FARGO CITY COMMISSION AGENDA
Monday, March 8, 2021 - 5:00 p.m.

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

A. Pledge of Allegiance.

B. Roll Call.

C. Approve Order of Agenda.

D. Minutes (Regular Meeting, February 22, 2021).

CONSENT AGENDA – APPROVE THE FOLLOWING:

1. 1st reading of an Ordinance Relating to the Electrical Code.

2. 2nd reading and final adoption of an Ordinance Rezoning a Certain Parcel of Land Lying in South Ridge First Addition.

3. Applications for Games of Chance:
   a. NDSU Women in Business for a raffle on 4/5/21.
   b. Michelle Erfle-Johnson Benefit for a raffle and raffle board on 3/27/21; Public Spirited Resolution.

4. Wireless Telecommunication Facilities on NDDOT Right-of-Way within LPA Jurisdiction agreement with the NDDOT.

5. Memorandum of Understanding regarding 45th Street South from 64th Avenue South to 76th Avenue South and 76th Avenue South from 45th Street South to 57th Street South with Cass County.

6. Purchase Agreement with Joshua Brekke for property located at 3680 River Drive South (Project No. MS-15-K0).

7. Bid award for Project Nos. PR-21-A1 and PR-21-B1.

8. Bid advertisement for Project Nos. FM-19-A, SL-21-A, TM-21-A and TR-21-A.

9. Change Order No. 2 for an increase of $907.50 for Project No. FM-16-A1.

10. Bid award for the Library's lighting upgrades (RFP20064).

11. State Water Commission request for cost reimbursement for the FM Metro Area Flood Risk Management Project for costs totaling $1,087,207.37.

12. Summary Annual Financial Report for the period ending 12/31/20 (preliminary, unaudited and unadjusted).

13. Notice of Grant Award Amendment from the ND Department of Health for the Title X Family Planning Program (CFDA #93.217).

14. Notice of Grant Award Amendment from the ND Department of Health for the WIC Program (CFDA #10.557).

15. Change in ownership for the Junked Vehicle Removal Service Agreement with Ed's Towing Service, Inc.

16. Bid award for ballistic personal protective gear (RFP21048).

17. 2020 Community Development Block Grant and HOME Partnership allocations from the US Department of Housing and Urban Development in the amounts of $789,067.00 (CDBG) and $495,115.00 (HOME).

18. Subrecipient Agreement with FirstLink.

19. Contractor Agreement with MDM Construction, LLC and Consultant Agreement with Stone Group Architects, Inc. for construction services at the temporary overflow shelter.

20. Bid award for GPS automated vehicle location system (RFP20165).

21. Change Orders for Project No. WW1701:
    a. No. 2 in the amount of -$40,300.00 and time extension for Phase IIA.
    b. No. 1 for an increase of $40,300.00 for Phase IIB.

22. Bills.

23. Change Order No. 1 for a time extension to the substantial completion date (4/1/21) for Improvement District No. NN-19-A1.

24. Final Balancing Change Order No. 4 for an increase of $57,752.74 for Improvement District No. BR-20-E1.

25. Bid award for Improvement District No. FP-19-A1.

26. Create Improvement District No. BN-20-A.

REGULAR AGENDA:

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

28. ***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**
    a. ADOC Addition (2900 12th Avenue North); approval recommended by the Planning Commission on 11/3/20:
        1. Zoning Change from GI, General Industrial to GC, General Commercial.
        2. 1st reading of rezoning Ordinance.
        3. Plat of ADOC Addition.

b. Eagle Valley Fourth Addition (7300 23rd Street South); approval recommended by the Planning Commission on 12/1/20:
   1. Zoning Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential.
   2. 1st reading of rezoning Ordinance.
   3. Plat of Eagle Valley Fourth Addition.

29. COVID-19 Update:
    a. Fargo Cass Public Health Update.

30. Presentation of the Police Department's Vision Mission Values video.

31. Bid award for Project No. WA1910 – Downtown Water Tower Construction:
    a. Base bid award to Phoenix Fabricators for Combined Construction Contract.
    b. Bid Alternate 1 to Phoenix Fabricators.

32. Request for an extension of the Class "A" Alcoholic Beverage License for Irish Hospitality, LLC d/b/a Hennessey's Irish Pub until 6/30/22; delayed from the 2/22/21 Regular Meeting.

33. Recommendation from Commissioner Piepkorn for changes to the Alcoholic Beverages Ordinance.

34. Applications for property tax exemptions for improvements made to buildings:
    a. Jonathan and Jennifer Hoffman, 2941 2nd Street North (5 year).
    b. Andrew and Megan Green, 1305 Broadway North (5 year).
    c. Ryan and Kjersten Nagle, 409 8th Avenue South (5 year).

35. Set 7:30 a.m., Tuesday, April 13, 2021, as the date for the Board of Equalization to meet.

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.

28a

City of Fargo Staff Report			
Title:	ADOC Addition	**Date:** **Update:**	10/27/2020 3/3/2021
Location:	2900 12th Avenue North	**Staff Contact:**	Aaron Nelson
Legal Description:	An unplatted portion of the Southeast Quarter of Section 35, Township 140 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota		
Owner(s)/Applicant:	Potter Holdings, LLC/Nate Vollmuth	**Engineer:**	Bolton & Menk, Inc.
Entitlements Requested:	**Minor Subdivision** (a plat of an unplatted portion of the Southeast Quarter of Section 35, Township 140 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota); **Zoning Change** from GI, General Industrial, to GC, General Commercial.		
Status:	City Commission Public Hearing: March 8, 2021		

Existing	Proposed
Land Use: Warehouse & Freight Movement	**Land Use:** Vehicle Repair and Warehouse & Freight Movement
Zoning: GI, General Industrial	**Zoning:** GC, General Commercial
Uses Allowed: GI, General Industrial, zoning allows detention facilities, health care facilities, safety services, adult entertainment centers, off-premise advertising, commercial parking, industrial service, manufacturing and production, warehouse and freight movement, waste related use, wholesale sales, aviation, surface transportation, and mining.	**Uses Allowed:** GC, General Commercial, zoning allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.
Maximum Building Coverage: GI allows up to 85%.	**Maximum Building Coverage:** GC allows up to 85%.

Proposal:

The applicant is seeking approval of a minor subdivision and zoning map amendment to accommodate commercial redevelopment of the subject property. The minor subdivision, entitled *ADOC Addition*, would plat the subject property into two lots. The proposed zoning map amendment would rezone both of these lots from GI (General Industrial) to GC (General Commercial). Additionally, the applicant has proposed to create a shared access easement at the north end of the intersection of 12th Avenue N and 29th Street N, which would provide vehicular access to both of the proposed lots. To accommodate a driveway access at this location, the traffic control signal at this intersection would need to be modified to convert it from a three-leg intersection to a four-leg intersection. A north/south pedestrian crosswalk would also be added across the west leg of the intersection, allowing pedestrian connectivity across 12th Avenue N. The cost of these improvements to the intersection would be special assessed to the subject property.

Surrounding Zoning Districts and Land Uses:

- North: GI (General Industrial) with railroad and warehouse & freight movement;
- East: GI (General Industrial) with warehouse & freight movement;
- South: (across 12th Ave N) is SR-3 with household living (detached house & duplex) and community services
- West: GI (General Industrial) with wholesale sales/warehouse & freight movement

Area Plans:

N/A

Schools and Parks:

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

Neighborhood: The subject property is located next to the Madison neighborhood.

Parks: Madison Park is located approximately 745 feet south of the subject property.

Pedestrian / Bicycle: There is a shared use path located along the south side of 12th Avenue N.

Staff Analysis:

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.

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 existing zoning on this property is GI. The property owner has requested to rezone the property to GC in order to accommodate the commercial redevelopment of the property. Lot 1 is proposed to be redeveloped for vehicle repair. The existing grain bins on Lot 1 are proposed to be removed and the existing building on the west end of the lot would be repurposed for said use. There are no immediate plans to redevelop Lot 2 at this time. As such, Lot 2 will continue to function as is until the property can be sold for redevelopment. While the existing use of warehouse and freight movement requires a Conditional Use Permit (CUP) within the proposed GC zoning district, Section 20-1001.A.1 of the LDC states that, "A use that was legally established without a Conditional Use Permit shall be deemed to have a Conditional Use Permit and shall not be deemed nonconforming solely because a Conditional Use Permit is now required for the use." As such, Lot 2 is deemed to have a CUP to allow warehouse and fright movement within the GC zoning district.

   Since the property was originally developed (prior to 1962), there has been an increase in residential development within the Madison neighborhood and 12th Avenue N has become a high-traffic arterial street. Staff finds the request to rezone the property from GI to GC to be justified by the change in conditions. **(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. Access to, and through, the subject property will be accommodated via an ingress/egress easement dedicated to the public. **(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 not received any comments regarding this proposal. Under the current GI (General Industrial) zoning district, many intensive industrial uses that are incompatible with adjacent residential uses are permitted by-right, such as waste-related uses and mining. Such uses would be prohibited within the proposed GC (General Commercial) zoning district. 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." Staff finds this proposal is consistent with the purpose of the LDC, the applicable comprehensive 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 plat the subject property into two lots to accommodate future redevelopment. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has not received any comments regarding this proposal. 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. Additionally, the proposed modifications to the intersection of 12th Avenue N and 29th Street N will be 100% special assessed to the subject property. The City Attorney's Office has drafted a *Waiver of Protest of Special Assessments* agreement, along with a *Memorandum of Agreement Regarding Waiver of Protest of Special Assessments* agreement, which outline the terms for the installation of the proposed modifications to the intersection and the associated tax assessment to the subject property. Both of these agreements have been signed by the owner and are attached for reference and execution by the City. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and move to approve the proposed 1) plat of **ADOC Addition** and 2) zone change from GI, General Industrial, to GC, General Commercial, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, Section 20-0906.F (1-4) and all other applicable requirements of the LDC; and move to approve the Waiver of Protest of Special Assessments and Memorandum of Agreement as presented."

Planning Commission Recommendation: November 3, 2020

On November 3, 2020, with a vote of 8-0 with 1 commissioners absent, the Planning Commission recommended approval to the City Commission of the proposed 1) plat of **ADOC Addition**; and 2) zone change from GI, General Industrial, to GC, General Commercial, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Attachments:

1. Zoning map
2. Location map
3. Plat
4. Waiver of Protest of Special Assessments
5. Memorandum of Agreement Regarding Waiver of Protest of Special Assessments

Zone Change (GI to GC) & Plat (Minor)

ADOC Addition

2900 12th Ave N

THE CITY OF Fargo FAR MORE

Legend

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

500 feet

Fargo Planning Commission
November 3, 2020

Zone Change (GI to GC) & Plat (Minor)

ADOC Addition

2900 12th Ave N

THE CITY OF Fargo FAR MORE

500 feet

Fargo Planning Commission
November 3, 2020

ADOC ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
AN UNPLATTED PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 140 NORTH, RANGE 49 WEST
(A MINOR SUBDIVISION)

OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That Potter Holdings, LLC, a North Dakota limited liability company as owner of a parcel of land located in that part of the South Half of the Southeast Quarter of Section 35, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

Commencing at the intersection of a line drawn parallel with and distant 50.00 feet northerly of, as measured at a right angle to, the south line of said Section 35 and a line drawn parallel with and distant 50.00 feet southwesterly of, as measured at a right angle to, the Burlington Northern Railroad Company's main line track centerline; thence South 87 degrees 47 minutes 58 seconds West, assumed bearing and parallel with the south line of said Section 35, a distance of 1425.71 feet to a line drawn parallel with and 503.50 feet east of, as measured at a right angle to, the north-south centerline of said Section 35 to the point of beginning of the land to be described; thence North 01 degree 20 minutes 00 seconds West, along said parallel line, 150.00 feet; thence North 87 degrees 47 minutes 58 seconds East, parallel with said south line of Section 35, a distance of 950.53 feet; thence South 01 degree 20 minutes 00 seconds East, parallel with said north-south centerline, 150.00 feet to a line drawn parallel with and 50.00 feet north of, as measured at a right angle to, the south line of said Section 35; thence South 87 degrees 47 minutes 58 seconds West, along said parallel line, 950.53 feet to the point of beginning

Said parcel contains 142,563 square feet or 3.273 acres of land, more or less and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Said owner has caused the above described parcel of land to be surveyed and plotted as "ADOC ADDITION" to the City of Fargo, Cass County, North Dakota and do hereby dedicate to the public for public use the 10 foot wide public utility easement and the 28 foot wide ingress/egress easement as shown on this plat for the purposes so stated.

OWNER: Potter Holdings, LLC

By: Thomas J. Potter, President

State of North Dakota
County of Cass } SS

On this 29 day of October, in the year 2020 before me, a notary public within and for said County and State, personally appeared Thomas J. Potter, President, Potter Holdings, 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 on behalf of Potter Holdings, LLC.

Notary Public

AMBER ANDERSEN
Notary Public
State of North Dakota
My Commission Expires June 21, 2022

MORTGAGEE: Town and Country Credit Union

By: Kevin Fritz, Vice President of Commercial Lending

State of North Dakota
County of Cass } SS

On this 29 day of October, 2020, before me, a notary public within and for said County and State, personally appeared Kevin Fritz, Vice President of Commercial Lending, Town and Country Credit Union known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of Town and Country Credit Union.

Notary Public

AMBER ANDERSEN
Notary Public
State of North Dakota
My Commission Expires June 21, 2022

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, Gregg Stroeing, Registered Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a correct representation of the survey, that all distances shown are correct and that the monuments for the guidance of future surveys have been located or placed in the ground as shown, and that the outside boundary lines are correctly designated on the plat.

Gregg Stroeing, Professional Land Surveyor
North Dakota License Number LS-6703

State of North Dakota
County of Cass } SS

On this 29 day of October, 2020, before me, a notary public within and for said County and State, personally appeared Gregg Stroeing, Registered Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same.

Notary Public

AMBER EICHHORN
Notary Public
State of North Dakota
My Commission Expires July 1, 2021

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by City Engineer this ____ day of _____, 2020.

Brenda E. Derrig, City Engineer

State of North Dakota
County of Cass } SS

On this ____ day of _____, in the year 2020 before me, a notary public within and for said County and State, personally appeared Brenda E. Derrig, City Engineer known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that she executed the same as City Engineer for the City of Fargo.

Notary Public

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planing Commission this 3rd day of November, 2020.

John Gunkelman, Planning Commission Chair

State of North Dakota
County of Cass } SS

On this 4th day of November, in the year 2020 before me, a notary public within and for said County and State, personally appeared John Gunkelman, Planning Commission Chair, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Notary Public

MIRANDA V
Notary Pu
State of Nort
Commission Expir 23

NOA WOLF
Notary Public
State of North Dakota
My Commission Expires Feb. 18, 2021

FARGO CITY COMMISSION APPROVAL

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

Timothy J. Mahoney, Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota
County of Cass } SS

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

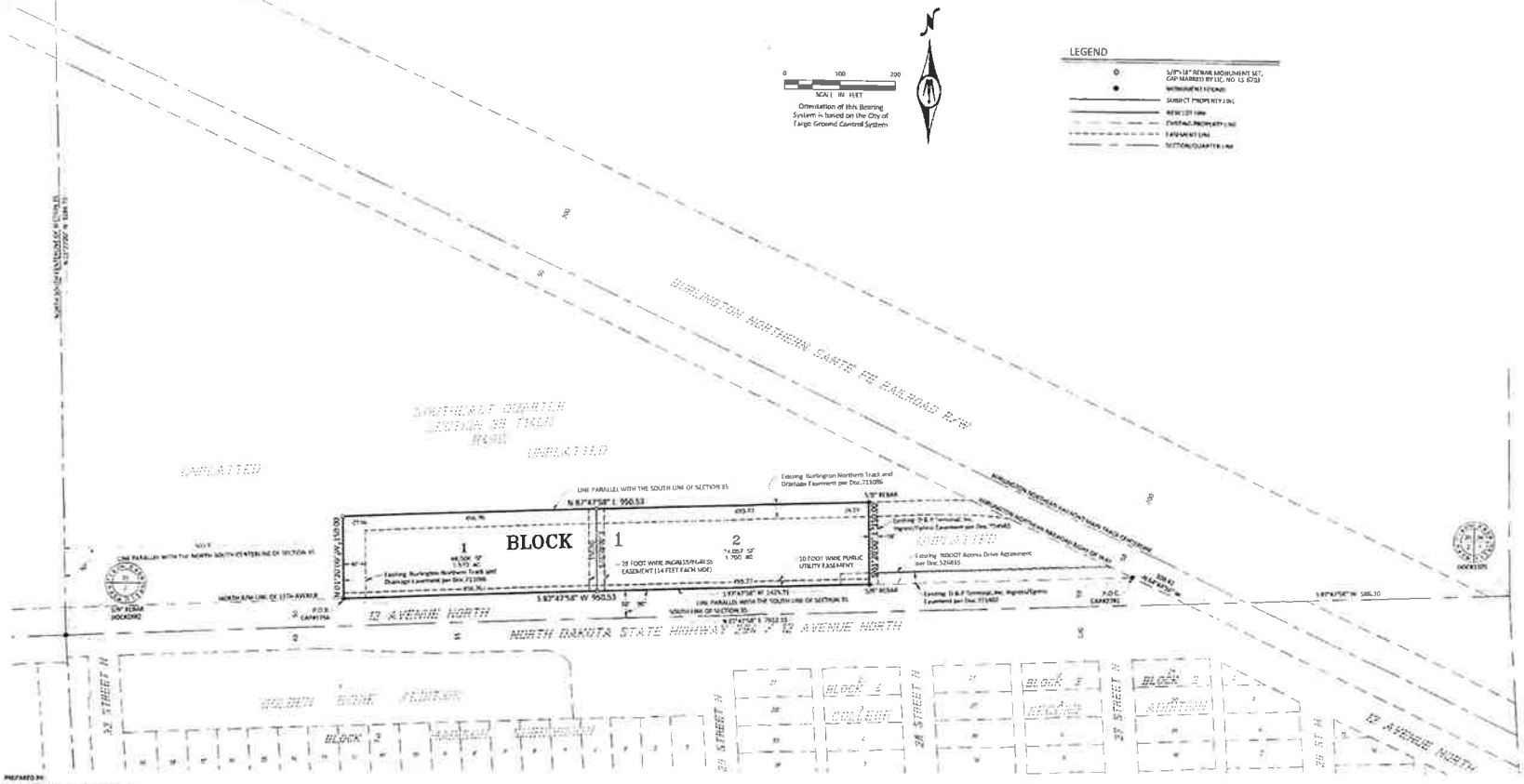
Notary Public

PREPARED BY:
BOLTON & MENK

SHEET 1 OF 2

ADOC ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
AN UNPLATTED PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 140 NORTH, RANGE 49 WEST
(A MINOR SUBDIVISION)



SHEET 2 OF 2

WAIVER OF PROTEST OF SPECIAL ASSESSMENTS

This AGREEMENT, is made and entered into between, POTTER HOLDINGS, LLC, a North Dakota Limited Liability Company [hereinafter "Property Owner"] and the CITY OF FARGO, a North Dakota municipal corporation [hereinafter "City"].

