

FARGO PLANNING COMMISSION AGENDA  
Tuesday, September 4, 2018 at 3:00 p.m.

- A: Approve Order of Agenda
- B: Minutes: Regular Meeting of August 7, 2018
- C: Brown Bag Luncheon - Wednesday, September 19, 2018
- D: Public Hearing Items:
- 1a. Continued hearing on an application requesting a Growth Plan Amendment within a portion of the boundaries of the proposed **NSC Addition**. (Located at 6101 45th Street North) (City of Fargo/Fargo Park District) (me)
  - 1b. Continued hearing on an application requesting a Zoning Change from AG, Agricultural to P/I, Public and Institutional within a portion of the boundaries of the proposed **NSC Addition**. (Located at 6101 45th Street North) (City of Fargo/Fargo Park District) (me)
  - 1c. Continued hearing on an application requesting an Institutional Master Plan within a portion of the boundaries of the proposed **NSC Addition**. (Located at 6101 45th Street North) (City of Fargo/Fargo Park District) (me): CONTINUED TO NOVEMBER 6, 2018
  - 1d. Continued hearing on an application requesting a Plat of **NSC Addition** (Major Subdivision) on an unplatted portion of land in the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of Section 10, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 5703 and 6101 45th Street North) (City of Fargo/Fargo Park District) (me)
  2. Continued hearing on an application requesting a Plat of **Urban Plains by Brandt Fourth Addition** (Minor Plat) on Lots 2 and 3, Block 1, Urban Plains by Brandt Third Addition to the City of Fargo, Cass County, North Dakota. (Located at 5616 26th Avenue South) (Urban Plains Land Co., LLC/Houston Engineering) (an)
  3. Hearing on an application requesting a Zoning Change from LC, Limited Commercial with a C-O, Conditional Overlay to GC, General Commercial with a C-O, Conditional Overlay on Lot 6, Block 1, **Osgood Townsite 11th Addition**. (Located at 4821 45th Street South) (James & Kristen Bullis Family, LLLP/Cassie Schmidt) (an): WITHDRAWN
  - 4a. Hearing on an application requesting a Zoning Change from MR-3, Multi-Dwelling Residential, LC, Limited Commercial, and SR-3, Single-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay on the proposed **St.**

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

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**Paul's Newman Center Addition.** (Located at 1113, 1117, 1119, 1129, 1131, 1141 North University Drive; 1112, 1118, 1122, 1126, 1130, 1134, 1138, 1142, 1146 12th Street North; 1201, 1211, 1213, 1215, 1223 11th Avenue North) (Roers Development) (dk)

- 4b. Hearing on an application requesting a PUD, Planned Unit Development Master Land Use Plan within in the boundaries of the proposed **St. Paul's Newman Center Addition.** (Located at 1113, 1117, 1119, 1129, 1131, 1141 North University Drive; 1112, 1118, 1122, 1126, 1130, 1134, 1138, 1142, 1146 12th Street North; 1201, 1211, 1213, 1215, 1223 11th Avenue North) (Roers Development) (dk)
- 4c. Hearing on an application requesting a Plat of **St. Paul's Newman Center Addition** (Minor Subdivision) a replat of Lots 1-10, Block 2, College Addition and Lots 1-4 and 15-23, Block 9, Bolley's Addition, City of Fargo, Cass County, North Dakota. (Located at 1113, 1117, 1119, 1129, 1131, 1141 North University Drive; 1112, 1118, 1122, 1126, 1130, 1134, 1138, 1142, 1146 12th Street North; 1201, 1211, 1213, 1215, 1223 11th Avenue North) (Roers Development) (dk)
- 5a. Hearing on an application requesting a Zoning Change from AG, Agricultural to LC, Limited Commercial with a C-O, Conditional Overlay within the boundaries of the proposed **Rocking Horse Farm 6th Addition.** (Located at 5801 52nd Avenue South) (Janice L. Promersberger/Houston Engineering) (me): CONTINUED TO OCTOBER 2, 2018
- 5b. Hearing on an application requesting a Plat of **Rocking Horse Farm 6th Addition** (Minor Subdivision) on a portion of the Southeast. Quarter of Section 32, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 5801 52nd Avenue South) (Janice L. Promersberger/Houston Engineering) (me): CONTINUED TO OCTOBER 2, 2018
- 6. Hearing on an application requesting a Zoning Change from MR-1, Multi-Dwelling Residential to SR-5, Single-Dwelling Residential on part of Lot 14 and all of Lot 15, Block 3, **Legacy I 2nd Addition.** (Located at 2127 58th Avenue South) (Clarence and Noreen Aadland, Maureen Olson, Cleo Jahnke, Barry and Lori Ann Schwan) (kb)
- 7. Hearing on an application requesting an LDC Text Amendment to amend Section 20-0504.G or Article 20-05 of the Fargo Municipal Code (Land Development Code) relating to the measurement of building height. (City of Fargo) (kb)

E: Other Items:

- 1. Request for Planning Commission approval of a variance to restrictive covenants on Lot 2, Block 2, Airport First Addition. (Located at 2601 and 2629 12th Street North) (Alpha Omega Development/Spartan Garages LLC et al.) (an)

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**BOARD OF PLANNING COMMISSIONERS  
MINUTES**

**Regular Meeting:**

**Tuesday, August 7, 2018**

The Regular Meeting of the Board of Planning Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 3:00 o'clock p.m., Tuesday, August 7, 2018.

The Planning Commissioners present or absent were as follows:

Present: Shara Fischer, John Gunkelman, Mike Magelky, Dawn Morgan, Mary Scherling, Rocky Schneider, Melissa Sobolik, Maranda Tasa

Absent: Brad Bachmeier, Scott Stofferahn

Chair Fischer called the meeting to order.

**Business Items:**

**Item A: Approve Order of Agenda**

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

**Item B: Minutes: Regular Meeting of July 3, 2018**

Member Tasa moved the minutes of the July 3, 2018 Planning Commission meeting be approved. Second by Member Gunkelman. All Members present voted aye and the motion was declared carried.

**Item C: Wednesday, August 22, 2018 Brown Bag Luncheon**

Topic: Metro COG Presentation

**Item D: Public Hearing Items:**

**Item 1: Urban Plains by Brandt Fourth Addition**

**Continued hearing on an application requesting a Plat of Urban Plains by Brandt Fourth Addition (Minor Plat) on Lots 2 and 3, Block 1, Urban Plains by Brandt Third Addition to the City of Fargo, Cass County, North Dakota. (Located at 5616 26th Avenue South) (Urban Plains Land Co., LLC/Houston Engineering):  
CONTINUED TO SEPTEMBER 4, 2018**

A Hearing had been set for July 3, 2018. At the July 3, 2018 meeting, the Hearing was continued to this date and time; however, staff has requested this item be continued to September 4, 2018.

**Item 2: Section 19, Township 140 North, Range 48 West**

**2a. Hearing on an application requesting a Zoning Change from AG, Agricultural to P/I, Public and Institutional on a portion of the South Half of**

**Section 19, Township 140 North, Range 48 West of the 5th Principal Meridian, Cass County, North Dakota and Lot 1, Block 2, Royal Oaks Addition. (Located at 3400 and 3500 North Broadway and 610 37th Avenue North) (City of Fargo): APPROVED**

**2b. Hearing on an application requesting an Institutional Master Plan for the Fargo Wastewater Treatment Facility on a portion of the South Half of Section 19, Township 140 North, Range 48 West of the 5th Principal Meridian, Cass County, North Dakota and Lot 1, Block 2, Royal Oaks Addition. (Located at 3400 and 3500 North Broadway and 610 37th Avenue North) (City of Fargo): APPROVED**

Planning Coordinator Aaron Nelson presented the staff report stating all approval criteria have been met and staff is recommending approval. He noted that an additional document was submitted to the Board.

Jim Hausauer, Wastewater Utility Director, spoke on behalf of the Wastewater Department.

Member Sobolik moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from AG, Agricultural to P/I, Public and Institutional, and 2) Institutional Master Plan as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Section 20-0906.F (1-4) and Section 20-0911.E (1-3) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Morgan. On call of the roll Members Magelky, Schneider, Scherling, Sobolik, Morgan, Gunkelman, Tasa, and Fischer voted aye. Absent and not voting: Members Stofferahn and Bachmeier. The motion was declared carried.

**Item 3: Fitzsimonds Addition**

**Hearing on an application requesting a Plat of Fitzsimonds Addition (Major Subdivision) on a portion of the Southeast Quarter of Section 34, Township 139 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 5080 38th Street South and 3805 52nd Avenue South) (Keith Ernst): APPROVED**

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

Discussion was held regarding the connectivity of the bike trail network.

Brenda Derrig, City Engineer, spoke on behalf of the Engineering Department.

Applicant Rob Hardy spoke on behalf of the application.

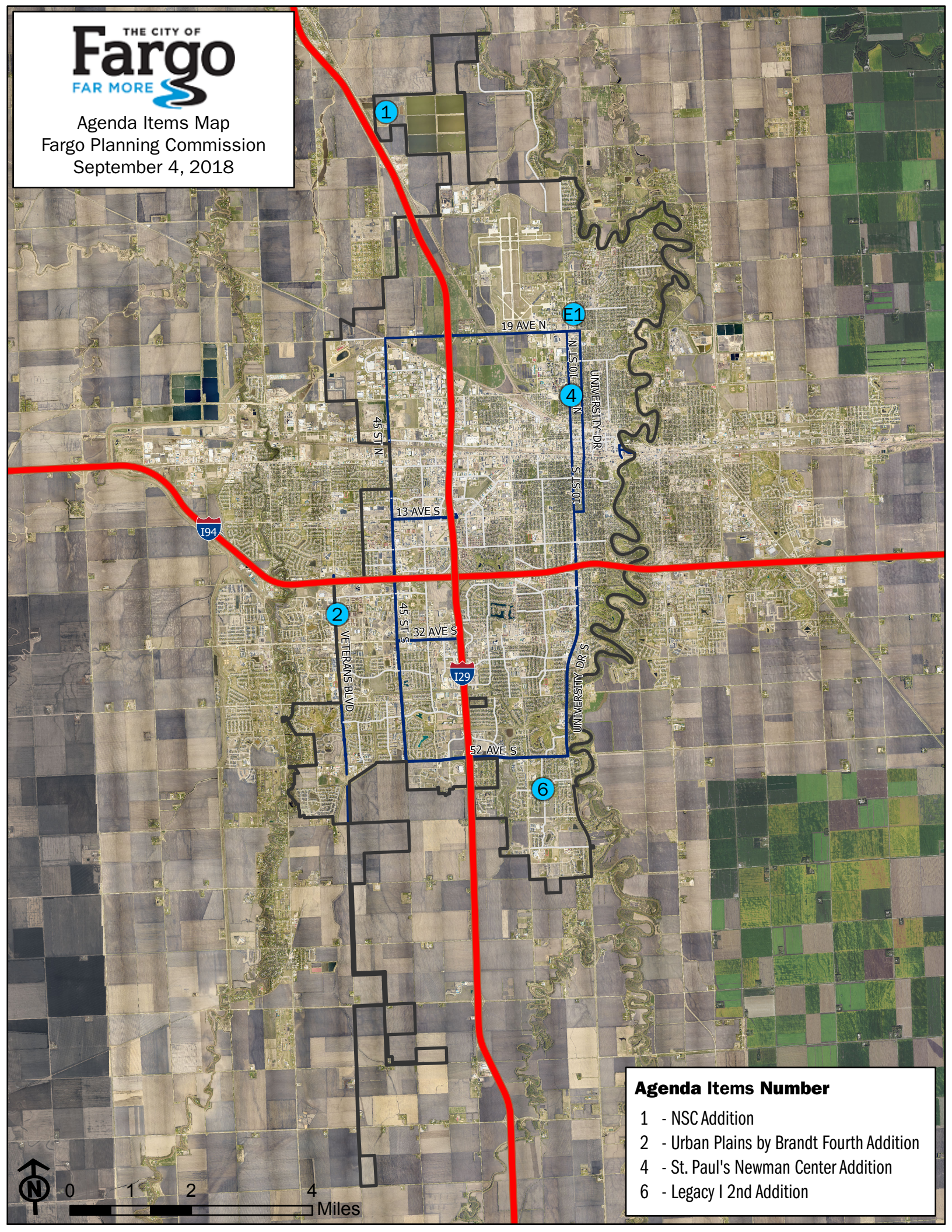
Member Magelky moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat, Fitzsimonds Addition as outlined within the staff report, as the proposal complies with



the 2003 Southwest Future Land Use Plan, the Standards of Article 20-06, and all other applicable requirements of the Land Development Code. Second by Member Gunkelman. On call of the roll Members Schneider, Sobolik, Scherling, Tasa, Magelky, Gunkelman, Morgan, and Fischer voted aye. Absent and not voting: Members Stofferahn and Bachmeier. The motion was declared carried.

The time at adjournment was 3:28 p.m.





**Agenda Items Number**

- 1 - NSC Addition
- 2 - Urban Plains by Brandt Fourth Addition
- 4 - St. Paul's Newman Center Addition
- 6 - Legacy I 2nd Addition





<b>City of Fargo Staff Report</b>			
<b>Title:</b>	<b>NSC Addition</b>	<b>Date:</b>	8/27/2017
<b>Location:</b>	5703 and 6101 45th Street North	<b>Staff Contact:</b>	Maegin Elshaug
<b>Legal Description:</b>	an unplatted portion of land in the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of Section 10, Township 140 North, Range 49 West		
<b>Owner(s)/Applicant:</b>	City of Fargo	<b>Engineer:</b>	KLJ
<b>Entitlements Requested:</b>	<b>Growth Plan Amendment</b> (to increase the amount of parks / open space acreage); <b>Zone Change</b> (from AG, Agricultural to P/I, Public and Institutional); and <b>Major Subdivision</b> (a plat of an unplatted portion of land in the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of Section 10, Township 140 North, Range 49 West);		
<b>Status:</b>	Planning Commission Public Hearing: September 4, 2018		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Outdoor Recreation and Entertainment and vacant land	<b>Land Use:</b> Outdoor Recreation and Entertainment
<b>Zoning:</b> AG, Agricultural	<b>Zoning:</b> P/I, Public & Institutional
<b>Uses Allowed:</b> AG Allows detached houses, parks and open space, safety services, basic utilities, and crop production.	<b>Uses Allowed:</b> P/I allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events.
<b>Maximum Lot Coverage Allowed:</b> AG allows a maximum of 1 dwelling unit per 10 acres.	<b>Maximum Lot Coverage Allowed:</b> N/A

**Proposal:**

The applicant and owner, the City of Fargo, is seeking approval of a growth plan amendment, zone change, and major subdivision. The property is located at 5703 and 6101 45th Street North and encompasses approximately 195 acres. The two properties are owned by the City of Fargo. Additional information on each item is noted below; note that all three applications do not apply to both properties. The subdivision applications includes both 5703 and 6101 45 Street North; however, the growth plan amendment and zoning change is only for 6101 45 Street North. The City of Fargo currently has no known plans for the property at 5703 45 Street North.

The property at 6101 45 Street South is the location of the Fargo Park District's Northside Softball Complex. The property is in the process of being built. A Lease Agreement was established between the City of Fargo and the Fargo Park District in 2013 the enables the Fargo Park District to utilize the property for the softball complex. The Fargo Park District is in the process of preparing an Institutional Master Plan for the softball complex which will be heard by the Planning Commission at a later date.

**Growth Plan Amendment:** (6101 45<sup>th</sup> Street North)  
The growth plan amendment would transition land as indicated on the North Fargo Tier 1 East plan of the 2007 Growth Plan from industrial to parks / open space. Additional information is provided in the Area Plans section of this staff report.

**Zone Change:** (6101 45<sup>th</sup> Street North)  
The zoning map amendment would rezone the property from AG, Agricultural to P/I, Public and Institutional. It should be noted that this property is identified on the zoning map as “unknown”. Pursuant to Section 20-0107, any land that does not appear to be classified within any of the districts shown on the zoning map shall be AG, Agricultural.

**Major Subdivision:** (5703 & 6101 45<sup>th</sup> Street North)  
The City of Fargo is platting two existing parcels into two (2) lots and one (1) block, titled NSC Addition. The subdivision includes right-of-way dedication for 64<sup>th</sup> Avenue North and 45<sup>th</sup> Street North. A draft amenities plan has been included with this packet.



An open house meeting for the growth plan amendment was held on July 25, 2017, from 3:00-5:00, which provided adjacent property owners and the public to more closely review the proposed amendment. Property owner notification letters were sent out to all surrounding parcels within 500 feet of the proposed amendment. There were no attendees at this meeting.

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

**Surrounding Land Uses and Zoning Districts:**

- North: City of Harwood Extra-Territorial jurisdiction with Agricultural (crop rotation), AG, Agricultural;
- East: City of Fargo lagoons, AG, Agricultural;
- South: Agricultural (crop rotation), AG, Agricultural;
- West: City of Harwood, the property was previously the City of Harwood lagoons.

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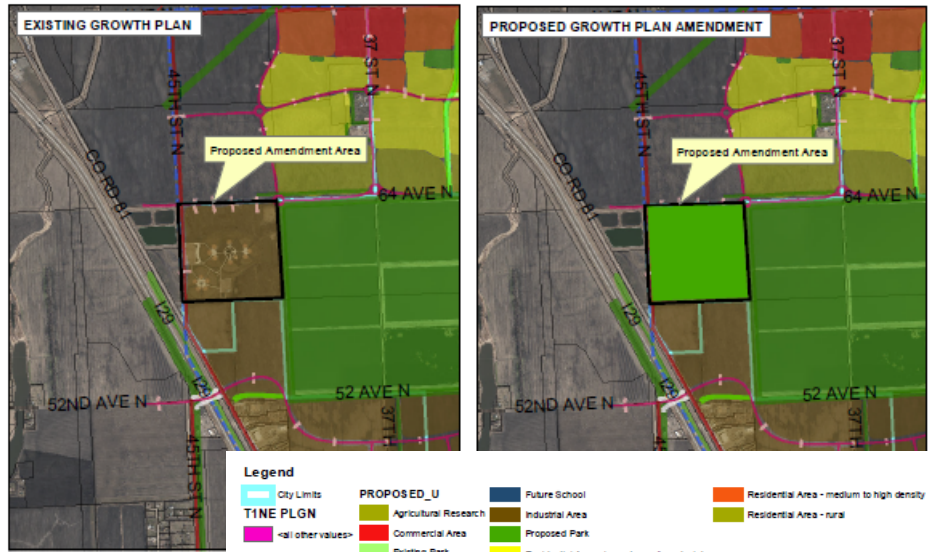
**Area Plans:**

As part of any growth plan, critical elements include identification of future land uses, roadway network alignment / access and park / open space planning.

Land Use: The subject acreage is located within the North Fargo Tier 1 East plan pursuant to the 2007 Growth Plan. The proposed growth plan amendment transitions approximately 155 acres of industrial to parks / open space land classification.

Roadway Network: The growth plan indicates 45<sup>th</sup> Street North as a future arterial street and 64<sup>th</sup> Avenue North as a future collector street, with local street intersections.

Due to the use of the facility, no local streets are necessary within the subject property. The Engineering Department has had an opportunity to comment on the adjacent infrastructure and notes that 45<sup>th</sup> Street North would be collector street, not an arterial street. The subdivision dedicates the necessary right-of-way to accommodate the streets.



**Context:**

**Schools:** The subject property is located within the Fargo School District, specifically Washington Elementary school, Ben Franklin Junior High school and the North Senior High school.

**Neighborhood:** The subject property is not located within an identified neighborhood.

**Parks:** The subject property is the location of the Northside Softball Complex.

**Pedestrian / Bicycle:** There are no facilities located within a half-mile of the subject property.

**Staff Analysis:**

**Growth Plan Evaluation Criteria:** Section 20-0905(H) of the LDC states that the Planning Commission and the City Commission shall consider whether the Growth Plan is consistent with and serves to implement adopted plans and policies of the city.

The 2007 Growth Plan sets forth the following criteria that should be used to evaluate any proposed growth plan amendment:

- 1. Is the proposed change consistent with surrounding land uses, both existing and future?**  
Adjacent land uses are primarily agricultural and City of Fargo lagoons. Just to the north of the subject property is the City of Harwood Extra-Territorial jurisdiction. The City of Harwood was notified about the applications, of which the notice included the open house meeting for the growth plan amendment. The proposed growth plan amendment transitions approximately 155 acres from industrial to parks / open space. This provides a transition into the adjacent land uses both existing and future land uses set forth within the growth plan, and lowers the intensity of possible industrial adjacent to the City of Harwood's growth area. **(Criteria Satisfied)**

2. **Does the proposed change involve a street alignment or connection? If so, how does this change affect the transportation system and the land uses in the surrounding area, both existing and future.** The growth plan indicates 45<sup>th</sup> Street North as a future arterial street and 64<sup>th</sup> Avenue North as a future collector street, with local street intersections. However, the Engineering Department has had an opportunity to comment on the adjacent infrastructure and notes that both 64<sup>th</sup> Avenue North and 45<sup>th</sup> Street North will be collector streets. Due to the use of the facility, no local streets are necessary within the subject property. The subdivision will dedicate the necessary right-of-way to accommodate 45<sup>th</sup> Street North and 64<sup>th</sup> Avenue North. **(Criteria Satisfied)**
  
3. **How does the proposed change work with the larger area in terms of land use balance and other factors that could influence the proposed change? Are their physical features or developments in the vicinity that make the change positive or negative for the City and the area in general?**  
 The proposed amendment would increase the amount of open space acreage in this area, and provides a transition between the industrial area to the south, and future residential area to the northeast, as depicted on the growth plan. Additionally, the site is situated between Interstate 29 and land that was once used by the City of Harwood for their lagoons to the west and the existing City of Fargo lagoons to the east. This sub-area is largely undeveloped, however, with this change, is it unlikely to greatly impact how the surrounding area develops. Furthermore, the proposed growth plan amendment provides an amenity to the surrounding areas and larger community that would have a less intense use as opposed to industrial. All adult softball is located at this facility. **(Criteria Satisfied)**

**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 20-0906.F (1-4)**

1. **The requested zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;**  
 As noted in the Land Development Code (LDC), the AG, Agricultural is intended as an “interim” zoning classification pending determination of an appropriate zoning district. The zoning change is justified as the petitioner is developing the property. The growth plan amendment would transition this land from future industrial use to parks / open space. The proposed zoning is consistent with the proposed growth plan amendment. **(Criteria Satisfied)**
  
2. **The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development allowed by the new zoning classification at the time the property is developed;**  
 City staff and other applicable review agencies have reviewed this proposal. No other comments have been received that would indicate any issues in providing the necessary services to the development. **(Criteria Satisfied)**
  
3. **The approval will not adversely affect the condition or value of property in the vicinity;**  
 Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners. To date, staff has not received any inquiries into the application. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria Satisfied)**
  
4. **The proposed amendment is consistent with the purpose of this LDC, the applicable Growth Plan and other adopted policies of the City.**  
 The purpose of the LDC is to implement Fargo’s Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. The growth plan amendment would transition this land from

future industrial use to parks / open space. The proposed zoning is consistent with the proposed growth plan amendment. The Go2030 Comprehensive Plan includes two initiatives of providing parks, open space and habitat, as well as providing a regional recreation amenity. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan and other adopted policies of the City. **(Criteria Satisfied)**

**Subdivision**

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

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

A growth plan amendment and zoning map amendment have been included with this project and the petitioner is seeking the appropriate zoning district classification to accommodate the development. The P/I zoning that is proposed is appropriate for the use. **(Criteria Satisfied)**

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

Pursuant to Item 1 above, the proposed development will comply with the proposed growth plan amendment and proposed zoning map amendment. The subdivision meets the intent of the Land Development Code (LDC). **(Criteria Satisfied)**

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

An executed subdivision amenities plan will address any necessary provisions for any public improvements associated with this project. See attached amenities plan for additional information. Any improvements associated with the project are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are per City of Fargo assessment policy. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and recommend approval to the City Commission of the proposed: 1) growth plan amendment; 2) zone change from AG, Agricultural to P/I, Public and Institutional; and 3) NSC Addition subdivision plat, as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, Section 20-0905.H, and Section 20-0906.F(1-4) of the LDC and all other applicable requirements of the LDC."

