

FARGO PLANNING COMMISSION AGENDA
Tuesday, March 7, 2017 at 3:00 P.M.

- A: Approve Order of Agenda.
- B: Minutes: Regular Meeting of February 7, 2017.
- C: Brown Bag Luncheon - Wednesday, March 22, 2017.
- D: Public Hearing Items:
 - 1a. Continued Hearing on an application requesting a Growth Plan Amendment on Lots 7-11, Block 14, **Kirkham's Second Addition**. (Located at 1128, 1132, and 1136 14th Street North; 1404 12th Avenue North) (L2H Development, LLC) (an): WITHDRAWN
 - 1b. Continued Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential, MR-2, Multi-Dwelling Residential, and LC, Limited Commercial with a C-O, Conditional Overlay to LC, Limited Commercial with a PUD, Planned Unit Development Overlay and extinguishment of the existing C-O, Conditional Overlay on Lots 7-11, Block 14, **Kirkham's Second Addition**. (Located at 1128, 1132, and 1136 14th Street North; 1404 12th Avenue North) (L2H Development, LLC) (an): WITHDRAWN
 - 1c. Continued Hearing on an application requesting a Planned Unit Development Master Land Use Plan for Commercial and Residential Development on Lots 7-11, Block 14, **Kirkham's Second Addition**. (Located at 1128, 1132, and 1136 14th Street North; 1404 12th Avenue North) (L2H Development, LLC) (an): WITHDRAWN
 - 2. Continued Hearing on an application requesting a Street Vacation of 22nd Street North between Block 11 and Block 12, **Tyler's Addition**. (Located between the 300 and 400 Blocks of 22nd Street North) (Fabricators Unlimited) (an): CONTINUED TO APRIL 4, 2017
 - 3a. Hearing on an application requesting a Zoning Change from AG, Agricultural to GC, General Commercial within the boundaries of the proposed **Interstate Business Park Addition**. (Located at 3801 26th Avenue South; 3901, 4001, and 4155 23rd Avenue South; and 2880 and 2852 Thunder Road South) (Kjos Investments, LLC) (dk): CONTINUED TO APRIL 4, 2017
 - 3b. Hearing on an application requesting a Plat of **Interstate Business Park Addition** (Major Subdivision) a replat of Lot 1, Block 1, Adams 7th Addition, and part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 3801 26th Avenue South; 3901, 4001, and 4155 23rd Avenue South; and 2880 and 2852 Thunder Road South) (Kjos Investments, LLC) (dk): CONTINUED TO APRIL 4, 2017

Planning Commission meetings are broadcast live on cable channel TV Fargo 56 and online at www.cityoffargo.com/streaming. They are rebroadcast each Wednesday at 8:00 a.m. and Sunday at 8:00 a.m.; and are also included in our video archive at www.cityoffargo.com/PlanningCommission.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 241-1474 or TDD at 241-8258. 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 Web site at www.cityoffargo.com/planningcommission.

4. Hearing on an application requesting a Plat of **Agassiz Crossing 6th Addition** (Minor Plat), a replat of Lot 1, Block 2, Agassiz Crossing 5th Addition to the City of Fargo, Cass County, North Dakota. (Located at 5601 23rd Avenue South) (TMT Hospitality/Bob Kellam) (km):
5. Hearing on an application requesting a Plat of **Encore 2nd Addition** (Minor Plat), a replat of Lots 1 and 2, Block 2, Encore Addition to the City of Fargo, Cass County, North Dakota. (Located at 4920 30th Avenue South, 4974 30th Avenue South, and 3155 49th Street South) (AE2S/Mark Glennon) (km):
- 6a. Hearing on an application requesting a PUD, Planned Unit Development Overlay, Master Land Use Plan and Final Plan, in an existing SR-4, Single-Dwelling Residential zoning district of the proposed **Ferguson Subdivision**. (Located at 4103 66th Street South) (Ed Ferguson) (dk):
- 6b. Hearing on an application requesting a Plat of **Ferguson Subdivision** (Minor Subdivision) an unplatted part of Section 32, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 4103 66th Street South) (Ed Ferguson) (dk):
7. Hearing on an application requesting a Conditional Use Permit to allow Industrial Service Use in a GC, General Commercial zoning district on Lots 7 and 8, Block 1, **Austin's Subdivision**. (Located at 5606 and 5622 53rd Avenue South) (Akason Holdings LLC) (bv):
8. Hearing on an application requesting a Conditional Use Permit to allow a Telecommunication Support Structure (TSS) within a SR-3, Single-Dwelling Residential zoning district on Lot 1, Block 1, **Cass Rural Water Addition**. (Located at 1708 64th Avenue South) (Rob Viera) (bv):
- 9a. Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential, and MR-2, Multi-Dwelling Residential, to MR-3, Multi-Dwelling Residential, with a PUD, Planned Unit Development Overlay, of the proposed **NDSU Foundation Addition**. (Located at the 1600 Block between 12th Street North and University Drive North) (PROffutt LP/Casey Jackson) (an):
- 9b. Hearing on an application requesting a Planned Unit Development Master Land Use Plan of the proposed **NDSU Foundation Addition**. (Located at the 1600 Block between 12th Street North and University Drive North) (PROffutt LP/Casey Jackson) (an):
- 9c. Hearing on an application requesting a Plat of **NDSU Foundation Addition** (Major Subdivision), a vacation plat of an alley and a replat of Lots 1-9, 11, and 14-24, Block 8, Chandler's Broadway Addition to the City of Fargo, Cass County, North Dakota. (Located at the 1600 Block between 12th Street North and University Drive North) (PROffutt LP/Casey Jackson) (an):
10. Hearing on an application requesting an LDC Text Amendment, to amend sections within Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to the regulation of chickens. (City of Fargo) (an):

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11. Hearing on an application requesting an LDC Text Amendment, to amend Section 20-0501 and table 20-0501 Residential District Standards; and Section 20-0403B.7 Building Coverage, of the Fargo Municipal Code (Land Development Code). (City of Fargo) (an):

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**BOARD OF PLANNING COMMISSIONERS
MINUTES**

Regular Meeting:

Tuesday:

February 7, 2017:

The Regular Meeting of the Board of Planning Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 3:00 o'clock p.m., Tuesday, February 7, 2017.

The Planning Commissioners present or absent were as follows:

Present: Mara Brust, Shara Fischer, John Gunkelman, Mary Scherling, Rocky Schneider, Melissa Sobolik, Kelly Steffes, Scott Stofferahn, Jan Ulferts Stewart

Absent: Mike Magelky

Chair Ulferts Stewart called the meeting to order.

Business Items:

Item A: Approve Order of Agenda

Member Stofferahn moved the Order of Agenda be approved as presented. Second by Member Schneider. All Members present voted aye and the motion was declared carried.

Item B: Minutes: Regular Meeting of January 4, 2017

Member Schneider moved the minutes of the January 4, 2017 Planning Commission meeting be approved. Second by Member Fischer. All Members present voted aye and the motion was declared carried.

Item C: Wednesday, February 22, 2017 Brown Bag Luncheon

Topic: Discussion on Upcoming Projects

Member Sobolik present.

Item D: Public Hearing Items:

Item 1: Tyler's Addition

Continued Hearing on an application requesting a Street Vacation of 22nd Street North between Block 11 and Block 12, Tyler's Addition. (Located between the 300 and 400 Blocks of 22nd Street North) (Fabricators Unlimited): CONTINUED TO MARCH 7, 2017

A hearing had been set for August 2, 2016. At the August 2, 2016 meeting, the Hearing was continued to September 6, 2016. At the September 6, 2016 meeting, the Hearing was continued to November 1, 2016. At the November 1, 2016 meeting, the Hearing was continued to January 4, 2017. At the January 4, 2017 meeting, the hearing was

continued to this date and time; however, the applicant has requested this item be continued to March 7, 2017.

Member Fischer moved this item be continued to the March 7, 2017 Planning Commission Meeting. Second by Member Schneider. All Members present voted aye and the motion was declared carried.

Item 2: Beardsleys Addition

a. Continued Hearing on an application requesting a Zoning Change from LI, Limited Industrial to LI, Limited Industrial with a PUD, Planned Unit Development Overlay on Lots 7-8, and the East 10 feet of Lot 9, Block 34, Beardsleys Addition. (Located at 2105 7th Avenue North) (Accel Mechanical, LLC): CONTINUED TO APRIL 4, 2017

b. Continued Hearing on an application requesting a Planned Unit Development Master Land Use Plan on Lots 7-8, and the East 10 feet of Lot 9, Block 34, Beardsleys Addition. (Located at 2105 7th Avenue North) (Accel Mechanical, LLC): CONTINUED TO APRIL 4, 2017

A hearing had been set for August 2, 2016. At the August 2, 2016 meeting, the Hearing was continued to October 4, 2016. At the October 4, 2016 meeting, the Hearing was continued to November 1, 2016. At the November 1, 2016 meeting, the Hearing was continued to January 4, 2017. At the January 4, 2017 meeting, the hearing was continued to this date and time; however, the applicant has requested this item be continued to April 4, 2017.

Member Fischer moved this item be continued to the April 4, 2017 Planning Commission Meeting. Second by Member Schneider. All Members present voted aye and the motion was declared carried.

Item 3: Interstate Business Park Addition

a. Continued Hearing on an application requesting a Zoning Change from AG, Agricultural to GC, General Commercial within the boundaries of the proposed Interstate Business Park Addition. (Located at 3801 26th Avenue South and 2852 Thunder Road South) (Kjos Investments, LLC): WITHDRAWN

b. Continued Hearing on an application requesting a Plat of Interstate Business Park Addition (Major Subdivision) a replat of Lot 1, Block 1, Adams 7th Addition, and part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West to the City of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota. (Located at 3801 26th Avenue South and 2852 Thunder Road South) (Kjos Investments, LLC): WITHDRAWN

A hearing had been set for August 2, 2016. At the August 2, 2016 meeting, the Hearing was continued to September 6, 2016. At the September 6, 2016 meeting, the Hearing was continued to October 4, 2016. At the October 4, 2016 meeting, the Hearing was continued to November 1, 2016. At the November 1, 2016 meeting, the Hearing was continued to December 6, 2016. At the December 6, 2016 meeting, the Hearing was

continued to January 4, 2017. At the January 4, 2017 meeting, the hearing was continued to this date and time; however, the applicant has requested this item be withdrawn.

Item 4: Bison Meadows Second Addition

a. Hearing on an application requesting a Zoning Change from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential and P/I, Public and Institutional, on all of Bison Meadows Second Addition. (Located North of 70th Avenue South and West of University Drive South) (Jon Youness/Eagle Ridge Company): APPROVED

b. Hearing on an application requesting a Plat of Bison Meadows Second Addition (Major Plat), a replat of Lots 1-10, Block 1; Lots 3-78, Block 2; Lots 1-15, Block 3; Lots 1-44, Block 4; Lots 1-42, Block 5; Lots 1-35, Block 6; Lots 1-28, Block 7; Lots 1-47, Block 8, the extinguishment of the zoning conditional overlay on those lots and blocks, and a vacation of portions of the public right of way for 68th Avenue South, 69th Avenue South, 14th Street South, 15th Street South, 16th Street South, 17th Street South, all of the public right of way for Bison Meadows Parkway and Championship Loop, and certain easements within Bison Meadows Addition to the City of Fargo, Cass County, North Dakota. (Located North of 70th Avenue South and West of University Drive South) (Jon Youness/Eagle Ridge Company): APPROVED

Senior Planner Donald Kress presented the staff report. Mr. Kress referenced two documents staff submitted to the Board: an email in opposition of the proposal, and an updated map showing the 2016 residential building permits, locations, and the number of vacant lots available in Fargo for construction of single-family and twin-homes. Mr. Kress stated all approval criteria have been met, and staff is recommending approval.

Planning Director Jim Gilmour explained the information depicted in the map showing the 2016 residential building permits, locations, and the number of vacant lots available in Fargo for construction of single-family and twin-homes.

Discussion began regarding the following: retention plans; flood protection and infill; and accessibility to the surrounding park areas.

Applicant Jon Youness, Eagle Ridge Development, spoke on behalf of the application.

The following area property owners spoke in opposition of the proposal sharing the following concerns: new proposal shows more houses and pavement, and less green space; stormwater infrastructure; neighborhood walkability; increased traffic; safe school crossings; and the lack of conformity with the look of surrounding neighborhoods.

Tim Nasheim, 6622 Crofton Lane South
Amber Szczepanski, 6968 Crofton Lane South
Peter Tupa, 6925 23rd Street South

Member Gunkelman moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed: 1) zone change from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential and P/I Public and Institutional; and 2) Bison Meadows Second Addition subdivision plat as presented, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Article 20-06, and Section 20-0906.F (1-4) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Sobolik. On call of the roll Members Scherling, Gunkelman, Sobolik, Stofferahn, Steffes, Brust, Fischer, Schneider, and Ulferts Stewart voted aye. Absent and not voting: Member Magelky. The motion was declared carried.

Item 5: The Pines at the District Fourth Addition

Hearing on an application requesting a Plat of The Pines at the District Fourth Addition (Minor Plat), a replat of Lot 1, Block 1, The Pines at The District 3rd Addition and Lot 1, Block 1, The District of Fargo 2nd Addition to the City of Fargo, Cass, County, North Dakota. (Located at 5461 38th Street South and 4000 53rd Avenue South) (Patrick Vesey/Goldmark): APPROVED

Member Brust declared a conflict of interest on this item and was excused from voting.

Donald Kress presented the staff report stating all approval criteria have been met and staff is recommending approval.

Member Stofferahn moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed subdivision plat The Pines at the District Fourth Addition as presented, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the 2007 Growth Plan, the Standards of Article 20-06, and all other applicable requirements of the Land Development Code. Second by Member Fischer. On call of the roll Members Stofferahn, Scherling, Sobolik, Fischer, Schneider, Gunkelman, Steffes, and Ulferts Stewart voted aye. Member Brust abstained from voting. Absent and not voting: Member Magelky. The motion was declared carried.

Item 6: BLU Water Creek Second Addition

Hearing on an application requesting a Plat of BLU Water Creek Second Addition (Minor Plat), a replat of Lot 1, Block 1, BLU Water Creek Addition to the City of Fargo, Cass, County, North Dakota. (Located at the Southwest corner of 32nd Avenue South and 47th Street South) (Nate Vollmuth/PACES Lodging): APPROVED

Assistant Planner Kylie Murphy presented the staff report stating all approval criteria have been met and staff is recommending approval.

Member Sobolik moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed subdivision plat BLU Water Creek Second Addition as outlined within the staff report, as the proposal complies with the adopted Area Plan, the Standards of Article 20-06, and all other applicable requirements of the Land Development Code. Second by Member Gunkelman. On call of the roll Members Steffes, Sobolik, Gunkelman, Scherling, Fischer, Brust, Stofferahn, Schneider, and Ulferts Stewart voted aye. Absent and not voting: Member Magelky. The motion was declared carried.

Item 7: The Pines at the District Addition

Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential and MR-3, Multi-Dwelling Residential on Lots 1-8, Block 14, The Pines at the District Addition. (Located at 5651, 5659, 5663, 5667, 5673, 5679, 5685, and 5691 43rd Street South) (City of Fargo): APPROVED

Planner Derrick LaPoint presented the staff report stating all approval criteria have been met and staff is recommending approval.

Property owner Jessica Westgard Larson, 5622 43rd Street South, spoke in opposition of the proposal.

Member Scherling moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed zoning change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential and MR-3, Multi-Dwelling Residential, on the basis that it satisfactorily complies with the GO2030 Fargo Comprehensive Plan, the Standards of Section 20-0906.F (1-4), and all other applicable requirements of the Land Development Code. Second by Member Fischer. On call of the roll Members Gunkelman, Sobolik, Fischer, Steffes, Brust, Stofferahn, Schneider, Scherling, and Ulferts Stewart voted aye. Absent and not voting: Member Magelky. The motion was declared carried.

Item 8: Virgil Montplaisier 2nd Addition

Hearing on an application requesting a Zoning Change from GC, General Commercial to LI, Limited Industrial with a C-O, Conditional Overlay on Lot 4, Block 1, Virgil Montplaisier 2nd Addition. (Located at 3030 36th Street South) (Jon Youness/Eagle Ridge Company): APPROVED

Derrick LaPoint presented the staff report stating all approval criteria have been met and staff is recommending approval.

Applicant Jon Youness, Eagle Ridge Company, spoke on behalf of the application.

Member Steffes moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed zoning change from GC, General Commercial to LI, Limited Industrial with a C-O, Conditional Overlay, on the basis that it satisfactorily complies with the GO2030 Fargo Comprehensive Plan, the Standards of Section 20-0906.F (1-4), and all other applicable requirements of the Land

Development Code. Second by Member Stofferahn. On call of the roll Members Stofferahn, Steffes, Fischer, Gunkelman, Sobolik, Schneider, Brust, Scherling, and Ulferts Stewart voted aye. Absent and not voting: Member Magelky. The motion was declared carried.

At 4:00 p.m., the Board took a five-minute recess.

After recess: All Members present except Member Magelky. Chair Ulferts Stewart presiding.

Item 9: Island Park Addition

Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential with a H-O, Historic Overlay, to SR-5, Single-Dwelling Residential with a H-O, Historic Overlay, on a portion of Lot 22, Block 3, Island Park Addition. (Located at 389 8th Avenue South) (Chris Hawley/Hawley Architects): APPROVED

Planner Aaron Nelson presented the staff report, and noted additional emails staff received have been submitted to the Board. He also noted a correction to the staff report pertaining to the zoning change, which should state SR-5, Single-Dwelling Residential and not SR-5, Multi-Dwelling Residential. Mr. Nelson stated all approval criteria have been met and staff is recommending approval.

Applicant Chris Hawley spoke on behalf of the application, and submitted a handout to the Board

The following area property owners spoke in opposition of the proposal stating the following concerns: the close distance between the proposed setbacks from the building to the sidewalks; the size, design and direction the new building will face in relation to adjacent homes; and the proposed zoning change.

Lee Watkins, 384 8th Avenue South
Claudia Davenport, 417 8th Avenue South
Natasha Neihart, 1102 9th Street South
Joann and Jim Alger, 330 8th Avenue South

Joe Burgum, 514 10th Avenue South, spoke in favor of the proposal.

City Forester Scott Liudahl shared his concerns regarding the retention of the existing trees in the proposed area.

Member Schneider moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed zoning change from SR-3, Single-Dwelling Residential with a H-O, Historic Overlay to SR-5, Single-Dwelling Residential with a H-O, Historic Overlay, on the basis that it satisfactorily complies with the GO2030 Fargo Comprehensive Plan, the Standards of Section 20-0906.F(1-4), and all other applicable requirements of the Land Development Code. Second by Member Fischer. On call of the roll Members Fischer, Steffes, Gunkelman, Sobolik, Brust,

Scherling, Schneider, Stofferahn, and Ulferts Stewart voted aye. Absent and not voting: Member Magelky. The motion was declared carried.

Item 10: West Acres 4th Addition and T Sloan Addition

Hearing on an application requesting a Conditional Use Permit to allow Household Living in a GC, General Commercial zoning district on Lots 3-5, Block 5, West Acres 4th Addition and Lot 2, Block 1, T Sloan Addition. (Located at 1825, 1833, 1841, and 1855 38th Street South) (Austin Morris/Enclave Company): APPROVED WITH CONDITIONS

Member Brust declared a conflict of interest on this item and was excused from voting.

Donald Kress presented the staff report stating all approval criteria have been met and staff is recommending approval with conditions.

There was discussion regarding housing along interstates; future changes to the adjacent interstates that may require additional buffering; payment responsibility for the buffering; and the process staff uses for measuring setbacks from the major roadways.

Applicant Austin Morris, Enclave Development, spoke on behalf of the application.

Member Steffes moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow Household Living in a GC, General Commercial zoning district on Lots 3-5, Block 5, West Acres 4th Addition and Lot 2, Block 1, T Sloan Addition be approved, as the proposal complies with Section 20-0909.D (1-6), and all other requirements of the Land Development Code, with the following conditions:

1. Residential density shall not exceed 24 dwelling units per acre.
2. The property owner will retain a minimum of 35% of the property as open space.
3. The property, as developed, will include a landscaped buffer. The landscaped buffer strip shall comply with the following standards:
 - a. The landscaped buffer strip shall be no less than forty (40) feet wide, as measured east-west.
 - b. The landscaped buffer strip shall consist of at least three (3) rows of trees and shrubs planted to create a shelterbelt or windbreak as typically planted in farmstead settings. The eastern row shall consist of large evergreen trees planted to no greater than fourteen (14) feet apart. The western row shall consist of large deciduous trees planted no greater than seven (7) feet apart.
 - c. For the purpose of this CUP, large evergreen trees have a mature height of at least 35 feet tall, large deciduous shrubs shall have a mature height of at least 35 feet tall, and large deciduous shrubs shall have a mature height of at least 15 feet tall.

4. All residential buildings shall be set back at least 100 feet from the west edge of pavement of the I-94 on-ramp, and 300 feet from the west edge of pavement of the I-29 southbound.
5. All residential buildings shall be constructed of noise-resistant materials as follows:
 - a. East-facing exterior walls shall be constructed to have a sound transmission class of 52.
 - b. East-facing exterior windows and doors shall be constructed to have a sound transmission class of 31.
6. All residential buildings shall not exceed four stories in height.
7. Pedestrian sidewalks shall be installed from the public sidewalk within the street right of way to the entrance of each primary building.

Second by Member Sobolik. On call of the roll Members Gunkelman, Sobolik, Fischer, Steffes, Stofferahn, Schneider, Scherling, and Ulferts Stewart voted aye. Member Brust abstained from voting. Absent and not voting: Members Magelky. The motion was declared carried.

Item E: Other Items:

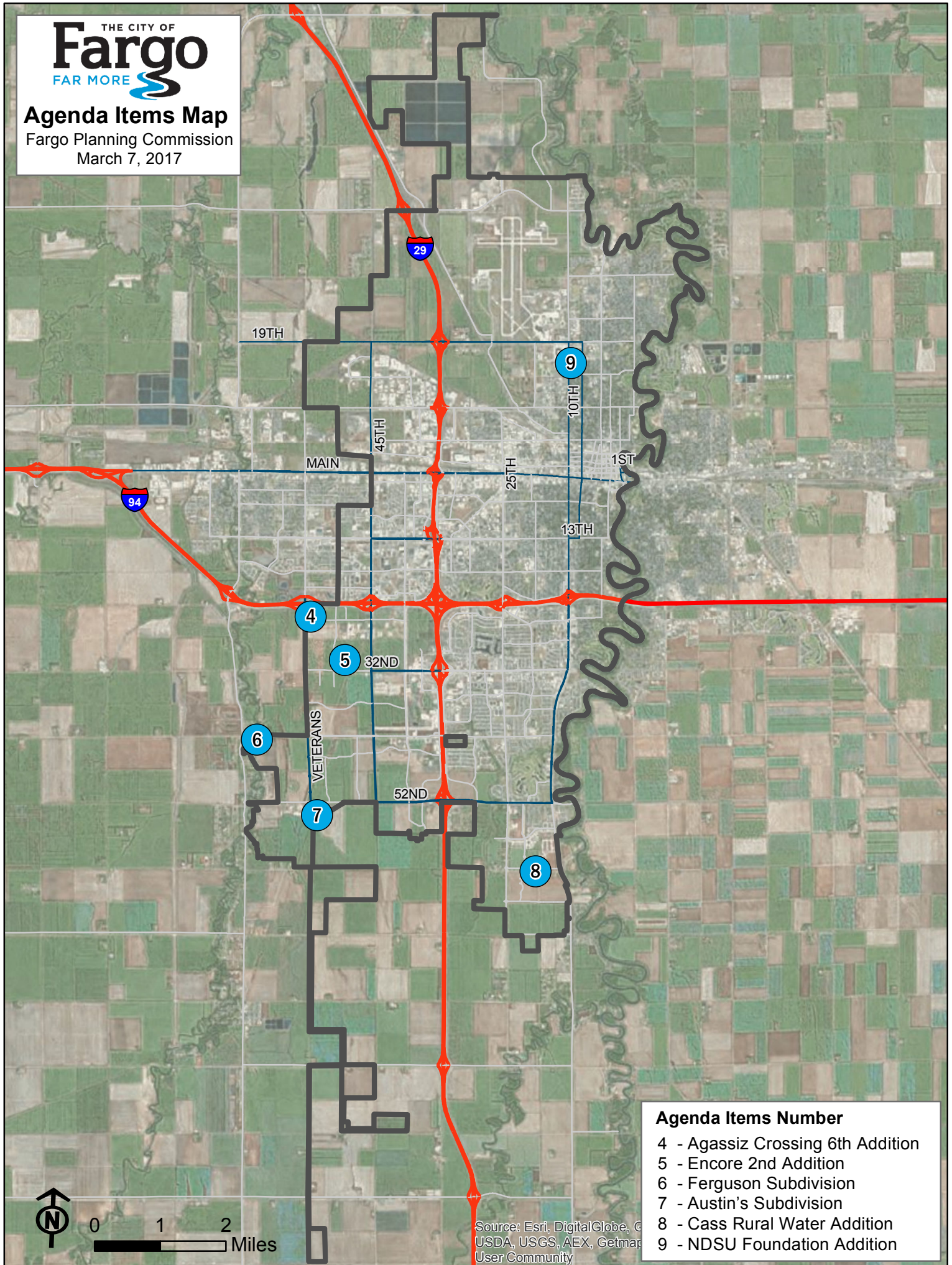
Item 1: FM Metro COG Presentation: Bicycle-Pedestrian Master Plan

Transportation Planner Dan Farnsworth, Fargo-Moorhead Metropolitan Council of Government (Metro COG), presented the 2016 Fargo-Moorhead Metropolitan Bicycle and Pedestrian Plan. Mr. Farnsworth noted the complete copy of this plan is available at the Metro COG website: www.fmmetrocog.org.

The time at adjournment was 5:25 p.m.

Agenda Items Map

Fargo Planning Commission
March 7, 2017



City of Fargo Staff Report			
Title:	Agassiz Crossing 6th Addition	Date:	2/28/2017
Location:	5601 23rd Avenue South	Staff Contact:	Kylie Murphy
Legal Description:	Lot 1, Block 2, Agassiz Crossing 5th Addition		
Owner(s)/Applicant:	Sanford North and TMT Hospitality	Engineer:	AE2S
Entitlements Requested:	Minor Subdivision (Replat of Lot 1, Block 2, Agassiz Crossing 5th Addition to the City of Fargo, Cass County, North Dakota)		
Status:	Planning Commission Public Hearing: March 7, 2017		

Existing	Proposed
Land Use: Vacant Land	Land Use:
Zoning: GC – General Commercial	Zoning: No change
Uses Allowed: 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.	Uses Allowed: No change
Maximum Lot Coverage Allowed: Maximum 85% building coverage	Maximum Lot Coverage Allowed: No change

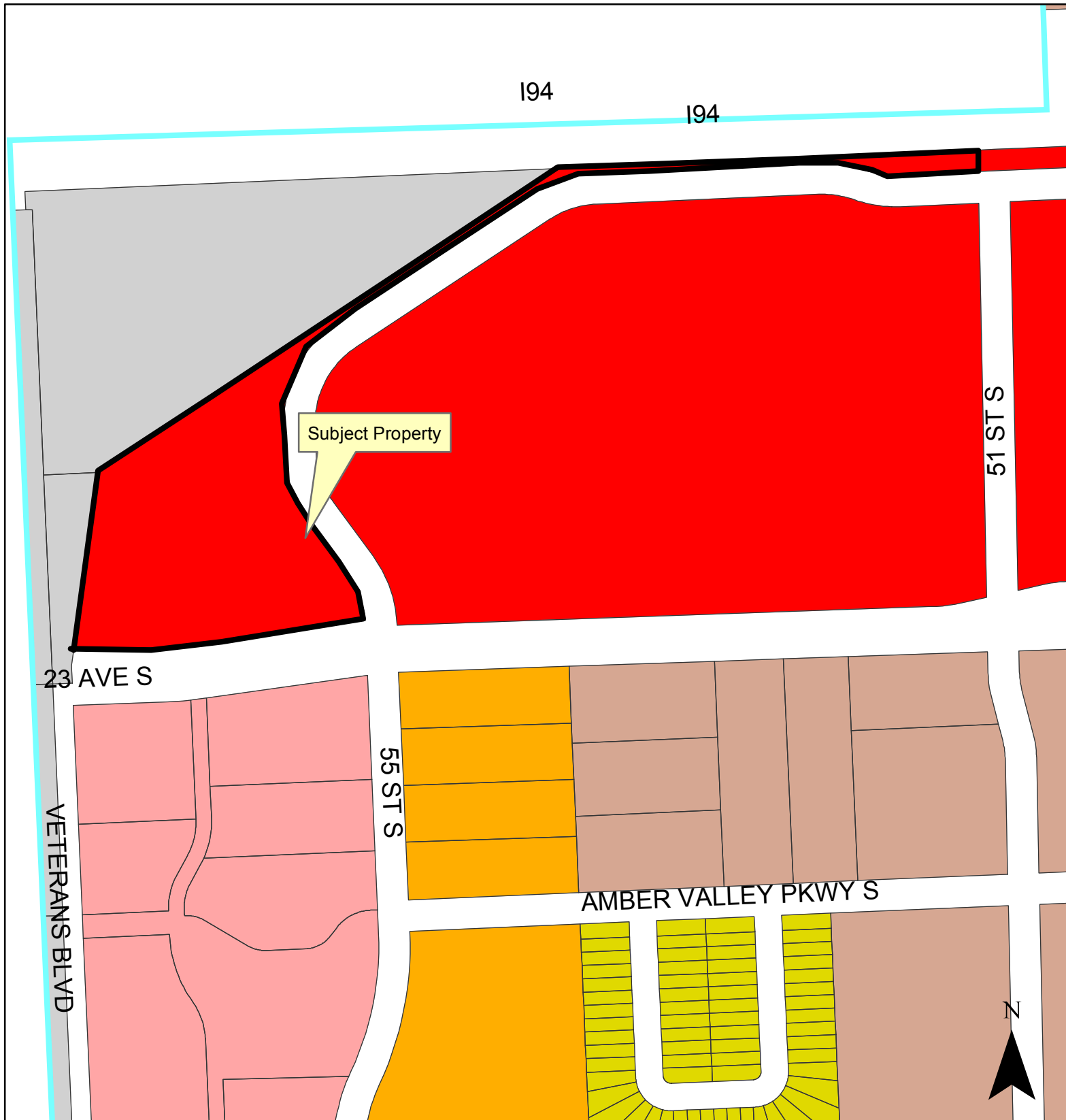
Proposal:
<p>The applicant is seeking approval of a minor subdivision, Agassiz Crossing 6th Addition, which would replat Lot 1, Block 2, Agassiz Crossing 5th Addition into three (3) lots and one (1) block. The subject properties is located at 5601 23rd Avenue South and encompass approximately 8.82 acres.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: AG, Agricultural with North Dakota Department of Transportation right-of-way and U.S. Interstate 94 use • East: GC, General Commercial with future hospital use • South: Across 23rd Avenue S; LC, Limited Commercial with convenience store, car wash, and vacant land uses • West: AG, Agricultural with exempt use by the City of Fargo