RECITALS

WHEREAS, Property Owner is the owner of the following described real property located in the City of Fargo, County of Cass and State of North Dakota [hereinafter "Subject Property"]:

> Commencing at the intersection of a line drawn parallel with and distant 50.00 feet northerly of, as measured at a right angle to, the south line of said Section 35 and a line drawn parallel with and distant 50.00 feet southwesterly of, as measured at a right angle to, the Burlington Northern Railroad Company's main line track centerline; thence South 87 degrees 47 minutes 58 seconds West, assumed bearing and parallel with the south line of said Section 35, a distance of 1425.71 feet to a line drawn parallel with and 503.50 feet east of, as measured at a right angle to, the north-south centerline of said Section 35 to the point of beginning of the land to be described; thence North 01 degree 20 minutes 00 seconds West, along said parallel line, 150.00 feet; thence North 87 degrees 47 minutes 58 seconds East, parallel with said south line of Section 35, a distance of 950.53 feet; thence South 01 degree 20 minutes 00 seconds East, parallel with said north-south centerline, 150.00 feet to a line drawn parallel with and 50.00 feet north of, as measured at a right angle to, the south line of said Section 35; thence South 87 degrees 47 minutes 58 seconds West, along said parallel line, 950.53 feet to the point of beginning.
>
> Said parcel contains 142,563 square feet or 3.273 acres of land, more or less.

The street address for which is: 2900 12th Avenue North, Fargo, North Dakota, 58102.

WHEREAS, Property Owner applied to rezone and create a minor subdivision of Subject Property, titled "ADOC Addition", which was approved by the Planning Commission at its November 3rd, 2020 meeting, and which is still subject to approval by the Fargo Board of City Commissioners; and,

WHEREAS, in addition to ADOC Addition approval, the Property Owner has proposed to create a shared access easement and new driveway at the north end of the intersection of 12th Avenue North and 29th Street North on Subject Property in the city of Fargo, North Dakota, which would provide vehicular access to both of the proposed lots; and,

WHEREAS, to accommodate vehicular access, the traffic control signal at said intersection would need to be modified to convert it from a three-leg intersection to a four-leg intersection, and in addition, a north/south pedestrian crosswalk would also be added to the west

leg of the intersection, allowing pedestrian connectivity across 12th Avenue North [hereinafter "Municipal Improvements"]; and,

WHEREAS, the City's Engineering Department has agreed to make said modifications to the traffic control signal and pedestrian crosswalk at said intersection and to assess these costs to Property Owner, and which Property Owner has agreed to waive notice and right to protest said assessments; and

WHEREAS, the parties wish to set forth in writing the terms of their agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. Property Owner holds all right, title and interest in the Subject Property, specifically ADOC Addition to the city of Fargo, Cass County, North Dakota, which plat is pending approval by the city of Fargo.

2. Property Owner agrees to create a shared access easement and new driveway at the north end of the intersection of 12th Avenue North and 29th Street North on Subject Property to provide for vehicular access to both of the proposed lots in the ADOC Addition, illustrated in Exhibit A, attached hereto and incorporated by reference.

3. City agrees to said Municipal Improvements, which consists of modifying the traffic control signal at said intersection from a three-leg to a four-leg intersection, and in addition, installing a north/south pedestrian crosswalk to the west leg of the intersection to allow for pedestrian connectivity across 12th Avenue North, and to assess the costs of such improvements to the Property Owner.

4. Property Owner understands and agrees that municipal improvements which are enumerated in Section 40-22-01 of the North Dakota Century Code will be completed to serve the Subject Property and others, and that special assessments will be levied and assessed against the Subject Property for such improvements.

5. City will levy special assessments against the Subject Property in order to recover all costs of the Municipal Improvements, in accordance with Chapter 40-22 of the North Dakota Century Code. Property Owner is the sole property in the district and will be assessed all costs of such improvements to Subject Property. Said special assessments will be spread in accordance with City policy at the time of assessment. The Subject Property will be assessed all costs for a term of fifteen (15) years. Property Owner waives its right to protest the resolution of necessity for the improvements for which such resolutions are required pursuant to Section 40-22-17 of the North Dakota Century Code, and specifically consents to the construction of the improvements and to the assessment of cost thereof to the Subject Property. Property Owner further waives its

right to protest the amount, benefit or any other assessment attribute related to the installation and construction of the Municipal Improvements. Project costs which may be assessed against the Subject Property include all costs of completing the construction of the Municipal Improvements.

6. City shall have no obligation, liability, or responsibility for any payment arising from Property Owner's work under this Agreement. In no event will City be responsible for any payments, including payments for additional work or payments for costs occasioned by unforeseen or changed conditions encountered during the work.

7. Property Owner will not transfer or assign this Agreement or any of the Property Owner's rights or obligations under this Agreement without the express written consent of City, including upon any sale of the Subject Property or any portion of the Subject Property. Such consent from the City shall not be unreasonably withheld.

8. Governing Law. This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be venued in District Court in Cass County, North Dakota, and the parties waive any objection to personal jurisdiction.

9. No Forbearance. The failure or delay of City to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any of the terms of this Agreement, will not be construed as a waiver of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Agreement, or the right of the City to enforce each and every term of this Agreement.

10. Survival of Agreement. If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable, and the parties' obligations under this Agreement will remain binding and enforceable.

11. Entire Agreement. This Agreement, together with any related documents, as well as any amendments to those agreements and documents, constitutes the entire agreement between the parties regarding the matters described in this Agreement.

12. Modifications. Any modifications or amendments of this Agreement must be in writing and signed by both parties to this Agreement.

13. Effective Date. The effective date of this Agreement shall be the later of the dates of execution of this instrument by the undersigned parties.

[*Signature Pages to Follow.*]

POTTER HOLDINGS, LLC
Property Owner

Dated: 2-1-21

By: Tom Potter

Its: President

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

On this 15th day of February, 2021, before me, a notary public in and for said county and state, personally appeared Thomas Potter, to me known to be the persons described in and that executed the within and foregoing instrument.

TYLER VENTZKE
Notary Public
State of North Dakota
My Commission Expires Dec. 12, 2022

(SEAL)

Notary Public
Cass County, ND

CITY OF FARGO, a North Dakota
municipal corporation

Dated:_____

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

ATTEST:

_____
Steven Sprague, City Auditor

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

On this ____ day of _____, 20___, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

_____
Notary Public
Cass County, ND
My Commission expires:

(SEAL)

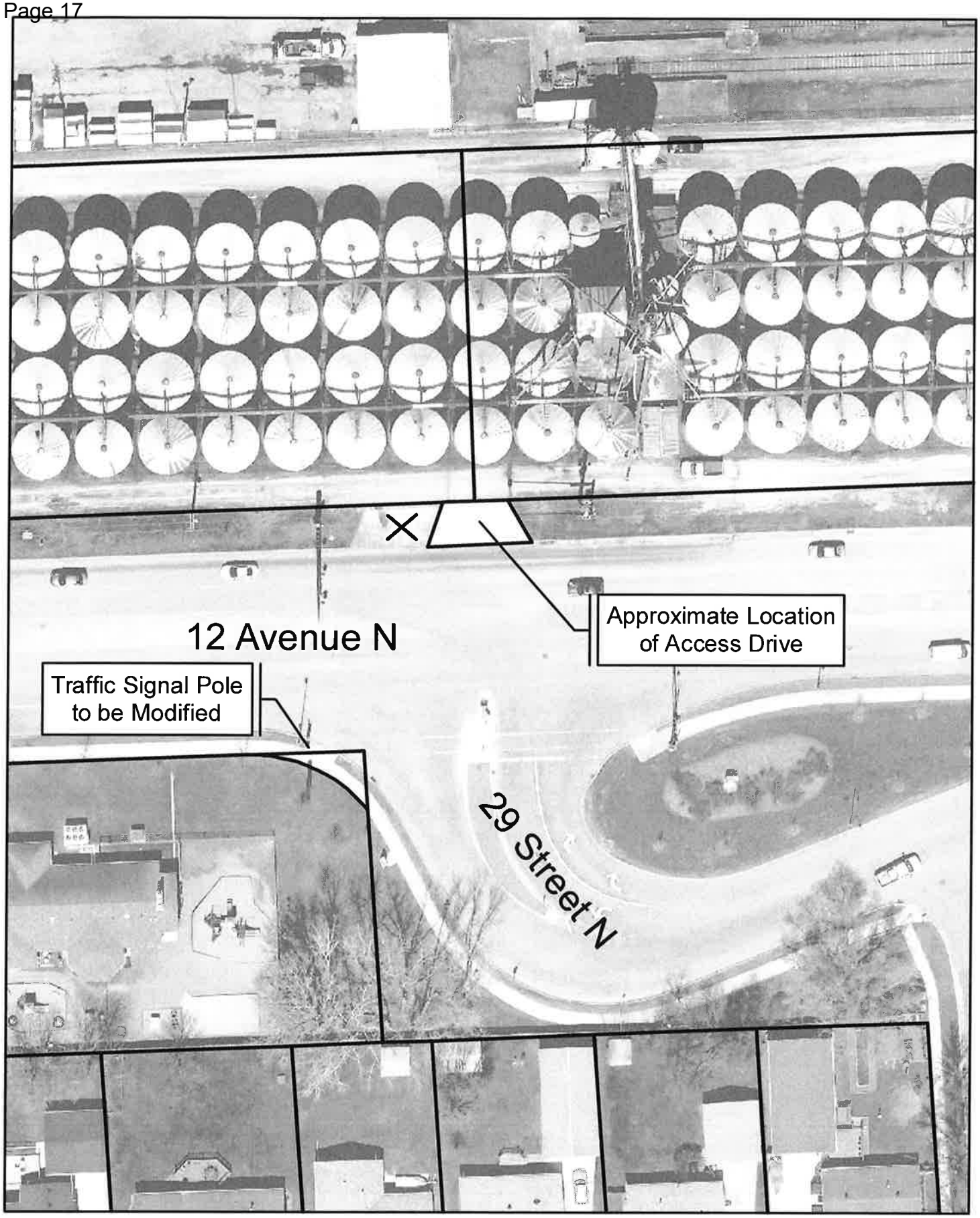


EXHIBIT A

0 50 100 Feet

N

MEMORANDUM OF AGREEMENT
REGARDING WAIVER OF PROTEST OF SPECIAL ASSESSMENTS

THIS MEMORANDUM OF AN AGREEMENT, is made this ____ day of _____, 20___, by and between POTTER HOLDINGS, LLC, a North Dakota Limited Liability Company [hereinafter "Property Owner"], and the CITY OF FARGO, a North Dakota municipal corporation [hereinafter "City"]. The Property Owner and City shall be cumulatively referred to herein as the "Parties" and separately as a "Party."

The parties have entered into an Agreement Regarding Waiver of Protest of Special Assessments dated as of the _____ day of _____, 20___, [hereinafter referred to as the "Agreement"] concerning certain property situate in the city of Fargo, Cass County, North Dakota, more fully described as follows:

> Commencing at the intersection of a line drawn parallel with and distant 50.00 feet northerly of, as measured at a right angle to, the south line of said Section 35 and a line drawn parallel with and distant 50.00 feet southwesterly of, as measured at a right angle to, the Burlington Northern Railroad Company's main line track centerline; thence South 87 degrees 47 minutes 58 seconds West, assumed bearing and parallel with the south line of said Section 35, a distance of 1425.71 feet to a line drawn parallel with and 503.50 feet east of, as measured at a right angle to, the north-south centerline of said Section 35 to the point of beginning of the land to be described; thence North 01 degree 20 minutes 00 seconds West, along said parallel line, 150.00 feet; thence North 87 degrees 47 minutes 58 seconds East, parallel with said south line of Section 35, a distance of 950.53 feet; thence South 01 degree 20 minutes 00 seconds East, parallel with said north-south centerline, 150.00 feet to a line drawn parallel with and 50.00 feet north of, as measured at a right

angle to, the south line of said Section 35; thence South 87 degrees 47 minutes 58 seconds West, along said parallel line, 950.53 feet to the point of beginning.

Said parcel contains 142,563 square feet or 3.273 acres of land, more or less.

The street address for which is: 2900 12th Avenue North, Fargo, North Dakota, 58102.

[hereinafter "Subject Property"]

1. As part of the Agreement, Property Owner will construct a shared access easement and driveway on Subject Property and City will make certain Municipal Improvements to the intersection of 12th Avenue North and 29th Street North to accommodate vehicular and pedestrian access.

2. As a further part of the Agreement, Property Owner agrees to assessment of the Subject Property, as follows:

> City will levy special assessments against the Subject Property in order to recover all costs of the Municipal Improvements, in accordance with Chapter 40-22 of the North Dakota Century Code. Property Owner is the sole property in the district and will be assessed all costs of such improvements to Subject Property. Said special assessments will be spread in accordance with City policy at the time of assessment. The Subject Property will be assessed all costs for a term of fifteen (15) years. Property Owner waives its right to protest the resolution of necessity for the improvements for which such resolutions are required pursuant to Section 40-22-17 of the North Dakota Century Code, and specifically consents to the construction of the improvements and to the assessment of cost thereof to the Subject Property. Property Owner further waives its right to protest the amount, benefit or any other assessment attribute related to the installation and construction of the Municipal Improvements. Project costs which may be assessed against the Subject Property include all costs of completing the construction of the Municipal Improvements.

3. This Memorandum of Agreement incorporates by reference all the other terms and provisions of the Agreement above-described, a copy of said Agreement being on file at the office of the City Auditor, Fargo City Hall, 225 North Fourth Street, Fargo, North Dakota.

4. The property that is the subject of the Agreement is the Subject Property, above-described.

5. As provided in said Agreement, all provisions of the Agreement shall be deemed binding upon the successors and assigns of the parties hereto, including any purchase of any of the Subject

Property, in accordance with the terms thereof. Property Owner agrees to apprise any buyers or intended assigns of the existence and content of the Agreement.

[*Signature Pages to Follow.*]

POTTER HOLDINGS, LLC
Property Owner

Dated: 2-1-21

By: Tom Potter
Its: President

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

On this 1st day of February, ~~2020,~~ 2021 before me, a notary public in and for said county and state, personally appeared Thomas Potter, to me known to be the persons described in and that executed the within and foregoing instrument.

