

FARGO PLANNING COMMISSION AGENDA  
Thursday, September 7 at 3:00 p.m.

A: Approve Order of Agenda

B: Minutes: Regular Meeting of August 1, 2023

C: Public Hearing Items:

1. Hearing on an application requesting a Plat of **TYKE Addition** (Major Subdivision) a replat of all of Lots 1-9 and part of Lots 10-14, Teigen's Second Addition and Dedication of 25th Street North and a Vacation of 3rd Avenue North, to the City of Fargo, Cass County, North Dakota. (Located at 201 27th Street North and 2600 3rd Avenue North) (TYKE Properties, LLC/GTO Properties LLC/Kevin Bartram) (me)
- 2a. Hearing on an application requesting a PUD, Planned Unit Development Master Land Use Plan amendment on Lots 1-2, Block 1, **EOLA Addition** and on the proposed **EOLA Second Addition**. (Located at 4410, 4415, 4448, 4470, 4471, and 4474 24th Avenue South; 4417 and 4477 26th Avenue South) (Epic Companies/EOLA Landholdings, LLC/MAKT LLC) (me)
- 2b. Hearing on an application requesting a Plat of **EOLA Second Addition** (Minor Subdivision) a replat of Lots 1-5, Block 2, EOLA Addition, to the City of Fargo, Cass County, North Dakota. (Located at 4410, 4448, 4470, and 4474 24th Avenue South; 4417 and 4477 26th Avenue South) (Epic Companies/EOLA Landholdings, LLC/MAKT LLC) (me)
3. Hearing on an application requesting a Plat of **Trollwood Land Three Addition** (Minor Subdivision) a replat of Lots 1-3 and part of Lot 4, Block 1, Trollwood Land Addition, to the City of Fargo, Cass County, North Dakota. (Located at 3123 and 3131 Broadway North; 504 32nd Avenue North) (North Fargo Development Group, LLC/ United Development Group, LLC) (dk)
4. Hearing on an application requesting a Vacation Plat of portions of 3rd Avenue North and 3rd Street North, **North Dakota R-1 Urban Renewal Addition**. (Located at 101, 207 and 225 4th Street North; 285 1st Avenue North; 200 and 334 4th Avenue North) (City of Fargo/Northland Hospitality/City Centre Lofts Association) (dk)
5. Hearing on an application requesting a Plat of **Larkin Second Addition** (Minor Subdivision) a replat of Lot 2, Block 1, Larkin Addition, to the City of Fargo, Cass County, North Dakota. (Located at 3600 39th Street South) (Larkin Properties, LLP/Houston Engineering) (ae)

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

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

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

## **BOARD OF PLANNING COMMISSIONERS MINUTES**

### **Regular Meeting:**

**Tuesday, August 1, 2023**

The Regular Meeting of the Board of Planning Commissioners of the City of Fargo, North Dakota, was held in the Commission Chambers at City Hall at 3:00 p.m., Tuesday, August 1, 2023.

The Planning Commissioners present or absent were as follows:

Present: Maranda Tasa, John Gunkelman, Scott Stofferahn, Art Rosenberg, Jennifer Holtz, Thomas Schmidt, Brett Shewey

Absent: Rocky Schneider, Dawn Morgan

Vice Chair Tasa called the meeting to order.

### **Business Items:**

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

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

#### **Item B: Minutes: Regular Meeting of July 6, 2023**

Member Schmidt moved the minutes of the July 6, 2023 Planning Commission meeting be approved. Second by Member Shewey. All Members present voted aye and the motion was declared carried.

#### **Item C: Public Hearing Items:**

##### **Item 1: Interstate Business District Addition**

**1a. Hearing on an application referred from the July 10, 2023 City Commission meeting requesting a Growth Plan Amendment on the proposed Interstate Business District Addition from Residential Area, Lower-to-Medium Density, Commercial, and Proposed Park to Industrial and Commercial. Application originally considered by the Planning Commission on June 6, 2023. (Located at 4753 45th Street North and 4269 40th Avenue North) (North Fargo Land, LLC; ARD Properties, LLC/Tony Eukel, MBN Engineering): APPROVED**

**1b. Hearing on an application referred from the July 10, 2023 City Commission meeting requesting a Zoning Change from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional on the proposed Interstate Business District Addition. Application originally considered by the Planning Commission on June**

**6, 2023. (Located at 4753 45th Street North and 4269 40th Avenue North) (North Fargo Land, LLC; ARD Properties, LLC/Tony Eukel, MBN Engineering): APPROVED**

**1c. Hearing on an application referred from the July 10, 2023 City Commission meeting requesting a Plat of Interstate Business District Addition (Major Subdivision) a plat of a portion of the West Half of Section 15, Township 140 North, Range 49 West, of the Fifth Principal Meridian, to the City of Fargo, Cass County, North Dakota. Application originally considered by the Planning Commission on June 6, 2023. (Located at 4753 45th Street North and 4269 40th Avenue North) (North Fargo Land, LLC; ARD Properties, LLC/Tony Eukel, MBN Engineering): APPROVED**

Planning Coordinator Donald Kress presented the staff report providing an overview of updates and stating all approval criteria have been met and staff is recommending approval.

Discussion was held regarding barriers and set-backs, the possibility of a restrictive use overlay, landscaping and proposed tree line, traffic and safety, the growth plan, and shared concerns from the April 20, 2023 neighborhood meeting.

City Engineer Tom Knakmuhs, spoke on behalf of the Engineering Department.

Applicant Representatives, Lee Grossman, SW&L Attorneys, Tom Nelson, Swan Real Estate, and Nate Vollmuth, Goldmark Design & Development, spoke on behalf of the application.

Brief discussion was held regarding allowable business types in the LI, Limited Industrial zoning district.

The following Reile's Acres residents spoke in opposition to the application stating the following concerns: previous denial reasons of the application, decreased property values, buffer distance, the type, location, and timeline of trees to be planted, zoning that will be allowed in the Fargo ET, Extraterritorial Jurisdiction area to the North, the need for residential zoning on the North side of Fargo, ability to have residential next to the interstate, types of businesses allowed, environmental and health impacts, EPA regulations, safety, noise, and traffic.

Paula Peterson, 4314 45 Street North  
Mariia Goriacheva, 4534 39 Avenue North  
Josh Morrell, 4534 39 Avenue North  
Kyla DuBord, 4106 45 Street North

At 4:01 p.m., the Board took a five-minute recess.

After recess: All members present except Members Schneider and Morgan. Vice Chair Tasa presiding.

Public comment continued with the following Reile's Acres residents:

Thomas Krantz, City of Reile's Acres Council Member, 4563 38 1/2 Avenue North  
Gail Prudhomme, 4302 45 Street North

Tim Hager, City of Reile's Acres Council Member, 4641 38 1/2 Avenue North

Mr. Kress spoke on the role of the Planning Commission and the Planning Department, and the plan review process.

Assistant Planning Director Mark Williams additionally spoke on the plan review process.

Mr. Kress clarified that Lot 2 and Lot 8 would be zoned P/I, Public and Institutional.

Mr. Duda and Mr. Grossman spoke further on the application.

Discussion continued regarding the permit review process, the C-O, Conditional Overlay, and the proposed zoning.

Mr. Kress and Mr. Williams further clarified the permit review process.

Member Gunkelman moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Growth Plan Amendment from Residential Area, Lower to Medium Density, Commercial, and Proposed Park to Industrial and Commercial, 2) Zoning Change from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial with a C-O, Conditional Overlay, and P/I, Public and Institutional, and 3) Subdivision Plat Interstate Business District Addition, as outlined within the staff report, as the proposal complies with the 2007 Growth Plan, the Standards of Article 20-06, and Section 20-0906.F(1-4), Section 20-0905(H), and Section 20-0907.C of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Stofferahn.

Further discussion was held regarding the permitting process, the growth plan, setbacks, proposed zoning of Lot 9, and location of the water main easement.

Member Shewey moved to amend the original motion to include a Zone Change of Lot 9 from LI, Limited Industrial, to GC, General Commercial. Second by Member Stofferahn. On call of the roll Members Stofferahn and Shewey voted aye. Members Holtz, Rosenberg, Schmidt, Tasa, and Gunkelman voted nay. Absent and not voting Members Schneider and Morgan. The motion failed for a lack of majority.

Action on the original motion:



On call of the roll Members Rosenberg, Schmidt, Stofferahn, Tasa, and Gunkelman voted aye. Members Holtz and Shewey voted nay. Absent and not voting Members Schneider and Morgan. The motion was declared carried.

**Item 2: Laverne's Third Addition**

**Hearing on an application requesting a Plat of Laverne's Third Addition (Minor Subdivision) a replat of Lots 5-8, Block 2, Laverne's Second Addition, to the City of Fargo, Cass County, North Dakota. (Located at 2812, 2880, 2924, and 2984 42nd Street North) (Laverne Indy, LLC/Houston Engineering, Inc.): APPROVED**

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

Nate Vollmuth, spoke as a resident, stating this is a large industrial area kitty corner to Reile's Acres.

Member Schmidt moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat Laverne's Third Addition, as outlined within the staff report, as the proposal complies with the 2007 Growth Plan, the Standards of Article 20-06, Section 20-0907.B&C of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Stofferahn. On call of the roll Members Gunkelman, Holtz, Shewey, Stofferahn, Schmidt, Rosenberg, and Tasa voted aye. Absent and not voting: Members Schneider and Morgan. The motion was declared carried.

**Item 3: Timber Parkway Tenth Addition**

**Hearing on an application requesting a Plat of Timber Parkway Tenth Addition (Minor Subdivision) a replat of Lot 2, Block 1, Timber Parkway Fifth Addition to the City of Fargo, Cass County, North Dakota. (Located at 5161 Charles Way South) (First International Bank & Trust/Christianson Companies): APPROVED**

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

Discussion was held regarding Charles Way and access to Timber Parkway.

Member Shewey moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat Timber Parkway Tenth Addition, as outlined within the staff report, as the proposal complies with the 2001 Growth Plan, the Standards of Article 20-06, Section 20-0907.B&C of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Stofferahn. On call of the roll Members Schmidt, Gunkelman, Stofferahn, Rosenberg, Holtz, Tasa and Shewey voted aye. Absent and not voting: Members Schneider and Morgan. The motion was declared carried.

**Item 4: 45th Street Park Third Addition**

**Hearing on an application requesting a Conditional Use Permit to allow manufacturing and production in the GC, General Commercial zoning district on Lot 2, Block 1, 45th Street Park Third Addition. (Located at 200 and 300 45th Street South) (West 45th Development/Goldmark Design and Development): APPROVED**

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

Discussion was held regarding the location of the application, and limiting the amount of square footage to be used as manufacturing and production.

Mr. Williams clarified the coverage of the Conditional Use Permit.

Applicant Representative Nate Vollmuth, Goldmark Design and Development, spoke on behalf of the application.

Further discussion was held regarding the conditions of the permit, the type of manufacturing and production, allowable space to be used for manufacturing and production, building design, and the project fitting the use allowed at the site.

Mr. Williams spoke on the options of the Planning Commission regarding this application.

Member Schmidt moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow manufacturing and production uses in the GC, General Commercial zoning district be approved, as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, Section 20-0909.D (1-6) of the Land Development Code and all other applicable requirements of the Land Development Code, with the following conditions:

**Prohibited Uses:**

- Detention Facility
- Adult Establishment
- Aviation/Surface Transportation
- Off-Premise Advertising
- Portable Signs

1. Off-street parking, loading, and vehicular circulation areas (including circulation areas internal to storage yards) shall have an all-weather surface, as defined by the Land Development Code.
2. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclear or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.

3. Outdoor storage and truck parking areas within 500 feet of residentially zoned properties shall have an opaque fence or landscape buffers as required per the Residential Protection Standards in order to sufficiently screen.
4. Dumpsters must contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor.
5. The manufacturing, production, or processing of hazardous chemicals or materials shall not be permitted.
6. Any expansion of the manufacturing and production uses shall require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
7. The Conditional Use Permit shall terminate if manufacturing and production uses cease for a period of more than 12 consecutive months.

Second by Member Holtz. On call of the roll Members Tasa, Gunkelman, Stofferahn, Holtz, and Schmidt voted aye. Members Rosenberg and Shewey voted nay. Absent and not voting: Members Schneider and Morgan. The motion was declared carried.

**Item 5: 45th Street Park Fifth Addition**

**Hearing on an application requesting a Conditional Use Permit to allow manufacturing and production in the GC, General Commercial zoning district on Lot 2, Block 1, 45th Street Park Fifth Addition. (Located at 400 45th Street South) (West 45th Development/Goldmark Design and Development): APPROVED**

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

Applicant Representative Nate Vollmuth, Goldmark Design and Development, spoke on behalf to the application.

Brief discussion was held on the area the CUP, Conditional Use Permit, would apply.

Member Schmidt moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow manufacturing and production uses in the GC, General Commercial zoning district be approved, as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, Section 20-0909.D (1-6) of the Land Development Code and all other applicable requirements of the Land Development Code, with the following conditions:

Prohibited Uses:

- Detention Facility
- Adult Establishment
- Aviation/Surface Transportation
- Off-Premise Advertising
- Portable Signs

1. Off-street parking, loading, and vehicular circulation areas (including circulation areas internal to storage yards) shall have an all-weather surface, as defined by the Land Development Code.

2. The property shall not be used in whole or in part for storage of rubbish or debris of any kind whatsoever nor for the storage of any property or items that will cause such lot to appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall any substance, item or material be kept on any lot that will emit foul odors, including compost sites and fertilizer.

3. Outdoor storage and truck parking areas within 500 feet of residentially zoned properties shall have an opaque fence or landscape buffers as required per the Residential Protection Standards in order to sufficiently screen.

4. Dumpsters must contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor.

5. The manufacturing, production, or processing of hazardous chemicals or materials shall not be permitted.

6. Any expansion of the manufacturing and production uses shall require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.

7. The Conditional Use Permit shall terminate if manufacturing and production uses cease for a period of more than 12 consecutive months.

Second by Member Gunkelman. On call of the roll Members Schmidt, Tasa, Gunkelman, Holtz, and Stofferahn voted aye. Members Shewey and Rosenberg voted nay. Absent and not voting: Members Schneider and Morgan. The motion was declared carried.

**Item 6: Wentz Addition**

**Hearing on an application requesting a Zoning Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential on Lot 16, Block 6, Wentz Addition. (Located at 2320 22nd Street South) (Rob Lugert): APPROVED**

Planner Brad Garcia presented the staff report stating all approval criteria have been met and staff is recommending approval.

Member Rosenberg moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Zoning Change from SR-2, Single-Dwelling Residential to SR-3, Single-Dwelling Residential as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Standards of Section 20-0906.F (1-4) of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Stofferahn. On call of the roll Members Rosenberg, Holtz, Shewey, Gunkelman, Stofferahn, Tasa and Schmidt voted aye. Absent and not voting: Members Schneider and Morgan. The motion was declared carried.

**Item 7: Buchholz Addition**

**Hearing on an application requesting a Plat of Buchholz Addition (Minor Subdivision) a replat of Lots 4-6, Block 11, Industrial Subdivision No.1, and part of Lot 25, Hector's Subdivision, to the City of Fargo, Cass County, North Dakota including a subdivision waiver for drain setback. (Located at 1330 43rd Street North and 1301 45th Street North) (Mark Buchholz/Buchholz Properties): APPROVED**

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

Discussion was held regarding the number of lots, and the parking lot location.

Applicant Mark Buchholz spoke on behalf of the application.

Member Gunkelman moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat Buchholz Addition, as outlined within the staff report, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, Section 20-0907.B&C of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Schmidt. On call of the roll Members Shewey, Tasa, Rosenberg, Gunkelman, Stofferahn, Schmidt, and Holtz voted aye. Absent and not voting: Members Schneider and Morgan. The motion was declared carried.

**Item 8: Golden Valley Second Addition**

**Hearing on an application requesting a Conditional Use Permit to allow Group Living in the SR-4, Single Dwelling Residential zoning district on Lot 7, Block 1, Golden Valley Second Addition. (Located at 2545 69th Avenue South) (Jordahl Custom Homes/A Place to Call Home Care, LLC): APPROVED**

Mr. Kress presented the staff report stating all approval criteria have been met and staff is recommending approval. He noted a laydown item of additional comments received from residents was provided to the Board.

Discussion was held regarding the number of people allowed to live in a single family dwelling without needing a permit, maximum number of residents allowed, and parking requirements.

Applicant Representative Gisselle Ishimwe, A Place to Call Home Care LLC, spoke on behalf of the application.

Further discussion was held regarding if anyone will live there permanently, number of staff, resident behavior, resident transportation to appointments, visitors, parking, number of vehicles on site, and the permitting process.

Fire Marshall Ryan Erickson, spoke on behalf of the Fire Department.

Applicant Representative Heather Hanson, Keller Williams Inspire Realty, spoke on behalf of the application.

Mr. Williams spoke on behalf of the Planning Department and the permitting process.

Ms. Hanson continued speaking on behalf of the application.

Discussion continued regarding if the home was built specifically for this, the permitting process, and parking requirements.

The following neighborhood residents spoke in opposition to the application stating the following concerns: amount of adjacent homeowners being notified, negative impact on property values, number of vehicles on site, frequency of visitors, allowing a business in a residential area, number of bedrooms in the home, number of onsite staff, possible increase in emergency vehicles in the area, neighborhood and resident safety, and the criteria for the application.

Dan Berglind, 2610 Golden Lane South  
Edie Holcomb, 2561 69 Avenue South

The Board inquired if the neighborhood residents had documentation of the covenants for the Home Owners Association.

Golden Valley Home Owners Association representative Mike Strobel, 2741 Golden Valley Parkway South, spoke in opposition to the application and noted the covenants could be provided at a later date.

Public comment continued with the following neighborhood resident's opposition concerns: this is a single-family neighborhood, the proposed use not fitting the current home owner's association covenants, distance of the property owner notifications, and safety.

Harold Rodenbiker, 2594 Golden Lane South  
Gary Schepp, 2580 Golden Lane South  
Edie Holcomb, 2561 69 Avenue South

Mr. Kress clarified the process for property owner notification letters.

Member Schmidt moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow group living in the SR-4, Single-Dwelling Residential zoning district on Lot 7, Block 1, Golden Valley Second Addition be approved, as outlined within the staff report, as the proposal complies with the 2007 Growth Plan, the Standards of Section 20-0909.D of the Land Development Code, and all other applicable requirements of the Land Development Code, with the following condition:

1. If the property is transferred, the new owner must apply for a new Conditional Use Permit in order to continue the group living use.

Second by Member Holtz.

Further discussion was held regarding the proposed location of this project, parking and vehicle storage, the permitting process, effect on housing values, and the builder's responsibility in the permitting processes.

On call of the roll Members Stofferahn, Shewey, Tasa, Schmidt, and Holtz voted aye. Members Rosenberg and Gunkelman voted nay. Absent and not voting: Members Schneider and Morgan. The motion was declared carried.