**Planning Commission Recommendation:** September 5, 2017

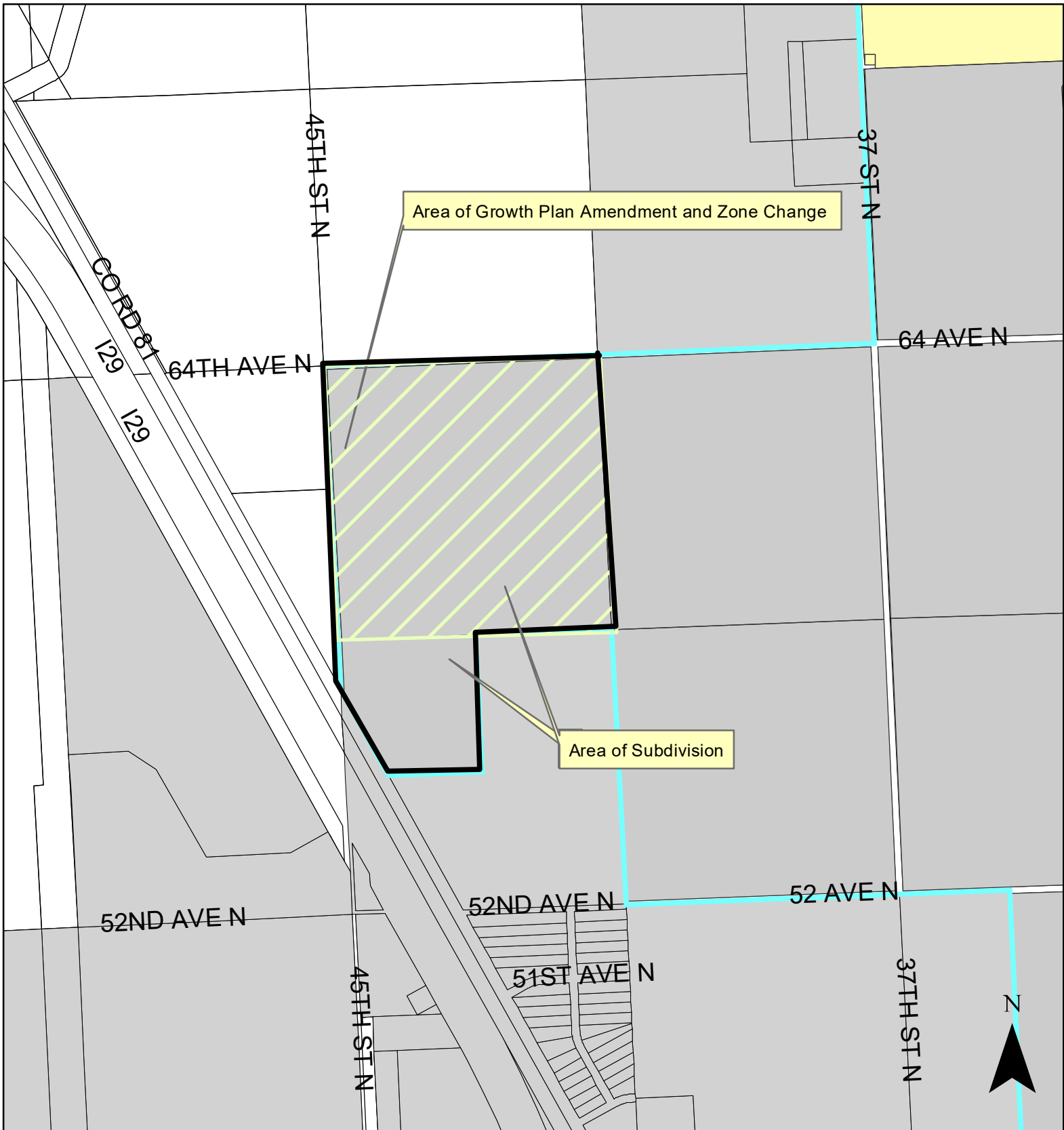
**Attachments:**

1. Zoning Map
2. Location Map
3. Growth Plan Amendment Map
4. Preliminary Plat
5. Draft Amenities Plan

# Growth Plan Amendment, Zone Change (AG to P/I), and Plat (Major Subdivision)

## NSC Addition

5703 and 6101 45th Street North



### Legend

AG	DMU	LC	MHP
GG	MLT	MLT	ZZC
GO	MR-1	MR-2	SR-1
	MR-2	MR-3	SR-2
	MR-3	UMU	SR-3
			SR-4
			SR-5
			City Limits

300  
Feet

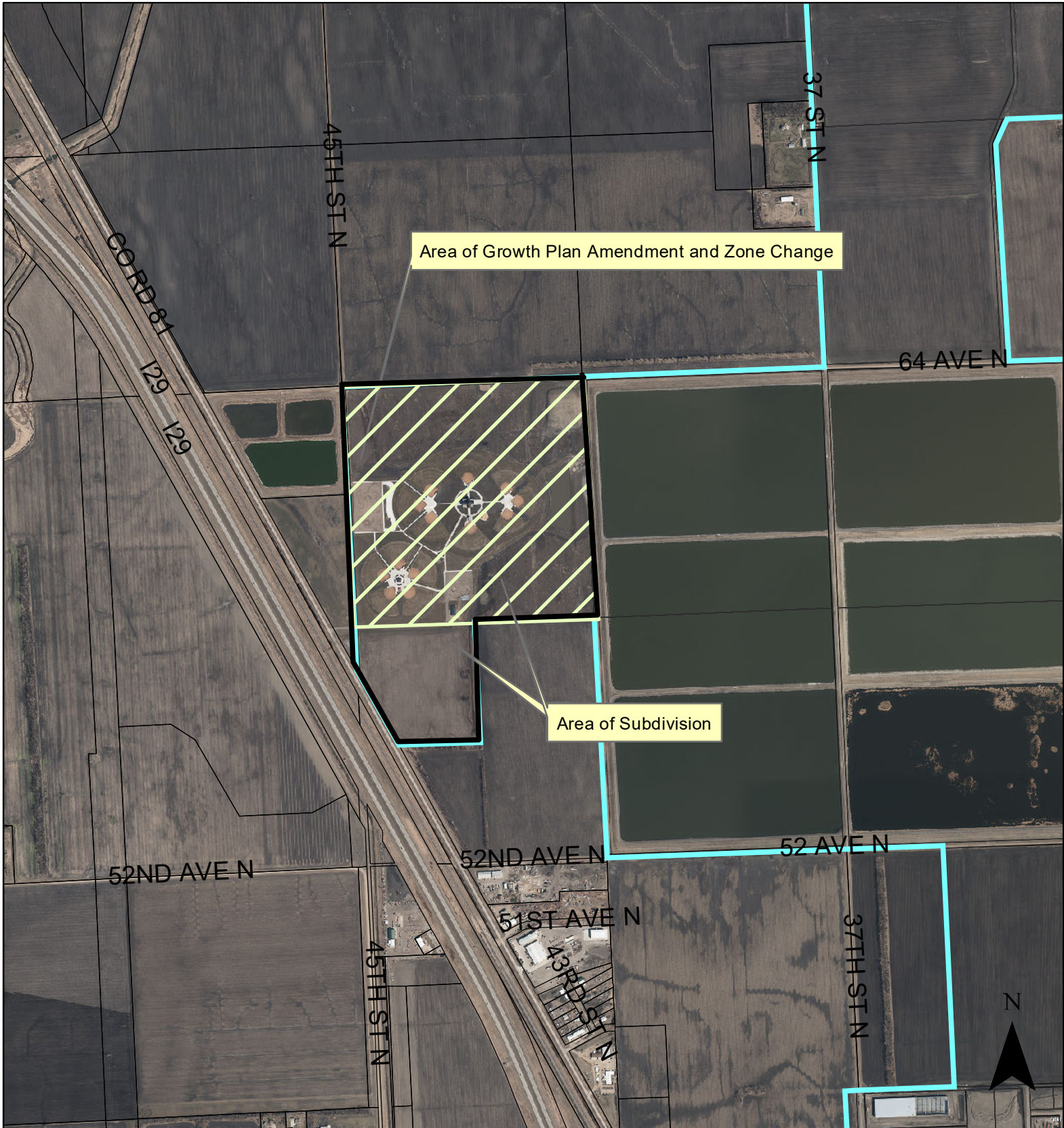
Fargo Planning Commission  
September 4, 2018



# Growth Plan Amendment, Zone Change (AG to P/I), and Plat (Major Subdivision)

## NSC Addition

5703 and 6101 45th Street North

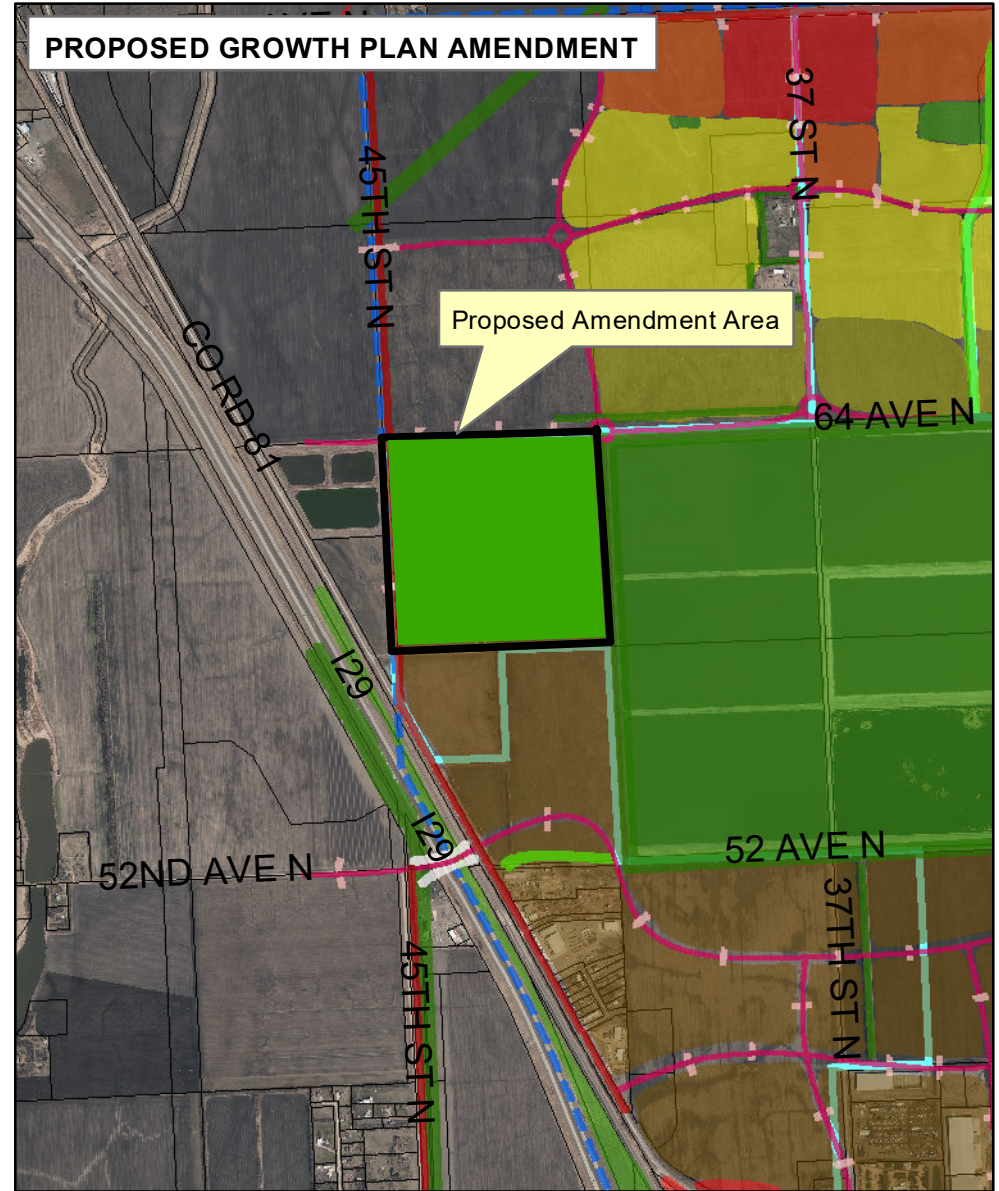
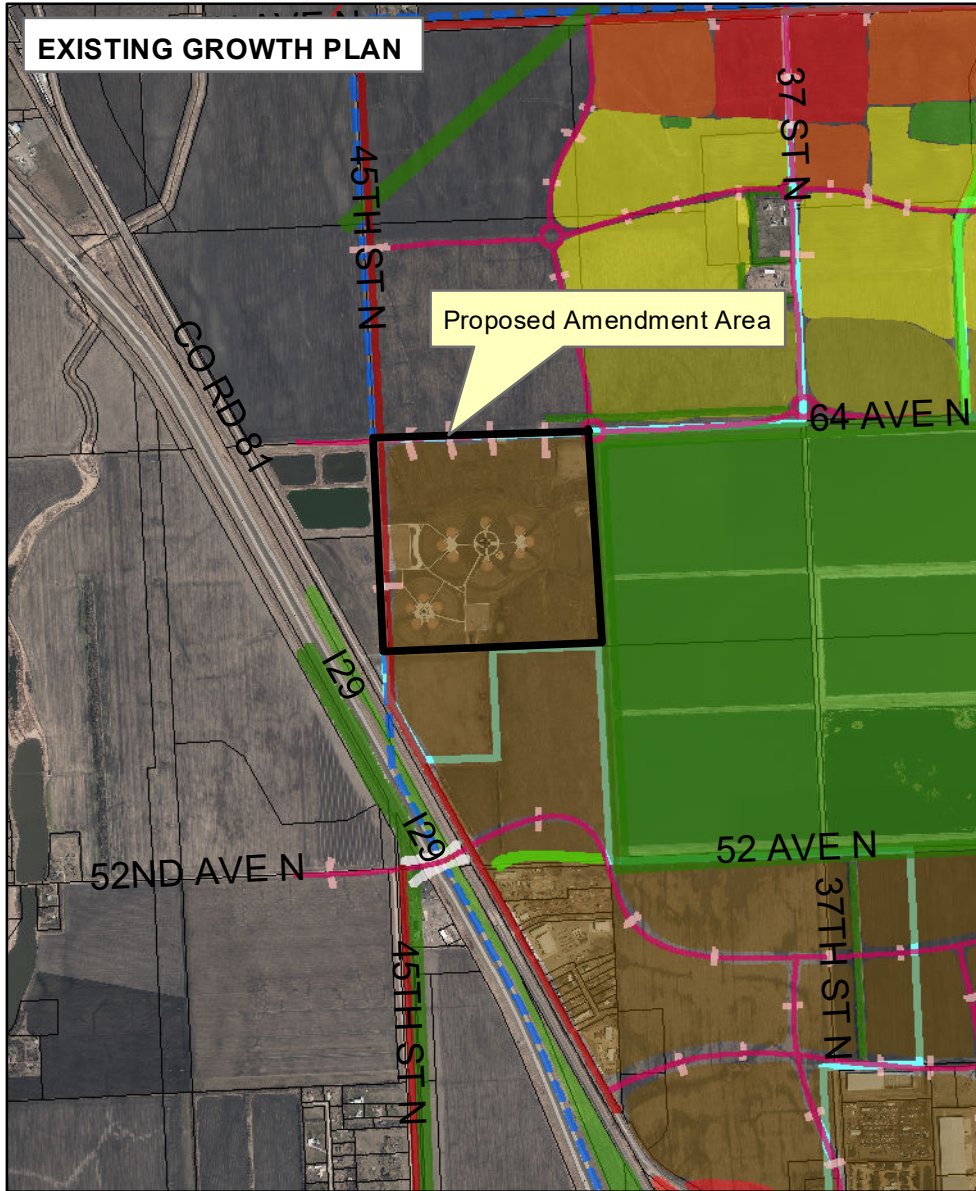




# Growth Plan Amendment, Zone Change (AG to P/I), and Plat (Major Subdivision)

## NSC Addition

5703 and 6101 45th Street North



**Legend**

- |                    |                       |  |
|--------------------|-----------------------|--|
| City Limits        | <b>PROPOSED_U</b>     | Future School                              |
| T1NE PLGN          | Agricultural Research | Industrial Area                            |
| <all other values> | Commercial Area       | Proposed Park                              |
|                    | Existing Park         | Residential Area - lower to medium density |

- |   |
|---|
| Residential Area - medium to high density |
| Residential Area - rural                  |

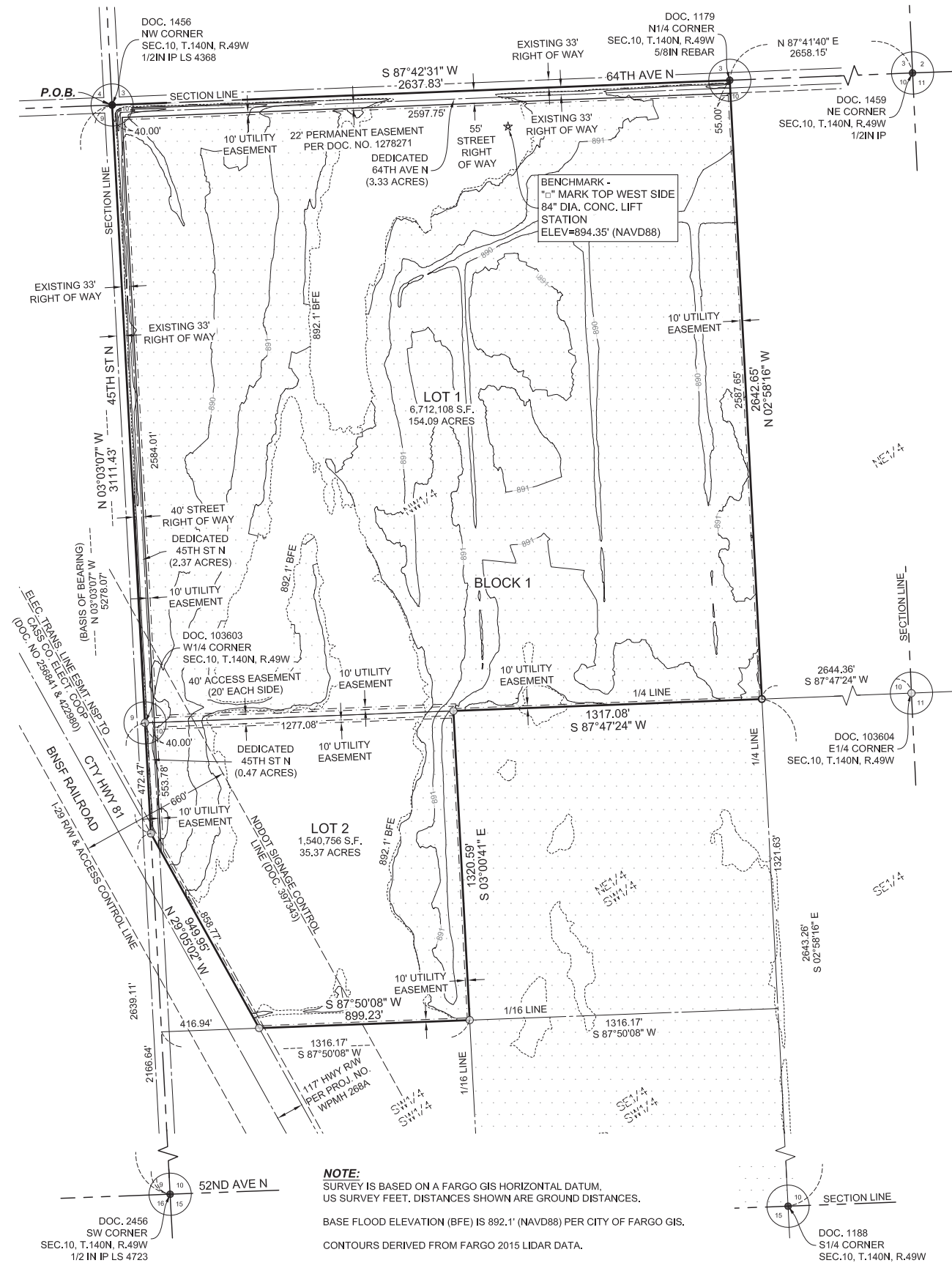


Fargo Planning Commission  
September 4, 2018

# NSC ADDITION

(A MAJOR SUBDIVISION)

AN UNPLATTED PORTION OF LAND LOCATED IN THE NORTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 140 NORTH, RANGE 49 WEST, FIFTH PRINCIPAL MERIDIAN, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



**NOTE:**  
 SURVEY IS BASED ON A FARGO GIS HORIZONTAL DATUM,  
 US SURVEY FEET. DISTANCES SHOWN ARE GROUND DISTANCES.  
 BASE FLOOD ELEVATION (BFE) IS 892.1' (NAVD88) PER CITY OF FARGO GIS.  
 CONTOURS DERIVED FROM FARGO 2015 LIDAR DATA.

## OWNER'S CERTIFICATE & DEDICATION

KNOWN TO ALL MEN BY THESE PRESENTS, CITY OF FARGO, WHOSE ADDRESS IS 200 3RD STREET NORTH, FARGO, NORTH DAKOTA, IS THE OWNER OF A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER (NW1/4) AND NORTHWEST QUARTER OF THE SOUTHWEST QUARTER (NW1/4SW1/4) OF SECTION 10, TOWNSHIP 140 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 10; THENCE ALONG THE NORTH LINE OF SAID SECTION 10, N 87°42'31" E A DISTANCE OF 2637.83 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 10; THENCE ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF SECTION 10, S 02°58'16" E A DISTANCE OF 2642.65 FEET TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER OF SECTION 10; THENCE ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER OF SECTION 10, S 87°47'24" W A DISTANCE OF 1317.08 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 10; THENCE ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, S 03°00'41" E A DISTANCE OF 1320.59 FEET TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10; THENCE ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, S 87°50'08" W A DISTANCE OF 899.23 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COUNTY HIGHWAY 81 AS DESCRIBED IN RIGHT OF WAY PLAT PROJECT NO. WPMH 268A IN 1936; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE OF COUNTY HIGHWAY 81, N 29°05'02" W A DISTANCE OF 949.95 FEET TO THE WEST LINE OF SAID SECTION 10; THENCE ALONG THE WEST LINE OF SAID SECTION 10, N 03°03'07" W A DISTANCE OF 3111.43 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 195.63 ACRES MORE OR LESS, AND IS SUBJECT TO ANY EASEMENTS OR RIGHT OF WAY THAT MAY BE OF RECORD.

SAID PARTY HAS CAUSED THE SAME TO BE SURVEYED AND PLATTED AS 'NSC ADDITION' TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, AND DO HEREBY DEDICATE AND CONVEY TO THE PUBLIC, FOR PUBLIC USE, THE STREETS AND UTILITY EASEMENTS, AS SHOWN HEREON.

CITY OF FARGO - TIMOTHY J. MAHONEY, MAYOR  
 OWNER OF LOT 1 AND LOT 2, BLOCK 1, NSC ADDITION

STATE OF NORTH DAKOTA )  
 )SS  
 COUNTY OF \_\_\_\_\_ )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, TIMOTHY J. MAHONEY, MAYOR, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING PROPRIETOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
 CASS COUNTY, NORTH DAKOTA

## SURVEYOR'S CERTIFICATE

I, CHRIS INGERSOLL, REGISTERED LAND SURVEYOR, UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT THIS PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY OF SAID SUBDIVISION; THAT THE DISTANCES SHOWN ON SAID PLAT ARE CORRECT; THAT THE MONUMENTS FOR THE GUIDANCE OF FUTURE SURVEYS HAVE BEEN LOCATED OR PLACED IN THE GROUND AS SHOWN.

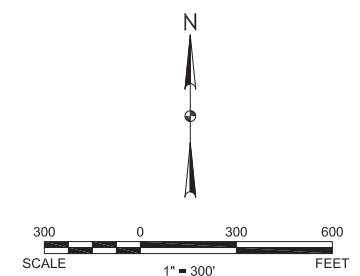
DATE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

CHRIS INGERSOLL  
 REGISTERED LAND SURVEYOR  
 NORTH DAKOTA NO. 8887

STATE OF NORTH DAKOTA )  
 )SS  
 COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED CHRIS INGERSOLL, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING SURVEYOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
 CASS COUNTY, NORTH DAKOTA



LEGEND	
●	FOUND MONUMENT
○	SET 5/8IN REBAR & LS 8887 CAP
—	EXISTING ROW LINE
- - -	PROPOSED ROW LINE
- - -	EXISTING EASEMENT LINE
- - -	PROPOSED EASEMENT LINE
—	BOUNDARY LINE
—	LOT LINE
—	SECTION LINE
—	1/4 LINE
—	1/16 LINE
—	ROAD CENTERLINE
- - -	FLOOD ZONE AE

**FARGO CITY COMMISSION APPROVAL**  
 THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

TIMOTHY J. MAHONEY, MAYOR  
 STEVEN SPRAGUE, CITY AUDITOR

STATE OF NORTH DAKOTA )  
 )SS  
 COUNTY OF \_\_\_\_\_ )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, TIMOTHY J. MAHONEY, MAYOR, AND STEVEN SPRAGUE, CITY AUDITOR, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING PROPRIETOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

NOTARY PUBLIC CASS COUNTY, NORTH DAKOTA  
 MY COMMISSION EXPIRES: \_\_\_\_\_

**FARGO PLANNING COMMISSION APPROVAL**  
 THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

SHARA FISCHER, CHAIR

STATE OF NORTH DAKOTA )  
 )SS  
 COUNTY OF \_\_\_\_\_ )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, SHARA FISCHER, CHAIR OF THE FARGO PLANNING COMMISSION, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING PROPRIETOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

NOTARY PUBLIC CASS COUNTY, NORTH DAKOTA  
 MY COMMISSION EXPIRES: \_\_\_\_\_

**CITY ENGINEER'S APPROVAL**  
 THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

MARK H. BITTNER, CITY ENGINEER

STATE OF NORTH DAKOTA )  
 )SS  
 COUNTY OF \_\_\_\_\_ )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED, MARK H. BITTNER, CITY ENGINEER, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING PROPRIETOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

NOTARY PUBLIC CASS COUNTY, NORTH DAKOTA  
 MY COMMISSION EXPIRES: \_\_\_\_\_



**Site Amenities and Project Plan**  
**NSC Addition**  
**August 2018**

**Location:** The property is legally referenced as the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of Section 10, Township 140 North, Range 49 West, City of Fargo, Cass County, North Dakota. The property comprises approximately 195 acres.

**Details:** The project includes two (2) lots on one (1) block located east of Interstate 29, between of 45<sup>th</sup> Street North and 42<sup>nd</sup> Street North, and between 64<sup>th</sup> Avenue North and 52<sup>nd</sup> Avenue North.

**Right of Way (ROW) and Transportation:** The project accommodates right of way dedications for public roadways, access points and utilities, with specific details outlined below:

64<sup>th</sup> Avenue North: This segment has been designated as a collector roadway, pursuant to Section 20.0702.

- ROW dedication for this roadway shall be 55 feet;
- Street lighting shall be determined by the City Engineering Department in cooperation with the developer and installed per city standards;
- 4.5 foot sidewalks shall be incorporated into the boulevards as required by Section 20.0611-1. Sidewalks shall be maintained by the adjacent property owner(s), pursuant to city policy.

45<sup>th</sup> Street North: This segment has been designated as a collector roadway, pursuant to Section 20.0702.

- ROW dedication for this roadway shall be 40 feet;
- Street lighting shall be determined by the City Engineering Department in cooperation with the developer and installed per city standards;
- 4.5 foot sidewalks shall be incorporated into the boulevards as required by Section 20.0611-1. Sidewalks shall be maintained by the adjacent property owner(s), pursuant to city policy

**Storm Water Management:** As approved, the project will accommodate all storm water quantity and quality requirements with on-site facilities which shall be owned by the City of Fargo and maintained by the Fargo Park District.

**Flood Protection: *NSC Addition* will be protected from flooding with the following measures:**

Internal Flooding – rainfall or spring event induced:

1. Storm Sewer systems designed and installed to city standards;
2. Storm water detention facility(ies) within the project

FEMA Floodplain Expansion: All building construction shall meet the following flood proofing requirements:

- The point of risk on the lowest opening and minimum finished floor elevation shall be shall be 2 feet above the FEMA Base Flood Elevation (BFE) of 892.1 (NAVD88). With this criteria, the minimum finished floor elevation for this site is 894.1 (892.1 + 2', NAVD 88).
- Fill around the building shall be 1.5 feet above the BFE elevation (892 + 1.5 = 893.5 (NAVD88)).
- Fill 15 feet away from the building must be at 892.1 (NAVD 88).
- The subject property is within the adopted floodplain and the Special Hazard Area (SFHA). Pursuant to the City's flood risk reduction policy and flood-proofing construction requirements, the subject property needs to establish a primary line of flood protection. As such, any development or building permits issued on Lots 1-2, Block 1, *NSC Addition* shall include a perimeter levee or ring dike, unless the city's comprehensive primary line of flood protection is under construction or under contract, as determined by the City Engineer. The height of the required flood protection levee will be 4 feet above the FEMA BFE (892.1 + 4 = 896.1 NAVD88) and be designed, constructed and approved per City of Fargo flood protection levee standards.

**Water Supply:** No changes to the water supply are proposed.

**Engineering and Construction Improvements:** The City of Fargo will construct all public improvements

**Funding of Improvements:** Public improvements shall be assessed to the benefitting properties, pursuant to city policy.

