

FARGO PLANNING COMMISSION AGENDA  
Tuesday, October 1, 2019 at 3:00 p.m.

A: Approve Order of Agenda

B: Minutes: Regular Meeting of September 3, 2019

C: Brown Bag Luncheon - Wednesday, October 16, 2019

D: Public Hearing Items:

1. Continued hearing on an application requesting a Conditional Use Permit to allow for non-farm commercial uses in the Agricultural zoning district on a portion of the West half of the Southeast quarter of **Section 14, Township 138 North, Range 49 West**. (Located at 2805 88th Avenue South) (Eric Baker) (dk): CONTINUED TO NOVEMBER 5, 2019
2. Continued hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential on Lots 1-7, Block 1, **Timber Creek Third Addition**. (Located at 3431, 3445, 3457, 3469, 3483, 3495, and 3509 47th Avenue South) (Dabbert Custom Homes, LLC/ PLC Investments) (dk)
3. Hearing on an application requesting a Zoning Change from DMU, Downtown Mixed Use with a C-O, Conditional Overlay to DMU, Downtown Mixed Use and a request to repeal the C-O, Conditional Overlay on Lot 1, Block 7, **Harwoods First Addition**. (701 University Drive North and 702 12th Street North) (701 Collective/Chris Hawley) (kb)
4. Hearing on an application requesting a Plat of **Commerce on 12th Fifth Addition** (Minor Subdivision) a replat of Lots 4-5, Block 1, Commerce on 12th Third Addition, to the City of Fargo, Cass County, North Dakota. (Located at 5570 and 5590 13th Avenue North) (Fargo Commercial Properties/ PRG) (dk): CONTINUED TO NOVEMBER 5, 2019
5. Hearing on an application requesting a Plat of **West 29 Seventh Addition** (Minor Subdivision) a replat of Lot 1, Block 1, West 29 Fourth Addition, to the City of Fargo, Cass County, North Dakota. (Located at 4180 24th Avenue South and 4143 26th Avenue South) (Matrix Properties/Crown Pointe Properties, LLLP) (ms)
6. Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential, to P/I, Public and Institutional on Lot 1, Block 12, **Bohnsack's Second Addition**. (Located at 1807 16th Street South) (Fargo Public Schools) (ms)
7. Hearing on an application requesting a Plat of **Rail Crossing First Addition** (Minor Subdivision) a replat of Lots 6-20, Block 11; Lots 14-21, Block 12; portion of the vacated alley in Block 11;

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

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

and a portion of vacated 22nd Street; all in Tyler's Addition, to the City of Fargo, Cass County, North Dakota. (Located at 2161 and 2215 3rd Avenue North; 321 23rd Street North) (Rail Crossing LLC/Fabricators Unlimited) (Im)

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## **BOARD OF PLANNING COMMISSIONERS MINUTES**

**Regular Meeting:**

**Tuesday, September 3, 2019**

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, September 3, 2019.

The Planning Commissioners present or absent were as follows:

Present: John Gunkelman, Mike Magelky, Rocky Schneider, Melissa Sobolik, Scott Stofferahn, Maranda Tasa, Brad Bachmeier, Jennifer Holtz, Dawn Morgan

Absent: Mary Scherling

Chair Gunkelman called the meeting to order.

### **Business Items:**

#### **Item A: Approve Order of Agenda**

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

#### **Item B: Minutes: Regular Meeting of August 6, 2019**

Member Magelky moved the minutes of the August 6, 2019 Planning Commission meeting be approved. Second by Member Tasa. All Members present voted aye and the motion was declared carried.

#### **Item C: Wednesday, September 18, 2019 Brown Bag Luncheon**

Topic: The Development Process

#### **Item D: Public Hearing Items:**

##### **Item 1: Craig's Golden Ridge Addition**

1a. Continued hearing on an application requesting a Zoning Change from MR-2, Multi-Dwelling Residential with a C-O, Conditional Overlay and SR-3, Single-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay, and a request to repeal the existing C-O, Conditional Overlay, on the proposed Craig's Golden Ridge Addition. (Located at 3129 7th Avenue North and 802 32nd Street North) (Elevate Communities, LLC and Newton Development, LLC/Craig Development): **APPROVED**

1b. Continued hearing on an application requesting a PUD, Planned Unit Development Master Land Use Plan within the boundaries of the proposed Craig's Golden Ridge Addition. (Located at 3129 7th Avenue North and 802 32nd

**Street North) (Elevate Communities, LLC and Newton Development, LLC/Craig Development): APPROVED**

**1c. Continued hearing on an application requesting a Plat of Craig's Golden Ridge Addition (Minor Subdivision) a replat of a portion of Lot 6, Golden Ridge Addition, and a portion of Lot 14 and all of Lot 15, Block 3, Model Cities Subdivision, to the City of Fargo, Cass County, North Dakota with a subdivision waiver for drain dedication. (Located at 3129 7th Avenue North and 802 32nd Street North) (Elevate Communities, LLC and Newton Development, LLC/Craig Development): APPROVED**

A Hearing had been set for August 6, 2019. At the August 6, 2019 meeting, the Hearing was continued to this date and time.

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

Member Stofferahn present.

Discussion was held regarding existing and future access to the properties, plans for the existing sidewalks, and plans for existing and additional fencing.

Applicant Jesse Craig, Craig Development, spoke on behalf of the application.

Property owner Luke Lubahn, 3102 8th Avenue North, shared his concerns about the closeness of the building to the back of his property and lack of privacy, the height of the building, and increased traffic.

Member Morgan 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-2, Multi-Dwelling Residential with a C-O, Conditional Overlay and SR-3, Single-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay, and to repeal the existing C-O, Conditional Overlay Ordinance 4399; 2) PUD, Planned Unit Development Master Land Use Plan; and 3) Subdivision Plat, Craig's Golden Ridge Addition, including a subdivision waiver for drain dedication as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Articles 20-0906(F)(1-4), 20-0907(B)(a-e), 20-0907(D)(3)(a-c), 20-06, and all other applicable requirements of the Land Development Code.

Member Magelky moved the motion be amended to include a negative access easement to the 8th Avenue North property frontage. Member Morgan agreed to the amendment.

Second by Member Magelky. On call of the roll on the motion as amended Members Tasa, Morgan, Bachmeier, Stofferahn, Holtz, Schneider, Magelky, Sobolik, and



Gunkelman voted aye. Absent and not voting: Member Scherling. The motion was declared carried.

At 4:06 p.m., the Board took a ten-minute recess.

After recess: All Members present except Member Scherling. Chair Gunkelman presiding.

**Item 2: Craig's Oak Grove Second Addition**

**2a. Hearing on an application requesting a Zoning Change from MR-2, Multi-Dwelling Residential and DMU, Downtown Mixed Use, to MR-2, Multi-Dwelling Residential and DMU, Downtown Mixed Use, and a request to repeal the existing PUD, Planned Unit Development Overlay on the proposed Craigs Oak Grove Second Addition. (Located at 505, 509, and 515 Oak Street and 2, 6, and 10 6th Avenue North) (Oak Grove River Lofts, LLC/Jesse Craig): APPROVED**

**2b. Hearing on an application requesting a Plat of Craigs Oak Grove Second Addition (Minor Subdivision) a replat of Lot 1, Block 1 Craigs Oak Grove Addition, a vacated portion of Elm Street, vacated portion of 5th Avenue North, vacated alley, and a portion of Lot 5, 6, and 7, Block 28, Keeney and Devitts 2nd Addition to the City of Fargo, Cass County, North Dakota. (Located at 505, 509, and 515 Oak Street and 2, 6, and 10 6th Avenue North) (Oak Grove River Lofts, LLC/Jesse Craig): APPROVED**

Assistant Director of Planning and Development Mark Williams presented the staff report. He added staff has received comments from area property owners, and an additional email staff submitted to the Board today. He noted staff also held an open house for the public to attend on August 27, 2019. Mr. Williams stated all approval criteria have been met and staff is recommending approval.

Applicant Jesse Craig, Craig Development, spoke on behalf of the application.

Discussion was held clarifying the number of levels the building will have; the number of parking entrances; the unit types being rentals with the possibility for purchase in the future; and any flood protection plans for this area.

Member Magelky moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from DMU, Downtown Mixed-Use and MR-2, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay to DMU, Downtown Mixed-Use and MR-2, Multi-Dwelling Residential, and to repeal the existing PUD, Planned Unit Development Overlay; and 2) Subdivision Plat, Craigs Oak Grove 2nd Addition as outlined within the staff report, as the proposal satisfactorily complies with the GO2030 Fargo Comprehensive Plan, the Standards of Article 20-06 and Section 20-0906(F)(1-4) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Sobolik. On call of the roll Members Magelky,

Schneider, Holtz, Sobolik, Stofferahn, Morgan, Bachmeier, Tasa and Gunkelman voted aye. Absent and not voting: Member Scherling. The motion was declared carried.

**Item 3: Timber Creek Third Addition**

**Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential on Lots 1-7, Block 1, Timber Creek Third Addition. (Located at 3431, 3445, 3457, 3469, 3483, 3495, and 3509 47th Avenue South) (Dabbert Custom Homes, LLC/PLC Investments): CONTINUED TO OCTOBER 1, 2019**

Mr. Kress presented the staff report stating all approval criteria have been met and staff is recommending approval. He noted letters of opposition were submitted to the Board today.

Discussion began regarding the background of this property, the previous withdrawn applications, and what is being proposed today.

Applicant Don Dabbert, Dabbert Custom Homes, spoke on behalf of the application.

Kelly Rott, 3334 46th Street Avenue South, spoke on behalf of himself and Matthew Bring, 4706 34th Street South, sharing concerns of increasing the density in this area, and the lack of effort on the part of the developer to share the information at an open house with the area property owners before submitting the proposal to the City.

Mike Graalum, 1744 Prairie Lane, spoke in favor of the proposal.

Mr. Rott spoke again requesting a continuation of this item to allow the developer the opportunity to share his information with the area property owners at a public open house meeting.

Mr. Kress read an email in opposition submitted by Matthew Bring, 4706 24th Street South.

City Attorney Erik Johnson clarified that staffs review of the application has addressed what is legally required by the Land Development Code.

Member Stofferahn moved to continue this item to the October 1, 2019 Planning Commission meeting. Second by Member Bachmeier. On call of the roll Members Schneider, Sobolik, Bachmeier, Stofferahn, Holtz, Magelky, Tasa, Morgan, and Gunkelman voted aye. Absent and not voting: Member Scherling. The motion was declared carried.

**Item 4: Agassiz Nursery Addition (PKG Contracting)**

**Hearing on an application requesting a Zoning Change from LC, Limited Commercial to LI, Limited Industrial on a portion of Lot 2, Block 1, Agassiz Nursery Addition (PKG Contracting) (Located at 4203 South University Drive) (PKG Contracting, Inc./Lowry Engineering): APPROVED**

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

Applicant Darin Pfingsten, PKG Contracting, Inc., spoke on behalf of the application.

Member Stofferahn moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Zoning Change from LC, Limited Commercial to LI, Limited Industrial as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Section 20-0906.F (1-4), and all other applicable requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Magelky, Sobolik, Stofferahn, Holtz, Tasa, Morgan, Bachmeier, Schneider, and Gunkelman voted aye. Absent and not voting: Member Scherling. The motion was declared carried.

**Item 5: Agassiz Nursery Addition (City of Fargo)  
Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential to P/I, Public and Institutional on Lot 1, Block 1, Agassiz Nursery Addition (City of Fargo) (Located at 1421 42nd Avenue South) (City of Fargo): APPROVED**

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

Member Sobolik moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Zoning Change from SR-3, Single-Dwelling Residential to P/I, Public and Institutional as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Section 20-0906.F (1-4), and all other applicable requirements of the Land Development Code. Second by Member Magelky. On call of the roll Members Bachmeier, Magelky, Morgan, Schneider, Sobolik, Holtz, Stofferahn, Tasa, and Gunkelman voted aye. Absent and not voting: Member Scherling. The motion was declared carried.

**Item 6: Keeney & Devitt's Second Addition  
Hearing on an application requesting an Alley Vacation of the alley in Block 21, Keeney & Devitt's Second Addition. (Located at 401 Broadway North) (DFI Mercantile LLC/Keith Leier): APPROVED**

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

Member Tasa moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Alley Vacation in Block 21, Keeney & Devitt's Second Addition to the City of Fargo, Cass County, North Dakota as outlined within the staff report, as the proposal complies with the Downtown In Focus Master Plan, and the Standards of Chapter 40-39 of the North Dakota Century Code. Second by Member Morgan. On call of the roll Members Holtz, Sobolik, Magelky,

Morgan, Schneider, Stofferahn, Tasa, Bachmeier, and Gunkelman voted aye. Absent and not voting: Member Scherling. The motion was declared carried.

**Item 7: Kesler First Addition**

**Hearing on an application requesting a Plat of Kesler First Addition (Minor Subdivision) a replat of Lots A through F, T, and U, and portions of alleys now vacated all in Hagaman's Subdivision and part of Block 2, Roberts Addition, and all of lots 10-12, Block 2, Roberts Addition to the City of Fargo, Cass County, North Dakota. (Located at 613, 617, 621 1st Avenue North and 624 2nd Avenue North) (DFI Kesler, LLC/Kilbourne Group): APPROVED**

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

Board discussion clarified the location of the alley being vacated.

Mike Zimney, Project Manager at Kilbourne Group, spoke on behalf of the application.

Member Sobolik moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat, Kesler First Addition as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Downtown InFocus Future Land Use Plan, the Standards of Article 20-06, and all other applicable requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Sobolik, Holtz, Bachmeier, Tasa, Magelky, Morgan, Stofferahn, Schneider, and Gunkelman voted aye. Absent and not voting: Member Scherling. The motion was declared carried.

**Item 8: Burlington Northern I-29 South Industrial Center Addition**

**Hearing on an application requesting a Right of Way Vacation on a portion of 33rd Street South between Lots 7 through 11, Block 8, Burlington Northern I-29 South Industrial Center Addition and an unplatted portion of Section 11, Township 139 North, Range 49 West to the City of Fargo, Cass County, North Dakota. (Located at 3300 and 3420 Main Avenue) (City of Fargo): APPROVED**

Assistant Planner Maggie Squyer presented the staff report and referred to a preliminary plat that was submitted to the Board. Ms. Squyer stated all approval criteria have been met and staff is recommending approval.

Member Magelky moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Vacation of a portion of 33rd Street South right-of-way between Lots 7-11, Block 8, Burlington Northern I-29 South Industrial Center Addition, and unplatted portion of Section 11, Township 139 North, Range 49 West as outlined within the staff report, as the proposal complies with the Standards of Chapter 40-39 of the North Dakota Century Code. Second by Member Holtz. On call of the roll Members Tasa, Stofferahn, Magelky, Sobolik, Schneider, Morgan, Holtz, Bachmeier, and Gunkelman voted aye. Absent and not voting: Member Scherling. The motion was declared carried.

**Item E: Other Items:**

**Item 1: Amendments to the 2019 Annual Action Plan**

Director of Planning and Development Nicole Crutchfield reviewed the proposed amendments to the Community Development Block Grant (CDBG)/HOME 2019 Action Plan. She noted an announcement seeking interest in projects that might be focused on assisted senior housing projects was issued by the City, and the following two properties were identified: Craig Properties located at 3129 7th Avenue North (Agenda Item 1 presented today); and Homefield 3/Beyond Shelter, Inc. located at 4225 28th Avenue South. She stated staff is requesting to go forward to allocate appropriated funds for these two properties.

Member Bachmeier moved to approve the proposed amendments to the 2019 Annual Action Plan. Second by Member Stofferahn. On call of the roll Members Sobolik, Morgan, Holtz, Tasa, Magelky, Schneider, Stofferahn, Bachmeier, and Gunkelman voted aye. Absent and not voting: Member Scherling. The motion was declared carried.

