

FARGO CITY COMMISSION AGENDA
Tuesday, May 30, 2023 - 5:00 p.m.

Executive Session at 4:30 p.m.

Roll Call.

PLEASE NOTE: The Board of City Commissioners will convene at 4:30 p.m. and retire into Executive Session for the purpose of attorney consultation pertaining to 501 Main Avenue. To discuss the risks, strengths or weaknesses of an action of the public entity in an open meeting will have a negative fiscal effect on the bargaining and/or litigation position of the City of Fargo. Thus, an Executive Session for said matters is authorized pursuant to North Dakota Century Code §44-04-19.1 subsection 2.

Regular Meeting at 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, May 15, 2023).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. 1st reading of an Ordinance Amending Section 1-0305(C)(7) of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Classification of Ordinance Violations.
- 2. 2nd reading and final adoption of an Ordinance Amending Section 21.1-0102 of Article 21.1-01 of Chapter 21.1 of the Fargo Municipal Code Relating to the International Residential Code; 1st reading, 5/15/23.
- 3. 2nd reading and final adoption of an Ordinance Rezoning a Certain Parcel of Land Lying in Dakota Commerce Center North Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 5/15/23.
- 4. 2nd reading and final adoption of an Ordinance Annexing a Certain Parcel of Land Lying in a Portion of the Northeast Quarter of Section 15, Township 140 North, Range 49 West of the 5th Principal Meridian in Cass County, North Dakota; 1st reading, 5/15/23.
- 5. Property Damage Release with Justin Bremer and Progressive Northwestern Insurance Company.
- 6. Applications for Games of Chance:
 - a. El Zagal Provost Gaming for a sports pool from 9/10/23 to 12/17/23.
 - b. Villa Nazareth DBA CHI Friendship for a raffle on 10/13/23.

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- c. FM AM Rotary for a sports pool from 9/11/23 to 2/11/24.
 - d. Nordic Culture Clubs for a raffle on 6/23/23.
 - e. Vietnam Veterans of America Chapter 941 for a calendar raffle from 8/1/23 to 8/31/23.
 - f. River Keepers for a raffle on 6/12/23.
 - g. Scottish Rite Holding Company for a raffle on 11/19/23.
 - h. UND Alumni Association & Foundation for a raffle on 6/28/23.

7. Site Authorizations for Games of Chance:

- a. Northern Prairie Performing Arts at SouthTown PourHouse.
 - b. Northern Prairie Performing Arts at Windbreak Lounge.
 - c. Sharehouse, Inc. at Baymont Inn/Alibi Lounge and Casino.
 - d. Sharehouse, Inc. at Bismarck Tavern.
 - e. Sharehouse, Inc. at Rick's Bar.
 - f. Sharehouse, Inc. at The RoundUp Saloon.
 - g. Sharehouse, Inc. at Woody's.
 - h. Team Makers Club, Inc. at Holiday Inn.
 - i. American Gold Gymnastics, Inc. at The Box.
 - j. Fargo Youth Hockey Association at Buffalo Wild Wings – 42nd.
 - k. Fargo Youth Hockey Association at Buffalo Wild Wings – 19th.
 - l. Fargo Youth Hockey Association at Dogleg North.
 - m. Fargo Youth Hockey Association at H.A. Thompson & Sons Arena.
 - n. North Dakota Horse Park Foundation at Boiler Room.
 - o. Horse Race North Dakota at Labby's Bar & Grill.
 - p. Horse Race North Dakota at Edgewood Tavern.
 - q. Horse Race North Dakota at Sickie's Garage - Fargo.
 - r. Horse Race North Dakota at Chub's Pub.
 - s. Horse Race North Dakota at Sidestreet Grille & Pub.
8. Receive and file General Fund – Budget to Actual through April 2023 (unaudited).
 9. Agreement with Liquid Hospitality, LLC d/b/a Windbreak Saloon.
 10. Extension of a Class "A-8" Alcoholic Beverage License for BFG, Inc. d/b/a Borrowed Bucks Roadhouse until 12/31/23.
 11. Developer Agreement with Dakota Commerce Center S, LLC.
 12. Change Order No. 1 in the amount of \$85,174.00 and 2-calendar day extension to the substantial completion date to 10/2/23 for Improvement District No. BN-22-C1.
 13. Bid award to Dakota Underground Company Inc. in the amount of \$3,930,816.24 for Improvement District No. BR-23-J1.
 14. Permanent Easement (Electrical Utilities) with Cass County Electric Cooperative.
 15. Agreement Regarding Deferral of Special Assessments with North Fargo Land, LLC (Project No. UN-23-A1).
 16. Agreement for Permanent Easement (Water Main Easement) and Easements (Temporary Construction Easement) with North Fargo Land, LLC and ARD Properties, LLC (Project No. UN-23-A1).

18. Memorandum of Offer to Landowner for Permanent and Temporary Easements with Donald O. Tessmer (Project No. SN-23-B0).
19. Bid award to Northstar Safety Inc. in the amount of \$884,857.00 for Project No. TM-23-A1.
20. Bid awards for Project No. WA2255:
 - a. General construction contract to PKG Construction, Inc. in the amount of \$2,126,900.00.
 - b. Electrical construction contract to Sun Electric, Inc. in the amount of \$159,468.00.
21. Bid advertisement for Project No. TR-23-A.
22. Window Retrofit Project Phase II at the Police Stations.
23. Agreement for Services with Metro Plains Management.
24. Purchase of Service Agreement with Kindred Public School District.
25. Purchase of Service Agreement with Central Cass Public School District.
26. Purchase of Service Agreement with the ND Department of Health and Human Services, Behavioral Health Division.
27. Extend the contract with Fargo Freightliner to purchase truck chassis (PBC T-647(5)).
28. Extension of the highway deicing salt contract with Compass Minerals America Inc. for the 2023-2024 snow season (RFP22068).
29. Contract and bond for Project Nos. NR-23-A3 and WA2217.
30. Contract and bond for Improvement District No. BR-23-F1.
31. Contract and bond for Improvement District No. PN-23-C.
32. Contract and bond for Improvement District No. PN-23-A1.
33. Bills.

REGULAR AGENDA:

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

***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**

35. **PUBLIC HEARING** – Application for a Class “H” Alcoholic Beverage License for Royal Buffet, Inc. d/b/a Royal Buffet to be located at 1620 32nd Avenue South, #500.
36. **PUBLIC HEARING** – Application for a Class “F” Alcoholic Beverage License for Lovely Grill, LLC d/b/a Lovely Grill to be located at 1324 25th Avenue South.

- 37^{Page 4} **PUBLIC HEARING** – Hearing on Community Development Block Grant (CDBG)/HOME Investment Partnerships Programs, 2023 HUD Action Plan Draft, Proposed Activities for 2023 and a Proposed Amendment to the 2021 HUD Action Plan.
38. **PUBLIC HEARING** – Plat of Cass County Corrections 2nd Addition (450 34th Street South; 502 28th Street South; 3309 Westrac Drive South); approval recommended by the Planning Commission on 1/3/23.
 39. **PUBLIC HEARING** – Vacation Plat of a portion of 5th Avenue North adjacent to Block 24, Keeney & Devitts 2nd Addition (419 3rd Street North); approval recommended by the Planning Commission on 2/7/23.
 40. **PUBLIC HEARING** – Plat of Betlock Addition (1722 2nd Street North); approval recommended by the Planning Commission on 2/7/23.
 41. **PUBLIC HEARING** – Plat of 1001 NP Addition (1001 NP Avenue North and 11 11th Street North); approval recommended by the Planning Commission on 4/5/22.
 42. **PUBLIC HEARING** – Renaissance Zone Projects for Great Plains NP Holdings, LLC and Northern Prairie Performing Arts for a new construction project at 602, 610, 636 and 650 Northern Pacific Avenue North.
 43. **PUBLIC HEARING** – Hearing to consider a Development Plan and Agreement for Tax Increment Financing District No. 2023-02 (600 block of NP Avenue).
 44. Recommendation for an extension to the NP Parking Garage Project.
 45. Resolution of Annexation of a part of the SW Quarter of Section 28; of the Southeast Quarter of Section 29; and the Northeast Quarter of Section 32, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, containing approximately 80.40 acres, more or less, and set the date for the Hearing on the sufficiency of protests for July 10, 2023.
 46. Presentation from Terry Effertz on the 2023 Legislative Session.
 47. Presentation on Bottle Clubs and corkage fees.
 48. Presentation on the Green Dot Training Program Sessions.
 49. Presentation on the Noise and Vibration Study RFP.
 50. Recommendation to select the “Dumbbell Interchange with Roundabout” Design for the I-29 and 40th Avenue North Interchange Project.
 51. Liaison Commissioner Assignment Updates.

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

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

MEMORANDUM

TO: Board of City Commissioners
FROM: Steven Sprague, City Auditor
SUBJECT: Liquor License Application – Royal Buffet
DATE: May 15 2023

The following application for a liquor license issuance was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class: H – beer only, food sales must exceed alcohol, no bar is allowed
Business Name: Royal Buffet, Inc. d/b/a Royal Buffet
Location: 1620 32nd Ave South
Applicants: Shi Ming Long & Shi Hong

Being no significant concerns, the Liquor Control Board voted to approve the issuance of a Class F alcoholic beverage license to Royal Buffet, Inc. d/b/a Royal Buffet. The complete application is available for review in the Auditor's Office.

Recommended Motion:

Move to approve the issuance of a Class H alcoholic beverage license to Royal Buffet, Inc. d/b/a Royal Buffet.



FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

CRIMINAL INVESTIGATIONS DIVISION

MEMORANDUM

To: Chief David Zibolski

From: Sergeant Travis Moser *TM*

Date: 05.04.2023

RE: Alcoholic Beverage License Application, Class "H", Royal Buffet

**Application for a Class "H" Alcoholic Beverage License from
Royal Buffet, Inc. d/b/a Royal Buffet to be located at 1620 32 Ave S, Fargo ND.**

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation, I examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:

Long, Shi Ming – Owner/Manager

Criminal History- A search of Fargo Police Department criminal records and North Dakota public records (publicsearch.ndcourts.gov), showed no criminal activity.

Credit History- Shi Ming Long's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Hong, Shi – Owner/Manager

Criminal History- A search of Fargo Police Department criminal records and North Dakota public records (publicsearch.ndcourts.gov), showed no criminal activity.

Credit History- Shi Hong's credit report was reviewed. There are no prior bankruptcies, recent past due accounts or debts turned over to collections.

Investigation Notes

This application is for a Class "H" liquor license (Authorizes the licensee to sell beer "on-sale" only, no bar area allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and food products and not from the sale of alcoholic beverages.) for Royal Buffet, Inc. d/b/a Royal Buffet to be located at 1620 32 Ave S, Fargo ND.

I did not speak with Shi Ming Long since there were no concerns in the criminal history or credit history check.

Business Location

Royal Buffet is located at 1620 32 Ave S, Fargo ND. Other business in the area with alcoholic beverage licenses include Woody's Bar and Grill and Royal Liquors.

Conclusion

This background investigation is being forwarded for your review and recommendation to the City of Fargo Liquor Control Board.



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Legal Company Name: ROYAL BUFFET INC (Must match State of North Dakota registration name)

DBA Name: Royal Buffet

Is the establishment applying for (or has) a food license under the same name? Yes ___ No ___

Business location address: 1620 32ND AVE STREET, FARGO, ND 58103 #500

Mailing address: 3816 INGERSOLL AVE, DES MOINES IA 50312

Business E-mail address: ZHANGB1974@GMAIL.COM

Local Manager E-mail address:

Best Contact Phone number: (701) 866-1171

Anticipated Date of Opening: 04-15-23

Please contact the Auditor's Office at 701-241-1301 or 241-8108 to determine the appropriate License Classification Type that would fit your business model.

The following section to be completed by City Staff:

Date Received: 3/15/23 Class of License: H Transfer: Yes ___ No [checked]

Investigations Fee Paid (\$250) [checked] Yes ___ No ___ Date Paid: 3/20/23

Police Department review completed by: Date:

(Attached recommendation report):

[checked] Approval Recommendation [Signature] Chief of Police

Denial Recommendation 05-05-23 Date

NOTICE OF HEARING

Application for Alcoholic Beverage License

Notice is hereby given that the Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing in the City Commission Room, City Hall, on Tuesday, May 30, 2023 at 5:15 o'clock p.m. to consider an application for a Class "H" Alcoholic Beverage License from Royal Buffet, Inc d/b/a Royal Buffet to be located at 1620 32 Avenue South, #500, Fargo.

Any interested person may appear and will be heard.

City Auditor's Office
(May 10, 2023)

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MEMORANDUM

TO: Board of City Commissioners
FROM: Steven Sprague, City Auditor
SUBJECT: Liquor License Application – Lovely Grill
DATE: May 15 2023

The following application for a liquor license issuance was received by the Auditor's office and reviewed by the Liquor Control Board:

License Class: F – full alcohol food sales must exceed alcohol, no bar is allowed
Business Name: Lovely Grill LLC d/b/a Lovely Grill
Location: 1324 25th Ave South
Applicants: Juliana Cole

Being no significant concerns, the Liquor Control Board voted to approve the issuance of a Class H alcoholic beverage license to Lovely Grill LLC d/b/a Lovely Grill. The complete application is available for review in the Auditor's Office.

Recommended Motion:

Move to approve the issuance of a Class F alcoholic beverage license to Lovely Grill LLC d/b/a Lovely Grill.



FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

CRIMINAL INVESTIGATIONS DIVISION

MEMORANDUM

To: Chief David Zibolski

From: Sergeant Travis Moser *TM*

Date: 05.04.2023

RE: Alcoholic Beverage License Application, Class "F", Lovely Grill

**Application for a Class "F" Alcoholic Beverage License from
Lovely Grill, LLC. d/b/a Lovely Grill to be located at 1324 25 Ave S, Fargo ND.**

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation, I examined the applicants' credit reports and public record criminal backgrounds.

The following information was discovered through this investigation:

Cole, Juliana – Owner/Manager

Criminal History-

A search of Fargo Police Department criminal records and North Dakota public records (publicsearch.ndcourts.gov), showed no criminal activity. On the application, Cole said her license was suspended. I looked into this and it was suspended for proof of liability insurance. Cole was never cited or convicted for driving under suspension and it appears she rectified the suspension as her current status is valid.

Credit History-

Juliana Cole's credit report was reviewed. Currently there is \$16,924.00 of Delinquent Charge Off debt, \$2,000.00 of delinquent debt sent to collections, \$6,339.00 open credit card debt, and \$52,503.00 open deferred payment debt to The Department of Education.

Investigation Notes

This application is for a Class F liquor license (Authorizes the licensee to sell “on-sale” only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages), for Lovely Grill, LLC. d/b/a Lovely Grill to be located at 1324 25 Ave S, Fargo ND.

I spoke with Juliana about her credit report. She told me she was aware she had some delinquent charges on a credit card in the past. She also explained she is currently enrolled in school, and once she has completed school, she plans on starting to pay off her student loans. She also explained to me that she is receiving donations from family and friends to help her get this business up and running.

Business Location

Lovely Grill is located at 1324 25 Ave S, Fargo ND. Other business in the area with alcoholic beverage licenses include Bottle Barn Liquors.

Conclusion

This background investigation is being forwarded for your review and recommendation to the City of Fargo Liquor Control Board.

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APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

Legal Company Name: Lovely Grill LLC
(Must match State of North Dakota registration name)

DBA Name: Lovely Grill

Is the establishment applying for (or has) a food license under the same name? Yes ___ No

Business location address: 1324 25th Ave S Fargo ND, 58103

Mailing address: 5480 28th Ave S Fargo ND, 58104

Business E-mail address: Lovelygrill54@gmail.com

Local Manager E-mail address: Jccolejuliana@gmail.com

Best Contact Phone number: (701) 781-4339

Anticipated Date of Opening: 04-15-2023

Please contact the Auditor's Office at 701-241-1301 or 241-8108 to determine the appropriate License Classification Type that would fit your business model.

The following section to be completed by City Staff:

Date Received: 3/28/23 Class of License: F Transfer: ___ Yes ___ No

Investigations Fee Paid (\$250) Yes ___ No Date Paid: 3/29/23

Police Department review completed by: _____ Date: _____

(Attached recommendation report):

Approval Recommendation

___ Denial Recommendation

[Signature]
Chief of Police

05-05-23
Date

NOTICE OF HEARING

Application for Alcoholic Beverage License

Notice is hereby given that the Board of City Commissioners of the City of Fargo, North Dakota, will conduct a Public Hearing in the City Commission Room, City Hall, on Tuesday, May 30, 2023 at 5:15 o'clock p.m. to consider an application for a Class "F" Alcoholic Beverage License from Lovely Grill, LLC d/b/a Lovely Grill to be located at 1324 25 Avenue South, Fargo.

Any interested person may appear and will be heard.

City Auditor's Office
(May 10, 2023)

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MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

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

DATE: MAY 24, 2023

RE: PUBLIC HEARING FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) / HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) 2023 HUD ACTION PLAN AND PROPOSED AMENDMENT TO 2021 HUD ACTION PLAN

Planning & Development Department staff has prepared the 2023 Action Plan for the use of U.S. Housing and Urban Development (HUD) funds. A total of \$1,555,917.77 is anticipated to be available for the 2023 Community Development budget.

In addition, staff are proposing an amendment to the 2021 Action Plan activity titled "After School Matters Youth Center" to allow for a broader service area by opening up the center to all ages (not just youth) that live in low-to-moderate income area neighborhoods. Based on existing services, adults and youth are benefitting from programming that occurs at the center (e.g., events, meals, performance, classes, etc.).

Details of the proposed 2023 Action Plan funding sources and projects are outlined in the attached public notice, which was published in *The Forum* newspaper on May 10, 2023. The public notice also contains information on the proposed 2021 Action Plan amendment. Per the adopted Citizen Participation Plan, this proposal is being presented at the May 30th City Commission meeting as a Public Hearing. The timeline, including the 30-day public comment period, is outlined in the attached public notice. Once approved by citizens and the City, the 2023 Action Plan and 2021 Action Plan amendment will be submitted to HUD for approval.

The 2023 Action Plan has been drafted in compliance with federal regulations and is consistent with the approved 5-Year Consolidated Plan (2020-2024). The draft plans are available on the City website (posted May 10, 2023). To date, no public comments have been received.

Attachment: Notice of Public Hearing & Public Comment Period

Recommended Motion: No action is required at this time; public hearing only. Final consideration of the 2023 Action Plan and 2021 Action Plan amendment is scheduled for June 12, 2023.



City of Fargo
Notice of Public Hearing & Public Comment Period
Community Development Block Grant (CDBG) & HOME Programs

The City of Fargo is opening a 30-day public comment period on May 11, 2023, which also includes a public hearing on Tuesday, May 30, 2023 during the regular Fargo City Commission meeting. Multiple items under the City's HUD programs will be open for comment during this period. All items will be given final consideration at the June 12, 2023 City Commission meeting. Each item is summarized in this notice.

2023 HUD ACTION PLAN DRAFT

The City has prepared a draft version of the 2023 HUD Action Plan. The priorities established within the draft plan result from community meetings and citizen participation in the development of the 2020-2024 Consolidated Plan, and from a public input meeting held on March 10, 2023. The City's 5-Year priorities include affordable housing, ending and preventing homelessness, neighborhood improvements and initiatives, and assistance for vulnerable populations. Comments on this draft should be provided during the public comment period (May 11 – June 9).

ESTIMATED RESOURCES FOR 2023

Community Development Block Grant (CDBG):

• \$840,957	2023 Community Development Block Grant (CDBG) allocation from HUD
• \$80.38	Available for Reallocation at Prior Year-End (unused contingency dollars)
\$841,037.38	Total CDBG

HOME Investment Partnerships Program (HOME):

• \$549,768	2023 HOME PJ allocation from HUD
• \$59,664.50	2022 HOME PJ Program Income (actual)
• \$0	2021 HOME State Program Income (actual)
• \$105,447.89	Available for Reallocation at Prior Year-End
\$714,880.39	Total HOME

Total = \$1,555,917.77 CDBG & HOME

PROPOSED ACTIVITIES FOR 2023

Planning, Administration & Fair Housing

1. **CDBG Planning and Administration** - \$155,000 in CDBG funds. Planning, implementation, reporting, and monitoring of CDBG resources. *National Objective: Not applicable for administration. Eligibility & Regulation Citation: 21A General Program Administration, 24 CFR Part 570.206.*
2. **HOME Planning and Administration** - \$54,000 in HOME funds. Planning, implementation, reporting, and monitoring of HOME resources. *National Objective: Not applicable for administration.*
3. **High Plains Fair Housing Center** - \$5,000 in CDBG funds. Support comprehensive outreach and fair housing education as part of the requirement to affirmatively further fair housing under the Fair Housing Act (42 U.S.C. 3601-20). *Eligibility & Regulation Citation: 21D Fair Housing Activities (subject to 20% Admin. Cap), 24 CFR Part 570.206(c).*

Capital/Neighborhood Improvements

1. **Core Neighborhood Deteriorated Structure Removal** - \$255,000 in CDBG funds. Demolition to address and eliminate blighted conditions at approximately four properties located in the Jefferson/Carl Ben, Madison, and Washington core neighborhoods of Fargo. Activities will be

carried out by the Cass Clay Community Land Trust in support of affordable housing development. The locations of the four properties have been identified and are located at 1345 4 Avenue South; 1822 3 Street North; 317 19 Street North; and 1109 University Drive South. *National Objective, Eligibility, & Regulation Citation: Slum and Blight Spot (SBS) [24 CFR Part 570.208(b)(2)], 04 Clearance and Demolition, 24 CFR Part 570.201(d).*

Public Service

1. **Downtown Engagement Center Operations** - \$125,000 in CDBG funds. Provide operational support for homeless and housing-related services at the Downtown Engagement Center (DEC) located in downtown Fargo. *National Objective, Eligibility, & Regulation Citation: Low-Mod Clientele (LMC) Benefit [24 CFR Part 570.208(a)(2)], 03T Operating Costs of Homeless/Aids Patient Programs, 24 CFR Part 570.201(e).*

Affordable Housing

1. **Acquisition for Multi-Family Rental Housing Project** - \$150,000 in CDBG funds. Acquisition of land for new construction of an affordable multi-family rental housing complex in partnership with Beyond Shelter, Inc. The location of this project is not yet determined. A public comment period will occur at a later date when a project location is identified. *National Objective, Eligibility, & Regulation Citation: Low-Mod Housing Benefit (LMH) [24 CFR Part 570.208(a)(3)], 01 Acquisition of Real Property, 24 CFR Part 570.201(a).*
2. **Community Housing Development Organization (CHDO)** - \$100,000 in 'set-aside' HOME funds. The City will partner with a Community Housing Development Organization (CHDO) to create affordable housing with the HOME set-aside funds in Fargo. *HOME Eligible Activity under 92.205(a)(1).*
3. **Affordable Single-Family Housing for Ownership** - \$550,000 in HOME funds. Addition of three units of affordable single-family housing for ownership, to be occupied by low-to-moderate income households. Activities may include acquisition, demolition, rehabilitation (for properties built after 1978 only), and/or new construction. Activities will be carried out by Lake Agassiz Habitat for Humanity. The location of one housing unit has been identified and is located at 1714 5 Avenue South. Public comment will occur at a later date when additional project locations are identified. *HOME Eligible Activity under 92.205(a)(1).*
4. **Core Neighborhood Affordable Housing Development** – \$135,000 in CDBG funds. Additional funds are needed for this major development project (project approved in 2022 Action Plan). Funds will be used in part to secure a consultant to assist in the development of the project, neighborhood outreach, drafting and implementation of the developer bid packet, and developer review/selection. Funds may also be used to secure additional administrative and project management assistance on this project. The location of the project is at 3129 7 Avenue North and 802 32 Street North in Fargo, ND. *National Objective, Eligibility, & Regulation Citation: Low-Mod Housing Benefit (LMH) [24 CFR Part 570.208(a)(3)]. Associated CDBG Matrix Codes include: 01 Acquisition of Real Property - Eligibility 24 CFR Part 570.201(a) and 02 Disposition of Real Property – Eligibility 24 CFR Part 570.201(b).*

Contingency Funds

Funds held in contingency for issues that may arise during the program year – \$16,037.38 CDBG funds and \$10,880.39 HOME funds.

CONTINGENCY PROVISIONS/POTENTIAL ADJUSTMENTS TO 2023 ACTIVITIES & BUDGET

- Budget adjustments transferring amounts greater than 10% of the amount allocated to the City's entitlement grant programs for program year 2023 are considered substantial amendments and will be implemented in accordance with Fargo's Citizen Participation Plan (www.fargond.gov)

- Unanticipated program income may result in a substantial amendment to amend activities and budgets in accordance with Fargo’s Citizen Participation Plan
- To match actual 2023 allocation amounts and any increase in program income, funding will be applied to affordable housing projects if needed or the contingency line item if less than \$5,000. Any unused funds will be reallocated in an amendment or the following year’s action plan, either of which require a 30-day public comment period.
- All funding levels indicated above are estimated amounts

PROPOSED AMENDMENT TO 2021 HUD ACTION PLAN

Change of Use for the “After School Matters Youth Center” project - amend National Objective, Matrix Code, and Eligibility/Regulation Citation.

Background – This amendment will allow for a broader service area by opening up the After School Matters Center, located at 1321 19 Avenue North in Fargo, ND, to all ages (not just youth) that live in low-to-moderate income area neighborhoods. Based on existing services, adults and youth are benefiting from programming that occurs at the center (e.g., events, meals, performances, classes, etc.). The broader service areas for this neighborhood facility include Northport, Washington, Roosevelt/NDSU, Trollwood, Longfellow, Horace Mann, Madison/Unicorn Park, Downtown, (census tracts 1.00, 2.03 (formerly 2.01), 2.04 (formerly 2.02), 3.00, 4.00, 5.01, 5.02, 6.01 (formerly 6.00), 6.02 (formerly 6), 7/all block groups). The amendment changes the project’s national objective, eligibility code, and regulatory citation (requirements for HUD reporting purposes). These items will change from:

1. *Low-Mod Clientele Benefit (LMC) [24 CFR Part 570.208(a)(2)]; 03D, Public Facilities & Improvements, Youth Center; 24 CFR Part 570.201(c)*
to
2. *Low-Mod Area Benefit (LMA) [24 CFR Part 570.208(a)(1)]; 03E, Neighborhood Facilities; 24 CFR Part 570.201(c).*

COMMENTS, ACCESSIBILITY, & SCHEDULE

Comments and suggestions from the public are encouraged through a public comment period and/or at the public hearing. Contact information and schedule are provided below:

30-DAY PUBLIC COMMENT PERIOD: May 11 through June 9, 2023

PUBLIC HEARING: Tuesday, May 30, 2023 - 5:15 pm
Fargo City Commission Chambers
225 4th Street North, Fargo, ND 58102

CITY COMMISSION VOTE: Monday, June 12, 2023 – 5:15 pm

CONTACT INFORMATION: City of Fargo
Planning and Development Department
Attn: Community Development Planning Coordinator
225 4th Street North, Fargo ND 58102
701.476.4144
Planning@FargoND.gov

DRAFT PLAN AVAILABLE AT: www.fargond.gov/planninganddevelopment/plansandstudies
OR request through Planning & Development Department

Accessibility – Fargo City Hall is serviced by public transit, accessible and can accommodate persons who are disabled. Alternative formats of this information (e.g., Braille, American Sign Language, etc.) or reasonable accommodations for persons with hearing/vision impairments and/or other disabilities will be made upon request. Contact City of Fargo’s Section 504/ADA Coordinator Bekki Majerus at 701.298.6966 to arrange for services (a 48 hour notice may be needed). To access TTY/ND Relay service – 800.366.6888 or 711

Limited English – Reasonable steps will be taken to provide persons with limited English proficiency (LEP) meaningful access, including the availability of interpretation and translation services. Contact the City of Fargo Planning and Development Department at 701.241.1474 or Planning@FargoND.gov if services are needed.

Non-Discrimination Notice – In accordance with Federal regulations and City of Fargo policies, services are provided without regard to race, color, religion, sex, disability, familial status, national origin, age, marital status, veteran status, sexual orientation, gender identity, public assistance, domestic violence, lawful activity, or condition protected by applicable federal and state laws. The City is an equal employment/equal housing opportunity agency.

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City of Fargo Staff Report			
Title:	Cass County Corrections 2 nd Addition	Date:	12/29/2022
		Update:	05/25/2023
Location:	450 34th Street South; 502 28th Street South; 3309 Westrac Drive South	Staff Contact:	Donald Kress, current planning coordinator
Legal Description:	Lot 1, Block 1, and Lot 1, Block 2, Cass County Corrections Addition; Lot 4, Block 1, Westrac Third Addition, and part of the Southwest Quarter of Section 11, Township 139 North, Range 49 West, and a portion of 28 th Street South right of way to be vacated		
Owner(s)/Applicant:	Cass County Government / Houston Engineering, Inc.— Mike Love	Engineer:	Houston Engineering, Inc.
Entitlements Requested:	Major Subdivision (replat of Lot 1, Block 1, and Lot 1, Block 2, Cass County Corrections Addition; Lot 4, Block 1, Westrac Third Addition, and part of the Southwest Quarter of Section 11, Township 139 North, Range 49 West of the Fifth Principal Meridian, including a Vacation of a portion of 28th Street South)		
Status:	City Commission Public Hearing: May 30 th , 2023		
Existing		Proposed	
Land Use: Detention facility (Cass County Jail)		Land Use: No change proposed	
Zoning: LI, Limited Industrial		Zoning: No change proposed	
Uses Allowed: LI – Limited Industrial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, basic utilities, certain telecommunications facilities		Uses Allowed: No change proposed.	
Maximum Lot Coverage Allowed: 55%		Maximum Lot Coverage Allowed: No change	
Proposal:			
<p><i>PROJECT HISTORY NOTE: The hearing notice for the January 3rd, 2023 Planning Commission hearing included additional property that is not on this plat. At the time of noticing, staff was intending to include the City-owned property adjacent to 28th Street South on this plat. However, after further review, staff determined just to vacate the 28th Street South right of way (ROW) adjacent to the City-owned property but not to replat the lots adjacent to it at this time.</i></p> <p><i>The plat that went to the January 3rd, 2023 Planning Commission depicted 28th Street South being vacated all the way 4th Avenue South. A portion of this vacated area was identified as "Lot 2." After revision of the plat based on staff review, a lesser area of 28th Street South is being vacated. Lot 2 has been eliminated from the plat.</i></p>			
<i>(continued on next page)</i>			

The applicant requests one entitlement:

1. A **major subdivision**, to be known as Cass County Corrections 2nd Addition, a replat of Lot 1, Block 1, and Lot 1, Block 2, Cass County Corrections Addition; Lot 4, Block 1, Westrac Third Addition, and part of the Southwest Quarter of Section 11, Township 139 North, Range 49 West of the Fifth Principal Meridian, including a Vacation of a portion of 28th Street South.

The subject property is located at 450 34th Street South; 502 28th Street South, and 3309 Westrac Drive South and encompasses approximately 26.73 acres.

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 Zoning Districts and Land Uses:

- North: LI; undeveloped; City-owned for drain
- East: LI, GI, General Industrial, and AG, Agricultural: City-owned drainage facility and Burlington Northern Santa Fe railroad property (undeveloped)
- South: LI with a C-O, conditional overlay: under development for industrial uses
- West: LI: industrial uses

Area Plans:

The subject property is not covered by a growth plan or area plan.

Context

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

Schools: A portion of the subject property is located within the Fargo Public School District and is served by Jefferson Elementary, Ben Franklin Middle, and Fargo North High schools. A portion of the subject property is located within the West Fargo School District and is served by L.E. Berger Elementary, Cheney Middle, and West Fargo High Schools. Note that there are no existing or proposed residential uses on the subject property.

Parks: Metro Recreation Center, 3110 Main Avenue, located approximately 0.31 miles north of the subject property, features indoor turf year round making it a very versatile facility. The space is or soccer, football, lacrosse, tag and even golf putting.

Pedestrian / Bicycle: There are no trails or shared use paths adjacent to or near the subject property.

MATBUS Routes: The subject property is a stop on MATBUS Route 20. The stop is located on the east side of 34th Street at the Cass County Jail entrance.

Staff Analysis:

MAJOR SUBDIVISION

Cass County government intends to expand the jail facility to the east. This requires additional area, which led Cass County to propose vacating the portion of 28th Street South right of way (ROW) adjacent to their property.

The subdivision plat replats the following properties into one lot in one block:

- Lot 1, Block 1, Cass County Corrections Addition
- Lot 1, Block 2, Cass County Corrections Addition
- Lot 4, Block 1, Westrac Third Addition
- Unplatted portion of the Southwest Quarter of Section 11, Township 139 North, Range 49 West
- The portion of the vacated 28th Street South right of way between Blocks 1 and 2 of the Cass County Corrections Addition.

The vacation of right of way is detailed in a separate section below.

Cass County will grant the City a stormwater easement over the easterly portion of this lot, as depicted on the plat. That portion of the lot will be unbuildable.

VACATION OF RIGHT OF WAY

The plat includes a vacation of a portion of 28th Street South right of way (ROW) south of 4th Avenue South. The 28th Street South ROW was dedicated on the Burlington Northern I-29 South Industrial Center Addition in 1983. This right of way has never been improved and it dead-ends at the southerly property line of the Cass County Corrections Addition. No provision was made in that addition to extend 28th Street any further south. When the property adjacent to the south was platted in 2021, further extension of this right of way to the south was not required. Staff supports the proposed vacation of this portion of the 28th Street South ROW. Findings specific to this vacation are below.

North Dakota Century Code 40-39-07 requires a minimum 30 day notice period prior to City Commission hearing for vacations of right of way.

Major Subdivision

The LDC stipulates that the following criteria is met before a major subdivision 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.**

The subject property is zoned LI, Limited Industrial. No zone change is proposed. Cass County government is intending to expand the jail facility to the east. The proposed use of a detention facility is consistent with the LI zoning. This property is not covered by a growth plan or future land use plan. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry. **(Criteria Satisfied)**

- 2. Section 20-0907.C.4.c 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 subject property is zoned LI, Limited Industrial. No zone change is proposed. This property is not covered by a growth plan or future land use plan. The proposed use of a detention facility is consistent with the LI zoning. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

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

This subdivision is a major subdivision only because it vacates existing dedicated right of way. No internal streets are created and no additional public improvements are required. Staff has determined that no amenities plan is required. Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

ROW Vacation Approval Criteria: The City of Fargo does not currently have any adopted regulation dealing with the vacation of rights-of-way. However, city policy requires that any applicant wishing to

vacate right-of-way must submit a Vacate Application—a one-page form wherein the petitioner provides: a description of the area to be vacated and signatures of all property owners adjoining the area to be vacated. In addition, the applicant must submit a vacation plat (a major subdivision). In this case, the petition for vacation and the plat are included in the applicant's overall subdivision application and plat. Notwithstanding the Land Development Code's (LDC) silence on the matter, the North Dakota Century Code (N.D.C.C) does address the opening and vacating of roadways in Chapter 24-07 (outside of municipal limits) and Chapter 40-39 (inside municipal limits). To that end, the balance of this report will focus on the specific approval criteria outlined within Chapter 40-39 of the N.D.C.C. The final decision on vacation of right of way is made by the City Commission.

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

There are no City of Fargo utilities installed in this right of way. It is the applicant's responsibility to contact all potential utility providers and submit documentation that there are no utilities in these easements. City staff has reviewed the applicant's documentation and confirmed there are no existing utilities. **(Criteria Satisfied)**

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

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

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

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

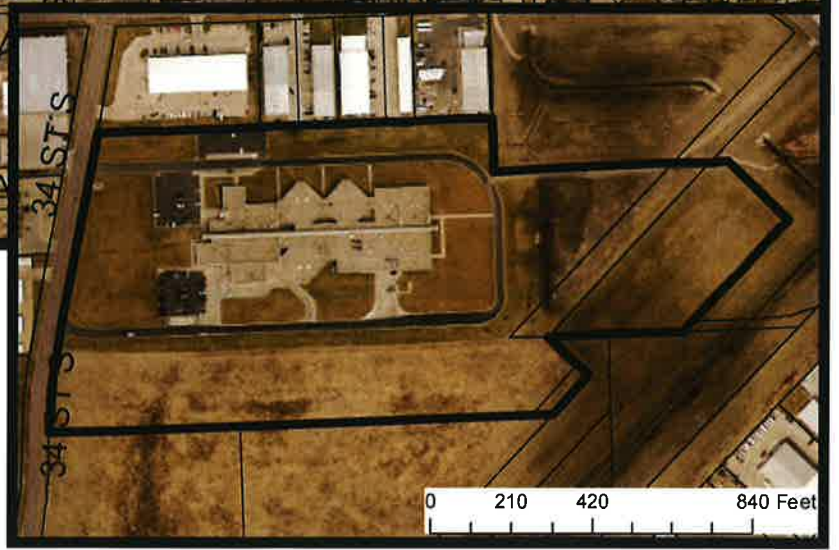
N.D.C.C. 40-39-07. Hearing on petition – Passage of resolution declaring vacation by governing body. The governing body, or such committee as may be appointed by it, shall investigate and consider the matter set forth in the petition specified in section 40-39-05 and, at the time and place specified in the notice, shall hear the testimony and evidence of persons interested. After hearing the testimony and evidence or upon the report of the committee favoring the granting of the petition, the governing body, by a resolution

<p><i>passed by a two-thirds vote of all its members, may declare the public grounds, streets, alleys, or highway described in the petition vacated upon such terms and conditions as it shall deem just and reasonable.</i></p> <p>This procedure---hearing by the City Commission following the appropriate notice period—is scheduled for the May 30th, 2023 City Commission agenda. (Criteria Satisfied)</p>
<p>Staff Recommendation:</p>
<p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the proposed plat of the Cass County Corrections 2nd Addition, including vacation of right of way, as outlined in the staff report, as the proposal complies with the Standards of Article 20-06, and Sections 20-0907.C of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Chapter 40-39."</p>
<p>Planning Commission Recommendation: January 3rd, 2023</p>
<p>At the January 3rd, 2023 Planning Commission hearing, by a vote of 8-0 with one Commissioner absent and two Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and to recommend approval to the City Commission of the proposed plat of the Cass County Corrections 2nd Addition, including vacation of right of way, as outlined in the staff report, as the proposal complies with the Standards of Article 20-06, and Sections 20-0907.C of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Chapter 40-39.</p>
<p>Attachments:</p>
<ol style="list-style-type: none">1. Zoning Map2. Location Map3. Preliminary Plat

Major Subdivision (including vacation of a portion of 28th Street South)

450 34 Street South, 3309
Westrac Drive South, 502 28
Street South

Cass County Corrections Second Addition



Legend

 City Limits

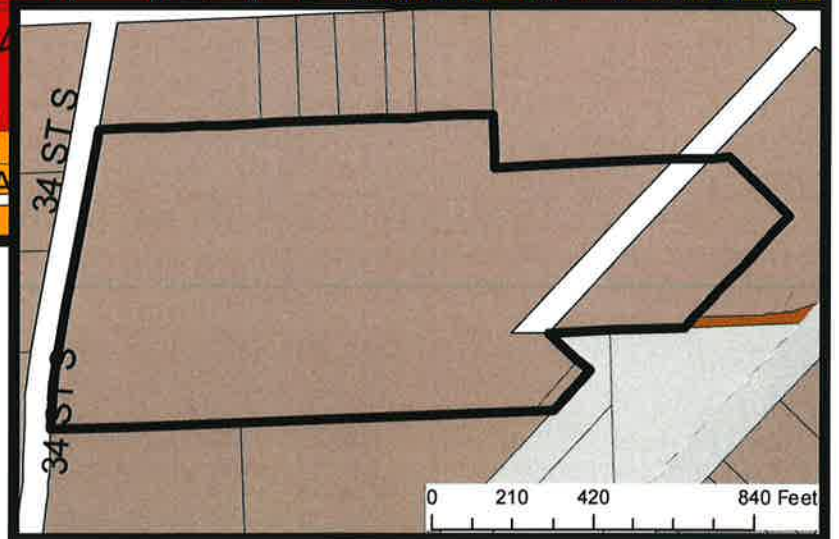
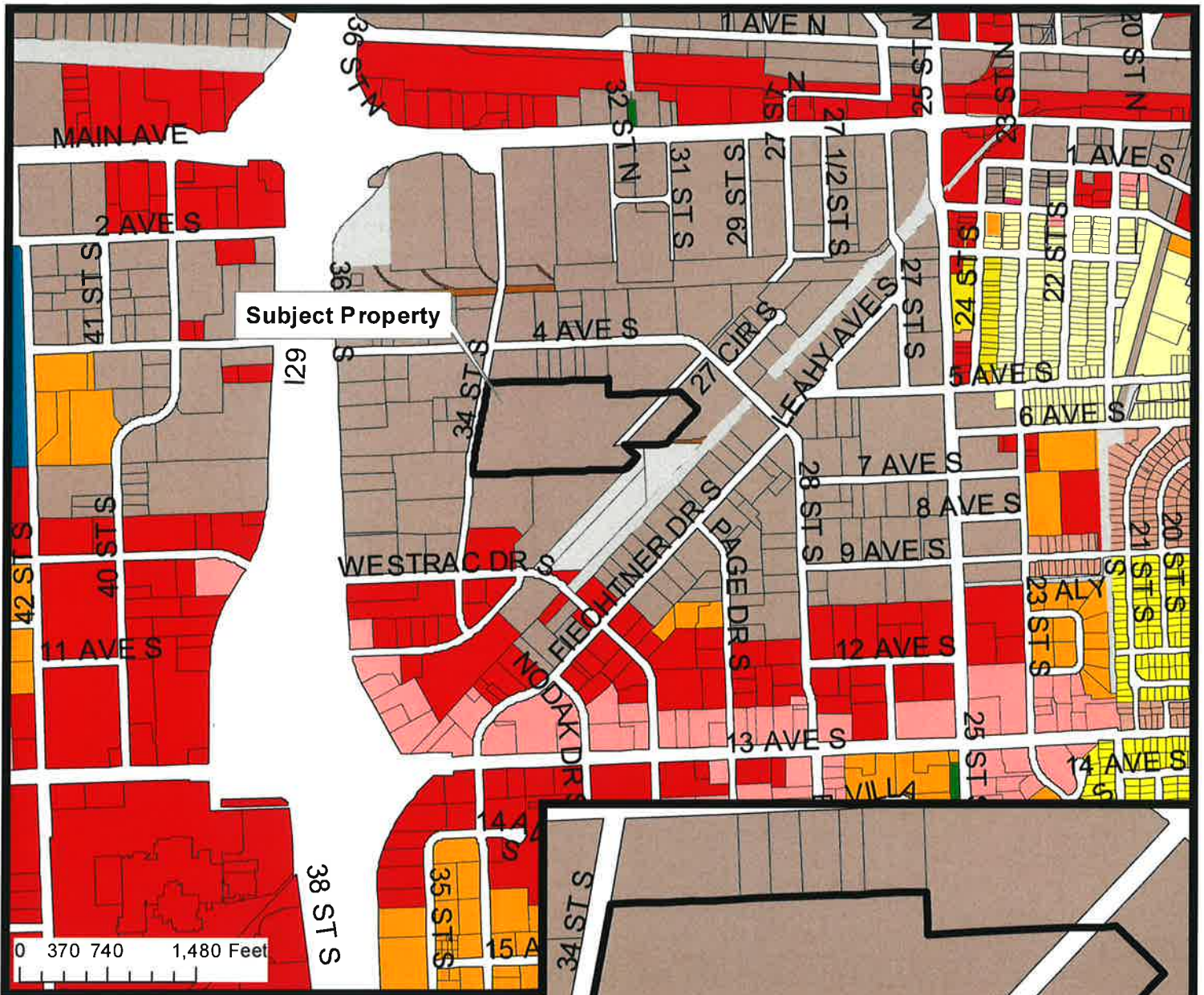


Fargo City Commission
May 30, 2023

Major Subdivision (including vacation of a portion of 28th Street South)

450 34 Street South, 3309
Westrac Drive South, 502 28
Street South

Cass County Corrections Second Addition



Legend

AG	LC	MHP	SS-1
DMU	MJ	MZOC	SS-2
GDC	MRR-1	UMU	SS-3
GO	MRR-2	City Limits	SS-4
	MRR-3		SS-5
			SS-6



Fargo City Commission
May 30, 2023

CASS COUNTY CORRECTIONS 2ND ADDITION

A MAJOR SUBDIVISION

BEING A VACATION OF A PORTION OF 28TH STREET SOUTH AND ADJACENT UTILITY EASEMENTS: A REPLAT OF LOT 1, BLOCK 1, & LOT 1, BLOCK 2, CASS COUNTY CORRECTIONS ADDITION TO THE CITY OF FARGO; A REPLAT OF VACATED 28TH STREET SOUTH; A REPLAT OF LOT 4, BLOCK 1, WESTRAC THIRD ADDITION TO THE CITY OF FARGO; AND A PLAT OF PART OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 139 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

OWNER'S CERTIFICATE, VACATION AND DEDICATION

KNOW ALL PERSONS BY THESE PRESENTS, That Cass County Government is the owner and proprietor of Lot 1, Block 1, and Lot 1, Block 2, Cass County Corrections Addition to the City of Fargo, Cass County, North Dakota; and that part of the southwest Quarter of Section 11, Township 139 North, Range 49 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Cass County Corrections Addition; thence South 89°43'07" East, along the westerly line of said Cass County Corrections Addition, for a distance of 1773.35 feet to the northwest corner of Lot 1, Block 1, said Cass County Corrections Addition; thence South 49°43'07" East, along the westerly line of a tract of land described in Document No. 123231-1, on the plat of the subdivision of said Cass County Corrections Addition, for a distance of 173.87 feet to the most westerly corner of said Lot 4, Block 1, Westrac Third Addition to the City of Fargo; thence South 89°43'07" West, along the westerly line of Block 1, said Westrac Third Addition, for a distance of 277.05 feet to a point of intersection with the westerly line of said 28th Street, thence North 00°00'00" East, along the westerly line of said 28th Street, for a distance of 277.05 feet to a point of intersection with the westerly line of said 28th Street, thence North 00°00'00" East, along the westerly line of said 28th Street, for a distance of 154.40 feet, through a corner together with east portion of 28th Street South, being corner with his plat and being more particularly described as follows:

Beginning at the northwest corner of Lot 1, Block 1, said Cass County Corrections Addition; thence South 89°43'07" West, along the westerly line of said Cass County Corrections Addition, for a distance of 68.81 feet to the southeast corner of Lot 1, Block 2, said Cass County Corrections Addition; thence North 49°19'07" East, along the southerly line of Lot 1, said Block 2, said subdivision, being the northerly line of said 28th Street South, for a distance of 68.81 feet to the most westerly corner of Lot 1, said Block 2, said subdivision, being the northerly line of said 28th Street South, for a distance of 618.29 feet to the Point of Beginning.

The entire above described tract of land combined with the plat being 25,277 acres, more or less.

And that the City of Fargo, a North Dakota Municipal Corporation, is the owner and proprietor of the above described tract of land, being Lot 6, Block 4, and Lot 2, Block 6, both in Burlington Northern 1:28 South Industrial Center to the City of Fargo.

And that said parties do hereby declare the utility easements as described for vacation on this plat, and do hereby vacate that portion of 28th Street South as designated for vacation on this plat. Cass County Government and the City of Fargo do hereby acknowledge the boundary line as depicted on this plat as the property boundary between the plat and the City of Fargo owned property described above, both as the situation exists currently as well as with any possible future extension of 28th Street South being immediately north of the plat.

