

FARGO PLANNING COMMISSION AGENDA
Thursday, September 9, 2021 at 3:00 p.m.

A: Approve Order of Agenda

B: Minutes: Regular Meeting of August 3, 2021

C: Brown Bag Luncheon - Wednesday, September 22, 2021

D: Public Hearing Items:

1. Continued hearing on an application requesting a Zoning Change from MR-2, Multi-Dwelling Residential to NO, Neighborhood Office on Lot 1, Block 1, **Rowe's Addition**. (Located at 619 University Drive South) (Bradley and Lisa Johnson) (an): WITHDRAWN
2. Continued hearing on an application requesting a Plat of **Dakota Air Parts Addition** (Major Subdivision) a replat of Lots 1-3, Block 1, DDK Addition to the City of Fargo, Cass County, North Dakota. (Located at 3910 and 4020 25th Street North; 2505 39 ½ Avenue North) (MACO Leasing, Inc./Nate Vollmuth) (an): CONTINUED TO NOVEMBER 2, 2021
3. Continued hearing on an application requesting a Conditional Use Permit to allow residential living in the GC, General Commercial zoning district on Lot 4, Block 1, **Valley View Eighth Addition**. (Located on 5652 36th Avenue South) (LTC Mustang, LLC/Brian Kounovsky) (kb)
4. Hearing on an application requesting a Conditional Use Permit to allow an Alternative Access Plan for a shared parking agreement on Lots 1-5, Block 1, **Valley View Eighth Addition**. (Located at 3610, 3630, 3650, and 3680 Veterans Boulevard and 5652 36th Avenue South) (LTC Mustang, LLC/Brian Kounovsky) (kb)
- 5a. Hearing on an application requesting a Zoning Change from AG, Agricultural to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay on the proposed **Maplewood Estates Second Addition**. (Located at 5601 and 5605 38th Street South) (EagleRidge Development, LLC) (dk)
- 5b. Hearing on an application requesting a Plat of **Maplewood Estates Second Addition** (Major Subdivision) a plat of a portion of the Northeast Quarter and a portion of the Southeast Quarter of Section 3, Township 138 North, Range 49 West to the City of Fargo, Cass County, North Dakota. (Located at 5601 and 5605 38th Street South) (EagleRidge Development, LLC) (dk)
- 5c. Hearing on an application requesting a PUD, Planned Unit Development Master Land Use Plan on the proposed **Maplewood Estates Second Addition**. (Located at 5601 and 5605 38th Street South) (EagleRidge Development, LLC) (dk)

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

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 701.241.1474. 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.

6. Hearing on an application requesting a Plat of **Timber Parkway Sixth Addition** (Minor Subdivision) a replat of Lot 3, Block 1, Timber Parkway Third Addition to the City of Fargo, Cass County, North Dakota. (Located at 5081 Charles Way South) (Chris Mack/PLC Investments, LLC) (an)
7. Hearing on an application requesting a Conditional Use Permit to allow an Alternative Access Plan for parking reduction on Lot 1, Block 1, **Ulteig Addition**. (Located at 3540 and 3550 38th Avenue South) (Mark Weston/I-29 Investments, LLC) (kb)
- 8a. Hearing on an application requesting a Zoning Change from LC, Limited Commercial to LC, Limited Commercial with a C-O, Conditional Overlay on the proposed **Maple Valley Fifth Addition**. (Located at 6050 36th Street South) (Nate Vollmuth/Aspen Ponds Apartments, LLP) (dk)
- 8b. Hearing on an application requesting a Plat of **Maple Valley Fifth Addition** (Minor Subdivision) a replat of Lot 21, Block 6, Maple Valley Addition to the City of Fargo, Cass County, North Dakota. (Located at 6050 36th Street South) (Nate Vollmuth/Aspen Ponds Apartments, LLP) (dk)
- 8c. Hearing on an application requesting a Conditional Use Permit for an Alternative Access Plan and residential living in the LC, Limited Commercial zoning district on Lot 1, Block 1 of the proposed **Maple Valley Fifth Addition**. (Located at 6050 36th Street South) (Nate Vollmuth/Aspen Ponds Apartments, LLP) (dk)
- 9a. Hearing on an application requesting a Zoning Change from LC, Limited Commercial and GC, General Commercial to LC, Limited Commercial and GC, General Commercial on the proposed **Interstate Park Second Addition**. (Located at 3502 and 3518 Interstate Boulevard) (Kevin Hall/JKJ Enterprises, LLP) (am)
- 9b. Hearing on an application requesting a Plat of **Interstate Park Second Addition** (Minor Subdivision) a replat of portions of Lots 6, 7, and 9, and all of Lot 8, Block 4, Interstate Park Addition, to the City of Fargo, Cass County, North Dakota. (Located at 3502 and 3518 Interstate Boulevard) (Kevin Hall/JKJ Enterprises, LLP) (am)
- 9c. Hearing on an application requesting a Conditional Use Permit to allow residential living in the GC, General Commercial zoning district on Lot 1, Block 1, the proposed **Interstate Park Second Addition**. (Located at 3502 and 3518 Interstate Boulevard) (Kevin Hall/JKJ Enterprises, LLP) (am)
10. Hearing on an application requesting a Plat of **Prairie Farms Commercial Third Addition** (Minor Subdivision) a replat of Lot 2, Block 1, Prairie Farms Commercial Second Addition to the City of Fargo, Cass County, North Dakota. (Located at 2900 52nd Avenue South) (Bryan Slama/Houston Engineering) (am)

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BOARD OF PLANNING COMMISSIONERS MINUTES

Regular Meeting:

Tuesday, August 3, 2021

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 3, 2021.

The Planning Commissioners present or absent were as follows:

Present: John Gunkelman, Rocky Schneider, Scott Stofferahn, Maranda Tasa, Jennifer Holtz, Dawn Morgan, Art Rosenberg

Chair Schneider called the meeting to order.

Business Items

Item A: Approve Order of Agenda

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

Chair Schneider noted the September meeting will be held on Thursday, September 9 due to Labor Day, and Items 1 and 2 have been continued to September 9, 2021.

Item B: Minutes: Regular Meeting of July 6, 2021

Member Stofferahn moved the minutes of the July 6, 2021 Planning Commission meeting be approved. Second by Member Holtz. All Members present voted aye and the motion was declared carried.

Item C: August 18, 2021 Brown Bag Luncheon: CANCELLED

Item D: Public Hearing Items

Item 1: Dakota Air Parts Addition

Continued hearing on an application requesting a Plat of Dakota Air Parts Addition (Major Subdivision) a replat of Lots 1-3, Block 1, DDK Addition to the City of Fargo, Cass County, North Dakota. (Located at 3910 and 4020 25th Street North; 2505 39 ½ Avenue North) (MACO Leasing, Inc./Nate Vollmuth): CONTINUED TO SEPTEMBER 9, 2021

A hearing had been set for July 6, 2021. At the July 6, 2021 meeting, the Hearing was continued to this date and time; however, the applicant has requested this item be continued to September 9, 2021.

Item 2: Valley View Eighth Addition

Continued hearing on an application requesting a Conditional Use Permit to allow residential living in the GC, General Commercial zoning district on Lot 4, Block 1, Valley View Eighth Addition. (Located on 5652 36th Avenue South) (LTC Mustang, LLC/Brian Kounovsky): CONTINUED TO SEPTEMBER 9, 2021

A Hearing had been set for May 4, 2021. At the May 4, 2021 meeting, the Hearing was continued to June 3, 2021. At the June 3, 2021 meeting, the Hearing was continued to this July 6, 2021. At the July 6, 2021 meeting, the Hearing was continued to this date and time; however, the applicant has requested this item be continued to September 9, 2021.

Item 3: First Community Addition

Hearing on an application requesting a Plat of First Community Addition (Minor Subdivision) a replat of Lots 1- 2, Block 1, Western State Bank Addition to the City of Fargo, Cass County, North Dakota. (Located at 5201 42nd Street South and 4211 53rd Avenue South) (First Community Credit Union/Houston Engineering, Inc.): APPROVED

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

Member Stofferahn moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat First Community Addition as outlined within the staff report, as the proposal complies with the Adopted Area Plan, the Standards of Article 20-06 of the Land Development Code, and all other applicable requirements of the Land Development Code. Second by Member Rosenberg. On call of the roll Members Stofferahn, Rosenberg, Holtz, Gunkelman, Tasa, Morgan, and Schneider voted aye. The motion was declared carried.

Item 4: Amber Valley West Sixth Addition

4a. Hearing on an application requesting a Zoning Change from LC, Limited Commercial with a C-O, Conditional Overlay to LC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-Dwelling Residential within the boundaries of the proposed Amber Valley West Sixth Addition. (Located at 5675 26th Avenue South and 2501 55th Street South) (Amber Valley West Investment, LLC and Galleria on Veterans, LLC/Christianson Companies and Lowry Engineering): APPROVED

4b. Hearing on an application requesting a Plat of Amber Valley West Sixth Addition (Minor Subdivision) a replat of Lots 1 and 2, Block 1, Amber Valley West First Addition and Lot 2, Block 1, Amber Valley West Fifth Addition to the City of Fargo, Cass County, North Dakota. (Located at 5675 26th Avenue South and 2501 55th Street South) (Amber Valley West Investment, LLC and Galleria on Veterans, LLC/Christianson Companies and Lowry Engineering): APPROVED

4c. Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan on Lot 2, Block 1, of the proposed Amber Valley West

Sixth Addition. (Located at 2501 55th Street South) (Amber Valley West Investment, LLC and Galleria on Veterans, LLC/Christianson Companies and Lowry Engineering): APPROVED

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

Applicant representative Joe Moosbrugger spoke on behalf of the application.

Member Morgan moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from LC, Limited Commercial with a C-O, Conditional Overlay, to LC, Limited Commercial with a C-O, Conditional Overlay and MR-3, Multi-Dwelling Residential, 2) Subdivision Plat Amber Valley West Sixth Addition as outlined within the staff report, as the proposal complies with the Southwest Area Plan, the Standards of Article 20-06, and Section 20-0906.F (1-4) of the Land Development Code, and all other applicable requirements of the Land Development Code, and to approve 3) the Conditional Use Permit to allow an Alternative Access Plan for parking reduction for Lot 2, Block 1, of the proposed Amber Valley West Sixth Addition as the proposal complies with 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:

- 1) A minimum of 88 parking stalls to be provided on site.
- 2) Bicycle parking facilities, such as bike racks or bike lockers, shall be provided on-site.
- 3) The Conditional Use Permit will cease if the land use changes from a senior residence.
- 4) Expansion of any proposed or existing use will trigger a reevaluation of off-street parking requirements on site.

Second by Member Stofferahn. On call of the roll Members Tasa, Gunkelman, Stofferahn, Holtz, Rosenberg, Morgan, Schneider voted aye. The motion was declared carried.

Item 5: Asleson Farms Fourth Addition

Hearing on an application requesting a Zoning Change from MR-2, Multi-Dwelling Residential to LC, Limited Commercial on Lot 2, Block 1, Asleson Farms Fourth Addition. (Located at 3523 41st Street South) (JNB Properties, LLC/Nick Dietrich): APPROVED

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

Applicant Nick Dietrich spoke on behalf of the application.

Discussion was held on the condition of the property.

Member Gunkelman moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Zoning Change from MR-2, Multi-Dwelling Residential, to LC, Limited Commercial, as outlined within the staff report as the proposal complies with the GO2030 Fargo Comprehensive Plan, the 2003 Southwest Growth Plan, the Standards of Article 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 Morgan, Tasa, Gunkelman, Holtz, Stofferahn, Rosenberg, and Schneider voted aye. The motion was declared carried.

Item 6: Goodman's Addition

Hearing on an application requesting a Conditional Use Permit to allow Industrial Uses in the GC, General Commercial zoning district on Lot 9, Goodman's Addition. (Located at 3241 Main Avenue – Unit C) (Goodman LLLP/Overloaded Laundry): APPROVED

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

Applicants Jason Hearn and Chris McKercher spoke on behalf of the application.

Discussion was held on the services provided.

Member Tasa moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow Industrial Service 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 follow conditions:

- 1) 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. All garbage containers, including dumpsters, shall be concealed from public view by fence, screen wall or building extension.
- 2) No outdoor storage of equipment or supplies.
- 3) Off-street parking, loading, and vehicular circulation areas (including circulation areas internal to storage yards) shall have and maintain an all-weather surface, as defined by the LDC.

- 4) The manufacturing, production, or processing of food and/or animal products shall not be permitted.
- 5) The manufacturing, production, or processing of hazardous chemicals or materials shall not be permitted.
- 6) Any expansion of the Industrial Service use 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 the Industrial Service use cease for a period of more than 12 consecutive months.

Second by Member Rosenberg. On call of the roll Members Rosenberg, Gunkelman, Holtz, Morgan, Stofferahn, Tasa, Schneider voted aye. The motion was declared carried.

Item E: Other Items

Item 1: Review Rules of Internal Procedure and Operations of the City of Fargo Planning Commission

Chair Schneider noted the Rules of Internal Procedure and Operations of the City of Fargo Planning Commission need to be updated to reflect the new address of City Hall, and it is good practice for the Board to reaffirm these rules.

Member Stofferahn moved to approve the Rules of Internal Procedure and Operations of the City of Fargo Planning Commission as presented, and to update the address of City Hall to 225 Fourth Street North. Second by Member Rosenberg. All Members present voted aye and the motion was declared carried.

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

The time at adjournment was 3:26 p.m.

Agenda Items Map

Fargo Planning Commission
September 9, 2021

Agenda Item Number

- 3 & 4 -- Valley View Eighth Addition
- 5a-b-c -- Maplewood Estates Second Addition
- 6 -- Timber Parkway Sixth Addition
- 7 -- Ulteig Addition
- 8a-b-c -- Maple Valley Fifth Addition
- 9a-b-c -- Interstate Park Second Addition
- 10 -- Prairie Farms Commercial Third Addition

Item 1 Withdrawn; Item 2 Continued



**City of Fargo
Staff Report**

Title:	Valley View Eighth Addition	Date:	9/1/2021
Location:	5652 36 th Ave S	Staff Contact:	Kylie Bagley
Legal Description:	Lot 4, Block 1, Valley View Eighth Addition		
Owner(s)/Applicant:	LTC Mustang, LLC/Brian Kounovsky	Engineer:	N/A
Entitlements Requested:	Conditional Use Permit to allow residential living in the GC, General Commercial zoning district on Lot 4, Block 1, Valley View Eighth Addition		
Status:	Planning Commission Public Hearing: September 9, 2021		

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

Proposal:

The applicant is seeking approval of a Conditional Use Permit (CUP) to allow residential living in the GC, General Commercial, zoning district on Lot 4, Block 1, Valley View Eighth Addition. The subject property is located at 5652 36th Avenue South and encompasses approximately 1.97 acres.

The subject property received a CUP in 2016 to allow residential living in the GC, General Commercial, zoning district with a condition that the maximum residential density shall be that of the MR-3, Multi-Dwelling Residential, zoning district (24 units per acre). This would allow for a total of 47 residential units.

The applicant is proposing a mixed use building with 8,297 square feet of office and 68 residential units. The applicant is requesting to increase density on site from 24 units per acre to 35 units per acre in order to accommodate his mixed use building.

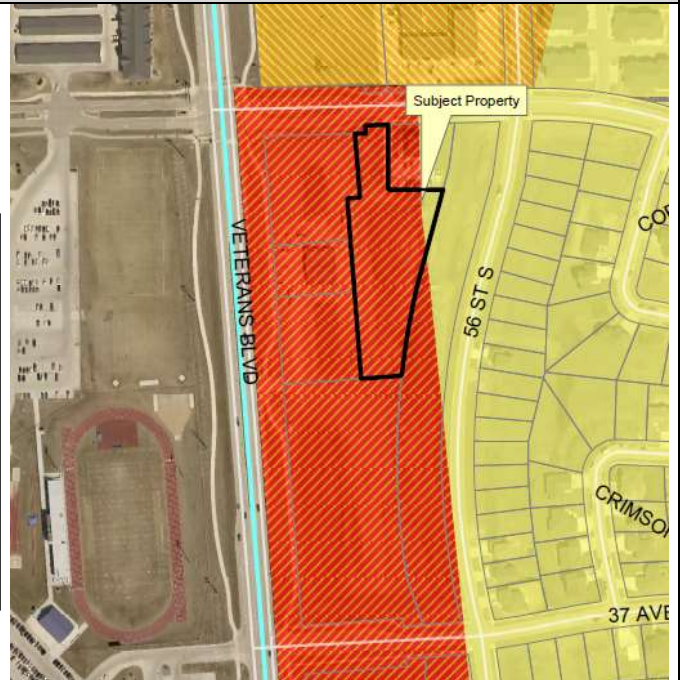
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: LC, Limited Commercial with vacant, daycare, office, and retail, sales, and service uses
- East: MR-1, Multi-Dwelling Residential and GC, General Commercial with vacant land use
- South: GC, General Commercial with vacant land use
- West: GC, General Commercial with retail sales and service uses.

Area Plans

The 2003 Southwest Future Land Use Plan designates the area of this project as “Commercial or Medium/High Residential Density”.



Schools and Parks:

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

Neighborhood: The subject property is located in the Brandt Crossing Neighborhood.

Parks: The project site is located approximately one-half mile west of Brandt Crossing Park, which has basketball courts, dog park, playgrounds, recreational trails, and a shelter; and 0.75 miles north of Osgood School Park, which has basketball courts, multi-purpose field, playground, recreational trails, and a shelter.

Pedestrian / Bicycle: There are off-road bike facilities located along Veterans Boulevard, and in Brandt Crossing Park and Osgood School Park. These bike routes are a component of the metro area bikeways system.

Staff Analysis:

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

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

1. **Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. The proposed CUP for residential living will allow the developer to create a mixed-use building in the General Commercial zoning district while meeting the dimensional standards of the GC zone and the general development standards of the LDC. Staff finds this proposal is consistent with the purpose of the LDC, the GO2030 Comprehensive Plan, and other adopted policies of the City.

(Criteria Satisfied)

2. **Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**

Staff suggests that establishing pockets of low-intensity commercial development near high-density residential development promotes convenience by providing the opportunity for positive neighborhood-level interactions between citizens and businesses. The proposed CUP for residential living will contribute to the convenience of the public by supporting mixed-use development near an arterial roadway in a rapidly growing part of the city.

(Criteria Satisfied)

3. Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?

Staff has no data to suggest that the proposed use would cause substantial injury to the value of other property in the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. To date, staff has not received any comments from neighboring property owners.

(Criteria Satisfied)

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

The proposed mixed-use development will not dominate the immediate neighborhood or prevent any other site from developing in a manner allowed by zoning district regulations. The subject property is adjacent to apartment complexes to the east and mixed-use residential/commercial development to the north.

(Criteria Satisfied)

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

The property has access to all necessary utilities and services. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property as proposed. Based on this information, staff finds that the adequate utility, drainage, and other such necessary facilities and services are in place.

(Criteria Satisfied)

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

The subject property has access to 36th Avenue South and Veterans Boulevard, which are fully constructed local roadways. All driveways will be reviewed and permitted in accordance with Section 20-0702 of the Land Development Code.

(Criteria Satisfied)

Recommended Conditions:

- The maximum residential density shall be 35 units per acre.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval of the proposed: Conditional Use Permit to allow residential living in the GC, General Commercial zoning district as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC, with the following conditions:

- The maximum residential density shall be 35 units per acre.

Planning Commission Recommendation: September 9, 2021

Attachments:
<ol style="list-style-type: none">1. Zoning Map2. Location Map

1. Zoning Map
2. Location Map

Conditional Use Permit

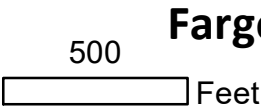
Valley View Eighth Addition

5652 36th Ave S



Legend

AG	LC	MHP	SR-2
GC	MR-1	NCO	SR-3
GO	MR-2	PAT	SR-4
	MR-3	UML	SR-5
			City Limits

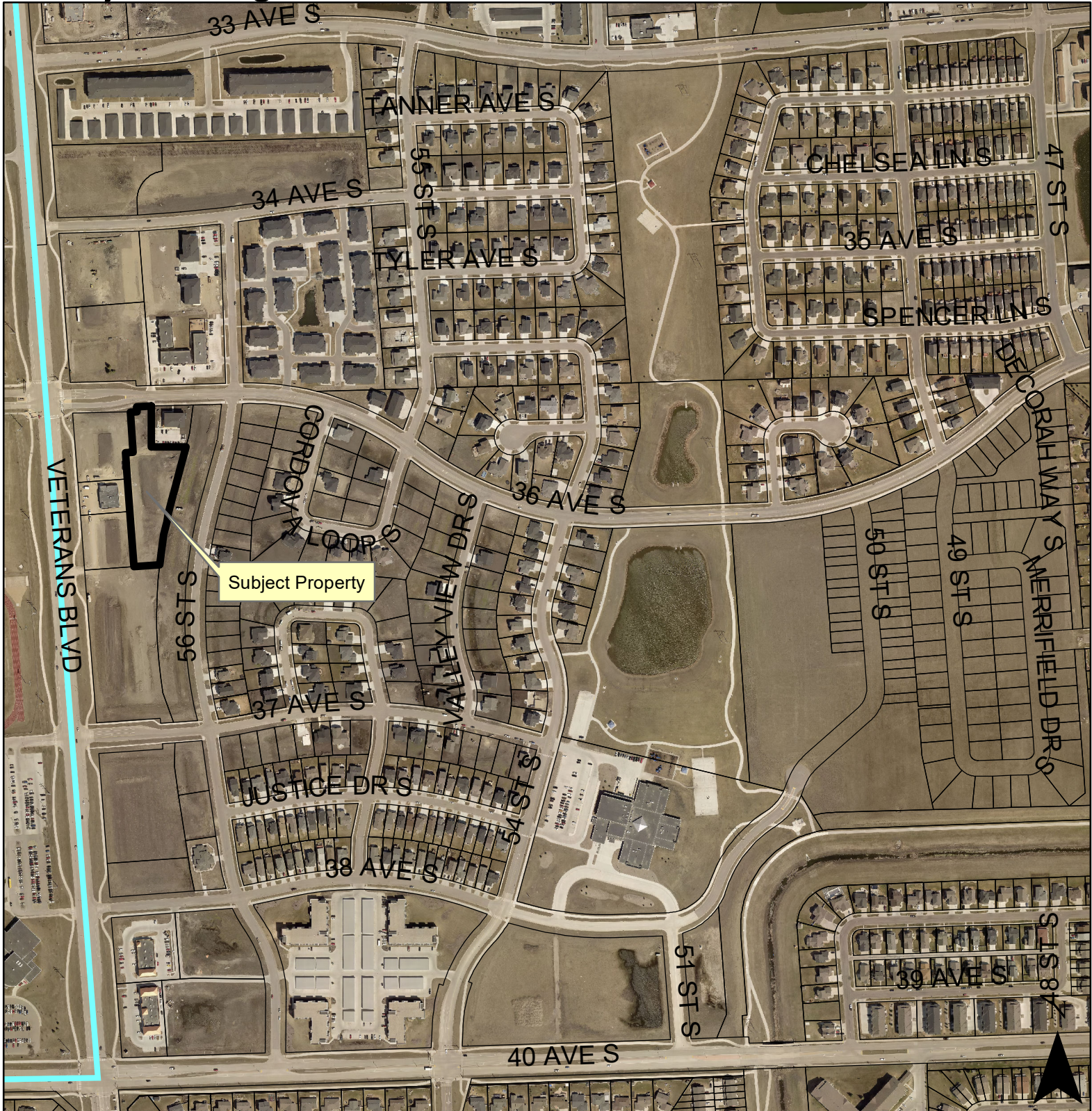


Fargo Planning Commission
May 4, 2021

Conditional Use Permit

Valley View Eighth Addition

5652 36th Ave S



**City of Fargo
Staff Report**

Title:	Valley View Eighth Addition	Date:	9/1/2021
Location:	5652 36 th Ave S	Staff Contact:	Kylie Bagley
Legal Description:	3610, 3630, 3650, and 3680 Veterans Boulevard and 5652 36th Avenue South		
Owner(s)/Applicant:	LTC Mustang, LLC/Brian Kounovsky	Engineer:	N/A
Entitlements Requested:	Conditional Use Permit to allow an alternative access plan for a shared parking agreement on Lots 1-5, Block 1, Valley View Eighth Addition		
Status:	Planning Commission Public Hearing: September 9, 2021		

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

Proposal:

The applicant is seeking approval of a Conditional Use Permit (CUP) to allow an alternative access plan for a shared parking agreement on Lots 1-5, Block 1, Valley View Eighth Addition. The subject property is located at 3610, 3630, 3650, and 3680 Veterans Boulevard and 5652 36th Avenue South.

