

FARGO CITY COMMISSION AGENDA
Monday, September 11, 2017 - 5:00 p.m.

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, August 28, 2017).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. 1st reading of an Ordinance Amending Section 25-1509, of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- 2. 2nd reading of the following Ordinances:
 - a. Relating to Classification of Ordinance Violations.
 - b. Relating to Distracted Driving.
 - c. Relating to Use of a Wireless Communication Device Prohibited.
 - d. Rezoning Certain Parcels of Land Lying in Original Townsite Addition.
- 3. Tax exemptions for improvements made to buildings:
 - a. Carole Y. Halone and Christi L. Johnson, 1518 29th Avenue South (3 year).
 - b. William R. Jr. and Alycia L. Gabel, 1602 28 1/2 Avenue South (3 year).
 - c. David L. and Diane K. Wanner, 914 Park Drive South (5 year).
 - d. David R. Slack and Debra K. Potter Slack, 218 Forest Avenue North (5 year).
 - e. Eric G. and Sharla L. Olson, 811 Southwood Drive South (5 year).
 - f. Steve and Ruth E. Holland, 601 University Drive South (5 year).
 - g. Rodney M. Greff, 1329 10th Street North (5 year).
 - h. Mark Anthony Huss, 3027 Elm Street North (5 year).
 - i. Ryan D. and Shannon L. Gullingsrud, 1218 3rd Street North (5 year).
 - j. Debra A. Cederholm, 401 21st Avenue North (5 year).
 - k. Carter Anthony II and Jennifer Breeding, 3657 Fairway Road North (5 year).
 - l. Steve W. and Shari L. Bettenhausen, 2901 12th Street South (5 year).
 - m. R. David and Julie Rydell, 1414 23rd Street South (5 year).
 - n. Jacob Krieg, 1241 2nd Street North (5 year).
 - o. Michael E. and Lisa K. Stenstrom, 2921 Edgewood Drive North (5 year).
 - p. Ray and Karen Frohlich, 3025 Peterson Parkway North (5 year).
 - q. Michael W. Hayes and Lana D. Waters, 1338 3rd Avenue South (5 year).
 - r. Joshua Zosel and Andrea Huseth-Zosel, 1358 3rd Street North (5 year).
- 4. Site authorization for Metro Sports Foundation at Scheels Arena.
- 5. Applications for Games of Chance:
 - a. Bryce Thingelstad Benefit Committee for a raffle and raffle board on 10/26/17; Public Spirited Resolution.
 - b. North Dakota Long Term Care Association for a raffle on 9/14/17.
 - c. NDSU Lion's Club for a raffle on 11/15/17.
 - d. United Way Cass-Clay for a raffle on 9/21/17.
 - e. Jeremiah Program for a raffle on 11/3/17; Public Spirited Resolution.

6. Resolution Expressing General Support of the Edge Artist Flats Affordable Housing Project at 1321 5th Avenue North.
7. Change Order No. 9 for an increase of \$7,303.13 for the Roberts Commons Parking Garage.
8. Bid award of one snow plow, box and wing (RFP17252).
9. Bid award for Project No. WA1510.
10. Bid award for cooling tower water treatment equipment at the FARGODOME.
11. Change Order for an increase of \$66,404.00 for BP0031 Fire Station No. 1 – Headquarters Remodel Project.
12. Change Order No. E-2 for an increase of \$3,431.60 for the Police Department Remodeling Project at the Border States Electric Building (electrical construction contract).
13. Agreement for Transit Services with North Dakota State College of Science for 2017-2018.
14. Amendment to Engineer-Owner Agreement with KLJ, Inc. for the 2017 rebid services of the GTC Deck Repair and Garage Condition Assessment.
15. Memorandum of Understanding with the NDDOT for Transit Capital Project-Fiscal Year 2017 Urban Roads Program funds.
16. Section 5339 Transit Grant Agreement with the NDDOT (Contract No. 38171124).
17. Section 5310 Transit Grant Agreement with the NDDOT (Contract No. 38171108).
18. Quit Claim Deed for property in Dakota Land Second Addition to the personal representatives of the Estate of Harold L. Newman.
19. Purchase Agreement for acquisition of property at 726 Hackberry Drive South.
20. Purchase Agreement for acquisition of property at 3842 River Drive South (Project No. MS-15-K0).
21. Encroachment Agreement with DFI Black Building LLC at 114 Broadway to allow for an iconic sign.
22. Quote from Dakota Fence in the amount of \$73,898.00 to install fence under the 1st Avenue North bridge at the Red River.
23. Release of Permanent Easement with Marie T. and Jonathan B. Offutt for property located in Maier First Subdivision.
24. Final Balancing Change Order No. 4 for a decrease of \$137,063.43 for Project No. FM-15-F1.
25. Contract Amendment No. 1 for an increase of \$650.00 for Project No. MS-16-M0.
26. Contract Amendment No. 1 for an increase of \$22,500.00 for Project No. MS-16-S0.

27. Contract Amendment No. 2 for an increase of \$50,725.00 for Project No. MS-15-P0.
28. Bid award for Project No. FM-14-63.
29. Bid advertisement for Project No. TR-17-B.
30. Contract and bond for Project No. UR-17-F1.
31. Bills.
32. Cost Participation and Maintenance Agreement with the NDDOT for Improvement District No. BR-18-B1.
33. Encroachment Agreement with Fargo Public Schools for Improvement District No. BR-17-F1.
34. Time extension to 11/6/17 for Improvement District No. BR-17-J1.
35. Time extension to 11/15/17 for Improvement District No. BR-17-F1.
36. Change Order No. 1 for an increase of \$24,300.00 and time extension to 9/15/17 for Improvement District No. BR-17-C1.
37. Change Order No. 1 for an increase of \$13,751.40 and time extension to 12/4/17 for Improvement District No. BR-17-B1.
38. Final Balancing Change Order No. 3 for a decrease of \$50,498.14 for Improvement District No. PN-15-J1.
39. Contract and bond for Improvement District No. BN-17-H1.


REGULAR AGENDA:

40. Recognition of National Payroll Week and the efforts of the City's payroll processing team.
41. Public Hearings - 5:15 pm:
 - a. BNG Addition (3285 47th Street South); approval recommended by the Planning Commission on 9/5/17:
 1. Zoning change from LC, Limited Commercial with a C-O, Conditional Overlay to GO, General Office, with a C-O, Conditional Overlay.
 2. 1st reading of rezoning Ordinance.
 - b. Silverleaf Third Addition (2801 64th Avenue South and 2748 Samuel Drive South); approval recommended by the Planning Commission on 7/6/17:
 1. Zoning Change from AG, Agricultural to SR-2, Single-Dwelling Residential.
 2. 1st reading of rezoning Ordinance.
 3. Plat of Silverleaf Third Addition.
 - c. Appeal of a Board of Adjustment decision on a variance request at 3931 and 3949 37th Avenue South to allow a proposed building to be constructed to a lower elevation than would otherwise be required by the City's Floodproofing Code, as referenced by Article 21-06 of the Fargo Municipal Code.
 1. Denied by the Board of Adjustment on 8/22/17.

42. Public Hearing - 6:00 p.m.:
 - a. Public comment on the 2017, payable 2018, tax levy and the 2018 preliminary budget.
 1. Adopt the 2018 City of Fargo budget and proposed tax levies.
43. Recommendation to appoint Justin Schoenberg to the Board of Appeals.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 241-1310. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.



TO: BOARD OF CITY COMMISSIONERS
FROM: KENT COSTIN, DIRECTOR OF FINANCE 
RE: NATIONAL PAYROLL WEEK RECOGNITION
DATE: SEPTEMBER 6, 2017

Companies across America celebrated National Payroll Week September 4-8, 2017. The American Payroll Association started this recognition event twenty-two years ago with the central goal of helping workers better understand and manage their pay.

The City of Fargo processes payroll on a bi-weekly basis and distributes approximately 32,000 paychecks per year. Extreme attention to detail is required during all facets of payroll processing. Pay changes, tracking of hours worked, overtime, employee tax and voluntary deductions changes, and related filing of Federal and State tax returns happen each pay period. These activities take place in a fast-paced environment with short processing timelines.

We celebrate National Payroll Week by honoring the success of all employees who have a role in payroll processing and for the care and understanding of the importance of this work to assure that all employee paychecks are correct and delivered on a timely basis.

Suggested Motion:

Recognize the efforts of our payroll processing teams within the City of Fargo for their efforts in producing error free paychecks and a thank you for a job well done. These teams include the Human Resources Office, the Auditor's Office and Departmental payroll processors.

4/2

NOTICE OF HEARING

Notice is hereby given that the Fargo Planning Commission will conduct a Public Hearing in the City Commission Room, City Hall, Fargo, North Dakota, on Tuesday, September 5, 2017 at 3:00 o'clock p.m., to consider recommending to the Fargo City Commission approval or denial of an application requesting a Zoning Change from LC, Limited Commercial with a C-O, Conditional Overlay, to GO, General Office, with a C-O, Conditional Overlay, on Lot 2, Block 1, **BNG Addition**.

The above-described tract of land is located at 3285 47th Street South.

Additional information may be obtained by viewing the project file located at the City of Fargo Planning Department, 200 3rd Street North, Fargo, North Dakota, Monday through Friday, 8:00 a.m. to 4:30 p.m.

The City Commission will consider the Planning Commission recommendation at a Public Hearing in the City Commission Chambers, City Hall, Fargo, North Dakota, on Monday, September 11, 2017 at 5:15 o'clock p.m., to consider the above request.

Any person interested may appear at the Hearing and be heard. Protests must be in writing and submitted to the Auditor's Office (NDCC 40-47-05) and City Planner (LDC 20-0906.G) before the time set for the Hearing.

Shara Fischer
Chair

(August 21 and 28, 2017)

INSTRUCTIONS TO THE FORUM

Please publish as a legal on Monday, August 21 and 28, 2017.

Please send an affidavit of publication.

Bill to: City Auditor's Office

Attn: Michelle

P.O. Box 2083

Fargo, ND 58107

Please call Albert at 297-7783 with any questions.

410a

| City of Fargo Staff Report | | | |
|---------------------------------------|---|-----------------------|--------------|
| Title: | BNG Addition | Date: | 8/21/2017 |
| | | Update: | 9/07/2017 |
| Location: | 3285 47th Street South | Staff Contact: | Kylie Murphy |
| Legal Description: | Lot 2, Block 1, BNG Addition | | |
| Owner(s)/Applicant: | Nate Vollmuth | Engineer: | N/A |
| Entitlements Requested: | Zoning Change (from LC, Limited Commercial, with a C-O, Conditional Overlay, to GO, General Office, with a C-O, Conditional Overlay) | | |
| Status: | City Commission Public Hearing: September 11, 2017 | | |

| Existing | Proposed |
|---|---|
| Land Use: Vacant | Land Use: Office |
| Zoning: LC, Limited Commercial with a C-O, Conditional Overlay | Zoning: GO, General Office with a C-O, Conditional Overlay |
| Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs , commercial parking, retail sales and service, self-service storage, vehicle repair , limited vehicle service. | Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs , and commercial parking. The C-O, Conditional Overlay, will not change as a part of this application |
| Maximum Lot Coverage Allowed: Maximum 55% building coverage | Maximum Lot Coverage Allowed: Maximum 65% lot coverage allowed |

Proposal:

The applicant is seeking a zoning change from LC, Limited Commercial, with a C-O, Conditional Overlay to GO, General Office, with a C-O, Conditional Overlay on Lot 2, Block 1, BNG Addition. The subject property is located at 3285 47th Street South.

The applicant is proposing to build a three-story office building within 300 feet of a residentially zoned property; therefore, the subject property will have to comply with the residential protection standards (RPS) of the Land Development Code. When RPS standards apply to a LC, Limited Commercial, parcel a 35 foot height restriction applies. By rezoning the parcel to GO, General Office, under the RPS standards, the structure may not exceed 55 feet in height when located within 101 to 150 feet from any SR zoning district. Since the proposed building is not within 150 feet of an SR zoning district height restrictions will not apply in the GO zoning district, which allows the maximum height to be 60 feet. The proposed office building will be 57 feet tall.