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

City Engineer

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

City Engineer

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

City Engineer

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

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

City Engineer

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

City Engineer

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

City Engineer



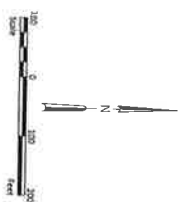
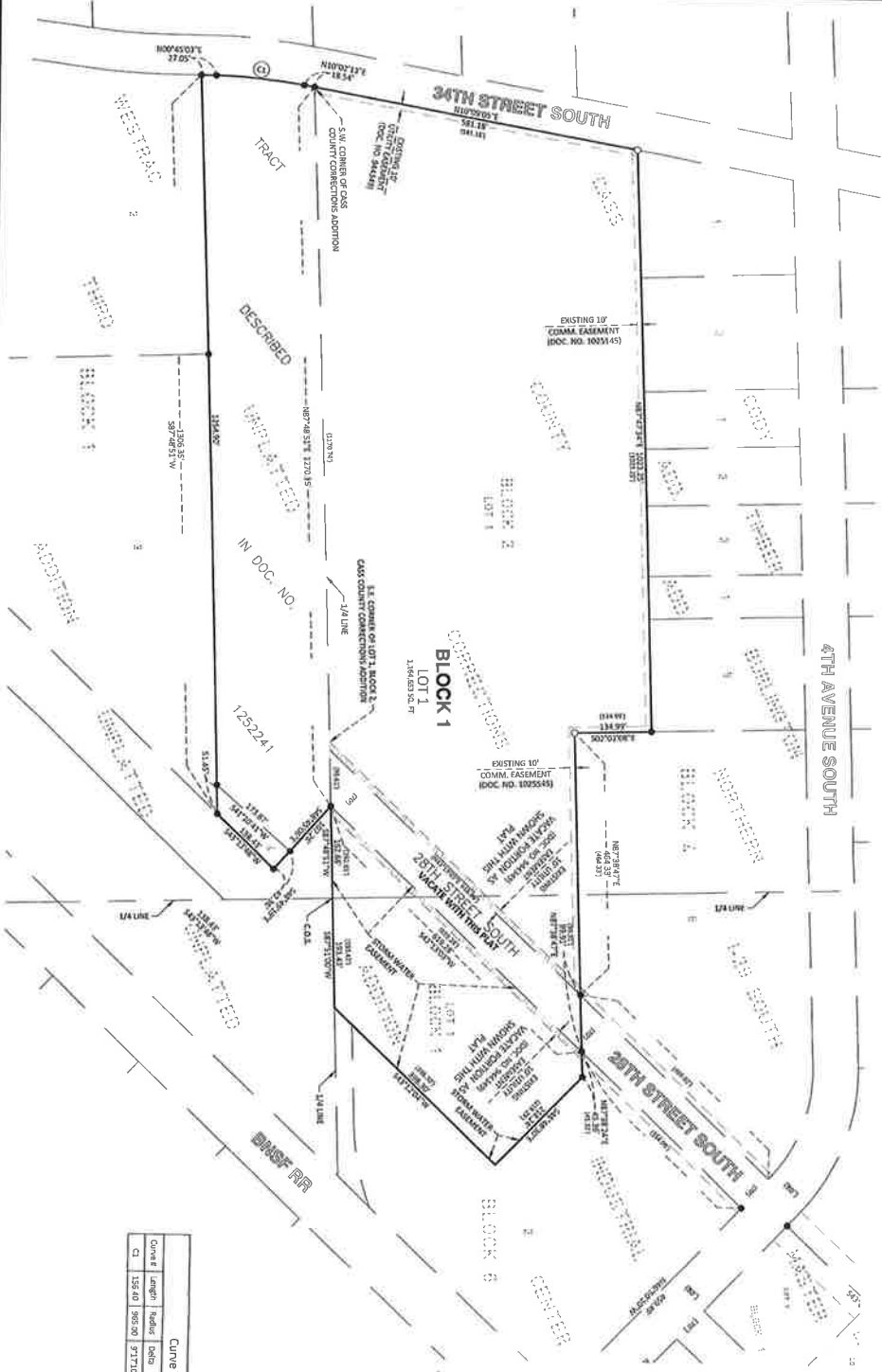
Sheet 2 of 2
Project No. 7127-0007

K:\VBA\7165\117\117\0007\CADD\117\22\0007 Cass County Corrections Second Addition_Final Plat_3-17-23.dwg

CASS COUNTY CORRECTIONS 2ND ADDITION

A MAJOR SUBDIVISION

BEING A VACATION OF A PORTION OF 28TH STREET SOUTH AND ADJACENT UTILITY EASEMENTS;
 A REPLAT OF LOT 1, BLOCK 1, & LOT 1, BLOCK 2, CASS COUNTY CORRECTIONS ADDITION TO THE CITY OF FARGO;
 A REPLAT OF VACATED 28TH STREET SOUTH; A REPLAT OF LOT 4, BLOCK 1, WESTRAC THIRD ADDITION TO THE CITY OF FARGO;
 AND A PLAT OF PART OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 139 NORTH,
 RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA
 TO THE CITY OF FARGO,
 CASS COUNTY, NORTH DAKOTA



LEGEND

- 20' DIAMETER UTILITY POLE
- - - - - 10" DIAMETER UTILITY
- - - - - 8" DIAMETER UTILITY
- - - - - 6" DIAMETER UTILITY
- - - - - 4" DIAMETER UTILITY
- - - - - 3" DIAMETER UTILITY
- - - - - 2" DIAMETER UTILITY
- - - - - 1.5" DIAMETER UTILITY
- - - - - 1" DIAMETER UTILITY
- - - - - 0.75" DIAMETER UTILITY
- - - - - 0.5" DIAMETER UTILITY
- - - - - 0.375" DIAMETER UTILITY
- - - - - 0.25" DIAMETER UTILITY
- - - - - 0.1875" DIAMETER UTILITY
- - - - - 0.125" DIAMETER UTILITY
- - - - - 0.0625" DIAMETER UTILITY
- - - - - 0.03125" DIAMETER UTILITY
- - - - - 0.015625" DIAMETER UTILITY
- - - - - 0.0078125" DIAMETER UTILITY
- - - - - 0.00390625" DIAMETER UTILITY

Curve Table

Curve #	Length	Radius	Delta	Chord Distance	Chord Length
C1	155.40	595.00	97.17	103.73	156.53

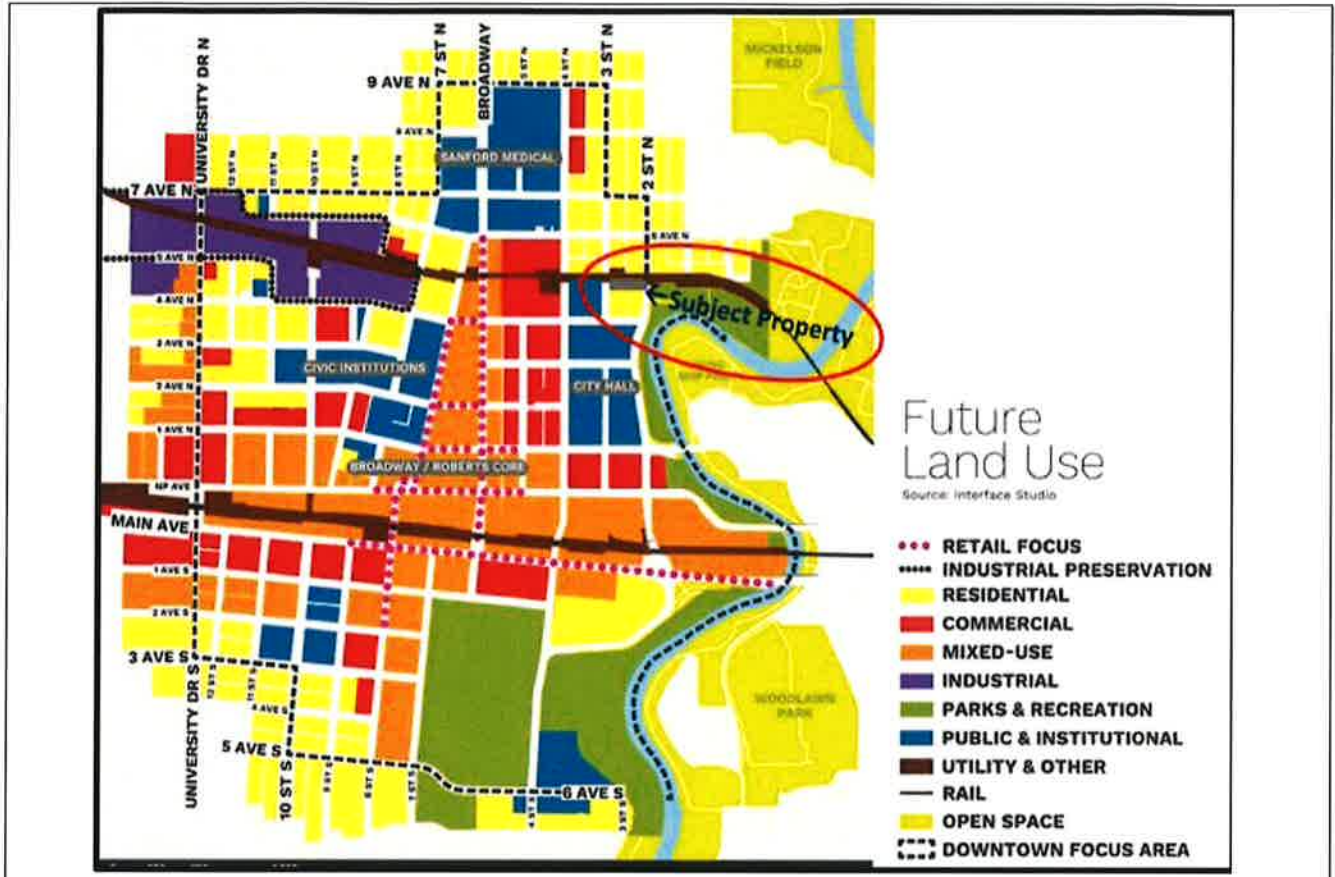


Project No. 2127-0007
 Sheet 1 of 2

39

City of Fargo Staff Report			
Title:	Keeney & Devitts 2nd Addition	Date:	2/1/2023
		Update:	5/25/2023
Location:	Adjacent to the north side of 419 3 rd Street North	Staff Contact:	Donald Kress, current planning coordinator
Legal Description	A portion of 5 th Avenue North adjacent to Block 24, Keeney & Devitts 2 nd Addition		
Owner(s)/Applicant:	Great Plains Block 3, LLC / City of Fargo	Engineer:	Houston Engineering for City of Fargo
Reason for Request:	Right of Way Vacation (a vacation plat of a portion of 5 th Avenue North adjacent to Block 24, Keeney & Devitts 2 nd Addition)		
Status:	City Commission Public Hearing: May 30th, 2023		

Proposal:
<p>The applicant is seeking approval of a vacation plat of a portion of 5th Avenue North adjacent to Block 24, Keeney & Devitts 2nd Addition. This portion of 5th Avenue is not used as a public street.</p> <p>The proposed street vacation encompasses approximately 0.169 acres of public right of way. The vacated area is entirely on the south side of the Burlington Northern Santa Fe (BNSF) railroad tracks. Upon vacation, the vacated area will become part of the adjacent property to the south, 419 3rd Street (portion of Block 24, Keeney & Devitts 2nd Addition).</p> <p>This right of way was originally dedicated by the Keeney & Devitts 2nd Addition plat in 1878. The rail line has been in this right of way since 1882.</p> <p>The property adjacent to the south is being developed as a residential building. The entire area of the vacation will be added to this property. Existing zoning is DMU, Downtown Mixed Use. No zone change is proposed.</p> <p>An access easement will be retained, as depicted on the plat.</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: DMU, Downtown Mixed Use and MR-2, Multi-Dwelling Residential: BNSF railroad; across the tracks is industrial storage and multi-dwelling residential • East: DMU, 2nd Street North and railroad bridge • South: DMU, residential condominiums • West: DMU, warehouse, office uses
Area Plans
<p>The area of right of way to be vacated is included in the Downtown In Focus Master Plan, as depicted in the graphic below.</p> <p>(continued on next page)</p>



Context:

Schools: The subject property is located within the Fargo School District including Horace Mann/Roosevelt Elementary, Ben Franklin Middle and North High School.

Neighborhood: The subject property is included in the Downtown neighborhood.

Parks: Oak Grove Park (170 Maple Street North) is located approximately 0.6 mile east of the subject property and provides disc golf, horseshoes, picnic table, playground, ages 5-12, recreational trails, restrooms, shelter, and tennis court amenities.

Recreation Trails: There are no recreational trails adjacent to the area to be vacated. Shared use paths are along 2nd Street and 4th Avenue, providing access to 419 3rd Street.

Transit: The subject property is not served by a MATBus route.

Staff Analysis:

ROW Vacation Approval Criteria: The City of Fargo does not currently have any adopted regulation dealing with the vacation of rights-of-way. However, city policy requires that any applicant wishing to vacate right-of-way must submit a Vacate Application—a one-page form wherein the petitioner provides: a description of the area to be vacated and signatures of all property owners adjoining the area to be vacated. In addition, the applicant must submit a vacation plat (a major subdivision). Notwithstanding the

Land Development Code's (LDC) silence on the matter, the North Dakota Century Code (N.D.C.C) does address the opening and vacating of roadways in Chapter 40-39 (inside municipal limits). To that end, the balance of this report will focus on the specific approval criteria outlined within Chapter 40-39 of the N.D.C.C.

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

There are no City of Fargo utilities installed in this right of way. The City has contacted all potential utility providers and requested that they submit documentation on any utilities in the vacation area. (Criteria Satisfied)

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

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

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

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

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

<p>This procedure---hearing by the City Commission following the appropriate notice period---is scheduled for the May 30th, 2023 City Commission agenda. (Criteria Satisfied)</p>
<p>Staff Recommendation:</p>
<p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the Keeney & Devitts 2nd Addition (5th Avenue North) right-of-way vacation plat as presented; as the proposal complies with the North Dakota Century Code Section 40-39: Opening and Vacating Streets, Alleys, and Public Places."</p>
<p>Planning Commission Recommendation: February 7th, 2023</p>
<p>At the February 7th, 2023 Planning Commission hearing, that Commission, by a vote of 7-0 with two Commissioners absent and two Commission seats vacant, moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the Keeney & Devitts 2nd Addition (5th Avenue North) right-of-way vacation plat as presented; as the proposal complies with the North Dakota Century Code Section 40-39: Opening and Vacating Streets, Alleys, and Public Places.</p>
<p>Attachments:</p>
<ol style="list-style-type: none">1. Zoning Map2. Location Map3. Vacation Plat

Vacation of Right-of-Way

Keeney & Devitts 2nd Addition

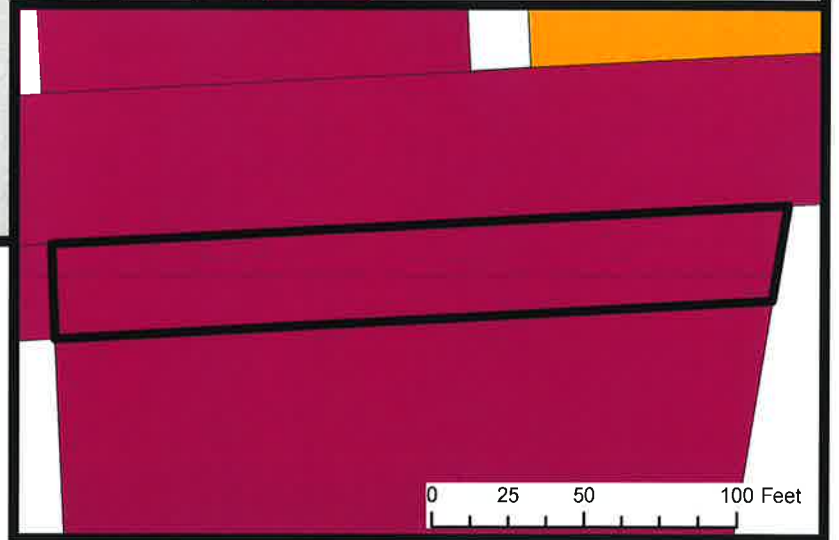
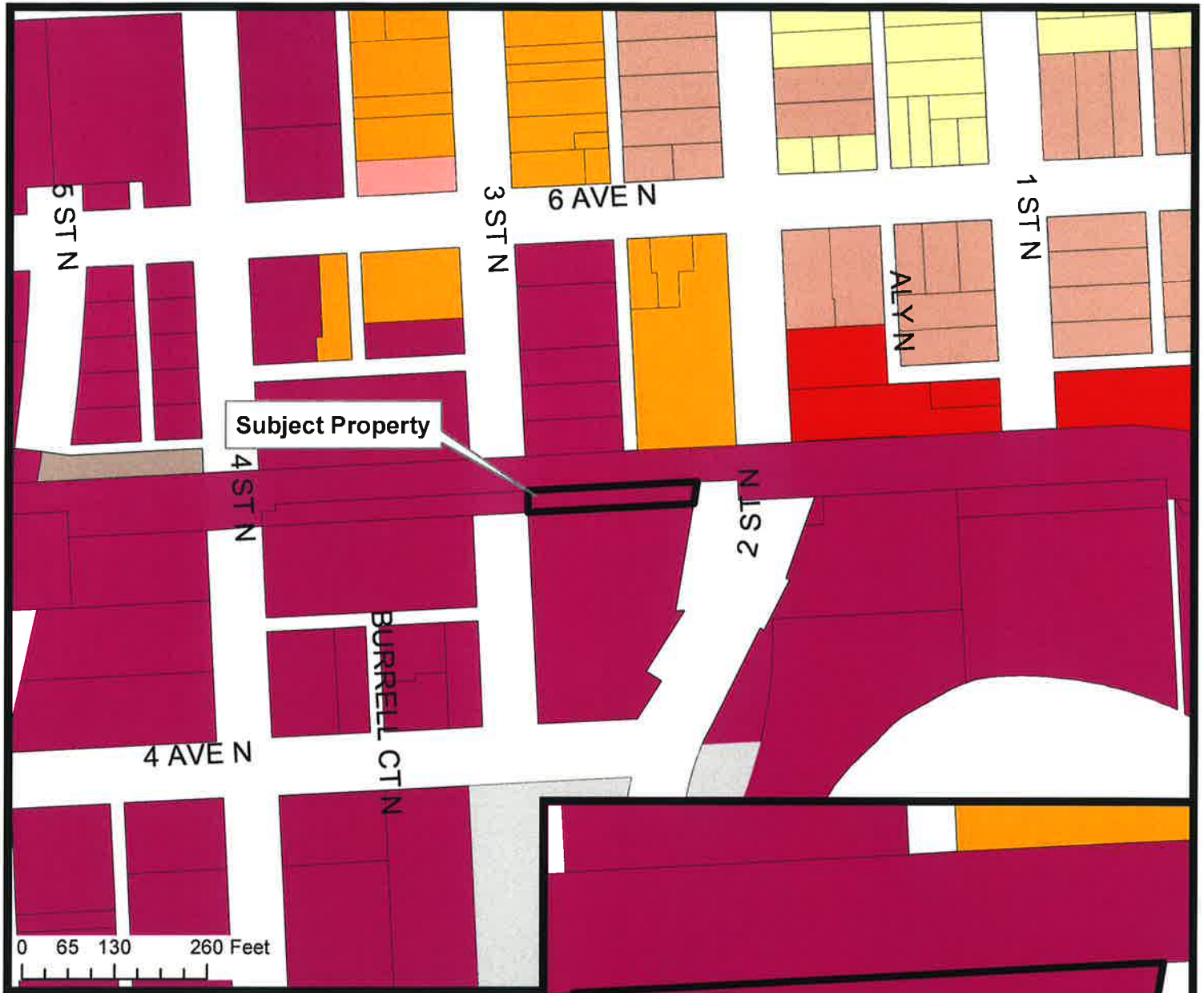
419 3 Street North



Vacation of Right-of-Way

Keeney & Devitts 2nd Addition

419 3 Street North



Legend

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



Fargo Planning Commission
February 7, 2023

VACATION PLAT

OF A PORTION OF 5TH AVENUE NORTH ADJACENT TO
 BLOCK 24, KEENEY AND DEVITT'S 2ND ADDITION
 IN THE CITY OF FARGO,
 CASS COUNTY, NORTH DAKOTA



LEGEND

- IRON MONUMENT FOUND
- 1/2" I.D. PIPE SET
- SURVEYING MARK
- PLAT BEARING
- MEASURED DISTANCE
- PLAT DISTANCE
- ▨ AREA TO BE VACATED WITH THIS DOCUMENT

MEASURED DISTANCES ARE BASED ON THE CITY OF FARGO GRID COORDINATE SYSTEM, DECEMBER 1984.

HOUSTON ENGINEERS, INC.

Sheet 1 of 2
 Project No. 8059-0203

VACATION PLAT

OF A PORTION OF 5TH AVENUE NORTH ADJACENT TO BLOCK 24, KEENEY AND DEVITT'S 2ND ADDITION IN THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DESCRIPTION: AREA TO BE VACATED:

A portion of right-of-way originally dedicated as Fourth Avenue (1/10 north of Block 24, Keaney and Devitt's Second Addition to the City of Fargo on file as document A-12 of the Cass County Recorder's Office, also commonly known as 5th Ave. N., as shown on the Great Northern Railway map, Fargo No. 1, dated May, 1948, bounded on the west by the northerly extension of the west line of said Block 24, bounded on the east by the westerly line of 2nd Street North as shown on the Dedication Plat of 2nd Street North on file as Document No. 189416 at said Cass County Recorder's Office, bounded on the north by a line that is 30.00 feet southerly of and parallel with the centerline of the existing BNSF Railway Company track and bounded on the south by the north line of said Block 24, all in the City of Fargo, Cass County, North Dakota.

CITY ENGINEER'S APPROVAL:

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

Great Plains Block 3 Holdings, LLC

Miko Alimendjic, Registered Agent

State of North Dakota)
) ss
County of Cass)

On this _____ day of _____, 20____, before me personally appeared Miko Alimendjic, Registered Agent for Great Plains Block 3 Holdings, LLC, a North Dakota limited liability company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of said limited liability company.

Notary Public: _____

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, James A. Schilman, 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 area vacated.

Dated this 22nd day of March, 20 25.

James A. Schilman, Professional Land Surveyor No. 6086



State of North Dakota)
) ss
County of Cass)

On this 23rd day of March, 20 25, before me personally appeared James A. Schilman, 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: _____



CITY ENGINEER'S APPROVAL:

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

Brenda E. Derrig, PE, City Engineer

State of North Dakota)
) ss
County of Cass)

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

Notary Public: _____

FARGO PLANNING COMMISSION APPROVAL:

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

Ricky Schneider, Chair

Fargo Planning Commission

State of North Dakota)
) ss
County of Cass)

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

Notary Public: _____

FARGO CITY COMMISSION APPROVAL:

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

Timothy J. Mahoney, Mayor

State of North Dakota)
) ss
County of Cass)

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

Notary Public: _____



Sheet 2 of 2
Project No. B059-0203

40

City of Fargo Staff Report			
Title:	Betlock Addition	Date:	2/7/2023
		Update:	5/25/2023
Location:	1722 2 nd Street North	Staff Contact:	Brad Garcia, Planner
Legal Description:	Lot 1, Block 2 of a replat of McDermott Subdivision; and a vacation of a portion of 18 th Ave North Right of Way to the City of Fargo, Cass County, North Dakota		
Owner(s)/Applicant:	Michael Betlock, Property Owner	Engineer/Architect:	Cole Neset, Neset Land Survey
Reason for Request:	Major Subdivision and ROW Vacate Plat (a replat of Lot 1, Block 2 of a replat of McDermott Subdivision; and a vacation of a portion of 18 th Ave North Right of Way to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Public Hearing: May 30 th , 2023		

Existing	Proposed
Land Uses: Single-Family Residential	Land Use: No Change
Zoning: SR-2, Single-Dwelling	Zoning: No Change
Uses Allowed: SR-2 – SR-2 Allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities	Uses Allowed: No Change
Maximum Density / Building Coverage Allowed: 5.4 Units Per Acre Maximum Density	Maximum Density / Building Coverage: No Change

Proposal:

The applicant is seeking approval of a major subdivision plat entitled *Betlock Addition*. The proposed subdivision would vacate a small southern portion of the 18th Ave North right of way, adjacent to the subject property to allow owner to build a home of similar size to the existing structure and meet the street-side setback of the Land Development Code. The plat would consolidate the subject property and vacated portion of the right of way into one lot, consisting of 0.18 acres. A draft site plan is included within the packet for the City Commission's reference.

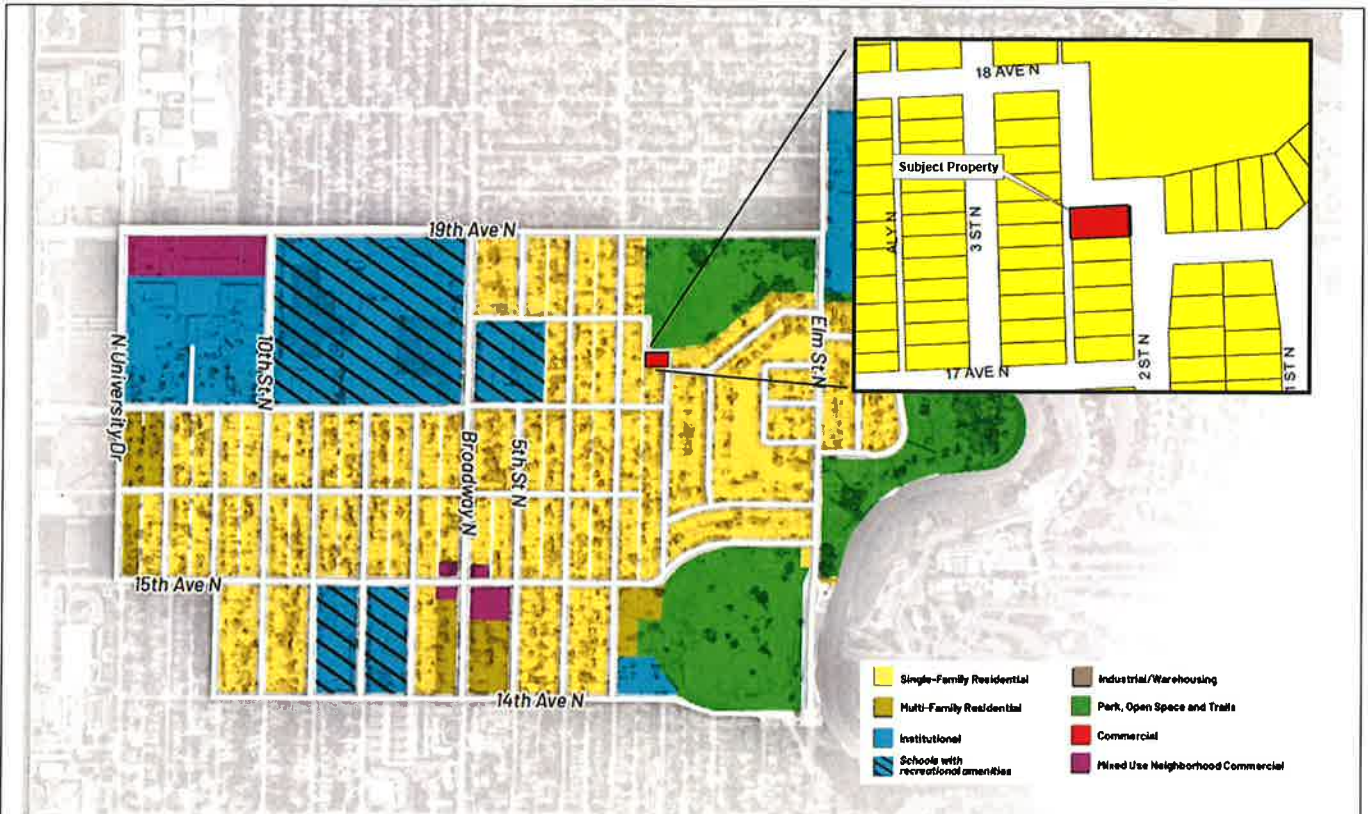
The City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff") reviewed this project, whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

The zoning in this area is entirely SR-2, Single Dwelling District. The subject property is bounded on the west, south and east sides by detached houses and to the north by parks and open area (Elephant Park).

Area Plans:

The subject property is located within the Core Neighborhoods Plan, which identifies this area as single-family residential. Since there are no changes to the proposed use or zoning district, the subject property meets the land use as described in the area plan.



The Core Neighborhoods Plan identifies slipping or distressed properties as a key issue typically found in the city's core neighborhoods. Generally, distressed conditions are the result of financial hardship or physical disability, but in rare instances, such as the case with the subject property, factors outside the property owner's control impact the ability for the owner to completely demolish a distressed home and rebuild with a similar structure.

Context:

Neighborhood: The subject properties are located in the Washington neighborhood.

Schools: The subject properties are located within the Fargo School District and are served by Washington Elementary, Ben Franklin Middle School and North High schools.

Parks: The subject property is adjacent to Elephant / Percy Goodwin Park (100 19th Avenue N), which offers baseball and softball fields, soccer field, tennis courts, picnic tables and grill, playground and restrooms.

Pedestrian / Bicycle: Two shared use paths exist within a quarter-mile distance. One along the south side of 19th Ave North and the other on the East side along Elm Street North, which is also a bike route.

Transit: One public transportation bus route serves the subject property within a quarter-mile distance. Route 11 serves the area going north and southbound along Broadway N and Eastbound along 19th Ave N, providing service to GTC, Sanford Health, Washington Elementary, VA Hospital, Gate City Bank, Fargo North High, Northport and Hornbacher's

Staff Analysis:**Background**

The applicant purchased the property located at 1722 2nd St N, which is in poor condition after the death of the previous owner. Due to its condition, the applicant seeks to demolish the existing home and rebuild. A full demolition of the home would require the newly build structure to meet all requirements of the Land Development Code.

In 1960, a portion of what was Block C to the north of the applicant's property was dedicated as right of way for 18th Ave N. This changed the north side of the property from requiring an interior-side setback to a street-side setback. The zoning for the property is SR-2, which requires a street-side setback of 15 feet, whereas an interior-side setback is 10% of the lot width or 5 feet- whichever is less. This requirement would move the existing north boundary of the home, 10' to the south, affecting the buildable area, thus not allowing the owner to rebuild a similar size home. Vacating 6' of right away and combining it with the subject property will offset the change in required setback and allow the owner to rebuild a home of similar size. Although a preliminary plan is not required or part of this entitlement, the applicant has demonstrated that a home of similar size and location can be achieved with the vacated portion of right of way being added to the subject property.

Public Comment

In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received one call from surrounding neighbors asking about general details. None of the inquiries were against the project.

Major 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.** The proposed subdivision creates one lot intended for a single-family home, which is consistent with the existing zoning and context of the neighborhood and consistent with the goals and objectives described in the Core neighborhoods Plan. **(Criteria Satisfied)**
2. **Section 20-0907.C.4 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.D of the LDC further stipulates that a Major 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.** Pursuant to Item 1 above, the proposed subdivision is consistent with the Core Neighborhoods plan and the proposed use will be compatible with the current zoning. Additionally, the subdivision meets all requirements of Article 20-06 as established within 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.** Public improvements already exist which serve the subject and surrounding properties. If any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

ROW Vacation Approval Criteria: The City of Fargo does not currently have any adopted regulation dealing with the vacation of right-of-ways. However, city policy dictates that any petitioner wishing to vacate right-of-way must submit a Vacate Application, a one page form wherein the petitioner provides: a description of the area to be vacated, and signatures of all property owners adjoining the area to be vacated. In addition, the petitioner must submit a vacate plat (a major subdivision). Notwithstanding the Land Development Code's (LDC) silence on the matter, the North Dakota Century Code (N.D.C.C) does address the opening and vacating of roadways in Chapter 24-07 (outside of municipal

limits) and Chapter 40-39 (inside municipal limits). To that end, the balance of this report will focus on the specific approval criteria outlined within the N.D.C.C.

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

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

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

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

This action will be taken by the City Commission scheduled for May 30th, 2023. (Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the planning commission and staff and move to approve the proposed plat of *Betlock Addition*, including vacation of right of way, as outlined in the staff report, as the proposal complies with the Core Neighborhoods Plan, Standards of Article 20-06, and Section 20-0907.C of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Chapter 40-39."

Planning Commission Recommendation: February 7th, 2023

On February 7, 2023, with a 9-0 vote (with two vacant Commission seats), the Planning Commission accepted the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed plat of *Betlock Addition*, including vacation of right of way, as outlined in the staff report, as the proposal complies with the Core Neighborhoods Plan, Standards of Article 20-06, and Section 20-0907.C of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Chapter 40-39."

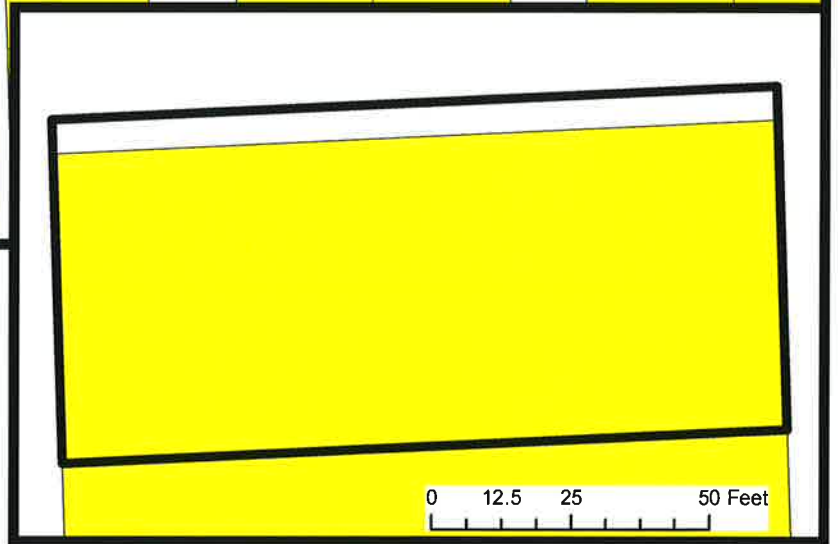
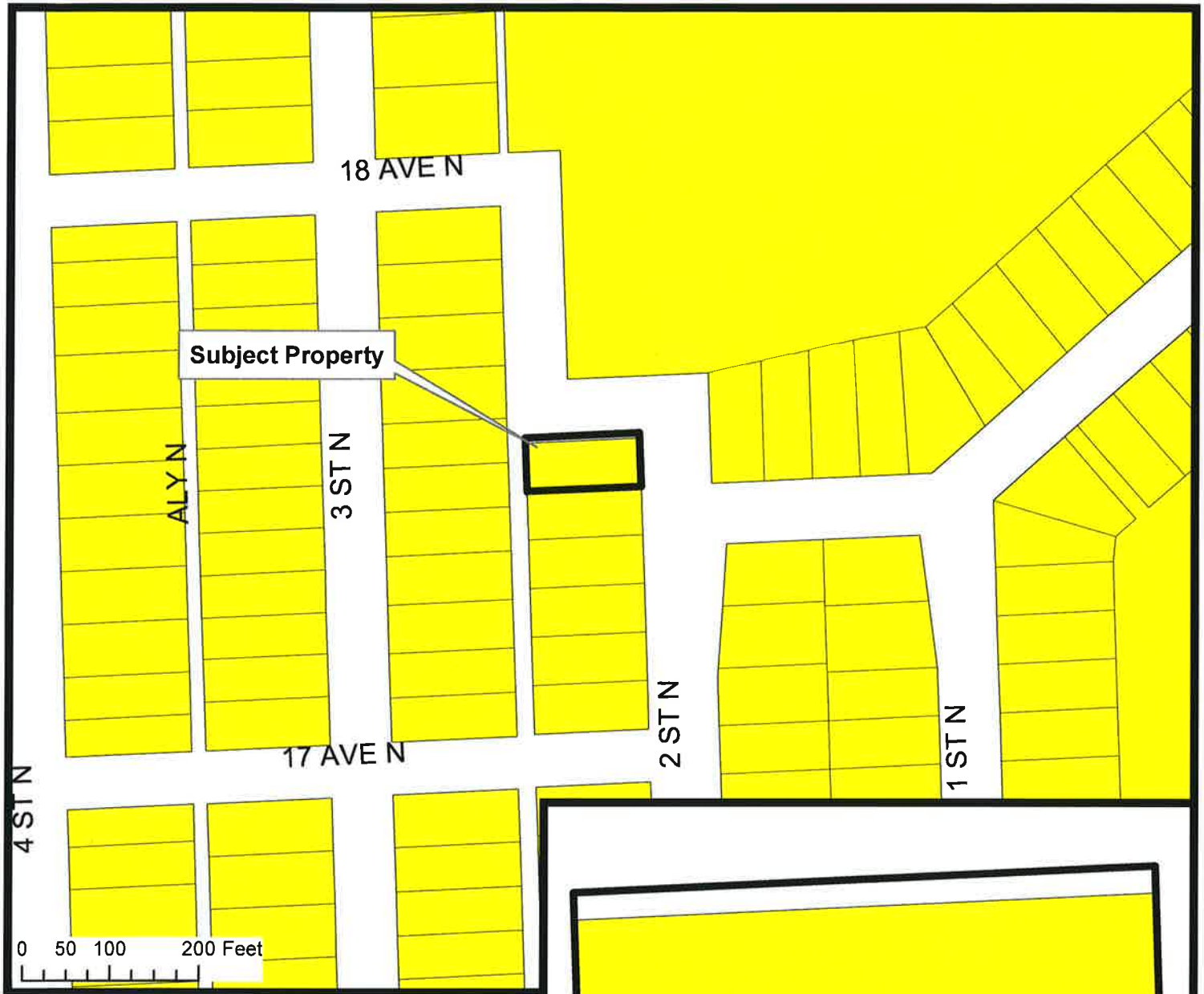
Attachments:

1. Zoning Map
2. Location Map
3. Preliminary Plat

Major Subdivision including Vacation of Right-of-Way

Betlock Addition

1722 2 Street North



Legend

AG	DMU	GC	GO	LC	MR-1	MR-2	MR-3	MHP	NC	NO	P/I	UMU	SR-2	SR-3	SR-4	SR-5	City Limits
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Fargo City Commission
May 30, 2023

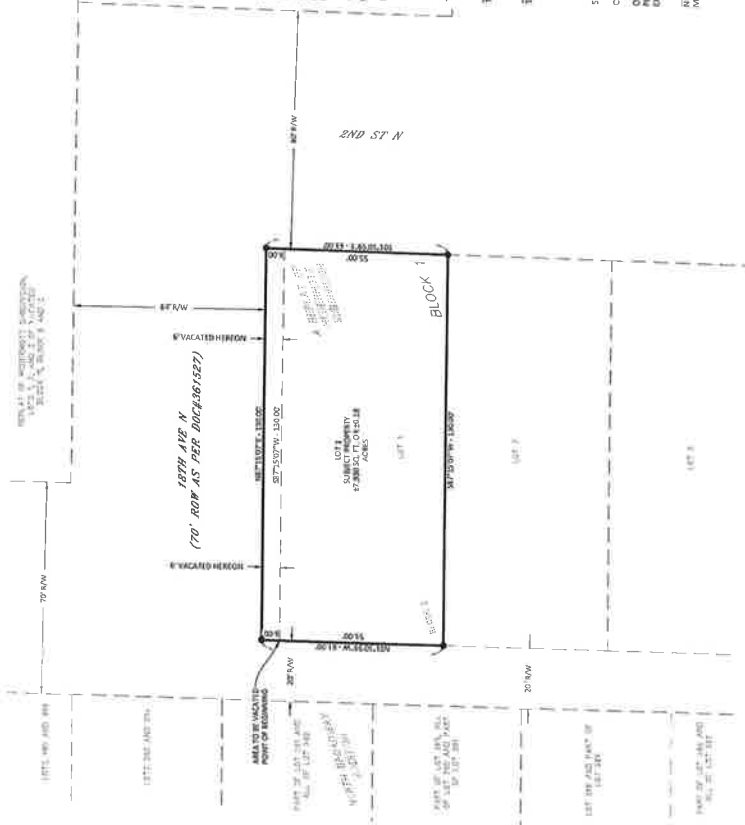
Major Subdivision including Vacation of Right-of-Way

Betlock Addition

1722 2 Street North



A REPLAT OF LOT 1, BLOCK 2 OF A REPLAT OF McDERMOTT SUBDIVISION, AND A VACATION OF A PORTION OF 18TH AVE NORTH RIGHT OF WAY TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA A MAJOR SUBDIVISION



DESCRIPTION OF AREA TO BE VACATED

THAT PORTION OF 18TH AVENUE NORTH THAT WAS DESIGNATED ON DOCUMENT NO. 201207, MORE PARTICULARLY DESCRIBED AS BEING...

CITY ENGINEER'S APPROVAL

THIS PART IN THE CITY OF FARGO IS HEREBY APPROVED THIS 1st DAY OF FEBRUARY, 2023...

CITY COMMISSION APPROVAL

THIS FLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS 1st DAY OF FEBRUARY, 2023...

OWNERS CERTIFICATE

I, MICHAEL BETLOCK, THE PRESIDENT, THAT BRAD J. THOMPSON AND MICHAEL D. BETLOCK ARE THE OWNERS OF LOT 1, BLOCK 2 OF...

OWNERS CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS, THAT BRAD J. THOMPSON AND MICHAEL D. BETLOCK ARE THE OWNERS OF LOT 1, BLOCK 2 OF...

CITY PLANNING COMMISSION APPROVAL

APPROVED BY THE CITY OF FARGO PLANNING COMMISSION THIS 1st DAY OF FEBRUARY, 2023...

LEGEND

- MONUMENT SET
BY EASEMENT
BY SECTION LINE
PROPERTY BOUNDARY LINE
NEW EASEMENT LINE

SURVEY INFORMATION

DATE OF SURVEY: 11/27/2022
BASIS OF BEARING: CITY OF FARGO BOUNDARY COORDINATE SYSTEM, DECEMBER 1992

SURVEYORS CERTIFICATE

I, COLLEA HEST, REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT I HAVE...

STATE OF North Dakota
COUNTY OF Cass
CITY OF Fargo

NOTARY PUBLIC, COUNTY OF Cass, STATE OF North Dakota
DATE: 1/26/23

APPROVED BY THE CITY OF FARGO PLANNING COMMISSION THIS 1st DAY OF FEBRUARY, 2023

APPROVED BY THE CITY OF FARGO PLANNING COMMISSION THIS 1st DAY OF FEBRUARY, 2023

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APPROVED BY THE CITY OF FARGO PLANNING COMMISSION THIS 1st DAY OF FEBRUARY, 2023

41

City of Fargo Staff Report			
Title:	1001 NP Addition	Date: Update:	3/30/22 5/25/2023
Location:	1001 NP Avenue North and 11 11th Street North (see "Project Address Note" below)	Staff Contact:	Donald Kress, current planning coordinator
Legal Description:	Lots 1-12, Block 25; all of Lots 1, 2, 7-12, and part of Lots 3 and 4, Block 26; and the alley and vacated alley therein, Roberts Second Addition		
Owner(s)/Applicant:	Great Plains Holdings 1001, LLC	Engineer:	Houston Engineering, Inc.
Entitlements Requested:	Major Subdivision (Plat of 1001 NP Addition a replat of Lots 1-12, Block 25; all of Lots 1, 2, 7-12, and part of Lots 3 and 4, Block 26; and the alley and vacated alley therein, Roberts Second Addition)		
Status:	City Commission Public Hearing: May 30 th , 2023		
Existing		Proposed	
Land Use: Commercial and Residential Mixed Use		Land Use: No change proposed	
Zoning: DMU, Downtown Mixed Use		Zoning: No change proposed	
Uses Allowed: DMU – Downtown Mixed Use. Allows detached houses, attached houses, duplexes, multi-dwelling structures, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off-premise advertising, commercial parking, retail sales and service, vehicle repair, limited vehicle service, and major entertainment events.		Uses Allowed: No change	
Maximum Density Allowed: DMU has no maximum density and 100% maximum lot coverage		Maximum Density Allowed: No change	

Proposal:

PROJECT ADDRESS NOTE: This project was originally advertised with the addresses of 1001 NP Avenue North, 28 10th Street North, 11 11th Street North, and 1016 1st Avenue North. Since that time in March of 2022, the property addresses have been consolidated into the ones listed above.

The applicant requests one entitlement:

1. A major subdivision, entitled **1001 NP Addition**, which is a replat of Lots 1-12, Block 25; all of Lots 1, 2, 7-12, and part of Lots 3 and 4, Block 26; and the alley and vacated alley therein, Roberts Second Addition

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.

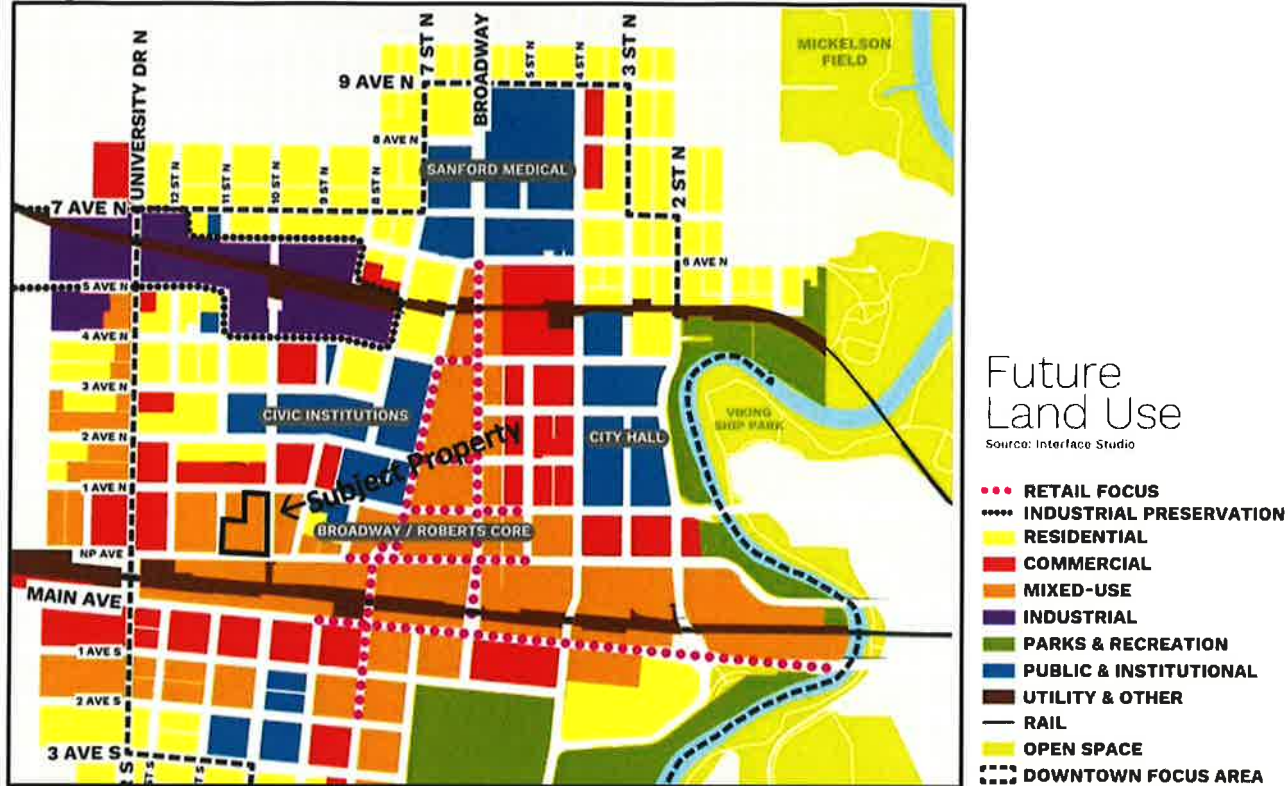
Surrounding Zoning Districts and Land Uses:

- North: DMU; commercial and undeveloped
- East: DMU; residential and commercial
- South: DMU; mixed use building and parking lot
- West: DMU; office and residential (across the alley); undeveloped and office (across 11th Street)

(continued on next page)

Area Plans:

The subject property is included in the Downtown In Focus Master Plan, which designates the subject property as "Mixed Use." The DMU, Downtown Mixed Use zoning is consistent with this land use designation.



Context:

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

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

Parks: Ole Tangen Park (10 Roberts Street) is located approximately 820 feet east of the subject property and offers the amenity of a park bench.

Pedestrian / Bicycle: A grade-separated bike lane is in the NP Avenue right of way along the south side of the subject property. This bike lane is a component of the metro area bikeways system.

Bus Route: The subject property touches the 13, 13U, 15, and 18 bus routes but there are no stops on this block.

Staff Analysis:

PLAT : The plat creates 2 lots in two blocks, all zoned DMU, Downtown Mixed Use. Lot 1, Block 1 is a mixed-use (commercial and residential) building; Lot 1, Block 2 is for parking and stormwater detention.

AGREEMENT REGARDING DETENTION: The applicant has provided an easement, to be recorded subsequent to plat recordation, that identifies the stormwater detention facility on Lot 1, Block 2 and being tied to Lot 1, Block 1. The intent of this document is to prevent Lot 1, Block 2 from being sold or developed in such a way as to deprive Lot 1, Block 1 of its ability to meet stormwater detention requirements.

ACCESS: The project site takes access from 10th Street North, 11th Street North, and 1st Avenue North.

PUBLIC WATER and SEWER: Public water and sewer will be provided in the dedicated public streets.

PUBLIC COMMENT: Staff received one comment letter, which is from the owner of the property at 1018 1st Avenue North. The letter expresses the property owner's concerns about how the development of the subject property has impacted maintenance and safety of the alley, which provides access to parking for her business; stormwater drainage; garbage pick-up; damage to her property as a result of construction on the subject property; and property tax increases. A copy of the letter is attached.

Major Subdivision

The LDC stipulates that the following criteria is met before a major subdivision 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.**

The subject property is currently zoned DMU, Downtown Mixed Use. No zone change is proposed. This zone accommodates the mixed use development, the construction of which is now complete. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received one comment letter (attached). **(Criteria Satisfied)**

- 2. Section 20-0907.C.4.d of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The property is zoned DMU, Downtown Mixed Use. As noted in the finding above, this zone is consistent with the Downtown in Focus Plan designations. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

- 3. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

This subdivision is a major subdivision only because it dedicates existing easements as right of way. No internal streets are created and no additional public improvements are required. Staff has determined that no amenities plan is required. 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 the Planning Commission and staff and move approve the proposed plat of the **1001 NP Addition**, as the proposal complies with the Downtown in Focus Master Plan, Standards of Article 20-06, Section 20-0907.C, and all other applicable requirements of the LDC."

Planning Commission Recommendation: April 5, 2022

At the April 5th, 2022 Planning Commission hearing, that Commission, by a vote of 7-0 with one Commissioner absent and three Commission seats vacant, moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed plat of the 1001 NP Addition, as the proposal complies with the Downtown in Focus Master Plan, Standards of Article 20-06, Section 20-0907.C, and all other applicable requirements of the LDC.

