

FARGO CITY COMMISSION AGENDA  
Monday, May 15, 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 regarding reasonably predictable litigation pertaining to enactment of HB 1340 and HB 1205, and further discussing 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](http://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](http://www.FargoND.gov/CityCommission).

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, May 1, 2023).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. 1st reading 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.
- 2. 2nd reading and final adoption of an Ordinance Amending Section 25-1509.2 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Restrictions on Sale to Obviously Intoxicated Person and an Ordinance Amending Section 25-1512 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Licenses – Termination, Suspension, Revocation and Sanctions; 1st reading, 5/1/23.
- 3. 2nd reading and final adoption of an Ordinance Amending Section 25-1501 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Definitions and an Ordinance Amending Section 25-1506 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Licenses – Classifications and an Ordinance Amending Section 25-1507 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to License – Fees – Seasonal Licenses; 1st reading, 5/1/23.
- 4. Settlement Agreement and Release with Citizens for a Clean Environment.
- 5. Receive and file Summons in the matter of Danial Ray Curtis vs. City Fargo, Fargo Building Inspector Shawn Ouradnik, Dr. Tim Mahoney and Fargo City Commissioners.

Applications for Games of Chance:

- a. Tri-City Storm Soccer Club for a raffle on 7/21/23.
- b. Elevate Rock School for a raffle on 7/29/23.
- c. Fargo Moorhead Derby Girls for a calendar raffle from 6/3/23 to 6/24/23.
- d. Provost Guard for a raffle on 9/14/23.
- e. United Way of Cass-Clay for a raffle board on 6/6/23.
- f. Family Wellness LLC for a raffle on 5/18/23.
- g. Bethany Retirement Living for a calendar raffle from 5/20/23 to 12/31/23.

7. Site Authorizations for Games of Chance:

- a. Roy Chandler Post 762 at the VFW Club.
- b. Fargo Post 2 Baseball Club at Herds and Horns.
- c. Fraser, Ltd. at Space Aliens.
- d. Fraser Ltd. at Golf Addiction.
- e. Metro Sports Foundation at Twin Peaks.
- f. Special Olympics North Dakota at Rooters Bar.
- g. Team Makers Club, Inc. at FARGODOME.
- h. Team Makers Club, Inc. at Sanford Health Athletic Complex – Scheel's Arena.
- i. Team Makers Club, Inc. at King Pinz.
- j. Team Makers Club, Inc. at Lucky's 13 Pub.
- k. Team Makers Club, Inc. at Frank's Lounge.

8. Memorandum of Understanding for Storm Sewer Management with Cass County.

9. Contract Amendment No. 1 with Houston Engineering, Inc. in the amount of \$310,500.00 for Project No. NR-23-A0.

10. Bid advertisement for Project No. UN-23-B.

11. Addition of Improvement District No. PR-23-G1 to the 2023 CIP.

12. Memorandum of Offer to Landowner for Permanent Easement (Storm Sewer) with Lee Olsen and Edie Holcomb, Trustees of the Olsen and Holcomb Living Trust (Improvement District No. BN-23-C1).

13. Temporary Access Easements with JASL, LLC and 303 Broadway, LLC (Improvement District No. BR-23-C1).

14. Create Improvement District No. PR-23-G.

15. Create Improvement District No. UR-23-A.

16. Bid award to Master Construction Company, Inc. in the amount of \$2,506,678.00 for Improvement District No. BR-23-H1.

17. Bid award to FM Asphalt LLC in the amount of \$1,616,974.05 for Improvement District No. PN-23-A1.

18. Bid award to Opp Construction LLC in the amount of \$177,820.50 for Improvement District No. PN-23-C1.

19. Rejection of bids for Improvement District No. TN-23-A1.

20. Contract and bond with Key Contracting, Inc. in the amount of \$9,673,607.50 for Project No. NR-23-A2.
21. Sole Source Procurement with Impact Security, LLC for ballistic protection at the Fargo Police Department (SSP23094).
22. 60-day extension of FMLA leave for Fire Captain Keith Johnson.
23. Change Order No. 1 for an increase of \$7,871.36 and a decrease of \$821.00 for the Fire Station No. 2 addition (AFB22182).
24. Bid awards for Fire Station No. 8 Construction (ITB23050):
  - a. General construction contract to LedgeStone, Inc. in the amount of \$3,504,720.00.
  - b. Mechanical construction contract to Manning Mechanical, Inc. in the amount of \$1,247,500.00.
  - c. Electrical construction contract to Grotberg Electric, Inc. in the amount of \$591,000.00.
25. Resolution Approving Plat of The District of Fargo Fifth Addition.
26. Receive and file Bias Motivation and Hate Crime Report for April 2023.
27. 2023 Mosquito Control Agreement City of Fargo and Cass County Government.
28. Task Order Amendment No. 2 with Stantec in the amount of \$48,110.00 for Project No. SW22-01.
29. ND Department of Transportation Amendment to Contract Nos. 38190973, 38190959, 38221258 and 38201125, for enhanced mobility of seniors and individuals with disabilities
30. Sewer Agreement, Memorandum of Sewer Agreement and Petition for Annexation with Renae Rohl for property located at 9302 25th Street South.
31. Bid award to R&R Excavating, Inc. in the amount of \$2,114,031.00 for Project No. WA2254.
32. Change Order No. 1 to Contract No. 1 (General Construction) in the amount of \$52,831.74 for Project No. WA2152.
33. Extension to Water Tower Lease Agreement with New Cingular Wireless.
34. Bills.

#### **REGULAR AGENDA:**

35. **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](https://FargoND.gov/VirtualCommission)).**

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

36. **PUBLIC HEARING** – Petition for Annexation of property in the Northeast Quarter of Section 15, Township 140 North, Range 49 West containing 112.14 acres, more or less; continued from the 5/1/23 Regular Meeting.

37. **PUBLIC HEARING** – Dakota Commerce Center North Addition (4201 County Road 81 North and 5100 37th Street North); approval recommended by the Planning Commission on 8/2/22 and 10/4/22; continued from the 5/1/23 Regular Meeting:
  - a. Zoning Change from AG, Agricultural to LI, Limited Industrial.
  - b. 1st reading of rezoning Ordinance.
  - c. Plat of Dakota Commerce Center North Addition.
38. **PUBLIC HEARING** – Application filed by Corvent Medical, Inc. for a property tax exemption for a project to be located at 400 45th Street South, Suite 400 which the applicant will use for the manufacturing of medical ventilators, warehousing ventilators and accessories used with ventilators; continued from the 5/1/23 Regular Meeting.
39. Discussion regarding Outdoor Amplified Sound Permits.
40. Recommendation to direct appropriate staff, led by the Engineering Department, to examine all possible solutions to street racing/speeding.
41. Recommendation for appointment of the Assistant City Administrator.
42. Appointments to the Civil Service Commission.
43. Applications for Property Tax Exemptions for Improvements Made to Buildings:
  - a. Scott Hoaby, 2307 26th Avenue South (5 year).
  - b. Kelly and Todd McComb, 2722 Lilac Lane North (5 year).
  - c. Kelly and Todd McComb, 2722 Lilac Lane North (5 year).
44. 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](http://www.FargoND.gov/CityCommission).

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**MEMORANDUM**

**TO: Board of City Commissioners**

**From: Donald Kress, Current Planning Coordinator**

**Date: May 11<sup>th</sup>, 2023**

**RE: Annexation by Petition for portion of the Northeast 1/4 of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota**

May 15<sup>th</sup>, 2023 is the date advertised for the presentation to the City Commission of a petition of annexation of a portion of the Northeast 1/4 of Section 15, Township 140 North, Range 49 West.

The petition for annexation was brought forward by the land owner. The only other property owner is the City of Fargo, which owns a 0.37 acre parcel that will be dedicated as right of way. Advertisements were placed in The Forum and notices were sent by certified mail to Reed Township and Cass County. Staff has not received any form of protest or concerns from the public.

The property is proposed to be developed as an industrial development. The boundaries of the annexation and corresponding legal description are attached. The proposed development is titled Dakota Commerce Center North Addition.

**RECOMMENDED MOTION:**

To accept the findings and recommendations of staff and the Planning Commission and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the annexation Ordinance on the first reading, and move to approve the proposed annexation of a portion of the Northeast 1/4 of Section 10, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota, as depicted in the attached map and legal description.

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Annexation of a portion of the Northeast 1/4 of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota	<b>Date:</b>	5/11/2023
<b>Location:</b>	5100 37 <sup>th</sup> Street North; 4201 County Road 81 North	<b>Staff Contact:</b>	Donald Kress, Planning Coordinator
<b>Legal Description:</b>	Portion of the Northeast 1/4 of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota		
<b>Owner(s)/Applicant:</b>	Dakota Commerce Center 5, LLC; City of Fargo / Paul Hyde	<b>Engineer:</b>	Ulteig Engineering
<b>Entitlements Requested:</b>	Approval of a property-owner initiated annexation.		
<b>Status:</b>	City Commission Public Hearing: May 15 <sup>th</sup> , 2023		

**Proposal:**

The applicant requests one entitlement:

1. Annexation of an approximately 112.14 acre portion of the Northeast 1/4 of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota

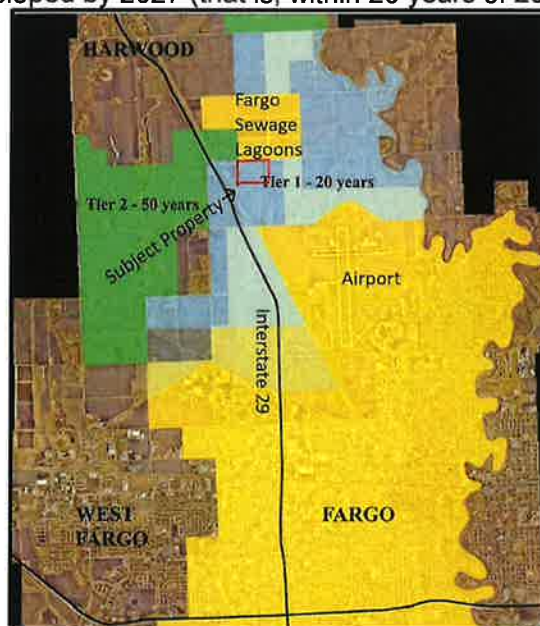
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

**Surrounding Land Uses and Zoning Districts:**

- North: AG, Agricultural; City of Fargo sewage lagoons
- East: AG; undeveloped; in Fargo's four-mile extra-territorial jurisdiction
- South: LI, Limited Industrial; warehouse (Amazon)
- West: LI; industrial; in Fargo's four-mile extra-territorial jurisdiction

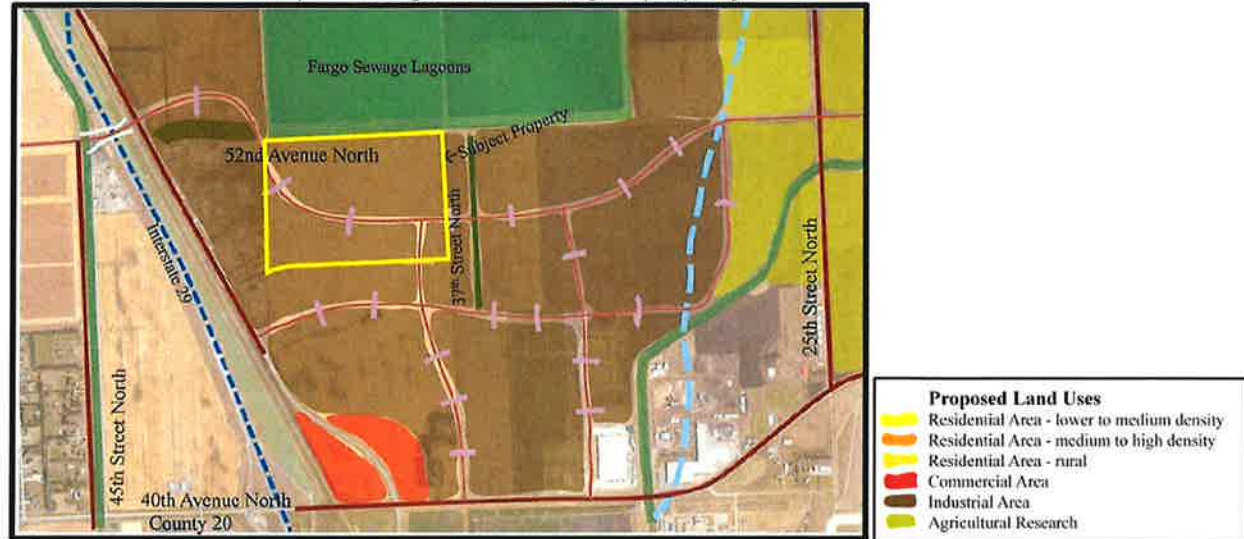
**Area Plans:**

The subject property is located within the Tier 1 area of the 2007 Future Land Use Plan, meaning this area is expected to be developed by 2027 (that is, within 20 years of 2007).





The 2007 Growth Plan plan designates the subject property as "Industrial."



### Staff Analysis:

#### OWNERSHIP

The entire property involved in the annexation is owned by the applicant, Dakota Commerce Center 5, LLC (111.77 acres) and the City of Fargo (0.37 acres). The area owned by the City—a portion of Auditor's Lot 1—will be entirely included in the right of way dedication for 48<sup>th</sup> Avenue North.

The property is undeveloped. There are no existing residences or businesses in the annexation area.

#### PLAN CONSISTENCY

This property is outside of the Fargo city limits. The applicant has requested annexation through a petition. The proposed annexation area is depicted on the 2007 Tier 1 North East Growth Plan map of the 2007 Growth Plan. The 2007 Growth Plan describes the "Tier 1" designation as the "Intended Growth Sector" for the city of Fargo.

Though the 2007 Growth Plan does not provide actual findings for annexation, it does state that "Tier 1 is planned to handle growth for the next 20 to 25 years [from 2007]" and that "Carefully planned extensions of the city as a result of demand for housing help to counter disruptive leapfrog development." (page 55, 2007 Growth Plan). The location of the annexation area corresponds with two of the strategies stated in the 2007 plan to work against leapfrog development (page 56, 2007 growth plan):

- *Limit roadway and utility extensions to areas within the 20 year service area [Tier 1] directly adjacent to areas currently receiving services:* The subject property is within the 20 year service area [Tier 1]. The area adjacent to the south is currently receiving City services.
- *Avoid utility and roadway extensions that traverse areas where property owners are not interested in developing their property.* The subject property is contiguous with developed property to the south all the way down to 40<sup>th</sup> Avenue North (Cass County 20), 0.64 mile to the south.

#### PROCESS

The Planning Commission evaluated this proposed annexation for consistency with the 2007 Growth Plan at their August 2<sup>nd</sup>, 2022 Planning Commission meeting. The Cass County Auditor and the Reed Township clerk were notified of this proposed annexation.

(continued on next page)

**ORDINANCE:**

As this annexation is from a petition by the property owner, the City Attorney has prepared an ordinance that is attached to this package. Upon approval of the annexation by the City Commission, staff records the annexation plat and ordinance in the Cass County Recorder's office, and notifies the North Dakota Office of the State Tax Commissioner of the annexation.

**CONCURRENT SUBDIVISION AND ZONE CHANGE**

The proposed Dakota Commerce Center North Addition, which includes a subdivision and zone change, will occupy the entire annexation area. The subdivision will create seven lots for industrial development. The property is currently zoned AG, Agricultural. The proposed zoning for the entire subdivision is LI, Limited Industrial. The staff report for Dakota Commerce Center North provides details on the proposed project. This project will also appear on the May 15<sup>th</sup>, 2023 City Commission agenda.

**Staff Recommendation:**

Suggested Motion: To accept the findings and recommendations of staff and the Planning Commission and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the annexation Ordinance on the first reading, and move to approve the proposed annexation of a portion of the Northwest 1/4 of Section 10, T138N, R49W of the 5th Principal Meridian, Cass County, North Dakota, as depicted in the attached map and legal description.

**Planning Commission Recommendation:**

At the August 2<sup>nd</sup>, 2022 Planning Commission meeting, by a vote of 6-0 with three Commissioners absent and two Commission seats vacant, that Commission found that the proposed annexation of a portion of the Northeast 1/4 of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota to be consistent with the 2007 Growth Plan.

**Attachments:**

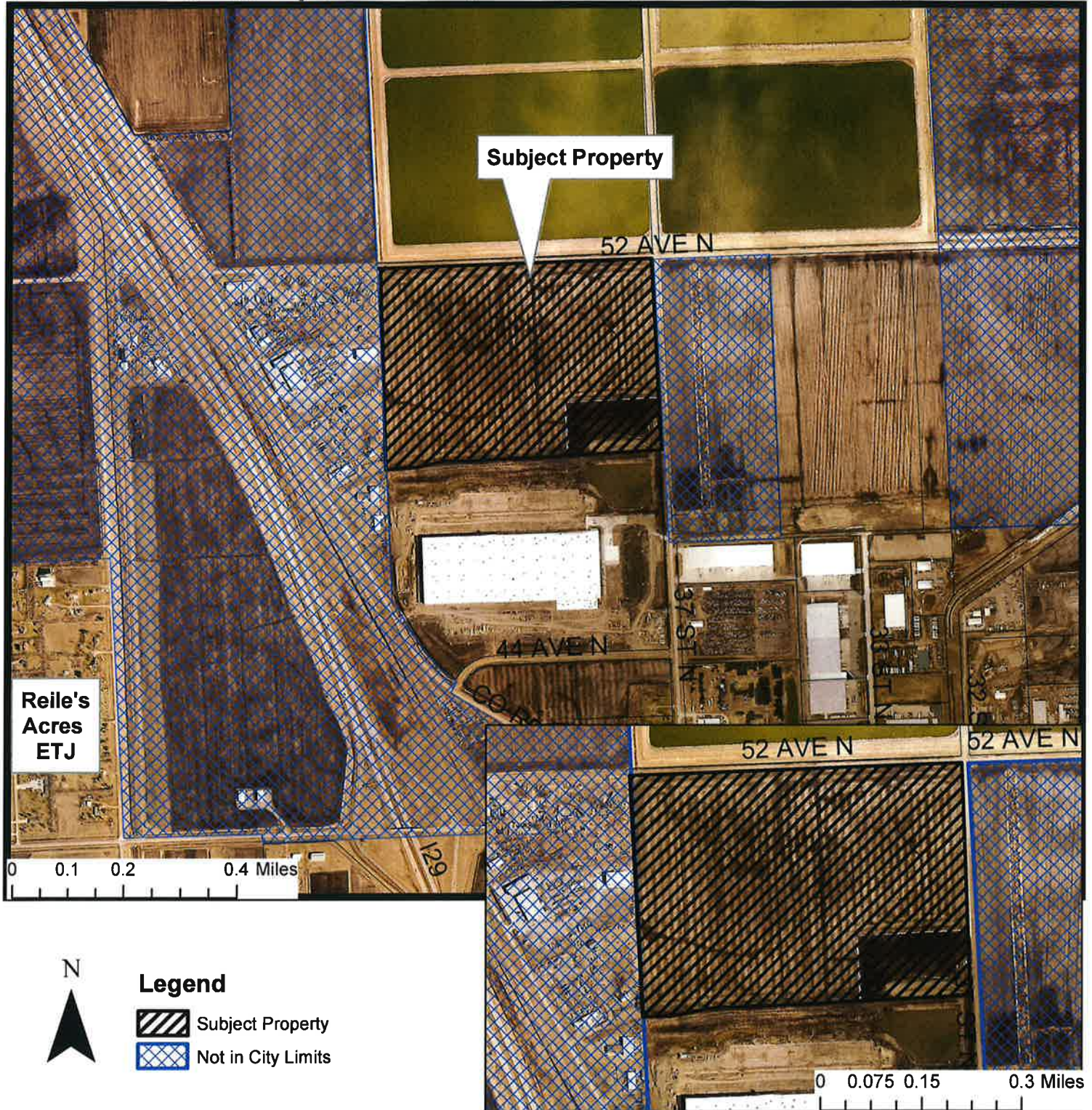
1. Location map
2. Annexation map
3. Annexation petition
4. Legal Description of annexation area



# Annexation

Portion of the NE 1/4 Sec. 15 T140N R49W

5100 37th Street North and  
4201 County Road 81 North





[illegible]

Kurt M. Kisch, Registered Professional Land Surveyor, under the laws of the State of North Carolina, hereby certifies that the annexed plat is a true and correct representation of the same.

Date of Measurement \_\_\_\_\_

The foregoing instrument was acknowledged this 9

Handwritten signature

DATE RECEIVED \_\_\_\_\_

... ENGINEER'S APPROVAL;

© 1999 E. Dennis, City Research, Inc.

State of North Dakota

The foregoing instrument was acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and on behalf of the undersigned, Brandon E. Dering, City Engineer, to me known and attested by me, \_\_\_\_\_, a Notary Public in and for the State of \_\_\_\_\_.

Mary Public Costs County

approved by the Board of City Commissioners of Fargo

Robert A. Maltzman

e of North Dakota )  
 )\$S

foregoing instrument was acknowledged this \_\_\_\_\_  
by J. Mahoney, Mayor, and Steven H. Sprague, Clerk.

City of Pacific Crest County

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### **LEGAL DESCRIPTION**

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

Beginning at the north quarter corner of said Section 15; thence North 87 degrees 52 minutes 22 seconds East, assumed bearing, along the north line of said Northeast Quarter of Section 15, a distance of 2630.67 feet to the northeast corner of said Section 15; thence South 02 degrees 55 minutes 01 second East, a distance of 1834.71 feet, also being the northeast corner of the Fargo City Limits as depicted on City of Fargo Annexation Plat Document No. 1604271; thence South 87 degrees 14 minutes 51 seconds West along the north line of NORTH FARGO INDUSTRIAL ADDITION, also being a north line of said Fargo City Limits, a distance of 2079.30 feet; thence South 79 degrees 58 minutes 30 seconds West along a northwesterly line of NORTH FARGO INDUSTRIAL ADDITION, also being a northwesterly line of said Fargo City Limits, a distance of 315.98 feet; thence South 87 degrees 14 minutes 51 seconds West along a northwesterly line of NORTH FARGO INDUSTRIAL ADDITION, also being a northwesterly line of said Fargo City Limits, a distance of 243.04 feet; thence North 02 degrees 45 minutes 09 seconds West along the west line of said Northeast Quarter, a distance of 1903.41 feet to the point of beginning.

Contains 4,884,785 square feet or 112.14 acres, more or less.