Schools and Parks:
<p>Schools: The subject property is located within the West Fargo School District and is served by Freedom Elementary, Liberty Middle and Sheyenne High schools.</p> <p>Parks: Urban Plains Park (5050 30th Avenue S) is located approximately a half mile southeast of the subject property and offers playground amenities. In addition, Anderson Softball Complex (2424 45th Street SW) is located approximately a half mile east and offers baseball/softball, concessions, picnic table, playground, restrooms, and shelter amenities.</p> <p>Pedestrian / Bicycle: There are off-road bike facilities located on 23rd Avenue South and Veterans Boulevard. These bike routes are a component of the metro area bikeways system.</p>
Staff Analysis:
<p>Minor Subdivision</p> <p>The LDC stipulates that the following criteria is met before a minor plat can be approved:</p> <ol style="list-style-type: none"> <p>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.</p> <p>The subdivision is intended to split one existing lot into three new lots to accommodate future commercial development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has not received any inquiries. 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.</p> <p>(Criteria Satisfied)</p> <p>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.</p> <p>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.</p> <p>(Criteria Satisfied)</p>
Staff Recommendation:
<p>Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed subdivision plat, Agassiz Crossing 6th Addition as outlined within the staff report, as the proposal complies with the adopted Area Plan, the standards of Article 20-06, and all other applicable requirements of the Land Development Code".</p>
Planning Commission Recommendation: March 7, 2017
Attachments:
<ol style="list-style-type: none"> 1. Zoning Map 2. Location Map 3. Plat

Plat (Minor Subdivision)

Agassiz Crossing Sixth Addition

5601 23rd Avenue South



Legend

AG	DMU	GC	GO	LC	MR-1	MR-2	MR-3	MHP	NNO	P/U	UML	SS-1	SS-2	SS-3	SS-4	SS-5	City Limits
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300
Feet

Fargo Planning Commission
March 7, 2017

Plat (Minor Subdivision)

Agassiz Crossing Sixth Addition

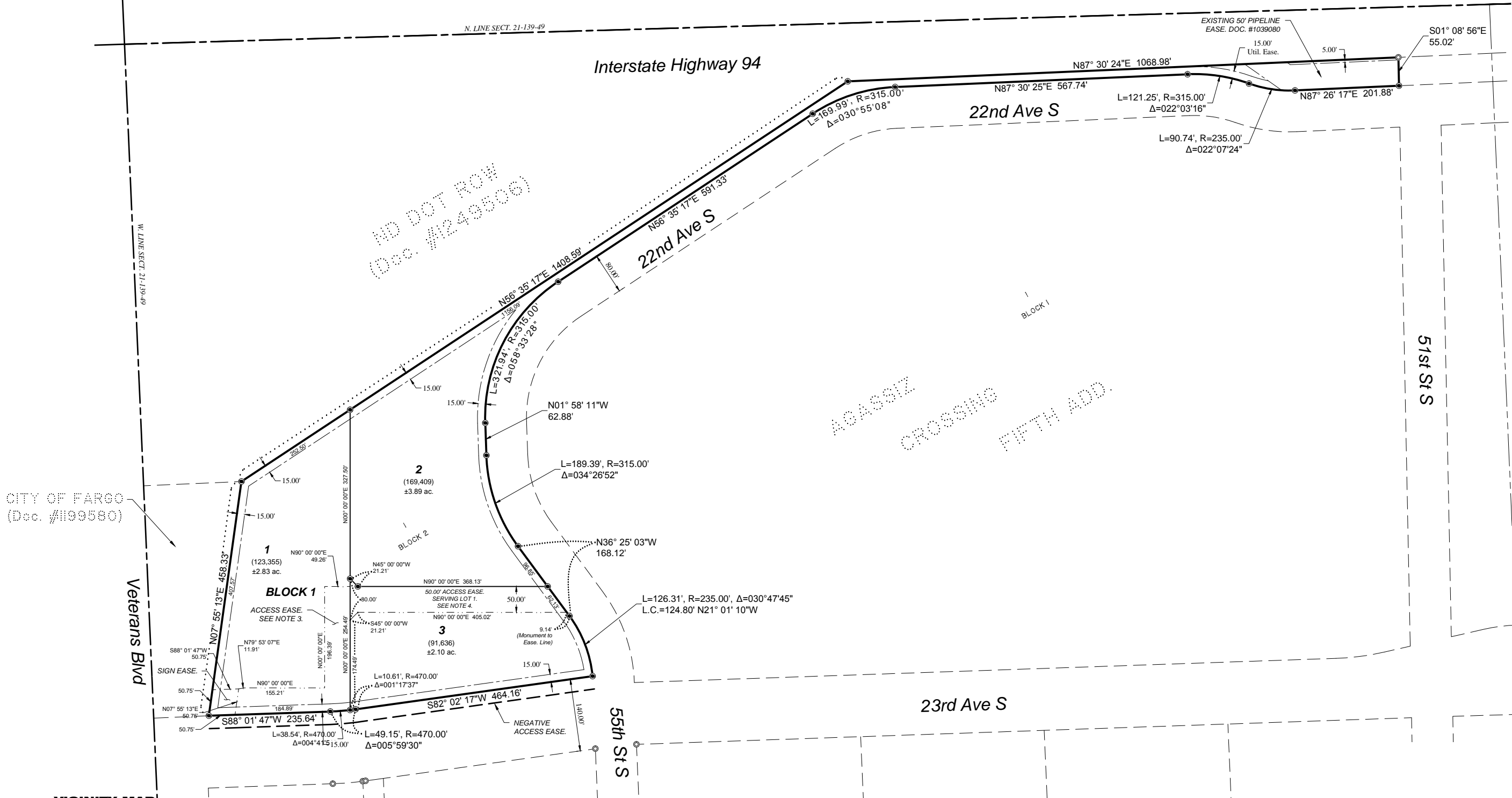
5601 23rd Avenue South



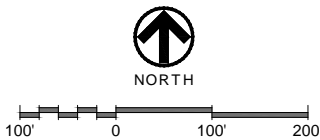
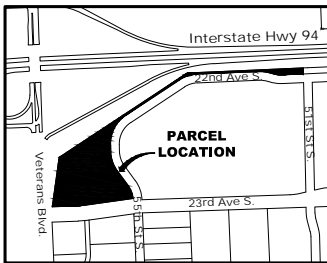
AGASSIZ CROSSING SIXTH ADDITION

(A MINOR SUBDIVISION)

BEING A REPLAT OF LOT 1, BLOCK 2, AGASSIZ CROSSING FIFTH ADDITION
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



VICINITY MAP
NOT TO SCALE



LEGEND

---	EXISTING LOT LINE	⊙	FOUND IRON MONUMENT w/ PLASTIC CAP
---	PLAT BOUNDARY	⊙	MONUMENT PLACED THIS SURVEY: 5/8" X 1/8" LONG REBAR WITH PLASTIC CAP MARKED N.R.S. L.S. 8218
---	NEW LOT LINE	2	EXISTING LOT NUMBER
---	UTILITY EASEMENT	1	LOT AREA (SQUARE FEET)
---	EASEMENT	(120,817)	LOT AREA (ACRES)
---	NEGATIVE ACCESS EASEMENT	±2.77 ac.	
---	SECTION LINE		
---	QUARTER SECTION LINE		

NOTES

- BASIS OF BEARINGS:** DISTANCES AND BEARINGS ARE BASED ON THE CITY OF FARGO COORDINATE SYSTEM. ALL DISTANCES SHOWN ARE GROUND DISTANCES IN U.S. SURVEY FEET. BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENT. ALL ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88) AND WERE DETERMINED BY GPS OBSERVATIONS FROM THE CITY OF FARGO BASE STATION.
- EXISTING EASEMENTS:** PLAT IS SUBJECT TO ALL PRIOR EASEMENTS OF RECORD.
- AN ACCESS EASEMENT THROUGH LOT 1, BLOCK 1 SHALL BE GRANTED TO PROVIDE ACCESS TO THE SIGN EASEMENT, AS SHOWN HEREIN.
- AN ACCESS EASEMENT THROUGH LOT 3, BLOCK 1 TO LOT 1, BLOCK 1 SHALL BE GRANTED AS SHOWN HEREIN.
- FLOOD ZONE CLASSIFICATION:** THIS AREA IS SHOWN AS BEING PROTECTED FROM THE 1-PERCENT-ANNUAL-CHANCE OR GREATER FLOOD HAZARD BY A LEVEE SYSTEM PER FEMA FIRM NUMBERS 38017C0757G AND 38017C0776G, CASS COUNTY, NORTH DAKOTA, EFFECTIVE DATE: JANUARY 16, 2015.



AGASSIZ CROSSING SIXTH ADDITION
(A MINOR SUBDIVISION)
A REPLAT OF LOT 1, BLOCK 2, AGASSIZ CROSSING FIFTH ADDITION
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DESCRIPTION OF PLAT BOUNDARY

All of Lot 1, Block 2, Agassiz Crossing Fifth Addition to the City of Fargo, Cass County, North Dakota.
Said parcel contains 384,400 square feet or 8.82 acres, more or less, and is subject to all easements and rights-of-way of record.

CERTIFICATE OF SURVEYOR

I, Nicholas R. Stattelman, Registered Professional Land Surveyor in the State of North Dakota, hereby certify that this map is a true and correct representation of a survey performed by me or under my direct supervision on or before June 7,2016. All distances and measurements are true and correct to the best of my knowledge and belief, and all monuments will be placed in the ground as shown.

Nicholas R. Stattelman, North Dakota Registered Professional Land Surveyor No. LS-8218

STATE OF NORTH DAKOTA) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared Nicholas R. Stattelman, known to me to be the person described in the within instrument, and acknowledged to me that he executed the same.

Notary Public:
State of North Dakota
My commission expires: _____

OWNER'S CERTIFICATE & DEDICATION

We, the undersigned, being all the owners and proprietors of the land platted herein, do hereby consent to the execution of this plat to be known as "AGASSIZ CROSSING SIXTH ADDITION" City of Fargo, Cass County, North Dakota and hereby dedicate and convey to the public, for public use, all streets and easements as shown on the plat.

Bill Marlette, Treasurer
Sanford North

STATE OF SOUTH DAKOTA) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared Bill Marlette of Sanford North, known to me to be the person described in the within instrument, and acknowledged to me that he executed the same.

Notary Public:
State of South Dakota
My commission expires: _____

CITY PLANNING COMMISSION APPROVAL

This plat is approved by the Fargo Planning Commission on this _____ day of _____, 20____.

Jan Ulferts Stewart, Chair

STATE OF NORTH DAKOTA) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared Jan Ulferts Stewart, Fargo Planning Commission Chair, known to me to be the person described in the within instrument, and acknowledged to me that she executed the same.

State of North Dakota
My commission expires: _____

CITY ENGINEER APPROVAL

This plat is approved by the Fargo City Engineer on this _____ day of _____, 20____.

April E. Walker, City Engineer

STATE OF NORTH DAKOTA) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared April E. Walker, Fargo City Engineer, known to me to be the person described in the within instrument, and acknowledged to me that she executed the same.

State of North Dakota
My commission expires: _____

CITY COMMISSION APPROVAL

This plat is approved by the Fargo City Commission on this _____ day of _____, 20____.

Tim Mahoney, Mayor Steve Sprague, City Auditor

STATE OF NORTH DAKOTA) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared Tim Mahoney, Mayor, and Steve Sprague, City Auditor, known to me to be the persons described in the within instrument, and acknowledged to me that they executed the same.

State of North Dakota
My commission expires: _____



**City of Fargo
Staff Report**

Title:	Encore 2nd Addition	Date:	2/28/2017
Location:	4920 30th Avenue South, 4974 30th Avenue South, and 3155 49th Street South	Staff Contact:	Kylie Murphy
Legal Description:	Lots 1 and 2, Block 1, Encore Addition		
Owner(s)/Applicant:	Enclave Developments and AE2S	Engineer:	AE2S
Entitlements Requested:	Minor Subdivision (Replat of Lots 1 and 2, Block 1, Encore Addition to the City of Fargo, Cass County, North Dakota)		
Status:	Planning Commission Public Hearing: March 7, 2017		

Existing	Proposed
Land Use: Apartments and vacant land	Land Use: Apartments
Zoning: LC, Limited Commercial with a CUP	Zoning: No Change
Uses Allowed: Colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service. Conditional Use Permit allows residential land use within a LC, Limited Commercial zoning district	Uses Allowed: No Change
Maximum Lot Coverage Allowed: Maximum 55% building coverage	Maximum Lot Coverage Allowed: No Change

Proposal:

The applicant is seeking approval of a minor subdivision, entitled **Encore 2nd Addition**, which is replat Lots 1 and 2, Block 1, Encore Addition. The subject properties are located at 4920 30th Avenue South, 4974 30th Avenue South, and 3155 49th Street South and encompass approximately 14.21 acres. The applicant is proposing a two (2) lot, one (1) block minor subdivision.

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: MR-3, Multi-Dwelling and LC, Limited Commercial with agricultural use
- East: LC, Limited Commercial with office and vacant land uses
- South: P/I, Public and Institutional and LC, Limited Commercial with park, agricultural, and office uses
- West: P/I, Public and Institutional with park use

Schools and Parks:

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

Parks: Urban Plains Park (5050 30th Avenue S) abuts the western border of the subject property and offers playground amenities.

Pedestrian / Bicycle: There are off-road bike facilities located on 30th Avenue South, 32rd Avenue South, and Urban Plains Park. These bike routes are a component of the metro area bikeways system.

Staff Analysis:

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.**

CHECK THE FIRST SENTENCE BELOW

The subdivision is intended to split one existing lot into three new lots to accommodate future commercial development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has not received any inquiries. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code.

(Criteria Satisfied)

2. **Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

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

(Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed subdivision plat, **Encore 2nd Addition** as outlined within the staff report, as the proposal complies with the adopted Area Plan, the standards of Article 20-06, and all other applicable requirements of the Land Development Code".

Planning Commission Recommendation: March 7, 2017

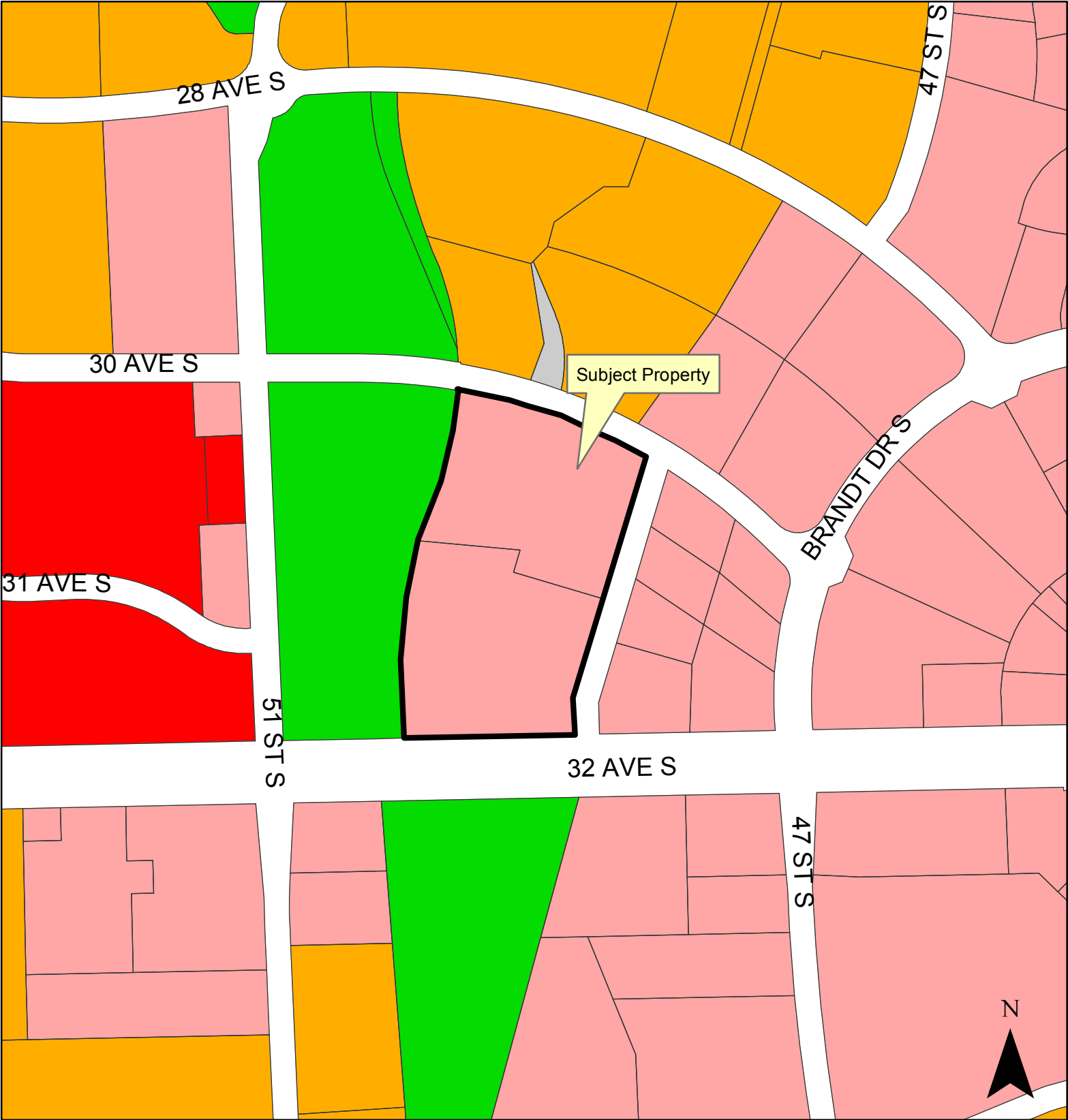
Attachments:

1. Zoning Map
2. Location Map
3. Plat

Plat (Minor)

Encore Second Addition

4920 & 4974 30th Ave S
and 3155 49th St S



Legend

AG	LC	MHP	SR-2
DMU	LC	NC	SR-1
GC	MR-1	NO	SR-1.5
GI	MR-2	P/A	SR-1.5
GO	MR-3	UML	SR-1.5
			City Limits

300
Feet

Fargo Planning Commission
March 7, 2017

Plat (Minor)

Encore Second Addition

4920 & 4974 30th Ave S
and 3155 49th St S



ENCORE SECOND ADDITION

(A MINOR SUBDIVISION)
BEING A REPLAT OF ENCORE ADDITION
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DESCRIPTION OF PLAT BOUNDARY

All of Encore Addition to the City of Fargo, Cass County, North Dakota.

Said parcel contains 619,472 square feet or 14.22 acres, more or less, and is subject to all easements and rights-of-way of record.

CERTIFICATE OF SURVEYOR

I, Nicholas R. Stattelman, Registered Professional Land Surveyor in the State of North Dakota, hereby certify that this map is a true and correct representation of a survey performed by me or under my direct supervision on or before December 23, 2016. All distances and measurements are true and correct to the best of my knowledge and belief, and all monuments will be placed in the ground as shown.

Nicholas R. Stattelman, North Dakota Registered Professional Land Surveyor No. LS-8218

STATE OF NORTH DAKOTA) SS
COUNTY OF _____

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared Nicholas R. Stattelman, known to me to be the person described in the within instrument, and acknowledged to me that he executed the same.

Notary Public:
State of North Dakota
My commission expires: _____

OWNER'S CERTIFICATE & DEDICATION

We, the undersigned, being all the owners and proprietors of the land platted herein, do hereby consent to the execution of this plat to be known as "ENCORE SECOND ADDITION" City of Fargo, Cass County, North Dakota and hereby dedicate and convey to the public, for public use, all streets and easements as shown on the plat.

Ace A. Brandt, President
Urban Plains Land Company, LLC

STATE OF NORTH DAKOTA) SS
COUNTY OF _____

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared Ace A. Brandt, President of Urban Plains Land Company, LLC, known to me to be the person described in the within instrument, and acknowledged to me that he executed the same.

Notary Public:
State of North Dakota
My commission expires: _____

CURVE TABLE

Curve	Length	Radius	Delta	L.C.	L.C. Bearing
C1	5.18'	439.74'	0°40'28"	5.18'	S04° 41' 59"E
C2	6.43'	1827.27'	0°12'06"	6.43'	N80° 08' 59"W

LEGEND

- EXISTING LOT LINE
- PLAT BOUNDARY
- NEW LOT LINE
- EXISTING UTILITY EASEMENT
- EXISTING EASEMENT
- - - NEGATIVE ACCESS EASEMENT
- SECTION LINE
- QUARTER SECTION LINE

- ⊙ FOUND IRON MONUMENT w/ PLASTIC CAP
- ⊙ MONUMENT PLACED THIS SURVEY: 5/8" Ø X 18" LONG REBAR WITH PLASTIC CAP MARKED N.R.S. LS-8218
- 1 EXISTING LOT NUMBER
- 1 LOT AREA (SQUARE FEET)
- 1 LOT AREA (ACRES)

CITY PLANNING COMMISSION APPROVAL

This plat is approved by the Fargo Planning Commission on this _____ day of _____, 20____.

Jan Ulferts Stewart, Chair

STATE OF NORTH DAKOTA) SS
COUNTY OF _____

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared Jan Ulferts Stewart, Fargo Planning Commission Chair, known to me to be the person described in the within instrument, and acknowledged to me that she executed the same.

State of North Dakota
My commission expires: _____

CITY ENGINEER APPROVAL

This plat is approved by the Fargo City Engineer on this _____ day of _____, 20____.

April E. Walker, City Engineer

STATE OF NORTH DAKOTA) SS
COUNTY OF _____

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared April E. Walker, Fargo City Engineer, known to me to be the person described in the within instrument, and acknowledged to me that she executed the same.

State of North Dakota
My commission expires: _____

CITY COMMISSION APPROVAL

This plat is approved by the Fargo City Commission on this _____ day of _____, 20____.

Tim Mahoney, Mayor

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA) SS
COUNTY OF _____

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared Tim Mahoney, Mayor, and Steve Sprague, City Auditor, known to me to be the persons described in the within instrument, and acknowledged to me that they executed the same.

State of North Dakota
My commission expires: _____

NOTES

BASIS OF BEARINGS: DISTANCES AND BEARINGS ARE BASED ON THE CITY OF FARGO COORDINATE SYSTEM. ALL DISTANCES SHOWN ARE GROUND DISTANCES IN U.S. SURVEY FEET. BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENT. ALL ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88) AND WERE DETERMINED BY GPS OBSERVATIONS FROM THE CITY OF FARGO BASE STATION.

EXISTING EASEMENTS: PLAT IS SUBJECT TO ALL PRIOR EASEMENTS AND ENCUMBRANCES OF RECORD.

FLOOD ZONE CLASSIFICATION: THIS AREA IS SHOWN AS BEING PROTECTED FROM THE 1-PERCENT-ANNUAL-CHANCE OR GREATER FLOOD HAZARD BY A LEVEE SYSTEM PER FEMA FIRM NUMBERS 38017C0778G, CASS COUNTY, NORTH DAKOTA, EFFECTIVE DATE: JANUARY 16, 2015.

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City of Fargo Staff Report			
Title:	Ferguson First Addition	Date:	3/1/2017
Location:	4103 66 th Street South	Staff Contact:	Donald Kress, senior planner
Legal Description:	Portion of NW quarter of Section 32, T139N, R49W		
Owner(s)/Applicant:	Edward & Lavanna Ferguson	Engineer:	Houston Engineering, Inc.
Entitlements Requested:	Minor Subdivision (plat of portion of NW quarter of Section 32, T139N, R49W and a Planned Unit Development overlay, Master Land Use Plan and Final Plan in an existing SR-4, Single-Dwelling Residential zoning district of the proposed Ferguson First Addition)		
Status:	Planning Commission Public Hearing: March 7, 2017		

Existing	Proposed
Land Use: Residential	Land Use: Residential
Zoning: SR-4: Single Dwelling Residential	Zoning: SR-4: Single Dwelling Residential with Planned Unit Development (PUD) overlay
Uses Allowed: .SR-4 allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities	Uses Allowed: Same as existing PUD to modify certain development standards of the SR-4 zone (these are enumerated below).
Maximum Density: 12.1 dwelling units per acre	Maximum Lot Coverage Allowed: No change

Proposal:

The applicant requests:

- A minor subdivision to plat a portion of NW quarter of Section 32, T139N, R49W into two lots, to be known as the Ferguson First Addition
- A Planned Unit Development overlay, Master Land Use Plan and Final Plan, to modify the development standards of the SR-4, Single Dwelling zone to allow an accessory structure with greater floor area than the primary structure, and limit the total number of residential units on the property to three. The PUD also includes certain requirements for connection to city utilities.

PROJECT OBJECTIVE

To be able to develop the subject property within the restrictions resulting from the application of the minimal disturbance zone setback (MDZS) and limited disturbance zone setback (LDZS).

PLAT

This property is surrounded on the south and east by the Osgood First Addition. However, the Ferguson property itself is not a lot or block in the Osgood First Addition.

The plat will create two lots of approximately two acres each, as shown in the table below.

Lot Number	Area (acres)
1	2.13
2	2.12

ACCESS:

The project site will take access from 66th Avenue South. The two lots will share an access easement over the 40-foot wide strip that connects to 66th Avenue South. There are no dedicated streets within the project site.

PUBLIC WATER AND SEWER:

Public water and sewer will be available from 66th Avenue South. The developer will be responsible for connecting and extending these utilities to serve all residential units.

FLOOD PROTECTION:

The minimum disturbance zone setback (MZDS) and limited disturbance zone setback (LDZS) are depicted on the plat. These setbacks are in relation to the Sheyenne River, which is adjacent to the west side of the project site.

PARKS and TRAILS

The Park District does not require any dedication of park land or trails within this addition.

PLANNED UNIT DEVELOPMENT

The PUD will modify the following development standards of the SR-4 zone:

- Permitted uses: Allow one accessory structure with greater floor area than the primary structure per lot. Maximum floor area of the accessory structure is 5,000 square feet.
- Residential density: Only three residential units are able to be accommodated without further public services.
- Maximum building height: 26 feet

Additional conditions:

1. City utilities that are extended into the property shall be configured to serve existing and proposed buildings.
2. Existing buildings served by septic system and water well shall connect to city utilities at such time as the septic system and water well fail.
3. All new construction shall be served by city utilities.
4. Property owner shall install storm sewer to city specifications prior to or concurrent with development.

The PUD Master Land Use Plan and Final Land Use Plan, which includes a narrative, a chart comparing the development standards of the SR-4 zone with the modifications requested in the PUD, and a site plan, are attached.

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: city of Fargo right of way, zoned SR-4; city of West Fargo is north across 40th Avenue South.
- East: Single family dwellings; zoned SR-2, Single-Dwelling Residential
- South: Single family dwellings; zoned SR-2, Single-Dwelling Residential
- West: Sheyenne River; single-family dwellings in city of West Fargo across the river

Schools and Parks:

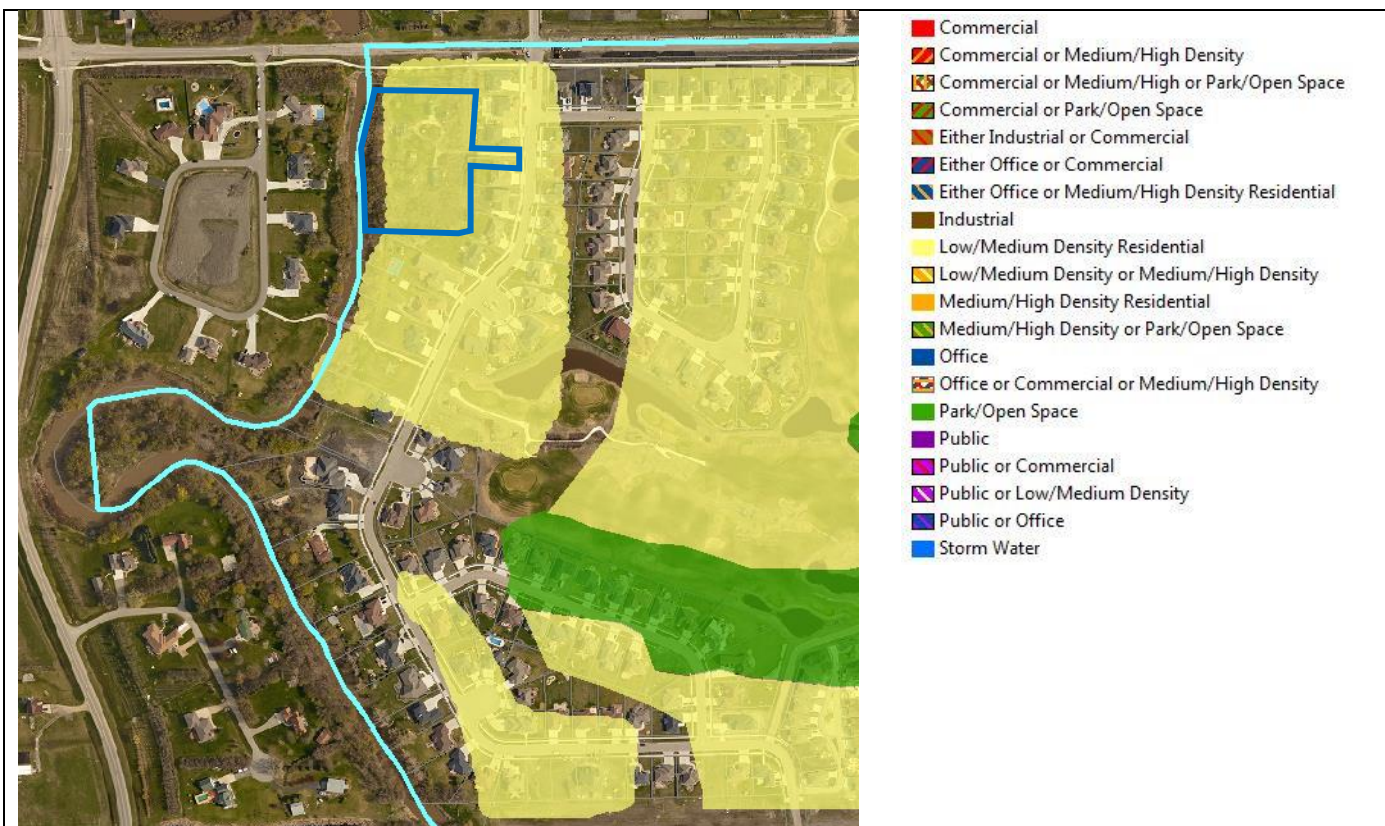
Schools: The subject property is located within the West Fargo School District and is served by Legacy Elementary, Liberty Middle, and Sheyenne High schools.

Parks: The subject property is 0.16 miles west of Osgood golf course (0.70 miles by street to the clubhouse) and approximately one mile west of Osgood School park

Pedestrian / Bicycle: Off-road bike facilities are located along 66th Street South and 40th Avenue South and are a component of the metro area trail system. A pedestrian/bike bridge across the Sheyenne is located approximately 0.20 miles south of the property. The off-road trail along 40th Avenue South also crosses the Sheyenne.

Area Plans:

The subject property, outlined in blue on the map below, is located within the 2003 Southwest Future Land Use Plan, which designates the land use for this property as "low to medium density residential."



Staff Analysis

Planned Unit Development

Section 20-0908(B)(7) of the LDC stipulates that the following criteria are met before Planned Unit Development overlay, Master Land Use Plan and Final Plan, be approved.