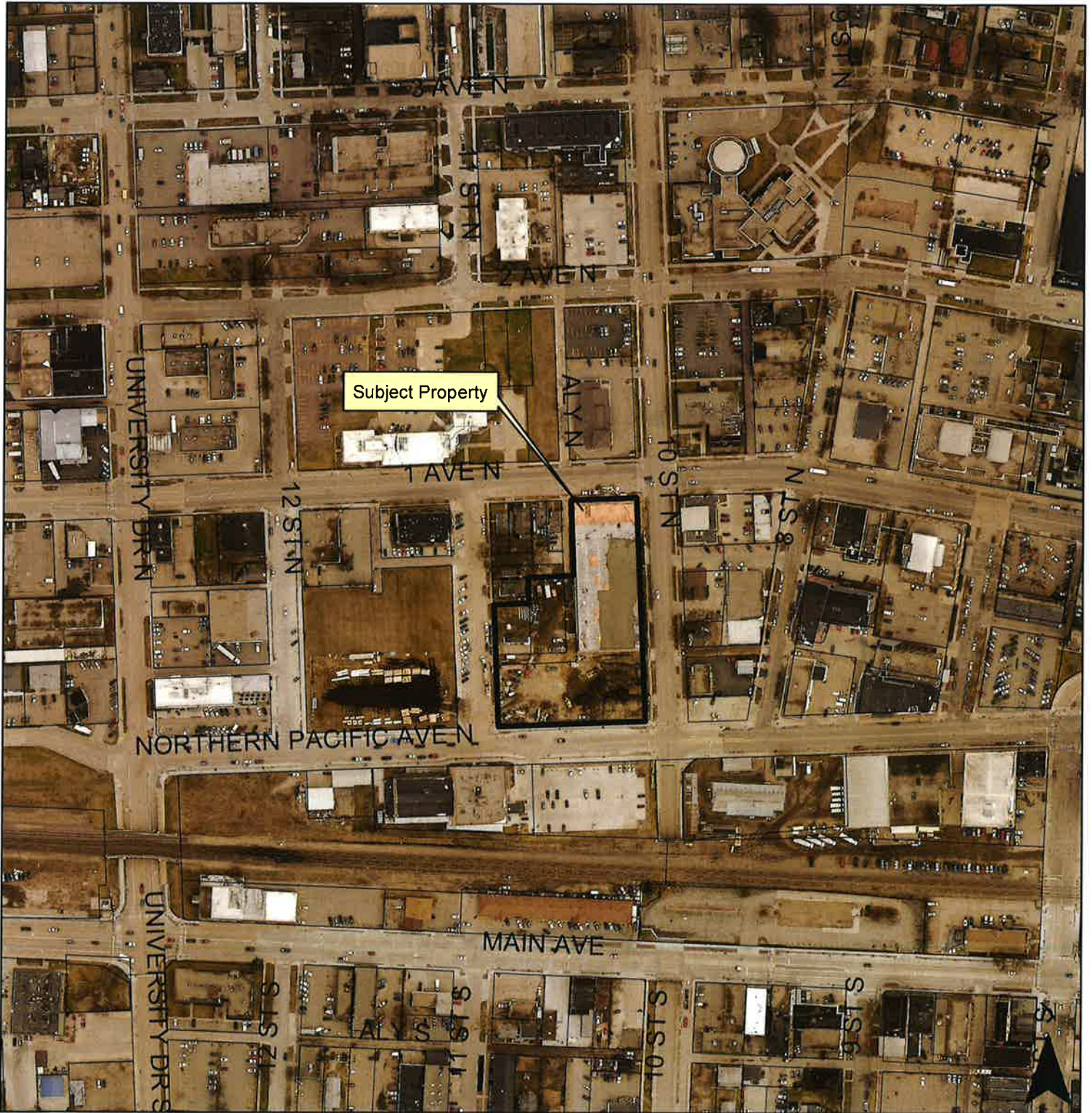
Attachments:

1. Zoning map
2. Location map
3. Preliminary plat
4. Public comment letter

Plat (Major)

1001 NP Avenue N; 11 11th Street N

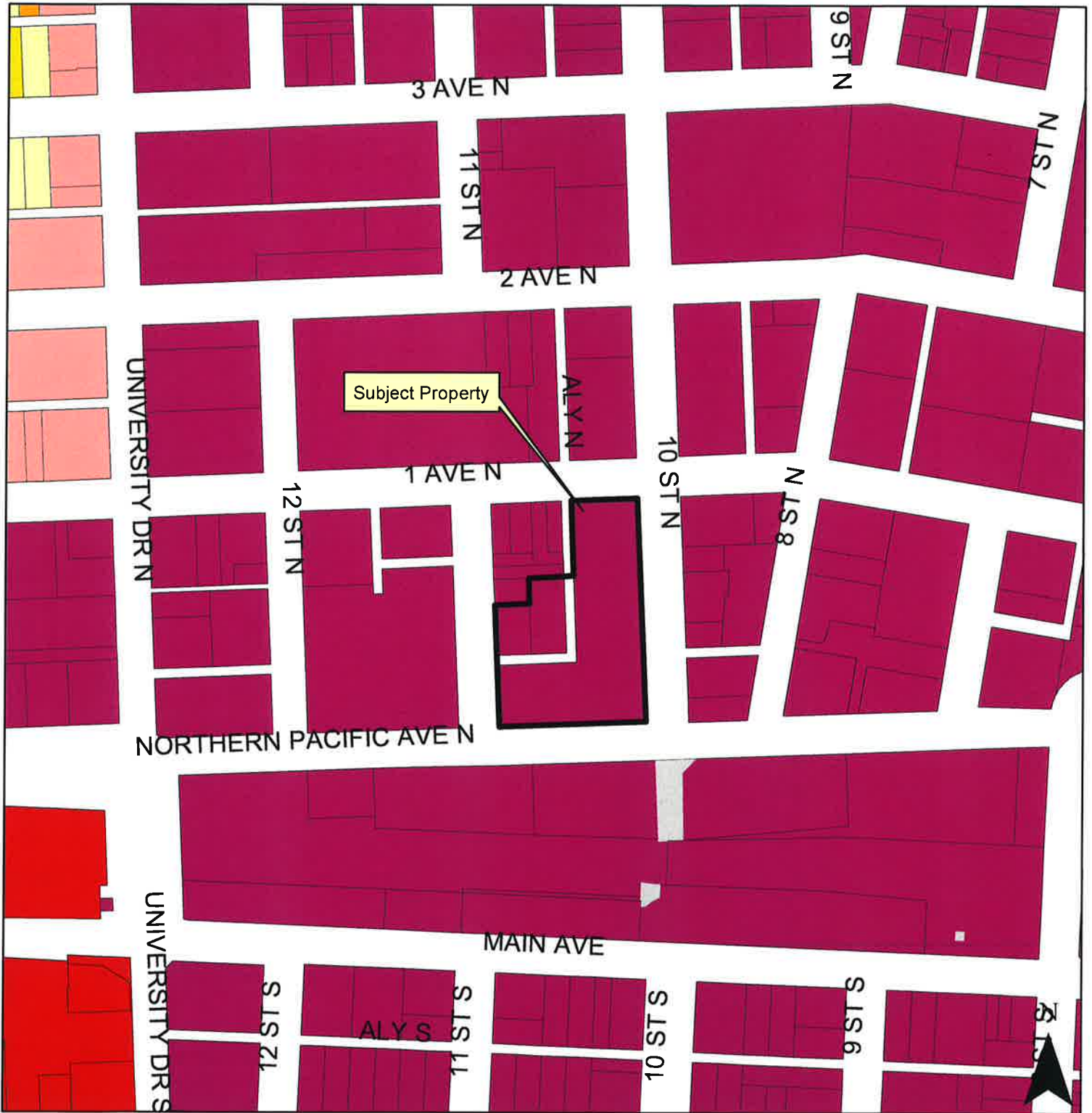
1001 NP Addition



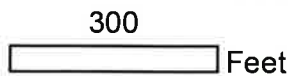
Plat (Major)

1001 NP Avenue N; 11 11th Street N

1001 NP Addition



Legend



Fargo Planning Commission
 April 5, 2022

1001 NP ADDITION

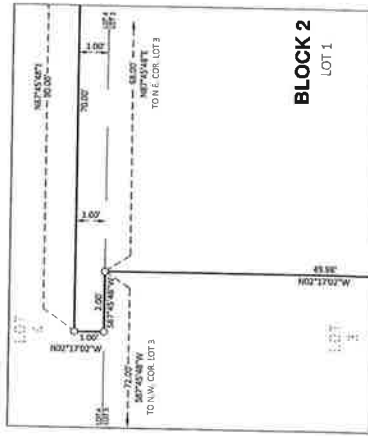
BEING A REPLAT OF ALL OF LOTS 1 - 12, BLOCK 25, AND ALL OF LOTS 1, 2, 7 - 12, AND PART OF LOTS 3 AND 4, BLOCK 26, AND THE ALLEY AND VACATED ALLEY THEREIN, ALL IN ROBERTS' SECOND ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA (A MAJOR SUBDIVISION)



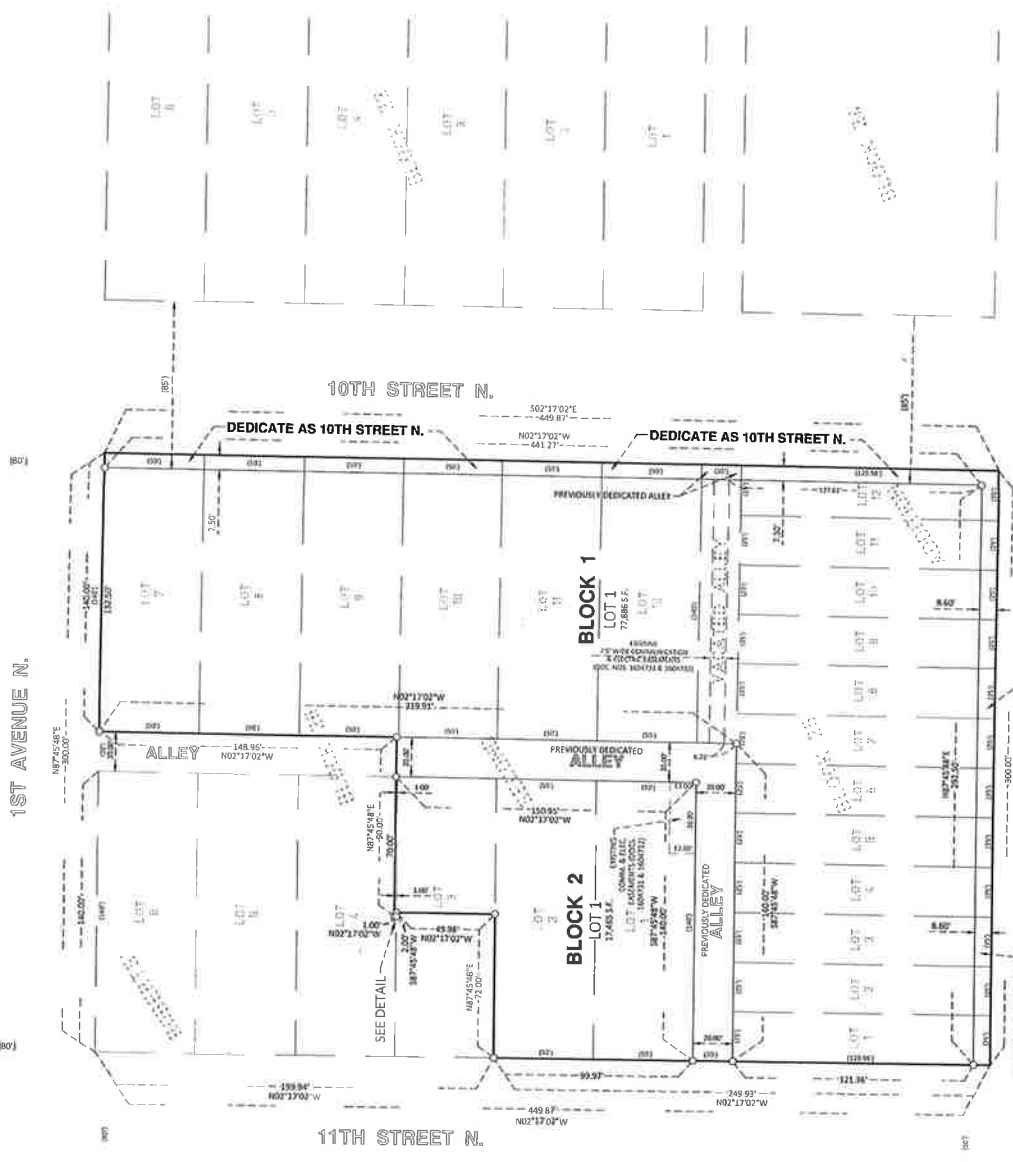
LEGEND

- IRON MONUMENT FOUND
- 1.7" I.D. IRON PIPE SET
- MEASURED BEARING
- PLAT OR RECORD BEARING
- MEASURED DISTANCE
- PLAT OR RECORD DISTANCE
- PLAT BOUNDARY
- NEW LOT LINE
- EXISTING LOT LINE
- EXISTING UTILITY EQUIPMENT

NOTE: BASE OF BEARING: CITY OF SARGO GEOMATIC COORDINATE SYSTEM, DECEMBER 1992



DETAIL
SCALE: 1" = 2'



DEDICATE AS NORTHERN PACIFIC AVENUE

NORTHERN PACIFIC AVENUE



HOUSTON
ENGINEERING, INC.
Sheet 1 of 2
Project No. 7862-0011



JOHNSON HICKS LAW OFFICE, P.C.

1018 First Avenue North, Fargo, ND 58102

(701) 234-0009

jloffice@ljalaw.net

Leslie Johnson Aldrich
Attorney at Law
Licensed in ND & MN
ljohnson@ljalaw.net

Office Manager: Shelly Trefethren
Office Assistant: Mary Peyerl

Victoria Hicks
Attorney at Law
Licensed in ND & MN
victoria@ljalaw.net

May 22, 2023

Donald Kress – Planning Coordinator
Fargo City Hall
225 4th St. N
Fargo, ND 58102

Re: More False Information

Dear Mr. Kress:

As you are aware, we were extremely unhappy, and negatively impacted by the Kilbourne Project that is next to the Johnson Law Office, PC. Various promises and statements were made by the City and Kilbourne. None of them were fulfilled. Kilbourne has not offered us any parking. The list goes on. (When First Avenue became a two-way street, we were told we would not lose any parking and we did). Now, there is even less access to Johnson Law Office and less parking. The apartment residents from the Kilbourne Group shoot out of their garage into our parking lot. They, along with the garbage truck, their employees and contractors, park in the alley, so we often have no access to our parking lot. I oftentimes must drive through the “alley” coming from 10th St N., which you are now saying should be part of Kilbourne's Group property, to even get to our parking lot. This happened three times last week, and once this week so far. There are times we need to get to court, and we are blocked in, and now you are going to create a non-access to the south of Johnson Law Office!

Our driveway for Johnson Law Office is chipped and drains into a puddle and/or ice, so there is now a hazard for our employees, as they can slip and fall. Their large equipment backed onto our cement pad and it is now cracked. No one has taken care of that. Our berm is still ripped up and needs at least two to three yards of soil. I have replaced some of it. We no longer have alley garbage pickup, and we must now bring the garbage to the curb, although conveniently Kilbourne has garbage pickup from their

garage, which blocks the alley behind the Johnson Law Office parking lot and runs over the berm. Interestingly enough, the City of Fargo keeps raising our real estate taxes, and now states our building is valued at \$140,000, although we have less access and availability. Nothing has been done to resolve the parking issue, despite your promises. Many of our clients are elderly. Residents from Kilbourne have yelled at our elderly clients for them parking in the alley, yet the apartment residents do it regularly.

With the proposed abandonment and rewriting of the legal description, who is to maintain the alley and police these issues?

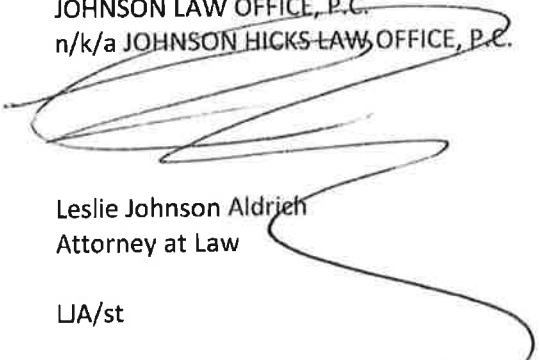
I wanted to let you know how many lies have been told to us. We even had at one point where our building shook so much during the Kilbourne construction, that a gas pipe wore through, and we were out of commission for at least two days while we paid to have a new gas pipe put in. We picked up their garbage for many, many months. Basically, all our complaints went unanswered. This new plan is exactly what I was afraid of when Kilbourne "proposed" this project in the first place. Parking will only get worse when someone finally rents the restaurant they have a space for.

Although the city gives lip service to historic preservation and supporting small businesses, it is obvious that is not a priority for the city.

Although our concerns, damage to business, and general issues have gone unheard, even to the point where people are blocked from their own houses, the saga continues.

Sincerely,

JOHNSON LAW OFFICE, P.C.
n/k/a JOHNSON HICKS LAW OFFICE, P.C.



Leslie Johnson Aldrich
Attorney at Law

LJA/st

Enc.

cc: Fargo Moorhead Heritage Society
Fargo Forum



42

MEMORANDUM

TO: City Commission

FROM: Nicole Crutchfield, Planning Director *mw/PER/NC*

DATE: May 24, 2023

RE: Renaissance Zone Applications for Great Plains NP Holdings, LLC (345-F) and for Northern Prairie Performing Arts (347-F), for a project located at 602, 610, 636 & 650 Northern Pacific Avenue North

The City received Renaissance Zone (RZ) applications from Great Plains Holdings, LLC and Northern Prairie Performing Arts to construct a new mixed-use building at 602, 610, 636 & 650 Northern Pacific Avenue North. Pursuant to the applications, the intent of the project is to develop the surface level parking lot into a 6-story, mixed use building that includes retail, apartments (about 168) and community theater (Fargo Moorhead Community Theater). A public parking ramp is also planned, but not included in the applications. Construction is anticipated to begin in 2023 with completion in 2025. Attached is a copy of the staff report and corresponding materials.

As indicated in the attached documentation, the projects meet all state and local requirements for approval and is consistent with goals and objectives as established in the Fargo Renaissance Zone Development Plan. The applications indicate an investment of approximately \$36,000,000 for the residential and commercial portion, which is approximately \$236 per square foot, and approximately \$10,000,000 for the theater portion, which is approximately \$333 per square foot. Both exceed the minimum investment threshold as set forth in the plan.

Initially, the project came in as one application and was brought forward to the Renaissance Zone Authority (RZA) meeting as one. At that meeting, the potential for separate applications was noted, due to different ownership and construction timelines. After the RZA meeting, the applicants determined to move forward as separate applications.

The RZA unanimously recommended approval on April 27, 2023.

Recommended Action: Approve the Renaissance Zone new construction application for Great Plains NP Holdings, LLC and grant state income tax and property tax exemptions as recommended by the Renaissance Zone Authority.

Recommended Action: Approve the Renaissance Zone new construction application for Northern Prairie Performing Arts and grant state income tax and property tax exemptions as recommended by the Renaissance Zone Authority.





**Renaissance Zone Staff Report for
Great Plains NP Holdings, LLC (345-F)
602, 610, 636, and 650 Northern Pacific Avenue**

Project Evaluation:

The City of Fargo received a Renaissance Zone application from Great Plains NP Holdings, LLC to construct a mixed-use project at 602, 610, 636, and 650 Northern Pacific Avenue. Pursuant to the application, the intent of the project is to construct a 6-story mixed-use building with ground floor retail, amenity space, apartments, community theater space, and a publicly owned parking garage. The Renaissance Zone application does not apply to the parking garage, as it is intended to be publicly owned. Construction is anticipated to begin in 2023 with completion in 2025.

The project includes three primary programs of retail and residential, community theater space, and a publicly owned parking garage. The applicant plans to build the shell for all of the spaces at once, however the community theater will be completed at a separate time, likely later than the remainder of the building. The Planning Department is coordinating with the applicant, the Assessor's Department, and the State to see how to best navigate the completion timelines and processes.

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

1. **Renaissance Zone Plan Goals:** Use consistent with the RZ Plan (as per Visions and Goals): As noted in the 2019 Renaissance Zone Development Plan.
 - a. *Grow as a Neighborhood:* Invest in housing to increase the population living Downtown and maintain Downtown's diversity.
The project will add approximately 168 apartment units. The proposed community theater will add additional arts and entertainment options to the downtown community.
 - b. *Prosper as a Business Center:* Increase the number and types of jobs Downtown.
The mixed use building will have approximately 2,500 square feet of retail space and a community theater, providing opportunities for more jobs in the downtown area. The additional parking garage of the overall development will support new and existing businesses in the general vicinity of the project.
 - c. *Thrive as a Destination:* Create a unique Downtown experience with an activated riverfront and vibrant sidewalks and public spaces that serve as the backdrop of the community's social life.
The project contributes toward the retail and residential needs Downtown and also provides an entertainment destination, but does not directly impact the riverfront. The sidewalks, ground level interaction, and community theater will serve the community as an entertainment and arts destination. Wider sidewalks are anticipated with the reconstruction of Northern Pacific Avenue within the next several years.
 - d. *Be a model for Inclusive Growth and Development:* Protect Downtown's diversity and evolve as a model for equitable growth and development.
The project provides different apartment options for size and price points (though they are market rate), as well as contributing to the arts and entertainment of downtown. The project does not address diversity, public amenities or needs for specific populations.
 - e. *Complete our Streets:* Make complete streets common place and encourage trips by foot, bicycle, and bus, as well as car.
The project proposes ground floor retail, community theater, and apartments to improve the streetscape, foot traffic, and activity of the area. Routes 13 and 13U, 14, 15, and 18 run along Northern Pacific Avenue, with stops within a tenth-mile of the subject property. The site is also several blocks from the MATBUS GTC (Ground Transportation Center). Reconstruction of Northern Pacific Avenue adjacent to the subject property is expected

to occur within the next several years and will incorporate standard street amenities, separated bike lane and a pedestrian crossing at this block.

- f. *Park Smart*: Manage parking resources to meet the needs of drivers, while also making room for new development and activity.

The project proposes approximately 465 parking spaces hidden behind the mixed use project. The parking needs for existing office and retail will utilize the parking garage during the day while the project's apartments, the existing apartments surrounding, and food and beverage establishments will utilize the garage during the evening. The project increases the density of parking as well as decreases the visual and economic impact from the existing surface parking lot.

- g. *Play with purpose*: Develop a system of connected all-season green spaces designed for people (of a range of ages and interests) and purpose (as infrastructure that absorbs stormwater).

The project provides the residents a rooftop amenity space. The building façade is designed to accommodate the reconstruction of Northern Pacific Avenue which includes a bike lane and widened sidewalks.

(17/20 points)

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

According to the application, the structure accommodates (number) square feet, as follows:

- *Proposed Building Total*: approximately 182,500 square feet (*332,500 square feet with parking)
- *Residential*: approximately 150,000 square feet (approximately 168 apartment units and 3,000 square feet of amenity space)
- *Commercial*: approximately 2,500 square feet
- *Community Theater*: 30,000 square feet
- **Parking*: approximately 150,000 square feet (465 parking garage stalls)

*The Renaissance Zone application does not apply to the parking garage because it will be publicly owned. It is listed to show the full scope of the project at completion.

The application estimates a total capital investment of \$40,000,000, which calculates to approximately \$219 per square foot.

When reviewing the mixed-use portion (residential and commercial) and the theater separately, the mixed-use portion (152,500 square feet) investment of \$36,000,000 calculates to approximately \$236 per square foot and the community theater (30,000 square feet) investment of \$4,000,000 calculates to approximately \$133 per square foot.

(10/10 points)

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

- a. **Primary Sector Business, Industry, and Talent-Dependent Enterprises**:
Staff is not aware that the applicant is specifically targeting primary sector business, but project provides space for such uses.
- b. **Active Commercial, Specialty Retail or Destination Commercial**:
Staff is not aware that the applicant is specifically targeting active commercial, specialty retail, or destination commercial, but the project provides space for such uses.
- c. **Mixed Use Development**:
Yes

(18/20 points)

4. **Targeted Areas:** Is the investment located in a “Targeted Area” as defined by this RZ Plan? Consideration shall be given to whether this property has been vacant or underutilized for a period of time and/or whether the property is specifically targeted for clearance.
- a. **Parcels that have been vacant or underutilized for an extended period of time:**
The subject property is a currently a surface parking lot and has been for decades.
 - b. **Parcels specifically targeted for clearance:**
The RZ Plan identifies Block 18 for redevelopment of the surface parking lot with mixed-use and ground level retail/commercial interaction on Northern Pacific Avenue.

(10/10 points)

5. **Urban Design:** Is the project representative of strong urban design principles?
The project includes strong urban design principles, including density, form, and proximity to amenities. The building is placed close to Northern Pacific Avenue and the design contemplates the interface of the structure to the right-of-way, as the ground floor facade provides architectural interest through varying materials and a high amount of glazing that that provides transparency and vibrancy. The project is located within the DMU, Downtown-Mixed Use, zoning district and will have to meet the architectural intent of that zoning district as well.

(10/10 points)

6. **Investment Analysis:** Consideration and analysis as to the total actual investment in the project.
As proposed, the redevelopment project and improvement costs exceeds the \$100 per square foot requirement. As previously noted, the application represents a total estimated investment of \$40,000,000.

(10/10 points)

7. **Business Relocation:** Consideration as to whether the project will include or accommodate the relocation of a business from another North Dakota community?
The project does not intend currently for the movement or relocation of a business from another North Dakota community.

(10/10)

8. **Street Activation:** Will the project fit contextually and will the project contribute or enhance the area from an architectural perspective?
The project is architecturally designed and provides interest with varying articulation, glazing, textures, and other horizontal elements, such as canopies. Renaissance Zone projects are anticipated to be conscience of four-sided design, which has been seen with other projects in Downtown. However, the south portion of the project does not have the same design treatment, specifically the eastern portion of the south façade and the south portion of the east façade are more “blank” than other facades (though this is adjacent to the railroad tracks).

(9/10 points)

Summary:

This application received a score of 94 on a 100-point scale. The applicant met all required criteria and the use is consistent with the RZ Plan. The proposed new construction project surpasses the local capital improvement requirement of \$100 per square foot for new construction.

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

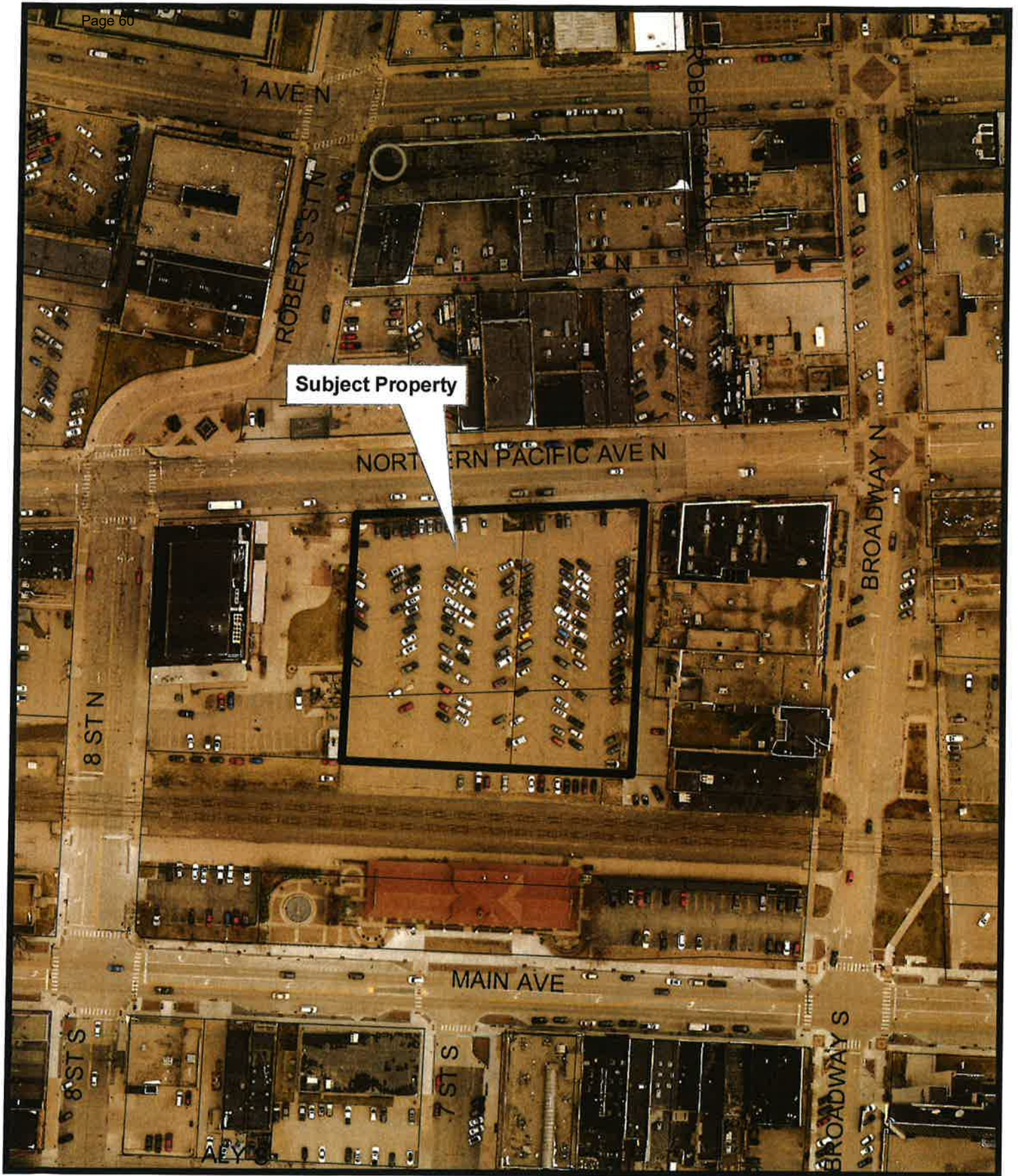
The amount invested in the project exceeds state and local guidelines. The project does not involve the relocation of commercial businesses from another North Dakota city. The applicant will not be seeking any historic preservation tax credits.

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

Minimum Criteria (New Construction Proposals)			
Criteria:		Staff Rating	Possible Points
1	Consistency with Plan Goals	17	20
2	Investment Thresholds	10	10
3	High Priority Land Use	18	20
4	Consistency with Targeted Areas	10	10
5	Urban Design	10	10
6	Investment Analysis	10	10
7	Business Relocation	10	10
8	Street Activation	9	10
Total Rating (100 possible points)		94	100

Suggested motion:

Recommend approval to the Fargo City Commission to approve the application submitted by Great Plains NP Holdings, LLC and to grant the property tax exemption and the State income tax exemptions as allowed by the Renaissance Zone law contingent upon completion of the project and verification of costs.



Subject Property

602, 610, 636 & 650 Northern Pacific Ave





APPLICATION FOR RENAISSANCE ZONE PROJECT

Property owners, business owners, developers or investors interested in pursuing a Renaissance Zone project should review the 2019 RZ Plan. The RZ Plan delineates the current geographical boundaries of the program (only certain blocks within the downtown core are included) and provides additional detail on minimum investment requirements and applicable program goals and objectives that must be met.

Application submitted for (check all that apply):

- New Construction
 Commercial Lease
 Purchase with Major Improvements
 Rehabilitation: Commercial Residential
 Primary Residential Purchase
 Block Addition

Property Owner Information
Name (<i>printed</i>): Great Plains NP Holdings, LLC
Name (<i>printed</i>):
Address: 210 Broadway Suite 300
Fargo, ND 58102

Contact Person Information (<i>if different than owner</i>)
Name (<i>printed</i>): Keith Leier
Address: 210 Broadway Suite 300, Fargo, ND 58102

Parcel Information
Address: 602, 610, 636, 650 NP Ave
Unit Number:
Renaissance Zone Block Number: Block #18
Legal Description (<i>attach separate sheet if more space is needed</i>):
Parcel Number: 01-3508-01211-000 01-3508-01213-000 01-3508-01281-000 01-3508-01283-000

Is this property listed on or a contributing structure to the National Register of Historic Places? Yes No
 Do you intend to apply for a Historic Preservation Tax Credit in conjunction with this project? Yes No

Project Information	
Total Project Cost: (Qualified Capital Improvements) \$36 MM (total development costs, mixed-use project only)	
Current Use of Property: Surface Parking Lots	
Anticipated Use Upon Completion: Mixed used apartments and community theatre lining publicly owned parking garage	
Expected Date of Purchase: Summer 2023	Expected Date of Occupancy: Late 2025
Estimated Property Tax Benefit: (Over five year exemption period) \$2MM	Estimated State Income Tax Benefit: (Over five year exemption period) n/a
Current Employees: (Full-time equivalent) n/a	Anticipated Employees: (Full-time equivalent) n/a

<p>Scope of Work</p> <p>Construct a six story private development including three primary programs: 1.) +/- 2,500sf of ground floor retail, +/- 3,000sf of amenity space, and +/- 168 apartments - all together considered the "mixed use project", 2.) +/- 30,000sf of ground floor community theater space, and 3.) publicly owned +/- 465 stall parking garage. This RZ application is for the private "mixed use project" portion of the project only.</p>

Additional Project Information

New Construction/Rehabilitation/Purchase with Improvements Only

Current Building Value: (Taxable Improvement Value) \$148,000	Estimated Building Value Upon Completion: (Taxable Improvement Value) \$24.6MM
Building Area Upon Completion (SF): 150,000	Number of Stories Upon Completion: 6

Commercial Lease Only

Lease Area Upon Completion (SF):			
Type of Business:			
<input type="checkbox"/> New business moving to the Renaissance Zone	<input type="checkbox"/> Expanding Business moving to the Renaissance Zone	<input type="checkbox"/> Existing Business Expanding within the Renaissance Zone	<input type="checkbox"/> Continuation of a lease moving from one Renaissance Zone Project to another Renaissance Zone Project

Residential Purchase Only

Will this be your primary place of Residency?:
--

<p>Acknowledgement – We hereby acknowledge that we have familiarized ourselves with the rules and regulations to the preparation of this submittal and that the forgoing information is true and complete to the best of our knowledge.</p>	
Owner (Signature): <u><i>Manuel Selinger</i></u>	Date: <u>1/27/23</u>
Joint Owner (Signature): _____	Date: _____
Representative (Signature): _____	Date: _____

THE FOLLOWING CHECKLIST MUST BE COMPLETED AND SUBMITTED WITH THE APPLICATION FORM:

		Submitted	N/A
Renaissance Zone Project	Current photos of property, relevant to project scope and proposed renderings of the proposed project	<input checked="" type="checkbox"/>	
	<u>Certificate of Good Standing</u> from the Office of the State Tax Commissioner	<input checked="" type="checkbox"/>	
	<u>Business Incentive Agreement</u> from the Department of Commerce for all non-residential projects	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	For residential purchases proved a copy of the purchase agreement	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Goals and objectives as outlined in the 2015 Fargo Renaissance Zone Development Plan (Attachment A)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

APPLICATION DEADLINES:

The Renaissance Zone Authority regularly meets on the Fourth Wednesday of each month at 8:00 am in the in the City Commission Chambers at 225 4th Street North, Fargo, ND 58102. For consideration during a monthly meeting:

- **Renaissance Zone** applications are due by 4:30 pm on the **first Wednesday of each month.**

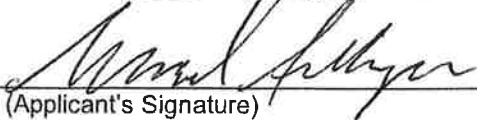
REQUIREMENTS, POLICIES, AND GUIDELINES:

The Renaissance Zone is administered according to the following written documents, each of which are available on the City of Fargo's website.

- **Renaissance Zone Designation**
 - o City of Fargo Renaissance Zone Development Plan
 - o North Dakota Renaissance Zone Program Guidelines

CERTIFICATION:

Applicant certifies that, to the best of his/her knowledge and belief, the information contained in the application and attached hereto is true and correct. Applicant also certifies that he/she understands all written requirements, policies, and guidelines of the Fargo Renaissance Zone Authority, the City of Fargo, and/or the State of North Dakota governing the use of the procedure or program being applied for:



 (Applicant's Signature)

Mike Allmendinger

 (Printed Name)

1/27/23

 (Date)

If the property owner(s) and applicant are different, the property owner certifies that he/she has full knowledge of this application and consents to its submission:

 (Applicant's Signature)

 (Printed Name)

 (Date)

 (Applicant's Signature)

 (Printed Name)

 (Date)

Goals of the Fargo Renaissance Zone Plan

Is the proposed use of the project consistent with the RZ Plan? As noted in the Renaissance Zone Development Plan the desired land use will contribute to a number of goals:

1. *Grow as a Neighborhood.* How will this project invest in housing to increase the population living Downtown and maintain Downtown's diversity?

Project will add approximately 168 units on a location with currently zero residents. The addition of a community theatre to Downtown will add additional arts and entertainment options, contributing to a better quality of life for all downtown residents, new and existing. Added public parking infrastructure will not only support the new development project, it will serve the needs of other downtown development, provide needed support for existing businesses, and provide more parking availability for downtown events and entertainment.

2. *Prosper as a Business Center.* How will this project increase the number and type of jobs Downtown (or accessible from Downtown)?

Project will include retail generating new jobs and a community theatre bringing more jobs to the downtown area. The overall development's parking garage and new parking supply will help support existing and new businesses and will be a catalyst additional new development or redevelopment in the general vicinity of the project.

3. *Thrive as a Destination.* How will this project create a unique Downtown experience with an activated riverfront and vibrant sidewalks and public spaces that serve as the backdrop to the community's social life?

The project will continue to support the growing retail district of Downtown and increase the residential units in the neighborhood. The addition of a community theatre in the project will be a entertainment and arts destination for the entire community, bringing tens-of-thousands of additional people to the neighborhood. This new activity will be supported by additional public parking infrastructure, which will have an additional catalytic impact to surrounding business and other development efforts.

4. *Be a Model for Inclusive Growth and Development.* How will this project protect Downtown's diversity and evolve as a model for equitable growth and development?

Project will provide a range of apartment, sizes, price points and contribute to the arts and entertainment district of downtown.

5. *Complete our Streets.* How will this project make complete streets common place and encourage trips by foot, bicycle, and bus, as well as car?

The replacement of the surface lot with ground floor retail, community theatre and 168 units will vastly improve the streetscape, foot traffic, and activity in this area of downtown.

6. *Park Smart.* How will this project manage parking resources to meet the needs of drivers, while also making room for new development and activity?

Parking will be hidden behind the mixed use project. The project's focus on residential will allow the parking garage to serve new and existing office and retail demand during the day. In the evening the garage will provide parking for food and beverage establishments, the project's apartments, and new/existing apartments in the area. We are increasing the density of parking, while decreasing the visual and economic impact of surface parking lots.

7. *Play with Purpose.* Will this project develop a system of connected all-season green spaces designed for people (of a range of ages and interests) and purpose (as infrastructure that absorbs stormwater)?

A rooftop amenity space will provide the residents access to an outdoor space. The facade of the project is designed to accommodate, compliment and work with the planned bike lane and widened sidewalks of the NP Ave reconstruction project.

Legal Descriptions

AdditionNameUnplatted - BNSF

BlockLegal

LotLegalPT OF THE NW 1/4 OF SEC 7 TWP 139N RGE 48W DESC AS FOLL: BEG AT THE INTER OF THE SLY R/W LN OF NP AVE & THE WLY R/W LN OF BDWY IN THE SD CITY OF FGO; THEN S 87 DEG 47 MIN 33 SEC W (ASSMD BRG), ALG THE SLY R/W LN OF SD NP AVE, FOR A DIST OF 205.00 FT TO THE TRUE PT OF BEG; THEN CONT S 87 DEG 47 MIN 33 SEC W, ALG THE SLY R/W LN OF SD NP AVE, FOR A DIST OF 119.69 FT; THEN S 02 DEG 33 MIN 41 SEC W FOR A DIST OF 187.17 FT TO A PT OF INTER WITH THE SLY LN OF A TRACT OF LAND DESC IN SD DOC #976085, ON FILE AT CASS CO REC OFF; THEN N 87 DEG 47 MIN 33 SEC E, ALG THE SLY LN OF A TRACT OF LAND DESC IN SD DOC #976085, FOR A DIST OF 121.82 FT TO THE SE COR OF A TRACT OF LAND DESC IN SD DOC #976085, THEN N 01 DEG 54 MIN 31 SEC E, ALG THE ELY LN OF A TRACT OF LAND DESC IN SD DOC #976085, FOR A DIST OF 187.00 FT TO THE TRUE PT OF BEG
 LegDescAdditional*06/28/89 SPL/FR LEASE*02/21/90 LEGAL DESC CORR *02/24/93 LEGAL DESC CORR *12/26/95 LEGAL DESC CORR
 ##MULTIPLE PARCELS SEE 9200-21100 *5/31/06 SPL/FR 01-3508-01210-000

AdditionNameUnplatted - BNSF

BlockLegal

LotLegalUNPLATTED, A TRACT OF LD IN NW 1/4 OF SEC 7, TWP 139N, RGE 48W, DESC AS FOLL: COMM AT INTER OF SLY R/W LN OF NP AVE & WLY R/W LN OF BROADWAY; THEN ON AN ASSMD BRG OF S 87 DEG 47 MIN 33 SEC W, ALG SLY R/W LN OF NP AVE 205 FT; THEN S 01 DEG 54 MIN 31 SEC W 187 FT TO TRUE PT OF BEG; THEN CONT S 01 DEG 54 MIN 31 SEC W 87.70 FT; THEN N 87 DEG 30 MIN 57 SEC W 296.73 FT; THEN N 02 DEG 29 MIN 00 SEC E 63.42 FT; THEN N 87 DEG 47 MIN 33 SEC E 296.84 FT TO TRUE PT OF BEG LESS THE FOLL: BEG AT THE INTER OF THE SLY R/W LN OF NP AVE & THE WLY R/W LN OF BDWY IN THE SD CITY OF FGO; THEN S 87 DEG 47 MIN 33 SEC W (ASSMD BRG). ALG THE SLY R/W LN OF SD NP AVE FOR A DIST OF 205.00 FT; THEN CON S 87 DEG 47 MIN EE SEC W, ALG THE SLY R/W LN OF SD NP AVE, FOR A DIST OF 199.69 FT; THEN S 02 DEG 33 MIN 41 SEC W FOR A DIST OF 187.17 FT TO A PT OF INTER WITH THE NLY LN OF A TRACT OF LAND DESC IN DOC #986862, ON FILE AT THE CASS CO REC OFF, & THE TRUE PT OF BEG; THEN CONT S 02 DEG 33 MIN 41 SEC W FOR A DIST OF 77.73 FT TO A PT OF INTER WITH THE NLY LN OF THE BNSF RR CO R/W; THEN N 87 DEG 30 MIN 57 SEC W, ALG THE NLY LN OF THE SD BNSF RR CO R/W, FOR A DIST OF 174.33 FT TO THE SW COR OF A TRACT OF LAND DESC IN SD DOC #986862; THEN N 02 DEG 29 MIN 00 SEC E, ALG THE WLY LN OF A TRACT OF LAND DESC IN SD DOC #986862, FOR A DIST OF 63.42 FT TO THE NW COR OF A TRACT OF LAND DESC IN SD DOC #986862; THEN N 87 DEG 47 MIN 33 SEC E, ALG THE NLY LN OF A TRACT OF LAND DESC IN SD DOC #986862, FOR A DIST OF 175.02 FT TO THE TRUE PT OF BEG
 LegDescAdditional*5/31/06 SPL/FR 01-3508-01280-000

AdditionNameUnplatted - BNSF

BlockLegal

LotLegalUNPLATTED, PT OF NW 1/4 OF SEC 7, TWP 139N, RGE 48W, DESC AS FOLL: COMM AT INTER OF S R/W LN OF NP AVE & WLY R/W LN OF BROADWAY; THEN S 87 DEG 47 MIN 33 SEC W ALG S R/W LN OF NP AVE 205 FT TO TRUE PT OF BEG; THEN S 01 DEG 54 MIN 31 SEC W 187 FT; THEN S 87 DEG 47 MIN 33 SEC W 296.84 FT; THEN N 02 DEG 29 MIN 00 SEC E 187.14 FT; THEN N 87 DEG 47 MIN 33 SEC E 294.96 FT TO TRUE PT OF BEG LESS THE FOLL: PT OF THE NW 1/4 OF SEC 7 TWP 139N RGE 48W DESC AS FOLL: BEG AT THE INTER OF THE SLY R/W LN OF NP AVE & THE WLY R/W LN OF BDWY IN THE SD CITY OF FGO; THEN S 87 DEG 47 MIN 33 SEC W (ASSMD BRG), ALG THE SLY R/W LN OF SD NP AVE, FOR A DIST OF 205.00 FT TO THE TRUE PT OF BEG; THEN CONT S 87 DEG 47 MIN 33 SEC W, ALG THE SLY R/W LN OF SD NP AVE, FOR A DIST OF 119.69 FT; THEN S 02 DEG 33 MIN 41 SEC W FOR A DIST OF 187.17 FT TO A PT OF INTER WITH THE SLY LN OF A TRACT OF LAND DESC IN DOC #976085, ON FILE AT CASS CO REC OFF; THEN N 87 DEG 47 MIN 33 SEC E, ALG THE SLY LN OF A TRACT OF LAND DESC IN SD DOC #976085, FOR A DIST OF 121.82 FT TO THE SE COR OF A TRACT OF LAND DESC IN SD DOC #976085, THEN N 01 DEG 54 MIN 31 SEC E, ALG THE ELY LN OF A TRACT OF LAND DESC IN SD DOC #976085, FOR A DIST OF 187.00 FT TO THE TRUE PT OF BEG
 LegDescAdditional*06/28/89 SPL/FR LEASE*02/21/90 LEGAL DESC CORR *02/24/93 LEGAL DESC CORR *12/26/95 LEGAL DESC CORR
 ##MULTIPLE PARCELS SEE 9200-21100 *5/31/06 SPL/FR 01-3508-01210-000

AdditionNameUnplatted - BNSF

BlockLegal

LotLegalPT OF THE NW 1/4 OF SEC 7 TWP 139N RGE 48 W DESC AS FOLL: BEG AT THE INTER OF THE SLY R/W LN OF NP AVE & THE WLY R/W LN OF BDWY IN THE SD CITY OF FGO; THEN S 87 DEG 47 MIN 33 SEC W (ASSMD BRG). ALG THE SLY R/W LN OF SD NP AVE FOR A DIST OF 205.00 FT; THEN CON S 87 DEG 47 MIN EE SEC W, ALG THE SLY R/W LN OF SD NP AVE, FOR A DIST OF 199.69 FT; THEN S 02 DEG 33 MIN 41 SEC W FOR A DIST OF 187.17 FT TO A PT OF INTER WITH THE NLY LN OF A TRACT OF LAND DESC IN DOC #986862, ON FILE AT THE CASS CO REC OFF, & THE TRUE PT OF BEG; THEN CONT S 02 DEG 33 MIN 41 SEC W FOR A DIST OF 77.73 FT TO A PT OF INTER WITH THE NLY LN OF THE BNSF RR CO R/W; THEN N 87 DEG 30 MIN 57 SEC W, ALG THE NLY LN OF THE SD BNSF RR CO R/W, FOR A DIST OF 174.33 FT TO THE SW COR OF A TRACT OF LAND DESC IN SD DOC #986862; THEN N 02 DEG 29 MIN 00 SEC E, ALG THE WLY LN OF A TRACT OF LAND DESC IN SD DOC #986862, FOR A DIST OF 63.42 FT TO THE NW COR OF A TRACT OF LAND DESC IN SD DOC #986862; THEN N 87 DEG 47 MIN 33 SEC E, ALG THE NLY LN OF A TRACT OF LAND DESC IN SD DOC #986862, FOR A DIST OF 175.02 FT TO THE TRUE PT OF BEG
 LegDescAdditional*5/31/06 SPL/FR 01-3508-01280-000



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

APPLICATION FOR RENAISSANCE ZONE PROJECT

Property owners, business owners, developers or investors interested in pursuing a Renaissance Zone project should review the 2019 RZ Plan. The RZ Plan delineates the current geographical boundaries of the program (only certain blocks within the downtown core are included) and provides additional detail on minimum investment requirements and applicable program goals and objectives that must be met.

Application submitted for (check all that apply):

- | | |
|---|---|
| <input checked="" type="checkbox"/> New Construction | <input type="checkbox"/> Commercial Lease |
| <input type="checkbox"/> Purchase with Major Improvements | <input type="checkbox"/> Rehabilitation: <input type="checkbox"/> Commercial <input type="checkbox"/> Residential |
| <input type="checkbox"/> Primary Residential Purchase | <input type="checkbox"/> Block Addition |

Property Owner Information	
Name (<i>printed</i>): Northern Prairie Performing Arts	
Name (<i>printed</i>):	
Address: PO Box 1349 Fargo, ND 58107	

Contact Person Information (<i>if different than owner</i>)	
Name (<i>printed</i>): Judy Lewis	
Address: PO Box 1349 Fargo, ND 58107	

Parcel Information
Address: 602, 610, 636, 650 NP Ave
Unit Number:
Renaissance Zone Block Number: Block #18
Legal Description (<i>attach separate sheet if more space is needed</i>):
Parcel Number: 01-3508-01211-000 01-3508-01213-000-01-3508-01281-000 01-3508-01283-000

- Is this property listed on or a contributing structure to the National Register of Historic Places? Yes No
- Do you intend to apply for a Historic Preservation Tax Credit in conjunction with this project? Yes No

Project Information	
Total Project Cost: \$10 MM (Community Theatre project only) <small>(Qualified Capital Improvements)</small>	
Current Use of Property: Surface Parking Lot	
Anticipated Use Upon Completion: Community Theatre	
Expected Date of Purchase: 2024	Expected Date of Occupancy: Late 2025
Estimated Property Tax Benefit: \$23,500 <small>(Over five year exemption period)</small>	Estimated State Income Tax Benefit: N/A <small>(Over five year exemption period)</small>
Current Employees: N/A <small>(Full-time equivalent)</small>	Anticipated Employees: N/A <small>(Full-time equivalent)</small>

<p>Scope of Work</p> <p>Construct a 6 story private development including three primary programs: 1.) +/- 2,500sf of ground floor retail, +/- 3,000sf amenity space, and +/- 168 apartments 2.) 30,000sf of ground floor community theatre space. 3.) Publicly owned +/- 465 stall parking garage.</p> <p>This RZ application is for the ground floor community theatre portion of the project only.</p>
--

Additional Project Information

New Construction/Rehabilitation/Purchase with Improvements Only

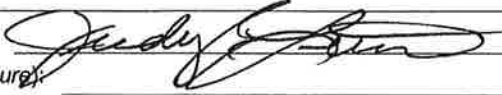
Current Building Value: (Taxable Improvement Value) \$148,000	Estimated Building Value Upon Completion: (Taxable Improvement Value) \$8.5MM
Building Area Upon Completion (SF): 30,000	Number of Stories Upon Completion: 1

Commercial Lease Only

Lease Area Upon Completion (SF):			
Type of Business:			
<input type="checkbox"/> New business moving to the Renaissance Zone	<input type="checkbox"/> Expanding Business moving to the Renaissance Zone	<input type="checkbox"/> Existing Business Expanding within the Renaissance Zone	<input type="checkbox"/> Continuation of a lease moving from one Renaissance Zone Project to another Renaissance Zone Project

Residential Purchase Only

Will this be your primary place of Residency?:
--

Acknowledgement – We hereby acknowledge that we have familiarized ourselves with the rules and regulations to the preparation of this submittal and that the foregoing information is true and complete to the best of our knowledge.	
Owner (Signature): 	Date: 4/3/2023
Joint Owner (Signature): _____	Date: _____
Representative (Signature): _____	Date: _____

THE FOLLOWING CHECKLIST MUST BE COMPLETED AND SUBMITTED WITH THE APPLICATION FORM:

		Submitted	N/A
Renaissance Zone Project	Current photos of property, relevant to project scope and proposed renderings of the proposed project	<input checked="" type="checkbox"/>	
	<u>Certificate of Good Standing</u> from the Office of the State Tax Commissioner	<input checked="" type="checkbox"/>	
	<u>Business Incentive Agreement</u> from the Department of Commerce for all non-residential projects	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	For residential purchases proved a copy of the purchase agreement	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Goals and objectives as outlined in the 2015 Fargo Renaissance Zone Development Plan (Attachment A)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

APPLICATION DEADLINES:

The Renaissance Zone Authority regularly meets on the Fourth Wednesday of each month at 8:00 am in the in the City Commission Chambers at 225 4th Street North, Fargo, ND 58102. For consideration during a monthly meeting:

- Renaissance Zone applications are due by 4:30 pm on the **first Wednesday of each month.**

REQUIREMENTS, POLICIES, AND GUIDELINES:

The Renaissance Zone is administered according to the following written documents, each of which are available on the City of Fargo's website.

- Renaissance Zone Designation
 - o City of Fargo Renaissance Zone Development Plan
 - o North Dakota Renaissance Zone Program Guidelines

CERTIFICATION:

Applicant certifies that, to the best of his/her knowledge and belief, the information contained in the application and attached hereto is true and correct. Applicant also certifies that he/she understands all written requirements, policies, and guidelines of the Fargo Renaissance Zone Authority, the City of Fargo, and/or the State of North Dakota governing the use of the procedure or program being applied for:


Mike Allmendinger
1/27/23
 (Applicant's Signature) (Printed Name) (Date)

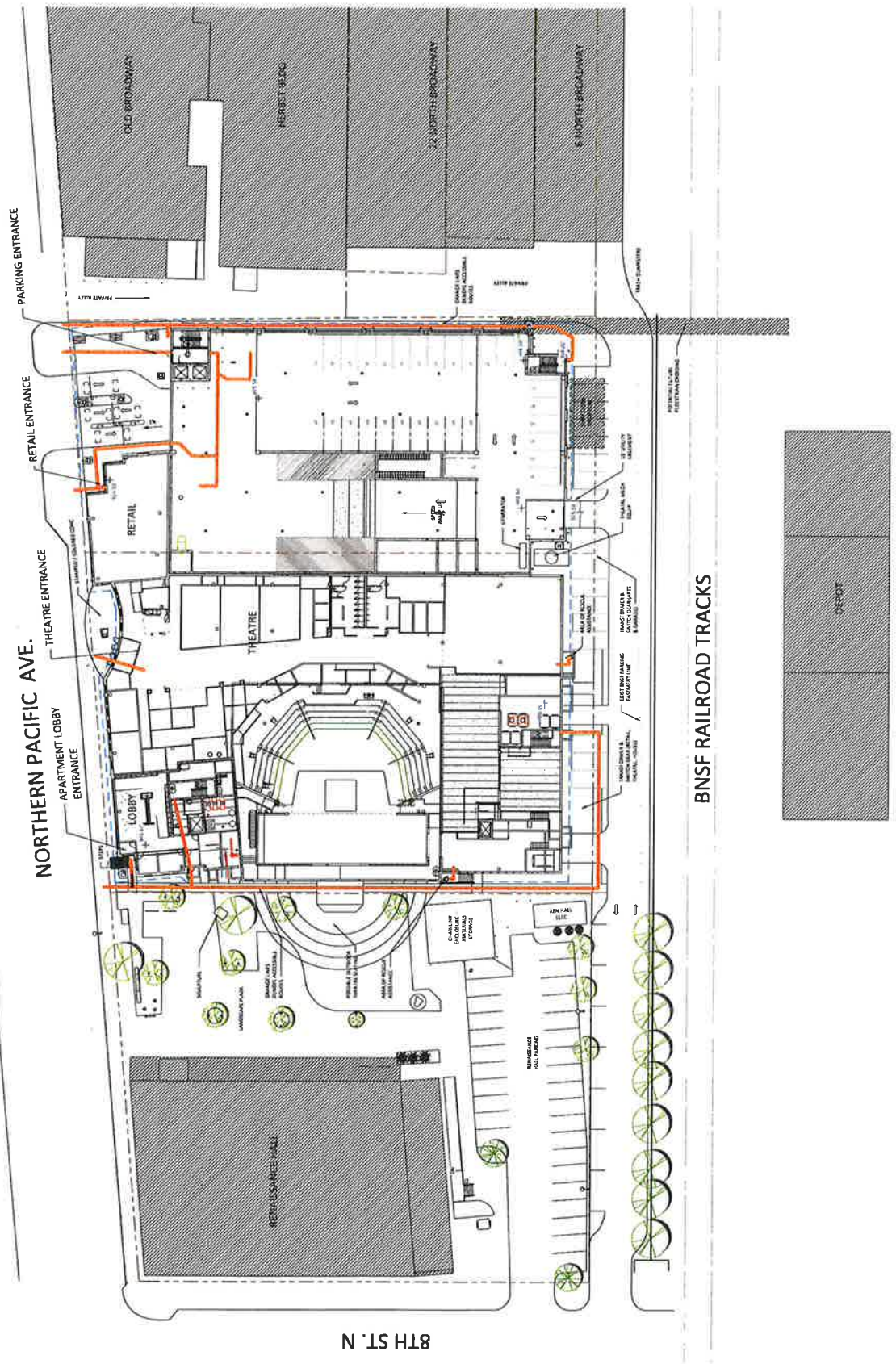
If the property owner(s) and applicant are different, the property owner certifies that he/she has full knowledge of this application and consents to its submission:

_____ (Applicant's Signature) _____ (Printed Name) _____ (Date)

_____ (Applicant's Signature) _____ (Printed Name) _____ (Date)



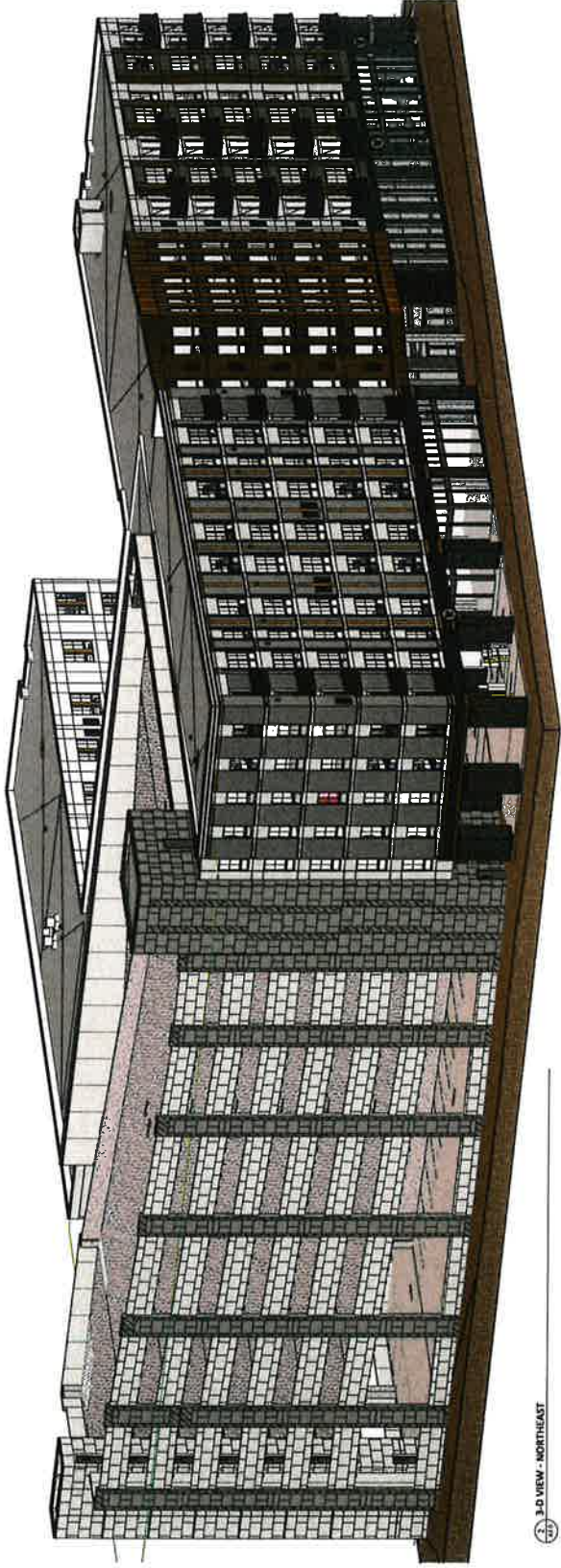
ORIGINAL ISSUE	DATE: _____
REVISIONS:	NO. / DATE / ISSUE
PROJECT NUMBER	221564
DRAWN BY	CHECKED BY
DATE	
ARCHITECTURAL SITE PLAN	
NP Ave Mixed Use Apartments	
ARCHITECTURAL SITE PLAN	
A0.1	



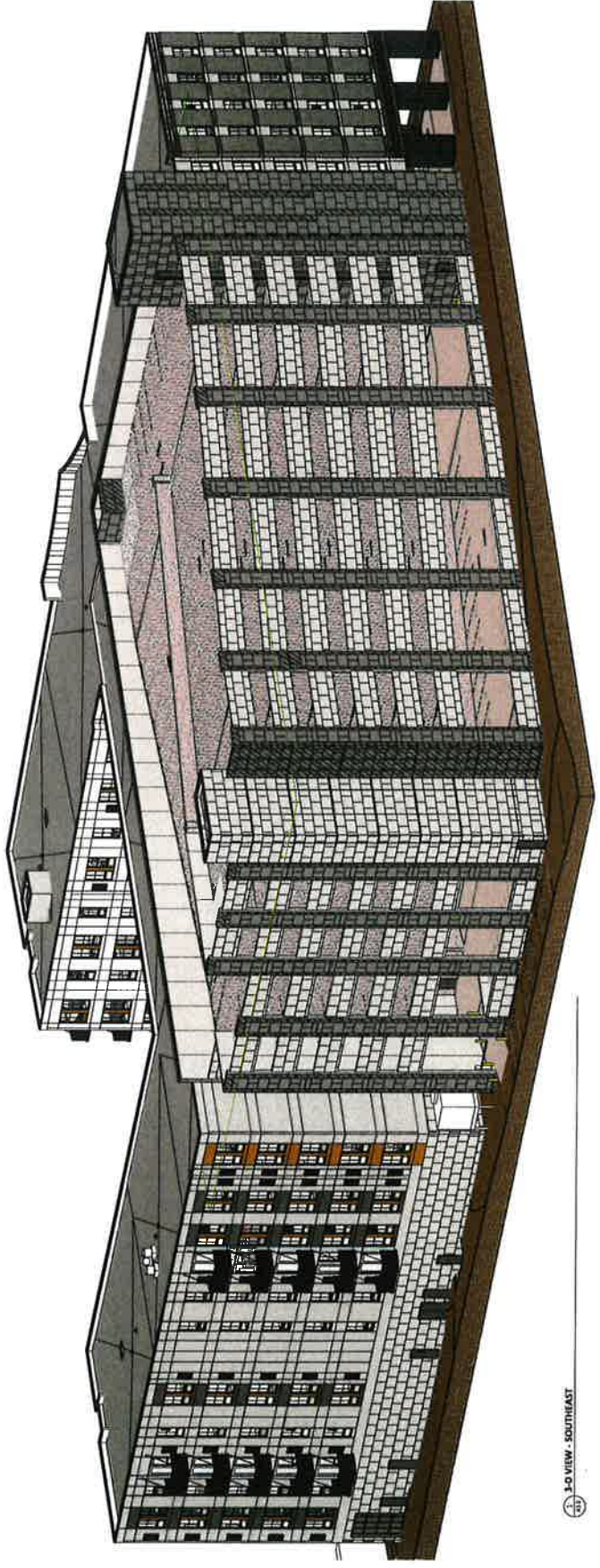


Signature: _____
 Title: _____
 License #: _____

NOT FOR CONSTRUCTION



3-D VIEW - NORTH-EAST



3-D VIEW - SOUTH-EAST

PROGRESS SET
 4/14/2023

ORIGINAL ISSUE:
 04/14/23

REVISIONS:
 NO. DESCRIPTION DATE

231554
 PROJECT NUMBER

ISSUED BY: _____ CHECKED BY: _____

NP Ave Mixed Use
 Apartments

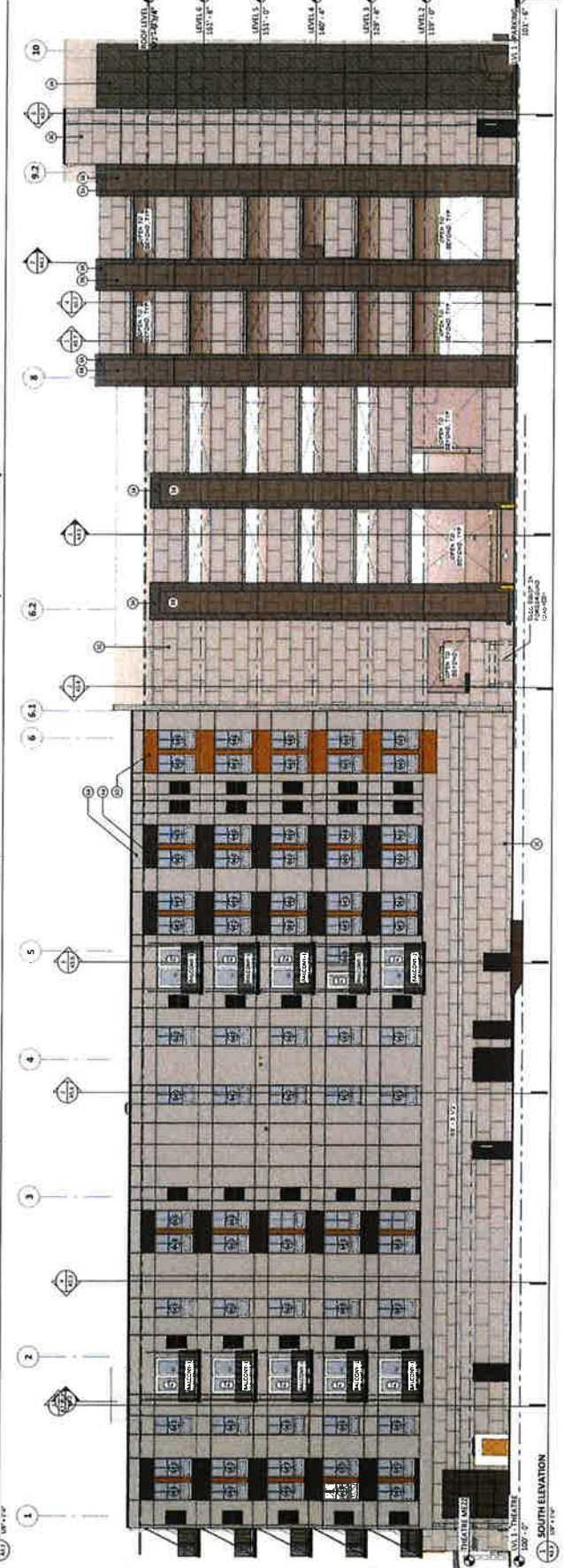
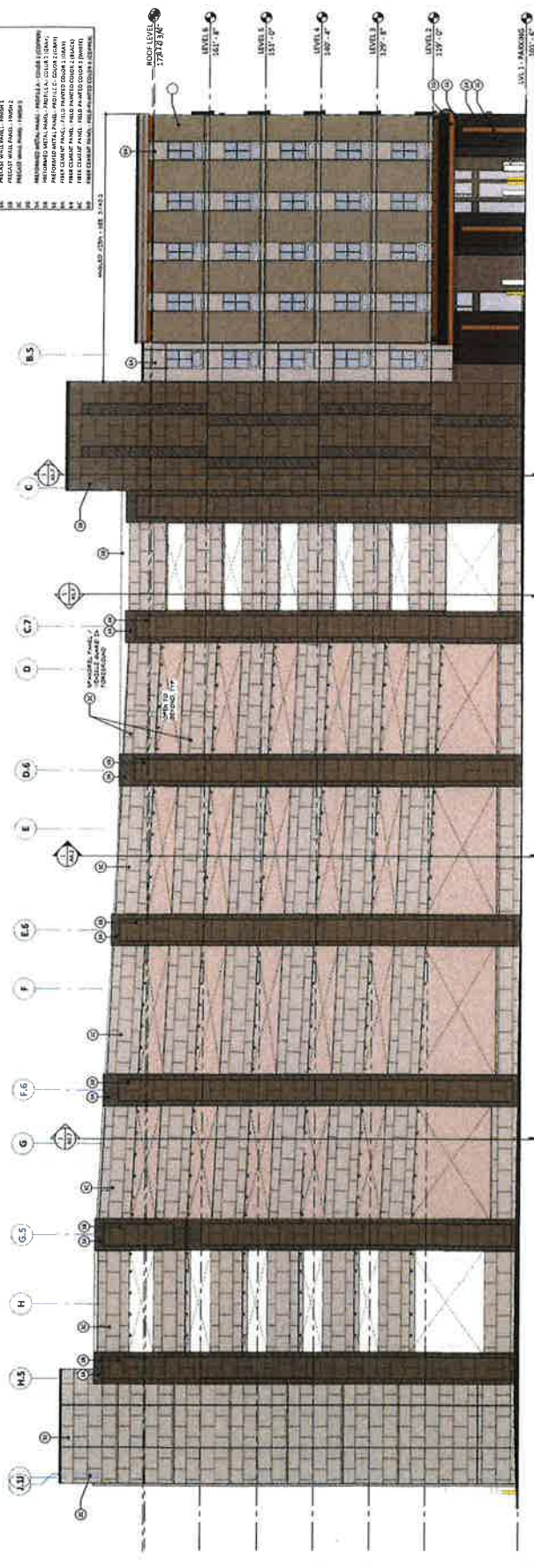
3-D VIEWS

A3.0

NOT FOR CONSTRUCTION

EXTERIOR MATERIAL KEYNOTES

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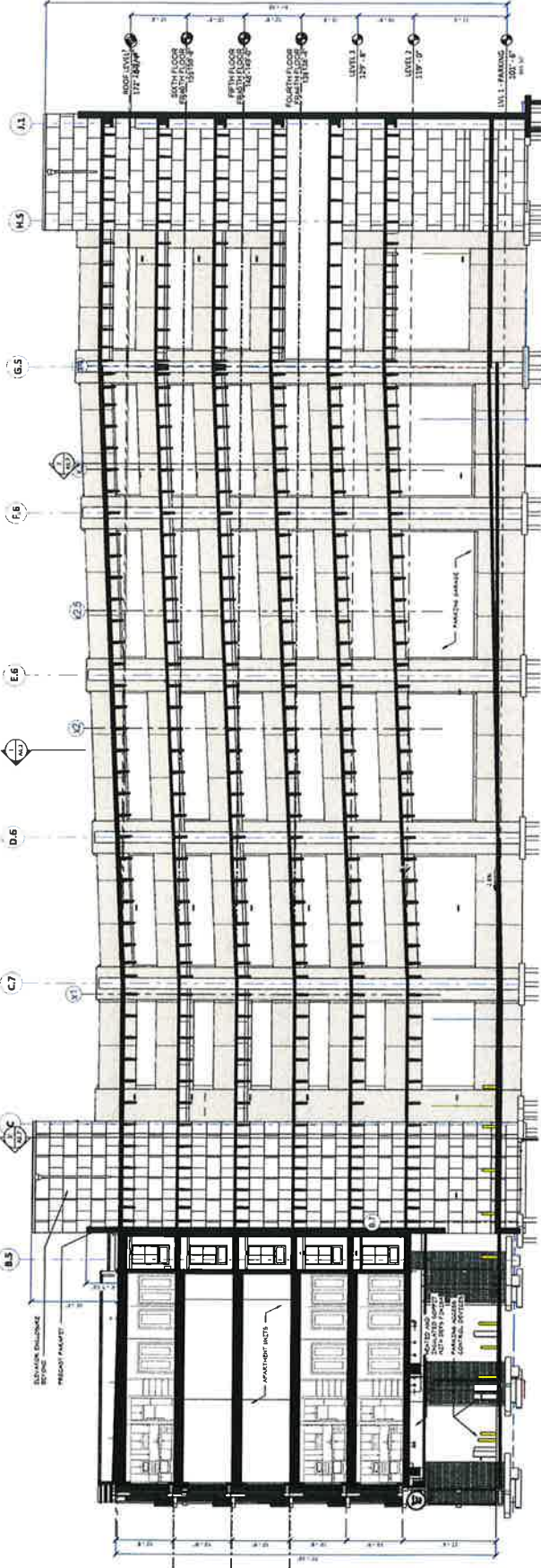
PROGRESS SET
4/14/2023

ORIGINAL ISSUE:	07/2021
REVISIONS:	NO. DATE BY
232554	04/14/2023
DATE:	04/14/2023
DRAWN BY:	ESG/STP

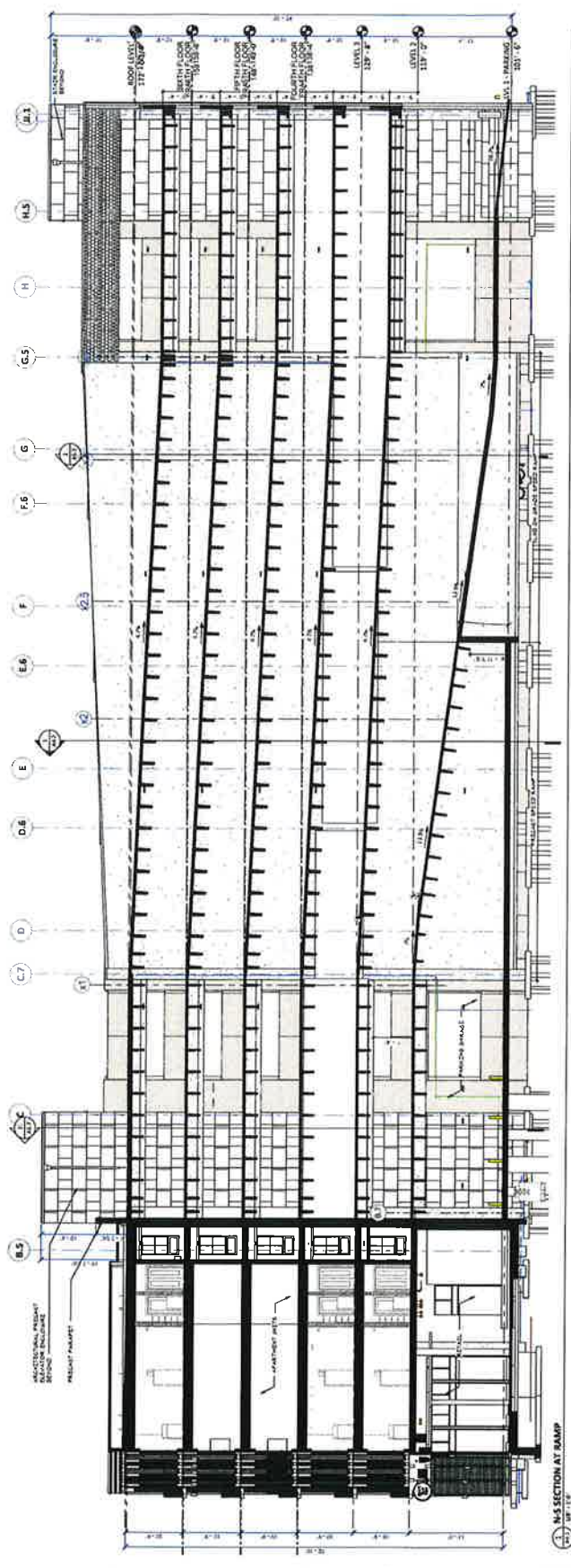
NP Ave Mixed Use
Apartments
A3.3
EXTERIOR ELEVATIONS

Scale: _____
 Date: _____

NOT FOR CONSTRUCTION



M-5 SECTION AT RAMP - EAST
 1/4" = 1'-0"



M-5 SECTION AT RAMP
 1/4" = 1'-0"

PROGRESS SET
 4/14/2023

ORIGINAL ISSUE:
 02/2021

REVISIONS:
 NO. DESCRIPTION DATE

221354
 PROJECT NUMBER

SHEET NO. 02/03/23


NP Ave Mixed Use
 Apartments
 BUILDING SECTIONS -
 PARKING

A4.1

43

MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research 

DATE: May 24, 2023

SUBJECT: Renewal Plan for Downtown Fargo

I prepared a Renewal Plan for redevelopment focused on the 600 block of NP Avenue. The initial project would cleanup and redevelop a surface parking lot. The initial development would be ~168 apartments, ~2,600 sf of main floor commercial space, a community theater and a parking garage. Additional development is expected in following years.

Tax Increment Funds (TIF) would be used for land acquisition, site cleanup and public works improvements. In addition, TIF funds would be used for a City parking garage.

The TIF assistance to the developer would be limited to TIF funds from the new private building for a 5-year period following a 5-year Renaissance Zone property tax exemption. The total length of the TIF for paying for the City parking garage will be 25 years.

City financial adviser PFM reviewed the developer TIF request and stated, **“The base scenario without assistance along with the sensitivity analyses demonstrates that the project would be unlikely to be feasible without assistance.”**

A public hearing on the Renewal Plan and Developer Agreement is part of the review process. One of the purposes of the hearing is to provide potential competitors an opportunity to comment if they feel the agreement would result in unfair competition.

Recommended Motion:

Approve the Resolution adopting the Renewal Plan and an amendment to the Developer Agreement with Great Plains NP Holdings, LLC to provide TIF funds for the project.

Attachments

1. Resolution
2. Renewal Plan
3. Financial “But For” Report
4. Form of Developer Agreement pending final legal review

RESOLUTION
BOARD OF CITY COMMISSIONERS OF THE
CITY OF FARGO

TAX INCREMENT FINANCING DISTRICT 2023-02

Commissioner _____ moved for approval of the following:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas, or areas consisting of industrial or commercial property, or a combination of those areas of properties, exist in the City of Fargo.
2. That the development, rehabilitation, conservation or redevelopment, or a combination thereof, of the area contained within the Renewal Plan for Tax Increment Financing District No. 2023-02, is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area by private enterprise.
3. That there are blighted areas within the area contained within the Renewal Plan with deteriorated conditions that discourage redevelopment. The Renewal Area, as defined in the Renewal Plan, is blighted due to the presence of these conditions have substantially impaired the growth of the City, and have slowed the provision of appropriate redevelopment in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in the said area.
4. That the area designated as the Renewal Plan for Tax Increment Financing District No. 2023-02 is appropriate for a development project.
5. That such development, rehabilitation, conservation or redevelopment of the area contained in the Renewal Plan for Tax Increment Financing District No. 2023-02 requires the powers and authority granted in Chapter 40-58 NDCC.
6. That the Renewal Plan for Tax Increment Financing District No. 2023-02 is hereby officially adopted by the Board.

7. That a Developer Agreement be prepared in regard to the Tax Increment Financing.
8. That the appropriate staff be directed to request the County Auditor and Treasurer to compute, certify and remit tax increments resulting from the development or renewal of the area in accordance with the plan and any modifications thereof, and that the County Auditor and Treasurer shall do so in accordance with this section.

Said motion was seconded by Commissioner _____ and, upon call of the roll, the motion carried with Commissioner(s) _____ not being present, Commissioners _____ voting aye, Commissioners _____ voting nay and Commissioner(s) _____ abstaining and the motion therefore being declared carried.

RENEWAL PLAN
TAX INCREMENT FINANCING DISTRICT NO. 2023-02
CITY OF FARGO, NORTH DAKOTA
MARCH 2023

RENEWAL PLAN FOR TAX INCREMENT DISTRICT NO. 2023-02

Subsection 1.1. Definitions.

For the purposes of the Renewal Plan, the following terms shall have the meanings specified below, unless the context otherwise requires:

"City" means the City of Fargo, a municipal corporation under the laws of the State of North Dakota.

"City Commission" or "Commission" means the Fargo City Commission.

"Comprehensive Plan" means the City's GO 2030 Comprehensive Plan, including the objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and water within the City as and when such plan is adopted and finalized.

"County" means Cass County, North Dakota.

"Development" means the construction of new buildings, structures or improvements; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures or improvements; the acquisition of equipment; and the clearing and grading of land on industrial or commercial property in the Renewal Area.

"Renewal Area" means the property described in Subsection 1.4 of this Plan.

"Renewal Plan" or "Plan" means this Plan adopted by the Commission for the Renewal Area.

"State" means the State of North Dakota.

"Tax Increment Financing Act" or "TIF Act" means North Dakota Century Code, Section 40-58-20, as amended.

"Tax Increment Bonds" means any general obligation or revenue tax increment bonds or notes issued by the City to finance the public costs associated with the TIF District as stated in this Plan, or any obligations issued to refund the Tax Increment Bonds.

"Tax Increment Financing District" or "TIF District" means Tax Increment Financing District No. 2023-02.

"Urban Renewal Law" means North Dakota Century Code, Chapter 40-58.

Subsection 1.2. Statutory Authority.

The creation of the Renewal Area and the establishment of Tax Increment Financing District No. 2023-02 are authorized by the Urban Renewal Law. Specifically the creation of the Renewal Area is authorized under North Dakota Century Code, Sections 40-58-01.1(7) and (14), which provide that the local governing body may designate industrial or commercial property, a slum or

blighted area, or combination of these properties as appropriate for a development or renewal project.

The Urban Renewal Law provides that communities develop a "workable program" for the use of public and private resources to facilitate the development of industrial or commercial properties, eliminate and prevent the development or spread of slums and urban blight, encourage needed urban rehabilitation, provide for the redevelopment of slum and blighted areas or undertake these activities or other feasible municipal activities as may be suitably employed to achieve the objectives of the workable program. North Dakota Century Code, Section 40-58-04.

Subsection 1.3. Statement of Public Purpose

In adopting the Renewal Plan for TIF District No. 2023-02, the City Commission intends to make the following findings:

- (a) The Renewal Area includes blighted properties.

Factual basis: This Renewal Area is blighted due to the presence of surface parking lots, some in very poor condition. The parking lots expose deteriorated sidewalls of older commercial buildings. A vacant building at 14 Broadway has deteriorated interior conditions and needs major renovation to be reused. This substantially impairs the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use.

- (b) The Renewal Area is appropriate for a development or renewal project.

Factual basis: The renewal area is zoned Downtown Mixed Use which encourages several different land uses including commercial, housing and community facilities. The downtown land use plan shows this area being mixed use or commercial.

- (c) There are some existing housing units in the renewal area, but they will not be directly affected by the implementation of this plan.

Factual basis: Existing housing will not be directly affected as this plan is implemented. The redevelopment will include new housing units.

- (d) The Plan conforms to the Comprehensive Policy Plan for the City as a whole.

Factual basis: The proposed development is consistent with the goals that are embodied in the Go2030 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. The promotion of infill development is the number two ranked priority of Go2030.

The plan includes a new Fargo Moorhead Community Theater, which supports the Arts and Culture goal of developing space for events. Go2030 supports activation of parking structures and shared parking between daytime and nighttime uses.

Subsection 1.4. Description of Renewal Area

The Renewal Area is located in downtown Fargo, adjacent to the 600 block of NP Avenue, Broadway between NP Avenue and 1st Avenue South, and the 500 block of Main Avenue. The properties are described in Appendix A. A map of the Renewal Area is attached as Appendix B.

The first phase projects will include commercial space, a theater, parking and multi-family housing. Redevelopment of the building at 14 Broadway will also be part of the first phase. Vacant lots with surface parking are expected to redevelop after the first phase is completed in 2025.

The redevelopment plan for the first phase is attached as Appendix C.

Subsection 1.5. Redevelopment, Infill Development and Public Parking

The Development of the Renewal Area includes the following activities:

Public Parking – Construction of a city-owned parking garage to serve the area.

Infill Development – Surface parking lots can be used for infill development both in the first phase and subsequent phases. New buildings should replace surface parking.

Public Infrastructure – Reconstruction of underground infrastructure and adjacent streets are needed for this redevelopment and will be funded with infrastructure money and special assessments.

Subsection 1.6. Land Use Attributes – TIF District

- (a) *Zoning or Planning Changes.*
The Renewal area Downtown Mixed Use. No additional zoning changes are required to accommodate this project.
- (b) *Maximum Densities.*
The property within the TIF District will be developed in accordance with the applicable zoning district requirements which allows high density development.
- (c) *Building Requirements.*
All properties within this district are subject to the provisions of the City of Fargo Building Codes and the Land Development Code.
- (d) *Plan relationship to land use objectives (land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public imps.)*
The physical improvements outlined in the plan meet critical needs required for the redevelopment of this property. The project complies with the zoning district and the redevelopment goals of the Go2030 Comprehensive Plan and the Downtown Plan.

Subsection 1.7. Estimate of Development Costs

The City anticipates development of the Renewal Area will involve certain public costs. Under North Dakota Century Code, Sections 40-58-20 and 40-58-20.1 allow the use of funds received from tax increments to be applied to certain specified costs. The City will provide for certain costs as listed below in a development agreement, and can use other funds to pay for City infrastructure. The primary costs involved are the parking garage and development incentives.

Parking Garage	\$3,300,000
Development Incentives	\$2,000,000
Public Infrastructure	Non-TIF Financed
TOTAL	\$5,300,000

These costs represent estimated costs for planning purposes, and may be different when this plan is implemented with a development agreement.

Development agreement costs will be determined after a review by City financial advisers. The maximum allowed costs will be specified in development agreements. Based on the first phase of the proposed development, the value of TIF revenue is approximately \$1.5 million over 5 years.

The City and Developer may also obtain reimbursement of interest between the time project costs are incurred and the date the Tax Increment Revenue Note is issued, such interest being capitalized and added to the foregoing costs.

The parking garage is estimated to be \$20 million. The city will use existing parking funds, internal borrowing and bonding to pay for the facility. Sources to repay bonds and internal loans will be from downtown parking revenue and new Tax Increment funds. The present value of the new TIF funds is \$3.3 million.

Subsection 1.8. Estimate of Bonded Indebtedness

The City intends to finance certain costs of the Development through the issuance of a Tax Increment Financing Note to the Developer. In addition, the City may use bonds, internal borrowing and other sources to pay for the parking garage.

Subsection 1.9. Tax Increment Financing

The County Auditor is requested to compute, certify and remit tax increments resulting from the Development within the Renewal Area.

The original assessed value of the private property within the Renewal Area, as last assessed and equalized before the base year of this Plan, is ~\$58,759,000.

Each year, the County Auditor will compute the amount of tax increment generated within the Renewal Area in accordance with the TIF Act. Any year in which there is an "incremental value" as provided in the TIF Act, an increment will be payable to the City and deposited in the fund created

by the County Auditor for that purpose. Any year in which there is "lost value" pursuant to the TIF Act, no increment will be payable to the City.

Subsection 1.10. Estimate of Tax Increment.

It is anticipated the Development will result in an increase in true and full value of the Renewal Area redevelopment sites to \$70 million. The value of the development site within the TIF district is \$2.8 million. The increase in value may eventually be approximately \$70 million. Under the mill rate in effect as of the date of this Plan, the Renewal Area will generate tax increment each year in the estimated amount of \$980,000.

Subsection 1.11. Duration of the TIF District.

The City anticipates that the TIF District will continue until all development costs are reimbursed through the receipts of tax increment, or after a maximum of 25 property tax years after completion of the project.

APPENDIX A
DESCRIPTION OF PROPERTY

<u>Address Number</u>	<u>Street</u>	<u>Address Number</u>	<u>Street</u>
637	NP Avenue	6	Broadway
633	NP Avenue	10 - A	Broadway
627 - E1	NP Avenue	12 -303	Broadway
627 - E2	NP Avenue	12 -301	Broadway
627 - A	NP Avenue	12 -302	Broadway
627 - 208	NP Avenue	12 -201	Broadway
631 - 209	NP Avenue	12 - 305	Broadway
631 - 210	NP Avenue	12 - 204	Broadway
627 - 202	NP Avenue	12	Broadway
627 - 203	NP Avenue	12 -304	Broadway
627 - 204	NP Avenue	12 -203	Broadway
627 - 205	NP Avenue	12 -202	Broadway
627 - 206	NP Avenue	12 -206	Broadway
627 - 207	NP Avenue	12 -306	Broadway
627 - C	NP Avenue	12 -205	Broadway
627 - D	NP Avenue	14	Broadway
627 - E3	NP Avenue	22	Broadway
627 - F	NP Avenue		
631 - G	NP Avenue	45	4th Street
627 - 201	NP Avenue	406	Main
631 - 211	NP Avenue	417	Main
627 - A	NP Avenue	501	Main
627 - 302	NP Avenue	500	Main
627 - 303	NP Avenue	520	Main
627 - 303	NP Avenue	701	Main
627 - B	NP Avenue	701	Main
623	NP Avenue		
621	NP Avenue		
619	NP Avenue		
615	NP Avenue		
611	NP Avenue		
609	NP Avenue		
52	Broadway		
56	Broadway		
650 - 1	NP Avenue		
650 - 2	NP Avenue		
636	NP Avenue		
650	NP Avenue		
602	NP Avenue		
610	NP Avenue		
6	Broadway		
10 - A	Broadway		
12 -303	Broadway		
12 -301	Broadway		

RENEWAL PLAN
TAX INCREMENT FINANCING DISTRICT NO. 2023-02
CITY OF FARGO, NORTH DAKOTA
MARCH 2023

RENEWAL PLAN FOR TAX INCREMENT DISTRICT NO. 2023-02	1
SUBSECTION 1.1. DEFINITIONS.	1
SUBSECTION 1.2. STATUTORY AUTHORITY.	1
SUBSECTION 1.3. STATEMENT OF PUBLIC PURPOSE.....	2
SUBSECTION 1.4. DESCRIPTION OF RENEWAL AREA	3
SUBSECTION 1.5. REDEVELOPMENT, INFILL DEVELOPMENT AND PUBLIC PARKING.....	3
SUBSECTION 1.6. LAND USE ATTRIBUTES – TIF DISTRICT.....	3
SUBSECTION 1.7. ESTIMATE OF DEVELOPMENT COSTS	4
SUBSECTION 1.8. ESTIMATE OF BONDED INDEBTEDNESS	4
SUBSECTION 1.9. TAX INCREMENT FINANCING.	4
SUBSECTION 1.10. ESTIMATE OF TAX INCREMENT.....	5
SUBSECTION 1.11. DURATION OF THE TIF DISTRICT.....	5
APPENDIX A: DESCRIPTION OF PROPERTY	
APPENDIX B: MAP OF THE RENEWAL AREA/TIF DISTRICT	
APPENDIX C: PLAN FOR REDEVELOPMENT	

APPENDIX B

MAP OF THE RENEWAL AREA/TIF DISTRICT



These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

Renewal Plan 2023-02

1:4,514

3/13/2023 3:00 PM

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.



APPENDIX C
PLAN FOR REDEVELOPMENT



ARCHITECTURE & DESIGN
1400 Broadway, Suite 1000
New York, NY 10018
Tel: 212 512 2000
www.esg.com

NOT FOR CONSTRUCTION

SCHEMATIC
DESIGN II
2/10/2023

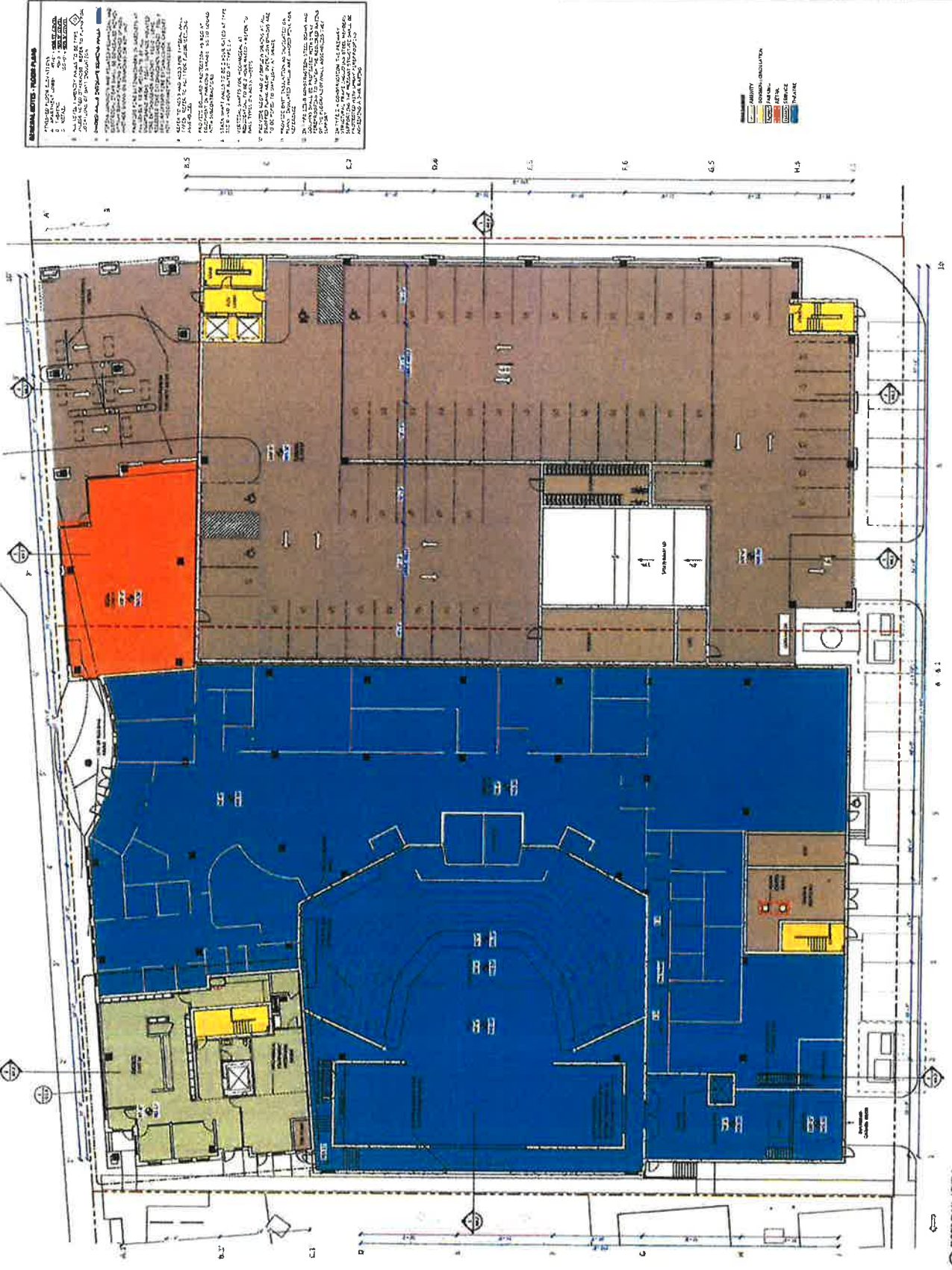
DATE: 2/10/2023
REVISIONS:

- ABILITY
- COMMON CIRCULATION
- CONSTRUCTION
- LETING
- CONTRACTOR
- PRIVATE



NP Ave Mixed Use
Apartments
FLOOR PLAN - LEVEL 1

SD1.1



- GENERAL NOTES - FLOOR PLAN**
1. REFER TO ALL APPLICABLE CODES AND REGULATIONS.
 2. ALL DIMENSIONS ARE IN FEET AND INCHES (F'-INCHES).
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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FLOOR PLAN - LEVEL 1
1/8" = 1'-0"




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SCHEMATIC DESIGN II
2/10/2023

DESIGNER (S)	DATE
PROJECT	NO.
NO.	REVISION
NO.	DATE

231166
2023.02.10
2023.02.10

NO. DATE



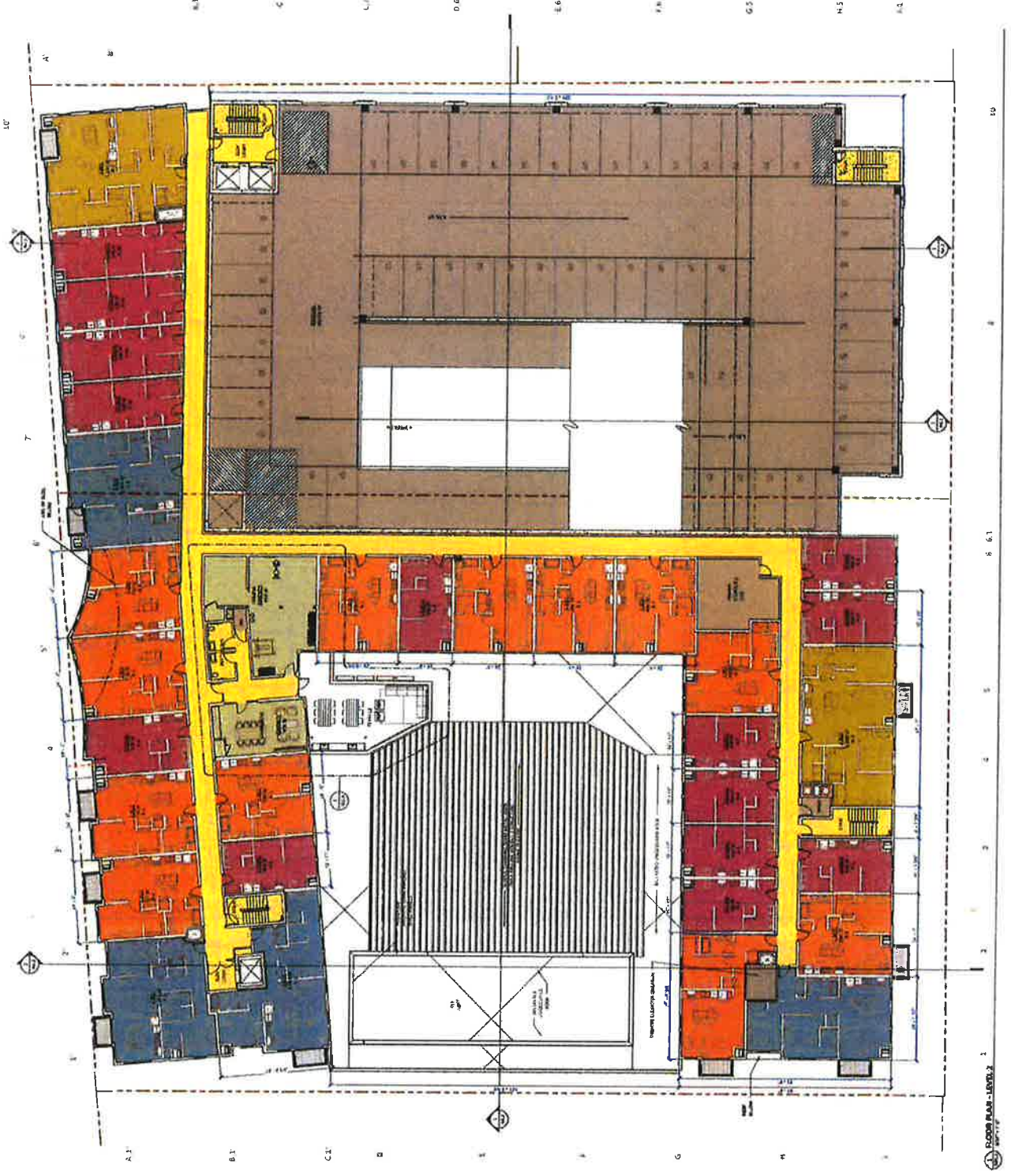
NP Ave Mixed Use
Apartments
FLOOR PLAN - LEVEL 2
SD1.2

GENERAL NOTES - FLOOR PLANS

- 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 2. ALL WALLS ARE 12" THICK UNLESS OTHERWISE NOTED.
- 3. ALL DOORS ARE 36" X 80" UNLESS OTHERWISE NOTED.
- 4. ALL WINDOWS ARE 36" X 60" UNLESS OTHERWISE NOTED.
- 5. ALL CEILING AREAS ARE 12" HIGH UNLESS OTHERWISE NOTED.
- 6. ALL FLOOR AREAS ARE 4" THICK UNLESS OTHERWISE NOTED.
- 7. ALL STAIRS ARE 60" WIDE UNLESS OTHERWISE NOTED.
- 8. ALL ELEVATORS ARE 48" WIDE UNLESS OTHERWISE NOTED.
- 9. ALL MECHANICAL AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 10. ALL ELECTRICAL AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 11. ALL TELEPHONE AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 12. ALL CLOSET AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 13. ALL BATH AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 14. ALL KITCHEN AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 15. ALL LIVING AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 16. ALL BEDROOM AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 17. ALL HALLWAYS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 18. ALL CORRIDORS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 19. ALL LOBBY AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 20. ALL OFFICE AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 21. ALL CONFERENCE AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 22. ALL STORAGE AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 23. ALL BREAK ROOMS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 24. ALL RECEPTION AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 25. ALL WAITING AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 26. ALL LOUNGE AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 27. ALL FITNESS AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 28. ALL SPA AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 29. ALL POOL AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 30. ALL GYM AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 31. ALL COURT YARDS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 32. ALL TERRACES ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 33. ALL PATIOS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 34. ALL BALCONIES ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 35. ALL PORCHES ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 36. ALL DRIVEWAYS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 37. ALL PARKING AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 38. ALL GARAGES ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 39. ALL MECHANICAL ROOMS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 40. ALL ELECTRICAL ROOMS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 41. ALL TELEPHONE ROOMS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 42. ALL CLOSET ROOMS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 43. ALL BATH ROOMS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 44. ALL KITCHEN ROOMS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 45. ALL LIVING ROOMS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 46. ALL BEDROOMS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 47. ALL HALLWAYS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 48. ALL CORRIDORS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 49. ALL LOBBY AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.
- 50. ALL OFFICE AREAS ARE 6" HIGH UNLESS OTHERWISE NOTED.

ANALYSIS

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- 1.180



FLOOR PLAN - LEVEL 2
REVISED 2023.02.10



ARCHITECTURE & DESIGN
 11111 11111 11111 11111
 11111 11111 11111 11111

NOT FOR CONSTRUCTION

SCHEMATIC
 DESIGN II
 2/10/2023

ORIGINAL ISSUE
 BY: [Name]
 DATE: [Date]

REVISIONS:

2/21/2023

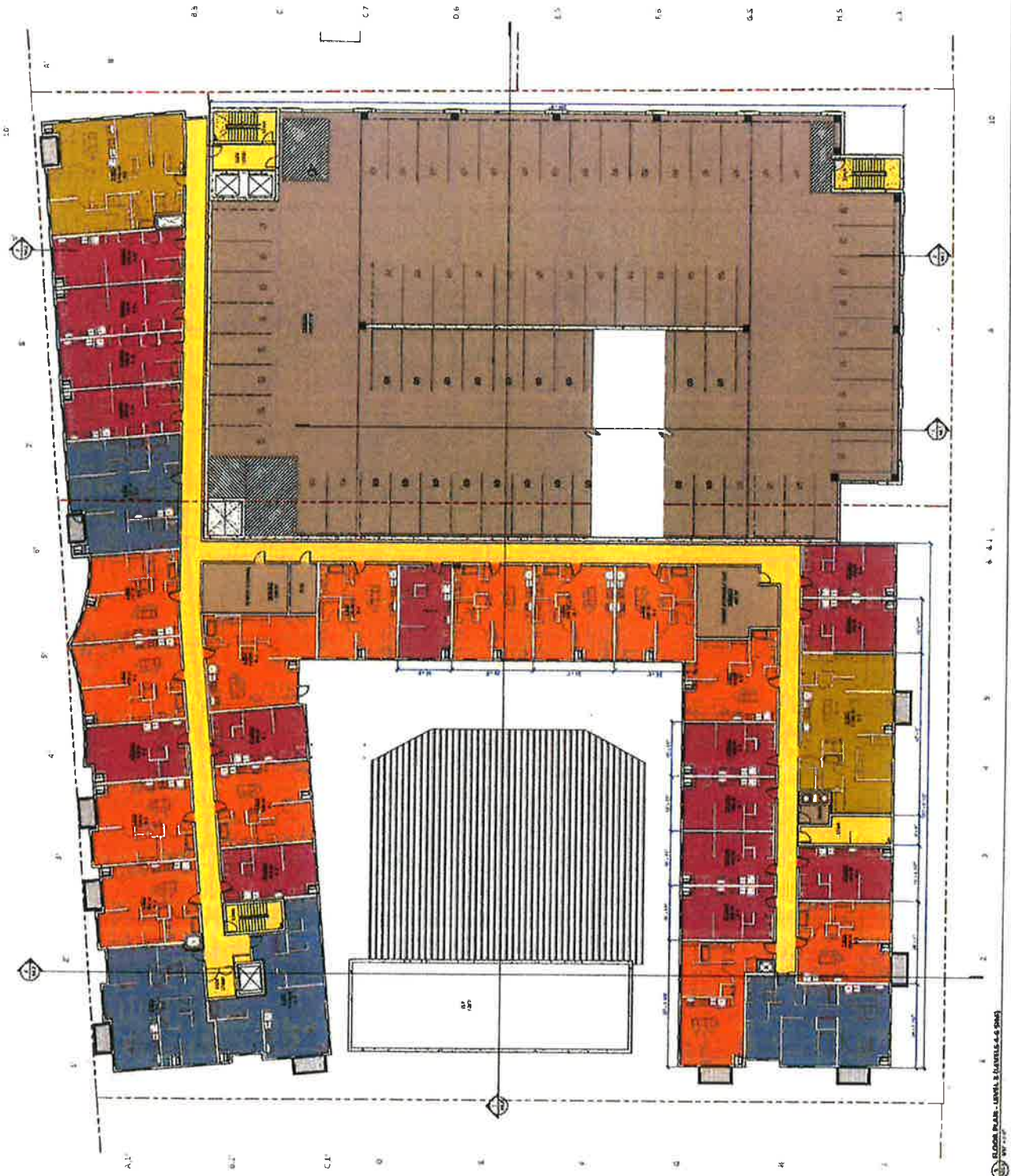


NP Ave Mixed Use
 Apartments

FLOOR PLAN - LEVELS 3-6
SD1.3

GENERAL NOTES - FLOOR PLANS

1. FINISHES: REFER TO ARCHITECTURAL SPECIFICATIONS.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2021 IBC.
3. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2021 IBC.
4. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2021 IBC.
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20. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2021 IBC.



LEGEND

RESIDENTIAL	COMMON AREA
CIRCULATION	UTILITY
MECHANICAL	STAIR
ELEVATOR	MECHANICAL
MECHANICAL	MECHANICAL

FLOOR PLAN - LEVELS 3, 4 & 5 (PARTIAL)

NOT FOR
CONSTRUCTION

SCHEMATIC
DESIGN II
2/10/2023

DRAWING CODE:
PROJECT:
REVISED:

2/10/2023
PROJECT NAME:

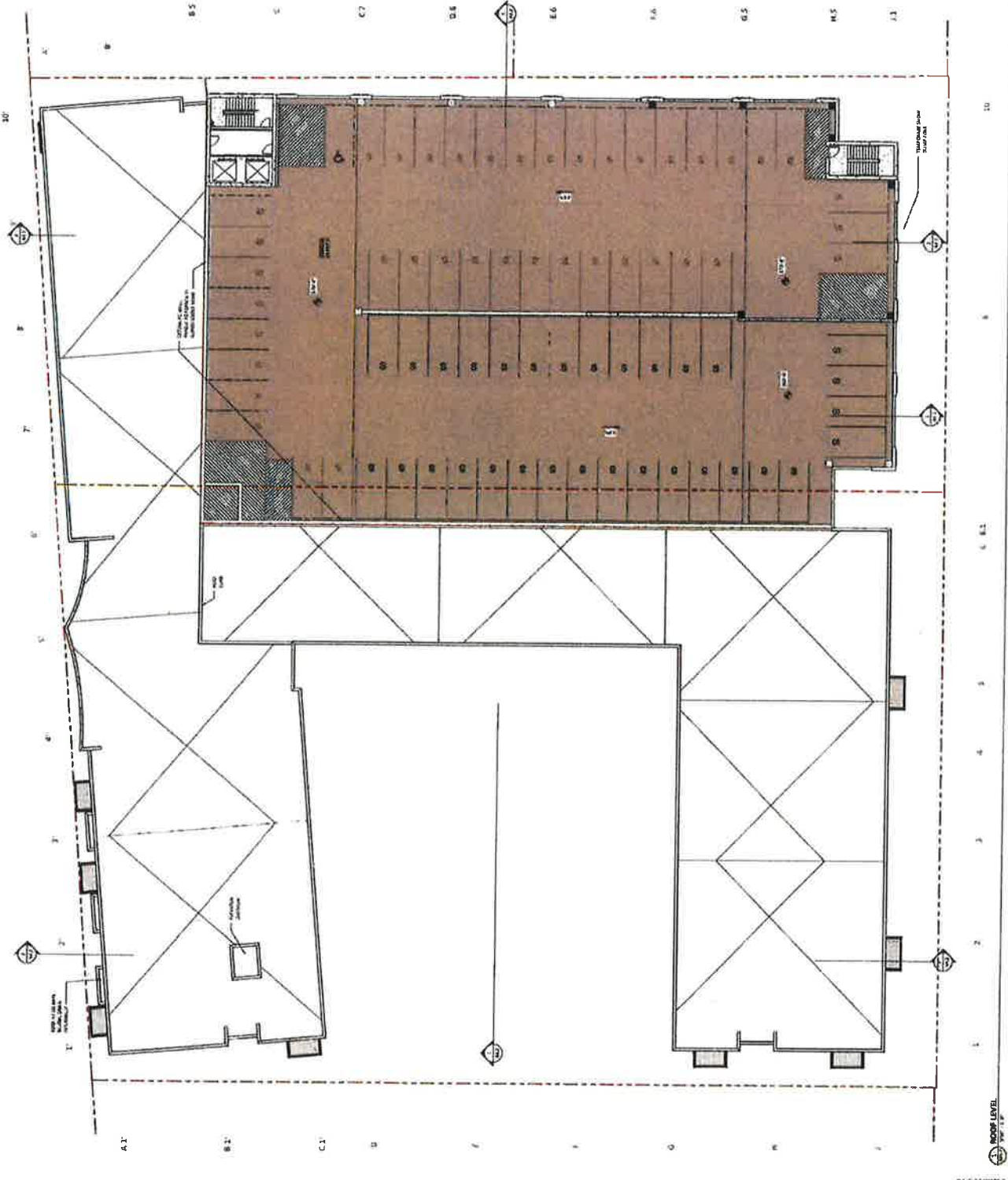


NP Ave Mixed Use
Apartments

ROOF PLAN

SD1.7

- GENERAL NOTES: ROOF**
1. SEE ARCHITECTURAL DRAWINGS FOR ROOF PLAN.
 2. ROOF TO BE USED AS PER LOCAL CODES AND REGULATIONS.
 3. FLOOR FINISHES TO BE AS SHOWN ON ARCHITECTURAL DRAWINGS.
 4. MECHANICAL ROOMS TO BE AS SHOWN ON ARCHITECTURAL DRAWINGS.
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 9. MECHANICAL ROOMS TO BE AS SHOWN ON ARCHITECTURAL DRAWINGS.
 10. MECHANICAL ROOMS TO BE AS SHOWN ON ARCHITECTURAL DRAWINGS.



ROOF LEVEL
100' 0" FIN.



540 West 10th Street, Suite 100
 #10000000000000000000
 #10000000000000000000

DATE: _____
 DRAWN BY: _____
 CHECKED BY: _____

NOT FOR
 CONSTRUCTION

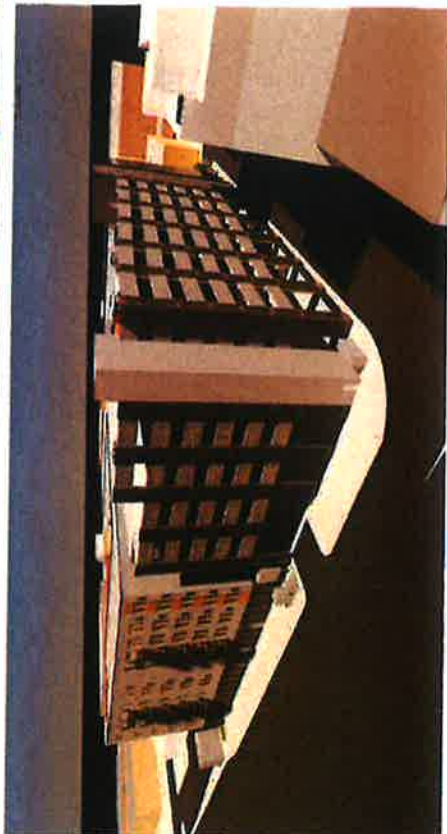
SCHEMATIC
 DESIGN II
 2/10/2023

ORIGINAL ISSUE
 02/10/23
 REVISIONS
 No. 01/23/2023

2/21/24
 DATE
 CHECKED BY: _____
 DRAWN BY: _____

NP Ave Mixed Use
 Apartments
 EXTERIOR RENDERINGS AND
 MATERIALS

A3.0.2





DATE: 2/10/2023
PROJECT: NP Ave

NOT FOR CONSTRUCTION

SCHEMATIC DESIGN II
2/10/2023

DESIGNED BY:
KILBOURNE GROUP

221354

PROJECT NUMBER:
221354

NP Ave Mixed Use
Apartments
EXTERIOR RENDERINGS AND
MATERIALS

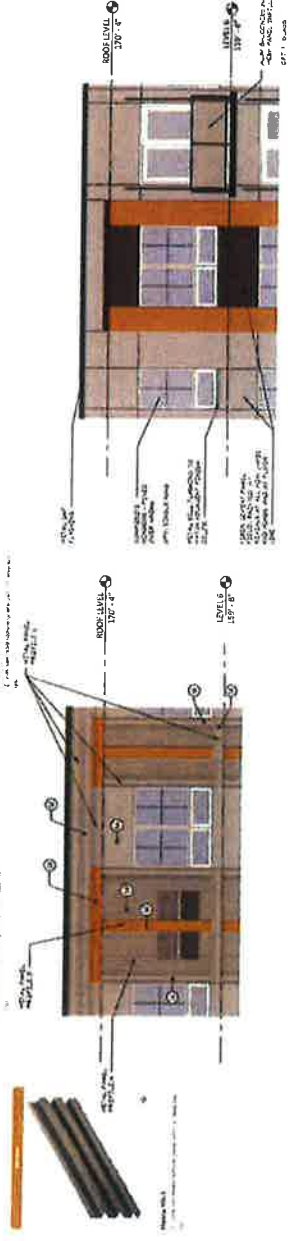
A3.0.3



NOT FOR CONSTRUCTION

EFFICIENCY TYPICAL EXEMPT
 ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE IBC AND ALL APPLICABLE LOCAL AND STATE CODES. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.

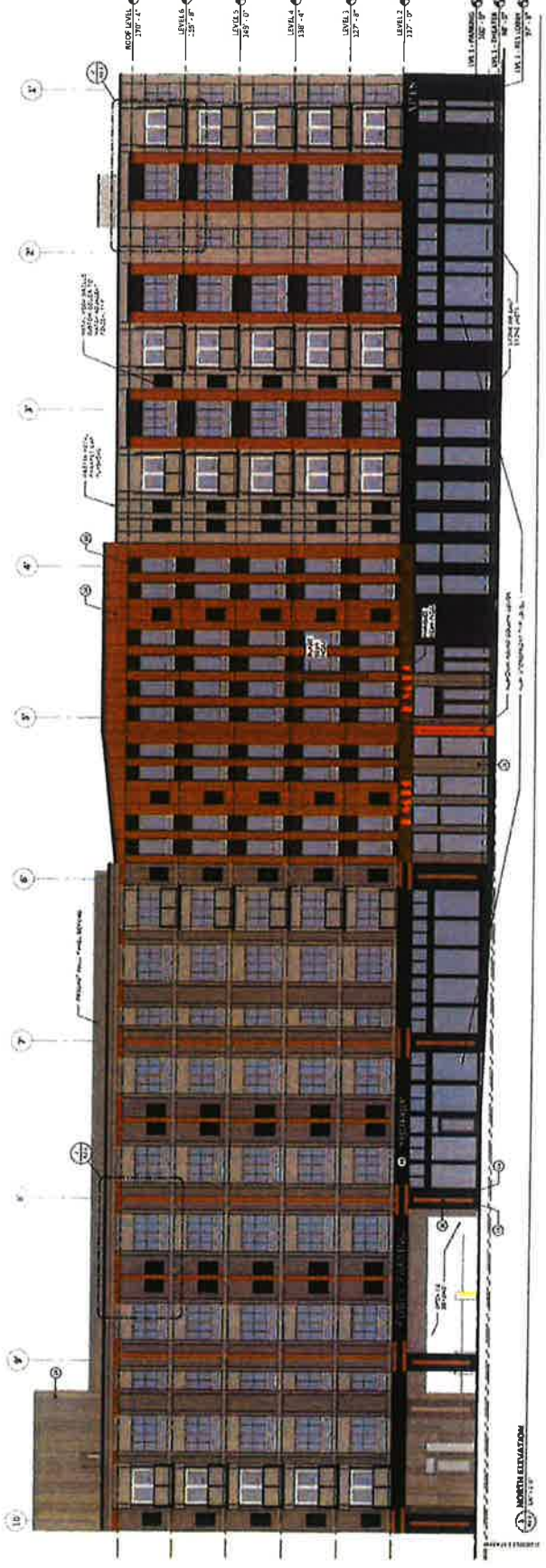
DATE: 02/10/2023
 DRAWN BY: [Name]
 CHECKED BY: [Name]



ELEVATION AT RETAIL
 10' 0" = 1"

ENLARGED ELEVATION 2
 1/4" = 1"

ENLARGED ELEVATION 1
 1/4" = 1"



SCHEMATIC DESIGN II 2/10/2023	
DESIGNER: KILBOURNE GROUP	DATE: 02/10/2023
REVISIONS:	NO.:
DATE:	BY:
NO.:	DATE:
NP Ave Mixed Use Apartments	
EXTERIOR ELEVATIONS	

A3.1



10000 10th Ave SW
Burien, WA 98148
Tel: 206.471.1000
www.esgarchitect.com

DATE: 2/10/2023
DRAWN BY: [Signature]
CHECKED BY: [Signature]

NOT FOR CONSTRUCTION

SCHEMATIC
DESIGN II
2/10/2023

ORIGINAL ISSUE
REVISED
BY: JAMES WATSON

2/15/24
REVISIONS

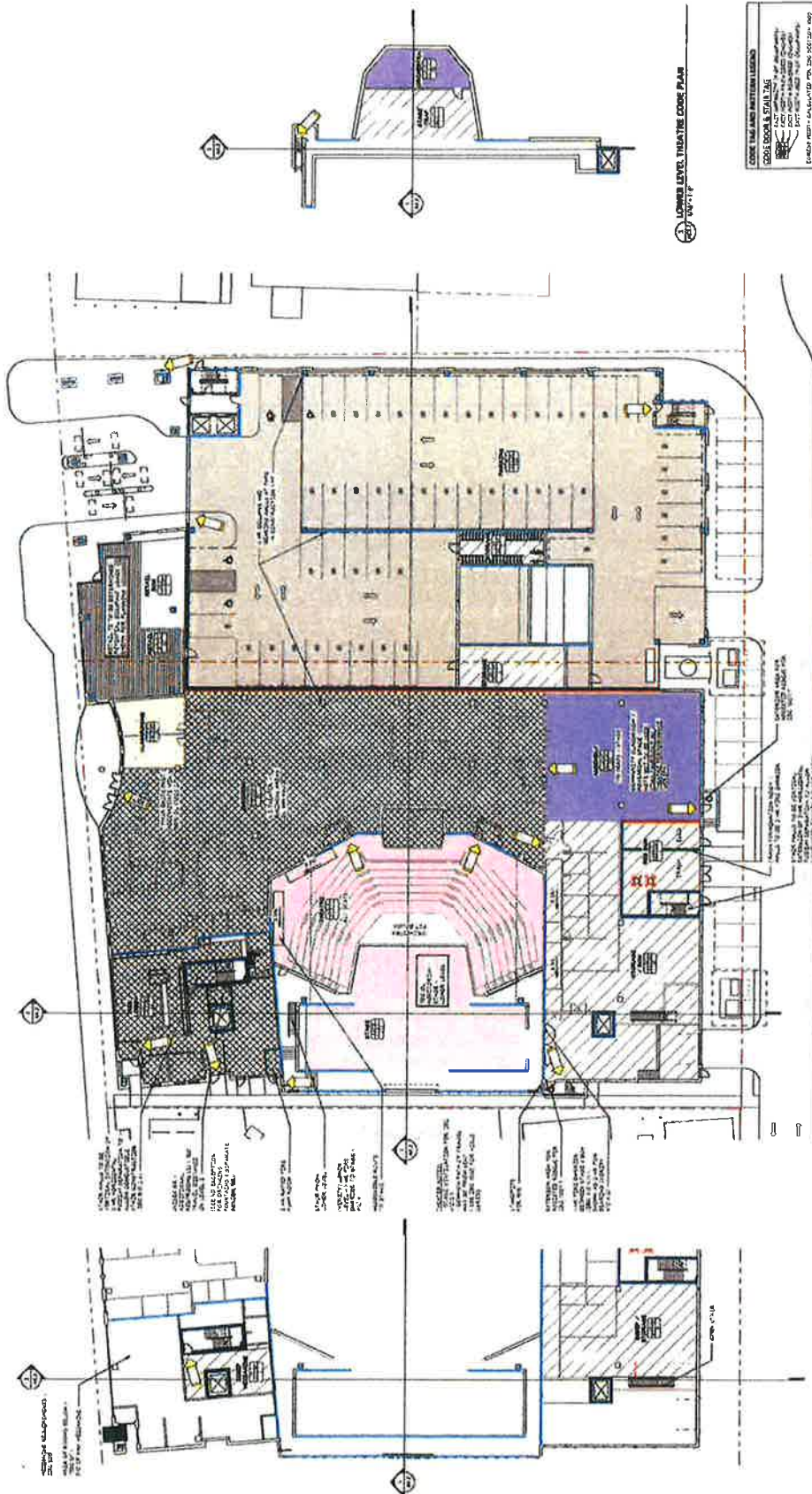
NP Ave Mixed Use
Apartments
ARCHITECTURAL CODE
PLANS

AC2.1

CODE TAGS AND NOTATION LEGEND

CODE TAGS
 1. FLOOR FINISH (see notes)
 2. WALL FINISH (see notes)
 3. CEILING FINISH (see notes)
 4. EXTERIOR FINISH (see notes)
 5. PAINT (see notes)
 6. GLASS (see notes)
 7. METAL (see notes)
 8. CERAMIC TILE (see notes)
 9. CARPET (see notes)
 10. CONCRETE (see notes)
 11. BRICK (see notes)
 12. STONE (see notes)
 13. PLASTER (see notes)
 14. Gypsum Board (see notes)
 15. Drywall (see notes)
 16. Acoustic Tiles (see notes)
 17. Suspenders (see notes)
 18. Grids (see notes)
 19. Joists (see notes)
 20. Rafters (see notes)
 21. Trusses (see notes)
 22. Beams (see notes)
 23. Columns (see notes)
 24. Foundation (see notes)
 25. Retention Wall (see notes)

NOTATION
 1. Structural Steel (see notes)
 2. Reinforced Concrete (see notes)
 3. Masonry (see notes)
 4. Glass (see notes)
 5. Metal (see notes)
 6. Wood (see notes)
 7. Plaster (see notes)
 8. Gypsum Board (see notes)
 9. Drywall (see notes)
 10. Acoustic Tiles (see notes)
 11. Suspenders (see notes)
 12. Grids (see notes)
 13. Joists (see notes)
 14. Rafters (see notes)
 15. Trusses (see notes)
 16. Beams (see notes)
 17. Columns (see notes)
 18. Foundation (see notes)
 19. Retention Wall (see notes)



DATE	ISSUE	DESCRIPTION
2/10/2023	1	SCHEMATIC DESIGN II
2/15/24	2	REVISIONS

LEVEL 1 CODE PLAN
2/10/23

EQUIPMENT LEVEL CODE PLAN
2/10/23

ARNDT COLBERT

DATE: 2/10/2023
PROJECT: NP Ave Mixed Use
SHEET: 2 OF 2

NOT FOR CONSTRUCTION

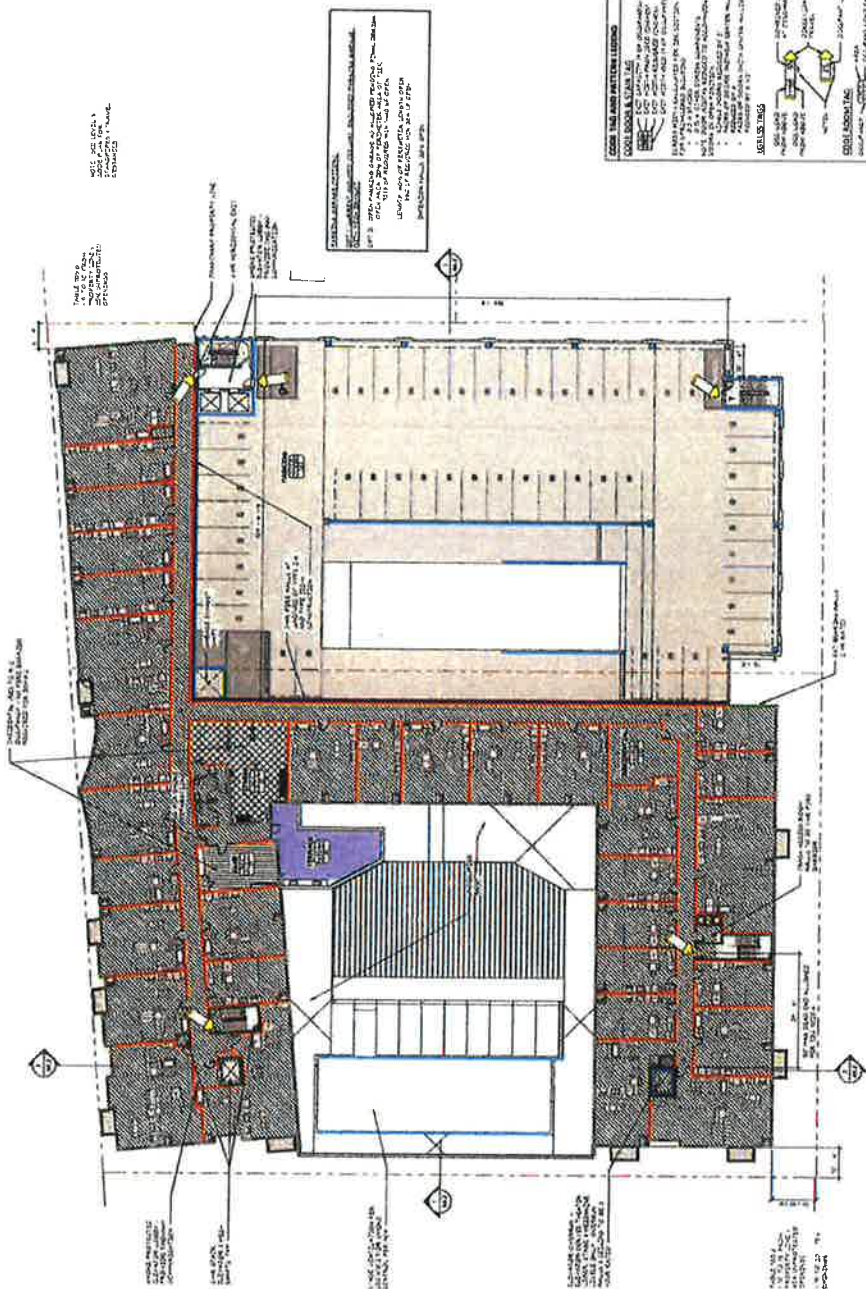
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2/10/2023

ORIGINAL SCALE: AS SHOWN
REVISIONS: NONE
DATE: 2/10/2023

23.1504
ARCHITECT: KILBOURNE GROUP
DATE: 2/10/2023

NP Ave Mixed Use
Apartments
ARCHITECTURAL CODE
PLANS

AC2.2



CODE TAG AND PATTERNS LEGEND

COOL ROOFING MATERIALS

- 1. POLYURETHANE FOAM INSULATION
- 2. 2" POLYURETHANE FOAM INSULATION
- 3. 4" POLYURETHANE FOAM INSULATION
- 4. 6" POLYURETHANE FOAM INSULATION
- 5. 8" POLYURETHANE FOAM INSULATION
- 6. 10" POLYURETHANE FOAM INSULATION
- 7. 12" POLYURETHANE FOAM INSULATION
- 8. 14" POLYURETHANE FOAM INSULATION
- 9. 16" POLYURETHANE FOAM INSULATION
- 10. 18" POLYURETHANE FOAM INSULATION
- 11. 20" POLYURETHANE FOAM INSULATION
- 12. 22" POLYURETHANE FOAM INSULATION
- 13. 24" POLYURETHANE FOAM INSULATION
- 14. 26" POLYURETHANE FOAM INSULATION
- 15. 28" POLYURETHANE FOAM INSULATION
- 16. 30" POLYURETHANE FOAM INSULATION
- 17. 32" POLYURETHANE FOAM INSULATION
- 18. 34" POLYURETHANE FOAM INSULATION
- 19. 36" POLYURETHANE FOAM INSULATION
- 20. 38" POLYURETHANE FOAM INSULATION
- 21. 40" POLYURETHANE FOAM INSULATION
- 22. 42" POLYURETHANE FOAM INSULATION
- 23. 44" POLYURETHANE FOAM INSULATION
- 24. 46" POLYURETHANE FOAM INSULATION
- 25. 48" POLYURETHANE FOAM INSULATION
- 26. 50" POLYURETHANE FOAM INSULATION
- 27. 52" POLYURETHANE FOAM INSULATION
- 28. 54" POLYURETHANE FOAM INSULATION
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- 34. 66" POLYURETHANE FOAM INSULATION
- 35. 68" POLYURETHANE FOAM INSULATION
- 36. 70" POLYURETHANE FOAM INSULATION
- 37. 72" POLYURETHANE FOAM INSULATION
- 38. 74" POLYURETHANE FOAM INSULATION
- 39. 76" POLYURETHANE FOAM INSULATION
- 40. 78" POLYURETHANE FOAM INSULATION
- 41. 80" POLYURETHANE FOAM INSULATION
- 42. 82" POLYURETHANE FOAM INSULATION
- 43. 84" POLYURETHANE FOAM INSULATION
- 44. 86" POLYURETHANE FOAM INSULATION
- 45. 88" POLYURETHANE FOAM INSULATION
- 46. 90" POLYURETHANE FOAM INSULATION
- 47. 92" POLYURETHANE FOAM INSULATION
- 48. 94" POLYURETHANE FOAM INSULATION
- 49. 96" POLYURETHANE FOAM INSULATION
- 50. 98" POLYURETHANE FOAM INSULATION
- 51. 100" POLYURETHANE FOAM INSULATION

CODE WALL FINISH PATTERNS

- 1. POLYURETHANE FOAM INSULATION
- 2. POLYURETHANE FOAM INSULATION
- 3. POLYURETHANE FOAM INSULATION
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LEVEL 2 CODE PLAN



DATE: 2/10/2023
 DRAWN BY: [Name]
 CHECKED BY: [Name]

NOT FOR CONSTRUCTION

SCHEMATIC DESIGN II
 2/10/2023

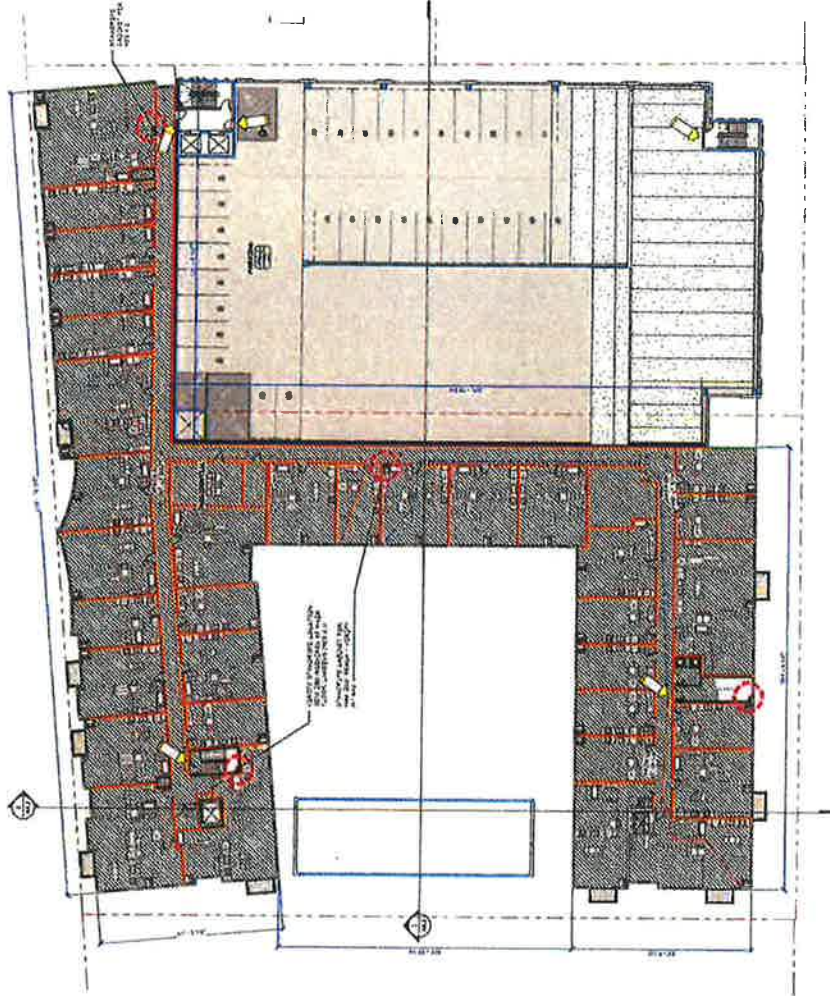
PROJECT NO: 221554
 PROJECT NAME: NP Ave Mixed Use
 PROJECT ADDRESS: 1000 NP Ave, St. Louis, MO 63101

221554

DATE: 2/10/2023

NP Ave Mixed Use
 Apartments
 ARCHITECTURAL CODE
 PLANS

AC2.3



GRID TYPED BY NAME	
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1	1000 NP AVE
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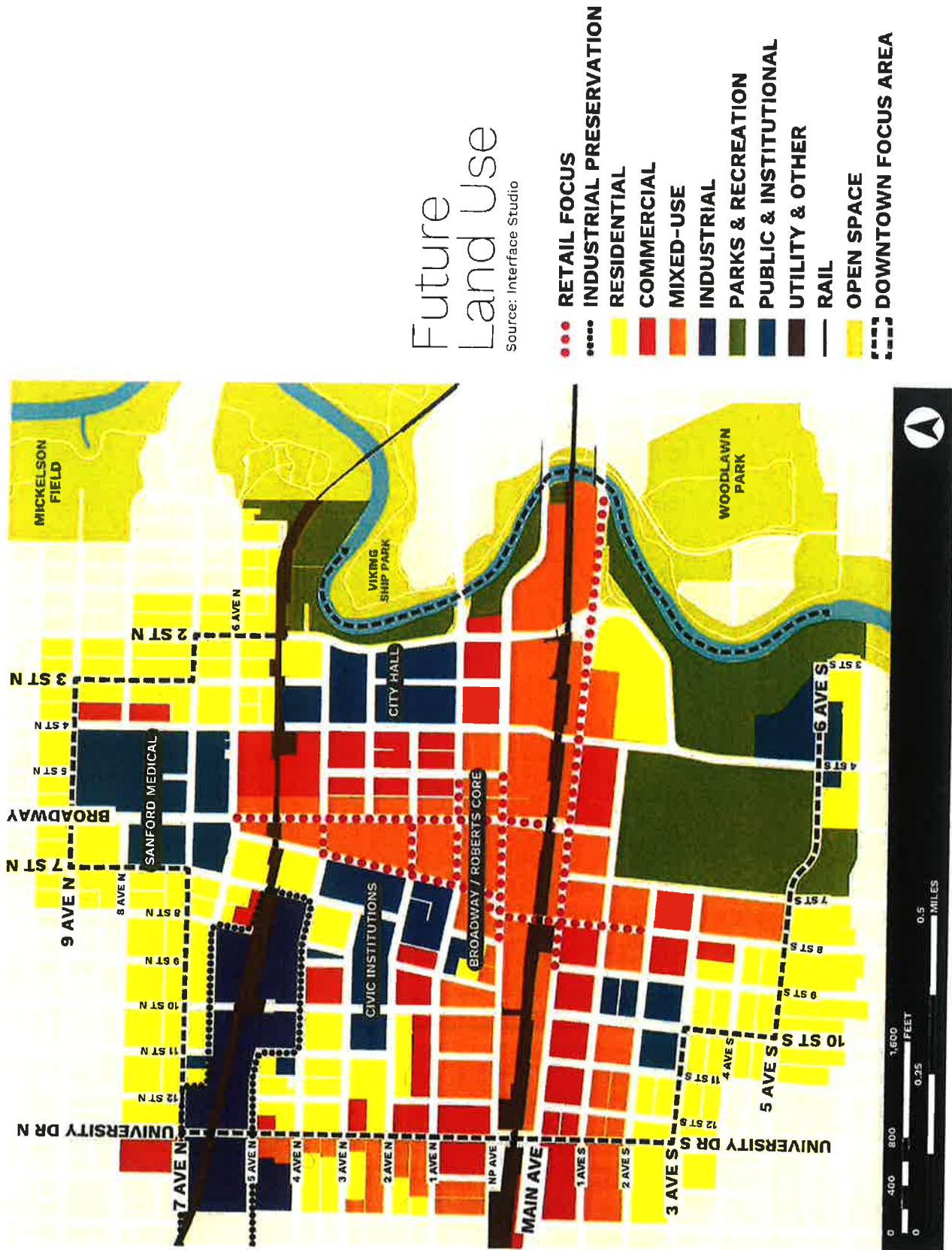
CODE WALL AND PARTITION LEGEND

CODE WALL
 1. 12" CMU WALL WITH REINFORCING BARS
 2. 8" CMU WALL WITH REINFORCING BARS
 3. 6" CMU WALL WITH REINFORCING BARS
 4. 4" CMU WALL WITH REINFORCING BARS
 5. 12" CONCRETE WALL WITH REINFORCING BARS
 6. 8" CONCRETE WALL WITH REINFORCING BARS
 7. 6" CONCRETE WALL WITH REINFORCING BARS
 8. 4" CONCRETE WALL WITH REINFORCING BARS
 9. 12" CMU WALL WITH REINFORCING BARS AND EXTERIOR FINISH
 10. 8" CMU WALL WITH REINFORCING BARS AND EXTERIOR FINISH
 11. 6" CMU WALL WITH REINFORCING BARS AND EXTERIOR FINISH
 12. 4" CMU WALL WITH REINFORCING BARS AND EXTERIOR FINISH
 13. 12" CONCRETE WALL WITH REINFORCING BARS AND EXTERIOR FINISH
 14. 8" CONCRETE WALL WITH REINFORCING BARS AND EXTERIOR FINISH
 15. 6" CONCRETE WALL WITH REINFORCING BARS AND EXTERIOR FINISH
 16. 4" CONCRETE WALL WITH REINFORCING BARS AND EXTERIOR FINISH

PARTITION WALL
 1. 1/2" GYP BOARD ON 2" X 4" STUDS
 2. 5/8" GYP BOARD ON 2" X 4" STUDS
 3. 1" GYP BOARD ON 2" X 4" STUDS
 4. 1 1/2" GYP BOARD ON 2" X 4" STUDS
 5. 2" GYP BOARD ON 2" X 4" STUDS
 6. 1/2" GYP BOARD ON 2" X 4" STUDS WITH REINFORCING BARS
 7. 5/8" GYP BOARD ON 2" X 4" STUDS WITH REINFORCING BARS
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 10. 2" GYP BOARD ON 2" X 4" STUDS WITH REINFORCING BARS
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 12. 5/8" GYP BOARD ON 2" X 4" STUDS WITH REINFORCING BARS AND EXTERIOR FINISH
 13. 1" GYP BOARD ON 2" X 4" STUDS WITH REINFORCING BARS AND EXTERIOR FINISH
 14. 1 1/2" GYP BOARD ON 2" X 4" STUDS WITH REINFORCING BARS AND EXTERIOR FINISH
 15. 2" GYP BOARD ON 2" X 4" STUDS WITH REINFORCING BARS AND EXTERIOR FINISH

GLASS WALLING PARTITION
 1. 1/2" GYP BOARD ON 2" X 4" STUDS WITH GLASS PARTITION
 2. 5/8" GYP BOARD ON 2" X 4" STUDS WITH GLASS PARTITION
 3. 1" GYP BOARD ON 2" X 4" STUDS WITH GLASS PARTITION
 4. 1 1/2" GYP BOARD ON 2" X 4" STUDS WITH GLASS PARTITION
 5. 2" GYP BOARD ON 2" X 4" STUDS WITH GLASS PARTITION
 6. 1/2" GYP BOARD ON 2" X 4" STUDS WITH GLASS PARTITION AND EXTERIOR FINISH
 7. 5/8" GYP BOARD ON 2" X 4" STUDS WITH GLASS PARTITION AND EXTERIOR FINISH
 8. 1" GYP BOARD ON 2" X 4" STUDS WITH GLASS PARTITION AND EXTERIOR FINISH
 9. 1 1/2" GYP BOARD ON 2" X 4" STUDS WITH GLASS PARTITION AND EXTERIOR FINISH
 10. 2" GYP BOARD ON 2" X 4" STUDS WITH GLASS PARTITION AND EXTERIOR FINISH

LEVEL 3 CODE PLAN



City of Fargo, North Dakota
Renaissance Zone & Tax Increment Financing Program
“But-For” Report
602/636 NP Avenue



April 14, 2023



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Purpose

The purpose of this report is to establish and determine the allowable value of the tax increment financing (TIF) for 602/636 NP Ave., a development by Kilbourne Group (the "Developer").

PFM first reviewed the application to ensure that appropriate assumptions regarding property value, rent, condo sales, vacancy, expenses, and debt were used by the Developer. Based on those assumptions, PFM projected a 10-year cash flow, calculating an internal rate of return ("IRR"). We also made sure the Developer followed the City of Fargo's (the "City") Economic Development Incentives Policies and Guidelines (the "Policy") including the allowable costs and the Developer's calculations for determining the amount of allowable subsidy financing. The following report details PFM's analysis and conclusions concerning the viability of the proposed project without the subsidy.



Project

The project being proposed by the Developer includes the development of a 168-unit rental apartment building located at 602/636 NP Ave N.

The Developer estimates the construction will be completed in late 2025 with occupancy immediately following. The Developer has requested TIF assistance in the amount of \$1,831,613 to complete the project.



TIF Assistance Request

The Developer is requesting assistance in the form of tax increment financing under the City's Tax Increment Financing Policy. The Policy provides public assistance to a development through tax increment financing for private development. The Developer is asking for a 5-year Renaissance Zone PILOT followed by a 5-year TIF exemption. The Policy states a 100% exemption on the increased value of the improvements for the first five years.

Eligible TIF Expenditures

Land	761,000
Site Preparation/Environmental	770,689
Public Improvements	<u>299,924</u>
Total Eligible TIF Expenditures	\$1,831,613

The Policy limits the TIF assistance to 15% of hard construction costs, including the costs of acquisition. Based on total hard construction costs of \$35,400,000 the Developer can receive up to \$5,310,000. The Developer is requesting \$1,831,613, which is below the maximum allowed.

Land Cost

The Developer states the purchase price to acquire the property for the project is \$1,328,000. Land acquisition is reimbursable under the Policy. The Developer is requesting to be reimbursed \$761,000 for the land acquisition which complies with the Policy.



The Policy states that the maximum eligible land costs to be recouped by the Developer should be limited to the lesser of:

- 1.) **The total acquisition cost for the property, provided that the acquisition cost is no more than 150% of the assessor's market value of the property.** The Developer's cost to acquire the property is \$1,328,000. The assessor's market value for the property totals \$505,000. The eligible amount for reimbursement is 150% of \$336,667 which totals \$505,000.
- 2.) **The difference between what was paid by the Developer for the property less the assessor's market value for the land (as opposed to land and buildings).** The current assessor's land value is \$505,000. Based on an acquisition price of \$1,328,000 the maximum reimbursement is \$823,000.

The lesser of the two tests detailed above is \$505,000. The requested reimbursement amount for land acquisition of \$761,000 is slightly higher than the amount allowed under the Policy.

Term

The Policy states the length of the term will be limited to 15 years or less. The Developer is requesting a total of a 10-year term with TIF payout in years 6 - 10.

TIF Estimate

PFM estimates that \$2,296,996 of TIF will be generated over years 6 - 10 assuming a 2% market growth rate. Based on a discount rate of 5%, the present value of the estimated TIF cash flow is \$1,407,507 for years 6 to 10 of the project when the TIF would be in effect. This is less than the total eligible TIF expenditures.



Project Financing

The Developer is investing 30% equity, or \$10,626,271, and will be privately financing \$24,794,633. The Developer is additionally requesting annual TIF assistance in the total amount of \$1,831,613 as well as Renaissance Zone PILOT payments. The private financing is estimated to be a 30-year loan with an estimated interest rate of 6.5% resulting in an annual principal and interest payment of \$1,898,710. The Developer anticipates refinancing the construction loan after two years of occupancy. The refinancing loan is estimated to be a 30-year loan with an estimated interest rate of 5.5% resulting in an annual principal and interest payment of \$2,145,349. The application states the project will be completed by the late 2025.



Return Analysis

In calculating the internal rate of return, PFM first analyzed the Developer's assumptions including expected monthly rent, vacancy rate, and operating expenses. The Developer is proposing rents of \$1,153 for a studio unit, \$1,466 for a one-bedroom unit, \$2,166 for a two-bedroom unit and \$2,984 for a three-bedroom unit. The Developer has proposed a reasonable amount for rent for the current market and location. Annual estimates of operating expenses for the 168-unit rental development were provided, as follows; Administrative Costs - \$184,148, Marketing - \$23,437, Repairs and Maintenance Costs - \$105,466, Utilities - \$36,830, Real Estate Taxes - \$434,403 (without public assistance), Insurance Costs - \$26,785, and Management Fees - \$75,333. The total expenses are approximately 41% of gross operating income after stabilization.

The second step in determining the internal rate of return is to determine the earned incremental value of the property over a 10-year period. That value, along with the net operating income cash flows, was used to calculate the internal rate of return. PFM determined that without public assistance the Developer would have about a 10.12% internal rate of return based on a 10-year internal rate of return. The Developer would have about a 12.73% internal rate for 10 years if it received the public assistance. A reasonable rate of return for the proposed project is 10% - 15%.

Another measure of feasibility and project viability is the debt coverage ratio. PFM has projected a maximum debt coverage ratio in Year 9 of 1.02x without assistance, with a Year 6 coverage of 0.91x. If the City provided assistance to the project the maximum debt coverage is projected to be 1.23x in Year 9, with a Year 6 coverage of 1.11x.

Using PFM's "without assistance" cash flow as the base scenario, PFM ran sensitivity analyses in order to determine if the project would be likely to occur without public assistance. For the first sensitivity analysis, PFM analyzed how much project funds would have to decrease in order to produce a reasonable debt coverage ratio. We also looked at how much the rental rates would have to fluctuate in order to achieve a reasonable debt coverage. Lastly, we looked at a combination of the two scenarios. For the sensitivity analyses, we assumed a reasonable debt coverage ratio of 1.20x by year 9.

Sensitivity Scenario 1 – Project Costs

The project would have to be reduced by \$4,804,363 or 13.5% in order for the project to become viable without assistance. This reduces the amount to be financed from \$24,794,633 to \$19,990,270 and reduces the annual payment from \$1,898,710 to \$1,530,804 for the loan. It is unlikely that a reduction in project costs of this magnitude would occur at this stage in the development.

Sensitivity Scenario 2 – Rental Rates

In order for the project to be viable without public assistance, the apartment rental rates would have to increase by 10.9%. PFM believes this is a high increase to the Developer's proposed rents. This increases annual rental revenue from \$3,047,386 to \$3,379,296. PFM believes the current proposed rents are reasonable rental rates and does not believe an increase this large would occur.

Sensitivity Scenario 3 – Combination of Project Costs and Rental Rates

The final scenario looks at both a reduction of project costs and an increase in apartment rental rates. The analysis showed that project costs would have to be reduced by \$2,479,463 or 7.0% and rental rates would have to increase by about 5.3%. Either of these events could occur but may be unlikely to occur together.

The above scenarios show the circumstances in which the project would become viable without public assistance. PFM has determined that the project is unlikely to occur "but-for" the public assistance.



Conclusion

The Developer will bear all the risk involved with the project. The Developer is dependent on a number of factors before and after the project is completed, including project costs, occupancy of the buildings, the rental market, and monthly expenses. The base scenario without assistance along with the sensitivity analyses demonstrates that the project would be unlikely to be feasible without assistance.

PFM has calculated that with public assistance, and based on the assumptions outlined in this report, a 10-year internal rate of return is estimated to be 12.73%. In addition, the coverage ratio in Year 9 is estimated to be 1.23x. The estimated internal rate of return is appropriate given the risk level for this type of project. Based on the information provided to PFM, the calculated internal rate of return and the coverage requirements, PFM concludes the project would not be feasible without public assistance.



**SECOND AMENDMENT TO
DEVELOPER AGREEMENT**

[CITY OF FARGO and GREAT PLAINS NP HOLDINGS, LLC]

THIS AMENDMENT TO DEVELOPER AGREEMENT, dated as of _____, 2023; is by and between the City of Fargo, a North Dakota municipal corporation (“City”), and Great Plains NP Holdings, LLC, a North Dakota Limited Liability Company (“Developer”); and provides as follows:

WHEREAS, the Developer and the City entered into a Developer Agreement dated as of October 31, 2022, (the “Agreement”) pertaining to a project for the development of the NP Avenue Project, which agreement addresses matters related to the designing, building, financing, ownership and maintenance of a public parking garage to ultimately be owned by the City surrounded or “wrapped” by a mixed-use multi-level structure including residential living units, commercial space and a theater area; and,

WHEREAS, Section 8.4 of the Agreement provided that the Developer would seek certain Tax Increment Financing with respect to the Wrap portion of the NP Avenue Project with terms for such Tax Increment Financing to be set forth in a separate TIF developer agreement to be entered into between the Developer and City; and,

WHEREAS, Section 10.3 of the Agreement included a contingency for the benefit of the Developer that Developer’s obligations under said agreement are subject to satisfaction or waiver by Developer of a contingency that Developer will have received final approvals from all necessary governing bodies that the Wrap has been approved for the Tax Increment Financing program as referenced in said Section 8.4; and,

WHEREAS, the board of city commissioners of the City of Fargo has approved Developer’s application for a five-year property tax exemption on the Wrap as contemplated in Section 8.3 of the Agreement and as provided pursuant to N.D.C.C. §40-63-05; and,

WHEREAS, it is the desire of the Parties to set forth the terms by which the City will issue a Tax Increment Note that establishes five “Tax Years,” as defined herein, from which the City is to make payments to the Developer and which describes as the source of funds, the “Available Tax Increments”, said source being the Developer’s Taxes but the source not being property taxes generated from other property within the TIF District; and,

WHEREAS, Developer and City are now prepared to enter into an agreement regarding said Tax Increment Financing, to be accomplished by this amendment of the NP Avenue Developer Agreement;

NOW, THEREFOR, the Agreement is hereby amended as follows:

SECTION I. Section 1.1 of Article I of the Agreement is amended to include the following additional definitions:

"Available Tax Increments" means the Developer Tax Increments minus the reasonable and not theretofore reimbursed actual expenses incurred by the City in establishing and maintaining the TIF District, in preparing and implementing this Agreement, and in general in administering the TIF District and this Agreement and any supplements hereto and in participating in the actions or transactions contemplated thereby and hereby.

"Capitalized Interest" means the portion of the principal amount of the Tax Increment Note that represents the sum of the products of the various eligible expenses initially borne by Developer and the City that will be reimbursed by the Tax Increment Note multiplied by an interest rate of Five and One-half Percent (5-1/2%) per annum, simple interest, multiplied by the number of years, or fraction thereof, between the date such expense was incurred to the date of the Tax Increment Note.

"Developer Tax Increments" means the portion of Developer's Taxes which constitutes Tax Increments, or the portion of Tax Increments derived from Developer's Taxes.

"Developer's Taxes" means taxes paid with respect to the portions of the Development Property and Improvements completed by the Developer for the fifth (5th) Tax Year and earlier Tax Years. Taxes for the sixth (6th) year following the first Tax Year, or for any subsequent year, are not included as Developer's Taxes.

"Development Costs" means those costs incurred and to be incurred by or on behalf of the Developer in acquiring the Development Property, in completing the Improvements and in financing those undertakings (including all interest charges on borrowed funds).

"Development Plan" means the Developer's development plan for the Development Property approved by the City on May 30, 2023, including all exhibits thereto, as the same may be amended from time to time.

"Development Property" means the real property parcels described in Exhibits A and B to this Agreement.

"Improvements" means the improvements constructed or to be constructed by the Developer on the Development Property, including all related landscaping, lighting, parking, and other site improvements. The Improvements may exceed, but shall not be less than, the Minimum Improvements, as provided in Section 8.4.

"Maturity Date" means the date that is three (3) years from the Payment Date for the fifth Tax Year.

"Minimum Improvements" means the improvements contemplated by and in accordance with this Agreement and generally described in Section 8.4.

"Renaissance Zone Property Tax Exemption" means the five-year property tax exemption provided by the Renaissance Zone program authorized, pursuant to N.D.C.C. Chapter 40-63, for the Development Project by the board of city commissioners on the 30th day of May, 2023.

"Tax Increment Note" means the City's Tax Increment Revenue Note in the initial principal amount of \$1,831,613.00 or in a lesser initial principal amount that represents reimbursement of eligible costs paid by the Developer as described in this Agreement, plus Capitalized Interest at 5-1/2% per annum, the form of which is attached as Exhibit L to this Agreement, issued when conditions set forth in Section 8.4 are met.

"Tax Increments" means those tax increments which the City shall be entitled to receive and retain, and which the City shall have actually received from Cass County, from time to time from the TIF District pursuant to the Urban Renewal Law.

"Tax Year" is one of a maximum of five (5) successive calendar years, with the first year being the year that, pursuant to this Agreement, is the year following the five-year Renaissance Zone Property Tax Exemption, said first year to be identified in the Tax Increment Note and with the subsequent years being the four (4) subsequent calendar years. The fifth (5th) Tax Year, therefore, is the fourth (4th) calendar year following the first said year.

"Urban Renewal Law" means the North Dakota Urban Renewal Law, that is, North Dakota Century Code, Chapter 40-58, as the same may be amended.

"TIF District" means the area identified as the "District," or "District [[TIF District No]]" under the City's Development Plan approved by the Board of City Commissioners of the City of Fargo on May 30, 2023, as the same may be amended.

SECTION II. Section 8.4 of Article VIII of the Agreement is amended to read as follows:

Section 8.4. Reimbursement by City of Certain Costs; Terms of Tax Increment Note. The Developer hereby represents to the City that the Developer has incurred and paid and will incur and pay significant Development Costs. The reimbursements, through Available Tax Increments, that establish the principal balance of the Tax Increment Note whose principal and interest are payable to the Developer shall be as follows. The City hereby agrees to defray a portion of the Development Costs up to \$1,831,613.00, comprised of three components plus a fourth component, being administrative and TIF fees of \$50,000:

First Component: Land Acquisition costs (\$761,000) borne by Developer

Second Component: Demolition and site cleaning, soil correction and remediation, grading and utility distribution throughout the Development Property This cost is the estimate to demolish the existing structure(s), remove substandard soils and rubble, fill and grade the site plus install new utilities (\$770,689) that will be borne by the Developer;

Third Component: Public improvements in the City right of way, including utilities disconnect and stub, sidewalk repair and right of way repair and enhancements such as plantings, landscape and furnishings (\$299,924).

Fourth Component: Advance Administrative/TIF Fees. Other Tax Increment costs include the administrative costs (\$50,000.00) for the city of Fargo

The \$50,000.00 advance administrative fee, set forth above, will be initially paid by Developer to the City at the time of issuance of the Tax Increment Note, but shall be an eligible cost reimbursable through Available Tax Increments along with other eligible costs. In addition, an annual administrative fee equal to five percent (5%), subject to a maximum sum of \$12,500 each year, of the annual increment received from the County Auditor (the "Annual Administrative Fee") shall be retained by the City prior to remittance to developer of said increment as payment of the Tax Increment Note.

If there is a category of expense that is deemed ineligible under the Urban Renewal Law, but there are additional eligible expenses not otherwise reimbursed under this Agreement, then such otherwise non-reimbursed, but eligible, expenses shall be recognized as an eligible expense under this Agreement. If eligible costs in the First, Second or Third Component noted above are less than the maximum amount designated for each Component, then such deficit may be realized through another Component so long as all costs are in fact eligible costs. In addition to the foregoing costs, Developer shall be entitled to reimbursement over and above the foregoing eligible expenses an agreed upon interest rate of Five and One-Half Percent (5-1/2%) Per Annum to be paid to Developer under the Tax Increment Note. All of the said costs, and interest, meet the representation set forth at Section 8.4(c) by issuing the Tax Increment Note, substantially in the form of Exhibit L to this Agreement, subject to the following conditions:

(a) There shall be one (1) Tax Increment Note. The amount of the Tax Increment Note shall be determined by adding the \$1,831,613.00 (or so much thereof as shall be demonstrated as set forth in Section 8.4(d) plus a sum equal to Capitalized Interest. The Tax Increment Note shall provide for payments to be made by the City to Developer of Developer's Tax Increment received by the City from the County for the Project for the first Tax Year and for each of four (4) subsequent Tax Years, with payments to be made annually on the Payment Dates, it being further provided that Available Tax Increment exists pertaining to the fifth (5th) or earlier Tax Years.

(b) The Tax Increment Note shall be delivered only if no Event of Default shall have occurred and be at the time continuing.

(c) The Developer represents and covenants that throughout the term of this Agreement that the tax increment assistance provided under this Agreement will be used by the Developer solely to finance those costs which are eligible costs for reimbursement of a project as defined in the Urban Renewal Law. Developer acknowledges that tax increment assistance does not apply to those costs that are initially borne by the City and reimbursed to the City by Developer and City administrative or TIF fees, including the Annual Administrative Fees, as provided in this Section 8.4.

(d) If the conditions set forth in this Section are met, the Tax Increment Note shall be dated, issued and delivered upon the later of when the Certificate of Completion is delivered and when the Developer has demonstrated in writing to the reasonable satisfaction of the City the amount of eligible costs of the Improvements incurred and paid by Developer. Demonstration of eligible costs of Improvements up to the maximum amount of the Tax Increment Note shall be made pursuant to one or more certifications in form and substance satisfactory to the City that all or a portion of the eligible costs of the Improvements have been incurred, together with lien waivers and evidence satisfactory to the City of the nature and amount of the eligible costs of the Improvements that have been paid by the Developer. Each certification shall demonstrate the specific purpose and amount of the eligible costs of the Improvements and their compliance with the representation set forth at Section 8.4(c). The City's determination of a cost's compliance with the representation set forth at Section 8.4(c) shall, if based on the advice of the city attorney's office after consultation with the Developer or its counsel, be conclusive. The delivery of the Tax Increment Note itself constitutes reimbursement of expenditures in an amount equal to the principal amount of the Tax Increment Note; there are no monetary proceeds received by Developer upon delivery of the Tax Increment Note.

(e) Subject to the provisions of the Tax Increment Note, the principal of and interest on the Tax Increment Note shall in the aggregate be payable commencing on May 15th immediately following the first Tax Year, and on May 15th of each year thereafter until the Maturity Date, said May 15th being referred to herein as the "Payment Date" or collectively as "Payment Dates", in the amount described in this subsection. The Parties recognize that at the time of issuance of the Tax Increment Note, the first Tax Year will be known and that the Tax Increment Note will be prepared before issuance to identify the same. The first Tax Year will be the first calendar year following the fifth and final year of the Renaissance Zone Property Tax Exemption. The sole source of funds available for payment of the City's obligations to the Developer under this Section shall be the Tax Increment Note (a non-cash source), and the sole source of funds available for payment of the Tax Increment Note shall be the Available Tax Increments for the first through the fifth Tax Years. The amounts otherwise payable on the Tax Increment Note on each Payment Date shall be limited to the Available Tax Increments received by the City from Tax Years prior to the applicable Payment Date. All payments made on the Tax Increment Note shall be applied first to pay accrued and unpaid interest on the Tax Increment Note and second toward payment of principal. To the extent that the Available Tax Increments are insufficient, through the Maturity Date, to pay all accrued and unpaid interest on and the principal of the Tax Increment Note, said unpaid amounts shall then cease to be any debt or obligation of the City or of the City whatsoever.

