FARGO CITY COMMISSION AGENDA
Monday, June 14, 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 1, 2021).

CONSENT AGENDA – APPROVE THE FOLLOWING:

1. Receive and file an Ordinance Relating to Classification of Ordinance Violations (Minor in Possession/Consumption of Alcohol).

2. 1st reading of the following Ordinances Relating to Public Safety, Morals and Welfare:
   a. Criminal Mischief-Hate Crime.
   b. Harassment-Hate Crime.
   c. Simple Assault-Hate Crime.

3. Settlement Agreement and Release of All Claims with St. Anthony of Padua's Church of Fargo, Society of St. Vincent DePaul District Council of Fargo, Inc. and Darlene Audrey Daugherty.

4. Gaming Site Authorization for West Fargo Hockey Association at Fort Noks Bar of Gold.

5. Applications for Games of Chance:
   a. Fargo Post 2 Baseball Club for a calendar raffle from 7/1/21 to 7/31/21.
   b. Tri City United Soccer Club for a raffle on 8/29/21.
   c. Steve Weidner FM Junior Tour for a calendar raffle from 7/1/21 to 6/30/22.

6. Renewal of the Alcoholic Beverage and Live Entertainment Licenses until 6/30/22, contingent upon all essential requirements for renewal being met by 6/30/21.

7. Budget allocation for voting by mail.

8. Encroachment Agreement with Plexus Company.

9. Submission of an application for the ND Department of Commerce's Events and Support Services Grant for the FARGODOME.

10. Receive and file Financial Status Report Year to Date through 5/31/21 for major operating funds (unaudited).

11. Service Agreement with Fargo Public Schools Department of Support Services.

12. Amendment to the Agreement for Services with Annie Wood.

13. Amendment to the Agreement for Services with Gia Rassier.

14. Notice of Grant Award from the ND Department of Health for ND LPH Funding Equity and Prioritizing populations disproportionately affected by COVID-19 (CFDA #93.391).

15. Financial Award from the ND Department of Commerce/DCS for the Gladys Ray Shelter Emergency Solutions Grant-CV

16. Out-of-grade pay request for Will Bayuk in the Engineering Department.

17. City of Fargo Temporary Employment Policy COVID-19 Annual Leave (Vacation) – Maximum Accrual for 2021.

18. Amendment No. 1 of Subrecipient Agreement with New Life Center.

19. Resolution Approving Plat of Turf Tamers Addition.

20. Developer Agreement with Cass Clay Community Land Trust for acquisition, demolition and new construction of property at 1412 1st Avenue South.

21. Purchase Agreement and Developer Agreement with Cass Clay Community Land Trust for property at 1410 1st Avenue South.

22. Bid award for Public Works facility fence (RFP21209).

23. Amended Notice of Award for the GTC Exterior Renovation project and Agreement with Gast Construction Company, Inc. (AFB21101).

24. Amendment No. 8 with KLJ, Inc. in the amount of $5,882.09 for the GTC Remodel project-Exterior Renovations.

25. Agreement with KLJ, Inc. (RFQ21072).

26. Bid advertisement for Project No. WA2055.

27. Sole Source Procurement with Hawkins Water Treatment Group for chemicals and materials for the Water Treatment Plant to use during the 2021 calendar year.

28. Submission of a State Revolving Fund loan application for the Membrane Water Treatment Plant.

29. Contract and bond for Project No. BP-21-A1.

30. Bills.

31. Change Order No. 2 for an increase in the amount of $16,150.00 for Improvement District No. BN-20-E1.

32. Change Order No. 1 for an increase in the amount of $94,164.00 for Improvement District No. BN-21-A2.

33. Early Building Permit with North Dakota State College of Science at Wahpeton, North Dakota (Improvement District No. UN-20-B1).

34. Estimated payment of $25,578.69 to Xcel Energy and up to $5,000.00 to Sparklight for the relocation of utilities (Improvement District No. BR-21-E1).

35. Create Improvement District No. BN-21-K.

36. Contract and bond for Improvement District Nos. AN-20-C1, BN-21-J1, PN-21-A1 and SL-21-B1.

REGULAR AGENDA:

37. **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).**

38. ***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**
    a. Hearing on a dangerous building located at 1033 5th Street North.

    b. Community Development Block Grant (CDBG) and HOME Programs 2021 Action Plan and Budget Proposal.

    c. Petition for Annexation of property described as that part of the Southeast Quarter of Section 15 and the Northeast Quarter of Section 22, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota.
        1. 1st reading of annexation Ordinance.

    d. Dakota Commerce Center Addition (4060, 4230, 4316 and 4416 37th Street North and 3701 40th Avenue North); approval recommended by the Planning Commission on 5/4/21:
        1. Zoning Change from AG, Agricultural to LI, Limited Industrial.
        2. 1st reading of rezoning Ordinance.
        3. Plat of Dakota Commerce Center Addition.

    e. Text Amendment to amend Section 20-0402(T)(3) and repeal Section 20-0403(C)(5) (e) of the Fargo Municipal Code (Land Development Code) relating to the prohibition of firearm and ammunition sales as a non-farm commercial use or as a home occupation.
        1. 1st reading of Ordinance.

    f. Renaissance Zone Project for a new construction project at 300 Main Avenue.

    g. Application filed by Standard Industries, Inc. for a 5-year property tax exemption for a project located at 5650 13th Avenue North where the applicant will use in the operation of metal fabrication and providing a variety of stainless steel, precision steel and aluminum products.

39. Presentation of the Fargo Police Departments 2020/2021 Annual and Mid-Year Report.

40. Receive and file an Ordinance Relating to Wildlife Management Program-Regulations; action delayed on the 6/1/21 Regular Meeting.

41. Recommendation to select Alternative B1 for Segments 1 and 2 for the 32nd Avenue South Reconstruction Project (Improvement District No. BR-22-A1).

42. Applications for property tax exemptions for improvements made to buildings:
    a. Rachel Rawley, 1619 32nd Street South (5 year).
    b. Luke Hestdalen, 101 25th Avenue North (5 year).

43. Recommendations for appointments and reappointments to the following Boards and Commissions:
    a. Special Assessment Commission.
    b. Planning Commission.

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.

THE CITY OF Fargo
FAR MORE

38a

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

Memorandum

DATE: June 10, 2021

TO: Mayor Mahoney and Board of City Commissioners

FROM: Bruce Taralson, Inspections Director

SUBJECT: Dangerous Building Notice and Order 1033 5 Street N., Fargo, ND 58102

The property owner of 1033 5 Street N., 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 June 14, 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 August 13, 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 August 13, 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 1033 5 Street N., 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, June 14, 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 30 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 March 23, 2021. The Dangerous Building notice provided a 30-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 1907.

Description: Two-story, wood-framed structure.

Description of damage:

On March 22, 2021, Inspector, Bill Thompson, was present at 1033 5 Street N., Fargo, ND for a rental inspection. The following violations were found:

- Substandard Building and Junk Letters have been sent with no results on behalf of the Owner.
- Multiple windows were boarded up.
- Gaffiti.
- Complaints of squatters entering through an unsecured basement window.
- Water was turned off by Owner on 1/31/2020 due to excessive usage by squatters.
- Extensive water damage.
- Large amounts of volunteer growth around house and garage.
- Large amounts of junk and harborage in rear yard.
- Electrical panel and majority of fixtures have been tampered with in house and detached garage.
- Furnace was powered by an extension cord.
- Signs of infestation.

Timeline for events:

1/20/2016: Junk removal notice.
1/30/2017: Junk removal notice.
2017-2021: 46 Police calls on record.
8/21/2019: Complaint regarding items under tarp.
10/1/2019: Junk removal notice – furniture and tarped items in front yard.
10/16/2019: Reinspection – furniture and tarped items present in front yard.
10/17/2019: Referred to City Attorney.
1/31/2020: As per City of Fargo Water Department, the Owner requested water be shut off – the house was broken into and all of the faucets were turned on – water usage was 80,000 gallons.
8/10/2020: Unsafe structure notice.
8/10/2020: Junk removal notice.
3/22/2021: Complaint inspection.
3/23/2021: Notice of Dangerous Building.
4/1/2021: Structure secured by contractor.
5/12/2021: Deputy Assessor determined building deterioration exceeded 50% of True & Full Improvement Value.
5/26/2021: Inspections requested Dangerous Building Order to Show Cause Hearing to be scheduled for June 14, 2021.
6/3/2021: Notice of Hearing posted on building and mailed to Owner via registered mail.
6/9/2021: As per Xcel Energy, services are still active, however, the Owner requested services be taken out of their name on 6/8/2021.
6/14/2021: Dangerous Building Hearing.
6/29/2021: Anticipated issuance of *Findings of Fact* document.
7/14/2021: Deadline to appeal to District Court
8/13/2021: 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 10th day of June, 2021.

Bruce Taralson
Inspections Director

THE CITY OF Fargo FAR MORE

ASSESSOR'S OFFICE
Fargo City Hall
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1340 | Fax: 701.241.1339
www.FargoND.gov

MEMORANDUM:

DATE: 06/09/2021

TO: Bruce Taralson, Inspections Administrator

FROM: James Haley, Deputy Assessor

SUBJECT: 1033 5 St N

On May 12th, 2021, I viewed interior photos of 1033 5 St N.

My calculations indicate that the cost to cure the deterioration of the subject building exceeds 50% of the most recent certified True & Full Improvement Value of the dwelling.

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 3, 2021

Location: 1033 5 Street N., Fargo, ND
Property Owner: George C Harter
Address of Property Owner: 1033 5 Street N., Fargo, ND 58102

Inspector: Bill Thompson
Date of Posting: June 3, 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 1033 5 Street N., Fargo, ND has been scheduled for Monday, June 14, 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 3rd day of June, 2021.

Bruce Taralson
Inspections Director

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Notice of Order to Show Cause Hearing RE: 1033 5 Street N., Fargo, ND
CM Receipt#: 9214 8901 9403 8341 4086 59

Gretchen Morlan, being first duly sworn and being of legal age, deposes and says that on the 3rd day of June, 2021, she served the attached notice, upon George C Harter, by placing true and correct copies thereof in an envelope addressed as follows:

George C Harter
1033 5 Street N.
Fargo, ND 58102-3710

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 3rd 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)

CERTIFIED MAIL

City of Fargo
225 4th Street North
Fargo ND 58108

USPS CERTIFIED MAIL

9214 8901 9403 8341 4086 59

neopost
06/03/2021
US POSTAGE $005.86[0]

ZIP 58102
041L12204758

GEORGE C HARTER
1033 5TH ST N
FARGO ND 58102-3710

581 NFE 1 42.0I0006/03/21
RETURN TO SENDER
HARTER GEORGE CARUS
MOVED LEFT NO ADDRESS
UNABLE TO FORWARD
RETURN TO SENDER
BC: 58102481725 *0435-08382-03-42

SK1: 9327090206190958102$3710 C064
58102>4817

AFFIDAVIT OF SERVICE

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

Re: Posting of Notice of *Dangerous Building Hearing – Order to Show Cause*
1033 5 Street N., Fargo, ND 58102

Bill Thompson, being first duly sworn and being of legal age, deposes and says that on the 3rd day of June 2021, he posted the attached notice upon the following address:

1033 5 Street N.
Fargo, ND 58102

Bill Thompson

Subscribed and sworn to before me this 3rd 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)

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: George C Harter
4915 28th Ave S Apt 201
Fargo ND 58104

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 1033 5 St N, and is located on that tract of land in the city of Fargo, more particularly described as follows:

Hectors Addition, Block 13, Lot 5
(hereinafter referred to as "the building")

3. That an inspection was made of the building on March 22, 2021 by Bill Thompson, 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, 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 30 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 International Property Maintenance Code, 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 23rd day of March, 2021.

11. Order to secure building by March 29, 2021. 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. **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 23rd day of March, 2021.

Conditions Found Statement

On March 22, 2021, Building Inspector Bill Thompson, was present at 1033 5 St N, Fargo, ND to address a complaint inspection. The following violations were found:

- Substandard and junk letters have been sent with no results.
- Multiple windows are boarded up.
- Graffiti.
- Complaints of squatters entering through an unsecured basement window.
- Water was turned off by owner on 1/31/20 due to excessive usage by squatters.
- Large amounts of volunteer growth around house and garage.
- Large amounts of junk and harborage in rear yard.

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.

Bill Thompson
Building Inspector
City of Fargo, ND

Bruce Taralson
Inspections Director

3/23/21
Date Signed

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Notice of Dangerous Building – 1033 5 Street N., Fargo, ND 58102
CM Receipt#: 9214 8901 9403 8335 6409 97

Gretchen Morlan, being first duly sworn and being of legal age, deposes and says that on the 23rd day of March, 2021, she served the attached notice, upon George C Harter, by placing true and correct copies thereof in an envelope addressed as follows:

George C. Harter
4915 28 Ave S., Apt 201
Fargo, ND 58104-8465

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 23rd day of March, 2021.

STEVEN SPRAGUE
Notary Public
State of North Dakota
My Commission Expires Aug. 13, 2023

Notary Public
Cass County, North Dakota

(SEAL)

CERTIFIED MAIL

neopost
03/23/2021
US POSTAGE $005.86⁰

City of Fargo
225 4th Street North
Fargo ND 58108

USPS CERTIFIED MAIL

9214 8901 9403 8335 6409 97

ZIP 58102
041L12204758

GEORGE C HARTER
APT 201
4915 28TH AVE S
FARGO ND 58104-8465

NIXIE 581 DE 1 0003/26/21
RETURN TO SENDER
VACANT
UNABLE TO FORWARD
BC: 58102481725 *0435-02580-23-38

AFFIDAVIT OF SERVICE

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

Re: Posting of Dangerous Building Notice – 1033 5 Street N., Fargo, ND 58102

Bill Thompson, being first duly sworn and being of legal age, deposes and says that on the 23rd day of March 2021, he posted the attached notice upon the following address:

1033 5 Street N.
Fargo, ND 58102

Bill Thompson

Subscribed and sworn to before me this 23rd day of March, 2021.

STEVEN SPRAGUE
Notary Public
State of North Dakota
My Commission Expires Aug. 13, 2023

Notary Public
Cass County, North Dakota

(SEAL)

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

FINDING AND DETERMINATION OF UNSAFE STRUCTURE, ORDER TO VACATE, SECURE BUILDING, AND MAKE REPAIRS NOTICE OF RIGHT TO APPEAL

DATE:	**8/10/2020**
ADDRESS AND/OR LEGAL DESCRIPTION OF SUBJECT PROPERTY:	**1033 5 St N, Fargo, ND 58102**
NAME OF PROPERTY OWNER:	**George C Harter**
ADDRESS OF PROPERTY OWNER:	**1033 5 St N**
NAMES AND ADDRESSES OF MORTGAGE HOLDERS, LIENHOLDERS ET CETERA AND LESSEES OF RECORD:	
NAME OF INSPECTOR:	**Bill Thompson , Building Inspector**

Finding of substandard building. The undersigned building official has determined the above-described subject property to be a substandard building, as is defined by the International Property Maintenance Code, 2018 edition, as adopted by reference in the Fargo Municipal Code at section 31-0101. Specifically, the violations of said housing code have been identified and are described more fully in the conditions found statement of the Inspection Division, a copy of which is attached hereto and incorporated herein as if fully set forth.

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 on this .

Order to secure building. The undersigned building official has determined that the building must be secured immediately. Therefore, it is hereby ordered that all means of entering the building be secured to prevent unauthorized entrance. An inspector will verify compliance on 8/25/2020. Failure to secure the building 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.

Order for repair. The undersigned building official has determined that the building must be repaired. Therefore, it is hereby ordered that all required permits be secured for the appropriate repair of the building or structure and the work physically commenced within 14 days of the date of this order, all exterior work completed within 30 days and all interior work completed within 180 days, which is a period of time for completion determined by the undersigned building official to be reasonable under all of the circumstances.

NOTICE OF RIGHT TO APPEAL

PLEASE BE ADVISED that any person having any record, title, or legal interest in the building, described above, may appeal from this Notice and Order or any action of the undersigned building official to the Housing Advisory and Appeals Board, provided the appeal is made in writing as provided in the International Property Maintenance Code, 2018 edition, and filed with the undersigned building official within 30 days from the date of service of this Notice and Order will constitute a waiver of all right to an administrative hearing and determination of the matter.

The foregoing constitutes the order of the undersigned building official under the authority set forth by the provisions of the Fargo Municipal Code and the International Property Maintenance Code, 2018 edition, and the required notice of right to appeal.

STATEMENT OF CONDITIONS FOUND

On 7/22/2020, Building Inspector Bill Thompson, was present at 1033 5 St N., Fargo, ND 58102, to address a complaint. The following violations were found:

- Multiple windows are boarded up.
- Graffiti.
- Open unsecured window on North side of basement.
- Volunteer growth around house and garage.
- Junk in yard.

The following action must be taken:

- Unsecured openings must be secured. All, boarded up windows must be repaired in a timely manner.
- Graffiti must be removed.
- Junk and volunteer growth must be cleaned up.
- All action must be completed by the deadlines given in the ***Order for Repair*** section on the previous page.

Dated this 10th day of August, 2020.

Bill Thompson, Building Inspector
701.241.1563

Bruce Taralson, Inspections Director

CITY OF Fargo

Building Inspections Department
Rental Housing Inspections
225 4th Street North
Fargo, ND 58102

JUNK REMOVAL NOTICE

****

DATE: August 10, 2020

LOCATION: 1033 5 St N
PROPERTY OWNER: George C Harter

INSPECTOR: Bill Thompson

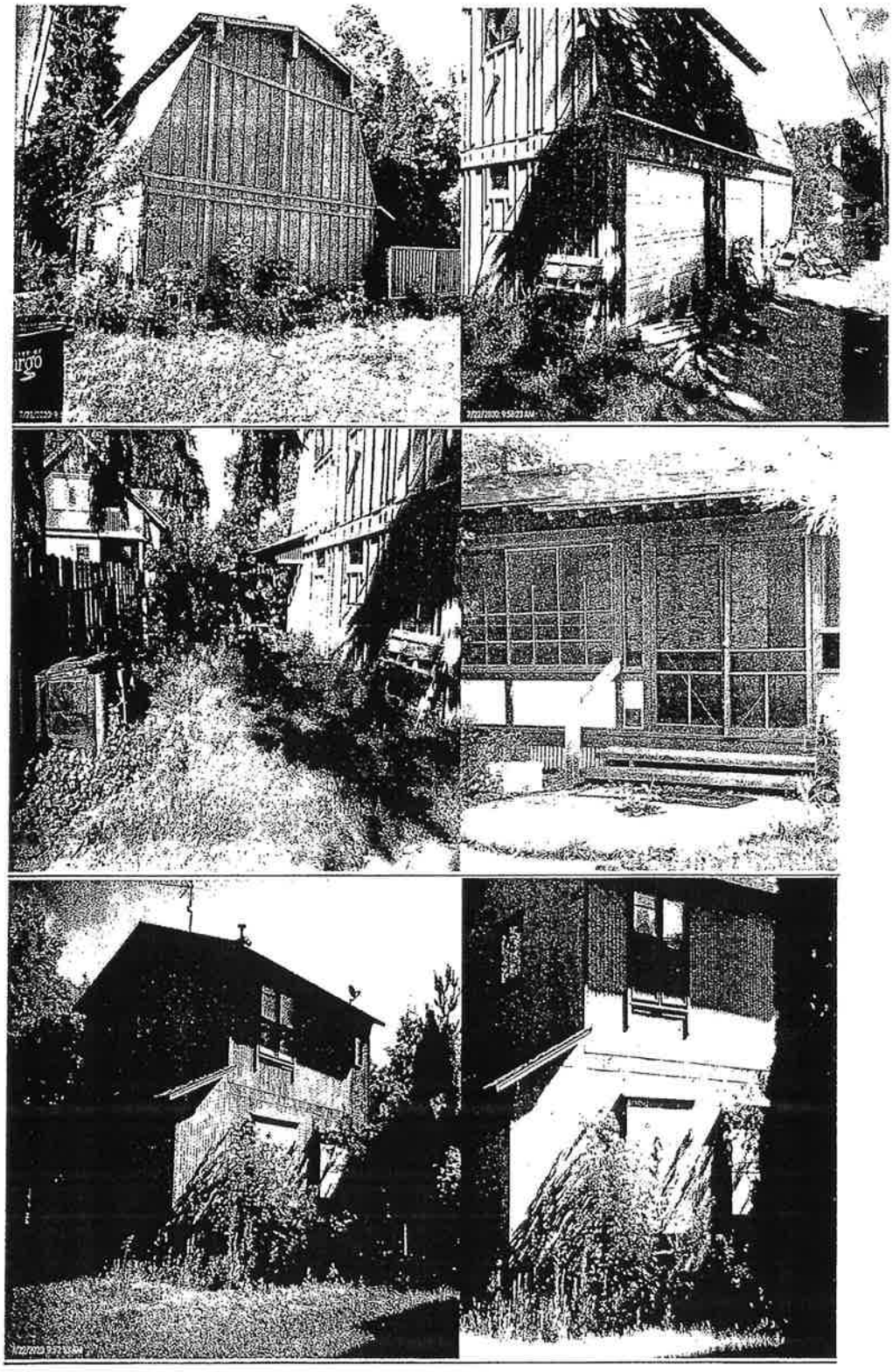
DATE OF INSPECTION: 7/22/2020

YOU ARE HEREBY ORDERED TO REMOVE THE FOLLOWING DESCRIBED JUNK AND/OR DEBRIS IN ACCORDANCE WITH FARGO MUNICIPAL CODE ARTICLE 13-09 BY 8/25/2020. IF THE JUNK REMAINS AFTER THIS DATE, THIS MATTER WILL BE TURNED OVER TO THE CITY ATTORNEY FOR APPROPRIATE ACTION.

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

DESCRIPTION OF MATERIAL TO BE REMOVED

- Volunteer growth around house and garage.
- Pallets, lumber, garbage bags, storage container, window, peat moss bags.
- Misc. junk items concealed under weeds.



Incident Number Incident Type	Call Date/Time ORI	Dispositions Case Number	Location	
2021-00026632 Assist	03/31/2021 14:54:0 ND0090200 4	AC - 1	1033 5TH ST N, FGO	Public
2020-00066982 Suspicious	09/06/2020 18:42:5 ND0090200 4	AC - 1	1033 5TH ST N, FGO	
2020-00066572 Burglary	09/05/2020 07:40:2 ND0090200 6	AC - 1	1033 5TH ST N, FGO	
2020-00066359 Suspicious	09/04/2020 16:28:2 ND0090200 5	AC - 2	1033 5TH ST N, FGO	
2020-00024508 Suspicious	03/30/2020 19:28:5 ND0090200 4	AC - 1	1033 5TH ST N, FGO	
2020-00017204 Burglary	03/03/2020 09:50:4 ND0090200 3	ICR - 1 2020-00017204	1033 5TH ST N, FGO	
2020-00012756 ND0090200	02/16/2020 01:20:1 1	AC - 1	1033 5TH ST N, FGO	COP
2020-00011763 ND0090200	02/12/2020 10:58:2 7	AC - 1	1033 5TH ST N, FGO	COP
2020-00010506 ND0090200	02/08/2020 00:59:5 6	AC - 1	1033 5TH ST N, FGO	COP
2020-00009187 Residence/Buildi	02/03/2020 13:09:2 ND0090200 0	AC - 1	1033 5TH ST N, FGO	ng
Check 2020-00008410 Burglary	01/31/2020 17:56:1 ND0090200 4	NR - 1, ICR - 3 2020-00008410 , AC - 2	1033 5TH ST N, FGO	
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	8		FGO	
2020-00007762 Burglary	01/29/2020 15:31:2 ND0090200 4	ICR - 1 2020-00007762	1033 5TH ST N, FGO	
2020-00006857 Suspicious	01/26/2020 13:37:2 ND0090200 3	AC - 1	1033 5TH ST N, FGO	
2020-00005427 Suspicious	01/21/2020 15:20:3 ND0090200 7	AC - 1	1033 5TH ST N, FGO	
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2020-00003946 Burglary	01/16/2020 04:27:2 ND0090200 6	ICR - 1, AC - 1 2020-00003946	1033 5TH ST N, FGO	
2020-00003835 Suspicious	01/15/2020 19:07:1 ND0090200 8	NR - 1, AC - 1	1033 5TH ST N, FGO	
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ND0090200				
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Complain	ND0090200			
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3			FGO	
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0 FGO

2019-00071043 08/20/2019 10:41:2 AC - 1 1033 5TH ST N, Health - Safety ND0090200
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2019-00037241 05/05/2019 14:03:3 AC - 1 1033 5TH ST N, Impound ND0090200
9 FGO

2019-00030970 04/15/2019 12:15:4 AC - 1 1033 5TH ST N, Medical Assist ND0090200
1 FGO

2017-00076454 09/11/2017 13:53:2 AC - 1 1033 5TH ST N, Welfare Check ND0090200
8 FGO

2017-00038091 05/10/2017 13:57:1 AC - 1 1033 5TH ST N, Welfare Check ND0090200
8 FGO

2017-00037854 05/09/2017 18:07:0 AC - 1 1033 5TH ST N, Welfare Check ND0090200
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2017-00007849 01/30/2017 20:32:2 AC - 1 1033 5TH ST N, Suspicious Activ ND0090200
2 FGO ity - Person

2017-00007459 01/29/2017 12:21:2 NR - 1 1033 5TH ST N, Welfare Check ND0090200
5 FGO

1033 5 Street N., Fargo, ND 7-22-2020

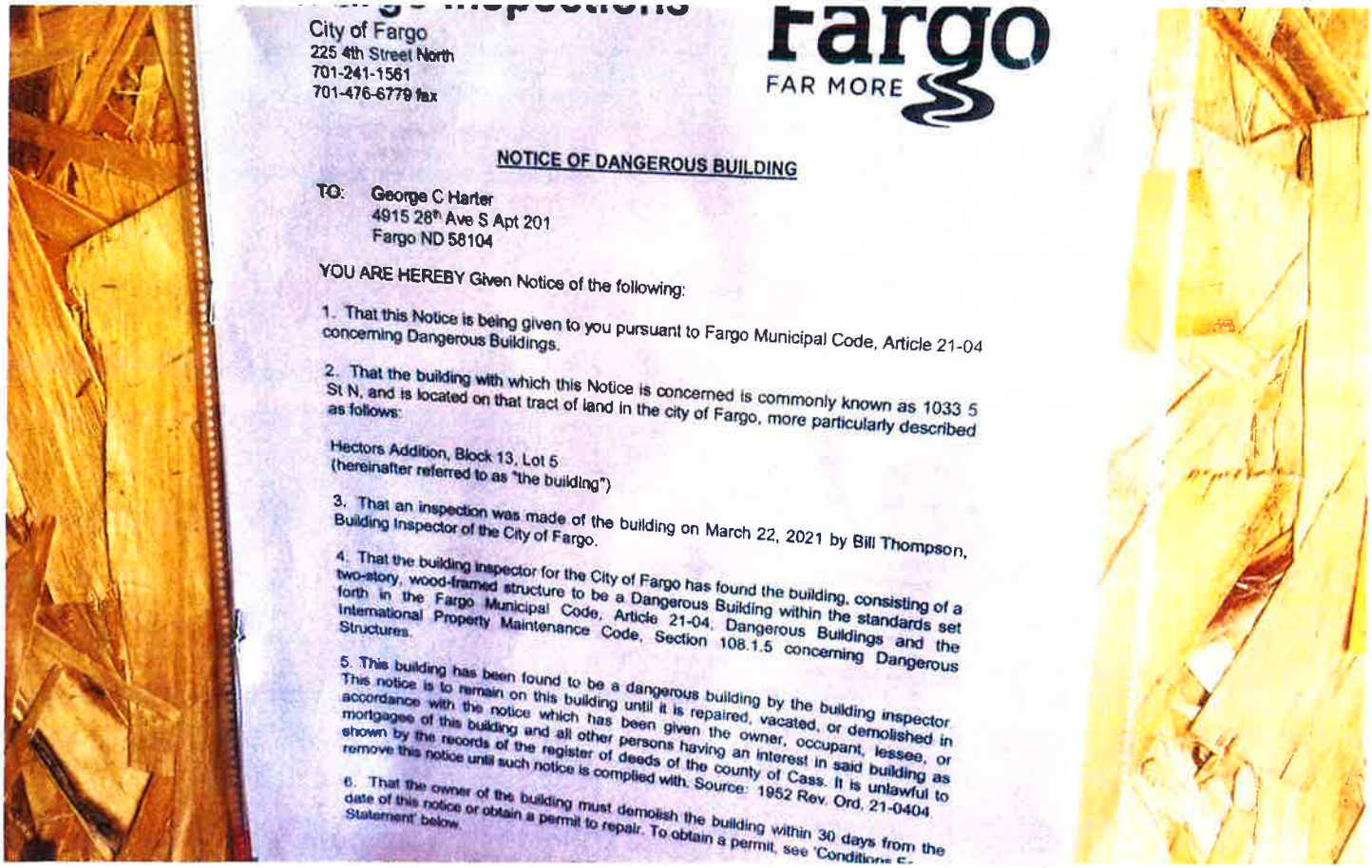
1033 5 Street N., Fargo, ND 7-22-2020

1033 5 Street N., Fargo, ND 9-24-2020

1033 5 Street N., Fargo, ND 9-24-2020

1033 5 Street N., Fargo, ND 10-23-2020

1033 5 Street N., Fargo, ND 10-23-2020



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

Fargo
FAR MORE

NOTICE OF DANGEROUS BUILDING

TO: George C Harter
4915 28th Ave S Apt 201
Fargo ND 58104

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 1033 5 St N, and is located on that tract of land in the city of Fargo, more particularly described as follows:

Hectors Addition, Block 13, Lot 5
(hereinafter referred to as "the building")

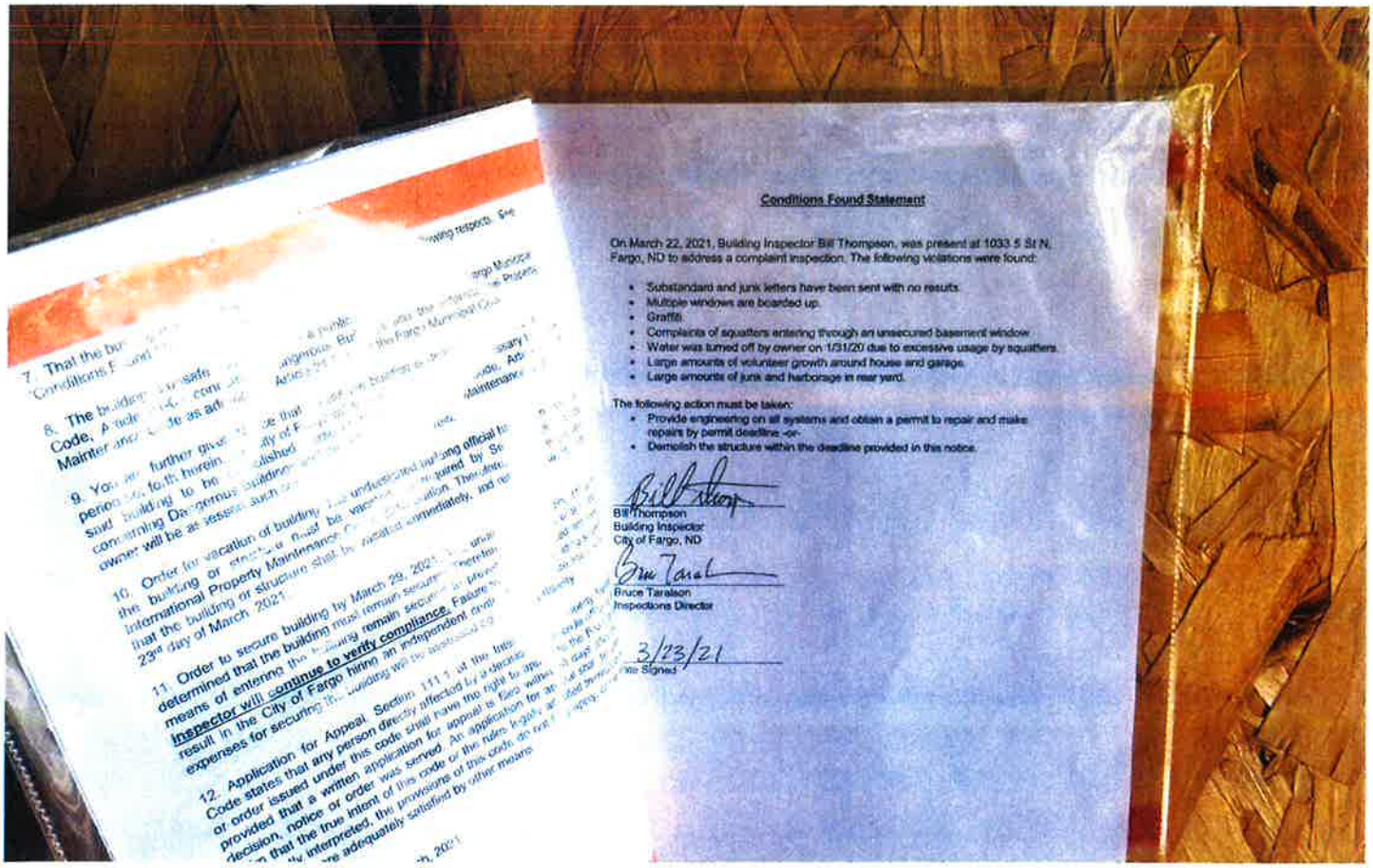
3. That an inspection was made of the building on March 22, 2021 by Bill Thompson, Building Inspector of the City of Fargo.

4. That the building inspector for the City of Fargo has found the building, consisting of a two-story, 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 30 days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions S-

1033 5 Street N., Fargo, ND 3-23-2021



Conditions Found Statement

On March 22, 2021, Building Inspector Bill Thompson, was present at 1033 5 St N, Fargo, ND to address a complaint inspection. The following violations were found:

- Substandard and junk letters have been sent with no results.
- Multiple windows are boarded up.
- Graffiti.
- Complaints of squatters entering through an unsecured basement window.
- Water was turned off by owner on 1/31/20 due to excessive usage by squatters.
- Large amounts of volunteer growth around house and garage.
- Large amounts of junk and harborage in rear yard.

The following action must be taken:

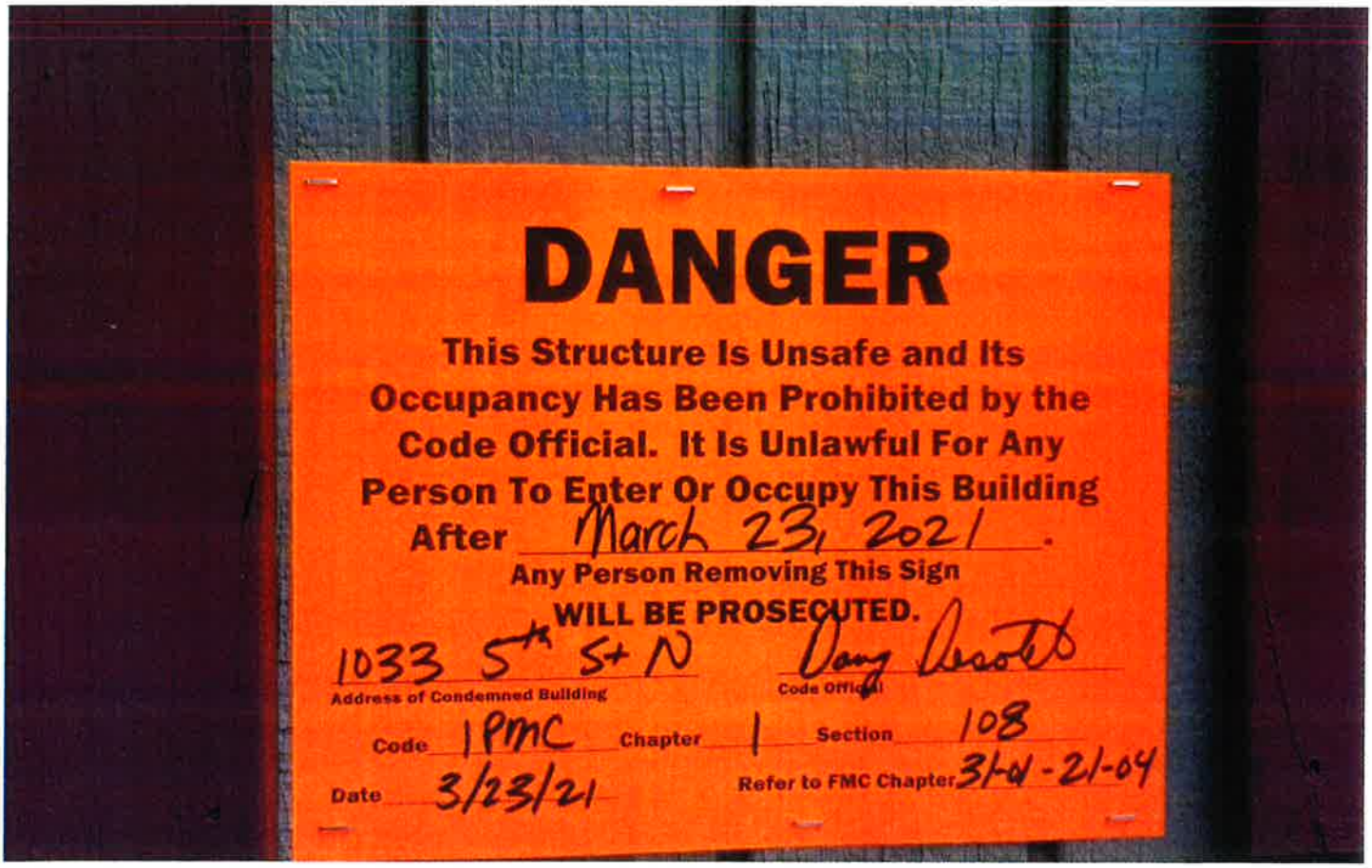
- Provide engineering on all systems and obtain a permit to repair and make repairs by permit deadline -or-
- Demolish the structure within the deadline provided in this notice.