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

The 4.25 acre subject property was zoned SR-4 in 2004. The minimal disturbance zone setback (MDZS) and limited disturbance zone setback (LDZS) from the Sheyenne River became effective in 2012. These setbacks reduced the developable area of the property to approximately one acre.. The PUD will allow development of two new residences, plus accommodate an accessory building (storage building) with a greater floor area than the primary structure (house) on Lot 1. The existing storage building on Lot 1 will be demolished.
- The PUD Master Land Use Plan complies with the PUD standards of Sec. 20-0302**

Staff has reviewed the PUD Master Land Use Plan and found that it complies with the PUD standards of Sec. 20-0302. The PUD modifies the allowed uses and residential density of the SR-4 zone, as provided for in Section 20-0302 (E).
- The City and other agencies will be able to provide the necessary public services, facilities, and programs to serve the development proposed, at the time the property is developed;**

The property will be served by public water and sewer available in 66th Avenue South. The developer will be responsible for connecting and extending these utilities to serve all residential units. This subdivision will have access from 66th Avenue South.
- The development is consistent with and implements the planning goals and objectives contained in the Area Plan, the Comprehensive Plan, and other adopted policy documents.**

The Go2030 Comprehensive Plan states an initiative as “Develop policies to promote infill and density within areas that are already developed and are protected by a flood resiliency strategy. Control sprawl and focus on areas outside of the floodplain (p. 213).” This PUD allows residential development of this property in an area outside of the Sheyenne River MDZS and LDZS that take up a significant portion of this property. This can be considered an “infill” project as the properties surrounding this on the east and south have all developed as part

of the Osgood Addition, while development on this property has been bypassed due to continuing questions about how this property can be developed following the application of the MDZS and LDZS in 2012.

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

The PUD Master Land Use Plan is consistent with sound planning practice as it accommodates residential development of a property within the constraints of the MDZS and LDZS which restrict development on over three quarters of the property. The development will promote the general welfare of the community by providing additional housing outside of the flood zone.

Subdivision Findings

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

1. Section 20-0907(B)(3)(Development Review Procedures—Subdivisions—Minor Subdivisions) 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 (Subdivision Design and Improvements) and all other applicable requirements of the Land Development Code. Section 20-0907(B)(4) (Development Review Procedures—Subdivision—Minor Subdivisions) 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 property is zoned SR-4: Single-Dwelling Residential. This zone will accommodate the proposed single-family residential development. This zoning is consistent with the 2003 Southwest Future Land Use Plan which designates the project site as “low to medium density residential.” In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received four contacts from nearby property owners inquiring about the project. 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)**

2. Section 20-907.C.4.f (Development Review Procedures—Subdivisions—Final Review and Action) of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.

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

Staff Recommendation:

Suggested Motion: “To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed **1) Planned Unit Development overlay, Master Land Use Plan and Final Plan, and 2) Ferguson First Addition** subdivision plat as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2003 Southwest Future Land Use Plan, Standards of Article 20-06 and Article 20-0908(B)(7) and all other applicable requirements of the LDC.”

Planning Commission Recommendation: March 7, 2017

Attachments:

1. Zoning Map
2. Location Map
3. Planned Unit Development Master Land Use Plan (narrative, comparison chart, site plan)
4. Preliminary Plat

PUD and Plat (Minor)

Ferguson Subdivision

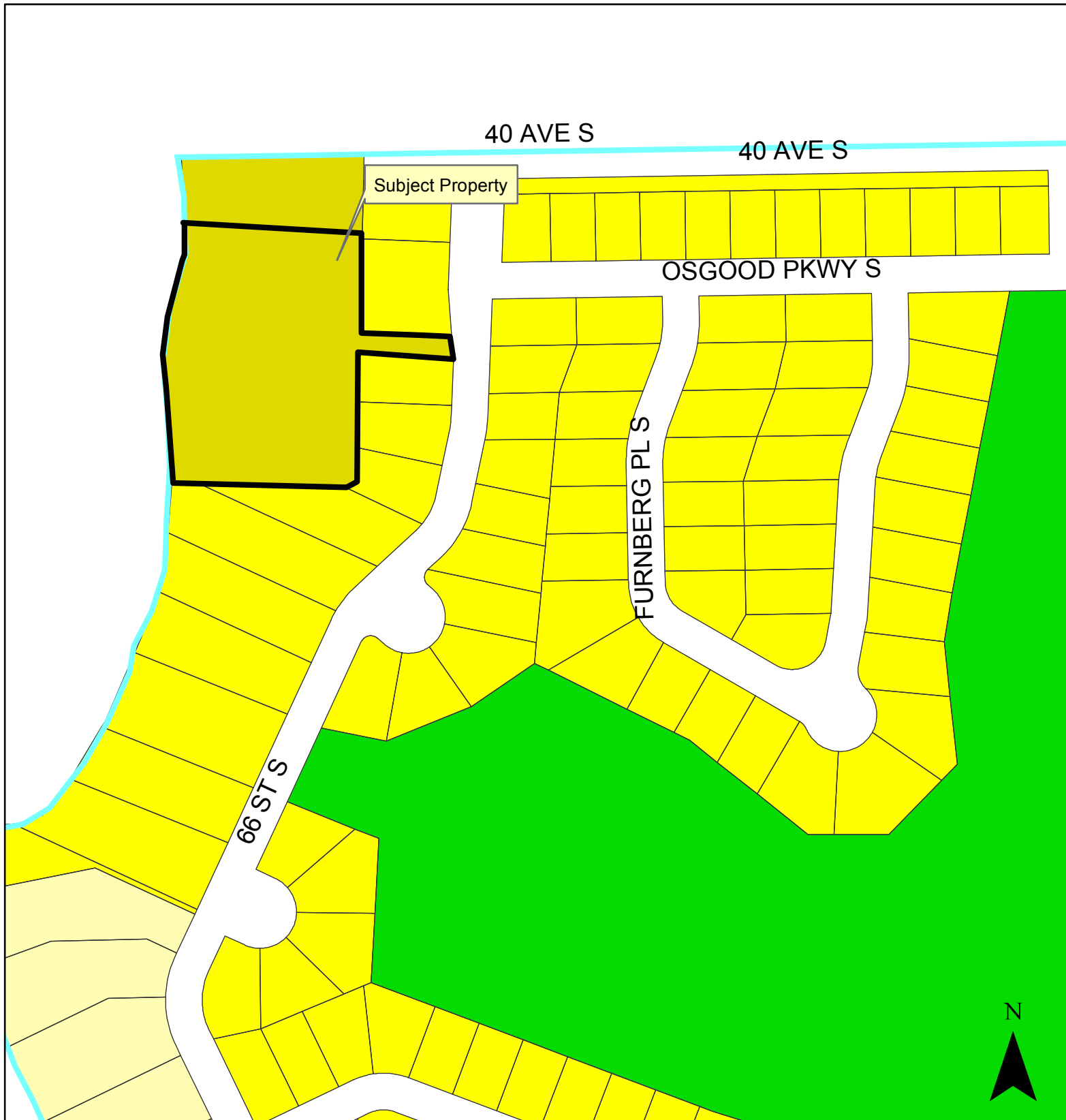
4103 66th Street South



PUD and Plat (Minor)

Ferguson Subdivision

4103 66th Street South



Legend

AG	LC	MHP	SR-2
DMU	LC	NC	SR-3
GC	MR-1	NC	SR-4
GL	MR-2	P/I	SR-5
GO	MR-3	UML	City Limits

300

Feet

Fargo Planning Commission

March 7, 2017

FERGUSON FIRST ADDITION
BEING A REPLAT OF LOT 5, BLOCK 13, OSGOOD FIRST ADDITION
AND A PLAT OF PART OF THE NORTHWEST 1/4 OF SECTION 32,
T. 139 N., R. 49 W., 5TH P.M.
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA

OWNER'S CERTIFICATE:

KNOW ALL PERSONS BY THESE PRESENTS: That Edward P. Ferguson and Lavanna M. Ferguson, husband and wife, are the owners and proprietors of Lot 5, Block 13, OSGOOD FIRST ADDITION, together with that part of the Northwest Quarter of Section 32, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the northwest corner of said Section 32; thence North 89°07'34" East (assumed bearing), along the northerly line of the Northwest Quarter of said Section 32, for a distance of 1398.95 feet to the northwest corner OSGOOD FIRST ADDITION; thence South 01°19'05" West, along the westerly line of OSGOOD FIRST ADDITION for a distance of 149.26 feet to the northeast corner of a tract of land described in Document No. 968979 on file at the Cass County Recorder's Office and the true point of beginning; thence South 01°19'05" West, along the easterly line of a tract of land described in said Document No. 968979 and along the westerly line of OSGOOD FIRST ADDITION, for a distance of 191.87 feet to the northwest corner of said Lot 5; thence South 87°46'46" East, along the northerly line of said Lot 5, for a distance of 174.72 feet to the northeast corner thereof; thence South 03°56'19" East, along the easterly line of said Lot 5, for a distance of 40.23 feet to the southeast corner thereof; thence North 87°46'46" West, along the southerly line of said Lot 5, for a distance of 178.40 feet to the southwest corner thereof; thence South 01°19'05" West, along the easterly line of a tract of land described in said Document No. 968979 and along the westerly line of OSGOOD FIRST ADDITION, for a distance of 245.52 feet; thence South 69°07'32" West, along the southerly line of a tract of land described in said Document No. 968979 and along the westerly line of OSGOOD FIRST ADDITION, for a distance of 25.09 feet; thence North 88°53'38" West, along the southerly line of a tract of land described in said Document No. 968979 and along the westerly line of OSGOOD FIRST ADDITION, for a distance of 339 feet, more or less, to a point of intersection with the centerline of the Sheyenne River; thence northerly, along the centerline of said Sheyenne River to a point of intersection with the northerly line of a tract of land described in said Document No. 968979, said point has a bearing of North 86°43'19" West from the true point of beginning; thence South 86°43'19" East, along the northerly line of a tract of land described in said Document No. 968979, for a distance of 346 feet, more or less, to the true point of beginning.

Said tract contains 4.252 acres, more or less.

And that said parties have caused the same to be surveyed and platted as **FERGUSON FIRST ADDITION** to the City of Fargo, Cass County, North Dakota and do hereby dedicate to the present and future owners of Lots 1 and 2 the 40.00 foot wide Ingress/Egress easement as shown on the plat.

OWNERS:

Edward P. Ferguson

Lavanna M. Ferguson

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, Shawn M. Thomasson, 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 _____ day of _____, 20____.

Shawn M. Thomasson, Professional Land Surveyor No. 5900

CITY ENGINEER'S APPROVAL:

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

April E. Walker, City Engineer

FARGO PLANNING COMMISSION APPROVAL:

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

Jan Ulferts Stewart, Chair
Fargo Planning Commission

FARGO CITY COMMISSION APPROVAL:

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

Timothy J. Mahoney, Mayor

Attest: Steven Sprague, City Auditor

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____, before me 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: _____

State of _____)
County of _____) ss

On this _____ day of _____, 20____ before me personally appeared Edward P. and Lavanna M. Ferguson, husband and wife, known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same as their free act and deed.

Notary Public: _____

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____ before me personally appeared Shawn M. Thomasson, 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: _____

State of North Dakota)
County of Cass) ss

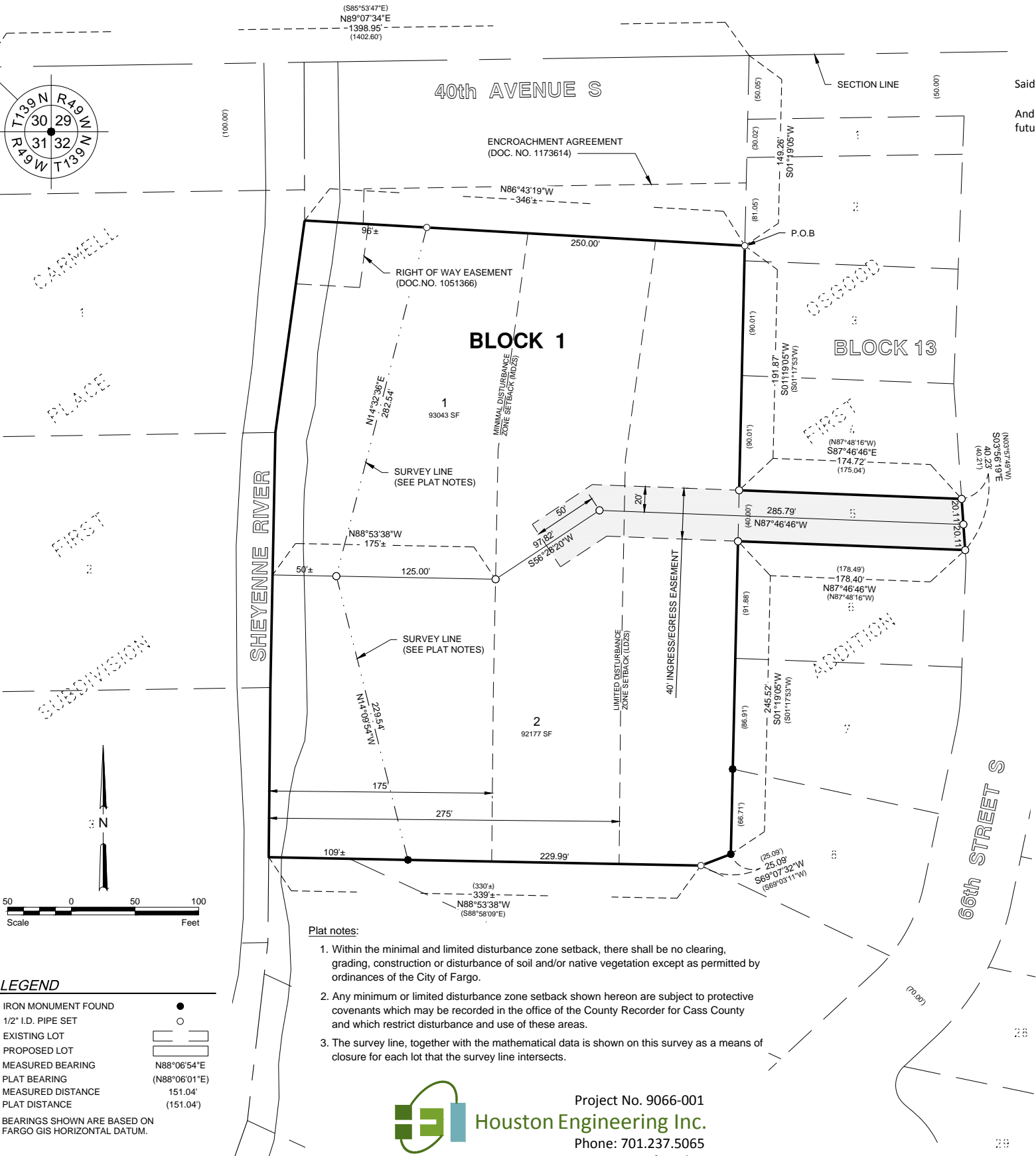
On this _____ day of _____, 20____ before me personally appeared April E. Walker, Fargo City Engineer, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that she executed the same as her free act and deed.

Notary Public: _____

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____, before me personally appeared Jan Ulferts Stewart, 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 she executed the same on behalf of the Fargo Planning Commission.

Notary Public: _____



Plat notes:

- Within the minimal and limited disturbance zone setback, there shall be no clearing, grading, construction or disturbance of soil and/or native vegetation except as permitted by ordinances of the City of Fargo.
- Any minimum or limited disturbance zone setback shown hereon are subject to protective covenants which may be recorded in the office of the County Recorder for Cass County and which restrict disturbance and use of these areas.
- The survey line, together with the mathematical data is shown on this survey as a means of closure for each lot that the survey line intersects.

Project No. 9066-001
Houston Engineering Inc.
Phone: 701.237.5065

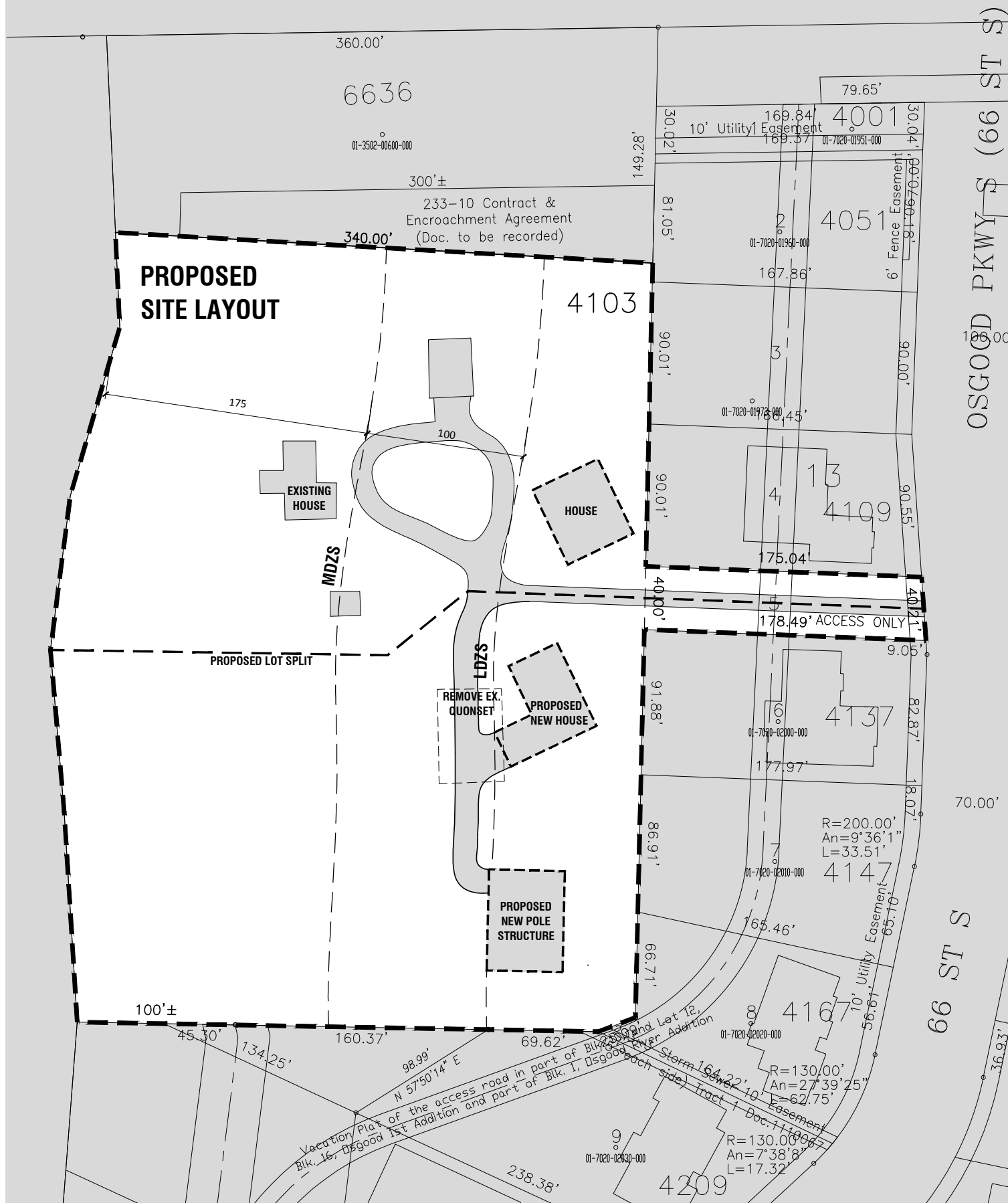
FERGUSON PUD NARRATIVE

DEVELOPER'S STATEMENT OF INTENT: This planned unit development (PUD) will provide an opportunity to develop a residentially zoned property on which the developable area of the property was significantly restricted by the application of minimal disturbance zone setback (MDZS) and limited disturbance zone setback (LDZS) after the property was originally zoned. The PUD will include a site plan for the development that is incorporated here by reference. The PUD will, generally, apply the SR-4 development standards, except as otherwise provided below:

	Current LDC development standards for SR-4 zone	<i>PUD modifications to SR-4 development standards</i>	NOTES
Allowed Uses	detached houses and accessory uses.	<i>Allow one accessory structure with greater floor area than the primary structure per lot. Maximum floor area of accessory structure is 5,000 square feet.</i>	
Lot Size	3,600 SF	No change	
Residential Density	12.1 du/ac	<i>Only three total residential units are able to be accommodated without further public services</i>	
Setbacks	Front: 15 Interior Side: 4 Street Side: 10 Rear: 15	No change	
Max. Height	35 feet	<i>Maximum height of 26 feet</i>	
Building Coverage	35 % of lot area	No change	
Parking-Household Living other than Multi-Dwelling structures	Per LDC Section 20-0701	No change	
Landscaping	Per LDC Section 20-0705	No change	
Residential protection standards	Per LDC Section 20-0704	No change	
Utility Connections			City utilities that are extended into the property shall be configured to serve existing and proposed buildings;

			<p>Existing buildings served by a septic system and water well shall connect to city utilities at such time as that septic system and water well fail;</p> <p>All new construction shall be served by city utilities; and</p> <p>Property owner shall install storm sewer to city specifications prior to or concurrent with development.</p>

4103 66TH ST S | 701-261-1723



City of Fargo Staff Report			
Title:	Austin's Subdivision	Date:	3/1/2017
Location:	5606 & 5622 53 Ave S	Staff Contact:	Barrett Voigt
Owner(s)/Applicant:	Jeff Forward / Akason Holdings LLC	Engineer:	N/A
Entitlements Requested:	Conditional Use Permit for an Industrial Service use in a GC, General Commercial zoning district on Lots 7 and 8, Block 1, Austin's Subdivision .		
Status:	Planning Commission Public Hearing: March 7, 2017		

Existing	Proposed
Land Use: Vacant	Land Use: Industrial Service
Zoning: GC, General Commercial	Zoning: GC, General Commercial with a Conditional Use Permit (CUP) to allow industrial services
Uses Allowed: GC – General Commercial. 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, warehouse and freight movement, wholesale sales, aviation, surface transportation, and major entertainment events.	Uses Allowed: GC – General Commercial. 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, warehouse and freight movement, wholesale sales, aviation, surface transportation, and major entertainment events. Plus a Conditional Use Permit (CUP) to allow industrial services
Maximum Density Allowed: Maximum 85% building coverage	Maximum Density Allowed: Maximum 85% building coverage

Proposal:
<p>The applicant is seeking approval of a Conditional Use Permit to allow for industrial service use in the GC, General Commercial zoning district. The property is located at 5606 and 5622 53 Ave S (legally described as Lots 7 and 8, Block 1, Austin's Subdivision) and encompasses approximately 4.06 acres.</p> <p>The applicant has proposed constructing a building on the subject property with the intention of storing landscape equipment and materials on-site for a landscaping company.</p> <p>For reference, staff provides the definition of the Industrial Service land use, of LDC Section 20-1203 as follows: Definition: Industrial Service as firms that are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p>

Surrounding Land Uses and Zoning:

- North: Across 53 Ave S is GC, General Commercial with warehouse and office use
- East: GC, General Commercial with warehouse and office use
- South: Not zoned with Cass County Drain 27 use
- West: Across Veterans Boulevard is GC, General Commercial with commercial use

Surrounding Industrial Uses:

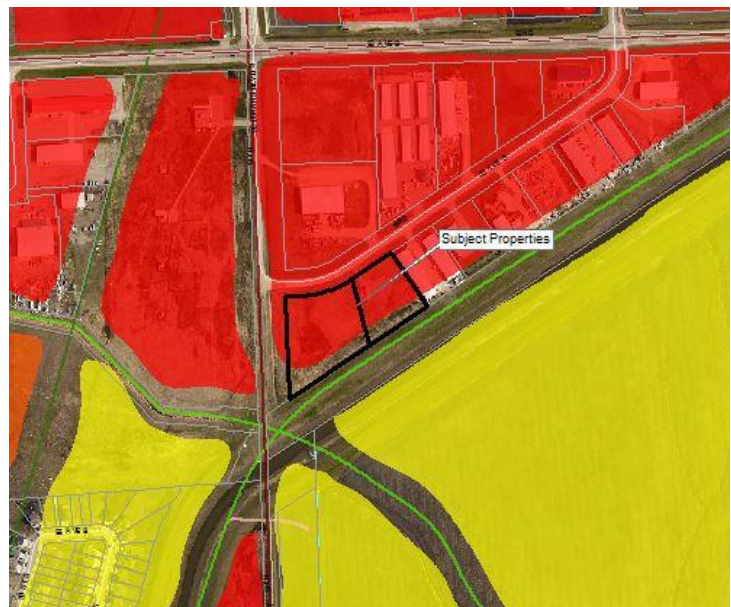
Industrial uses are not uncommon in the GC, General Commercial zoning district in this area, near the intersection of 52nd Avenue South and Veterans Boulevard South. Below shows Conditional Use Permits in proximity to the subject property. It should be noted that all of the CUPs were approved with conditions.



Area Plans:

The subject property is located within the Tier 1 Southwest Growth Plan, as outlined within the 2007 Fargo Growth Plan. The plan designates the property as being appropriate for commercial uses.

- Commercial Area
- Future School
- Proposed Park
- Residential Area - lower to medium density
- Residential Area - medium to high density
- Residential Area - rural



Schools and Parks:

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

Parks: Osgood Park (4951 47th Street South) is located approximately 0.5 miles northeast of the subject property. Osgood Park provides basketball, grill, multipurpose field, picnic table, playground, recreational trail, shelter and soccer amenities.

Pedestrian / Bicycle: An on-road bike facility is located along 52nd Avenue South and an off road bike facility is located along Veterans Boulevard; both of which connect to the metro area trail system.

Staff Analysis:

Conditional Use Permit Approval Criteria (Section 20-0909.D)

The following is a list of criteria that must be determined satisfied in order for a Conditional Use Permit to be approved:

1. **Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?** According to Section 20-0104 of the LDC, 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. The proposed Conditional Use Permit includes conditions that are intended to address and mitigate, to the extent practical, the potential negative impact on future development. Therefore, staff finds that the proposal is consistent with the purpose of the LDC. **(Criteria Satisfied)**
2. **Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?** Staff believes that the location of the proposed conditional use will contribute and promote the welfare and convenience of the public. Staff is proposing conditions which would address the negative impacts of the proposed uses but that also allow the neighborhood to utilize the convenience of these businesses.
3. **Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**
Staff has no data to suggest that the proposed use would cause substantial injury to the value of other property in the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. To date, staff has received no communication from the surrounding owners. In addition, staff believes that the conditions outlined with the Conditional Use Permit further ensure that the industrial services use will not negatively affect the value of the surrounding property over the long term. **(Criteria Satisfied)**
4. **Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature, and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.**
Staff does not believe that the location, size, nature or intensity of the use will prevent development and use of neighboring property in accordance with applicable zoning districts. The proposed uses are consistent with the adjacent commercial properties that have been granted similar Conditional Use Permits over the past few years. In addition to the proposed CUP conditions, use-specific standards of LDC Section 20-0402(R) apply to industrial uses in the GC zoning district and provide for additional protection of the surrounding area. **(Criteria Satisfied)**

5. Are adequate utility, drainage, and other such necessary facilities and services provided or will they be at the time of development?

The subject property has access to all necessary utilities and services. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability to utilize the property as proposed. Based on this information staff finds that adequate utility, drainage, and other such necessary facilities and services are in place. **(Criteria Satisfied)**

6. Have adequate access roads or entrances and exit drives been provided and are they designed to prevent traffic hazards and to minimize traffic congestion in public streets?

The commercial property has access to the public street system at 53rd Avenue South that can adequately accommodate truck/commercial traffic. The Engineering Department and Public Works Department have had an opportunity to review the proposal and commented that 53rd Avenue South will not have deficiencies with road access or exit and entrance drives, however Veterans Boulevard will need improvements in the future to meet future service needs. To that end, staff finds that the proposed conditional use will not create traffic hazards or traffic congestion in the public streets.
(Criteria Satisfied)

Recommended Conditions:

- 1) The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer. All garbage containers, including dumpsters, shall be concealed from public view by fence, screen wall or building extension.
- 2) The conditions for industrial uses in GC, General Commercial zoning districts as required by LDC Section 20-0402.R will apply.
- 3) Off-street parking, loading, and vehicular circulation areas (including circulation areas internal to storage yards) shall have an all-weather surface, as defined by the LDC.
- 4) Any expansion of industrial service use shall require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
- 5) The Conditional Use Permit shall terminate if the industrial service uses cease for a period of more than 12 consecutive months.
- 6) All operational activity and storage shall be within a screened storage yard
- 7) Storage of petroleum or chemicals will not be allowed unless approved by the Fire Department

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and hereby move to approve the Conditional Use Permit to allow Industrial Service land use in a GC, General Commercial zoning district as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC, with the following conditions:

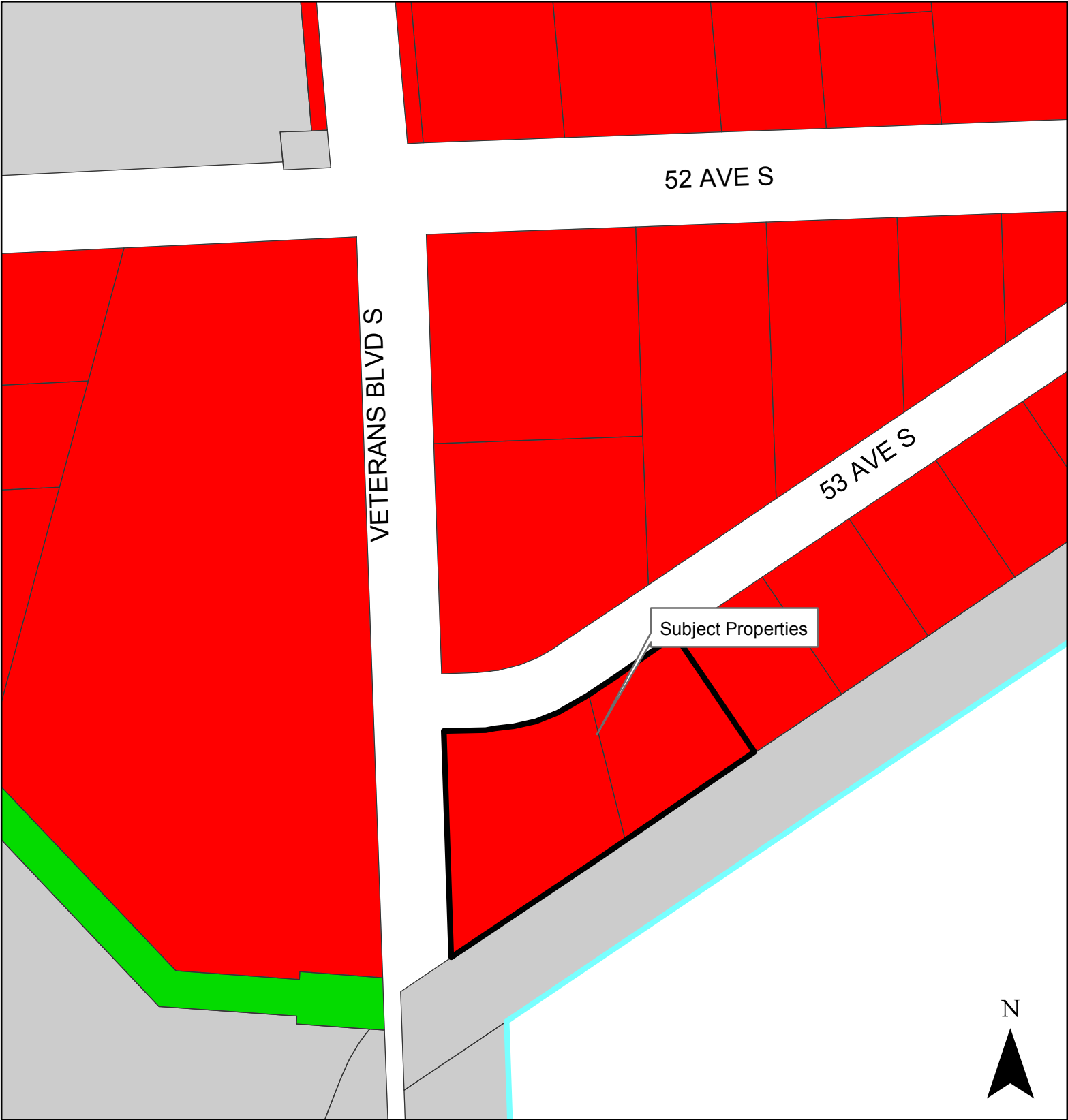
- 1) The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer. All garbage containers, including dumpsters, shall be concealed from public view by fence, screen wall or building extension.
- 2) The conditions for industrial uses in GC, General Commercial zoning districts as required by LDC Section 20-0402.R will apply.
- 3) Off-street parking, loading, and vehicular circulation areas (including circulation areas internal to storage yards) shall have an all-weather surface, as defined by the LDC.
- 4) Any expansion of industrial service use shall require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
- 5) The Conditional Use Permit shall terminate if the industrial service uses cease for a period of more than 12 consecutive months.
- 6) All operational activity and storage shall be within a screened storage yard
- 7) Storage of petroleum or chemicals will not be allowed unless approved by the Fire Department

Planning Commission Decision: March 7, 2017
Attachments:
<ol style="list-style-type: none">1. Zoning Map2. Location Map

CUP (Industrial Services)

Austin's Subdivision

5606 & 5622 53rd Avenue South



Legend

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

300
Feet

Fargo Planning Commission
March 7, 2017

CUP (Industrial Services)

Austin's Subdivision

5606 & 5622 53rd Avenue South



City of Fargo Staff Report			
Title:	Cass Rural Water Addition	Date:	3/1/17
Location:	1708 64 th Avenue South	Staff Contact:	Barrett Voigt
Legal Description:	Lot 1, Block 1, Cass Rural Water Addition		
Owner(s)/Applicant:	Cass Rural Water User District/Buell Consulting Inc. (representing Verizon Wireless)	Engineer:	Design 1 of Eden Prairie
Entitlements Requested:	Conditional Use Permit to allow a Telecommunication Support Structure (TSS) within a SR-3, Single-Dwelling Residential zoning district.		
Status:	Planning Commission Public Hearing: March 7, 2017		

Existing	Proposed
Land Use: Utilities	Land Use: Utilities and Telecommunication Support Structure (TSS) Tower
Zoning: SR-3, Single-Dwelling Residential	Zoning: No Change
Uses Allowed: Detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities	Uses Allowed: Detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities Plus a CUP to allow a Telecommunication Support Structure (TSS) within a SR-3, Single-Dwelling Residential zoning district.
Maximum Density Allowed: 8.7 units per acre	Maximum Density Allowed: No change

Proposal:
<p>The applicant is seeking approval of a Conditional Use Permit (CUP) to allow a Telecommunication Support Structure (TSS) within a SR-3, Single-Dwelling Residential zoning district. The subject property is located at 1708 64th Avenue South (legally described as Lot 1, Block 1, Cass Rural Water Addition) and encompasses approximately 1 acre.</p> <p>The applicant requested the need to install a TSS at this location to address an existing as well as an anticipated increase in future service demands. The TSS would consist of a 109-foot tall monopole (including lightning rod) within a 20 by 40-foot (20' X 40') lease area that would also include a platform on which Verizon will install operating equipment cabinets and a generator (please refer to site plan illustration below.) The applicant states that the tower would allow for the accommodation to collocate two (2) other users. The lease agreement was entered into between Cass County Rural Water and Verizon Wireless.</p> <p><u>Background:</u></p> <p>In all cases, proposed TSS must comply with the use specific standards of Section 20-0402.N (hereafter referred to as "Section N"). Within the use specific standards, specific TSS requirements vary depending upon the zoning and TSS height. In addition to the standard zoning setback requirements, the use specific standards of Section N require that TSSs be set back an additional distance from SR or other residential zoning districts and also require that TSS be either clustered within 300 feet of each other or spaced at least ¼ - ½ mile from each other.</p>



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

Surrounding Land Uses and Zoning Districts:

- North: Across 64th Avenue South; SR-4, Single-Dwelling Residential with vacant land use
- East: SR-2, Single-Dwelling Residential with future bike trail use and SR-3, Single-Dwelling Residential with single family use
- South: SR-4, Single-Dwelling Residential with vacant land and park uses
- West: Across 19th Street South; P/I, Public and Institutional and MR-3 Multi-Dwelling Residential with agricultural use

Area Plans:

The subject property is located within the Tier 1 Southeast Growth Plan, as outlined within the 2007 Fargo Growth Plan.

Schools and Parks:

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

Parks: Bennett Park (1900 58th Avenue S) is located approximately a half mile north of the subject property. Bennett Park provides baseball/softball, basketball, batting cage, multipurpose field, outdoor skating/warming house, playground, and tennis amenities. Approximately 750 feet northwest of the property is the site of the future Legacy Park. Also, abutting the southern border of the subject property and diagonally adjacent are parcels of land that will serve as the future Burrow Pit park.

Pedestrian / Bicycle: There is an off-road bike facility located along 64th Avenue South. This bike route is a component of the metro area bikeways system.

Staff Analysis:

Conditional Use Permit Approval Criteria (Section 20-0909.D)

The following is a list of criteria that must be determined satisfied in order for a Conditional Use Permit to be approved:

1. **Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**

Staff finds this proposal is consistent with the applicable provisions of the LDC. In the SR-3, Single-Dwelling Residential zoning district, a TSS of 125 feet in height or less is a conditional use and must comply with the telecommunications facilities standards of Section 20-0402.N.3.e of the LDC.

(Criteria Satisfied)

2. **Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**

Staff suggests that this proposed conditional use permit to allow for a Telecommunication Support Structure (TSS) will contribute to and promote the welfare of the public by increasing cellular communication capacity and/or coverage in the area, providing for increased communications convenience.

(Criteria Satisfied)

3. **Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**

Staff has no data to suggest that the proposed use would cause substantial injury to the value of other property in the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. To date, staff has received no communication from the surrounding owners.

(Criteria Satisfied)

4. **Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature, and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.**

Staff suggests that the proposed conditional use should have no effect on the neighborhood and should not dominate the immediate neighborhood or prevent any other sites from being used due to the fact that, 1) this use will consist of stationary equipment structures and will not generate traffic, 2) Section N of the LDC provides conditions of the CUP that are specifically meant to limit the intensity of the requested use and accommodate potential future uses, and 3) the tower location will be on a 20-foot by 40-foot lease space that will place the tower in an area where it will have partially blocked view from the existing water tower and the rows of trees on the east and west side of the property. **(Criteria Satisfied)**

5. **Are adequate utility, drainage, and other such necessary facilities and services provided or will they be at the time of development?**

The subject property is developed and currently has access to all necessary utilities and services, including: water, sewer, police and fire protection. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the petitioner to utilize the property as proposed. Based on this information, staff finds that adequate utility, drainage, and other such necessary facilities and services are in place. **(Criteria Satisfied)**

6. Have adequate access roads or entrances and exit drives been provided and are they designed to prevent traffic hazards and to minimize traffic congestion in public streets?

The subject property is developed and currently has access from 64th Avenue South. Staff is not aware of any deficiencies regarding access to the property, traffic hazards, or traffic congestion issues. To that end, staff suggests that the proposed conditional use will not create traffic hazards or traffic congestion in the public streets.

(Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and hereby move to approve the Conditional Use Permit to allow a Telecommunication Support Structure (TSS) within in a SR-3, Single-Dwelling Residential zoning district as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC.

Planning Commission Recommendation: March 7, 2017

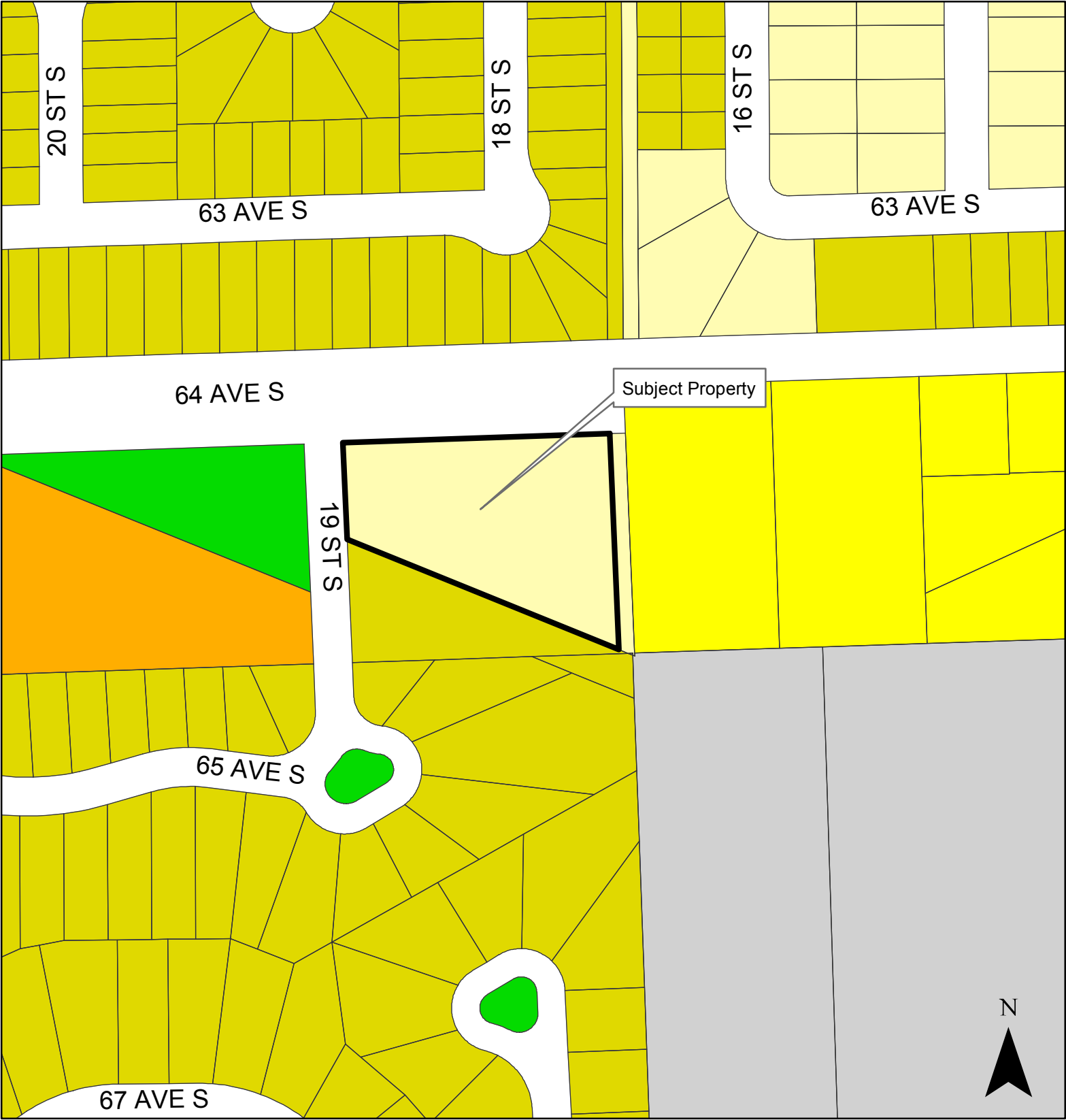
Attachments:

1. Zoning Map
2. Location Map
3. Site Plan

CUP (TSS Structure)

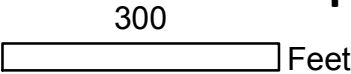
Cass Rural Water Addition

1708 64th Avenue South



Legend

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



Fargo Planning Commission
March 7, 2017

CUP (TSS Structure)

Cass Rural Water Addition

1708 64th Avenue South



Fargo Planning Commission
March 7, 2017

VERIZON WIRELESS

FARC HORNET NEW BUILD

PROJECT INFORMATION

SITE NAME: FARC HORNET
SITE ADDRESS: 64TH AVE S
FARGO, ND 58103
COUNTY: CASS
LATITUDE: N46° 47' 17.93" (NAD83)
LONGITUDE: W96° 48' 33.86" (NAD83)
DRAWING BASED ON
SITE DATA FORM DATED: 03-14-16
BUILDING TYPE: IIB
SITE AREA: 20' X 40' = 800 S.F.
ROOF LOAD: LIVELOAD = 105 PSF

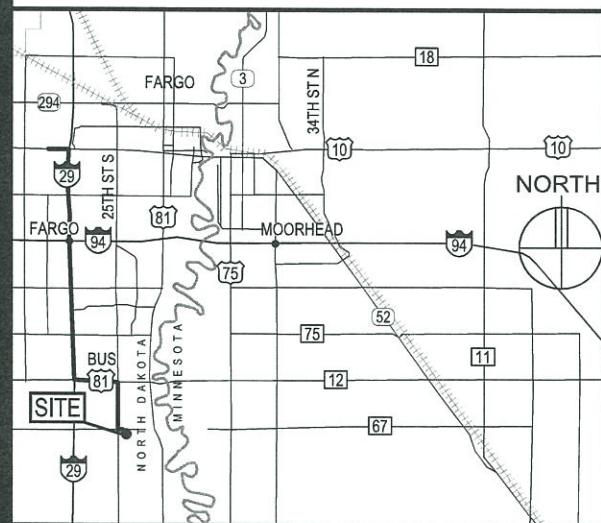
ISSUE SUMMARY

REV.	DESCRIPTION	SHEET OR DETAIL
PRE. A	ISSUED FOR REVIEW 09-24-15	ALL
A	ISSUED FOR REVIEW 02-22-16	ALL
B	ISSUED FOR PERMITTING 03-14-16	ALL
C	ISSUED FOR ZONING/PERMITTING 09-01-16	ALL

SHEET INDEX

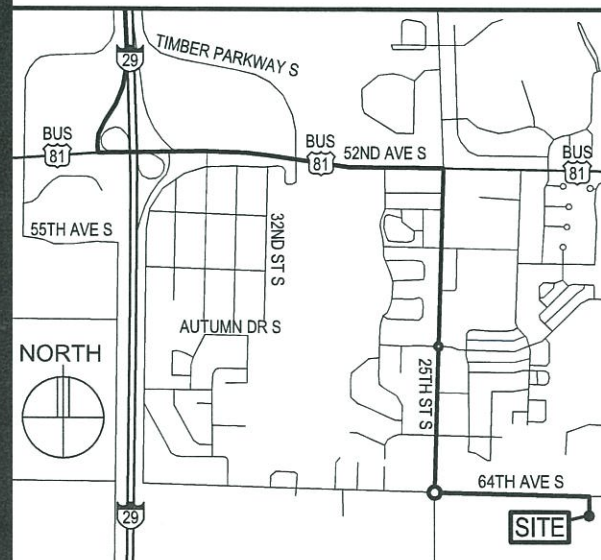
SHEET	SHEET DESCRIPTION
T-1	PROJECT INFORMATION, TOWER ELEVATION, AND SHEET INDEX
A-1	SITE PLAN, SITE PHOTO
A-2	ENLARGED SITE PLAN, SITE PHOTO
A-3	ANTENNA AND COAX KEY, FENCE NOTES, SITE PHOTO
A-4	OUTLINE SPECIFICATIONS
G-1	GROUNDING SPECIFICATIONS
G-2	GROUNDING PLAN AND DETAILS
U-1	SITE UTILITY PLAN
	SURVEY

AREA MAP



DIRECTIONS FROM FARGO SWITCH:
TRAVEL SOUTH ON I-29S FOR 5 MILES AND TAKE EXIST 60 FOR 52ND AVE S. TURN LEFT ONTO 52ND AVE S/U.S. 81 BUSINESS THEN TURN RIGHT ONTO 25TH ST S. CONTINUE STRAIGHT THROUGH THE FIRST ROUND-A-BOUNT THEN TAKE 2ND EXIT AT NEXT ROUND-A-BOUNT ONTO 64TH AVE S. SITE IS 0.5 MILES EAST ON THE RIGHT NEXT TO THE WATER TANK COMPOUND.

VICINITY MAP



VERIZON WIRELESS DEPARTMENTAL APPROVALS

	NAME	DATE
RF ENGINEER	CHAD PERRY	03-02-16
OPERATIONS MANAGER	AARON STEINKE	03-03-16
CONSTRUCTION ENGINEER	MIKE THIEL	03-07-16

LESSOR / LICENSOR APPROVAL

SIGNATURE	PRINTED NAME	DATE
LESSOR / LICENSOR: PLEASE CHECK THE APPROPRIATE BOX BELOW		
<input type="checkbox"/> NO CHANGES. <input type="checkbox"/> CHANGES NEEDED. SEE COMMENTS.		

CONTACTS

LESSOR / LICENSOR: CASS RURAL WATER DISTRICT
131 MAPLE STREET
KINDRED, ND 58051
JERRY BLOMEKE
(701) 428-3139
(218) 790-1299

LESSEE: VERIZON WIRELESS
10801 BUSH LAKE ROAD
BLOOMINGTON, MN 55438
RON REITER (612) 720-0052

POWER UTILITY
COMPANY CONTACT: CASS COUNTY ELECTRIC COOP
4100 32ND AVE S
FARGO, ND 58104
(701) 356-4400

TELCO UTILITY
COMPANY CONTACT: T.B.D.

ARCHITECT: DESIGN 1 OF EDEN PRAIRIE, LLC.
9973 VALLEY VIEW ROAD
EDEN PRAIRIE, MN 55344
(952) 903-9299

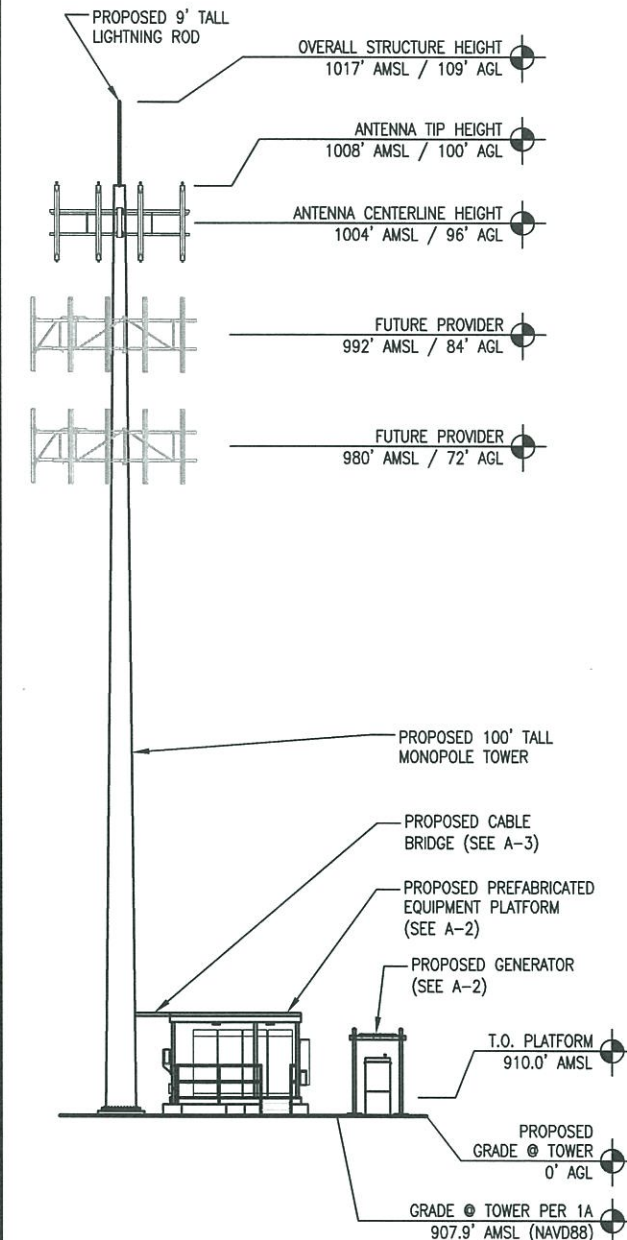
SURVEYOR: WIDSETH SMITH NOLTING
610 FILLMORE STREET - PO BOX 1028
ALEXANDRIA, MN 56308-1028
320-762-8149

STRUCTURAL
ENGINEER: N/A

GEOTECHNICAL
ENGINEER: T.B.D.

TOWER ELEVATION

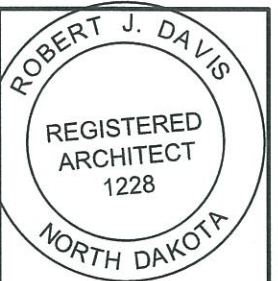
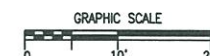
NOTE:
1.) TOWER TO BE ERECTED AND INSTALLED IN ACCORDANCE WITH TOWER MANUFACTURER'S DRAWINGS NOT INCLUDED WITH THIS PACKAGE. DISCREPANCIES BETWEEN TOWER DRAWINGS AND ARCHITECTURAL DRAWINGS TO BE REPORTED TO VERIZON WIRELESS AND THE ARCHITECT IMMEDIATELY.
2.) TOWER FOUNDATION, EQUIPMENT PLATFORM FOUNDATION, GENERATOR FOUNDATION, AND THE ACCESS DRIVE TO BE EXCAVATED AND CONSTRUCTED IN ACCORDANCE WITH RECOMMENDATIONS AND SPECIFICATIONS OF THE GEOTECHNICAL REPORT WHICH IS NOT INCLUDED IN THIS PACKAGE. DISCREPANCIES BETWEEN THE REPORT AND THE OTHER DOCUMENTS TO BE IMMEDIATELY REPORTED TO VERIZON WIRELESS AND THE ARCHITECT.
3.) CONTRACTOR TO ENSURE TIP OF ANTENNAS DO NOT EXCEED TOWER HEIGHT.



NOTE: FENCE NOT SHOWN FOR CLARITY

EAST ELEVATION

SCALE: 1" = 20'



EXPIRES 06-30-17

I hereby certify that the portion of this technical submission described below was prepared by me or under my direct supervision and responsible charge. I am a duly registered Architect under the laws of the State of NORTH DAKOTA. ROBERT J. DAVIS, Reg. No. 1228

Signed: *Robert J. Davis*
09-01-16
Date:

DESIGN 1

9973 VALLEY VIEW RD.
EDEN PRAIRIE, MN 55344
(952) 903-9299
WWW.DESIGN1EP.COM

VERIZON WIRELESS

10801 BUSH LAKE ROAD
BLOOMINGTON, MN 55438
(612) 720-0052

PROJECT
20151254123
LOC. CODE: 388454

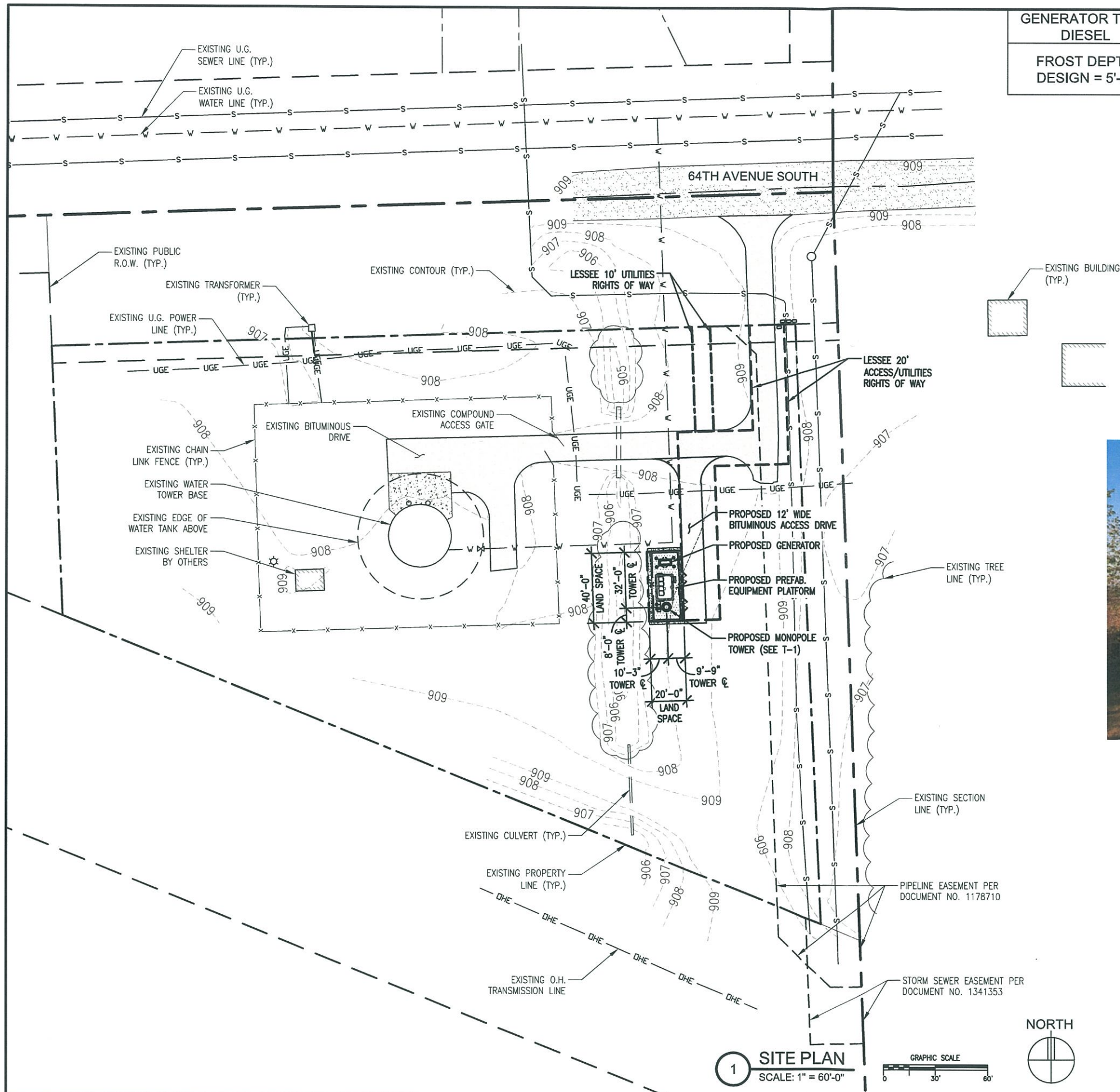
FARC HORNET

64TH AVE S
FARGO, ND 58103

SHEET CONTENTS:
CONTACTS
ISSUE SUMMARY
SHEET INDEX
DEPARTMENTAL APPROVALS
LESSOR APPROVAL
PROJECT INFORMATION
AREA & VICINITY MAPS
GENERAL NOTES

DRAWN BY: S. GONZALEZ
DATE: 09-08-15
CHECKED BY: TAB
PRE. REV. A 09-24-15
REV. A 02-22-16
REV. B 03-14-16
REV. B.1 03-22-16
REV. C 09-01-16

T-1



GENERATOR TYPE:
DIESEL

FROST DEPTH
DESIGN = 5'-0"

DETAIL INDEX	
DETAIL	DETAIL DESCRIPTION
PLATFORM	PREFABRICATED EQUIPMENT PLATFORM V2W9.4X14-GLSP-4
1.1	BOLLARD DETAIL (NOT USED)
2.1	FENCE SECTION (NOT USED) (SEE A-2)
3.1	CABLE BRIDGE SECTION
4.4	CABLE BRIDGE ELEVATION (SIM)
5.1	ROAD SECTION (NOT USED, SEE 3/ A-2)
6.1	GATE DETAIL
8.1	TELCO ENTRY DETAIL
9.1	CMPH DETAIL
10.5/10.6	ONE-LINE ELECTRICAL RISER DIAGRAM (G.C. TO CONFIRM)
12.1	H-FRAME DETAIL

ROBERT J. DAVIS

REGISTERED
ARCHITECT
1228

NORTH DAKOTA

EXPIRES 06-30-17

I hereby certify that the portion of this technical submission described below was prepared by me or under my direct supervision and responsible charge. I am a duly registered Architect under the laws of the State of NORTH DAKOTA. ROBERT J. DAVIS, Reg. No. 1228

Signed: *Robert J. Davis*

Date: 09-01-16

DESIGN 1

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WWW.DESIGN1EP.COM

VERIZON WIRELESS

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BLOOMINGTON, MN 55438
(612) 720-0052

PROJECT
20151254123
LOC. CODE: 388454

FARC
HORNET

64TH AVE S
FARGO, ND 58103

SHEET CONTENTS:
SITE PLAN
DETAIL INDEX
SITE PHOTO

DRAWN BY:	S. GONZALEZ
DATE:	09-08-15
CHECKED BY:	TAB
PRE. REV. A	09-24-15
REV. A	02-22-16
REV. B	03-14-16
REV. B.1	03-22-16
REV. C	09-01-16

A-1



2 PROPOSED APPROACH
SCALE: FACING NORTH FROM PROPOSED COMPOUND

1 SITE PLAN
SCALE: 1" = 60'-0"

City of Fargo Staff Report			
Title:	NDSU Foundation Addition	Date:	2/28/2017
Location:	Part of the 1600 Block between 12th Street North and University Drive North	Staff Contact:	Aaron Nelson
Legal Description:	Lots 1-9, 11, and 14-24, Block 8, Chandler's Broadway Addition		
Owner(s)/Applicant:	NDSU Development Foundation/PROffutt LP (Casey Jackson)	Engineer:	Houston Engineering
Entitlements Requested:	Major Subdivision (A vacation plat of an alley and a replat of Lots 1-9, 11, and 14-24, Block 8, Chandler's Broadway Addition to the City of Fargo, Cass County, North Dakota, Zoning Change (from SR-3, Single-Dwelling Residential, and MR-2, Multi-Dwelling Residential, to MR-3, Multi-Dwelling Residential, with a PUD, Planned Unit Development Overlay and a PUD Master Land Use Plan		
Status:	Planning Commission Public Hearing: March 7, 2017		

Existing	Proposed
Land Use: Household Living – Detached Houses	Land Use: Group Living & Household Living – Multi-Dwelling Structure
Zoning: SR-3, Single-Dwelling Residential, and MR-2, Multi-Dwelling Residential	Zoning: MR-3, Multi-Dwelling Residential, with a PUD, Planned Unit Development Overlay
Uses Allowed: SR-3, Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities MR-2, Multi-Dwelling Residential allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities	Uses Allowed: MR-3, Multi-Dwelling Residential allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities. Plus a PUD to allow office and retail sales & services.
Maximum Density Allowed (Residential): SR-3 allows 8.7 units per acre and MR-2 allows a maximum of 20 dwelling units per acre	Maximum Density Allowed (Residential): MR-3 with proposed PUD overlay would allow a maximum of 32 units per acre

Proposal:
<p>The applicant, PROffutt LP, is seeking approval of a 1) zoning map amendment, 2) PUD Master Land Use Plan, and 3) major subdivision plat entitled <i>NDSU Foundation Addition</i>. The intent of these three applications is to allow the development of a mixed-use, multi-dwelling structure with commercial space. The proposed four-story building would include 109 dwelling units and just under 4,000 square-feet of commercial space. Of the 109 residential units, 73 would be four-bedroom units and 36 would be two-bedroom units, for a total of 364 bedrooms.</p> <p><u>Subdivision</u></p> <p>The proposed subdivision would consolidate 21 existing single-dwelling lots and a portion of an existing public alley into two new lots, totaling 3.5 acres, to accommodate the proposed development. These lots were acquired by the NDSU Development Foundation over the past several years and account for 21 out of the total 22 lots on this block. The NDSU Development Foundation was not able to acquire the remaining lot (Lot 10, Block 8, Chandler's</p>

Broadway Addition), which is located in the northeast quarter of the block along 12th Street N. Therefore, this lot is not included within the proposed development and a 100-foot section of public alley adjacent to this lot will remain in place to continue to provide this lot with alley access to 17th Avenue N. A developer agreement will be drafted in order to define maintenance and snow removal responsibilities on this 100-foot section of public alley.

