR MORE

DANGEROUS BUILDING ORDER TO COMMISSION- Detail and Timeline Regarding 305 University Drive S., Fargo, ND.

A Dangerous Building 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 cause why the City of Fargo should not cause the removal of this building. The hearing is scheduled for Monday, July 12, 2021 at 5:15PM.

The Inspections Department has taken this action due to multiple neighborhood complaints prompting inspections. This building meets 5 of the 10 criteria which only one might be required. 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 provided notice to Owner giving 20 days.
5. Inspections report to City Commission today.

In your packets, you will find the Dangerous Building Notice. Article 21-0404 requires the Inspections Department give notice to the Owner of the property prior to any action by the City Commission or staff. Our timeline shows the building was placarded as a Dangerous Building on April 27, 2021. The Dangerous Building notice provided a 20-day deadline to obtain a permit to either repair or demolish the structure.

Included in this packet is a timeline of events, photographs and necessary documents.

PROPERTY INFORMATION- Building is currently vacant and is uninhabitable. The building was constructed in 1913.
Description: Two-story, wood-framed structure.
Description of damage: On April 22, 2021, Inspector, Lynne Olson, was present at 305 University Drive S., Fargo, ND for a rental inspection. The following violations were found:

- Failure to comply with unsafe structure order dated 11/27/2018.
- Unsecure Building.
- Hole and damaged roof causing interior water damage.
- Graffiti on exterior or building.
- Inoperative roof drainage system.
- Hole in foundation of house, infestation.
- History of squatters.

Timeline for events:
2/7/2005: Vehicle Removal Notice.
3/11/2005: Corrections Required Notice – Stairs not constructed correctly.
4/21/2009: Vehicle Removal Notice.
11/19/2018: Inspections Department received complaint of squatters.
11/27/2018: Notice of Unsafe Structure.
12/31/2018: Communication with lender's preservation company regarding the structure being boarded up over one-year deadline.
1/15/2019: Communication with lender's preservation company regarding the debris from the garage fire being needing to be removed from the property.
4/30/2019: Communication with the lender's preservation company regarding debris from fire still present on property – complaints received from neighbors.
4/22/2021: Property Maintenance Inspection.
4/27/2021: Notice of Dangerous Building.
6/28/2021: Inspections requested Dangerous Building *Order to Show Cause* Hearing to be scheduled for July 12, 2021.
6/29/2021: Notice of Hearing posted on building and mailed to Owner via registered mail.
7/7/2021: As per Xcel Energy, electric services were last used in October of 2019.
7/7/2021: As per City of Fargo Water Department, last use was 11/30/2011.
7/12/2021: Dangerous Building Hearing.
7/27/2021: Anticipated issuance of *Findings of Fact* document.
8/6/2021: Deadline to appeal to District Court.
9/6/2021: Deadline for City of Fargo to proceed with action on City Commission's recommendation to demolish.

Please note, this timeline does not include a total calculation of overall staff time spent on this property.

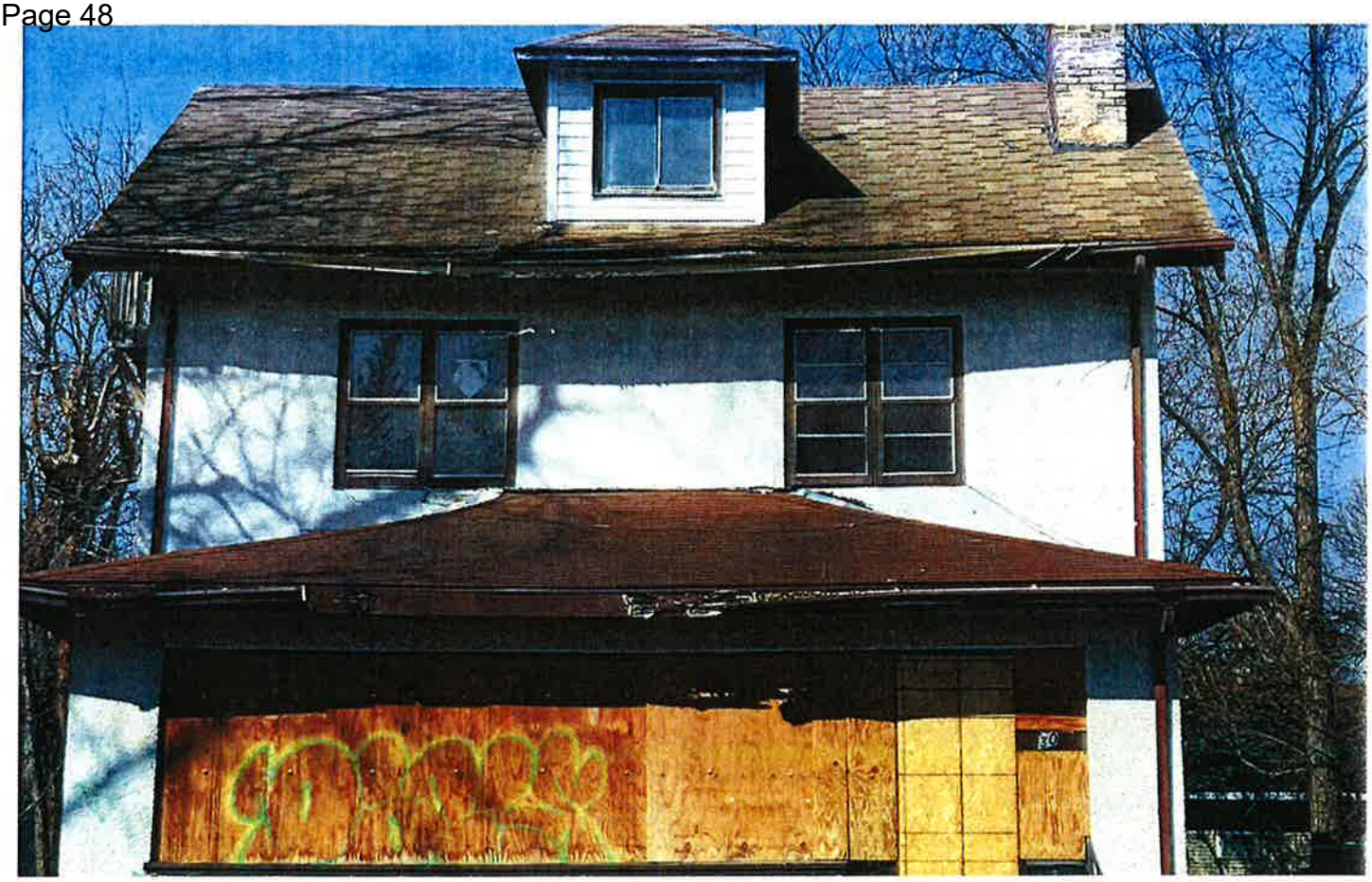
Upon your finding for the Owner to comply with this demolition order, you are required by Article 21-0405 C, D & E, to notify Owner of your determination, and that if an Owner fails to comply with that order for demolition within 10 days, The City Commission can order city staff to take action on demolition and assess costs back to the property.

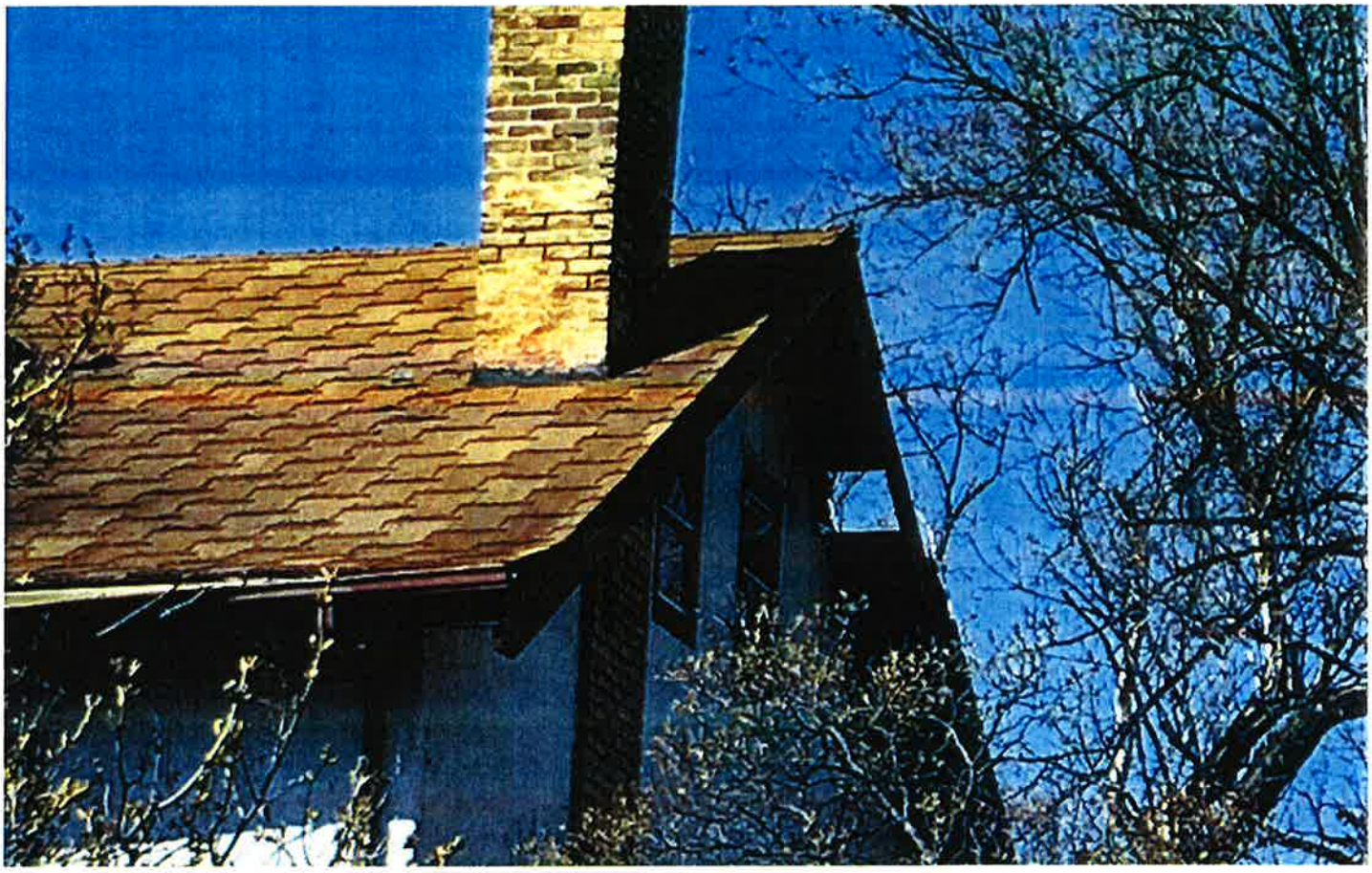
I suggest you agree with my notice and find this to be a Dangerous Building, and direct the City Attorney to prepare findings of fact in this matter. I also ask that you direct staff

to proceed with all necessary measures to secure the removal of this building should the Owner fail to do so. Article 21-0412 allows for the Owner to appeal to the City Commission's action to District Court, which requires a $500 deposit with the City Auditor.

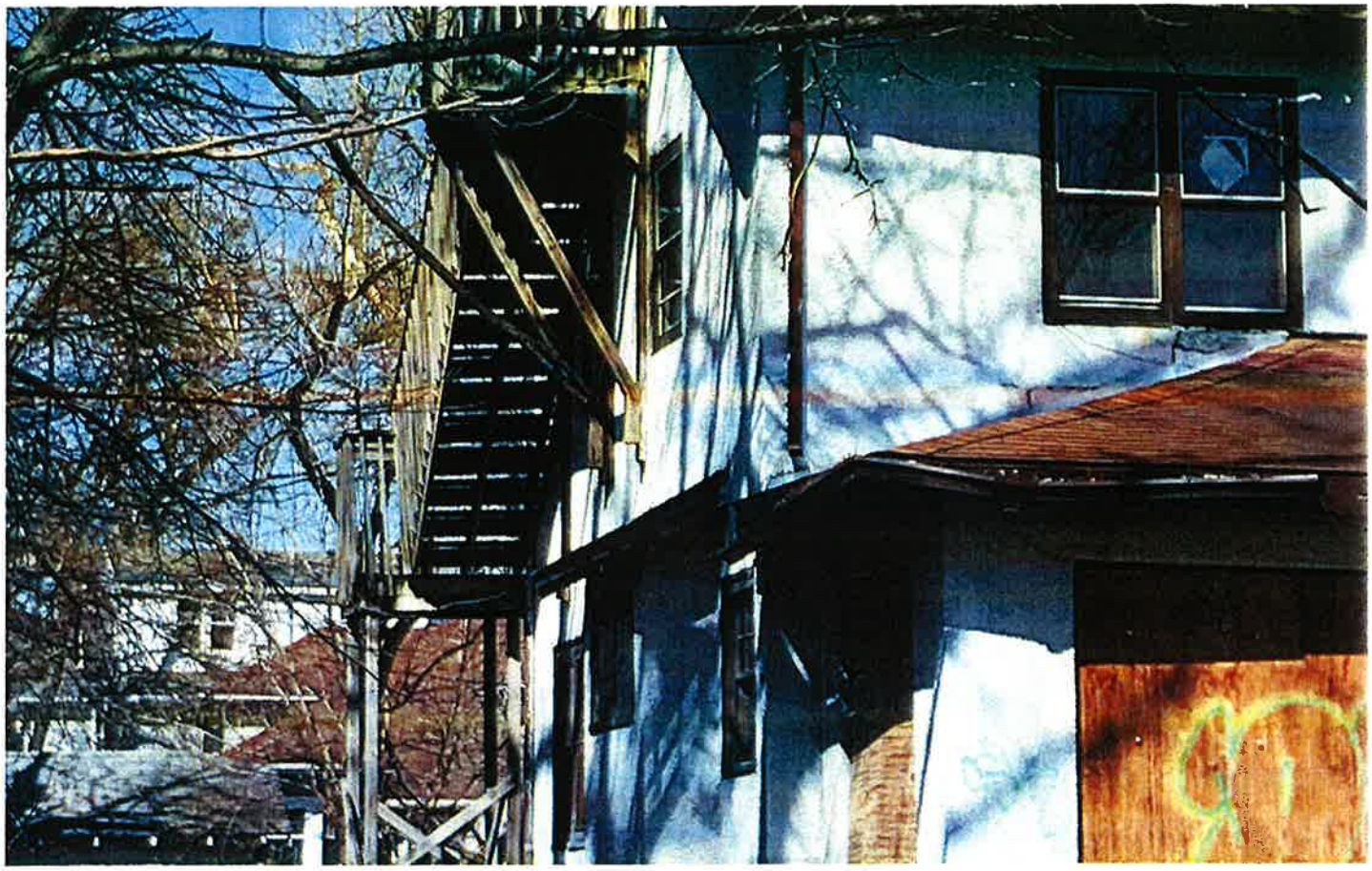
Respectfully submitted,
Dated this 8th day of July, 2021.

