

FARGO PLANNING COMMISSION AGENDA
Tuesday, November 5, 2019 at 3:00 p.m.

A: Approve Order of Agenda

B: Minutes: Regular Meeting of October 3, 2019

C: Brown Bag Luncheon - Wednesday, November 20, 2019

D: Other Items:

1. Land Development Code Diagnostic – Planning Commission Work Session

E: 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 (Located at 2805 88th Avenue South) (Eric Baker) (dk): WITHDRAWN
2. Continued 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)
3. Continued 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; 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) (lm): CONTINUED TO DECEMBER 3, 2019
4. Continued 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 DECEMBER 3, 2019
5. Hearing on an application requesting a Plat of **Timber Parkway Fourth Addition** (Minor Subdivision) a replat of Lot 4, Block 1, Timber Parkway Third Addition to the City of Fargo, Cass County, North Dakota. (Located at 4801 Timber Parkway South) (PLC Investments, LLC/PACES Lodging Corporation) (dk)

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

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.

- 6a. Hearing on an application requesting a Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential and P/I, Public and Institutional with a C-O, Conditional Overlay within the boundaries of the proposed **Golden Valley Third Addition**. (Located at 6737 25th Street South) (76th Street Investments, LLC/Jon Youness) (dk)
- 6b. Hearing on an application requesting a Plat of **Golden Valley Third Addition** (Major Subdivision) a replat of Lot 1, Block 4, Golden Valley Second Addition and a part of the Northeast quarter of Section 11, Township 138 North, Range 49 West, to the City of Fargo, Cass County, North Dakota. (Located at 6737 25th Street South) (76th Street Investments, LLC/Jon Youness) (dk)
7. Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential to MR-1, Multi-Dwelling Residential on Lot E and the South 40 feet adjacent to Lot E, Block 37, **Eddy & Fullers Auditors Outlots**. (Located at 1437 6th Avenue South) (James and Carol Baum Living Trust) (ms)
8. Hearing on an application requesting a Conditional Use Permit to allow for temporary use of a residential home as a sales and construction office on Lot 16, Block 4, **Eagle Valley Addition**. (Located at 7455 20th Street South) (HS Investments/Matthew Hauff) (ms)

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

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.

**BOARD OF PLANNING COMMISSIONERS
MINUTES**

Regular Meeting:

Tuesday, October 1, 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, October 1, 2019.

The Planning Commissioners present or absent were as follows:

Present: John Gunkelman, Mary Scherling, Rocky Schneider, Scott Stofferahn, Maranda Tasa, Jennifer Holtz, Dawn Morgan

Absent: Mike Magelky, Melissa Sobolik, Brad Bachmeier

Chair Gunkelman called the meeting to order.

Business Items:

Item A: Approve Order of Agenda

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

Item B: Minutes: Regular Meeting of September 3, 2019

Member Stofferahn moved the minutes of the September 3, 2019 Planning Commission meeting be approved. Second by Member Tasa. All Members present voted aye and the motion was declared carried.

Item C: October 16, 2019 Brown Bag Luncheon: Cancelled

Item D: Public Hearing Items:

Item 1: Section 14, Township 138 North, Range 49 West

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): CONTINUED TO NOVEMBER 5, 2019

A Hearing had been set for April 2, 2019. At the April 2, 2019 meeting, the Hearing was continued to May 7, 2019. At the May 7, 2019 meeting, the Hearing was continued to June 4, 2019. At the June 4, 2019 meeting, the Hearing was continued to July 2, 2019. At the July 2, 2019 meeting, the Hearing was continued to this date and time; however, the applicant has requested this item be continued to November 5, 2019.

Item 2: Timber Creek Third Addition

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): APPROVED

A Hearing had been set for September 3, 2019. At the September 3, 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 recommending approval. He noted that a neighborhood meeting was held on September 24.

Applicant Don Dabbert spoke on behalf of the application.

Discussion was held on the difference between a duplex and twin home, and the length of time these lots have been on the market and remained unsold.

Matthew Bring, 4706 34th Street South, spoke in opposition of the proposal noting concerns of parking issues and increased traffic, effect on property values, and snow removal issues.

Discussion continued on the large buffer and green space to the north of the properties, and the existing types of homes on the street.

The following property owners spoke in opposition to the proposal noting the neighborhood has already made many compromises from the original plan, and they do not want their home values to decrease.

Jay Manley 3304 46th Avenue South
Kelly Rott, 3334 46th Avenue South

Further discussion was held on current utility infrastructure in place for the lots.

Planning and Development Director Nicole Crutchfield and City Attorney Eric Johnson spoke about zoning law history, and how value is reviewed as related to land use and neighborhood impact.

Member Morgan moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Zoning Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the 2001 Growth Plan, Section 20-0906.F (1-4) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Schneider, Scherling, Holtz, Morgan,

Tasa, and Gunkelman voted aye. Member Stofferahn voted nay. Absent and not voting Members Magelky, Sobolik, and Bachmeier. The motion was declared carried.

At 3:58 p.m., the Board took a five-minute recess.

After recess: All Members present except Members Sobolik, Bachmeier, and Magelky. Chair Gunkelman presiding.

Item 3: Harwoods First Addition

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): CONTINUED TO NOVEMBER 5, 2019

Planner Kylie Bagley presented the staff report stating all approval criteria have been met and staff is recommending approval. She noted an opposition letter was submitted to the Board.

Discussion was held clarifying requirements in the DMU, Downtown Mixed-Use zoning district.

Applicant representative Chis Hawley spoke on behalf of the application.

Aubrey Zuger, Spartan Nash Representative, spoke on behalf of the opposition letter submitted noting concerns that removal of the C-O, Conditional Overlay, will increase parking issues in the area.

Discussion continued on establishing parking arrangements.

Member Morgan moved the findings and recommendations of staff be accepted and approval be recommended 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 and a request to repeal the C-O, Conditional Overlay 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.

The motion died for lack of a second.

Further discussion was held on continuing this item to allow more time for parking arrangements to be worked out.

Ms. Crutchfield noted that the parking issues could be isolated to private discussions as this property is zoned DMU, Downtown Mixed-Use.

Chair Gunkelman clarified that removing the C-O, Conditional Overlay, would not affect parking as this property is zoned DMU, Downtown Mixed-Use.

Assistant Planning and Development Director Mark Williams confirmed the C-O, Conditional Overlay, does not affect parking but only the setback requirements, and that residential protection standards do apply.

Ms. Crutchfield added that everything being presented today in the site plan is allowed except for the setbacks.

Member Stofferahn moved for to continue this item to the November 5, 2019 Planning Commission meeting so the owner can come back after discussions about future parking arrangements. Second by Member Schneider. On call of the roll Members Schneider, Scherling, Stofferahn, Tasa, and Morgan voted aye. Members Holtz and Gunkelman voted nay. Absent and not voting: Members Sobolik, Bachmeier, and Magelky. The motion was declared carried.

Item 4: Commerce on 12th Fifth Addition

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): CONTINUED TO NOVEMBER 5, 2019

A Hearing had been set for this date and time; however, the applicant has requested this item be continued to November 5, 2019.

Item 5: West 29 Seventh Addition

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):

Assistant Planner Maggie Squyer presented the staff report stating all approval criteria have been met and staff is recommending approval.

Rob Lyngstad, Matrix Properties, spoke on behalf of the application

Member Schneider moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat, West 29 Seventh Addition as outlined within the staff report, as the proposal complies with the Adopted Area Plan, the Standards of Article 20-06 of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Scherling. On call of the roll Members Scherling, Morgan, Schneider, Holtz, Stofferahn, Tasa, and Gunkelman voted aye. Absent and not voting: Members Sobolik, Magelky, and Bachmeier. The motion was declared carried.

Item 6: Bohnsack's Second Addition

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

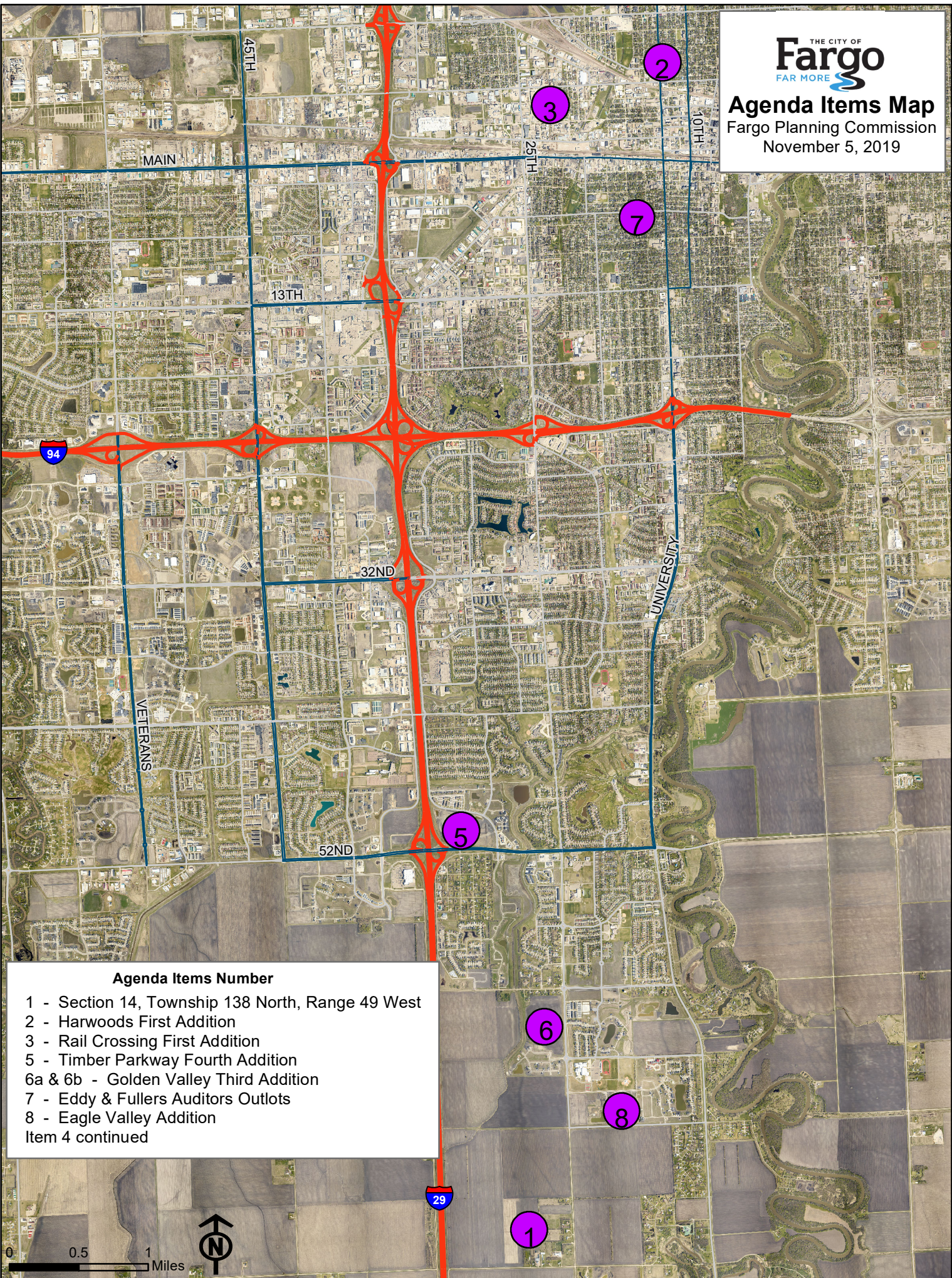
Member Stofferahn moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Zoning Change from SR-2, Single-Dwelling Residential to P/I, Public and Institutional as outlined within the staff report, as the proposal complies with the 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 Holtz. On call of the roll Members Holtz, Scherling, Morgan, Schneider, Stofferahn, Tasa, and Gunkelman voted aye. Absent and not voting: Members Sobolik, Magelky, and Bachmeier. The motion was declared carried.

Item 7: Rail Crossing First Addition

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; 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): CONTINUED TO NOVEMBER 5, 2019

A Hearing had been set for this date and time; however, the applicant has requested this item be continued to November 5, 2019.

Member Scherling moved to adjourn the meeting at 4:38 p.m. Second by Member Schneider. All Members present voted aye and the motion was declared carried.




Agenda Items Number

- 1 - Section 14, Township 138 North, Range 49 West
- 2 - Harwoods First Addition
- 3 - Rail Crossing First Addition
- 5 - Timber Parkway Fourth Addition
- 6a & 6b - Golden Valley Third Addition
- 7 - Eddy & Fullers Auditors Outlots
- 8 - Eagle Valley Addition
- Item 4 continued



MEMORANDUM

TO: Fargo Planning Commission

FROM: Aaron Nelson, Planning Coordinator 

DATE: October 30, 2019

SUBJECT: Item D.1: Land Development Code Diagnostic – Planning Commission Work Session

As was discussed most recently at the September 18 Planning Commission Brown Bag, the City of Fargo has hired Lisa Wise Consulting (LWC) to conduct a comprehensive evaluation of the City's Land Development Code and related processes. The purpose of the LDC Diagnostic is to provide an in-depth assessment of the quality and effectiveness of the City's development codes. Based on the outcomes of this assessment, LWC will work with the City to develop a set of recommended strategies for improvement.

Lisa Wise Consulting will be in Fargo on November 5 & 6 to kick off the public engagement portion of the LDC Diagnostic project. LWC will introduce the project to the Planning Commission during a short "work session" at the regular Planning Commission meeting on November 5. They will provide an overview of the project, discuss the public engagement opportunities, and outline next steps. They will also be seeking input from the Planning Commission to inform their assessment of the LDC. To this end, LWC has provided the attached set of questions, which they will be asking commissioners to respond to, either at the meeting or via written response within the following few days.

Attachment

City of Fargo Land Development Code Audit Planning Commission Questions

- 1) What is your **primary goal** for an improved LDC?
- 2) What is **effective** in the existing LDC, and should not change?
- 3) What is **ineffective** in the existing LDC, and should change?
- 4) Do the physical development standards promote appropriate and/or desired development in Fargo?
- 5) Are the **use regulations** effective in keeping out undesirable uses, but also letting in desired ones?
- 6) How well do the **administrative procedures** work? Are there types of projects or decisions that require a Planning Commission hearing that should be approved at the Staff level?
- 7) What other **questions or comments** do you have about the project and/or the process?

City of Fargo Staff Report			
Title:	Harwood Addition	Date:	09/25/19
		Update:	10/30/19
Location:	701 University Drive North and 702 12th Street North	Staff Contact:	Kylie Bagley
Legal Description:	Lot 1, Block 7, Harwood Addition		
Owner(s)/Applicant:	Chris Hawley Architects	Engineer:	N/A
Entitlements Requested:	Zoning Change (from DMU, Downtown Mixed-Use with a C-O, Conditional Overlay to DMU, Downtown Mixed-Use)		
Status:	Planning Commission Public Hearing: November 5, 2019		

Existing	Proposed
Land Use: Commercial and Residential	Land Use: Commercial and Residential
Zoning: DMU, Downtown Mixed-Use with a C-O, Conditional Overlay	Zoning: DMU, Downtown Mixed-Use
Uses Allowed: 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	Uses Allowed: 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. Removal of Conditional Overlay, all DMU standards will apply.
Maximum Building Coverage Allowed: No maximum	Maximum Building Coverage Allowed: No maximum

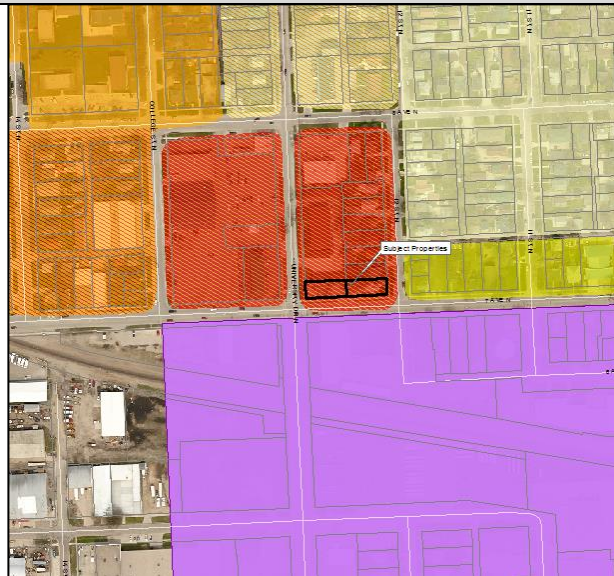
Proposal:
<p>The applicant is seeking a zoning change from DMU, Downtown Mixed-Use with a C-O, Conditional Overlay to DMU, Downtown Mixed-Use on Lot 1, Block 7, Harwood Addition. The subject properties are located at 701 University Drive North and 702 12th Street North.</p> <p>The applicant is proposing to renovate the existing laundromat 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 existing Conditional Overlay limits building height, building and parking lot setback in relation to the northern property line as well as additional fencing requirements to any proposed parking lot.</p> <p>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</p>

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 12th 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)

Update 10/30/2019:

At the October 1, 2019 Planning Commission the commission voted 5-2 to continue the application so the applicant could speak with neighboring business owners to address additional parking arrangements. The applicant has been in discussion with neighboring properties regarding additional parking solutions.