The amenity plan is hereby approved:

\_\_\_\_\_  
Brenda E. Derrig, City Engineer

\_\_\_\_\_  
Date

DRAFT

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Urban Plains by Brandt Fourth Addition	<b>Date:</b>	7/27/2018
<b>Location:</b>	5616 5616 26 <sup>th</sup> Avenue South and 5601 28 <sup>th</sup> Avenue South	<b>Staff Contact:</b>	Aaron Nelson
<b>Legal Description:</b>	Lots 2 & 3, Block 1, Urban Plains by Brandt Third Addition		
<b>Owner(s)/Applicant:</b>	Urban Plains Land Company, LLC/Houston Engineering, Inc.	<b>Engineer:</b>	Houston Engineering, Inc.
<b>Entitlements Requested:</b>	<b>Minor Subdivision</b> (Replat of Lots 2 & 3, Block 1, Urban Plains by Brandt Third Addition to the City of Fargo, Cass County, North Dakota )		
<b>Status:</b>	Planning Commission Public Hearing: September 4, 2018		

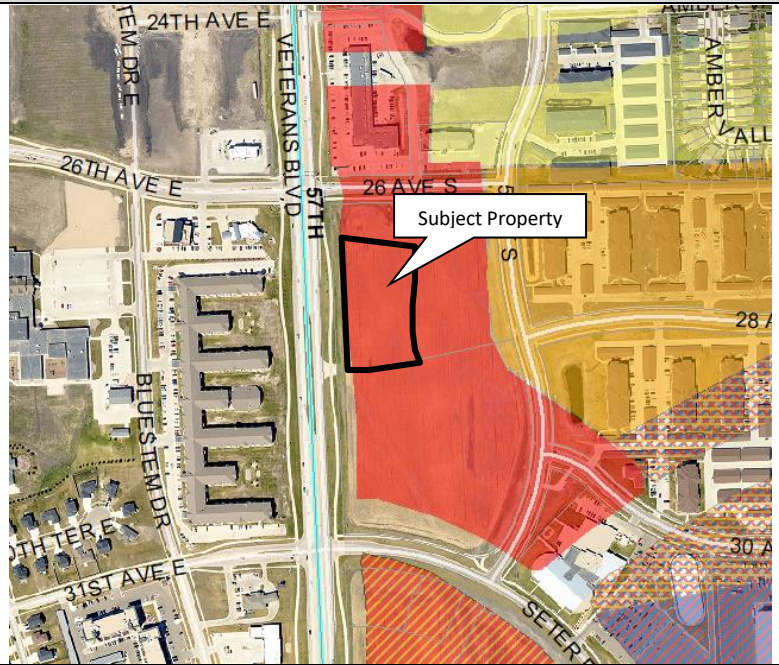
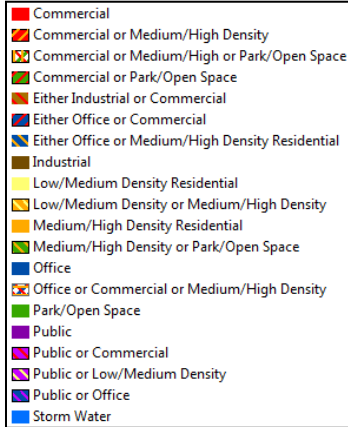
<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Vacant	<b>Land Use:</b> Commercial
<b>Zoning:</b> LC, Limited Commercial with C-O, Conditional Overlay	<b>Zoning:</b> No Change
<b>Uses Allowed:</b> Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, <del>self-service storage, vehicle repair, limited vehicle service.</del>	<b>Uses Allowed:</b> No Change
<b>Maximum Lot Coverage Allowed:</b> Maximum 55% building coverage	<b>Maximum Lot Coverage Allowed:</b> No Change

<b>Proposal:</b>
<p>The applicant is seeking City approval of a minor subdivision plat entitled <i>Urban Plains by Brandt Fourth Addition</i>, which would replat two existing lots into two new lots. The subject property encompasses approximately 18.6 acres.</p> <p>According to the applicant, the intent of this application is to adjust the size and shared lot line of two existing lots by replatting those two lots into two new lots. The existing northern lot is 93,728 square feet and the exiting southern lot is 30,728 square feet. The proposed replatted lots would be 86,369 square feet and 38,087 square feet, respectively.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: LC, Limited Commercial with vacant land</li> <li>• East: LC, Limited Commercial with mixed-uses (multi-dwelling residential and retail sales &amp; services)</li> <li>• South: LC, Limited Commercial with vacant land</li> <li>• West: Across Veterans Boulevard, City of West Fargo with multi-dwelling residential and retail sales &amp; service land uses.</li> </ul>



**Area Plans:**

The subject property is located within the bounds of the 2003 Southwest Future Land Use Plan. This plan identifies “Commercial” use as the preferred land uses for this area and is included by reference within the 2007 Growth Plan.



**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.

**Neighborhood:** The subject property is located in the Urban Plains Neighborhood.

**Parks:** Urban Plains Park (5050 30<sup>th</sup> Avenue S) is located approximately 0.3 miles east of the subject property and offers playground amenities and picnic shelters.

**Pedestrian / Bicycle:** There are off-road bike facilities located along Veterans Boulevard and Seter Parkway South. Both facilities are components of the metro area bikeways system.

**Staff Analysis:**

**Minor Subdivision**

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

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

This subdivision is intended to adjust the layout of two legal lots by replatting two existing lots into two new lots. The proposed use is consistent with the existing zoning. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no comments regarding this application. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. **(Criteria Satisfied)**



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

While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principals. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed *Urban Plains by Brandt Fourth Addition* subdivision plat as presented; as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06 of the LDC, and all other applicable requirements of the LDC."

**Planning Commission Action:** August 7, 2018

On August 7, 2018, the Planning Commission continued this item to the September 4, 2018 Planning Commission meeting.

**Planning Commission Recommendation:** September 4, 2018

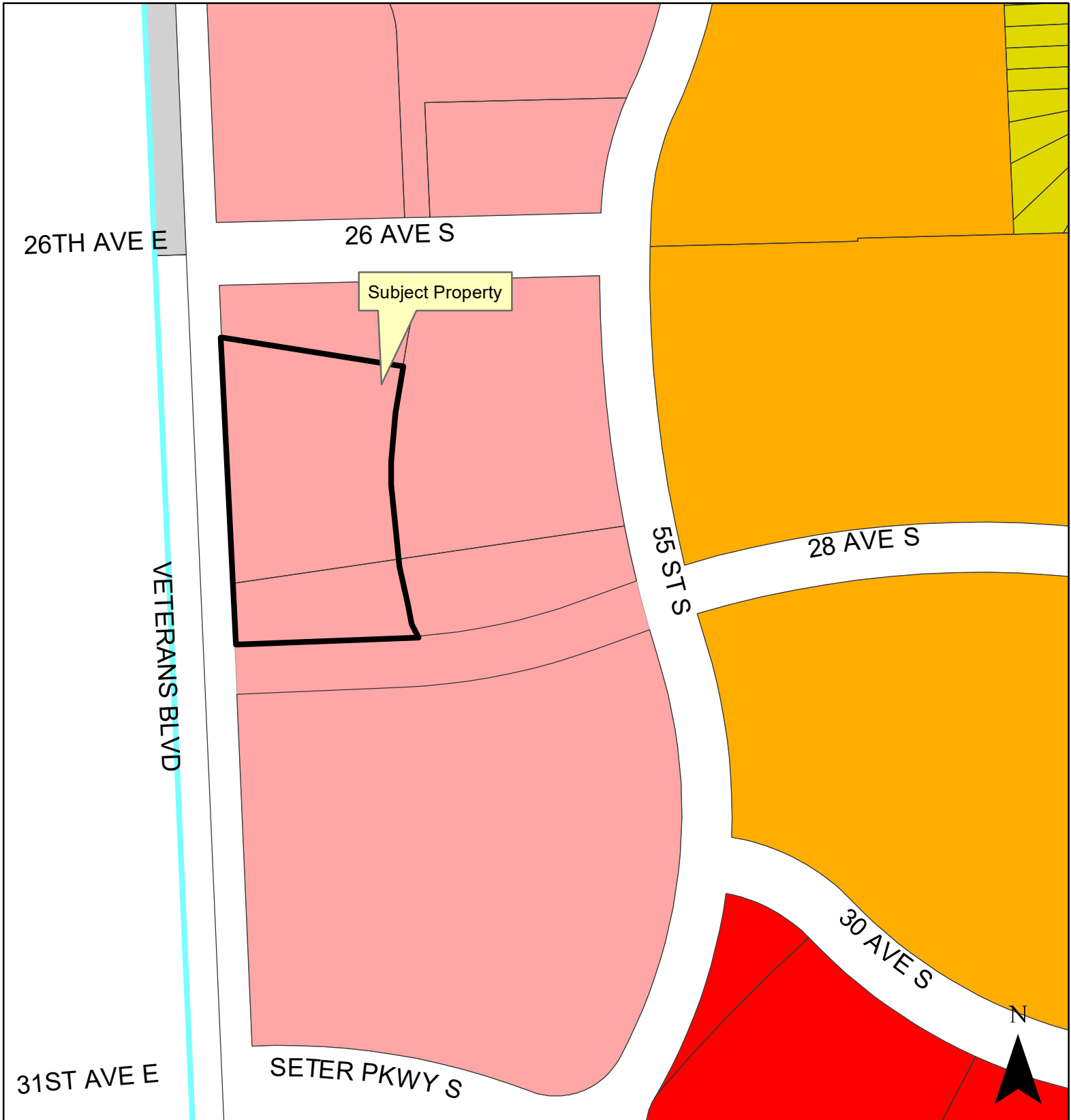
**Attachments:**

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

# Plat (Minor)

## Urban Plains By Brandt 4th Addition

5616 26th Avenue South



### Legend

AG	DMU	GC	GL	GO	LC	MR-1	MR-2	MR-3	MHP	NC	NO	P/I	UML	SR-1-2	SR-1-4	SR-1-5	City Limits
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300

Feet



# Plat (Minor)

## Urban Plains By Brandt 4th Addition

5616 26th Avenue South

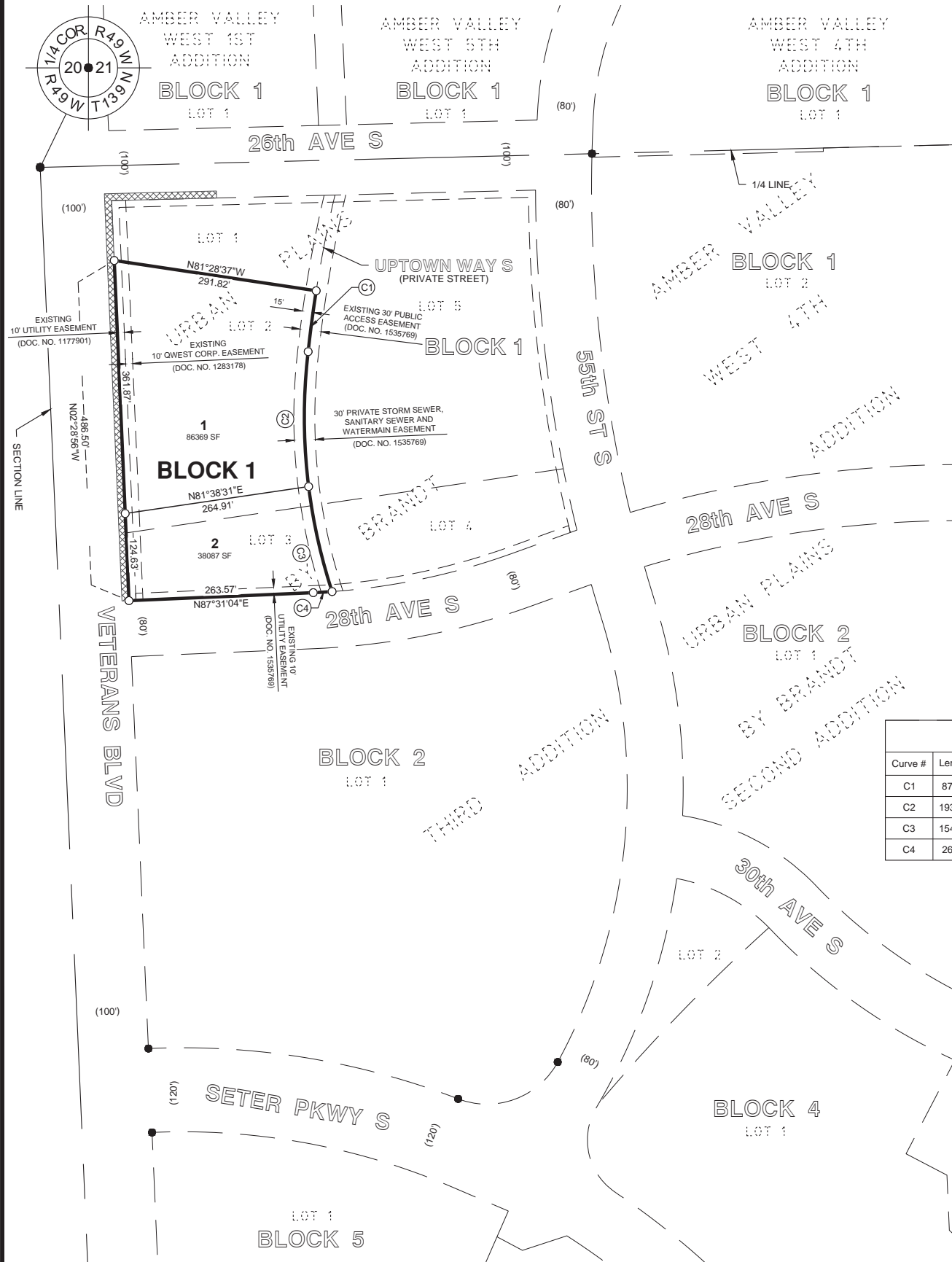




# URBAN PLAINS BY BRANDT FOURTH ADDITION

## A MINOR SUBDIVISION

### BEING A REPLAT OF LOTS 2 AND 3, BLOCK 1, URBAN PLAINS BY BRANDT THIRD ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



**LEGEND**

IRON MONUMENT FOUND

1/2" I.D. PIPE SET

NEGATIVE ACCESS

BEARINGS SHOWN ARE BASED ON THE CITY OF FARGO GIS HORIZONTAL DATUM.

NEGATIVE ACCESS EASEMENT, AS NOTED ON THIS PLAT, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OR PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OF LAND OF ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.

Curve Table					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	87.76	1831.06	2°44'45"	S07°31'46"W	87.75
C2	193.25	802.50	13°47'50"	S00°11'55"E	192.78
C3	154.00	802.50	10°59'41"	S12°35'40"E	153.76
C4	26.95	960.00	1°36'31"	N86°42'48"E	26.95

**OWNER'S CERTIFICATE:**

KNOW ALL PERSONS BY THESE PRESENTS: That Urban Plains Land Company LLC, a North Dakota limited liability company, is the owner and proprietor of Lots 2 and 3, Block 1, Urban Plains By Brandt Third Addition to the City of Fargo, Cass County, North Dakota, and does hereby dedicate to the public, for public use, the utility easements shown on the plat.

Said tract contains 2.857 acres, more or less.

And that said party has caused the same to be surveyed and platted as **URBAN PLAINS BY BRANDT FOURTH ADDITION** to the City of Fargo, Cass County, North Dakota.

**OWNER:**  
Urban Plains Land Company, LLC

Ace A. Brandt, President

State of \_\_\_\_\_ )  
 ) ss  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally appeared Ace A. Brandt, President of Urban Plains Land Company, LLC, a North Dakota limited liability company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of said limited liability company.

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

**SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:**

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

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

James A. Schlieman, Professional Land Surveyor No. 6086

State of North Dakota )  
 ) ss  
County of Cass )

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

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

**CITY ENGINEER'S APPROVAL:**

Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Brenda E. Derrig, City Engineer

State of North Dakota )  
 ) ss  
County of Cass )

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

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

**FARGO PLANNING COMMISSION APPROVAL:**

Approved by the City of Fargo Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Shara Fischer, Chair  
Fargo Planning Commission

State of North Dakota )  
 ) ss  
County of Cass )

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

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

**FARGO CITY COMMISSION APPROVAL:**

Approved by the Board of City Commissioners and ordered filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Timothy J. Mahoney, Mayor

Attest:  
Steven Sprague, City Auditor

State of North Dakota )  
 ) ss  
County of Cass )

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

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

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	St. Paul's Newman Center Addition	<b>Date:</b>	8/28/2018
<b>Location:</b>	1113, 1117, 1119, 1129, 1131, 1141 North University Drive; 1112, 1118, 1122, 1126, 1130, 1134, 1138, 1142, 1146 12th Street North; 1201, 1211, 1213, 1215, 1223 11th Avenue North	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description:</b>	Lots 1-10, Block 2, College Addition and Lots 1-4 and 15-23, Block 9, Bolley's Addition, City of Fargo, Cass County, North Dakota.		
<b>Owner(s)/Applicant:</b>	Diocese of Fargo; NC Investments, LLC / Roers Development—Elissa Novotny Leino	<b>Engineer:</b>	Roers
<b>Entitlements Requested:</b>	<b>Minor Plat</b> (replat of Lots 1-10, Block 2, College Addition and Lots 1-4 and 15-23, Block 9, Bolley's Addition, City of Fargo, Cass County, North Dakota) <b>Zoning Change</b> (From MR-3, Multi-Dwelling Residential; LC, Limited Commercial; and SR-3, Single Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay) and a <b>PUD Master Land Use Plan</b>		
<b>Status:</b>	Planning Commission Public Hearing: September 4, 2018		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Single Dwelling Residential; multi-dwelling residential; religious institution	<b>Land Use:</b> Religious institution; multi-dwelling residential
<b>Zoning:</b> MR-3, Multi-Dwelling Residential; LC, Limited Commercial; and SR-3, Single Dwelling Residential	<b>Zoning:</b> MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay
<b>Uses Allowed:</b> <u>MR-3</u> allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities; <u>LC</u> 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 <u>SR-3</u> allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities	<b>Uses Allowed:</b> Allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities. <b>Plus additional uses noted in PUD</b>

<b>Maximum Density Allowed:</b> MR-3: 24 dwelling units per acre (du/ac); SR-3: 8.7 du/ac; LC Maximum Lot Coverage 55%	<b>Maximum Density Allowed:</b> 24 dwelling units per acre <b>PUD proposes increased density of 37 du/ac</b>
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**Proposal:**

The applicant requests approval of three entitlements:

1. A zoning change from MR-3, Multi-Dwelling Residential; LC, Limited Commercial; and SR-3, Single Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay; and
2. PUD Master Land Use Plan within the boundaries of the proposed St. Paul Newman Center Addition; and
3. A plat of the **St. Paul Newman Center Addition**, a replat of Lots 1-10, Block 2, College Addition and Lots 1-4 and 15-23, Block 9, Bolley's Addition, City of Fargo, Cass County, North Dakota., to create two lots as shown in the table below.

BLOCK	LOT	AREA (square feet of original lot)*	AREA (square feet of revised lot)*	ZONING	USE
1	1	70,058 sf (1.6 acres)	75, 840 sf (1.74 acres)	MR-3 with PUD	Religious institution
1	2	96,528 sf (2.2 acres)	90,746 sf (2.0 acres)	MR-3 with PUD	Multi-dwelling residential, including 29 units of faith-based and 107 units of market rate housing

*\*Note on lot sizes: The applicant stated that in the originally submitted plat, the location of the lot line between Lots 1 and 2 was not accurately depicted. The current location is correct, and matches the site plan.*

The subject property is located on the 1100 block on the south side of University Drive North. The applicants, Diocese of Fargo and Roers Development, intend to redevelop the entire block and build a new St. Paul's Newman Center, 29 units of faith-based housing, and 107 units of market rate housing.

**Note The Following Changes To The Project**

Since the August 20, 2018 open house meeting, the developer has depicted the following changes on project documents:

1. PUD Chart and Narrative---applicant has added the request to reduce the 35% open space requirement of the MR-3 zone to 25% under the PUD.
2. Building Height Exhibit---the administration building, which was depicted on an earlier height exhibit as a three-story building is, in fact, a two-story building.
3. Plat---the lot line between Lots 1 and 2 has move in relation to the original plat, resulting in a slightly larger Lot 2 and a slightly smaller Lot 1.

Revised documents noting the above changes are attached and the changes are addressed in the sections below.

(continued on next page)

### Zoning Change and PUD Overlay

The applicant has applied for a zoning map amendment and a PUD overlay in order to tailor development standards to the specifics of the proposed project. The modifications to the development standards of the underlying MR-3 zone are shown in the chart below.

	<b>Current LDC Development Standards for the MR-3 Zone</b>	<b>PUD Modifications to MR-3 Development Standards</b>
Allowed Uses	detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	<i>Add these uses from LC, Limited Commercial zone: colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, <del>off-premise advertising signs, commercial parking, retail sales and service, self-service storage, vehicle repair, limited vehicle service.</del> A book store and coffee shop are planned for within Lot 1.</i>
Residential Density	24 du/ac	<i>Increase to 37 du/ac</i>
Setbacks	Front—25' Rear—20' Street side—12.5' Interior side—10'	<i>Front—decrease to 5' (Lot 1 only) Street side—decrease to 5' (Lot 1 only) Interior side- Decrease to 0' (between Lots 1 and 2)</i>
Building Coverage	35% of lot area	<i>Increase to 38% of lot area</i>
Parking-Residential – Multi-Dwelling	1.25 stalls per efficiency; 2.0 stalls per 1 BR + 0.25 guest stalls per living unit	<i>0.8 stalls per bed (Market rate housing only)</i>
Landscaping—Street Trees	1 tree per 50 linear feet of frontage along an arterial; one tree per 35 linear feet of frontage along a local street	<i>Developer will coordinate with City Forester for options along boulevard with overhead power lines</i>
Landscaping—Open Space	3 plant units per 1,000 sq. ft. of lot area of fraction or thereof, with 8 sq. ft. per plant unit (LDC 20-0705(C)(3) and table)	<i>Request removal of 70% requirement in front of building</i>
Landscaping—Parking Lot Perimeter	Buffer width: 9 feet. Plantings: 1 small tree + 6 shrubs/perennial grasses per 25 linear feet. Berm also an option (LDC 20-0705 (D) and table)	<i>Reduce buffer width to 5 feet. No change proposed to plantings.</i>
RPS Building Height 76-100 feet from residential	45 Feet	<i>Increase to 60 feet for Lot 1</i>
RPS-building height 101-150 feet from residential	55 feet	<i>Increase to 60 feet</i>
Open space	35%	<i>Decrease to 25% minimum</i>

### **Detailed Comment on PUD Modifications**

Allowed Uses: The PUD proposes small-scale retail (bookstore) and coffee shop use to be possible future uses in the St. Pauls' Newman Center facility. This PUD modification is necessary as the MR-3 zone does not allow retail or coffee shop type uses.

Residential Density: The overall project density is a little less than 36 dwelling units per acre—that is the total number of proposed units (136) divided by the total number of acres (3.8). In the current two-lot configuration, Lot 1 has zero density (there are no units proposed on Lot 1) and Lot 2 has all the density, which is 68 du/ac (136 dwelling units divided by 2.0 acres). The PUD requests a density of 37 du/ac, but this would not be sufficient to cover the proposed density of Lot 2—that is, the 37 du/ac would only provide 74 dwelling units (37 du/ac X 2.0 acres) on Lot 2. However, this can be considered a unified development if the developer and property owners (Diocese and Roers) wish to use that arrangement. "Unified Development" is referred to in the Land Development Code (LDC) Section 20-1202(27), which states "When a lot is used together with 1 of more contiguous lots for a single use or unified development, all of the lots so used, including any lots used for off-street parking, shall be considered a single lot." The property owners have signed an agreement that this project will be considered a unified development for zoning and building permit evaluation purposes. The result is that City staff evaluates the whole project as one lot when they review the zoning and building permit, even though there are actually two lots. The unified development does not change the RPS standards at all. The number of units on the project doesn't change and it does not enable the developer to build a larger number of units. This arrangement has to be used consistently when evaluating all the zoning standards for this project---that is, it can't be considered a unified development for some things and not others. The unified development is for zoning and building permit evaluation purposes only.

Setbacks: The PUD has requested an interior side setback of 0 feet, which is necessary as the buildings on Lots 1 and 2 are connected. The other proposed modifications to the MR-3 setbacks are intended to accommodate the proposed building configuration.

Building Coverage: The proposed modification to the MR-3 standards is intended to accommodate the proposed building configuration.

Parking: Please see detailed parking analysis below.

Landscaping—Street Trees: No actual modification to standards is proposed. The City Forester intends that healthy existing trees be preserved.

Landscaping—Open Space: The PUD proposes modification of the landscaping requirement that 70% of the required landscaping be in the front. The PUD does not propose to modify the total amount of landscaping. The developer must provide a landscape plan that indicates where the landscaping will be generally located.

Landscaping—Parking Lot Perimeter: The PUD proposes a reduction in the required width of the parking lot perimeter buffer, which will be on the 12<sup>th</sup> Street (east) side of the project, in order to accommodate additional parking.

RPS Building Height 76-100 feet from residential: The PUD proposes a modification of the residential protection standards (RPS) to increase the building height from 45 feet to 60 feet for Lot 1 (St. Paul's Newman Center facility) at the 76-100 foot from residential zoning range to accommodate the proposed chapel design. Note that this is in relation to the actual building height and not the steeple height.



**RPS-building height 101-150 feet from residential:** The PUD proposes a modification of the residential protection standards (RPS) to increase the building height from 55 feet to 60 feet for both lots at the 101-150 foot from residential zoning range to accommodate the proposed building design.

**Open Space:** The PUD proposes a reduction of the 35% open space requirement of the MR-3 zone to 25% to accommodate the proposed building design. Note that “open space” in this situation is defined in the Land Development Code (LDC) as “an outdoor, unenclosed area, located on the ground on or a roof, balcony, deck, porch, or terrace design and accessible for outdoor living, recreation, pedestrian access or landscaping, but not including roads, parking areas, driveways, or other areas intended for vehicular travel.” (LDC 20-1202(43)).

### **PUD Master Land Use Plan**

The applicant has submitted a project narrative and PUD Master Land Use which further describe the proposed development. These documents are attached.

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 with convenience store use; P/I with NDSU office use
- East: SR-3 with single-dwelling residential use
- South: SR-3 with single-dwelling residential use
- West: LC with NDSU parking lot use; MR-3 with multi-dwelling use

### **Neighborhood Association Comments**

An open house meeting was held on August 20, 2018 for neighbors to meet with and hear a presentation from Planning staff and the developer. Twelve neighborhood residents signed in but approximately 10 more people were in attendance. One submitted written comments at the meeting. Additional comments were received by letter and e-mail after the meeting (copies attached). Those comments, along with oral comments, are summarized below:

#### Related to the project

1. Can it be something other than apartments? Suggested townhomes or other family-focused type of housing, or a less dense quiet/contemplative building that better fits the mission of the church.
2. The city should try to stop the encroachment of these large projects into neighborhoods.
3. Is student housing near NDSU being overbuilt---noted recent large projects like NDSU Foundation.
4. Concern that the loss of family oriented housing will cause Roosevelt school enrollments to decline to the point the school will be closed. School is the “anchor of the neighborhood.”
5. The proposed density is too much for this neighborhood; projects of this density should be built in the UMU-zoned area to the west.
6. This project is not consistent with the Roosevelt Neighborhood plan.
7. Discussion about parking reduction for market rate housing and for church.
8. Discussion with developer about breakdown of unit type (Developer stated 50% one-bedroom, 25% two-bedroom; 25% three- and four-bedroom is the intended mix).
9. Neighbors would support redevelopment of just the Newman Center without the market-rate housing part of the project.
10. Insufficient buffer on the east side facing 12<sup>th</sup> Street.
11. Scale of the project is out of character for the neighborhood.

#### Related to the process

1. Questions about the notification radius
2. What's the point of having a neighborhood association if they don't have input into the process? (one neighbor provided a history of the neighborhood association)
3. Concerns on promises made with UMU zoning process several years ago and density proposed west of Johnson Park.

#### Related to the project background

1. Question about how the diocese and the developer got together (Fargo Diocese employee Earl Wilhelm described an RFQ process)
2. Question about the expected effect on NDSU and the congregation size. Fr. Cheney estimated 4,300 Catholics at NDSU, 15% of which make up his congregation. The new Newman Center will build a broad-based congregation. Facility will have classroom and music room spaces and will partner with NDSU academic departments)
3. Question about financial relationship between the diocese part of the project and the developer part of the project (Larry Nygard of Roers Development stated the two parts are interdependent and there's no way to separate them—buildings are all connected; parking and underground stormwater storage are shared between the two lots).

#### Other comments

1. One neighbor repeatedly referred to the crime and disorderly conduct caused by NDSU students; comments from other neighbors reinforced her remarks.

#### Additional comments after the meeting

In addition to comments made at the public meeting, staff has received additional comment letters and e-mails which express the following concerns:

1. The overall parking provided by the project is insufficient to adequately serve all the proposed uses.
2. Existing codes, residential protection standards, and neighborhood plans are there to protect the residents and their properties. Overruling them benefits only the developers; there is minimal, questionable benefit to the neighborhood.
3. Block 2 proposal [residential component of the project] does not fit the neighborhood plan, it does not adhere to existing codes, and it is of very little benefit to the neighborhood.
4. The developer's request for PUD modifications to the MR-3 zone are excessive and unreasonable.
5. The combined project of the new St. Paul's Newman Center (including 500-seat chapel) and the proposed 136 units of housing is too intense to all fit on this one block.
6. The density of housing and the size of the multi-dwelling building proposed by the project is more appropriate for the UMU, University Mixed Use zone to the west.
7. Concern that removal of existing single family residences will negatively affect the enrollment at Roosevelt Elementary School and may lead to eventual closing of the school.
8. Residential Protection Standards should never be compromised. They are one of the key elements to providing visual protection from single-family lots.
9. The need for this project for student-oriented housing is not justified by 2018 NDSU fall enrollment numbers, which are 5% lower than the 2017 numbers. Additionally, 1,303 student housing units in and near campus will be coming available in the next nine months.
10. This project should be two separate projects and two separate applications, evaluated individually, instead of one combined project between the Fargo Diocese and Roers Development.
11. Approval of this project may lead to additional similar projects in the neighborhood.