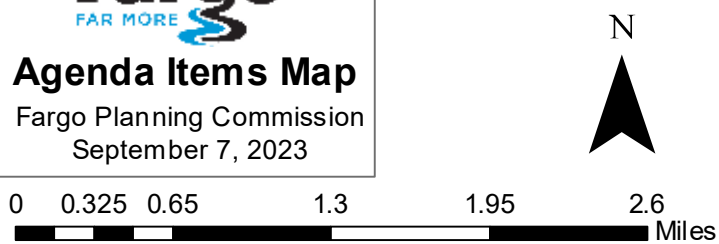
Member Rosenberg moved to adjourn the meeting. Second by Member Schmidt. All Members present voted aye and the motion was declared carried.

The time at adjournment was 6:13 p.m.





  
**Agenda Items Map**  
 Fargo Planning Commission  
 September 7, 2023



- | Agenda Item Number                           |
|--|
| 1 -- TYKE Addition                           |
| 2a&b -- EOLA Second Addition                 |
| 3 -- Trollwood Land Three Addition           |
| 4 -- North Dakota R-1 Urban Renewal Addition |
| 5 -- Larkin Second Addition                  |



**City of Fargo  
Staff Report**

<b>Title:</b>	TYKE Addition	<b>Date:</b>	8/29/2023
<b>Location:</b>	201 27th Street North and 2600 3rd Avenue North	<b>Staff Contact:</b>	Maegin Elshaug, Planning Coordinator
<b>Legal Description:</b>	Lots 1-9 and part of Lots 10-14, Teigen's Second Addition (see note) and Dedication of 25th Street North and a Vacation of 3rd Avenue North		
<b>Owner(s)/Applicant:</b>	TYKE Properties, LLC/GTO Properties LLC/Kevin Bartram	<b>Engineer:</b>	RJN Survey
<b>Entitlements Requested:</b>	<b>Major Subdivision</b> (replat of all of Lots 1-9 and part of Lots 10-14, Teigen's Second Addition (see note) and Dedication of 25th Street North and a Vacation of 3rd Avenue North, to the City of Fargo, Cass County, North Dakota)		
<b>Status:</b>	Planning Commission Public Hearing: September 7, 2023		

Existing	Proposed
<b>Land Use:</b> Industrial	<b>Land Use:</b> no change
<b>Zoning:</b> LI, Limited Industrial	<b>Zoning:</b> no change
<b>Uses Allowed:</b> LI allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open areas, religious institutions, safety services, basic utilities, adult establishment, offices, off-premise advertising signs, commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, and certain telecommunications facilities.	<b>Uses Allowed:</b> no change
<b>Maximum Lot Coverage Allowed:</b> Maximum 85% building coverage	<b>Maximum Lot Coverage Allowed:</b> no change

**Proposal:**

**Subdivision name note:** The underlying subdivision is Teigen's Second Subdivision, not Teigen's Second Addition as it appears on the agenda.

The applicant requests one entitlement:

1. Replat of all of Lots 1-9 and part of Lots 10-14, Teigen's Second Subdivision and Dedication of 25th Street North and a Vacation of 3rd Avenue North (major subdivision) to be known as TYKE Addition

The applicant is seeking approval of a vacation of a portion of 3<sup>rd</sup> Avenue North, adjacent to properties located at 201 27th Street North and 2600 3rd Avenue North. The right of way was originally dedicated by the Teigen's Second Subdivision plat in 1951. The proposed street vacation is the south 10 feet for the length of the block adjacent to the property and encompasses approximately 0.14 acres of public right of way. The plat also dedicates an existing street and utility easement as 25<sup>th</sup> Street North right of way.

**Surrounding Land Uses and Zoning Districts:**

- North: Across 3<sup>rd</sup> Avenue North is LI, Limited Industrial with industrial uses;
- East: Across 25<sup>th</sup> Street north is GC, General Commercial with Fargo Police Headquarters;
- South: LI with industrial use;
- West: Across 27<sup>th</sup> Street North is LI with office and City of Fargo owned property.

### Area Plans:

The subject property is located within the Core Neighborhoods plan, specifically the Madison/Unicorn Park neighborhood. The future land use plan for the neighborhood identifies the subject property as appropriate for industrial/warehousing use.

#### MADISON / UNICORN PARK

### FUTURE LAND USE MAP



### Context:

**Neighborhood:** Madison/Unicorn Park

**Schools:** The subject property is located within the Fargo School District, specifically Madison elementary, Ben Franklin middle and North High schools.

**Parks:** The subject property is not located within a quarter-mile of any parks.

**Pedestrian / Bicycle:** There is no shared use path located within a quarter-mile of the subject property.

**Transit:** MATBus route 17 runs along 3<sup>rd</sup> Avenue North and heads north at 25<sup>th</sup> Street North, adjacent to the subject property, with a bus stop location just northeast across the intersection.

### Staff Analysis:

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.

#### Major Subdivision

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

- Section 20-0907. of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**  
The subject property is zoned LI, Limited Industrial. No zone change is proposed. The existing industrial uses are consistent with the LI zone and the approved future land use plan for the neighborhood. 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, Planning staff has received and responded to one inquiry. **(Criteria Satisfied)**
- Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**  
The subject property is zoned LI, Limited Industrial. No zone change is proposed. The property is in the

Madison/Unicorn Park neighborhood, which the Core Neighborhoods plan identifies this property as appropriate for industrial use. The existing use of industrial is consistent with the LI zoning. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

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

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)**

**ROW Vacation Approval Criteria:** The City of Fargo does not currently have any adopted regulation dealing with the vacation of rights-of-way. However, city policy requires that any applicant wishing to vacate right-of-way must submit a Vacate Application—a one-page form wherein the petitioner provides: a description of the area to be vacated and signatures of all property owners adjoining the area to be vacated. In addition, the applicant must submit a vacation plat (a major subdivision). In this case, the petition for vacation and the plat are included in the applicant's overall subdivision application and plat. Notwithstanding the Land Development Code's (LDC) silence on the matter, the North Dakota Century Code (N.D.C.C) does address the opening and vacating of roadways in Chapter 24-07 (outside of municipal limits) and Chapter 40-39 (inside municipal limits). To that end, the balance of this report will focus on the specific approval criteria outlined within Chapter 40-39 of the N.D.C.C. The final decision on vacation of right of way is made by the City Commission.

***N.D.C.C. 40-39-04. Vacation of streets and alleys where sewers, water mains, pipes, and lines located – Conditions. No public grounds, streets, alleys, or parts thereof over, under, or through which have been constructed, lengthwise, any sewers, water mains, gas, or other pipes or telephone, electric, or cable television lines, of the municipality or the municipality's grantees of the right of way thereof, may be vacated unless the sewers, mains, pipes, or lines have been abandoned and are not in use, or unless the grantee consents, thereto, or unless perpetual easements for the maintenance of sewers, water mains, gas, or other pipes, or telephone, electric facilities, whether underground or aboveground, is subject to the continued right of location of such electric facilities in the vacated streets.***

There are no City of Fargo utilities installed in this right of way. It is the applicant's responsibility to contact all potential utility providers and submit documentation that there are no utilities in the area of the public right of way being vacated. City staff reviews the applicant's documentation prior to City Commission approval of the plat. This confirmation has occurred and there are either no utilities or the ten-foot public utility easement proposed within the area that is being vacated accommodates any private utility needs. **(Criteria Satisfied)**

***N.D.C.C. 40-39-05. Petition for vacation of streets, alleys, or public grounds – Contents – Verification. No public grounds, streets, alleys, or parts thereof within a municipality shall be vacated or discontinued by the governing body except on a petition signed by all of the owners of the property adjoining the plat to be vacated. Such petition shall set forth the facts and reasons for such vacation, shall be accompanied by a plat of such public grounds, streets, or alleys proposed to be vacated, and shall be verified by the oath of at least one petitioner.***

In accordance with the requirement of this section, a petition signed by all adjacent owners has been submitted for review and consideration, along with a plat of such public street. **(Criteria Satisfied)**

***N.D.C.C 40-39-06. Petition filed with city auditor – Notice published – Contents of notice. If the governing body finds that the petition for vacation is in proper form and contains the requisite signatures, and if it deems it expedient to consider such petition, it shall order the petition to be filed with the city auditor who shall give notice by publication in the official newspaper of the municipality at least once each week for four weeks. The notice shall state that a petition has been filed and the object thereof, and that it will be heard and considered by the governing body or a committee thereof on a certain specified day which shall not be less than thirty days after the first publication of the notice.***

The vacation plat will be advertised as required by this section prior to the hearing before the City Commission

(the City's governing body). **(Criteria Satisfied)**

***N.D.C.C. 40-39-07. Hearing on petition – Passage of resolution declaring vacation by governing body. The governing body, or such committee as may be appointed by it, shall investigate and consider the matter set forth in the petition specified in section 40-39-05 and, at the time and place specified in the notice, shall hear the testimony and evidence of persons interested. After hearing the testimony and evidence or upon the report of the committee favoring the granting of the petition, the governing body, by a resolution passed by a two-thirds vote of all its members, may declare the public grounds, streets, alleys, or highway described in the petition vacated upon such terms and conditions as it shall deem just and reasonable.***

This action will be taken by the City Commission. **(Criteria Satisfied)**

NDCC 40-39-07 requires a minimum 30 day notice period prior to City Commission hearing for vacations of right of way.

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed plat of **TYKE Addition**, including vacation of right of way (portion of 3<sup>rd</sup> Avenue North), as presented; as the proposal complies with the Core Neighborhoods Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC and of North Dakota Century Code Chapter 40-39 Opening and Vacating Streets, Alleys, and Public Places."

**Planning Commission Recommendation:** September 7, 2023

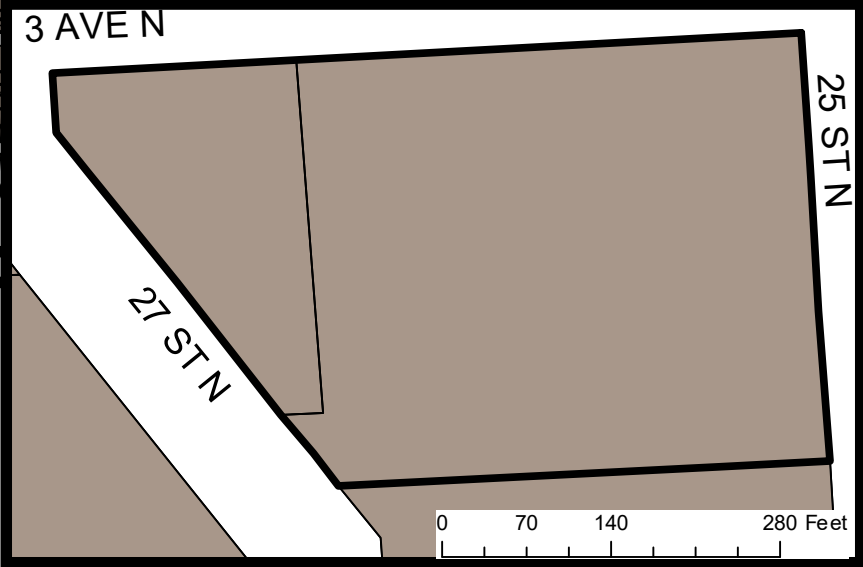
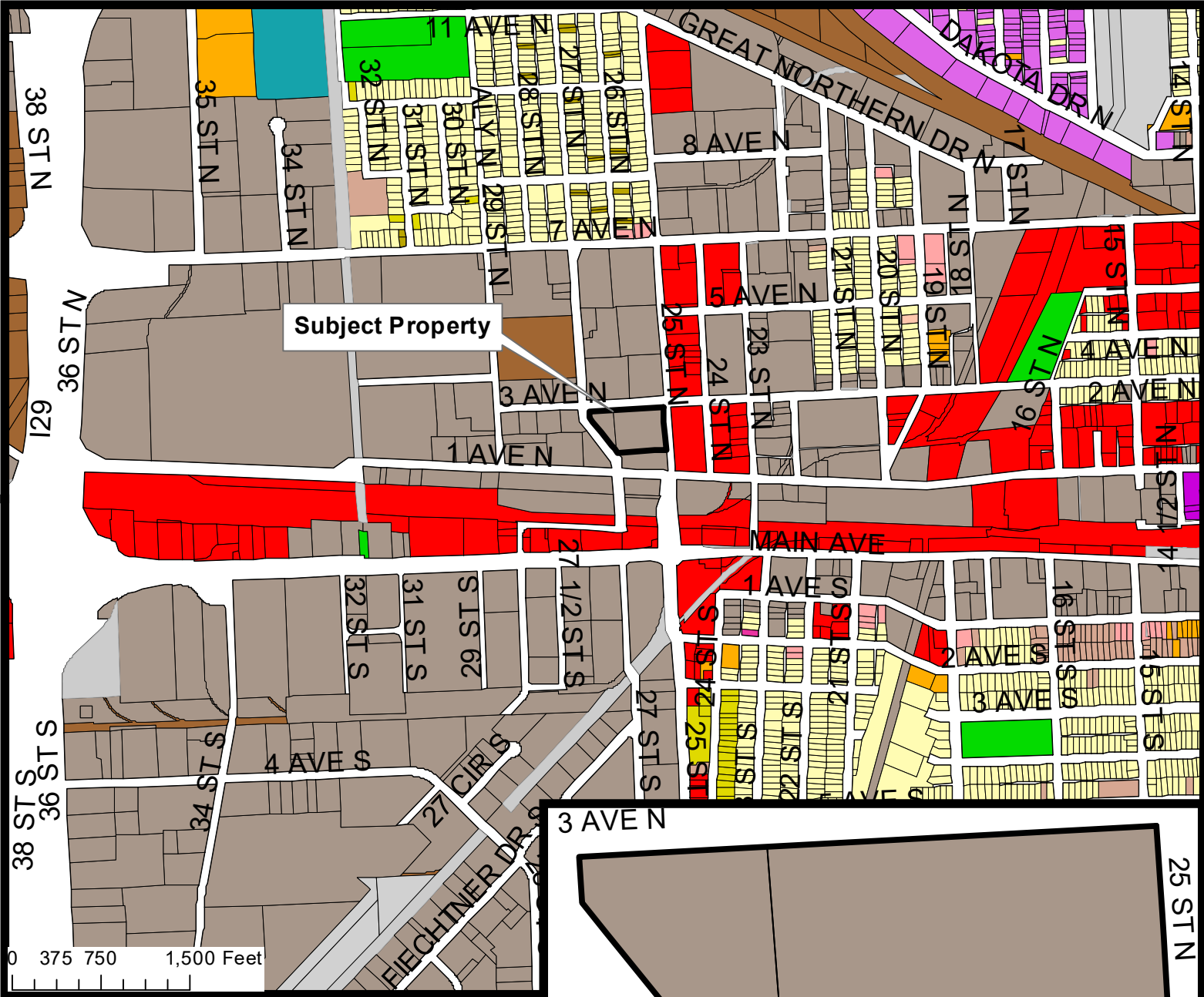
**Attachments:**

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

# Major Subdivision & Vacation Plat

## TYKE Addition

2600 3rd Avenue North & 201 27th Street North



**Legend**

AG	LC	MHP	RR-2
DDU	MR-1	NO	RR-3
GC	MR-2	UMU	RR-4
GO	MR-3		RR-5

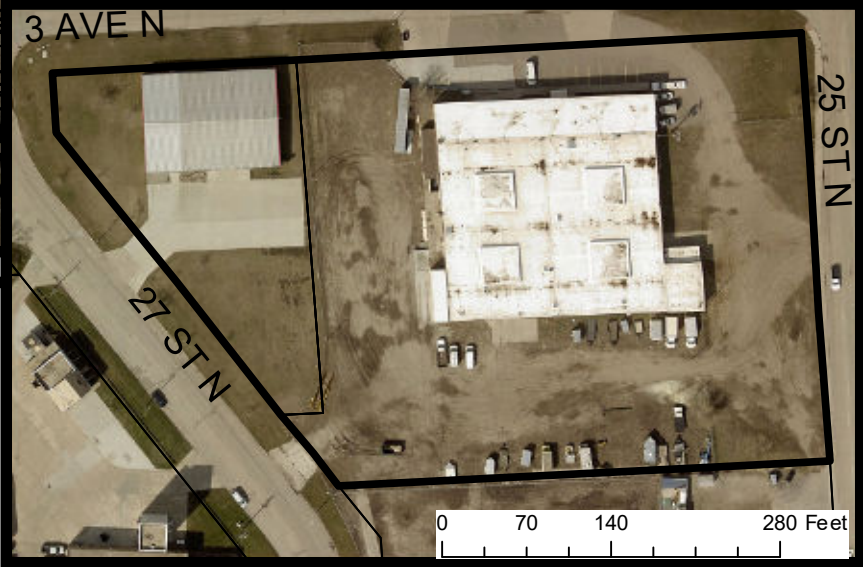
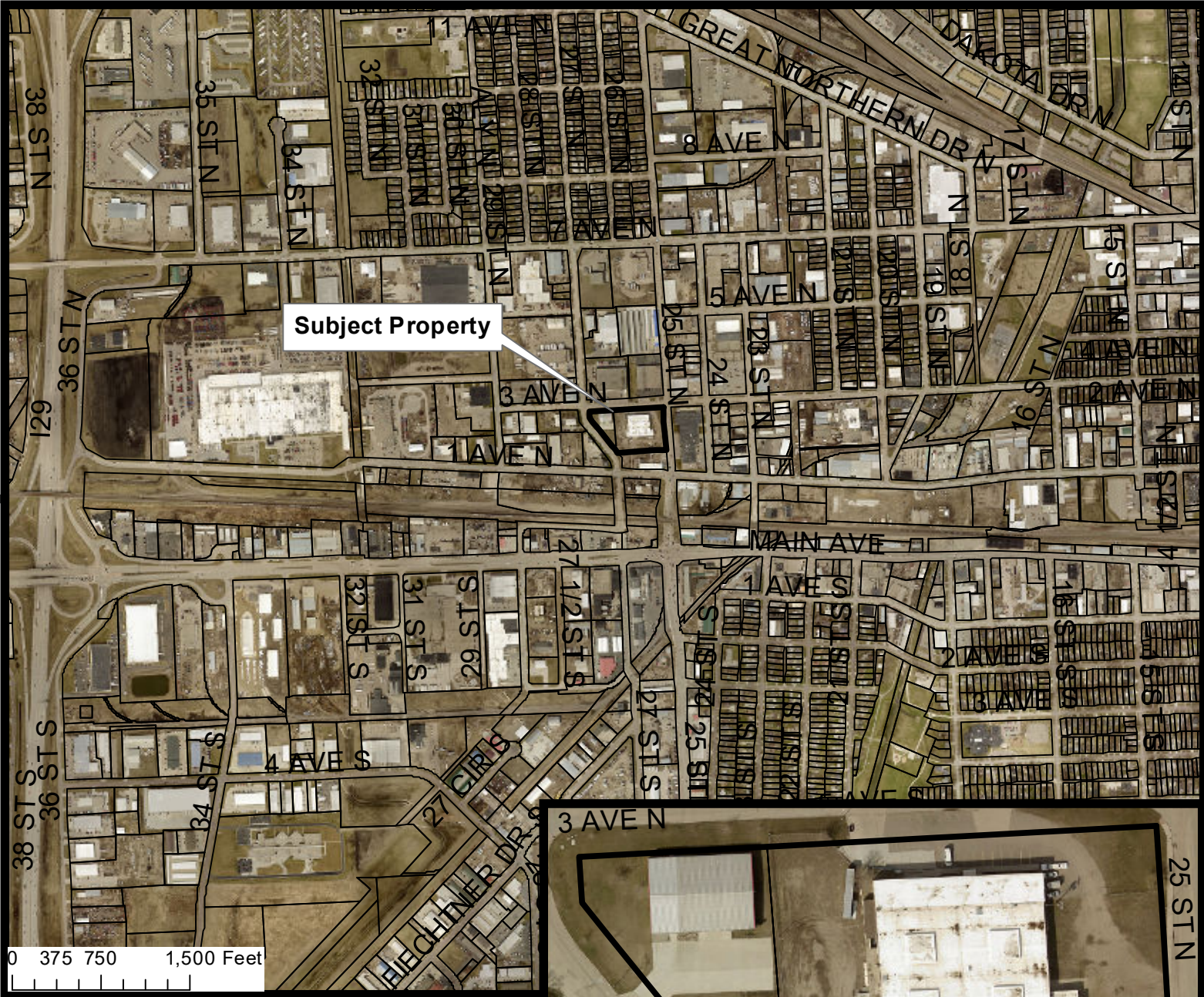
City Limits