Bill Thompson
Building Inspector
City of Fargo, ND

Bruce Taralson
Inspections Director

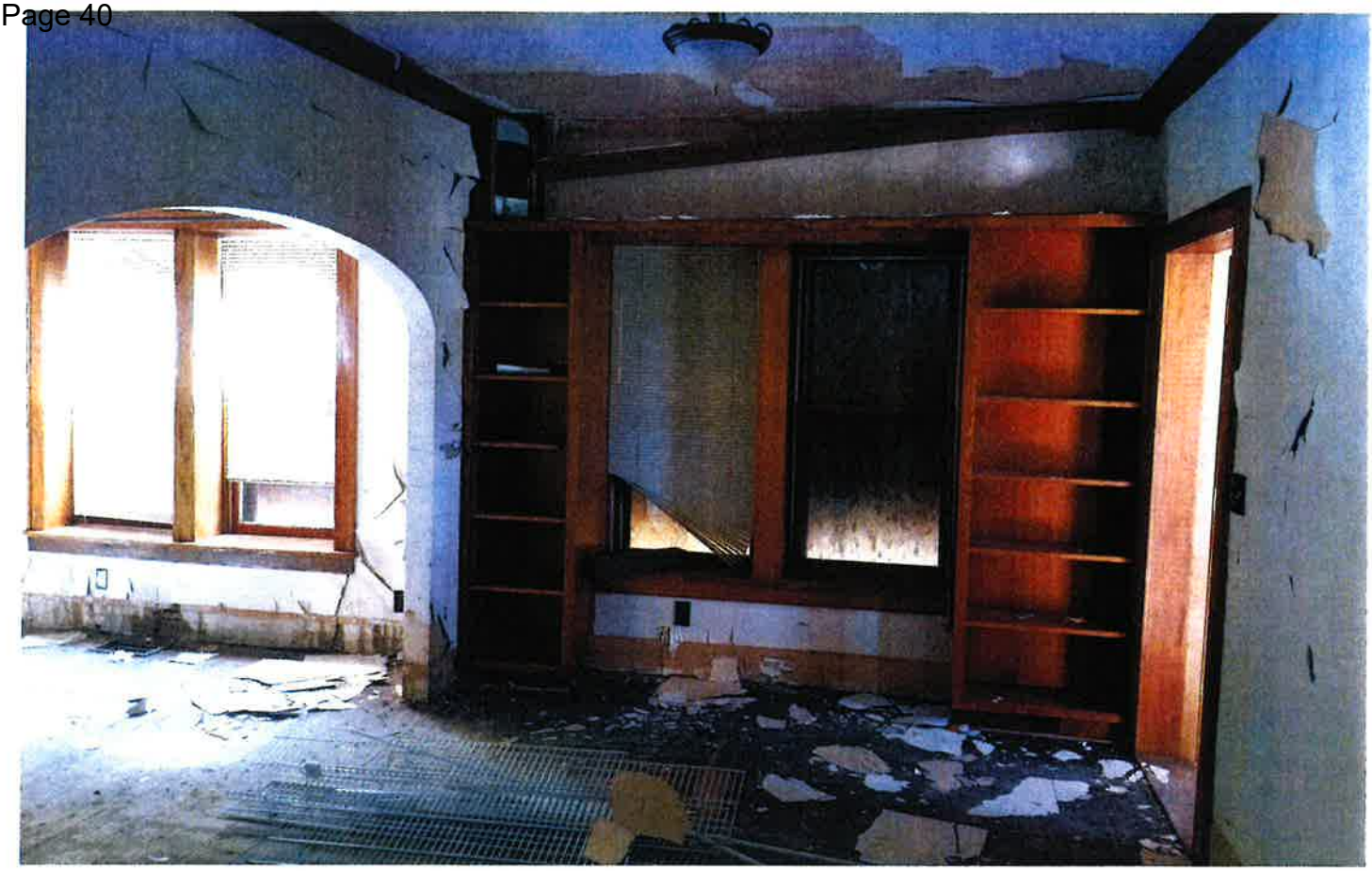
3/23/21
Date Signed

1033 5 Street N., Fargo, ND 3-23-2021

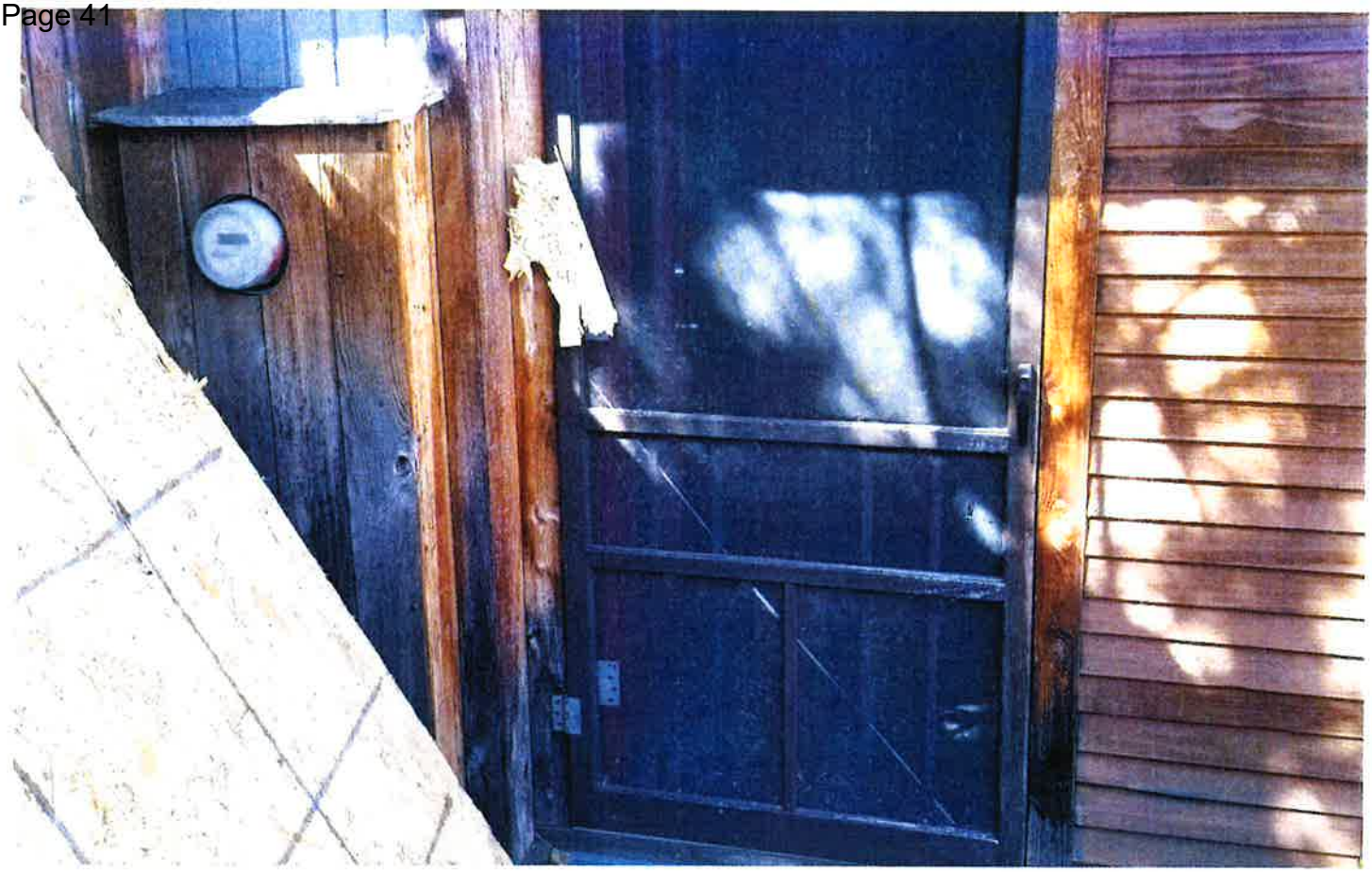


1033 5 Street N., Fargo, ND 3-23-2021

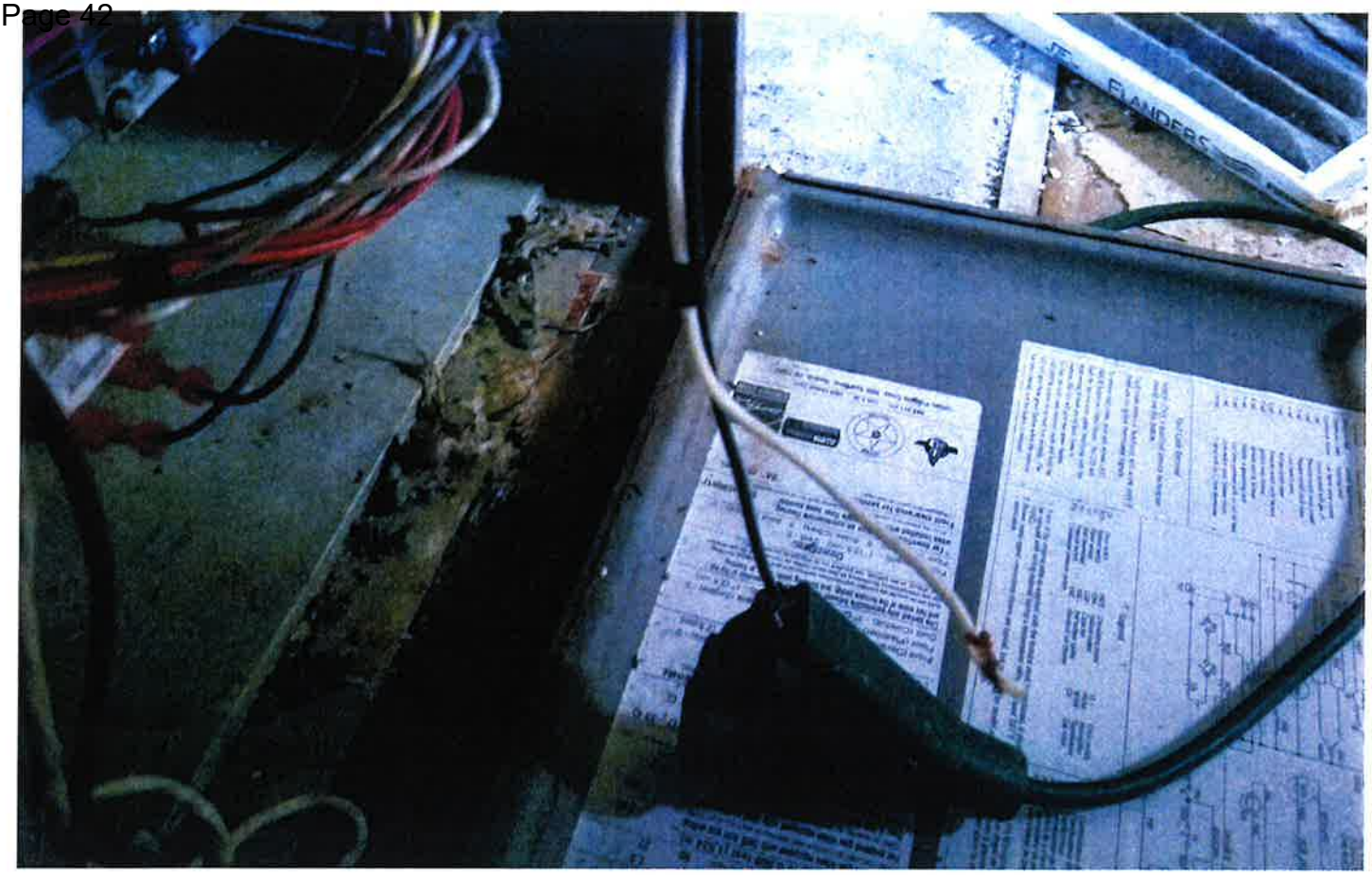
1033 5 Street N., Fargo, ND 3-31-2021

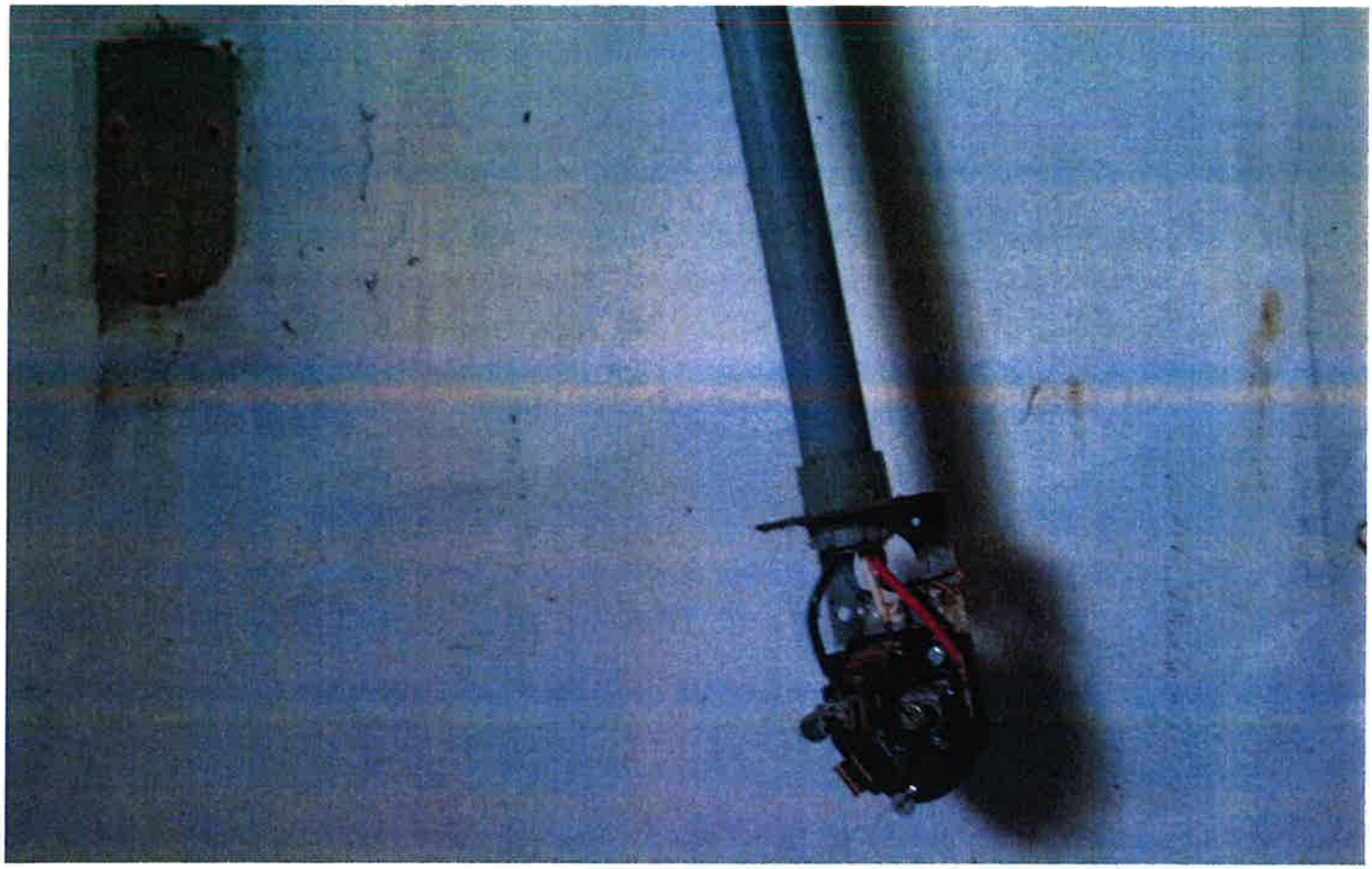


1033 5 Street N., Fargo, ND 3-31-2021

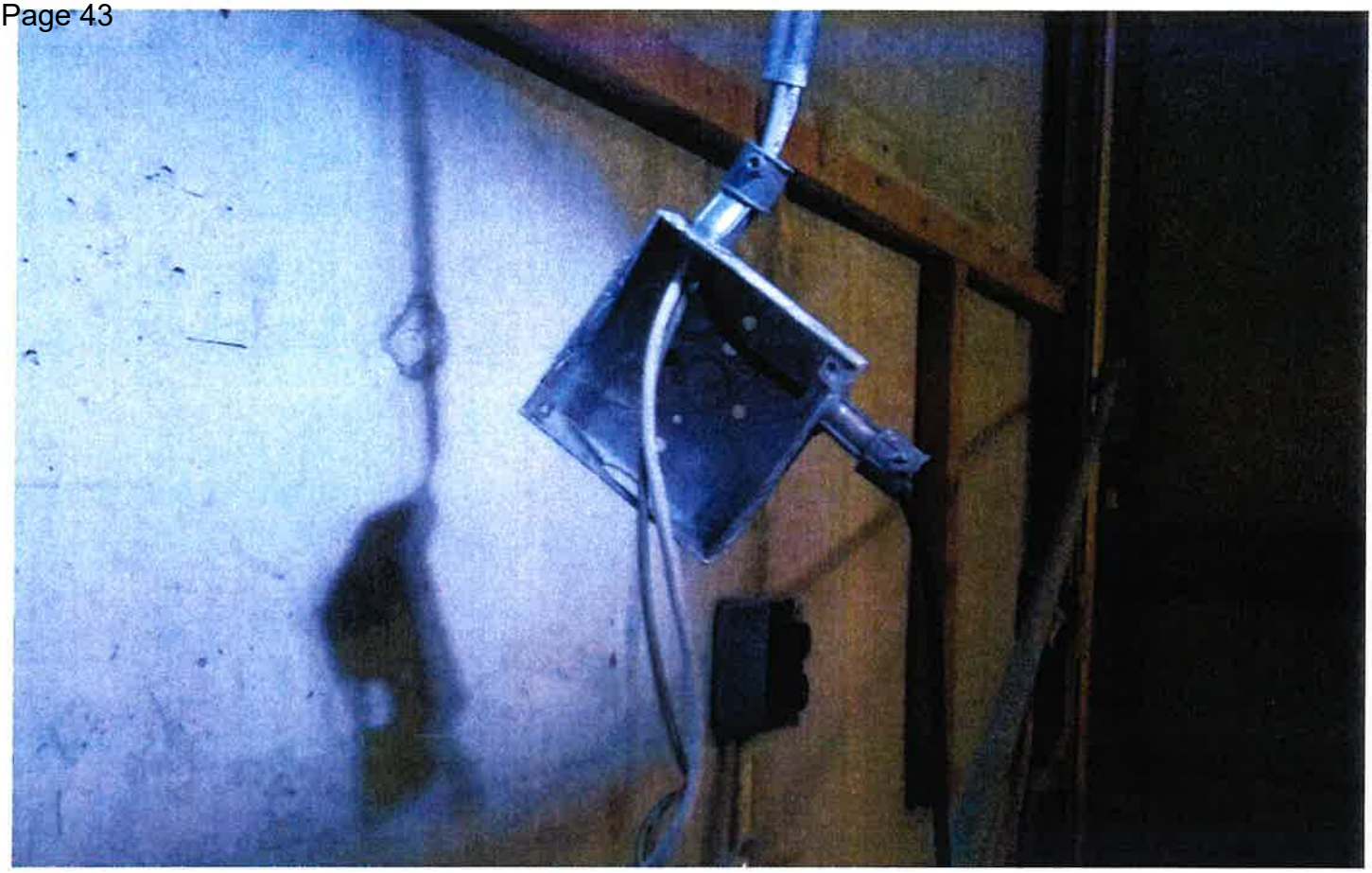


1033 5 Street N., Fargo, ND 3-31-2021

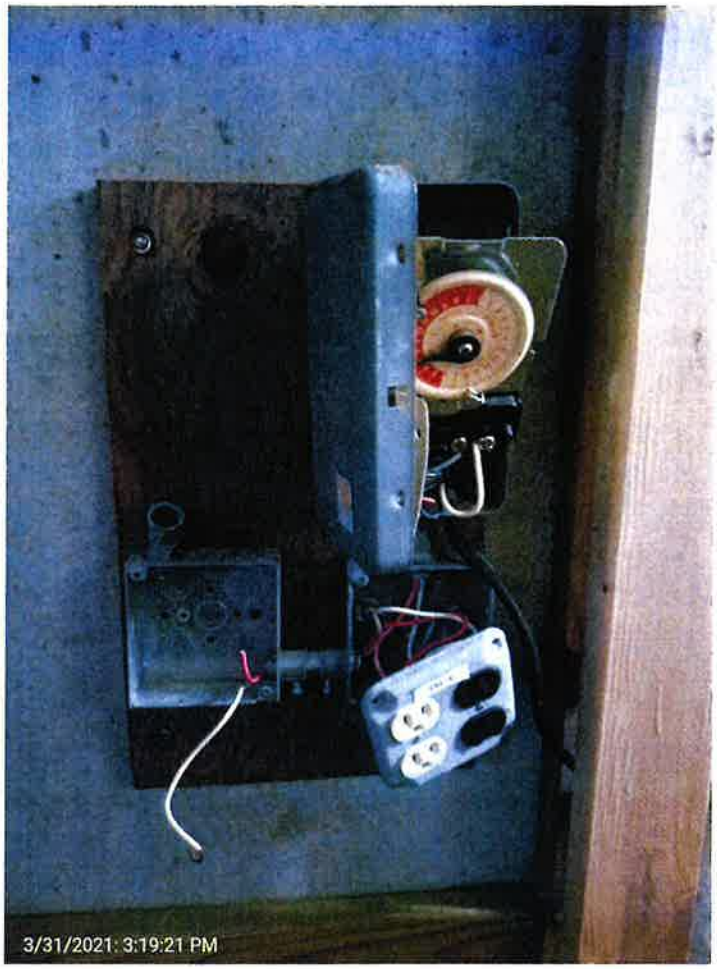




1033 5 Street N., Fargo, ND 3-31-2021



1033 5 Street N., Fargo, ND 3-31-2021



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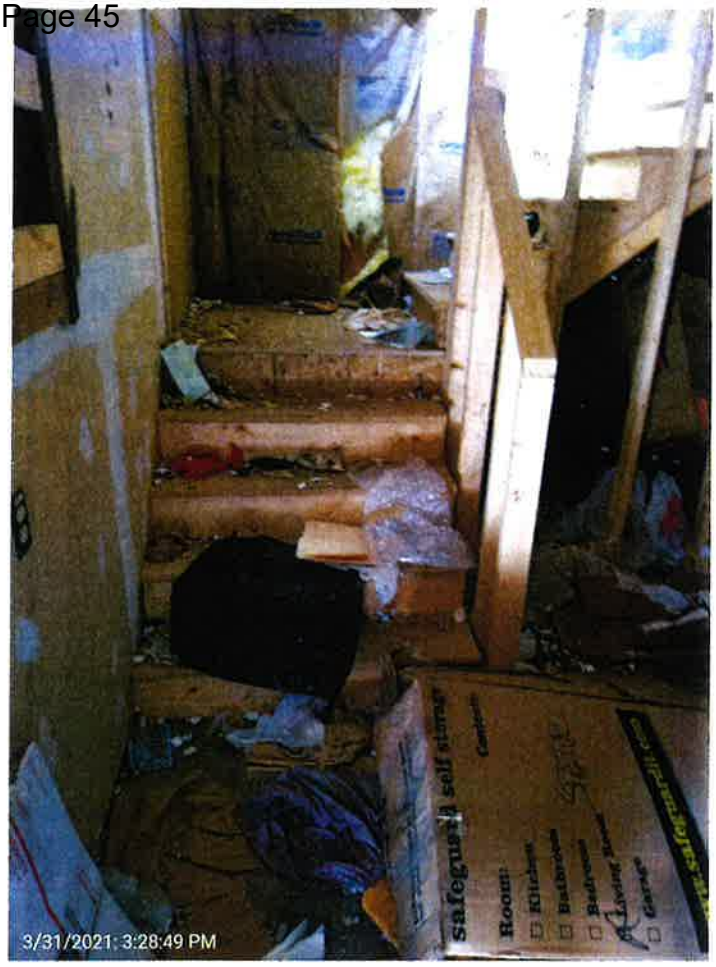
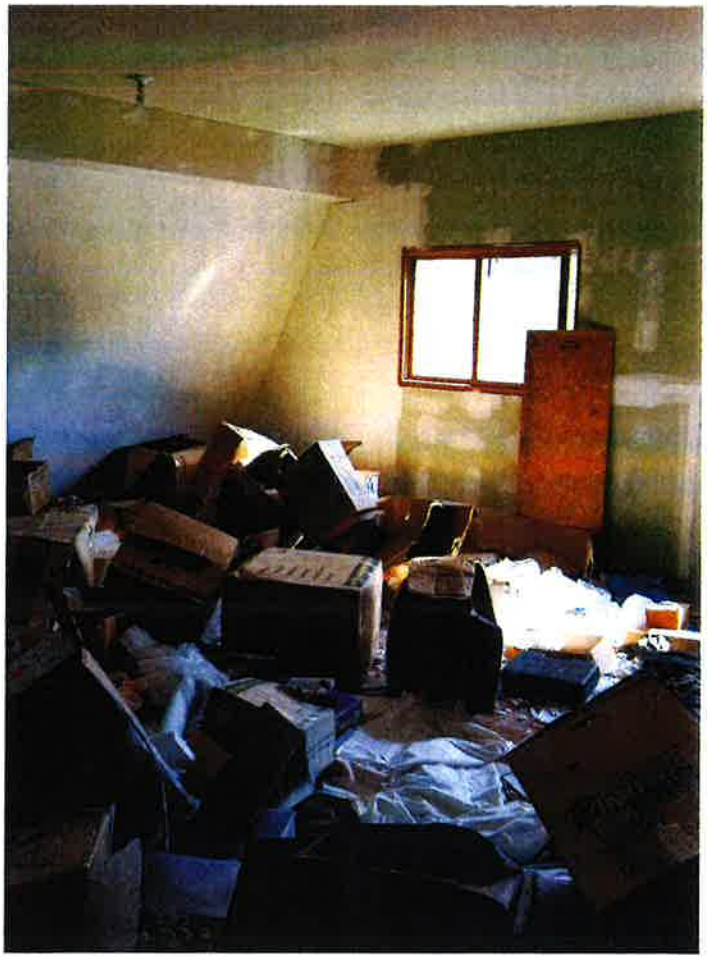
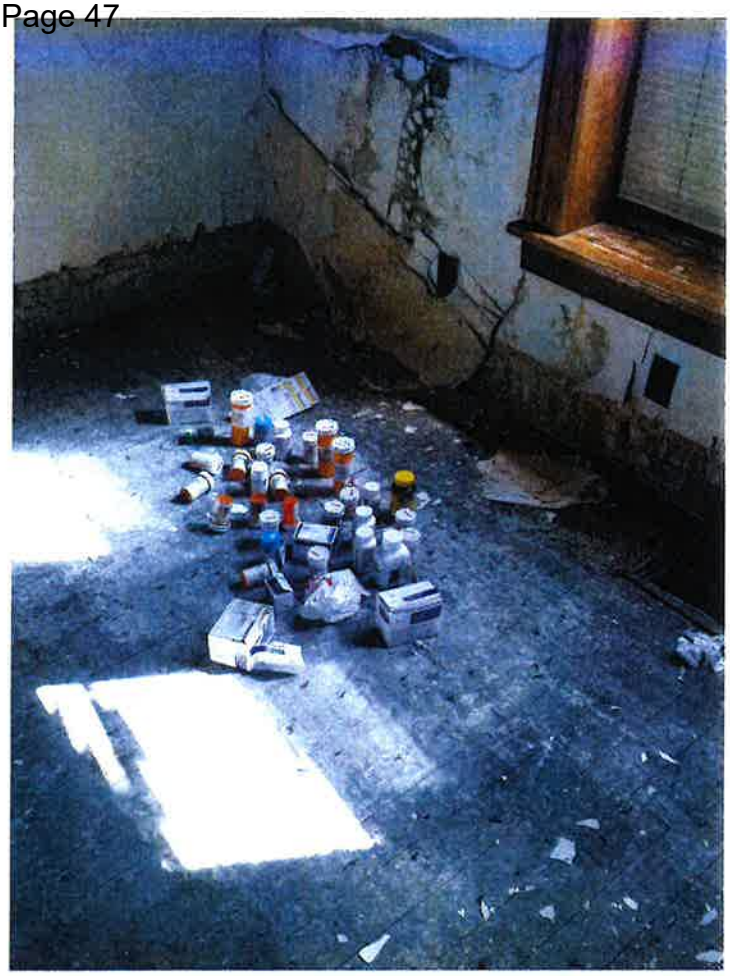
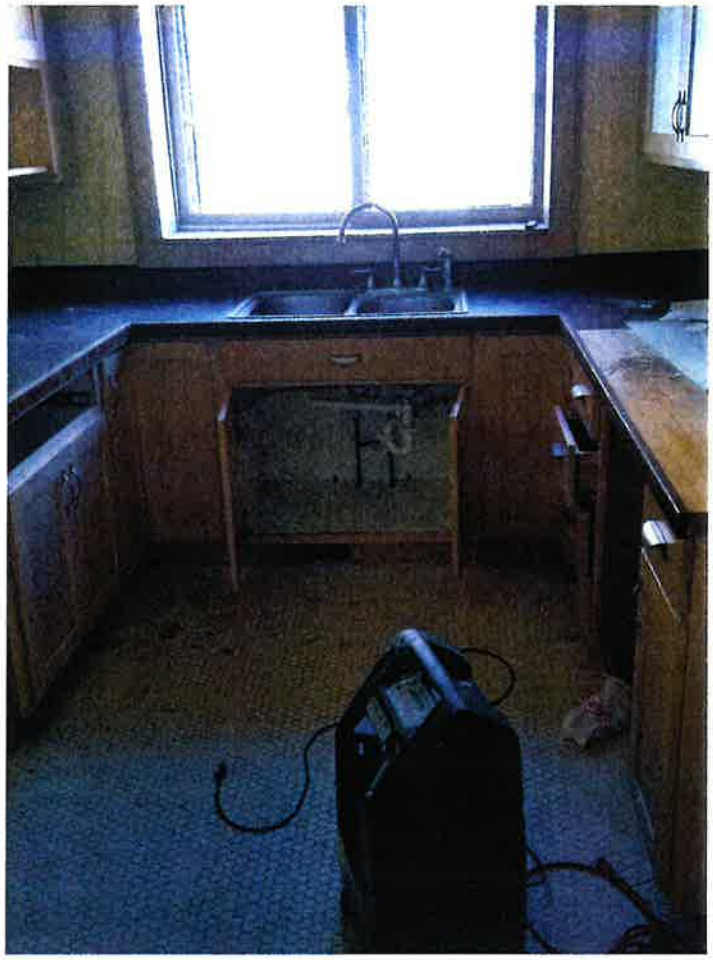




1033 5 Street N., Fargo, ND 3-31-2021

1033 5 Street N., Fargo, ND 3-31-2021





1033 5 Street N., Fargo, ND 4-1-2021

1033 5 Street N., Fargo, ND 4-1-2021

Fargo Inspections
City of Fargo
225 Fourth Street North
Fargo, North Dakota 58102
Phone: 701-241-1561
Fax: 701-476-6770

THE CITY OF Fargo FAR MORE

Notice of Dangerous Building Hearing – Order to Show Cause

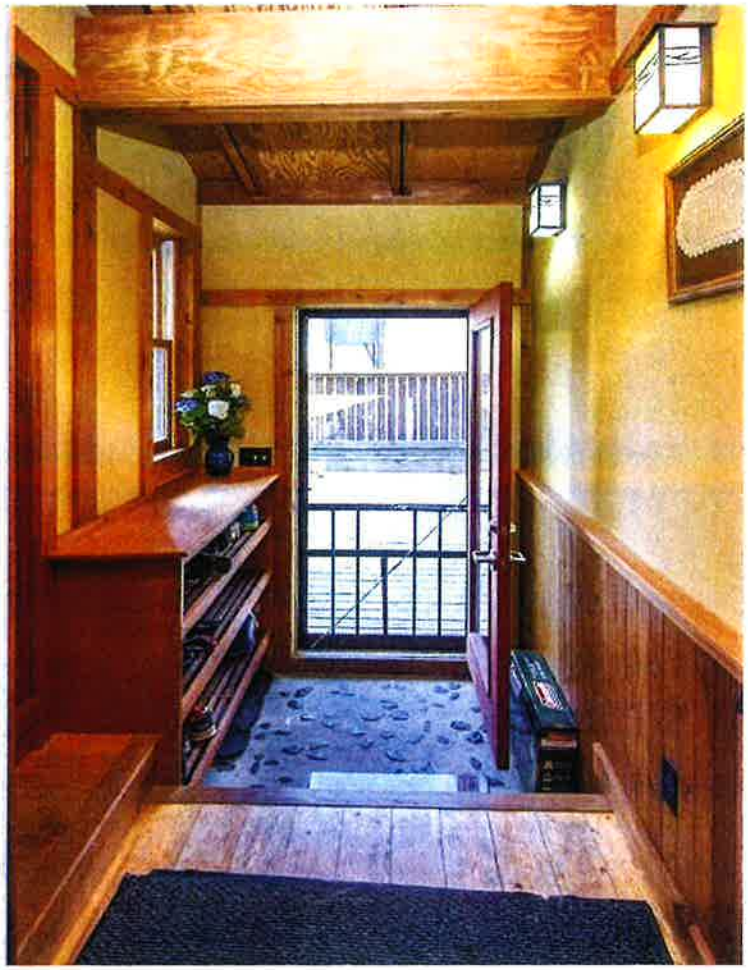
Date: June 3, 2021

Location: 1033 5 Street N., Fargo, ND
Property Owner: George C Hartor
Address of Property Owner: 1033 5 Street N., Fargo, ND 58102

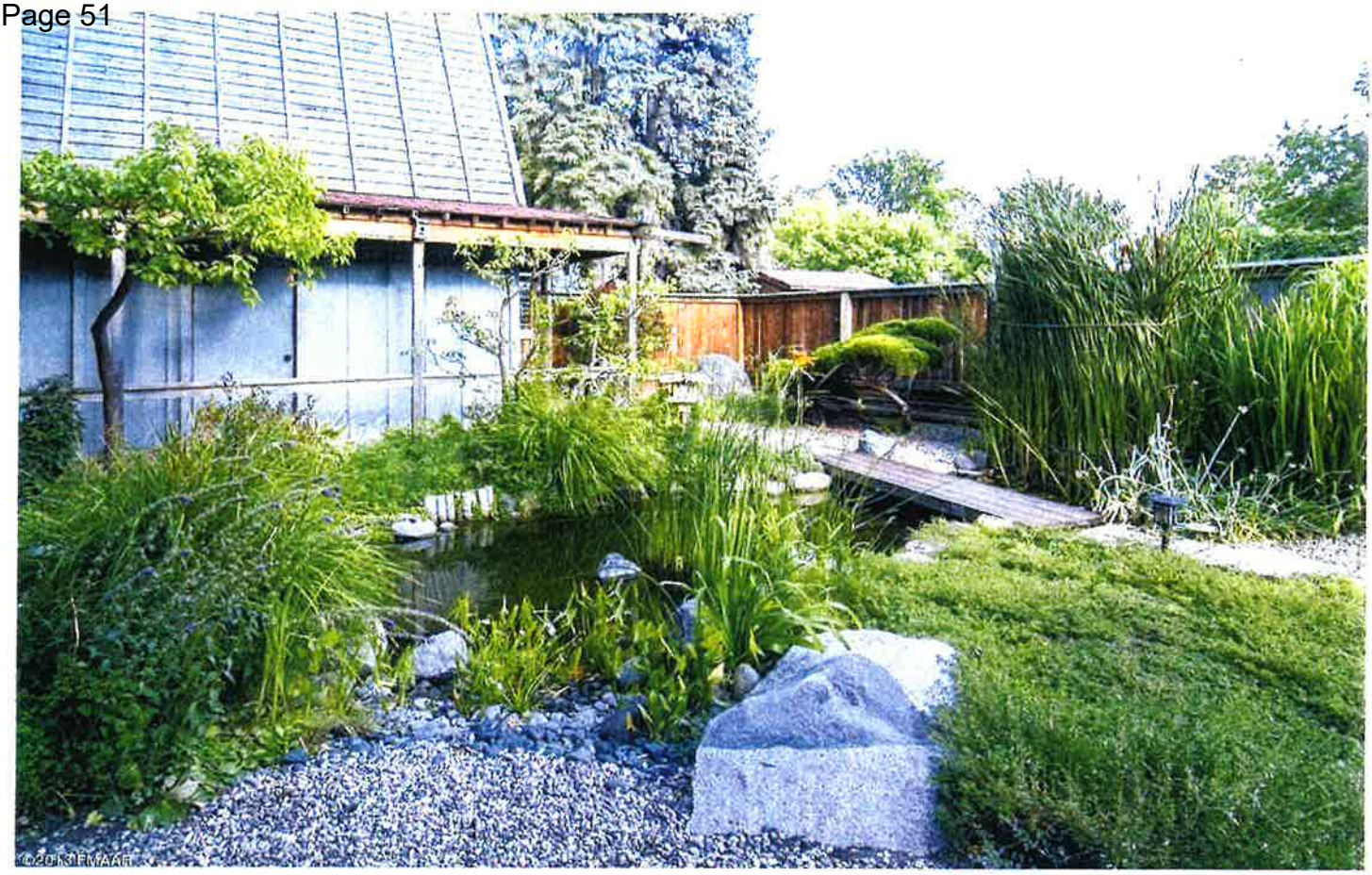
Inspector: Bill Thompson
Date of Posting: June 3, 2021

Ordinance 21-0405 of the Fargo Municipal Code states:

1033 5 Street N., Fargo, ND 6-3-2021

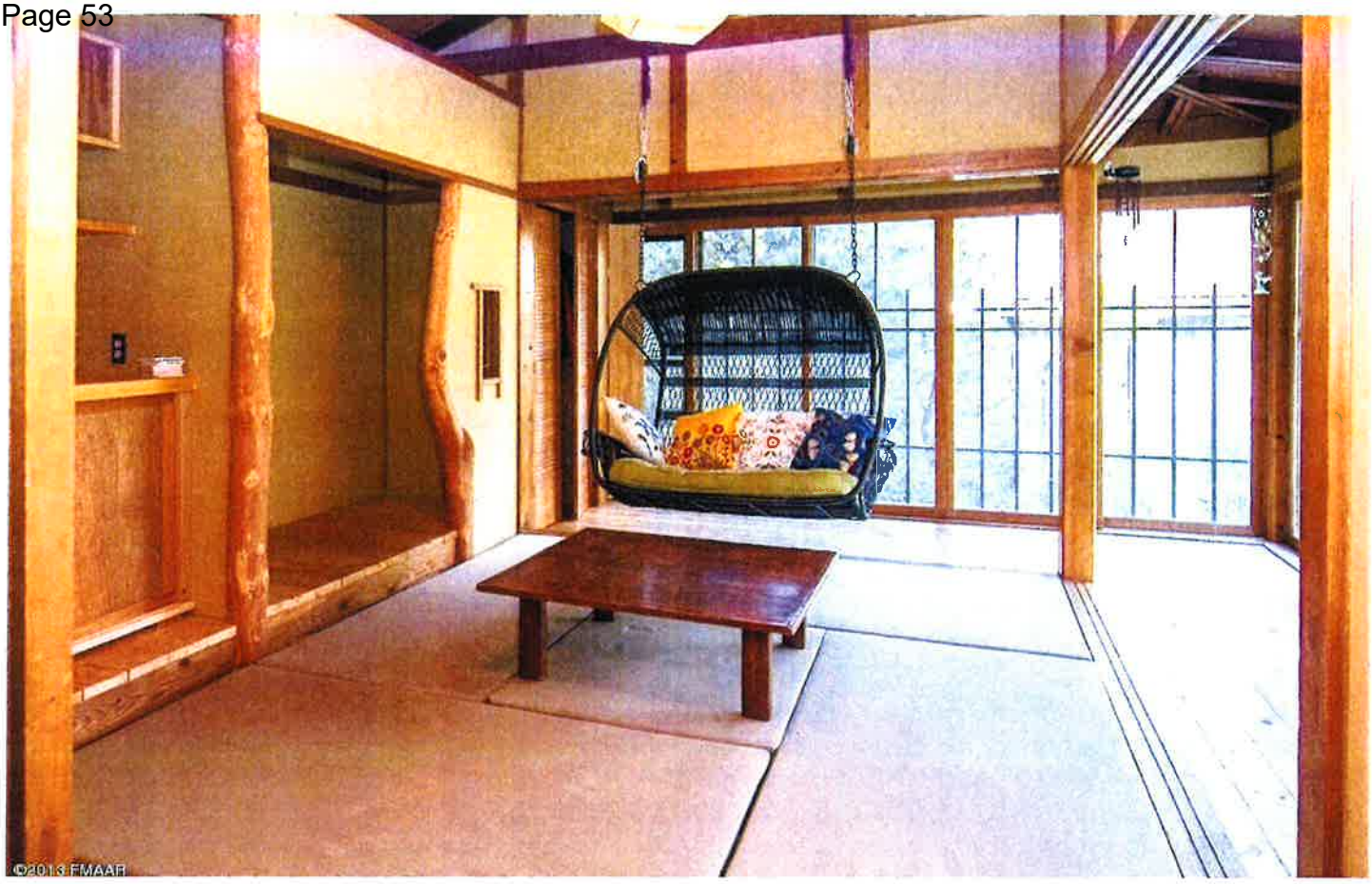


1033 5 Street N., Fargo, ND 5-5-2021 Pictures from Zillow



1033 5 Street N., Fargo, ND 5-5-2021 Pictures from Zillow

1033 5 Street N., Fargo, ND 5-5-2021 Pictures from Zillow



1033 5 Street N., Fargo, ND 5-5-2021 Pictures from Zillow

THE CITY OF Fargo
FAR MORE

Planning & Development
225 4th Street North
Fargo, ND 58102
Office: 701.241.1474 | Fax: 701.241.1526
Email: planning@FargoND.gov
www.FargoND.gov

386

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: TIA BRASETH, COMMUNITY DEVELOPMENT PLANNING COORDINATOR TB
NICOLE CRUTCHFIELD, PLANNING DIRECTOR

DATE: JUNE 7, 2021

RE: PUBLIC HEARING FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)/HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) 2021 ACTION PLAN

Planning & Development Department staff has prepared the 2021 Action Plan for the use of U.S. Housing and Urban Development (HUD) funds. A total of $1,336,448 is anticipated to be available for the 2021 Community Development budget.

Details of the proposed 2021 Action Plan funding sources and projects are outlined in the attached public notice, which was published in *The Forum* newspaper on May 26, 2021. Per the adopted Citizen Participation Plan, this proposal is being presented at the June 14th City Commission meeting as a Public Hearing. The timeline including the 30-day public comment period, is outlined in the attached public notice. Once approved by citizens and the City, the 2021 Action Plan will be submitted to HUD for approval.

The 2021 Action Plan has been drafted in compliance with federal regulations and is consistent with the approved 5-Year Consolidated Plan (2020-2021). The draft plan is available on the City website (posted May 26, 2021). To date, no public comments have been received.

Attachment: Notice of Public Hearing & Public Comment Period

Recommended Motion: No action is required at this time; public hearing only. Final consideration of the 2021 Action Plan is scheduled for June 28, 2021.

EQUAL HOUSING OPPORTUNITY

Notice of Public Hearing & Public Comment Period
Community Development Block Grant (CDBG) & HOME Programs
2021 Action Plan & Budget Proposal

The City of Fargo has prepared a draft version of the 2021 Annual Action Plan for Housing and Community Development for the Community Development Block Grant (CDBG) and HOME Programs. The priorities established within the draft plan result from community meetings and citizen participation in the development of the 2020-2024 Consolidated Plan. The City's 5-Year priorities include affordable housing, ending and preventing homelessness, neighborhood improvements and initiatives, and assistance for vulnerable populations.

Estimated Resources - During the 2021 program year, the City of Fargo estimates the following resources to be available:

CDBG:

• **$773,298**	2021 Community Development Block Grant (CDBG) allocation from HUD
• **$ 3,750**	2021 CDBG Program Income (estimated)
• **$ 0**	Available for Reallocation at Prior Year-End
$777,048	***Total CDBG***

HOME:

• **$468,708**	2021 HOME PJ allocation from HUD
• **$ 61,910**	2020 HOME PJ Program Income (actual)
• **$ 28,782**	2020 HOME State Program Income (actual)
• **$ 0**	Available for Reallocation at Prior Year-End
$559,400	***Total HOME***

TOTAL RESOURCES $1,336,448

PLANNING, ADMINISTRATION & FAIR HOUSING

- **High Plains Fair Housing Center** - $5,000 in CDBG funds. Support comprehensive outreach, fair housing education.
  - Part of requirement to affirmatively further fair housing under the Fair Housing Act (42 U.S.C. 3601-20). *Eligibility & Regulation Citation: 21D Fair Housing Activities (subject to 20% Admin. Cap), 24 CFR Part 570.206(c)*
- **Planning and Administration** - $12,000 in CDBG funds and $7,000 in HOME funds. Planning, implementation, reporting, and monitoring of CDBG and HOME resources.
  - *Eligibility & Regulation Citation: 21A General Program Administration, 24 CFR Part 570.206*

FACILITIES/CAPITAL, NEIGHBORHOODS

- **Downtown Homeless & Housing Services Facility** - $607,048 in CDBG funds. Homeless and housing-related service facility located in downtown Fargo. Activities may include property or land acquisition, building rehabilitation, and feasibility analysis. Facility will serve/shelter/house people who are at risk of homelessness, recently homeless, or who are currently homeless.
  - *National Objectives, Eligibility, & Regulation Citations: Low-Mod Clientele Benefit [24 CFR Part 570.208(a)(2)], 01 Acquisition of Real Property, 24 CFR Part 570 201(a); 03E Neighborhood Facilities or 03C Homeless Facilities (not operating costs), 24 CFR Part 570.201(c).*

PUBLIC SERVICE

- **Emergency Subsistence Payments/Homeless Prevention & Diversion Efforts** – COVID-19 Prevention, Preparation, & Response - $125,000 in CDBG funds. Temporary emergency housing assistance, housing navigation and operational support for homeless prevention and diversion efforts. Temporary emergency housing assistance includes rent, mortgage, non-City-owned utilities, and other homeless or eviction prevention-type assistance as approved by the City of Fargo. Providers will make emergency assistance payments directly to the payees (i.e., rental office, utility company, etc.) on behalf of an individual or household. $62,500 each to project partners: SouthEastern North Dakota Community Action Agency (SENDCAA) and Presentation Partners in Housing
  - Several people have been impacted by the COVID-19 pandemic, particularly those who have low income. Many jobs were lost and in some cases, housing was lost. Keeping people housed, rapidly re-housing, or housing people who are currently homeless instantly provides a safe place for quarantine, isolation, and social distancing. Ultimately, this response reduces the spread of COVID-19 and keeps the community's hospitals from being inundated.
  - *National Objective, Eligibility & Regulation Citation: Low-Mod Clientele Benefit [24 CFR Part 570.208(a)(2)], 03T Operating Costs of Homeless/Aids Patient Programs, 24 CFR Part 570.201(e) or 05Q Subsistence Payments, 24 CFR 570.207(b)(4)*

- **Eviction Prevention Efforts –** COVID-19 Prevention, Preparation, & Response - $10,000 in CDBG funds. Eviction prevention efforts. This response reduces the spread of COVID-19 and keeps the community's hospitals from being inundated by keeping individuals housed. Project partner: High Plains Fair Housing Center.
    - *National Objective, Eligibility, & Regulation Citation: Low-Mod Clientele Benefit [24 CFR Part 570.208(a)(2)], 05K Tenant/Landlord Counseling, 24 CFR Part 570.201(e), 24 CFR Part 570.482(c)(2).*

HOUSING

- **Community Development Housing Organization (CHDO) Project** - $100,000 in 'set-aside' HOME funds. New construction of affordable housing.
    - *National Objective: Low-Mod Housing Benefit, HOME Eligible Activity under 92.205(a)(1)*
- **Multi-Family Rental** - $447,400 in HOME funds. New construction of an affordable multi-family rental housing complex.
    - *HOME Eligible Activity under 92.205(a)(1)*

CONTINGENCY FUNDS

- Funds held in contingency for issues that may arise during the program year. $18,000 in CDBG funds, $5,000 in HOME funds.

Contingency Provisions/Potential Adjustments to 2021 Activities & Budget

- Budget adjustments transferring amounts greater than 10% of the amount allocated to the City's entitlement grant programs for program year 2021 are considered substantial amendments and will be implemented in accordance with Fargo's Citizen Participation Plan
- Unanticipated program income may result in a substantial amendment to amend activities and budgets in accordance with Fargo's Citizen Participation Plan
- All funding levels indicated above are estimated amounts

Comments & Suggestions

Comments and suggestions from the public are encouraged through a public comment period and/or at the public hearing (schedule below) (virtual or live). The 2021 draft plan is available online at www.fargond.gov/planninganddevelopment/plansandstudies or by request through the Planning and Development Department. See contact information below.

The facility is accessible and can accommodate persons with disabilities. Alternative formats of this information or reasonable accommodations for persons with hearing loss, vision loss, disabilities or limited English proficiency, including the availability of interpretation and translation services, will be made upon request (a 48 hour notice is required). Anyone who requires these services or an auxiliary aid to fully participate should contact the Planning and Development Department at 701.241.1474 / Planning@FargoND.gov, or the City of Fargo's Section 504/ADA Coordinator Brock Morrison at 701.298.6966 to arrange for services. To access North Dakota Relay dial 711. In accordance with Federal regulations and City of Fargo policies, the City of Fargo provides services without regard to race, color, national origin, sex, disability, age, familial status, religion, marital status, veteran status, sexual orientation, gender identity, public assistance, domestic violence, lawful activity, or condition protected by applicable federal and state laws. The City is an equal employment/equal housing opportunity agency.