Support for the Newman Center: Despite numerous comments opposing the overall project, the neighborhood was generally supportive of the idea of a new St. Paul's Newman Center, though in the neighbors' view, this should be the only major development on this block.

**Planning staff comments**

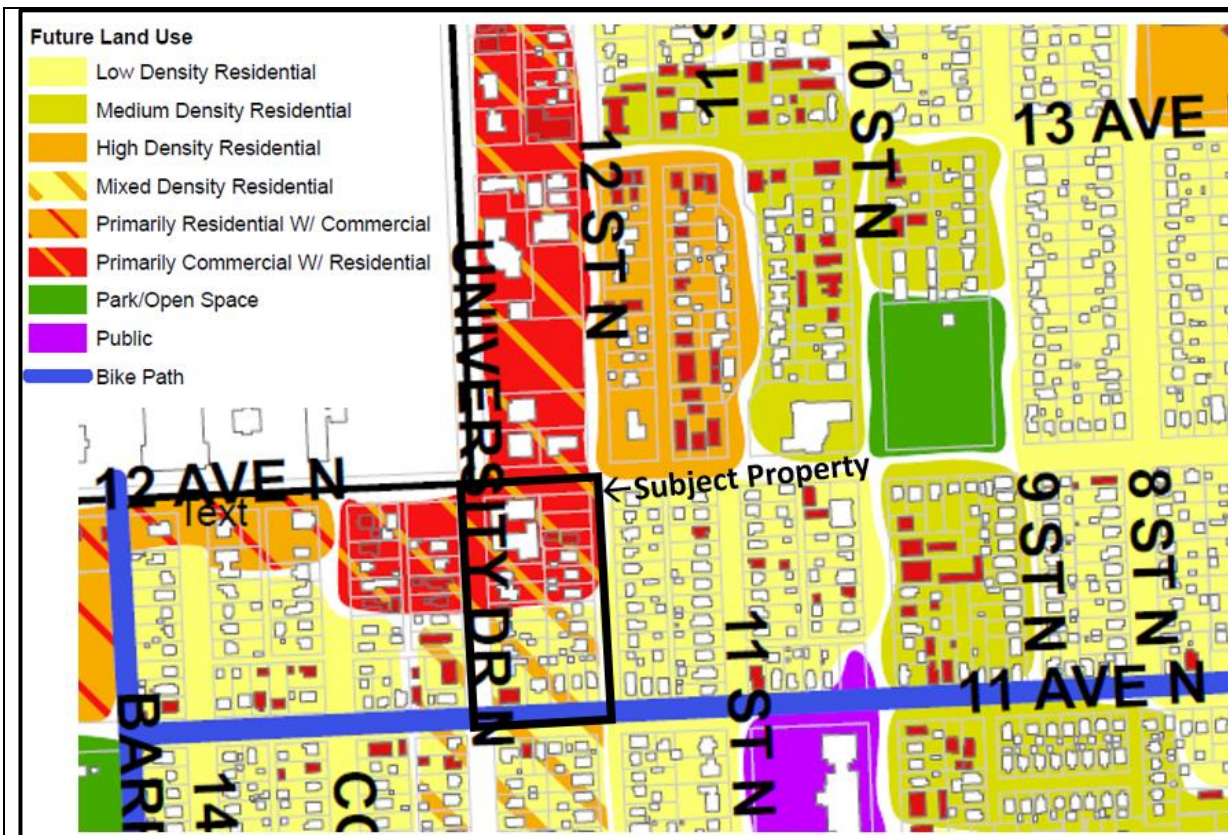
Planning staff notes the following points of analysis in relation to development in this area:

- This project is on the corner of 12<sup>th</sup> Avenue North (minor arterial) and University Drive North (major arterial). Arterials are generally developed with commercial and multi-family uses rather than single-family residences. Note that the existing single-family residences were built at a time when traffic was significantly less, before University Drive (formerly 13<sup>th</sup> Street North) became a one-way street (December 15, 1969). Most recent F-M MetroCOG traffic counts (2013; these counts are conducted every five years) indicate that at this location, 12<sup>th</sup> Avenue North handles and average daily traffic (ADT) volume of between 7,900 and 9,700 vehicles, and University Drive handles and ADT of over 11,000 vehicles.
- Review of the Fargo Public Schools website (<https://www.fargo.k12.nd.us/Page/365>) indicates that enrollment at the combined Horace Mann/Roosevelt Elementary Schools was 350 students on August 27, 2014; on August 23, 2018, the enrollment was 345 students. This is an overall loss of less than 2% in four years, though the level of enrollment did vary over the individual years, peaking at 364 students on August 24, 2017, and having the lowest number, 343 students, on August 27, 2015.
- Review of NDSU's enrollment numbers as shown on their website (<https://www.ndsu.edu/data/enrollment/annual/>) indicates that, though the 2018 enrollment is 5% lower than 2017's enrollment, the enrollment numbers have been over 14,000 students since fall of 2009, with a peak of 14, 747 students in the fall term enrollment in 2014. In an October 8, 2015 speech, NDSU President Dean Bresciani stated that in order to become a member of the Association of American Universities, NDSU must, among other things "pursue an enrollment of 18,000 students."(NDSU website <https://www.ndsu.edu/news/view/detail/22175/>)

**Area Plans:**

This subject property is outlined in black in the graphic below, within the Roosevelt/NDSU Neighborhood Future Land Use Plan. This plan designates the subject property as "Primarily Commercial with Residential" on the north end of the block and "Mixed Density Residential" on the remainder of the block. No amendment to the land use plan is required.

(map continued on next page)



**Schools and Parks:**

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

**Parks:** Roosevelt Park (1220 10<sup>th</sup> Street North) is located less than 1,000 feet northeast of the subject property and offers a multipurpose field, outdoor ice skating rinks, warming houses, and playground for ages 2-5. Johnson Soccer Complex (1420 11<sup>th</sup> Avenue North) is located approximately 1,000 feet west of the subject property and offers a multipurpose field, picnic tables, playgrounds for ages 2-5 and 5-12, restrooms, shelter, and soccer facilities.

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

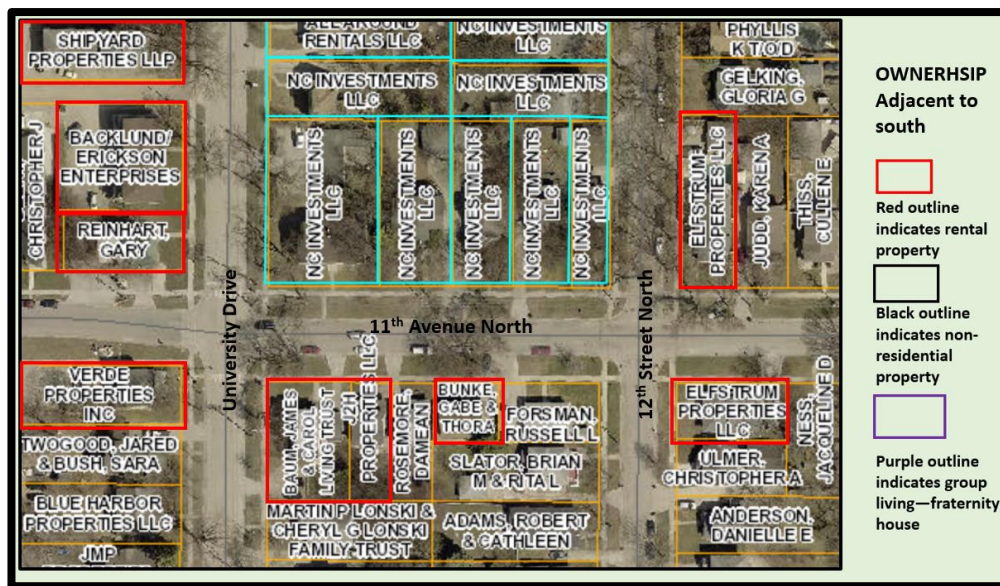
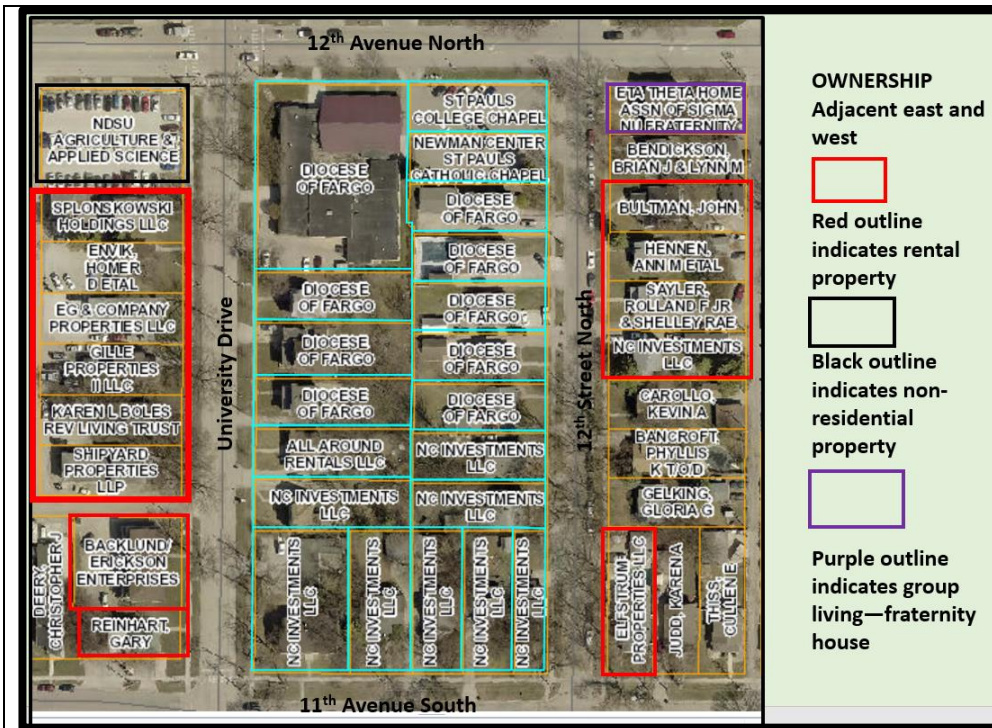
**Pedestrian / Bicycle:** There is an on-road bike facility located along University Drive North and 11<sup>th</sup> Avenue North. These bike facilities are components of the metro area bikeways system.

**Staff Analysis:**

**Housing Tenure in Surrounding Area**

One point that often arises in discussion of redevelopment projects is what the nature of housing tenure—rental or owner-occupied—in the area is. All of the lots on the block to be redeveloped are owned by either the Diocese of Fargo, or a property management company. Thus, all residential units, including single-family residences, are rentals at this time. To the north, there are no residential units. Housing tenure to the east, west, and south is identified in the two maps below. These map show that there are six owner –occupied residences facing the development site—four on the east side of 12<sup>th</sup> Street North and two on the south side of 11<sup>th</sup> Avenue North:





**Parking Analysis**

The chart below indicates how parking will be allocated to the uses involved in this project. The project site plan indicates 274 spaces on-site. The applicant has provided signed agreements for off-site parking with NDSU (203 spaces in lot AD) and James P. Sabo (45 spaces at 1211 University Drive North).

(chart continued on next page)

USE	PARKING ACCOUNTED FOR BY	NUMBER OF SPACES PROVIDED	COMMENT
Faith based housing (29 units)	Meets LDC requirements	65 (2.25 spaces X 29 units)	16 of these parking spaces are "guest parking spaces" as the LDC calculation requires 0.25 spaces per unit for "guest" parking.
Market Rate Housing (107 units)	PUD modified parking rate	183 (0.8 spaces X 228 beds)	Based on 0.8 spaces per bed, not per dwelling unit. Developer plans on 228 beds apportioned among a mix of apartment sizes from efficiencies (no separate bedroom) through four-bedroom units
Administration building	PUD modified parking rate	26 (onsite spaces not included in parking for housing)	Accommodates approximately 22 staff and future proposed retail
Chapel (500 seats)	Meets LDC requirements for required number	200 (0.4 spaces X 500 seats)	Primarily accommodated by off-site parking arrangement (248 spaces)

**Planning Staff to Recommend Continuance**

Due to the complex nature of this proposal and the considerable neighborhood involvement, Planning staff is intending to recommend continuance of the project to the October 2, 2018 Planning Commission hearing (see "Staff Recommendation" below). However, please note that the September 4, 2018 Planning Commission hearing on this project will be held, and the Planning Commission will take testimony at that hearing following the staff presentation. Also, please note that the Planning Commission is not required to follow Planning staff's recommendation.

**Zoning**

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

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

Staff is unaware of any error in the zoning map as it relates to this property. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established. The PUD zoning is overlain on an underlying zone. Considering the uses proposed by this project—religious institution and multi-dwelling residential, the MR-3 zone is an appropriate underlying zone for the entire project, as the MR-3 is the least intense zone that can accommodate these uses. The proposed PUD Overlay zoning district is intended to accommodate the redevelopment of this property. **(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing developed public rights-of-way which provide access and public utilities to serve the property. The applicant's utility plan indicates that the proposed buildings can be individually served with public water and sewer. **(Criteria satisfied)**

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

Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners within 300 feet of the project site. To date, staff has received several comments. Roosevelt Neighborhood comments are summarized above; copies of comment letters and e-mails are attached. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed PUD is in keeping with Fargo's Comprehensive Plan. Specifically, the City's Go2030 Comprehensive Plan supports development within areas of the City that are already serviced with utilities. Staff also finds that the proposed development is consistent with the Roosevelt/NDSU Neighborhood Plan; no plan amendment is required. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, the Roosevelt/NDSU Neighborhood Plan, and other adopted policies of the City. **(Criteria Satisfied)**

**Master Land Use Plan:** The LDC stipulates that the Planning Commission and Board of City Commissioners shall consider the following criteria in the review of any Master Land Use Plan.

- 1. The plan represents an improvement over what could have been accomplished through strict application of otherwise applicable base zoning district standards, based on the purpose and intent of this Land Development Code;**

The plan represents an improvement over what could have been accomplished through strict application of the base zoning district. It modifies development standards of the MR-3 zone, parking requirements, landscaping, and Residential Protection Standards, in order to provide a higher intensity of development and higher density housing than would be allowed under the MR-3 zoning, which is appropriate considering the nature of the University Drive corridor and the proximity to NDSU. Focusing the buildings towards the west, allows the taller buildings as far away from the single family housing as possible. **(Criteria Satisfied)**

- 2. The PUD Master Land Use Plan complies with the PUD standards of Section 20-0302;**

Staff has reviewed the PUD Master Land Use Plan and found that it complies with the PUD standards of Section 20-0302. The PUD modifies some standards of the MR-3 zone, parking requirements, landscaping, and Residential Protection Standards, as outlined in Section 20-0501 and noted above. All other standards and requirements as set forth in the LDC have been met. While additional conversation between developer and neighborhood is recommended, the purpose of this PUD allows for unique site layouts contrary to a typical multifamily development in

south Fargo. By modifying the site layout to accommodate the buildings closer to University, the more intense activity is clustered towards the busier street. Staff would like additional time to investigate whether additional site modifications can occur that would bring more satisfaction in response to the negative comments received to date. The City staff have a long history and dialog with key stakeholders in the Roosevelt Neighborhood as well as a long history and dialog with the developer. Perhaps through additional discussion staff can broaden the discussion beyond this site in particular and discuss broader findings within the larger metro area as it affects trends in this neighborhood. **(Criteria Satisfied)**

- 3. The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development proposed, at the time the property is developed;** City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing developed public rights-of-way which provide access and public utilities to serve the property. **(Criteria satisfied)**

- 4. The development is consistent with and implements the planning goals and objectives contained in the Area Plan, Comprehensive Plan and other adopted policy documents;** The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed PUD is in keeping with Fargo's Comprehensive Plan. Specifically:

*(from Go2030 Chapter 10—Neighborhoods, Infill, and New Development)*

Infill—Develop policies to promote infill and density within areas that are already developed and are protected by a flood resiliency strategy. Control sprawl and focus on areas outside of the floodplain.

Design standards—Improve quality of new housing by fostering strong relationship with the development and building community to promote dense, walkable communities with neighborhood centers.

Quality New Development—Require new development to meet site design standards that result in well-designed new neighborhoods.

High Quality Affordable Housing Near NDSU—Develop higher quality affordable housing near North Dakota State University campus.

Neighborhood Support and Communication—Improve communication between City and established neighborhoods. Encourage neighborhoods to establish a vision and create neighborhood plans.

*(from Go2030 Chapter 11—Education)*

Retention of Neighborhood Schools—A serious issue facing our core neighborhoods is declining enrollment in all its local schools. Once the doors are shuttered, the neighborhood not only loses a school but it loses its sense of community. Fargo will focus in retaining these important neighborhood assets.

Improved Continuity Between NDSU Main and Downtown Campuses—Fargo will work with NDSU to improve continuity between NDSU main and downtown campuses in terms of urban design and services, such as transit. This item is further detailed on page 250 of Go2030, stating "Fargo will also encourage redevelopment of these corridors [10<sup>th</sup> Street and University Drive]



with strong focus on mixed-use development, student oriented facilities and programs but in a manner that is sensitive to the needs and expectations of the citizens living along these corridors in the Roosevelt neighborhood.”

The Roosevelt/NDSU Neighborhood Plan also applies to this area. One of the stated goals of the Roosevelt/NDSU Neighborhood Plan is Housing Objective D(4)(page 15) which states:

“Identify ways to moderate the ‘investor’ pressure on neighborhood owner-occupied homes, including policies that will address appropriate redevelopment of property for the creation of new housing. Appropriate redevelopment might increase density and help alleviate pressure from the supply side of the equation.”

The Roosevelt/NDSU Neighborhood Plan—Land Use Plan Update designates the block proposed for development under two land use categories. The north end of the block is designated as “Primarily Commercial with Residential.” The Land Use Plan states that features of this land use designation include

- Development shall be constructed to encourage durability, longevity and quality.
- Residential development shall be accessory and supportive of the commercial development.
- Located to encourage pedestrian traffic and provide services to the area residents and university.

The remainder of the block is designated as “Mixed Density Residential.” The Land Use Plan states that features of this land use designation include

- Primarily located along the University Drive corridor.
- This land use is appropriate for transitional residential areas.
- Serves as a transition between higher density and lower density residential
- It is necessary to understand that transitions will take place over long term.
- Residential can be a mix of densities ranging three units and more per acre.

Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, the Roosevelt/NDSU Neighborhood Plan, and other adopted policies of the City. **(Criteria Satisfied)**

**5. The PUD Master Land Use Plan is consistent with sound planning practice and the development will promote the general welfare of the community.**

The PUD is consistent with sound planning practice and the development will promote the general welfare of the community by retaining an existing religious and community institution on its current site as well as providing higher density housing which is appropriate considering the nature of the University Drive corridor and the proximity to NDSU. **(Criteria Satisfied)**

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

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

The subject property is located within the Roosevelt Neighborhood. The future land use plan for the Roosevelt Neighborhood designates the subject property as “Primarily Commercial with Residential” on the north end of the block and “Mixed Density Residential” on the remainder of

the block. The subject property is proposed to be rezoned from the existing LC, Limited Commercial; SR-3, Single-Dwelling Residential; and MR-3, Multi-Dwelling Residential to MR-3 with a PUD, Planning Unit Development overlay for the entire block. The MR-3 base zone is the least intense zone that will accommodate the major proposed uses of religious institution and multi-dwelling residential. The PUD proposes to modify certain development standards of the MR-3 zone, landscaping, parking, and Residential Protection Standards as indicated above in order to accommodate the proposed development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received several comments. Roosevelt Neighborhood comments are summarized above; copies of comment letters and e-mails are attached. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code. **(Criteria Satisfied)**

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

While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

**Additional Planning Staff Comment**

It should be understood by the Planning Commission, that staff recognizes that this is a difficult case as multiple policies and goals are brought forward for consideration. The context of land use and scale appropriate at University Drive and 12<sup>th</sup> Avenue is not going to result in the same analysis at a different block. At the same time, population city-wide is increasing and will need to be accommodated throughout the entire city. We also believe that transition between densities is important for good urban design. As the City planning staff pursues updated studies and land development codes over the course of the next year (as part of our upcoming work plan) we believe we will have more discussion on the design considerations for core neighborhood development changes.

Staff recommends the continuance to allow for additional time to coordinate between stakeholders and interested parties. Typically, a complicated PUD requires two hearings at the Planning Commission. The first to hear testimony and the second hearing to bring forward any updates based on the comments heard at the meeting. The Planning Commission, however, may determine that it does not need additional time and may desire to forward their recommendation to City Commission upon this (September 4<sup>th</sup>) meeting. If the intent for the continuation is to have parties seek compromise, staff is not confident that will occur in this situation based on input we've received to date.

It should also be noted that a PUD has two steps: a Master Land Use Plan and a Final Plan. This hearing does not include the Final Plan. The Final Plan will come back to the Planning Commission when site plans and building permit is submitted.

(continued on next page)

**Staff Recommendation:**

Suggested Motion: "To continue the proposed: 1) Zoning Change from MR-3, Multi-Dwelling Residential; LC, Limited Commercial; and SR-3, Single Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay and 2) PUD Master Land Use Plan; and 3) a plat of the **St. Paul Newman Center Addition** to the October 2, 2018 Planning Commission meeting to allow staff and the developer to further evaluate neighborhood comments.

**Planning Commission Recommendation:** September 4, 2018

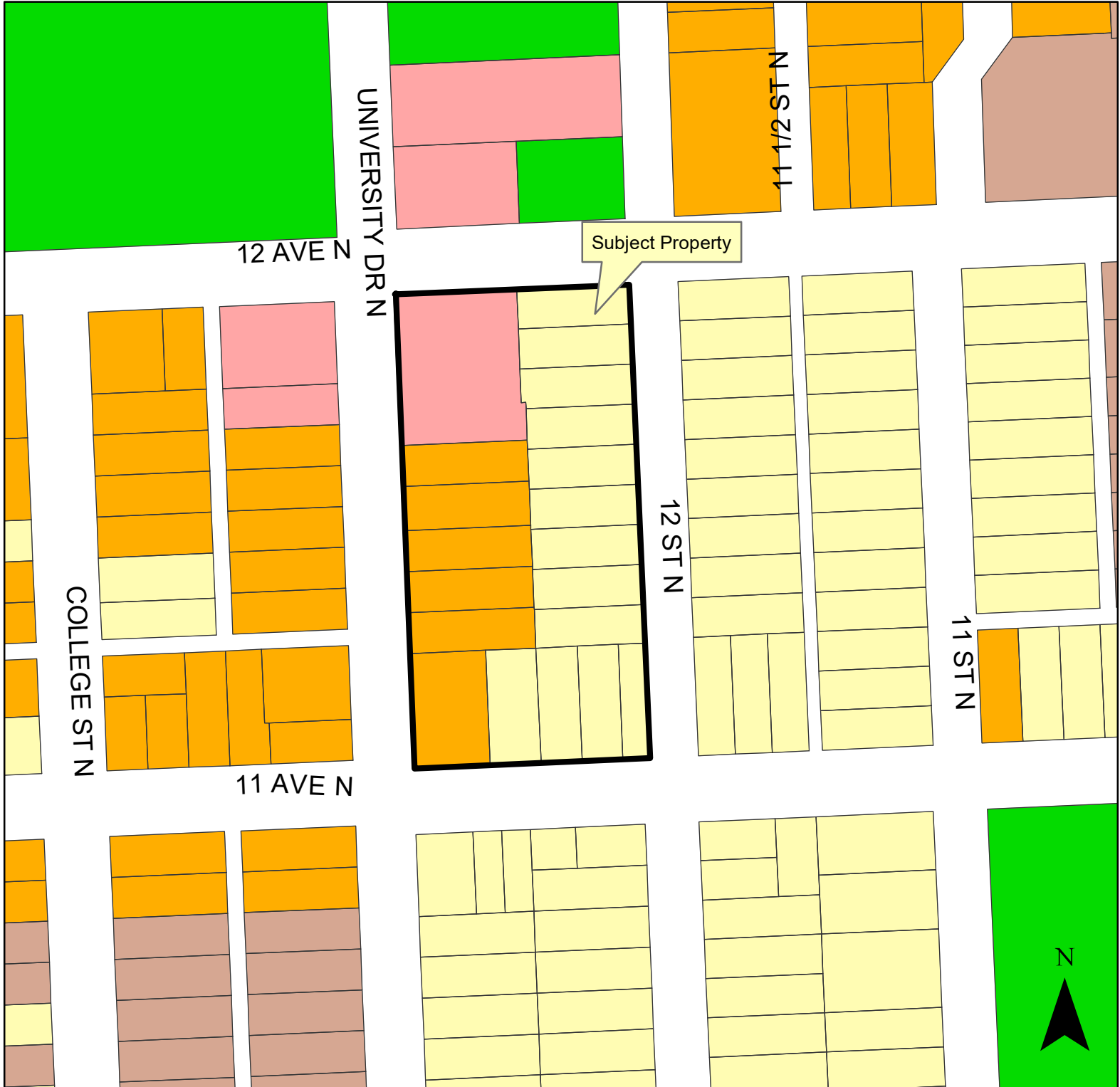
**Attachments:**

1. Zoning Map
2. Location Map
3. Preliminary Plat
4. PUD Master Land Use Plan (site plan)
5. PUD narrative
6. Parking layout
7. Residential setback and height exhibit
8. Church height exhibit
9. Housing height exhibit
10. Revised PUD chart and narrative
11. Developer's statement of project benefits
12. Public comment letters and e-mails

# Plat (Minor) and Zone Change (MR-3, LC and SR-3 to MR-3 w/ PUD) and a PUD

1233, 1215, 1213, 1211 & 1201 11th Ave N;  
 1146, 1142, 1138, 1134, 1130, 1126, 1122,  
 1118 & 1112 12th St N; 1141, 1131, 1129,  
 1119, 1117 & 1113 University Dr N

## St. Paul Newman Center Addition

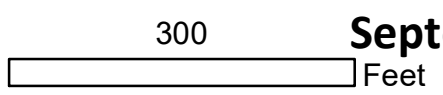


**Legend**

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

Fargo Planning Commission

September 4, 2018





# Plat (Minor) and Zone Change (MR-3, LC and SR-3 to MR-3 w/ PUD) and a PUD

1233, 1215, 1213, 1211 & 1201 11th Ave N;  
1146, 1142, 1138, 1134, 1130, 1126, 1122,  
1118 & 1112 12th St N; 1141, 1131, 1129,  
1119, 1117 & 1113 University Dr N

