FARGO CITY COMMISSION AGENDA
Monday, March 12, 2018 - 5:00 p.m.

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

A. Pledge of Allegiance.

B. Roll Call.

C. Approve Order of Agenda.

D. Minutes (Regular Meeting, February 26, 2018).

CONSENT AGENDA – APPROVE THE FOLLOWING:

1. 1st reading of the following Ordinances:
   a. Amending Section 25-1509, of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
   b. Amending Section 18-0202, of Article 18-02 of Chapter 18 of the Fargo Municipal Code Relating to Public Ways and Places.

2. 2nd reading, waive reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Rocking Horse Farm 5th Addition.

3. Purchase Agreement for property located at 4021 Copperfield Court South in the amount of $735,000.00.

4. Settlement Agreement and Release with KCB Legacy, LLC.

5. Applications for Games of Chance:
   a. The Outdoor Adventure Foundation for a raffle and raffle board on 3/17/18.
   b. Fargo Rotary Club for a raffle on 5/23/18.
   c. NDSU Lions Club raffle on 4/18/18.
   d. El Zagal Holding Company for a raffle on 4/21/18.

6. Tax exemptions for improvements made to buildings:
   a. Roger L. II and Jessalyn M. Kish, 2491 Lilac Lane North (5 year).
   b. CKD LLC, 1741 13 1/2 St. S. (5 year).
   c. Jesse T. and Mykell M. Barnacle, 706 24th Avenue South (5 year).
   d. Joan K. Justesen, 134 35th Avenue Northeast (5 year).
   e. Bryan L. and Sandra B. Howard, 3213 Longfellow Road North (5 year).
   f. Jamie C. and Kristi K. Schreiner, 3024 10th Street North, Unit C15 (5 year).
   g. Kimberly M. and Kenneth J. Anderson, 714 19th Avenue South (5 year).
   h. John Shea and Jonna Ganje, 805 15th Street South (5 year).
   i. Encore Real Estate Solutions LLC, 213 Forest Avenue North (5 year).
   j. Joan J. Justesen RLT, 134 35th Avenue Northeast (3 year).

7. Agreement with Sara Mwagura to provide administration and instruction of Child Care Physical Activity Health Code training.

8. Memorandum of Understanding with Essentia Health to develop and implement a community outreach program.

9. Appointment of Assistant Planning Director Mark Williams to the Roberts Commons Condominium Board of Managers.

10. Authorize the Strategic Planning Director to submit applications for the establishment of Opportunity Zones in the City.

11. Acceptance of ND Department of Emergency Services Grant in the amount of $79,344.00 to purchase Avon C50 Air Purifying Respirator Kits for the Police Department (CFDA# 97.067).

12. Bid award to Labor Masters, Heartland Labor, Command Center and People Ready for temporary (day) labor based on workforce availability for the remainder of 2018 at the Landfill, Household Hazardous Waste Facility, various other sites and Clean Up Week (RFP18086).

13. Bid award to Sanitation Products, Northern Truck Equipment Corporation and Olympic Sales for rear load containers based on availability for the remainder of 2018 (RFP18085).

14. Task Order with Wenck Associates, Inc. to provide consultant engineering services for Project SW18-01.

15. Purchase Agreement in the amount of $150,000.00 for property at 1112 7th Avenue North for Project No. WA1709.

16. Change Orders for Project No. WA1301:
    a. No. 15 for an increase of $91,395.00 for the general construction contract.
    b. No. 13 for an increase of $131,677.54 for the mechanical construction contract.

17. Concur with the Public Works Projects Evaluation Committee and approve the 52nd Avenue South street reconstruction design decisions for Project No. MS-17-A0.

18. Final Balancing Change Order No. 2 in the amount of $522.33 for Project No. TM-17-A1.

19. Bid award for Project No. TM-18-A1.

20. Bid advertisement for Project No. SN-18-B.

21. Bills.

22. Negative Final Balancing Change Order No. 4 in the amount of $-46,531.81 for Improvement District No. BN-16-C1.

23. Bid award for Improvement District No. AN-17-F1.

24. Bid award for Improvement District No. BR-18-C1.

25. Infrastructure request to create Improvement District No. BN-18-J1.

26. Create Improvement District Nos. PR-18-C, BR-18-J, BN-18-J1, PR-18-F, BN-18-E, BR-18-F, BR-18-E and NN-17-A.

REGULAR AGENDA:

27. Diversion Project Update.

28. Update from the Greater Fargo-Moorhead Economic Development Corporation.

29. Public Hearings - 5:15 pm:

    a. Timber Creek Seventh Addition (3559, 3571 and 3583 47th Avenue South); approval recommended by the Planning Commission on 1/4/18:
        1. Zoning Change from SR-2, Single-Dwelling Residential to SR-4, Single-Dwelling Residential.
        2. 1st reading of rezoning Ordinance.
        3. Plat of Timber Creek Seventh Addition.

    b. PTP Addition (2856 Brandt Drive South); approval recommended by the Planning Commission on 1/4/18:
        1. Zoning Change to repeal and re-establish a C-O, Conditional Overlay on Lot 1, Block 1.
        2. 1st reading of rezoning Ordinance.

    c. Grayland First Addition (5565 63rd Street South and 5414 68th Street South); approval recommended by the Planning Commission on 11/717:
        1. Zoning Change from AG, Agriculture to SR-2, Single-Dwelling Residential, SR-3, Single-Dwelling Residential and P/I, Public and Institutional.
        2. 1st reading of rezoning Ordinance.
        3. Plat of Grayland First Addition.

    d. Section 5307 Federal Transportation Administration Grant Preliminary Program of Projects for 2018.

30. Application for Abatement or Refund of Taxes #4472 submitted by Patrick Vesey representing Aurora Pines II at the District, LLP for property located at 3500 56th Avenue South.

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

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

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GREATER Fargo Moorhead Economic Development Corporation

Fargo Quarterly Update
3-1-2018

President's Report

Attended Career Center meeting at Microsoft with Sandi Piatz and Randy Gerhold.
Participated in Flood Diversion Board of Authority Meetings.
Attended tax exempt review committee meetings.
Attended Technology Incubator at North Dakota State University.
Interview with WDAY regarding Workforce Development.
Attended Meeting of Task Force on Higher Education Governance.

Business Development

150 BRE visits in the region in 2017: 105 (70%) were in Fargo. 24 BRE visits so far in 2018: 16 (67%) in Fargo.
6 of 9 (67%) expansion projects are in Fargo for the 3-month period of Dec-Feb. Total of all projects is $12.5 million capital investment; 60 new jobs.
2 of 4 business attraction projects (50%) of leads are considering Fargo, for the 3-month period of Dec-Feb. Total of all projects is $88 million capital investment; 385 new jobs.
Hosting a site selector and client in Mid-March.
Will attend in partnership with ND Commerce world's largest UAS trade show in May.
The establishment of a logistics corridor between Fargo & Winnipeg.
Worked with City on Solid Comfort project, $4 million investment, 100 new jobs.
Attended Gov's Main St Summit event.
Worked with city staff to resolve Digi-Key road issue.
Working with NDSCS on potential sites for career academy center.
Attend property tax review committee meetings.

Entrepreneurial Support

74 of 102 (72.5%) entrepreneurs assisted in 2017 were Fargo entrepreneurs. 19 of 25 (76.0%) for the past quarter.

Continue to curate Fargo edition of Techstars Startupdigest.com calendar & bi-weekly email.

Serve as a Kiva U.S. (crowdsourced microfinance platform) Advisor/Trustee for our region.

Organize the planning of Techstars Startup Weekend Fargo 2018 to be held 4/13-4/15 in Fargo.

Organized several curated gatherings of entrepreneurs with individuals in existing industry for mentoring opportunities and information sharing.

Represent the City of Fargo on both the Steering Committee and Loan Committee of the ND Opportunity Fund (State Small Business Credit Initiative).

Assisted NDSU faculty and staff on several occasions with information, connections and speaking to student groups.

Attend events to promote community efforts and meet the various people of our entrepreneurial ecosystem: 1 Million Cups, SCORE, ND SBDC, Folkways, Emerging Prairie, Prairie Capital Summit & more. Presented on stage at 1 Million Thanks and Prairie Capital Summit.

Participate in a wide variety of meetings/calls/speaking with individuals/organizations seeking knowledge and input on their initiatives as they view GFMEDC as an effective community resource.

Workforce

Provided a community tour for an externally-based recruiter who recruits new residents to work in Fargo. Also provided follow-up tailored community information to assist in promoting the metro.

Marketing & Public Relations

Completed a website to market Fargo and surrounding community to potential businesses and workforce.

Began transitioning the FM Ambassadors from our Social Toaster Program to a Facebook closed group. The ambassadors will utilize tools to help sell Fargo and surrounding communities.

Contributed to a Fargo Public Library strategic planning input session (September)

Continue social media and other marketing efforts to market Fargo and embrace and celebrate the wonderful events and quality of life.

Growth Initiative Fund

14 of 19 loan approvals 2017 from Fargo, totaling $1,136,000 in loan funds and part of $23.1 million in capital investments by companies. For YTD 2018, 3 of 4 loan approvals from Fargo, totaling $319,000 in loan funds and part of $15.76 million in investments.

Approved the first two projects of the new State Funding Partners Program which the GIF created to participate further in projects with Bank of North Dakota and ND Development Fund. The GIF participation was a crucial final piece in the financing package that allows this fast-growing tech startup to accelerate their growth and strategic positioning.

In the past quarter, met with Bank of North Dakota, North Dakota Development Fund and FM Area Foundation Investment Committee as part of collaborative efforts.

29a

City of Fargo Staff Report			
Title:	Timber Creek Seventh Addition	**Date:** **Update**	12/28/17 3/5/2017
Location:	3559, 3571, and 3583 47th Avenue South	**Staff Contact:**	Maegin Elshaug
Legal Description:	Lots 11-13, Block 1, Timber Creek Third Addition		
Owner(s)/Applicant:	PLC Investments, LLC/Nate Vollmuth	**Engineer:**	Ulteig
Entitlements Requested:	**Zoning Change** (from SR-2, Single-Dwelling Residential to SR-4, Single-Dwelling Residential) and **Minor Subdivision** (Replat of Lots 11-13, Block 1, Timber Creek Third Addition, to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Public Hearing: March 12, 2018		

Existing
Land Use: Vacant land
Zoning: SR-2, Single-Dwelling Residential
Uses Allowed: Detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities
Maximum Density Allowed: 5.4 units per acre

Proposed
Land Use: Residential
Zoning: SR-4, Single-Dwelling Residential
Uses Allowed: Detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities
Maximum Density Allowed: 12.1 units per acre

Proposal:

The applicant is seeking approval of a minor subdivision, entitled **Timber Creek Seventh Addition**, and a zoning map amendment to rezone the subject properties from SR-2, Single-Dwelling Residential to SR-4, Single-Dwelling Residential. The subject properties are legally described as Lots 11-13, Block 1, Timber Creek Third Addition and are located at 3559, 3571, and 3583 47th Avenue South. The property encompasses approximately 0.71 acres.

The application proposes an increase in households. Within 300 feet of the interstate paving, there is an increase of one residential lot. City policy discourages residential use in proximity to the interstate highways. However, single-family residential zoning is already established at this location.

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: P/I, Public and Institutional with a park;
- East: SR-2, Single-Dwelling Residential with detached housing;
- South: Across 47th Avenue South; SR-4, Single-Dwelling Residential with detached housing;
- West: Interstate 29.

(continued on next page)

Area Plans:

The subject property is located within the 2007 Tier 2 South Land Use Plan. In March of 2014, a growth plan amendment was approved. Pursuant to the amendment, the subject properties are deemed appropriate for low to medium density residential.

- Low Med Res or Med High Res
- Low Med Res or Parkland
- Commercial or Office
- Commercial
- Low Med Res
- Med High Res or Office
- Med High Res
- Office
- Parkland
- Public and Inst

Schools and Parks:

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

Neighborhood: The subject property is located in the Centennial Neighborhood.

Parks: Fox Run Park Trail (4101 32nd Street S) is abuts the northern property line of the subject properties and offers the amenity of recreational trails. Timber Creek Park (3300 47th Avenue S) is located approximately less than a quarter of a mile east of the subject property and offers playground, recreational trails, and shelter amenities.

Pedestrian / Bicycle: Off-road bike facilities run along the Fox Run Trail and 36th St S/Timber Parkway South. Both facilities are components of the metro area trail system.

Staff Analysis:

Zoning

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**
   Staff is unaware of any zoning map error in regards to the subject property. The requested zoning change is justified by a change in conditions since the previous zoning classification was established. The applicant has a clearer picture of the type of development for the property. **(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?**
   The development is served with city services (water, sewer, streets, police/fire protection, etc.) as well as other utility services as needed. The City Engineer and other applicable review agencies have reviewed this proposal. No deficiencies to provide the necessary public services, facilities and programs to this development have been identified. **(Criteria Satisfied)**

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 that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. The proposed zone change is in keeping with adopted plans approved via public process. In addition, written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has received one call with concerns regarding the increase in density. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity. **(Criteria Satisfied)**

4. **Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?**
   The purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff finds that the proposal is consistent with the purposes of the LDC, the Growth Plan, and other adopted policies of the City. **(Criteria Satisfied)**

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

1. **Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**
   The subdivision is intended to replat Lots 11-13, Block 1, Timber Creek Third Addition into six lots and one block. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received one call with concerns regarding the increase in density. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. **(Criteria Satisfied)**

2. **Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
   While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

Update 3/5/2018: After the item was heard by the Planning Commission on January 4, five public comments were received regarding the application with concerns of increased density and changes to the development. These comments are included in the packet.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of Planning Commission and staff and hereby Waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and move to approve the proposed: 1) Zoning Change from SR-2, Single-Dwelling Residential to SR-4, Single-Dwelling Residential and 2) Subdivision Plat, **Timber Creek Seventh Addition** as outlined within the

staff report, as the proposal complies with the adopted Area Plan, the standards of Article 20-06, Section 20-0906.F (1-4), and all other applicable requirements of the Land Development Code".