Zoning

The zoning map amendment would rezone the subject property from SR-3 (Single-Dwelling Residential) and MR-2 (Multi-Dwelling Residential) to MR-3 (Multi-Dwelling Residential). In addition, the zoning map amendment would also establish a PUD (Planned Unit Development) overlay zoning district for the subject property. This PUD overlay is intended to modify a handful of zoning standards, such as allowable uses, residential density, setbacks, landscaping, parking, and Residential Protection Standards.

PUD Master Land Use Plan

The PUD Master Land Use Plan will establish the general layout of the proposed development, including the physical location of the building, parking areas, open spaces, and amenities. In summary, the building is located primarily on the western half of the subject property, along University Drive. Commercial space is located in the northern portion of the building on the ground floor, with the remainder of the building area used for residential purposes and related accessory uses, such as study areas and leasing offices. The building includes underground parking along with surface parking located to the east of the building. The proposed PUD Master Land Use Plan is attached.

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

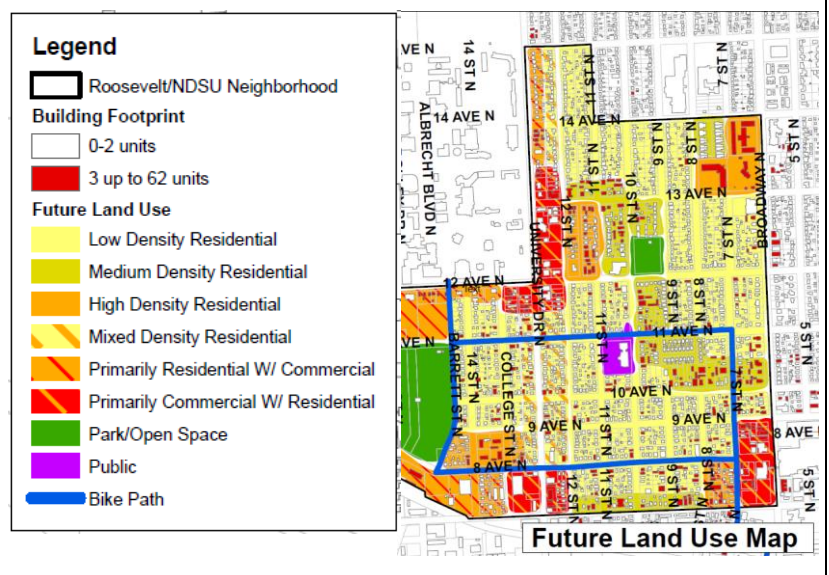
Surrounding Land Uses and Zoning Districts:

- North: P/I, Public and Institutional with residential use (apartments and townhomes)
- East: SR-3, Single-Dwelling Residential with residential use (detached houses and duplexes)
- South: SR-3, Single-Dwelling Residential and MR-2, Multi-Dwelling Residential with residential use (detached houses)
- West: P/I, Public and Institutional with college use (North Dakota State University)

Area Plans:

No area plans apply.

Although the subject property is not included within the boundaries of any specific area plan, staff would like to note that the subject property is located two blocks north of the area included within the Roosevelt-NDSU Future Land Use Plan, which was adopted in 2009. This plan identifies the University Drive corridor, south of the subject property, as being appropriate for commercial, high- and mixed-density residential uses.



Schools and Parks:

Schools: The subject property is located within the Fargo School District, specifically within the school boundaries of Washington Elementary, Ben Franklin Middle and Fargo North High schools.

Parks: Elephant/Percy Godwin Park (100 19th Avenue N) is located approximately 0.7 miles east of the subject property. Elephant/Percy Godwin Park offers baseball/softball, basketball, grill, multipurpose field, playground, picnic table, restroom, soccer and tennis facilities.

Pedestrian / Bicycle: On-road bike facilities are located on University Drive North and are a component of the metro area bikeways system.

Staff Analysis:

Overall, staff finds that the proposed development meets the applicable requirements of the LDC and aligns with several key objectives of the Go2030 Comprehensive Plan. The Go2030 Comprehensive Plan generally promotes mixed-use development patterns that are dense and walkable in nature, especially when located within areas that take advantage of existing public utility services and that are located within areas protected from flooding.

PUD Modifications:

As permitted by Section 20-0301(E) of the LDC, a number of different zoning standards are eligible for modification by the ordinance which establishes the PUD zoning overlay. The proposed PUD overlay is intended to modify the following zoning standards:

- Add *office* and *retail sales & services* as permitted use categories;
- Increase the maximum residential density from 24 to 32 units per acre;
- Reduce the minimum front setback from 25 feet to 10 feet;
- Reduce the minimum street-side setback from 12.5 feet to 10 feet;
- Reduce the minimum required open space from 35 percent of the lot area to 20 percent;
- Modify the minimum off-street parking ratio for from 2.25 parking stalls per unit to:
 - 1.1 parking stalls per unit for 2-bedroom units;
 - 2.4 parking stalls per unit for 4-bedroom units;
- Remove restrictions on the placement of open space landscaping;
- Allow a 2.5- to 3-foot-tall fence or wall with landscaping in lieu of standard parking lot perimeter landscaping; and
- Increase one of the maximum building heights (as required by the Residential Protection Standards) from 45 feet to 55 feet.

In addition to these modifications, the PUD overlay would also establish the following additional requirements for the development:

- Requirements for bicycle parking;
- Requirements for pedestrian walkway connectivity; and
- Architectural standards regarding building orientation, building materials, ground-floor transparency, and building articulation.

Public Alley:

The block that the subject property is located on currently has a gravel public alley running north-south from 16th Avenue N to 17th Avenue N. The proposed development would result in a partial vacation of this alley. The southern 450 feet of the alley would be vacated while the northern 100 feet of the alley would remain, providing access to the rear side of Lot 10, Block 8, Chandler's Broadway Addition (the lot adjacent to the subject property, herein referred to as "Lot 10"). Alley access from 16th Avenue N to Lot 10 would no longer be available due to the vacation of the southern portion of the alley. However, the internal drives of the proposed development would link to the 100-foot remainder of the public alley. Additionally, the applicant intends to pave the remaining alley during construction of the proposed development.

Because the public alley would essentially dead-end at the southern edge of Lot 10, staff expressed concern regarding maintenance such as snow removal. The applicant volunteered to remove the snow and, consequently, a developer agreement is being drafted in order to memorialize this arrangement. The intent is for the applicant to fully fund the paving of the remaining section of alley, for the applicant to be responsible for snow removal of the alley, and for access alley access to Lot 10 to be reasonably accommodated during the paving of the alley by the applicant.

Public Input & Outreach:

The proposed development is a partnership between the NDSU Development Foundation (the owner) and PROffutt LP (the developer & applicant). Prior to the applicant teaming up with the owner, the NDSU Development Foundation informed staff that they had limited discussions with residents directly across the street from the subject property, as well as the owner of Lot 10 regarding their plans for development. In addition, the applicant subsequently hosted an open house at 5:30pm on February 13th, sending invitations to owners of property within 300 feet of the subject property. Some of the concerns raised by the public include lack of parking/parking congestion in the neighborhood, pedestrian circulation and street crossings, and potential increases in traffic or rerouting of bus routes.

The Planning Department has distributed legal notices regarding this project beyond the standard 300-foot notification boundary required by ordinance, to include a boundary area of over 400 property owners. At the writing of this report, staff has only received one comment in writing from surrounding property owners. Staff has had conversation with the owner of Lot 10, but no direct concerns have been stated or filed regarding this proposed development.

Street Trees & Utility Services:

The City Forester expressed concern regarding the protection of existing street trees during demolition of the existing houses and construction of the proposed development. During demolition of the houses, each individual water service line and sanitary sewer service line will need to be disconnected from the public mains within the right-of-way. The process of disconnecting and removing the house's water and sewer lines would likely impact the root zone of existing street trees. Accordingly, the applicant is coordinating with the Public Works and Engineering Departments to determine the best way to disconnect existing utility connections while protecting the trees. Once determined, the details of the water and sewer utility connections will also be specified within the developer agreement.

Parking & Access:

The applicant will be providing at least 235 off-street parking stalls within the subject property. In addition, the applicant has stated that they are currently in conversations with the FargoDome Authority to try and secure additional off-site parking within the FargoDome parking lots, which are located northwest of the subject property (north of 17th Ave N and west of University Drive N). The applicant has hired a third-party consultant to conduct a parking and access study for the proposed development. As of the writing of this staff report, this parking study has not yet been completed. However, it is anticipated that the parking study will be completed prior to the March 7th Planning Commission meeting. It is intended that the parking and access study will address the applicant's proposed parking ratios, vehicular trip generation from the development, pedestrian crossings of University Drive N, and a potential warrant analysis for any traffic control devices at the intersection of 17th Avenue N and University Drive N. It should also be noted that the applicant has considered the potential for a future skywalk connection across University Drive which would link the development to the NDSU sports arena across the street, although this is not part of the current development proposal.

Transit Service:

The subject property is located adjacent to seven existing bus routes. MATBUS Routes 13, 13U, 32E, 32W, 33, 34, 35 all run along University Drive N and/or 17th Avenue N, connecting the subject property to the NDSU campus and downtown Fargo.

Subdivision

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

1. **Section 20-0907.C.1 of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**
A zoning map amendment application and PUD Master Land Use Plan have been included with this subdivision proposal and the applicant is seeking the appropriate zoning district classification to accommodate the proposed development. **(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 development is consistent and compatible with the GO2030 Comprehensive Plan and as submitted the subdivision request meets the requirements of the Land Development Code (LDC). **(Criteria Satisfied)**
3. **Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
An executed subdivision amenity plan will address the necessary provisions for public improvements associated with this subdivision. In addition, a developer agreement will be drafted and signed which will outline the details of the utility services as well as improvements and maintenance of the public alley. Public improvements associated with the project (both existing and proposed) are subject to special assessments. Unless otherwise agreed upon and stated in the proposed developer agreement, special assessments associated with the costs of any public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

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. Staff suggests that the requested zoning change is justified by change in conditions since the previous zoning classification was established. Since the previous zoning classification was established, several conditions have changed which help to support the proposed zoning change. First, the existing lots within the subject property have been consolidated under a single ownership entity, which intends to redevelop the property as a single development. In addition, in 2012 the City adopted the Go2030 Comprehensive Plan. The promotion of infill development is the number-two ranked initiative of the Go2030 plan. This initiative seeks to promote infill and density within areas that are already developed and are protected by a flood resiliency strategy. Infill development uses infrastructure more efficiently and occurs where infrastructure is already in place, not requiring the funding and construction of new infrastructure. In addition, the Go2030 Comprehensive Plan also includes an initiative for high quality affordable housing near NDSU. **(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?**
This property was previously used for single-dwelling houses and had access to public services. Applicable City departments have reviewed the redevelopment proposal and have identified one item that will need to be addressed. As of the writing of this staff report, the applicant is working with the City's Public Works and Engineering Departments to coordinate the removal of the existing water and sewer service lines for each of the existing houses that will be demolished for this development. The results of this coordination will be included within a developer agreement that would need to be approved by the City Commission with this

application. Staff has not received any other comments that would indicate any issue in servicing this development. The City and other agencies will be able to provide the necessary public services, facilities, and programs 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 supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners. In addition to properties within 300 feet of the subject property, notices were also sent to owners of properties located between 12th and 17th Avenue N and between 9th Street N and University Drive N. To date, staff has received a few inquiries into the application. One such inquiry contained some comments related to parking and is attached.

Staff finds that the proposal will not adversely affect the condition or value of the property in the vicinity. The PUD will require that the bulk of the proposed building will be concentrated along University Drive N on the western side of the block, away from the existing single-dwelling houses east of 12th Street N. The parking lot on the east side of the development will be screened with a 2.5- to 3-foot-tall opaque fence or wall with landscaping in order to block vehicle headlights and provide overall screening of the parking lot. In regards to parking concerns, staff believes that the location of the subject property is conducive to alternative forms of transportation. The development is intended to house NDSU students and is within walking distance to the NDSU campus. In addition, the subject property is located along seven bus routes which provide service to locations such as the NDSU campus, the Northport commercial area, and downtown Fargo. Also, there are existing bike lanes located on University Drive N and 10th Street N. **(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 in a way that will protect the general health, safety, and welfare of the citizens. Staff believes this proposal is in keeping with Fargo's Comprehensive Plan. Specifically, the Fargo Go2030 Comprehensive Plan supports infill and density within areas that are already developed, serviced with utilities, and protected by a flood resiliency strategy. As referenced above, the promotion of infill development is the number-two ranked priority of Go2030. In addition, the plan also includes an initiative for high quality affordable housing near NDSU, which the applicant has stated the subject property would be used for if the zoning is approved. In conclusion, staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan and other adopted policies of the City. **(Criteria Satisfied)**

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

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

The plan represents an improvement over what could have been accomplished through strict application of the base MR-3 zoning district. This PUD is intended to promote a walkable, aesthetically pleasing, mixed-use development pattern by providing flexibility in terms of density, dimensional standards, and parking while establishing required design standards. Benefits of walkable mixed-use areas include lower infrastructure costs, decreased consumption of productive agricultural land, and a greater sense of community and safety due to increased human interaction and additional eyes on the street. In addition, reduced reliance on automobiles saves on transportation costs, reduces vehicular emissions and congestion, and can promote physical health through alternative transportation modes such as walking and biking. **(Criteria Satisfied)**

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

All standards and requirements as set forth in the LDC have been met. **(Criteria Satisfied)**

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

This property was previously used for single-dwelling houses and had access to public services. Applicable City departments have reviewed the redevelopment proposal and have identified one item that will need to be addressed. As of the writing of this staff report, the applicant is working with the City's Public Works and Engineering Departments to coordinate the removal of the existing water and sewer service lines for each of the existing houses that will be demolished for this development. The results of this coordination will be included within a developer agreement that would need to be approved by the City Commission with this application. Staff has not received any other comments that would indicate any issue in servicing this development. The City and other agencies will be able to provide the necessary public services, facilities, and programs to serve the development. **(Criteria Satisfied)**

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

The PUD is consistent with planning objectives as set forth in the City Comprehensive Plan, most notably in respect to the Go2030 Key Initiatives to *Promote Infill*, *Quality New Development*, and *High Quality Affordable Housing near NDSU*. **(Criteria Satisfied)**

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

The PUD is consistent with sound planning practice and the development will promote the general welfare of the community by providing a walkable, aesthetically pleasing, mixed-use development that will increase density within an area of the City that already has access to City services. In addition, the proposed development is intended to cater towards NDSU students and should help to alleviate some of the demand for student housing near NDSU. In the past, demand for student housing near campus has led to the conversion of single-dwelling detached homes from owner-occupancy to student rental housing. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed: 1) NDSU Foundation Addition subdivision plat as presented; 2) Zoning Change from SR-3, Single-Dwelling Residential, and MR-2, Multi-Dwelling Residential, to MR-3, Multi-Dwelling Residential, with a PUD, Planned Unit Development Overlay and 3) PUD Master Land Use Plan as outlined within the staff report, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, Section 20-0908.B (7), and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

Planning Commission Recommendation: March 7, 2017

Attachments:

1. Zoning Map
2. Location Map
3. Subdivision Plat
4. Amenities Plan
5. PUD Master Land Use Plan
6. Draft PUD Ordinance
7. Additional Application Materials
8. Public Comment

Plat (Major), Vacation, Zoning Change (MR-2 & SR-3 to MR-3) & PUD

NDSU Foundation Addition

1600 Block Between
University Dr N and 12th St N



Legend

AG	LC	MHP	SR-2
DMU	LC	MNC	SR-3
GC	MR-1	NC	SR-4
GL	MR-2	P/I	SR-5
GO	MR-3	UMT	City Limits

Fargo Planning Commission

March 7, 2017

Plat (Major), Vacation, Zoning Change (MR-2 & SR-3 to MR-3) & PUD

NDSU Foundation Addition

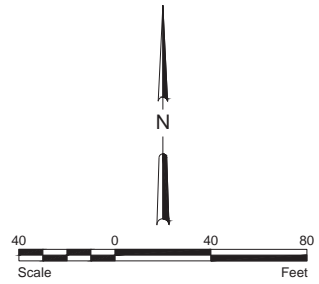
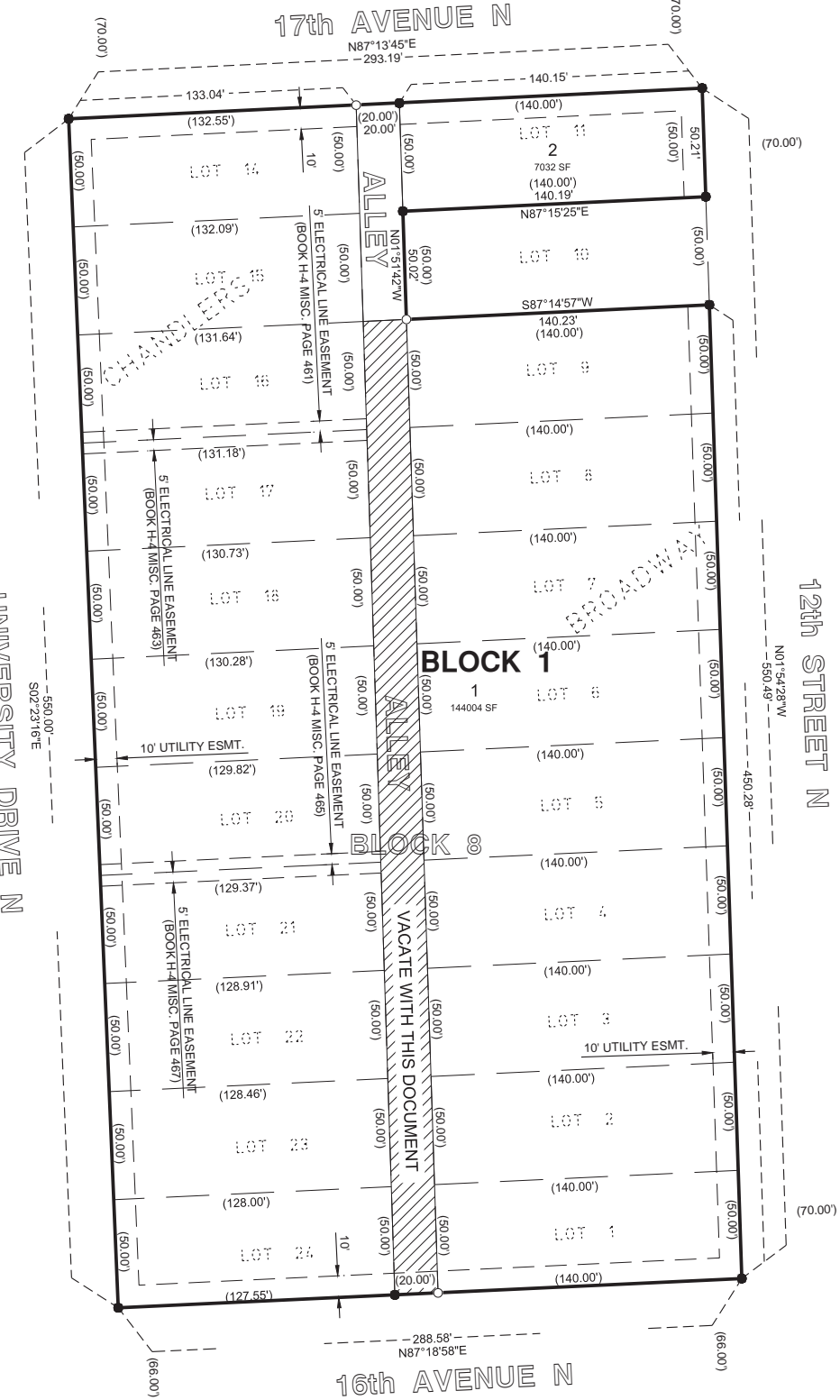
1600 Block Between
University Dr N and 12th St N



NDSU FOUNDATION ADDITION

A MAJOR REPLAT AND VACATION PLAT

A REPLAT OF LOTS 1 THROUGH 9 INCLUSIVE, LOT 11, AND LOTS 14 THROUGH 24 INCLUSIVE, AND ALLEY, ALL SITUATED IN BLOCK 8, CHANDLERS BROADWAY ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



LEGEND
IRON MONUMENT FOUND
1/2" I.D. PIPE SET
MEASURED BEARING
PLAT BEARING
MEASURED DISTANCE
PLAT DISTANCE
VACATED BY THIS DOCUMENT
BEARINGS SHOWN ARE BASED ON
FARGO GIS HORIZONTAL DATUM.

OWNER'S CERTIFICATE:
KNOW ALL PERSONS BY THESE PRESENTS: That NDSU Foundation and Alumni Association, t/k/a NDSU Development Foundation a/k/a North Dakota State University Development Foundation, a North Dakota non-profit corporation, is the owner and proprietor of Lots 1 through 9 inclusive, Lot 11, and Lots 14 through 24 inclusive, Block 8, Chandlers Broadway Addition to the City of Fargo, Cass County, North Dakota.

Said tract of land contains 3.513 acres, more or less.

And that said party has caused the same to be surveyed and replatted as NDSU Foundation Addition to the City of Fargo, Cass County, North Dakota, and does hereby vacate the public alley as designated for vacation on this plat, and does hereby dedicate to the public, for public use, the utility easements shown on the plat.

OWNER:
NDSU Foundation and Alumni Association
t/k/a NDSU Development Foundation
a/k/a North Dakota State University Development Foundation

John R. Glover, President/CEO

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:
I, James A. Schlieman, 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 _____ day of _____, 20____.

James A. Schlieman, Professional Land Surveyor No. 6086

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

April E. Walker, City Engineer

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

Jan Ulferts Stewart, Chair
Fargo Planning Commission

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

Timothy J. Mahoney, Mayor

Attest:
Steven Sprague, City Auditor

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____, before me 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: _____

State of _____)
County of _____) ss

On this _____ day of _____, 20____ before me personally appeared John R. Glover, President/CEO of NDSU Foundation and Alumni Association, a North Dakota non-profit corporation, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of said corporation.

Notary Public: _____

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____ before me personally appeared James A. Schlieman, 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: _____

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____ before me personally appeared April E. Walker, 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: _____

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____ before me personally appeared Jan Ulferts Stewart, 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 she executed the same on behalf of the Fargo Planning Commission.

Notary Public: _____

**Site Amenities and
Project Plan
NDSU Foundation Addition
Draft
March 1, 2016**

Location

The subject property is legally referenced the NDSU Foundation Addition, a replat of lots 1 through 9 inclusive, Lot 1 and Lots 1 through 9 inclusive, Lot 1 and Lots 14-24 and alley all situated in Block 8, Chandlers Broadway Addition. The property is located between 16th Ave. No and 17th Ave. No. and between 12th Street No. and University Dr. No. Property contains 3.513 Acres, plus or minus.

Details

This property has been owned for many years by the NDSU Foundation Association which has purchased and rented the single family area until this time of development. The process for development was a rigorous process of local developers vying for the opportunity to develop this property for NDSU. PROffut Limited Partnership (PLP) is pleased to present our proposal to provide development services for the student housing development opportunity in Fargo. The project will enhance the character of North Dakota State University and the Washington neighborhood by promoting economic activity, adding density of occupancy and use in the form of an urban mixed use building. This amenity rich, well maintained and actively chaperoned urban community will draw a significant number of off-campus students out of the single family neighborhoods and bring them closer to NDSU campus, providing a net benefit to both the students and families of the Washington neighborhood. The development will provide the highest and best use of the property both aesthetically and financially. The completed project will provide approximately 10 times the tax revenue of the existing properties and will shoulder the burden of neighborhood improvements. In addition, the development creates a sensible transition from learning to living, while creating an aesthetically pleasing buffer between the rush of University Drive and the serenity of the Washington neighborhood.

Design

The 109 units, a mix of four and two bedroom units totaling 364 beds, are flanked by retail on the north end of the development and anchored by the club house on the south end. With its location directly next to the campus, the project reflects the growth and vitality of the NDSU University promoting economic activity, adding density of occupancy and use in the form of an urban, mixed use building complimentary to the Washington Neighborhood. To further promote this connection to campus and the Washington neighborhood, the building angles back to create a plaza space the celebrates entry onto the property for both students and the public. Creating a residential building that aesthetically compliments the campus architecture to the west and history of the Washington neighborhood to the east, allows it to be integrated with the surrounding neighborhood in such a way that its presence strengthens the University Drive corridor while enhancing the sense of community within the culture of the Washington

neighborhood The units are defined in the PUD Narrative, which accompanies the attached drawings. It should also be noted that underground parking lot will be provided and plans for a potential future skyway linked to the SHAC, west of University Drive No.

Developer Agreement

Given the vacation request for a majority of the public alley way, we anticipate a developer agreement will be required for the project to address at a minimum the following items:

- The developer will restore the portion of the public alley way that is not being vacated to its original condition at its own expense.
- The developer shall fund any improvements to the portion of the existing public alley way that will remain a public alley way.
- The developer shall coordinate the re-construction of the alley way with the City of Fargo and existing resident.
- The developer agrees to maintain the portion of the existing public alley way that will remain a public alley way.

The developer agreement shall also address the acceptable means and methods to cap all existing public utilities.

Flood Protection

The site is not located in the FEMA special flood hazard area of the City of Fargo 41' water surface elevation inundation area. As the site is not located in a flood area, floodproof construction will not be required.

Storm Water Management

As proposed, the project will accommodate all containment, by providing a below grade storage and treatment of storm water.

Street Trees

The developer will work with the City Forester to work with existing trees on the right-of-way boulevards during the construction phase of the project. PLP plans on a very intensive landscape plan to insure the integrity of the complex with the environment.

Sidewalks

Public sidewalks will be maintained through the perimeter of the property and will have many other connections to include neighborhoods within the area to have access to the complex.

Site Amenities & Project Plan
NDSU Foundation Addition
Page 3

This amenities plan is hereby approved:

PROffut Limited Partnership

By _____
Casey Jackson, Vice President

Date

April Walker, City Engineer

Date



Draft PUD Overlay
NDSU Foundation Addition
2-27-2017

Allowed Uses: In addition to uses allowed within the MR-3 zoning district, the follow use categories shall also be allowed:

- Office
- Retail Sales and Services

Residential Density: The maximum residential density allowed shall be 32 dwelling units per acre.

Setbacks:

- The minimum front setback shall be 10 feet.
- The minimum street-side setback shall be 10 feet.

Open Space: The minimum open space shall be 20% of the lot area.

Parking: The minimum off-street parking requirements for residential use categories shall be modified as follows:

- 2-bedroom units shall require 1.1 parking space per unit.
- 4-bedroom units shall require 2.4 parking spaces per unit.

Landscaping:

- The Land Development Code requirement that at least 70% of the required open space landscaping be placed in the front and street-side of the property (LDC §20-0705) will be removed. The required number of plant units for the site must still be met.
- In lieu of parking lot perimeter landscaping as required by §20-0705(D) of the Land Development Code, a three-foot-wide buffer may be used. Said three-foot-wide buffer shall contain an opaque fence or wall with vegetative plantings. The fence or wall shall have a minimum height of 2.5 feet and a maximum height of 3 feet. Walls or fences may exceed 3 feet in height if the area above 3 feet is at least 50 percent transparent. The buffer shall contain at least 5 plant units per 20 linear feet. These plant units shall not be counted towards meeting the opens space landscaping requirements.

Residential Protection Standards: The building height restrictions of the Residential Protection Standards (LDC §20-0704.D) shall be modified to allow a building height of up to 55 feet when located 76 to 100 feet from Lot 10, Block 8, Chandler's Broadway Addition.

Additional Standards:

- 1) Building Orientation
 - (1) At least one primary building entry shall face a public street.
 - (2) The building shall be designed to have all exterior walls with equal design consideration, to include materials, color, articulation and general aesthetics for the purpose of access and appreciation by the general public.
 - (3) Building elevations that face a public street shall have at least 15 percent of the wall facing the street consist of windows or entrance areas.

Draft PUD Overlay
NDSU Foundation Addition
2-27-2017

2) Materials

(1) All walls shall be finished with architectural materials such as brick, glass, stone, ceramic, stucco, precast panels, exterior insulation finish systems (e.g. dryvit), seamless steel siding with a ceramic hybrid paint finish, fiber cement siding, or curtain walls. Building elevation materials shall be commercial grade, durable, and have a multi-generational life span.

(2) The following materials may not be used other than for purposes of providing accent: insulated metal panels; wood-based materials; asphalt; and decorated concrete block. When these materials are used, the materials must be of commercial grade.

(3) The use of architectural metal panels and wood panels for enclosure of mechanical equipment shall be permitted.

(4) Mirrored glass or one-way glass with a reflectance of greater than 40 percent shall be prohibited from covering more than 40 percent of exterior walls.

3) Ground-Floor Transparency

At least 25 percent of the ground-floor façade of buildings along public streets must be comprised of windows, doors and other transparent elements (e.g. glass block). Calculations shall be based on the total square feet of the elevation of the ground floor.

4) Articulation

(1) Offsets

i. As to building elevation walls, as visible above ground, that are longer than 100 feet wall plane projections or recesses having a depth of at least two feet and extending for a minimum of 25% of the length of such walls must be incorporated into the building design..

ii. **As to** building heights taller than 35 feet a horizontal design features on the building's façade must be incorporated into the building design. Examples of horizontal design features include awnings, canopies, transoms, moldings, balconies, wainscoting or changes in color or texture.

(2) Architectural features

i. The building design shall include integrated design features to avoid monotony, to create visual interest, and to enhance the pedestrian scale all of which is to be designed to create compatibility with the surrounding neighborhood. Examples of features to be included are: a. Arcades

b. Cornices

c. Eaves

d. Bow, bay, arched, oval, or gable windows

e. Shutters

f. Arched entries, balconies or breezeway entrances

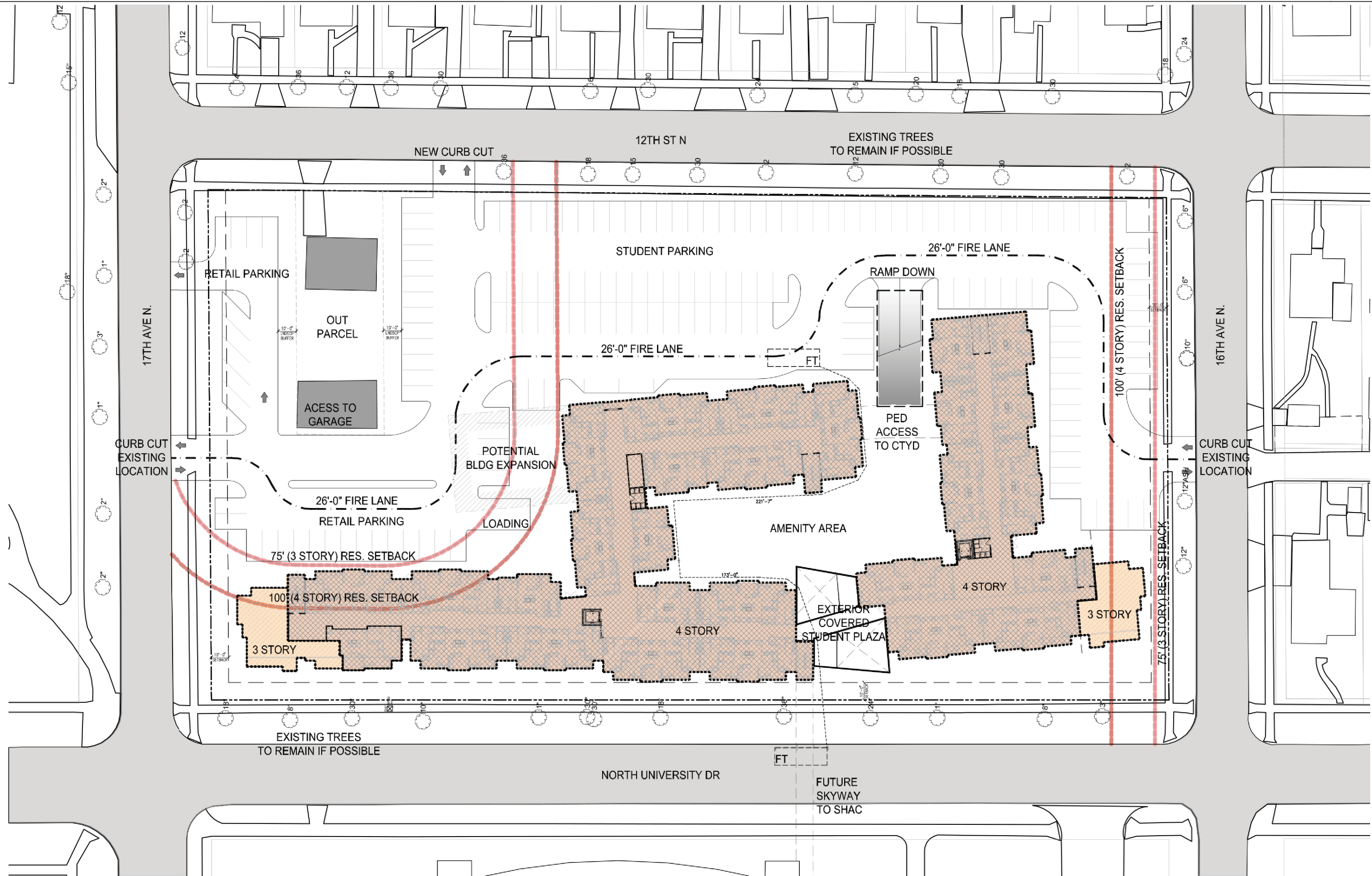
g. Stone or brick accent walls

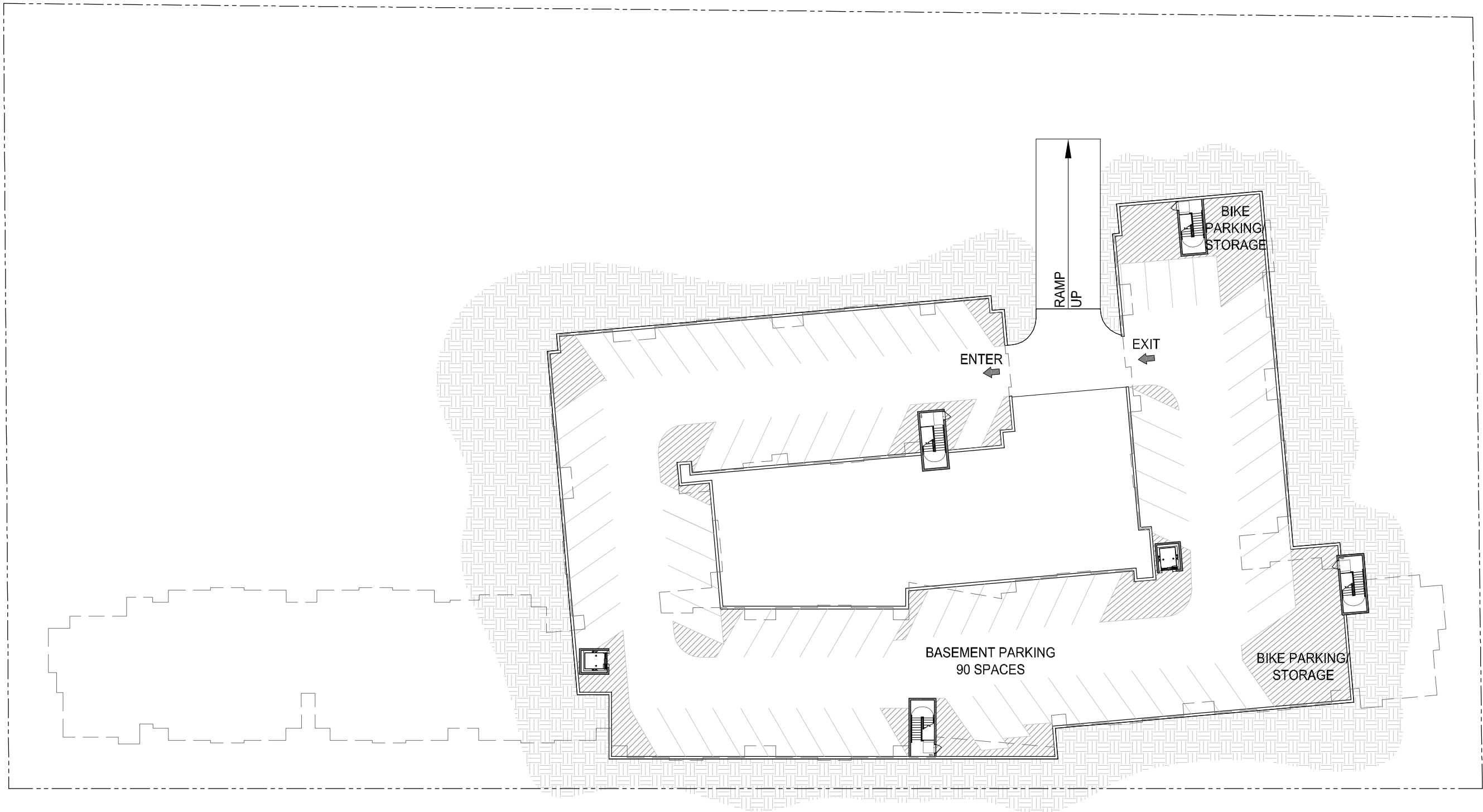
h. Decorative stone or brick banding

i. Decorative tiles

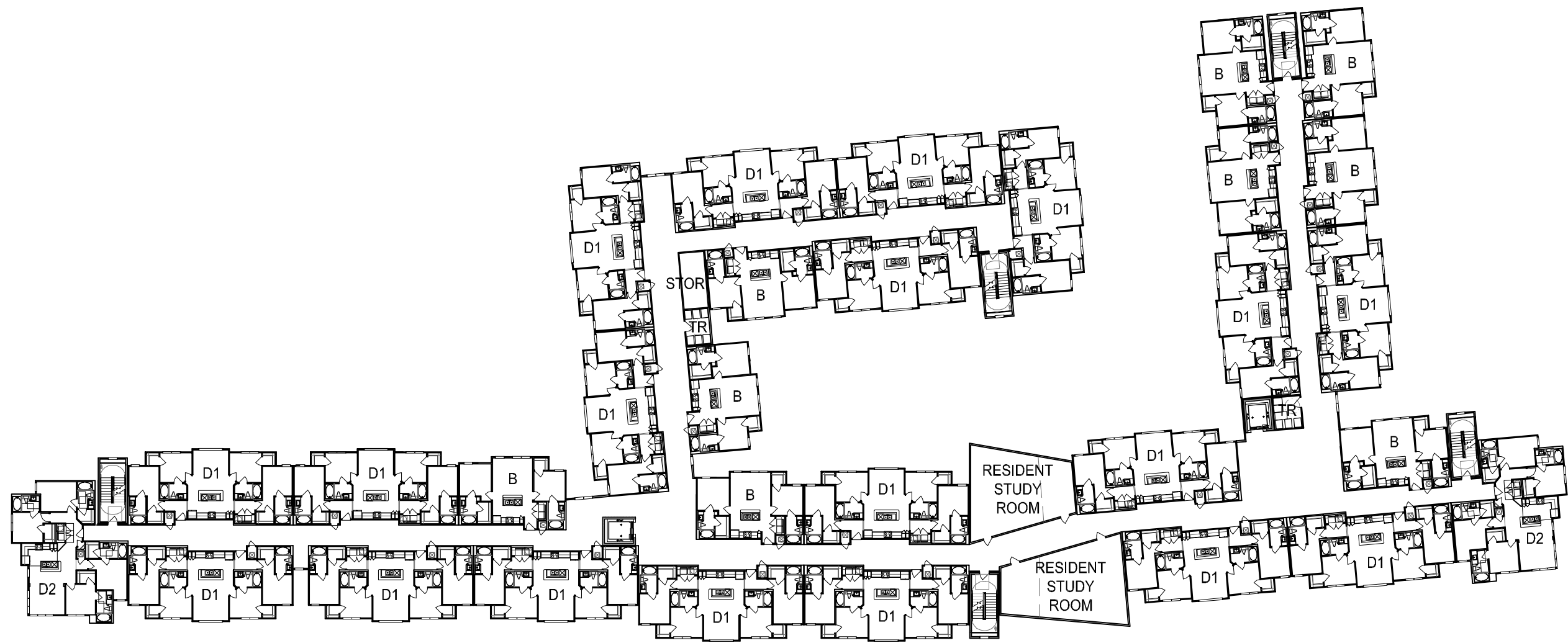
Draft PUD Overlay
NDSU Foundation Addition
2-27-2017

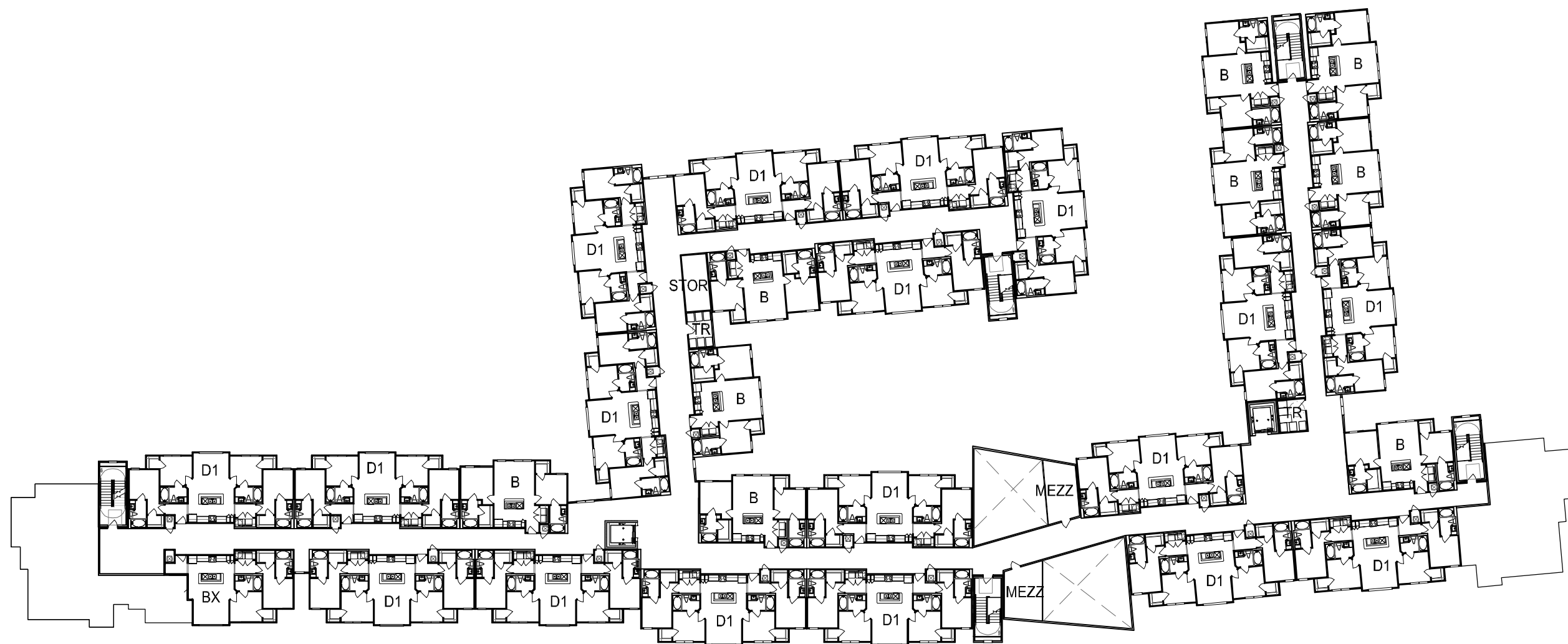
- j. Verandas, porches, balconies or decks
- k. Projected walls or dormers
- l. Variation of roof lines
- m. Decorative caps or chimneys

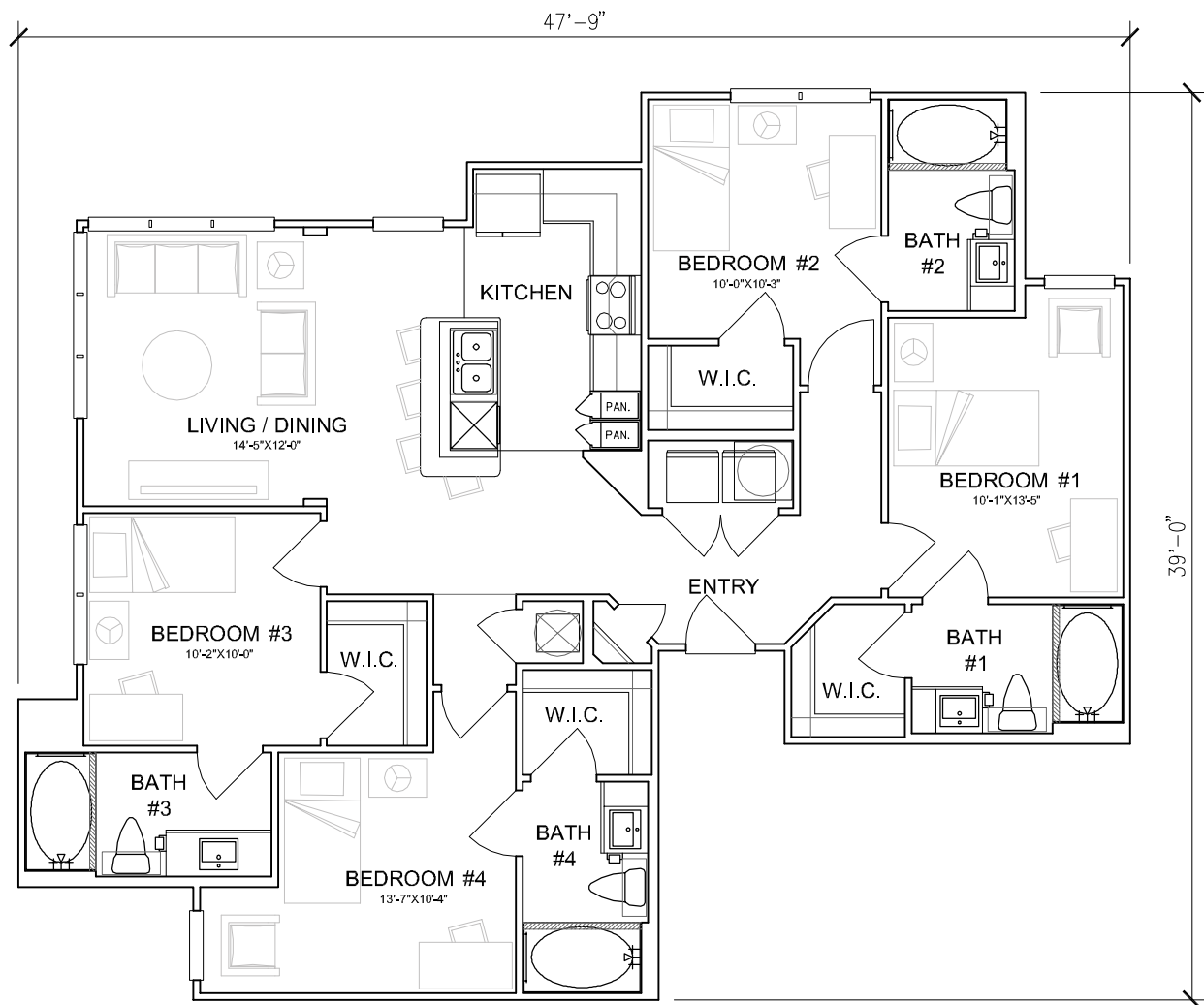




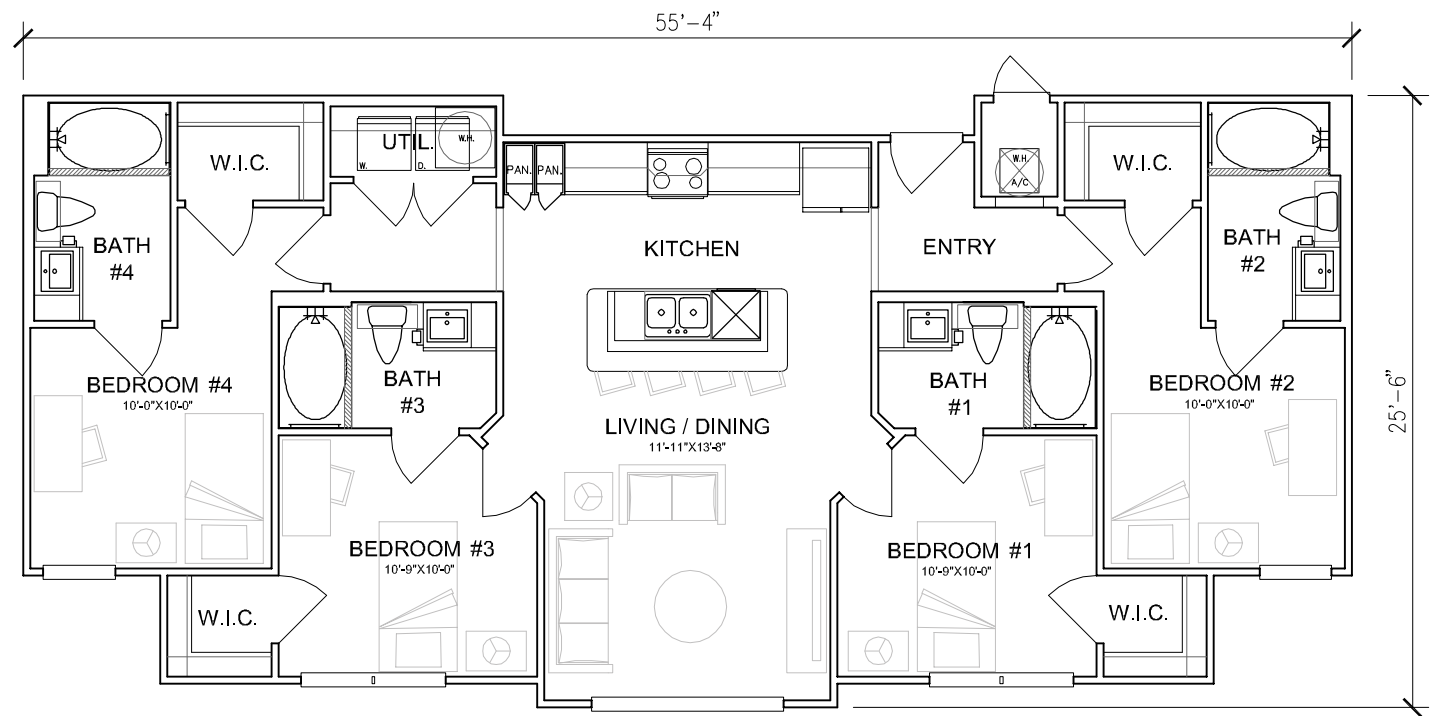




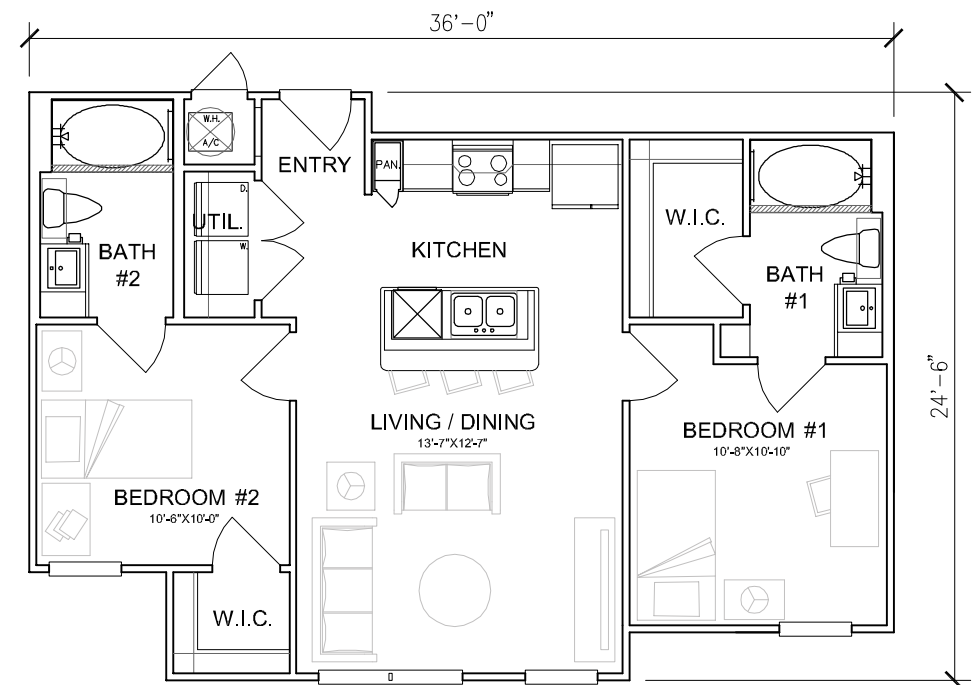




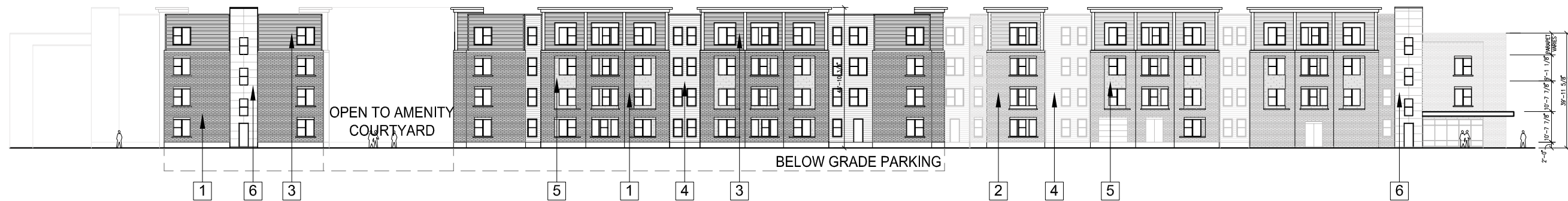
3 UNIT D2
1/8"=1'-0" 1361 NET S.F.
1366 GROSS S.F.



2 UNIT D1
1/8"=1'-0" 1284 NET S.F.
1284 GROSS S.F.



1 UNIT B2
1/8"=1'-0" 798 NET S.F.
798 GROSS S.F.



3 EAST ELEV (12TH STREET N.)
1' = 40'-0"



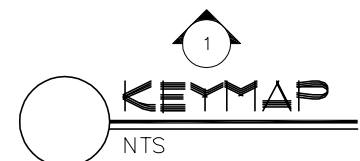
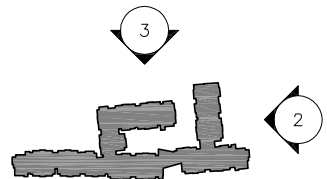
2 SOUTH ELEV (16TH STREET N.)
1' = 40'-0"



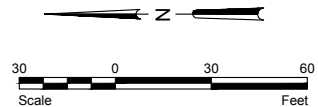
1 WEST ELEV (N. UNIVERSITY AVE)
1' = 40'-0"

- ## MATERIALS

1. BRICK VENEER 01
2. BRICK VENEER 02
3. FIBER CEMENT SIDING
(4" / 10" ALT EXPOSURE)
4. FIBER CEMENT SIDING
(8" EXPOSURE)
5. FIBER CEMENT SIDING
(FAUX WOOD FINISH)
6. METAL PANEL SYSTEM
7. STOREFRONT
8. METAL AWNING





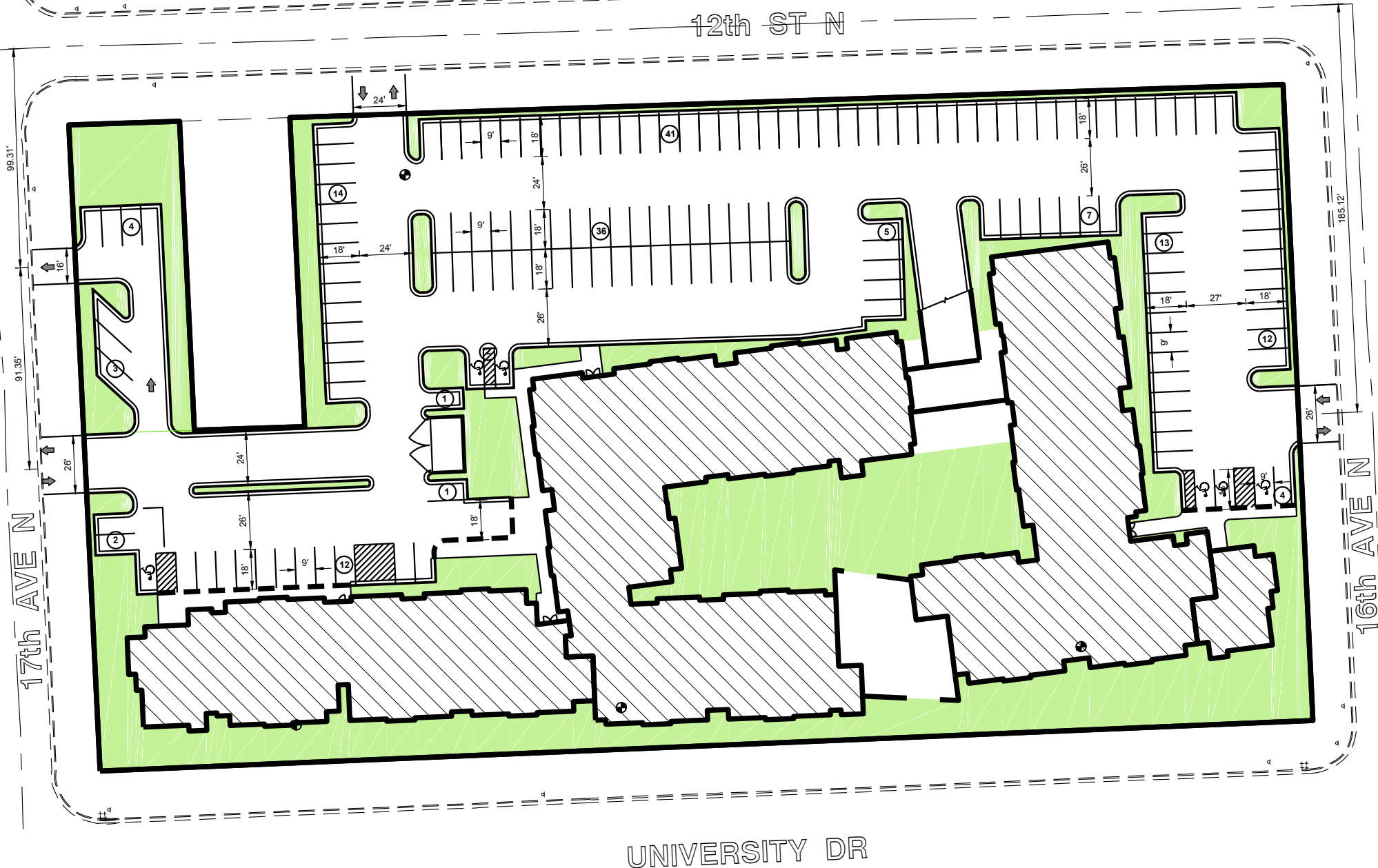


SCHEMATIC NUMBER OF PARKING STALLS:

MAIN LOT: 157 STALLS
GARAGE: 90 STALLS
TOTAL: 247 STALLS

OPEN SPACE AREA:

OPEN SPACE: 0.867 ACRES
PLAT AREA: 3.513 ACRES
OPEN SPACE %: 24.68%



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No.	Revision	Date	By

PRELIMINARY
Not for Construction



Fargo	Drawn by KNS, RLA	Date 2-27-17
P: 701.237.5065 F: 701.237.5101	Checked by BTP	Scale AS SHOWN

NDSU STUDENT HOUSING
NORTH DAKOTA STATE UNIVERSITY
FARGO, NORTH DAKOTA

PARKING LAYOUT
PROJECT NO. 6823-012

SHEET
1 of 2

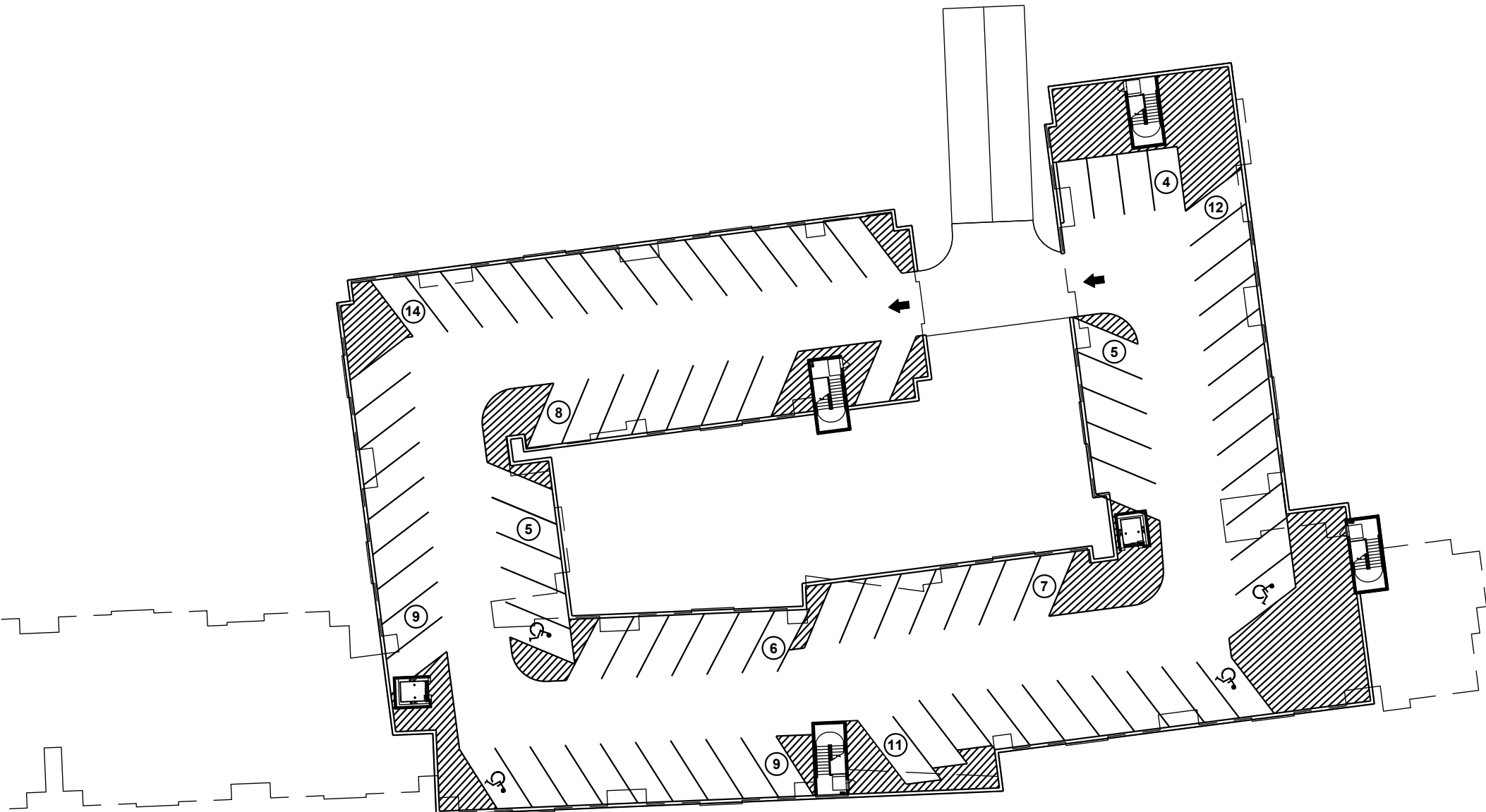


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No.	Revision	Date	By

PRELIMINARY
Not for Construction



Fargo
P: 701.237.5065
F: 701.237.5101

Drawn by KNS	Date 2-27-17
Checked by BTP	Scale AS SHOWN

NDSU STUDENT HOUSING
NORTH DAKOTA STATE UNIVERSITY
FARGO, NORTH DAKOTA

PARKING LAYOUT
PROJECT NO. 6823-012

SHEET
2 of 2

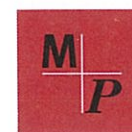




NDSU FOUNDATION AND
ALUMNI ASSOCIATION

PROFFUTT
LIMITED PARTNERSHIP

Meeks + Partners



Proj. No. 6823-012
Houston
Engineering Inc.
Ph: 701.237.5065



NDSU FOUNDATION AND
ALUMNI ASSOCIATION

PROFFUTT
LIMITED PARTNERSHIP

Meeks + Partners



Proj. No. 6823-012
Houston
Engineering Inc.
Ph: 701.237.5065



NDSU FOUNDATION AND
ALUMNI ASSOCIATION

PROFFUTT
LIMITED PARTNERSHIP

Meeks + Partners



Proj. No. 6823-012
Houston
Engineering Inc.
Ph: 701.237.5065

**PUD Narrative
NDSU Foundation Addition**

DEVELOPER'S STATEMENT OF INTENT: The project is fundamental to enhancing housing offerings to the NDSU community. The housing project will provide contemporary, purpose-built residential facility serving primarily NDSU sophomores, juniors, seniors, graduate students and potentially faculty and staff. The project will provide a higher density (MR3) of housing than current Single Dwelling.

The PUD will include a site plan for the development that is incorporated here by reference. The PUD will, generally, apply the MR-3 development standards, except as otherwise provided below:

	Current LDC development standards for MR-3 zone	PUD modifications to MR-3 development standards	NOTES
Allowed Uses	Detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	<i>Include additional uses allowed under LC except the following: Detention Facilities, Off-Premise Advertising, Parking Commercial, Self-Service Storage, Vehicle Repair, and Vehicle Service Limited</i>	See Attached
Lot Size	5,000 SF		<i>Meets Minimum</i>
Residential Density	24 du/ac	<i>32 du/acre</i>	<i>See Attached</i>
Setbacks	Front: 25 Interior Side: 10 Street Side: 12.5 Rear: 20	<i>Front: 10 ft Street Side 10 ft</i>	Double Front
Max. Height	60 feet		<i>Under 60 ft</i>
Building Coverage	35 % of lot area		Will meet max requirements @ 33%

Parking-Residential—Group Living	1 space per 100 square feet of sleeping area	178	4Bdrm units – 73 * 2.4 = 176 spaces
Parking-Residential—Multi-dwelling	2 spaces per unit plus 0.25 guest spaces per unit	39	2 Bdrm units – 36 * 1.1 = 40 spaces
Parking--Retail	Generally, 1 space per 250 square feet. LDC 20-0701 Table A lists parking for specific uses of restaurants, bank, health club		Will meet requirement 3892 sf / 250 = 16 spaces Site plan has 18 shown Total parking provided= 235
Landscaping—Open Space	35% minimum Open Space required.	<i>Request reduction in open space to 20%</i>	See Attached
Landscaping—Street Trees	1 tree per 50 linear feet of frontage along an arterial; one tree per 35 linear feet of frontage along a local street		Will meet requirement
Landscaping—Open Space	3 plant units per 1,000 sq. ft. of lot area or fraction thereof, with 8 sq. ft. per plant unit (20-0705 (C)(3) and table)	<i>Request removal of 70% requirement in front of building</i>	See Attached
Landscaping—Parking Lot Perimeter	Buffer width: 9 feet Plantings: 1 small tree + 6 shrubs/perennial grasses per 25 linear feet. Berm also an option (20-0705(D)) and table	<i>In lieu of planting buffer, screen wall, fence, or earthen berm with limited planting – 3 ft width</i>	See Attached

Residential Protection Standards (RPS)—Setback from abutting side and rear lot line	Off-street Parking Spaces: 10' Driveways: 10' Off-street Loading Spaces: 10' Accessory buildings: 10' Principal buildings: 15' Active recreational area: 20' Dumpsters: 20'		Will meet requirements
RPS—Front Setback	20 feet for 50 feet on either side of Demarais lot		Will meet requirements
RPS—Visual screening of dumpsters and outdoor storage areas	Screening must be at least as tall as dumpster		Will meet requirements
RPS—building height 75 feet from residential	35 feet		Will meet requirements
RPS—building height 76-100 feet from residential	45 feet	<i>Request 55 ft in relationship to Lot 10 (Remaining Residential Lot)</i>	
RPS—building height 101--150 feet from residential	55 feet		Will meet requirements
RPS-residential protection buffers	Type A 10 feet wide with 1 tree and 20 shrubs per 50 linear feet of buffer		Will meet requirements
RPS—operating hours	Collection of garbage, recyclables, loading, unloading prohibited between 10:00 p.m. and 6:00 a.m.		Will meet requirements

RPS--lighting	Lighting overspill onto SR-zoned lots not to exceed 0.4 footcandles (20-0704 (G))		Will meet requirements
RPS--odor	See 20-0704(H). <i>Planning staff note: this standard is probably not a concern for this project</i>		Will meet requirements

LDC REFERENCES:

PUD: 20-0301 (p. 31-33)

MR-3 Dimensional Standards: Table 20-0501 (p. 73)

Parking: 20-0701 (B) Table A (p.109—110)

Landscaping: 20-0705 (p. 128-134)

Residential Protection Standards: 20-0704 (p. 122-127)

Allowed Use Notes:

The City has limited zoning districts that allow mixed use developments. The planned development includes a small amount of commercial and office space in the proposed buildings. The intent is to provide a space for services that would serve the residents of the facility, NDSU students, and the surrounding neighborhood. The uses allowed in Limited Commercial would be proposed to be added to the permitted uses of MR-3 based zoning excluding the uses that would be incompatible with the building and adjacent residential areas.

Residential Density Notes:

There is a need for additional student and rental housing in the areas surrounding NDSU. Currently single family homes in the surrounding neighborhoods are purchased and converted to rental units. Increasing the density of the units on this parcel will help reduce the pressures on the adjacent residential neighborhoods for the conversion of single family homes and properties into rentals. The increased density will help maintain the adjacent residential neighborhoods as owner occupied properties.

Parking Reduction Notes:

Parking is known to be a concern for the residents and neighborhoods adjacent to the NDSU campus. The developer feels they are providing sufficient parking for the project as supported in

the provided documents. Additionally, as parking is a known concern the developer is working with the Dome Authority to pursue additional parking for the project. The Fargo Dome Authority has in the past partnered with NDSU to provide parking for students and commuter parking for off campus students.

Landscape Open Space Note:

A reduction in open space requirements is requested to provide for additional room for parking on site

Landscape Open Space Notes:

Removal of the requirement that 70% of the required planting units being placed in front setback of the building is requested because of the double frontage lot. There would be no reduction in the total required planting units. As the lot is surrounded by public right of way on all sides removal of the requirement that the majority of the planting units be in the front allows design flexibility on the landscape plan.

Landscape Parking Lot Perimeter Notes:

Request an alternate parking lot buffer of a screen wall, fence, or earthen berm with limited planting. Buffer width of 3'. Intent of the buffer would screen adjacent properties and right of way from headlights of vehicles in the parking lot. The proposed buffer would be a solid/opaque wall or fence of a sufficient height to block vehicle lights. Planting would be proposed to help break up the uniformity of the buffer and provide a visual break for the wall. The narrower buffer is requested to allow more parking on site.

Aaron Nelson

From: Jonathan <mrolofson@hotmail.com>
Sent: Monday, February 20, 2017 7:11 PM
To: Aaron Nelson
Subject: NDSU foundation addition

Follow Up Flag: Follow up
Flag Status: Flagged

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

Concerns for the meeting on March 7th.

What kind of parking is going to be available for this complex?

-I think you should plan on 1.25 spots per bedroom. There are getting to be a lot of rental property in my neighbor hood 8 cars parked to a house. The landlord will tell you there is only 3 people staying there when you know there is more and they all have a boyfriend or girlfriend there 4 nights of the week.

- I think you should have no parking on the streets on the three sides of the blocks that aren't university or at least during the school year when we have an issue.

Zone change

- Why are we holding this meeting if they don't own the whole Block? I wouldn't want to be the only person on the block in the middle of a parking lot. I am all for the complex if we have the parking for what is going up. We don't need a problem like you already have down town from the poor planning of Fargo before. NDSU has plenty of land to the west. Until they own the entire block lets leave it as it is.

I hope that myself and a few of the neighbors can make it an see what this is all about.

These same issues should come up when the new St.Pauls Newman center talks go on also.

If this is an NDSU Foundation addition does NDSU police help control the crime and parties?

Thanks

Jonathan Olofson
1421 11th ST. N
Fargo, ND 58102
Work Email if you need a faster response: Jolofson@genequip.com

**City of Fargo
Staff Report**

Title:	Text Amendment	Date:	2-27-2017
Location:	N/A	Staff Contact:	Aaron Nelson
Owner(s)/Applicant:	City of Fargo/Zoning Administrator	Engineer:	N/A
Entitlements Requested:	Text Amendment (Amending Sections within Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to the Regulation of Chickens)		
Status:	Planning Commission Public Hearing: March 7, 2017		

Proposed Text Amendment

The Zoning Administrator is seeking approval of a text amendment to Sections 20-0403 and 20-1203 of the Fargo Municipal Code relating to the regulation of chickens.

Background:

City staff has been directed by the City Commission to develop city ordinances to address the regulation of chickens within the City.

Currently there are two sections of the Municipal Code that address the keeping of poultry—Chapter 12 (Control and Protection of Animals, Birds and Fowl) and Chapter 20 (Land Development Code). These codes do not read well together and cause confusion for administration due to the fact up to four city departments are involved in the regulation and enforcement of these sections of code.

Also, within the last three years, the City has joined Fargo Moorhead Metropolitan Council of Government's Food Advisory Council—a joint agency advisory council on food systems for the region. The Fargo-Cass Public Health Department is the City's primary liaison to this group.

The subject of chicken regulations has come before the City Commission several times over the past several years. In 2014, the City Commission asked the FM food advisory council to research the subject and provide information on the topic regarding best practices. This group developed a "blueprint," which is a summary report analyzing other jurisdictional regulations as well as expertise in the practice of having chickens as accessory to residential in-city dwelling.

In Winter 2017, the Public Health and Planning Departments began working with the City Attorney to draft a comprehensive set of ordinances to define the process and requirements for the keeping of chickens at a residence, based on the Food Advisory Council's blueprint. In summary, a majority of these text edits will be made to Chapter 12 of the Municipal Code (Control and Protection of Animals, Birds and Fowl), while only minor changes will be made to the LDC. Chapter 12 will include provisions for the keeping of chickens, such as:

- Allowable number of chickens;
- Required permitting for chickens;
- Confinement of chickens (coops & runs); and
- Conditions, Inspections, & enforcement.

The minor amendments proposed to be made to the Land Development Code (LDC) are only intended to 1) clarify that the keeping of chickens is a permitted accessory use to *household living* land uses, and 2) refer the reader to Chapter 12 of the Municipal Code for additional details and laws regulating the keeping of chickens. These specific amendments to the LDC are shown in the attached draft ordinance document.

Staff Analysis:

In accordance with §20-0904.E Review Criteria of the Land Development Code, proposed text amendments that

satisfy all of the following criteria may be approved.

1. The amendment must be consistent with the purpose of this Land Development Code;

Section 20-0104 of the LDC stipulates that the purpose and intent of the Land Development Code is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. The proposed amendment is consistent with the intent and purpose of the LDC because it seeks to clarify the keeping of chickens as an accessory use to household living in relation to policy direction of the City and other sections of the Municipal Code. **(Criteria Satisfied)**

2. The amendment must not adversely affect the public health, safety, or general welfare;

Staff finds that the amendment does not adversely affect the public health, safety, or general welfare. The proposed amendment is intended to clarify zoning provisions related to the keeping of chickens in conjunction with related amendments to Chapter 12 of the Municipal Code. The ultimate purpose of these amendments is to allow increased access to fresh local food. **(Criteria Satisfied)**

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

Staff finds that the proposed amendment is necessary because of changing social and economic conditions. There is increasing demand for urban agriculture which relates to new planning concepts such as local food systems which bolsters sustainability. Accordingly, the proposed amendment seeks to define zoning standards for the keeping of chickens in conjunction with amendments to Chapter 12 of the Municipal Code. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed text amendment to Sections 20-0403 and 20-1203 of Chapter 20 of the Fargo Municipal Code (Land Development Code), relating to the regulation of chickens, as the proposal meets the approval criteria of §20-0904.E(1-3) of the LDC."

Planning Commission Recommendation: March 7, 2017

Attachments:

1. Draft LDC Text Amendment
2. Draft Ordinance Amending Chapters 12 and 20 of the Municipal Code (full "Chicken Ordinance")

Sections 20-0403 of Article 20-04 of Chapter 20 is hereby amended as follows:

§20-0403 Accessory Uses

* * *

G. Keeping of Chickens

The keeping of chickens authorized by a city permit in accordance with article 12-03 shall not be considered an agricultural use but, rather, shall be considered an accessory use to household living. [See also §20-1203.G, Agricultural use category.]

Sections 20-1203 of Article 20-12 of Chapter 20 is hereby amended as follows:

* * *

C. Residential Use Categories

* * *

2. Household Living

a. Characteristics

Household Living is characterized by the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories).

b. Accessory Uses

Accessory uses commonly associated with Household Living are recreational activities, raising of pets, hobbies and parking of the occupants' vehicles. Home occupations are accessory uses that are subject to additional regulations (See Sec. 20-0403). The keeping of chickens authorized by a city permit under article 12-02 shall be considered an accessory use to household living. In SR-0 districts, the keeping of one or more horses shall be an acceptable use provided it is accessory to household living and provided that the following criteria are met:

- (1) There shall be a minimum of two (2) acres for one horse, and an additional acre for every additional horse kept on the property;
- (2) The number of horses permitted shall be based on the size of the portion of the lot to be used as an animal enclosure;
- (3) In subdivisions created prior to January 1, 2000, no structure intended for housing said animals shall be closer than 100 feet from any lot line; otherwise, no structure intended for housing said animals shall be closer than 200 feet from any lot line;

Draft LDC Text Amendment

- (4) All manure and other animal wastes shall be removed and disposed of properly on a regular basis; and
- (5) The residential use area shall be separated from the area to be used as an animal enclosure by a fence, and the entire animal enclosure area shall be fenced to prevent escape and subsequent damage to adjacent property.

Furthermore, in SR-0 districts, the keeping of one or more animals other than horses shall be a Conditional Use, subject to the procedures of Sec 20-0909. In evaluating such a Conditional Use, in addition to any other appropriate factors, the decision-maker shall consider the detrimental impact of keeping of such animals in comparison to the impact of the keeping of one or more horses.

c. Examples

Uses include living in houses, duplexes, triplexes, fourplexes and other multi-dwelling structures, retirement center apartments, manufactured housing and other structures with self-contained dwelling units.

d. Exceptions

Lodging in a dwelling unit or where less than two thirds of the units are rented on a monthly or longer basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.

* * *

A. Other Use Categories

1. Agriculture

a. Characteristics

Agriculture includes activities that primarily involve raising, producing or keeping plants or animals.

b. Accessory Uses

Accessory uses include dwellings for proprietors and employees of the use and animal training.

c. Examples

Examples include breeding or raising of fowl or other animals; dairy farms; stables; riding academies; kennels or other animal boarding places; farming, truck gardening, forestry, tree farming; and wholesale plant nurseries.

d. Exceptions

- (1) Uses involved in the processing of animal or plant products are classified as Manufacturing and Production.
- (2) Livestock auctions are classified as Wholesale Sales.
- (3) Plant nurseries that are oriented to retail sales are classified as Retail Sales and Service.
- (4) Uses that meet the definition “animal confinement” shall not be considered “agriculture” for the purpose of determining required

Draft LDC Text Amendment

zoning.

- (5) Residential uses that include the keeping of up to one horse per two (2) acres of lot shall not be considered “agriculture” for the purpose of determining required zoning and will be an acceptable accessory use in SR zoning districts which were zoned Ag-P2 (as defined by the Stanley Township’s zoning ordinance, or similar township or county zoning), prior to the extension of the City’s extraterritorial zoning jurisdiction to the subject property.
- (6) The keeping of chickens authorized by a city permit under article 12-02 shall not be considered an agricultural use but, rather, shall be considered an accessory use to household living.

**ORDINANCE AMENDING SECTIONS 12-0202, 12-0203, 12-0301, 12-0303, 12-0304 AND
ENACTING SECTIONS 12-0306 THROUGH 12-0316 OF
ARTICLES 12-02 AND 12-03 OF CHAPTER 12 THE FARGO MUNICIPAL CODE
RELATING TO DOMESTIC FOWL, WILD BIRDS AND PETS AND AMENDING
SECTIONS 20-0403 AND 20-1203 OF THE LAND DEVELOPMENT CODE RELATING
TO KEEPING OF CHICKENS AS AN ACCESSORY USE TO HOUSEHOLD LIVING**

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

Sections 12-0302, 12-0303 and 12-0304 of Article 12-03 of Chapter 12 of the Fargo Municipal Code are hereby amended as follows:

12-0301. Running at large of domestic fowl prohibited.--It shall be unlawful for the owner, keeper, or custodian of chickens, ducks, geese, turkeys, pigeons, or other domestic fowl to permit or allow the same to run at large within the limits of the city. *[[City Attorney drafting note: No amendment being suggested to this section. It is being shown for purposes of reflecting context. It will NOT be included in the final draft amending ordinance.]]*

12-0302. ~~Distance from dwellings~~No domestic fowl to be kept.—Except as permitted in this article, ~~No~~no chickens, geese, ducks, turkeys, pigeons, or other domestic fowl shall under any circumstances be kept ~~within an enclosure~~ within the city ~~at a distance less than 75 feet from any dwelling house without the written consent of the owner or tenants of said dwelling~~ except as may be permitted under the Land Development Code (Chapter 20 Fargo Municipal Code).

34 12-0303. Keeping of domestic fowl as public nuisance--Declaration.— Other than
35 the keeping of any chickens, ducks, geese, turkeys, pigeons, or other domestic fowl; as
36 permitted under the Land Development Code and other than the keeping of chickens under a
37 permit as provided by this article, but which cause unpleasant odors, or the noise from which
38 is an annoyance to persons in the vicinity, or which attract vermin, or which are a hazard or
39 danger to the health of persons living nearby, at a distance less than 200 feet from any dwelling
40 house, the keeping of any ducks, geese, turkeys, pigeons or other domestic fowl is declared to
41 be a public nuisance.

42 12-0304. Keeping of domestic fowl as public nuisance--Abatement.--Any person
43 who owns or keeps at any time within the limits of the city any fowl of any kind declared to
44 be a public nuisance, as set forth in § 12-0303, who shall fail, neglect or refuse to abate said
45 nuisance by destroying said fowl or removing said fowl from the city or by doing whatever
46 shall be necessary to the abatement of such nuisance within 10 days after notice thereof so to
47 do shall be deemed guilty of maintaining a public nuisance.

48 12-0305. Unlawful to kill harmless wild birds or to destroy eggs or nests.—Unless
49 otherwise permitted by law, it shall be unlawful for any person to kill or injure or attempt to
50 kill or injure any harmless wild bird as defined in 20.1-01-02, N.D.C.C., within the corporate
51 limits of the city or to injure or destroy the eggs or nest of any such bird within said corporate
52 limits.

53 *[[City Attorney drafting note: LINDA, when we codify these amendments, we should insert separate*
54 *comments for each of Sections 12-0306 thru 12-0310 to provide the “source” history of prior contents of*
55 *these sections but explaining that all said sections were previously repealed by Ord. No. 2924.*
56

57 12-0306. Unlawful to sell or display pet birds, animals, and fowl without a permit--Sale or
58 display of colored birds or animals prohibited.--

59 Source: 1952 Rev. Ord. 1037 (1958), repealed by Ord. No. 2824 (1997).
60

61 12-0307. Permit to sell or display pet birds, animals, and fowl issued
62 annually-- Fee--Application form.--

63 Source: 1965 Rev. Ord. 12-0307, 1544 (1973), repealed by Ord. No. 2824 (1997).
64

65 12-0308. Cruelty to pet birds, animals, and fowl prohibited.--

66 Source: 1952 Rev. Ord. 1037 (1958), repealed by Ord. No. 2824 (1997).
67

68 12-0309. Pet birds or animals shall be provided with clean and proper food and water.--

69 Source: 1952 Rev. Ord. 1037 (1958), repealed by Ord. No. 2824 (1997).
70

71 12-0310. Sale or display of pet birds, animals, and fowl--Penalty for violation.--

72 Source: 1952 Rev. Ord. 1037 (1958), repealed by Ord. No. 2824 (1997).____]]
73

74 **Section 2. Enactment.**

75 Sections 12-0306 through 12-0316 of Article 12-03 of Chapter 12 are hereby enacted as
76 follows:
77

78 12-0306. Keeping of chickens prohibited without permit.-- Chickens permitted. It is
79 unlawful for any person to own, control, keep, maintain or harbor chickens on any
80 premises within the City unless issued a permit to do so as provided in this section. No
81 permit shall be issued for the keeping or harboring of more than four (4) chickens on any
82 premises. The keeping or harboring of male chickens or roosters is prohibited.
83

84 12-0307. Definitions.-- The following definitions shall apply unless the context clearly
85 indicates or requires a different meaning.
86

- 87 A. "Chicken" means a female chicken or hen.
88
89 B. "At large" means a chicken out of its chicken coop or run, off the premises or not
90 under the custody and control of the owner.
91
92 C. "Chicken coop" means a structure for housing chickens made of wood or other
93 similar materials that provides shelter from the elements.
94
95 D. "Chicken run" means an enclosed outside yard for keeping chickens.
96
97 E. "Person" means for purposes of this article and unless the context suggests
98 otherwise, the resident, property owner, custodian, or keeper or of any chicken
99 and shall include, where the context of the provision allows, any natural person,
100 co-tenancy, partnership, corporation, limited liability company or other form of
101 separate business entity recognized by North Dakota state law.
102
103 F. "Premises" means, for purposes of this article only, a lot as defined by §20-1202.
104 [[Note: Section 20-1202 defines "lot" as: "The entire parcel of land occupied or intended
105 to be occupied by a principal building and its accessory buildings, or by a group such as a
106 dwelling group or automobile court and accessory buildings, including the yards, setbacks
107 and open spaces required by this Land Development Code and other applicable law. When a
108 lot is used together with 1 or more contiguous lots for a single use or unified development,
109 all of the lots so used, including any lots used for off-street parking, shall be considered a
110 single lot."]]

111 12-0308. Permit.-- No person shall maintain a chicken coop or chicken run unless
112 granted a permit by the city auditor. The permit shall be subject to all the terms and
113 conditions of this article and any additional conditions deemed necessary by the city
114 auditor to protect public health, safety and welfare. The city auditor shall issue said
115 permit for a period not to exceed one year, subject to annual renewal thereof. The initial
116 permit shall automatically expire at the end of the initial calendar year and, thereafter,
117 renewals of said permit shall extend for calendar-year periods. The necessary permit
118 application may be obtained from the city auditor. Included with the completed
119 application must be a scaled diagram that indicates the location of any chicken coop and
120 chicken run, and the approximate size and distance from adjoining structures and

property lines, the number of chickens to be maintained at the premises, and a statement that the applicant/permittee will at all times keep the chickens in accordance with this ordinance and all the conditions prescribed by the city auditor, or modification thereof, and failure to obey such conditions will constitute a violation of the provisions of this section and grounds for cancellation of the permit. To the extent a chicken coop or run is intended to be moveable, the scaled diagram shall indicate the area or areas into which they may be located should the permit be granted. No permit shall be issued for an incomplete application. Prior to issuance of an applicant's initial permit by the city auditor, the applicant must allow the city to inspect the applicant's proposed chicken coop and chicken run as installed and the city's inspector must approve the installation. A permit for the keeping of chickens may be revoked or suspended by the city auditor for any violation of this section following written notice or, upon request for renewal, the renewal permit may be refused by the city auditor. The permittee may appeal the revocation, suspension or refusal of renewal of the permit by timely request for a hearing before the board of health of the city. The request for hearing must be either postmarked or received in the city auditor's office within seven (7) days of the date of the notice. The board of health of the city shall hold a hearing on the permittee's request for hearing and shall render a decision on the matter after said hearing. The decision of the board of health may be further appealed to the board of city commissioners by filing a timely notice of appeal of the decision of the board of health of the city with the city auditor. The notice of appeal must be either postmarked or received in the city auditor's office within seven (7) days of the date of the decision of the board of health.

12-0309. Confinement.-- Every person who owns, controls, keeps, maintains, or harbors chickens must keep them confined at all times in a chicken coop and chicken run and may not allow the chickens to run at large.

12-0310. Chicken Coops and Chicken Runs.--

(a) Except as set forth in this section, chicken coops and runs, as accessory structures, must comply with the setback requirements set forth in Section 20-0403. Chicken coops and chicken runs may not be located within the front yard, and are subject to a three (3) foot setback from any adjacent premises. All chicken coops must be a minimum of four (4) square feet per chicken in size, may not exceed ten (10) square feet per chicken in size and may not exceed six (6) feet in total height from adjacent ground level. Attached fenced-in chicken runs must have a minimum of 10 square feet per chicken, including the chicken coop and may not exceed 20 square feet per chicken and fencing may not exceed six (6) feet in total height from adjacent ground level. Chicken runs may be enclosed with wood or woven wire materials or a combination thereof. Chicken feed must be kept in metal predator proof containers. Chicken manure may be placed in yard compost piles. To the extent the setback provisions of Section 20-0403 conflict with the setback or other provisions of this section, the setback or other provisions herein shall apply.

(b) Chicken coops must either be:

(i) Elevated with a clear open space of at least twenty-four (24) inches between the ground surface and framing/floor of the coop; or,

(ii) The coop floor, foundation and footings must be constructed using rodent resistant construction.

(c) Chicken coops are not allowed to be located in any part of a home or garage.

(d) Chickens must be secured in a chicken coop from sunset to sunrise each day.

(e) With respect to chickens owned or kept pursuant to a permit issued pursuant to this article, the slaughter and breeding of chickens on any premises within the city is prohibited.

12-0311. Conditions and Inspections.-- No person who owns, controls, keeps, maintains, or harbors chickens shall permit the premises where the chickens are kept to be maintained in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any chicken coop or chicken run authorized by permit under this section may be inspected at any reasonable time by the animal control officer, law enforcement officer, public health official or other employee or agent of the city. A person who has been issued a permit shall submit the same for examination upon demand by the animal control officer, law enforcement officer, public health official or other employee or agent of the city.

12-0312. Private Restrictions and Covenants on Property. -- Notwithstanding the issuance of a permit by the City, private restrictions and/or covenants on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, covenant declarations and deed restrictions. A permit issued to a person whose premises are subject to private restrictions and/or covenants that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

12-0313. Refusal to Grant or Renew Permit. -- The city auditor may refuse to grant or renew a permit to keep or maintain chickens for failure to comply with the provisions of this section, submitting an inaccurate or incomplete application, if the conditions of the permit are not met, if a nuisance condition is created, or if the public health and safety would be unreasonably endangered by the granting or renewing of such permit.

12-0314. Removal of chicken coop and chicken run. -- Any chicken coop or chicken run constructed or maintained on any premises shall be immediately removed from said

premises after the suspension, expiration or termination of the permit for said premises, or shall be removed after a period of thirty (30) days has transpired in which no chickens have been lawfully kept on the premises.

12-0316. Violation – keeping of chickens without permit. -- Any person who owns, controls, keeps, maintains or harbors chickens in the city of Fargo without obtaining or maintaining a current permit or after a permit has been suspended or revoked shall be guilty of an infraction.

Section 4. Amendment.

Sections 12-0202 and 12-0203 of Article 12-02 of Chapter 2 are hereby amended as follows:

12-0202. Rabbits and guinea pigs.--No rabbits or guinea pigs shall be kept within an enclosure within the city at a distance less than 300 feet from any dwelling house without the written consent of the owner or tenant of said dwelling.

12-0203. Unlawful to keep farm animals within city limits-- Public nuisance--Exceptions.-- It shall be unlawful for the owner or owners of any farm animal mentioned in § 12-0213 to allow the same to be kept within the limits of the city, except that such farm animals may be kept on property which is classified as “AG-Agricultural District” under the ~~zoning ordinances~~ Land Development Code (Fargo Municipal Code, Chapter 20) of the city of Fargo. It shall further be unlawful to allow any such farm animal to run at large on the streets, avenues, alleys, parks, or public grounds of the city, or to be tethered or staked out on the streets, parks, or public grounds of the city, or to be tethered or staked in such a manner as to go upon any street, sidewalk, crosswalk, or public ground within the city. Any such animals found within the corporate limits of the city except on property zoned with an “AG-Agricultural District” ~~zoning classification as herein provided~~, are declared to be public nuisances. This section shall not apply to the owners of any farm animals kept as a part of any state educational institution or the owners of any farm animals temporarily exhibited at any fair or agricultural exhibition, provided said animals are stabled and cared for in a sanitary manner approved by the health department.

230 Section 5. Amendment.

231 Sections 20-0403 of Article 20-04 of Chapter 20 is hereby amended as follows:

232 §20-0403 Accessory Uses

233 * * *

234 G. Keeping of Chickens

235
236 The keeping of chickens authorized by a city permit in accordance with article
237 12-03 shall not be considered an agricultural use but, rather, shall be considered
238 an accessory use to household living. [See also §20-1203.G, Agricultural use
239 category.]
240

241 Section 6. Amendment.

242 Sections 20-1203 of Article 20-12 of Chapter 20 is hereby amended as follows:

243
244 §20-1203. Use Categories.

245
246 * * *

247 **C. Residential Use Categories**

248 * * *

249 **2. Household Living**

250 **a. Characteristics**

251 Household Living is characterized by the residential occupancy of a dwelling unit by a
252 household. Tenancy is arranged on a month-to-month or longer basis. Uses where
253 tenancy may be arranged for a shorter period are not considered residential. They are
254 considered to be a form of transient lodging (see the Retail Sales and Service and
255 Community Service categories).
256

257 **b. Accessory Uses**

258 Accessory uses commonly associated with Household Living are recreational activities,
259 raising of pets, hobbies and parking of the occupants' vehicles. Home occupations are
260 accessory uses that are subject to additional regulations (See Sec. 20-0403). The keeping
261 of chickens authorized by a city permit under article 12-02 shall be considered an
262 accessory use to household living. In SR-0 districts, the keeping of one or more horses
263 shall be an acceptable use provided it is accessory to household living and provided that
264 the following criteria are met:
265

- 266 (1) There shall be a minimum of two (2) acres for one horse, and an additional acre for
267 every additional horse kept on the property;
268

- 269 (2) The number of horses permitted shall be based on the size of the portion of the lot
270 to be used as an animal enclosure;
271
272 (3) In subdivisions created prior to January 1, 2000, no structure intended for housing
273 said animals shall be closer than 100 feet from any lot line; otherwise, no structure
274 intended for housing said animals shall be closer than 200 feet from any lot line;
275
276 (4) All manure and other animal wastes shall be removed and disposed of properly on a
277 regular basis; and
278
279 (5) The residential use area shall be separated from the area to be used as an animal
280 enclosure by a fence, and the entire animal enclosure area shall be fenced to prevent
281 escape and subsequent damage to adjacent property.
282

283 Furthermore, in SR-0 districts, the keeping of one or more animals other than horses
284 shall be a Conditional Use, subject to the procedures of Sec 20-0909. In evaluating such
285 a Conditional Use, in addition to any other appropriate factors, the decision-maker
286 shall consider the detrimental impact of keeping of such animals in comparison to the
287 impact of the keeping of one or more horses.
288

289 **c. Examples**

290 Uses include living in houses, duplexes, triplexes, fourplexes and other multi-dwelling
291 structures, retirement center apartments, manufactured housing and other structures
292 with self-contained dwelling units.
293

294 **d. Exceptions**

295 Lodging in a dwelling unit or where less than two thirds of the units are rented on a
296 monthly or longer basis is considered a hotel or motel use and is classified in the Retail
297 Sales and Service category.
298

299 * * *

301 **G. Other Use Categories**

302 **1. Agriculture**

303 **a. Characteristics**

304 Agriculture includes activities that primarily involve raising, producing
305 or keeping plants or animals.

306 **b. Accessory Uses**

307 Accessory uses include dwellings for proprietors and employees of the
308 use and animal training.

309 **c. Examples**

310 Examples include breeding or raising of fowl or other animals; dairy
311 farms; stables; riding academies; kennels or other animal boarding
312 places; farming, truck gardening, forestry, tree farming; and wholesale
313 plant nurseries.

314 **d. Exceptions**

- 315 (1) Uses involved in the processing of animal or plant products are

- classified as Manufacturing and Production.
- (2) Livestock auctions are classified as Wholesale Sales.
- (3) Plant nurseries that are oriented to retail sales are classified as Retail Sales and Service.
- (4) Uses that meet the definition “animal confinement” shall not be considered “agriculture” for the purpose of determining required zoning.
- (5) Residential uses that include the keeping of up to one horse per two (2) acres of lot shall not be considered “agriculture” for the purpose of determining required zoning and will be an acceptable accessory use in SR zoning districts which were zoned Ag-P2 (as defined by the Stanley Township’s zoning ordinance, or similar township or county zoning), prior to the extension of the City’s extraterritorial zoning jurisdiction to the subject property.
- (6) The keeping of chickens authorized by a city permit under article 12-02 shall not be considered an agricultural use but, rather, shall be considered an accessory use to household living.

Section 7. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 8. Effective Date. This ordinance shall be in full force and effect from and after its passage and approval and publication.

Timothy J. Mahoney, Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

**City of Fargo
Staff Report**

Title:	LDC Text Amendment	Date:	2-27-2017
Location:	N/A	Staff Contact:	Aaron Nelson
Owner(s)/Applicant:	City of Fargo/Zoning Administrator	Engineer:	N/A
Entitlements Requested:	LDC Text Amendment (Amending Section 20-0501, Table 20-0501, and Section 20-0403(B.7) of the Fargo Municipal Code (Land Development Code) relating to residential dimensional standards.)		
Status:	Planning Commission Public Hearing: March 7, 2017		

Proposed Text Amendment

The Zoning Administrator is seeking approval of a text amendment to Section 20-0501, Table 20-0501, and Section 20-0403(B.7) of the Fargo Municipal Code (Land Development Code) relating to residential dimensional standards.

Background:

In 2015, in response to a large number of residential variance approvals, the Board of City Commissioners formed a task force in order to review existing residential zoning requirements and to provide a set of recommended modifications to those requirements. The attached White Paper provides an overview of the work of this task force and outlines the resulting recommendations. These recommendations have been grouped into short-, mid-, and long-term categories based on the anticipated ease of implementation for each. The City Commission received and filed the White Paper on February 13, 2017 and directed Planning Department staff and the City Attorney to proceed with the White Paper's short-term recommendations. As such, the proposed text amendment represents the short-term recommendations which are outlined below.

Interior-Side Setback:

Currently, the SR-2 and SR-3 zoning districts require an interior-side setback of 10% of the lot's width or 10 feet, whichever is less. The task force recommendation is to reduce this requirement to 10% of the lot's width or 5 feet, whichever is less. This amendment would have no effect on properties which are less than 50 feet wide since, in those cases, the 10% would be less. For lots wider than 50 feet, however, this proposed amendment would allow a reduced setback. For these lots, the reduced setback will allow for a larger building envelop with more room for expansion. A smaller setback is also more consistent with traditional neighborhoods.

Building Coverage:

Currently, the SR-2 and SR-3 zoning districts restrict building coverage to a maximum of 30% and 35% of the lot area, respectively. The task force recommends increasing both of these maximums by 5% in order to allow additional opportunity for limited expansion within these zoning districts. Increased building coverage on single-family lots is more typical of traditional urban neighborhoods.

Accessory Building Coverage:

Currently, building coverage of detached accessory structures may not exceed that of the principal building, with some exceptions. The task force recommends allowing accessory structure building coverage of up to 700 square feet regardless of the building coverage of the primary structure, in order to allow at least a two-stall garage for houses that have a building coverage of less than 700 square feet. To this end, the task force recommends that the LDC be amended so that building coverage of detached accessory structures may not exceed that of the principal building or 700 square feet, whichever is greater.

These specific amendments to the LDC are shown in the attached draft ordinance document.

Staff Analysis:

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

1. The amendment must be consistent with the purpose of this Land Development Code;

Section 20-0104 of the LDC stipulates that the purpose and intent of the Land Development Code is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. The proposed amendment is consistent with the intent and purpose of the LDC as it is intended to allow homeowners with additional flexibility to make improvements to homes and/or update older homes with modern amenities, allow homeowners and families to more easily age in place, and improve efficiency of building permitting. **(Criteria Satisfied)**

2. The amendment must not adversely affect the public health, safety, or general welfare;

Staff finds that the amendment does not adversely affect the public health, safety, or general welfare. The proposed amendment is intended to allow for the more efficient use of residential property, specifically within core neighborhoods where residential variance applications are highly concentrated. **(Criteria Satisfied)**

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

Staff finds that the proposed amendment is necessary because of changing social and economic conditions. Specifically, residents and home owners are seeking to modernize older homes within core neighborhoods which were originally developed more compactly than newer homes. Current zoning district dimensional standards are geared towards a more suburban development pattern and therefore restrict efforts to modify older homes within core neighborhoods. Accordingly, the proposed amendment seeks to help address this condition. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed text amendment to Section 20-0501, Table 20-0501, and Section 20-0403(B.7) of the Fargo Municipal Code (Land Development Code), as the proposal meets the approval criteria of §20-0904.E(1-3) of the LDC."

Planning Commission Recommendation: March 7, 2017

Attachments:

1. Draft LDC Text Amendment Ordinance
2. White Paper – Findings and recommendation of the LDC residential task force

§20-0403 - Accessory Uses

7. Building Coverage

Building coverage of detached accessory structures may not exceed that of the principal building **or 700 square feet, whichever is greater**; provided, however, that in MR zoning districts, garages accessory to multi-dwelling structures may not exceed 130 percent of the building coverage of the principal building, and in a UMU zoning district building coverage of detached accessory structures may not exceed 50 percent of the building coverage of the principal building, and in the SR-0 district, building coverage of detached accessory structures may not exceed 150 percent of the building coverage of the principal building and in SR-0, SR-1 and SR-2 districts when lot sizes are equal to or greater than 40,000 square feet in size, building coverage of detached accessory structures may not exceed the size as shown on Table 20-0403 below. Accessory buildings and structures shall be included in the calculation of total building coverage. In MR zoning districts, as to multi-dwelling structures with garages as accessory buildings, building coverage may be allowed up to 37.5 percent, provided there is a significant shared site amenity to be shared among the tenants included on the landscaping plan submitted during the building permit process. Examples of such amenities: gazebo with barbeque pit, volleyball court, basketball court, tot-lot/playground, swimming pool, or such other shared amenities as approved by the Zoning Administrator.

Table 20-0403

Lot Size	Maximum size of Accessory Structure
40,000 sq. ft. to 2 Ac.	4,000 sq. ft.
+ 2 Ac. to 3 Ac.	4,500 sq. ft.
+ 3 Ac. to 4 Ac.	5,000 sq. ft.
+ 4 Ac. to 5 Ac.	5,500 sq. ft.
+ 5 Ac. to 10 Ac.	6,000 sq. ft.

§20-0501 - Residential District Standards

The dimensional standards of Table 20-0501 apply to all development in MR-3 and more restrictive zoning districts.

Table 20-0501

Dimensional Standard	Zoning District										
	AG	SR-0	SR-1	SR-2	SR-3	SR-4	SR-5^[9]	MR-1	MR-2	MR-3	UMU
Maximum/Minimum Density (UPA - Units per Acre)	0.1 Max.	1.0 Max.	2.9 Max.	5.4 Max.	8.7 Max.	12.1 Max.	14.5 Max.	16.0 Max.	20.0 Max.	24.0 ^[1] Max.	18.0 Min.

Minimum Lot Size											
Area (Sq. Ft.)	10 Ac	1 Ac ^[2]	15,000	8,000	5,000	3,600	3,000	5,000	5,000	5,000	2,420
Width (Ft.)	200	120	80	60	50 ^[3]	34 ^[3]	25	50 ^[3]	50 ^[3]	50 ^[3]	50 ^[3]
Minimum Setbacks (Ft.)											
Front	50 ^[4]	50	35	30	20	15 ^[5]	15 ^[5]	25	25	25	10
Interior Side ^[6]	25	25	15%/15	10%/ 10 5	10%/ 10 5	4	4	15%/25	15%/25	10	5
Street Side	25 ^[7]	25	17.5	15	12.5	10	10	12.5	12.5	12.5	10
Rear	50	50	25	25	15	15	15	20	20	20	15
Watercourse Setback	[10]	[10]	[10]	[10]	[10]	[10]	[10]	[10]	[10]	[10]	[10]
Max. Building Coverage (Pct. of Lot)	NA	25	25	30-35	35-40	45	50	35 ^[8]	35 ^[8]	35 ^[8]	75
Minimum Open Space (Pct. of Lot)	NA	NA	NA	NA	NA	NA	NA	35	35	35	NA
Maximum Height (Ft.)	35	35	35	35	35	35	35	35	45	60	60

[1] Higher densities may be allowed in accordance with the Bonus Density provisions of Sec. 20-0505.

[2] SR-0 minimum district size is 20 acres. See Sec.20-0203-A.

[3] Minimum lot width subject to limitation of access as provided in Sec. 20-0702.

[4] Minimum 100 feet from right-of-way on Arterial or section line road.

[5] Minimum 20-foot setback shall be provided between front-entry garages and nearest edge of sidewalk crossing plate.

[6] #/# = Percent of Lot Width/Feet (whichever is less).

[7] Minimum 75 feet from right-of-way on Arterial or section line road.

[8] Maximum of 37.5 percent of building coverage shall be allowed if site amenity is provided in accordance with Sec. 20-0403.B.7. If the amenity is contained within the footprint of one primary structure, the floor area of that amenity is counted as open space, but is not subtracted from the area of the building.

[9] The SR-5 zoning district is limited to a maximum size of 21,000 square feet, but may exceed 21,000 square feet, up to a maximum of two acres provided the district is within 600 feet of a private or public dedicated open space feature, such as a public park, private park, school yard or playground that is accessible to residents of the SR-5 district, any of which shall be a minimum of two acres or more in size. For purposes of identifying a single SR-5 zoning district, parcels adjacent to one another that are, or will be, the same zoning classification shall be deemed to be within the same zoning district and, therefore, shall be subject to the maximum size limitation.

[10] Watercourse setbacks for all residential, nonresidential and overlay/special zoning districts are as set forth in Section 20-0508.



WHITE PAPER

Findings and recommendations of the LDC residential task force

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Abstract

In response to a large number of residential variance applications being approved by the City, the Board of City Commissioners formed a task force for the purpose of reviewing existing residential zoning requirements and to provide a set of recommended modifications to those requirements. The task force identified the primary issue as being a disconnect between the city's goals for residential development and the requirements of the Land Development Code (LDC), which results in a lengthy and prescriptive variance process which can yield unpredictable outcomes. While exploring this issue, setbacks, building coverage, and accessory building height were found to be the LDC standards which were most problematic.

While developing possible alternatives to address the specific issues identified, consideration was given to the complexity of possible recommendations and the corresponding time and resource commitment that would be necessary to effectively carry out those recommendations. Ultimately, the task force has proposed phased recommendations of short-, mid-, and long-term amendments to the LDC. Short-term recommendations are intended to be achievable within a few months and include reductions to interior-side setback standards and slight increases to maximum building coverage requirements of the SR-2 and SR-3 zoning districts, as well as moderate increases to accessory structure coverage requirements for SR zoning districts. Mid-term recommendations are intended for a one- to two-year timeframe and include exploration of additional considerations for accessory building height, adding flexibility for accessory structure setbacks, and an evaluation of current setback averaging language. In addition, it is recommended that the LDC be broadly evaluated for consistency with the Go2030 Comprehensive Plan and related policies. Lastly, long-term recommendations were proposed which were seen as being the most comprehensive way to address the issues identified. However, these long-term recommendations are beyond the task force's scope of review and are intended to be topics of consideration for future large-scale updates to the Land Development Code. One long-term recommendation is to explore the creation of a "traditional neighborhood" residential zoning district (or districts) that would be unique to the core neighborhoods of Fargo. The other long-term recommendation is to explore options for developing an improved project review process that is efficient and that also is able to consider context of design. While differing in scope and timeframe, all of these recommendations are geared towards reaching task force's vision for the city to be able to quickly and efficiently approve residential construction projects that are in line with the adopted policies and goals of the City of Fargo.

Introduction

Background

On November 24, 2014, the Fargo Board of City Commissioners directed staff to create a task force to review codes to adapt to existing and older neighborhoods, in response to a number of previous variance requests which had been appealed to the City Commission. Accordingly, on March 30, 2015, staff presented the Board of City Commissioners with a proposal to establish a task force which would consist of two city commissioners, two planning commissioners, two members of the Board of Adjustment and two members of the Historic Preservation Commission. This proposal was approved by the Board of City Commissioners and over the remainder of the year, four task force meetings were held in order to examine the issue and work towards a possible solution. A fifth and final meeting of the task force was held on February 3, 2017 in order to finalize the proposed recommendations.

Problem Statement

A variance can be described as an exception to a zoning district dimensional standard which is approved by the City on an individual basis. Among other things, to qualify for a variance a physical hardship that is unique to the property must be demonstrated. This requirement is difficult to meet and, as a result, most variance requests are not granted by the Board of Adjustment. Approximately twelve applications for a variance from the LDC dimensional standards are heard each year by the Board of Adjustment, most of which are denied. Of those denials, about half are appealed to the City Commission where the Board of Adjustment's decisions are typically overturned and the variances approved. As a matter of practice, the City Commission will often weigh other policies and factors (other than the variance review criteria) when acting on a variance appeal. This differs from the Board of Adjustment's review process, which is based strictly on the five variance review criteria defined by the Land Development Code (LDC).

In addition to the cases that are heard by the Board of Adjustment, staff members from the Inspections and Planning departments discuss variance options with approximately one potential applicant per week on average during the construction season. Only property owners willing to pay the fee and spend the time to proceed to a variance option submit an application. Of those, only applicants that have the patience and confidence decide to appeal to City Commission. As such, staff believes that there is the potential of varied results for what initially could be a similar application. As a matter of principle, staff strives for consistent application of policies and codes. Accordingly, the following two problem statements were developed by the task force in order to define the scope of the issues to be addressed.

Primary Problem Statement

Vision: The City would like to be able to quickly and efficiently approve residential construction projects that are in line with the adopted policies and goals of the City of Fargo.

Issue: Currently, there are many residential construction projects in core neighborhoods which are generally believed to substantially align with city policy and goals, but that cannot be quickly and efficiently approved

because they require a variance due to minor infringement of LDC dimensional standards. While these variances are generally believed to be reasonable, most must be denied by the Board of Adjustment because the review criteria cannot be met, resulting in a lengthy appeals process through the City Commission which consumes time, resources, and energy of City Commissioners, Board of Adjustment members, home owners, and city staff.

Secondary Problem Statement

Vision: *The City desires that construction and redevelopment within core neighborhoods be done in a manner that is contextually consistent with surrounding properties in order to stabilize, protect, and maintain the historic and unique character of individual neighborhoods.*

Issue: *Within core neighborhoods, there is concern that residential buildings and additions can be constructed that could detract from the surrounding neighborhood because they are not constructed in a manner that is contextually consistent with surrounding properties. These buildings generally tend to stand out when contrasted against the existing neighborhood form, whether due to inconsistent scale, style, materials, etc. As a result, they are typically viewed by neighboring residents as having a negative effect on surrounding property values.*

Process

Study Area

To determine the study area which the task force would focus on over the course of this process, the geographic distribution of several factors were examined, including the year of house construction, location of properties for which variances were requested, residential lot size, residential square-footage, and location of properties which have utilized community development programs or rehab funding. Ultimately, the task force decided to use the area between 19th Avenue N and Interstate 94 (north-south) and the area between 25th Street and the Red River (east-west) as the general study area to focus on.

Identified Issues

In reviewing historical variance records from the past twelve years, three types of variance requests were identified as being most common. Variances from setback standards made up a vast majority of the applications, followed by building coverage and then accessory building height. Of the requested setback variances, interior-side setback variances were most common. Below is a summary of some of the issues associated with each of these types of dimensional standards.

Setbacks

Setbacks are defined as, “the unobstructed, unoccupied open area between the furthestmost projection of a structure and the property line of the lot on which the structure is located.” As previously mentioned, a majority of variance requests involve the reduction of setback distances, especially interior-side setbacks. Staff suggests that these setback issues are common within the City’s older neighborhoods because most of the existing houses do not comply with current setback requirements, as they were built prior to the adoption of the current zoning code. While traditional urban neighborhoods were developed with houses on smaller lots spaced closely together, the City’s current zoning code is more apt for a suburban style of neighborhood development. In addition, staff suggests that changes in market demand for residential houses have also contributed to the issue. There is an increased demand by homeowners for more living space and additional garage stalls compared to when most of the City’s traditional neighborhoods were developed. Consequently, it is common for homeowners in these older neighborhoods to construct additions onto existing homes or to add or replace older garages with larger ones.

Additionally, current setback requirements can vary among properties depending upon other factors, such as zoning district and/or lot width. There is a wide variety of setback standards among the City’s Single-Dwelling Residential zoning districts (SR-0 to SR-5). Interior-side setbacks, for example, can range from 4 feet to 10 feet. In addition, many of the interior-side setback requirements are determined by the lot’s width. In many cases, this can result in two different interior-side setback requirements for abutting properties, even if neighboring property owners agree to a reduced interior-side setback. Another factor that can affect a property’s setbacks is the provision in the LDC for “setback averaging,” which is presumably intended to create a unified front setback along individual blocks. Unfortunately, this setback averaging provision is not clearly written and is a challenge to administer.

Building Coverage

Building coverage is defined as, “the area of a lot covered by buildings (principal & accessory) or roofed areas.” Similar to setbacks, staff suggests that building coverage issues also result from modern market demands for more space and larger garages in older neighborhoods which have traditionally smaller lots. For example, a 900 square-foot house with a 600 square-foot garage on a 4,000 square-foot lot would exceed the maximum building coverage for the SR-3 zoning district and would therefore not be allowed to expand without approval of a variance.

The LDC also restricts accessory structures from having more building coverage than the primary structure. This creates issues for property owners with small houses who would like additional garage space. It should be noted that attached garages are considered part of the primary structure and are therefore not subject to this restriction.

Building Height

Building height is defined as, “the vertical distance between the average finished grade at the base of the building along the side of the building being measured and: 1) the average height level between the eaves and ridge line of a gable, hip or gambrel roof; 2) the highest point of a mansard roof; or 3) the highest point of the coping of a flat roof.” Most requests for variances of building height maximums are for accessory structures. With a few exceptions, accessory buildings are restricted to a maximum of 15 feet in Single-Dwelling Residential (SR) zoning districts. Although accessory structures are subject to relaxed setbacks when located in the rear yard area, accessory structures are still limited to a maximum height of 15 feet when located within the standard setbacks of the primary structure. This restriction causes issues for property owners who wish to build a taller detached garage, either to store a larger vehicle or to build a second story “bonus room.” Currently, property owners are able to build taller accessory structures by utilizing a gambrel (barn-style) or A-frame roof with low hanging eaves. Although these types of accessory structures meet the letter of the law, this is generally seen as somewhat of a loop-hole which does not meet the intent of the law.

Other Issues

In addition to the dimensional standards outlined above, several other topics were identified by task force members as being potential issues, such as the potential for accessory dwelling units (also referred to as “granny flats”), exemptions for front porches, the context/compatibility of design for variance requests, and the establishment of “build-to” lines as opposed to setbacks. Currently, the LDC is silent on allowing additional dwelling units that are accessory to single-family house; uncovered porches may encroach into required setback areas, but covered porches must comply with setbacks; the design of a building is not a variance review criterion; and build-to lines are not currently required. Although these potential issues are related to residential development in the City’s core neighborhoods, most of these were found to be beyond the scope of analysis for this task force.

Development of Alternatives

Once the primary issues were identified, the task force began to formulate and discuss possible solutions. The possible solution alternatives range in scale from small tweaks to some of the dimensional standards on the simple end, to the development of new processes on the more-complex end. Several examples of possible alternatives are detailed below:

Amended dimensional standards

One option was to simply amend the dimensional standards in order to reduce the requirements for things such as minimum setbacks, maximum height, and maximum building coverage. These types of amendments could be tailored to individual zoning districts. However, amendments made to existing zoning districts would apply within those zoning districts throughout the City, and not just within the study area.

Creation of new zoning district

Creating one or more new residential zoning district(s) is an alternative option to amending the dimensional standards of existing zoning districts. In reviewing other municipalities' zoning codes, several examples of "traditional residential" zoning districts were found. In other cities, these traditional residential zoning districts are applied exclusively to historic/older neighborhoods and allow for a more-traditional pattern of development compared to suburban or newer patterns of development.

Creation of an administrative waiver process

An alternative to amending any of the LDC dimensional standards would be to create a new process to allow deviation from the zoning district dimensional standards of the LDC. Currently, there are a couple of different types of zoning standards that may be modified via an administratively reviewed waiver process, such as *residential protection standards* and *off-street parking standards*. In both cases, the decision of the zoning administrator may be appealed to the Planning Commission, and ultimately to the City Commission. By creating a similar waiver process for deviations from the LDC dimensional standards, unique criteria or requirements could be established in order to compel a higher standard of design whenever a dimensional waiver is granted. A waiver process may allow an opportunity to integrate design considerations (such as context, character, and/or compatibility of design) into the review process. For example, if a waiver were to be granted to allow a taller detached structure, maybe a specific roof type/pitch would be required along with additional setback distances and landscaping.

Amendment of the variance approval criteria

Similar to creating a waiver process, amending the variance approval criteria is another option. Currently, the variance review criteria are somewhat restrictive due to the fact that before a variance may be granted, it must be found that a physical hardship exists which is unique to the property and that prevents the normal use of the property. The variance review criteria could be amended to reduce the degree to which a hardship needs to be shown. This option is limited, however, due to variance requirements that are outlined within the North Dakota Century Code. Although the City of Fargo's variance criteria expand upon the State requirements, the showing of an unnecessary hardship would still be required for the granting of a variance per the Century Code.

No action

A final alternative would be to take no action. When making a determination on the best course of action, it is often helpful to compare alternatives to a “no action” alternative. A no action alternative can be used as a benchmark when considering the pros and cons of each of the alternative options.

Recommendations

In considering the possible alternative options, the degree of change and the corresponding time commitment that would be required of staff were important factors. With the City's continuous rate of growth, staff and commissioners are currently having to juggle many competing priorities. Accordingly, the task force and staff from the Department of Planning & Development have developed multiple recommendations ranging from short-term to long-term. Short-term recommendations include minor edits to the LDC text that should alleviate some of the problem. Mid-term recommendations also represent minor edits to the LDC text; however, these proposed edits could be expanded upon to address related issues. These recommendations are listed as mid-term since additional policy discussion should be had in order to identify the scope of such edits and to work through the details of the ordinance language itself. It is anticipated that mid-term recommendations could be addressed within the next one or two years. Lastly, long-term alternatives involve the creation of new processes and zoning districts through larger revisions to the LDC. The short-term recommendations have been specifically defined, whereas the mid- and long-term recommendations are abstract and would require additional analysis and direction from city leadership.

Short-Term Recommendations

There are several simple edits that could be made to some of the zoning district dimensional standards which could allow for a limited increase in the intensity of development within single-family zoning districts, and thereby alleviate some of the demand for variances. The task force recommends edits to the interior-side setback and building coverage requirements of the SR-2 and SR-3 zoning districts, as well as edits to the accessory structure coverage requirements for all residential zoning districts. Each of these three recommended changes are outlined below.

Interior-Side Setback

Currently, the SR-2 and SR-3 zoning districts require an interior-side setback of 10% of the lot's width or 10 feet, whichever is less. The task force recommendation is to reduce this requirement to 10% of the lot's width or 5 feet, whichever is less. This amendment would have no effect on properties which are less than 50 feet wide since, in those cases, the 10% would be less. For lots wider than 50 feet, however, this proposed amendment would allow a reduced setback. For these lots, the reduced setback will allow for a larger building envelop with more room for expansion. A smaller setback is also more consistent with traditional neighborhoods.

Building Coverage

Currently, the SR-2 and SR-3 zoning districts restrict building coverage to a maximum of 30% and 35% of the lot area, respectively. The task force recommends increasing both of these maximums by 5% in order to allow additional opportunity for limited expansion within these zoning districts. Increased building coverage on single-family lots is more typical of traditional urban neighborhoods.

Accessory Building Coverage

Currently, building coverage of detached accessory structures may not exceed that of the principal building, with some exceptions. The task force recommends allowing accessory structure building coverage of up to 700 square feet regardless of the building coverage of the primary structure, in order to allow at least a two-stall garage for houses that have a building coverage of less than 700 square feet. To this end, the task force recommends that the LDC be amended to so that building coverage of detached accessory structures may not exceed that of the principal building or 700 square feet, whichever is greater.

Mid-Term Recommendations

There are additional edits that could be made to the Land Development Code in order to alleviate some of the demand for variances. These recommendations are based on discussion had by the task force, but that are related to topics that are outside of the scope of this task force and/or require additional input and direction from City leadership. It is the intent of the task force that if the City Commission wishes to pursue some or all of these mid-term recommendations, that additional direction be given to either the task force or City staff to further evaluate and define these recommendations.

Accessory Building Height

The task force recommends that a more-comprehensive review of accessory structures be conducted in the mid-term. Considerations should be made for the overall height or number of stories for accessory structures. Many variances are requested for the purpose of allowing for taller garage door clearance or constructing usable space in the second story of an accessory garage. However, two-story accessory buildings could have the potential to dominate the surrounding area, especially in neighborhoods predominated by single-story houses. One possible way to address overly tall accessory structures would be to restrict the ridge line of a gable, hip, or gambrel roof to an overall maximum of 20 feet in height. The intent of creating a maximum ridge line height is to close (or shrink) the loop-hole which allows two-story accessory structures built with low-hanging eaves. For example, today, if the eaves of the roof extend to the ground, the ridge line could be constructed to 30 feet in height.

Accessory structures also provide opportunity for additional intensity and density within the developed and serviced areas of the City, which is in line with some of the goals of the Go2030 Comprehensive Plan. Accessory dwelling units (also known as ADUs or “granny flats”) are becoming increasingly common across the nation. While reviewing accessory building height requirements, staff recommends also having a deeper policy discussion on the potential opportunities and benefits that accessory structures could provide.

Accessory Structure Setbacks

In addition to height, it is also recommended that consideration also be given to allowing flexibility for accessory structure setbacks. One option may be to create an administrative review process similar to the LDC’s current process for administrative review of minor parking reductions. This option would involve 1) staff review of a proposed deviation from the accessory structure setback requirements within a set of defined parameters or criteria, 2) notification and appeal opportunity for neighboring

property owners, and 3) a defined process for the Planning Commission or Board of Adjustment to review appeals of staff's decisions.

Setback Averaging

As referenced in the *Identified Issues* section of this report, the LDC currently includes a provision for "setback averaging" which is not clearly written and is therefore tough to administer. It is staff's recommendation that the merits of having such a provision be evaluated for possible removal from the LDC. If, however, it is found that such a provision is needed, staff recommends that the requirements be simplified and rewritten to improve the understanding of such requirements and to improve the consistency of administration of requirements.

Comprehensive LDC Review

It was generally recognized by the task force that a more comprehensive update to the Land Development Code would be necessary in order to most properly align the City's goals (as expressed by the City Commission and as outlined in the Go2030 Comprehensive Plan) with zoning and development requirements. However, because a rewrite of the Land Development Code is well outside of the scope identified for this task force, it is recommended that a comprehensive review of the Land Development Code be undertaken in order to assess its effectiveness in advancing the goals of the Go2030 Comprehensive Plan and related city policies in relation to alternative best practices for growth management and land development.

Long-Term Recommendations

In the absence of a comprehensive update to the Land Development code as discussed above, staff has outlined two long-term recommendations that are focused on residential development, specifically within the City's older neighborhoods.

Creation of traditional neighborhood residential zoning district

Staff's first long-term recommendation is to create a traditional neighborhood residential zoning district (or districts) that would allow for the customization of dimensional standards in traditional neighborhoods. The purpose of such a zoning district would be to encourage and allow residential development that would be consistent with the dimensions and intensity of traditional neighborhoods, but that also respects the design and character of such historic places. While the task force's primary objective was to analyze the current dimensional standards as they relate to older residential areas, there was also clear desire for there to be sensitivity towards the character of these established neighborhoods. This concern regarding design and character is reflected in the task force's adoption of the secondary problem statement. Staff suggests that some of the components and lessons learned from the City's current Historic Overlay zoning districts could be uniformly applied to such a traditional neighborhood residential zoning district.

Creation of an improved review process

Even with the adoption of all other recommendations presented, there will still undoubtedly be situations where deviation from the zoning standards is requested. Based on the visions presented in the task force's primary and secondary problem statements, it is desirable for there to be an improved review process which is quick and efficient while also integrating context of design into the review

process. Such a review process could take a variety of forms, whether it would involve special permitting, zoning map amendment, administrative review, etc. Regardless of the form such a process would take, it is staff's recommendation that the process should somehow encourage quality design. The task force recognized that context and design play a key factor in how a building project or redevelopment is perceived to impact a neighborhood.