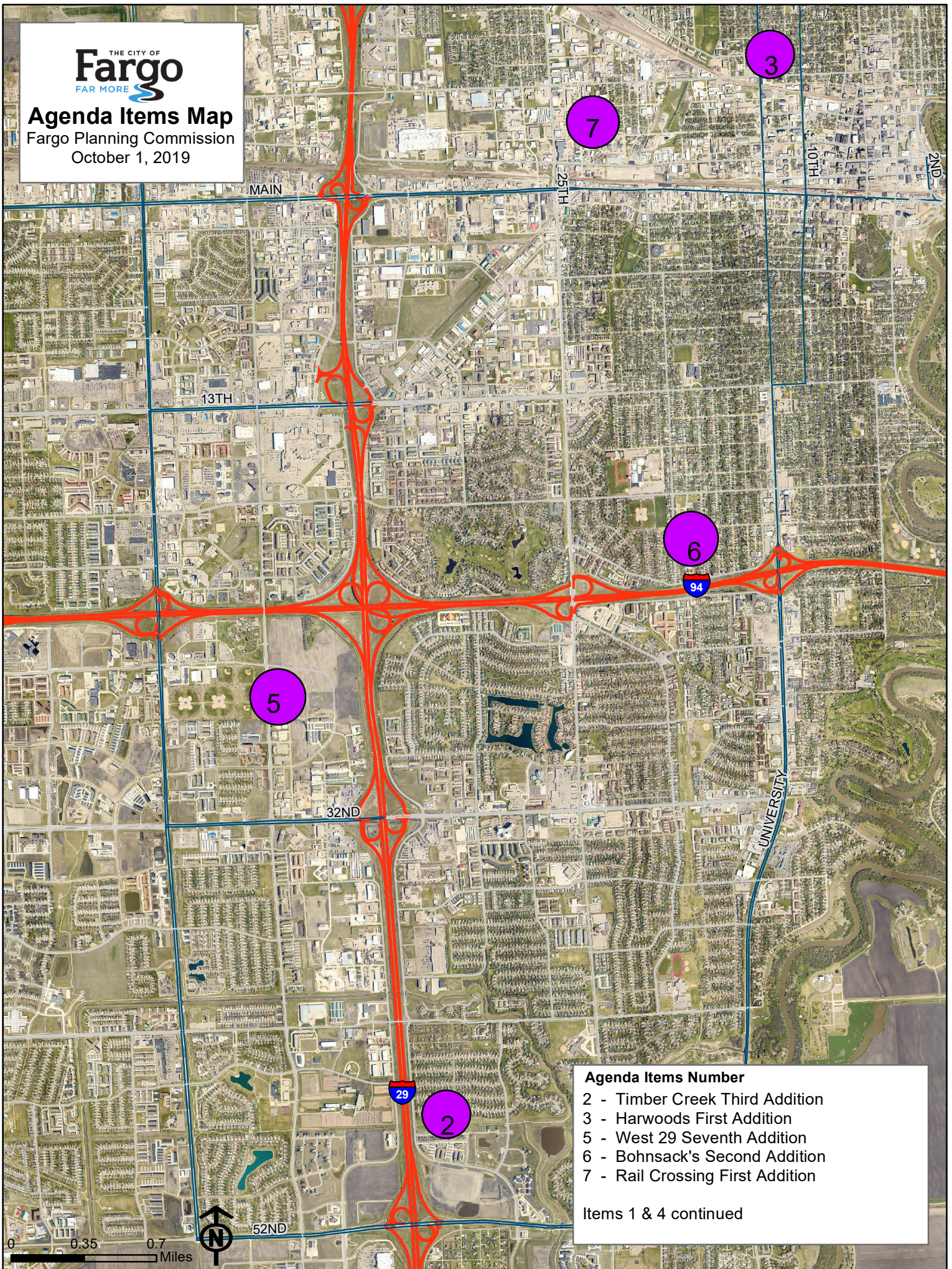
The time at adjournment was 4:35 p.m.





# Agenda Items Map

Fargo Planning Commission  
October 1, 2019



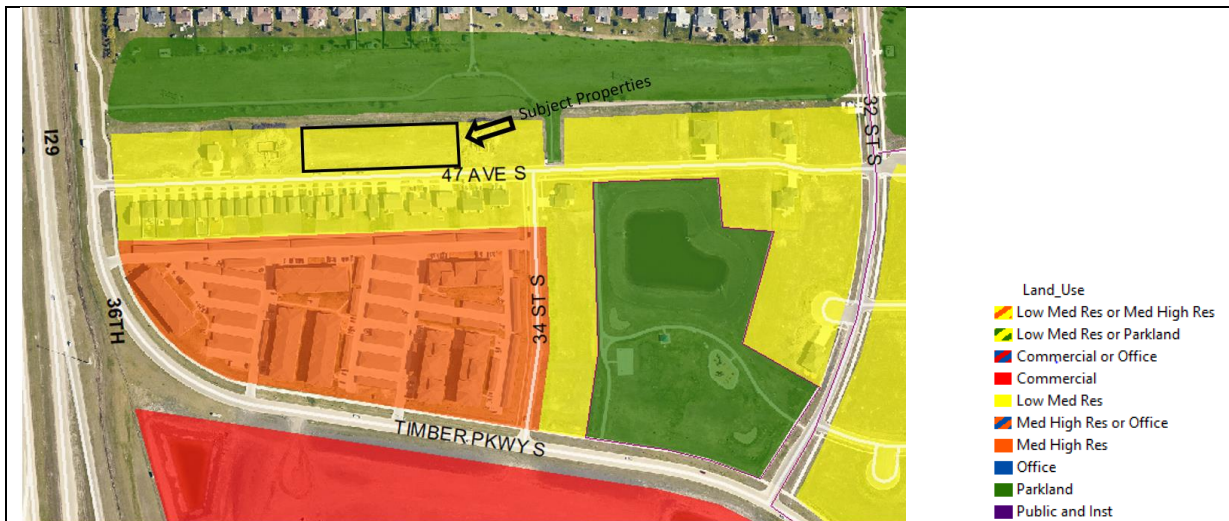
- Agenda Items Number**
- 2 - Timber Creek Third Addition
  - 3 - Harwoods First Addition
  - 5 - West 29 Seventh Addition
  - 6 - Bohnsack's Second Addition
  - 7 - Rail Crossing First Addition
- Items 1 & 4 continued



<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Timber Creek Third Addition	<b>Date: Updated:</b>	8/28/2019 9/26/2019
<b>Location:</b>	3431, 3445, 3457, 3469, 3483, 3495, and 3509 47th Avenue South	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description</b>	Lots 1-7, Block 1, <b>Timber Creek Third Addition.</b>		
<b>Owner(s)/Applicant:</b>	Dabbert Custom Homes, LLC/ PLC Investments—Don Dabbert, Jr.	<b>Engineer:</b>	None
<b>Entitlements Requested:</b>	<b>Zone Change</b> (from SR-2, Single Dwelling Residential to SR-3, Single Dwelling Residential )		
<b>Status:</b>	Planning Commission Public Hearing: October 1, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Platted, not developed	<b>Land Use:</b> Duplexes
<b>Zoning:</b> SR-2, Single Dwelling Residential	<b>Zoning:</b> SR-3, Single Dwelling Residential
<b>Uses Allowed:</b> SR-2 – detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities'	<b>Uses Allowed:</b> SR-3-- detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities
<b>Maximum Density</b> 5.7 dwelling units per acre;	<b>Maximum Lot Coverage</b> 8.7 dwelling units per acre

<b>Proposal:</b>
<p><i>PROJECT HISTORY NOTE: This project was heard at the September 3, 2019 Planning Commission hearing. After hearing all the presentations and testimony, the Planning Commission moved to continue the hearing to the October 1, 2019 Planning Commission agenda. Planning staff held a neighborhood meeting for this project on September 24, 2019, the outcome of which is summarized below.</i></p> <p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> <li>1. A zoning change from SR-2, Single Dwelling Residential to SR-3, Single Dwelling Residential</li> </ol> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: Fargo Park; P/I, Public/Institutional</li> <li>• East: Detached single-dwelling residence; SR-2</li> <li>• South: Detached single-dwelling residences and twinhomes; SR-4</li> <li>• West: Detached single-dwelling residence; SR-2</li> </ul> <p><b>Area Plans:</b></p> <p>The 2001 Growth Plan as amended in March, 2014 designates the area of this project as "Low to Medium Density Residential." This land use designation includes the proposed SR-3 zone.</p>



### Context:

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

**Neighborhood:** The subject property is located within Centennial neighborhood.

**Parks:** Timberline Park/Fox Run Trail is along the northerly boundary of the project site and provides the amenity of recreational trails.

**Pedestrian / Bicycle:** The Fox Run Trail, adjacent to the northerly boundary of the project site, is an off-road bike facility that is a component of the metro area bikeways system.

### Staff Analysis:

The lots are currently zoned SR-2, Single-Dwelling Residential. The minimum required lot area is 8,000 square feet. The applicant proposes to rezone the lots to SR-3, which has a minimum required lot of 5,000 square feet and which allows duplexes. Duplexes are defined in Fargo's Land Development Code (LDC) Section 20-1202(54)(c) as "A single structure that contains 2 primary dwelling units on one lot." The applicant proposes to develop these lots with such duplexes in a side-by-side configuration. The applicant has provided site plans and elevations of two potential building styles, referred to as "Sarah" and "Roberta," which are attached, though these are conceptual only to show how a large building would fit on this lot. These are not necessarily styles that would be built here.

### Action at the September 3, 2019 Planning Commission hearing

At the September 3, 2019 Planning Commission hearing, the Commission heard testimony from neighbors opposing the project and received letters opposing the project. The project developer also make a presentation about the project. After hearing the presentations and testimony, the Commission moved to continue the hearing to the October 1, 2019 Planning Commission agenda.

### September 24, 2019 neighborhood meeting

On September 24, 2019, the Planning Department held a neighborhood meeting attended by four neighborhood residents (including one by phone), developer Don Dabbert, Jr. and Tanner Brandt of PACES. The residents reiterated concerns they had expressed in their letters to the Planning Commission about this project; these concerns are summarized below. This meeting was covered by the news media.

(continued on next page)



**Public comment letters**

To date, Planning staff has received eight comment letter/e-mails in opposition to the project; one of these letters includes additional signatures and comments from 21 area residents. One comment letter has been updated since the September 3, 2019 Planning Commission; the updated version is included in this packet. Copies of these letters/e-mails are attached for the Commission's review.

**Summary of Neighborhood Concerns**

In their letters, testimony at the Planning Commission, and comments at the neighborhood meeting, the neighbors expressed the overall concern that approval of this proposed zone change will change the overall character of the neighborhood. More specific concerns include:

- The increased density that could result from this zone change—having seven two-family residences (duplexes) allowed under the proposed SR-3 zoning instead of only seven single-family residences as allowed by the current SR-2 zoning—exceeds the density that homeowners in this area expected when they built or purchased their homes in this neighborhood.
- This increased density will burden the neighborhood with at least double the number of vehicles one would expect from a single-family residence, adding to on-street parking and increased traffic congestion as well as complicating wintertime snow removal and increasing traffic noise.
- Duplexes built in this neighborhood will increase the number of renters in the neighborhood.
- Duplexes built in this neighborhood will lower the property values of adjacent single-family properties.
- The seven lots in this proposal could be sold as single-family lots if the developer would just lower the price, which neighborhood residents believe the developer is unwilling to do.
- Neighborhood residents feel that this development proposal is a betrayal of statements made by the developer that this would remain a single-family neighborhood and that no further subdivision of lots or zone changes would be sought (a proposal to subdivide lots on the west end of 47<sup>th</sup> Avenue South was approved by the City Commission in 2018).

A further point made by one of the neighborhood residents is that City does not follow the process stated in the Land Development Code in detail when reviewing zone changes. The attached letter of Matthew and Alyson Bring further describes this concern.

**Developer's Points**

In his presentation at the September 3<sup>rd</sup>, 2019 Planning Commission hearing and the September 24, 2019 neighborhood meeting, the developer, Don Dabbert, Jr. made the following points about the proposed zone change:

- The proposed zone change from the current SR-2 zoning to the proposed SR-3 zoning would allow duplexes (two-family residences) to be built on these seven lots.
- The duplexes would provide a more affordable home than a large single-family home.

- Duplexes would use the existing City water and sewer connections and not burden these systems.
- This proposal is in response to local and nationwide market trends, which indicate people are looking for a smaller home with increased amenities as well as homes that make more efficient use of the space for both the residence and the lot than a single large house on a single large lot.
- Duplexes would provide a convenient option for those who are seeking to accommodate additional family members in what is commonly referred to as a “mother-in-law suite” by creating a home where a family could live on one side of the duplex and additional family members could live on the other side.
- Duplexes would provide a housing option where a family could own the entire duplex, live in one side of it, and rent out the other side to offset their cost of housing.
- The duplexes are still a low-density development that would be appropriate in this neighborhood.
- The seven lots included in this zone change proposal, which were platted as part of the Timber Creek 3<sup>rd</sup> Addition in 2014, have never been developed, and leaving these lots undeveloped is an inefficient use of land, especially as these lots are already served with existing city infrastructure.
- Though the proposed SR-3 zoning would allow duplexes, the developer might not build duplexes on each of the seven lots. The developer would evaluate market response to the duplexes.

## Zoning

*NOTE: In response to public comment, finding nos. 1 and 3 below provide more detail than was originally included those findings for the September 3, 2019 staff report.*

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned SR-2, a low-density residential zone. The proposed zoning of SR-3 is also a low-density residential zone. Both zones are consistent with the 2001 Growth Plan designation of “lower to medium density residential.” Planning staff finds no basis to oppose the zone change from one low-density zoning to another. **(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 existing lots front on dedicated public streets. These streets will provide access and public utilities to serve the development. **(Criteria satisfied)**

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

The Planning Department is not involved in assigning “value,” as in a monetary “property value” for the purpose of taxation, to individual properties; doing so is the job of the city assessor’s office. Rather, “value” in this context--the context of a zone change finding---relates to whether the proposed zone change would create zoning-related problems, such as nuisances, to adjacent property, or whether the proposed zone change would affect the health, safety, and welfare of 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, as:

- the proposed zoning of SR-3 is included in the “low density residential” land use designation of the 2001 Growth Plan that covers this area;
- single dwelling residences and duplexes are allowed by right in the SR-3 zone;
- all structures must meet the development standards of the Land Development Code (LDC) as well as applicable building and fire code requirements and, after construction, the property maintenance code; and
- the 66-foot wide right of way of 47<sup>th</sup> Avenue South meets the LDC requirements for a two-lane local residential street in areas zoned SR-0 to SR-3 and provides for a 30-foot paving width intended to accommodate two lanes of traffic and on-street parking on both sides of the street.

Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received eight comment letter/e-mails in opposition to the project; one of these letters includes additional signatures and comments from 21 area residents. Copies of these letters are attached and the concerns expressed in them are summarized above. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

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

The LDC states “This Land Development Code is intended to implement Fargo’s Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo.” Staff finds this proposal is consistent with the purpose of the LDC, the applicable comprehensive plan, and other adopted policies of the City. **(Criteria satisfied)**

**Staff Recommendation:**

Suggested Motion: “To accept the findings and recommendations of staff and move to recommend approval to the City Commission the proposed zone change from SR-2, Single Dwelling Residential to SR-3, Single-Dwelling Residential as presented, as the proposal complies with the Go2030 Fargo Comprehensive Plan, the 2001 Growth Plan, Section 20-0906.F (1-4) of the LDC, and all other applicable requirements of the LDC.”

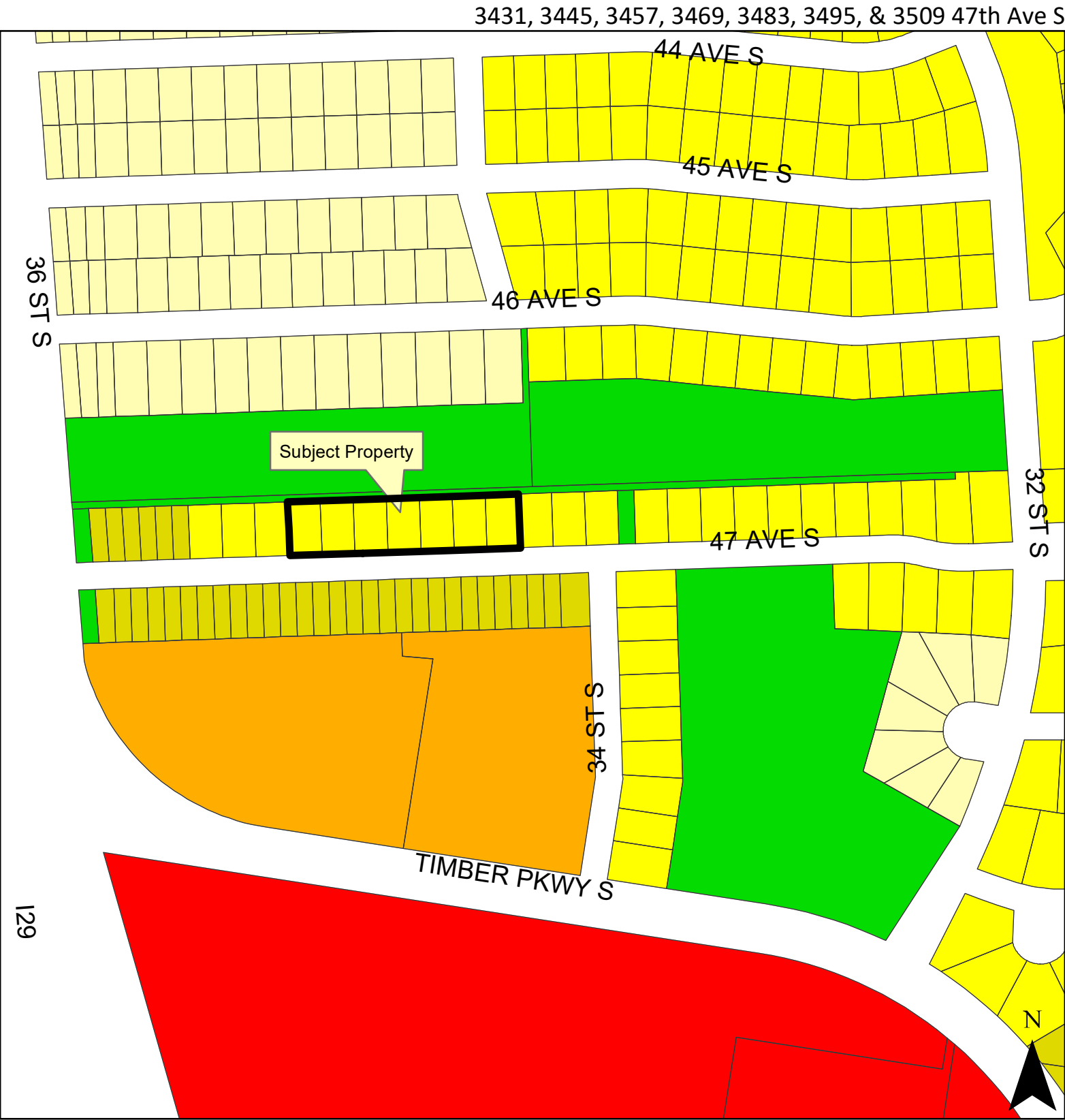
**Planning Commission Recommendation:** October 1, 2019