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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

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 5<sup>TH</sup> PRINCIPAL  
MERIDIAN IN CASS COUNTY, NORTH DAKOTA

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

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

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

NOW, THEREFORE,

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

Section 1. The following described property located in Section 15, Township 140 North, Range 49 West of the 5<sup>th</sup> Principal Meridian, Cass County North Dakota, is hereby annexed to the City of Fargo, Cass County, North Dakota:

Beginning at the north quarter corner of said Section 15; thence North 87 degrees 52 minutes 22 seconds East, assumed bearing, along the north line of said Northeast Quarter of Section 15, a distance of 2630.67 feet to the northeast corner of said Section 15; thence South 02 degrees 55 minutes 01 second East, a distance of 1834.71 feet, also being the northeast corner of the Fargo City Limits as depicted on City of Fargo Annexation Plat Document No. 1604271; thence South 87 degrees 14 minutes 51 seconds West along the north line of NORTH FARGO INDUSTRIAL ADDITION, also being a north line of said Fargo City Limits, a distance of 2079.30 feet; thence South 79 degrees 58 minutes 30 seconds West along a northwesterly line of NORTH FARGO INDUSTRIAL ADDITION, also being a northwesterly line of said Fargo City Limits, a distance of 315.98 feet; thence South 87 degrees 14 minutes 51 seconds West along a northwesterly line of NORTH FARGO INDUSTRIAL ADDITION, also being a northwesterly line of said Fargo City Limits, a distance of 243.04 feet; thence North 02 degrees 45 minutes 09 seconds West along the west line of said Northeast Quarter, a distance of 1903.41 feet to the point of beginning.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

Contains 4,884,785 square feet or 112.14 acres, more or less.

Section 2. Effective Date.

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

CITY OF FARGO

\_\_\_\_\_  
Timothy J. Mahoney, M.D., Mayor

(SEAL)

ATTEST:

First Reading:  
Second Reading:  
Final Passage:

\_\_\_\_\_  
Steven Sprague, City Auditor



37

City of Fargo Staff Report			
<b>Title:</b>	Dakota Commerce Center North Addition	<b>Date:</b> <b>Update:</b>	7/27/2022 9/28/2022 5/11/2023
<b>Location:</b>	5100 37 <sup>th</sup> Street North; 4201 County Road 81 North	<b>Staff Contact:</b>	Donald Kress, current planning coordinator
<b>Legal Description:</b>	Portion of the Northeast 1/4 of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota		
<b>Owner(s)/Applicant:</b>	Dakota Commerce Center 5, LLC; City of Fargo / Paul Hyde	<b>Engineer:</b>	Ulteig Engineering
<b>Entitlements Requested:</b>	<b>Major Subdivision</b> (Plat of <b>Dakota Commerce Center North Addition</b> , a plat of a Portion of the Northeast 1/4 of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota), which includes a subdivision waiver that would allow the block length to exceed 1,320 feet, and a <b>Zoning Change</b> (from AG, Agricultural to LI, Limited Industrial)		
<b>Status:</b>	City Commission Public Hearing: May 15, 2023		
<b>Existing</b>		<b>Proposed</b>	
<b>Land Use:</b> Undeveloped		<b>Land Use:</b> Industrial--warehouse	
<b>Zoning:</b> AG, Agricultural		<b>Zoning:</b> LI, Limited Industrial	
<b>Uses Allowed:</b> AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production		<b>Uses Allowed:</b> LI 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	
<b>Maximum Density Allowed (Residential):</b> AG allows 1 dwelling unit per 10 acres.		<b>Maximum Lot Coverage Allowed:</b> 85%	
<b>Proposal:</b>			
<p><b>PROJECT HISTORY NOTE:</b> At the August 2<sup>nd</sup>, 2022 Planning Commission hearing, that Commission recommended for approval</p> <ul style="list-style-type: none"> <li>• subdivision plat of Dakota Commerce Center North Addition, including a subdivision waiver for block length; and</li> <li>• zone change for the Dakota Commerce Center North Addition from AG, Agricultural to LI, Limited Industrial</li> </ul> <p>The Commission also found the proposed annexation of the territory included in this plat to be consistent with the 2007 Growth Plan.</p> <p>The plat depicted a four-lot configuration with no internal connectivity. Subsequent to the August 2<sup>nd</sup> Planning Commission hearing, the applicant decided he wished to revise the plat into a seven-lot configuration. Staff directed that internal connectivity, in the form of easements, would have to be depicted on that plat, and that additional right of way on the west side of the plat would have to be dedicated. As the resulting plat configuration was considerably different from what was before the Commission on August 2<sup>nd</sup>, the plat went back to the Planning Commission for a second hearing on October 4, 2022. The total area of the plat did not change. The proposed zone change and annexation</p>			

area remained the same as the proposal that was before the Planning Commission on August 2nd, and so were not brought before the Planning Commission a second time.

The applicant requests two entitlements:

1. A major subdivision, entitled **Dakota Commerce Center North Addition**, a plat of a Portion of the Northeast 1/4 of Section 15, T140N, R49W of the 5th Principal Meridian, Cass County, North Dakota, which includes a subdivision waiver that would allow for the block length to exceed 1,320 feet; and
2. A zoning change from AG, Agricultural to LI, Limited Industrial.

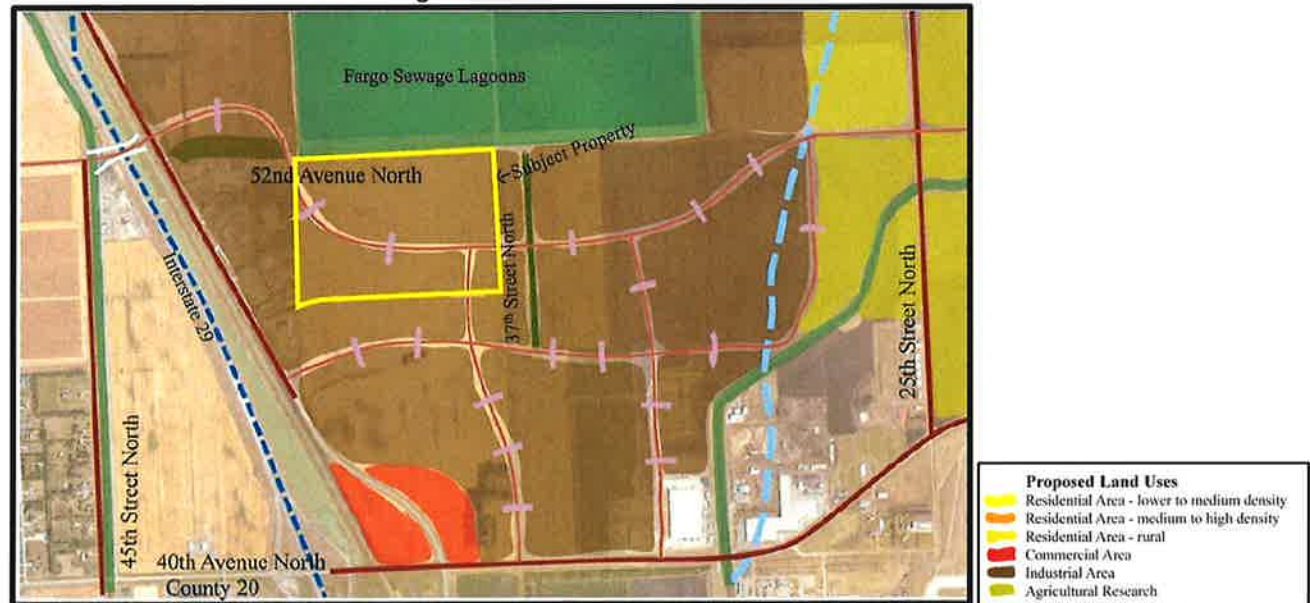
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

#### Surrounding Land Uses and Zoning Districts:

- North: AG, Agricultural; City of Fargo sewage lagoons
- East: AG; undeveloped; in Fargo's four-mile extra-territorial jurisdiction
- South: LI; warehouse
- West: LI; industrial; in Fargo's four-mile extra-territorial jurisdiction.

#### Area Plans:

The subject property is located within the Tier 1 North East area of the 2007 Future Land Use Plan. This plan designates the subject property as "Industrial." The proposed zoning of LI, Limited Industrial is consistent with this land use designation.



#### Context:

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

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

**Parks:** The Northern Softball Complex is approximately 1 mile northwest of the subject property.

**Pedestrian / Bicycle:** There are no on-road or off-road bike facilities adjacent to this property. However, the amenities plan (see below) addresses future shared use paths.

**MATBUS Route:** The subject property is not on a MATBUS route at this time.

#### Staff Analysis:

##### MAJOR SUBDIVISION

The subdivision plat creates seven lots in one block, intended for industrial development. The lots will range in area from 9.95 acres to 23.20 acres. All lots are proposed to be zoned LI, Limited Industrial.

**RIGHT OF WAY DEDICATIONS**

The plat includes dedications of right of way for four streets along the perimeter of the plat, as described below:

<b>STREET</b>	<b>RIGHT OF WAY WIDTH</b>	<b>COMMENT</b>
48 <sup>th</sup> Avenue North	80 feet	Along south property line. Full-width ROW
37 <sup>th</sup> Street North	60 feet	Along east property line. West half of 37 <sup>th</sup> Street.
52 <sup>nd</sup> Avenue North	70 feet	Along north property line. This width, combined with the 33 of right of statutory ROW south of the sewage lagoons, will provide a total of 100 feet of ROW.
41 <sup>st</sup> Street North	80 feet	Along west property line. Full-width ROW

The first streets to be developed will be 37<sup>th</sup> Street North and 48<sup>th</sup> Avenue North. 52<sup>nd</sup> Avenue North and 41<sup>st</sup> Street North will be developed in the future.

**ACCESS AND UTILITY EASEMENTS**

Staff determined that dedicated public rights of way were not required for connectivity within and across the plat. However, the plat depicts a 40-foot wide access and utility easement crossing the property from east to west, connecting 37<sup>th</sup> Street North with 41<sup>st</sup> Street north, and another 40-foot wide access and utility easement crossing the property from north to south, connecting 52<sup>nd</sup> Avenue North with 48<sup>th</sup> Avenue North. These easements do not go through any parking areas, and there will be no adjacent parking along the private roads. The roadway within these access easements will be a minimum of 32-foot wide paved width. No parking will be allowed within the easement. A 4 ½ foot wide paved sidewalk will be included along one side of the easement. Thus, these easements will provide both vehicular and pedestrian access. Note that all lots front on dedicated public right of way.

**SUBDIVISION WAIVER FOR BLOCK LENGTH**

The applicant has requested a subdivision waiver for block length, to allow the length of the block to exceed 1,320 feet (one-quarter mile). Specific findings for this waiver are below.

**PUBLIC WATER and SEWER**

Public water and sewer are available in the dedicated public streets.

**AIRPORT PROXIMITY AGREEMENT.**

Presented for the Commission's approval is the final proximity agreement to be executed by the parties—City of Fargo and the property owner. This is a standard agreement between the City of Fargo and owners of property in close proximity to Hector International Airport and the overflow sewage lagoons. With this agreement, the property owner acknowledges the existence of these facilities and the potential for aircraft noise and sewage odor. Approval of this proximity agreement is included in the approval motion below. The agreement is attached.

**CONCURRENT ANNEXATION**

The subject property is currently in Fargo's four-mile extra-territorial jurisdiction, and is included in a pending owner-initiated annexation. The Planning Commission reviewed the proposed annexation at the August 2<sup>nd</sup>, 2022 Planning Commission. This annexation will appear on the May 15<sup>th</sup>, 2023 City Commission agenda.