The existing Conditional Overlay (CO) was placed on the property in 2003 as part of the original zoning of the land. This rezoning does not request any changes to the existing Conditional Overlay.

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

Surrounding Land Uses and Zoning Districts:

- North: LC, Limited Commercial with vacant land use
- East: Across 47th Street South, LC, Limited Commercial with agricultural use
- South: Across 33rd Avenue South, SR-4, Single-Dwelling Residential with single family use
- West: LC, Limited Commercial with park use

Area Plans:

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

The subject property was rezoned from AG, Agricultural, to LC, Limited Commercial, in 2003.



Schools and Parks:

Schools: The subject property is located within the West Fargo School District and is served by Independence Elementary, Liberty Middle and Sheyenne High schools.

Parks: Brandt Crossing Park (5009 33rd Avenue S) is located approximately 500 feet west of the subject property and offers basketball, dog park, playground, shelter, and recreational trail amenities.

Pedestrian / Bicycle: There are off-road bike facilities located along 33rd Avenue South and Brandt Crossing Park that are a components of the metro area bikeways 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:

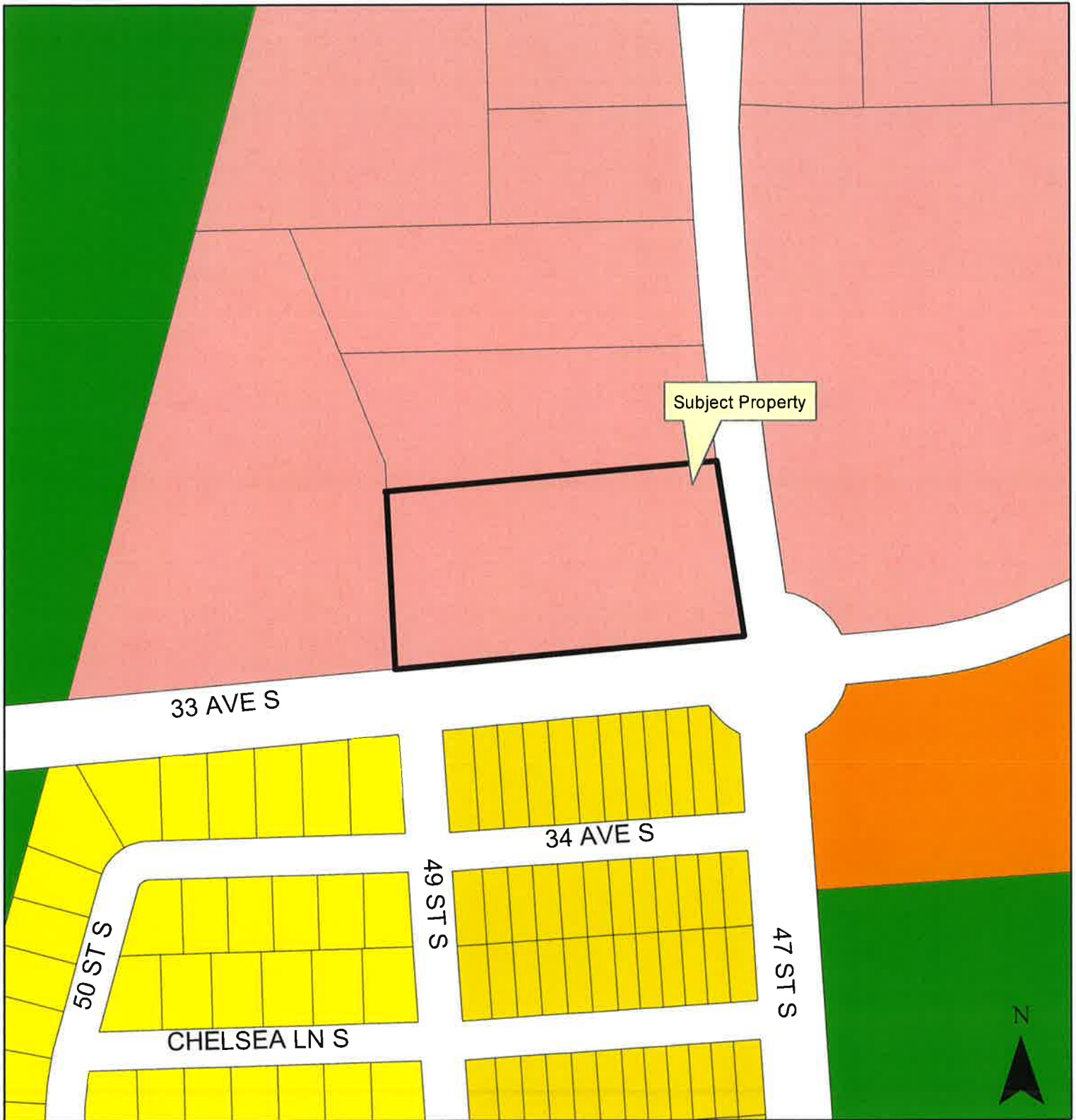
1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**
Staff is unaware of any zoning map error in regards to the subject property. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established. The applicant has a clearer picture of the type of development for the property
(Criteria Satisfied)
2. **Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**

| |
|--|
| <p>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. No deficiencies to provide the necessary public services, facilities and programs to this development have been identified. (Criteria Satisfied)</p> <p>3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity? Staff has no documentation or evidence that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. 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)</p> <p>4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City? The 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)</p> |
| <p>Planning Commission Recommendation: September 5, 2017</p> |
| <p>On September 5, with a 9-0 vote, the Planning Commission accepted the findings and recommendations of staff and recommend approval to the City Commission of the proposed zoning change from LC, Limited Commercial, with a C-O, Conditional Overlay, to GO, General Office, 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."</p> |
| <p>Staff Recommendation:</p> |
| <p>Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission, and hereby waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and move to approve the proposed zoning change from LC, Limited Commercial, with a C-O, Conditional Overlay, to GO, General Office, 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."</p> |
| <p>Attachments:</p> |
| <ol style="list-style-type: none"> 1. Zoning Map 2. Location Map |

Zone Change (LC w/ a C-O to GO w/ a C-O)

BNG Addition

3285 47th Street South



Legend



300

Feet

Zone Change (LC w/ a C-O to GO w/ a C-O)

BNG Addition

3285 47th Street South





NOTICE OF HEARING

Notice is hereby given that the Fargo City Commission will conduct a Public Hearing in the City Commission Room, City Hall, Fargo, North Dakota, on Monday, September 11, 2017 at 5:15 p.m., to consider approval or denial of an application requesting 1) a Zoning Change from AG, Agricultural to SR-2, Single-Dwelling Residential and 2) a Plat of **Silverleaf Third Addition** (Minor Sub) a replat of part of Auditor's Lot 8 in the Southeast Quarter of Section 2, Township 138 North, Range 49 West of the 5th Principal Meridian, and Lot 3, Block 1, Silverleaf Second Addition, City of Fargo, Cass County, North Dakota.

The above-described tract of land is located at 2801 64th Avenue South, and 2748 Samuel Drive South. The proposed plat contains 0.478 acres of land more or less.

The Fargo Planning Commission at their regular meeting of July 6, 2017 recommended approval of the above-described application.

Additional information may be obtained by viewing the project file located at the City of Fargo Planning Department, 200 3rd Street North, Fargo, North Dakota, Monday through Friday, 8:00 a.m. to 4:30 p.m.

Any person interested may appear at the Hearing and be heard. Protests must be in writing and submitted to the Auditor's Office (NDCC 40-47-05) and City Planner (LDC 20-0906.G) before the time set for the Hearing.

City Auditor's Office
(September 4 and 11, 2017)

INSTRUCTIONS TO THE FORUM

Please publish as a legal on Monday, September 4 and 11, 2017.

Please send an affidavit of publication.

Bill to: City Auditor's Office

Attn: Michelle

P.O. Box 2083

Fargo, ND 58107

Please call Albert at 297-7783 with any questions.

416

| City of Fargo Staff Report | | | |
|---------------------------------------|--|--------------------------|--------------------|
| Title: | Silverleaf Third Addition | Date: Update: | 6-22-17 8-24-17 |
| Location: | 2801 64th Avenue South, and 2748 Samuel Drive South | Staff Contact: | Derrick LaPoint |
| Legal Description: | Part of Auditor's Lot 8 in the Southeast Quarter of Section 2, Township 138 North, Range 49 West of the 5th Principal Meridian, and Lot 3, Block 1, Silverleaf Second Addition | | |
| Owner(s)/Applicant: | Carl Olson/KLJ | Engineer: | KLJ |
| Entitlements Requested: | Minor Subdivision (Replat of part of Auditor's Lot 8 in the Southeast Quarter of Section 2, Township 138 North, Range 49 West of the 5th Principal Meridian, and Lot 3, Block 1, Silverleaf Second Addition, City of Fargo, Cass County, North Dakota) and Zoning Change (from AG, Agricultural, to SR-2, Single-Dwelling Residential) | | |
| Status: | City Commission Public Hearing: September 11, 2017 | | |

| Existing | Proposed |
|--|--|
| Land Use: Warehouse and Single Family Residential | Land Use: No Change |
| Zoning: AG, Agricultural and SR-2, Single-Dwelling Residential | Zoning: SR-2, Single-Dwelling Residential |
| Uses Allowed: AG – Agricultural allows detached houses, parks and open space, safety services, basic utilities, and crop production. SR-2, Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities. SR-2, Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities. | Uses Allowed: SR-2, Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities. |
| Maximum Density Allowed: AG allows a maximum of 1 dwelling unit per 10 acres. SR-2 allows a maximum of 5.4 units per acre. | Maximum Density Allowed: SR-2 allows a maximum of 5.4 units per acre. |











| Proposal: |
|--|
| <p>The applicant is seeking approval of a minor subdivision, Silverleaf Third Addition, and a Zoning Change from AG, Agricultural to SR-2, Single-Dwelling Residential. The applicant is seeking additional land for their existing single-family home on Lot 3, Block 1, Silverleaf Second Addition. The subject property encompasses approximately 0.48 acres.</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> |

- North: SR-2, Single-Dwelling Residential with single-family residential use.
- East: AG, Agricultural and SR-2, Single-Dwelling Residential with single-family residential use.
- South: Across 64th Avenue South, SR-2, Single-Dwelling Residential with single-family residential use.
- West: AG, Agricultural and SR-2, Single-Dwelling Residential with single-family residential use.

Area Plans:



In terms of land use, the subject property is located within the "South Area" as identified within the *2001 Growth Plan for the Urban Fringe and Extraterritorial Area of the City of Fargo*. The plan designates the subject property as being suitable for low density residential.

-  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 and is served by Centennial Elementary, Discovery Middle, and Davies High schools.

Parks: Silverleaf Park (5755 27th Street S) is located approximately a quarter mile north of the subject property and provides playground amenities.

Pedestrian / Bicycle: There is an off-road bike facility located along 25th Street South. This bike facility is a component of the metro area bikeways system.

Staff Analysis:

Zone Change:

The LDC stipulates that the Planning Commission and Board of City Commissioners shall consider the following criteria in their review of zoning map amendment requests. Proposed zoning map amendments that satisfy all of the criteria may be approved.

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?**

As noted in the Land Development Code (LDC), the Agricultural (AG) district is intended as an "interim" zoning classification pending determination of an appropriate zoning district. The zoning change is justified as the petitioner is retaining a portion of the unplatted land for the purpose of expanding their SR zoned lot which is consistent and compatible with city growth plans and compatible with the surrounding land uses. **(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. No deficiencies have been noted in the ability to provide all of the necessary services to the site.