(f) The unpaid principal of the Tax Increment Note shall bear interest at Five and One-Half Percent (5-1/2%) per annum from the date of issuance, compounded annually. Interest shall be computed on the basis of a 360-day year consisting of 12 months of 30 days each.

(g) The City expresses no opinion in particular as to whether, or not, the interest income from any such TIF Revenue Note is exempt from federal income taxation, but it is assumed that the Tax Increment Note will be a "taxable" obligation.

(h) The Tax Increment Note shall be a special and limited revenue obligation of the City and not a general obligation of the City, and only Available Tax Increments received by the City shall be used to pay the principal of and interest on the Tax Increment Note

(i) The Tax Increment Note shall be governed by and payable pursuant to the additional terms thereof, as set forth in Exhibit L. In the event of any conflict between the terms of the Tax Increment Note and the terms of this Section 8.4, the terms of the Tax Increment Note shall govern. No payments will be made on the Tax Increment Note during such time as there is a Specified Event of Default that has not been cured by the Developer.

(j) In connection with the issuance of the Tax Increment Note, and as conditions to such issuance, the Developer shall be provided with a private placement memorandum and shall execute a receipt in a form acceptable to the City stating that it has relied on its own determinations in acquiring the Tax Increment Note and not on representations or information provided by the City.

(k) For purposes of this Agreement all project values shall be as valued by the City Assessor.

SECTION III. Article VIII of the Agreement is amended to include a new section, to be numbered Section 8.6, as follows:

Section 8.6. Use of Tax Increments.

The City receives the Tax Increments generated by the TIF District from the County. The City may use Tax Increments which are not Available Tax Increments for any purpose permitted by law. Available Tax Increments shall be used on each Payment Date for the following purposes in the following order of priority: (a) to make the maximum possible payment on the Tax Increment Note; (b) to pay or reimburse redevelopment costs at or near the Project identified by the City; and then (c) to pay other eligible expenses for other projects that may be approved for the TIF District, from time to time, by the governing body of the City.

SECTION IV. The Agreement is amended to include an additional exhibit, Exhibit "L", which shall be the form of Tax Increment Note, appended hereto.

SECTION V. Effective date of amendment. This first amendment to the NP Avenue Developer Agreement shall be effective as of _____.

SECTION VI. In all other respects, the NP Avenue Developer Agreement shall remain in full force and effect.

[Execution pages to follow]

IN WITNESS WHEREOF, the City and Developer have caused this First Amendment to Developer Agreement to be executed by their duly authorized representatives.

CITY OF FARGO, NORTH DAKOTA

(SEAL)

By _____
Timothy Mahoney, its Mayor

ATTEST:

By _____
Steven Sprague, City Auditor

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

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Timothy Mahoney and Steven Sprague, the Mayor and City Auditor, respectively, of the City of Fargo, North Dakota, on behalf of said City.

Notary Public

This document drafted by:

Erik R. Johnson
Assistant City Attorney
608 24th Ave S
Fargo, ND 58103
(701) 371-6850
ejohnson@lawfargo.com

GREAT PLAINS NP HOLDINGS, LLC

By: _____

Its: _____

By _____,
_____, _____

STATE OF NORTH DAKOTA)

)

COUNTY OF CASS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____, the _____ of _____, a North Dakota limited liability _____, the Manager of GREAT PLAINS NP HOLDINGS, LLC, a North Dakota limited liability company.

Notary Public

EXHIBIT L
FORM OF TAX INCREMENT NOTE

No. R-1

\$ _____

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
CASS COUNTY
CITY OF FARGO

TAX INCREMENT
REVENUE NOTE OF 20____
(TAX INCREMENT DISTRICT [[TIF District No]] PROJECT)

KNOW ALL PERSONS BY THESE PRESENTS that the City of Fargo, Cass County, North Dakota (the "City"), certifies that it is indebted and for value received promises to pay to GREAT PLAINS NP HOLDINGS, LLC, a North Dakota limited liability company (the "Developer"), or the registered assign, the principal sum of _____ Million _____ Hundred _____ Thousand and no/100 Dollars (\$____,____,000.00), an amount issued in reimbursement of eligible costs paid by the Developer, unless due sooner by redemption or early payment, on the Maturity Date defined below; but only in the manner, at the times, from the sources of revenue, and to the extent hereinafter provided; and to pay interest on the unpaid principal amount of this Note at the rate of interest of Five and one-half Percent (5-1/2%) per annum, compounded annually. Interest shall accrue from the date of this Note on the amount issued and shall be computed on the basis of a 360-day year consisting of 12 30-day months. This Note is the "Tax Increment Note" (the "Note") described and defined in that certain Developer Agreement, dated as of _____, 20__ (as the same may be amended from time to time, the "Developer Agreement"), by and between the City and GREAT PLAINS NP HOLDINGS, LLC, a North Dakota limited liability company, as the initial Developer under the Developer Agreement. Each capitalized term which is used but not otherwise defined in this Note shall have the meaning given to that term in the Developer Agreement or in the resolution authorizing the issuance of this Note. Principal and interest are payable at such address as shall be designated in writing by GREAT PLAINS NP HOLDINGS, LLC, or other registered holder of this Note, in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts.

Payment Dates. Subject to the terms hereof, the principal of and interest on the Tax Increment Note shall in the aggregate be payable on May 15th following ~~the date of issuance of the Tax Increment Note~~ first Tax Year, said first Tax Year ending on December 31, 20____
[[Insert: the calendar year following the final year of the five-year RZ property tax

exemption]] and on May 15th of each year thereafter until the Maturity Date, said May 15th dates being referred to herein as the "Payment Date" or collectively as the "Payment Dates".

Payment Amounts. On each Payment Date (or, if not a business day of the City, the first business day thereafter) the City shall pay by check or draft mailed to the person that was the Registered Owner of the Note at the close of the last business day of the City preceding such Payment Date an amount as follows: (a) the first payment on the Tax Increment Note, to become due and payable on the first Payment Date, shall be limited to all the Available Tax Increments received to said date by the City on the Project and (b) for all payments after said first payment on the Tax Increment Note, the amounts payable on the Tax Increment Note on each Payment Date shall be limited to the Available Tax Increments received by the City since the prior year's Payment Date. All payments made on the Tax Increment Note shall be applied first to pay accrued and unpaid interest on the Tax Increment Note and second toward payment of principal. To the extent that the Available Tax Increments are insufficient, through the Maturity Date, to pay all accrued and unpaid interest on and the principal of the Tax Increment Note, said unpaid amounts shall then cease to be any debt or obligation of the City or of the City whatsoever. In no event shall any City be obligated to remit payment of principal in excess of the aggregate amount of the unpaid principal of the Note. The City shall have the option at any time to prepay in whole or in part the principal amount of this Note at par plus accrued interest. All payments made by the City under this Note shall be applied first to pay accrued and unpaid interest on this Note and second toward payment of principal hereof.

Redemption. In addition to the amounts of principal required to be paid by the City as hereinabove set forth, the City shall have the right to prepay on any date the entire principal amount hereof then remaining unpaid, or such lesser portion thereof as it may determine upon, in multiples of \$1,000, at par plus accrued interest. Notice of any such optional prepayment shall be given prior to the prepayment date by mailing to the registered owner of this Note a notice fixing such prepayment date and the amount of principal to be prepaid.

Available Tax Increments. "Available Tax Increments" are defined in the Developer Agreement as follows:

"Developer Tax Increments minus the reasonable and not theretofore reimbursed actual expenses incurred by the City in establishing and maintaining the TIF District, in preparing and implementing this Agreement, and in general in administering the TIF District and this Agreement and any supplements hereto and in participating in the actions or transactions contemplated thereby and hereby."

"Developer Tax Increments" are defined in the Developer Agreement as follows:

"The portion of Developer's Taxes which constitutes Tax Increments, or the portion of Tax Increments derived from Developer's Taxes."

"Tax Increments" are defined in the Developer Agreement as follows:

“Tax Increments’ means those tax increments which the City shall be entitled to receive and retain, and which the City shall have actually received from Cass County, from time to time from the TIF District pursuant to the Urban Renewal Law.

In addition, “Developer’s Taxes” are defined in the Developer Agreement as follows:

“Developer’s Taxes’ means taxes paid with respect to the portions of the Development Property and Improvements completed by the Developer for the fifth (5th) Tax Year and earlier Tax Years. Taxes for the sixth (6th) year following the first Tax Year, or for any subsequent year, are not included as Developer’s Taxes.”

In addition, “Tax Year” is defined in the Developer Agreement as follows:

“Tax Year” is one of a maximum of five (5) successive calendar years, with the first year being the year that, pursuant to this Agreement, is the year following the five-year Renaissance Zone Property Tax Exemption, said first year to be identified in the Tax Increment Note and with the subsequent years being the four (4) subsequent calendar years. The fifth (5th) Tax Year, therefore, is the fourth (4th) calendar year following the first said year.

In addition, “Maturity Date” is defined in the Developer Agreement as follows:

“Maturity Date” means the date that is three (3) years from the Payment Date for the fifth Tax Year.

In addition, Section 3.6 of the Developer Agreement provides as follows:

“The City receives the Tax Increments generated by the TIF District from the County. The City may use Tax Increments which are not Developer Tax Increments for any purpose permitted by law. Developer Tax Increments shall be used on any date of application for the following purposes in the following order of priority:

- (a) to make payments on the Tax Increment Note; and,
- (b) after payment of the City Development Costs and Tax Increment Note in full, to pay or reimburse redevelopment costs identified by the City and to pay other eligible expenses for other projects that may be approved for the TIF District, from time to time, by the governing body of the City.

No Payment Upon Default. No payments will be made on this Note during such time as there is an Event of Default under the Developer Agreement which has not been cured by the Developer.

Lack of Protective Covenants. The City of Fargo, North Dakota (the "City"), has not covenanted to endeavor in any fashion to cause Tax Increments to be sufficient to generate

Available Tax Increments sufficient to pay this Note, nor have they covenanted to take actions under the Developer Agreement with such sufficiency as a goal.

Sufficiency of Revenues. The City makes no representation or covenant, express or implied, that the revenues described herein will be sufficient to pay, in whole or in part, the amounts which are or may otherwise become due and payable hereunder. Any amounts which have not become due and payable on this Note on or before the Maturity Date shall no longer be payable, as if this Note had ceased to be any debt or obligation of the City or of the City whatsoever.

Issuance; Purpose; Special Limited Obligation. This Note is in the aggregate principal amount of \$ __, ____, ____ (the "Note"), which Note has been issued pursuant to and in full conformity with the Constitution and laws of the State of North Dakota including North Dakota Century Code Chapter 40-58, for the purpose of providing money to finance certain eligible costs within the City's Urban Renewal District [[TIF District No]], specifically the costs identified in Section 3.3 of the Developer Agreement. The Notes are payable out of the Tax Increment Revenue Note of [[TIF District No]](700 NP Avenue Project) Fund of the City, to which have been pledged amounts representing Available Tax Increments to be received by the City from the City's [[TIF District No]] Tax Increment District in the City. This Note is not any obligation of any kind whatsoever of any public body, except that this Note is a special and limited revenue obligation but not a general obligation of the City and is payable by the City only from the sources and subject to the qualifications and limitations stated or referenced herein. Neither the full faith and credit nor the taxing powers of the City or of the City are pledged to or available for the payment of the principal of or interest on this Note, and no property or other asset of the City or of the City, save and except the above referenced Available Tax Increments, is or shall constitute a source of payment of the City's obligations hereunder.

Limitation on Transfer. This Note may only be transferred to a person who is (1) a successor of GREAT PLAINS NP HOLDINGS, LLC, by reorganization, merger or acquisition, (2) a member of GREAT PLAINS NP HOLDINGS, LLC, (3) to a lender of GREAT PLAINS NP HOLDINGS, LLC, as collateral for financing as permitted by the Developer Agreement, (4) a related person to such partner or successor, (5) a "qualified institutional buyer" as defined in Rule 144A promulgated under the federal Securities Act of 1933, or (6) an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) promulgated under the federal Securities Act of 1933. The City shall not register any transfer of this Note unless (i) a registered owner's prospective transferee delivers a representation letter in form satisfactory to the City verifying that the transferee is a "qualified institutional buyer"; or (ii) such transferee is an "accredited investor" which has delivered a representation letter in form satisfactory to the City; or (iii) the prospective transferee demonstrates to the satisfaction of the City that it is the successor, partner or related person to GREAT PLAINS NP HOLDINGS, LLC, noted above.

Any registered owner desiring to effect a transfer shall, and does hereby, agree to indemnify the City against any liability, cost or expense (including attorneys' fees) that may result if the transfer is not so made.

Registration; Transfer. This Note shall be registered in the name of the payee on the books of the City by presenting this Note for registration to the officer of the City performing the functions of the Treasurer, who will endorse his or her name and note the date of registration opposite the name of the payee in the certificate of registration on the reverse side hereof. Thereafter this Note may be transferred to a bona fide purchaser who is a permitted transferee only by delivery with an assignment duly executed by the registered owner or his, her or its legal representative, and the City may treat the registered owner as the person exclusively entitled to exercise all the rights and powers of an owner until this Note is presented with such assignment for registration of transfer, accompanied by assurance of the nature provided by law that the assignment is genuine and effective, and until such transfer is registered on said books and noted hereon by the Treasurer of the City.

Developer Agreement. The terms and conditions of the Developer Agreement are incorporated herein by reference and made a part hereof. The Developer Agreement may be attached to this Note, and shall be attached to this Note if the holder of this Note is any person other than GREAT PLAINS NP HOLDINGS, LLC. No payments will be made on this Note during such time as there is a Specified Event of Default under the Developer Agreement which has not been cured by the Developer.

Taxable Obligation. This Note is intended to bear interest that is included in the gross income of the owner.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and laws of the State of North Dakota to be done, to happen and to be performed, precedent to and in the issuance of this Note, have been done, have happened and have been performed, in regular and due form, time and manner as required by law; and that this Note, together with all other debts of the City outstanding on the date hereof, being the date of its actual issuance and delivery, does not exceed any constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF, the City of Fargo, Cass County, North Dakota, by its Board of City Commissioners has caused this Note to be executed on its behalf by the signature of its Mayor and attested by the signature of the City Auditor, all as of _____, 20__.

CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

By: _____
_____, its Mayor

ATTEST:

_____, City Auditor

(SEAL)

Tax Increment Revenue Note of 202__ (District [[TIF District No]])

CERTIFICATE OF REGISTRATION

The transfer of ownership of the principal amount of the attached Note may be made only by the registered owner or his, her or its legal representative last noted below.

DATE OF
REGISTRATION

REGISTERED OWNER

SIGNATURE OF
AUTHORITY'S TREASURER

GREAT PLAINS NP
HOLDINGS, LLC


_____, 2022

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research 

DATE: May 25, 2023

SUBJECT: NP Parking Garage Project

I am requesting a three month time extension in some of the deadlines in the Development Agreement for the mixed use project that includes the NP Parking Garage. An extension will benefit the developer, the Community Theatre and the City. This amendment moves the deadline to start construction to October 15 rather than July 15, although it may start sooner.

The developer, the Community Theatre and the City have made good progress on the project. I have attached a letter from Kilbourne Group requesting an extension along with a letter from the Fargo Moorhead Community Theatre supporting the change.

The City will benefit from the extension by allowing additional time to prepare to sell bonds for the project.

Recommended Motion:

Approve an amendment to the agreement with Great Plains NP Holdings, LLC that extends certain deadlines three months.

Attachments:

Kilbourne letter
Community Theatre letter
Form of Amendment pending final legal review



Kilbourne Group
210 Broadway, Suite 300
Fargo, ND 58102
p: (701) 237-2279
e: info@kilbournegroup.com
www.kilbournegroup.com

May 23, 2023

City of Fargo
225 4th St N
Fargo, ND 58102
Attn: James Gilmour

Re: NP Avenue Project Development Agreement

Dear Mr. Gilmour,

On Behalf of Great Plains NP Holdings, we are formally requesting an extension to the dates outlined in the previously approved Development Agreement between the City of Fargo and Great Plains NP Holdings, LLC.

The Development Agreement was approved by the City Commission in November 2022. Within that agreement a development plan was outlined allowing for a July 2023 construction start. During the past several months of predevelopment work we have encountered challenges that have forced us to consider the constraints of meeting the original agreement date requirements. These additional challenges include coordination of easements with the railroad and neighboring properties, equity raise and value engineering within the mixed-use project to maintain the construction budget.

While the project is facing these additional challenges, we have made tremendous progress and are eagerly planning for the approaching start of construction. Design Development and the first-phase permitting drawings for the project are complete, GMP contracting and construction bidding are currently in progress, coordination with project neighbors and site utility contractors is underway, and plans are at the ready for construction mobilization.

The modifications for consideration within the Development Agreement presented in this packet amount to an extension of three months in time, ultimately allowing for up to an October 15, 2023 construction start. While we are confident that our actual construction start will be sooner than this, the extra time requested is a responsible ask given the work remaining before construction.

Thank you for your consideration and partnership in this project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Leier', written in a cursive style.

Keith Leier
Vice President – Kilbourne Group



May 23, 2023

FMCT Board of Directors

Adam R. Montgomery, **President**

Mike LaMont, **Vice President**

Shelby Cochran, **Secretary**

Nicole Hjelden, **Treasurer**

Caryn Hewitt

Daniel Damico

Matthew Hallaway

Kirby Keller

Shelby Naser

Katie Maple

Hannah James

Executive Director

Judy Lewis

Finance Manager

Kimberly Rensvold

Community Engagement Director

Shanna Franzen

Education Coordinator

Michaela Pytlik

City of Fargo
225 4th St N
Fargo, ND 58102
Attn: Mr. James Gilmour

Re: FMCT Update – NP Avenue Development Project

Dear Mr. Gilmour,

Thank you for allowing me to provide this project update on behalf of the Fargo Moorhead Community Theatre team and to share our continued excitement and progress for our new theatre home.

Over the past eight months, we have been heavily focused on the programming, design, budgeting, and fundraising for our space. The design recently passed the Schematic Design stage of the process, and we are more confident than ever in the overall programming and use of the space. We are moving toward a set of design documents that would allow us to confirm final project costs, ultimately allowing us to start construction in 2024. To date, we have invested over \$200,000 in the design, development, and coordination efforts of our space, and have raised significant private dollars towards the needed funding.

The FMCT staff and board of directors are engaged and excited about the NP Ave project, and while progress is being made, there are challenges yet to overcome. Our project would benefit from additional time to refine design and budgets, to finalize partnership terms, and to inform the remaining project financial details. We have worked very closely with Kilbourne Group these last few months and are aware of the extension in time they are requesting – this extension would benefit our efforts as well. We encourage you to grant this extension.

Thank you for your continued support of the Fargo Moorhead Community Theatre and believing in us as a valued partner in this once in a lifetime opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Judy Lewis', is written over a white background.

Judy Lewis
Executive Director
P.O. Box 1349
Fargo, ND 58107-1349
701-781-7312

Fargo Moorhead Community Theatre
PO Box 1349, Fargo, ND 58107-1349
701-235-1901 | fmct.org

**FIRST AMENDMENT TO
DEVELOPER AGREEMENT**

[CITY OF FARGO and GREAT PLAINS NP HOLDINGS, LLC]

THIS AMENDMENT TO DEVELOPER AGREEMENT, dated as of _____, 2023; is by and between the City of Fargo, a North Dakota municipal corporation (“City”), and Great Plains NP Holdings, LLC, a North Dakota Limited Liability Company (“Developer”); and provides as follows:

RECITALS:

WHEREAS, Developer and City have entered into a Development Agreement dated as of December 30, 2023 [hereinafter the “Development Agreement”] pertaining to a project commonly known as the NP Avenue Project or the “Project”;

WHEREAS, the Development Agreement contained certain contingencies for the benefit of Developer and certain contingencies for the benefit of the City, which obligations were subject to satisfaction or waiver on or before June 15, 2023, (the “Developer Step I Contingencies Deadline”) and other obligations which were subject to satisfaction or waiver fourteen (14) days thereafter (the “Developer Step II Contingencies Deadline”) both of which deadlines are described in Section 10.3; and,

WHEREAS, the Development Agreement contains other dates for the performance of certain specified obligations of one or more of the Parties; and,

WHEREAS, the parties wish to extend both of said Contingencies Deadlines and to modify, by amendment, certain other dates for the performance of certain specified obligation of one or more of the Parties; and,

WHEREAS, the parties wish to amend the Development Agreement, accordingly;

NOW, THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into this First Amendment to Developer Agreement, and the mutual promises, undertakings and covenants hereinafter set forth, and intending to be legally bound hereby, the City and Developer covenant and agree as follows:

- I.** The Developer’s Step I Contingencies Deadline, previously defined as being June 15, 2023, is hereby amended to be September 15, 2023, as set forth in Section 10.3(a) of Article 10 of the Development Agreement.
- II.** The City Contingencies Deadline, previously defined as being June 22, 2023, said date being seven (7) days after the Developer’s Step I Contingencies Deadline, is hereby

amended, accordingly, to be September 22, 2023, as set forth in Section 10.1 of Article 10 of the Developer Agreement.

- III. The Developer's Step II Contingencies Deadline, previously defined as being June 29, 2023, said date being fourteen (14) days after the Developer's Step I Contingencies Deadline, is hereby amended to be September 29, 2023, as set forth in Section 10.3(b) of Article 10 of the Development Agreement.
- IV. The anticipated date of substantial completion for the Garage, previously defined as being December 1, 2024, is hereby amended to be March 1, 2025, as set forth in Section 9.1 of Article 9 of the Development Agreement.
- V. The anticipated date of substantial completion for the Wrap, previously defined as being September 15, 2025, is hereby amended to be March 1, 2025, as set forth in Section 9.1 of Article 9 of the Development Agreement.
- VI. **[[[other dates to be revised??]]]**
- VII. In all other respects the Development Agreement shall remain in full force and effect.
- VIII. Effective Date. This Amendment to Development Agreement shall be effective as of _____, 2023.

IN WITNESS WHEREOF, the Parties have executed this Amendment to Developer Agreement as of the date stated in the first paragraph of this Agreement.

[Execution pages to follow]

IN WITNESS WHEREOF, the City and Developer have caused this First Amendment to Developer Agreement to be executed by their duly authorized representatives.

CITY OF FARGO, NORTH DAKOTA

(SEAL)

By _____
Timothy Mahoney, its Mayor

ATTEST:

By _____
Steven Sprague, City Auditor

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

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Timothy Mahoney and Steven Sprague, the Mayor and City Auditor, respectively, of the City of Fargo, North Dakota, on behalf of said City.

Notary Public

This document drafted by:

Erik R. Johnson
Assistant City Attorney
608 24th Ave S
Fargo, ND 58103
(701) 371-6850
ejohnson@lawfargo.com

GREAT PLAINS NP HOLDINGS, LLC

By: _____

Its: _____

By _____,

_____, _____

STATE OF NORTH DAKOTA)

)

COUNTY OF CASS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____, the _____ of _____, a North Dakota limited liability _____, the Manager of GREAT PLAINS NP HOLDINGS, LLC, a North Dakota limited liability company.

Notary Public

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MEMORANDUM

TO: City Commission

FROM: Donald Kress, Current Planning Coordinator

DATE: May 25th, 2023

RE: ANNEXATION OF PROPERTY – Portions of the Southwest Quarter of Section 28; of the Southeast Quarter of Section 29; and of the Northeast Quarter of Section 32, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota

The City of Fargo is initiating annexation for parcels to enable future development along 57th Street and 19th Avenue North. The resolution will be noticed pursuant to North Dakota Century Code annexation statutes. The sufficiency of protest hearing would be set for the July 10th, 2023 City Commission agenda. Please see attached staff report, map, legal description, and resolution.

Recommended Motion.

Staff recommends that the City Commission adopt the resolution of annexation and set the date for the hearing on the sufficiency of protests for the July 10th, 2023 City Commission agenda.






City of Fargo Staff Report			
Title:	Annexation of portions of the Southwest Quarter of Section 28; of the Southeast Quarter of Section 29; and of the Northeast Quarter of Section 32, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota		Date: 5/25/2023
Location:	1744, 2220 and 2101 57 th Street North; 5617 and 5385 19 th Avenue North;	Staff Contact:	Donald Kress, Current Planning Coordinator
Legal Description:	Annexation of portions of the Southwest Quarter of Section 28; of the Southeast Quarter of Section 29; and of the Northeast Quarter of Section 32, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota		
Owner(s)/Applicant:	City-initiated; see list of owners below	Engineer:	Mead & Hunt for City of Fargo
Entitlements Requested:	Adoption of resolution of annexation		
Status:	City Commission review May 30th, 2023		
Existing		Proposed	
Land Use: Undeveloped; sewer lift station at 57 th Street / 19 th Avenue intersection; residential		Land Use: No change proposed with this annexation.	
Zoning: AG: Agricultural: Allows detached houses, parks and open space, safety services, basic utilities, and crop production.		Zoning: No change proposed with this annexation	
Maximum Allowable Density: AG allows 1 dwelling unit per 10 acres		Maximum Allowable Density: No change proposed with this annexation.	
Proposal			
The City of Fargo proposes to annex approximately 80.40 acres of land within the City of Fargo's extra-territorial jurisdiction (ETJ). This ETJ is depicted on Exhibit "A" to the Agreement Regarding Extraterritorial Zoning Jurisdiction and Annexation—City of West Fargo / City of Fargo, which became effective on June 30, 2018 and remains in effect. The graphic below depicts the proposed annexation area. Surrounding roads are 57 th Street North (west side), and 19 th Avenue North (south side).			



Area Plans:

The proposed annexation area is depicted on the North Fargo Tier 1 West map of the 2007 Growth Plan. The area included in the annexation is designated as "Industrial" and "Commercial" on that plan, as shown on the graphic below.



	<p>Proposed Land Uses</p> <ul style="list-style-type: none">  Residential Area - lower to medium density  Residential Area - medium to high density  Residential Area - rural  Commercial Area  Industrial Area 	
<p>Staff Analysis:</p>		
<p>This project was reviewed by the City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”) and recommended for approval by the Public Works Project Evaluation Committee (PWPEC).</p>		
<p>The proposed annexation area is depicted on the North Fargo Tier 1 West map of the 2007 Growth Plan. That plan describes the “Tier 1” designation as the “Intended Growth Sector” for the city of Fargo. The proposed annexation area is adjacent to the current Fargo city limits and along the routes designated for the extension of major arterials—57th Street North and 19th Avenue North—which will provide access and utilities.</p>		
<p>Annexation of this area will enable future industrial development near a rail line.</p>		
<p>The proposed annexation area is zoned AG, Agricultural.</p>		
<p>A proposed subdivision, to be known as Veterans Industrial Park, will cover much of the area of this proposed annexation. There are two residences included in the annexation area, which are the residences of two of the property owners. A City of West Fargo sewer lift station is also included in the annexation area.</p>		
<p><u>OWNERS</u></p>		
<p>The annexation area includes property owned by four different owners:</p>		
<ol style="list-style-type: none"> 1. Elwood J. Brand, et. al 2. Bruce P. Brand 3. City of West Fargo 4. KLC Holdings, LLC 		
<p><u>RESOLUTION OF ANNEXATION</u></p>		
<p>Pursuant to the process described in North Dakota Century Code Section 40-51.2-07, a resolution of annexation, prepared by City staff, is attached for your Commission’s action. The resolution includes a detailed legal description of the proposed annexation area and sets the date for the hearing on the sufficiency of protests for the July 10th, 2023 City Commission agenda.</p>		
<p>Staff Recommendation:</p>		
<p>Staff recommends that the City Commission adopt the resolution of annexation and set the date for the hearing on the sufficiency of protests for the July 10th, 2023 City Commission agenda.</p>		
<p>Attachments:</p>		
<ol style="list-style-type: none"> 1. Location Map 2. Legal description of proposed annexed area 3. Plat of proposed annexation area 4. Resolution of annexation 		

Annexation

5617 and 5385 19th Avenue N;
1744, 2220, and 2101 57th
Street N.

Portions of Sections 28, 29 and 32, T140N R49W



ANNEXATION PLAT OF:

That part of the Southwest Quarter of Section 28, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

Commencing at the northwest corner of said Southwest Quarter; thence South 02 degrees 18 minutes 20 seconds East, an assumed bearing on the west line of said Southwest Quarter, 29.53 feet to the southerly Railway Right-of-Way line and the point of beginning; thence South 64 degrees 42 minutes 49 seconds East on said Right-of-Way line, 1,703.27 feet to the northwest corner of Lot 1, Block 1 of Mid America Steel Addition to the City of Fargo, on file and of record as Cass County document # 1498167; thence South 02 degrees 23 minutes 10 seconds East on the west line of said Addition, also being a westerly line of the City of Fargo Annexation Plat, on file and of record as Cass County document # 1498070, a distance of 1,732.59 feet to the southwest corner of said Lot 1; thence South 87 degrees 31 minutes 00 seconds West, on a northerly line of said Annexation Plat, being parallel with and 100.00 feet northerly of the south line of said Southwest Quarter, 1,512.00 feet to the west line of said Southwest Quarter; thence North 02 degrees 18 minutes 20 seconds West, on said west line 2,526.18 feet to the point of beginning.

AND,

The East 100.00 feet of the Southeast Quarter of Section 29, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, Lying South of the southerly Railway Right-of-Way line, AND the West 75.00 feet of the East 175.00 feet of the South 175.00 feet thereof.

AND,

The North 100.00 feet of the East 100.00 feet of the Northeast Quarter of Section 32, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota

All containing 80.40 acres, more or less.

(This legal description was provided by the project surveyor and reviewed by City staff)

ANNEXATION PLAT

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

ANNEXATION PLAT OF:

That part of the Southwest Quarter of Section 28, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

Commencing at the northwest corner of said Southwest Quarter, thence South 02 degrees 18 minutes 20 seconds East, an assumed bearing on the west line of said Southwest Quarter, 20.50 feet to this southerly Railway Right-of-Way line, thence South 02 degrees 18 minutes 20 seconds East on said Right-of-Way line 1,703.37 feet to the southeast corner of Lot 1, Block 2 of Mid-America Steel Addition to the City of Fargo on the east or record as Cass County document # 1498167, thence South 02 degrees 23 minutes 19 seconds East on the west line of said Addition, also being a western line of the East or record as Cass County document # 1498167, to the southwest corner of said Lot 1, thence South 87 degrees 31 minutes 00 seconds West, on a northerly line of said Annexation Plat, being parallel with the west line of said Addition, 152.20 feet to the west line of said Southwest Quarter, 1,522.00 feet to the west line of said Southwest Quarter, 152.20 feet to the west line of said Southwest Quarter, 152.20 feet to the point of beginning.

AND:

The East 100 feet of the Southwest Quarter of Section 29, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, lying South of the southerly Railway Right-of-Way line, AND the West 75.00 feet of the East 175.00 feet of the South 175.00 feet thereof.

AND:

The North 100 feet of the East 100 feet of the Northeast Quarter of Section 32, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota.

All containing 90.40 acres, more or less.

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

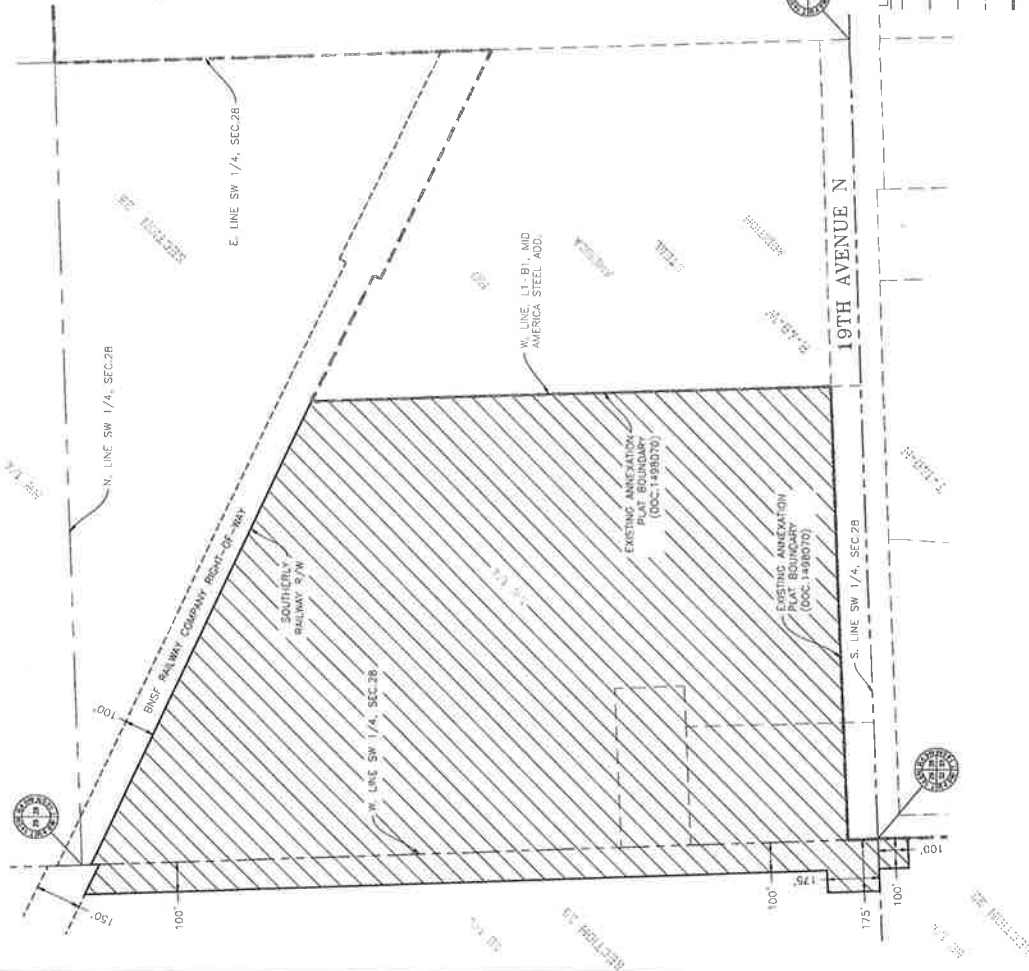
I, Jason Ness, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the area annexed, that said area is not above the City of Fargo Corporate limits contiguous to the annexed property.

Dated this _____ day of _____, 20____.

Jason Ness, PLS
Professional Land Surveyor
Registration No. LS-6884
State of North Dakota }
County of Cass } SS

On this _____ day of _____, 20____, appeared before me, Jason Ness, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Notary Public, Cass County, North Dakota



CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL
Approved by the City Engineer this _____ day of _____, 20____.

Brenda E. Derring, P.E.
City Engineer
State of North Dakota }
County of Cass } SS

On this _____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Brenda E. Derring, P.E., City Engineer, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public, Cass County, North Dakota

FARGO CITY COMMISSION APPROVAL

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

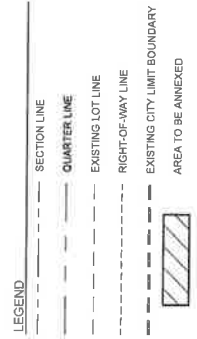
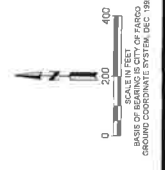
Timothy J. Mahoney
Mayor
Steven Sprague, City Auditor
State of North Dakota }
County of Cass } SS

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

Notary Public, Cass County, North Dakota



PROJECT NO. 4650200-212388.01
SHEET 1 OF 1



RESOLUTION OF ANNEXATION

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the City of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, with approximately one hundred twenty-six thousand seven hundred and fifty (126,750) inhabitants; and

WHEREAS, there is contiguous and adjacent to the City of Fargo, a tract or parcel of land hereinafter specifically described, containing approximately 80.40 acres, more or less, which tract or parcel of land is not presently a part of the City of Fargo.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that the boundaries of the City of Fargo be, and they hereby are, extended so as to include and incorporate within the corporate limits of the City of Fargo, Cass County, North Dakota, all the land described as follows:

That part of the Southwest Quarter of Section 28, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

Commencing at the northwest corner of said Southwest Quarter; thence South 02 degrees 18 minutes 20 seconds East, an assumed bearing on the west line of said Southwest Quarter, 29.53 feet to the southerly Railway Right-of-Way line and the point of beginning; thence South 64 degrees 42 minutes 49 seconds East on said Right-of-Way line, 1,703.27 feet to the northwest corner of Lot 1, Block 1 of Mid America Steel Addition to the City of Fargo, on file and of record as Cass County document # 1498167; thence South 02 degrees 23 minutes 10 seconds East on the west line of said Addition, also being a westerly line of the City of Fargo Annexation Plat, on file and of record as Cass County document # 1498070, a distance of 1,732.59 feet to the southwest corner of said Lot 1; thence South 87 degrees 31 minutes 00 seconds West, on a northerly line of said Annexation Plat, being parallel with and 100.00 feet northerly of the south line of said Southwest Quarter, 1,512.00 feet to the west line of said Southwest Quarter; thence North 02 degrees 18 minutes 20 seconds West, on said west line 2,526.18 feet to the point of beginning.

AND,

The East 100.00 feet of the Southeast Quarter of Section 29, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, Lying South of the southerly Railway Right-of-Way line, AND the West 75.00 feet of the East 175.00 feet of the South 175.00 feet thereof.

AND,

The North 100.00 feet of the East 100.00 feet of the Northeast Quarter of Section 32, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota

All containing 80.40 acres, more or less.

BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that this Resolution be published in the official newspaper for the City of Fargo once each week for two successive weeks, and a hearing be held on the 10th day of July, 2023, at 5:15 p.m., in the Commission Chambers, City Hall, Fargo, North Dakota.

C E R T I F I C A T E

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

I, Timothy J Mahoney, the duly elected, qualified and acting Mayor of the City of Fargo, North Dakota; and

I, Steven Sprague, the duly appointed, qualified, and acting City Auditor of the City of Fargo, North Dakota,

DO HEREBY CERTIFY:

That the foregoing is a full, true, and correct copy of the original Resolution and the whole thereof annexing a tract of land consisting of approximately 80.40 acres, which Resolution was duly adopted by the Board of City Commissioners of the City of Fargo, North Dakota, at the meeting of the Board held May 30th, 2023, at which meeting Commissioners _____ and _____ were present in person, and _____ was absent, and _____ and _____ voted in favor of the adoption of the Resolution and _____ voted against the adoption of the Resolution; and

That such Resolution is now a part of the permanent records of the City of Fargo, as filed in the office of the City Auditor.

(SEAL)

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

ATTEST:

Steven Sprague, City Auditor

On this _____ day of _____, 20__, before me, _____, a Notary Public in and for Cass County in the State of North Dakota, personally appeared TIMOTHY J. MAHONEY, known to me to be the Mayor of the Board of City Commissioners and STEVEN SPRAGUE, known to me to be the City Auditor of the City of Fargo, a municipal corporation under the laws of the State of North Dakota, and they acknowledged to me that they executed the foregoing instrument.

Notary Public
Cass County, North Dakota
My Commission Expires: _____



May 30, 2023

To: Board of City Commissioners
Fr: Michael Redlinger, City Administrator
Re: 2023 Legislative Session Report

At the May 30, 2023 City Commission meeting, a presentation will be provided by Ms. Terry Effertz, Special Assistant City Attorney for government relations, regarding the 2023 Legislative Session. Ms. Effertz will provide brief remarks regarding the outcomes of the 2023 Legislative Session for the City of Fargo and answer questions of the City Commission. The attached report was previously distributed to the City Commission, and is attached for reference.

Throughout the legislative process, the City of Fargo's Department leaders and support staff provide key support to the City's legislative program, including bill monitoring; written/virtual testimony; and providing policy recommendations to the City Commission as warranted. The efforts of City staff are complemented by the professional government relations expertise of Ms. Effertz and the North Dakota League of Cities, both based in Bismarck.

Working together as a unified team, the City's elected officials, staff, Ms. Effertz, and NDLC staff regularly communicate on local government legislative matters, coordinate on strategy, and share timely information with the City of Fargo and the elected body.

Recommended Action: Receive a presentation from Ms. Terry Effertz regarding the 2023 Legislative Session and the City of Fargo's 2023 legislative program.



OLSON EFFERTZ
LOBBYING & CONSULTING, LLC

2023 Final Legislative Report

The 68th Legislative Assembly ended at 2:50 AM on April 30th, and it certainly was an interesting one with 39 new legislators. (yes, we were there until the END!) There were 989 bills introduced in this session which is a lot, but not a record. Because there are so many bills to read, legislators typically rely on committee recommendations when they make their votes on the floor. However, this session was much different. We have never seen so many recommendations “flipped” when it comes to a floor vote. There were several bills that failed on the floor the first time but were brought back the next day for reconsideration and passed. This may be the new normal when the effect of term limits takes hold, and we get a new crop of legislators every eight years.

Total spending from the 68th Legislative Assembly amounted to **\$19.6 billion**, by far, the largest budget ever for North Dakota. The legislature appropriated \$6 billion of general funds with the remaining \$13.5 a combination of special funds and federal funds.

Going into the 68th Legislative Assembly, the **general fund had a beginning balance of \$1.2 billion** while the **Strategic Investment and Improvement Fund had a beginning balance of \$1.4 billion**. After the legislature finished appropriating, the general fund is expected to have an ending balance in June 2025 of \$106 million while the Strategic Investment and Improvement Fund is expected to have an ending balance of \$182 million.

Limited Days

The legislative session is limited to 80 days, and this session concluded with 75, leaving 5 days available for the legislators to call themselves back for a special session.

Fiscal Summary - Follow the Money

General Fund

While the 68th Legislative Assembly started out with a base general fund revenue forecast of about \$5.1 billion dollars, many adjustments were made to reduce that ongoing revenue to about \$4.9 billion. Legislators added to the total revenue by allocating \$289 million from the legacy earnings fund to offset part of the cost of tax relief, transferred \$50 million from the Strategic Investment and Improvement Fund and increased the allocation of oil tax revenue to the general fund by \$60 million.

Legislators decreased the general fund revenues by allocating \$171 million or 50 percent of the motor vehicle excise taxes to a flexible transportation fund as well as providing income tax relief that costs \$358 million. Ongoing general fund revenues are now \$4.9 billion while ongoing general fund appropriations are \$5.8 billion, a gap of nearly \$1 billion when comparing ongoing revenues to ongoing appropriations.

The most significant increases in general fund appropriations include \$163 million to the North Dakota University System, \$28 million to the Industrial Commission, \$37 million to the Department of Corrections and Rehabilitation, \$30 million to the Department of Commerce, \$158 million for the Homestead Property Tax, \$25 million for the ag diversification and development fund, \$65 million for childcare assistance, \$370 million for Department of Health and Human Services, \$66 million for the Department of Public Instruction, and \$107 million for a statewide salary equity pool and other funding pools.

Strategic Investment and Improvements Fund

The Strategic Investment and Improvement Fund is treated like a second general fund and is typically used for one-time spending. Spending from this fund amounted to \$1.26 billion. The most significant spending is as follows: \$239 million for higher education capital projects, \$179 million for DOT studies, shortline railroads and a flexible transportation fund, \$70.5 million for Industrial Commission research projects, \$143 million to the Department of Commerce for the development fund and other grants, \$93 million for Ag Research and Extension services, \$135 million to transfer to the PERS main system retirement plan, \$52 million for the Department of Health and Human Services, \$19 million to the Department of Public Instruction for passthrough grants for science centers and a theater, \$134 million to OMB for deferred maintenance, grants and transfers, and \$27 million to Parks and Recreation for deferred maintenance and capital projects.

POLICY OF NOTE

Tax Relief

Governor Doug Burgum has signed a major tax cut plan that emerged from the state Legislature after weeks of intense negotiation. The mix of relief includes \$358 million of income tax, \$156.7 million in Homestead Property Tax Credit for those 65 and older, and a residential property tax credit for primary residence. This is in addition to the ongoing \$1.5 billion in property tax relief the state provides to local communities. The original language of a mill levy buy-down was abandoned in favor of the primary residence tax credit.

The final bill zeros out the state's bottom tax bracket and combines the top four brackets into two brackets with reduced tax rates. The two middle income brackets will be taxed at 1.95%, down from 2.04% or 2.27%, and the top two brackets will be taxed at 2.5%, down from 2.64% or 2.9%. The changes will result in an estimated \$104 million in savings for the zeroed-out bottom bracket, \$178 million in savings for the combined middle-income brackets and \$76 million in savings for the combined top brackets. The remaining \$157 million in the package will be

provided as property tax relief in two ways: \$103.2 million will be available to homeowners by allowing them to claim a property tax credit of up to \$500 on their primary residence, and \$53.5 million will be provided by expanding the eligibility requirements and maximum reduction for the state's Homestead Property Tax Credit program for homeowners 65 and older.

The bill also creates a Legislative Tax Relief Advisory Committee to study tax relief, including income and property tax relief, during the 2023-2025 interim. The study will include analysis of the tax relief in HB 1158 and options to implement a flat rate for individual income tax, with findings to be reported to the 2025 Legislature.

Two renaissance zones bills were also signed into law. HB 1266 allows cities to reapply for renaissance zone funding if either they were rejected the first time, had never applied, or if the approval had expired but the project was not completed. SB 2391 expands the income and property tax incentives related to renaissance zones.

Property Rights, Infrastructure

The legislature worked on two foreign ownership of real estate bills. HB 1135 prevents ownership of agricultural land by a foreign adversary. SB 2371 prevents ownership of real estate by a foreign adversary. This bill was worked on heavily by a coalition that included realtors, title companies, energy companies, attorneys, and others.

Originally, there were seven bills pertaining to eminent domain, most of them centering around carbon pipelines. All seven of the bills failed to pass.

An attempt to hijack \$26.5 million of federal funding for broadband and redirect it to inflationary costs for career centers was thwarted in the last week of session. The funding will now be used as intended to build out fiber optic service in the unserved and underserved areas in eastern North Dakota.

K-12 Education

The legislature passed HB 1376 that requires the per pupil payment to follow the student for approved virtual school courses. This applies specifically to ND public schools and ND approved virtual schools.

The Governor vetoed a bill that would have provided reimbursement for parents whose children attend K-12 private schools. The annual income per year (family of four) was capped at \$150,000 and reimbursements could not exceed \$3,000 per year per student. In his veto message, the Governor said the program “falls short of meaningfully enhancing school choice – especially in rural areas far from any existing nonpublic schools – and lacks incentives to expand nontraditional options in K–12 education.”

Last session, the legislature appropriated \$68 million for the creation or expansion of career and technical education centers. Thirteen centers applied for the funds; however, the inflationary costs have prevented many of the centers from moving forward. The legislature appropriated an additional \$26 million to cover the inflationary costs.

Two bills that prohibit public K-12 schools and higher education institutions from knowingly allowing a transgender student to participate on a school-sponsored athletic team for the opposite sex passed. Last session, the Governor vetoed the bills, but this session he signed both into law.

Technology

Legislators funded single sign-on technologies for K-12 schools which will greatly improve the user experience for teachers and students as well as improving the cyber security posture.

Funding was also approved to replace the state's oldest mainframe application for Job Service ND. The legislature appropriated \$45 million to replace the 46 year-old unemployment insurance system. The director stated that any programming needed has to be obtained from Latvia.

Closure of Defined Benefit Plan

The 68th Legislative Assembly passed HB 1040 which closes the state's defined benefit plan for state employees as well as for participating political subdivisions. The PERS main retirement plan will close on December 31, 2024 and all new employees as of 1-1-25 will be required to go into a newly created defined contribution plan. The closure of the plan costs nearly \$6 billion dollars and those payments will be spread out over thirty years. If the PERS Board certifies that they can be ready to close the plan by December 31, 2023, the plan will be closed then and, in that case, all new employees beginning on 1-1-24 will be required to be in the new defined contribution plan.

Higher Education

Capital projects and student support was a focus with the final package in HB 1003 with a tuition freeze and many capitol projects funded. Most notably from a workforce development perspective, engineering buildings for both North Dakota State University and University of North Dakota were funded. Commitments for capitol projects were also listed in the bill for the 2023-25 biennium, ultimately creating a comprehensive package for this biennium and next. \$20 million was appropriated for the Higher Education Challenge program, which is a private sector match program. One of the more interesting studies that will occur this interim will be a dual credit study identifying all funding sources including tuition and fees, the higher education funding formula, elementary and secondary education integrated formula payments, institution scholarships, state scholarships, and the Bank of North Dakota. This budget bill has been sent to the Governor.

Healthcare

The session began with six vaccine related bills of which three passed and three failed. Passage included 1) the publication of a COVID vaccine website, 2) public funded agencies cannot require proof of vaccination for COVID, and 3) hospitals cannot deny healthcare to patients who are not vaccinated for COVID.

Legislators overwhelmingly overrode the Governor's veto on HB 1416 - Patient Choice. The bill requires vertically integrated healthcare networks to allow patients to seek care from out of network providers if the out of network provider is willing to receive the in-network rate.

Medicaid

The 68th Legislative Assembly approved rebasing for basic care as well as a three and one-half percent increase for inflation in rates and limits beginning on July 1, 2024. The legislature also provided a rate increase of \$5 per day for the period July 1, 2023 and ending June 30, 2025 for basic care.

Other human services providers will receive an inflationary increase of 2 percent each year of the biennium. In addition developmental disability direct care staff and indirect program support staff for licensed developmental disability providers will receive a one dollar per hour increase.

New codes were approved for dental case management, dental screening and assessment, and teledentistry, as well as family adaptive behavior treatment. In addition, the Department of Health and Human Services has been instructed to participate in a value-based purchasing program for pharmaceutical products using the Medicaid population.

State Employee Compensation

Compensation adjustments for permanent state employees are to average 6 percent for the first fiscal year of the biennium and 4 percent per eligible employee for the second year of the year of the biennium.

In addition to the annual adjustments, a targeted market equity pool of \$82.5 million was included in OMB's budget. The targeted market equity compensation adjustments must be prioritized on a statewide plan prepared by OMB based on the available funding pool. The plan must address occupational market disparities, recruitment and retention challenges, and external pay inequities for employees who are critical to the mission of the agency.

The FINAL OMB Budget Bill

The OMB bill is historically the last bill to pass which largely includes clean up, or items that were forgotten in the flurry of conference committee actions, and occasionally projects that were worked on behind the scenes have their final day. This budget bill is worth a look for all of these items. Some of the highlights include transfers from various funds to balance the budget, an infusion of an additional \$30 million to the ND Development fund, PERS refinement language, CTE inflationary dollars and funding for a fertilizer development incentive program in the Clean Sustainable Energy Authority. Much of the final discussions were focused around the fertilizer development fund, which had many different policy versions and appropriation mechanisms throughout the session.

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Date: May 24 2023

To: Board of City Commissioners

From: Steven Sprague, City Auditor

Re: Bottle Clubs/Corkage Fees

The City of Fargo has become aware of a practice of allowing customers to bring their own bottle of alcoholic beverage to an event and the host site charging a "corkage fee". This process runs contrary to North Dakota Century Code section 5-01-10 Bottle Clubs prohibited – "Any person operating an establishment whereby persons are allowed to bring their own alcoholic beverages on the premise ... is guilty of a Class B misdemeanor"

Alcohol consumed on a licensed premise must be purchased at the licensed premise. This holds true for wedding receptions, corporate events, charitable events as well as any other event where alcohol is consumed.

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Date: May 15 2023

To: Board of City Commissioners

From: Steven Sprague, City Auditor

Re: Green Dot Training

Board members, I am happy to report the City has arranged some de-escalation training under the Green Dot program. We have arranged four training sessions and additional sessions can be added if needed. All sessions will be held at Fargo Cass Public Health, 1240 25th Street South, in the Oak Room. Training session will be from 2:00 to 3:30 on the following dates:

- Wednesday, July 19
- Tuesday, August 15
- Wednesday, September 20
- Thursday, October 26

These training sessions are offer free and open to the public, no preregistration is required.



May 30, 2023

To: Board of City Commissioners
Fr: Michael Redlinger, City Administrator
Captain Chris Helmick, Neighborhood Services, Fargo Police Department
Tanner Smedhammer, Purchasing Manager, Finance Department
Steve Sprague, City Auditor, City Auditor's Office
Mark Williams, Assistant Director of Planning & Development, Planning Department
Grant Larson, Director of Environmental Health, Fargo Cass Public Health
Re: Noise & Vibration Study RFP Update & Implementation Options

The City of Fargo recently convened a Noise Study Committee consisting of representatives from the Police Department, Planning Department, Fargo Cass Public Health, City Auditor's Office, and City Administration to solicit proposals for a "Noise & Vibration Study" to study increased noise complaints within the downtown business district. The goal of the proposed noise study is to provide a comprehensive, credible data set from which to modify existing City Ordinance(s); recommend new regulations; and determine preferred locations for street performances in the downtown core.

The City of Fargo's Request for Proposals (RFP) process for a Noise & Vibration Study resulted in two proposals being received in April 2023. These proposals include:

- Veneklasen Associates
- RSG, in cooperation with KLJ Engineering

Following a review of the proposals and telephone interviews with the consultant teams, the City of Fargo's Noise Committee recommends Veneklasen Associates as the preferred vendor to perform the work.

Implementation Options: Two implementation options to proceed with the work in 2023 or 2024 will be discussed in detail at the May 30, 2023 City Commission meeting. City staff will request the City Commission's guidance on the preferred timing, and funding, for this proposed scope of work.

Recommended Action: Receive a presentation from City staff regarding the Noise & Vibration Study RFP and discuss implementation options for the proposed scope of work with Veneklasen Associates.

Attachment: Veneklasen Associates Proposal



Veneklasen Associates

Consultants in Acoustics | AV | IT | Security | Environmental Noise | Underwater Acoustics | Modeling FEA SEA BEM

A. LETTER OF TRANSMITTAL

COPY

April 24, 2023

City of Fargo

City of Fargo Auditors Office, 1st Floor
225 4th Street North
Fargo, North Dakota 58102

Attention: Chris Helmick | Project Representative

Subject: Request for Proposals RFP23066 for Noise and Vibration Study; Fargo, North Dakota
Technical Proposal; Veneklasen Proposal No. 23.0314

Dear Chris,

Veneklasen Associates, Inc. (Veneklasen) appreciates the opportunity to submit this Technical Proposal to the City of Fargo to provide environmental noise consultant services for the City's Police Department.

As in introduction, founded in 1947, Veneklasen Associates is a multidisciplinary acoustical consulting firm that have provided consulting on over thousands of environmental noise & vibration projects. With a focus on providing inventive and attractive solutions for acoustical enhancements or corrective measures for unacceptable levels of noise and vibration, Veneklasen has the expertise, experience, and the tools needed to serve all our clients' needs.

- We have our own Acoustics, Noise and Vibration testing lab accredited by National Voluntary Laboratory Accreditation Program (NVLAP). Over the years we have conducted over 50,000 tests over the years.
- We maintain an extensive inventory of calibrated noise and vibration measurement equipment for both lab and field testing.
- We maintain internally developed proprietary and commercial software for acoustical, noise and vibration modeling including noise mapping and finite element analysis, and for AV modeling to determine the intelligibility of sound.

Our technical proposal contains our understanding of the project scope, methodology, work plan, project experience, references, and project team. We are providing a Schedule of Fees in a separate envelope. As leaders in our industry, we have the expertise, knowledge, and drive to successfully complete and deliver the requested services.

We acknowledge that the Technical Proposal is an offer to complete the Scope of Work and the offer, including the Cost Proposal rates and budget, and remains valid for at least ninety (90) business days after the Proposal due date.

The project will be managed from our headquarters office located at 1711 16th Street, Santa Monica, CA 90404. All noise monitoring services will be provided by our staff only. The branch office nearest to Fargo, ND is located in Calgary, AB.

Thank you for your consideration of this response. We look forward to working with you!

Respectfully submitted,
Veneklasen Associates, Inc.

Stephen A. Martin, PhD., PE
Director of Environmental Noise & Vibration

Veneklasen Associates, Inc.

Anika Atwal
President

B. EXECUTIVE SUMMARY

We have long been an advocate of community noise control and have helped to develop noise standards that are used by many different municipalities. In recent years we have been retained by large entertainment venues to monitor and control their sound.

Managing noise and vibration can pose special challenges for all project stakeholders - from the real estate team, e.g. developers or contractors, to those who represent residents and others impacted by activity, such as municipalities. Monitors must be placed in correct locations relative to current activity, the data obtained accurate and reliable, and reports readily producible. Noise and vibration control and mitigation plans need to factor in noise from events that are permanently installed, or shift from place to place on site, and activities that vary considerably in intensity throughout a day. Of critical importance as well is expertise that can measure and discern ambient noise and vibration, e.g. traffic, versus event or venue activities.

Our comprehensive environmental noise capabilities, engineering talent, and firm resources affords us with a unique ability to measure, evaluate, predict, and mitigate noise and vibration emissions. Specifically, we can: perform noise and vibration surveys; provide and install long-term noise and vibration monitoring stations; assess the potential of proposed design features including the effects of local topography; provide recommendations and specifications for noise and vibration mitigation elements including sound walls and maximum allowable source levels; analyze the impact of project equipment and operations; and participate in community outreach endeavors. It is also within our capabilities to provide comprehensive noise and vibration mitigation through the provision of mitigation design and performance specifications as well as to monitor compliance.

NOISE & VIBRATION SOURCES

Background noise
 Amplified Music
 Idling noise
 Blast noise
 Pile-driving
 Intermittent noise
 Howling, screeches and squeals

Key Elements

Based upon our decades of experience and the diversity of project type in our portfolio, the Key Elements of our scope of services for the project of this nature include:

- **Regulatory Requirements**
Verification of the prevailing Federal, State, County and City standards.
- **Ambient Noise and Vibration Environment**
Long-term measurements and monitoring stations - on-site and in surrounding areas - with remote access to the instruments and data.
- **Environmental Impacts**
Modeling, analysis and predictions including the identification of significant sound and vibration level thresholds from both on-site – background noise, amplified music, etc. - and off-site – rail, traffic - sources.
- **Project Design Features and Soundscaping**
Synthesis of Specific Plan requirements as well as collaborative discussions with the project design team to meet the customized needs of the client.
- **Project Impacts**
Within a geographic range, analysis of business operations, activity, and increased traffic which contribute to environmental noise impact.
- **Mitigation Measures**
Project design features including source mitigation, isolation measures and landscape features, as well as recommendations for business operations such as equipment selection and layout, etc.



Our Clients

Clients

Architects & Engineers
Plants & Utilities
Water & Water Treatment Plants
Private Developers & Owners
Environmental Consultants
Public Institutions & Operators
Municipalities & Agencies
Transportation Agencies & Maintenance Yard Facilities
Manufacturers

Services

Baseline Noise and Vibration Surveys
Analysis & Prediction of Noise and Vibration Levels
Testing and Measurements, Equipment & Materials
Noise and Vibration Mitigation Measures
Noise and Vibration Control Design & Specifications
Project and Vicinity Noise Contours
Expert Testimony
Noise and Vibration Systems & Monitoring
Noise and Vibration Alert Systems

Our Staff

Our staff is carefully balanced, consisting of professionals with degrees in acoustics, physics, engineering, and architecture. Each principal is highly respected in their field and between them all they represent patents, engineering innovation, and leadership in research. With 50 employees we are large enough to have a wealth of expertise to be shared, and small enough to ensure that each project is directed by a principal or senior associate.

Our Resources

Veneklasen relies upon a full complement of scientific computational measurement and analysis resources. We *own and maintain* a full inventory of equipment including sound level meters, noise and vibration monitors, logging devices, computer modeling software, field computers, and vibration measurement analysis equipment. The extent of our technical resources allows us to prepare work product quickly and accurately in the form of reports, tables, and drawings which can be readily produced and integrated.

Certifications and Memberships

Veneklasen is a certified DBE/MBE/WBE firm in the state of California. This certification is under U.S. DOT Regulation 49 CFR Part 26, as amended. Our certification number is 43975 (Expiration is 9/30/2024).
[www.https://californiaucp.dbesystem.com](https://californiaucp.dbesystem.com).

Veneklasen is a member of the National Council of Acoustical Consultants, our Noise Control Engineers are also members of the Institute of Noise Control Engineering (INCE).

Our Project Principal, Stephen Martin, is a Registered Professional Engineer in California, License No. E-12022

C. BACKGROUND AND UNDERSTANDING OF THE SCOPE OF SERVICES

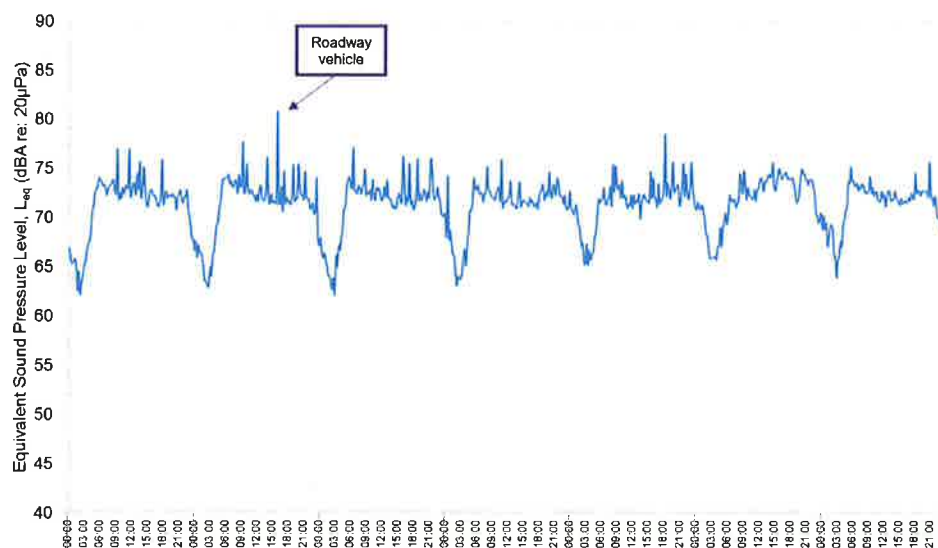
We understand that the project is to conduct a Noise and Vibration Study in the Downtown Business District along Broadway N and to prepare a Project Summary Report of the findings of the noise and vibration study for the City of Fargo's City Commission. This Study is intended to provide data and detailed research capable of giving the City credible data to make better-informed decisions, including but not limited to a development of a new city ordinance pertaining to noise and vibration levels in Fargo's Downtown area.

The City of Fargo encouraged economic development and investment opportunities by adopting the Renaissance Zone legislation in 1999. The Downtown Fargo Business District is the Program's poster child. With 75 retailers, 22 bars & nightlife spots, 10 coffee shops, 41 restaurants, eight art galleries, six theatre companies, including pop-up businesses and the Red River farmer's market – Broadway is the central corridor for business, shopping and dining in Fargo's Downtown area.

Fargo's downtown business and residents residing within the Downtown Business District are exposed to the noise and vibration level resulting from street performance and vendors. The selection of the measurement locations is a critical phase of this project. Veneklasen will review the boundary lines between property zones and especially the residential zone within the District to review critical areas that may be affected by extended hours of operation and for amplified sound or other improvements/modifications to the Fargo's Municipal Code.

Veneklasen will perform detailed noise measurements which includes second by second noise levels and recorded audio. This allows Veneklasen to capture important noise level statistics as included in the City of Fargo Municipal Code and other city noise ordinances, but also allows for further analysis to evaluate additional noise level statistics or determine supplemental requirements should the review of the measured data indicate a finer data analysis is warranted. This eliminates a need for further measurements should this additional data analysis be desired, as the second by second data measurement as well as the recorded audio provide all the necessary information for performing any noise analysis that may be needed. For this reason, Veneklasen does not require staff at each monitoring location for the long-term measurement period. Staff will visually review the data from each noise monitor on a histogram chart to recognize noise anomalies and will listen to the recorded audio to determine the cause of the anomaly.

A histogram chart from a large scale construction noise monitoring project performed by Veneklasen is shown below indicating an anomaly that exceeded the typical range of measured noise levels and was identified by listening to the recorded audio.



9876 Wilshire + 9900 Wilshire Construction Noise Monitoring Project. Our role included the provision of weekly reports and analysis, plus consulting services as needed.

Veneklasen has developed several proprietary computer noise analysis tools which can be employed on this project for specialized analysis. With these tools, the detailed noise measurement techniques, and our experience on similar projects, Veneklasen can provide detailed recommendations and insight into appropriate thresholds of violations relating to the use of amplified sound equipment and for remedial mitigation measures available to comply with these thresholds.

D. METHODOLOGY

Our Methodology to ensure timely review, coordination, and implementation of the required services includes the following:

1. **Fully Understand the Project** – We strive to be an effective member of the project team by first understanding the project’s requirements, the scope of work, and the budget. The project principal and the project manager discuss the project with the client to know the client’s concerns, the issues faced, and the desired outcomes. This information is also shared with Veneklasen’s staff members to better equip them to perform their work.
2. **Carefully Plan Each Task** – Each project consists of several tasks which work together to complete the project. Project manager outlines the project by determining each task required for completion, coordinates with the client to evaluate and schedule the tasks, prepares staff and equipment for each task, and oversees the tasks for successfully completing the project.
3. **Utilize Superior Equipment and Tools** – Our firm has an extensive inventory of superior measurement equipment with capabilities to fully meet the project task needs. This inventory, including 35 sound level meters, allows us to bring backup equipment for emergencies or to add additional measurement locations when desired. Acoustical tools include commercially developed noise modeling software as well as analysis tools developed to specifically analyze proposed project activities.
4. **Employ Acoustically-Trained Staff** – Our staff consists of members fully trained in acoustic measurement, analysis, and mitigation, most of whom have engineering degrees. They are knowledgeable in noise regulations and the noise statistics, and they measure sound levels to provide measurement data statistics for evaluating compliance and to mitigate sound and vibration issues. Veneklasen has staff members with advanced degrees in acoustics and professional engineering licenses, and many operate computer noise models to assist with data analysis and mitigation options. Our personnel depth allows for quick responses to client needs. We intend to use local staff for the project to retain project response, measurement needs and site support.
5. **Go Beyond the Scope of Work** – When performing noise measurements, we measure the data required for the scope of work but include additional data and statistics and often propose additional measurement locations that can become important when other aspects of the current project become apparent or for future projects. This additional data and statistics allow more detailed analysis that originally was not considered and reduces the need for repeating measurements. When analyzing data or designing mitigation options, we think outside the box to develop options beyond those originally planned or considered to give the client choices to balance costs, aesthetics, and function.
6. **Quality Assurance** - We manage our projects using Kantata (Mavenlink), a project management software. Within this program, we can assign tasks, schedule staff hours, communicate deliverable deadlines and expectations, and monitor employee workload to ensure that tasks are handled on time and associates are appropriately booked across multiple projects. Schedule changes are facilitated through the program as it allows for easy schedule updates and subsequent identification of potential staffing conflicts.
 - Projects are staffed with a Principal in Charge, Project Manager and Acoustics Analysts. A Principal or Associate Principal level is staffed to monitor the QA/QC Process.
 - Project reviews are conducted by the Principal in charge at major deliverable stages while the project manager reviews all work on a weekly delivery basis. Key QA/QC issues that may arise are well document and discussed with the Principal in charge.

E. WORK PLAN

I. SCOPE OF WORK INCLUDED IN THE RFP

We understand that there are two phases of the project. Phase I includes the tasks required to perform the Noise & Vibration Study and prepare a summary of preliminary findings, and Phase II includes continuation of collecting and analyzing data and preparation of the Final Report.

1. Phase 1 - Collections of Data

- a. Place noise sensors at various locations with the scope of work.
 - Noise sensors will be placed as needed to determine noise levels in all areas to identify areas of concentrated noise.
 - Sensors and subsequent computer noise modeling will be able to determine differences in noise levels at various heights within the scope of work. City will allow noise sensors to be attached to street lights and traffic signals.
 - Obtain written permission from building owners to attach to private buildings.
- b. A summary of preliminary findings shall be provided to the Project Representative after the first thirty (30) days of services.

2. Phase 2 - Collecting and Analyzing Data

- a. Once all information is gathered, a draft project summary report of the findings shall be delivered to the Project Representative.
- b. After receiving comments from the City staff, complete a final report of the findings of the noise and vibration study.



Veneklasen staff is experienced in measuring and providing real-time data for evaluating Noise Ordinance and General Plan compliance for cities and entities like the City of Fargo. Veneklasen will measure the noise levels consistent with the standards listed in the Noise Control Ordinance at a minimum of seven (7) and no more than ten (10) locations.

The following exterior noise standards, found in the City of Fargo Noise Control Ordinance ([Chapter 11](#)), unless otherwise specifically indicated, currently apply to all property within the Downtown Business District and all residential zoning districts:

Limiting Noise Levels for Zoning Districts

Time	Residential	Commercial	Industrial
Daytime - Maximum number of decibels permitted: 6:00 a.m. to 10:00 p.m., Monday through Thursday 6:00 a.m. to 11:00 p.m. on Friday 7:00 a.m. to 11:00 p.m. Saturday 7:00 a.m. to 10:00 p.m. on Sunday	55	65	80
Nighttime - Maximum number of decibels permitted: 10:00 p.m. to 6:00 a.m. Sunday evening through Friday morning 11:00 p.m. to 7:00 a.m. Friday evening through Sunday morning	50	60	75

Below we are included the description of sequential tasks for accomplishing the requested Scope of Work.



II. PROPOSED SCOPE OF SERVICES

1. Phase 1 - Collections of Data

- a. Project Kick-off Meeting
 - i. Attend the kick-off meeting with the City to review the project scope, schedule, project goals and key issues.
 - ii. Identify lines of communication and clarify questions.
- b. Selection of Measurement Dates and Locations for City Approval
 - i. Review the project-related documentation including the districts' map, noise ordinance, and complaints from the residents and businesses within the downtown district.
 - ii. Make a site visit in the districts to finalize noise measurement locations. City staff will assist in making the selection.
 - iii. Identify noise-sensitive locations to be used in the analysis based on the information provided by the City with some input from Veneklasen.
 - iv. Prepare the list of the data collection locations and measurement dates for a written approval from the City and Business Owners of the privately-owned buildings if warranted.
- c. Mobilization and Deployment
 - i. Review secure sites available for equipment to remain set up for the long-term measurements approved by the City.
 - ii. Set up sound level meters at the measurement locations. Seven (7) monitoring locations are assumed. Additional monitoring stations will also be set up as requested by the City. If additional stations are needed, Veneklasen will include the cost for additional stations.
 - The monitors will operate most effectively with a source of power (110V, 50 Hz). Depending on the location, AC power, solar panels, or batteries will be used.
 - Each monitor will be locked; each monitor will remain secure for the entirety of the measurement period.
 - The monitor locations should be located in the areas of greatest sensitivity.
- d. Data Collection / Noise Monitoring
 - i. Veneklasen will measure noise levels during the daytime and nighttime hours to establish the ambient noise levels and the noise levels when street performances, vendors, and/or amplified sound equipment is in use. The noise measurements will be taken at the approved locations along Broadway N within Downtown District area.
 - ii. For each of the selected locations, the ambient noise level shall be measured second by second during daytime and nighttime for ten (10) consecutive days. The measured data will include audio recordings for evaluating data anomalies.
 - iii. Veneklasen will monitor the ambient noise levels for comparison with the established criteria. The measurements shall include noise level comparisons of when amplified sound is not in use and when amplified sound is in use. The second by second measurement data will allow Veneklasen to evaluate many other statistical sound levels for developing possible modifications to the noise ordinance.
 - iv. A Veneklasen staff member will roam between monitoring locations during the critical measurement periods and the 10 pm time period when the noise ordinance prohibits amplified sound for three (3) nights Fri - Sun. This will also provide information on noise source locations and establishments utilizing interior amplified sound which may be an infraction of the code but may or may not be an impact to the community.

e. Preliminary Report

- i. Download the measured noise data from the sound level meters into electronic data files for reporting the measured ambient noise levels and for future noise analysis. Veneklasen has developed proprietary software for completing this analysis.
- ii. Prepare a summary of preliminary findings for the Project Representative after the first thirty (30) days of services.

2. Phase 2 – A Continuation of Collecting and Analyzing Data

a. Data Analysis

- i. Utilizing the measured noise data and observation notes, determine additional measurement locations where data is needed to refine the noise analysis.
- ii. Perform vibration measurements where deemed appropriate from Phase 1 measurements, observations, and analysis.
- iii. Evaluate measured noise data with current noise ordinance to determine significance of impact on the surrounding community including criteria for sensitive receptors based on their activities/operations.

b. Draft Report

- i. Veneklasen will prepare a draft report summarizing measurements results and our analysis. Recommendations will be submitted for plausible remedial mitigation measures and appropriate thresholds of violation relating to street performances, vendors, and the use of amplified sound equipment, and the report will determine plausible options to modify the existing noise ordinance.
- ii. Answer City questions and provide any necessary clarifications to the report.

c. Final Report and Presentation

- i. Following the draft report review meeting with the City, Veneklasen will incorporate any comments from the City and all necessary revisions and clarifications to produce a final report.
- ii. Attend the City Council meeting to present the final report.

3. Additional Services Upon Request

Veneklasen has experience and can further assist in future work to provide recommendations for improvements or modifications to the Noise Control Ordinance regarding allowable noise levels, presumed ambient noise standards, minimum and maximum ambient noise levels, and amplified sound. The factors to include in this review include, but are not limited to:

- 10:00 pm sound amplification curfew.
- Days and time options.
- Simple enforcement methods.
- Future residential development near the districts.
- Interface between existing/new venue facilities and residential area.
- Effect of Noise Ordinance changes on the General Plan.

F. EXPERIENCE AND REFERENCES

Environmental noise generated by business operations, amplified music, traffic, freight, aircraft, industrial and commercial facilities impact thousands of lives on a daily basis. With an increase of public awareness, the requirement for the abatement of noise emissions has allowed us to minimize the impact on both the environment and human health. As the oldest specialist acoustics firm, the depth of Veneklasen's noise experience, engineering talent, and firm resources gives us the unique ability to measure, evaluate, predict, and mitigate noise emissions efficiently and accurately.

Our community planning role has ranged from noise element updates for general plans and EIRs related to adoption of specific plans as well as expert testimony and document review for communities impacted by noise. Our staff have helped to develop noise standards for State and municipal governments as well as school districts. Our longevity in the noise and vibration fields provides us with a broad array of comparative data as well as extensive public outreach experience, often with sensitive community projects.

Our services include Environmental Noise and Vibration Surveys, Long-term and Permanent Noise Monitoring Stations, Plant Equipment Noise and Vibration Surveys, Mitigation Plans, Occupational Health and Safety Noise Surveys, Engineering and Compliance Evaluations, Environmental Impact Reports, and Construction and Post Construction Prediction, Verification and Monitoring. With decades of experience, Veneklasen has successfully provided noise and vibration mitigation advisory services for a myriad of projects around the world.



Permanent Noise Monitor with Remote Website Access

CALIFORNIA STATE VEHICULAR RECREATIONAL AREA AMBIENT SOUND MONITORING

The purpose of this pilot project was to provide long-term ambient sound monitoring services at two State Vehicular Recreational Areas (SVRAs) to support the Off-Highway Motor Vehicle Recreation Division (OHMVRD) Law Enforcement and Resources sections to effectively manage areas and adequate facilities for off-highway vehicle (OHV) use while maintaining ecologically balanced recreation through conservation and enforcement. The scope of work included establishing a permanent sound monitoring station at each of two SVRAs, and performing several site surveys with sound measurements in neighboring communities to establish correlation between the permanent sound monitoring data and community measurements. The community measurements require filtering out community noises to obtain OHV sound levels reaching the neighboring communities, much as airport noise monitor data requires filtering to remove community noise to determine measured aircraft noise levels, and Veneklasen staff have developed analysis tools to quickly perform this task.

The overall goal of the sound monitoring and measurements is to provide a mapping of sound level contours surrounding the two SVRAs, calculate potential sound level effects from management and operations, and determine other sound sources naturally occurring or drifting from off-site sources.

For a period of 3 years Veneklasen had been providing the OHMVRD with visual real-time data for sound levels at both parks via internet connections, with plans to augment the system in the future with video feeds. This project follows previous work completed for the OHMVRD by Steve and several sub-contractors in 2005 following the implementation of the California OHV Noise Standard in researching the sources of OHV sound levels, defining methods for measuring overall vehicular sound levels, and quantifying the propagation of OHV park noise into neighboring communities. The final study report, the California Off-Highway Vehicle Noise Study, has guided the department over the last 11 years.



Client: California State Parks, Off-Highway Motor Vehicle Recreation Div.



NOISE MONITORING OF SKY BAR AMPLIFIED MUSIC AT MONDRIAN HOTEL; WEST HOLLYWOOD, CA

Residents living adjacent to Skybar at the Mondrian Hotel on Sunset Boulevard put up with loud music playing until 2 a.m. on Sundays. Mondrian Hotel retained Veneklasen Associates for the past 12+ years to monitor the noise levels of the amplified music system and document the noise levels on a nightly basis. Real-time noise level alerts

are provided (via email) in the event that the amplified music associated with the Sky Bar is reaching a level that may be out of compliance with the City of West Hollywood Noise Ordinance.

We analyzed the logged noise level data and provide the Client with a brief report of the noise level associated with the amplified music over the course of the night and at the time of the complaint. An acoustic model was created using speaker noise measurements and architectural drawings of the Skybar provided by the client. The 3D model includes the correct geometry for the deck, speakers, Skybar, walls, hotel and adjacent residential building.

Utilizing the 3D acoustic model, Veneklasen studied various noise mitigation methods to determine the most effective method. The project involved two (2) locations, both for noise and one for vibration, measurements were remotely monitored for 8 years. **Client:** Mondrian Los Angeles, SBE Hotels



METRO WESTSIDE PURPLE LINE EXTENSION; WEST LOS ANGELES

Expanding from the existing Wilshire/Western stop in Koreatown, the project is adding seven new stations along Wilshire Boulevard, leading into West LA to improve the traveling experiences between downtown and the Westside, according to the Metro website. Both upcoming Westwood stations, Westwood/UCLA and Westwood/VA Hospital, make up the final section of construction area slated for completion in 2027.

Veneklasen is providing noise and vibration monitoring and reporting services for 96 months through end 2027 to measure noise and vibration associated with construction of the Westside Purple Line extension Section 3 at the SW Entrance to 10900 Wilshire Boulevard Building.

Client: LA Metro / Tishman Speyer



CIELO FARMS NOISE STUDY AND MONITORING SYSTEM

Cielo Farms, located in Malibu, is a vineyard site offering services for weddings and other functions. Veneklasen initially assisted Cielo Farms measurement and mitigation services to comply with Los Angeles County noise regulations during functions. The County accepted the resulting operational noise conditions but required a permanent noise monitor as a condition of approval. Veneklasen installed a permanent noise monitor at the site with remote access via the internet for access to real-time noise data, audio, and all past measured data, as well as warning alerts via email and text messages for noise levels exceeding set limits.

The noise monitor was installed in 2019 and continues functioning to monitor noise levels and send out warning alerts. Veneklasen staff continue to monitor these noise level alerts. **Client:** Cielo Farms



9876 WILSHIRE + 9900 WILSHIRE (WALDORF ASTORIA HOTEL); BEVERLY HILLS

The Waldorf Astoria Beverly Hills was constructed on the existing Beverly Hilton Hotel property while the hotel remained open and operational. This fast-track project entailed constructing two levels of reinforced concrete below-grade to accommodate back-of-house facilities, all-valet subterranean parking for up to 314 vehicles and 13 levels above-grade of post-tensioned concrete with a limestone and glass façade. A new central plant services both the Waldorf and the Beverly Hilton. The hotel offers 170 luxury rooms, including 42 suites. The third-floor

features three Celebrity Villas with private patios and luxurious gardens. A rooftop pool, world-class spa, luxury retail establishments, and varied dining choices plus an elegant bar right in the lobby will make for an enjoyable stay.

Veneklasen provided long-term noise and vibration monitoring for large scale, side-by-side construction projects with several challenges that require significant oversight: located on Wilshire Boulevard, a major traffic artery, the sites were immediately across the street from a residential neighborhood and an elementary school, and the monitoring was continuous over four years of construction. Our role included initial noise and vibration control and mitigation plans, the provision of weekly reports and analysis, plus consulting services as needed. In the event of a complaint, our ability to interact with our client - in this instance the City of Beverly Hills - was enhanced by access to information through the electronic, real-time transmission of measurement data. The project involved two (2) locations, both for noise and one for vibration as well, and measurements were remotely monitored for 4 years (2014 – 2018).



Client: City of Beverly Hills, Community Development Department



THE CLIPPERS, INGLEWOOD BASKETBALL AND ENTERTAINMENT CENTER (IBEC); INGLEWOOD, CA

The Clippers new arena in Inglewood, IBEC, will be a one-of-a-kind destination for NBA professional basketball and live experiences, consisting of up to 18,000 seats, an athletic training facility, team office space, a sports medicine clinic, parking, and other ancillary uses. Additionally, it will include an outdoor

plaza, retail/restaurant uses (on two levels), community space, an outdoor stage, parking garage, parking structure, and the East Transportation and Hotel Site.

Construction on the new facility has begun in Summer 2021, and it will become the new home of the LA Clippers for the 2024-25 season. Veneklasen is providing vibration, crack monitoring and documentation services throughout the duration of the IBEC project. Our scope of work includes development and implementation of a Vibration, Crack and Line and Grade Monitoring Program for all existing buildings that are within (20) feet of demolition/construction activities. In addition, Veneklasen will be performing a line and grade survey to evaluate any foundational changes to the vibration receptors that may be due to demolition/construction activities. We are providing qualified acoustical engineers, calibrated equipment, monitoring the noise & vibration levels and providing the required reports. **Client:** City of Inglewood / Citadel EHS



TOWER SEMICONDUCTOR (TOWERJAZZ) CENTRAL PLANT; NEWPORT BEACH, CA

TowerJazz semiconductor manufacturing plant was soon to experience residential encroachment near its property line and required a reduction in plant noise propagation. Veneklasen was engaged to provide a noise study and provide mitigation measures for complying with the applicable standard.

Our staff performed short-term measurements near plant equipment to identify noise source levels for computer modeling analysis and long-term measurements to determine existing property line noise levels. Careful noise analysis was required to eliminate local aircraft events and constant nearby traffic noise from measured noise levels. The numerous noise sources at several buildings and equipment areas were modeled and the computer model calibrated with the measured long-term noise levels. Working with the client to point out significant noise sources and obtain acceptable mitigation measures, Veneklasen specified a complete package of mitigation measures including noise barriers, equipment enclosures, and equipment replacements acceptable to the Client. The implementation of the proposed mitigation occurred over one year, and upon validation measurements, the manufacturing plant noise levels complied with the required noise criteria without additional measures or adjustments.

Client: TowerJazz



HALLOWEEN HORROR NIGHTS AND GRINCHMAS NIGHTS AT UNIVERSAL STUDIOS; HOLLYWOOD

Veneklasen has worked with Universal Studios Hollywood for more than 13 years to assist with developing the Specific Plan governing site growth and noise requirements. We developed noise control for general park attractions and special events, including the annual Halloween Horror Nights and Grinchmas events. Each year our firm provided a computer noise modeling for developing noise mitigation as required to meet the Universal Specific Plan noise criteria.

Our consultants follow the noise monitoring plan and perform measurements of scheduled Halloween Horror Nights (HHN) events during the months of September, October and November and Grinchmas days in December on site and at the residential communities that surround the Universal Studio Hollywood (USH) property.

Client: NBC West, LLC

REFERENCES

We are pleased to provide references for a Noise and Vibration Study from our clients who have contracted with Veneklasen Associates, Inc. for services similar to those described in this Request for Proposal within the last five (5) years. See EXHIBIT 1 on Page 19 for Client Reference Letters from City/Public Agency and Contractor Reference and Release Form.

PROJECT NAME AND GENERAL SCOPE OF WORK	NAME & TITLE	ORGANIZATION AND MAILING ADDRESS	PHONE	EMAIL
* California State Parks OHMVD SVRA Carnegie Park <i>Off-Highway Vehicle On-line Noise Monitoring Systems</i>	Deborah Smith, Supervising Deputy Attorney General State of California	California Attorney General's Office 1300 I Street, Suite 1101 P.O. Box 944255 Sacramento, CA 94244-2550	916-210-7839 916-969-8232 (cell)	deborah.smith@ doj.ca.gov
Sky Bar at Mondrian Hotel; West Hollywood <i>Permanent On-line Noise Monitoring System</i>	Norbert Relecker, General Manager	Mondrian Los Angeles, SBE Hotels 8440 W Sunset Blvd., West Hollywood, CA 90069	323-650-8999	norbert.relecker @sbe.com
Metro Westside Purple Line Extension; West Los Angeles <i>Noise & Vibration Monitoring Plan and Long Term Noise and Vibration Monitoring</i>	Jonathan Nichols, Director Design & Construction	Tishman Speyer 2120 Colorado Avenue, Suite 200 Santa Monica, CA 90404	310-606-9897	JNichols@Tishma nSpeyer.com
Cielo Farms Events Noise Study, Permanent Noise Monitoring System Design and Installation	Richard Hirsh Owner	Cielo Farms 31424 Mullholland Highway Malibu, California 90265	818-294-5715	RHirsh@johnpaul richard.com
* 9876 Wilshire Boulevard and 9900 Wilshire Boulevard <i>Construction Noise and Vibration Monitoring</i>	David Yelton, CBO Assistant Director, City Building Official	City of Beverly Hills 455 North Rexford Drive, Beverly Hills, CA 900210	310-285-1154	dyelton@beverly hills.org
The Clippers, Inglewood Basketball and Entertainment Center (IBEC) <i>Construction Vibration Monitoring</i>	Nalinna Rasu, CAC, CDPH, CHMM, LEED AP Principal, Engineering and Environmental Sciences	Citadel EHS 2525 Cherry Ave., Suite 105, Signal Hill, CA 90755	818-246-2707 818-446-9906	nrasu@citadelehs .com
* City of Inglewood RSIP <i>Community Noise and Vibration Measurement of Aircraft Noise from LAX</i>	Bettye Griffith, Director of the Residential Sound Insulation Department	City of Inglewood Residential Sound Insulation Department One Manchester Blvd., Suite 550, Inglewood, CA 90312	310-412-5289	bgriffith@cityofin glewood.org



G. SCHEDULE OF FEES

Veneklasen has enclosed a separate envelope with our Cost Proposal that contains Schedule of Fees, including staff and equipment hourly rates that will be used to complete the required scope of work. Our Fee Schedule is based on the total project cost amount with a cost breakdown for various tasks as described in the Scope of Work.

H. PROPOSER'S INFORMATION



Firm Name:	Veneklasen Associates, Inc.
Office Address:	1711 16 th Street, Santa Monica, CA
Contact:	Phone 310-450-1733 Fax 310-396-3424 www.veneklasen.com

Project Principal:	Stephen A. Martin, Ph.D., P.E.
Contact Email:	smartin@veneklasen.com
Contact Phone:	Direct: 310-566-5126 Mobile: 310-738-4420

President:	Anika Atwal
Contact Email:	aatwal@veneklasen.com
Contact Phone:	Direct: 310-566-5156

We acknowledge that this Letter and any contract awarded pursuant to it is signed by the person with Authority. Please see next Page for the Statement of Information.



STATE OF CALIFORNIA
Office of the Secretary of State
STATEMENT OF INFORMATION CORPORATION
California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 853-3516

BA20221280349

For Office Use Only

-FILED-

File No. BA20221280349
Date Filed: 12/19/2022

B1333-8163 12/19/2022 5:07 PM Received by California Secretary of State

Entity Details			
Corporation Name	VENEKLASEN ASSOCIATES, INC.		
Entity No.	1029461		
Formed In	CALIFORNIA		
Street Address of Principal Office of Corporation			
Principal Address	1711 16TH ST SANTA MONICA, CA 90404		
Mailing Address of Corporation			
Mailing Address	1711 16TH ST SANTA MONICA, CA 90404		
Attention			
Street Address of California Office of Corporation			
Street Address of California Office	1711 16TH ST SANTA MONICA, CA 90404		
Officers			
Officer Name	Officer Address	Position(s)	
<input checked="" type="checkbox"/> Anika K. Atwal	1711 16TH STREET SANTA MONICA, CA 90404-4401	Chief Executive Officer	
<input checked="" type="checkbox"/> Mahabir S. Atwal	1711 16TH STREET SANTA MONICA, CA 90404-4401	Chief Financial Officer, Secretary	
Additional Officers			
Officer Name	Officer Address	Position	Shared Position
None Entered			
Directors			
Director Name	Director Address		
Anika Atwal	1711 16th St Santa Monica, CA 90404		
<input checked="" type="checkbox"/> Mahabir S. Atwal	1711 16TH STREET SANTA MONICA, CA 90404-4401		
<input checked="" type="checkbox"/> John J. Loverde	1711 16TH STREET SANTA MONICA, CA 90404-4401		
Agent for Service of Process			
Agent Name	ANIKA ATWAL		
Agent Address	1711 16TH STREET SANTA MONICA, CA 90404		
Type of Business			
Type of Business	Acoustics, Noise, and Vibration Consultancy		
Email Notifications			

Page 1 of 2

Opt in Email Notifications	Yes, I opt in to receive entity notifications via email.
Labour Judgment	No Officer or Director of this Corporation has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code.
Electronic Signature	<input checked="" type="checkbox"/> By signing, I affirm that the information herein is true and correct and that I am authorized by California law to sign.
Anika Atwal	12/19/2022
Signature	Date

B1333-8164 12/19/2022 5:07 PM



I. DISCLOSURES

There is no pending litigation against Veneklasen that may impair Veneklasen's ability to perform the Contract. In the past five (5) years, Veneklasen or any of its Principals have not been the subject of a lawsuit brought by any supplier, subcontractor, client, or government entity for breach of contract, non-payment of liabilities, or civil rights discrimination.

J. PROJECT ORGANIZATION AND STAFFING

Project Team

Veneklasen will provide the City with superior acoustical consultant services. We have the technical expertise and proven capability to innovate and deliver sound solutions to all projects. Veneklasen management and staff have decades of experience in successfully performing assessment and providing noise study services for projects similar to the City of Fargo noise study.

The project will be managed by our Main Office located at 1711 16th Street, Santa Monica, CA.

Our team of Associates are available for the duration of this contract. All services and equipment will be provided by our staff only.

Name	Title	Role	Location
Stephen A. Martin, PhD, PE	Associate Principal	Project Manager	Santa Monica, CA
Elias Montoya	Associate IV	Acoustical Consultant - Measurements/ Data Control/System Installation	Santa Monica, CA
Sanath Hapuarachchi	Associate VI	Acoustical Consultant - Measurements/ Data Control/System Installation	Calgary, AB
Veneklasen Staff	Associates V-VI	Measurements and Data Analysis	CA, CO, MN

Project Manager will provide project oversight and leadership regarding the environmental acoustics and methodology. The Project Manager is responsible for communication management including the enforcement of the schedule, fee oversight, and the timely exchange of information. He will review all the deliverables. Cost and performance optimization will be the responsibility of Project Manager throughout the project span. He will be the point of contact for tracking each deliverable and the timely exchange of information.

Stephen has experience with a number of long-term and permanent noise and vibration monitoring system projects, including the California State Parks Off-Highway Vehicle project, the Mondrian Hotel Sky Bar, Cielo Farms, 9876/9900 Wilshire, 10900 Wilshire, the Clippers Intuit Dome, and others.

Acoustical Consultant – Elias and Sanath will oversee the actual measurements and verify the accurate and timely exchange of data from the instrumentation to Veneklasen's offices for reporting and analysis purposes. Both Elias and Sanath are experienced with on-line monitoring systems used for the Clippers Intuit Dome, 10900 Wilshire, and other projects.

Veneklasen staff assist the team leads with measurements, data analysis, mitigation.

Resumes

See resumes of the key personnel on the next page.

STEPHEN A. MARTIN, PH.D., P.E. | ASSOCIATE PRINCIPAL | PROJECT PRINCIPAL


Dr. Stephen Martin, P.E. is the Co-Director of Veneklasen Associates' Environmental Noise and Vibration group, and as such manages all manner of projects – from field testing to long-term monitoring programs to complete program environmental compliance. His areas of expertise include environmental acoustics, construction noise and vibration, community noise impact, architectural acoustics including residential sound insulation, instrumentation, and system design. Steve is an outstanding program manager who is technically knowledgeable, skilled in plan development and execution, and well-spoken when communicating with stakeholders. He is also the Director of Western Electro-Acoustic Laboratory (WEAL), Veneklasen Associates' NVLAP-accredited testing division.

Education

Ph.D., Mechanical Engineering, Acoustics Emphasis, University of California, Los Angeles, 1993
M.S., Mechanical Engineering, Acoustics Emphasis, University of California, Los Angeles, 1987
B.S., Electrical and Electronic Engineering, California Polytechnic University, Pomona, 1981

Licenses

Registered Professional Engineer, Electrical Engineering State of CA, License No. E-12022, 1984

Professional Affiliations

Acoustical Society of America (ASA)
Audio Engineering Society (AES)
Institute of Noise Control Engineering (INCE-USA)
American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE)

Representative Noise & Vibration Monitoring Projects

- 9876 Wilshire + 9900 Wilshire - Multi-Year Construction Noise & Vibration Monitoring, Beverly Hills, CA
- 10900 Wilshire - Metro Westside Purple Line Extension – Noise & Vibration Monitoring, Los Angeles, CA
- CA Department of Parks & Recreation - State-wide Vehicular Recreation Area Ambient Sound Monitoring
- Cielo Farms – Noise Study and Permanent Noise Monitoring System, Malibu, CA
- City of Camarillo General Plan Noise Element Update, Camarillo, CA
- City National Plaza- Construction Noise and Vibration Analysis, Metro Regional Connector; Los Angeles, CA
- City of Inglewood/LAWA Residential and School Sound Insulation Projects, Inglewood, CA
- City of Inglewood – Clippers Arena – Noise Element of EIR and Online Vibration Monitoring Systems, Inglewood, CA
- City of Irwindale – Arrow and Vincent – Noise Contours, Irwindale, CA
- Exposition Park Master Plan, Los Angeles, CA
- Metro Southwestern Yard - Construction Noise Mitigation, Los Angeles, CA
- Mondrian Hotel Sky Bar Permanent On-line Noise Monitoring System, West Hollywood, CA
- MV-22 Osprey Noise Study Environmental Impact Statement – EIS
- ocV!be Amphitheater at Honda Center – Master Plan, Anaheim, CA
- Pala Raceway - Community Impact Noise Assessment, Palm Springs, CA
- Soho Pop-up House at Coachella Festival Music - Multi-Year Community Noise Monitoring, La Quinta, CA, CA
- Southern California Association of Governments Regional Transportation Plan 2020-2045
- The Porsche Experience Center – Noise Compliance Study, Carson, CA
- TowerJazz Manufacturing Plant Noise Mitigation and Post-Mitigation Noise Measurements, Newport Beach, CA
- Universal Studios Environmental Impact Report and Multi-Year Special Events Noise Monitoring, Universal City, CA
- Westfield Century City Expansion - Construction Noise & Vibration; Century City, CA

Community Noise Sound Propagation Studies

Environmental impact analysis and reports for proposed projects, construction noise analysis and mitigation, construction noise control plans, construction noise monitoring plans, utilities operational noise and vibration impacts and recommendations for control, and general community noise impacts.

Transportation Noise

Measurement, analysis, and mitigation of aircraft, rail, and vehicular traffic. Includes measurements for vehicle noise compliance and noise and vibration mitigation, including Los Angeles Metro bus pass-by noise levels per SAE J366, CA Department of Recreation Off-Highway Vehicle Department measurements per SAE J1287 and EPA F76a, and the instrumentation of a DC-10 for Raytheon to document noise and vibration effects of variable flight parameters.

Airport Sound Insulation

Residential Sound Insulation Program (RSIP) manager and acoustic consultant for over 100 projects including experience with FAA requirements, acoustical analysis and design, construction management, conflict resolution, and specialized design methods. Projects included management of RSI Programs at over a dozen municipalities Inglewood, Los Angeles County, Millbrae, San Bruno, San Mateo, Van Nuys and Burbank as well as acoustical measurements and acoustic design guidance at Dallas Fort Worth, King County, Tucson.

ELIAS N. MONTOYA | ASSOCIATE IV | ACOUSTICS, NOISE & VIBRATION

Elias offers a broad experience in acoustical noise & vibration monitoring for various urban and rural sites. He holds a bachelor's degree in Acoustical Engineering. He has been conducting noise and vibration environmental studies of various locations, including wind farms, solar plants, construction projects, highways, hospitals, MRI installations and railways. Elias has a particular interest in environmental acoustics and has been one of the first to study the noise of wind farms in Latin America. Elias will serve as technical staff for noise and vibration impacts. He will be responsible for conducting acoustical measurements and general calculations, contributing to analysis, preparing report and mitigation options

Education:

Bachelor in Acoustical Engineering, Universidad Tecnológica de Chile
Electrical Technician, Liceo Industrial Domingo Matte Mesias

Selected Projects

- 9876 Wilshire + 9900 Wilshire - Multi-Year Construction Noise & Vibration Monitoring, Beverly Hills, CA
- 2016 Telegraph – Construction Management Plan, Noise & Vibration Monitoring, Oakland, CA
- 10900 Wilshire - Metro Westside Purple Line Extension – Noise & Vibration Monitoring, Los Angeles, CA
- City of Inglewood/LAWA Residential and School Sound Insulation Projects, Inglewood, CA
- Farmhouse Collective Mixed-Use - Environmental Noise Study for CEQA, Riverside, CA
- Harkham Hillel Hebrew Academy - Environmental Noise Study for CEQA, Los Angeles, CA
- Hollywood Pantages Theater - long-term construction and vibration monitoring, Hollywood, CA
- Metro Southwestern Yard - Construction Noise Mitigation, Los Angeles, CA
- Mondrian Hotel Sky Bar Permanent On-line Noise Monitoring System, West Hollywood, CA
- ocVlbe Amphitheater at Honda Center – Master Plan, Anaheim, CA
- Rancho Cucamonga Fire District Public Safety Building - Construction Noise & Vibration, Rancho Cucamonga, CA
- Southern California Edison – Substation Noise & Vibration – multiple locations in Southern CA
- Universal Studios Multi-Year Special Events Noise Monitoring, Universal City, CA – Noise Monitoring

SANATH HAPUARACHCHI, MSc, INCE | ASSOCIATE VI | ACOUSTICS, NOISE & VIBRATION

Sanath brings over 25 years of experience in the environmental policy and protection, noise & vibration consulting for the Architectural, Transportation, Oil & Gas, Mining & Industrial projects in Canada and the USA. He completed more than 300 environmental noise assessments for oil and gas facilities, industrial mining sites and power generation facilities around Alberta (For AER/AUC Regulation), and British Columbia (For BC OGC Regulation); field noise measurement including long-term comprehensive and ambient noise monitoring, noise studies for EIR, CEQA documentation, and construction noise and vibration management plan reports. Sanat is a Member of Institute of Noise Control Engineering (INCE-US), and a Member of Canadian Association of Physicists (CAP).

Sanath will serve as technical staff for noise and vibration impacts. He will be responsible for conducting acoustical measurements and general calculations, contributing to analysis, preparing report and mitigation options

Education:

M.Sc. in Environmental Science, University of Colombo, 2000-2002
B.Sc. in Physics, University of Colombo, 1990-2003
Environmental Management Certificate, University of Calgary, 2013-2016

Selected Projects

- 10900 Wilshire - Metro Westside Purple Line Extension – Noise & Vibration Monitoring, Los Angeles, CA
- City of Inglewood/LAWA Residential and School Sound Insulation Projects, Inglewood, CA
- Westfield Topanga Expansion - Construction Noise & Vibration; Los Angeles, CA
- Pragati Maidaan Tunnel, 5 underpass – sound plan modeling, New Delhi, India
- Orange County Sanitation District (OCSD), J-124 Digester Gas Facilities Replacement, Fountain Valley, CA
- UCLA Central Utility Plant, Los Angeles, CA
- Sound Wall Study for The Archer School, Los Angeles, CA
- Stadium Shopping Center, Calgary, AB
- UCSD Marine Conservation Facility, La Jolla, CA
- Century City Center, Los Angeles, CA
- West LA Veteran's Housing, Los Angeles, CA

EXHIBIT 1: CLIENT REFERENCE LETTERS

OFF-HIGHWAY VEHICLE NOISE MONITORING FOR CALIFORNIA STATE PARKS OHMVD SVRA CARNEGIE PARK

MATTHEW RODRIQUEZ
Acting Attorney General



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555
Telephone: (916) 210-7839
Facsimile: (916) 327-2319
E-Mail: Deborah.Smith@doj.ca.gov

April 23, 2021

RE: *Veneklasen Associates, Inc. expert services in Connolly Ranch, Inc. v. Department of Parks and Recreation, et al.,*
San Joaquin Superior Court Case No. STK-CV-URP-2016-12394

To Whom It May Concern:

This letter is to certify that Veneklasen Associates, Inc. has performed detailed noise monitoring at Carnegie State Vehicular Recreational Area (SVRA) of Off-Highway Vehicle (OHV) noise for the California Attorney General's Office related to the above-titled litigation. Following three-years of long-term noise monitoring with monitors that were remotely accessible for California State Parks, Veneklasen provided the equipment and the services to perform long-term monitoring at ten locations at Carnegie SVRA to provide baseline noise levels for OHV operations. I found Veneklasen very attentive to our needs and extremely capable in providing this noise monitoring service. I would highly recommend their services.

Please do not hesitate to contact me if you have any questions.

Sincerely,



DEBORAH M. SMITH
Supervising Deputy Attorney General

DMS:pc

SA2016302706

LONG TERM CONSTRUCTION NOISE AND VIBRATION MONITORING FOR THE CITY OF BEVERLY HILLS



June 4, 2021

Dear Sirs:

This letter is to certify that Veneklasen Associates, Inc. has performed long-term construction noise and vibration monitoring for three projects in the City of Beverly Hills. The projects located at 9876 Wilshire Boulevard and 9900 Wilshire Boulevard required continuous noise and vibration monitoring between May 2014 to January 2018 to evaluate impacts to local residences and a local school. Over this 3 year 8 month period, Veneklasen supplied the monitoring equipment and remotely accessed the monitors to evaluate data, provide monthly reports, and investigate issues. Veneklasen's assistance was very helpful to limit noise and vibration impacts to the surrounding community and to document sound and vibration levels to assist with community complaints.

Veneklasen also performed construction noise and vibration consulting services for the Waldorf Astoria project at 9850 Wilshire Boulevard to evaluate noise and vibration impacts and provide mitigation for the local residences, commercial properties, and a local school. These consulting services were provided in late 2017 through January 2018.

The project team kept excellent records and incident log requirements. All report and invoicing for these projects went smoothly and stayed within budget.



David Yelton, CBO
Assistant Director, City Building Official
City of Beverly Hills
Community Development Department
455 N. Rexford Drive
Beverly Hills, CA 90210
P: 310.285.1154 | F: 310.273.0972
E-mail: dyelton@beverlyhills.org

City of Beverly Hills 455 N. Rexford Drive Beverly Hills, California 90210 t (310) 285-1141 f (310) 273-0972
BeverlyHills.org



COMMUNITY NOISE AND VIBRATION MEASUREMENT OF AIRCRAFT NOISE FROM LAX



City of Inglewood
Residential Sound Insulation Department



BETTYE R. GRIFFITH
Director

October 21, 2019

Dear Sirs:

This letter is to certify that Veneklasen Associates, Inc. has performed community noise measurements of aircraft noise from Los Angeles International Airport since July 2014 to determine the impacts to schools and residences in the City of Inglewood. Veneklasen and its staff have served the City well in this endeavor.

Thank you.

A handwritten signature in black ink that reads 'Bettye R. Griffith'.

Bettye R. Griffith
Director

**ATTACHMENT A
CONTRACTOR REFERENCE AND RELEASE FORM**

List below at least two (2) reference for a Noise and Vibration Study. Additional references are encouraged and may be requested by the City. Attachment shall include company name, contact name, address, email address, telephone numbers and contract period who can verify your experience and ability to perform the type of service listed in the solicitation.

