

FARGO CITY COMMISSION AGENDA
Monday, November 27, 2023 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, November 13, 2023).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Letter of Support for the Precision Plumbing project to the ND Opportunity Fund.
- 2. Receive and file an Ordinance Enacting Section 8-0610 of Article 8-06 of Chapter 8 of the Fargo Municipal Code Relating to Rotary Traffic Islands.
- 3. Receive and file an Ordinance Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- 4. 2nd reading and final adoption of an Ordinance Amending Section 24-0102 of Article 24-01 of Chapter 24 of the Fargo Municipal Code Relating to the Franchise Granted to the St. Paul, Minneapolis and Manitoba Railroad Company and Its Successors; 1st reading, 11/13/23.
- 5. 2nd reading and final adoption of an Ordinance Amending Section 1-0305 (A)(1) of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Classification of Ordinance Violations; 1st reading, 11/13/23.
- 6. Applications for Games of Chance:
 - a. El Zagal for a raffle on 2/17/23.
 - b. Friends of the Children Fargo-Moorhead for bingo on 12/2/23.
 - c. St. John Paul II Catholic Schools for a raffle on 12/2/23.
 - d. St. John Paul II Catholic Schools for a raffle on 1/30/24.
 - e. Benefit for Sgt. Tyrell Fauske for a raffle on 12/28/23; Public Spirited Resolution.
- 7. Extension of a Class “A-8” Alcoholic Beverage License for BFG, Inc. d/b/a Borrowed Bucks Roadhouse until 6/30/24.
- 8. Contract and bond for Project No. SN-23-A.
- 9. Memorandum of Understanding Regarding Construction and Maintenance with the Park District of the City of Fargo for the Bison Village Shared Use Path (Project No. SN-23-A1).
- 10. Memorandum of Understanding - Construction of 45th Street North with the City of Reile’s Acres.

11. Memorandum of Understanding Regarding Construction and Maintenance with the Park District of the City of Fargo for the River Drive Trail Shared Use Path (Project No. SN-23-B0).
12. Change Order No. 1 in the amount of \$475.00 and a time extension to the Substantial and Final Completion dates of 12/22/23 and 1/22/24 for Project No. NR-23-B1.
13. Final Balancing Change Order No. 1 in the amount of \$32,996.95 for Project No. PR-22-B1.
14. Negative Final Balancing Change Order No. 3 in the amount of -\$10,051.57 for Project No. UR-23-A1.
15. Change Order No. 1 in the amount of \$20,310.44 for Improvement District No. PN-23-A1.
16. Change Order No. 2 in the amount of \$30,757.41 and a 14-day time extension for Improvement District No. BR-23-B1.
17. Create Improvement District No. BR-23-G.
18. Bid award and Contract with Automated Maintenance Services, Inc. in the amount of \$70,080.00 for cleaning services at the Public Works West Building (RFP23208).
19. Master Services Agreements for Engineering/Architectural Services (RFP24010 and RFP24011).
20. Piggyback purchase through ND State Contract No. 110 with High Point Networks LLC in the amount of \$23,504.00 for indoor access points (PBC23226).
21. Allocation of remaining ARPA funding to the 2023 General Fund, as presented.
22. Change Orders for Fire Station No. 8 Construction:
 - a. No. 1 in the amount of \$2,160.00.
 - b. No. 4 in the amount of \$5,880.00.
 - c. No. 5 in the amount of -\$19,310.00.
23. Task Order No. 3 with KLJ Engineering LLC in the amount of \$19,400.00 for Fire Station No. 5.
24. Agreement with Richland County Family Planning.
25. Contract with the ND Department of Health and Human Services for surge staffing/supplies.
26. Purchase of Service Agreement with the ND Department of Health and Human Services, Behavioral Health Division for addressing opioid stimulant misuse.
27. Purchase of Service Agreement with the ND Department of Health and Human Services, Behavioral Health Division for substance abuse prevention.
28. Purchase of Service Agreement with Center Point Tactical LLC.
29. Agreement for Services with Clay County Public Health.
30. Resolution Approving Plat of Laverne's Third Addition.

31. Resolution Approving Plat of Larkin Second Addition.
32. Award Acceptance from the Back the Blue Grant in the amount of \$264,000.00 to the Fargo Police Department and related budget adjustments (HB 1307).
33. COPS Hiring Program Grant Award for 2024 and 2025 in the total amount of \$188,539.00 and related budget adjustments (CFDA #16.710).
34. COPS Hiring Program Grant Award FY23 in the amount of \$750,000.00 for employing six Police Officers and related budget adjustments (CFDA #16.710).
35. Amendment No. 2 with Transdev to extend the contract through 12/31/24.
36. Second Addendum to Agreement with the Fargo Park District and Cass Rural Water Users District.
37. Fourth Amendment to Memorandum of Understanding with Cass Rural Water Users District and Tharaldson Ethanol Plant I, LLC.
38. Amendment No. 1 to Wastewater Consulting Task Order No. 3 with AE2S in the amount of \$15,000.00 for the FEMA Building Resilient Infrastructure in Communities (BRIC) Grant reapplication for improvements associated with the West Side Interceptor (Project No. WW1905).
39. Resolution Prescribing Rates and Charges for Solid Waste Services (Amended 1/1/24).
40. Bid award for the Water Reclamation Utility Chemical Bids for 2024, as presented (ITB24009).
41. Bid award for the Water Treatment Facility Utility Chemicals Bids for 2024, as presented (ITB24007).
42. Task Order No. 28 with AE2S in the amount of \$247,575.00 for the design and bidding of a rehabilitation project in the 1997 Lime Softening Water Treatment Plant.
43. Amendment No. 1 to Task Order No. 9 with AE2S for a no cost change in scope for Project No. WA1865.
44. Change Orders for Project No. WA1863:
 - a. No. 4 in the amount of \$8,944.85 (general construction).
 - b. No. 4 in the amount of \$3,148.17 (electrical construction).
45. Task Order No. 29 with AE2S in the amount of \$197,685.00 for the design and bidding of the Pretreatment Bypass Infrastructure for the Lime Softening Water Treatment Plant.
46. Bills.

REGULAR AGENDA:

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

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

48. **PUBLIC HEARING** - Appeal of a Board of Adjustment decision regarding a Land Management Permit at 338 9th Avenue South; continued from the 11/13/23 Regular Meeting.
49. **PUBLIC HEARING** – Ekman Addition (1728 42nd Street South); approval recommended by the Planning Commission on 11/7/23:
 - a. Zoning Change from GC, General Commercial to MR-3, Multi-Dwelling.
 - b. 1st reading of rezoning Ordinance.
50. **PUBLIC HEARING** – Urban Plains by Brandt Seventh Addition (2907, 2915, 2949, 2975, 3037 and 3151 Seter Parkway South); approval recommended by the Planning Commission on 10/3/23:
 - a. Zoning Change to repeal and re-establish a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.
 - c. Plat of Urban Plains by Brandt Seventh Addition.
51. **PUBLIC HEARING** – Timber Parkway Eighth Addition (5056 Charles Way South); approval recommended by the Planning Commission on 11/7/23:
 - a. Zoning Change to repeal and re-establish a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.
52. **PUBLIC HEARING** – Timber Parkway Tenth Addition (5107 and 5161 Charles Way South); approval recommended by the Planning Commission on 11/7/23:
 - a. Zoning Change to repeal and re-establish a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.
53. Presentation and recommendation to approve the City of Fargo Purchasing Policy and Procedure Manual.
54. Recommendations for the City's priority projects to apply for Federal Highway Administration funds.
55. 2nd reading and final adoption of an Ordinance Amending Sections 13-1801, 13-1802, 13-1806 of Article 13-18 of Chapter 13 of the Fargo Municipal Code Relating to Massage Therapy Establishments; 1st reading, 11/13/23.
56. Applications for Property Tax Exemptions for Improvements Made to Buildings:
 - a. Travis and Anne Marie Christensen, 105 Meadowlark Lane North (5 years).
 - b. Aaron and Jessica Franke, 2314 Victoria Rose Lane (5 years).
 - c. Jean Corbett, 2619 26th Street South (5 years).
 - d. Nathan and Kimberly Rorvig, 1906 9th Street North (5 years).
 - e. Susan Nelson, 3707 Kennedy Street South (5 years).
 - f. Wayne and Cherie Gadberry, 505 Broadway North Unit 303 (5 years).
 - g. Michael Gillund and Melissa Mozley, 4726 Rose Creek Parkway South (5 years).
 - h. Patrick and Katherine McIntyre, 3225 Longfellow Road North (5 years).
57. Recommendation for appointments to the following Boards and Commissions:
 - a. Historic Preservation Commission.
 - b. Planning Commission.

58. 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.

November 27, 2023

Honorable Board of City Commissioners
City Hall
225 4th St N
Fargo, ND 58102

AS

Commissioners:

At the November 13, 2023, commission meeting, a public hearing was held regarding the appeal of a Board of Adjustment decision regarding a Land Management Permit at 338 9th Ave S. Commissioners voted to continue this item until a license agreement was in place with the adjacent property owner at 340 9th Ave S.

Attached you will find:

- License agreement for the use and maintenance of the city owned lot at 338 9th Ave S.
- Certificate of Liability Insurance.
- Public Works Project Evaluation Committee report of action.
- Packet of information presented at the November 13, 2023 commission meeting.

Chapter 11-08 of the Fargo Municipal Code does allow vegetation to exceed 8" in height to allow property owners an opportunity to establish prairie wildflowers, grasses, and other pollinator plants as alternatives to traditional Kentucky bluegrass, as long as there is a Land Management Plan/Permit in place.

3 years ago, the owners at 340 9th Ave S, took it upon themselves and contracted PRI (now MN Native Landscapes) to establish wildflower and native grass plantings on this city owned lot. Currently, in lieu of burning, a mowing is scheduled for spring 2024.

Recommended motion:

After reviewing all of the information, uphold the Board of Adjustment decision reaffirming the Forestry Department's approval of the Land Management Plan/Permit at 338 9th Ave S and at the close of the public hearing, act to approve or deny the original application.

Your approval of this request is appreciated. Thank you.

Sincerely,



Scott Liudahl
City Forester

Cc: Ben Dow

LMP 338 9th Ave S – city commission 11.27.23.doc

LICENSE AGREEMENT

THIS AGREEMENT is entered into by and between the City of Fargo, North Dakota, a municipal corporation, whose address is 225 4th Street North, Fargo, North Dakota, hereinafter referred to as “Licensor”, and Darrell Ross and/or Kimberly Wallen, owners of the property located at 340 9th Avenue South, Fargo, North Dakota, hereinafter referred to as “Licensee”, whether one or more.

WHEREAS, Licensee desires to secure access to the city of Fargo owned lot South of and adjacent to Licensee’s lot for the purpose of maintaining and managing the prairie planting; and

WHEREAS, City is willing to allow Licensee to secure a permit for the maintenance of the prairie planting on the lot adjacent to Licensee’s lot for this purpose.

NOW THEREFORE, for good and valuable consideration hereby acknowledged, the parties agree as follows:

1. Licensee is the owner of the adjacent property, legally described as follows:

The East Half (E ½) of Lot Six (6), all of Lot Seven (7), except the South 51' of said Lots, Block Four (4), Woodruff's Addition to the City of Fargo, Cass County, State of North Dakota.

2. The description of the premises for the purposes of this License is as follows:

Lot Six (6), Block Four (4), Woodruffs Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota.

Property address: 338 9th Avenue South, Fargo, ND 58103

3. Use of Property and Prohibited Activities. Licensee is hereby granted access to, and use of, the Fargo owned lot for the sole purpose of maintaining the property, including but not limited to mowing, trimming, seeding, weed management, and watering in accordance with the terms of a Prairie Management Permit issued by the City of Fargo.

4. Insurance. Licensee agrees to carry general liability insurance in an amount not less than \$500,000, and shall provide Licensor a Certificate of Insurance naming the City of Fargo as an additional insured. Such insurance must be maintained during the term of this agreement and any extension agreed to thereafter. Failure to provide and maintain the necessary insurance shall result in an immediate termination of the access and use granted herein.

5. Non-reimbursement of Damages. Licensee acknowledges that they shall be responsible for all costs associated with repairing any damages to permissible improvements made to the property.

6. Term. The term of this license agreement shall be for a period of 3 years. This license agreement may be extended by the parties, in writing signed by the parties,

and foregoing instrument and acknowledged to me that said municipal corporation executed the same.

Notary Public
Cass County, North Dakota
My Commission Expires:



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/20/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Shane Lebahn or Justin Heisler 623 Main Ave E #106 West Fargo, ND 58078	CONTACT NAME: Shane Lebahn PHONE (A/C, No. Ext.): (701) 282-9402 FAX (A/C, No.): () - E-MAIL ADDRESS: <table style="width: 100%; border: none;"> <tr> <td style="text-align: center; border: none;">INSURER(S) AFFORDING COVERAGE</td> <td style="text-align: center; border: none;">NAIC #</td> </tr> <tr> <td style="border: none;">INSURER A: Farmers Union Insurance Company</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;">INSURER B:</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;">INSURER C:</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;">INSURER D:</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;">INSURER E:</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;">INSURER F:</td> <td style="border: none;"></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Farmers Union Insurance Company		INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER F:															
INSURED Darrell & Kimberly Ross 340 9th Ave S Fargo, ND 58103															

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS								
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			HO00002700	02/20/2023	02/20/2024	EACH OCCURRENCE \$ 500,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$								
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$								
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$								
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				<table style="width: 100%; border: none;"> <tr> <td style="text-align: center; border: none;">PER STATUTE</td> <td style="text-align: center; border: none;">OTH-ER</td> </tr> <tr> <td style="border: none;">E.L. EACH ACCIDENT</td> <td style="border: none;">\$</td> </tr> <tr> <td style="border: none;">E.L. DISEASE - EA EMPLOYEE</td> <td style="border: none;">\$</td> </tr> <tr> <td style="border: none;">E.L. DISEASE - POLICY LIMIT</td> <td style="border: none;">\$</td> </tr> </table>	PER STATUTE	OTH-ER	E.L. EACH ACCIDENT	\$	E.L. DISEASE - EA EMPLOYEE	\$	E.L. DISEASE - POLICY LIMIT	\$
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E.L. EACH ACCIDENT	\$														
E.L. DISEASE - EA EMPLOYEE	\$														
E.L. DISEASE - POLICY LIMIT	\$														

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Liability is extended off homeowners policy for "338 9th Ave S Fargo ND 58103."
 City of Fargo is also additional insured.

CERTIFICATE HOLDER

CANCELLATION

City of Fargo 225 4th St N Fargo, ND 58102	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Use and Maintenance Agreement

Location: 338 9th Avenue South

Date of Hearing: 9/25/2023

<u>Routing</u>	<u>Date</u>
City Commission	
PWPEC File	X
Project File	Scott Liudahl

The Committee reviewed the attached correspondence from City Forester, Scott Liudahl, regarding a proposed License Agreement for the City owned lot at 338 9th Avenue South.

Three years ago, property owners at 340 9th Avenue South, Darrell Ross and Kimberly Wallen, contracted with MN Native Landscapes to install a prairie landscape/pollinator garden on the City owned vacant lot located at 338 9th Avenue South. Three years later, it is well established and being actively managed, and in good condition.

Per ordinance, anything growing over 8" in height is not allowed unless there is a Land Management Permit (LMP) in place. Environmental Health received a complaint regarding the un-mowed lot. After consulting with Public Works and Environmental Health staff, we felt it was appropriate to pursue the LMP after the fact. One appeal was received and will be heard at the next Board of Adjustment meeting.

With guidance from Nancy Morris, a proposed License Agreement has been established. Darrell has agreed to maintain the City owner property per the LMP guidelines and License Agreement.

The Committee discussed their support of agreements such as this that allow, under certain conditions, neighboring property owners to maintain City owned land. The Committee further discussed current and missing language in the proposed License Agreement. The Committee felt that the insurance requirements (\$1 million general liability) was likely in excess and could be a deterrent to this and potentially future property owners. The Committee also discussed the need to include language pertaining to non-reimbursement of damages.

On a motion by Ben Dow, seconded by Brenda Derrig, the Committee voted to approve the proposed License Agreement for the City owned lot at 338 9th Avenue South with the condition that Scott Liudahl work with the City Attorney to include non-reimbursement of damages language and to consider reducing insurance requirements.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the License Agreement for the City owned lot at 338 9th Avenue South.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

Developer meets City policy for payment of delinquent specials Agreement for payment of specials required of developer Letter of Credit required (per policy approved 5-28-13)

Yes	No
N/A	
N/A	
N/A	

COMMITTEE

- Tim Mahoney, Mayor
- Nicole Crutchfield, Director of Planning
- Steve Dirksen, Fire Chief
- Brenda Derrig, Assistant City Administrator
- Ben Dow, Director of Operations
- Steve Sprague, City Auditor
- Tom Knakmuhs, City Engineer
- Susan Thompson, Finance Director

Present	Yes	No	Unanimous
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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ATTEST:

C: Kristi Olson


Tom Knakmuhs, P.E.
City Engineer



PUBLIC WORKS OPERATIONS

Fleet Management, Forestry,
Streets & Sewers, Watermeters,
Watermains & Hydrants
402 23rd STREET NORTH
FARGO, NORTH DAKOTA 58102
PHONE: (701) 241-1465
FAX: (701) 241-8100

To: Tom Knakmuhs, City Engineer; PWPEC
From: Scott Liudahl, City Forester
Re: Use and Maintenance Agreement – 338 9th Ave S
Date: 9/25/23

Part 1

I am working with the property owners at 340 9th Ave S – Darrell Ross, and Kimberly Wallen. Three years ago, knowing it was not their property (338 9th Ave S – city owned vacant lot) but also knowing nothing was going to be done with it, they contracted with MN Native Landscapes, formerly Prairie Restorations Inc., to install a prairie landscape/pollinator garden on this piece of city property. Three years later, it is well established, being actively managed, and in good condition.

Per ordinance, anything growing over 8” in height is not allowed unless there is a Land Management Permit (LMP) in place. After review of the property owner’s application and supporting documentation, the city forester then issues the LMP. This is the normal process. Darrell claims he was unaware to the LMP requirement, and Environmental Health received a complaint regarding the un-mowed lot. After consulting with Public Works and Environmental Health staff, we felt it was appropriate to pursue the LMP after the fact. The LMP was approved. One appeal was received via the neighborhood notification process, and will be heard at the next Board of Adjustment meeting.

Part 2

With guidance from Nancy Morris, a proposed license agreement is attached. Darrell wants, and has agreed, to maintain the city owned property per the LMP guidelines and a license agreement.

Suggested motion:

Support the proposed license agreement for the city owned lot at 338 9th Ave S.

Thank you.

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: SCOTT LIUDAHL, CITY FORESTER

DATE: NOVEMBER 9, 2023

RE: APPEAL OF BOARD OF ADJUSTMENT DECISION REGARDING A LAND MANAGEMENT PERMIT AT 338 9 AVE S, UPHOLDING AN ADMINISTRATIVE DECISION ON PERMIT

In front of the City Commission on November 13th is a public hearing to appeal the Board of Adjustment's decision to uphold an administrative decision on a Land Management Permit. The Board of Adjustment considered an appeal of an administrative decision on October 24, 2023 and unanimously approved to uphold the decision of the City Forester.

Here is a summary of exhibits for reference:

- 1) Board of Adjustment – Finding of Fact
- 2) Application for an Appeal of a Board of Adjustment Decision, dated October 25, 2023
- 3) Board of Adjustment Appeal of an Administration Decision, staff report and supporting documentation dated October 24, 2023.

The appellant and staff will both be present as part of the public hearing for this item to provide the background for your review and ruling of this appeal.

Suggested Motion:

The Board of City Commissioners has reviewed the application and supporting documentation for a Land Management Plan / Permit at 338 9th Avenue South and find the proposed application meets the purpose and intent of Fargo Municipal Code 11-08. Upholding the Board of Adjustment decision reaffirming the Forestry Department's approval of the Land Management Plan / Permit at 338 9th Avenue South.

CITY OF FARGO
Appeal of a Board of Adjustment Decision

Item: Appeal of Board of Adjustment Decision

Date: November 6, 2023

Appellant: Marilyn Seitz

Appeal of BOA Decision to City Commission – November 13, 2023

Summary of Record

Background:

The Board of Adjustment considered an Appeal of an Administrative Decision at the October 24, 2023 regular meeting.

Exhibits:

The following exhibits are admitted as part of this staff report and are attached:

- Appeal of a Board of Adjustment Decision application from the appellant, dated October 25, 2023.
- Board of Adjustment packet excerpt from the October 24, 2023 which includes the permit application and Fargo Municipal Code, Article 11-08.

October 24, 2023 Board of Adjustment - Findings of Fact

A full and complete application was filed by K. Wallin and D. Ross on June 27, 2023 seeking a Land Management Permit at 338 9th Avenue South to allow plantings to exceed the maximum 8-inch height of grasses as required in 11-0809 of the Fargo Municipal Code.

The Land Management Plan / Permits are intended to promote native and other plants and grasses in their landscape, including pollinator gardens/plants, vs traditional Kentucky blue grass.

As outlined in the Fargo Municipal Code 11-0810, the City Forester reviewed and approved the application and mailed notification of the approval to property owners within 200 feet of the subject property. Neighboring property owners were provided the option to appeal the City Forester decision to the Board of Adjustment as outlined in a letter dated July 17, 2023.

A written letter of protest was submitted via email to the City Forester on August 8, 2023 by M. Sietz.

The Board of Adjustment considered the Appeal of an Administration Decision at the October 24, 2023 meeting. The Land Development Code, as outlined in the §20-0916, outlines how the Board of Adjustment is to consider an Appeal of an Administrative Decision:

Appeals of Administrative Decisions shall be taken to the Board of Adjustment. The Board of Adjustment shall grant to the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant. In exercising the appeal power, the Board of Adjustment shall have all the powers of the official from whom the appeal is taken, and the Board of Adjustment may reverse or affirm wholly or partly or may modify the decision being appealed. If the Board of Adjustment determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence. A concurring vote of four members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official.

The Board of Adjustment at the regular meeting on October 24, 2023 voted 5-0, unanimously to Affirm staff's decision to Approve the Land Management Permit / Plan application for 338 9th Avenue South.

Appeals from the action of the Board of Adjustment may be taken to the Board of City Commissioners by filing an appeal with the Zoning Administrator.

On October 25, 2023, an application to Appeal a Board of Adjustment was submitted to the Zoning Administrator Decision by M. Seitz.

Appeal of a Board of Adjustment Decision

The Board of City Commissioners shall consider the application for a Land Management Permit / Plan as a new matter in a public hearing and, at the close of the public hearing, act to approve or deny the original application.



PLANNING AND DEVELOPMENT

200 Third Street North
Fargo, North Dakota 58102
Phone: (701) 241-1474
Fax: (701) 241-1526

E-Mail: planning@cityoffargo.com
www.cityoffargo.com

APPEAL OF A BOARD OF ADJUSTMENT DECISION

We, the undersigned, do hereby petition the Board of City Commissioners of the City of Fargo, North Dakota, to hear and decide an appeal of a decision or determination made by the Board of Adjustment of the City of Fargo.

Property Owner Information

Name (printed): MARILYN Seitz
 Address: 327 10 AVE #5 S.
 Primary Phone: 701-293-0033 Notat
 Alternative Phone: —
 Fax: —
 Email: mcseitz888@gmail.com

Representation Information (if applicable)

Name (printed): _____
 Address: _____
 Primary Phone: _____
 Alternative Phone: _____
 Fax: _____
 Email: _____

Location of property involved in the appealed decision (if applicable)

Address: 338 9 AVE SOUTH - FARGO, N.D. (City Owned)
 Legal Description (attach separate sheet if more space is needed): _____

Reason for Appeal (attach separate sheet if more space is needed)

Political favoritism on rejection !!
Discrimination toward me
Harassment toward me after rejection.
See attached list of Complaints (please)

Acknowledgement – We hereby acknowledge that we have familiarized ourselves with the rules and regulations to the preparation of this submittal and that the forgoing information is true and complete to the best of our knowledge.

Owner (Signature): Marilyn Seitz Date: 10/25/2023
 Representative (Signature): _____ Date: _____

Office Use Only

Date Filed: _____ Pre-Application Meeting Date: _____
 Application Complete: Yes No Reviewed By: _____

RECEIVED
10/25/2023

City of Fargo

Board of Adjustment

225 N 4 Street

Attn: Kim Citrowske

Fargo, ND 58102

Cc: Scott Luidahl

Fargo Forestry Dept

402 23 st N

Fargo, ND 58102 sluidahl@fargond.gov

This is In PROTEST and response to WEED PATCH that has been installed 3 years ago by residence at 340 9 ave So Fargo, ND.

10 residents in this area are protesting this weed Patch.,

1. This property does not belong to resident at 340 9 ave so. Therefore they have no right to establish use of this land.
2. This land is owned by City of Fargo or Dike Project.
3. All 10 residents have lived in this area for 30 – 40 years and have always had a well maintained area and are demanding that this be continued.
4. This weed patch was planted by non owners, to stop anyone from coming near their patio, which is their lot line.
5. This weed patch is a safety hazard and a environmental tragedy . Noxious weeds are rampant and need immediate removal.
6. This WEED Patch has devalued our property since prospective buyers are asking what type of ghetto this area has turned into.
7. This WEED PATCH had a rope tied to City Property so people would stay OUT !!!
8. This WEED PATCH approval was back dated!! This appears to be inside political favoritism.
9. The Shack that resident at 340 9 ave So needs to be removed., No garage or shack of any sort can be installed in back of residence. All residents in area are upset that personal junk is visible. JUNK NEEDS To be installed inside owners property.
10. Protesting also that other residents tax dollars are being spent to pay for WEED PATCH .

- 11. 10 residents are demanding that WEED PATCH be removed immediately and trees trimmed to eliminate hiding spots for vagrants looking for a place to camp and expose their their body which is in full view of other members of community.**
- 12. Please ensure prompt and courteous removal of all of the above.**

Sincerely

10 community residents and TAX Payers

Please respond ASAP

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

Scott ,

pLEASE add these items to my complaint letter.

This weed patch has not been maintained

1. weed patch is supposed be cut down in spring not done
2. weed patch is supposed to be sprayed not done until weeds were 6ft tall.
3. weed patch is supposed to be burned at end of growing season. not done plus better not start a fire

in a residential area.

Please add to my letter.

thank you,

marilyn seitz

|

Virus-free.www.avg.com

<image001.jpg>

image001.jpg

1K



Marilyn Seitz <mcseitz888@gmail.com>

Re: weed patch on 9 ave so.Fargo

1 message

Scott Liudahl <SLiudahl@fargond.gov>
To: Marilyn Seitz <mcseitz888@gmail.com>

Thu, Oct 19, 2023 at 11:13 AM

Completed.

I sent it to Kim.

Thanks Marilyn.
Scott

Sent from my iPhone

On Oct 19, 2023, at 9:20 AM, Marilyn Seitz <mcseitz888@gmail.com> wrote:

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

Scott, Thanks for your response, would you like a photo of what his weed patch looks like now? pERHAPS YOU OR SOMEONE WITH AUTHORITY should take your own photo (not the owner at 9th).
Thanks marilyn seitz

 Virus-free.www.avg.com

On Thu, Oct 19, 2023 at 7:31 AM Scott Liudahl <SLiudahl@fargond.gov> wrote:

Thanks Marilyn.

Scott

From: Marilyn Seitz <mcseitz888@gmail.com>
Sent: Wednesday, October 18, 2023 12:48 PM
To: Scott Liudahl <SLiudahl@FargoND.gov>



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

BOARD OF ADJUSTMENT
Tuesday, October 24, 2023 | 9:00AM
City Commission Chambers
AGENDA

1. Approve Minutes – September 26, 2023
2. New Business
 - a. CONTINUED - Appeal of Administrative Decision – 338 9th Avenue South
 - i. Appellant claims staff erred in its determination to approve a Land Management Plan / Permit issued at 338 9th Avenue South. Land Management Plan / Permits allow plantings to exceed the maximum 8 inch length as defined by the City of Fargo Municipal Code, Article 11-08.
3. 2024 Meeting Dates
4. Other Business
5. Adjourn – Next Meeting: November 28, 2023

Board of Adjustment meetings are broadcast live on cable channel TV Fargo 56 and can be seen live by video stream on www.FargoND.gov/streaming. They are rebroadcast each Tuesday at 9:00 a.m. for one month following the meeting.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 701.241.1474 or TDD at 701.241.8258. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.



PUBLIC WORKS OPERATIONS

Fleet Management, Forestry,
Streets & Sewers, Watermeters,
Watermains & Hydrants
402 23rd STREET NORTH
FARGO, NORTH DAKOTA 58102
PHONE: (701) 241-1465
FAX: (701) 241-8100

To: Michael Love, Chair – Board of Adjustment
From: Scott Liudahl, City Forester
Re: Land Management Plan – 338 9th Ave S
Date: 9/26/23

Chapter 11 of the Fargo Municipal Code requires property owners to remove noxious or other weeds, and to maintain the growth of grass so it does not exceed 8" in length. However, these requirements do not apply to a property where the owner or person in control of the property has applied for and obtained a land management plan/permit (LMP) from the city allowing grass growth to exceed 8" in length. This allows property owners the opportunity to promote native and other plants and grasses in their landscape, including pollinator gardens/plants, vs. traditional Kentucky blue grass.

This permit process includes:

- Written plan, and map, identifying the areas on the property
- Description of the plants
- Management and maintenance techniques to be utilized
- 200' mailing to adjacent owners – opportunity to appeal
- Agreeing to mow or cut if ordered to do so

After reviewing the information provided by the applicants at 340 9th Ave S, Darrell Ross and Kimberly Wallen (the adjacent property owners), the plan/permit has been approved. Per the notification process, one appeal was received.

Three years ago, knowing it was not their property but also knowing nothing was going to be done with it, Darrell and Kimberly contracted with MN Native Landscapes, formerly Prairie Restorations Inc., to install the prairie landscape on this piece of city property. Three years later, it is well established. Prior to proceeding with the LMP, this was discussed with public works and environmental health staff.

The attached information includes: related ordinance, approved LMP, supporting information provided by the applicant, site location, photos, and the appeal.

In working with Nancy Morris, an agreement has been developed, allowing Darrell and Kimberly to use and maintain the property. This agreement is currently working its way through the Public Works Project Evaluation Committee, and will go to city commission for final approval.

Suggested motion:

Support the approved land management plan/permit as presented, and deny the appeal.

Thank you.

LMP 338 9th Ave S BOA (projects-areas).doc

Central Fueling
Fleet Purchase
And Vehicle Maintenance

Right of Way Maintenance
Sanitary & Storm
Sewer Maintenance

Snow Removal
Street Maintenance
Street Name Sign Maintenance

Urban Forestry
Watermeters
Watermain Distribution

11-0805. - Control of stagnant water, noxious or other weeds, tall grass.

No stagnant water shall be allowed to stand or remain, noxious or other weeds, or grass allowed to grow more than eight inches (8") in length upon or along the line of any railroad, street, highway, alley, public place, along or upon any vacant or other lot or real estate parcel, public or private, or other place within the city. For purposes of this article, "noxious weeds" shall mean any species of plant or vegetation recognized by the North Dakota State Weed Board as a noxious weed.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006), 5143 (2018).

11-0806. - Duty of property owners to control stagnant water, fill excavations, remove dirt piles, noxious or other weeds, tall grasses.

It shall be the duty of all property owners, occupants, or persons having control over private property to remove or drain stagnant water, to fill excavations, to remove dirt piles, to remove noxious or other weeds, and to maintain the growth of grass on such property so that it does not exceed eight inches (8") in length. These requirements apply to areas along and upon any railroad, street, highway, alley, public place or along or upon any vacant or other lot or place within the city.


Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006), 5143 (2018).

11-0807. - Failure to drain stagnant water, fill excavations, remove dirt piles, remove weeds, maintain grass.

Notice of a violation of this article shall be mailed to the record property owner as shown in the property tax records maintained in the city assessor's office, upon any agent of the property owner, and upon any occupant of the property when appropriate. The owner, agent, tenant or person in charge of the property shall take appropriate action to remove the stagnant water, fill excavations, remove dirt piles, fill holes or depressions, cut and/or keep down the growth of any noxious or other weeds, and maintain all grasses not to exceed eight inches (8") in height, as directed by the health department within the specified period of time. If the property owner, tenant, or agent fails to take such appropriate action within the time period as directed by the health department, the health department shall have authority to remove or drain off any stagnant water, fill all excavations, holes, or depressions, and cut or mow any noxious or other weeds and grasses.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006), 5143 (2018).

11-0808. - Control of noxious and other weeds, grass—exceptions to general requirements.

The requirements in this article requiring control of noxious and other weeds and grasses do not apply to property where the owner or person in control of the property has applied for and obtained a land management plan permit from the city allowing grass growth to exceed eight inches (8") in length.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0809. - Land management plan permit—Issuance.

To obtain a land management plan permit, the applicant must submit a written plan identifying the specific area where the plantings or grass is planned to exceed eight inches (8") in length, a statement of intent and purpose for the area, a drawing, plot plan and/or survey showing the location of the planting on the applicant's property, a detailed description of the plant types and plant succession involved, and specific management and maintenance techniques to be employed. The land management plan must include provisions for maintaining plantings at a length not to exceed eight inches (8") in the area between the sidewalk and the street, or a strip not less than fifteen feet (15') adjacent to the street where there is no sidewalk, as well as a strip not less than four feet (4') adjacent to neighboring property lines unless waived in writing by the abutting property owner on the side so affected. Any such waiver of the requirements shall be affixed to the application and plan. No area of city owned property within any street right-of-way may be included within a land management plan. This shall include the property between the sidewalk and the street and not less than fifteen (15) feet adjacent to the street where there is no sidewalk. As a condition of receiving approval of a land management permit, the applicant agrees and understands to mow or cut any grass or plantings when ordered to do so by the health officer or any other city official or designee thereof.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0810. - Permit application—Review.

An application for a land management plan permit shall be on a form provided by the city shall be submitted to the forestry department. A copy of the application shall be mailed to each of the owners of record, as listed in the office of the City Assessor, who are owners of the property situated in whole or in part within 200 feet of the boundaries of the properties affected. The application and any related information shall be considered by the city forester. The city forester shall have authority, after reviewing all appropriate materials and information, to approve or deny the application. An applicant who has had a permit denied or revoked, or an affected property owner in the event a permit is granted, may appeal the decision of the city forester to the board of adjustment. Such appeal must be made in writing within fifteen (15) days of the city forester's decision and shall be heard at a regular meeting of the board of adjustment.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0811. - Owner or occupant's responsibilities concerning land management plan.

An owner or occupant receiving a land management plan permit agrees to maintain any grass or plantings so as not to present hazards or to create a nuisance for adjoining properties, or to persons or vehicles traveling on the public ways. An owner or occupant receiving such permit also agrees to manage and maintain such grass or plantings such that they do not present a hazard to structures on affected land and to maintain such plantings as to enhance the appearance of the property on which they are located.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).

11-0812. - Authority of city to manage and control grass and plantings within an area included within a land management plan.

Notwithstanding issuance of a land management plan permit, the city may order the cutting of such grass or plantings included within a land management plan at any time the city determines that the growth may constitute a fire or safety hazard as to cause danger to the safety of the inhabitants of any residential structure on located on the premises or to the citizens and residents of the neighborhood. Any costs incurred by the city shall be charged to the owner, occupant, or person in control of the property as authorized under this article.

Source: 1952 Rev. Ord. 11-0801, 2512 (1990), 4533 (2006).



PUBLIC WORKS OPERATIONS

Fleet Management, Forestry, Streets & Sewers, Watermeters, Watermains & Hydrants 402 23rd STREET NORTH FARGO, NORTH DAKOTA 58102 PHONE: (701) 241-1453 FAX: (701) 241-8100

Land Management Plan Application/Permit

Property owner, address(s), phone: Kimberly Wallin and Darrell Ross; 340 9th Ave S, Fargo, ND 58103; 541-231-9027 (Kimberly) and 541-231-9426 (Darrell)

Proposed location of landscape: 338 9th Ave S, Fargo, ND 58103

Date of application: 6/27/23

Intent and purpose of landscape: Restore native prairie vegetation by contract with Minnesota Native Landscapes (formerly Prairie Restoration Inc.) similar to the prairie along the bike path at intersection with 1st Ave N in downtown Fargo to provide habitat for birds, pollinators, and other

Types of plants/grasses to be used (Buffalo Grass, Blue Grama, etc). Include plant name and mature height: See attached plan prepared by Minnesota Native Landscapes.

Management and maintenance techniques to be utilized: In consultation with Minnesota Native Landscapes, we will do all activities that they recommend.

Attach diagram/plan:

Note: No area of city owned property within any street right-of-way may be included within a land management plan. This shall include the property between the sidewalk and the street and not less than fifteen (15) feet adjacent to the street where there is no sidewalk. As a condition of receiving approval of a land management permit, the applicant agrees and understands to mow or cut any grass or vegetation when ordered to do so by the health officer or any other city official or designee thereof.

A four (4) foot buffer adjacent to neighboring properties is required unless waived. Any writing by adjacent to neighboring property lines waiving the buffer zone must be attached to the application.

Approved/ Denied - Inspector signature/date [Signature] 7/17/23

Applicant signature/date [Signatures] 6/27/23

Comments:

Owner at 340 9th Ave S shall be responsible for managing/ removing designated ND Dept. of Ag. noxious weeds.

LMPI.doc

Central Fueling Fleet Purchase And Vehicle Maintenance

Right of Way Maintenance Sanitary & Storm Sewer Maintenance

Snow Removal Street Maintenance Street Name Sign Maintenance

Urban Forestry Watermeters Watermain Distribution

Date: 10/13/2020

Proposal to Create a Native Landscape at the
Ross Residence
Fargo, ND

Prepared for:

Darrel & Kimberly Ross
340 9th Ave South
Fargo, ND 58103

541-231-9426
dross_55@yahoo.com

Prepared by:

Blaine Keller
Site Manager
218-498-0260
bkeller@prairieresto.com

Project Area:

± 2000 square feet

Prairie Restorations. Inc. 

P.O. Box 1027
Hawley, MN 56549
www.prairieresto.com

A. Bidder Qualifications:

1. At least 5 years of experience planting native landscapes of similar size and scope to this project.
2. That the contractor's business specializes in native plant community restoration and ecologically based land management practices.
3. Assignment of a Qualified Project Supervisor capable of being present full time during all installation and maintenance work. Qualifications will include:
 - A bachelor's degree in Natural Resources Management or related field.
 - Minimum of five years experience in landscape restoration and maintenance supervision, with experience or training in prairie and wetland management, entomology, pest control, soils, fertilizers and plant identification.
 - Current herbicide and pesticide applicators license.
4. Assignment of a Qualified Labor Force thoroughly familiar and trained in the work.

B. Company Background:

Prairie Restorations, Inc. (PRI) has been dedicated to the restoration and management of native plant communities for over 40 years. We are fortunate to have worked with thousands of clients on a wide variety of projects in both the public and private sectors throughout the Upper Midwest.

The PRI staff currently consists of 54 full-time professionals and about an equal number of seasonal employees which operate out of six Minnesota locations. Most of the staff has B.S. degrees in natural resource related fields such as biology, forestry, horticulture or wildlife. As a full service restoration company, PRI is able to provide our clients expertise and service in all facets of native landscape restoration. Along with consulting, design, installation and land management services, we also produce our own local ecotype seed and plant materials which are used on all of our projects.

The PRI Team is committed to and passionate about protecting and enhancing our valuable natural resources. It is this dedication that is brought to each and every one of our projects. We are proud to offer the best expertise, services and products available in the industry and appreciate the opportunity to provide you with this proposal.

C. Site preparation:

1. In areas with actively growing vegetation apply a glyphosate herbicide (Roundup® or equivalent) as per manufacturer's directions. Allow a minimum of 10 days before disturbing the vegetation with other procedures.
2. Mow the dead vegetation and remove excess thatch as needed.
3. Harley rake the soil to remove thatch and create a smooth seedbed.
4. Hand rake the soil to create a firm, smooth seedbed.
5. Respray with a glyphosate herbicide (Roundup® or equivalent) if regrowth of vegetation occurs and when it reaches approximately 8" to 12" in height.

D. Seed and Seeding:

1. Seeding dates will be in the spring or summer before August 10th or in the fall between September 20th and freeze-up.
2. All seed will be applied by broadcasting.
3. A harrowing or raking will follow all grass seeding.
4. The seed mixes will consist of the following species and amounts:

Grass Seed	lbs./project area
PRI Short Dry Grass Mix:	
45% Little bluestem, 31% Side oats grama,	
15% Blue grama, 6% Poverty oat grass,	
3% June grass, all by PLS weight.....	1
PRI Savanna Grass Mix:	
30% Little bluestem, 25% Side oats grama,	
12% Poverty oat grass, 8% Big bluestem,	
5% Canada wild rye, 4% Kalm's brome,	
4% Bottlebrush grass, 4% Silky wild rye,	
4% Indian grass, 2% Blue grama,	
2% Fringed brome, all by PLS weight.....	1

Note: A cover crop of oats will be sown along with the native grasses at a rate of approximately 25 lbs. per acre. Oats is an annual grass species that germinates quickly and will reduce the risk of soil erosion on the site.

Wildflower Seed **oz./project area**

PRI Short Dry Wildflower Mix:
 21% Purple prairie clover, 20% Hoary vervain, 18% Black-eyed Susan,
 16% Leadplant, 6% Golden Alexander, 4% Stiff goldenrod,
 3% Common milkweed, 3% White prairie clover, 3% Western spiderwort,
 2% Canada tick trefoil, 1% Yarrow, 1% Showy penstemon,
 1% Prairie rose, 1% Gray goldenrod, all by PLS weight.....8

PRI Savanna Wildflower Mix:
 20% Purple prairie clover, 19% Hoary vervain, 16% Black-eyed Susan,
 12% Leadplant, 8% Common ox-eye, 7% Golden Alexander,
 5% Stiff goldenrod, 4% Canada tick trefoil,
 2% Common milkweed, 2% Wild bergamot,
 2% Prairie rose, 1% Yarrow, 1% Gray goldenrod,
 1% Western spiderwort, all by PLS weight8

E. Plants and Planting:

1. Optionally, the planting can be further diversified with wildflower and/or grass plants (plugs or 4 inch pots). These will be planted individually in appropriate microhabitats throughout, or in designated areas of the project. The plants used will consist primarily of species other than those previously seeded.
2. From the following list a minimum of 6 species will be used.
3. Plant a total of * seedlings, *% of which will be grasses, sedge or rushes (graminoids), and *% of which will be wildflowers (forbs). The plants will have an approximate spacing of * inches on center.
4. Plant a total of 90 plugs.

Wildflowers

- | | |
|---|--|
| Columbine (<i>Aquilegia canadensis</i>) | Wild lupine (<i>Lupinus perennis</i>) |
| Purple coneflower (<i>Echinacea purpurea</i>) | Meadow rose (<i>Rosa blanda</i>) |
| Northern bedstraw (<i>Galium boreale</i>) | Upland goldenrod (<i>Solidago ptarmicoides</i>) |
| Prairie smoke (<i>Geum triflorum</i>) | New England aster (<i>Symphotrichum novae-angliae</i>) |
| Meadow blazing star (<i>Liatris ligulistylis</i>) | Azure aster (<i>Symphotrichum oolentangiense</i>) |
| Dotted blazing star (<i>Liatris punctata</i>) | Golden alexanders (<i>Zizia aurea</i>) |
| Pale lobelia (<i>Lobelia spicata</i>) | |

F. Management:

1. Management (maintenance) plays a vital role in the eventual success of any native landscape installation, especially during the establishment period. Active management of your native landscape is highly recommended to give the project the best opportunity for long term success.
2. Due to nature of this project, the maintenance requirements are somewhat different when compared to larger, seeded restorations. These “garden-like” sites are best maintained utilizing hand weeding techniques accomplished by personnel adept at identifying native and non-native plants.
3. As the project matures, some herbicide may be used as well to eradicate perennial invasive species such as Canada thistle or bird’s foot trefoil. The herbicide is typically applied via backpack sprayer or by “wicking” the herbicide onto the plant.
4. Hand weeding and spot herbicide treatments are billed on a per trip cost agreed upon prior to the growing season.
5. Prescribed burns are extremely helpful in that they stimulate native species to grow more robustly. The burning also helps to deter the presence non-native species.
6. In lieu of burning, or during years when the site is not burned, a Spring Dormant Mowing can be used to “clean up” the previous year’s growth and set the table for the new growing season. This mowing would occur early in the spring, as soon as conditions permit.

G. Anticipated Management:

The following table conveys the anticipated management procedures for your project during the first 3 growing seasons. Estimates for these procedures are provided in the cost section of this proposal.

Year	Projected Management Procedures
2021	Complete site mowings to control annual weed canopy (2 or 3 mowings as needed). Project monitoring
2022	Complete site mowing Integrated Plant Management (IPM) – includes spot spraying, spot mowing, wicking, hand weeding, and other techniques to control weeds and invasive species (3 to 4 visits are typical) Project monitoring
2023	Spring burn to encourage native plant growth and to help deter the presence of non-native and woody species. Integrated Plant Management (IPM) – 3 to 4 visits are typical Project monitoring

H. **Costs:**

Site preparation (includes spraying, tillage, respraying)	\$ 1,500
Seed, seeding and mulching as specified	\$ 1,000
Wildflower seedlings (90 installed)	\$ 225
Germination year management (includes 3 visits)	\$ 300

I. **Contract:**

If you accept the proposal as written and want to proceed with the project, please sign the contract below.

Owner: _____ Date: _____

Signed: _____ Title: _____

Project: _____ Contract Value: \$ _____

Contractor: *Prairie Restorations, Inc.*

Signed: *Blaine Keller* Date: 10/13/2020

Blaine Keller –Site Manager
Prairie Restorations, Inc.
P.O. Box 1027
Hawley, MN 56549

A 20% down payment is required at this time. Please return a copy of the signed contract, along with payment for 20% of the total project cost. The remainder of the contract will be billed upon completion.

J. **Notes:** Please note that this proposal is valid for 3 months (from the date on the proposal). If the proposal is accepted after the 3 month period, PRI reserves the right to modify the proposal based on cost fluctuations and material availability.



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

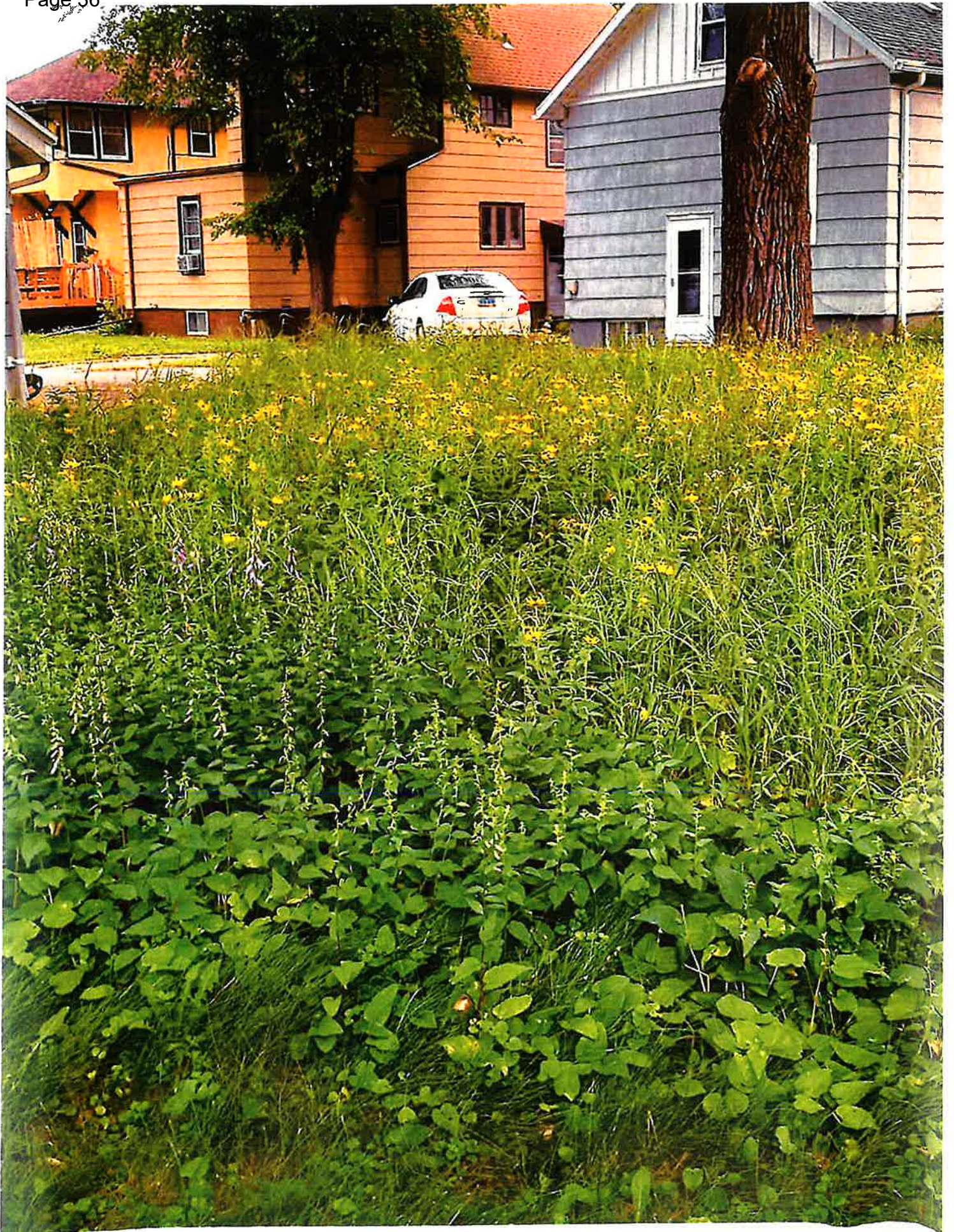
338 9th Ave S

1:1,128

7/12/2023 11:46 AM

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

THE CITY OF
Fargo
FAR MORE







**PUBLIC WORKS
OPERATIONS**

Fleet Management, Forestry,
Streets & Sewers, Watermeters,
Watermains & Hydrants
402 23rd STREET NORTH
FARGO, NORTH DAKOTA 58102
PHONE: (701) 241-1465
FAX: (701) 241-8100

July 17, 2023

Dear property owner,

Your neighbor at 340 9th Ave S has applied for a Land Management Permit (LMP). This permit has been approved.

The LMP and related city ordinance (11-0805 through 11-0812) is intended for property owners who choose to go with a "not so traditional" landscape. Tall grasses, wildflowers, mulch, and a variety of trees and shrubs can be included. There are rules and regulations in place to help monitor this type of landscaping.

The attached material and application outlines the intent, purpose, types of plants, and maintenance strategies. Please review and comment if you wish.

Affected property owners may appeal this decision. The appeal must be made in writing **within 15 days** of the date that the permit is approved. Mail (please notify me as well) any written appeal you wish to make to:

City of Fargo
Board of Adjustment
Attention: Kim Citrowske
225 4th St N
Fargo, ND 58102

Please feel free to contact me if you have any questions. Thank you.

Scott Liudahl
Fargo Forestry Department
402 23rd St N, Fargo, ND 58102
701-241-1466
sliudahl@fargond.gov

LMP approval 340 9th Ave S.doc

Central Fueling
Fleet Purchase
And Vehicle Maintenance

Right of Way Maintenance
Sanitary & Storm
Sewer Maintenance

Snow Removal
Street Maintenance
Street Name Sign Maintenance

Urban Forestry
Watermeters
Watermain Distribution

SL received 8/11/23
email version on 8/8/23

City of Fargo
Board of Adjustment
225 N 4 Street
Attn: Kim Citrowske
Fargo, ND 58102



Cc: Scott Luidahl
Fargo Forestry Dept
402 23 st N
Fargo, ND 58102 sliudahl@fargond.gov

This is In PROTEST and response to WEED PATCH that has been installed 3 years ago by residence at 340 9 ave So Fargo, ND.

10 residents in this area are protesting this weed Patch.,

1. This property does not belong to resident at 340 9 ave so. Therefore they have no right to establish use of this land.
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9. The Shack that resident at 340 9 ave So needs to be removed., No garage or shack of any sort can be installed in back of residence. All residents in area are upset that personal junk is visible. JUNK NEEDS To be installed inside owners property.
10. Protesting also that other residents tax dollars are being spent to pay for WEED PATCH .



- 11. 10 residents are demanding that WEED PATCH be removed immediately and trees trimmed to eliminate hiding spots for vagrants looking for a place to camp and expose their their body which is in full view of other members of community.**
- 12. Please ensure prompt and courteous removal of all of the above.**

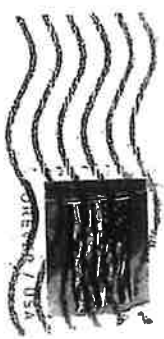
Sincerely

10 community residents and TAX Payers

Please resond ASAP

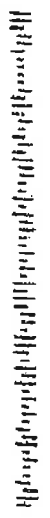
327 10 Ave So
Fargo, ND 58103

FARGO, ND 581
8 AUG 2023 PM 1 L



Scott Luidahl
Frostburg St.
402 23 St. N.
Fargo, ND 58102

58102-411402



Kim Citrowske

From: Scott Liudahl
Sent: Thursday, October 19, 2023 7:32 AM
To: 'Marilyn Seitz'
Cc: Kim Citrowske
Subject: RE: weed patch on 9 ave so.Fargo

Thanks Marilyn.

Scott

From: Marilyn Seitz
Sent: Wednesday, October 18, 2023 12:48 PM
To: Scott Liudahl <SLiudahl@FargoND.gov>
Subject: weed patch on 9 ave so.Fargo

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

Scott ,
pLEASE add these items to my complaint letter.
This weed patch has not been maintained
1. weed patch is supposed be cut down in spring not done
2. weed patch is supposed to be sprayed not done until weeds were 6ft tall.
3. weed patch is supposed to be burned at end of growing season. not done plus better not start a fire
in a residential area.
Please add to my letter.
thank you,
marilyn seitz



Virus-free. www.avg.com

Photo dated 10-19-2023. Most plants are beginning to go dormant now.



City of Fargo Staff Report			
Title:	Ekman Addition	Date:	11/01/2023
		Update:	11/22/2023
Location:	1728 42 nd Street South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lot 3, Block 1, Ekman Addition		
Owner(s)/Applicant:	Blazing Wings Properties, LLC / Commonwealth Development Corporation—Tyler Sheeran	Engineer:	None
Entitlements Requested:	Zone Change (from GC, General Commercial to MR-3, Multi-Dwelling Residential)		
Status:	City Commission Public Hearing: November 27 th , 2022		

Existing	Proposed
Land Use: Undeveloped	Land Use: Multi-dwelling residential
Zoning: GC, General Commercial	Zoning: MR-3, Multi-Dwelling Residential
Uses Allowed: GC allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, basic utilities, adult establishment, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, and some telecommunication facilities.	Uses Allowed: MR-3 allows detached houses, attached houses, duplexes, multi-dwelling structures, group living, daycare centers up to 12 children or adults, parks and open areas, religious institutions, safety services, schools, and basic utilities.
Maximum Lot Coverage: 85%	Maximum Density: 24 dwelling units per acre
Proposal:	
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. A zoning change from GC, General Commercial to MR-3, Multi-Dwelling Residential on Lot 3, Block 1, Ekman Addition. <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: GC with office use • East: GC and MR-3, with undeveloped (GC) and multi-dwelling residence (MR-3) uses • South: MR-3 with multi-dwelling residences • West: across 42nd Street South MR-3 and P/I, Public/Institutional with multi-dwelling residences (MR-3) and Fargo Park District property Rabanus Park. 	
Area Plans:	
The subject property is not included in a growth plan, area plan, or neighborhood plan.	
Context:	
<p>Schools: The subject property is located within the West Fargo School District and is served by Willow Park Elementary, Cheney Middle and West Fargo High schools.</p> <p>Neighborhood: The subject property is located in the West Acres neighborhood.</p>	

Parks: Rabanus Park (also the location of The Fargo Project: World Garden Commons), 4315 18th Avenue Southwest, is across 42nd Street South from the subject property, and provides amenities of basketball court, grill, picnic table, playgrounds for ages 2-5 and 5-12, recreational trails, sand volleyball court, shelters, warming houses, natural playground, overlook gathering spaces and listening garden.

Pedestrian / Bicycle: There is a multi-use trail on the west side of 42nd Street South, across the street from the subject property.

Public Transit: There is a MATBUS stop near the subject property on the west side of 42nd Street at 17th Avenue South.

Staff Analysis:

The applicant proposes a zone change from GC, General Commercial to MR-3, Multi-Dwelling Residential. Adjacent property to the east and south is zoned MR-3. The property was platted as part of the Ekman Addition in 2003 and has never been developed, other than the large shed in the northeast corner. The applicant has stated that this structure will be removed prior to further development. The sale of this property from Blazing Wings Properties, LLC, to the developer, Commonwealth Development, is pending.

The type of development proposed is not part of the findings to support a recommendation on the zone change. However, for the Commission's interest, the applicant has provided this description of the project proposed to be developed on this property:

Commonwealth Development intends to develop a 40-unit apartment complex consisting of 1- and 2-bedroom units on the grounds of 1728 42nd Street. The development will be income-restricted to individuals with incomes between 30-80% of the Area Median Income (AMI) for Cass County, which currently features an average 4-person AMI of \$104,100. This development will also feature age restrictions as it is a senior housing deal for individuals at or above the age of 55 years.

The proposed development will be four stories. The first floor will feature a covered parking structure and tenant amenity space which include a workout center, leasing office, community room, kitchenette, and more. The remaining 3 stories will be reserved for residential units all of which are accessible via elevator to ensure complete accessibility from the parking garage for folks to may present mobility issues.

Access to 42nd Street South is limited by negative access easements that are part of the underlying plat. One access point is available.

Zoning

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?**

This GC, General Commercial zoned property was platted in 2003 and has never been developed. The applicant proposes a rezone to MR-3, Multi-Dwelling Residential. There is no growth plan or area plan that applies to this property. However, this property is adjacent to existing MR-3 zoning to the south, and is along a major arterial, so multi-dwelling residential is an appropriate use for this property.

(Criteria Satisfied)

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

Yes. The subject property fronts on existing public rights of way which provide access and utility services.

(Criteria Satisfied)

<p>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 or comment regarding the proposed zone change. (Criteria Satisfied)</p>
<p>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 proposed amendment will facilitate infill development of the subject property, which is encouraged by the Go2030 comprehensive plan. (Criteria Satisfied)</p>
<p>Staff Recommendation:</p> <p>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 approve the zone change from GC, General Commercial to MR-3 Multi-Dwelling Residential on Lot 3, Block 1, Ekman Addition, as proposed, as the project complies with all the standards of Section 20-0906.F (1-4) of the LDC and is consistent with the Go2030 comprehensive plan.”</p>
<p>Planning Commission Recommendation: November 7th, 2023</p> <p>At the November 7th, 2023 Planning Commission public hearing, that Commission, by a vote of 7-0 with two Commissioners absent and two Commission seats vacant, moved to accept the findings and recommendations of staff and recommended approval of the zone change from GC, General Commercial to MR-3 Multi-Dwelling Residential on Lot 3, Block 1, Ekman Addition, as proposed, as the project complies with all the standards of Section 20-0906.F (1-4) of the LDC and is consistent with the Go2030 comprehensive plan.</p>
<p>Attachments:</p> <ol style="list-style-type: none"> 1. Location Map 2. Zoning Map

Zone change from GC, General Commercial
to MR-3, Multi-Dwelling Residential

Ekman Addition

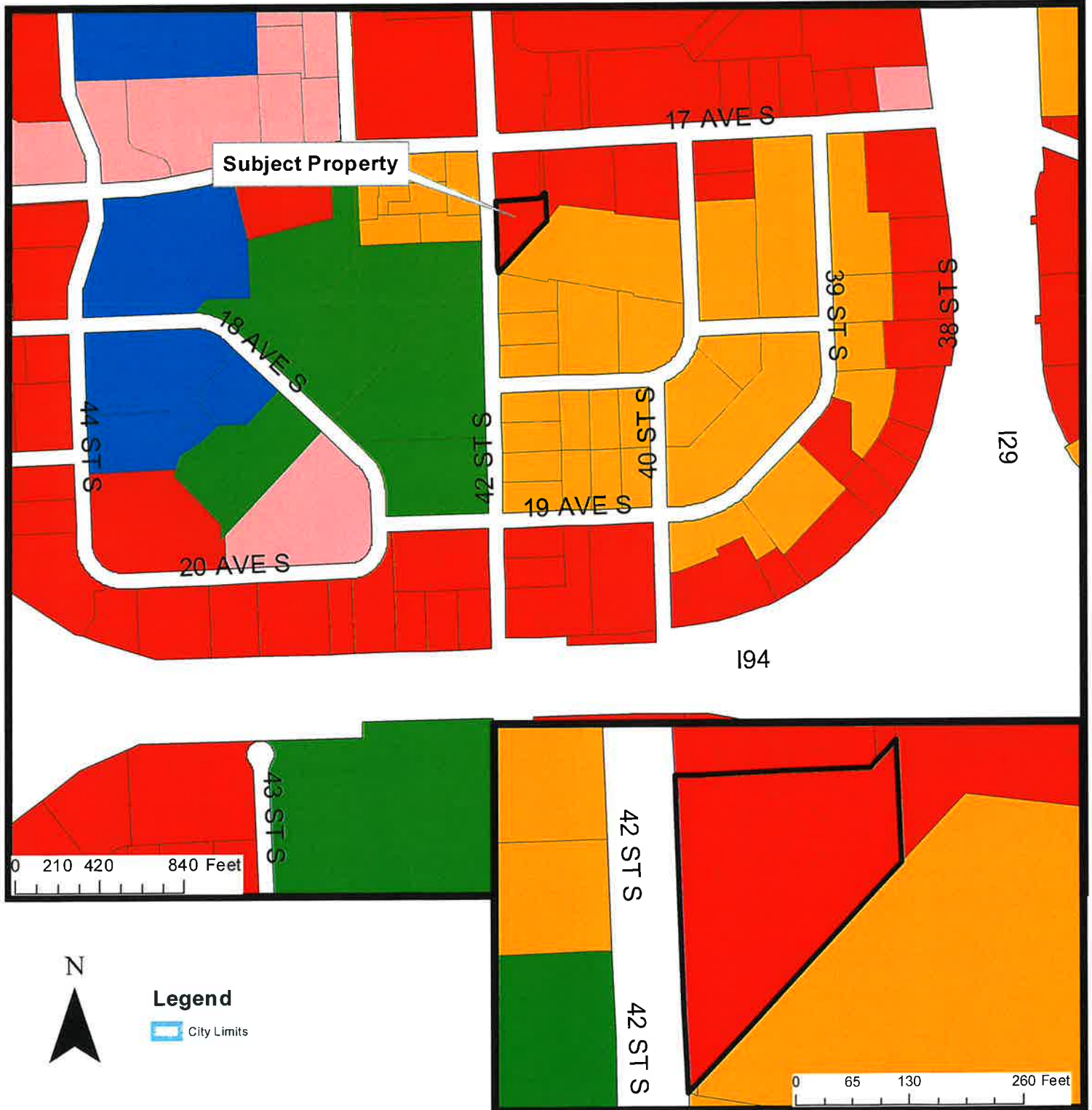
1728 42nd Street South



**Zone change from GC, General Commercial
to MR-3, Multi-Dwelling Residential**

Ekman Addition

1728 42nd Street South



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

4016

ORDINANCE NO. _____

AN ORDINANCE REZONING A CERTAIN PARCEL
OF LAND LYING IN EKMAN 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 Ekman Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on November 7, 2023; and,

WHEREAS, the rezoning changes were approved by the City Commission on November 27, 2023,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot Three (3), Block One (1) of Ekman Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "GC", General Commercial, District to "MR-3", Multi-Dwelling Residential, District.

Section 3. 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 4. This ordinance shall be in full force and effect from and after its passage and approval.

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

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

50

City of Fargo Staff Report			
Title:	Urban Plains by Brandt Seventh Addition	Date: Update:	9/26/2023 11/22/2023
Location:	2907, 2915, 2949, 2975, 3037, and 3151 Seter Parkway South	Staff Contact:	Brad Garcia, Planner
Owner(s)/Applicant:	Urban Plains Land Company LLC / Gleason Companies	Engineer/Architect:	Lowry Engineering
Reason for Request:	Major Subdivision and ROW Vacation plat (a replat of Lots 2-4, Block 5, Urban Plains by Brandt First Addition and a portion of Lot 1 and all of Lots 2-3, Block 5, Urban Plains by Brandt Second Addition; and a vacation of a portion of Seter Parkway South to the City of Fargo, Cass County, North Dakota) and Zoning Change to repeal and reestablish a C-O, Conditional Overlay		
Status:	City Commission Public Hearing: November 27th, 2023		

Existing	Proposed
Land Uses: Undeveloped	Land Use: Commercial and Mixed-Use Development
Zoning: LC, Limited Commercial with a C-O, Conditional overlay	Zoning: No change in base zoning, repeal and reestablish a C-O, Conditional Overlay
Uses Allowed: LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, basic utilities, offices, off premise advertising signs, commercial parking, retail sales and service, self-service storage, vehicle repair, limited vehicle service, and certain telecommunications facilities. Plus CUP for Off-premise advertising (see property details under staff analysis) Conditional Overlays also restricts portable signs, industrial services, manufacturing and production, and warehouse and freight movement, in addition to the uses with a strike above.	Uses Allowed: LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, basic utilities, offices, off premise advertising signs, commercial parking, retail sales and service, self-service storage, vehicle repair, limited vehicle service, and certain telecommunications facilities. Plus CUP for Off-premise advertising (see property details under staff analysis) Conditional Overlays also restricts portable signs, industrial services, manufacturing and production, and warehouse and freight movement, in addition to the uses with a strike above.
Maximum Building Coverage Allowed: maximum 55% building coverage.	Maximum Building Coverage: No Change

Proposal:
<p>The applicant is seeking approval of two entitlements:</p> <ol style="list-style-type: none"> 1) a major subdivision and ROW vacation plat entitled Urban Plains by Brandt Seventh Addition which is a replat of Lots 2-4, Block 5, Urban Plains by Brandt First Addition portion of Lot 1 and all of Lots 2-3, Block 5, Urban Plains by Brandt Second Addition, and a vacation of a portion of Seter Parkway South; and 2) a Zoning Change to repeal and reestablish a C-O, Conditional Overlay <p>The proposed subdivision would vacate small portions of the Seter Parkway South right of way dedicated for future</p>

roundabouts. The plat would consolidate the subject properties and vacated portions of the right of way into three lots with a private road easement throughout the development, consisting of 20.42 acres.

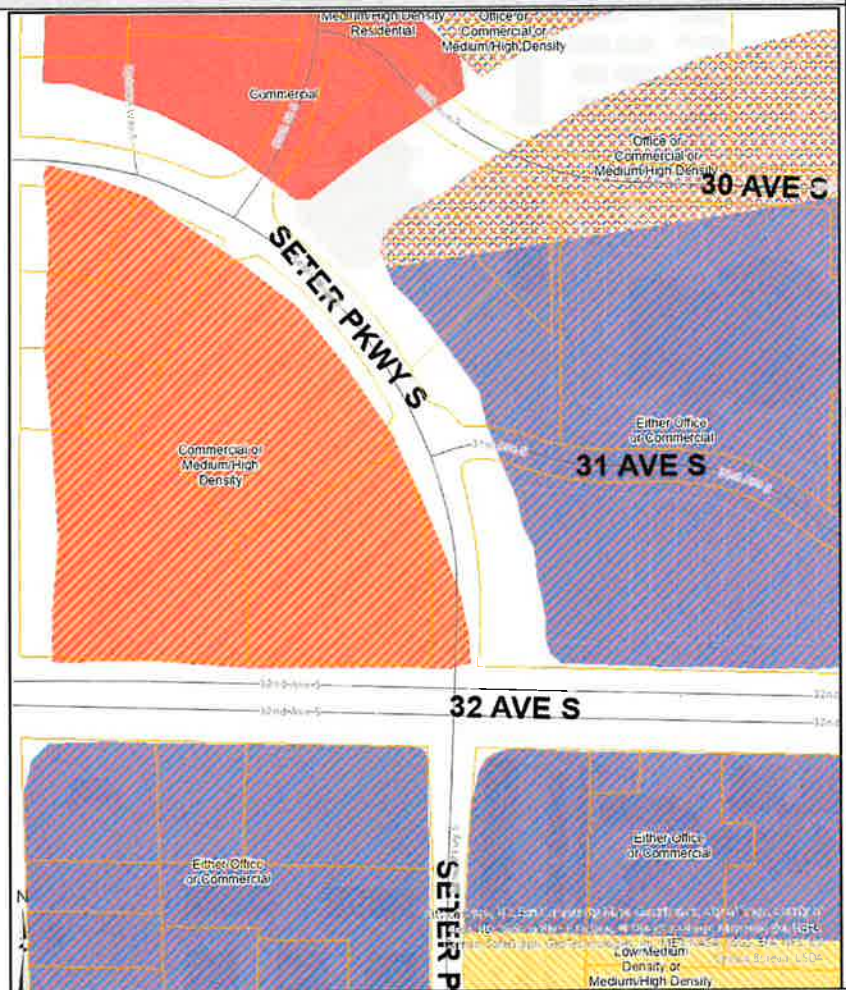
The City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff") reviewed this project, whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: LC, Limited Commercial and GC, General Commercial with commercial uses
- East: GC, General Commercial with surface parking
- South: LC, Limited Commercial with commercial uses
- West: LC, Limited Commercial with commercial uses

Area Plans:

The subject property is located within the Southwest Area Plan as contained within the Urban Fringe and Extraterritorial Area of the City of Fargo land use plan. The plan was amended in 2003 in favor of a mixed-use development format.



Context:

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

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

Parks: The subject property is located within a quarter-mile distance to Urban Plains Park (3020 51st Street South)

which offers two playgrounds, recreational trails, three large shelters, a small shelter, a gazebo and houses the Garden of Healing. Urban Plains is a project of the Urban Woods & Prairie Initiative with Audubon Dakota.

Pedestrian / Bicycle: A shared-use path surrounds the entirety of the property, connecting to the city's network of shared-use paths. No dedicated bike facilities are located within a half-mile radius.

Transit: One public transportation bus route serves the subject property within a quarter-mile distance. Route 24 serves the area going eastbound along Seter Parkway South and westbound along 32 Ave South, providing service to GTC, West Acres, Sanford Medical Center, Scheels Arena, Cashwise Foods, Bluestem Dr, Costco, 19th Ave & Burlington Dr.

Staff Analysis:

Background

Lots 2-4, Block 5, Urban Plains by Brandt First Addition were last platted in July 2006 and Lots 1-3, Block 5 Urban Plains by Brandt Second Addition were platted in September 2013. Additionally, Lot 1, Block 5 Urban Plains by Brandt Second Addition was split into three separate lots in March 2015. Only a portion of Lot 1 is included in this application as this lot was deed split into three separate lots. All lots described remain undeveloped to this day.

The Applicant is requesting to replat the existing lots into 3 lots, with Lot 3 being a consolidation of the several previously platted lots. It is the owner's intent to replat the proposed Lot 3 in the future to accommodate market demands. Lots 1 and 2 of the proposed plat will be ready to develop once platted.

Private Roads / Access

The subject properties currently have a 24' access easement for private roads within the development. The existing access easement will be vacated with this plat and a newly configured loop road will connect all lots to Seter Parkway, Veterans Blvd and 32nd Ave South.

Access off of Seter Parkway will be limited to the private road and a 30' access easement on the Northeast side of Lot 3. Access from Veterans Blvd and 32nd Ave South will be limited to a right-in/right-out onto the private road. No other access from these arterial roads will be allowed to any of the subject properties.

Private roads will be designed to include sidewalks on both sides to allow pedestrian connectivity among proposed and future lots. Locations of sidewalks will be reviewed and documented when construction permits are submitted for the construction of private roadways.

The developer will be responsible for the maintenance of private roadways, which includes snow removal. Individual property owners will be responsible for snow and mowing maintenance of sidewalks and boulevards.

Since approval from Planning Commission, the names of the proposed roads have changed to meet city requirements and do not affect any other portion of the proposed plat or entitlements.

Vacated ROW

The existing right of way of Seter Parkway allowed for future roundabouts at the intersections of 30 Ave South and 28th Ave South. The applicant provided a traffic study that was reviewed by the city traffic engineer, confirming roundabouts would not be necessary. The applicant has requested that the portions of the ROW reserved for roundabouts be included in this plat.

Stormwater

Lots 1 and 2 will be retain stormwater individually on each property. The applicant has proposed a shared retention pond for the remaining development in Lot 3; however, an easement for stormwater for Lot 3 will not be required with this plat to allow flexibility on where a retention pond would best be located. The property owner will need to

accommodate stormwater retention prior to any future development on Lot 3 or future subdivided lots.

Private Utilities

The Developer shall design and construct the storm sewer, sanitary sewer, and water main system as private improvements and paid for by the Developer.

Engineering and Construction Improvements

To support the proposed private road layout and access, the developer has requested a future improvement project of a right-hand turn lane on Veterans Boulevard onto Larry Way. Installation is to be completed by the City of Fargo and 100% of costs be special assessed to the properties within Urban Plains by Brandt Seventh Addition. These improvements have been identified in a Developers Agreement by Engineering. Engineering does not anticipate any additional public infrastructure for the subdivision of the lots.

Conditional Use

A conditional use permit (CUP) to allow off-premise advertising was approved February 16, 2016 on Lot 4, Block 5, Urban Plains by Brandt First Addition. This conditional use will apply to the proposed Lot 3, however the CUP will be restricted to the boundary of the Lot 4, Block 5 Urban Plains by Brandt First Addition as was recorded.

Conditional Overlay

Currently there are three slightly different Conditional overlays on one or more of the subject properties. All three conditional overlays provided conditions for building and site design standards for mixed-use and non-residential commercial. Updates to existing overlays are minimal and implementing best practices for design and site standards. The conditional overlay is primarily intended to encourage high-quality, durable, and long-lasting investments to enhance the quality of life and discourage blight.

Public Comment

In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. No inquiries or opposition to the project has been received by staff.

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

- 1. Section 20-0907.C.1 of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**

The proposed subdivision reconfigures existing lots to match market demand for commercially zoned properties. The plat creates three lots, one of which is a consolidation of several lots from previous subdivisions to be subdivided at a future time. There are no changes proposed to the base zoning district with the plat, and commercially zoned properties are consistent with the existing Growth Plan. **(Criteria Satisfied)**

- 2. Section 20-0907.C.4 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.D of the LDC further stipulates that a Major Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

Pursuant to Item 1 above, the proposed subdivision is consistent with the existing Growth Plan and the proposed use will be compatible with the current zoning. Additionally, the subdivision meets all requirements of Article 20-06 as established within the Land Development Code (LDC). **(Criteria Satisfied)**

- 3. Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.** Public improvements already exist which serve the subject and surrounding properties. If any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of

Fargo assessment principles. **(Criteria Satisfied)**

ROW Vacation Approval Criteria: The City of Fargo does not currently have any adopted regulation dealing with the vacation of right-of-ways. However, city policy dictates that any petitioner wishing to vacate right-of-way must submit a Vacate Application, a one page form wherein the petitioner provides: a description of the area to be vacated, and signatures of all property owners adjoining the area to be vacated. In addition, the petitioner must submit a vacate plat (a major subdivision). Notwithstanding the Land Development Code's (LDC) silence on the matter, the North Dakota Century Code (N.D.C.C) does address the opening and vacating of roadways in Chapter 24-07 (outside of municipal limits) and Chapter 40-39 (inside municipal limits). To that end, the balance of this report will focus on the specific approval criteria outlined within the N.D.C.C.

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

This portion of right-of-way does not contain any sewers, water mains, gas, or other pipes or telephone, electric, or cable television lines. The application has been routed to the appropriate agencies for their review and staff has not received any comments. **(Criteria Satisfied)**

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

In accordance with the requirement of this section, the applicant has submitted a petition signed by all adjacent owners for review and consideration, along with a plat of such public street. **(Criteria Satisfied)**

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

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

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

This action will be taken by the City Commission. **(Criteria Satisfied)**

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

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

The proposed zoning change does not change the base zoning district. There are multiple conditional overlays applicable to the properties within the boundaries of the subject properties. The zoning change request will replace the various conditional overlays with one consistent overlay across all subject properties. **(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?

There is no change to the intensity of zoning which would impact current and planned city infrastructure to service the subject properties. The City Engineer and other applicable review agencies have reviewed this proposal. No deficiencies to provide the necessary public services, facilities and programs to this development have been identified. **(Criteria Satisfied)**

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

Since there is no change in the base zoning district, staff has no evidence 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. No inquiries or opposition to the project has been received by staff. **(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 changes to the conditional overlays will continue to support goals of the Go2030 Comprehensive in areas such as establishing design standards to enhance the character of the public realm and create more walkable neighborhoods and commercial districts. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of planning commission and staff, and hereby waive the requirement to receive the 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) major subdivision plat of **Urban Plains by Brandt Seventh Addition**, including vacation of right of way, as outlined in the staff report; and 2) the zoning change to repeal and reestablish a C-O, Conditional Overlay, as the proposal complies with the adopted Area Plan, the standards of Section 20-0906.F (1-4), Section 20-0907.C, and of Article 20-06, and all other applicable requirements of the Land Development Code, and of North Dakota Century Code Chapter 40-39.

Planning Commission Recommendation: October 3rd 2023

At the October 3rd, 2023 Planning Commission hearing, that Commission, by a vote of 7-0, with two Commissioners absent and two Commission seats vacant, recommended approval to the City Commission: 1) the proposed major subdivision plat of **Urban Plains by Brandt Seventh Addition**, including vacation of right of way, as outlined in the staff report; and 2) the zoning change to repeal and reestablish a C-O, Conditional Overlay, as the proposal complies with the adopted Area Plan, the standards of Section 20-0906.F (1-4), Section 20-0907.C, and of Article 20-06, and all other applicable requirements of the Land Development Code, and of North Dakota Century Code Chapter 40-39.

Attachments:

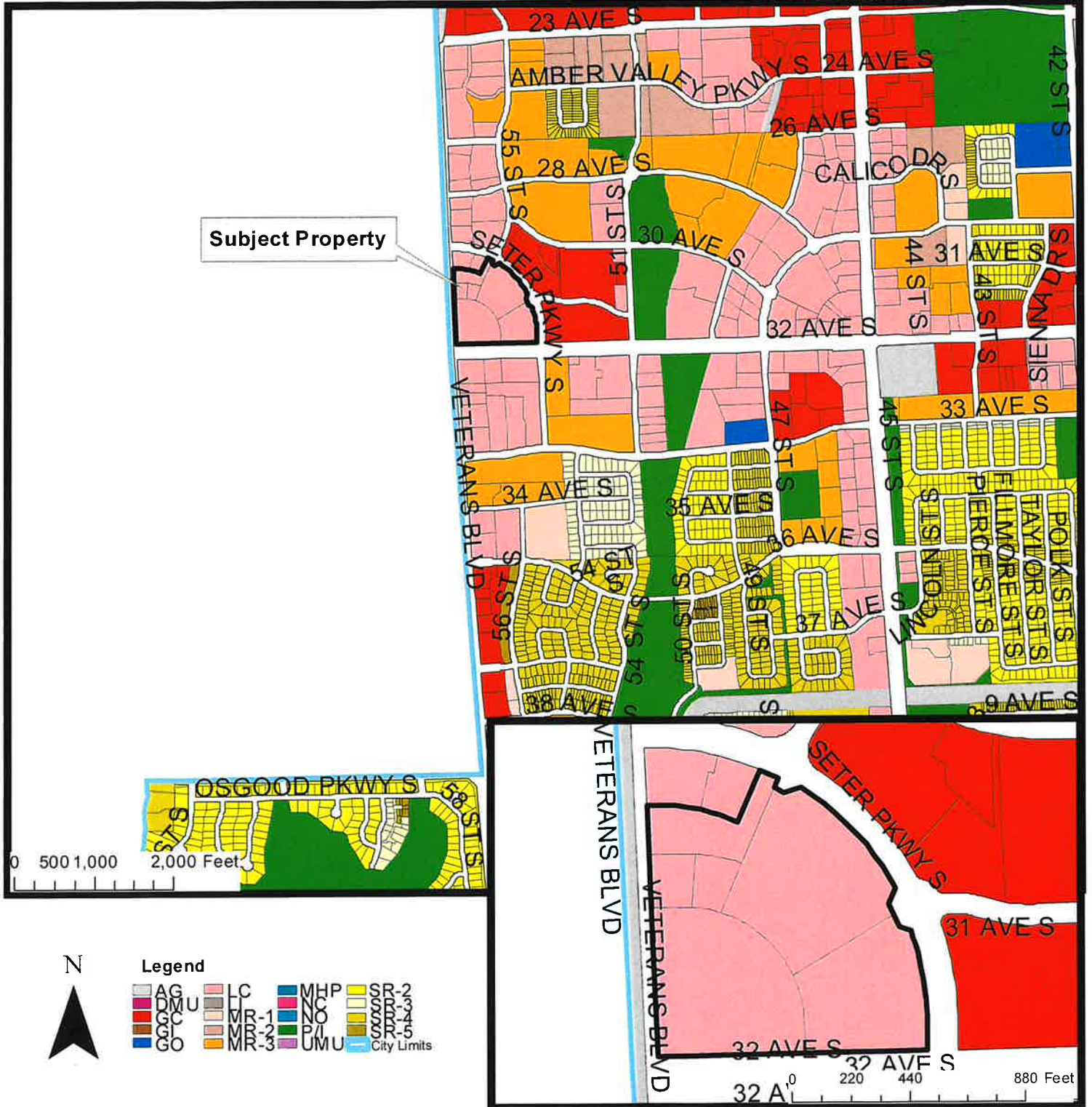
1. Zoning Map

2. Location Map
3. Preliminary Plat
4. Draft Conditional Overlay

Major Subdivision including vacation of right of way; Zone Change from LC, Limited Commercial with a Conditional Overlay to LC, Limited Commercial with a Conditional Overlay

Urban Plains by Brandt Seventh Addition

2907, 2915, 2949, 2975, 3037
and 3151 Seter Parkway South



Major Subdivision including vacation of right of way; Zone Change from LC, Limited Commercial with a Conditional Overlay to LC, Limited Commercial with a Conditional Overlay

Urban Plains by Brandt Seventh Addition

2907, 2915, 2949, 2975, 3037 and 3151 Seter Parkway South



Legend
City Limits

Conditional Overlay
Urban Plains By Brandt Seventh Addition
Urban Plains 32nd Ave and Veterans

Requirements for mixed-use and non-residential development:

1. Description: This C-O, Conditional Overlay district is primarily intended to encourage high-quality, durable, and long-lasting investments to enhance the quality of life and discourage blight. All properties should be designed to a human scale, and buildings should have architectural interest and variety through the use of articulated façades.

2. Building form and style:

2.1 All building elevations/facades greater than 150 feet in length, measured horizontally from vertical edge to vertical edge, shall incorporate wall plane projections or recesses. Each projection and/or recess shall have a depth of at least two (2) feet, and the cumulative total horizontal width of all projections and/or recesses within a facade shall equate to at least an accumulated total of twenty (20) percent of the overall horizontal length of the facade. No uninterrupted length of any facade shall exceed 150 horizontal feet.

2.2 Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features of pedestrian scale along no less than 50 percent of their horizontal length. If the facade facing the street is not the front, it shall include the same features and/or landscaping in scale with the facade.

2.3 All buildings, regardless of size, shall have clearly-defined, highly-visible public entrances that connect to public spaces, streets, pedestrian paths, and plazas with no fewer than two of the following: canopies, awnings or porticos; recesses/projections varying the façade; raised corniced parapets over the door; peaked roof forms; arches or arcades; entry courts; raised landscape planters and/or wing walls integrated with the building.

2.4 Exterior walls shall be constructed or clad with natural stone, synthetic stone, brick, stucco, integrally-colored and textured concrete masonry units or systems, EIFS, fiber cement, architectural metal panels, curtain walls, rainscreen systems, or glass. All materials shall be commercial grade, durable, and have a multi-generational life span.

2.5 Accent materials such as finished wood and vinyl may be used to construct or clad exterior walls up to twenty (20) percent of each building façade.

2.6 Flat roofs and rooftop mechanical equipment shall be concealed from public view at ground level by parapets or other enclosures.

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

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

3. Site Design:

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

3.2. Separate vehicular and pedestrian circulation systems shall be provided. Adjacent properties may share pedestrian circulation systems that connect to public sidewalks with Zoning Administrator approval. An on-site system of pedestrian walkways shall be provided between building entrances and the following:

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

4. Prohibited Uses:

- 4.1 Portable advertising signs
- 4.2 Detention facilities
- 4.3 Self-service storage
- 4.4 Vehicle repair
- 4.5 Vehicle service, limited
- 4.6 Industrial uses

5. Conditional Uses. For the purposes of this Conditional Overlay, the following uses require approval of a Conditional Use Permit in accordance with Section 20-0909 of the Land Development Code:

5.1 Off-premise advertising

6. Definitions:

- 6.1 Façade: Any exterior side of a building as viewed from a single direction, typically perpendicular to the exterior side of the building being viewed.
- 6.2 Depth: A horizontal distance perpendicular to a building façade.
- 6.3 Elevation: A horizontal orthographic projection of a building onto a vertical plane, parallel to one side of the building.
- 6.4 Landscaped: To make an area of land more attractive by adding plants.

6.5 Permanent Walls: constructed of bricks and cement or similar materials, anchored to a permanent foundation

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN URBAN PLAINS BY
BRANDT SEVENTH ADDITION TO THE
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on October 3, 2023; and,

WHEREAS, the rezoning changes were approved by the City Commission on November 27, 2023,

NOW, THEREFORE,

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

Section 1. The following described property:

All of Urban Plains by Brandt Seventh Addition to the City of Fargo, Cass County, North Dakota,

that is currently zoned "LC", Limited Commercial, District, subject to the existing "C-O", Conditional Overlay, Districts, as established by Fargo Municipal Ordinance Nos. 5103, 5153, and 4978, will hereby retain the base zoning of "LC", Limited Commercial, District, repealing and re-establishing the "C-O", Conditional Overlay, Districts, as follows:

Requirements for mixed-use and non-residential development

1. Description. This C-O, Conditional Overlay District is primarily intended to encourage high-quality, durable, and long-lasting investments to enhance the quality of life and discourage blight. All properties should be designed to a human scale, and buildings should have architectural interest and variety through the use of articulated faades.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

2. Building form and style.

1 2.1 All building elevations/façades greater than 150 feet in length, measured horizontally
2 from vertical edge to vertical edge, shall incorporate wall plane projections or recesses.
3 Each projection and/or recess shall have a depth of at least two (2) feet, and the
4 cumulative total horizontal width of all projections and/or recesses within a façade shall
5 equate to at least an accumulated total of twenty (20) percent of the overall horizontal
6 length of the façade. No uninterrupted length of any façade shall exceed 150 horizontal
7 feet.

8 2.2 Ground floor façades that face public streets shall have arcades, display windows,
9 entry areas, awnings, or other such features of pedestrian scale along no less than fifty
10 (50) percent of their horizontal length. If the façade facing the street is not the front, it
11 shall include the same features and/or landscaping in scale with the façade.

12 2.3 All buildings, regardless of size, shall have clearly defined, highly-visible public
13 entrances that connect to public spaces, streets, pedestrian paths, and plazas with no
14 fewer than two (2) of the following: canopies, awnings or porticos; recesses/projections
15 varying the façade; raised corniced parapets over the door; peaked roof forms; arches or
16 arcades; entry courts; raised landscape planters and/or wing walls integrated with the
17 building.

18 2.4 Exterior walls shall be constructed or clad with natural stone, synthetic stone, brick,
19 stucco, integrally colored and textured concrete masonry units or systems, EIFS, fiber
20 cement, architectural metal panels, curtain walls, rainscreen systems, or glass. All
21 materials shall be commercial grade, durable, and have a multi-generational life span.

22 2.5 Accent materials such as finished wood and vinyl may be used to construct or clad
23 exterior walls up to twenty (20) percent of each building façade.

2.6 Flat roofs and rooftop mechanical equipment shall be concealed from public view at
ground level by parapets or other enclosures.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 2.8 Dumpsters, refuse containers, and outdoor storage areas shall be located at the side or
2 rear of buildings and visually screened from adjacent public right-of-way by permanent
3 walls. The permanent walls shall be constructed or clad with the same materials used for
4 the primary building. Dumpsters and refuse containers shall contain permanent walls on
at least three (3) sides, with the service opening not directly facing any public right-of-
way or residentially zoned property. The fourth side shall incorporate a metal gate to
visually screen the dumpsters or refuse containers.

5 3. Site Design.

6 3.1 A minimum of five (5) percent of the internal surface area of the parking lot shall be
7 landscaped through the use of planter islands and peninsulas.

8 3.2. Separate vehicular and pedestrian circulation systems shall be provided. Adjacent
9 properties may share pedestrian circulation systems that connect to public sidewalks with
10 Zoning Administrator approval. An on-site system of pedestrian walkways shall be
provided between building entrances and the following:

11 3.2.1. Parking lots or parking structures;

12 3.2.2. Any public sidewalk or multi-use path along the perimeter of the lot;

13 3.2.3. Entrances of other buildings on the site;

14 3.2.4. Any public sidewalk system along the perimeter streets adjacent to the
development; and

15 3.2.5. Adjacent pedestrian origins and destinations— including, but not limited to,
16 transit stops, residential development, office buildings, and retail shopping
17 buildings— where deemed practical and appropriate by the Zoning
18 Administrator.
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

4. Prohibited uses include the following:

1 4.1 Portable advertising signs;

2 4.2 Detention facilities;

3 4.3 Self-service storage;

4 4.4 Vehicle repair;

5 4.5 Vehicle service, limited; and

6 4.6 Industrial uses.

7
8 5. Conditional Uses. For the purposes of this Conditional Overlay, the following use(s)
9 require approval of a Conditional Use Permit in accordance with Section 20-0909 of the
10 Land Development Code:

11 5.1 Off-premises advertising

12 6. Definitions.

13 6.1 Façade: Any exterior side of a building as viewed from a single direction, typically
14 perpendicular to the exterior side of the building being viewed.

15 6.2 Depth: A horizontal distance perpendicular to a building façade.

16 6.3 Elevation: A horizontal orthographic projection of a building onto a vertical plane,
17 parallel to one side of the building.

18 6.4 Landscaped: To make an area of land more attractive by adding plants.

19 6.5 Permanent Walls: constructed of bricks and cement or similar materials, anchored to
20 a permanent foundation.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. This ordinance shall be in full force and effect from and after its passage and approval.

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

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

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City of Fargo Staff Report			
Title:	Timber Parkway Eighth Addition	Date:	11/01/2023 11/22/2023
Location:	5056 Charles Way South	Staff Contact:	Alayna Espeseth, Assistant Planner
Legal Description:	Lot 1, Block 1 Timber Parkway Eighth Addition		
Owner(s)/Applicant:	PLC Investments LLC / Christianson Companies	Engineer:	N/A
Entitlements Requested:	Zoning Change (to repeal and reestablish a C-O, Conditional Overlay)		
Status:	City Commission Consent Agenda: November 27 th , 2023		

Existing	Proposed
Land Use: Undeveloped	Land Use: No change
Zoning: GC, General Commercial with a conditional overlay	Zoning: GC, General Commercial with a reestablished conditional overlay
Uses Allowed: GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, detention facilities , health care facilities, parks and open space, religious institutions, safety services, basic utilities, adult establishment , offices, off-premise advertising , commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage , vehicle repair , limited vehicle service, and some telecommunication facilities. Conditional Overlay No. 4908 prohibits certain uses.	Uses Allowed: No change to uses with proposed conditional overlay.
Maximum Lot Coverage Allowed: 85%	Maximum Lot Coverage Allowed: No change

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> Zoning Change (from GC, General Commercial with C-O, Conditional Overlay to GC, General Commercial with a reestablished C-O, Conditional Overlay) <p>The purpose of re-establishing the conditional overlay is for clarity, consistency and for cleanup, as the subject property was unplatted when the current conditional overlay, Ordinance 4908, was applied. The proposed conditional overlay is based off Ordinance 5266, which applies to nearly all lots between 52nd Avenue South and Timber Parkway South, except for Lot 2, Block 1, Timber Parkway Second Addition (Cash Wise Foods Supermarket).</p> <p>Staff worked with the applicant to modify some of the requirements in the conditional overlay for clarity or consistency related to:</p> <ul style="list-style-type: none"> • Building massing and façade length; • Screening of dumpsters/refuse containers and loading areas. <p>For further details, please refer to the attached draft conditional overlay for the subject property.</p> <p style="text-align: right;">(Continued on next page.)</p>

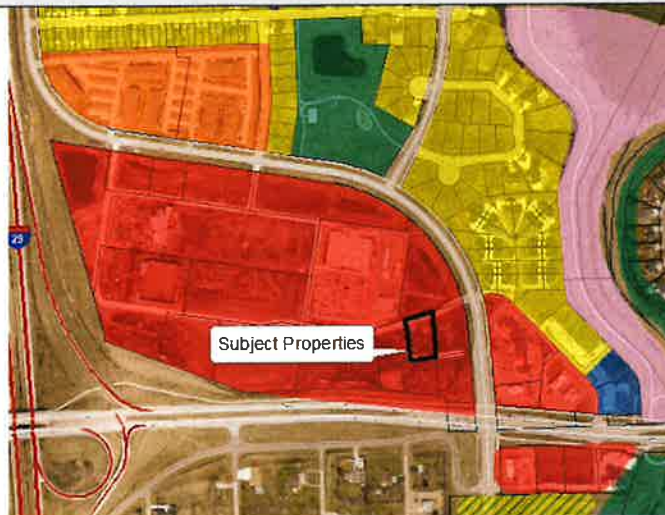
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: GC, General Commercial with C-O Ordinance 5266; undeveloped land
- East: GC, General Commercial with C-O Ordinance 4908; fast food restaurant
- South: GC, General Commercial with C-O Ordinance 4908; undeveloped land
- West: GC, General Commercial with C-O Ordinance 5266; restaurant use.

Area Plans:

The subject property is located within the 2001 South Remainder Land Use Plan. Within this growth plan, the subject property is designated for "Commercial" uses.



[Red]	Commercial
[Red/Orange Diagonal]	Commercial or Medium/High Density
[Orange/Red Diagonal]	Commercial or Medium/High or Park/Open Space
[Yellow/Orange Diagonal]	Commercial or Park/Open Space
[Orange]	Either Industrial or Commercial
[Blue/White Diagonal]	Either Office or Commercial
[Blue/Orange Diagonal]	Either Office or Medium/High Density Residential
[Brown]	Industrial
[Yellow]	Low/Medium Density Residential
[Yellow/Orange Diagonal]	Low/Medium Density or Medium/High Density
[Orange]	Medium/High Density Residential
[Green/Orange Diagonal]	Medium/High Density or Park/Open Space
[Blue]	Office
[Orange/White Diagonal]	Office or Commercial or Medium/High Density
[Green]	Park/Open Space
[Purple]	Public
[Purple/White Diagonal]	Public or Commercial
[Purple/Blue Diagonal]	Public or Low/Medium Density
[Blue/White Diagonal]	Public or Office
[Blue]	Storm Water

Context:

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

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

Parks: The subject property is located within a half mile of Timber Creek Park (3300 47th Avenue South) to the north, Meadow Creek Park (4800 Meadow Creek Drive South) to the east and Prairie Farms Park (5400 31st Street South) to the south.

- Timber Creek Park – Amenities include a basketball court, grill, picnic tables, playground (ages 2-5), playground (ages 5-12), recreational trails and shelter.
- Meadow Creek Park – Amenities include multipurpose field.
- Prairie Farms Park – Amenities include basketball court, grill, picnic table, playground (ages 2-5), playground (ages 5-12), recreational trails and shelter.

Pedestrian / Bicycle: A shared use path is located to the north and east of the subject property, along the north side of Timber Parkway South. A second shared use path is located along the north side of 52nd Avenue South, south of the subject property.

MATBUS Route: The subject property is not along a MATBUS route.

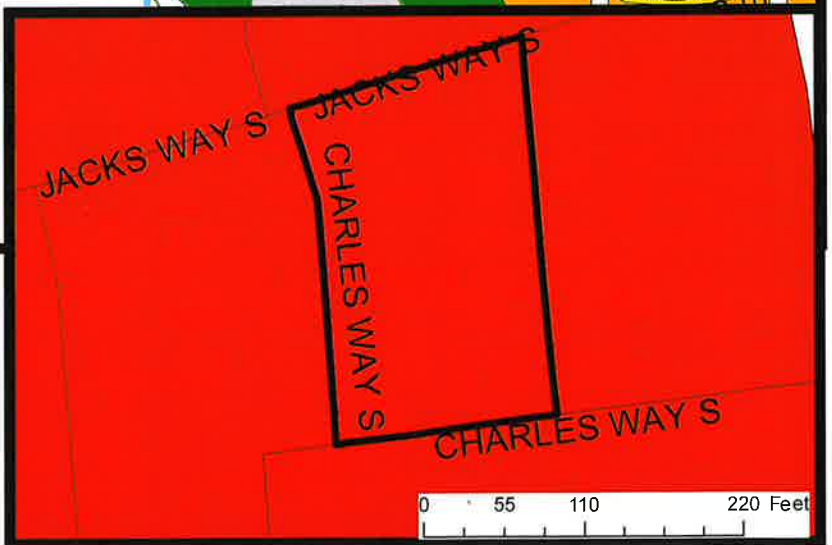
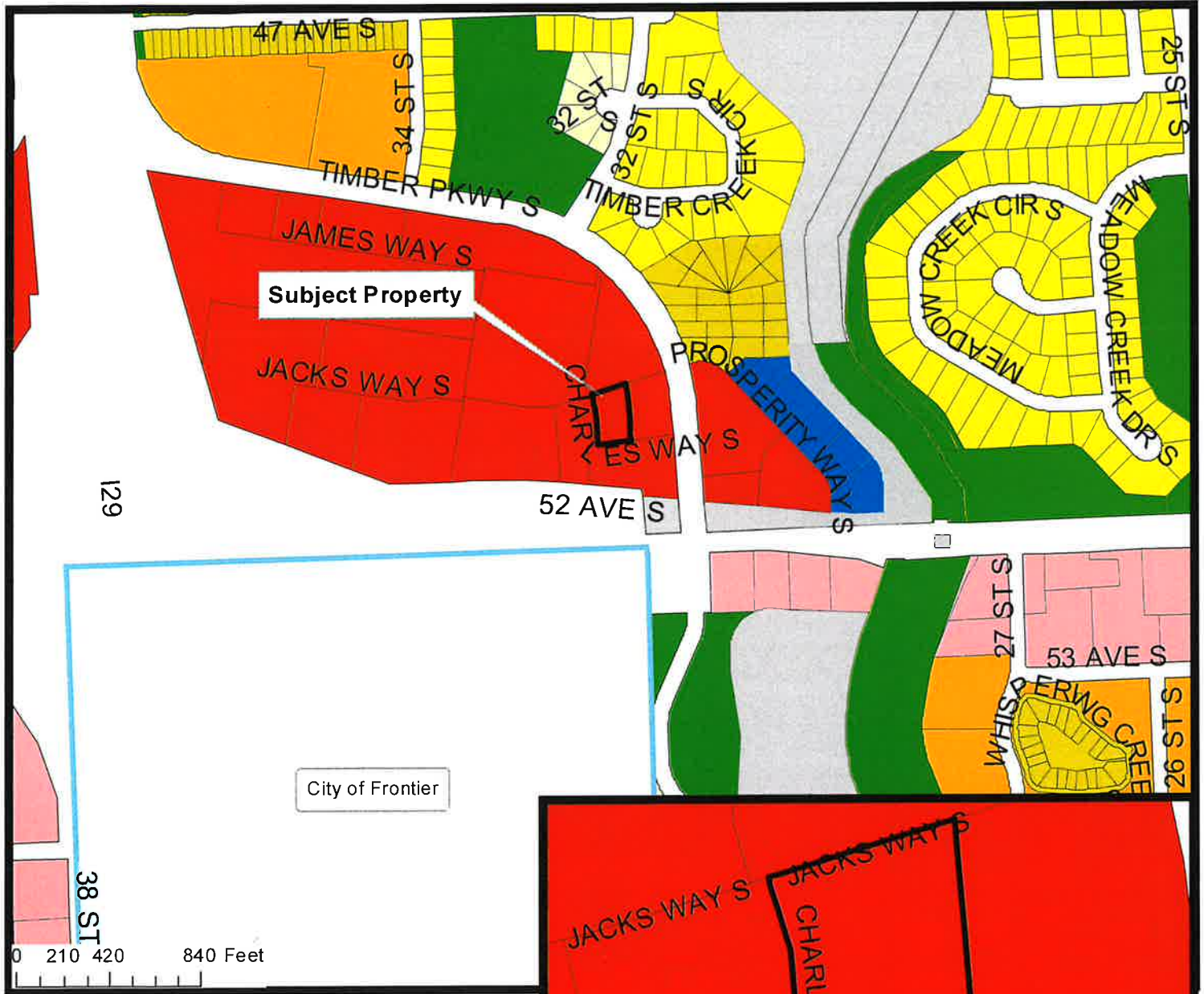
(Continued on next page.)

<p>Staff Analysis:</p> <p>Zoning</p> <p>Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:</p> <ol style="list-style-type: none"> <p>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?</p> <p>Staff is unaware of any error in the zoning map as it relates to this property. The applicant is requesting to rezone the property in order to reestablish the conditional overlay on the subject property and to keep it consistent with the conditional overlays in the area.</p> <p>(Criteria Satisfied)</p> <p>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?</p> <p>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 is adjacent to existing developed public rights-of-way and private drive, which provide access and public utilities to serve the property.</p> <p>(Criteria Satisfied)</p> <p>3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?</p> <p>Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners within 300 feet of the project site. To date, staff has received no inquiries related to the application.</p> <p>(Criteria Satisfied)</p> <p>4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?</p> <p>The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed zone change is consistent with the purpose of the LDC, 2001 South Remainder Land Use Plan and other adopted policies of the City.</p> <p>(Criteria Satisfied)</p>
<p>Staff Recommendation:</p> <p>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 zoning change to repeal and reestablish a C-O, Conditional Overlay on Lot 1, Block 1 Timber Parkway Eighth Addition as outline in the staff report on the basis that it satisfactorily complies with the 2001 South Remainder Land Use Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."</p>
<p>Planning Commission Recommendation: November 7th, 2023</p> <p>At the November 7th, 2023 Planning Commission hearing, by a vote of 7-0 with 2 Commissioners absent and two Commission seats vacant, the Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission the proposed zone change to repeal and reestablish a C-O, Conditional Overlay on Lot 1, Block 1 Timber Parkway Eighth Addition as outlined within the staff report, as the proposal complies with the 2001 South Remainder Land Use Plan, standards of Section 20-0907.B & C, standards of Article 20-06, and all other applicable requirements of the Land Development Code.</p>
<p>Attachments:</p> <ol style="list-style-type: none"> Zoning Map Location Map Draft Conditional Overlay

Zone Change to repeal and reestablish a C-O, Conditional Overlay

Timber Parkway Eighth Addition

5056 Charles Way South



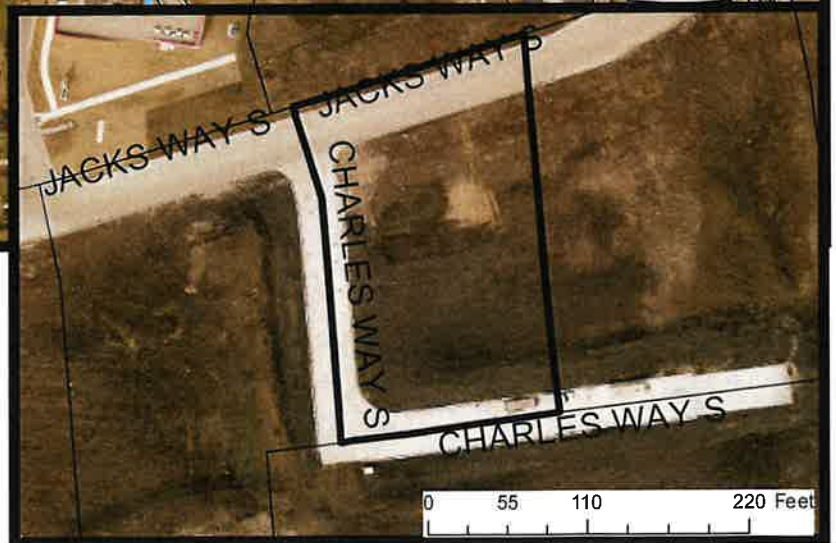
Legend

AG	DMU	CC	GO	LC	MR-1	MR-2	MR-3	MHP	NC	NO	P/I	UMU	City Limits
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Zone Change to repeal and reestablish a C-O, Conditional Overlay

Timber Parkway Eighth Addition

5056 Charles Way South



Legend

 City Limits

Draft Conditional Overlay

A. Description

- a. This C-O, Conditional Overlay, district is primarily intended to encourage high-quality, durable, and long-lasting investments.

B. Design Standards

a. Building Massing

- i. All buildings shall have architectural interest and variety to avoid the effect of a single, long or massive wall; buildings shall include variation in size and shape.
- ii. All building elevations or facades facing or viewable from right-of-ways or parking lots that are greater than 150 feet in length, measured horizontally from vertical edge to vertical edge, shall incorporate wall plane projections or recesses. Each projection and/or recess shall have a depth of at least five feet, and the cumulative total horizontal width of all projections and/or recesses within a façade shall equate to at least an accumulated total of 20 percent of the overall horizontal length of the façade. No uninterrupted length of any façade shall exceed 150 feet measured horizontally.
- iii. Ground floor facades that are within 200' of the right-of-way, measured from the exterior wall, shall have arcades, display windows, entry areas, awnings, spandrel glass, ground level landscaping or other such features along no less than 60% of its horizontal length. If the façade facing the right of way is not the front, it shall include the same features and or landscaping in scale with the façade.
- iv. Four sided design – All building facades shall be designed with a similar level of design detail, respective to building massing and building materials.

b. Building Materials

- i. All primary buildings shall be constructed or clad with materials that are durable, economically-maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; EIFS; glass; metal panels (similar to Aluco Bond) and synthetic panels (similar to Trespa). Natural but durable synthetic materials with the appearance of wood may be used. Horizontal metal lap siding and vertical metal batten shall be allowed on residential and commercial structures but shall not

exceed 75% of the building elevation for residential structures and 50% for commercial.

- c. Screening of Dumpsters/Refuse Containers and Loading Areas
 - i. Dumpsters
 - 1. All Structures or permanent walls used for screening dumpsters, refuse containers or loading areas shall be clad with materials that are the same or complementary to the primary building materials. Complementary materials should be durable and coordinate with the color palette of the building.
 - 2. Loading and or service areas shall be located at the side or rear of buildings and screened from public streets by structure, permanent wall, and or landscaping, with a minimum opacity of 50%.
 - 3. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain 6' high permanent walls in height on at least three (3) sides. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor: however if the service side does not directly face any public right-of-way or residentially zoned property the metal gate shall not be required.
- d. Screening of Rooftop and Ground Level Mechanical Equipment
 - i. Rooftop mechanical equipment shall be 50% concealed from public view, when viewing angle is from the Finish Floor elevation, measured at 150' from the exterior wall.
 - ii. All ground level HVAC units and utility boxes shall be screened from view by a structure, wall, fence or landscaping.
- e. Parking Lot Landscaping
 - i. A minimum of 10% of the internal surface area of the parking lot shall be landscaped with plantings, but shall be allowed to be reduced to 5% with approved landscape buffer as outlined in subparagraph B.(f)(i).
- f. Landscape Buffer
 - i. A 50-foot landscape easement was dedicated in March 2014 by Document Number 1412948 on file with the Cass County Recorder's Office along the north side of the development. The developer shall be required to submit a landscape plan for this easement area which shall include a combination of trees and landscaped berms. And the overall landscape plan shall be approved by the Zoning Administrator. The developer intends this buffer to provide a high quality transition between residential and commercial properties while also providing an added aesthetic element to the development. If, in the opinion of the Zoning Administrator, the proposed landscape plan meets the intended objective

and is reflective of high quality design and materials; the requirement for landscaping internal to parking lots as contemplated under subparagraph 2.(f)(ii) of Ordinance Number 4908 shall be reduced from 10 percent to 5 percent. The landscaping plan shall be implemented within the easement area within 12 month following issuance of any building permit as described in Ordinance Number 4908. Trees shall be of minimum 2-inch caliper.

C. Prohibited Uses

- a. Within the Use Category for Retail Sales/Service and Office, sales and leasing of consumer vehicles including passenger vehicles, light/medium trucks and other recreational vehicles that includes outdoor storage/display/sales are prohibited
- b. Detention Facilities
- c. Adult Establishment
- d. Self-Service Storage
- e. Vehicle Repair (excluding tire sales and vehicle service, limited)
- f. Industrial Service
- g. Manufacturing and Production
- h. Warehouse and Freight Movement (excluding furniture/appliance stores)
- i. Wholesale Sales
- j. Aviation/Surface Transportation

D. Site Design

- a. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be provided between building entrances and the following:
 - i. Any public sidewalk system along the perimeter streets adjacent to the development, or along the perimeter of the lot
 - ii. Primary entrances of other buildings on the site
 - iii. Adjacent pedestrian origins and destinations – including but not limited to transit stops, residential development, office buildings, and retail buildings – where deemed practical and appropriate by the Zoning Administrator.

E. Signage

- a. Off-premise Signs and digital billboards shall be prohibited.
- b. Advertising of businesses within said development is not considered off-premise advertising.

Unless otherwise specified above, all other provisions within the Sign Code shall remain in full force and effect.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

516

ORDINANCE NO. _____

1 AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
2 LYING IN TIMBER PARKWAY EIGHTH ADDITION
3 TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

4 WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the
5 City of Fargo have held hearings pursuant to published notice to consider the proposed rezoning of
6 certain parcels of land lying in Timber Parkway Eighth Addition to the City of Fargo, Cass County,
7 North Dakota; and,

8 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
9 request on November 7, 2023; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on November
11 27, 2023,

12 NOW, THEREFORE,

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

14 Section 1. The following described property:

15 Lot One (1), Block One (1) of Timber Parkway Eighth Addition to the City of
16 Fargo, Cass County, North Dakota,

17 that is currently zoned "GC", General Commercial, District, subject to the existing "C-O",
18 Conditional Overlay, District, as established by Fargo Municipal Ordinance No. 4908, will
19 hereby retain the base zoning of "GC", General Commercial, District, repealing and re-
20 establishing the "C-O", Conditional Overlay, District as follows:

21 A. Description

22 a. This C-O, Conditional Overlay, District, is primarily intended to encourage high-
23 quality, durable, and long-lasting investments.

B. Design Standards

a. Building Massing

i. All buildings shall have architectural interest and variety to avoid the
effect of a single, long, or massive wall.

ii. All buildings shall include variations in size and shape.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- 1 iii. All building elevations or façades facing or viewable from rights-of-way
2 or parking lots that are greater than 150 feet in length, measured
3 horizontally from vertical edge to vertical edge, shall incorporate wall
4 plane projections or recesses. Each projection and/or recess shall have a
5 depth of at least five (5) feet, and the cumulative total horizontal width of
6 all projections and/or recesses within a façade shall equate to at least an
7 accumulated total of twenty (20) percent of the overall horizontal length of
8 the façade. No uninterrupted length of any façade shall exceed 150 feet
9 measured horizontally.
- 10 iv. Ground floor facades that are within 200 feet of the right-of-way, measured
11 from the exterior wall, shall have arcades, display windows, entry areas,
12 awnings, spandrel glass, ground-level landscaping or other such features
13 along no less than sixty (60) percent of its horizontal length. If the façade
14 facing the right of way is not the front, it shall include the same features and
15 or landscaping in scale with the façade.
- 16 v. Four-sided design. All building façades shall be designed with a similar
17 level of design detail, respective to building massing and building
18 materials.

19 b. Building Materials

- 20 i. All primary buildings shall be constructed or clad with materials that are
21 durable, economically maintained, and of a quality that will retain their
22 appearance over time, including but not limited to, natural or synthetic
23 stone; brick; stucco; integrally-colored textured or glazed concrete
 masonry units; high-quality pre-stressed concrete systems; EIFS; glass;
 metal panels (similar to Aluco Bond) and synthetic panels (similar to
 Trespa). Natural, but durable synthetic materials with the appearance of
 wood, may be used. Horizontal metal lap siding and vertical metal batten
 shall be allowed on residential and commercial structures but shall not
 exceed seventy-five (75) percent of the building elevation for residential
 structures and fifty (50) percent for commercial structures.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

c. Screening of Dumpsters/Refuse Containers and Loading Areas

i. Dumpsters

1. All structures or permanent walls used for screening dumpsters, refuse containers, or loading areas shall be clad with materials that are the same or complementary to the primary building materials. Complementary materials should be durable and coordinate with the color palette of the building.
2. Loading and/or service areas shall be located at the side or rear of buildings and screened from public streets by structure, permanent wall, and/or landscaping, with a minimum opacity of fifty (50) percent.
3. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain six (6) foot-high permanent walls in height on at least three (3) sides. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor; however, if the service side does not directly face any public right-of-way or residentially zoned property the metal gate shall not be required.

d. Screening of Rooftop and Ground Level Mechanical Equipment

- i. Rooftop mechanical equipment shall be fifty (50) percent concealed from public view, when the viewing angle is from the Finish Floor elevation, measured at 150 feet from the exterior wall.
- ii. All ground-level HVAC units and utility boxes shall be screened from view by a structure, wall, fence, or landscaping.

e. Parking Lot Landscaping

- i. A minimum of ten (10) percent of the internal surface area of the parking lot shall be landscaped with plantings but shall be allowed to be reduced to five (5) percent with approved landscape buffers as outlined in subparagraph B.(f)(i).

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

f. Landscape Buffer

1 i. A fifty (50) foot landscape easement was dedicated in March of 2014 by
2 Document Number 1412948 on file with the Cass County Recorder's
3 Office along the north side of the development. The developer shall be
4 required to submit a landscape plan for this easement area which shall
5 include a combination of trees and landscaped berms, and the overall
6 landscape plan shall be approved by the Zoning Administrator. The
7 developer intends this buffer to provide a high-quality transition between
8 residential and commercial properties while also providing an added
9 aesthetic element to the development. If, in the opinion of the Zoning
10 Administrator, the proposed landscape plan meets the intended objective
11 and is reflective of high-quality design and materials, the requirement for
12 landscaping internal to parking lots as contemplated under subparagraph
13 2.(f)(ii) of Ordinance Number 4908 shall be reduced from ten (10) percent
14 to five (5) percent. The landscaping plan shall be implemented within the
15 easement area within twelve (12) months following the issuance of any
16 building permit as described in Ordinance Number 4908. Trees shall be of
17 a minimum two (2) inch caliper.

C. Prohibited Uses

- 13 a. Within the Use Category for Retail Sales/Service and Office, sales and leasing of
14 consumer vehicles including passenger vehicles, light/medium trucks, and other
15 recreational vehicles that include outdoor storage/display/sales are prohibited;
16 b. Detention Facilities;
17 c. Adult Establishment;
18 d. Self-Service Storage;
19 e. Vehicle Repair (excluding tire sales and vehicle service, limited);
20 f. Industrial Service;
21 g. Manufacturing and Production;
22 h. Warehouse and Freight Movement (excluding furniture/appliance stores);
23 i. Wholesale Sales; and
24 j. Aviation/Surface Transportation.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

D. Site Design

- a. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be provided between building entrances and the following:
 - i. Any public sidewalk system along the perimeter streets adjacent to the development, or along the perimeter of the lot;
 - ii. Primary entrances of other buildings on the site; and
 - iii. Adjacent pedestrian origins and destinations – including, but not limited to, transit stops, residential development, office buildings, and retail buildings – where deemed practical and appropriate by the Zoning Administrator.

E. Signage

- a. Off-premises signs and digital billboards shall be prohibited.
- b. Advertising of businesses within said development is not considered off-premises advertising.

Unless otherwise specified above, all other provisions within the Fargo Sign Code, located in Article 20-13 of the Fargo Mun. Code shall remain in full force and effect.

Section 2. This ordinance shall be in full force and effect from and after its passage and approval.

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

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

52

City of Fargo Staff Report			
Title:	Timber Parkway Tenth Addition	Date:	11/01/2023 11/22/2023
Location:	5107 & 5161 Charles Way South	Staff Contact:	Alayna Espeseth, Assistant Planner
Legal Description:	Lots 1 & 2, Block 1, Timber Parkway Tenth Addition		
Owner(s)/Applicant:	KT Properties LLC / Christianson Companies	Engineer:	N/A
Entitlements Requested:	Zoning Change (to repeal and reestablish a C-O, Conditional Overlay)		
Status:	City Commission Consent Agenda: November 27 th , 2023		

Existing	Proposed
Land Use: Undeveloped	Land Use: No change
Zoning: GC, General Commercial with a conditional overlay	Zoning: GC, General Commercial with a reestablished conditional overlay
Uses Allowed: GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, detention facilities , health care facilities, parks and open space, religious institutions, safety services, basic utilities, adult establishment , offices, off-premise advertising , commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage , vehicle repair , limited vehicle service, and some telecommunication facilities. Conditional Overlay No. 4908 prohibits certain uses.	Uses Allowed: No change to uses with proposed conditional overlay.
Maximum Lot Coverage Allowed: 85%	Maximum Lot Coverage Allowed: No change

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> Zoning Change (from GC, General Commercial with C-O, Conditional Overlay to GC, General Commercial with a reestablished C-O, Conditional Overlay) <p>The purpose of re-establishing the conditional overlay is for clarity, consistency and for cleanup, as the subject property was unplatted when the current conditional overlay, Ordinance 4908, was applied. The proposed conditional overlay is based off Ordinance 5266, which applies to nearly all lots between 52nd Avenue South and Timber Parkway South, except for Lot 2, Block 1, Timber Parkway Second Addition (Cash Wise Foods Supermarket).</p> <p>Staff worked with the applicant to modify some of the requirements in the conditional overlay for clarity or consistency related to:</p> <ul style="list-style-type: none"> • Building massing and façade length; • Screening of dumpsters/refuse containers and loading areas. <p>For further details, please refer to the attached draft conditional overlay for the subject property.</p> <p style="text-align: right;">(Continued on next page.)</p>

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

Surrounding Land Uses and Zoning Districts:

- North: GC, General Commercial with C-O Ordinance 4908; vacant land and fast food restaurant
- East: Across Timber Parkway South is GC, General Commercial with C-O Ordinance 5142; retail sales and service and fast food restaurant
- South: Across 52nd Avenue South is the City of Frontier; single family residences;
- West: GC, General Commercial with C-O Ordinance 5266; restaurant.

Area Plans:

The subject property is located within the 2001 South Remainder Land Use Plan. Within this growth plan, the subject property is designated for "Commercial" uses.



Context:

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

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

Parks: The subject property is located within a half mile of Timber Creek Park (3300 47th Avenue South) to the north, Meadow Creek Park (4800 Meadow Creek Drive South) to the east and Prairie Farms Park (5400 31st Street South) to the south.

- Timber Creek Park – Amenities include a basketball court, grill, picnic tables, playground (ages 2-5), playground (ages 5-12), recreational trails and shelter.
- Meadow Creek Park – Amenities include multipurpose field.
- Prairie Farms Park – Amenities include basketball court, grill, picnic table, playground (ages 2-5), playground (ages 5-12), recreational trails and shelter.

Pedestrian / Bicycle: A shared use path is located to the north and east of the subject property, along the north side of Timber Parkway South. A second shared use path is located along the north side of 52nd Avenue South, south of the subject property.

MATBUS Route: The subject property is not along a MATBUS route.

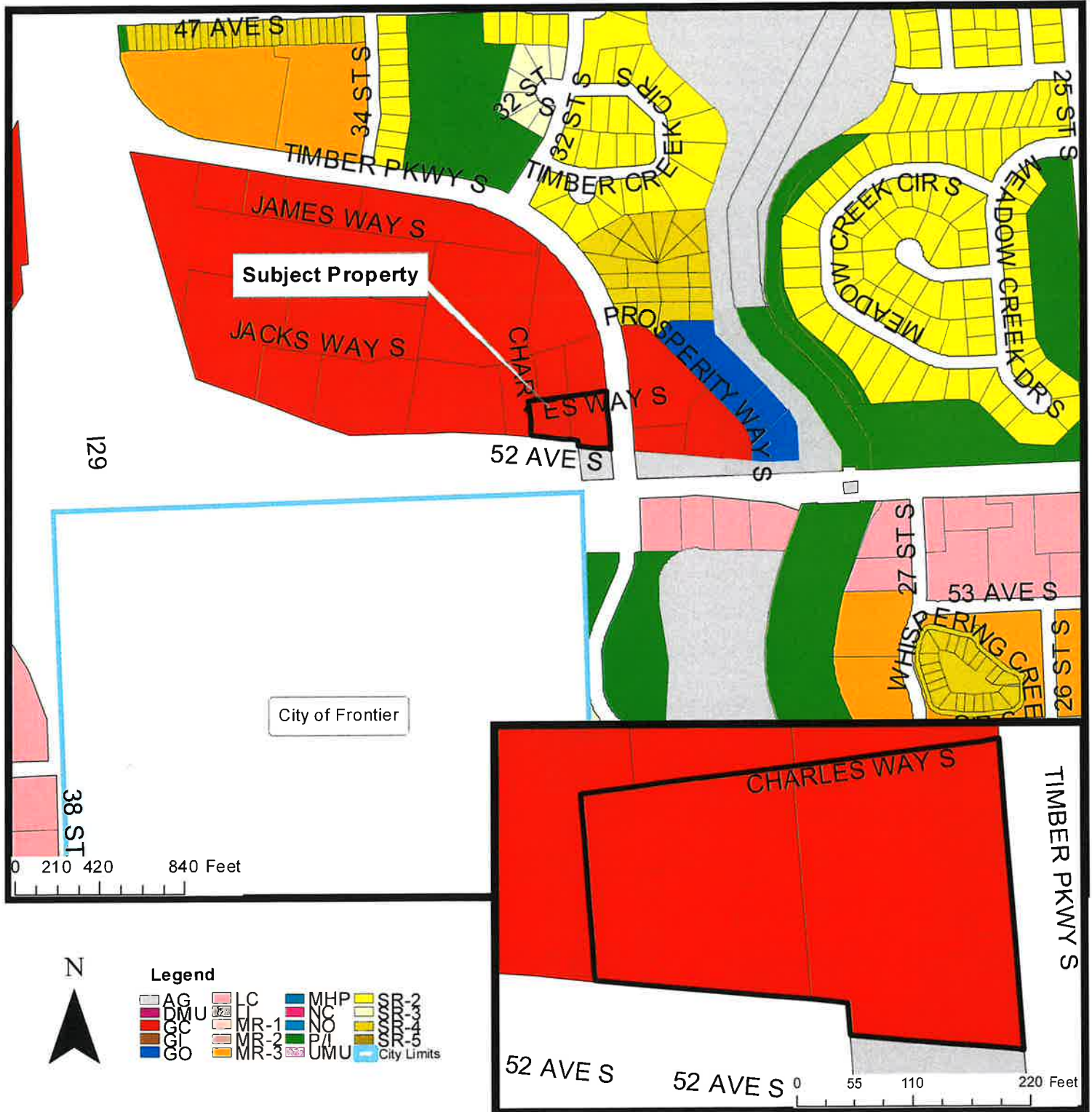
(Continued on next page.)

<p>Staff Analysis:</p> <p>Zoning</p> <p>Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:</p> <ol style="list-style-type: none"> <p>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?</p> <p>Staff is unaware of any error in the zoning map as it relates to this property. The applicant is requesting to rezone the property in order to reestablish the Conditional Overlay on the subject property and to keep it consistent with the Conditional Overlays in the area.</p> <p>(Criteria Satisfied)</p> <p>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?</p> <p>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 is adjacent to existing developed public rights-of-way and private drive, which provide access and public utilities to serve the property.</p> <p>(Criteria Satisfied)</p> <p>3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?</p> <p>Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners within 300 feet of the project site. To date, staff has received one inquiry related to the application with no noted concern.</p> <p>(Criteria Satisfied)</p> <p>4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?</p> <p>The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed zone change is consistent with the purpose of the LDC, 2001 South Remainder Land Use Plan and other adopted policies of the City.</p> <p>(Criteria Satisfied)</p>
<p>Staff Recommendation:</p> <p>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 zoning change to repeal and reestablish a C-O, Conditional Overlay on Lots 1 & 2, Block 1, Timber Parkway Tenth Addition as outline in the staff report on the basis that it satisfactorily complies with the 2001 South Remainder Land Use Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."</p>
<p>Planning Commission Recommendation: November 7th, 2023</p> <p>At the November 7th, 2023 Planning Commission hearing, by a vote of 7-0 with 2 Commissioners absent and two Commission seats vacant, the Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission the proposed zone change to repeal and reestablish a C-O, Conditional Overlay on Lot 1 & 2, Block 1 Timber Parkway Tenth Addition as outlined within the staff report, as the proposal complies with the 2001 South Remainder Land Use Plan, standards of Section 20-0907.B & C, standards of Article 20-06, and all other applicable requirements of the Land Development Code.</p>
<p>Attachments:</p> <ol style="list-style-type: none"> Zoning Map Location Map Draft Conditional Overlay

Zone Change to repeal and reestablish a C-O, Conditional Overlay

Timber Parkway 10th Addition

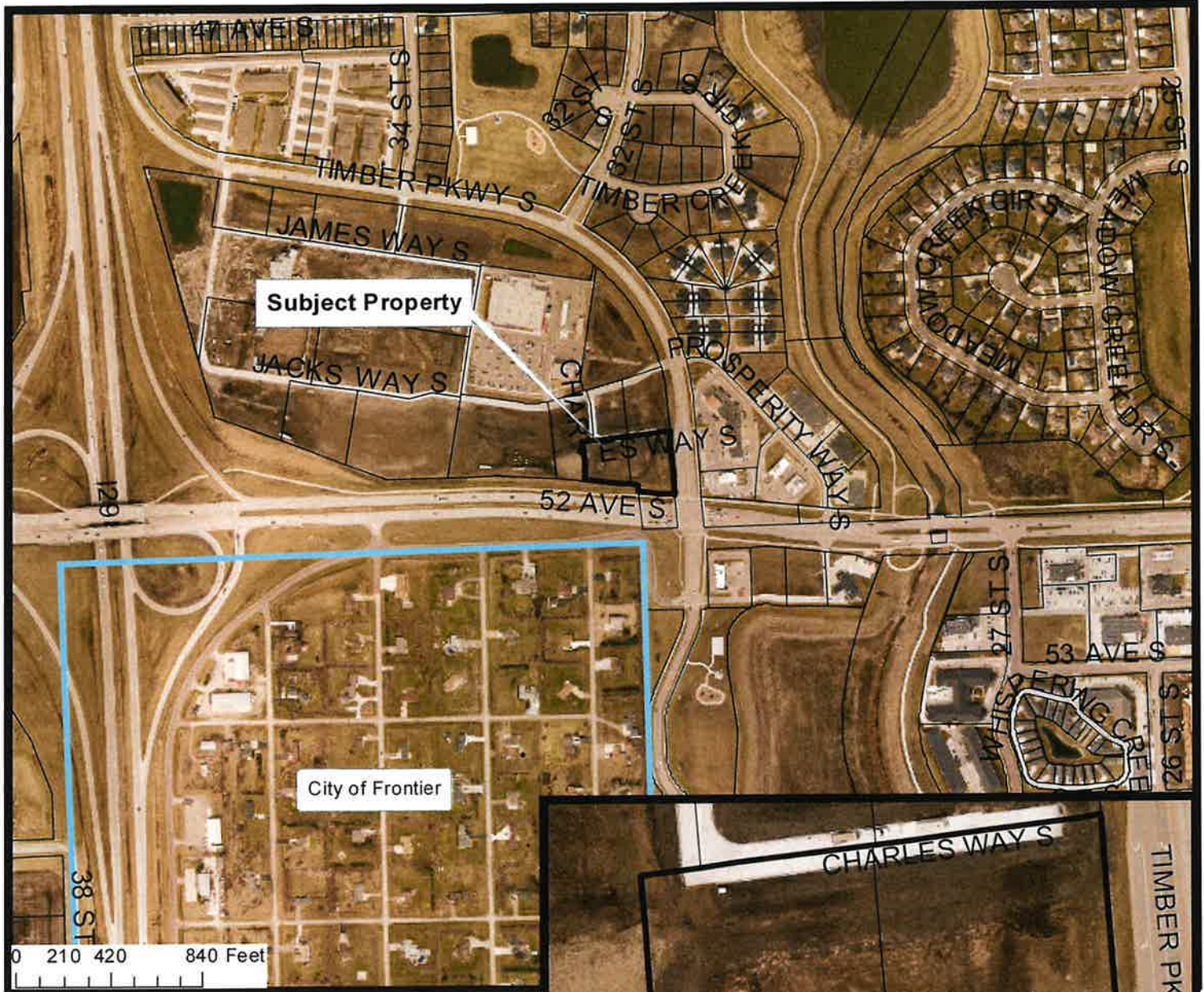
5107 & 5161 Charles Way South



Zone Change to repeal and reestablish a C-O, Conditional Overlay

Timber Parkway 10th Addition

5107 & 5161 Charles Way South



Legend

 City Limits

Draft Conditional Overlay

A. Description

- a. This C-O, Conditional Overlay, district is primarily intended to encourage high-quality, durable, and long-lasting investments.

B. Design Standards

a. Building Massing

- i. All buildings shall have architectural interest and variety to avoid the effect of a single, long or massive wall; buildings shall include variation in size and shape.
- ii. All building elevations or facades facing or viewable from right-of-ways or parking lots that are greater than 150 feet in length, measured horizontally from vertical edge to vertical edge, shall incorporate wall plane projections or recesses. Each projection and/or recess shall have a depth of at least five feet, and the cumulative total horizontal width of all projections and/or recesses within a façade shall equate to at least an accumulated total of 20 percent of the overall horizontal length of the façade. No uninterrupted length of any façade shall exceed 150 feet measured horizontally.
- iii. Ground floor facades that are within 200' of the right-of-way, measured from the exterior wall, shall have arcades, display windows, entry areas, awnings, spandrel glass, ground level landscaping or other such features along no less than 60% of its horizontal length. If the façade facing the right of way is not the front, it shall include the same features and or landscaping in scale with the façade.
- iv. Four sided design – All building facades shall be designed with a similar level of design detail, respective to building massing and building materials.

b. Building Materials

- i. All primary buildings shall be constructed or clad with materials that are durable, economically-maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; EIFS; glass; metal panels (similar to Aluco Bond) and synthetic panels (similar to Trespa). Natural but durable synthetic materials with the appearance of wood may be used. Horizontal metal lap siding and vertical metal batten shall be allowed on residential and commercial structures but shall not

exceed 75% of the building elevation for residential structures and 50% for commercial.

c. Screening of Dumpsters/Refuse Containers and Loading Areas

i. Dumpsters

1. All Structures or permanent walls used for screening dumpsters, refuse containers or loading areas shall be clad with materials that are the same or complementary to the primary building materials. Complementary materials should be durable and coordinate with the color palette of the building.
2. Loading and or service areas shall be located at the side or rear of buildings and screened from public streets by structure, permanent wall, and or landscaping, with a minimum opacity of 50%.
3. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain 6' high permanent walls in height on at least three (3) sides. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor: however if the service side does not directly face any public right-of-way or residentially zoned property the metal gate shall not be required.

d. Screening of Rooftop and Ground Level Mechanical Equipment

- i. Rooftop mechanical equipment shall be 50% concealed from public view, when viewing angle is from the Finish Floor elevation, measured at 150' from the exterior wall.
- ii. All ground level HVAC units and utility boxes shall be screened from view by a structure, wall, fence or landscaping.

e. Parking Lot Landscaping

- i. A minimum of 10% of the internal surface area of the parking lot shall be landscaped with plantings, but shall be allowed to be reduced to 5% with approved landscape buffer as outlined in subparagraph B.(f)(i).

f. Landscape Buffer

- i. A 50-foot landscape easement was dedicated in March 2014 by Document Number 1412948 on file with the Cass County Recorder's Office along the north side of the development. The developer shall be required to submit a landscape plan for this easement area which shall include a combination of trees and landscaped berms. And the overall landscape plan shall be approved by the Zoning Administrator. The developer intends this buffer to provide a high quality transition between residential and commercial properties while also providing an added aesthetic element to the development. If, in the opinion of the Zoning Administrator, the proposed landscape plan meets the intended objective

and is reflective of high quality design and materials; the requirement for landscaping internal to parking lots as contemplated under subparagraph 2.(f)(ii) of Ordinance Number 4908 shall be reduced from 10 percent to 5 percent. The landscaping plan shall be implemented within the easement area within 12 month following issuance of any building permit as described in Ordinance Number 4908. Trees shall be of minimum 2-inch caliper.

C. Prohibited Uses

- a. Within the Use Category for Retail Sales/Service and Office, sales and leasing of consumer vehicles including passenger vehicles, light/medium trucks and other recreational vehicles that includes outdoor storage/display/sales are prohibited
- b. Detention Facilities
- c. Adult Establishment
- d. Self-Service Storage
- e. Vehicle Repair (excluding tire sales and vehicle service, limited)
- f. Industrial Service
- g. Manufacturing and Production
- h. Warehouse and Freight Movement (excluding furniture/appliance stores)
- i. Wholesale Sales
- j. Aviation/Surface Transportation

D. Site Design

- a. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be provided between building entrances and the following:
 - i. Any public sidewalk system along the perimeter streets adjacent to the development, or along the perimeter of the lot
 - ii. Primary entrances of other buildings on the site
 - iii. Adjacent pedestrian origins and destinations – including but not limited to transit stops, residential development, office buildings, and retail buildings – where deemed practical and appropriate by the Zoning Administrator.

E. Signage

- a. Off-premise Signs and digital billboards shall be prohibited.
- b. Advertising of businesses within said development is not considered off-premise advertising.

Unless otherwise specified above, all other provisions within the Sign Code shall remain in full force and effect.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN TIMBER PARKWAY TENTH 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 proposed rezoning of certain parcels of land lying in Timber Parkway Tenth Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on November 7, 2023; and,

WHEREAS, the rezoning changes were approved by the City Commission on November 27, 2023,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots One (1) and Two (2), Block One (1) of Timber Parkway Tenth Addition to the City of Fargo, Cass County, North Dakota,

that is currently zoned "GC", General Commercial, District, subject to the existing "C-O", Conditional Overlay, District, as established by Fargo Municipal Ordinance No. 4908, will hereby retain the base zoning of "GC", General Commercial, District, repealing and re-establishing the "C-O", Conditional Overlay, District as follows:

A. Description

- a. This C-O, Conditional Overlay, District, is primarily intended to encourage high-quality, durable, and long-lasting investments.

B. Design Standards

a. Building Massing

- i. All buildings shall have architectural interest and variety to avoid the effect of a single, long, or massive wall.
- ii. All buildings shall include variations in size and shape.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- 1 iii. All building elevations or façades facing or viewable from rights-of-way
2 or parking lots that are greater than 150 feet in length, measured
3 horizontally from vertical edge to vertical edge, shall incorporate wall
4 plane projections or recesses. Each projection and/or recess shall have a
5 depth of at least five (5) feet, and the cumulative total horizontal width of
6 all projections and/or recesses within a façade shall equate to at least an
7 accumulated total of twenty (20) percent of the overall horizontal length of
8 the façade. No uninterrupted length of any façade shall exceed 150 feet
9 measured horizontally.
- 10 iv. Ground floor facades that are within 200 feet of the right-of-way, measured
11 from the exterior wall, shall have arcades, display windows, entry areas,
12 awnings, spandrel glass, ground-level landscaping or other such features
13 along no less than sixty (60) percent of its horizontal length. If the façade
14 facing the right of way is not the front, it shall include the same features and
15 or landscaping in scale with the façade.
- 16 v. Four-sided design. All building façades shall be designed with a similar
17 level of design detail, respective to building massing and building
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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15 easement area within twelve (12) months following the issuance of any
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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Section 2. This ordinance shall be in full force and effect from and after its passage and approval.

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

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:



FINANCE OFFICE
PO Box 2083
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1333 | Fax: 701.476.4188
www.FargoND.gov

Memorandum

TO: Board of City Commissioners

FROM: Susan Thompson, Finance Director
Tanner Smedshammer, Purchasing Manager

DATE: November 27, 2023

RE: Updated Purchasing and P-Card Policy and Procedures Manual

Attached please find our proposed Purchasing Policy and Procedures Manual and P-Card Policy and Procedures Manual. This item has been recommended to move forward from the November 20th, 2023, Finance Committee. These policies update Citywide procurement processes.

Highlights of the policies include:

- Adjusted Purchasing Limits with an Updated Policy Matrix
- Exempt Purchase List and Specialized Purchase Instructions
- Forms and Templates
- Standardized Procedures

Upon City Commission approval, Procurement staff within Finance will provide on-sight training for each department. Additionally, they have gathered or created support tools and templates for department use and are available to assist in procurement planning.

Throughout this process, the Finance Department met with City staff from many different departments and the City Attorney to discuss policy language, limits, timelines, support schedules, and unique items. We thank everyone for your help through this process.

RECOMMENED MOTION:

To approve and adopt the attached City of Fargo Purchasing and P-Card Policies and Procedures Manual as presented.

REPORT OF ACTION
FINANCE COMMITTEE

Location: Finance Department **Agenda Item:** Purchasing Policy and PCard Policy

Presenter: Susan Thompson and Tanner Smedshammer

Date of Hearing: November 20, 2023

Susan introduced an updated Purchasing and PCard Policy. Susan covered the background and timeline of this project.

Tanner reviewed the objectives, including but not limited to; ensuring stewardship of public funds, encourage vendor access and fair bidding process, compliance with laws, regulations and best practices, and to promote fiscal transparency. Tanner also covered the updates to the new policy, including new limits, approval authority, updated forms and templates.

MOTION:

Recommendation to approve the updated Purchasing and P-card Policy for all City departments.

Susan Thompson moved to approved, second by Brenda Derrig and all members present voted in favor.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>
<u>Tim Mahoney, Mayor</u>	<u>X</u>	<u>X</u>		
<u>Dave Piepkorn, City Commission</u>	<u>X</u>	<u>X</u>		
<u>Mike Redlinger, City Administrator</u>	<u>X</u>	<u>X</u>		
<u>Brenda Derrig, Assistant City Administrator</u>	<u>X</u>	<u>X</u>		
<u>Susan Thompson, Finance Director</u>	<u>X</u>	<u>X</u>		
<u>Tanner Smedshammer, Purchasing Manager</u>	<u>X</u>	<u>X</u>		
<u>Steve Sprague, City Auditor</u>	<u>X</u>	<u>X</u>		



Michael Redlinger, City Administrator



City of Fargo

Purchasing Policy & Procedure Manual

Developed by:

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Finance Department
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Revised: October 2023

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Appendix

- Appendix A: General Instructions to Bidders
- Appendix B: Grant Fiscal Cash Management Policy

The procurement policies and procedures defined below are intended to standardize how supplies and services are procured by the City of Fargo (City). This policy will ensure supplies and services are purchased in accordance with North Dakota Century Code (NDCC), North Dakota Office of Management and Budget and Fargo Municipal Code, Article 3-01. The policy will also provide reasonable assurance that supplies and services are accurately recorded and delivered accordingly so reliable financial reporting and auditing can be achieved. This policy is reviewed and updated as needed on an annual basis or as required.

Purchasing Limits

City departments are to utilize established City or State contracts for purchases of goods and services when available and appropriate. Departments are encouraged to work with the Finance Director or designee (Purchasing Manager) **prior** to starting an acquisition process to ensure that all state and local laws and ordinances are followed. Purchasing Limits have been established for budgeted single items per fiscal year. If an existing City contract is not available and a State contract is not desirable, a Department shall follow the applicable policy and procedures described below:

LEVEL 1 PURCHASE

\$0-\$10,000: Employees authorized by the department to make purchases of supplies or services that do not exceed \$10,000 by using its best discretion to obtain the best value for the City.

LEVEL 2 PURCHASE

\$10,001-\$100,000: A minimum of three (3) written quotes must be solicited, unless available on a State contract or pursuant to a Joint Powers Agreement. Enter a requisition into the City of Fargo Accounting System for the purchases of supplies or services not exceeding \$100,000. Finance will issue the purchase order to authorize the purchase. Department Head Approval required.

LEVEL 3 PURCHASE

\$100,001-Up: For purchases of equipment, supplies and services estimated to be over \$100,001, a formal procurement process must be followed. City Commission Approval required.

LEVEL 4 PURCHASE

Construction: For the process of building, altering, repairing, improving, or demolishing any public structure, or other improvements to public property and the estimated cost for the construction of a public improvement is in excess of the threshold established under NDCC § 48-01.2-02.1, a formal procurement process must be followed. City Commission Approval required.

Piggyback Purchase from State and Cooperative Contracts

A contract may be awarded without formal process when the Purchasing Manager determines in writing that a State Cooperative purchasing contract exists and allows municipalities to purchase from this list of approved vendors. In the event there is not a State Cooperative purchasing contract, the City may enter into a Joint Powers Agreement with the North Dakota OMB pursuant to NDCC § 40-05-01 (52).

Any purchasing contract award that meets or exceeds Level 3 limits must also be approved by the Board of City Commission prior to a vendor award using this method. No quotes or bids are required when utilizing these contracts. A Piggyback Purchase Request form must be completed, reviewed, and maintained by the Purchasing Manager prior to the purchase and shall be subject to an internal audit.

Preferred State and Cooperative Contracts list:

- North Dakota OMB
 - [State Procurement Office Online Services: State of North Dakota | Office of Management and Budget, North Dakota](#)
- Minnesota State Procurement Office
 - [Welcome to the State of Minnesota's Office of State Procurement | OSP \(mn.gov\)](#)
- Sourcewell
 - [Sourcewell | Cooperative Purchasing Advantages \(sourcewell-mn.gov\)](#)
- NASPO ValuePoint
 - [Participant Results - NASPO ValuePoint](#)

Cooperative Contracts not authorized as per State of North Dakota:

- OMNIA Partners

Sole Source Purchase

A contract may be awarded without competition when the Purchasing Manager and Finance Director determines in writing, after conducting a good-faith review of available sources, that there is only one source for the required supply, service, or material.

A Sole Source Purchase Request form must be completed, reviewed, and maintained by the Purchasing Manager prior to the purchase and shall be available for audit purposes. Any sole source procurement that meets or exceeds Level 3 limits must also be approved by the Board of City Commission prior to a vendor award using this method.

Emergency Purchase

All City departments are required to notify the Purchasing Manager if purchases that cannot be made within the required time that pose an immediate threat to life, public health or property, public safety or where immediate expenditures are necessary for repairs of city property to protect against further loss or damage. The Department Head will be responsible for the completion of the Emergency Purchase Request form stating, in detail, the circumstances surrounding the determination of the emergency purchase and the selection of the contractors used, promptly informing both the Purchasing Manager and the City Commission of the circumstances. The Emergency Purchase Request form will be presented to the Board of City Commissioners for Emergencies over \$100,000 and shall be accessible for audit purposes.

Exempt Purchase

City departments may purchase such materials and services without quotation, request for proposals or bids for the following:

- (a) Land, building, space, or the rental thereof.
- (b) Procurement of publicly provided or publicly regulated gas, electricity, water, sewer, and refuse collection services.
- (c) Compatibility with equipment currently owned by the City which is essential to the proper functioning of that equipment.
- (d) Equipment maintenance or servicing of equipment when the service can best be performed by the manufacturer or authorized service agent. (i.e., preventative, annual, and warranty)
- (e) Employee benefit services, trust-related services, insurance services, and cash and investment management services obtained by a department with a fiduciary responsibility regarding those services.
- (f) Recurring support costs associated with implemented information technology solutions, including licensing, service agreements, maintenance, and subscriptions for software as a service, platform as a service, and infrastructure as a service.
- (g) Marketing in all media. (i.e., billboard, magazine, etc.)
- (h) Law enforcement K9.
- (i) Professional or technical service contracts necessary for the investigation of activities or in conjunction with litigation or court proceedings.
- (j) Any contract for asbestos removal.
- (k) Event related goods, equipment and services requested by event promoter and to be billed back to event.
- (l) Maintaining and purchasing of books and periodicals from publisher or copyright holders thereof.
- (m) Procurements funded by grants when any special conditions require the purchase of particular materials and/or services as assigned in the grant award.
- (n) Recipients of donations, pledges or appropriations as approved by the Board of City Commission.
- (o) Material testing awarded on a Master Services Agreement
- (p) Director of Finance and Purchasing Manager discretion on departmental requests.

All funds expended for these types of activities or services must continue to follow Purchasing Limits and will be properly receipted and accounted for with supporting documentation.

An Exempt Purchase Request form must be completed, reviewed, and maintained by the Purchasing Manager prior to the purchase and shall be subject to an internal audit.

Sourcing Repair Parts for Fleet Equipment (Fleet Management only)

During the repair process of fleet equipment, if it is determined that the best option for repair parts is from the Original Equipment Manufacturer (OEM) because of quality, fitment, warranty, or availability, Central Garage should negotiate with dealers who sell the OEM parts to repair the equipment. If OEM parts are only available from a territorial equipment dealer, no quotes are necessary, a completed Exempt Purchase Request form shall be submitted.

Retired Fleet Equipment (Fleet Management only)

The Fleet Purchasing Manager will determine the best option to retire City assets. If the best option is to utilize the City Auction rather than trading in the equipment, these funds must be placed into the appropriate current year vehicle replacement budget.

Fleet Vehicle and Equipment Purchase

All purchases of City-owned vehicles, excluding Transit, must be coordinated by Central Garage. This includes, but is not limited to, new and used vehicles and parts, repair, and service of those vehicles. This policy is to ensure uniformity in the selection of City-owned vehicles. The purchase of vehicles shall be approved by the Fleet Purchasing Manager prior the requesting Department's requisition being started. This policy applies to all City Departments.

Facility-Related Equipment Purchase

Purchases of facility-related equipment must be procured in cooperation with Facilities Management. This includes, but is not limited to, office furniture, landscape furniture, appliances, carpet, and decorations. This policy is to ensure uniformity in selection of facility-related equipment and utilizing contracts or agreements that Facilities has available. The purchase of facility-related equipment must be vetted by the Facilities Director or designee prior to a Department's requisition being started. This policy applies to all City Departments.

Technology Equipment / Software Purchase

All acquisitions of technology-related equipment or software-related items must be coordinated by Information Services. This includes all hardware and software, including cloud resources, computers, laptops, tablets, servers, monitors, printers, network equipment and security, and associated peripherals. This policy is to ensure uniformity in the selection of technology/software-related equipment along with year-end GASB reporting requirements of subscriptions and contracts. The purchase of technology/software-related equipment must be approved by Information Services prior to a Department's requisition being started. Purchases are to follow City IS security configuration and policy guidelines. This policy applies to all City Departments.

Transit / MATBUS

In accordance with the U.S. Department of Transportation, Federal Transit Administration (FTA) requirements and the standards identified in 2 CFR Part 200, the Transit Department (MATBUS) has developed a procurement manual for recipients utilizing in whole or in part FTA funding when procuring goods or services. As a recipient that applies for and accepts federal funds, the Transit Department (MATBUS), is accepting the responsibility to use federal assistance prudently and in compliance with the most restrictive provisions of all applicable local, state and federal requirements including FTA Circulars 4220, 5010, 9030 as amended, the FTA Best Practices Procurement Manual and Master Agreement, NDDOT and MNDOT procurement policies and the City of Fargo Purchasing Policy and the City of Moorhead Procurement Policies.

City of Fargo Purchasing - REFERENCE GUIDE			
	Competition Requirements	Approval	Documentation Requirement
PURCHASE LEVEL:			
Level 1 Less than \$10,000	Best single discretion to obtain greatest value. See Note: Facilities & Technology Purchase (E-F)	Division Head	Documentation not required. If contract, provide to Purchasing.
Level 2 \$10,000 up to \$100,000	Solicit three written infomal quotes from vendors*. * unless Piggyback, SSP, Emergency, Exempt (A-D) See Note: Facilities & Technology Purchase (E-F)	Department Head	Request for Quotes (RFQ) Form & Three Written Quotes If contract, provide to Purchasing.
Level 3 Over \$100,000	A fomral procurement process must be followed that that best meets the terms of the RFP*. * unless Piggyback, SSP, Emergency, Exempt (A-D) See Note: Facilities & Technology Purchase (E-F)	City Commission	Reference Number on Invoice (RFP) If contract, provide to Purchasing.
Level 4 Construction Projects	If the estimated cost of construction of a public improvement is in excess of the threshold established under North Dakota Century Code § 48-01.2-02.1, a fomal procurement process must be followed.	City Commission	Reference Number on Invoice (ITB) Provide contract to Purchasing.
SPECIAL CONDITIONS:			
A Piggyback Purchase	Department must provide Contract and Contract Number for applicable State or Cooperative Purchasing Contract.	Under \$100,000 - Approved by Department Head, Purchasing Manager, and Finance Director Over \$100,000 - Reviewed by Purchasing Manager and approved by City Commission.	Piggyback Contract Request (PBC) Form
B Sole Source Purchase	Department must justify rational for Sole Source.		Sole Source Purchasing Request (SSP) Form
C Emergency Purchase	Department Head must justify reason for Emergency, with notice to Purchasing Manager and City Administrator.		Emergency Purchase Request (EM) Form
D Exempt Purchase	Department must justify exempt rational.		Exempt Purchase Request (EX) Form
E Facility Equip	Purchases should be made in consultation with Facilities Director or designee.	Approval Limits as noted by Purchase Level.	
F Technology	Items must be vetted and approved by Information Services.	Approval Limits as noted by Purchase Level.	

Formal Bid Guidance:

Writing Specifications

The purpose of this section is to provide a guideline for writing functional or performance specifications to be used for the procurement of supplies and services. These guidelines apply to all procurements, whether the procurement is: a purchase, a lease with option to purchase, a straight lease, or a rental.

It is the Department's responsibility to provide the necessary specifications and information to allow the Purchasing Manager to review the requirements correctly and efficiently. Incomplete or vague specifications allow vendors to furnish items that do not meet the Department's requirements. Requests received that do not contain complete or detailed specifications will be returned to the requesting Department for completion.

If you have any questions regarding specifications, contact the Purchasing Manager for assistance.

Restrictive Specifications

Restrictive specifications in a formal proposal or bid, which hinder competition, must be explained. Therefore, if a City Department determines that equipment, supplies, or services require specifications of a limited scope, which would preclude competitive bidding, a justification must be submitted in writing to the Purchasing Manager. This justification must contain a comprehensive review of those areas of the specification that are restrictive, why it is necessary to retain such technical restrictions in the specifications, and why alternative solutions are not possible for accomplishing the same purpose.

Writing Technical Specifications

Do:

1. DO use the word "shall" to describe a command or mandatory requirement.
2. DO use the words "should" and "may" to describe advisory or optional requirements.
3. DO be as specific and detailed as possible in stating mandatory requirements.
4. DO state a requirement of fact only once and avoid repetition.

Do not:

1. DO NOT make something a mandatory requirement if it is simply an optional enhancement.
2. DO NOT place bid requirements or bidder information in the technical specification section unless specific to the project since this section addresses the bidder responsibilities.

Request for Proposal (RFP)

Equipment, supplies, and services that are not available on a contract and cost exceeds \$100,000 must be procured using a formal procurement process. Request for Proposals must be submitted to the Procurement Analyst for review, publication to the City webpage and uploaded to the City's E-Procurement platform (if applicable). Proposals shall include the following information: complete specifications of the item(s) to be procured, response submittal requirements, the contact person in the requesting Department, the date responses are due, and the names and emails of the evaluation committee, the criteria for evaluating the bids and awarding a contract. Request for Proposal submissions shall be delivered to the City Auditor's Office and be picked up after closing. **The award will be made to the highest-ranking offeror who is best able to meet the terms.** During the evaluation of proposals, and until approval of the recommendation of award by the City Commission, the contents of proposals may not be disclosed to the public.

Listed below are parts of an RFP. The categories may or may not be applicable for all procurements, depending on the complexity and dollar value of the procurement.

- Cover page
- Current Conditions / Background
- Scope of Work
- Proposal Requirements
- Evaluation Process
- General Terms and Conditions
- Proposal Forms
- Rates / Fees
- Attachments and Exhibits

Invitation to Bid (ITB)

When the purchase for supplies or services exceeds \$100,000, **there is no substantial difference between the supplies or services that meet the specifications, and a fixed-price contract is intended**, an Invitation to Bid process must be followed. Invitation to Bids shall be published in the legal section of the local newspaper along with the City webpage for no less than two (2) consecutive weeks before the date of opening. The Invitation to Bid contains the purchase description or specification covering the items needed, the terms and conditions of the proposed purchase, the way bids are to be submitted, the criteria for evaluating the bids and awarding a contract, and the place and time for opening the bids.

Construction Project

If the estimated cost of construction of a public improvement is in excess of the threshold established under NDCC § 48-01.2-02.1, a formal procurement process must be followed.

The Advertisement to Bid statute – NDCC § 48-01.2-04 essentially provides for two scenarios that dictate how many times a public improvement project must be published and when bids may be opened. If the estimated cost of the project exceeds the threshold (NDCC § 48-01.2-02.1), the public improvement **MUST** be bid (except in an emergency declaration).

Reference Appendix A: General Instruction to Bidders

Withdrawal of Proposal or Bid

Any proposal or bid may be withdrawn prior to the deadline and a new proposal or bid may be submitted. No proposal or bid may be changed or altered by telephone, email, or fax.

Opening Formal Sealed Invitation to Bid

The bid opening is conducted by the City of Fargo Auditor (for construction, supplies, and services) using the following procedure:

- Generally, bids are received on Wednesdays at 11:30 a.m., City Hall, First Floor, Auditor office, unless submitted electronically as provided.
- Bids are opened and read aloud on Wednesdays at 11:45 a.m. at City Hall, Second Floor, Engineering Conference room, unless otherwise so noted. Any change will be addressed in the Notice to Bidders. The public is encouraged to view the bid opening from the computer, tablet, or smartphone by using the following link: www.fargobidopenings.com
- Bid submission requirements must be met before opening a formal bid proposal. Qualified bidders must hold a North Dakota Contractor's License and carry North Dakota Worker's Compensation insurance as required by law.
- Base bid amounts are read publicly by the City Auditor or designee. A tabulation form may be provided for bidders to record the bids during live bid opening. All bids and supporting documents are returned to the requesting Department.
- Unless all bids are rejected, bid tabulations shall be available for viewing by the public and the bidders after the City Commission has awarded a contract.

Non-Responsive Proposal or Bids

- Bid or Proposal does not meet specifications or was incomplete.
- Not a responsible bidder (supporting documentation including previous history is required prior to a bidder being deemed not responsible).
- Bid or Proposal does not conform to the essential requirements.
- It is not in the best interest of the City.

Bid Award

All contracts awarded by sealed formal bids must be awarded to the lowest responsive, responsible bidder meeting specifications. If the lowest bid is not considered a responsive or a responsible bid or does not meet the specifications, the next lowest bid may be accepted. If the lowest bid is not awarded and awarded to the next lowest bid, the City must fully document the reasons why the bid was not acceptable.

RFP Award

Proposals are awarded to the best qualified offeror to meet the terms of the proposal.

Award Recommendation

The requesting Department shall provide a recommendation document to the Board of City Commissioners that includes Project with Reference number, funding source, the awarded amount and the successful offeror or bidder.

General Contracts, Leases and Agreements

The City may enter into a contract for the acquisition of goods, materials, equipment, services, and supplies. Ordinarily, to avoid pledging the credit of the City, the term of the contract is one year. Some contracts contain renewal clauses describing the conditions under which a contract may be renewed for an additional period of time.

Multiyear agreements refer to any contract which exceeds twelve months and/or will cover more than one contract year. When the intent is to enter into an agreement for more than one-year, specific contract provisions are required. The most common multiyear contract structure is to define an initial term of thirty-six months or less followed by up to four one-year renewal terms which may be negotiated and exercised between the vendor and the City, within the entirety of the contract.

A contract cannot be renewed if there are no remaining renewal options or if the agreement was not originally established as a renewable agreement. To obtain goods, materials, equipment, services or supplies when renewals are not available, a requisition will be required and will be processed according to the current policy and procedures of the City. It is the responsibility of the end user Department to submit a new purchase request to establish a new agreement when there are no remaining renewal options available. This should be done 90-120 days prior to the contract expiration.

All contracts, leases, and agreements within Level 1 or Level 2 must be reviewed by the City Attorney, signed by the City Administrator, Assistant City Administrator or Department Head, and Attested by the City Auditor. Documents shall be sent to Purchasing@FargoND.gov to be uploaded for retention. Contracts, leases, and agreements within Level 3 or Level 4 must be reviewed by the City Attorney, approved by the Board of City Commissioners, and signed by the Mayor. A copy of the completed documents will be sent back to the department once finalized.

Federal Grant Procurement

Procurements funded with federal financial assistance agreements shall be conducted utilizing the City's own procedures for procurements set forth in the City of Fargo Purchasing Policy and Procedure Manual since the thresholds are more restrictive than those established by 2 CFR Part 200, adopted by the Federal Office of Management and Budget. It is the department's responsibility to maintain the Grant Procurement File which should include the following:

1. Advertisement
2. Solicitation of Quotes, Proposals, Bids along with responses received
3. Bid Tabulation
4. City Commission Agenda item approving the contract
5. Purchase Order

[Reference Appendix B: Grants Fiscal Cash Management Policy](#)

Vendor Suspension and Debarment

The City of Fargo shall not conduct business with vendors who are currently suspended or debarred from participation in Federal Grants and contracts or vendors who have not successfully resolved performance issues on past procurements with the City. It is the responsibility of the Department Heads to confirm with Purchasing@FargoND.gov that a vendor is not on the "Exclusions Extract" database on the www.sam.gov website prior to entering any contacts with a vendor. Verification documents need to be date stamped and saved as these are needed for Audit purposes.

Review Committees

Review Committees consist of Public Works Project Evaluation Committee, Utility Committee and Finance Committee along with Ad Hoc committees that have been created by the City Commission. The role of these committees is to provide a review and recommendations regarding specific topics to the City Commission.

Contract Task Orders

Task orders are used to perform services utilizing an existing agreement or contract and must be authorized prior to the work being performed. Items within the Task Order should include Scope of Services, Engineer's compensation, times for performance of services and other relevant information for a specific project. A Task Order cannot include tasks or responsibilities not covered in the contract. A project may use services provided under one or more task orders, and services under one or more contracts.

Task orders under \$15,000 may be approved by the Department Head. Task orders between \$15,000 - \$100,000 may be reviewed and approved by the Department Head and the corresponding Review Committee if applicable. Task orders that meet and exceed Level 3 limits must also be approved by the Board of City Commissioners.

Contract Change Orders

Change orders are used to modify an existing contract and must be authorized prior to the work being performed. Change orders involving construction may be approved by the Department Head up to \$25,000. All change orders for construction more than \$25,000 must be approved by the Board of City Commissioners.

Change orders involving supplies, material, or equipment up to 10% of the total cost must be approved by the Department Head. Amounts more than 10% must be approved by the Board of City Commissioners.

Work Change Directive: If time is of the essence, a work change directive can be approved by the Department Head, with notification to the Purchasing Manager and City Administration. A formal change order will be presented to the City Commission as it impacts on the contract price.

Master Service Agreement (MSA)

A MSA is used for issuing contract task orders. The MSA is a contract between two or more parties that establishes what terms and conditions will govern all current and future activities and responsibilities. MSAs create a contract framework that establishes the foundation for all future actions.

Retainage

This payment method allows for a specified amount or percentage of progress payments to be retained or held back. Upon completion of all contract requirements, the retained amount is then paid promptly to the vendor. This payment method is most common among construction contracts.

Insurance

The contractor agrees to indemnify and hold the City harmless from any and claims, demands or causes of action resulting from the provision of services as described in a contract.

Vendor employees must be covered by North Dakota's Workers Compensations. Vendor shall maintain appropriate general liability, motor vehicle damage and injury and other insurance coverage necessary based on the scope of the project. Contractor shall provide a copy of Certificate of Liability naming the City of Fargo as an additional insured, and such insurance must be maintained during the term of the Agreement or Contract and maintain insurance throughout the extensions.

Requisitions

Once the procurement process has been approved, complete a requisition electronically in the City accounting software system. Required information shall include Account Number, Project Number (if applicable), Cost, Description (including Reference Number), and Delivery Time of the item(s) or service(s).

Purchase Order

A Purchase Order will be sent, by the Finance Department or department designee, to a vendor for procuring supplies and services that have been awarded. A completed IRS W-9 (W-8 for Canadian vendors) form is also required for all new or updated vendors to the City of Fargo or a vendor that has had any changes to their Name, Address, or Tax ID Number.

Annual Purchase Orders shall be utilized when the City of Fargo and a selected supplier enter into a contract with respect to a particular good or service that is repetitively procured within their budget.

Guarantees and Warranties

Nearly all machinery, work completed, and acquisitions have a guaranteed life or a warranty period. Departments should carefully document the date of installation to make sure that guarantees or warranties are performed as stated. Many dollars can be saved by careful attention to performance standards as stated and actual performance even to the point of replacement of the machines.

Fixed Assets

Any asset purchased, costing more than \$10,000 per unit, requires a *Fixed Asset Addition* form to be completed.

Employee Conflict of Interest

It shall be unethical for any city employee to participate directly or indirectly in a procurement contract for reasons specified in the City of Fargo Human Resources Policy Manual under No. 300-005.

Infrastructure Development by Private Operators (P3 Projects)

Per NDCC § 48-02.1-03; a public authority may solicit or accept proposals from private operators for the constructing, improving, rehabilitating, operating, managing, and owning of a fee-based facility that will be situated in an area subject to the public authority's jurisdiction. After a hearing, the public authority may accept a proposal that it determines to be in the public interest. A public authority may negotiate and enter into a development agreement with any private operator.

Purchase Card Program (P-Card)

The purpose of the purchase card (P-Card) program is to provide an efficient, cost-effective method of purchasing and paying for small-dollar as well as high-volume purchases. The program is intended for use whenever purchase orders are not applicable or impractical. The City is exempt from paying North Dakota sales tax on purchases. The purchase card holder shall keep itemized receipts for goods purchased. P-Card purchases are not allowed if any convenience fees are charged. Refer to the *Purchasing Card Policy & Procedures Manual* for more information.

Process for Rebates

Rebate checks should be made payable to the City. If the check is made payable to an individual, it must either be signed over to the City or the individual must reimburse the City the amount of the rebate check with cash or check. Rebate checks or reimbursements should be deposited back into the account from which the original purchase was made.

Rebates in the form of certificates, property or gift cards must be returned to the department for future use. Department heads are responsible for assuring that a procedure is in place to account for the rebates.

Definitions

Authorized Signature

Signature authority recognized by the City to obligate funds from a designated account and legally bind the City. The Mayor's signature or designee is the only authorized signature.

Bidder

A company or an individual submitting a response to an Invitation to Bid or Request for Proposal.

Bid Bond

Bond issued by a surety company authorized to do business in the State of North Dakota, which ensures that the bidder will enter into the contract for which a formal written bid has been submitted.

Bid Opening

The process of opening and reading bids, conducted at the time and place specified in the Invitation to Bid and/or the advertisement, and in the presence of anyone who wishes to attend.

Contract Change Order

A document that changes the original entries of a purchase order or contract.

Contract Task Order

Once a contractor has a basic contract, task orders are agreements for specific goods or services to meet the overall goals of the basic contract.

Commodity Codes

Numbers assigned to categories of items that are the subject of contracts or awards executed by Purchasing Manager. These codes (numbers) are used by the City of Fargo to group similar items for bidding purposes to ensure that bidders are notified when a bid is issued for commodities the bidder wishes to sell to the City.

Encumbrance

Process where the purchase order sets aside funds for the purchase of supplies or equipment by virtue of an entry of the general ledger for the specified fund source given in the requisition.

Formal Procurement Process

Shall mean the overall process of development of a scope of services or project specifications over \$100,000 relating to public notice and authorizations in support of proposed procurements.

Joint Powers Agreement

A contract, adopted by resolution, between two or more public agencies, which allows the agencies to cooperatively provide services or exercise shared powers outside each agency's normal jurisdiction.

Lease

A contract by which one conveys equipment, or facilities, for a specified term and specified dollar amount.

Procurement

The process for obtaining goods or services, including all activities from the planning steps and preparation and processing of a requisition, through receipt and acceptance of delivery and processing of a final invoice for payment. The acts of preparing specifications, evaluating bids or proposals, making awards, and administering contracts are involved.

Purchase Order

A purchaser's document to formalize a purchase transaction with a vendor. The purchase order should contain statements as to the quantity, description, and price of the goods or services ordered; applicable terms as to payment, date of performance, and transportation; and other factors or suitable references pertinent to the purchase and its execution by the vendor. Acceptance of a purchase order constitutes a contract.

Reference Number

Prior to a bid request, a number is assigned by the Purchasing Manager or designee to ensure tracking and identification purposes.

SAM.gov

The Integrated Award Environment (IAE) facilitates the federal awards processes in multiple online systems, including the System for Award Management, or SAM.gov, an official website of the U. S. Government. Those systems are used for registering to do business with the federal government, listing contract opportunities, capturing contractor performance, viewing contract data, searching assistance listings, reporting subcontracts, and more.

Specification

A written description of requirements for a particular supply or service.

Tabulation of Bids

A recording of bidders and their listing of prices in response to a specific solicitation made for the purpose of comparing and record keeping.



City of Fargo

Purchasing Card Policy & Procedure Manual

Developed by:

City of Fargo
Finance Department

Revised: October 2023

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Introduction

Welcome to the City of Fargo Procurement Card Program!

The purpose of the City of Fargo Procurement Card (P-Card) Program (the “Program”) is to streamline and simplify the requisitioning, purchasing and payment process for small dollar transactions. The Program is designed to shorten the approval process and reduce the paperwork of procurement and payment procedures such as purchase orders, check requests and expense reimbursements. The goal of the Program is to:

- Reduce the cost of processing small dollar purchases
- Receive faster delivery of required merchandise
- Simplify the payment process

This reference guide will provide you with the particulars of the Program, including general guidelines, reconciliation and record keeping procedures, and customer service information. It is important to read the following information carefully, as you will be responsible for adhering to the established guidelines.

If you have any additional questions, please contact your manager or email PCard@FargoND.gov.

Program Administrators:

PCard@FargoND.gov

Jessica Houim (701) 241-1356

JHouim@FargoND.gov

Tanner Smedshammer (701) 241-1528

Tanner.Smedshammer@FargoND.gov

Jordan Corneliusen (701) 476-6777

JCorneliusen@FargoND.gov

BMO Customer Service 24/7 1-(800) 361-3361

Corporate.clientservices@bmo.com

Please include:

- Corporation Name
- Cardholder Name
- Last four digits of card account number
- Specific details of request

Program Details:

225 4th St North; Fargo, ND; 58102

Admin Email: JHouim@FargoND.gov

Admin Phone: (701) 241-1356

General Guidelines

Card Issuance:

As a P-Card cardholder, you will be asked to complete a Cardholder Agreement form, which will then be signed by you, and your Department Head. By signing the Cardholder Agreement form, you agree to adhere to the guidelines established in this policy. In addition, you will be asked to sign a Procurement Card Request form. Most importantly, you are the only person entitled to use the P-Card. As each card is linked to a specific department and individual employee, the P-Card cannot be transferred from one employee to another. Email completed forms to PCard@FargoND.gov.

Upon receipt of your P-Card, you will need to activate the account by calling the toll-free number printed on the back of the card. For verification purposes, you will be asked to provide the last four digits of your card number. Although the card will be issued in your name, your personal credit history is not considered. The City is responsible for payment of all purchases.

Any P-Card with less than 25 transactions per year will be reviewed to determine if the card is considered necessary.

Card Usage:

The P-Card is not to be used for any product, service or with any merchant that would violate existing City policies, procedures, or guidelines or that would otherwise be considered an inappropriate use of public funds.

The P-Card can be used at any merchant that accepts Mastercard, except as the City otherwise directs. P - Card may be used for in-store purchases as well as online and phone orders. P-Card is authorized for purchases within United States only.

When using the P-Card with merchants, please emphasize that an invoice should not be sent as this may result in a duplicate payment. For online, phone, and mail orders, please instruct the merchant to send a receipt only. This receipt must be retained by the cardholder for City records. (See Receipt Retention).

P-Card usage to pay for goods and services is subject to the City's policies, procedures, and guidelines. The P-Card complements existing purchasing and accounts payable processes. It is used for acquiring goods and services without prior approval from Finance in the following scenarios:

- Purchases of goods may be made using the P-Card. Cardholders cannot fragment or separate purchases to get around the purchasing threshold or requirements.
- Payment of services under \$10,000 is limited to equipment rental and repair, vehicle rental and repair, conference registrations, professional organization memberships, hotel, airfare, etc.

The P-Card may be used with **prior approval** from Department Heads as follows:

- Purchases of goods or services over \$10,000, must follow Purchasing Policy & Procedure Manual and three quotes must be submitted to Purchasing@FargoND.gov. Approval shall be granted to the cardholder by the Department Head to proceed with the purchase using the P-Card.

All grant-funded purchases must comply with applicable grantor regulations and guidelines.

Authorized Purchases

The P-Card is a payment method that may be used only for authorized purchases that further the business of the City. Examples of authorized purchases may include:

- Prior approval of goods and services over \$10,000. Quote form submitted
- Training registrations
- Instructional and office supplies
- Repair or maintenance (parts, services, or supplies)
- Travel related expenditures (airfare, hotel, transportation to and from airport)
- Purchases of goods through approved price or requirement agreements (A public contract between the City and a merchant for the procurement of goods or services at a set price.)

Unauthorized Purchases

- Items for personal use
- Services where a contract or MSA is utilized
- Purchasing gift cards – Unless approved by a Program Administrator
- Fragmented purchases to avoid procurement rules
- Fragmented purchases to avoid single transaction limits
- Leased Equipment
- Personal Services (Examples include speakers, performance agreements, consultants, engineering services, and presenters)
- Purchases that violate City policy, procedures, or guidelines

Cardholders that use the P-Card to purchase via the internet must take care to select merchants that the City has dealt with before, or research potential merchants to ensure they are reputable. Cardholders must ensure that the Internet site is secure and that **any terms and conditions** are appropriate. If there are questions, please call a Program Administrator for clarification.

All refunds for a returned purchase initially charged to a P-Card must be credited back to the card. After multiple unsuccessful attempts to credit the P-Card, a merchant may provide a check refund. In this rare instance, report the circumstances to the Program Administrator and deliver any refund to **Accounts Payable** in Finance for deposit.

Cardholders must not make purchases for more than the credit limit established for their P-Card. If a card limit is approached and further spending authority is required, please email PCard@FargoND.gov and copy your Approving Manager along with the amount of the temporary credit limit requested.

Failure to comply with the above City guidelines of misappropriation of purchases under the P-Card program may result in disciplinary action, cancellation of your P-Card privileges, and possible termination of employment (Policy 300-008).

Limitations and Restrictions:

Every cardholder has a total monthly dollar limit assigned to his/her account. (Additional limits may be added to individual P-Card accounts if the need arises.) As limitations vary by cardholder, please discuss the limit with your respective manager. If you believe your monthly limit to be insufficient for your requirements, and your manager agrees, you may contact the Program Administrator and copy your Approving Manager, for review, to have your limit(s) increased. Once the approval is received from the Approving Manager, the permanent credit limit will be put into place.

The P-Card program also allows for merchant category blocking. If a particular merchant category is blocked (e.g., Alcohol, Tobacco, personal loans, cash advances), and you attempt to use your card at such a merchant, your purchase will be declined. Program Administrators have ensured that the vendors/suppliers used during the normal course of business are not restricted. If your P-Card is refused at a merchant where you believe it should have been accepted, you should contact a Program Administrator to determine the reason for refusal.

Lost or Stolen Cards:

You are responsible for the security of your P-Card and any purchases made on your account. If you believe you have lost your card or that it has been stolen, immediately report this information to BMO Spend Dynamics Service Center at 1- 800-361-3361, available 24/7. Immediately after reporting to BMO, you must inform PCard@FargoND.gov. **It is extremely important to act promptly in the event of a lost or stolen P-Card to avoid the City's liability for fraudulent transactions.**

Once the bank has been notified, you will no longer be able to use that P-Card. A new P-Card should be issued within 48 hours of notice to BMO.

Sales Tax:

The City of Fargo is exempt from sales tax and therefore cardholders shall notify vendors upon purchasing that we are tax exempt and should keep this in mind during the invoice review process. A reasonable effort will be made by cardholders to recover sales taxes charged in error.

Closing a P-Card:

When an employee leaves the City of Fargo for any reason, (retirement, resignation, termination, transfer etc.) the P-Card must be closed using the Procurement Card Request form. The card must then be destroyed by the department.

Authorized Cardholder Limits

The following cardholder limits have been established to offer Departments varying levels of cardholder usage. Department Heads shall authorize cardholder limits based upon staff assigned to purchasing.

Cardholder Categories	Individual Transaction Purchase Limit	Cycle Aggregate Limit
Standard User	\$5,000	\$10,000
Departmental Card	\$10,000	\$20,000
Enhanced User	\$50,000	\$100,000
High Limit Card	\$100,000	\$250,000

Standard User

These cards are issued to employees who have been approved by the Department Head to make lower value purchases for the Department.

Departmental Card

These cards are issued to departments who do not utilize a P-Card regularly. These cards are managed by one designated P-Card holder but can be shared with other approved users within the same department. Departmental P-Cards are issued in the department's name and should be stored in a secure place.

Enhanced User

These cards are issued to Department Heads and employees deemed necessary by the Department Head.

High Limit Card

These cards are issued to departments who purchase large volumes of goods and products, generally for the City as a whole. Examples of these areas include Information Services, Finance and Emergency Operations Center.

Note: The P-Card cycle closes on the 27th of each month. Monthly aggregate limits are restored on the 28th of each month.

Reconciliation and Payment

Unlike personal credit cards, the P-Card program is handled as a corporate liability. The Accounts Payable Department is responsible for paying the Program invoice(s) each month. You are not responsible for payment under your account.

At the end of a statement period (twice monthly), reconcilers and approvers will be notified via email that it is time to access the P-Card module within Central Square and review transactions. The expense transactions will reflect the transaction dates, posting dates, supplier/merchant names and the total amount of purchases.

It is your responsibility as a reconciler to:

- Review transactions for accuracy and to ensure all are legitimate and correct.
 - Initiate disputes for any incorrect charges directly with the vendor before reaching out to a Program Administrator.
- Transactions need to be reconciled and approved within **five business days** after the end of each cycle. (Complete prior to forwarding to your approving manager.)
- Ensure the expense is charged to the correct GL account. If there are multiple invoices or account numbers, the transaction will need to be split.
- The Misc Info line is also a required field that requires an invoice number, reference number (RFP / RFQ / PBC / SSP), and a detailed description of the transaction.
- Once all appropriate information has been entered, release EACH transaction. The status will show as Completed and it is ready to be reviewed and approved by the Approving Manager.
- It is important to note that your Approving Manager **cannot** make any updates or changes to the transactions, so all coding must be done as correctly as possible before sending to the Approving Manager for approval.
- The Department Head shall sign off on the final cardholder reconciliation report that all accounts have been reconciled and certify that all charges are valid expenditures

In the event you do not complete your reconciliation within five business days after transactions are uploaded, it will be the responsibility of the Approving Manager to work with you to complete the reconciliation process as soon as possible.

Approving Manager's Responsibilities

Your Approving Manager must review your transactions and receipts to ensure all charges are appropriate and documented. Once again, the Approving Manager cannot make any changes to the transactions. If changes are required, the Approving Manager must query the expense back to the cardholder with instructions regarding what needs to be changed.

Once this review is completed, the manager approves each transaction.

The following timelines must be adhered to during reconciliation:

- City of Fargo transactions are uploaded to the CentralSquare P-Card module on the 15th and 28th of each month.
- Reconcilers and approvers have **5 business days** to complete the process after the transactions have been uploaded.
- P-Card documentation must be at City Hall within **3 business days**.

Receipt Retention:

All cardholder receipts must be submitted to City Hall as part of the reconciling process in one of two ways. The two options are:

- Documents may be scanned and emailed to waterdept@FargoND.gov
- Documents may be delivered to City Hall (*P-Card box in the mailroom*)

It is a requirement of the Program that all receipts for goods and services purchased are stored with a City of Fargo file retention system.

For orders placed via phone, fax, or online, you must request that a receipt, detailing merchandise price, freight, etc., be included with the goods mailed/shipped or emailed to you. It is extremely important to request and retain itemized purchase receipts.

As with all City expenses, P-Card records are audited periodically, and it is necessary to adhere to the above record-keeping guidelines.

*If a Receipt has been lost and the merchant cannot produce a duplicate, please fill out a *P-Card Missing Receipt Form* and submit in place of receipt.

Accidental Personal Charge:

If the City P-Card is accidentally used for a personal charge, reconcile the transaction to an account you have access to (miscellaneous, general, supplies or other). In the miscellaneous information line for the P-Card reconciliation indicate "Accidental Charge – employee will reimburse City with personal check". Write a check to the City of Fargo for the amount of the charge and let a Program Administrator know which account was used. The check will be posted to that account and the charge will net to zero in the provided account. Interoffice check to a Program Administrator within the Finance Department.

Disputed or Fraudulent Charges:

If there is a discrepancy in your transaction receipts and your statement, it is imperative that the issue is addressed immediately! Depending on the type of discrepancy, you will need to contact the merchant or contact BMO Customer Service to resolve the disputed transaction. If you believe the merchant has charged you incorrectly or there are outstanding quality or service issues, you must first contact the merchant and try to resolve the error or problem. If you are able to resolve the matter directly with the merchant, and the error involved an overcharge, a credit adjustment should be requested and will appear on your account.

If the merchant disagrees that an adjustment is necessary, call the BMO Service line at 1-(800) 361-3361 to report the disputed charge.

If the dispute is not resolved to your satisfaction, and you believe the merchant has treated you unfairly, please notify your Manager and Program Administrator with the relevant details.

Any fraudulent charge (i.e., a charge appearing which was not authorized by you) must be reported immediately to BMO Customer Service 1- (800) 361-3361 and PCard@FargoND.gov. Prompt reporting of any such charge will help to prevent the City of Fargo from being held responsible.

Misuse of Card/Failure to Follow Procurement Card Guidelines

- When an inappropriate use of the card or failure to follow card procedures has occurred, notification will be made to the cardholder, and the cardholder's manager, of the misuse.
- Should a second inappropriate use of the card or failure to follow P-Card procedures occur a meeting would take place with the cardholder, the cardholder's approver, the program administrator(s), and the Director of Finance. The requirements of the Procurement Card guidelines and procedures will be reviewed.
- A third inappropriate use of the card or failure to follow Procurement Card procedures will result in cardholder privileges being revoked.

Card Security

- Store your Procurement Card in a secure location. Since you are personally responsible for its use and are the only one who is authorized to use the card, it should be accessible only to you.
- Take the appropriate measures to secure the card number. The number should not be posted in any location where other people have access to it.
- **DO NOT LEND YOUR CARD TO OTHERS FOR USE.** If you are going to be absent for an extended length of time, please notify the program administrator. Your card will be temporarily closed.

Exhibit 1

Activate New Procurement Card

To activate the new Procurement Card, call the Customer Service number at 1-855-825-9234 (shown on the back of the card). You will need to provide the last four of your social security number as the activation code.

Continue to follow the prompts to complete activation. If those steps are not successful, you will need to speak directly to a customer service representative.

Exhibit 2

Activate Renewal Procurement Card

To activate the renewal Procurement Card, call the Customer Service number at 1-855-825-9234 (shown on the back of the card).

Continue to follow the prompts to complete activation. If those steps are not successful, you will need to speak directly to a customer service representative and provide the last four of your social security number.

Once the new card is activated, you may dispose of your old card.

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

54

Type: 2024 to 2028 Federal Aid Transportation Project Applications

Location: Citywide

Date of Hearing: 11/20/2023

Routing	Date
City Commission	<u>11/27/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Jeremy Gorden</u>

The Committee reviewed a communication from Transportation Division Engineer, Jeremy Gorden, regarding recommendations for Federal Aid Transportation Project Applications.

Metro COG and the NDDOT are currently soliciting project applications for a number of programs. The programs are as follows:

2024 & 2025	NDDOT Flex Fund projects	\$42M Statewide
2026 & 2027	Transportation Alternatives Program	\$850K Locally
2026 & 2027	Carbon Reduction Program	\$1.1M Locally
2027	Urban Grant Program (Downtown projects) -	\$4.5M Statewide
2028	Urban Regional Program (10 th /University, 52 nd Ave S, Main Ave & 19 th Ave N)	Competes Statewide
2028	Surface Transportation Block Grant (STBG)	\$10.5M Locally
2028	Highway Safety Improvement Program	Competes Statewide
2028	Highway/Rail Crossing Safety Program	\$1M Competes Statewide

On a motion by Brenda Derrig, seconded by Steve Sprague, the Committee voted to recommend approval of the Project Submittal List as shown and direct staff to prepare the necessary State and Federal grant applications for Metro COG review.

RECOMMENDED MOTION

To approve the Project Submittal List as shown and direct staff to prepare the necessary State and Federal grant applications for Metro COG review.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: _____

Developer meets City policy for payment of delinquent specials
 Agreement for payment of specials required of developer
 Letter of Credit required (per policy approved 5-28-13)


Yes	No
_____	_____
N/A	_____
_____	N/A
_____	_____
N/A	_____

COMMITTEE

Tim Mahoney, Mayor
 Nicole Crutchfield, Director of Planning
 Steve Dirksen, Fire Chief
 Brenda Derrig, Assistant City Administrator
 Ben Dow, Director of Operations
 Steve Sprague, City Auditor
 Tom Knakmuhs, City Engineer
 Susan Thompson, Finance Director

Present	Yes	No	Unanimous
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:


 Tom Knakmuhs, P.E.
 City Engineer

Memorandum

To: Members of PWPEC

From: Jeremy Gorden, PE, PTOE
 Division Engineer - Transportation

Date: November 20, 2023

Re: Recommendations for Federal and State Aid Transportation Project Applications
 Years 2024 to 2028

Metro COG and the NDDOT is currently soliciting project applications for a number of programs. The programs are as follows:

2024 & 2025	NDDOT Flex Fund projects	\$42M statewide
2026 & 2027	Transportation Alternatives Program	\$850K locally
2026 & 2027	Carbon Reduction Program	\$1.1M locally
2027	Urban Grant Program (Downtown projects) -	\$4.5M statewide
2028	Urban Regional Program (10 th /University, 52 nd Ave S, Main Ave & 19 th Ave N)	Competes statewide
2028	Surface Transportation Block Grant (STBG)	\$10.5M locally
2028	Highway Safety Improvement Program	Competes statewide
2028	Highway/Rail Crossing Safety Program	\$1M Competes statewide

- Included as part of the Flex Fund application is the following:
- Does it Support Economic Development?
 - Does it Improve Safety?
 - Does it Support Complete Streets?
 - Does it Improve Multi-Modal transportation infrastructure?
 - Does it Improve a roadway restriction? (either height or weight)?
 - Is it innovative?

We think that the NP corridor is primed for such a project.

Please take a look at the attached map and spreadsheet showing our list of unfunded projects that we believe should move forward to receive either federal or state funds.

We currently have the North Broadway Bridge receiving \$5.4M in federal aid in 2026, and in 2027 we have the pedestrian bridge over the Red River at 40th Avenue South receiving \$4.1M as well as the reconstruction of 17th Avenue South between University and 25th Street receiving \$6.3M. If the decision is made to not replace the Broadway Bridge, the 17th Avenue South project could move to 2026, and a \$6.3M gap would be created in 2027. It would be up to the Metro COG Policy Board to decide what project would go into that gap. We plan to bring the Broadway bridge decision in front of you on December 11.

I look forward to a good discussion on these projects and ideas.

Recommended Motion:

To approve the 'Project Submittal List' as shown and direct staff to prepare necessary State and Federal Grant Applications for Metro COG consideration.

Attachments

PROJECT SUBMITTAL LIST

Entity: City of Fargo					Contact Person: Jeremy Gorden					
Date: November 21, 2023					Phone Number: 241-1529					
FISCAL YEAR	FUNDING CATEGORY ⁽¹⁾	FUNCTIONAL CLASSIFICATION ⁽²⁾	INVESTMENT STRATEGY ⁽³⁾	RECOMMENDED AS PART OF A STUDY?	PROJECT LOCATION	PROJECT CONSTRUCTION COST				
						TOTAL	FEDERAL	STATE	LOCAL	NON-PARTICIPATING (water & sewer)
2028	STBG	Minor Arterial	Recon	Yes	1st Ave N - 3rd St to Roberts St	\$ 13,634,516	\$ 7,810,388	\$ -	\$ 1,952,597	\$ 3,871,531
2028	STBG	Collector	Recon	Yes	17th Ave S - 38th St to 42nd St	\$ 10,697,617	\$ 7,178,641	\$ -	\$ 1,794,660	\$ 1,724,315
2028	STBG	Minor Arterial	Recon	Yes	1st Ave N - Roberts St to 10th St	\$ 9,799,808	\$ 5,613,716	\$ -	\$ 1,403,429	\$ 2,782,663
	STBG	Collector	Recon	Yes	17th Ave S - 25th St to 35th St*	\$ 16,893,952	\$ 11,043,940	\$ -	\$ 2,760,985	\$ 3,089,027
* Illustrative project, not included in total						\$ 34,131,941	\$ 20,602,745	\$ -	\$ 5,150,686	\$ 8,378,509

FISCAL YEAR	FUNDING CATEGORY ⁽¹⁾	FUNCTIONAL CLASSIFICATION ⁽²⁾	INVESTMENT STRATEGY ⁽³⁾	RECOMMENDED AS PART OF A STUDY?	PROJECT LOCATION	PROJECT CONSTRUCTION COST				
						TOTAL	FEDERAL	STATE	LOCAL	NON-PARTICIPATING (water & sewer)
2026	TAP	NA	New	Yes	Drain 27/Deer Creek Shared Use Path - Phase 1	\$ 928,458	\$ 742,767	\$ -	\$ 185,692	\$ -
2027						\$ 1,002,735	\$ 802,188	\$ -	\$ 200,547	\$ -
2026	TAP	NA	New	Yes	Low Level Pedestrian/Bicycle Crossing - Drain 53	\$ 869,876	\$ 695,901	\$ -	\$ 173,975	\$ -
2027						\$ 939,466	\$ 751,573	\$ -	\$ 187,893	\$ -
2026	TAP	NA	New	No	New Path south of Water Reclamation Campus - 10th St to Broadway	\$ 342,593	\$ 274,074	\$ -	\$ 68,519	\$ -
2027						\$ 370,000	\$ 296,000	\$ -	\$ 74,000	\$ -
2026	TAP	NA	New	Yes	Drain 27/Deer Creek Addition Shared Use Path - Phase 2	\$ 564,301	\$ 451,441	\$ -	\$ 112,860	\$ -
2027						\$ 609,445	\$ 487,556	\$ -	\$ 121,889	\$ -
2026	TAP	NA	New	Yes	Drain 53 - 64th Ave S to 73rd Ave S Shared Use Path	\$ 825,318	\$ 660,255	\$ -	\$ 165,064	\$ -
2027						\$ 891,343	\$ 713,075	\$ -	\$ 178,269	\$ -

FISCAL YEAR	FUNDING CATEGORY ⁽¹⁾	FUNCTIONAL CLASSIFICATION ⁽²⁾	INVESTMENT STRATEGY ⁽³⁾	RECOMMENDED AS PART OF A STUDY?	PROJECT LOCATION	PROJECT CONSTRUCTION COST				
						TOTAL	FEDERAL	STATE	LOCAL	NON-PARTICIPATING (water & sewer)
2028	HSIP	Minor Arterial	Minor Rehab	Yes	Installation of RCUT on 52nd Ave S at 27th Street	\$ 1,100,000	\$ 880,000	\$ 110,000	\$ 110,000	\$ -
2028	HSIP	Collector	Minor Rehab	Yes	Pedestrian Safety Project - University Drive at 25th Ave S	\$ 685,344	\$ 548,275	\$ -	\$ 137,069	\$ -
2028	HSIP	Major Arterial	Major Rehab	No	Addition of a Southbound Auxillary lane on 45th St at I-94 North Ramp	\$ 735,035	\$ 588,028	\$ -	\$ 147,007	\$ -
						\$ 2,520,379	\$ 2,016,303	\$ 110,000	\$ 394,076	\$ -

FISCAL YEAR	FUNDING CATEGORY ⁽¹⁾	FUNCTIONAL CLASSIFICATION ⁽²⁾	INVESTMENT STRATEGY ⁽³⁾	RECOMMENDED AS PART OF A STUDY?	PROJECT LOCATION	PROJECT CONSTRUCTION COST				
						TOTAL	FEDERAL	STATE	LOCAL	NON-PARTICIPATING (water & sewer)
2026	Carbon Reduction	NA	New	Yes	Drain 27/Deer Creek Shared Use Path - Phase 1	\$ 928,458	\$ 742,767	\$ -	\$ 185,692	\$ -
2027						\$ 1,002,735	\$ 802,188	\$ -	\$ 200,547	\$ -
2026	Carbon Reduction	NA	New	Yes	Drain 53 - 64th Ave S to 73rd Ave S Shared Use Path	\$ 825,318	\$ 660,254	\$ -	\$ 165,064	\$ -
2027						\$ 891,343	\$ 713,074	\$ -	\$ 178,269	\$ -
2027	Carbon Reduction	Major Arterial	New	Yes	Adaptive Traffic Signal Control Corridor - 45th Street - 15 Intersections for 5 years	\$ 1,500,000	\$ 1,200,000	\$ -	\$ 300,000	\$ -

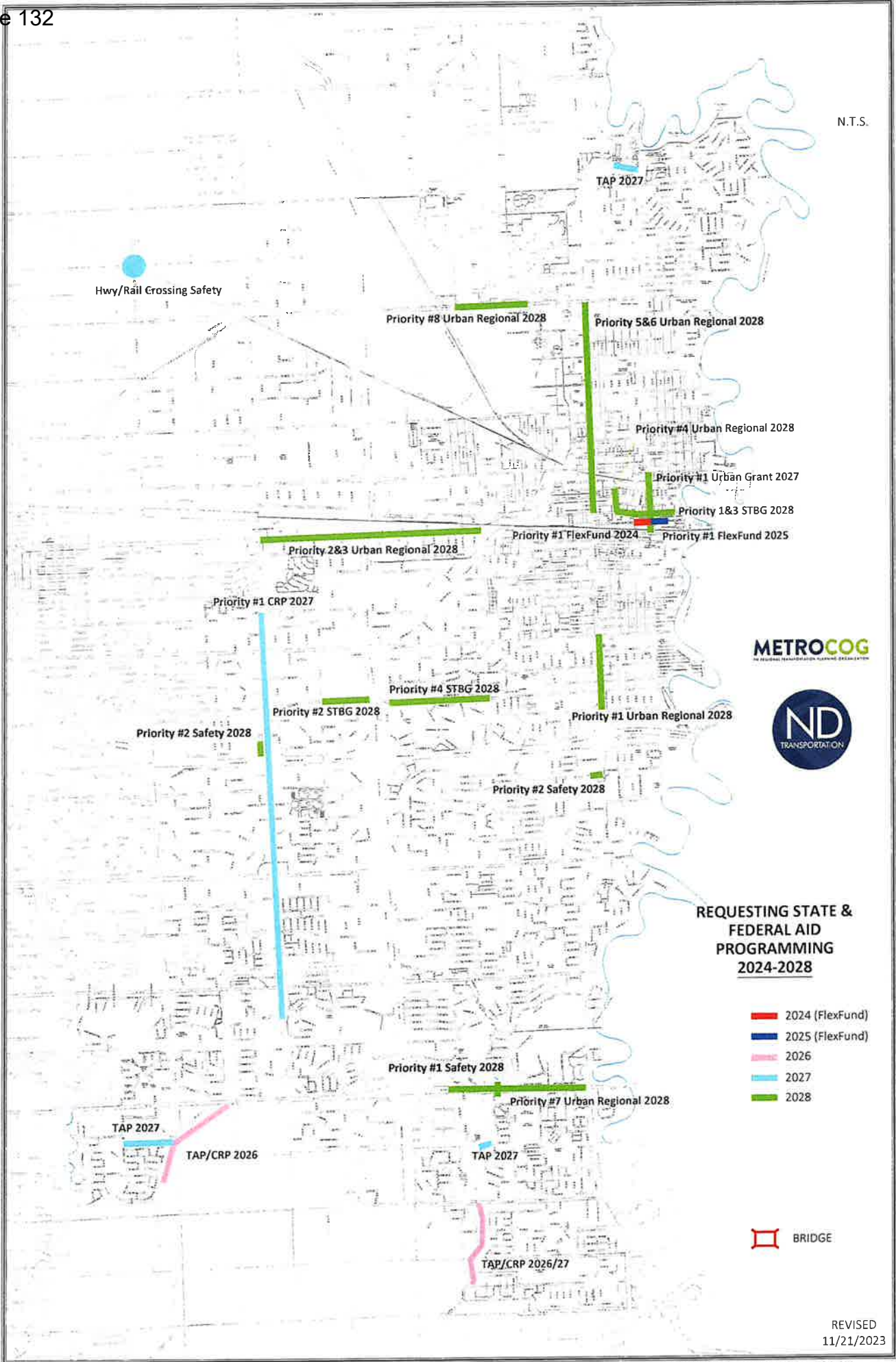
PROJECT CONSTRUCTION COST										
FISCAL YEAR	FUNDING CATEGORY ⁽¹⁾	FUNCTIONAL CLASSIFICATION ⁽²⁾	INVESTMENT STRATEGY ⁽³⁾	RECOMMENDED AS PART OF A STUDY?	PROJECT LOCATION	TOTAL	FEDERAL	STATE	LOCAL	NON-PARTICIPATING (water & sewer)
2028	Urban Regional	Major Arterial	Recon	Yes	University Drive S - 13th Ave S to 18th Ave S	\$ 31,305,383	\$ 19,565,241	\$ 2,445,655	\$ 2,445,655	\$ 6,848,830
2028	Urban Regional	Major Arterial	CPR	No	Main Ave - 25th St to I-29	\$ 8,638,529	\$ 6,910,823	\$ 863,853	\$ 863,853	\$ -
2028	Urban Regional	Major Arterial	CPR	No	Main Ave - I-29 to 45th St	\$ 8,748,872	\$ 6,999,098	\$ 874,887	\$ 874,887	\$ -
2028	Urban Regional	Major Arterial	Recon	Yes	10th St - NP Ave to 4th Ave N	\$ 10,385,485	\$ 5,879,338	\$ 658,910	\$ 726,472	\$ 3,120,764
2028	Urban Regional	Major Arterial	Recon	Yes	University Drive N - 12th Ave N to 19th Ave N	\$ 19,875,332	\$ 11,321,439	\$ 1,268,818	\$ 1,398,917	\$ 5,886,157
2028	Urban Regional	Major Arterial	Recon	Yes	University Drive N - 1st Ave N to 12th Ave N	\$ 17,242,934	\$ 11,677,803	\$ 1,308,756	\$ 1,442,951	\$ 2,813,422
2028	Urban Regional	Major Arterial	CPR	No	52nd Ave S - I-29 to University Drive	\$ 11,921,170	\$ 9,536,936	\$ 1,192,117	\$ 1,192,117	\$ -
2028	Urban Regional	Major Arterial	Recon	Yes	19th Ave N - Dakota Drive to 18th Street	\$ 14,704,862	\$ 9,586,670	\$ 1,074,398	\$ 1,184,563	\$ 2,859,230
						\$ 122,822,567	\$ 81,477,348	\$ 9,687,394	\$ 10,129,415	\$ 21,528,403

PROJECT CONSTRUCTION COST										
FISCAL YEAR	FUNDING CATEGORY ⁽¹⁾	FUNCTIONAL CLASSIFICATION ⁽²⁾	INVESTMENT STRATEGY ⁽³⁾	RECOMMENDED AS PART OF A STUDY?	PROJECT LOCATION	TOTAL	FEDERAL	STATE	LOCAL	NON-PARTICIPATING (water & sewer)
2027	Urban Grant	Collector	Major Rehab	No	Broadway Brick Replacement and ADA Upgrades	\$ 3,411,612	\$ 2,729,289	\$ -	\$ 682,322	\$ -

PROJECT CONSTRUCTION COST										
FISCAL YEAR	FUNDING CATEGORY ⁽¹⁾	FUNCTIONAL CLASSIFICATION ⁽²⁾	INVESTMENT STRATEGY ⁽³⁾	RECOMMENDED AS PART OF A STUDY?	PROJECT LOCATION	TOTAL	FEDERAL	STATE	LOCAL	NON-PARTICIPATING (water & sewer)
2024	FlexFund	Collector	Recon	Yes	NP Ave - Broadway to 8th Street	\$ 5,584,826	\$ -	\$ 1,675,448	\$ 3,909,378	\$ -
2025	FlexFund	Collector	Recon	Yes	NP Ave - Broadway to 4th Street	\$ 8,935,801	\$ -	\$ 2,680,740	\$ 6,255,061	\$ -
						\$ 14,520,627	\$ -	\$ 4,356,188	\$ 10,164,439	\$ -
						TOTAL	FEDERAL	STATE	LOCAL	NON-PARTICIPATING

Notes Description
 (1) PnR = Primary Regional, SecR = Secondary Regional, URP = Urban Roads Program, TA = Transportation Alternatives, INT = Interstate, BRI = Bridge
 (2) Interstate, Principal Arterial, Minor Arterial, Collector
 (3) PM = Preventive Maintenance, MIR = Minor Rehabilitation, SI = Structural Improvement, MaR = Major Rehabilitation, N/R = New/Reconstruction
 (4) Brief description of the project (Exs: Thin Lift Overlay, Mill and Overlay, Concrete Pavement Repair, etc.)

N.T.S.



REQUESTING STATE & FEDERAL AID PROGRAMMING 2024-2028

- 2024 (FlexFund)
- 2025 (FlexFund)
- 2026
- 2027
- 2028

□ BRIDGE

REVISED
11/21/2023

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

55

ORDINANCE NO. _____

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AN ORDINANCE AMENDING SECTIONS 13-1801, 13-1802, 13-1806 OF ARTICLE 13-18
OF CHAPTER 13 OF THE FARGO MUNICIPAL CODE
RELATING TO MASSAGE THERAPY ESTABLISHMENTS

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment

Section 13-1801 of Article 13-18 of Chapter 13 of the Fargo Municipal Code is hereby amended to read as follows:

Section 13-1801. Definitions.

As used in this ordinance, unless context otherwise indicates, the following definitions shall apply:

1. "Massage" means the practice of massage therapy by the manual application of a system of structured touch to the soft tissues of the human body, including:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- a. Assessment, evaluation, or treatment;
- b. Pressure, friction, stroking, rocking, gliding, kneading, percussion, or vibration;
- c. Active or passive stretching of the body within the normal anatomical range of movement;
- d. Use of manual methods or mechanical or electrical devices or tools that mimic or enhance the action of human ~~hands~~ touch;
- e. Use of topical applications such as lubricants, scrubs, or herbal preparations; and
- f. Use of hot or cold applications.

* * *

6. "Public health department" means Fargo Cass Public Health or any representative or designee thereof.

Section 2. Amendment

Section 13-1802 of Article 13-18 of Chapter 13 of the Fargo Municipal Code is hereby amended to read as follows:

Section 13-1802. License to operate massage therapy establishment issued annually – fee; application, investigation.

No person shall operate a massage therapy establishment without first applying for and obtaining a license issued by the public health department. The license shall be subject to all the terms and conditions of this article and any other approved regulations as provided in this article. The initial application for a license shall extend from the date of issuance until year-end. Thereafter, the massage therapy establishment license may be renewed annually, January 1, by the director of public health. The fee for an initial license and any renewal thereof shall be as established by resolution of the board of city commissioners, and applicants shall complete an application form furnished by the public health department. A license shall apply only to the premises described in the application, and in the license issued thereon, and only one location shall be so described in each license.

The chief of police or their designee shall investigate the facts stated in the application and shall report the results of the investigation to the public health department prior to the issuance of a license. Said investigation shall include the character, reputation, and fitness of the applicant to hold a license, or any other pertinent information as to whether such license should be granted. Upon satisfaction of compliance with all license requirements, the massage therapy establishment license shall be issued.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 3. Amendment

Article 13-1806 of Chapter 13 of the Fargo Municipal Code is hereby amended as follows:

Section 13-1806. Licenses—non-renewal, suspension, or revocation of license.

* * *

D. An order suspending or revoking a license pursuant to the provisions of this article may be appealed to the board of city commissioners. The licensee must give written notice of its intent to appeal the order of suspension or revocation to the board of city commissioners no later than 10 days of the date of the decision. The board of city commissioners shall consider the appealed decision ~~as a new matter~~ in a public hearing and, at the close of the public hearing, shall act to affirm or reverse the original decision.

* * *

Section 4. Penalty.

A person, firm, or corporation violating the provisions of this article shall, upon conviction thereof, be guilty of a Class B misdemeanor, and shall be punished by a fine not to exceed \$1,500.00 or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof.

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 5. Effective Date.

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

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Attest:

Timothy J. Mahoney, M.D., Mayor

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:



5600

November 16, 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 105 Meadowlark Ln N as submitted by Travis and Anne Marie Christensen. 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 \$37 with the City of Fargo's share being \$6.

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 Lot: 9, Block: 20, Addition Name:
Woodcrest Park

2. Address of Property 105 Meadowlark Ln N, Fargo, ND 58102

3. Parcel Number 01-4080-00330-000

4. Name of Property Owner Christensen, Travis James & Anne Marie Phone No. _____

5. Mailing Address of Property Owner 105 Meadowlark Ln N, Fargo, ND 58102

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, work includes flooring, fixtures, ventilation, plumbing and electrical.

7. Building permit No. 2306-0259-REN 8. Year built (residential property) 1975

9. Date of commencement of making the improvements June 7th, 2023

10. Estimated market value of property before the improvements \$ 450,700

11. Cost of making the improvement (all labor, material and overhead) \$ 15,300

12. Estimated market value of property after the improvements \$ 466,000

Applicant's Certification And Signature

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

Applicant Anne Christensen Date 11-13-23

Assessor's Determination And Signature

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

Assessor/Director of Tax Equalization Willa J. [Signature] Date 11-20-2023

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 _____



566

November 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 2314 Victoria Rose Ln as submitted by Aaron and Jessica Franke. 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 \$299 with the City of Fargo's share being \$51.

Sincerely,

A handwritten signature in black ink that reads "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 Lot 6 Block 3 Rose Creek 3rd Addition

2. Address of Property 2314 Victoria Rose Ln S

3. Parcel Number 01-2484-00440-000

4. Name of Property Owner Aaron & Jessica Franke Phone No. 701-238-5562

5. Mailing Address of Property Owner 2314 Victoria Rose Ln S

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

7. Building permit No. 23050058 8. Year built (residential property) 1994

9. Date of commencement of making the improvements July 2023

10. Estimated market value of property before the improvements \$ _____

11. Cost of making the improvement (all labor, material and overhead) \$ 45,000

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 *Aaron Franke* Date 11/9/23

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 *Willa J. ...* Date 11-20-2023

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 _____



560

November 7, 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 2619 26 St S as submitted by Jean Corbett. 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 \$144 with the City of Fargo's share being \$24.

Sincerely,

A handwritten signature in black ink that reads "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 _____
LOT: F, REPLAT OF LT 1, BLK 9 BLOCK: 1 BLUEMONT LAKES 4th

2. Address of Property 2619 25 ST S

3. Parcel Number 01-0173-01956-000

4. Name of Property Owner JEAN CORBETT Phone No. 701-230-1953

5. Mailing Address of Property Owner 2619 25 ST S

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 ALL THREE BATHROOMS IN THE HOUSE

7. Building permit No. 23010528 8. Year built (residential property) 1987

9. Date of commencement of making the improvements 02/02/2023

10. Estimated market value of property before the improvements \$ 331,700.00

11. Cost of making the improvement (all labor, material and overhead) \$ 40,000.00

12. Estimated market value of property after the improvements \$ 342,300

Applicant's Certification And Signature

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

Applicant Jean Corbett Date 11/2/23

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 11-20-2023

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 _____



56ad

November 3, 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 1906 9 St N as submitted by Nathan and Kimberly Rorvig. 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 \$213 with the City of Fargo's share being \$36.

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 Lot: 12, Block: 2, Addition Name: Peter Sway 4th

2. Address of Property 1906 9th St N, Fargo, ND 58102

3. Parcel Number 01-3080-00250-000

4. Name of Property Owner Rorvig, Nathan D & Kimberly A Phone No. (701) 552-3126

5. Mailing Address of Property Owner 1906 9th St N, Fargo, ND 58102

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 of existing Kitchen; includes new flooring, cabinets and electrical.

7. Building permit No. 2306-0517-REN 8. Year built (residential property) 1955

9. Date of commencement of making the improvements June 13th, 2023

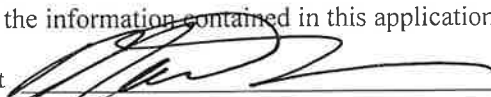
10. Estimated market value of property before the improvements \$ 226,100

11. Cost of making the improvement (all labor, material and overhead) \$ 20,000

12. Estimated market value of property after the improvements \$ 239,000.00


Applicant's Certification And Signature

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

Applicant  Date 11-3-2023

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  Date 11-20-2023

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 _____



November 3, 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 3707 Kennedy St S as submitted by Susan Nelson. 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 \$160 with the City of Fargo's share being \$27.

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 Lot 2 Block 3 Burritt-Kennedy

2. Address of Property 3707 Kennedy St S

3. Parcel Number 01-0290-00160-000

4. Name of Property Owner Susan Nelson Phone No: 701-729-7646

5. Mailing Address of Property Owner 3707 Kennedy St S, Fargo, ND 58104

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). Remove and replace siding and gutters

7. Building permit No. 23060759 8. Year built (residential property) 1975

9. Date of commencement of making the improvements 06/21/2023

10. Estimated market value of property before the improvements \$ 284,200.00

11. Cost of making the improvement (all labor, material and overhead) \$ 42,000.00

12. Estimated market value of property after the improvements \$ 296,000.00

Applicant's Certification And Signature

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

Applicant: Susan Nelson Date: 10-30-23

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: Uita J. Loveland Date: 11-20-2023

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 _____



560f

November 2, 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 505 Broadway N Unit 303 as submitted by Wayne and Cherie Gadberry. 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 \$1,060 with the City of Fargo's share being \$180.

Sincerely,

A handwritten signature in black ink that reads "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 See parcel for Lot, Block and Addition
Name

2. Address of Property 505 Broadway N, Unit 303, Fargo, ND 58102

3. Parcel Number 01-1540-02701-~~040~~ 041

4. Name of Property Owner Gadberry, Wayne H & Cherie S Phone No. (701) 388-5561

5. Mailing Address of Property Owner 505 Broadway N, Ste. 303 Fargo, ND 58102

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). Combining Units 303 and 304, removing kitchen from 304 and adding Laundry. Sufficient size header required for any new spans.

7. Building permit No. 2212-0574-REN 8. Year built (residential property) 1914

9. Date of commencement of making the improvements December 27th, 2022

10. Estimated market value of property before the improvements \$ 412,600

11. Cost of making the improvement (all labor, material and overhead) \$ 247,603.95

12. Estimated market value of property after the improvements \$ 700,000.-

Applicant's Certification And Signature

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

Applicant Wayne Gadberry Date 10/3/23

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 Walter J. [Signature] Date 11-20-2023

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 _____



November 16, 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 4726 Rose Creek Pkwy S as submitted by Michael Gillund and Melissa Mozley. 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 \$1,752 with the City of Fargo's share being \$298.

Sincerely,

A handwritten signature in cursive script, 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 Lot 23 Block 1
Rose Creek 4th Addition

2. Address of Property 4726 Rose Creek Pkwy S, Fargo

3. Parcel Number 01-2485-00230-000

4. Name of Property Owner Michael & Melissa Gillund Phone No. 701-371-9163

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). Whole home remodel

7. Building permit No. 2203-0039-REN 8. Year built (residential property) 1992

9. Date of commencement of making the improvements 2/6/2023

10. Estimated market value of property before the improvements \$ 669,800

11. Cost of making the improvement (all labor, material and overhead) \$ 661,869

12. Estimated market value of property after the improvements \$ 1,331,669

Applicant's Certification And Signature

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

Applicant Melissa M Gillund Date 11-14-23

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization [Signature] Date 11-20-2022

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 _____



56h

November 16, 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 3225 Longfellow Rd N as submitted by Patrick and Katherine McIntyre. 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 \$259 with the City of Fargo's share being \$44.

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 Lot: 9, Block: 3, Addition Name: Golf Course 1st

2. Address of Property 3225 Longfellow Road N, Fargo, ND 58102

3. Parcel Number 01-1001-00590-000

4. Name of Property Owner McIntyre, Patrick L & Katherine I Phone No. (701) 212-5988

5. Mailing Address of Property Owner 3225 Longfellow Road N, Fargo, ND 58102

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). Adding bathroom and storage closet to basement. New flooring, doors, fixtures, ventilation, plumbing and electrical.

7. Building permit No. 2301-0416-REN 8. Year built (residential property) 1972

9. Date of commencement of making the improvements January 20th, 2023

10. Estimated market value of property before the improvements \$ 351,900

11. Cost of making the improvement (all labor, material and overhead) \$ 30,000

12. Estimated market value of property after the improvements \$ 361,900 *per research new bathroom add value approx 10K*

Applicant's Certification And Signature

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

Applicant Katherine I. McIntyre Date 11-1-23

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 11-20-2023

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 _____

5700

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY



DATE: NOVEMBER 27, 2023

SUBJECT: APPOINTMENTS TO THE HISTORIC PRESERVATION COMMISSION

The terms of Nathan Larson, Heather Fischer and Paul Gleye on the Historic Preservation Commission expired on October 31, 2023.

Mr. Larson, Ms. Fischer and Mr. Gleye are willing to continue their service on the Board; therefore, I am recommending their reappointment.


Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: To approve the reappointment of Nathan Larson, Heather Fischer and Paul Gleye to the Historic Preservation Commission for three-year terms ending October 31, 2026.

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MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS
FROM: MAYOR TIMOTHY J. MAHONEY 
DATE: NOVEMBER 27, 2023
SUBJECT: APPOINTMENTS TO THE PLANNING COMMISSION

The terms of Rocky Schneider and Dawn Morgan on the Planning Commission expired on June 30, 2023.

Due to extenuating circumstances, the appointment is being delayed. Mr. Schneider and Ms. Morgan are willing to continue their service for an additional six months; therefore, I am recommending their reappointment until June 30, 2024.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: Approve the reappointment of Rocky Schneider and Dawn Morgan to the Planning Commission for a six-month term ending June 30, 2024.

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