30-Day Public Comment period:	May 27 through June 25, 2021
Send written comments or phone:	City of Fargo Planning and Development Department Attn: Community Development Planning Coordinator 225 4th Street North, Fargo ND 58102 701.476.4144
Electronic Comments:	Planning@FargoND.gov
Public Hearing:	Monday, June 14, 2021 - 5:15 pm Fargo City Commission Chambers 225 4th Street North, Fargo, ND 58102
Final City Commission Consideration:	Monday, June 28, 2021 – 5:15 pm

38C

City of Fargo Staff Report			
Title:	Annexation – Dakota Commerce Center Addition	**Date:** **Update:**	4/27/2021 6/9/2021
Location:	4416 37th Street North and 3701 40th Avenue North	**Staff Contact:**	Aaron Nelson
Legal Description:	Part of the Southeast Quarter of Section 15 and the Northeast Quarter of Section 22, Township 140 North, Range 49 West, to the City of Fargo, Cass County, North Dakota		
Owner(s)/Applicant:	Holmquist Family, LLP; Jon S. Treitline; & Edena M. Holmquist /Hyde Development	**Engineer:**	Ulteig
Entitlements Requested:	**Annexation** (Part of the Southeast Quarter of Section 15 and the Northeast Quarter of Section 22, Township 140 North, Range 49 West, to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Public Hearing: June 14, 2021		

Proposal:

The property owners have petitioned the City to annex approximately 51.36 acres of land that is currently within the city's extra-territorial jurisdiction. Aside from two existing houses, this area is undeveloped and includes portions of existing and proposed right-of-way for 40th Avenue N and County Road 81. A map of the proposed annexation area is attached. This is an owner-initiated annexation, not a City-initiated annexation, and so is an annexation by ordinance.

NOTE: A request for major subdivision and zoning map amendment for the proposed annexation area will also be heard as an item on the June 14, 2021 City Commission agenda.

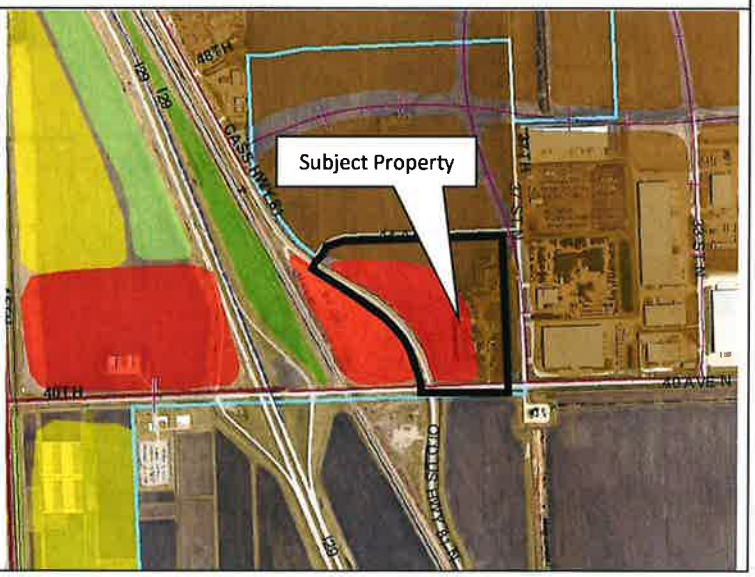
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: Warehouse and freight movement within the LI (Limited Industrial) zoning district;
- East: Industrial uses within the LI zoning district;
- South: Crop production within the P/I (Public & Institutional) zoning district; and
- West: (Extraterritorial Jurisdiction) Industrial uses within the AG (Agricultural) zoning district.

Area Plans:

The 2007 Fargo Growth Plan identifies the subject property as having future land uses of Industrial and Commercial. The proposed LI zoning allows both industrial and commercial land uses.



Context:

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

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

Parks: The Northern Softball Complex is approximately 1.3 miles northwest of the subject property.

Pedestrian / Bicycle: There are no on-road or off-road bike facilities adjacent to this property.

Staff Analysis:

OWNERSHIP
The private property involved in the annexation is completely owned by the petitioners.

PLAN CONSISTENCY
This property is outside of the Fargo city limits. The applicant has requested annexation through an owner petition. The proposed annexation area is depicted on the 2007 North Fargo Tier 1 East Growth Plan map of the 2007 Growth Plan. The 2007 Growth Plan describes the "Tier 1" designation as the "Intended Growth Sector" for the city of Fargo within the next 20 years (that is, by the year 2027).

Though the 2007 Growth Plan does not provide actual findings for annexation, it does state that "Tier 1 is planned to handle growth for the next 20 to 25 years [from 2007]" and that "Carefully planned extensions of the city as a result of demand for housing help to counter disruptive leapfrog development." (page 55, 2007 Growth Plan). The proposed development is adjacent to existing industrial development along 37th Street North and 40th Avenue N. This location corresponds with two of the strategies stated in the 2007 plan to work against leapfrog development:

- Limit roadway and utility extensions to areas within the 20 year service area [Tier 1] directly adjacent to areas currently receiving services; and
- Avoid utility and roadway extensions that traverse areas where property owners are not interested in developing their property. (page 56, 2007 Growth Plan)

The proposed development is consistent with the land use designations of the 2007 Growth Plan; no growth plan amendment is necessary for this project.

LEGAL NOTICE
Public notice of the presentation of the annexation petition has been given by publication in The Forum and notices were sent to Reed Township and Cass County, in accordance with the North Dakota Century Code. Staff has not received any form of protest or concerns from the public.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission and hereby waive the requirement to receive the annexation Ordinance one week prior to the first reading and place the annexation Ordinance on for first reading, and move to approve the proposed annexation of a part of the Southeast Quarter of Section 15 and the Northeast Quarter of Section 22, Township 140 North, Range 49 West, to the City of Fargo, Cass County, North Dakota as depicted in the attached map and legal description, and to authorize and direct Planning staff to record the annexation ordinance and the annexation map at the Office of the Cass County Recorder."

Planning Commission Recommendation: May 4, 2021

On May 4, 2021, with a vote of 8-0 with 1 commissioner absent, the Planning Commission found the proposed annexation of a part of the Southeast Quarter of Section 15 and the Northeast Quarter of Section 22, Township 140 North, Range 49 West, to the City of Fargo, Cass County, North Dakota to be consistent with the 2007 Growth Plan.

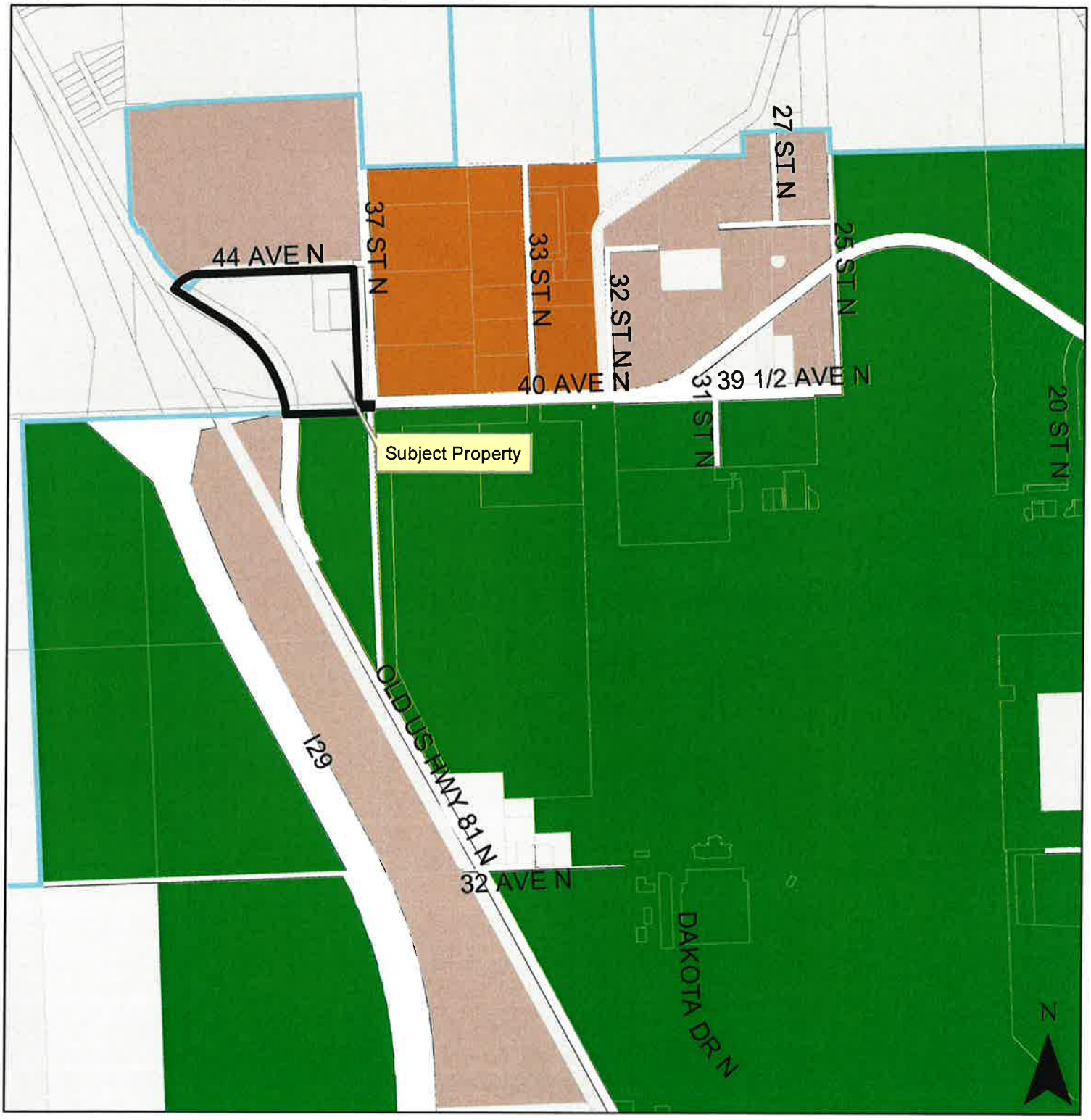
Attachments:

1. Zoning Map
2. Location Map
3. Annexation Petition and Legal Description
4. Annexation Plat

Annexation

Dakota Commerce Center Addition

3701 40th Ave N
& 4416 37th St N



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

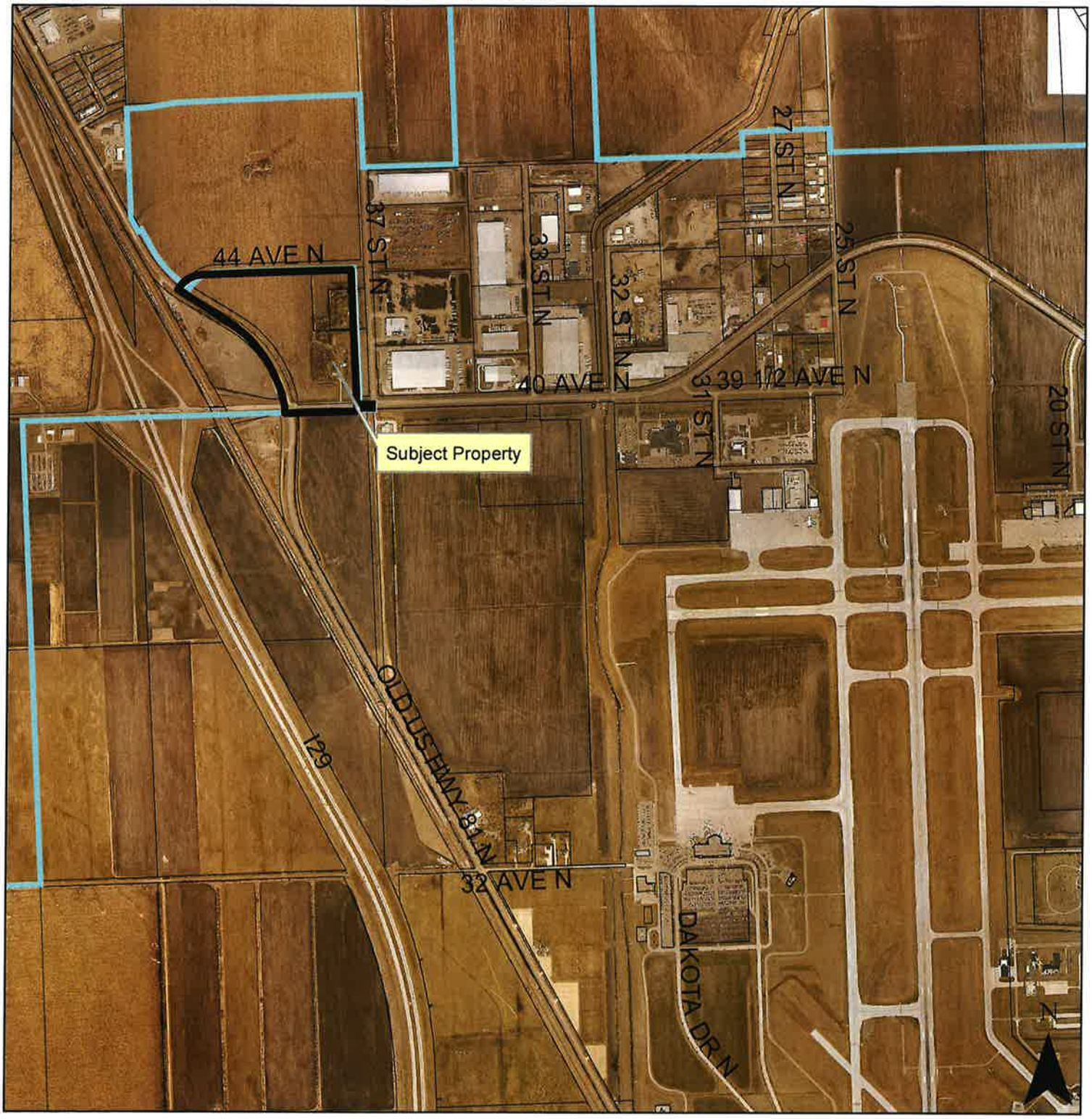
0.25 Miles

Fargo Planning Commission
May 4, 2021

Annexation

Dakota Commerce Center Addition

3701 40th Ave N
& 4416 37th St N



THE CITY OF Fargo FAR MORE

0.25 Miles

Fargo Planning Commission
May 4, 2021

THE CITY OF Fargo FAR MORE

Planning & Development
225 4th Street North
Fargo, ND 58102
Office: 701.241.1474 | Fax: 701.241.1526
Email: Planning@FargoND.gov
www.FargoND.gov

PETITION FOR ANNEXATION

To: City of Fargo

The undersigned, being the owner of not less than three-fourths in assessed value of the following described property, hereby petitions the City of Fargo to annex said property pursuant to Section 40-51.2-03 NDCC. The following is a description of the property to be annexed:

See the attached map. The "Edena Rinke Parcel" is comprised of 5.45 acres +/- as depicted on the map.

The total area to be annexed is roughly 46.03 acres, located between County Road 81 and 37th Street North, and between 40th Avenue North (County Rd 20) and the proposed 44th Avenue North.

The undersigned further certifies that Edena M. Rinke is the owner of at least three-fourths in assessed value of the property hereinabove described.

Dated this March 11 day of 2021, in the year 2021

Signature Edena M Rinke

****

STATE OF ~~NORTH DAKOTA~~ MINNESOTA)
) ss.
COUNTY OF ~~CASS~~ TRAVERSE)

On this 11th day of March, in the year 2021, before me, a notary public in and for said County and State, personally appeared Edena M Rinke, who executed to foregoing instrument, and acknowledged to me that he/she executed the same.

CHRISTIE K PETERS
MINNESOTA - NOTARY PUBLIC
My Commission Expires 01/31/2022

Christie K Peters

Notary Public
~~Case County, North Dakota~~ TRAVERSE MINNESOTA
My Commission Expires: 1-31-2022

THE CITY OF Fargo FAR MORE

Planning & Development
225 4th Street North
Fargo, ND 58102
Office: 701.241.1474 | Fax: 701.241.1526
Email: Planning@FargoND.gov
www.FargoND.gov

PETITION FOR ANNEXATION

To: City of Fargo

The undersigned, being the owner of not less than three-fourths in assessed value of the following described property, hereby petitions the City of Fargo to annex said property pursuant to Section 40-51.2-03 NDCC. The following is a description of the property to be annexed:

See the attached map. The "Treitline Parcel" is comprised of 4.55 acres +/- as depicted on the map. The total area to be annexed is roughly 46.03 acres, located between County Road 81 and 37th Street North, and between 40th Avenue North (County Rd 20) and the proposed 44th Avenue North.

The undersigned further certifies that Jon S. Treitline is the owner of at least three-fourths in assessed value of the property hereinabove described.

Dated this 11th day of March, in the year 2021

Signature Jon S. Treitline

****

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

On this 11th day of MARCH, in the year 2021, before me, a notary public in and for said County and State, personally appeared JON S. TREITLINE, who executed to foregoing instrument, and acknowledged to me that he/she executed the same.

KONRAD A. OLSON
Notary Public
State of North Dakota
My Commission Expires Oct. 19, 2023

Notary Public
Cass County, North Dakota
My Commission Expires: 10/19/2023

THE CITY OF Fargo FAR MORE

Planning & Development
225 4th Street North
Fargo, ND 58102
Office: 701.241.1474 | Fax: 701.241.1526
Email: Planning@FargoND.gov
www.FargoND.gov

PETITION FOR ANNEXATION

To: City of Fargo

The undersigned, being the owner of not less than three-fourths in assessed value of the following described property, hereby petitions the City of Fargo to annex said property pursuant to Section 40-51.2-03 NDCC. The following is a description of the property to be annexed:

See the attached map. The area is roughly 46.03 acres, located between County Road 81 and 37th Street North, and between 40th Avenue North (County Rd 20) and the proposed 44th Avenue North.

The undersigned further certifies that Holmquist Family LLP is the owner of at least three-fourths in assessed value of the property hereinabove described.

Dated this 11th day of March, in the year 2021

Signature Ronald K Holmquist

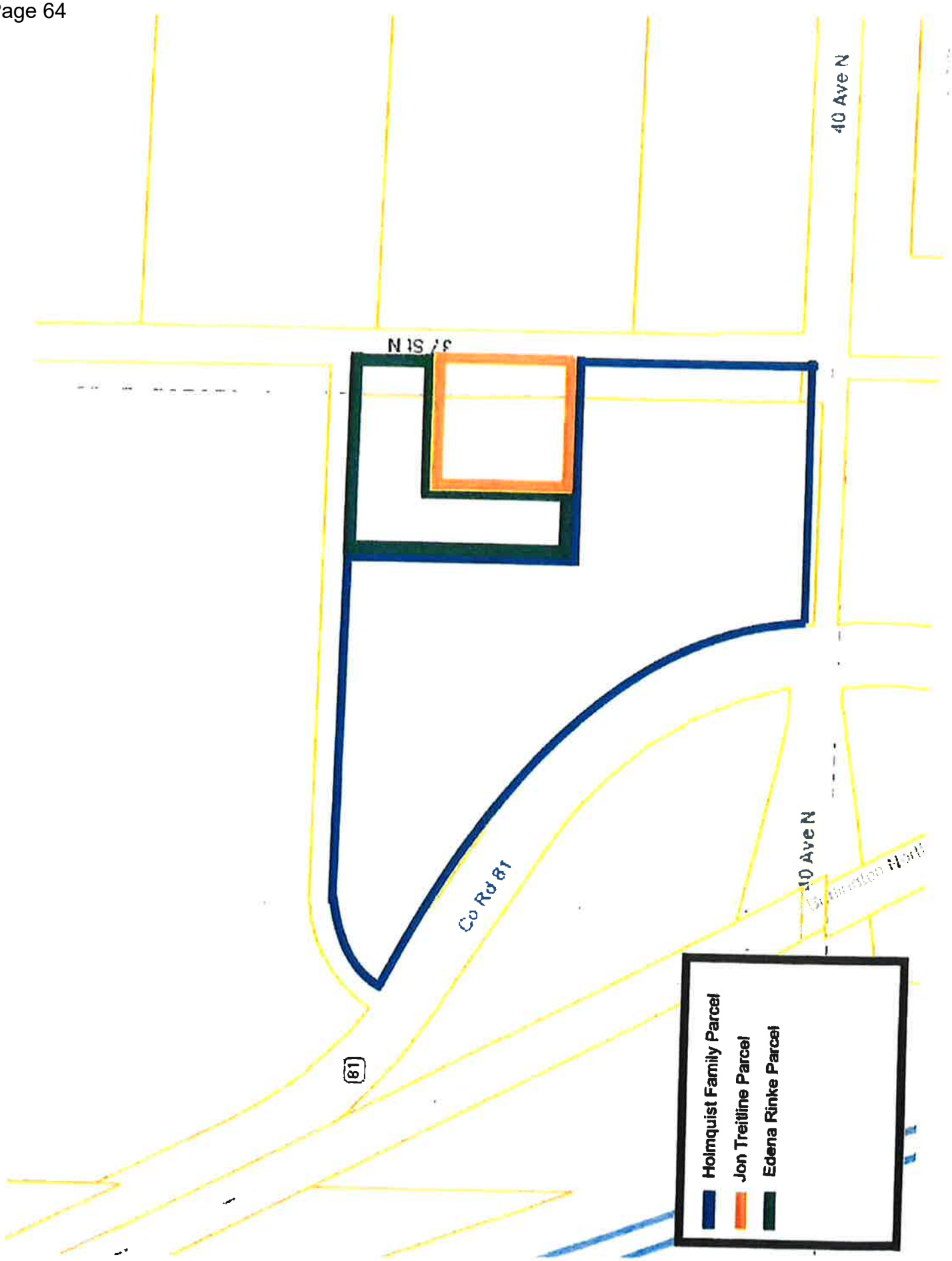
****

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

On this 11 day of March, in the year 2021, before me, a notary public in and for said County and State, personally appeared Ronald K. Holmquist, who executed to foregoing instrument, and acknowledged to me that he/she executed the same.

TIMOTHY G RICHARD
Notary Public
State of North Dakota
My Commission Expires Nov 21, 2022

Notary Public
Cass County, North Dakota
My Commission Expires:


40 Ave N
37 St N
Co Rd 81
10 Ave N
(81)
Holmquist Family Parcel
Jon Treitline Parcel
Edena Rinke Parcel

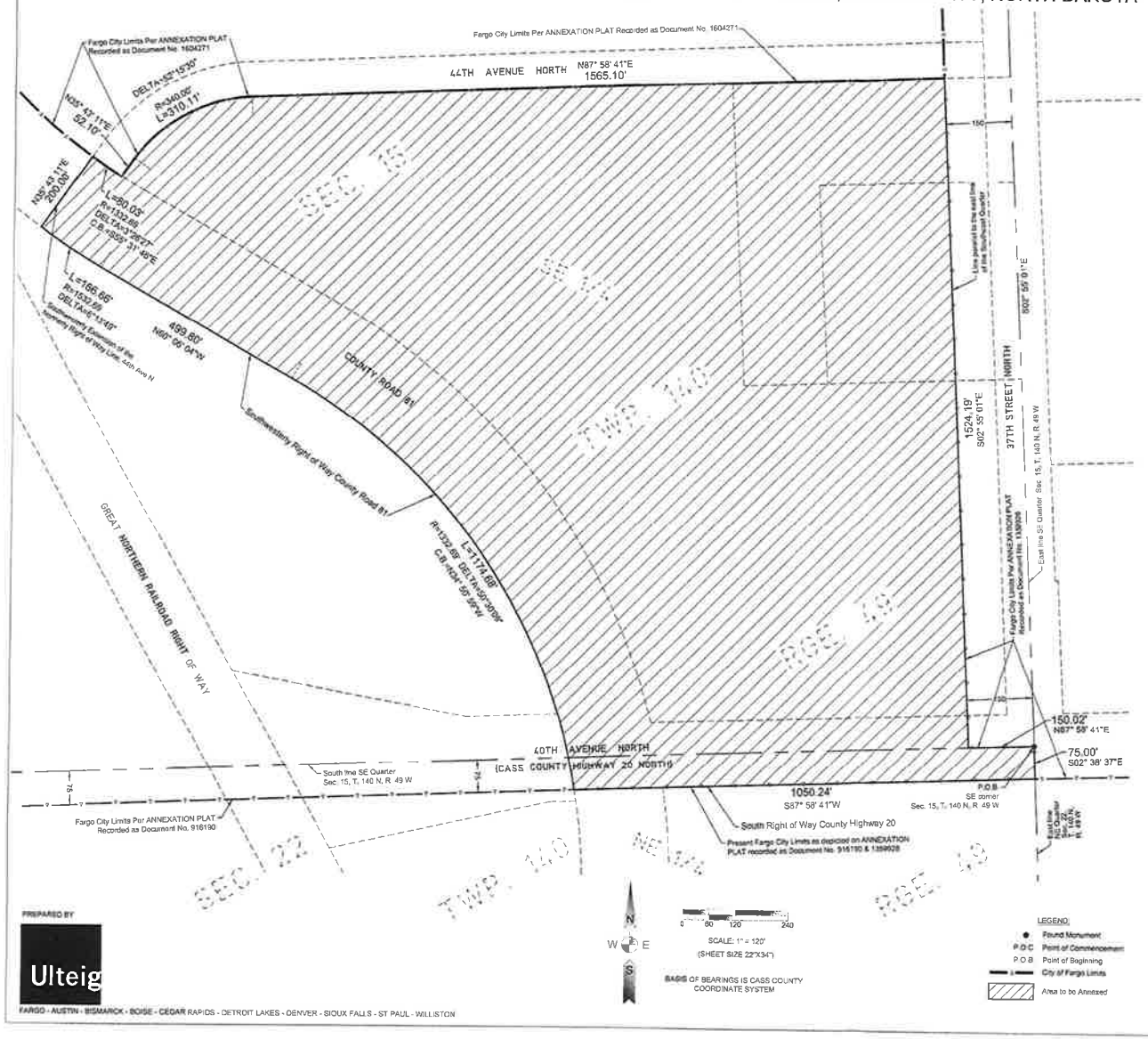
That part of the Southeast Quarter of Section 15 and the Northeast Quarter of Section 22, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, more particularly described as follows:

Beginning at the southeast corner of said Section 15; thence South 02 degrees 38 minutes 37 seconds East, assumed bearing, along the east line of said Northeast Quarter of Section 22, also being the west line of the Fargo City Limits per Document No. 1359928, a distance of 75.00 feet, more or less, to the south Right of Way of County Highway 20, also being the north line of the Fargo City Limits as depicted on City of Fargo Annexation Plat Document No. 916190 and 1359928; thence South 87 degrees 58 minutes 41 seconds West, along said south Right of Way and north line of said Fargo City Limits, a distance of 1050.24 feet, more or less, to the intersection with the westerly right of way of County Road 81; thence northwesterly, and along said westerly Right of Way of County Road 81, a distance of 1174.68 feet along a non-tangential curve concave to the southwest with a radius of 1332.69 feet, a central angle of 50 degrees 30 minutes 09 seconds, and a chord which bears North 34 degrees 50 minutes 59 seconds West; thence North 60 degrees 06 minutes 04 seconds West, tangent to last described curve and along said Right of Way, a distance of 499.80 feet; thence northwesterly, along a tangential curve concave to the northeast and along said Right of Way, a distance of 166.66 feet to the intersection with the southwesterly extension of the northerly right of way line of 44th Ave North as dedicated in the plat of NORTH FARGO INDUSTRIAL ADDITION, said curve has a radius of 1532.69 feet, a central angle of 06 degrees 13 minutes 49 seconds; thence North 35 degrees 43 minutes 11 seconds East, not tangent to last described curve and along said southwesterly extension of said north line of 44th Ave North, a distance of 200.00 feet to the northeasterly Right of Way of County Road 81 and the southwesterly line of the Fargo City Limits per Document No. 1604271; thence southeasterly, and along said northeasterly Right of Way and southwesterly line of the Fargo City Limits, a distance of 80.03 feet along a non-tangential curve concave to the northeast with a radius of 1332.69 feet, a central angle of 3 degrees 26 minutes 27 seconds, and a chord which bears South 55 degrees 31 minutes 46 seconds East, thence North 35 degrees 43 minutes 11 seconds East, not tangent to last described curve and along the south line of the Fargo City Limits per Document No. 1604271, a distance of 52.10 feet; thence northeasterly along a tangential curve concave to the southeast and continuing along the said south line of the Fargo City Limits per Document No. 1604271, a distance of 310.11 feet said curve has a radius of 340.00 feet, and a central angle of 52 degrees 15 minutes 30 seconds; thence North 87 degrees 58 minutes 41 seconds East, tangent to last described curve and along the south line of said Fargo City Limits per Document No. 1604271, a distance of 1565.10 feet, to the west line of the Fargo City Limits per Document No. 1359928; thence South 02 degrees 55 minutes 01 seconds East, along said west line, a distance of 1524.19 feet; thence North 87 degrees 58 minutes 41 seconds East along the south line of the Southeast Quarter of said Section 15, also being the south line of the Fargo City Limits per Document No. 1359928, a distance of 150.02 feet to the point of beginning.

Contains 2,237,104 square feet or 51.36 acres, more or less.

ANNEXATION PLAT

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



ANNEXATION PLAT OF:

That part of the Southeast Quarter of Section 15 and the Northeast Quarter of Section 22, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, more particularly described as follows:

Beginning at the southeast corner of said Section 15; thence South 02 degrees 38 minutes 37 seconds East, assumed bearing, along the east line of said Northeast Quarter of Section 22, also being the west line of the Fargo City Limits per Document No. 1339928, a distance of 75.00 feet, more or less, to the south Right of Way of County Highway 20, also being the north line of the Fargo City Limits as depicted on City of Fargo Annexation Plat Document No. 916190 and 1339928; thence South 87 degrees 58 minutes 41 seconds West, along said south Right of Way and north line of said Fargo City Limits, a distance of 1050.24 feet, more or less, to the intersection with the westerly right of way of County Road 81; thence northwesterly, and along said westerly Right of Way of County Road 81, a distance of 1174.68 feet along a non-tangential curve concave to the southwest with a radius of 1532.69 feet, a central angle of 43 degrees 54 minutes 30 seconds, and a chord which bears North 34 degrees 59 minutes 59 seconds West; thence North 60 degrees 08 minutes 04 seconds West, tangent to last described curve and along said Right of Way, a distance of 499.80 feet; thence northwesterly, along a tangential curve concave to the northeast and along said Right of Way, a distance of 166.66 feet to the intersection with the southwesterly extension of the northerly right of way line of 44th Ave North as dedicated in the plat of NORTH FARGO INDUSTRIAL ADDITION, said curve has a radius of 1532.69 feet, a central angle of 06 degrees 13 minutes 15 seconds, thence North 35 degrees 43 minutes 11 seconds East, not tangent to last described curve and along said southwesterly extension of said north line of 44th Ave North, a distance of 200.00 feet to the northeasterly Right of Way of County Road 81 and the southwesterly line of the Fargo City Limits per Document No. 1604271; thence southeasterly, and along said northeasterly Right of Way and southwesterly line of the Fargo City Limits, a distance of 90.03 feet along a non-tangential curve concave to the northeast with a radius of 1532.69 feet, a central angle of 3 degrees 21 minutes 27 seconds, and a chord which bears South 55 degrees 31 minutes 49 seconds East, thence North 35 degrees 43 minutes 11 seconds East, not tangent to last described curve and along the south line of the Fargo City Limits per Document No. 1604271, a distance of 52.10 feet; thence northeasterly along a tangential curve concave to the southeast and continuing along the said south line of the Fargo City Limits per Document No. 1604271, a distance of 310.11 feet said curve has a radius of 340.00 feet, and a central angle of 52 degrees 15 minutes 30 seconds; thence North 87 degrees 58 minutes 41 seconds East, tangent to last described curve and along the south line of said Fargo City Limits per Document No. 1604271, a distance of 1565.10 feet, to the west line of the Fargo City Limits per Document No. 1339928; thence South 02 degrees 55 minutes 01 seconds East, along said west line, a distance of 1524.19 feet; thence North 87 degrees 58 minutes 41 seconds East along the south line of the Southeast Quarter of said Section 15, also being the south line of the Fargo City Limits per Document No. 1339928, a distance of 150.02 feet to the point of beginning.

Contains 2,237,104 square feet or 51.36 acres, more or less

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, Kurt M. Koch, Registered Professional Land Surveyor under the laws of the State of North Dakota, hereby certify that the annexed plat is a true representation of Resolution adopted.

Kurt M. Koch North Dakota License No. 4097

State of Minnesota)
) SS
County of Hennepin)

The foregoing instrument was acknowledged this 24th day of May 2021, before me, a notary public with and for said County, personally appeared Kurt M. Koch, Professional Land Surveyor, to me known to be the person described in and who executed the same as a free act and deed.

Notary Public Hennepin County
My commission expires 01/31/2022

CITY ENGINEER'S APPROVAL:

This annexed plat is hereby approved this _____ day of _____, 2021

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

State of North Dakota)
) SS
County of Cass)

The foregoing instrument was acknowledged this ____ day of _____, 2021, before me, a notary public with and for said County, personally appeared Brenda E. Derrig, City Engineer, to me known to be the person described in and who executed the same as a free act and deed.

Notary Public Cass County
My commission expires _____

FARGO CITY COMMISSION APPROVAL:

Approved by the Board of City Commissioners of Fargo, North Dakota this _____ day of _____, 2021

Timothy J. Mahoney
Mayor

Steven H. Sprague
City Auditor

State of North Dakota)
) SS
County of Cass)

The foregoing instrument was acknowledged this ____ day of _____, 2021, before me, a notary public with and for said County, by Timothy J. Mahoney, Mayor, and Steven H. Sprague, City Auditor, on behalf of the City of Fargo

Notary Public Cass County
My commission expires _____

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

3801

ORDINANCE NO. _____

AN ORDINANCE ANNEXING A CERTAIN PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 15 AND THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 140 NORTH, RANGE 49 WEST, IN CASS COUNTY, NORTH DAKOTA

WHEREAS, A Petition for Annexation has been submitted by the owners of not less than three-fourths in assessed value of the property described in said Petition for Annexation to the City of Fargo, Cass County, North Dakota, in accordance with Section 40-51.2-03 N.D.C.C.; and,

WHEREAS, Public notice of the submission of such Petition has been given by publication in The Forum as required by Section 40-51.2-05 N.D.C.C.; and,

WHEREAS, Said Section 40-51.2-03 N.D.C.C. requires that such annexation be accomplished by ordinance,

NOW, THEREFORE,

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

Section 1. The following described property located in the Southeast Quarter of Section 15 and the Northeast Quarter of Section 22, Township 140 North, Range 49 West, of the Fifth Principal Meridian, Cass County North Dakota, is hereby annexed to the City of Fargo, Cass County, North Dakota:

Beginning at the southeast corner of said Section 15; thence South 02 degrees 38 minutes 37 seconds East, assumed bearing, along the east line of said Northeast Quarter of Section 22, also being the west line of the Fargo City Limits per Document No. 1359928, a distance of 75.00 feet, more or less, to the south Right of Way of County Highway 20, also being the north line of the Fargo City Limits as depicted on City of Fargo Annexation Plat Document No. 916190 and 1359928; thence South 87 degrees 58 minutes 41 seconds West, along said south Right of Way and north line of said Fargo City Limits, a distance of 1050.24 feet, more or less, to the intersection with the westerly right of way of County Road 81; thence northwesterly, and along said westerly Right of Way of County Road 81, a distance of 1174.68 feet along a non-tangential curve concave to the southwest with a radius of 1332.69 feet, a central angle of 50 degrees 30 minutes 09 seconds, and a chord which bears North 34 degrees 50 minutes 59 seconds West; thence North 60 degrees 06 minutes 04 seconds West, tangent to last described curve and along said Right of Way, a distance of 499.80 feet; thence northwesterly, along a tangential curve concave to the northeast and along said Right of Way, a distance of 166.66 feet to the intersection with the southwesterly extension of the northerly right of way line of 44th Ave North as dedicated in the plat of NORTH FARGO INDUSTRIAL ADDITION, said curve has a radius of 1532.69 feet, a central angle of 06

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

degrees 13 minutes 49 seconds; thence North 35 degrees 43 minutes 11 seconds East, not tangent to last described curve and along said southwesterly extension of said north line of 44th Ave North, a distance of 200.00 feet to the northeasterly Right of Way of County Road 81 and the southwesterly line of the Fargo City Limits per Document No. 1604271; thence southeasterly, and along said northeasterly Right of Way and southwesterly line of the Fargo City Limits, a distance of 80.03 feet along a non-tangential curve concave to the northeast with a radius of 1332.69 feet, a central angle of 3 degrees 26 minutes 27 seconds, and a chord which bears South 55 degrees 31 minutes 46 seconds East, thence North 35 degrees 43 minutes 11 seconds East, not tangent to last described curve and along the south line of the Fargo City Limits per Document No. 1604271, a distance of 52.10 feet; thence northeasterly along a tangential curve concave to the southeast and continuing along the said south line of the Fargo City Limits per Document No. 1604271, a distance of 310.11 feet said curve has a radius of 340.00 feet, and a central angle of 52 degrees 15 minutes 30 seconds; thence North 87 degrees 58 minutes 41 seconds East, tangent to last described curve and along the south line of said Fargo City Limits per Document No. 1604271, a distance of 1565.10 feet, to the west line of the Fargo City Limits per Document No. 1359928; thence South 02 degrees 55 minutes 01 seconds East, along said west line, a distance of 1524.19 feet; thence North 87 degrees 58 minutes 41 seconds East along the south line of the Southeast Quarter of said Section 15, also being the south line of the Fargo City Limits per Document No. 1359928, a distance of 150.02 feet to the point of beginning.

Contains 2,237,104 square feet or 51.36 acres, more or less.

Section 2. Effective Date.

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

CITY OF FARGO

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

ATTEST

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

380

City of Fargo Staff Report			
Title:	Dakota Commerce Center Addition	**Date:** **Update:**	4/27/2021 6/9/2021
Location:	4060, 4230, 4316, and 4416 37th Street North and 3701 40th Avenue North	**Staff Contact:**	Aaron Nelson
Legal Description:	Part of the Southeast Quarter of Section 15, Township 140 North, Range 49 West, to the City of Fargo, Cass County, North Dakota		
Owner(s)/Applicant:	Holmquist Family, LLP; Jon S. Treitline; & Edena M. Holmquist /Hyde Development	**Engineer:**	Ulteig
Entitlements Requested:	**Major Subdivision** (Part of the Southeast Quarter of Section 15, Township 140 North, Range 49 West, to the City of Fargo, Cass County, North Dakota and Subdivision Waiver) and **Zone Change** (from AG, Agricultural, to LI, Limited Industrial)		
Status:	City Commission Public Hearing: June 14, 2021		

Existing		**Proposed**
Land Use: Agricultural & Residential		**Land Use:** Industrial
Zoning: AG, Agricultural		**Zoning:** LI, Limited Industrial
Uses Allowed: AG allows detached houses, parks and open space, safety services, basic utilities, and crop production		**Uses Allowed:** LI – Limited Industrial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation.
Maximum Density Allowed (Residential): AG allows a maximum of 1 dwelling unit per 10 acres.		**Maximum Density Allowed:** Maximum 85% building coverage

Proposal:

The applicant is seeking approval of a major subdivision and zoning map amendment to accommodate industrial development of the subject property. The major subdivision, entitled *Dakota Commerce Center Addition*, would plat the subject property into four lots on one block, and includes a subdivision waiver that would allow for the block length to exceed 1,320 feet. The subdivision would dedicate additional public right-of-way for 40th Avenue N and 37th Street N. The zoning map amendment would rezone the subject property from AG (Agricultural) to LI (Limited Industrial).

NOTE: This property is currently in the City's extra-territorial jurisdiction (ETJ). The annexation hearing for this property is also on the June 14, 2021 City Commission agenda.

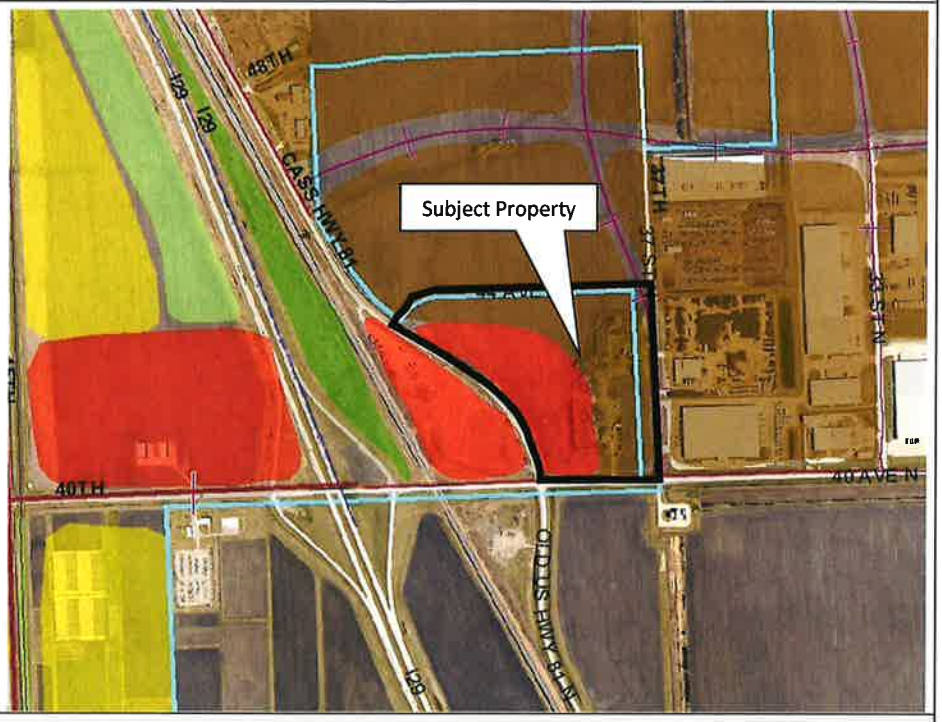
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: Warehouse and freight movement within the LI (Limited Industrial) zoning district;
- East: Industrial uses within the LI zoning district;
- South: Crop production within the P/I (Public & Institutional) zoning district; and
- West: (Extraterritorial Jurisdiction) Industrial uses within the AG (Agricultural) zoning district.

Area Plans:

The 2007 Fargo Growth Plan identifies the subject property as having future land uses of Industrial and Commercial. The proposed LI zoning allows both industrial and commercial land uses.



Context:

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

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

Parks: The Northern Softball Complex is approximately 1.3 miles northwest of the subject property.

Pedestrian / Bicycle: There are no on-road or off-road bike facilities adjacent to this property.

Staff Analysis:

ACCESS: Access to the subject property will be provided on the north via 44th Ave N, from the west via County Rd 81, and from the east via 37th St N. A negative access easement will be established with the plat to restrict access from 40th Ave N and adjacent street intersections. A system of access easements will be established as the property develops in order to provide for internal circulation, as described within the subdivision amenities plan.

PROXIMITY AGREEMENT: A proximity agreement for the subdivision will be signed by the applicant. This is a standard agreement between the City of Fargo and owners of property in close proximity to Hector International Airport and/or the overflow sewage lagoons. With this agreement, the property owner acknowledges the existence of these facilities and the potential for aircraft noise and sewage odor. The City Commission will take final action on this agreement. No specific action is required by the Planning Commission.

ANNEXATION: This property is outside of the Fargo city limits. The property owners have requested annexation through an owner-initiated petition. The Planning Commission will evaluate this proposed annexation for consistency with the 2007 Growth Plan in item E.1 of the May 4, 2021 Planning Commission agenda. There is a

separate staff report for this item. A hearing is intended to be scheduled for this annexation at the City Commission concurrently with the final plat and zone change hearing.

Zoning

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**
   Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned AG, Agricultural. As noted within §20-0202.A of the Land Development Code, the AG zoning district provides an interim zoning classification for growth areas pending a determination on an appropriate permanent zoning designation. The proposed zoning for this property is LI, Limited Industrial, which will accommodate the proposed 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. The project site will become eligible to receive City services upon annexation. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subdivision will front on dedicated public streets. The necessary rights-of-way for these streets will be dedicated with the plat. These street will provide access and public utilities to serve the development. **(Criteria satisfied)**

3. **Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?**
   Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has not received any public comment or inquiries. 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 2007 Growth Plan designates this property as appropriate for commercial and industrial land uses. The proposed LI zoning allows both industrial and commercial land uses. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

Subdivision

The LDC stipulates that the following criteria is met before a major 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.**
   A zoning map amendment is included with this application to accommodate the proposed development. The proposed subdivision is consistent with the proposed LI zoning designation. 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 comments or inquiries about the project. **(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.**

Pursuant to Item 1 above, the proposed development will comply with the proposed zoning map amendment. 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 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
   While public infrastructure currently exists at this location, any future improvements associated with the project are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are per City of Fargo assessment policy. **(Criteria Satisfied)**

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.**
   The proposed subdivision waiver would allow a longer block length than would otherwise be required by the LDC. Limitations on maximum block size are desirable to ensure adequate connectivity of the transportation system. At this location, however, the area to the north, east, and west have previously been platted as large lots with no perpendicular public streets that would extend through the subject property. Additionally, there is little opportunity for additional street connectivity to the west, where there is an arterial street and barriers of railroad and interstate. As such, the addition of a public street to reduce the block length at this location would really only serve the subject property and do little to impact the transportation system in this area. The area is intended to be industrial in nature, where larger block sizes are more common compared to residential or commercial areas that are more heavily traveled by the general public. The applicant intends to build single, large buildings on each of the four proposed lots on the block. In Lieu of platting additional public right-of-way within the subdivision, the owner/developer will establish a system of cross access/parking easements to allow traffic and parking between the lots within the subdivision and to allow movement within and across the site. **(Criteria Satisfied)**

2. **Section 20-0901.D.3.b of the LDC stipulates that a Subdivision Waiver must represent the least deviation from this Land Development Code that will mitigate the hardship or practical difficulty that exists on the subject property.**
   In Lieu of platting additional public right-of-way within the subdivision, the owner/developer will establish a system of cross access/parking easements to allow traffic and parking between the lots within the subdivision, and to allow movement within and across the site, as outlined within the attached subdivision amenities plan. While each of the four proposed lots abuts public right-of-way and can accommodate direct access from the public right-of-way, the proposed access easements will provide for additional connectivity. With the establishment of these cross access easements, staff finds the proposed waiver to be a minimal deviation from the Land Development Code. **(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 block length requirements of Section 20-0607.B of the LDC for this particular property. **(Criteria Satisfied)**

Staff Recommendation:

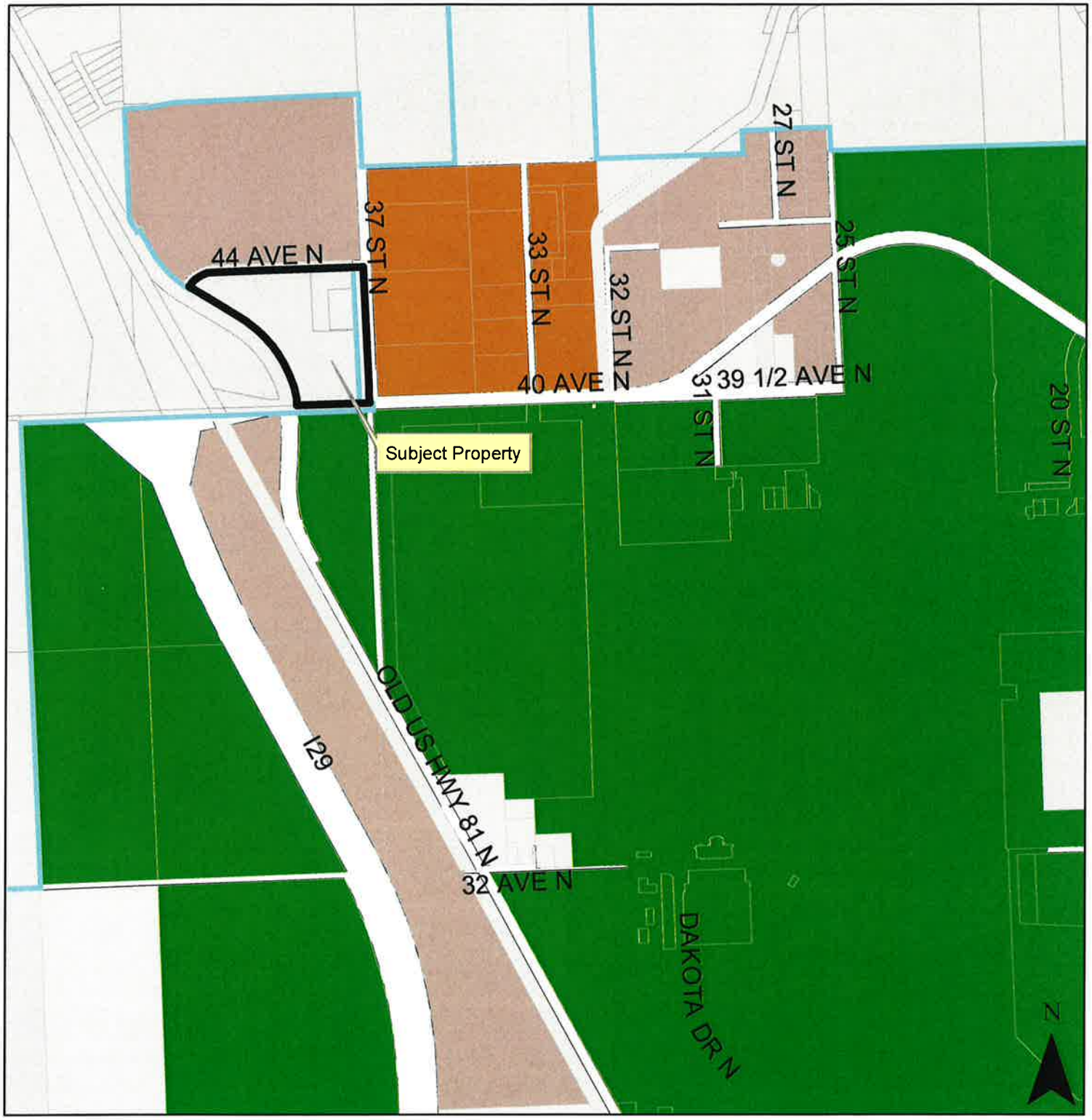
Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading and move to approve the proposed: 1) zone change from AG, Agricultural to LI, Limited Industrial, 2) plat of **Dakota Commerce Center Addition**, and 3) Proximity Agreement, as presented; as the proposal complies with the 2007 Growth Plan, Go2030 Comprehensvie Plan, Standards of Article 20-06, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC."

Planning Commission Recommendation: May 4, 2021
On May 4, 2021, with a vote of 8-0 with 1 commissioner absent, the Planning Commission recommended approval to the City Commission of the proposed: 1) zone change from AG, Agricultural to LI, Limited Industrial, and 2) plat of **Dakota Commerce Center Addition** as presented; as the proposal complies with the 2007 Growth Plan, Go2030 Comprehensvie Plan, Standards of Article 20-06, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC.
Attachments:
1. Zoning Map 2. Location Map 3. Subdivision Plat 4. Amenities Plan 5. Proximity Agreement

Zone Change (AG to LI) & Plat (Major)

Dakota Commerce Center Addition

3701 40th Ave N
4060, 4230, 4316 & 4416 37th St N



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

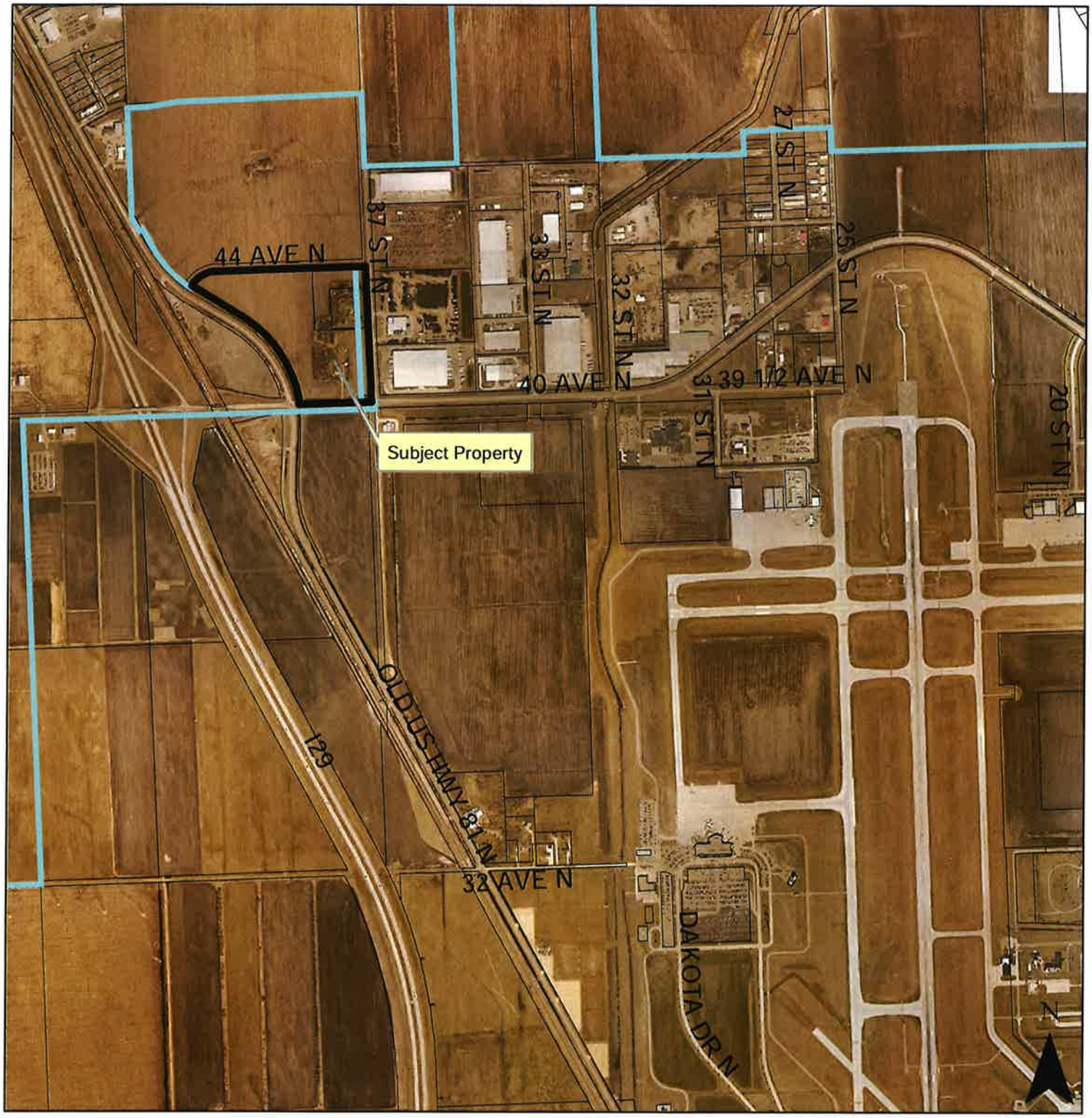
0.25 Miles

Fargo Planning Commission
May 4, 2021

Zone Change (AG to LI) & Plat (Major)

Dakota Commerce Center Addition

3701 40th Ave N
4060, 4230, 4316 & 4416 37th St N



THE CITY OF Fargo FAR MORE

0.25 Miles

Fargo Planning Commission
May 4, 2021

DAKOTA COMMERCE CENTER ADDITION

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

OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That HOLMQUIST FAMILY LLP, A LIMITED LIABILITY PARTNERSHIP UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, JON S. TREITLINE, AND EDENA M. HOLMQUIST, as owners of a parcel of land located in the Southeast Quarter of Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, lying northeasterly of County Road 81 and southeasterly and southerly of 44th Avenue North and more particularly described as follows:

Parcel 1 (per Document #1023731):
That part of the Southeast Quarter of Section Fifteen, in Township One Hundred Forty North of Range Forty-nine West of the Fifth Principal Meridian, situate in the County of Cass and the State of North Dakota, described as follows: Commencing at the Southeast Corner of the Southeast Quarter; thence North 02 degrees 55 minutes 05 seconds West, along the East line of the Southeast Quarter 835.00 feet to the point of beginning; thence South 87 degrees 58 minutes 39 seconds West, parallel with the South line of the Southeast Quarter 440.67 feet; thence North 03 degrees 04 minutes 45 seconds West 450.14 feet; thence North 88 degrees 16 minutes 27 seconds East 441.98 feet to a point on the East line of the Southeast Quarter; thence South 02 degrees 55 minutes 05 seconds East, along the East line of the Southeast Quarter 447.83 feet to the point of beginning.

Parcel 2 (per Document #1472676):
The Southeast Quarter of Section Fifteen, Township One Hundred Forty North of Range Forty-nine West of the Fifth Principal Meridian, Cass County, North Dakota, lying Northeasterly of the County Road 81 right of way;

EXCEPTING THEREFROM the following tracts: (1) The North 689 feet of the South 1524 feet of the East 632 feet of the Southeast Quarter of Section Fifteen, Township One Hundred Forty North of Range Forty-nine West of the Fifth Principal Meridian, Cass County, North Dakota; (2) North Fargo Industrial Addition to the City of Fargo, Cass County, North Dakota;

Parcel 3 (per Document #1023730):
A tract of land situated in the Southeast Quarter of Section Fifteen, in Township One Hundred Forty North of Range Forty-nine West of the Fifth Principal Meridian, Reed Township, Cass County, North Dakota, and said tract is specifically described as follows: Commencing at a point 835 feet North of the Southeast corner of the Southeast Quarter of Section Fifteen, and said point is the true point of beginning of tract hereinafter described; thence West and parallel to the South section line of said Section 15, for 632 feet; thence North and parallel to the East section line of said Section 15 for 689 feet; thence East and parallel to the said South section line for 632 feet; thence South and along the said East section line for 689 feet to the point of beginning. All being situate in the County of Cass and the State of North Dakota, EXCEPTING THEREFROM the following described tract: That part of the Southeast Quarter of Section Fifteen, in Township One Hundred Forty North of Range Forty-nine West of the Fifth Principal Meridian, situate in the County of Cass and the State of North Dakota, described as follows: Commencing at the Southeast Corner of the Southeast Quarter; thence North 02 degrees 55 minutes 05 seconds West, along the East line of the Southeast Quarter 835.00 feet to the point of beginning; thence South 87 degrees 58 minutes 39 seconds West, parallel with the South line of the Southeast Quarter 440.67 feet; thence North 03 degrees 04 minutes 45 minutes West 450.14 feet; thence North 88 degrees 16 minutes 27 seconds East 441.98 feet to a point on the East line of the Southeast Quarter; thence South 02 degrees 55 minutes 05 seconds East, along the East line of the Southeast Quarter 447.83 to the point of beginning.

Cass County, North Dakota

Contains 2,015,334 square feet or 46.26 acres, more or less.

Said owners have caused the above described parcel of land to be surveyed and platted as "DAKOTA COMMERCE CENTER ADDITION" to the City of Fargo, Cass County, North Dakota, and do hereby dedicate the drainage easements to Lots 1 through 4, and the street, avenue, highway and utility easements to the public, for public use, as shown on this plat.

Holmquist Family, LLP

Ronald K. Holmquist, managing partner

State of North Dakota }
County of Cass } SS

On this 24th day of May, 2021, before me personally appeared RONALD K. HOLMQUIST, managing partner of the Holmquist Family, LLP, a limited liability partnership under the laws of the State of North Dakota, described in and who executed the within and foregoing instrument and acknowledged that he executed the same.

Notary Public

KONRAD A. OLSON
Notary Public
State of North Dakota
My Commission Expires Oct. 19, 2024

Jon S. Treitline

State of North Dakota }
County of Cass } SS

On this 25th day of May, 2021, before me personally appeared, Jon S. Treitline, described in and who executed the within and foregoing instrument and acknowledged that he executed the same.

Notary Public

KONRAD A. OLSON
Notary Public
State of North Dakota
My Commission Expires Oct. 19, 2024

Edena M. Holmquist

State of North Dakota }
County of Cass } SS

On this 25th day of May, 2021, before me personally appeared, Edena M. Holmquist, described in and who executed the within and foregoing instrument and acknowledged that he executed the same.

Notary Public

CHRISTIE K PETERS
NOTARY PUBLIC - NORTH DAKOTA
My Commission Expires 01/19/2027

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGMENT

I, Kurt M. Kisch, Registered 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 addition; that all distances shown on said plat are correct; that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

Kurt M. Kisch, Professional Land Surveyor
North Dakota License No. LS-4597

KURT M. KISCH
REGISTERED
LAND
SURVEYOR
LS. 4597
NORTH DAKOTA

State of Minnesota }
County of Hennepin } SS

On this 24th day of May, 2021, before me, a notary public with and for said County, personally appeared Kurt M. Kisch, to me known to be the person described in and who executed the same.

Notary Public

KELLY ANN MCDANIEL
NOTARY PUBLIC
MINNESOTA

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by City Engineer this _____ day of _____, 20____.

Brenda E. Derrig, City Engineer

State of North Dakota }
County of Cass } SS

On this _____ day of _____, 20____, before me, a notary public with and for said County, personally appeared Brenda E. Derrig, City Engineer, to me known to be the person described in and who executed the same.

Notary Public

CITY OF FARGO PLANNING COMMISSION APPROVAL

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

John Gunkelman, Planning Commission Chair
Fargo Planning Commission

State of North Dakota }
County of Cass } SS

On this _____ day of _____, 20____, before me, a notary public with and for said County, personally appeared John Gunkelman, Planning Commission Chair, to me known to be the person described in and who executed the same.

Notary Public

FARGO CITY COMMISSION APPROVAL

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

Timothy J. Mahoney, Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota }
County of Cass } SS

On this _____ day of _____, 20____, before me, a notary public with and for said County, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor, to me known to be the persons described in and who executed the same.

Notary Public

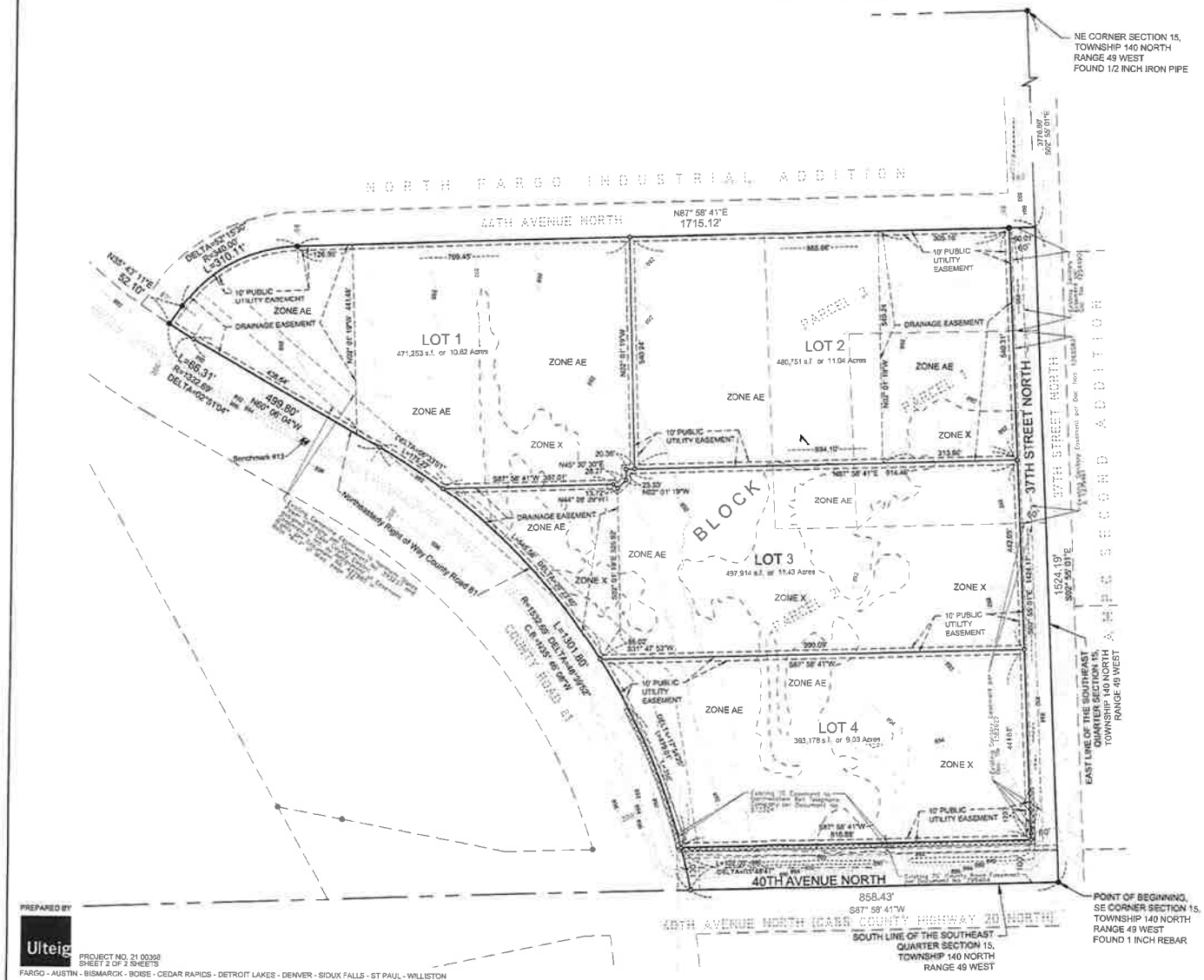
PREPARED BY
Ulteig

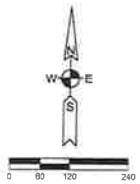
PROJECT NO. 21.00308
SHEET 1 OF 2 SHEETS

FARGO - AUSTIN - BISMARCK - BOISE - CEDAR RAPIDS - DETROIT LAKES - DENVER - SIOUX FALLS - ST PAUL - WILLISTON

DAKOTA COMMERCE CENTER ADDITION

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





GRAPHIC SCALE: 1"=120'
For the purposes of this plat, the south line of the Southeast Quarter of Section 15, Township 140 North, Range 49 West is assumed to bear South 87° 58' 41" West.

LEGEND

- MONUMENT FOUND
- MONUMENT SET, 5/8" REBAR, CAPPED "LS-4597"
- SUBJECT PROPERTY LINE
- SECTION/QUARTER LINE
- EXISTING PROPERTY LINE
- EASEMENT LINE
- DIMENSION LEADER LINE
- FEMA ZONE AE LINE
- 2 FOOT CONTOUR LINE
- NEGATIVE ACCESS EASEMENT

"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 or 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". Negative Access Easement does not apply to emergency vehicles.

Floodplain Areas, as noted on this plat, are from the following FEMA Flood Insurance Rate Maps:
38017C0578G with an Effective Date of January 16, 2015
38017C0579G with an Effective Date of January 16, 2015
38017C0580G with an Effective Date of January 16, 2015
38017C0587G with an Effective Date of January 16, 2015

Flood Zones AE as shown hereon have a Base Flood Elevation of 893 feet per above referenced FEMA maps.

Contours shown are based on a Field Survey by Ulteig, July, 2020

PROJECT BENCHMARK
BAKKUM – MnDOT survey disk stamped "BAKKUM 1993" set on top of an aluminum alloy rod located in southeast quadrant of intersection of 70th Ave N and 28th St N, Clay County, Minnesota (approx. 26,500 feet East-Northeast from intersection of County Road 20 & 37th Street).
Published Elevation = 898.21' (NAVD88)

Site Benchmark:
Benchmark #13 – #5 rebar with cap "ULTEIG ENG CONTROL PT" set 24 feet northeast of the centerline of County Road 81 and 1250 feet southeast of the asphalt/concrete transition of County Road 81.
Elevation = 894.07' (NAVD88)

PREPARED BY:
Ulteig
PROJECT NO. 21.00308
SHEET 2 OF 2 SHEETS
FARGO - AUSTIN - BISMARCK - BOISE - CEDAR RAPIDS - DETROIT LAKES - DENVER - SIOUX FALLS - ST PAUL - WILLISTON

Sheet 2 of 2 sheets

DRAFT
Site Amenities and Project Plan
Dakota Commercial Center Addition
May 2021

Location: The subject property is legally referenced as an unplatted portion of the Southeast Quarter of Section 15, Township 140 North, Range 49 West of the 5th Principal Meridian, in the City of Fargo, Cass County, North Dakota. The property comprises approximately 46 acres, including right-of-way dedication.

Details: The project will create 4 Limited Industrial lots. Lots will be designated as Lots 1-4, Block 1, DAKOTA COMMERCE CENTER ADDITION.

Right of Way (ROW): The project accommodates right-of-way dedications for public roadways and utilities.

> 37th Street North from 40th Avenue to 44th Avenue North: This roadway segment has been designated as a *local* roadway pursuant to 20.0702. An additional 60 feet of right-of-way is dedicated with this subdivision.
>
> 40th Avenue from 37th Street North to County Road 81: This roadway segment has been designated as an *arterial* roadways pursuant to 20.0702. An additional 100 feet of right-of-way is dedicated with this subdivision.

Subdivision Waiver: This subdivision includes a subdivision waiver of the maximum block length standard of LDC §20-0607.B. Justification for this waiver is based on the developer's intent to construct large individual buildings on the four large lots platted by this subdivision. The developer acknowledges that deviation from this original development intent, such as the need/desire for further subdivision of the subject property in the future, may require the platting of additional right-of-way through this block to accommodate orderly development and access.

Internal site operational access easements: The owner/developer will be adding access and cross access/parking easements to allow traffic and parking from each building, and to allow movement through the site. These easements will be defined and recorded as the park is developed to ensure the exact easement locations are in harmony with the buildings, drive lanes and parking throughout the entire park development.

Water Supply: Potable water supply shall be provided by City of Fargo.

Sanitary Sewer: Sanitary sewer connection shall be provided by City of Fargo.

Engineering and Construction Improvements: The owner/developer shall rely upon and collaborate with City Engineering for construction of all public improvements, inclusive of storm water facilities, boulevards, and median landscaping, as applicable.

Storm Water Management: All storm water quantity and quality will be met with on-site detention. The detention ponds will be engineered, constructed, and maintained by the owner of the site per the "City of Fargo Policy on Storm Water and Treatment Requirements". Proposed

detention ponds will tie into City owned and maintained storm water infrastructure as directed by City of Fargo Engineering.

Flood Protection: Portions of proposed site fall within the existing FEMA Floodplain and/or the 41' Water Surface Elevation Inundation Area. It is acknowledged by the developer that construction of structures shall comply with City of Fargo Flood Proofing Requirement when applicable.

Dakota Commercial Center Addition Amenities Plan is hereby approved:

Hyde Development - Paul Hyde — 5-3-21 date

Brenda Derrig, City Engineer — date

AGREEMENT

(Proximity of Airport, Noise Attenuation and Sewage Lagoons)

THIS AGREEMENT, Made and entered into this 3rd day of May, 20 21, by and between DAKOTA COMMERCE CENTER 1 LLC, hereinafter referred to as "Owner," and CITY OF FARGO, A NORTH DAKOTA MUNICIPAL CORPORATION, hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the Owner is the record owner of a tract of land located in Cass County, North Dakota, said tract being more particularly described hereinafter; and,

WHEREAS, said tract is located within the extraterritorial jurisdiction (ETJ) of City of Fargo but will be annexed as a part of the overall project; and,

WHEREAS, Owner has made a development request of the City for a change in zoning from agricultural (AG) to limited industrial (LI) zoning; and,

WHEREAS, the Board of City Commissioners of the City have approved and enacted a zoning ordinance to effect such change upon the condition that the Owner and Owner's successors

in interest be bound to a covenant acknowledging the proximity of Hector International Airport and the City's sewage lagoons to Owner's property; and,

WHEREAS, Owner is willing to execute and to have recorded an agreement wherein Owner recognizes the proximity of said facilities in regard to all of the property owned or to be owned by Owner hereinafter described and including all other terms mentioned above; and,

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, IT IS HEREBY AGREED as follows:

1. The subject of this Agreement, and the covenant herein, is the Owner's property, situate in the County of Cass and State of North Dakota, more fully described as:

Lots 1-4, Block 1, Dakota Commerce Center Addition to the city of Fargo.

[hereinafter referred to as the "Subject Property"]

2. As a condition of City's approval of said platting and zoning, Owner does hereby covenant and agree with the City that said Owner will never institute any suit or action at law or otherwise against the City, nor institute, prosecute or in any way aid in the institution or prosecution of any claim, demand, action or cause of action for damages, costs, loss of service, expenses or compensation against the City for or on account of any damage, loss or injury either to person or property, or both, resulting or which may result by reason of the use of the Subject Property in relation to the location and use of Hector International Airport and specifically for damages caused or allegedly caused by the noise of the take-off or landing of jet-propelled or other aircraft from the present runways or any future runways of the present Hector International Airport or for any other noise incidental to the operation of said airport; also from any vibration generated by said aircraft or from any pollutants or contaminants created from such aircraft usage, unless such actions or causes of actions, claims, demands, liabilities, losses, damages, or expenses are caused directly by commercially unreasonable or unlawful actions. This provision shall include the Municipal Airport Authority of the City of Fargo, as well as any subsequently formed regional airport authority that may be formed to operate the airport facilities.

3. Owner agrees that it will at all times indemnify City, and hold and save the City harmless from and against any and all actions or causes of actions, claims, demands, liability, loss, damage, or expense of whatsoever kind and nature, including counsel or attorney's fees, which the City shall or may at any time sustain or incur by reason or in consequence of the use of the Subject Property for any lawful purposes and specifically for any damages caused or allegedly caused to the Subject Property by the noise of the take-off or landing of jet-propelled or other aircraft from the present runway or any future runways of the present Hector International Airport or for any other noise incidental to the operation of said airport, or which the City may sustain or incur in

connection with any litigation, investigation or other expenditures incident to such use of the Subject Property, including any suit instituted to enforce the obligations of this agreement of indemnity, and Owner agrees to pay to City all sums of money, with interest, which the City shall or may pay or cause to be paid, or become liable to pay, on account of or in connection with such use of the Subject Property, unless such actions or causes of actions, claims, demands, liabilities, losses, damages, or expenses are caused directly by commercially unreasonable or unlawful actions. This provision shall include the Municipal Airport Authority of the City of Fargo, as well as any subsequently formed regional airport authority that may be formed to operate the airport facilities.

4. Paragraphs two (2) and three (3) above shall also apply in all regards to the sewage lagoons owned by the City of Fargo and specifically concerning any odors emanating from said lagoons.

5. Owner agrees that this agreement shall be recorded on the above-described property and specifically agrees that the following covenants shall apply to the above-described property:

FAIR DISCLOSURE STATEMENT

Sewage Lagoons – The tract of land hereby conveyed and legally described lies within the vicinity of certain sewage lagoons owned and maintained by the City of Fargo and may be impacted by odors emanating from said lagoons. The level of usage of said lagoons may vary, from time to time, so that at times the lagoons are "dry" and at other times the lagoons may contain sewage for treatment purposes and that, as a result, there may be no appreciable odor emanating from the lagoons and at other times there may be an appreciable odor emanating from the lagoons.

Airport -- The tract of land hereby conveyed and legally described lies within the vicinity of Hector International Airport and may be impacted by noise associated with the operations of said airport including noise from the take-off or landing of jet propelled or other aircraft from the present runways or any future runways of the present Hector International Airport or for any other noise incidental to the operation of said airport; or from any vibration generated or from any pollutants or contaminants created from such aircraft usage. The airport normally operates seven days per week throughout the entire year and is open for flight operation at all hours. The present level of operations will continue and expand for the foreseeable future.

The noise rating of this tract, due to airport operations at the above-named airport according to the Noise Evaluation and Land

Use Compatibility Study (1990-91) is above 65 in the Lnd rating system.

The United States Department of Housing and Urban Development (HUD), Circular 1390.2 of 4 August 1971, Subject: Noise Abatement and Control: Departmental Policy, Implementation Responsibilities, and Standards, as well as any subsequent or replacement provisions established the following external noise exposure standards for the new construction of residential and other noise sensitive utilization:

Airport Environs

Land Zone	Site Suitability Classification
Above 75	Clearly unacceptable
65-75	Discretionary: Normally unacceptable
Below 65	Clearly acceptable

These site suitability classifications are further defined by HUD as:

1. Clearly unacceptable: The noise exposure at the site is so severe that construction costs to make the indoor environment acceptable for the performance of activities would be prohibitive. (Residential areas: the outdoor environment would be intolerable for normal residential use.)

2. Normally unacceptable: The noise exposure is significantly more severe so that unusual and costly building constructions are necessary to ensure adequate performance of activities. (Residential areas: barriers must be erected between the site and prominent noise sources to make the outdoor environment tolerable.)

3. Clearly acceptable: The noise exposure is such that the activities associated with the land use may be carried out with essentially no interference from aircraft noise. (Residential areas: both indoor and outdoor noise environments are pleasant.)

Certification

The undersigned purchaser of said tract of land, certifies that (s)he (they) has (have) read the above statement and acknowledge(s) the preexistence of the airport named above and the right of said airport to continue to operate and also recognizes the City of Fargo sewage lagoon existence.

_____

Owner

In the event Owner does not include the foregoing statement in the purchase agreement or deed, it shall, nonetheless, constitute a covenant and restriction running with the land and shall bind any future owner to recognition of the herein referenced facts.

6. This Agreement shall be binding upon the heirs, executors, administrators and assigns of the parties hereto and shall constitute a covenant running with the property described hereinbefore.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

(Signature pages to follow.)

DAKOTA COMMERCE CENTER 1 LLC

By: _____
Paul ~~Hyde,~~ President

STATE OF ~~NORTH DAKOTA~~ MINNESOTA)
) ss
COUNTY OF ~~CASS~~ HENNEPIN)

On this 3rd day of May, 2021, before me, a notary public within and for said county and state, personally appeared PAUL HYDE, to me known to be the president of DAKOTA COMMERCE CENTER 1 LLC, described in and that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

_____
Notary Public

(S E A L)

CALLY JANE SAMSON
Notary Public
State of Minnesota
My Commission Expires
January 31, 2025

CITY OF FARGO, A NORTH DAKOTA
MUNICIPAL CORPORATION

By:_____
Dr. Timothy Mahoney, Mayor

ATTEST:

_____
Steven Sprague, City Auditor

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

On this _____ day of August, 2020 before me, a notary public within and for said county and state, personally appeared DR. TIMOTHY MAHONEY, MAYOR and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the CITY OF FARGO, A NORTH DAKOTA MUNICIPAL CORPORATION, described in and that executed the foregoing instrument, and acknowledged to me that such municipal corporation executed the same.

_____
Notary Public

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3802

AN ORDINANCE REZONING CERTAIN
PARCELS OF LAND
LYING IN THE PROPOSED DAKOTA COMMERCE CENTER 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 the proposed Dakota Commerce Center Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on May 4, 2021; and,

WHEREAS, the rezoning changes were approved by the City Commission on June 14, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

All of Dakota Commerce Center Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "LI", Limited Industrial, District.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

38e

City of Fargo Staff Report			
Title:	Text Amendment	**Date:** **Update:** **Update:**	4-28-2020 6-11-2020 6-9-2021
Location:	N/A	**Staff Contact:**	Aaron Nelson
Owner(s)/Applicant:	City of Fargo/Zoning Administrator/Peter McDonald	**Engineer:**	N/A
Entitlements Requested:	Text Amendment (amend Section 20-0402(T)(3) and repeal Section 20-0403(C)(5)(e) of the Fargo Municipal Code (Land Development Code) relating to the prohibition of firearm and ammunition sales as a non-farm commercial use or as a home occupation)		
Status:	City Commission Public Hearing: June 14, 2021		

Proposed Text Amendment

******NOTE: This staff report and proposed text amendment to the Land Development Code (LDC) was originally presented to the Board of City Commissioners on June 15, 2020, at which time the Commission voted to table discussion on the proposal until additional neighborhood input could be gathered and a more comprehensive review of prohibited home occupations could be completed. Since then, however, the North Dakota Legislature approved House Bill No.1248, which restricts municipalities from enacting a zoning ordinance relating to the purchase, sale, ownership, possession, transfer of ownership, registration, or licensure of firearms and ammunition that is more restrictive than state law, and which voids all such existing ordinances. This bill was signed into law and will take effect August 1, 2021.***

Due to this legislative action and the resulting change in circumstances, the Planning Department has worked in conjunction with the City Attorney to bring this proposal back to the Board of City Commissioners for consideration. In essence, the proposed LDC text amendment is now a housekeeping edit, intended to remove defunct language that would conflict with State law.

A previous version of this staff report and the attachments were originally presented to the Board of City Commissioners on June 15, 2020. This staff report has been updated and edited to reflect the change in conditions regarding State law.***

The proposed text amendment would amend Section 20-0402(T)(3) and repeal Section 20-0403(C)(5)(e) of the Fargo Municipal Code (Land Development Code) relating to the prohibition of firearm and ammunition sales as a non-farm commercial use or as a home occupation. Specifically, the following edits are proposed to Section 20-0402.T of the LDC:

> ***3. Prohibited Uses.*** *Dispatch Centers~~, Firearms and Ammunition Sales~~ and Adult Entertainment Centers Uses as defined in Section 20-0403.C.5 are prohibited uses.*

And the following edits are proposed to Section 20-0403.C of the LDC:

> ***5. Prohibited Uses***
>
> ***a. Vehicle and Large Equipment Repair***
>
> *Any type of repair or assembly of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chain saws, and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to automobiles and their parts is prohibited.*
>
> ***b. Dispatch Centers***
>
> *Dispatch centers, where employees come to the site to be dispatched to other locations, are not allowed as home occupations.*

c. ***Mortuaries***

Mortuaries are not allowed as home occupations.

d. ***Animal Care, Grooming, or Boarding Facilities***

Animal care or boarding facilities are not allowed as home occupations. This includes animal hospitals, kennels, stables and all other types of animal boarding and care facilities. Dog grooming services are also included as prohibited animal care or boarding facilities; however, to the extent such services would otherwise qualify as a Minor Home Occupation, dog grooming services may be allowed upon application as provided in paragraph 2, regarding Minor Home Occupations, above. In no event may dog grooming be allowed as a Major Home Occupation.

~~*e. Firearms and Ammunition Sales*~~

~~*The sale of firearms and/or ammunition, and the production of ammunition for sale or resale are prohibited as home occupations.*~~

~~*f.*~~ *e.* ***Adult Entertainment Center Uses***

Entertainment or sale of goods defined as adult bookstore, adult cinema, adult entertainment facility, or adult entertainment center as defined in Sec. 20-1202 are not allowed as a home occupation.

Background

In order for an individual to legally sell firearms or ammunition, they must first obtain a Federal Firearms License (FFL) from the US Bureau of Alcohol, Tabaco, Firearms, & Explosives (ATF). The ATF administers the FFL application and approval process, and provides oversight for compliance with federal firearms regulations, including the Gun Control Act of 1968. The application review process involves background checks and interviews, among other things. While local jurisdictions do not approve or deny FFL applications, the ATF can deny an FFL application for failure to comply with state or local laws, including zoning laws.

On multiple occasions in past years, the City of Fargo has received requests from individuals seeking documentation of zoning compliance as part of the FFL application process. Based on the Fargo Land Development Code's prohibition of firearms and ammunition sales as a home occupation, staff has denied such requests for confirmation of zoning approval when such requests are for a private residence.

On one such occasion in 2016, an FFL applicant appealed staff's decision not to provide confirmation of zoning compliance for a firearm business as a home occupation. The appellant claimed that State law prohibits the City's ability to regulate firearm sales as a home occupation, citing North Dakota Century Code §62.1-01-03.

This appeal of administrative decision was heard by the Fargo Board of Adjustment on May 24, 2016. For this appeal, the City Attorney determined that under the current ordinance, the City of Fargo was exercising its right to regulate land use through zoning controls, which includes regulation of where various uses (including firearm sales) are allowed to take place, which is different than an ordinance directly regulating the sale of firearms and ammunition more restrictively than State law. The Board of Adjustment ultimately denied the appeal, thus affirming staff's decision.

More recently, the question as to the validity of the City's prohibition of firearm and ammunition sales as a home occupation in relation to State law was raised by Commissioner Gehrig at the January 27, 2020 City Commission meeting. Some of the Commissioners noted having received calls and inquiries regarding this zoning provision. After some discussion, the Commission voted 3-2 to direct the Planning Department and City staff to review the history of this ordinance and to initiate an LDC text amendment to remove this prohibition on firearm and ammunition sales from the LDC.

Around this same time, the City of Fargo also received an LDC text amendment application from Peter McDonald to remove the prohibition on firearm and ammunitions sales from the LDC. As such, this text amendment proposal was both City-initiated and citizen-initiated, with the City of Fargo and Mr. McDonald being co-applicants.

Upon initial review of the LDC in relation to the prohibition of firearm and ammunition sales as a home occupation, staff found that a similar prohibition exists for non-farm commercial uses within the AG (Agricultural) zoning district, as outlined earlier in this staff report. As they are similar prohibitions with similar concerns, staff had included both of these sections within the proposed text amendment to remove these prohibitions from the LDC.

The proposed text amendment was first heard at the May 5, 2020 Planning Commission meeting, at which there was much discussion, including comments from the public both in favor of, and in opposition to, the proposed amendment. Ultimately, the Planning Commission voted 5-3 to recommend denial of the proposed text amendment.

The proposed text amendment was then heard by the City Commission on June 15, 2020. Similar to the Planning Commission meeting, there was plenty of discussion regarding the proposed amendment. A second public hearing was held and comments were heard both in favor of, and in opposition to, to the proposal. After additional dialog, the City Commission voted 3-2 to table the discussion until additional neighborhood input could be gathered and a more comprehensive review of all of the prohibited home occupations could be completed.

In 2021, the 67th Legislative Assembly of North Dakota enacted House Bill No. 1248—An act to amend and reenact section 62.1-01-03 of the North Dakota Century Code, relating to the authority of a political subdivision regarding firearms. This amendment restricts municipalities from enacting a zoning ordinance relating to the purchase, sale, ownership, possession, transfer of ownership, registration, or licensure of firearms and ammunition that is more restrictive than state law, and voids all such existing ordinances. This bill was signed into law and will take effect August 1, 2021. A copy of this amended statute is attached.

Due to this legislative action and the resulting change in circumstances, the Planning Department has worked in conjunction with the City Attorney to bring this proposal back to the Board of City Commissioners for consideration. In essence, the LDC's prohibition on firearm and ammunition sales will be void and unenforceable starting on August 1, 2021. As such, the proposed LDC text amendment can be considered a housekeeping edit, intended to remove defunct language that would conflict with State law from the LDC.

History of the Existing Ordinances:

The current Land Development Code was rewritten and adopted by the City in 1998. Within the LDC, home occupations are considered to be an accessory use that is subordinate to the principle use of household living. While there is no list of specific allowable home occupations, the LDC contains *performance standards*, which outline specific limitations and parameters that home occupations must abide by. For example, limitations on hours of operation, customers, employees, exterior appearance of the home, etc. Additionally, the 1998 Land Development code expressly prohibited four different uses from being operated as a home occupation:

1) Vehicle and large equipment repair;
2) Dispatch centers;
3) Mortuaries; and
4) Animal care or boarding facilities.

Any other uses would have been allowed as a home occupation as long as the use complied with all of the home occupation performance standards of the LDC and any other applicable regulations.

In the years following the adoption of the LDC, there were many text amendments made as the new code was implemented and problem areas were ironed out. One such problem area was related to the large number of applications for home occupations that the City was receiving and processing via Conditional Use Permit (CUP). At the time, a CUP was required if a home occupation were to have any customers coming to the home. Consequently, in 2000-2001, there was an effort to modify the home occupation regulations of the LDC to allow more types of home occupations by right, without requiring a CUP and the associated public hearing process. This effort culminated primarily in the adoption of Ordinance No. 4180. Specifically, this ordinance allowed home occupations a limited number of customer visits, by right, and also added two new uses to the list of prohibited home occupations:

1) Firearms and Ammunition Sales; and

2) Adult Entertainment Center Uses.

A copy of Ordinance No. 4180 is attached to this staff report, along with the cover memo that accompanied the amendment application at the time. Meeting minutes from the first reading of the ordinance at the July 9, 2001 City Commission meeting and the June 13, 2001 Planning Commission meeting, where this text amendment was discussed, do not specifically reference firearms and ammunition sales.

A few years later, in 2007, there was a push to review policies and regulation regarding development within the City's extraterritorial area in order to allow additional flexibility and oversite for limited development within the City's growth area. This effort resulted in the adoption of Ordinance No. 4613, which added the "non-farm commercial" use category to the LDC. In summary, that ordinance provided an option for commercial use within the AG (Agricultural) zoning district via the Conditional Use Permit process. Along with establishing the non-farm commercial use category, the ordinance also included a list of prohibited uses, including:

1) dispatch centers;
2) firearms and ammunition sales; and
3) adult entertainment centers.

The meeting minutes of the June 13, 2007 Planning Commission meeting and the July 2, 2007 City Commission meeting contain no reference to any discussion relating to the prohibition of firearms and ammunition sales. A copy of Ordinance No. 4613 is attached to this staff report, along with the staff report that accompanied the amendment application for the July 2, 2007 City Commission meeting.

Staff Analysis:

During the initial review of the proposed LDC text amendment in 2020, feedback was sought from multiple City departments as well as the Bureau of Alcohol, Tabaco, Firearms, & Explosives (ATF). The Building Inspections and Fire departments both noted existing code provisions regarding the storage of explosive material, such as gunpowder. The Police Department noted they have had no issues with FFL dealers in the past, and no concerns regarding the proposed text amendment. Lastly, a representative with the ATF noted the following:

- The Gun Control Act of 1968 is administered by the ATF, including regulation of federal firearm licenses (FFL) for firearm and ammunition sales.
- Under federal law, any person who engages in the business of dealing in firearms must be licensed.
- In some limited cases, an FFL is not required for an individual to sell a firearm. For example, an individual who occasionally sells a firearm from their personal collection. (Similar to how individuals might occasionally sell a personal used car, but are not considered to be used car dealers.)
- FFL is required even if only dealing in firearms over the internet or at temporary locations such as gun shows.
- FFL applicants are required to supply photos and fingerprints, undergo an on-site inspection of the business premises, interview, complete an acknowledgement of federal firearm regulations with the ATF, and undergo a background check through the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS).
- FFLs can be denied by the ATF for non-compliance with state or local laws. (Although confirming zoning compliance with the local zoning authority may be a relatively newer practice.)
- FFLs must be renewed with the ATF every three years.
- There are approximately seven home based FFL's currently in Fargo—one of which dates back to 1976.
- Firearms dealers (and all owners of firearms) are encouraged to securely store their firearms since theft from home invasion is one of the ways in which firearms are illegally obtained.

Approval Criteria

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

1. **The amendment must be consistent with the purpose of this Land Development Code;**
   Section 20-0104 of the LDC stipulates that the purpose and intent of the Land Development Code is to

implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. The ability to establish zoning regulations to protect health, safety, and general welfare is granted to the City by the State of North Dakota. The proposed amendment is consistent with the intent and purpose of the LDC because it seeks to align the LDC with State statutes regarding the sale of firearms and ammunition. **(Criteria Satisfied)**

2. **The amendment must not adversely affect the public health, safety, or general welfare;**
   Staff finds that the amendment does not adversely affect the public health, safety, or general welfare. The proposed amendment is intended to align the LDC with State statues regarding the sale of firearms and ammunition. Staff has no evidence to suggest the proposed amendment would adversely affect the public health, safety, or general welfare. **(Criteria Satisfied)**

3. **The amendment is necessary because of changed or changing social values, new planning concepts or other social or economic conditions in the areas affected.**
   Staff finds that the proposed amendment is necessary because of social values and conditions relating to State law. As described above, the proposed amendment seeks to align the LDC with State statutes regarding the sale of firearms and ammunition. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion "To accept the findings and recommendations of staff and hereby move to receive and file and approve the proposed text amendment to Section 20-0402(T)(3) and Section 20-0403(C)(5)(e) of the Fargo Municipal Code (Land Development Code) relating to the prohibition of firearm and ammunition sales as a non-farm commercial use or as a home occupation, as the proposal meets the approval criteria of §20-0904.E(1-3) of the Land Development Code, and to place the ordinance on for first reading at the next regularly-scheduled City Commission meeting."

City Commission Action: June 15, 2020

On June 15, 2020, by a vote of 3-2, the City Commission tabled discussion until such time it has been properly vetted by the Core Neighborhood Plan Committee, and directed appropriate staff to study all restricted uses of commercial uses in homes to include vehicles and larger equipment, dispatch centers, mortuaries, animal care grooming and boarding facilities, adult entertainment centers and firearms and ammunition uses of production.

Planning Commission Recommendation: May 5, 2020

On May 5, 2020, by a vote of 5-3 with 2 Commissioners absent, the Planning Commission recommended denial to the City Commission of the proposed text amendment to Section 20-0402(T)(3) and Section 20-0403(C)(5)(e) of the Fargo Municipal Code (Land Development Code) relating to the prohibition of firearm and ammunition sales as a non-farm commercial use or as a home occupation.

Attachments:

1. Ordinance No. 4180 & Staff Cover Memo from 2001 relating to Home Occupations
2. Ordinance No. 4613 & Staff Report from 2007 relating to Non-farm Commercial Uses
3. House Bill No. 1248
4. Public Comments

MEMORANDUM

To: Mayor Furness and City Commissioners
From: Cindy Gray, Senior Planner
Date: July 3, 2001
Subject: Land Development Code Text Amendments – Sidewalk Marketing Area, Traffic Impact Studies, and Home Occupations

Over the past few months, the Planning Commission has had numerous discussions that deal with the Sidewalk Marketing Area, Traffic Impact Studies, and Home Occupations. All of the proposed amendments received a recommendation for approval at the June 13, 2001 Planning Commission meeting. I will summarize the text amendments below. The attached document is the text that was approved by the Planning Commission and used by the City Attorney's office to prepare the ordinances.

Sidewalk Marketing Area

The amendments to this portion of the Code were requested by the Downtown Community Partnership. The current language refers to the Downtown Business Association, which is no longer in existence. A number of other changes were made to better address sign size, sign spacing limitations, insurance requirements, and the application and permitting process.

In addition, a section of code was added to allow for tables and chairs in the sidewalk marketing ordinance, and to set up some limitations for the amount of sidewalk that must remain open for pedestrian circulation and accessibility purposes. This change needed to be accompanied by an amendment to a section of the Fargo Municipal Code, which prohibits sales on the sidewalk. Tables and chairs in the Sidewalk Marketing Area (Downtown Mixed Use zone) were simply excluded to address this issue.

Planning Commission Recommendation on Sidewalk Marketing Area text amendment – Eight votes in favor, one vote opposed (Syverson), and two absent (Millerhagen and Nelson)

> **Suggested Motion:** "To approve the text amendment repealing Section 20-0707 of the Land Development Code regarding Sidewalk Marketing Area, and re-enacting article 20-0707 as presented, and amending Section 20-1202 to add the definition of Pedestrian Sign, and amending Section 18-0304 of the Fargo Municipal Code to exclude tables and chairs on the sidewalk as a prohibited within the Sidewalk Marketing Area, and to make this the first reading of the ordinances."

Traffic Impact Studies

Over the past few years, the Planning Commission has been very interested in establishing requirements for traffic impact studies. Staff prepared the text amendment based on the types and/or sizes of development that typically result in a measurable impact. However, it was important to allow for some flexibility. We accomplished this by:

1) allowing the City Engineer to waive the requirement for a traffic impact study if it is determined that it is not needed or has already been analyzed as part of a larger corridor study, and

2) allowing the City Engineer to identify other conditions which warrant a traffic impact study even if a development does not fall specifically into one of the more predictable categories of development that warrants a study.

Adoption of this text amendment must be followed by the development of a policy that specifies the minimum requirements of a traffic impact study, and the process of hiring a consultant to complete the studies.

Planning Commission Recommendation on the text amendment regarding Traffic Impact Studies – Unanimous recommendation for approval with nine present, two absent (Millerhagen and Nelson).

> **Suggested Motion:** "To approve the text amendment that adds Subsection 20-0701 (L), Traffic Impact Studies to the Land Development Code, and to make a related amendment to Section 20-0401 to make reference to the traffic impact study requirements and to make this the first reading of the ordinances."

Home Occupations

Approximately a year ago, the City Commission and Planning Commission held a joint discussion regarding home occupations and whether or not there was any opportunity to allow home occupations as permitted uses under certain conditions. After a number of discussions and references to requirements of other cities, the Planning Commission recommended approval of the attached language. The amendment would allow a home occupation as a permitted use with up to a maximum of 4 customers per day with a maximum of 12 customers per week. This allows a certain amount of flexibility, and still keeps the traffic generated to the dwelling unit at a level that will be very residential in nature.

In addition, two uses were added to the list of prohibited home occupations. They include adult entertainment type uses and firearm and ammunition sales. These uses are prohibited as home occupations along with several others under any circumstances.

Planning Commission Recommendation regarding the proposed text amendment to Home Occupations – Unanimous recommendation for approval with nine present and two absent (Nelson and Millerhagen).

> **Suggested Motion:** "To approve the proposed amendments to Subsections 2 and 5 of Section 20-0403 of the Land Development Code to modify the requirements for Minor Home Occupations and to increase the number of prohibited uses as home occupations, and to make this the first reading of the ordinance."

Please let me know if you have any questions about these proposed changes.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4180

AN ORDINANCE AMENDING SECTION 20-0403 OF ARTICLE 20-04 OF CHAPTER 20 OF THE FARGO MUNICIPAL CODE (LAND DEVELOPMENT CODE) RELATING TO HOME OCCUPATIONS

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

Section 1. Amendment.

Subsection 20-0403 of Article 20-04 of Chapter 20 of the Fargo Municipal Code (Land Development Code) is hereby amended as follows:

§20-0403 Accessory Uses

* * *

§20-0403.C. – Home Occupations

* * *

2. Minor Home Occupations

A Minor Home Occupation is one in which residents use up to 25 percent of the floor area of their home as a place of work, but in which no employees ~~or customers~~ come to the site. Minor Home Occupations allow up to ~~two~~ four customers per day, with a maximum of 12 customers per week, only between the hours of 7:00 AM and 9:00 PM. No more than one customer is permitted on the site at any given time. Examples include, but are not limited to artists, crafts people, writers, professional consultants, personal care and grooming services, ~~massage therapists, single chair beauty salons and barber shops,~~ and employees of off-site businesses who work from their home. In addition, tutors, such as piano or other music teachers, who provide lessons to no more than 60 students per week and do not have non-resident employees coming to the site, shall be deemed minor home occupations.

* * *

5. Prohibited Uses

* * *

d. Animal Care, Grooming, or Boarding Facilities

* * *

e. Firearms and Ammunition Sales ~~and Servicing of Firearms~~

The sale of firearms and/or ammunition, and the production or ammunition for sale or resale are prohibited as home occupations.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4180

f. Adult Entertainment Center Uses
Entertainment or sale of goods defined as adult bookstore, adult cinema, adult entertainment facility, or adult entertainment center as defined in §20-1202 are not allowed as a home occupation.

Section 2. Penalty. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed $500.00; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 3. Effective Date.

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

Bruce W. Furness, Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading: 7-9-01
Second Reading: 7-23-01
Final Passage: 7-23-01
Publication: 8-6-01

121-ord\ldc amendments\ldc - LDC amendments 20-0403(c) 6-29-01

Attachment 2

CITY OF FARGO
Staff Report

Item No.	**Date:** June 26, 2007
Title: A Text Amendment via the Conditional Use Permit process to allow non-farm commercial within the Ag zone district	**Report Author:** Jim Hinderaker
Applicable Regulation: This application relates to Chapter 20 of the Municipal Code (Land Development Code) Adding Section 20-0402.S (1-4) and 20-1203.D.10 (a-d)	
Petitioner/Applicant: City of Fargo Planning Department	**Engineer:** N/A
Reason For Request: Allow opportunities for review of proposed non-farm commercial uses within the Ag zone district	
Status: City Commission: July 2, 2007	

Existing	Proposed
Land Use: N/A	**Land Use:** N/A
Zoning: N/A	**Zoning:** N/A
Uses Allowed: N/A	**Uses Allowed:** N/A
Maximum Density Allowed: N/A	**Maximum Density Allowed:** N/A

Proposed Text Amendment: Adding Section 20-0402.S and 20-1203.D.10 (a-b)

- **Section 20-0402.S Non-farm Commercial Uses**

  In acting upon Conditional Use Permit requests for Non-farm commercial uses within the Agricultural zoning district, the Planning Commission shall consider the following factors:

  1. No Non-farm commercial use is allowed unless it has been reviewed and approved in accordance with the Conditional Use Review procedures of Sec. 20-0909. Unless otherwise expressly stated, any Conditional Use Permit for such Non-Farm Commercial Use granted pursuant to Section 20-0909 shall automatically terminate upon sale or transfer of the property.

  2. To ensure that adequate facilities and services are available, written comment from facility and service providers (including, but not necessarily limited to, sewage and waste disposal, domestic water, flood protection, gas, electricity, police and fire protection, and roads, as applicable) addressing the adequacy of service shall be provided.

  3. The written notice requirements of 20-0901 shall be extended to landowners within one (1) mile of the subject property.

  4. **Prohibited Use**

     Dispatch Centers – Dispatch centers, where employees come to the site to be dispatched to other location, are not allowed.

     Firearms and Ammunition Sales – The sale of firearms and /or ammunition, and the production

of ammunition for sale or resale are prohibited.

Adult Entertainment Centers Uses – Entertainment or sale of goods defined as adult bookstore, adult cinema, adult entertainment facility, or adult entertainment center as defined in Sec. 20-1202 are not allowed.

- **20-1203 Use Categories**

D. Commercial Use Categories

10. Non-farm commercial

a. Characteristics

Non-farm commercial uses are characterized by commonly known commercial uses of property and activities similar to those described in (D)(1) through (D)(9) (i.e., entertainment, office, commercial parking facilities, outdoor recreation and entertainment, retails sales and services, self-storage facilities, and vehicle service and repair shops), but which are normally located within the city limits and not typically located in rural, agriculturally zone areas.

b. Accessory Uses

Accessory activities may include any of the accessory uses listed under the particular uses described in 20-1203(D)(1) through (D)(9).

c. Examples

Examples include any of those examples listed under the particular uses described in 20-1203(D)(1), including, but not limited to, stadiums, sports arenas, exhibition and meeting areas, offices for professional services, clinics, sales offices, commercial parking facilities, amusement parks, theme parks, golf driving ranges, miniature golf facilities, zoos, stores selling, leasing, or renting consumer, home and business goods (dry goods, gifts, groceries, hardware, household products, vehicles), personal service-oriented (branch banks, hair, personal care services), entertainment oriented (restaurants, cafes, delicatessens, bars and taverns), self-storage areas, mini-warehouses, vehicle repair, auto body shops, auto repair and tire shops.

d. Exceptions

Any of the exceptions listed under the particular uses described in 20-1203(D)(1) through (D)(9) shall likewise be listed as Exceptions for purposes of obtaining a condition use permit for a Non-farm commercial use.

Staff Analysis:

The City of Fargo is experiencing pressure to review its policies and regulation regarding development within the City's extraterritorial area. Some property owners within the extraterritorial area, having expressed a desire to develop (zone and subdivide) their property, have indicated to the Planning Department that they have ultimately abandoned their plans because they feel that the City's policies are too restrictive and cumbersome. Current policy (Page 20 of the Growth Plan for the Urban Fringe and Extraterritorial Area of the City of Fargo) dictates that the city should "prevent leapfrog development from occurring both within the City and in the extraterritorial area" as these types of developments have proven problematic. The Planning Department has consistently informed property owners interested in developing property within the extraterritorial areas of the City that they must demonstrate how they will be able to provide adequate facilities and services to the property while ensuring that the development will fit into the urban environment once the City grows into theses areas.

The following chart lists which services are provided by the City and which are provided by others:

Responsibility of City Includes	Responsibility of City Does Not Include	Responsibility of Township and/or County
• Land Use Planning • Zoning of Land • Subdivision • On-site Wastewater treatment (septic systems or holding tanks) • Zoning Enforcement • Building Permits • Building Inspection	• Road Maintenance • Flood Protection • City Fire Protection • City Police Protection • City Water Provision • Drainage of land or ditches	• Road and Ditch Maintenance – County maintains County highways, Townships maintain local/township roads. • Fire Protection • Police Protection • Cass Rural Water Users (CRWU)

In an effort to address these concerns and also take into account the policies of the City. Staff has developed a Conditional Use Permit (CUP) process that allows the review of proposed development on a case by case basis. The CUP process allows the City to engage in a higher level of review than a zone change, which may allow a use by right that is deemed incompatible with the existing development. The CUP process also allows the City to solicit comments from specific review agencies to ensure that adequate levels of services are available based on the scope and intensity of a proposed development. Ultimately the CUP process allows the City to ensure that development patterns within the extraterritorial area do not result in the occurrence of urban sprawl that could preclude redevelopment of the property/surrounding area at urban densities.

Text Amendments are subject to three review criteria per the LDC. The criteria are as follows:

1. **Is the amendment consistent with the purpose of this Land Development Code?**

The Purpose and Intent (Section 20-0104) of the LDC is stated as follows: "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 proposed text amendment will allow property owner within the Ag zoning district an opportunity for review of proposals. The approval criteria set forth within the proposed text amendment ensures that the implementation of Fargo's Comprehensive Plan and related policies protect the health, safety, and general welfare of the citizens of Fargo. **(Criterion Satisfied)**

2. Will the amendment adversely affect the public health, safety, or general welfare?

Staff contends that this amendment will not have an adverse affect on the public health, safety or general welfare. The text amendment allows a process for property owners within the Ag zoning district to request additional non-farm commercial land uses through the Conditional Use Permit process. A thorough review of the proposal will take place to ensure that adequate facilities and services are in place and that the proposed use is compatible to surrounding land uses, thus ensuring public health, safety and general welfare of the citizens of Fargo. **(Criterion Satisfied)**

3. Is the amendment necessary because of changed or changing social values, new planning concepts or other social or economic conditions in the areas affected?

Some property owners have claimed that the current regulations are too restrictive and that there should be a process in place for review of land use proposals that would not adversely affect the public health, safety of general welfare of the citizens of Fargo. In addition, during 2007 North Dakota Legislative Session, legislation was approved (HB 1321) that would reduce the Extraterritorial Zoning jurisdiction of the municipalities. **(Criterion Satisfied)**

Planning Commission Recommendation: (Public Hearing on June 13, 2007) In a 8-1 decision, the Planning Commission moved to recommend approval of the proposed text amendment to the City Commission as presented by staff with the following added stipulations:

1. Written comment from facility and service providers, addressing the adequacy of facilities and service shall be provided.

2. The written notice requirements of 20-0901 shall be extended to landowners within one (1) mile of the subject property.

Suggested Motion: " To accept the findings and recommendation of staff and the Planning Commission and hereby approve the proposed text amendment and make this the first reading of the Ordinance."

City Commission Decision: July 2, 2007

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4613

AN ORDINANCE AMENDING SECTION 20-0401, 20-0402, AND 20-1203 OF ARTICLES 20-04 AND 20-12 OF CHAPTER 20 OF THE FARGO MUNICIPAL CODE (LAND DEVELOPMENT CODE) RELATING TO NON-FARM COMMERCIAL USES

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

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

Section 20-0401, of Article 20-04 of Chapter 20 of the Fargo Municipal Code (Land Development Code) is hereby amended to read as follows:

Table 20-0401, as amended, is attached and incorporated as if fully set forth herein..

Section 2. Amendment.

Section 20-0402 of Article 20-04 of Chapter 20 of the Fargo Municipal Code (Land Development Code) is hereby amended to add a subsection T to read as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4613

§20-0402 Use Standards

. . .

T. Non-farm Commercial Uses

1. A Non-farm Commercial Use shall not be allowed unless it has been reviewed and approved in accordance with the Conditional Use Review procedures of Sec. 20-0909. In acting upon Conditional Use Permit requests for such use, the Planning Commission shall consider the following factors:

   a. The factors identified in Section 20-0909 (Conditional Use Permits).

   b. Whether adequate facilities and services including, but not limited to, sewage and waste disposal, domestic water, building construction and inspection, flood protection, gas, electricity, police and fire protection, and roads, as may be applicable are adequate under the circumstances. As part of the application for the Conditional Use Permit, the Zoning Administrator may require the applicant to obtain written comment from such facility and service providers as may be applicable.

2. The City Planner shall provide written notice of the Planning Commission public hearing in accordance with Section 20-0901-F except that the written notice shall be mailed to property owners within one (1) mile of the subject property. Notice of the Planning Commission's public hearing shall be published in accordance with Section 20-0901-F.

3. **Prohibited Uses.** Dispatch Centers, Firearms and Ammunition Sales and Adult Entertainment Centers Uses as defined in Section 20-0403.C.5 are prohibited uses.

4. Unless otherwise expressly stated, Conditional Use Permits for Non-farm Commercial uses granted pursuant to Section 20-0909 shall automatically terminate upon sale or transfer of the property.

Section 3. Amendment.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4613

Section 20-1203.D. of Article 20-12 of Chapter 20 of the Fargo Municipal Code (Land Development Code) is hereby amended to add a subparagraph D to read as follows:

§20-1203 Use Categories

* * *

D. Commercial Use Categories

* * *

10. Non-farm Commercial

a. Characteristics

Non-farm Commercial uses are those commercial uses identified in subparagraphs (D)(1) through (D)(9), hereof, but which occur in an AG, Agricultural District.

b. Accessory Uses

Accessory activities described in subparagraphs (D)(1) through (D)(9), hereof, is also a Conditional Use, permitted only after approval pursuant to Section 20-0909.

c. Examples

Examples include any of those examples listed under the particular uses described in subparagraphs (D)(1) through (D)(9), hereof.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 4613

d. Exceptions

Any of the exceptions listed under the particular uses described in subparagraphs (D)(1) through (D)(9), hereof, shall also be exceptions for purposes of a Non-farm Commercial use.

Section 4. Effective Date.

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

Section 5. Penalty.

Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed $500.00; the court to have power to suspend said sentence and to revoke the suspension thereof.

Dennis R. Walaker, Mayor

(SEAL)
Attest:

First Reading: 07-02-2007
Second Reading: 07-16-2007
Final Passage: 07-16-2007
Publication: 07-30-2007

Steven Sprague, City Auditor

Table 20-0401

Use Category	Definition (Excerpt; See Sec. 20-01203)	Specific Use Type	Zoning Districts																		
			AG	SR0	SR1	SR2	SR3	SR4	MR1	MR2	MR3	MHP	NO	NC	GO	LC	DMU	GC	LI	GI	PI
Residential																					
Household Living	residential occupancy of a dwelling unit by a "household"	House, Detached	P	P	P	P	P	P	P	P	P	P	P	P	C	C	P/C [E]	C	–	–	–
		House, Attached	–	-	–	–	P	P	P	P	P	P	P	P	C	C	P/C [E]	C	–	–	–
		Duplex	–	-	–	–	P	P	P	P	P	P	P	P	C	C	P/C [E]	C	–	–	–
		Multi-Dwelling Structure	–	-	–	–	–	–	P	P	P	P	P	P	C	C	P/C [E]	C	–	–	–
		Mobile Home Park	–	-	–	–	–	–	–	–	–	P	–	–	–	–	–	–	–	–	–
Group Living	residential occupancy of a structure by a group of people who do not meet the definition of "Household Living"		C	C	C	C	C	C	P	P	P	P	C	C	C	C	C/C [E]	C	–	–	–
Bed and Breakfast	a facility of residential character that provides sleeping accommodations and breakfast		C	C	C	C	C	C	C	C	C										
Institutional																					
College	colleges and institutions of higher learning		C	C	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	–	P/C [G]
Community Service	public, nonprofit, or charitable uses, generally providing a local service to the community		C/C [C]	C/C [C]	C/C [C]	C/C [C]	C/C [C]	C/C [C]	P/C [C]	P/C [C]	P/C [C]	P/C [C]	P/C [C]	P/C [C]	P	P	P/C [C]	P	P	–	P/C [G]
Day Care	care, protection and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day	1–7 children or adults [1]	P/C [D]	P/C [D]	P/C [D]	P/C [D]	P/C [D]	P/C [D]	P/C [D]	P/C [D]	P [D]	P [D]	P [D]	P [D]	P [D]	P [D]	P [D]	P [D]	P [D]	–	P/C [G]
		8–12 children or adults [1]	P/C [D]	P/C [D]	P/C [D]	P/C [D]	P/C [D]	P/C [D]	P/C [D]	P/C [D]	P/C [D]	P [D]	P [D]	P [D]	P [D]	P [D]	P [D]	P [D]	P [D]	–	P/C [G]
		13+ children or adults	–	-	–	–	–	–	C [D]	C [D]	C [D]	C [D]	C [D]	C [D]	P [D]	P [D]	P [D]	P [D]	P [D]	–	P/C [G]

[1] Not including the children or parents of the day care provider.

P = Use Permitted By-Right ■ **P/C** = Use Permitted By-Right But Subject to Use-Specific Standards of Sec. 20-0402
: = Conditional Use, Subject to Procedures of Sec. 20-0909 ■ Some uses also Subject to **Site Plan Review** (See Sec. 20-0910) or to a Traffic Impact Study as required by Sec. 20-0701L.

Use Category	Definition (Excerpt; See Sec. 20-01203)	Specific Use Type	Zoning Districts																		
			AG	SR0	SR1	SR2	SR3	SR4	MR1	MR2	MR3	MHP	NO	NC	GO	LC	DMU	GC	LI	GI	PI
Detention Facilities	facilities for the detention or incarceration of people		C	-	–	–	–	–	C	C	C	–	–	–	C	C	C	P	P	P	P/C [G]
Health Care Facility	medical or surgical care to patients, with overnight care		C	C	C	C	C	C	C	C	C	C	–	–	P	P	P	P	P	P	P/C [G]
Parks and Open Areas	natural areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, etc.,		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	–	P/C [G]
Religious Institution	meeting area for religious activities	≤ 500 seating capacity	–	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	–	P/C [G]
		501+ seating capacity	–	P/C [H]	P/C [H]	P/C [H]	P/C [H]	P/C [H]	P	P	P	P	P	P	P	P	P	P	P	–	P/C [G]
Safety Services	public safety and emergency response services		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P/C [G]
Schools	schools at the primary, elementary, middle, junior high, or high school level		–	P/C [I]	P/C [I]	P/C [I]	P/C [I]	P/C [I]	P/C [I]	P/C [I]	P/C [I]	–	–	–	C	C	C	C	C	–	P/C [G]
Utilities, Basic	infrastructure services that need to be located in or near the area where the service is provided		P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P [K]	P/C [K] [G]
Commercial																					
Adult Entertainment Center	an adult bookstore, adult cinema or adult entertainment facility		–	-	–	–	–	–	–	–	–	–	–	–	–	–	–	P/C [A]	P/C [A]	P/C [A]	–
Office	activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services		C	-	–	–	–	–	–	–	–	–	P	P	P	P	P	P	P	–	P/C [G]
Off-Premise Advertising Signs	billboard		C	-	–	–	–	–	–	–	–	–	–	–	P/C [B]	P/C [B]	P/C [B]	P/C [B]	P [B]	P	–

P = Use Permitted By-Right ■ **P/C** = Use Permitted By-Right But Subject to Use-Specific Standards of Sec. 20-0402
= Conditional Use, Subject to Procedures of Sec. 20-0909 ■ Some uses also Subject to **Site Plan Review** (See Sec. 20-0910) or to a Traffic Impact Study as required by Sec. 20-0701L.

Use Category	Definition (Excerpt; See Sec. 20-01203)	Specific Use Type	Zoning Districts																	
			AG	SR0	SR1	SR2	SR3	SR4	MR1	MR2	MR3	MHP	NO	NC	GO	LC	DMU	GC	LI	GI	PI
Parking, Commercial	parking that is not accessory to a specific use...fees may or may not be charged		C	-	–	–	–	–	–	–	–	–	–	–	P	P	P	P	P	P	P/C [G]
Recreation and Entertainment, Outdoor	large, generally commercial uses that provide continuous recreation or entertainment- oriented activities		C	-	–	–	–	–	–	–	–	–	–	–	–	C	C	P	P	–	P/C [G]
Retail Sales and Service	firms involved in the sale, lease or rental of new or used products to the general public...they may also provide personal services or entertainment, or provide product repair or services for consumer and business goods		C	--	–	–	–	–	–	–	–	–	–	P	–	P	P	P	P	–	–
Self-Service Storage	uses providing separate storage areas for individual or business uses		C	-	–	–	–	–	–	–	–	–	–	–	–	P/C [J]	–	P	P	–	–
Vehicle Repair	service to passenger vehicles, light and medium trucks and other consumer motor vehicles ...generally, the customer does not wait at the site while the service or repair is being performed		C	-	–	–	–	–	–	–	–	–	–	–	–	P/C [L]	P/C [L]	P	P	–	–
Vehicle Service, Limited	direct services to motor vehicles where the driver or passengers generally wait in the car or nearby while the service is performed		C	-	–	–	–	–	–	–	–	–	–	–	–	P	P/C [M]	P	P	–	–
Non-farm Commercial	Commercial Uses defined in Section 20-1203D occurring in AG, Agricultural Districts		C	-	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–

P = Use Permitted By-Right ■ **P/C** = Use Permitted By-Right But Subject to Use-Specific Standards of Sec. 20-0402
= Conditional Use, Subject to Procedures of Sec. 20-0909 ■ Some uses also Subject to **Site Plan Review** (See Sec. 20-0910) or to a Traffic Impact Study as required by Sec. 20-0701L.

Industrial																					
Industrial Service	firms engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products		–	-	–	–	–	–	–	–	–	–	–	–	–	–	C Q	–	P [F]	P	P/C [G]
Manufacturing and Production	firms involved in the manufacturing, processing, fabrication, packaging, or assembly of goods		–	-	–	–	–	–	–	–	–	–	–	–	–	–	C	C	P	P	P/C [G]
Warehouse and Freight Movement	firms involved in the storage, or movement of goods		–	-	–	–	–	–	–	–	–	–	–	–	–	–	C	P	P	P	P/C [G]
Waste-Related Use	uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material		–	-	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	C	P/C [G]
Wholesale Sales	firms involved in the sale, lease, or rental of products primarily intended for industrial, institutional, or commercial businesses		–	-	–	–	–	–	–	–	–	–	–	–	–	–	C	P	P	P	–

P = Use Permitted By-Right ■ **P/C** = Use Permitted By-Right But Subject to Use-Specific Standards of Sec. 20-0402
C = Conditional Use, Subject to Procedures of Sec. 20-0909 ■ Some uses also Subject to **Site Plan Review** (See Sec. 20-0910) or to a Traffic Impact Study as required by Sec. 20-0701L.

Other																					
Agriculture	raising, producing or keeping plants or animals	Animal Confinements	C	C [1]																C	P/C [G]
		Farming/Crop Production	P	C	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	P	P/C [G]
Aviation	facilities for the landing and takeoff of flying vehicles, including loading and unloading areas		C	C	–	–	–	–	–	–	–	–	–	–	C	C	C	C	P	P	P/C [G]
Surface Transportation			–	-	–	–	–	–	–	–	–	–	–	–	C	C	C	P C	P	P	P/C [G]
Entertainment Event, Major	activities and structures that draw large numbers of people to specific events or shows		C	-	–	–	–	–	–	–	–	–	–	–	–	–	C	C	C	–	P/C [G]
Mining	mining or extraction of mineral or aggregate resources from the ground for off-site use		C	-	–	–	–	–	–	–	–	–	–	–	–	–	–	–	C	P	–
Telecom-munications Facilities	devices and supporting elements necessary to produce non-ionizing electromagnetic radiation... operating...to produce a signal...	125 feet in height or less	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	P/C [N]	P/C [N]	P/C [N]	C [N]
		Greater than 125 feet in height	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C [N]	C [N]	C [N]	-
		Up to building height limit of applicable zoning district	P/C [N]	P/C [N]	P/C [N]	P/C [N]	P/C [N]	P/C [N]	P/C [N]	P/C [N]	P/C [N]	P/C [N]	P/C [N]	P/C [N]	P/C [N]	P/C [N]	C [N]	P/C [N]	P/C [N]	P/C [N]	C [N]	
		TSSs supported by Guy wires	C [N]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
		Attached Telecom-munications facilities	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]	C [N]

[1] In SR-0 districts, animal confinements are either permitted or a conditional use, subject to procedures of Sec. 20-0909, as described in Sec. 20-1203.C.2.b.

o = Use Permitted By-Right ■ **P/C** = Use Permitted By-Right But Subject to Use-Specific Standards of Sec. 20-0402
, = Conditional Use, Subject to Procedures of Sec. 20-0909 ■ Some uses also Subject to **Site Plan Review** (See Sec. 20-0910) or to a Traffic Impact Study as required by Sec. 20-0701L.

HB 1248

Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021

HOUSE BILL NO. 1248
(Representative B. Koppelman)

AN ACT to amend and reenact section 62.1-01-03 of the North Dakota Century Code, relating to the authority of a political subdivision regarding firearms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 62.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

62.1-01-03. Limitation on authority of political subdivision regarding firearms - Civil action.

1. A political subdivision, including home rule cities or counties, may not enact a zoning ordinance or any other ordinance relating to the purchase, sale, ownership, possession, transfer of ownership, registration, or licensure of firearms and ammunition which is more restrictive than state law. All such existing ordinances are void.

2. A person aggrieved under subsection 1 may bring a civil action against a political subdivision for damages as a result of an unlawful ordinance.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1248.

House Vote:	Yeas 81	Nays 11	Absent 2
Senate Vote:	Yeas 26	Nays 20	Absent 1

Chief Clerk of the House

Received by the Governor at 3:55 P.M. on April 20, 2021.

Approved at 7:58 P.M. on April 21, 2021.

Governor

Filed in this office this 22nd day of April, 2021,

at 9:23 o'clock A. M.

Secretary of State

2

Attachment 4

Aaron Nelson

Subject: RE: contact information - comments

From: Debra Pullen [redacted]
Sent: Tuesday, May 5, 2020 3:49 PM
To: Maegin Elshaug <MElshaug@FargoND.gov>
Subject: Re: contact information - comments

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Hi Maegin, Here are my comments/concerns:
First, I don't want to take anybody's guns away and I am not anti-hunting. I just don't think we need to make it more convenient for someone to buy weapons. There are enough options already, obviously, given the number of gun-related deaths (including suicide) in our country. Also, I am concerned that having a weapons stockpile in a home in a neighborhood could be a "green light" for burglary or accidents. I feel there is no need to change this ordinance but there could be very negative outcomes if this is allowed.
My questions are:
Who would be regulating these sales? Would this be allowed in any home, apartment, or other dwelling? Any neighborhood? Next to a school? How many weapons would they be able to have - is there a limit? Would this include assault weapons? Who would be regulating this and monitoring compliance? Who is going to buy these weapons and how will they know if the person is legitimate?
So I would like to encourage the Commission to keep the regulation as is.
Thank you for this opportunity to express my concerns on this very important matter.
Debra Pullen
3200 11th St. S. Fargo

PROPOSED CHANGE IN HOME OCCUPATION RULES RELATING TO THE PROHIBITION OF FIREARM AND AMMUNITION SALES

Fargo Neighborhood Coalition/DNA Position Statement

The Fargo Neighborhood Coalition (FNC) is a non-profit that exists to enhance and protect the livability and the quality of our neighborhoods in Fargo. We strongly support the City of Fargo efforts to uphold their great responsible for the livability and the sustainable quality of neighborhoods in Fargo.

The FNC's is taking a position on changing the Home Accessory Occupation language in Fargo's new Land Development Code is in response to the consideration by the Fargo City Commission to allow home-based firearm sales as an accessory occupation within a home.

The FNC is not opposed to firearms and ammunition sold legally by an Alcohol, Tobacco, and Firearms (ATF) licensed dealer in commercially zoned areas of Fargo, as is the current situation. We believe this policy is fully adequate for an individual to be a licensed dealer or to purchase firearms if they wish to do so.

The FNC is opposed to changing Fargo's current wording in the Land Development Code that would allow the Federal Firearm Licensed (FFL) sale of firearms and ammunition as an "accessory occupation within a home" (home-based business). This change would open up the ability for the sales of firearms and ammunition by licensed dealers from within their homes, whether it is in a multi-use dwelling, a multi-family dwelling such as apartments, any home with "shared walls", or a single-family residences.

Why Not A Change: A change to allow firearm and ammunition sales as an accessory occupation in a home, per the expressed request of exploration by the Fargo City Commission, and as "not recommended" by the Planning Commission on a vote of 5 to 3, is of great concern and presents numerous challenges. Those challenges include:

- **Federal:**
  - Federal on-site inspections are rare and irregular. As of 2018, the ATF inspected only 12.9% of all licensed, firearm business dealers and only 7.7% of all licenses. Applicants do receive an inspection prior to approval. However, as stated there is little ability by the ATF for regular follow up. (https://www.atf.gov/firearms/docs/report/2019-firearms-commerce-report/download , pp 21.)

- **North Dakota Laws and Safety:**
  - Although the licensed firearms dealers go through background checks by the ATF, in North Dakota an owner of a handgun, shotgun or rifle need not be registered, permitted, or licensed. This offers little protection to a neighbor or neighborhood regarding a purchaser from a home-based dealer.
  - Being a dealer increase the odds of many ammunitions being present. Ammunitions are considered a fire/explosive hazard and were pointed out by the Fargo Fire Department as a challenge. There are no clear long-term requirements regarding the safe storage of firearms, ammunition, or gunpowder for a home since the Fargo Fire Department does not inspect home-based businesses. The ATF does require secure gun storage or safe devices, which may include trigger locks or gun safes. Without inspections, it is impossible to have oversite compliance.
    - Regardless on the constraint on number of customers allowed in Fargo for an accessory occupation in the home, there is no regulation in ND on the number of firearms and ammunitions stored in a home. As well, In ND there is no law regulating ammunitions by type, large capacity magazines or assault weapons. (https://www.nraila.org/gun-laws/state-gun-laws/north-dakota/).
- **Fargo:**
  - The highly intense stances on firearms and ammunitions within the Fargo neighborhood communities.
  - Notice of the license application by the ATF is provided to the "chief law enforcement officer of Fargo" for their background check; however, there is no city-wide process beyond that to deal with a home-based firearms and ammunition dealer. (https://www.atf.gov/file/61506/download)

- Inspection are not required in Fargo for accessory occupations in the home, and thus the Fargo Fire Department would not inspect an FFL-accessory occupation residence, but it does inspect commercial retail. It also appears that it would not be legal to place added burdens on an FFL as a home-based seller. Thus It leaves no heightened protection for the neighborhood when a firearms and ammunition dealer is present.
- Fargo does not require notice to neighbors of the existence of an accessory occupation in the home and if enacted, there is no legal path for neighbors to complain if they believe their safety or well-being is jeopardized by a firearms or ammunition dealer.
- The Federal Firearms License (FFL) has multiple types and complexities with the three types of dealers: 01 Other Weapons; 02 Pawn Brokers; and 09 Destructive Devices such as grenades and poisonous gas. The city has not considered the implications of 02 Pawn Broker licenses or the 09 Destructive Devices licenses should they be awarded by the ATF.
- Safety concerns for customers leaving the premise with firearms and ammunition; and in case of a pawn broker license or for any license, for customers coming into the neighborhood since they do not require back ground checks, licensing, permitting or registration unless it is for hand guns, rifles and shotguns.
- Genuine concerns about property values when/if it becomes known that firearms and/or ammunition is sold from a home in the neighborhood.
- Difficulty in obtaining a needed inspection since an individual's home has more protection and required legal support to qualify for an inspection by the City (inspections, fire, or police).

- **The Federal Firearm Licenses and Counts in ND** (https://www.atf.gov/firearms/docs/report/2019-firearms-commerce-report/download)
  - Although "09" Destructive devices "and the sale of short barreled rifles and shotguns require extra oversight under the National Firearms Act, the counts of those weapons in ND as provided by the ATF, suggest that more investigation is needed prior to any consideration for a firearms and ammunitions dealer set up as accessory occupation in a home. (https://www.atf.gov/firearms/docs/report/2019-firearms-commerce-report/download and image in attachment).
- **Trends:** Nationally an increase in the theft of firearms from FFL holders was a 200% increase since 2013. The reported lost or theft of guns to the ATF/FBI are relatively small yet, but the trend is concerning. (https://www.atf.gov/firearms/federal-firearms-licensee-ffl-burglary-and-robbery-statistics-calendar-years-2013-2017
  - In North Dakota the AFT reported firearm losses were: 2017 - 81; 2018 - one; and 2019 - 35. (https://www.atf.gov/file/142186/download)
  - Nationally between 2008-2018 there was a 400% increase in the number of application forms by the ATF for dealer licenses. This trend is added concern for an increase in those seeking in home accessory occupation status. (https://www.atf.gov/firearms/docs/report/2019-firearms-commerce-report/download)
  - Per a national cite that assists individuals in obtaining a RRL, and that is approved by the NRA and the Better Business Bureau regarding in-home licensing, " This allows individuals to have firearms shipped directly to their home and gives you the opportunity to purchase weapons from manufacturers and supplies and wholesale prices. This can result in savings of 30% or greater, which for an avid weapons collector can be thousands of dollars within a few years." "Many are drawn to an FFL as a way to circumnavigate some of the restrictions surrounding the purchase of a personal firearm." https://www.ffl123.com/obtaining-home-based-ffl/

Because of the long list of facts and concerns, the FNC urges the Fargo City Commission to deny a request for a change that allows firearms and ammunition dealers to operate as an accessory occupation from their homes. The FNC requests you retain the current prohibition.

The FNC supports Fargo's current commercial zoning of firearms and ammunition sales.

References

ND Firearm Laws: https://www.nraila.org/gun-laws/state-gun-laws/north-dakota/

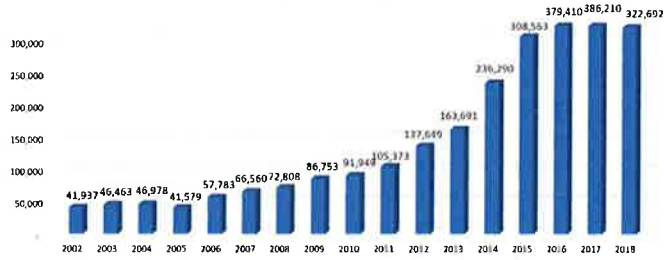
The Alcohol, Tobacco and Firearms (ATF): A law enforcement agency in the United States' Department of Justice that protects our communities from violent criminals, criminal organizations, the illegal use and trafficking of firearms, the illegal use and storage of explosives, acts of arson and bombings, acts of terrorism, and the illegal diversion of alcohol and tobacco products. We partner with communities, industries, law enforcement, and public safety agencies to safeguard the public we serve through information sharing, training, research, and use of technology. (www.atf.gov)

Application form for an FFL License: https://www.atf.gov/file/61506/download

Number of Forms ATF for Firearms

Between 2008 and 2018, the number of NFA Forms processed increased over 400%.