The subject property received a CUP in 2018 for an alternative access plan to reduce parking on site with a fixed parking ratio as shown below.

Parking Ratio	
Use	Ratio
Retail	1 parking stall per 275 sf
Fast Food	1 parking stall per 160 sf
Restaurant	1 parking stall per 85 sf
Household Living	1 parking stall per bedroom

At the time of the CUP the subject property was on one lot and block, since that time the property has been subdivided into 5 lots and one block. Due to the subdivision each lot would need to meet parking requirements on their own lot at the time a building permitting. The applicant has stated that the intent for the subject property is to

have the five lots function as a large mixed use development. Based on the uses that will be provided, the applicant will need to provide 360 parking stalls on site and is proposing to have 460 parking stalls on site.

LTC Town Center Total Parking			
	Value	2018 CUP Parking Requirements	Total
Retail	16265 sf	1/275 sf	60
Fast Food	10380 sf	1/160 sf	65
Office	15715 sf	1/250 sf	63
1 Bedroom	88	1/Bedroom	88
2 Bedroom	18	1/Bedroom	36
3 Bedroom	16	1/Bedroom	48
			360

The shared parking agreement will allow the parking to be met not on its individual site but on the development as a whole at the time of building permitting. The applicant has provided the City with a recorded shared parking agreement on the subject property.

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

Surrounding Land Uses and Zoning Districts:

- North: LC, Limited Commercial with vacant, daycare, office, and retail, sales, and service uses
- East: MR-1, Multi-Dwelling Residential and GC, General Commercial with vacant land use
- South: GC, General Commercial with vacant land use
- West: GC, General Commercial with retail sales and service uses.

Area Plans

The 2003 Southwest Future Land Use Plan designates the area of this project as "Commercial or Medium/High Density".



Schools and Parks:

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

Neighborhood: The subject property is located in the Brandt Crossing Neighborhood.

Parks: The project site is located approximately one-half mile west of Brandt Crossing Park, which has basketball courts, dog park, playgrounds, recreational trails, and a shelter; and 0.75 miles north of Osgood School Park, which has basketball courts, multi-purpose field, playground, recreational trails, and a shelter.

Pedestrian / Bicycle: There are off-road bike facilities located along Veterans Boulevard, and in Brandt Crossing Park and Osgood School Park. These bike routes are a component of the metro area bikeways system.

Staff Analysis:

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

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

- 1. Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**
The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Promoting infill development and shared parking are both key initiatives meant to promote the Plan's guiding principles. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City.
(Criteria Satisfied)
- 2. Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**
Staff suggests that this proposed conditional use permit for an alternative access plan for shared parking will contribute to and promote the welfare of the public, as the community has a growing need for care facilities.
(Criteria Satisfied)
- 3. Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**
Staff has no data to suggest that the proposed use would cause substantial injury to the value of other property in the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. To date, staff has not received any comments from neighboring property owners.
(Criteria Satisfied)
- 4. Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature, and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.**
The proposed shared parking will not dominate the immediate neighborhood or prevent any other sites from being used in the manner allowed by zoning district regulations. The proposed conditions of the CUP are specifically meant to limit the intensity of the use.
(Criteria Satisfied)
- 5. Are adequate utility, drainage, and other such necessary facilities and services provided or will they be at the time of development?**
The property has access to all necessary utilities and services. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property as proposed. Based on this information, staff finds that the adequate utility, drainage, and other such necessary facilities and services are in place.

(Criteria Satisfied)

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

The Engineering Department has had an opportunity to review the proposal and no comments or concerns were noted to indicate a deficiency with the access roads or entrances or exit drives. Staff suggests that the proposed conditional use will not create traffic hazards or traffic congestion in the public streets.

(Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval of the proposed: Conditional Use Permit to allow an alternative access plan for a shared parking agreement as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC.

Planning Commission Recommendation: September 9, 2021

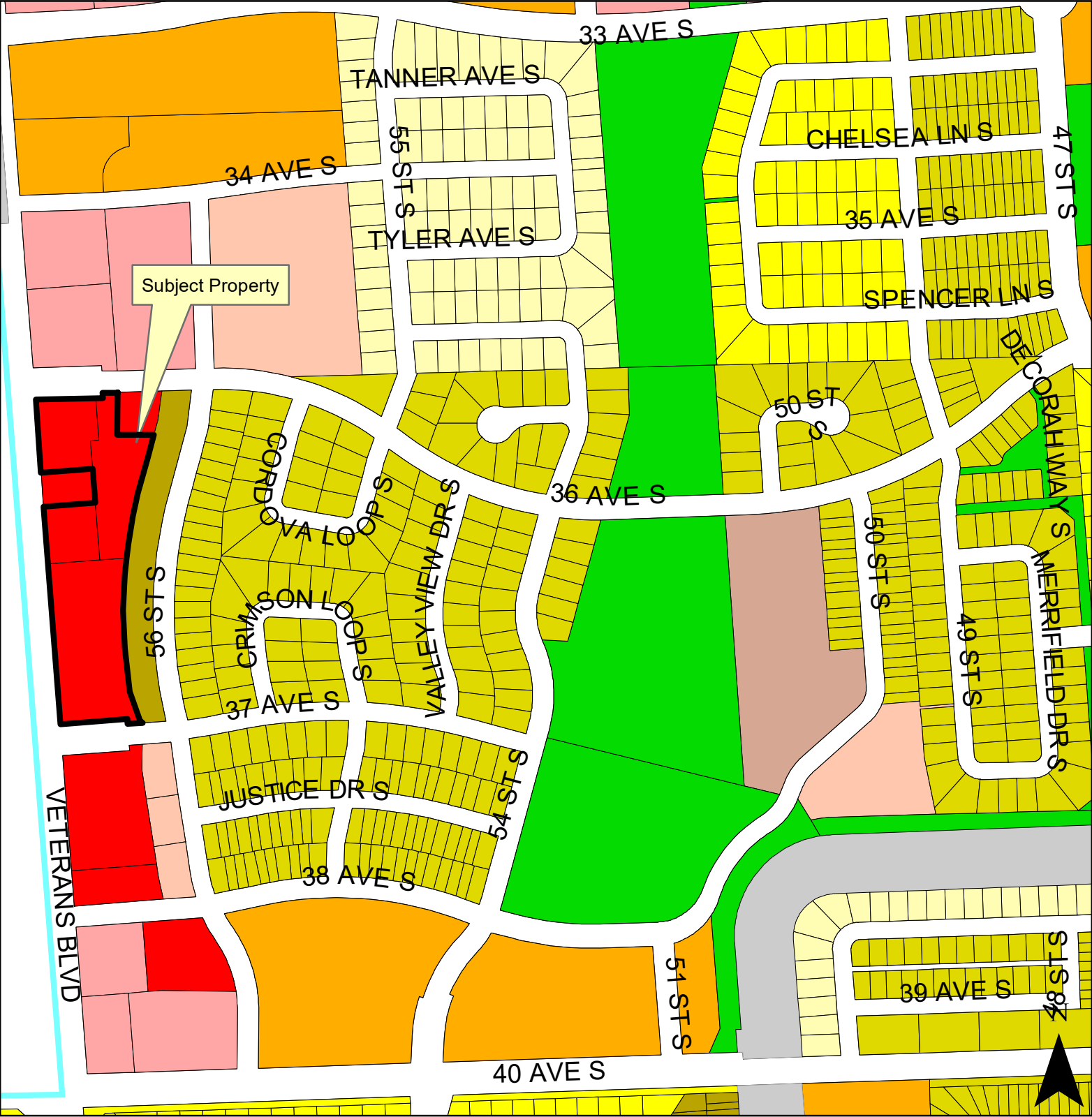
Attachments:

1. Zoning Map
2. Location Map
3. Site Plan
4. Shared Parking Agreement

Conditional Use Permit

3610, 3650, 3680 Veterans Blvd S;
5652 36th Avenue S

Valley View 8th Addition



Legend

AG	LC	MHP	SS
CCMU	MR-1	MND	SS-2
CC	MR-2	UOC	SS-3
GO	MR-3	UMU	SS-4
			City Limits

300

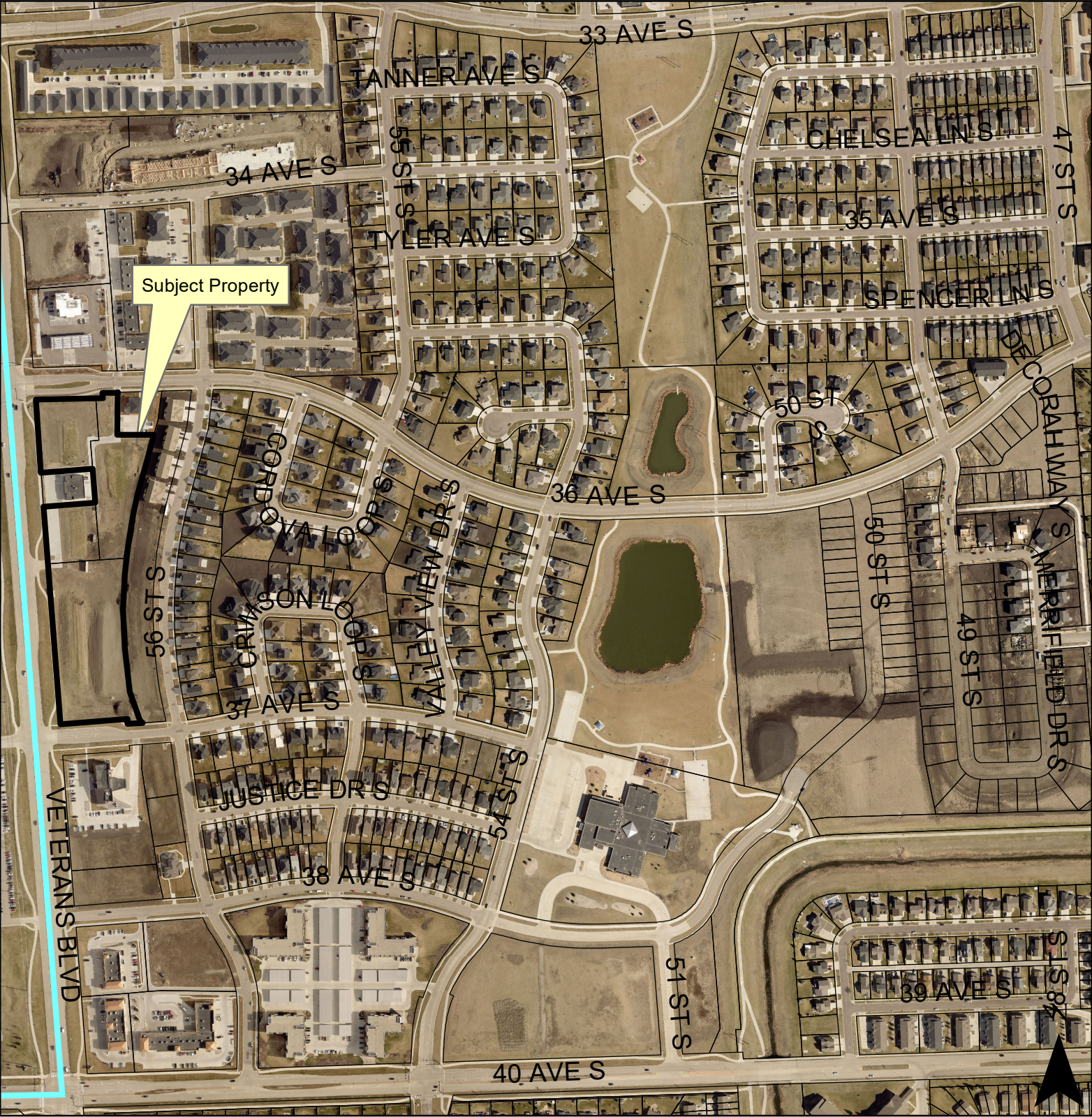
Feet

Fargo Planning Commission
September 9, 2021

Conditional Use Permit

3610, 3650, 3680 Veterans Blvd S;
5652 36th Avenue S

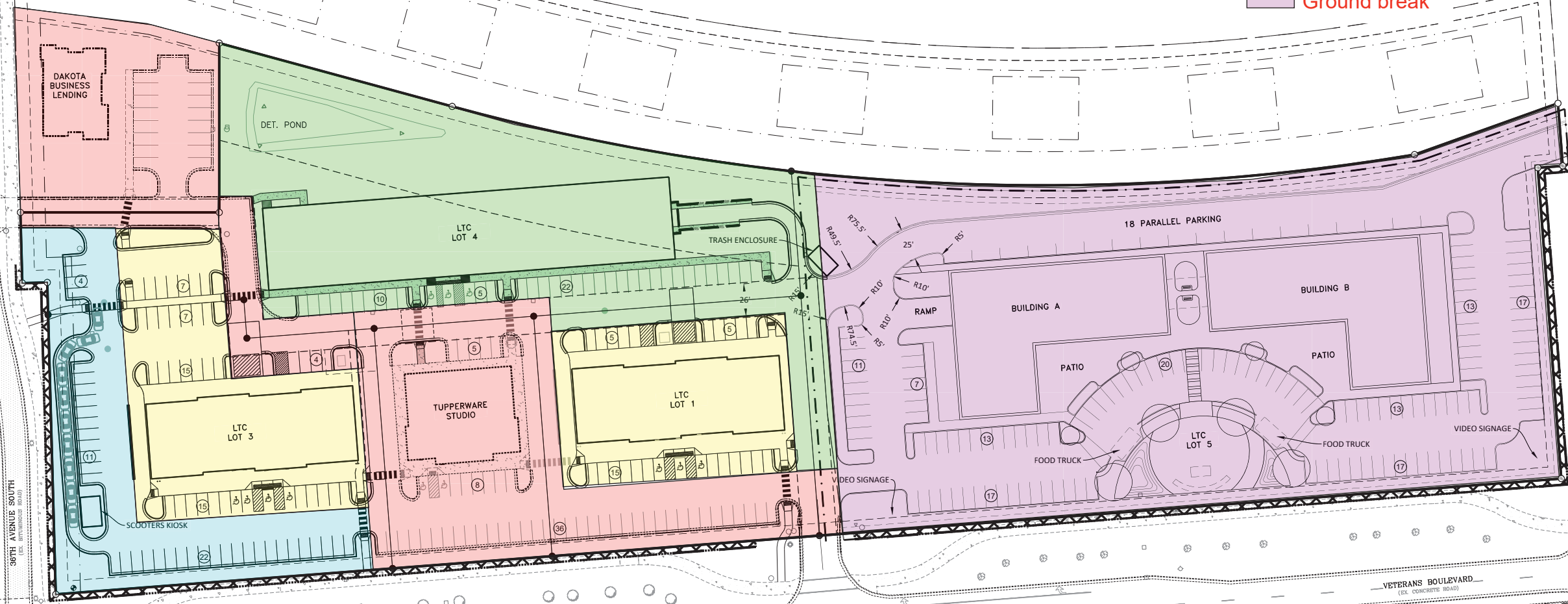
Valley View 8th Addition



Appendix A

- Existing
- Going in with Scooter this Fall
- Possible Shell package this Fall
- Spring Ground break
- Maybe Spring Ground break

Google earth - show what is currently in right now.





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NORTH DAKOTA GUARANTY & TITLE CO

RECORDER'S OFFICE, CASS COUNTY, ND
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.
JEWEL A. SPIES, COUNTY RECORDER

6/12/2017 9:30 AM

by Teresa A. Kirby, Deputy

1512338



DECLARATION OF EASEMENTS

THIS DECLARATION ("Declaration") is made as of May 23, 2017, by **K SQUARE DEVELOPERS, LLC**, a North Dakota limited liability company (the "Declarant").

RECITALS

A. Declarant is the owner of real property legally described as follows:

Lot Two (2), Block Five (5), Valley View Fourth Addition to the City of Fargo, Cass County, North Dakota (the "Property").

B. Declarant intends to subdivide and re-plat the Property into three or more Tracts (as hereafter defined), which will share certain common drives and common parking areas. As such, Declarant desires to establish easements for ingress and egress purposes and parking purposes for the common benefit of the Owners.

C. Declarant desires to establish responsibility for ongoing maintenance and repair of the common drives and common parking areas and to provide for the allocation of certain costs and expenses among the Owners. Declarant intends by this Declaration to impose upon the Property certain rights and obligations for the benefit of all present and future Owners of such Tracts.

NOW, THEREFORE, the Declarant declares that the Tracts shall be held, sold and conveyed subject to the following easements and covenants, which shall run with the Tracts and which shall be binding on all parties having any right, title or interest in said Tracts or any part thereof, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each Owner thereof:



ARTICLE ONE
DEFINITIONS

The following words and phrases shall have the following meanings, unless the context clearly provides otherwise:

1.1. Owner. "Owner" shall mean the record owner, whether one or more Persons, of a fee simple interest in a Tract, but excluding in all cases any party holding such an interest as security for the performance of an obligation. If a Tract is sold under a recorded executory contract for deed and the contract specifically so provides, then the purchaser (rather than the owner of legal title) shall be considered the Owner.

1.2. Permittee. "Permittee" shall mean all Owners and the employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, guests, licensees, subtenants, and concessionaires of the Owners or the Owners' tenants insofar as their activities relate to the intended use of the Property.

1.3. Person. "Person" shall mean a natural person, a corporation, a limited liability company, a partnership, a trustee or other legal entity.

1.4. Tract. "Tract" shall mean those separately subdivided or re-platted parcels of land within the Property, identified and depicted on attached Exhibit "A" as Parcel A, B and C (or further subdivisions thereof).

ARTICLE TWO
EASEMENTS

2.1. Access Easement. Declarant hereby grants, for the Owner of each Tract and for use by each Owners' Permittees, in common with others entitled to use the same, a non-exclusive easement for ingress and egress purposes, to allow the passage of vehicles over, across and upon that approximately 22.58' x 159.54' portion of the Property (the "Access Driveway") depicted on attached Exhibit A, to and from publicly-dedicated 36th Avenue South, for the mutual benefit of each Tract. Such Access Driveway will be located partially upon Parcel A and partially upon Parcel B.

2.2. Easement for Common Drives. Declarant hereby grants, for use by the Owner of each Tract and for use by each Owner's Permittees, in common with others entitled to use the same, a non-exclusive easement and covenant for the passage of vehicles over and across the common drives which have been or may be constructed for such use upon the Property as such drives are generally designated and depicted on attached Exhibit A, to allow ingress and egress to and from publicly-dedicated 36th Avenue South and Veteran's Boulevard. Declarant or its designated successor hereby reserves the right to reconfigure the common drive areas to accommodate future development needs, provided that such relocation does not adversely affect or materially interfere with the existing use of any Owner's Tract at the time of such relocation,



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and further provided that each Tract shall at all times retain practical legal access to and from publicly-dedicated 36th Avenue South and Veteran's Boulevard.

2.3 Easement for Common Parking. Declarant hereby grants, for use by the Owner of each Tract and for use by each Owner's Permittees, in common with others entitled to use the same, a non-exclusive easement and covenant for the parking of vehicles over and upon the common parking spaces which have been or may be constructed for such use upon the Property as generally designated and depicted on attached Exhibit A. Declarant or its designated successor hereby reserves the right to reconfigure the common parking spaces to accommodate future development needs, provided that such relocation does not materially interfere with the existing use of any Owner's Tract at the time of such relocation.

ARTICLE THREE INSTALLATION, MAINTENANCE AND REPAIR

3.1 Installation of Access Driveway. Declarant and the successor owner of Parcel A (initially, Dakota Certified Development Corporation) shall jointly cause the installation and construction of the concrete Access Driveway described in Article 2.1 by Gehrtz Construction or other designee, no later than December 31, 2017. Declarant shall pay for \$55,000 of costs and expenses of the installation and construction of the Access Driveway, and the successor owner of Parcel A (Dakota Certified Development Corporation) shall pay for all remaining costs and expenses of the installation and construction of the Access Driveway.