# Major Subdivision & Vacation Plat

## TYKE Addition

2600 3rd Avenue North & 201 27th Street North



### Legend

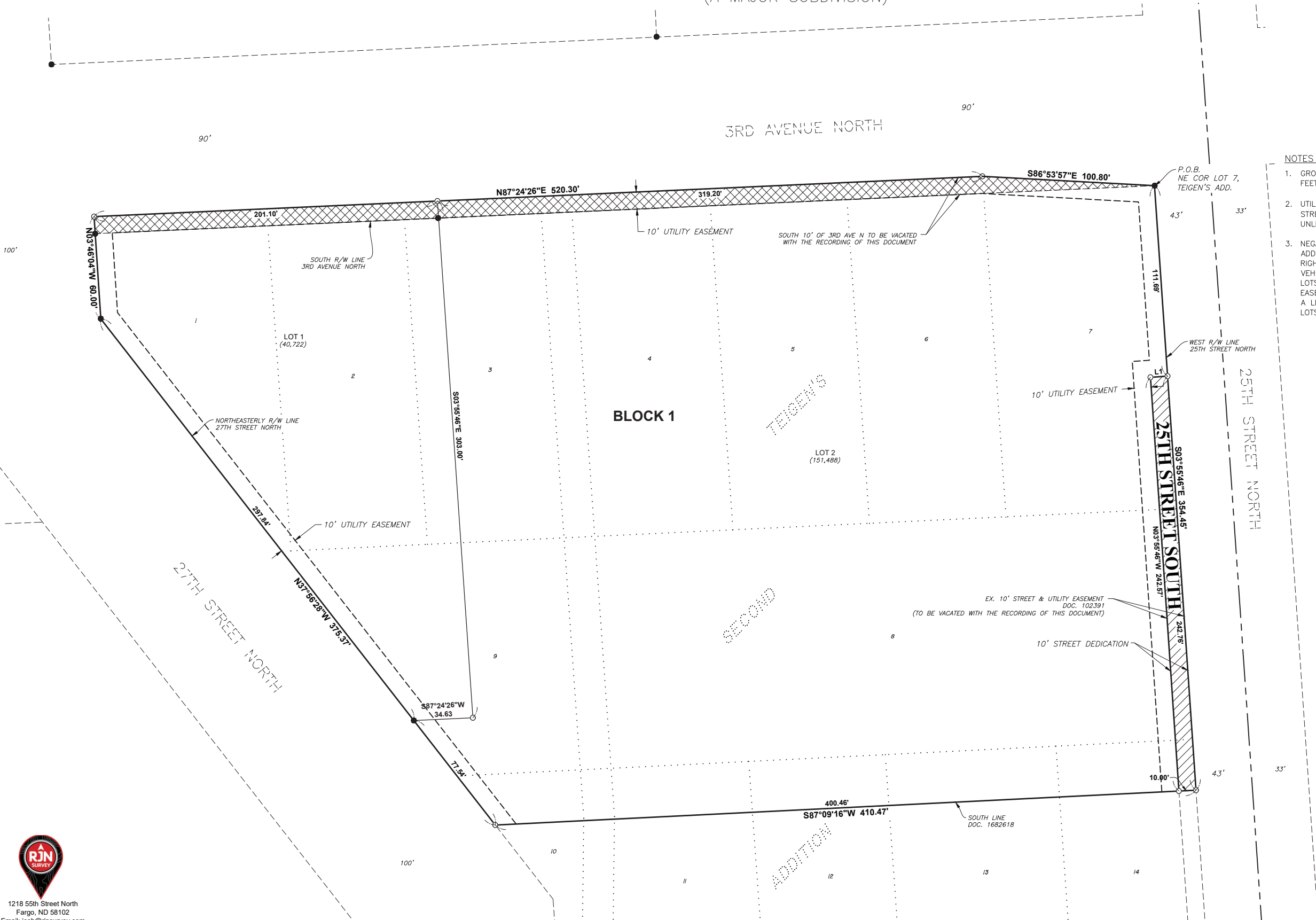
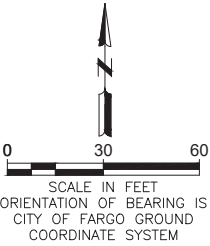
 City Limits



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# TYKE ADDITION

BEING A REPLAT OF ALL OF LOTS 1 THROUGH 9 AND A PART OF LOTS 10 THROUGH 14 OF TEIGEN'S SECOND ADDITION AND DEDICATION OF 25TH STREET NORTH AND A VACATION OF 3RD AVENUE NORTH, STREET AND UTILITY EASEMENT LYING AND BEING WITHIN THE BOUNDARY OF THE PLAT DESCRIBED HEREIN TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA (A MAJOR SUBDIVISION)



- NOTES
- GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
  - UTILITY EASEMENTS ARE 10' WIDE ALONG AND ADJACENT TO ALL STREET RIGHT-OF-WAYS AND REAR PROPERTY LINES AS SHOWN UNLESS OTHERWISE NOTED.
  - NEGATIVE ACCESS EASEMENT, AS NOTED ON THE PLAT OF TYKE ADDITION, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OF PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OF LAND OF ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.

LEGEND

○	SET 5/8" REBAR CAP LS-27292
●	FOUND MONUMENT
(5,000)	PLAT LOT AREAS
---	EXISTING PROPERTY LINE
- - -	EXISTING EASEMENT LINE
...	ORIGINAL PLATTED LINE
---	PLAT NEW EASEMENT
---	SECTION LINE
---	PLAT OVERALL BOUNDARY
---	PLAT BLOCK LINES
---	PLAT INTERIOR LOT LINES
	NEW NEGATIVE ACCESS EASEMENT
	EASEMENTS VACATED BY THIS PLAT
	PUBLIC STREET VACATED BY THIS PLAT

LINE TABLE		
#	DISTANCE	BEARING
L1	10.00	S86°04'14"W



1218 55th Street North  
Fargo, ND 58102  
Email: josh@rjnsurvey.com

C:\Users\joshnelson\OneDrive - Main Portfolio\SURVEY\01\_Projects\2023\23-074 TYKE Properties Plat - 2600 3rd Ave N - Fargo, ND\Drawings\23-074 TYKE Addition Plat - Fargo.dwg Plot Date & Time: 14 August 2023 9:24 AM

# TYKE ADDITION

### OWNER'S DEDICATION AND DESCRIPTION

KNOW ALL PERSONS BY THESE PRESENTS, That GTO Properties, LLP, a North Dakota limited liability partnership and TYKE Properties, LLC, a North Dakota limited liability company, Owners of a parcel of land located in that part of the Southeast Quarter of Section 2, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

All of Lots 1 through 9 and parts of Lots 10 through 14, TEIGEN'S SECOND SUBDIVISION, according to the recorded plat thereof, on file and of record in the office of the Recorder as Document No. 228487, Cass County, North Dakota, being more particularly as follows:

Beginning at the northeast corner of said Lot 7; thence South 03 degrees 55 minutes 46 seconds East on the west right-of-way line of 25th Street South a distance of 354.45 feet to a point of intersection the south line of a tract of land described in Document No. 1682618 on file and of record in the office of the Recorder, Cass County, North Dakota; thence South 87 degrees 09 minutes 16 seconds West on said south line a distance of 410.47 feet to a point of intersection with the northeasterly right-of-way line of 27th Street North; thence North 37 degrees 56 minutes 28 seconds West on said line a distance of 375.37 feet; thence North 03 degrees 46 minutes 04 seconds West on said line a distance of 60.00 feet; thence North 87 degrees 24 minutes 26 seconds East on a line parallel and 10 feet north of the south right-of-way line of 3rd Avenue North a distance of 610.36 feet; thence South 48 degrees 15 minutes 40 seconds East a distance of 14.31 feet to the northeast corner of said Lot 7 and the point of beginning.

Plat contains 4.47 acres, more or less, and is subject to Easements, Reservations, Restrictions and Rights-of-Way of record.

Said owners of the above described property, have caused the same to be surveyed and platted as **"TYKE ADDITION"** to the City of Fargo, Cass County, North Dakota, and do hereby dedicate to the public for public use 25th Street North and utility easements shown on said plat. Said owners also hereby vacate that part of 3rd Avenue North lying within said "TYKE ADDITION".

### OWNER - LOT 1

GTO Properties, LLP

Todd Srur, Owner

State of North Dakota )  
County of Cass ) ss

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public in and for said county and state, personally appeared Todd Srur, known to me to be the Owner of GTO Properties, LLP described in and who executed the same on behalf of said partnership.

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

### OWNER - LOT 2

TYKE Properties, LLC

Kevin Bartram, Owner

State of North Dakota )  
County of Cass ) ss

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public in and for said county and state, personally appeared Kevin Bartram, known to me to be the Owner of TYKE Properties, LLC described in and who executed the same on behalf of said company.

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

### SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, Joshua J. Nelson, 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 \_\_\_\_\_, 2023.

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

State of North Dakota )  
County of Cass ) ss

On this \_\_\_\_ day of \_\_\_\_\_, 2023, appeared before me, Joshua J. Nelson, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

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

### CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by the City Engineer this \_\_\_\_ day of \_\_\_\_\_, 2023.

Tom Knakmuhs, P.E.  
City Engineer

State of North Dakota )  
County of Cass ) ss

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public in and for said county, personally appeared Tom Knakmuhs, P.E., City Engineer, 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 Commissioners and ordered filed this \_\_\_\_ day of \_\_\_\_\_, 2023.

Timothy J. Mahoney  
Mayor

Attest: Steven Sprague, City Auditor

State of North Dakota )  
County of Cass ) ss

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public in and for said county, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor, known to me to be the persons described in and who executed the same as a free act and deed.

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

### CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this \_\_\_\_ day of \_\_\_\_\_, 2023.

Rocky Schneider  
Planning Commission Chair

State of North Dakota )  
County of Cass ) ss

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public in and for said county, personally appeared Rocky Schneider, 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: \_\_\_\_\_



1218 55th Street North  
Fargo, ND 58102  
Email: josh@rjnsurvey.com



<b>City of Fargo Staff Report</b>			
<b>Title:</b>	<b>EOLA Second Addition</b>	<b>Date:</b>	August 30, 2023
<b>Location:</b>	4410, 4415, 4448, 4470, 4471, and 4474 24th Avenue South; 4417 and 4477 26th Avenue South	<b>Staff Contact:</b>	Maegin Elshaug, planning coordinator
<b>Legal Description:</b>	Lots 1-2, Block 1, and Lots 1-5, Block 2, EOLA Addition		
<b>Owner(s)/Applicant:</b>	Makt LLC; EOLA Landholdings, LLC / EPIC Companies	<b>Engineer:</b>	MBN Engineering / RJN Surveyors
<b>Entitlements Requested:</b>	<b>Minor Subdivision</b> (replat of Lots 1-5, Block 2, EOLA Addition, to the City of Fargo, Cass County, North Dakota); and <b>PUD Master Land Use Plan</b> (amendment)		
<b>Status:</b>	Planning Commission Public Hearing: September 7, 2023		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Mixed-Use Development	<b>Land Use:</b> no change
<b>Zoning:</b> GC, General Commercial with a PUD Overlay	<b>Zoning:</b> GC, General Commercial with a modified PUD Overlay ( <i>previously reviewed in July</i> )
<b>Uses Allowed:</b> GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, <del>detention facilities</del> , health care facilities, parks and open space, religious institutions, safety services, <del>adult establishment</del> , offices, <del>off-premise advertising</del> , commercial parking, outdoor recreation and entertainment, retail sales and service, self-storage, <del>vehicle repair</del> , <del>limited vehicle service</del> , <del>aviation</del> , <del>surface transportation</del> , and major entertainment events.  Plus a PUD allowing Residential use (ordinance 5336)	<b>Uses Allowed:</b> no change
<b>Maximum Density Allowed:</b> 70 units per acre	<b>Maximum Density Allowed:</b> no change
<b>Maximum Lot Coverage Allowed:</b> (85% maximum building coverage)	<b>Maximum Lot Coverage Allowed:</b> no change

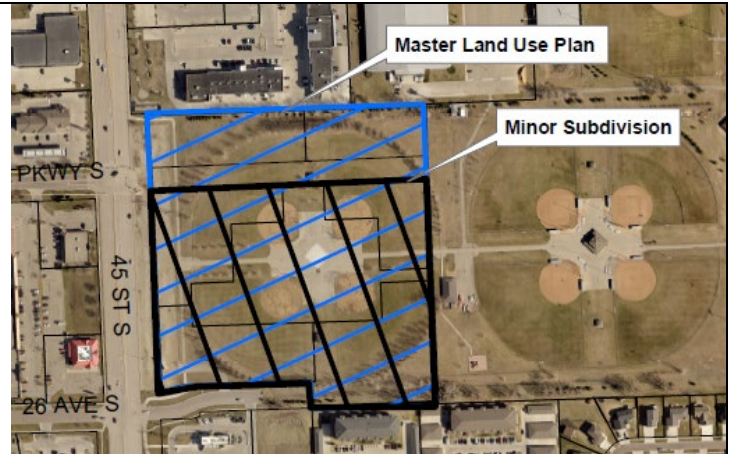
<b>Proposal:</b>
<p><b>Update August 30, 2023:</b> At the July 6, 2023 Planning Commission meeting, three entitlements were reviewed and recommended for approval: 1) Major Subdivision (with subdivision waiver); 2) Zone Change (amending the Planned Unit Development Overlay requirements); and 3) Planned Unit Development Master Land Use Plan amendment. Since that meeting, the applicant has revised the application and is no longer proposing to dedicate right of way. Changes to the plat and PUD Master Land Use Plan are considerably different and are being brought forward to the Planning Commission for review again. There is no change in the zoning (the PUD overlay requirements) from what the Planning Commission previously reviewed in July. Upon review by the Planning Commission, all three entitlements will go forward to the City Commission.</p> <p>The applicant requests three entitlements:</p> <ol style="list-style-type: none"> <li><b>1. Minor Subdivision</b> (replat of Lots 1-5, Block 2, EOLA Addition);</li> <li><b>2. PUD Master Land Use Plan</b> (amendment)</li> </ol>

#### Entitlement Request Location

Master Land Use Plan amendment (blue) encompasses the subject area. The minor subdivision (black) includes the area south of 24<sup>th</sup> Avenue South.

#### History

In May 2021, the EOLA Addition PUD was approved, which allowed the development of a mixed-use development on 16.7 acres, that included eight 7-10-story buildings and 4-acre public open space in the middle, as well as a parking structure in the northeast corner. In October 2021, the Planning Commission approved a Final Plan for the structures on the west side south of 24<sup>th</sup> Avenue South, which are currently under construction. In February 2022, a zoning change (ordinance 5336) was approved that modified several requirements with the original PUD relating to building height and screening of rooftop units.



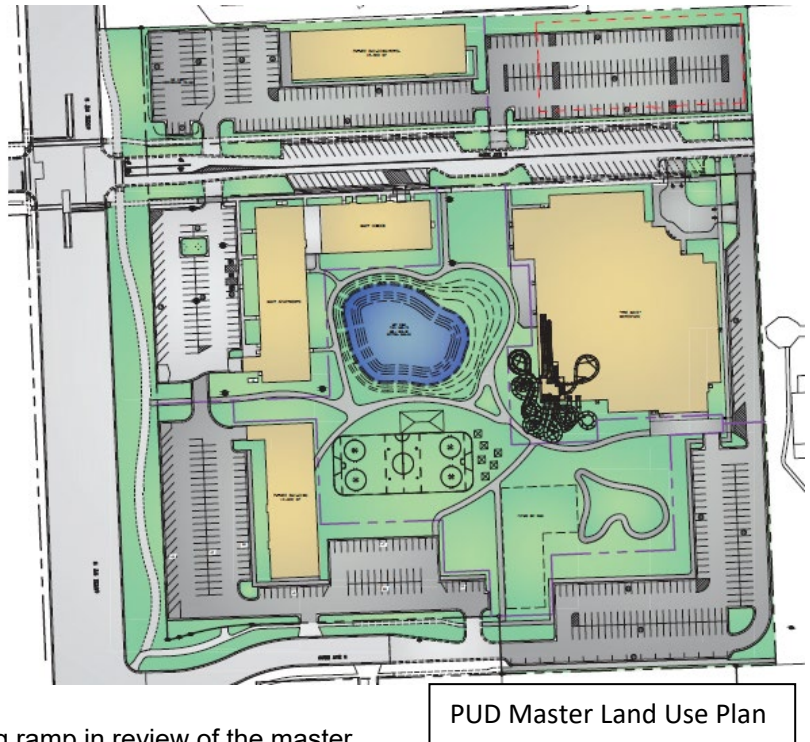
Since the previous PUD approval, the development plans have changed. The applicant is now proposing to include a water park with attached hotel.

#### Minor Subdivision

In order to accommodate the development changes, the applicant has applied for a subdivision, EOLA Second Addition, to create one (1) block and five (5) lots for the subject property. The subdivision will no longer dedicate right of way, but access will remain via a public access easement that was originally dedicated with EOLA Addition.

#### PUD Master Land Use Plan

The image to the right is the amended Master Land Use Plan submitted by the applicant, which has been updated since the July 6, Planning Commission meeting. The applicant proposes mixed-use buildings, and large public park, with changes on the west to include indoor waterpark and hotel and removal of two buildings on the south with additional parking. A ramp is indicated in the northwest by red dotted line, which may proceed in the future. Two structures are already under construction, just northwest of the pond. The PUD Master Land Use Plan shows the building envelope of the structures, parking and circulation, and open space. Note that if the zoning change and the Master Land Use Plan are approved by the City Commission, the Planning Commission will review the Final Plans for the PUD at some point in the future.



The applicant is proposing to include the parking ramp in review of the master plan, should it move forward and be constructed. The plan indicates surface parking and the ramp (red outline). If the PUD master plan is approved, the applicant could proceed with construction of the ramp without additional review. However, changes to the master plan, including adding buildings to the south, would need to be reviewed as an update to the master plan.

### Parking Information

Because of the changes to the development, the applicant provided updated parking information, which indicates that the parking provided for the development meets the peak demand. The parking information is attached for reference. With the establishment of the original PUD, and based on the parking study, parking requirements for residential and commercial uses of retail, office and restaurant were modified. The applicant noted that the ratios established by the PUD are sufficient for the development and is not requesting any modifications. The City of Fargo Traffic Engineer reviewed the parking study and concurred with the findings.

Additionally, the applicant is working with the Engineering Department on the stormwater master plan for the whole development.

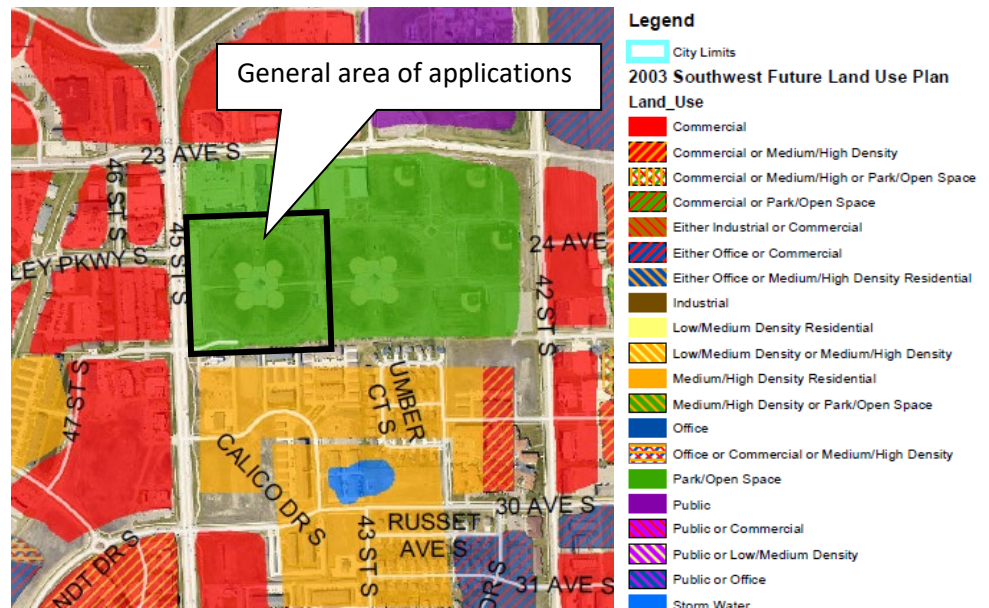
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report. The applicant will also need to submit for building permits, where all review departments will review the plans for compliance with their respective codes.

### **Surrounding Land Uses and Zoning Districts:**

- North: GC, General Commercial and P/I, Public and Institutional, with uses of commercial and the Fargo Park District's Southwest Youth Ice Area;
- East: P/I and the remainder of the Anderson Softball Complex;
- South: LC, Limited Commercial and MR-2, Multi-Dwelling Residential with uses of commercial and apartments;
- West: Across 45<sup>th</sup> Street South is GC with commercial use.

### **Area Plans:**

The subject property is located within an area identified as the 2003 Southwest Area Plan as contained within the *Growth Plan for the Urban Fringe and Extraterritorial Area of the City of Fargo*. The property was rezoned to GC, General Commercial with a C-O, Conditional Overlay in 2014. While this plan indicates the property for park/open space, a growth plan amendment was contemplated at the time and was ultimately concluded that, due to the general land use pattern of the area, not necessary. The base zoning district of GC is not changing with this application.



### **Context:**

**Neighborhood:** Anderson Park

**Schools:** The subject property is located within the West Fargo School District, specifically within the Freedom Elementary, Liberty Middle and Sheyenne High schools.

**Parks:** The subject property is located adjacent to the remainder of the Anderson Softball Complex.

**Pedestrian / Bicycle:** A shared use facility is located on the east side of 45<sup>th</sup> Street South and connects to the metro area trail system. Additional shared use paths are planned that would connect around the south and east side of the subject property.

**Transit:** MAT Bus Route 24 runs along 23<sup>rd</sup> Avenue South. A bus stop is located approximately two blocks east of 45<sup>th</sup> Street, located less than a quarter-mile from the subject property.

#### **Staff Analysis:**

##### **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 GC zoning district. The original PUD was approved for a mixed-use development pattern by providing flexibility in terms of residential use and density, parking requirements, setbacks and landscaping requirements while establishing design standards, in order to provide a master-planned large-scale development with residential use. The amendment is to accommodate an indoor water park and hotel, which were not included in the initial master plan, and to accommodate changes related to parking. **(Criteria Satisfied)**
- 2. The PUD Master Land Use Plan complies with the PUD standards of Section 20-0302;**  
All standards and requirements as set forth in the LDC have been met. **(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, including initiatives of *sustainable mixed use center, public gathering spaces, infill, design standards, quality new development, and parking*. The City's Go2030 Comprehensive Plan supports development within areas that are already serviced with utilities. 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)**
- 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 providing a mixed-use development that will allow for a variety of uses within an area of the City that already has access to City services. **(Criteria Satisfied)**

##### **Minor Subdivision**

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

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

The property is zoned GC, General Commercial with a PUD, Planned Unit Development Overlay. The GC zoning is proposed to remain as the base zoning district for the PUD, while PUD Overlay is proposed to be modified as part of the zoning application. 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 not received any public comment or inquiries. **(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.**

The City's standard policy is that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

#### **Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed: 1) minor subdivision plat, **EOLA Second Addition**; and 2) PUD, Planned Unit Development Master Land Use Plan amendment, as presented, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, Section 20-0907.B, and Section 20-0908.B(7) of the LDC and all other applicable requirements of the LDC."

#### **Planning Commission Recommendation:**

#### **Attachments:**

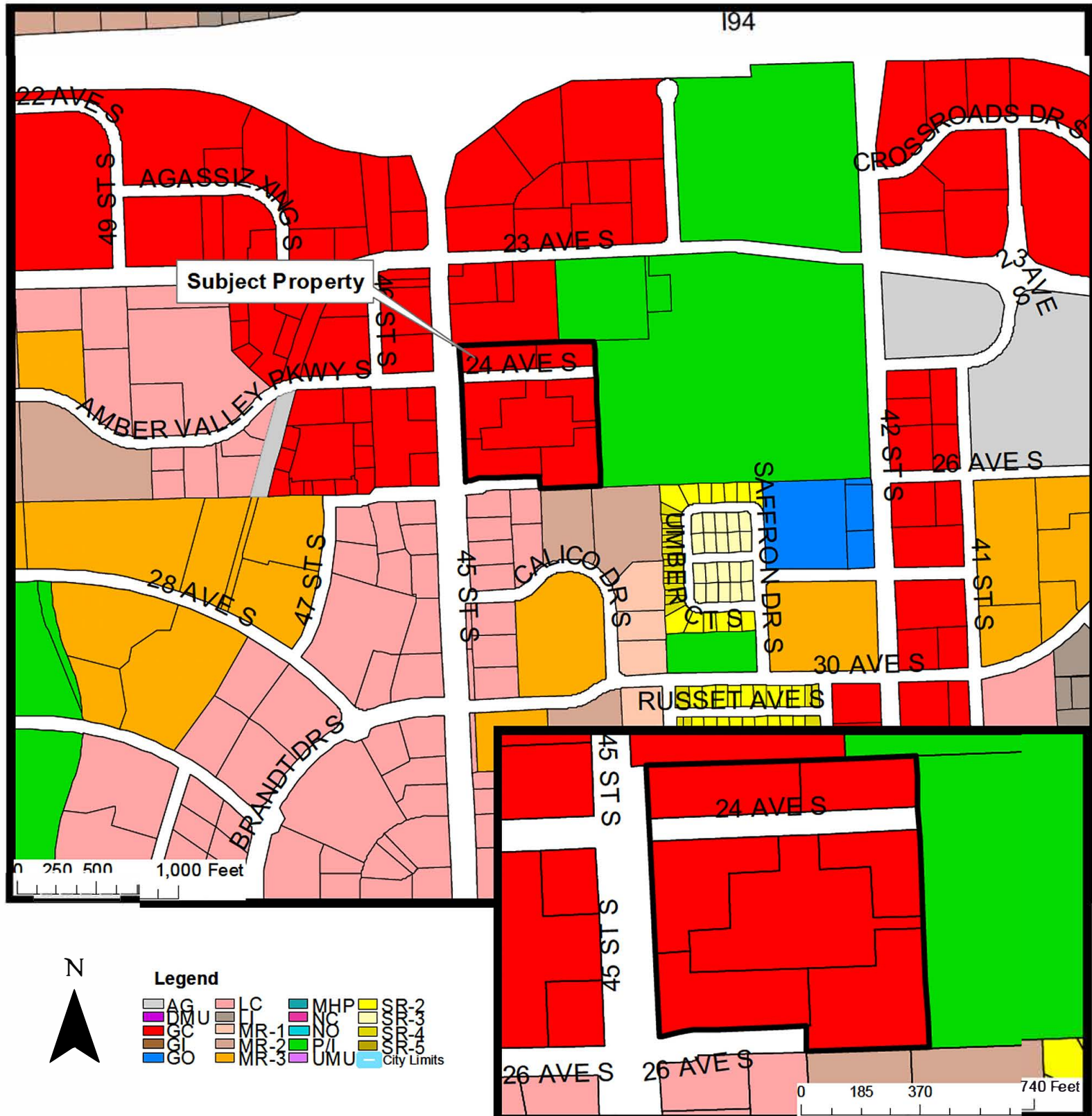
1. Zoning Map
2. Location Map
3. Amended PUD Master Land Use Plan
4. Preliminary Plat
5. Revised Parking Information



# Minor Subdivision & Planned Unit Development Master Land Use Plan Amendment

## EOLA Second Addition

4410, 4415, 4448, 4470, 4471, and 4474 24th Avenue South  
4417 & 4477 26th Avenue South

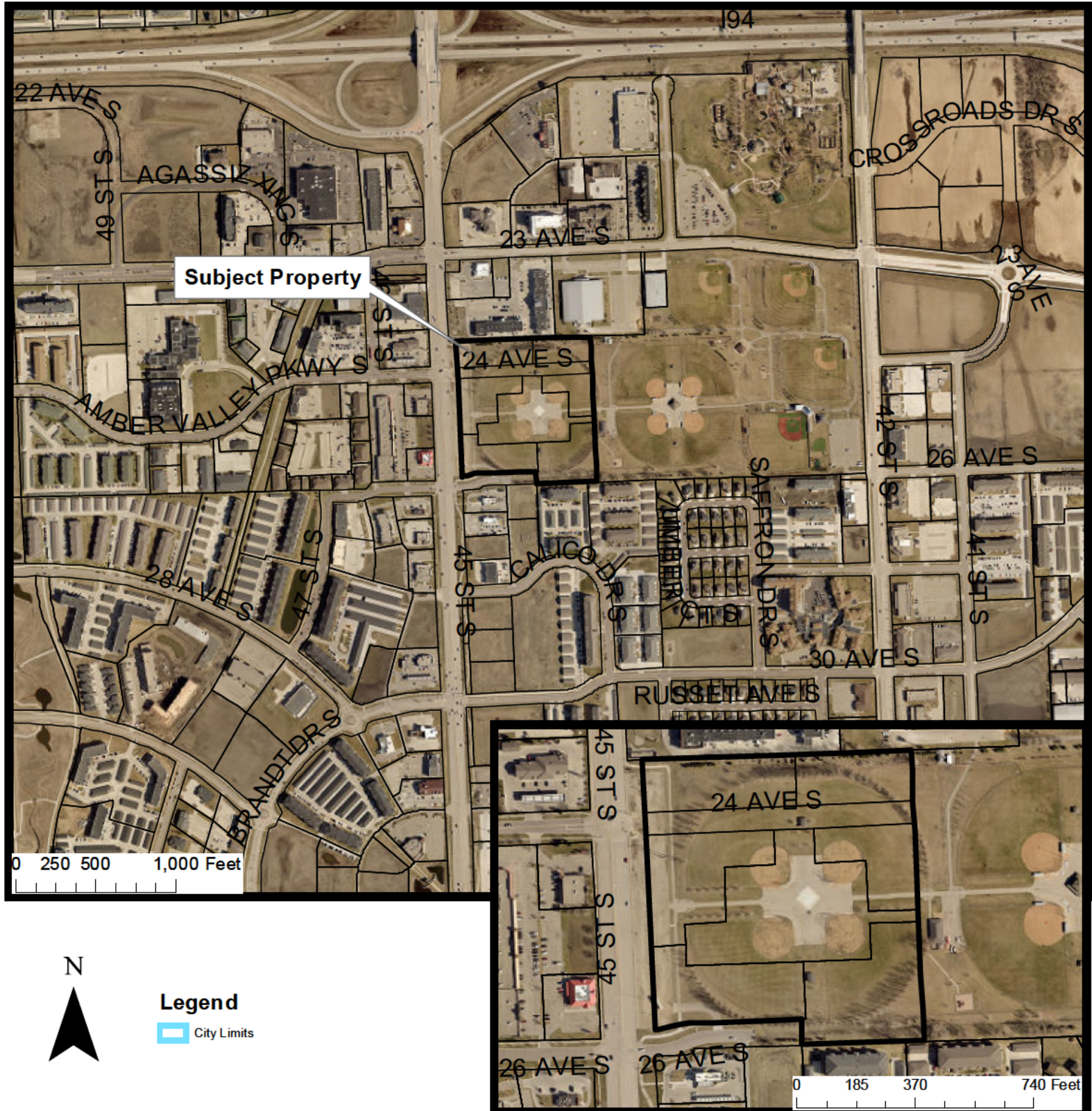




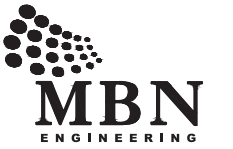
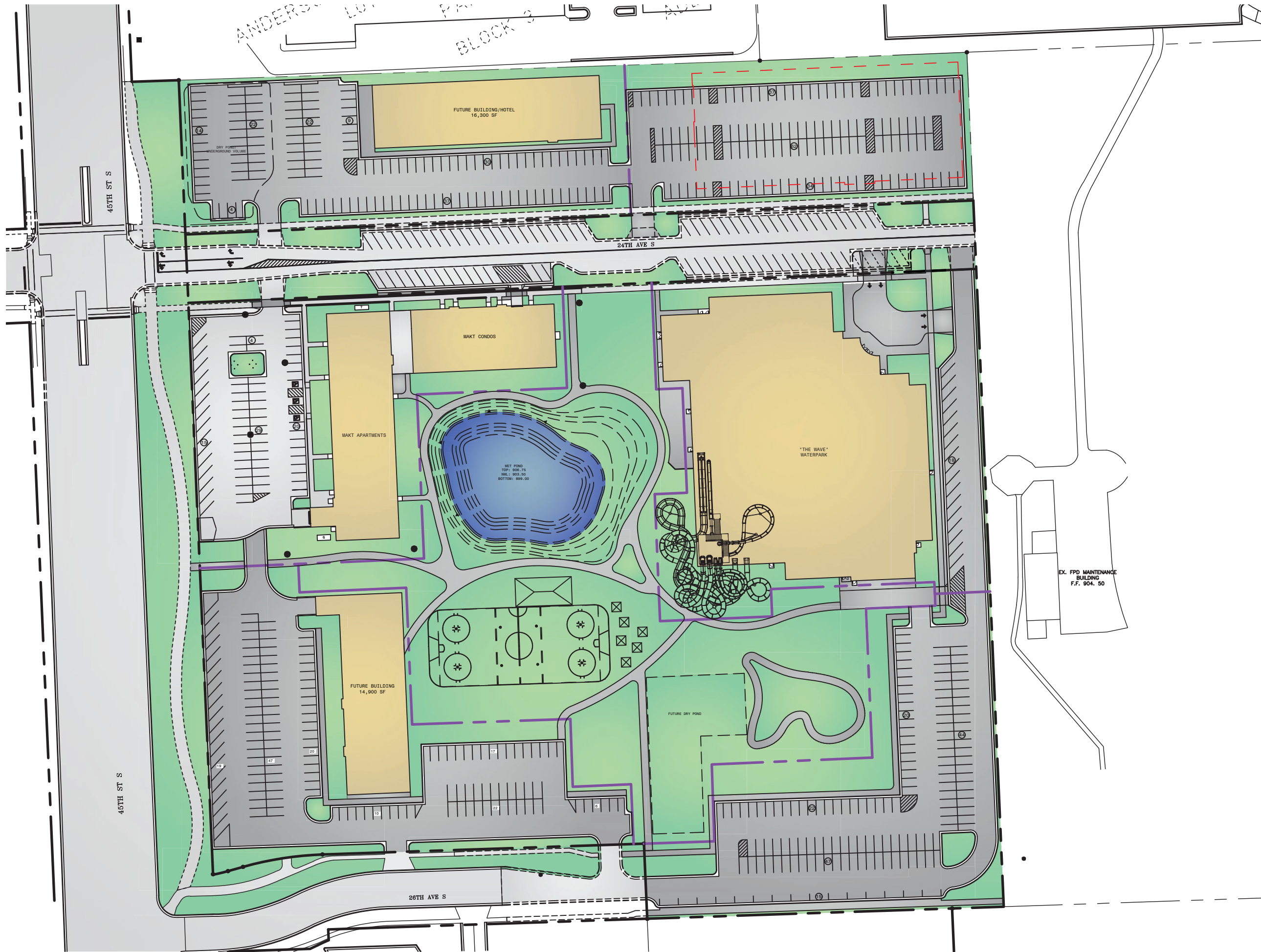
# Minor Subdivision & Planned Unit Development Master Land Use Plan Amendment

## EOLA Second Addition

4410, 4415, 4448, 4470, 4471, and 4474 24th Avenue South  
4417 & 4477 26th Avenue South

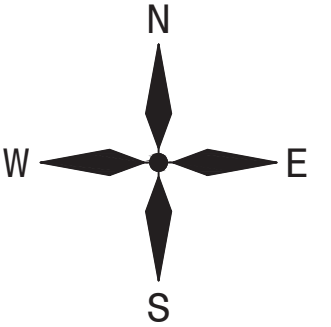






MECHANICAL \* ELECTRICAL \* CIVIL

503 7TH ST. N  
SUITE 200  
FARGO, ND 58102  
PHONE: 701.478.6336  
FAX: 701.478.6340



0 50 100 200  
SCALE: 1 INCH = 100 FEET

EPIC COMPANIES  
EOLA

FARGO, ND

NOT FOR CONSTRUCTION

MBN JOB #: 22-199 DATE: 8-29-23

THE WAVE SITE SCHEMATIC

SITE



# EOLA SECOND ADDITION

A REPLAT OF LOTS 1 THROUGH 5, BLOCK 2 OF EOLA ADDITION TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA  
(A MINOR SUBDIVISION)

## OWNER'S CERTIFICATE

KNOW ALL PERSONS BY THESE PRESENTS, That EOLA Landholdings LLC, MAKT LLC, Christopher H. Crowe Revocable Trust, and Leon and Janell Vandeberg do hereby certify that we are the owners of the land located in that part of the Northwest Quarter of Section 22, Township 139 North, Range 49 West, Cass County, North Dakota described as follows:

All of Lots 1 through 5, Block 2 of EOLA ADDITION to the City of Fargo, situated in the County of Cass and the State of North Dakota.

Containing 12.21 acres, more or less, and is subject to Easements, Reservations, Restrictions and Rights-of-Way of record.

Said owners of the above described property, have caused the same to be surveyed and platted as "**EOLA SECOND 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 this plat for purposes specified.

OWNER:  
MAKT LLC

Todd Berning, President

State of North Dakota )  
 ) SS  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, appeared before me, Todd Berning, President, MAKT LLC, a North Dakota Limited Liability Company, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same on behalf of EOLA Landholdings, LLC.

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

OWNER:

EOLA Landholdings, LLC

Todd Berning, President

State of North Dakota )  
 ) SS  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, appeared before me, Todd Berning, President, EOLA Holdings, LLC, a North Dakota Limited Liability Company, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same on behalf of EOLA Landholdings, LLC.

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

## MORTGAGE HOLDER:

Western State Bank

Matt Oachs, Loan Officer

State of North Dakota )  
 ) SS  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, appeared before me, Matt Oachs, Laan Office, Western State Bank, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same on behalf of Western State Bank.

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

OWNER:

Christopher H. Crowe Revocable Trust, dated October 12th, 2015

Todd Berning, Trustee

State of North Dakota )  
 ) SS  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, appeared before me, Todd Berning, Trustee, Christopher H. Crowe Revocable Trust, dated October 12th, 2015, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same on behalf of said trust.

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

OWNER:

Leon and Janell Vandeberg, Married Couple

Leon Vandeberg, Husband

Janell Vandeberg, Wife

State of North Dakota )  
 ) SS  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, appeared before me, Leon and Janell Vandeberg, Married Couple, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as his own free act and deed.

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

## SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, Joshua J. Nelson, 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\_\_\_\_.

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

State of North Dakota )  
 ) SS  
County of Cass )

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

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

## FARGO CITY COMMISSION APPROVAL

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

Timothy J. Mahoney  
Mayor

Attest: \_\_\_\_\_  
Steven Sprague, City Auditor

State of North Dakota )  
 ) SS  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public in and for said county, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor, known to me to be the persons described in and who executed the same as a free act and deed.

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

## CITY OF FARGO PLANNING COMMISSION APPROVAL

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

Rocky Schneider  
Planning Commission Chair

State of North Dakota )  
 ) SS  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public in and for said county, personally appeared Rocky Schneider, 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: \_\_\_\_\_

## CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

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

Tom Knakmuhs, P.E.  
City Engineer

State of North Dakota )  
 ) SS  
County of Cass )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public in and for said county, personally appeared Tom Knakmuhs, P.E., City Engineer, known to me to be the person described in and who executed the same as a free act and deed.

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

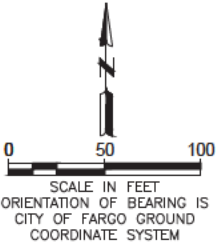


1218 55th Street North  
Fargo, ND 58102  
Email: josh@rjnsurvey.com



# EOLA SECOND ADDITION

A REPLAT OF LOTS 1 THROUGH 5, BLOCK 2 OF EOLA ADDITION TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA  
(A MINOR SUBDIVISION)



LEGEND	
	SET 5/8" REBAR W/CAP LS-27292
	FOUND MONUMENT
	PLAT OVERALL BOUNDARY
	PLAT BLOCK LINES
	PLAT INTERIOR LOT LINES
	PLAT NEW EASEMENT
	EXISTING NEGATIVE ACCESS EASEMENT
	EXISTING PROPERTY LINE
	ORIGINAL PLATTED LINE
	EXISTING EASEMENT LINE
	SECTION LINE
	QUARTER LINE
	EXISTING GROUND CONTOUR
	EXISTING EASEMENT TO BE VACATED
	100 YR. FLOODPLAIN

- NOTES
- GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
  - UTILITY EASEMENTS ARE 10' WIDE ALONG AND ADJACENT TO ALL STREET RIGHT-OF-WAYS AND REAR PROPERTY LINES AS SHOWN UNLESS OTHERWISE NOTED.
  - BENCHMARK SEFB HYDRANT LOCATED IN THE SOUTHEAST QUADRANT OF 45TH STREET SOUTH AND 26TH AVENUE SOUTH, BM-111011 PUBLISHED ON SHEET #111 OF THE CITY OF FARGO BENCHMARK BOOK (2021 EDITION) ELEVATION = 906.63 (NAVD88).
  - THIS ENTIRE PLAT FALLS IN FLOODPLAIN ZONE 'AE' ACCORDING TO THE FEMA FIRM MAP 38017C0776G WITH AN EFFECTIVE DATE 1/16/2015. THE BASE FLOOD ELEVATION IN THIS AREA IS 905.7' (NAVD88) ACCORDING TO FEMA. CONTOUR INFORMATION SHOWN IS DERIVED FROM CITY OF FARGO CONTOUR DATA.
  - ELEVATION CONTOURS DERIVED FROM CITY OF FARGO LIDAR DATA

CURVE TABLE					
#	LENGTH	RADIUS	DELTA	CRD. LENGTH	CRD. BRG.
C1	85.81	355.00	13°50'57"	85.60	N81°08'50"E
C2	16.32	195.00	4°47'44"	16.32	N76°37'48"E

LINE TABLE		
#	DISTANCE	BEARING
L1	16.76	N74°13'21"E
L2	30.29	N02°28'21"W
L3	28.00	N87°31'42"E
L4	34.38	S87°36'25"W
L5	29.17	N02°23'35"W
L6	12.61	S02°28'18"E
L7	12.61	S02°28'18"E
L8	58.98	N87°31'42"E



1218 55th Street North  
Fargo, ND 58102  
Email: josh@rjnsurvey.com



## EPIC Companies

EPICCompaniesND.com

745 31st Ave. E Suite 105

West Fargo, ND 58078

701.866.1006

8/30/23

Maegin Elshaug  
Planning Coordinator  
City of Fargo

RE: EOLA Development Parking Narrative

Due to the tabled status of our proposed PILOT for the parking structure, EPIC Companies is moving forward with surface parking to meet the needs of the development so we can begin construction on The Wave waterpark project. This change required the removal of 3 buildings on the masterplan and that is reflected on the updated table provided by Walker Consultants. This update shows all uses on the masterplan meeting parking requirements per the PUD. If policy is approved, and a PILOT approved for a parking structure, we could revert back to the previously approved masterplan in which a full build-out would be possible. Summary of these changes include: 254 spaces required for The Wave and 299 being constructed on the lots north and south of the property. Total development parking demand as shown is 793 spaces, and supply of provided parking will be 803 spaces. This does not include the 75 on-street spaces in the 24<sup>th</sup> Ave ROW that were also left out of the original parking count.

As indicated in red dashed lines on the PUD master plan we are showing the outline of a parking ramp. This ramp is shown as a possibility for the development pending how the PILOT policy is structured for future developments.

## Maegin Elshaug

**From:** Brian Reinarts [REDACTED]  
**Sent:** Wednesday, August 30, 2023 8:48 AM  
**To:** Blake Nybakken; Maegin Elshaug  
**Subject:** FW: EOLA Fargo Projected Parking Needs  
**Attachments:** EOLA Parking Narrative.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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

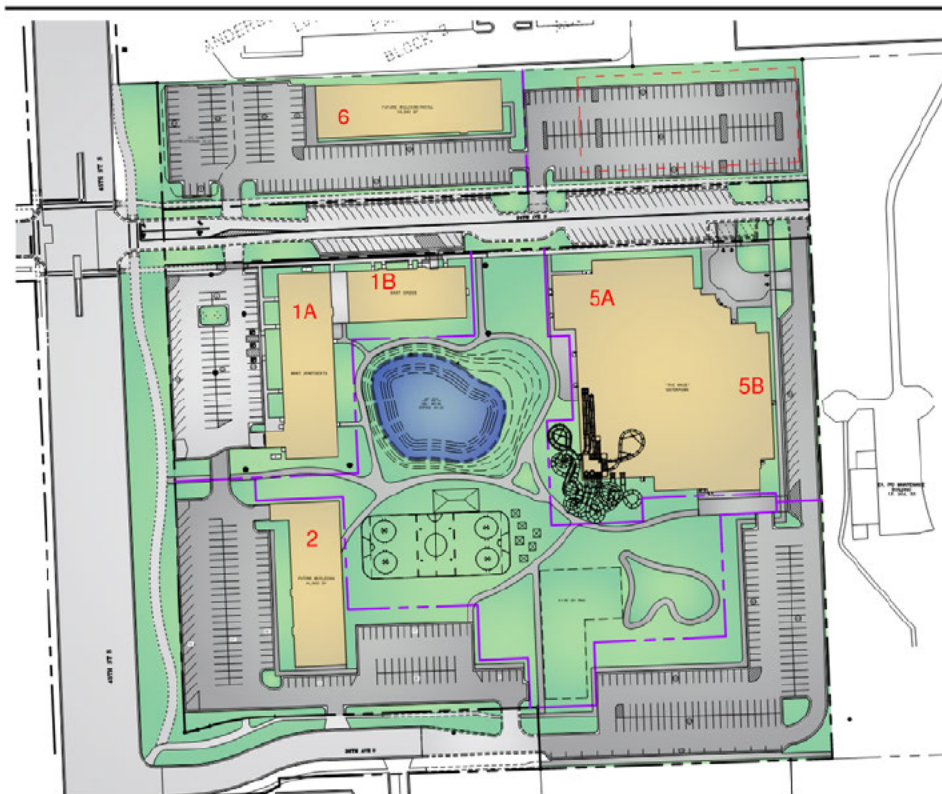
Maegin,

Below is the parking analysis by Kevin White with Walker Consultants. I have also attached a master plan image that is labeled to correlate with the site development buildings table.

The attached file is the narrative discussing the proposed parking layout.

Let me know if there is anything else that you may need.

Thanks.





Enhancing communities  
through innovative  
development.

[Subscribe](#)

Cell: [REDACTED]

Office: [REDACTED]

Email: [REDACTED]

745 31st Ave E #105

West Fargo, ND 58078

[EPICCompaniesND.com](http://EPICCompaniesND.com)

**EPIC**  
**events**  
art & entertainment

*The*  
**Lights**

**2023 SUMMER CONCERTS**

**HAIRBALL**

**July 21**

**GRANGER SMITH**

**July 22**

**SAWYER BROWN  
AND BLACKHAWK**

**August 10**

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**From:** White, Kevin [REDACTED] >  
**Sent:** Tuesday, August 29, 2023 8:06 PM  
**To:** Brian Reinarts [REDACTED] >  
**Cc:** Blake Nybakken [REDACTED]  
**Subject:** EOLA Fargo Projected Parking Needs

Brian –

See email below. The summary was provided by EPIC and the projected parking needs are assuming primarily shared parking (other than the reserved residential parking), and were determined using the Urban Land Institute's Shared Parking Model. Walker Consultants did all modeling of projected parking needs based on the land use summary from EPIC.

#### Land Use Program

Numbers across the top are the site development buildings.

Type	1A	1B	2	3	4	5A	5B	6	Total
Retail	1,020	613	1,295			6,240			9,168
Restaurant fast casual	1,165	700	1,480						3,345
Restaurant dining sit down	1,640	1,834	4,625						10,399
Office	8,735	6,400	4,700						19,335
Hotel (leisure)							133	125	260
Hotel restaurant/lounge/bar							7,000		7,000
Indoor waterpark						42,000			42,000
Resident apartment									
1BR	69		24	Removed	Removed				93
2BR	16		13						31
3BR	8		12						20
Total	93		54						147
Resident condo									
Studio			12						12
1BR		7	12						19
2BR		20	9						29
3BR									0
Total		27	33						60

### Projected Parking Needs

Projected parking needs are based on full build-out and occupancy of the land use program above. The resulting recommended supply for the proposed project is based on the projected peak hour of design day parking demand. The 85th percentile of peak-hour observations for each land use is generally recommended by Shared Parking.

Peak Weekday		Peak Weekend	
Customer/Visitor	448	Customer/Visitor	471
Employee/Resident	103	Employee/Resident	115
Reserved	207	Reserved	207
Total	758	Total	793

Hope this is helpful.

Thank you,  
Kevin

Kevin White, AICP, CAPP  
Parking and Mobility Consultant



**WALKER**  
CONSULTANTS

7760 France Avenue South, Suite 820 | Minneapolis, MN 55435

[www.walkerconsultants.com](http://www.walkerconsultants.com) | [Blog](#) | [Facebook](#) | [LinkedIn](#) | [Twitter](#)

**City of Fargo  
Staff Report**

<b>Title:</b>	Larkin Second Addition	<b>Date:</b>	8/30/2023
<b>Location:</b>	3600 39 <sup>th</sup> Street South	<b>Staff Contact:</b>	Alayna Espeseth, Assistant Planner
<b>Legal Description:</b>	Lot 2, Block 1, Larkin Addition		
<b>Owner(s)/Applicant:</b>	Larkin Properties, LLP / Houston Engineering, Inc.	<b>Engineer:</b>	Houston Engineering, Inc.
<b>Entitlements Requested:</b>	<b>Minor Subdivision</b> (Plat of <b>Larkin Second Addition</b> , a replat of Lot 2, Block 1, Larkin Addition to the City of Fargo, Cass County, North Dakota)		
<b>Status:</b>	Planning Commission Public Hearing: September 7 <sup>th</sup> , 2023		

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

**Proposal:**

The request is to replat Lot 2, Block 1 of the Larkin Addition into a three lot minor subdivision, entitled Larkin Second Addition. The current structure within Lot 2, Block 1 of Larkin Addition will be within the confinement of Lot 2, Block 1 of the Larkin Second Addition. The orientation of the lot depicts the west property lines as the front, east property lines as the rear and both north and south and remaining property lines as interior side lot lines. No zone change is proposed with this project. The applicant is working with the Engineering Department to define the stormwater requirements and responsibilities with an amenities plan for Larkin Second Addition.

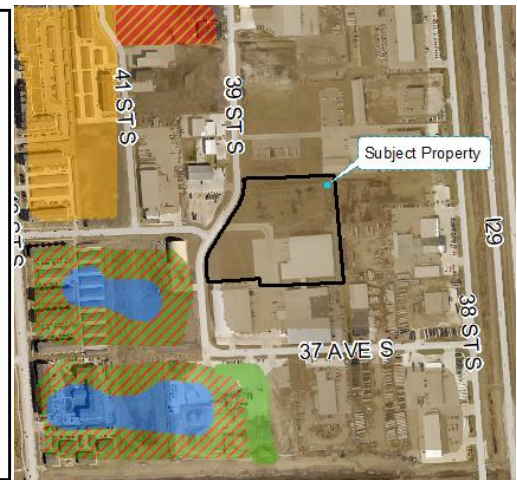
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

**Surrounding Land Uses and Zoning Districts:**

- North: LI, Limited Industrial with vehicle service, warehouse and office;
- East: LI, Limited Industrial with manufacturing, warehouse and freight movement;
- South: LI, Limited Industrial with manufacturing, warehouse and freight movement;
- West: Across 39<sup>th</sup> Street South is LI, Limited Industrial with warehouse.

### Area Plans:

The subject property is located within the 2003 Southwest Future Land Use Plan. This plan designates the subject property as "Industrial". The current zoning is LI, Limited Industrial, which matches this land use category. No zone change is proposed.



### Context:

**Neighborhood:** The subject property is located within the Pointe West Neighborhood.

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

**Parks:** The subject property is located within a half mile of Pointe West Park (3331 42nd Street S) to the northwest and Stonebridge #2 Park (3520 32nd Street S) to the east.

- Pointe West Park – Amenities include a playground and soccer fields.
- Stonebridge #2 Park – Amenities include basketball court, a playground, recreational trails and a junior disc golf course.

**Pedestrian / Bicycle:** The subject property is within a half-mile of a shared use path, located along the west side of 42nd Street South.

**Bus Route:** The subject property is within a quarter mile of route 18. Route 18 runs along 42nd Street South with stops both north and south bound.

### Staff Analysis:

#### Minor Subdivision

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

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

This subdivision is intended to replat the existing lot into three new lots. The property within this plat is currently zoned LI, Limited Industrial, and no change is proposed. Surrounding properties are zoned LI, Limited Industrial. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received one inquiry about the application with no noted concern. 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 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

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

**(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed subdivision plat, **Larkin Second Addition** as outlined within the staff report, as the proposal complies with the adopted Area Plan, standards of Section 20-0907.B & C, standards of Article 20-06, and all other applicable requirements of the Land Development Code".

**Planning Commission Recommendation:** September 7, 2023

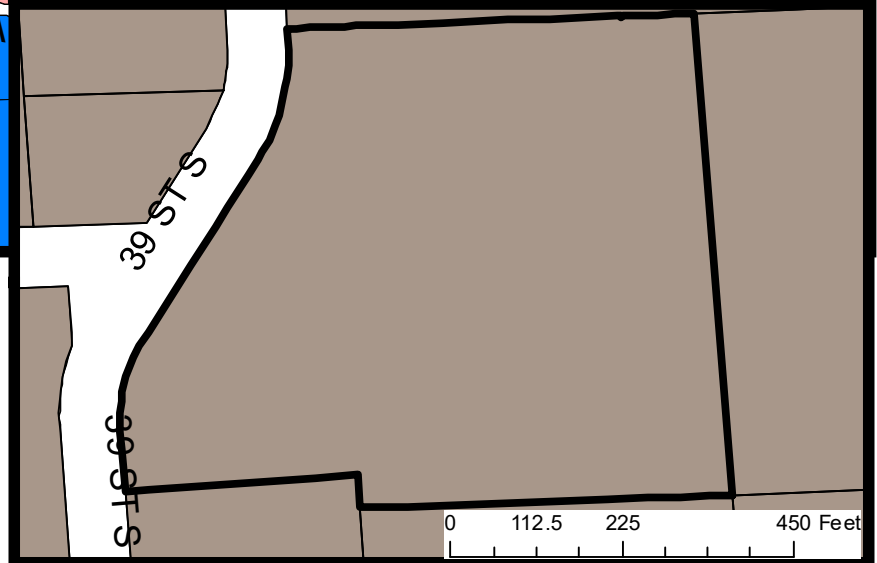
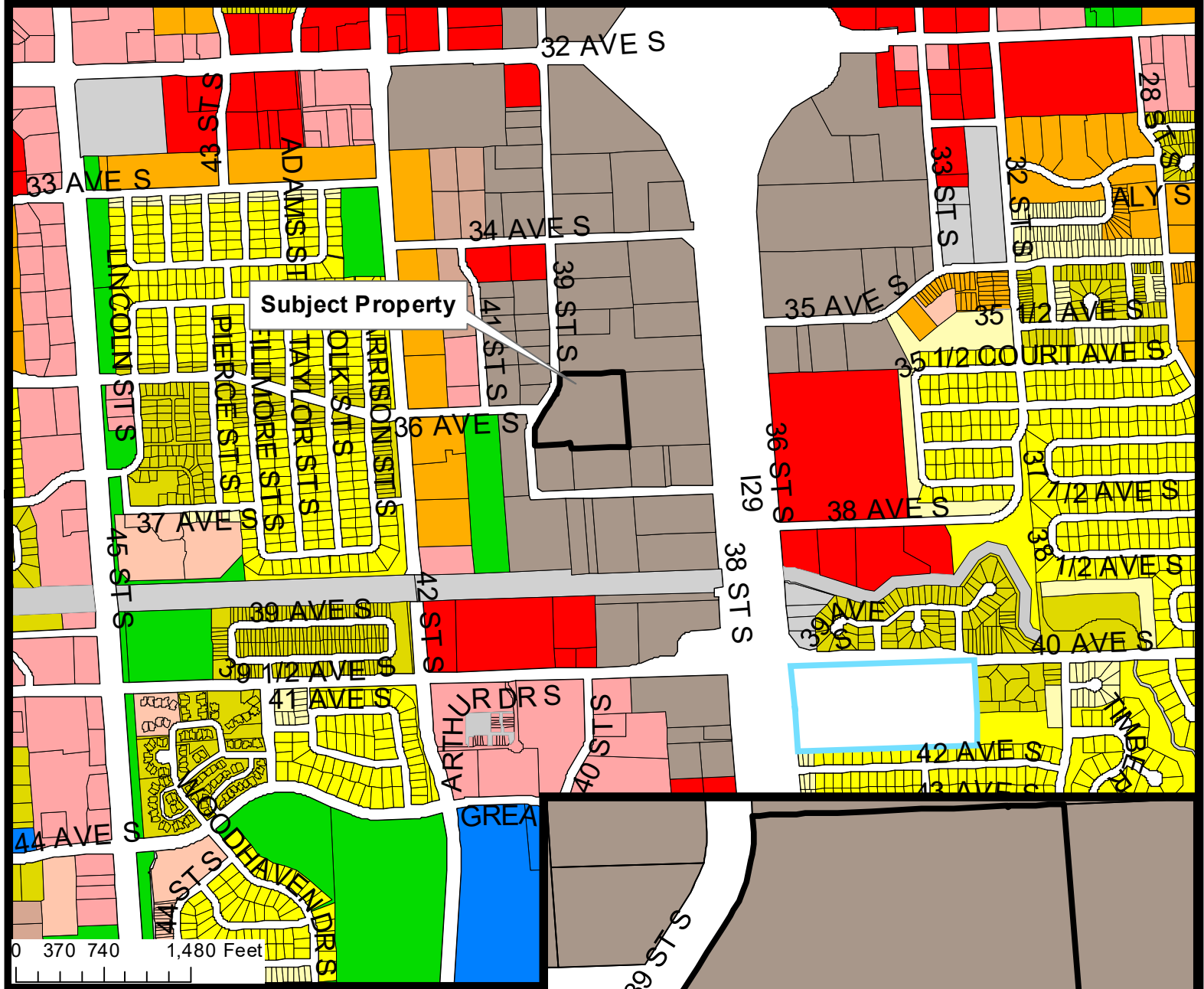
**Attachments:**

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

# Minor Subdivision

## Larkin Second Addition

3600 39th Street South

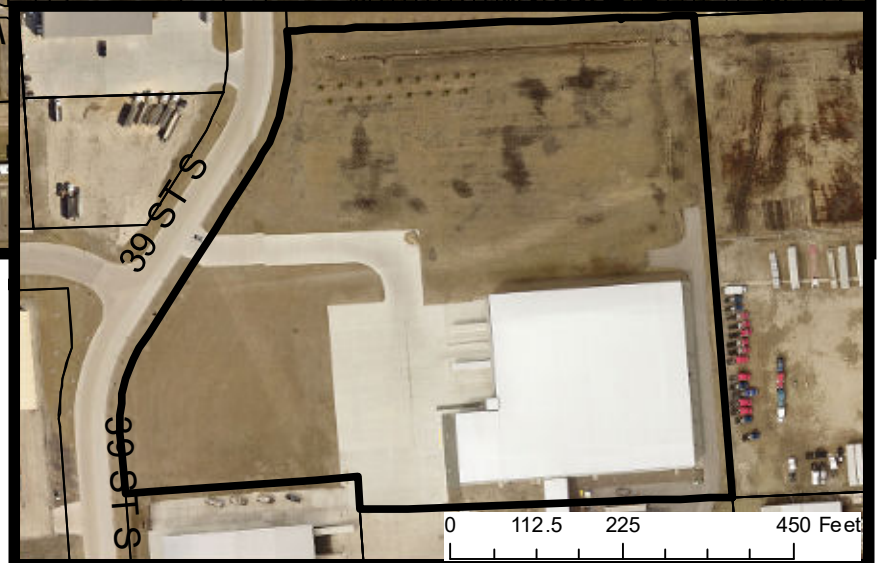
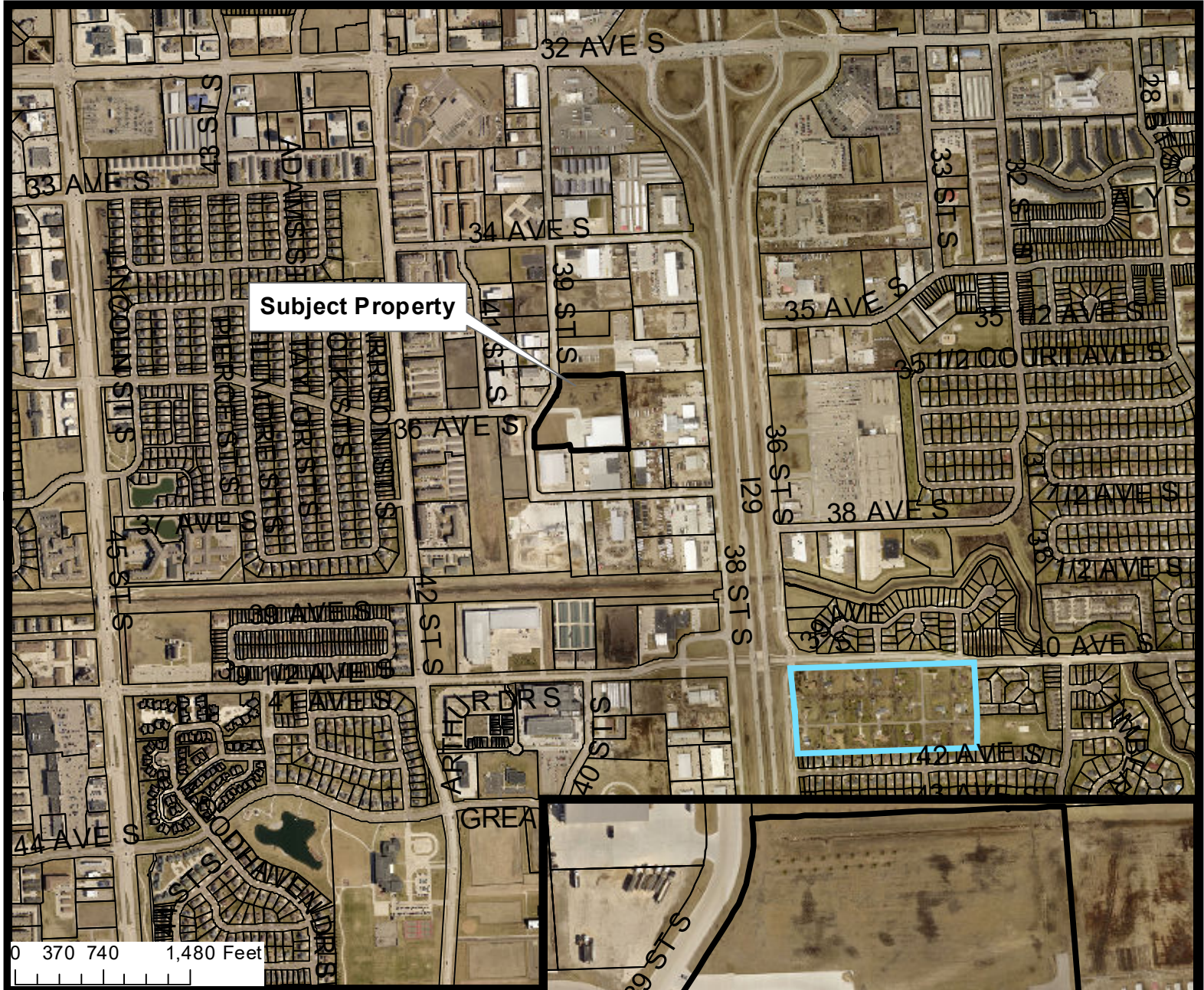




# Minor Subdivision

## Larkin Second Addition

3600 39th Street South



### Legend

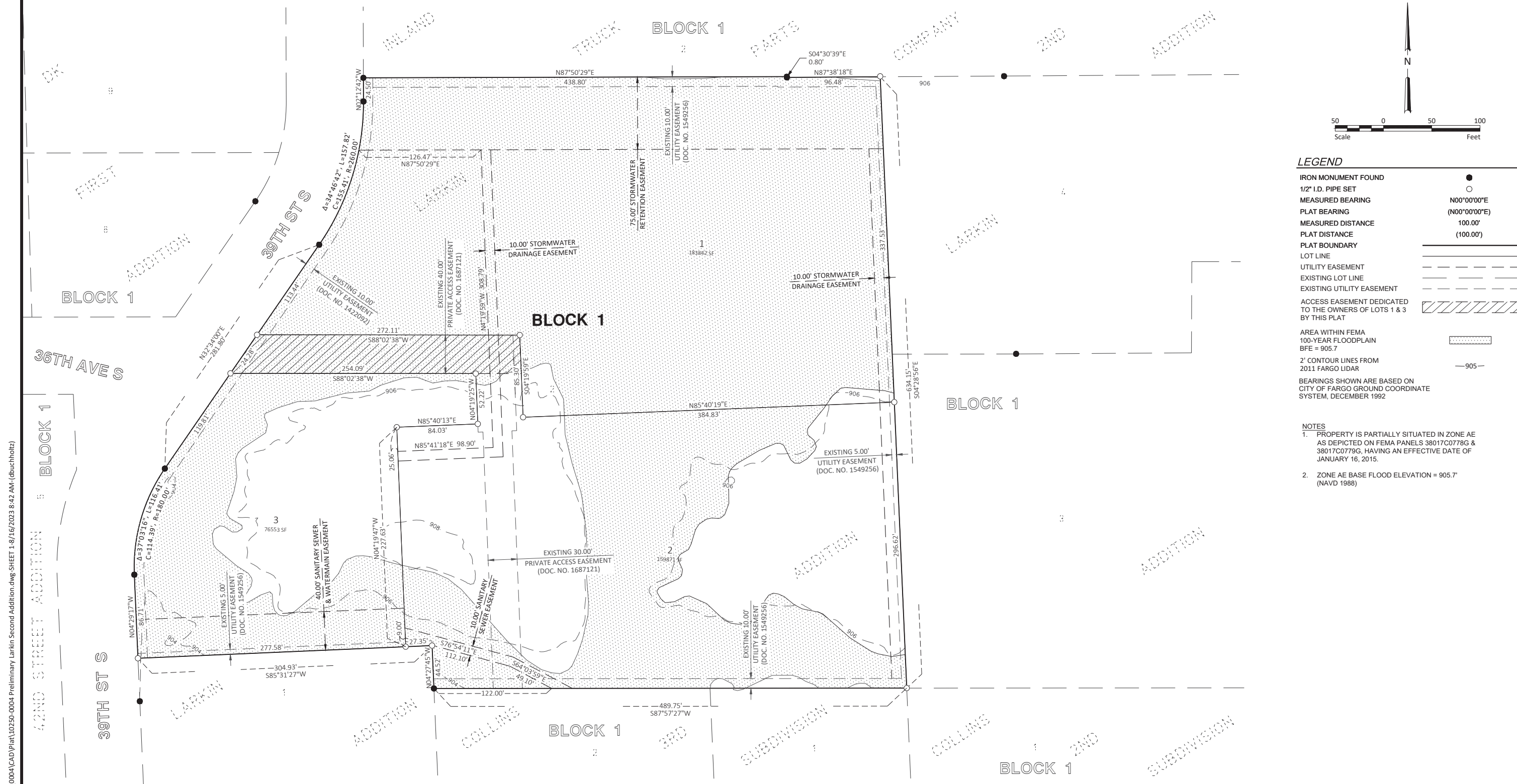
 City Limits



# LARKIN SECOND ADDITION

## A MINOR SUBDIVISION

BEING A REPLAT OF LOT 2, BLOCK 1, LARKIN ADDITION  
TO THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA



Sheet 1 of 1  
Project No. 10250-0004

LARKIN SECOND ADDITION
A MINOR SUBDIVISION
BEING A REPLAT OF LOT 2, BLOCK 1, LARKIN ADDITION
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA

OWNER'S CERTIFICATE:
NOW ALL PERSONS BY THESE PRESENTS: That Larkin Properties LLP, a North Dakota limited liability partnership, are the owners and proprietors of the following described tract of land:
Lot 2, Block 1, Larkin Addition, to the City of Fargo, Cass County, North Dakota.
Said tract contains 9.648 acres, more or less.

And that said party has caused the same to be surveyed and platted as LARKIN SECOND ADDITION to the City of Fargo, Cass County, North Dakota, and do hereby dedicate to the owners of Lots 1, 2 and 3, for private use, the stormwater drainage and stormwater retention easements shown on the plat, dedicate to the owners of Lots 1, and 3, for private use, the access easement shown on the plat, dedicate to the owners of Lots 1, 2 and 3, for private use, the stormwater drainage and stormwater retention easements shown on the plat, dedicate to the owners of Lot 2, for private use, the 40.00' sanitary sewer and watermain easement shown on the plat, dedicate to the owners of Lot 1 and the remnants of Lot 2, Block 1, Colins Third Subdivision, the sanitary sewer easements shown on the plat.

OWNER:
Larkin Properties, LLP, a North Dakota limited liability partnership

Jason Larkin, President

State of
County of

On this day of , 20 before me personally appeared Jason Larkin, President of Larkin Properties, LLP, a North Dakota limited liability partnership, 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 partnership.

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
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.

Tom Knakmuhs, PE, City Engineer

State of North Dakota
County of Cass

On this day of , 20 before me personally appeared Tom Knakmuhs, PE, 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 he executed the same as his free act and deed.

Notary Public:

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

Rocky Schneider, Chair
Fargo Planning Commission

State of North Dakota
County of Cass

On this day of , 20 before me personally appeared Rocky Schneider, 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 he 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
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>	Trollwood Land Three Addition	<b>Date:</b>	8/30/2023
<b>Location:</b>	3123 and 3131 Broadway North; 504 32nd Avenue North	<b>Staff Contact:</b>	Donald Kress, planning coordinator
<b>Legal Description:</b>	Lots 1, 2, 3, and portion of Lot 4, Block 1, Trollwood Land Addition		
<b>Owner(s)/Applicant:</b>	North Fargo Development Group, LLC/ United Development Group, LLC	<b>Engineer:</b>	Interstate Engineering, Inc.
<b>Entitlements Requested:</b>	<b>Minor Subdivision</b> (Plat of <b>Trollwood Land Third Addition</b> , a replat of Lots 1, 2, 3, and portion of Lot 4, Block 1, Trollwood Land Addition to the City of Fargo, Cass County, North Dakota)		
<b>Status:</b>	Planning Commission Public Hearing: September 7 <sup>th</sup> , 2023		
<b>Existing</b>		<b>Proposed</b>	
<b>Land Use:</b> Undeveloped		<b>Land Use:</b> Retail sales and service	
<b>Zoning:</b> LC, Limited Commercial		<b>Zoning:</b> No change	
<b>Uses Allowed:</b> LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, basic utilities, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service, and certain telecommunications facilities.		<b>Uses Allowed:</b> No change	
<b>Maximum Building Coverage:</b> 55%		<b>Maximum Building Coverage:</b> No change	
<b>Proposal:</b>			
The applicant proposes to combine all or part of four existing platted lots into a single lot. The applicant intends to construct a retail store and associated parking lot.			
<b>Surrounding Land Uses and Zoning Districts:</b>			
<ul style="list-style-type: none"> <li>• North: LC, with commercial (convenience store) use and MHP, Mobile Home Park with mobile home residential use</li> <li>• East: LC with residential and some commercial uses</li> <li>• South: LC, with commercial uses</li> <li>• West: LC, with commercial (restaurant) use and SR-2, Single Dwelling Residential with residential use</li> </ul>			
<b>Area Plans:</b>			
The subject property is not located within a growth plan, area plan, or neighborhood plan.			
<b>Context:</b>			
<b>Schools:</b> The subject property is located within the Fargo School District, specifically within the McKinley Elementary, Ben Franklin Middle and Fargo North High schools.			
<b>Parks:</b> The subject property is located within 0.33 mile of Trollwood Park (basketball court, disc golf grill picnic table playground, ages 2-5 playground, ages 5-12 recreational trails restrooms shelter - stages-amphitheater); 0.34 mile of Yunker Farm Park (dog park football field grill picnic table playground, ages 5-12 recreational trails restrooms shelter); and 0.50 mile of Longfellow Park. baseball and softball fields,			



basketball court, multipurpose field, a playground, four pickleball courts, outdoor skating and hockey rink and a warming house).

**Pedestrian / Bicycle:** There are no on or off road bike facilities within or along the adjacent streets

**Neighborhood:** The subject property is included within the Northport Neighborhood.

**MATBUS Route:** The subject property is located along Route 13, which connects downtown with 10<sup>th</sup> Street North, Broadway, 19<sup>th</sup> Avenue North, 32<sup>nd</sup> Avenue North, and University Drive North. There is a stop along the Broadway frontage of the subject property.

#### **Staff Analysis:**

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.

#### **MINOR SUBDIVISION**

The plat combines all or part of four lots in a single lot for commercial development. The current zoning is LC, Limited Commercial. No zone change is proposed.

**ACCESS---**The applicant proposes to take access from 32<sup>nd</sup> Avenue North and the shared access easement with the adjacent property to the east. Existing driveway accesses along Broadway will be closed.

#### **Minor Subdivision**

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

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

The current zoning is LC, Limited Commercial. No zone change is proposed. The subject property is not included in a growth plan, area plan, or neighborhood plan. 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, Planning staff has received and responded to one inquiry. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments.

**(Criteria Satisfied)**

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

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

#### **Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed plat of the **Trollwood Land Three Addition**, as outlined in the staff report, as the proposal complies with the Standards of Article 20-06, Section 20-0907.B. and C of the LDC, and all other applicable requirements of the LDC."

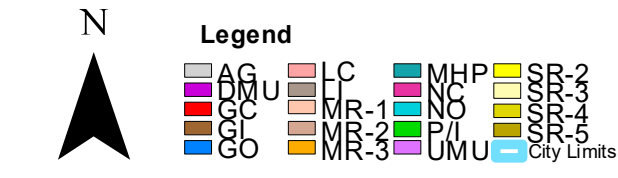
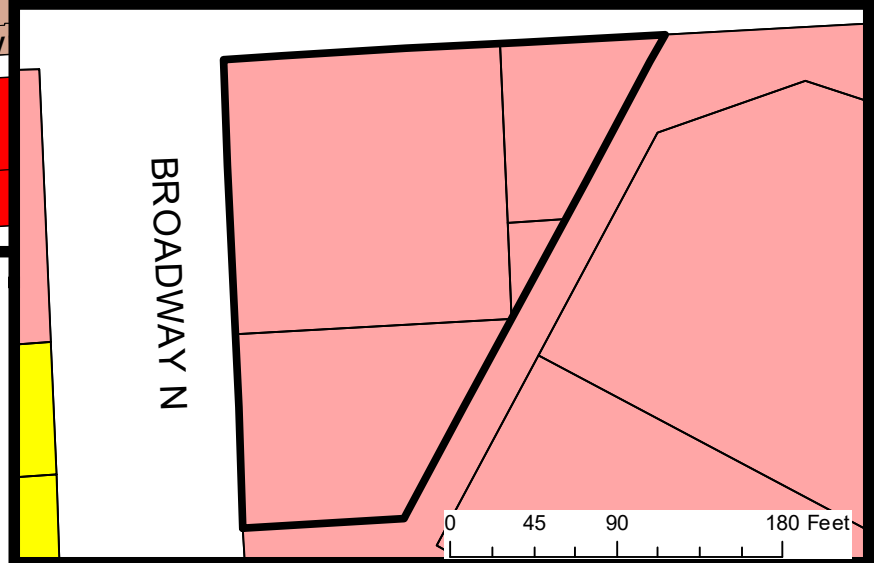
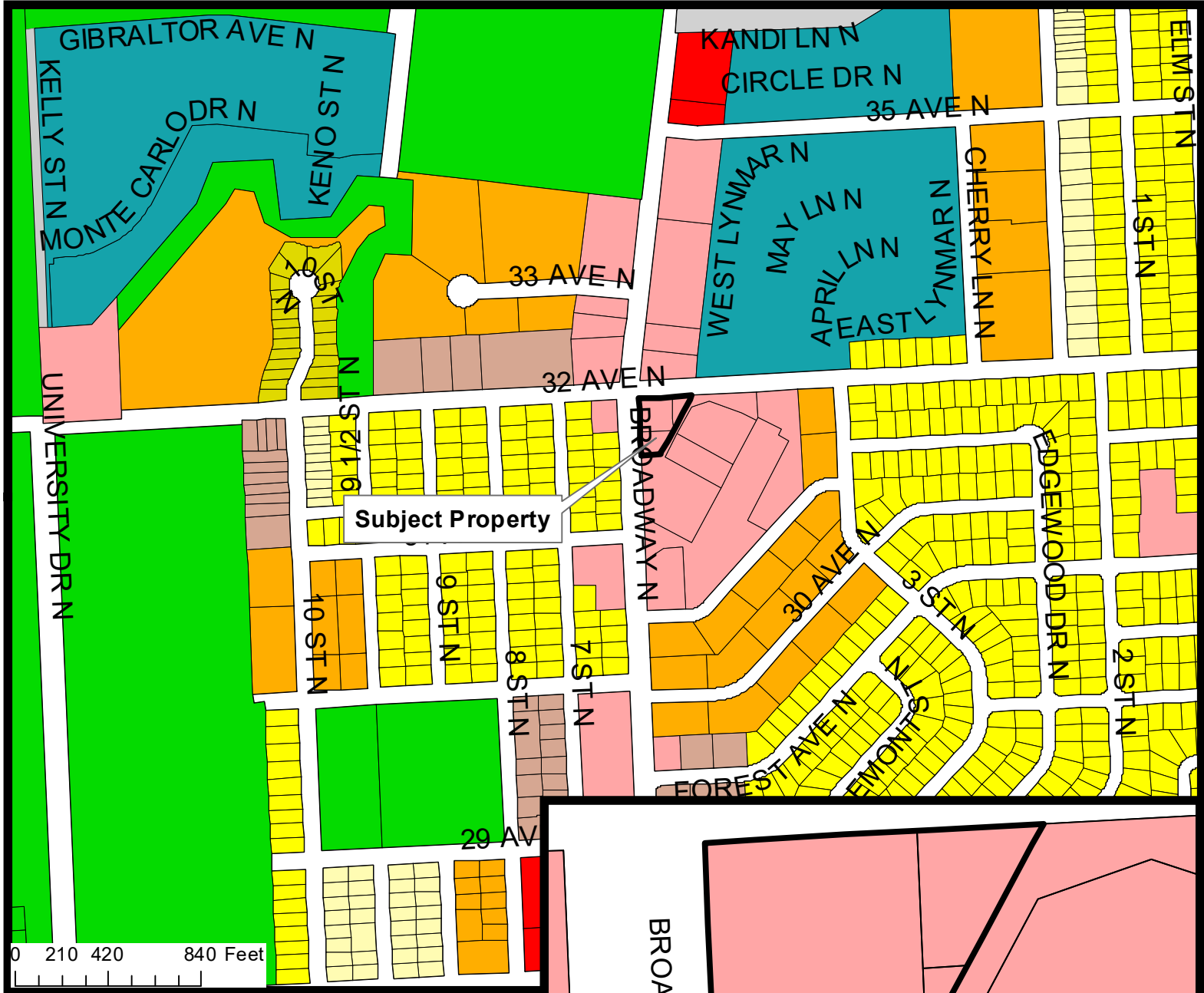
**Planning Commission Recommendation:** September 7<sup>th</sup>, 2023

<b>Attachments:</b>
<ol style="list-style-type: none"><li>1. Zoning map</li><li>2. Location map</li><li>3. Preliminary plat</li></ol>

# Minor Subdivision

## Trollwood Land Three Addition

3123 & 3131 Broadway North  
& 504 32nd Avenue North





## Minor Subdivision

### Trollwood Land Three Addition

3123 & 3131 Broadway North  
& 504 32nd Avenue North



#### Legend

 City Limits



# MINOR PLAT OF TROLLWOOD LAND THREE

BEING A REPLAT OF ALL OF LOTS 1, 2, & 3  
AND PART OF LOT 4, BLOCK 1,  
TROLLWOOD LAND ADDITION, CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA

## OWNERS CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS, THAT NORTH FARGO DEVELOPMENT GROUP, LLC, A WISCONSIN LIMITED LIABILITY COMPANY, IS THE OWNER OF THE FOLLOWING DESCRIBED TRACT OF LAND, TO WIT:

All of Lots 1, 2, and 3, and that part of Lot 4, all in Block 1, Trollwood Land Addition to the City of Fargo, Cass County, North Dakota described as follows:

BEGINNING at the southeast corner of said Lot 1; thence on a plat bearing of North 00°00'31" East, on and along the east line of said Lot 1, a distance of 53.00 feet to the southwest corner of Lot 3, said Block 1; thence North 89°14'52" East, on and along the south line of Lot 3, a distance of 31.60 feet to the southeast corner of said Lot 3; thence South 30°36'43" West, on and along the southwesterly extension of the southeasterly line of said Lot 3, a distance of 62.06 feet to the point of beginning.

The above described tracts of land contain 41,667 square feet, more or less.

SAID OWNER HAS CAUSED THE ABOVE DESCRIBED TRACT OF LAND TO BE SURVEYED AND PLATTED AS **TROLLWOOD LAND THREE** IN THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA.

OWNER: NORTH FARGO DEVELOPMENT GROUP, LLC

RICK JOHNSON, MANAGING PARTNER

STATE OF \_\_\_\_\_ } SS  
COUNTY OF \_\_\_\_\_

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED RICK JOHNSON TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME ON BEHALF OF NORTH FARGO DEVELOPMENT GROUP, LLC.

NOTARY PUBLIC

MORTGAGEE: IOWA SAVINGS BANK

SCOTT A. MONICAL, PRESIDENT

STATE OF \_\_\_\_\_ } SS  
COUNTY OF \_\_\_\_\_

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED SCOTT A. MONICAL TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME ON BEHALF OF IOWA SAVINGS BANK.

NOTARY PUBLIC

## SURVEYOR'S CERTIFICATE

I, DUSTIN VOSBERG, PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, PREPARED AND MADE THE ATTACHED PLAT OF **TROLLWOOD LAND THREE** TO THE CITY OF FARGO, A REPLAT OF ALL OF LOTS 1, 2, & 3 AND PART OF LOT 4, BLOCK 1, TROLLWOOD LAND ADDITION, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, AND DO HEREBY CERTIFY THAT THIS PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY OF SAID SUBDIVISION; THAT ALL DISTANCES ARE CORRECTLY SHOWN IN FEET AND DECIMALS OF A FOOT; THAT THE MONUMENTS FOR THE GUIDANCE OF FUTURE SURVEYS HAVE BEEN LOCATED OR WILL BE PLACED IN THE GROUND WITHIN 365 DAYS AS SHOWN.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

DUSTIN VOSBERG  
PROFESSIONAL LAND SURVEYOR  
ND REGISTRATION NO. LS-29769

STATE OF NORTH DAKOTA } SS  
COUNTY OF RICHLAND

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED DUSTIN VOSBERG TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS A FREE ACT AND DEED.

NOTARY PUBLIC

## CITY ENGINEER'S APPROVAL

APPROVED BY THE FARGO CITY ENGINEER THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

TOM KNAKMUHS, PE, FARGO CITY ENGINEER

STATE OF \_\_\_\_\_ } SS  
COUNTY OF \_\_\_\_\_

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TOM KNAKMUHS TO ME KNOWN TO BE THE CITY ENGINEER AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS CITY ENGINEER.

NOTARY PUBLIC

## FARGO PLANNING COMMISSION APPROVAL

APPROVED BY THE CITY OF FARGO PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

ROCKY SCHNEIDER, CHAIRMAN OF THE CITY OF FARGO PLANNING COMMISSION.

STATE OF \_\_\_\_\_ } SS  
COUNTY OF \_\_\_\_\_

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED ROCKY SCHNEIDER TO ME KNOWN TO BE THE CHAIRMAN OF THE CITY OF FARGO PLANNING COMMISSION THAT IS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME ON BEHALF OF THE CITY OF FARGO PLANNING COMMISSION.

NOTARY PUBLIC

## FARGO CITY COMMISSION APPROVAL

APPROVED BY THE BOARD OF CITY COMMISSIONERS AND ORDERED FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

TIMOTHY J. MAHONEY, MAYOR

ATTEST: STEVEN SPRAUGE, CITY AUDITOR

STATE OF \_\_\_\_\_ } SS  
COUNTY OF \_\_\_\_\_

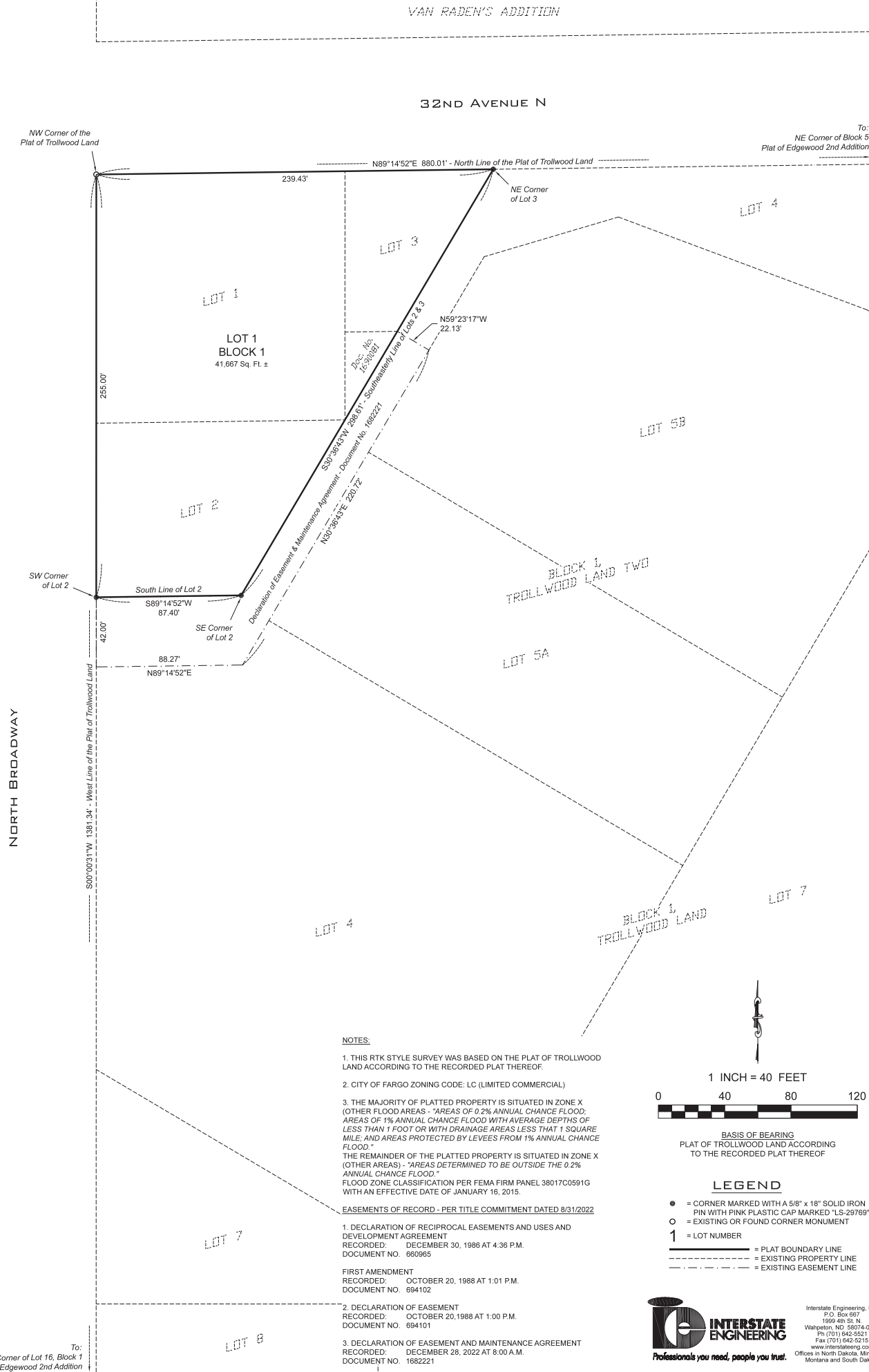
ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TIMOTHY J. MAHONEY TO ME KNOWN TO BE THE MAYOR OF THE CITY OF FARGO THAT IS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME ON BEHALF OF THE CITY OF FARGO.

NOTARY PUBLIC

STATE OF \_\_\_\_\_ } SS  
COUNTY OF \_\_\_\_\_

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, BEFORE ME, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED STEVEN SPRAUGE TO ME KNOWN TO BE THE CITY AUDITOR OF THE CITY OF FARGO THAT IS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME ON BEHALF OF THE CITY OF FARGO.

NOTARY PUBLIC





<b>City of Fargo Staff Report</b>			
<b>Title:</b>	North Dakota R-1 Urban Renewal Addition	<b>Date:</b>	8/30/2023
<b>Location:</b>	Right of way between 101, 207 and 225 4th Street North; 285 1st Avenue North; 200 and 334 4th Avenue North	<b>Staff Contact:</b>	Donald Kress, current planning coordinator
<b>Legal Description</b>	Portions of 3 <sup>rd</sup> Avenue North and 3 <sup>rd</sup> Street North bounded by Blocks 2, 6, and 7, North Dakota R-1 Urban Renewal Addition		
<b>Owner(s)/Applicant:</b>	Northland Hospitality, LLC; City Centre Lofts Association; City of Fargo / City of Fargo	<b>Engineer:</b>	Houston Engineering for City of Fargo
<b>Reason for Request:</b>	Right of Way Vacation (a vacation plat of portions of 3 <sup>rd</sup> Avenue North and 3 <sup>rd</sup> Street North bounded by Blocks 2, 6, and 7, North Dakota R-1 Urban Renewal Addition)		
<b>Status:</b>	Planning Commission Public Hearing: September 7 <sup>th</sup> , 2023		

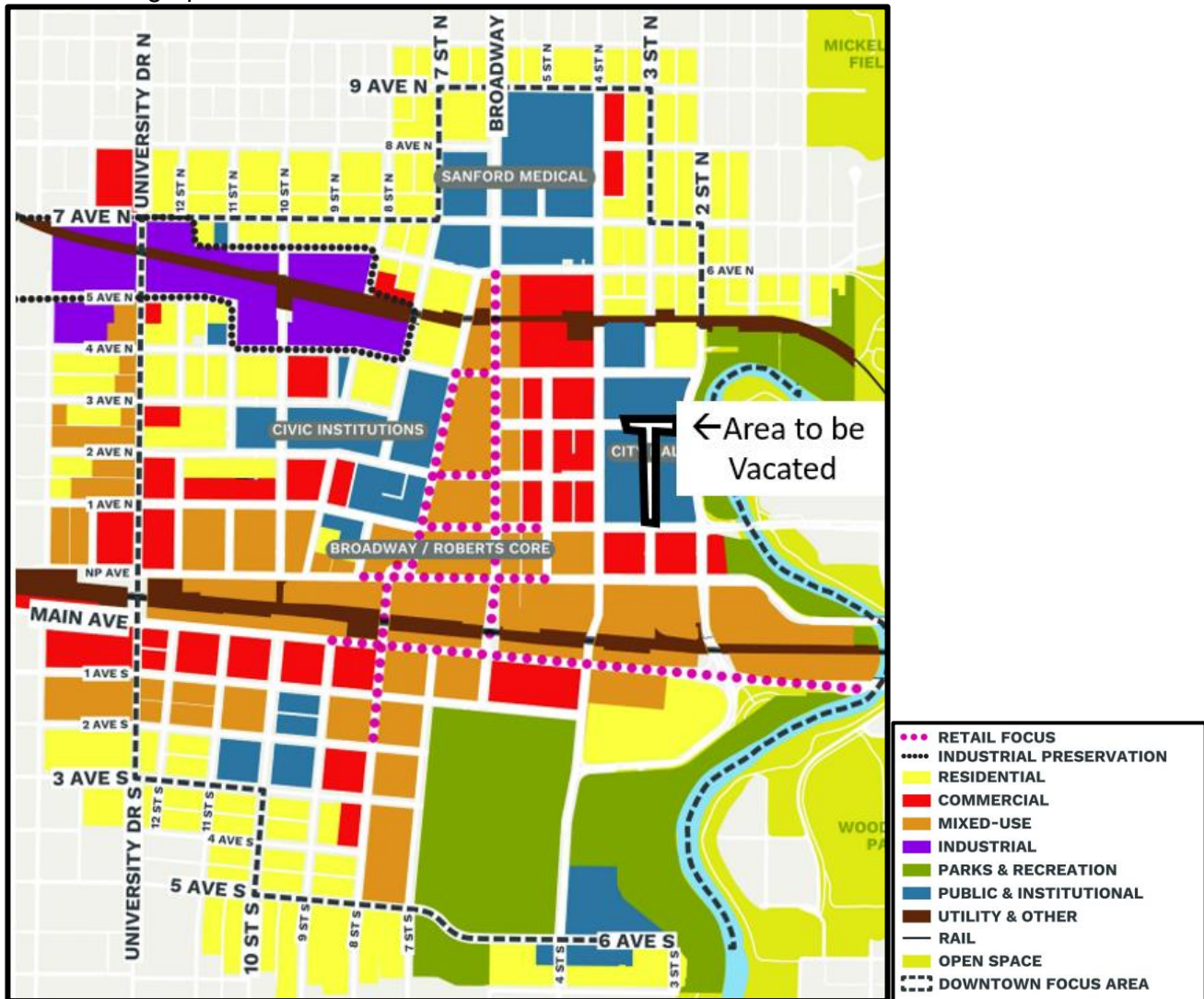
<b>Proposal:</b>
<p>The applicant is seeking approval of a vacation plat of a portions of 3<sup>rd</sup> Avenue North and 3<sup>rd</sup> Street North bounded by Blocks 2, 6, and 7, North Dakota R-1 Urban Renewal Addition. This right of way was originally dedicated by the Keeney &amp; Devitts Addition plat in 1877. It was shown in the North Dakota R-1 Urban Renewal Addition plat in 1960, which vacated a number of blocks of existing subdivisions in this area in preparation for urban renewal projects of that era. These portions of 3<sup>rd</sup> Street North and 3<sup>rd</sup> Avenue North are no longer used as roadways.</p> <p>The proposed street vacation encompasses approximately 1.54 acres of public right of way. The vacated area will be divided between the surrounding property owners as provided in North Dakota Century Code at the time of plat recordation. Subsequent to recordation, agreements which have already been negotiated between the City and the two private owners—City Centre Lofts Association and Northland Hospitality, LLC—will enable the City to acquire all the property included in the vacation.</p> <p>A separate easement document to be recorded after plat recordation grants an easement for building maintenance to City Centre Lofts Association.</p> <p>Access to the Fargo Public Library and City Hall by way of 3<sup>rd</sup> Street North from 1<sup>st</sup> Avenue North will remain unchanged. Though the right of way will have been vacated, the actual roadway will remain. The property will be owned by the City.</p> <p>Vacations of right of way are noticed in the same manner as major subdivisions. Staff has received and responded to one inquiry. Vacations of right of way require an additional notice period prior to City Commission hearing, pursuant to North Dakota Century Code.</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>(continued on next page)</p>

### Surrounding Land Uses and Zoning Districts:

- North: DMU, Downtown Mixed Use with residential and parking lot uses
- East: DMU, public/institutional uses (city hall; parking lot; open space)
- South: DMU, across 1<sup>st</sup> Avenue North parking lot
- West: DMU, public/institutional uses (library; open space; Sky Commons / Civic Auditorium)

### Area Plans

The area of right of way to be vacated is included in the Downtown In Focus Master Plan, as outlined in black in the graphic below.



### Context:

**Schools:** The subject property is located within the Fargo School District including Horace Mann/Roosevelt Elementary, Ben Franklin Middle and North High School.

**Neighborhood:** The subject property is included in the Downtown neighborhood.

**Parks:** Oak Grove Park (170 Maple Street North) is located approximately 0.75 mile east of the subject property and provides disc golf, horseshoes, picnic table, playground, ages 5-12, recreational trails, restrooms, shelter, and tennis court amenities.

**Recreation Trails:** There are no recreational trails adjacent to the area to be vacated. Shared use paths are along 2nd Street and 4th Avenue.

**Transit:** MATBUS Routes 16 and 4 run along 1<sup>st</sup> Avenue North along the south side of the subject property, though only Route 16 has a stop, which is at the corner of 1<sup>st</sup> Avenue and 3<sup>rd</sup> Street North.

#### **Staff Analysis:**

**ROW Vacation Approval Criteria:** The City of Fargo does not currently have any adopted regulation dealing with the vacation of rights-of-way. However, city policy requires that any applicant wishing to vacate right-of-way must submit a Vacate Application—a one-page form wherein the petitioner provides: a description of the area to be vacated and signatures of all property owners adjoining the area to be vacated. In addition, the applicant must submit a vacation plat (a major subdivision). Notwithstanding the Land Development Code's (LDC) silence on the matter, the North Dakota Century Code (N.D.C.C) does address the opening and vacating of roadways in Chapter 40-39 (inside municipal limits). To that end, the balance of this report will focus on the specific approval criteria outlined within Chapter 40-39 of the N.D.C.C.

***N.D.C.C. 40-39-04. Vacation of streets and alleys where sewers, water mains, pipes, and lines located – Conditions. No public grounds, streets, alleys, or parts thereof over, under, or through which have been constructed, lengthwise, any sewers, water mains, gas, or other pipes or telephone, electric, or cable television lines, of the municipality or the municipality's grantees of the right of way thereof, may be vacated unless the sewers, mains, pipes, or lines have been abandoned and are not in use, or unless the grantee consents, thereto, or unless perpetual easements for the maintenance of sewers, water mains, gas, or other pipes, or telephone, electric facilities, whether underground or aboveground, is subject to the continued right of location of such electric facilities in the vacated streets.***

City of Fargo water and sewer lines are in these rights of way and will remain, as the entire vacated area will be owned by the City. It is the applicant's responsibility to contact all potential utility providers and submit documentation that there are no utilities in these easements. City staff reviews the applicant's documentation prior to City Commission approval of the plat. Any existing utility line that must be remain would have an easement retained. **(Criteria Satisfied)**

***N.D.C.C. 40-39-05. Petition for vacation of streets, alleys, or public grounds – Contents – Verification. No public grounds, streets, alleys, or parts thereof within a municipality shall be vacated or discontinued by the governing body except on a petition signed by all of the owners of the property adjoining the plat to be vacated. Such petition shall set forth the facts and reasons for such vacation, shall be accompanied by a plat of such public grounds, streets, or alleys proposed to be vacated, and shall be verified by the oath of at least one petitioner.***

In accordance with the requirement of this section, a petition signed by all adjacent owners has been submitted for review and consideration, along with a plat of such public street. **(Criteria Satisfied)**

***N.D.C.C 40-39-06. Petition filed with city auditor – Notice published – Contents of notice. If the governing body finds that the petition for vacation is in proper form and contains the***

***requisite signatures, and if it deems it expedient to consider such petition, it shall order the petition to be filed with the city auditor who shall give notice by publication in the official newspaper of the municipality at least once each week for four weeks. The notice shall state that a petition has been filed and the object thereof, and that it will be heard and considered by the governing body or a committee thereof on a certain specified day which shall not be less than thirty days after the first publication of the notice.***

The vacation plat will be advertised as required by this section prior to the hearing before the City Commission (the City's governing body). **(Criteria Satisfied)**

***N.D.C.C. 40-39-07. Hearing on petition – Passage of resolution declaring vacation by governing body. The governing body, or such committee as may be appointed by it, shall investigate and consider the matter set forth in the petition specified in section 40-39-05 and, at the time and place specified in the notice, shall hear the testimony and evidence of persons interested. After hearing the testimony and evidence or upon the report of the committee favoring the granting of the petition, the governing body, by a resolution passed by a two-thirds vote of all its members, may declare the public grounds, streets, alleys, or highway described in the petition vacated upon such terms and conditions as it shall deem just and reasonable.***

This action will be taken by the City Commission. **(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and recommend approval to the City Commission of the **North Dakota R-1 Urban Renewal Addition (portions of 3<sup>rd</sup> Street North / 3<sup>rd</sup> Avenue North)** right-of-way vacation plat as outlined in the staff report; as the proposal complies with the North Dakota Century Code Section 40-39: Opening and Vacating Streets, Alleys, and Public Places."

**Planning Commission Recommendation:** September 7<sup>th</sup>, 2023

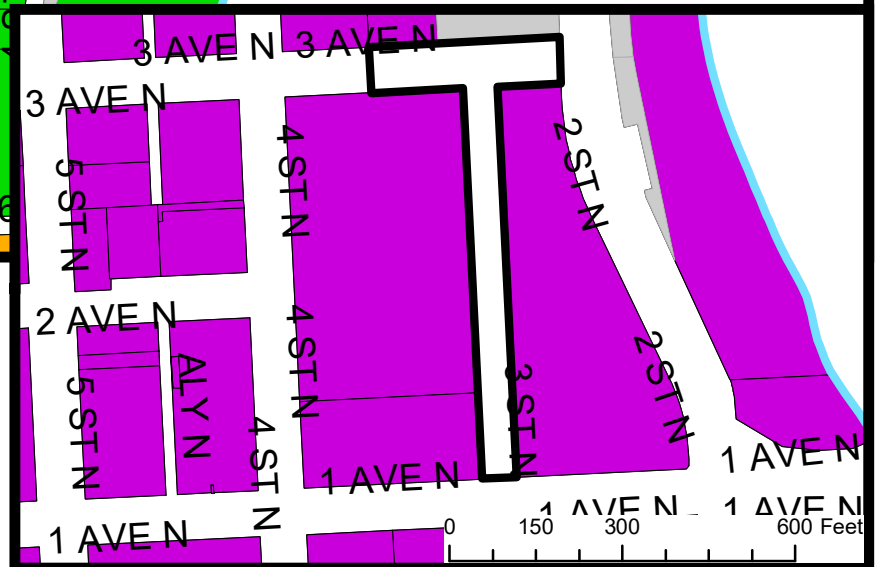
**Attachments:**

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

# North Dakota R-1 Urban Renewal Addition

285 1st Avenue North;

200 and 334 4th Avenue North



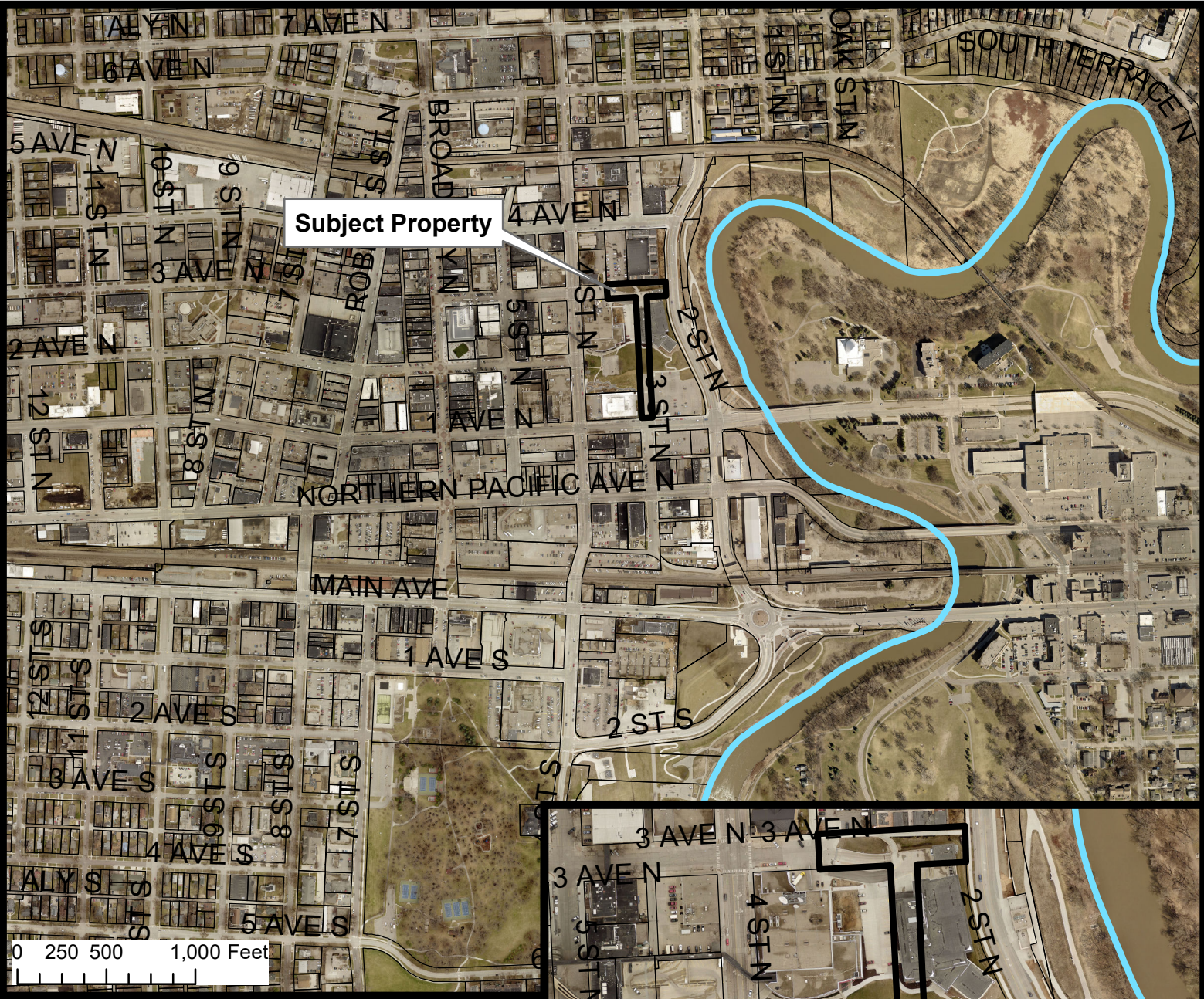
AG DMU GC GL GO LC MR-1 MR-2 MR-3 MHP NNC NO PA UMU SR-2 SR-3 SR-4 SR-5 City Limits



# Vacation of Right-of-Way

101, 207, and 225 4th Street North;  
285 1st Avenue North;  
200 and 334 4th Avenue North

## North Dakota R-1 Urban Renewal Addition



### Legend

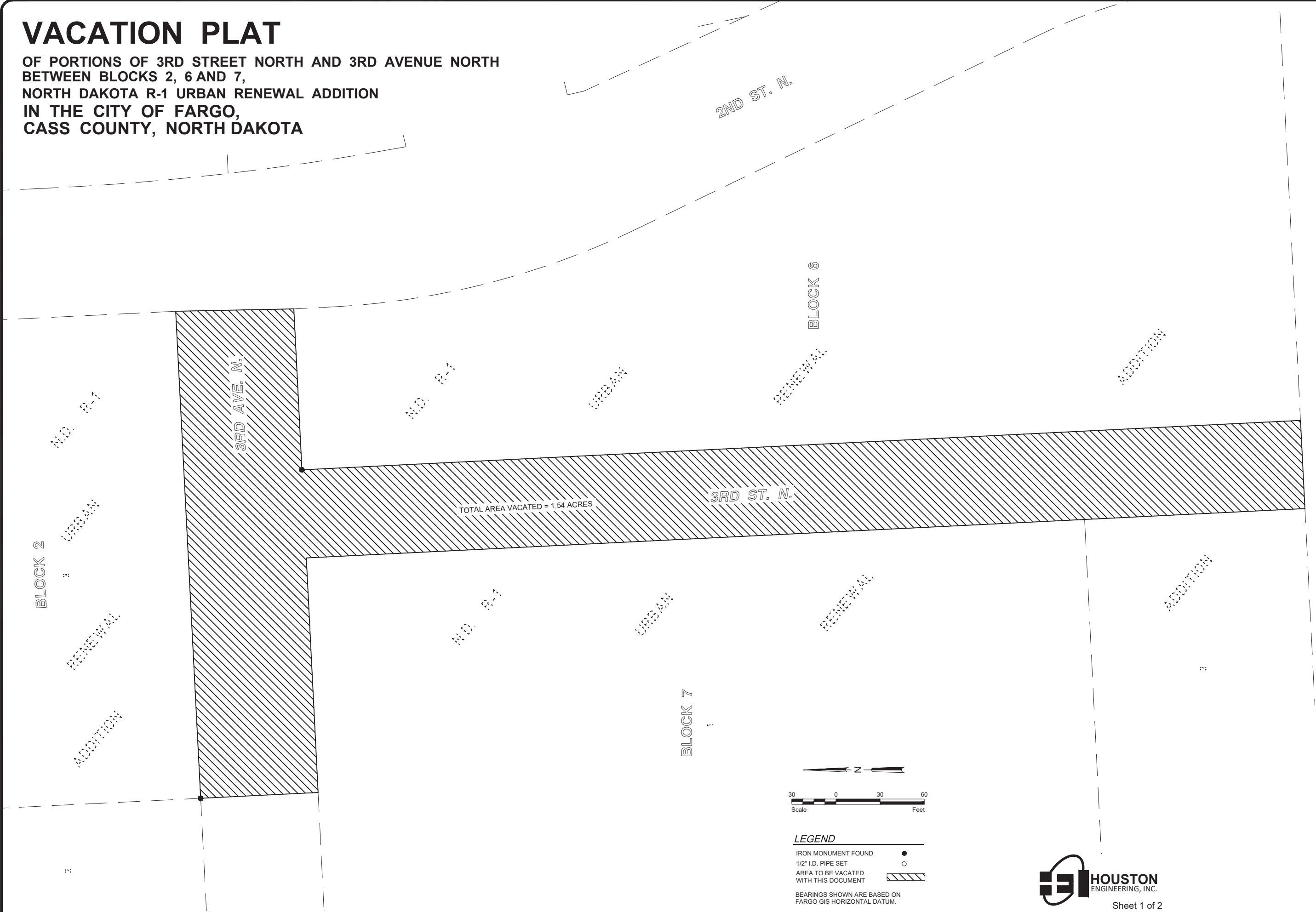
 City Limits



# VACATION PLAT

OF PORTIONS OF 3RD STREET NORTH AND 3RD AVENUE NORTH  
BETWEEN BLOCKS 2, 6 AND 7,  
NORTH DAKOTA R-1 URBAN RENEWAL ADDITION  
IN THE CITY OF FARGO,  
CASS COUNTY, NORTH DAKOTA

H:\JBM6000\6059\6059\_0185\CAD\Vacation Plat - 3rd St N and 3rd Ave N.dwg-PLAT1-8/17/2023 3:46 PM-(dbucholtz)



DESCRIPTION- AREA TO BE VACATED:

That part of 3rd Street North, bounded on the south by the northerly line of 1<sup>st</sup> Avenue North, and bounded on the north by the southerly line of 3<sup>rd</sup> Avenue North; together with that part of 3<sup>rd</sup> Avenue North bounded on the east by the westerly line of 2<sup>nd</sup> Street North, and bounded on the west by the southerly extension of the westerly line of Lot 3, Block 2, N.D. R-1 Urban Renewal Addition, in the City of Fargo, Cass County, North Dakota.

OWNERS' CERTIFICATE:

The City of Fargo, a North Dakota municipal corporation, City Centre Lofts Association, a North Dakota corporation, and Northland Hospitality, LLC, a North Dakota limited liability company, certify that they are the owners of the property adjoining the area to be vacated and that this plat and description are correct.

OWNER:

City of Fargo

(Part of Block 6, North Dakota R-1 Urban Renewal Addition)

(Lots 1 and 2, Block 7, North Dakota R-1 Urban Renewal Addition)

Attest: Timothy J. Mahoney, Mayor Steven Sprague, 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:

OWNER:

City Centre Lofts Association

(Part of Lot 3, Block 2, North Dakota R-1 Urban Renewal Addition)

Steven B. Dewald, President

State of North Dakota ) ) ss County of Cass )

On this day of , 20 , before me personally appeared Steven B. Dewald, President of City Centre Lofts Association, a North Dakota corporation, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of said corporation.

Notary Public:

OWNER:

Northland Hospitality, LLC

(Part of Lot 3, Block 2, North Dakota R-1 Urban Renewal Addition)

Kevin J. Hall

State of North Dakota ) ) ss County of Cass )

On this day of , 20 , before me personally appeared Kevin J. Hall, of Northland Hospitality, 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 they 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 area vacated.

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 .

Tom Knakmuhs, P.E., City Engineer

State of North Dakota ) ) ss County of Cass )

On this day of , 20 before me personally appeared Tom Knakmuhs, P.E., 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 he executed the same as his free act and deed.

Notary Public:

VACATION PLAT

OF PORTIONS OF 3RD STREET NORTH AND 3RD AVENUE NORTH BETWEEN BLOCKS 2, 6 AND 7, NORTH DAKOTA R-1 URBAN RENEWAL ADDITION IN THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

FARGO PLANNING COMMISSION APPROVAL:

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

Rocky Schneider, Chair Fargo Planning Commission

State of North Dakota ) ) ss County of Cass )

On this day of , 20 , before me personally appeared Rocky Schneider, 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 he 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:

