

FARGO CITY COMMISSION AGENDA
Monday, June 18, 2018 - 5:00 p.m.

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at www.FargoND.gov/streaming. They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at www.FargoND.gov/citycommission.

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, June 4, 2018).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of the following Ordinances:
 - a. Amending Sections 18-0304, 18-0308 and Enacting Section 18-0318 of Article 18-03 of Chapter 18 of the Fargo Municipal Code Relating to Use and Care of Streets and Sidewalks.
 - b. Amending Sections 13-0301, 13-0302, 13-0303, 13-0304 and 13-0305 of Article 13-03, and Section 13-0401 of Article 13-04 of Chapter 13 of the Fargo Municipal Code Relating to the Control and Regulation of Food Service Establishments.
- 2. 2nd reading and final adoption of the following Ordinances; 1st reading, 6/4/18:
 - a. Amending Sections 25-3001, 25-3002 and 25-3006, and Repealing Sections 25-3003 and 25-3004 of Article 25-30 of Chapter 25 of the Fargo Municipal Code Relating to Alarm Systems.
 - b. Rezoning a Certain Parcel of Land Lying in Valley View 4th Addition.
 - c. Rezoning Certain Parcels of Land Lying in Ohmer's Addition.
 - d. Repealing and Re-Establishing a Conditional Overlay District on Certain Parcels of Land Lying in Simonson First Addition.
- 3. Appointment of William Wischer as a City Prosecutor and as an Assistant City Attorney.
- 4. Receive and file General Fund – Budget to Actual through May 31, 2018 (unaudited).
- 5. Renewal of Alcoholic Beverage Licenses and Live Entertainment Licenses until June 30, 2019, contingent on all essential requirements for renewal being met by June 30, 2018.
- 6. Site Authorization for Sts. Anne & Joachim Catholic Church at Sts. Anne & Joachim Catholic Church.
- 7. Applications for Games of Chance:
 - a. FM AM Rotary Club for a sports pool from 9/10/18 to 2/3/19.
 - b. Fargo Moorhead Derby Girls for a raffle on 7/14/18.
 - c. Jefferson School for a raffle on 6/28/18.

- d. El Zagal Shriner – Provost Guard for a raffle on 9/6/18.
 - e. Fargo North H.S. for a calendar raffle from 8/23/18 to 5/25/18.
 - f. Fargo North H.S. for a calendar raffle from 8/23/18 to 5/25/18.
 - g. Steve Weidner FM Junior Tour for a calendar raffle from 7/1/18 to 6/30/19.
 - h. Villa Nazareth dba CHI Friendship for a raffle on 11/2/18.
8. Purchase of Service Agreements with Mapleton School District and Northern Cass School District for nursing services for the 2018-2019 school years.
 9. Financial Award from the ND Department of Commerce for an Emergency Solutions Grant to support housing relocation/stabilization at the Gladys Ray Homeless Shelter (CFDA #14.231).
 10. Three-year contract with Great Plains Fire Equipment for structural firefighting turnout gear (RFP18162).
 11. Library Board President Rachael Steenholdt as the designated representative of the City's governing body on the Library Board and future Library Board President's as the designated representatives of the City's governing body.
 12. Change Orders for the City Hall Project:
 - a. No. 15 for an increase of \$491.00 for the mechanical construction contract.
 - b. No. 14 for an increase of \$47,753.43 for the electrical construction contract.
 - c. No. 15 for an increase of \$2,299.98 for the electrical construction contract.
 13. Adopt Resolutions Approving the following Plats:
 - a. Timber Parkway 3rd Addition.
 - b. Maple Valley Fourth Addition.
 14. State Historical Society CLG (Certified Local Government) Agreement for National Park Service's Historic Preservation Grant Funds 2018.
 15. 90-Minute Parking Time Zone on the west side of 3rd Street North between NP Avenue and Machinery Row Avenue.
 16. Solid Waste Management Agreement for Private Haulers in the City of Fargo with Pioneer Roll-Offs effective June 19, 2018.
 17. Transit Department to apply for the grants as presented.
 18. Contract Amendment No. 5 with Houston Engineering, Inc. in the amount of \$292,200.00 for Project No. FM-14-13.
 19. Reallocation of Storm Sewer Capital Funds for up-coming lift station repair projects and direct Engineering to solicit Consultants through the use of the MSA.
 20. Revision of the 2018 Capital Improvement Plan to include Project No. SN-18-C1 and Task Order No. 15 with Houston Engineering, Inc.
 21. Bid advertisement for Project No. SN-18-C.
 22. Contract and bond for Project No. FM-15-K1.
 23. Bills.

24. Access Easement (Bike Trail) with Cass Rural Water Users District in association with Improvement District No. FM-17-C1.
25. License Agreement and Contract and Grant of Easement with the United States of America, Department of Energy, Western Area Power Administration in association with Improvement District No. FM-17-C1.
26. Request from Master Construction Company, Inc. to complete work on Sundays and after hours for Improvement District No. BN-17-A1.
27. Request from Master Construction Company, Inc. to complete work on Sundays and after hours for Improvement District No. BR-18-C1.
28. Creation of Improvement District No. BN-18-F and use of the MSA for design contingent upon the Developer Agreement for reimbursement.
29. Infrastructure request contingent upon the execution of the Special Assessment Security Agreement and Letter of Credit (Improvement District No. BN-18-K1).
30. Create Improvement District Nos. BN-18-F and BN-18-K.
31. Contract and bond for Improvement District No. NR-18-A1.

REGULAR AGENDA:

32. 2nd reading and final adoption of an Ordinance Amending Section 25-1506, 25-1507, 25-1508 and 25-1509.1, of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
33. Public Hearings - 5:15 pm:
 - a. Amendment to the 2017 Action Plan for Housing and Community Development to reflect a change in scope and location of the Fraser Ltd. project at 2726 18th Street South.
 - b. Annexation of property located in the Southeast Quarter in Section 11, Township 138 North, Range 49 West containing 35.22 acres more or less.
 1. 1st reading of annexation Ordinance.
 - c. Madelyn's Meadows Addition (7269 25th Street South); approval recommended by the Planning Commission on 5/1/18:
 1. Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential and P/I, Public and Institutional with a C-O, Conditional Overlay.
 2. 1st reading of rezoning Ordinance.
 3. Plat of Madelyn's Meadows Addition.
 - d. Special Assessment list for Water Main Replacement, Force Main Construction, Street Reconstruction Improvement District No. BR-16-B; continued from 10/9/17, 10/23/17 and 5/21/18 Regular Meetings.
 - e. Special Assessment lists for the following Improvement Districts, all having been approved by the Special Assessment Commission on 5/2/18; set the interest rate at 1% per annum over the net rate on bonds financing said projects:
 1. Alley Paving Improvement District No. AN-17-C.

2. Alley Paving Improvement District No. AN-17-E.
3. Relocate Utilities Improvement District No. BN-15-M.
4. Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Paving and Street Lights Improvement District No. BN-16-G.
5. Sanitary Sewer, Water Main, Storm Sewer, Asphalt Paving and Street Lights Improvement District No. BN-16-J.
6. Sanitary Sewer, Water Main, Storm Sewer, Site Grading, Concrete Curb and Gutter, Asphalt Paving and Street Lights Improvement District No. BN-16-K.
7. Sanitary Sewer, Water Main, Storm Sewer, Asphalt Paving and Street Lights Improvement District No. BN-17-F.
8. Water Main Replacement, Force Main, Street Reconstruction Improvement District No. BR-16-A.
9. Street Reconstruction, Railroad Crossing Surface Replacement Improvement District No. BR-17-E.
10. Storm Sewer Lift Station, Storm Sewer Improvement District No. NN-14-0.
11. Storm Sewer Lift Station, Storm Sewer Improvement District No. NN-14-2.
12. Storm Sewer Lift Station Improvement District No. NN-15-A.
13. Storm Sewer Lift Station 48 Expansion, Sewer Service Improvements Improvement District No. NR-16-A.
14. Sanitary Sewer, Water Main, Storm Sewer, P.C. Concrete Paving, Street Lights Improvement District No. PN-14-4.
15. Concrete Curb and Gutter, Asphalt Paving, Street Lights Improvement District No. PN-15-J.
16. Asphalt Wearing Course Improvement District No. PN-17-A.
17. Seal Coat Improvement District No. PR-17-G.
18. Traffic Signal Improvements Improvement District No. TN-16-C.
19. Storm Sewer Repairs Improvement District No. UR-15-B.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310. 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 website at www.FargoND.gov/citycommission.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

32

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 25-1506, 25-1507, 25-1508
AND 25-1509.1, OF ARTICLE 25-15 OF CHAPTER 25 OF THE
FARGO MUNICIPAL CODE RELATING TO ALCOHOLIC
BEVERAGES

WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in
accordance with Chapter 40-05.1 of the North Dakota Code; and,

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the City
shall have the right to implement home rule powers by ordinance; and,

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said
home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict
therewith and shall be liberally construed for such purposes; and,

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to
implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

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

Section 1. Amendment.

Section 25-1506 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is
hereby amended to enact a new subsection CC:

* * *

CC. Class "DCP-E" License. A Class "DCP-E" license, in the nature of a special permit, shall authorize the Downtown Community Partnership, a non-profit corporation established January 15, 2014, operated as a business league within the meaning of Section 501(c)(6) of the Internal Revenue Code with the stated purpose of serving the Fargo downtown business community, to apply for a special event "DCP-E" license, to be issued by the city auditor, for an event that is open to the general public and that is held on certain designated public property, private property or both public and private property, including public rights of way, and in which one or more licensees that are eligible to obtain a Class "E" license will be allowed to participate in the event and in which certain alcoholic beverages will be lawfully allowed to be possessed and consumed within the designated space, in accordance with the following:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1. Class “DCP-E” license application and approval. For each proposed Class “DCP-E” license event, the Downtown Community Partnership must submit to the city auditor an application on a form provided by the city. The application must describe the event space including a detailed description of public streets that will be closed to the traveling public, adjacent sidewalks, and designated alley ways adjacent to such streets and sidewalks along with any private property included in the event space. To the extent the event space includes any private property, the applicant must provide the written consent by the property owner to the holding of the event.
 - a. Licenses non-transferable.—A Class “DCP-E” license may only be issued to the Downtown Community Partnership and it may not be transferred to, or held by, a person, firm, or entity other than the licensee.
 - b. A complete Class “DCP-E” license application must be submitted to the city auditor at least 45 days in advance of the requested event. Such application deadline may be waived for good cause.
 - c. The application shall provide an estimate of the number of attendees expected to participate in the event which estimate may be used by the police department to determine the number of additional police department personnel necessary to patrol the event space and surrounding area, and shall state the hours during which alcoholic beverages may be served in event cups, as described in this subsection, and when such beverages may be possessed or consumed within the designated event space.
 - d. Downtown Community Partnership shall be eligible to receive a limited number of licenses per year, in an amount to be determined by the motion or resolution of the Board of Directors of the Downtown Community Partnership, presented with the application.
 - e. The city auditor is authorized to issue the Class “DCP-E” license without notice or hearing and the provisions of section 25-1508 shall not be applicable to the issuance thereof.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 f. Effective times and dates of license.—A Class “DCP-E” license shall be
2 effective for the period or periods of time as approved by the city auditor
3 and as stated on the license. Said license may be structured by the city
4 auditor such that a DCP-E permitted event may run during certain limited
5 time periods on certain specified consecutive days. In no event shall a
6 Class “DCP-E” license be granted allowing alcoholic beverage open
7 containers or the consumption of alcoholic beverages in a public space
8 after 9:00 p.m.

9 g. No Class “E” licenses other than those issued to an alcoholic beverage
10 retailer as part of a licensed Class “DCP-E” event may be issued for the
11 event space during the Class “DCP-E” permitted times or locations.

12 h. At any time when a Class “DCP-E” license is in effect for a particular
13 event and event space, the event space shall be specifically excepted from
14 the definition of “public place” as set forth more fully in section 25-
15 1509.1(D) of this chapter.

16 2. Administration and Coordination of Event. Upon issuance by the city auditor of
17 the Class “DCP-E” license for the event, the Downtown Community Partnership
18 will be responsible for administration and coordination of the event in accordance
19 with the following:

20 a. The Downtown Community Partnership will solicit and accept
21 applications from existing licensees that are eligible to obtain a Class “E”
22 license to serve as alcohol vendors for the approved and licensed Class
23 “DCP-E” event.

 b. Downtown Community Partnership, by approval of its board of directors,
 will select one or more alcoholic beverage retailers for the Class “DCP-E”
 event, and will notify the city auditor of its selection or selections.

 c. In order to participate in the licensed Class “DCP-E” event, said selected
 alcoholic beverage retailer must apply for and obtain a Class “E” license
 for the event.

 d. The Downtown Community Partnership is authorized to charge the

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

selected alcohol vendors a fee for participation. The Downtown Community Partnership will be responsible for making the necessary arrangements for the event, and will be responsible for payment of the costs for additional security personnel.

3. Terms, Conditions and Restrictions for Event. With respect to an approved Class "DCP-E" licensed event, the following terms, conditions and restrictions shall be applicable:

- a. The designated event space must be clearly marked with signs, special markings and other demarcations such that participants and the general public are advised as to the boundaries of the event space. The Downtown Community Partnership shall post conspicuously at all entrances and exits of the event space a notice stating that alcoholic beverages shall not be permitted outside of the designated event space. Alcoholic beverages may only be served in clearly identifiable event cups provided by the Downtown Community Partnership. Cans, bottles or other containers containing alcoholic beverages shall not be permitted in the designated event space.
- b. The Downtown Community Partnership will provide the selected Class "E" license holders for the event a sufficient supply of clearly identifiable wrist bands to be distributed to, and worn by, event participants.
- c. Nothing in this subsection shall be construed to relieve the responsibility of a Class "E" license holder from the obligation to comply with all laws, including laws regulating the serving of alcoholic beverages and nothing shall be construed to transfer any such obligations or responsibilities to the Downtown Community Partnership.
- d. Downtown Community Partnership shall be responsible for making arrangements with the Fargo police department for any police department extra duty officers that are required to be provided for the Class "DCP-E" event, at the sole cost of the Downtown Community Partnership, at such rate or rates as are established by the chief of police.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- 1 e. Nothing in this subsection shall be construed to allow Class "E" licensees
2 at a DCP-E permitted event to sell off-sale alcoholic beverages at such
3 event.
- 4 f. Only alcoholic beverages that have been served by a Class "E" permit
5 holder and which beverages are contained within the said clearly
6 identifiable event cup, as described in this subsection, may be consumed
7 within the event space. No other alcoholic beverages shall be permitted to
8 be consumed in the event space. No personal use coolers for individual
9 alcohol consumption will be permitted in the event space.
- 10 g. All other laws and regulations shall be in full force and effect.

11 Section 2. Amendment.

12 Section 25-1507 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is
13 hereby amended to read as follows:

14 25-1507. License--Fees.--

- 15 A. Initial issuance fee--For a license granted which is not a renewal or a transfer
16 of an existing license, the following fees shall be payable as hereinafter
17 provided:

18 Class AB--\$150,000

19 Class ABH--\$ 30,000

20 Class ABH-RZ--\$15,000

21 Class ABH-limited--\$1,800.00

22 Class A--\$115,000

23 Class B--\$ 90,000

 Class C--\$7,500

 Class D--\$1,500.00

 Class DD--\$3,000

 Class E--\$25 plus \$10 for each day requested. Additional \$25 fee if
 application is received less than 7 days before the event, and only
 after a showing of good cause. In no event will a permit be issued
 less than 48 hours before the scheduled event.

 Class F--\$3,000

 Class FA--\$100,000

 Class FA-RZ--\$50,000

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Class FA-GOLF--\$60,000
Class FA-ENTERTAINMENT--\$100,000
Class G--\$1,000
Class H--\$800
Class I--\$10,000
Class I-ENTERTAINMENT--\$10,000
Class J--No fee
Class L--No fee
Class M--\$1,500
Class N--\$3,000
Class O--\$400
Class P--\$1,400
Class W--\$7,500
Class Y--\$3,000
Class Z--\$105,000
Class B-Limited--\$80,000
Class RZ-V--\$5,000
Class DCP-E -- \$25 plus \$10 for each day requested.

No fee shall be charged for the initial issuance of a license hereunder to a lodge or club, nor shall any fee be charged for the initial issuance of a license to any liquor establishment licensed by any other political subdivision over which the city of Fargo has subsequently acquired jurisdiction by annexation, provided, however, that such liquor establishment must have been in existence for at least fifteen (15) years prior to such annexation by the city of Fargo. The initial issuance fee charged shall be the difference between the city fee and the fee originally charged by the issuing subdivision.

A non-refundable payment in the sum of 10% of the initial issuance fee shall be paid at the time issuance of the license is approved by the board of city commissioners pursuant to § 25-1508 of this article. The remainder of the initial issuance fee shall be payable upon issuance of the license, but not more than 30 days after date of approval by the board of city commissioners; provided, that the time for payment of the remaining balance of the initial issuance fee may, with the approval of the board of city commissioners, be deferred and paid by periodic payments within 180 days after the date of approval. In the event that the applicant fails to pay the remainder of the initial issuance fee within 30 days, or such other time as

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

may have been approved by the board of city commissioners, the approval shall be deemed to have expired and the 10% payment by the applicant shall be forfeited.

B. Annual fees shall be payable at the beginning of each license year as follows:

Class AB--\$2,400

Class ABH--\$2,000

Class ABH-RZ--\$2,000

Class ABH-limited--\$700.00

Class A--\$1,700, except that the license fee for any lodge or club having a total membership of less than 1,000 shall be \$1,200 per year.

Class B--\$1,400

Class C--\$750

Class D--\$200

Class DD--\$500

Class E--No annual fee shall be charged for a Class E license.

Class F--\$1,500

Class FA--\$1,700

Class FA-RZ--\$1,700

Class FA-GOLF--\$1,700

Class FA-ENTERTAINMENT--\$1,700

Class G--\$400

Class H--\$300

Class I--\$1,000

Class I-ENTERTAINMENT--\$1,000

Class J--\$25

Class L--\$1,000

Class M--\$200

Class N--\$1,500

Class O--\$150

Class P--\$500

Class W--\$750

Class Y--\$500

Class Z--\$1,700

Class B-Limited--\$1,400

Class RZ-V--\$1,700

Class DCP-E – No annual fee shall be charged for a Class DCP-E license.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

* * * *

Section 3. Amendment.

Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-1508. Issuance and transfer of licenses--Restrictions--Hearing required.---

* * *

F. The number of licenses which may be issued by the board of city commissioners shall be limited as follows:

1. Class "AB"- 22
2. Class "ABH" - no limit
3. Class "ABH-limited" - no limit
4. Class "A" - 10 (not including licenses issued to lodges or clubs)
5. Class "B" - 12
6. Class "C" - 10
7. Class "D" - 2
8. Class "DD" - no limit
9. Class "E" - no limit
10. Class "F" - no limit
11. Class "FA" - no limit
12. Class "FA-GOLF" - no limit
13. Class "FA-ENTERTAINMENT" - no limit
14. Class "G" - no limit
15. Class "H" - no limit
16. Class "I" - 12
17. Class "J" - no limit
18. Class "L" - no limit
19. Class "M" - no limit
20. Class "N" - no limit
21. Class "O" - no limit
22. Class "P" - no limit
23. Class "W" - 10
24. Class "Z" -- Class "Z" - 5 with the conditions and limitations

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

set forth in subsection (I) hereinafter. The initial issuance of a Class "Z" license shall provide for five (5) licenses (as aforesaid) with two (2) licenses being designated for the downtown area and two (2) for areas outside the downtown area as defined and one (1) license in either area. "Downtown area" shall mean that area included in the Downtown Area Plan as previously approved by the board of city commissioners and as it may hereafter be amended. At such time as the population of the city of Fargo shall exceed 100,000, one (1) additional "Z" shall become available for each 10,000 people in excess of 100,000 population. The granting of additional licenses shall be subject to all of the terms and conditions of the "Z" license as set forth hereinbefore.

25. Class "B-Limited" – a Class "B-Limited" license shall authorize the licensee to sell "off-sale" only with the conditions and limitations set forth in subsection (J) hereinafter. One (1) Class "B-Limited" license shall be available immediately. An additional Class "B-Limited" shall become available at such time as the population of the city of Fargo shall exceed 100,000 with an additional Class "B-Limited" then becoming available for each additional 10,000 increase in population. The granting of additional licenses shall be subject to all of the terms and conditions of the Class "B" license as set forth hereinbefore and as limited by subsection (J) hereinafter.

26. Class "Y" – no limit

27. Class RZ-V—no limit

28. Class DCP-E – No limit.

For purposes of determining the population of the city of Fargo in this article, the board of city commissioners may recognize the most recent estimated population as determined by the Census Bureau of the United States Department of Commerce and, further, may establish a current population by extrapolation based upon a reasonable rate of population change since the most recent census estimate or by estimation considering recent annexations into the city, the number of housing starts within the city,

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 other relevant activity that would typically coincide with increases or
2 decreases of population or any combination of such data or activity to arrive
3 at such estimate.

4 Section 4. Amendment.

5 Section 25-1509.1 of Article 25-15 of Chapter 25 of the Fargo Municipal Code
6 is hereby amended as follows:

7 * * *

8 D. With respect to persons who are in possession of alcoholic beverages contained
9 within, and may consume such beverages from, a clearly identifiable event cup and
10 who are wearing a clearly identifiable wrist band , the DCP-E event space set aside
11 and specifically designated in a Class “DCP-E” license, as provided by section 25-
12 1506(CC), is specifically excepted from the definition of “public place” during the
13 time said “DCP-E” license is in effect. Except as set forth herein, all persons shall
14 nonetheless conform to and abide by all of the other relevant provisions of this
15 chapter. Minors shall not be allowed to possess or consume alcoholic beverages.

16 Section 5. Penalty.

17 A person who willfully violates this ordinance is guilty of an infraction. Every person,
18 firm or corporation violating an ordinance which is punishable as an infraction shall be punished
19 by a fine not to exceed \$1,000; the court to have power to suspend said sentence and to revoke
20 the suspension thereof.
21
22
23

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 6. Effective Date and Sunset.

This ordinance shall be in full force and effect from and after its passage, approval and publication. This ordinance shall automatically terminate at 11:59 p.m. on December 31, 2018, and thereafter be of no further force or effect.

Timothy J. Mahoney, Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:



M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: NICOLE CRUTCHFIELD, PLANNING DIRECTOR *NC*

DATE: JUNE 12, 2018

RE: 2017 COMMUNITY DEVELOPMENT ACTION PLAN AMENDMENT – FRASER LTD. PROJECT

The Department of Planning and Development would like to amend its 2017 Community Development Action Plan to reflect a change in scope and location of CDBG funding awarded to Fraser Ltd. The proposed plan amendment would allow for the redirection of funds originally reserved for the transitional living program house, to instead support facility upgrades of an intermediate care facility, which provides housing to adults with developmental disabilities. This change aligns with the goals identified in the City of Fargo's 2015-2019 Five-Year Consolidated Plan.

Notification of the proposed amendment was published in The Forum on May 14, 2018, followed by a 30-day public comment period. This proposal has been considered and approved by the Planning Commission and Community Development Committee.

Recommended Motion: Amend the 2017 Community Development Action Plan to accommodate a facility upgrade of the Fraser, Ltd. Intermediate Care Facility located at 2726 18th Street South.

336

MEMORANDUM

PLANNING AND DEVELOPMENT

200 Third Street North
Fargo, North Dakota 58102
Phone: (701) 241-1474
Fax: (701) 241-1526
E-Mail: planning@FargoND.gov
www.FargoND.gov

TO: Board of City Commissioners

From: Nicole Crutchfield, Planning Director

Date: June 13, 2018

**RE: Annexation by Petition for portion of the Southeast Quarter of Section 11,
Township 138 North, Range 49 West Cass County North Dakota,**

June 18, 2018 is the date set by the City Commission to confirm petition of protest and take action on an ordinance for annexation of a tract of land in Section 11, Township 138 North, Range 49 West.

The petition for annexation was brought forward by the land owner. There are no other property owners within the boundary of the proposed annexation. Advertisements were placed in The Forum and notices were sent by certified mail to Stanley Township and Cass County. Staff has not received any form of protest or concerns from the public.

The property is proposed to be developed as a residential development south of the existing Golden Valley Addition. The boundaries of the annexation and corresponding legal description are attached. The proposed single family development is titled Madelyn's Meadows First Addition.

RECOMMENDED MOTION:

To accept the findings and recommendations of staff and the Planning Commission and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the annexation Ordinance on the first reading, and move to approve the proposed annexation of a portion of the Southeast Quarter of Section 11, Township 138 North, Range 49 West Cass County North Dakota, as depicted in the attached map and legal description.

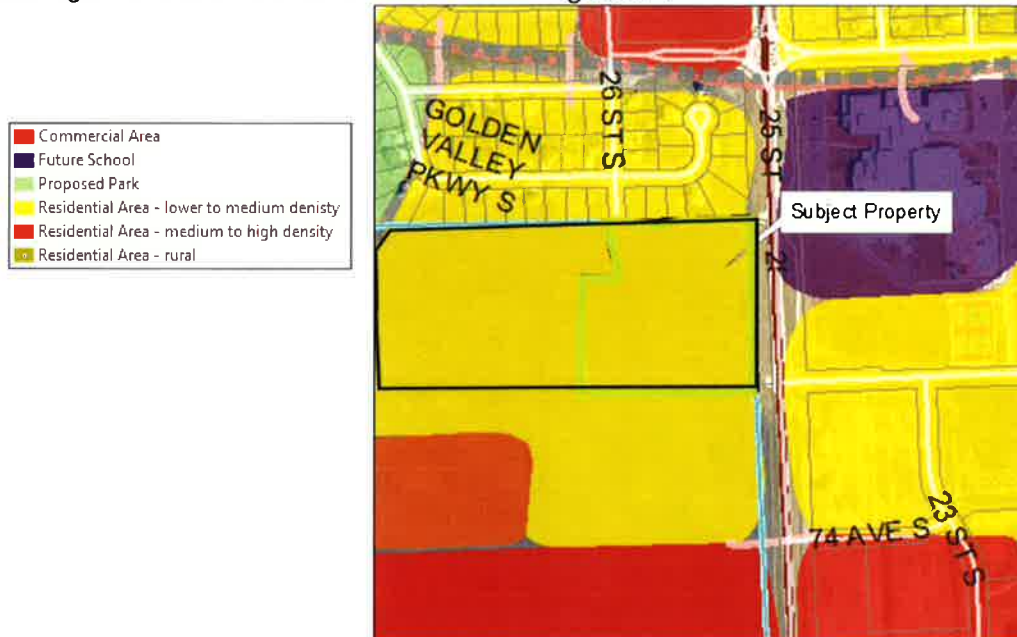
City of Fargo Staff Report			
Title:	Annexation of a portion of Southeast Quarter of Section 11, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota.	Date: Updated:	4/26/2018 6/13/2018
Location:	West of 25 th Street South, south of Golden Valley Addition	Staff Contact:	Donald Kress, Planning Coordinator
Legal Description:	Portion of Southeast Quarter of Section 11, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota (see detailed legal description in attached petition)		
Owner(s)/Applicant:	James R. Bullis /Sitka Investments	Engineer:	Wenck Associates
Entitlements Requested:	Planning Commission review of consistency with comprehensive plan.		
Status:	City Commission Public Hearing: June 18, 2018		
Existing		Proposed	
Land Use: Undeveloped		Land Use: Residential	
Zoning: AG, Agricultural		Zoning: SR-4, Single Dwelling Residential; P/I, Public/Institutional with a C-O, Conditional Overlay; AG	
Uses Allowed: AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production		Uses Allowed: SR-4 Allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities; P/I Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events; with a C-O, conditional overlay to restrict uses as shown AG –Allows detached houses, parks and open space, safety services, basic utilities, and crop production (Lot 9, Block 3 will remain zoned AG)	
Maximum Density Allowed (Residential): AG allows a maximum of 1 dwelling unit per 10 acres.		Maximum Density Allowed: SR-4 allows 12.1 dwelling units per acre; AG allows a maximum of 1 dwelling unit per 10 acres; P/I has no density standard	

Proposal:

The applicant has petitioned the City to annex approximately 35.22 acres of land that is currently within the city's four-mile extra-territorial jurisdiction. This area is undeveloped. A map of the proposed annexation area is attached.

Area Plans:

The 2007 Tier 1 Southeast Growth Plan, part of the 2007 Growth Plan, designates the area of this project as "Residential Area – lower to medium density" land use. Per that plan, both the proposed SR-4 and P/I zonings are consistent with this land use designation.



Additionally, the Fargo Preferred Future Land Use Plan Update of the Southwest Metro Transportation Plan (SWMTP) designates the land use for this area as "low density residential" development. The SWMTP was a project of the Metropolitan Council of Governments (MetroCOG). Planning staff uses the SWMTP as a guide, particularly for future street connectivity as noted below. The land use plan has not been officially adopted by the Planning Commission (This land use plan is Figure 5.1 of the SWMTP)

Staff Analysis:

This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff").

The annexed area is intended to be developed as with single-family residential development. The entitlements for this development—zone change and major subdivision plat—are a separate item on the June 18 2018 City Commission agenda. The proposed zoning is as noted below:

BLOCK	LOTS	ZONING	LAND USE
1	1-16	SR-4	Single-Dwelling Residential
2	1-16	SR-4	Single-Dwelling Residential
3	1-8	SR-4	Single-Dwelling Residential
3	9	Remains AG	For future development
3	10	P/I, with a C-O, Conditional overlay to restrict uses to "park and open space" and 'detention facilities"	Park and detention basin; to be conveyed to Fargo Park District after plat recordation
3	11	P/I, with a C-O, Conditional overlay to restrict uses to "park and open space" and 'detention facilities"	For future development; applicant will eventually rezone it for residential development

3	12	P/I to restrict uses to "park and open space" and 'detention facilities"	Levee; to be dedicated to City of Fargo by this plat
3	13	P/I to restrict uses to "park and open space" and 'detention facilities"	For future expansion of Drain 53; to be conveyed to Southeast Cass Water Resources District by this plat

OWNERSHIP

The entire property involved in the annexation is owned by the applicant, Sitka Investments, James R. Bullis, president. No existing residences or businesses are included in the annexation area.

PLAN CONSISTENCY

This property is outside of the Fargo city limits. The applicant has requested annexation through a petition. The proposed annexation area is depicted on the 2007 Tier 1 Southeast Growth Plan map of the 2007 Growth Plan. The 2007 Growth Plan describes the "Tier 1" designation as the "Intended Growth Sector" for the city of Fargo.

Though the 2007 Growth Plan does not provide actual findings for annexation, it does state that "Tier 1 is planned to handle growth for the next 20 to 25 years [from 2007]" and that "Carefully planned extensions of the city as a result of demand for housing help to counter disruptive leapfrog development." (page 55, 2007 Growth Plan). The proposed development is adjacent to and across 25th Street from existing residential development. The location of this development adjacent to existing residential development and an arterial street (25th Street South) also corresponds with two of the strategies stated in the 2007 plan to work against leapfrog development:

- Limit roadway and utility extensions to areas within the 20 year service area [Tier 1] directly adjacent to areas currently receiving services; and
- Avoid utility and roadway extensions that traverse areas where property owners are not interested in developing their property. (page 56, 2007 Growth Plan)

The proposed development is consistent with the land use designations of the 2007 Growth Plan; no growth plan amendment is necessary for this project.

Additionally, the Fargo Preferred Future Land Use Plan Update of the Southwest Metro Transportation Plan (SWMTP) designates the land use for this area as "low density residential" development. The SWMTP was a project of the Metropolitan Council of Governments (MetroCOG). Planning staff uses the SWMTP as a guide, particularly for future street connectivity as noted below. The land use plan has not been officially adopted by the Planning Commission (This land use plan is Figure 5.1 of the SWMTP)

PROCESS

This request for annexation was reviewed by PWPEC at their April 30, 2018 meeting. The Planning Commission evaluated this proposed annexation for consistency with the 2007 Growth Plan at their May 1, 2018 Planning Commission meeting. The Cass County Auditor and the Stanley Township clerk were notified by certified letter of this proposed annexation.

ORDINANCE:

As this annexation is from a petition by the property owner, the City Attorney has prepared an ordinance that is attached to this package.

Planning Commission Recommendation:

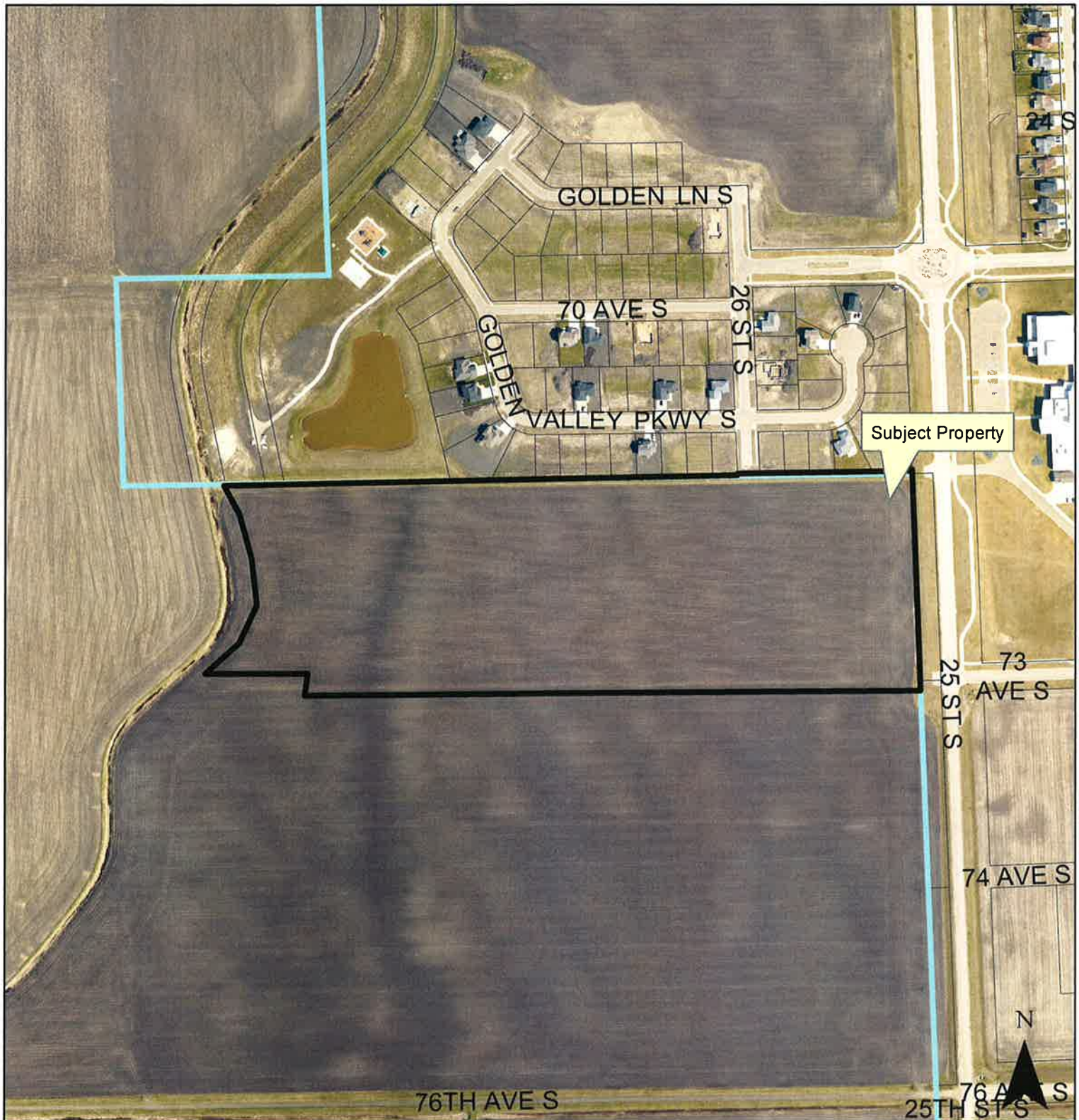
On May 1, 2018, by a vote of 10-0 with one Commissioner absent, the Planning Commission voted to accept the findings of recommendations of staff and found the proposed annexation of a portion of Southeast Quarter of Section 11, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota to be consistent with the 2007 Growth Plan.

Staff Recommendation
Suggested Motion: To accept the findings and recommendations of staff and the Planning Commission and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the annexation Ordinance on the first reading, and move to approve the proposed annexation of a portion of the Southeast Quarter of Section 11, Township 138 North, Range 49 West Cass County North Dakota, as depicted in the attached map and legal description.
Attachments:
<ol style="list-style-type: none">1. Location map2. Annexation map3. Annexation petition

ANNEXATION

Madelyn's Meadows Addition

7269 25 Street South





Department of Planning & Development
200 3rd Street North
Fargo, ND 58102
Office: (701) 241-1474
Fax: (701) 241-1526

PETITION FOR ANNEXATION

To: City of Fargo

The undersigned, being the owner of not less than three-fourths in assessed value of the following described property, hereby petitions the City of Fargo to annex said property pursuant to Section 40-51.2-03 NDCC. The following is a description of the property to be annexed:

See attached.

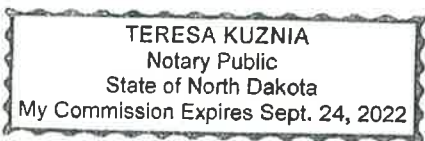
The undersigned further certifies that Sitka Investments LLC is the owner of at least three-fourths in assessed value of the property hereinabove described.

Date this 4th day of June, in the year 2018

Signature Sitka Investments, LLC by: [Signature] President

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF CASS)

On this 4th day of June, in the year 2018, before me, a notary public in and for said County and State, personally appeared James Bullis, President of Sitka Investments, LLC, a ND LLC, who executed to foregoing instrument, and acknowledged to me that he/she executed the same.



Teresa Kuznia
Notary Public
Cass County, North Dakota
My Commission Expires:

That part of the Southeast Quarter in Section 11, Township 138 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at the southeast corner of Lot 15, Block 1 of GOLDEN VALLEY ADDITION, according to the record plat thereof, said County; thence South 02 degree 16 minutes 07 seconds East along the existing City of Fargo corporate limits and parallel to the east of line of said Southeast Quarter 703.96 feet; thence South 89 degrees 05 minutes 36 seconds West 2,373.63 feet to a point of intersection with the southeasterly line of the 100.00-foot wide Right-of-Way for Cass County Drain No. 53; thence North 49 degrees 06 minutes 22 seconds East along the southeasterly line of said Drain No. 53 a distance of 152.36 feet; thence northeasterly 355.98 feet along a tangential curve concave to the northwest and along the easterly line of said Drain No. 53, having a radius of 336.48 feet and a central angle of 60 degrees 37 minutes 00 seconds; thence North 11 degrees 30 minutes 38 seconds West along the easterly line of said Drain No. 53 a distance of 291.00 feet to its intersection with the south line of said GOLDEN VALLEY ADDITION and the existing City of Fargo corporate limits; thence North 89 degrees 05 minutes 27 seconds East along the south line of said GOLDEN VALLEY ADDITION and the existing City of Fargo corporate limits 2,179.20 feet to the point of beginning.

Said tract contains 35.22 acres, more or less.

ANNEXATION MAP

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

ANNEXATION PLAT OF:

That part of the Southwest Quarter in Section 11, Township 136 North, Range 49 West, of the 77th Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of Lot 15, Block 1 of GOLDEN VALLEY ADDITION, according to the record plat thereof, said County, thence South 02 degrees 16 minutes 07 seconds East along the existing City of Fargo corporate limits and portion to the east of line of said Southwest Quarter 703.95 feet; thence South 89 degrees 05 minutes 36 seconds West 2,373.63 feet to a point of intersection with the westerly line of the 100-00-foot wide right-of-way for Cass County Drain No. 53, thence North 49 degrees 06 minutes 27 seconds East along the southeasterly line of said Drain No. 53 a distance of 152.38 feet; thence northeasterly 255.80 feet along a tangential curve concave to the northeast and along the easterly line of said Drain No. 53, having a radius of 336.48 feet and a center angle of 60 degrees 37 minutes 00 seconds, thence North 11 degrees 38 minutes West along the easterly line of said Drain No. 53 a distance of 291.00 feet to its intersection with the south line of said GOLDEN VALLEY ADDITION and the existing City of Fargo corporate limits, thence North 02 degrees 16 minutes 07 seconds East along the south line of said GOLDEN VALLEY ADDITION and the existing City of Fargo corporate limits 2,179.20 feet to the point of beginning.

Said first sample 38.77 acres, more or less.

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGMENT

I, Joshua J. Nelson, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that the plat is a true and correct representation of the area described, that said plat shows the City of Fargo corporate limits, compared to the annexed plat.



Joshua J. Nelson, PLS
Professional Land Surveyor
Registration No. 15-27992
State of North Dakota
County of Cass
On this 03 day of June, 2018, 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.

Joshua J. Nelson
Mayor, Cass County, North Dakota

My commission expires April 15, 2020
CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by the City Engineer this day of 2018

Brenda E. Berg, P.E.
City Engineer

State of North Dakota }
County of Cass } SS

On this day of 2018, before me, a notary public in and for said county, personally appeared Brenda E. Berg, City Engineer, known to me to be the person described in and who executed the same as a free act and deed.

Nelson Public, Cass County, North Dakota
My commission expires

FARGO CITY COMMISSIONER APPROVAL

Approved by the Board of Commissioners and entered filed this day of 2018

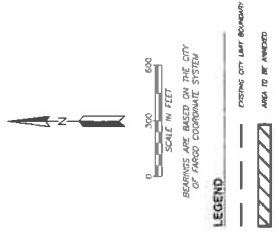
Timothy J. McInerney
Mayor

Attest: Steven Sprague, City Auditor

State of North Dakota }
County of Cass } SS

On this day of 2018, before me, a notary public in and for said county, personally appeared Timothy J. McInerney, 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.

Nelson Public, Cass County, North Dakota
My commission expires



WENCK ASSOCIATES
Responsive partner. Exceptional outcomes.
2103 Fortview Drive
Fargo, ND 58103
Ph: 701-397-8800
Fax: 701-397-8801

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3361

AN ORDINANCE ANNEXING A CERTAIN PARCEL OF LAND
LYING IN THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 138 NORTH,
RANGE 49 WEST, IN CASS COUNTY, NORTH DAKOTA

WHEREAS, A Petition for Annexation has been submitted by the owners of not less than three-fourths in assessed value of the property described in said Petition for Annexation to the City of Fargo, Cass County, North Dakota, in accordance with Section 40-51.2-03 N.D.C.C.; and,

WHEREAS, Public notice of the submission of such Petition has been given by publication in The Forum as required by Section 40-51.2-05 N.D.C.C.; and,

WHEREAS, Said Section 40-51.2-03 N.D.C.C. requires that such annexation be accomplished by ordinance,

NOW, THEREFORE,

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

Section 1. The following described property located in the Southeast Quarter (SE ¼) of Section Eleven (11), Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County North Dakota, is hereby annexed to the City of Fargo, Cass County, North Dakota:

Beginning at the southeast corner of Lot 15, Block 1 of GOLDEN VALLEY ADDITION, according to the record plat thereof, said County; thence South 02 degree 16 minutes 07 seconds East along the existing City of Fargo corporate limits and parallel to the east of line of said Southeast Quarter 703.96 feet; thence South 89 degrees 05 minutes 36 seconds West 2,373.63 feet to a point of intersection with the southeasterly line of the 100.00-foot wide Right-of-Way for Cass County Drain No. 53; thence North 49 degrees 06 minutes 22 seconds East along the southeasterly line of said Drain No. 53 a distance of 152.36 feet; thence northeasterly 355.98 feet along a tangential curve concave to the northwest and along the easterly line of said Drain No. 53, having a radius of 336.48 feet and a central angle of 60 degrees 37 minutes 00 seconds; thence North 11 degrees 30 minutes 38 seconds West along the easterly line of said Drain No. 53 a distance of 291.00 feet to its intersection with the south line of said GOLDEN VALLEY ADDITION and the existing City of Fargo corporate limits; thence North 89 degrees 05 minutes 27 seconds East along the south line of said GOLDEN VALLEY ADDITION and the existing City of Fargo corporate limits 2,179.20 feet to the point of beginning.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Said tract contains 35.22 acres, more or less.

Section 2. Effective Date.

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

CITY OF FARGO

By _____
Timothy J. Mahoney, its Mayor

ATTEST

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

330

City of Fargo Staff Report			
Title:	Madelyn's Meadows First Addition	Date:	4/26/2018
		Updated:	6/13/2018
Location:	7269 25 th Street South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Portion of the SE1/4, Sec. 11, T138N R49W, Cass County, North Dakota		
Owner(s)/Applicant:	Sitka Investments, LLC/Jon Youness	Engineer:	Wenck Associates
Entitlements Requested:	Major Subdivision (Portion of the SE1/4, Sec. 11, T138N R49W, City of Fargo, Cass County, North Dakota) Zone Change (from AG, Agriculture to SR-4, Single-Dwelling Residential, and P/I, Public/Institutional with a C-O, Conditional Overlay to restrict land uses)		
Status:	City Commission Public Hearing: June 18, 2018		

Existing	Proposed
Land Use: Undeveloped	Land Use: Residential
Zoning: AG, Agricultural	Zoning: SR-4, Single Dwelling Residential; P/I, Public/Institutional with a C-O, Conditional Overlay; AG
Uses Allowed: AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production	<p>Uses Allowed: SR-4 Allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities;</p> <p>P/I Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events; with a C-O, conditional overlay to restrict uses as shown</p> <p>AG –Allows detached houses, parks and open space, safety services, basic utilities, and crop production (Lot 9, Block 3 will remain zoned AG)</p>
Maximum Density Allowed (Residential): AG allows a maximum of 1 dwelling unit per 10 acres.	Maximum Density Allowed: SR-4 allows 12.1 dwelling units per acre; AG allows a maximum of 1 dwelling unit per 10 acres; P/I has no density standard

Proposal:

The applicant requests two entitlements:

1. A major subdivision, entitled **Madelyn's Meadows First Addition**, a three block, 45 lot subdivision, which is a plat of a portion of the SE1/4, Sec. 11, T138N R49W, Cass County, North Dakota
2. A zone change from AG: Agricultural to SR-4, Single Dwelling Residential and P/I, Public/Institutional with a C-O, Conditional Overlay for a portion of the property within the Madelyn's Meadows First Addition. (Lot 9, Block 3 will remain zoned AG)

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

Surrounding Land Uses and Zoning Districts:

- North: SR-4, Single Dwelling Residential
- East: P/I, Davies High School directly across 25th Street South; MR-2, Multi Dwelling Residential and LC, Limited Commercial across 25th Street South, south of 73rd Avenue South.
- South: AG, undeveloped
- West: Cass County Drain 53; AG-zoned undeveloped land outside of city limits on the west side of this drain.

Area Plans:

The 2007 Tier 1 Southeast Growth Plan, part of the 2007 Growth Plan, designates the area of this project as "Residential Area – lower to medium density" land use. Per that plan, both the proposed SR-4 and P/I zonings are consistent with this land use designation.



Additionally, the Fargo Preferred Future Land Use Plan Update of the Southwest Metro Transportation Plan (SWMTP) designates the land use for this area as "low density residential" development. The SWMTP was a project of the Metropolitan Council of Governments (MetroCOG). Planning staff uses the SWMTP as a guide, particularly for future street connectivity as noted below. The land use plan has not been officially adopted by the Planning Commission (This land use plan is Figure 5.1 of the SWMTP)

Context:

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

Neighborhood: The subject property is not located within a designated neighborhood.

Parks: Davies Athletic Complex (1880 70th Avenue S) is located approximately 0.39 miles east of the project site and provides the amenities of baseball/softball fields.

Pedestrian / Bicycle: There are off-road bike facilities along 25th Street South that are a component of the metro area bikeways system.

Staff Analysis:**PLAT AND ZONE CHANGE**

The plat will create a total of 45 lots--40 residential lots in three blocks, three lots to be owned by government agencies, and two lots that will remain undeveloped at this time, as noted in the chart below.

BLOCK	LOTS	ZONING	LAND USE
1	1-16	SR-4	Single-Dwelling Residential
2	1-16	SR-4	Single-Dwelling Residential
3	1-8	SR-4	Single-Dwelling Residential
3	9	Remains AG	For future development
3	10	P/I, with a C-O, Conditional overlay to restrict uses to "park and open space" and 'detention facilities"	Park and detention basin; to be conveyed to Fargo Park District after plat recordation
3	11	P/I, with a C-O, Conditional overlay to restrict uses to "park and open space" and 'detention facilities"	For future development; applicant will eventually rezone it for residential development
3	12	P/I to restrict uses to "park and open space" and 'detention facilities"	Levee; to be dedicated to City of Fargo by this plat
3	13	P/I to restrict uses to "park and open space" and 'detention facilities"	For future expansion of Drain 53; to be conveyed to Southeast Cass Water Resource District by this plat

SR-4 ZONING: The SR-4 zoned single-dwelling lots range in size from 5,763 square feet to 13,610 square feet. All lots meet the minimum required lot area of the SR-4 zone of 3,600 square feet.

P/I ZONING WITH CONDITIONAL OVERLAY: The P/I zoning with a conditional overlay to restrict land uses to "park and open space" and "detention facilities" is applied to Lots 10, 12, and 13, Block 3 as these lots will be conveyed to government agencies for uses specified in the chart above. The P/I zoning with the C-O, conditional overlay will be applied to Lot 11, Block 3 as a placeholder. Though the applicant intends to develop this lot with residential development in the future, that is a future phase. The lot does not meet the minimum required 10-acre lot size to remain zoned AG, Agricultural, so staff has applied the P/I zoning to this lot until it is ready to be developed. The applicant may apply to rezone this lot to the appropriate residential zone at the time it is developed.

AG ZONING ON LOT 9, BLOCK 3: Lot 9, Block 3 will remain zoned AG: Agricultural. Though the applicant intends to develop this lot with residential development in the future, that is a future phase. The applicant may apply to rezone this lot to the appropriate residential zone at the time it is developed.

ACCESS: The lots will be accessed by way of dedicated public streets. Necessary rights of way will be dedicated with the plat. 73rd Avenue South west of 26th Street will not be developed at this time, but will provide a public right of way connection from the developed lots of Blocks 1, 2, and 3 to the detention basin on Lot 10, Block 3

AMENITIES PLAN: The applicant has provided an amenities plan providing details of the project's streets, trails, and description of the lots to be owned by government agencies. A copy of this plan is attached. This plan was reviewed by the Public Works Project Evaluation Committee (PWPEC) on May 14, 2018.

PARKS AND TRAILS: A trail is required along 73rd Avenue South, within the 80-foot public right of way, and is so noted in the amenities plan. Lot 10, Block 3 is will be conveyed to the Fargo Park District after the plat is recorded.

STORMWATER: A detention basin will be created on Lot 10, Block 3. This lot will be owned by the Fargo Park District but the detention basin will be maintained by the City of Fargo.

MASTER PLAN: The applicant has provided a conceptual master plan (copy attached) for a larger area than is being platted at this time. The master plan illustrates future development, lots, park, and trails, with street connectivity as indicated in the Southwest Metro Transportation Plan (see graphic below).

EXCERPT FROM FIGURE 6.12, SOUTHWEST METRO TRANSPORTATION PLAN (2016)



ANNEXATION—PLAN CONSISTENCY

This property is outside of the Fargo city limits. The applicant has requested annexation through an owner-initiated petition. The proposed annexation area is depicted on the 2007 Tier 1 Southeast Growth Plan map of the 2007 Growth Plan. The 2007 Growth Plan describes the "Tier 1" designation as the "Intended Growth Sector" for the city of Fargo.

ANNEXATION--PROCESS

This City Commission hearing for this annexation is scheduled for the June 18, 2018 City Commission agenda.

DEVELOPER-SPONSORED NEIGHBORHOOD MEETING

The applicant held an informal neighborhood meeting with the residents from Golden Valley prior to the May 1, 2018 Planning Commission hearing. . He wanted to answer any questions they might have about the project before the meeting. The applicant may have a report about this meeting at the City Commission hearing.

Zoning

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

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

Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned AG, Agricultural. The proposed zoning of SR-4 is consistent with the 2007 Tier 1 Southeast

Growth Plan designation of the area of this project as “Residential Area – lower to medium density.” Per that plan, the proposed P/I zoning can be used in this land use category. Additionally, the Fargo Preferred Future Land Use Plan Update of the Southwest Metro Transportation Plan (SWMTP) designates the land use for this area as “low density residential” development. **(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. The project site will become eligible to receive City services after it has been annexed. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. Lots in the subdivision will front on dedicated public streets. The necessary rights of way for these streets will be dedicated with the plat. These streets will 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 one phone inquiry about the project and met with the neighboring property owner to the south. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity. **(Criteria satisfied)**

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

The LDC states “This Land Development Code is intended to implement Fargo’s Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo.” The Growth Plan that applies to this property is the 2007 Tier 1 Southeast Growth Plan, part of the 2007 Growth Plan. This plan designates this property as appropriate for lower to medium density residential development, which includes the SR-4 and P/I zones. The overall project provides a density of approximately one dwelling unit per acre. The actual area being developed with residential development at this time (Blocks 1 and 2 and Lots 1-8 of Block 3) provides a density of approximately four dwelling units per acre. These densities do not exceed the maximum density of 12.1 dwelling units per acre allowed in the SR-4 zone. Additionally, the Fargo Preferred Future Land Use Plan Update of the Southwest Metro Transportation Plan (SWMTP) designates the land use for this area as “low density residential” development. 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 major plat can be approved

1. Section 20-0907(C)(1)(Development Review Procedures—Subdivisions—Major Subdivisions) 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 zoning for the residential development on this property is SR-4. The SR-4 zone will accommodate the proposed single-family development. The SR-4 zoning designation is consistent with the “low density residential” designation for this property in the 2007 Tier 1 Southeast Growth Plan. Per that plan, the P/I zoning designation can also be used in this land use category. Additionally, the Fargo Preferred Future Land Use Plan Update of the Southwest Metro Transportation Plan (SWMTP) designates the land use for this area as “low density residential” development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received one phone inquiry about the project and has met with the property owner to the south.

(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 proposed zoning is SR-4. This zoning is consistent with the 2007 Tier 1 Southeast Growth Plan, which designates this property for lower to medium density residential development. Per that plan, the P/I zoning designation can also be used in this land use category. Additionally, the Fargo Preferred Future Land Use Plan Update of the Southwest Metro Transportation Plan (SWMTP) designates the land use for this area as "low density residential" development. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code.

(Criteria Satisfied)

3. 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.

The applicant has provided an amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan was reviewed by the Public Works Project Evaluation Committee (PWPEC) on May 14, 2018. The City's standard policy is that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. For this project, the applicant intends to construct the improvements himself and has been working with the City Engineer on the process for doing so.

(Criteria Satisfied)**Planning Commission Recommendation: May 1, 2018**

On May 1, 2018, by a vote of 10-0 with one Commissioner absent, the Planning Commission voted to accept the findings of recommendations of staff and recommended approval to the City Commission of the proposed: 1) zone change from AG, Agricultural to SR-4, Single Dwelling Residential and P/I, Public/Institutional with a C-O, Conditional Overlay to restrict land uses; and 2) **Madelyn's Meadows First Addition** subdivision plat as presented; as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

Staff Recommendation: June 18, 2018

Suggested Motion: "To accept the findings and recommendations of staff and the Planning Commission and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on the first reading, move to approve the proposed: 1) zone change from AG, Agricultural to SR-4, Single Dwelling Residential and P/I, Public/Institutional with a C-O, Conditional Overlay to restrict land uses; and 2) **Madelyn's Meadows First Addition** subdivision plat as presented; as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

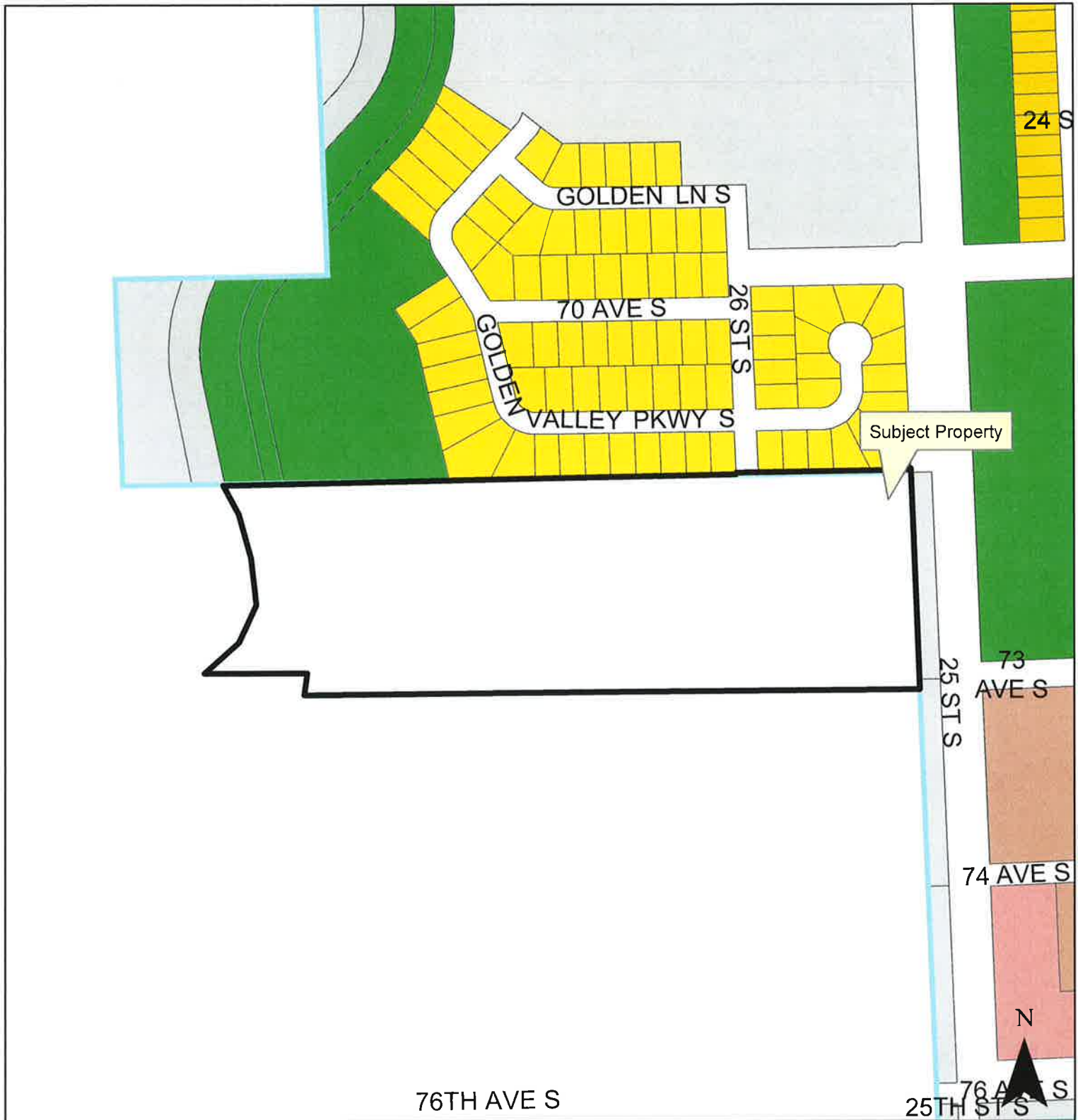
Attachments:

1. Zoning Map
2. Location Map
3. Preliminary Plat
4. Conceptual master plan
5. Amenities Plan

Plat (Major) and Zone Change (AG to SR-4 and P/I)

Madelyn's Meadows Addition

7269 25 Street South



Plat (Major) and Zone Change (AG to SR-4 and P/I)

Madelyn's Meadows Addition

7269 25 Street South



MADELYN'S MEADOWS FIRST ADDITION

A PART OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 138 NORTH, RANGE 49 WEST
TO THE CITY OF FARGO
CASS COUNTY, NORTH DAKOTA
A MAJOR SUBDIVISION PLAT

PLAT BOUNDARY DESCRIPTION

Justin J. Nelson, being duly sworn, deposes and says that he is the Registered Land Surveyor who prepared and made the attached plat of MADELYN'S MEADOWS FIRST ADDITION to the City of Fargo, a part of the Southwest Quarter of Section 11, Township 138 North, Range 49 West, Cass County, North Dakota; that said plat is a true and correct representation of the boundary survey; that all distances are correctly shown on said plat; that monuments have been placed in the ground as indicated for the guidance of future surveys and that said section of plat is correct as shown, to wit:

A plat of part of the Southwest Quarter in Section 11, Township 138 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota, describes as follows:

Beginning at southeast corner of Lot 15, Block 1 of GOLDEN VALLEY ADDITION, according to the record plat thereof, said County, thence North 89 degrees 05 minutes 27 seconds East 100.02 feet to the east line of the Southeast Quarter of Section 11, thence South 02 degrees 16 minutes 07 seconds East along the east of line of said Southeast Quarter 703.86 feet; thence South 89 degrees 05 minutes 36 seconds West 2,473.85 feet to a point of intersection with the southeasterly line of the 100.00-foot wide Right-of-Way for Cass County Drain No. 53, thence North 49 degrees 06 minutes 22 seconds East along the southeasterly line of said Drain No. 53 a distance of 132.35 feet; thence northeasterly 353.98 feet along a tangential curve concave to the northwest and along the easterly line of said Drain No. 53, having a radius of 316.48 feet and a central angle of 80 degrees 37 minutes 00 seconds; thence North 11 degrees 30 minutes 36 seconds West along the westerly line of said Drain No. 53 a distance of 291.00 feet to its intersection with the south line of said GOLDEN VALLEY ADDITION, thence North 89 degrees 05 minutes 27 seconds East along the south line of said GOLDEN VALLEY ADDITION 2,179.20 feet to the point of beginning.

We further dedicate Lot 15, Block 1, to Southeast Cass Water Resource District for purposes of Cass County Drain No. 53.

Said tract contains 36.83 acres, more or less.

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

Justin J. Nelson, FLS
Professional Land Surveyor
Registration No. LS-2752
State of North Dakota }
County of Cass } SS

On this _____ day of _____, 2018, appeared before me, Joshua J. Nelson, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Notary Public, Cass County, North Dakota
My commission expires _____



Responsive partner. Exceptional outcomes.

3303 Mapleview Drive
Fargo ND 58103
Ph. 701-297-9000
Fax. 701-297-8101

DEDICATION

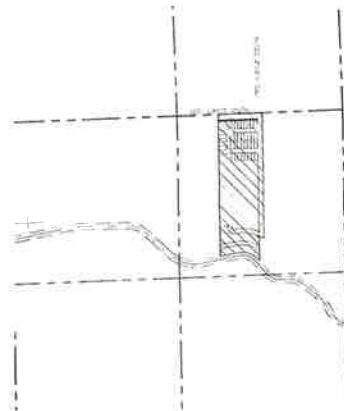
We, the undersigned, do hereby certify that we are the owners of the land described in the plat of MADELYN'S MEADOWS FIRST ADDITION, a part of the Southwest Quarter of Section 11, Township 138 North, Range 49 West, Cass County, North Dakota, that we have caused it to be platted into lots and blocks as shown on said plat and certificate of the Registered Land Surveyor, Justin J. Nelson, and that we have caused the same to be recorded in the Office of the Register and Recorder of the Public. We hereby dedicate all Streets, Lanes, Drives, Utility Easements shown on said plat to the use of the Public.

Owner: Silta Investments, LLC

James R. Bulla, President
State of North Dakota }
County of Cass } SS

On this _____ day of _____, 2018, appeared before me, James R. Bulla, President, 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 on behalf of Silta Investments, LLC.

Notary Public, Cass County, North Dakota
My commission expires _____



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

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this _____ day of _____, 2018.

Shane Frasier
Planning Commission Chair
State of North Dakota }
County of Cass } SS

On this _____ day of _____, 2018, before me, a notary public in and for said county, personally appeared Shane Frasier, Planning Commission Chair, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public, Cass County, North Dakota
My commission expires _____

FARGO CITY COMMISSION APPROVAL

Approved by the Board of Commissioners and ordered that this _____ day of _____, 2018.

Timothy J. Mahoney
Mayor
State of North Dakota }
County of Cass } SS

Alvin
Steven Springer, City Auditor
State of North Dakota }
County of Cass } SS

On this _____ day of _____, 2018, before me, a notary public in and for said county, personally appeared Timothy J. Mahoney, Mayor, and Steven Springer, City Auditor, known to me to be the persons described in and who executed the same as a free act and deed.

Notary Public, Cass County, North Dakota
My commission expires _____

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by the City Engineer this _____ day of _____, 2018.

Branda E. Darrin, P.E.
City Engineer
State of North Dakota }
County of Cass } SS

On this _____ day of _____, 2018, before me, a notary public in and for said county, personally appeared Branda E. Darrin, City Engineer, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public, Cass County, North Dakota
My commission expires _____

MADelyn's MEADOWS FIRST ADDITION

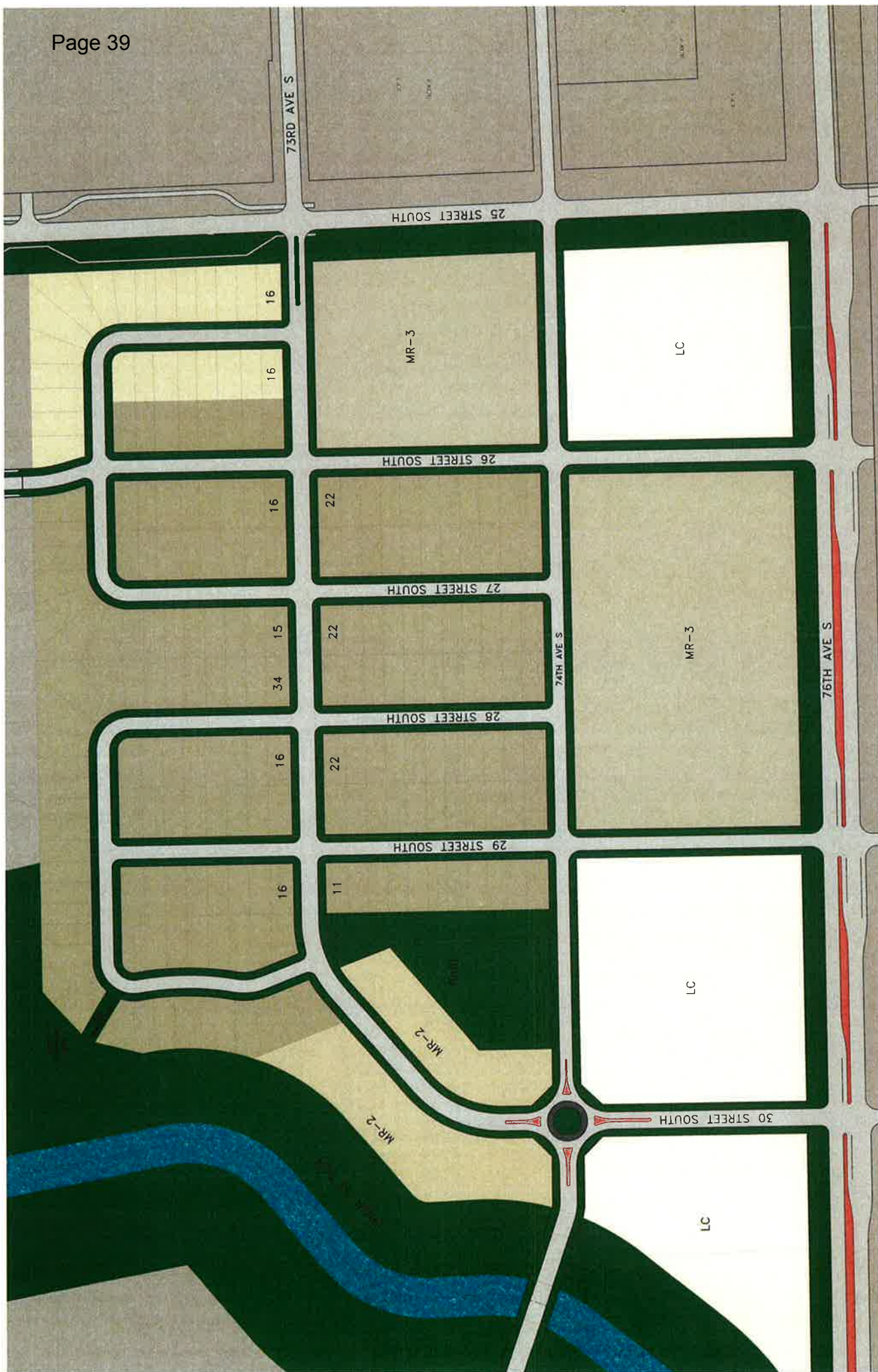
A PART OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 138 NORTH, RANGE 49 WEST
TO THE CITY OF FARGO
CASS COUNTY, NORTH DAKOTA
A MAJOR SUBDIVISION PLAT



SHEET 2 OF 3

Responsive partner. Exceptional outcomes.

3303 Fechtner Drive
Greenwood, MD 21040
Tel 701-297-9600
Fax 701-297-0601



**Site Amenities and
Project Plan
Madelyn's Meadows First Addition
April 25, 2018**

Location: The subject property is legally referenced to as Madelyn's Meadows First Addition including Lots 1-16 of Block 1, 1-16 of Block 2 and 1-13 of Block 3, a part of the plat in the Northeast quarter of the southeast quarter of Section 11, Township 138, Range 49 West, Cass County, North Dakota. The property comprises approximately 36.83 acres

Details: The project includes 40 SR-4 zoned lots on three (3) blocks and is generally located between Golden Valley and 73rd Avenue South; just south of Golden Valley Additions and west of Davies 1st Addition. Lots 9 and 11 of Block 3 will be platted but will remain zoned AG until such time as they are replatted and re-zoned in the future. Lot 10 Block 3 will be platted and Zone P/I and shall be used for detention and shall be deeded to the Fargo Park District. Lots 12 and 13 Block 3 will be zoned P/I and are to be used for the Drain 53 improvements. As approved, the project is intended to be developed as single family residential units, pursuant to the LDC. The overall gross density calculates to approximately 3.96 units per acre.

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

26th Street South between Golden Valley and 73rd Avenue South: This segment of 26th Avenue South has been designated as a *local* roadway pursuant to §20.0702.

- ROW dedication for 26th Street South shall be 70 feet;
- Street widths shall be 32 feet with parking allowed on both sides of the street, with appropriate signage to be installed by the City of Fargo at which time public improvements are completed;
- Street lighting shall be determined by the City Engineering Department and installed per city standards;
- 4.5 foot sidewalks shall be incorporated into the boulevards as required by §20.0611-

73rd Avenue South between 25th Street South and 30th Street South: This segment of 73rd Avenue South has been designated as a *collector* roadway pursuant to §20.0702.

- ROW dedication for 73rd Avenue South shall be 80 feet;
- Street widths shall be 40 feet with parking allowed on both sides of the street, with appropriate signage to be installed by the City of Fargo at which time public improvements are completed;
- Street lighting shall be determined by the City Engineering Department and installed per city standards;
- 4.5 foot sidewalks shall be incorporated into south boulevard and a 10' sidewalk shall be incorporated into the north boulevard as required by §20.0611-
- Paving for 73rd Avenue South shall commence at the 25th Street South intersection and shall terminate 125' west of the 26th Street South intersection.

Madelyn Lane South between 26th Street South and 73rd Avenue South: This segment of Madelyn's Way South has been designated as a *local* roadway pursuant to §20.0702.

- ROW dedication for Madelyn Lane South South shall be 62 feet;
- Street widths shall be 28 feet with parking allowed on one side of the street with appropriate signage to be installed by the City of Fargo at the time public improvements are completed.
- Street lighting shall be determined by the City Engineering Department and installed per city standards;

Site Amenities & Project Plan
Madelyn's Meadows Addition
Page 2

- 4.5 foot sidewalks shall be incorporated into the boulevards as required by §20.0611-

Other:

- Developer shall be responsible for coordinating the placement of a group mailbox, parking signage and street light locations with the City of Fargo Engineering Department. These details shall be determined prior to construction of any public improvements. Consideration to maintenance and snow removal for a group mailbox shall be outlined within restrictive covenants for the project.

Engineering and Construction Improvements: The developer shall rely upon and collaborate with the City of Fargo Engineering Department on the design and construction of all public improvements, inclusive of storm water facilities and boulevards, as applicable.

Funding of Improvements: The following shall apply respective to assessed public improvements:

- Public improvements shall be assessed to the benefitting properties, pursuant to city policy

This Amenities Plan is hereby approved.

Jim Bullis, Sitka Investments, LLC

date

Brenda E. Derrig, City Engineer

date

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3302

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN MADELYN'S MEADOWS ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on May 1, 2018; and,

WHEREAS, the rezoning changes were approved by the City Commission on June 18, 2018,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots One (1) through Sixteen (16), Block One (1); Lots One (1) through Sixteen (16), Block Two (2); and Lots One (1) through Eight (8), Block Three (3), Madelyn's Meadows Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "SR-4", Single-Dwelling Residential, District;

Section 2. The following described property:

Lots Ten (10) through Thirteen (13), Block Three (3), Madelyn's Meadows Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "P/I", Public and Institutional, District with a "C-O", Conditional Overlay as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- Permitted uses are restricted to “park and open space” and “detention facilities”.

1
2 Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his
office so as to conform with and carry out the provisions of this ordinance.

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

5
6
7
8 (SEAL)

9 Attest:

10
11
12 _____
Steven Sprague, City Auditor

Timothy J. Mahoney, Mayor

First Reading:
Second Reading:
Final Passage:




ENGINEERING DEPARTMENT
200 3RD Street North
Fargo, North Dakota 58102
Phone: (701) 241-1545
Fax: (701) 241-8101

33d

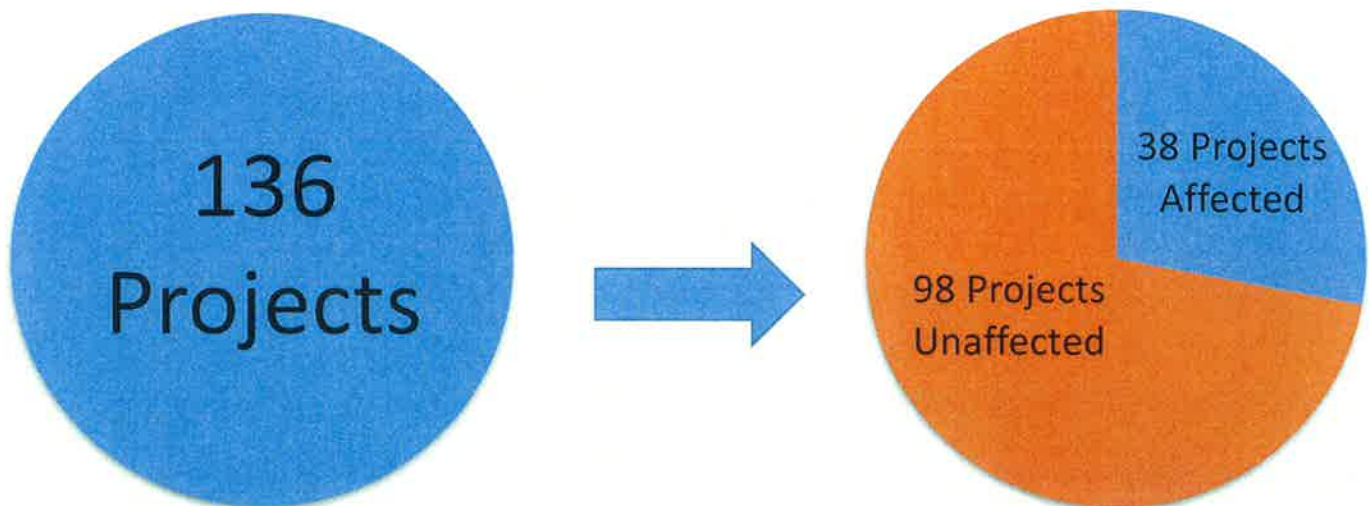
June 13, 2018

To: Honorable City Commission

From: Brenda Derrig, Assistant City Engineer/Division Engineer – Engineering Services 

Subject: Special Assessment Continuance to July 2, 2018

On June 18th, the City Commission is scheduled to have the special assessment hearing associated with the projects approved by the Special Assessment Commission on May 2, 2018. We are asking for a continuance until July 2, 2018. The request for this two-week extension is to complete the reassessment of the projects that were created since the adoption of the 2016 Infrastructure Funding Policy. Between the adoption of the 2016 Infrastructure Funding Policy on November 23, 2015 and the interim approval of the 2013 Infrastructure Funding Policy on May 21, 2018, there were 136 projects created.



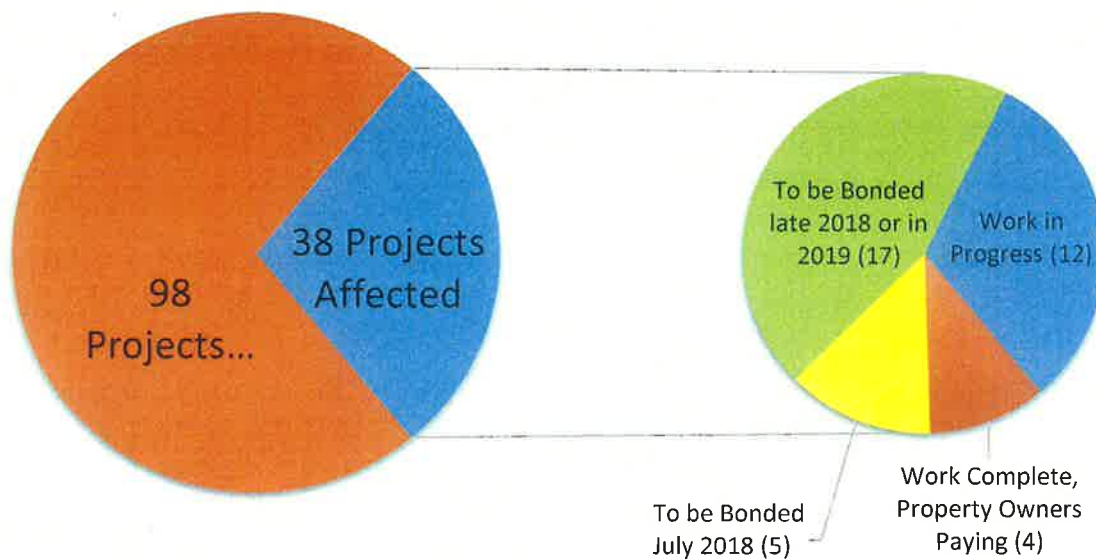
Of those 136 projects, 38 were affected by the change in the policy.

*Street Lighting
Sidewalks*

*Design & Construction
Traffic Engineering*

*Truck Regulatory
Flood Plain Mgmt.*

*Mapping & GIS
Utility Locations*



Of those 38 projects that were affected, 4 have already been approved by City Commission and property owners are already making payments on their special assessments; 5 are complete and ready to be bonded in July 2018; 17 are complete and will be bonded either later in 2018 or in 2019; and 12 are still under construction.

Once we were able to determine which projects needed to be reevaluated, we were then able to start applying the new infrastructure funding policy to each project. Unfortunately, it is not as simple as plugging a few new numbers into a program, but rather each project had to be meticulously dissected to ensure compliance with the new policy. This meant that our Special Assessments Division had to start from scratch on each of the 38 projects. This level of analysis is necessary because the two policies were fairly different; one utilized percentage splits (for example, 50% City and 50% Special Assessed) and the other utilized capped costs (for example, no more \$75 per front foot for local street paving). That means all project costs for items like sanitary sewer, water main, storm sewer, paving, street lights, and traffic signals for every project needed to be reevaluated and spread appropriately to every parcel within the Special Assessment District of the project. Fortunately, some of the work done initially can be reused, which has saved the team significant time. Originally this effort took anywhere from half a day to 5 days per project, depending on the size and scope of the project, but the reevaluation is taking about half the time. This is a painstaking task, but necessary to ensure the information provided is correct and complies with the new policy.

Once Special Assessments is complete with their task of determining the amount to be special assessed, we can then determine the difference in project funding for each project and evaluate viable funding plans. We anticipate this process to be complete by the end of June and plan to share our results at the July 2, 2018 Commission Meeting.