**Attachments:**

1. Zoning Map
2. Location Map
3. Examples of potential building types
4. Comment letters

# Zone Change (SR-2 to SR-3)

## Timber Creek Third Addition





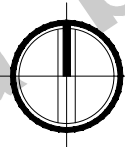
# Zone Change (SR-2 to SR-3)

## Timber Creek Third Addition

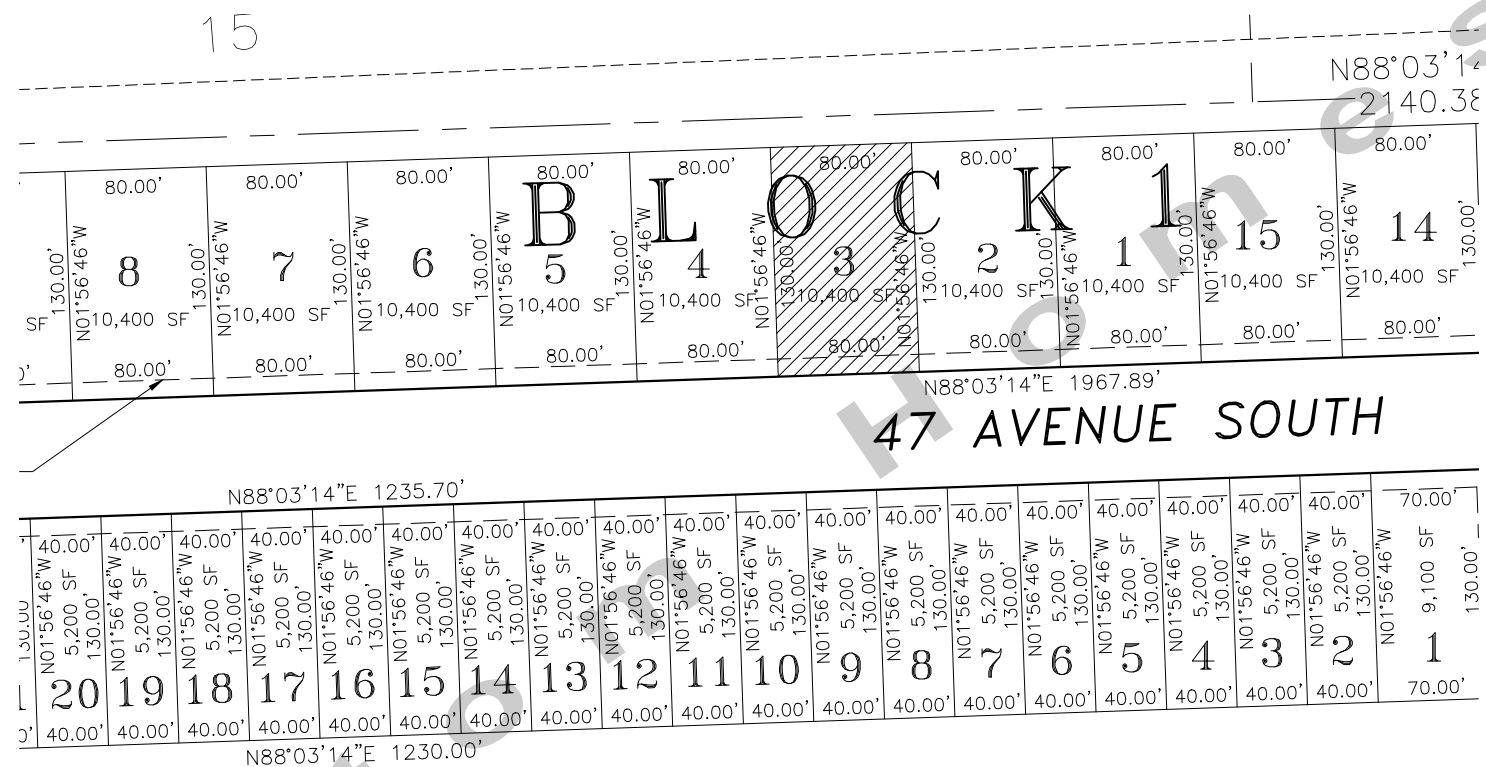
3431, 3445, 3457, 3469, 3483, 3495, & 3509 47th Ave S







Scale:: 1" = 20'



Scale:: not to scale

# NOT FOR CONSTRUCTION



5522 - 36th Street Southwest  
Fargo, North Dakota 58104-678  
: 701-280-1805 fax: 701-280-0111

## DCH "Roberta 2.5" Model

**3457 47th Ave S**

# Fargo, ND

# Lot 3, Block 1

**Timber Creek, 3rd Addn**

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ISSUED: 04.19.19

REVISIONS:

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drawn by: SS

© D a b b e r t C u s t o m H o m e s

NOT FOR CONSTRUCTION

DCH "Roberta 2.5" Model

3457 47th Ave S

Fargo, ND

Lot 3, Block 1

Timber Creek, 3rd Addn

5522 - 36th Street Southwest

Fargo, North Dakota 58104-678

ph- 701-280-1805 fax- 701-280-0117

Front Elevation

SCALE 1/8" = 1'

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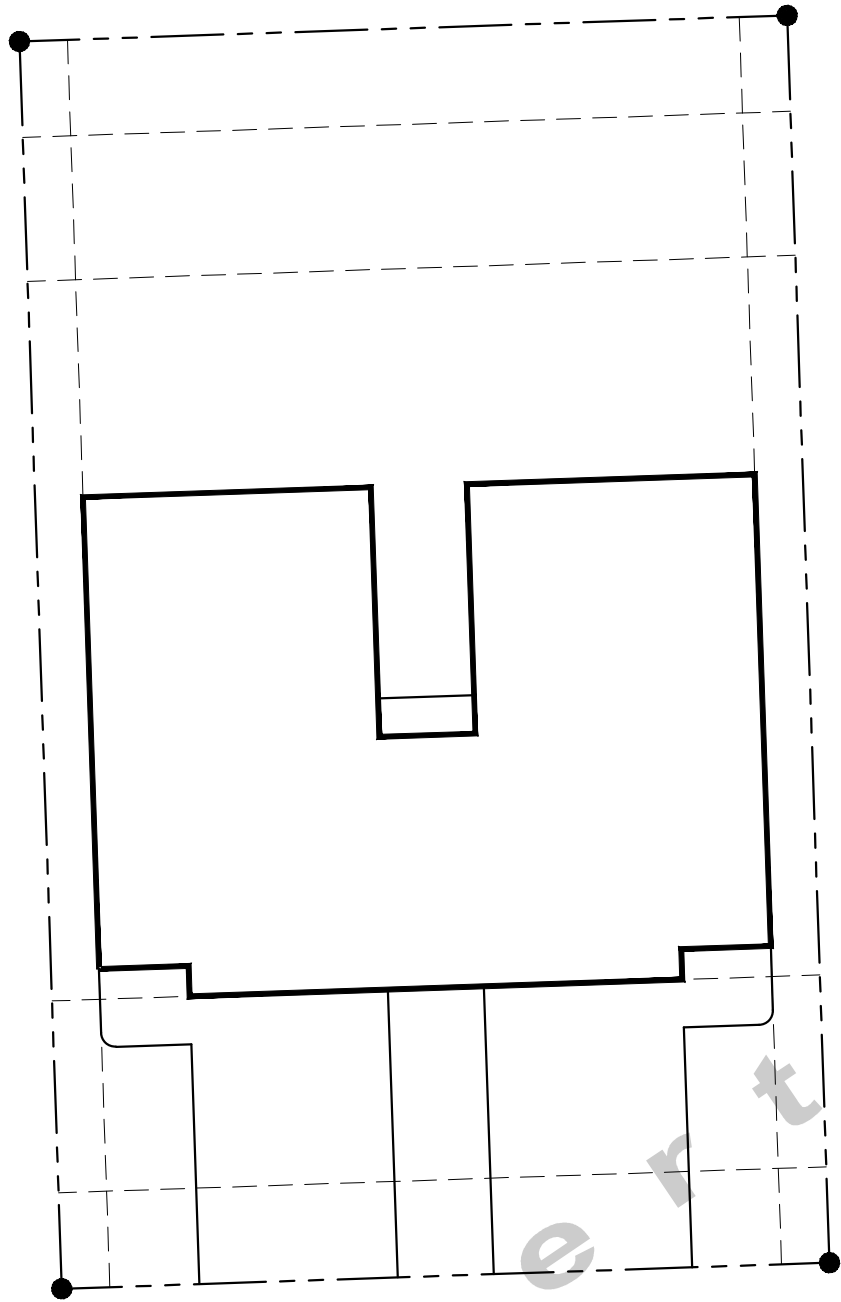
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REVISIONS:

drawn by: SS

sheet 2 of 7

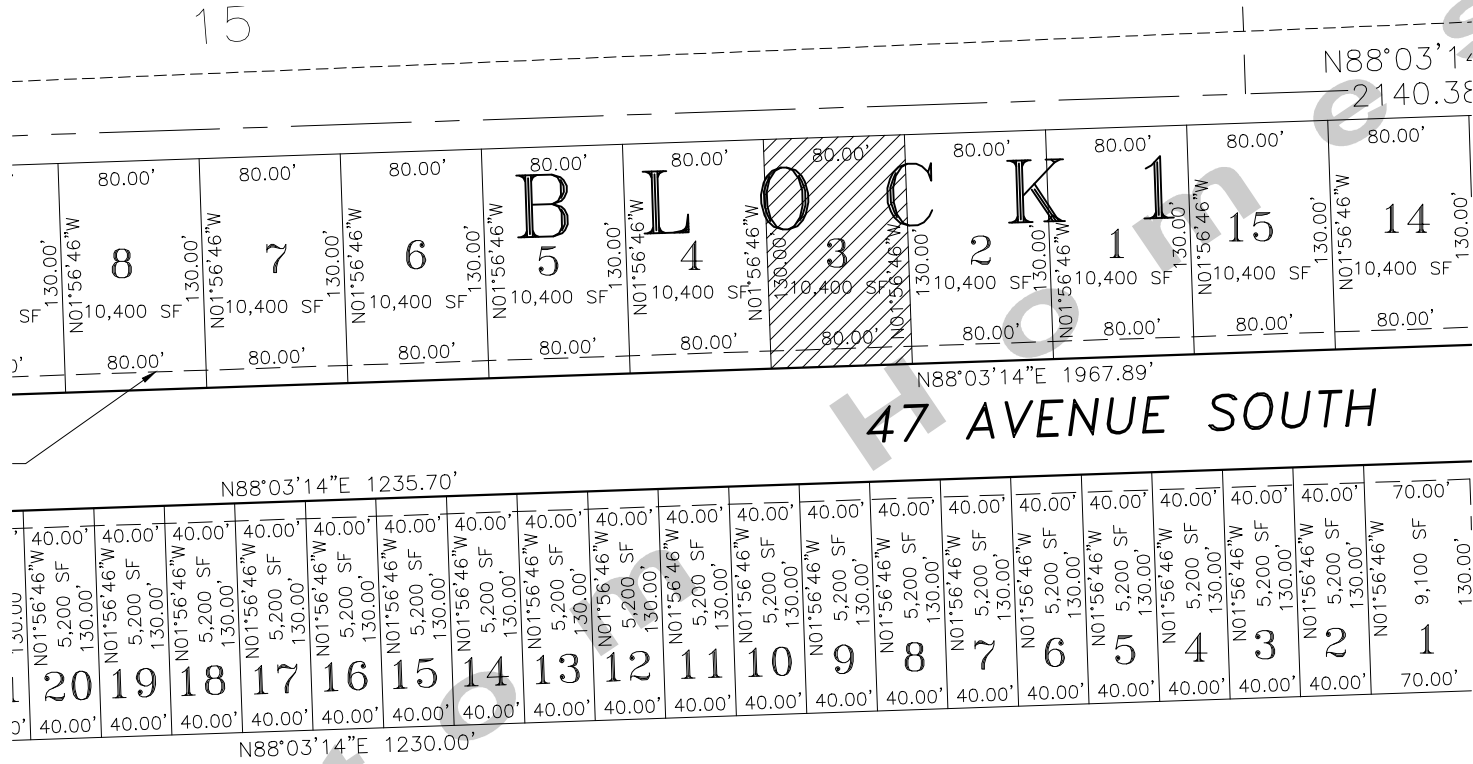


47th Ave S



site plan

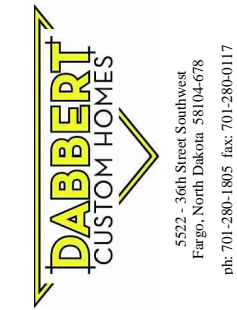
Scale:: 1" = 20'



vicinity map

Scale:: not to scale

NOT FOR CONSTRUCTION



DCH "Sarah 2.5 EUL" Model  
3457 47th Ave S  
 Fargo, ND  
 Lot 3, Block 1  
 Timber Creek, 3rd Addn

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REVISIONS:

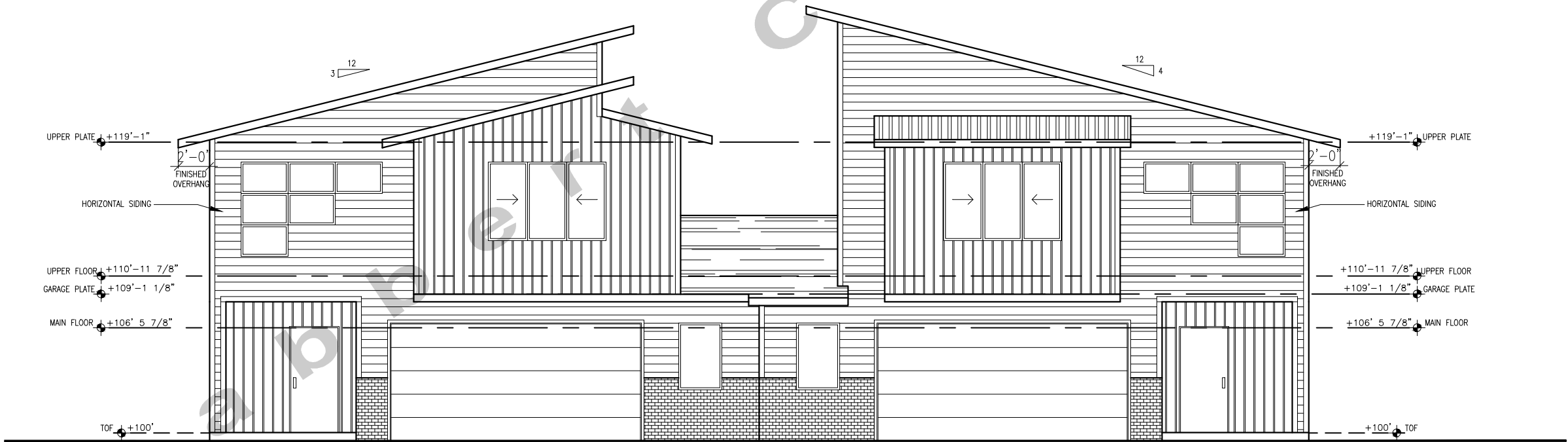
drawn by: SS





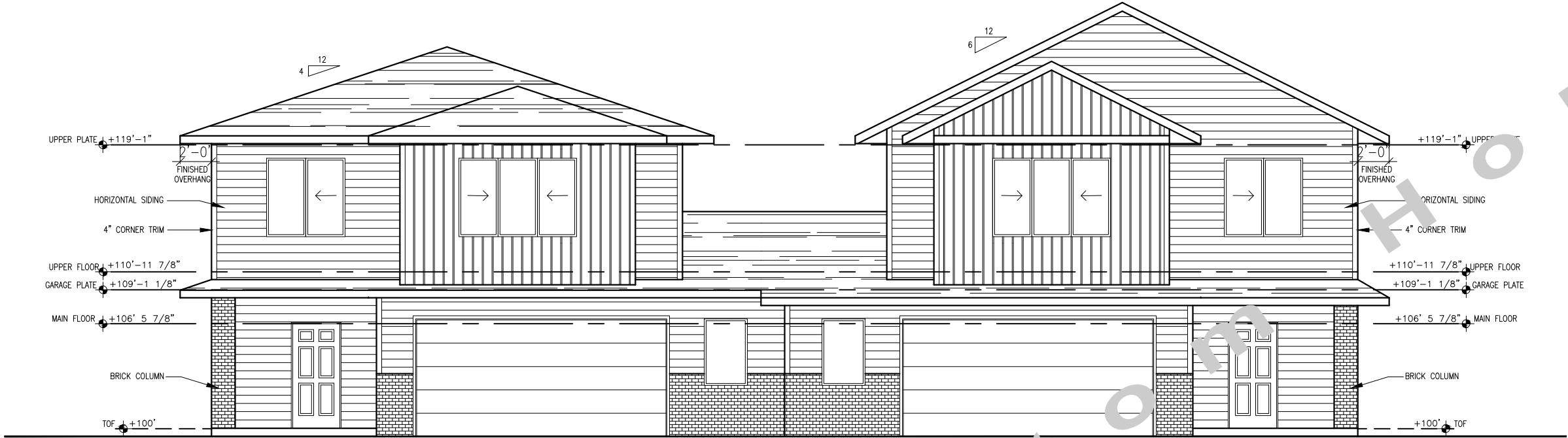
Front Elevation

SCALE 1/8" = 1'



Front Elevation

SCALE 1/8" = 1'



drawn by: SS

REVISIONS:

ISSUED: 04.19.1

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professional architects or engineers.