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, Roosevelt Neighborhood Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.”

Planning Commission Recommendation:

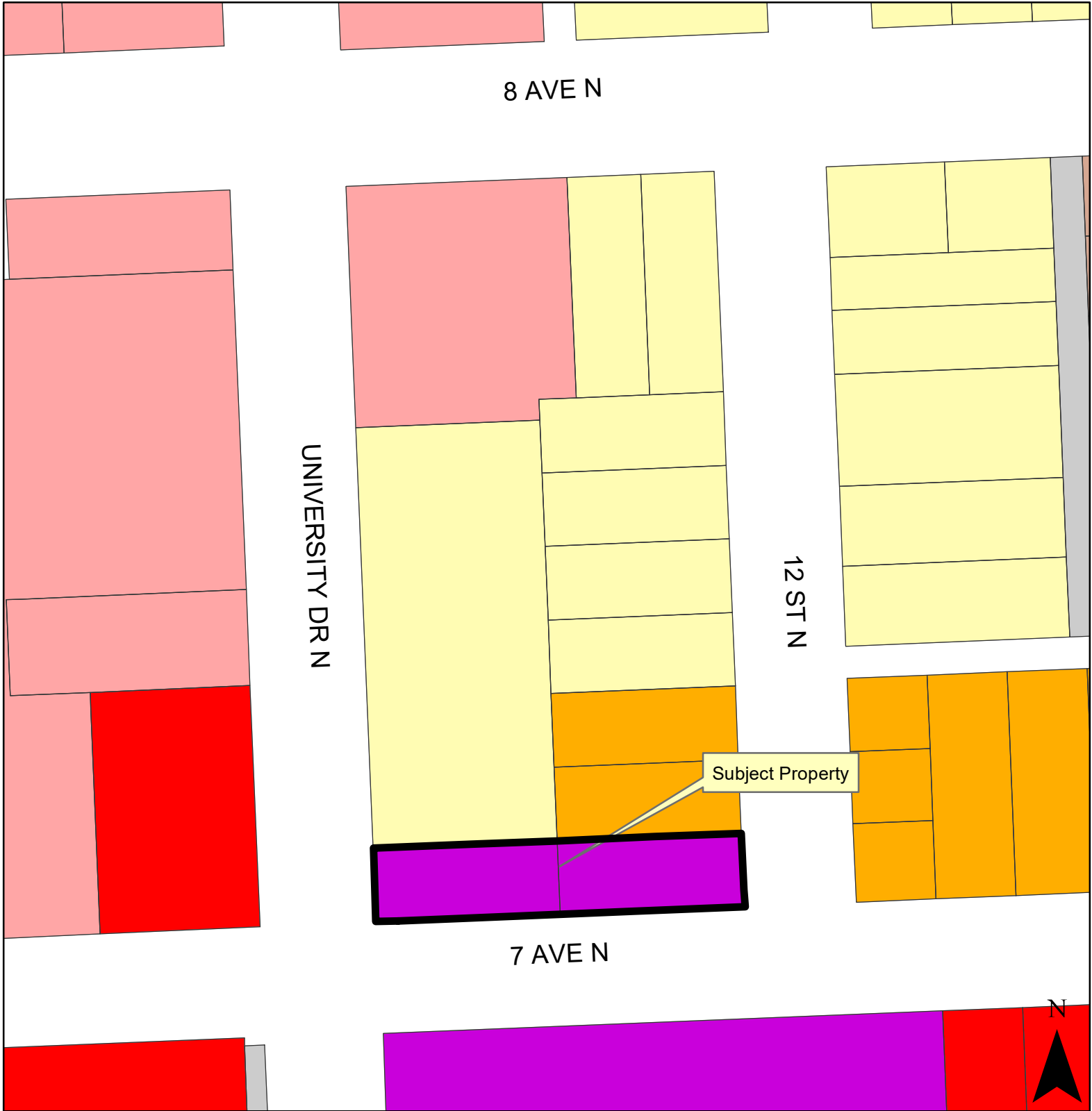
Attachments:

1. Zoning Map
2. Location Map
3. Existing Conditional Overlay
4. Site Plan and Renderings
5. Public Comments

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



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5095

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN HARWOOD ADDITION,
FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on April 4, 2017; and,

WHEREAS, the rezoning changes were approved by the City Commission on May 8, 2017,

NOW, THEREFORE,

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

Section 1. The following described property:

The West half of Lot One (1), Block Seven (7) of Harwood Addition to the City of Fargo, Cass County, North Dakota,

is hereby rezoned from “GC”, General Commercial, District, to “DMU”, Downtown Mixed-Use, District with a “CO”, Conditional Overlay, District set forth in Section 2, below:

Section 2. The following described property:

The East half of Lot One (1), Block Seven (7) of Harwood Addition to the City of Fargo, Cass County, North Dakota,

is hereby rezoned from “MR-3”, Multi-Dwelling Residential, District, to “DMU”, Downtown Mixed-Use, District with a “CO”, Conditional Overlay, District as follows:

1. Maximum height of 45 feet
 - a. Applies to new and existing structures

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. 5095

2. Minimum internal setback on the north side of the property of 10 feet
 - a. Applies to new construction or change of use, specifically if the existing residential home is demolished and redeveloped into a parking lot.

3. In addition to the RPS landscape buffer, a 4 foot opaque fence shall be provided on the north property if the eastern property is to be developed.
 - a. This would protect the houses to the north from having head lights shine into their properties.

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

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

/s/

Timothy J. Mahoney, Mayor

(SEAL)

Attest:

/s/

Steven Sprague, City Auditor

First Reading: 5-8-17
Second Reading: 5-22-17
Final Passage: 5-22-17

- SITE PLAN NOTES**
- 1 NEW CONCRETE DRIVE ACCESS
 - 2 PAINTED PARKING STRIPING
 - 3 6'-0" HIGH DUMPSTER SCREEN FENCE, 1x6 CEDAR BOARDS ON 4x4 TREATED POST FRAMING, POST SET IN 12" CONCRETE PIERS TO FROST DEPTH
 - 4 WASHED LANDSCAPE ROCK, FABRIC & PVC EDGE
 - 5 4" CONCRETE SIDEWALK
 - 6 EXISTING SIDEWALK TO BE REMOVED
 - 7 EXISTING DRIVE TO BE REMOVED
 - 8 EXISTING STRUCTURE TO BE REMOVED
 - 9 EXISTING STREET LIGHT
 - 10 EXISTING FIRE HYDRANT
 - 11 EXISTING SIDEWALK
 - 12 EXISTING POWER POLE
 - 13 NEW DUMPSTER
 - 14 NEW GREASE DUMPSTER
 - 15 EXIT DISCHARGE LOCATION
 - 16 NEW ADA RAMP
 - 17 3'-0" HIGH SCREEN FENCE, 1x6 CEDAR BOARDS ON 4x4 TREATED POST FRAMING, POST SET IN 12" CONCRETE PIERS TO FROST DEPTH
 - 18 NEW CARDBOARD DUMPSTER
 - 19 WOOD STORAGE
 - 20 NEW SIDEWALK
 - 21 NEW RAILING

LDC PLANTING SUMMARY

OPEN SPACE PLTG. REQUIREMENTS
SITE IS ZONED DMU
LOT SIZE IS 10,580 SF

LANDSCAPE BUFFER REQUIREMENTS

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

DMU LANDSCAPE/SCREENING REQUIREMENTS

1. 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.

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

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.	

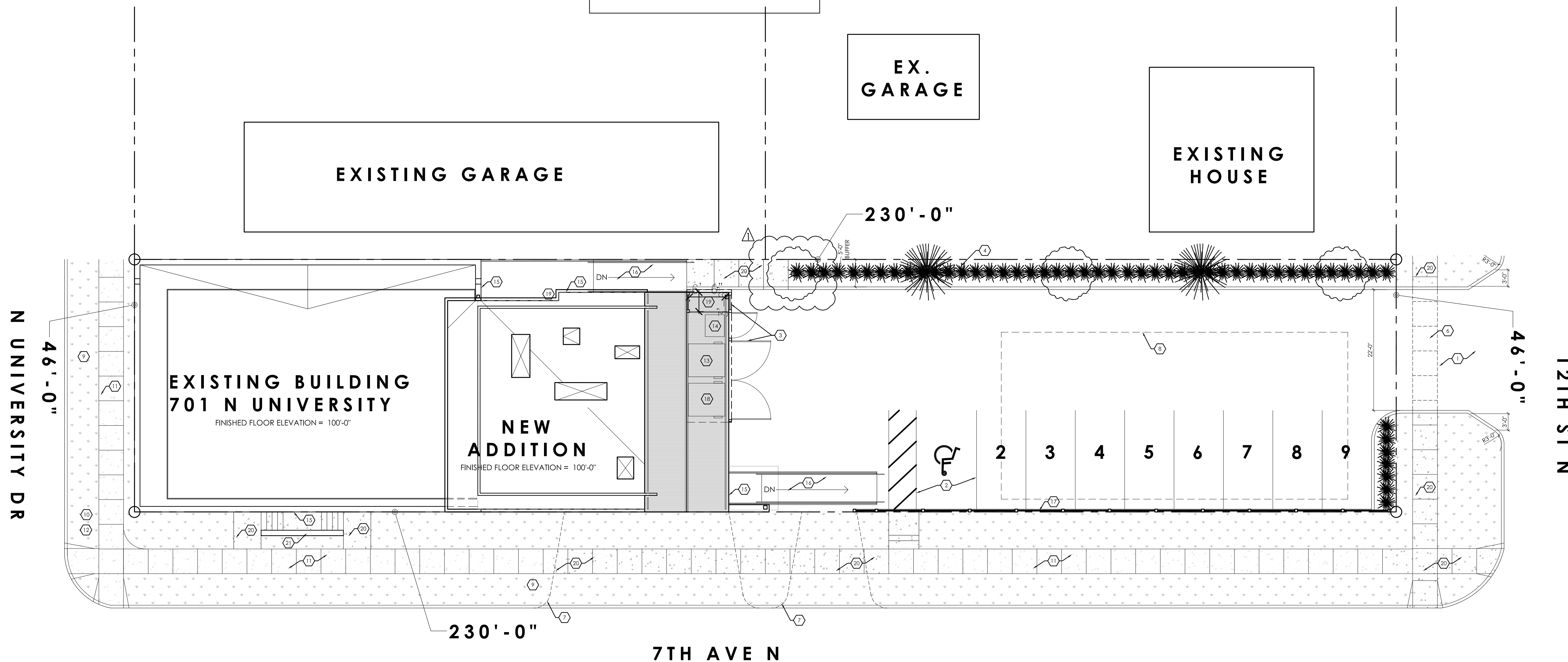
DMU STANDARDS:

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))

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF NORTH DAKOTA

SIGNATURE: 
DATE: 07-29-19 REG. NO. 1917

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





September 30, 2019

Fargo Planning Commission
Attn: John Gunkelman
225 4th St. North
Fargo, ND 58102

Re: Zoning Change Request by 701 Brew, LLC
Lot 1, Block 7, Harwoods First Addition

Dear Members of the Fargo Planning Commission:

I represent SpartanNash which operates the Family Fare Supermarket located at 724 N. University Drive in Fargo, ND. SpartanNash urges the Commission to deny Public Hearing Request No. 3 which seeks a zoning change from DMU with a Conditional Overlay to DMU with no Conditional Overlay.

The zoning change request by 701 Brew LLC concerns the properties located at 701 University Drive North and 702 12th Street North ("the Restaurant"). Spartan Nash has a parking lot immediately to the west of the proposed Restaurant. That parking lot provides parking to Family Fare customers so they will be in close proximity to the grocery store. The parking lot is also regularly used by vendors and suppliers who deliver products and goods to the store.

The proposed Restaurant will not have sufficient parking for its patrons. Kylie Bagley, a planner with the Planning and Development Department for the City of Fargo, has advised that the current design of the Restaurant includes a total of nine (9) parking spots for the entire facility. The Restaurant spans several floors and proposes to include a large rooftop patio. The Restaurant is designed to host large events and a significant number of customers. It goes without saying that nine parking spots will be inadequate for the employees, vendors, and customers of this large Restaurant.

The Restaurant also does not have alternative parking options nearby. The Restaurant abuts Seventh Avenue to the south and University Drive to the west. Neither of those streets provides on-street parking. The Restaurant also has no alternative parking options to the north, as it closely abuts an apartment building. The only nearby street parking is a narrow residential street to the east, which would provide very limited parking on a very dense residential block.

The Restaurant's inadequate parking will result in the Restaurant's customers parking in Family Fare's parking lot. Family Fare has experienced this same problem with the Fargo Brewing

Attorneys & Advisors
main 701.237.8200
fax 701.237.8220
fredlaw.com

Fredrikson & Byron, P.A.
51 Broadway, Suite 400
Fargo, North Dakota
58102-4991

Attorneys & Advisors
Main 701.237.8200

Fredrikson & Byron, P.A.
51 Broadway, Suite 400
Fargo, North Dakota 58102-4991

USA / China / Mexico
Minnesota, Iowa, North Dakota
fredlaw.com

September 30, 2019

Page 2

Company, an establishment immediately to the south of Family Fare, and which appears to share some common ownership and/or management with members of 701 Brew LLC.

Since the opening of the Fargo Brewing Company, Family Fare has had a significant increase in the number of customers who use the Family Fare parking lot to frequent the Fargo Brewing Company and/or attend the large events that Fargo Brewing Company has been hosting. Family Fare customers have been impacted by this loss of parking, as have vendors and suppliers who have been unable to make their deliveries to Family Fare because the sole loading dock at the grocery store has been blocked by customers of the Fargo Brewing Company or tour busses for events hosted by the Fargo Brewing Company.

Family Fare has attempted to address this issue by informing the Fargo Brewing Company of this problem and requesting that the issue be remedied. When those attempts failed, Family Fare took on the burden of patrolling its parking lot to ensure that its customers have adequate parking and that its vendors and suppliers are able to deliver goods. That has resulted in increased costs to Family Fare, as well as additional stress to Family Fare customers, vendors, employees, and managers.

The unauthorized use of the Family Fare parking lot has also caused discord between Family Fare and customers of the Fargo Brewing Company. Family Fare has received complaints from Fargo Brewing Company patrons resulting from Family Fare's enforcement of its parking lot. In addition, Family Fare recently discovered piles of nails at one of its entrances and piles of screws at another of its entrances. Pictures of the nails and screws discovered at Family Fare are attached as Exhibit A. Family Fare has reported this incident to law enforcement and believes this attempt to cause damage to the vehicles of Family Fare employees, vendors, and/or customers is retaliation for Family Fare's enforcement of its parking lot.

In short, Family Fare is already subject to unhappy patrons of the Fargo Brewing Company due to Fargo Brewing Company's inadequate and undesirable parking options. The proposed rezoning of the Restaurant will only compound these problems.

It is also important to note that this property was already re-zoned a few years ago at the request of 701 Brew LLC. Prior to 2017, the Restaurant was zoned as General Commercial and Multi-Dwelling Residential-3. In 2017, 701 Brew LLC requested that the City rezone the property to Downtown Mixed-Use. At this time, the City indicated that the zoning change "had many complexities including that the existing building was currently built-out to the property lines, there were undocumented encroachment agreements and minimal parking on-site." See Exhibit B.

As part of its decision to allow the change in zoning, the City imposed the Conditional Overlay which is now at issue. That Conditional Overlay (1) restricted the building to a maximum height

September 30, 2019

Page 3

of 45 feet; (2) applied a minimum internal setback of ten feet on the north side of the property; and (3) required the installation of a four foot fence on the eastern property. The City required the Conditional Overlay “to protect the adjacent residential properties from adverse effects related to higher intensity development.” Id. As the City explained, “[i]n short, the proposed overlay would restrict the building height and provide additional requirements to the Residential Protection Standards.” Id.