## St. Paul Newman Center Addition



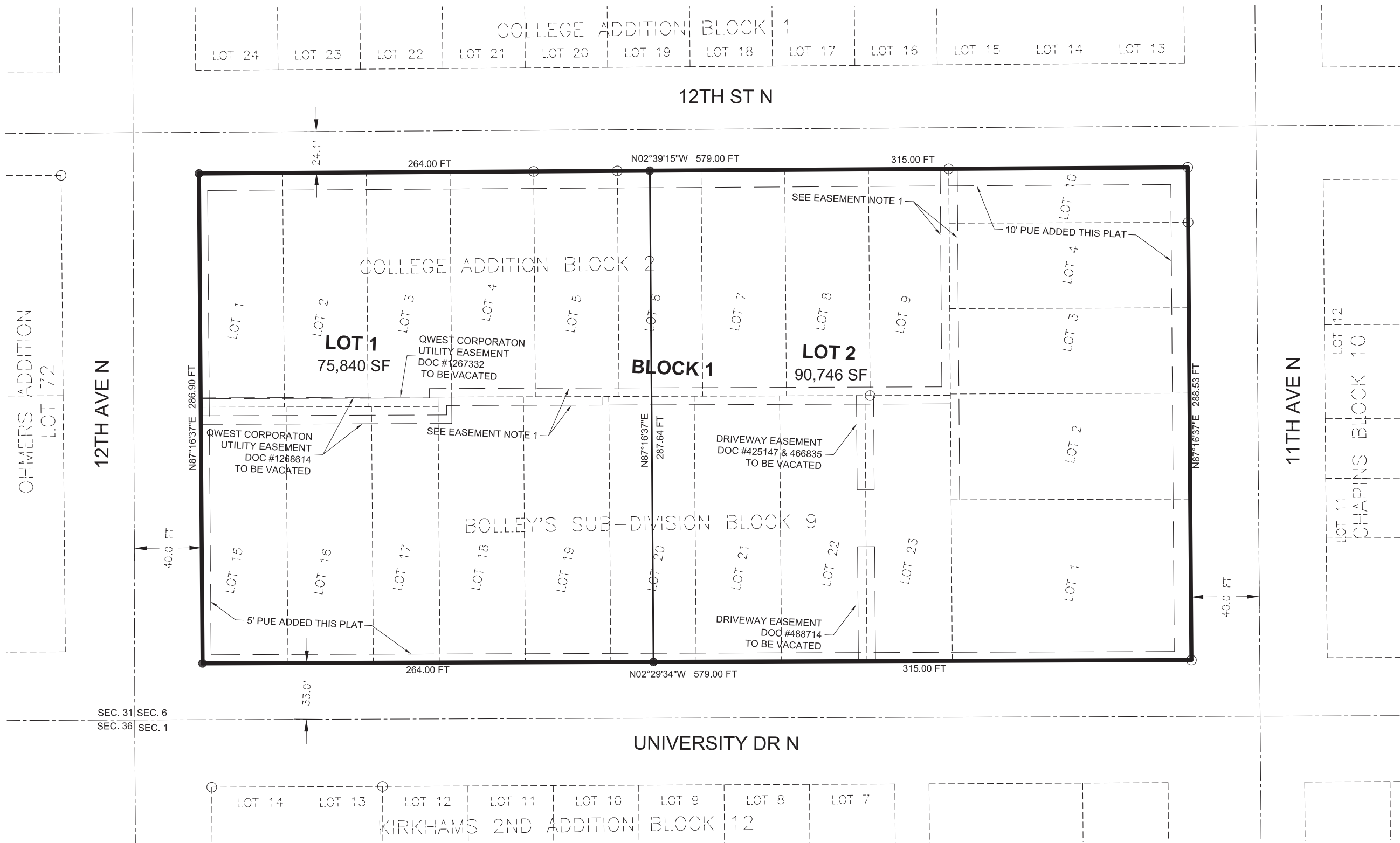


# ST. PAUL'S NEWMAN CENTER ADDITION

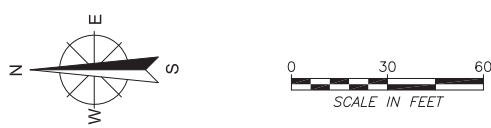
BEING A REPLAT OF LOTS 1 THROUGH 4 & 15 THROUGH 23 BLOCK 9 OF BOLLEY'S SUB-DIVISION, AND LOTS 1 THROUGH 10 BLOCK 2 OF COLLEGE ADDITION WITHIN THE NW 1/4 SECTION 6, TOWNSHIP 139 NORTH, RANGE 48 WEST 5TH P.M. CITY OF FARGO, CASS COUNTY, ND (A MINOR SUBDIVISION)

## LEGEND

- FOUND MONUMENT
- SET #5 REBAR
- SUBDIVISION BOUNDARY
- LOT LINE THIS PLAT
- - - EXISTING LOT LINE
- - - EASEMENT LINE



EASEMENT NOTE 1 - MIDCONTINENT COMMUNICATIONS UTILITY EASEMENT 5' WIDE EACH SIDE OF PROPERTY LINES AS SHOWN. DOC #'S 1487237, 1487216, 1487217, 1487218, 1489408, 1489407, 1487214, 1487215, 1492225, 1487213, 1487231, 1490122, 1490119, 1490118, 1490117, 1490116, 1490120, 1490121 & 1473987. ALL EASEMENTS TO BE VACATED THIS PLAT



LAND SURVEYOR:  
ROERS DEVELOPMENT, INC  
200 45TH STREET S,  
FARGO, NORTH DAKOTA 58103  
PHONE: 701-356-5050

PROPERTY OWNERS:  
NC INVESTMENTS, LLC.  
200 45TH ST S,  
FARGO, ND 58103  
PHONE: 701-356-5050  
DIOCESE OF FARGO  
5201 BISHOPS BLVD S STE A,  
FARGO, ND 58104  
PHONE: 701-356-7900



**OWNER'S DESCRIPTION AND DEDICATION**

KNOW ALL MEN BY THESE PRESENTS, THAT THE DIOCESE OF FARGO, A NORTH DAKOTA NONPROFIT CORPORATION; ST. PAUL'S COLLEGE CHAPEL, A NORTH DAKOTA NONPROFIT CORPORATION; NEWMAN CENTER, ST. PAUL'S CATHOLIC CHAPEL, A NORTH DAKOTA NONPROFIT CORPORATION; AND NC INVESTMENTS LLC, A NORTH DAKOTA LIMITED LIABILITY COMPANY AS OWNERS OF TRACTS OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 139 NORTH, RANGE 48 WEST OF THE 5TH PRINCIPAL MERIDIAN, CASS COUNTY NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BOLLEY'S SUBDIVISION LOTS 1 THROUGH 4 & 15 THROUGH 23; AND COLLEGE ADDITION BLOCK 2 LOTS 1 THROUGH 10 ALL BEING WITHIN BLOCK 9 OF CHAPIN'S ADDITION TO THE CITY OF FARGO, CASS COUNTY NORTH DAKOTA. SAID TRACT OF LAND CONTAINS 3.824 ACRES, MORE OR LESS AND IS SUBJECT TO EASEMENTS AS MAY BE OF RECORD.


SAID OWNERS HAVE CAUSED THE ABOVE DESCRIBED TRACT OF LAND TO BE SURVEYED AND PLATTED AS "ST. PAUL'S NEWMAN CENTER ADDITION" TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, AND DO HEREBY DEDICATE TO THE PUBLIC, FOR PUBLIC USE, ALL UTILITY EASEMENTS AS SHOWN ON THIS PLAT.

DIOCESE OF FARGO

BY: \_\_\_\_\_  
MOST REV. JOHN T. FOLDA, PRESIDENT OF THE DIOCESE OF FARGO

STATE OF NORTH DAKOTA )  
  ) ss  
COUNTY OF CASS            )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, IN THE YEAR OF 2018, BEFORE ME PERSONALLY APPEARED MOST REV. JOHN T. FOLDA, PRESIDENT OF THE DIOCESE OF FARGO, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC 

ST. PAUL'S COLLEGE CHAPEL

BY: \_\_\_\_\_  
MOST REV. JOHN T. FOLDA, PRESIDENT OF ST. PAUL'S COLLEGE CHAPEL

STATE OF NORTH DAKOTA )  
  ) ss  
COUNTY OF CASS            )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, IN THE YEAR OF 2018, BEFORE ME PERSONALLY APPEARED MOST REV. JOHN T. FOLDA, PRESIDENT OF ST. PAUL'S COLLEGE CHAPEL, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC 

NEWMAN CENTER, ST. PAUL'S CATHOLIC CHAPEL

BY: \_\_\_\_\_  
MOST REV. JOHN T. FOLDA, PRESIDENT OF THE NEWMAN CENTER, ST. PAUL'S CATHOLIC CHAPEL

STATE OF NORTH DAKOTA )  
  ) ss  
COUNTY OF CASS            )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, IN THE YEAR OF 2018, BEFORE ME PERSONALLY APPEARED MOST REV. JOHN T. FOLDA, PRESIDENT OF THE NEWMAN CENTER, ST. PAUL'S CATHOLIC CHAPEL, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

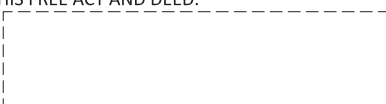
\_\_\_\_\_  
NOTARY PUBLIC 

NC INVESTMENTS LLC

BY: \_\_\_\_\_  
JAMES P. ROERS, PRESIDENT OF NC INVESTMENTS LLC

STATE OF NORTH DAKOTA )  
  ) ss  
COUNTY OF CASS            )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, IN THE YEAR OF 2018, BEFORE ME PERSONALLY APPEARED JAMES P. ROERS, PRESIDENT OF NC INVESTMENTS LLC, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC 

# ST. PAUL'S NEWMAN CENTER ADDITION

BEING A REPLAT OF LOTS 1 THROUGH 4 & 15 THROUGH 23 BLOCK 9 OF BOLLEY'S SUB-DIVISION, AND LOTS 1 THROUGH 10 BLOCK 2 OF COLLEGE ADDITION WITHIN THE NW ¼ SECTION 6, TOWNSHIP 139 NORTH, RANGE 48 WEST 5TH P.M. CITY OF FARGO, CASS COUNTY, ND (A MINOR SUBDIVISION)

**CONSENT OF MORTGAGEE**


DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

AMERICAN FEDERAL BANK

\_\_\_\_\_  
BY: ITS

STATE OF NORTH DAKOTA )  
  ) ss  
COUNTY OF CASS            )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED \_\_\_\_\_ OF AMERICAN FEDERAL BANK, ITS \_\_\_\_\_, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC 

**CONSENT OF MORTGAGEE**


DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

CORNERSTONE BANK

\_\_\_\_\_  
BY: ITS

STATE OF NORTH DAKOTA )  
  ) ss  
COUNTY OF CASS            )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED \_\_\_\_\_ OF CORNERSTONE BANK, ITS \_\_\_\_\_, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC 

**SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT**


I, DOUGLAS W. KUMMER, PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT I HAVE SURVEYED AND PLATTED "ST. PAUL'S NEWMAN CENTER ADDITION" TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA; THAT THIS PLAT IS A CORRECT REPRESENTATION OF SAID SURVEY; THAT ALL MONUMENTS ARE OR WILL BE INSTALLED CORRECTLY IN THE GROUND AS SHOWN.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
DOUGLAS W. KUMMER, PROFESSIONAL LAND SURVEYOR  
NORTH DAKOTA LICENSE NO. 1225

STATE OF NORTH DAKOTA )  
  ) ss  
COUNTY OF CASS            )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED DOUGLAS W. KUMMER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC 

**CITY OF FARGO PLANNING COMMISSION APPROVAL**

APPROVED BY THE CITY OF FARGO PLANNING COMMISSION ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
SHARA FISCHER, PLANNING COMMISSION CHAIR

STATE OF NORTH DAKOTA )  
  ) ss  
COUNTY OF CASS            )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED SHARA FISCHER, PLANNING COMMISSION CHAIR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC 

**CONSENT OF MORTGAGEE**


DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

WESTERN STATE BANK

\_\_\_\_\_  
BY: ITS

STATE OF NORTH DAKOTA )  
  ) ss  
COUNTY OF CASS            )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED \_\_\_\_\_ OF WESTERN STATE BANK, ITS \_\_\_\_\_, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC 

**FARGO CITY COMMISSION APPROVAL**

APPROVED BY THE BOARD OF CITY COMMISSIONERS AND ORDERED FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
TIMOTHY J. MAHONEY, MAYOR

\_\_\_\_\_  
STEVEN SPRAGUE, CITY AUDITOR

STATE OF NORTH DAKOTA )  
  ) ss  
COUNTY OF CASS            )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018 BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TIMOTHY J. MAHONEY, MAYOR, AND STEVEN SPRAGUE, CITY AUDITOR, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME IN THE NAME OF THE FARGO CITY COMMISSION

\_\_\_\_\_  
NOTARY PUBLIC 


**CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL**

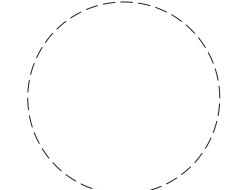
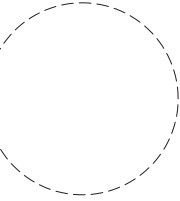
APPROVED BY CITY ENGINEER THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
BRENDA E. DERRIG, CITY ENGINEER

STATE OF NORTH DAKOTA )  
  ) ss  
COUNTY OF CASS            )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED BRENDA E. DERRIG, CITY ENGINEER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE SAME AS A FREE ACT AND DEED.

\_\_\_\_\_  
NOTARY PUBLIC 



PROPERTY OWNERS:  
NC INVESTMENTS, LLC.      DIOCESE OF FARGO  
200 45TH ST S,              5201 BISHOPS BLVD S STE A,  
FARGO, ND 58103            FARGO, ND 58104  
PHONE: 701-356-5050      PHONE: 701-356-7900

LAND SURVEYOR:  
ROERS DEVELOPMENT, INC  
200 45TH STREET S,  
FARGO, NORTH DAKOTA 58103  
PHONE: 701-356-5050

12TH STREET NORTH

Parking Lot Perimeter Landscaping

SURFACE PARKING

LOT 1

LOT 2

184

AREA OF UNDERGROUND  
STORMWATER STORAGE

ST PAUL NEWMAN  
CENTER CHAPEL

ST PAUL NEWMAN  
CENTER ADMIN BUILDING  
AND PARISH HALL

FAITH BASED STUDENT  
HOUSING

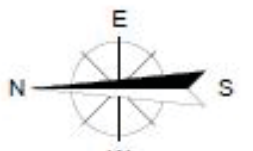
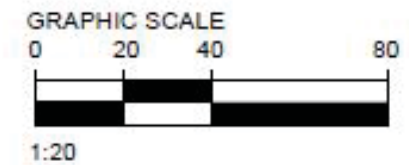
MARKET RATE STUDENT  
HOUSING

12TH AVENUE NORTH

11TH AVENUE NORTH

UNIVERSITY DRIVE

MASTER LAND USE PLAN



ST PAUL NEWMAN CENTER BLOCK REDEVELOPMENT

FARGO, NORTH DAKOTA

DATE: JULY 16, 2018

**PUD NARRATIVE**  
**St. Paul Newman Center Block Redevelopment**  
**Revised**

**DEVELOPER'S STATEMENT OF INTENT:** *The St. Paul Newman Center Block Redevelopment Project intends to expand the presence of the St. Paul Newman Center adjacent to the NDSU campus to provide a new church and admin facility to meet the program space needs today, provide faith-based student housing, and market-rate student housing in higher density near the gateway to campus to relieve the rental demand on single-family homes in the Roosevelt Neighborhood and resolve the blighted status of some homes within this block.*

The PUD will include a site plan for the development that is incorporated here by reference. The PUD will, generally, apply the MR-3, Multi-dwelling residential development standards, except as otherwise provided below:

	<b>Current LDC development standards for MR-3 zone</b>	<b>PUD modifications to MR-3 development standards</b>	<b>NOTES</b>
Allowed Uses	Detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	<i>Include additional uses allowed under LC except the following: Detention Facilities, Off-Premise Advertising, Parking Commercial, Self-Service Storage, Vehicle Repair, and Vehicle Service Limited</i>	A book store and coffee shop is currently planned for within Lot 1.
Lot Size	5,000 SF		<i>Will Meet Requirements</i>
Residential Density	24 du/ac	<i>37 du/acre</i>	
Setbacks	Front: 25 Interior Side: 10 Street Side: 12.5 Rear: 20	<i>Front: 5 ft (Lot 1 Only and also underground parking entry along University Drive) Street Side 5 ft (Lot 1 Only) Interior Side: 0 (Between Lots 1 &amp; 2)</i>	Double Front
Max. Height	60 feet	<i>150' max bell tower; 180' max steeple</i>	
Building Coverage	35% of lot area	<i>38% of lot area</i>	
Open Space	35% of lot area	<i>25% of lot area</i>	

Parking-Residential—Group Living	1 stall per 100 square feet of sleeping area		<i>Will Meet Requirements</i>
Parking-Residential—Multi-dwelling	1.25 stalls per efficiency 2.0 stalls per 1BR + 0.25 guest stalls per living unit	<i>0.8 stalls per bed (Market Rate Housing Only)</i>	Faith Based Housing Meets Requirements.
Parking--Retail			
Landscaping—Street Trees	1 tree per 50 linear feet of frontage along an arterial; one tree per 35 linear feet of frontage along a local street		<i>Developer will coordinate with City Forester for options along boulevard with overhead power lines</i>
Landscaping—Open Space	3 plant units per 1,000 sq. ft. of lot area or fraction thereof, with 8 sq. ft. per plant unit (20-0705 (C)(3) and table)	<i>Request removal of 70% requirement in front of building</i>	
Landscaping—Parking Lot Perimeter	Buffer width: 9 feet Plantings: 1 small tree + 6 shrubs/perennial grasses per 25 linear feet. Berm also an option (20-0705(D)) and table	<i>Buffer width: 5 feet Plantings: 1 small tree + 6 shrubs/perennial grasses per 25 linear feet.</i>	
Residential Protection Standards (RPS)—Setback from abutting side and rear lot line	Off-street Parking Spaces: 10' Driveways: 10' Off-street Loading Spaces: 10' Accessory buildings: 10' Principal buildings: 15' Active recreational area: 20' Dumpsters: 20'		<i>Will Meet Requirements</i>
RPS—Front Setback	20 feet for 50 feet on either side		<i>Will Meet Requirements</i>
RPS—Visual screening of dumpsters and outdoor storage areas	Screening must be at least as tall as dumpster		<i>Will Meet Requirements</i>
RPS—building height 75 feet from residential	35 feet		<i>Will Meet Requirements</i>



RPS—building height 76-100 feet from residential	45 feet	60 feet for Lot 1	Will Meet Requirements for Lot 2
RPS—building height 101--150 feet from residential	55 feet	60 feet	
RPS-residential protection buffers	Type A 10 feet wide with 1 tree and 20 shrubs per 50 linear feet of buffer		Will Meet Requirements
RPS—operating hours	Collection of garbage, recyclables, loading, unloading prohibited between 10:00 p.m. and 6:00 a.m.		Will Meet Requirements
RPS--lighting	Lighting overspill onto SR-zoned lots not to exceed 0.4 footcandles (20-0704 (G))		Will Meet Requirements
RPS--odor	See 20-0704(H).		Will Meet Requirements

**MAX HEIGHT:** Max height of 60’ shall be met with all buildings with the exception of the bell tower (150’ max height) and steeple (226’ max height) of the church building in Lot 1, or lesser height as allowed by Federal Aviation Administration (FAA). The request for a greater height for the bell tower and steeple are in response to the church design that is still in development to incorporate a traditional gothic design utilizing reclaimed stain-glass windows that reaches greater heights than existing Catholic churches currently in Fargo, ND. **See Church North Elevation Exhibit attached.**

**PARKING-RESIDENTIAL—MULTI-DWELLING:** The Newman Center Church & Admin parking demand shall be calculated at 0.4 stalls per seat in the Sanctuary as the highest parking demand noting that the Admin Building and Church Building will not both be fully occupied at any one given time. Faith-based housing shall meet the requirements of the LDC and Market Rate housing parking shall be calculated at 0.8 stalls per bed. The on-site parking provided will meet the needs of the housing and admin building staff with additional off-site parking to accommodate greater parking demands when the Sanctuary, or Parish Hall are in use. **See Parking Exhibit and St. Paul Newman Center Traffic Study Exhibit attached supporting the proposed parking reduction for the Market Rate Housing.**

**LANDSCAPING-OPEN SPACE:** Omitting the requirement for 70% of plant units to be placed in the front yard allows for greater flexibility and distribution of landscaping plant units through-out the site, also acknowledging that the parking lot buffer plantings may not be counted towards the open space landscaping requirement and that buffer strip accounts for 55% of the length of 12<sup>th</sup> Street North that is considered a ‘double-front’ and existing overhead power lines will restrict use of large trees in some portions of the block perimeter. The quantity of plant units required shall not be reduced.

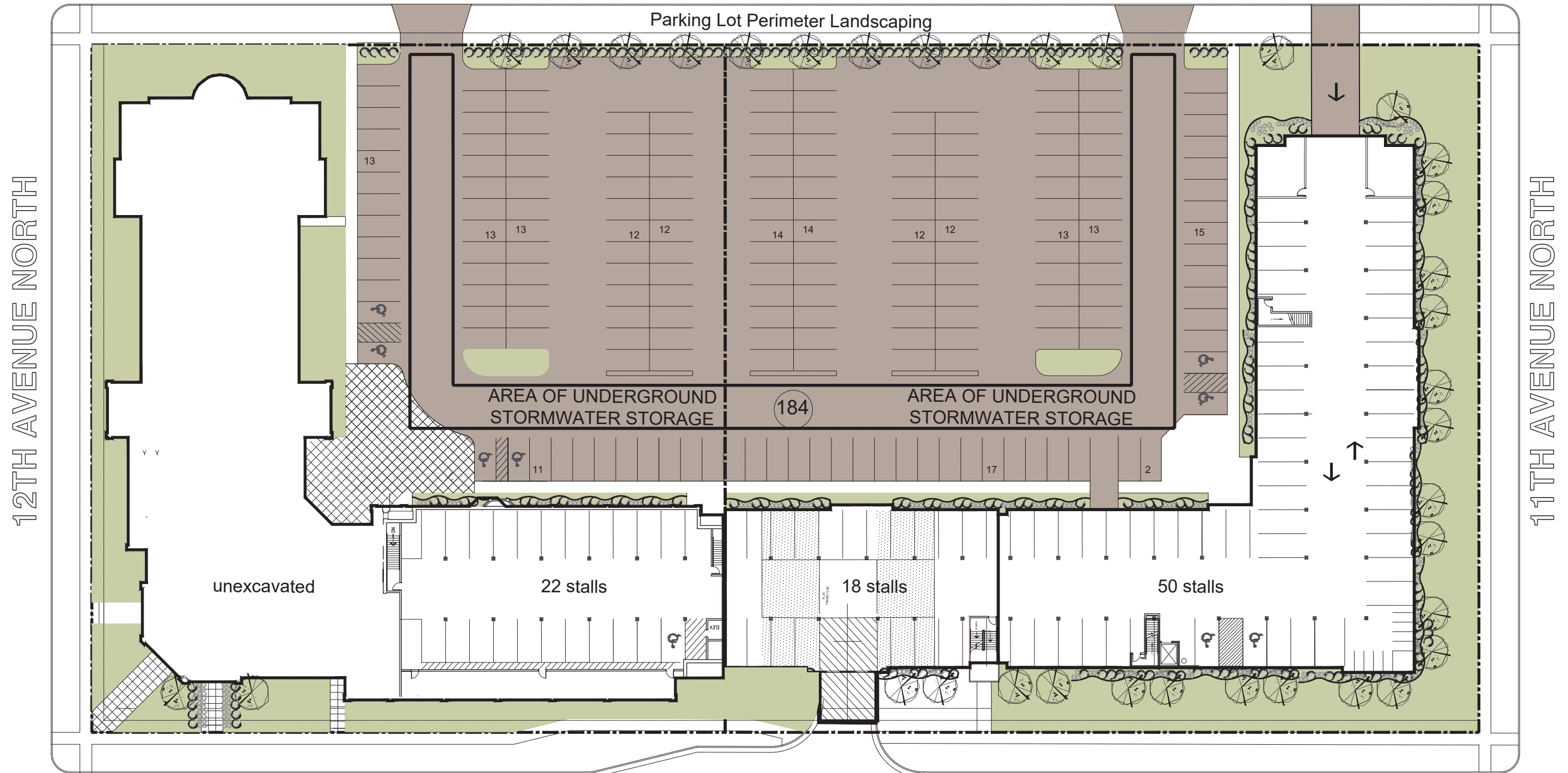
**RPS-BUILDING HEIGHT-76-100 FEET FROM RESIDENTIAL:** Increasing the max height to 60’ for Lot 1 only within 76-100 feet to match the max height of the MR-3 underlying zoning district to accommodate the design of the church aspe on the east end. **See Church North Elevation Exhibit attached.**



RPS-BUILDING HEIGHT-101-150 FEET FROM RESIDENTIAL: Increasing the max height to 60' within 101-150 feet to match the max height of the MR-3 underlying zoning district to maximize utilization of site. **See Housing Height Exhibit attached.**