Planning Commission Recommendation: January 4, 2018

On January 4, 2018, with a 9-0 vote, the Planning Commission recommended approval to the City Commission of the proposed: 1) Zoning Change from SR-2, Single-Dwelling Residential to SR-4, Single-Dwelling Residential and 2) Subdivision Plat, **Timber Creek Seventh Addition** as outlined within the staff report, as the proposal complies with the adopted Area Plan, the standards of Article 20-06, Section 20-0906.F (1-4), and all other applicable requirements of the Land Development Code.

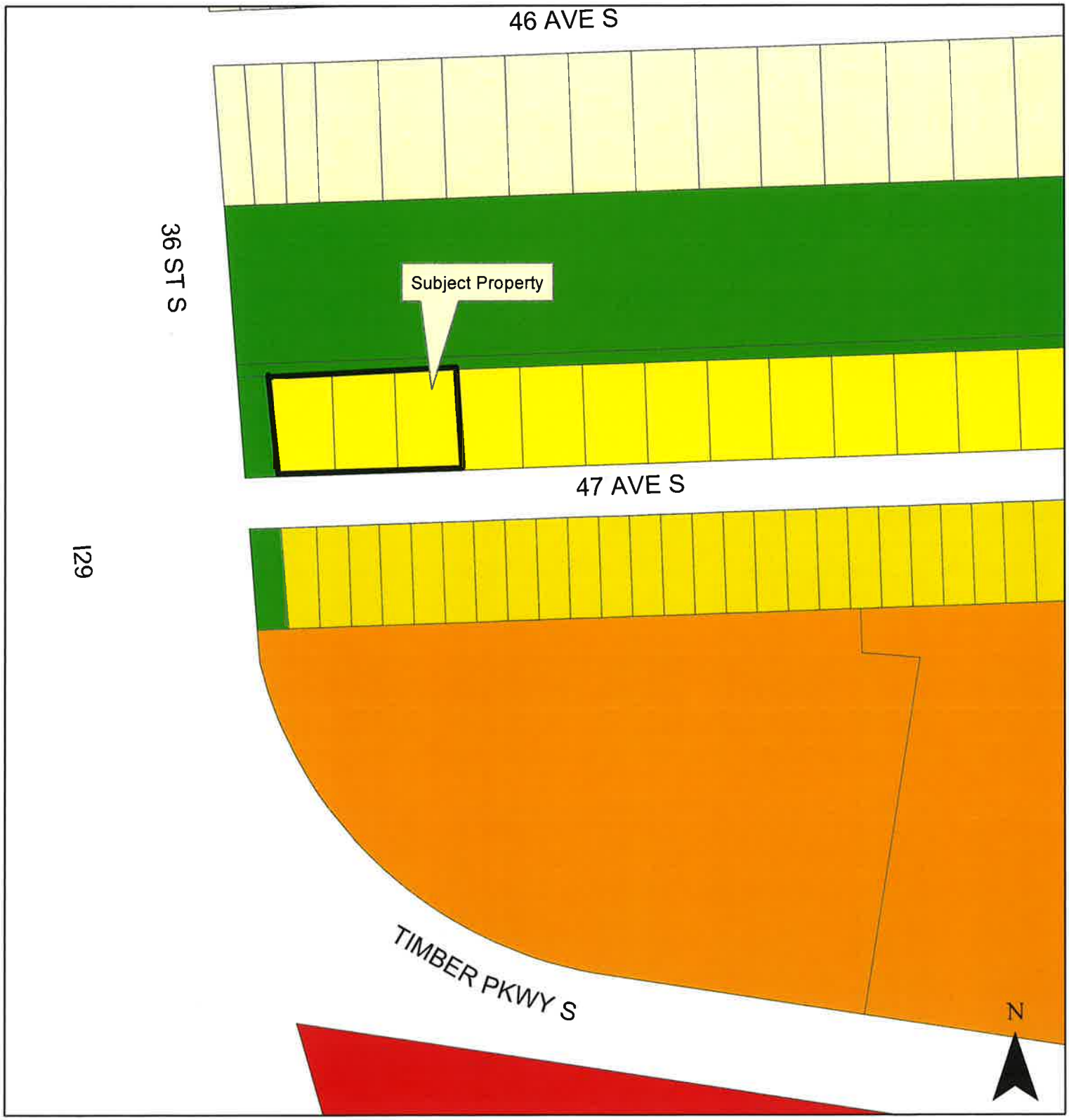
Attachments:

1. Zoning Map
2. Location Map
3. Preliminary Plat
4. Public Comments

Plat (Minor) and Zone Change (SR-2 to SR-4)

Timber Creek Seventh Addition

3583, 3571, 3559 47th Ave S



THE CITY OF Fargo FAR MORE

Legend

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

300 Feet

Fargo Planning Commission
January 4, 2017

Plat (Minor) and Zone Change (SR-2 to SR-4)

Timber Creek Seventh Addition

3583, 3571, 3559 47th Ave S

THE CITY OF Fargo FAR MORE

300 Feet

Fargo Planning Commission
January 4, 2017

TIMBER CREEK SEVENTH ADDITION

A REPLAT OF LOTS 11, 12, & 13, BLOCK 1 OF TIMBER CREEK THIRD ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MINOR SUBDIVISION)

OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That PLC INVESTMENT LLC whose address is Fargo, North Dakota as owner of a parcel of land located in the Southwest Quarter of Section 35, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, and more particularly described as follows:

Lots 11 through 13, Block 1 of TIMBER CREEK THIRD ADDITION, according to the record plat thereof on file in the office of the County Recorder, Cass County, North Dakota being in the City of Fargo, Cass County, North Dakota.

The above described parcel contains 0.71 acres or 30,920.4 square feet more or less.

Said owners have caused the above described parcel of land to be surveyed and platted as "TIMBER CREEK SEVENTH ADDITION" to the City of Fargo, Cass County, North Dakota.

OWNER
PLC INVESTMENT LLC

By: _____
Kevin Christianson

State of North Dakota }
County of Cass } SS

On this 15th day of January, in the year of 2018, before me, a notary public with and for said County, personally appeared Kevin Christianson, PLC INVESTMENT LLC known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same.

_____
Notary Public

WENDI LAWSON
Notary Public
State of North Dakota
My Commission Expires May 17, 2020

MORTGAGEE:
First International Bank & Trust

By: _____

East Market President
Title

State of North Dakota }
County of Cass } SS

On this 19th day of January, in the year of 2018, before me, a notary public with and for said County, personally appeared Brian Hagen

East Market President, First International Bank & Trust known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same.

_____
Notary Public

WENDI LAWSON
Notary Public
State of North Dakota
My Commission Expires May 17, 2020

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGMENT

I, Christopher Blake Sexton, 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.

31 DEC 2017

Christopher Blake Sexton, Professional Land Surveyor
North Dakota License No. LS-10497

State of North Dakota }
County of Cass } SS

On this 31st day of Dec, 2017, before me, a notary public with and for said County, personally appeared Christopher Blake Sexton, to me known to be the person described in and who executed the same as a free act and deed.

_____
Notary Public

REVERLY J. SWENSON
Notary Public
State of North Dakota
My Commission Expires July 4, 2023

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by City Engineer this 9th day of February, 2018.

_____
Mark H. Bittner, City Engineer

State of North Dakota }
County of Cass } SS

On this 9th day of February, 2018, before me, a notary public with and for said County, personally appeared Mark H. Bittner, City Engineer, to me known to be the person described in and who executed the same as a free act and deed.

_____
Notary Public

KRISTI OLSON
Notary Public
State of North Dakota
My Commission Expires Oct 17, 2019

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this 4th day of January, 2018.

_____
Shara Fischer, Planning Commission Chair
Fargo Planning Commission

State of North Dakota }
County of Cass } SS

On this 26th day of January, 2018, before me, a notary public with and for said County, personally appeared Shara Fischer, Planning Commission Chair, to me known to be the person described in and who executed the same as a free act and deed.

_____
Notary Public

MIRANDA WOLF
Notary Public
State of North Dakota
My Commission Expires Mar 16, 2023

FARGO CITY COMMISSION APPROVAL

Approved by the Board of City Commissioners and ordered filed this ____ day of _____, 2018.

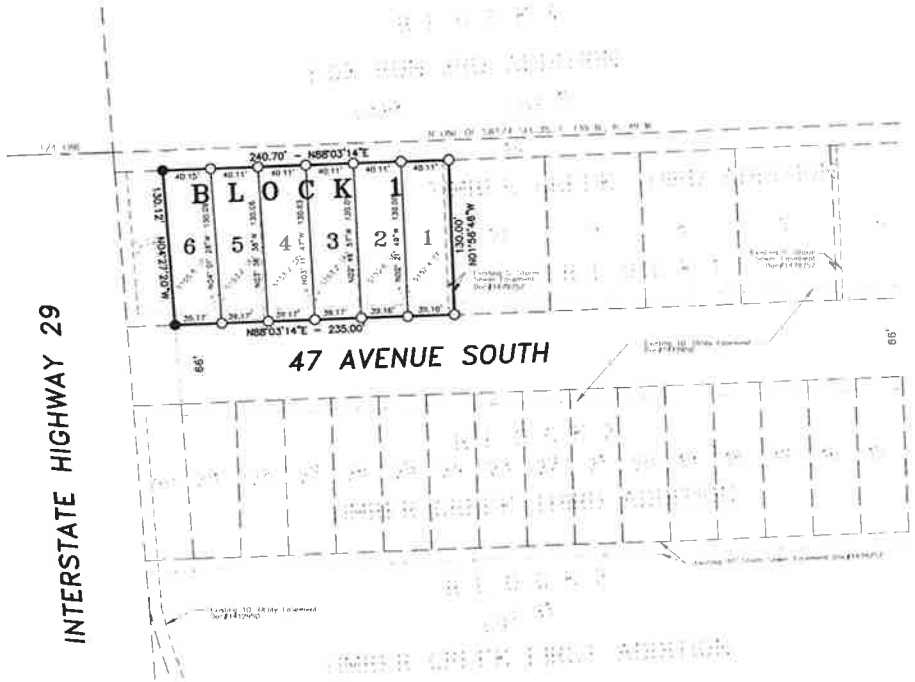
_____
Timothy J. Mahoney, Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota }
County of Cass } SS

On this ____ day of _____, 2018, 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 as a free act and deed.

_____
Notary Public



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SCALE IN FEET
ORIENTATION OF THIS BEARING SYSTEM IS CITY OF FARGO GIS

LEGEND

- ● MONUMENT FOUND
- ○ MONUMENT SET, 5/8" REBAR, CAPPED "LS-10497"
- SUBJECT PROPERTY LINE
- SECTION/QUARTER LINE
- EXISTING PROPERTY LINE
- EASEMENT LINE

FLOOD ZONE NOTE:
PER FEMA FLOOD INSURANCE RATE MAP NUMBER 38017C0787G WITH AN EFFECTIVE DATE OF JANUARY 16, 2015, SUBJECT PROPERTY IS SITUATED IN "OTHER FLOOD AREAS ZONE X"

PREPARED BY

Ulteig

FARGO · BISMARCK · DETROIT LAKES · ST. PAUL · SIOUX FALLS · DENVER · CEDAR RAPIDS · WILLISTON

MCS 12/29/2017 17.01782-P-TM-REVISED 29 DEC 2017.dwg

Maegin Elshaug

From: Erika Hanson <buckhousept@yahoo.com>
Sent: Saturday, January 13, 2018 5:34 PM
To: Maegin Elshaug
Subject: 46th Ave Fox run/Timbercreek

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

I received notification about changes again to the building regulations behind my home (3510 46th Ave S.) I am, of course, concerned about the resale value of my home being negatively impacted by people who want to make money off selling those lots. Maybe they just need to drop the price of the lots versus packing them with more people?

Erika Hanson

Maegin Elshaug

From: Peggy Holum <holump@hotmail.com>
Sent: Monday, January 15, 2018 6:18 AM
To: Maegin Elshaug
Subject: Zoning Change - Timber Creek Seventh Addition

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

Ms. Elshaug -

I am writing to protest the "1) zoning change from SR-2, Single-Dwelling Residential to SR-4, Single-Dwelling Residential within the boundaries of the proposed Timber Creek Seventh Addition and 2) a Plat of Timber Creek Seventh Addition a replat of Lots 11-13, Block 1, Timber Creek Third Addition."

I was not able to attend the January 4th meeting due to the 3:00 time slot, which I'm sure also prohibited many of my employed neighbors from attending. In addition, I have sat through numerous "informational" meetings this city has scheduled that have proven to be a waste of my time. Those meetings tend to fall into two categories: 1) promises made by city officials who have no intention of keeping them, and 2) being told outright that it doesn't matter what citizens believe is best for their neighborhoods, the city will do what it (and the developer) wants. After speaking to my neighbors, however, I feel I must at least voice my (and their) concerns.