3.2 Installation of Common Drives and Parking. Declarant, or its successor, at its sole expense shall cause the initial installation and construction of the common drives and common parking areas described in Article 2.2 upon Parcel B and Parcel C at such time as Declarant or its successor deems appropriate. The successor owner of Parcel A (initially, Dakota Certified Development Corporation) shall at its sole expense cause the initial installation and construction of the common drives and common parking area described in Article 2.2 upon Parcel A at such time as it deems appropriate.

3.3 Responsibility for Maintenance of Access Driveway. The Owner of Parcel A and the Owner of Parcel B shall be jointly responsible for maintaining the Access Driveway described in Article 2.1. Each Owner shall, in cooperation with the other Owner, jointly negotiate and contract for the necessary maintenance, repairs and replacement of the Access Driveway. The Owners of Parcel A and Parcel B shall share and pay the costs and expenses of maintaining the Access Driveway on an equal 50/50 basis.

3.4 Responsibility for Maintenance of Common Drives and Parking. Each Owner shall be responsible for maintaining its respective portion of the common drives and common parking described in Article 2.2 which are located upon its Tract.



3.5 Maintenance Standards. The Access Driveway and common drives and common parking areas shall be maintained in good order and repair for the benefit of the Owners and their Permittees. Such maintenance shall be conducted in a first class manner consistent with other commercial retail developments in the region. The maintenance and repair obligations shall include, but not be limited to, the following:

- (a) Maintaining, repairing, replacing and re-striping all of the common drives, common parking areas, paved and concrete surfaces, sidewalks, curbs, curb cuts, lanes, medians, and parking lot islands;
- (b) Placing, keeping, operating, repairing, replacing or repainting any appropriate directional traffic signs or markers; and
- (c) Keeping the common drives and common parking areas reasonably clear and free of snow, ice, rubbish and obstructions of every nature.

ARTICLE FOUR RESERVATIONS

4.1 Grade. Each Tract shall be graded to finish-grade elevations as determined by the City Engineer for the City of Fargo. The elevation of each Tract shall be maintained by the Owner of such Tract to ensure proper drainage of each Tract. Each Owner shall ensure that the grade of its Tract matches the grade of each adjacent improved Tract.

4.2 No Obstruction. No fence, wall, or similar barrier which would unreasonably prevent or obstruct the passage of pedestrian or vehicular travel shall be erected or permitted on the common drives or common parking areas described in Article 2.2.

4.3 Relocation. The Owner of a Tract may in its discretion relocate the buildings, drives, driveways, lanes and parking areas upon its Tract, provided that the relocation does not materially interfere with the orderly passage, parking and outside access benefitting the other Tracts.

4.4 No Access During Repairs. No right of passage shall exist (and if existing, may be suspended), over any area previously used, or intended to be used, for access, for so long as such area is under construction or repair and is accordingly unused for its intended access purpose by the underlying Owner.

ARTICLE FIVE ENFORCEMENT AND OTHER PROVISIONS

5.1 Enforcement. Any Owner of a Tract shall have the right to enforce at law or in equity, the provisions of this Declaration. Failure to enforce any covenant or restriction shall not



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be deemed a waiver of the right to do so thereafter.

5.2 Duration of Easements. The easements created herein shall be effective for the longest period of time allowed by law, and shall run with the land until such time as the easements granted herein may be terminated, extended or amended by the recording of an appropriate document in the office of the County Recorder of Cass County, North Dakota, which document must be executed by the undersigned, or their successors and assigns.

5.3 Not a Public Dedication. Nothing contained in this Declaration shall, or shall be deemed to, constitute a gift or dedication of any portion of the Property to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the parties that this Declaration be strictly limited to and for the purposes expressed herein.

5.4 Benefit. This Declaration shall inure to the benefit of and be binding upon the Owners and the undersigned, their successors and assigns.

5.5 Waiver. No waiver of any breach of the easements or of any rights, obligations, covenants and/or other provisions herein contained shall be construed as, or constitute, a waiver of any breach or a waiver, acquiescence in or consent to any further or succeeding breach of the same or any other such easements, rights, obligations, covenants and/or other provisions.

5.6 Recording. A fully executed counterpart of this Declaration shall be recorded in the office of the County Recorder of Cass County, North Dakota.

5.7 Severability. If any term or provision of this Declaration shall, to any extent, be held invalid or unenforceable, the remaining terms or provisions of this agreement shall not be affected thereby, but such remaining terms and provisions shall be valid and enforceable to the fullest extent permitted by law.

5.8 Governing Law. This Declaration shall be construed and enforced in accordance with the laws of the State of North Dakota.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on and as of the day and year first above written.

K SQUARE DEVELOPERS, LLC

By: Brian Kounovsky
Brian Kounovsky, Chief Manager



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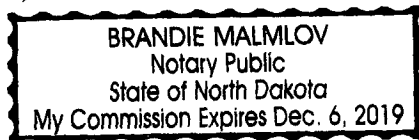
STATE OF NORTH DAKOTA)

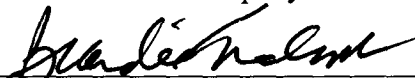
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COUNTY OF CASS)

The foregoing was acknowledged before me this 23 day of May, 2017, by Brian Kounovsky, Chief Manager of K Square Developers, LLC, a North Dakota limited liability company, a North Dakota limited liability company, on behalf of the company.

(STAMP)





Notary Public



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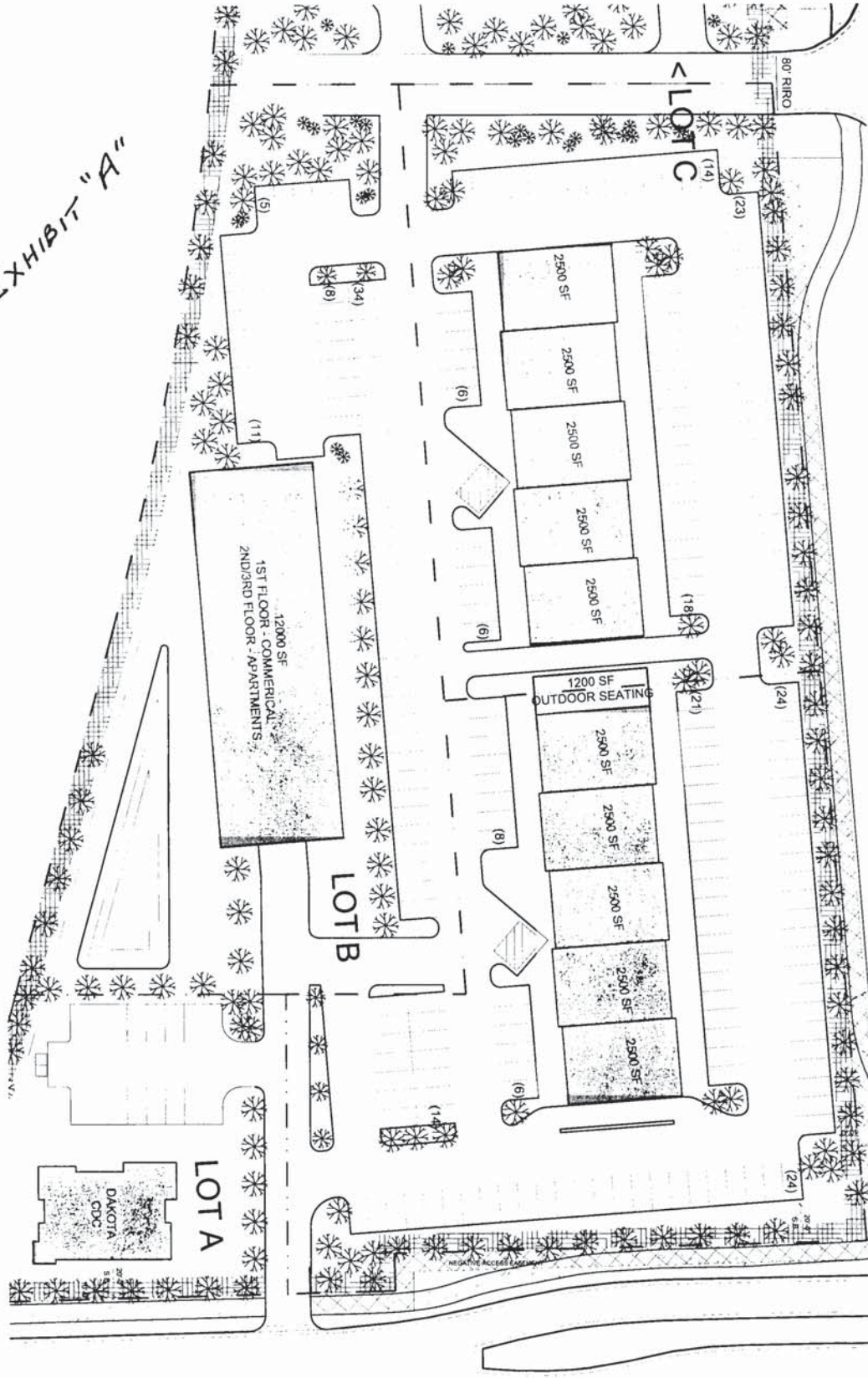
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NORTH DAKOTA GUARANTY & TITLE CO

2

SITE PLAN
SCALE: 1" = 50'-0"

EXHIBIT "A"



A100

LIBERTY TOWN CENTER
SCHEMATIC SITE DESIGN
3650 VETERANS BOULEVARD
FARGO, ND

NOT FOR CONSTRUCTION

ARTEKTA
ARCHITECTS
325 7TH ST S, 4000 FARGO, ND 58123
701.536.3884 FAX
WWW.ARTEKTA.COM

City of Fargo Staff Report			
Title:	Maplewood Estates Second Addition	Date:	9/2/2021
Location:	5601 and 5605 38th Street South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	A portion of the Northeast Quarter and a portion of the Southeast Quarter of Section 3, Township 138 North, Range 49 West		
Owner(s)/Applicant:	Eagle Ridge Development, LLC / Jon Youness	Engineer:	KPH, Inc
Entitlements Requested:	Zoning Change (From AG, Agricultural to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay); a PUD Master Land Use Plan ; and a Major Plat (replat of a portion of the Northeast Quarter and a portion of the Southeast Quarter of Section 3, Township 138 North, Range 49 West to the City of Fargo, Cass County, North Dakota)		
Status:	Planning Commission Public Hearing: September 9, 2021		

Existing	Proposed
Land Use: Undeveloped	Land Use: Multi-dwelling residential
Zoning: AG, Agricultural	Zoning: MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay
Uses Allowed: AG Allows detached houses, parks and open space, safety services, basic utilities, and crop production.	Uses Allowed: Allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.
Maximum Density Allowed: 1 dwelling unit per 10 acres	Maximum Density Allowed: 24 dwelling units per acre PUD proposes increased density of 35 du/ac

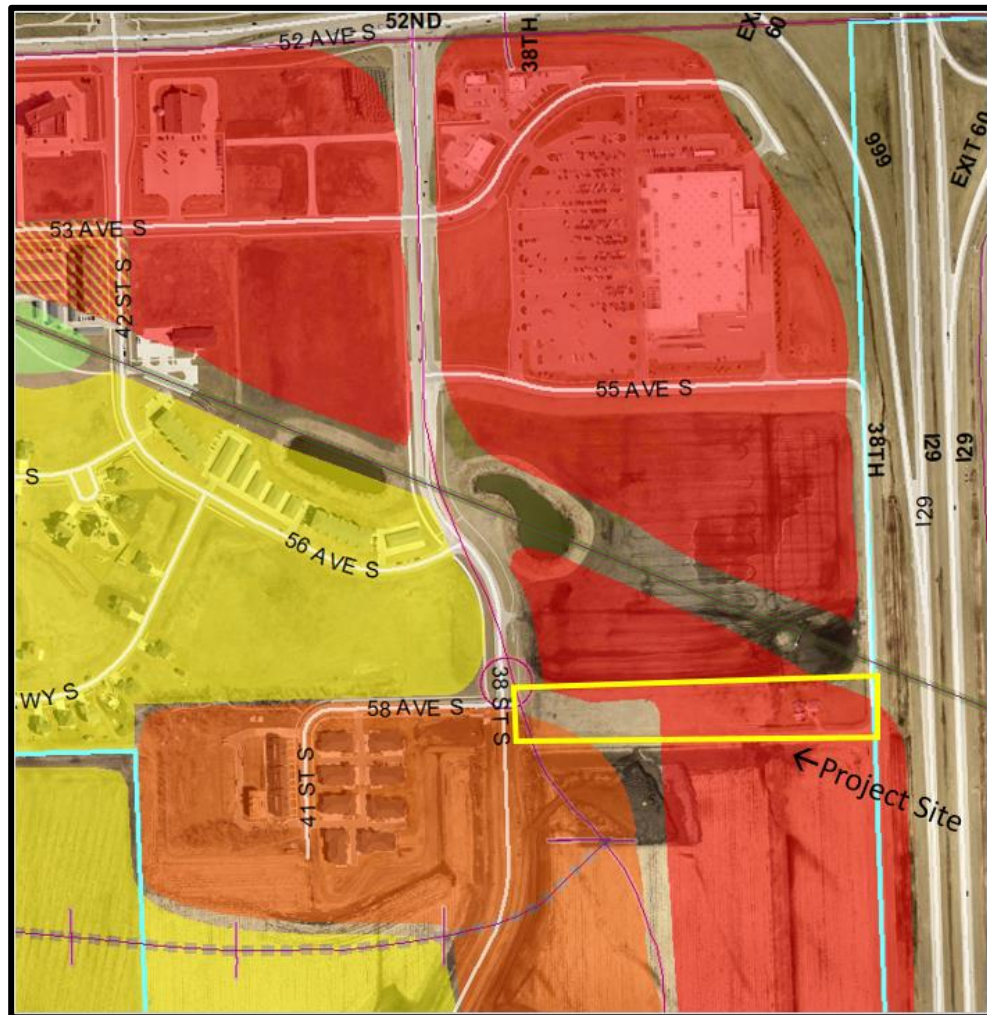
Proposal:
<p>The applicant requests approval of three entitlements:</p> <ol style="list-style-type: none"> 1. A zoning change from AG, Agricultural to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay; 2. PUD Master Land Use Plan within the boundaries of the proposed Maplewood Estates Second Addition; and 3. A plat of the Maplewood Estates Second Addition, a replat of a portion of the Northeast Quarter and a portion of the Southeast Quarter of Section 3, Township 138 North, Range 49 West to the City of Fargo, Cass County, North Dakota. <p>The subject property is located on the east side of 38th Street South, in an area recently annexed (January, 2021) to the City.</p> <p>(continued on next page)</p>

Surrounding Land Uses and Zoning Districts:

- North: LC, Limited Commercial; current undeveloped. Pending development is The District of Fargo Fourth Addition with LC, Limited Commercial and MR-3, Multi-Dwelling Residential uses
- East: North Dakota Department of Transportation right of way for Interstate 29
- South: P/I, Public /Institutional; future Sanford sports complex
- West: MR-3 with attached single-dwelling development

Area Plans:

This subject property is located within the 2007 Growth Plan, which designates portions of the property for Commercial and Residential Area—Medium to High Density. The proposed project focuses on the high density residential, which ties in with the property west of 38th Street South and the property adjacent to the north, the proposed The District of Fargo Fourth Addition, which also include areas designated as Medium to High Density Residential. The proposed MR-3 zoning is consistent with the Medium to High Density Land use designation on this property.



- Commercial Area
- Future School
- Proposed Park
- Residential Area - lower to medium density
- Residential Area - medium to high density
- Residential Area - rural

Project Site Constraints

The long, narrow configuration of the subject property presents development challenges. Additionally, only one access—from 38th Street South—is available for this property. Though there is currently a frontage road on the east side of this property, access from this frontage road will be terminated as part of this plat. The modifications to the MR-3, Multi-Dwelling Residential zone proposed by the PUD are intended to deal with these site constraints and develop a high-density residential project in a rapidly developing area of Fargo, where Planning staff believes a high-density is appropriate.

Zoning Change and PUD Overlay

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

	Current LDC development standards for MR-3 zone	PUD modifications to MR-3 zone development standards	Notes
Allowed Uses	detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	<i>No change proposed</i>	
Minimum Lot Area	5,000 SF	<i>No change proposed</i>	
Minimum Lot Width	50 ft.	<i>No change proposed</i>	
Residential Density	24 du/ac	Increase to 35 du/ac	200 du / 5.79 ac = 34.5 round up to 35
Setbacks	Front 25 ft. Rear 20 ft Interior Side 10 ft Street Side 12.5 ft	<i>No change in dimensions requested. Applicant requests the setbacks be designated as: Front (38th St S) Rear (Interstate) Sides (North & South sides)</i>	No change in dimensions requested. Applicant requests the setbacks be designated as: Front (38 th St S) Rear (Interstate) Sides (North & South sides)
Max. Height	60 ft	<i>No change proposed</i>	
Building Coverage	35% of total lot area	<i>Increase to 40%</i>	
Minimum open space	35% of total lot area	<i>Reduce to 25%</i>	
Parking-Residential—Multi-dwelling	2.25 spaces per unit	<i>Modify parking ratio to: Efficiency units 1.5 spaces per unit 1-bedroom units 1.75 spaces per unit 2-bedroom units 2.0 spaces per unit 3-bedroom units 2.25 spaces per unit</i>	Applicant proposes a modified parking ratio based on the sizes of the individual units.

Landscaping—Street Trees	1 per every 50 feet on arterials and collectors	<i>No change proposed</i>	38 th Street South is identified as a collector street.
Landscaping—Open Space	3 plant units per 1,000 SF of area; 8 sf per unit,	<i>Modify requirement for 70% of plant units to be in the front setback to requirement for 40% of plant units to be in the front setback and 30% to be on the east side.</i>	

Detailed Comment on PUD Modifications

Allowed Uses: No additional uses are proposed.

Residential Density: The project proposes 200 dwelling units on a 5.79 acre property, yielding a density of approximately 35 dwelling units per acre. Planning staff is willing to support the increased density for this location

Setbacks: The applicant has not requested any change in setback dimensions, but notes that the setbacks be identified as stated in the chart above.

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

Parking: The Land Development Code standard parking requirement for residential uses is 2.25 parking spaces per dwelling unit. The applicant proposes a modified parking ratio, with each type of residential unit---efficiency, 1-bedroom, 2-bedroom, and 3-bedroom—having it own parking ratio. Approximately 380 parking spaces would be provided on-site, with both underground and surface parking. Staff notes that this proposal is being reviewed by the City’s traffic Engineer.

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

Landscaping---Street Trees: Applicant has not proposed any change.

Landscaping—Open Space: Due to the configuration of the subject property, as noted above, the applicant proposes to modify the Land Development Code requirement that 70% of the required open space landscaping be within the front setback to requiring 40% of the required landscaping to be within the front yard setback and 30% of the required landscaping to be on the east side of the property. The landscaping on the east side would provide additional buffering against Interstate 29. The remaining 30% of the required landscaping would be distributed throughout the project site. The applicant does not propose any reduction in total plant units.

PUD Master Land Use Plan

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

(continued on next page)

Final PUD Plan Required Prior to Building Permit Approval

It should be noted that a PUD has two steps: a Master Land Use Plan and a Final Plan. This hearing does not include the Final Plan. The applicant must submit a PUD Final Plan for review by the Planning Commission when site plans and building permits are submitted. The Planning Commission must find the PUD final plan to be consistent with the PUD Master Land Use Plan prior to building permit approval. Note that the Planning Commission does not approve the actual building permit.

Plat

The plat proposes to plat a portions of the Northeast Quarter and the Southeast Quarter of Section 3, Township 138 North, Range 49 West into a single lot.

Access

The project site takes access from 38th Street South, a dedicated public street classified as a collector. The project site will not take access from the I-29 frontage road on the east side of the project site; access from this frontage will be terminated as part of this plat.

Proximity to Interstate 29

It appears that the closest any residential building on this project site would be to the Interstate 29 road way is approximately 375 feet.

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.

Staff Analysis:

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established. The PUD zoning is overlain on an underlying zone. The MR-3 zone is an appropriate underlying zone for the entire project, as the project proposes a high-density multi-dwelling building with no commercial uses. The proposed PUD Overlay zoning district is intended to accommodate the development of the proposed project on a site with the constraints noted above. **(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on an existing developed public right-of-way which provide access and public utilities to serve the property. **(Criteria satisfied)**

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

Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to

neighboring property owners within 300 feet of the project site. To date, staff has received no comment from the public. **(Criteria satisfied)**

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed PUD is in keeping with Fargo's Comprehensive Plan. Specifically, the City's Go2030 Comprehensive Plan supports development within areas of the City that are already serviced with utilities and also supports developments with increased density. 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)**

Master Land Use Plan: Article 20-090(7)(B)(a-e) of the LDC stipulates that the Planning Commission and Board of City Commissioners shall consider the following criteria in the review of any Master Land Use Plan.

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

The plan represents an improvement over what could have been accomplished through strict application of the base zoning district. It modifies certain development standards of the MR-3 zone and general development standards in order to provide a higher density housing than would be allowed under the MR-3 zoning. **(Criteria Satisfied)**

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

Staff has reviewed the PUD Master Land Use Plan and found that it complies with the PUD standards of Section 20-0302. The PUD modifies some standards of the MR-3 zone and general development standards as outlined in Section 20-0501 and noted above. All other 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 an existing developed public right-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. Particularly, the City's Go2030 Comprehensive Plan supports development within areas of the City that are already serviced with utilities and also supports developments with increased density. 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 residential housing option in a rapidly developing area of

Fargo close to recreational facilities, shopping, commercial uses, and educational facilities (the North Dakota State College of Science Career Academy is being developed approximately 0.75 mile from the project site). **(Criteria Satisfied)**

Major Subdivision

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

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

The requested zoning for the residential development on this property is MR-3, Multi-Dwelling Residential with a planned unit development overlay. The zoning is consistent with the growth plan designations for this property as noted above. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no public comment. **(Criteria Satisfied)**

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

The property is proposed to be zoned MR-3, Multi-Dwelling Residential with a planned unit development overlay. As noted above, this zoning is consistent with the 2007 Growth Plan land use designation for this property of Medium to High Density Residential. 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.**

No amenities plan was required for this project, as there are no internal streets and 38th Street South on the west side of the property is being installed. 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 recommend approval to the City Commission of the proposed: 1) Zoning Change from AG, Agricultural to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay; 2) PUD Master Land Use Plan; and 3) a plat of the **Maplewood Estates Second Addition**, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Articles 20-06, 20-0906(F)(1-4), 20-0907(B)(a-e), 20-0907(D)(3)(a-c), and all other applicable requirements of the LDC."