Timber Creek, 3rd Addn

Lot 3, Block 1

Fargo, ND

3457 47th Ave S

PDCH "Sarah 2.5 EUL" Model



5522 - 36th Street Southwest  
Fargo, North Dakota 58104-678  
ph- 701-280-1805 fax- 701-280-0117

## **REVISED PROTEST TO PROPOSED ZONING CHANGES**

This document shall serve as a revised formal protest petition to the following requested changes currently pending before the Fargo Planning Commission:

1. The zoning change from SR-2 to SR-3 on Lots 1-7, Block 1, Timber Creek Third Addition.

This proposal is, in effect, similar to previously proposed changes by the same applicant<sup>1</sup>. One such proposal involved a replat of the same 7 lots into 9 smaller lots. This, along with another concurrent proposal to replat 7 lots along 34th Street South, were met with opposition from a number of nearby residents. Both proposals were ultimately withdrawn by the applicant in early-2019.

### **Standing / Interest**

This protest is being filed by Alyson Bring and Matthew Bring, owners of the affected property at 4706 34th Street South. (Exhibit 1). The property at 4706 is within 300 feet of the nearest property affected by this proposal.

For purposes of qualifying as a “valid protest” under Land Development Code §20-0906(G), the threshold of at least 20% affected homeowners has been met. In addition to the objection of the undersigned homeowners, attached are supporting letters from 21 nearby residents. (Exhibits 2 to 22). Therefore, it is anticipated that a super-majority vote will be required of the Fargo City Commission prior to the approval of any rezoning change.

### **Burden of Proof**

Pursuant to Land Development Code §20-0902, the burden of demonstrating that an application meets applicable review and approval criteria is on the *applicant* alone, and not on the city or other affected parties.

### **Standard of Review**

Pursuant to Land Development Code §20-0906(F), all four of the following criteria must be met before any request can be approved:

1. The requested zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
2. The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development allowed by the new zoning classification at the time the property is developed;

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<sup>1</sup> For simplicity, the term “applicant” shall hereinafter be interpreted to include Paces Lodging Corporation, PLC Holdings, PLC Investments, Property Resources Group, Dakota Real Estate Investment Trust, Fargo Apartment Homes, Timber Creek Investments, Timber Creek Commercial Property Owners Association, Timber Creek Retail Center, and any other associated or commonly owned entities.

3. The approval will not adversely affect the condition or value of property in the vicinity; and
4. The proposed amendment is consistent with the purpose of this Land Development Code, the applicable Growth Plan and other adopted policies of the City.

In the present matter, as with the now-withdrawn proposals from earlier this year, these factors have not been demonstrated. Once again, it is the burden of the requesting party to establish *all* four of these criteria. Absent a showing of doing so, the requests cannot be approved.

#### Change in Conditions / Error in Zoning Map

The undersigned homeowners are unaware of any errors in the zoning map, or of a “change in conditions” that would justify this proposal. It is of particular note that the use of the term “justify” in the §20-0906(F)(1) dictates that even if a change in conditions *was* present, the request must be connected to the change in some way. The simple existence of a change in conditions alone is insufficient. Instead, the change in conditions must *justify* the requested zoning change. Apart from the applicant’s desire to maximize their investment in this development, it is unclear what justification exists for such a request.

The undersigned homeowners also note that the vast majority of the property in and around the affected area is (or has been) owned by the applicant. As such, any change in conditions in the surrounding area, has, in effect, been made by the same entity currently requesting the zoning change. Allowing a party to rely upon its own actions to justify future actions violates public policy and the public trust.

Also of note is that the applicant has previously requested similar changes to other properties in the same neighborhood. On March 12, 2018, the City Commission considered Timber Creek Seventh Addition, a similar request to replat and rezone three SR-2 lots into six SR-4 lots. As noted in the official minutes of this meeting:

“Nate Vollmuth, Paces Lodging Corporation, said their request sounds worse than it is. He said it is a maximum of three twin homes or six split twin homes; it is not an apartment building. He said directly north of the lots there is a landscape buffer which is owned by the City.”

Less than a year later, there were additional requests affecting properties in the same neighborhood. What was then described as “sound[ing] worse than it is” and “a maximum of three twin homes or six split twin homes” had expanded into a request to replat 7 large traditional lots (currently SR-2) into 14 high-density twin home lots (SR-4) along 34th Street, and to replat 7 lots along 47th Avenue into 9 smaller lots. Those proposals were only withdrawn following the homeowners’ submission of a valid protest with the support of numerous affected homeowners. Now, the same applicant *again* seeks to change Timber Creek into a higher-density development than planned.

The totality of circumstances reveals that the applicant gained approval to develop the area under the guise of one type of neighborhood (i.e., a mixed development with

numerous SR-2 lots), and now again seeks to change a large section of the area from low-density individual homes to higher-density duplexes.

The Staff Report prepared prior to the Planning Commission meeting on September 3, 2019 indicated that Staff is unaware of any error in the zoning map. It is noted therein that the “proposed zoning of SR-3 is consistent with the 2001 Growth Plan designation of “lower to medium density residential.” That the SR-3 designation may be classified as “lower to medium density residential” is immaterial to the plain language meaning of this section of the §20-0906(F)(1). There has been no error demonstrated, which is acknowledged by the Planning Department. Moreover, there has been no showing of a change in conditions, apart from the proposal itself. In other words, the Planning Department appears to have taken the position that a zoning change is justified by the proposal itself. Quite simply, this does not meet the criteria of a “change in conditions.”

#### Affect on Necessary Public Services/Facilities

As noted in opposition to the prior proposals, empirical evidence of the extent to which the proposed changes will affect public services is extraordinarily difficult for the undersigned homeowners to obtain. However, should the Fargo Planning Commission vote to recommend the requested changes, further such evidence will be sought to the extent available.

However, anecdotally, the undersigned homeowners note that parking in the neighborhood is already at or near its capacity. The residents of Timber Creek Apartments<sup>2</sup> frequently park along 47th Avenue near 34th Street. Despite there being only a handful of houses on the North Side of 47th Avenue near the proposal, there was a vast amount of snow on the North side, as there was already no where left to put it on the South side.

Parking and traffic along this 47th Avenue will no doubt increase as the affected lots are sold and additional houses are built. An additional 7 homes (as currently platted) would certainly affect this to some extent, pushing the capacity of this street to its maximum. Increasing from 7 homes to 14 duplexes, which would no longer be anticipated to have large garages, will increase the parking congestion to untenable levels. It is noteworthy that the vast majority of affected homeowners indicated parking and traffic among their primary concerns. (Exhibits 2 to 22).

As noted above, this neighborhood was originally designed as containing a number of SR-2 lots. Given the increased number of lots (and by extension, traffic) sought by the applicant (both currently and in the past), the burden rests upon the applicant to demonstrate that the existing street design in the area is sufficient. At present, the affected homeowners are unaware of any such studies or other evidence showing that the current parking and streets would meet the demands of the increased traffic that would result from rezoning this area. Once again, it is the applicant’s burden to do so, not the homeowners’, and absent such a showing thereof, the request cannot be approved.

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2 These apartments are owned by Fargo Apartment Homes LLC, an extension of the applicant.

The Planning Department appears to have taken the position that the traffic/parking needs are met because the street is a sufficient width for a specified number of homes. Such a theoretical approach simply ignores the reality faced by the actual homeowners living in the neighborhood.

### Adverse Affects on Property Value

It is once again noted that the burden rests not upon the affected homeowners to demonstrate a potential decrease in property value. Instead, the applicant again bears the burden of affirmatively demonstrating that the proposed change will not adversely affect the value of the surrounding properties. It is not unreasonable to assume that these properties changing from single homes to duplexes will negatively affect property values. In addition to the fact that the neighborhood simply cannot sustain the parking and traffic such a change will bring, the overall character of the neighborhood will continue to change significantly. In outreach to the neighborhood, one of the points consistently raised by nearby homeowners was that of the potential increase in the number of renters in the area. Beyond the intrinsic value of developing a lasting neighborhood and community, the potential increase in the number of rental properties will also diminish property values.<sup>3</sup> As I noted in my response to the prior, similar proposals, one of the nearby homeowners along 46th Ave has not only expressed his opposition to that proposal, but also offered his opinion as to the negative affect on property values, in light of his professional experience as a realtor. (Exhibit 27).

As currently platted, the properties along 47th Avenue Street are relatively large lots of approximately 10,400 square feet backing to green space. The property at 4706 was purchased by the undersigned homeowners with the understanding that this neighborhood would contain some higher-density twin homes and apartments to the West, but would sit adjacent to a number of higher-end homes backing to a pond and that the lots on the North side of 47th Avenue would be single family detached homes.

Similarly, many of the owners of the current properties along the South of 47th Avenue (many of whom themselves live in twin homes) purchased their homes with the understanding there would be a number of more expensive homes to the East and North. This, in turn, brings their home values up. This is precisely the mix of high-, medium-, and low-cost homes the vast majority of new developments in Fargo contain. If the requested changes are approved, it appears that many of the medium lots will be changed to allow for two homes per lot. Changing these seven lots will also affect the marketability of the other vacant lots on the North side of 47th Avenue, as well as the vacate lots to the South of 47th Avenue along 34th Street. Frankly, it would be incredible to assert that the proposed changes will not adversely affect the surrounding property values; and again, *absent such an affirmative showing by the applicant*, the proposed changes cannot be approved under §20-0906(F)(3).

The Planning Department's position with respect to this issue appears to be that no such formal analysis is typically done by the Department or the applicant, and the Department has deemed such an analysis too burdensome or difficult. In the Staff Report prior to the Planning

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3 Research performed by Realtor.com suggested that "ZIP codes with a higher-than-average concentration of renters have lower property values compared to the county they are located in...by 14%." Pan, Qyqing (2016, March 28), *The Neighborhood Features That Drag Down Your Home Value – Ranked*. Retrieved from <https://www.realtor.com/news/trends/things-that-affect-your-property-value>

Commission meeting on September 3, 2019, it was noted, “staff has no documentation or evidence to suggest...this zoning change would adversely affect the...value of the property[.]” Once again, it is not the affected homeowners that need to demonstrate values will go down, but rather the applicant’s burden to demonstrate they will *not* go down. Here, no such analysis has been done.

#### Other Relevant Considerations

As noted above, the requested changes are likely to increase traffic, strain available parking, and decrease surrounding property values. Moreover, it is against the public's interest to allow a property developer to gain approval for a development based upon one representation of a neighborhood, only to later drastically change the overall character of the neighborhood. Quite simply, the undersigned homeowners would have not have purchased the home at 4706 if the lots along 34th Street had been zoned SR-4, as previously proposed; or if the vacate lots along 47th Avenue had been zoned for duplexes. The undersigned homeowners detrimentally relied on the existing plat and zoning when purchasing their home. For the City to approve the requested changes would not only violate the requirements of §20-0906(F), but also expose the City to potential legal action.

As noted above, the applicant sought a similar change in early-2018 with respect to three (now six) lots along 47th Avenue, which was ultimately approved by the Fargo City Commission on March 12, 2018. As part of the discussion, Mr. Vollmuth (representing the applicant) was specifically questioned by Mayor Timothy Mahoney as to whether the applicant was going to stop at that request, or “come back piece by piece” with further similar requests.<sup>4</sup> Mr. Vollmuth replied, “we are only looking at these three lots” and “we’re not gonna try to fit anything else in there other than hopefully three twin homes.” Among Mr. Vollmuth's other stated rationale for the request was that these three lots would act as a “buffer” between the interstate and the rest of the lots along that street. These rationales were subsequently relied on by the Fargo City Commission when approving the request at that time. Then, less than a year later, the applicant sought to do *precisely* what its representative previously asserted it would *not* do when arguing in favor of the prior requested changes. While the three proposals considered by the Planning Department earlier this year were ultimately withdrawn, it is hard to believe they would have been withdrawn had it not been for public opposition. Now, the same applicant is back approximately 6 months later with yet another request to change the nature of the neighborhood. Quite simply, at what point does the City finally say “*enough is enough*” to the applicant, and put the wishes of residents ahead of those of builders and developers?

The undersigned homeowners engaged much of the local neighborhood concerning the applicant’s prior proposals. In speaking with these individuals, their sentiment toward the proposals was overwhelmingly negative. The owners of at least 16 nearby homes returned signed statements expressing their opposition to the previously proposed changes. Updated statements specifically addressing the current proposals have since been received from 21 nearby residents in addition to the undersigned homeowners. (Exhibits 2 to 22). Maps showing the addresses and locations of each of these individuals’ homes have also been attached. (Exhibits 23 and 24).<sup>5</sup>

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4 This discussion can be found at approximately 34 minutes into the meeting. Retrieved from: <http://download.fargond.gov/k/151-1.mp4>

5 Additionally attached are maps showing: the addition of those residents objecting to the proposals in the past (Exhibit 25) and also the nearby properties believed to be rental homes (Exhibit 26).

Overall, the position of those actually living in the neighborhood is quite clear – the proposed changes are not in the best interests of the neighborhood. The undersigned homeowners respectfully request the members of the Fargo Planning Commission consider the views and opinions of the residents who actually live in the area.

It is also important to recognize that, as the primary developer of this neighborhood, the applicant assumes not only the opportunity for profit, but also the risk of loss. In the event it has struggled to sell the lots in question, the fair and logical solution would be to lower the price of the lots, rather than to rezone/replat much of the neighborhood. Whether a developer requires a change in zoning to make money on a project is simply immaterial to this consideration. To approve such a change essentially absolves the applicant of the risks assumed in such a project. Those living the neighborhood are not responsible for ensuring developers and home builders make money.

### **Conclusion**

The relevant criteria is *not* whether the applicant asserts that it wants or needs the requested changes. It is also not whether the applicant has struggled to sell the lots in question or whether its business interests are served by such a change. It is not whether a specific percentage of people have objected. Instead, the relevant criteria are found at §20-0906(F), which the *applicant* bears the burden of establishing.

The applicant – and *not* the other affected homeowners – must demonstrate that the change is justified by a change in conditions, will not unduly stress public services, and will not adversely affect the value of surrounding properties. Absent a showing of all these criteria, the request cannot be approved. The applicant has not made such a showing. As such, the Fargo Planning Commission must decline to recommend the requested changes.

Matthew and Alyson Bring  
4706 34th St S  
Fargo, ND 58104



**EXHIBIT**  
**1**

City of Fargo, ND

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

Location of 4706 34th St. S.

1:4,179

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



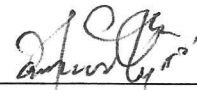


## OPPOSITION TO PROPOSED ZONING CHANGE

I, MASROOR AYUB, am submitting this document to express my  
print name(s)  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☐ Other: Too many rental houses negatively impact neighborhood

Signature:   
Name: MASROOR AYUB  
Address: 3470 47th AVE S.  
Phone: (918) 521-0901  
Email: MASROOR420@GMAIL.COM  
Date: 09/23/2019

EXHIBIT

2

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Cyle Cavett  
print name(s), am submitting this document to express my  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☐ Other: Dabbert already agreed, in March 2018, to stop requesting zoning changes. Is that not a verbal contract?

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT

3

## OPPOSITION TO PROPOSED ZONING CHANGE

I, BRIAN D. SCOLL, am submitting this document to express my  
print name(s)  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.

☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

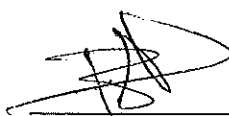
Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

  
BRIAN D. SCOLL  
3340 46<sup>TH</sup> AVE SE  
701-367-6380  
BRIAN@ALLCITYAUTO.COM  
9-18-19

EXHIBIT

4

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Jeff E. Greenheck, am submitting this document to express my  
print name(s)  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☒ Other: They sold these lots as being in a up scale neighborhood with covenants which stated contain size homes, with other restrictions, now after we build they want to lower the standards, no wonder no one is building here, they can't even keep the lots mowed!

Signature: Jeff E. Greenheck

Name: Jeff E. Greenheck

Address: 3299 47th Ave S.

Phone: 201-371-7817

Email: rvelusty71@cableone.net

Date: 9-22-19

They sold us a  
Vision of this Timber  
Creek Sub division  
and now they want  
to change that  
Vision!

EXHIBIT

5

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Erika Hanson & Chris Hanson, am submitting this document to express my  
print name(s)  
opposition to the proposed re-zoning in Timber Creek Third Addition.

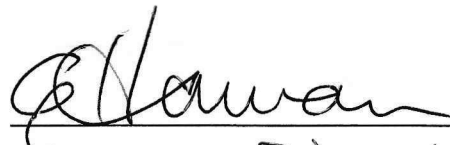
I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.

☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Chris: 

Erika  
Signature:



Name:

Chris + Erika Hanson

Address:

3510 46<sup>th</sup> Ave S Fargo

Phone:

701.361.0639

Email:

buckhousept@yahoo.com

Date:

701.361.0639

EXHIBIT

6



## OPPOSITION TO PROPOSED ZONING CHANGE

I, Joshua Hengel  
print name(s), am submitting this document to express my  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.

☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

Joshua Hengel  
Joshua Hengel  
3412 47<sup>th</sup> Ave S  
701-388-5362  
jhengels7@gmail.com  
9/17/2019

EXHIBIT


7

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Joseph & Emily Heehne, am submitting this document to express my  
print name(s)  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:   
Name: JOSEPH HEEHNE EMILY HEEHNE  
Address: 3508 4TH AVE L. FORTGE  
Phone: 701-404-9689  
Email: EMJOEHEEHNE@GMAIL.COM  
Date: 10 SEP 2019

EXHIBIT

8

## OPPOSITION TO PROPOSED ZONING CHANGE

I, PEGGY HOLUM  
print name(s), am submitting this document to express my  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☐ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☐ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: Peggy Holum  
Name: PEGGY HOLUM  
Address: 3550 46<sup>th</sup> Ave S  
Phone: 701.200.7961  
Email: holump@hotmail.com  
Date: 9.22.19



## OPPOSITION TO PROPOSED ZONING CHANGE

I, OSMAN AND MURISA KERIC, am submitting this document to express my  
print name(s)  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

OSMAN AND MURISA KERIC  
3526 47<sup>th</sup> AVE S FARAD  
701 729-2697  
OKERIC@HOTMAIL.COM  
9/15/19

EXHIBIT

10

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Heidi Kvistad, am submitting this document to express my opposition to the proposed rezoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☐ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☒ Other: I have rental houses on both sides of the home I own. The one house has 4 cars there, and they park on the street. In the winter, the plows would go around those cars making it a nightmare for me to get out of my driveway.

Signature:

Heidi Kvistad

Name:

Heidi Kvistad

Address:

3432 47th Ave S.

Phone:

701-741-4723

Email:

hkvistad@hotmail.com

Date:

9-18-19

EXHIBIT

11

# OPPOSITION TO PROPOSED ZONING CHANGE

Patrick LaDouceur, am submitting this document to express my  
print name(s)  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.

☐ Other: If the city hasn't realized by adding the extra lots and the problems it's already created by adding all the extra parked cars on the road and the increased traffic problems are only going to become worse. I feel like I won't be able to back out of my driveway because of the size of the lot for parking.

Signature: Patrick LaDouceur

Name: Patrick LaDouceur

Address: 3482 47th Ave S.

Phone: 218-791-5145

Email: Patrick.Ladouceur2@gmail.com

Date: 9/20/19

EXHIBIT

12

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Jerry Leier, am submitting this document to express my  
print name(s)  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☐ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: Jerry Leier  
Name: Jerry A. Leier  
Address: 3502 46th Ave. South  
Phone: 1-701-388-0230  
Email: jerry.leier@aggrowth.com  
Date: 9-15-2019

EXHIBIT

13

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Gerald Manley, am submitting this document to express my  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☐ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: GM  
Name: Gerald Manley  
Address: 3304-46<sup>th</sup> Ave. S. - Fargo, ND  
Phone: 701-238-6236  
Email: ND-MUSTANG@HOTMAIL.COM  
Date: 9/15/19

EXHIBIT

14

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Cody Mathiason, am submitting this document to express my  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

Cody Mathiason  
3310 46<sup>th</sup> Avenue South Fargo ND  
701-595-3931 58104  
Cmathiason@braunintertec.com  
9-14-2019

EXHIBIT

15

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Georgia Meyer  
print name(s), am submitting this document to express my  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: Georgia Meyer  
Name: Georgia Meyer  
Address: 3464 47th Ave S Fargo  
Phone: 701-866-0005  
Email: gmeyer0875@yahoo.com  
Date: 9/21/19

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Greg Miller  
print name(s), am submitting this document to express my  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☐ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☐ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☐ The project will decrease parking
- ☐ The developer gained approval of prior changes based on assurances they are now going back on.
- ☒ Other: While I can appreciate the investment made by the developers,  
including getting the LOMA completed pre-construction, I don't think it  
is fair for the current homeowners to have the makeup of their neighborhood  
changed.

Signature:



Name:

Greg Miller

Address:

3322 46<sup>th</sup> Ave S, Fargo

Phone:

701-421-3417

Email:

gregandtahnee@gmail.com

Date:

9/13/19

EXHIBIT

17



## OPPOSITION TO PROPOSED ZONING CHANGE

I, Kelly Morehouse  
print name(s), am submitting this document to express my  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☒ Other: snow removal will be an issue -  
there is limited space as it stands- with  
these changes it will be next to impossible  
to push snow, park, get to work etc.

Signature: Kelly Morehouse  
Name: Kelly Morehouse  
Address: 3558 47<sup>th</sup> Ave S  
Phone: 701-936-5017  
Email: kel-rock@hotmail.com  
Date: 9-18-19

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Valerie Parvett, am submitting this document to express my  
print name(s)  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☐ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☐ The project will increase traffic
- ☐ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

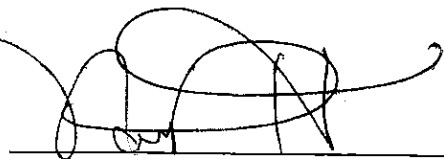
Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

  
Valerie Parvett  
3408-H6 Ave S, Fargo  
701-361-1397  
vparvett@cableone.net  
9-17-19

EXHIBIT

19

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Grant Richardson  
print name(s), am submitting this document to express my  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.

☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: Grant Richardson

Name: Grant Richardson

Address: 3458 47<sup>th</sup> Ave S Fargo, ND 58104

Phone: (712) 579-4681

Email: grant-richardson-20@hotmail.com

Date: 9/15/19

EXHIBIT

20

## OPPOSITION TO PROPOSED ZONING CHANGE

I, Kelly Rott, am submitting this document to express my  
print name(s)  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☐ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☐ The developer gained approval of prior changes based on assurances they are now going back on.

☐ Other: We have fought with the developers from the beginning. Now they are going back on the negotiated deal by trying to add more rentals.

Signature: Kelly Rott

Name: Kelly Rott

Address: 3334 46<sup>th</sup> Ave S

Phone: 701-269-1280

Email: kellyrott@yahoo.com

Date: 9/17/19

EXHIBIT

21

## OPPOSITION TO PROPOSED ZONING CHANGE

I, MINH TRAN  
print name(s), am submitting this document to express my  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.

☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

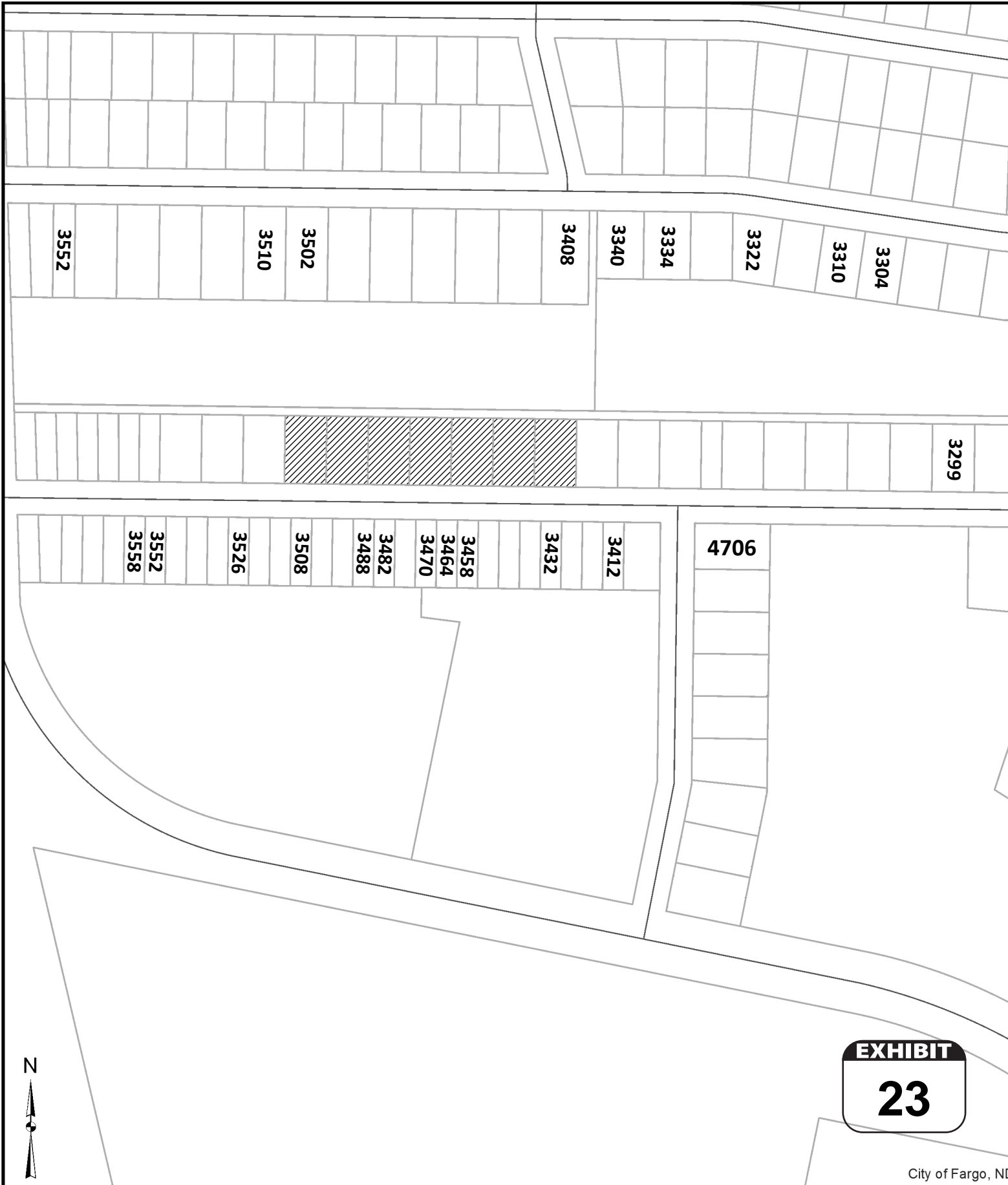
Date: \_\_\_\_\_

Minh Tran  
MINH TRAN  
3488 47<sup>th</sup> AVE S  
832-660-1011  
tonytran19821999@yahoo.com  
Sep - 22 - 2019

EXHIBIT

22





**EXHIBIT**  
**23**

City of Fargo, ND

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

Location of residents filing objections in Exhibits 2 to 22

1:4,179

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





**EXHIBIT**  
**24**

City of Fargo, ND

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

### Location of residents filing objections in Exhibits 2 to 22

1:4,179

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





**EXHIBIT**  
**25**

City of Fargo, ND

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

Location of residents currently objecting, combined with those objecting to prior proposals.

1:4,179

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

THE CITY OF  
**Fargo**  
FAR MORE



**EXHIBIT**  
**26**

City of Fargo, ND

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

Location of residents currently or previously objecting, combined with locations of likely rental properties.

1:4,179

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

THE CITY OF  
**Fargo**  
FAR MORE

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**FW: replat and zoning of Timber Creek**

---

**Kelly Rott** <kellyrott@yahoo.com>  
To: mbring@gmail.com

Mon, Feb 25, 2019 at 9:06 AM

---

**From:** Kelly Rott <kellyrott@yahoo.com>  
**Sent:** Monday, February 04, 2019 4:13 PM  
**To:** 'Donald Kress' <dkress@FargoND.gov>  
**Subject:** replat and zoning of Timber Creek

Mr. Kress

I live in the neighborhood of the proposed zone change of Timber Creek Ninth and Tenth Addition.

I am a co-owner of a Real Estate Company that has both Residential and Commercial Agents. Personally I am a Commercial Realtor.

After much discussion it is my professional opinion that changing the density of a proposed neighborhood in the middle of the sales and building of the said neighborhood could change **the value to the negative of existing single family homes already built** in the 9<sup>th</sup> and 10<sup>th</sup> addition and could change the value of lots that have yet to be sold for building of single family homes. **It is 100% not going to raise the value** of existing home already built.

When this project was first proposed it met with much public outcry from surrounding neighbors and was changed several times to come up with the compromise that is being built now. Making changes to the density now better be investigated before approval because if you change the 9<sup>th</sup> addition request it will only be time before the 10<sup>th</sup> addition request will be before you again and others.

Other factors that need to be addressed along with density change is sewer and water capacities. Street parking is always an issue with Twin Homes, Townhomes, Condo's, and Apartments. Another issue could be traffic flow changes with higher density.

**Kelly Rott**

Commercial Realtor

kellyrott@yahoo.com

701-269-1280 cell



## OPPOSITION TO PROPOSED ZONING CHANGES

We, Joseph & Emily Hoehne, are submitting this document to express our opposition to the proposed "Timber Creek Third Addition".

We object to this project for the following reasons:

- This project will negatively affect our property value
- This project will change the character of the neighborhood
- We purchased our home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- The project will increase traffic
- The project will decrease parking

Name: Joseph & Emily Hoehne

Address: 3508 47<sup>th</sup> Ave. S

Phone: 701-404-9869

**From:** Erika Hanson <buckhousept@yahoo.com>

**Sent:** Saturday, September 14, 2019 11:01 AM

**To:** Donald Kress <dkress@FargoND.gov>

**Subject:** Opposition to Timbercreek

I would like to voice my opposition to the proposed zoning change on 47th Ave South between 3510 and 3419. It is currently zoned for single family homes, and Paces Lodging and Dabbert Homes are seeking permission to build duplexes on the vacant lots. My main opposition to this is because of the traffic noise. We are already dealing with noise from the interstate, which I realize was there when we purchased our home. However, when we purchased our home and planned to have single family homes to the south, we thought the noise of the interstate was worth the location. I don't see us getting a sound wall any time soon to counteract the interstate noise.

Erika Hanson  
3510 46th Ave S  
Fargo ND 58104

Dear Donald,

I am sending this email to you to express our (my wife's Murisa and mine) strong opposition to proposed zoning change in Timber Greek planning on the North side of the 47th Avenue South that are between 3521 and 3419.

The reasons to our opposition you can find in the attached PDF Document.

Thanks,

Osman Keric

## OPPOSITION TO PROPOSED ZONING CHANGE

I, OSMAN AND MURISA KERIC  
print name(s), am submitting this document to express my  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

OSMAN AND MURISA KERIC  
3526 47<sup>th</sup> AVE S FARGO  
701 729-2697  
OKERIC@HOTMAIL.COM  
9/15/19

**From:** [jay@dakotaskyhook.com](mailto:jay@dakotaskyhook.com) <[jay@dakotaskyhook.com](mailto:jay@dakotaskyhook.com)>

**Sent:** Tuesday, September 17, 2019 9:30 AM

**To:** Donald Kress <[dkress@FargoND.gov](mailto:dkress@FargoND.gov)>

**Subject:** Proposed Re-zoning of Timber Creek Third Addition

I am sending this email to express my opposition to the rezoning proposal in Timber Creek Third Addition.

Once again, I am getting tired of builders and developers, who have been previously been rejected, to keep coming back and hoping that we don't notice the third, fourth, fifth time that they try to pass these kinds of changes, especially when they SPECIFICALLY said that they were not going to do this again.

Once again, this will change the neighborhood for the worse – their inability to sell their lots because of the inflated prices they are asking is not **\*MY\*** issue and destroying the PLANNED layout to help them sell them by subdividing them is NOT acceptable.

- It will affect my property values adversely, much like the townhomes on 47<sup>th</sup> Ave did
- It will increase traffic all over the neighborhood
- It will make the neighborhood feel much more crowded and greatly cheapen it

Please, reject this re-zone yet again, and please, tell the developers that multiple well-dipping has to stop.

Gerald "Jay" Manley, Jr.  
3304 46<sup>th</sup> Ave South  
Fargo, ND 58104



## OPPOSITION TO PROPOSED ZONING CHANGE

I, Jeff E. Greenheck, am submitting this document to express my  
print name(s)  
opposition to the proposed re-zoning in Timber Creek Third Addition.

I object to this project for the following reasons:

- ☒ The project will negatively affect my property value
- ☒ The project will change the character of the neighborhood
- ☒ I purchased my home with the understanding that the Timber Creek neighborhood would contain a variety of home types/sizes
- ☒ The project will increase traffic
- ☒ The project will decrease parking
- ☒ The developer gained approval of prior changes based on assurances they are now going back on.
- ☒ Other: They sold these lots as being in a up scale neighborhood with covenants which stated contain size homes, with other restrictions, now after we build they want to Lower the standards, no wonder no one is building here, they can't even keep the lots mowed!

Signature: Jeff E. Greenheck

Name: Jeff E. Greenheck

Address: 3299 47th Ave S.

Phone: 201-371-7817

Email: rvclusty71@Cableone.net

Date: 9-22-19

They sold us a  
Vision of this Timber  
Creek Sub division  
and now they want  
to Change that  
Vision!

**From:** Cyle Cavett <cyle.cavett@gmcavett.com>  
**Sent:** Wednesday, September 25, 2019 8:54 AM  
**To:** Donald Kress <dkress@FargoND.gov>  
**Subject:** Rezoning 47th Ave. S. in South Fargo  
**Sensitivity:** Confidential

Good morning,

I and my wife, Tarah, would like to formally protest the attempts by Dabbert Custom Homes to rezone vacant lots on 47<sup>th</sup> Avenue south. We do not want townhomes in our neighborhood. We would definitely rather look at dirt than see townhomes constructed in an already congested neighborhood. I would suggest having Dabbert lower the \$50,000 lot asking price.

I have one question: Did Dabbert promise, in March of 2018, to quit requesting zoning changes in our neighborhood after he was granted a zoning change on 3 other lots?

Take care,  
Cyle Cavett



4133 30<sup>th</sup> Avenue South  
Fargo, ND 58104  
Phone: (701) 235-1124  
Fax: (701) 235-1854  
Web site: [www.gmcavett.com](http://www.gmcavett.com)

**City of Fargo  
Staff Report**

<b>Title:</b>	Harwood Addition	<b>Date:</b>	09/25/19
<b>Location:</b>	701 University Drive North and 702 12th Street North	<b>Staff Contact:</b>	Kylie Bagley
<b>Legal Description:</b>	Lot 1, Block 7, Harwood Addition		
<b>Owner(s)/Applicant:</b>	Chris Hawley Architects	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (from DMU, Downtown Mixed-Use with a C-O, Conditional Overlay to DMU, Downtown Mixed-Use)		
<b>Status:</b>	Planning Commission Public Hearing: October 1, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Commercial and Residential	<b>Land Use:</b> Commercial and Residential
<b>Zoning:</b> DMU, Downtown Mixed-Use with a C-O, Conditional Overlay	<b>Zoning:</b> DMU, Downtown Mixed-Use
<b>Uses Allowed:</b> DMU – Downtown Mixed Use. Allows detached houses, attached houses, duplexes, multi-dwelling structures, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off-premise advertising, commercial parking, retail sales and service, vehicle repair, limited vehicle service, and major entertainment events.  With a Conditional Overlay to limit height, building setback on the northern property line and fencing along the northern property line	<b>Uses Allowed:</b> DMU – Downtown Mixed Use. Allows detached houses, attached houses, duplexes, multi-dwelling structures, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off-premise advertising, commercial parking, retail sales and service, vehicle repair, limited vehicle service, and major entertainment events.
<b>Maximum Building Coverage Allowed:</b> No maximum	<b>Maximum Building Coverage Allowed:</b> No maximum

**Proposal:**

The applicant is seeking a zoning change from DMU, Downtown Mixed-Use with a C-O, Conditional Overlay to DMU, Downtown Mixed-Use on Lot 1, Block 7, Harwood Addition. The subject properties are located at 701 University Drive North and 702 12th Street North.

The applicant is proposing to renovate the existing laundromat and single family home into a restaurant with onsite parking. Due to the constraints of the two lots the applicant is requesting to remove the existing Conditional Overlay, which was put in place in 2017 when the original applicant did not have concrete development plans for this site. Residential protection standards will still apply with the removal of the Conditional Overlay.

The applicant is proposing a two story restaurant with nine parking stalls on site. The applicant will be utilizing the existing vacant laundromat building and adding a new addition as well as a parking lot. With the existing residential protection waiver, the addition and the parking lot will be setback from the north property line in order to protect the existing residential uses to the north. The applicant will also provide a landscape buffer on the east half of the lot to protect the Single-Dwelling Residential property to the north of the project. The applicant has provided a site plan for the project and is currently in the process of obtaining a building permit.

### Surrounding Land Uses and Zoning Districts:

- North: SR-3, Single-Dwelling Residential and MR-3, Multi-Dwelling Residential with single family and apartment use;
- East: Across 12<sup>th</sup> Street North, MR-3, Multi-Dwelling Residential with single family;
- West: Across University Street North, GC, General Commercial with retail use;
- South: Across 7th Avenue North, DMU, Downtown Mixed-Use with commercial use.

### Area Plans:



The subject property is located within the Roosevelt Neighborhood Plan. The area is deemed appropriate for commercial with residential uses.

- Commercial with Res
- High Density Res
- Low Density Res
- Medium Density Res
- Mixed Density Res
- Park/Open Space
- Public
- Res with Commercial

### Schools and Parks:

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

**Parks:** Johnson Soccer Complex (1420 11th Avenue N) is located approximately 1/4 mile northwest of the subject property and offers multipurpose field, picnic table, playground, restrooms, shelter, and soccer amenities.

**Pedestrian / Bicycle:** On road bike facilities are located along University Drive North. These facilities are a component of the metro area trail system.

### 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 zoning map error in regard to the subject property. The requested zoning change is justified by a change in conditions since the previous zoning classification was established. The applicant has a clear picture of the type of development for the property. The DMU allows for flexibility in development but requires design standards.

**(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?**

The development will be served with city services (water, sewer, streets, police/fire protection, etc.) as well as other needed utility services as needed. The City Engineer and other applicable review agencies have reviewed this proposal. It should be noted that the Engineering Department has concerns with the existing storm water policy that provides an exemption to DMU zoned properties.

**(Criteria Satisfied)**

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

The Planning Department is not involved in assigning "value," as in a monetary "property value" for the purpose of taxation, to individual properties; doing so is the job of the city assessor's office. Rather, "value" in this context--the context of a zone change finding---relates to whether the proposed zone change would create zoning-related problems, such as nuisances, to adjacent property, or whether the proposed zone change would affect the health, safety, and welfare of property in the vicinity.

Staff has no documentation or evidence that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. The proposed zone change is in keeping with adopted plans approved via public process. In addition, written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has not received any verbal concerns or written comments regarding the proposed overlay zoning change. Staff finds that the approval 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 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 purposes of the LDC, the Growth 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 DMU, Downtown Mixed-Use with a C-O, Conditional Overlay, to DMU, Downtown Mixed-Use, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

**Planning Commission Recommendation:** October 1, 2019

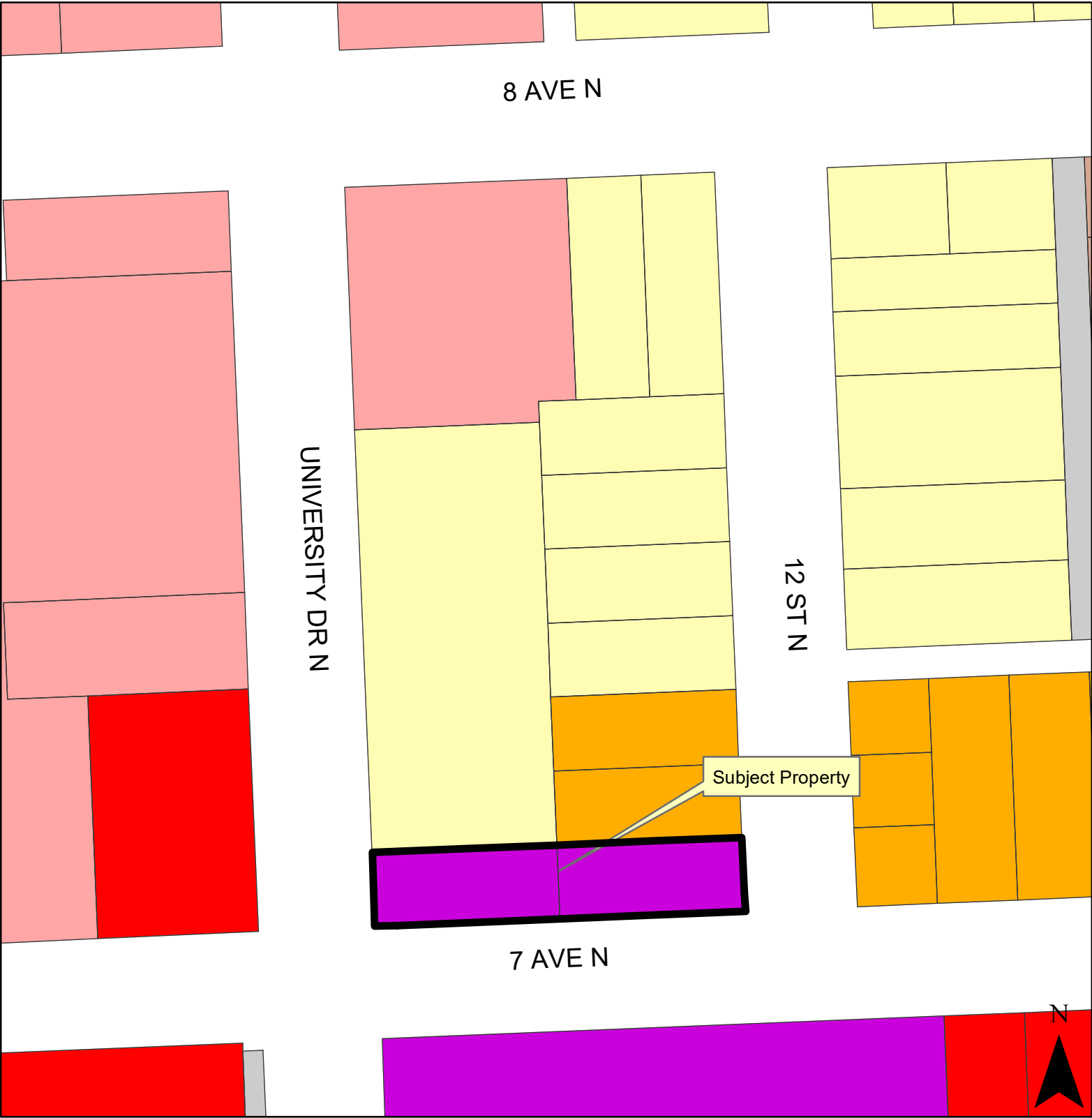
**Attachments:**

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

# Zone Change (DMU with C-O to DMU)

## Harwoods Addition

702 12th Street N  
701 University Drive N





Zone Change (DMU with C-O to DMU)

Harwoods First Addition

702 12th Street N  
701 University Drive N





No.	Description	Date
1	CITY COMMENTS	8/13/19
3	CITY COMMENTS	8/16/19

701 RESTAURANT

701 NORTH UNIVERSITY DRIVE  
FARGO, NORTH DAKOTA 58102

DATE: 07-29-2019  
PROJECT: 1676

PHASE:  
CONSTRUCTION  
DOCUMENTS

A100

SITE PLAN

PLANTING LEGEND					
SYM	TREES	SIZE	P. BUFFER	OPEN SPACE	TOTAL
T1	DECIDUOUS	2" CALIPER	3	-	3
T2	EVERGREEN	5" TALL MIN.	2	-	2
TOTALS			5	-	5

PLANTING LEGEND					
SYM	SHRUBS	SIZE	P. BUFFER	OPEN SPACE	TOTAL
S1	-	1 GALLON	51	-	51
S2	-				
TOTALS			51	-	51

### LDC PLANTING SUMMARY

#### OPEN SPACE PLTG. REQUIREMENTS

SITE IS ZONED DMU  
LOT SIZE IS 10,580 SF

#### LANDSCAPE BUFFER REQUIREMENTS

- TYPE 'A' LANDSCAPE BUFFER - MIN. 1 TREE AND 20 SHRUBS PER 50 LINEAR FEET OF BUFFER.
- DECIDUOUS TREES MIN. 2" CALIPER; EVERGREEN TREES MIN. HEIGHT 5 FEET; SHRUBS MIN. 1 GALLON

#### DMU LANDSCAPE/SCREENING REQUIREMENTS

- FENCE, WALL OR LANDSCAPE BUFFER REQ'D TO PARTIALLY SCREEN SURFACE LEVEL PARKING LOTS FROM PUBLIC RIGHTS-OF-WAYS; MIN. HEIGHT OF 2 1/2 FEET AND MAXIMUM HEIGHT OF 3 FEET.

TREES ARE TO BE SPACED AS INDICATED ON PLANS. FINAL TREE LOCATIONS TO BE STAKED IN FIELD BY CITY FORESTRY DEPT.

#### BUILDING STATS:

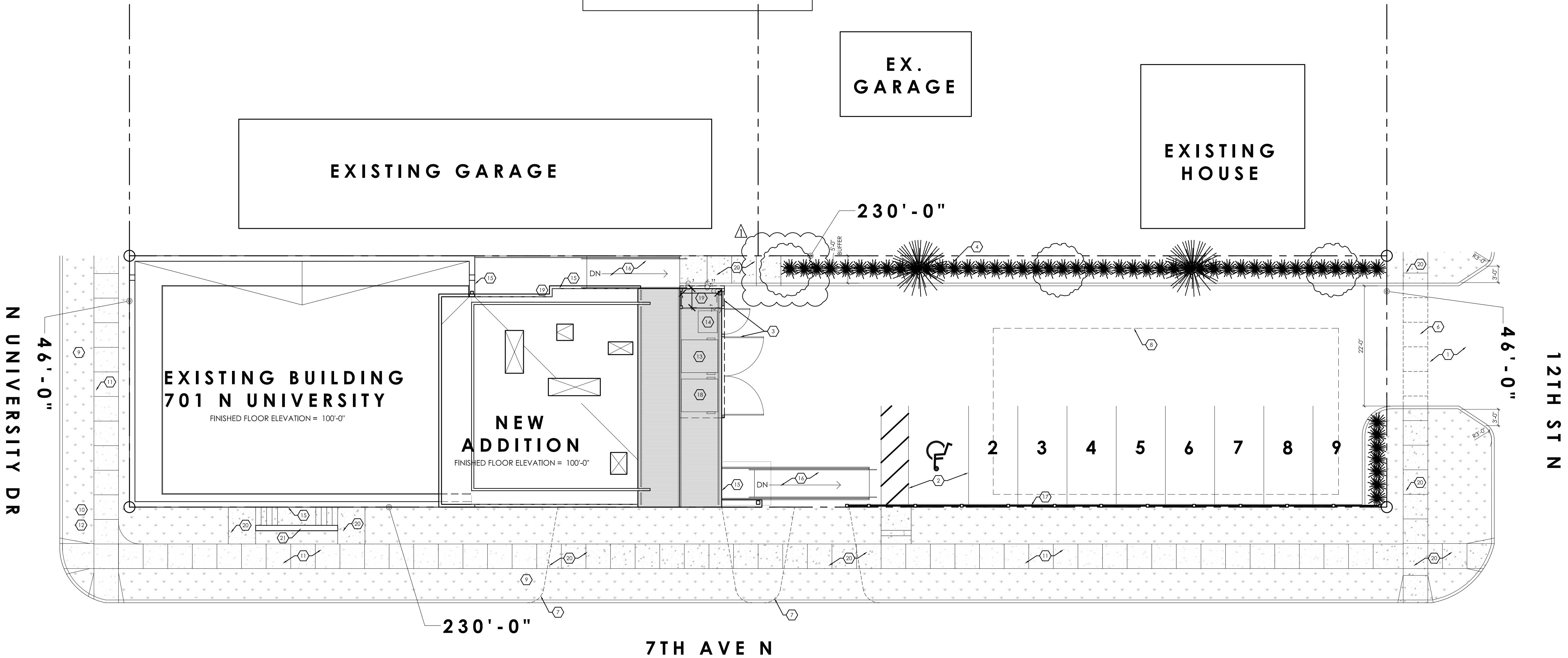
EXISTING:		NEW:	
BASEMENT FLOOR	2,906 S.F.	BASEMENT FLOOR	4,496 S.F.
FIRST FLOOR	2,906 S.F.	FIRST FLOOR	4,496 S.F.
SECOND FLOOR	0 S.F.	SECOND FLOOR	1,793 S.F. (ENCLOSED)
TOTAL	5,812 S.F.	SECOND FLOOR	2,884 S.F. (ROOF PATIO)
		TOTAL PROPOSED BUILDING AREA: 13,669 S.F.	

#### DMU STANDARDS:

35% GROUND FACADE TRANSPARENCY ALONG SIDEWALKS:  
SOUTH FACADE: NEW BUILDING ADDITION  
FACADE = 765 SF (765 x .35 = 268 SF TRANSPARENCY REQ'D)  
GLAZING = 285 SF (37% OF FACADE)  
EXISTING SOUTH & WEST FACADES EXEMPT FROM GROUND-FLOOR TRANSPARENCY REQUIREMENTS - (ART.20-0212: #3 C. (1))

#### SITE PLAN NOTES

- NEW CONCRETE DRIVE ACCESS
- PAINTED PARKING STRIPING
- 6'-0" HIGH DUMPSTER SCREEN FENCE, 1x6 CEDAR BOARDS ON 4x4 TREATED POST FRAMING, POST SET IN 12" CONCRETE PIERS TO FROST DEPTH
- WASHED LANDSCAPE ROCK, FABRIC & PVC EDGE
- 4" CONCRETE SIDEWALK
- EXISTING SIDEWALK TO BE REMOVED
- EXISTING DRIVE TO BE REMOVED
- EXISTING STRUCTURE TO BE REMOVED
- EXISTING STREET LIGHT
- EXISTING FIRE HYDRANT
- EXISTING SIDEWALK
- EXISTING POWER POLE
- NEW DUMPSTER
- NEW GREASE DUMPSTER
- EXIT DISCHARGE LOCATION
- NEW ADA RAMP
- 3'-0" HIGH SCREEN FENCE, 1x6 CEDAR BOARDS ON 4x4 TREATED POST FRAMING, POST SET IN 12" CONCRETE PIERS TO FROST DEPTH
- NEW CARDBOARD DUMPSTER
- WOOD STORAGE
- NEW SIDEWALK
- NEW RAILING











**City of Fargo  
Staff Report**

<b>Title:</b>	West 29 Seventh Addition	<b>Date:</b>	9/25/2019
<b>Location:</b>	4180 24 <sup>th</sup> Avenue South & 4143 26 <sup>th</sup> Avenue South	<b>Staff Contact:</b>	Maggie Squyer
<b>Legal Description:</b>	Lot 1, Block 1, West 29 Fourth Addition		
<b>Owner(s)/Applicant:</b>	Rob Lyngstad (Matrix Properties)	<b>Engineer:</b>	Bolton & Menk, Inc.
<b>Entitlements Requested:</b>	<b>Minor Subdivision</b> (Replat of Lot 1, Block 1, West 29 Fourth Addition)		
<b>Status:</b>	Planning Commission Public Hearing: October 1, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Office (under construction)	<b>Land Use:</b> Unchanged
<b>Zoning:</b> GC, General Commercial	<b>Zoning:</b> Unchanged
<b>Uses Allowed:</b> GC—General Commercial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-storage, vehicle repair, and limited vehicle service	<b>Uses Allowed:</b> Unchanged
<b>Maximum Density Allowed:</b> GC, General Commercial – 85% maximum building coverage	<b>Maximum Density Allowed:</b> Unchanged

<b>Proposal:</b>
<p>The applicant is requesting a minor subdivision plat, entitled <b>West 29 Seventh Addition</b>, which would replat two existing lots into three new lots. The proposed Lot 3 is an existing office which meets all requirements of the LDC within the proposed boundary and draws access off 26<sup>th</sup> Avenue South. Proposed Lots 1 &amp; 2 will be the site of future office buildings. Proposed Lot 1 will have access off 24<sup>th</sup> Avenue South while proposed Lot 2 will gain access to 24<sup>th</sup> Avenue South through an ingress/egress easement along proposed Lot 1. The property is currently zoned GC, General Commercial and no change in zoning is requested.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: AG, Agriculture that is currently vacant</li> <li>• East: GC, General Commercial with medical clinic and office</li> <li>• South: GC, General Commercial with college and office</li> <li>• West: P/I, Public and Institutional with recreation</li> </ul>



### Area Plans:

The subject property is located within the 2003 Southwest Future Land Use Plan. This plan indicates the subject property is appropriate for commercial uses.



### Schools and Parks:

**Schools:** The subject property is located in the West Fargo Public School District and is served by Freedom Elementary, Liberty Middle, and Sheyenne High Schools.

**Neighborhood:** Anderson Park

**Parks:** The subject property is located within 0.25 miles of the Red River Zoo (4255 23<sup>rd</sup> Avenue South) and Anderson Softball & Tharaldson Baseball Complex (4200 23<sup>rd</sup> Avenue South).

**Pedestrian / Bicycle:** A shared use path exists along the west side of 42<sup>nd</sup> Street South.

### Staff Analysis:

#### 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 plat three legal lots for office/commercial development. The proposed use is consistent with the existing zoning and the growth plan for the area. 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 no inquiries about the application. 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)**

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.**



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. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed **West 29 Seventh Addition** subdivision as presented; as the proposal complies with the adopted Area Plan, Standards of Article 20-06 of the, and all other applicable requirements of the Land Development Code."

**Planning Commission Recommendation:** October 1, 2019

**Attachments:**

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

# Plat (Minor)

## West 29 Seventh Addition

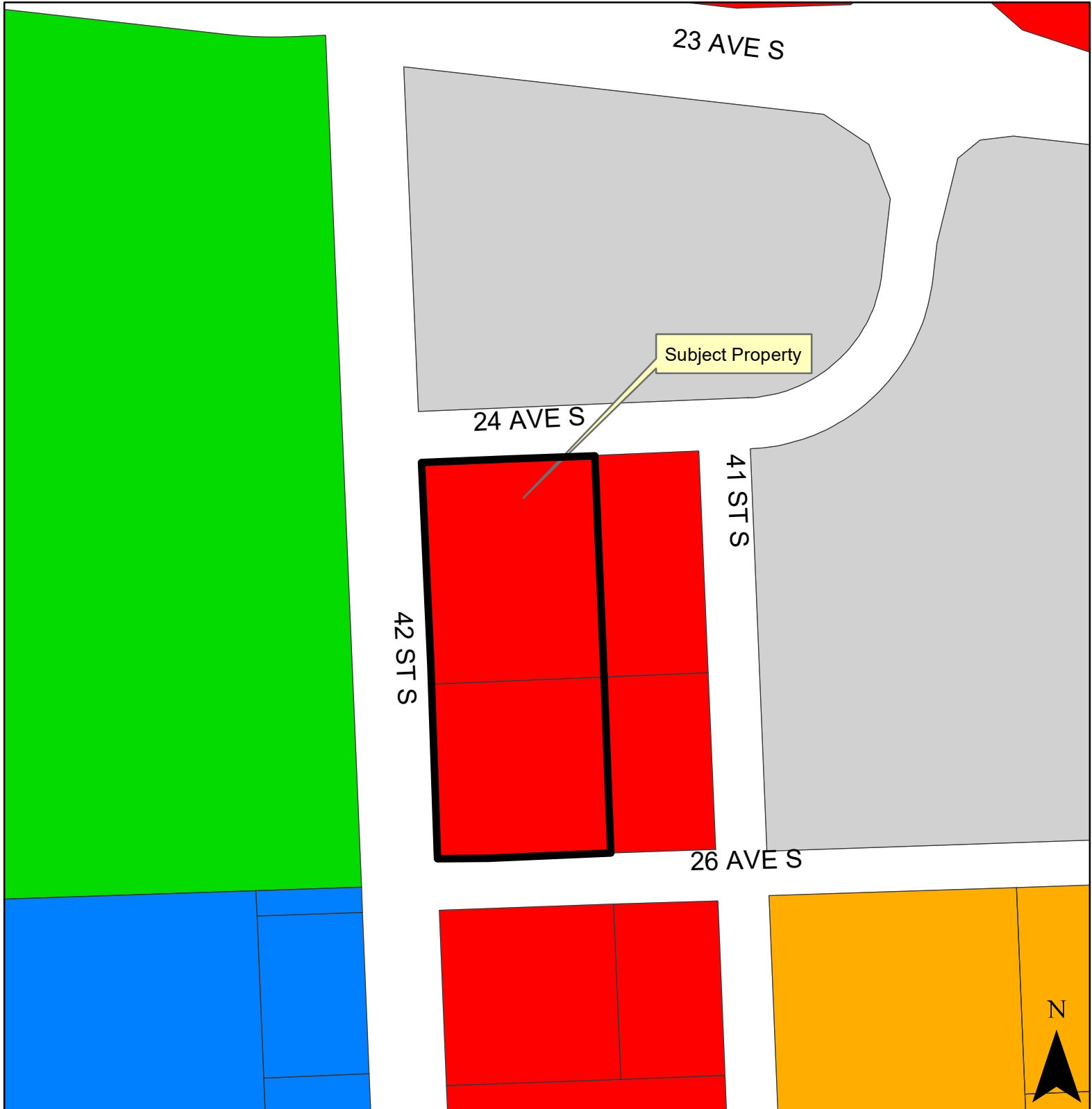
4180 24th Ave S & 4143 26th Ave S



# Plat (Minor)

## West 29 Seventh Addition

4180 24th Ave S & 4143 26th Ave S



### Legend

AG	LC	MHP	SPR-2
DMU	LI	NCO	SPR-3
GC	MR-1	NO	SPR-4
GO	MR-2	UMU	SPR-5
	MR-3		City Limits

300

Feet





**City of Fargo  
Staff Report**

<b>Title:</b>	Bohnsack's Second Addition	<b>Date:</b>	9/25/2019
<b>Location:</b>	1807 16 <sup>th</sup> Street South	<b>Staff Contact:</b>	Maggie Squyer
<b>Legal Description:</b>	Lot 1, Block 12, Bohnsack's Second Addition		
<b>Owner(s)/Applicant:</b>	Fargo Public School District	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (from SR-2, Single-Dwelling Residential to P/I Public and Institutional)		
<b>Status:</b>	Planning Commission Public Hearing: October 1, 2019		

Existing	Proposed
<b>Land Use:</b> Parks and Open Space	<b>Land Use:</b> Parks and Open Space
<b>Zoning:</b> SR-2, Single-Dwelling Residential	<b>Zoning:</b> P/I, Public and Institutional
<b>Uses Allowed:</b> Detached housing, group living restricted residency, day care facilities of limited size, parks and open space, religious institutions, safety services, schools, basic utilities and limited telecommunications facilities	<b>Uses Allowed:</b> Colleges, community service, day care facilities of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, basic utilities, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste-related use, agriculture, aviation, surface transportation, major entertainment event, and limited telecommunications facilities
<b>Maximum Density Allowed:</b> 5.4 units per acre	<b>Maximum Density Allowed:</b> N/A

**Proposal:**

The applicant is seeking a zoning change from SR-2, Single-Dwelling Residential to P/I, Public and Institutional. The property, located at 1807 16<sup>th</sup> Street South, is owned by Fargo Public School District and is currently used as a park on the south side of Lewis & Clark Elementary School.

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.

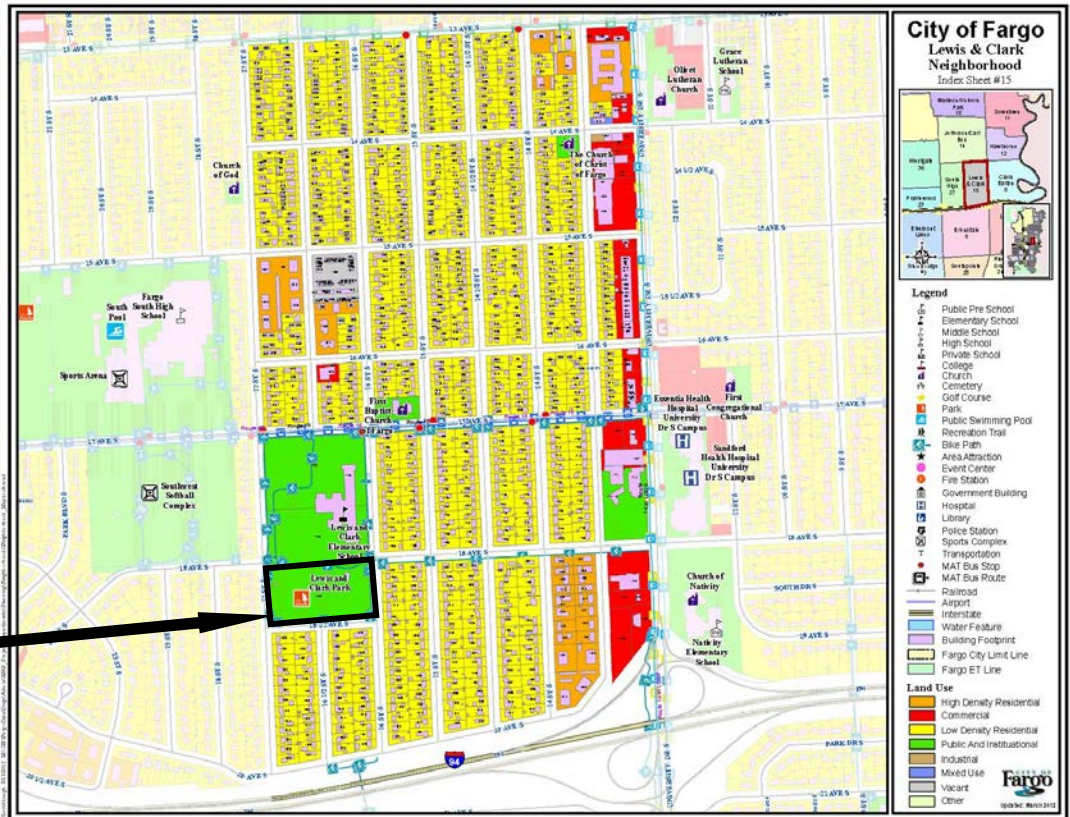
**Surrounding Land Uses and Zoning Districts:**

- North: P/I, Public and Institutional with Lewis & Clark Elementary
- East: SR-2, Single-Dwelling Residential with residential use
- South: SR-2, Single-Dwelling Residential with residential use
- West: SR-2, Single-Dwelling Residential with residential use

## Area Plans:

The subject property is located in the Lewis & Clark Neighborhood land use map. On this map, the subject property is already classified as Public and Institutional.

Subject Property



## Schools and Parks:

**Neighborhood:** Lewis & Clark

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

**Parks:** The subject property is Lewis & Clark park, which offers baseball/softball fields, basketball court, a multipurpose field, an outdoor ice rink, and a playground. The subject property is also located within a quarter-mile of Tharaldson Little League Complex (1804 17<sup>th</sup> Avenue South), which offers baseball/softball fields, picnic tables, concessions, and a playground.

**Pedestrian / Bicycle:** An off-road shared use path is located north of the subject property and a bike route is located along 16<sup>th</sup> Street South and 18 ½ Avenue South.

## 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 zoning map error in regard to the subject property. The zone change is requested to bring the subject property into conformance with the adjacent property to the north, which is also owned by Fargo Public School District and zoned P/I. While parks and schools may exist in SR-2, the P/I zoning district is intended to accommodate public services, such as schools.

**(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?**

The subject property has access to city services (water, sewer, streets, police/fire protection, etc.) as well as other utility services as needed. The City Engineer and other applicable review agencies have reviewed this proposal. No deficiencies to provide the necessary public services, facilities, and programs to this development have been identified.

**(Criteria Satisfied)**

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

The Planning Department is not involved in assigning “value”, as in a monetary “property value” for the purpose of taxation, to individual properties; doing so is the job of the city assessor’s office. Rather, “value” in this context—the context of a zone change finding—relates to whether the proposed zone change would create zoning-related problems, such as nuisances, to adjacent property, or whether the proposed zone change would affect the health, safety, and welfare of property in the vicinity. Staff has no evidence to suggest this proposal 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, staff has received several inquiries about the proposed zone change and one note of opposition, which has been included in this packet.

**(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 and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. According to the Land Development Code, P/I offers an alternative to residential zoning districts for public and institutional uses, thereby increasing development predictability within residential neighborhoods. Staff finds the proposal is consistent with the purposes of the LDC, the Growth 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 SR-2, Single-Dwelling Residential, to P/I, Public and Institutional, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.”

**Planning Commission Recommendation:** October 1, 2019

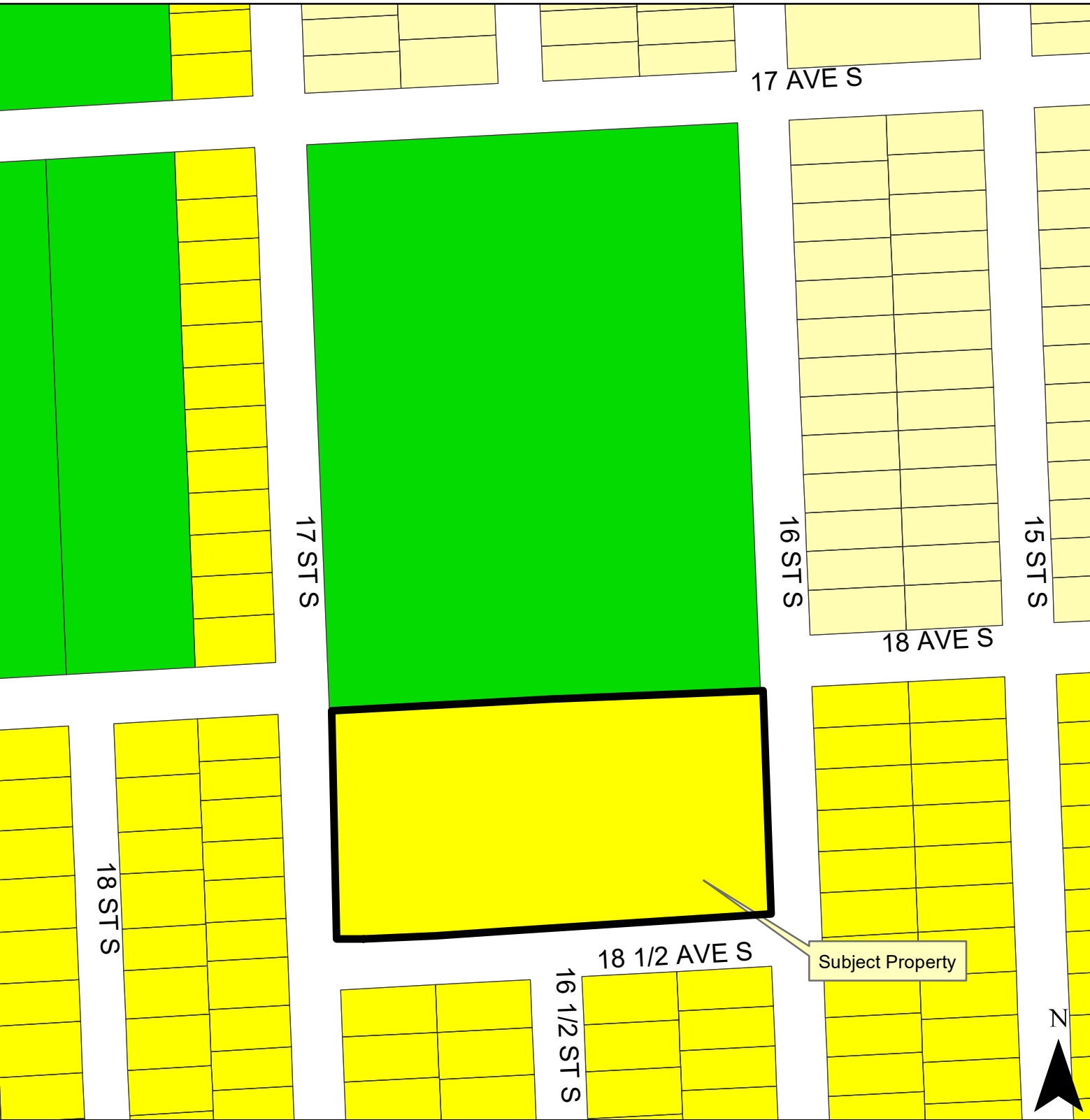
**Attachments:**

1. Zoning Map
2. Location Map
3. Letter of Opposition

# Zone Change (SR-2 to P/I)

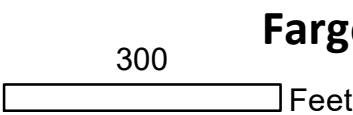
## Bohnsack's Second Addition

1807 16th St S



Legend

AG	DMU	GGC	GO	LC	MR-1	MR-2	MR-3	MHP	NO	P/I	SR-2	SR-3	SR-4	SR-5	City Limits
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Fargo Planning Commission  
October 1, 2019



# Zone Change (SR-2 to P/I)

## Bohnsack's Second Addition

1807 16th St S





## Planning & Development

I think the Bohusack's  
second addition should  
stay as is, Single Dwelling  
residential.

1807 - 16<sup>th</sup> St. South



**City of Fargo  
Staff Report**

<b>Title:</b>	<b>Rail Crossing First Addition</b>	<b>Date:</b>	9/23/2019
<b>Location:</b>	2161 and 2215 3 <sup>rd</sup> Avenue North; 321 23 <sup>rd</sup> Street North	<b>Staff Contact:</b>	Luke Morman
<b>Legal Description:</b>	Lots 6-20, Block 11; Lots 14-21, Block 12; portion of the vacated alley in Block 11; and a portion of vacated 22 <sup>nd</sup> Street; all in Tyler's Addition		
<b>Owner(s)/Applicant:</b>	Rail Crossing LLC/Fabricators Unlimited	<b>Engineer:</b>	Houston Engineering Inc.
<b>Entitlements Requested:</b>	Minor Subdivision (Replat of Lots 6-20, Block 11; Lots 14-21, Block 12; portion of the vacated alley in Block 11; and a portion of vacated 22 <sup>nd</sup> Street; all in Tyler's Addition)		
<b>Status:</b>	Planning Commission Public Hearing: October 1, 2019		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Warehouse, Manufacturing, and Vacant Land	<b>Land Use:</b> No change
<b>Zoning:</b> LI, Limited Industrial	<b>Zoning:</b> No change
<b>Uses Allowed:</b> LI– Limited Industrial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation.	<b>Uses Allowed:</b> No change
<b>Maximum Building Coverage Allowed:</b> 85% of lot	<b>Maximum Building Coverage Allowed:</b> No change

**Proposal:**

The applicant is requesting a minor subdivision, entitled **Rail Crossing First Addition**, which is a replat of Lots 6-20, Block 11; Lots 14-21, Block 12; portion of the vacated alley in Block 11; and a portion of vacated 22<sup>nd</sup> Street; all in Tyler's Addition. These properties are zoned LI, Limited Industrial, and no zone changes are proposed. The subject property is located at 2161 and 2215 3<sup>rd</sup> Avenue North, 321 23<sup>rd</sup> Street North, and is comprised of approximately 4.86 acres. The proposed subdivision will create one lot and one block. The subject properties are all owned by Rail Crossing LLC and operated by Fabricators Unlimited.

The existing buildings do not meet all requirements of the current LDC within the proposed boundaries, thus, this property is legally nonconforming. The subject properties are legally nonconforming due to the LDC's Dimensional Standards, Residential Protection Standards, and Trees and Landscaping sections. Being legally nonconforming doesn't affect the proposed minor subdivision, it will only affect any future building permit application. All future development will need to meet the current LDC Development Standards.

The applicant is updating the plat per staff comments, and will have the revised plat prior to the Planning Commission meeting.

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: LI, Limited Industrial, with warehouse and an automobile repair shop;
- East: SR-3, Across an alley, Single-Dwelling Residential, with single family houses, and LI, Limited Industrial, with warehouse use and vacant land owned by the City of Fargo;
- South: Across 3<sup>rd</sup> Avenue North, LI, Limited Industrial, with warehouse, office, and light manufacturing uses;
- West: Across 23<sup>rd</sup> Street North, LI, Limited Industrial, owned by the City of Fargo.

**Area Plans:**

The subject properties are not included in any Growth Plan.

**Schools and Parks:**

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

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

**Parks:** The subject property is less than a half mile west of Unicorn Park with the amenities of basketball, grills, multipurpose field, picnic tables, a playground, and recreational trails. The subject property is also less than half a mile north of Jefferson West Park with amenities of basketball, picnic tables, a playground, recreational trails, soccer, and a skate park.

**Pedestrian / Bicycle:** Off-road bike facilities are located along 1<sup>st</sup> Ave N, 25<sup>th</sup> St S, 1 Ave S, 21<sup>st</sup> St S, and through Jefferson West Park, which are a component of the metro area bikeway system.

**Staff Analysis:**

**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.**

The subdivision is intended to replat the subject properties into one lot to accommodate future 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, staff has received one inquiry. As noted above, the subject properties are legally nonconforming due to the LDC's Dimensional Standards, Residential Protection Standards, and Trees and Landscaping sections. 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)**



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.**

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 principles. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed minor subdivision plat **Rail Crossing First Addition** as outlined within the staff report, as the proposal complies with the standards of Article 20-06, and all other applicable requirements of the Land Development Code".

**Planning Commission Recommendation:** October 1, 2019

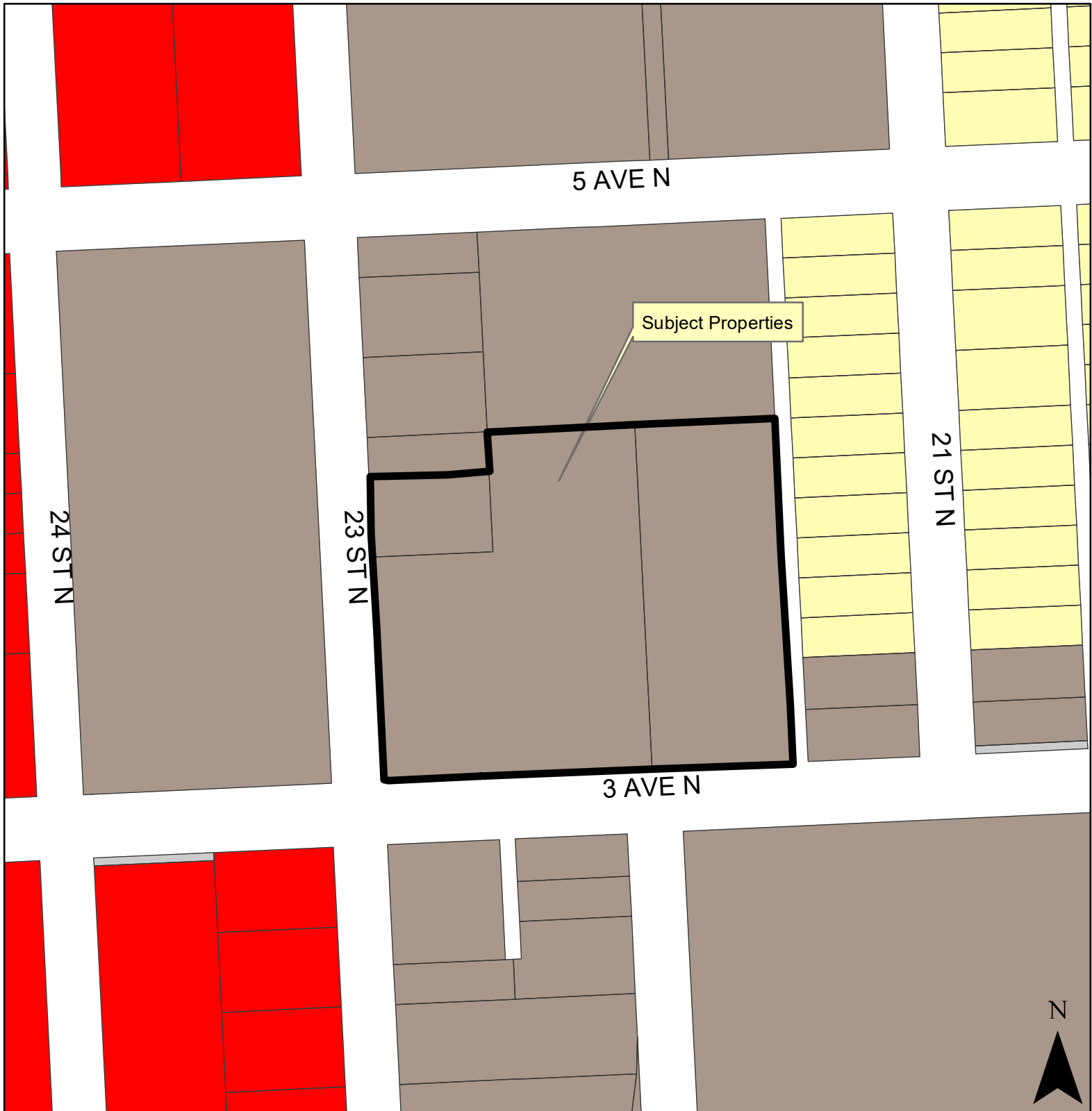
**Attachments:**

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

# Plat (Minor)

## Rail Crossing First Addition

321 23rd St N  
2161 & 2215 3rd Ave N



### Legend

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

200

Feet

# Plat (Minor)

## Rail Crossing First Addition

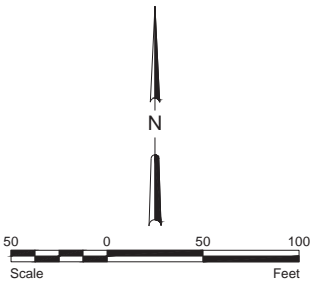
321 23rd St N  
2161 & 2215 3rd Ave N





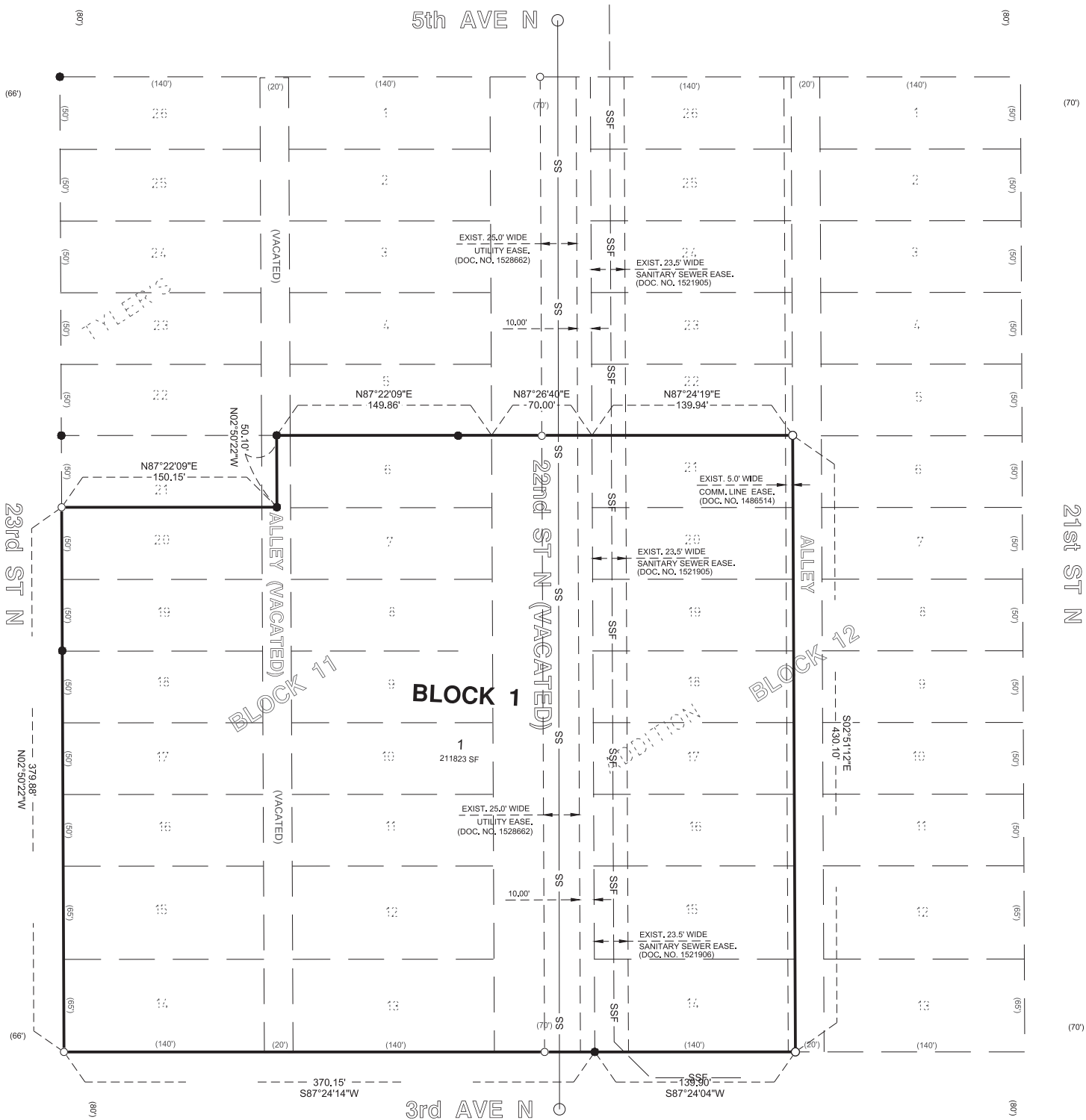
# RAIL CROSSING FIRST ADDITION

BEING A REPLAT OF LOTS 6 - 20, BLOCK 11; LOTS 14 - 21, BLOCK 12;  
A PORTION OF THE VACATED ALLEY IN BLOCK 11; AND A PORTION OF VACATED 22ND ST.; ALL IN TYLER'S ADDITION  
TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA



LEGEND	
IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
MEASURED BEARING	N00°00'00"E
PLAT BEARING	(N00°00'00"E)
MEASURED DISTANCE	100.00'
PLAT DISTANCE	(100.00')
PLAT BOUNDARY	—————
LOT LINE	—————
UTILITY EASEMENT	- - - - -
EXISTING LOT LINE	—————
EXISTING UTILITY EASEMENT	- - - - -

BEARINGS SHOWN ARE BASED ON THE  
CITY OF FARGO HORIZONTAL DATUM



RAIL CROSSING FIRST ADDITION  
BEING A REPLAT OF LOTS 6 - 20, BLOCK 11; LOTS 14 - 21, BLOCK 12;  
A PORTION OF THE VACATED ALLEY IN BLOCK 11; AND A PORTION OF VACATED 22ND ST.;  
ALL IN TYLER'S ADDITION  
TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA

OWNER'S CERTIFICATE:

KNOW ALL PERSONS BY THESE PRESENTS: That Rail Crossing LLC, a North Dakota Limited Liability Company, is the owner and proprietor of that part of Blocks 11 and 12, TYLER'S ADDITION to Fargo, and vacated 22<sup>nd</sup> Street North, in the City of Fargo, Cass County, North Dakota, being more particularly described as follows:

Beginning at the southwest corner of said Block 11; thence North 02°50'22" West (assumed bearing), along the west line of said Block 11, for a distance of 379.88 feet to the northwest corner of Lot 20, said Block 11; thence North 87°22'09" East, along the north line of said Lot 20, for a distance of 150.15 feet to the northeast corner of said Lot 20, said corner also being the southwest corner of Lot 6, said Block 11; thence North 02°50'22" West, along the west line of said Lot 6, for a distance of 50.10 feet to the northwest corner of said Lot 6; thence North 87°22'09" East, along the north line of said Lot 6, for a distance of 149.86 feet to the northeast corner of said Lot 6; thence North 87°26'40" East for a distance of 70.00 feet to the northwest corner of Lot 21, said Block 12; thence North 87°24'19" East, along the north line of said Lot 21, for a distance of 139.94 feet to the northeast corner of said Lot 21; thence South 02°51'12" East, along the east line of Lots 21, 20, 19, 18, 17, 16, 15, and 14, all in said Block 12, for a distance of 430.10 feet to the southeast corner of said Lot 14; thence South 87°24'04" West, along the south line of said Block 12, for a distance of 139.90 feet to the southwest corner of said Block 12; thence South 87°24'14" West for a distance of 70.00 feet to the southeast corner of said Block 11; thence continue South 87°24'14" West, along the south line of said Block 11, for a distance of 300.15 feet to the Point of Beginning.

Said tract of land contains 4.863 acres, more or less.

And that said party has caused the same to be surveyed and re-platted as **RAIL CROSSING FIRST ADDITION** to the City of Fargo, Cass County, North Dakota.

OWNER:  
Rail Crossing LLC

State of North Dakota )  
 ) ss  
County of Cass )

Tom Thompson, President

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Tom Thompson, President of Rail Crossing LLC, a North Dakota Limited Liability Company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the said Limited Liability Company.

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

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:  
I, Curtis A. Skarphol, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision; that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

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

State of North Dakota )  
 ) ss  
County of Cass )

Curtis A. Skarphol,  
Professional Land Surveyor No. 4723

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally appeared Curtis A. Skarphol, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

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

CITY ENGINEER'S APPROVAL:  
Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Brenda E. Derrig, City Engineer

State of North Dakota )  
 ) ss  
County of Cass )

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

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

FARGO PLANNING COMMISSION APPROVAL:  
Approved by the City of Fargo Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Shara Fischer, Chair  
Fargo Planning Commission

State of North Dakota )  
 ) ss  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Shara Fischer, Chair, Fargo Planning Commission, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that she executed the same on behalf of the Fargo Planning Commission.

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

FARGO CITY COMMISSION APPROVAL:  
Approved by the Board of City Commissioners and ordered filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Timothy J. Mahoney, Mayor

Attest: Steven Sprague, City Auditor

State of North Dakota )  
 ) ss  
County of Cass )

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

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