Bruce Taralson
Inspections Director

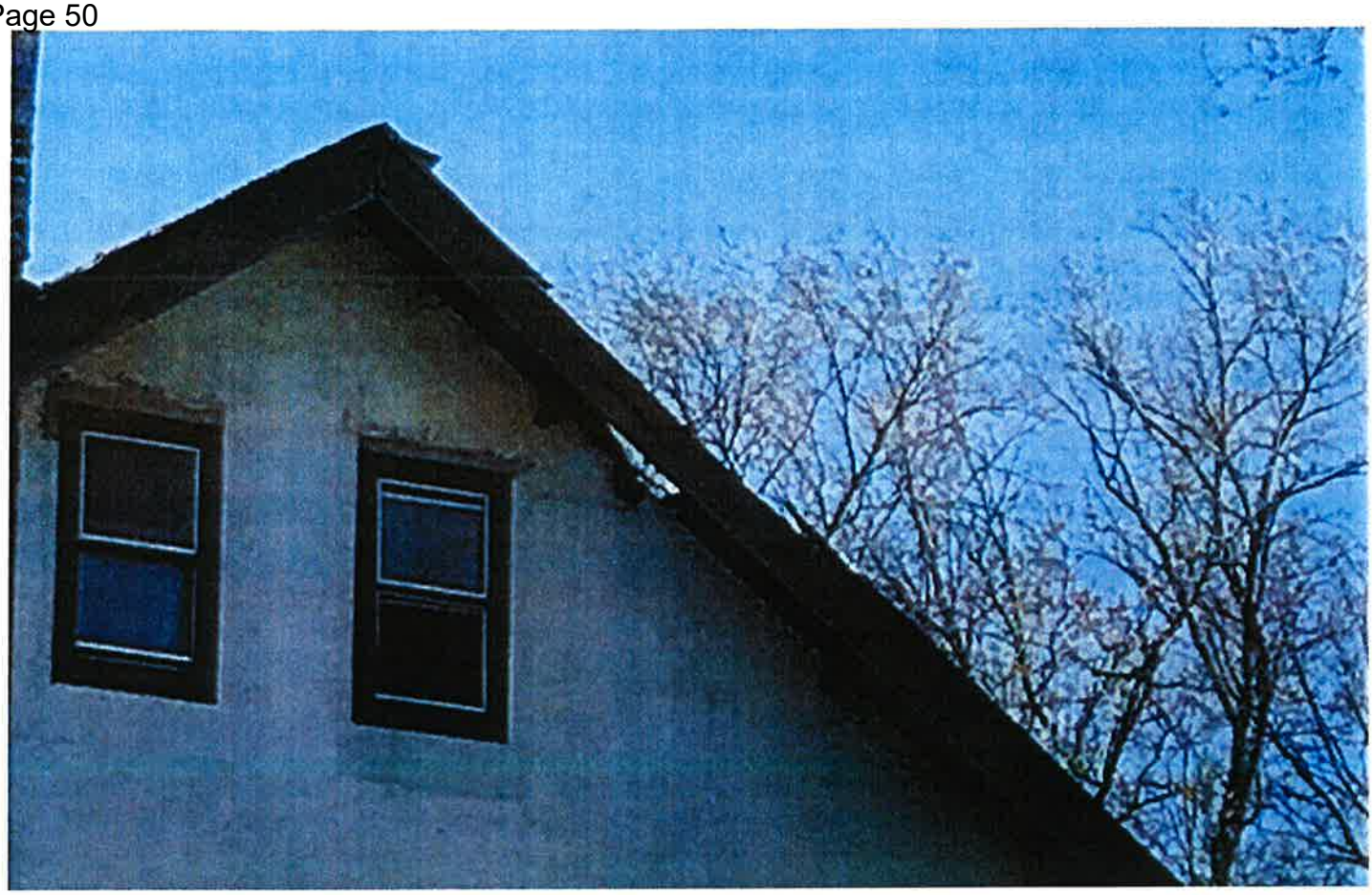




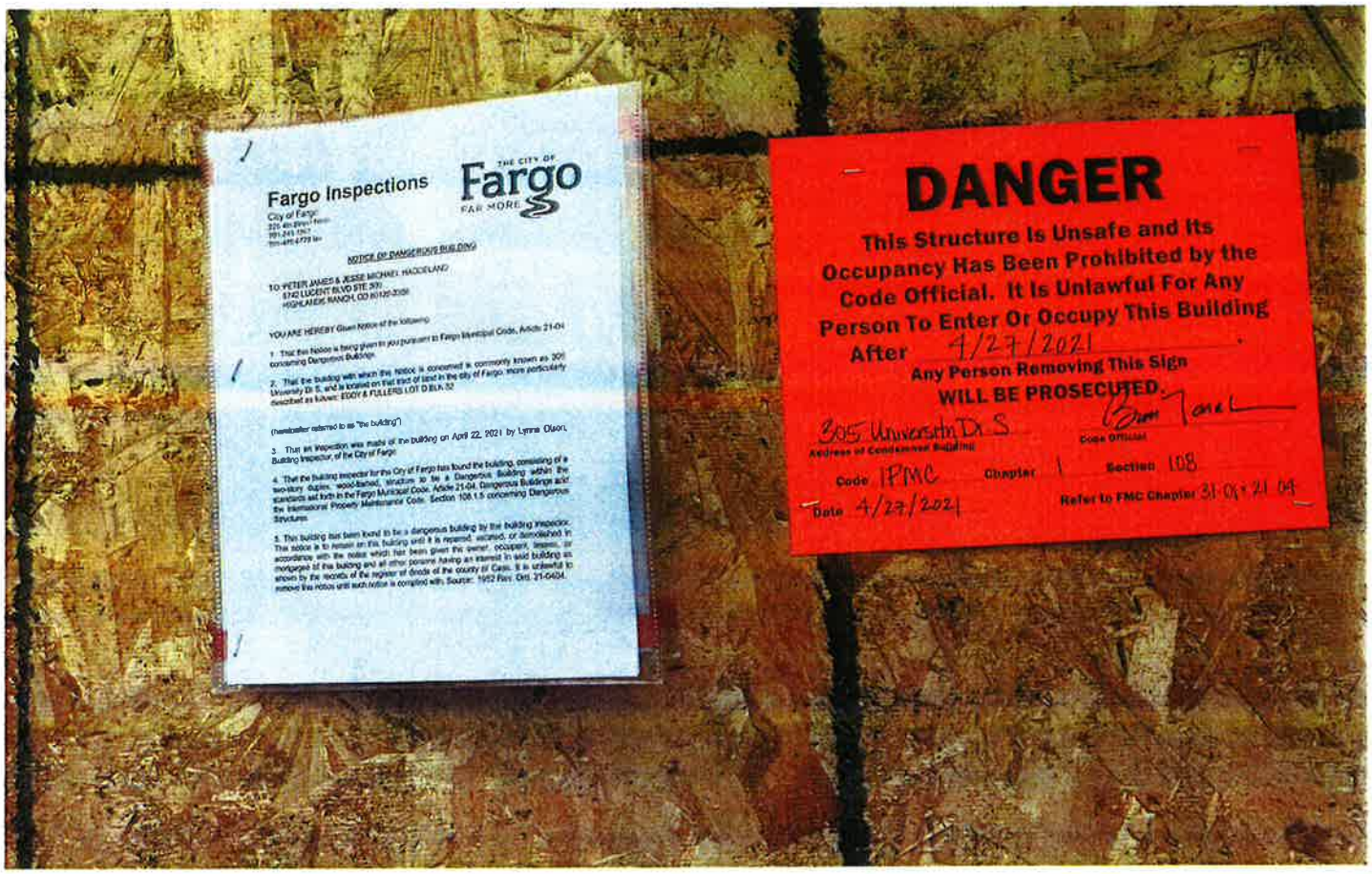
305 University Drive S., Fargo, ND 4-22-2021



305 University Drive S., Fargo, ND 4-22-2021



305 University Drive S., Fargo, ND 4-22-2020



305 University Drive S., Fargo, ND 4-27-2021

6. That the owner of the building must demolish the building within 20 [illegible] from the date of this notice or obtain a permit to repair. To obtain a [illegible] 'Conditions Found Statement' below.

7. That the building is unsafe and is a dangerous building in the following [illegible] 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to [illegible] Code, Article 21-04 concerning Dangerous Buildings and the International [illegible] Maintenance Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within [illegible] period set forth herein, the City of Fargo will take such steps as are necessary [illegible] said building to be demolished pursuant to Fargo Municipal Code, Article [illegible] concerning Dangerous Buildings and the 2018 International Property Maintenance [illegible] and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined the building or structure must be vacated as required by Section 102.3 [illegible] International Property Maintenance Code, 2018 edition. Therefore, it is hereby [illegible] that the building or structure shall be vacated immediately, and remain vacated [illegible] 27th day of April, 2021.

11. Order to secure building. The undersigned building official has determined [illegible] building must remain secured. Therefore, it is hereby ordered that all means [illegible] the building remain secured to prevent unauthorized entrance within 4 hours [illegible] this notice (May 3rd, 2021) **An inspector will continue to verify compliance** [illegible] keep the building secured will result in the City of Fargo hiring an independent [illegible] to secure the building. All expenses for securing the building will be assessed [illegible] the property.

12. Application for Appeal. Section 111.1 of the International Property [illegible] Code states that any person directly affected by a decision of the code official [illegible] or order issued under this code shall have the right to appeal to the Board [illegible] provided that a written application for appeal is filed within 20 days [illegible] decision, notice or order was served. An application for appeal shall [illegible] claim that the true intent of this code or the rules legally adopted thereunder [illegible] incorrectly interpreted, the provisions of this code do not fully apply, or [illegible] of this code are adequately satisfied by other means.

Dated this 27th day of April, 2021.

Conditions Found Statement

On April 22nd, 2021, Building Inspector, Lynne Olson, was present at 305 University Dr S, Fargo, ND to address a Property Maintenance Inspection. The following violations were found:

- Failure to comply with unsafe structure order 11/27/2018
- Unsecure building
- Hole and damage to roof causing interior water damage
- Graffiti on exterior of building
- Inoperative roof drainage system
- Hole in foundation of house, infestation
- History of squatters

The following action must be taken:

- Provide engineering on all systems and obtain a permit to repair and make repairs by permit deadline or
- Demolish the structure within the deadline provided in this notice.

Lynne Olson
Building Inspector
City of Fargo, ND

Bruce Taralson
Inspections Director

4/27/2021
Date Signed

305 University Drive S., Fargo, ND 4-27-2021

305 University Drive S., Fargo, ND 6-15-2021

Fargo Inspections
City of Fargo
225 Fourth Street North
Fargo, North Dakota 58102
Phone: 701-241-1561
Fax: 701-476-6779

THE CITY OF Fargo FAR MORE

Notice of Dangerous Building Hearing – Order to Show Cause

Date: June 29, 2021

Location: 305 University Drive S., Fargo, ND 58103

Property Owner: Peter James & Jesse Michael Haddeland
Address of Property Owner: 8742 Lucent Blvd, Ste 300
Highlands Ranch, CO 80129-2386

Inspector: Lynne Olson
Date of Posting: June 29, 2021

Ordinance 21-0405 of the Fargo Municipal Code states:

The board of city commissioners shall:

A. Upon receipt of a report of the building inspector as provided for in § 21-0404, subsection (F), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector(s) notice provided for herein in § 21-0404, subsection (E).

B. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the "dangerous building."

A hearing regarding the dangerous building located at 305 University Drive S., Fargo, ND has been scheduled for Monday, July 12, 2021 at 5:15PM. The hearing will take place in the City Commission Chambers, located at 225 4th Street N., Fargo, ND 58102.

Any interested person or party is encouraged to attend.

Dated on this 29th day of June, 2021.

Christine Rose
Assistant Inspections Director

305 University Drive S. Fargo, ND - City of Fargo Police Report from 2010 to Present:

Incident Number	Call Date/Time	Officers	Dispositions	Location	Incident Type	ORI
2019-00072024	08/23/2019 09:14:29	402 - Gease, 521 - Carlsson, 186 - Bergem, 216 - ...	AC - 1	305 UNIVERSITY DR S, FGO	Burglary	ND0090200
2019-00003274	01/12/2019 04:03:41	542 - Hallada, 539 - Powell-Calhoun, 537 - Martin,...	AC - 1	305 UNIVERSITY DR S, FGO	Assist Fire	ND0090200
2018-00093803	11/15/2018 09:55:31	474 - Bloom, 343 - White	AC - 1	305 UNIVERSITY DR S, FGO	Welfare Check	ND0090200
2018-00088272	10/26/2018 21:34:19	527 - O'Donnell, 312 - Normandin, 219 - Gunther, ...	AC - 1	305 UNIVERSITY DR S, FGO	Suspicious	ND0090200
2018-00061999	07/30/2018 18:37:51	500 - Schock, 518 - Bollman, 531 - Mock, 557 - B...	AC - 1	305 UNIVERSITY DR S, FGO	Burglary	ND0090200
2018-00060914	07/27/2018 05:04:21	550 - Sazama, 537 - Martin, 502 - Gossen, 549 - S...	AC - 1	305 UNIVERSITY DR S BLK, FGO	Residence/Buildi...	ND0090200
2018-00059948	07/24/2018 02:34:59	537 - Martin, 472 - Helm	AC - 1	305 UNIVERSITY DR S, FGO	COP	ND0090200
2018-00056177	07/12/2018 10:13:25	186 - Bergem	ICR - 1	305 UNIVERSITY DR S, FGO	Suspicious	ND0090200
2018-00056144	07/12/2018 06:01:46	502 - Gossen, 549 - Soiseth, 221 - Ysteboe, 605 - ...	AC - 1	305 UNIVERSITY DR S, FGO	Bar Check	ND0090200
2018-00055113	07/09/2018 05:50:30	549 - Soiseth, 550 - Sazama, 533 - Haderlie, 537 -...	ICR - 1	305 UNIVERSITY DR S, FGO	Disturbance	ND0090200
2018-00055078	07/09/2018 01:52:11	533 - Haderlie, 472 - Helm, 498 - Essler, 550 - Saz...	AC - 1	305 UNIVERSITY DR S, FGO	Disturbance	ND0090200
2018-00033211	04/30/2018 00:27:59	608 - Chezick, 517 - Novacek, 502 - Gossen	AC - 2	305 UNIVERSITY DR S, FGO	Warrant - Wanted	ND0090200
2018-00008264	02/01/2018 05:29:44	502 - Gossen, 549 - Soiseth, 550 - Sazama, 537 - ...	AC - 1	305 UNIVERSITY DR S, FGO	Suspicious	ND0090200
2018-00007985	01/31/2018 05:41:59	502 - Gossen	AC - 1	305 UNIVERSITY DR S, FGO	COP	ND0090200
2017-00062840	07/29/2017 19:39:02	541 - Luckow	AC - 2	305 UNIVERSITY DR S, FGO	Public Assist	ND0090200
2017-00010657	02/10/2017 12:55:42	541 - Luckow, 373 - Nord, 331 - Fylling, 006 - Bae...	AC - 1	305 UNIVERSITY DR S, FGO	Suspicious	ND0090200
2017-00002562	01/11/2017 13:25:29	102 - Deitz, 382 - Harken	ICR - 1, AC - 1	305 UNIVERSITY DR S, FGO	Burglary	ND0090200
2016-00035413	05/27/2016 17:36:10	475 - Grandbois, 518 - Bollman, 503 - Golos	AC - 1	305 UNIVERSITY DR S, FGO	Suspicious	ND0090200
2015-00083775	11/29/2015 22:57:07	389 - Berger, 184 - Zieska, 472 - Helm, 373 - Nord	GOA - 1	305 UNIVERSITY DR S, FGO	Narcotics	ND0090200
2014-00059307	09/19/2014 18:45:17	390 - Hanson, 219 - Gunther, 395 - Holte, 239 - C...	AC - 1	305 UNIVERSITY DR S, FGO	Suspicious	ND0090200
2014-00056759	09/09/2014 14:59:00	319 - Abel, 042 - Kempf, 314 - Westby, 074 - Nich...	ICR - 1	305 UNIVERSITY DR S, FGO	Burglary	ND0090200
2014-00015756	03/20/2014 12:28:49	186 - Bergem	AC - 1	305 UNIVERSITY DR S, FGO	Burglary	ND0090200
2011-00070073	09/06/2011 16:53:00	379 - Geyer, 312 - Normandin	AC - 1	305 UNIVERSITY DR S, FGO	Accident - Property	ND0090200
2010-00131130	10/31/2010 17:15:13	231 - Wagner, 368 - Erickson	AC - 1	305 UNIVERSITY DR S 3, FGO	Disturbance	ND0090200

Fargo Inspections
City of Fargo
225 4th Street North
701-241-1561
701-476-6779 fax

THE CITY OF Fargo FAR MORE

NOTICE OF DANGEROUS BUILDING

TO: PETER JAMES & JESSE MICHAEL HADDELAND
8742 LUCENT BLVD STE 300
HIGHLANDS RANCH, CO 80129-2386

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 305 University Dr S, and is located on that tract of land in the city of Fargo, more particularly described as follows: EDDY & FULLERS LOT D BLK 32

(hereinafter referred to as "the building")

3. That an inspection was made of the building on April 22, 2021 by Lynne Olson, Building Inspector, of the City of Fargo.

4. That the building inspector for the City of Fargo has found the building, consisting of a two-story duplex, wood-framed, structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and the International Property Maintenance Code, Section 108.1.5 concerning Dangerous Structures.

5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.

6. That the owner of the building must demolish the building within 20 (twenty) days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.

7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

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

9. 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 2018 International Property Maintenance Code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 108.2 of the International Property Maintenance Code, 2018 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 27th day of April, 2021.

11. Order to secure building. The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance within 4 business days of this notice (May 3rd, 2021) **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

12. Application for Appeal. Section 111.1 of the International Property Maintenance Code states that any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on the claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Dated this 27th day of April, 2021.

Conditions Found Statement

On April 22nd, 2021, Building Inspector, Lynne Olson, was present at 305 University Dr S, Fargo, ND to address a Property Maintenance Inspection. The following violations were found:

- Failure to comply with unsafe structure order 11/27/2018
- Unsecure building
- Hole and damage to roof causing interior water damage
- Graffiti on exterior of building
- Inoperative roof drainage system
- Hole in foundation of house, infestation
- History of squatters

The following action must be taken:

- Provide engineering on all systems and obtain a permit to repair and make repairs by permit deadline or
- Demolish the structure within the deadline provided in this notice.

Lynne Olson
Building Inspector
City of Fargo, ND

Bruce Taralson
Inspections Director

4/27/2021
Date Signed

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

Re: Notice of Dangerous Building
CM Receipt#: 9214 8901 9403 8338 6274 83

Gretchen Morlan, being first duly sworn and being of legal age, deposes and says that on the 27th day of April, 2021, she served the attached notice, upon Peter James & Jesse Michael Haddeland, by placing true and correct copies thereof in an envelope addressed as follows:

Peter James & Jesse Michael Haddeland
8742 Lucent Blvd, Ste 300
Highlands Ranch, CO 80129-2386

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.

Gretchen Morlan

Subscribed and sworn to before me this 27th day of April, 2021.

Michelle R Vanyo
Notary Public
Cass County, North Dakota

MICHELLE R. VANYO
Notary Public
State of North Dakota
My Commission Expires Oct. 26, 2021

(SEAL)

UNITED STATES POSTAL SERVICE

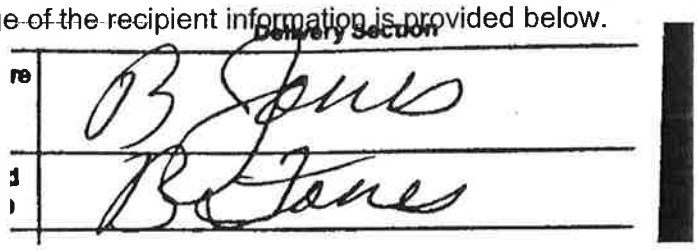
Mailer: City of Fargo

Date Produced: 05/10/2021

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8338 6274 83. Our records indicate that this item was delivered on 05/03/2021 at 07:49 a.m. in LITTLETON, CO 80163. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

PETER JAMES & JESSE MICHAEL HADDELAND
STE 300
8742 LUCENT BLVD
HGHLNDS RANCH CO 80129-2386

Customer Reference Number: C2659675.15338070

AFFIDAVIT OF SERVICE

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

Re: Posting of Dangerous Building Notice

Lynne Olson, being first duly sworn and being of legal age, deposes and says that on the 27th day of April 2021, she posted the attached notice upon the garage located at the following address:

305 University Drive S.
Fargo, ND 58103

Lynne Olson

Subscribed and sworn to before me this 27th day of April, 2021.

Michelle R Vanyo
Notary Public
Cass County, North Dakota

MICHELLE R. VANYO
Notary Public
State of North Dakota
My Commission Expires Oct. 26, 2021

(SEAL)

Fargo Inspections
City of Fargo
225 Fourth Street North
Fargo, North Dakota 58102
Phone: 701-241-1561
Fax: 701-476-6779

Notice of Dangerous Building Hearing – Order to Show Cause

Date: June 29, 2021

Location: 305 University Drive S., Fargo, ND 58103

Property Owner: Peter James & Jesse Michael Haddeland
Address of Property Owner: 8742 Lucent Blvd, Ste 300
Highlands Ranch, CO 80129-2386

Inspector: Lynne Olson
Date of Posting: June 29, 2021

Ordinance 21-0405 of the Fargo Municipal Code states:

The board of city commissioners shall:

> A. Upon receipt of a report of the building inspector as provided for in § 21-0404, subsection (F), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector(s) notice provided for herein in § 21-0404, subsection (E).

B. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the "dangerous building."

A hearing regarding the dangerous building located at 305 University Drive S., Fargo, ND has been scheduled for Monday, July 12, 2021 at 5:15PM. The hearing will take place in the City Commission Chambers, located at 225 4th Street N., Fargo, ND 58102.

Any interested person or party is encouraged to attend.

Dated on this 29th day of June, 2021.

Christine Rose
Assistant Inspections Director

AFFIDAVIT OF SERVICE

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

Re: Posting of Dangerous Building Notice – 305 University Drive S., Fargo, ND 58103

CM# 9214 8901 9403 8343 6173 49

Lynne Olson, being first duly sworn and being of legal age, deposes and says that on the 29th day of June 2021, she posted the attached notice upon the front of the house located at the following address:

305 University Drive S.
Fargo, ND 58103

Lynne Olson

Subscribed and sworn to before me this 29th day of June, 2021.

JILL PAGEL
Notary Public
State of North Dakota
My Commission Expires Feb. 26, 2025

Notary Public
Cass County, North Dakota

(SEAL)

UNITED STATES POSTAL SERVICE

Mailer: City of Fargo

Date Produced: 07/05/2021

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8343 6173 49. Our records indicate that this item was delivered on 07/01/2021 at 08:21 a.m. in WAUBUN, MN 56589. The scanned image of the recipient information is provided below.

Signature of Recipient :

Sandra F. Haddeland

Sandra F. Haddeland

Address of Recipient :

PO Box 66 Waubun MN

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

PETER JAMES & JESSE MICHAEL HADDELAND
PO BOX 66
WAUBUN MN 56589-0066

Customer Reference Number: C2784871.16031171

AFFIDAVIT OF SERVICE

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

Re: Posting of Dangerous Building Notice – 305 University Drive S., Fargo, ND 58103
Cm# 9214 8901 9403 8343 6165 64

Lynne Olson, being first duly sworn and being of legal age, deposes and says that on the 29th day of June 2021, she posted the attached notice upon the front of the house located at the following address:

305 University Drive S.
Fargo, ND 58103

Lynne Olson

Subscribed and sworn to before me this 29th day of June, 2021.

JILL PAGEL
Notary Public
State of North Dakota
My Commission Expires Feb. 26, 2025

Notary Public
Cass County, North Dakota

(SEAL)

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FAQs >

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Tracking Number: 9214890194038343616564

Your item was delivered at 7:44 am on July 7, 2021 in LITTLETON, CO 80130.

Delivered

July 7, 2021 at 7:44 am
LITTLETON, CO 80130

Feedback

Get Updates

Text & Email Updates

Return Receipt Electronic

Tracking History

Product Information

See Less

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

28

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 1-0305 OF ARTICLE 1-03 OF CHAPTER 1 OF THE FARGO MUNICIPAL CODE RELATING TO CLASSIFICATION OF ORDINANCE VIOLATIONS

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

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

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

1-0305. Classification of ordinance violations.

A. Violations of the following ordinances are Class B misdemeanors, subject to punishment as provided in this article:

Section 1-0306(D) (failure to appear or post bond on a non-criminal, non-traffic offense), section 8-0305(A)(2) (fictitious registration), section 8-0305(A)(3) (lending registration plates), section 8-0308 (reproducing operator's or driver's license or permit), section 8-0309 (driving under suspension), section 8-0310 (driving under the influence), section 8-0314 (reckless driving), section 8-0320 (driving without liability insurance - $150.00 minimum

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

fine), section 8-0803 (accidents involving damage to vehicle), section 8-0804 (duty to give information and render aid), section 8-0805 (duty upon striking fixture or other property), section 8-0809 (false reports), ~~section 10-0101 (minor using alcohol),~~ 10-0104 (curfew), section 10-0201 (indecent exposure), section 10-0301 (disorderly conduct), section 10-0317 (resisting police officer), section 10-0319 (incendiary devices), section 10-0320 (registration in schools), section 10-0321 (criminal mischief), section 10-0322 (harassment), section 10-0323 (simple assault), section 10-0324 (aiding and abetting), section 10-0601 (shoplifting), section 10-0602 (theft), section 10-0702 (order to disperse), section 10-0703 (tenant/owner cooperation required), section 10-1202(2) (≥½ oz. marijuana) and 10-1202(3) (under 21 in possession of marijuana), section 12-0117(C) and 12-0117(G) (potentially dangerous and dangerous dogs), section 13-0511 (removal of wastes), section 13-0513 (fee/permit for hauling waste), section 13-0529 (misuse of compost sites), article 13-13 (drug lab cleanup), chapter 17 (sewers and sewerage), article 18-09 (excavation code), section 25-1509(A) (selling alcoholic beverage to minor), section 25-1513(C) (minor misrepresenting age), and section 25-1513(D) (delivery of alcoholic beverage to minor), article 25-33 (tattoos, body art and body piercing), article 25-36 (tanning facilities).

* * * *

Section 2. Penalty.

A person who violates section 10-0101 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 $1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 3. Effective Date.

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

_____
Timothy J. Mahoney, Mayor

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

THE CITY OF Fargo FAR MORE

29

Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

July 8, 2021

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

Dear Commissioners:

As you know, the City of Fargo initiated a lawsuit in July 2019 against Purdue Pharma and others for damages and other relief pertaining to the nationwide opioid crisis. Most of the opioid lawsuits have been assembled for litigation management purposes in an "MDL" (multi-district litigation) in Federal District Court in Ohio. The MDL process is utilized by the courts as a tool to manage mass tort litigation. You are probably aware that Purdue Pharma (and affiliated entities), the developer of Oxycontin, petitioned for Chapter 11 bankruptcy. A bankruptcy plan for reorganization, that includes payment to opioid plaintiffs, including cities and states, has been under negotiation for some time. The enclosed letter from the Plaintiffs' Executive Committee ("PEC") explains the proposed plan. The City's litigation counsel is the law firm of Andrus Anderson LLP with Jennie Anderson being lead counsel. Andrus Anderson is recommending that the City of Fargo approve the bankruptcy plan and they will be present (virtually) for Monday evening's City Commission meeting to provide an explanation and to respond to questions.

SUGGESTED MOTION: I move to approve the bankruptcy plan for reorganization of Purdue Pharma as presented.

Sincerely,

Erik R. Johnson

Erik R. Johnson L.W.

Enclosure

cc: Jennie Anderson, Andrus Anderson

Co-Lead Counsel and Plaintiffs' Executive Committee,
In re: National Prescription Opiate Litigation, MDL 2804
purdue@pecmdl2804.com

June 22, 2021

TO ALL COUNSEL FOR ANY
GOVERNMENTAL ENTITY IN THE OPIOID
MDL WHO FILED PROOFS OF CLAIM IN
CONNECTION WITH *In Re Purdue Pharma,*
L.P., et al., Case No. 19-23649 (RDD) (Bankr.
S.D.N.Y.)

RE: PEC Support for Chapter 11 Plan of Reorganization In Connection With *In Re Purdue Pharma, L.P., et al.*, Case No. 19-23649 (RDD) (Bankr. S.D.N.Y.)

Dear Counsel:

Please review this letter if you or your client have litigation consolidated in MDL 2804 and filed a proof of claim in connection with the bankruptcy cases of Purdue Pharma and its affiliates (as captioned above) and are eligible to vote on approval of Purdue's proposed plan of restructuring (the "Plan").[1]

We are co-lead counsel and members of the Plaintiffs' Executive Committee (together, referred to as the "PEC") in *In re National Prescription Opiate Litigation*, Case No. 17-md-02804, MDL No. 2804, multidistrict litigation (the "MDL") against opioid manufacturers, distributors, and retailers before Judge Dan A. Polster in the District Court for the Northern District of Ohio. The PEC is a member of the ad hoc committee of governmental and other contingent litigation claimants (collectively, the "Ad Hoc Committee"),[2] which played an instrumental role in Purdue's bankruptcy cases and negotiation of the Plan. As you may recall, we previously communicated with you concerning the ability to file a consolidated claim on behalf of non-federal local governments and provided guidance on the master-ballot voting procedures regarding the Plan.

The purpose of this letter is to explain the terms and structure of the Plan and the reasons the PEC supports the plan ahead of the voting deadline of: July 14, 2021 (the "Voting Deadline"). **We ask that you and your clients review the Disclosure Statement and Plan closely prior to voting on the Plan**.

[1] The Plan [Docket No. 2982] and Disclosure Statement [Docket No. 2983] and all related filings are accessible on the noticing agent's website: https://restructuring.primeclerk.com/purduepharma/Home-DocketInfo.

[2] The Ad Hoc Committee is composed of: (1) Broward County, FL; (2) City of Chicago, Ill.; (3) Huntington/Cabell County; (4) King County, WA; (5) Muscogee (Creek) Nation; (6) the PEC; (7) the City of Philadelphia, Pa.; (8) Santa Clara County, Ca.; (9) State of Florida; (10) State of Georgia; (11) State of Louisiana; (12) State of Michigan; (13) State of Mississippi; (14) State of New Mexico; (15) State of Ohio; (16) State of Tennessee; (17) State of Texas; and (18) State of Utah.

I. Executive Summary.

Purdue Pharma, the company which developed and aggressively marketed Oxycontin, a powerful and addictive opioid painkiller, filed for bankruptcy in September 2019 after being named as a defendant in thousands of civil lawsuits seeking damages for asserted opioid-related injuries to governments (state, local, and tribal), hospitals, individuals, insurers, and others. The Plan seeks to resolve the bankruptcy cases by settlement and is the culmination of over two years of negotiations and work among the PEC, certain of the States' Attorneys' Generals, the United States Government, the Debtors and their shareholders (the "Sackler Families"), and various other opioid creditor representatives, including, during the bankruptcy cases, the Official Committee of Opioid Creditors. Not to mention the tremendous cost of the bankruptcy which is now over $200 million.

That settlement is now before the bankruptcy court for final confirmation. As part of the process, all creditors who filed a "proof of claim" against the bankruptcy estate are being asked to vote on the proposed restructuring plan that emerged from the settlement negotiations. In broad terms, the restructuring plan provides for the assets of the Purdue corporation to be transferred to a new "corporation" that will be indirectly owned by the "public creditors" of Purdue—all state, local and tribal governments. The continued operation of the company and then its ultimate sale may generate $1-2 billion in assets. These operating and sales revenues, along with certain insurance proceeds and other assets, will be combined with a contribution of $4.275 billion (over a series of years) to be made by members of the Sackler family, who are the shareholders of Purdue (and who will make this contribution in exchange for receiving releases from civil liability, thus shielding themselves from civil litigation).

The combined assets of the bankruptcy estate will be used to pay various groups of private creditors—insurers, hospitals, individual personal injury plaintiffs—and the residual amount, which may be approximately $5 billion will be allocated among state, local and tribal governments. The Tribes in aggregate will receive approximately 3% of these public funds and the aggregate allocation of funds to Tribes will be distributed to individual Tribes based on an allocation matrix that takes into account the population of each Tribe along with certain metrics that go to the severity of the opioid problem in tribal areas. The funds received by all creditors (other than personal injury victims and children suffering from NAS) **will be restricted to be used for abatement of the opioid problem in their communities**.

II. Background.

In the 1990's, Purdue Pharma—a Connecticut-based pharmaceutical manufacturer owned by members of the Sackler family—developed a powerful new opioid painkiller, Oxycontin. Purdue engaged in aggressive marketing of the drug, denying its highly addictive properties and promoting it not just for end-of-life palliative care (such as for cancer patients), but also to treat chronic pain of all varieties (such as back pain). The result of this effort was to greatly expand the market for opioid medications and greatly expand the number of people using opioids. Not surprisingly, there followed a dramatic increase in the number of people who became addicted to opioids, leading to death, incapacitation, family dysfunction, crime and social problems. These consequences were devastating not only to the individuals involved, but also to all levels of government, which had to bear increasing costs of health care and social services provided to their

citizens who became addicted to opioids and subsequently, in many cases, to heroin, fentanyl and other similar opiates.

In many ways, Purdue's development and marketing of Oxycontin was ground zero for the nationwide opioid epidemic that has been ravaging communities across the country for 20 years. Hundreds of thousands of people died from opioid-related overdoses and illness. As a consequence, more than 2,900 civil lawsuits have been filed against Purdue, primarily by state, local and tribal governments, seeking hundreds of billions of dollars in damages. Most of the cases were consolidated in the Opioid MDL before Judge Polster, although state governments brought suits in their state courts. In response to this tidal wave of litigation, Purdue and the Sackler Families pursued global settlement negotiations with the PEC and state governments. As discussed below, those negotiations bore fruit and in order to act on the settlement in principle, Purdue filed a petition for bankruptcy in September 2019 in the federal bankruptcy court in the Southern District of New York. The effect of the bankruptcy filing was to automatically stay all pending litigation against the company.

III. The Initial Settlement Framework (Pre-Bankruptcy).

After years of litigation and the looming CT1 bellwether cases, in September 2019, (i) the PEC and 24 state attorneys general, and analogous officials from five U.S. territories; (ii) Purdue; and (iii) Purdue's ultimate owners (trusts for the benefit of members of the Sackler Families (the "Sackler Families" or the "Sacklers") announced an agreement in principal to resolve the opioid litigation against Purdue and the Sackler Families in a global fashion (the "Initial Settlement Framework").[3] The Initial Settlement Framework, to be implemented through a bankruptcy filing, had two primary components.

First, Purdue itself—the company in bankruptcy—would emerge from the bankruptcy as a "corporation" that would be indirectly owned by governments and be operated for some period of time under strict standards to serve public interest goals. These goals would be to (1) continue production of opioid medications as necessary to serve legitimate medical interests (i.e., for use in appropriate palliative care circumstances), (2) to produce medications (such as Naloxone) to reverse adverse reactions to opioids and to treat overdoses, and (3) to produce revenues that would be distributed to state, local and tribal governments to be used to abate the effects of the opioid crisis.

Second, members of the Sackler family would make a cash contribution of $3 billion (which theoretically could be increased to approximately $4.2 billion if the sales of the Sackler Families' ex-US pharmaceutical businesses were particularly successful) to a settlement fund that would be used to pay creditors of Purdue, including governmental creditors, who would use the money to abate the opioid epidemic. (The amount of this payment by the Sacklers was expected to be subject to renegotiation and, as discussed below, would subsequently be substantially increased).

While the Sacklers are the shareholder owners of Purdue, it is Purdue, the company, that is in bankruptcy, not the Sacklers themselves. Nonetheless, the Sacklers sought to take advantage of a rarely used power of bankruptcy courts to grant releases to "third parties," i.e., to release from

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[3] *See, e.g.*, Complaint for Injunctive Relief [Docket No. 1], *Purdue Pharma L.P. v. Commonwealth of Mass. (In re Purdue Pharma L.P.)*, Adv. Pro. No. 19-08289 (describing the Initial Settlement Framework).

liability someone other than the person or company seeking bankruptcy protection, in exchange for value contributed by the third party. Here, the Sacklers themselves, as individuals, have been named as defendants, along with Purdue, in many opioid-related lawsuits which seek to recover damages to be paid by the Sacklers from their personal wealth. In the framework agreement, the Sacklers agreed to make a payment of up to $4.2 billion, depending on the value of their non-US pharma business, to a settlement fund in the bankruptcy court in exchange for releases from civil liability to be granted by the bankruptcy court. The payment would be no less than $3 billion.

IV. The Bankruptcy Proceedings.

When Purdue filed for bankruptcy in September 2019, it also submitted the Initial Settlement Framework to the bankruptcy court and said the framework would be the basis for conducting negotiations with creditor groups with a goal of forging broad agreement among all creditors on a restructuring plan. For nearly two years since that agreement in principle, the PEC (as part of the Ad Hoc Committee) worked with other stakeholders and the Debtors to form and finalize a plan of reorganization that would aim to improve and implement the Initial Settlement Framework. The Plan reflects major accomplishments by the Ad Hoc Committee and other key stakeholders during three phases of mediation.

A. The Non-Consenting States.

The Initial Settlement Framework was immediately controversial. About half of the states supported the framework agreement negotiated by the Ad Hoc Committee and the other half of the states strongly opposed the agreement and formed their own committee that was recognized by the bankruptcy court: the "Non-Consenting State Group" (the NCSG).

The NCSG expressed two objections to the framework agreement. First, the NCSG argued that a Sackler contribution of $3 billion was far too little, given the wealth they amassed from selling opioids. Second, some (though not all) of the NCSG members thought it was inappropriate for governments, even indirectly, to own and profit from the continued operations of Purdue as it emerges from the bankruptcy. Instead, they favored selling Purdue to another company as part of the bankruptcy reorganization (or, if that could not be done, selling off piecemeal the various assets of Purdue, *i.e.,* its factories and intellectual property). There are risks to NCSG's preferred approach, including that such piecemeal or immediate sales generate significantly less in distributable value to governments than the current Plan.

With regard to the first point, the amount of the Sackler payment was renegotiated over the course of the bankruptcy proceeding. Both the NCSG and the Ad Hoc Committee were involved in these negotiations, as well as the Justice Department. The Sacklers have now agreed to increase their contribution to the settlement fund from $3 billion to $4.275 billion. They are, in addition, paying a $225 million civil penalty to the United States, making their overall payment a total of $4.5 billion. These payments are to take place pursuant to a payment schedule that extends over a period of 8 to 9 years. (The payment schedule is tied to the sale of foreign pharmaceutical companies owned by the Sackler family; that is, the payments to the settlement fund could be accelerated depending on the pace of those foreign company sales.[4])

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[4] If the sales of the foreign companies do not generate sufficient revenues, the Sacklers have guaranteed the payment of the full amount from other personal assets. Again, such guarantees are subject to risks themselves discussed further in the disclosure statement.

The increased Sackler contribution has still not satisfied all of the non-consenting states. Although that payment amount—$4.275 billion—is contained in the proposed Plan, negotiations over the amount of the Sackler payment continue, and it may increase. The court has appointed a mediator to try to work out a deal between the Sacklers and all non-consenting states before the voting on the Plan concludes in mid-July.

As a concession to the views of the non-consenting states, the proposed restructuring Plan has a deadline that the new company will be sold by 2024. Thus, the period of time during which the governments will indirectly own and operate Purdue is limited.

At present, the NCSG continues to oppose the proposed restructuring Plan. It is not known whether the mediation process with the Sackler family will result in material improvements to the Plan. At the moment, however, it is expected that at least some states will vote against confirming the restructuring Plan.

B. Private Creditors.

The Initial Settlement Framework contemplated that the "public creditors"—the states, local governments and tribes—would assume control over all of the assets of the bankruptcy proceeding (*i.e.,* that the corporate assets of Purdue Pharma would be turned over to the public creditors and that they would also control disposition of the Sackler contribution to the settlement fund), that the public creditors would negotiate amounts to be paid to "private creditors" from those assets, and they would then allocate the remaining amounts among the various governments to be used to pay for opioid addiction abatement services.

During the bankruptcy proceedings, the Ad Hoc Committee was the lead group negotiating with the private creditors. Negotiations, led by two mediators, were conducted during the latter half of 2020 and early part of 2021 with several major groups of private creditors consisting of: (i) personal injury claimants, including guardian claimants asserting claims on behalf of minors with NAS due to exposure to opioids in utero, (ii) claimants comprising a putative class of NAS children seeking medical monitoring funding, (iii) hospitals, (iv) private health insurance carrier plaintiffs and third-party payors and (iv) purchasers of private health insurance. All private creditors (with the exception of PI claimants) agreed to accept distributions exclusively in the form of funding for programs designed to abate the opioid crisis (the "Private Creditor Trusts"). In each case, agreement was reached on a lump sum amount to be paid to the Private Creditor Trusts over a period of years, as follows:

Personal Injury Trust:	$700 million to $750 million[5]
Third Party Payors Trust:	$365 million
Hospitals Trust:	$250 million
NAS Monitoring Trust:	$60 million

Each of the Private Creditor Trusts will assume all liability for and administer Claims in the applicable Class and make distributions or award grants for authorized abatement purposes pursuant to an agreed upon "Trust Distribution Procedure" for each creditor group.

[5] The final amount will depend on the amount of recoveries received from insurance policies held by Purdue, against which claims will be made.

C. Public Creditors.

As noted above, the "public creditors" are all state, local and tribal governments. After payments are made to the private creditors, the balance of the value of the bankruptcy estate, including the Sackler contribution, will be allocated among the public creditors. The ultimate value of the bankruptcy estate is unknown because it depends in part on the profitability of the corporation that emerges from the bankruptcy, and on the revenues that are ultimately realized from the sale of those corporate assets. In general, approximately $5 billion will be provided to public and private trusts with a mission to fund abatement of the opioid crisis.

1. The State and Local Government Deals.

The first stage of mediation[6] in the cases concluded in the first nationwide agreement between states, local governments and tribes on a default allocation of proceeds from opioid litigation. As part of the protracted negotiations, highlighted by many months long mediation, the PEC, along with the other six (6) cities and counties on the Ad Hoc Committee and a group representing nearly 1,300 cities and counties that filed actions in state court (the "MSGE"), negotiated with all fifty (50) U.S. states to reach a default sharing mechanism for allocation of abatement funds intra-state (as incorporated in the Plan, the "NOAT TDP").[7] Subject to limited exceptions, including the establishment of an attorneys' fees and costs funds that will be subject to court-approval (see §5.8 of the Plan, attached hereto as **Exhibit A**), all recoveries by non-federal governmental entities from the proceeds of the operation of the company post-emergence, as well as proceeds from the settlement with the shareholders, and other consideration provided in the Plan, will flow through the NOAT TDP and be used to fund approved abatement uses.

The NOAT TDP gives deference to a qualifying "Statewide Abatement Agreement" between a state and its local governments concerning allocation of abatement funds. In other words, if a state has agreed with its subdivisions on a process for sharing and allocating opioid recoveries within the State (and such agreement meets the endorsement criteria in the NOAT TDP), then that Statewide Abatement Agreement will control allocation of funds. In the event that a state does not have a Statewide Abatement Agreement with its local governments, the NOAT TDP provides the following default allocation method:

- Abatements funds will be distributed to local governments through *Regional Apportionment* or *Non-Regional Apportionment* (each as described below), subject to a sliding scale based on the amount of total available abatement funds to be dispersed under the Plan to non-federal governmental creditors:

	Regional Apprt.	Non-Regional Apprt.
First $1 billion	70%	30%
$1-2.5 billion	64%	36%
$2.5-$3.5 billion	60%	40%
Above $3.5 billion	50%	50%

[6] This "mediation" between non-federal governmental entities took place and succeeded without the formal use of a mediator.
[7] The NOAT TDP was filed with the Debtors' Sixth Plan Supplement [Docket No. 2977, Ex. G], available at: https://restructuring.primeclerk.com/purduepharma/Home-DocketInfo.

- Any county, parish, or city that has a population of 400,000 (750,000 for CA) or more shall receive its "Proportionate Share of Regional Apportionment" as a block grant, pursuant to an allocation model;

- *Regional Apportionment* funds not disbursed as block grants shall be expended on the local governments that did not meet the population threshold to qualify for a block grant, subject to a "Government Participation Mechanism" to be developed by each state and its local governments; and

- States will have discretion to expend their *Non-Regional Apportionment* funds only on Approved Uses, which encapsulates many facets of opioid abatement and ancillary treatment services.

Again, if a state and its subdivisions (by consent over a threshold described in the NOAT TDP) agree to an alternative Statewide Abatement Agreement, that agreement will be honored and utilized to allocate abatement funds received from these bankruptcy cases among the state and its local governments. Each state and its local governments will have fourteen (14) days after the Plan's Effective Date to file such an agreement with the bankruptcy court. The trust agreements governing the flow of funds to states and communities include various reporting requirements that are designed to ensure compliance with the NOAT TDP and abatement-only distribution schemes. The amount that each state will receive from NOAT to distribute to local governments through Regional and Non-Regional Apportionment is based on a weighted formula, which yields the following percentage allocation:

State	Final Percentage Division of Funds
Alabama	1.6579015983%
Alaska	0.2681241169%
American Samoa*	0.0175102976%
Arizona	2.3755949882%
Arkansas	0.9779907816%
California	9.9213830698%
Colorado	1.6616291219%
Connecticut	1.3490069542%
Delaware	0.5061239962%
District of Columbia	0.2129072934%
Florida	7.0259134409%
Georgia	2.7882080114%
Guam*	0.0518835714%
Hawaii	0.3476670198%
Idaho	0.5364838684%
Illinois	3.3263363702%
Indiana	2.2168933059%
Iowa	0.7639415424%
Kansas	0.8114241462%
Kentucky	1.5963344879%
Louisiana	1.5326855153%
Maine	0.5725492304%

Maryland	2.1106090494%
Massachusetts	2.3035761083%
Michigan	3.4020234989%
Minnesota	1.2972597706%
Mississippi	0.8994318052%
Missouri	2.0056475170%
Montana	0.3517745904%
N. Mariana Islands*	0.0191942445%
Nebraska	0.4335719578%
Nevada	1.2651495115%
New Hampshire	0.6419355371%
New Jersey	2.7551354545%
New Mexico	0.8749406830%
New York	5.3903813405%
North Carolina	3.2502525994%
North Dakota	0.1910712849%
Ohio	4.3567051408%
Oklahoma	0.6073894708%
Oregon	1.4405383452%
Pennsylvania	4.5882419559%
Puerto Rico**	0.7324076274%
Rhode Island	0.5040770915%
South Carolina	1.5989037696%
South Dakota	0.2231552882%
Tennessee	2.6881474977%
Texas	6.2932157196%
Utah	1.2039654451%
Vermont	0.2945952769%
Virgin Islands*	0.0348486384%
Virginia	2.2801150757%
Washington	2.3189040182%
West Virginia	1.1614558107%
Wisconsin	1.7582560561%
Wyoming	0.2046300910%
* Allocations for American Samoa, Guam, N. Mariana Islands, and Virgin Islands are 100% based on population because of lack of available information for the other metrics. ** Allocations for Puerto Rico are 25% based on MMEs and 75% based on population because of lack of available information for the other metrics.	

2. Allocation to the Tribes.

Of the amount available to all public creditors, approximately 3% will be allocated to Tribes. Thus, assuming the total amount for the public creditors will be $5 billion, the Tribes collectively will receive approximately $150 million.[8] This amount will be disbursed to the Tribes

[8] This amount will be reduced to contribute to an attorney fee fund that will pay fees and costs to counsel for public creditors. Additionally, the Tribe Trust will (i) collect an initial distribution of $50 million from the company and further required payments pursuant to the Master Disbursement Trust and NewCo/TopCo;

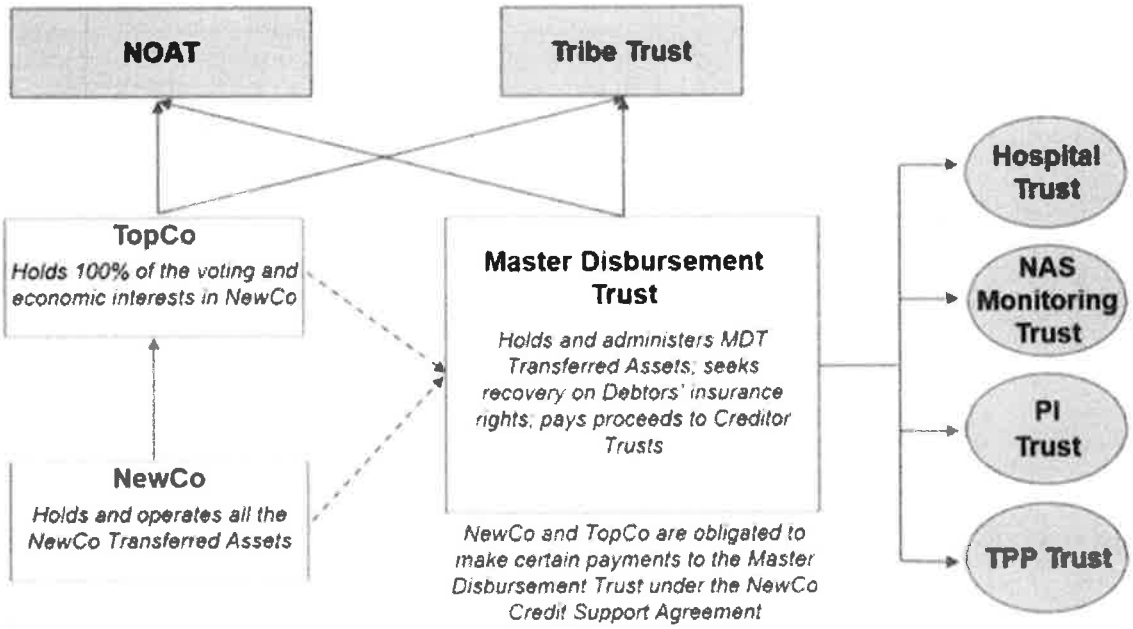
over a period of 8 to 9 years (*i.e.*, the same period over which the payments by the Sacklers will be made to the settlement fund).

The 3% amount allocated to Tribes from the pool of public funds was arrived at through a two-day mediation conducted by former Judge Layn Phillips and Kenneth Feinberg in the summer of 2020. The Tribes were represented in the mediation by the Tribal Leadership Committee (TLC), a group appointed by the MDL court to coordinate all Tribal opioid litigation. The state and local governments were the counter-parties. The amount paid to the Tribes in aggregate will be allocated among the Tribes pursuant to an allocation matrix that has been developed by the TLC.

V. The Structure of the Plan.

A. Overall Structure.

The Plan provides that the company's businesses be transferred to a new entity for the benefit of claimants, subject to the control and indirect ownership of the NOAT (the National Opioid Abatement Trust, which is the Trust that oversees abatement distributions for States and Local Governments) and the Tribe Trust. The chart below shows the structure that will be established if the proposed Plan is approved by the bankruptcy court:



(ii) assume all liability and administration for the Tribe Claims; and (iii) will make distributions consistent the Approved Tribal Opioid Abatement Uses.

NewCo will be the operating entity of Purdue Pharma that emerges from the bankruptcy, which will hold and operate the company's transferred assets consisting of $200 million in cash and non-cash assets (such as insurance proceeds and certain causes of action). "TopCo", will be established, and will hold 100% of the voting and economic interest of NewCo.[9] The management selection process for NewCo and TopCo embodies an equally collaborative process that must be reasonably acceptable to the Ad Hoc Committee. It will continue to produce pharmaceuticals, including both opioid and opioid rescue medications, and will operate under a strict injunction that will govern its sales and marketing practices.

The Master Disbursement Trust (MDT) will be a trust entity that will oversee distributions of payments to various creditor groups. The MDT will receive payments from members of the Sackler family, as well as proceeds from insurance claims, from other claims held by Purdue and from payments of operating profits from NewCo and TopCo. From these sources of funding, the MDT will disburse payments to the various Private Creditor Trusts—the Hospital Trust, the NAS Monitoring Trust, the PI Trust and the TPP Trust. As discussed above, each of those trusts will have its own TDP (trust distribution procedure) to govern who receives payments from the trust and in what amounts.

Excess cash from the MDT and from NewCo/TopCo will be paid to the two governmental trusts: the National Opioid Abatement Trust (NOAT) and the Tribal Abatement Fund Trust (TAFT or Tribe Trust). The payments as between the two trusts will be determined by the formula discussed above, with the NOAT receiving approximately 97% of the total and Tribe Trust receiving approximately 3% of the total. Attached hereto as **Exhibit B** is a graphic illustration of the anticipated distributable value (on annual basis) under the Plan's proposed structure post-emergence.

B. The Enhanced Sackler Families Contribution.

During mediation, the case parties successfully engaged the Sackler Families to resolve potential causes of action that resulted in material improvement to the Initial Settlement Framework. This improved settlement requires the Sackler Parties to pay $4.275 billion over nine (9) years (or ten years if certain amounts are paid ahead of schedule in the first six years) (the "Sackler Settlement Payments") and bars certain of the Sackler Entities from ever engaging in the manufacturing or sale of opioids in the U.S., among other terms (as incorporated in the Plan, the "Shareholder Settlement Agreement"). The Sackler Settlement Payments are secured by all of the Sackler Parties' equity interests in certain foreign independent associated companies ("IACs"), which the Sackler Parties are further required to liquidate and must deposit the cash proceeds for the benefit of the Master Distribution Trust. The Sackler Settlement Payments are also collateralized by certain of the Sackler Parties' interest in cash deposit accounts and cash equivalents, equity interests in holding companies that directly or indirectly own investment and security assets, real estate and/or other assets. As consideration for such payments required under the Shareholder Settlement Agreement, the Sackler Parties and certain other persons and/or individuals to be agreed will receive the benefit of releases and injunctions provided under Article 1F of the Plan, which in effect conclusively and irrevocably release the Sackler Families of any

[9] NewCo will be owned by TopCo, a holding company, whose board of directors will also be appointed by the governmental committees. TopCo will oversee the operations of NewCo.

actual or potential claims or causes of actions relating to Purdue and its opioid-related activities. Any Sackler Settlements Payments to be made on June 30, 2024 or later may be placed in escrow, paused, or terminated depending on whether the Plan Confirmation Order has been appealed and has not been finally dismissed by that date.

VI. Plan Confirmation.

Voting on the Plan by all creditors who filed a proof-of-claim will be open through July 14. Approximately 600,000 creditors filed claims, including about 6,000 local government claims. Claimants are divided into 18 different classes, in order to group similar claims together. Claimants vote by class. In order to accept the Plan, a majority in a class by number and two-thirds by dollar amount of claims in a class must vote to approve the Plan. For purposes of this proceeding, all governmental claims are each valued at $1 for voting purposes, which may effectively establish a requirement that two-thirds of the members of each class must vote to approve the Plan in order for such class to be deemed an "accepting" class.

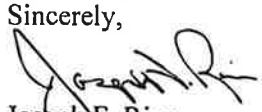
The court is scheduled to hold a hearing on confirmation of the Plan beginning August 9. The number of claimants who will object to the Plan, and the grounds for the objections, are not currently known. It is expected that the court will issue a decision on whether to confirm the Plan in September or early October. If the Plan is confirmed, there will be one to two months of work to set up the various trusts and other entities necessary to implement the Plan. If that schedule holds, the "effective date" of the Plan could be in November or December 2021.

VII. PEC Supports The Plan.

The PEC believes that the Plan represents a fair and equitable resolution of opioid-related claims against Purdue as the vast majority of creditor recoveries distributed under the Plan were negotiated in good faith and are exclusively dedicated to programs designed to abate the opioid crisis (other than to fund administration of the programs themselves and to pay fees and costs). The alternative is to engage in risky, expensive and value-destroying civil litigation that will take years to fully litigate and which will result in delayed and inequitable recoveries among potential claimants. And perhaps most importantly, even if judgments are obtained, it could take years of additional litigation to collect on those judgments because many of the assets of the Sackler Families are in various family trusts located in foreign countries. Meanwhile, local government and other public creditors, including Class 4 (Non-Federal Domestic Government Claims) and Class 5 (Tribes Claims) claimholders, will have received no resources that can be put to immediate use to abate the ongoing problems.

THE FOREGOING IS NOT INTENDED AS A SUBSTITUTE FOR THE DISCLOSURE STATEMENT. THE PEC URGES YOU TO READ THE PLAN AND DISCLOSURE STATEMENT CAREFULLY.

As we are,
Sincerely,



Joseph F. Rice
Paul Farrell
Paul Hanley
Co-Leads, MDL 2804

EXHIBIT A

Creditor Trust to the extent deemed necessary by such Creditor Trustee to satisfy and pay estimated future Creditor Trust Operating Expenses in accordance with the Creditor Trust Documents.

(l) **U.S. Federal Income Tax Matters Relating to the Creditor Trusts.** Each Creditor Trust (other than any Tribe Trust entity that is formed as a legal entity other than a trust) is intended to be treated, and shall be reported, as a "qualified settlement fund" for U.S. federal income tax purposes and shall be treated consistently for state and local tax purposes to the extent applicable. All parties (including, without limitation, Holders of Claims against or Interests in the Debtors, the Related Parties of such Holders, the Debtors, the Creditor Trustees, TopCo and the Master Disbursement Trust) will be required to report consistently with the foregoing for all applicable tax reporting purposes. A Creditor Trustee from each relevant Creditor Trust shall be the "administrator" within the meaning of Treasury Regulations section 1.468B-2(k)(3) of the applicable Creditor Trust. The administrator of each such Creditor Trust shall be responsible for filing all tax returns of the applicable Creditor Trust and the payment, out of the assets of such Creditor Trust, of any taxes due by or imposed on such Creditor Trust. Each Creditor Trustee may request an expedited determination of taxes under section 505(b) of the Bankruptcy Code for all tax returns filed by or on behalf of the applicable Creditor Trust for all taxable periods through the dissolution of such Creditor Trust. Nothing in this Section 5.7(l) shall be deemed to determine, expand or contract the jurisdiction of the Bankruptcy Court under section 505 of the Bankruptcy Code. Subject to guidance from the IRS, it is intended that NOAT's income shall be treated as exempt from U.S. federal income tax pursuant to IRC section 115, and shall be treated consistently for state and local tax purposes to the extent applicable.

(m) **Exculpation and Indemnification of the Creditor Trustees.** To the maximum extent permitted by applicable law, each of the Creditor Trustees shall not have or incur any liability for actions taken or omitted in his or her capacity as a Creditor Trustee, or on behalf of the applicable Creditor Trust, except those acts found by Final Order to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud, and shall be entitled to indemnification and reimbursement for reasonable fees and expenses in defending any and all of his or her actions or inactions in his or her capacity as a Creditor Trustee, or on behalf of the applicable Creditor Trusts, except for any actions or inactions found by Final Order to be arising out of his or her willful misconduct, bad faith, gross negligence or fraud. Any valid indemnification claim of any of the Creditor Trustees shall be satisfied from the respective Creditor Trusts.

(n) **Dissolution of the Creditor Trusts.** Each Creditor Trust shall be dissolved and the applicable Creditor Trustee shall be discharged from its duties with respect to such Creditor Trust upon completion of its duties and the satisfaction of the purposes of the Creditor Trust as set forth in this Plan and the applicable Creditor Trust Documents; provided, however, that the PI Futures Trust shall be dissolved and the Creditor Trustee of the PI Futures Trust shall be discharged of his or her duties with respect to the PI Futures Trust reasonably promptly following the earlier of (i) the distribution of all monies from the PI Futures Trust and (ii) the resolution of all Future PI Channeled Claims asserted against the PI Futures Trust on or before the sixth (6th) anniversary of the Effective Date and the payment of all Creditor Trust Operating Expenses of the PI Futures Trust.

5.8 ***Attorneys' Fees and Costs.***

(a) **Local Government and Tribe Costs and Expenses.** On the Effective Date, the Local Government and Tribe Costs and Expenses Fund shall be established for the payment of costs and expenses (including attorneys' fees) of Holders of Non-Federal Domestic Governmental Channeled Claims (other than States) and Holders of Tribe Channeled Claims (including any ad hoc group consisting of any of the foregoing), other than amounts paid pursuant to the AHC Reimbursement Agreement Assumption Order and MSGE Group Reimbursement Order. The Local Government and Tribe

Costs and Expenses Fund shall be funded in an aggregate amount not to exceed $275 million from periodic distributions of 5.5% of each Public Creditor Trust Distribution. Payments from the Local Government and Tribe Costs and Expenses Fund shall be the exclusive means of payment from the Creditor Trusts for costs and expenses (including attorneys' fees) of any Holder of a Non-Federal Domestic Governmental Channeled Claim (other than a State) or a Holder of a Tribe Channeled Claim (or any ad hoc group consisting of any of the foregoing) or any attorney therefor, other than amounts paid in accordance with the order of the MDL Court establishing the Common Benefit Fund. Except as otherwise agreed in writing by the MSGE Group and the MDL Plaintiffs' Executive Committee the MSGE Fee Allocation Agreement shall be and remain fully enforceable and shall apply to the Local Government and Tribe Costs and Expenses Fund; *provided* that the costs associated with the arbitration process contemplated under the MSGE Fee Allocation Agreement shall not be paid by the Debtors, their Estates or any Creditor Trust. All modifications of the Local Government and Tribe Costs and Expenses Fund that directly impacts reimbursement of costs and expenses of Holders of Tribe Channeled Claims shall be reasonably acceptable to the Native American Tribe Group.

(b) **State Costs and Expenses.** On the Effective Date, the State Costs and Expenses Fund shall be established for the payment of costs and expenses (including attorneys' fees) of the States (including any ad hoc group thereof), other than amounts paid pursuant to the AHC Reimbursement Agreement Assumption Order. The State Costs and Expenses Fund shall be funded in an aggregate amount not to exceed $225 million from periodic distributions of 4.5% of each Public Creditor Trust Distribution. Payments from the State Costs and Expenses Fund shall be the exclusive means of payment from the Creditor Trusts for costs and expenses (including attorneys' fees) of any State (or any ad hoc group thereof) or any attorney therefor, other than amounts paid in accordance with the order of the MDL Court establishing the Common Benefit Fund.

(c) **Common Benefit Fund Assessments.** On the Effective Date, a Common Benefit Escrow shall be established and funded by assessments of 5% of each Distribution made by the Private Creditor Trusts and 5% of the Truth Initiative Contribution. Such assessments will be paid by each Private Creditor Trust in respect of Distributions made by such Private Creditor Trust and by the Debtors in respect of the Truth Initiative Contribution, in each case, to the Common Benefit Escrow and then, upon its establishment, directly to the Common Benefit Fund established by the MDL Court, on periodic schedules for each Private Creditor Trust acceptable to the Governmental Consent Parties, the Ad Hoc Group of Hospitals, the Third-Party Payor Group, the NAS Committee and the Ad Hoc Group of Individual Victims, as applicable. The amounts in the Common Benefit Escrow shall be held in escrow until an order is entered by the MDL Court establishing a Common Benefit Fund, at which time the amounts held by the Common Benefit Escrow and all subsequent assessments of 5% of each Distribution made by the Private Creditor Trusts shall be transferred to and distributed in accordance with the order of the MDL Court establishing the Common Benefit Fund. To the extent a Holder of a Hospital Channeled Claim, a Third-Party Payor Channeled Claim, an NAS Monitoring Channeled Claim, an NAS PI Channeled Claim or a Non-NAS PI Channeled Claim (or any ad hoc group consisting of Holders of any of the foregoing) has retained counsel through a contingency fee arrangement, any contingency fees owed to such contingency counsel payable from Distributions under the Plan shall be reduced by the full amount payable under this Section 5.8(c).[5] However, the applicable Holder and its counsel, in their sole discretion, may agree that an amount up to but not exceeding 40% of the amount payable under this Section 5.8(c) may be applied to the reimbursement of actual costs and expenses incurred by such Holder's counsel, in which case such agreed

[5] For the avoidance of doubt, any amount payable to counsel to the Ad Hoc Group of Individual Victims on an hourly basis (including incremental amounts in consideration of deferring payment of hourly fees) shall not constitute a "contingency fee," and the agreement in respect thereof shall not constitute a "contingency fee arrangement," in each case for purposes of Section 5.8 of the Plan.

cost-reimbursement amount shall not reduce the contingency fee amounts payable to such counsel. For the avoidance of doubt, if the Debtors, the Ad Hoc Committee or the MSGE Group agrees to any reduced or less restrictive terms concerning the 5% Common Benefit Fund assessment (or its implementation) provided under any portion of this Section 5.8(c) (or any portion of Section 5.8) for any of the Ad Hoc Group of Hospitals, the Third-Party Payor Group, the NAS Committee or the Ad Hoc Group of Individual Victims, then such modification shall apply to each of such groups, *mutatis mutandis*.

(d) **Hospital Costs and Expenses**. On the Effective Date, the Hospital Attorney Fee Fund shall be established for the payment of attorneys' fees and costs of the Ad Hoc Group of Hospitals with respect to Hospital Channeled Claims. The Hospital Attorney Fee Fund shall be funded with (i) 20% of each Abatement Distribution made by the Hospital Trust to Holders of Hospital Channeled Claims that have not retained (or are not part of an ad hoc group that has retained), on or before the General Bar Date as reflected in a timely filed Proof of Claim or representation to the Hospital Trust in accordance with the Hospital TDP, separate counsel through an individual contingency fee arrangement *less* (ii) the amount of such Distributions payable to the Common Benefit Escrow and the Common Benefit Fund under Section 5.8(c). The Hospital Attorney Fee Fund shall be administered by the Hospital Trust on terms acceptable to the Ad Hoc Group of Hospitals.

(e) **NAS Monitoring Claimant Costs and Expenses**. On the Effective Date, the NAS Monitoring Attorney Fee Fund shall be established for the payment of attorneys' fees and costs of the NAS Committee with respect to NAS Monitoring Channeled Claims. The NAS Monitoring Attorney Fee Fund shall be funded with (i) 20% of each Abatement Distribution made by the NAS Monitoring Trust *less* (ii) the amount of such Distributions payable to the Common Benefit Escrow and the Common Benefit Fund under Section 5.8(c). Reasonable expert costs incurred by the NAS Committee in the formation of the abatement plan for the NAS Monitoring Trust shall also be paid by the NAS Monitoring Trust, and, for the avoidance of doubt, (x) there shall be no amounts payable to the Common Benefit Escrow or the Common Benefit Fund on account of such cost reimbursements and (y) the 20% limitation on attorneys' fees shall not apply to the foregoing reasonable expert costs. The NAS Monitoring Attorney Fee Fund shall be administered by the NAS Monitoring Trust on terms acceptable to the NAS Committee.

(f) **Ratepayer Costs and Expenses**. On the Effective Date, the attorneys' fees of the Ratepayer Mediation Participants shall be paid from (i) 20% of the Truth Initiative Contribution *less* (ii) the amount of the Truth Initiative Contribution payable to the Common Benefit Escrow under Section 5.8(c).

(g) **PI Claimant Costs and Expenses**. The Creditor Trustee of the PI Trust shall pay or reimburse, as applicable, the compensation, costs and fees of professionals that represented or advised the Ad Hoc Group of Individual Victims and the NAS Committee in connection with the Chapter 11 Cases, as and to the extent provided in the PI Trust Agreement. Such compensation, costs and fees paid or reimbursed, as applicable, by the PI Trust shall be deducted from Distributions from (i) the PI Trust NAS Fund to Holders of Allowed NAS PI Channeled Claims and (ii) the PI Trust Non-NAS Fund to Holders of Allowed Non-NAS PI Channeled Claims, in each case pursuant to the PI Trust Documents. Nothing in this Section 5.8 shall impair or otherwise affect any fee contract that is not a contingency fee contract between the Ad Hoc Group of Individual Victims and its professionals, or between the NAS Committee and its professionals.

(h) **No Impairment of Contingency Fee Contracts; No Further Assessment**. Except as expressly set forth in this Section 5.8, nothing in the Plan shall impair or otherwise affect any contingency fee contract between any Holder of a Claim (or any ad hoc group of Holders of Claims) and such Holder's (or ad hoc group's) counsel. In this regard, the payment of the assessments described in this Section 5.8 shall be the only payment that such Holders (or their counsel) shall ever have

to make to the Common Benefit Fund with respect to amounts distributed under this Plan, and shall not be subject to any further or other common benefit or similar assessments with respect to amounts distributed pursuant to the Plan or payments to attorneys in respect thereof.

5.9 ***Transferability of Distribution Rights***.

Any right to receive a Distribution or other payment from the Plan Administration Trust (including any PAT Distribution Account or PAT Reserve), a Creditor Trust or the Master Disbursement Trust (including the MDT Claims Reserve) shall not be evidenced by any certificate, security, receipt or in any other form or manner whatsoever, except on the books and records of the Plan Administration Trust (as maintained by the Plan Administration Trustee), the applicable Creditor Trust (as maintained by the applicable Creditor Trustees) or the Master Disbursement Trust (as maintained by the MDT Trustees), as applicable. Further, any right to receive a Distribution or other payment from the Plan Administration Trust (including any PAT Distribution Account or PAT Reserve), a Creditor Trust or the Master Disbursement Trust (including the MDT Claims Reserve) shall be nontransferable and nonassignable except by will, intestate, succession or operation of law. Any rights to receive a Distribution or other payment from the Plan Administration Trust (including any PAT Distribution Account or PAT Reserve), a Creditor Trust or the Master Disbursement Trust (including the MDT Claims Reserve) shall not constitute "securities" and shall not be registered pursuant to the Securities Act. If it is determined that such rights constitute "securities," the exemption provisions of section 1145(a)(1) of the Bankruptcy Code would be satisfied and such securities would be exempt from registration.

5.10 ***Insurance Neutrality***.

Nothing in the Plan, the Plan Documents or the Confirmation Order, including any provision that purports to be preemptory or supervening, shall in any way relate to, or have the effect of, impairing, altering, supplementing, changing, expanding, decreasing or modifying (a) the rights or obligations of any of the Insurance Companies or (b) any rights or obligations of the Debtors arising out of or under any Purdue Insurance Policy.

5.11 ***Transfer of Books and Records; Cooperation; Privilege***.

(a) **Transfer of Books and Records to NewCo and the Plan Administration Trust**. Except with respect to Excluded Assets, all documents, books and records of the Debtors shall be transferred and assigned to NewCo on or prior to the Effective Date pursuant to the NewCo Transfer Agreement; *provided* that, from and after the date of such transfer, the Plan Administration Trustee shall have the right to retain copies of all transferred documents, books and records and NewCo shall permit the Plan Administration Trustee and its counsel and representatives to have full access to such transferred documents, books and records. All documents, books and records of the Debtors that are Excluded Assets shall be transferred and assigned to the Plan Administration Trust; *provided* that, except for the Excluded Privileged Materials, NewCo shall receive copies of all documents, books and records of the Debtors that are Excluded Assets. Any documents transferred under this Section 5.11(a) that are documents that were produced to the Debtors by Shareholder Released Parties in connection with Purdue Legal Matters shall continue to remain subject to the terms of the Protective Order and any order of the Bankruptcy Court or provision of this Plan affording confidentiality protections to such documents, unless such documents are included in the Public Document Repository in accordance with the Plan and the Shareholder Settlement Agreement.

(b) **Cooperation with the Master Disbursement Trust and the Creditor Trusts**. On the Effective Date or as soon as reasonably practicable thereafter, the Debtors shall transfer and assign, or cause to be transferred and assigned, (i) to the MDT Trustees, (A) copies of all MDT Insurance Policies, (B) information and copies of documents, including books and records of the Debtors that

EXHIBIT B

Sackler Contribution vs. Privates and DOJ Settlements

The following schedule compares the minimum negotiated Sackler Contribution payment schedule to the private settlements and the DOJ settlement.

Net Distributable Value to MDT *($ in millions)*	Emerg.	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
Sackler Contribution	300	350	350	350	350	300	1,000	475	425	375	-	4,275
MDT Distributable Value	**$ 300**	**$ 350**	**$ 350**	**$ 350**	**$ 350**	**$ 300**	**$ 1,000**	**$ 475**	**$ 425**	**$ 375**	**$ -**	**$ 4,275**
Private Settlements												
Hospitals	(25)	(35)	(45)	(45)	(50)	(50)	-	-	-	-	-	(250)
Third Party Payors	(1)	(121)	(121)	(122)	-	-	-	-	-	-	-	(365)
Ratepayers	(7)	-	-	-	-	-	-	-	-	-	-	(7)
NAS	(1)	(24)	(35)	-	-	-	-	-	-	-	-	(60)
Personal Injury Claimants (Minimum Payments)[1]	(300)	-	-	(200)	(100)	(100)	-	-	-	-	-	(700)
Total Private Settlements	$ (334)	$ (180)	$ (201)	$ (367)	$ (150)	$ (150)	$ -	$ -	$ -	$ -	$ -	$ (1,382)
DOJ Unsecured Claim	(25)	(10)	(10)	(5)	-	-	-	-	-	-	-	(50)
Total Private Settlements & DOJ Settlement	**$ (359)**	**$ (190)**	**$ (211)**	**$ (372)**	**$ (150)**	**$ (150)**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ (1,432)**
Remaining MDT Distributable Value, net Settlements	$ (59)	$ 160	$ 139	$ (22)	$ 200	$ 150	$ 1,000	$ 475	$ 425	$ 375	$ -	$ 2,843
NewCo MDT Shortfall Funding	59	-	-	-	-	-	-	-	-	-	-	59
Remaining MDT Distributable Value for the Publics	$ -	$ 160	$ 139	$ (22)	$ 200	$ 150	$ 1,000	$ 475	$ 425	$ 375	$ -	$ 2,902

1. *Reflects the minimum amount due to the PIs excluding insurance proceeds.*

Notwithstanding that funds from insurance proceeds and/or NewCo operations are projected to be available to fund the potential $22 million shortfall in 2024, to address potential Plan feasibility issues, the Plan provides that the MDT Trustees will have the discretion to hold back and reserve MDT Distributable Value (up to no more than $25 million, and only to the extent of their determined need) if they determine they may need it in 2024.

— The above chart excludes estimated MDT operating costs, which may increase the projected shortfall in 2024.

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

(30)

Improvement District No. BR-22-A1

Type: Project Design Decisions

Location: 32nd Avenue South

Date of Hearing: 6/7/2021

Routing	Date
City Commission	6/14/2021
PWPEC File	X
Project File	Jeremy Gorden

CITY COMMISSION ACTION
6-14-21 Delay 2 weeks

Transportation Division Engineer, Jeremy Gorden, submitted the environment document for this project entitled "Documented Catex" for review and approval of project decisions.

The project will be constructed in two phases. The first phase will be from 32nd to 22nd Street and the second phase will be from 22nd Street to University Drive. Project highlights include:

- Adding storm water capacity
- New pavement
- Rehab/Replacement of water and sewer mains
- Improving sight lines for mainline left turning movements
- Safety improvement at 27th Street with ¾ access

The right of way is very narrow at 100' for an arterial. Today the City requires 200' right of way dedication for an arterial. Design is set to begin and staff will be evaluating what trees can be saved and which ones need removal. Any trees removed will be replaced with two new ones as part of the project. Staff will be working to acquire sidewalk easements from landowners so tree removal can be reduced to a minimum.

Staff is recommending to concur with the project concepts as proposed and select Alternative B1, 5-Lane with flush median, for Segments 1 & 2 to move forward to final design and construction on the Executive Decisions page.

On a motion by Tim Mahoney, seconded by Bruce Grubb, the Committee voted to recommend approval of the concepts as proposed and select Alternative B1 for Segments 1 & 2 to move forward to final design and construction on the Executive Decisions page.

RECOMMENDED MOTION
Concur with the recommendations of PWPEC and approve the concepts as proposed and select Alternative B1 for Segments 1 & 2 to move forward to final design and construction on the Executive Decisions page.

PROJECT FINANCING INFORMATION:
Recommended source of funding for project: N/A

	Yes	No
Developer meets City policy for payment of delinquent specials	N/A	
Agreement for payment of specials required of developer	N/A	
Letter of Credit required (per policy approved 5-28-13)	N/A	

COMMITTEE

	Present	Yes	No	Unanimous
Tim Mahoney, Mayor	☑	☑	☐	☑
Nicole Crutchfield, Director of Planning	☑	☑	☐	
Steve Dirksen, Fire Chief	☑	☑	☐	
Bruce Grubb, City Administrator	☑	☑	☐	
Ben Dow, Director of Operations	☑	☑	☐	
Steve Sprague, City Auditor	☑	☑	☐	
Brenda Derrig, City Engineer	☑	☑	☐	
Kent Costin, Finance Director	☐	☐	☐	

ATTEST:

Brenda E. Derrig, P.E.
City Engineer

THE CITY OF Fargo FAR MORE

Engineering Department
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1545 | Fax: 701.241.8101
Email feng@FargoND.gov
www.FargoND.gov

Memorandum

To: Members of PWPEC

From: Jeremy Gorden, P.E., PTOE, Division Engineer - Transportation

Date: June 3, 2021

Re: Selection of Project Decisions – 32nd Avenue South Reconstruction Project
32nd Street to Red River
City of Fargo Improvement District No. BR-22-A1

Background:

I have attached the environmental document for this project entitled "Documented Catex" for your review and approval of project decisions. Staff has been working with the project consultant, Apex Engineering Group, on this project for over a year now and it is time to make the design decisions for the project.

This project is going to be constructed in two phases; the west phase (32nd Street to 22nd Street) will be built in 2022, and the east phase (22nd Street to University Drive) is planned to be built in 2024.

We are planning to fully reconstruct the roadway to a concrete section and plan on leaving it a 4-lane arterial like it is today. We plan on adding storm sewer capacity, improving the sight lines for mainline left turn movements, turning the 27th Street intersection into a ¾ access intersection vs a full movement intersection for improved safety, and replacing the traffic signals and street lights. The right of way is narrow (100' total) and the biggest impact of the project will be removal of trees in the median and on the south boulevard. We plan on obtaining street & utility easements from Essentia Health and Sanford Health for turn lanes near 28th Street and on 25th Street.

The plan is to have final plans completed by mid-November and a bid opening in February of 2022.

Recommended Motion:

Concur with project concepts as proposed and select Alternative B1 for Segments 1 & 2 to move forward to final design and construction on the Executive Decisions page.

JMG/klb
Attachment

DRAFT DOCUMENTED CATEX

RECONSTRUCTION

Project No. SU-8-984(168)

PCN 22826

32nd Avenue South

32nd Street to University Drive

Fargo, North Dakota

Prepared by

CITY OF FARGO
FARGO, NORTH DAKOTA

CITY ENGINEER
BRENDA E. DERRIG, PE

Principal Author: Apex Engineering Group
Environmental Reviewer: Kent Leben, NDDOT Local Government Division
March 2021

23 USC § 409
NDDOT Reserves All Objections

SU-8-984(168)
32nd Avenue South Reconstruction

32nd Street South to University Drive

Fargo, ND

CERTIFICATION

This document is preliminary and not for construction or implementation purposes.

PRELIMINARY

Joshua C. Olson, P.E.

Date

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Supporting Documents

Public Involvement Report
Aquatic Resources Delineation Report
Traffic Operations Report
Cultural Resources Report
Public Involvement Report

A. Project Description

This project is located on 32nd Avenue South from 32nd Street South to the Red River of the North (See Figure 1 – Project Location Map). It is broken down into two segments, as defined below, to provide the opportunity for each segment to be built in separate construction season.

Highway: 32nd Avenue South
District: Fargo
Limits: Segment 1 – 32nd Street South to 22nd Street South
Segment 2 – 22nd Street South to the Red River of the North

Figure 1 – Project Location Map

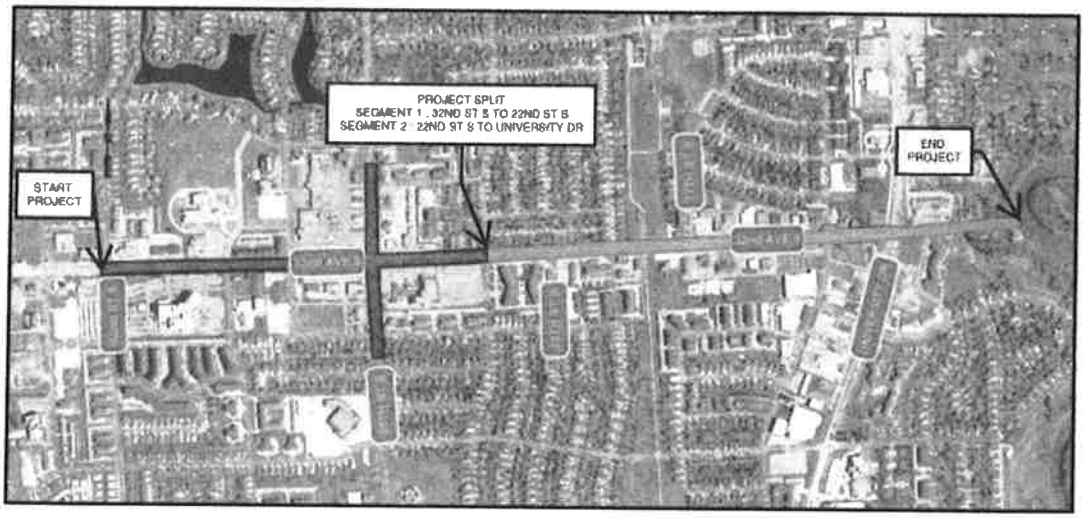


Table 1 - Traffic Data

Segment 1:

32nd St to 25th St

	Year	Passengers	Trucks	Totals
Current	2020	18,750	500	19,250
Forecast	2045	22,890	610	23,500

25th St to 22nd St

	Year	Passengers	Trucks	Totals
Current	2020	16,680	320	17,000
Forecast	2045	20,360	390	20,750

Segment 2:

22nd St to 18th St

	Year	Passengers	Trucks	Totals
Current	2020	14,620	275	14,895
Forecast	2045	17,840	335	18,175

18th St to University Dr

	Year	Passengers	Trucks	Totals
Current	2020	14,600	240	14,840
Forecast	2045	17,805	295	18,100

B. Project Schedule

Project: SU-8-984(168)

	Segment #1	Segment #2
Plans Complete:	November 2021	November 2023
Bid Opening:	February 2022	February 2024

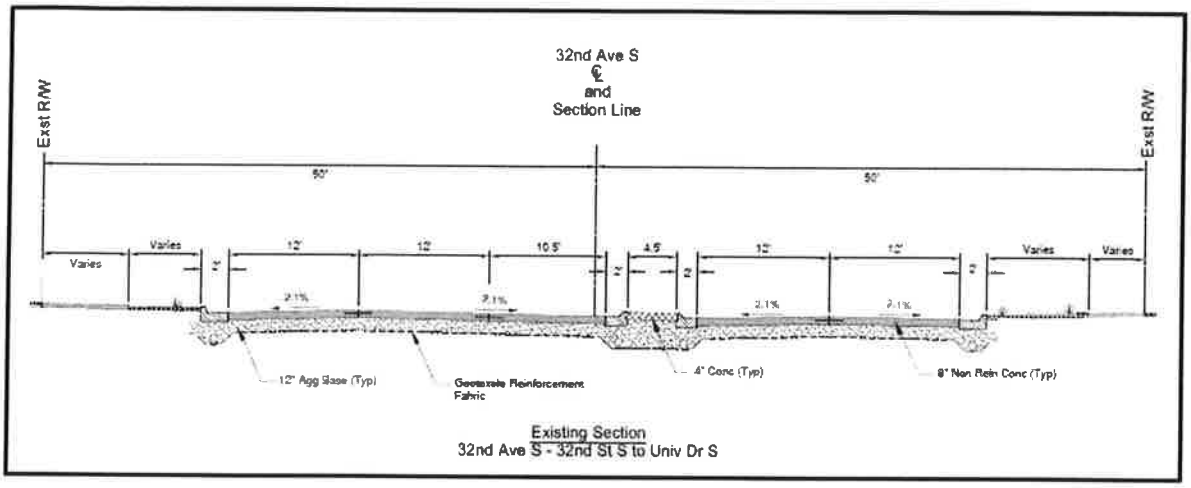
C. Purpose of Project

The purpose of this project is to improve the 32nd Avenue S corridor, from 32nd St to University Dr, which serves as an arterial roadway for the southeast part of Fargo. The project will address several issues including providing new pavement to extend the life of the roadway, improving pedestrian facilities, replacing, or repairing watermain and sanitary sewer systems to provide more reliable service, improving storm water drainage, and managing and controlling access locations.

D. Need for Project

Existing Conditions:
32nd Ave S is a four-lane divided concrete urban road section having curb and gutter with pedestrian facilities along both sides of the corridor. The existing posted speed limit through the corridor is 35 mph. There are 11 intersecting roads as well as 9 other accesses throughout the corridor, 6 of these are traffic signal-controlled intersections.

Figure 2 – Existing Typical Section



Deficiencies:

- Turn lanes do not meet the required lengths.
- The pavement has reached the end of its useful service life and requires frequent and costly maintenance patching and pothole repairs
- The storm sewer drainage system is not adequately sized.
- Pedestrian facilities are in poor condition and do not meet current ADA guidelines.
- The existing Sanitary and Watermain utilities have reached the end of their serviceable life.

E. Scope of Work

2021-2024 STIP: $20,000,000
2021 Documented CATEX: $19,680,000 - $19,990,000

F. Description of Alternatives

All build alternatives include the following items:

- 2.5' outside curb and gutter
- 8'-10' shared-use path
- 6' sidewalk
- New lighting
- New storm sewer trunk line / inlets / manholes
- Sanitary sewer line / manhole rehabilitation
- Hydrant replacement
- Watermain upgrades

a. Alternative A: No Build
   - Segment 1: No Build
     (Estimated Cost - $0)

   - Segment 2: No Build
     (Estimated Cost - $0)

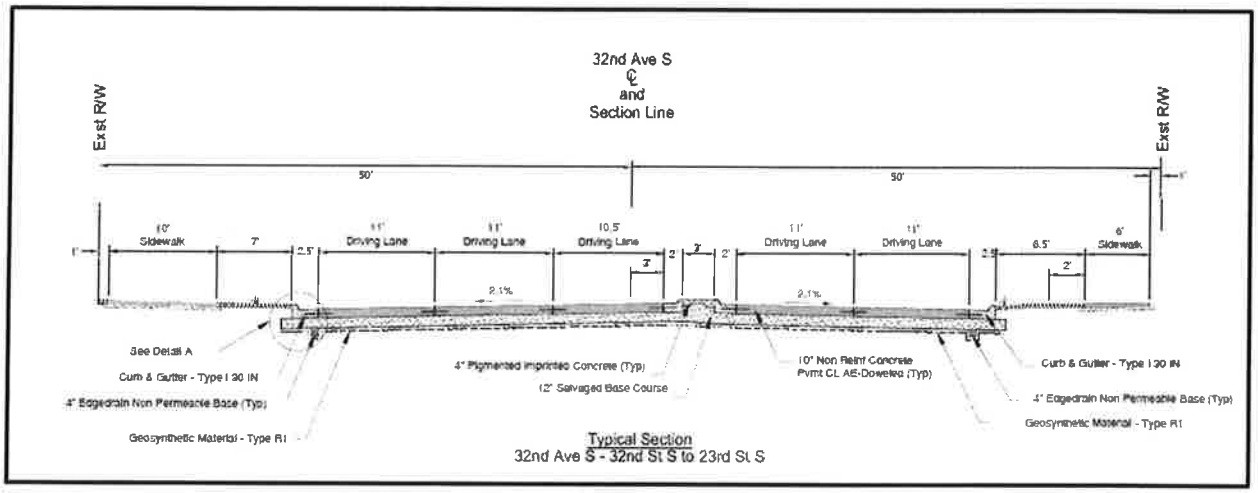
b. Alternative B: Build Alternative(s)

   - Concrete 5-Lane Reconstruction W/Raised Median
     - 5-lane concrete roadway reconstruction
     - 11' thru lanes with 10.5' left turn lane (varied width raised median with 2' curb and gutter on both sides, 4' – 14.5')
     - ¾ median at 27th Street
     - Median eliminated at eastbound or westbound left turn lane at each intersection to provide a neutral offset.

   - Segment 1: Concrete 5-Lane Reconstruction W/Raised Median
     (Estimated Cost - $8,780,000)

   - Segment 2: Concrete 5-Lane Reconstruction W/Raised Median
     (Estimated Cost - $11,210,000)

Figure 3 – Alternative B Proposed Typical Sections



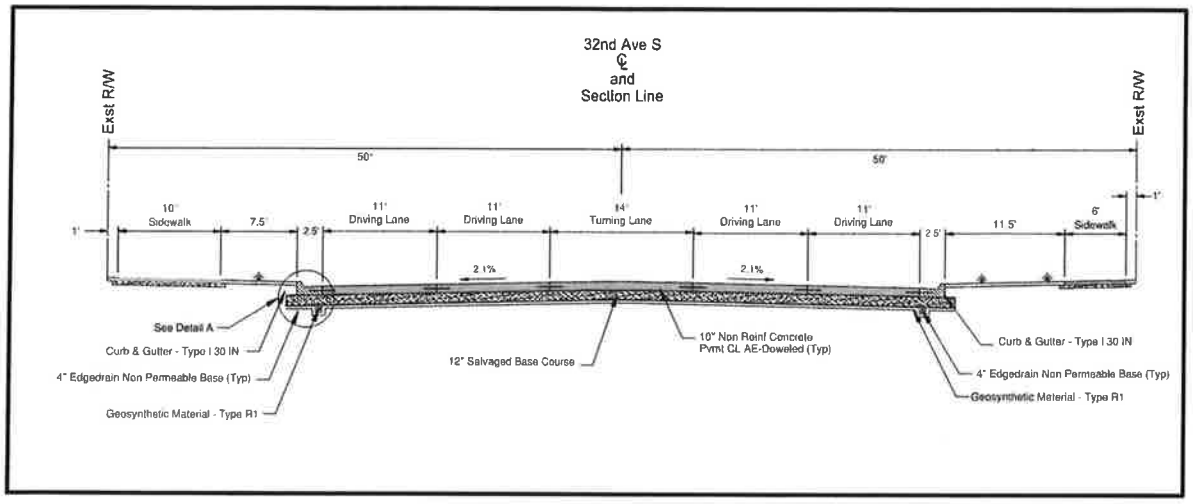
c. Alternative B1: Build Alternative(s)

   - Concrete 5-Lane Reconstruction W/Flush Median
     - 5-lane concrete roadway reconstruction
     - 11' thru lanes with 14' center left turn lane
     - Raised Median may be installed in place of flushed median where there are no left turn lanes between 22nd St and 17th St.
     - ¾ median at 27th Street

- Segment 1: Concrete 5-Lane Reconstruction W/Flush Median
  (Estimated Cost - $8,610,000)

- Segment 2: Concrete 5-Lane Reconstruction W/Flush Median
  (Estimated Cost - $11,070,000)

Figure 4 – Alternative B1 Proposed Typical Sections



d. Traffic Control Work Zone Safety and Mobility

This project is not designated as a significant project due to it not being on the urban regional system. The work zone traffic control plan for this project will be summarized within the environmental document, in accordance with the process outlined in the Work Zone Safety and Mobility Program for non-significant projects.

e. Work Zone Traffic Control

The construction phasing and traffic control plan consist of multiple phases. In 2022; 32nd Ave S from 32nd St to 22nd St will be completed. The east bound lanes and the west bound lanes will be constructed in two different phases. While the lanes in one direction are being constructed the lanes in the other direction will be open to two-way traffic and access to businesses and residences will be maintained using either side streets or temporary roadways. When feasible larger intersections will be broken into four different sub-phases, one for each quadrant, to maintain traffic in each direction during construction. The second segment of 32nd Ave S from 22nd St to University Dr will be constructed in 2024. As with the first segment, the east and west bound lanes will be constructed in two separate phases. MAT bus routes and pedestrian access and facilities will be maintained during construction. The contractor will be responsible to maintain the side streets and/or temporary roadways during construction. If necessary and approved; detour routes to facilitate construction activities will be utilized. Also, a significant portion of the available right of way will be needed to allow enough room for the equipment to construct the concrete street as well as maintain through traffic along the corridor.

f. Maintenance Responsibility Discussion

The City of Fargo will retain ownership and maintenance of 32nd Ave S for the entire length of the project.

g. Summary of Engineering Issues

- There are many businesses and residential properties that will need access maintained throughout the entire construction period.
- Right-of-way is limited (100') throughout the project and will require additional effort when storing earth, materials, and equipment to ensure an efficient operation.
- The corridor is almost completely built out with residential and commercial structures. Construction sound abatement outside of the community's normal working hours will need to be limited within reason.
- Coordination with adjacent property owners that have fences, irrigation, or other items located within the temporary easement will be required.
- There are many trees along the corridor that the involved agencies would like to see protected if possible or transplanted. Some trees may need to be removed and will be replaced at a 2:1 ratio.
- Maintain utility services, MAT Bus routes, and pedestrian facility access during all phases of construction.

h. Summary of Environmental Issues

- Wetlands:
  - There are no anticipated impacts to the wetlands identified within the project area.
- Threatened & Endangered Species
  - The project, which is entirely located in an urban area, was determined to have a potential impact on the Northern Long-Eared Bat. A NDDOT Biologist Review will be conducted for the project area. Please refer to the NDDOT Threatened, Endangered, Candidate Species and Critical Habitat Affect Determination Table in Appendix B.

Table 2 - Right of Way Summary

Alternatives	Temporary Easements Needed	Permanent ROW Needed	US Fish & Wildlife Property Interest?	US Forest Service Property Interest?
Alternative A No Build	0.00 Acres	0.00 Acres	No	No
Alternative B Concrete 5-Lane Reconstruction W/ Raised Median	1.95 Acres	0.00 Acres	No	No
Alternative B1 Concrete 5-Lane Reconstruction W/ Flush Median	1.95 Acres	0.00 Acres	No	No

Note: These right of way acreages is based on preliminary design calculations and are subject to change during final design as design elements are defined more accurately.

Table 3 – Summary of Estimated Costs

Alternatives	SU-8-984(168) Federal Aid Eligible	Drainage (Federal / City Share TBD)	City of Fargo Only	Total Cost
Alternative B - Concrete 5-Lane Reconstruction W/ Raised Median	$13,660,000	$3,280,000	$3,070,000	$19,990,000
Alternative B1 - Concrete 5-Lane Reconstruction W/ Flush Median	$13,340,000	$3,280,000	$3,070,000	$19,680,000

1. Estimated costs include an additional 5% for contingencies & 10% for construction engineering.
2. Private utility relocation costs are not included in the estimates.

G. Comments from the Documented CATEX

Please refer to Appendix F for comments on the Draft Documented CatEx.

H. Public Concerns / Need for Public Input

- Solicitation of Views (SOV) letters were mailed on September 11, 2020. The SOV letters and responses received are included in Appendix A.

- A public input meeting was held on August 12th, 2020. Additional information from the Public Input meeting is available in the Public Involvement Report.

Table 4 – Summary of Comments/Responses

Topic	Comments	Responses
Traffic & Safety *(54)*	1. Comment regarding the pavement markings being confusing to drivers around lane shift areas at University Dr. 2. Comments regarding the need for improved left turning throughout the corridor, potentially dual turn lanes or flashing yellow arrows. 3. Comments regarding the need for updated traffic signals or a roundabout throughout the corridor. 4. Comments about difficult business access regarding the size of the driveways and turn lanes. 5. Comments regarding the need for three lanes of though traffic along the entire corridor. 6. Comment regarding the need for the 25th St intersection to be revised for traffic and for pedestrians. 7. Comment regarding the need for less traffic signals. 8. Comment regarding the need for the Essentia Health access to be revised. 9. Comments regarding the need for the business access on 25th St S to be revised. 10. Comment regarding the need for a direct access to Liberty Lutheran Church. 11. Comment regarding the need for the Hornbacher's access to be revised. 12. Comment regarding the need for pedestrian access at the 33rd St intersection.	1. Lane configuration will be considered during alternative development and new pavement markings installed with the project. 2, 5, 6 & 12. A traffic analysis of 32nd Ave S and adjacent roads will be completed to assist development of lane and intersection configuration alternatives. 3 & 7. This project is a complete reconstruction of 32nd Ave S. Traffic signal systems will be replaced or will be removed if not warranted. 4, 8, 9, 10 & 11. Business access alternatives are a part of the traffic analysis and each will be evaluated with the project.
Miscellaneous *(15)*	1. Comment regarding the periodic flooding of 32nd Ave S. 2. Comments regarding snow plowing storage areas to reduce lane narrowing	1. This project is a complete reconstruction of 32nd Ave S and will include development of alternatives for the storm sewer system.

	and saving money by not needing removal of snow. 3. Comments regarding the 25th St intersection and 32nd Ave S Corridor degrading badly and being very rough. 4. Comments regarding the smell coming from the nearby lift stations. 5. Comment regarding the removal of all grass/trees in the medians to save money on maintenance. 6. Comments regarding the need for increased police traffic due to many people breaking laws.	2 & 5. We appreciate the feedback from the different design options and each opinion will be considered before final design is completed. 3. This project is a complete reconstruction of 32nd Ave S and will include the rebuilding of the concrete pavement and grading. 4. This project will not include lift station work, however the comment will be noted and passed along the proper channels. 6. This project will not involve local law enforcement routes, however the comment will be noted and passed along the proper channels
Bike Path (3)	1. Comment regarding extending the bike path on the South side of 32nd Ave S to University Dr. 2. Comment regarding the need for signage along the bike path so users know what streets they are approaching. 3. Comment regarding the removal of on-street bike paths.	1, 2, & 3. We appreciate the feedback from the different design options and each opinion will be considered before final design is completed.

Table 5 – Comparison of Alternatives

Alternative / Option	Advantages	Disadvantages
Alternative A - No Build	- Lowest initial cost	- Does not meet purpose and need
Alternative B - Concrete 5-Lane Reconstruction with Raised Median	- Provides 30-year pavement design and load carrying capacity - The addition of a raised median with left turn lanes will assist in reducing access control issues - Shared-use path and sidewalks provide off-street facilities for non-motorized users - Improved lighting throughout the corridor - Improved storm sewer system - Updated watermain and hydrants - Rehabilitated sanitary sewer system	- Highest initial cost - Utility Impacts - Potential Tree Impacts -Temporary Easement - 1.95 Acres -Largest Impervious Surface Footprint
Alternative B1 - Concrete 5-Lane Reconstruction with Flush Median	- Provides 30-year pavement design and load carrying capacity - The addition of a shared left turn lane will assist in reducing turning movement issues - Shared-use path and sidewalks provide off-street facilities for non-motorized users - Improved lighting throughout the corridor - Improved storm sewer system - Updated watermain and hydrants - Rehabilitated sanitary sewer system - Smaller impervious footprint with wider green boulevard space.	- High initial cost - Utility Impacts - Potential Tree Impacts -Temporary Easement – 1.95 Acres

I. Executive Decisions

Do you concur with the project concepts as proposed?

_____ Yes

_____ No

Which alternative per segment should proceed with the project?

Segment #1 – 32nd St S to 22nd St S

_____ Alternative A - No Build:
Estimated Cost $0

_____ Alternative B - Concrete 5-Lane Reconstruction W/Raised Median:
Estimated Cost $8,780,000

_____ Alternative B1 - Concrete 5-Lane Reconstruction W/ Flush Median:
Estimated Cost $8,610,000

Segment #2 – 22nd St S to University Dr S

_____ Alternative A – No Build:
Estimated Cost $0

_____ Alternative B - Concrete 5-Lane Reconstruction W/Raised Median:
Estimated Cost $11,210,000

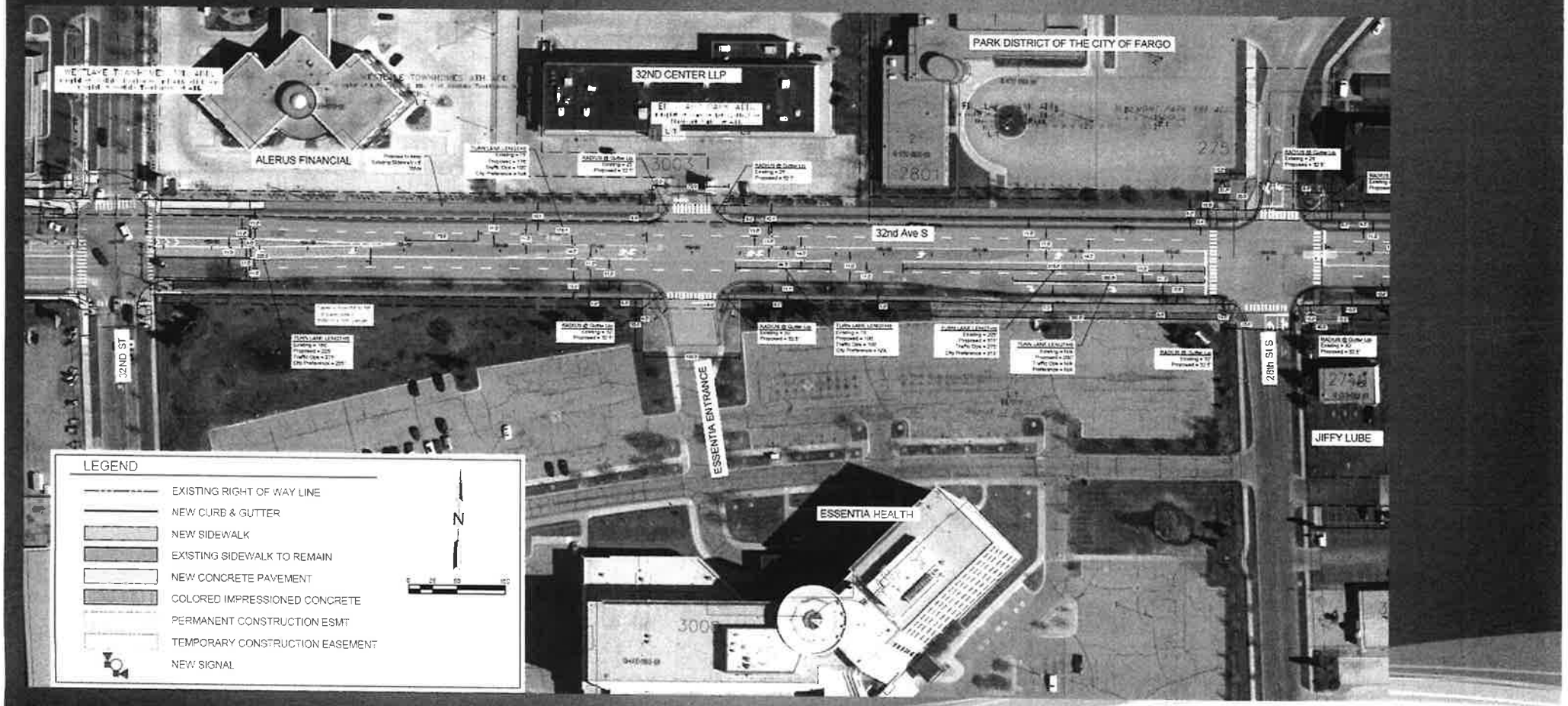
_____ Alternative B1 - Concrete 5-Lane Reconstruction W/ Flush Median:
Estimated Cost $11,070,000

Amendments/Comments for Project No. SU-8-984(168)

_____
_____
_____
_____
_____
_____
_____
_____

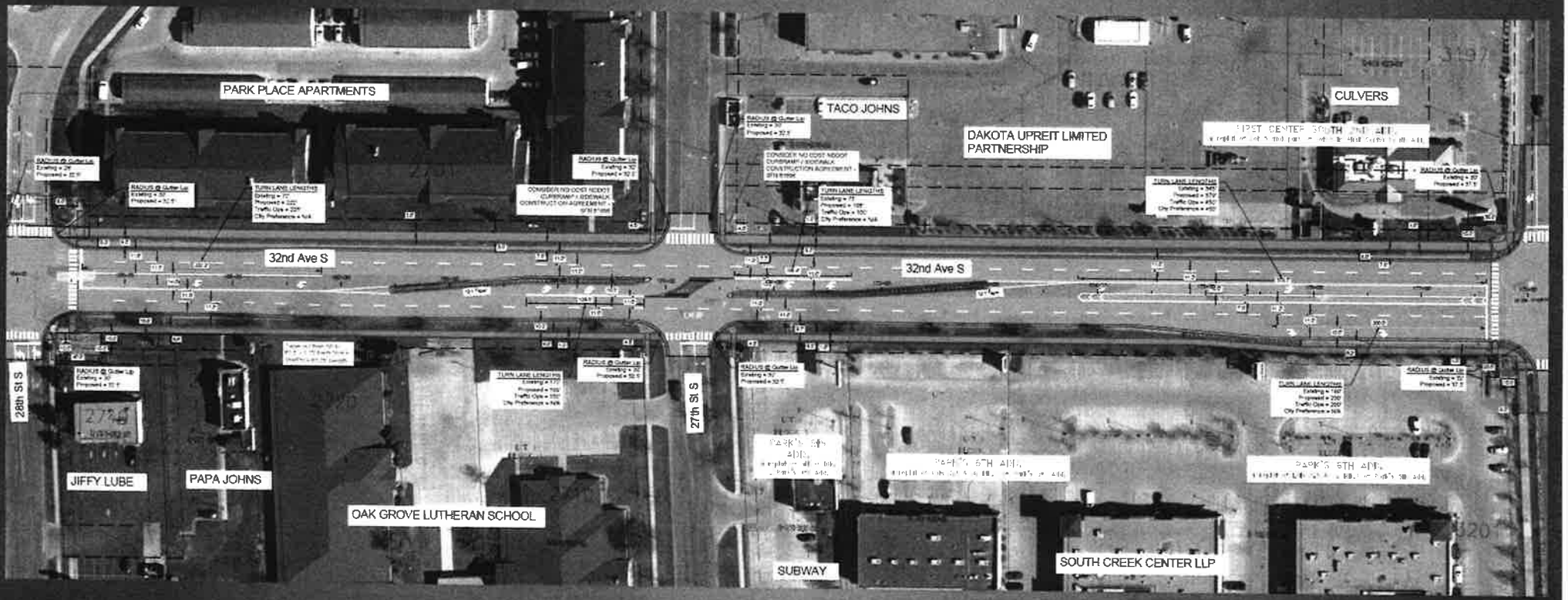
_____ _____
Timothy J. Mahoney, Mayor Date
City of Fargo, North Dakota

Alternative B1 - 32nd Street to 28th Street



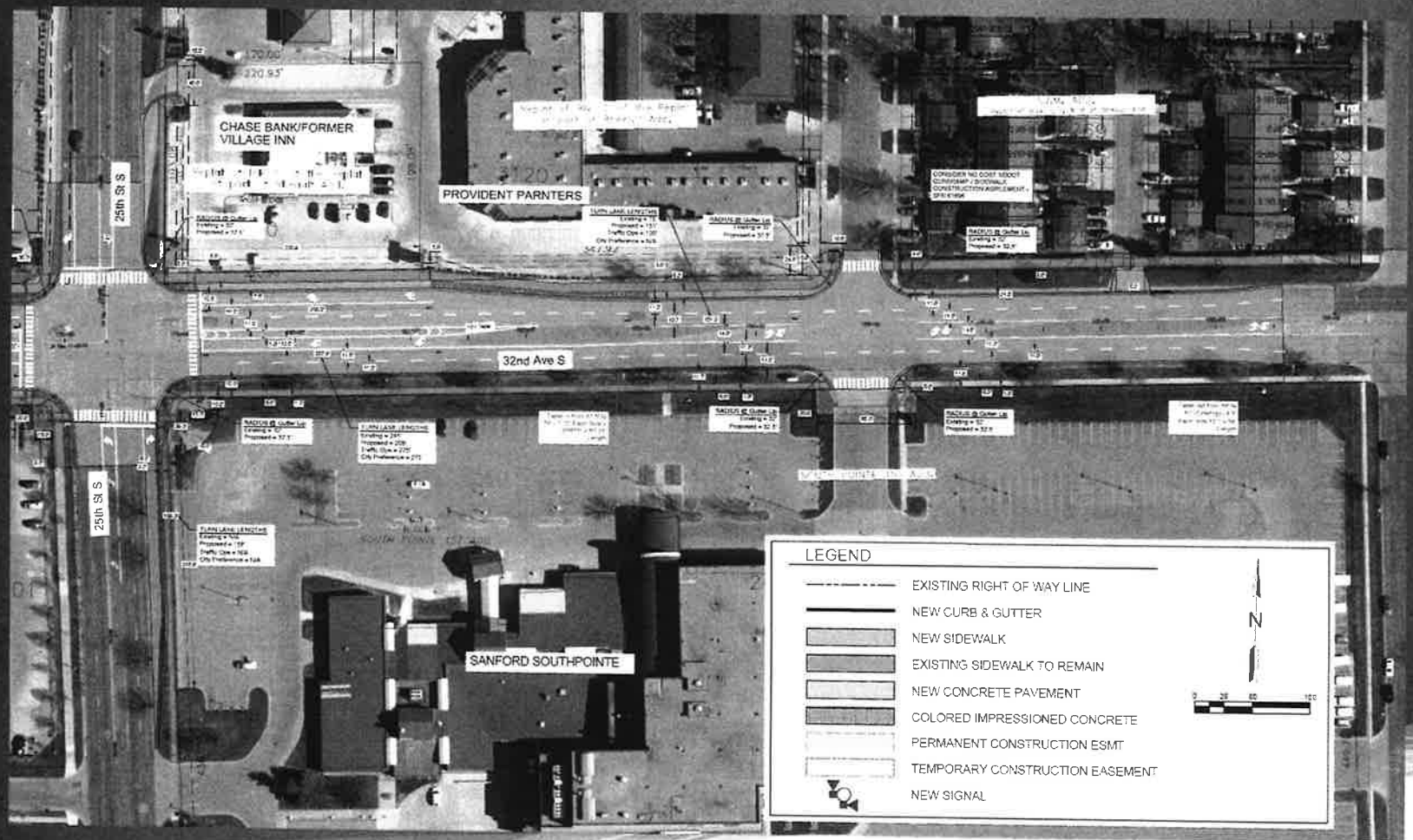
THE CITY OF Fargo FAR MORE

Alternative B1 – 28th Street to 25th Street



THE CITY OF Fargo FAR MORE

Alternative B1 –25th Street to 22nd Street



THE CITY OF Fargo FAR MORE

(30)

COMMISSIONER _____ introduced the following resolution and moved its adoption:

RESOLUTION ESTABLISHING REPORTING REQUIREMENTS OF THE FARGO POLICE DEPARTMENT RELATED TO HATE CRIMES

WHEREAS, The City of Fargo adopted Fargo Municipal Code §§ 10-0323.1- Simple Assault- Hate Crime; 10-0322.1- Harassment- Hate Crime; and 10-0321.1- Criminal mischief- Hate Crime; and

WHEREAS, The City of Fargo recognizes and understands that a Hate Crime offense adopted by Ordinance are classified as Class B misdemeanors, which carry a maximum penalty of a fine in the amount of $1,500 and 30 days in jail; and

WHEREAS, City of Fargo recognizes that the Hate Crime offenses punishes the same conduct as the underlying offense, but for the added element that the conduct was committed "in whole or in part because of the actual or perceived race, color, religion, gender, disability, sexual orientation, gender identity, national origin or ancestry of the victim"; and

WHEREAS, The City of Fargo recognizes and appreciates that the motive or reason for committing the offense may be difficult to determine or otherwise discern in some situations; nevertheless, the Fargo Police Department, through training and experience, is tasked with identifying, reporting and referring for prosecution Hate Crimes pursuant to Fargo Municipal Code; and

WHEREAS, The Board of City Commissioners desires to obtain regular information from the Fargo Police Department Chief of Police, or designee, on a quarterly basis, explaining the Fargo Police Department's records of incident reports that include information pertaining to the offense having been committed because of the victim's actual or perceived "race, color, religion, gender, disability, sexual orientation, gender identity, national origin or ancestry' and the outcome of any such report, as well as any reports made by the Fargo Police Department to any State or Federal agency.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF CITY COMMISSION,

1. The Fargo Police Department Chief of Police, or designee, shall provide quarterly reports to the Board of City Commissioners explaining the Fargo Police Department's records of incident reports that include information pertaining to the offense having been committed because of the victim's actual or perceived "race, color, religion, gender, disability, sexual orientation, gender identity, national origin or ancestry' and the outcome of any

such report, as well as any reports made by the Fargo Police Department to any State or Federal agency.

The motion for the adoption of the foregoing resolution was duly seconded by COMMISSIONER _____, and upon roll call vote, the following voted in favor thereof:
COMMISSIONERS_____.
The following were absent and not voting: _____, and the following voted against the same: _____, whereupon the resolution was declared duly passed and adopted.

Dated this ____ day of _____, 2021.

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

ATTEST:

_____
Steve Sprague, City Auditor

TO: FARGO CITY COMMISSIONERS

FROM: ELECTION AND CITY GOVERNANCE TASK FORCE

DATE: FEBRUARY 14, 2017

At its August 1, 2016, meeting the Fargo City Commission created an Election and City Governance Task Force. The reasons for this Task Force creation are explained in a memorandum of that date, a copy of which is included as an addendum to this report.

The voting members of the task force are Sean Foss, Bruce Furness, Jed Limke, Arlette Preston, Daryl Ritchison, Rick Steen and Kevin Wilson. Non-voting advisory members are Barb Headrick, League of Women Voters; Mark Johnson, Instructor of Political Science at MSCTC; Mike Montplaisir, Cass County Auditor; Carol Sawicki, League of Women Voters and Steve Sprague, City of Fargo Auditor. Commissioners Gehrig and Grindberg served as non-voting liaison members.

The first meeting of the Election and City Governance Task Force occurred on September 29th. We continued to meet every other week for a total of eight meetings.

We initially established several goals to guide our discussions and decisions:

- Increased voter turnout
- Simple voting procedures
- Efficient and effective governance model
- Fair and equitable representation

We had a great deal of discussion relating to all five areas of review we were asked to study. It is important to note that these areas, as expected, are generally quite intertwined. Discussion in some areas influenced discussion in others, ensuring consideration of effects on the governance and election system as a whole as well as consideration of any changes to its constituent parts. All of our deliberations were framed with this in mind.

1. <u>Election Timing/Voting System</u>

We discussed how we might solve the "plurality" problem, whereby, in multiple candidate elections, candidates can win with relatively small percentages, such as less than 20% of the votes cast. We asked ourselves "do we care?" And is it essential that winning candidates receive large numbers of votes? We answered those two questions affirmatively.

Several possible solutions were examined to address this plurality issue:

- Primary/General Elections
- Approval Voting
- Instant Runoff Voting
- Proportional Voting

After examining different possibilities, it was concluded that the June election should remain as the "City" election. This would include election of School Board and Park District candidates. We feel that waiting until November for a run-off election would be undesirable for the following reasons:

- Increased campaign length, putting unnecessary financial burden on candidates
- Focus can be more squarely on city races in June
- In presidential years, the race would dominate the conversation, drowning out the city races
- Ballot fatigue on long November ballots

The Task Force recommends that an Approval Voting System be adopted for all City of Fargo elections for the Mayor and City Commissioners.

We spent much time on Approval Voting and even used it ourselves to become more familiar with the concept. It is nearly identical to our current system of voting for candidates. Rather than asking voters to vote for only up to the number of seats available, voters are allowed to vote for as many candidates as they wish. The candidate(s) with the highest total will still win the election just as in our current system. Cass County Auditor Mike Montplaisir has

confirmed that our current software and machines are already able to handle this system without any need for costly software changes or upgrades.

It should be noted that we are not aware of any other city in the United States that uses the Approval Voting System as is being recommended by a majority of this task force.

This action would require a Home Rule Charter amendment.

2. Number of people to serve on the form of government

We had good discussion on the number of commissioners needed. Having additional commissioners would provide more accessibility to city officials, spread portfolio assignments over more commissioners and decrease liaison responsibilities.

The task force recommends that, regardless of the form of city government, the number of Commissioners should be increased by two persons resulting in seven – A Mayor and six Commissioners.

This action would require a Home Rule Charter amendment.

3. Form of Governance

We had a great deal of discussion regarding the relative advantages of forms of governmental structure and the method of managing the election of candidates.

Structure: City Commission - Mayor chairs and votes, positions at large, commissioner liaison responsibilities
City Council – Mayor chairs, City Manager, districts or at-large, portfolios, committees
Modern City Council – Mayor chairs and votes, City Manager, districts or at-large, committees

Representation/Options for election of six commission candidates:
At large – candidates may live anywhere in city; voted on at large (current system)
True District – candidates must live in district; voted on only by people in the district
Modified District – candidates must live in district; voted on at large
Combination - 4 candidates must be elected by district, voted on only by people in the district; 2 candidates elected at large

Most of us felt districts are ultimately inevitable, but we were unable to reach agreement on which method should be used.

The Task Force recommends that there should be no change in the Commission form of governance. Since we could not reach consensus on any of the four district structures discussed, we further recommend that the candidate election process continue to utilize the at-large method of representation.

4. Status of Mayor

The Task Force recommends that the Mayor's position remain on a part time basis.

5. Term Limits

The current city Ordinance, implemented in 1992, specifies three, four-year terms for Commissioners and the Mayor with an additional fourth term if a sitting Commissioner is elected Mayor.

The Task Force recommends that the existing term limits should be retained.

Additional Recommendation

Much of our discussion included whether some of these changes may require Home Rule Charter amendments. The Task Force recommends the City Commission review the Home Rule Charter for any updates and changes that need to be made.

Our thanks to the City Commission for allowing the Task Force to examine these topics specified in the August 23 memorandum from Commissioners Gehrig and Grindberg. The Task Force is hopeful this information will be useful in determining future plans for the City of Fargo.

Addenda: Election and City Governance Task Force Memorandum
January 12, 2017 editorial in The Forum: 'Approval voting' for Fargo?