When I purchased my home in 1999, I was assured that the land south of 46th avenue was zoned strictly for residential use. That was followed by the Walmart proposal, which was fortunately denied. A panel was then formed to meet with the city and develop guidelines for this land. All those agreements were ignored when this new developer (Christianson) came into the picture. And all the "restrictions" placed on the buildings and types of businesses were also immediately ignored (I'm sure they were legally "amended" with the zoning commission). There were supposed to be no 24-hour businesses, and the first business that opened was Anytime Fitness (which according to their website is open "24/7"). No building was to be over 30 feet tall, and we have 4-story apartment buildings. Now it's proposed that, in addition to the row of houses on the south side of 47th that are packed so closely together, the lots on the north side also be divided to accommodate more homes. At what point is the city going to consider the residents who already live in this neighborhood and what this type of zoning is doing to the neighborhood (which has already seen negative effects from the development that has occurred) and future property values?

In conclusion, I would ask that the city put those of us who have already invested in and live in this neighborhood first, and deny yet another zoning amendment from this developer.

Thank you,
Peggy Holum
3550 46th Ave S
Fargo, ND

Maegin Elshaug

From: Patti H. <pattispitstop@hotmail.com>
Sent: Monday, January 15, 2018 4:16 PM
To: Maegin Elshaug
Subject: Zoning Change from SR-2, Single Dwelling Residential to SR-4 Replat of Lots 11-13, Block 1, Timber Creek Third Addition

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

Maegin, I have talked to you a couple of times regarding the zoning change south of 46th ave and was told to send you an e-mail. When the original zoning took place between 46th Ave and 52nd Ave S, there was a lot of discussion
and compromises were made. We were guaranteed there would be 1 row of residential housing between us and 47th Ave.
Now, for some reason (maybe slow sales on these lots), we are being asked to change this again. Only a few houses within 300 ft of the 3 lots are being notified about this and not all of the Fox Run home owners. I believe this will effect the resale of my house along with my neighbors's houses. If the sales are slow on these 3 lots, why don't they lower the prices? I do not want
6 homes crunched into 3 lots which was previously agreed on. I am not one to speak out, but I believe this is wrong.

Sincerely, Wayne Hegseth
3526-46th Ave South
Fargo, ND 58104

Please confirm this e-mail was received.

Maegin Elshaug

From: Colbert, Christopher <christopher.colbert@ndsu.edu>
Sent: Tuesday, January 16, 2018 1:11 PM
To: Maegin Elshaug
Subject: Timber Creek Seventh Addition Replat

Follow Up Flag: Follow up
Flag Status: Flagged

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

Dear Ms. Elshaug,

My name is Christopher Colbert and I live at 3518 46th Ave. S, Fargo, ND 58104. I am writing to protest the zoning change from SR-2 to SR-4 within the boundaries of the Timber Creek Seventh Addition and replat of Lots 11-13, Block 1, Timber Creek third addition.

Concessions were already provided when development of this land was originally approved. This is a bait-and-switch tactic that I do not approve or appreciate. The impact of this development has already impacted home values in Fox Run and further changes to the zoning to increase population density will further impact home values. I and my neighbors have already made concessions, it is time for the developer to stick to the agreement.

Sincerely,

Christopher Colbert and Sangita Sinha

Maegin Elshaug

From: Debra Ensrud
Sent: Tuesday, February 27, 2018 8:07 AM
To: Kelly Leary
Cc: Maegin Elshaug
Subject: RE: Rezoning of 3559, 3571 and 3583 47th Ave S

Good Morning:

Thank you for contacting the Planning Department.

I am including Planning Coordinator Maegin Elshaug in this reply. She is working with Timber Creek Seventh Addition, the zoning request referred to in the letter you received. She will contact you regarding your concerns.

If you have any other questions we can assist you with, please let us know.

Take care,

Debbie

~~~~~~

Debbie Ensrud ◆ Office Associate ◆ Planning and Development ◆ City of Fargo
p 701-241-1474 ◆ f 701-241-1526 ◆ densrud@FargoND.gov

From: Kelly Leary [mailto:kleary61@hotmail.com]
Sent: Monday, February 26, 2018 7:23 PM
To: Planning E-mails <planning@FargoND.gov>
Subject: Rezoning of 3559, 3571 and 3583 47th Ave S

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

Hello-
With regards to the notice we received in the mail about rezoning 3559, 3571 and 3583 47th Ave S from SR-2 to SR-4. We live directly to the north of these properties and we oppose the rezoning. Last summer there were at least 7 large 3 story apartment buildings completed on Timber Parkway S just to the south of these properties and we see no need to inject another one within the single family homes on 47th Ave. Thank you-

Kelly and JDee Leary
3552 46th Ave S
Fargo, ND 58104
701-388-8430
~~~~~~

29a1

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN
PARCELS OF LAND
LYING IN TIMBER CREEK SEVENTH 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 Timber Creek Seventh Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on January 4, 2018; and,

WHEREAS, the rezoning changes were approved by the City Commission on March 12, 2018,

NOW, THEREFORE,

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

Section 1. The following described property:

All of Timber Creek Seventh Addition to the City of Fargo, Cass County, North Dakota; being a replat of Lots Eleven (11) through Thirteen (13), Block One (1), Timber Creek Third Addition, City of Fargo, State of North Dakota,

is hereby rezoned from "SR-2", Single-Dwelling Residential, District, to "SR-4", Single-Dwelling Residential, 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, Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

296

City of Fargo Staff Report			
Title:	PTP Addition	**Date:** **Update**	1/31/18 3/5/2018
Location:	2856 Brandt Drive South	**Staff Contact:**	Maegin Elshaug
Legal Description:	Lot 1, Block 1, PTP Addition		
Owner(s)/Applicant:	Franklin and Mary Jo Larson / David Schultz, Shultz + Associates	**Engineer:**	N/A
Entitlements Requested:	**Zoning Change** (To repeal and re-establish a C-O, Conditional Overlay, on Lot 1, Block 1, PTP Addition)		
Status:	City Commission Public Hearing: March 12, 2018		

Existing
Land Use: Vacant Land Use
Zoning: LC, Limited Commercial with a C-O, Conditional Overlay
Uses Allowed: LC allows Colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, ~~self service storage, vehicle repair, limited vehicle service~~
Maximum Lot Coverage Allowed: 55% Maximum

Proposed
Land Use: Medical Office
Zoning: LC, Limited Commercial with a C-O, Conditional Overlay
Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, ~~self service storage, vehicle repair, limited vehicle service.~~
Maximum Lot Coverage Allowed: No change

Proposal:

The applicant is seeking approval of a zoning map amendment in order to repeal the existing C-O, Conditional Overlay (Ordinance 4978) and reestablish a new C-O, Conditional Overlay on the subject property. The proposed C-O would effectively result in two modifications to the existing C-O:

Part A) Section 2.6 is proposed to be modified as follows:

2.6 Accent Materials – In conjunction with the principle materials listed above, the following accent materials may also be used to construct or clad exterior walls: finished wood, architectural metal panels, and vinyl. Accent materials shall be applied to no greater than 10 percent of each building façade facing public right-of-way and private driveways, and 25 percent for all other building facades.

And Part A) Section 3.1 is proposed to be removed in its entirety:

~~*3.1 Parking shall be located in the side yard or rear yard of the buildings so as not to be located between the building and the street right of way.*~~

It is staff's understanding that the modifications to the Conditional Overlay proposed by the applicant are intended to allow greater flexibility of design for future development. It should be noted that this property has one right-of-way touch, on the north side, which is Brandt Drive South. The east and west sides of the property are private driveways.

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

Surrounding Land Uses and Zoning Districts:

- North: Across Brandt Drive South; LC, Limited Commercial with C-O, Conditional Overlay, vacant property;
- East: LC, Limited Commercial with C-O, Conditional Overlay, with a financial institution use;
- South: LC, Limited Commercial with C-O, Conditional Overlay, with Office use;
- West: LC, Limited Commercial with C-O, Conditional Overlay and CUP, Conditional Use Permit, with Multi-Dwelling Residential use.

Area Plans:

The subject property is located within the 2003 Southwest Future Land Use Plan with the designation of "Commercial or Medium/High Density."

Schools and Parks:

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

Neighborhood: The subject property is located in the Urban Plains Neighborhood.

Parks: Brandt Crossing Park (5009 33rd Avenue South) is located approximately less than one half (.5) miles west of the subject property and provides the amenities of basketball, dog park, playground, recreational trails, and shelter.

Pedestrian / Bicycle: Off-road bike facilities run along Brandt Drive South and is a component of the metro area trail system.

Staff Analysis:

Zoning

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**
   Staff is unaware of any zoning map error in regard to the subject property. The requested zoning change is justified by a change in conditions since the previous zoning classification was established, as the applicant would like to allow for greater flexibility in design. **(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?**
   The development is served with city services (water, sewer, streets, police/fire protection, etc.) as well as other needed utility services as needed. The City Engineer and other applicable review agencies have reviewed this proposal. No deficiencies to provide the necessary public services, facilities and programs to this development have been identified. **(Criteria Satisfied)**

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 that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. The proposed zone change is in keeping with adopted plans approved via public process. In addition, written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has not received any verbal concerns or written comments regarding the proposed overlay zoning change. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity. **(Criteria Satisfied)**

4. **Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?**
   The purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff finds that the proposal is consistent with the purposes of the LDC, the Growth Plan, and other adopted policies of the City. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of Planning Commission and staff and hereby Waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and move to approve the proposed Zoning Change to repeal and re-establish a C-O, Conditional Overlay, on Lot 1, Block 1, PTP Addition as outlined within the staff report, as the proposal complies with the adopted Area Plan, the standards of Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the Land Development Code."

Planning Commission Recommendation: February 6, 2018

On January 4, 2018, with a 9-0 vote, the Planning Commission recommended approval to the City Commission of the proposed Zoning Change to repeal and re-establish a C-O, Conditional Overlay, on Lot 1, Block 1, PTP Addition as outlined within the staff report, as the proposal complies with the adopted Area Plan, the standards of Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the Land Development Code.

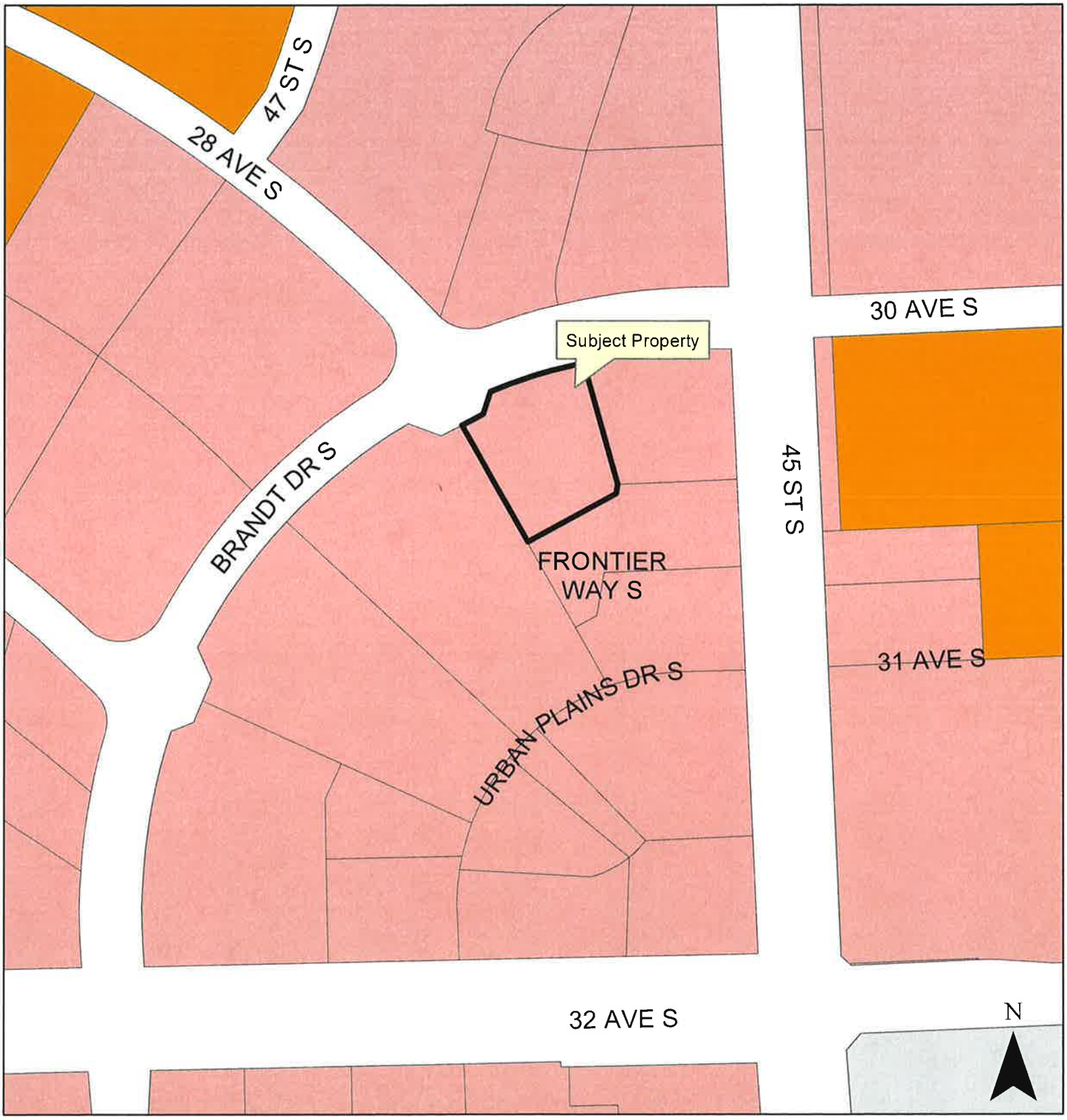
Attachments:

1. Zoning Map
2. Location Map
3. Materials submitted by Applicant

Zone Change (Repeal & Reestablish C-O)

PTP Addition

2856 Brandt Drive South



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

300 Feet

Fargo Planning Commission
February 6, 2018

Zone Change (Repeal & Reestablish C-O)

PTP Addition

2856 Brandt Drive South

THE CITY OF Fargo FAR MORE

300 Feet

Fargo Planning Commission
February 6, 2018

SHULTZ ASSOCIATES
ARCHITECTS

612 1/2 Main Avenue
Fargo, ND 58103

January 24, 2018

Mr. Donald Kress, Senior Planner
City of Fargo, Department Planning and Development
200 North 3rd Street
Fargo, ND 58102

Re: 2856 Brandt Drive
The Facial and Oral Surgery Center
Request for Conditional Overlay Modification

Dear Mr. Kress,

We write to formally request rezoning of the Conditional Overlay for the parcel noted above.

Dr. Michael Noffze is proposing to build a new state-of-the-art facility on the parcel addressed as 2856 Brandt Drive. The facility has a unique architectural design to bring natural light into the interior environment for the comfort and wellbeing of the patients and staff. The resulting exterior architecture benefits from these forms with bold rooflines, clerestory glazing and a variety of materials. Visibility to the front of the building is a strong priority in the design, as well as a separate covered pick-up area for patients following surgical procedures. This results in two distinct the parking areas.

The site at 2856 Brandt Drive is unique with public Rights of Way on three sides of the site, in spite of being less than two acres in size. The Brandt Drive has been designated as the primary public right-of-way, as the other adjacent streets are privately developed rights-of way. The site's visual orientation is to the northeast corner versus the Brandt Frontage as one arrives on the site off of 45th Street onto Brandt Drive.

The requested changes to the Conditional Overlay from the current C_O are as follows:

1. Increase allowable accent materials up to 25% on facades on elevations that do not face a public right-of-way. (Part A, 2.6)

2. Allow parking in the front of the building – between Brandt Drive and the building entrance. (Part A, 3.1)
    a. Parking adjacency to the front door is critical for patient access.
    b. There is strong precedent for omitting this requirement on other C-Os in the subdivision.
    c. Site/building design that places the parking on a secondary right-of-way impacts the opportunity for future building expansion for additional exam or operating spaces.

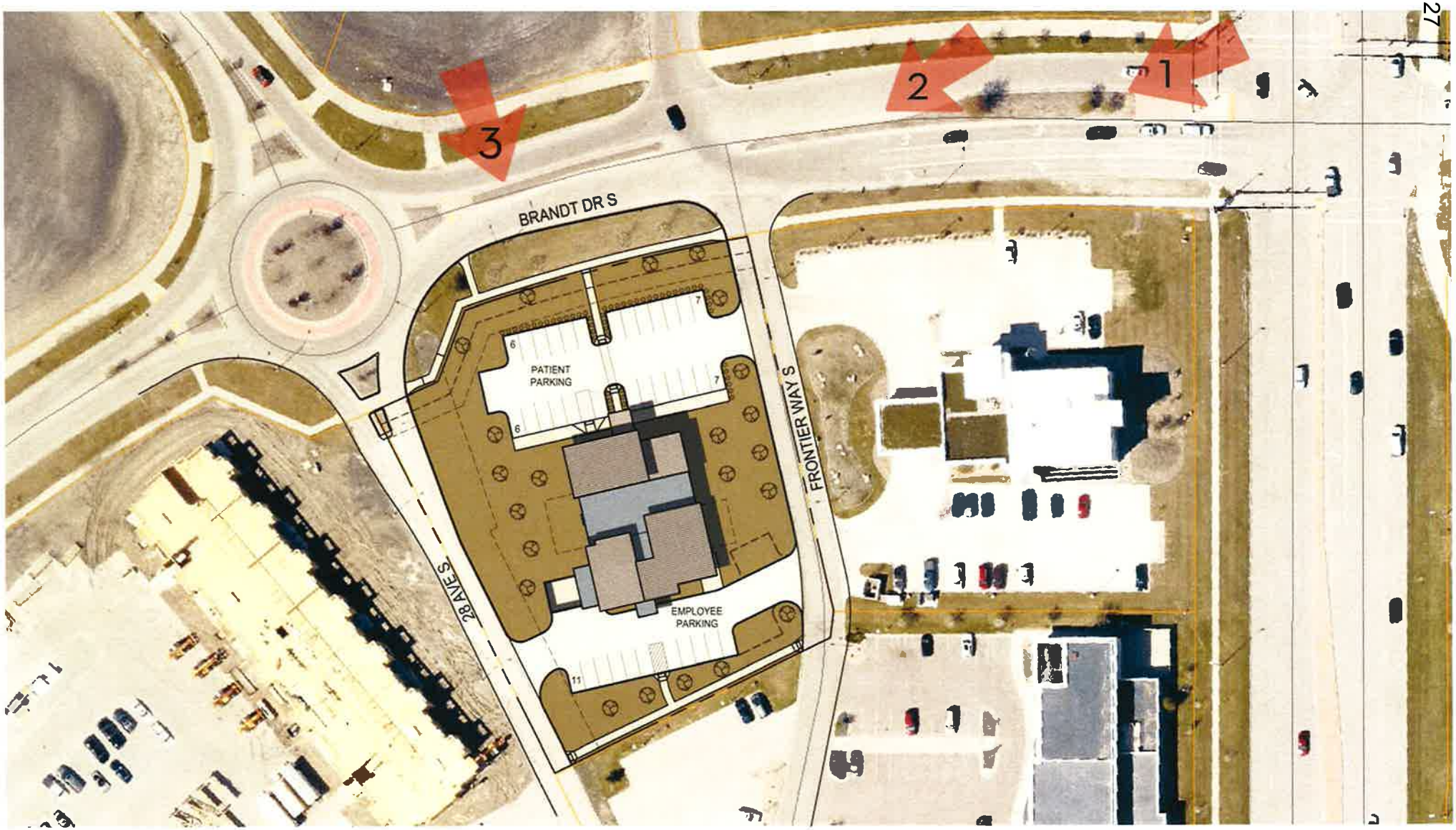
Attached please find the following:
1. Illustrations of the proposed site and building configuration.

a. Site Plan
b. Contextual Building Illustrations.

Thank you for consideration of the proposed change to the Conditional Overlay for this property. The Facial and Oral Surgery Center is well suited for the development of this location. The design of the facility is a reflection of the commitment Dr. Noffze has to expanding state-of the-art medical services to the community.

Sincerely,

David R. Shultz, AIA
Shultz + Associates Architects



Parking Calculation:
Medical Office: 7358 sq ft (1/200 sq ft)= 37 spaces

Total Required Parking Spaces: 37
Actual Number of Parking Spaces: 38

SHULTZ ASSOCIATES

1723: FACIAL AND ORAL SURGERY CENTER
2856 Brandt Drive S-Site Plan
Dec 18, 2017

SHULTZ ASSOCIATES

1723: FACIAL AND ORAL SURGERY CENTER
2856 Brandt Drive S-View 1
Dec 18, 2017

SHULTZ ASSOCIATES

1723: FACIAL AND ORAL SURGERY CENTER
2856 Brandt Drive S-View 2
Dec 18, 2017

SHULTZ ASSOCIATES

1723: FACIAL AND ORAL SURGERY CENTER
2856 Brandt Drive S-View 3
Dec 18, 2017

2961

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND RE-ESTABLISHING A CONDITIONAL OVERLAY DISTRICT ON CERTAIN PARCELS OF LAND LYING IN PTP ADDITION, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on February 6, 2018; and,

WHEREAS, the rezoning changes were approved by the City Commission on March 12, 2018; and,

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

NOW, THEREFORE,

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

Section 1. The following described property:

Lot One (1), Block One (1) PTP Addition to the City of Fargo, Cass County, North Dakota,

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

Part A): The following requirements apply to all mixed-use and non-residential development:

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FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1) Description

This C-O, Conditional Overlay district is primarily intended to encourage high-quality, durable, and long-lasting investments in order to enhance the quality of life and discourage blight. To that end, it is intended that all properties be designed to a human scale and that buildings should have architectural interest and variety through the use of articulated façades. In order to avoid the effect of a single, long, or massive wall with no relation to human scale, it is intended that articulated façades should include elements such as setbacks, change in materials, roof pitch or height variability.

2) Building form and style

2.1 Entrances and pedestrian walkway features leading to entrances shall be provided from both the parking areas and the street right-of-way.

2.2 All building elevations/façades greater than 150 feet in length, measured horizontally from vertical edge to vertical edge, shall incorporate wall plane projections or recesses. Each projection and/or recess shall have a depth of at least five feet, and the cumulative total horizontal width of all projections and/or recesses within a façade shall equate to at least an accumulated total of 20 percent of the overall horizontal length of the façade. No uninterrupted length of any façade shall exceed 150 horizontal feet.

2.3 Ground floor façades of non-residential buildings that face public right-of-way shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60 percent of its horizontal length.

2.4 All buildings, regardless of size, shall have clearly-defined, highly-visible, public entrances that connect to public spaces, streets, pedestrian paths and plazas with no fewer than two of the following:

i. Canopies, awnings or porticos
ii. Recesses/projections varying the façade
iii. Raised corniced parapets over the door
iv. Peaked roof forms
v. Arches or arcades
vi. Entry courts

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

vii. Raised landscape planters and/or wing walls integrated with the building

2.5 Principle Materials – Unless otherwise deemed acceptable by the Zoning Administrator, all exterior walls shall be constructed or clad with natural stone, synthetic stone, brick, stucco, integrally-colored and textured concrete masonry units or systems, exterior insulation finishing systems (EIFS), fiber cement, curtain walls, or glass. All materials shall be commercial grade, durable, and have a multi-generational life span.

2.6 Accent Materials – In conjunction with the principle materials listed above, the following accent materials may also be used to construct or clad exterior walls: finished wood, architectural metal panels, and vinyl. Accent materials shall be applied to no greater than 10 percent of each building façade facing public right-of-way or private driveways, and 25 percent for all other building facades.

2.7 Flat roofs and rooftop mechanical equipment, such as HVAC units, shall be concealed from public view at ground level by parapets or other enclosures. The average height of such parapets shall not exceed fifteen percent of the height of the supporting wall.

2.8 Loading/unloading areas, building service entrances, loading docks, overhead doors, and ground level HVAC units shall be located at the side or rear of buildings and shall be visually screened from adjacent public right-of-way by structures and/or landscaping. All structures used for visual screening shall be constructed or clad with the same materials used for the primary building.

2.9 Dumpsters, refuse containers, and outdoor storage areas shall be located at the side or rear of buildings and shall be visually screened from adjacent public right-of-way by permanent walls. The permanent walls shall be constructed or clad with the same materials used for the primary building. Dumpsters and refuse containers shall contain permanent walls on at least three sides with the service opening not directly facing any public right-of-way or residentially zoned property. The fourth side shall incorporate a metal gate to visually screen the dumpsters or refuse containers.

3) Site Design

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3.1 A minimum of 5% of the internal surface area of the parking lot shall be landscaped through the use of planter islands and peninsulas.

3.2 Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be provided between building entrances and the following:

i. Parking lots or parking structures
ii. Any public sidewalk or multi-use path along the perimeter of the lot
iii. Entrances of other buildings on the site
iv. Any public sidewalk system along the perimeter streets adjacent to the development
v. Adjacent pedestrian origins and destinations—including but not limited to transit stops, residential development, office buildings, and retail shopping buildings—where deemed practical and appropriate by the Zoning Administrator

4) Prohibited Uses
For the purposes of this Conditional Overlay, the following uses are prohibited:

4.1 Portable advertising signs

4.2 Detention facilities

4.3 Self-service storage

4.4 Vehicle repair

4.5 Vehicle service, limited

4.6 Industrial uses

4.7 Adult entertainment center

5) Conditional Uses
For the purposes of this Conditional Overlay, the following uses require approval of a

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Conditional Use Permit in accordance with Section 20-0909 of the LDC:

5.1 Off-premise advertising

6) Definitions

For the purposes of this Conditional Overlay, the following terms shall have the meanings ascribed to them:

6.1 *Façade*: Any exterior side of a building as viewed from a single direction. Said direction is typically perpendicular to the exterior side of the building being viewed.

6.2 *Depth*: A horizontal distance that is perpendicular to a building façade.

6.3 *Elevation*: A horizontal orthographic projection of a building on to a vertical plane, the vertical plane being parallel to one side of the building

Part B): The following requirements apply to all residential development:

1) Description

This C-O, Conditional Overlay district is primarily intended to encourage high-quality, durable, and long-lasting investments in order to enhance the quality of life and discourage blight. To that end, it is intended that all properties be designed to a human scale and that buildings should have architectural interest and variety through the use of articulated façades. In order to avoid the effect of a single, long, or massive wall with no relation to human scale, it is intended that articulated façades should include elements such as setbacks, change in materials, roof pitch or height variability.

2) Building form and style

2.1 Principle Materials – Unless otherwise deemed acceptable by the Zoning Administrator, all exterior walls shall be constructed or clad with natural stone, synthetic stone, brick, stucco, integrally-colored and textured concrete masonry units or systems, exterior insulation finishing systems (EIFS), fiber cement, curtain walls, or glass. All materials shall be commercial grade, durable, and have a multi-generational life span. Horizontal metal lap siding and vertical metal batten shall be allowed on residential structures but should not exceed 75% of the building elevation.

2.2 Accent Materials – In conjunction with the principle materials listed above, the following accent materials may also be used to construct or clad exterior walls: finished wood,

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

architectural metal panels, and vinyl. Accent materials shall be applied to no greater than 10 percent of each building façade.

2.3 Dumpsters, refuse containers, and outdoor storage areas shall be located at the side or rear of buildings and shall be visually screened from adjacent public right-of-way by walls or fencing. Dumpsters and refuse containers shall contain walls or fencing on at least three sides with the service opening not directly facing any public right-of-way or residentially zoned property. The fourth side shall incorporate a gate to visually screen the dumpsters or refuse containers.

3) Site Design

3.1 Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be provided between building entrances and the following:

vi. Parking lots or parking structures
vii. Any public sidewalk or multi-use path along the perimeter of the lot
viii. Entrances of other buildings on the site
ix. Any public sidewalk system along the perimeter streets adjacent to the development
x. Adjacent pedestrian origins and destinations—including but not limited to transit stops, residential development, office buildings, and retail shopping buildings—where deemed practical and appropriate by the Zoning Administrator.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

_____
Timothy J. Mahoney, Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

29c

City of Fargo Staff Report			
Title:	Grayland First Addition	**Date:** **Updated:**	6/28/2017 7/26/2017 8/30/2017 9/27/2017 11/2/2017 3/7/2018
Location:	5565 63rd Street South and 5414 68th Street South	**Staff Contact:**	Donald Kress, planning coordinator
Legal Description:	annexed part of Section 5, Township 138 North, Range 49 West,		
Owner(s)/Applicant:	Ben Saucke; West Fargo Public Schools / Lowry Engineering	**Engineer:**	Lowry Engineering
Entitlements Requested:	**Major Subdivision** (plat of an annexed part of Section 5, Township 138 North, Range 49 West of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota. **Zone Change** (from AG, Agriculture to SR-2, Single-Dwelling Residential, SR-3, Single-Dwelling Residential and P/I, Public and Institutional)		
Status:	City Commission Public Hearing: March 12, 2018		

Existing		Proposed
Land Use: Undeveloped		**Land Use:** Residential and public elementary school
Zoning: AG, Agricultural		**Zoning:** SR-2, Single Dwelling Residential; SR-3, Single-Dwelling Residential and P/I, Public and Institutional
Uses Allowed: AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production		**Uses Allowed:** SR-2 Allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities SR-3 Allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities P/I – Public and Institutional. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events.

Maximum Density Allowed (Residential): AG allows a maximum of 1 dwelling unit per 10 acres.	**Maximum Density Allowed (Residential):** SR-2: 5.4 dwelling units per acre; SR-3: 8.7 dwelling units per acre
	Maximum Lot Coverage Allowed: P/I has no maximum

Proposal:

Project History Note: This project was continued on the July 6, 2017 Planning Commission agenda at the request of the applicant. The ditch adjacent to the project site is part of the Red River Valley Water Supply Project. Engineering studies on this project have been conducted since this summer; the applicant has not been able to finalize his plat design until the results of these engineering studies have been evaluated by the Garrison Conservancy District and City of Fargo. This evaluation has now been completed.

The applicant requests two entitlements:

1. A major subdivision, entitled **Grayland First Addition,** which is a plat of an annexed part of Section 5, Township 138 North, Range 49 West of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota.
2. A zoning change from AG, Agriculture to SR-2, Single-Dwelling Residential, SR-3, Single-Dwelling Residential and P/I, Public and Institutional.

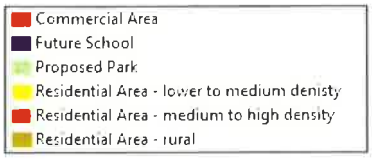
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: AG, Agricultural; undeveloped
- East: P/I, Public/Institutional; city-owned water storage
- South: SR-2, Single-Dwelling Residential; residential use
- West: AG, Agricultural; residential use; Sheyenne River (area to the west is in the extra-territorial jurisdiction)

Area Plans:

The 2007 Tier 1 Southwest Land Use Growth Plan designates most the area of this project as "lower to medium density residential" and "proposed park" land uses.



Context:

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

Neighborhood: The subject property is located within Deer Creek neighborhood.

Parks: Deer Creek Park is located approximately 0.23 miles south of the project site and provides playgrounds for ages 2-5 and 5-12 and a shelter.

Pedestrian / Bicycle: There are off-road bike facilities along 52nd Avenue South that are located approximately 0.20 miles north of the project site and along 63rd Street South that are located adjacent to the east side of the project site. Both bike facilities are a component of the metro area bikeways system.

Staff Analysis:

PLAT AND ZONE CHANGE

The plat will create 65 lots, with 62 single-dwelling lots, one lot for future West Fargo elementary school, one detention basin, and one lot that will be purchased by the City, zoned as shown in the chart below:

BLOCK	LOTS	ZONING	LAND USE
1	1-18; 20-26	SR-2	Single dwelling residential
1	19	P/I	Detention basin—to be dedicated
2	1-11	SR-2	Single dwelling residential
3	1	P/I	To be purchased by City of Fargo
3	2-18	SR-3	Single dwelling residential
4	1-9	SR-2	Single dwelling residential
4	10	P/I	Future West Fargo elementary school

The SR-2 zoned single-dwelling lots range in size from 11,700 square feet to 84,300 square feet, with most lots being in the 11,000 to 15,000 square foot range. All meet the minimum required lot area (8,000 square feet) of the SR-2 zone. The SR-3 zoned single-dwelling lots range in size from approximately 8,900 square feet to 9,900 square feet. All meet the minimum required lot area (5,000 square feet) of the SR-3 zone.

DENSITY: The project provides a gross density of 1.5 dwelling units per acre, which does not exceed the maximum density of 5.4 dwelling units per acre allowed in the SR-2 zone or 8.7 dwelling units per acre allowed in the SR-3 zone.

ACCESS: The lots will be accessed by way of dedicated public streets. Necessary rights of way will be dedicated with the plat. 66th Street South is configured to provide a crossing of the adjacent ditch in the future. This ditch is not a designated Cass County drain.

AMENITIES PLAN: The applicant has provided an amenities plan providing details of the project's street, stormwater, trails, and property owner association responsibility for certain facilities within the project. This plan has been reviewed by the Public Works Project Evaluation Committee (PWPEC). A copy of this plan is attached.

PARKS AND TRAILS: No park dedication is required. Trail connection to the existing trail in Deer Creek to the south will be provided by an easement on the west side of the school property. A 10-foot wide shared use path will be installed within the public right of way on the south side of 54th Avenue South, on the east side of 66th Street South north of 54th Street South (to provide for connection to the future drain crossing). The developer shall dedicate five feet of additional right of way along 63rd Street South to allow for the construction of a 10-foot wide shared use path along the west side of 63rd. This path will eventually be continued on adjacent properties to the north and south.

SCHOOL: Lot 10, Block 4 is intended for a future West Fargo Public Schools elementary school. West Fargo School District administration has advised staff that the intended construction start date for this school is May 1, 2018.

STORMWATER: The detention basin that will be created on Lot 19, Block 1, will be a regional facility, serving this property and adjacent property to the north when that property is developed.

GROWTH PLAN DESIGNATION

The 2007 Tier 1 Southwest Land Use Growth Plan designates most the area of this project as "lower to medium density residential." That plan states that the proposed SR-2, SR-3, and P/I zones are included within the land use designation. Elementary schools are specifically noted in the plan as being a facility appropriate to be included in this land use designation. The remaining area of the project site is designated as "proposed park."

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. The proposed zoning of SR-2, SR-3 and P/I is consistent with the 2007 Growth Plan designation of "lower to medium density residential" and "proposed park."
(Criteria Satisfied)

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. Lots in the subdivision will front on dedicated public streets. The necessary rights of way for these streets will be dedicated with the plat. These streets will provide access and public utilities to serve the development. **(Criteria satisfied)**

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

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

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the 2007 Growth Plan; this plan designates this property as appropriate for lower to medium density residential development, which would include the SR-2. SR-3, and P/I zones. The project provides a gross density of 1.5 dwelling units per acre, which does not exceed the maximum density of 5.4 dwelling units per acre allowed in the SR-2 zone or 8.7 dwelling units per acre allowed in the SR-3 zone. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

Subdivision

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

1. **Section 20-0907(C))(1)(Development Review Procedures—Subdivisions—Major Subdivisions) of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**
   The zoning for the residential development on this property is SR-2 and SR-3 (both Single Dwelling Residential) and P/I, Public/Institutional. The SR-2 and SR-3 zoning will accommodate the proposed single-family development. The P/I zoning will accommodate the elementary school and detention basin. The SR-2, SR-3, and P/I zoning designations are consistent with the lower to medium density designation for this property in the 2007 Growth Plan. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received one phone inquiry 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.**
   The proposed zoning is SR-2, SR-3, and P/I. This zoning is consistent with the 2007 Growth Plan which designates this property for lower to medium density residential development. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code.
   (Criteria Satisfied)

3. **Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
   The applicant has provided an amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan has been reviewed by staff and the Public Works Project Evaluation Committee (PWPEC). Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles.
   (Criteria Satisfied)

Planning Commission Recommendation:

On November 7, 2017, by a vote of 8-0 with one Commissioner abstaining, the Planning Commission voted to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed: 1) zone change from AG, Agricultural to SR-2, Single Dwelling Residential, SR-3, Single-Dwelling Residential and P/I, Public and Institutional on the annexed part of Section 5, Township 138 North, Range 49 West; and 2) **Grayland First Addition** subdivision plat as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

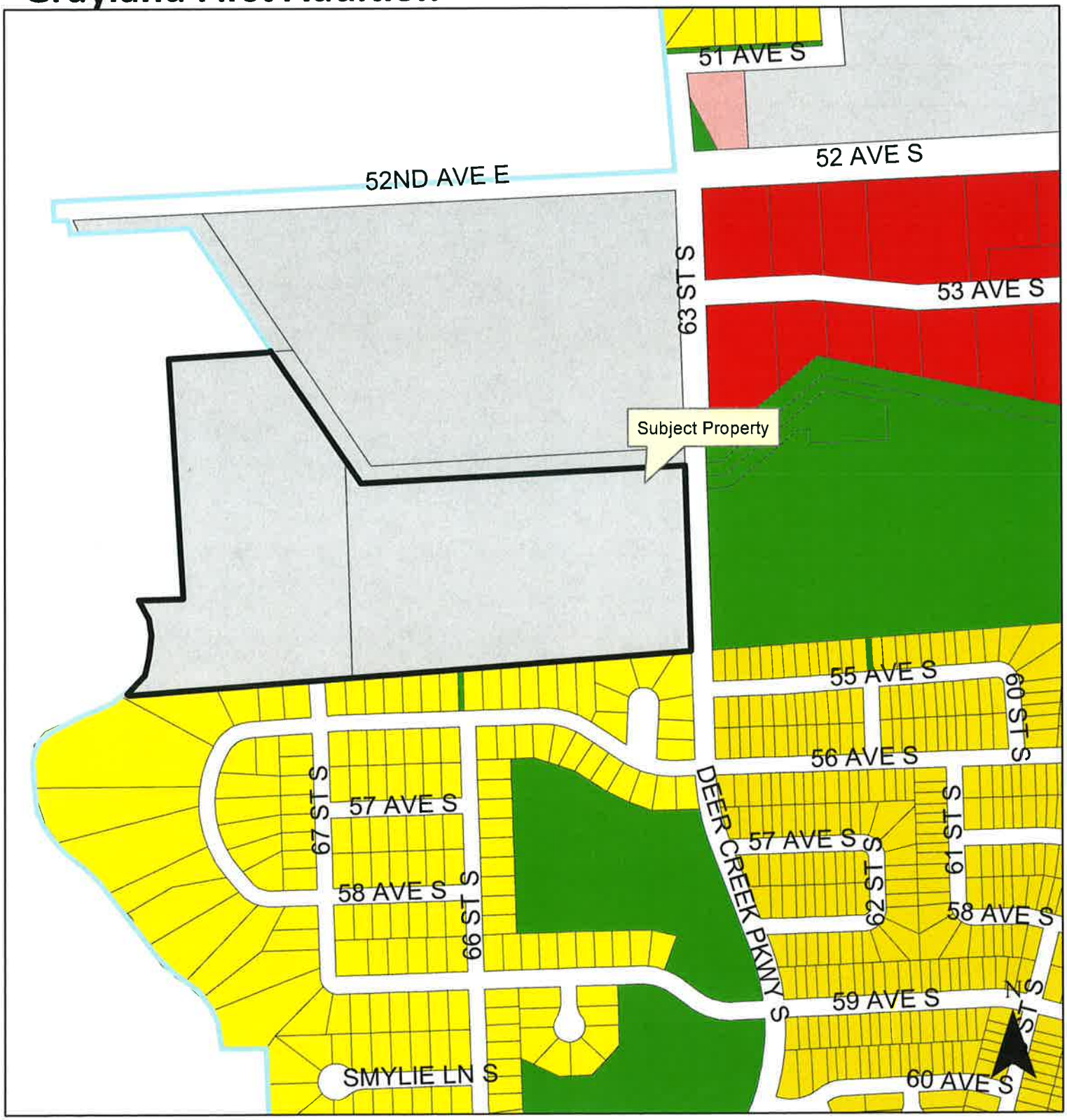
(continued on next page)

Staff Recommendation: March 12, 2018
Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission, and hereby waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and move to approve the proposed: 1) zone change from AG, Agricultural to SR-2, Single Dwelling Residential, SR-3, Single-Dwelling Residential and P/I, Public and Institutional on the annexed part of Section 5, Township 138 North, Range 49 West; and 2) Grayland First Addition subdivision plat as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."
Attachments:
1. Zoning Map 2. Location Map 3. Preliminary Plat 4. Zoning Exhibit 5. Amenities Plan

Plat (Major Subdivision) and Zone Change (AG to SR-3 and P/I)

Grayland First Addition

5565 63rd Street South



CITY OF Fargo

300 Feet

Fargo Planning Commission
July 6, 2017

Plat (Major Subdivision) and Zone Change (AG to SR-3 and P/I)

Grayland First Addition

5565 63rd Street South

CITY OF Fargo

300 Feet

Fargo Planning Commission
July 6, 2017

A MAJOR SUBDIVISION PLAT OF

GRAYLAND FIRST ADDITION

PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 138 NORTH, RANGE 49 WEST
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

BLOCK 1

LOT #	SQUARE FEET	ACRES
1	84,334	1.94
2	56,985	1.31
3	51,218	1.18
4	23,389	0.54
5	18,563	0.43
6	15,755	0.36
7	14,782	0.34
8	14,734	0.34
9	14,733	0.34
10	14,728	0.34
11	13,138	0.30
12	20,879	0.48
13	21,019	0.48

BLOCK 1

LOT #	SQUARE FEET	ACRES
14	24,963	0.57
15	17,480	0.40
16	14,439	0.33
17	14,850	0.34
18	14,850	0.34
19	103,285	2.37
20	14,561	0.33
21	11,675	0.27
22	11,661	0.27
23	11,722	0.27
24	12,253	0.28
25	12,598	0.29
26	13,360	0.31

BLOCK 2

LOT #	SQUARE FEET	ACRES
1	15,121	0.35
2	12,710	0.29
3	12,648	0.29
4	12,105	0.28
5	11,765	0.27
6	13,020	0.30
7	13,468	0.31
8	12,376	0.28
9	12,376	0.28
10	12,376	0.28
11	34,042	0.32

BLOCK 3

LOT #	SQUARE FEET	ACRES
1	21,082	0.48
2	9,945	0.23
3	8,992	0.21
4	8,981	0.21
5	8,972	0.21
6	8,962	0.21
7	8,953	0.21
8	8,943	0.21
9	8,934	0.21
10	8,924	0.20
11	8,915	0.20
12	8,905	0.20
13	8,896	0.20
14	8,886	0.20
15	8,877	0.20
16	8,868	0.20
17	8,858	0.20
18	10,067	0.23

BLOCK 4

LOT #	SQUARE FEET	ACRES
1	13,936	0.32
2	13,010	0.30
3	12,906	0.30
4	12,975	0.30
5	25,443	0.58
6	16,309	0.37
7	12,862	0.30
8	13,049	0.30
9	14,027	0.32
10	432,010	9.92

CURVE TABLE

CURVE #	LENGTH	RADIUS	DELTA
C1	31.19'	35.00'	51°03'18"
C2	9.60'	35.00'	15°42'34"
C3	21.59'	35.00'	35°20'45"
C4	75.44'	70.00'	61°44'48"
C5	54.36'	70.00'	44°29'53"
C6	54.36'	70.00'	44°29'53"
C7	54.36'	70.00'	44°29'53"
C8	85.89'	70.00'	70°18'06"
C9	20.24'	70.00'	16°34'04"
C10	31.19'	35.00'	51°03'19"
C11	114.43'	369.00'	17°46'06"
C12	82.08'	222.00'	21°11'10"
C13	55.11'	222.00'	14°13'28"
C14	26.97'	222.00'	6°57'42"
C15	51.03'	531.00'	5°30'24"
C16	45.08'	469.00'	5°30'24"
C17	21.02'	469.00'	2°34'04"
C18	24.06'	469.00'	2°56'20"
C19	51.03'	531.00'	5°30'24"
C20	25.47'	531.00'	2°44'54"
C21	25.56'	531.00'	2°45'30"

CURVE TABLE

CURVE #	LENGTH	RADIUS	DELTA
C22	45.08'	469.00'	5°30'24"
C23	59.16'	160.00'	21°11'10"
C24	22.62'	369.00'	3°30'45"
C25	232.60'	431.00'	30°55'18"
C28	90.65'	431.00'	12°03'06"
C27	92.44'	431.00'	12°17'21"
C28	49.51'	431.00'	6°34'52"
C29	37.25'	69.00'	30°55'59"
C30	70.69'	131.00'	30°55'01"
C31	43.97'	28.00'	89°58'51"
C32	141.35'	90.00'	89°58'51"
C33	21.63'	90.00'	13°46'08"
C34	52.58'	90.00'	33°28'20"
C35	67.14'	90.00'	42°44'24"
C36	43.98'	28.00'	90°00'00"
C37	141.37'	90.00'	90°00'00"
C38	46.85'	90.00'	29°49'34"
C39	34.43'	90.00'	21°55'15"
C40	39.92'	90.00'	25°24'47"
C41	20.17'	90.00'	12°50'23"

LINE TABLE

LINE #	LENGTH	DIRECTION
L1	165.02'	N1°44'56"W
L2	48.07'	N86°40'26"E
L3	29.76'	S65°29'16"W
L4	69.82'	N87°49'10"W
L5	69.82'	S87°49'10"E
L6	28.25'	N65°29'16"E
L7	23.46'	S3°20'43"E
L8	23.46'	N3°20'43"W
L9	59.17'	N86°40'26"E

LEGEND

- ● MONUMENT SET
- ○ MONUMENT FOUND
- P.O.B. POINT OF BEGINNING
- R/W RIGHT OF WAY
- EX. EASEMENT
- EX. PROPERTY LINE
- SECTION LINE
- PROPERTY BOUNDARY LINE
- NEW ROW/PROPERTY LINE
- NEW PUBLIC UTILITY EASEMENT
- SETBACK LINE

NOTES

1. PUBLIC UTILITY EASEMENTS ARE 10' IN WIDTH (5' EACH SIDE OF SHARED LOT LINES) UNLESS OTHERWISE NOTED.
2. WITHIN THE MINIMUM AND LIMITED DISTURBANCE ZONE SETBACK, THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF SOIL AND/OR NATIVE VEGETATION EXCEPT AS PERMITTED BY ORDINANCES OF THE CITY OF FARGO.
3. ANY MINIMUM OR LIMITED DISTURBANCE ZONE SETBACK SHOWN HEREON ARE SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE RECORDED IN THE OFFICE OF THE COUNTY RECORDER FOR CASS COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.
4. THE AREA INCLUDED IN THE PLAT OF "GRAYLAND FIRST ADDITION" IS ENTIRELY WITHIN FLOOD ZONES X AS DESIGNATED ON FLOOD INSURANCE RATE MAP NUMBER 38017C0767G, EFFECTIVE JANUARY 16, 2015.
5. THIS AREA IS SHOWN AS BEING PROTECTED FROM THE ONE PERCENT ANNUAL CHANCE OR GREATER FLOOD HAZARD BY A LEVEE SYSTEM. OVERTOPPING OR FAILURE OF ANY LEVEE SYSTEM IS POSSIBLE.

0 100 200

SHEET 1 OF 2

LOWRY ENGINEERING
1111 WESTRAC DRIVE - SUITE 108
FARGO, NORTH DAKOTA 58103

A MAJOR SUBDIVISION PLAT OF

GRAYLAND FIRST ADDITION

PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 138 NORTH, RANGE 49 WEST
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, THAT GRAYLAND HOLDING COMPANY, LLC AND WEST FARGO PUBLIC SCHOOL DISTRICT #6, ARE THE OWNERS OF THE LAND DESCRIBED IN THE PLAT OF GRAYLAND FIRST ADDITION, A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 138 NORTH, RANGE 49 WEST OF THE 5TH PRINCIPAL MERIDIAN CASS COUNTY, NORTH DAKOTA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 5; THENCE S85°44'40"W ALONG THE NORTH LINE OF DEER CREEK ADDITION AND ASHWOOD 4TH ADDITION, AS RECORDED IN THE CASS COUNTY RECORDER'S OFFICE FOR A DISTANCE OF 2,203 FEET MORE OR LESS TO THE CENTERLINE OF THE SHEYENNE RIVER; THENCE NORTHERLY ALONG THE CENTERLINE OF SAID SHEYENNE RIVER FOR A DISTANCE 421 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF AUDITOR'S LOT 4 AS RECORDED IN THE CASS COUNTY RECORDER'S OFFICE; THENCE N87°23'08"E FOR A DISTANCE OF 165 FEET MORE OR LESS TO THE SOUTHEAST CORNER OF SAID AUDITOR'S LOT 4; THENCE N03°18'59"W ALONG THE EAST LINE OF AUDITOR'S LOTS 4 AND 3 FOR A DISTANCE OF 932.55 FEET TO THE INTERSECTION OF THE NORTH LINE OF THE SOUTH HALF OF GOVERNMENT LOT 4 OF SECTION 5; THENCE N86°22'08"E ALONG SAID NORTH LINE OF THE SOUTH HALF OF GOVERNMENT LOT 4 FOR A DISTANCE OF 400.29 FEET; THENCE S33°33'49"E FOR A DISTANCE OF 619.65 FEET; THENCE N86°49'10"E FOR A DISTANCE OF 1246.08 FEET TO THE WESTERLY RIGHT OF WAY OF 63RD STREET SOUTH; THENCE S01°14'56"E ALONG SAID 63RD STREET SOUTH RIGHT OF WAY FOR A DISTANCE OF 719.93 FEET TO THE POINT OF BEGINNING

SAID TRACT OF LAND CONTAINS 41.10 ACRES, MORE OR LESS, TOGETHER WITH EASEMENTS AND RIGHTS OF WAY OF RECORD

SAID OWNERS HAVE CAUSED THE ABOVE DESCRIBED TRACT OF LAND TO BE SURVEYED AND PLATTED AS GRAYLAND FIRST ADDITION TO THE CITY OF FARGO, NORTH DAKOTA, AND DO HEREBY DEDICATE TO THE PUBLIC, FOR PUBLIC USE, ALL EASEMENTS AND RIGHTS OF WAY SHOWN ON THIS PLAT

GRAYLAND HOLDING COMPANY, LLC

GRAYLAND HOLDING COMPANY, LLC
BY: BEN SAUCKE
ITS: PRESIDENT

STATE OF NORTH DAKOTA)
)SS
COUNTY OF CASS)

ON THIS_____DAY OF_____, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED BEN SAUCKE, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

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

BLACK RIDGE BANK

BLACK RIDGE BANK
BY: KYLE HAUGLAND
ITS: ASSISTANT VICE PRESIDENT

STATE OF NORTH DAKOTA)
)SS
COUNTY OF CASS)

ON THIS_____DAY OF_____, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED KYLE HAUGLAND, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

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

WEST FARGO PUBLIC SCHOOL DISTRICT #6

WEST FARGO PUBLIC SCHOOL DISTRICT #6
BY: KARA GRAVLEY-STACK
ITS: PRESIDENT

STATE OF NORTH DAKOTA)
)SS
COUNTY OF CASS)

ON THIS_____DAY OF_____, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED KARA GRAVLEY-STACK, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

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

SURVEYORS CERTIFICATE

I, COLE A. NESET, REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT I HAVE SURVEYED AND PLATTED THE PROPERTY DESCRIBED ON THIS PLAT AS GRAYLAND FIRST ADDITION; THAT THIS PLAT IS A CORRECT REPRESENTATION OF SAID SURVEY; THAT ALL DISTANCES ARE SHOWN CORRECTLY ON SAID PLAT IN FEET AND HUNDREDTHS OF A FOOT; THAT ALL MONUMENTS ARE OR WILL BE INSTALLED CORRECTLY IN THE GROUND AS SHOWN, AND THAT THE EXTERIOR BOUNDARY LINES ARE CORRECTLY DESIGNATED. DATED THIS_____DAY OF_____, 2018

COLE A. NESET,
REGISTERED LAND SURVEYOR
ND REG. NO. 7513

STATE OF_____)
)SS
COUNTY OF_____)

ON THIS_____DAY OF_____, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED COLE A. NESET, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED SAME AS THEIR FREE ACT AND DEED.

NOTARY PUBLIC, COUNTY_____STATE_____
MY COMMISSION EXPIRES:_____

CITY OF FARGO ENGINEER'S APPROVAL

THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED ON THIS_____DAY OF_____2018

MARK M. BITTNER
CITY ENGINEER

STATE OF NORTH DAKOTA)
)ss
COUNTY OF CASS)

ON THIS_____DAY OF_____, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MARK M. BITTNER, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

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

CITY OF FARGO PLANNING COMMISSION APPROVAL

THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS_____DAY OF_____2018.