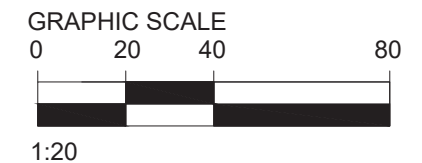
PARKING EXHIBIT

12TH STREET NORTH

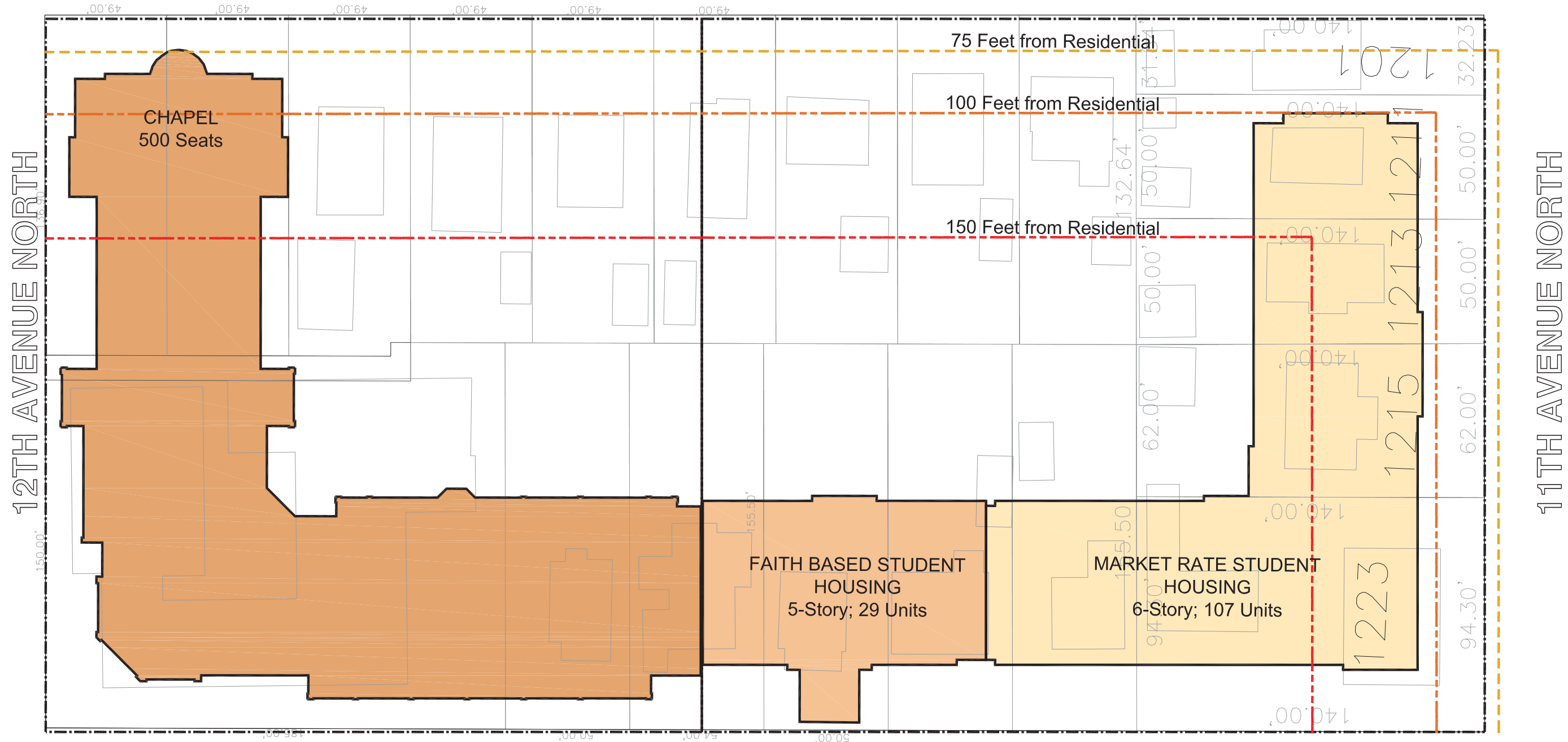


UNIVERSITY DRIVE

Total On-site Parking = 274  
Total Off-site Parking = 248

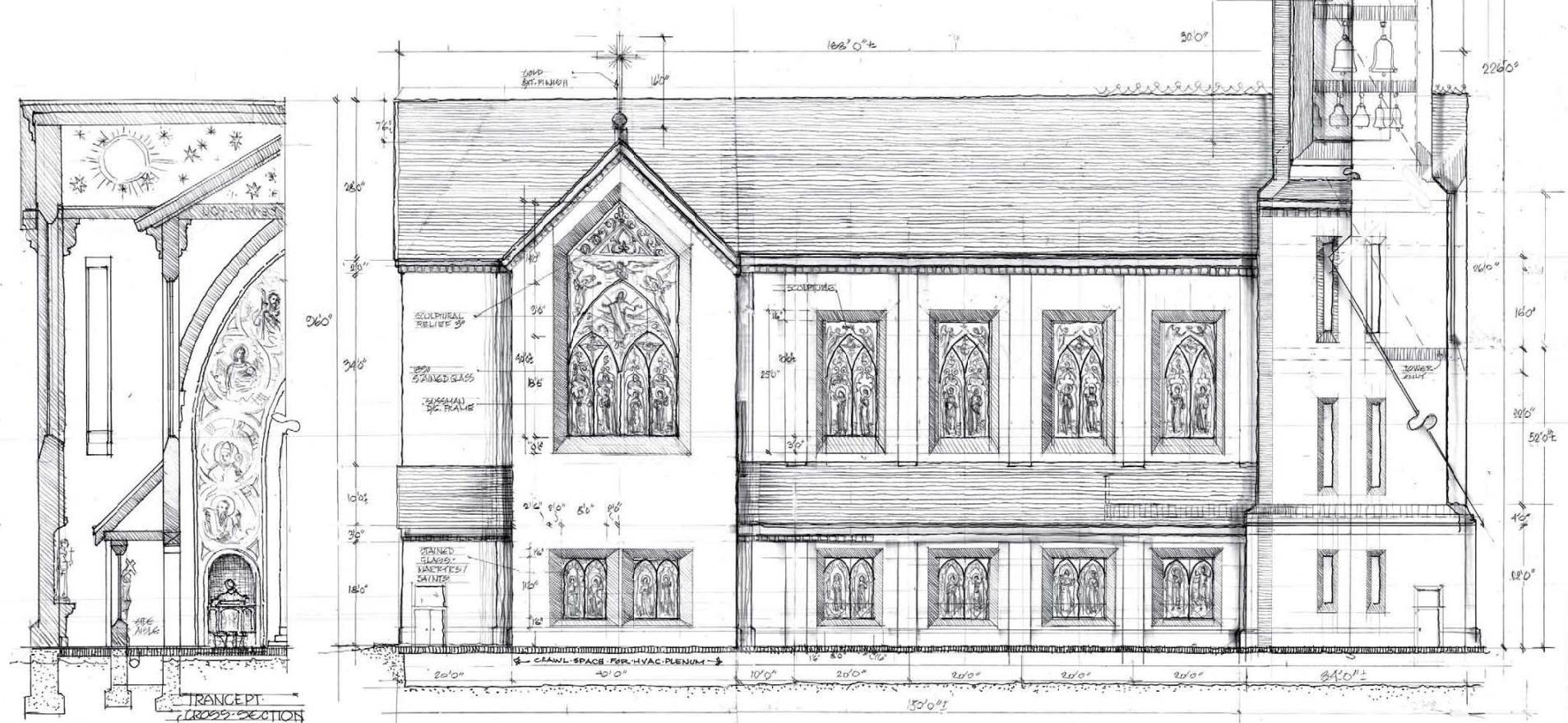
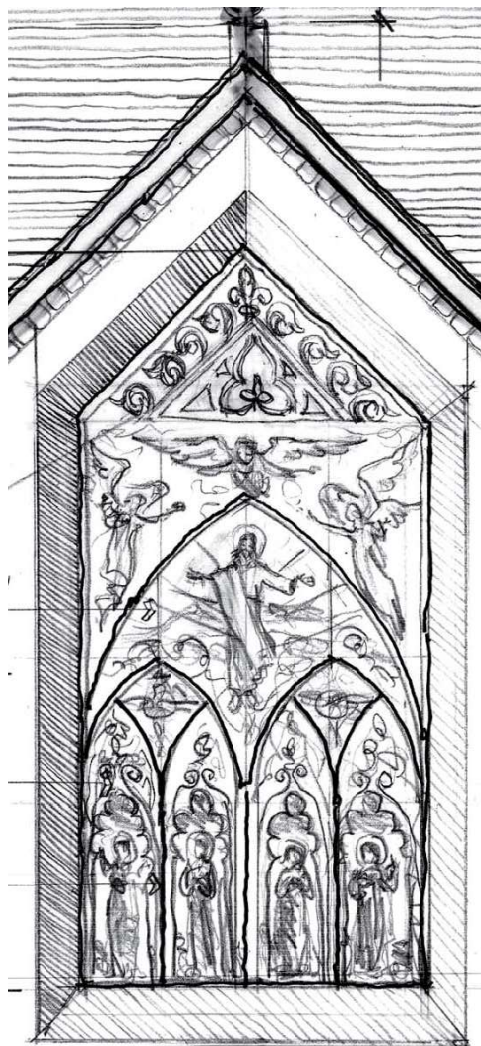


12TH STREET NORTH



UNIVERSITY DRIVE





ST. PAUL'S CATHOLIC NEWMAN CENTER CHAPEL - FARGO, ND  
 DESIGN DEVELOPMENT - EXTERIOR PLAN  
 ROHN & ASSOCIATES DESIGN, INC.



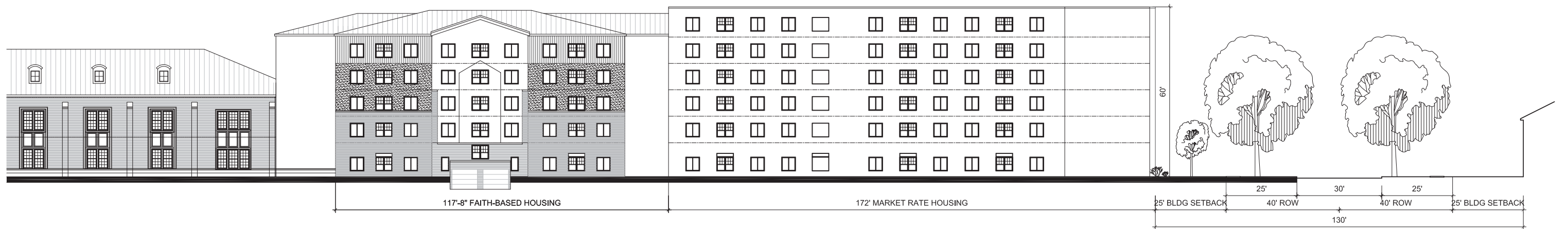
June 28, 2018



**The Most Reverend John T. Folda**  
 Bishop of the Roman Catholic Diocese of Fargo, ND

**Reverend James Cheney**, St. Paul's Catholic Newman Center  
**Mr. Earl Wilhelm**, Director of Properties, Roman Catholic Diocese of Fargo, ND  
**Rolf R. Rohn**, Liturgical Design Consultant





August 29, 2018

City of Fargo – Planning and Development  
Attn: Donald Kress  
200 Third Street North  
Fargo, ND 58102

RE: St. Paul's Newman Center Addition

Dear Mr. Kress,

The redevelopment of the St. Paul's Newman Center (SPNC) block presents a unique opportunity for the City of Fargo to benefit from a unified development approach to a landmark parcel of property. Located at the gateway of the NDSU campus, Fargo has the opportunity to significantly improve the aesthetics and purpose of the neighborhood with a new Newman Center and related housing. Located along two major thoroughfares, almost 20,000 vehicles daily will pass by this project. This corner often serves as the "first impression" for NDSU. The use of PUD and a unified development allows significant cross-utilization of public utilities, parking, stormwater retention, and amenities.

The St. Paul's Newman Center (SPNC) Addition block redevelopment project supports the City of Fargo Go 2030 Plan and benefits the community in these ways:

- 1) Promotes infill and density within an already developed area.
- 2) Will follow design guidelines embracing the historical presence of the Newman Center and promoting a dense walkable community.
- 3) Quality new development building and site design standards will be utilized. The project will use the best materials available to achieve high quality and energy efficient buildings.
- 4) High-quality affordable housing will be provided near the NDSU campus. Few could argue that this site is perhaps the most desirable location in Fargo to support the housing needs of both the NDSU and downtown NDSU campuses.
- 5) Affordable housing for workforce and low-income residents will be provided. Access to local bus routes and walkability to the NDSU campus will allow both students and non-students opportunities to live without the need for an expensive vehicle.
- 6) The redevelopment of the St. Paul's Newman Center block has been contemplated for over five years. Public meetings sharing the vision for the project were first held on October 20, 2016. Since that time, the project has had numerous revisions addressing various comments from the neighborhood and city staff.

The use of the PUD zoning overlay will allow us to meet the intent of the community land use goals for this area without the boundaries of existing zoning. We will minimize the impact of the increased utilization of the redeveloped block.

Specifically, the PUD allows us to:

- Develop different, yet compatible, land uses not usually combined.
- Take advantage of the shared use of underground parking.
- Optimize the use of existing public utility services.
- Share the surface parking with compatible uses.
- Optimize setbacks to facilitate cross-utilization of building amenities.
- Minimize the building footprints.

Overall, these features combine to optimize the utilization of the site and minimize the impact to the neighborhood.

Anchoring the southeast corner of University Drive N and 12<sup>th</sup> Avenue N opposite the gateway into NDSU campus, this project will provide for a new St. Paul's Newman Center to serve an estimated 14,500+ NDSU students, which has grown from the 3,250 student population served in 1958 when the current facility was built.

Program elements will include up to a 500-seat chapel, student commons, parish hall, kitchen, coffee shop, Catholic bookstore, offices, classroom space, group meeting space, Priests residence, religious community residence, staff apartments, and faith-based housing that transitions into conventional market-rate housing on the south end of the site.

The housing components that begin in the middle of the University drive block with the Faith-Based Housing and transitions to the conventional Market Rate Housing will enhance housing options near campus and along an established bus route, to provide relief to the dozens of single-family homes within the Roosevelt neighborhood currently leased as rental properties.

We believe in providing a safe and supportive place to work and live with the following strategies:

- Safe campus – secure entries with keyless entrance monitoring, security cameras through-out, and security personnel provided as needed during NDSU events when higher levels of activity are expected.
- Intentional Interactions – Residential staff get to know the residents and help them as they adjust to life in the community.
- Active Communication and Passive Educational Opportunities – Study sessions, message boards/monitors, e-mail, Facebook, and Twitter communications.
- Community Building Events – Housing staff host regular events to foster social connections among residents and collaborate with University partners that bring resources into our communities for staff and students to help meet other people and get involved.

We would like to thank the many neighbors and city staff who have had a hand in shaping this unique redevelopment opportunity.

Sincerely,  
Roers Development, Inc.

A handwritten signature in blue ink, appearing to read "Larry S. Nygard".

Larry S. Nygard  
Vice President

St. Paul Newman Center project open house Monday, August 20, 2018  
Please Print your name and address on this sheet. Thank you.

NAME ADDRESS E-MAIL ADDRESS (optional)

Linda Skjerseth 3237 Evergreen Rd NE

Martha Berryhill 2437 Libby Ln N

HAROLD THOMPSEN 1309 N 9 ST

JUDY THOMPSEN 1309 N 9 ST.

Robert Baumann 1357 Univ Dr N

Ken Erickson 1202 8th St N

Jean Baumann 1137 14th St. N. Fargo

Pet Shirk 1122 College St

Will Shirk 1121 14th St N

Judy Wong 1121 N 14 ST

Barb Herbranson 1042-14 St. N.

Les Herbranson 1042-14 St. N. herbransons@att.net



# Comment Sheet

St. Paul's Newman Center Project Open House Monday, August 20, 2018

## Contact Information

Please Print

Property Owner Name: Ken Evockson

Address of Property: 1202 8<sup>th</sup> St N

Mailing Address (if different than above) \_\_\_\_\_

Phone Number: 701-730-6636

Email: kenockson@hotmail.com

Comments: Regarding Lot 2  
Population density, scale of project  
or height of building on 11th Ave is unacceptable  
This is a UMU project proposed outside  
the UMU district. It doesn't fit in a residential  
neighborhood. Medium density development  
would be the appropriate option along 11th Ave  
There is no buffer available in this proposal.

**From:** Ken Enockson <kenockson@hotmail.com>

**Sent:** Tuesday, August 21, 2018 9:27 AM

**To:** Donald Kress <dkress@FargoND.gov>; Jim Laschkewitsch <jlaschke@gmail.com>;  
berryhill@cableone.net; nathan.a.larson@gmail.com

**Cc:** Nicole Crutchfield <ncrutchfield@FargoND.gov>; Mark Williams <MWilliams@FargoND.gov>; Tyrone Grandstrand <TGrandstrand@FargoND.gov>; Elissa Novotny <enovotny@roers.com>

**Subject:** RE: Information and meeting regarding proposed St. Paul Newman Center project--12th Avenue and University Drive

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

Hello Donald,

It is my understanding that this request is scheduled to be presented to the Planning Commission on September 4<sup>th</sup>. If so, the RNA *strongly* recommends that the city push back this date by a month as the timeframe required for the neighborhood to mobilize our objections and concerns is not sufficient. As most of us do not live within the 300 foot radius of the property in question, we only learned barely 2 weeks ago that the project was going forward. As we have pointed out to the Planning Department on several occasions, the window of time between submission of a proposed project and the start of the city approval process is generally too short for neighbors impacted by the project to be able to digest the information and provide relevant feedback. There are serious issues with this current proposal that need to be addressed thoroughly. Please allow neighborhood residents sufficient time to do so.

Thanks,  
Ken Enockson

**From:** Brian Kappel <[kappelb@gmail.com](mailto:kappelb@gmail.com)>  
**Sent:** Tuesday, August 21, 2018 6:34 AM  
**To:** Planning E-mails <[planning@FargoND.gov](mailto:planning@FargoND.gov)>  
**Subject:** Newman

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As I read this mornings paper I am struck by how the planners work. They develop the project and post a date of when they hope the project will be done prior to holding neighborhood meetings.

The cart is before the horse.

I was born in this town in 1951 and what I have observed is how the planners really do not plan.

They listen to the developers

and then propose zoning changes to accommodate. Roers and the church knew what this was zoned. It should have gone to the neighborhood and you before it had gotten this far.

I urge you to modify the plan to any structure will be no taller than a historic 3 story home.

--

Brian Kappel  
Fargo North Dakota

HAROLD & JUDY THOMPSEN  
1309 N 9TH ST - FARGO  
(RESIDENTS OF ROOSEVELT NEIGHBORHOOD FOR 40 YEARS)

City of Fargo  
Department of Planning and Development  
200 North Third Street  
Fargo, ND

August 23, 2018

RE: St. Paul's Newman Center Project

To whom it may concern,  
Please know that we are OPPOSED to the project, as submitted, for the following reasons:

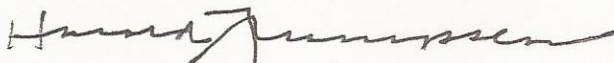
1. The proposed plan does NOT meet the intent of the 'Roosevelt Neighborhood Plan' adopted by you and the City Commission. The high-density, market-rate housing should be removed from this site and relocated to the UMU District south of NDSU. The requests for variances to the MR-3 standards are excessive and unreasonable. Use of PUD has been and always should be a 'give and take' proposition in order to keep the impact to the neighbors balanced. This proposal appears to be all take and no give.
2. The block is too small to support both a 500-seat Chapel Expansion and 136 units of student housing. The proposal includes the Chapel Expansion on Lot 1 and the multi-family student housing (faith-based and market-rate) on Lot 2. Lot 2 is only 2.21 acres. If Lot 2 is rezoned to MR-3 then it could only support 53 units (2.21 x 24 units/acre) under the MR-3 dimensional standards. The proposed 136 units on this lot would result in a density of 61.5 units per acre, over 2.5 times the recommended maximum. That is excessive and the market-rate units should be relocated to the UMU District.
3. Destroying 16 single family homes will reduce the inventory of potentially affordable homes for our neighborhood. The Roosevelt School is the anchor to our neighborhood. We, the neighborhood and the City, need to do everything we can to keep the school open. We need young families and they need affordable housing.

Also know that we do SUPPORT the efforts of the St Paul's Newman Center to expand their Chapel. However, a 500-seat Chapel is a significant addition and it appears to us that it will take the entire 3.8 acre block to physically support the chapel, administration building and associated parking. We would like to see the development relocate the market-based units and make an attempt at a creative redesign that considers the reuse of the existing single-family houses for the 'faith-based' housing.

If not reuse, than consider replacing the existing houses with two-story townhomes that are 'family friendly'. The scale would be more appropriate for this location. The future use of these units would be better adapted to supporting the Roosevelt School.

At the least, we would like to see the height of the 'faith-based' units reduced from five stories to three stories or less. We think this can be achieved, physically, if the market-rate units are relocated.

Sincerely yours,



Harold and Judy Thompson  
1309 N 9th St - Fargo



**From:** Ken Enockson <kenockson@hotmail.com>  
**Sent:** Monday, August 27, 2018 2:25 PM  
**To:** Donald Kress <dkress@FargoND.gov>  
**Cc:** 'Martha Berryhill' <Berryhill@cableone.net>  
**Subject:** sending along note from Martha Berryhill

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Hello Don,

I am forwarding along to you some comments and an inquiry from Martha Berryhill. Evidently the emails she sent to you previously bounced back to her so she asked me to resend to ensure you received them:

**Comment re Newman Project:**

Planning Commissioners,

I have no problem with the Block 1 proposal for a rebuilt sanctuary and supporting facilities.

I object strongly to the Block 2 proposal. It does not fit the neighborhood plan, it does not adhere to existing codes, and it is of very little benefit to the neighborhood. What little benefit it does provide (removing blighted properties) is negated by what the neighborhood loses (single family houses that could be rehabilitated and filled with long-term residents.)

Existing codes, residential protection standards, and neighborhood plans are there to protect the residents and their properties. Overruling them benefits only the developers; there is minimal, questionable benefit to the neighborhood.

Please help us protect our neighborhood by rejecting this proposal!

Martha Berryhill  
Friend of the Roosevelt Neighborhood

**Inquiry re City notification process:**

1. Subject: question
2. Donald,
3. I was looking at past CC meetings and noticed the following from the July 16th City Commission minutes. Who is/are the "appropriate staff"? To my knowledge no one from the RNA has been contacted about this.
4. Commissioner Grindberg moved appropriate staff be directed to prepare four Renewal Plans for blocks in the Roosevelt Neighborhood, and to involve members of the Roosevelt Neighborhood Association.  
Second by Piepkorn.
5. -Martha B

Thanks and have a great week.  
Ken Enockson



**ROOSEVELT NEIGHBORHOOD ASSOCIATION**  
**1026 NORTH 10TH ST**  
**FARGO, ND 58102**

City of Fargo  
Department of Planning and Development  
200 North Third Street  
Fargo, ND 58102

August 27, 2018

RE: St. Paul's Newman Center Project - Technical Merits

To whom it may concern,

The Roosevelt Neighborhood Association met tonight to discuss the technical merits of the PUD submitted by the applicant.

The following questions were raised by our committee and the Association asked us to forward them to the Planning Department for review and comment.

*(The bold italicized are comments from our committee members)*

1. What is a 'Unified Development' and where can we find it in the Land Development Code? It is a term introduced to us by Mr. Donald Kress from the Planning Department after the Open House last Monday. If it's a 'Unified Development' will the housing portion become tax exempt?
2. Front yard setbacks are reported to be only 5 feet by the applicant. Shouldn't they be increased to support the provisions for landscaping?
3. The application indicates the potential for a Bookstore and Coffeehouse, but has not made any provisions for parking. How many on-site parking spaces need to be added to support these features?
4. The application indicates a three-story Administration Building. Based on the footprint, it appears to be 12,000 s.f. x 3 stories = 36,000 s.f. Please confirm the size and the amount of additional parking will be needed by the LDC?  
*(It appears to us that 80-100 spaces should be added based on 1 parking space per 300 sf of office)*

5. Building coverage has been reported to be at 38%, 3% over the 35% limit. 3% represents approximately 5,000 s.f. of building coverage. Will the applicant be required to reduce the housing or the chapel footprint or both?

*( Note: 5,000 s.f. of the market rate housing appears to represent 24 units. (4 units per floor x 6 floors)).*

6. Parking for the market rate housing has been calculated at .8 spaces per bed. Where does that come from in the LDC? We found a similar analogy in the Traffic Study Report provided by the applicant in the packet of submittals, but the .8 per bed is based on an apartment building in the UMU District. This is MR-3. Isn't that an 'apple to oranges' analogy?

*(The total parking spaces needed for housing according to the LDC tables is 306 spaces. 136 units x 2.25. There are only 252 parking spaces for housing on-site. The LDC specifically prohibits off-site parking for residential occupancies. It appears the number of units will need to be decreased to a maximum of 112 units to be supported by available on-site parking.)*

7. Parking for the 'Faith-based' housing has been calculated at 2.25 spaces per unit per the LDC. Shouldn't the market rate housing parking be calculated per the LDC, also?

8. Sufficient parking for multi-family housing has always been a significant issue for the Planning Department. The application says it needs 249 parking spaces for their multi-family housing. 68 of the 249 are in the underground garage, leaving 181 on-site. With only 184 spaces on-site, as per the plan, the chapel is left with 3 on-site spaces for visitors, mid-week worshippers, customers at the coffee shop and bookstore and staff overflow. Only 22 underground garage spaces are being provided for a three story Administration Building. Where are the calculations, via the LDC, for the Administration Building?

9. Why would you allow the applicant to reduce the 9' landscaping buffer to 5'. You are aware there is a significant difference between the two when it comes to the density of planting needed to provide a sufficient screen.

10. Residential Protection Standards should never be compromised. They are one of the key elements to providing visual protection from single-family lots. Will you require the applicant to increase the setback of the six-story apartment or will you require them to reduce the height by one floor?

11. The affected block (Lots 1 plus Lot 2) is 3.8 acres. Under the rules of the LDC, MR-3 District, the block could support 91 housing units without a PUD. (3.8 acres x 24 units per acre) or the block could support a 500 seat Chapel with an Administration Building and 29 units of 'Faith-based Housing' without a PUD. It does not appear the block can support both. Do you agree?

## SUMMARY

1. Calculations for on-site parking by the applicant are suspect. We don't believe a PUD should be used to substitute for a lack of on-site parking for the multi-family housing. Because it is student housing your experience as Planners suggests that more spaces per unit should be required rather than less. This density of housing should be moved to the UMU District where a PUD should not be needed.

2. The block is sufficient in size for one or the other, but not both entities. We support an expanded St. Paul Newman Center without the Market Rate Housing. A PUD should not be used in an attempt to combine the two. The block is too small and the impact on the neighborhood would be physically negative.

3. The 11 items above are modifications to the MR-3 that the PUD would require. It is an egregious misuse of the PUD provisions because it does not give anything back to the adjacent lots or the neighborhood. If the PUD wants more height, than it should offer greater setbacks to balance the impact. If the PUD wants greater building coverage, than it should offer lower building heights and greater quantities of landscaping to balance the impact. If they want less parking they should become a housing complex for seniors citizens or the homeless, etc. PUD is used only for the extraordinary and it should always offer a balanced impact to the neighborhood.

Technical Merit Subcommittee  
Harold Thompsen, Chair



**From:** Judith Thompson <Thompson2@msn.com>

**Sent:** Tuesday, August 28, 2018 12:44 PM

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

**Cc:** Jim Laschkewitsch <jlaschke@gmail.com>; Ken Enockson <kenockson@hotmail.com>; Harold Thompson <hthompson@msn.com>

**Subject:** St. Paul's Newman Center parking

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

To the Planning Commission/ in care of Don Kress  
re: St. Paul's Newman Center parking

I would like to express my concern about parking at the St. Paul's Newman Center project that is being proposed.

As I understand it,

- (1) There would have to be special considerations made for parking, as there is not enough on the site to allow for the church, the offices, the faith based housing, and the market rate apartments.
- (2) Also, I understand that there are agreements to use off-site parking on Sundays. (The NDSU parking lot to the north, and the Bison Turf)
- (3) This might work if the only time people went to church was on Sunday morning. However, many of us attend our churches all week for various activities. It is part of our lives each day.

My questions:

- (1) What will happen if a Tuesday or Friday morning funeral is scheduled?
- (2) What will happen during committee meetings, banquets, workshops, and fund raisers that occur during the week in the afternoons or evenings?
- (3) Wednesdays in this community have been big evenings for church choir rehearsals, suppers, Lenten or Advent services, and regular worship services. Where will the people park if the Bison Turf and NDSU parking lots are still full of cars from students and patrons?

What I'm seeing in the future is that -

We, living in the surrounding neighborhoods, will have to absorb these cars into our already overflowing parking places on the street.

I definitely feel that we need to think this thing through further.

Thank you for my chance to voice my idea.

On a more positive note:

Sometimes, because you always have to see us complaining about things - you don't know how happy we are to live in this neighborhood. If we didn't enjoy young people and the energy that students bring to our lives, we probably wouldn't live here.

But we like hearing the Gold Star Marching band practicing on beautiful autumn days.

We enjoy seeing the new students walking to their classes - all kinds of hopes and dreams ahead of them.

We love our old, tall, beautiful trees.

We enjoy walking to Bison football games, and the RedHawks - and the festivals out by the Fargodome.

We can take our bikes or walk downtown, where new things are happening every day.

Jumping on the interstate is only a few blocks away, if we want to get out of town.

We pick up people at our wonderful airport - only 10 minutes from home.

Most of us work downtown, so we have a short commute, bike ride or walk each day. No sitting in long traffic lines for us.

We take our bikes to Northport to pick up a few groceries, get something from the hardware, stop at the library, and stop in the drug store.

Living here is what is the best about city living. We would like to see more spaces for families and workers living here with us.

Convenience, close neighbors, good schools and medical care.

We don't take these things for granted - we enjoy our way of life because you and other people like you have done careful, considered planning for it. For that, we thank you, and we hope that we can all work together for a better Fargo. I've never any doubt that is all our goal, anyway.

- Judy Thompsen

1309 N 9th St

Fargo

701-232-2068

b

**From:** Ken Enockson <kenockson@hotmail.com>  
**Sent:** Monday, August 27, 2018 2:25 PM  
**To:** Donald Kress <dkress@FargoND.gov>  
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Friend of the Roosevelt Neighborhood

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Second by Piepkorn.
5. -Martha B

Thanks and have a great week.  
Ken Enockson

RECEIVED  
8-28-18 AS

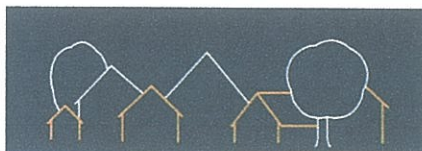
City of Fargo  
Department of Planning & Development  
200 3<sup>rd</sup> Street North  
Fargo, ND 58102

August 28, 2018

Acknowledgement of receipt for the following documents regarding **St. Paul Newman Center**  
**Addition:**

- |  |         |
|--|---------|
| 1. Roosevelt Neighborhood Association Letter | 3 pages |
| 2. Letter from Judy Wong/Will Shirk          | 2 pages |
| 3. Letter from Jim & Barb Laschkewitsch      | 2 pages |





## ROOSEVELT NEIGHBORHOOD ASSOCIATION

ROOSEVELT ELEMENTARY SCHOOL  
1026 NORTH 10<sup>TH</sup> STREET  
FARGO, ND 58102

**Date:** August 28, 2018

**To:** Planning Commission  
City of Fargo

**From:** Roosevelt Neighborhood Association

**Subject: Opposition to the St. Paul Newman Center Addition**

The Roosevelt Neighborhood Association (RNA) is opposed to the St. Paul Newman Center Addition as proposed. The proposed project has two lots.