**Zone Change**

Section 20-0906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

**1. Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned AG: Agricultural and it within Fargo's four-mile extra-territorial jurisdiction. In order to be developed, the property has to be annexed, platted, and zoned. Now that development is proposed, the applicant requests a zoning change to LI, Limited Industrial, which is consistent with the 2007 Growth Plan land use designation of "Industrial" for this property, and also with the existing zoning on the west side of 37<sup>th</sup> Street North, north of 40<sup>th</sup> Avenue North. **(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on an existing public right-of-way. Additional dedications will widen the right of way and extend it the full length of the proposed lots. **(Criteria satisfied)**

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

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

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the 2007 Growth Plan, which designates the land use for this property as "industrial." The proposed zoning of LI, Limited Industrial is consistent with this land use designation. **(Criteria satisfied)**

**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 requested zoning for the residential development on this property is LI, Limited Industrial, which is consistent with the "industrial" land use designation of the 2007 Growth Plan and also with the zoning of adjacent properties to the south along the west side of 37<sup>th</sup> Street North. 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 property is proposed to be zoned LI, Limited Industrial. This zone is consistent with the 2007 Growth Plan designation of "Industrial" for this property. 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.**

The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan has been reviewed by the Public Works Project Evaluation Committee (PWPEC). Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

(continued on next page)

**Subdivision Waiver:**

The LDC stipulates that the following criteria are met before a subdivision waiver can be approved:

- 1. Section 20-0907.D.3.a of the LDC stipulates that a Subdivision Waiver must not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the area in which the property is located.**

The proposed subdivision waiver would allow a longer block length than would otherwise be required by the LDC. Limitations on maximum block size are desirable to ensure adequate connectivity of the transportation system. At this location, however, the area to the south has previously been platted as one large lot with no north/south public streets that would extend through the subject property. To the north, there is no option for a street through the existing City of Fargo sewage lagoons. As such, the addition of a north/south public street to reduce the block length at this location would really only serve the subject property and do little to impact the transportation system in this area. As noted in the street right of way chart above (page 3), the plat dedicates 80 feet of right of way along the west side of the property in preparation for a future north/south street to be completed when adjacent properties to the west redevelop. The 2007 Growth Plan depicts the general routes of two east/west roads through this area (see graphic on page 2). The existing 44<sup>th</sup> Avenue North, and 48<sup>th</sup> Avenue North, right of way for which will be dedicated with this plat, account for these east/west roads. The area is intended to be industrial in nature, where larger block sizes are more common compared to residential or commercial areas that are more heavily traveled by the general public. The applicant intends to build single, large buildings on each of the seven proposed lots on the block. In lieu of platting additional public right-of-way within the subdivision, the plat depicts access and utility easements as described above. **(Criteria Satisfied)**

- 2. Section 20-0907.D.3.b of the LDC stipulates that a Subdivision Waiver must represent the least deviation from this Land Development Code that will mitigate the hardship or practical difficulty that exists on the subject property.**

In lieu of platting additional public right-of-way within the subdivision, the plat depicts access and utility easements as described above, and to allow movement within and across the site. While each of the seven proposed lots abuts public right-of-way and can accommodate direct access from the public right-of-way, the proposed access easements will provide for additional connectivity. With the establishment of these cross access easements, staff finds the proposed waiver to be a minimal deviation from the Land Development Code. **(Criteria Satisfied)**

- 3. Section 20-0907.D.3.c of the LDC stipulates that a Subdivision Waiver shall not have the effect of waiving any provisions of this development code other than the Subdivision Design and Improvement Standards of Article 20-06.**

This subdivision waiver applies only to the block length requirements of Section 20-0607.B of the LDC for this particular property. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff, and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading and move to approve the proposed 1) Zoning Change from AG, Agricultural to LI, Limited Industrial; 2) a plat of the **Dakota Commerce Center North Addition**, including the subdivision waiver for block length; and 3) Airport Proximity Agreement, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Sections 20-0906.F (1-4), 20-0907.C, and 2907.D.3 (a-c), of the LDC and all other applicable requirements of the LDC.

**Planning Commission Recommendation: August 2<sup>nd</sup> and October 4<sup>th</sup>, 2022**

At the August 2<sup>nd</sup>, 2022 Planning Commission hearing, that Commission, by a vote of 6-0 with three Commissioners absent and two Commission seats vacant, recommended approval to the City Commission of the proposed 1) Zoning Change from AG, Agricultural to LI, Limited Industrial, and 2) a plat of the **Dakota Commerce Center North Addition**, including the subdivision waiver for block length, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Sections 20-0906.F (1-4), 20-0907.C, and 2907.D.3 (a-c), of the LDC and all other applicable requirements of the LDC."

At the October 4<sup>th</sup>, 2022 Planning Commission hearing, by a vote of 6-0 with three Commissioners absent and two Commission seats vacant, that Commission, having reviewed the revised plat for Dakota

Commerce Center North Addition, recommended approval to the City Commission of the proposed plat of the **Dakota Commerce Center North Addition**, including the subdivision waiver for block length, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Sections 20-0907.C, and 2907.D.3 (a-c), of the LDC and all other applicable requirements of the LDC.”

*(NOTE: The Planning Commission does not review the airport proximity agreement)*

**Attachments:**

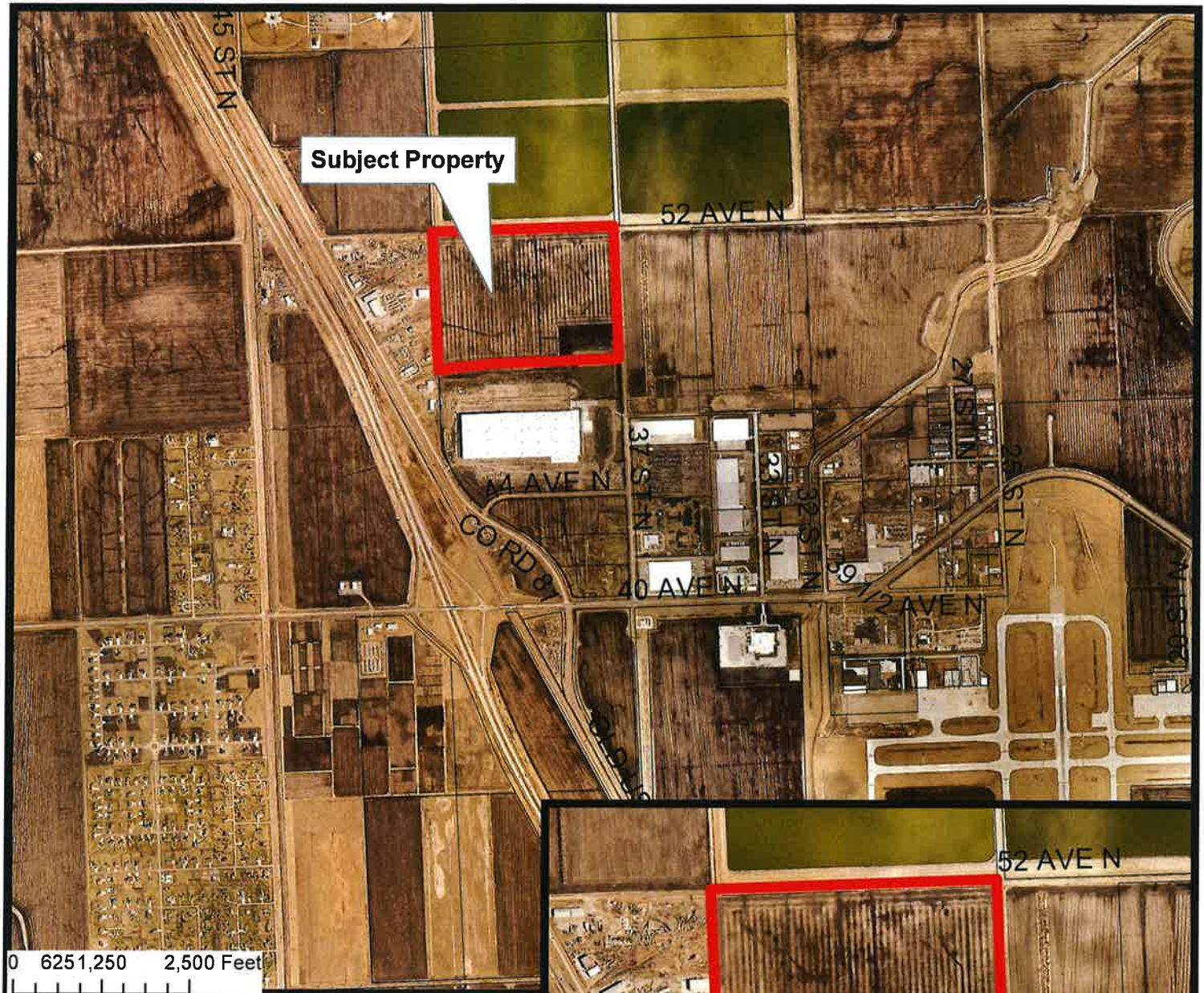
1. Zoning map
2. Location map
3. Preliminary plat
4. Airport proximity agreement



## Plat (major), Zone Change from AG to LI

### Dakota Commerce Center North

5100 37th Street North and  
4201 County Road 81 North

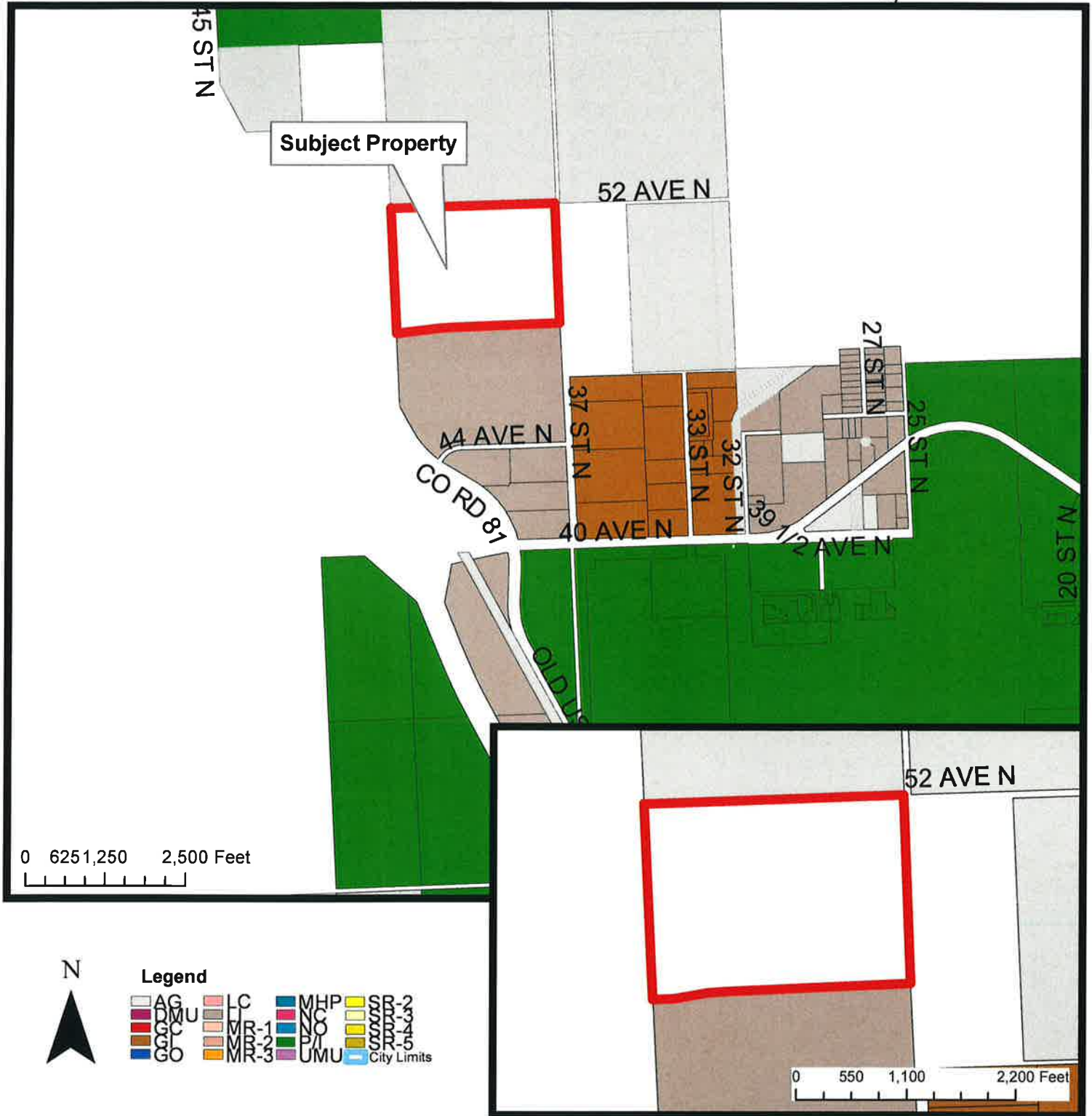




## Plat (major), Zone Change from AG to LI

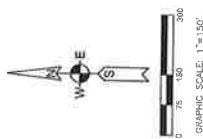
### Dakota Commerce Center North

5100 37th Street North and  
4201 County Road 81 North



# DAKOTA COMMERCE CENTER NORTH ADDITION

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



For the purposes of this plat,  
the corner of the Northeast Quarter of  
Section 15, Township 140 North, Range 49 West  
is assumed to bear North 87° 52' 22" East.

LEGEND
● MONUMENT FOUND
○ MONUMENT SET 5/8" REBAR, CAPPED 1.5-4.97"
— SUBJECT PROPERTY LINE
— SECTION QUARTER LINE
— EASEMENT LINE
— EASEMENT EXTENSION LINE
— DRAINAGE LEADER LINE
— 10' PUBLIC UTILITY EASEMENT
— 2' FOOT CONTIGUOUS LINE

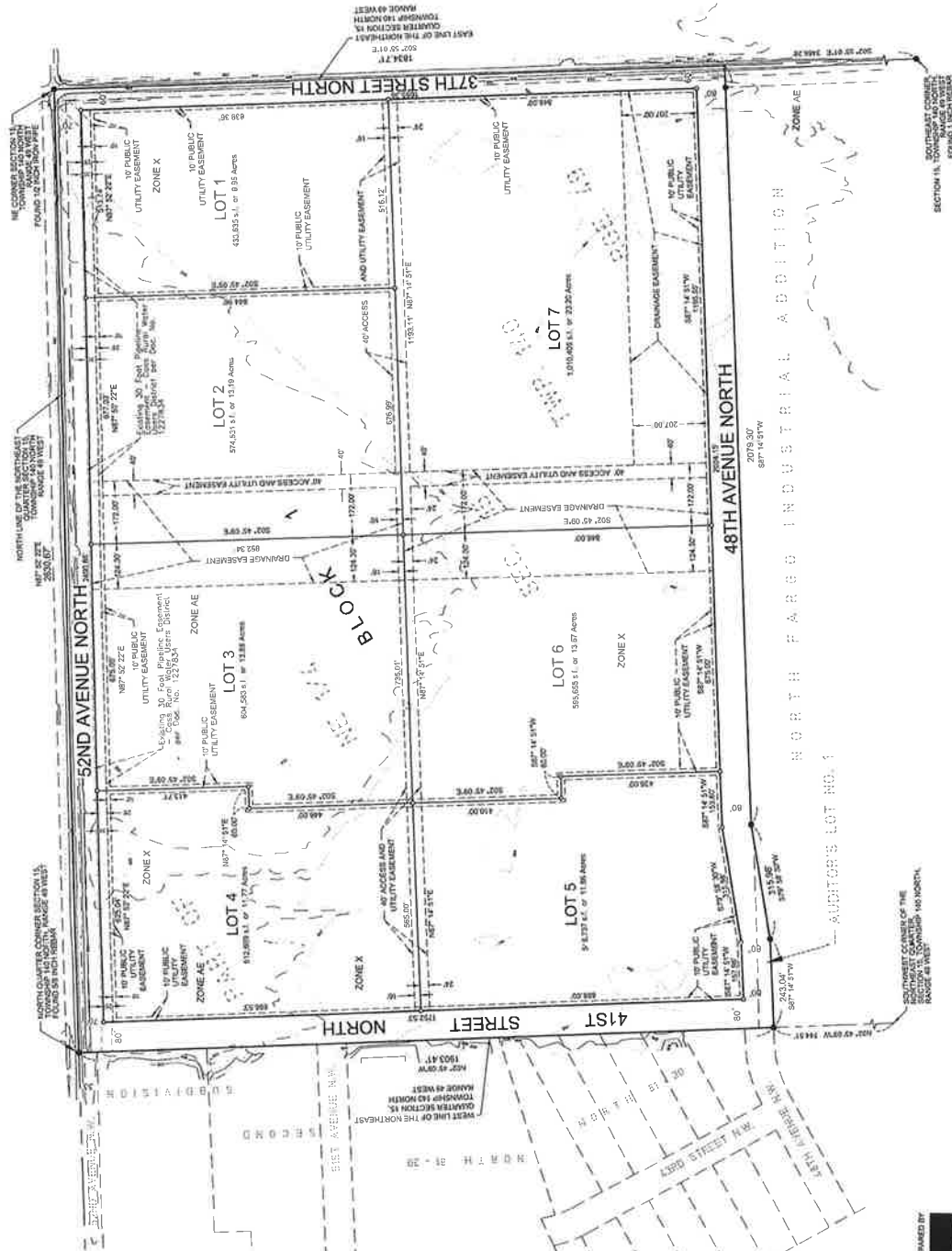
Readings shown on this plat, are from the following FEMA  
Flood Insurance Rate Maps  
38017025796 with an Effective Date of January 16, 2015  
38017025796 with an Effective Date of January 16, 2015

Flood Zones AE as shown herein have a Base Flood Elevation of 883  
feet per above referenced FEMA maps.

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

**PROJECT BENCHMARK**  
BENCHMARK 111 - 85' above with cap "UTLEG ENG CONTROL PT" set  
on the northeast corner of the intersection of 37th St N and  
48th Ave N, City of Fargo, North Dakota (approx.  
27th Street) East-Northeast from intersection of County Road 20 &  
27th Street)  
Published Elevation = 888.21' (NAVD83)

Site Benchmark:  
Benchmarks #11 - 85' above with cap "UTLEG ENG CONTROL PT" set  
on the northeast corner of the intersection of 37th St N and  
48th Ave N, City of Fargo, North Dakota (approx.  
27th Street) East-Northeast from intersection of County Road 20 &  
27th Street)  
Published Elevation = 888.21' (NAVD83)



PREPARED BY

Utleg

PROJECT NO. 201902  
SHEET 2 OF 2 SHEETS

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

DAKOTA COMMERCE CENTER NORTH ADDITION

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

## OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, THAT DAKOTA COMMERCE CENTER 3 LLC, A DELAWARE LIMITED LIABILITY COMPANY AND THE CITY OF FARGO, as owners of a parcel of land located in the Northwest Quarter of Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, lying southerly of 52nd Avenue North and easterly of 37th Street North and more particularly described as follows:

[illegible]

Said owners have caused the above described parcel of land to be surveyed and plat-  
ted as "AMOTIA COMMERCE CENTER NORTH" within the City of Fargo, Cass County, North  
Dakota, and do hereby dedicate all streets and avenues sit-  
uated on this plat to the public; dedicate the drainage and access and utility easements as depicted on this plat for  
the benefit of the lots these easements serve; and dedicate the 10 foot public utility  
easements depicted on this plat for the purposes as stated.

Owners "DAKOTA COMMERCE CENTER NORTH ADDITION" less AUDITOR'S LOT NO. 1 of the Northeast Quarter, Section 15, Township 140 North, Range 49 West.

Sakota Commerce Center 5 LLC, a Delaware limited liability company, by Hyde Form LLC, its sole manager

Paul Hyde, President

State of Minnesota }  
County of Hennepin } SS

In this 20<sup>th</sup> day of March, 2023, before me personally appeared Paul Hyde, President of Quantic Commerce Center 5 LLC, a Delaware limited liability company, by Hyde Fargo LLC, its sole manager described in and who executed the within and foregoing instrument and acknowledged that he executed the same.

*Calley Samson*  
Notary Public



All data were

Ulteig

**Ulteig**

SHEET 1 OF 2 SHEETS

City of Erie, owner of tract part of Audubon's Lot No. 3, a portion of the Northeast Quarter (NE 1/4) of Section Fifteen (15), Township One (1), Range Forty Nine (49) West of the Fifth Principal Meridian, Cass County, North Dakota lying north of the following described line:

Commencing at the Southwest Corner of said Northeast Quarter; Thence south along the west side of said Northeast Quarter, a distance of 741.51 feet to the point of intersection of the northeast corner of said quarter section with the east line of said quarter section; thence east, a distance of 243.04 feet; Thence North 78 degrees 36 minutes 30 seconds East, a distance of 243.04 feet to a point on the degree line of said Auditor's Lot No. 1 and there terminating.

Said tract contains 14.561 square feet or 0.33 acres, more or less.

Per Cass County Document No. 1623788:

Timothy J. Mahoney, mayor

State of North Dakota )

County of Cass

public in and for said county and state, personally appeared Timothy J. Mahoney, mayor, known to me to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same in the name of the city of Fargo.

Notary Public
---------------

## SURVEYOR'S CERTIFICATE AND ACKNOWLEDGMENT

1. Kurt M. Knoch, Registered Professional Land Surveyor. Under this law of the State of North Dakota, he hereby certifies that this plan is a true and correct representation of the survey of said section, that all distances shown on said plan are correct, that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

Kurt M. Kisch, Professional Land Surveyor

North Dakota License No. LS-4597

State of Minnesota }

1000 7611

before me, a nativity puzzle with and for said County, personally appeared url M. Klisch, to me known to be the person described in and who

Col. Van McVick.

100% Satisfaction Guarantee  
 24/7 Customer Support  
 100% Satisfaction Guarantee  
 24/7 Customer Support

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

20

enda E. Derrig, P.E., City Engineer

are of North Dakota } 55

file doc. of

appeared Brenda E. Derrig, P.E., City Engineer, to me known to

1

Sheet 1 of 2 sheets

AGREEMENT

(Proximity of Airport, Noise Attenuation and Sewage Lagoons)

THIS AGREEMENT, Made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between DAKOTA COMMERCE CENTER 5 LLC, hereinafter referred to as "Owner," and CITY OF FARGO, A NORTH DAKOTA MUNICIPAL CORPORATION, hereinafter referred to as the "City".

WITNESSETH:

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

WHEREAS, said tract is located within the City of Fargo; and

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

WHEREAS, the Board of City Commissioners of the City have approved and enacted a zoning ordinance to effect such change upon the condition that the Owner and Owner's successors in interest be bound to a covenant acknowledging the proximity of Hector International Airport and the City's sewage lagoons to Owner's property; and,

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

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

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

Lots 1-7, Block 1, Dakota Commerce Center North Addition to the city of Fargo.

[hereinafter referred to as the "Subject Property"]

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

3. Owner agrees that it will at all times indemnify City, and hold and save the City harmless from and against any and all actions or causes of actions, claims, demands, liability, loss, damage, or expense of whatsoever kind and nature, including counsel or attorney's fees, which the City shall or may at any time sustain or incur by reason or in consequence of the use of the Subject Property for any lawful purposes and specifically for any damages caused or allegedly caused to the Subject Property by the noise of the take-off or landing of jet-propelled or other aircraft from the present runway or any future runways of the present Hector International Airport or for any other noise incidental to the operation of said airport, or which the City may sustain or incur in connection with any litigation, investigation or other expenditures incident to such use of the Subject Property, including any suit instituted to enforce the obligations of this agreement of indemnity, and Owner agrees to pay to City all sums of money, with interest, which the City shall or may pay or cause to be paid, or become liable to pay, on account of or in connection with such



use of the Subject Property, unless such actions or causes of actions, claims, demands, liabilities, losses, damages, or expenses are caused directly by commercially unreasonable or unlawful actions. This provision shall include the Municipal Airport Authority of the City of Fargo, as well as any subsequently formed regional airport authority that may be formed to operate the airport facilities.

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

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

#### FAIR DISCLOSURE STATEMENT

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

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

The noise rating of this tract, due to airport operations at the above-named airport according to the Noise Evaluation and Land Use Compatibility Study (1990-91) is above 65 in the DNL rating system.

The United States Department of Housing and Urban Development (HUD), Circular 1390.2 of 4 August 1971, Subject: Noise

Abatement and Control: Departmental Policy, Implementation Responsibilities, and Standards, as well as any subsequent or replacement provisions established the following external noise exposure standards for the new construction of residential and other noise sensitive utilization:

Airport Environs

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

These site suitability classifications are further defined by HUD as:

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

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

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

Certification

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

\_\_\_\_\_  
Owner

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

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

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

*(Signature pages to follow.)*

DAKOTA COMMERCE CENTER 5 LLC

By: \_\_\_\_\_

Paul Hyde, President

STATE OF MINNESOTA )

) ss

COUNTY OF HENNEPIN )

On this 8<sup>th</sup> day of May, 2023, before me, a notary public within and for said county and state, personally appeared PAUL HYDE, to me known to be the president of DAKOTA COMMERCE CENTER 5 LLC, described in and that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

Cally Samson  
Notary Public

(S E A L)



CITY OF FARGO, A NORTH DAKOTA  
MUNICIPAL CORPORATION

By: \_\_\_\_\_  
Dr. Timothy Mahoney, Mayor

ATTEST:

\_\_\_\_\_  
Steven Sprague, City Auditor

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

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ before me, a notary public within and for said county and state, personally appeared DR. TIMOTHY MAHONEY, MAYOR and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the CITY OF FARGO, A NORTH DAKOTA MUNICIPAL CORPORATION, described in and that executed the foregoing instrument, and acknowledged to me that such municipal corporation executed the same.

\_\_\_\_\_  
Notary Public



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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REZONING A CERTAIN PARCEL  
OF LAND LYING IN DAKOTA COMMERCE CENTER NORTH ADDITION  
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on August 2, 2022; and,

WHEREAS, the rezoning changes were approved by the City Commission on May 15, 2023,

NOW, THEREFORE,

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

Section 1. Lots One (1) through Seven (7), Block One (1) of Dakota Commerce Center North Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "L/I", Limited Industrial, District.

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

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

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

\_\_\_\_\_  
Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Steven Sprague, City Auditor

First Reading:  
Second Reading:  
Final Passage:



**Tax Exempt Review Committee**  
Fargo City Hall  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Phone: 701.241.1340 | Fax: 701.241.1339  
[www.FargoND.gov](http://www.FargoND.gov)

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**April 25, 2023**

Board of City Commissioners  
City Hall  
Fargo, ND 58102

**RE:** New Industry Exemption for Corvent Medical, Inc.

Dear Commissioners:

Attached is the application made by Corvent Medical, Inc. for a 5 year, new industry property tax exemption, according to N.D.C.C. Chapter 40-57.1. This application is for a new business that will manufacture medical ventilators at 400 45 St S, Suite 400. The project has been certified as primary sector.

Notices to competitors have been published. The Economic Development Incentive Committee has met to consider this application. No potential competitors appeared at the Economic Development Incentive Committee meeting. This project meets our current policy. The application contains information regarding projected value of the project upon completion, the nature of jobs to be created, and a description of the service to be provided. The applicant will pay the full land taxes of approximately \$17,500.

The recommendation of the Economic Development Incentive Committee is to approve a 5-year tax exemption.

**SUGGESTED MOTION:**

**Approval of a 5-year, 100% new industry property tax exemption for Corvent Medical, Inc. located at 400 45 St S, Suite 400.**

Sincerely,

*Michael Splonskowski*

Mike Splonskowski  
City Assessor

## Application For Property Tax Incentives For New or Expanding Businesses

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

Project Operator's Application To Fargo  
City or County

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

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

**This application is a public record**

### Identification Of Project Operator

1. Name of project operator of new or expanding business Corvent Medical, Inc.
2. Address of project 400 45 ST S, Suite 400  
City Fargo County Cass
3. Mailing address of project operator 1805 NDSU Research Park Drive N, Suite 118  
City Fargo State ND Zip 58102
4. Type of ownership of project  
☐ Partnership                      ☐ Subchapter S corporation                      ☐ Individual proprietorship  
☒ Corporation                      ☐ Cooperative                      ☐ Limited liability company
5. Federal Identification No. or Social Security No. [REDACTED]
6. North Dakota Sales and Use Tax Permit No. [REDACTED]
7. If a corporation, specify the state and date of incorporation Delaware - March 30, 2020
8. Name and title of individual to contact Travis Murphy, CFO  
 Mailing address 1805 NDSU Research Park Drive N, Suite 118  
 City, State, Zip Fargo, ND 58102 Phone No. [REDACTED]

### Project Operator's Application For Tax Incentives

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

<input checked="" type="checkbox"/> <b>Property Tax Exemption</b> <u>5</u> Number of years <u>100%</u> Percent of exemption	<input type="checkbox"/> <b>Payments In Lieu of Taxes</b> Beginning year _____ Ending year _____ Amount of annual payments (attach schedule if payments will vary)
---	--
10. Which of the following would better describe the project for which this application is being made:  
☒ New business project                      ☐ Expansion of a existing business project

11. Legal description of project real property

Lot: 2 Block: 1 45TH STREET PARK 5TH LT 2 BLK 1 \*\*4-17-17 PLATTED FRM 01-3500-51941-000, 51943-0 01,  
01-7060-00101-000, 00105-000 & 01-8408-00031-0 00 PER PLAT DOC#1499102

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

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?

☒ Yes ☐ No

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

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

If existing facility, when was it constructed? 2005

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application N/A

b. Description of project to be constructed including size, type and quality of construction  
N/A

c. Projected number of construction employees during the project construction N/A

14. Approximate date of commencement of this project's operations July 1, 2023

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

a. Land..... \$ 1,236,000

b. Existing buildings and  
structures for which an exemp-  
tion is claimed..... \$ 1,201,560

c. Newly constructed buildings  
and structures when  
completed ..... \$ N/A

d. Total ..... \$ 2,437,560

e. Machinery and equipment ..... \$ 388,000

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

a. Land (not eligible) ..... 

b. Eligible existing buildings and  
structures..... \$ 60,078

c. Newly constructed buildings  
and structures when  
completed..... \$ N/A

d. Total taxable valuation of  
property eligible for exemption  
(Add lines b and c)..... \$ 60,078

e. Enter the consolidated mill rate  
for the appropriate taxing  
district ..... 283.22

f. Annual amount of the tax  
exemption (Line d multiplied  
by line e) ..... \$ 17015.3



## Description of Project Business

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

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

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

Space will be used primarily for the manufacturing of medical ventilators and warehousing ventilators and accessories used with the ventilators. Space will also be used for product testing, customer service, general and administrative.

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

Air handling and humidity control for clean manufacturing environment, production equipment used in electronics and mechanical assembly, receiving and completed product inspection equipment, lab benches, material movement/handling equipment

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

	New/Expansion Project only Year 1	New/Expansion Project only Year 2	New/Expansion Project only Year 3	New/Expansion Project only Year 4	New/Expansion Project only Year 5
Year (12 mo. periods)					
Annual revenue	<u>510,000</u>	<u>17,376,000</u>	<u>49,104,000</u>	<u>98,023,000</u>	<u>197,898,000</u>
Annual expense	<u>11,815,000</u>	<u>26,210,000</u>	<u>43,102,000</u>	<u>87,274,000</u>	<u>164,833,000</u>
Net income	<u>-11,305,000</u>	<u>-8834,000</u>	<u>6,002,000</u>	<u>10,749,000</u>	<u>33,065,000</u>

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

Current positions & positions added the initial year of project

# Current Positions	New Positions Under \$13.00	New Positions \$13.01-\$15.00	New Positions \$15.01-\$20.00	New Positions \$20.01-\$28.00	New Positions \$28.01-\$35.00	New Positions Over \$35.00
8				7	1	15

Year	(Before project)	Year 1	Year 2	Year 3	Year 4	Year 5
No. of Employees	(1) <u>5</u>	<u>17</u>	<u>27</u>	<u>38</u>	<u>56</u>	<u>73</u>
	(2) <u>3</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>
Estimated payroll	(1) <u>896,000</u>	<u>1,577,440</u>	<u>2,640,680</u>	<u>3,705,430</u>	<u>4,776,430</u>	<u>5,807,430</u>
	(2) <u>78,000</u>	<u>156,000</u>	<u>182,000</u>	<u>208,000</u>	<u>234,000</u>	<u>260,000</u>

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

**Previous Business Activity**

22. Is the project operator succeeding someone else in this or a similar business? ☐ Yes ☒ No
23. Has the project operator conducted this business at this or any other location either in or outside of the state?  
☒ Yes ☐ No
24. Has the project operator or any officers of the project received any prior property tax incentives? ☐ Yes ☒ No
- If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary).
- \_\_\_\_\_
- \_\_\_\_\_

**Business Competition**

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

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

**Property Tax Liability Disclosure Statement**

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

**Use Only When Reapplying**

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

**Notice to Competitors of Hearing**

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

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

Travis Murphy

CFO

3/27/2023

Signer Name: Travis Murphy  
 Signing Reason: I approve this document  
 Signing Time: 3/28/2023 | 12:07:50 PM PDT

Title

Date

A99E911C1A044AAAA045C341D4DA081B

**PRIVACY ACT NOTIFICATION**

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

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

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

☐ **Property Tax Exemption**

\_\_\_\_\_ Number of years

\_\_\_\_\_ Percent of exemption

☐ **Payments in lieu of taxes**

\_\_\_\_\_ Beginning year \_\_\_\_\_ Ending year

\_\_\_\_\_ Amount of annual payments (Attach schedule if payments will vary)

\_\_\_\_\_  
Auditor

**Business Incentive Agreement**

1. In fulfillment of the requirements of N.D.C.C. § 54-60.1-03, Grantor and Recipient enter into this Business Incentive Agreement.

**Grantor**

Name	City of Fargo
Address	225 4th Street North Fargo, ND 58102

**Recipient**

Name	Corvent Medical, Inc.		
Address	1805 NDSU Research Park Drive N Suite 118 Fargo, ND 58102		
Contact Person	Travis Murphy	E-mail Address	
Recipient Parent Company (If applicable)			
Business Type (NAICS Code)	339112		
Location of Recipient Prior to Receiving Incentive (If different)			

**2. Description of project.**

Corvent is relocating operations from Southern California to Fargo, North Dakota and will configuring space for product development, testing, manufacturing and warehousing. Quality control, regulatory, finance, administration and customer support will also be relocated to Fargo, ND. It is expected that total headcount will grow to 73 FT and 10PT employees within 5 years, generating payroll of ~ 6,070,000 per year.

3. Grantor(s) agrees to provide recipient with a business incentive described as follows:

3.a. Is this incentive tax increment financing? ☐ Yes ☒ No  
If yes, describe the type of district:

4. The business incentive will be provided on \_\_\_\_\_.  
This date is the benefit date.

5. The public purpose(s) of the business incentive are:

- |  |  |
|--|--|
| <input type="checkbox"/> Assisting community development                     | <input type="checkbox"/> Increase tax base                                       |
| <input checked="" type="checkbox"/> Directly create employment opportunities | <input checked="" type="checkbox"/> Indirectly increase employment opportunities |
| <input type="checkbox"/> Job retention                                       | <input checked="" type="checkbox"/> Other <u>Diversify Fargo's Economic Base</u> |

6. Value of Business Incentive: \$ 85,076

7. Recipient currently employs 5 people, located in Fargo, ND.

8. In return for the business incentive, Recipient shall, within two years create: 27  
Number of full-time equivalent jobs

<u>\$47.00</u>	+	<u>\$9.40</u>	=	<u>\$56.40</u>
Average hourly wage		Benefits per hour value		Average hourly compensation

9. The Recipient shall continue operations in the jurisdiction in which the business incentive was issued for five years or more after the benefit date.

10. Recipient shall file a recipient report with the Grantor, as described in N.D.C.C. § 54-60.1-05 annually on or before March 1st of each year for two years, beginning in 2007, following the benefit date or until the goals of paragraph 8 are met, whichever is later.

10.a. Grantor shall mail the recipient a warning letter if no report is received by March 8th. Recipient shall file the progress report within 14 days of the postmarked date of the warning letter.

10.b. If a recipient report is not received within 14 days of the warning letter, Recipient agrees to pay to Grantor a \$100 penalty for each subsequent day until the report is filed. The maximum penalty under this section may not exceed \$1,000.

11. Recipient shall pay back the value of the incentive to the Grantor, prorated to reflect any partial fulfillment of the job and compensation goals, if, after two years, the job and compensation goals listed in paragraph 8 are not met.




- 11.a. Paragraph 11 does not apply if the job and compensation goals were not met as a result of an act of God or terrorism.
12. This business incentive agreement shall only be modified or extended by the Grantor pursuant to N.D.C.C. § 54-60.1-04.
13. If the terms of this business incentive agreement are not met, Recipient shall not receive a business incentive from any grantor for five years from the date of failure or until a recipient satisfies the repayment obligation.
14. The Recipient has disclosed, in attachment "A" of this agreement, all additional financial assistance received from state or political subdivision Grantors for this project since inception.
15. By signing this agreement, Recipient verifies that it has not failed to meet the terms of any business incentive agreement in the last five years.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Grantor: \_\_\_\_\_ on behalf of \_\_\_\_\_

Dated this 28<sup>th</sup> day of March, 20 23.

Recipient:  \_\_\_\_\_ on behalf of Corvent Medical, Inc.

 Signer Name: Travis Murphy  
Signing Reason: I approve this document  
Signing Time: 3/28/2023 | 12:11:55 PM PDT  
A99E911C1A044AAAA045C341D4DA081B



August 24, 2021

Travis Murphy  
Corvent Medical Inc  
2326 Walsh Ave  
Santa Clara, CA 95051

Dear Travis:

Thank you for your application for primary-sector certification by the North Dakota Department of Commerce, Economic Development & Finance Division. We have reviewed your application and determined that ED&F can certify your company, **Corvent Medical Inc**, as primary sector and a new wealth creator in the economy of North Dakota. This certification is valid for **four years** from today's date (expires 8/24/2025).

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

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

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

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

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

Sincerely,



Joshua Teigen, Director  
Economic Development & Finance Division

1600 E Century Avenue, Suite 2 | P.O. Box 2057 | Bismarck, ND 58502-2057

PHONE: 701-328-5300 | TOLL-FREE: 1-866-4DAKOTA | ND RELAY TTY: 1-800-366-6888 | VOICE: 1-800-366-6889 | NDCommerce.com

<u>Exemption Evaluation Calculator 2020</u>				146.8	
Convent Medical Inc				Points	
Project Type Code (Ctrl-C to view)				5	38.0
<b>Year 1</b>					
Current Number Of Employees				8	
Hourly Salary Without Benefits					
Under \$13.00					
\$13.01-\$15.00					
\$15.01-\$20.00					
\$20.01-\$28.00					
\$28.01-\$35.00					
Over \$35.00					
TOTAL # OF JOBS CREATED					
% GI w/ Local Competition (not downtown)					
Value of Proposed Buildings				\$ 1,201,560	25.0
Downtown Location (Y/N)				N	20.0
Exemption Needed (Y/N)					0.0
Startup Firm (Y/N)				Y	15.0
Has Const Started or Has Bldg Been					
Occupied If Existing (Y/N)				n	0.0
Number of Years (Exemption)				5	
Company Safety Experience Rating					0.0
<b>RECOMMENDATION IS TO</b>				<b>APPROVE</b>	
Description				Tech Research	
Estimated New Annual Payroll				\$1,539,200	
Estimated Annual Real Estate Tax				\$17,015	
Estimated PV of Exemption				\$73,667	
Payroll / PV of Exemption				20.9	
Property Value / # of Jobs				\$ 52,242	
Total Value Of Benefit				\$ 85,076	

## MEMORANDUM

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**TO:** Board of City Commissioners

**FROM:** Michael Redlinger, City Administrator, Steven Sprague, City Auditor, Captain Chris Helmick Fargo Police

**SUBJECT:** Amplified Sound Permits

**DATE:** May 15, 2023

The City of Fargo restricts the number of outdoor amplified sound permits to one every 30 days for a given location, during 2020 and 2021 as part of the Emergency Declaration related to COVID, the City Commission raised that limit to 5 permits every 30 days. Since the Emergency Declaration has expired, the number of permits returned to the stated limit in the ordinance, 1 every 30 days.

Jade Nielson, Jade Presents, has requested the number of outdoor amplified sound permits be increased to the pandemic levels. Initially, City staff thought this could be addressed in the re-write of the sound ordinance. After discussion, it was decided this issue, while related to outdoor sound, is a separate and distinct issue from outdoor noise on Broadway.

Increasing the number of permits allowed would assist businesses hosting events, thereby increasing sales and offering more variety in entertainment offerings in the City.

The potential of additional noise pollution, multiple events straining Police resources and increasing number of complaints from residents are potential downfalls. It should be noted that during 2022, Fargo Police only had 3 complaint calls at Fargo Brewing, 2 of which were anonymous. Any increase in permits would potentially affect other businesses besides Jade Presents.

**Options:**

- The Commission can decide to increase the number of permits from one to a higher number; or
- Keep the ordinance in place until a comprehensive noise ordinance re-write can be completed.



Monday, March 13, 2023

Dear Michael Redlinger,

Due to continued COVID-related restrictions on touring acts, we are finally seeing our sector returning to normal in 2023.

I'm reaching out to once again request an extension to the moratorium on outdoor amplified sound permits in Fargo, allowing a total of five events per calendar month through 2023. This request relates to the Fargo Brewing parking lot at 610 N University Dr.

This moratorium was first approved by the City Commission in June of 2020 for the summer of 2020. We then returned to request an extension lasting through 2021, and again through 2022.

Most recently, we came before the commission on September 19, 2022 to request this for the 2023 season. The commission unanimously approved our request at that time. However, it was paused as the city works through then overall ordinance revision.

I kindly ask you to separate this request from the overall ordinance revision, as we understand that revision will not be done for some time.

For reference;

In 2022, we produced 15 outdoor events for 18,000 patrons.

Of those 18,000 patrons, 40% or 7,000 patrons from outside of FMWF. We've drawn tourists from Brooklyn NY, Austin TX, Miami FL, Chicago IL, but also - Grafton, Devils Lake, Northwood, Minot, Bismarck, and Grand Forks.

The live concert industry calculates \$12.00 being spent for every \$1 spent on the concert ticket. With that calculation, this series adds \$6 million to the local business community – travel, transportation, lodging, food & beverage and other retail.

Again, of those 18,000 patrons, 11,000 of which are from FMWF. They were entertained, likely to enjoy an improved quality of life, benefits to mental health and overall wellness.

We now have a good relationship with Family Fare, as it relates to shared use of their parking lot. We also often collaborate with 701 Eaterly and certainly boost their business due to additional traffic to our neighborhood.

We cut off any amplified noise no later than 10:00 PM and disperse audiences immediately following.

Again, we thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jade Nielsen", followed by a long, horizontal, wavy line that extends across the page.

Jade Nielsen  
c/o Jade Presents, Fargo Brewing Company  
E: [jade@jadepresents.com](mailto:jade@jadepresents.com)





Arlette Preston, City Commissioner

Fargo City Hall  
225 4th Street North  
Fargo, ND 58102-4817  
[www.FargoND.gov](http://www.FargoND.gov)



**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: CITY COMMISSIONER ARLETTE PRESTON**

**DATE: MAY 15, 2023**

**SUBJECT: STREET RACING**

Complaints about noise and speed from street racing continue to come in from residents. Rightfully so, they continue to ask for solutions. It is evident that law enforcement cannot possibly address this completely on their own. There are not enough officers to cover every one of the streets on every hour of the evening/night.

We have had very brief discussions at the Commission meetings in the past about possibilities, including street light changes and speed bumps. There are possibly other changes to be considered as well. There has not been an opportunity to hear a full and thoughtful consideration of those changes from staff.

I am requesting that staff, led by Engineering, carefully examine any and all possibilities with the goal of slowing these racers down – even if it has to be on a trial basis. The request includes a report on this effort to come back to the City Commission in four weeks.

**RECOMMENDED MOTION:** To direct staff, led by Engineering, to examine all possible solutions to street racing/speeding where it is occurring and to report back to the Commission on their findings at our June 12th meeting.



May 15, 2023

**To: Board of City Commissioners**  
**Fr: Michael Redlinger, City Administrator**  
**Re: Assistant City Administrator Appointment**

The City of Fargo conducted a national search for prospective candidates for the position of Assistant City Administrator. A total of forty-two applications were received for the position. The Selection Committee interviewed seven applicants virtually before naming five finalists for the position. A situational assessment and interview were held on May 4 and 5. The Selection Committee consisted of the following members:

Michael Redlinger	City Administrator
Robert Wilson	Cass County Administrator
Kember Anderson	Executive Assistant
Nicole Crutchfield	Director of Planning and Development
Troy Hall	Water Utility Director
Ahmed Shiil	Diversity, Equity and Inclusion Coordinator
Melissa Lura	Human Resources Manager (Facilitator)
Beth Wiegman	Assistant Human Resources Director (Facilitator)
Jill Minette	Director of Human Resources (Facilitator)

**Selection Committee Recommendation:** The May 4 and 5 situational assessment and interview were scored individually by each committee member and the scores were compiled to determine the top candidate for the position.

Following the interview process, the Selection Committee recommends the appointment of Brenda Derrig to the position of Assistant City Administrator.


Brenda has accepted the offer that is contingent upon appointment by the City Commission. This offer includes a salary of grade 26, step 10 at \$204,318. Due to the high workload demands on the Assistant City Administrator and the extensive hours of work required by the position, the vacation maximum carryover for the Assistant City Administrator position will increase to 480 hours annually.

**Recommended Action:** Approve the appointment of Brenda Derrig to the position of Assistant City Administrator.

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**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: MAYOR TIMOTHY J. MAHONEY** 

**DATE: MAY 15, 2023**

**SUBJECT: CIVIL SERVICE COMMISSION APPOINTMENTS**

A vacancy has existed on the Civil Service Commission due to the resignation of Jane Pettinger. In addition Nancy Jordheim who was recently appointed to a partial term is wishing to discontinue her service on the Board.

I have attached web applications for Scott Wirth and AnnMarie Campbell who have expressed interest in serving on the Board and I am therefore recommending their appointments.

Your favorable consideration of this recommendation is greatly appreciated.

**RECOMMENDED MOTION:** To approve the appointments of Scott Wirth for a term ending June 30, 2024 and AnnMarie Campbell for a term ending June 30, 2025 on the Civil Service Commission.

mmappt23csc-2

**From:** noreply@cityoffargo.com  
**Sent:** Thursday, February 03, 2022 12:03 PM  
**To:** Commissions Applications  
**Subject:** New Form Submission: Getting involved in government  
**Attachments:** Resume January 2022.pdf

**Name:**

[Scott Wirth]

**Mailing Address:**

[REDACTED]

**City:**

[Fargo]

**State:**

[ND]

**Zip:**

[58104]

**Work Phone:**

[REDACTED]

**Home Phone:**

[REDACTED]

**E-mail:**

[REDACTED]

**Which boards or commissions would you like to be considered for?**

[Civil Service Commission]

**Briefly state why you would like to be on this panel:**

[I believe my 20 years of experience in Human Resources would be of value to this commission. I also served 14 years on the Aberdeen (SD) school board so I feel that I understand how boards and commissions operate and how to focus on their tasks at hand. ]

**How many hours per month could you volunteer as a panel member?**

[15+]

**Please list any past experience you have with city government here or in other cities:**

[Aberdeen City Recycling committee. This was a short-term committee looking at recycling opportunities in the mid 1990's. Fourteen years on Aberdeen School Board. Also, active involvement in local and state human resources associations. Current president of the Fargo Moorhead Human Resources Association. ]

**Please describe any professional experience you have related to the responsibilities of the panel you are interested in:**

[20+ years of HR experience. Experience in leading boards and teams in day to day operations and also to accomplish goals developed in strategic planning.]

**We will retain your application for three years and consider you for the board you have indicated interest in when a vacancy arises.**

**From:** noreply@cityoffargo.com  
**Sent:** Wednesday, February 23, 2022 9:46 AM  
**To:** Commissions Applications  
**Subject:** New Form Submission: Getting involved in government  
**Attachments:** AnnMarie Campbell Resume 2022.pdf

**Name:**

[AnnMarie Campbell]

**Mailing Address:**

[REDACTED]

**City:**

[Fargo]

**State:**

[North Dakota]

**Zip:**

[58104]

**Work Phone:**

[REDACTED]

**Home Phone:**

[REDACTED]

**E-mail:**

[REDACTED]

**Which boards or commissions would you like to be considered for?**

[Civil Service Commission]

**Briefly state why you would like to be on this panel:**

[As a 17-year resident of Fargo, it would be a privilege to serve on City's Civil Service Commission. I believe my professional experience and personal interests have prepared me for the volunteer role on the commission. The knowledge I possess of human resources practices; governmental entities; administrative processes, procedures and policies; North Dakota state law; public bodies; and Robert's Rules of Order uniquely qualifies me as a candidate for the commission. I would like to give back to the community I call home and volunteer to support the City of Fargo and its employees through membership on the Civil Service Commission. ]

**How many hours per month could you volunteer as a panel member?**

[5-10 hours]

**Please list any past experience you have with city government here or in other cities:**

[As an employee of the Fargo Public Schools, I have the pleasure of collaborating with City administrators and employees on a regular basis. In my professional role, I assist in the facilitation and planning of the annual joint meeting of the Fargo School Board, City Commission and Park Board, and work closely with the City's Communications and Governmental Affairs Department on communications efforts. In fall 2020, I served on a hiring committee for a position in the City's Communications and Governmental Affairs Department. Outside of my professional role, I have yet to take part in any volunteer roles or serve on any boards for city government in Fargo.]

**Please describe any professional experience you have related to the responsibilities of the panel you are interested in:**

[As my resume reflects, I have had the distinct honor of serving in an upper administrative capacity in public and private education in Fargo for 17 years. For the last 10+ years, I have served in a Cabinet-level position with the Fargo Public Schools, assisting the superintendent and Fargo Board of Education, and overseeing the school district's communications department. Through my position with Fargo Public Schools, I have gained a deep level of knowledge that relates to the work of the Civil Service Commission, including human resources practices and laws, open meetings and records laws, policies and procedures, investigations, and parliamentary procedures.

All public bodies must uphold North Dakota Century Code and carry out their own policies and procedures. I possess a deep knowledge of NDCC 44-04 and how open meetings and records laws apply to public bodies such as the Civil Service Commission. Additionally, from working in the public sector, I understand and work with policy, procedures and HR practices on a daily basis, and how investigations are processed within the public

sector. At Fargo Public Schools, I oversee and maintain all of the school district's administrative policies.

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*In my role as the secretary of the Fargo Board of Education, I serve as the Board's parliamentarian, and ensure the Board follows Robert's Rules of Order (RRO) for their regular meetings. Due to my knowledge of RRO, I have trained the Fargo School Board on RRO, and provided trainings to other school board members and school boards in the state. In the trainings I give, I also educate on how state law, RRO and a board's own policies work together for meeting procedures and how in the end state law trumps RRO.*

*Confidentiality is also a major part of my role as the secretary to the Board and executive assistant to the superintendent. I take part in the School Board's executive sessions, serve as the confidential secretary to the superintendent, and work with personal and confidential staff and student information on a daily basis. Moreover, I understand confidential and exempt information in accordance with state law, which would be of need on the Civil Service Commission.*

*I believe my professional background uniquely qualifies me for membership on the Civil Service Commission, and that I would bring experience and value to the commission. I look forward to possibly serving on this commission. Thank you for your consideration.*

*]*

**We will retain your application for three years and consider you for the board you have indicated interest in when a vacancy arises.**

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43a

April 13, 2023

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2307 26 Ave S as submitted by Scott Hoaby. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$176 with the City of Fargo's share being \$30.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Splonskowski".

Mike Splonskowski  
City Assessor

nlb  
attachment

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

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Letter  
Attached**Property Identification**

1. Legal description of the property for which exemption is claimed Lot 16 Blk 3 O'Graf Addition
2. Address of Property 2307 26 Ave S
3. Parcel Number 01-2195-00370-000
4. Name of Property Owner Scott Hoaby Phone No. 310-868-8753
5. Mailing Address of Property Owner Same

**Description Of Improvements For Exemption**

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Bathroom Remodel; Lower level updates
7. Building permit No. '0070934 & 2103004'
8. Year built (residential property) 1978
9. Date of commencement of making the improvements February 2021 (\$ Feb 2022)
10. Estimated market value of property before the improvements \$ 188.90
11. Cost of making the improvement (all labor, material and overhead) \$ 265 materials, \$3,500 labor (by homeowner)
12. Estimated market value of property after the improvements \$ \_\_\_\_\_

**Applicant's Certification And Signature**

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant

Scott E Hoaby

Date

4/10/23**Assessor's Determination And Signature**

14. The assessor/county director of tax equalization finds that the improvements described in this application do ☒ do not ☐ meet the qualifications for exemption for the following reason(s): \_\_\_\_\_

Assessor/Director of Tax Equalization

[Signature]

Date

5-3-2023**Action Of Governing Body**

15. Action taken on this application by the governing board of the county or city: Approved ☐ Denied ☐  
Approval is subject to the following conditions: \_\_\_\_\_

Exemption is allowed for years 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_.

Chairperson \_\_\_\_\_

Date \_\_\_\_\_



436

April 17, 2023

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2722 Lilac Ln N as submitted by Kelly and Todd McComb. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$2,725 with the City of Fargo's share being \$463.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Splonskowski".

Mike Splonskowski  
City Assessor

n/b  
attachment

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

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

## Property Identification

1. Legal description of the property for which exemption is claimed Blk 2, Lot 21, North Oaks
2. Address of Property 2722 Lilac Ln N
3. Parcel Number 01-2115-00400-000
4. Name of Property Owner Kelly & Todd McComb Phone No. 701-734-8424
5. Mailing Address of Property Owner 2722 Lilac Ln N

## Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Remodel and add on
7. Building permit No. 2110-0628 8. Year built (residential property) 1986
9. Date of commencement of making the improvements FALL OF 2021
10. Estimated market value of property before the improvements \$ 500,000 580,800.00 <sup>PURCHASE PRICE</sup>
11. Cost of making the improvement (all labor, material and overhead) <sup>Estimate</sup> \$ 400,000
12. Estimated market value of property after the improvements \$ 900,000

## Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.  
Applicant Kelly McComb Date 3-11-23

## Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do ☒ do not ☐ meet the qualifications for exemption for the following reason(s):  
Assessor/Director of Tax Equalization [Signature] Date 5-3-2023

## Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved ☐ Denied ☐  
Approval is subject to the following conditions:  
Exemption is allowed for years 20\_\_, 20\_\_, 20\_\_, 20\_\_, 20\_\_.  
Chairperson \_\_\_\_\_ Date \_\_\_\_\_



April 17, 2023

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

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

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2722 Lilac Ln N as submitted by Kelly and Todd McComb. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$343 with the City of Fargo's share being \$58.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Splonskowski".

Mike Splonskowski  
City Assessor

nlb  
attachment

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

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

## Property Identification

1. Legal description of the property for which exemption is claimed Blk 2, Lot 21, North Oaks
2. Address of Property 2722 Lilac Ln N
3. Parcel Number 01-2115-00400-000
4. Name of Property Owner Kelly & Todd McComb Phone No. 701-239-8424
5. Mailing Address of Property Owner 2722 Lilac Ln N

## Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). New steel siding
7. Building permit No. 2203-0337 8. Year built (residential property) 1986
9. Date of commencement of making the improvements \_\_\_\_\_
10. Estimated market value of property before the improvements \$ 580,800.00 <sup>500,000</sup> - purchase price
11. Cost of making the improvement (all labor, material and overhead) \$ 406,000
12. Estimated market value of property after the improvements \$ 900,000

## Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.  
Applicant Kelley McComb Date 5-13-23

## Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do ☒ do not ☐ meet the qualifications for exemption for the following reason(s): \_\_\_\_\_  
Assessor/Director of Tax Equalization [Signature] Date 5-3-2023

## Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved ☐ Denied ☐  
Approval is subject to the following conditions: \_\_\_\_\_  
Exemption is allowed for years 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_, 20\_\_\_\_.  
Chairperson \_\_\_\_\_ Date \_\_\_\_\_