

FARGO PLANNING COMMISSION AGENDA  
Tuesday, November 7, 2023 at 3:00 p.m.

A: Approve Order of Agenda

B: Minutes: Regular Meeting of October 3, 2023

C: Public Hearing Items:

1. Hearing on an application requesting a Plat of **CC's First Addition** (Major Subdivision) a plat of an unplatted portion of the Southeast Quarter of Section 34, Township 139 North, Range 49 West of the Fifth Principal Meridian, to the City of Fargo, Cass County, North Dakota. (Located at 5080 38th Street South) (KLC Holdings, LLC/Christianson Companies) (dk)
2. Hearing on an application requesting a Zoning Change from GC, General Commercial to MR-3, Multi-Dwelling residential on Lot 3, Block 1, **Ekman Addition**. (Located at 1728 42nd Street South) (Blazing Wings Properties, LLC/Commonwealth Development) (dk)
3. Hearing on an application requesting a Zoning Change to repeal and reestablish a C-O, Conditional Overlay on Lot 1, Block 1, **Timber Parkway Eighth Addition**. (Located at 5056 Charles Way South) (PLC Investments, LLC/Christianson Companies) (ae)
4. Hearing on an application requesting a Zoning Change to repeal and reestablish a C-O, Conditional Overlay on Lots 1-2, Block 1, **Timber Parkway Tenth Addition**. (Located at 5107 and 5161 Charles Way South) (KT Properties, LLC/Christianson Companies) (ae)
5. Hearing on an application requesting a Conditional Use Permit to allow an Alternative Access Plan for off-site parking on Lots 1-2, Block 1, **University South Fourth Addition**. (Located at 1393 25th Avenue South and 1376 Oak Manor Avenue South) (Beyond Shelter Housing, LLC/Houston Engineering) (bg)

---

Planning Commission meetings are broadcast live on cable channel TV Fargo 56 and can be seen live at [www.FargoND.gov/streaming](http://www.FargoND.gov/streaming). They are rebroadcast each Wednesday at 8:00 a.m. and Sunday at 8:00 a.m.; and are also included in our video archive at [www.FargoND.gov/PlanningCommission](http://www.FargoND.gov/PlanningCommission).

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

Minutes are available on the City of Fargo Web site at [www.FargoND.gov/planningcommission](http://www.FargoND.gov/planningcommission).

**BOARD OF PLANNING COMMISSIONERS  
MINUTES**

**Regular Meeting:**

**Tuesday, October 3, 2023**

The Regular Meeting of the Board of Planning Commissioners of the City of Fargo, North Dakota, was held in the Commission Chambers at City Hall at 3:00 p.m., Tuesday, October 3, 2023.

The Planning Commissioners present or absent were as follows:

Present: Rocky Schneider, Maranda Tasa, John Gunkelman, Art Rosenberg, Dawn Morgan, Thomas Schmidt, Brett Shewey

Absent: Scott Stofferahn, Jennifer Holtz

Chair Schneider called the meeting to order.

He shared that Fargo Growth Plan Open Houses will be held on Tuesday, October 17 and Wednesday, October 18 and noted the website is [fargogrowthplan.org](http://fargogrowthplan.org).

**Business Items:**

**Item A: Approve Order of Agenda**

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

**Item B: Minutes: Regular Meeting of September 7, 2023**

Member Tasa moved the minutes of the September 7, 2023 Planning Commission meeting be approved. Second by Member Schmidt. All Members present voted aye and the motion was declared carried.

**Item C: Public Hearing Items:**

**Item 1: Meadow View Second Addition**

**Hearing on an application requesting a Plat of Meadow View Second Addition (Major Subdivision) a replat of Lots 1-11, Block 3, Lots 19-34, Block 4, Meadow View Addition and a vacation of a portion of Meadow View Drive South to the City of Fargo, Cass County, North Dakota. (Located at 6704-6794 Meadow View Drive South) (Thomsen Homes, LLC/EagleRidge Development): APPROVED**

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

Applicant representative, Jon Youness, EagleRidge Development, spoke on behalf of the application.

Discussion was hold on how this application fits with the housing needs study.

Member Rosenberg moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat Meadow View Second Addition, as outlined within the staff report, as the proposal complies with the 2007 Growth Plan, the Standards of Article 20-06 and Section 20-0907.C of the Land Development Code, and all other applicable requirements of the Land Development Code and North Dakota Century Code Chapter 40-39-04 to 40-39-07. Second by Member Gunkelman. On call of the roll Members Shewey, Rosenberg, Morgan, Schmidt, Tasa, Gunkelman, and Schneider voted aye. Absent and not voting: Members Holtz and Stofferahn. The motion was declared carried.

**Item 2: The Pines at the District Fourth Addition**

**2a. Hearing on an application requesting a Zoning Change to repeal and reestablish a C-O, Conditional Overlay on the proposed The Pines at the District Fourth Addition. (Located at 4000 53rd Avenue South and 5461 and 5537 38th Street South) (Gitty-Up, LLC/Houston Engineering): APPROVED**

**2b. Hearing on an application requesting a Plat of The Pines at the District Fourth Addition (Minor Subdivision) a replat of part of Lot 1, Block 1, The Pines at the District Third Addition, and part of Lots 1-2, Block 1, The District of Fargo Second Addition, to the City of Fargo, Cass County, North Dakota. (Located at 4000 53rd Avenue South and 5461 and 5537 38th Street South) (Gitty-Up, LLC/Houston Engineering): APPROVED**

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

Applicant representative Brian Pattengale spoke on behalf of the application.

Member Gunkelman moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change to repeal and reestablish a C-O, Conditional Overlay, and 2) Subdivision Plat The Pines at the District Fourth Addition, as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the 2007 Growth Plan, Section 20-0907. B&C, Section 20-0906.F (1-4), and the Standards of Section 20-06 of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Schmidt. On call of the roll Members Gunkelman, Shewey, Morgan, Schmidt, Rosenberg, Tasa, and Schneider voted aye. Absent and not voting: Members Holtz and Stofferahn. The motion was declared carried.

**Item 3: Urban Plains by Brandt Seventh Addition**

**3a. Hearing on an application requesting a Zoning Change to repeal and reestablish a C-O, Conditional Overlay on the proposed Urban Plains by Brandt Seventh Addition. (Located at 2907, 2915, 2949, 2975, 3037, and 3151 Seter Parkway South) (Urban Plains Land Company, LLC/Gleason Companies/Lowry Engineering): APPROVED**

**3b. Hearing on an application requesting a Plat of Urban Plains by Brandt Seventh Addition (Major Subdivision) a replat of a portion of Lot 1, all of Lots 2 and 3, Block 5, Urban Plains by Brandt Second Addition, and Lots 2-4, Block 5, Urban Plains by Brandt First Addition, to the City of Fargo, Cass County, North Dakota including a vacation of portions of the Seter Parkway South Right-of-Way. (Located at 2907, 2915, 2949, 2975, 3037, and 3151 Seter Parkway South) (Urban Plains Land Company, LLC/Gleason Companies/Lowry Engineering): APPROVED** Planner Brad Garcia presented the staff report stating all approval criteria have been met and staff is recommending approval.

Discussion was held on the traffic study, negative access easements, street realignment, and that the Conditional Use Permit will remain in place.

Applicant representative Tim Gleason spoke on behalf of the application.

Member Schmidt moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change to repeal and reestablish a C-O, Conditional Overlay, and 2) Subdivision Plat Urban Plains by Brandt Seventh Addition, including vacation of Right-of-Way, as outlined within the staff report, as the proposal complies with the Adopted Area Plan, the Standards of Section 20-0906.F(1-4), Section 20-0907.C, and the Standards of Article 20-06 of the Land Development Code, and all other applicable requirements of the Land Development Code, and of the North Dakota Century Code Chapter 40-39. Second by Member Tasa. On call of the roll Members Morgan, Schmidt, Tasa, Rosenberg, Gunkelman, Shewey, and Schneider voted aye. Absent and not voting: Members Stofferahn and Tasa. The motion was declared carried.

**Item 4: 924 Townhomes Addition**

**4a. Hearing on an application requesting a Zoning Change from MR-3, Multi-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development overlay on the proposed 924 Townhomes Addition. (Located at 916 and 924 7th Street North) (FM Property Pros II, LLC): APPROVED**

**4b. Hearing on an application requesting an application for a PUD, Planned Unit Development Master Land Use Plan and Final Plan on the proposed 924 Townhomes Addition. (Located at 916 and 924 7th Street North) (FM Property Pros II, LLC): APPROVED**

**4c. Hearing on an application requesting a Plat of 924 Townhomes Addition (Minor Subdivision) a replat of all of Lot 4, parts of Lots 3 and 5, Block 16, Harwoods Second Addition, to the City of Fargo, Cass County, North Dakota. (Located at 916 and 924 7th Street North) (FM Property Pros II, LLC): APPROVED** Mr. Garcia presented the staff report stating all approval criteria have been met and staff is recommending approval.

Discussion was held on setbacks, building height, amount of stairs, current ownership of the properties, the PUD, Planned Unit Development, and rental versus ownership for the properties.

Applicant representative Brandon Raboin spoke on behalf of the application.

Discussion continued on the proposed price point for the units, affordable and attainable housing, building height, accessibility, snow removal, and driveway access.

Member Gunkelman moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from Mr-3, Multi-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development overlay, 2) PUD, Planned Unit Development Master Land Use Plan, and 3) Subdivision Plat 924 Townhomes Addition, as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Core Neighborhoods Plan, Article 20-0907(B)(a-e), Section 20-0906.F(1-4), the Standards of Article 20-06 of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Rosenberg. On call of the roll Members Schmidt, Tasa, Gunkelman, Rosenberg, Morgan, Shewey, and Schneider voted aye. Absent and not voting: Members Holtz and Stofferahn. The motion was declared carried.

**Item 5: Agassiz First Addition**

**Hearing on an application requesting a Plat of Agassiz First Addition (Minor Subdivision) a replat of Lots 1, 2, 23, and 24, Block 2, E.G. Clapp First Addition, to the City of Fargo, Cass County, North Dakota. (Located at 602 and 610 39th Street North and 601 and 609 40th Street North) (Autumn Hareland, LLC/Houston Engineering): APPROVED**

Assistant Planner Alayna Espeseth presented the staff report stating all approval criteria have been met and staff is recommending approval. She stated there is an unpermitted structure on the property, and that the plat will not be recorded until either the building is removed, or a plan to remediate the building has been approved by the City of Fargo Building Official.

Applicant representative Brian Pattengale spoke on behalf of the application.

Member Schmidt moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat Agassiz First Addition, as outlined within the staff report, as the proposal complies with the Standards of Article 20-06, Section 20-0907.B&C of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Shewey. On call of the roll Members Tasa, Gunkelman, Shewey, Morgan, Schmidt, Rosenberg, and Schneider voted aye. Absent and not voting: Members Holtz and Stofferahn. The motion was declared carried.

**Item 6: Northern Sheyenne Land Fourth Addition  
Hearing on an application requesting a Plat of Northern Sheyenne Land Fourth Addition (Minor Subdivision) a replat of Lot 2, Block 1, and Lot 5, Block 2, Northern Sheyenne Land Third Addition, to the City of Fargo, Cass County, North Dakota. (Located at 1810 and 1821 Sheyenne Loop North) (Jesse Soper/John Nore/Neset Land Surveys): APPROVED**

Ms. Espeseth presented the staff report stating all approval criteria have been met and staff is recommending approval.

Applicant representative Andrew Thill spoke on behalf of the application.

Member Tasa moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat Northern Sheyenne Land Fourth Addition, as outlined within the staff report, as the proposal complies with the Adopted Area Plan, the Standards of Article 20-06, Section 20-0907.B&C of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Morgan. On call of the roll Members Rosenberg, Morgan, Shewey, Gunkelman, Tasa, Schmidt, and Schneider voted aye. Absent and not voting: Members Holtz and Stofferahn. The motion was declared carried.

**Item 7: Radio Second Addition  
Hearing on an application requesting a Conditional Use Permit to allow industrial services and warehouse uses in the GC, General Commercial zoning district on Lot 2, Block 1, Radio Second Addition. (Located at 5245-5287 Veterans Boulevard South) (Sheyenne Commercial Condos, LLC): APPROVED**

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

Discussion was held on the types of uses the Conditional Use Permit would allow, why the area was zoned as GC, General Commercial, and history of the area.

Applicant representative Kyle Bartram, MBN Engineering, spoke on behalf of the application.

Member Gunkelman moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow industrial services and warehouse uses in the GC, General Commercial zoning district, be approved as outlined within the staff report, as the proposal complies with the 2007 Growth Plan, the Standards of Section 20-0909.D of the Land Development Code, and all other applicable requirements of the Land Development Code, with the following conditions:

1. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor

shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.

2. All refuse containers, including dumpsters, shall be concealed from public view by opaque fence, screen wall or building extension.
3. No outdoor storage of equipment or supplies.
4. Off-street parking, loading, and vehicular circulation areas shall have an all-weather surface, as defined by the Land Development Code.
5. The manufacturing, production, or processing of food and/or animal products or hazardous chemicals and/or materials shall not be permitted.
6. Future permits are generally consistent with the site plan provided in the October 3rd, 2023 Planning Commission packet. Changes may require review by the Planning Commission as determined by planning staff.
7. The Conditional Use Permit shall terminate if all industrial uses cease for a period of more than 12 consecutive months.

Second by Member Schmidt. On call of the roll Members Gunkelman, Shewey, Tasa, Rosenberg, Morgan, Schmidt, and Schneider voted aye. Absent and not voting: Members Stofferahn and Holtz. The motion was declared carried.

**Item 8: Rocking Horse East Second Addition**

**Hearing on an application requesting a Conditional Use Permit to allow industrial services and warehouse uses in the GC, General Commercial zoning district on Lot 2, Block 1, Rocking Horse East Second Addition. (Located at 5353 51st Avenue South) (Sheyenne Commercial Condos, LLC): APPROVED**

Mr. Garcia presented the staff report stating all approval criteria have been met and staff is recommending approval.

Discussion was held on the differences of the current Conditional Use Permit, and what the new one will allow, outdoor storage and screening, and the area the permit will cover.

Applicant representative Matt Prochnialz, Moore Engineering, spoke on behalf of the application.

Member Schmidt moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow industrial services and warehouse uses in the GC, General Commercial zoning district be approved, as presented, as the proposal complies with Section 20-0909.D (1-6) of the Land Development Code, and all other applicable requirements of the Land Development Code, with the following conditions:

- 1) The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.
- 2) All refuse containers, including dumpsters, shall be concealed from public view by an opaque fence, screen wall or building extension.
- 3) Outdoor storage shall be located in the rear of the property and screening must remain in good condition and free from graffiti.
- 4) Off-street parking, loading, vehicular circulation areas and outdoor storage yards shall have an all-weather surface, as defined by the Land Development Code.
- 5) The manufacturing, production, or processing of food and/or animal products or hazardous chemicals shall not be permitted.
- 6) Any expansion of industrial uses from the site plan provided in the October 3rd, 2023 Planning Commission packet shall require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
- 7) The Conditional Use Permit shall terminate if all industrial uses cease for a period of more than 12 consecutive months.

Second by Member Shewey. On call of the roll Members Shewey, Tasa, Schmidt, Rosenberg, Morgan, Gunkelman, and Schneider voted aye. Absent and not voting: Members Holtz and Stofferahn. The motion was declared carried.

**Item 9: Crary's First Addition**

**Hearing on an application requesting a Conditional Use Permit to allow group living in the SR-2, Single-Dwelling Residential zoning district on Lot 2, Block 7, Crary's First Addition. (Located at 2208 26½ Avenue South) (Vocational Training Center, Inc.): APPROVED**

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

Discussion was held on neighborhood feedback.

Assistant Director of Planning and Development Mark Williams spoke on allowable uses in the zoning districts.

Discussion continued on the timeline of this project, and the need for the Conditional Use Permit to allow a fourth resident in the home.



Applicant Steve Pederson, Vocational Training Center, spoke on behalf of the application.

Further discussion was held on the safety features of the home, staffing and supervision, and how the other similar type home in Fargo is doing.

Mr. Peterson noted that the home would be staffed anytime residents are present.

Member Tasa moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow group living in the SR-2, Single-Dwelling Residential zoning district, as outlined within the staff report, as the proposal complies with the Standards of Section 20-0909.D, Section 20-0402.E of the Land Development Code, and all other applicable requirements of the Land Development Code, with the following conditions:

1. If the property is transferred, the new owner must apply for a new conditional use permit in order to continue the group living use.
2. The Conditional Use Permit will not become effective until the City has granted a certificate of occupancy appropriate for the group living use, and until applicable North Dakota state requirements have been met.
3. Maximum number of residents is limited to four.

Second by Member Schmidt. On call of the roll Members Morgan, Shewey, Gunkelman, Tasa, Schmidt, Rosenberg, and Schneider voted aye. Absent and not voting: Members Holtz and Stofferahn. The motion was declared carried.

**Item D: Other Items:**

**Item 1: Planned Unit Development Final Plan for EOLA Second Addition.**

Planning Coordinator Maegin Elshaug presented the staff report stating all approval criteria have been met and staff is recommending approval.

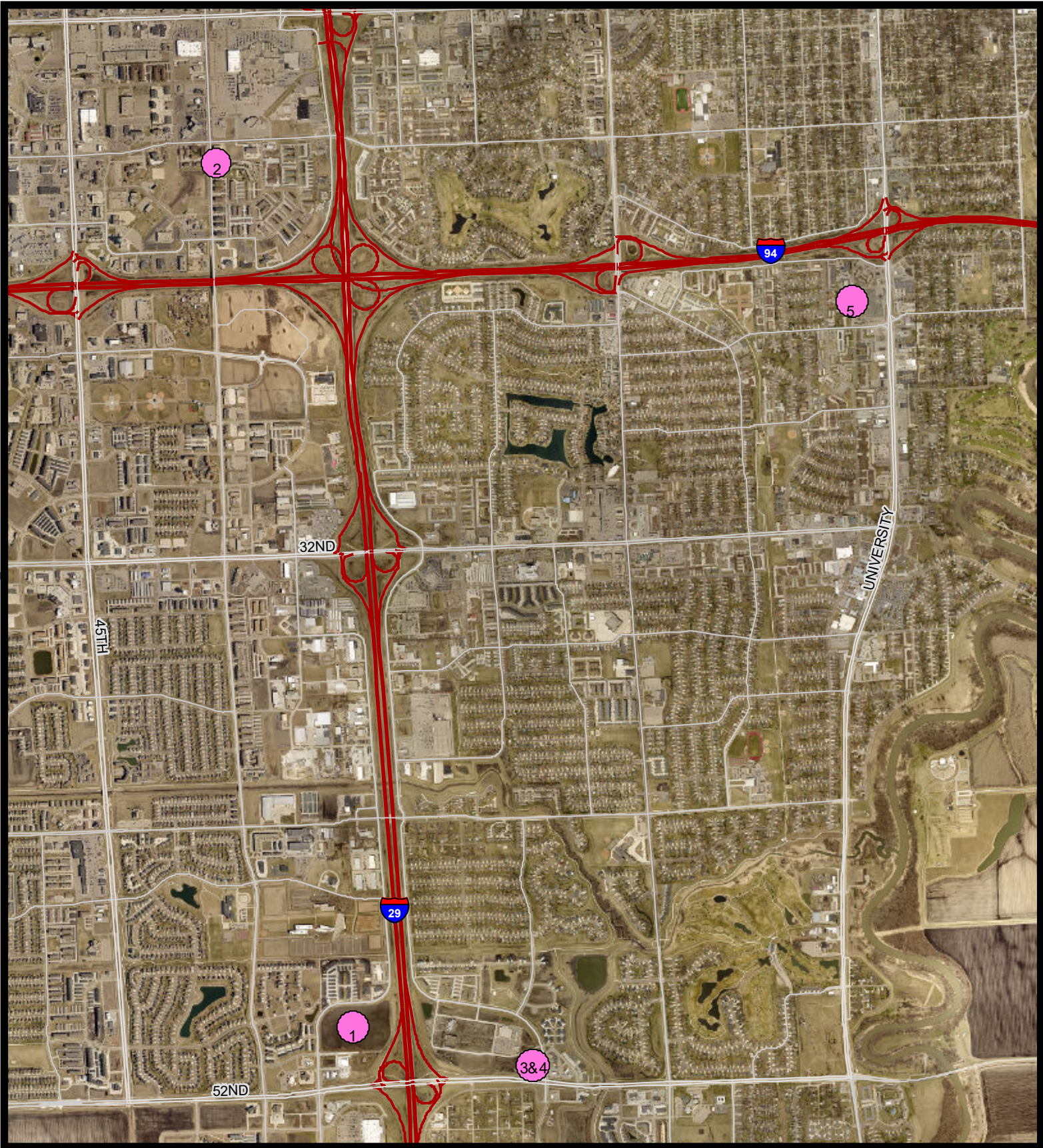
Discussion was held about the surface parking, and process if a parking ramp were to be built.

Member Rosenberg moved to accept the findings and recommendations of staff and approve the Planned Unit Development Final Plan for EOLA Second Addition, as outlined within the Staff report, as the proposal complies with the PUD, Planned Unit Development Master Land Use Plan, Section 20-0908.D of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Morgan. On call of the roll Members Gunkelman, Morgan, Rosenberg, Shewey, Schmidt, Tasa, and Schneider voted aye. Absent and not voting: Members Holtz and Stofferahn. The motion was declared carried.

Member Gunkelman moved to adjourn the meeting. Second by Member Rosenberg. All Members present voted aye and the motion was declared carried.

The time at adjournment was 4:35 p.m.

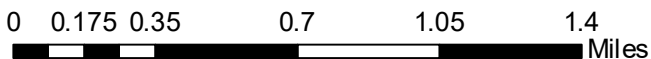




  
**Agenda Items Map**  
 Fargo Planning Commission  
 November 7, 2023



- Agenda Item Number**
- 1 -- CC's First Addition
  - 2 -- Ekman Addition
  - 3 -- Timber Parkway Eighth Addition
  - 4 -- Timber Parkway Tenth Addition
  - 5 -- Univeristy South Fourth Addition





<b>City of Fargo Staff Report</b>			
<b>Title:</b>	CC's First Addition	<b>Date:</b>	11/01/2023
<b>Location:</b>	5080 38 <sup>th</sup> Street South	<b>Staff Contact:</b>	Donald Kress, senior planner
<b>Legal Description:</b>	Unplatted portion of the Southeast Quarter of Section 34, Township 139 North, Range 49 West		
<b>Owner(s)/Applicant:</b>	KLC Holdings, LLC/Christianson Companies	<b>Engineer:</b>	Bolton & Menk
<b>Entitlements Requested:</b>	<b>Major Subdivision</b> (Plat of an unplatted portion of the Southeast Quarter of Section 34, Township 139 North, Range 49 West ,City of Fargo, Cass County, North Dakota)		
<b>Status:</b>	Planning Commission Public Hearing: November 7th, 2023		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Undeveloped	<b>Land Use:</b> Commercial
<b>Zoning:</b> GC, General Commercial, with conditional overlay ordinance No. 4636	<b>Zoning:</b> no change
<b>Uses Allowed:</b> GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, <del>detention facilities</del> , health care facilities, parks and open space, religious institutions, safety services, basic utilities, <del>adult entertainment center</del> , offices, <del>off-premise advertising</del> , commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, <del>vehicle repair</del> , limited vehicle service, and some telecommunication facilities. <b>C-O ordinance no. 4636 prohibits the uses struck through above, plus additional conditional uses.</b>	<b>Uses Allowed:</b> No change
<b>Maximum Lot Coverage:</b> 85%	<b>Maximum Lot Coverage:</b> no change

**Proposal:**

The applicant requests one entitlement:

1. A major subdivision, entitled **CC's First Addition**, which is a plat of an unplatted portion of the Southeast Quarter of Section 34, Township 139 North, Range 49 West, City of Fargo, Cass County, North Dakota

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

**Surrounding Land Uses and Zoning Districts:**

- North: LC, Limited Commercial with conditional overlay; MR-3, Multi-Dwelling Residential with conditional overlay; and P/I, Public/Institutional with office, multi-dwelling residential, and Cottagewood Park, a Fargo Park District public facility.
- East: Interstate 29 right of way. Not developable

- South: GC retail and mini-storage uses
- West: MR-3 and P/I with multi-dwelling residential uses and Cottagewood Park, a Fargo Park District public facility.

**Area Plans:**

The subject property is located within the 2003 Southwest Future Land Use Plan. This plan designates the subject property as “Low/Medium or Medium/High Density Residential;” and “Either Office or Commercial.” The entire property was zoned GC, General Commercial with a conditional overlay in October, 2007. This zoning is consistent with the “Either Office or Commercial” land use designation, while the “Residential” land use designation would allow commercial/residential mixed use development.



2003 Southwest Future Land Use Plan

- |  |   |
|--|---|
| ■ Commercial                                       | ■ Medium/High Density Residential             |
| ■ Commercial or Medium/High Density                | ■ Medium/High Density or Park/Open Space      |
| ■ Commercial or Medium/High or Park/Open Space     | ■ Office                                      |
| ■ Commercial or Park/Open Space                    | ■ Office or Commercial or Medium/High Density |
| ■ Either Industrial or Commercial                  | ■ Park/Open Space                             |
| ■ Either Office or Commercial                      | ■ Public                                      |
| ■ Either Office or Medium/High Density Residential | ■ Public or Commercial                        |
| ■ Industrial                                       | ■ Public or Low/Medium Density                |
| ■ Low/Medium Density Residential                   | ■ Public or Office                            |
| ■ Low/Medium Density or Medium/High Density        | ■ Storm Water                                 |

(continued on next page)

**Context:**

**Schools:** The subject property is located within the Fargo School District and is served by Kennedy Elementary, Carl Ben Eielson Middle and South High schools.

**Neighborhood:** The subject property is located in the Woodhaven neighborhood.

**Parks:** Cottagewood Park (4896 38<sup>th</sup> Street South) is located west across 38<sup>th</sup> Street South from the subject property and offers grill, picnic table, playground for ages 5-12 recreational, trails, and a shelter.

**Pedestrian / Bicycle:** There is a multi-use on north side of 38<sup>th</sup> Street South that connects to the metro trail system by way of the trails in Cottagewood Park.

**MATBUS Routes:** The area of the subject property is not served by a MATBUS route.

**Staff Analysis:**

The plat creates three lots, intended for commercial development. All three lots are currently zoned GC, General Commercial, with a conditional overlay ordinance no. 4636. No changes to the zoning or conditional overlay are proposed.

The subdivision plat dedicates right of way for a dedicated public street within the subdivision, to be known as Alexander Way South. A named street was allowed as otherwise this would street would need to be numbered as a half-street. The plat also dedicates right of way for the connection of this street to existing 51<sup>st</sup> Avenue South.

The plat depicts negative access easements along much of the 38<sup>th</sup> Street South property frontage, in order to prohibit direct access to the subdivision from the curves of this street.

**Subdivision**

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

- 1. Section 20-0907.C.1 (Development Review Procedures—Subdivisions—Major Subdivisions) of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**  
The subject property is zoned GC, General Commercial with a C-O, conditional overlay. This zoning will accommodate the proposed commercial development and is consistent with the “Either Office or Commercial” land use designation of the 2003 Growth Plan. That plat also designates a portion of the subject property as “Low/Medium or Medium/High Density Residential,” which would allow commercial/residential mixed use development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry. **(Criteria Satisfied)**
- 2. Section 20-0907.C.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**  
The subject property is currently zoned GC, General Commercial, with a conditional overlay ordinance no. 4636. No changes to the zoning or conditional overlay are proposed. This zoning is consistent with the 2003 Growth Plan which designates this property for “either Office or Commercial” development. The project has been reviewed by the city’s Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code. **(Criteria Satisfied)**

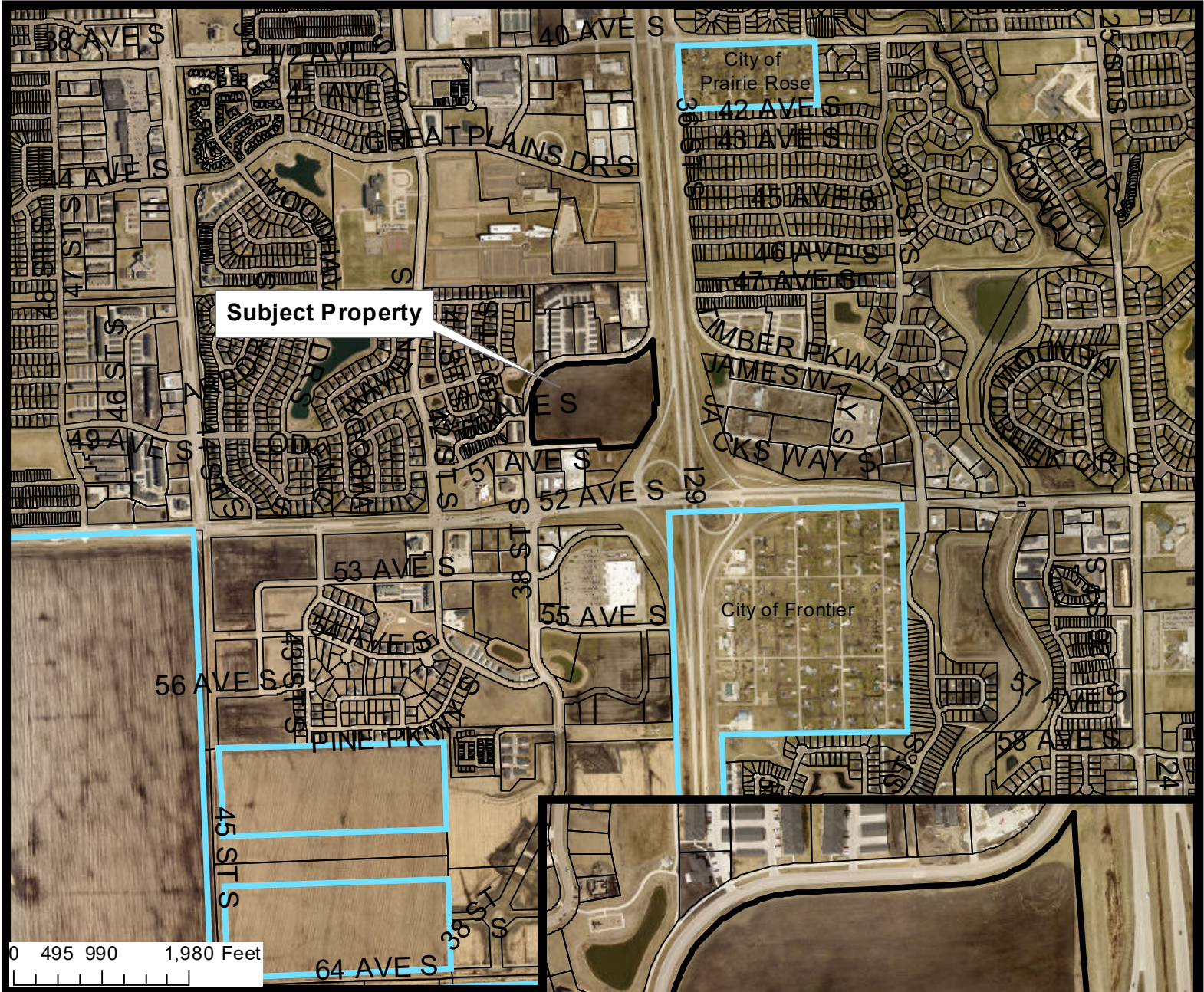
<p><b>3. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.</b></p> <p>The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan will be reviewed by the Public Works Project Evaluation Committee (PWPEC) prior to City Commission hearing. 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. <b>(Criteria Satisfied)</b></p>
<p><b>Staff Recommendation:</b></p>
<p>Suggested Motion: “To accept the findings and recommendations of staff and recommend approval to the City Commission of the proposed <b>CC’s First Addition</b> subdivision plat, as presented; as the proposal complies with the 2003 Growth Plan, Standards of Article 20-06, and Section 20-0907.C of the LDC and all other applicable requirements of the LDC.”</p>
<p><b>Planning Commission Recommendation November 7<sup>th</sup>, 2023</b></p>
<p><b>Attachments:</b></p>
<ol style="list-style-type: none"> <li>1. Location Map</li> <li>2. Zoning Map</li> <li>3. Preliminary Plat</li> </ol>



# Major Subdivision

## CC's First Addition

5080 38th Street South



### Legend

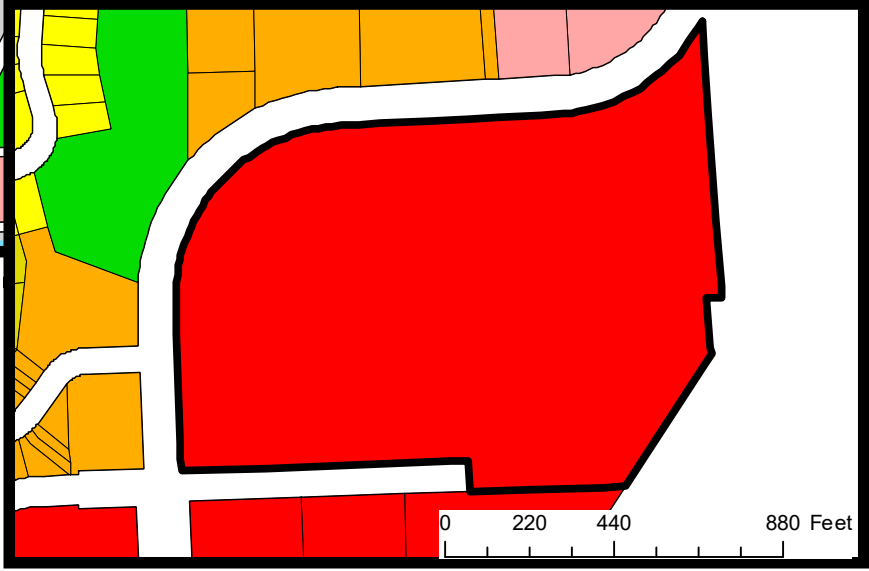
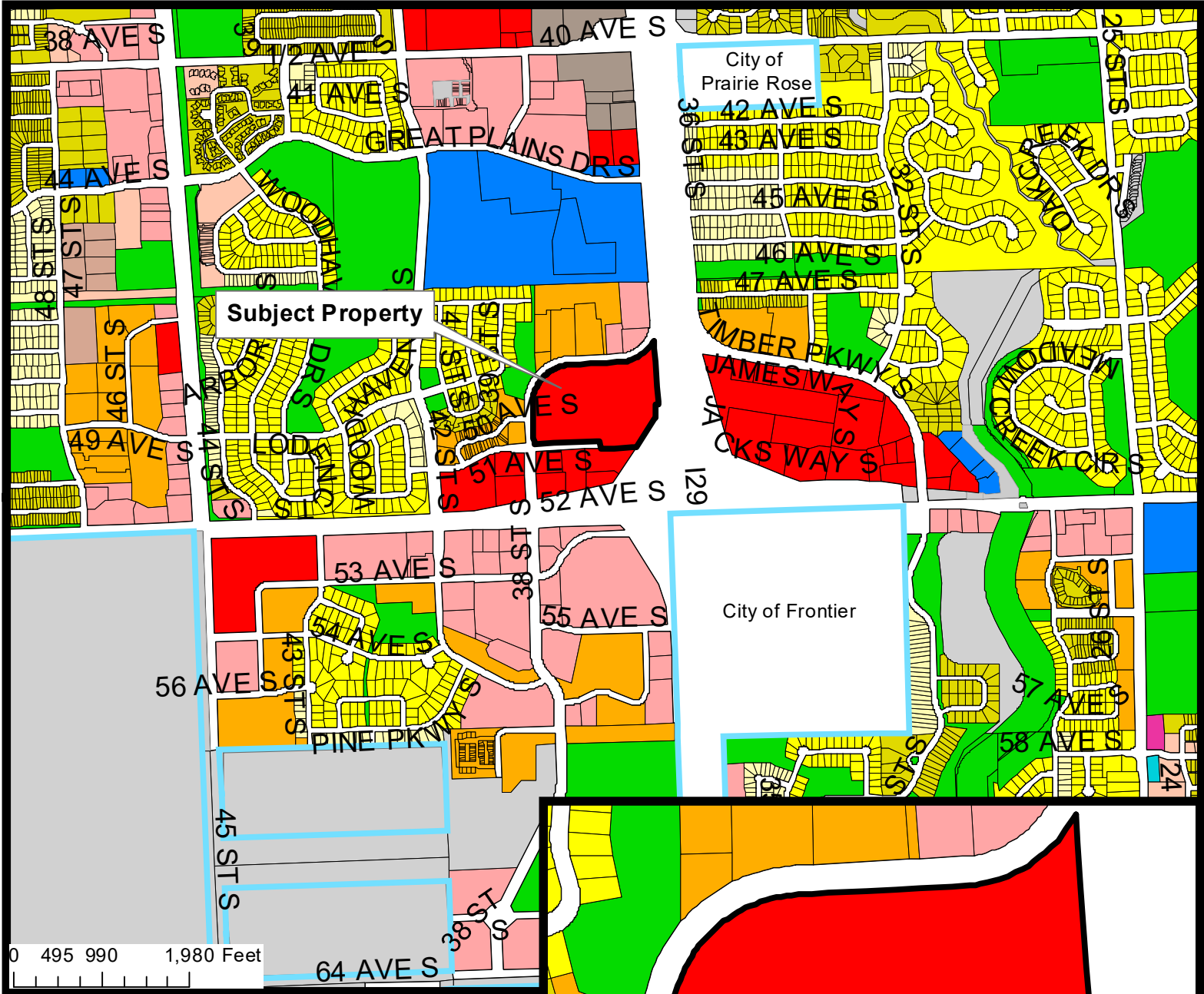
 City Limits



# Major Subdivision

## CC's First Addition

5080 38th Street South



### Legend

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

# CC'S FIRST ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA  
AN UNPLATTED PORTION OF THE SOUTHEAST QUARTER OF SECTION 34, T139N, R49W  
(A MAJOR SUBDIVISION)

## OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That KLC Holdings, LLC, owner of a parcel of land located in that part of the Southeast Quarter of Section 34, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

Beginning at a found iron monument which designates the northeast corner of FITZSIMONDS ADDITION, according to the recorded plat thereof, on file and of record in the office of the Recorder, said Cass County; thence South 88 degrees 01 minute 46 seconds West on a record bearing along the northerly line of said FITZSIMONDS ADDITION for a distance of 403.10 feet; thence North 01 degree 58 minutes 14 seconds West continuing along said northerly line for a distance of 80.00 feet; thence South 88 degrees 01 minute 46 seconds West continuing along said northerly line and the westerly extension thereof for a distance of 749.00 feet to the easterly line of a tract described in Document No. 1224211, on file and of record in the office of said Recorder; thence North 01 degree 58 minutes 14 seconds West along the easterly line of said tract for a distance of 433.80 feet; thence northeasterly, continuing along the easterly line of said tract and on a tangential curve concave to the southeast, having a radius of 450.00 feet and a central angle of 88 degrees 57 minutes 20 seconds for an arc distance of 698.66 feet; thence North 86 degrees 59 minutes 06 seconds East continuing along the easterly line of said tract for a distance of 567.57 feet; thence northerly, continuing along the easterly line of said tract and on a tangential curve to the northwest, having a radius of 450.00 feet and a central angle of 59 degrees 42 minutes 26 seconds for an arc distance of 468.94 feet to the westerly right of way line of Interstate Highway No. 29; thence South 04 degrees 19 minutes 15 seconds East along said right of way line for a distance of 722.10 feet; thence South 85 degrees 35 minutes 32 seconds West continuing along said right of way line for a distance of 40.50 feet; thence South 04 degrees 19 minutes 15 seconds East continuing along said right of way line for a distance of 143.36 feet; thence South 33 degrees 03 minutes 04 seconds West continuing along said right of way line for a distance of 412.33 feet to the point of beginning.

Said tract of land contains 28.48 acres, more or less, and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Said owner has caused the above described parcel of land to be surveyed and platted as "CC'S FIRST ADDITION" to the City of Fargo, Cass County, North Dakota and does hereby dedicate to the public for public use forever the street and utility easements as shown on this plat.

OWNER:  
KLC Holdings, LLC

By: Kevin Christianson, President

State of North Dakota }  
County of Cass }SS

On this \_\_\_\_ day of \_\_\_\_\_, in the year 2023, before me, a notary public within and for said County and State, personally appeared Kevin Christianson, President, KLC Holdings, LLC, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of KLC Holdings, LLC.

Notary Public

MORTGAGE HOLDER:  
Starion Bank

By: Mike Wickham, Market President

State of North Dakota }  
County of Cass }SS

On this \_\_\_\_ day of \_\_\_\_\_, in the year 2023 before me, a notary public within and for said County and State, personally appeared Mike Wickham, Market President, Starion Bank, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of Starion Bank.

Notary Public

## SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

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

Shawn M. Thomasson, Professional Land Surveyor  
North Dakota License Number LS-5900

State of North Dakota }  
County of Cass }SS

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public within and for said County and State, personally appeared Shawn M. Thomasson, Registered Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same.

Notary Public

## CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by City Engineer this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

Tom Knakmuhs, P.E., City Engineer

State of North Dakota }  
County of Cass }SS

On this \_\_\_\_ day of \_\_\_\_\_, in the year 202\_\_, before me, a notary public within and for said County and State, personally appeared Tom Knakmuhs, P.E., City Engineer known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that she executed the same as City Engineer for the City of Fargo.

Notary Public

## CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this \_\_\_\_ day of \_\_\_\_\_, 2023.

Rocky Schneider, Planning Commission Chair  
State of North Dakota }  
County of Cass }SS

On this \_\_\_\_ day of \_\_\_\_\_, in the year 2023, before me, a notary public within and for said County and State, personally appeared Rocky Schneider, Planning Commission Chair, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Notary Public

## FARGO CITY COMMISSION APPROVAL

Approved by the Board of City Commissioners and ordered filed this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

Timothy J. Mahoney, Mayor

Attest: Steven Sprague, City Auditor

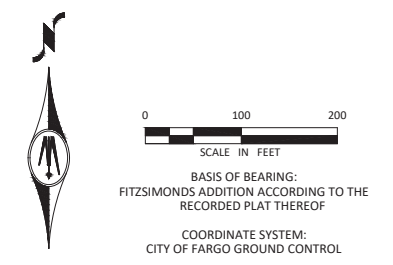
State of North Dakota }  
County of Cass }SS

On this \_\_\_\_ day of \_\_\_\_\_, in the year 202\_\_, before me, a notary public within and for said County and State, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor known to me to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same on behalf of the City of Fargo.

Notary Public

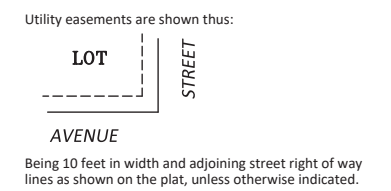
# CC'S FIRST ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA  
AN UNPLATTED PORTION OF THE SOUTHEAST QUARTER OF SECTION 34, T139N, R49W  
(A MAJOR SUBDIVISION)



**LEGEND**

	5/8"x18" REBAR MONUMENT SET, CAP MARKED BY LIC. NO. LS-5900
	SUBJECT PROPERTY LINE
	SECTION LINE
	EXISTING PROPERTY LINE
	EASEMENT LINE
	EXISTING CONTOUR LINE PER CITY OF FARGO LIDAR CONTOUR DRAWINGS NAVD88 DATED 2014
	AREA WITHIN 100 YEAR FLOODPLAIN
	NEGATIVE ACCESS EASEMENT *Negative Access Easement, as noted on this plat, is an easement dedicated as part of the right of way dedication which easement denies direct vehicular access to a Street or public way from the Lot or Lots adjacent to such Street or way. The negative access easement is not a strip of land of any certain width, but is a line coterminous with the boundary of the adjacent Lot or Lots.*



- EASEMENT OF RECORD**
1. Minnkota Power Cooperative, Inc. Transmission Line Easement filed by recorded January 4, 1978 Book R-7 of Misc., page 362 as document #530244.
  2. Cass County Electric Cooperative, Inc. Right of Way Easement recorded April 11, 1985 as document #629012.

**NOTES**

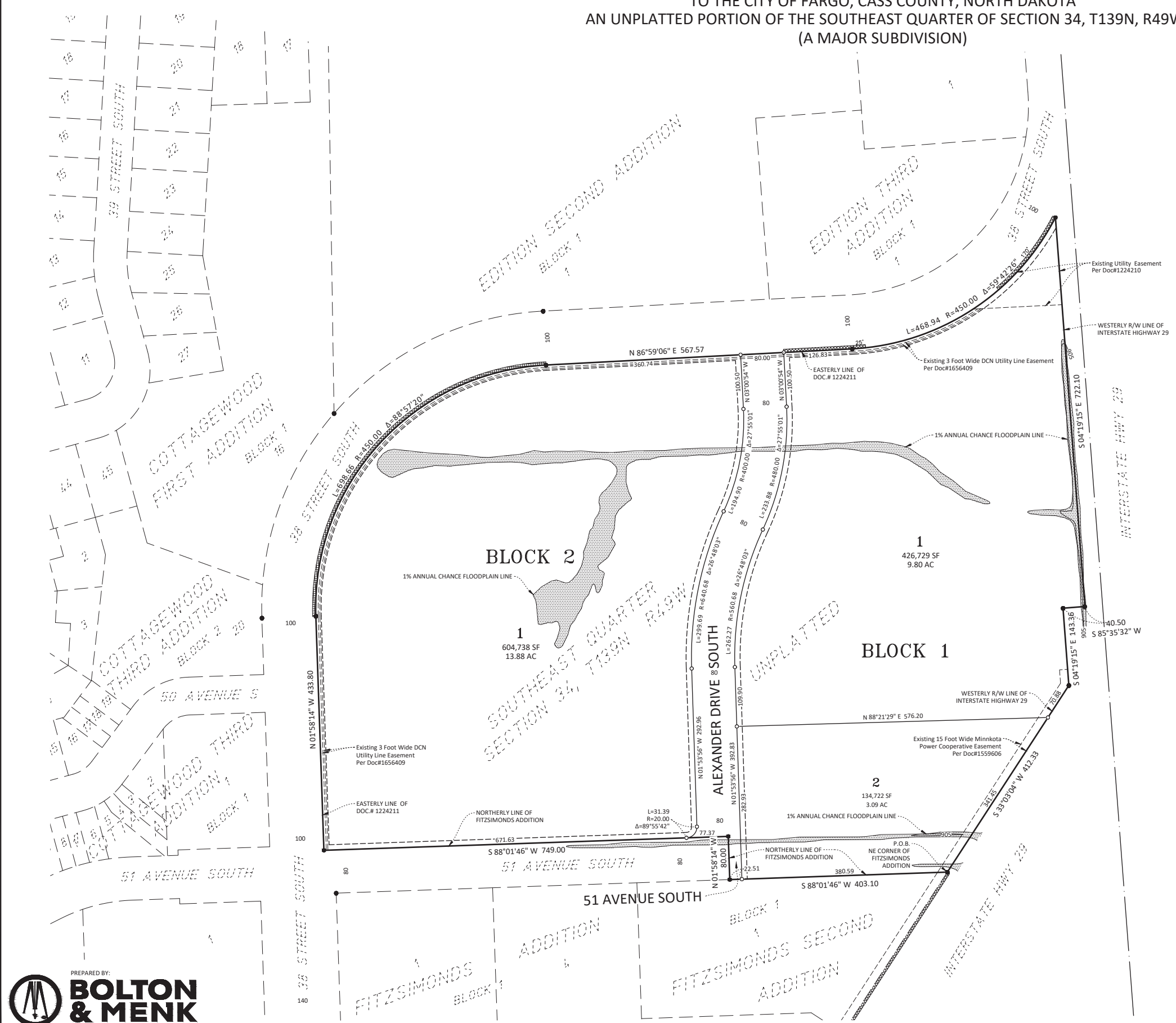
THIS PLAT LIES PARTIALLY WITHIN ZONE AE AS SHOWN ON FLOOD INSURANCE RATE MAP NO. 38017C0787G, DATED JANUARY 16, 2015.

ZONE AE: BASE FLOOD ELEVATIONS DETERMINED

BASE FLOOD ELEVATION: 905.7

**BENCHMARK**

CITY OF FARGO BENCHMARK 245029 LOCATED APPROXIMATELY 2,500 FEET EASTERLY OF THE SOUTHEAST CORNER OF SUBJECT PROPERTY. SOUTHEAST FLANGE BOLT OF FIRE HYDRANT. ELEVATION=909.42 NAVD88



<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Ekman Addition	<b>Date:</b>	11/01/2023
<b>Location:</b>	1728 42 <sup>nd</sup> Street South	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description:</b>	Lot 3, Block 1, Ekman Addition		
<b>Owner(s)/Applicant:</b>	Commonwealth Development / Tyler Sheeran	<b>Engineer:</b>	None
<b>Entitlements Requested:</b>	<b>Zone Change</b> (from GC, General Commercial to MR-3, Multi-Dwelling Residential)		
<b>Status:</b>	Planning Commission Public Hearing: November 7 <sup>th</sup> , 2022		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Undeveloped	<b>Land Use:</b> Multi-dwelling residential
<b>Zoning:</b> GC, General Commercial	<b>Zoning:</b> MR-3, Multi-Dwelling Residential
<b>Uses Allowed:</b> 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.	<b>Uses Allowed:</b> 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.
<b>Maximum Lot Coverage:</b> 85%	<b>Maximum Density:</b> 24 dwelling units per acre

**Proposal:**

The applicant requests one entitlement:  
 1. A zoning change from GC, General Commercial to MR-3, Multi-Dwelling Residential on Lot 3, Block 1, Ekman Addition.

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

- Surrounding Land Uses and Zoning Districts:**
- 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 42<sup>nd</sup> 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:**

**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.

**Neighborhood:** The subject property is located in the West Acres neighborhood.

**Parks:** Rabanus Park (also the location of The Fargo Project: World Garden Commons), 4315 18<sup>th</sup> Avenue Southwest, is across 42<sup>nd</sup> 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 42<sup>nd</sup> 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 42<sup>nd</sup> Street at 17<sup>th</sup> 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. This structure will be removed prior to further development.

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 42<sup>nd</sup> 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, to accommodate the development of affordable housing. 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)**

**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)**

**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)**

**Staff Recommendation:**

Suggested Motion: “To accept the findings and recommendations of staff and recommend 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.”

**Planning Commission Recommendation: November 7<sup>th</sup>, 2023**

**Attachments:**

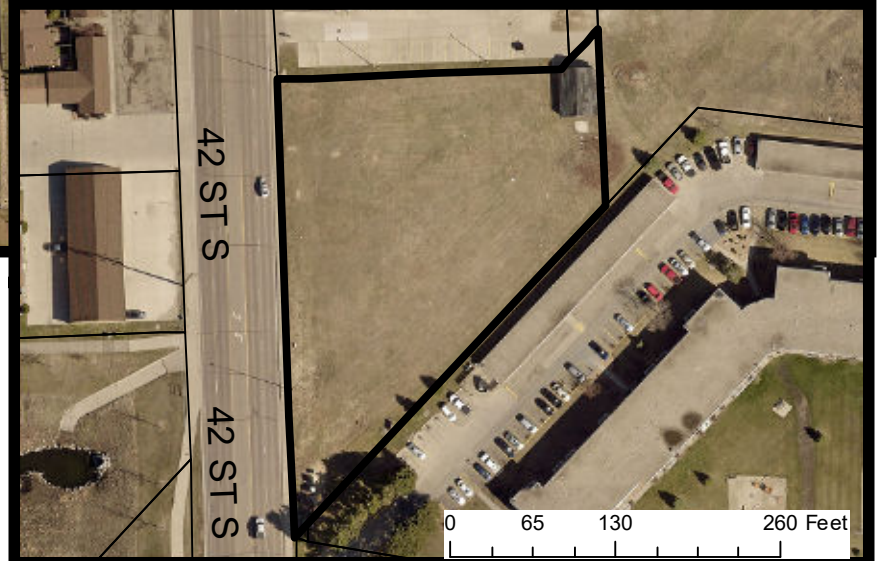
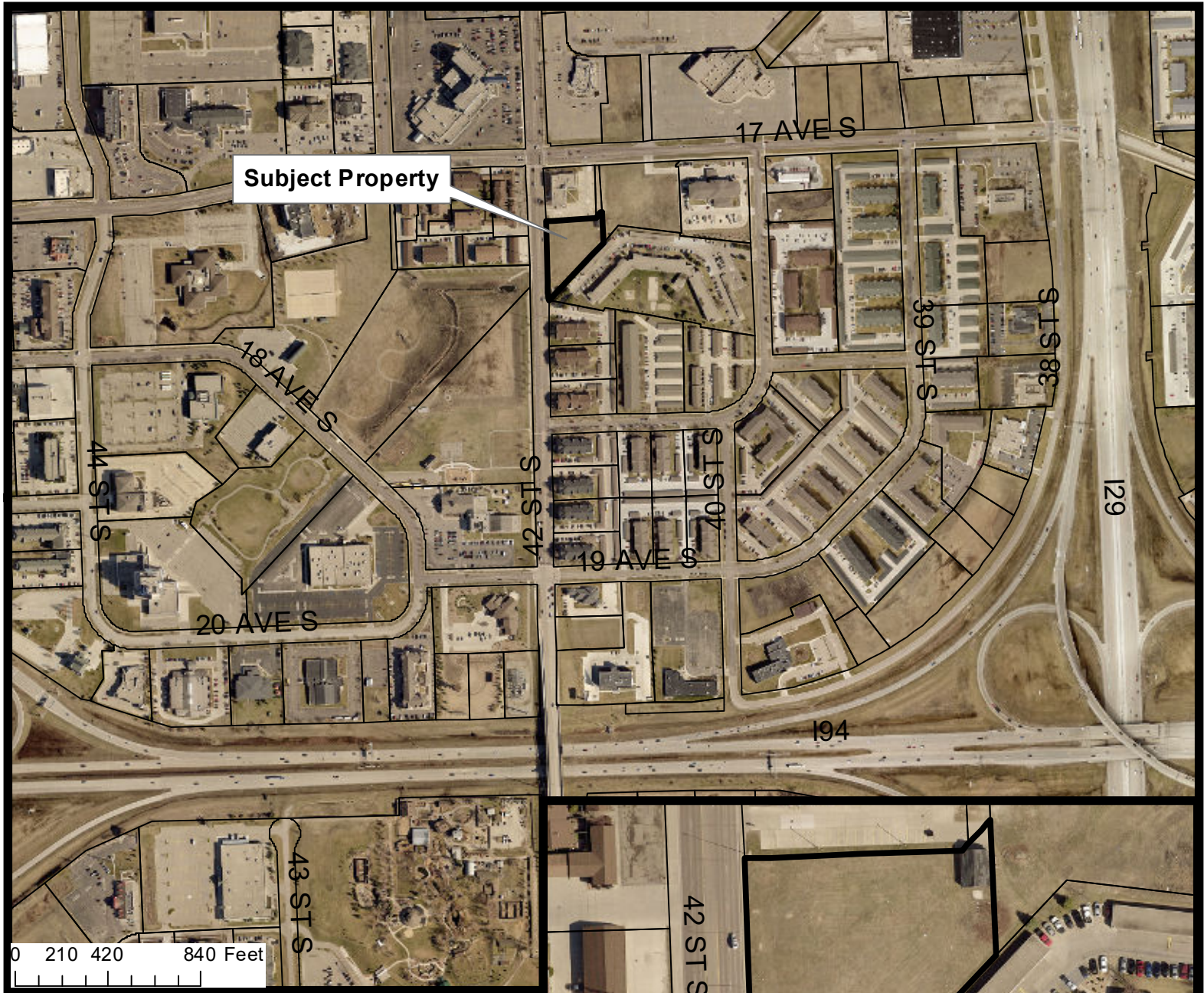
1. Location Map
2. Zoning Map



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

Ekman Addition

1728 42nd Street South



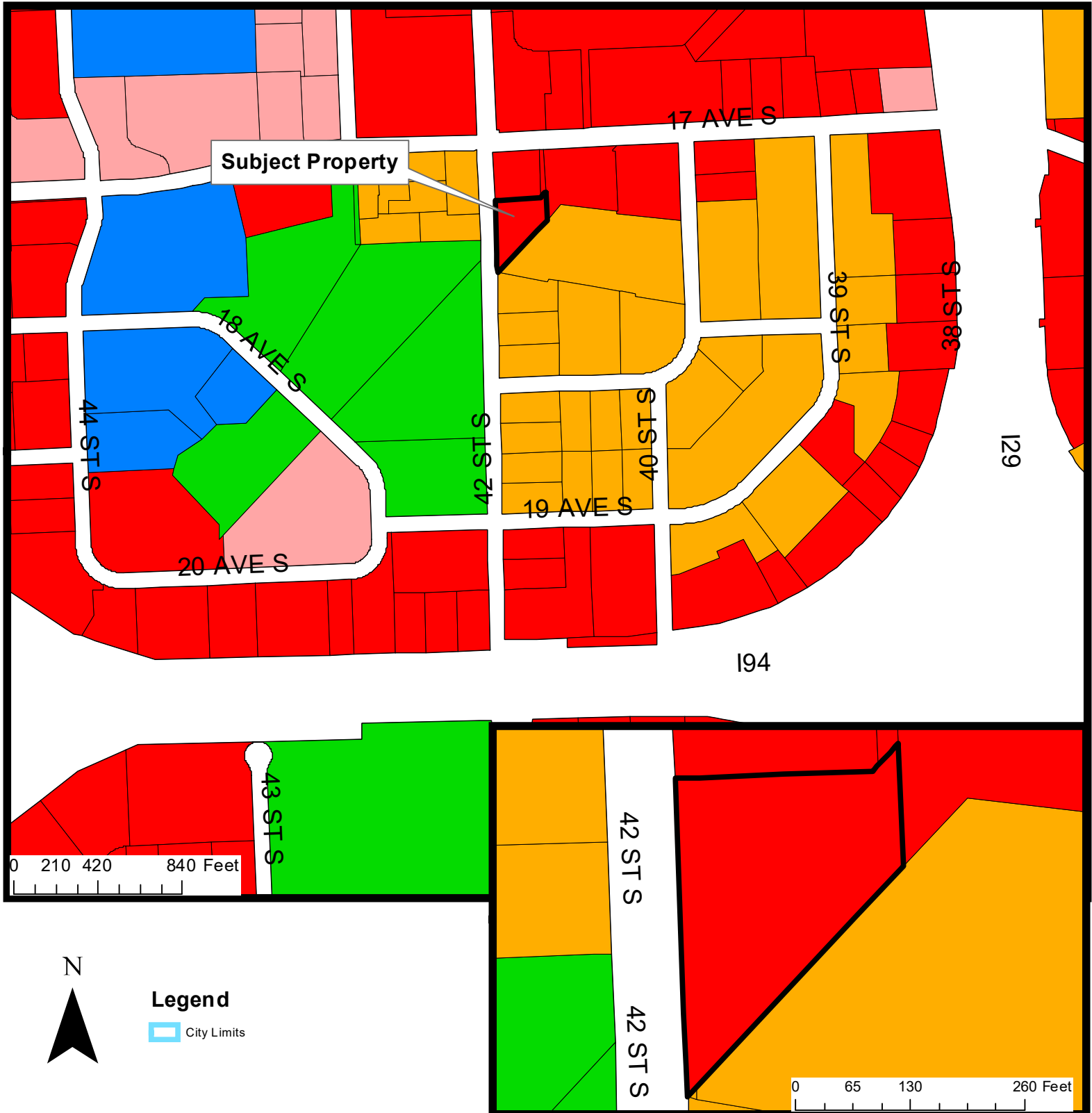
Legend

 City Limits

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

Ekman Addition

1728 42nd Street South





<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Timber Parkway Eighth Addition	<b>Date:</b>	11/01/2023
<b>Location:</b>	5056 Charles Way South	<b>Staff Contact:</b>	Alayna Espeseth, Assistant Planner
<b>Legal Description:</b>	Lot 1, Block 1 Timber Parkway Eighth Addition		
<b>Owner(s)/Applicant:</b>	PLC Investments LLC / Christianson Companies	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (from GC, General Commercial with C-O, Conditional Overlay to GC, General Commercial with a reestablished C-O, Conditional Overlay)		
<b>Status:</b>	Planning Commission Public Hearing: November 7 <sup>th</sup> , 2023		

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

<b>Proposal:</b>
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> <li><b>Zoning Change</b> (from GC, General Commercial with C-O, Conditional Overlay to GC, General Commercial with a reestablished C-O, Conditional Overlay)</li> </ol> <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 52<sup>nd</sup> 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"> <li>• Building massing and façade length;</li> <li>• Screening of dumpsters/refuse containers and loading areas.</li> </ul> <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>

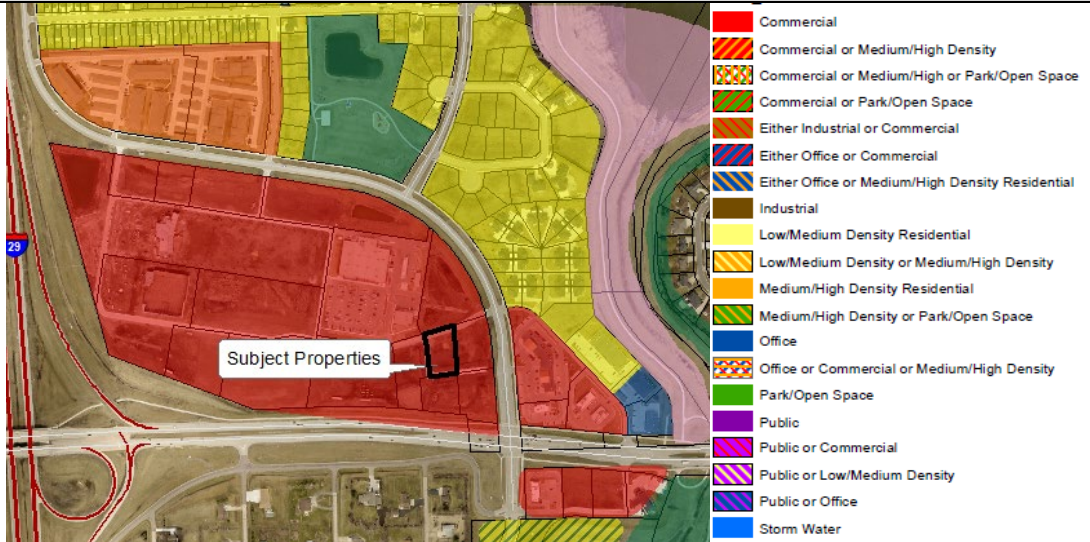
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

**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.



**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 47<sup>th</sup> Avenue South) to the north, Meadow Creek Park (4800 Meadow Creek Drive South) to the east and Prairie Farms Park (5400 31<sup>st</sup> 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 52<sup>nd</sup> Avenue South, south of the subject property.

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

(Continued on next page.)

**Staff Analysis:**

**Zoning**

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The 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.

**(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property is adjacent to existing developed public rights-of-way and private drive, which provide access and public utilities to serve the property.

**(Criteria Satisfied)**

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

Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners within 300 feet of the project site. To date, staff has received no inquiries related to the application.

**(Criteria Satisfied)**

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff 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.

**(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and recommend approval to the City Commission of the proposed zoning change from GC, General Commercial with a C-O, Conditional Overlay to GC, General Commercial with a reestablished 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."

**Planning Commission Recommendation:** November 7<sup>th</sup>, 2023

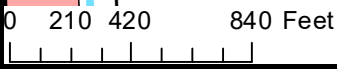
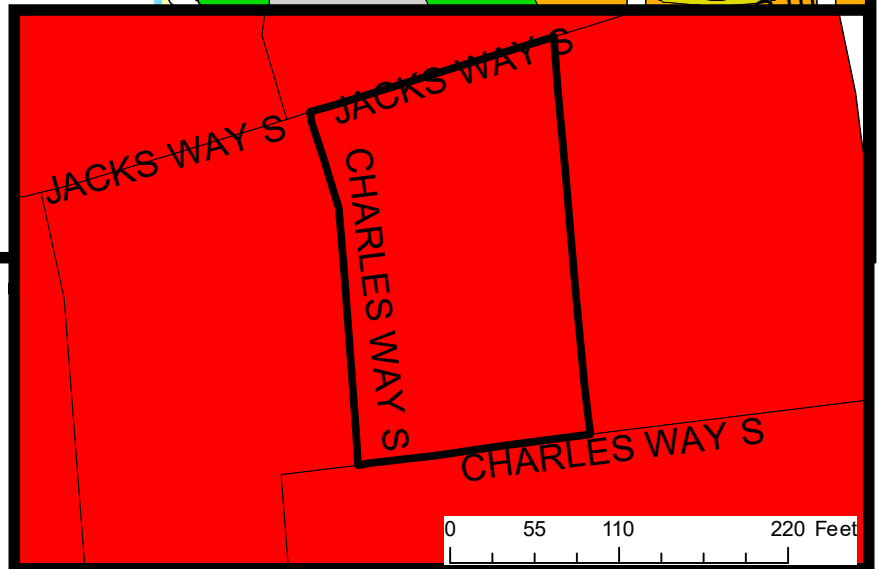
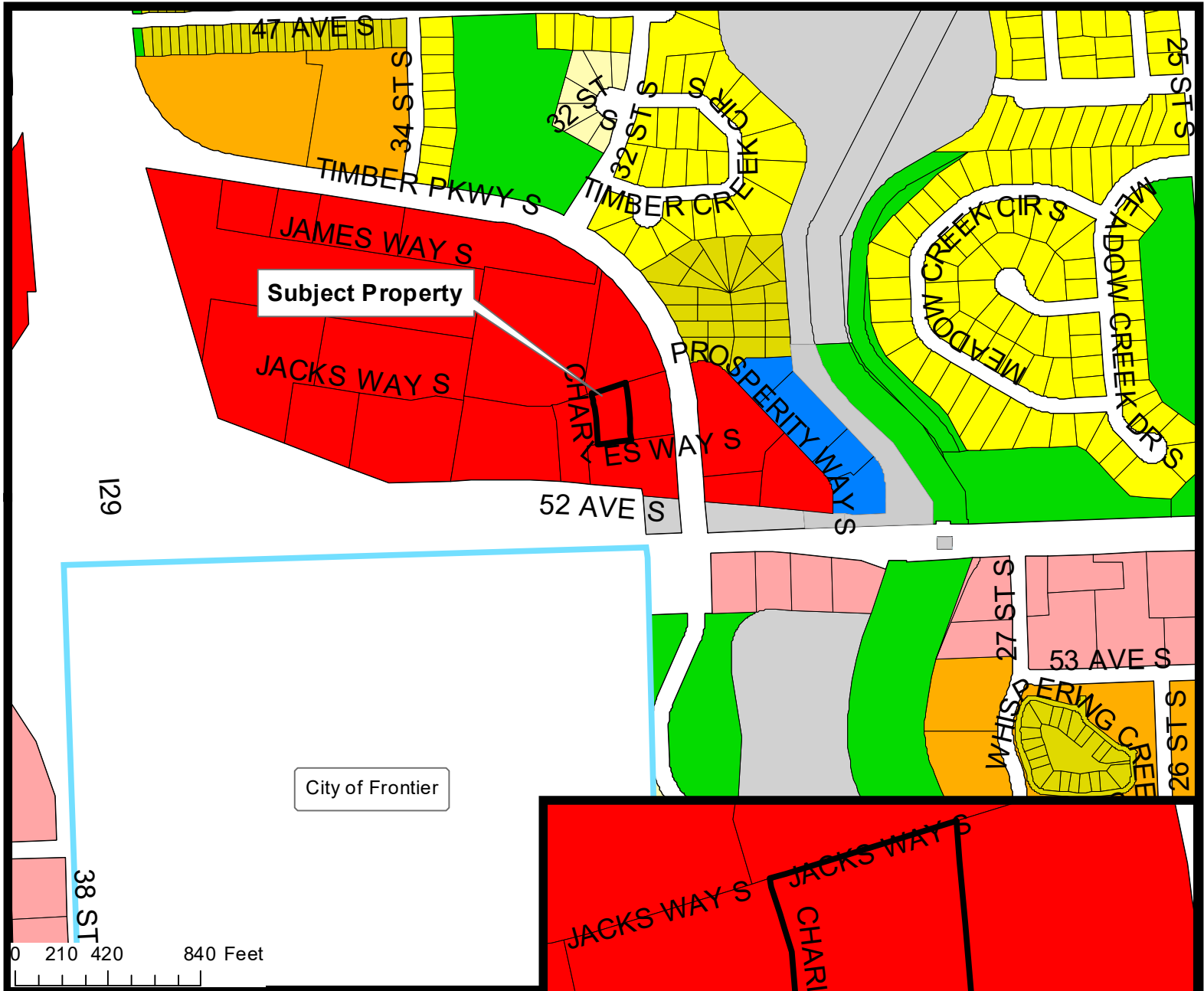
**Attachments:**

1. Zoning Map
2. Location Map
3. Draft Conditional Overlay

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

## Timber Parkway Eighth Addition

5056 Charles Way South



**Legend**

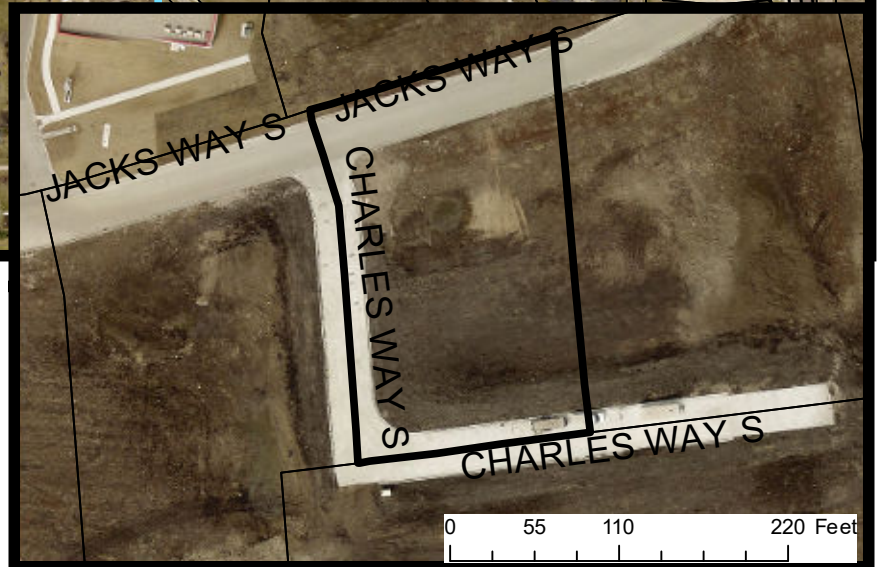
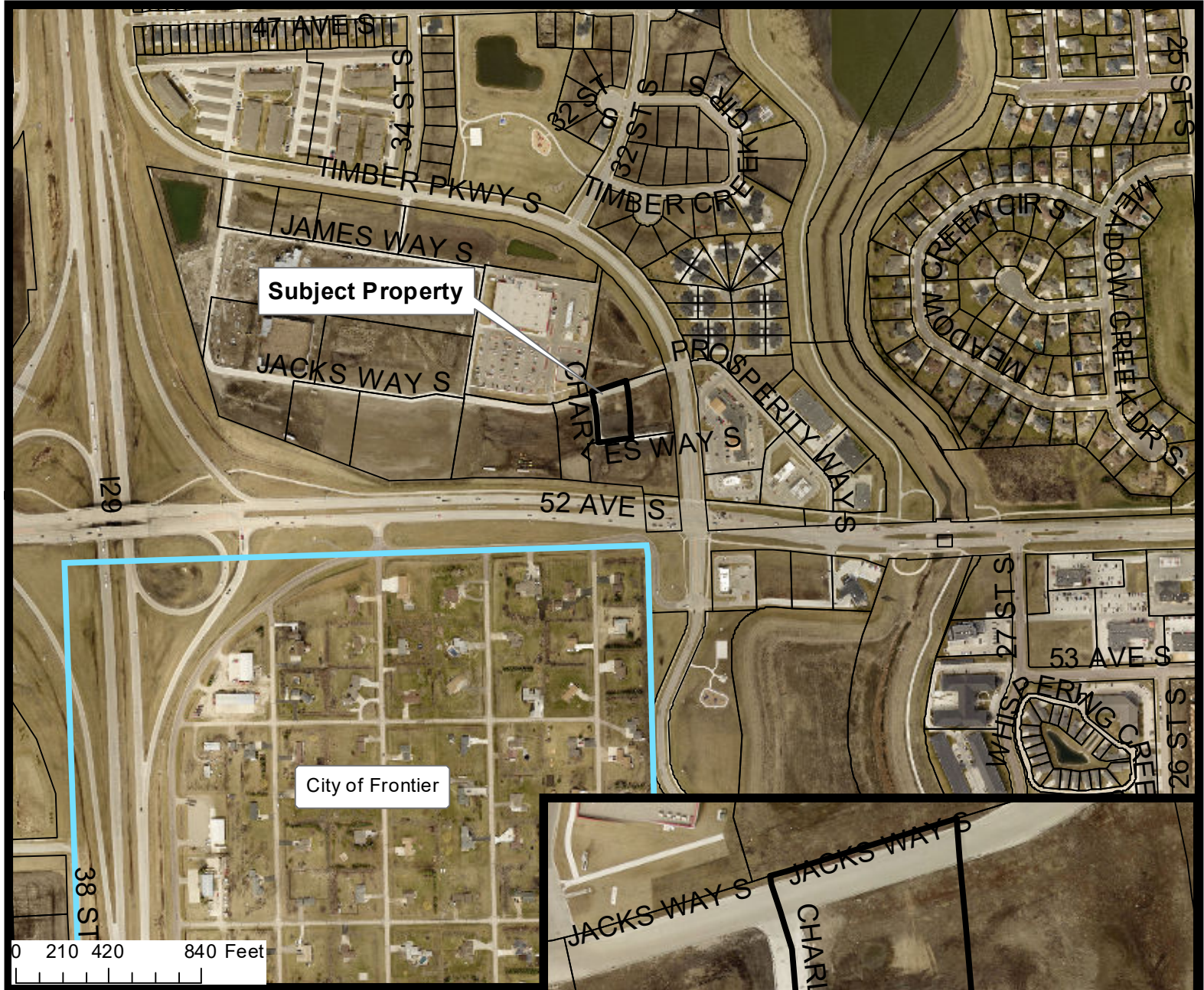
AG	DMU	GC	GI	GO	LC	MR-1	MR-2	MR-3	MHP	NC	NO	P/U	UMU	RR-2	RR-3	RR-4	RR-5	City Limits
----	-----	----	----	----	----	------	------	------	-----	----	----	-----	-----	------	------	------	------	-------------



# 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.



<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Timber Parkway Tenth Addition	<b>Date:</b>	11/01/2023
<b>Location:</b>	5107 & 5161 Charles Way South	<b>Staff Contact:</b>	Alayna Espeseth, Assistant Planner
<b>Legal Description:</b>	Lots 1 & 2, Block 1, Timber Parkway Tenth Addition		
<b>Owner(s)/Applicant:</b>	KT Properties LLC / Christianson Companies	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (from GC, General Commercial with C-O, Conditional Overlay to GC, General Commercial with a reestablished C-O, Conditional Overlay)		
<b>Status:</b>	Planning Commission Public Hearing: November 7 <sup>th</sup> , 2023		

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

<b>Proposal:</b>
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> <li><b>Zoning Change</b> (from GC, General Commercial with C-O, Conditional Overlay to GC, General Commercial with a reestablished C-O, Conditional Overlay)</li> </ol> <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 52<sup>nd</sup> 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"> <li>• Building massing and façade length;</li> <li>• Screening of dumpsters/refuse containers and loading areas.</li> </ul> <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>

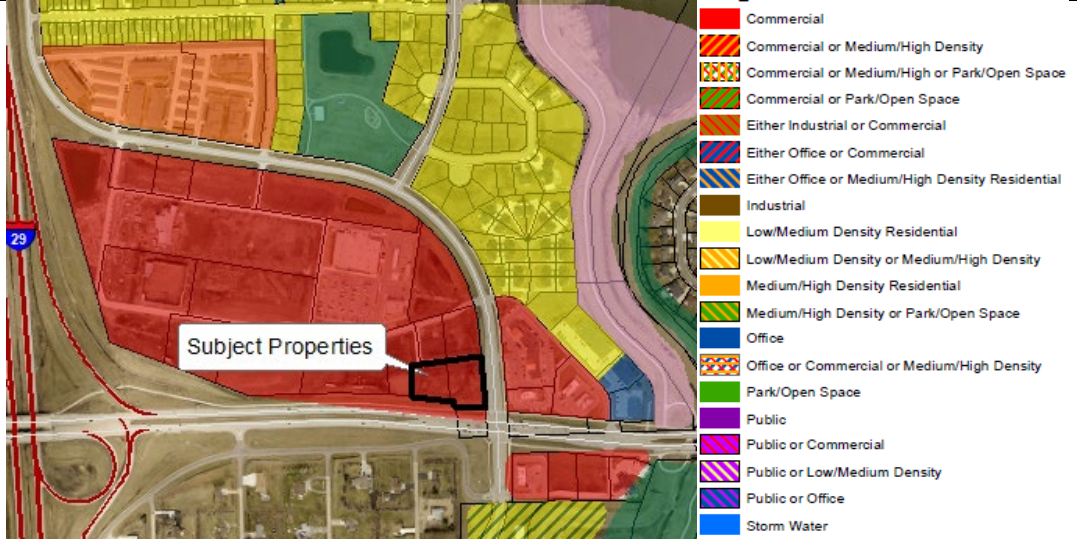
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

**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 52<sup>nd</sup> 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 47<sup>th</sup> Avenue South) to the north, Meadow Creek Park (4800 Meadow Creek Drive South) to the east and Prairie Farms Park (5400 31<sup>st</sup> 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 52<sup>nd</sup> Avenue South, south of the subject property.

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

(Continued on next page.)

**Staff Analysis:**

**Zoning**

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The 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.

**(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property is adjacent to existing developed public rights-of-way and private drive, which provide access and public utilities to serve the property.

**(Criteria Satisfied)**

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

Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners within 300 feet of the project site. To date, staff has received one inquiry related to the application with no noted concern.

**(Criteria Satisfied)**

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff 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.

**(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and recommend approval to the City Commission of the proposed zoning change from GC, General Commercial with a C-O, Conditional Overlay to GC, General Commercial with a reestablished 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."

**Planning Commission Recommendation:** November 7<sup>th</sup>, 2023

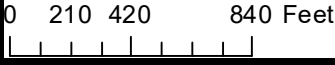
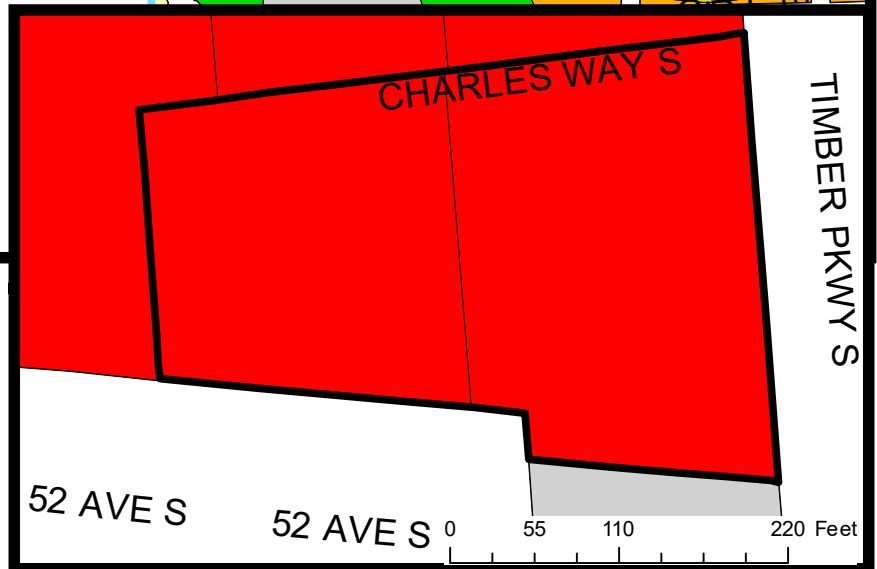
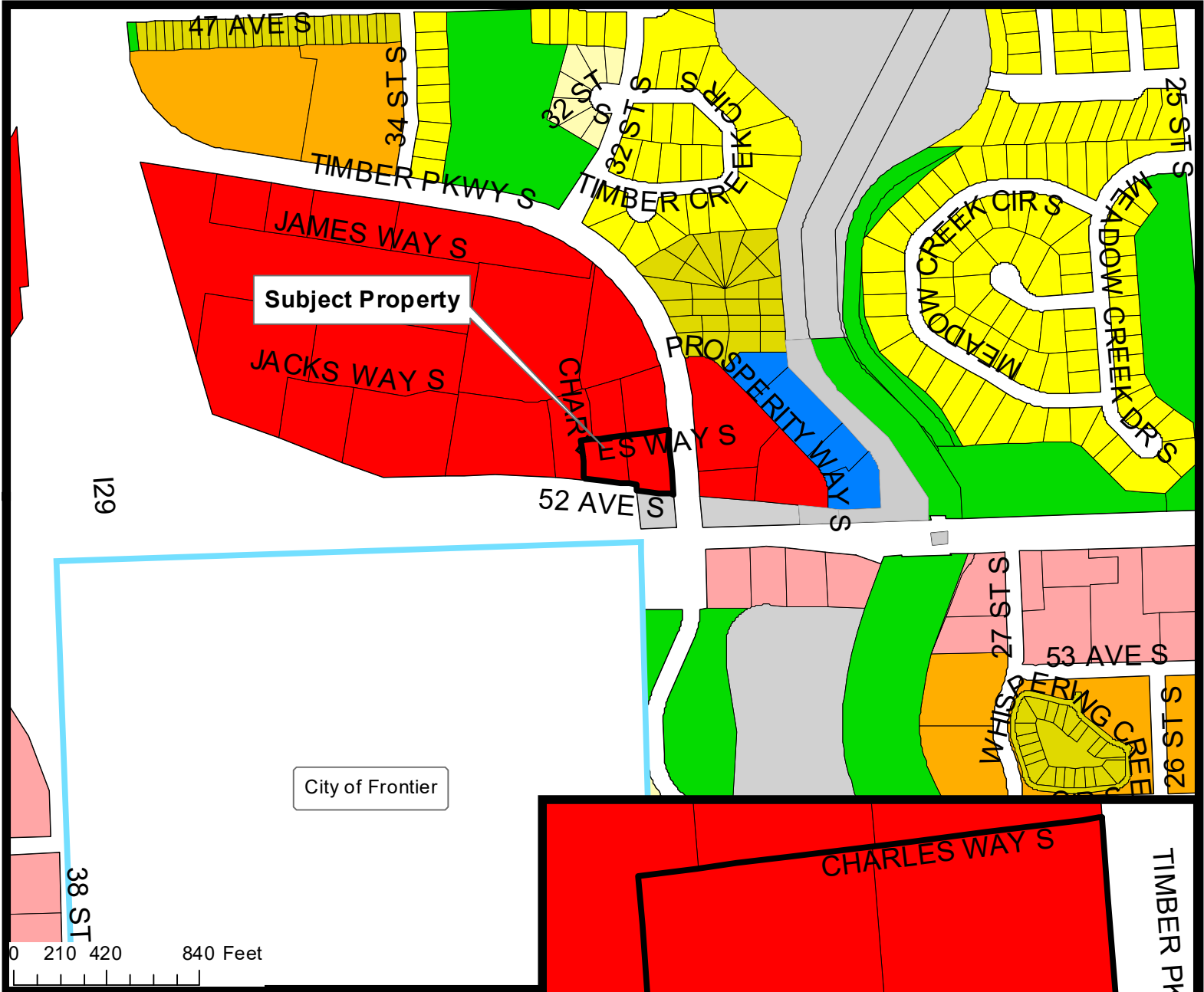
**Attachments:**

1. Zoning Map
2. Location Map
3. Draft Conditional Overlay

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

## Timber Parkway 10th Addition

5107 & 5161 Charles Way South



**Legend**

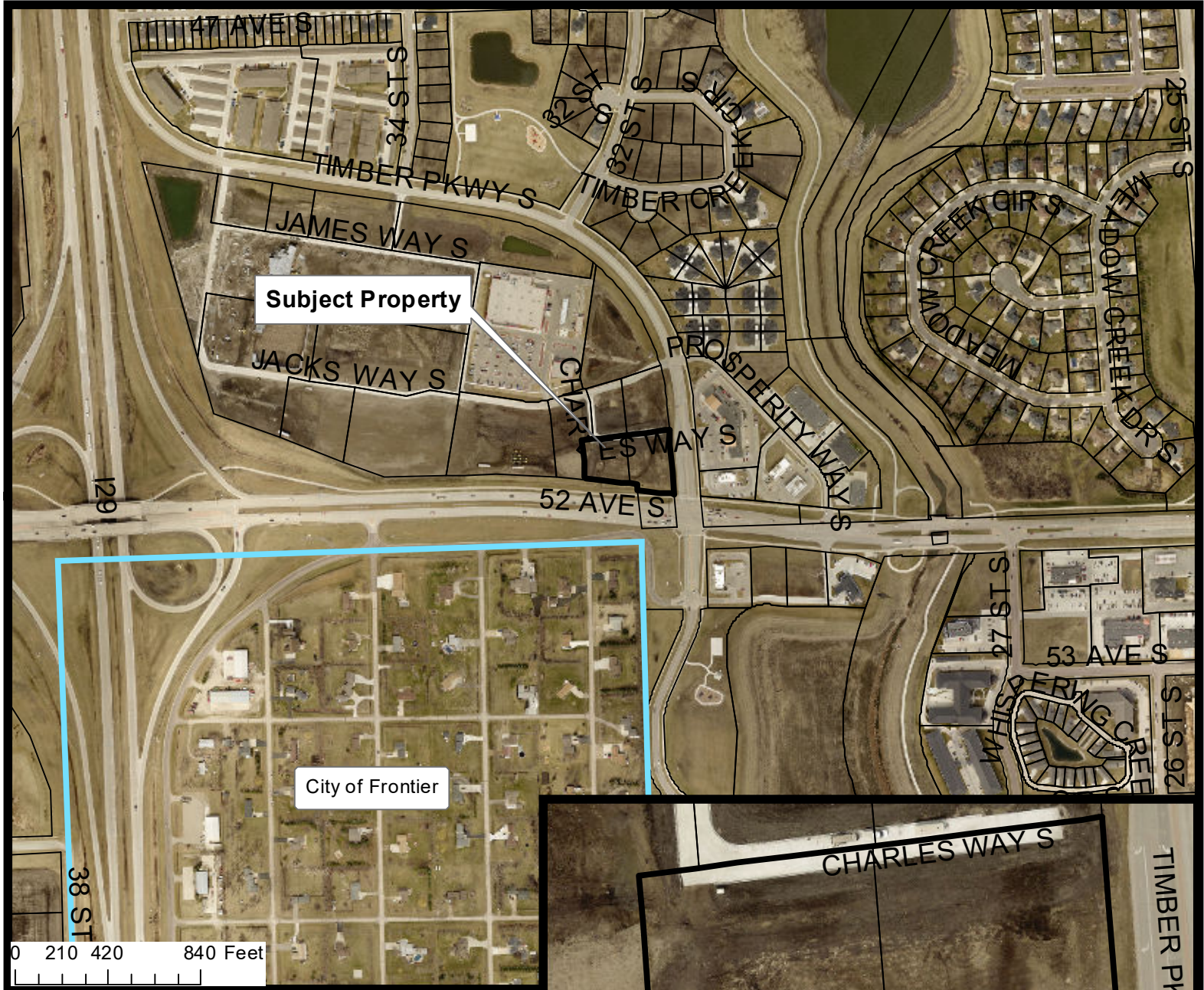
AG	LC	MHP	SR-2
DMU	LI	NO	SR-3
GC	MR-1	NC	SR-4
GO	MR-2	P/I	SR-5
	MR-3	UMU	City Limits



# 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.



<b>City of Fargo Staff Report</b>			
<b>Title:</b>	University South Fourth Addition	<b>Date:</b>	11/01/2023
<b>Location:</b>	1376 Oak Manor Ave S and 1393 25 Ave S	<b>Staff Contact:</b>	Brad Garcia, Planner
<b>Legal Description:</b>	Lots 1 & 2 Block 1 University South Fourth Addition to the City of Fargo, Cass County, North Dakota		
<b>Owner(s)/Applicant:</b>	Beyond Shelter Housing LLC/ BSI HQ, LLC	<b>Engineer:</b>	Houston Engineering
<b>Entitlements Requested:</b>	<b>Conditional Use Permit</b> for alternate access plan to allow off-site parking on Lots 1 & 2 Block 1 University South Fourth Addition.		
<b>Status:</b>	Planning Commission Public Hearing: November 7 <sup>th</sup> , 2023		

<b>Existing</b>
<b>Land Use:</b> Residential and Office
<b>Zoning:</b> MR-3, Multi-Dwelling Residential with a C-O, Conditional Overlay and GC, General Commercial with a C-O, Conditional Overlay
<p><b>Uses Allowed:</b> MR-3, Multi-Dwelling 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.</p> <p><b>Conditional Overlay provides site and building design guidelines</b></p> <p>GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, <del>detention facilities</del>, health care facilities, parks and open space, religious institutions, safety services, basic utilities, <del>adult establishment</del>, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, <del>self-service storage, vehicle repair, limited vehicle service</del>, and some telecommunication facilities.</p> <p><b>Conditional Overlay restricts some uses and provides site and building design guidelines.</b></p> <p><b>Plus CUP for an alternate access plan for a parking reduction for Residential Senior Housing (1376 Oak Manor Ave S).</b></p>
<b>Maximum Density Allowed (Residential):</b> MR-3 allows a maximum of 24 units per acre
<b>Maximum Lot Coverage Allowed (Commercial):</b> GC allows a maximum 85% building coverage

<b>Proposed</b>
<b>Land Use:</b> Residential and Office
<b>Zoning:</b> No Change
<p><b>Uses Allowed:</b> MR-3, Multi-Dwelling 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.</p> <p><b>Conditional Overlay provides site and building design guidelines</b></p> <p>GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, <del>detention facilities</del>, health care facilities, parks and open space, religious institutions, safety services, basic utilities, <del>adult establishment</del>, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, <del>self-service storage, vehicle repair, limited vehicle service</del>, and some telecommunication facilities.</p> <p><b>Conditional Overlay restricts some uses and provides site and building design guidelines.</b></p> <p><b>Plus CUP for an alternate access plan for a parking reduction for Residential Senior Housing (1376 Oak Manor Ave S); and CUP for an alternate access plan to allow off-site parking.</b></p>
<b>Maximum Density Allowed (Residential):</b> No Change
<b>Maximum Lot Coverage Allowed (Commercial):</b> No Change

**Proposal:**

The applicant is seeking a Conditional Use Permit (CUP) for an alternative access plan in order to allow off-site parking to meet Land Development Code parking requirements for 1393 25<sup>th</sup> Ave South.

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 with day care and retail sales and service uses.
- East: GC, General Commercial with a Conditional Overlay, with retail sales and service uses.
- South and West: MR-3, Multi-Family Residential with household living.

**Area Plans:**

The subject property is not included in a growth plan or area plan. However, a vision for this area is depicted in Fargo’s Go2030 Comprehensive Plan. That plan envisions redevelopment of this portion of South University Drive to follow the model of a walkable mixed-use center, in which redevelopment of the properties along it would create pedestrian-oriented spaces with “walkable friendly” blocks, combining residential, commercial, and park or other amenity uses. A graphic of this general concept from the Go2030 plan is depicted to the right, with the subject property outlined in red and nearby street names circled in yellow.



(from Go2030 Comprehensive Plan, pages 36 and 37)

**Context:**

**Neighborhood:** The subject properties are located in the Brunsdale neighborhood.

**Schools:** The subject properties are located within the Fargo School District and served by Lincoln Elementary school, Carl Ben Middle school and South High school.

**Parks:** The subject property is located within a half mile of Lincoln Park (2120 9th Street S), Brunsdale park (1702 27th Avenue S) and Oak Manor Park (2400 18th Street S).

- Brunsdale Park has two youth baseball fields, one full-size baseball field, nine pickleball courts, a batting cage, concessions, picnic tables and shelter, playground, recreational trails, restrooms, StoryWalk and a warming house.
- Lincoln Park features a baseball and softball field, multipurpose field, basketball court, a playground, outdoor skating and hockey rink along with a warming house.
- Oak Manor Park is a neighborhood park that features picnic tables, a playground and recreational trails.

**Pedestrian / Bicycle:** A shared use path exists within a half-mile located along the Milwaukee Trail. Two bike routes exist within a half-mile distance. One bike route is located East of University along 11<sup>th</sup> St S and 9<sup>th</sup> St S and another bike route to the west located along 17<sup>th</sup> St S.

**Transit:** One public transportation bus route serves the subject property within a quarter-mile distance. Route 14 serves the area going east and westbound along 24<sup>th</sup> Ave S, providing service to GTC, Prairie Psych / Island Park, Essentia / Sanford, Kmart, Family Fare, Essentia Hospital, Flying J, Rasmussen College, West Acres, YMCA, Love's, Hornbacher's, Courthouse.

**Staff Analysis:**

**Background**

The subject property is located at 1376 Oak Manor Drive and 1393 25<sup>th</sup> Ave South as part of the recently platted University South Fourth Addition. At 1376 Oak Manor Drive, construction has started for a 3-story wood-framed, 39-unit, multi-family senior housing structure with detached garages. The same applicant is planning to construct a new corporate office at 1393 25<sup>th</sup> Ave South, zoned GC - General Commercial. The applicant owns both properties through two subsidiaries- Beyond Shelter Housing, LLC and BSI HQ, LLC.

The applicant has developed a conceptual site plan showing the office building with the potential of a future expansion. The current plan indicates 19 parking spaces that will be provided on-site at 1393 25 Avenue South. The Land Development Code requires 1 parking space per 300 square feet of office space. The proposed building area of the office space is 9,137 square feet, requiring 31 parking spaces which is short of the requirement by 11 parking spaces. The proposed Conditional Use Permit would allow an alternate access plan to allow 18 parking spaces located on 1376 Oak Manor Drive to provide the remaining parking to meet the Land Development Code requirements and accommodate future expansions.

**Existing CUP for Parking Reduction**

Currently Lot 1, Block 1 University South Fourth Addition (1376 Oak Manor Drive) has a CUP for an alternate access plan and was approved by Planning Commission on February 7<sup>th</sup>, 2023. This CUP allows for a parking reduction specifically for the residential senior housing. The reduction in parking spaces was 1.5 parking spaces per dwelling unit versus the 2.25 spaces required by the Land Development Code. The applicant provided a parking utilization study showing current parking demand based on existing operations of other senior housing projects managed by the applicant to support the parking reduction. The permit was approved for this project as all LDC and CUP requirements were met. When 1376 Oak manor Drive was replatted into two properties, both properties inherited the CUP for senior housing. This CUP remains on Lot 1 Block 1 University South Fourth Addition and does not apply to Lot 2 (1393 25 Ave South) as the use has changed, nullifying the CUP per its conditions.

**Alternative Access Plan – Off-Site Parking**

Off-site parking is allowed by the LDC if spaces are located within 600 feet of the primary entrance of all uses served. If the off-site parking area is not under the same ownership, a written agreement will be required. Since ownership of the subject properties is technically the same, staff is still recommends approval of the proposed CUP without a recorded agreement. However, the CUP will have an additional condition that requires a review of the CUP if either property changes ownership from the recording of the CUP which is Beyond Shelter Housing, LLC or BSI HQ, LLC.

Included in this packet (also shown in on the next page) is a site plan that shows the proposed parking on both properties and the minimum parking requirements under the existing CUP based on the permitted senior housing project, the parking provided by the commercial office building and proposed shared parking proposed under this CUP. Staff finds that the development of the senior housing and commercial office are designed to work together as a comprehensive development and will not impact the combined uses.

Property (Block 1 University South Fourth Addition)	Use	Parking Required	Parking Provided
Lot 1	Residential Use: 39 Dwelling Units	1.5 parking spaces per dwelling unit (CUP) 58.5 (59) parking spaces	59 Stalls
Lot 2	Commercial Office: 9,137 square feet	1 parking space per 300 square feet (LDC) 31 required parking spaces	19 On-Site 18 Off-Site (this CUP) 37 Total

### Public Comment

The Land Development Code states that Written notice of the proposal was sent to all property owners within 300 feet of the subject property and published per section 20-0901.F. As of the date of this report, Planning staff has not received any calls in regards to this project.

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

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

1. **Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**  
According to Section 20-0104 of the LDC, the purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff finds that the proposal is consistent with the purpose of the LDC.  
**(Criteria Satisfied)**
2. **Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**  
Staff suggests that this proposed CUP for an alternative access plan for off-site parking will promote the welfare of the public by supporting the development of a senior assisted living facility and management of the applicant's non-profit organization. Staff finds that the applicant is providing adequate and convenient on-site parking for residents, employees, and visitors, which is consistent with adjacent commercial and residential developments.  
**(Criteria Satisfied)**
3. **Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**  
The proposed use is limited to properties owned by the applicant. Off-site parking is typical for the proposed developments and staff has no data to suggest the proposed use would cause substantial injury to the value of other property within the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property for public comment.  
**(Criteria Satisfied)**
4. **Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature, and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.**  
Staff does not believe that the location, size, nature or intensity of the use will prevent development and

use of neighboring property in accordance with applicable zoning districts. The proposed parking and relative locations is consistent with the adjacent residential and commercial developments.

**(Criteria Satisfied)**

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

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

**(Criteria Satisfied)**

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

The commercial property has access to the public right of way along 25<sup>th</sup> Ave South via an access easement, which is expected to adequately accommodate traffic related to the proposed development. The Engineering Department has had an opportunity to review the proposal and no comments or concerns have been forthcoming to indicate that there is a deficiency with the access roads or entrances and exit drives. Staff finds that the proposed conditional use will not create traffic hazards or traffic congestion in the public streets.

**(Criteria Satisfied)**

**Recommended Conditions:**

Planning staff recommends these conditions, stated below, as part of this CUP.

1. 18 parking spaces shall be maintained and accessible to Lot 2 Block 1 University South Fourth Addition that meet the requirements for off-site parking.
2. Change or expansion of commercial use of will require additional review by staff and/or the Planning Commission.
3. Change of ownership of either property will require an additional review by staff and/or the Planning Commission.

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and hereby move to approve the Conditional Use Permit for an Alternative Access Plan for off-site parking on Lots 1 & 2 Block 1 University South Fourth Addition as the proposal complies with Section 20-0909.D (1-6), Section 20-0701.E.4 and all other requirements of the LDC, with the following conditions:

1. 18 parking spaces shall be maintained and accessible to Lot 2 Block 1 University South Fourth Addition that meet the requirements for off-site parking.
2. Change or expansion of commercial use of will require additional review by staff and/or the Planning Commission.
3. Change of ownership of either property will require an additional review by staff and/or the Planning Commission.

**Planning Commission Recommendation: November 7th, 2023**

**Attachments:**

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



# Conditional Use Permit for Alternative Access Plan

## University South Fourth Addition

1393 25th Avenue South;  
1376 Oak Manor Avenue South



### Legend

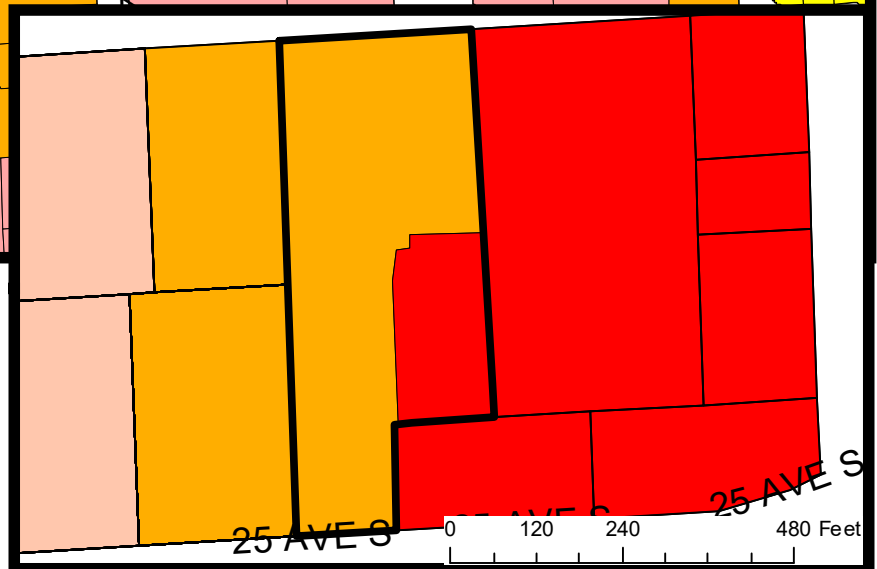
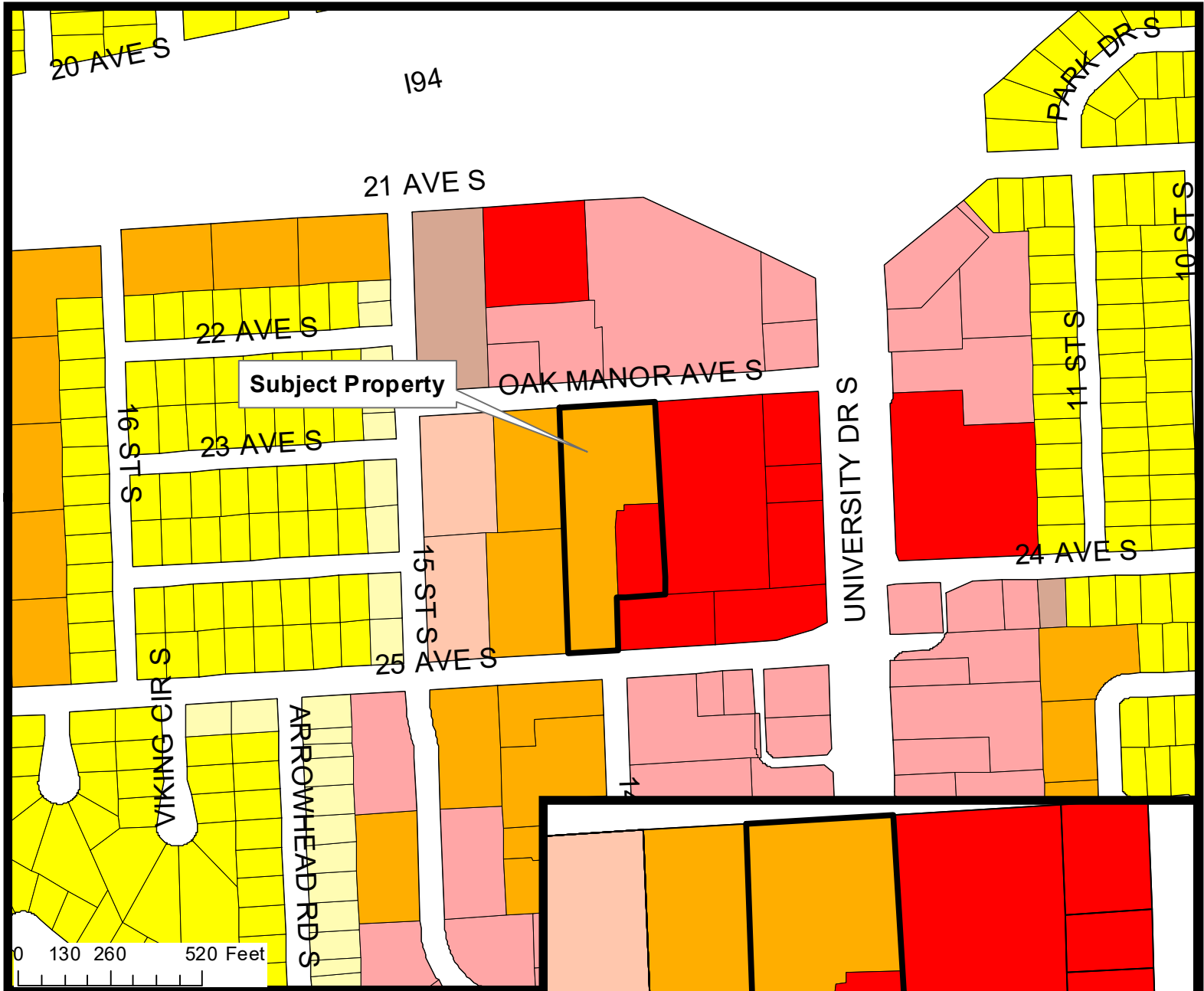
 City Limits



# Conditional Use Permit for Alternative Access Plan

## University South Fourth Addition

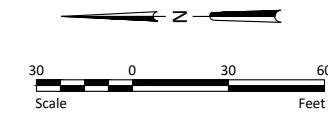
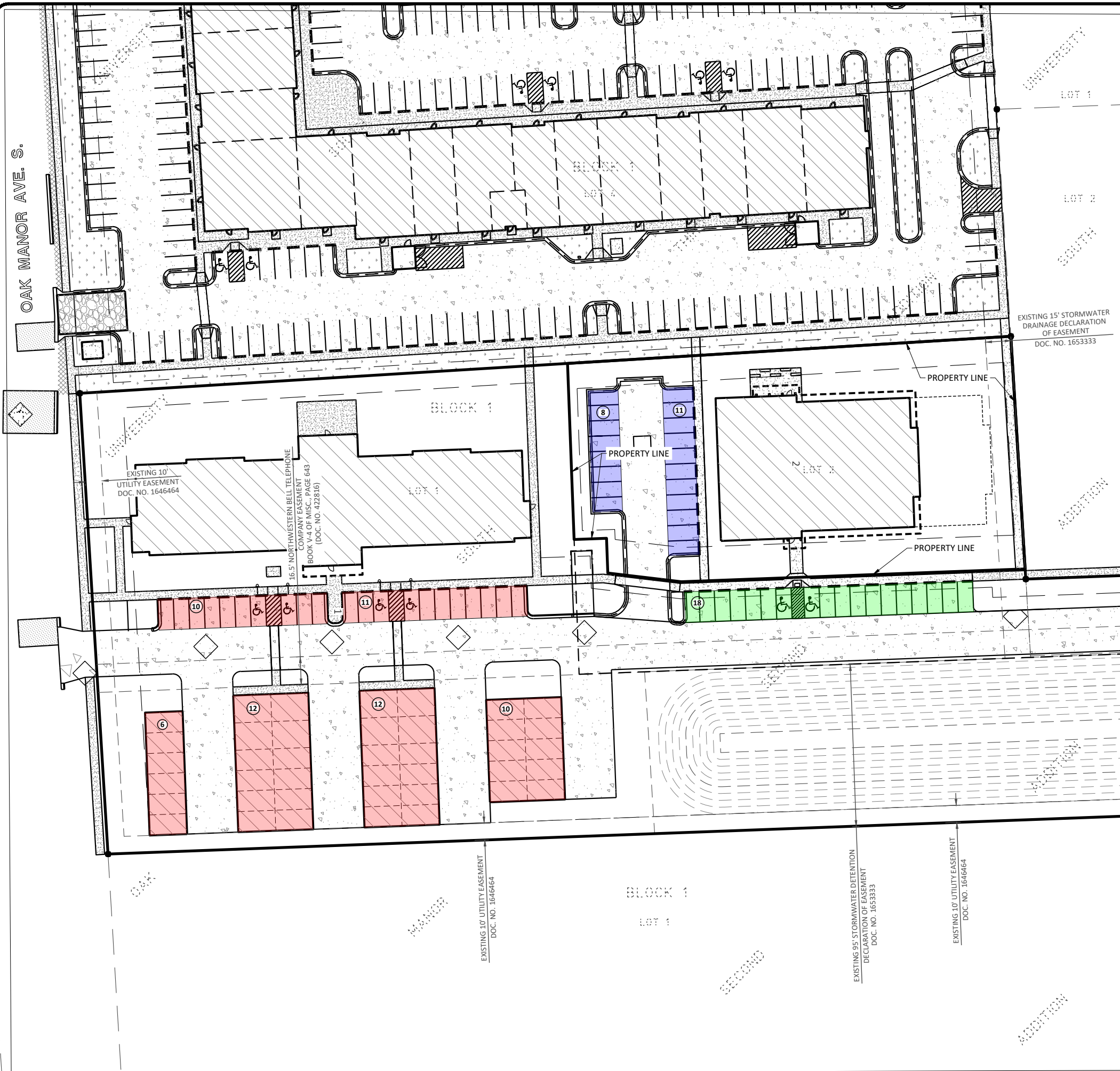
1393 25th Avenue South;  
1376 Oak Manor Avenue South



### Legend

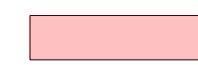
AG	DMU	GO	GO	GO	LC	LI	MR-1	MR-2	MR-3	MHP	NC	NO	P/I	UMU	SR-2	SR-3	SR-4	SR-5	City Limits
----	-----	----	----	----	----	----	------	------	------	-----	----	----	-----	-----	------	------	------	------	-------------

H:\JBM\8800\8833\_0013\CAD\ENG\CUP Exhibit.dwg - 11x17 Landscape Side-10/05/2023 8:39 AM -(bahrendt)



**PLAZA APARTMENTS, LOT 1**

**PARKING INFORMATION:**  
 CLASSIFICATION = MULTI-DWELLING STRUCTURES (MR-3)  
 1.50 STALLS PER CUP REQUIREMENTS x 39 UNITS = 58.5 (59) STALLS  
 TOTAL REQUIRED STALLS = 59 STALLS  
 TOTAL INTERNAL STALLS = 38 STALLS  
 TOTAL EXTERNAL STALLS = 21 STALLS  
 TOTAL PROVIDED STALLS = 59 STALLS


 = PLAZA APARTMENTS PARKING SPACES

**BEYOND SHELTER CORPORATE OFFICE, LOT 2**

**PARKING INFORMATION:**  
 BUILDING CLASSIFICATION = OFFICE (1/300 SF)  
 BUILDING AREA = 9,137 SF (1/300 SF)  
 REQUIRED PARKING = 31 SPACES  
 TOTAL SPACES PROVIDED = 37 (2 HANDICAPPED)

OFFSITE PARKING = 18 SPACES  
 ONSITE PARKING = 19 SPACES  
 PERCENT OFFSITE PARKING = 48.6%

 = BEYOND SHELTER CORPORATE OFFICE, OFFSITE PARKING

 = BEYOND SHELTER CORPORATE OFFICE, ON-SITE PARKING

**PRELIMINARY**  
 NOT FOR CONSTRUCTION

BY	
DATE	
REVISION	
NO.	
BEYOND SHELTER CORPORATE OFFICE FARGO, ND	
CUP EXHIBIT	
Drawn By	BWA
Checked By	BTP
Date	10/05/2023
Scale	As Shown
Project No.	8833-0013
SHEET	1