SHARA FISCHER, CHAIR
FARGO PLANNING COMMISSION

STATE OF NORTH DAKOTA)
)ss
COUNTY OF CASS)

ON THIS_____DAY OF_____, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED SHARA FISCHER, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

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

FARGO CITY COMMISSION APPROVAL

APPROVED BY THE BOARD OF CITY COMMISSIONERS THIS _____ DAY OF _____2018.

TIMOTHY J. MAHONEY
MAYOR

STEVE SPRAGUE
CITY AUDITOR

STATE OF NORTH DAKOTA)
)ss
COUNTY OF CASS)

ON THIS_____DAY OF_____, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TIMOTHY J. MAHONEY & STEVE SPRAGUE, TO ME KNOWN TO BE THE PERSON'S DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

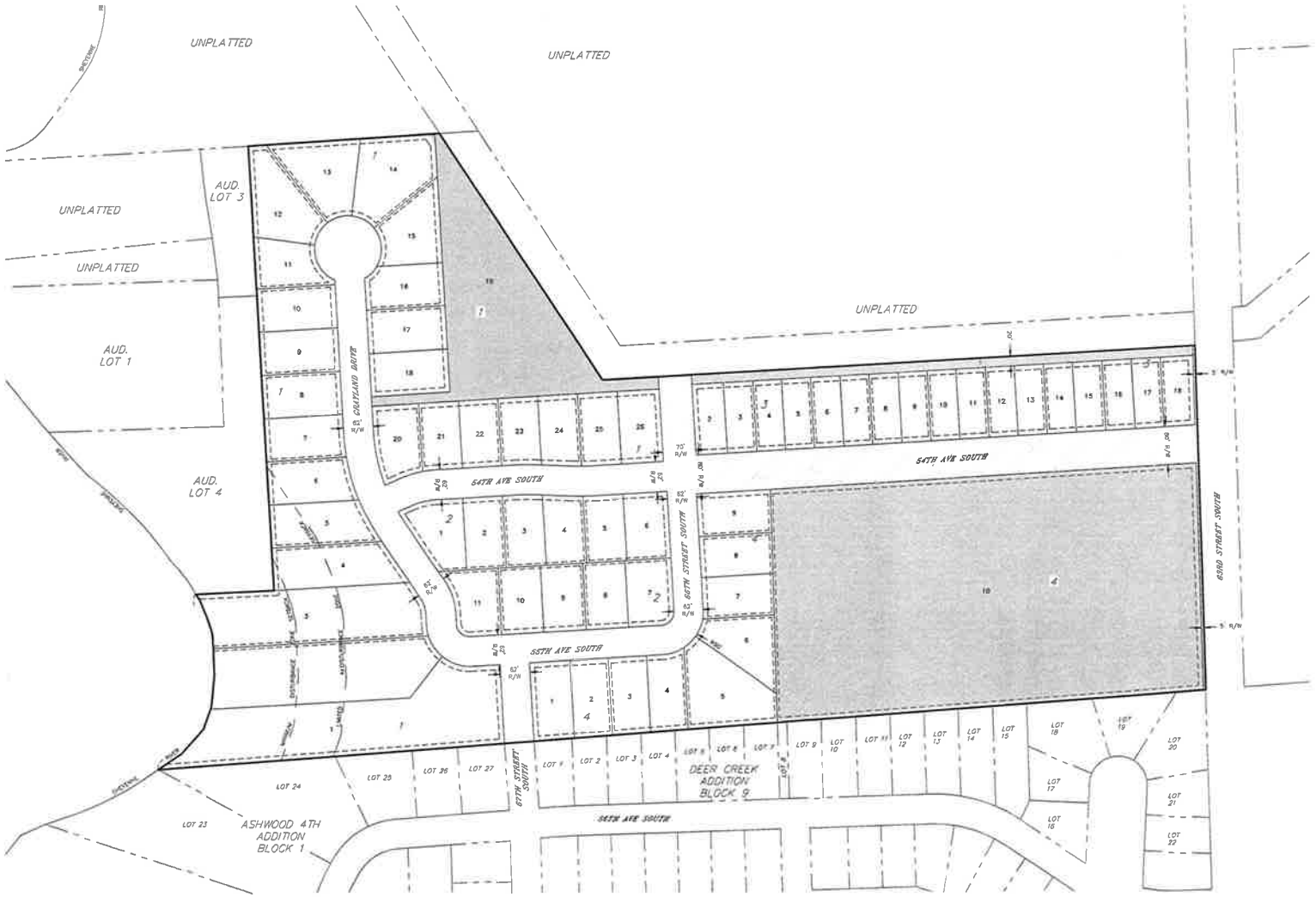
NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES:_____

LOWRY ENGINEERING
1111 WESTRAC DRIVE - SUITE 106
FARGO, NORTH DAKOTA 58103

ZONING MAP

GRAYLAND FIRST ADDITION

PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 138 NORTH, RANGE 49 WEST
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



ZONING AREAS

- SR-2 – SINGLE DWELLING
- SR-3 – SINGLE DWELLING
- P/I – PUBLIC AND INSTITUTIONAL
- TYPICAL SECTION "1"
- TYPICAL SECTION "2"
- TYPICAL SECTION "3"

N

0 100 200

LEGEND

- MONUMENT SET
- MONUMENT FOUND
- EX. EASEMENT
- EX. PROPERTY LINE
- SECTION LINE
- PROPERTY BOUNDARY LINE
- NEW ROW/PROPERTY LINE
- NEW EASEMENT
- EX. CONTOUR
- SETBACK LINE

NOTES

1. UTILITY & DRAINAGE EASEMENTS ARE 10' IN WIDTH (5' EACH SIDE OF SHARED LOT LINES) UNLESS OTHERWISE NOTED

SHEET 1 OF 1

LOWRY ENGINEERING
1111 WESTRAC DRIVE - SUITE 108
FARGO, NORTH DAKOTA 58103

Site Amenities and Project Plan

Grayland First Addition

12/18/2017

Location: The project covers two separate parcels owned by Grayland Holding Company, LLC and West Fargo Public School District #6. The properties are located between the Sheyenne River and 63rd Street South, on the south side of 52nd Ave S. The properties are legally referenced as the annexed part of Section 5, Township 138 North, Range 49 West at 5414 68th St S (Grayland Holding Company, LLC) and 5565 63rd St S (West Fargo Public School District #6), City of Fargo, Cass County, North Dakota totaling approximately 41.13 acres. It will be legally referenced as "Grayland First Addition" once the plat is approved.

Details: The project includes sixty-five (65) lots on four (4) blocks. Lots 1-26 Block 1, Lots 1-11 Block 2, Lots 1-18 Block 3, and Lots 1-10 Block 4. All of the land is currently in the AG zoning district. Lots 1-18, and Lots 20-26 Block 1, Lots 1-11 Block 2, and Lots 1-9 Block 4 will be rezoned to SR-2. Lot 19 Block 1, Lot 1 Block 3, and Lot 10 Block 4 will be rezoned to P/I. Lots 2-18 Block 3 will be rezoned to SR-3. See attached zoning map. Lot 1 Block 3 will be sold to the City for future improvements. See below for more details.

Right of Way (ROW): The project accommodates right of way dedications for public roadways and utilities, with specific details outlined below:

66th St S north of 54th Ave S: This segment of 66th St S has been designated as a *local* roadway pursuant to §20.0702

- ROW dedication for 66th St S shall be 70 feet;
- Street widths shall be 28 feet with parking allowed on one side of the street, with appropriate signage to be installed by the City of Fargo at which time public improvements are completed;
- Street lighting shall be determined by the City Engineering Department and installed per city standards;
- A 4.5-foot sidewalk shall be incorporated into the east boulevard as required by §20.0611-1.
- A 10-foot sidewalk shall be incorporated into the west boulevard

66th St S between 54th Ave S and 55th Ave S, 54th Ave S between 66th St S and Grayland Drive, 55th Ave S between Grayland Drive and 66th St S, 67th St S between 55th Ave S and 56th Ave S, and Grayland Drive: These segments of 66th St S, 54th Ave S, 55th Ave S, 67th St S, and Grayland Drive have been designated as *local* roadways pursuant to §20.0702

- ROW dedication for 66th St S, 54th Ave S, 55th Ave S, 67th St S, and Grayland Drive shall be 62 feet;
- ROW dedication for the cul-de-sac shall be 140 feet in diameter
- Street widths shall be 28 feet with parking allowed on one side of the street, with appropriate signage to be installed by the City of Fargo at which time public improvements are completed;
- Street lighting shall be determined by the City Engineering Department and installed per city standards;
- 4.5-foot sidewalks shall be incorporated into the boulevards as required by §20.0611-1.

54th Ave S between 63rd St S and 66th St S: This segment of 54th Ave S has been designated as a *local* roadway pursuant to §20.0702

- ROW dedication for 54th Ave S shall be 80 feet;
- Street widths shall be 40 feet with a center turn lane and parking allowed on one side of the street, with appropriate signage to be installed by the City of Fargo at which time public improvements are completed;
- Street lighting shall be determined by the City Engineering Department and installed per city standards;
- A 4.5-foot sidewalk shall be incorporated into the north boulevard as required by §20.0611-1.
- A 10-foot sidewalk shall be incorporated into the south boulevard

63rd St S: This segment of 63rd St S has been designated as a *local* roadway pursuant to §20.0702

- ROW dedication for 54th Ave S shall be an additional 5 feet

Other:

- Developer shall be responsible for coordinating the placement of a group mailbox, parking signage and street light locations with the City of Fargo Engineering Department. These details shall be determined prior to construction of any public improvements. Consideration to maintenance and snow removal for a group mailbox shall be outlined within restrictive covenants for the project.
- Snow removal of sidewalks and all boulevard turf maintenance shall be the responsibility of the adjacent property owner.

Drain Setback: The proposed project is buffered on the east and northeast sides by a City of Fargo parcel containing a drainage ditch required for water supply from the Sheyenne River. The City initially required a building setback of 175' from the centerline of this ditch. A Geotechnical Engineering Report on Slope Stability prepared by Terracon Consultants, Inc for both Grayland Holding Company, LLC and West Fargo Public School District #6's properties advise that a setback of 50' from the centerline of the drain be used for placement of future residential housing units. This correlates to a 15' building setback

into the rear yard of Lot 14 of Block 1, and Lots 2 through 18 of Block 3. No additional drain setback will be required on the plat.

City Water Utility Land Acquisition: The City Water Utility is requiring additional land for proposed improvements to the adjacent City owned parcel. Lot 1 of Block 3 was created with a 20' width to sell to the City for the proposed improvements.

Parks and Trails: A Joint Use Agreement shall be executed between the property owner and the Fargo Park District for a meandering sidewalk that shall be placed within 50' of the property line on the west and south sides of Lot 10 Block 4. This sidewalk shall be installed at the same time as the improvements for 54th Ave South from 66th St South to 63rd St South.

Storm Water Management: The project will accommodate all storm water quantity and quality in a regional detention pond located on Lot 19 of Block 1 of the attached preliminary plat for all of Grayland First Addition.

To appropriately size the lot, preliminary stormwater calculations were completed. Using the City of Fargo Retention Requirements for Sites 25-100 Acres Calculator, with 65% impervious area, a total estimated 100-year pond volume of 201,055 CF will be required. Preliminary sizing was completed showing sufficient capacity in the land provided that anticipates the pond bottom elevation of 897' with the top of pond elevation of 904'. One foot of freeboard will also be required for the pond up to the 905' contour.

Based on conversations with City Engineering, it is anticipated that Lot 19 of Block 1 will be dedicated for use as a regional pond in combination with land dedicated from the property owner to the north.

The final design, installation, and any maintenance related to the pond or stormwater facilities will be the responsibility of the City. These facilities shall be designed in accordance with City of Fargo requirements.

Flood Protection: Grayland First Addition will be protected from flooding with the following measures:

Internal Flooding – rainfall of spring event included:

1. Storm Sewer systems designed and installed to City standards;
2. Storm water detention facilities within the project

City Utilities: The City of Fargo shall design and construct the storm sewer, sanitary sewer, and water system. The City of Fargo will own and operate the storm sewer and sanitary sewer. Cass Rural Water Users District will own and maintain the water system.

Sump Pump Discharge: Lots 14-18 and 20-26 Block 1 and Lots 2-18 Block 2 are required to have all sump pump discharges to the front yard. Furthermore, these lots will be responsible for maintenance of the City/Park District owned property between their rear lot line and the edge of the wet pond behind their property. These essentially become double fronted lots with a front and rear "boulevard" between their

property and a piece of public infrastructure – a street and sidewalk in the front, and stormwater detention facility in the back.

Engineering and Construction Improvements: The owner shall rely upon and collaborate with City Engineering for construction of all public improvements and any private improvements, inclusive of stormwater detention facilities as applicable.

Funding of Improvements: Public improvements shall be assessed to the benefitting property, pursuant to city policy. The developer is responsible for providing a sidewalk. If one is not provided the City may order one in and assess the installation back to the property per the infrastructure funding policy. If the City determines that additional width of sidewalk is desired it will be installed and assessed to the benefitting area per the infrastructure policy, which may include the subject property.

Future Access to Lot 10 Block 4: It is anticipated that Lot 10 Block 4 will be used for an elementary school in the future and will require a one-way access onto 63rd St S. See attached site plan.

Phasing: It is the intention of the owner to develop Grayland First Addition in two phases as determined by market conditions.

The amenity plan is hereby approved:

Ben Saucke, Grayland Holding Company, LLC	Date
Kara Gravley-Stack, West Fargo Public School District #6	Date
Mark H. Bittner, City Engineer	Date

29c2

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN GRAYLAND FIRST 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 Grayland First Addition to the City of Fargo, Cass County, North Dakota; and,

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

WHEREAS, the rezoning changes were approved by the City Commission on March 12, 2018,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots One (1) through Eighteen (18) and Twenty (20) through Twenty-six (26), Block One (1); Lots One (1) through Eleven (11), Block Two (2); Lots One (1) through Nine (9), Block Four (4), Grayland First Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "SR-2", Single-Dwelling Residential, District;

Section 2. The following described property:

Lots Two (2) through Eighteen (18), Block Three (3), Grayland First Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "SR-3", Single-Dwelling Residential, District;

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 3. The following described property:

Lot Nineteen (19), Block One (1); Lot One (1), Block Three (3); Lot Ten (10), Block Four (4), Grayland First Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "P/I", Public and Institutional, District;

Section 4. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

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

_____
Timothy J. Mahoney, Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

CITY OF Fargo

29d

Metropolitan Area Transit
650 23rd Street N
Fargo, ND 58102
Phone: 701-241-8140
Fax: 701-241-8558

March 6, 2018

Board of City Commissioners
City Hall - 200 N 3rd Street
Fargo, ND 58102

Dear Commissioners:

The Federal Transit Administration made available to the City of Fargo $2,397,121 in 2017 to be used for the transit system. To date, the 2018 grant has not been made available, however grant allocations will be published in the federal register soon and we are estimating a 2% increase over last year, or $2,445,063. The City of Fargo is required to hold a public hearing prior to submitting and executing an application. The attached estimated Program of Projects was developed by the Transit Division to be submitted and executed with the application for the funds.

The requested motion is to approve the estimated Program of Projects, and, upon issuance by the Federal Transit Administration of the final amount, submit/execute the grant.

Sincerely,

Julie Bommelman

Julie Bommelman
Transit Director
City of Fargo

Attachment

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Fargo City Commission will hold a public hearing on March 12, 2018 at 5:15 pm in the City Commission chambers for the purpose of considering the City's Section 5307 Federal Transportation Administration grant preliminary program of projects for 2018. Unless amended, the proposed POP and projects contained in this advertisement will become the final POP.
People with disabilities who need special accommodations (alternative format, interpreter/signer) should contact Julie Harris in the Transit Department at 701-241-8140 or by email: jharris@matbus.com.
A Final Program of Projects will be available to the public at the Transit Department, 650 23rd Street N, Fargo, ND 58102.

A. The program is below:

CITY OF FARGO, NORTH DAKOTA
METROPOLITAN AREA TRANSIT
2017 PROGRAM OF PROJECTS AND BUDGETS

URBANIZED AREA: Fargo, ND - Moorhead, MN
DESIGNATED RECIPIENT: City of Fargo, North Dakota
APPLICANT: City of Fargo, North Dakota

ESTIMATED FEDERAL APPORTIONMENT FOR FY2018	$ 2,445,063
CARRYOVER FUNDS FROM PREVIOUS YEARS	$0
FY2017 FUNDS AVAILABLE - NOT APPLIED FOR	$0
TOTAL CARRYOVER FUNDS	$0
ESTIMATED TOTAL FEDERAL FUNDS AVAILABLE	$2,445,063
TOTAL FEDERAL FUNDS REQUESTED FOR 2018 PROGRAM OF PROJECTS	$2,445,063
FEDERAL FUNDS CARRIED OVER TO 2018	$0

PROGRAM OF PROJECTS DESCRIPTIONS	LOCAL SHARE	FEDERAL SHARE	PROJECT TOTALS
I. CAPITAL PROJECTS			
A. 20%/80% Funding			
1. Maintenance Cost Funded as Capital	198,835	795,340	994,175
2. 10% of ADA Costs Funded as Capital	48,901	195,605	244,506
II. PLANNING ASSISTANCE			
A. 20%/80% Funding			
1. Transit Planning	5,000	20,000	25,000
III. OPERATING ASSISTANCE			
A. Maximum Federal Funding			
1. Eligible net operating expenses of the Fargo Transit System for the period of January 1, 2018 through December 31, 2018 (50% Federal Funding Level)	1,422,133	1,422,133	2,844,266
2. 1% Security	11,986	11,986	24,451
Section 5307 Program of Project Totals	**$1,686,855**	**$2,445,063**	**$4,132,397**

B. RELOCATION
No persons, families, or businesses will be displaced by this project.

C. ENVIRONMENT
This project will not have a significant environmental impact upon the transit services in the area identified above.

D. COMPREHENSIVE PLANNING
This preliminary program of projects is in conformance with comprehensive land use and transportation planning for the area and is consistent with the locally adopted programming of projects in the annual element of the Transportation Improvement Plan (TIP).

E. ELDERLY AND PERSONS WITH DISABILITIES
This project takes into consideration the special transportation needs of the elderly by providing elderly and paratransit services.

F. CHARTER BUS
The City of Fargo will not provide any charter bus operations without first notifying all private operators in the area who claim to be willing and able to provide such service. If a private operator claims to be willing and able to provide charter services, then the City must review the evidence to determine whether or not the private operator will physically be able to provide the charter service, and if the provider has the required legal authority and necessary safety certifications that are required. If it is found that there is at least one willing and able provider which meets all of the aforementioned legal requirements by law, the City is prohibited from using FTA funded vehicles and equipment for charter service.

G. SCHOOL BUS OPERATIONS
The City of Fargo will not be engaged in school bus operations exclusively for the transportation of students or school personnel.

H. PRIVATE ENTERPRISE
Private enterprise is considered in all potential procurement contracts and subcontracts necessary in the operation of the transit system.

Interested persons or agencies desiring an opportunity to be heard with respect to social, economical, and environmental aspects of the program of projects may be heard at a this public hearing.

A copy of the preliminary program of projects, the current Transportation Development Plan, the current Transportation Improvement Plan, and a draft copy of the proposed grant application is available for public inspection at the City Transit Office, 650 23rd Street N, Fargo, North Dakota.

Julie Bommelman
Transit Director

(Publish Date February 26, March 5, 2018)

CITY OF Fargo

30

ASSESSMENT DEPARTMENT

March 7, 2018

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Attached is an *Application For Abatement Or Refund Of Taxes #4472,* for the 2017 tax year made by Patrick Vesey, representing Aurora Pines II at the District, LLP. The application is for a vacant parcel at 3500 56 Ave. S. requesting a reduction in value from $2,679,000 to $1,436,664.

The applicant states that the requested value is the price they purchased the property for on 2/7/2017. Their purchase price of $1,436,664 ($3.00/sq. ft.) did not include an additional $999,000 in assumed special assessments balance. That would indicate a total obligation to acquire the property of $2,435,664 ($5.09/sq. ft.).

In reviewing our valuation, we discovered that we erroneously priced this parcel as having a commercial zoning and potential use as opposed to a multiple residence, or apartment, zoning and potential use. Our current value in that area for apartment land is $4.00/sq. ft. and, for vacant land, we factor 30% off of full value to account for the absorption of surrounding land as a subdivision develops. Applying that value methodology to this parcel would result in a value of $1,340,000. We have made that value change for the 2018 assessment year.

The City Commission action on this abatement serves as a recommendation to the County Commission. According to North Dakota statute [N.D.C.C. 57-23-06(3.)], at the hearing before the County Commission on this abatement, *"...the applicant or the applicants representative or attorney is limited to the relief claimed in the application for abatement submitted to the board of county commissioners. The applicant or applicants representative or attorney may not submit evidence during a hearing on an application for abatement suggesting a lower valuation,...".*

Since the County Commission is limited by statute in the amount they may reduce the valuation for the 2017 assessment, we recommend the change in value requested by the applicant.

SUGGESTED MOTION:
Approval of the Application For Abatement Or Refund Of Taxes #4472 on 3500 36 Ave. S. to $1,436,664 for the 2017 tax year.

Sincerely,

Ben Hushka
Fargo City Assessor

RECEIVED
CASS CO AUDITOR
JAN 03 2018 AM09:13

Application For Abatement Or Refund Of Taxes

North Dakota Century Code § 57-23-04

File with the County Auditor on or before November 1 of the year following the year in which the tax becomes delinquent.

RECEIVED
JAN 4 2018
FARGO ASSESSOR

State of North Dakota

Assessment District City of Fargo

County of CASS

Property I.D. No. 01-8511-01130-000

Name AURORA PONDS II AT THE DISTRICT LLP

Telephone No. (701) 239-5840

Address 2000 44th St S, Ste 202, Fargo, ND 58103

Legal description of the property involved in this application:

Lot 1 of Block 12 of The Pines at the District Addition to the City of Fargo, County of Cass, State of North Dakota

Total true and full value of the property described above for the year 2017 **is:**

Land	$ 2,679,000
Improvements	$ 0
Total	$ 2,679,000 (1)

Total true and full value of the property described above for the year 2017 **should be:**

Land	$ 1,436,664
Improvements	$ 0
Total	$ 1,436,664 (2)

The difference of $ 1,242,336.00 **true and full value between (1) and (2) above is due to the following reason(s):**

- ☐ 1. Agricultural property true and full value exceeds its agricultural value defined in N.D.C.C. § 57-02-27.2
- ☑ 2. Residential or commercial property's true and full value exceeds the market value
- ☐ 3. Error in property description, entering the description, or extending the tax
- ☐ 4. Nonexisting improvement assessed
- ☐ 5. Complainant or property is exempt from taxation. Attach a copy of Application for Property Tax Exemption.
- ☐ 6. Duplicate assessment
- ☐ 7. Property improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster (see N.D.C.C. § 57-23-04(1)(g))
- ☐ 8. Error in noting payment of taxes, taxes erroneously paid
- ☐ 9. Property qualifies for Homestead Credit (N.D.C.C. § 57-02-08.1) or Disabled Veterans Credit (N.D.C.C. § 57-02-08.8). Attach a copy of the application.
- ☐ 10. Other (explain) _____

The following facts relate to the market value of the residential or commercial property described above. For agricultural property, go directly to question #5.

1. Purchase price of property: $ 1,436,664 Date of purchase: 2/7/2017

   Terms: Cash ✓ Contract _____ Trade _____ Other (explain) _____

   Was there personal property involved in the purchase price? no (yes/no) Estimated value: $ 0

2. Has the property been offered for sale on the open market? no (yes/no). If yes, how long? _____

   Asking price: $ _____ Terms of sale: _____

3. The property was independently appraised: no (yes/no) Purpose of appraisal: _____

   _____ Market value estimate: $ _____

   Appraisal was made by whom? _____

4. The applicant's estimate of market value of the property involved in this application is $ 1,436,664

5. The estimated agricultural productive value of this property is excessive because of the following condition(s): _____

Applicant asks that True and Full value of the property described above for the year 2017 be reduced to $1,436,664 which was the purchase price for the property in an arms-length transaction that closed on February 2, 2017 and an abatement or refund of property taxes for such reduction.

By filing this application, I consent to an inspection of the above-described property by an authorized assessment official for the purpose of making an appraisal of the property. I understand the official will give me reasonable notification of the inspection. See N.D.C.C. § 57-23-05.1.

I declare under the penalties of N.D.C.C. § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this application is, to the best of my knowledge and belief, a true and correct application.

Signature of Preparer (if other than applicant) — Date 12-27-17

Signature of Applicant, Managing Partner — Date 12-27-17

24775
(2-2016)

Recommendation of the Governing Body of the City or Township

Recommendation of the governing board of _____

On _____, _____, the governing board of this municipality, after examination of this application and the facts, passed a resolution recommending to the Board of County Commissioners that the application be _____

_____

_____

_____

Dated this _____ day of _____, _____.

_____
City Auditor or Township Clerk

Action by the Board of County Commissioners

Application was _____ by action of _____ County Board of Commissioners.
Approved/Rejected

Based upon an examination of the facts and the provisions of North Dakota Century Code § 57-23-04, we approve this application. The taxable valuation is reduced from $ _____ to $ _____ and the taxes are reduced accordingly. The taxes, if paid, will be refunded to the extent of $ _____. The Board accepts $ _____ in full settlement of taxes for the tax year _____.

We reject this application in whole or in part for the following reason(s). Written explanation of the rationale for the decision must be attached. _____

_____

_____

_____

Dated _____, _____

_____ _____
County Auditor Chairperson

Certification of County Auditor

I certify that the Board of County Commissioners took the action stated above and the records of my office and the office of the County Treasurer show the following facts as to the assessment and the payment of taxes on the property described in this application.

Year	Taxable Value	Tax	Date Paid (if paid)	Payment Made Under Written Protest?
				yes/no

I further certify that the taxable valuation and the taxes ordered abated or refunded by the Board of County Commissioner are as follows:

Year	Reduction in Taxable Valuation	Reduction in Taxes

_____ _____
County Auditor Date

Application For Abatement Or Refund Of Taxes

Name of Applicant: Aurora Ponds II at 4K District LLP

County Auditor's File No.: 4472

Date Application Was Filed With The County Auditor: 1/3/2018

Date County Auditor Mailed Application to Township Clerk or City Auditor: 1/3/2018
(must be within five business days of filing date)