Exhibit 7b. National Firearms Act Forms Processed by Fiscal Year (2002 - 2018)



ATF RRL Categories:
https://www.atf.gov/resource-center/types-federal-firearms-licenses-ffls

Dealers:

01 – Dealer in firearms other than destructive devices.

02 – Pawnbroker in firearms other than destructive devices.

09 – Dealer in destructive devices.

Manufacturers:

06 – Manufacturer of Ammunition for Firearms Other Than Ammunition for Destructive Devices or Armor Piercing Ammunition.

07 – Manufacturer of firearms other than destructive devices.

10 – Manufacturer of destructive devices, ammunition for destructive devices or armor piercing ammunition.

Importer:

08 – Importer of firearms or ammunition for firearms other than destructive devices or ammunition other than armor piercing ammunition.

11 – Importer of destructive devices, ammunition for destructive devices or armor piercing ammunition

Other: 03 – Collector of curios and relics.

North Dakota Licenses and Reported Firearm License Counts by Types, April 2020

https://www.atf.gov/firearms/docs/undefined/ffltypebystate04-10-2020pdf/download

https://www.atf.gov/firearms/docs/report/2019-firearms-commerce-report/download **page 15.**

ND Categories	Pending Apps	01 "Other"	02 Pawn Brokers	03 Collector of Curios and Relics	06 Manufacture of Ammunitions	07 Manufacturing of "Other Non Destructive Arms"	08 Importer Firearms/Ammunition	09 (Destructive Devices)	010 Manufacturer of Destructive Devices	011 Importer of Destructive Devices or Amour Piercing	TOTAL
Counts	7	465	23	162	8	33	5	0	0	0	696
% of Total	1.0%	66.8%	3.3%	23.3%	1.1%	4.7%	0.7%	0.0%	0.0%	0.0%	100.0%

Exhibit 8 National Firearms Act, Registration by State

North Dakota	Other Weapon	Destructive Devices	Machineguns	Silencer	Long Barreled Rifle	Short Barreled Guns	Total
Counts Registered	202	3,404	1,630	12,712	1,473	299	19,720
% of Total	1%	17%	8%	64%	7%	2%	100%

(https://www.atf.gov/firearms/docs/report/2019-firearms-commerce-report/download page 15)

Obtaining a Home-Based FFL: https://www.ffl123.com/obtaining-home-based-ffl/

Definitions of RRL Weapon Categories: https://www.atf.gov/firearms/docs/report/2019-firearms-commerce-report/download

1 The term "any other weapon" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

2 Destructive device generally is defined as (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) device similar to any of the devices described in the preceding paragraphs of this definition; (b) any type of weapon (other than a shotgun or a shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (c) any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) or (b) of this section and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10, United States Code; or any other device which the Director finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes.

3 Machinegun is defined as any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

4 Silencer is defined as any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for the use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

5 Short-barreled rifle is defined as a rifle having one or more barrels less than 16 inches in length, and any weapon made from a rifle, whether by alteration, modification, or otherwise, if such weapon, as modified, has an overall length of less than 26 inches. 6 Short-barreled shotgun is defined as a shotgun having one or more barrels less than 18 inches in length, and any weapon made from a shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than 26 inches. 1 The term "any other weapon" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition. 2 Destructive device generally is defined as (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (

6) device similar to any of the devices described in the preceding paragraphs of this definition; (b) any type of weapon (other than a shotgun or a shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (c) any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) or (b) of this section and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10, United States Code; or any other device which the Director finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes. 3 Machinegun is defined as any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person. 4 Silencer is defined as any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for the use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication. 5 Short-barreled rifle is defined as a rifle having one or more barrels less than 16 inches in length, and any weapon made from a rifle, whether by alteration, modification, or otherwise, if such weapon, as modified, has an overall length of less than 26 inches. 6 Short-barreled shotgun is defined as a shotgun having one or more barrels less than 18 inches in length, and any weapon made from a shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than 26 inches.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3801

AN ORDINANCE AMENDING SECTION 20-0402 AND 20-0403
OF ARTICLE 20-04 OF CHAPTER 20 OF
THE FARGO MUNICIPAL CODE (LAND DEVELOPMENT CODE)
RELATING TO FIREARM AND AMMUNITION SALES

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

Section 20-0402 of Article 20-04 of Chapter 20 of the Fargo Municipal Code (Land Development Code) is hereby amended to read as follows:

§20-0402 Use Standards

* * *

T. Non-farm Commercial Uses

* * *

3. Prohibited Uses. Dispatch Centers~~, Firearms and Ammunition Sales~~ and Adult Entertainment Centers Uses as defined in Section 20-0403.C.5 are prohibited uses.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Amendment.

Section 20-0403 of Article 20-04 of Chapter 20 of the Fargo Municipal Code (Land Development Code) is hereby amended to read as follows:

§20-0403 Accessory Uses

* * *

C. Home Occupations

* * *

~~**e. Firearms and Ammunition Sales**~~

~~The sale of firearms and/or ammunition, and the production of ammunition for sale or resale are prohibited as home occupations.~~

e. ~~f.~~ Adult Entertainment Center Uses

Entertainment or sale of goods defined as adult bookstore, adult cinema, adult entertainment facility, or adult entertainment center as defined in Sec. 20-1202 are not allowed as a home occupation.

Section 3. Effective Date.

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 Reading:

THE CITY OF Fargo
FAR MORE

Planning & Development
225 4th Street North
Fargo, ND 58102
Office: 701.241.1474 | Fax: 701.241.1526
Email: planning@FargoND.gov
www.FargoND.gov

384

MEMORANDUM

TO: City Commission

FROM: Nicole Crutchfield, Planning Director NC

DATE: June 10, 2021

RE: Renaissance Zone Application for Epic Gateway East Real Estate Holdings, LLC (326-F) located at 300 Main Avenue

---

The city received a Renaissance Zone (RZ) application from Epic Gateway East Real Estate Holdings, LLC to construct a new building at 300 Main Avenue. The request was reviewed by the Renaissance Zone Authority (RZA) on [Date].

Pursuant to the application, the intent of the project is to remove the existing underutilized Gateway Mall and construct a new 7-story, 188,310 square foot building with underground and main floor parking, 20,000 square feet of ground floor commercial and office space, and over 108,000 square feet of for sale condominiums. The construction would begin summer of 2021 with the proposed timeframe of opening in fall of 2022.

The applicant has underground and main floor parking to accommodate 116 cars, they have determined that that amount of underground and main floor parking can be rented to some of the office tenants as well as the residents. The Epic Gateway North building is anticipated to be open mid-July and construction will start on the South building in July. The developer states that construction will be contained on the site of the new building as to not disrupt the other buildings on the site.

Attached is a copy of the staff report and corresponding materials.

As indicated in the attached documentation, the project met all state and local requirements for approval and is consistent with a number of goals and objectives as established in the Fargo Renaissance Zone Development Plan. The application indicates an investment of nearly $31,000,000 which exceeds the minimum investment threshold as set forth in the plan.

The RZA unanimously recommended approval of this project.

Recommended Action: Approve the Renaissance Zone rehabilitation application for Epic Gateway East Real Estate Holdings, LLC and grant state income tax and property tax exemptions as recommended by the Renaissance Zone Authority.

EQUAL HOUSING OPPORTUNITY

THE CITY OF Fargo FAR MORE

Renaissance Zone Staff Report for
Epic Gateway East Real Estate Holdings, LLC (326-F)
300 Main Avenue

Project Evaluation:

The City of Fargo received a Renaissance Zone application from Epic Gateway East Real Estate Holdings, LLC to construct a mixed-use commercial and residential building at 300 Main Avenue. Pursuant to the application, the intent of the project is to remove the existing underutilized Gateway Mall and construct a new 7-story, 188,310 square foot building with underground and main floor parking, 20,000 square feet of ground floor commercial and office space, and over 108,000 square feet of for sale condominiums.

The construction would begin summer of 2021 with the proposed timeframe of opening in fall of 2022.

The Planning Department has reviewed the application and has provided a project ranking based on the analysis below:

1. **Renaissance Zone Plan Goals:** Use consistent with the RZ Plan (as per Visions and Goals): As noted in the 2019 Renaissance Zone Development Plan. *(information in item 1 are response from applicant)*

   a. *Grow as a Neighborhood:* Invest in housing to increase the population living Downtown and maintain Downtown's diversity.
   EPIC Gateway East Building will provide a variety of units ranging from one bedroom to 3 bedroom for individual ownership. The mixed-use concept will create a sense of walkability and opportunity for additional foot traffic in this area. It increases the living downtown by providing another option for people to own property downtown creating opportunity for people to live, work and play in the downtown.

   b. *Prosper as a Business Center:* Increase the number and types of jobs Downtown.
   This mixed-use building will have approximately 20,000 sf of commercial space providing opportunities for additional businesses (office and work share areas) to be in the downtown area as well as offer employment for people in the area and could have approximately 64 employees that would be working in the downtown area every day, let alone have the option to live above their workplace.

   c. *Thrive as a Destination:* Create a unique Downtown experience with an activated riverfront and vibrant sidewalks and public spaces that serve as the backdrop of the community's social life.
   Downtown Fargo is currently a destination location with events that take place during the week and weekends attracting all people to the area. This project will enhance the look and feel of the current Main Avenue in a space that has been a parking lot since 1970, creating vibrant sidewalks with easy walkability and activating the riverfront and Island Park where families are well entertained. We want to ensure the landscape, look and feel is similar to what the downtown area has found to be successful with additional business and tenants. The more activity and public spaces we can create, the better we are creating this mixed-use community for all to enjoy.

   d. *Be a model for Inclusive Growth and Development:* Protect Downtown's diversity and evolve as a model for equitable growth and development.
   We have experience with mixed-use buildings, it seems that this has brought a diverse audience and mix of commercial and residential tenants. The tenants like the live, work, play mentality. This model has proved to work creating equitable growth and continuing to support the model that has been working for the downtown Fargo area. With our ability to control rates we will be one of the few new buildings downtown that can be available to all different economic levels. We want to do what's best for the area and continue the development style that creates equity and growth for home owners.

   e. *Complete our Streets:* Make complete streets common place and encourage trips by foot, bicycle, and bus, as well as car.

One of our main goals is providing underground parking to ensure that tenants have a place to park their cars and then get out and walk, bike, or bus. We want them to have the ability and freedom to hardly have to start their car and use public transportation, foot traffic and more to support the downtown businesses. We provide bike racks, sidewalk, and extensions of the sidewalks, customer serve type businesses and more to support this idea. We want to increase the productivity of the area by providing multiple services for our diverse target audience. With this currently being an underutilized building, we believe this project will transform this area.

f. *Park Smart:* Manage parking resources to meet the needs of drivers, while also making room for new development and activity.
We will manage the parking by providing underground parking and main floor parking. The goal would be to take the underutilized space and maximize it the best way we know how and that's to build vertical buildings that provide a better quality of life. We want to keep increasing activity and provide a very active area where young adults, families and seniors feel comfortable coming to spend the day.

g. *Play with purpose:* Develop a system of connected all-season green spaces designed for people (of a range of ages and interests) and purpose (as infrastructure that absorbs stormwater).
We are working with the City of Fargo and Fargo Housing Authority to ensure we will have adequate green spaces that connect all the spaces together and provide a variety of activities for all ages. We will host activities such as farmers markets, work out classes, game days, family fun nights, and more that continue to drive activity to the area. The mixed-use infrastructure that we will create will be focused on providing the shelter for these green spaces along with protection from the outdoor elements and Mother Nature. The infrastructure is important to enhance the sustainability of the area. Another important part of our green space is embracing the art community and allowing for opportunities of public art to be displayed in these areas.

(20/20 points)

2. **Investment Thresholds:** Does the investment comply with minimum investment thresholds (locally determined) for residential and commercial projects as set forth in this RZ Plan?

According to the application, the structure accommodates 188,310 square feet, as follows:

- *Proposed Building Total:* approximately 188,310 SF
- *Commercial:* approximately 20,000 SF
- *Residential:* approximately 108,000 SF
- *Parking:* approximately 60,310SF

Overall, the application estimates a total capital investment of $31,000,000, which calculates to approximately $164.00 per square foot.

(10/10 points)

3. **High Priority Land Use:** The new construction or proposed improvements are representative of "High Priority Land Uses" as defined by this RZ Plan (page 9).

a. Primary Sector Business:
N/A

b. Active Commercial, Specialty Retail or Destination Commercial:
The proposed mixed-use project will have active commercial/retail storefronts in Fargo's downtown core and increase activity on an underutilized block.

c. Mixed Use Development:
The proposed uses will include commercial/retail, residential units (for sale condominiums), and underground parking in one building structure.

(18/20 points)

4. **Targeted Areas:** Is the investment located in a "Targeted Area" as defined by this RZ Plan? Consideration shall be given to whether this property has been vacant or underutilized for a period of time and/or whether the property is specifically targeted for clearance.

   a. Parcels that have been vacant or underutilized for an extended period of time:
   This site contains a single story strip mall and surface parking lot for many years.

   b. Parcels specifically targeted for clearance:
   The RZ Plan identifies Block 29 for residential/mixed use buildings

   (10/10 points)

5. **Urban Design:** Is the project representative of strong urban design principles?

   The project does embody strong urban design principles. The building will be placed close to Main Avenue and will allow for pedestrians to walk directly into the commercial spaces from the sidewalk. The building consists of a variety of materials as well as projections and recessions which creates architectural interest. The project is located within the DMU, Downtown-Mixed Use, zoning district and will have to meet the architectural intent of that zoning district as well.

   (10/10 points)

6. **Investment Analysis:** Consideration and analysis as to the total actual investment.

   As proposed, the redevelopment project and improvement costs significantly exceed both the 50% (true and full value of the building) and $100 per square foot requirement. As previously noted, the application represents a total estimated investment of $31,000,000.

   (10/10 points)

7. **Business Relocation:** Consideration as to whether the project will include or accommodate the relocation of a business from another North Dakota community?

   The project does not involve the movement or relocation of a business from another North Dakota community.

   (10/10 points)

8. **Street Activation:** Will the project fit contextually and will the project contribute or enhance the area from an architectural perspective?

   Main Avenue was recently reconstructed to be more pedestrian friendly as well as slowing vehicular traffic. This project will enhance the area from an architectural perspective. When traveling west on Main Avenue, citizens will see facades with varying degrees of recesses and projections as well as architectural materials. The applicant has also stated that the project will provide a range of activities that will also connect to the green space to the east.

   (10/10 points)

Summary:

This application received a score of 98 on a 100-point scale. The applicant met all required criteria and the use is consistent with the RZ Plan. In addition, the proposed new construction project surpasses the local capital improvement requirement of $40 per square foot for a commercial rehab and $100 per square foot for new construction.

This project is consistent with the RZ Plan to provide a mixed-use development within a target area that acts as an activity generator by providing for residential units and street-level retail activity.

The amount invested in the project exceeds state and local guidelines. The project does not involve the relocation of commercial businesses from another North Dakota city. The applicant will not be seeking any historic preservation tax credits.

This project will make use of a lot that is currently underutilized. Staff believes that this project will be a benefit to the downtown community and will positively contribute to the health of surrounding businesses.

Suggested motion:

Recommend approval to the Fargo City Commission to approve the application submitted by Epic Gateway East Real Estate Holdings, LLC and to grant the property tax exemption and the State income tax exemptions as allowed by the ND Renaissance Zone law contingent upon completion of the project and verification of costs.

Minimum Criteria (New Construction Proposals)			
Criteria:		Staff Rating	Possible Points
1	Use consistent with the plan (as per Vision and Goals)	20	20
2	Does the investment comply with minimum investment thresholds (locally determined) for residential and commercial projects as set forth in the RZ Plan?	10	10
3	The new construction or proposed improvements are representative of "High Priority Land Uses" as defined in the RZ Plan: • Primary sector business • Active Commercial, Specialty Retail and/or Destination Commercial • Mixed use development (combination of housing, commercial, and/or retail uses in a horizontal or vertical fashion) • Large, upscale residential units	18	20
4	The investment is located in a 'Target Area' as defined by the RZ Plan: • Parcels that have been vacant or underutilized for an extended period of time • Parcels specifically targeted for clearance	10	10
5	Is the project representative of strong urban design principles?	10	10
6	Consideration as to whether the project will include or accommodate the relocation of a business from another North Dakota community: • Commercial tenants that are re-locating within the Downtown Area (as defined by the 1996 Downtown Area Plan) are not eligible for tax incentives without special approval from the Zone Authority • Commercial tenants that are relocating from a North Dakota community (other than Fargo) to the Fargo Renaissance Zone are not eligible for tax incentives without special approval from the Zone Authority.	10	10
7	Consideration and analysis as to the total actual investment in the project: Consideration can be given for the level of capital investment in a project. (i.e., additional consideration can be given for higher levels of investment)	10	10
8	Will the project fit contextually and will the project contribute or enhance the area from an architectural perspective?	10	10
Total Rating (100 possible points)		98	100

3 ST N
ALY N
MACHINERY ROW AVE N
4 ST N
2 ST N
MAIN AVE
Subject Property
MAIN AVE
MAIN AVE
2 ST S
1 AVE S
4 ST S
2 ST S

THE CITY OF Fargo FAR MORE

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

3807

June 9, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

RE: New or Expanding Business Exemption

Dear Commissioners:

Attached is the application made by Standard Industries, Inc. for a 5 year new industry property tax incentive according to N.D.C.C. Chapter 40-57.1. This application is for a newly constructed building to expand their operation, which involves fabrication of steel and aluminum products.

Notices to competitors have been published. The Tax Exempt Review Committee has met to consider this application. No potential competitors appeared at the Tax Exempt Review meeting. This project meets our current policy. The application contains information regarding projected value of the expansion, the nature of jobs to be created, and a description of the product line. The applicant will pay the full land tax estimated at approximately $30,000 per year. The value of the building is estimated at $5,907,000 and the property tax savings would be about $82,000 per year.

The recommendation of the Tax Exempt Review Committee is to approve a 5-year property tax incentive.

SUGGESTED MOTION:
Approval of a 5-year, 100% exemption on improvements for Standard Industries, Inc. at 5650 13 Ave N.

Sincerely,

Mike Splonskowski
City Assessor

Gate Keepers
Jim Gilmore
Ryan Aashiem

-2 Meeting Process -

Application For Property Tax Incentives For New or Expanding Businesses

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

Project Operator's Application To Fargo / Cass
City or County

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

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

This application is a public record

Identification Of Project Operator

1. Name of project operator of new or expanding business: Standard Industries, Inc.
2. Address of project: 5650 13th Ave. N
   City: Fargo, ND County: Cass
3. Mailing address of project operator: 4230 14th Ave. N
   City: Fargo State: ND Zip: 58102
4. Type of ownership of project
   - ☐ Partnership
   - ☒ Corporation
   - ☐ Subchapter S corporation
   - ☐ Cooperative
   - ☐ Individual proprietorship
   - ☐ Limited liability company
5. Federal Identification No. or Social Security No. [redacted]
6. North Dakota Sales and Use Tax Permit No. [redacted]
7. If a corporation, specify the state and date of incorporation: North Dakota – 11-07-91
8. Name and title of individual to contact: Mike Lepine
   Mailing address: 4230 14th Ave. N
   City, State, Zip: Fargo ND 58102 Phone No. 701-282-7550

Project Operator's Application For Tax Incentives

9. Indicate the tax incentives applied for and terms. Be specific.

   ☒ **Property Tax Exemption**
   - 5 Number of years
   - 100% Percent of exemption

   ☐ **Payments In Lieu of Taxes**
   - _____ Beginning year _____ Ending year
   - _____ Amount of annual payments (attach schedule if payments will vary)

10. Which of the following would better describe the project for which this application is being made:
    - ☒ New business project
    - ☐ Expansion of a existing business project

Description of Project Property

11. Legal description of project real property
Lot one, in Block One, of Commerce on 12th Addition to the City of Fargo, situate in the County of Cass on the State of North Dakota.

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

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?
☒ Yes ☐ No

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

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

If existing facility, when was it constructed? N/A

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application 7-19-21

b. Description of project to be constructed including size, type and quality of construction
Construct A New Office/Manufacturing Building in the North Fargo Industrial Park. Standard Industries, Inc. will move their operations to the new facility. 120,000 Total Sq. Ft. Valor Contacting (Builder)

c. Projected number of construction employees during the project construction

14. Approximate date of commencement of this project's operations 10-01-22

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

a. Land ..... $ 1,290,000

b. Existing buildings and structures for which an exemption is claimed ..... $ -0-

c. Newly constructed buildings and structures when completed ..... $ 5,907,000

d. Total ..... $ 7,197,000

e. Machinery and equipment ..... $ 1,200,000

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

a. Land (not eligible) ..... [redacted]

b. Eligible existing buildings and structures ..... $ -0-

c. Newly constructed buildings and structures when completed ..... $ 295,350

d. Total taxable valuation of property eligible for exemption (Add lines b and c) ..... $ 295,350

e. Enter the consolidated mill rate for the appropriate taxing district 277.19

f. Annual amount of the tax exemption (Line d multiplied by line e) ..... $ 81,868

Description of Project Business

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

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

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

- See Attached -

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

Metal fabrication equipment - Tube Laser, fiber Laser, machining centers - mills + Lathes, press brake

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

Year *(12 mo. periods)*	New/Expansion Project only Year 1	New/Expansion Project only Year 2	New/Expansion Project only Year 3	New/Expansion Project only Year 4	New/Expansion Project only Year 5
Annual revenue	7,500,000	8,300,000	9,100,000	10,000,000	11,000,000
Annual expense	7,348,000	8007,000	8,700,000	9,400,000	10,100,000
Net income	152,000	293,000	400,000	600,000	900,000

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

Current positions & positions added the initial year of project

# Current Positions		New Positions Under $13.00	New Positions $13.01-$15.00	New Positions $15.01-$20.00	New Positions $20.01-$28.00	New Positions $28.01-$35.00	New Positions Over $35.00
38					7	5	

Year		(Before project)	Year 1	Year 2	Year 3	Year 4	Year 5
No. of Employees	(1)	38	50	56	64	72	80
	(2)	-	-	-	-	-	-
Estimated payroll	(1)	1,700,000	2,300,000	2,600,000	3,000,000	3,375,000	3,750,000
	(2)	-	-	-	-	-	-

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

Previous Business Activity

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

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

24. Has the project operator or any officers of the project received any prior property tax incentives? ☐ Yes ☒ No
If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary).

Business Competition

25. Is any similar business being conducted by other operators in the municipality? ☐ Yes ☒ No
If YES, give name and location of competing business or businesses

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

Property Tax Liability Disclosure Statement

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

27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property? ☐ Yes ☒ No
If the answer to 26 or 27 is Yes, list and explain

Use Only When Reapplying

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

Notice to Competitors of Hearing

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

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

Signature | President (Title) | 4/25/21 (Date)

PRIVACY ACT NOTIFICATION

In compliance with the Privacy Act of 1974, disclosure of a social security number or Federal Employer Identification Number (FEIN) on this form is required under N.D.C.C. §§ 40-57.1-03, 40-57.1-07, and 57-01-15, and will be used for tax reporting, identification, and administration of North Dakota tax laws. Disclosure is mandatory. Failure to provide the social security number or FEIN may delay or prevent the processing of this form.

Certification of Governing Body (To be completed by the Auditor of the City or County)

The municipality shall, after granting any property tax incentives, certify the findings to the State Tax Commissioner and Director of Tax Equalization by submitting a copy of the project operator's application with the attachments. The governing body, on the _____ day of _____, 20____, granted the following:

☐ **Property Tax Exemption**

_____ Number of years

_____ Percent of exemption

☐ **Payments in lieu of taxes**

_____ Beginning year _____ Ending year

_____ Amount of annual payments (Attach schedule if payments will vary)

_____
Auditor

Nature of Business/Structure/Evolution:
Lepine Holdings, LLC (LH) was organized in the State of ND in 2015 as an LLC and is owned 100% by Michael J. Lepine. The entity was formed to hold title to commercial property that is leased to related parties operating as Standard Industries, Inc. and Alloway Standard, Inc.

Standard Industries, Inc. (SII) is organized in the State of ND as a C-Corporation. The company is currently owned 100% by Michael J. Lepine. SII is a family-owned company that was established after WW II in Fargo, ND. In 1976, Mike's dad (Jim) acquired the company from his father & uncle and operated the company for roughly forty years. Jim was a very astute businessman and grew the company once he gained control. Mike bought out his father in 2016 and is in full control of the business operations. SII operates as a metal fabrication business and provides a variety of stainless steel, precision steel, and aluminum products to their clientele in primarily MN and ND. They work closely with some larger industrial type companies (i.e. American Crystal Sugar / True North / Cargill / Minn-Dak) and have enjoyed long-lasting relationships. At the same time, they provide various other products for job-shop based orders.

Alloway Standard, Inc. (ASI) used to operate separately but is now wholly owned by Standard Industries, Inc. and is a division within SII. All assets, business operations and financials flow through SII. In 2003, Jim and his son Mike purchased the Alloway Sugarbeet Equipment line from Woods Equipment Co., with the idea to be more diversified, grow the company's sugarbeet heritage and continue the success of the agricultural equipment line. ASI manufactures and sells cultivators, seedbedders, shredders, defoliators, sugarbeet harvesters for: organic crops, corn, cotton, sweet potatoes, vegetables, hemp, edible beans, sugarbeets, and potatoes.

NORTH Dakota | Commerce
Be Legendary.™

February 23, 2021

Robert Arends
Standard Industries Inc
4230 14th Ave N
Fargo, ND 58102-2841

Dear Robert:

Thank you for your application for primary-sector certification by the North Dakota Department of Commerce, Economic Development & Finance Division. We have reviewed your application and determined that ED&F can certify your company, **Standard Industries Inc**, as primary sector and a new wealth creator in the economy of North Dakota. This certification is valid for **four years** from today's date (expires 2/22/2025).

Most of North Dakota's economic development programs, tools and incentives are targeted toward primary-sector clients. You may be requested to provide a copy of this primary-sector certification letter when you apply for certain economic development incentive and funding programs.

This certification does not guarantee the receipt of any North Dakota business incentive. For example, there are additional qualification criteria for the Seed Capital Investment and Agricultural Business Investment personal income tax credits, and it is critical that investments **NOT** be made prior to the business receiving certification for these two credits. If you are pursuing certification for investment tax credits and need to know the criteria required for qualification, contact Joe Cicha 701-328-7283.

This certification is not the application process for the North Dakota New Jobs Training Program administered by Job Service North Dakota. To apply for the North Dakota New Jobs Training Program, you must contact Job Service North Dakota for the required application forms. Application forms for other programs that require primary sector certification are available from the agency administering the program.

Also, companies and individuals pursuing the investment tax credit incentive are reminded there is a cap on available dollars. Please visit with the ND Office of the Tax Commissioner regarding the remaining balance for investment tax credits. The credits are available on a first-come-first-serve basis until the law-defined cap is met.

North Dakota appreciates your contribution to the citizens and economy of our state. If there is anything further we can do to assist your company, please contact us at 701-328-5300.

Sincerely,

Joshua Teigen, Director
Economic Development & Finance Division

Exemption Evaluation Calculator 2020			96.8			110.6
Standard Industries Inc.			Points			Points
Project Type Code (Ctrl-C to view)		1	38.0		1	38.0
Current Number Of Employees	Year 1	38		Year 3	38	
Hourly Salary Without Benefits	# Jobs			# Jobs		
Under $13.00						
$13.01-$15.00						
$15.01-$20.00						
$20.01-$28.00	7	Pts. For # Jobs->	6.0	18	Pts. For # Jobs->	20.0
$28.01-$35.00	5	Pts. For $ Jobs->	12.8	8	Pts. For $ Jobs->	12.6
Over $35.00						
TOTAL # OF JOBS CREATED	12			26		
% GI w/ Local Competition (not downtown)			25.0		0%	25.0
Value of Proposed Buildings		$ 5,907,000	15.0		$ 5,907,000	15.0
Downtown Location (Y/N)		N	0.0		N	0.0
Exemption Needed (Y/N)					0	
Startup Firm (Y/N)		N	0.0		N	0.0
Has Const Started or Has Bldg Been Occupied If Existing (Y/N)		N	0.0		N	0.0
Number of Years (Exemption)		5			5	
Building Age (if substantial renovation)			0.0			0.0
RECOMMENDATION IS TO		**REVIEW**			**APPROVE**	
Description		Manufacturing			Manufacturing	
Estimated New Annual Payroll		$682,240			$1,431,040	
Estimated Annual Real Estate Tax		$81,868			$81,868	
Estimated PV of Exemption		$354,446			$354,446	
Payroll / PV of Exemption		1.9			4.0	
Property Value / # of Jobs		$ 492,250			$ 227,192	
Total Value Of Benefit		$ 409,340			$ 409,340	

Fargo Police Department

Office of the Chief

39

Memo

To: Kember Anderson

From: Chief David B. Zibolski

Date: June 4, 2021

RE: **City Commission Agenda Item**

Kember,

For the June 14, 2021 City Commission Meeting agenda I would like to request time to present the Fargo Police Department's 2020/2021 Annual and Mid-Year Report.

Please contact me if you need any additional information.

David B. Zibolski
Chief of Police

FARGO POLICE

2020 2021

annual and mid-year report

Published 6.1.21

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OUR VISION

A safe and unified community built on trust, accountability, and inclusion.

OUR MISSION

Provide the highest level of service through community partnerships, being a well-trained police department, and forward thinking policing to improve the quality of life for all.

OUR VALUES

Fair. We are committed to provide unbiased services to all members of our community.

Accountable. We take responsibility for our actions and we are responsible for holding the community accountable. We are mindful that we answer to each other, the department, and most importantly the people we serve.

Respect. We believe that all human life has value and deserves respect. We will treat all those we serve in a compassionate, courteous, and dignified manner.

Guardianship. We will guard, protect, and preserve all life and property in the Fargo community as well as each other.

Officer Wellness. In order to provide the best possible service to the community, our officers need to be mentally and physically healthy both at home and in our professional role as police officers.

Professional, We demonstrate professionalism by being accountable, competent, and character driven in our role to safeguard the community. We strive to implement the latest technologies and law enforcement practices to give our community the best service possible.

Diverse. We recognize our community is very diverse. Our department strives to be inclusive of all cultures and backgrounds while committed to being impartial, unbiased, and respectful of all our citizens.

MESSAGE FROM THE Chief

Dear Fargo Community Members,

I am extremely elated to have been chosen as your new Chief in October of 2020. The support our department members and I have received from the Mayor, City Commission, and our Fargo community has been outstanding and exemplifies why Fargo is such a great city. Your support incentivizes all of our employees as we strive to create a safe and unified community built on trust, accountability and inclusion.

The 2020/2021, Fargo Police Department Mid-Year Report focuses on the very important goals and objectives that were set forth at the beginning of my tenure, while reporting on events of 2020. As you will see in this report, the work of our department members led to successful goal accomplishment in many areas, while other goals and objectives are actively being pursued. The report also focuses on the successes and challenges of 2020, a year like no other. Our department and community struggled not only through a pandemic, but we experienced an iconic time of upheaval in many of our communities, including Fargo. We recognize new paths need to be forged and new relationships need to be built in order to enhance and sustain community relationships and trust, as well as ensure public safety for all. Our department will continue to address these issues head on, working collaboratively with our community to ensure a safe and prosperous city of Fargo for all.

I am extremely proud of the men and women of this department and the efforts and commitment they exhibit every day. Guided by a newly created vision, mission and set of core values, we seek to be role models both within our community and our profession. I hope you enjoy the 2020/2021 mid-year report and thanks for your support!

David B. Zibolski
Chief of Police

Photo Credit: Urban Toad Media

a new era

WHERE WE ARE NOW

In May 2020, Chief David Todd (ret.) announced his intent to retire in July 2020. The Police Chief Selection Committee consisted of 15 individuals including elected officials, City of Fargo Administrators, Fargo Police Department representatives, a Human Relations Commission representative, a Native American Commission representative, a Civil Service Commission representative, Fargo Park District Executive Director, Fargo Public Schools Superintendent and several community members which represented the diverse backgrounds, cultures and experiences of the Fargo community.

Chief David B. Zibolski was selected and sworn in to office as the 37th Chief of Police of Fargo on October 5, 2020.

Chief Zibolski, in his interview, identified goals he wished to accomplish in his first 90 days which included implementing body worn cameras, a new vision, mission and values, department reorganization, a new staffing schedule, establish relationships with community leaders and members, hold community meetings, and one-on-one meetings with command staff, line-level and civilian staff to gain insight of the department and learn what could be improved upon.

VISION, MISSION, VALUES

The Chief selected seven employees from various workgroups in the department to serve on the Vision, Mission, Values (VMV) Committe. Members worked collectively to establish a new vision, mission, and values for the department which provides a perspective, both internally and externally, about how the department conducts its business, what our goals and expectations are, and how we hold ourselves accountable to each other and the public. The department shared a short video highlighting the new vision, mission, and values. Watch now.

RELATIONSHIP BUILDING

During Chief Zibolski's interview, he laid out his 90 day plan which included meeting with local community groups to address their concerns regarding the policing of our community. Chief Zibolski completed a virtual community meeting, and an in-person community meeting where the dynamics and laws of traffic stops were covered. Additional meetings are forthcoming to continue to discuss important issues such as body worn cameras, use of force, and police reform in order to further relationships and build trust.

TRAINING

In April 2021, the department held a mandatory implicit bias training, *The Hidden Biases of Good People: Implications for Law Enforcement Officers and the Community They Serve*, presented by Dr. Bryant Marks of the National Training Institute on Race and Equity. This training emphasized what implicit bias is, what causes it, how it affects the person who holds the bias, and how it can be reduced or managed at the individual level. The training was provided to all employees, both sworn and civilian. Learn more about this training here.

The department is working to schedule *Integrating Communications, Assessment, and Tactics* and *Leadership in Police Organizations* training in 2021 and 2022. *Integrating Communications, Assessment, and Tactics (ICAT)* takes critical thinking, crisis intervention, communications, and tactics, and puts them together to help officers assess and deescalate situations, make safe and effective decisions, and document and learn from their actions. *Leadership in Police Organizations* is the International Association of Chiefs of Police (IACP) flagship three-week leadership development program. It will also be the department's cornerstone leadership program that will be available to all personnel.

POLICY

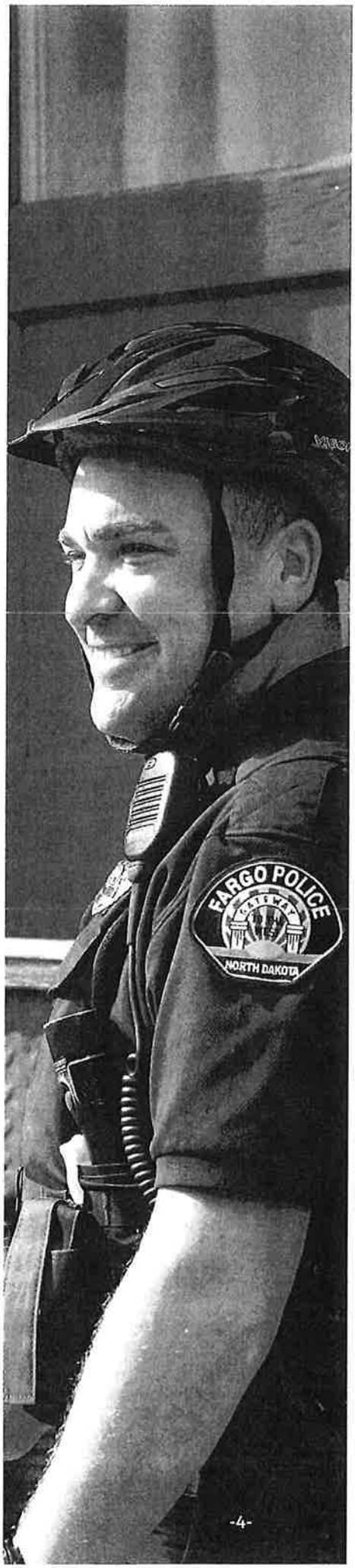
In light of national conversations regarding law enforcement and criminal justice reform, Mayor Mahoney, Chief Todd (ret.), and command staff worked together to revise the use of force policy pertaining to chokeholds. Chokeholds were always considered outside of policy, or prohibited unless used in self-defense, and are not part of the department's arrest tactics. The policy was revised to better reflect this by adding in verbiage specifically prohibiting the use of a chokehold as a means to arrest someone.

The Department continues to review and update policies in order to help police officers make the best possible decisions in critical situations, to assure officers comply with laws, and to promote police accountability.

Up-to-date policies are available to the public on the department's website.

STAFFING SCHEDULE

Chief Zibolski examined the department's staffing schedule, with input from officers, and implemented a new schedule that not only provides a better work-life balance for officers, but also puts the most officers on the street when needed. Calls for service and crime data were used to identify times of need. The new schedule increases the department's capacity and ability to accomplish tasks, and it provides a better schedule for the officers as well as a common training day. In today's dynamic world, we need to be able to train quickly, address critical issues immediately, and keep our officers updated on legal changes, technology and best practices. The new schedule also provides for additional community engagement meetings and gatherings.



BODY WORN CAMERAS

The Body Worn Camera Team, which included 14 sworn and civilian department members, started working on this project in September 2020, and did a tremendous job expediently working through the process. They reviewed demonstrations by seven vendors, developed a Request for Purchase (RFP), reviewed four proposals, and unanimously selected Axon as the preferred vendor in February 2021.

The department will purchase the Axon package, and start the preparation process for the implementation of the hardware, including policy implementation and training. The department anticipates rolling out the products by early August 2021.

HOUSE BILL 1287

Chief Zibolski worked closely with West Fargo Police Chief Dennis Otterness, and ND House of Representatives on House Bill 1287. This bill provides an enhanced penalty for drug dealers and traffickers found guilty of selling, distributing, or delivering a controlled substance, which causes the death of an individual, while maintaining protections from criminal prosecution under the 'Good Samaritan' law.

With a significant rise in the amount of overdose deaths since 2018, the department hopes this bill will deter illegal drug trafficking in our community, and act as a means to hold those responsible for adversely affecting not only our community, but the families affected by the loss of a loved one from overdose.

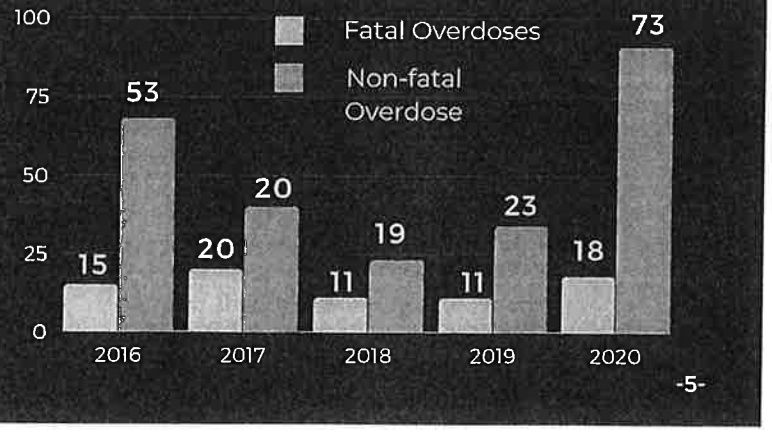
In 2020, the FPD responded to 91 incidents involving a possible overdose. Of those 91 incidents, 18 people died. This data is a sharp increase from 2019.

The FPD Narcotics Unit conducts investigations on all overdose incidents in order to identify the circumstances leading up to the overdose, and whether or not criminal charges are appropriate.

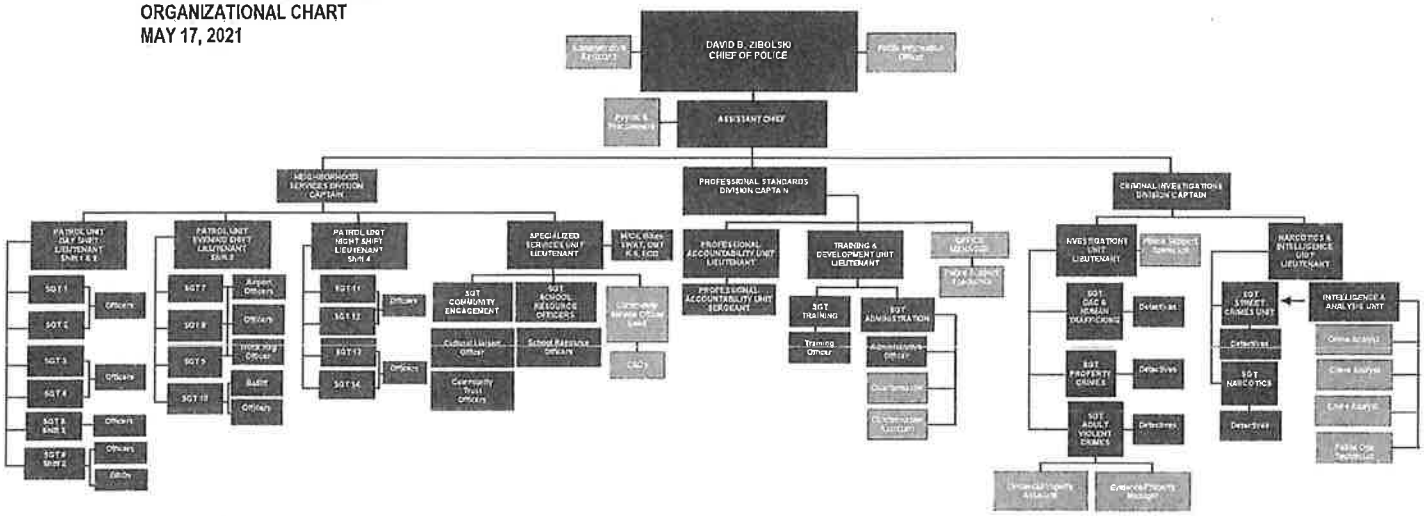
The scope of these investigations is not meant to file charges against the victims or those who assisted the victim in gaining medical attention, but to identify who the drug traffickers and suppliers are in our community and bring them to justice.

203%

The amount of overdoses the Fargo Police Department responded to in 2020 was 203% higher than 2019.



FARGO POLICE DEPARTMENT
ORGANIZATIONAL CHART
MAY 17, 2021



DEPARTMENT REORGANIZATION PLAN

Chief Zibolski worked with a group of department members to examine the whole structure of the department. They identified areas which could be improved upon in order to provide a better work environment for all personnel by ensuring the appropriate personnel were performing the right roles and responsibilities, while increasing transparency with our community.

The **Neighborhood Services Division,** formerly known as the Field Services Division, is overseen by a captain, 4 lieutenants, and 14 sergeants. The division includes the department's Patrol, and Specialized Services Unit, which include the Community Engagement Team, School Resource Officers, Community Service Officers, Motorcycle Unit, Bicycle Unit, SWAT, Crowd Management Team, K9, and Explosive Ordinance Disposal (EOD).

Patrol officers previously worked within one of 4 districts. An analysis of calls for service and where crimes were being committed provided insight, and a change to a new framework, which divided the City into a North and South District with 12 beats. These beats vary in size, and are relevant to the analysis of calls for service and the amount of crimes reported. Under this model, neighborhood-based officers assume responsibility for public safety management within their geographic area.

The **Criminal Investigations Division (CID) is** overseen by a captain, two lieutenants, and five sergeants. The division includes Criminal Investigations, Narcotics, Intelligence and Analysis, and Evidence and Property.