Planning Commission Recommendation: September 9, 2021

Attachments:

1. Location Map
2. Zoning Map
3. Preliminary Plat
4. PUD Master Land Use Plan
5. PUD Statement and Chart
6. Developer's project summary/PUD narrative

Zone Change (AG to MR-3 with PUD) and Plat (Minor)

Maplewood Estates 2nd Addition

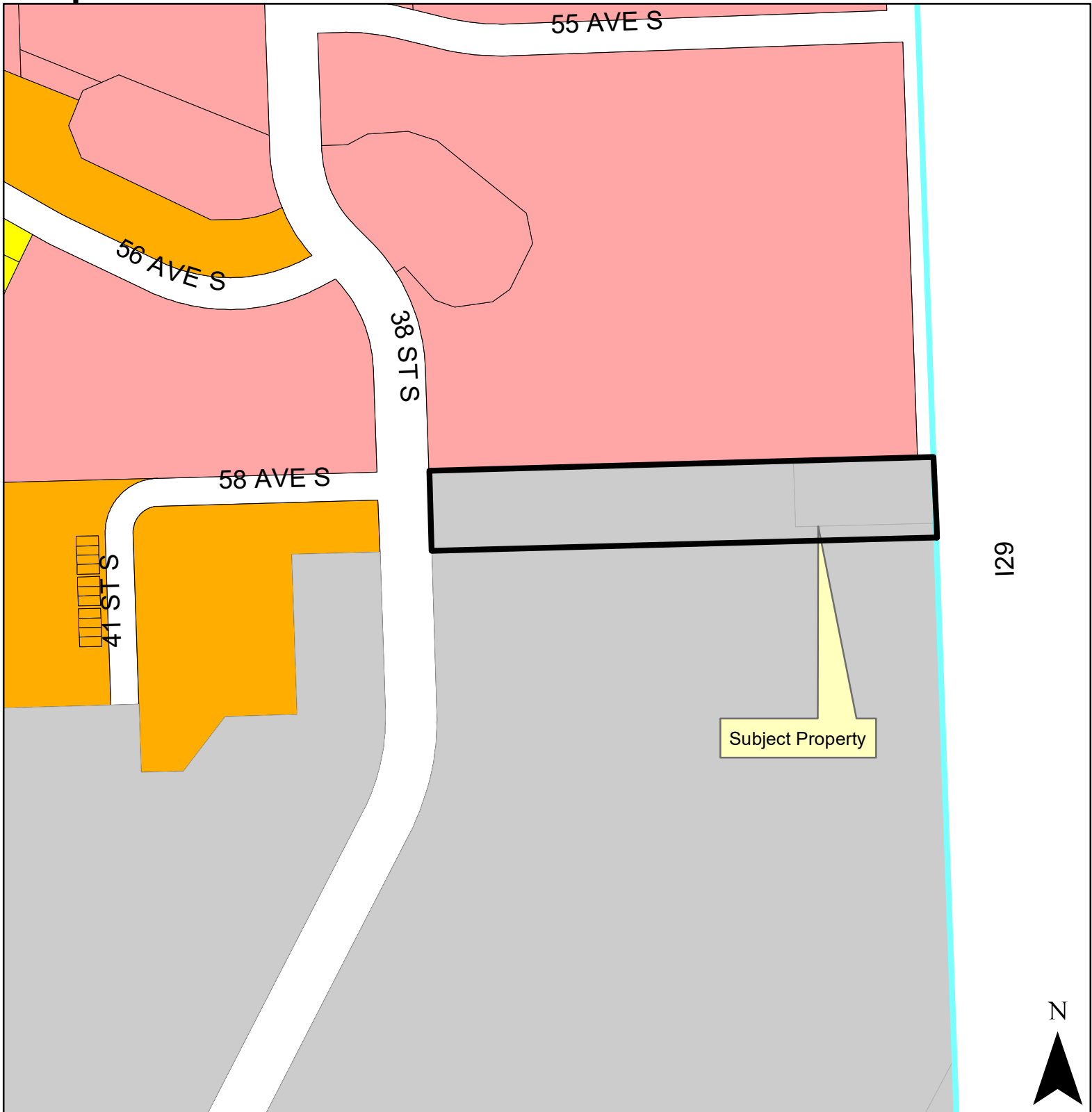
5601-5605 38th Street S



Zone Change (AG to MR-3 with PUD) and Plat (Minor)

Maplewood Estates 2nd Addition

5601-5605 38th Street S



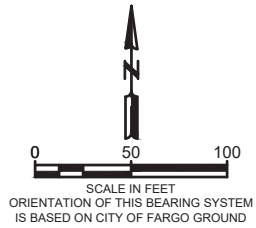
Legend

AG	DMU	LC	MHP	SR-2
GC	MR-1	MNO	SR-3	SR-4
GO	MR-2	UMU	SR-5	City Limits
MR-3				

300

Feet

Proj. Date & Time: 30 August 2021 3:46 PM
S:\SURVEY\01_Projects\2021\21-204_Eagle Ridge Maplewood Estates Second Addition - Fargo\Drawings\Maplewood Estates Second Addition.dwg



58TH AVENUE SOUTH

MAPLEWOOD
ESTATES
ADDITION

UNPLATTED

38TH STREET SOUTH

10' UTILITY EASEMENT
N02°03'12"W 200.00'(M)
N02°04'17"W 200.00'(R)
165.00'
35.00'

THE

DISTRICT

OF

BLOCK 2
LOT 2

N88°27'01"E 1260.17'(M) N88°26'59"E 1260.17'(R)
1227.17

(252,021)

BLOCK ONE

NE 1/4
3-138-49

1/4 LINE

1227.12
S88°27'01"W 1260.12'

BLOCK 2
LOT 1

SE 1/4

ADDITION

ADDITION

125' WAPA POWER LINE
EASEMENT DOC.#335990

30' CASS RURAL WATER
USERS, INC. EASEMENT
(APPROXIMATE LOCATION
DOC.#504145)

10' UTILITY EASEMENT

1' TELEPHONE LINE
EASEMENT (APPROXIMATE
LOCATION DOC.#455132)

FRONTAGE ROAD
130.75'
33.00'
33.00'
35.00'

S02°02'46"E 165.00'
S2°00'54"E

OWNER'S CERTIFICIATE

KNOW ALL PERSONS BY THESE PRESENTS, That the Maplewood Estates, LLC, a North Dakota Limited Liability Company, as owner of Auditor's Lot 1 of the Northeast Quarter and part of the Northeast and part of the Southeast Quarter of Section 3, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

Beginning that the southeast corner of the Northeast Quarter of said Section 3; thence on an assumed bearing of South 02 degrees 00 minutes 54 seconds East on the east line of said Section 3 a distance of 35.00 feet to the northeast corner of Lot 1, Block 2 of SANFORD ADDITION, according to the recorded plat thereof on file and of record in the Office of the County Recorder, Cass County, North Dakota; thence South 88 degrees 27 minutes 01 seconds West on the north line of said Lot 1 a distance of 1390.13 feet to the northwest corner of said Lot 1 and the east right-of-way line of 38th Street South; thence North 02 degrees 03 minutes 12 seconds West on said east right-of-way line a distance of 200.00 feet to the southwest corner of Lot 2, Block 2 of THE DISTRICT OF FARGO SECOND ADDITION, according to the recorded plat thereof on file and of record in the Office of the County Recorder, Cass County, North Dakota; thence North 88 degrees 26 minutes 01 seconds East on the south line of said Lot 2 a distance of 1260.17 feet to the east line of said Section 3; thence South 02 degrees 02 minutes 46 seconds East on said east line a distance of 165.00 feet to the point of beginning.

Containing 5.79 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 "**MAPLEWOOD ESTATES SECOND ADDITION**" to the City of Fargo, Cass County, North Dakota., and does hereby dedicate to the public for public use the Frontage Road and utility easements shown on this plat for purposes specified.

OWNER:

Maplewood Estates, LLC
By: James R. Bullis

James R. Bullis

State of North Dakota)
) SS
County of Cass)

On this ____ day of _____, 20____, appeared before me, James R. Bullis, Maplewood Estates, LLC, a North Dakota Limited Liability Company, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

Notary Public: _____

KPH, INC.
SURVEY
9530 39TH ST. S.
FARGO, ND 58104
701-499-7979

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: _____

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.
- NONE OF THIS PLAT FALLS IN FLOODPLAIN ZONE 'AE' ACCORDING TO THE FEMA FIRM MAP 38017C0786G AND 38017C0787G WITH AN EFFECTIVE DATE 1/16/2015. THE BASE FLOOD ELEVATION IN THIS AREA IS 905.7' (NAVD88) ACCORDING TO FEMA.

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____.

Brenda E. Derrig, P.E.
City Engineer

State of North Dakota)
) SS
County of Cass)

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

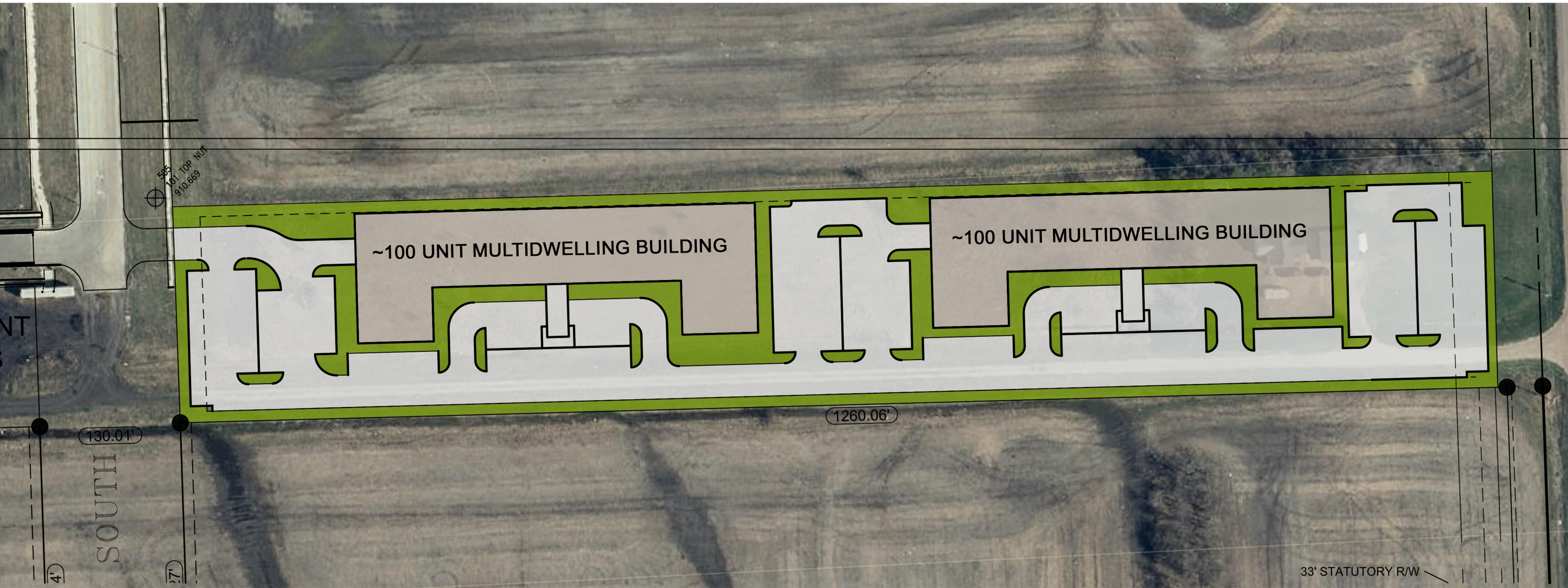
Notary Public: _____

LEGEND

(R)	RECORDED BEARING/DISTANCE
(M)	MEASURE BEARING/DISTANCE
○	SET MONUMENT (5/8" REBAR CAP LS-27292)
●	FOUND MONUMENT
---	SECTION LINE
---	QUARTER LINE
---	EXISTING EASEMENT LINE
---	EXISTING PROPERTY LINE
---	PLAT OVERALL BOUNDARY
---	PLAT NEW EASEMENT

Maplewood Estates 2nd Addition

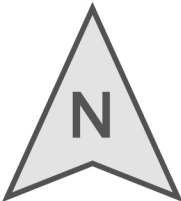
Master Land Use Plan



OPEN SPACE LANDSCAPING
SITE AREA = 252,021 SF
LDC PLANT UNITS REQ'D = 3 PU / 1,000
SF SITE = 757 PLANT UNITS REQ'D

PUD PARKING RATIOS	
UNIT TYPE	STALLS/UNIT
EFFICIENCY	1.5
1-BEDROOM	1.75
2-BEDROOM	2
3-BEDROOM	2.25

MAXIMUM OF 200 RESIDENTIAL UNITS.



MAPLEWOOD ESTATES 2ND ADDITION PUD STATEMENT AND CHART

DEVELOPER'S STATEMENT OF INTENT: The purpose of the PUD for Maplewood Estates 2nd Addition, a 200-unit master planned residential community, is to create a vibrant urban lifestyle setting that provides individuals with places to live that are within walking distance of restaurants, shopping, entertainment, and large park facilities. The PUD will include a site plan for the development that is incorporated here by reference. The PUD will, generally, apply the MR-3 development standards, except as otherwise provided below:

	Current LDC development standards for MR-3 zone	PUD modifications to MR-3 zone development standards	Notes
Allowed Uses	detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	<i>No change proposed</i>	
Minimum Lot Area	5,000 SF	<i>No change proposed</i>	
Minimum Lot Width	50 ft.	<i>No change proposed</i>	
Residential Density	24 du/ac	<i>Increase to 35 du/ac</i>	200 du / 5.79 ac = 34.5 round up to 35
Setbacks	Front 25 ft. Rear 20 ft Interior Side 10 ft Street Side 12.5 ft	<i>No change in dimensions requested. Applicant requests the setbacks be designated as: Front (38th St S) Rear (Interstate) Sides (North & South sides)</i>	No change in dimensions requested. Applicant requests the setbacks be designated as: Front (38 th St S) Rear (Interstate) Sides (North & South sides)
Max. Height	60 ft	<i>No change proposed</i>	
Building Coverage	35% of total lot area	<i>Increase to 40%</i>	
Minimum open space	35% of total lot area	<i>Reduce to 25%</i>	
Parking-Residential—Multi-dwelling	2.25 spaces per unit	<i>Modify parking ratio to: Efficiency units 1.5 spaces per unit 1-bedroom units 1.75 spaces per unit 2-bedroom units 2.0 spaces per unit 3-bedroom units 2.25 spaces per unit</i>	Applicant proposes a modified parking ratio based on the sizes of the individual units.
Landscaping—Street Trees	1 per every 50 feet on arterials and collectors	<i>No change proposed</i>	38 th Street South is a collector street.
Landscaping—Open Space	3 plant units per 1,000 SF of area; 8 sf per unit,	<i>Modify requirement for 70% of plant units to be in the front setback to requirement for 40% of plant units to be in the front setback and 30% to be on the east side.</i>	

Maplewood Estates 2nd Addition PUD



Planned Unit Development
5605 38th Street South
Fargo, ND

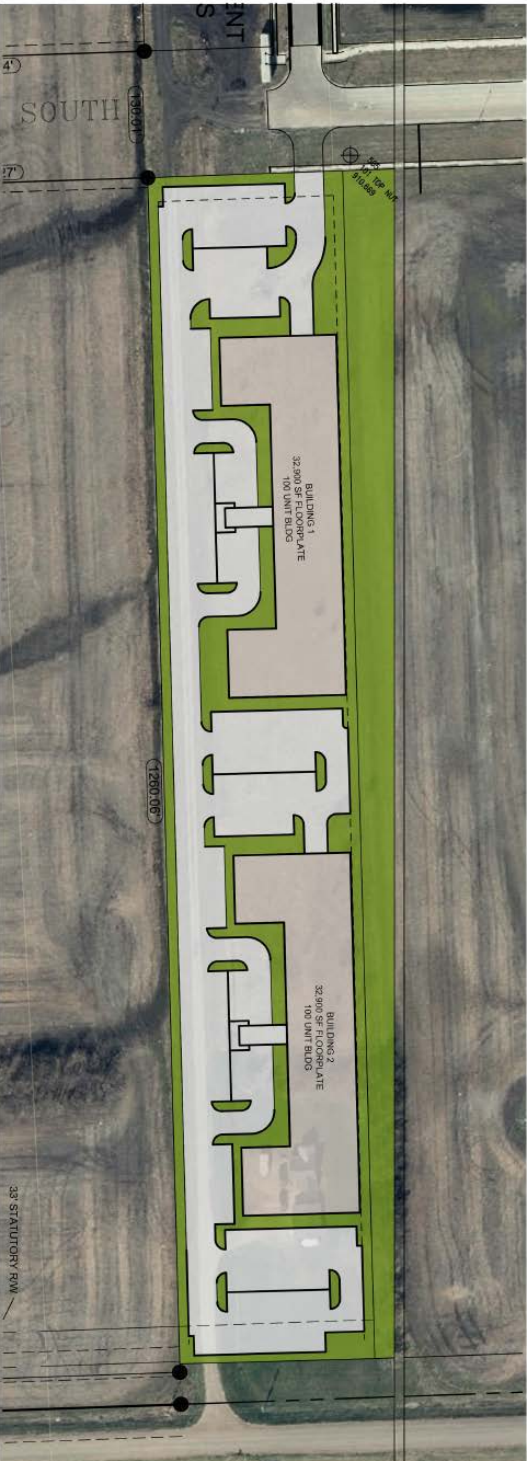


EagleRidge Development
701-540-7159
eagleridgedevelopment.com

Maplewood Estates 2nd Addition

An EagleRidge Community


EAGLERIDGE
DEVELOPMENT
eagleridgedevelopment.com



Project Narrative

EagleRidge Development submits this proposed planned unit development (PUD) request to create an upscale multi-family project in south Fargo. This project will consist of 200 residential units. There will be a combination of studio, 1-bedroom, 2-bedroom, and 3-bedroom apartment options. The project will provide parking per the table below:

Maplewood Estates 2nd PUD Parking Ratios	
Unit Type	Stalls/Unit
Efficiency	1.5
1-Bedroom	1.75
2-Bedroom	2
3-Bedroom	2.25

The purpose of the proposed PUD is to create a vibrant urban lifestyle setting that provides individuals with places to live and work that are within walking distance of restaurants, shopping, entertainment, and large park facilities.

Acquiring the individual house parcel on the far east side of this plat allows us to work in concert with the City to eliminate the need for a fully improved frontage road along the interstate. The result of the frontage road vacation leaves us with a unique parcel in terms of the shape and size, along with access limitations that create a challenge from a land planning perspective.

The proposed PUD allows the property to be fully develop an upscale residential community without the need for any additional municipal infrastructure.

Statement of Intent

The provisions of the PUD are intended to allow this unique parcel to fully develop as an upscale residential community overlooking the new park facility immediately south of this property. The proposed PUD will allow for over double the amount of taxes generated from a traditional apartment project and will provide for a better use of existing municipal infrastructure.

This project will include underground parking for residents. Additional on-site amenities for the residents will include a large rooftop patio, fitness facilities, co-working common areas, and pet friendly services.



The Team

Architectural: YHR Partners

Engineering: MBN Engineering

Structural: Sandman Structural Engineers

EagleRidge Development

When it comes to building, EagleRidge Development is involved from start to finish. We are dedicated to building communities that not only meet the needs of residents and investors, but that also stand the test of time. That is why we follow a process that guarantees success.

By building lasting relationships with contractors and subcontractors, working with tenants to ensure their desires are met and finding investors that are as passionate about our projects as we are, we set ourselves apart from other developers.

Jim Bullis

Jim Bullis has been actively engaged in the planning and development of residential and mixed-use communities in the Fargo-Moorhead and surrounding areas for more than 20 years. Mr. Bullis is an attorney licensed to practice in both North Dakota and Minnesota. His legal practice concentrates in the areas of commercial law and real estate development.

Jon Youness, PE

Jon Youness joined the EagleRidge Development team in 2013 and has played an integral role in land acquisition, entitlements, and financial analysis for single family and multi-family properties. Mr. Youness also oversees and coordinates the design, permitting, and construction of multiple multi-family and commercial developments and is also actively involved in new product development for EagleRidge Development's multi-family construction affiliate.

For more information, please contact us:

eagleridgedevelopment.com

info@eagleridgecompanies.com

701-540-7159



**City of Fargo
Staff Report**

Title:	Timber Parkway Sixth Addition	Date:	8/31/2021
Location:	5081 Charles Way South	Staff Contact:	Aaron Nelson
Legal Description:	Lot 3, Block 1, Timber Parkway Third Addition		
Owner(s)/Applicant:	PLC Investments, LLC/Chris Mack	Engineer:	Bolton & Menk
Entitlements Requested:	Minor Subdivision (Replat of Lot 3, Block 1, Timber Parkway Third Addition)		
Status:	Planning Commission Public Hearing: September 9, 2021		

Existing	Proposed
Land Use: Vacant	Land Use: Future Commercial
Zoning: GC, General Commercial, with C-O, Conditional Overlay	Zoning: Unchanged
Uses Allowed: colleges, community service, daycare centers of unlimited size, detention facilities , health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers , offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-storage, vehicle repair , limited vehicle service, aviation, surface transportation, and major entertainment events.	Uses Allowed: Unchanged
Maximum Building Coverage Allowed: 85%	Maximum Building Coverage Allowed: Unchanged

Proposal:

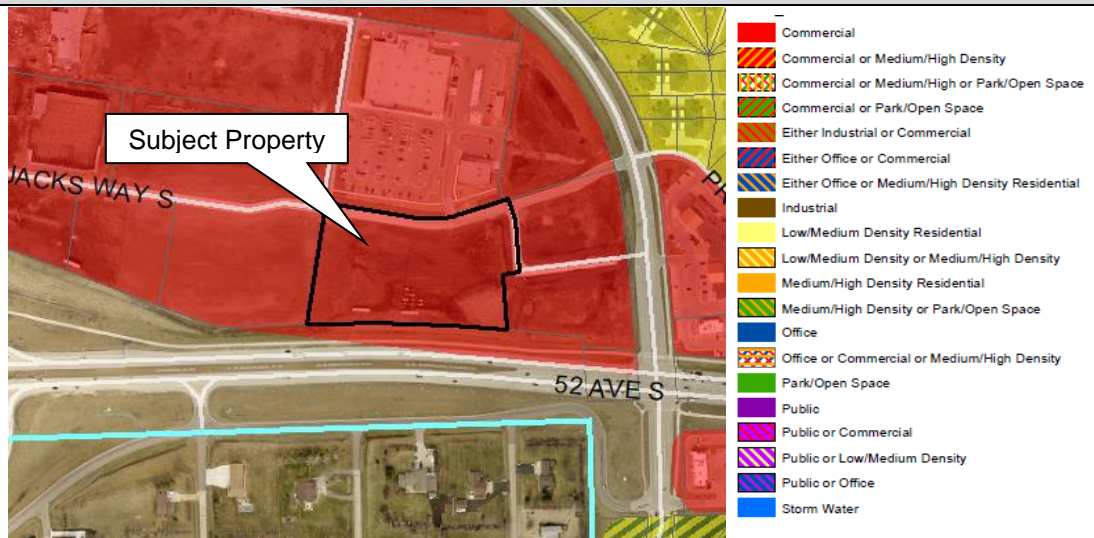
The applicant is seeking approval of a minor subdivision to accommodate future commercial development of the subject property. The proposed minor subdivision, entitled *Peterson Addition*, would subdivide one existing lot into two new lots. The subdivision would also establish a shared ingress/egress easement and would formally name the adjacent private drive as Jack's Way S for addressing and wayfinding purposes.

Surrounding Land Uses and Zoning Districts:

- North: GC, General Commercial, with retail sales uses
- East: GC, General Commercial, with vacant land (across Timber Parkway South are retail sales uses)
- South: City of Frontier (across 52nd Avenue South) with residential uses
- West: GC, General Commercial, with vacant land

Area Plans:

The subject property is located within the study area of the 2001 Growth Plan for the Urban Fringe and Extraterritorial Area of the City of Fargo, within an area identified as future commercial on the future land use map, as amended. The base zoning district of GC, General Commercial, is not changing with this application.



Schools and Parks:

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

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

Parks: Timber Creek Park, located at 3300 47th Ave S, is approximately one-quarter mile north of the subject property and offers the amenities of a playground, basketball court, and picnic shelter. Meadow Creek Park, located at 4800 Meadow Creek Drive, is approximately one-half mile east of the subject property and offers a multi-purpose field.

Pedestrian / Bicycle: An off-road multi-use trail is adjacent to the south side of the subject property, within the 52nd Avenue South right of way, which is a component of the metro area bikeways system.

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 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 subject property is within the area designated as future commercial within the amended future land use map for the 2001 Growth Plan. The subject property is currently within the GC, General Commercial, zoning district, which is consistent with the future land use designation. No zone change is proposed. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has not received any communication regarding this project. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

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

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

Staff Recommendation:

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

Planning Commission Recommendation: September 9, 2021

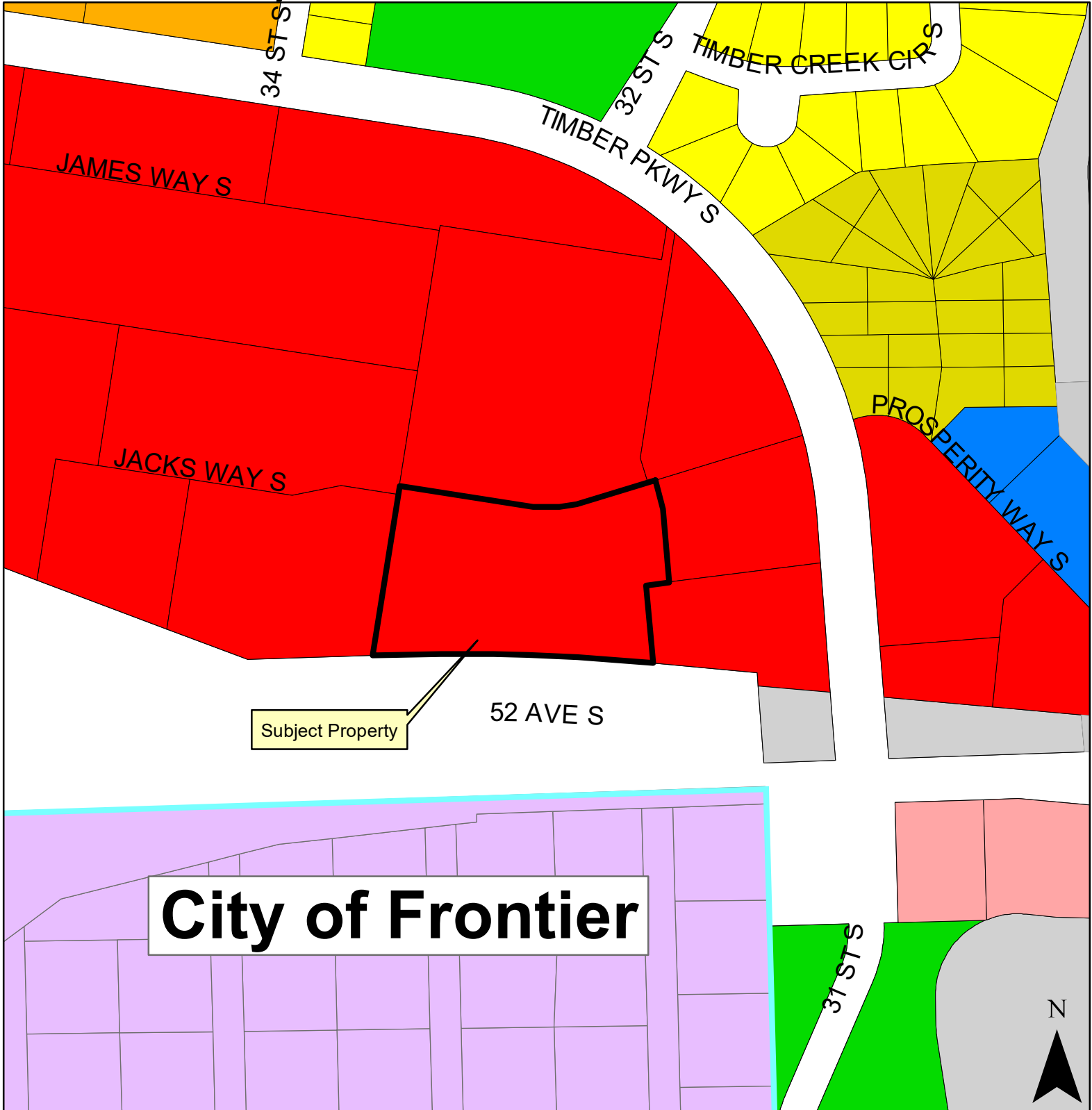
Attachments:

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

Plat (Minor)

Timber Parkway Sixth Addition

5081 Charles Way S



City of Frontier

Legend

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

300

Feet

Plat (Minor)

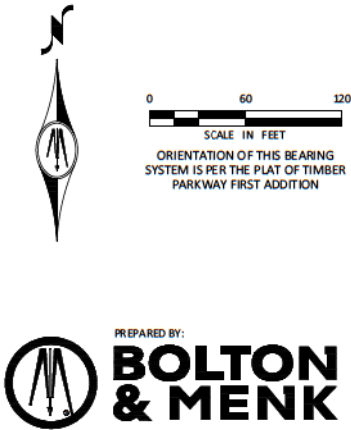
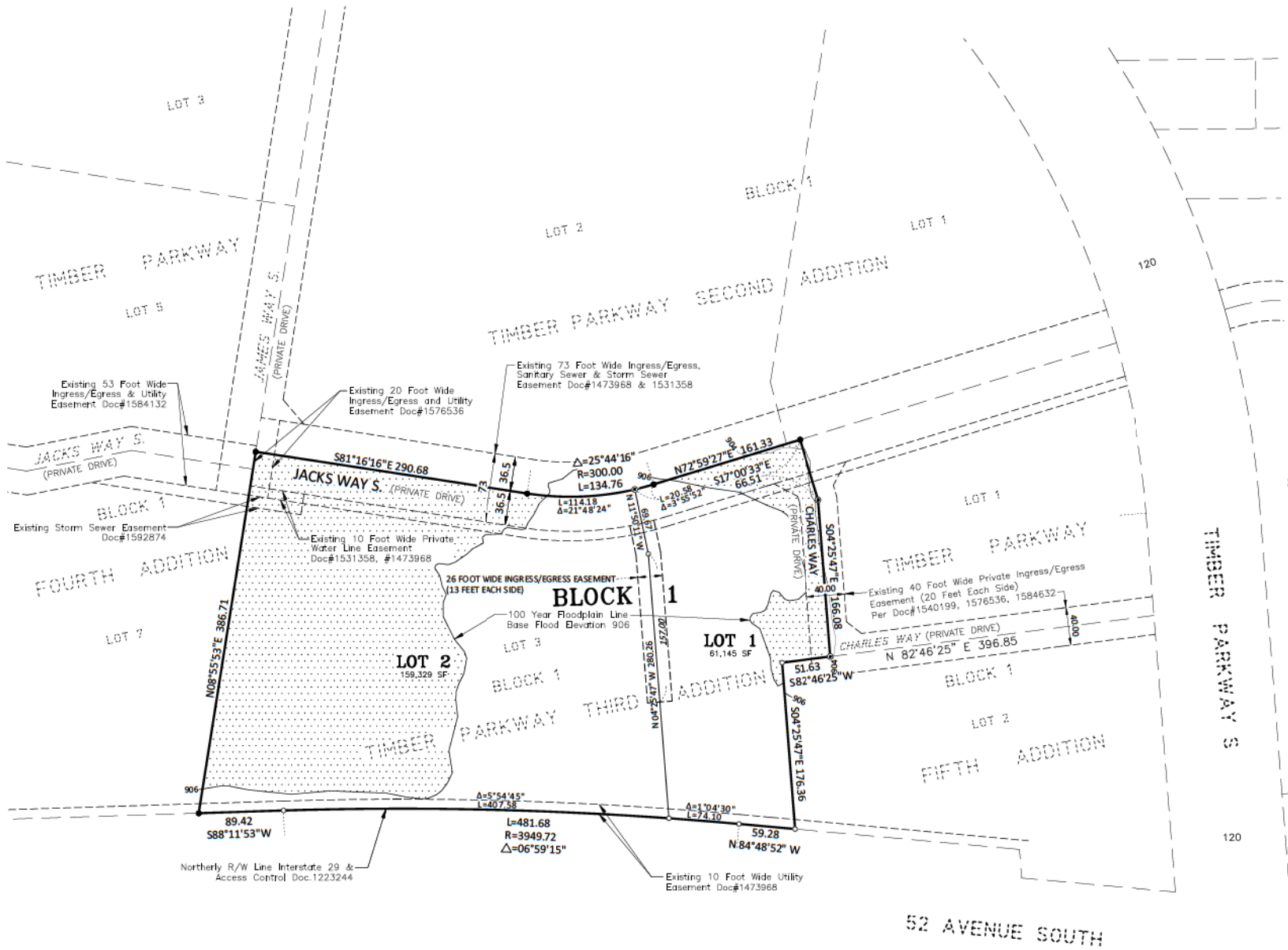
Timber Parkway Sixth Addition

5081 Charles Way S



TIMBER PARKWAY SIXTH ADDITION

A REPLAT OF LOT 3, BLOCK 1 OF TIMBER PARKWAY THIRD ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MINOR SUBDIVISION)



LEGEND	
○	5/8" x 38" LONG REBAR, MONUMENT SET CAP MARKED BY LIC. NO. LS-6703
●	2" ROUND METAL DISK, MONUMENT SET MARKED BY LIC. NO. LS-6703
●	MONUMENT FOUND, 5/8" REBAR, CAP LS-6703
---	SUBJECT PROPERTY LINE
---	EXISTING PROPERTY LINE
---	EASEMENT LINE
---	EXISTING CONTOUR LINE PER CITY OF FARGO LIDAR CONTOUR DRAWINGS NAVD88 DATED 2014
---	AREA WITHIN 100 YEAR FLOODPLAIN

BENCHMARK
CITY OF FARGO BENCHMARK 245029 LOCATED
APPROXIMATELY 2,900 FEET EASTERLY OF THE
SOUTHEAST CORNER OF SUBJECT PROPERTY.
SOUTHEAST FLANGE BOLT OF FIRE HYDRANT.
ELEVATION=909.42 NAVD88

OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That PLC Investments, LLC, a North Dakota Limited Liability Company, owner, and First International Bank and Trust, mortgagee, of the following described land:

Lot 3, Block 1 of TIMBER PARKWAY THIRD ADDITION to the City of Fargo according to the recorded plat thereof on file in the office of the County Recorder, Cass County, North Dakota.

Said parcel contains 220,474 square feet of land, more or less and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Said owners have caused the above described parcels of land to be surveyed and platted as "TIMBER PARKWAY SIXTH ADDITION" to the City of Fargo, Cass County, North Dakota and do hereby dedicate to Lots 1 and 2 the 26 foot wide ingress/egress easement as shown on this plat for the purposes so stated.

OWNER:
PLC Investments, LLC

By: Kevin Christianson, President

State of North Dakota } SS
County of Cass

On this ____ day of _____, in the year 2021 before me personally appeared Kevin Christianson, President, PLC Investments, LLC 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 PLC Investments, LLC

Notary Public

MORTGAGE HOLDER:
First International Bank & Trust

By: Brian Hagen, East Market President

State of North Dakota } SS
County of Cass

On this ____ day of _____, in the year 2021 before me personally appeared Brian Hagen, East Market President, First International Bank & Trust known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of First International Bank & Trust

Notary Public

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

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

Date: _____
Gregg Stroeing, Professional Land Surveyor
North Dakota License Number LS-6703

State of North Dakota } SS
County of Cass

On this ____ day of _____, 2021, before me, a notary public within and for said County and State, personally appeared Gregg Stroeing, Registered Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same.

Notary Public

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this ____ day of _____, 2021.

Rocky Schneider, Planning Commission Chair

State of North Dakota } SS
County of Cass

On this ____ day of _____, in the year 2021 before me, a notary public within and for said County and State, personally appeared Rocky Schneider, Planning Commission Chair, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Notary Public

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by City Engineer this ____ day of _____, 2021.

Brenda E. Derrig, City Engineer

State of North Dakota } SS
County of Cass

On this ____ day of _____, in the year 2021 before me, a notary public within and for said County and State, personally appeared Brenda E. Derrig, City Engineer known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that she executed the same as City Engineer for the City of Fargo.

Notary Public

FARGO CITY COMMISSION APPROVAL

Approved by the Board of City Commissioners and ordered filed this ____ day of _____, 2021.

Timothy J. Mahoney, Mayor

Attest:
Steven Sprague, City Auditor

State of North Dakota } SS
County of Cass

On this ____ day of _____, in the year 2021 before me, a notary public within and for said County and State, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor known to me to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same on behalf of the City of Fargo.

Notary Public

PRELIMINARY

**City of Fargo
Staff Report**

Title:	Ulteig Addition	Date:	8-31-2021
Location:	3550 and 3540 38 th Ave S	Staff Contact:	Kylie Bagley
Legal Description:	Lot 1, Block 1, Ulteig Addition		
Owner(s)/Applicant:	Mark Weston	Engineer:	N/A
Entitlements Requested:	Conditional Use Permit for an alternative access plan for parking reduction on Lot 1, Block 1, Ulteig Addition		
Status:	Planning Commission Public Hearing: September 9, 2021		

Existing	Proposed
Land Use: Office	Land Use: Office and Religious Institution
Zoning: GC, General Commercial	Zoning: GC, General Commercial
Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.	Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.
Maximum Lot Coverage Allowed: 85% building coverage	Maximum Lot Coverage Allowed: 85% building coverage

Proposal:

The applicant is requesting a conditional use permit for an alternative access plan to allow a parking reduction on Lot 1, Block 1, Ulteig Addition located at 3550 and 3540 38th Avenue South. The applicant is proposing to have 17,411 sf of office space and a religious institution which will hold 140 seats.

The LDC requires 0.4 parking stalls per seat within a religious institution and 1 parking stall per 300 square feet for an office. Based on the amount of office and seats that the applicant is proposing there would need to be 58 parking stalls for the office and 56 parking stalls for the religious institution, a total of 114 parking stalls on site. The applicant is requesting to reduce the number of parking stalls from 114 to 74 parking stalls on site.

The applicant has stated that 74 parking stalls will be sufficient due to the fact that the offices and the religious institution will not operate at the same time. The office will operate Monday through Friday between 8am and 5pm while the churches lease does not allow large gatherings to occur between 8am and 5pm Monday through Friday.

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: Across 38th Ave S is retail sales (Mills Fleet Farm) zoned GC, General Commercial;
- East: Multi-dwelling residential zoned GC, General Commercial;
- South: Across Rose Coulee/county drain #27 is vacant land and single-family houses zoned AG, Agricultural and SR-4, Single-Dwelling Residential;

- West: Across I-29 is warehouse and office zoned LI, Limited Industrial

Area Plans:

The subject property is not within a designated growth plan.

Schools and Parks:

Neighborhood: The subject property is located within the Stonebridge Neighborhood

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

Parks: Located within a quarter-mile of the subject property is Stonebridge Park #2 (3700 32nd St S) providing amenities of sports fields, playground equipment and recreational trails.

Pedestrian / Bicycle: A shared use facility is located along 38th Ave S, directly abutting the subject property to the north, and connects to the metro area trail system.

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.

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

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

1. **Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**
The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Promoting infill development and exploring reductions in minimum parking standards are both key initiatives meant to promote the Plan's guiding principles. Staff finds this proposal is consistent with the purpose of the LDC, the GO2030 Comprehensive Plan, and other adopted policies of the City.
(Criteria Satisfied)
2. **Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**
Staff finds that this proposed conditional use permit to allow for a parking reduction at this location will not affect the welfare of the public.
(Criteria Satisfied)
3. **Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**
Staff has no data to suggest the proposed use would cause substantial injury to the value of other property in the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. To date, staff has not received any inquiries about the project and no letters of opposition.
(Criteria Satisfied)
4. **Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature, and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.**

The proposed alternative access plan for parking reduction will not dominate the immediate neighborhood or prevent any other sites from being used in the manner allowed by zoning district regulations. The proposed conditions of the CUP are specifically meant ensure off-street parking stalls will be available to citizens frequenting the property.

(Criteria Satisfied)

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

The property has access to all necessary utilities and services. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property as proposed. Based on this information, staff finds that the adequate utility, drainage, and other such necessary facilities and services are in place.

(Criteria Satisfied)

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

The Engineering Department determined that the proposed reduction from 114 parking stalls to 74 parking stalls meet the facility's parking needs based on information provided by the applicant.

(Criteria Satisfied)

Recommended Conditions:

1. A minimum of 74 parking stalls shall be provided on site
2. The Conditional Use Permit will cease if the land use changes from an office and religious institution for a period of more than 12 consecutive months

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and hereby move to approve the Conditional Use Permit to allow an alternative access plan as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC, with the following conditions:

1. A minimum of 74 parking stalls shall be provided on site
2. The Conditional Use Permit will cease if the land use changes from an office and religious institution for a period of more than 12 consecutive months

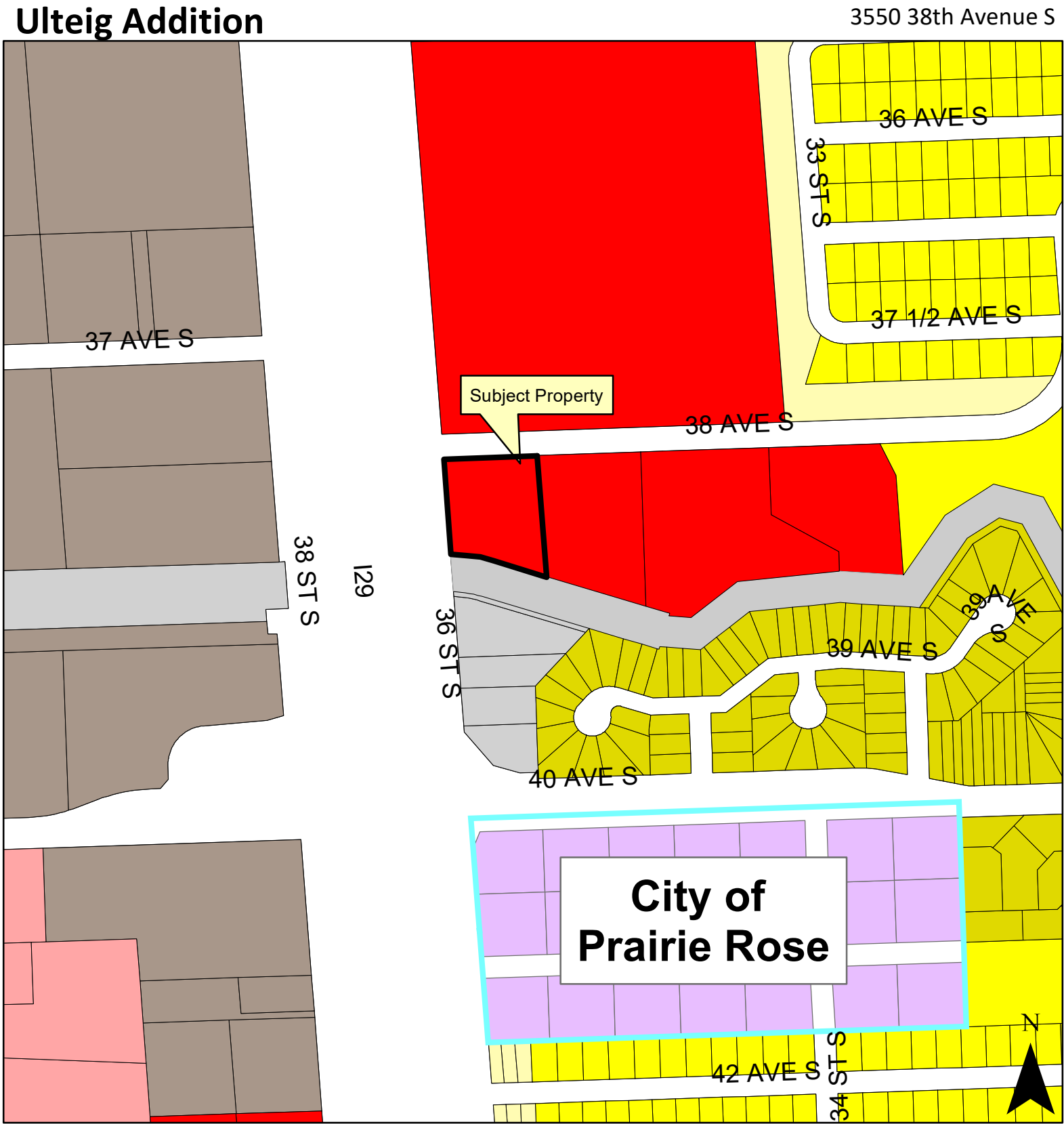
Planning Commission Recommendation: September 9, 2021