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

The proposed development and requested zoning districts are compatible and consistent with city growth plans, as well as the GO2030 Fargo Comprehensive Plan, and thereby the project should not adversely affect the condition or value of property in the vicinity. GO2030 refers to 'quality new development. In accordance with the notification requirements of the Land Development Code, letters were sent to neighboring property owners. To date, staff has not received any comments through the public notification process.

(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 proposed amendment is consistent with the LDC and the growth plans for this area.

(Criteria Satisfied)**Minor Subdivision**

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

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

The Growth Plan supports low-density residential land uses at this location that are consistent with the requested SR-2 zoning classification. Therefore, the petitioner is seeking the appropriate zone district classifications to accommodate the proposed development.

(Criteria Satisfied)**2. Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

Pursuant to Item 1 above, the proposed development will comply with an approved growth plan and the subdivision meets the requirements of the Land Development Code (LDC).

(Criteria Satisfied)**Planning Commission Recommendation: July 6, 2017**

On July 6, 2017, with a 8-0 vote, the Planning Commission accepted the findings and recommendations of staff and recommended approval to the City Commission of the proposed: 1) Zoning Change from AG, Agricultural to SR-2, Single-Dwelling Residential and 2) Subdivision Plat, **Silverleaf Third Addition** as outlined within the staff report, as the proposal complies with the adopted Area Plan, the standards of Article 20-06, and all other applicable requirements of the Land Development Code".

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission, and hereby waive the requirement to receive the Ordinance one week prior to first reading and place the rezoning Ordinance on first reading, and move to approve the proposed: 1) Zoning Change from AG, Agricultural to SR-2, Single-Dwelling Residential and 2) Subdivision Plat, **Silverleaf Third Addition** as outlined within the staff report, as the proposal complies with the adopted Area Plan, the standards of Article 20-06, and all other applicable requirements of the Land Development Code".

Attachments:

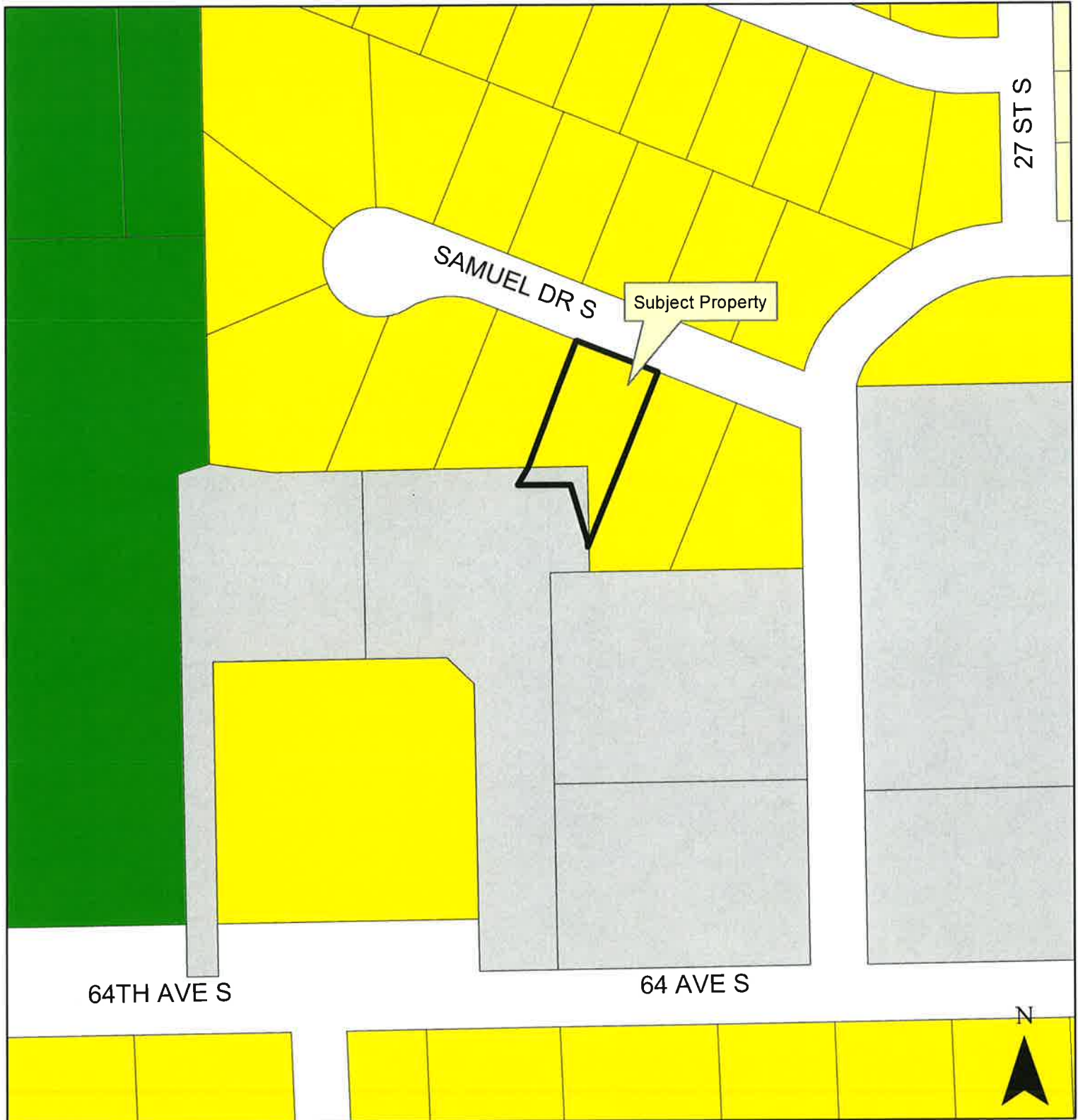
1. Zoning Map

2. Location Map
3. Preliminary Plat

Plat (Minor) & Zoning Change (AG to SR-2)

Silverleaf Third Addition

2748 Samuel Drive &
2801 64th Avenue South



Legend

| | | | |
|-----|------|-----|-------------|
| AG | LC | MHP | SR-2 |
| DMU | MR-1 | NC | SR-3 |
| GC | MR-2 | PT | SR-4 |
| GO | MR-3 | UML | SR-5 |
| | | | City Limits |

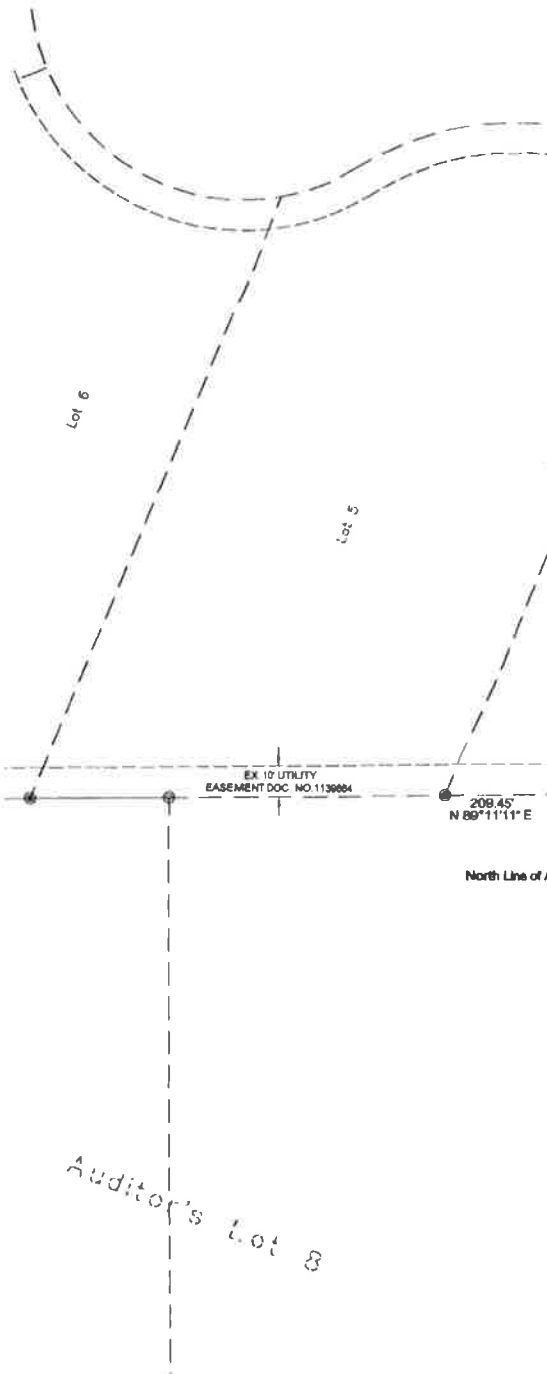
300 Feet

Plat (Minor) & Zoning Change (AG to SR-2)

Silverleaf Third Addition

2748 Samuel Drive &
2801 64th Avenue South





NOTION:

being duly sworn, deposes and says that he is the Registered Land Surveyor who prepared and made the attached plat "SILVERLEAF THIRD ADDITION", a replat of SILVERLEAF SECOND ADDITION to the city of Fargo, Cass County, ND and LOT 6 in the Southeast Quarter of Section 2, Township 138 North, Range 49 West, 5th P.M., that said addition is as follows, to wit:

of 3, Block 1, SILVERLEAF SECOND ADDITION to the City of Fargo, Cass County, North Dakota and Part of Auditors Southeast Quarter of Section 2, Township 138 North, Range 49 West, 5th Principal Meridian, County of Cass, State of N., as recorded and on file in the office of the County Recorder, more particularly described as follows:

ing at the northeast corner of said AUDITORS LOT 6, thence on an assumed bearing of South 00 degrees 52 minutes 15 st, along the east line of said AUDITORS LOT 6, a distance of 23.79 feet, thence South 89 degrees 11 minutes 11 st, a distance of 86.46 feet, thence North 21 degrees 54 minutes 53 seconds East, a distance of 25.79 feet, to the north AUDITORS LOT 8, thence North 89 degrees 11 minutes 11 seconds East, along said north line of AUDITORS LOT 6, a 76.47 feet to the Point of Beginning. areal contains 1936 square feet, more or less, and is subjected to any easements or rights of way of record.

NOTION:

designated, do hereby certify that we are the owners of the land described in the plat of "SILVERLEAF THIRD ADDITION" to the city of Fargo, a replat of SILVERLEAF SECOND ADDITION to the city of Fargo, Cass County, ND and LOT 6 in the Southeast Quarter of Section 2, Township 138 North, Range 49 West, 5th P.M., that we have caused it red and platted into lots and blocks as shown by said plat and certificate of Carl Olson, Registered Land Surveyor. dedicates all easements shown on the attached plat to the use of the public.

of 3 of Block 1, SILVERLEAF SECOND ADDITION

for

Ulmer

th Dakota

as

12th day of July, 2017, before me, a notary public with and for said County and State, personally wemy Ulmer to me known to be the person described in and who executed the same as a free act and deed.

inda Wolf

MIRANDA WOLF
Notary Public
State of North Dakota
My Commission Expires May 18, 2023

of Auditor's Lot 6 in the Southeast Quarter of Section 2, Township 138 North, Range 49 West, 5th P.M.

rties, LLP

Huber, President

th Dakota

as

17th day of July, 2017, before me, a notary and for said County and State, personally appeared Steve Huber, to me the person described in and who executed the same as a free act and deed.

inda Wolf

MIRANDA WOLF
Notary Public
State of North Dakota
My Commission Expires May 18, 2023

North Line of Au

FARGO ENGINEERING DEPARTMENT APPROVAL

City Engineer this 17th day of August, 2017.

Mark H. Bittner
er, City Engineer

th Dakota

as

17th day of August, 2017, before me, a notary public with and for said County and State, personally appeared Mark H. Bittner, City Engineer, to me known to be the person and who executed the same as a free act and deed.

Carl Olson

Mark H. Bittner
City Engineer
FARGO
DATE: 8-11-17

KRISTIN OLSON
Notary Public
State of North Dakota
My Commission Expires Oct 17, 2019

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

in, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that the attached plat is a true and accurate representation of the survey of said subdivision and all distances shown on said plat; that the monuments for the guidance of future surveys have been set in the ground as shown.

Carl Olson

Professional Land Surveyor
License # LS-4687

th Dakota

as

12th day of July, 2017, before me, a notary public with and for said County and State, personally appeared Carl P. Olson, to me known to be the person and who executed the same as a free act and deed.

Carl Olson

CARL P. OLSON
PE-4687
LS-4687
DATE: 7/6/2017
NORTH DAKOTA

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this 16th day of July, 2017.

Shara Fischer
Fargo Planning Commission

State of North Dakota

County of Cass

On this 18th day of August, 2017, before me, a notary public with and for said County, personally

appeared Shara Fischer, Planning Commission Chair, to me known to be the person described in and who executed the same as a free act and deed.

Miranda Wolf

Notary Public

MIRANDA WOLF
Notary Public
State of North Dakota
My Commission Expires May 18, 2023

BRIAN F. JOSNE
Notary Public
State of North Dakota
Commission Expires Aug. 19, 2021

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

4102

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN SILVERLEAF THIRD 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 the proposed Silverleaf Third Addition, Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on July 6, 2017; and,

WHEREAS, the rezoning changes were approved by the City Commission on September 11, 2017,

NOW, THEREFORE,

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

Section 1. The following described property:

All of Silverleaf Third Addition to the City of Fargo, Cass County, North Dakota,
is hereby rezoned from "AG", Agricultural, to "SR-2", Single-Dwelling Residential, District;

Section 2. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

3
4
5
6 (SEAL)

Timothy J. Mahoney, Mayor

7
8 Attest:

9
10 _____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

NOTICE OF HEARING

419

Notice is hereby given that the Fargo City Commission will conduct a Public Hearing in the City Commission Room, City Hall, Fargo, North Dakota, on Monday, September 11, 2017 at 5:15 p.m., to consider approval or denial of an appeal of a Board of Adjustment decision on a variance request at 3931 and 3949 37th Avenue South.

The request at 3931 and 3949 37th Avenue South, if granted, would allow a proposed building to be constructed to a lower elevation than would otherwise be required by the City's Floodproofing Code, as referenced by Article 21-06 of the Fargo Municipal Code.

The Board of Adjustment at their meeting of August 22, 2017 denied the above-described request.

Additional information may be obtained by viewing the project file located at the City of Fargo Planning Department, 200 3rd Street North, Fargo, North Dakota, Monday through Friday, 8:00 a.m. to 4:30 p.m.

Any person interested may appear at the Hearing and be heard.

(September 4 and 11, 2017)

INSTRUCTIONS TO THE FORUM

Please publish as a legal on Monday, September 4 and 11, 2017.

Please send an affidavit of publication.

Bill to: City Auditor's Office

Attention: Michelle

P.O. Box 2083

Fargo, ND 58107

Please call Albert at 297-7783 with any questions.

419

CITY OF FARGO - Board of Adjustment Variance Staff Report

| Appeal of a Board of Adjustment Decision | | Date: July 19, 2017 |
|--|---|--|
| Address: 3931 & 3949 37th Avenue South | | Update: August 17, 2017 |
| Legal Description: Lot 1 and part of Lot 2, Block 1, Collins Third Addition | | Update: September 7, 2017 |
| Owner(s)/Applicants: Solid Comfort/Nick Dietrich | | |
| Reason For Request: To construct a new building at an existing manufacturing facility at a lower elevation than would otherwise be required by the City's Floodproofing Code. | | |
| Zoning District: LI: Limited Industrial | | |
| Floodproofing Code Standards | | Proposed Structure |
| Elevations: | | Elevations: |
| Lowest opening: | 41-foot WSEIA plus 1.2' or FEMA BFE plus 2.0' | Lowest opening: 41-foot WSEIA minus 1.3' (0.4' below BFE) |
| Fill around building: | 41-foot WSEIA plus 0.7' or FEMA BFE plus 1.5' | Fill around building: 41-foot WSEIA minus 1.4' (0.5' below BFE) |
| Fill 15' from building: | At or above FEMA BFE | Fill 15' from building: 0.7' below BFE |

Application Background:

The applicant has proposed to construct a new building that would abut two existing buildings at a manufacturing facility. The proposed building would have a lower opening and a lower earth fill elevation around the structure than would otherwise be required by the City's Floodproofing Code. The property and proposed building location is within the 41-foot water surface elevation inundation area (WSEIA) and is also within the FEMA-designated Special Flood Hazard Area (100-year floodplain). At this location, the base floodplain elevation (BFE) is about 905.7 feet and the 41-foot WSEIA is at an elevation of 906.6 feet. For construction within the FEMA Special Flood Hazard Area or WSEIA at this location, the Floodproofing Code requires the following:

1. The lowest opening in a building is required to be at or above an elevation that is 1.2 feet above the 41-foot WSEIA elevation. (906.6-foot WSEIA elevation plus 1.2 feet = 907.8')
2. The fill around the building is required to be at or above an elevation that is 0.7 feet above the 41-foot WSEIA elevation. (906.6-foot WSEIA elevation plus 0.7 feet = 907.3')
3. The fill within 15 feet of the building must be at or above the FEMA BFE (905.7')

The lowest opening of the proposed structure would be at an elevation of 905.3 feet, which is 2.5 feet lower than what is required for the lowest opening elevation. However, the applicant does propose to construct the new building with concrete stem walls that would have a minimum elevation of 907.8 feet, which is the minimum required elevation for the lowest opening of the structure. The door openings within these stem walls are proposed to be protected with removable flood gate inserts that would also have a minimum elevation of 907.8 feet when they are in place.

The fill around the building would be at an elevation of 905.2 feet, which is 2.1 feet lower than required. The fill within 15 feet of the structure would also be at an elevation of 905.0 feet, which is 0.7 feet lower than required. Accordingly, the applicant is requesting a variance in order to construct the proposed building with openings and fill around the building at lower elevations than are required by the Floodproofing Code.

According to the applicant, the proposed building would not be possible without the variance because the construction of the building in accordance with the Floodproofing Code would necessitate an elevated structure that would require ramps inside of the building and would result in unequal grades between the

existing buildings, proposed building, and the adjacent parking and loading areas. The applicant stated that the required ramps would result in a reduction of warehouse space and affect production operations.

Codes Background:

Although this staff report references a proposed new building, the Building Official would note the following standard which would apply if an addition to the existing building(s) were to be constructed instead of a stand-alone building. If the value of the building addition were to exceed 50% of the value of the existing buildings, then the existing buildings would also be required to be brought into conformance with the floodproofing code. If it were to be found that the existing buildings did not have to come into conformance with current floodproofing requirements, then the Building Official would allow the floor elevation transition to be located within the new addition, as long as it was completely floodable.

If a new building is proposed to be a stand-alone and separate building, then the new building must comply with all provisions of International Building Code (IBC) and all other codes and ordinances in effect at the City of Fargo. All codes must be adhered to for the new structure and both existing structures. Special attention must be taken into account for provisions of IBC 503 for separate structures. A new and separate structure cannot create any of the two existing buildings to be less or non-compliant with the IBC.

Regarding the fill around the building, the applicant states in his application that, "The desired exterior grade surrounding the building would not need to meet FEMA requirements at this elevation," which is not true. Elevation must be provided according to FEMA standards, Fargo Flood Proofing Code and Fargo Floodproof Construction Requirements. The grade elevation around building must meet these elevation standards unless a variance is granted. Also, if flood gates are used in the design of the new building, they will affect exterior grade elevations. Elevation must be maintained around entire building or other floodproofing measures provided.

The rationale behind the development of the City's 41-foot WSEIA is in anticipation for future increases to the FEMA Special Flood Hazard Area (1% annual chance/100-year flood plain). While mapping flood elevations as part of the FM Diversion Feasibility Study, it was found by the Army Corps of Engineers that the hydrology used by FEMA to establish the Special Flood Hazard Area was obsolete. It was based on a study that did not include in the period of record for the Red River events after 1979. It is the practice of FEMA to review communities every 5 years to determine if a new map is warranted. Based on information contained in the FM Diversion Feasibility Study of Fargo which accounts for recent flood events, including the flood of record in 2009, the information on updated hydrology and hydraulics is readily available and FEMA will have cause to remap Fargo. When this update occurs, it is anticipated FEMA will raise the elevation of the Special Flood Hazard Area, resulting in additional areas of the City being located within this flood plain and subject to additional flood insurance requirements or increases. As such, the purpose of the 41-foot WSEIA is to prevent non-floodproof construction within areas that will potentially be located within Special Flood Hazard Area in the future. It should also be noted that the state rules require elevation on fill to the BFE +1 foot. In an attempt to keep new construction compliant with this state requirement into the future, we are requiring the additional 1.2 feet.

Another caveat of floodproofing and protection has to do with localized flooding versus flooding from the Red River. Many areas of the City are at risk of flooding due to the stormwater infrastructure not being able to handle significant rainfall events. In this aspect the City's floodproofing requirements and policies are intended for emergency protection from both the Red River and from overland flooding or storm sewer overflows.

Criteria for Approval:

The Floodproofing Code was enacted by reference within Article 21-06 (Flood Plain Management) of the Fargo Municipal Code. Appeals from Article 21-06 are heard and decided upon by the Board of Adjustment as outlined within Section 21-0603 of the Municipal Code.

§21-0603.G.5 of the Municipal Code states that, *In determining appeals or requests for variances, the board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:*

- a. The danger that materials may be swept onto other lands to the injury of others;*
- b. The danger to life and property due to flooding or erosion damage;*
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;*
- d. The importance of the services provided by the proposed facility to the community;*
- e. The necessity to the facility of a waterfront location, where applicable;*
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;*
- g. The compatibility of the proposed use with the existing and anticipated development;*
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program or that area;*
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;*
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,*
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.*

§21-0603.H.1 of the Municipal Code includes additional considerations for variances:

- 1. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items (a-k) in subsection (G)(5) above have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.*
- 2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or any state or local inventory or register of historic places without regard to the procedures set forth in the remainder of this section.*
- 3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.*
- 4. Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.*
- 5. Variances shall be issued only upon:*
 - a. A showing of good and sufficient cause;*
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and*
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.*

6. *Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.*

Staff Analysis:

a. The danger that materials may be swept onto other lands to the injury of others;

This situation could happen as it has happened in very extreme situations, but is not expected.

b. The danger to life and property due to flooding or erosion damage;

This is hard to determine. In a flood situation, there will be danger to life and property. Most of the surrounding buildings are constructed at a higher elevation than the existing building and with a variance, the new building will also be lower.

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

This is hard to determine. In a flood situation, there will be danger to life and property. Most of the surrounding buildings are constructed at a higher elevation than the existing building and with variance, the new building will also be lower.

d. The importance of the services provided by the proposed facility to the community;

The facility is a large manufacturing facility that is important to the business community. In a flood situation, it would not be important to the critical stability of the city infrastructure.

e. The necessity to the facility of a waterfront location, where applicable;

Not applicable. The proposed improvement is not in the MDZS or the LDZS river setback zones.

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

The proposed use would be allowed by-right within GI (General Industrial) and LI (Limited Industrial) zoning districts. There are vacant properties outside of the 41-foot WSEIA and 100-year floodplain within industrial zoning districts. There is also a small undeveloped portion of the subject property that is not within these flood areas. It should be noted, however, that the proposed variance is for a building that is intended to abut the existing buildings on site that are currently located within the 41-foot WSEIA and 100-year floodplain. Consequently, an alternative location for the proposed building would not provide for the necessary connectivity with the existing facility that the applicant desires.

g. The compatibility of the proposed use with the existing and anticipated development;

Use is compatible with existing facility.

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

No inconsistencies have been identified in relation to the comprehensive plan. Floodplain management is related to the City's floodproofing policies as part of the 41' WSEIA elevation requirements.