The reorganization plan adds two new civilian crime analyst positions in order to return sworn personnel back to investigative services. The plan also includes permanent detectives versus rotating investigators. These positions improve investigative continuity while increasing the department's ability to push data to the community. This will increase transparency externally, and internally, as we gauge success in reducing crime.

The **Professional Standards Division (PSD),** formerly the Administrative Services Division, is overseen by a newly created captain, two lieutenants, three sergeants, and an office manager. The division will include the Records Unit, Training and Development Unit, and Professional Accountability Unit.

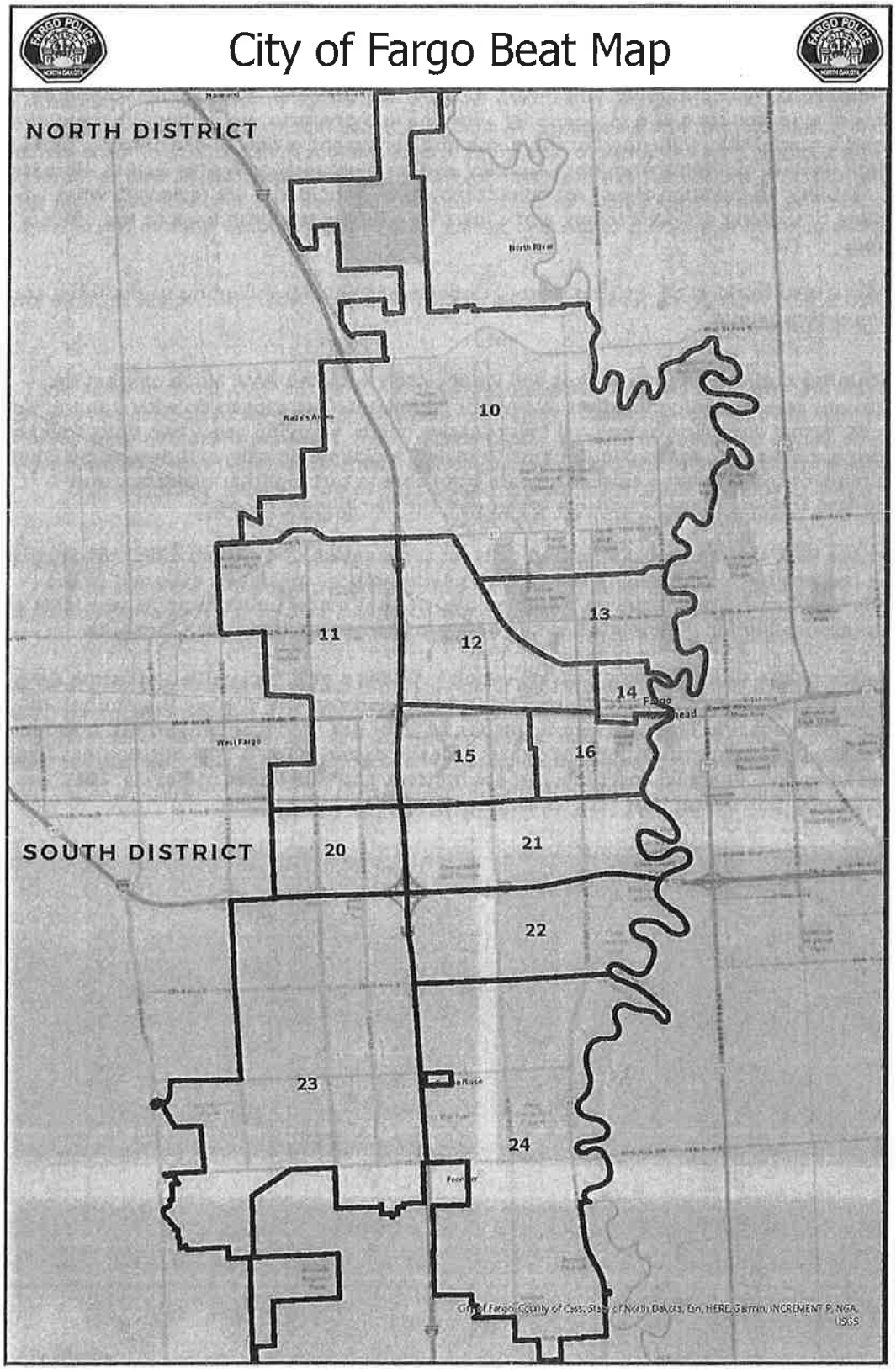
The Professional Accountability Unit (PAU), formerly the Office of Professional Standards, now consists of a lieutenant and a sergeant. By adding a lieutenant to the unit, we've created a staff and a model that will allow for the quick and consistent review of use of force, pursuits, and high liability incidents from both a policy and training perspective, as well as increase accountability. The change allows for consistency in how incidents are reviewed, what type of discipline or training action is taken, and allows for a timely response back to the officers involved.

The PAU is also working on revising related department policies including use of force and personnel complaints.

The **Training and Development Unit** will work closely with the PAU. Much of what the department sees regarding incident reviews or complaints has a lot to do with training issues or needs, versus discipline or internal investigative needs. Marrying these two units together provides a mechanism for the lieutenants to review incidents quickly, and determine whether a discipline or training issue exists. They are then able to put together necessary and appropriate training plans or address it through the disciplinary process.

Within the PSD, the reorganization plan calls for the creation of a civilian office manager who will be responsible for overseeing the civilian police support specialists assigned to the Records Unit instead of a sergeant. The plan also creates a new police support specialist who will be responsible for work related to the newly implemented body-worn cameras.

The **Office of the Chief** is a new division which includes a new, reclassified Assistant Chief position. This Assistant Chief will be second in command and will oversee the operations of all divisions and captains. They will also be responsible for risk management, grants, budget, and serve as the emergency management contact for the department. A new position has been created to handle financial and procurement matters, and fulfilled as of May 24, 2021. The public information officer now reports directly to the Chief of Police.


City of Fargo Beat Map
NORTH DISTRICT
SOUTH DISTRICT
10
11
12
13
14
15
16
20
21
22
23
24
West Fargo
Fargo
Moorhead
City of Fargo, County of Cass, State of North Dakota, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

FARGO POLICE ACADEMY

The Fargo Police Department held its first police academy in the midst of a pandemic in the summer of 2020. The department established its own police academy in an effort to increase efficiency in the department's hiring process. The academy enables the department to enhance its police officer training process by teaching the department's policies and procedures in the curriculum of the academy.

The 2021 Fargo Police Academy includes 20 recruits who started on May 17, 2021 and will graduate on August 6, 2021. The department anticipates filling its vacancies with Academy graduates.

108

APPLICANTS

In 2020, 108 individuals applied, 76 were interviewed, 20 individuals were selected. In 2021, 109 individuals applied, 58 were interviewed, and 20 individuals were selected.

450

INSTRUCTION HOURS

In 2020, 31 FPD members, and 7 instructors from Cass County State's Attorney's Office, Fargo Fire Department, Red River Regional Dispatch Center, and ND Associations of Counties.

7

NEW RECRUITS

In 2020, the department hired 7 of the 16 individuals who completed the academy. One academy graduate was hired by the West Fargo Police Department, and one graduate was promoted to a road deputy position with the Cass County Sheriff's Office.

Pictured above, Class 1 of the Fargo Police Academy (Summer 2020)

Pictured above, Class 2 of the Fargo Police Academy (Summer 2021)

CRIMINAL INVESTIGATIONS DIVISION

2021 CRIME DATA (JANUARY 1-APRIL 30)

Fargo PD - ND0090200 - NIBRS Agency Crime Overview - YTD as of May 11, 2021

2020 Population Estimate	126,927
Offense Overview	
Offense Total	3,731
Number Cleared	1,125
Percent Cleared	30.15%
Group A Crimes per 100,000 population	2,939.5
Arrest Overview	
Total Arrests	1,242
Adult Arrests	1,056
Juvenile Arrests	186
Unknown Age	0
Arrests per 100,000 population	978.5
Average number offenses/incident	1.25

Domestic Incident Victims

Offense	Reported	Cleared
Murder and Nonnegligent Manslaughter	0	0
Aggravated Assault	70	40
Simple Assault	454	153
Intimidation	26	13
Stalking	2	1
Rape	2	0
Sodomy	2	1
Sexual Assault With An Object	0	0
Fondling	3	0
Incest	0	0
Statutory Rape	1	0
Kidnapping/Abduction	7	4
Total	567	212

Group B Arrests

Offense	Adult	Juvenile
Bad Checks	0	0
Curfew/Loitering/Vagrancy Violations	0	1
Disorderly Conduct	11	36
Driving Under the Influence	151	0
Drunkenness	0	0
Family Offenses (Nonviolent)	7	0
Liquor Law Violations	7	4
Peeping Tom	0	0
Runaway	0	0
Trespass of Real Property	77	4
All Other Offenses	241	25
Total Group B	494	70

Group A Offenses	Offenses (*) Reported	Offenses (*) Cleared	Arrests (**) Adult	Arrests (**) Juvenile
Crimes Against Persons (***)				
Murder and Nonnegligent Manslaughter			0	0
Negligent Manslaughter	1		0	0
Aggravated Assault	127	58	33	4
Simple Assault	643	229	94	43
Intimidation	140	67	36	7
Stalking	4	1	1	0
Kidnapping/Abduction	8	4	0	0
Rape	23	3	1	0
Sodomy	10	2	0	0
Sexual Assault With An Object			0	0
Fondling	22	2	1	0
Incest			0	0
Statutory Rape	8		1	2
Commercial Sex Acts	1		0	0
Involuntary Servitude			0	0
Crimes Against Property				
Arson	12	6	5	2
Bribery	0	0	0	0
Burglary/Breaking & Entering	340	30	33	0
Counterfeiting/Forgery	44	6	3	0
Destruction/Damage/Vandalism of Property	296	40	8	6
Embezzlement	2	0	0	0
Extortion/Blackmail	5	0	0	0
False Pretenses/Swindle/Confidence Game	71	14	6	1
Credit Card/Automated Teller Machine Fraud	9	1	0	0
Impersonation	37	4	2	1
Welfare Fraud	0	0	0	0
Wire Fraud	7	0	0	0
Identity Theft	59	5	2	0
Hacking/Computer Invasion	0	0	0	0
Robbery	32	7	7	0
Pocket-picking	0	0	0	0
Purse-snatching	0	0	0	0
Shoplifting	165	60	53	9
Theft From Building	3	0	0	0
Theft From Coin Operated Machine or Device	0	0	0	0
Theft From Motor Vehicle	167	15	10	0
Theft of Motor Vehicle Parts/Accessories	78	3	2	0
All Other Larceny	500	50	22	7
Motor Vehicle Theft	153	21	10	1
Stolen Property Offenses	54	37	21	0
Crimes Against Society				
Drug/Narcotic Violations	327	214	112	24
Drug Equipment Violations	323	219	92	6
Betting/Wagering	0	0	0	0
Operating/Promoting/Assisting Gambling	0	0	0	0
Gambling Equipment Violations	0	0	0	0
Sports Tampering	0	0	0	0
Pornography/Obscene Material	10	2	2	0
Prostitution	0	0	0	0
Assisting or Promoting Prostitution	0	0	0	0
Purchasing Prostitution	0	0	0	0
Weapon Law Violations	47	24	5	3
Animal Cruelty	3	1	0	0
Total Group A Offenses	3,731	1,125	562	116

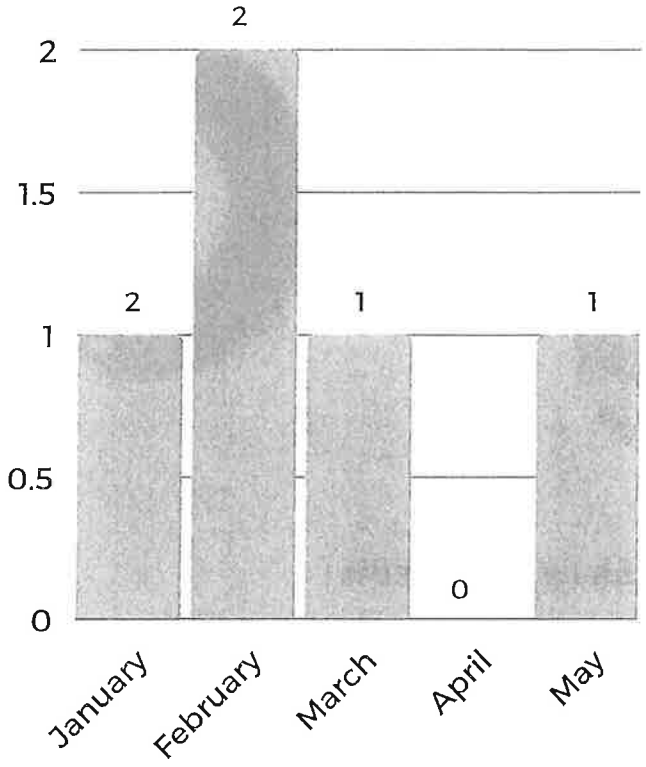
(*) Offenses are counted using the FBI Units of Count for Crime
(**) The 'Arrests' column shows arrests made for incidents during the selected period, regardless of arrest date. Arrest counts for the same period may change over time.
(***) Negligent Manslaughter now includes the killing of another person associated with driving under the influence, distracted driving (using a cell or smartphone), and reckless driving fatalities.

Crime in North Dakota 2021

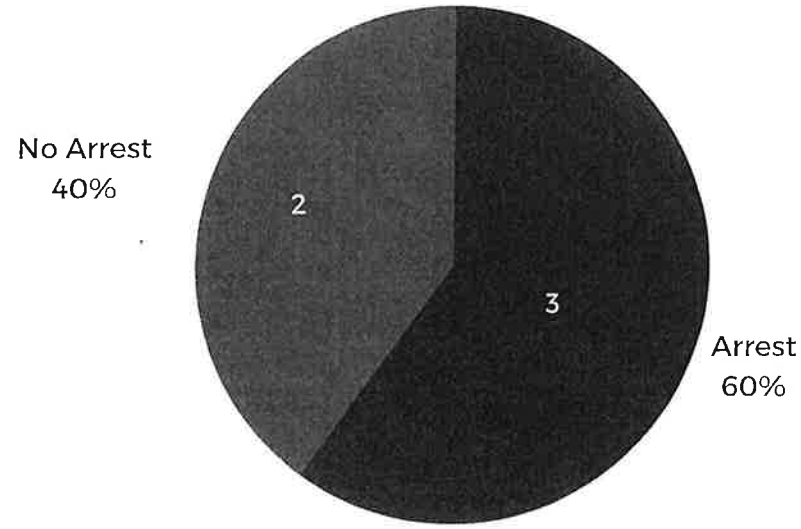
*2021 montly crime data can be viewed at
fargopolice.com/police-records-data/crime-statistic

CRIMINAL INVESTIGATIONS DIVISION

SHOOTINGS (January 1 - May 21, 2021)

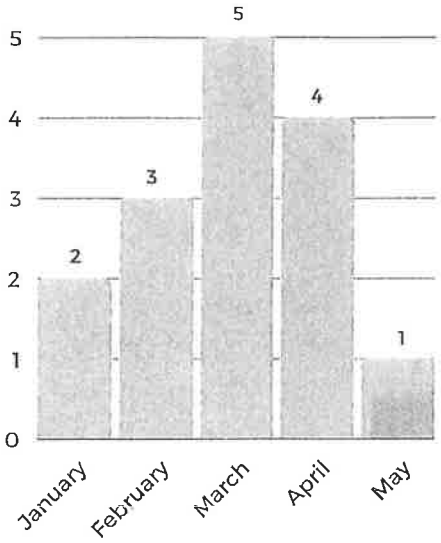


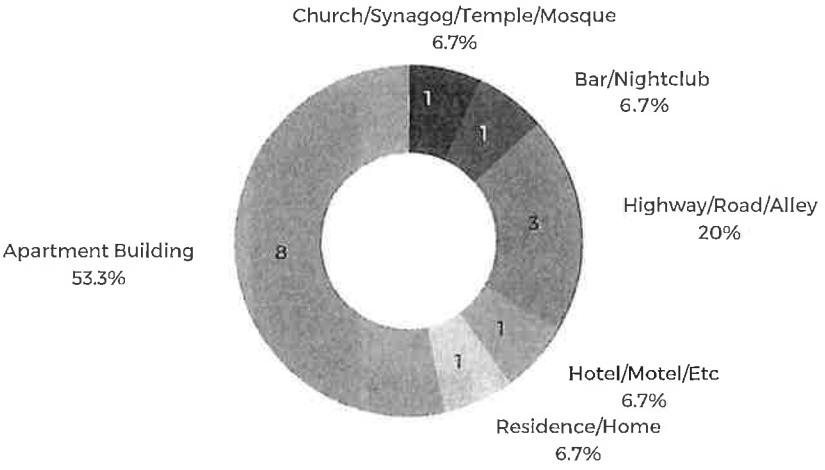
CLEARANCE | 3 OF 5 | 60%



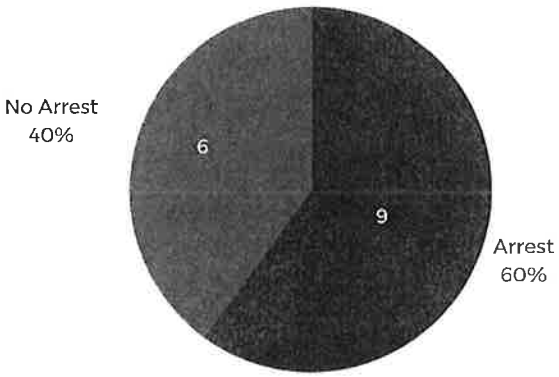
CRIMINAL INVESTIGATIONS DIVISION

SHOTS FIRED (January 1 - May 21, 2021)





CLEARANCE | 9 OF 15 | 60%



66.7%
SHOTS FIRED -OTHER FIREARM DISCHARGE
4 of 6

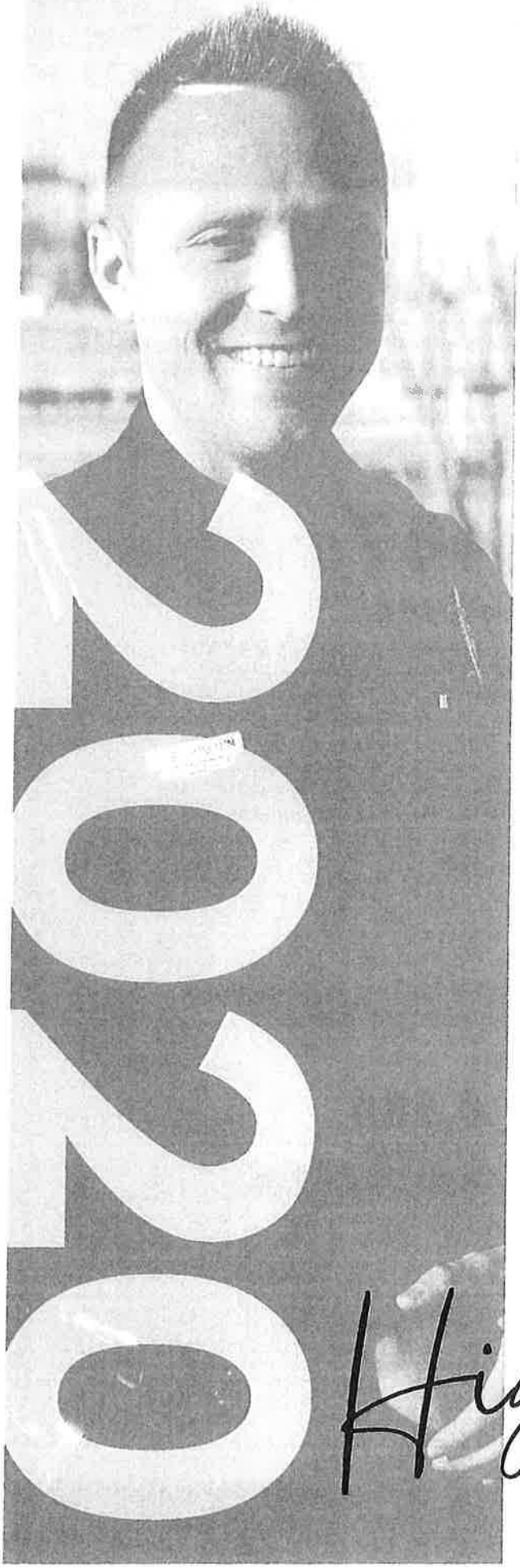
33.3%
SHOTS FIRED -INTO BUILDING
1 of 3

100%
SHOTS FIRED - INDIVIDUAL MISSED
2 of 2

100%
SHOTS FIRED -INTO OTHER PROPERTY
1 of 1

33.3%
SHOTS FIRED -INTO AIR/RANDOM
1 of 3

0%
SHOTS FIRED -INTO VEHICLE
0 of 0



2020 Highlights

PROFESSIONAL STANDARDS DIVISION

TRAINING AND DEVELOPMENT UNIT

The department strives to provide the highest level of service to the community by being well-trained and a forward thinking police department. In order to provide the best possible service to our community, our officers need to be mentally and physically healthy both at home and in their professional role as police officers.

11,029

POST HOURS

In 2020, the department trained for a total of 11,029 hours of ND POST required training to officers including 513 hours of firearms training, 300 hours of defensive tactics, and 216 hours of active killer training. Officers attended a total of 11,937 ND POST certified training hours in 2020. *1/3 of the department's training was cancelled due to covid-19.

11,487

PTO HOURS

In 2020, the department trained a total of 23 new officers. Some of these recruits started their training in 2019 and completed in early 2020. The total number of training hours for PTO was 11,487 across 265 weeks. Recruits completed 29 Problem Based Learning Exercises (PBLE), 1,187 journals, and 155 Coaching and Training Reports (CTRs).

RECORDS UNIT

The Records Unit includes nine Police Support Specialists who assist the department with records management and assist community members with records distribution.

12,295

TRANSCRIPTIONS

Records staff completed 12, 295 transcriptions

574

REPORTS

574 reports were taken by Records Staff

8,980

CITATIONS

Records staff processed 4,565 paper citations and 4,415 electronic citations

842

FINGERPRINTS

Records staff completed 842 sets of fingerprints for the public.

600

LANDLORD REQUESTS

Records staff assisted landlords with approximately 600 incident and criminal report releases

PROFESSIONAL ACCOUNTABILITY UNIT

The Professional Accountability Unit (PAU), formerly the Office of Professional Standards, now consists of a lieutenant and a sergeant. By adding a lieutenant to the unit, we've created a staff and a model that will allow for the quick and consistent review of use of force, pursuits, and high liability incidents from both a policy and training perspective, as well as increase accountability and reporting. The change allows for consistency in how incidents are reviewed, what type of discipline or training action is taken, and allows for a timely response back to the officers involved. In 2020, the division commanders conducted use of force reviews. As of February 2021, the PAU conducts all use of force reviews, and reviews incidents including pursuits, the use of tire deflation device, and department involved motor vehicle crashes.

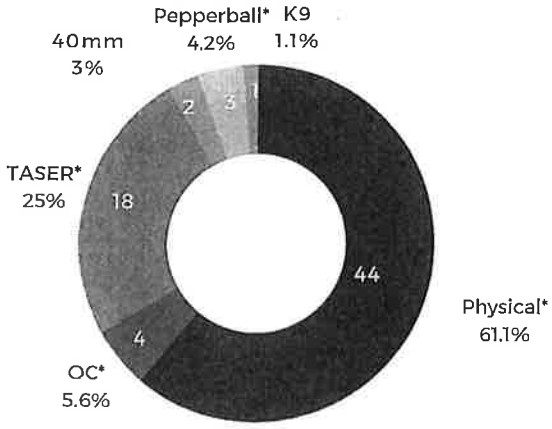
Moving forward, the department will be collecting additional data, such as traffic stop demographics, in order to increase transparency to our community.

INCIDENT REVIEWS

In 2020, the PAU conducted 100 incident reviews, involving 125 officers, regarding use of force, motor vehicle crashes, use of a tire deflation device, and officer involved pursuits.

Of the 100 incidents, 72 officers were involved in 76 incidents where force was used to overcome resistance. One use of force incident was found to be outside of policy. The department conducted immediate policy review and training to the entire department following this review in order to address safety and policy concerns that became apparent during this review.

2020 Use of Force Incident Reviews

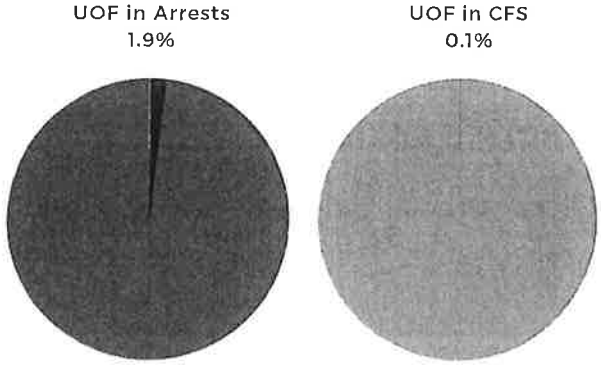


*In four incidents, officers used multiple types of force. Officers used physical force and a taser in two incidents; and pepperball and OC in two incidents.

USE OF FORCE ANALYSIS

In 2020, the officers responded to 77,477 calls for service. Of the 77,477 calls for service, 4,031 physical arrests were made. In 2020, the department had 76 incidents where force was used to control subjects.

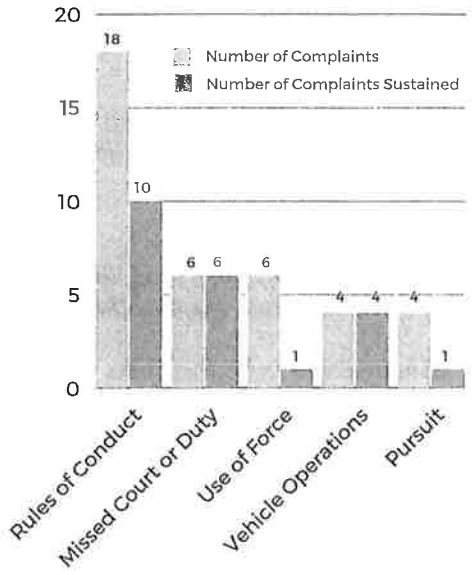
- Arrests occurred in 5% of the calls for service
- Use of force occurred in 0.1 % of the calls for service
- Use of force occurred in 1.9% of arrests



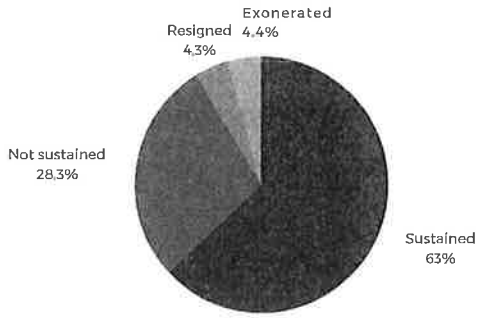
PROFESSIONAL ACCOUNTABILITY UNIT

PERSONNEL COMPLAINTS

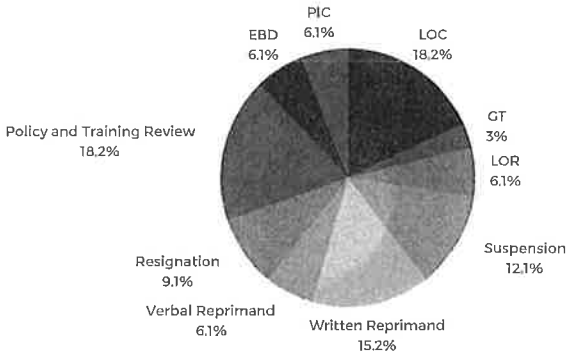
In 2020, the PAU investigated 34 personnel complaints involving 33 different officers, 3 supervisors, and 1 civilian employee resulting in 46 findings. Six complaints involved multiple employees.



PERSONNEL COMPLAINT DISPOSITIONS



PERSONNEL COMPLAINT DISCIPLINARY ACTIONS

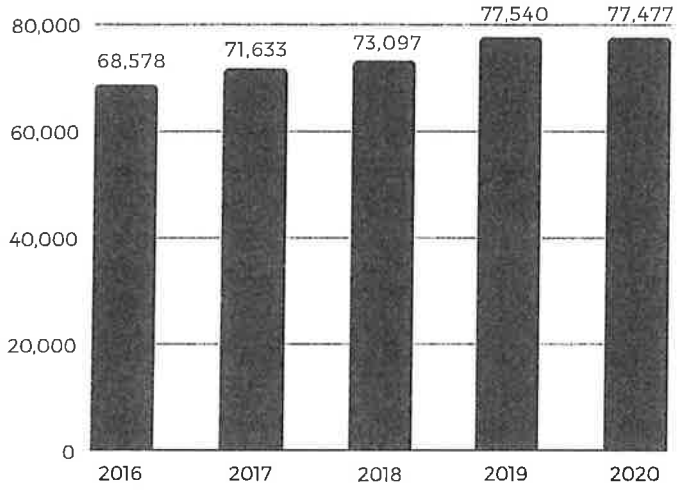


EBD: Education Based Discipline
LOC: Letter of Consultation
GT: Guardian Tracker Entry
LOR: Letter of Reprimand
PIC: Performance Improvement Contract

POLICY REVIEW

The PAU is also working on revising related department policies including use of force and personnel complaints to assure it's consistent with best practices, laws, and ND P.O.S.T. Standards.

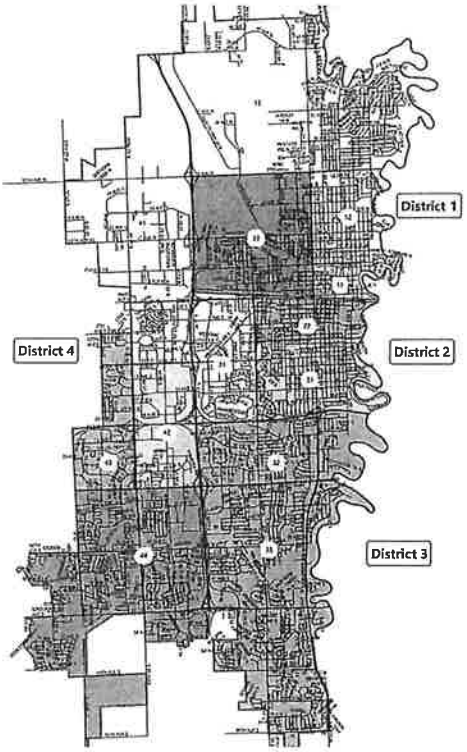
NEIGHBORHOOD SERVICES DIVISION



Row Labels	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020
⊟District 1	20,921	20,605	19,938	20,041	18,321
11 Fgo	10,681	11,188	11,221	10,866	9,384
12 Fgo	5,901	5,338	5,044	5,046	4,752
13 Fgo	4,339	4,079	3,673	4,129	4,185
⊟District 2	17,027	18,186	17,693	19,303	19,081
21 Fgo	5,020	5,694	5,497	5,668	4,830
22 Fgo	7,552	7,583	7,747	8,568	7,991
23 Fgo	4,455	4,909	4,449	5,067	6,260
⊟District 3	15,284	15,713	16,287	17,481	17,390
31 Fgo	5,208	5,397	5,819	6,308	6,555
32 Fgo	5,509	5,758	5,651	5,642	5,646
33 Fgo	4,567	4,558	4,817	5,531	5,189
⊟District 4	11,128	12,220	13,572	14,500	14,265
41 Fgo	3,582	3,731	4,253	4,397	4,213
42 Fgo	4,343	4,856	5,200	5,495	5,531
43 Fgo	3,203	3,633	4,119	4,608	4,521
⊞Other	4,218	4,909	5,607	6,215	8,420
Grand Total	68,578	71,633	73,097	77,540	77,477

CALLS FOR SERVICE

Fargo Police Officers responded to 77,477 calls for service in 2020. This number did not include traffic stops, community oriented policing, bar checks or field contacts as it did in years past.



2,488

Officers completed 2,488 accident reports.

8,343

Officers issued 8,343 citations.

5,039

Officers made 5,039 arrests. 449 DUI arrests were made*

*The number of arrests includes Group A and Group B arrests, and includes cited/summons issued. This number does not include DUI refusal arrests.

DOWNTOWN RESOURCE OFFICERS

In 2020, the department added a third Downtown Resource Officer (DRO) in order to provide additional presence at both MAT Bus and the downtown Library. The officer acted as the department liaison to both City organizations and created better communication between them.

The DROs were also affected by the Covid-19 pandemic as they had to adjust the way they policed the downtown area. DROs are usually highly visible and out in the community. The DROs were able to continue this while practicing Covid-19 precautions.

The DROs noticed an increase in issues in the downtown area due to several resources and community partners closing their doors to deal with the ongoing issues of the pandemic. The DROs were often unable to take action with offenders who were committing low level offenses because the Cass County Jail was unable to take in new arrestees. Instead, the DROs worked with other community resources to find alternatives for members of the downtown community who needed help.

With the new staffing schedule, the DROs are providing a visible presence seven days a week.

PARK & MOTORCYCLE OFFICERS

In 2021, the department's reorganization plan placed the Park Officer back to the department's Neighborhood Services Division. This ensures all parks get coverage at all times, rather than the hours of the Park Officer. Patrol Officers will continue to work closely with the Fargo Park District to ensure all parks are a safe and enjoyable place to visit.

The electric motorcycle that was purchased in 2020, in partnership with Cass County Electric Cooperative and the Fargo Park District, was retained by the department and will be a part of the department's motorcycle fleet.

In May 2021, two officers completed the Police Basic Motor Operator Course. The department will be utilizing motorcycles for traffic enforcement, directed patrols, and community engagement going forward. The department has seven trained motorcycle officers, three motorcycles, and one electric bike.

K9 UNIT

K9 Toby

In February 2020, the K9 unit acquired a new member, K9 Toby. The department partnered with the FargoDome to acquire and train K9 Toby. K9 Toby is the first explosives-detection dog in the region.

In January 2020, K9 Falco and Officer Dave Cochran appeared on the A&E tv show, "America's Top Dog." The team won their episode, earning $10,000 for the K9 Unit.

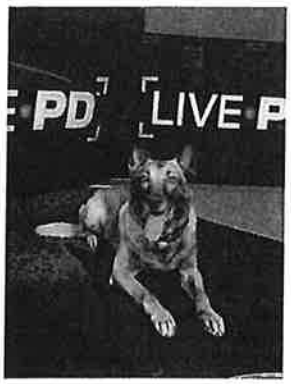
Also in January 2020, K9 Blue and Sgt. Sam Bollman were called to an apartment where a male was wanted for aggravated assault and was believed to be hiding inside the building. Officers had information the male was armed with at least one knife and told officers he was not going to come out. K9 Blue was wearing his bullet and stab resistant vest and was deployed into the apartment where he located and apprehended the suspect. The use of K9 Blue enabled officers to safely bring the male into custody.

In July 2020, K9 Uno and Officer Brad Cernick were called to assist officers on a traffic stop. K9 Uno alerted to the presence of narcotics in the vehicle and the vehicle was searched. Illegal narcotics and paraphernalia including 11 grams of heroin, 108 grams of meth, 5 grams of marijuana, 18 pieces of paraphernalia, 7 LSD tablets, 28 Xanax pills, and $5,671 were located during the vehicle search.

In August 2020, K9s Falco, Uno, Toby and Blue competed in a friendly competition called the "Iron Dog Challenge" at the end of a certification training event in Bismarck, ND. K9 Blue and Sgt. Sam Bollman took first place, and K9 Falco and Officer Dave Cochran took third place.

In November 2020, K9 Kilo and Detective Witte were awarded the 3rd Quarter "Case of the Quarter" award through the United States Police Canine Association Region 12. This case consisted of canine deployments involving two apartments, a hotel room, and a safe. The case resulted in the seizure of a large amount of heroin, methamphetamine, fentanyl, and cash.

K9 Kilo



K9 Falco

K9 Blue

K9 Uno

COMMUNITY ENGAGEMENT TEAM

In 2020, the Department created the Community Engagement Team (CET) merging three Community Trust Officers (CTOs), Cultural Liaison Officer (CLO), Park Officer, and School Resource Officers (SROs) into one group to improve an already amazing program.

The CET engaged in collaborative programming activities at the beginning of the year, but due to the world-wide pandemic, the team was unable to host their annual Fargo United events, Community Picnic, Summer Camp or Outdoors Program. The team rallied together, creating new programming to meet the needs of families in order to overcome gaps in services in our community due to the pandemic.

The CET Summer Mentoring Program was created, in partnership with school social workers and YouthWorks. Participants were able to interact with a School Resource Officer throughout the summer in various activities from simple conversation, to playing catch, grabbing lunch, to going on fishing trips. This programming provided opportunities for SROs to create meaningful relationships with youth from their schools, while providing the kids with skills and a belief in themselves that they can achieve anything they put their minds to.

The CET continued the Swimming Lessons Outreach Program for New American youth, sponsored by Sammons Financial. In 2020, 29 kids participated in life saving swimming lessons.

The CET provided programming using a Racial and Ethnic Disparities Grant aimed to curb racial and ethnic imbalances in the criminal justice system. The team accomplished this through two methods: by putting on department-sponsored programming and Fargo Police Juvenile Diversion Program.

Department-sponsored programming provides activities for at-risk, minority youth aiming to increase their social emotional wellness, while at the same time providing the department an opportunity to build relationships with the youth with the hope of increasing their trust of their police department. Officers have found that once kids create relationships with police officers and learn that officers are people just like them, any stereotypical thoughts held by youth subside. This allows meaningful relationships to develop, which establishes trust.

Following the civil unrest in 2020, the CET engaged in many social justice related conversations in our community with various community groups, which led to meaningful conversations. These conversations created a better working relationship, understanding, and awareness to community concerns. The team also represented the department at the Native American Commission and Human Relations Commission meetings. The department continues to work closely with these groups through conversations and meetings in order to build trusting relationships.

DOING THE MOST GOOD
DOING THE MOST GOOD
DOING THE MOST GOOD

2017

CRIMINAL INVESTIGATIONS DIVISION

The Criminal Investigations Division includes the Criminal Investigations Unit, Narcotics, Metro Street Crimes Unit, Intelligence and Analysis Unit, and the Evidence and Property Unit.

Criminal Investigations Unit

The Criminal Investigations Unit (CIU) is comprised of 17 detectives, three sergeants, a lieutenant, and a division captain.

Detectives are assigned to one of three teams: Crimes Against Children, Property Crimes, and Adult Violent Crimes. In addition, one detective is assigned to register and track sexual offenders in the city, and another detective focuses on human trafficking.

CIU detectives have specialized training in many areas, including interview and interrogation, crime scene mapping, blood splatter recognition, arson investigation, digital forensics, and shooting reconstruction.

Over the course of 2020, the three CIU teams investigated over 1,600 criminal cases, which was one of the highest caseloads in recent years. The department registered 97 sexual offenders that were new to the city and monitored approximately 350 offenders in all.

Besides the higher number of cases, CIU dealt with other challenges during the year.

After the May 30th riot, two detectives were placed on temporary assignment to investigate crimes related to the incident.

These detectives spent several weeks looking through video and compiling evidence to prepare criminal cases for prosecution.

The detectives worked in close collaboration with the Cass County State's Attorney's Office, the U.S. Attorney's Office, and the Federal Bureau of Investigation. Eighteen cases were sent for prosecutor review, and most of those cases are still pending trial as of this report.

CRIMINAL INVESTIGATIONS DIVISION

Adult Violent Crimes Team

The Adult Violent Crimes team investigated over 200 cases in 2020 ranging from assaults to robberies to homicides. The detectives on this team are some of the department's most experienced investigators, and the cases they work can be very complex and time-consuming. These cases are also some of the more high-profile incidents in our community.

Detectives investigated seven homicides and three fatal crashes in 2020.

- In May, Anquine White was shot and killed in the Northport shopping center parking lot. Three individuals were arrested. Darrell Lamont Simmons and Reeng Ayong pled guilty. Lee Fry, Jr. is still awaiting trial.
- In May, Keanen Poitra was stabbed to death in a south Fargo apartment. Terin Stately was arrested for the death. The case is awaiting trial.
- In July, Nathaniel Wilson intentionally collided with a vehicle driven by Thomas Edmunds on 7 Avenue North. Both were killed in the crash.
- In August, Cameron Comacho was assaulted and killed in a south Fargo parking lot. Jonathan Hunt and Larry Evans were arrested for the crime. The case is awaiting trial.
- In August, Santino Marial was killed in a drive-by shooting. No arrests have been made to date, and the case is still under investigation.
- In August, Henry Kulor struck a motorcycle driven by Pierce Kvien, and struck a tree. Kvien and Wein Zelee, a passenger, were killed. Kulor was arrested for Vehicular Homicide and DUI. Kulor pled guilty in February 2021.

- In September, Peter McKenney was struck and killed by a vehicle as he walked across the road. David Torgerson was identified as the driver and arrested for Vehicular Homicide. The case is awaiting trial.
- In November, 15-month-old Meka Ducheneaux was found unresponsive at a south Fargo residence. Meka died from her injuries, and Brandi Adeleke was arrested for Murder after an extensive investigation. The case is awaiting trial.
- In December, Kirsten Knaus was injured during a domestic violence incident. Cody Plumlee was originally arrested for Aggravated Assault, but later charged with Murder after Knaus died from complications related to her injury. The case is awaiting trial.
- In December, Joel Graf stabbed his roommate, Angela Juven, to death, started the house on fire and killed himself.

CRIMINAL INVESTIGATIONS DIVISION

Crimes Against Children & Human Trafficking Unit

The Crimes Against Children (CAC) team saw an increase in cases in 2020, which continued an upward trend seen over the past five years. Detectives investigated over 300 cases in 2020 involving sexual and physical abuse of children, child pornography, human trafficking and runaway teens. Detectives ensure great care is taken to not further traumatize the victims of these crimes, and they work closely with Cass County Social Services, medical staff, the Rape and Abuse Crisis Center, Youthworks, and the Red River Child Advocacy Center to conduct investigations.

In 2020, the CAC conducted two undercover operations related to human trafficking. One operation in June focused on outreach with the intent to identify victims of human trafficking and provide them with an opportunity to visit with victim service providers. Many times, victims of human trafficking are caught up in a complex situation and don't always know how to break away, or they may be unwilling to do so for a variety of reasons. Our outreach operations are intended to give victims a chance to escape or to at least discuss their options. During this operation, five women agreed to visit with service providers.

The second operation in July focused on catching online predators seeking to arrange sexual encounters with children. Detectives worked with several other agencies during the six-hour operation. Detectives received 60 responses to ads that were posted online, and three arrests were made. Charges against one of the arrestees were eventually dropped. The other two cases are still awaiting trial.

Property Crimes Team

The Property Crimes team had the highest workload of the three CID teams in 2020. The Property team investigated over 800 cases involving crimes such as theft, stolen vehicles, fraud, and criminal mischief. Detectives spent time identifying and locating suspects, conducting interviews, and recovering property. They worked closely with patrol officers as well as detectives from other agencies. Many of these cases took considerable effort to solve because they required the gathering of evidence from multiple incidents to identify a suspect or to build an adequate criminal case.

The Property Crimes team worked several large cases involving individuals who committed multiple thefts or break-ins. One individual was a suspect in nearly 30 cases in 2020 alone. Another suspect was involved in over a dozen incidents during the year. The team also saw several incidents involving a group of people where they would travel across the country and commit multiple vehicle break-ins before moving on to another community.

Evidence and Property Unit

The Evidence and Property Unit is managed by the Evidence and Property manager and one assistant. They took in 10,785 pieces of property and evidence in 2020, which was a 10.8% increase from 2019; they also disposed of 6,622 items.

CRIMINAL INVESTIGATIONS DIVISION

Narcotics Unit

The Narcotics Unit is a specialized unit within the CID. The team is comprised of six detectives, K9 Kilo, a sergeant, and a lieutenant who also oversees the Metro Street Crimes Unit and Intelligence Unit. One detective is assigned to the Drug Enforcement Administration (DEA) Task Force in Fargo to investigate federal level drug crimes.

The Narcotics Unit works in conjunction with many local agencies in an effort to accomplish their mission of combating illegal narcotic trafficking in the community. The primary focus is on heroin and methamphetamine trafficking interruption, as those have been proven to be some of the most dangerous and prevalent drugs in our community. The unit works closely with the Minnesota Lakes to River Task Force, DEA, ATF, United States Postal Service, Parole and Probation and Cass County Social Services.

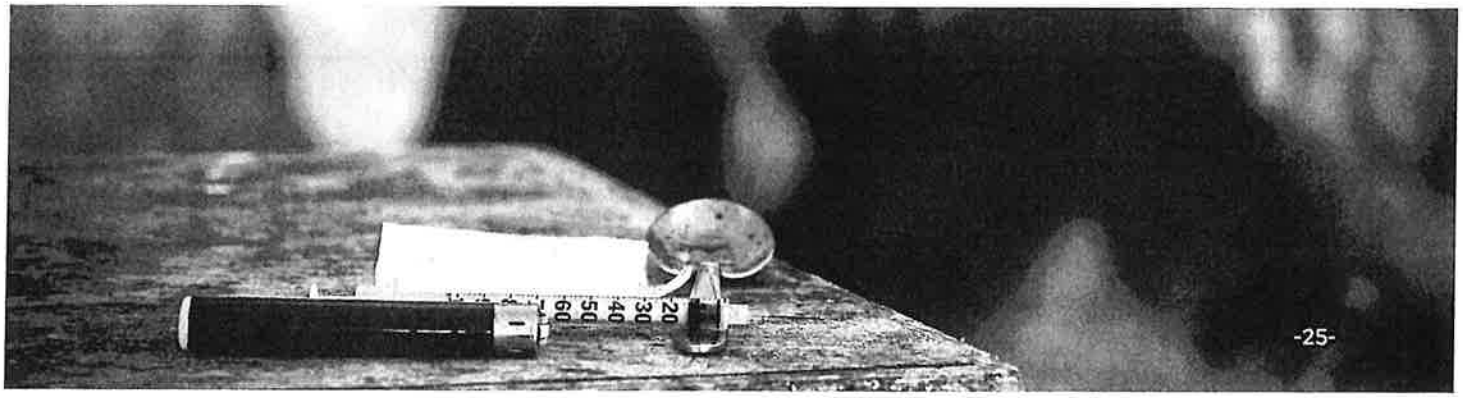
The unit also works closely with the Cass County Drug Task Force which operates out of our building. The Task Force consists of detectives from the ND Bureau of Criminal Investigation, West Fargo Police Department, and the Cass County Sheriff's Office.

By being in the same building, the Task Force and FPD Narcotics Unit are able to work together on joint investigations for crimes that occur in both Fargo, and Cass County.

The Narcotics Unit provides education on current drug trends, drug identification and effects, and the drug paraphernalia that is associated with the most common types of drugs we see in our community. The majority of the education provided is for rental property owners and managers, but also provided to local medical facilities, businesses, and educational institutions when requested.

The Narcotics Unit served 104 search warrants, and initiated an additional 165 City/State level cases; furthered 158 investigations initiated by the Neighborhood Services and Investigations Divisions; investigated 31 child neglect cases where the use of illegal narcotics were suspected; and seized the following:

- 110 lbs of marijuana, 9.4 lbs of marijuana wax, 795 marijuana vape cartridges
- 4.5 lbs of methamphetamine
- 12.3 ounces of heroin
- 191 fentanyl pills
- 2.6 ounces of mushrooms
- 7.3 grams of cocaine
- 267 hits of LSD
- 657 various prescription controlled pills
- $298,238.00
- 14 firearms
- 3 vehicles



CRIMINAL INVESTIGATIONS DIVISION

Metro Street Crimes Unit

The Metro Area Street Crimes Unit (MASCU) is composed of two officers and one sergeant from the Fargo Police Department along with officers from the Cass and Clay County Sheriff's Offices, Moorhead Police Department, and West Fargo Police Department. The primary purpose of the MASCU is to address gang-related crimes, apprehend fugitives and assist local agencies with apprehensions and investigations related to serious or recurring criminal incidents.

In the spring of 2019 continuing into 2020, detectives from the MASCU, Moorhead Police Department, and agents from the Bureau of Alcohol, Tobacco and Firearms (ATF) initiated an investigation into a group of individuals living in the FM area who were affiliated with the Bloods, Crips and other criminal street gangs. The investigation revealed that many of these individuals had significant criminal histories and were involved in an enormous amount of criminal activity that included shootings, robberies, and drug and firearms trafficking in the FM area. During the investigation, the MASCU conducted several controlled buys of marijuana, heroin, and three firearms, two of which were found to have been stolen. This criminal group was responsible for three armed robberies, a felony domestic with a firearm, witness tampering, and five shootings (one resulting in injuries). In total, six individuals were federally indicted and one was charged in state court. The sentences ranged from one to twelve years in prison.

SEIZED ITEMS

- 136.4 grams of methamphetamine
- 3.4 grams of heroin
- 3,266 pills/LSD
- 11.54 pounds of marijuana
- 47 pieces of drug paraphernalia
- $33,877 in cash
- 10 firearms/dangerous weapons
- 2.09 pounds of THC

SEARCH WARRANTS

132 body-only, phone, GPS tracking, residential, and DNA search warrants served.

GANG MEMBER CLASSIFICATION

- 17 non-confirmed
- 19 confirmed

ARRESTS

- 39 confirmed gang members or known associates
- 164 non-gang members
- 30 assisted arrests

CRIMINAL INVESTIGATIONS DIVISION

2020 CRIME DATA

In 2020, the department began submitting criminal data to the FBI based on National Incident-Based Reporting System (NIBRS). NIBRS improves the overall quality of crime data as it captures details on each single crime incident, as well as on separate offenses within the same incident, including information on victims, known offenders, relationships between victims and offenders, arrestees, and property involved in crimes.

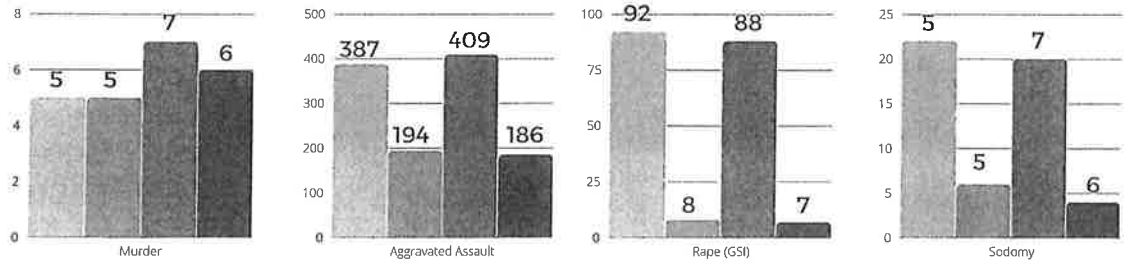
In prior years, the department submitted data to the FBI based on Uniform Crime Reporting (UCR). Unlike data reported through the UCR Program's traditional Summary Reporting System (SRS)—an aggregate monthly tally of crimes—NIBRS goes much deeper because of its ability to provide circumstances and context for crimes like location, time of day, and whether the incident was cleared.

NIBRS data are based on five basic units of count: incidents; offenses; victims; known offenders; and arrestees.

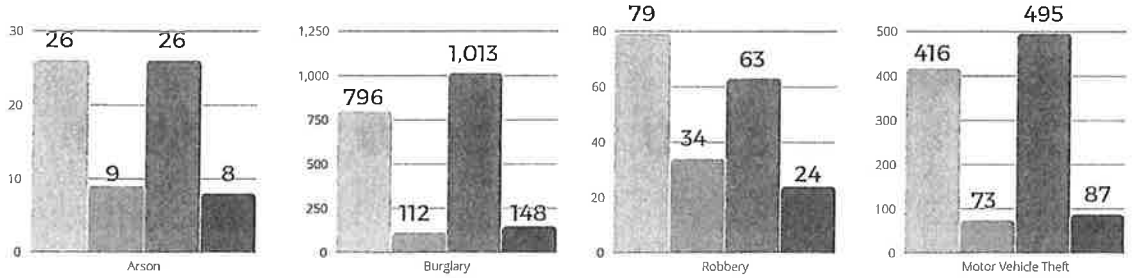
The below data are select offenses* from Group A NIBRS Offenses reported.

2019 Reported
2019 Cleared
2020 Reported
2020 Cleared

2020 CRIMES AGAINST PERSONS*



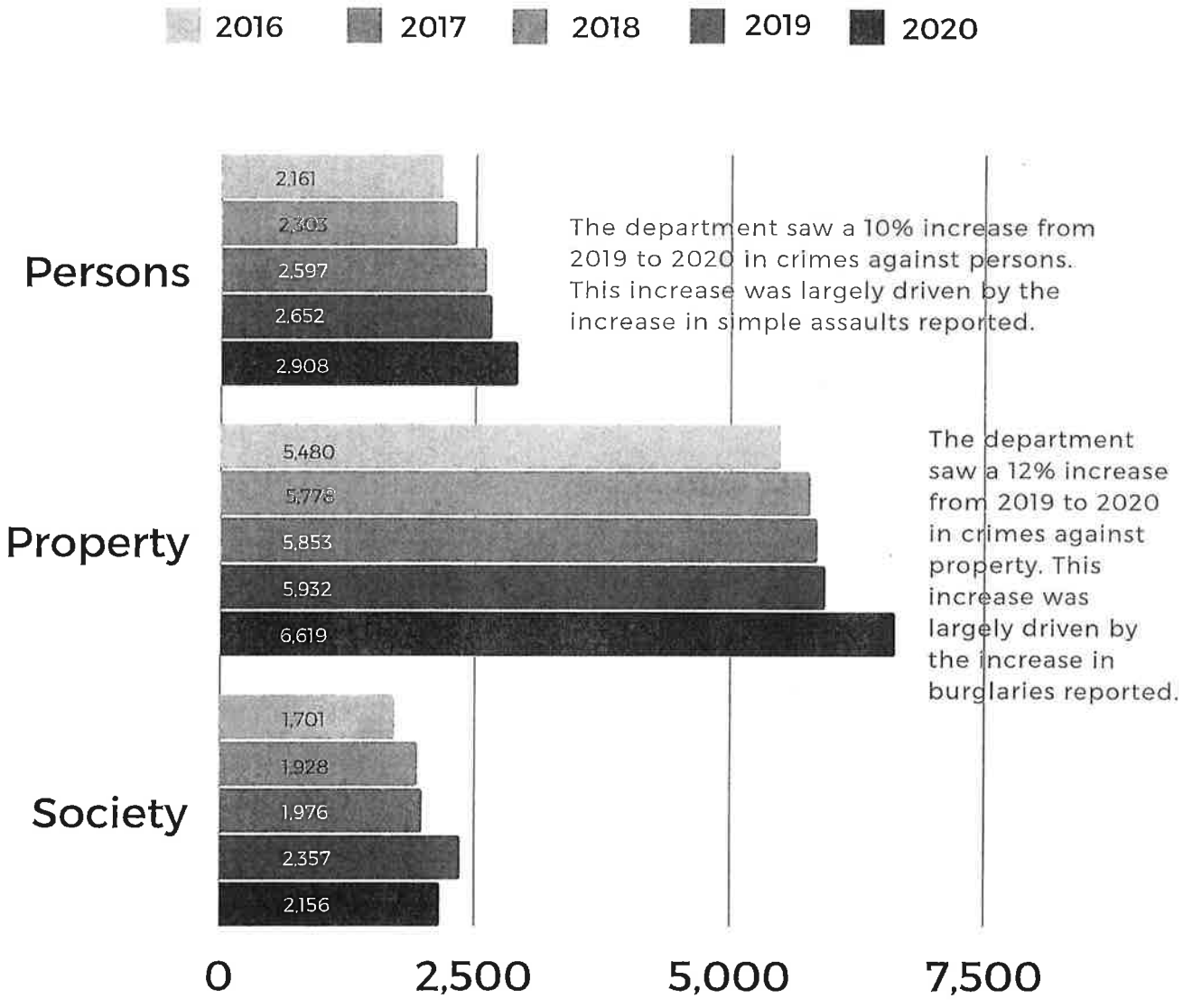
2020 CRIMES AGAINST PROPERTY*



CRIMINAL INVESTIGATIONS DIVISION

2020 CRIME DATA | 5 YEAR ANALYSIS OF CRIME CATEGORIES

The Fargo Police Department submits single and multiple-offense incidents to NIBRS through monthly electronic records. To maintain uniformity in reporting, the department counts various elements of an incident. Like the prior UCR, NIBRS includes the categories of Crimes Against Persons and Crimes Against Property. NIBRS also collects the additional category of Crimes Against Society, which are those offenses that represent society's prohibitions against certain activities such as gambling or prostitution.



PERSONNEL

RETIREMENTS

David Todd, Chief of Police, retired on July 31, 2020 after 33 years of service.

Cheryl Larson, Police Support Specialist, retired on February 21, 2020 after 33 years of service.

Ross Renner, Deputy Chief, retired on April 30, 2021

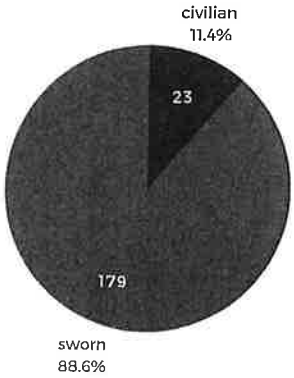
NEW HIRES

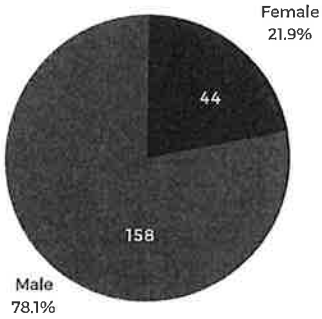
The department hired 13 officers and 1 civilian staff in 2020.

IN MEMORY

On December, 21 2020, Joan Schaefer, Police Support Specialist, passed away after a courageous battle with cancer. Joan was a proud member of the department for 14 1/2 years.

PERSONNEL DEMOGRAPHICS





Hispanic/Latino	1	1%
Black	2	1%
Asian American	2	1%
American Indian	2	1%
White	195	96%

35 average age of sworn officers

8 average years of service of sworn officers

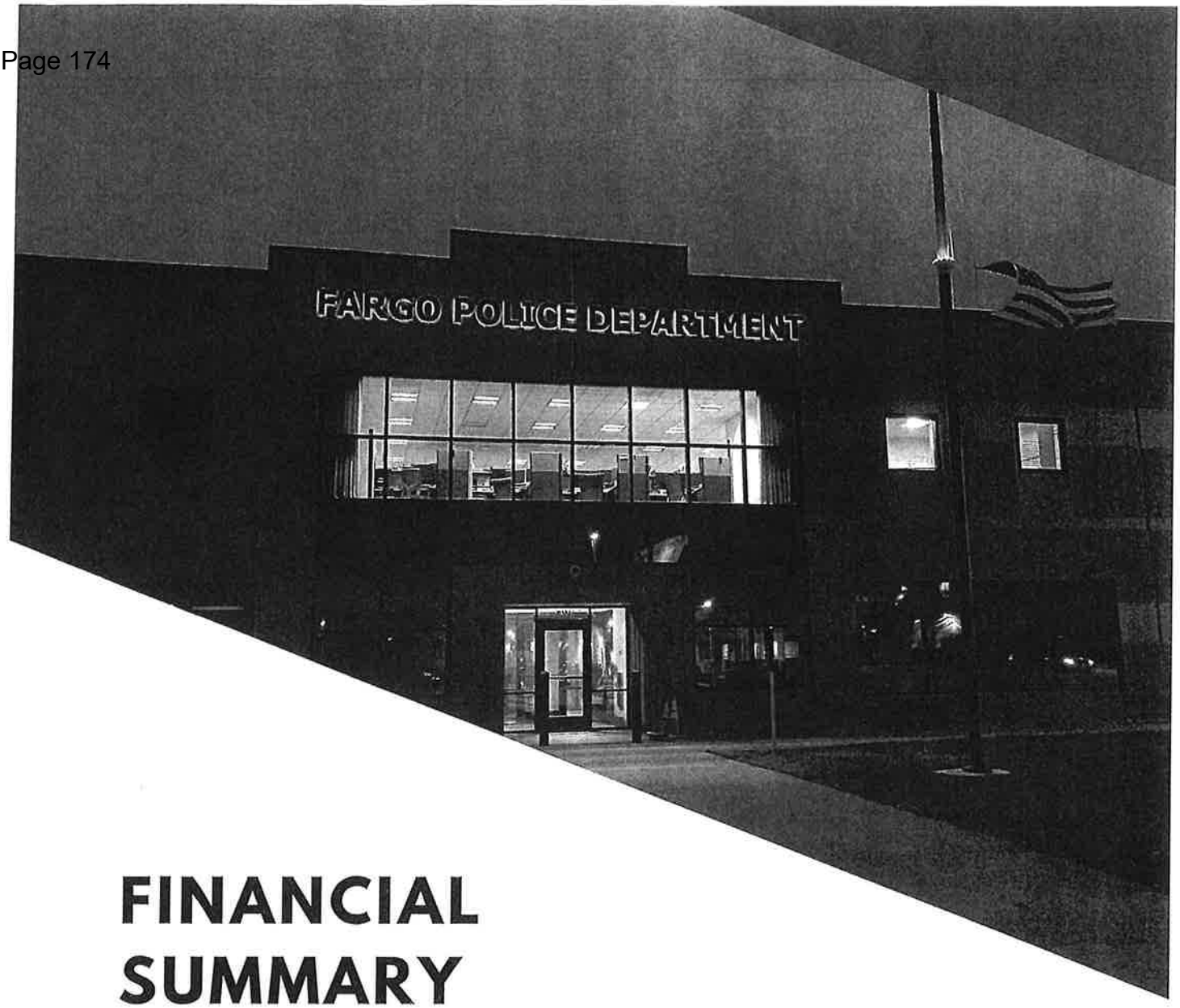
46 average age of supervisors

19 average years of service of supervisors

AWARDS

In 2020, the department issued 14 Life Saving Awards, 4 Combat Cross Awards, 4 Chief's Medal Awards, 2 PTO Service Awards, 2 Citizen Citations for Distinguished Service and recognized a Supervisor of the Year, Police Officer of the Year, and Civilian Employee of the Year.

In 2020, Luther Family Ford and AM 1100 the Flag Salute to Law Enforcement recognized two members of the department. Crime Analyst Lauren Cammack was recognized in May, and Officer Tyrell Fauske was recognized in October.



FINANCIAL SUMMARY

In 2020, the department was awarded several grants to include $66,000 from the North Dakota Department of Transportation.

- $7,000 for impaired driving marketing
- $10,000 for distracted driving enforcement
- $10,000 for speed enforcement
- $10,000 for underage drinking enforcement
- $14,000 for occupant protection enforcement
- $22,000 for impaired driving enforcement

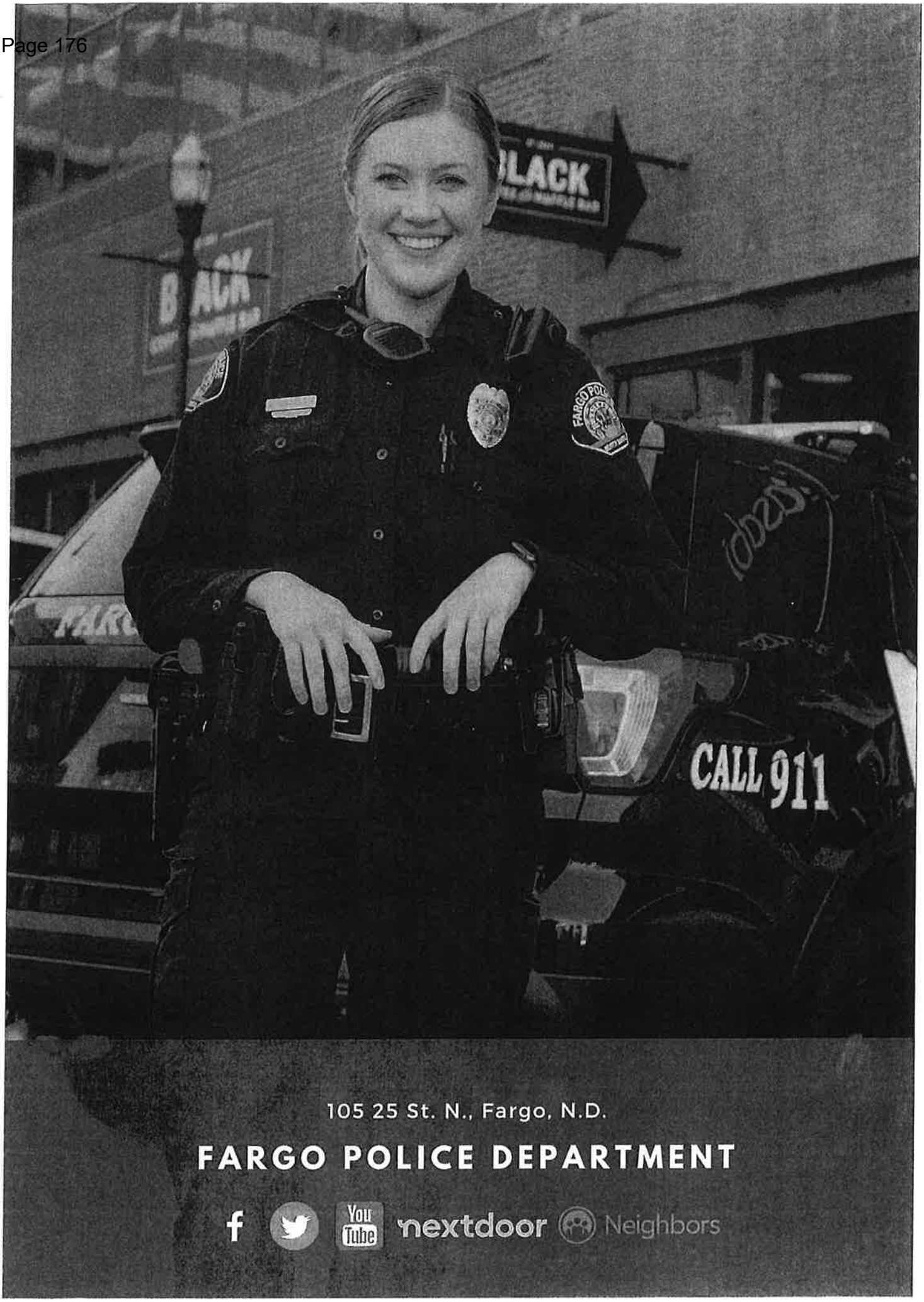
The department spent $7,792 of the $32,000 Reducing Ethnic Disparities in the Criminal Justice System grant which was awarded in 2019 to fund youth programming for at-risk minority youth.

Impact of the Coronavirus Pandemic

In March 2020, the department implemented safety protocols in response to the Coronavirus pandemic. The Training Unit fitted and trained all officers and appropriate personnel for N95 masks which were to be worn when responding to calls for service and interacting with members of the public. A continuity of operations plan was implemented, an Exposure Control Officer was assigned, and services such as police department tours and ride alongs were temporarily suspended. The department took a proactive role in assuring the safety of staff members, and those we serve in the community by implementing daily disinfecting common areas, squad cars, equipment and uniforms. Several department units adjusted operations to reduce the amount of personnel in our building by alternating remote with in-person office work.

Early on, several officers recorded "A Bedtime Story with a Cop" videos which were uploaded and shared to the department's social media platforms with the idea to provide comfort to youth and community members as they navigated through uncertain times. These were followed up in December 2020 with "A Holiday Story with Fargo Police."

As the pandemic moved forward into the warmer months, the department made the difficult but necessary decision to forego hosting and attending community events such as the Fargo Police Community Picnic and Fargo United. The Community Engagement Team (CET) adapted their youth programming by adjusting program sizes and locations. The officers also created new programming to meet the needs of families to overcome the gaps in services that resulted from the pandemic. The CET worked in collaboration with school social workers and Youthworks to identify families in need. Through the summer mentoring program, children were able to interact with a School Resource Officer (SRO) where they held conversations, played sports, grabbed lunch, and went on the occasional fishing trip. SROs adapted to hybrid learning schedules by providing additional outreach efforts to their students and families by helping them get in touch with services they were in need of.
The Community Trust Officers (CTOs) were able to continue their youth programming which included swimming lessons for New Americans, as well as self defense and boxing classes by keeping class sizes small and by wearing masks.


CALL 911
105 25 St. N., Fargo, N.D.
FARGO POLICE DEPARTMENT
nextdoor
Neighbors

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

40

AN ORDINANCE REPEALING ARTICLE 12-04 OF CHAPTER 12 OF THE FARGO MUNICIPAL CODE RELATING TO WILDLIFE MANAGEMENT PROGRAM-REGULATIONS

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. Repeal.

Article 12-04 of Chapter 12 of the Fargo Municipal Code is hereby repealed in its entirety.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Effective Date.

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

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

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Reading:

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BR-22-A1 Type: Project Design Decisions

Location: 32nd Avenue South Date of Hearing: 6/7/2021

41

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

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.	PCN
SU-8-984(168)	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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Appendix B Endangered Species Act
Appendix C Wetland Information
Appendix D Section 4(f) Documentation
Appendix E Preliminary Cost Estimates
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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

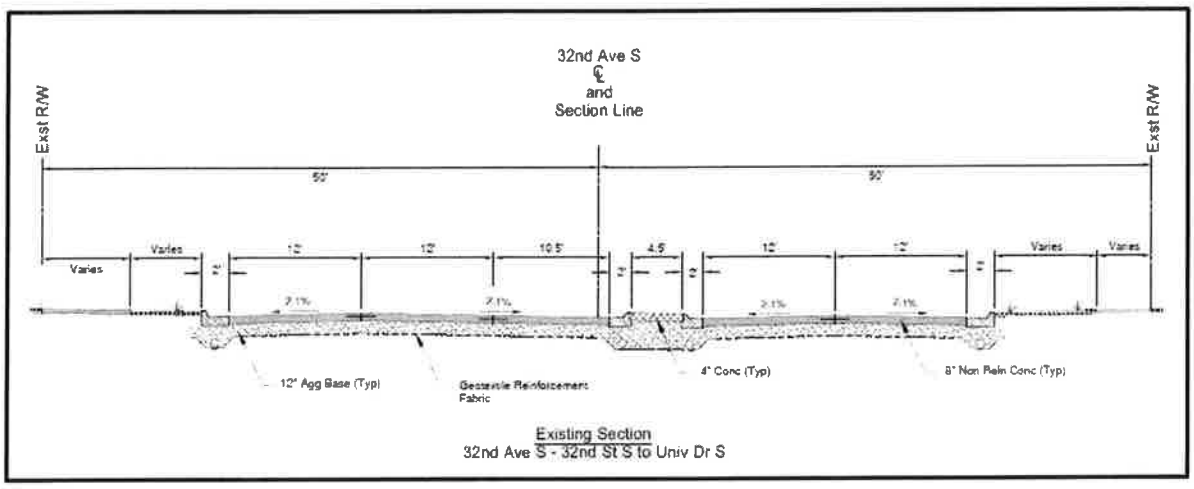
C. Purpose of Project

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)

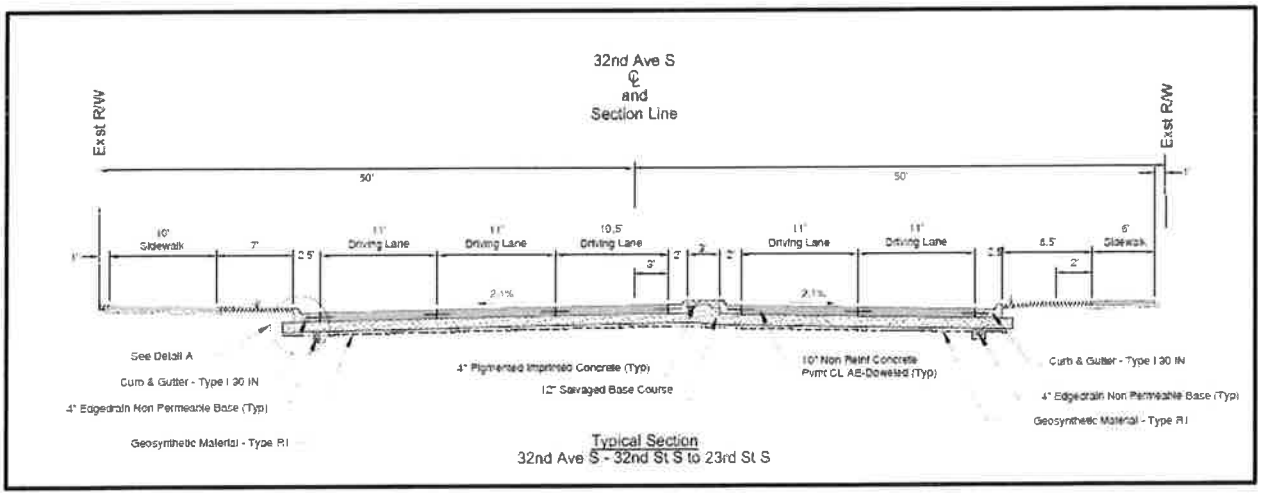
b. Alternative B: Build Alternative(s)

   - 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



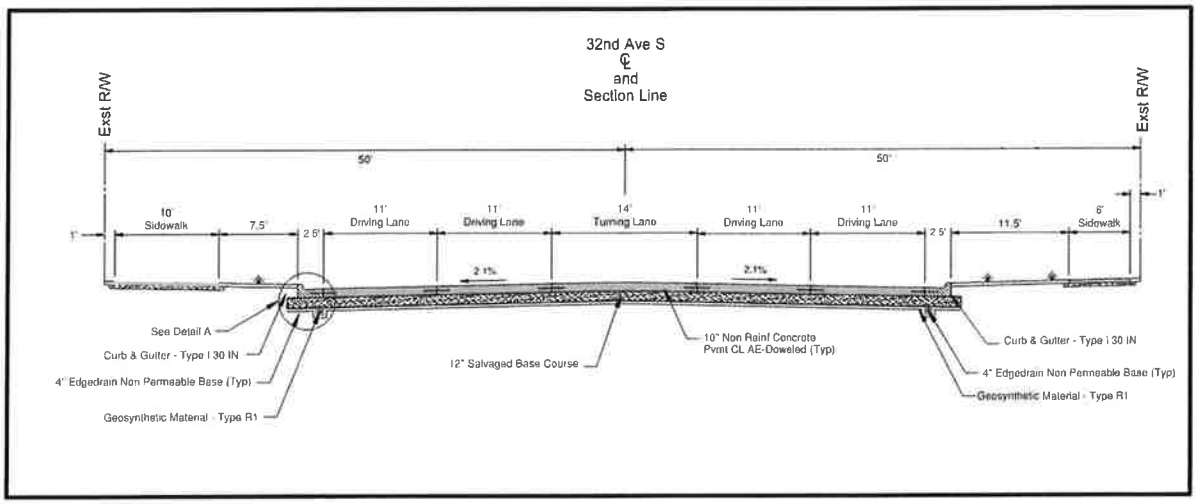
c. Alternative B1: Build Alternative(s)

   - 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)

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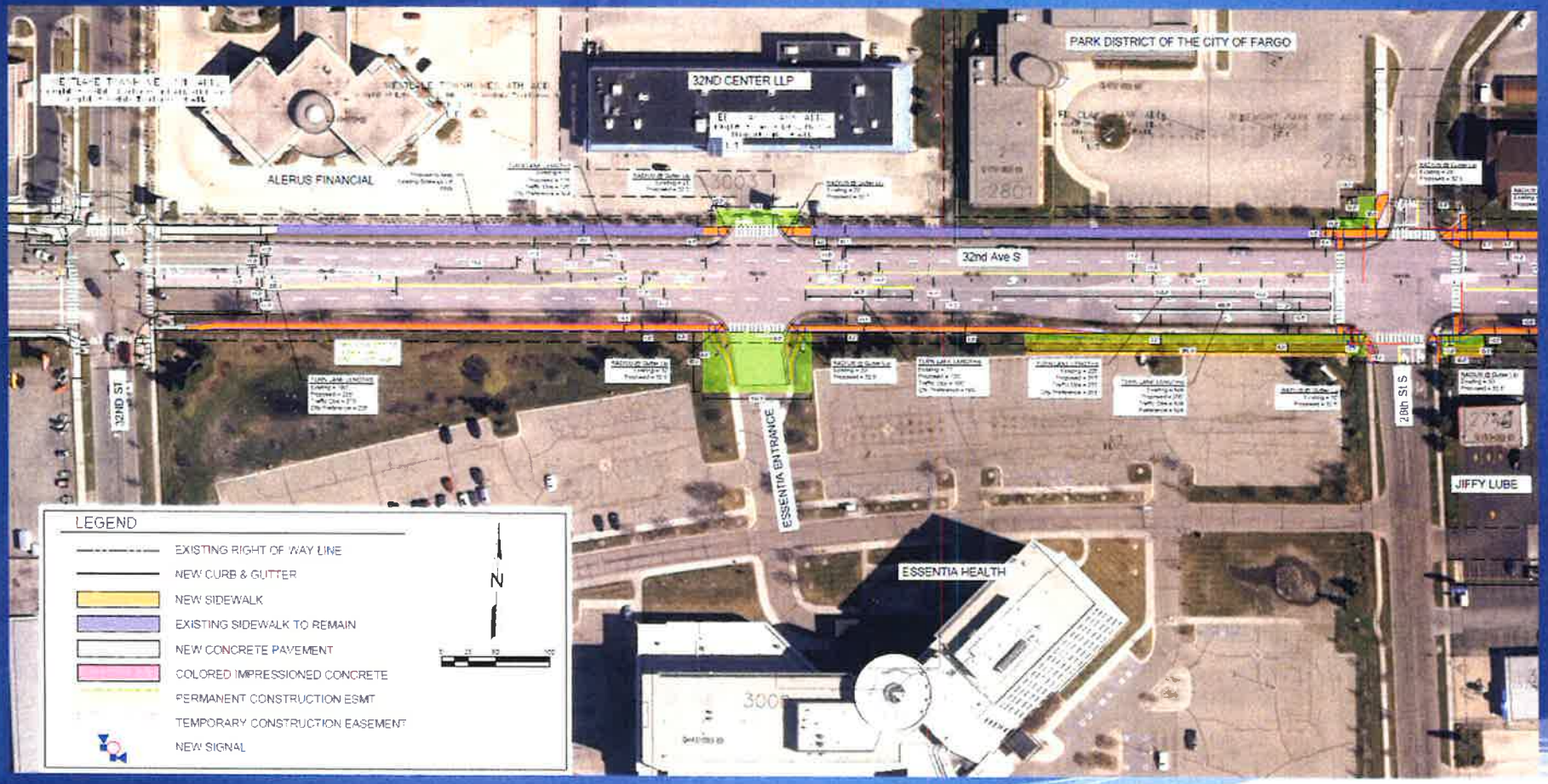
_____ _____
Timothy J. Mahoney, Mayor Date
City of Fargo, North Dakota

Alternative B1 - 32nd Street to 28th Street



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Alternative B1 – 28th Street to 25th Street

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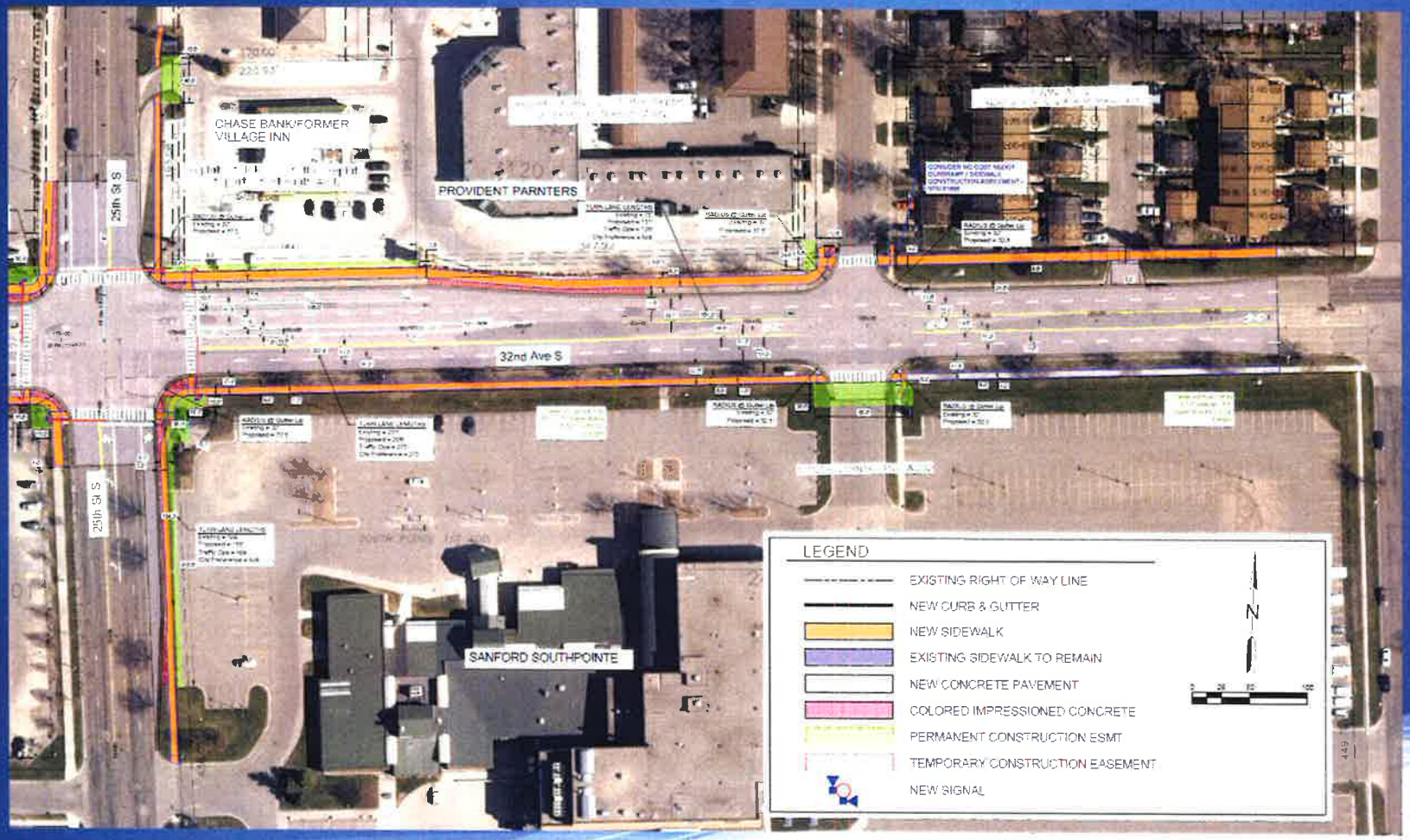
Alternative B1 –25th Street to 22nd Street



THE CITY OF Fargo FAR MORE

CITY OF Fargo

ASSESSMENT DEPARTMENT

42a

May 24, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1619 32 St S as submitted by Rachel Rawley. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2021, 2022, 2023, 2024 & 2025.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about $765 with the City of Fargo's share being $130.

Sincerely,

Mike Splonskowski
City Assessor

DSD
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

North Dakota Century Code ch. 57-02.2

(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Rachel Rawley Phone No. 701 200-2132
2. Address of Property 1619 32nd St S

   City FARGO State ND Zip Code 58103
3. Legal description of the property for which the exemption is being claimed.

   South Meadows Lot 1 Block N/A
4. Parcel Number 01-2810-00010-050 Residential ■ Commercial ☐ Central Business District ☐
5. Mailing Address of Property Owner 1619 32nd St S

   City Fargo State ND Zip Code 58103

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). excavation of west wall, installation of waterproofing membrane and 5 anchors, also 4 I beams on NW wall due to cracking in foundation. see additional sheets for all renovations.
7. Building Permit No. Precision Concrete 8. Year Built 1978
9. Date of Commencement of making the improvement 10/15/2020
10. Estimated market value of property before improvement $165,000
11. Cost of making the improvement (all labor, material and overhead) $58,173.16
12. Estimated market value of property after improvement $270,000

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

    Applicant's Signature Rachel Rawley Date 5/21/2021

Assessor's Determination

14. The local assessor finds that the improvements in this application has ☑ has not ☐ met the qualifications for exemption for the following reason(s):

    Assessor's Signature [signature] Date 6-4-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied ☐ Approved ☐

    Approval subject to the following conditions:

    Chairman of Governing Body Date

Submit Via Email

CITY OF Fargo

ASSESSMENT DEPARTMENT

426

May 25, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 101 25 Ave N as submitted by Luke Hestdalen. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2021, 2022, 2023, 2024 & 2025.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about $525 with the City of Fargo's share being $90.

Sincerely,

Mike Splonskowski
City Assessor

bsb
attachment

(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Luke Hestdalen Phone No. 701-552-2979
2. Address of Property 101 25th Ave N
   City FARGO State ND Zip Code 58102
3. Legal description of the property for which the exemption is being claimed. Lot 7 in block 5, of North park addition to the city of Fargo in cass county in the state of ND
4. Parcel Number 01-2120-01000-000 Residential ☒ Commercial ☐ Central Business District ☐
5. Mailing Address of Property Owner 101 25th Ave N
   City Fargo State ND Zip Code 58102

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). New roof, furnace + central air, water heater, plumbing, electrical panel, wall straightening. Complete remodel
7. Building Permit No. 2011-0817 + 2103-028 8. Year Built 1961
9. Date of Commencement of making the improvement 11/15/2021
10. Estimated market value of property before improvement $ 141,571.00
11. Cost of making the improvement (all labor, material and overhead) $ 40,000
12. Estimated market value of property after improvement $ 250,000

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.
    Applicant's Signature Luke Hestdalen Date 5/24/2021

Assessor's Determination

14. The local assessor finds that the improvements in this application has ☒ has not ☐ met the qualifications for exemption for the following reason(s):
    Assessor's Signature [signature] Date 6-4-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied ☐ Approved ☐
    Approval subject to the following conditions:
    Chairman of Governing Body Date

Submit Via Email

THE CITY OF Fargo
FAR MORE

DR. TIMOTHY J. MAHONEY, MAYOR
Fargo City Hall
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1310 | Fax: 701.476.4136
www.FargoND.gov

430

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY

DATE: JUNE 14, 2021

SUBJECT: APPOINTMENT TO THE SPECIAL ASSESSMENT COMMISSION

The term of Daniel Dunn on the Special Assessment Commission expires on July 1, 2021.

Mr. Dunn is willing to continue his service on the Board and I am recommending that he be reappointed for a three-year term ending July 1, 2024.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: Approve the reappointment of Daniel Dunn to the Special Assessment Commission for a term ending July 1, 2024.

mmappt21sac

THE CITY OF Fargo FAR MORE

DR. TIMOTHY J. MAHONEY, MAYOR
Fargo City Hall
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1310 | Fax: 701.476.4136
www.FargoND.gov

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MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY

DATE: JUNE 14, 2021

SUBJECT: APPOINTMENTS TO THE PLANNING COMMISSION

The terms of Art Rosenberg, Maranda Tasa, and Jennifer Holtz on the Planning Commission expire on June 30, 2021.

Mr. Rosenberg, Ms. Tasa and Ms. Holtz are willing to continue their service, therefore, I am recommending their reappointments for three-year terms.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: Approve the reappointment of Art Rosenberg, Maranda Tasa and Jennifer Holtz to the Planning Commission for three-year terms ending June 30, 2024.

mmappt21plc