Company Name California Attorney General's Office	Contract Period 2015-2018		
Contact Person Name and Title Deborah Smith, Supervising Deputy Attorney General	Telephone Number (include area code) O: 916-210-7839; M: 916-969-8232		
Complete Primary Address 1300 I Street, Suite 125, P.O. Box 944255	City Sacramento	State CA	Zip Code 94244-2550
Email Address deborah.smith@doj.ca.gov	Fax Number (include area code) F: 916-327-2319		
Project Name California State Parks and Recreation State Vehicular Recreational Area Ambient Sound Monitoring			

Company Name City of Beverly Hills	Contract Period May 2014 - January 2018		
Contact Person Name and Title David Yelton, CBO, Assistant Director	Telephone Number (include area code) 310-285-1154		
Complete Primary Address 455 N. Rexford Drive	City Beverly Hills	State CA	Zip Code 90210
Email Address dyelton@beverlyhills.org	Fax Number (include area code) 310-273-0972		
Project Name 9876 Wilshire Boulevard and 9900 Wilshire Boulevard - Construction Noise & Vibration Monitoring			

Company Name City of Inglewood, Residential Sound Insulation Department	Contract Period July 2014 - Current		
Contact Person Name and Title Bettye R. Griffith, Director	Telephone Number (include area code) 310-412-5289		
Complete Primary Address One Manchester Blvd., Suite 550	City Inglewood	State CA	Zip Code 90312
Email Address bgriffith@cityofinglewood.org	Fax Number (include area code) 310-330-5787		
Project Name City of Inglewood RSIP - Community Noise Measurements of Aircraft Noise from LAX			

REFERENCE CHECK RELEASE STATEMENT

Authorizing the City to contact the references provided above for purposes of this RFP.

Signed: *Anika Afzal* Title President (Authorized Signature of Proposer)
Company Name Veneklasen Associates, Inc. Date April 24, 2023

PROPOSAL FORM
Noise and Vibration Study 2023
RFP23066

ORIGINAL

The cost proposal must be submitted in a separate, sealed envelope with the Responder's name and "Request for Proposals 23066 – COST - Noise and Vibration Study at City of Fargo" clearly identified on the outside of the envelope.

Company Name: Veneklasen Associates, Inc.

Company Address: 1711 Sixteenth Street, Santa Monica, CA 90404

Federal Tax ID#: 95-3543680

Noise and Vibration Study Cost:

Responder: State a FIRM FIXED LUMP SUM for all costs, direct and indirect, administrative costs, and all things necessary for Noise and Vibration Study at the City of Fargo. Please attached any additional costs on a separate document.

Phase 1

Twenty four thousand six hundred sixty dollars

(State the amount in writing on this line.)

\$ 24,660

(State amount in figures on this line.)

Phase 2

Twelve thousand six hundred dollars

(State the amount in writing on this line.)

\$ 12,600

(State amount in figures on this line.)

Total Cost

Thirty seven thousand two hundred sixty dollars

(State the amount in writing on this line.)

\$ 37,260

(State amount in figures on this line.)

By: Anika Atwal
(Name)

Anika Atwal
(Signature)

President
(Title)

aatwal@veneklasen.com
(Email)

310-450-1733
(Phone)



Veneklasen Associates

Consultants in Acoustics | AV | IT | Security | Environmental Noise | Underwater Acoustics | Modeling FEA SEA BEM

April 24, 2023

City of Fargo
City of Fargo Auditors Office, 1st Floor
225 4th Street North
Fargo, North Dakota 58102

Attention: Chris Helmick | Project Representative

Subject: Request for Proposals RFP23066 for Noise and Vibration Study; Fargo, North Dakota
Schedule of Fees

A. 2023 STAFF AND EQUIPMENT RATES

Staff Category	Hourly Billing Rate
Associate I	\$260
Associate II	\$215
Associate III	\$195
Associate IV	\$165
Associate V	\$145
Associate VI	\$125

Equipment	Monthly Rate
Weekly Rate	\$375
Monthly Rate	\$1,750

B. LEVEL OF EFFORT / BREAKDOWN BY TASK

Please find below breakdown by task and manhours for the staff designated for sound monitoring and data analysis for Phase 1 and Phase 2 of the project

Phase 1	Tasks/Level	Stephen Martin	Elias Montoya	Sanath Hapuarachchi	Total Hours
		<i>Associate II</i>	<i>Associate IV</i>	<i>Associate VI</i>	
1.a	Kickoff Meeting and Project site visit	4	4	8	16
1.b	Selection of measurement dates and locations	4	6	0	10
1.c	Mobilization and Deployment	2	10	10	22
1.d	Data Collection and Monitoring	3	15	30	48
1.e	Preliminary Report	8	8	0	16
	Phase 1 Hours				112



Phase 2	Tasks/Level	Stephen Martin	Elias Montoya	Sanath Hapuarachchi	Total Hours
		<i>Associate II</i>	<i>Associate IV</i>	<i>Associate VI</i>	
2.a	Data Measurements and Analysis	4	4	24	32
2.b	Draft Report	8	8	0	16
2.c	Final Report	12	4	0	16
	Phase 2 Hours				64

C. COST-SAVING METHODS

Veneklasen has available 35 sound level meters which can be available, and 7 to 10 of these meters can be set up simultaneously to reduce the costs and reduce the measurement timeframe. These meters will be placed at secure locations over the 10-day measurement period to reduce staff's set-up and tear-down costs. Veneklasen can simultaneously measure up to ten (10) secure locations during ten (10) consecutive days while one staff monitors activity of street performances and vendors and during the 10 pm time period for three (3) nights Fri - Sun to list any special observations or circumstances that may affect the data and to note if amplified sound is in use when prohibited. Utilizing long-term A/C or battery power, the equipment can remain set in place for the 10-day measurement period, reducing set up time and costs.

Veneklasen has reduced estimated costs by eliminating staff present near each monitoring location during the 10-day measurement period. The equipment will record the audio during each night of measurements should further analysis be warranted after reviewing the measured data, and this will allow identification of noise data anomalies by listening to the audio. This eliminates the possibility that measurements might need to be repeated due to some unforeseen condition.

Veneklasen has developed spreadsheet analysis tools which allow a quick analysis of the measured digital data to reduce data analysis costs and reduce the analysis time period.

D. COST ESTIMATE

Veneklasen Associates' cost estimate for the scope of work described in the Request for Proposals is indicated in the table below. Upon selection by the City, the scope of work and resulting costs will be discussed to determine whether the scope requires expansion or contraction.

1. Our Scope of Work and proposed Fees are based on information provided at the time this submittal was prepared.
2. The breakdown by phase is for the convenience of the City; we reserve the right to distribute the total fees as required.
3. Our Fees include all costs, direct and indirect, administrative costs, and all things necessary for Noise and Vibration Study at the City of Fargo. Veneklasen shall work assist the client to determine the areas of the scope that should be pursued.

Veneklasen proposes to provide these services for a **Total Cost of \$37,260**. The estimate includes labor, mobilization, deployment and calibration of seven (7) monitoring stations, and travel expenses.

The proposal is a firm offer and remains valid for at least ninety (90) business days after the Proposal due date.



Phase 1	Tasks/Level	Labor Hours	Labor Cost	Travel & Equipment	Total Cost
1.a	Kickoff Meeting and Project site visit	16	\$2,520	\$600	\$3,120
1.b	Selection of measurement dates and locations for City approval	10	\$1,850		\$1,850
1.c	Mobilization and Deployment Includes seven (7) Stations ¹ for a period of ten (10) days	22	\$3,330	\$6,450	\$9,780
1.d	Data Collection and Monitoring	48	\$6,870		\$6,870
1.e	Preliminary Report	16	\$3,040		\$3,040
	Phase 1 Sub-Total	112	\$17,610	\$7,050	\$24,660
Phase 2					
2.a	Data Measurements and Analysis	32	\$4,520	\$1,200	\$5,720
2.b	Draft Report	16	\$3,040		\$3,040
2.c	Final Report	16	\$3,240	\$600	\$3,840
	Phase 2 Sub-Total	64	\$10,800	\$1,800	\$12,600
	Phase 1 & Phase 2 Total	176	\$28,410	\$8,850	\$37,260

Notes: ¹ cost for additional station is \$750/unit for a period of measurements.

The project will be managed from our headquarters office located at 1711 16th Street, Santa Monica, CA 90404. All noise monitoring services will be provided by our staff only. The branch office nearest to Fargo, ND is located in Calgary, AB and we frequently have staff in Minneapolis, MN.

We acknowledge that this proposal and any contract awarded pursuant to it is signed by the person with authority.

Thank you for your consideration of this response.

Respectfully submitted,
Veneklasen Associates, Inc.

Stephen A. Martin, PhD., PE
Director of Environmental Noise & Vibration

Veneklasen Associates, Inc.

Anika Atwal
President

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

50

NDDOT Project No. 8-029(213)069

Type: Project Update

Location: I-29 & 40th Avenue North Interchange

Date of Hearing: 5/22/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>5/30/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Jeremy Gorden</u>

Division Engineer, Jeremy Gorden, updated the Committee regarding the Draft Interchange Selection and Decision Document for this project that the NDDOT is undertaking with Stantec. The NDDOT is asking for referred alternatives so that they may finalize and move forward with the Environmental Documentation.

This report examines 5 different interchange alternatives:

- | | |
|---|---------|
| 1. Standard Interchange with Traffic Signals | \$31.7M |
| 2. Dumbbell Interchange with Roundabouts | \$28.1M |
| 3. Diverging Diamond (DDI) Interchange with Traffic Signals | \$34.1M |
| 4. Diverging Diamond (DDI) Interchange with Roundabouts | \$27.8M |
| 5. Partial Cloverleaf with Traffic Signals | \$31.9M |

Engineering staff have discussed briefly and have selected the dumbbell design as the preferred option.

On a motion by Tim Mahoney, seconded by Steve Sprague, the Committee voted to recommend approval of the "Dumbbell Interchange with Roundabout" design as our preferred option.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and select the "Dumbbell Interchange with Roundabout" design as our preferred option.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

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

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
Tim Mahoney, Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Mark Williams</u>
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Ryan Erickson</u>
Michael Redlinger, City Administrator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Bruce Grubb</u>
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, City Engineer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Vacant, Finance Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

ATTEST:


 Brenda E. Derrig, P.E.
 City Engineer

Memorandum

To: Members of PWPEC

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

Date: May 17, 2023

Re: Project Update - I-29 and 40th Avenue North Interchange Concepts
NDDOT Project No. 8-029(213)069

Background:

I have attached portions of the Draft Interchange Selection and Decision Document for this project that the NDDOT is undertaking with Stantec. The NDDOT is asking for the stakeholders preferred alternatives so that they may finalize which alternatives are being moved forward into the Environmental Documentation. The NDDOT leadership will ultimately make a formal design decision based on the contents of this document, the Steering Review Committee and public feedback.

This report examines 5 different interchange alternatives, and does a good job of highlighting the pros and cons of each alternative. The alternatives are as follows:

- | | |
|---|-------|
| 1. Standard interchange with traffic signals | 31.7M |
| 2. Dumbbell Interchange with roundabouts | 28.1M |
| 3. Diverging Diamond (DDI) interchange with traffic signals | 34.1M |
| 4. Diverging Diamond (DDI) interchange with roundabouts | 27.8M |
| 5. Partial Cloverleaf with traffic signals | 31.9M |

The cost estimates of each are shown above. The cheapest would be the dumbbell interchange and the most expensive would be the diverging diamond.

The scoring of each alternative is highlighted below.

	Evaluation Criteria												Overall Score of Alternative (Highest Value = Best Score)	
	Safety Improvements	Geometric Needs	Environmental Impacts	Structural and Geotechnical Impacts	Cost	Traffic and Level of Service	Constructability Issues	Impact to existing land use or new development including access	Right of Way Impacts	Flexibility to accommodate future improvements or land use changes	Active Transportation Facility Enhancement	Utility Impacts		
Weight	4.5	4.8	2.3	2.3	3.0	5.0	2.3	2.8	2.8	2.0	3.3	2.5		
Alternatives														
1	2	5	3	1	4	4	4	4	4	3	4	3	131	
2	5	5	3	1	5	5	5	5	5	4	5	3	166	
3	5	4	3	1	3	5	4	4	3	5	3	3	140	
4	3	4	3	1	5	3	4	4	4	2	4	3	127	
5	4	5	2	1	4	5	4	3	2	4	4	3	137	

Figure 11 – Alternatives Evaluation Matrix

The highest scoring alternative is the dumbbell interchange with roundabouts, followed by the DDI with traffic signals.

Engineering staff have discussed this analysis briefly and we all like the dumbbell design. It is intuitive and will keep traffic moving without the use of traffic signals. It is a straightforward design and keeps costs the lowest.

We will plan to go over the cliff notes version of this analysis at the meeting. I look forward to the discussion.

Recommended Motion:

Concurrence with the “Dumbbell Interchange with Roundabout” design as being our preferred option.

JMG/klb
 Attachment

RECONSTRUCTION

Project No.

PCN

8-029(213)069

23596

I-29 and 40th Avenue North Interchange (Exit 69)



DRAFT DECISION DOCUMENT

Prepared by

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
BISMARCK, NORTH DAKOTA

<http://www.dot.nd.gov/>

DIRECTOR
Ronald J. Henke, P.E.

PROJECT DEVELOPMENT DIRECTOR
Jon Ketterling, P.E.

Principal Author: Patrick M. McGraw, P.E., Stantec Consulting Services, Inc.

May 2023

A. Project Description

Project Number: 8-029(213)069

Highway: Interstate 29

Study Limits: I-29 & 40th Ave N Interchange (Exit 69)

Project Description: Interchange and adjacent bridge over BNSF Railroad Reconstruction

District: Fargo

B. Project Schedule

<u>Project</u>	<u>Plans Complete</u>	<u>Bid Ready</u>
Reconstruction	November 1, 2026	January 1, 2028 (place holder date - actual date TBD)

C. Purpose of Decision Document

The purpose of this decision document is to present the proposed build alternatives for the Exit 69 interchange through Fargo and select which proposed build alternative to move forward into the environmental document (DCE).

1. *Alternative 1: Standard Diamond (Ranked 4th of 5 Alternatives)*



Advantages:

- Lesser amount of grading
- High driver familiarity.
- Lower potential for snow drifting compared to other alternatives

Disadvantages:

- Highest number of Conflict Points
- Does not physically eliminate wrong-way movements
- Potential for high-speed/high-angle crashes
- Three signalized intersections

2. *Alternative 2: Dumbbell (Ranked 1st of 5 Alternatives)*



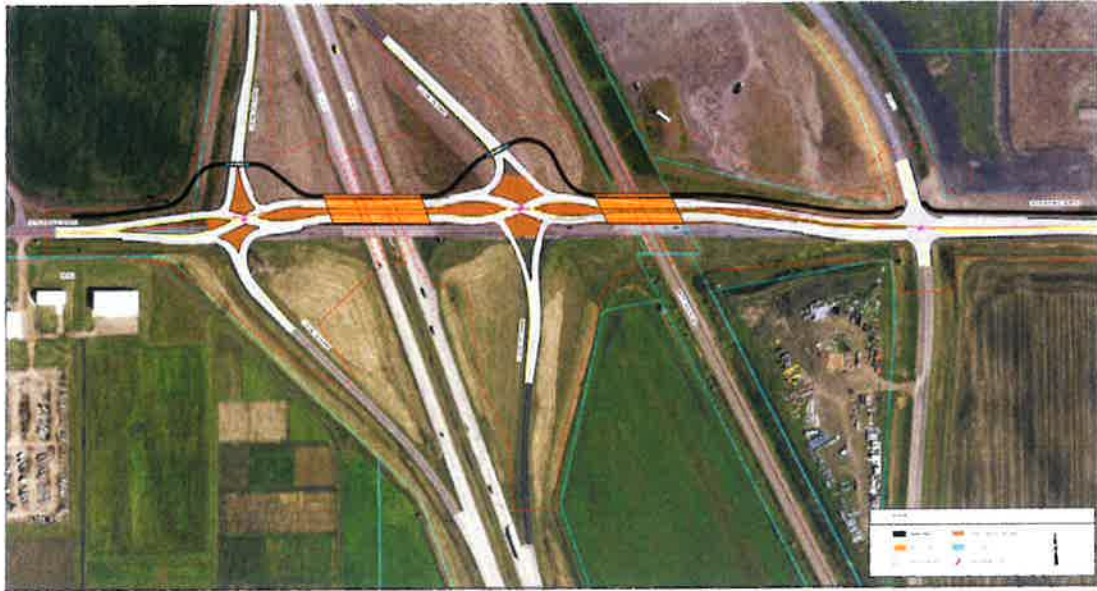
Advantages:

- Reduced number of conflict points
- Reduced crash severity
- Eliminates wrong-way movement
- No signals to power, maintain and operate
- Lowest cost alternative
- Tied for second regarding Flexibility

Disadvantages:

- Snow drifting – can be mitigated
- Somewhat lesser driver familiarity
- Moderate to high amount of grading

3. *Alternative 3: Diverging Diamond (DDI) (Ranked 2nd of 5 Alternatives)*



Advantages:

- Reduced conflict points
- Greater capacity
- Eliminates wrong-way movements
- Reduced crash severity
- Rated first in Flexibility

Disadvantages:

- Signal system
- Medians
- Lesser flexibility for expansion
- High amount of grading

4. *Alternative 4: Roundabout DDI (Ranked 5th of 5 Alternatives)*



Advantages:

- Reduced conflict points
- Greater capacity
- No signals
- Free lefts
- Eliminates wrong-way movements
- Reduced crash severity

Disadvantages:

- Less empirical data
- Low to no driver familiarity
- Lesser flexibility for expansion
- High amount of grading

5. *Alternative 5: Partial Cloverleaf (Parclo) (Ranked 3rd of 5 Alternatives)*



Advantages:

- Less empirical data
- Low to no driver familiarity
- Lesser flexibility for expansion
- High amount of grading

Disadvantages:

- Less empirical data
- Low to no driver familiarity
- Lesser flexibility for expansion
- High amount of grading

D. Comments from the Management Meeting held May 10, 2023

Recommendations Table

	Which alternate should proceed into the environmental document (DCE)?
Office of Project Development	
Office of Operations	
Bridge Division	
Construction Services Division	
Design Division	
District	
Environmental and Transportation Services Division	
Local Government Division	
Maintenance Division	
Materials and Research Division	
Programming Division	
Planning/Asset Management Division	
City	
FHWA	
County	
Fargo-Moorhead Metropolitan Council of Governments (Metro COG)	

E. Executive Decisions

1. Which alternate should proceed into the environmental document (DCE)?

_____ Alternative 1 – Standard Diamond

_____ Alternative 2 – Dumbbell

_____ Alternative 3 – Diverging Diamond (DDI)

_____ Alternative 4 – Roundabout DDI

_____ Alternative 5 – Partial Cloverleaf (Parclo)

Amendments/Comments for Project No. 8-029(213)069:

Matt Linneman, P.E., Deputy Director for Engineering

Date

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

NDDOT Project No. 8-029(213)069

Type: Project Update

Location: I-29& 40th Avenue North Interchange

Date of Hearing: 4/24/2023

<u>Routing</u>	<u>Date</u>
City Commission	_____
PWPEC File	<u>X</u>
Project File	<u>Jeremy Gorden</u>

Division Engineer, Jeremy Gorden, updated the Committee regarding the Draft Interchange Selection and Decision Document for this project that the NDDOT is undertaking with Stantec. The NDDOT is looking for comments until April 28.

This report examines 5 different interchange alternatives:

- | | |
|---|---------|
| 1. Standard Interchange with Traffic Signals | \$31.7M |
| 2. Dumbbell Interchange with Roundabouts | \$28.1M |
| 3. Diverging Diamond (DDI) Interchange with Traffic Signals | \$34.1M |
| 4. Diverging Diamond (DDI) Interchange with Roundabouts | \$27.8M |
| 5. Partial Cloverleaf with Traffic Signals | \$31.9M |

Through their evaluation criteria, alternative 2. Dumbbell Interchange with Roundabouts had the highest score of 166 with alternative 3. Diverging Diamond Interchange with Traffic Signals second at 140. Engineering Staff has discussed this analysis briefly and support the ranking. Alternative 2 is intuitive and will keep traffic moving without the use of traffic signals. The committee discussed the alternatives and their associated pros and cons. There was discussion on clearly defining snow removal and maintenance duties for the political entities as it isn't as clear with the dumbbell interchange alternative.

Receive and file, no motion made.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

Developer meets City policy for payment of delinquent specials
 Agreement for payment of specials required of developer
 Letter of Credit required (per policy approved 5-28-13)


Yes	No
<u>N/A</u>	<u>_____</u>
<u>N/A</u>	<u>_____</u>
<u>N/A</u>	<u>_____</u>

COMMITTEE

Tim Mahoney, Mayor
 Nicole Crutchfield, Director of Planning
 Steve Dirksen, Fire Chief
 Michael Redlinger, City Administrator
 Ben Dow, Director of Operations
 Steve Sprague, City Auditor
 Brenda Derrig, City Engineer
 Terri Gayhart, Finance Director

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Bruce Grubb
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

ATTEST:


 Brenda E. Derrig, P.E.
 City Engineer

Memorandum

To: Members of PWPEC

From: Jeremy M. Gorden, PE, PTOE
 Division Engineer - Transportation

Date: April 20, 2023

Re: Project Update – I-29 and 40th Avenue North Interchange Concepts
 NDDOT Project No. 8-029(213)069
 INFORMATIONAL ITEM

Background:

I have attached portions of the Draft Interchange Selection and Decision Document for this project that the NDDOT is undertaking with Stantec. The NDDOT is looking for comments until April 28. NDDOT leadership will ultimately make a formal design decision based on the contents of this document, the Steering Review Committee and public feedback.

This report examines 5 different interchange alternatives and does a good job of highlighting the pros and cons of each alternative. The alternatives are:

- | | |
|---|-------|
| 1. Standard interchange with traffic signals | 31.7M |
| 2. Dumbbell Interchange with roundabouts | 28.1M |
| 3. Diverging Diamond (DDI) interchange with traffic signals | 34.1M |
| 4. Diverging Diamond (DDI) interchange with roundabouts | 27.8M |
| 5. Partial Cloverleaf with traffic signals | 31.9M |

The cost estimates of each are shown above. The cheapest would be the dumbbell interchange and the most expensive would be the diverging diamond.

The scoring of each alternative is highlighted below:

	Evaluation Criteria												Overall Score of Alternatives (Highest Value = Best Score)
	Safety Improvements	Geometric Needs	Environmental Impacts	Structural and Geotechnical Impacts	Cost	Traffic and Level of Service	Constructability Issues	Impact to existing land use or new development including access	Right of Way Impacts	Flexibility to accommodate future improvements or land use changes	Active Transportation Facility Enhancement	Utility Impacts	
Weight	4.5	4.8	2.3	2.3	3.0	5.0	2.3	2.8	2.8	2.0	3.3	2.5	
Alternatives													
1	2	5	3	1	4	4	4	4	4	3	4	3	131
2	5	5	3	1	5	5	5	5	5	4	5	3	166
3	5	4	3	1	3	5	4	4	3	5	3	3	140
4	3	4	3	1	5	3	4	4	4	2	4	3	127
5	4	5	2	1	4	5	4	3	2	4	4	3	137

Figure 11 – Alternatives Evaluation Matrix

The highest scoring alternative is the dumbbell interchange with roundabouts, followed by the DDI with traffic signals.

Engineering staff has discussed this analysis briefly and we all like the dumbbell design. It is intuitive and will keep traffic moving without the use of traffic signals. It is a straightforward design and keeps costs the lowest.

We will plan to go over the cliff notes version of this analysis at the meeting. I look forward to the discussion.

Recommended Motion:

None anticipated.

JMG/klb
Attachment

Executive Summary

The purpose of this study is to determine potential interchange configurations, roadway alignments, and bridge types based on operational, geometric, stakeholder, economic, environmental, safety, and future traffic demands for the Interstate 29 (I-29) and 40th Avenue North interchange and the 40th Avenue North corridor the from 45th Street North to 25th Street North.

A Technical Advisory Committee (TAC) was established to guide the alternatives development process for a potential new interchange configuration. It includes representatives of the Federal Highway Administration (FHWA), North Dakota Department of Transportation (NDDOT), Cass County, Fargo-Moorhead (FM) Metro Council of Governments (COG), and the City of Fargo. This committee guided project development by making informed decisions and providing direction to the consultant team as needed. Also, several outreach opportunities were conducted to inform the public about the project and solicit public input during the alternative development process.

The current I-29 interchange is a two-lane, standard diamond interchange with stop control on the exit ramps and two bridges spanning the interstate and adjacent railroad. The surrounding area is mainly agricultural land with residential developments to the west and commercial/industrial to the east. The Burlington Northern Santa Fe (BNSF) railroad corridor runs parallel to the interstate on the east side.

Existing traffic data was used to develop models that represent the existing and forecasted traffic. The models determined the operational performances of the alternatives. These findings were then presented to the TAC, which ultimately resulted in the development of the following five alternatives:

- Alternative 1 – Standard Diamond Interchange with Signals
- Alternative 2 – Dumbbell Interchange (Standard Diamond w/Roundabouts)
- Alternative 3 – Diverging Diamond Interchange (DDI)
- Alternative 4 – Roundabout Diverging Diamond Interchange
- Alternative 5 – Partial Cloverleaf Interchange (Parclo)

An Alternatives Evaluation Matrix was developed in coordination with the TAC to compare the five alternatives. This matrix consists of 12 evaluation criteria weighted by importance. Each alternative was evaluated and assigned a score from 1 (least positive) to 5 (most positive). The following is a summary of how the alternatives performed against the safety improvements, geometric needs, active transportation facility enhancement, cost, flexibility of future improvements, right-of-way impacts, and structural and geotechnical impacts evaluation criteria. The remaining five evaluation criteria were not included in the executive summary since the impacts of each alternative had similar results.

Safety Improvements

Most of the crashes at the interchange are rear-end crashes at the east ramp terminal intersection. All alternatives provide some reduction in these crashes as evident by selected Crash Modification Factors (CMF). While Alternative 4 has no associated CMF, it is expected to have a similar reduction to either Alternative 2 or 3. Roundabouts have fewer conflict points and lower approach speeds than traditional intersections, resulting in fewer high-severity crashes. DDIs as proposed in Alternative 3 also reduce conflict points and speeds compared to existing conditions, reducing the number of high-severity crashes.



Alternatives 1 and 5 also provide some crash reduction, however it is not expected to be as high as other alternatives. The loop ramp eliminates westbound left turn conflicts but requires an additional auxiliary lane on I-29 southbound. Alternative 1 is expected to have the most angle crashes.

Relating to the initial safety concern of wrong-way westbound left turns, Alternatives 2, 3, and 4 introduce geometry that reduces the potential for this movement while Alternatives 1 and 5 do not address this concern with geometry. Traffic signal control should help discourage wrong-way maneuvers and additional measures can be implemented to communicate “no left turns” to westbound drivers.

Geometric Needs

All alternatives propose a shift of the current 40th Avenue North alignment to the north to facilitate construction staging and allow the roadway to remain open to traffic during construction. Alternatives 2 and 4 require the smallest shift due to the roundabouts included in the design, which reduces median widths and eliminates left turn lanes, resulting in a smaller roadway footprint. In addition to the 40th Avenue North corridor shift, Alternative 5 would need the southbound off-ramp to be shifted westward to make adequate room for the Northwest loop ramp.

Active Transportation Facility Enhancement

In considering possible multimodal accommodations along the 40th Avenue North corridor, each alternative can accommodate pedestrians and bicycles through the interchange. All alternatives propose a separated shared-use path on the north side of 40th Avenue North with grade separation as the path crosses the ramps. Should development and facilities on the south side of 40th Avenue North require crossings at the west ramp terminal intersection, Alternatives 1 and 5 can allow pedestrians/bicycles to cross in a single walk phase at the signal, Alternative 3 allows crossings but in two phases, and Alternatives 2 and 4 allow crossings at the roundabout approaches with the potential for enhanced warning devices.

Cost

Cost estimates for each Alternative were developed using the NDDOT's average bid price over the past six years. The least costly Alternatives are 2 and 4, which eliminate the traffic signals and require less width for turn lanes and median space on the bridges. The next least costly are Alternatives 1 and 5 since they require traffic signals and more width for the bridge. Finally, the costliest would be Alternative 3 due to the signalization of the intersections and having the widest bridge.

Flexibility of Future Improvements

When looking towards accommodating the future development of the surrounding area, Alternative 3 includes the required space for future widening for eastbound traffic since the widening is on the north side of the structure adjacent to the shared-use path. Alternative 4 also requires widening on the north, but expansion to add a second eastbound lane can be done with median reconfiguration without widening the bridge. Alternatives 1, 2, and 5 can all accommodate additional eastbound capacity with bridge widening to the south.



Right-of-Way Impacts

Preliminary construction limits were used to estimate the potential right-of-way needed to build each Alternative. Estimations resulted from 6 acres to just over 3 acres needed to construct one of these alternatives. Alternative 5 would need the most acreage for right-of-way acquisition, and Alternatives 1, 2, and 4 require the least acreage, with Alternative 3 in between them.

Structural and Geotechnical Impacts

The Primary Study Area includes two existing bridges: a four-span steel bridge over I-29 and a three-span steel bridge over the BNSF rail track east of I-29. The existing bridges each accommodate a 30-foot wide roadway. All five interchange alternatives require significantly wider structures ranging in width from approximately 55 to 83 feet for the BNSF bridge and 67 to 89 feet for the I-29 bridge. Widening the existing bridges to achieve these widths is not feasible as it would result in insufficient vertical clearance over I-29 and the railroad.

Replacement bridge options were developed for each alternative. The primary options consist of a two-span prestressed concrete I-girder bridge at I-29 and a three-span prestressed concrete I-girder bridge over the railroad. Prestressed concrete girder superstructures are NDDOT's preferred bridge type due to cost, maintenance, and inspection reasons. The proposed girders are up to 3 feet deeper (taller) than the existing girders requiring a grade raise when compared to the existing profile. Two steel girder bridge options were developed to evaluate whether a shallower, but higher cost superstructure, would provide savings over the cost of the additional embankment. Cost estimates for the range of bridge options showed the prestressed concrete girders were the most economical bridge type for all alternatives and both bridge locations.

The proposed alignment shift of 40th Avenue North would result in the placement of 10 to 20 feet of fill over the existing ground resulting in a potential for 6 to 12 inches of settlement at the proposed bridge abutments. The primary settlement mitigation options consist of surcharge and wick drains or replacing a portion of the new embankment with Geofoam. A detailed geotechnical investigation is outside the scope of this study therefore, Geofoam was assumed for the cost estimates. Expected settlement and mitigation options will be fully developed during the environmental documentation and preliminary design phase.

In conclusion, the alternative that scored the highest in the evaluation matrix was Alternative 2, followed by Alternatives 3, 5, 1, and 4, respectively. The next steps for this interchange project following the conclusions from this report would be selecting the appropriate build alternative(s) and carrying it through the next stages of the project to develop the design and construct the chosen alternative.



Interchange Selection and Decision Report 4 – Alternatives Analysis

23 U.S.C. § 407 Documents
NDDOT Reserves All Objections

study process where Stantec developed detailed traffic microsimulation models for operational analysis. Alternative 6 was discarded primarily over concerns associated with available space for the U-turns and anticipated lack of public acceptance due to increased travel time and distance for some left turn movements.

4.3 Build Alternatives

The five interchange alternatives advanced for further study were analyzed in TransModeler to determine the optimal configuration for each alternative. In combination with the three corridor concepts described in the 'Combined No-Build and Primary Corridor Alternatives Models Summary' found in Appendix H (existing, signalized, and roundabout), the alternatives were fine-tuned through an iterative process. Each alternative was initially developed with single-directional lanes for 40th Avenue North and interchange ramps, then additional lane capacity was incrementally added to maintain LOS D or better for intersection approaches and the corridor. Once an alternative is selected, it will advance to Contract II, where further considerations of the alternative will take place.

4.3.1 ALTERNATIVE 1

Alternative 1, Standard Diamond Interchange, consists of reconstructing and updating the existing interchange layout. The ramp terminal intersections are proposed to have traffic signal control based on the need demonstrated from the forecast scenario no-build analysis in Section 4.1.2. **Figure 6** shows the preliminary geometric layout and lane configurations for Alternative 1.



Figure 6 – Standard Diamond Interchange



4.3.2 ALTERNATIVE 2

Alternative 2, Dumbbell Interchange, consists of reconstructing the interchange to maintain a standard diamond layout but with roundabout control at the ramp terminal intersections. The roundabouts can be configured to maintain full circulatory lanes and accommodate U-turns (as shown and modeled in this analysis) or can be configured in a 'tear drop' or 'dog bone' layout without the circulatory lanes closest to the interchange center. **Figure 7** shows the preliminary geometric layout and lane configurations for Alternative 2.

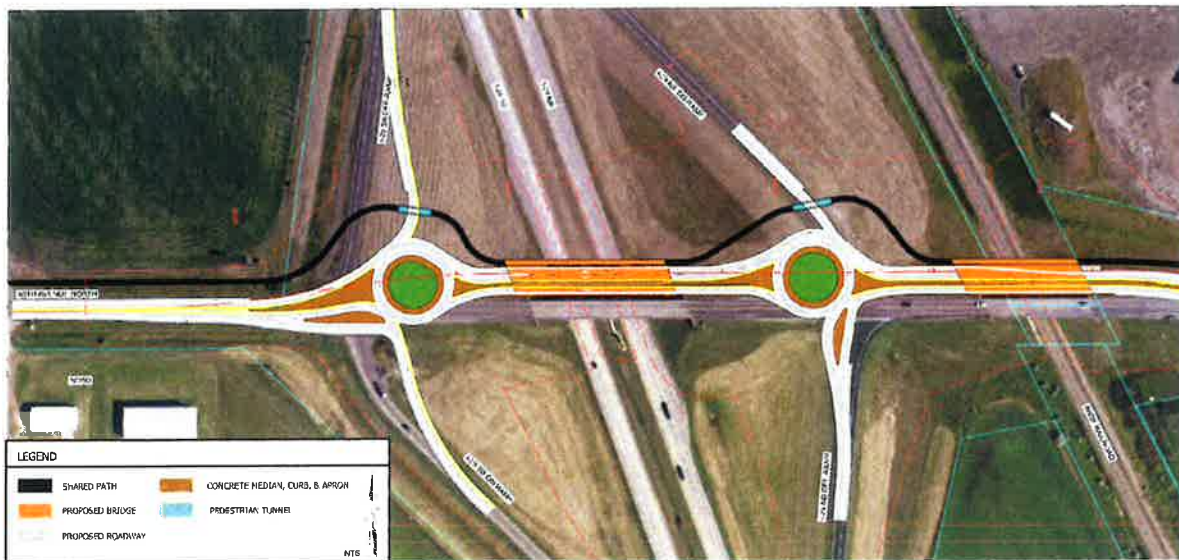


Figure 7 – Dumbbell Interchange

4.3.3 ALTERNATIVE 3

Alternative 3, Diverging Diamond Interchange (DDI), consists of reconstructing the interchange to have traffic along 40th Avenue North cross over to the opposite side and cross back after traversing the bridge, changing the locations of left turning traffic. The crossover intersections would have traffic signal control. **Figure 8** shows the preliminary geometric layout and lane configurations for Alternative 3.



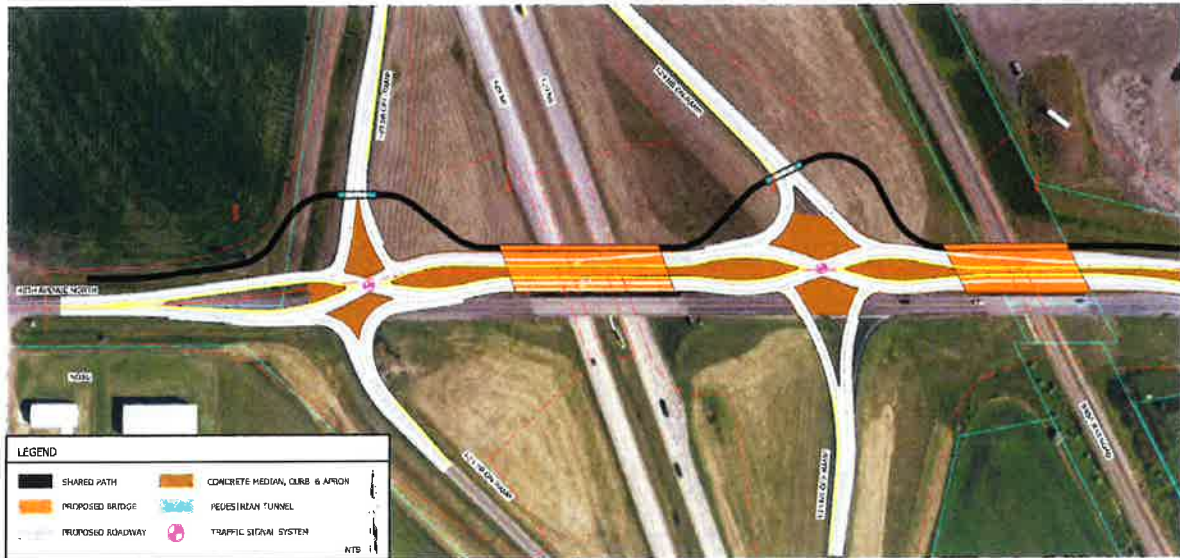


Figure 8 – Diverging Diamond Interchange (DDI)

4.3.4 ALTERNATIVE 4

Alternative 4, Roundabout DDI, consists of reconstructing the interchange to function similar to a DDI with crossing traffic, but with yield control instead of signal control at the crossovers and roundabout-like geometry. Like a DDI, this interchange changes the locations of left turning traffic. **Figure 9** shows the preliminary geometric layout and lane configurations for Alternative 4.

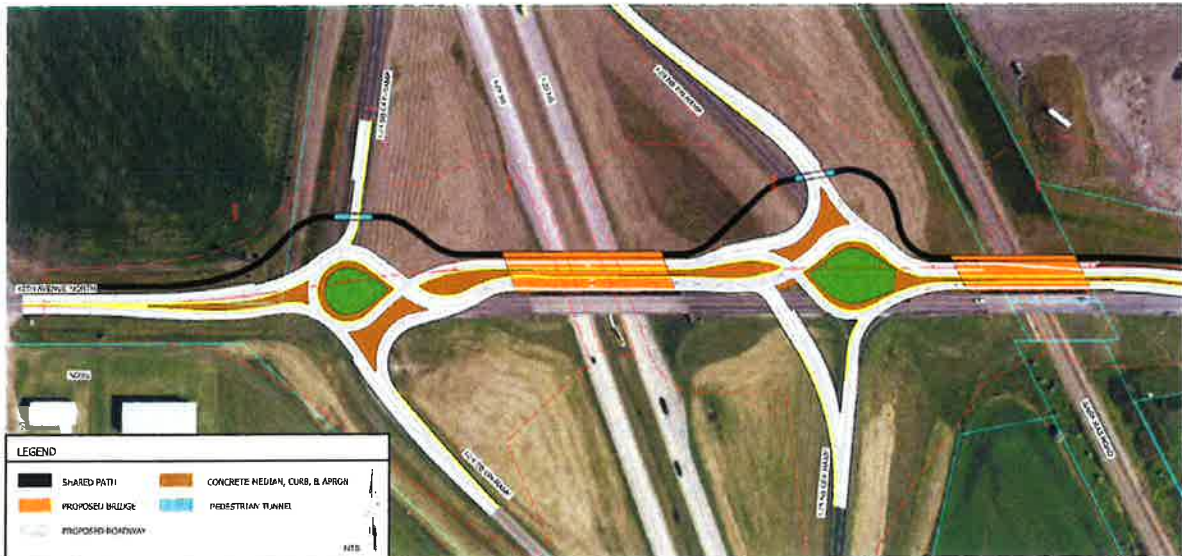


Figure 9 – Roundabout DDI



Interchange Selection and Decision Report 4 – Alternatives Analysis

23 U.S.C. § 407 Documents
NDDOT Reserves All Objections

4.3.5 ALTERNATIVE 5

Alternative 5, Partial Clover Interchange (Parclo), consists of reconstructing the interchange to allow westbound left turning traffic to instead take a free right turn via a loop ramp in the northwest quadrant. The remaining movements would be controlled by a traffic signal at the ramp terminal intersections.

Figure 10 shows the preliminary geometric layout and lane configurations for Alternative 5.

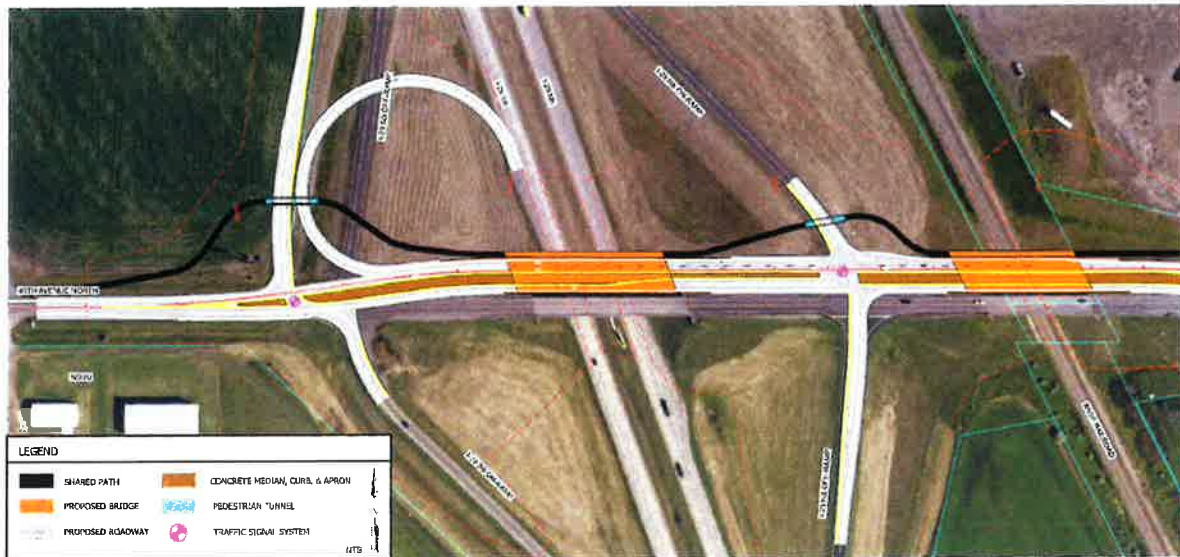


Figure 10 – Partial Cloverleaf Interchange (Parclo)

All five alternatives propose modifications to the CR 81 intersection with 40th Avenue North due to its proximity to the interchange. The signalized alternatives (Alternatives 1, 3, and 5) will maintain signal control at CR 81, while Alternatives 2 and 4 propose roundabout control.

4.4 Evaluation Of Alternatives

4.4.1 OPERATIONAL ANALYSIS

Operational analysis of each interchange alternative for the 2045 forecast AM and PM peak hour scenarios was performed using the methodology described in Section 1.4.2 and the forecasts developed in Section 4.1.1. The interchange alternatives were paired with the existing, signalized, and roundabout corridor concepts in TransModeler to determine multiple sets of results for each alternative.

First, freeway LOS was examined to ensure the interchange alternatives do not negatively impact operations on I-29. If necessary, the conceptual alternatives were adjusted to avoid that outcome by limiting ramp queues at 40th Avenue North from extending to the mainline. The service measure freeway LOS is density as measured by the number of vehicles (passenger car equivalents) per mile, per lane. **Table 7** shows the LOS density thresholds for the three types of freeway facilities present at this interchange. The diverge area occurs before an exit ramp and the merge area occurs past the entrance ramp merge point. The basic segment in this scenario is between the ramps.



Interchange Selection and Decision Report 4 – Alternatives Analysis

23 U.S.C. § 407 Documents
NDDOT Reserves All Objections

All alternatives propose a shift in the horizontal alignment to the north to accommodate the new bridge north of the existing bridge, which will remain open during construction. Once an alternative is selected, more detailed analysis of traffic operations during construction will be required. Alternative 5 requires the southbound off ramp to be shifted west to accommodate the loop ramp in the northwest quadrant.

The medians in Alternative 3 between the ramp terminal intersections must be wider than other alternatives to provide adequate separation in order to properly set up the angles of the crossover intersections. DDI crossovers are typically designed for 20-30 mph depending on the interchange characteristics. The preliminary geometry in Alternative 3 is designed for 30 mph since the rural characteristics of this interchange call for a higher speed design. If Alternative 3 is carried forward, tradeoffs between design speed and bridge costs can be evaluated further.

4.4.5 COST ESTIMATES

Preliminary cost estimates were developed for each alternative using the NDDOT average bid prices from the previous six years for comparative analysis. Final estimates with current bid prices that represent increased costs in recent years will be developed in Contract II. **Table 11** shows the total estimated costs for the alternatives. The least costly alternatives are Alternatives 2 and 4, which have roundabouts for intersection control. They do not require traffic signals and, since they are narrower, have lower bridge costs. The embankment and settlement mitigation costs are similar since the roundabout alternatives are wider through the intersections. The next least costly are Alternatives 1 and 5. These require signals and more width across the two bridge structures. The most expensive alternative is Alternative 3, which requires signalized intersections and the widest bridge.

All Alternatives include significant costs for embankment and settlement mitigation. Maintaining traffic on 40th Avenue North during construction is a primary goal of the project. It does add costs to the project in the form of added settlement mitigation. Settlement mitigation will include some combination of surcharging the embankment and lightweight fill (i.e. geofoam). Each Alternative is assumed to be built on an alignment shifted to the north to allow traffic to run on the existing bridge during construction.

Table 11 – Cost Estimate Summary

Alternatives	Estimated Cost (Million)
Alternative 1 – Standard Diamond Interchange with Signals	\$31.7
Alternative 2 – Dumbbell Interchange (Std Diamond w/ Rdbts)	\$28.1
Alternative 3 – Diverging Diamond Interchange	\$34.1
Alternative 4 – Roundabout DDI	\$27.8
Alternative 5 – Partial Clover Interchange (Parclo)	\$31.9

4.4.6 CONSTRUCTABILITY

The interchange and 40th Avenue North are anticipated to remain open to traffic during construction of the selected interchange alternative. To accommodate this, all alternatives were based on shifting the center alignment of 40th Avenue North to the north a sufficient distance to allow the new roadway and bridges to



**Interchange Selection and Decision Report
4 – Alternatives Analysis**

**23 U.S.C. § 407 Documents
NDDOT Reserves All Objections**

Table 13 – Bridge Cost Summary

Alt 1 - Std Diamond	Profile 1 Costs	Profile 2 Costs	Profile 3 Costs
I-29 Bridge	\$ 7,240,000	\$ 9,930,000	\$ 9,430,000
BNSF Bridge	\$ 5,610,000	\$ 6,610,000	\$ 6,610,000
Total	\$ 12,850,000	\$ 16,540,000	\$ 16,040,000
Alt 2 - Dumbbell			
I-29 Bridge	\$ 6,330,000	\$ 8,610,000	\$ 8,180,000
BNSF Bridge	\$ 4,780,000	\$ 5,630,000	\$ 5,020,000
Total	\$ 11,110,000	\$ 14,240,000	\$ 13,200,000
Alt 3 - DDI			
I-29 Bridge	\$ 8,000,000	\$ 11,030,000	\$ 10,460,000
BNSF Bridge	\$ 5,880,000	\$ 6,940,000	\$ 5,840,000
Total	\$ 13,890,000	\$ 17,970,000	\$ 16,300,000
Alt 4 - Roundabout DDI			
I-29 Bridge	\$ 6,670,000	\$ 9,100,000	\$ 8,650,000
BNSF Bridge	\$ 3,960,000	\$ 4,660,000	\$ 5,840,000
Total	\$ 10,630,000	\$ 13,760,000	\$ 14,490,000
Alt 5 - Parclo			
I-29 Bridge	\$ 7,240,000	\$ 9,930,000	\$ 9,430,000
BNSF Bridge	\$ 5,610,000	\$ 6,610,000	\$ 6,650,000
Total	\$ 12,850,000	\$ 16,540,000	\$ 16,080,000

For the quantity-based cost estimates used to determine the costs per square foot, the only significant variable among bridge elements and the associated costs is the girder type; prestressed concrete girders used for Profile 1 and steel plate girders used for Profiles 2 and 3. Since steel bridges are rarely built in North Dakota, and given the cost fluctuations prevalent in the current marketplace, a sensitivity analysis was performed to determine how much influence the respective girder unit costs had on the overall bridge cost. The unit prices used for prestressed concrete girders in Profile 1 was \$500 per linear foot and \$350 per linear foot for the I-29 and BNSF Bridges respectively. The unit cost for all steel plate girder options was \$3.50 per pound. The sensitivity analysis consisted of recalculating the bridge costs with girder unit prices of 50%, 75%, 150% and 200% of the costs used for the estimates. The sensitivity analysis showed that the steel unit prices would need to be half of the price used for the base estimate and the concrete price 50% greater than the base estimate for the steel superstructure options in Profiles 2 and 3 to have a lower overall cost than the prestressed girder options used for Profile 1. A summary of the costs computed for the sensitivity analysis is included in Appendix O.

Geotechnical Considerations

The interchange reconstruction alternatives are based on constructing 40th Avenue North on a new alignment north of the existing to facilitate traffic accommodation during construction. This will result in significant embankment construction over previously undisturbed soils. Preliminary calculations by Braun Intertec indicate the potential for six inches of settlement for ten feet of fill, and twelve inches of settlement for twenty feet of fill. Settlement of this magnitude will induce downdrag loads on the abutment



5 Conclusions

Through the Preliminary Engineering and Feasibility Study process for the I-29 / 40th Avenue North interchange, twelve categories related to roadway projects were examined. These categories include the following:

- Safety Improvements
- Geometric Needs
- Environmental Impacts
- Structural and Geotechnical Impacts
- Cost
- Traffic and Level of Service
- Constructability Issues
- Impact to Existing Land Use or New Development Including Access
- Right-of-Way Impacts
- Flexibility to Accommodate Future Improvements or Land Use Changes
- Active Transportation Facility Enhancement
- Utility Impacts

The five interchange design alternatives described in Section 4.3 have unique advantages and disadvantages for each category. An Alternatives Evaluation Matrix was developed to compare the alternatives and assign scores for each category based on their positivity or negativity towards evaluation criteria for the categories. The category scores are multiplied by weights established and agreed upon by the TAC and totaled to show the overall scores of each alternative. **Figure 11** shows the Alternatives Evaluation Matrix with the category and total scores. The detailed matrix with the advantages and disadvantages is shown in Appendix P.

Alternative 2 scored the highest of the five build alternatives with a score of 166, followed by Alternative 3 with a score of 140, Alternative 5 with a score of 137, Alternative 1 with a score of 131, and Alternative 4 with a score of 127. The next steps of the interchange project are to select the most appropriate build alternative(s) to carry through to Contract II. A draft work plan for Contract II was developed and is shown in Section 6.



Interchange Selection and Decision Report
5 – Conclusions

23 U.S.C. § 407 Documents
NDDOT Reserves All Objections

Weight	Evaluation Criteria										Overall Score of Alternative (Highest Value = Best Score)		
	Safety Improvements	Geometric Needs	Environmental Impacts	Structural and Geotechnical Impacts	Cost	Traffic and Level of Service	Constructability Issues	Impact to existing land use or new development including access	Right of Way Impacts	Flexibility to accommodate future improvements or land use changes		Active Transportation Facility Enhancement	Utility Impacts
4.5	4.8	2.3	2.3	3.0	5.0	2.3	2.8	2.8	2.8	2.0	3.3	2.5	
2	5	3	1	4	4	4	4	4	4	3	4	3	131
5	5	3	1	5	5	5	5	5	5	4	5	3	166
5	4	3	1	3	5	4	4	3	3	5	3	3	140
3	4	3	1	5	3	4	4	4	4	2	4	3	127
4	5	2	1	4	5	4	3	2	2	4	4	3	137

Figure 11 – Alternatives Evaluation Matrix