Attachments:

1. Zoning Map
2. Location Map

Conditional Use Permit

Ulteig Addition



Legend

AG	LC	MHP	SR-2
DMU	MR-1	NC	SR-3
GC	MR-2	P/A	SR-4
GO	MR-3	UMU	SR-5
			City Limits

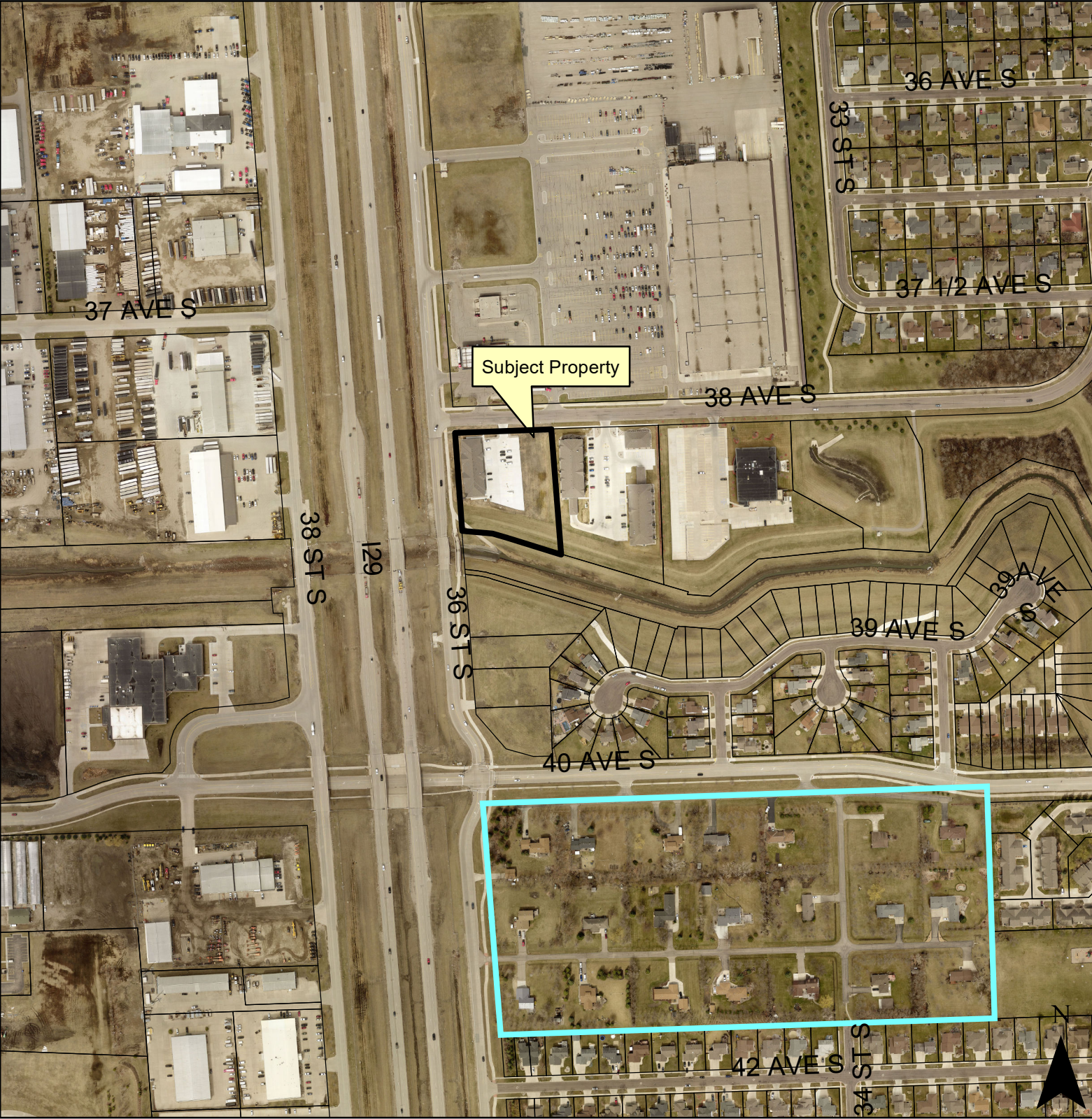
300

Feet

Conditional Use Permit

Ulteig Addition

3550 38th Avenue S



City of Fargo Staff Report			
Title:	Maple Valley 5 th Addition	Date:	9/2/2021
Location:	6050 36 th Street South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lot 21, Block 6, Maple Valley Addition to the City of Fargo, Cass County, North Dakota		
Owner(s)/Applicant:	Aspen Ponds Apartments, LLP / Nate Vollmuth---Goldmark	Engineer:	Neset Land Surveys
Entitlements Requested:	Minor Subdivision (Replat of Lot 21, Block 6, Maple Valley Addition to the City of Fargo, Cass County, North Dakota) and Zone Change (from LC, Limited Commercial LC, Limited Commercial with a C-O, Conditional Overlay within the boundaries of this plat); Conditional Use Permit (to allow for household living in the LC, Limited Commercial zone—see “CUP Note” below)		
Status:	Planning Commission Public Hearing: September 9, 2021		

Existing	Proposed
Land Use: Multi-dwelling residential; undeveloped	Land Use: Commercial; Residential
Zoning: LC, Limited Commercial	Zoning: LC, Limited Commercial with a C-O, Conditional Overlay
Uses Allowed: LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.	Uses Allowed: LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service. with Conditional Overlay which restricts some uses and provides site and building design guidelines
Maximum Lot Coverage Allowed: 55%	Maximum Lot Coverage Allowed: 55%

Proposal:
<p>The applicant requests three entitlements:</p> <ol style="list-style-type: none"> 1. A minor subdivision, entitled Maple Valley Fifth Addition, which is a replat of Lot 21, Block 6, Maple Valley Addition to the City of Fargo, Cass County, North Dakota 2. A zoning change from LC, Limited Commercial to LC, Limited Commercial with a C-O, Conditional Overlay to apply to Lot 2, Block 1 3. A conditional use permit (CUP) to allow household living in the LC, Limited Commercial zone to apply to Lot 1, Block 1. <p><i>CUP Note: Though this project was originally advertised with a CUP for household living and an alternate access plan for reduced parking, further development of the project has determined that the alternate access plan is no longer required. The residential property on proposed Lot 1, Block 1, provides 80 parking spaces for 28 residential units and 1,490 square feet of commercial space. This number of spaces is sufficient to meet the Land Development Code parking requirements for these uses. The parking</i></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.

- North: LC; attached residential (twinhomes)
- East: SR-4, Single-Dwelling Residential; detached single-dwelling residential development
- South: LC; commercial development
- West: P/I, Public / Institutional; right of way for Interstate 29

The subject property is located within the 2001 Growth Plan. This plan designates the subject property primarily as “Commercial.” The existing LC, Limited Commercial zoning is consistent with the “Commercial” land use designation. No change from the LC zoning is proposed; the zone change only adds a conditional overlay to the existing LC zone.



Neighborhood: The subject property is located in the Maple Valley neighborhood

Pedestrian / Bicycle: There are no trails adjacent to the subject property.

Staff Analysis:

The applicant proposes to replat Lot 21, Block 6, Maple Valley Addition to create a two-lot subdivision, Maple Valley Fifth Addition. Lot 1 of the proposed plat will keep the current multi-dwelling residential development, while Lot 2 is proposed to be developed with commercial (non-residential) condominiums. Though these condos are in the LC zone, it is anticipated the uses in them will be largely personal.

CONDITIONAL OVERLAY (C-O)

The zone change includes a conditional overlay that will regulate signs, prohibit certain land uses on the property, and provide design standards for the development of the site. The conditional overlay is appropriate for this site, which is adjacent to residential uses on two sides, to mitigate the intensity of development. A copy of the draft conditional overlay is attached.

CONDITIONAL USE PERMIT (CUP)

The proposed conditional use permit (CUP) applies only to the existing residential development in proposed Lot 1, Block 1 and allows household living in the LC, Limited Commercial zone at a density of 15 dwelling units per acre. This residential development was originally allowed under a CUP granted February 5, 2013 for portions of the Maple Valley Addition. As this property is being replatted, the CUP must be updated to be specific to this plat.

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The subject property is currently zoned LC, Limited Commercial. The zone change adds a conditional overlay to the existing LC zone that applies to Lot 2, Block 1 of the proposed subdivision. **(Criteria Satisfied)**

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

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

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

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

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The subject property is located within the 2001 Growth Plan. This plan designates the subject property as "Commercial." The existing LC, Limited Commercial zoning is consistent with the "Commercial" land use designation. No change from the LC zoning is proposed; the zone change only adds a conditional overlay to the existing LC zone. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

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 proposed zoning adds a conditional overlay to the existing LC, Limited Commercial zoning for Lot 2, Block 1. This zoning is consistent with the 2001 Growth Plan which applies to the subject property. 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 no comments or inquiries. 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)**

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

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

- 1. Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**

The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. The CUP for household living in the LC, Limited Commercial applies only to Lot 1, Block 1 of this subdivision, which is developed with 28 rental residential units in two 14-unit buildings. The area of proposed Lot 1, Block 1 is 1.90 acres, yielding a density of 15 dwelling units per acre.

(Criteria Satisfied)

- 2. Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**

The proposed CUP accommodates existing residential development in the LC zone, which was approved by an earlier CUP granted February 5, 2013 on Maple Valley Addition. As this property is being replatted, the CUP must be updated to be specific to this subdivision.

(Criteria Satisfied)

- 3. Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**

Staff has no data to suggest the proposed use would cause substantial injury to the value of other property in the neighborhood. The residential development allowed by this CUP is existing; it has been in place since 2015. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. To date, Planning staff has received no comments or inquiries. **(Criteria Satisfied)**

- 4. Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so**

as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature, and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.

The CUP accommodates existing residential development of 28 residential units, for which a CUP was originally granted in 2013 on the original Maple Valley Addition. The surrounding area to the north and east is already developed with attached and detached residential development.

Structures, walls, fences, and landscaping are existing.

(Criteria Satisfied)

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

The property has access to all necessary utilities and services. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property as proposed. Based on this information, staff finds that the adequate utility, drainage, and other such necessary facilities and services are in place.

(Criteria Satisfied)

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

The existing development, in place since 2015, consists of 28 residential units and 1,490 commercial space, and takes access from 60th Avenue South and 36th Street South. Review by City staff did not reveal any hazards or congestion. **(Criteria Satisfied)**

Recommended Condition of the CUP:

- The maximum residential density for Lot 1, Block 1, of Maple Valley Fifth Addition shall not exceed 15 dwelling units per acre.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed: 1) zone change from LC, Limited Commercial to LC, Limited Commercial with a C-O, Conditional Overlay and 2) **Maple Valley Fifth Addition** subdivision plat as presented; as the proposal complies with the 2001 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC; and to approve the 1) the conditional use permit (CUP) to allow household living on Lot 1, Block 1 of the proposed Maple Valley Fifth Addition as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC, with the following conditions:

- The maximum residential density for Lot 1, Block 1, of Maple Valley Fifth Addition shall not exceed 15 dwelling units per acre.

Planning Commission Recommendation: September 9, 2021

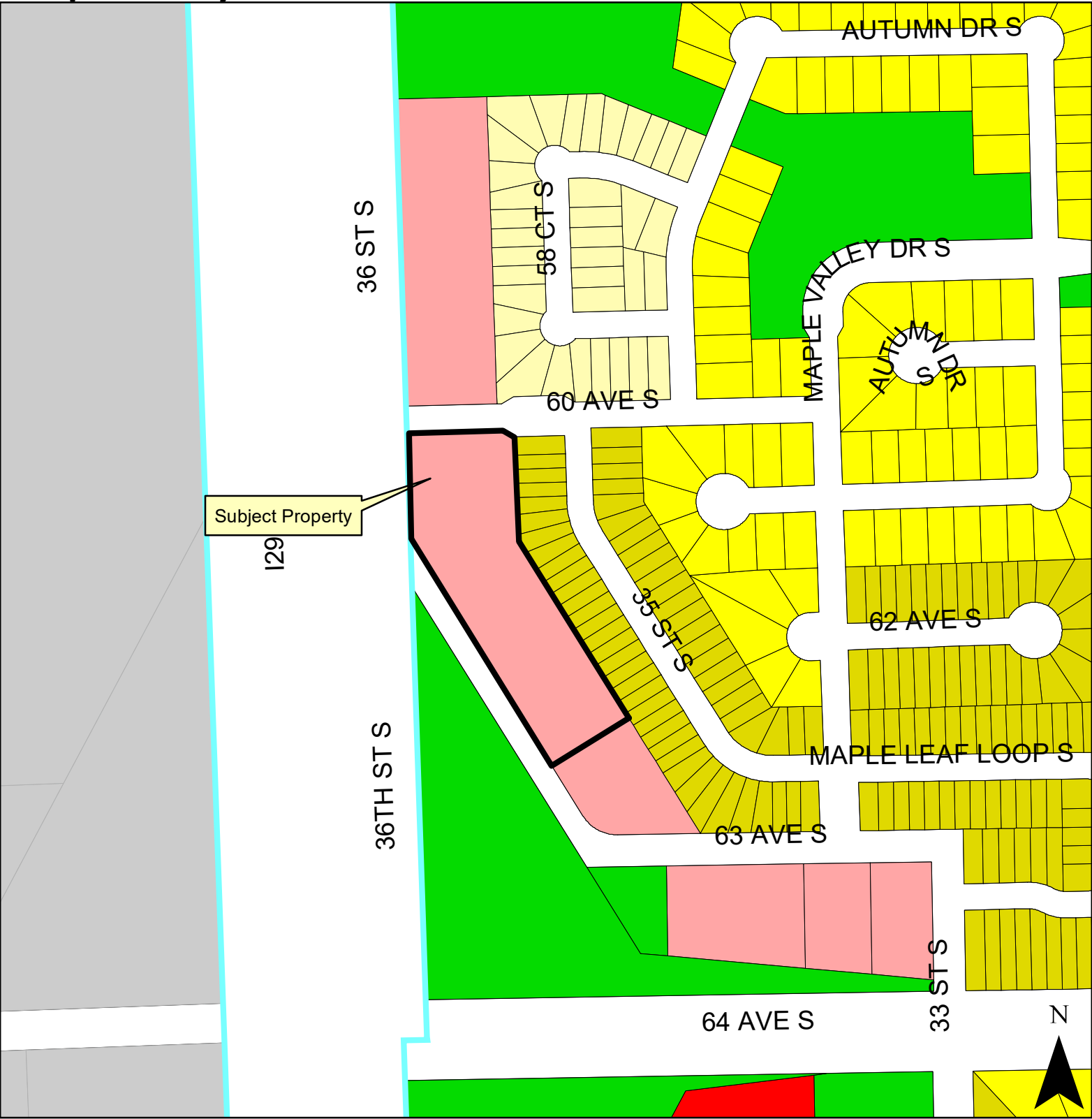
Attachments:

1. Location Map
2. Zoning Map
3. Preliminary Plat
4. Draft conditional overlay

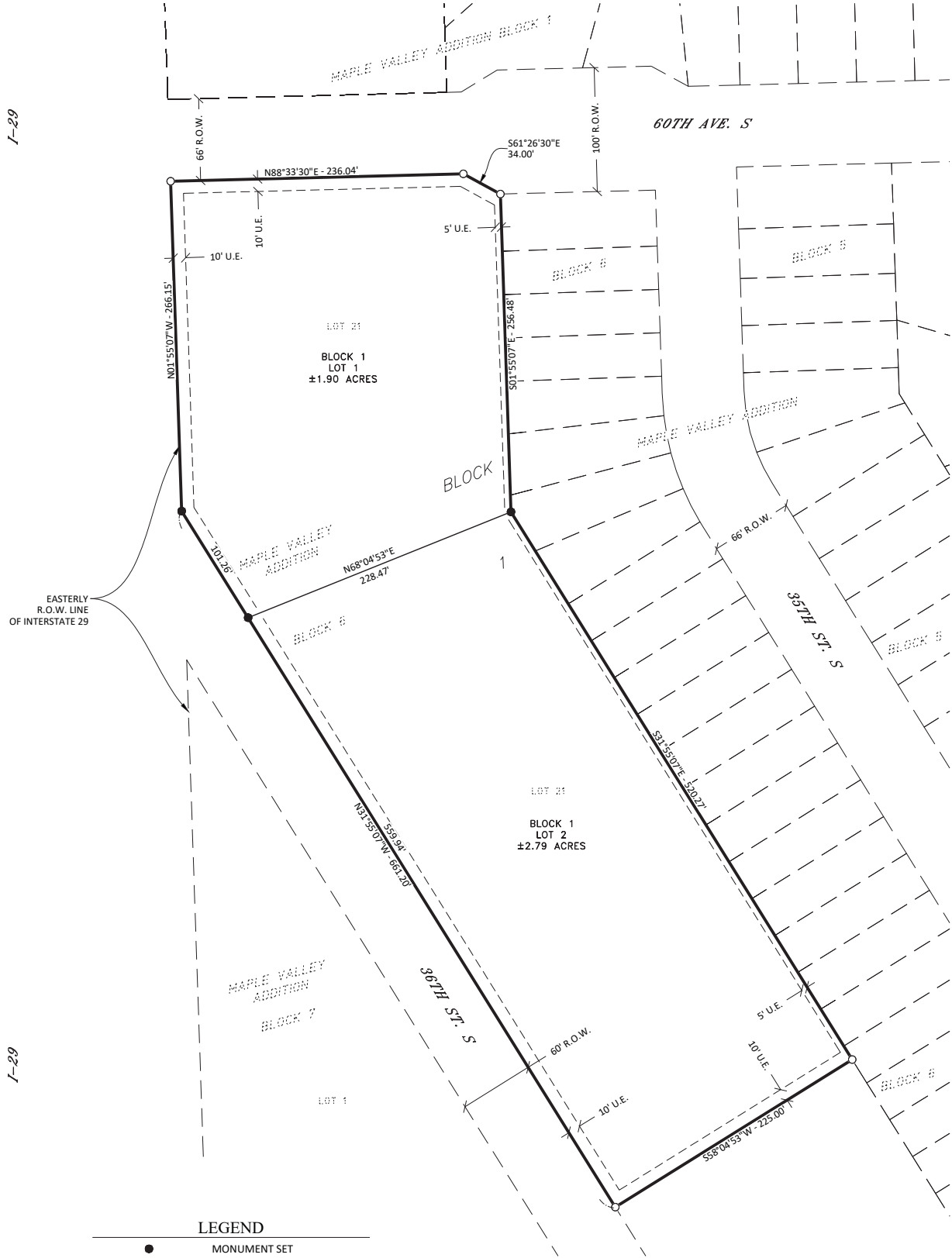
Zone Change (LC to LC with C-O), Plat (Minor), CUP

Maple Valley 5th Addition

6050 36th Street S



MAPLE VALLEY 5TH ADDITION
A REPLAT OF LOT TWENTY-ONE, IN BLOCK 6, OF MAPLE VALLEY ADDITION
TO THE CITY OF FARGO, SITUATE IN THE COUNTY OF CASS AND THE STATE OF NORTH DAKOTA



LEGEND

●

○

MONUMENT SET

MONUMENT FOUND

EX. EASEMENT

NEW EASEMENT

EX. PROPERTY LINE

PROPERTY BOUNDARY LINE

NEW PROPERTY BOUNDARY LINE

SURVEY INFORMATION

BASIS OF BEARING: CITY OF FARGO GIS HORIZONTAL DATUM

OWNERS' CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS, ASPEN PONDS APARTMENTS LLP ARE THE OWNERS OF LOT TWENTY-ONE, IN BLOCK SIX, OF MAPLE VALLEY ADDITION TO THE CITY OF FARGO, SITUATE IN THE COUNTY OF CASS AND THE STATE OF NORTH DAKOTA.

SAID OWNERS HAVE CAUSED THE ABOVE DESCRIBED TRACT OF LAND SHOWN ON THIS PLAT TO BE SURVEYED AND PLATTED AS, MAPLE VALLEY 5TH ADDITION TO THE CITY OF FARGO. SAID OWNERS ALSO HEREBY DEDICATE AND CONVEY TO THE PUBLIC, FOR PUBLIC USE, ALL ACCESS AND UTILITY EASEMENTS SHOWN ON SAID PLAT. SAID MAPLE VALLEY 5TH ADDITION CONSISTS OF TWO LOTS AND ONE BLOCK, AND CONTAINS 4.69 ACRES, MORE OR LESS TOGETHER WITH EASEMENTS AND RIGHT OF WAYS OF SIGHT AND RECORD.

ASPEN PONDS APARTMENTS LLP

BY: _____ ITS: _____

STATE OF _____)
COUNTY OF _____)SS

ON THIS _____ DAY OF _____, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED _____ TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

NOTARY PUBLIC

SURVEYORS CERTIFICATE

I, COLE A. NESET, REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA, DO HEREBY CERTIFY THAT I HAVE SURVEYED AND PLATTED THE PROPERTY DESCRIBED ON THIS PLAT AS MAPLE VALLEY 5TH ADDITION; THAT THIS PLAT IS A CORRECT REPRESENTATION OF SAID SURVEY; THAT ALL DISTANCES ARE SHOWN CORRECTLY ON SAID PLAT IN FEET AND HUNDREDTHS OF A FOOT; THAT ALL MONUMENTS ARE OR WILL BE INSTALLED CORRECTLY IN THE GROUND AS SHOWN; AND THAT THE EXTERIOR BOUNDARY LINES ARE CORRECTLY DESIGNATED. DATED THIS _____ DAY OF _____, 2021.

COLE A. NESET,
REGISTERED LAND SURVEYOR
ND REG. NO. 7513

STATE OF NORTH DAKOTA)
COUNTY OF CASS)SS

ON THIS _____ DAY OF _____, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED COLE A. NESET, REGISTERED LAND SURVEYOR, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

NOTARY PUBLIC

MORTGAGEE: OWNER OF LOTS 1 AND 2

WESTERN STATE BANK

BY: _____ ITS: _____

STATE OF NORTH DAKOTA)
COUNTY OF CASS)SS

ON THIS _____ DAY OF _____, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED _____ TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

NOTARY PUBLIC

MORTGAGEE: OWNER OF LOTS 1 AND 2

OWNER: PAUL T. SATHER

STATE OF NORTH DAKOTA)
COUNTY OF CASS)SS

ON THIS _____ DAY OF _____, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED PAUL T. SATHER, OWNER, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

NOTARY PUBLIC

CITY ENGINEER'S APPROVAL

APPROVED BY THE FARGO CITY ENGINEER THIS _____ DAY OF _____, 2021.

BRENDA DERRIG, CITY ENGINEER

STATE OF NORTH DAKOTA)
COUNTY OF CASS)SS

ON THIS _____ DAY OF _____, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED BRENDA DERRIG, CITY ENGINEER, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT SHE EXECUTED SAME AS THEIR FREE ACT AND DEED.

NOTARY PUBLIC

FARGO PLANNING COMMISSION APPROVAL

APPROVED BY THE CITY OF FARGO PLANNING COMMISSION THIS _____ DAY OF _____, 2021.

ROCKY SCHNEIDER, CHAIR
FARGO PLANNING COMMISSION

STATE OF NORTH DAKOTA)
COUNTY OF CASS)SS

ON THIS _____ DAY OF _____, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED ROCKY SCHNEIDER, CHAIR, FARGO PLANNING COMMISSION, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

NOTARY PUBLIC

FARGO CITY COMMISSION APPROVAL

APPROVED BY THE BOARD OF CITY COMMISSIONERS AND ORDERED FILED THIS _____ DAY OF _____, 2021.

TIMOTHY J. MAHONEY, MAYOR

ATTEST:

STEVEN SPRAGUE, CITY AUDITOR

STATE OF NORTH DAKOTA)
COUNTY OF CASS)SS

ON THIS _____ DAY OF _____, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TIMOTHY J. MAHONEY, MAYOR, CITY OF FARGO, AND STEVEN SPRAGUE, CITY AUDITOR, CITY OF FARGO, TO ME KNOWN TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

NOTARY PUBLIC



The following-described property:

Lot 2, Block 1, Maple Valley Fifth Addition

To be rezoned from LC, Limited Commercial, to LC, Limited Commercial with a Conditional Overlay (C-O)

1. This Conditional Overlay is intended to provide for a higher quality of design than is afforded by the City of Fargo Land Development Code regarding future commercial development within the described property.
2. All primary building directly fronting 36th Street South shall be constructed or clad with materials that are durable, economically maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured, or glazed concrete masonry units; high-quality pre-stressed concrete systems; or glass. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with an attractive appearance may be used.
3. Color schemes shall tie building elements together, related building pads within the same development to each other, and be used to enhance the architectural form of a building. Colors shall be subtle, have low reflectance quality, and shall be of neutral or earth tones. Brighter, metallic, or fluorescent colors shall be used as accents only.
4. All building facades fronting streets greater than 175 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade, extending at least 20 percent of the length of the façade. No uninterrupted length of façade shall exceed 175 horizontal feet. An articulated façade would emphasize elements on the face of the wall including change in setbacks, materials, roof pitch, or height.
5. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets. The average height of such parapets shall not exceed one third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance of greater than 150 feet.
6. Off-premise signs (billboards) and portable signs are prohibited.
7. Residential uses are prohibited.
8. On-premise signs shall be designed to incorporate a precise concept or theme. Provisions for consistency, placement, sign scale in relationship to the building, and sign readability shall be considered in developing the signing concept.
9. Outdoor storage of materials is prohibited.

10. The property shall not be used in whole or part for the storage of rubbish or debris of any kind whatsoever nor shall the property be used for the storage of any property or items that will cause the property to appear untidy, unclean, or unsightly as determined by the Zoning Administrator. No substance, item, or material may be kept on any lot within this zoning district that will emit foul odors, including compost sites and fertilizer.
11. Dumpsters must be completely screened from view. Collection area enclosures shall contain permanent walls on at least three (3) sides. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor; however, if the service side does not face any public right-of-way or residentially zoned property the metal gate shall not be required.
12. Parking:
 - a. All off-street parking spaces, traffic circulation areas, and outdoor storage areas shall be paved with asphalt or concrete.
 - b. All service vehicles must be parked either inside a structure or a screened/fenced area after business hours.
 - c. No truck parking shall be allowed in any front setback or from any side of the development visible from residentially-zoned property.
 - d. Parking requirements shall be the same as required for self-service storage

City of Fargo Staff Report			
Title:	Interstate Park Second Addition	Date:	9/1/2021
Location:	3502 and 3518 Interstate Boulevard S.	Staff Contact:	Adam Martin, assistant planner
Legal Description:	Portions of Lots 6, 7, and 9, and all of Lot 8, Block 4, Interstate Park Addition to the City of Fargo, Cass County, North Dakota		
Owner(s)/Applicant:	JKJ Enterprises, LLP / Kevin Hall	Engineer:	Houston Engineering
Entitlements Requested:	Minor Subdivision (Replat of portions of Lots 6, 7, and 9, and all of Lot 8, Block 4, Interstate Park Addition to the City of Fargo, Cass County, North Dakota) and Zone Change (from GC, General Commercial and LC, Limited Commercial to GC, General Commercial and LC, Limited Commercial within the boundaries of this plat); Conditional Use Permit (to allow for household living in the GC, Limited Commercial zone—see “CUP Note” below)		
Status:	Planning Commission Public Hearing: September 9, 2021		

Existing	Proposed
Land Use: Hotel; multi-dwelling residential	Land Use: Unchanged
Zoning: GC, General Commercial with a CUP, Conditional Use Permit; LC, Limited Commercial	Zoning: GC, General Commercial with a CUP, Conditional Use Permit; LC, Limited Commercial
<p>Uses Allowed: GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, aviation, surface transportation, and major entertainment events.</p> <p>With a Conditional Use Permit to allow household living.</p> <p>LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.</p>	Uses Allowed: Unchanged
Maximum Lot Coverage Allowed: 85% for GC; 55% for LC	Maximum Lot Coverage Allowed: 85% for GC; 55% for LC

Proposal:

The applicant requests three entitlements:

1. A minor subdivision, entitled **Interstate Park Second Addition**, which is a replat of portions of Lots 6, 7, and 9, and all of Lot 8, Block 4, Interstate Park Addition to the City of Fargo, Cass County, North Dakota
2. A zoning change from GC, General Commercial and LC, Limited Commercial to GC, General Commercial and LC, Limited Commercial within the boundaries of this plat
3. A conditional use permit (CUP) to allow household living in the GC, General Commercial zone

***CUP Note:** The property currently zoned as GC, General Commercial has an existing CUP to allow household living. The existing CUP was approved by the Planning Commission in July 2019 to convert a 25-unit extended stay hotel into a multi-dwelling residential use. However, with the proposed replat and rezone, the eastern lot (proposed Lot 1, Block 1, **Interstate Park Second Addition**) will have a higher unit-per-acre density. The number of dwelling units is not increasing. The lot on which the multi-dwelling structure is located is proposed to shrink in size, thus increasing the density on the lot. The proposed CUP is only to increase the allowable density for household living in the GC zone.*

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: GC and LC; commercial development
- East: GC; commercial development
- South: LC; commercial development
- West: Interstate 29 right-of-way

Area Plans:

The subject property is not located within a growth plan area.

Context:

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

Neighborhood: The subject property is located in the Westgate neighborhood

Parks: Boler Park (1734 34th Street South) is located approximately 0.7 miles southeast of the subject property, offering amenities such as baseball and softball fields, picnic tables, a playground for ages 5-12, and a shelter.

Pedestrian / Bicycle: There are off-street bike facilities located along Westrac Drive South and 13th Avenue South, each located approximately one-eighth of a mile from the subject property. All facilities are components of and connect to the metro area bikeways system.

Staff Analysis:

The applicant proposes to replat portions of Lots 6, 7, and 9, and all of Lot 8, Block 4, Interstate Park Addition to create a two-lot subdivision, Interstate Park Second Addition. Lot 1 of the proposed plat will keep the current multi-dwelling residential development, while Lot 2 will keep the existing Super 8 hotel.

MINOR SUBDIVISION

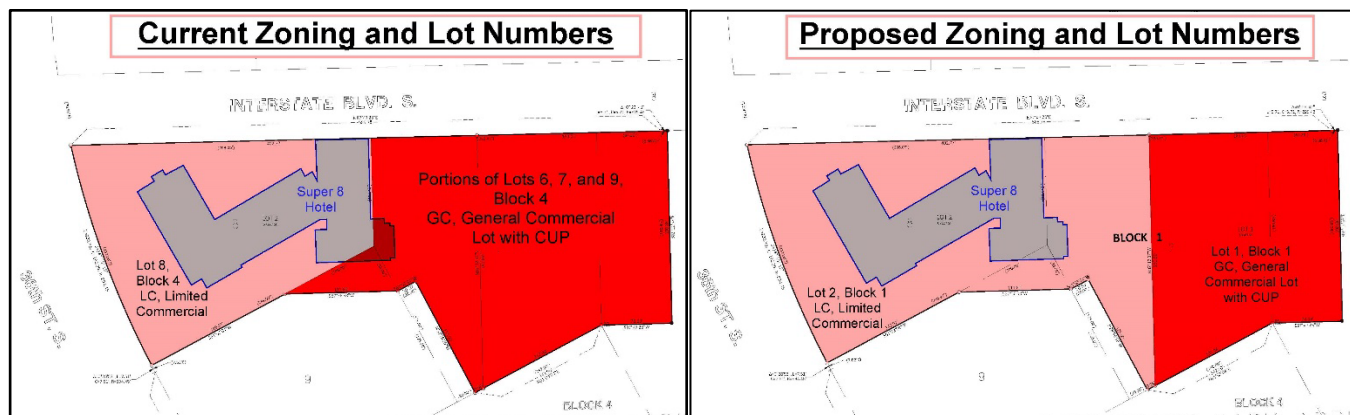
The Super 8 hotel, which was constructed in 1977, originally fit within the boundaries of Lot 8, Block 4, Interstate Park Addition. The hotel was expanded in 1988, causing the building to stretch across the lot boundaries. At that time, a deed split was enacted to split off portions of Lots 7 and 9 and swap them with the restaurant property to the south. The newly-gained property from this land swap was attached to Lot 7, which caused the new property line to run through the Super 8 building.

In 1994, an extended-stay hotel was constructed on the east side of the subject property, serving as a companion building to the original hotel. To accommodate the new building, a second deed split was enacted in January 1995 to carve out a portion of Lot 6 from the property to the east and attach it to Lot 7. This second deed split further complicated the plat boundaries of Interstate Park Addition. The extended-stay hotel was remodeled into a multi-dwelling residential building in 2017. A Conditional Use Permit for household living in the GC zoning district was approved by the Planning Commission in 2019.

The applicant, Kevin Hall of JKJ Enterprises, LLP is seeking to separate the Super 8 property and the multi-dwelling residential building onto two separate lots. As a result, the subject property needs to be replatted to clean up the plat boundaries.

ZONE CHANGE

In addition to the replat, the subject property will need to be rezoned. The Super 8 hotel currently sits on two different properties. These two properties are in two separate zoning districts. The east parcel is zoned as GC, General Commercial, while the west parcel is zoned as LC, Limited Commercial. To bring the Super 8 hotel completely into one zoning district, the applicant is proposing to rezone the subject property to align the existing zoning districts with the proposed lots in Interstate Park Second Addition. The east parcel, renamed as Lot 1, Block 1, will be zoned as GC, General Commercial, and will retain the multi-dwelling residential building. The west parcel, renamed as Lot 2, Block 1, will be zoned as LC, Limited Commercial and will retain the Super 8 hotel.



CONDITIONAL USE PERMIT (CUP)

The proposed conditional use permit (CUP) applies only to the existing residential development in proposed Lot 1, Block 1 and allows household living in the LC, Limited Commercial zone at a density of 28 units per acre. This residential development was originally allowed under a CUP granted July 2, 2019 for the eastern lot, with a maximum residential density of 18 units per acre. As this property is being replatted, the CUP must be updated to be specific to this plat. Since the eastern lot will shrink in size to 0.9 acres as a result of the proposed plat, the density will increase. The existing building will remain at 25 units. As a result, the proposed density on Lot 1 will increase to 28 units per acre.

There are currently some legal nonconformities on site; thus, no further work is required at this time. Additionally, this CUP does not negate the fact that any future improvement or repair to this site must follow all applicable sections of the LDC.

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The subject property is currently zoned GC, General Commercial and LC, Limited Commercial. The zone change simply shifts the boundary between the GC and LC zones to align with the new lots in the proposed plat. **(Criteria Satisfied)**

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

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

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

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

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

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The subject property is not located within a growth plan area. The proposed zone change is part of the process to clean up the lot boundaries on the subject property. Currently, the Super 8 hotel is divided into two lots, and each lot carries a different zoning district. The proposed zone change will bring the entire Super 8 hotel parcel into the LC, Limited Commercial zoning district. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

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 proposed zoning is GC, General Commercial and LC, Limited Commercial. 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 no comments or inquiries. 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)**

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

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

- 1. Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**
The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. The CUP for household living in the GC, General Commercial applies only to Lot 1, Block 1 of this subdivision, which is developed with 25 residential units in one building.
(Criteria Satisfied)
- 2. Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**
The proposed CUP accommodates existing residential development in the GC zone, which was approved by an earlier CUP granted July 2, 2019 on portions of Lots 6, 7, and 9, Block 4, Interstate Park Addition.
(Criteria Satisfied)
- 3. Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**
Staff has no data to suggest the proposed use would cause substantial injury to the value of other property in the neighborhood. The residential development allowed by this CUP is existing; it has been in place since 2019. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property owners within 300 feet of the subject property. To date, Planning staff has received no comments or inquiries.
(Criteria Satisfied)
- 4. Is the location and size of the conditional use, the nature and intensity of the operation conducted in connection with it, and the location of the site with respect to streets giving access to it such that the conditional use will not dominate the immediate neighborhood so as to prevent the development and use of the neighboring property in accordance with the applicable zoning district regulations? In considering this criteria, location, nature, and height of buildings, structures, walls, and fences on the site are to be considered, as well as the nature and extent of proposed landscaping and buffering on the site.**
The CUP accommodates existing residential development. The density is 28 dwelling units per acre.
(Criteria Satisfied)
- 5. Are adequate utility, drainage, and other such necessary facilities and services provided or will they be at the time of development?**
The property has access to all necessary utilities and services. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property as proposed. Based on this information, staff finds that the adequate utility, drainage, and other such necessary facilities and services are in place.
(Criteria Satisfied)
- 6. Have adequate access roads or entrances and exit drives been provided and are they designed to prevent traffic hazards and to minimize traffic congestion in public streets?**
The subject property has vehicular access to Interstate Boulevard South. The Engineering Department has had an opportunity to review the proposal and no comments or concerns have

been forthcoming to indicate that there is a deficiency with the access roads or entrances and exit drives. To that end, staff finds that the proposed conditional use will not create traffic hazards or traffic congestion in the public streets. The existing development consists of 25 residential units. Pursuant to the Land Development Code, a total of 57 parking spaces would be required. Parking requirements are currently met on-site.

(Criteria Satisfied)

Recommended Conditions:

- Density of 28 dwelling units per acre

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed: 1) zone change from GC, General Commercial and LC, Limited Commercial to GC, General Commercial and LC, Limited Commercial; and 2) **Interstate Park Second Addition** subdivision plat as presented; as the proposal complies with the Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC; and to approve 1) the conditional use permit (CUP) to allow household living in the GC, General Commercial zoning district on Lot 1, Block 1 of the proposed Interstate Park Second Addition as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC, with the following conditions:

- Density of 28 dwelling units per acre

Planning Commission Recommendation: September 9, 2021

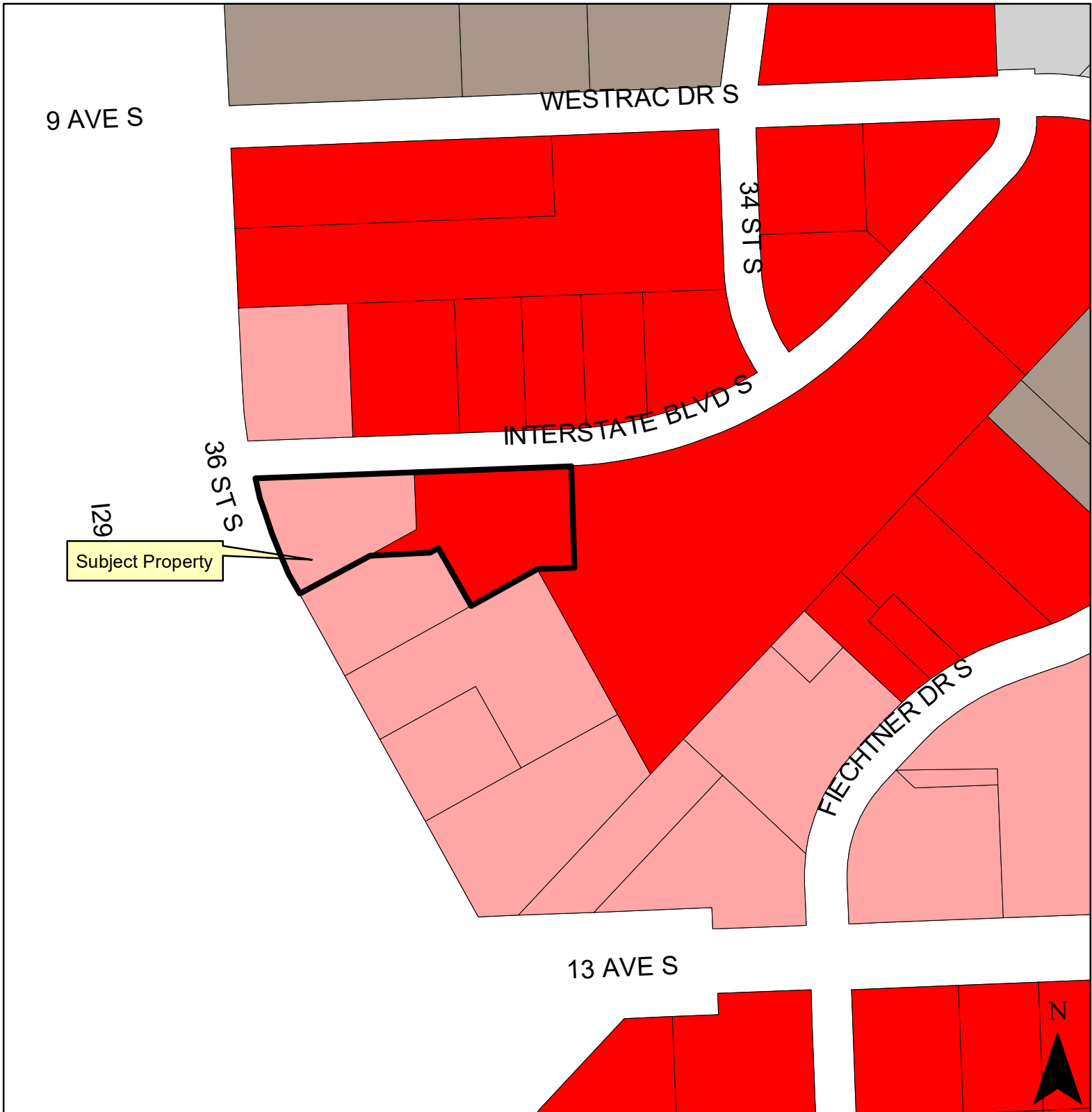
Attachments:

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

Zone Change (LC & GC to LC & GC) & Plat (Minor), CUP

Interstate Park Second Addition

3502-3518 Interstate Blvd S



Legend

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

300

Feet

Zone Change (LC & GC to LC & GC) & Plat (Minor), CUP

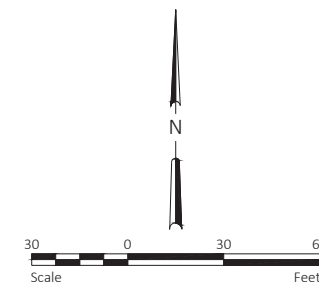
Interstate Park Second Addition

3502-3518 Interstate Blvd S

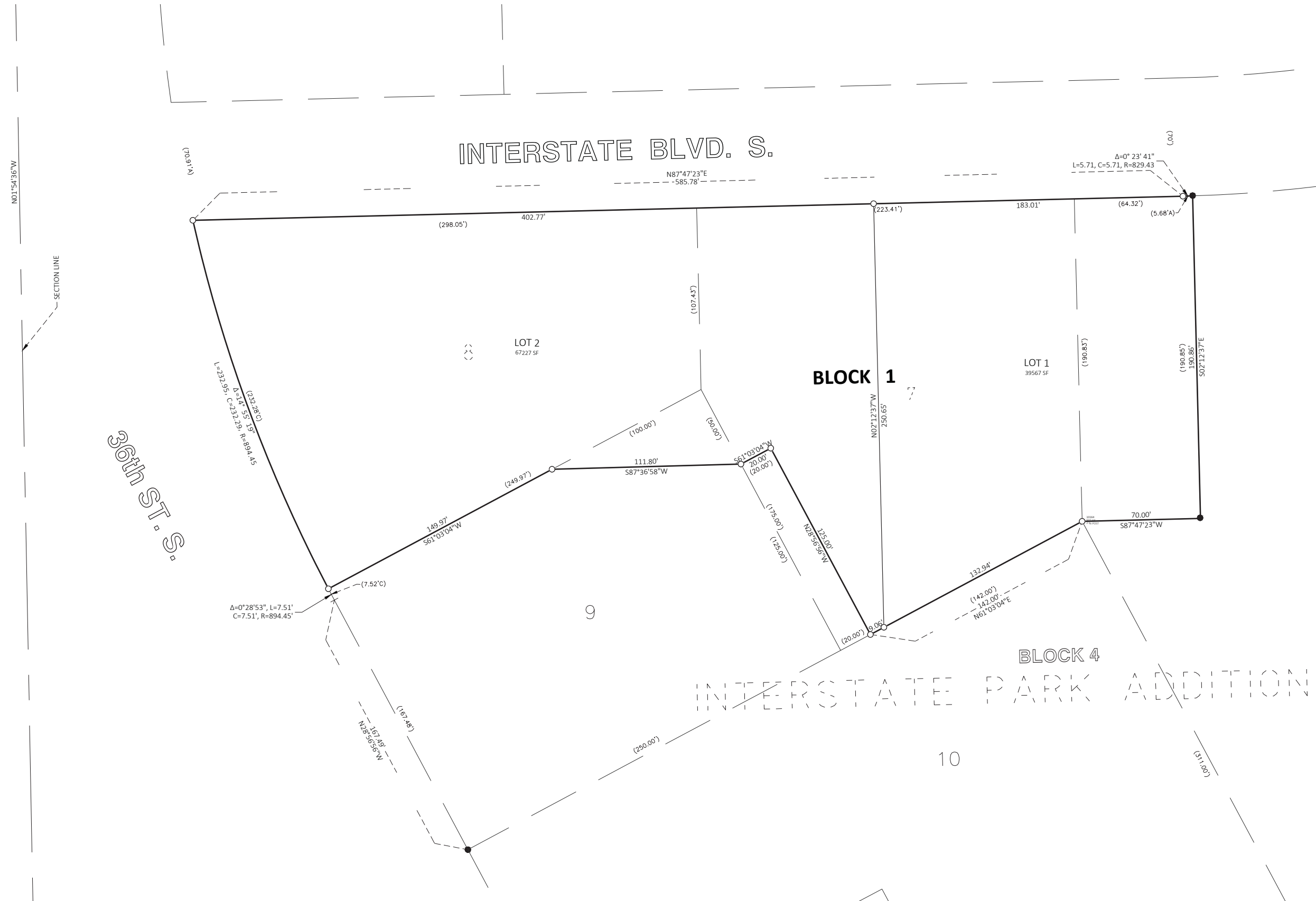


INTERSTATE PARK SECOND ADDITION

BEING A REPLAT OF PART OF LOTS 6, 7 & 9 AND ALL OF LOT 8, BLOCK 4, INTERSTATE PARK ADDITION
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA
(A MINOR SUBDIVISION)



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



INTERSTATE PARK SECOND ADDITION
BEING A REPLAT OF PART OF LOTS 6, 7 & 9 AND ALL OF LOT 8, BLOCK 4, INTERSTATE PARK ADDITION
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA
(A MINOR SUBDIVISION)

OWNER'S CERTIFICATE AND DEDICATION:

KNOW ALL PERSONS BY THESE PRESENTS: That JKJ Enterprises, LLP, a North Dakota limited liability partnership, is the owner and proprietor of the following described tract of land:

Parcel 1:

That part of Lot Six, Block Four, Interstate Park Addition to the City of Fargo, Cass County, North Dakota, described as follows: Beginning at the Northwest corner of said Lot Six; thence South 00°03'00" East along the West line of said Lot Six for a distance of 190.83 feet; thence North 89°57'00" East for a distance of 70.00 feet; thence North 00°03'00" West parallel to the West line of said Lot Six for a distance of 190.85 feet to a point on the North line of said Lot Six; thence Westerly along the North line of said Lot Six along a curve to the right (Delta = 00°23'33", R = 829.43', chord bearing South 89°45'14" West) for an arc distance of 5.68 feet; thence South 89°57'00" West along the North line of said Lot Six for a distance of 64.32 feet to the point of beginning.

Parcel 2:

Lot Seven, in Block Four, Interstate Park Addition, to the City of Fargo, Cass County, North Dakota, EXCEPT that part beginning at the most southerly corner of Lot Seven; thence North 26°47'19" West along the southwesterly line of said Lot Seven for a distance of 125 feet; thence North 63°12'41" East for a distance of 20 feet; thence South 26°47'19" East parallel to the southwesterly line of said Lot Seven for a distance of 125 feet to a point on the southeasterly line of said Lot Seven; thence South 63°12'41" West along the southeasterly line of said Lot Seven for a distance of 20 feet to the point of beginning.

AND

Beginning at the Northeast corner of Lot Nine, Block Four, Interstate Park Addition to the City of Fargo, Cass County, North Dakota; thence South 26°47'19" East along the easterly line of said Lot Nine for a distance of 50 feet; thence North 89°46'35" West for a distance of 111.80 feet to a point on the northerly line of said Lot Nine; thence North 63°12'41" East along the northerly line of said Lot Nine for a distance of 100 feet to the point of beginning.

Parcel 3:

Lot 8, in Block 4, of Interstate Park Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota, according to the certified plate thereof.

Said tract of land contains 2.452 acres, more or less.

And that said parties have caused the same to be surveyed and re-platted as **INTERSTATE PARK SECOND ADDITION** to the City of Fargo, Cass County, North Dakota.

OWNER:

JKJ Enterprises, LLP

Kevin J. Hall, Partner

State of North Dakota)
) ss
County of Cass)

On this _____ day of _____, 20____, before me personally appeared Kevin J. Hall, Partner of JKJ Enterprises, 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: _____

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: _____

SURVEYOR'S CERTIFICATE:

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

Dated this _____ day of _____, 20____.

Curtis A. Skarphol,
Professional Land Surveyor No. 4723

State of North Dakota)
) ss
County of Cass)

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

Notary Public: _____

CITY ENGINEER'S APPROVAL:

Approved by the Fargo City Engineer this _____ day of _____, 20____.

Brenda E. Derrig, City Engineer

State of North Dakota)
) ss
County of Cass)

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

Notary Public: _____



City of Fargo Staff Report			
Title:	Prairie Farms Commercial Third Addition	Date:	9/1/2021
Location:	2900 52 nd Avenue South	Staff Contact:	Adam Martin, assistant planner
Legal Description:	Lot 2, Block 1, Prairie Farms Commercial Second Addition		
Owner(s)/Applicant:	Bryan Slama / Midwest Fidelity Partners, LLC	Engineer:	Houston Engineering
Entitlements Requested:	Minor Subdivision (Plat of Prairie Farms Commercial Third Addition a replat of Lot 2, Block 1, Prairie Farms Commercial Second Addition)		
Status:	Planning Commission Public Hearing: September 9, 2021		

Existing	Proposed
Land Use: Commercial;	Land Use: Commercial
Zoning: LC, Limited Commercial	Zoning: No change
Uses Allowed: LC Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.	Uses Allowed: No Change
Maximum Lot Coverage Allowed: 55%	Maximum Lot Coverage Allowed: No change

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. A minor subdivision, entitled Prairie Farms Commercial Third Addition a replat of Lot 2, Block 1, Prairie Farms Commercial Second Addition <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: GC, General Commercial with retail/service uses; and GO, General Office with office uses. • East: LC, Limited Commercial with retail/service uses. • South: AG, Agriculture with open space for storm water retention; and P/I, Public/Institutional with a park. • West: LC, Limited Commercial with retail/service uses. <p><i>(continued on next page)</i></p>

Area Plans:

The subject property is located in the *2001 Growth Plan for the Urban Fringe and Extraterritorial Area* of the City of Fargo. According to the plan, which was amended in 2015, this property is most suitable for “Commercial” land use.



Schools and Parks:

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

Neighborhood: The subject property is located within the Maple Valley neighborhood.

Parks: Prairie Farms Park (5400 31st Street South), is immediately southwest of the subject property, and provides amenities of a basketball court, a grill, picnic tables, playgrounds for ages 2-5 and ages 5-12, recreational trails, and a shelter.

Pedestrian / Bicycle: There is a shared-use path adjacent to the north side of the subject property, running parallel to 52nd Avenue South. Additionally, a second shared-use path is located approximately 250 feet to the west of the subject property, running parallel to 31st Street South. All facilities are components of and connect to the metro area bikeways system.

Staff Analysis:

The plat will create two lots zoned LC, Limited Commercial. The subject property will continue to take access from a private road that runs along the edge of the property, which then connects to 31st Street South and 52nd Avenue South. The plat includes an existing access easement that accommodates the private road that runs through Lots 1 and 2.

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 subdivision is intended to replat Lot 2, Block 1, Prairie Farms Commercial Second Addition into two lots and one block to accommodate future development. The subject property is currently zoned LC, Limited Commercial. No zone change is proposed. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has not received any inquiries or protest from the neighborhood. 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 **Prairie Farms Commercial Third Addition**, as the proposal complies with the Standards of Article 20-06 of the LDC and all other applicable requirements of the LDC."

Planning Commission Recommendation: September 9th, 2021

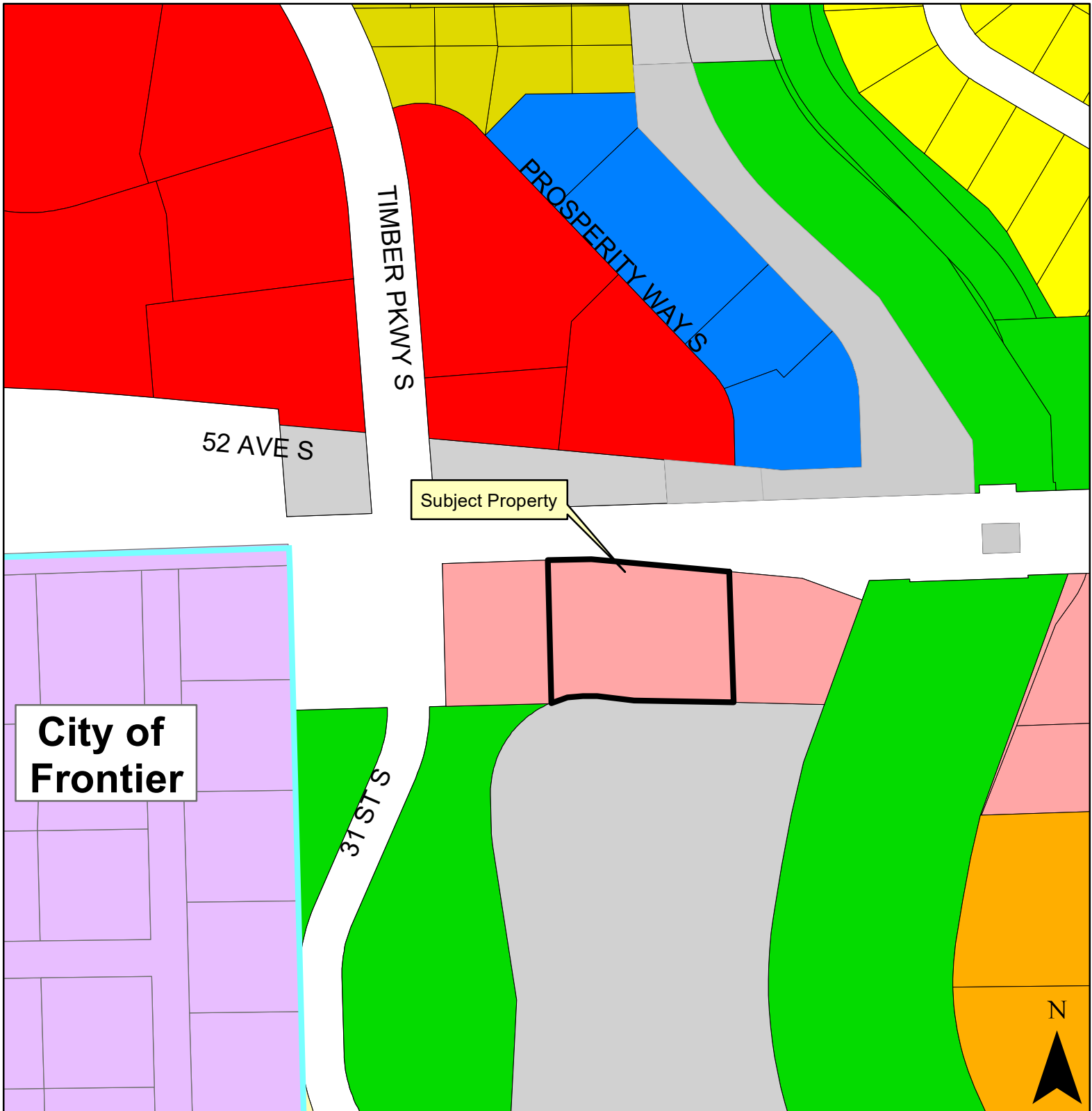
Attachments:

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

Plat (Minor)

Prairie Farms Commercial Third Addition

2900 52nd Avenue S



Legend

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

300

Feet

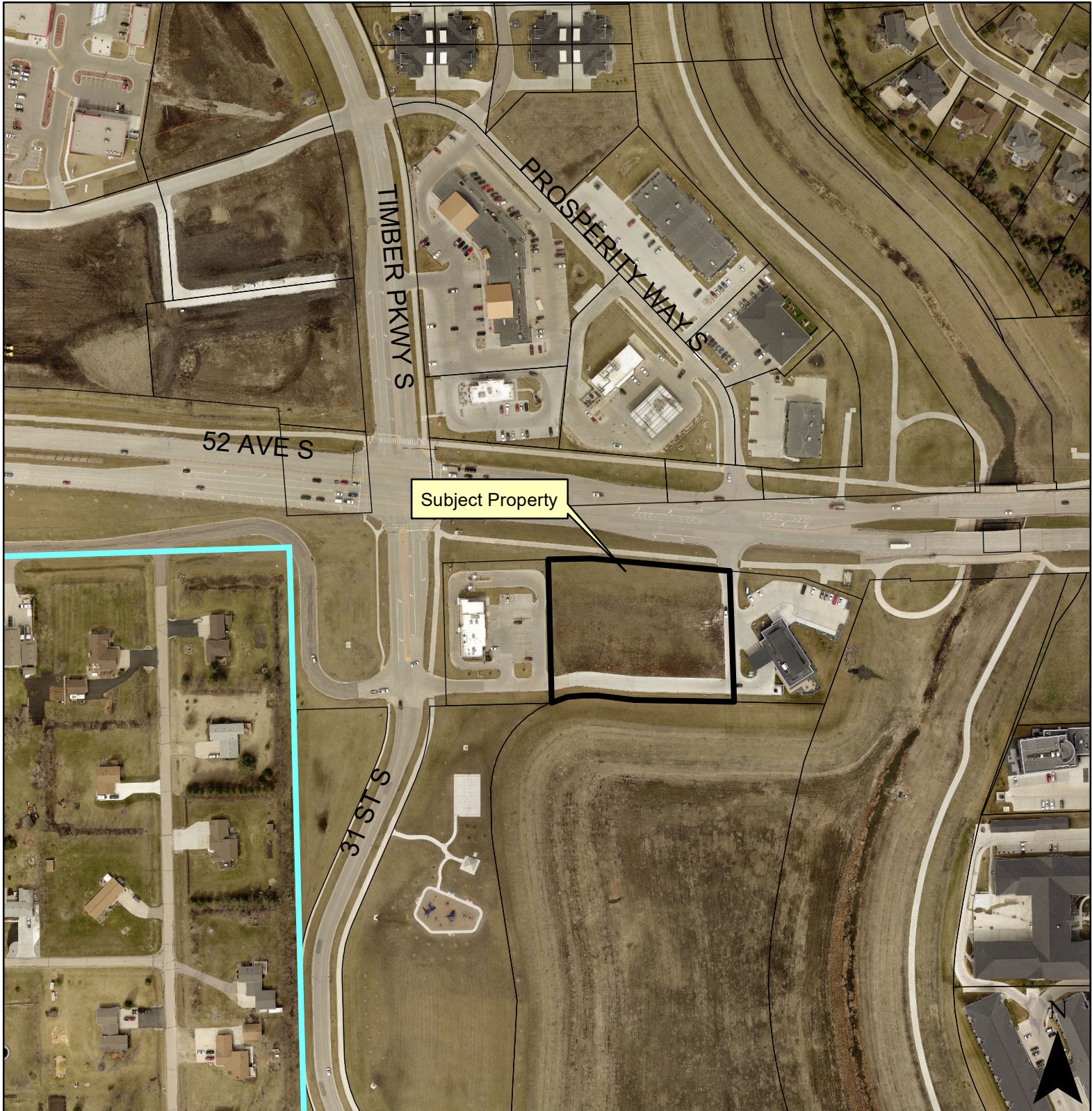
Fargo Planning Commission

September 9, 2021

Plat (Minor)

Prairie Farms Commercial Third Addition

2900 52nd Avenue S



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

OWNER'S CERTIFICATE:

KNOW ALL PERSONS BY THESE PRESENTS: That Prairie Grove Incorporated is the owner and proprietor of the following described tract of land:
Lot 2, Block 1, Prairie Farms Commercial Second Addition to the City of Fargo, Cass County, North Dakota.

Said tract contains 2.039 acres, more or less.

And that said party has caused the same to be surveyed and replatted as PRAIRIE FARMS COMMERCIAL THIRD ADDITION to the City of Fargo, Cass County, North Dakota.

OWNER:

Midwest Fidelity Partners, LLC.

Bryan Slama, President

State of _____)
County of _____) ss

On this _____ day of _____, 20____ before me personally appeared Bryan Slama, President of Midwest Fidelity Partners, LLC, a North Dakota limited liability company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of said limited liability company.

Notary Public: _____

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

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

Dated this _____ day of _____, 20____.

James A. Schlieman, Professional Land Surveyor No. 6086

State of North Dakota)
County of Cass) ss

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

Notary Public: _____

CITY ENGINEER'S APPROVAL:

Approved by the Fargo City Engineer this _____ day of _____, 20____.

Brenda E. Derrig, City Engineer

State of North Dakota)
County of Cass) ss

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

Notary Public: _____

FARGO PLANNING COMMISSION APPROVAL:

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

Rocky Schneider, Chair
Fargo Planning Commission

State of North Dakota)
County of Cass) ss

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____.

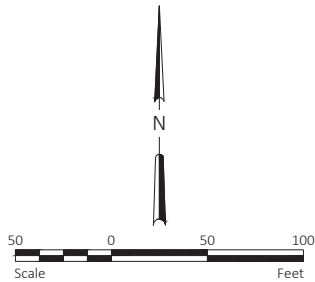
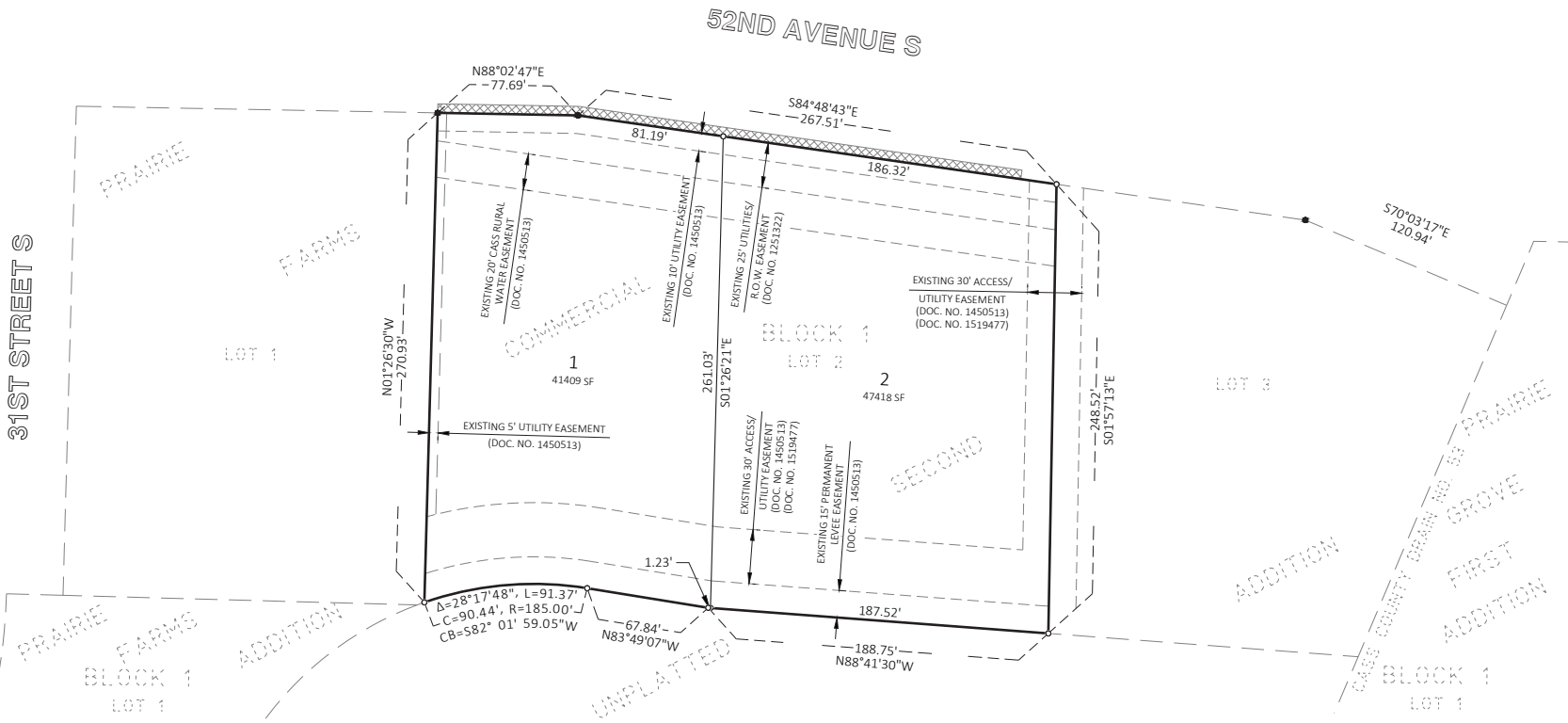
Timothy J. Mahoney, Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota)
County of Cass) ss

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: _____

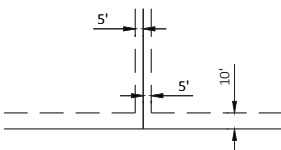


LEGEND

IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
MEASURED BEARING	N00°00'00"E
PLAT BEARING	(N00°00'00"E)
MEASURED DISTANCE	100.00'
PLAT DISTANCE	(100.00')
LOT LINE	_____
UTILITY EASEMENT	_____
EXISTING LOT LINE	_____
EXISTING UTILITY EASEMENT	_____
EXISTING NEGATIVE ACCESS EASEMENT	_____
BEARINGS SHOWN ARE BASED ON THE CITY OF FARGO HORIZONTAL DATUM	

NOTE:

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



UTILITY EASEMENTS
ARE SHOWN THIS