- |       |  |
|-------|--|
| Lot 1 | 500-seat Chapel Expansion for the Newman Center  |
| Lot 2 | contains the Faith-Based Student Housing (5 stories – 29 units) and the Market Rate Student Housing (6 stories – 107 units). |

We are not opposed to the project for Lot 1 or the Faith-Based Student Housing. The expansion of the Newman Center will be a great asset to NDSU, the city of Fargo and for the Roosevelt Neighborhood.

*What we don't understand is why the Faith-Based Student Housing is part of Lot 2 since the 4 properties are owned by the Diocese of Fargo? This could be included as part of Lot 1. Since the St. Paul Newman Center is zoned Limited Commercial, the inclusion of the Faith-Based Student Housing can be allowed with a conditional use permit under Section 20-0401 of the Land Development Code. It should also be noted a coffee shop and bookstore are permitted by right in the same land development code section. There is no need for down zoning to MR-3. The down zoning requires the Diocese of Fargo to request for a variance to allow a retail business.*

*Is it necessary for Roers who owns the 9 lots that is The Market Rate Student Housing to be attached to the construction of the new cathedral and faith-based housing?*

The RNA is opposed to the Market Rate Student Housing (6 stories – 107 units). These 9 lots are owned by Roers (8 single family homes and one 4-plex). The reasons are as follows:

1. Block 9 of Bolly's Addition is currently zoned with classifications from LC to SR-3 to MR-3. The majority of Block 9 is zoned for single family housing (13 of the 23 lots are currently zoned SR-3) which complies with the future land use plan.
2. The Roosevelt/NDSU Neighborhood Plan and the NDSU/Roosevelt Future Land Use Plan which were approved and adopted by the City facilitates the conversion of future uses to single family and preserves the existing single family housing.

3. The proposed development does not comply with the current zoning in place nor does it comply with the intent of future land use plan or map.
4. The Roosevelt Neighborhood sacrificed 28% of its acreage to provide housing for NDSU students. It is the University Mixed-Used (UMU) District. This is where the Market Rate Student Housing should be built. This project AS PROPOSED violates the spirit and the intent of the neighborhood and future land use plans.
5. The goal of the GO 2030 plan to create high quality student housing near NDSU must comply with the current laws and binding agreement of all parties concerned. Residents bought homes in the Roosevelt area trusting that the city would safeguard their neighborhood from encroachment through the neighborhood and future land use plans.
6. A precedent will be set for future developments in any of the city neighborhoods if this project is approved as proposed.

The St. Paul Newman Center Addition is using a Planned Unit Development (PUD).

What is the concept for a PUD? It is:

- A modification of specific terms of zoning restrictions and subdivision regulations for a specific purpose
- To facilitate the development of a large parcel of land
- With tradeoffs from the city for traffic control, green space and parks,
- Environmental benefits such as water retention, vegetation preservation, wild life habitat,
- SAFER neighborhoods, as well as a buffer zone to existing neighborhoods.

There are 9 standards eligible for modification. The St. Paul Newman Center Addition PUD is requesting 8 of these standards to be modified. This is excessive and unreasonable.

The 8 standards the project is requesting to modify are:

- |   |   |
|---|---|
| 1. Allowed Use (provide retail in a residential area) | <i>[coffee shop and bookstore]</i>  |
| 2. Increase the maximum allowed residential density   | <i>[24 to 37]</i>   |
| 3. Reduce the minimum setbacks                        |   |
| 4. Exceed the maximum height limit                    | <i>[60 feet to 226 feet]</i>  |
| 5. Exceed the maximum building coverage               | <i>[35% to 38%]</i>   |
| 6. Reduce the minimum parking required                |   |
| 7. Reduce the minimum landscaping standards           | <i>[front landscaping and parking perimeter]</i>  |
| 8. Negate the residential protection standards (RPS)  | <i>[increase building height within 76' to 100' of an SR from 45' to 60'; within 101' to 150' of an SR from 55' to 60']</i> |

A request for PUD modifications must include an exchange of additional benefits for each modification. The exchanges must provide additional benefit to the city. This has not been provided.

LDC 20-0302 states that as part of a PUD application, the developer must give a written description of the additional benefits the city will receive that would not occur if the development did not have a PUD overlay.

An excellent example of an exchange can be found in the 2017 PUD Application for Harwood's Addition. It states:

*In exchange for allowing more units per acre than what the MR-3 zoning designation allows, the applicant is proposing to provide more parking, a snow removal storage area and aesthetic sit improvement. See Master Plan for addition details.*

The required narrative will assist the Planning Commission in deciding if the developer is offering an adequate exchange for the modifications and reductions of the standards.

LDC must be followed and not ignored. It is designed to protect the residential properties and neighborhoods from adverse effects associated with multi-residential development.

Judy Wong/Will Shirk  
1121 N 14<sup>th</sup> Street  
Fargo, ND 58102

Planning Commission  
City of Fargo  
200 3rd Street North  
Fargo, ND 58102

August 28, 2018

Dear Members of the Planning Commission:

We are opposed to the St. Paul Newman Center Addition development as proposed. There is no objection to either the new cathedral or the faith-based housing. We do have a problem with the apartment building – Market Rate Student Housing.

The physical size of the apartment building and its high density is a perfect fit for the UMU District located west of Barrett Street. The UMU District was created in 2009 using 28% of the Roosevelt Neighborhood. The District's purpose is to provide student housing for NDSU. There is a substantial number of available lots in the District.

Another problem is co-joining the commercial apartment building with the construction of a church.

*Note: The Diocese of Fargo owns the properties of the new cathedral and faith-based housing. The properties for the apartment building – Market Rate Student Housing are owned by Roers.*

The developer is using the acreage owned by the Diocese of Fargo to calculate the residential density of his apartment building. By including the land owned by the Diocese of Fargo, the proposed density is 37 dwelling units per acre (37 U/A). Without the land owned by the Diocese of Fargo, the density is 62 U/A. This is an ultra-high density development for an area designated as mixed-low density housing.

Have other developers, in the City of Fargo, used this method to reduce their residential density?  
***Are we setting a new precedent?***

The proposed apartment building is contrary to the Neighborhood Plan and Future Land Use Plan, which were adopted by the City of Fargo. The plans aid in the conversion of high density properties to single family. This project does the opposite.

The Roosevelt School is the anchor of the neighborhood. An important goal of the Neighborhood Plan is to provide support for the continuation of the school. Each development that takes away from the single-family homes and put the school in jeopardy by discouraging families with children from locating or staying in the Roosevelt Neighborhood.

A few years ago, the Fargo School district hired a consultant to provide suggestions for the future direction of the district. Because of declining enrollment, it was suggested to close one or more



schools including Roosevelt and build a new school in South Fargo. The Fargo School District made a commitment to keep the neighborhood schools open. They have invested thousands of property tax dollars from the City of Fargo to upgrade the schools.

If the continuous removal of affordable single-family housing does not subside, the school district will eventually need to close the neighborhood schools. Families will not want to live in North Fargo if they have to bus their children to other schools (*"the death of the neighborhoods"*).

Sincerely,

  
Judy Wong

  
Will Shirk

1016 College Street  
Fargo, ND 58102  
August 28, 2018

Dear Sir or Madam,

These are our beliefs and comments regarding the proposed project. But in talking with many people, it also represents the beliefs of a substantial portion of the residents in our neighborhood.

We believe that this development will split our neighborhood into an East and West half which will impact not only Roosevelt Elementary School one block away, but also Horace Mann Elementary School. It could very well result in closure of one or both schools, and for sure promises to cause huge impacts to not only our middle and high school, but also the rest of the City school system.

We believe the proposed project should be treated as two separate entities because there are two separate lots and interests involved. Each should have to make its own application, and each must be judged as a separate project by its own merits. We do not believe that this "unified project" can technically and legally follow the current LDC and city ordinances. Because this was divided up into two lots but a single unified project, the RNA refers to these as the "Newman Center Project", and the "Roers Project." Our neighborhood supports the Newman Center Project. Our neighborhood is opposed to the ultra-high density project being proposed by Roers.

We believe that this proposed Roers Project will cause neighbors to move and escalate the problem of home ownership in our area. As a neighborhood, we would be forced to view the practical extension of the UMU District to 10<sup>th</sup> Street North which will be essentially become a new NDSU Student Housing District leaving very little of the neighborhood intact.

We believe this project will be a catalyst for a rush of other like developments in our neighborhood. We know of several projects waiting in the wings for approval on this one so that they can proceed. If this project were to be approved, next year and future years will see a rush of large developer applicants wanting to do the same thing in our neighborhood, and neighborhoods other than Roosevelt.

We believe that a significant portion of students we live, work, and talk with every day don't like huge apartment style living such as is being proposed; don't like the expensive market rates attached to these new buildings; and like this neighborhood the way it is. The narrative of the developer that there is "significant student demand" is questionable. We live amongst these students and are with them daily. We know the truth of what NDSU college students want, and it is not the destruction of the very neighborhood they live in.

We believe that this project is not wanted, not needed, and not justified. NDSU enrollment numbers announced last week were 13,647 students. Last year at this time, enrollment was at 14,432. That is a decline of nearly 800 students - a 5% reduction. The 10-15 year forecast also shows declining enrollment numbers which further puts into question the demand for more high density housing. We have vacancy rates as high as 20% in our neighborhood, with many apartments and houses still not rented. The empty houses represent lost families to our neighborhood and school and many are left to decline by the landlord. At least 1303 new student units are becoming available within the next 9 months from four

buildings near to on campus. These include NDSU Cater Hall (Sophomore Dorm) opening fall 2019 (440 students), NDSU University Village Apartment (180+ students), Roers U32 Apartment, Bldg 2 (320 students), and The Bridges (NDSU Foundation) (363 students). This proves in fact, not theory, that there is no justification for building ultra-high density with the false narrative of huge student demand.

We believe our neighborhood possesses several agreements passed by, and with the City, including a 2003 neighborhood plan, a 2009 future land use plan, and a 2009 University Mixed Use zoning district all put in place to offer certain protections and assurances to us as a neighborhood. These are now being set aside and disregarded.

We believe developers control the Planning application and approval process from start to finish, including setting meeting dates, details of applications, timelines, presentations, and even the very interpretation of our land development code. The City is left unable to offer any real flexibility to the neighborhoods in order to understand projects, or grant us more time, much less allow us to provide an effective counter to such proposals. We play no significant part of the process and exist merely as a final checkbox before the last vote is taken to approve the project. The process, unfortunately, is broken.

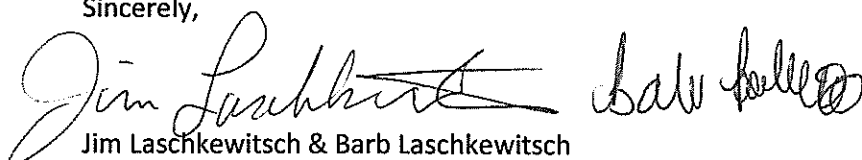
We believe, as a neighborhood, that the protections guaranteed to us in code and ordinance need to be ensured to us, just as they would be in any Fargo neighborhood. We believe the rights of all resident land-owners in our entire City in all neighborhoods, are at risk. The power and money of such development has corrupted the very system intended to help plan our future, in order to force us all into unwanted projects. We stand now saying that all residents and neighborhoods deserve their rights and protections ensured in law through neighborhood protection standards, neighborhood plans, zoning regulations, and our land development code.

We believe that we have a right to survive and thrive as a neighborhood; just as any other neighborhood should have a right to survive and thrive without the threat of being destroyed by unrealistic development projects. We believe that 58102 should be regarded as something special, something historic, and something unique that lends to the real beauty and value of Fargo, ND.

We believe we are here to stand up and to demand as neighborhoods to be part of the process. We demand to be first on the list of entities consulted about a project and not last to simply mark the last checkbox on a form before final approval is passed. Finally, we demand to play a significant role in our future neighborhood development as we have so many times tried to do.

We believe for these and many more reasons, that you should deny this application, and set the precedent that puts this citizens and resident land owners first, not last.

Sincerely,

  
Jim Laschkewitsch & Barb Laschkewitsch

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Legacy I 2 <sup>nd</sup> Addition	<b>Date:</b>	8-28-2018
<b>Location:</b>	2127 58 <sup>th</sup> Ave S	<b>Staff Contact:</b>	Kylie Bagley
<b>Legal Description:</b>	Part of Lot 14 and 15, Legacy I 2 <sup>nd</sup> Addition		
<b>Owner(s)/Applicant:</b>	Clarence and Noreen Aadland, Maureen Olson, Cleo Jahnke and Barry and Lori Ann Schwan	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (from MR-1, Multi-Dwelling Residential, to SR-5, Single-Dwelling Residential)		
<b>Status:</b>	Planning Commission Public Hearing: September 4, 2018		

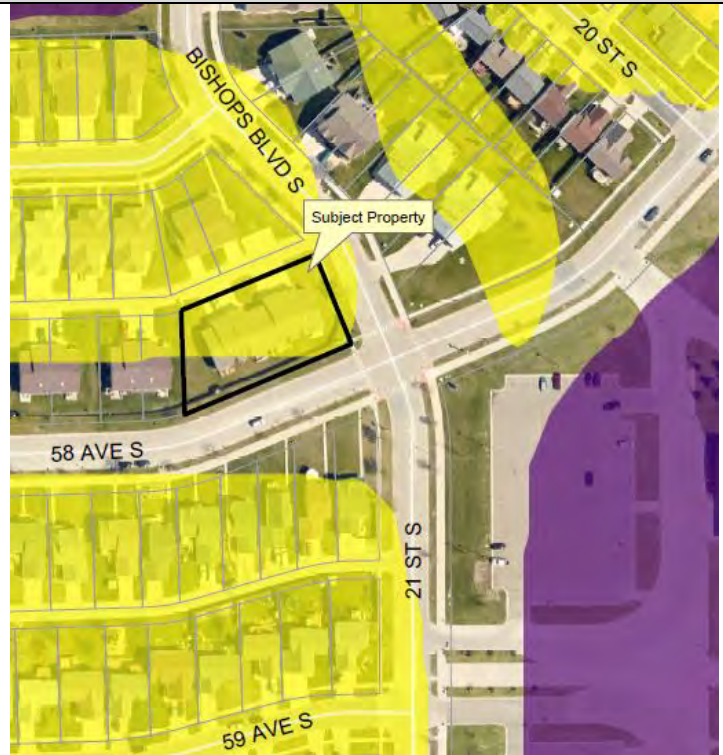
<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Attached Housing	<b>Land Use:</b> Attached Housing
<b>Zoning:</b> MR-1, Multi-Dwelling Residential	<b>Zoning:</b> SR-5, Single-Dwelling Residential
<b>Uses Allowed:</b> Detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities	<b>Uses Allowed:</b> Detached houses, attached houses and duplexes, daycare centers, parks and open space, religious institutions, safety services and basic utilities.
<b>Maximum Density Allowed (Residential):</b> Maximum 16 units per acre	<b>Maximum Density Allowed (Residential):</b> maximum of 14.5 units per acre

<b>Proposal:</b>
<p>The applicants are proposing a zone change from MR-1, Multi-Dwelling Residential, to SR-5, Single-Dwelling Residential, for the property located at 2127 58<sup>th</sup> Avenue South. The zone change is being requested due to the applicants' concern regarding the special assessments on the property. The property meets all dimensional standards of the SR-5, Single-Dwelling Residential zoning district.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: SR-4, Single-Dwelling Residential, with detached and attached houses.</li> <li>• East: MR-1, Multi-Dwelling Residential, with attached houses.</li> <li>• South: Across 58<sup>th</sup> Ave S properties are zoned SR-4, Single-Dwelling Residential, with detached and attached houses.</li> <li>• West: MR-1, Multi-Dwelling Residential, with attached houses.</li> </ul>



**Area Plans:**

The subject property is located within the 2007 Growth Plan with the designation of Residential Area – lower to medium density.



**Schools and Parks:**

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

**Parks:** Greenfields Park, a neighborhood park, is located north of the subject property.

**Pedestrian / Bicycle:** Off-road bike facilities run along 58<sup>th</sup> Avenue South and is a component of the metro area trail system.

**Staff Analysis:**

**Zoning**

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**  
Staff is unaware of any zoning map error in regard to the subject property. The requested zoning change is justified by a change in conditions since the previous zoning classification was established. **(Criteria Satisfied)**
2. **Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**  
The development is 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)**
3. **Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?**

Staff has no documentation or evidence that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. The proposed zone change is in keeping with adopted plans approved via public process. In addition, written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has not received any verbal concerns or written comments regarding the proposed overlay zoning change. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity. **(Criteria Satisfied)**

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff finds that the proposal is consistent with the purposes of the LDC, the Growth Plan, and other adopted policies of the City. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and recommend approval to the City Commission of the proposed zoning change from MR-1, Multi-Dwelling Residential, to SR-5, Single-Dwelling Residential, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

**Planning Commission Recommendation:** September 4, 2018

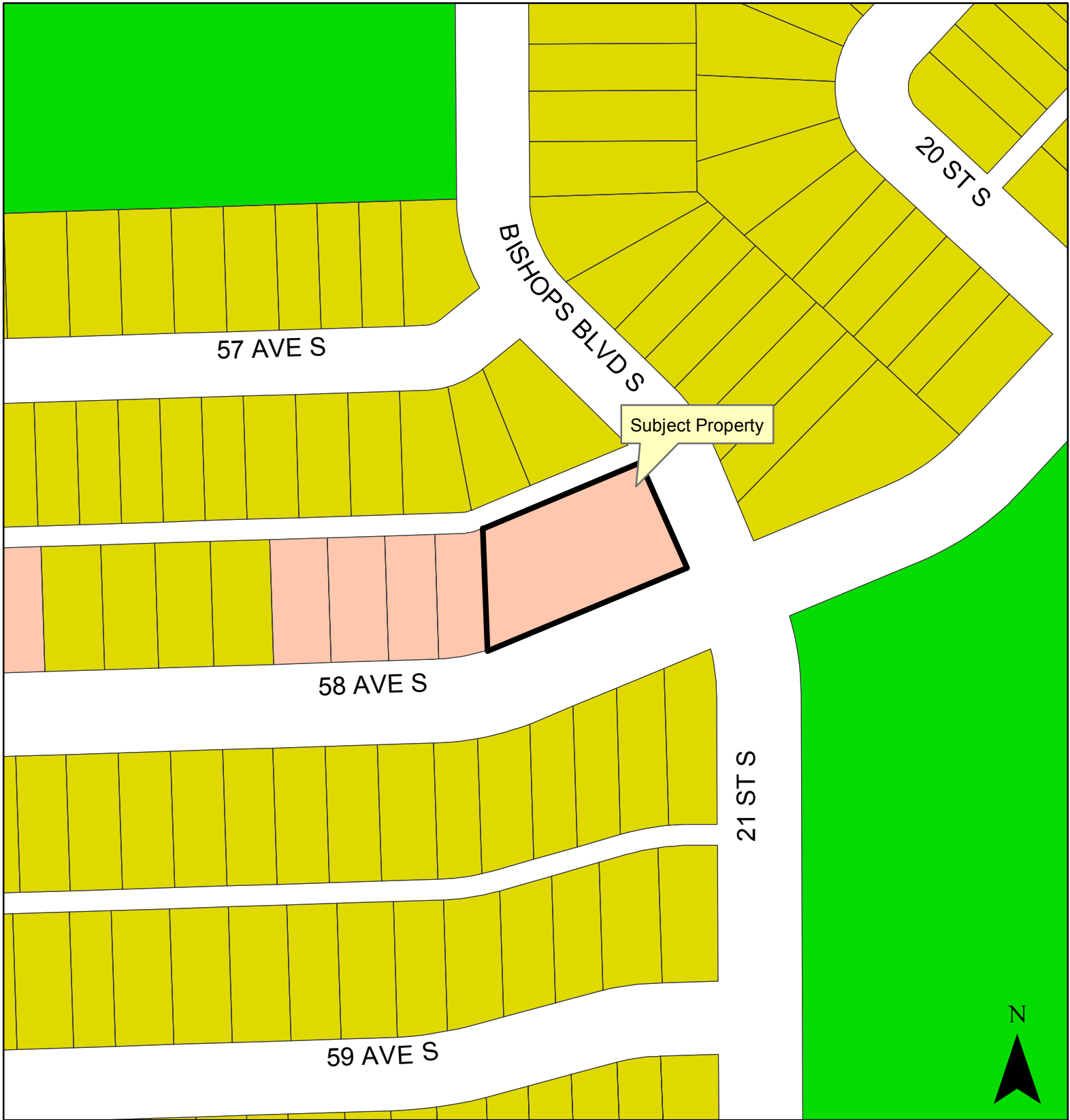
**Attachments:**

1. Zoning Map
2. Location Map

# Zone Change (MR-1 to SR-5)

## Legacy I 2nd Addition

2127 58th Avenue South

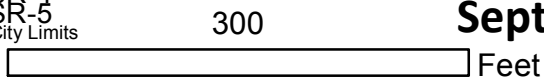


**Legend**

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



**Fargo Planning Commission**  
**September 4, 2018**





# Zone Change (MR-1 to SR-5)

## Legacy I 2nd Addition

2127 58th Avenue South





<b>City of Fargo Staff Report</b>			
<b>Title:</b>	LDC Text Amendment	<b>Date:</b>	8-28-2018
<b>Location:</b>	Citywide	<b>Staff Contact:</b>	Kylie Bagley
<b>Owner(s)/Applicant:</b>	City of Fargo/Zoning Administrator	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	LDC Text Amendment (Amending Section 20-0504.G of the Fargo Municipal Code (Land Development Code) relating to the measurement of building height		
<b>Status:</b>	Planning Commission Public Hearing: September 4, 2018		

<b>Proposed Text Amendment</b>
<p>The city staff is seeking approval of a text amendment of Section 20-0504.G of the Fargo Municipal Code (Land Development Code) relating to the measurement of building height.</p> <p>Current Section 20-0504.G is:</p> <p style="margin-left: 40px;">G. <i>Height</i>  <i>Building height refers to the vertical distance between the average finished grade at the base of the building along the side of the building being measured and: 1) the average height level between the eaves and ridge line of a gable, hip or gambrel roof; 2) the highest point of a mansard roof; or 3) the highest point of the coping of a flat roof.</i></p> <p style="margin-left: 40px;">2. <i>Exceptions to Height Limits</i>  <i>Zoning district height limits do not apply to belfries, cupolas, spires, domes, monuments, airway beacons, radio/communication towers, structures for essential services, windmills, flagpoles, chimneys, radio/television receiving antennas or chimney flues. Height limits also do not apply to any bulkhead, elevator, water tank, or to any similar structure or necessary mechanical appurtenance extending above the roof of any building if such structure does not occupy more than 33 1/3 percent of the area of the roof.</i></p> <p>The applicant is proposing the following changes to Section 20-0504.G :</p> <p style="margin-left: 40px;">G. <i>Height</i>  <i>Building height refers to the vertical distance between the average finished grade at the base of the building along the side of the building being measured and: 1) the average height level between the eaves and ridge line of a gable, hip or gambrel or mono-pitch roof; 2) the highest point of a mansard roof; or 3) the highest point of the coping of a flat roof.</i></p> <p style="margin-left: 40px;">2. <i>Exceptions to Height Limits</i>  <i>Zoning district height limits do not apply to belfries, cupolas, spires, domes, monuments, airway beacons, radio/communication towers, structures for essential services, windmills, flagpoles, chimneys, radio/television receiving antennas or chimney flues. Height limits also do not apply to any <u>dormer</u>, bulkhead, elevator, water tank, or to any similar structure or necessary mechanical appurtenance extending above the roof of any building if such structure does not occupy more than 33 1/3 percent of the area of the roof. <u>Any dormer shall not exceed the highest point or peak of the structure it is attached to, even if it is exempt from height limits.</u></i></p>
<b>Staff Analysis:</b>
In accordance with §20-0904.E Review Criteria of the Land Development Code, proposed text amendments that satisfy all of the following criteria may be approved.

1. **The amendment must be consistent with the purpose of this Land Development Code;**  
 Section 20-0104 of the LDC stipulates that the purpose and intent of the Land Development Code 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. The proposed amendment will ensure that buildings do not exceed the height requirements, protecting the citizen's health, safety and general welfare.  
**(Criteria Satisfied)**
  
2. **The amendment must not adversely affect the public health, safety, or general welfare;**  
 Staff finds that the amendment does not adversely affect the public health, safety, or general welfare.  
**(Criteria Satisfied)**
  
3. **The amendment is necessary because of changed or changing social values, new planning concepts or other social or economic conditions in the areas affected.**  
 Staff finds that the proposed amendment is necessary because of changing social and economic conditions. The proposed amendment will keep building heights the same regardless of different roof types.  
**(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed text amendment to Section 20-0504.G of the Fargo Municipal Code (Land Development Code), as the proposal meets the approval criteria of §20-0904.E(1-3) of the LDC."

**Planning Commission Recommendation:** September 4, 2018

**Attachments:**

1. Draft LDC Text Amendment Ordinance

## §20-0504 Measurements and Exemptions

### G. Height

Building height refers to the vertical distance between the average finished grade at the base of the building along the side of the building being measured and: 1) the average height level between the eaves and ridge line of a gable, hip ~~or~~, gambrel or mono-pitch roof; 2) the highest point of a mansard roof; or 3) the highest point of the coping of a flat roof.

#### 1. Fences or Walls

In the case of fences or walls, height shall be measured from ground level on the higher side of the fence or wall.

#### 2. Exceptions to Height Limits

Zoning district height limits do not apply to belfries, cupolas, spires, domes, monuments, airway beacons, radio/communication towers, structures for essential services, windmills, flagpoles, chimneys, radio/television receiving antennas or chimney flues. Height limits also do not apply to any dormer, bulkhead, elevator, water tank, or to any similar structure or necessary mechanical appurtenance extending above the roof of any building if such structure does not occupy more than 33 1/3 percent of the area of the roof. Any dormer shall not exceed the highest point or peak of the structure it is attached to, even if it is exempt from height limits.