TYLER VENTZKE
Notary Public
State of North Dakota
My Commission Expires Dec. 12, 2022

(SEAL)

Notary Public
Cass County, ND

CITY OF FARGO, a North Dakota
Municipal Corporation

Dated:_____

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

ATTEST:

_____
Steven Sprague, City Auditor

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

On this ____ day of _____, 20___, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

_____
Notary Public
Cass County, ND
My Commission expires:

(SEAL)

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN THE PROPOSED ADOC 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 ADOC Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on November 3, 2020; and,

WHEREAS, the rezoning changes were approved by the City Commission on March 8, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

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

is hereby rezoned from "GI", General Industrial, District to "GC", General Commercial, District;

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

286

City of Fargo Staff Report			
Title:	Eagle Valley Fourth Addition	**Date:** **Updated:**	10/28/2020 11/24/2020 03/04/2021
Location:	7300 23rd Street South	**Staff Contact:**	Maggie Squyer
Legal Description:	Lot 20, Block 5, Eagle Valley Addition		
Owner(s)/Applicant:	EagleRidge Development, LLC	**Engineer:**	Mead & Hunt
Entitlements Requested:	**Zone Change** (from P/I, Public and Institutional to SR-4, Single-Dwelling Residential) and **Major Subdivision** (replat of Lot 20, Block 5, Eagle Valley Addition to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Public Hearing: March 8, 2021		

Existing		Proposed
Land Use: Vacant		**Land Use:** Residential
Zoning: P/I, Public and Institutional		**Zoning:** SR-4, Single-Dwelling Residential
Uses Allowed: Allows colleges, community services, day care facilities of unlimited size, detention facilities, health care facilities, parks and open areas, religious institutions, safety services, schools, basic utilities, offices, commercial parking, outdoor recreation and entertainment, industrial services, manufacturing and production, warehouse and freight movement, waste-related uses, animal confinement, farming/crop production, aviation, surface transportation, and major entertainment events.		**Uses Allowed:** SR-4 allows detached houses, attached houses, duplexes, group living restricted residency, day care facilities of limited size, parks and open areas, religious institutions, safety services, schools, basic utilities, and telecommunications facilities of limited size.
Maximum Density Allowed: determined by adjacent zoning districts		**Maximum Density Allowed in SR-4:** 12.1 dwelling units per acre

Proposal:

The applicant is seeking City approval of 1) a Zone Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential and 2) a Major subdivision entitled **Eagle Valley Fourth Addition.** This item was originally presented at the November 3rd Planning Commission meeting and was continued to provide opportunity for additional conversation between the applicant, staff and area residents.

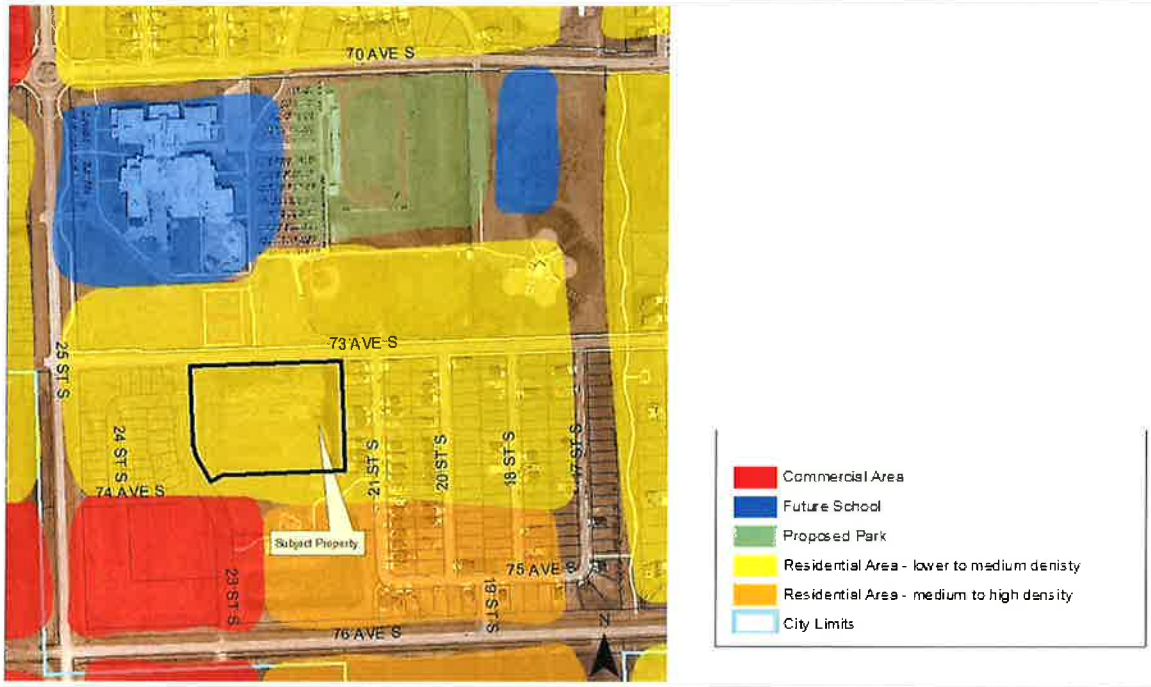
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: P/I, Public and Institutional (Davies High School)
- East: SR-4, Single-Dwelling Residential
- South: P/I, Public and Institutional
- West: SR-4, Single-Dwelling Residential

Area Plans:

In the 2007 Growth Plan, South Fargo Tier 1 East identifies the subject property as "residential area—lower to medium density," land uses. The proposed SR-4 zoning district is consistent with the lower to medium density residential land use designation. A map of the 2007 Growth Plan can be found below.



Context:

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

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

Parks: Davies Athletic Complex (1880 70th Avenue South), Eagle Pointe Park II (1646 73rd Avenue South) and Eagle Valley Park (7400 23rd Street South) are located within a quarter mile of the subject property. These parks provide baseball/softball fields, playground equipment, recreational trails, and picnic shelters.

Pedestrian / Bicycle: A shared use path exists along the north side of the proposed development adjacent to 73rd Street and along the west side of the proposed development along 23rd Street South.

Staff Analysis:

ZONING: The SR-4 zoned single-dwelling lots range in size from 5,625 square feet to 14,501 square feet. All lots meet the minimum required lot area of 3,600 square feet in the SR-4 zoning district.

ACCESS: All lots will be accessed by way of dedicated public streets. Necessary rights-of-way will be dedicated with the plat.

STREET CONNECTIVITY: The west side of the development fronts the existing 23rd Street South and the north side of the development fronts 73rd Avenue South. Griffin Drive South, Aquiline Drive South, and 22nd Street South are dedicated streets that will run through the proposed subdivision, connecting 73rd Avenue South to 23rd Street South.

NEIGHBORHOOD COMMENT: Planning staff received numerous emails from residents of the Davies Neighborhood who are in opposition of the requested zone change. Several of the emails list concerns over the loss of greenspace, increased traffic congestion, potential drainage issues, and a feeling of being misled in regards to the long-term use of the subject property. Copies of the letters of protest are included in this packet.

PROJECT MODIFICATIONS: Based on comments made at the November 3rd Planning Commission meeting, the applicant updated his original subdivision design and zone change request to eliminate the MR-1 zoning district and plat only single-dwelling lots. On November 19th, a virtual open house was held to give neighborhood members an opportunity to review and discuss the modified proposal. Representatives of EagleRidge Development, the Fargo

Parks District, and the Planning and Development Department were present. Six neighborhood residents attended the meeting. Concerns remained over the loss of greenspace, flooding issues, and special assessments.

PETITION OF PROTEST: A petition in opposition of the proposed zoned change, with particular emphasis on objecting to any multi-dwelling zoning districts, was originally submitted with 47 signatures prior to the November 3rd Planning Commission meeting. Since the project has been modified to request only SR-4 zoning, the previous protest petition is no longer applicable.

Planning staff met with a neighborhood representative on November 20th to discuss the requirements for protest petitions as outlined in Section 20-0906.G (1 & 2) of the Land Development Code. If 20% or more of eligible property owners sign the protest in opposition of the zone change, a supermajority vote will be required for the project to be approved by the City Commission. Since the approval of the plat and zone change at the December 1st Planning Commission meeting, staff has met with two additional neighborhood residents to discuss the project and potential protests.

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 P/I, Public and Institutional. The proposed SR-4, Single-Dwelling Residential, zoning district is consistent with the "residential area—lower to medium density" land use designation determined by the 2007 Growth Plan. Staff finds that the change in zoning is justified, as the developer has a clear picture of the type of development that will occupy the land. **(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 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 several letters of opposition to the project. These letters include concerns over the loss of neighborhood greenspace, increased traffic counts, and potential increase of flood hazards. City of Fargo Engineering and Public Works Departments reviewed the proposed subdivision and did not find issues with site drainage or traffic flow. 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 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 this proposal is consistent with the purpose of the LDC, the 2007 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 proposed zoning designation for this property is SR-4. The Single-Dwelling Residential zoning district is consistent with the "residential area—lower to medium density" designation for this property as identified by the 2007 Growth Plan and will accommodate the proposed low-density housing development and right-of-way facilities. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to

property owners within 300 feet of the subject property. To date, Planning staff has received several letters of opposition to the project. These letters include concerns over the loss of neighborhood greenspace, increased traffic counts, and potential increase of flood hazards. City of Fargo Engineering and Public Works Departments reviewed the proposed subdivision and did not find issues with site drainage or traffic flow. **(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 SR-4 zoning district is consistent with the "residential area—lower to medium density," designation identified for this property by the 2007 Growth Plan. 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 a draft amenities plan that specifies the terms of securing installation of public improvements to serve the subdivision. This amenities plan will be reviewed by the Public Works Project Evaluation Committee (PWPEC) prior to the final plat going to City Commission. The City's standard policy is that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. It is staff's understanding that the developer's engineer will undertake the design of the infrastructure. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading and move to approve the proposed 1) Zone Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential and 2) a plat of **Eagle Valley Fourth Addition**, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

Planning Commission Recommendation: December 1, 2020

On December 1, with a vote of 7-1, with one Commissioner abstaining and two seats vacant, the Planning Commission accepted the findings and recommendations of staff and recommended approval to the City Commission of the proposed 1) Zone Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential and 2) a plat of Eagle Valley Fourth Addition, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Attachments:

1. Location Map
2. Zoning Map
3. Preliminary Plat
4. Letters of Opposition

Zone Change (P/I to SR-4) & Plat (Major)

Eagle Valley Fourth Addition

7300 23rd St S

THE CITY OF Fargo FAR MORE

Fargo Planning Commission
December 1, 2020

Zone Change (P/I to SR-4) & Plat (Major)

Eagle Valley Fourth Addition

7300 23rd St S

THE CITY OF Fargo FAR MORE

Legend

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

Fargo Planning Commission
December 1, 2020

EAGLE VALLEY FOURTH ADDITION

A REPLAT OF LOT 20, BLOCK 5, EAGLE VALLEY ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)

PLAT BOUNDARY DESCRIPTION:
Lot 20, Block 5, Eagle Valley Addition, according to the record plat on file and of record in the Office of the Recorder, Cass County, North Dakota

Said plat contains 7.97 acres, more or less.

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

OWNER'S DEDICATION
We, the undersigned, do hereby certify that we are the owners of the land described in the plat of "EAGLE VALLEY FOURTH ADDITION" to the City of Fargo, a replat of Lot 20, Block 5, Eagle Valley Addition to the City of Fargo, Cass county, North Dakota; that we have caused it to be platted into lots and blocks as shown by said plat and certification of Joshua J. Nelson, Professional Land Surveyor, and that the description as shown in the certificate of the Professional Land Surveyor is correct. We hereby dedicate all Streets, Lanes, Drives, and Utility Easements shown on said plat to the Public.

Owner: Eagle Ridge Development, LLC

James R. Buhs, President

State of North Dakota)
) SS
County of Cass)

On this 5 day of January, 2021, appeared before me, James R. Buhs, President, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same on behalf of Eagle Ridge Development, LLC.

Notary Public, Cass County, North Dakota

NANCY BENSON
Notary Public
State of North Dakota
My Commission Expires Oct 15, 2022

Mortgage Holder: First International Bank & Trust

Matt Mueller, President

State of North Dakota)
) SS
County of Cass)

On this 11 day of January, 2021, appeared before me, Matt Mueller, President known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same on behalf of First International Bank & Trust.

Sam Wehlander
Notary Public, Cass County, North Dakota

SAM WEHLANDER
Notary Public
State of North Dakota
My Commission Expires Aug. 17, 2021

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

Dated this 5th day of January, 2021

Joshua J. Nelson, Professional Land Surveyor No. LS-27232

REGISTERED PROFESSIONAL LAND SURVEYOR
JOSHUA J. NELSON
LS-27232
1/6/21
NORTH DAKOTA

State of North Dakota)
) ss
County of Cass)

On this 5th day of January, 2021, before me personally appeared Joshua J. Nelson, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Notary Public:

AJ BOL
Notary Public
State of North Dakota
My Commission Expires Sept. 6, 2024

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

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

State of North Dakota)
) ss
County of Cass)

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

Notary Public: _____

FARGO PLANNING COMMISSION APPROVAL:
Approved by the City of Fargo Planning Commission this _____ day of _____, 20___

John Gunkelman, Chair
Fargo Planning Commission

State of North Dakota)
) ss
County of Cass)

On this _____ day of _____, 20____, before me personally appeared John Gunkelman, Chair, Fargo Planning Commission, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Notary Public: _____

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

Timothy J. Mahoney, Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota)
) ss
County of Cass)

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

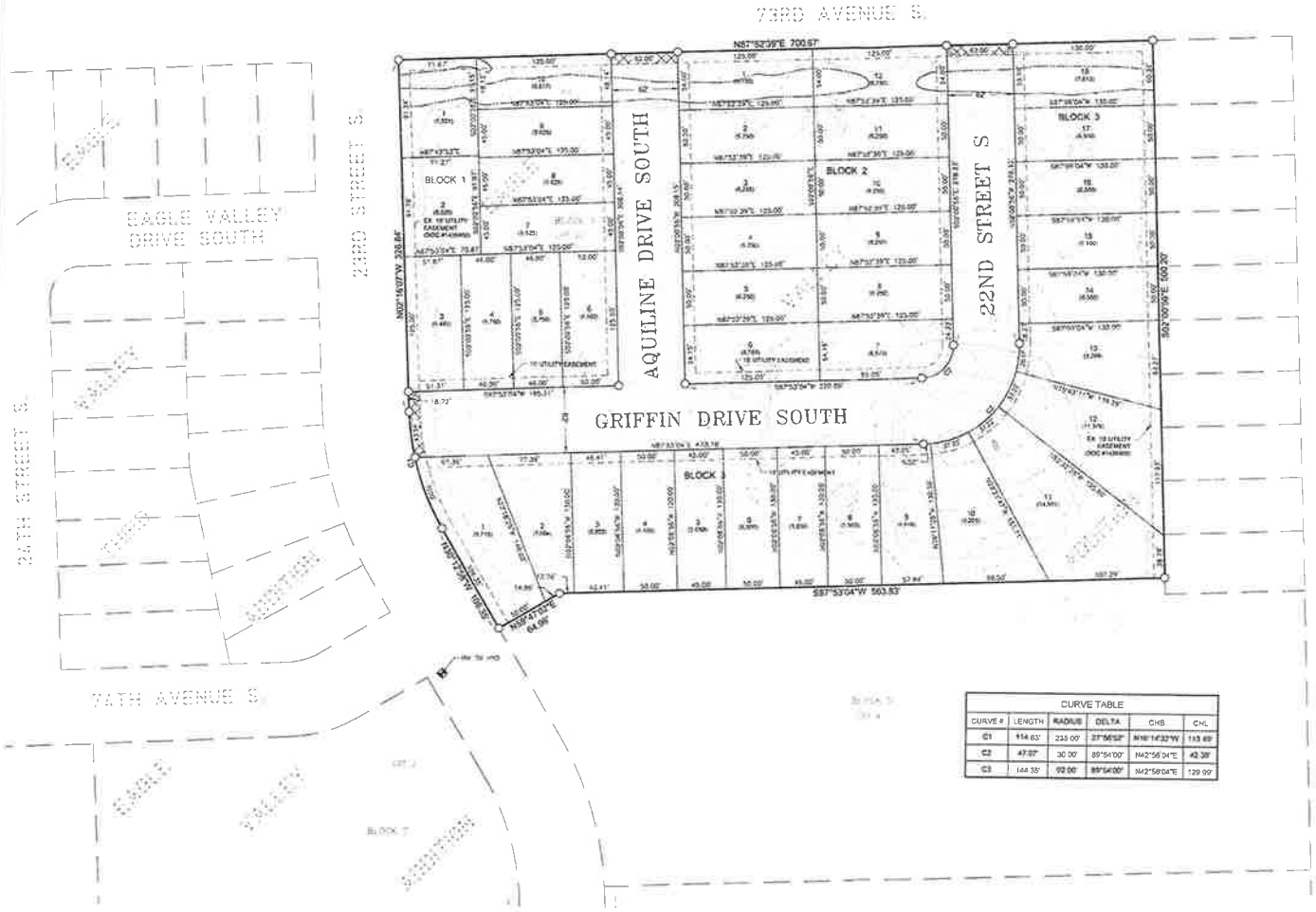
Notary Public: _____

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

PROJECT NO.
4650200-202030
SHEET 1 OF 2

EAGLE VALLEY FOURTH ADDITION

A REPLAT OF LOT 20, BLOCK 5, EAGLE VALLEY ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)



0 50 100
SCALE IN FEET
ORIENTATION OF THIS BEARING SYSTEM IS CITY OF FARGO 2007 ADJ

LEGEND

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

NOTES

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET
2. UTILITY EASEMENTS ARE 10' WIDE ALONG AND ADJACENT TO ALL STREET RIGHT-OF-WAYS AND REAR PROPERTY LINES AS SHOWN UNLESS OTHERWISE NOTED
3. ALL OF THIS PLAT FALLS IN FLOODPLAIN ZONE 'AE' ACCORDING TO THE FEMA FIRM MAP 38017C0790G WITH AN EFFECTIVE DATE 1/16/2015. THE BASE FLOOD ELEVATION IN THIS AREA IS 908.5' (NAVD88) ACCORDING TO FEMA. CONTOUR INFORMATION SHOWN IS DERIVED FROM FIELD SURVEY CONDUCTED DECEMBER 14, 2020
4. BENCHMARK TOP NUT HYDRANT IN THE SOUTHWEST QUADRANT OF THE INTERSECTION OF 74TH AVE S AND 23RH STREET SOUTH ELEVATION = 911.97 (NAVD88)
5. NEGATIVE ACCESS EASEMENT, AS NOTED ON THE PLAT OF GOLDEN VALLEY THIRD ADDITION, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OF PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OF LAND OR ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS

CURVE TABLE

CURVE #	LENGTH	RADIUS	DELTA	CHB	CHL
C1	114.63'	235.00'	27°56'52"	N16°14'32"W	113.49'
C2	47.07'	30.00'	89°54'00"	N42°56'04"E	42.38'
C3	144.35'	92.00'	89°54'00"	N42°56'04"E	129.99'

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

PROJECT NO.
4650200-202030
SHEET 2 OF 2

Maggie Squyer

From: Denis MacLeod
Sent: Sunday, October 25, 2020 6:06 PM
To: Maggie Squyer
Subject: Eagle Valley Fourth Addition

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

Dear Maggie Squyer,

When we moved into our home, I noticed the rapid development of subdivisions to the west of Davies High School. I knew the Park District owned the undeveloped land adjacent to and west of our home. I called and left a message with the Park District Executive Director Dave Leker. He kindly returned my call and said that the Park District had no plans to sell the land and would if developed hold the land for a future hockey facility.

I am alarmed to learn that a developer has now purchased the land with the intention of building closely spaced homes and a dense concentration of multi-family homes.

Green space is at a premium and should receive more of a priority in urban development. Governor Burgum has noted the urban sprawl that has affected Fargo. That sprawl leads to spiraling public safety concerns and maintenance costs to cover an ever-larger Fargo footprint. As it is, summer street maintenance and snow removal are sporadic and incomplete at best on our street. Adding to that burden doesn't bode well for an improvement.

Please consider retaining the area as green space. Once the opportunity to preserve the land is lost, we all will lose.

Respectfully,

Denis and Mary MacLeod
7319 21st St S
Fargo, ND 58104

Get Outlook for iOS

Maggie Squyer

From: Cara Keller
Sent: Sunday, October 25, 2020 7:10 PM
To: Maggie Squyer
Subject: Written protest to proposed zoning change - Eagle Valley 4th Addition

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

Hi Maggie,
This letter is to voice my protest to the zoning change in the Eagle Valley 4th Addition to the greenspace between 21st Street S and 23rd Street S. The zoning should remain the same - as promised to area home buyers. I will not begin to review how unethical this is now that every house has been built along 21st St S. All involved surely are well aware of the crooked nature of this proposed zoning change. They all know what they would think if it was their neighborhood. They all know this is for the profit of a certain person(s). I will state if this zoning change goes through in some fashion I will pursue credits to the specials I paid to live in this area with the large undeveloped space. Keep this city true to its homeowners.
Best,
Cara Keller

Virus-free. www.avast.com

Maggie Squyer

From:	Andrea Fogderud
Sent:	Monday, October 26, 2020 6:30 PM
To:	Maggie Squyer
Cc:	ANDREA F
Subject:	Fargo Planning Commission - Eagle Valley 4th Addition: Proposal Denial

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

Maggie Squyer, Assistant Planner:

I am writing this letter to voice my concern and disappointment as a resident within Eagle Valley on 21st St S in Fargo. I received a recent letter describing the proposal that would change the zoning from the aforementioned area from current public and Institutional state to single and/or multi-dwelling (Lot 20 Block 5).

When choosing to build a new home, I specifically chose the immediate area as I was advised by my builder and realtor that this land was reserved for further green space or public use for Fargo parks. I also specifically chose an area that was free of any apartment buildings, so choosing this specific plot of land was very intentional. You can imagine my dismay in knowing that I made my very substantial purchase under the guise that I would continue to have some green space within my view for my child.

I am writing this to convey my adamant rejection of this proposal as a current, long-term resident of this neighborhood! I am not the only resident who has these same concerns over how we were explained this land was slated to be used. This is the direct opposite of what the residents have been advised while choosing this neighborhood. As Fargo swallows up the nearby landscape, be thoughtful and proactive in leaving more green space for our children, current and future residents, as we were told it would be!

In addition to lack of green space, adding more homes and multi-dwelling spaces will quickly cramp the current park as well as fill the roads with even more traffic, making it unsafe for our children to enjoy our peaceful neighborhood.

Please submit this as my official statement as I am not able to attend to read this in person during the meeting. Please respond with any further information you need from me or the other current neighbors in my area.

Andrea Fogderud
7424 21st St S
Fargo, ND 58104
701.[illegible]

Maggie Squyer

From:
Sent: Tuesday, October 27, 2020 2:37 AM
To: Maggie Squyer
Subject: greenspace between 21st st s and 23rd st s on Tue Nov 3 docket

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Maggie:

It is my opinion that the Fargo Planning Commission should deny the application requesting the zoning change for the greenspace located between 21st St S and 23rd St S. As a nearby resident, I do not want to see any multiple family dwellings in this location. My recommendation is to keep it as a greenspace, as that was the original plan.

Tim Schmidt
7455 20th St S, Fargo, ND

Maggie Squyer

From: Nikki Carden
Sent: Tuesday, October 27, 2020 7:50 AM
To: Maggie Squyer
Subject: 21st St and 23rd St S

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Maggie Squyer,

My family wanted to express our concerns about the green space between 21st S & 23rd St S. We strongly want this to be denied for single family homes and multiple family dwellings. We have two young daughters who enjoy that area. Also we are concerned about the safety of adding at least 70 families plus their vehicles with the overwhelming added traffic that will add. We frequent the water park, the walking trails, and the parks. We feel safe here and also enjoy it. We absolutely do not want to be robbed of that.

Thank you for listening to our concerns. And I hope a decision will be made to keep the existing neighborhood families happy, and not the developer.

Travis & Nikki Carden
7418 20th St S
Fargo, ND 58104

Sent from my iPhone

Maggie Squyer

From: Jim Miller or James Miller >
Sent: Tuesday, October 27, 2020 12:17 PM
To: Maggie Squyer
Subject: Zoning Change Application

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Ms Squyer and Fargo Planning Commission Members:

We are writing today AGAINST the application requesting a zoning change to the land located between 21st St S and 23rd St S located in Fargo.

Our address is 7494 21st St S in Fargo (straight South of Davies HS football field). We have lived here since 2018 and enjoy the quiet neighborhood
with a pond across the street and one of the many parks that Fargo offers. Several nights ago, we signed a petition AGAINST a Zoning Change Application.

Our signing a petition AGAINST the change is based on the fact that this property had been sold to the Parks Department a few years ago.
Many present home owners along 21st St S (back side of the proposed development of which we are not) were told there was no plans or intentions for this land to be developed into anything other than possible added park space or some sort of water features making the neighborhood more attractive, raising real estate values, etc. Quite the Marketing ploy. Now, it has been sold back to the developer with a platted development design for single family dwellings and possible duplexes/40 unit apartment building.

After talking to the Davies HS Superintendent recently we have learned that they are near maximum enrollment numbers of 1350 students. Adding additional housing/duplexes/apartment building would add to the neighborhood population increase/addition vehicles in the area/possible accidents/and overall additional congestion might also be a concern. Don't get the wrong idea. We are all for progress in Fargo as it effects everyone, but, the developer should consider another option for this area.

Perhaps you may or may not have thought of this, so we have provided your Commission some considerations/ideas below for said above property.

1. Leave the current mound of dirt in place for Winter sledding opportunities for children and seed grass for Summer
2. Outdoor ice-skating rinks w/warming house
3. Allow Davies HS Agriculture classes to plant trees or garden spots within the area
4. Roller skating rinks are coming back. Build a rink and give HS students employment there (like the Davies HS pool in the Summer) year round.
5. Provide a drive-through donut/coffee shop attached to said rinks above, run by Davies HS for fundraising efforts.

Thank you for your consideration of this letter.

/signature/
James A (Jim) and Adeline A (Ade) Miller
7494 21st St S

Maggie Squyer

From: Tamra McCullough
Sent: Tuesday, October 27, 2020 1:33 PM
To: Maggie Squyer
Subject: Planning Commission - Eagle Valley Addition

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October 27th 2020

To the members of the Fargo Planning Commission:

I respectfully request the members of the commission decline the request to rezone the Eagle Valley Park of Eagle Valley Addition.

We purchased our home, which backs up to the area under consideration, in the spring of 2017 knowing that the area behind us was a designated green space area between our neighborhood and the future neighborhood along the east side of 25th street. I even verified this information with the development company Eagle Ridge prior to signing and was shown the map of the area which designated the area as a park.

Now the commission has before it a plan to re-zone the area for a different development company's plans that even goes against the covenants we were given for Eagle Valley, which includes the following declarations:

NOW, THEREFORE, Developer declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, reservations, easements, liens and charges (sometimes referred to as "covenants and restrictions") set forth in this Declaration.

D. Each Lot will be restricted to construction of one single family detached residence with either a two or three car attached garage. Detached garages may be approved, provided they are constructed as part of the design style and are constructed with the same exterior materials as the house. No lean-to, car-port, or vehicle storage building detached from the residence will be permitted, without the written approval of the Review Committee.

G. All residences shall have a minimum two-car garage. Three-car garages are encouraged.

H. No residence shall exceed two and half stories in height when viewed from the street.

Article IV: 1. Land Use and Building Type. All Lots zoned residential shall be used for single family purposes only. No improvements or structures whatsoever, other than a private dwelling house, swimming pool, Review Committee approved outbuildings, garages and fences (subject to limitations hereinafter set forth) may be erected, placed or maintained on any Lot on the Property.

This is the map that still resides on City of Fargo website: it clearly states the area under review is Eagle Valley Park.

We love our neighborhood and the park is part of that. We enjoy the rabbits, ducks, geese and the grouse that I lovingly refer to as my chickens. As a community we have done enough damage to the environment, why do we need to develop this area as well when it was already designated as a park? If it must be developed, please consider soccer fields or a splash pad to compete with the family friendly neighborhoods in West Fargo.

Additionally, the park is always FULL of water in the spring giving us Eagle Valley lake for almost three months of the year. Should the area be developed where will this water go - my basement? What guarantee is the new developer going to give this neighborhood about the water flow and property values? Their plans will devalue the area including the surrounding areas such as the Madelynn area and the environment. This is only about money for them, for the residents this is about our families and our community.

The commission is holding my family's future in its hands. We chose the neighborhood due to the known open green space and enjoy being able to watch the festivities at the high school and the pool in the summer. We truly do not want to sell but will seriously have to consider since this proposed change goes against all we were promised about our neighborhood. A sale that will no longer be as strong as it once would have been with the proposed new development on the verge of being approved by the commission.

There are so many options for a family friendly, eco-friendly area for the area already deemed a park for the Eagle Valley Addition of Fargo. Please consider the benefits to the residents and high school by leaving this area a green space.

Thank you for your time and serious consideration of the requests of the families within the Eagle Valley community. We are counting on you to protect our family homes.

Sincerely,

Tamra F Schmidt McCullough and family

Maggie Squyer

From: Natalie Tuchscherer
Sent: Tuesday, October 27, 2020 5:50 PM
To: Maggie Squyer
Subject: Planning Commission Concerns

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

I recently received a notice that the Fargo Planning Commission will determine if they approve or deny the zoning request for the greenspace on 21st St and 23rd St just south the Davies High School. I wanted to take a moment to voice my concern for the way this piece of land has been dealt with. I originally lived on 20th St in a rental from Meridian Management when there were only 7 homes up in the area. My family liked the neighborhood, park and people so much that I purchased a house a few doors down. While making the decision to purchase the fact that it was a nice neighborhood in an upcoming area, located near the school with a great park around a pond weighed in on my decision. Now it is being proposed to turn that great area into several small homes on 50 foot lots.... Even more, there are talks of a large apartment building. If I had been handed that information up front about the development I would chose differently. Carefree investments, my realtor and the zoning assignments assured me this would remain park space. This WILL make my resale options dimmish greatly so the answer isn't for me to pick up and move, its for the commission to make a decision that was already previously made.... The land should be greenspace surrounding a park.

I have been told there is a petition going around to stop this rezoning, I would like my name added to that petition per my email request.

Thank you,

Natalie Tuchscherer
VISIONBank
Vice President | www.visionbanks.com
461200 **nmls** |

Click here to leave a review

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October 27, 2020

Fargo Planning Commission
225 4th Street North
Fargo, ND 58102

Dear Sirs:

In regard to the proposed rezoning of the tract of land located at 7300 23rd Street South, I would like to file a formal protest to changing the zoning of the property. The residents around and near the property feel that changing the zoning gives reasonable suspicion that fraudulent activity is occurring. Everyone that built homes in this area was told that the developer had sold the land to the Parks Department and the land would be a park or undeveloped greenspace indefinitely. Now just a few months after the last home bordering this space has been built, a notice arrives stating there is an application requesting rezoning of the space to allow for single and multi-dwelling homes to be built on the property.

With a small amount of investigation, it has been determined that the developer that sold the property to the Parks District had a first right of refusal clause in the sale agreement to be able to buy the property back at the same price the developer sold it for. No additions for real estate taxes, special assessments or any other costs that would have been incurred had the developer maintained ownership of the property were required to be added to the resale cost of the property. When using public dollars to purchase land this appears to be a questionable at best arrangement. Somewhat of a conflict of interest that the Parks District could purchase a property and know that if the plans for the property change that they will have no way to recoup the costs that taxpayers had to bear to obtain the property in the first place.

With all of the homeowners along 21st Street South that borders the green space being told by developers, contractors, realtors and even the parks district that this property would not be developed into housing, they purchased their properties in good faith, knowing this area would remain undeveloped and they, their children, and their pets would be able to have access to the space for years and years to come.

They would not have to be concerned about the development of the land causing potentially unsafe traffic conditions for their children or friends that want to go across the street to use the water park. They wouldn't need to be concerned with changes to the lower lying land affecting water drainage and negatively impacting the condition of their yards or basements. They wouldn't need to be concerned about multi-dwelling housing reducing long-term property values or increasing area police calls. They wouldn't have to be concerned that anyone living directly across the street from a water park could end up being a predator, pedophile or other criminal that can come with the transient population that more frequently comes in multi-dwelling residential properties. For these reasons, they were willing to pay top dollar for their properties adjacent to the greenspace. The actions of the Park District to sell the land back to the developer raises reasonable suspicion that an agreement was in place all along and this would constitute criminal activity having taxpayers pick up the tab for taxes and assessments that should have been being paid by the developer all along not to mention the fraudulent tactics used to increase the value and salability of property adjacent to the land.

ND Statue chapter 11-27 requires public notice of sale of public lands and the land is to be sold to the highest bidder. Where and when was such notice published? How could the Parks District enter into a contract with a first right of refusal at a set price knowing that could well be in violation of statutory requirements?

Pursuant to the facts and circumstances and unanswered questions, it appears on the surface that statutory practices were not followed and there is reasonable suspicion that the developer had intentions to develop this property all along. There is reasonable cause to believe the "sale" of the property to the parks department subject to a first right of refusal restriction at a set price was not a legal contract provision and as such the sale back to the developer is also not a legal transfer.

The existing residents of the Eagle Valley subdivision, would prefer the land be retained by the Parks District and like to formally request that the zoning of the property located at 7300 23rd St South, Fargo ND remain unchanged. We feel the safety and reduced strain on existing infrastructure provided by the greenspace would be much better use of the land than additional residential development.

In the event the commission chooses to recommend the rezoning of the property for residential development:

1. There is no need to include any multi-dwelling residential zoning in the plan whatsoever, as existing residents oppose that use of the property and there is already an overabundance of available rental property in the area.

2. There should be **significant** compensation awarded to the existing residents of the subdivision and particularly to the property owners adjacent to the subject property for the city's failure related to the good-faith purchases that included representations that will be now be contradicted by these actions.

In the event you do not believe these facts and circumstances are sufficient to not change the zoning and that no significant compensation is due to homeowners, we will request a formal investigation into the activity and of the process used by the Parks District and/or other departments involved in the dealings with this property.

Please see the attached petition signed by many residents of the existing area surrounding the subject property that I was able to obtain signatures from on such short notice. We are all opposed to the rezoning and genuinely believe the property's best use is that of public greenspace. Having 100% of the residents whom I was able to contact be in agreement that the zoning should not change, it seems clear that the planned greenspace owned by the Park District should be retained and no change to zoning should be allowed.

Your thoughtful attention to this matter is greatly appreciated.

Christopher Ford
For the benefit of
Benjamin and Rachel Klinger
7329 21st Street South
Fargo, ND 58104

Maggie Squyer

From: Sarah Glasser
Sent: Thursday, October 29, 2020 10:24 AM
To: Maggie Squyer
Subject: EAGLE VALLEY 4TH ADDITION

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Many people buying lots in our neighborhood were told there were no plans or intentions for this land to be developed into anything other than park space / or water feature - making this neighborhood more attractive to residents. Now months later ,after final homes have been built, zoning has changed?? There is already so much activity with the Davies High School/Games/Waterpark already.

Can we respect having more green space available in the Fargo community? It comes hard to find. The reason we built a home here is because there were no neighboring apartment building or multi family dwellings. Now we might anticipate a decrease in the value and attraction of our property because someone, once again, wants to profit.

Please respect this community and the many families that moved here for the sake that we appreciate our current neighborhood.

-Cabler residence.

Maggie Squyer

From: Destrie Overmoe
Sent: Thursday, October 29, 2020 10:37 AM
To: Maggie Squyer
Subject: Eagle Valley 4th Addition

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Hello,

I writing this email to oppose the rezoning request of taking 7300 23rd St S & changing it from park to single & multi-family dwellings.

When we bought our house (7429 18th St S) in 2019, we were told that area was a public park, which influenced our purchase of our house. We specifically moved further south to have more open space to play & spend time with our children.

If this area is rezoned, many families who reside in the Eagle Valley neighborhood will be upset. We're a family neighborhood & we all use that space to play with our children & pets.

If this area is taken away, my family & I will reconsider our length of time staying in the neighborhood.

Thanks,

Destrie M Overmoe

Maggie Squyer

From: John Cabler
Sent: Thursday, October 29, 2020 11:14 AM
To: Maggie Squyer
Subject: Apartment Eagle Valley

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Im writing this e-mail with concerns of the proposed 40 unit dwelling in Eagle Valley 4th addition. We purchased our house being told that was going to stay green space! I believe this will de-value my home. Seems very convenient that the meeting is at 3pm knowing most people are still at work sounds like this will be pushed through no matter what! Davies High School is pushing max capacity let alone put an apartment in to throw on top of the matter. There is numerous apartments to the north I dont see why there has to be more this is ridiculous tired of being fed lies by developers and city

Eagle Valley Resident

LETTER OF OPPOSITION RECEIVED BETWEEN THE NOVEMBER 3RD AND DECEMBER 1ST PLANNING COMMISSION MEETINGS

Rezoning of Eagle Valley Park

We purchased our home in May 2017 and our backyard faces the area listed on various websites as Eagle Valley Park, 7300 23 Ave S. At the time of purchase, Jordahl Homes told us we had an added bonus to our home as the land directly behind us would not be development because it was Fargo Park. While we were so excited to hear this amazing news, I was quite skeptical of the statement. I did call the development company to confirm and received confirmation that the area was indeed zoned as park.

Over the years, we have been eagerly awaiting to see what the park district created. We presumed they were waiting for the remaining lots to be completed and allowing Dirt Dynamics a temporary dumping location close to the development. We knew that the big dirt pile and all the various mounds of dirt were not the park's intent for the area but enjoyed the area as it was for fun winter activities and watching the wildlife in the area throughout the seasons. We even would have our kids go pick up trash in the area that had blown in from builders. However, our excitement to live by park district land was abruptly taken away in mid-November when a letter from the City of Fargo arrived stating the park land was to be-zoned to 28 single family homes and multi-family homes.

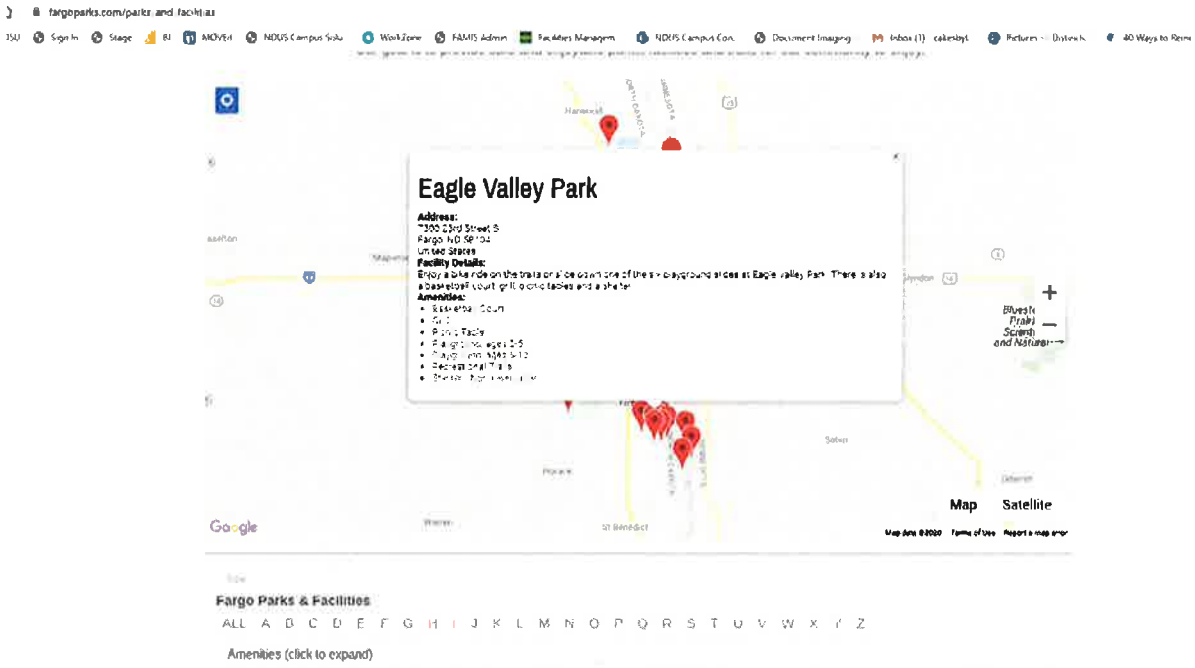
For almost four years, we've been anxiously awaiting the development of the area by the Park District, only to learn that our park district elected commissioners had sold our designated park area to a developer for his economic gain. We had no idea what the intent of use was for the park district and honestly didn't really care just knowing that it was owned by the Park District made the area much more appealing. Why would we have anticipated anything else after all in a May 21st, 2020 Fargo Forum article, park commission candidate Morgan stated, "she would try to think of more ways to get residents outside at all times of the year. She also said more vegetation in the city, such as trees and community gardens, adds to a healthy atmosphere." Apparently from her vote to sell the land, it was just another empty promise by an elected official.

According to the park district 's meeting minutes from September, Eagle Ridge Development submitted a proposal to buy back the land from the park district for $400,000, which is contrary to the statement by the new executive park director, who appeared very eager to support and defend the developer's decision to develop the land in the planning commission meeting, that the park district approached Eagle Ridge to sell back the property. Eagle Ridge's proposal was reviewed and approved at the meeting. Interestingly it was Commissioner Morgan that second the motion of the sale; however, in the planning meeting she stated other concerned homeowners have previously bought land to stop development. Ironically, she never gave the neighborhood a chance for such an option since she moved to sell the zoned park land to a developer wanting to destroy the neighborhood by adding more development to an already congested area.

We knew when moving out to the Davies area that the growth of Fargo was going to soon erode our beautiful sunset view and we would only temporarily be able to watch the farmers plant and harvest the great crops of ND around us. We did however have the knowledge that we would have park district land behind us to accommodate the influx of people to the area. We now face growth of multiple backyard neighbors on what was to be developed by the park district and to add insult to injury the homes on the southside of the new proposed development will now have our developed playground park area for a backyard. Eagle Ridge sees their development as progress; however, as a homeowners and tax paying members of this community, we see the situation has having been sold out by our elected park district

commissioners and potentially the planning commission and the elected city commissioners that are the verge of approving the rezoning of Eagle Valley Park.

Respectfully submitted by greatly disappointed homeowners: Shane and Tamra McCullough, Eagle Valley November 24, 2020



Please Vote NO!

To: City of Fargo Planning Commission
Date: 11-30-2020
RE: Proposed Zoning Change from Public and Institutional to Single Dwelling Residential, Multi Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition (Located at 7300 23rd St S)

DEAR PLANNNING COMMISSION MEMBERS:

As an Eagle Valley Resident and owner of the dwelling at 7320 20th St S., about a block and a half from the property referenced above, **I wish you to deny the request by Eagle Ridge Development for a Zoning Change from P/I to MR-1.**

I have lived in our new home since we purchased in March 2019. I reside with my brother, Damon Kelly, and nieces, Cierra Marie Kelly age 15, and Madison Michelle Kelly, age 13. We enjoy the mostly single family housing, proximity to Davies High School and Water Park, sense of community, and relatively low traffic currently afforded in our Eagle Valley neighborhood. Access to parks and open areas very much influenced our reason for building here initially.

I believe potentially allowing Multi Dwelling units so close and in our neighborhood threatens this standard.

Also, I list the following concerns:

- Safety due to additional traffic, specifically due to larger amounts of children crossing 73rd Avenue south from a potential multi resident dwelling to access the water park in the summer and the school the rest of the season.
- Declining personal property value as loss of community declines desirability of area.

Our family would very much like to this property left Parks/Institution or P/I designation.

Thank you for your consideration,

Brian Kelly

BRIAN KELLY
Owner: 7320 20th St S, Fargo, ND 58104 · 701-491-0387
Email · briankellygobison@gmail.com

To: City of Fargo Planning Commission
Date: 11-30-2020
RE: Proposed Zoning Change from Public and Institutional to SR-4 Single Dwelling Residential, Multi Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition.

I am writing this letter with concern to all parties involved in the recent zone changes.

I request that the Planning Committee take into the full context and questions before approving the zoning and passing it forward to the City Commissioners. I am looking to achieve answers to some questions that not only I have, but the community as a whole. In short, I would ask for an additional month for discovery. With Covid-19, Holiday's, work, and school I certainly hope you can relate to the schedules which we are all burdened; however, we continue to adapt, and do our best to facilitate the time we have to ensure our commitments to all obligations in life.

Examination:

I have requested the city (I have contacted the city Engineers) twice (2x) to provide me the drawings for Eagle Valley that will provide me information on elevations, locations, and grade pertaining to run off. In addition, I was told by John from Eagle Valley Development that he would attach me via e-mail as he would request for the same prints. I have yet to see that email. My purpose for this is no mystery. I will submit it to Stark Engineering from Sauk Rapids, Minnesota. They are licensed in North Dakota, Minnesota, Iowa, and Wisconsin. I would like to see a professional opinion on the current drainage system.

Families in this neighborhood and surrounding ones have done their due diligence to make an educated purchase of a home for their children, invest in the community, and promote a great place to live. To no fault of their own, the city spreads misleading information on web sites. The contractors construct the homes well knowing of the latest reports of zoning changes to come. Do they not forward this information to the homebuyer? Could it be protecting investments at the cost ethics?

We had one of your committee members by many opinions try to paint a picture that we are snobs or had racist intent because we do not want apartments. If she actually did her homework she would realize that our little neighborhood is very diverse and we get along very well. It might be a bit of shock but brown people don't like those types of leading and derogatory remarks, either. If I am not mistaken, I thought during her last election she ran as person who promoted green space?

Why did the developer say he sold the land to Fargo Parks at a discounted rate of $400,000? Fargo Parks went along with this rare contract that would let him purchase the land back in the future for the same amount? I shouldn't have to tell you that a more common practice in an option to buy is calculated by fair market value . . . Ironically, today I ventured on to

fargoparcels.com and looked at the assessment in today's market. The appraised value is $365,000. The developer would benefited if the contract were based off the fair market value. Someone is not telling the truth. There is no accusation of willful misconduct, but I do believe that an explanation is in order.

This letter is my opinion concerning the current grievance.

Sincerely,

Damon Kelly
7320 20th ST S
Fargo, ND 58104

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities
- [x] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [x] Other: Class sizes @ Davies HS will be overloaded as with all the new development already being made in the area.

Name of Owner(s): Jim & Ade Miller

Address: 7494 21st S. FARGO EAGLE VALLEY Home-Owner

Signature(s): Ade Miller James R. Miller

Date: Nov. 29th 2020 11-29-2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [x] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only **ever** be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): Timothy Schmidt

Address: 7455 20th St S

Signature(s): [illegible]

Date: November 29, 2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

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- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only **ever** be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): Benjamin and Rachel Klager

Address: 7329 21st St S

Signature(s): [illegible]

Date: 11/27/2020 11/27/2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I Public and Institutional, to SR 4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [ ] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): [illegible]

Address: 7[illegible] 23rd St S

Signature(s): _____ _____

Date: 11/29/2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [x] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only **ever** be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): Shane R and Tamra FS McCullough

Address: 7359 21 Street S, Fargo

Signature(s): [signature] Tamra FS McCullough

Date: 11-27-2020 11-27-2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we are submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [ ] The addition of greater residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [x] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only **ever** be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other _____

Name of Owner(s) Dustin + Amanda Hayenga

Address 7397 20th St S

Signature(s) [signature] [signature]

Date 11/27/2020 11/27/20

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [ ] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences
- [ ] Other: _____

Name of Owner(s): Matthew & Heather Eads

Address: 7321 20th St. South

Signature(s): Matt Heather Eads

Date: 11-27-20 11/27/2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [ ] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [ ] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [ ] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [ ] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [ ] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): Meridian Properties

Address: 7379 ~~23~~ 21st St S Fargo, ND 58104

Signature(s): Ryan Bauck

Date: 11/27/2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s).

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities
- [x] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): Natalie Tuchscherer

Address: 7443 20th St S Fargo ND 58104

Signature(s): Natalie

Date: 11 30 2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/We are submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
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- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [x] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park, when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): Amos Albert & Joice Albert

Address: 7385 - 23 ST S.

Signature(s): _____ _____

Date: 11/28/2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
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- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only **ever** be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): Amanda & Sergio Benitez

Address: 7309 21st St S.

Signature(s): Amanda Benitez

Date: 11/29/2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR 4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [x] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): Melinda and Matt Olson

Address: 2058 75th Ave S Fargo ND 58104

Signature(s): Melinda Olson Matthew S Olson

Date: 11/27/2020 11/27/2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR 4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [x] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): Megan Atkinson Michael Grott

Address: 7377 23rd St South Fargo, ND 58104

Signature(s): _____ _____

Date: 11/27/2020 11/27/2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
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- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [x] Other: I moved out here to enjoy the peacefullness of an unengested area and love the open space of a park and green space to enjoy without seeing house after house in a small area.

Name of Owner(s): Sarah Roberts Josh Reed

Address: 7388 21st. Street South

Signature(s): Sarah Roberts Josh Reed.

Date: 11-27-2020 11-27-2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

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- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [x] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): Jordan & Elizabeth Pinnsch

Address: 2311 Eagle Valley Dr S Fargo ND 58104

Signature(s): _____ _____

Date: 11/28/2020 11/28/2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we are submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

☐ The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect our property value.

☐ The prospect of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.

☑ The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.

☑ The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.

☑ We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home

☑ When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.

☐ Other: _____

Name of Owner(s): James & Kari Graber

Address: 2936 75th Ave S. Fargo ND 58104

Signature(s): [illegible]

Date: 24 November 2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
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- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [x] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] **When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.**
- [ ] **Other:** _____

Name of Owner(s): Andrea E Fogderud

Address: 7421 - 21st St S

Signature(s): Andrea E Fogderud

Date: 11/29/2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [ ] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [ ] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [ ] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities
- [ ] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [ ] Other: _____

Name of Owner(s): AARON WESTON

Address: 7454 21ST ST S

Signature(s): [illegible]

Date: 11.29.2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
- [x] The zoning change to allow for 40 or more additional homes will put undo strain on the small remaining park space and force young children share an unsafe play area with high school teenagers.
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- [x] **When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.**
- [ ] Other: _____

Name of Owner(s): CARA KELLER

Address: 7478 21ST ST. S.

Signature(s): _____

Date: 28 NOV 2020

Petition against proposed zoning change to land located at 7300 23rd St S Fargo, ND

I/we am submitting this document to express opposition to the proposed rezoning from P/I, Public and Institutional, to SR-4, Single Dwelling Residential of the proposed Eagle Valley Fourth Addition for the following reason(s):

- [x] The addition of private residences compared to public use facilities or undeveloped greenspace will negatively affect existing property values.
- [x] The promise of undeveloped land or development into only public use facilities was a major component in our decision to buy and build in the Eagle Valley area.
- [x] The additional residences allowed by a zoning change will add significant traffic and create an unsafe environment for area children crossing streets to use the water park or high school facilities.
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- [x] We were told by our builder, realtor, and/or Fargo Parks District that this land would only ever be used for expansion of the high school, building an elementary school, turned into ice arenas/rinks or left as a park when making our decision to buy / build our home.
- [x] When doing our due diligence before building, all maps on developers' websites and maps on the City of Fargo websites and related pages showed the property as a park. Not land owned by the park district to potentially later be sold and developed into residences.
- [x] Other: Residential development will accelerate significant plastic and metal pollution by developer and contractors with no effort on their part to mitigate the pollution. Development will further strain the city's ability to maintain roads by an already overburdened streets department and development will place increased pressure on Davies High School, which is at capacity.

Name of Owner(s): Denis and Mary MacLeod

Address: 7319 21st St. S, Fargo, ND 58104

Signature(s): Denis E. MacLeod Mary MacLeod

Date: 11-28-2020 11-28-2020

Petition to City of Fargo, and City of Fargo Planning Commission

TO: The Planning Commission of the City of Fargo, The City of Fargo, and The City of Fargo Commissioners

WHEREAS: Proposed Zoning Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential and MR-1, Multi-Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition. (Located at 7300 23rd Street South) (Eagle Ridge Development, LLC) and Proposed Zoning Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition. (Located at 7300 23rd Street South) (Eagle Ridge Development, LLC)

WE: The undersigned Petition the Planning Commission of the City of Fargo, The City of Fargo, and The City of Fargo Commissioners to as Follows:-

- The Planning Commission of the City of Fargo to vote for a recommendation of denial.
- The City of Fargo Commissioners to vote to Deny proposed Zoning change (Listed Above).

Name	Status (Homeowner, or Tennant)	Address	Phone Number	Email Address	Signature
Samantha Yarbrough	Homeowner	2686 Golden Valley Pkwy S, Fargo,	[redacted]	[redacted]	[illegible]
Robert Yarbrough	Homeowner	2686 Golden Valley Pkwy S Fargo, ND 58104	[redacted]	[redacted]	[illegible]
[illegible]	"	2723 [illegible]	[redacted]	[redacted]	[illegible]
Samantha Jacobson	Homeowner	2602 Golden Valley Pkwy S	[redacted]	[redacted]	[illegible]
[illegible] Jacobson	" "	" "	[redacted]	[redacted]	[illegible]

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Petition to City of Fargo, and City of Fargo Planning Commission

TO: The Planning Commission of the City of Fargo, The City of Fargo, and The City of Fargo Commissioners

WHEREAS: Proposed Zoning Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential and MR-1, Multi-Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition. (Located at 7300 23rd Street South) (Eagle Ridge Development, LLC) and Proposed Zoning Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition. (Located at 7300 23rd Street South) (Eagle Ridge Development, LLC)

WE: The undersigned Petition the Planning Commission of the City of Fargo, The City of Fargo, and The City of Fargo Commissioners to as Follows:-

- The Planning Commission of the City of Fargo to vote for a recommendation of denial.
- The City of Fargo Commissioners to vote to Deny proposed Zoning change (Listed Above).

Name	Status (Homeowner, or Tennant)	Address	Phone Number	Email Address	Signature
Lezlyn L. Thull	Homeowner	1760 75th Ave S. Fargo ND 58104	[redacted]	[redacted]	Lezlyn L Thull
Nicholas A. Thull	Homeowner	1760 75th Ave S. Fargo ND 58104	[redacted]	[redacted]	Nicholas A Thull

Petition to City of Fargo, and City of Fargo Planning Commission

TO: The Planning Commission of the City of Fargo, The City of Fargo, and The City of Fargo Commissioners

WHEREAS: Proposed Zoning Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential and MR-1, Multi-Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition. (Located at 7300 23rd Street South) (Eagle Ridge Development, LLC) and Proposed Zoning Change from P/I, Public and Institutional to SR-1, Single-Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition. (Located at 7300 23rd Street South) (Eagle Ridge Development, LLC)

WE: The undersigned Petition the Planning Commission of the City of Fargo, The City of Fargo, and The City of Fargo Commissioners to as Follows:-

- The Planning Commission of the City of Fargo to vote for a recommendation of denial.
- The City of Fargo Commissioners to vote to Deny proposed Zoning change (Listed Above).

Name	Status (Homeowner, or Tennant)	Address	Phone Number	Email Address	Signature
Erik Escarraman	Homeowner	7404 21st St S	[redacted]	[redacted]	

Petition to City of Fargo, and City of Fargo Planning Commission

TO: The Planning Commission of the City of Fargo, The City of Fargo, and The City of Fargo Commissioners

WHEREAS: Proposed Zoning Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential and MR-1, Multi-Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition. (Located at 7300 23rd Street South) (Eagle Ridge Development, LLC) and Proposed Zoning Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition. (Located at 7300 23rd Street South) (Eagle Ridge Development, LLC)

WE: The undersigned Petition the Planning Commission of the City of Fargo, The City of Fargo, and The City of Fargo Commissioners to as Follows:-

- The Planning Commission of the City of Fargo to vote for a recommendation of denial.
- The City of Fargo Commissioners to vote to Deny proposed Zoning change (Listed Above).

Name	Status (Homeowner, or Tennant)	Address	Phone Number	Email Address	Signature
Brian Kelly	OWNER	7320 20th St S	[redacted]	[redacted]	
[redacted]				[redacted]	
Matt Eads	OWNER	7321 20th Street South	[redacted]	[redacted]	

Petition to City of Fargo, and City of Fargo Planning Commission

TO: The Planning Commission of the City of Fargo, The City of Fargo, and The City of Fargo Commissioners

WHEREAS: Proposed Zoning Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential and MR-1, Multi-Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition. (Located at 7300 23rd Street South) (Eagle Ridge Development, LLC) and Proposed Zoning Change from P/I, Public and Institutional to SR-4, Single-Dwelling Residential within the boundaries of the proposed Eagle Valley Fourth Addition. (Located at 7300 23rd Street South) (Eagle Ridge Development, LLC)

WE: The undersigned Petition the Planning Commission of the City of Fargo, The City of Fargo, and The City of Fargo Commissioners to as Follows:-

- The Planning Commission of the City of Fargo to vote for a recommendation of denial.
- The City of Fargo Commissioners to vote to Deny proposed Zoning change (Listed Above).

Name	Status (Homeowner, or Tennant)	Address	Phone Number	Email Address	Signature
Taylor Anderson	H.O.	7454 17th S. South	[redacted]	[redacted]	[illegible]
John Cobler	H.O.	7311 18th St. South	[redacted]	[redacted]	[illegible]
Umit Acikgoz	H.O.	7328 20th St S. Fargo	[redacted]	[redacted]	[illegible]
Esma Acikgoz	H.O.	7328 20th St S Fargo	[redacted]	[redacted]	[illegible]
Keisha Hagen	H.O	7323 18th St S Fargo, ND 58104	[redacted]	[redacted]	[illegible]
Joshua Hagen	H.O	7323 18th St S Fargo, ND 58104	[redacted]	[redacted]	[illegible]
[illegible] Cobler	H.O	7311 18 St S	[redacted]	[redacted]	[illegible]
Damon Kelly	Renter	7320 20th St S	[redacted]	[redacted]	[illegible]

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

2862

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

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on December 1, 2020; and,

WHEREAS, the rezoning changes were approved by the City Commission on March 8, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

All of Eagle Valley Fourth Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "P/I", Public and Institutional, 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, M.D., Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

3/a

REPORT OF ACTION

FINANCE COMMITTEE

Project: Downtown Water Tower **Type:** Base Bid Construction

Location: 11th Street and 7th Avenue North

Date of Hearing: March 1, 2021

Routing	Date
City Commission	March 8, 2021

Troy Hall, Water Utility Director, informed the Committee about the bid results of a re-bidding of the new downtown water tower at 11th Street and 7th Avenue North. At the January 11, 2021, City Commission meeting, bids from a prior bid advertisement were rejected and authorization was given to rebid the project after a value engineering effort to reduce costs. Approval was given to rebid the project with the following components:

1. Base Bid for Water Tower Construction (5-0 vote)
2. Alternate Bid for Public Art (4-1 vote)

The bid documents instructed bidders that the award would be based on the lowest bid received for the base bid. Therefore, the low bid was received from Phoenix Fabricators in the amount of $7,635,949. The plan of financing for the base bid is as follows:

Water Utility Infrastructure Sales Tax	$4,825,949
ND State Water Commission Grant	$2,810,000
Total	**$7,635,949**

The re-bid effort reduced the base bid construction costs by about $992,000 compared to the previous bid.

MOTION:
On a motion by Bruce Grubb, seconded by Mike Redlinger, the Finance Committee voted to approve the award of the Downtown Water Tower base bid to Phoenix Fabricators in the amount of $7,635,949.

COMMITTEE:	Present	Yes	No	Unanimous
				Proxy
Tim Mahoney, Mayor	X	X		
Dave Piepkorn, City Commissioner				
Bruce Grubb, City Administrator	X	X		
Mike Redlinger, Assistant City Administrator	X	X		
Kent Costin, Director of Finance	X	X		
Steve Sprague, City Auditor	X	X		

ATTEST:

Tim Mahoney, Finance Committee Chair

THE CITY OF Fargo FAR MORE

Water Treatment Plant
435 14th Avenue South
Fargo, ND 58103
Office: 701.241.1469 | Fax: 701.241.8110
www.FargoND.gov

MEMORANDUM
February 24, 2021

To: Finance Committee

From: Troy B. Hall, Water Utility Director TBH

Re: Project WA1910 Bid Award – Downtown Water Tower Construction

---

Bids were opened for Project WA1910 at Fargo City Hall on February 10, 2021 at 11:45 AM. Attached, please find a Letter Recommending Award and Bid Tabulation from Apex Engineering Group (Apex). This was a re-bid of the project after Value Engineering. There were three (3) sealed bids opened for General Construction (Contract A) and Combined Construction (Contact D). There were no bids for Mechanical Construction (Contract B). One bid was opened for Electrical Construction (Contract C). Per Instructions to Bidders, award is recommended considering the base bids only. Alternates are a separate evaluation.

Three of the four national tower constructors submitted bids that were opened. Bids were very close together in cost for the 2nd bid, indicating contractors understood the project well. After evaluation, Bid Award is recommended to Phoenix Fabricators with their Combined Construction (Contract D) bid of $7,635,949. Bid Alternate 1 (Water Tower Mural) is being evaluated separately by the Finance Committee. Bid Alternate 2 (Driven Pile Foundation) is a cost reduction, but is not recommended by Water Utility staff due to the added vibration very near railroad tracks and the high noise associated with pounding piles in north Fargo.

The re-bid effort reduced the tower construction cost by about $992,000 compared to the earlier bid. This is very good news. However, the project is over the Engineer's Opinion of Estimated Cost by $560,949 or 7.9 percent. Just a note, other recent Water Utility projects have bid below Engineer's Estimate, including: WA2004 for West Fargo service piping at $472,347 under estimate and WA2012 for West Fargo pump stations at $249,113 under estimate.

Plan of Financing

The State Water Commission (SWC) approved a cost-share (grant) of $2.81 million toward water tower construction on February 13, 2020. Infrastructure Sales Tax (Fund 450) will be used for the non-grant portion of the project. Prior to SWC approval of the $2.81 million grant, the Water Utility financial model was set to support the full cost of the new Downtown Water Tower. For the 2022 budget request, near exact costs for Project WA1910 can be programmed into budget because the cost of bids and engineering contacts will be known.

SUGGESTED MOTION:

Approve Bid Award to Phoenix Fabricators for Project WA1910 in amount of $7,635,949 for the Combined Construction contract to build the new Downtown Water Tower.

Your consideration in this matter is greatly appreciated.

Apex Engineering Group
Water | Transportation| Municipal | Facilities

701.373.7980
4733 Amber Valley Parkway South
Fargo, ND 58104

February 17, 2021

Mr. Troy Hall
Water Utility Director
City of Fargo
435 14th Avenue South
Fargo, ND 58103

RE: Downtown Water Tower – Project: WA1910
Letter Recommending Award

Troy:

Bids for the above reference project were received and opened on February 10, 2021. Three bids were received for Contract A – General Construction, two bids for Contract C – Electrical Construction (one not opened), three bids for Contract D – Combined Construction, and three bids each for Alternates 1 and 2. No bids were received for Contract B – Mechanical Construction. A tabulation of the bids received is attached. The lowest Combined Construction Bid was from Phoenix Fabricators of Sebree, KY in the amount of $7,635,949.00.

After reviewing the bids, we recommend that the City of Fargo award a contract to Phoenix Fabricators in the amount of $7,635,949.00. Bids from Phoenix Fabricators for Alternates 1 (Tower Artwork) which would add $186,981 and Alternate 2 (Alternate Foundation Piles) which would deduct $369,811 can be accepted or rejected at the discretion of the City as the project budget allows.

If you have any questions or need further information, please contact me.

Sincerely,

Apex Engineering Group, Inc.

Timothy J. Paustian, PE
Project Manager

Apex Engineering Group

Water | Transportation | Municipal | Facilities

THE CITY OF Fargo FAR MORE

Bid Tabulation

Fargo, North Dakota, Downtown Water Tower – Rebid

Wednesday, February 10, 2021 | 11:45 AM | Fargo City Hall

Apex Project No. 18.351.0088

Plan Holder	Add. 1	Add. 2	5% Bid Bond	Contr. License	Contract A General	Contract B Mechanical	Contract C Electrical	Contract D Combined	Alternate 1 (Add)	Alternate 2 (Deduct)
Landmark Structures	x	x	x	x	$7,108,000	No Bid	No Bid	$7,767,000	$154,000	-$80,000
McDermott	x	x	x	x	$7,157,000	No Bid	No Bid	$7,697,000	$110,000	-$340,000
Phoenix Fabricators	x	x	x	x	$7,291,027	No Bid	No Bid	$7,635,949	$186,981	-$369,811
JDP Electric	Addenda Not Acknowledged. Bid Not Opened.									
Rickard Electric	x	x	x	x	No Bid	No Bid	$526,650	No Bid	No Bid	No Bid
Lowest Each Contract					$7,108,000	No Bid	$526,650	$7,635,949	$154,000	-$369,811
Engineer's Opinion of Est. Cost					$6,400,000	$150,000	$525,000	$7,075,000	$180,000	-$350,000

Certification:
I certify that these bids were received and opened on *Wednesday, February 10, 2021 at 11:45 AM* at *Fargo City Hall, Engineering Conference Room, 225 4th St N, Fargo, ND*.

Timothy J. Faustian, PE

316

REPORT OF ACTION

FINANCE COMMITTEE

Project: Downtown Water Tower **Type:** Bid Alternate – Public Art

Location: 11th Street and 7th Avenue North

Date of Hearing: March 1, 2021

Routing	Date
City Commission	March 8, 2021

Nicole Crutchfield, Director of Planning and Development, informed the Committee about the bid results of a re-bidding of Alternate 1 for the placement of public art on the downtown water tower. The new downtown water tower will be located at at 11th Street and 7th Avenue North. At the January 11, 2021, City Commission meeting, bids from a prior bid advertisement were rejected and authorization was given to rebid the project after a value engineering effort to reduce costs. Approval was given to rebid the project with the following components:

1. Base Bid for Water Tower Construction (5-0 vote)
2. Alternate Bid for Public Art (4-1 vote)

The bidding documents instructed bidders that the bid award would be based on the lowest bid received for the base bid. Therefore, the alternate bid received from the low base bidder was in the amount of $186,981. The plan of financing for the alternate bid is as follows:

Arts Curating in Public Buildings (2020 Budget)	$30,000
Main Avenue Amenities (2020 Budget)	$30,000
Public Art Project (2018 Budget)	$85,000
Water Utility Infrastructure Sales Tax	$41,981
Total	**$186,981**

MOTION:
On a motion by Mike Redlinger, seconded by Kent Costin, the Finance Committee voted to approve the award of the Downtown Water Tower alternate bid to Phoenix Fabricators in the amount of $186,981.

COMMITTEE:	Present	Yes	No	Unanimous
				Proxy
Tim Mahoney, Mayor	X	X		
Dave Piepkorn, City Commissioner				
Bruce Grubb, City Administrator	X	X		
Mike Redlinger, Assistant City Administrator	X	X		
Kent Costin, Director of Finance	X	X		
Steve Sprague, City Auditor	X	X		

ATTEST:

Tim Mahoney, Finance Committee Chair

THE CITY OF Fargo FAR MORE

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

MEMORANDUM

TO: Finance Committee

FROM: Nicole Crutchfield, Planning Director NC
Troy Hall, Water Utility Director

DATE: February 24, 2021

RE: Downtown Water Tower (Project WA1910) and Public Art Opportunity

---

On March 26, 2020, the Utility Committee authorized staff to work with the City's Arts and Culture Commission to seek a public artist to engage in community outreach for the creation of a mural to be incorporated into the bid documents of the water tower. The Finance Committee reviewed and approved this work at the May 26, 2020 meeting.

Last August through October, Reach Partners and Black Ink Creative Partners (the project team) facilitated several community listening and visioning sessions for the creation of concepts. The final design was selected by the Arts and Culture Commission on October 21, 2020 meeting, and the selection was affirmed by Mayor.

On January 11, 2021, during the City Commission meeting, Water Utility staff presented project history and the Bid Opening of Project WA1910 Downtown Water Tower Improvements along with Planning staff that presented project processes and the method for creation of the artwork. At that meeting, the City Commission rejected all bids due to costs exceeding the Engineer's Estimate and authorized value engineering and rebidding of the project. The City Commission also approved to include the recommended art as Bid Alternate 1 in the new water tower bid package.

On February 10, 2021, bids were opened for the rebid of the project. The Engineer's Estimate for the art was $180,000. The lowest combined bid, from Phoenix Fabricators, reduced the tower construction cost by nearly $1 million. The Phoenix Fabricators Bid Alternate 1 (art mural design) has a cost of $186,981, which exceeds the Engineer's Estimate by $6,981 (about 4%).

The Water Utility will recommend a funding package to support the water tower construction plus the art mural design, if approved by the Finance Committee. A grant of $2.814 million dollars was received from the State Water Commission (SWC) for water tower construction. Prior to the notice of SWC cost-share (grant), the Water Utility financial model assumed full project costs paid with Infrastructure Sales Tax (Fund 450). Thus, the SWC grant was an unanticipated bonus. In addition, through coordination with administration and review of past capital public art allocations, staff recommends transferring the following allocations towards the cost of the mural:

101-8550-510-77-06 Arts Curating in Public Buildings = $30,000 (2020 budget)
475-2010-510-77.40 Main Avenue Amenities = $30,000 (2020 budget)
475-2010-510-77.40 Public Art Project = $85,000 (2018 budget)
Total for allocation to water tower public art project = $145,000

As part of the Public Art Master Plan and work plan for the Arts and Culture Commission, closely partnering with city infrastructure projects is a strategic goal. For future public art allocation projects, staff is curious if there's a desire

EQUAL HOUSING OPPORTUNITY

to entertain a percent for art program as that is what typically finances public art and infrastructure integrated projects as a financing policy (for future budget discussions).

Attachments to this packet include the recommended design (Bid Alternate 1) and the project bid tabulation.

Recommendation:

Recommend approval to the City Commission the installation of Bid Alternate 1 for the new Downtown Water Tower (Project WA1910) and reallocate past years' allocations towards this public art project.

Attachments

Apex Engineering Group
Water Transportation | Municipal Facilities

THE CITY OF Fargo FAR MORE

Bid Tabulation

Fargo, North Dakota, Downtown Water Tower – Rebid

Wednesday, February 10, 2021 | 11:45 AM | Fargo City Hall

Apex Project No. 18.351.0088

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Engineer's Opinion of Est. Cost					$6,400,000	$150,000	$525,000	$7,075,000	$180,000	-$350,000

Certification:
I certify that these bids were received and opened on *Wednesday, February 10, 2021 at 11:45 AM* at *Fargo City Hall, Engineering Conference Room, 225 4th St N, Fargo, ND*.

Timothy J. Paustian, PE

THE CITY OF Fargo FAR MORE

CITY COMMISSION ACTION
Delayed on 2/22/21 to 3/8/21 (32)

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

MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Extension – Hennessey's

DATE: February 17, 2021

The Auditor's office received a request to grant an extension of the requirements of 25-1512 from Irish Hospitality d/b/a Hennessey's Irish Pub until June 30, 2022.

Hennessey's closed in January 2019 but filed to renew their license continuously since then. The intention has always been to relocate to a new concept, however, a good fit for development has been difficult to find, compound that with COVID and it appears the opportunity to move forward with a business concept may continue to take time to come to fruition.

The Liquor Control Board recommended approval of the requested extension.

Please approve an extension of 25-1512 for Irish Hospitality d/b/a Hennessey's Irish Pub until June 30, 2022.

Recommended Motion:
Move an extension of the requirements of 25-1512 to Hennessey's Irish Pub until June 30, 2022.

William P. Harrie*
Mark R. Hanson* •
Douglas W. Gigler*
Andrew L.B. Noah
Jacqueline S. Anderson*

*Thaddeus E. Swanson
*Cloe A. Kilwein
*Anthony J.R. Anderson
*Colin A. Brown

Gregory B. Selbo, Retired

*Also Licensed in Minnesota
• Also Licensed in South Dakota

February 9, 2021

VIA E-MAIL & HAND DELIVERED
SSprague@FargoND.gov

Steve Sprague
City Auditor
225 N. 4th St.
Fargo, ND 58102

Re: Hennessy's License
Our File No. 14010.001

Dear Steve:

I represent Irish Hospitality, LLC the holder of the Class A liquor license No. A-9 issued by the City of Fargo ("License") to Irish Hospitality, LLC d/b/a Hennessy's Irish Pub. Dave Erickson is an owner of Irish Hospitality, LLC. Irish Hospitality and Dave Erickson are collectively referred to herein as "my client" or "Erickson." This letter follows our prior communications regarding the License.

The License was approved and issued in 2014 with regard to the Hennessy's Irish Pub in South Fargo. Hennessy's was opened and operated until January of 2019. I understand the License has been continually renewed and is currently in place through June 30, 2021.

Good cause exists to extend the License. For example, when Hennessy's closed, my client started to look for a new venture where the License could be used. A number of opportunities have been pursued, including the preparation of detailed business plans. However, due to issues relating to Covid and the inherent delays in developing projects, the end date for determining the use of the License is not yet known.

My client, therefore, respectfully requests that Class A license No. A-9 be extended until June 30, 2022, to allow sufficient time for the license to be used for a new venture.

Sincerely,

Mark R. Hanson

MRH/mrh
Cc: Client [Via email only]

1800 RADISSON TOWER • 201 N 5th ST. • PO BOX 2626 • FARGO, ND 58108-2626
TELEPHONE: (701) 237-5544 • FAX: (701) 280-0762
www.nilleslaw.com

DAVE PIEPKORN, CITY COMMISSIONER
Fargo City Hall
225 4th Street North
Fargo, ND 58102-4817
Phone: 701.809.5449 | Fax: 701.476.4136
www.FargoND.gov

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: COMMISSIONER DAVE PIEPKRON

DATE: MARCH 8, 2021

SUBJECT: LIQUOR CONTROL BOARD

Presented to you today for consideration are a number of changes to Article 25-15 of the Fargo Municipal Code relating to liquor in the City of Fargo. As you know, the District Court recently issued an opinion sending back to the Board of City Commissioners the finding in the Southtown Pourhouse liquor sales violation. This order presents an opportunity to provide some clarity with respect to the formation and role of the Liquor Control Board (LCB). I have been working with the City Attorney's Office, and am recommending these revisions:

1. The revised Ordinance will clarify the process regarding license violations and the license holder's entitlement to a hearing before the City Commission. The revised ordinance is structured such that if there are facts presented pertaining to a potential license violation that could result in a sanction or penalty, the matter will be heard by the LCB. The licensee may request a hearing before the City Commission following the LCB recommendation, but in any event, the finding of the violation by LCB would be presented to City Commission (if no hearing requested, this could be a consent item, but of course could be pulled for discussion). If the licensee requests a hearing, proper notice of a full hearing before the City Commission will be served on the licensee. The LCB is advisory only; the City Commission will make the final determination on all matters pertaining to the liquor license sanction, if so requested by the license holder.

2. The proposed Ordinance establishes an advisory Liquor Control Board, made up of one Commissioner, who shall be the Chair and 4 public members. The terms of the public board members are staggered – 2 board members will be appointed to serve until 7/1/23, and two board members until 7/1/25. The public board member terms are three (3) years, and serve at the pleasure of the Board of City Commissioners. The Board will be tasked with hearing all things liquor, including license applications, requests for new and/or modified licenses, violations, etc. The LCB is clearly stated as a recommending body only and the final decision will be presented to the City Commission.

Thank you for your consideration of these recommended changes. We all recognize there is some work to be done in the area of liquor licensing. Recent events and the opinion of the District Court, brought to light some of the areas of the existing Ordinance that can be easily and immediately addressed towards the common goals. Thus, I present the following motion:

SUGGESTED MOTION: To receive and file the following Ordinance Amending section 25-1512 through 25-1515, enacting sections 25-1513 through 25-1517, of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to restrictions on sale, service or dispensing of alcoholic beverages and place the ordinance on for first reading at the next regularly-scheduled City Commission meeting.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 25-1512 THROUGH 25-1515 AND ENACTING SECTION 25-1513 THROUGH 25-1517 OF ARTICLE 25-15 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE RELATING TO RESTRICTIONS ON SALE, SERVICE OR DISPENSING OF ALCOHOLIC BEVERAGES

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

Section 25-1512 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-1512. - Licenses—Termination, suspension, revocation, and sanctions.

All licenses issued under the provisions of this article, unless otherwise specifically provided, shall terminate on June 30th next following the date of issuance; provided, however, that any license issued under the provisions of this article may, under certain circumstances, terminate automatically or may be terminated, suspended or revoked by the commission.

A. Any license issued under the provisions of this article shall automatically terminate:

1. Upon the death of the licensee unless, upon application to the commission by the personal representative of the decedent, the commission shall consent to the carrying

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

on of such business by the personal representative. Said application must be submitted to the commission within 30 days of the licensee's death.

2. When the licensee, for any reason, ceases business at the licensed premises, except as permitted in accordance with § 25-1507(H) of this article. Business shall be deemed to have ceased upon occurrence of any of the following:

   a. When no sale of alcoholic beverages occurs on the licensed premises for a period of at least 30 consecutive business days; or

   b. When alcoholic beverages are not sold on the licensed premises on at least 15 of any 60 consecutive business days; or

   c. When the licensed premises are not open for normal business for at least 180 hours in any 60 consecutive business days;

   provided, however, upon written request of the licensee, the commission, in its discretion and for good cause shown, may extend the date upon which business shall be deemed to have ceased.

3. When any license or permit of the licensee from the United States government or state of North Dakota to sell alcoholic beverages at the licensed premises has terminated or been revoked.

4. As to any license issued from and after June 1, 2014, when an ownership transfer has occurred except as are excepted under section 25-1508 subs. K.

B. The commission may, in its discretion, suspend or revoke for cause any license issued under the provisions of this article. The grounds for suspension or revocation shall, among others, include the following:

1. The licensee has filed a petition in bankruptcy.

2. An individual licensee, one of the partners in a partnership licensee, or one of the officers in a corporation licensee, or any individual in active management of the licensed business is convicted of violating any of the provisions of this article.

3. The licensee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.

4. The business of the licensee, at the location licensed, is conducted in such a manner as to be in violation of the health and sanitary regulations of the city of Fargo.

5. The licensee has made any false statement in his application for a license.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

6. The licensee conducts his business in a manner which results in, encourages or is conducive to the creation of disturbances of the peace, disorderly conduct or any other violations of federal, state and/or city laws.

C. The grounds enumerated in subsection (B above) of this section shall not be deemed to be exclusive and any license issued under the provisions of this article may be suspended or revoked by the commission for any other reason deemed by the commission to be sufficient in order to promote and protect the public health, safety, morals and general welfare of the people of the city of Fargo. When any license is suspended or revoked by the commission pursuant to the provisions of this section, or when the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

~~D. No license issued under the provisions of this article shall be suspended or revoked for cause by the commission without a public hearing. In the event that the commission intends to consider the suspension or revocation of any license for cause, it shall direct the city auditor to notify the licensee of its intention to consider the same. The notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the licensee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the licensee.~~

~~If, upon such hearing, it appears to the commission that sufficient cause exists for the suspension or revocation of a license issued pursuant to the provisions of this article, the commission shall make its order suspending or revoking the said license.~~

~~E~~.D. Penalties for failing compliance checks conducted by the Fargo police department are as follows:

1. First offense - $500 penalty. This penalty may be waived if the person serving the alcoholic beverages, as well as the management, have server training certificates. There will, however, be mandatory server training within 30 days for any employee or member of management not having server training. There will be no license sanction on a first offense.
2. Second offense - $750 penalty. No license sanction penalty.
3. Third offense - $1,000 penalty - for Class "AB", "A" and "B" license holders, one day suspension of license (liquor sales only) with the date selected by licensee within thirty (30) days of either occurrence of the offense or final decision upon appeal. For all other classes of liquor licenses, two days suspension of liquor sales only.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

4. Fourth offense - no monetary penalty - for Class "AB", "A" and "B" license holders, three days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, six consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.

5. Fifth offense - no monetary penalty - for Class "AB", "A" and "B" license holders, seven consecutive day suspension of license (liquor sales only) with the dates selected by licensee requiring the business to be closed for liquor sales. For all other classes of liquor licenses, fourteen consecutive days suspension of liquor sales only, such suspension to be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.

6. Sixth offense - no monetary penalty - for Class "AB", "A" and "B" license holders, ten consecutive day suspension of license (liquor sales only) with the dates selected by licensee requiring the business to be closed for liquor sales. For all other classes of liquor licenses, twenty consecutive days suspension of liquor sales only, such suspension to be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.

7. Seventh offense - no monetary penalty - revocation of liquor license.

The foregoing penalties for failing compliance checks will be those offenses occurring within a one-year period. Said one-year period commences to run and is calculated (365 days) from the first offense by the licensee. The city of Fargo police department, in conjunction with its designee, will make a reasonable effort to conduct up to four compliance checks a year at each licensed liquor serving establishment in the city. In the event a licensed establishment fails to pass compliance checks during such visits, the same may result in additional compliance checks being conducted at that establishment during the year.

~~F.~~ E. For those businesses with liquor licenses requiring a food-to-alcohol sales ratio (or in the case of an FA-ENTERTAINMENT or RZ-V licensee, a food and business income to alcohol sales ratio), there shall be an audit at least once every three (3) years (one-third of the licensees each year) provided, however, that subject businesses obtaining a new license and businesses that transfer an existing license to new owners shall be subject to an audit 12 months after obtaining or transferring of the license. The city of Fargo shall pay the cost of the audit if the business is in compliance with the required food-to-alcohol sales ratio (or in the case of an FA-ENTERTAINMENT or RZ-V licensee, a food and business income to alcohol sales ratio). The liquor licensee shall, however, pay for the cost of the audit of the business is not in compliance with the required food-to-alcohol

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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sales ratio (or in the case of an FA-ENTERTAINMENT or RZ-V licensee, a food and business income to alcohol sales ratio). Penalties for failed audits shall be as follows:

1. First offense - six month probationary period to come into compliance to be followed by a second audit establishing compliance. Sale and consumption of alcoholic beverages shall be discontinued at 1:00 a.m. for such time as the length of any probationary period. Yearly audits for the next two years to be paid for by the liquor licensee.

2. Second offense - thirty days suspension of liquor license not requiring closure of the business which may remain open for food sales. Yearly audits for the next two years to be paid for by the liquor licensee.

3. Third offense - revocation of license.

~~G. Sanctions or penalties under subsections E and F above may not be invoked without a public hearing if so requested by the licensee. Upon written notification by the city auditor's office that a penalty is being sought under subsections E and F above, the liquor licensee may notify the city auditor's office within ten (10) days and request a hearing on the proposed penalty. A hearing shall be set by the board of city commissioners specifying the time and place of the hearing, and shall further describe the reason for said hearing, and shall be served upon the liquor licensee in the same manner as provided by law for the service of a summons in a civil action. No suspension hearing shall be held before the expiration of fifteen days after the date of service of the notice. The hearing for said suspension shall be heard by the board of city commissioners. A record of the hearing shall be made by electronic recording device.~~

~~If, upon such hearing, it appears to the majority of the board of city commissioners that sufficient causes exists for the penalty sanctions, the board of city commissioners shall make its order in accordance with the provisions of this article. The board of city commissioners shall further issues its findings, conclusions and order which shall be served on the liquor licensee. The order is appealable pursuant to Chapter 28-34 of the North Dakota Century Code.~~

~~H.~~ F. Administrative penalties for violation of section 25-1509.2 regarding sale to an intoxicated person or person incapacitated by consumption of alcoholic beverages are as follows:

1. First offense: Warning. There will also be mandatory server training refresher course within 30 days after the offense.

2. Second offense: $1,000 monetary penalty, plus one-day suspension of alcoholic beverage license to be determined by the liquor control committee. For Class "AB", "A" and "B" license holders, one day suspension of license (liquor sales only) with

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the date selected by licensee within thirty (30) days of either occurrence of the offense or final decision upon appeal. For all other classes of liquor licenses, two days suspension of liquor sales only with the dates selected by licensee within thirty (30) days of either occurrence of the offense or final decision on appeal.

3. Third offense: $2,000 monetary penalty, plus a three-day suspension of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, three days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, six consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.

4. Fourth offense: $2,000 monetary penalty, plus a four-day day suspension of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, four days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, eight consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.

5. Fifth offense: $2,000 monetary penalty, plus a 10-day suspension, and a possible revocation of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, ten days suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, twenty consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.

The level of offenses shall be determined by reference to a 18-month period from the first offense by licensee. By way of illustration, a second offense occurring more than 18-months after a first offense would then be deemed a first offense.

Any suspension of alcoholic beverage license provided for herein shall relate to liquor sales only so that food sales could, if applicable, continue on the licensed premises.

~~I.~~ G. Administrative penalties for violation of section 25-1509.2 regarding allowing consumption of alcoholic beverages on the licensed premises by any intoxicated person are as follows:

1. First offense: Warning. There will also be mandatory server training refresher course within 30 days after the offense.

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2. Second offense: $500 monetary penalty.

3. Third offense: $1,000 monetary penalty, plus a one-day suspension of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, one day suspension of license (liquor sales only) with the date selected by licensee within thirty (30) days of either occurrence of the offense or final decision upon appeal. For all other classes of liquor licenses, two days suspension of liquor sales only.

4. Fourth offense: $1,500 monetary penalty, plus a two-day day suspension of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, two days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, four consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.

5. Fifth offense: $2,000 monetary penalty, plus a four-day suspension, and a possible revocation of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, four days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, eight consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.

Any suspension of alcoholic beverage license provided for herein shall relate to liquor sales only so that food sales could, if applicable, continue on the licensed premises.

It is the intent of this ordinance that no multiple offenses shall be deemed to have occurred from a single incident. For example, on an officer contact with the licensed premises, if there should be two or more offenses involving intoxicated persons on the premises, the same will constitute one offense and not multiple offenses. Any subsequent officer contact with the establishment at a different time may constitute a separate offense.

~~Sanctions or penalties under this subsection may not be invoked without a public hearing if so requested by the licensee. Upon written notification by the city auditor's office that a penalty is being sought under this ordinance, the liquor licensee may notify the city auditor's office within ten (10) days and request a hearing on the proposed penalty. A hearing shall be set by the board of city commissioners specifying the time and place of the hearing, and shall further describe the reason for said hearing, and shall be served upon the liquor licensee in the same manner as provided by law for the service of a summons in a civil action. No suspension hearing shall be held before the expiration of fifteen days after the date of service of the notice. The~~

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~~hearing on said suspension shall be heard by the liquor control committee subject to an appeal to the board of city commissioners who will review the findings of fact made by the liquor control committee. A record of the hearing shall be made by electronic recording device. Upon appeal to the board of city commissioners, the licensee shall be allowed to make any statements or arguments and fully argue its case, but it will not be entitled to a trial de novo. The hearing shall be based on the findings of fact made by the liquor control committee, the record of the hearing, together with the statements and arguments of the licensee.~~

~~If, upon such hearing, it appears to the majority of the board of city commissioners that sufficient causes exists for the penalty sanctions, the board of city commissioners shall make its order in accordance with the provisions of this article. The board of city commissioners shall further issue its findings, conclusions and order which shall be served on the liquor licensee. The order is appealable pursuant to Chapter 28-34 of the North Dakota Century Code.~~

Source: 1965 Rev. Ord. 25-1512, 1869 (1978), 2198 (1985), 2539 (1990), 2822 (1997), 4182 (2001), 4215 (2002), 4333 (2003), 4416 (2004), 4502 (2006), 4629 (2007), 4915 (2014), 5010 (2015).

Section 2. Enactment.

Section 25-1513 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby enacted to read as follows:

25-1513.- Revocation, suspension, sanctions or other penalties- Hearing Request.

Revocation, suspension, sanctions or other penalties may not be invoked without a public hearing if requested by the licensee. The city auditor's office shall notify the licensee that it has determined a license compliance violation exists, and shall further provide written notice by email and regular mail to the licensee of the Liquor Control Board's scheduled meeting date and time at which the violation will be considered. If the Liquor Control Board recommends revocation, suspension, sanctions or other penalties, the licensee may request a hearing before the board of city commissioners within ten (10) days of such Liquor Control Board recommendation. The board of city commissioners shall conduct a public hearing, including consideration of the evidence and testimony presented to the Liquor Control Board. The city auditor shall provide written notice to the licensee, specifying the date, time and place of the public hearing before the board of city commissioners, and such notice shall be served upon the licensee or its managing agent in the same manner as provided by law for the service of a summons in a civil action. No hearing shall be held before the board of city commissioners before expiration of fifteen (15) days after the date of the service of the notice upon the licensee.

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If, upon such hearing, it appears to the majority of the board of city commissioners that sufficient cause exists for the revocation, suspension, sanctions or other penalty, the board of city commissioners shall issue its findings, conclusions and order which shall then be served on the licensee by certified mail. The findings, conclusions and order of the board of city commissioners is appealable pursuant to Chapter 28-34 of the North Dakota Century Code.

Section 3. Enactment.

Section 25-1514 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby enacted to read as follows:

25-1514- Creation of a Liquor Control Board

The purpose of this section is to establish a Liquor Control Board whose purpose is to undertake initial review and consideration of liquor license matters, including but not limited to applications for licenses, license renewal applications, requests for new or additional licenses, and asserted violations which may result in penalties, sanctions, suspensions or license revocations. The Liquor Control Board shall provide a process for review and recommendation to the board of city commissioners.

Section 4. Enactment.

Section 25-1515 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby enacted to read as follows:

25-1515- Number of Members—Term of Members—Appointment of Members—Filling Vacancies.

The Liquor Control Board shall consist of five (5) members, who shall be appointed by the president of the board of city commissioners, subject to confirmation by the board of city commissioners. One (1) member of the Liquor Control Board shall be a member of the board of city commissioners, who shall serve as Chair of the Liquor Control Board and continue in such role for so long as Committee appointments are approved by the board of city commissioners. The four (4) remaining Liquor Control Board members shall be residents of the city of Fargo and shall be appointed by the president of the board of city commissioners, subject to confirmation by the board of city commissioners. The terms of office of the remaining four (4) Liquor Control Board members shall be as follows: two (2) members shall serve until July 1, 2023; two (2) members shall serve until July 1, 2025. At the expiration of the terms of the members as

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aforesaid, members shall be appointed for three-year terms. If a vacancy occurs otherwise than by expiration of a term, it shall be filled by appointment for the unexpired portion of the term. Notwithstanding the expiration of a member's term, such member may serve until his or her successor has been appointed and qualified.

Section 5. Enactment.

Section 25-1516 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby enacted to read as follows:

25-1516-Removal

Any member of the Liquor Control Board may be removed by the president of the board of city commissioners, subject to the concurrence of a majority of the board of city commissioners.

Section 6. Enactment.

Section 25-1517 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby enacted to read as follows:

25-1517- Powers and Duties

The Liquor Control Boards shall act in an advisory capacity to the board of city commissioners in any matter which may be assigned to the Liquor Control Board for consideration and recommendation. Members of the Liquor Control Board shall receive no compensation.

Section 7. Amendment.

Section 25-1513 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-151~~3~~8. - Unlawful practices.

In addition to such other prohibitions as are contained in this article:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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A. It shall be unlawful for any person to sell or consume any alcoholic beverage upon any street, alley or public highway, including any public sidewalk or boulevard, or on any private property without consent of the owner or occupant within the city of Fargo, except as permitted by subsection (J) of section 25-1509 of this chapter. It shall further be unlawful for any person to possess any bottle or receptacle containing any alcoholic beverage which has been opened or the contents of which have been partially consumed while such person is upon any street, alley or public highway, including any public sidewalk or boulevard, or upon property owned, operated or leased by the city of Fargo or by the state of North Dakota or any political subdivision or agency thereof, within the city of Fargo, except under a valid alcoholic beverages license issued under this article, and further except as permitted by 25-1509.1(C).

B. The sale, possession, use or consumption of alcoholic beverages shall be unlawful and prohibited in and on the premises of any public building except as may be authorized by appropriate license or permit issued pursuant of this chapter, and further except as permitted by 25-1509.1(C).

C. It shall be unlawful for any person under 21 years of age to misrepresent his or her age for the purpose of purchasing or drinking any alcoholic beverage or for the purpose of entering any premises licensed under the provisions of this article.

D. It shall be unlawful for any person, either personally or through an agent or employee, to procure, furnish or deliver any alcoholic beverage for the use of any person under 21 years of age.

E. No licensee shall deliver or permit to be delivered to any customer outside the licensed premises any alcoholic beverages sold under the terms and provisions of this article unless the package containing such alcoholic beverage shall be securely wrapped and shall contain on the outside thereof, in plain, legible writing, the name of the dealer selling the same and also the name and address of the purchaser thereof. Additional conditions and restrictions on delivery of alcoholic beverages are as follows:

1. Delivery shall only be allowed by licensees having an off-sale license.

2. Delivery shall be limited to customers having a pre-established credit arrangement with the off-sale licensee. Such credit arrangement may be in the form of a house account or open charge account established between the customer and off-sale licensee, but specifically shall not include credit cards, debit cards, bank credit cards or any other form or type of credit arrangement. The pre-established credit arrangement between the customer and the off-sale licensee shall have been established at least one (1) week before any delivery is allowed thereunder. It is the intent of this paragraph that the entire sales transaction is complete at the point of sale subject only to delivery.

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3. Delivery shall only be made to the address of the customer as identified on the pre-established credit arrangement with the off-sale licensee.

4. Delivery shall only be made by a person who is of legal age and who has completed mandatory server training.

5. Positive identification of the purchaser shall be made at the point of delivery. In addition, a digital photograph shall be taken to confirm the identity of purchaser.

F. No owner, operator, officer or employee or driver of any taxicab in the city of Fargo shall accept from any person, except a dealer regularly licensed under the provisions of this article, any order for the delivery of any alcoholic beverage.

Source: 1965 Rev. Ord. 25-1513, 1869 (1978), 2025 (1981), 2344 (1987), 2570 (1991), 2760 (1995), 2814 (1997), 2822 (1997), 3090 (1999), 4202 (2002), 4401 (2004), 4412 (2004), 4413 (2004), 5163 (2018).

Section 8. Amendment.

Section 25-1514 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-1514~~9~~. - Inspection of licensed premises.

The members of the board of city commissioners of the city of Fargo, the chief of police, or any officer of the health or police department may, at any time, enter upon any licensed premises for the purpose of police inspection or to determine whether the licensed premises are in compliance with any and all ordinances of the city.

Source: 1965 Rev. Ord. 25-1514, 1869 (1978).

Section 9. Amendment.

Section 25-1515 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-151~~5~~20. - Penalty.

Any person, firm or corporation violating §§ 25-1509 or 25-1513~~8~~ of this article is guilty of a Class B misdemeanor. Every person, firm or corporation violating an ordinance which is

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punishable as a Class B misdemeanor shall be punished by a fine not to exceed $1,500, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof. In addition to such fine and/or imprisonment, the court, in its discretion, may assess a fee in an amount not to exceed $25.00 as provided in section 27-01-10, N.D.C.C.

Every person, firm or corporation violating any other sections of this article shall, upon conviction thereof, be punished by a fine not to exceed $1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

Source: 1965 Rev. Ord. 25-1515, 1869 (1978), 2517 (1990), 4718 (2009), 4909 (2014).

Section 10. Effective Date

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

Section 11. Penalty.

A person who willfully violates this ordinance is guilty of a Class B misdemeanor. Every person, firm or corporation violating an ordinance which is punishable as a Class B misdemeanor shall be punished by a fine not to exceed $1,500.00, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof. In addition to such fine and/or imprisonment, the court, in its discretion, may assess a fee in an amount not to exceed $25.00 as provided in section 27-01-10, N.D.C.C.

(SEAL)

_____
Timothy J. Mahoney, Mayor

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

CITY OF
Fargo

ASSESSMENT DEPARTMENT

3Aa

February 8, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2941 2 St N as submitted by Jonathan & Jennifer Hoffman. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2021, 2022, 2023, 2024 & 2025.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about $370 with the City of Fargo's share being $60.

Sincerely,

Mike Splonskowski
City Assessor

bsb
attachment

225 4th Street N. • Fargo, ND 58102 • Phone (701) 241-1340 • Fax (701) 241-1339

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

North Dakota Century Code ch. 57-02.2

(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Jonathan + Jennifer Hoffman Phone No. 319/383-3169
2. Address of Property 2941 2nd St. N.

   City FARGO State ND Zip Code 58102
3. Legal description of the property for which the exemption is being claimed.

   Lot 10 Block 8 Edgewood 2nd Addn
4. Parcel Number 01-0730-00784-050 Residential ☒ Commercial ☐ Central Business District ☐
5. Mailing Address of Property Owner Same

   City _____ State _____ Zip Code _____

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Remodel Floor Plan on Main Floor between Living Room + Kitchen
7. Building Permit No. 20090078 8. Year Built 1974
9. Date of Commencement of making the improvement 9/10/20
10. Estimated market value of property before improvement $ 254,800
11. Cost of making the improvement (all labor, material and overhead) $ 40,000
12. Estimated market value of property after improvement $ 283,200

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

    Applicant's Signature [signature] Date 1-29-2021

Assessor's Determination

14. The local assessor finds that the improvements in this application has ☒ has not ☐ met the qualifications for exemption for the following reason(s): _____

    Assessor's Signature [signature] Date 2-19-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied ☐ Approved ☐

    Approval subject to the following conditions: _____

    Chairman of Governing Body _____ Date _____

CITY OF Fargo

ASSESSMENT DEPARTMENT

(346)

February 8, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1305 Broadway N as submitted by Andrew & Megan Green. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2021, 2022, 2023, 2024 & 2025.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about $80 with the City of Fargo's share being $15.

Sincerely,

Mike Splonskowski
City Assessor

bsb
attachment

225 4th Street N. • Fargo, ND 58102 • Phone (701) 241-1340 • Fax (701) 241-1339

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

North Dakota Century Code ch. 57-02.2

(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Andrew & Megan Green Phone No. 701.353.9585
2. Address of Property 1305 Broadway N

   City FARGO State ND Zip Code 58102
3. Legal description of the property for which the exemption is being claimed. Pt of Lt 8 Blk 2 James Holes
4. Parcel Number 01-1370-00170-000 Residential ☒ Commercial ☐ Central Business District ☐
5. Mailing Address of Property Owner same

   City State Zip Code

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Shingles replacement
7. Building Permit No.
8. Year Built 1941
9. Date of Commencement of making the improvement 1/30/2021
10. Estimated market value of property before improvement $ 253,200
11. Cost of making the improvement (all labor, material and overhead) $ 16,500
12. Estimated market value of property after improvement $

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

    Applicant's Signature [signature] Date 8 February 2021

Assessor's Determination

14. The local assessor finds that the improvements in this application has ☒ has not ☐ met the qualifications for exemption for the following reason(s):

    Assessor's Signature [signature] Date 2-19-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied ☐ Approved ☐

    Approval subject to the following conditions:

    Chairman of Governing Body Date

Submit Via Email

CITY OF Fargo

ASSESSMENT DEPARTMENT

34c

February 8, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 409 8 Ave S as submitted by Ryan & Kjersten Nagle. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2021, 2022, 2023, 2024 & 2025.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about $415 with the City of Fargo's share being $70.

Sincerely,

Mike Splonskowski
City Assessor

bsb
attachment

225 4th Street N. • Fargo, ND 58102 • Phone (701) 241-1340 • Fax (701) 241-1339

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

North Dakota Century Code ch. 57-02.2

(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Ryan + Kjersten Nagle Phone No. 651/587-3205
2. Address of Property 409 8th Ave. S.

   City FARGO State ND Zip Code 58103
3. Legal description of the property for which the exemption is being claimed.

   Lot: W 50 FT of 5 EXC N 10 FT ; Block: 4 Island Park Addn
4. Parcel Number 01-1440-01090-000 Residential ☒ Commercial ☐ Central Business District ☐
5. Mailing Address of Property Owner Same

   City State Zip Code

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary).

   Remove/Replace interior finishes + add bath
7. Building Permit No. 20090562 8. Year Built 1908
9. Date of Commencement of making the improvement 10/6/20
10. Estimated market value of property before improvement $ 264,000
11. Cost of making the improvement (all labor, material and overhead) $ 60,398
12. Estimated market value of property after improvement $ 295,600

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

    Applicant's Signature Date 2-8-21

Assessor's Determination

14. The local assessor finds that the improvements in this application has ☒ has not ☐ met the qualifications for exemption for the following reason(s):

    Assessor's Signature Mike Schoulwale Date 2-19-2021

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied ☐ Approved ☐

    Approval subject to the following conditions:

    Chairman of Governing Body Date