Although 701 Brew LLC has already received a significant zoning change (which required the imposition of the Conditional Overlay to have the 2017 zoning change approved), 701 Brew LLC now seeks to have that Conditional Overlay removed. Approving this zoning change would allow 701 Brew LLC to build to the northern lot line, build to a maximum height of 45 feet, and remove the required fence.¹ Allowing such a change will allow for greater building on the already small lot and a greater number of patrons to frequent the Restaurant. The Restaurant plainly lacks adequate parking to accommodate such a change.

Please understand that SpartanNash does not lightly object to this zoning change request. My client welcomes new restaurants and businesses to the area. That said, such establishments must be prepared to address all aspects of their business. This includes providing adequate parking for the number of customers that will frequent the business. Because the Restaurant is unable to provide such parking, the Conditional Overlay should be denied.

Thank you for your consideration of SpartanNash’s position. I will be present at the Planning Commission Public Hearing on October 1, 2019 and available to answer the questions of the Commission. If you need anything in advance, please do not hesitate to contact me.

Sincerely,



Aubrey Zuger

Direct Dial: 701.237.8247

Email: azuger@fredlaw.com

AZ:ah

¹ SpartanNash understands that residential protection standards would still apply, but those standards would still allow 701 Brew LLC to build to 6 feet of the northern property line. This allows for overbuilding of the small lot and eliminates adequate parking space for such a large restaurant.



EXHIBIT A



City of Fargo Staff Report			
Title:	Harwood Addition	Date:	03/28/17
Location:	701 University Drive North and 702 12th Street North	Staff Contact:	Derrick LaPoint
Legal Description:	Lot 1, Block 7, Harwood Addition		
Owner(s)/Applicant:	701 Collective, LLC	Engineer:	N/A
Entitlements Requested:	Zoning Change (from GC, General Commercial and MR-3, Multi-Dwelling Residential to DMU, Downtown Mixed-Use with a C-O, Conditional Overlay)		
Status:	Planning Commission Public Hearing: April 4, 2017		

Existing	Proposed
Land Use: Duplex and Laundry/Dry Cleaner	Land Use: Commercial and Residential
Zoning: GC, General Commercial and MR-3, Multi-Dwelling Residential	Zoning: DMU, Downtown Mixed-Use with a C-O, Conditional Overlay
<p>Uses Allowed: GC, General Commercial allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.</p> <p>MR-3, Multi-Dwelling allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.</p>	<p>Uses Allowed: 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.</p>
<p>Maximum Building Coverage and Density Allowed: GC allows for a maximum of 85% building coverage and MR-3 allows a maximum of 24 units per acre</p>	Maximum Building Coverage Allowed: No maximum

<p>Proposal:</p> <p>The applicant is seeking a zoning change from GC, General Commercial and MR-3, Multi-Dwelling Residential to DMU, Downtown Mixed-Use with a C-O, Conditional Overlay on Lot 1, Block 7, Harwood Addition. The subject properties are located at 701 University Drive North and 702 12th Street North.</p> <p>The applicant is proposing to rehabilitate an existing vacant laundromat into a commercial space. The applicant has no immediate plans for the multi-dwelling structure on the east but has indicated that the lot could be used as additional parking for the commercial space in the future. Staff received an application from 701 Collective LLC in May, 2015 for a PUD on the subject properties. Staff had been working with the applicant to process the request which had many complexities including that the existing building was currently built-out to the property lines, there were undocumented encroachment agreements and minimal parking on-site. The applicant ultimately withdrew</p>
--

their request for the PUD and later submitted their request to rezone the subject location to DMU.

The proposed Conditional Overlay is intended to protect the adjacent residential properties from adverse effects related to higher intensity development. In short, the proposed overlay would restrict the building height and provide additional requirements to the Residential Protection Standards. A draft version of the conditional overlay is attached for reference.

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 12th 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. Pursuant to the growth plan amendment, 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 is 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 Avenue 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 regards 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 clearer picture of the type of development for the property. The DMU allows for flexibility in development but requires design standards. Staff has included a C-O to restrict the structure height and added language to the required Residential Protection 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?**

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 GC, General Commercial and MR-3, Multi-Dwelling Residential to DMU, Downtown Mixed-Use with a C-O, Conditional Overlay, 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: April 4, 2017

Attachments:

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

Zone Change (GC and MR-3 to DMU)

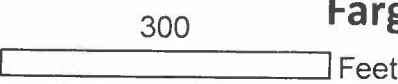
Harwood Addition

701 University Dr. N. &
702 12th Street North



Legend

AG	LC	MHP	RR-1
DMU	MR-1	NCO	RR-2
GC	MR-2	P/T	RR-3
GO	MR-3	UML	RR-4
			RR-5
			RR-6
			RR-7
			RR-8
			RR-9
			RR-10
			RR-11
			RR-12
			RR-13
			RR-14
			RR-15
			RR-16
			RR-17
			RR-18
			RR-19
			RR-20
			RR-21
			RR-22
			RR-23
			RR-24
			RR-25
			RR-26
			RR-27
			RR-28
			RR-29
			RR-30
			RR-31
			RR-32
			RR-33
			RR-34
			RR-35
			RR-36
			RR-37
			RR-38
			RR-39
			RR-40
			RR-41
			RR-42
			RR-43
			RR-44
			RR-45
			RR-46
			RR-47
			RR-48
			RR-49
			RR-50
			RR-51
			RR-52
			RR-53
			RR-54
			RR-55
			RR-56
			RR-57
			RR-58
			RR-59
			RR-60
			RR-61
			RR-62
			RR-63
			RR-64
			RR-65
			RR-66
			RR-67
			RR-68
			RR-69
			RR-70
			RR-71
			RR-72
			RR-73
			RR-74
			RR-75
			RR-76
			RR-77
			RR-78
			RR-79
			RR-80
			RR-81
			RR-82
			RR-83
			RR-84
			RR-85
			RR-86
			RR-87
			RR-88
			RR-89
			RR-90
			RR-91
			RR-92
			RR-93
			RR-94
			RR-95
			RR-96
			RR-97
			RR-98
			RR-99
			RR-100



Fargo Planning Commission

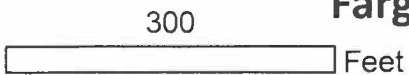
April 4, 2017



Zone Change (GC and MR-3 to DMU)

Harwood Addition

701 University Dr. N. &
702 12th Street North



Fargo Planning Commission
April 4, 2017

Section 1. The following described property:

All of Lot 1 Block 7 of the Harwood Addition to the City of Fargo, Cass County, North Dakota,

is hereby rezoned from “GC”, General Commercial, District and “MR-3” Multi-Dwelling Residential, District to “DMU”, Downtown Mixed-Use, District with a “CO”, Conditional Overlay, District as follows:

1. Maximum height of 45 feet
 - a. Applies to new and existing structures
2. Minimum internal setback on the north side of the property of 10 feet
 - a. Applies to new construction or change of use, specifically if the existing residential home is demolished and redeveloped into a parking lot.
3. In addition to the RPS landscape buffer, a 4 foot opaque fence shall be provided if the eastern property is to be developed
 - a. This would protect the houses to the north from having head lights shine into their properties

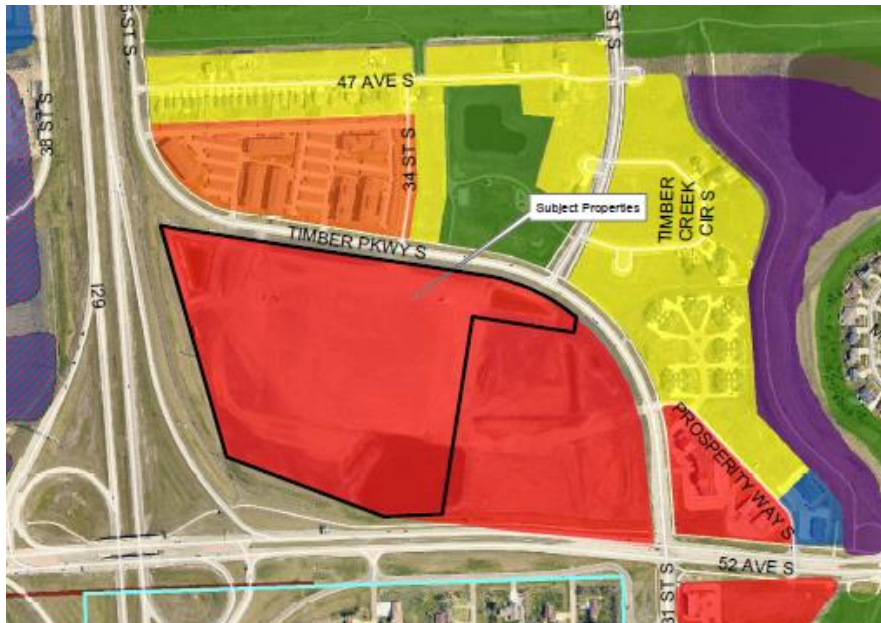
City of Fargo Staff Report			
Title:	Timber Parkway Fourth Addition	Date:	10/31/19
Location:	4801 Timber Parkway South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lot 4, Block 1, Timber Parkway Third Addition		
Owner(s)/Applicant:	PLC Investments, LLC/PACES Lodging Corporation	Engineer:	Bolton and Menk
Entitlements Requested:	Minor Subdivision (Plat of Timber Parkway Fourth Addition replat of Lot 4, Block 1, Timber Parkway Third Addition to the City of Fargo, Cass County, North Dakota)		
Status:	Planning Commission Public Hearing: November 5, 2019		

Existing	Proposed
Land Use: Undeveloped	Land Use: Commercial
Zoning: GC, General Commercial	Zoning: No change
Uses Allowed: GC, General Commercial allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.	Uses Allowed: No change
Maximum Lot Coverage Allowed: GC allows a maximum of 85% lot coverage	Maximum Lot Coverage Allowed: No change

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. A minor subdivision, entitled Timber Parkway Fourth Addition, which is a replat of Lot 4, Block 1, Timber Parkway Third Addition to the City of Fargo, Cass County, North Dakota <p>No zone change or other entitlement is proposed.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: SR-2: Single-Dwelling Residential; single family residences and undeveloped lots; MR-3, Multi-Dwelling Residential with apartment buildings; P/I, Public/Institutional with a Fargo Park District park • East: GC, General Commercial with grocery store • South: 52nd Avenue South; City of Frontier is south across 52nd Avenue • West: Interstate 29 right of way; GC with commercial development west across I-29

Area Plans:

The subject property is located within the 2001 South Future Land Use Plan. This plan, amended in 2007 on this property, designates the subject property as "Commercial."



Land_Use	
	Low Med Res or Med High Res
	Low Med Res or Parkland
	Commercial or Office
	Commercial
	Low Med Res
	Med High Res or Office
	Med High Res
	Office
	Parkland
	Public and Inst

Schools and Parks:

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

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

Parks: Timber Creek Park (3700 47th Avenue S) is located across Timber Creek Parkway from the subject property and offers playgrounds for ages 2-5 and 5-12, recreational trails, and a shelter.

Pedestrian / Bicycle: There is a shared use path along the 52nd Avenue right of way on the south side of the subject property which connects to the metro area trail system.

Staff Analysis:

The subject property is located at 4801 Timber Creek Parkway South, and is bounded by Timber Creek Parkway on the north and east, 52nd Avenue South on the south, and Interstate 29 on the west.

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.

The plat will create seven lots for commercial development. All lots will continued the existing GC, General Commercial zoning.

ACCESS: Lots 1, 2, and 3 have direct access to dedicated public streets. Lots 4 through 7 take access from a private driveway that connects with an existing private driveway to the east in Timber Parkway Third Addition. These private driveways are 48-foot wide and 50-foot wide ingress/egress and utility easements. The applicant's covenants on the property will provide for maintenance of these easements. The City will review these CC&R's and may be a signatory to them.

PUBLIC WATER and SEWER: Public water and sewer will be provided from the adjacent dedicated public streets, though once on the subject property, will become private water and sewer lines. The applicant's covenants on the property will provide for maintenance of these lines.

STORMWATER: This subdivision will be served by an existing regional detention basin to the south for up to 65 percent impervious surface on the project site. If the site has greater than 65 percent,

impervious surface, additional detention and water quality measures may be required. In addition to the storm water pond coverage, the release rate into the City storm sewer system needs to adhere to the current Fargo "Policy on Storm Water Discharge and Treatment Requirements" adopted September 9, 2019.

SUBDIVISION

The LDC stipulates that the following criteria are 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 subject property is not located within an area plan. All of the properties within this plat are currently zoned GC, General Commercial. No zone change is proposed. 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 comment on the project. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

- 2. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

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 move to recommend approval to the City Commission of the proposed plat of the **Timber Parkway Fourth Addition**, as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2001 Growth Plan (as amended), Standards of Article 20-06, and all other applicable requirements of the LDC."

Planning Commission Recommendation: November 5, 2019

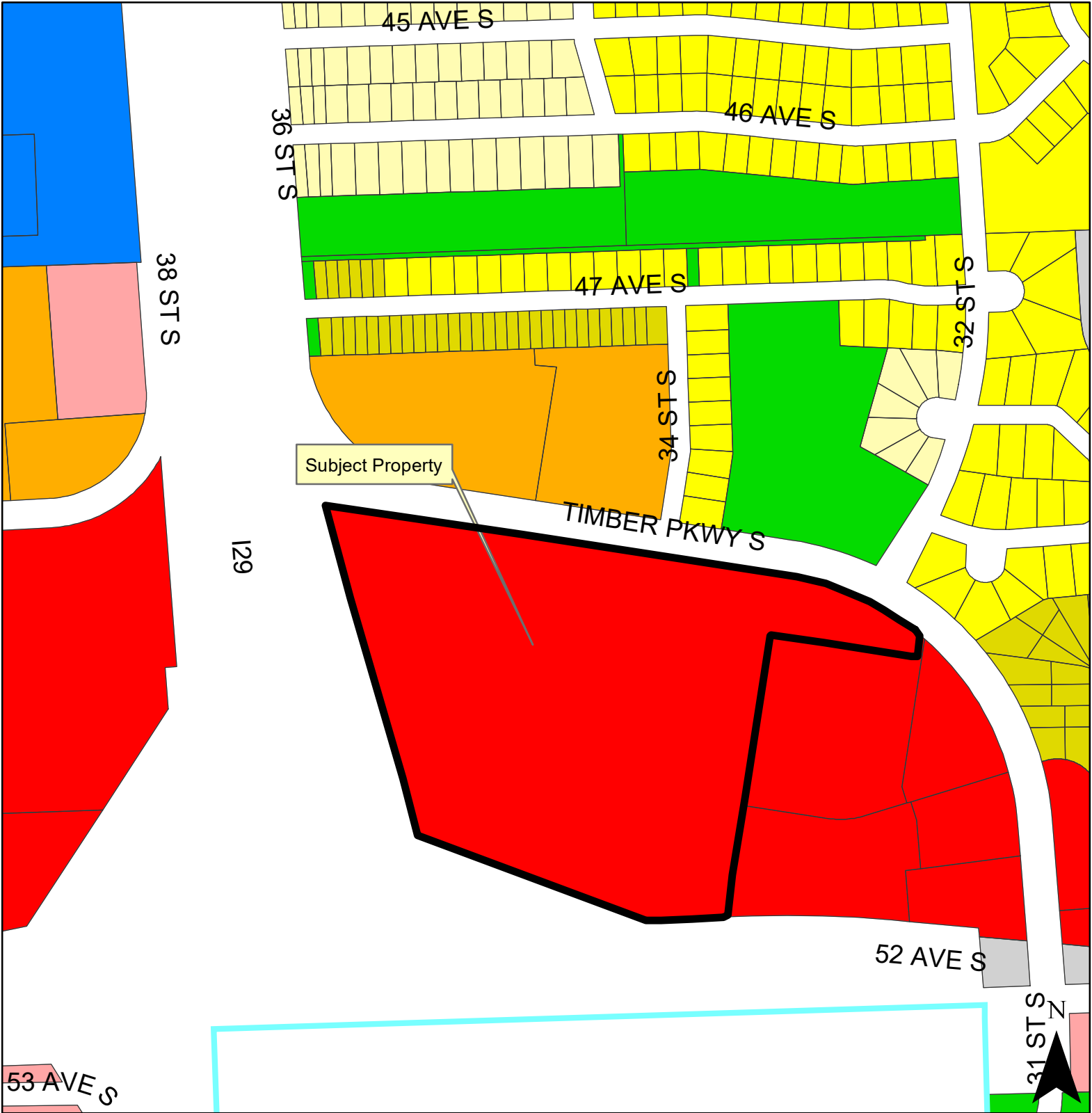
Attachments:

1. Zoning map
2. Location map
3. Preliminary plat

Plat (Minor)

Timber Parkway Fourth Addition

4801 Timber Pkwy S



Plat (Minor)

Timber Parkway Fourth Addition

4801 Timber Pkwy S



TIMBER PARKWAY FOURTH ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
A REPLAT OF LOT 4, BLOCK 1, TIMBER PARKWAY THIRD ADDITION
(A MINOR SUBDIVISION)

OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That PLC Investments, LLC, a North Dakota limited liability company, as owner of a parcel of land located in that part of the Southwest Quarter of Section 35, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

Lot 4, Block 1 of TIMBER PARKWAY THIRD ADDITION, according to the plat thereof on file and of record in the Office of the County Recorder, Cass County, North Dakota.

Containing 37.326 acres, more or less.

Said owners have caused the above described parcel of land to be surveyed and platted as "TIMBER PARKWAY FOURTH ADDITION" to the City of Fargo, Cass County, North Dakota, and do hereby dedicate to Lots 1, 2, 3, 4, 5, 6 and 7 the 50 foot wide and 48 foot wide ingress/egress and utility easements in Lots 1, 2, 3, 4, 5, 6 and 7 as shown on this plat for the purposes so stated.

OWNER:
PLC Investments, LLC

By: Kevin Christianson, president

County of Cass
State of North Dakota }SS

On this ____ day of _____, in the year 2019 before me, a notary public within and for said County and State, personally appeared Kevin Christianson, president, PLC Investments, 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 limited liability company.

Notary Public

MORTGAGE HOLDER:
First International Bank & Trust

By: Brian Hagen, East Market President

County of Cass
State of North Dakota }SS

On this ____ day of _____, in the year 2019 before me, a notary public within and for said County and State, personally appeared Brian Hagen, East Market President, First International Bank & Trust 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 First International Bank & Trust

Notary Public

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

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

Gregg Stroeing, Registered Professional Land Surveyor
North Dakota License Number LS-6703

State of North Dakota }SS
County of Cass

On this ____ day of _____, 2019, before me, a notary public within and for said County and State, personally appeared Gregg Stroeing, Registered Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same.

Notary Public

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by City Engineer this ____ day of _____, 2019.

Brenda E. Derrig, City Engineer

State of North Dakota }SS
County of Cass

On this ____ day of _____, in the year 2019 before me, a notary public within and for said County and State, personally appeared Brenda E. Derrig, City Engineer known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that she executed the same as City Engineer for the City of Fargo.

Notary Public

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this ____ day of _____, 2019.

John Gunkelman, Planning Commission Chair

State of North Dakota }SS
County of Cass

On this ____ day of _____, in the year 2019 before me, a notary public within and for said County and State, personally appeared John Gunkelman, Planning Commission Chair, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that 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 _____, 2019.

Timothy J. Mahoney, Mayor

Attest: Steven Sprague, City Auditor

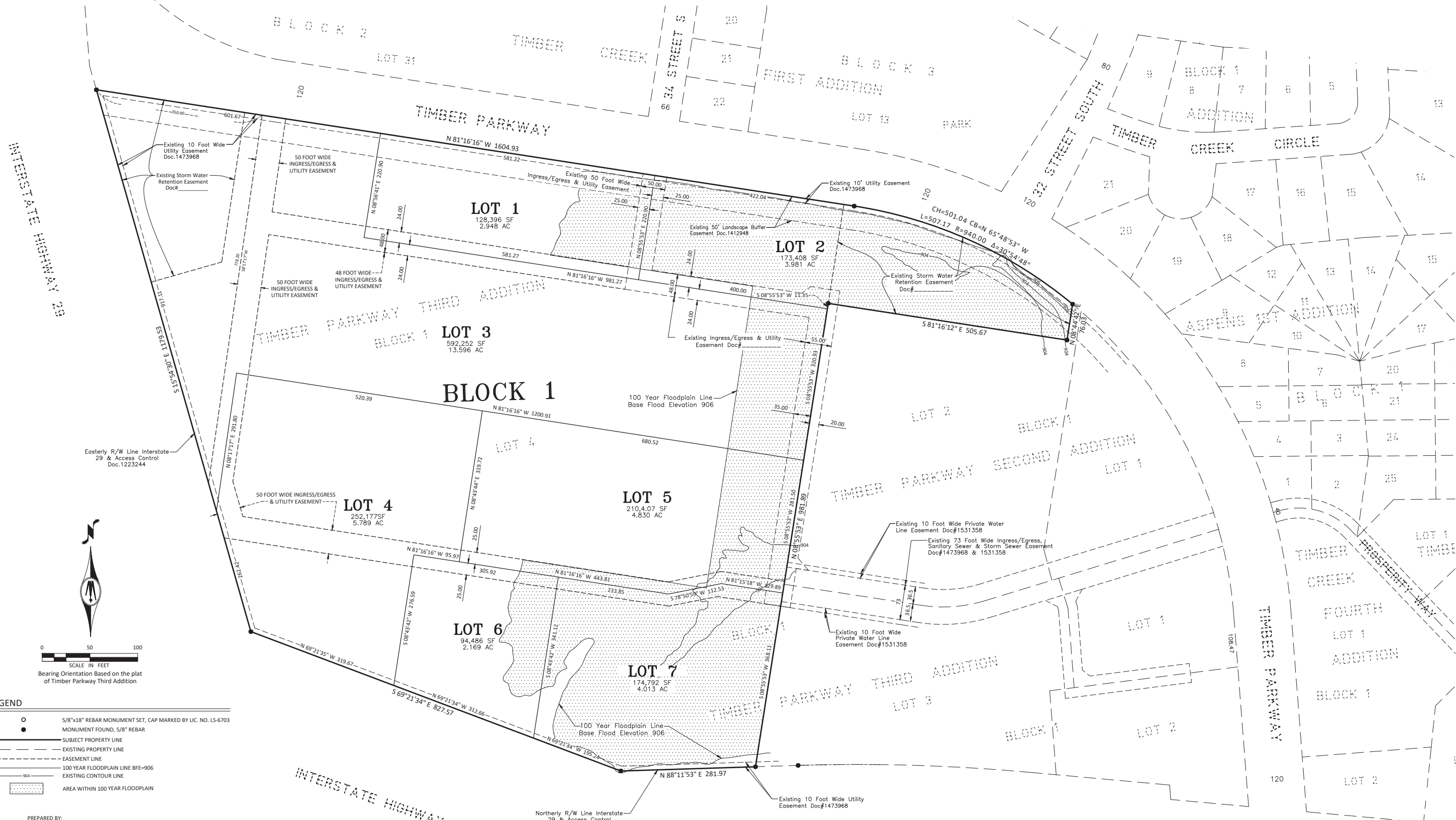
County of Cass
State of North Dakota }SS

On this ____ day of _____, in the year 2019 before me, a notary public within and for said County and State, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor known to me to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same on behalf of the City of Fargo.

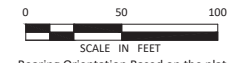
Notary Public

TIMBER PARKWAY FOURTH ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
 A REPLAT OF LOT 4, BLOCK 1, TIMBER PARKWAY THIRD ADDITION
 (A MINOR SUBDIVISION)



INTERSTATE HIGHWAY 29



Bearing Orientation Based on the plat of Timber Parkway Third Addition

LEGEND

○	5/8"x18" REBAR MONUMENT SET, CAP MARKED BY LIC. NO. LS-6703
●	MONUMENT FOUND, 5/8" REBAR
—	SUBJECT PROPERTY LINE
- - -	EXISTING PROPERTY LINE
- · - · -	EASEMENT LINE
—	100 YEAR FLOODPLAIN LINE BFE=906
—	EXISTING CONTOUR LINE
▨	AREA WITHIN 100 YEAR FLOODPLAIN



PREPARED BY:

INTERSTATE HIGHWAY 29

Northerly R/W Line Interstate 29 & Access Control Doc.1223244

PRELIMINARY

52 AVENUE SOUTH

City of Fargo Staff Report			
Title:	Golden Valley Third Addition	Date:	10/31/19
Location:	6737 25th Street South; 6907 26 th Street South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lot 1, Block 4, Golden Valley 2 nd Addition and portion of the northeast quarter of Sec. 11, Township 138 North, Range 49 West, to the City of Fargo, Cass County, North Dakota		
Owner(s)/Applicant:	Ryland Development Corporation / Jon Youness	Engineer:	Mead and Hunt
Entitlements Requested:	Major Subdivision (Plat of Golden Valley Third Addition replat of Lot 1, Block 4, Golden Valley 2 nd Addition and plat of a portion of the northeast quarter of Sec. 11, Township 138 North, Range 49 West, to the City of Fargo, Cass County, North Dakota) and Zoning Change (from AG, Agricultural to SR-4, Single-Dwelling Residential and P/I, Public and Institutional, with a C-O, Conditional Overlay to restrict land uses as noted below)		
Status:	Planning Commission Public Hearing: November 5, 2019		

Existing	Proposed
Land Use: Undeveloped	Land Use: Residential
Zoning: AG, Agricultural	Zoning: SR-4, Single-Dwelling Residential; P/I, Public and Institutional
Uses Allowed: AG – Agricultural allows detached houses, parks and open space, safety services, basic utilities, and crop production	Uses Allowed: SR-4 - Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities; P/I Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events; with a C-O, conditional overlay to restrict uses as shown
Maximum Density Allowed: AG allows a maximum of 1 dwelling unit per 10 acres	Maximum Density Allowed: SR-4 allows a maximum 12.1 units per acre; P/I zone has no density or lot coverage standards

Proposal:
The applicant requests two entitlements: <ol style="list-style-type: none"> 1. A major subdivision, entitled Golden Valley Third Addition, which is a replat of Lot 1, Block 4, Golden Valley 2nd Addition and plat of a portion of the northeast quarter of Sec. 11, Township 138 North, Range 49 West, to the City of Fargo, Cass County, North Dakota

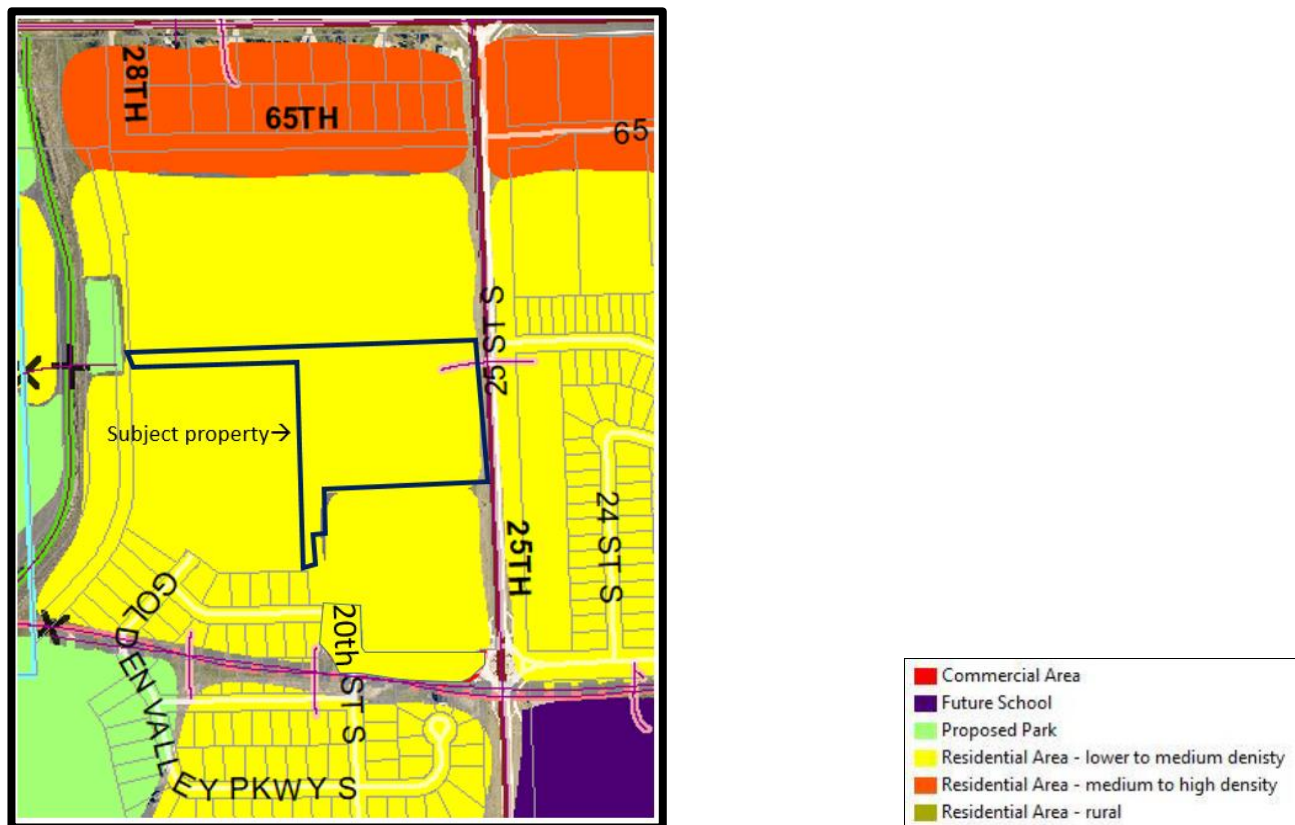
2. A zoning change from AG, Agricultural to SR-4, Single-Dwelling Residential and to P/I, Public and Institutional with a C-O, conditional overlay to restrict uses to “park and open space.”

Surrounding Land Uses and Zoning Districts:

- North: SR-2: Single-Dwelling Residential; single family residences and undeveloped lots
- East: SR-4: Single-Dwelling Residential; MR-3: Multi-Dwelling Residential; P/I: Parks/Institutional
- South: SR-4: Single-Dwelling Residential; single family residences and undeveloped lots
- West: AG: Agricultural and P/I undeveloped, and County Drain 53. Property west of Drain 53 platted as Selkirk Place First Addition, though that plat has not yet recorded.

Area Plans:

The subject property is located within the 2007 Future Land Use Plan. This plan, amended in 2016 on this property, designates the subject property as “Residential Area—Lower to Medium Density.” This land use designation includes the SR-4 zoning. The P/I zoning for HOA-owned lots is appropriate in this land use designation.



Schools and Parks:

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

Neighborhood: The subject property is located within the Davies neighborhood.

Parks: Davies Athletic Complex (1880 70th Avenue S) is located approximately 0.28 miles east of the subject property and offers baseball/softball amenities. Davies Recreational Pool (7150 25th Street S) is located on the opposite corner of the southeast corner of the subject property and offers concessions, restrooms, and swimming pool amenities. Legacy Park (7150 25th Street S) is located approximately 0.13 miles north of the subject property and offers concessions, restrooms, and swimming pool amenities.

Pedestrian / Bicycle: On the east side of the property, there are off road bike facilities that run along 25th Street South; a multi-use trail is proposed along 67th Avenue South in this plat.

Staff Analysis:

The subject property is located at 6737 25th Street South and 6907 26th Street South and is bounded by 25th Street South (east), 69th Avenue South and Golden Valley 2nd Addition (south) and a city levee and County Drain Number 53 (west).

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.

PLAT AND ZONING CHANGE

The plat will create 33 single family lots and homeowners association (HOA)-owned park lot, zoned as follows:

BLOCK	LOTS	ZONING	LAND USE
1	1-11	SR-4	Detached single family
2	1	SR-4	Detached single family
2	2	P/I	HOA-owned park
3	1-20	SR-4	Detached single family
4	1-12	SR-4	Detached single family

The single-family lots range in size from approximately 6,000 square feet to 14,000 square feet, with most lots in the 6,000 to 8,000 square foot range. All meet the minimum required lot area of the SR-4 zone.

HOMEOWNERS’ ASSOCIATION (HOA)-OWNED LOT: The city has created documentation that will clearly define the HOA’s obligations to pay taxes on and maintain the HOA-owned lot, and to provide the City a course of action to continue to collect taxes and maintain these lots should the HOA fail to do so. This documentation was included in the covenants or the HOA-owned park in the Golden Valley Second Addition. The HOA will also maintain the landscape easements depicted on the plat along 25th Street South, 26th Street South, and 67th Avenue South.

ACCESS: The project site takes access from 25th Street South to the east; 69th Avenue South to the south; and the future 67th Avenue South to the north; with 26th Street South continuing through the plat from Golden Valley Second Addition.. Block 4 is designed to have a private alley, as depicted on the plat, providing access to the residential garages.

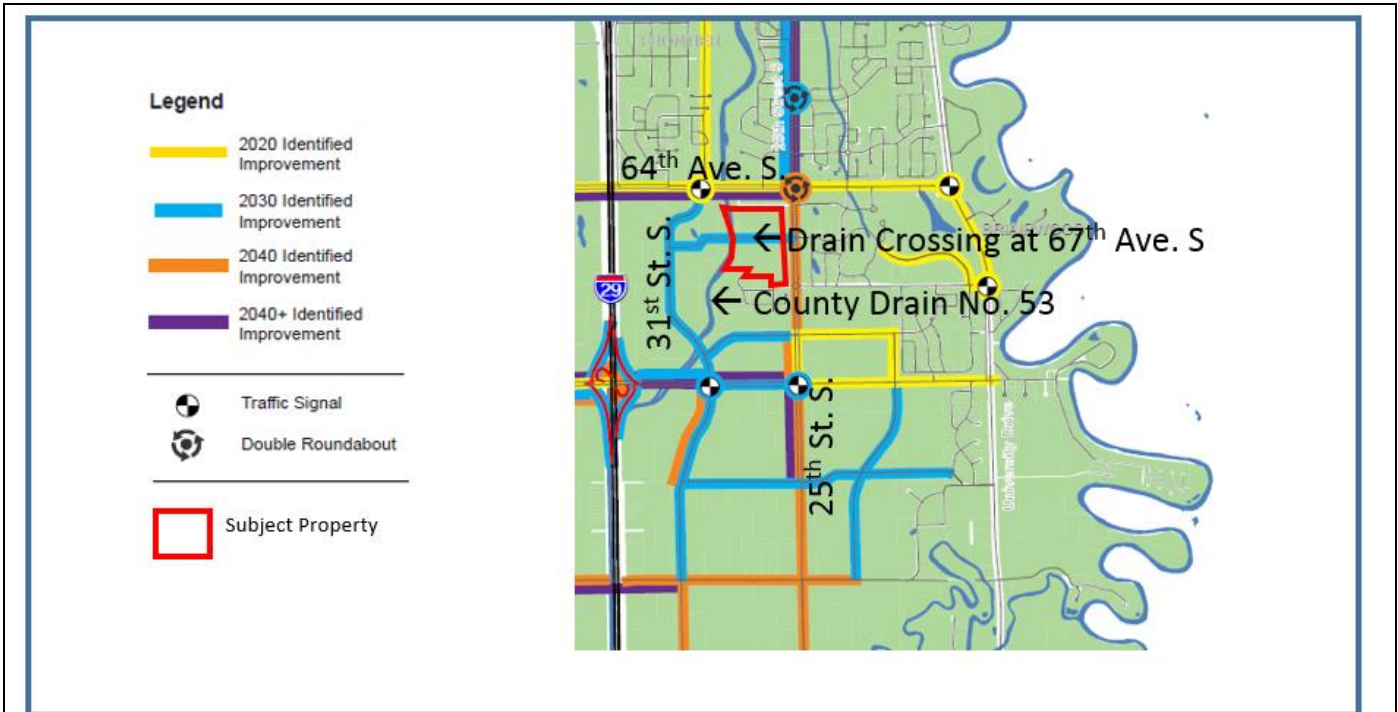
PUBLIC WATER and SEWER: Public water and sewer will be provided in the dedicated public streets.

STORMWATER: This subdivision will be served by an existing regional detention basin to the south for up to 65 percent impervious surface on the project site. If the site has greater than 65 percent, impervious surface, additional detention and water quality measures may be required.

FUTURE PHASE: The applicant has provided a proposed street layout (attached) of a future phase of Golden Valley to be developed in the area south of 67th Avenue South and west of Golden Valley 3rd Addition. This area is not included in the Golden Valley 3rd Addition plat. This area will remain zoned AG until a zone change is proposed. Staff is working with the applicant on this plan regarding proposed development in this area along Drain 53. Please note your Commission is not voting on this future phase layout. Staff requested this as part of a master-planning effort and to provide the Engineering Department with a basis to develop utility connectivity.

FUTURE ROAD CONNECTIVITY

Road connectivity in this area is designated in the Southwest Metro Transportation Plan, adopted by the Metropolitan Council of Governments (MetroCOG). An excerpt from this plan, shown below, depicts a street crossing of County Drain No. 53 at 67th Avenue South. The area of the applicant’s master plan for this area is outlined in red. 67th Avenue South, as depicted on the Golden Valley 3rd Addition plat, dedicates right of way up to the City of Fargo-owned property adjacent to the east side of Drain 53.



The street crossing of County Drain No. 53 was earlier depicted on the 2007 Growth Plan at 70th Avenue South. This crossing was not provided on the plat of the Golden Valley 1st Addition, which includes 70th Avenue South. At the time of the Golden Valley 1st Addition approval, the city requested as part of the Golden Valley master plan that a crossing instead be accommodated between 64th Avenue and 70th Avenue. An amendment to the 2007 Growth Plan that was approved by the City Commission on June 24, 2013, allowed a street crossing of County Drain No. 53 at 70th Avenue South to be moved to a location in the southern 1/3 of Section 11, as the platting of Golden Valley 1st Addition had effectively eliminated the feasibility of a drain crossing at 70th Avenue South. As noted above, the Southwest Metro plan designated this crossing further north at 67th Avenue South.

This location was selected for the crossing as 67th Avenue South connects to the east to 17th Street South, which provides connectivity to University Drive South by way of 70th Avenue South, and is intended to connect to the west to 31st Street South, a north-south collector that will serve this portion of the city. Connectivity in this area would be enhanced by the 67th Avenue crossing of County Drain 53, as 67th would connect this area from University Drive to at least the future 31st Street. Despite the intensity of residential development in the area south of Interstate 94 and east of Interstate 29, there are only five east-west avenues connecting University Drive and I-29 (or its frontage road) in the five miles south of I-94 to 76th Avenue South: 32nd Avenue, 36th Avenue, 40th Avenue, 52nd Avenue, 64th Avenue. This crossing, providing additional east-west routes, also takes some of the traffic load off of the arterial streets, making those streets less congested as well as prolonging the intervals between major resurfacing and repair of these streets. From a Fire Department perspective, the drain crossing at 67th Avenue South is important for providing access through this and future neighborhoods in the area. Future plans indicate a fire station will be located on or near 64th Avenue South near this neighborhood. Connectivity through the neighborhood translates into reduced response time and larger coverage areas for fire stations.

The developer is not required to build the actual drain crossing, but only to dedicate right of way for this crossing. The drain crossing would not be constructed until the area west of County Drain 53 develops. Part of this area has been recently platted as the Selkirk Place First Addition, though that plat has not yet recorded. The infrastructure funding policy at the time of construction will be used to determine the appropriate assessment of a drain crossing. The Developer is concerned with the cost of a Drain crossing and the small benefitting area. The City recognizes this and will work with the Developer. The City is currently evaluating a plan to improve Drain 53 in this area.

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The property was zoned AG: Agricultural at the time it was annexed. At that time, no development was proposed. Now that development is proposed, the applicant requests a zoning change to SR-4: Single Dwelling Residential and P/I, Public and Institutional. **(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on an existing, developed public right-of-way and will dedicate additional rights-of-way, which 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?

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

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the 2007 Growth Plan.

This property is designated "lower to medium density residential" on the 2007 Growth Plan. The 2007 Growth Plan states that the "low to medium density" residential designation includes the SR-0 to SR-5 zones. Thus, the SR-4 zone is consistent with the "lower to medium density residential" designation from the 2007 Growth Plan. The P/I zone is the appropriate designation for HOA-owned lots that are not intended for residential development. The conditional overlay will restrict uses on the HOA-owned lot to "park and open space," which matches the zoning designation on Lot 5, Block 4 of Golden Valley Second Addition adjacent to the south. The two lots form a continuous park. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City, contingent on Commission approval of the proposed Growth Plan Amendment. **(Criteria satisfied)**

Major Subdivision

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

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

The requested zoning for the residential development on this property is SR-4: Single-Dwelling Residential. The SR-4 zoning will accommodate the proposed single-family development. The SR-4 zoning designations is consistent with the "lower to medium density" designation for this property in the 2007 Growth Plan as noted in the zoning change findings above. The P/I zone is the appropriate designation for HOA-owned lot that is not intended for residential 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 no comment on the application. **(Criteria Satisfied)**

- 2. Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The property is proposed to be zoned SR-4: Single-Dwelling Residential and P/I, Public and Institutional. As noted in the zone change findings above, these zones are consistent with the 2007 Growth Plan designation of “lower to medium density residential.” The P/I zone is the appropriate designation for HOA-owned lots that is not intended for residential development. The project has been reviewed by the city’s Planning, Engineering, Public Works, Inspections, and Fire Departments.

(Criteria Satisfied)

- 3. Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan will be reviewed by the Public Works Project Evaluation Committee (PWPEC) prior to the final plat going to City Commission. 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 move to recommend approval to the City Commission of the proposed 1) Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential and to P/I, Public and Institutional with a C-O, Conditional Overlay to restrict land uses as noted in this report, and 2) a plat of the **Golden Valley Third Addition**, as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC.”

Planning Commission Recommendation: November 5, 2019

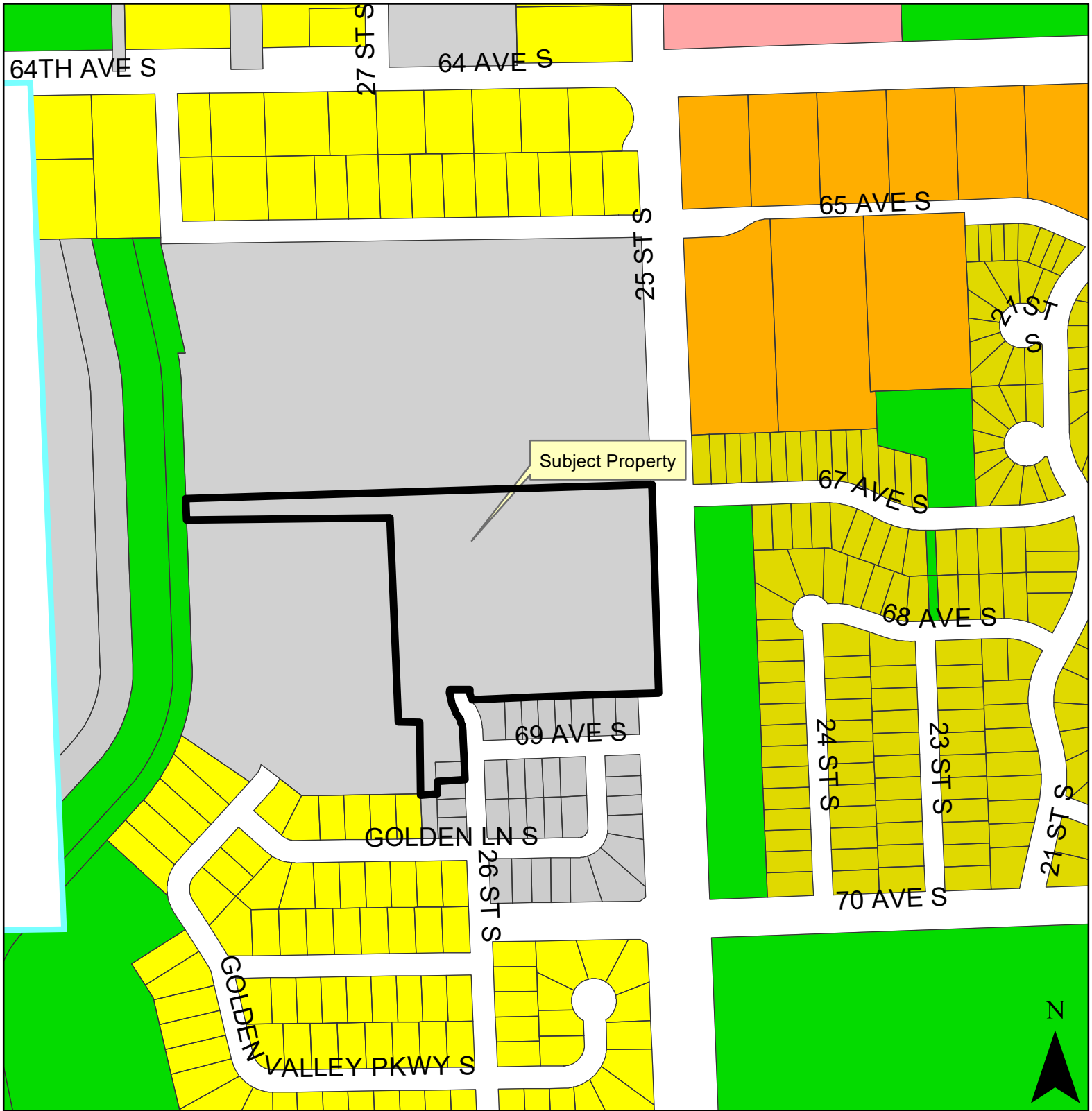
Attachments:

1. Zoning map
2. Location map
3. Proposed street layout of future phase
4. Preliminary plat

Zone Change (AG to SR-4) & Plat (Major)

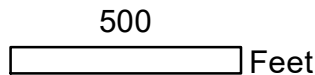
Golden Valley Third Addition

6737 25th St S



Legend

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

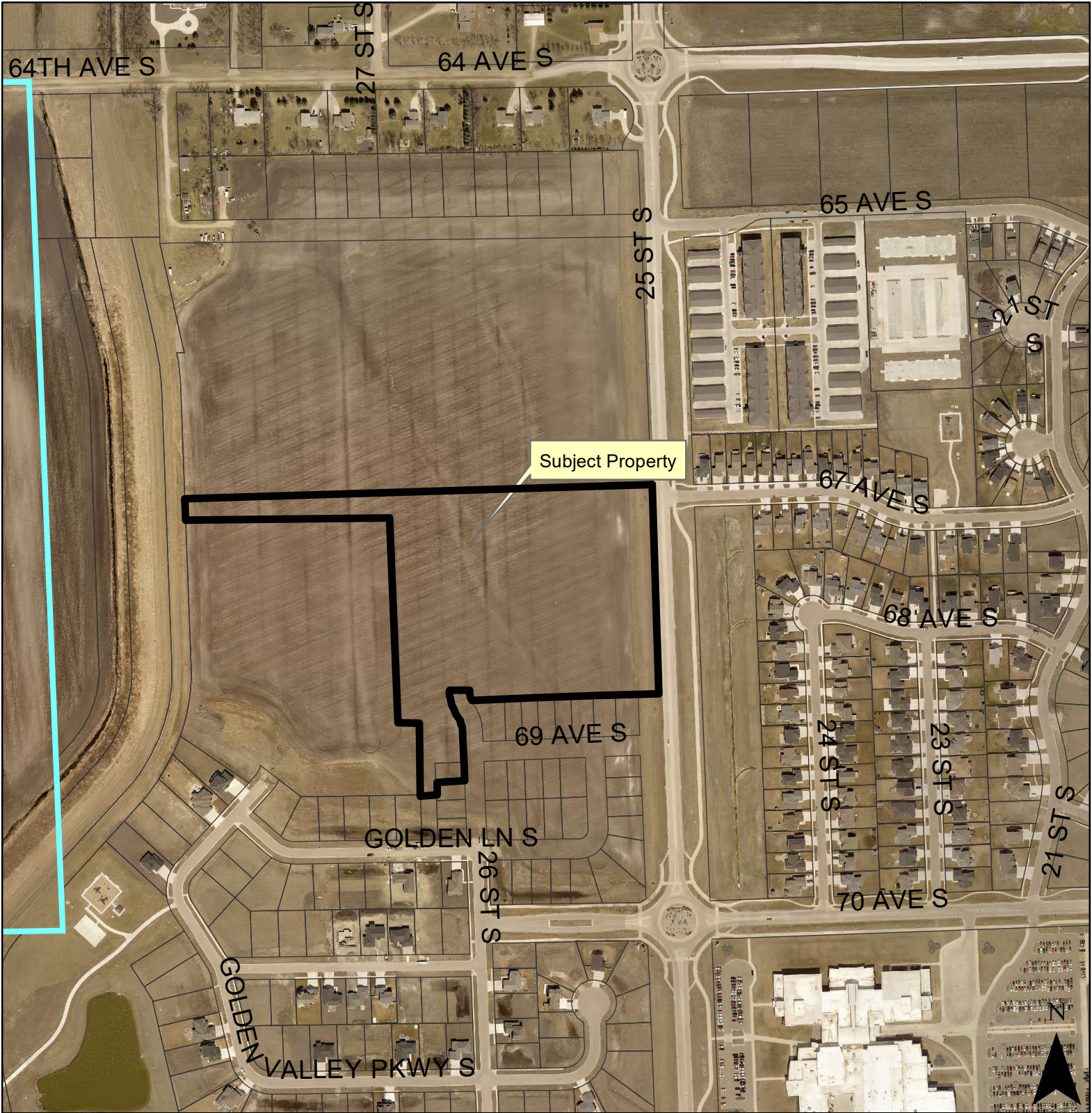


Fargo Planning Commission
November 5, 2019

Zone Change (AG to SR-4) & Plat (Major)

Golden Valley Third Addition

6737 25th St S



Golden Valley Third Addition and Proposed Future Phase Street Layout
(provided by applicant)



GOLDEN VALLEY THIRD ADDITION

BEING A REPLAT OF LOT 1, BLOCK 4, GOLDEN VALLEY SECOND ADDITION & A PLAT OF PART OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 138 NORTH, RANGE 49 WEST TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA (A MAJOR SUBDIVISION)

PLAT BOUNDARY DESCRIPTION

Joshua J. Nelson, being duly sworn, deposes and says that he is the Registered Land Surveyor who prepared and made the attached plat of "GOLDEN VALLEY THIRD ADDITION" to the City of Fargo, being a replat of Lot 1, Block 4, GOLDEN VALLEY SECOND ADDITION, Cass County, North Dakota, and a plat of part of the Northeast Quarter in Section 11, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota; that said plat is a true and correct representation of the boundary survey; that all distances are correctly shown on said plat; that monuments have been placed in the ground as indicated for the guidance of future surveys and that said addition is described as follows, to wit;

Commencing at the southeast corner of said Northeast Quarter; thence on an assumed bearing of North 02 degrees 16 minutes 07 seconds West along the east line of said Northeast Quarter a distance of 713.50 feet to the northeast corner of GOLDEN VALLEY SECOND ADDITION, according to the recorded plat thereof, said County, and the point of beginning; thence South 87 degrees 43 minutes 53 seconds West along the north line of said GOLDEN VALLEY SECOND ADDITION, a distance of 619.23 feet to the northwest corner of Lot 1, Block 4, said GOLDEN VALLEY SECOND ADDITION; thence northwesterly and northerly 34.13 feet along a curve concave to the east, not tangent with the last described line, said curve has a radius of 100.00 feet, a central angle of 19 degrees 33 minutes 19 seconds, the chord of said curve bears North 12 degrees 02 minutes 46 seconds West, a distance of 33.96 feet to the northerly corner of said last described plat, said curve is along the east Right-of-Way line of 26th Street South; thence South 87 degrees 43 minutes 53 seconds West along the north line of said last described plat and along a line not tangent to last described curve, a distance of 62.00 feet to the northwesterly corner of the last described plat; thence southerly and southeasterly 86.10 feet along a curve concave to the east, not tangent with the last described line, said curve has a radius of 162.00 feet, a central angle of 30 degrees 27 minutes 12 seconds, the chord of said curve bears South 17 degrees 29 minutes 43 seconds East, a distance of 85.09 feet, said curve is along the west Right-of-Way line of 26th Street South; thence southeasterly and southerly 53.15 feet along a reverse curve concave to the west having a radius of 100.00 feet and a central angle of 30 degrees 27 minutes 12 seconds, the chord of said curve bears South 17 degrees 29 minutes 43 seconds East, a distance of 52.53 feet, said curve is along the west Right-of-Way line of 26th Street South; thence South 02 degrees 16 minutes 07 seconds East along the west Right-of-Way line of 26th Street South, a distance of 150.72 feet to the southeast corner of Lot 1, Block 4, said GOLDEN VALLEY SECOND ADDITION; thence South 87 degrees 43 minutes 53 seconds West along the south line of said Lot 1, a distance of 90.00 feet to the southwest corner of said Lot 1; thence South 02 degrees 16 minutes 07 seconds East along the west line Lot 2, Block 4, said GOLDEN VALLEY SECOND ADDITION, a distance of 40.00 feet to the northeast corner of Lot 5, Block 4, said GOLDEN VALLEY SECOND ADDITION; thence South 89 degrees 11 minutes 11 seconds West along the north line of said Lot 5, a distance of 49.97 feet to the northwest corner of said Lot 5; thence North 00 degree 48 minutes 49 seconds West, a distance of 186.54 feet; thence South 89 degrees 11 minutes 11 seconds West, a distance of 25.94 feet; thence North 02 degrees 16 minutes 07 seconds West, a distance of 690.66 feet; thence South 87 degrees 44 minutes 06 seconds West, a distance of 524.57 feet; thence westerly 23.85 feet along a tangential curve concave to the south having a radius of 420.00 feet and a central angle of 03 degrees 15 minutes 13 seconds; thence South 84 degrees 28 minutes 40 seconds West, tangent to said curve, a distance of 92.63 feet; thence westerly 35.31 feet along a tangential curve concave to the north having a radius of 580.00 feet and a central angle of 03 degrees 29 minutes 18 seconds, said curve terminates at the east line Lot 21, Block 2, GOLDEN VALLEY ADDITION, according to the recorded plat thereof, said County; thence North 02 degrees 10 minutes 41 seconds West, along a line not tangent to last described curve and along the east line of said Lot 21, a distance of 80.00 feet; thence easterly 30.64 feet along a curve concave to the north, not tangent with the last described line, said curve has a radius of 500.00 feet, a central angle of 03 degrees 30 minutes 41 seconds, the chord bears North 86 degrees 14 minutes 01 seconds East, a distance of 30.64 feet; thence North 84 degrees 28 minutes 40 seconds East, tangent to the last described curve, a distance of 92.63 feet; thence easterly 28.39 feet along a tangential curve concave to the south having a radius of 500 feet and a central angle of 03 degrees 15 minutes 13 seconds; thence North 87 degrees 44 minutes 06 seconds East, tangent to last described curve, a distance of 1,053.73 feet; thence easterly and southeasterly 82.76 feet along a tangential curve concave to the south having a radius of 315.00 feet and a central angle of 15 degrees 03 minutes 12 seconds; thence southeasterly and easterly 61.74 feet along a reverse curve concave to the north having a radius of 235.00 feet and a central angle of 15 degrees 03 minutes 12 seconds; thence North 87 degrees 43 minutes 53 seconds East, a distance of 140.00 feet to a point on the east line of said Northeast Quarter; thence South 02 degrees 16 minutes 07 seconds East along the east line of said Northeast Quarter, a distance of 650.13 feet and the point of beginning.

Said plat contains 14.43 acres, more or less.

Subject to Easements, Restrictions, Reservations and Rights of Way of Record.

Joshua J. Nelson, PLS
Professional Land Surveyor
Registration No. LS-27292

State of North Dakota)
) SS
County of Cass)

On this ____ day of _____, 20____, appeared before me, Joshua J. Nelson, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Notary Public, Cass County, North Dakota

My commission expires: _____

DEDICATION

KNOW ALL PERSONS BY THESE PRESENTS, That the Ryland Development Corporation, a North Dakota corporation, and Stan Ryland and Patricia Ryland as vendors, and 76th Street Holdings, LLC, a North Dakota limited liability company, as vendee, and First International Bank and Trust, as Mortgage, being owners of the above described property, have caused the same to be surveyed and platted as "GOLDEN VALLEY THIRD ADDITION" to the City of Fargo, being a replat of Lot 1, Block 4, GOLDEN VALLEY SECOND ADDITION and a part of the Northeast Quarter in Section 11, Township 138 North, Range 49 West, Cass County, North Dakota; that we have caused it to be platted into lots and blocks as shown by said plat and certification of Joshua J. Nelson, Registered Land Surveyor, and that the description as shown in the certificate of the Registered Land Surveyor is correct. We hereby dedicate all Streets, Lanes, Drives, Ingress/Egress, and Utility Easements shown on said plat to the Public.

OWNER/VENDOR:
Ryland Development Corporation, Contract Vendor
By: Stanley L. Ryland, President

State of North Dakota)
) SS
County of Cass)

On this ____ day of _____, 20____, appeared before me, Stanley L. Ryland, President, Ryland Development Corporation, a North Dakota corporation, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

Notary Public, Cass County, North Dakota

My commission expires: _____

OWNER/VENDOR:
Stanley L. Ryland, Contract Vendor

OWNER/VENDOR:
Patricia J. Ryland, Contract Vendor

State of North Dakota)
) SS
County of Cass)

On this ____ day of _____, 20____, appeared before me, Stanley L. Ryland and Patricia J. Ryland, Husband and Wife, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

Notary Public, Cass County, North Dakota

My commission expires: _____

CONTRACT VENDEE:
76th Street Holdings, LLC, Contract Vendee
By: James R. Bullis, President

State of North Dakota)
) SS
County of Cass)

On this ____ day of _____, 20____, appeared before me, James R. Bullis, President, 76th Street Holdings, LLC, a North Dakota limited liability company, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

Notary Public, Cass County, North Dakota

My commission expires: _____

MORTGAGE HOLDER:
First International Bank and Trust, Mortgagee
By: Matt Mueller, President

State of North Dakota)
) SS
County of Cass)

On this ____ day of _____, 20____, appeared before me, Matt Mueller, President, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed in the name of First International Bank and Trust.

Notary Public, Cass County, North Dakota

My commission expires: _____

FARGO CITY COMMISSION APPROVAL
Approved by the Board of 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, a notary public in and for said county, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor, known to me to be the persons described in and who executed the same as a free act and deed.

Notary Public, Cass County, North Dakota

My commission expires: _____

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL
Approved by the City Engineer this ____ day of _____, 20____.

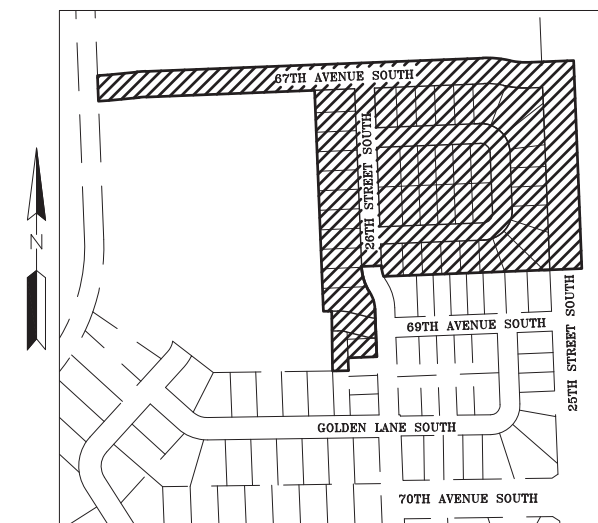
Brenda E. Derrig, P.E.
City Engineer

State of North Dakota)
) SS
County of Cass)

On this ____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Brenda E. Derrig, City Engineer, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public, Cass County, North Dakota

My commission expires: _____



VICINITY MAP
SECTION 11, T.138N. R.49W.
(NO SCALE)

CITY OF FARGO PLANNING COMMISSION APPROVAL
Approved by the City of Fargo Planning Commission this ____ day of _____, 20____.

John Gunkelman
Planning Commission Chair

State of North Dakota)
) SS
County of Cass)

On this ____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Shara Fischer, Planning Commission Chair, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public, Cass County, North Dakota

My commission expires: _____

Mead & Hunt

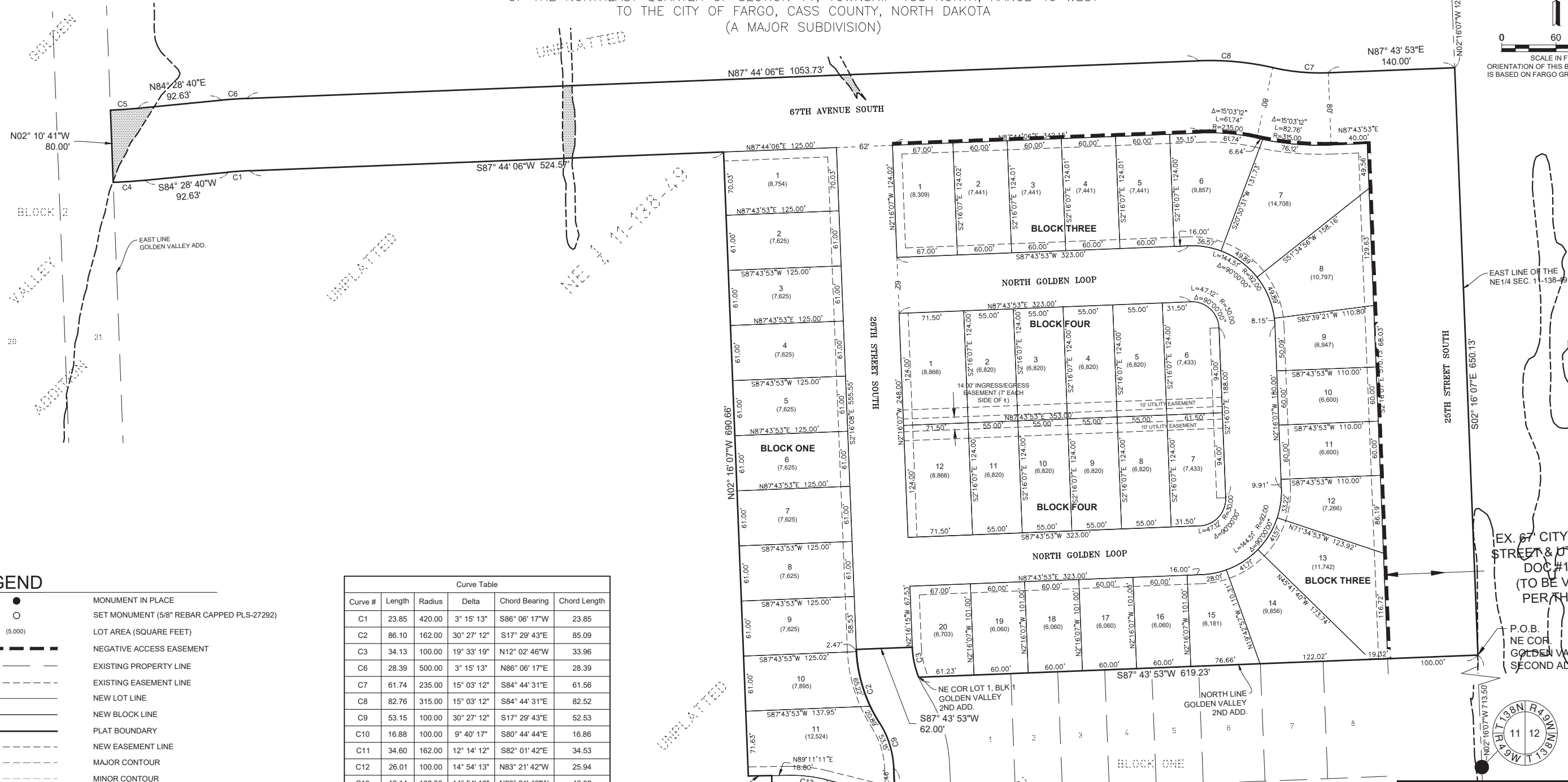
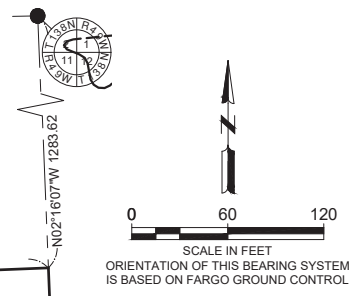
Phone: 701-566-6450
meadhunt.com

Project No.
4608000-19
SHEET 1 OF 2

PRELIMINARY

GOLDEN VALLEY THIRD ADDITION

BEING A REPLAT OF LOT 1, BLOCK 4, GOLDEN VALLEY SECOND ADDITION & A PLAT OF PART OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 138 NORTH, RANGE 49 WEST TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA (A MAJOR SUBDIVISION)



LEGEND

- MONUMENT IN PLACE
- SET MONUMENT (5/8" REBAR CAPPED PLS-27292)
- (5,000) LOT AREA (SQUARE FEET)
- NEGATIVE ACCESS EASEMENT
- - - EXISTING PROPERTY LINE
- - - EXISTING EASEMENT LINE
- NEW LOT LINE
- NEW BLOCK LINE
- PLAT BOUNDARY
- - - NEW EASEMENT LINE
- - - MAJOR CONTOUR
- - - MINOR CONTOUR
- 100 YR. FLOODPLAIN

Curve Table					
Curve #	Length	Radius	Delta	Chord Bearing	Chord Length
C1	23.85	420.00	3° 15' 13"	S86° 06' 17"W	23.85
C2	86.10	162.00	30° 27' 12"	S17° 29' 43"E	85.09
C3	34.13	100.00	19° 33' 19"	N12° 02' 46"W	33.96
C6	28.39	500.00	3° 15' 13"	N86° 06' 17"E	28.39
C7	61.74	235.00	15° 03' 12"	S84° 44' 31"E	61.56
C8	82.76	315.00	15° 03' 12"	S84° 44' 31"E	82.52
C9	53.15	100.00	30° 27' 12"	S17° 29' 43"E	52.53
C10	16.88	100.00	9° 40' 17"	S80° 44' 44"E	16.86
C11	34.60	162.00	12° 14' 12"	S82° 01' 42"E	34.53
C12	26.01	100.00	14° 54' 13"	N83° 21' 42"W	25.94
C13	42.14	162.00	14° 54' 13"	N83° 21' 42"W	42.02

- NOTES:**
- GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
 - UTILITY EASEMENTS ARE 10' WIDE ALONG AND ADJACENT TO ALL STREET RIGHT-OF-WAYS AND REAR PROPERTY LINES AS SHOWN UNLESS OTHERWISE NOTED.
 - PART OF THIS PLAT FALLS IN FLOODPLAIN ZONE 'AE' ACCORDING TO THE FEMA FIRM MAPS 38017C0786G AND 38017C0787G BOTH WITH AN EFFECTIVE DATE 1/16/2015. THE BASE FLOOD ELEVATION IN THIS AREA IS 905.7' (NAVD88) ACCORDING TO FEMA. CONTOUR INFORMATION SHOWN IS DERIVED FROM FIELD SURVEY CONDUCTED NOV. 12, 2018.
 - BENCHMARK TOP NUT HYDRANT LOCATED IN THE NORTHWEST QUADRANT OF THE INTERSECTION OF 58TH AVENUE SOUTH AND 38TH STREET SOUTH. ELEVATION = 910.67 (NAVD88)
 - NEGATIVE ACCESS EASEMENT, AS NOTED ON THE PLAT OF SANFORD ADDITION, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OF PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OR LAND OR ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.

EX. 67 CITY OF FARGO STREET & UTILITY EASE. DOC #1371177 (TO BE VACATED PER THIS PLAT)

P.O.B. NE COR. GOLDEN VALLEY SECOND ADD.

Mead & Hunt

Phone: 701-566-6450
meadhunt.com

Project No.
4608000-19
SHEET 2 OF 2

PRELIMINARY

X:\4608000\19\01\TECHSURV\DRAWINGS\GOLDEN VALLEY 3RD ADDITION PLAT.DWG 10/13/2018 12:20:14 PM

City of Fargo Staff Report			
Title:	Eddy & Fuller's Auditors Outlots	Date:	10/29/2019
Location:	1437 6 th Avenue South	Staff Contact:	Maggie Squyer
Legal Description:	Lot E & South 40 feet adjacent to Lot E, Block 37, Eddy & Fuller's Auditors Outlots		
Owner(s)/Applicant:	James and Carol Baum Living Trust	Engineer:	N/A
Entitlements Requested:	Zoning Change (from SR-3, Single-Dwelling Residential to MR-1, Multi-Dwelling Residential)		
Status:	Planning Commission Public Hearing: November 5, 2019		

Existing	Proposed
Land Use: Multi-Dwelling Residential	Land Use: unchanged
Zoning: SR-3, Single-Dwelling Residential	Zoning: MR-1, Multi-Dwelling Residential
Uses Allowed: SR-3 allows detached houses, attached houses, duplexes, day care facilities of limited size, parks and open areas, religious institutions, safety services, schools, and basic utilities.	Uses Allowed: MR-1 allows detached houses, attached houses, duplexes, multi-dwelling structures, group living, community services, day care facilities of limited size, parks and open areas, religious institutions, safety services, schools, and basic utilities.
Maximum Density: 8.7 units per acre	Maximum Density Allowed: 16 units per acre

Proposal:

The applicant is seeking a zoning change from SR-3, Single-Dwelling Residential to MR-1, Multi-Dwelling Residential. The property is located at 1437 6th Avenue South and encompasses approximately 0.20 acres. The City has documentation to show the existing structure on the property was built as a triplex in 1946. At the time of construction, the triplex was a conforming use in a zoning district that is comparable to the present day low-density, multi-dwelling residential, zoning district.

The applicant has provided a letter and photographs to add context to the history of the property (see attachment).

In 2002, a large-scale rezoning effort was undertaken by the City with the intent of providing the Jefferson and Hawthorne neighborhoods with uniform single-family zoning districts that support the mission of the Neighborhood Revitalization Initiative (NRI). As part of the process, property owners included in the proposed rezoning were notified of the possibility of coming into legal non-conformity. The subject property (1437 6th Avenue South) is one such property.

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: SR-3, Single-Dwelling Residential with detached housing;
- East: SR-3, Single-Dwelling Residential with a duplex;
- South: SR-3, Single-Dwelling Residential with detached housing;
- West: SR-3, Single-Dwelling Residential with detached housing

Area Plans:

The subject property is part of the Jefferson/Carl Ben neighborhood, which is currently under evaluation as part of the City’s Core Neighborhoods Plan. An area plan for the Jefferson/Carl Ben neighborhood may be identified as a result of the Core Neighborhoods Plan.

Neighborhood Context:

Neighborhood: Jefferson/Carl Ben

Schools: The subject property is located within the boundary of the Fargo School District, specifically Jefferson Elementary, Carl Ben Eielson Middle, and South High Schools.

Parks: Robert D. Johnson Recreation Center (1104 2nd Avenue South) and Jefferson West Park (1904 4th Avenue South) are located within half of a mile from the subject property, providing amenities of meeting rooms, rentals, volleyball courts, basketball courts, picnic tables, soccer fields, recreational trails, skate park, and playground equipment.

Pedestrian / Bicycle: None

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 in order to bring the existing structure back into conformity with the Land Development Code. Today, the subject property is both a legally non-conforming structure and a legally non-conforming use. Under Section 20-1002.D.3 of the LDC, a non-conforming use that is residential in nature may be restored, rebuilt, and repaired in its entirety after incurring damage of more than 50 percent of its structural value prior to the damage, provided the property owner follow the five criteria stated in that section. To the benefit of the property owner, the City has the necessary documentation to prove that the existing structure is a legally non-conforming use and can provide this evidence to the property owner upon request. This exception for residential non-conformities makes the request for rezone on the subject property unnecessary.

 Under the current SR-3 zoning district, if the existing triplex is damaged to the extent of more than 50 percent of its pre-destruction value, and the five criteria of Section 20-1002.D.3 are not met, it may only be rebuilt in conformance with the dimensional standards of the SR-3, Single-Dwelling Residential, zoning district. This aligns with the intent of the 2002 City-initiated rezoning, which was to promote and stabilize the existing single-family character of the Jefferson neighborhood. Based on the 2005 Jefferson-Carl Ben Eielson Neighborhood Plan and the 2012 Jefferson/Carl Ben Neighborhood Land Use map, staff believes it is still the desire of the neighborhood to support single-dwelling residential zoning.
(Criteria NOT 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 is served with 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 evaluated 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?

Staff has no evidence that would 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 two inquiries in response to these notices. One letter of opposition has been received and is attached below. 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 not consistent with the adopted plans of the City, including the 2005 Jefferson-Carl Ben Eielson Neighborhood Plan, or the 2002 Jefferson Hawthorne Neighborhood Rezoning.

(Criteria NOT Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and recommend denial to the City Commission of the proposed zoning change from SR-3, Single-Dwelling Residential to MR-1, Multi-Dwelling Residential on the basis that it **does not** satisfactorily comply with the Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

Planning Commission Recommendation: November 5, 2019

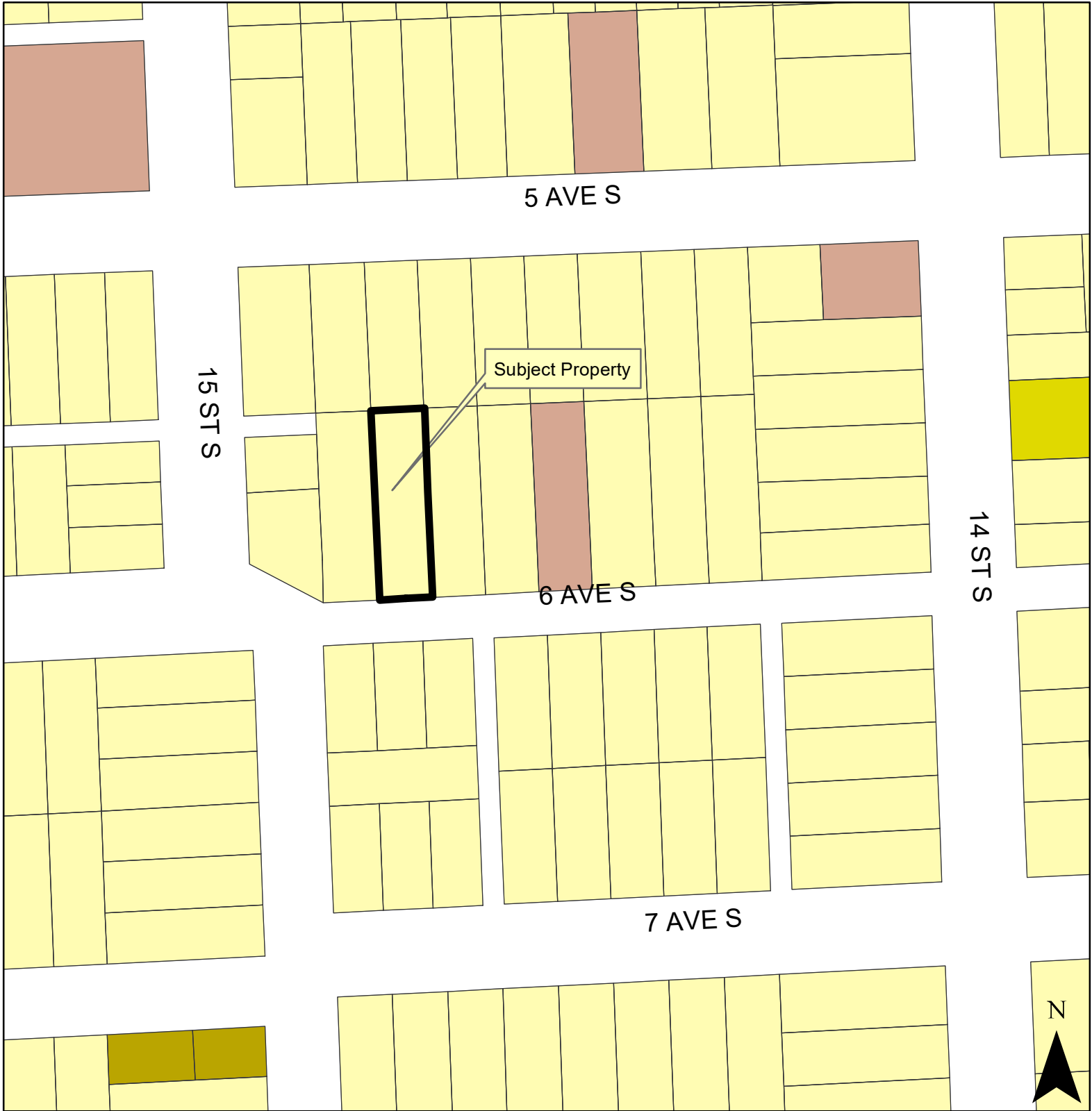
Attachments:

1. Zoning Map
2. Location Map
3. Letter from the Applicant
4. Letter of Opposition

Zone Change (SR-3 to MR-1)

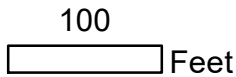
Eddy & Fullers Auditors Outlots

1437 6th Ave S



Legend

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



Fargo Planning Commission
November 5, 2019

Zone Change (SR-3 to MR-1)

Eddy & Fullers Auditors Outlots

1437 6th Ave S



1
October 30, 2019

TO: Auditor's Office + City Planner

FROM: James + Carol Baum

RE: Zone change at 1437 6th Ave. S.

We bought the 3-plex at 1437 6th Ave. S. in 1980. The lot was zoned as a 3-plex in 1924. Our building was permitted + built in 1947 as a 3-plex. It is not a conversion.

Our family lived in the main floor apartment and we rented the other two. Our children started school at Jefferson Elementary.

We've owned the property for 39 years + have been attentive to improving + maintaining our investment. This is a retirement investment. We take great pride in our property + believe it's one of the nicest properties on the block.

Our building provides affordable housing for singles or families close in to downtown. Some people can't afford a duplex apartment or single family home.

We are now in our seventies, had a health scare, and want to sell + have discovered in 2004 the Jefferson Neighborhood Assn. put in a request to have single family zoning on our block. The zoning was changed from MR-1 to SR-3. We do have a buyer (who lives in the Jefferson neighborhood). The bank will not approve the investment loan with the apt. bldg. being a 3-plex & the lot zoned SR-3. Please consider changing our lot back to MR-1.

There have been no protests from neighbors regarding this zoning change request. The property itself stays the same, it's only the zoning we wish would change to make it match the # of apts in the building.

James Baum

Carol Baum

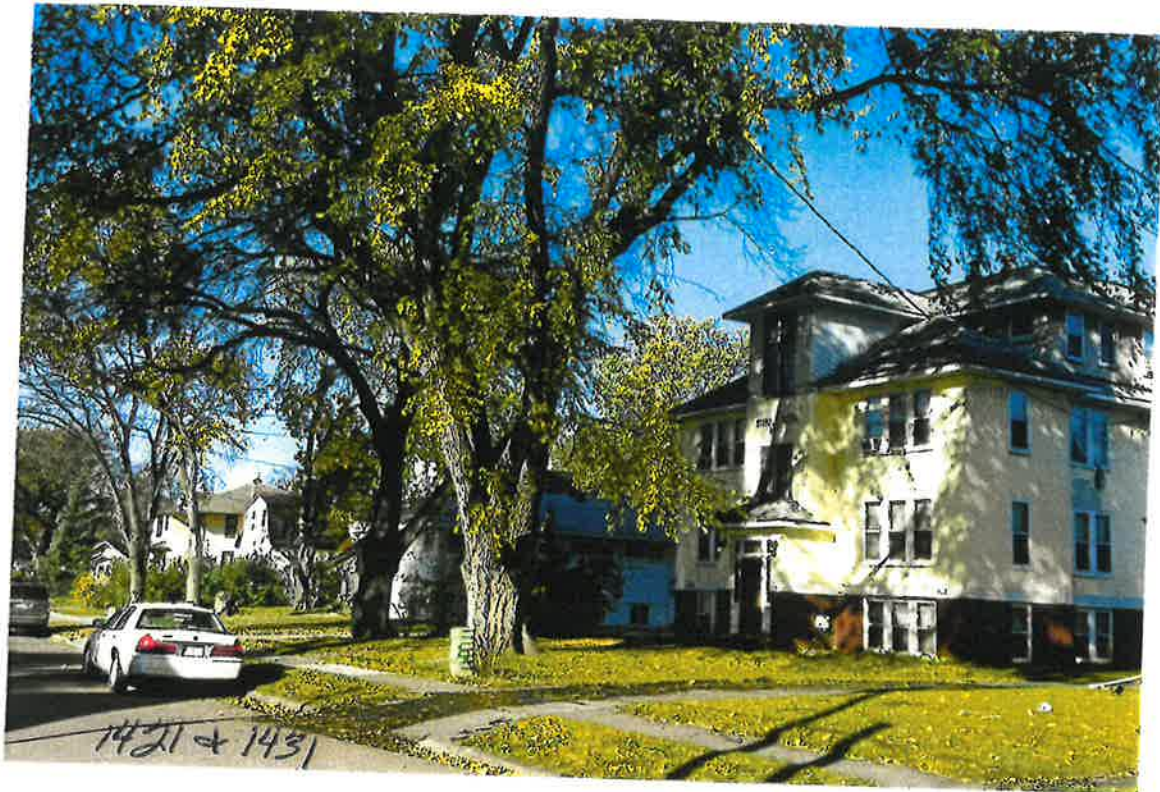
James Baum

Carol Baum

10-28-19 1437 6th Ave S.



10-28-19

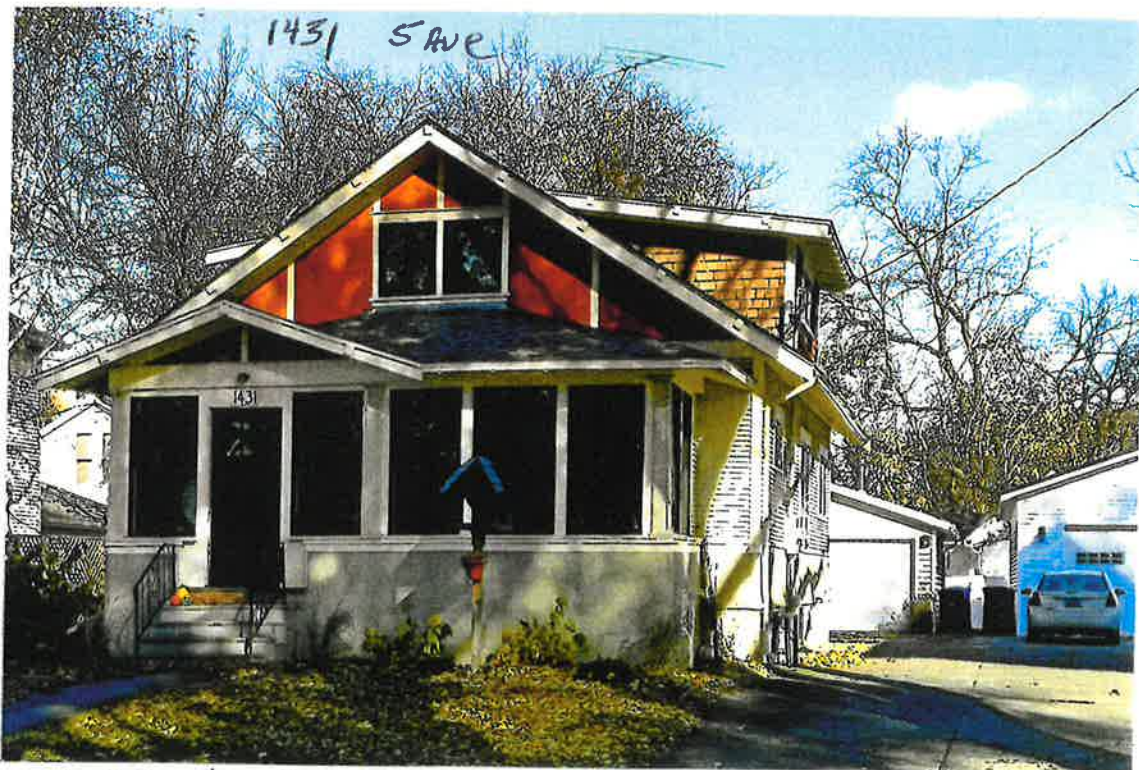
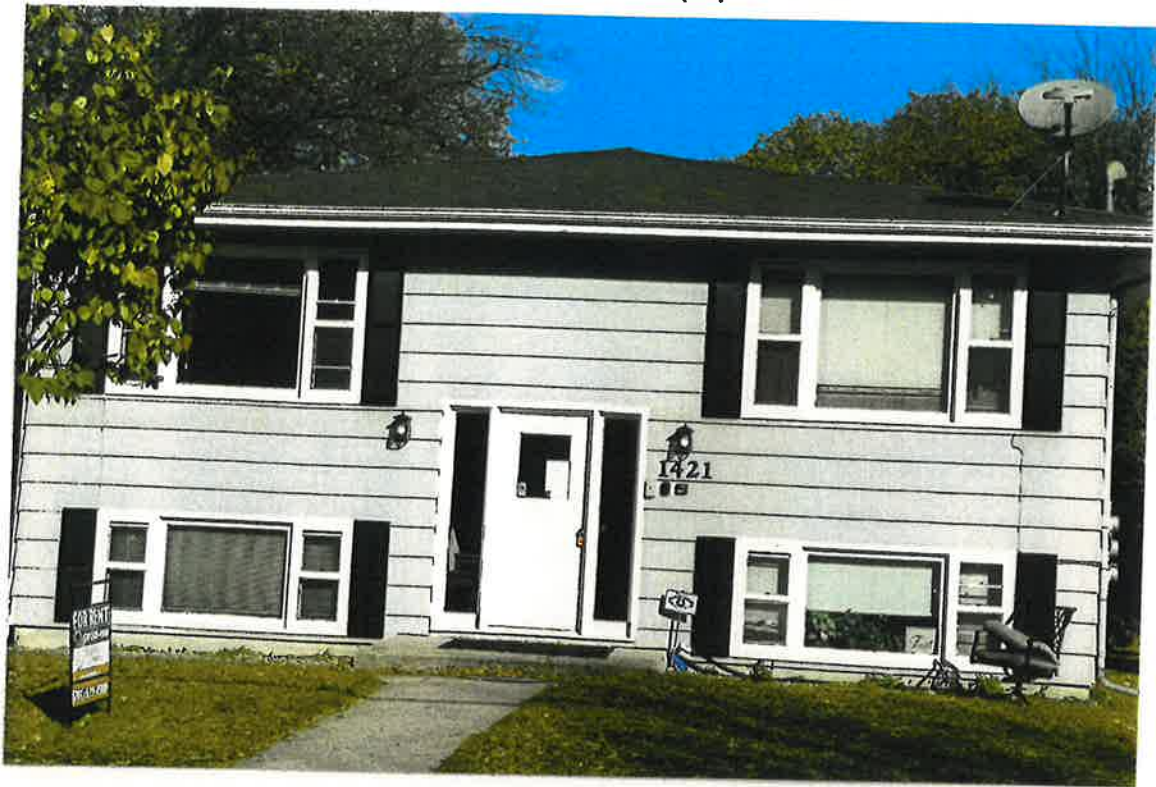


1421 6th Ave S. - 4-plex

1431 6th Ave S. - multi-plex

10-28-19

1421 6th Ave S. - 4plex



Potential buyers home
1431 5th Ave S.

Hi Maggie – thank you for taking the time to talk to me yesterday about the zoning change application to be discussed on November 5. It is to change the zoning on the property that sits next to my house – I am at 1441 6th Ave S and the zoning change property is at 1437 6th Ave S.

This property is already a triplex apartment complex with three garages behind it. I am not sure what changing it to a multi-dwelling residential zone would do other than make it so more people might live in this property. There is not enough parking available for what is currently there, nor is there enough parking available on the one-way street in front of it. My largest worry is that the current structure might be demolished and other structures be built – its really close on both sides to single-family dwellings. And, more people in our neighborhood might change the flavor of our single -family residences.

I am opposed to this change and appreciate the opportunity to let others know.

Thank you again.

Donna Terbizan
1441 6th Ave S
Fargo ND

City of Fargo Staff Report			
Title:	Eagle Valley Addition	Date:	10/29/2019
Location:	7455 20 th Street South	Staff Contact:	Maggie Squyer
Legal Description:	Lot 16, Block 4, Eagle Valley Addition		
Owner(s)/Applicant:	HS Investments/Brookstone Properties	Engineer:	N/A
Entitlements Requested:	Conditional Use Permit to allow temporary use of a residential home as a sales and construction office		
Status:	Planning Commission Public Hearing: November 5, 2019		

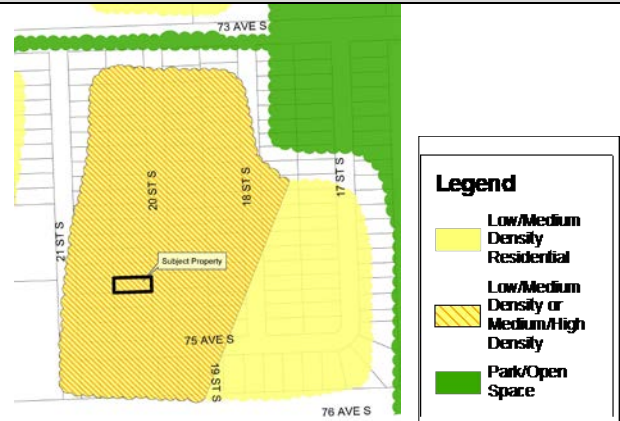
Existing
Land Use: Residential
Zoning: SR-4
Uses Allowed: detached houses, attached houses, duplexes, day care facilities of limited size, parks and open areas, religious institutions, safety services, schools, and basic utilities.
Maximum Density: 12.1 density units per acre

Proposed
Land Use: Temporary Sales and Construction Office
Zoning: No Change
Uses Allowed: detached houses, attached houses, duplexes, day care facilities of limited size, parks and open areas, religious institutions, safety services, schools, and basic utilities. Plus a CUP to allow temporary use of a residential home as a sales and construction office
Maximum Density: 12.1 density units per acre

Proposal:
<p>The applicant is requesting a Conditional Use Permit (CUP) to allow temporary use of a residential home as a sales and construction office on Lot 16, Block 4, Eagle Valley Addition. According to the applicant, the purpose of the CUP is to create a showroom for prospective clients to see the selections that can be made for his or her home. While temporary use permits are not usually reviewed by the Planning Commission, the temporary use of a residence as a sales and construction office requires a Conditional Use Permit when requested more than three years after the date of the approval of the subdivision. Eagle Valley Addition was approved in January of 2015, therefor requiring a CUP for the proposed use.</p> <p>The requested CUP does not have an official termination date. However, condition one, found below, outlines the criteria that leads to termination of the temporary sales and construction office use on the subject property.</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>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: SR-4 with a detached house; • East: SR-4 that is currently vacant; • South: SR-4 with a detached house; • West: SR-4 with a detached house. <p>Continued on next page.</p>

Area Plans:

The subject property is located within the 2003 Southeast Future Land Use Plan. This plan indicates that the subject property is appropriate for Low/Medium Density or Medium/High Density residential.



Context:

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

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

Parks: Davies Athletic Complex (1880 70th Avenue South), Eagle Pointe Park 2 (1464 73rd Avenue South), and Eagle Valley Park (7300 23 Street South) are located within a quarter mile of the subject property and offer baseball/softball fields, concessions, restrooms, playgrounds, a shelter, and recreational trails.

Pedestrian / Bicycle: A shared use path is available on the north side of 73rd Avenue South.

Staff Analysis:

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

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

- 1. Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**
The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Section 20-0402.O. states that a residential dwelling may be used on a temporary basis as a sales office in subdivisions of at least 10 lots. Eagle Valley subdivision is comprised of 88 lots. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City. **(Criteria Satisfied)**
- 2. Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**
Staff finds the proposed Conditional Use Permit to allow temporary use of a residential home as a sales and construction office at 7455 20th Street South will contribute to and promote the convenience of the public as it will provide prospective home owners an opportunity to view materials and sign documents near the job site. **(Criteria Satisfied)**
- 3. Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**
Staff has no data to suggest that the proposed use would cause substantial injury to the value of other property in the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. To date, staff has not received any inquiries on the proposed CUP. **(Criteria Satisfied)**

4. **Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature, and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.**

Staff finds the proposed conditional use permit to allow temporary use of a residential home as a sales and construction office should not dominate the immediate neighborhood or prevent any other sites from being used due to the fact that the proposed showroom will be confined to the existing single-dwelling structure on the subject property. Sales and construction offices are not uncommon among single-dwelling structures in developing neighborhoods. Based on this information, staff finds that the proposed conditional use permit meets this criterion. **(Criteria Satisfied)**

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

Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the petitioner to utilize the property as proposed. In addition, the requested CUP has been reviewed by staff from other applicable departments and no concerns have been raised. Based on this information, staff finds that adequate utility, drainage, and other such necessary facilities and services are in place. **(Criteria Satisfied)**

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

The subject property has vehicular access to 20th Street South. The Engineering Department has had an opportunity to review the proposal and no comments or concerns have been forthcoming to indicate that there is a deficiency with the access roads or entrances and exit drives. To that end, staff finds that the proposed conditional use will not create traffic hazards or traffic congestion in the public streets. **(Criteria Satisfied)**

Recommended Conditions:

- 1) The approved temporary use must be terminated within 90 days of 90% of the lots in the subdivision being sold to persons, firms, or entities other than the permittee.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and approve the Conditional Use Permit to allow temporary use of a residential home as a sales and construction office as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC, with the following conditions:

- 1) The approved temporary use must be terminated within 90 days of 90% of the lots in the subdivision being sold to persons, firms, or entities other than the permittee."

Planning Commission Recommendation: November 5, 2019

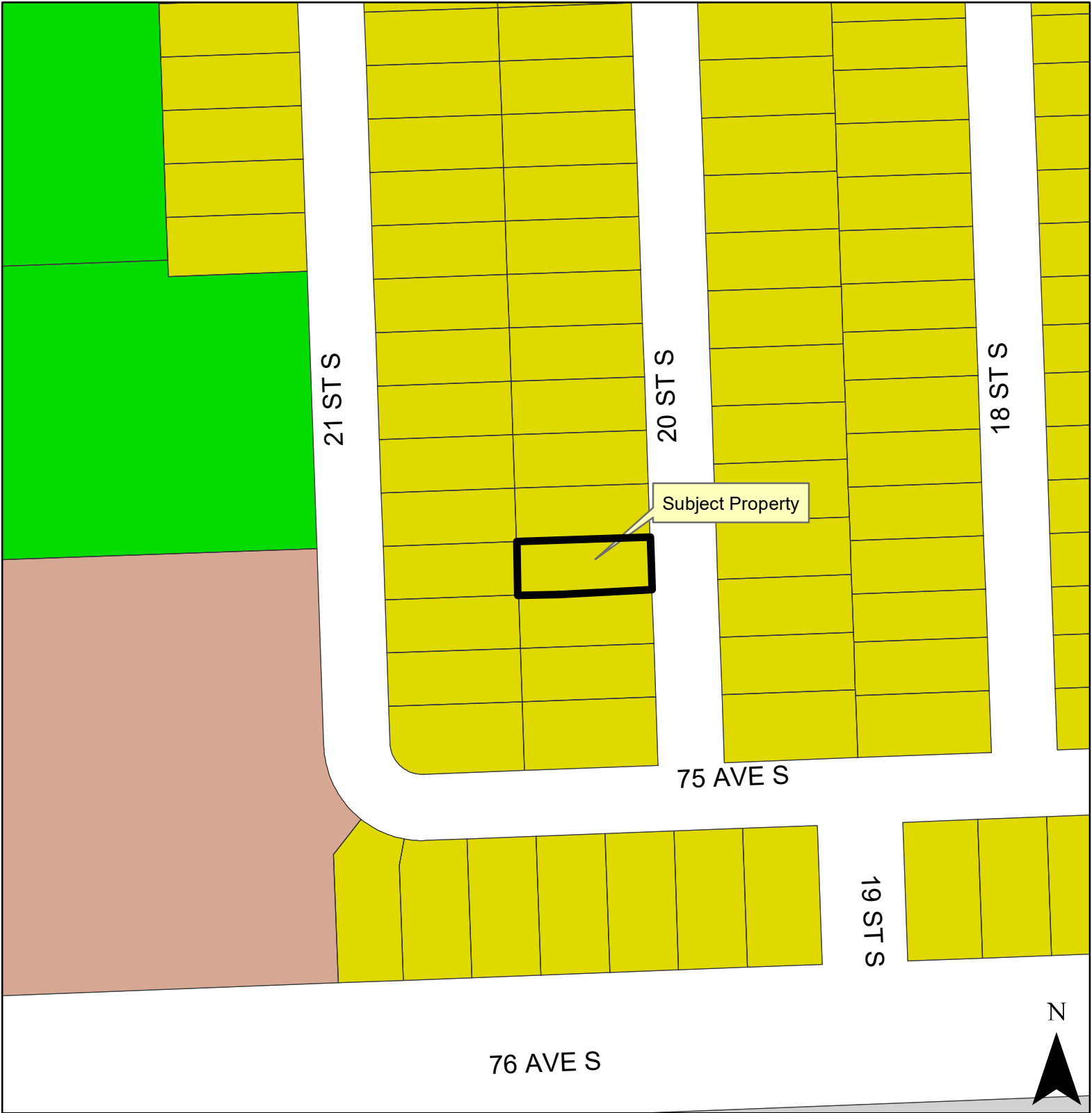
Attachments:

1. Zoning Map
2. Location Map

Conditional Use Permit

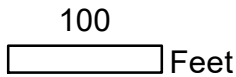
Eagle Valley Addition

7455 20th St S



Legend

AG	DMU	LC	MHP	SR-2
GG	CCU	MLL	NCO	SR-3
GG	LCU	MR-1	PDI	SR-4
GO	MR-2	MR-3	UMU	SR-5
				City Limits



Fargo Planning Commission
November 5, 2019

Conditional Use Permit

Eagle Valley Addition

7455 20th St S