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Airport 1 <sup>st</sup> Addition	<b>Date:</b>	8-28-2018
<b>Location:</b>	2601 & 2629 12 <sup>th</sup> Street N	<b>Staff Contact:</b>	Aaron Nelson
<b>Legal Description:</b>	Lot 2, Block 2, Airport 1 <sup>st</sup> Addition		
<b>Owner(s)/Applicant:</b>	Alpha Omega Developments	<b>Engineer:</b>	N/A
<b>Request:</b>	Request for Planning Commission approval of a variance to the restrictive covenants of Airport 1 <sup>st</sup> Addition		
<b>Status:</b>	Planning Commission: 9-4-2018		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Self-Service Storage & Office	<b>Land Use:</b> Self-Service Storage & Office
<b>Zoning:</b> LI, Limited Industrial	<b>Zoning:</b> LI, Limited Industrial
<b>Uses Allowed:</b> LI – Limited Industrial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation.	<b>Uses Allowed:</b> LI – Limited Industrial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation.
<b>Maximum Lot Coverage Allowed:</b> Maximum 85% building coverage	<b>Maximum Lot Coverage Allowed:</b> Maximum 85% building coverage

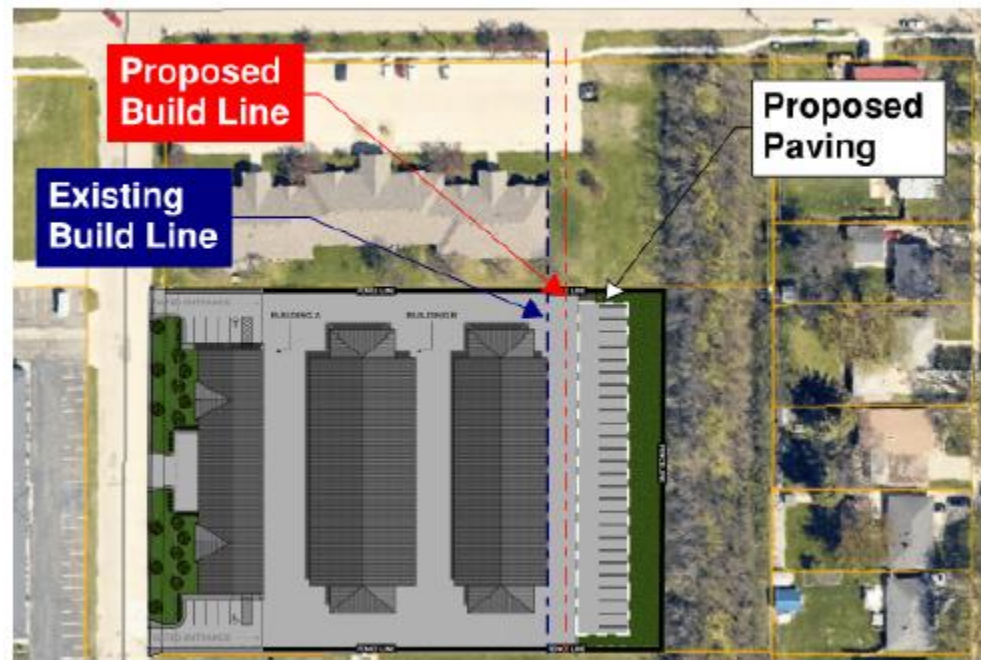
<b>Proposal:</b>
<p>The applicant is seeking Planning Commission approval of a variance to the restrictive covenants of Airport 1<sup>st</sup> Addition. The intent of this request is to allow the applicant to construct a building and parking area that would deviate from the development restrictions of the Airport 1<sup>st</sup> Addition restrictive covenants.</p> <p><b>Background:</b>            The restrictive covenants of Airport First Addition were established by the City of Fargo in 1969, when the City was the primary owner of the property. As stated within the restrictive covenants, the City’s intent was to protect the owners of residential property adjacent to Airport First Addition, which was to be primarily industrial in nature. To this end, the restrictive covenants contain many restrictions and requirements on the property identified within Airport First Addition. These restrictions and requirements include such things as building setbacks &amp; dimensional standards, maintenance of a landscape buffer adjacent to abutting residential lots, and prohibited uses. Section 11 of that document allows for a property owner within the subdivision to deviate from one or all of the requirements of the restrictive covenants upon written approval from:</p> <ol style="list-style-type: none"> <li>1) a majority of property owners within the Airport 1st Addition subdivision;</li> <li>2) a majority of property owners of Lots 1-13, Block 3; Lots 1-13, Block 6; &amp; Lots 1-11, Block 10, Peter Sway Fifth Addition; and</li> <li>3) the Fargo Planning Commission.</li> </ol> <p>The owner/applicant is requesting a variance from Sections 1 and 5 of the restrictive covenants. The request, if granted, would allow for a proposed building to be constructed 15 feet further to the east, and paved parking area to be constructed 25 feet further to the east, than would otherwise be permitted on the subject property.</p>



The lots located along the eastern boundary within Airport First Addition contain a 150-foot easement buffer easement, which is described within the restrictive covenants. Section 1 of the restrictive covenants requires buildings to be set back at least 25 feet west of this 150-foot easement, effectively requiring buildings to be set back 175 feet from the eastern property line. The applicant is proposing to construct a building 10 feet west of the 150-foot buffer easement, which would be a variance of 15 feet.

Section 5 of the restrictive covenants mandates that the 150-foot buffer easement be maintained with grass, shrubs, flowers, and six (6) rows of trees for a visual screen. The applicant is proposing to pave parking stalls within the western 25 feet of the 150-foot buffer. This proposed variance would allow paving where vegetation is required, and where grass exists today. The trees, shrubs, and other vegetation that make up the visual screen is located within the eastern portion of the 150-foot buffer easement and would not be impacted or removed.

If granted, the proposed building would be located approximately 160 feet west of the eastern property line and the proposed parking area would be located approximately 125 feet west of the eastern property line. The graphic below was provided by the applicant and illustrates these two variances from the restrictive covenants:



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: Office use within the LI (Limited Industrial) zoning district
- East: Household living use within the SR-2 (Single-Dwelling Residential) zoning district
- South: Industrial Services and Safety Services uses within the LI (Limited Industrial) zoning district
- West: Office use within the LI (Limited Industrial) zoning district.

**Area Plans:**

N/A

**Schools and Parks:**

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

**Neighborhood:** The subject property is located in the Northport Neighborhood.

**Parks:** Yunker Farm is located about 500 feet north of the subject property. Additionally, McKinley park is located about a quarter-mile northeast of the subject property.

**Pedestrian / Bicycle:** There are no sidewalks located along 12<sup>th</sup> Street N adjacent to the subject property. There is a shared-use path located along the west side of University Drive, which is a component of the metro area bikeway system.

**Staff Analysis:**

As noted above, the restrictive covenants restrict the placement of structures and certain development along the east side of Airport First Addition, which includes the subject property. Section 11 of that document allows for variance to the restrictive covenants upon written approval from 1) a majority of property owners within the Airport 1st Addition subdivision, 2) a majority of property owners within specific residential lots which abut Airport 1<sup>st</sup> Addition, and 3) the Fargo Planning Commission.

Staff finds that the applicant has received approval from a majority of the required property owners, and has therefore fulfilled two out of the three requirements for the approval of a variance, as outlined in the restrictive covenants. The applicant has gathered signatures from 24 out of 40 lot owners (60%) within Airport First Addition and 22 out of 37 lot owners (59%) of the identified lots within Peter Sway Fifth Addition. The applicant is now requesting approval from the Fargo Planning Commission to fulfill the final requirement for the variance.

Although the restrictive covenants does not require it, staff mailed out notification letters to the owners of property for which a majority of approval is required (Airport First Addition and the identified lots within Peter Sway Fifth Addition). As a result of these notifications, staff received one inquiry and no comments from these property owners.

Because there is no entitlement request related to the Land Development Code, Fargo Municipal Code, or any other applicable laws, there are no standard review criteria. Staff finds that the request does not violate the intent or requirements of the Land Development Code, and that the request will not detract from the existing character of the area. The development will meet all applicable Residential Protection Standards and the requested variance will not result in a development that would be inconsistent with similarly situated properties. The existing vegetative buffer on the subject property is substantially more dense and larger than the residential protection buffer required by the current Land Development Code.

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and hereby approve the proposed variance to the restrictive covenants of Airport 1<sup>st</sup> Addition, as presented, on Lot 2, Block 2, Airport 1<sup>st</sup> Addition."

**Planning Commission Decision:** September 4, 2018

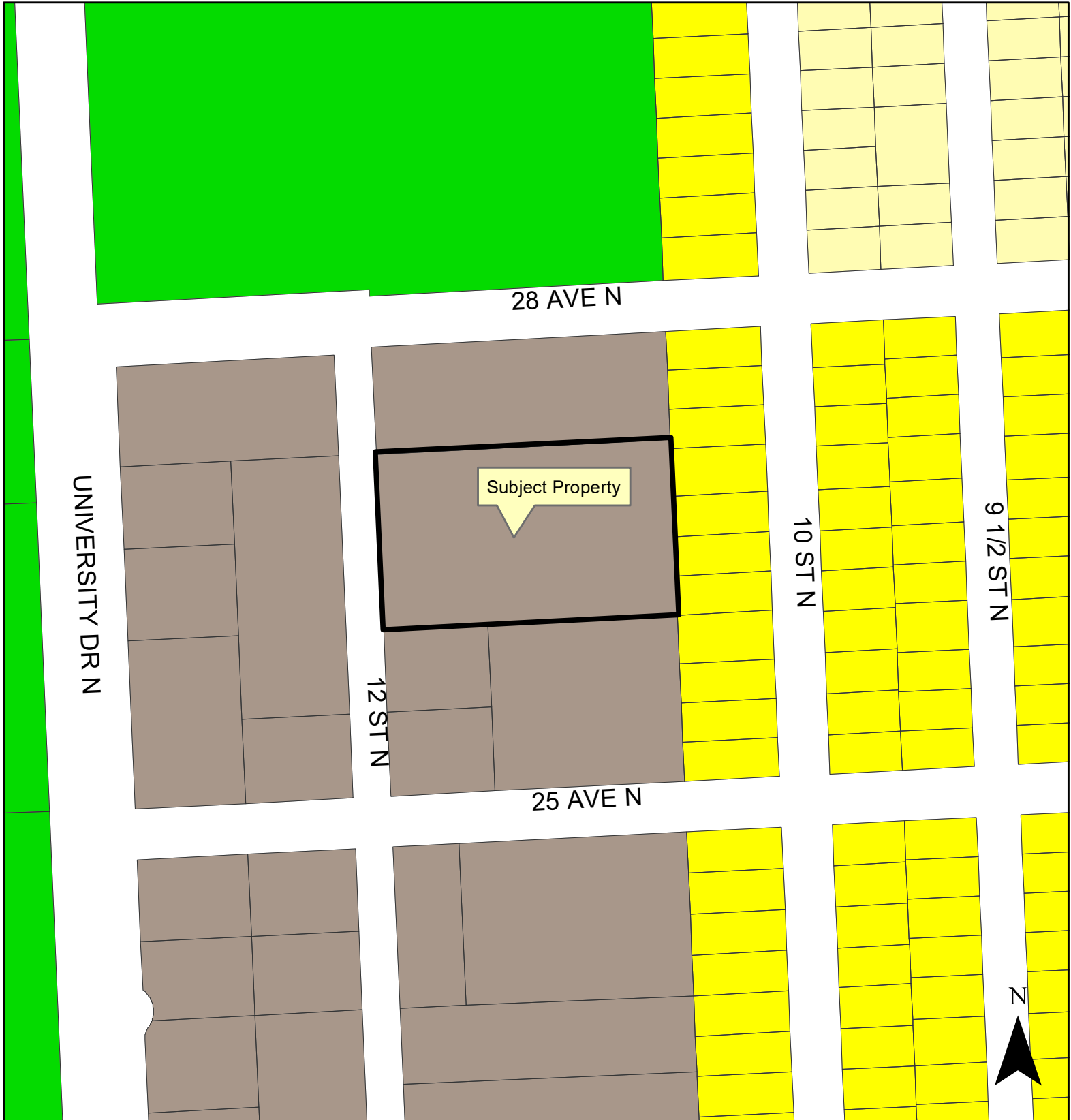
**Attachments:**

1. Zoning Map
2. Location Map
3. Copy of Restrictive Covenants for Airport 1<sup>st</sup> Addition
4. Letter of Request from Applicant
5. Copy of Applicant's Property Owner Approval Form

# Variance to Restrictive Covenants

## Airport First Addition

2601 & 2629 12th St N



### Legend

AG	DMU	GC	GO	LC	MR-1	MR-2	MR-3	MHP	NO	P/T	UMU	SR-2	SR-3	SR-4	SR-5	City Limits
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Fargo Planning Commission

September 4, 2018

300

Feet



# Variance to Restrictive Covenants

## Airport First Addition

2601 & 2629 12th St N





Deb @ Engineering 8101		Date	5/25	# of pages	4
Post-It® Fax Note 7671		To	Barb Grande		
		From	Shawn Dobberstein		
		Co./Dept.	Co. Airport		
		Phone #	293-4001		
		Phone #	241-1501		
		Fax #	293-3423		
		Fax #	241-1538		

**RESTRICTIVE COVENANTS**

**AIRPORT FIRST ADDITION  
TO THE CITY OF FARGO**

WHEREAS, The City of Fargo, a municipal corporation is the owner of all of Airport First Addition to the City of Fargo except Lots 8, 9, 10, 11 and 12 in Block 4 and,

WHEREAS, Said City of Fargo is desirous of protecting the community home owners near said Airport First Addition and subsequent purchasers of lots in this addition.

NOW THEREFORE, The City of Fargo does hereby prescribe and declare that all of said Airport First Addition except Lots 8, 9, 10, 11, 12, 14, 15 and 16 in Block 4 shall be subject to the restrictions and conditions as hereinafter set forth, and that such restrictions and conditions shall apply to and be a part of every conveyance or deed to said property or any part thereof, the same as though fully incorporated in any deed or conveyance thereof. Said restrictions and conditions shall be deemed and considered as covenants running with the land when conveyed or deeded, and shall be binding on the heirs, executors, administrators, successors and assigns of any person to whom said land may be conveyed until January 1, 1975, at which time said covenants shall be automatically extended for successive periods of ten years unless by a vote of the majority of the then owners, it is agreed to change or modify said covenants.

Any violation or attempted violation of any of the conditions, restrictions or prohibitions hereinafter set forth shall entitle any owner of the above described property to institute and prosecute appropriate proceedings, at law or in equity, for said violation or attempted violation. Invalidation of any of these covenants by judgement or court order shall in no way affect any of the other covenants which shall remain in full force and effect.

**1. Front, Rear and Side Yards:**

A. No structure shall be permitted nearer than twenty-five (25) feet to the front lot line nor nearer than twenty-five (25) feet to the rear lot line.

B. Side yard shall be ten percent (10%) of the width of the lot with a maximum requirement of twenty-five (25) feet.

C. Those properties containing the buffer easement shall not build closer than twenty-five (25) feet west of the line of the buffer easement.

**2. Height Restrictions:** No building, smoke stack, sign, antenna, materials storage, or any other appurtenance in connection with the use of the property shall be in excess of thirty-five (35) feet above the ground.



3. Architectural Treatment: All buildings shall have a finished appearance and architectural treatment acceptable to the City of Fargo. No structure shall be commenced or erected, nor shall any addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, plan and location of such structure shall have been submitted to and approved in writing by the undersigned City of Fargo, a municipal corporation, its successors and assigns. In the event said parties fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to them and receipted therefor, or in the event that no suit to enjoin the erection of such building or the making of such alteration has been commenced prior to the completion thereof, such approval will not be required and said covenant will be deemed to have been fully complied with.

4. Parking and Loading Requirements: Each property shall provide sufficient off-street parking for all personnel and clients plus adequate space for loading and unloading of trucks and other carriers used in connection with the property. All parking and loading areas shall be hard surfaced with a material suitable to prevent structural failure and the raising of any dust.

5. Landscaping and Buffer Easement:

A. Each designated lot owner or sub-lot owner shall devote a minimum of ten percent of the area of said lot or sub-lots to grass, trees, shrubs, flowers or other forms of ornamental landscaping.

B. The owners of property containing the buffer easement, with the exception of the City of Fargo, a municipal corporation, shall in addition maintain that easement with grass, shrubs, flowers and six (6) rows of trees in healthy condition suitable for a visual screen. The buffer strip shall also be kept free of weeds, debris and any other unsightly substance and the grass, trees and shrubs thereon shall be maintained and trimmed in a manner similar to park property in the City of Fargo.

6. Underground Utilities:

A. All electrical, telephone, telegraph or other wires, shall be placed underground. Transformers and other hardware connected with the previously mentioned wires may be mounted on grade if screened with a well constructed ornamental fence or high shrubbery.

7. Outdoor Lighting: No outdoor lighting, including signs, shall be arranged so as to cause any annoyance or inconvenience to residential properties in the vicinity. No blinking or flashing lights or signs nor any lights which shine on residential property may be used.

B. Claims for Damages: No owner, lessee, or other user of land in the Airport First Addition to the City of Fargo shall have any claim against the City of Fargo or the airport utility for damages due to noise, vibrations or any other factor related in any way to the use of the airport.

**9. Permitted Uses:**

A. Business, professional, governmental or institutional offices.

B. Light manufacturing, except those types which by virtue of emission of odor, dust, smoke, gas, steam, vibrations or noise would impair the health, safety, value or amenity of the residential property in the vicinity.

C. Wholesaling or shipping, with the condition that an outdoor storage yards used in connection with such enterprises shall be hard surface and kept free of junk, cars, machinery and other objects which are likely to be stored indefinitely.

D. Public and Semi-public Utilities.

E. Sales, Service and Housing of Aircraft or Airport Related products and Facilities for use in training of aircraft or airport related personnel.

F. Warehousing, provided any structure used for this purpose shall meet the requirements of paragraph three above.

**10. Prohibited uses:**

A. Homes, apartments, trailer courts, dormitories or any other use which is residential in nature.

B. All stores and shops which sell any commodity to the final user or which is otherwise retail in nature.

C. The manufacturing, processing or selling of any food or drink product, whether for human or animal consumption.

D. Bowling alleys, pool halls, amusement centers or any other type of commercial recreation.

E. Lodges, churches, schools, meeting rooms, auditoriums, theaters or any other type of buildings used for assembly purposes.

F. Hotels, motels, tourist courts or any other type of lodging facilities.

G. Any use which by virtue of emission of odor, dust, smoke, gas, steam, vibration or noise would impair the health, safety, value or amenity of residential property in the vicinity.

**11. Variance:** The covenants, agreements, conditions, reservations, restrictions and charges created and established herein for the benefit of said tract, and each lot therein, may be waived, abandoned and terminated, modified, altered or changed as to the whole of said tract or a portion thereof with the written consent of the owners of a majority of the owners of all the lots in



Airport First Addition together with a majority of the owners of Lots 1 through 13 in Block 3, Lots 1 through 13 in Block 6, and Lots 1 through 11 in Block 10, of Peter Sway Fifth Addition and the approval of the Fargo Zoning Commission. No such waiver, abandonment, termination, modification, or alteration shall become effective until the proper instrument in writing shall be executed and recorded in the office of the Recorder of Deeds for Cass County, North Dakota.

IN TESTIMONY WHEREOF, The said municipal corporation has caused these presents to be executed in its corporate name by its President and City Auditor and its corporate seal to be hereunto affixed the day and year first above written.

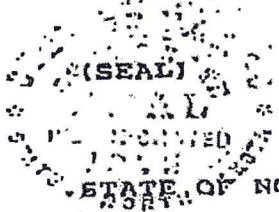
CITY OF FARGO, a municipal corporation

By Herschel Lashkowitz  
Herschel Lashkowitz, President of the Board of City Commissioners of the City of Fargo, North Dakota

Signed, Sealed and Delivered in the presence of:

[Signature]

ATTEST:  
Frank R. Fahrlander  
Frank R. Fahrlander, City Auditor



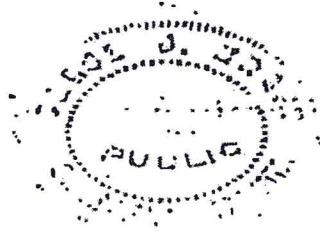
STATE OF NORTH DAKOTA )  
COUNTY OF CASS ) ss.

On this 27th day of August, 1967, before me a Notary Public in and for said County and State personally appeared HERSCHEL LASHKOWITZ and FRANK R. FAHRLANDER, to me known to be the President of the Board of City Commissioners and City Auditor, respectively, of the City of Fargo, and the persons described in and who executed the above and foregoing instrument and acknowledged to me that such corporation executed the same.

Carol J. Kraft  
Notary Public

My Commission Expires: \_\_\_\_\_

CAROL J. KRAFT  
Notary Public, CASS COUNTY, N. DAK.  
My Commission Expires SEPT. 11, 1973



DOCUMENT No. \_\_\_\_\_ Filed for record on the 21st day of Aug  
A. D. 1967, at 1:22 o'clock P.M.  
R. Friedman  
REGISTERER OF DEEDS







ALPHA OMEGA  
DEVELOPMENTS, INC

August 10, 2018

Mr. Aaron M. Nelson, AICP  
City of Fargo Department of Planning and Development  
200 Third St N  
Fargo, ND 58102

RE: Variance Request to the Restrictive Covenants of the Airport First Addition to the City of Fargo

Mr. Nelson:

Please see this letter as an official request to receive a variance from the restrictive covenants that pertains to the lot we are developing at Lot 2, Block 2 in the Airport First Addition to the City of Fargo, commonly known as 2601 12<sup>th</sup> St North. At this time, we are requesting to receive a variance on Paragraph 1, sub paragraph C, which pertains to the setback required on the buffer easement. Our request is to reduce the setback from the stated twenty-five (25) feet west in the covenant, to ten (10) feet west. Additionally, we are looking to extend the concrete drive aisle into the buffer zone by approximately twenty-five (25) feet. As is shown on the site plan submitted, the requested change reduces the set back from the adjacent properties to the east from one hundred seventy-five (175) feet to one hundred sixty (160) feet. We will also retain approximately twenty-five (25) feet of the green space before the treed shelter belt to the east resulting in a setback to the property line for the concrete to approximately one hundred twenty-five (125) feet.

Per the requirement of the restrictive covenants, a variance request requires the following items:

- Written approval from the majority of the property owners within in the Airport First Addition. This has been completed;
- Written approval from the majority of the property owners within Lots 1-13 of Block 3, Lots 1-13 of Block 6 and Lots 1-11 of Block 10 of Peter Sway 5<sup>th</sup> Addition. This has been completed;
- Approval from the City of Fargo Planning and Zoning Commission.

The purpose of the request is to allow us to properly size the drive aisle between buildings two and three on our site plan. Additionally, the request to pave into the buffer zone is to reduce the amount of dust and debris that may be caused by people driving over dirt and grass as opposed to concrete. The additional concrete will also allow for off street parking for owners while using the storage garages.

We believe that the variance should be approved due to the following reasons:

- All of the requirements stated in the covenant to approve a variance request have been met, with the exception of the approval from the City of Fargo Planning and Zoning Commission;

- The property covenants required a twenty-five (25) foot set back from the buffer easement, which in itself is one hundred fifty (150) feet from the property line to the east. This results in a one hundred seventy-five (175) foot set back from the properties to the east of our property. This far exceeds the normal set back of twenty-five (25) feet required by the City of Fargo Building Code;
- The property being developed is for storage and is anticipated to be of low traffic use. The original covenants were intended to protect the property owners to the east from high traffic distribution centers due to the proximity of the land to the airport which never materialized;
- We developed the property to conform with the City of Fargo's light pollution requirements to ensure we would not be a disturbance to the property owners to the east;
- Since the date of the covenant, August of 1969, the shelter belt of trees at least six rows deep, has matured between the properties to the east of our property. The maturity of the trees further enhances the buffer easement that currently exists and helps to further reduce the impact of the variance that we are requesting. We are not removing any trees with this request and the shelter belt will remain intact;
- We have had overwhelming support from the petitions signed by property owners in both the Airport First Addition and Peter Sway 5<sup>th</sup> Addition. This is supported by the petitions submitted, which exceed the minimum majority stated in the covenant.

Thank you, Mr. Nelson, for taking the time to consider our request. Please feel free to contact me with any questions you may have regarding the submittal and any of the documents related to the request.

Respectfully,



Chad Marsden  
Alpha Omega Developments

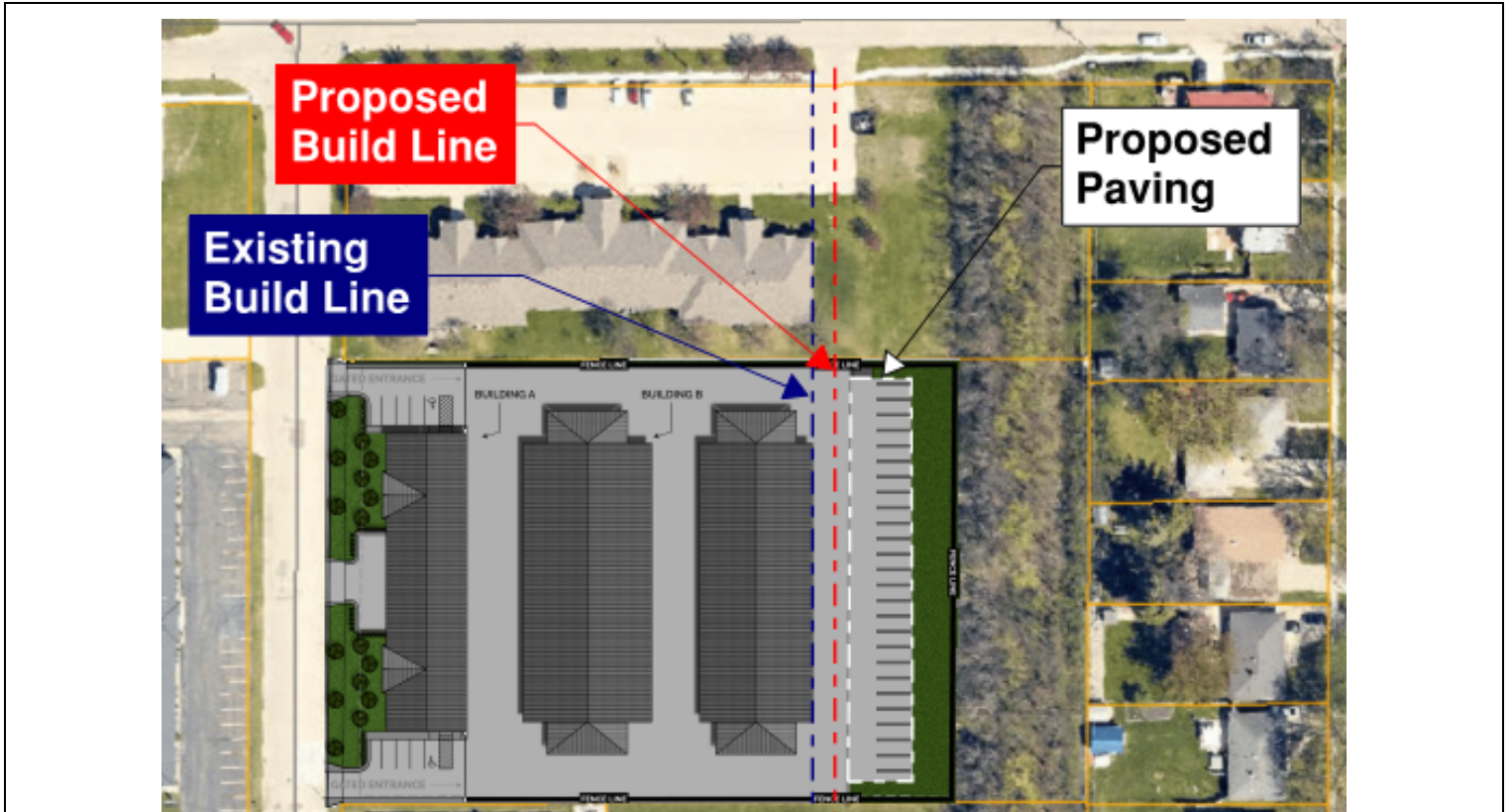
Enclosures:

- Signed Petitions of Airport First Addition
- Signed Petitions of Peter Sway Fifth Addition
- Airport First Addition Restrictive Covenant
- Site Plan Stating Variance Request

# VARIANCE PETITION

2601 12<sup>TH</sup> STREET NORTH

- The BLUE DOTTED LINE shows the existing building line.
- The RED DOTTED LINE shows the requested 15' building line variance to the East.
- The WHITE DOTTED AREA shows the requested paving variance.



The undersigned as owner or authorized agent for the owner(s) of the property with an address of:

\_\_\_\_\_, **Fargo, ND 58102**, hereby approve the requested variance of the restrictive covenants for the Airport First Addition per the diagram below:

Property Owner Name Printed: \_\_\_\_\_

Date:

Additional Properties: