

**FARGO CITY COMMISSION AGENDA**  
Monday, October 16, 2023 - 4:00 p.m.

Executive Session at 4:00 p.m.

Roll Call.

**PLEASE NOTE:** The City Commission will convene at 4:00 p.m. and retire into Executive Session in the Red River Room for the purpose of attorney consultation regarding threatened litigation pertaining to 501 Main Avenue, and to discuss negotiating strategy or providing negotiating instructions to its attorney or other negotiator regarding the threatened litigation, and to receive its attorney's advice and guidance on the legal risks, strengths or weaknesses of an action of the public entity. To discuss these matters in an open meeting will have a negative fiscal effect on the bargaining and/or litigation position of the City of Fargo. Thus, an Executive Session for said matters is authorized pursuant to North Dakota Century Code §44-04-19.1 subsections 2, 5 and 9.

Regular Meeting at 5:00 P.M.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, October 2, 2023).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Letter of Support for the Smart Wash Laundry project to the ND Opportunity Fund.
- 2. Second Amendment to Developer Agreement with J Street Properties, LLC.
- 3. Findings of Fact, Conclusions and Order, Notice of Entry of Order for property located at 1809 14th Avenue South.
- 4. Second Amendment to the Findings of Fact, Conclusions and Order for property located at 437 23rd Street South.
- 5. Receive and file an Ordinance Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- 6. Receive and file an Ordinance Amending Section 13-1011 of Article 13-10 of Chapter 13 of the Fargo Municipal Code Relating to Recreational Aquatic Facilities.
- 7. Receive and file an Ordinance Amending Article 13-14 of Chapter 13 of the Fargo Municipal Code Relating to Hotels & Motels.

8. 2nd reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in EOLA Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 10/2/23.
9. 2nd reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in EOLA Second Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 10/2/23.
10. Amendment to Lease Agreement with North Dakota State Board of Higher Education and North Dakota State University for the FARGODOME Remodel and Conference Center Addition.
11. Site Authorizations for Games of Chance:
  - a. Horse Race ND at Sidestreet Grille and Pub (amended).
  - b. Red River Human Services Foundation at Blarney Stone Pub.
  - c. Red River Human Services Foundation at District 64.
12. Applications for Games of Chance:
  - a. Centennial Elementary PTO for bingo on 10/27/23 and 1/12/24.
  - b. 4 Luv of Dog Rescue for a raffle on 11/4/23.
  - c. Lincoln Elementary PTA for a raffle on 10/27/23.
  - d. United Way of Cass-Clay for a raffle board on 11/14/23.
  - e. Shiloh Masonic Lodge #1 for a raffle on 5/4/24.
  - f. Project Pink Plaid (fka Project Pink) for a raffle on 10/26/23.
13. Piggyback purchase through Insight Public Sector with ZenCity for the purchase of a community engagement software platform (PBC23183).
14. Acceptance of additional ND Department of Emergency Services FY 2022 Grant Funds for the Fargo Fire Department (CFDA #97.042).
15. Engineering Services Agreement Amendment No. 4 with Houston Engineering Inc. in the amount of \$84,000.00 for Project No. FM-22-C0 (6228).
16. Negative Final Balancing Change Order No. 4 in the amount of -\$12,328.45 for Project No. TN-22-B1.
17. Bid advertisement for Project No. QR-24-A1.
18. Bid advertisement for Project No. SL-23-B1.
19. Bid advertisement for Project No. SN-23-B1.
20. Final Balancing Change Order No. 2 in the amount of \$2,983.23 for Improvement District No. PN-22-M1.
21. Change Order No. 1 for a time extension to the final completion date to 1/15/24 for Improvement District No. PN-23-E1.
22. Change Order No. 4 in the amount of \$19,017.73 for Improvement District No. BN-22-C1.
23. Right of Way Use Agreement with Ledgestone Inc. for property located at 6617 33rd Street South.

24. Amended and Restated Skyway Use Agreement with the Bostad Condominium Association.
25. Bid Award to Martinson Lot Maintenance and All-Terrain for snow and ice removal services (RFP23191).
26. Engagement Letter with PFM Financial Advisors LLC (EX23205).
27. Notice of Grant Award with the ND Department of Health and Human Services for the Women, Infant and Children Program (CFDA #10.557).
28. Notice of Grant Award with the ND Department of Health and Human Services for PHEP – Public Health Workforce Supplemental Funding II (CFDA # 93.354).
29. Notice of Grant Award with the ND Department of Health and Human Services for Public Health Infrastructure and Workforce (CFDA #93.967).
30. 2024 Benefit Renewals effective 1/1/24, as presented.
31. Request for out-of-grade pay for Matt Bruggeman, Engineering Tech II effective from 3/20/23 to 7/9/23.
32. Set October 30, 2023 at 5:15 p.m. as the date and time for a Public Hearing on a dangerous building located at 1208 University Drive South.
33. Set October 30, 2023 at 5:15 p.m. as the date and time for a Public Hearing on a dangerous building located at 1710 1st Avenue South.
34. Updated art concept for the Skyway Mosaic project.
35. Memorandum of Understanding with Flock Group, Inc. and the Fargo Police Department.
36. Memorandum of Understanding between St. Paul District, US Army Corps of Engineers and the Fargo Police Department.
37. Bid award to Swanston Equipment in the amount of \$228,800.00 for the purchase of one loader mounted snow blower (RFP24001).
38. ND State Revolving Fund Program Loan Agreement with the ND Public Finance Authority for Solid Waste Revenue Bond, Series 2023E and Series 2023F (Project Nos. SW 23-01 and SW 23-04).
39. Bills.

#### **REGULAR AGENDA:**

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

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

41. **PUBLIC HEARING — Southwest Fargo Mission Second Addition (4451, 4455 and 4475 40th Avenue South); approval recommended by the Planning Commission on 5/2/23; continued from the 7/10/23, 7/24/23 and 8/21/23 Regular Meetings:**

- a. Zoning Change from P/I, Public and Institutional to P/I, Public and Institutional and GC, General Commercial with a C-O, Conditional Overlay.
  - b. 1st reading of rezoning Ordinance.
  - c. Plat of Southwest Fargo Mission Second Addition.
42. **PUBLIC HEARING** – Special Assessment List for New Bridge, Underground Utilities, Paving, Shared Use Path and Structure, and Incidentals Improvement District No. BN-21-A; continued from the 10/2/23 Regular Meeting.
43. **PUBLIC HEARING** – Hearing on a dangerous building located at 924 7th Street North.
44. Receive and file General Fund – Budget to Actual through September 30, 2023 and 2023 Year End Projections.
45. Recommendation for appointments to the following Committees:
- a. Economic Development Incentives Committee.
  - b. Fargo Youth Initiative.
46. Liaison Commissioner Assignment Updates.

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

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

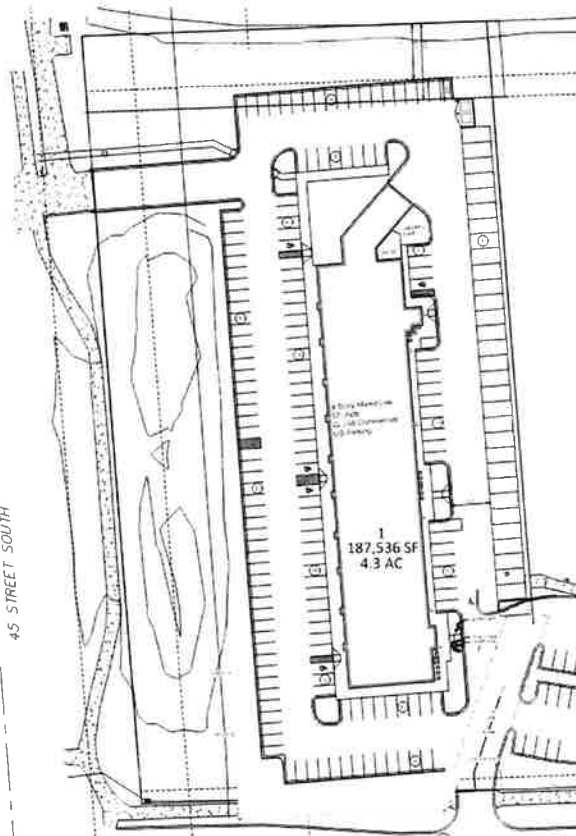
(41)

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Southwest Fargo Mission Second Addition	<b>Date:</b>	4-27-23
		<b>Update:</b>	10-12-23
<b>Location:</b>	4451, 4455, and 4475 40 <sup>th</sup> Avenue South	<b>Staff Contact:</b>	Luke Morman, Planner
<b>Legal Description:</b>	Lots 1 and 2, Block 1, Southwest Fargo Mission Addition		
<b>Owner(s)/Applicant:</b>	450 Investments, LLC and Living Waters Lutheran Church / Christianson Companies	<b>Engineer:</b>	Bolton & Menk
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (from P/I, Public and Institutional to P/I, Public and Institutional and GC, General Commercial with a C-O, Conditional Overlay); and <b>Minor Subdivision</b> (replat of Lots 1 and 2, Block 1, Southwest Fargo Mission Addition including a subdivision watercourse setback waiver).		
<b>Status:</b>	City Commission Public Hearing: October 16, 2023		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Religious Institution.	<b>Land Use:</b> Commercial, residential, and religious institution.
<b>Zoning:</b> P/I, Public and Institutional.	<b>Zoning:</b> P/I, Public and Institutional and GC, General Commercial with a C-O, Conditional Overlay and CUP, Conditional Use Permit for residential living.
<p><b>Uses Allowed:</b> P/I – Public and Institutional allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events</p> <p>With a Conditional Use Permit (No. 2017-007) to allow a telecommunication support structure (TSS) within a P/I, Public and Institutional zoning district.</p>	<p><b>Uses Allowed:</b> P/I – Unchanged.</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, <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.</p> <p>Note: The proposed Conditional Overlay prohibits certain uses.</p> <p>With a Conditional Use Permit to allow household living.</p> <p>The existing Conditional Use Permit (No. 2017-007) shall remain.</p>
<b>Maximum Building Coverage Allowed:</b> P/I has no building coverage or density standards.	<p><b>Maximum Building Coverage Allowed:</b> P/I has no building coverage or density standards.</p> <p>GC has a maximum 85% building coverage.</p> <p>CUP, Conditional Use Permit, limits the residential density to a maximum 13.5 units per acre.</p>

<b>Proposal:</b>
<p>The applicant requests two entitlements:</p> <ol style="list-style-type: none"> <li>1. <b>Zoning Change</b> (from P/I, Public and Institutional to P/I, Public and Institutional and GC, General Commercial with a C-O, Conditional Overlay);</li> <li>2. <b>Minor Subdivision</b> (replat of Lots 1 and 2, Block 1, Southwest Fargo Mission Addition, including a subdivision watercourse setback waiver); and</li> </ol> <p>The proposal is to replat two existing lots into a minor subdivision entitled Southwest Fargo Mission Second Addition, rezone from P/I to GC on the proposed Lot 1, add a C-O to add design requirements, and add a CUP to</p>

allow for residential living within the GC zone. The applicant proposes a mixed-use project with underground parking, commercial uses on the ground floor, and approximately 57 units of residential above in the GC zone. The C-O includes restricting some uses and adding design standards that are consistent with other overlays on the City's arterial roads. The proposed parking lot encroaches into an easement for Southeast Cass Water Resources District ("SE Cass"), thus, an encroachment agreement has been completed between the applicant and SE Cass. The CUP to allow residential living in the GC, General Commercial zoning district on Lot 1 of the proposed Southwest Fargo Mission Second Addition was approved at the May 2<sup>nd</sup> Planning Commission meeting but will not come into effect until the zone change is approved.



The subject property located at 4475 40<sup>th</sup> Avenue South is currently undeveloped but has a portion of an existing stormwater pond. The other subject property addressed under 4451 and 4455 40<sup>th</sup> Avenue South is only used for the Living Waters Lutheran Church. Both properties are owned by the church and the proposed Lot 2 will remain under their ownership.

**Subdivision Watercourse Setback Waiver:**

The property borders the south side of County Drain No. 27 and is subject to the drain setback requirement stated in Land Development Code Section 20-0610.F. This code section requires a 175 foot dedication from the centerline of the drain. Further evaluation by the Fargo City Engineering Department and the Southeast Cass Water Resources District ("SE Cass") has determined that a 175 foot easement from the drain centerline will be sufficient for this property rather than a dedicated lot. The easement on the subject property is 60 feet wide, as the north property line is 115 feet from the drain centerline, totaling 175 feet. This drain easement has been recorded and is represented on the plat. This subdivision waiver for drain dedication is considered part of the plat and not a separate entitlement. This waiver process is provided by Section 20-0612.

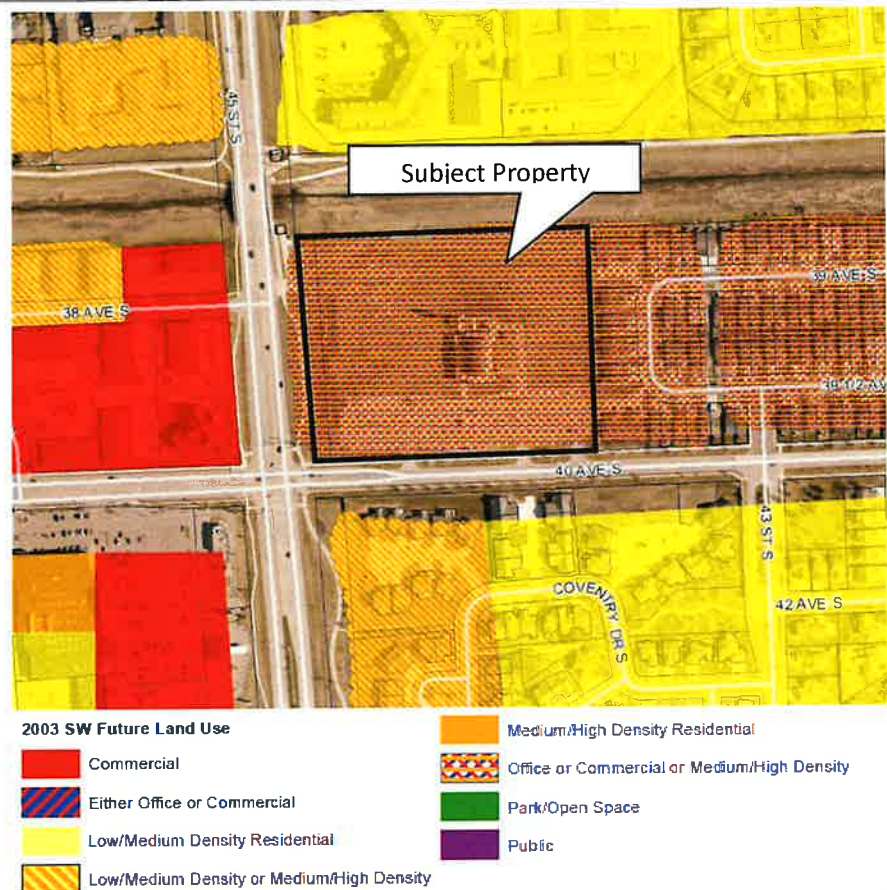
The project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

**Surrounding Land Uses and Zoning Districts:**

- North: P/I, Public and Institutional; Cass County Drain No. 27
- East: SR-4, Single-dwelling Residential; single family residences.
- South: Across 40<sup>th</sup> Avenue South P/I, Public and Institutional; shared-use trail, MR-1, Multi-dwelling Residential; household living, and SR-4, Single-dwelling Residential; duplexes.
- West: Across 45<sup>th</sup> Street South LC: Limited Commercial; offices.

**Area Plans:**

The subject property is located within the 2003 Southwest Future Land Use Plan. Within this growth plan, the subject property is identified as being suitable for Office or Commercial or Medium/High Density Residential uses. The proposed mixed-use building and existing religious institution is suitable under this identification.

**Context:**

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

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

**Parks:** Vista Park, Edgewood Village Park, and Woodhaven North Park are within a quarter mile of the subject properties. Vista Park provides trails; Edgewood Village Park provides picnic tables, a playground for ages 2-5, and recreational trails; and Woodhaven North Park provides fishing with an ADA fishing ramp, picnic tables, a playground for ages 5-12, recreational trails, and a shelter.

**Pedestrian / Bicycle:** There are shared-use trails running along both sides of 45<sup>th</sup> Street South and 40<sup>th</sup> Avenue South, through Vista Park, Edgewood Village Park, and Woodhaven North Park, and along County Drain 27.

**Bus Route:** The subject properties are within a quarter mile of MATBUS route 18 which runs along 40<sup>th</sup> Avenue South. This route has bus stops near the crossing streets of 47<sup>th</sup> Street South, 45<sup>th</sup> Street South, 43<sup>rd</sup> Street South, and 42<sup>nd</sup> Street South.

**Staff Analysis:**

Staff has received a comment via email from a nearby property owner with concerns about the ingress and egress for the subject property and for fire and emergency routes. This email is included in the packet.

**Zoning**

Section 20-0906.F(1-4) of the LDC stipulates that 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 develop a mixed use building on a portion of the existing properties. The properties are currently zoned P/I, Public and Institutional. The applicant is requesting to rezone the proposed Lot 1 to GC, General Commercial with a C-O, Conditional Overlay to apply use restrictions and design standards that are consistent with other overlays on the City's arterial roadways. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established.

**(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, 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 and responded to two inquiries related to the proposed project and the new building's height as well as an additional inquiry with concern about traffic to and from the subject properties. Staff finds that the proposal will not adversely affect the condition or value of the property in the vicinity.

**(Criteria Satisfied)**

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

The 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, the Go2030 Comprehensive Plan, and other adopted policies of the City.

**(Criteria Satisfied)**

*Note: See attached Draft Conditional Overlay.*

#### **Minor Subdivision**

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

- 1. Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

This subdivision is intended to replat two lots into a two lots of a different configuration to accommodate for a future mixed-use building and the existing Living Waters Lutheran Church to remain. Section 20-0610.F of the LDC requires a subdivision watercourse setback waiver, and after coordination between Southeast Cass, the Engineering department, and the applicant there is an easement now complete and recorded to account for the 175 feet setback required by this section. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received and responded to two inquiries related to the proposed project and the new building's height, as well as an additional inquiry with concern about traffic to and from the subject properties. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code.

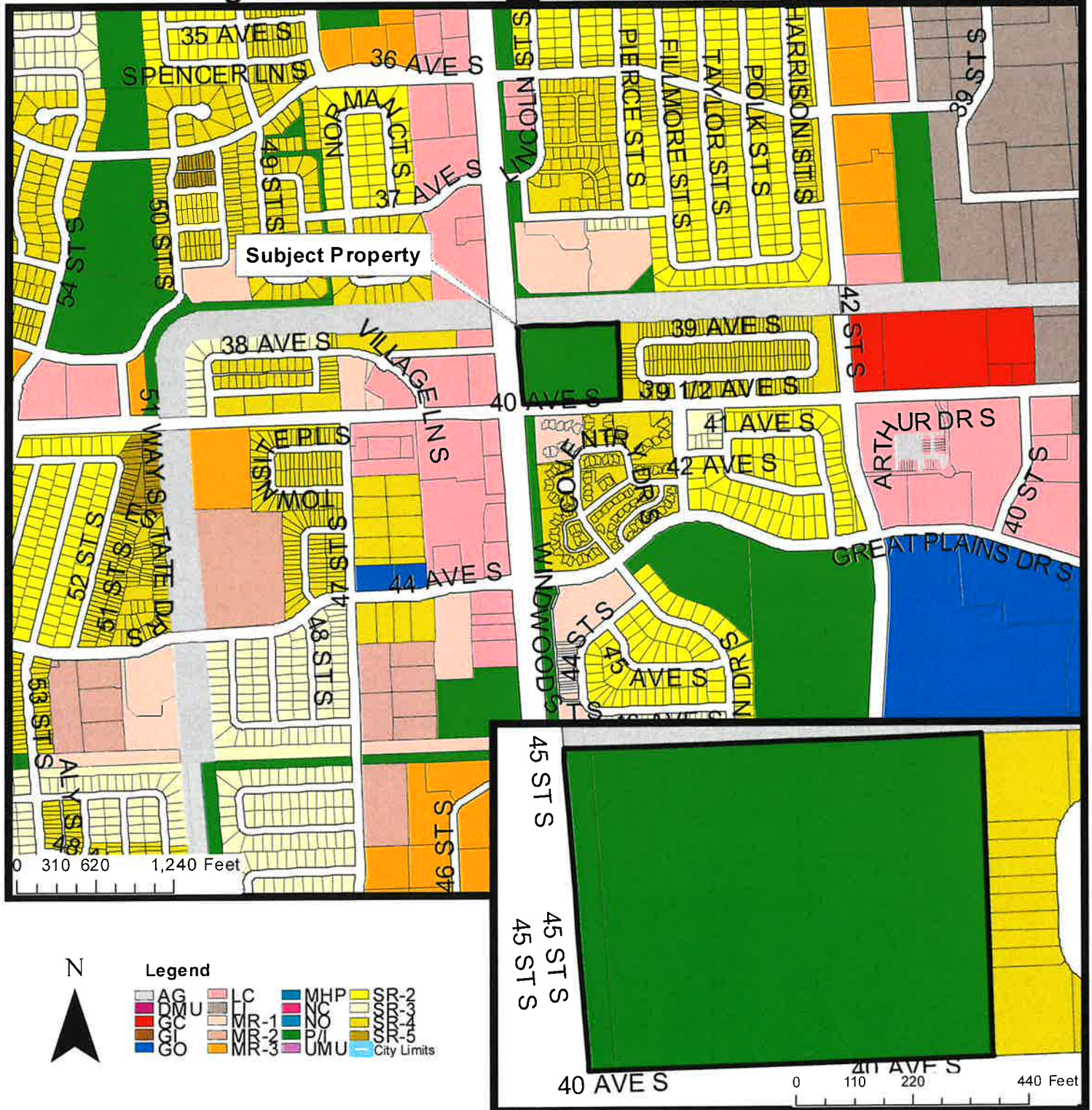
**(Criteria Satisfied)**



<p><b>2. Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.</b></p> <p>While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principals.</p> <p><b>(Criteria Satisfied)</b></p>
<p><b>Staff Recommendation:</b></p> <p>Suggested Motion: "To accept the findings and recommendations of Planning Commission and staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on the first reading and move to approve the proposed 1) zoning change from P/I, Public and Institutional to P/I, Public and Institutional and GC, General Commercial with a C-O, Conditional Overlay; and 2) minor subdivision <b>Southwest Fargo Mission Second Addition</b> and subdivision waiver for drain setback as outlined within the staff report as the proposal complies with the 2003 Growth Plan, standards of Section 20-0906.F(1-4), Section 20-0907.B &amp; C, Article 20-06, Section 20-0909.D, and all other applicable requirements of the Land Development Code.</p>
<p><b>Planning Commission Recommendation: May 2, 2023</b></p> <p>On the May 2<sup>nd</sup>, 2023 Planning Commission hearing, by a vote of 7-0 with two Commissioners absent and two Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the 1) zoning change from P/I, Public and Institutional to P/I, Public and Institutional and GC, General Commercial with a C-O, Conditional Overlay; 2) minor subdivision <b>Southwest Fargo Mission Second Addition</b> as outlined within the staff report, and 3) conditional use permit (CUP) to allow residential living in the GC, General Commercial zoning district on Lot 1 of the proposed Southwest Fargo Mission Second Addition, as the proposal complies with the 2003 Growth Plan, standards of Section 20-0906.F(1-4), Section 20-0907.B &amp; C, Article 20-06, Section 20-0909.D and all other applicable requirements of the Land Development Code, with the following condition:"</p> <ol style="list-style-type: none"> <li>1. The maximum density of this district shall a maximum of 13.5 units per acre.</li> </ol>
<p><b>Attachments:</b></p> <ol style="list-style-type: none"> <li>1. Zoning map</li> <li>2. Location map</li> <li>3. Draft Conditional Overlay</li> <li>4. Preliminary plat</li> <li>5. Resident Comment</li> </ol>

**Minor Subdivision, Zoning Change from P/I, Public/Institutional to GC, General Commercial and P/I, Public Institutional with a Conditional Overlay & Conditional Use Permit for Residential Use in the GC Zone**

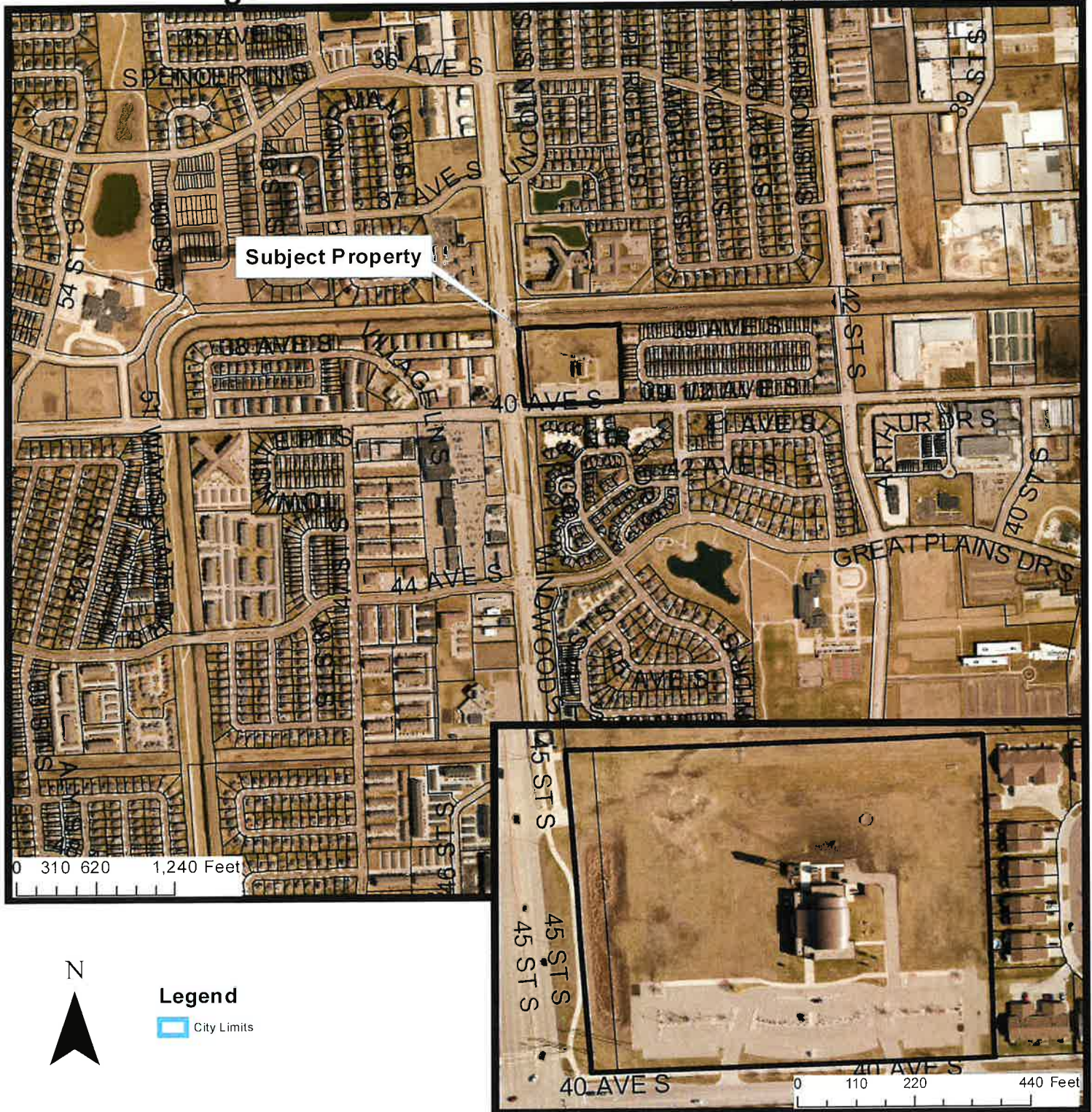
**Southwest Fargo Mission Second Addition 4451, 4455 & 4475 40th Avenue South**





**Minor Subdivision, Zoning Change from P/I, Public/Institutional to GC, General Commercial and P/I, Public Institutional with a Conditional Overlay & Conditional Use Permit for Residential Use in the GC Zone**

**Southwest Fargo Mission Second Addition 4451, 4455 & 4475 40th Avenue South**





1. The following uses are prohibited:
  - a. Detention Facilities
  - b. Adult Establishments
  - c. Off-Premise Advertising Signs
  - d. Portable Signs
  - e. Self-Service Storage
  - f. Vehicle Repair
  - g. Industrial Service
  - h. Manufacturing and Production
  - i. Warehouse and Freight Movement
  - j. Wholesale Sales
  - k. Aviation / Surface Transportation
2. 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; or glass. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the appearance of wood may be used.
3. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.
4. All building elevations/facades greater than 150 feet in length, measured horizontally from vertical edge to vertical edge, shall incorporate wall plane projections or recesses. Each projection and/or recess shall have a depth of at least two 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 horizontal feet.
5. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60 percent of their horizontal length. If the façade facing the street is not the front, it shall include the same features and/or landscaping in scale with the façade.
6. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view. The average height of parapets shall not exceed one third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance of greater than 150 feet.
7. Loading facilities shall not be located at the front of structures where it is difficult to adequately screen from front view. All loading and service areas shall be screened from the view of adjacent public streets through a structure and/or landscaping.
8. Dumpsters and refuse containers shall be located at the side or rear of buildings and shall be visually screened from adjacent public right-of-way and residential. Dumpster and refuse container enclosures shall contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way or residentially zoned property unless the service opening incorporates a metal gate and/or landscaping to visually screen the dumpster or refuse container.

9. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:
  - a. The primary entrance or entrances to each commercial building, including pad site buildings.
  - b. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
  - c. Parking areas or structures that serve such primary buildings.
  - d. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network.
  - e. Any public sidewalk system along the perimeter streets adjacent to the commercial development.
  - f. Where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings.
10. A minimum of 4.5 percent of the internal surface area of the parking lot shall be landscaped. The cumulative open space (green space) of each lot shall consist of at least 15% of the lot.



Thanks for getting back to me.

Thought I would just send you my concern by email.

The main issue of concern is how ingress and egress will be handled to the property. As you know the 45<sup>th</sup> St and 40<sup>th</sup> Ave intersection is quite busy, particularly during evening drive times (4:00 to 7:00 PM). My property is adjacent to 40<sup>th</sup> Ave, so I am exposed to it quite often. In addition to many vehicles speeding through the intersection, I also witness a back up of traffic headed west on 40<sup>th</sup> Ave. At times, the vehicles are backed up beyond 43<sup>rd</sup> St and on occasion further east to nearly 42<sup>nd</sup> street. As a result, access to this property will be very difficult, at best. Vehicles trying to enter coming from west, will mostly likely cause a hazard to east bound traffic crossing 45<sup>th</sup> Street. As I mentioned this traffic is often above speed limit, which could result in collisions and/or possible blockage of the 45<sup>th</sup> & 40<sup>th</sup> intersection during a busy times.

My other concern would be for access to the property in the event of a fire or emergency. The above issue will definitely affect the access to the property by emergency vehicles. As you probably know, there is a Fire Station on 40<sup>th</sup> Ave, just north of the Hornbachers store. I can attest, there are several fire runs a day that takes their vehicles down 40<sup>th</sup> Ave, which could cause delayed response due to the above issues. These are my thoughts, however I assume the Fire Department has signed off on this change?

Again, thanks for getting back to me and letting me express my concerns,

Tom Kiewel

**From:** [Luke Morman](#)

**Sent:** Monday, October 2, 2023 03:07 PM

**To:** Tom Kiewel

**Subject:** RE: Luke Morman Contact Form

Good afternoon Tom,

The Zoning Change for Southwest Fargo Mission Second Addition is scheduled for the October 16th City Commission meeting. Would there be a good time tomorrow for a phone call to discuss your concerns?

Thank you,

Luke Morman

Planner | Department of Planning & Development

City of Fargo | 225 4th St N | Fargo, ND 58102

[LMorman@FargoND.gov](mailto:LMorman@FargoND.gov) | (701) 476-6751

-----Original Message-----

From: Tom Kiewel

Sent: Sunday, October 1, 2023 4:00 PM

To: Luke Morman <[LMorman@FargoND.gov](mailto:LMorman@FargoND.gov)>

Subject: Luke Morman Contact Form

Name: Tom Kiewel



Question/Comment: As a Nearby Property Owner, I received your letter dated 6/23/2023 regarding Zoning Change for Southwest Fargo Mission Second Addition. I have noticed a few delay in past meetings and am wondering if this is still on the table for the change.

I have several concerns with the project and would appreciate the opportunity to submit them, if this is still active.

Thanks,

Tom Kiewel  
Coventry Drive S

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

416

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
LYING IN SOUTHWEST FARGO MISSION SECOND ADDITION  
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying on the Southwest Fargo Mission Second Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on May 2, 2023; and,

WHEREAS, the rezoning changes were approved by the City Commission on October 16, 2023,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot One (1), Block One (1) of the Southwest Fargo Mission Second Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "P/I", Public and Institutional, District to "GC", General Commercial with a "C-O", Conditional Overlay, District as follows:

1. The following uses are prohibited:
  - a. Detention Facilities
  - b. Adult Establishments
  - c. Off-Premise Advertising Signs
  - d. Portable Signs
  - e. Self-Service Storage
  - f. Vehicle Repair

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

- g. Industrial Service
- h. Manufacturing and Production
- i. Warehouse and Freight Movement
- j. Wholesale Sales
- k. Aviation / Surface Transportation

2. 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; or glass. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the appearance of wood may be used.
3. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.
4. All building elevations/facades greater than 150 feet in length, measured horizontally from vertical edge to vertical edge, shall incorporate wall plane projections or recesses. Each projection and/or recess shall have a depth of at least two (2) feet, and the cumulative total horizontal width of all projections and/or recesses within a façade shall equate to at least an accumulated total of twenty (20) percent of the overall horizontal length of the façade. No uninterrupted length of any façade shall exceed 150 horizontal feet.
5. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than sixty (60) percent of their horizontal length. If the façade facing the street is not the front, it shall include the same features and/or landscaping in scale with the façade.
6. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view. The average height of parapets shall not exceed one-third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance of greater than 150 feet.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

- 1 7. Loading facilities shall not be located at the front of structures where it is difficult to  
2 adequately screen from front view. All loading and service areas shall be screened from  
3 the view of adjacent public streets through a structure and/or landscaping.
- 4 8. Dumpsters and refuse containers shall be located at the side or rear of buildings and shall  
5 be visually screened from adjacent public right-of-way and residential. Dumpster and  
6 refuse container enclosures shall contain permanent walls on three (3) sides with the  
7 service opening not directly facing any public right-of-way or residentially zoned  
8 property unless the service opening incorporates a metal gate and/or landscaping to  
9 visually screen the dumpster or refuse container.
- 10 9. Separate vehicular and pedestrian circulation systems shall be provided. An on-site  
11 system of pedestrian walkways shall be designed to provide direct access and connections  
12 to and between the following:
  - 13 a. The primary entrance or entrances to each commercial building, including pad site  
14 buildings.
  - 15 b. Any sidewalks or walkways on adjacent properties that extend to the boundaries  
16 shared with the commercial development.
  - 17 c. Parking areas or structures that serve such primary buildings.
  - 18 d. Connections between the on-site (internal) pedestrian walkway network and any  
19 public sidewalk system located along adjacent perimeter streets shall be provided  
20 at regular intervals along the perimeter street as appropriate to provide easy access  
21 from the public sidewalks to the interior walkway network.
  - 22 e. Any public sidewalk system along the perimeter streets adjacent to the  
23 commercial development.
  - f. Where practical and appropriate, adjacent land uses and developments, including  
but not limited to residential developments, retail shopping centers, office  
buildings.
10. A minimum of 4.5% of the internal surface area of the parking lot shall be landscaped.  
The cumulative open space (green space) of each lot shall consist of at least 15% of the  
lot.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 2. The following described property:

Lot Two (2), Block One (1) of the Southwest Fargo Mission Second Addition to the  
City of Fargo, Cass County, North Dakota;

that is currently zoned "P/I", Public and Institutional, District, will hereby retain the base zoning of  
"P/I", Public and Institutional, District.

Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his  
office so as to conform with and carry out the provisions of this ordinance.

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

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

(SEAL)

Attest:

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

First Reading:  
Second Reading:  
Final Passage:

*10/2/23 - continue to  
10/14/23 @ 5:15 pm*

NOTICE OF HEARING  
ON SPECIAL ASSESSMENT LIST FOR  
BRIDGE, UTILITIES, PAVING, SHARED PATH  
IMPROVEMENT DISTRICT NO. BN-21-A

42

Notice is hereby given that the Special Assessment Commission has confirmed the special assessment list for installation of Bridge, Utilities, Paving, Shared Path, Improvement District No. BN-21-A, in the City of Fargo, North Dakota; and such confirmed list has been filed with the City Auditor and is now open to public inspection.

The Board of City Commissioners of the City of Fargo, North Dakota will conduct a Public Hearing on such special assessment list in the City Commission Room, City Hall, at 5:15 o'clock p.m. Monday, October 2, 2023.

Any person aggrieved may appeal from the action of the Special Assessment Commission by filing with the City Auditor, prior to this Hearing, a written Notice of Appeal stating therein the grounds upon which the appeal is based. Any person having filed such a Notice may appear before the Board of City Commissioners to present reasons why the action of the Special Assessment Commission should not be confirmed.

When confirmed for collection by the Board of City Commissioners, the listed amounts will become due and payable at the City Auditor's office ten (10) days after approval, and thereafter shall bear interest at a rate not exceeding .75 (three quarter) percent per annum over the net rate on bonds financing said project.

(40-23-13)

City Auditor's Office  
(September 6, 2023)

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Insertion order for Legal Ad Section of the Forum

Please insert the attached notice(s) in the Legal Ad Section of the Forum.

Publication Date: September 6, 2023

Bill to:  
City of Fargo  
Attn: Michelle  
Auditor's Office  
225 North 4th Street  
Fargo, ND 58102

Send one (1) Affidavit.

Questions, call Michelle at 241-1304.

**CITY ATTORNEY**

Nancy J. Morris

**ASSISTANT CITY ATTORNEYS**

Ian R. McLean ▪ Alissa R. Farol ▪ William B. Wischer

October 12, 2023

Board of City Commissioners  
City Hall  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

**Re: Improvement District BN-21-A, Certification of Assessment (Opinion of Legal Counsel)**

Mayor and Commissioners,

At the City Commission meeting on Monday, October 2, 2023, a citizen protested the assessment pertaining to Improvement District BN-21-A (Item 47 (c))- New Bridge, Underground Utilities, Paving, Shared Use Path, and Structure Incidentals. There was some confusion at the time of the meeting as to the basis for his protest, including a discussion of whether his property had been annexed and the availability of a deferral for the assessment. After further consideration and internal discussion, it was determined that the basis for the protest is the citizen's assertion that there could be no assessment for the bridge structure because the bridge spans the interstate, and that the interstate right of way is not yet part of the City and therefore the project was not "within the municipality" as required in accordance with North Dakota Century Code § 40-22-01(2). There is no protest to the fact that the bridge structures are within the municipality, but simply that that portion that goes over the interstate, including the center brace, is not "within the municipality," and therefore the entire bridge is not able to be assessed.

While I can understand and appreciate the nuanced argument raised, I have not been able to find any case law or statutory interpretation that supports this position. North Dakota Cent. Code §40-22-01 specifically provides that municipalities may defray the expense of "the following types of improvement by special assessments: 2. The improvement of the municipal street system and any part thereof, ...or public place within the municipality, ... ." The bridge starts and ends within the municipality and is therefore a public space within the municipality. The bridge is a necessary and integral part of the municipal street system for which the use of special assessment financing is authorized by statute. Further, the highway right of way is not subject to assessment in accordance with North Dakota Cent. Code § 40-23-22 ("Real estate within municipalities of this state owned by the state of North Dakota, other than for highway right-of-way purposes, may be subjected to special assessment ... .") and is therefore exempt from the special assessment determination altogether under these circumstances. It logically



Board of City Commissioners  
October 12, 2023  
Page 2

follows then that the bridge itself is within the municipality. Further, there are both Federal and State funds being used in the financing of this improvement, significantly reducing the individual property owner's assessment; arguably to the extent that the portion over the right of way is paid for by separate funds and is not in fact being special assessed.

To accept the protester's position would eliminate the municipalities' ability to special assess bridge projects over the highway when the land on both sides of the highway has been properly assessed- an untenable outcome. Rather, practical application of the statutes dictates that the municipal street system be permitted to continue contiguously, and to the extent that any property is not annexed the amount of benefit would be assessed at the time of annexation, in accordance with North Dakota Cent. Code § 40-23-19 ("Any property that was outside the corporate limits of the municipality at the time of contracting for an improvement, which is benefited by the improvement and is subsequently annexed to the municipality, may be assessed for the improvement subject to the same conditions and by the same procedure as provided in section 40-23-18.")

To the best of my knowledge, all proper procedures and notices have been complied with, and I am recommending a denial of the protest and certification of the project.

Please feel free to contact me if you have any questions, comments, or concerns. It is my understanding the project will again be placed on the Agenda for public hearing at the next City Commission meeting for final decision.

Regards,

A handwritten signature in black ink, appearing to read "Nancy J. Morris", with a long, sweeping horizontal stroke extending to the right.

Nancy J. Morris

cc: Thomas Knakmuhs  
Dan Eberhardt



43

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## Memorandum

DATE: October 16, 2023  
TO: Mayor Mahoney and Board of City Commissioners  
FROM: Shawn Ouradnik, Inspections Director  
SUBJECT: Dangerous Building Notice and Order at 924 7 ST N FARGO ND 58102

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The property owner of 924 7 ST N FARGO ND 58102, Fargo ND, has failed to comply with the order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-0405, a hearing date is scheduled for October 16, 2023.

Commission action requires a 10 day allowance for action per Article 21-0405.E.  
Article 21-0406 also allows court action if that is the course the commission chooses to take.  
Article 21-0412 is allowance for Owner appeal to City Commission action.

The recommendation is to **designate this a dangerous building, direct the City Attorney to prepare findings of fact in this matter, and order its removal on December 15, 2023. Please direct the appropriate staff to secure the removal of this building should the owner fail to do so.**

# Fargo Inspections

City of Fargo  
225 4th Street North  
701-241-1561  
701-476-6779 fax



## NOTICE OF DANGEROUS BUILDING

TO: FM Property Pros II LLC  
924 7 St N, Fargo ND 58102

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.
2. That the building with which this Notice is concerned is commonly known as 924 7 St N, and is located on that tract of land in the city of Fargo, more particularly described as follows:  
**Harwoods 2<sup>nd</sup> Addition, Block 16, East 100 feet of lot 5**  
(hereinafter referred to as "the building")
3. That an inspection was made of the building on 5/30/23 by Bill Thompson, Building Inspector of the City of Fargo.
4. That the building inspector for the City of Fargo has found the building, consisting of a One and ½ story, wood-framed structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and the International Property Maintenance Code, Section 111 concerning Dangerous Structures.
5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with.  
Source: 1952 Rev. Ord. 21-0404.
6. That the owner of the building must demolish the building within 30 days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.
7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

**Conditions Found Statement**

On 5/30/23, Building Inspector Bill Thompson, was present at 924 7 St N, Fargo, ND to address a complaint inspection. The following violations were found:

- Multiple windows and doors are boarded up
- Broken windows
- North entry door is kicked in and unsecure
- Large amounts of overgrowth around building
- Citizen complaints of squatter activity

The following action must be taken:

- Provide engineering on all systems and obtain a permit to repair and make repairs by permit deadline -or-
- Demolish the structure within the deadline provided in this notice.

---

Bill Thompson  
Building Inspector  
City of Fargo, ND

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Shawn Ouradnik  
Inspections Director

---

Date Signed



## Shipment Confirmation Acceptance Notice

### A. Mailer Action

**Note to Mailer:** The labels and volume associated to this form online, **must** match the labeled packages being presented to the USPS® employee with this form.

Shipment Date: 06/02/2023

Shipped From:

Name: CITY OF FARGO

Address: 225 4TH ST N

City: FARGO

State: ND ZIP+4® 58102

Type of Mail	Volume
Priority Mail Express®	
Priority Mail®	0
First-Class Package Service®	
Returns	
International*	
Other	1
Total	1

\*Start time for products with service guarantees will begin when mail arrives at the local Post Office™ and items receive individual processing and acceptance scans.

### B. USPS Action

Note to RSS Clerk:

1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

USPS EMPLOYEE: Please scan upon pickup or receipt of mail.  
Leave form with customer or in customer's mail receptacle.

USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0044 8276 86



## Firm Mailing Book For Accountable Mail

Name and Address of Sender  
CITY OF FARGO  
225 4TH ST N  
FARGO ND 58102

Check type of mail or service	
<input type="checkbox"/> Adult Signature Required	<input type="checkbox"/> Priority Mail Express
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail
<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation
<input type="checkbox"/> Collect on Delivery (COD)	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Insured Mail	
<input type="checkbox"/> Priority Mail	

**Affix Stamp Here**  
(for additional copies of this receipt).  
**Postmark with Date of Receipt.**

USPS Tracking/Article Number

Addressee (Name, Street, City, State, & ZIP Code <sup>736</sup>)

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Handling Charge - if Registered and over \$50,000 in value

Adult Signature Required

Adult Signature Restricted Delivery

### Restricted Delivery

Return Receipt

Signature Confirmation

Signature Confirmation Restricted Delivery

Special Handling

Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office
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Postmaster, Per (Name of receiving employee),

**Complete in Ink**

**Privacy Notice:** For more information on USPS privacy policies, visit [usps.com/privacypolicy](https://usps.com/privacypolicy).



## Confirmation Services Certification

### COMPANY INFORMATION

Company Name

City of Fargo

Address (Number, street, suite no., city, state, and ZIP Code™)

225 4th St N

Fargo ND 58102

Mailer Identification (MID)\* \*MID is a unique 6- or 9-digit number that identifies the mailer or the mailer's client. A conforming MID is a six-digit MID beginning with 0-8 or a nine-digit MID beginning with 9.

### ELECTRONIC FILE

The electronic file submitted by the company shown above has been certified by the National Customer Support Center (NCSC) to be complete and accurate in both content and transmission and to meet the requirements as defined in Publication 199, *Intelligent Mail Package Barcode (IMpb) Implementation Guide for: Confirmation Services and Electronic Verification System (eVS) Mailers*.

Authorized NCSC Signature

Date Signed

### BARCODED LABELS

The barcoded labels printed and submitted by the company shown above have been certified by the NCSC to meet the standards and specifications as prescribed in Publication 199 and the appropriate ANSI or AIM published standards.

Authorized NCSC Signature

Date Signed

### INSTRUCTIONS FOR MAILER

Keep the original of this form in a safe place and provide a copy to your local USPS® facility if requested. Shipments included in Service Performance Measurement should submit a PS Form 3152 with each mailing. In the space below, place a GS1-128 barcode representing the Electronic File Number from the Header Record. If you cannot print the barcode, fill in the sequence numbers and check digit (the digits that follow the MID) from your Electronic File Number. This information is in the Header Record of the electronic file.

IMpb barcodes are required for all tracking numbers effective 1/27/2013. Valid Application Identifiers (AI): IMpb barcode AI "92" uses a 9-digit Mailer ID for commercial permit payment mailers. IMpb barcode "93" uses a 6-digit Mailer ID for commercial permit payment mailer. IMpb barcode "94" is used for online and meter mailers. Legacy barcode AI "91" will continue to be accepted for a limited time with an approved exception or waiver.

Place the barcode here or write the serial number and check digit of the electronic file in the spaces provided.



92750901193562000044827686

### Confirmation Services Electronic File Number

**92/93	750	901193562	00004482768	6	
AI	STC	Mailer ID	Serial Number	Check Digit	
94					
AI	STC	Source Identifier	Mailer ID	Serial Number	Check Digit

\*\*91 can be used if approved for exception.

### INSTRUCTIONS FOR ACCEPTANCE EMPLOYEE

If mailings are presented under an authorized manifest mailing system, verify payment of postage and fees, where applicable, using standard sampling procedures for pieces with special services. In addition, check the barcode formatting for the following:

1. Horizontal bars above and below the barcode.
2. Human-readable numbers below the barcode.
3. Depending on the product used, the words "USPS TRACKING #", "USPS SIGNATURE TRACKING #", "USPS CERTIFIED MAIL", or product specific found in Publication 199 based on the service type code.
4. For Electronic Verification System, (eVS) or "e-VS" should be included either before or after the service banner text. For example: "eVS USPS TRACKING", "USPS TRACKING eVS", "e-VS USPS TRACKING", and "USPS TRACKING e-VS."

Date and Time of Verification

Date and Time of Mailing (if different from date of verification)



## AFFIDAVIT OF SERVICE

[illegible]

**Re: Posting of Dangerous Building Notice – 924 7 St N**

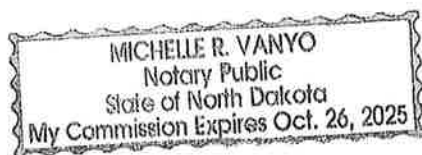
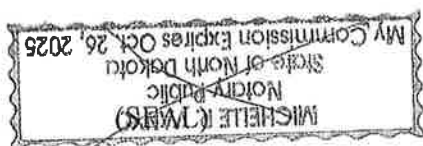
Bill Thompson, being first duly sworn and being of legal age, deposes and says that on the 2<sup>nd</sup> day of June 2023, he posted the attached notice upon the front of the building located at the following address:

924 7 St N  
Fargo, ND 58102

  
Bill Thompson

Subscribed and sworn to before me this 2 day of June 2023.

*Michelle R Vanzo*  
Notary Public  
Cass County, North Dakota



**Re: Notice of Dangerous Building**



**AFFIDAVIT OF SERVICE BY CERTIFIED MAIL**


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

**Re: Notice of Dangerous Building Hearing– Order to Show Cause**  
**924 7 St N, Fargo, ND 58102**  
**CM Receipt#: 9214 8901 9403 8317 6730 50**

Michelle Lemar, being first duly sworn and being of legal age, deposes and says that on the 2<sup>nd</sup> day of June 2023, she served the attached notice, upon 924 7 St N, by placing true and correct copies thereof in an envelope addressed as follows:

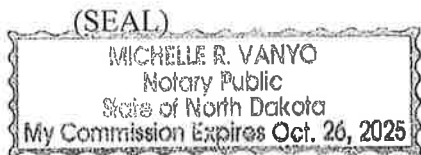
FM Property Pros II LLC  
924 7 St N  
Fargo, ND 58102

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.

  
\_\_\_\_\_  
Michelle Lemar

Subscribed and sworn to before me this 2 day of June 2023.

  
\_\_\_\_\_  
Notary Public  
Cass County, North Dakota



**AFFIDAVIT OF SERVICE BY REGULAR MAIL**

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

**Re: Notice of Dangerous Building**

Michelle Lemar, being first duly sworn and being of legal age, deposes and says that on the 2<sup>nd</sup> day of June 2023, she served the attached notice, upon 924 7 St N, by placing true and correct copies thereof in envelopes addressed as follows:

FM Property Pros  
225 Chestnut Dr  
Horace, ND 58047

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, regular mail.

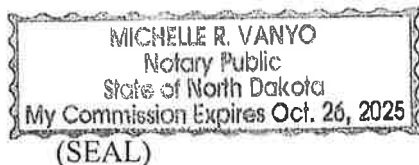


Michelle Lemar

Subscribed and sworn to before me this 2 day of June 2023.



Notary Public  
Cass County, North Dakota



City of Fargo  
225 4th St N  
Fargo ND 58102

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USPS CERTIFIED MAIL



9214 8901 9403 8317 6730 50

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FM PROPERTY PROS II LLC  
924 7TH ST N  
FARGO ND 58102-3604

# Fargo Inspections

City of Fargo  
225 4th Street North  
701-241-1561  
701-476-6779 fax



## NOTICE OF DANGEROUS BUILDING

TO: FM Property Pros II LLC  
924 7 St N, Fargo ND 58102

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.
2. That the building with which this Notice is concerned is commonly known as 924 7 St N, and is located on that tract of land in the city of Fargo, more particularly described as follows:  
**Harwoods 2<sup>nd</sup> Addition, Block 16, East 100 feet of lot 5**  
(hereinafter referred to as "the building")
3. That an inspection was made of the building on 5/30/23 by Bill Thompson, Building Inspector of the City of Fargo.
4. That the building inspector for the City of Fargo has found the building, consisting of a One and ½ story, wood-framed structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and the International Property Maintenance Code, Section 111 concerning Dangerous Structures.
5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.
6. That the owner of the building must demolish the building within 30 days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.
7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Property Maintenance Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International property maintenance code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 111.8 of the International Property Maintenance Code, 2021 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 2nd day of June, 2023.

11. **Order to secure building by 6/7/23.** The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance. **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

12. Application for Appeal. Section 108 of the International Property Maintenance Code states that any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on the claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Dated this 2nd day of June, 2023.



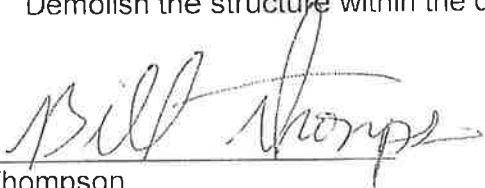
Conditions Found Statement

On 5/30/23, Building Inspector Bill Thompson, was present at 924 7 St N, Fargo, ND to address a complaint inspection. The following violations were found:

- Multiple windows and doors are boarded up
- Broken windows
- North entry door is kicked in and unsecure
- Large amounts of overgrowth around building
- Citizen complaints of squatter activity

The following action must be taken:

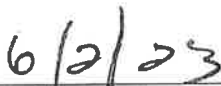
- Provide engineering on all systems and obtain a permit to repair and make repairs by permit deadline -or-
- Demolish the structure within the deadline provided in this notice.



Bill Thompson  
Building Inspector  
City of Fargo, ND



Shawn Ouradnik  
Inspections Director



Date Signed



---

## Memorandum

DATE: October 2, 2023  
TO: Mayor Mahoney and Board of City Commissioners  
FROM: Shawn Ouradnik, Inspections Director  
SUBJECT: Dangerous Building Notice and Order at 924 7 St N, Fargo, ND 58102

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The property owner of 924 7 St N, Fargo, ND 58102 FM Property Pros II LLC, have failed to comply with the order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-04, it will now be necessary for you to set a date for a hearing of this order at which time the property owner will be able to appear and show cause why the building should not be removed and the costs of that removal assessed against this property.

The recommendation is **to make a motion, in accordance with FMC Article 21-0405, to set 5:15 pm Monday, October 16, 2023 as the time and date for the hearing regarding the dangerous building order for the structure at 924 7 St N, Fargo, ND 58102.**



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## **Notice of Dangerous Building Hearing – Order to Show Cause**

---

**Date: October 3, 2023**

**Location: 924 7 ST N FARGO ND 58102**  
**Property Owner: FM PROPERTY PROS II LLC**  
**Address of Property Owner: 924 7 ST N FARGO ND 58102**

**Inspector: Bill Thompson**  
**Date of Posting: 10/03/2023**

**Ordinance 21-0405 of the Fargo Municipal Code states:**

**The board of city commissioners shall:**

**A. Upon receipt of a report of the building inspector as provided for in § 21-0404, subsection (F) give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a “dangerous building: should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector(s) notice provided for herein in § 21-0404, subsection (E).**

**B. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the “dangerous building.”**

**A hearing regarding the dangerous building located at 924 7 ST N FARGO ND 58102 has been scheduled for, Monday October 16, 2023 at 5:15 PM. The hearing will take place in the City Commission Chambers, located at 225 4th Street N., Fargo, ND 58102.**

**Any interested person or party is encouraged to attend.**

**Dated on this October 3, 2023.**

---

**Shawn Ouradnik**  
**Inspections Director**













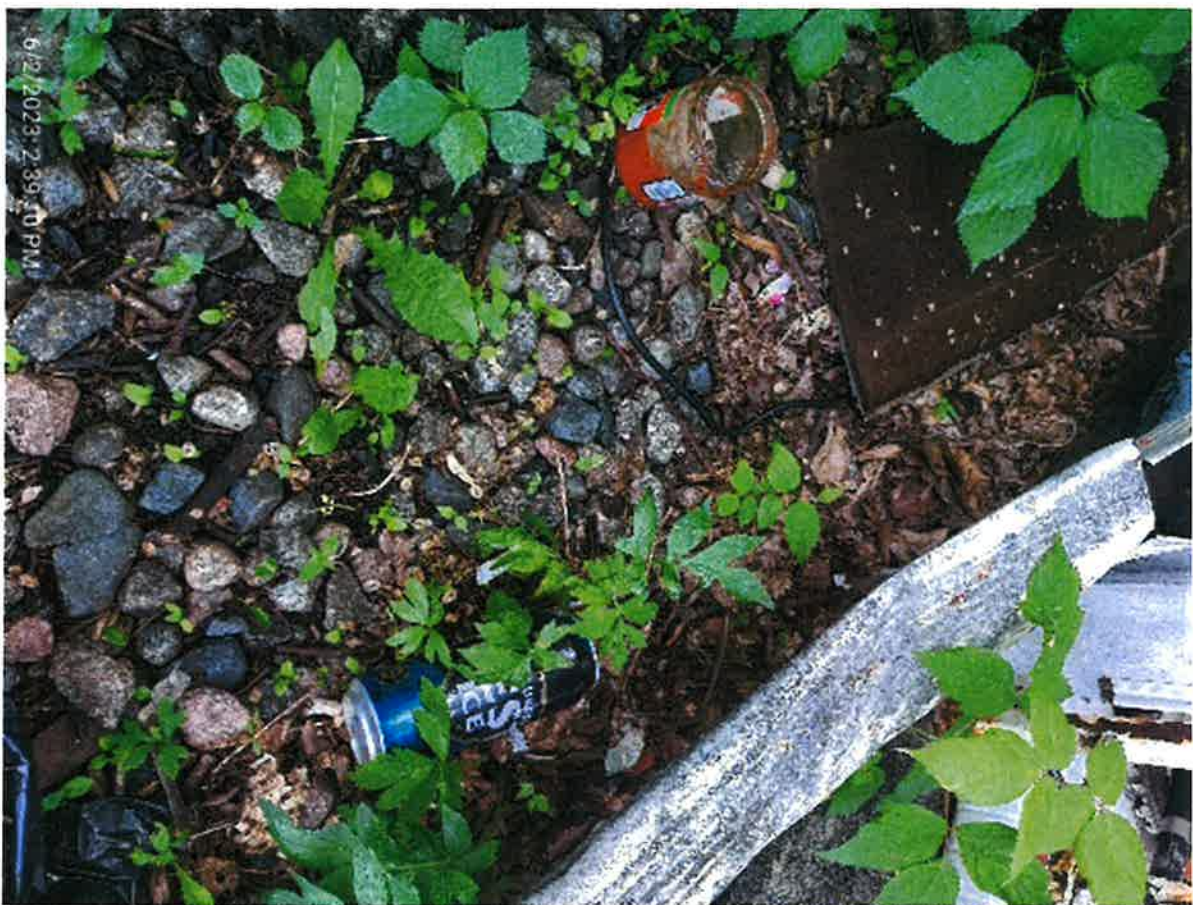












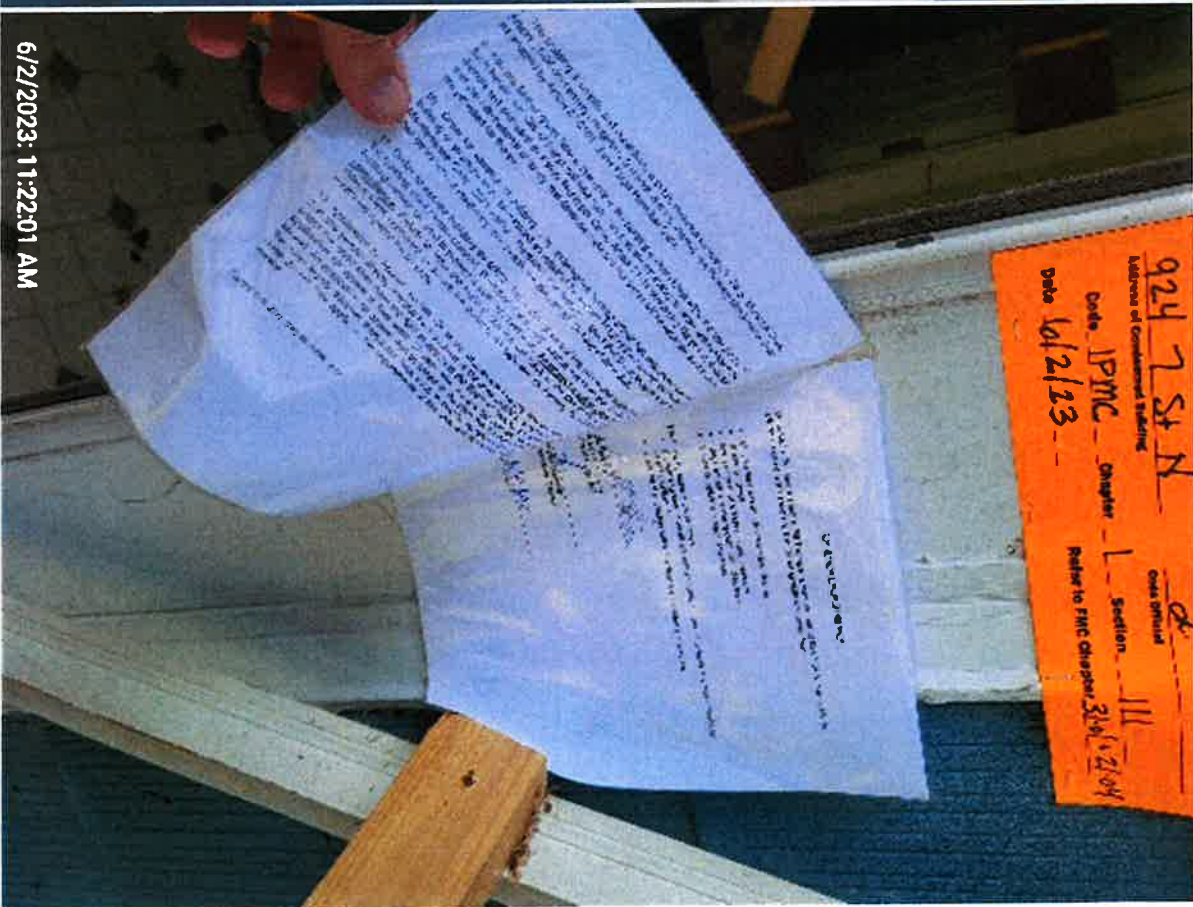
















6/2/2023: 2:36:37 PM

**DANGER**

**This Structure Is Unsafe and Its  
Occupancy Has Been Prohibited by the  
Code Official. It Is Unlawful For Any  
Person To Enter Or Occupy This Building  
After 6/2/23**

**Any Person Removing This Sign  
WILL BE PROSECUTED.**

Address of Contaminated Building 924 7 St N Code Official Q.

Code IFMC Chapter 1 Section III

Date 6/2/23 Refer to IFMC Chapter 3/6/1+24-04



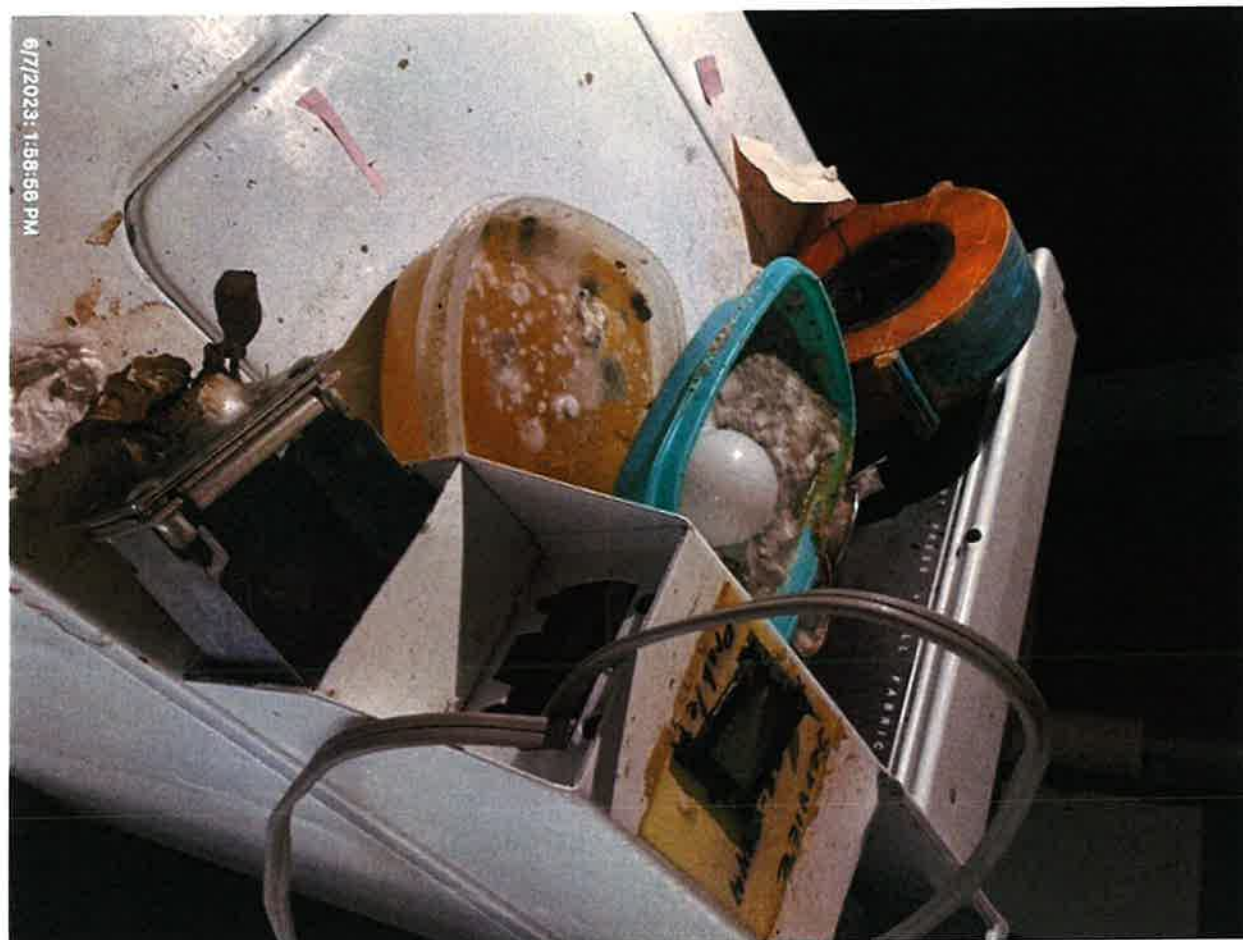




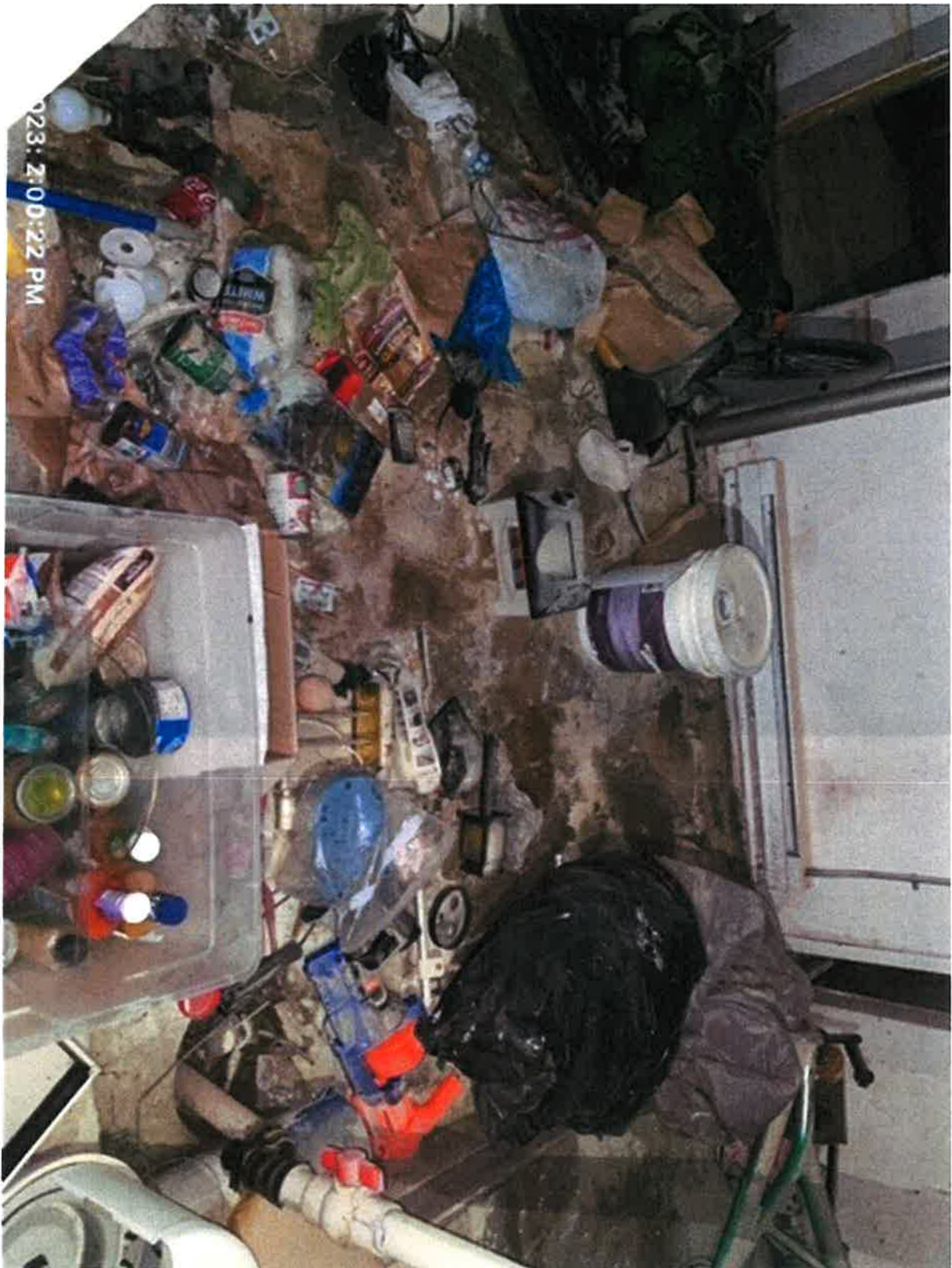


















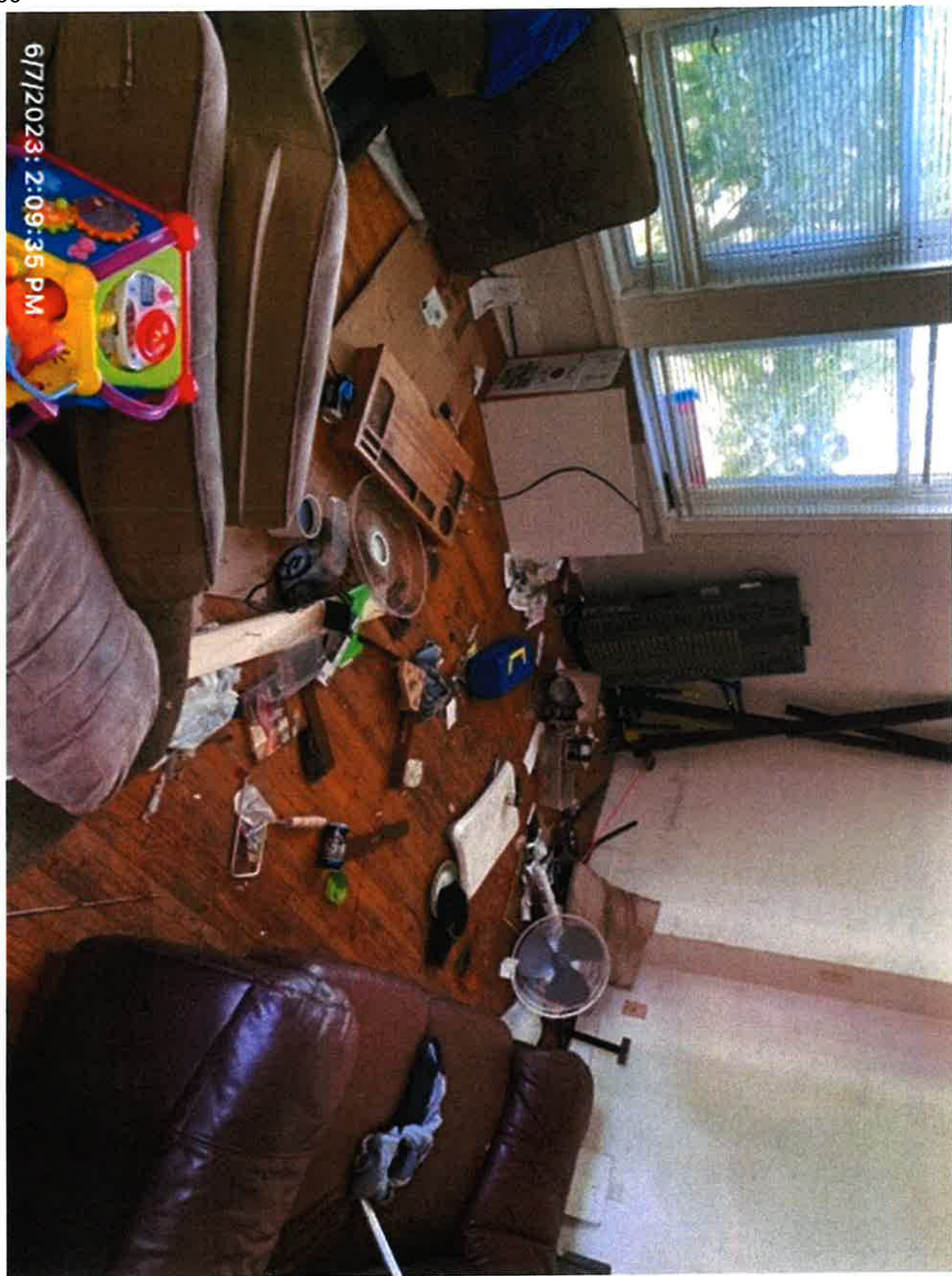


















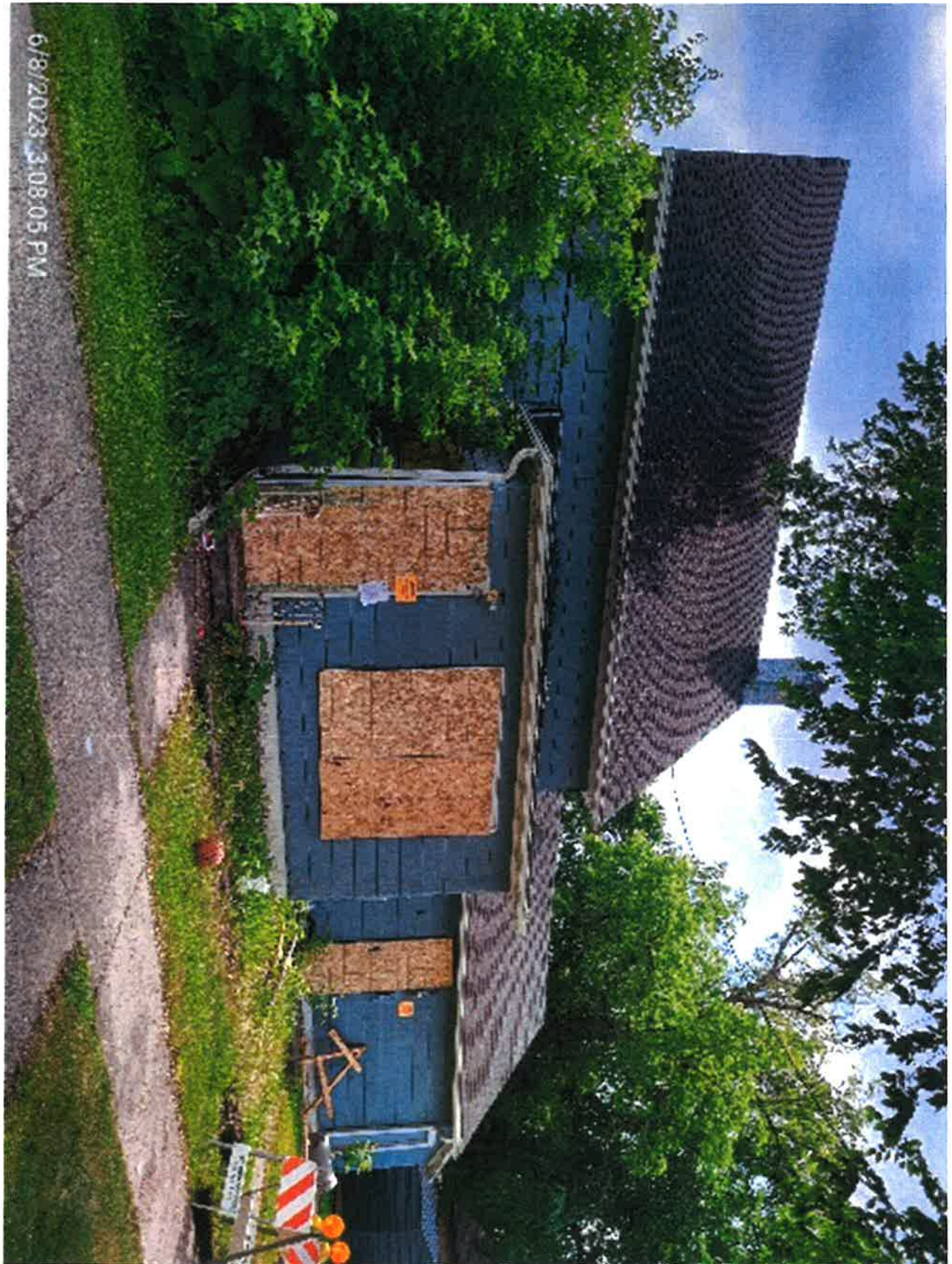












6/8/2023 3:08:05 PM















CERTIFIED MAIL

USPS CERTIFIED MAIL



9214 8901 9403 8317 6730 50

*VAE*

City of Fargo  
225 4th St N  
Fargo ND 58102

FM PROPERTY PRO.  
924 7TH ST N  
FARGO ND 58102-36

58102-3604



City of Fargo  
225 4th St N  
Fargo ND 58102

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USPS CERTIFIED MAIL



9214 8901 9403 8317 6730 50

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FM PROPERTY PROS II LLC  
924 7TH ST N  
FARGO ND 58102-3604

# Fargo Inspections

City of Fargo  
225 4th Street North  
701-241-1561  
701-476-6779 fax



## NOTICE OF DANGEROUS BUILDING

TO: FM Property Pros II LLC  
924 7 St N, Fargo ND 58102

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.
2. That the building with which this Notice is concerned is commonly known as 924 7 St N, and is located on that tract of land in the city of Fargo, more particularly described as follows:  
**Harwoods 2<sup>nd</sup> Addition, Block 16, East 100 feet of lot 5**  
(hereinafter referred to as "the building")
3. That an inspection was made of the building on 5/30/23 by Bill Thompson, Building Inspector of the City of Fargo.
4. That the building inspector for the City of Fargo has found the building, consisting of a One and ½ story, wood-framed structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and the International Property Maintenance Code, Section 111 concerning Dangerous Structures.
5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.
6. That the owner of the building must demolish the building within 30 days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.
7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Property Maintenance Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International property maintenance code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 111.8 of the International Property Maintenance Code, 2021 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 2nd day of June, 2023.

11. **Order to secure building by 6/7/23.** The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance. **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

12. Application for Appeal. Section 108 of the International Property Maintenance Code states that any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on the claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Dated this 2nd day of June, 2023.



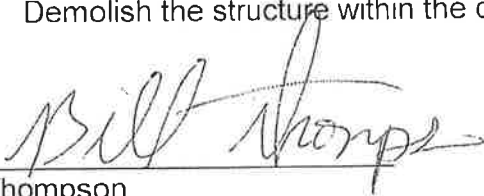
Conditions Found Statement

On 5/30/23, Building Inspector Bill Thompson, was present at 924 7 St N, Fargo, ND to address a complaint inspection. The following violations were found:

- Multiple windows and doors are boarded up
- Broken windows
- North entry door is kicked in and unsecure
- Large amounts of overgrowth around building
- Citizen complaints of squatter activity

The following action must be taken:


- Provide engineering on all systems and obtain a permit to repair and make repairs by permit deadline -or-
- Demolish the structure within the deadline provided in this notice.



Bill Thompson  
Building Inspector  
City of Fargo, ND



Shawn Ouradnik  
Inspections Director



Date Signed

THORSTEINSON &amp; SONS CONSTRUCTION, L.L.P.

4015 47TH STREET NORTH  
 FARGO, ND 58102-6903  
 (701) 282-0523 Fax 277-5793

**Invoice**

DATE	INVOICE #
8/24/2023	19556

**BILL TO**

City of Fargo  
 Finance Dept  
 P.o. Box 1607  
 Fargo, ND 58107

*inspections*

Mastercard, Visa &amp; Discover Accepted

**JOB NUMBER****TERMS**

2023-02

Net 10

DATE	DESCRIPTION	AMOUNT
6/7/23	As per Mike report Attached For 924 7th St N Fargo 8 @70	560.00
	Material 15 Sheets of OSB with tax	300.00
	Anchors	5.00
Thank you!		<b>Total</b>
<i>Marlene Thorsteinson</i>		\$865.00

Interest charged at the rate of 1.5% per month (18 % per annum) on balance of this account not paid in 30 days

JOB NAME City of Fargo  
 JOB NO. \_\_\_\_\_  
 ADDRESS 924 7th St. N  
Fargo ND  
 SUPERVISOR \_\_\_\_\_

①

## DAILY JOB REPORT

DATE June 7 <sup>Week 23</sup> WEATHER \_\_\_\_\_  
 TEMPERATURE \_\_\_\_\_ AM \_\_\_\_\_ PM \_\_\_\_\_

EMPLOYEES

MATERIAL

EQUIPMENT

CONT.

EMPLOYEE / CLASSIFICATION	RATE	HRS.	WORK PERFORMED
Mike		2	Repl up windows
Dale		2	and doors on ground
Tray		2	level of home garage
Lady		2	

QTY.	MATERIAL RECEIVED	QTY.	MATERIAL USED

ON PROJECT	HRS.	RENTED	RATE	HRS.

NAME	WORK PERFORMED





City of Fargo, North Dakota  
**General Fund - Budget to Actual**  
 Unaudited Monthly Financial Statements - Through September 30, 2023  
 Amounts shown in thousands

(44)

	YTD Budget	YTD Actual	YTD Variance
<b>REVENUES:</b>			
<b>1</b> Taxes	\$ 39,230	\$ 38,361	\$ (868)
Licenses & Permits	5,018	5,082	65
<b>2</b> Intergovernmental Revenue	15,857	13,182	(2,675)
<b>3</b> Charges for Services	9,346	12,200	2,854
<b>4</b> Fines & Traffic Tickets	1,700	1,126	(573)
<b>5</b> Interest	2,190	5,227	3,037
<b>6</b> Miscellaneous Revenue	3,328	487	(2,841)
<b>7</b> Transfers In	10,791	9,987	(804)
<b>Total Revenues</b>	<b>\$ 87,460</b>	<b>\$ 85,652</b>	<b>\$ (1,805)</b>
<b>EXPENDITURES:</b>			
<b>8</b> General Government	\$ 19,897	\$ 18,993	\$ 904
<b>9</b> Public Safety	36,624	34,982	1,642
<b>10</b> Public Works	11,249	11,056	193
<b>11</b> Health & Welfare	11,171	10,465	707
<b>12</b> Culture & Recreation	4,319	3,910	408
<b>13</b> Economic Development	429	210	220
<b>14</b> General Support	1,040	1,052	(12)
<b>15</b> Capital Outlay	444	120	324
Operating Transfers	3,830	3,695	135
<b>16</b> Contingency (Salary Savings)	(1,634)	54	(1,688)
<b>Total Expenditures</b>	<b>\$ 87,369</b>	<b>\$ 84,537</b>	<b>\$ 2,832</b>
<b>Revenue Over (Under) Expenditures</b>	<b>\$ 91</b>	<b>\$ 1,115</b>	<b>\$ 1,024</b>

- 1** Property Tax & Franchise Fees revenue - trending lower than budget.
- 2** State Aid revenue below budget - additional Legacy Highway Distribution pending.
- 3** Special Assessment CIP fee revenue - higher City-wide building activity.
- 4** Lower Municipal Court & Parking Fines
- 5** Higher earnings with interest rate environment.
- 6** Budget included asset sale which won't likely occur.
- 7** Budget included transfer from Debt Service Fund, but we have no maturing RIBs in 2023.
- 8-15,16** Primarily net salary savings due to vacant positions; some offset w/ OT. Net savings \$2 million

City of Fargo, North Dakota  
**General Fund - 2023 Year End Projections**  
 As of September 30, 2023  
 Amounts shown in thousands

	YTD 2023 Actual	4Q 2023 Estimates	YE 2023 Projections
<b>REVENUES:</b>			
<b>1</b> Taxes	\$ 38,361	\$ 3,394	\$ 41,755
Licenses & Permits	5,082	2,025	7,107
<b>2</b> Intergovernmental Revenue	13,182	7,928	21,110
<b>3</b> Charges for Services	12,200	6,679	18,879
<b>4</b> Fines & Traffic Tickets	1,126	49	1,175
<b>5</b> Interest	5,227	1,630	6,857
<b>6</b> Miscellaneous Revenue	487		487
<b>7</b> Transfers In	9,987	2,130	12,117
<b>Total Revenues</b>	<b>\$ 85,652</b>	<b>\$ 23,835</b>	<b>\$ 109,487</b>
<b>EXPENDITURES:</b>			
<b>8</b> General Government	\$ 18,993	\$ 3,883	\$ 22,876
<b>9</b> Public Safety	34,982	9,850	44,832
<b>10</b> Public Works	11,056	3,171	14,227
<b>11</b> Health & Welfare	10,465	3,461	13,926
<b>12</b> Culture & Recreation	3,910	1,163	5,073
<b>13</b> Economic Development	210	143	353
<b>14</b> General Support	1,052	171	1,223
<b>15</b> Capital Outlay	120	203	323
Operating Transfers	3,695	2,472	6,167
<b>16</b> Contingency (Salary Savings)	54		54
<b>Total Expenditures</b>	<b>\$ 84,537</b>	<b>\$ 24,517</b>	<b>\$ 109,054</b>
<b>Revenue Over (Under) Expenditures</b>	<b>\$ 1,115</b>	<b>\$ (682)</b>	<b>\$ 433</b>

Related budget adjustments will be presented at November 13th City Commission meeting.

- 1** Increase Franchise Fees for Nov/Dec; adjust Prior Year and Delinquent Tax payments to trend.
- 2** Adjust State Aid for anticipated net receipts. Highway Funds Legacy payment anticipated prior to year end.
- 3** Special Assessment CIP fee revenue - higher City-wide building activity.
- 4** Lower Municipal Court & Parking Fines
- 5** Higher earnings with interest rate environment.
- 6** Budget included asset sale which won't likely occur.
- 7** Budget included transfer from Debt Service Fund, but we have no maturing RIBs in 2023.
- 8-15,16** Primarily net salary savings due to vacant positions; some offset w/ OT. Net savings \$2 million.

**Disclaimers/Wildcards:**


- Assumes "normal" winter.
- Assumes receipt of ND Highway Funds Legacy Payment.
- Assumes receipt of grant revenues.
- Does not reflect any estimate for unrealized gain/loss on investments.



45a

MEMORANDUM

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: MAYOR TIMOTHY J. MAHONEY** 

**DATE: OCTOBER 16, 2023**

**SUBJECT: APPOINTMENT TO THE ECONOMIC DEVELOPMENT INCENTIVES COMMITTEE**

Jim Buus has served on the Economic Development Incentives Committee for many years and has recently resigned his position.

Attached you will find an application for Erik Barner. Mr. Barner is willing to serve and I am, therefore, recommending his appointment.

Your favorable consideration of this recommendation will be greatly appreciated.

**RECOMMENDED MOTION:** Approve the appointment of Erik Barner as a member of the Economic Development Incentives Committee.

**James Gilmour**

---

**From:** no reply  
**Sent:** Wednesday, May 25, 2022 9:25 AM  
**To:** Commissions Applications  
**Subject:** New Form Submission: Getting involved in government

**Name:** [Erik Barner]

**Mailing Address:** [REDACTED]

**City:** [Fargo]

**State:** [North Dakota]

**Zip:** [58104]

**Work Phone:** [REDACTED]

**Home Phone:** [REDACTED]

**E-mail:** [REDACTED]

**Which boards or commissions would you like to be considered for?** [Economic Development Incentives Committee]

**Briefly state why you would like to be on this panel:** [The majority of my professional career has been spent as an investor in companies of varying stage and size, both public and private, and through the capital structure. I have extensive experience and also enjoy the evaluation and structuring of transactions from a legal and tax perspective. I understand the power of these City incentives to stimulate private investment and believe that by serving on the Economic Development Incentives Committee I could assist and advance the Committee's mission.]

**How many hours per month could you volunteer as a panel member?** [I would be able to volunteer for the meetings as well as all requisite preparation for those meetings and any ad hoc assistance where I can support the Committee and City.]

**Please list any past experience you have with city government here or in other cities:** [While I do not have any city government experience, I do have extension board and governance experience. Additionally, I have served on the North Dakota Development since January 2021 which provides loans and equity investments to primary sector businesses targeting new or expanding businesses within the state.]

**Please describe any professional experience you have related to the responsibilities of the panel you are interested in:** [My career has been spent as an investor in both public and private companies of varying size and scale. I have a significant amount of experience invested in due diligence and analysis of companies and industries. Additionally, I have spent and spend time on maintenance of a portfolio of investments. I believe my professional experience would compliment both the other Committee members and the mission of the Economic Development Incentives Committee.]

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

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**Denise Kolpack, City Commissioner**  
Fargo City Hall  
225 4th Street North  
Fargo, ND 58102-4817  
Phone: 701.715-4895 | Fax: 701.476.4136  
[www.FargoND.gov](http://www.FargoND.gov)

## MEMORANDUM

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: COMMISSIONER DENISE KOLPACK** 

**DATE: OCTOBER 16, 2023**

**SUBJECT: FARGO YOUTH INITIATIVE (FYI)**

Since its inception in 2012 the Fargo Youth Initiative (FYI) have met monthly (sometimes more) to discuss opportunities and issues facing young people in our community. These smart, caring and committed young leaders represent the public and private schools in Fargo.

Below you will find a list of interested participants for this year. They were selected using the four values as criteria: Leadership, Teamwork, Responsibility and Drive to Improve the Community. I am recommending they be appointed as the Fargo Youth Initiative members for the 2023-2024 academic year.

I appreciate your support of the Fargo Youth Initiative and the inclusion of new and young voices in the public process.

**RECOMMENDED MOTION:** To appoint the following to serve as Fargo Youth Initiative members for the 2023-2024 academic school year.

Returning Members: Abhijna Kavasseri (North-12), Madeline Abbott (Shanley-12), Jadyn Chakua (North-11), Patrick Shen (Davies-12), Angel Mochage (Davies-12)

New Members: Ava Martin (South-11), Koral Siegel (South-9), McKenzie Lynn Olson (North-11), Kallie Andersen (Davies-11), Steph Kramer (South-11), Abigail Hamilton (Davies-9), Isabella Meyer (North-10)