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

Access may be questionable as servicing roadways may become inundated during storm sewer overflows or heavy rainfall events. The applicant will need to understand this potential risk as staff has no data to suggest that the requested variance would result in an increased or decreased safety of access.

j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

Staff has no data to confirm the effects of flooding as a result of overland flooding or storm sewer overflows.

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

If a variance is granted, there would be added costs for providing government services during and after a flood that affects this property.

Since this is a variance request to Article 21-06 (Flood Plain Management) related to floodproof construction, the Zoning Administrator defers to the Building Official/Flood Plain Administrator as well as the City Engineer for current and future floodplain management. This application was reviewed by the City's Planning and Development, Engineering, and Building Inspections Departments ("staff"), whose comments are included in this report.

Staff finds that the proposed variance is somewhat unique in that in addition to violating the City-imposed elevation standards of the 41-foot WSEIA, the proposed variance would also violate elevation standards established by the federal government, specifically the Special Flood Hazard Area (100-year floodplain) established by FEMA. The City of Fargo has worked with FEMA to secure an exemption to federal standards in order to allow the construction of basements when properly floodproofed. While the option for variance exists to provide relief from floodproofing requirements in situations resulting in hardship, the City has been warned by FEMA that abuse of the variance provision could result in a loss of the current city-wide basement exemption that FEMA has granted the City of Fargo.

Ultimately, staff does not support this request for variance. While the applicant has presented rational for wanting the variance, staff is not convinced that a variance is warranted and is not convinced that denial of the variance would result in an undue hardship. It has not been demonstrated that the proposed variance is compatible with the floodplain management program. In addition, Section 21-0603.H.1.5.b requires an exceptional hardship to exist in order for a variance to be granted. Staff suggests that the variance is being requested as a matter of convenience, and that there is no hardship since the proposed facility can be constructed to meet the required floodproofing standards.

Staff further recommends that any grant of a variance be conditioned upon the applicant agreeing to a waiver of liability against the City. Engineering staff would work with the City Attorney's Office to draft an acknowledgment form that would outline the owner's decision to not follow the City's floodproof construction requirements. The purpose of this document would be to provide additional protection to the City from unforeseen issues that may arise as a result of the variance.

Update 9/7/2017:

This request for variance was originally heard by the Board of Adjustment at their meeting on July 25, 2017, at which, the item was continued to their August 22, 2017 meeting. During discussion of the requested variance, Board members suggested that the applicant request the continuation in order to provide the applicant with the opportunity to consider alternative development options that may help address the flooding concerns. The applicant agreed and subsequently requested that his application be continued to the following month's agenda.

Following the August 22nd Board of Adjustment meeting, the applicant submitted a revised application which included the distinction that the new addition would be a completely separate building, and that it would be constructed with elevated stem walls to help mitigate some of the concerns discussed.

On August 22, 2017, the requested variance was ultimately denied by the Board of Adjustment due to failure to receive the four votes necessary for a variance to be granted. The Board first voted 2-3 on a motion to deny the variance, which failed, before voting 3-2 on a motion to approve the variance with conditions, which also failed for lack of a supermajority. The proposed condition of approval offered in the motion was that geotechnical data support that there would be no uplift that would affect the grade around the building and that all building parameters meet the requirements of City departments.

Action by the Board of Adjustment: On July 25, 2017, the Board of Adjustment unanimously voted to continue this variance request to the August 22, 2017 meeting of the Board of Adjustment.

On August 22, 2017, the requested variance was denied by the Board of Adjustment due to failure to receive the four votes necessary for a variance to be granted.

Staff Recommendation: “To accept the findings of staff and deny the requested variance on the basis that the review considerations of Section 21-0603 have not been satisfied.”







City of Fargo, ND



FEMA SFHA (100-Year Floodplain)

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

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7/19/2017 8:07:55 AM

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



City of Fargo, ND - City of Fargo, Houston Engineering



41-Foot WSEIA

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

1:2,257

7/19/2017 8:05:13 AM

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



PLANNING AND DEVELOPMENT

200 Third Street North
Fargo, North Dakota 58102

Phone: (701) 241-1474

Fax: (701) 241-1526

E-Mail: planning@cityoffargo.com

www.cityoffargo.com

APPEAL OF A BOARD OF ADJUSTMENT DECISION

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

Property Owner Information

Name (printed): SOLID COMFORT

Address: 3931 37 AVENUE SOUTH

Primary Phone: (701) 282-4900

Alternative Phone:

Fax: rlaliberte@solidcomfort.com

Email: jlarikin@solidcomfort.com

Representation Information (if applicable)

Name (printed): NEW DIETRICH (DIETRICH CONST.)

Address: 4151 38 ST. SW, SUITE C

Primary Phone: (701) 235-1853

Alternative Phone: (701) 866-9289

Fax: (701) 235-3788

Email: ndietrich@dietrichfargo.com

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

Address: 3931 & 3949 37 AVE S

Legal Description (attach separate sheet if more space is needed): INCLUDED IN SUBMITTAL MATERIALS

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

THE SUBMITTED VARIANCE APPLICATION RECEIVED A MINORITY "YES" VOTE AND WAS DENIED. WE FEEL WE HAVE GROUNDS FOR FURTHER CONSIDERATION BY THE BOARD OF CITY COMMISSIONERS AND WE LOOK FORWARD TO DISCUSSING THIS VARIANCE APPLICATION WITH THEM SOON.

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

Owner (Signature): [Signature] Date: 8-22-17

Representative (Signature): [Signature] Date: 8-22-17

Office Use Only

Date Filed: Pre-Application Meeting Date:

Application Complete ☐ Yes ☐ No Reviewed By:



PLANNING AND DEVELOPMENT
200 Third Street North
Fargo, North Dakota 58102
Phone: (701) 241-1474
Fax: (701) 241-1526
E-Mail: planning@cityoffargo.com
www.cityoffargo.com

VARIANCES (§20-0914)

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in unnecessary physical (not economic) hardship to the property owner.

Variance Application Process

- 1) The application and a nonrefundable fee of \$185 are due at the time of submittal
- 2) Notice of the Public Hearing is mailed to property owners within 300 feet of the proposed site at least 15 days prior to the Hearing and published once a week for two consecutive weeks in the newspaper.
- 3) The City Planner reviews your case, develops a staff report and prepares a recommendation to the Board of Adjustment based on the Criteria for Approval, below.
- 4) Board of Adjustment meetings are scheduled as needed.

Criteria for Approval

A variance may be granted by the Board of Adjustment upon an affirmative finding that all of the following conditions exist.

- a. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;
- b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;
- d. The variance desired will not adversely affect the public health, safety or general welfare; and;
- e. The variance is the minimum variance that will overcome the hardship.

Acknowledgement – I hereby acknowledge that I have familiarized myself with the rules and regulations to the preparation of this submittal and that the foregoing information is true and complete to the best of my knowledge. I, the undersigned, do hereby petition the Board of Adjustment of the City of Fargo, North Dakota, to take such action as may be required by law of the City of Fargo to grant a variance pursuant to Section 20-0914 of the Land Development Code of the City of Fargo.

Owner (Signature): _____

Date: 7-13-17

Note: A nonrefundable filing fee of \$185.00 must be accompanied with the application at time of submittal.

Office Use Only

Date Filed: _____

Planning Contact: _____

Nonrefundable Fee \$185.00: _____

Solid Comfort

3931 37th Avenue S.

Fargo, ND 58104

(701)282-4900

rlaliberte@SolidComfort.com

jlarkin@SolidComfort.com

Proposed Variance Information

- Solid Comfort is seeking a variance to the required top of floor elevation as well as the surrounding grade elevation requirements for a new building to be built on their existing property. The standard top of floor elevation required by the City of Fargo is 907.80. Solid Comfort would like to match the existing facilities with an elevation of 905.30. The new building would be built as a self-supporting structure with a flood proof concrete stem wall poured to a height no less than 907.80. All door openings required in the concrete stem wall would be protectable with flood gates to an elevation no less than 907.80. The flood gates will be stored on site and easily accessible in the case of a flood. The grade outside of the building would start at 905.2 and slope away from the building accordingly and in conjunction with existing pavement. The desired exterior grade surrounding the building would not need to meet FEMA requirements at this elevation.

The purpose of this project is to expand the existing warehouse and dock space at the Solid Comfort facility. This expansion would connect the existing buildings. There are three main functions of Solid Comfort's operation within its warehouse space:

- Raw material unloading, loading, storage, & circulation within the operation
- Fabrication of finished goods
- Finished goods circulation, warehousing, loading, & shipping

If the expansion were built to 907.8, these functions would be negatively affected in a physical way. Three drawings are provided for reference – existing conditions, proposed expansion @ 907.8, and proposed expansion @ 905.3.

Criteria for Approval

- Solid Comfort was started at this location in 1981. The facility was built to local standards and the expansions to follow were built in the same manner. Our operation was originally acceptable by all local standards and not until recent changes in required building elevations would an expansion built to match our existing facilities have been unacceptable. It bears mentioning, a large percentage of the buildings in this neighborhood are older facilities that were built prior to the new building elevation requirements. We would not be creating an altogether new condition by building to 905.3 in this neighborhood.
- Solid Comfort's operation and situation is unique to the area. We're not aware of any adjacent properties that would experience the same physical hardships to their operations if they were to

expand their facilities in accordance with current building elevation requirements. Solid Comfort is primed for this expansion. The physical hardships we'd experience if required to build to 907.8 are unique to our operation in the immediate area.

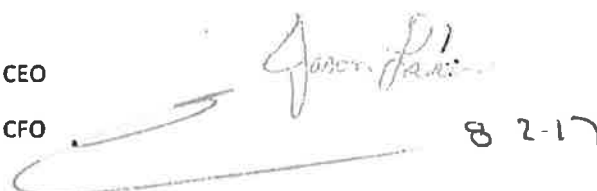
- The raw material goods used by Solid Comfort are moisture sensitive. The proposed expansion would allow us to perform all of the required raw material functions within the building, there for protecting the material from outdoor elements. If built to 907.8, flatbed trucks and/or forklifts would not be able to enter/exit the south or west sides of the expansion because the levels of the existing lots are built to match the existing buildings. The existing truck docks coupled with parking infrastructure are not conducive to grade-level overhead doors on the south or west side of the expansion building. This creates a traffic flow problem both within the warehouse and the lot. Further investigation shows that aside from this, ramps will need to be placed inside the existing facilities to provide forklift access into the expansion facility. The ramps will need to be large enough for the safe transport of large material units by forklift. With a slope of not more than 1:12 making up 2.5' vertically the required ramps will take up an unacceptable amount of usable space within each of the existing buildings. Altering this space will adversely affect not only the use of warehouse space in the existing west building, but also the automated production operations in the east building.
- It is our understanding that the local elevation requirement of 907.8 for this area is based off of recent flood requirements created after any other building additions to Solid Comfort's current facilities. A water event that would create flooding of this specific facility were they to be granted this variance, would be a rare and very unique situation. That being said, flooding in this neighborhood would be overland in nature. It is our position that overland flooding is gradual and generally an event that people are able to foresee and prepare for. An event that people have time to react to in an organized fashion should prevent harm to public health, safety, and general welfare. Measures can be taken for protection and safety.
- In this situation, there are really only two choices. Either the facility is expanded in the desired fashion, providing the operational advantages Solid Comfort needs to justify the investment or the local requirements are enforced, creating operational challenges that are going to force Solid Comfort to take a hard look at its operation and the feasibility of investing in an expansion of this scope in this location.

We appreciate the consideration of all reviewing parties. We are excited about the future of Solid Comfort and the ability to provide additional jobs and economic stability within the Fargo community.

Respectfully-

Jason Larkin - CEO

Rick Laliberte - CFO



Variance Representation by:

Nick Dietrich

Dietrich Construction, LLC

4151 38 St. SW, Suite C

Josh Magelky

MBN Engineering, INC.

503 7th St. N, Suite 200

Fargo, ND 58104

O - (701)235-1853

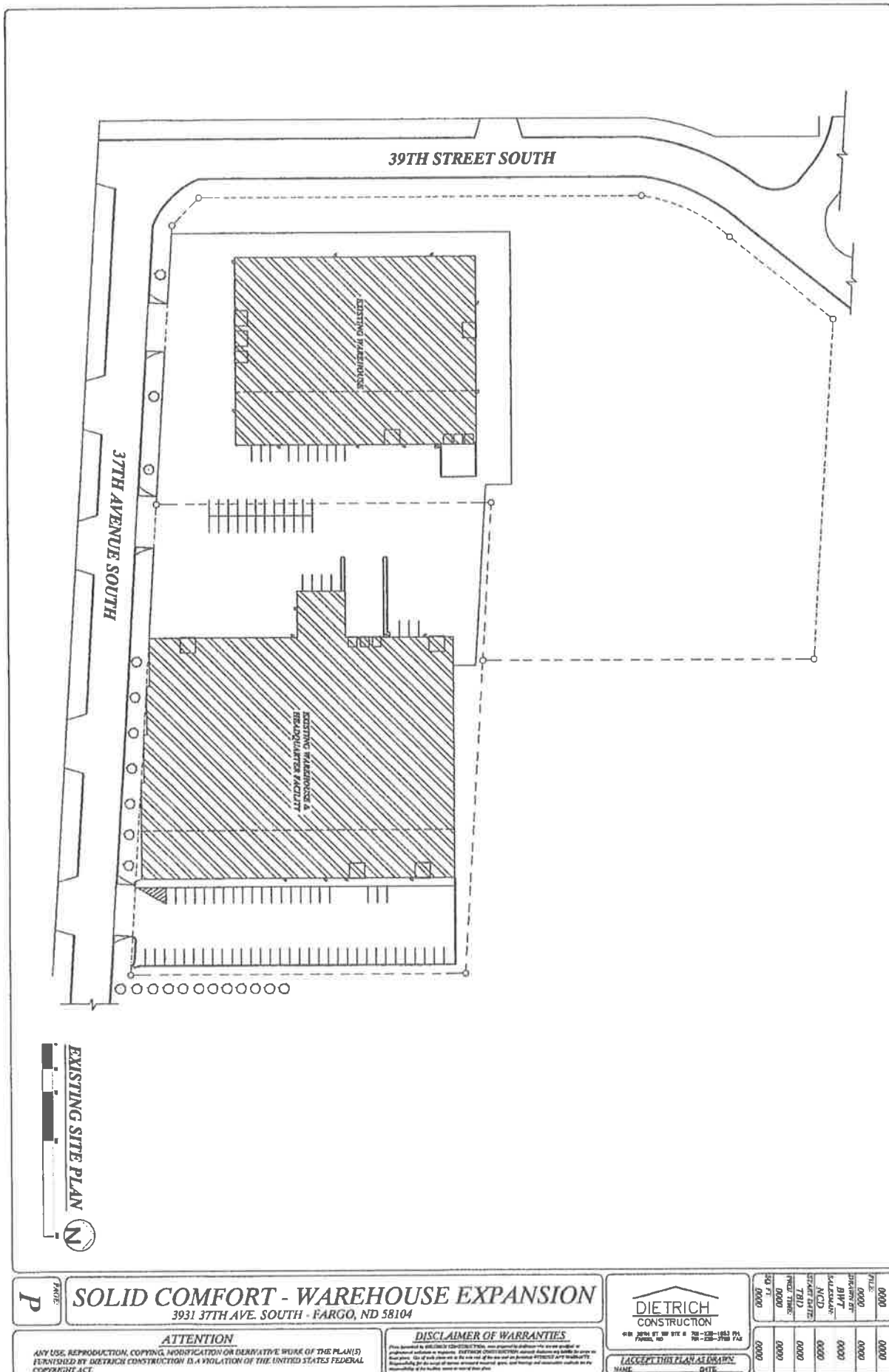
F – (701)235-3788

ndietrich@dietrichfargo.com

Fargo, ND 58102

O – (701)478-6336

josh.magelky@mbnengr.com



Solid Comfort

3931 37th Avenue S.

Fargo, ND 58104

(701)282-4900

rlaliberte@SolidComfort.com

jlarkin@SolidComfort.com

Consideration for Fargo Municipal Code – Section 21-0603

21-0603 sub-section G (a-k)

- The addition of a new building at Solid Comfort's facility will allow us the ability to store all of our loose materials indoors. This ability removes the condition for materials to be swept off of our property.
- Much of this property is already at the proposed elevation, so the majority of the conditions presently exist. In relation to the new facility, the gradual rise and fall of any potential flooding in this area would not be aggressive in nature meaning there should be no real life safety danger. Any possible flood damages to the property would be cosmetic in nature and although Solid Comfort may potentially have a mess to clean up, the damages would not be structurally catastrophic. It is our position that flood waters would not be rapidly flowing there for there would not be a high level of erosion related damage with the understanding that most of this property is either buildings or concrete and there are no severe grade changes where slowly moving water could undermine or wash away sediment destructively.
- Solid Comfort understands the possible, albeit extremely unlikely, vulnerability of their existing facilities to potential flooding. We've always been willing and able to take responsibility for these facilities and there for we're also willing to take the same responsibilities with the new expansion facility.
- Solid Comfort has been a growing, successful business at this location since 1981. We're currently in an aggressive growth mode and in need of this expansion. Solid Comfort is prepared to invest somewhere in the neighborhood of \$10 million in improvements to our facility to handle the necessary growth to our operation. Along with the tax earnings for the City of Fargo comes the addition of 50-75 jobs upon completion of the expansion. Solid Comfort is going to expand operations. We're experiencing a very real possibility of expanding from a \$30 million company currently to a \$45 or \$60 million company within the next ten years. Our dilemma is do we expand where we're at, or do we move to a different location outside of Fargo. Moving to other LI areas in West Fargo or south of the FM area entirely have been on the table.

- This is not a waterfront location
- There is no other location or land elevation available on this property for the proposed expansion. We mentioned in an earlier response that Solid Comfort has considered other locations. This operation works much more efficiently on one location. If another location is selected, the entire operation would most likely relocate.
- The existing facilities and the fact that Solid Comfort has been operating in this location since 1981 creates a situation where the proposed expansion to our facilities at an elevation of 905.3 would aesthetically/operationally make more sense to the property. The exterior pavement areas will be able to connect and transition properly from existing elevations allowing for simple maintenance and storm water management. There are no neighboring properties that would experience a negative outcome to the desired floor elevation of this expansion. Completion of the proposed expansion at the 905.3 elevation will create a finished product that not only operates as it should, but looks as though it was done that way from the beginning. Not only is this outcome operationally advantageous for Solid Comfort, but it's our estimation that the future valuation of the property as a whole will be better because of it.
- It is our understanding that as you raise an area of property above flood stage, that water volume will be unavoidably passed onto neighboring property. If the flood management program for this area is designed for all vacant land and there for the future improvements on those lands to be raised above flood stage, it would seem to us that Solid Comfort's acreage built as proposed would alleviate pressure to surrounding properties.
- Solid Comfort is a business, not a place of residence. In the case that a flood was to occur in this area, operations would be shut down until flood waters were to recede so any danger to actual life safety of potential occupants would be virtually non-existent. That being said, the existing facilities are currently at the desired elevation of 905.3, meaning the condition would not necessarily change for emergency vehicles. In the case of a potential fire, their vehicles would be able to navigate this area and the building will be equipped with a more than adequate fire sprinkler system.
- In 1997 and again in 2009 the City of Fargo experienced some of the worst flooding in its history. Solid Comfort was warned, flood waters would be at our doorstep. In 2009 we diked our property in anticipation of these waters at our own expense. Thankfully the flood never reached our location. Since then Drain 27 has been protected to a higher level and the City of Fargo has worked hard improving its infrastructure which makes even an imposing flood like those we experienced in 1997 and again in 2009 less likely than ever to reach this location. Upon completion of the Fargo Diversion project, flooding of this area will be virtually impossible by today's standards. In the case that a flood were to take place of a proportion that it actually reached Solid Comfort; it's height would be manageable, the water would rise and fall gradually without velocity, our experience tells us that the duration may be a week or so depending on the given situation, the rate of rise would be predictable/actionable, the sediment transfer in this area would be minimal in nature do to slow moving to stagnant flood waters, and wave

action would be minimized due to surrounding neighborhood infrastructure not allowing winds the room required to build damaging waves.

- We do not see where this expansion would create any additional cost to governmental bodies if a flood were to occur. Public utilities and the elevations of those utilities are currently existing and already established in this neighborhood. Negative effects of a flood to public utilities in this neighborhood would not be caused by the expansion of this facility.

We are providing these statements in addition to our variance application to support our position and provide consideration of Fargo's Municipal Code.

Respectfully-

Jason Larkin - CEO

Rick Laliberte - CFO


8-27

Variance Representation by:

Nick Dietrich

Dietrich Construction, LLC

4151 38 St. SW, Suite C

Fargo, ND 58104

O – (701)235-1853

F – (701)235-3788

ndietrich@dietrichfargo.com

Josh Magelky

MBN Engineering, INC

503 7th St. N, Suite 200

Fargo, ND 58102

O- (701)478-6336

josh.magelky@mbnengr.com

LOCAL SUPPORT

Nick Dietrich

From: Jeff Eberhardt <jeff@kostmaterials.com>
Sent: Wednesday, August 02, 2017 4:26 PM
To: Nick Dietrich; nathan@qualityconcretefargo.com; 'Glenn Nelson'
Subject: RE: Solid Comfort



Kost Materials agrees to the items listed below by Nick, and is in support of Solid Comfort moving forward with the variance requested.

Jeff Eberhardt | President | **Kost Materials** | 3950 37th Ave S - Fargo, ND 58104 | cell - 701.238.6604

From: Nick Dietrich [<mailto:ndietrich@dietrichfargo.com>]
Sent: Wednesday, August 02, 2017 3:53 PM
To: Jeff Eberhardt <jeff@kostmaterials.com>; nathan@qualityconcretefargo.com; Glenn Nelson <glenn@valleyexp.com>
Subject: Solid Comfort

Gentlemen-

Solid Comfort is looking to expand by building a new building across the north end of their property and connecting it to their existing buildings.

I'm working to get them a variance to the top of floor elevation because their existing facilities are roughly 2.5 feet below the required 907.80.

As you can probably imagine, building a warehouse that's connected to their existing facilities 2.5' above their existing finished floor doesn't work very well.

I'm asking for neighborhood support.

Would Kost Materials, Contractor Leasing, Quality Concrete, and J&N Investments, LLC be willing to support the variance allowing Solid Comfort to build their new building with a top of floor elevation @ 905.3 instead of 907.8?

Also, the grade immediately surrounding this new facility would be constructed to match existing grades and pavement therefore it would not meet FEMA requirements.

Solid Comfort is aware that their responsibility for flood insurance will continue and most likely increase.

They'd be building a stem wall into their foundation in conjunction with flood gates so that they can protect themselves in the case of a flood.

I'm submitting tomorrow and would really appreciate a quick response.

Regards-

Nick Dietrich, Const. Manager
Dietrich Const. LLC.
Office (701)235-1853
Fax (701)235-3788
Cell (701)866-9289

Nick Dietrich

From: Nathan Roesler <nathan@qualityconcretefargo.com>
Sent: Wednesday, August 02, 2017 4:37 PM
To: Nick Dietrich; Jeff Eberhardt; Glenn Nelson
Subject: RE: Solid Comfort

→ Quality Concrete agrees with the items Nick listed below and supports moving forward with the variance.

Nathan Roesler
President | Quality Concrete
3918 37th Avenue South | Fargo, ND 58104
Phone 701-232-2418 | Cell 701-238-8123 | Fax 701-282-7959



From: Nick Dietrich [<mailto:ndietrich@dietrichfargo.com>]
Sent: Wednesday, August 02, 2017 3:53 PM
To: Jeff Eberhardt <jeff@kostmaterials.com>; Nathan Roesler <nathan@qualityconcretefargo.com>; Glenn Nelson <glenn@valleyexp.com>
Subject: Solid Comfort

Gentlemen-

Solid Comfort is looking to expand by building a new building across the north end of their property and connecting it to their existing buildings.

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I'm submitting tomorrow and would really appreciate a quick response.

Regards-

Nick Dietrich, Const. Manager
Dietrich Const. LLC.
Office (701)235-1853
Fax (701)235-3788
Cell (701)866-9289

Return to Search (index.asp) | Display Print Version (Index.asp?dispaddr=01-0484-00015-000&seg=1&print=1)
 Today's date is: 6/23/2017

Assessment Information

Updated: 6/23/2017 12:00:49 AM

HELP ([help.html#parcelinfo](#))

| | | | |
|--|--|---------------------|--------------|
| PARCEL NUMBER | 01-0484-00015-000 | | |
| SEGMENT NUMBER | 1 | | |
| ADDRESS | 3931 37 AVE S | | |
| OWNERSHIP INFORMATION | LARKIN PROPERTIES LLP | | |
| SCHOOL DISTRICT | 1 - Fargo | | |
| 2017 Appraised Value (Current Certified) | | | |
| Full Appraised Value | Land | Improvements | Total |
| Net Taxable Appraised Value | \$857,000 | \$3,122,700 | \$3,979,700 |
| Assessment (Local, State, Exempt) | \$857,000 | \$3,122,700 | \$3,979,700 |
| | Local | | |
| 2018 Proposed Appraised Value (subject to change) | | | |
| Full Appraised Value | Land | Improvements | Total |
| Net Taxable Appraised Value | \$857,000 | \$3,122,700 | \$3,979,700 |
| Assessment (Local, State, Exempt) | \$857,000 | \$3,122,700 | \$3,979,700 |
| | Local | | |
| BUILDING INFORMATION | | | |
| Year Built | 1979 | | |
| Story Height (Res. Only) | N/A | | |
| Main Floor Sq. Ft. (Res. Only) | N/A | | |
| Total Building Sq. Ft. | 82394 Sq. Ft. | | |
| Number of Apartment Units | N/A | | |
| LAND USE | Commercial | | |
| PROPERTY TYPE | | | |
| LOT SIZE | | | |
| Front Width | 490 | | |
| Back Width | 490 | | |
| Depth Side 1 | 350 | | |
| Depth Side 2 | 350 | | |
| Square Footage | 171343 | | |
| TAXES PAYABLE (2018) | Cass County Property Taxes https://www.casscountynnd.gov/county/depts/treasurer/proptax/app/Default.aspx#Property=01-0484-00015-000 (This link will direct you to the Cass County web site where you will be able view your property tax information). | | |
| LEGAL DESCRIPTION | Click here to view legal description information | | |

See also — Fargo GIS Map (<http://gis.cityoffargo.com/Link/jsfe/public.asp?PIN=01-0484-00015-000>) for interactive mapping and parcel information (link will open in a separate window).

Special Assessment Information

Updated: 6/23/2017 12:03:08 AM

(Special assessment information pertains to the entire parcel, not individual segments)

HELP ([help.html#specials](#))

6/23/2017

City of Fargo

(http://www.fargond.gov)

| Project Category (click for details) | Current Installment | Balance Remaining (principal only) | Work Complete (pending approval) | Work in Progress (estimate only) |
|--|---------------------|---|---|---|
| STREETS | | | | |
| 570000 | \$336.09 | \$4,028.88 | | |
| 508900 | \$1,071.52 | \$8,289.09 | | |
| UTILITIES | | | | |
| 491300 | \$666.42 | \$5,770.87 | | |
| 508800 | \$1,437.34 | \$11,012.81 | | |
| 454500 | \$100.95 | \$436.77 | | |
| 527700 | \$335.85 | \$2,598.11 | | |
| MAINTENANCE | | | | |
| 509300 | \$243.04 | \$1,743.90 | | |
| Totals | \$4,191.21 | \$33,880.43 | \$0.00 | \$0.00 |
| Payment Status (https://www.casscountynd.gov/county/depts/treasurer/proptax/app/Default.aspx?ezPropertyId=01048400015000#Property=01-0484-00015-000) | | | | |

Principal and Interest Breakdown

| Year | Total Payment | Principal Amount | Interest Amount |
|------|---------------|------------------|-----------------|
| 2016 | \$4,195.91 | \$1,938.31 | \$2,257.60 |
| 2015 | \$4,200.60 | \$1,826.57 | \$2,374.03 |
| 2014 | \$20,272.56 | \$16,815.81 | \$3,456.75 |

NOTE: For additional special assessment information, please fill out this form
 (http://lf.cityoffargo.com/Forms/SpecialAssessmentRequest).

Return to Search (Index.asp)

Property Value, Ownership, or Legal Description Information Feedback: assessor@fargond.gov (mailto:assessor@fargond.gov)

Special Assessments Feedback: specials@fargond.gov (mailto:specials@fargond.gov)

DISCLAIMER

The City Of Fargo provides property information to the public "as is" without warranty of any kind, expressed or implied. Assessed values are subject to change by the City Of Fargo. In no event will the City Of Fargo be liable to anyone for damages arising from the use of the property data. You assume responsibility for the selection of data to achieve your intended results, and for the installation and use of the results obtained from the property data.

Assessment records are for the sole purpose of identifying the land being taxed. In some cases to attain efficiency, Assessment Department legal descriptions may be shortened yet will retain sufficient information to identify the land. Since tax statements and records are not deeds and may contain abbreviated descriptions, they should not be used as a basis for a survey or a legal document and should not be used by surveyors or others as the primary source of a property description.

Fargo City Hall
 200 3rd Street
 North
 Fargo, ND
 58102

Mayor's Office
 701.241.1310
 (tel: +7012411310)

Return to Search (Index.asp) | Display Print Version (Index.asp?dispaddr=01-0484-00105-000&seg=1&print=1)
 Today's date is: 6/23/2017

Assessment Information

Updated: 6/23/2017 12:00:49 AM

[HELP \(help.html#parcelinfo\)](#)

| | | | |
|--|--|---------------------|--------------|
| PARCEL NUMBER | 01-0484-00105-000 | | |
| SEGMENT NUMBER | 1 | | |
| ADDRESS | 3949 37 AVE S | | |
| OWNERSHIP INFORMATION | LARKIN PROPERTIES LLP | | |
| SCHOOL DISTRICT | 1 - Fargo | | |
| 2017 Appraised Value (Current Certified) | | | |
| Full Appraised Value | Land | Improvements | Total |
| Net Taxable Appraised Value | \$1,160,000 | \$727,800 | \$1,887,800 |
| Assessment (Local, State, Exempt) | \$1,160,000 | \$727,800 | \$1,887,800 |
| | Local | | |
| 2018 Proposed Appraised Value (subject to change) | | | |
| Full Appraised Value | Land | Improvements | Total |
| Net Taxable Appraised Value | \$1,160,000 | \$727,800 | \$1,887,800 |
| Assessment (Local, State, Exempt) | \$1,160,000 | \$727,800 | \$1,887,800 |
| | Local | | |
| BUILDING INFORMATION | | | |
| Year Built | 1999 | | |
| Story Height (Res. Only) | N/A | | |
| Main Floor Sq. Ft. (Res. Only) | N/A | | |
| Total Building Sq. Ft. | 25000 Sq. Ft. | | |
| Number of Apartment Units | N/A | | |
| LAND USE | Commercial | | |
| PROPERTY TYPE | | | |
| LOT SIZE | | | |
| Front Width | 280 | | |
| Back Width | 445 | | |
| Depth Side 1 | 695.45 | | |
| Depth Side 2 | 708.42 | | |
| Square Footage | 257857.47 | | |
| TAXES PAYABLE (2018) | Cass County Property Taxes (https://www.casscountynnd.gov/county/depts/treasurer/proptax/app/Default.aspx#Property=01-0484-00105-000) (This link will direct you to the Cass County web site where you will be able view your property tax information). | | |
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See also -- Fargo GIS Map (<http://gis.cityoffargo.com/Link/jsfe/public.aspx?PIN=01-0484-00105-000>) for interactive mapping and parcel information (link will open in a separate window).

Special Assessment Information

Updated: 6/23/2017 12:03:08 AM

(Special assessment information pertains to the entire parcel, not individual segments)

[HELP \(help.html#specials\)](#)

(http://www.fargond.gov)

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|--|---------------------|---------------------------------------|-------------------------------------|-------------------------------------|
| STREETS | | | | |
| 570000 | \$491.54 | \$5,892.30 | | |
| 508900 | \$1,477.31 | \$11,428.15 | | |
| UTILITIES | | | | |
| BN-14-4 | \$22,750.82 | \$349,739.62 | | |
| 454500 | \$33.67 | \$145.65 | | |
| 527700 | \$491.20 | \$3,799.81 | | |
| 491300 | \$963.99 | \$8,347.62 | | |
| 508800 | \$4,204.27 | \$32,212.88 | | |
| MAINTENANCE | | | | |
| 509300 | \$355.45 | \$2,550.49 | | |
| Totals | \$30,768.25 | \$414,116.52 | \$0.00 | \$0.00 |
| Payment Status https://www.casscountynd.gov/county/depts/treasurer/proptax/app/Default.aspx?ezPropertyId=01048400105000#Property=01-0484-00105-000 | | | | |

Principal and Interest Breakdown

| Year | Total Payment | Principal Amount | Interest Amount |
|------|---------------|------------------|-----------------|
| 2016 | \$31,762.69 | \$11,893.73 | \$19,868.96 |
| 2015 | \$8,020.53 | \$3,463.97 | \$4,556.56 |
| 2014 | \$10,991.04 | \$6,045.49 | \$4,945.55 |

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Return to Search (Index.asp)

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Special Assessments Feedback: specials@fargond.gov (mailto:specials@fargond.gov)

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Fargo City Hall
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 North
 Fargo, ND
 58102

Mayor's Office

701.241.1310
 (tel: +7012411310)

Nick Dietrich

From: Josh Magelky <Josh.Magelky@mbnengr.com>
Sent: Monday, June 26, 2017 3:36 PM
To: Nick Dietrich
Subject: RE: Solid Comfort

- a. The danger that materials may be swept onto other lands to the injury of others; There should be no materials swept onto other lands due to the fact that everything will be stored inside the building.
- b. The danger to life and property due to flooding or erosion damage; There shouldn't be any danger to life and property due to flooding due to the fact that the project is in the middle of town. The only danger would be due to overland flooding, however the south side of Fargo is protected by a levy system. The adjacent properties are built to similar elevations approximately 2 feet lower than the required elevation set by the City of Fargo.
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners; See answer for (b.)
- d. The importance of the services provided by the proposed facility to the community; ?
- e. The necessity to the facility of a waterfront location, where applicable; N/a
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage; No other locations on site are available, the two current buildings are at elevations 905.20 and 905.30. The building project is an infill project and is requested that we maintain the same elevation to maintain flow between the buildings on site.
- g. The compatibility of the proposed use with the existing and anticipated development; See answer for (f.)
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area; The area is nearly filled in with development. The city streets and utilities are set below the BFE for the area. This is due to the fact that the BFE has been raised since the area was initially developed. However, the area is protect with levy systems from all directions due to the fact it is in the middle of town.
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles; There shouldn't be any concern, see answer for (h.)
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and, N/a
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges. N/a., also see answers for (b.) and (h.)

As for paragraph no. 3, we would request the that lowest elevation as well as the grading around the building (15') not meet FEMA requirements. Instead, we would ask that City to consider our request to match the existing elevation of the two buildings. Flood proofing of foundations would still be done and the Owner would be required to maintain flood insurance for the building.

Let me know if you need anything else.

Joshua M. Magelky, PE
Civil Engineer

MBN Engineering
503 7th Street N, Suite 200
Fargo, ND 58102

Aaron Nelson

From: Nick Dietrich <ndietrich@dietrichfargo.com>
Sent: Monday, August 14, 2017 10:53 AM
To: Aaron Nelson
Cc: Bruce Taralson; Christine Rose; Jody Bertrand
Subject: RE: Solid Comfort

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

Aaron-

Please include this response with our submittals for variance.

Response to paragraph 1 below:

You are correct on their desired building configuration

You are correct on the stem wall and flood gate elevation

I need it stated that although they intend to utilize flood gates for emergencies, their proposed lowest opening would still be @ 905.3 physically even though all of these said openings would be protected to 907.8 by the flood gates.

That being said, their lowest interior concrete floor elevation would also be @ 905.3 instead of 907.8 at this location as required by the City of Fargo for typical new construction.

It would seem to me that they'd still need a variance for interior floor elevation and lowest opening elevation.

Perhaps Inspections or Engineering could weigh in on this?

Response to paragraph 2 below:

The first part of this response will be answered by our response above.

The adjacent fill immediately surrounding the proposed building will be mostly concrete pavement.

In order to function properly this pavement needs to remain at 905.3 where it meets the proposed building so that overhead doors and service doors function properly.

This will also promote minimal reconstruction of their existing pavement areas and minimize disruption to their operations during construction.

Upon completion, these relatively level surfaces will be conducive to parking and vehicular travel.

If these areas were to be built to 907.8 and sloped away to match existing pavement, they'd be quite steep and potentially dangerous during winter months.

In the case that green space is utilized against the foundation, perhaps the east side, these areas could potentially be filled to required elevations.

I hope this clears up a few things.

Please let me know if you need anything else.

Regards-

Nick Dietrich, Const. Manager
Dietrich Const. LLC.
Office (701)235-1853
Fax (701)235-3788
Cell (701)866-9289

From: Aaron Nelson [mailto:ANelson@FargoND.gov]
Sent: Friday, August 11, 2017 1:08 PM
To: Nick Dietrich
Cc: Bruce Taralson; Christine Rose; Jody Bertrand
Subject: RE: Solid Comfort

Nick,

Thanks for sending your updated application materials at the end of last week. It is my understanding that you are now proposing for the new addition to be a stand-alone building that would abut the existing buildings. The new building would have concrete stem walls with removable flood gates to an elevation of at least 907.8, in order to meet the lowest opening elevation requirement. As such, you are no longer seeking a variance to the lowest opening elevation, and you are only seeking a variance to the elevation requirements for (1) the fill around the building and (2) the fill within 15 feet of the building. Is this correct?

Also, could you please provide some additional details regarding the need for the variance? Your updated application seems to still reference elevating the lowest opening to 907.8. For example, it states that, "If the expansion were built to 907.8, these functions would be negatively affected in a physical way." However, it is my understanding that the 907.8 elevation is no longer an issue, as referenced in my paragraph above. I do not see much in your application where you describe why the adjacent fill cannot be placed to the required elevations. Can you please provide additional details regarding the need for the variance to the elevation of the adjacent fill?

Thank you,

Aaron M. Nelson, AICP
Planner | Department of Planning & Development
City of Fargo | 200 Third Street North | Fargo, ND 58102
Phone: (701) 241-1475 | Email: anelson@FargoND.gov

From: Nick Dietrich [mailto:ndietrich@dietrichfargo.com]
Sent: Thursday, August 03, 2017 6:59 AM
To: Aaron Nelson <ANelson@FargoND.gov>
Cc: Bruce Taralson <BTaralson@FargoND.gov>; Christine Rose <CRose@FargoND.gov>
Subject: Solid Comfort

| |
|--|
| <p>CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.</p> |
|--|

Good morning-

Please find attached our revised variance application materials.

Regards-

Nick Dietrich, Const. Manager
Dietrich Const. LLC.
Office (701)235-1853
Fax (701)235-3788
Cell (701)866-9289

424

City of Fargo Notice of Tax Levy and Budget Hearings

Notice is hereby given that the Board of City Commissioners of the City of Fargo, North Dakota, will conduct a public hearing in the City Commission Room, City Hall, 200 3rd Street North, Fargo, North Dakota, on Monday, September 11th, at 6:00 o'clock p.m. for the purpose of hearing any person who wishes to appear and discuss proposed tax levies and expenditures for the 2018 budget. There will be opportunity for citizens to present oral or written comments regarding the property tax levy and budget recommendations. Written comments may be addressed to the City Auditor's Office, Box 2083, Fargo, North Dakota 58102.

The preliminary budget is on file in the City Auditor's Office, the Fargo Public Library, and the City Commission Office and may be examined by anyone upon request during normal business hours. The entire budget document has been posted to the City's web site and can be accessed electronically anytime at www.cityoffargo.com.

The Board of City Commissioners shall meet not later than October 7th for the purpose of adopting the final budget.

| | 2017 Approved Budget | 2018 Proposed Budget |
|--|-------------------------------------|-------------------------------------|
| General Fund: | | |
| Current Expenditures | \$ 90,376,510 | \$ 92,661,749 |
| Capital Outlay | 3,045,300 | 630,100 |
| Transfers To Other Funds | 2,284,190 | 3,076,151 |
| Total General Fund Expenditures | \$ 95,706,000 | \$ 96,368,000 |
| Special Revenue Funds: | | |
| City Share of Special Assessments | \$ 500,000 | \$ 555,000 |
| Noxious Weeds | 50,000 | 35,000 |
| Convention Bureau | 2,400,000 | 2,360,000 |
| Regional Law Enforcement Training Center | 90,000 | 90,000 |
| Court Forfeits | 160,000 | 160,000 |
| Skyway Maintenance | 102,000 | 136,000 |
| Downtown Business Improvement District | 220,000 | 330,000 |
| Neighborhood Revitalization Initiatives (NRI) | 21,000 | 21,409 |
| Community Development Block Grants | 733,000 | 722,791 |
| HOME Program | 30,000 | 30,000 |
| Neighborhood Stabilization Grant | 419,000 | 419,308 |
| HOME Projects | 522,000 | 525,379 |
| Parking Authority Operations | 1,589,000 | 1,811,456 |
| Parking Repair and Replacement | 375,000 | 420,000 |
| Newman Outdoor Stadium | 220,000 | 220,000 |
| Total Special Revenue Fund Expenditures | \$ 7,431,000 | \$ 7,836,343 |
| Debt Service Fund Expenditures | \$ 66,316,685 | \$ 70,901,618 |

Enterprise Funds:

| | | | | |
|---------------------------------------|-----------|-------------------|-----------|--------------------|
| Water | \$ | 24,642,832 | \$ | 31,461,641 |
| Solid Waste | | 16,490,425 | | 17,512,100 |
| Wastewater | | 10,574,440 | | 12,864,775 |
| Water Revenue Bond | | 3,942,600 | | - |
| Forestry | | 2,051,327 | | 2,077,266 |
| Street Lighting | | 1,962,005 | | 2,018,845 |
| Storm Sewer | | 1,685,005 | | 2,201,000 |
| Vector Control | | 756,500 | | 1,106,000 |
| Southeast Cass Sewer | | 48,700 | | 48,700 |
| FargoDome | | 8,461,473 | | 7,019,114 |
| Airport Authority | | 18,610,992 | | 31,770,916 |
| Total Enterprise Fund Expenses | \$ | 89,226,299 | \$ | 108,080,357 |

Pension Trust Funds:

| | | | | |
|----------------------------------|-----------|------------------|-----------|------------------|
| City Employee Pension | \$ | 2,847,000 | \$ | 3,211,000 |
| Police Pension | | 3,945,000 | | 4,100,500 |
| Total Pension Trust Funds | \$ | 6,792,000 | \$ | 7,311,500 |

| | | | | |
|--------------------------------|-----------|--------------------|-----------|--------------------|
| Grand Total - All Funds | \$ | 265,471,984 | \$ | 290,497,818 |
|--------------------------------|-----------|--------------------|-----------|--------------------|


Preliminary Tax Levies are:

| | | |
|------------------------------------|--------------|--------------|
| General Fund | 49.90 | 47.90 |
| City Share of Special Improvements | 1.10 | 1.10 |
| Airport Construction | 2.00 | 2.00 |
| Proposed Mills to Be Levied | 53.00 | 51.00 |



42a

Dr. Timothy J. Mahoney, Mayor
Fargo City Hall
200 3rd Street North
Fargo, ND 58102
Office: 701.241.1310 | Fax: 701.476.4136
www.FargoND.gov

TO: BOARD OF CITY COMMISSIONERS
FROM: MAYOR TIMOTHY MAHONEY 
DATE: SEPTEMBER 6, 2017
RE: 2018 BUDGET AND TAXATION HEARING

The 2018 preliminary budget and taxation hearing is scheduled for 6:00 p.m. on September 11, 2017 in the City Commission Room. The purpose of the hearing is to allow public input on the proposed tax levies and any comments on the preliminary budget.

Notice was published in The Forum and individual taxation and public hearing notices were sent to all property owners by Cass County following the new format prescribed in the North Dakota State Century Code. The new format of the notice provides a tax calculation for all taxing entities and the consolidated tax totals so that taxpayers have a detailed estimate of their tax bill for 2018.

Once the hearing has been conducted, the City Commission is required to approve a final budget no later than October 7th.


Suggested Motion: To approve the preliminary budget as the final budget for 2018 and proposed tax levies as presented.



Dr. Timothy J. Mahoney, Mayor
Fargo City Hall
200 3rd Street North
Fargo, ND 58102
Office: 701.241.1310 | Fax: 701.476.4136
www.FargoND.gov

43

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS
FROM: MAYOR TIMOTHY J. MAHONEY 
DATE: SEPTEMBER 5, 2017
SUBJECT: APPOINTMENT TO THE BOARD OF APPEALS

The term of Wayne Larson on the Board of Appeals expired on June 30, 2017. Mr. Larson does not want to be reappointed to the Board.

Justin Schoenberg has submitted an application indicating interest in serving on the Board and I am recommending his appointment. I have attached a copy of his application for your information.

Your favorable consideration of these recommendations will be greatly appreciated.

RECOMMENDED MOTION: Approve the appointment of Justin Schoenberg to the Board of Appeals for a five-year term ending June 30, 2022.

mmappt17boa

Kember Anderson

From: noreply@cityoffargo.com
Sent: Thursday, August 24, 2017 1:59 PM
To: Commissions Applications
Subject: New Form Submission: Getting involved in government
Attachments: Justin Resume.pdf

Name:

[Justin Schoenberg]

Mailing Address:

[4260 53rd St S]

City:

[Fargo]

State:

[North Dakota]

Zip:

[58104]

Work Phone:

[218-227-0022]

Home Phone:

[320-333-0964]

E-mail:

[justin.schoenberg@sandmanse.com]

Which boards or commissions would you like to be considered for?

[Board of Appeals]

Briefly state why you would like to be on this panel:

[I believe that one of the duties of a responsible design professional is to assist the community and better the lives of the people that call it home. I can use my skills and specialized knowledge base to ensure the safety of the public and preserve the value of its infrastructure while being mindful of the economic impact and efficiency.]

How many hours per month could you volunteer as a panel member?

[My schedule is flexible to accept a variety of needs for meeting and researching; accordingly I have the ability to vary the amount time necessary to accommodate influxes in required effort. On a regular basis I would anticipate 2-4 hours per week.]

Please list any past experience you have with city government here or in other cities:

[I have no formal experience as a functioning member of a government entity. However, through my field of expertise I have interfaced with many city building departments and have been able to gain valuable insight on how other governances oversee their jurisdiction.]

Please describe any professional experience you have related to the responsibilities of the panel you are interested in:

[I have a bachelors degree in Civil Engineering with an emphasis on structural design. I have 8 years of experience as a practicing engineer designing buildings; during which time I have become licensed as a Professional Engineer. My experience includes design of buildings using all modern construction materials and researching their use in accordance with the Internal Building Code. I am employee of Sandman Structural Engineers which is a 30 person structural engineering design firm which is registered in 40 states or Canadian providences.]

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