

FARGO PLANNING COMMISSION AGENDA
Tuesday, December 7, 2019 at 3:00 p.m.

A: Approve Order of Agenda

B: Minutes: Regular Meeting of November 5, 2019

C: Brown Bag Luncheon – No December Meeting

D: Public Hearing Items:

1. Continued hearing on an application requesting a Plat of **Commerce on 12th Fifth Addition** (Minor Subdivision) a replat of Lots 4-5, Block 1, Commerce on 12th Third Addition, to the City of Fargo, Cass County, North Dakota. (Located at 5570 and 5590 13th Avenue North) (Fargo Commercial Properties/ PRG) (dk): CONTINUED TO FEBRUARY 4, 2020
2. Continued hearing on an application requesting a Plat of **Rail Crossing First Addition** (Minor Subdivision) a replat of Lots 6-20, Block 11; Lots 14-21, Block 12; portion of the vacated alley in Block 11; and a portion of vacated 22nd Street; all in Tyler's Addition, to the City of Fargo, Cass County, North Dakota. (Located at 2161 and 2215 3rd Avenue North; 321 23rd Street North) (Rail Crossing LLC/Fabricators Unlimited) (lm): CONTINUED TO JANUARY 7, 2020
3. Continued hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential to MR-1, Multi-Dwelling Residential on Lot E and the South 40 feet adjacent to Lot E, Block 37, **Eddy & Fullers Auditors Outlots**. (Located at 1437 6th Avenue South) (James and Carol Baum Living Trust) (ms)
- 4a. Hearing on an application requesting a Growth Plan Amendment of the proposed **Valley View Estates Addition**. (Located at 4952, 5052, and 5080 36th Avenue South) (K Square Development LLC/ Eagle Ridge Development LLC) (dk): CONTINUED TO JANUARY 7, 2020
- 4b. Hearing on an application requesting a Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential, MR-2, Multi-Dwelling Residential, and P/I, Public and Institutional within the proposed **Valley View Estates Addition**. (Located at 4952, 5052, and 5080 36th Avenue South) (K Square Development LLC/ Eagle Ridge Development LLC) (dk): CONTINUED TO JANUARY 7, 2020
- 4c. Hearing on an application requesting a Plat of **Valley View Estates Addition** (Major Subdivision) a plat of an unplatted portion of the Southwest Quarter and the Southeast Quarter of Section 28, Township 139 North, Range 48 West of the 5th Principal Meridian to the City of Fargo, Cass County, North Dakota. (Located at 4952, 5052, and 5080 36th Avenue South) (K

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

Minutes are available on the City of Fargo Web site at www.FargoND.gov/planningcommission.

Square Development LLC/ Eagle Ridge Development LLC) (dk): CONTINUED TO JANUARY 7, 2020

- 5a. Hearing on an application requesting a Zoning Change from LC, Limited Commercial with a C-O, Conditional Overlay to MR-3, Multi-Dwelling Residential on the proposed **Prairie Grove Fifth Addition**. (Located at 5354 26th Street South) (Prairie Grove Inc./Great States Construction) (kb)
- 5b. Hearing on an application requesting a Plat of **Prairie Grove Fifth Addition** (Minor Subdivision) a replat of Lot 1, Block 4, Prairie Grove First Addition to the City of Fargo, Cass County, North Dakota. (Located at 5354 26th Street South) (Prairie Grove Inc./Great States Construction) (kb)
- 6. Hearing on an application requesting a Plat of **Progressive Retail Center Addition** (Minor Subdivision) a replat of portions of Lots 1-2, Block 2 of Replat of Interstate Services Subdivision to the City of Fargo, Cass County, North Dakota. (Located at 1015 38th Street North) (RM Realty Fargo LLC/MBN Engineering) (ms)
- 7. Hearing on an application requesting a Plat of **Liberty Square Fifth Addition** (Minor Subdivision) a replat of Lots 1-2, Block 1, Liberty Square Fourth Addition to the City of Fargo, Cass County, North Dakota. (Located at 4351 and 4445 23rd Avenue South) (Michael J. Bullinger/Cityscapes Development) (ms)
- 8a. Hearing on an application requesting a Zoning Change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial on a portion of Lots 7 and 8 and a portion of the adjacent vacated alley of **Lane's Subdivision of Block 69 of Ohmer's Subdivision**. (Located at 1206 13th Avenue North) (Sigma Psi Housing LLC/MBN Engineering, Inc.) (lm)
- 8b. Hearing on an application requesting a Conditional Use Permit to allow Group Living in the LC, Limited Commercial zoning district on a portion of Lots 1 and 2, a portion of the adjacent vacated alley, and a portion of Lots 7 and 8 of **Lane's Subdivision of Block 69 of Ohmer's Subdivision**. (Located at 1261 University Drive North and 1206 13th Avenue North) (Sigma Psi Housing LLC/MBN Engineering, Inc.) (lm)
- 8c. Hearing on an application requesting a Conditional Use Permit to allow an Alternative Access Plan on a portion of Lots 1 and 2, a portion of the adjacent vacated alley, and a portion of Lots 7 and 8 of **Lane's Subdivision of Block 69 of Ohmer's Subdivision**. (Located at 1261 University Drive North and 1206 13th Avenue North) (Sigma Psi Housing LLC/MBN Engineering, Inc.) (lm)

E: Other Items:

- 1. Approval of 2020 Planning Commission meeting calendar

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BOARD OF PLANNING COMMISSIONERS MINUTES

Regular Meeting:

Tuesday, November 5, 2019

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, November 5, 2019.

The Planning Commissioners present or absent were as follows:

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

Absent: Mike Magelky, Melissa Sobolik

Chair Gunkelman called the meeting to order and welcomed new Planning Commission Member Art Rosenberg.

Business Items:

Item A: Approve Order of Agenda

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

Item B: Minutes: Regular Meeting of October 1, 2019

Member Stofferahn moved the minutes of the October 1, 2019 Planning Commission meeting be approved. Second by Member Scherling. All Members present voted aye and the motion was declared carried.

Item C: November 20, 2019 Brown Bag Luncheon: Cancelled

Item D: Other Items:

Item 1: Land Development Code Diagnostic – Planning Commission Work Session

Planning Coordinator Aaron Nelson introduced the Lisa Wise Consulting team.

Senior Associate and Project Manager Kathryn Slama, Lisa Wise Consulting, gave an overview of the project and noted the first steps are to evaluate the strengths and weaknesses of the current code to develop a starting point. She stated that a public input meeting would be held tonight from 5:00 – 6:30 p.m. in the Oak Room of the Cass County Public Health Building.

Ms. Slama introduced other members of the Land Development Code Diagnostic team as Scott Harmstead, Senior Consultant with SRF Consulting, and Lisa Wise, President

of Lisa Wise Consulting, Inc. She presented an overview of the project, the review process, and timeline of next steps. She noted the packet includes key topic questions they are looking for feedback on from the Board Members.

Board discussion was held regarding the importance of developing a code that clears up gray areas that are open to interpretation, setting up a process for variations, developing best practices, maintaining user friendliness, and having flexibility and predictability.

Ms. Slama noted that Board Members are invited to also submit written responses to staff to share with the consulting team.

Item E: Public Hearing Items:

Item 1: Section 14, Township 138 North, Range 49 West

Continued hearing on an application requesting a Conditional Use Permit to allow for non-farm commercial uses in the Agricultural zoning district on a portion of the West half of the Southeast quarter of Section 14, Township 138 North, Range 49 West. (Located at 2805 88th Avenue South) (Eric Baker): WITHDRAWN

A Hearing had been set for April 2, 2019. At the April 2, 2019 meeting, the Hearing was continued to May 7, 2019. At the May 7, 2019 meeting, the Hearing was continued to June 4, 2019. At the June 4, 2019 meeting, the Hearing was continued to July 2, 2019. At the July 2, 2019 meeting, the Hearing was continued to October 1, 2019. At the October 1, 2019 meeting, the Hearing was continued to this date and time; however, the applicant has requested this item be withdrawn.

Item 2: Harwoods First Addition

Continued hearing on an application requesting a Zoning Change from DMU, Downtown Mixed-Use with a C-O, Conditional Overlay to DMU, Downtown Mixed-Use and a request to repeal the C-O, Conditional Overlay on Lot 1, Block 7, Harwoods First Addition. (701 University Drive North and 702 12th Street North) (701 Collective/Chris Hawley): APPROVED

A Hearing had been set for October 1, 2019. At the October 1, 2019 meeting, the Hearing was continued to this date and time.

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

Applicant Chris Hawley spoke on behalf of the application.

John Krings, Attorney at Kaler Doeling, PLLP, spoke on behalf of the application.

Aubrey Zuger, Spartan Nash Representative, spoke against the application noting that a successful parking agreement has not been reached between the two parties.

Member Morgan moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Zoning Change from DMU, Downtown Mixed-Use with a C-O, Conditional Overlay, to DMU, Downtown Mixed-Use and a request to repeal the C-O, Conditional Overlay as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the Roosevelt Neighborhood Plan, the Standards of Section 20-0906.F (1-4), and all other applicable requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Schneider, Scherling, Holtz, Stofferahn, Morgan, Bachmeier, Rosenberg, Tasa, and Gunkelman voted aye. Absent and not voting: Members Sobolik and Magelky. The motion was declared carried.

Item 3: Rail Crossing First Addition

Continued hearing on an application requesting a Plat of Rail Crossing First Addition (Minor Subdivision) a replat of Lots 6-20, Block 11; Lots 14-21, Block 12; portion of the vacated alley in Block 11; and a portion of vacated 22nd Street; all in Tyler's Addition, to the City of Fargo, Cass County, North Dakota. (Located at 2161 and 2215 3rd Avenue North; 321 23rd Street North) (Rail Crossing LLC/Fabricators Unlimited): CONTINUED TO DECEMBER 3, 2019

A Hearing had been set for October 1, 2019. At the October 1, 2019 meeting, the Hearing was continued to this date and time; however, the applicant has requested this item be continued to December 3, 2019.

Item 4: Commerce on 12th Fifth Addition

Continued hearing on an application requesting a Plat of Commerce on 12th Fifth Addition (Minor Subdivision) a replat of Lots 4-5, Block 1, Commerce on 12th Third Addition, to the City of Fargo, Cass County, North Dakota. (Located at 5570 and 5590 13th Avenue North) (Fargo Commercial Properties/ PRG): CONTINUED TO DECEMBER 3, 2019

A Hearing had been set for October 1, 2019. At the October 1, 2019 meeting, the Hearing was continued to this date and time; however, the applicant has requested this item be continued to December 3, 2019.

Item 5: Timber Parkway Fourth Addition

Hearing on an application requesting a Plat of Timber Parkway Fourth Addition (Minor Subdivision) a replat of Lot 4, Block 1, Timber Parkway Third Addition to the City of Fargo, Cass County, North Dakota. (Located at 4801 Timber Parkway South) (PLC Investments, LLC/PACES Lodging Corporation): APPROVED

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

Member Scherling moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed Subdivision Plat Timber Parkway Fourth Addition as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the 2001 Growth Plan (as amended), the Standards of Article 20-06, and all other applicable requirements of the Land Development Code. Second by Member Tasa. On call of the roll Members

Bachmeier, Scherling, Morgan, Rosenberg, Schneider, Holtz, Stofferahn, Tasa, and Gunkelman voted aye. Absent and not voting: Members Sobolik and Magelky. The motion was declared carried.

Item 6: Golden Valley Third Addition

6a. Hearing on an application requesting a Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential and P/I, Public and Institutional with a C-O, Conditional Overlay within the boundaries of the proposed Golden Valley Third Addition. (Located at 6737 25th Street South) (76th Street Investments, LLC/Jon Youness): APPROVED

6b. Hearing on an application requesting a Plat of Golden Valley Third Addition (Major Subdivision) a replat of Lot 1, Block 4, Golden Valley Second Addition and a part of the Northeast quarter of Section 11, Township 138 North, Range 49 West, to the City of Fargo, Cass County, North Dakota. (Located at 6737 25th Street South) (76th Street Investments, LLC/Jon Youness): APPROVED

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

Applicant Jon Youness spoke on behalf of the application.

Member Tasa moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed 1) Zoning Change from AG, Agricultural to SR-4, Single-Dwelling Residential and P/I, Public and Institutional with a C-O, Conditional Overlay to restrict land uses as outlined within the staff report, and 2) Subdivision Plat Golden Valley Third Addition as outlined within the staff report, as the proposal complies with the GO2030 Fargo Comprehensive Plan, the 2007 Growth 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. Second by Member Bachmeier. On call of the roll Members Rosenberg, Holtz, Scherling, Morgan, Schneider, Stofferahn, Tasa, Bachmeier, Gunkelman voted aye. Absent and not voting: Members Sobolik and Magelky. The motion was declared carried.

Item 7: Eddy & Fullers Auditors Outlots

Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential to MR-1, Multi-Dwelling Residential on Lot E and the South 40 feet adjacent to Lot E, Block 37, Eddy & Fullers Auditors Outlots. (Located at 1437 6th Avenue South) (James and Carol Baum Living Trust): CONTINUED TO DECEMBER 3, 2019

Assistant Planner Maggie Squyer presented history on the property and the staff report, stating approval criteria has not been met and staff is recommending denial. She provided Board Members an additional petition received to deny the application.

Ms. Squyer stated that the property is legally non-conforming.

Applicant Jim Baum spoke on behalf of the application.

Discussion was held addressing what legally non-conforming means, and what it allows per the Land Development Code.

Neal Graf, realtor of the Applicant, spoke in favor of the application.

Planning and Development Assistant Director Mark Williams provided a history of the re-zoning process that took place in 2002 and noted that property owners were contacted at that time and had the option to opt out of the re-zoning. He noted that the current property owners were contacted and did not opt out.

Discussion continued on the process of providing zoning compliance letters for banks, and if the legally non-conforming letter for this property had been requested.

Mr. Baum noted that the legally non-conforming property letter had not been requested.

Planning and Development Director Nicole Crutchfield noted this is the type of case the Land Development Code Diagnostic team will be taking a close look at. She also stated that if the zoning is changed, the property would then be allowed in the future to allow any MR-1, Multi-Dwelling Residential uses.

Russel Ford-Dunker, 1431 5th Avenue North, spoke in favor of the application noting that he is the prospective buyer of the property. He shared the issues the property currently faces such as lending issues and future property updates.

City Attorney Eric Johnson spoke confirming that the property is legally non-conforming.

Member Schneider moved to continue this item to the December 3, 2019 Planning Commission meeting. Second by Member Scherling. On call of the roll Members Tasa, Holtz, Bachmeier, Rosenberg, Morgan, Stofferahn, Schneider, Scherling, and Gunkelman voted aye. Absent and not voting: Members Sobolik and Magelky. The motion was declared carried.

Item 8: Eagle Valley Addition

Hearing on an application requesting a Conditional Use Permit to allow for temporary use of a residential home as a sales and construction office on Lot 16, Block 4, Eagle Valley Addition. (Located at 7455 20th Street South) (HS Investments/Matthew Hauff): APPROVED

Ms. Squyer presented the staff report stating all approval criteria have been met and staff is recommending approval.

Applicant representative Ian Bullis spoke on behalf of the application.

Member Scherling moved the findings and recommendations of staff be accepted and the Conditional Use Permit be approved to allow the temporary use of a residential

home as a sales and construction office as the proposal complies with Section 20-0909.S (1-6), and all other applicable conditions of the Land Development Code, with the following conditions:

- 1) The approved temporary use must be terminated within 90 days of 90% of the lots in the subdivision being sold to persons, firms, or entities other than the permittee.

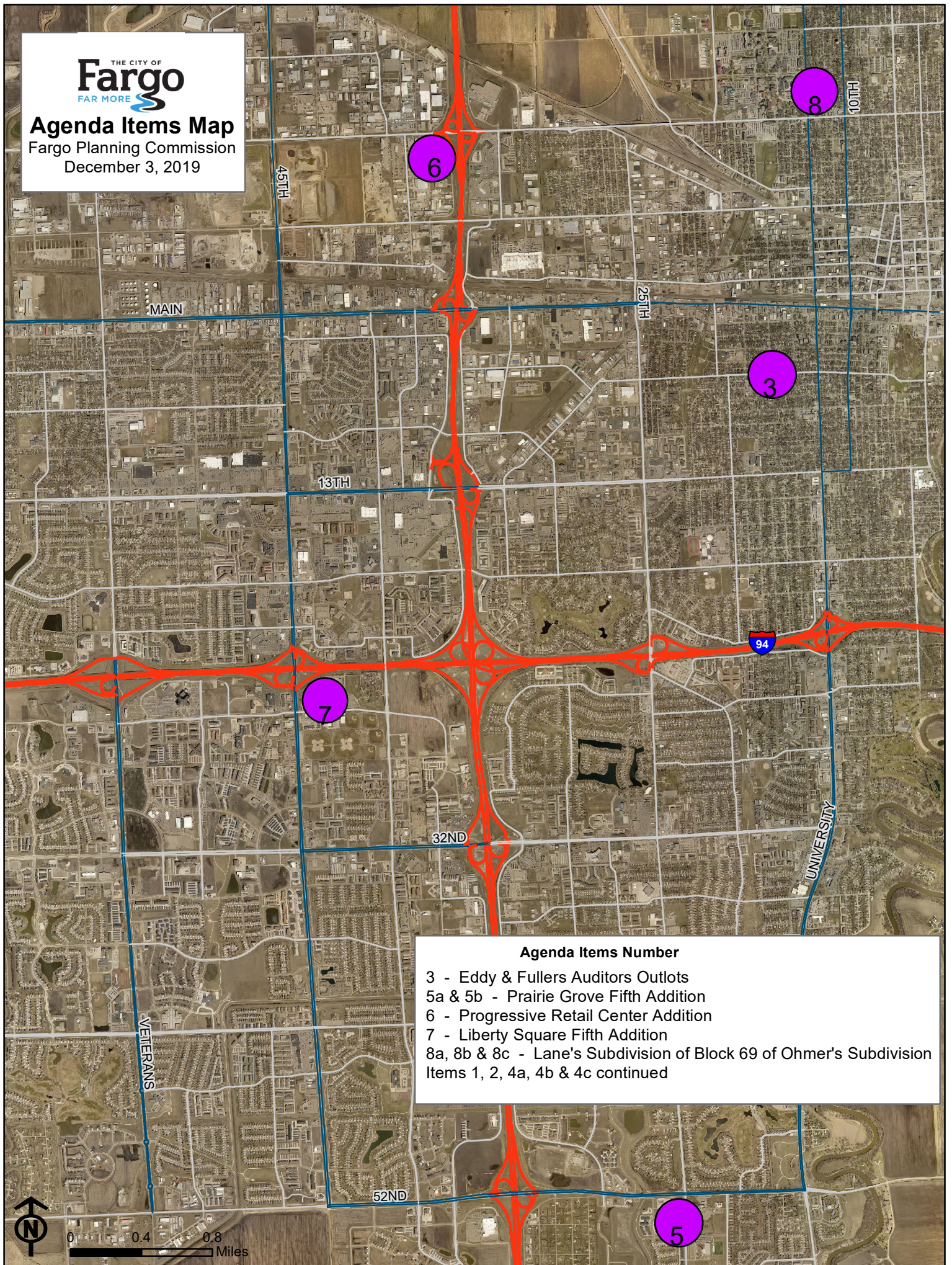
Second by Member Schneider. On call of the roll Members Stofferahn, Tasa, Schneider, Rosenberg, Morgan, Holtz, Scherling, Bachmeier, and Gunkelman voted aye. Absent and not voting: Members Magelky and Sobolik. The motion was declared carried.

The time at adjournment was 4:56 p.m.



Agenda Items Map

Fargo Planning Commission
December 3, 2019



Agenda Items Number

- 3 - Eddy & Fullers Auditors Outlots
- 5a & 5b - Prairie Grove Fifth Addition
- 6 - Progressive Retail Center Addition
- 7 - Liberty Square Fifth Addition
- 8a, 8b & 8c - Lane's Subdivision of Block 69 of Ohmer's Subdivision
- Items 1, 2, 4a, 4b & 4c continued

**City of Fargo
Staff Report**

Title:	Eddy & Fuller's Auditors Outlots	Date:	10/29/2019
		Updated:	11/26/2019
Location:	1437 6 th Avenue South	Staff Contact:	Maggie Squyer
Legal Description:	Lot E & South 40 feet adjacent to Lot E, Block 37, Eddy & Fuller's Auditors Outlots		
Owner(s)/Applicant:	James and Carol Baum Living Trust	Engineer:	N/A
Entitlements Requested:	Zoning Change (from SR-3, Single-Dwelling Residential to MR-1, Multi-Dwelling Residential)		
Status:	Planning Commission Public Hearing: December 3, 2019		

Existing	Proposed
Land Use: Multi-Dwelling Residential	Land Use: unchanged
Zoning: SR-3, Single-Dwelling Residential	Zoning: MR-1, Multi-Dwelling Residential
Uses Allowed: SR-3 allows detached houses, attached houses, duplexes, day care facilities of limited size, parks and open areas, religious institutions, safety services, schools, and basic utilities.	Uses Allowed: MR-1 allows detached houses, attached houses, duplexes, multi-dwelling structures, group living, community services, day care facilities of limited size, parks and open areas, religious institutions, safety services, schools, and basic utilities.
Maximum Density: 8.7 units per acre	Maximum Density Allowed: 16 units per acre

Proposal:

PROJECT HISTORY NOTE: This project was heard at the November 5, 2019 Planning Commission meeting. After hearing all presentations and testimony, the Planning Commission moved to continue this item to the December 3, 2019 Planning Commission meeting.

The applicant is seeking a zoning change from SR-3, Single-Dwelling Residential to MR-1, Multi-Dwelling Residential. The property is located at 1437 6th Avenue South and encompasses approximately 0.20 acres. The City has documentation to show the existing structure on the property was built as a triplex in 1946. At the time of construction, the triplex was a conforming use in a zoning district that is comparable to the present day low-density, multi-dwelling residential, zoning district.

The applicant has provided a letter and photographs to add context to the history of the property (see attachment).

In 2002, a large-scale rezoning effort was undertaken by the City with the intent of providing the Jefferson and Hawthorne neighborhoods with uniform single-family zoning districts that support the mission of the Neighborhood Revitalization Initiative (NRI). As part of the process, property owners included in the proposed rezoning were notified of the possibility of coming into legal non-conformity. The subject property (1437 6th Avenue South) is one such 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: SR-3, Single-Dwelling Residential with detached housing;
- East: SR-3, Single-Dwelling Residential with a duplex;

- South: SR-3, Single-Dwelling Residential with detached housing;
- West: SR-3, Single-Dwelling Residential with detached housing

Area Plans:

The subject property is part of the Jefferson/Carl Ben neighborhood, which is currently under evaluation as part of the City's Core Neighborhoods Plan. An area plan for the Jefferson/Carl Ben neighborhood may be identified as a result of the Core Neighborhoods Plan.

Neighborhood Context:

Neighborhood: Jefferson/Carl Ben

Schools: The subject property is located within the boundary of the Fargo School District, specifically Jefferson Elementary, Carl Ben Eielson Middle, and South High Schools.

Parks: Robert D. Johnson Recreation Center (1104 2nd Avenue South) and Jefferson West Park (1904 4th Avenue South) are located within half of a mile from the subject property, providing amenities of meeting rooms, rentals, volleyball courts, basketball courts, picnic tables, soccer fields, recreational trails, skate park, and playground equipment.

Pedestrian / Bicycle: None

Staff Analysis:

Activity since November 5th Planning Commission

Following continuation of this item to the December 3, 2019 Planning Commission meeting, staff wrote a Zoning Confirmation Letter to clarify the legal standing of the subject property. A copy of the Zoning Confirmation Letter is attached. Copies of the letter were sent to the applicant, the prospective buyer, the preferred lender of the prospective buyer, and the appraiser of the subject property. The Zoning Confirmation Letter states that the subject property is both a legally non-conforming structure and a legally non-conforming use. After receiving the Zoning Confirmation Letter, the appraisal of the subject property was updated to reflect the property value. The updated appraisal was accepted by the lender.

Planning staff also met with the prospective buyer to discuss possible site work that could be done on the subject property if it were zoned MR-1 versus SR-3. If the property were rezoned to MR-1, Residential Protection Standards would apply, which add additional setback requirements to the north, east, and west property lines. A residential protection buffer would also be required.

Zoning

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

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

Staff is unaware of any zoning map error in regard to the subject property. The zone change is requested in order to bring the existing structure back into conformity with the Land Development Code. Today, the subject property is both a legally non-conforming structure and a legally non-conforming use. Under Section 20-1002.D.3 of the LDC, a non-conforming use that is residential in nature may be restored, rebuilt, and repaired in its entirety after incurring damage of more than 50 percent of its structural value prior to the damage, provided the property owner follow the five criteria stated in that section. To the benefit of the property owner, the City has the necessary documentation to prove that the existing structure is a legally non-conforming use and can provide this evidence to the property owner upon request. This exception for residential non-conformities makes the request for rezone on the subject property unnecessary.

Under the current SR-3 zoning district, if the existing triplex is damaged to the extent of more than 50 percent of its pre-destruction value, and the five criteria of Section 20-1002.D.3 are not met, it may only be rebuilt in conformance with the dimensional standards of the SR-3, Single-Dwelling Residential, zoning district. This aligns with the intent of the 2002 City-initiated rezoning, which was to promote and stabilize the existing single-family character of the Jefferson neighborhood. Based on the 2012 Jefferson/Carl Ben Neighborhood Land Use map, staff believes it is still the desire of the neighborhood to support single-dwelling residential zoning. The request for rezone does not arise as a concern for the highest and best use of the subject property, but at the financial interest of the property owner, which is in conflict with the existing zoning designation. A mid-block rezone from a single-dwelling district to a multi-dwelling district could set a negative precedent for future cases. For these reasons, staff is not in support of the requested rezone.

(Criteria NOT Satisfied)

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

The subject property is served with city services (water, sewer, streets, police/fire protection, etc.) as well as other utility services as needed. The City Engineer and other applicable review agencies evaluated this proposal. No deficiencies to provide the necessary public services, facilities and programs to this development have been identified. **(Criteria Satisfied)**

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

Staff has no evidence that would suggest this proposal 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, staff has received two inquiries in response to these notices. One letter of opposition has been received and is attached below. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity.

(Criteria Satisfied)

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff finds that the proposal is not consistent with the adopted plans of the City, including the 2005 Jefferson-Carl Ben Eielson Neighborhood Plan, or the 2002 Jefferson Hawthorne Neighborhood Rezoning.

(Criteria NOT Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and recommend denial to the City Commission of the proposed zoning change from SR-3, Single-Dwelling Residential to MR-1, Multi-Dwelling Residential on the basis that it **does not** satisfactorily comply with the Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

Planning Commission Recommendation: December 3, 2019

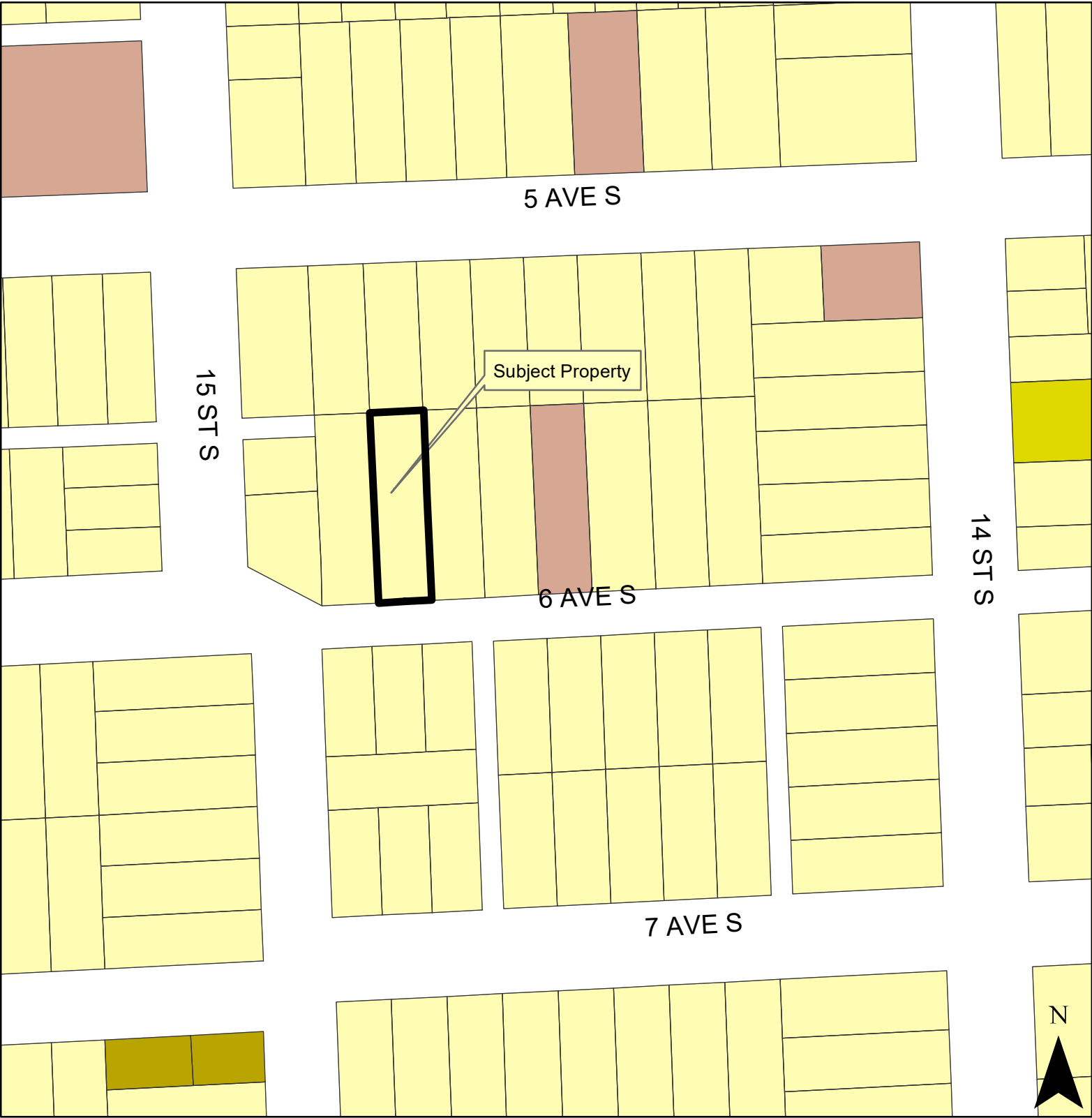
Attachments:

1. Zoning Map
2. Location Map
3. Letter from the Applicant
4. Letter of Opposition
5. Zoning Confirmation Letter

Zone Change (SR-3 to MR-1)

Eddy & Fullers Auditors Outlots

1437 6th Ave S



Zone Change (SR-3 to MR-1)

Eddy & Fullers Auditors Outlots

1437 6th Ave S



1
October 30, 2019

TO: Auditor's Office + City Planner

FROM: James + Carol Baum

RE: Zone change at 1437 6th Ave. S.

We bought the 3-plex at 1437 6th Ave. S. in 1980. The lot was zoned as a 3-plex in 1924. Our building was permitted + built in 1947 as a 3-plex. It is not a conversion.

Our family lived in the main floor apartment and we rented the other two. Our children started school at Jefferson Elementary.

We've owned the property for 39 years + have been attentive to improving + maintaining our investment. This is a retirement investment. We take great pride in our property + believe it's one of the nicest properties on the block.

Our building provides affordable housing for singles or families close in to downtown. Some people can't afford a duplex apartment or single family home.

We are now in our seventies, had a health scare, and want to sell + have discovered in 2004 the Jefferson Neighborhood Assn. put in a request to have single family zoning on our block. The zoning was changed from MR-1 to SR-3. We do have a buyer (who lives in the Jefferson neighborhood). The bank will not approve the investment loan with the apt. bldg. being a 3-plex & the lot zoned SR-3. Please consider changing our lot back to MR-1.

There have been no protests from neighbors regarding this zoning change request. The property itself stays the same, it's only the zoning we wish would change to make it match the # of apts in the building.

James Baum

Carol Baum

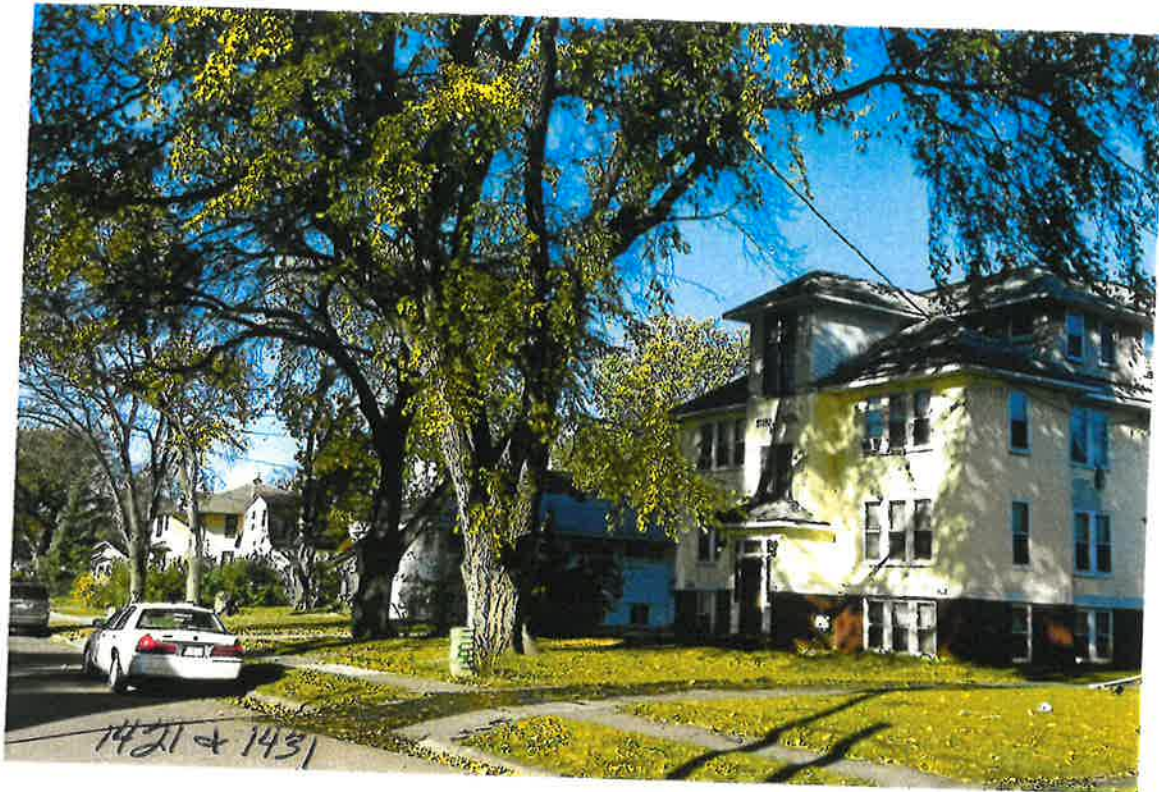
James Baum

Carol Baum

10-28-19 1437 6th Ave S.



10-28-19

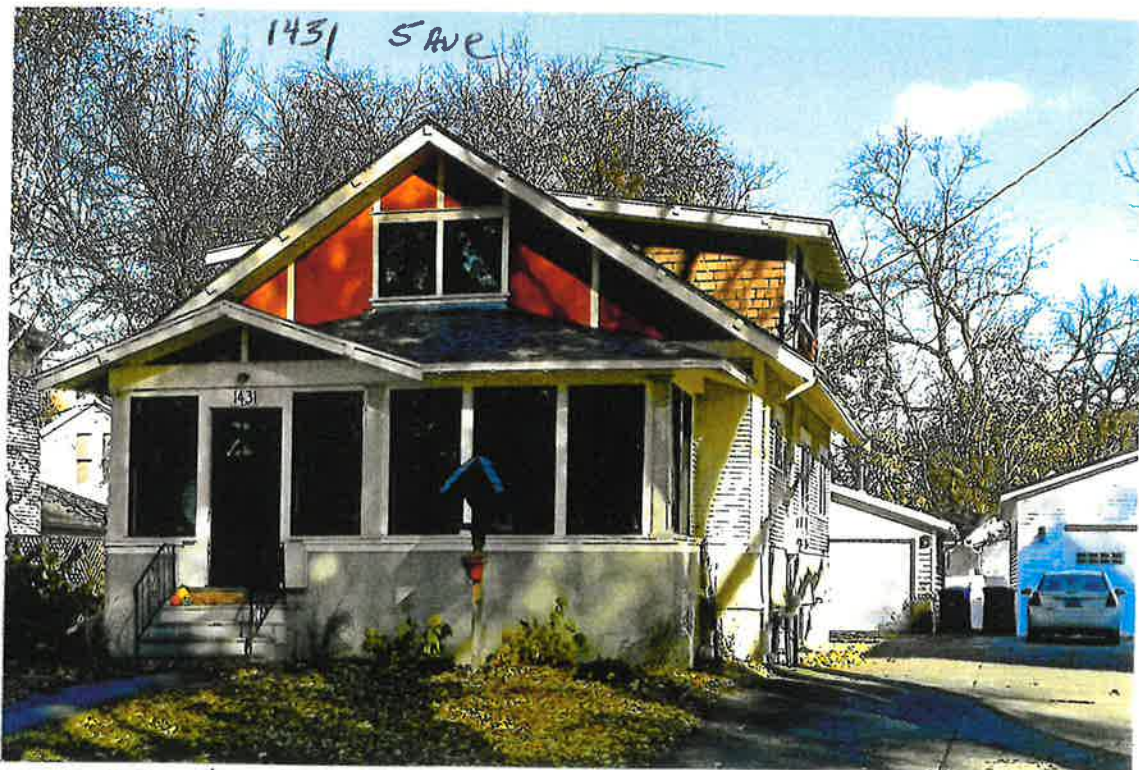


1421 6th Ave S. - 4-plex

1431 6th Ave S. - multi-plex

10-28-19

1421 6th Ave S. - 4plex



Potential buyers home
1431 5th Ave S.

Hi Maggie – thank you for taking the time to talk to me yesterday about the zoning change application to be discussed on November 5. It is to change the zoning on the property that sits next to my house – I am at 1441 6th Ave S and the zoning change property is at 1437 6th Ave S.

This property is already a triplex apartment complex with three garages behind it. I am not sure what changing it to a multi-dwelling residential zone would do other than make it so more people might live in this property. There is not enough parking available for what is currently there, nor is there enough parking available on the one-way street in front of it. My largest worry is that the current structure might be demolished and other structures be built – its really close on both sides to single-family dwellings. And, more people in our neighborhood might change the flavor of our single -family residences.

I am opposed to this change and appreciate the opportunity to let others know.

Thank you again.

Donna Terbizan
1441 6th Ave S
Fargo ND

Oct. 30th, 2019

To: Auditor's Office (NDCC 40-47-05 and City Planner (LDC 20-0906.G)

We as neighborhood citizens would like to retain our SR-3, / Single Dwelling status. We are opposed to a re-zoning from single to multi-family units.

Thank you,

Jane M. Peterson	1426 6 th Ave. S. Fargo
Sharon Canyon	603 14 th St S. Fargo
Sue M. Sanderson	1424 6 th Ave. S. Fargo
Donna Terbizin	1441 6 th Ave S. Fargo
Bud Winter	1432 6 th Ave S, Fargo ND
Rod & Amber	1411 6 th Ave S. Fargo ND
"Chuck Johnson"	1417 6 th Ave S Fargo ND
Gerry Bauer	1720 6 th Ave So Fargo ND
Bob Henderson	523 14 th St S Fargo ND
Lindsay Warner	1436 6 th Ave S. Fargo ND
Carroll Bush	1441 6 th Ave S Fargo ND

November 13, 2019

Re: Zoning Confirmation Letter

Property: 1437 6th Avenue S
Fargo, ND 58103

To whom it may concern:

The undersigned certifies that the information contained in this letter is accurate based on or relating to the information supplied; however, neither the undersigned nor the City assumes liability for errors and omissions. All information was obtained from public records which may be inspected during regular business hours. The undersigned hereby certifies the following with respect to the "property," described as: 01-0700-02390-000.

1. **Current Zoning:** The property is located within the City of Fargo corporate limits. The current zoning classification for the property has been found to be SR-3, Single-Dwelling Residential.

It appears that the property is currently being used as a triplex. A triplex is considered a Multi-Dwelling Structure, as defined in the Land Development Code. Multi-Dwelling Structures are not a permitted use in the SR-3, Single-Dwelling Residential, zoning district. Uses that are permitted within the SR-3, Single-Dwelling Residential include detached houses, attached houses, duplexes, day care facilities of limited size, parks and open areas, religious institutions, safety services, schools, basic utilities, and limited telecommunications facilities. A full description of permitted uses can be found in Sections 20-0401 and 20-1203 of the City's Land Development Code, which can be accessed through the City of Fargo's website at:

<https://www.municode.com/library/nd/fargo/codes/code_of_ordinances?nodeId=CH20LADECO_ART20-04USRE_S20-0401USTA>.

2. **Special Permits:** The subject property is part of the Jefferson Neighborhood Historic Overlay district.
3. **Conformance with Current Zoning Requirements:** Planning records indicate that in 1946, the subject property was rezoned from "Commercial" Zoning "A" Density to "Multiple Dwelling" Zone, "C" Density. Records from the Building Inspections Department appear to indicate that three units had existed on the subject property in 1947, a year after the structure was built. Based on this information, Planning Staff would consider the subject property to be both a conforming structure and a conforming use at the time of construction.

In 2002, a large-scale rezoning effort was undertaken by the City with the intent of providing the Jefferson and Hawthorne neighborhoods with uniform, single-family zoning districts. As part of the

process, property owners included in the proposed rezoning were notified of the possibility of coming into legal non-conformity. This included the subject property.

Today, the subject property is both a legally non-conforming structure and a legally non-conforming use. Under section 20-1002.D.3 of the LDC, a non-conforming use that is residential in nature may be restored, rebuilt, and repaired in its entirety after incurring damage of more than 50 percent of its structural value prior to the damage, provided the property owner follow the following criteria:

- The building or structure will not occupy any portion of the lot that was not occupied by the destroyed structure
- The building or structure will not have a greater floor area than the destroyed structure,
- The building or structure will not exceed the height or number of stories contained in the destroyed structure
- The number of off-street parking spaces located on the property will not be reduced from the number available before the damage; and,
- The building permit for the repair or restoration must be obtained within 6 months of the damage and restoration must begin within 1 year of the date of the damage.

Article 20-01, Section 20-1004 and Section 20-1002 govern the non-conformities of this property. As 20-001.B. states, "... *The limitations of this Article are intended to recognize the interest of the property owner in continuing to use the property but to control the expansion of the nonconformity and to control re-establishment of abandoned uses and limit re-establishment of buildings and structures that have been substantially destroyed*".

4. **Zoning & Building Code Violations:** There are no records in the City files of unsatisfied building code violations that could be found.

5. **Variances:** No records of any variances for the property could be found.

Please let me know if you have any questions.

Sincerely,



Maggie Squyer
Assistant Planner

**City of Fargo
Staff Report**

Title:	Prairie Grove 5 th Addition	Date:	11-27-19
Location:	5354 26 th Street South	Staff Contact:	Kylie Bagley
Legal Description:	Lot 1, Block 4, Prairie Grove Addition		
Owner(s)/Applicant:	Michael Casper, Prairie Grove Inc.	Engineer:	Neset Land Surveys
Entitlements Requested:	Minor Subdivision (Replat of Lot 1, Block 4, Prairie Grove Addition) and Zoning Change (from LC, Limited Commercial, with a C-O, Conditional Overlay, to MR-3, Multi-Dwelling Residential)		
Status:	Planning Commission Public Hearing: December 3, 2019		

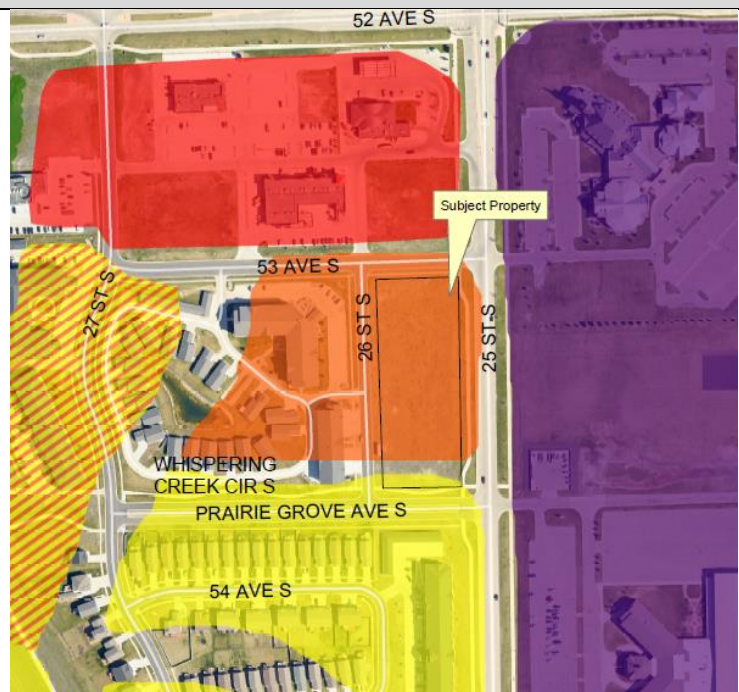
Existing	Proposed
Land Use: Vacant	Land Use: Multi-Dwelling Residential
Zoning: LC, Limited Commercial, with a C-O, Conditional Overlay	Zoning: MR-3, Multi-Dwelling Residential
Uses Allowed: colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service. With a C-O Conditional Overlay	Uses Allowed: 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 Lot Coverage Allowed: 55% building coverage	Maximum Density Allowed: 24 units per acre

Proposal:
<p>The applicant is seeking City approval of 1) a minor subdivision entitled Prairie Grove 5th Addition, and 2) a zoning map amendment. The proposed subdivision would remove portions of the existing negative access easement along 25th Street South and 53rd Avenue South. The proposed removal of the negative access easement has been reviewed and approved by the City's Traffic Engineer. The City has made the applicant aware that as traffic volumes increase there may not be full access onto 25th Street South from this property.</p> <p>The proposed zoning map amendment would rezone the property from LC, Limited Commercial, with a C-O, Conditional Overlay, to MR-3, Multi-Dwelling Residential. The applicant is proposing a 55 and older multi-dwelling building, similar to the property to the west. The proposed zoning map amendment would also repeal the existing C-O.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: LC, Limited Commercial, with retail sales and service uses • East: P/I, Public and Institutional, and GO, General Office, with religious institution and school uses • South: MR-3, Multi-Dwelling Residential, with multi-dwelling structures • West: MR-3, Multi-Dwelling Residential, with multi-dwelling structures

Area Plans:

The subject property is located within the 2001 Growth Plan for the Urban Fringe and Extraterritorial Area of the City of Fargo. Within this growth plan, the subject property is identified as being suitable for medium to high residential uses.

Commercial
Commercial or Medium/High Density
Commercial or Medium/High or Park/Open Space
Commercial or Park/Open Space
Either Industrial or Commercial
Either Office or Commercial
Either Office or Medium/High Density Residential
Industrial
Low/Medium Density Residential
Low/Medium Density or Medium/High Density
Medium/High Density Residential
Medium/High Density or Park/Open Space
Office
Office or Commercial or Medium/High Density
Park/Open Space
Public
Public or Commercial
Public or Low/Medium Density
Public or Office
Storm Water



Schools and Parks:

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

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

Parks: Located north of 52nd Ave S is Meadow Creek Park (4800 Meadow Creek Drive S), with large grassy areas.

Pedestrian / Bicycle: Off road bike facilities are located along 52nd Avenue South. These facilities are a component of the metro area trail system.

Staff Analysis:

Zoning

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

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

Staff is unaware of any zoning map error in regard to the subject property. Staff finds that the requested zone change is justified by a change in conditions, as the developer has a clearer picture of the type of development. The zone change is requested in order to build a multi-dwelling structure that is compatible with the surrounding area.

(Criteria Satisfied)

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

The development is served with city services (water, sewer, streets, police/fire protection, etc.) as well as other needed utility services as needed. The City Engineer and other applicable review agencies have reviewed this proposal. No deficiencies to provide the necessary public services, facilities and programs to this development have been identified.

(Criteria Satisfied)

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

Staff has no evidence that would suggest this proposal 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, staff has not received any phone calls or comments in response to these notices. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity.

(Criteria Satisfied)

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

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

(Criteria Satisfied)

Minor Subdivision

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

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

This subdivision is intended to remove portions of the negative access agreement. The proposed use is consistent with the existing zoning and the growth plan for the area. 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 inquiries about the application. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code.

(Criteria Satisfied)

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

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

(Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed: 1) Zoning Change from LC with a C-O to MR-3 and repeal of the existing C-O and 2) Subdivision Plat, **Prairie Grove 5th Addition** as outlined within the staff report, as the proposal complies with the adopted Area Plan, the standards of Article 20-06, and Section 20-0906.F (1-4) and all other applicable requirements of the Land Development Code".

Planning Commission Recommendation: December 3, 2019

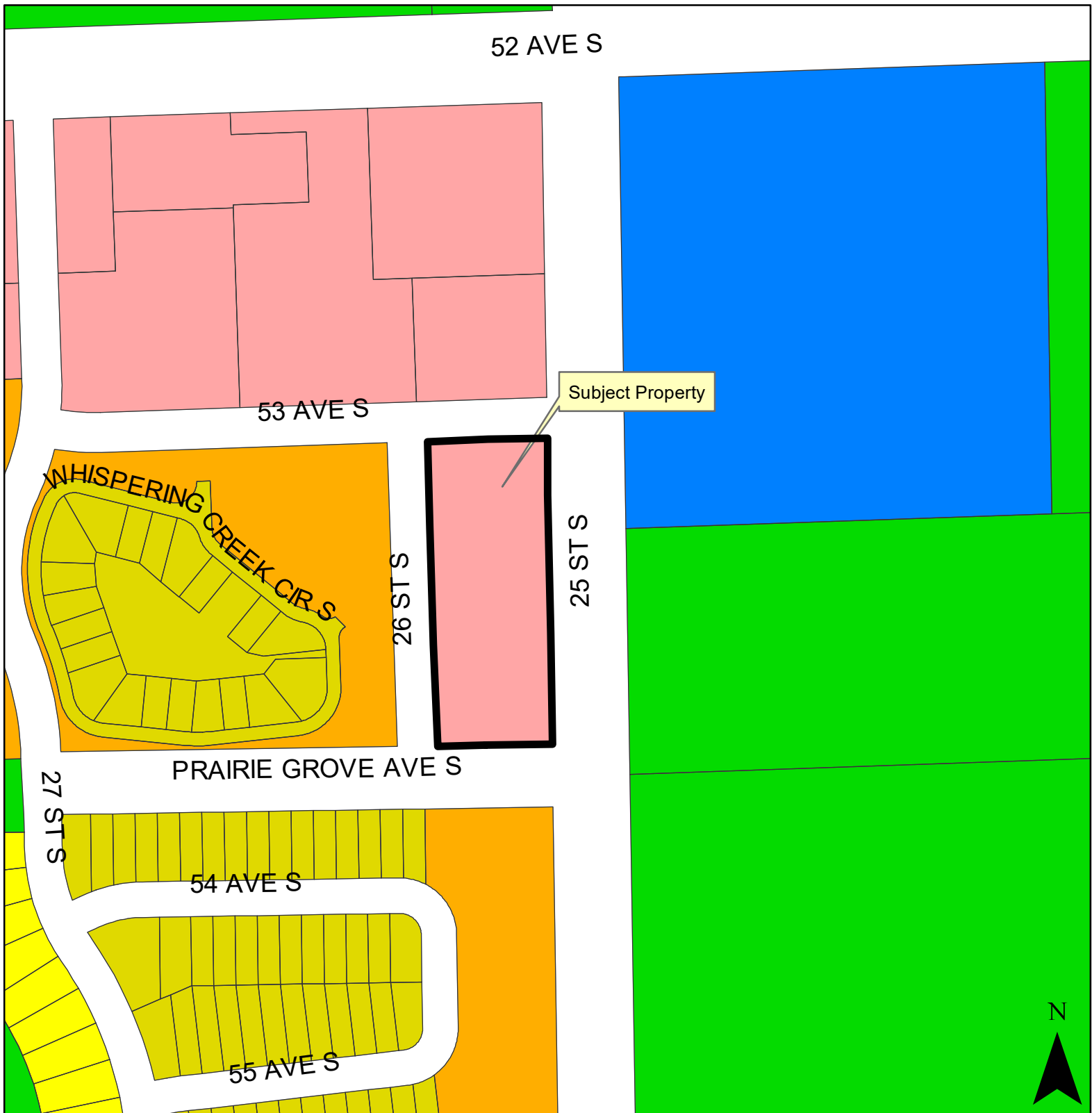
Attachments:

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

Zone Change (LC with C-O to MR-3) & Plat (Minor)

Prairie Grove Fifth Addition

5354 26th St S



Legend

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

200
Feet

Zone Change (LC with C-O to MR-3) & Plat (Minor)

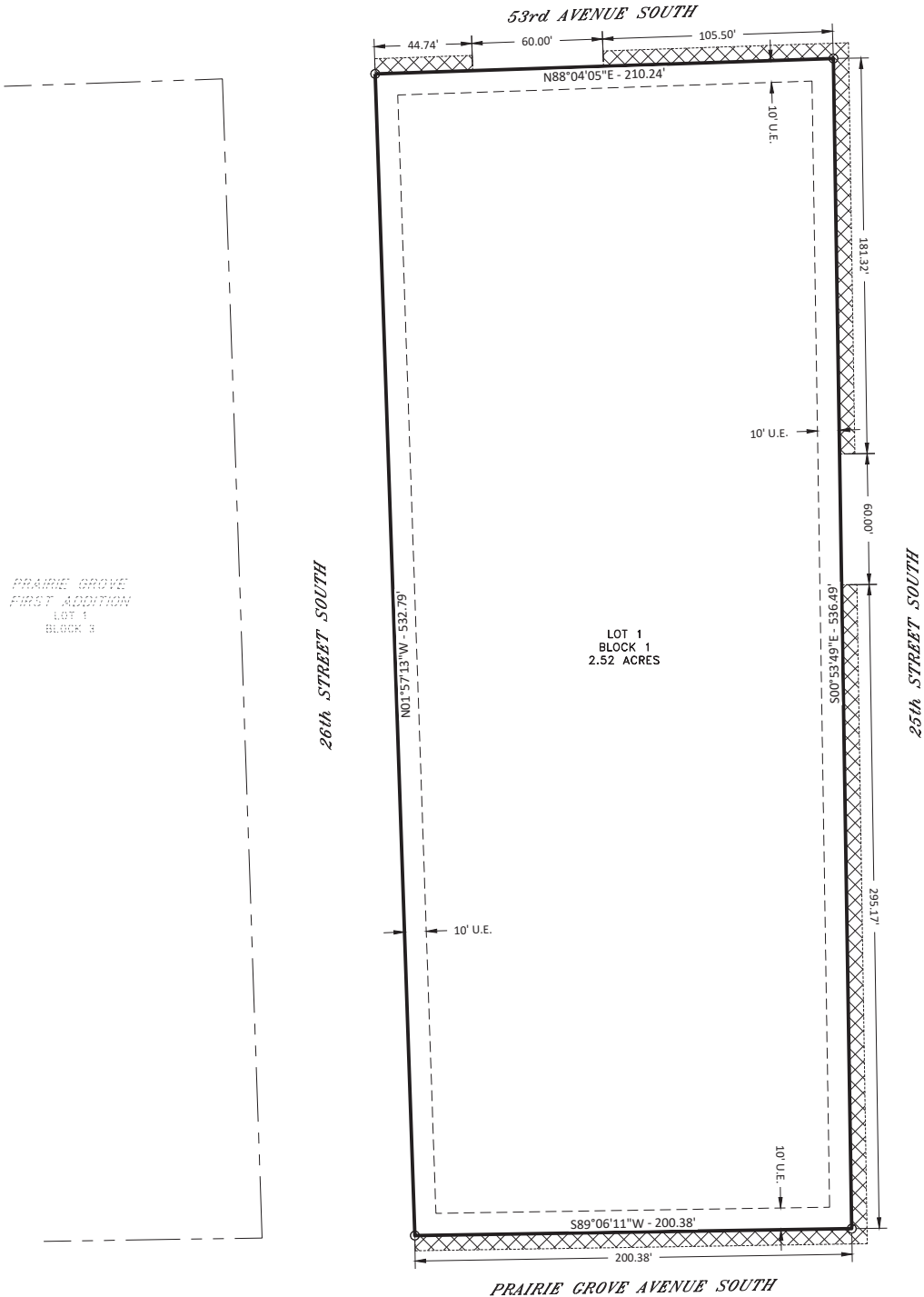
Prairie Grove Fifth Addition

5354 26th St S



PRAIRIE GROVE 5TH ADDITION

REPLAT OF LOT 1 BLOCK 4 OF PRAIRIE GROVE FIRST ADDITION
To the City of Fargo, Cass County, North Dakota



OWNERS CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS, THAT PRAIRIE GROVE INC. IS THE OWNER OF: LOT 1 IN BLOCK FOUR, OF PRAIRIE GROVE FIRST ADDITION, TO THE CITY OF FARGO, COUNTY OF CASS, STATE OF NORTH DAKOTA,

SAID OWNERS HAVE CAUSED THE ABOVE DESCRIBED TRACT OF LAND SHOWN ON THIS PLAT TO BE SURVEYED AND PLATTED AS, PRAIRIE GROVE 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 PRAIRIE GROVE 5TH ADDITION, CONSISTS OF 1 LOT AND ONE BLOCK, AND CONTAINS 2.52 ACRES, MORE OR LESS TOGETHER WITH EASEMENTS AND RIGHT OF WAYS OF RECORD.

PRAIRIE GROVE INC.

BY: MICHAEL CASPER
ITS: PRESIDENT

STATE OF
COUNTY OF

ON THIS DAY OF, 2019, 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 PRAIRIE GROVE 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, 2019.

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

STATE OF NORTH DAKOTA
COUNTY OF CASS

ON THIS DAY OF, 2019, 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

CITY ENGINEERS APPROVAL

APPROVED BY THE FARGO CITY ENGINEER THIS DAY OF 2019.

BRENDA DERRIG, CITY ENGINEER

STATE OF NORTH DAKOTA
COUNTY OF CASS

ON THIS DAY OF, 2019, 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 2019.

JOHN GUNKELMAN, CHAIR
FARGO PLANNING COMMISSION

STATE OF NORTH DAKOTA
COUNTY OF CASS

ON THIS DAY OF, 2019, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED JOHN GUNKELMAN, 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 2019.

TIMOTHY J. MAHONEY, MAYOR

ATTEST:

STEVEN SPRAGUE, CITY AUDITOR

STATE OF NORTH DAKOTA
COUNTY OF CASS

ON THIS DAY OF, 2019, 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

**City of Fargo
Staff Report**

Title:	Progressive Retail Center Addition	Date:	11/25/2019
Location:	1015 38 th Street North	Staff Contact:	Maggie Squyer
Legal Description:	Portion of Lots 1 & 2, Block 2, Replat of Interstate Services Subdivision		
Owner(s)/Applicant:	RM Realty Fargo, LLC/ Tony Sager	Engineer:	Mead & Hunt
Entitlements Requested:	Minor Subdivision (Replat of portions of Lots 1 & 2, Block 2, Replat of Interstate Services Subdivision)		
Status:	Planning Commission Public Hearing: December 3, 2019		

Existing**Land Use:** Adult Entertainment Center**Zoning:** LI, Limited Industrial

Uses Allowed: LI, Limited Industrial allows colleges, community service, daycare facilities of unlimited size, detention facilities, health care facilities, parks and open areas, religious institutions, safety services, basic utilities, adult entertainment centers, offices, off-premise advertising signs, outdoor recreation and entertainment, retail sales and services, self-service storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, and limited telecommunications facilities.

Maximum Density Allowed: 85% maximum building coverage

Proposed**Land Use:** Unchanged**Zoning:** Unchanged**Uses Allowed:** Unchanged

Maximum Density Allowed:
Unchanged

Proposal:

The applicant is requesting a minor subdivision plat, entitled **Progressive Retail Center Addition**, which would replat one existing lot into two new lots. Both lots will have access off 38th Street North. In lieu of a cross-access easement on the plat, the owner of the property has provided a shared-use agreement to outline the use of one driveway access for both lots. The property is currently zoned LI, Limited Industrial, and no change in zoning is requested.

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

Surrounding Land Uses and Zoning Districts:

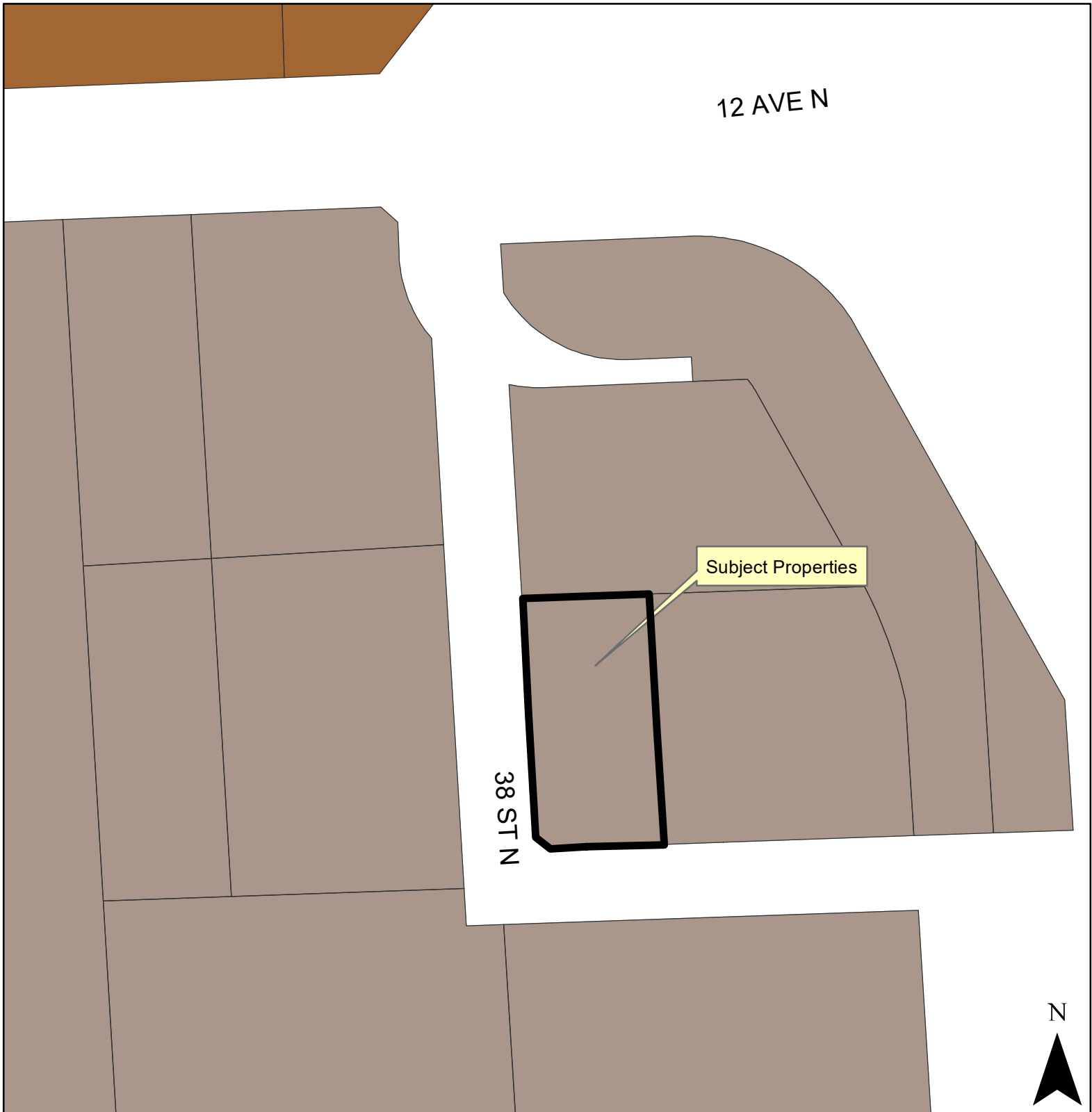
- North: LI, Limited Industrial with a fast food restaurant
- East: LI, Limited Industrial with a motel
- South: LI, Limited Industrial with an automobile repair shop
- West: LI, Limited Industrial with a warehouse and office

Area Plans:
The subject property is not located within any neighborhood land use plans or future growth plans.
Schools and Parks:
<p>Schools: The subject property is located in the West Fargo Public School District and is served by L. E. Berger Elementary, Cheney Middle, and West Fargo High Schools.</p> <p>Neighborhood: N/A</p> <p>Parks: No parks or open areas are located within a half-mile of the subject property.</p> <p>Pedestrian / Bicycle: A shared use path exists along the south side of 12th Avenue North.</p>
Staff Analysis:
<p>Minor Subdivision</p> <p>The LDC stipulates that the following criteria is met before a minor plat can be approved:</p> <ol style="list-style-type: none"> <p>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.</p> <p>This subdivision is intended to plat two legal lots for an adult entertainment center development. The proposed use is consistent with the existing zoning and the growth plan for the area. 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 inquiries about the application. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. (Criteria Satisfied)</p> <p>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.</p> <p>While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principals. (Criteria Satisfied)</p>
Staff Recommendation:
Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed Progressive Retail Center Addition subdivision as presented; as the proposal complies with the Standards of Article 20-06, and all other applicable requirements, of the Land Development Code."
Planning Commission Recommendation: December 3, 2019
Attachments:
<ol style="list-style-type: none"> 1. Zoning Map 2. Location Map 3. Preliminary Subdivision Plat

Plat (Minor)

Progressive Retail Center Addition

1015 38th St N



Plat (Minor)

Progressive Retail Center Addition

1015 38th St N



PROGRESSIVE RETAIL CENTER ADDITION

A REPLAT OF PARTS OF LOTS 1 AND 2, BLOCK 2 OF A REPLAT OF LOTS 1, 2, 3, AND 4, BLOCK 1,
OF INTERSTATE SERVICES SUBDIVISION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MINOR SUBDIVISION)

OWNER'S CERTIFICATE:

KNOW ALL PERSONS BY THESE PRESENTS: That RM Realty Fargo, LLC, a North Dakota Limited Liability Corporation, as owner of a parcel of land located in that part of the Northeast Quarter of Section 3, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

Lot Two, except the easterly fifty-six feet of said Lot Two, together with the southerly ten feet of the westerly one hundred nineteen feet of Lot One, as measured along the southerly line of said Lot One, in Block Two, of the Replat of Interstate Services Subdivision, to the City of Fargo, situate in the County of Cass and the State of North Dakota as filed and on record at the office of the County Recorder, Cass County, North Dakota.

Containing 0.64 acres, more or less.

Said owners of the above described property, have caused the same to be surveyed and platted as "PROGRESSIVE RETAIL CENTER ADDITION" to the City of Fargo, Cass County, North Dakota.

OWNER:

RM Realty Fargo, LLC

Steven Brown, Owner

Cynthia Brown, Owner

State of _____)
County of _____)ss

On this _____ day of _____, 20____, before me personally appeared Steven Brown and Cynthia Brown, 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 RM Realty Fargo, LLC.

Notary Public: _____

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

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

Dated this _____ day of _____, 20____.

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

State of North Dakota)
County of Cass)ss

On this _____ day of _____, 20____, before me personally appeared Joshua J. Nelson, 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: _____

LEGEND

- MONUMENT IN PLACE
- MONUMENT SET (5/8" REBAR, CAPPED PLS# LS-27292)
- BOUNDARY LINE
- - - EXISTING PROPERTY LINE
- - - EXISTING EASEMENT LINE

NOTES:

- GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.

CITY ENGINEER'S APPROVAL:

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

Brenda E. Derring, P.E., City Engineer

State of North Dakota)
County of Cass)ss

On this _____ day of _____, 20____, before me personally appeared Brenda E. Derring, 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____.

John Gunkelman, Chair
Fargo Planning Commission

State of North Dakota)
County of Cass)ss

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

Notary Public: _____

FARGO CITY COMMISSION APPROVAL:

Approved by the Board of City Commissioners and ordered filed

this _____ day of _____, 20____.

Timothy J. Mahoney, Mayor

Attest: _____
Steven Sprague, City Auditor

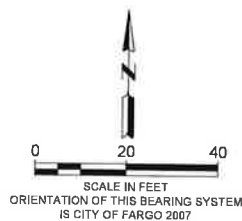
State of North Dakota)
County of Cass)ss

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: _____

38TH STREET NORTH

38TH STREET NORTH



BM TOP NUT HYD
ELEV = 900.49

**Mead
& Hunt**

Phone: 701-566-6450
meadhunt.com

Project No.
4289700-191738.01
SHEET 1 OF 1

**City of Fargo
Staff Report**

Title:	Liberty Square Fifth Addition	Date:	11/26/2019
Location:	4351 & 4445 23 rd Avenue South	Staff Contact:	Maggie Squyer
Legal Description:	Lots 1 & 2, Block 1, Liberty Square Fourth Addition		
Owner(s)/Applicant:	Anderson Park Joint Venture LLP/Paul Anderson	Engineer:	Mead & Hunt
Entitlements Requested:	Minor Subdivision (Replat of Lots 1 & 2, Block 1, Liberty Square Fourth Addition)		
Status:	Planning Commission Public Hearing: December 3, 2019		

Existing	Proposed
Land Use: Vacant	Land Use: Office
Zoning: GC, General Commercial	Zoning: Unchanged
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, and limited vehicle service	Uses Allowed: Unchanged
Maximum Density Allowed: 85% maximum building coverage	Maximum Density Allowed: Unchanged

Proposal:

The applicant is requesting a minor subdivision plat, entitled **Liberty Square Fifth Addition**, which would replat two existing lots into three new lots. Access to each lot will come from an existing private drive to the north of each lot. Staff will review the existing covenants and agreements of the private drive with the applicant prior to the City Commission hearing. Office buildings are expected to occupy each lot. The property is currently zoned GC, General Commercial and no change in zoning is requested.

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, General Commercial with a medical clinic and light manufacturing
- East: GC, General Commercial with a motel
- South: GC, General Commercial with motels
- West: GC, General Commercial with a bank

Continued on next page.

Area Plans:

The subject property is located within the 2003 Southwest Future Land Use Plan. This plan indicates the subject property is appropriate for commercial uses.



Schools and Parks:

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

Neighborhood: Anderson Park

Parks: The subject property is located within 0.25 miles of the Red River Zoo (4255 23rd Avenue South), the Southwest Youth Ice Arena (4404 23rd Avenue South) and Anderson Softball & Tharaldson Baseball Complex (4200 23rd Avenue South).

Pedestrian / Bicycle: A shared use path exists along the east side of 45th Street South and along the south side of 23rd Avenue South.

Staff Analysis:

Minor Subdivision

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

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

This subdivision is intended to plat three legal lots for office/commercial development. The proposed use is consistent with the existing zoning and the growth plan for the area. 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 general inquiry about the application. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. **(Criteria Satisfied)**

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

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

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the proposed **Liberty Square Fifth Addition** subdivision as presented; as the proposal complies with the adopted Area Plan, Standards of Article 20-06, and all other applicable requirements of the Land Development Code."

Planning Commission Recommendation: December 3, 2019

Attachments:

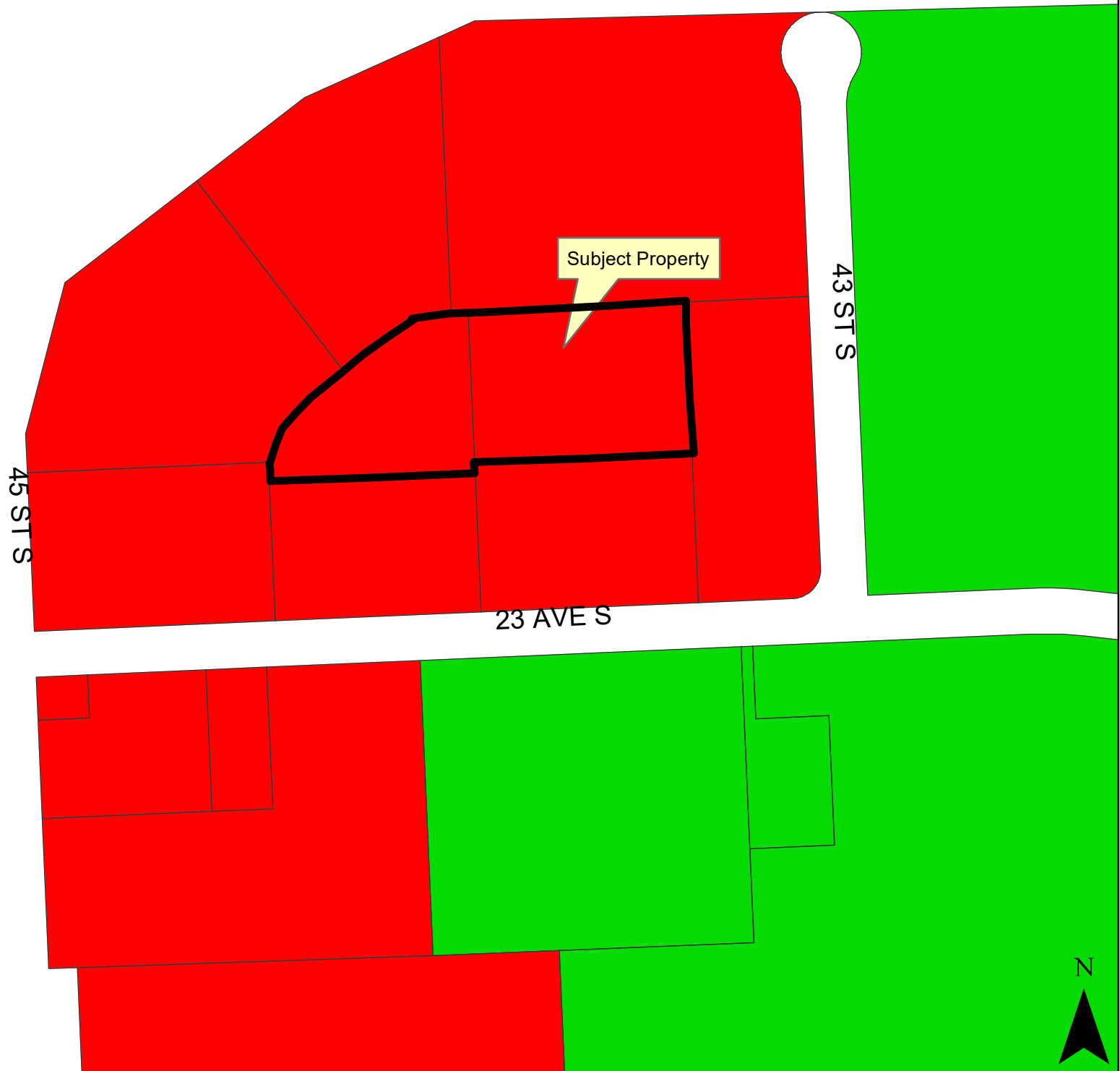
1. Zoning Map
2. Location Map
3. Preliminary Subdivision Plat

Plat (Minor)

Liberty Square Fifth Addition

4351 & 4445 23rd Ave S

194



Legend

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

200

Feet

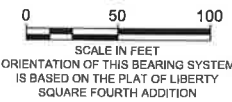
Plat (Minor)

Liberty Square Fifth Addition

4351 & 4445 23rd Ave S



BEING A REPLAT OF LOTS 1 AND 2, BLOCK 1, LIBERTY SQUARE FOURTH ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MINOR SUBDIVISION)



KNOW ALL PERSONS BY THESE PRESENTS, That the Anderson Park Joint Ventures, LLP, a North Dakota Limited Liability Partnership, as owner of a parcel of land located in that part of the Northwest Quarter of Section 22, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

Containing 3.96 acres, more or less.

OWNER

Michael J. Bullinger, Partner

State of North Dakota)
) SS
County of Cass)

Notary Public, Cass County, North Dakota

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_____.

State of North Dakota)
) SS
County of Cass)

Notary Public, Cass County, North Dakota

MONUMENT IN PLACE
 SET MONUMENT (5/8" REBAR CAPPED PLS-27292)
 LOT AREA (SQUARE FEET)
 EXISTING PROPERTY LINE
 EXISTING EASEMENT LINE
 PLAT BOUNDARY
 NEW LOT LINE

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.

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

[illegible]

On this _____ day of _____ 20____, before me, a notary public in and for said county, personally appeared John Gunkelman, 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

Approved by the Board of Commissioners and ordered filed this ____ day of _____ 20__.

Attest: _____
Steven Sprague, City Auditor

[illegible]

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, Cass County, North Dakota

Approved by the City Engineer this ____ day of _____ 20__

[illegible]

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, Cass County, North Dakota

**Mead
& Hunt**

Phone: 701-566-6450
meadhunt.com

Project No.
192596.01
SHEET 1 OF 1

City of Fargo Staff Report			
Title:	Lane's Subdivision of Block 69 of Ohmer's Subdivision	Date: Updated:	11/19/2019
Location:	1261 University Drive North and 1206 13 th Avenue North	Staff Contact:	Luke Morman
Legal Description:	Portion of Lots 1-2; portion of Lots 7-8, and a portion of adjacent vacated alley of Lane's Subdivision of Block 69 of Ohmer's Subdivision		
Owner(s)/Applicant:	Sigma Psi Housing LLC	Engineer:	MBN Engineering
Entitlements Requested:	Zone Change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial; Conditional Use Permit for Group Living; Conditional Use Permit for an Alternative Access Plan		
Status:	Planning Commission Public Hearing: December 3, 2019		

Existing
Land Use: Group Living
Zoning: LC and MR-3
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. MR-3, Multi-Dwelling 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 Allowed: LC allows maximum 55% building coverage MR-3 allows maximum 24 units per acre

Proposed
Land Use: Group Living
Zoning: LC
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. Plus CUP to allow for Group Living. Plus CUP to allow for an Alternative Access Plan to reduce on-site parking.
Maximum Allowed: LC allows maximum 55% building coverage

Proposal:
<p>The applicant is requesting a Zone Change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial, located at 1206 13th Avenue North; a Conditional Use Permit for Group Living use and a Conditional Use Permit for an alternative access plan in order to reduce the number of required parking spaces on the subject properties of 1261 University Drive North and 1206 13th Avenue North. The applicant is proposing to demolish and then rebuild the existing Kappa Delta sorority house in order to accommodate more sleeping and common space areas. The new facility will be located on the 1261 University Drive North lot with off-street parking on the 1206 13th Avenue North lot. The facility is</p>

considered to be group living (allowed by the requested CUP's approval) requiring 1 parking stall per 100sf of sleeping area. The proposed sorority will have 2,187sf of sleeping area which would require 22 parking stalls.

The applicant is proposing to provide 8 parking stalls on site, as shown in the proposed site plan, which is an increase from 0 parking stalls existing today. Currently, the sorority utilizes on-street parking and parking permits through NDSU to account for their students' parking needs. As of the 2019-2020 school year, Kappa Delta sorority purchased 17 parking permits from NDSU and plan to continue to purchase additional parking permits for students unable to park on site.

- a. The Zone Change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial is intended to match the zoning across both properties for the proposed new Kappa Delta sorority house.
- b. The CUP to allow for Group Living in the LC, Limited Commercial zoning district is intended to properly apply the existing use to the subject properties. The CUP is requested for both lots in case the applicant would like to plat the lots together in the future.
- c. The CUP for an Alternative Access Plan on the subject properties is intended to allow a reduction to the required on-site parking spaces from 22 parking stalls to 8 parking stalls. The CUP is requested for both lots in case the applicant would like to plat the lots together in the future.

The applicant provided a parking analysis for this project from the engineer, Tony Eukel, and notified the Roosevelt Neighborhood Association about their proposed project. This parking analysis and the letter to the Roosevelt Neighborhood Association are attached.

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

Surrounding Land Uses and Zoning Districts:

- North: across 13th Ave N, P/I, Public & Institutional and MR-3, Multi-Dwelling Residential with Religious Other and Group Living (Fraternity & Sorority) uses
- East: MR-3, Multi-Dwelling Residential with Group Living (Fraternity & Sorority) use
- South: LC, Limited Commercial with Office use
- West: P/I, Public & Institutional with Educational use

Area Plans:

The Roosevelt-NDSU Neighborhood Area Plan designates the area of this project as “Commercial with Residential” land use. The proposed zoning is consistent with this land use designation.



Context:

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

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

Parks: Roosevelt Park is located approximately less than one quarter mile to the southeast of the project site and provides the amenities of a multipurpose field, outdoor skating/warming house, and playground.

Pedestrian / Bicycle: There are shared use paths along 12th Avenue North and bike lanes along University Drive North and 10th Street North that are components of the metro area bikeways system.

Staff Analysis:

a. Zone Change (from MR-3 to LC, located at 1206 13th Avenue North)

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

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

Staff is unaware of any zoning map error in regard to the subject property. Staff finds that the requested zone change is justified by a change in conditions, as the owner wishes to demolish and rebuild a new sorority house utilizing both the 1261 University Drive North and 1206 13th Avenue North lots. This is adjusting from the existing house that is on the 1261 University Drive North property, currently zoned LC, Limited Commercial. The zone change is requested in order

to match the zoning of the subject property to the zoning of the existing and proposed facility at 1261 University Drive North so it can be built and reviewed as a unified 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?**

The development is served with city services (water, sewer, streets, police/fire protection, etc.) as well as other needed utility services as needed. The City Engineer and other applicable review agencies have reviewed this proposal. No deficiencies to provide the necessary public services, facilities and programs to this development have been identified. **(Criteria Satisfied)**

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

Staff has no evidence that would suggest this proposal 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 and additionally to the Roosevelt Neighborhood Association. To date, staff has not received any phone calls or comments in response to these notices. Staff finds that the approval will not adversely affect the condition or value of the property in the vicinity.

(Criteria Satisfied)

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City.

(Criteria Satisfied)

b. Conditional Use Permit (for Group Living)

Section 20-0909.D of the LDC stipulates the following criteria be met before a Conditional Use Permit can 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. 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 Group Living will contribute to and promote the welfare and convenience 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 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 and

additionally to the Roosevelt Neighborhood Association. 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.**

Group Living is the most accurate use for Fraternity and Sorority houses. The proposed Group Living use will not dominate the immediate neighborhood or prevent any other sites from being used in the manner allowed by zoning district regulations. The subject properties are used as Group Living today, and much of their surroundings are used as Group Living as well.

(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)

Section 20-0402.E of the LDC stipulates the following criteria be met before a CUP for Group Living can be approved:

1. A Conditional Use Permit shall be required for Group Living Uses in zoning districts other than MR or UMU and in acting upon such Conditional Use Permit requests for Group Living Uses, the Planning Commission shall consider the following factors:
 - a. **Whether or not the dwelling unit meets all building, housing, and fire codes of the City;**
This criteria will need to be met during Staff review for a building permit once submitted.
(Criteria Satisfied)
 - b. **Whether or not the property has off-street parking space for every vehicle which is owned, possessed or utilized by occupants of the building. Such parking spaces must meet all applicable standards of the City;**
With the approval of the proposed Conditional Use Permit for an Alternative Access Plan, parking requirements will be met.
(Criteria Satisfied)
 - c. **The general condition of the building and whether or not it is in need of substantial repairs or renovation;**

The applicant plans on demolishing the existing structures and rebuilding a new sorority house. The new house will be reviewed by Staff to issue a building permit, which will need to meet the requirements of all applicable codes.

(Criteria Satisfied)

d. Whether or not the requested occupancy is compatible with the neighborhood and will not create undue density and congestion.

Staff believes the proposed CUP for Group Living is compatible with the surrounding uses and will not create further undue density and congestion within the neighborhood.

(Criteria Satisfied)

2. In MR Zoning districts, Group Living uses are permitted by right, provided such uses shall be subject to the maximum density standards of the underlying zoning district. For the purpose of interpreting this standard, each 4-person sleeping capacity shall be considered one dwelling unit.

Staff sees this criteria as not applicable because the applicant is requesting a zone change from MR-3, Multi-Dwelling Residential to LC, Limited Commercial.

(Criteria Satisfied)

c. Conditional Use Permit (for Alternative Access Plan)

Section 20-0909.D of the LDC stipulates the following criteria be met before a Conditional Use Permit can 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 suggests that this proposed conditional use permit for an alternative access plan for reduced parking will contribute to and promote 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 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 and additionally to the Roosevelt Neighborhood Association. 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 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 required 22 parking spaces will be accounted for either on-site (8) or in a designated NDSU parking lot (14). 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)

Recommended Conditions for CUP for Alternative Access Plan:

- The Conditional Use Permit will cease if the land use changes from group living;
- 8 parking stalls are required on site;
- Bicycle parking facilities, such as bike racks or bike lockers, shall be provided on-site;
- Continue to provide additional parking spaces off site from NDSU in order to meet the parking requirements of the LDC.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of staff and hereby move to approve the 1) **Zone Change** from MR-3, Multi-Dwelling Residential to LC, Limited Commercial; 2) **Conditional Use Permit** to allow Group Living; and 3) **Conditional Use Permit** for an Alternative Access Plan as the proposal complies with Section 20-0909.D (1-6), Section 20-0906.F, Section 20-0402.E, and all other requirements of the LDC, with the following conditions for the CUP for an Alternative Access Plan:

- The Conditional Use Permit will cease if the land use changes from group living;
- 8 parking stalls are required on site;
- Bicycle parking facilities, such as bike racks or bike lockers, shall be provided on-site;
- Continue to provide additional parking spaces off site from NDSU in order to meet the parking requirements of the LDC.

Planning Commission Recommendation: December 3, 2019

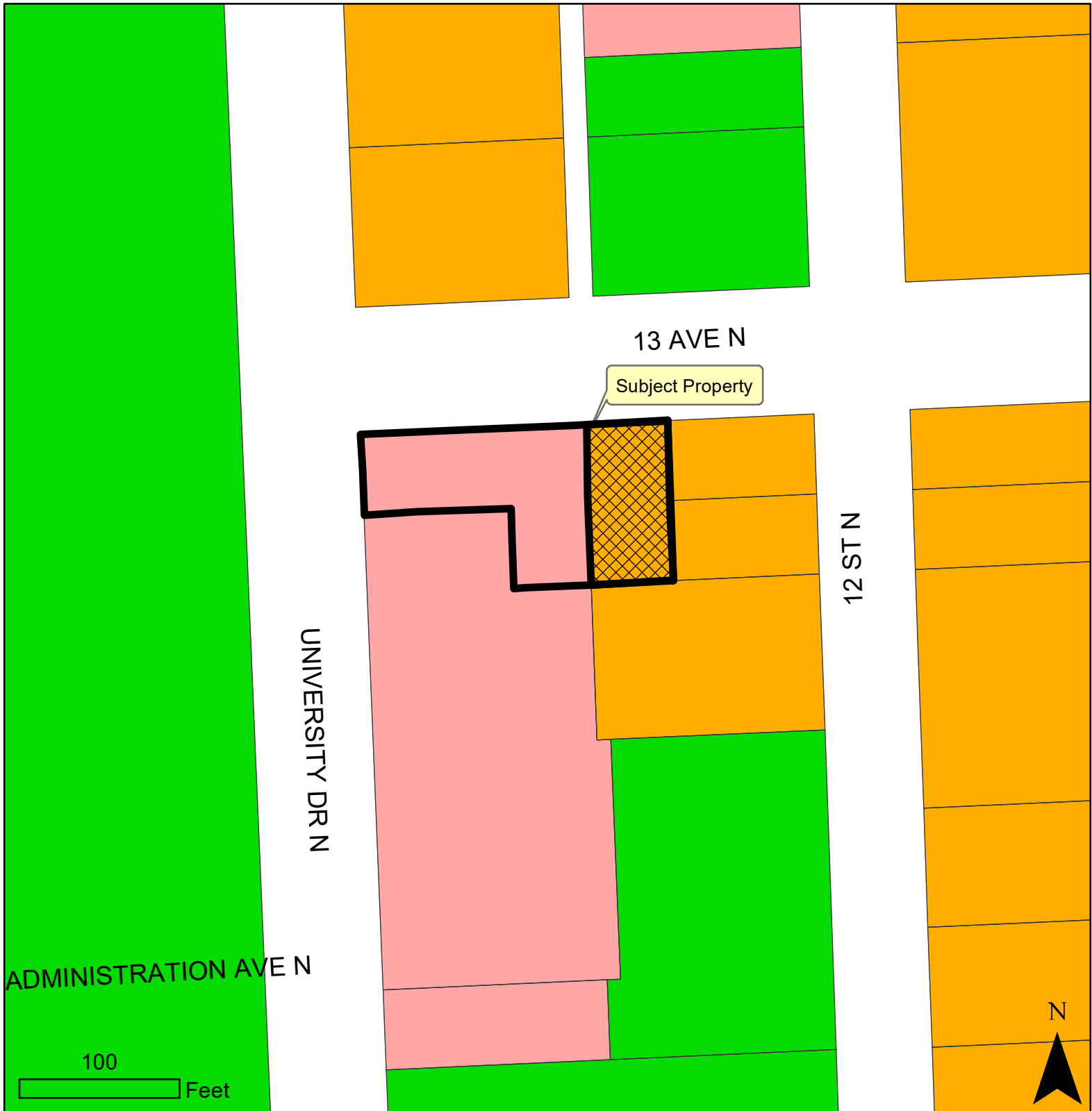
Attachments:

1. Zoning Map
2. Location Map
3. CUP Parking Analysis
4. Proposed Site Plan
5. Applicant's letter to the Roosevelt Neighborhood Association

Zone Change (MR-3 to LC) & Conditional Use Permit

Lane's Subdivision of Block 69 of Ohmer's Subdivision

1206 & 1261 University Dr N



Legend

AG	LC	MHP	SPR-2
DMU	LI	NC	SPR-3
GC	MR-1	NO	SPR-4
GO	MR-2	D/I	SPR-5
	MR-3	UMU	City Limits

CUP

Zone Change & CUP

Fargo Planning Commission

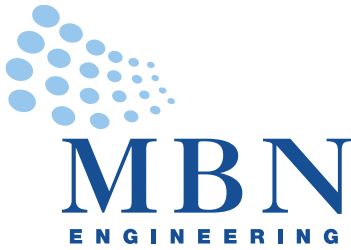
December 3, 2019

Zone Change (MR-3 to LC) & Conditional Use Permit

Lane's Subdivision of Block 69 of Ohmer's Subdivision

1206 & 1261 University Dr N





October 17, 2019

City of Fargo
Attn: Kylie Bagley
Planning and Development
225 4th Street North
Fargo, ND 58102

Subject: Kappa Delta New Construction – Conditional Use Permit
MBN Project # 19-019

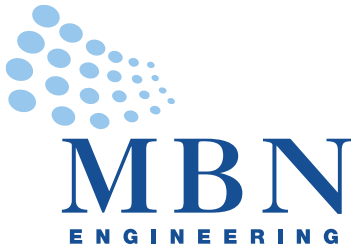
Ms. Bagley,

As part of the previous discussions with City of Fargo Planning Department, it is the intention of this letter to outline the existing zoning conditions that apply to the two Kappa Delta properties located at 1261 University Drive North and 1206 13th Avenue North and the proposed project goals for the new construction of the Kappa Delta Sorority House.

Existing Conditions

The Kappa Delta Sorority ("KD") site ("project site") is proposed on 1261 University Drive and 1206 13th Avenue North and is located directly across the street from North Dakota State University's (NDSU) campus. Existing structures on the project site are to be demolished. The current KD house has 22 bed spaces plus a suite for a full-time house director who is employed by Kappa Delta. There is also a professional chef who comes to and from the KD house Monday through Friday to provide meals for members living in the house. There is currently no onsite parking. The 2 staff members park on the street in front of the house.

There are currently 76 members in Kappa Delta, and 22 will be living in the house for the Spring 2020 semester. Of the 76 members in the chapter, 11 members do not own cars; 4 of those members use a bicycle as a primary means of transportation. Of the remaining 65 who do own cars, 56 have North Dakota State University (NDSU) parking passes through the university. 17 of these passes are for the IFC lot (NDSU Alumni Center parking lot), which is located a block from the Kappa Delta house. The remaining park in other NDSU campus lots and either walk or use the NDSU MATBUS system around campus and to the Kappa Delta house. The 9 students who do not have parking passes either park on the street or park at their residences, either private apartment complexes or houses in close proximity to campus and the Kappa Delta house. They are able to walk or use the NDSU MATBUS system.



Proposed Conditions

The existing structures on both lots are to be razed and a new proposed KD house is to remain on the 1261 University Drive North lot with the 1206 13th Avenue Lot becoming off-street parking. The 1206 lot is currently zoned MR-3, but will be rezoned to Limited Commercial to match the adjacent zoning.

The proposed KD house will provide 24 student beds and 1 room for the house director. This is an increase of 2 residents from the existing 22 members that resided on the property. These sleeping spaces will be approximately 2,187 square feet. Based on the City of Fargo Land Development code, the site will require that 1 parking space be provided for every 100 square feet of sleeping area. In this case, the site would need to support 22 off-street parking spaces. A new parking lot is proposed to be located on the 1206 13th Avenue North lot. This lot will allow for 7 standard parking stalls with 1 van accessible stall. Comparing this to existing conditions, the proposed parking lot provides a net gain of 8 stalls or a minimum ratio of 32%.

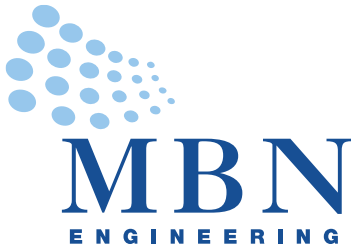
Existing Conditions		Proposed Conditions	
Off-Street Parking (On-site)	0	Off-Street Parking (On-site)	8
Bed Count	23	Bed Count	25
Min. Ratio	n/a	Min Ratio	32.00%

Although the site is not large enough to provide the additional 14 spaces to meet code, NDSU offers the use of the IFC lot located east of the Alumni Center, between University Drive and 11st Street North. NDSU sets aside 70 permits every semester for only sorority and fraternity members to purchase. With 8 parking stalls provided on-site, KD will continue to offset the parking shortage by purchasing permits within the designated IFC lot.

Conditional Use Permit Requests and Eligible Alternatives

The proposed improvements to the site will require a conditional use permit that will allow KD to move ahead with their new sorority house. The two items this project needs to move forward are (1) allowing Group Living within the Limited Commercial zone and (2) a parking reduction from the Land Development Code requirements.

1. Group Living use under the Limited Commercial zoning classification
 - a. Group Living is only allowed through a conditional use permit. Under the existing conditions, KD has operated under Group Living with the current Limited Commercial zoning classification. It is their intent to continue using the property as previous, but would request approval from the City to allow them to continue to operate under the same existing conditions.



2. Eligible Parking Alternatives

- a. As previously noted, the existing site had no off-street parking available. Under the new proposed conditions, 8 new off-street parking stalls will be provided of the 22 required.
- b. Kappa Delta will continue to purchase NDSU parking passes for the additional spots needed. As of the 2019-2020 school year, Kappa Delta has purchased 17 permits for this lot. This option will continue to offset the demand for spaces next to the sorority house.
- c. The MATbus transit system on the NDSU campus provides sheltered hubs that give access to routes 13, 13U, 31, 32E, 32W, 33, and 34 and is located less than 400 feet away from KD.
- d. Pedestrian and bicycle connectivity will be maintained with the proposed project. KD is located directly across the street from the NDSU campus and it is presumed that walking and biking to campus will be the predominate means of transportation during the work week. Bike racks will be located on the KD property to encourage bicycle use.

I appreciate your efforts in assisting with the preliminary review and conditional use application request for the Group Living and parking reduction. If you have any questions, please feel free to contact me at 701-478-6336.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. Eukel", with a stylized flourish extending to the right.

Tony Eukel, P.E.
Civil Engineer

PROJECT INFORMATION:

PROJECT ADDRESS: 1261 UNIVERSITY DRIVE N (WEST LOT)
1206 13TH AVENUE NORTH (EAST LOT)

SITE SIZE:

1261 - 9,580 SF (0.21 ACRES)
1206 - 5,013 SF (0.11 ACRES)
TOTAL = 14,593 SF (0.32 ACRE)

ZONING: 1261 - LIMITED COMMERCIAL (LC)
1206 - MULTI-DWELLING (MR-3)

EXISTING USE (1261): GROUP LIVING (SORORITY)
PROPOSED USE (1206): GROUP LIVING (SORORITY)

REQUIREMENTS

REQUIREMENTS		MR-3		LC REQUIREMENTS	
SETBACKS					
FRONT	10 FEET	25 FEET	10 FEET	10 FEET	10 FEET
INTERIOR SIDE	5 FEET	10 FEET	N/A	10 FEET	10 FEET
STREET SIDE	10 FEET	12.5 FEET	15 FEET	15 FEET	15 FEET
REAR	10 FEET	12.5 FEET	15 FEET	15 FEET	15 FEET
MAX BLDG COVERAGE	55%	35%	55%	35%	55%
*LC ZONING USED					
DRIVEWAY ACCESS	MIN 75' FROM BLOCK CORNER				

RESIDENTIAL LANDSCP. BUFFER (ADJACENT TO MR-3) REQUIRES 10' SETBACK FROM SIDE OR REAR YARD (TYPE A OR TYPE B BUFFER)
PLANT UNITS REQUIRED: (3 UNIT/1000 SF) = (14,593 SF / 1000) * 3 = 43.77 UNITS (ROUND UP TO 44 UNITS)

BOULEVARD TREES: COLLECTOR STREET - 1 TREE @ 50' O.C.
LOCAL STREET - 1 TREE @ 35' O.C.

PARKING REQUIREMENTS: 1 STALL / 100 SF OF SLEEPING AREA

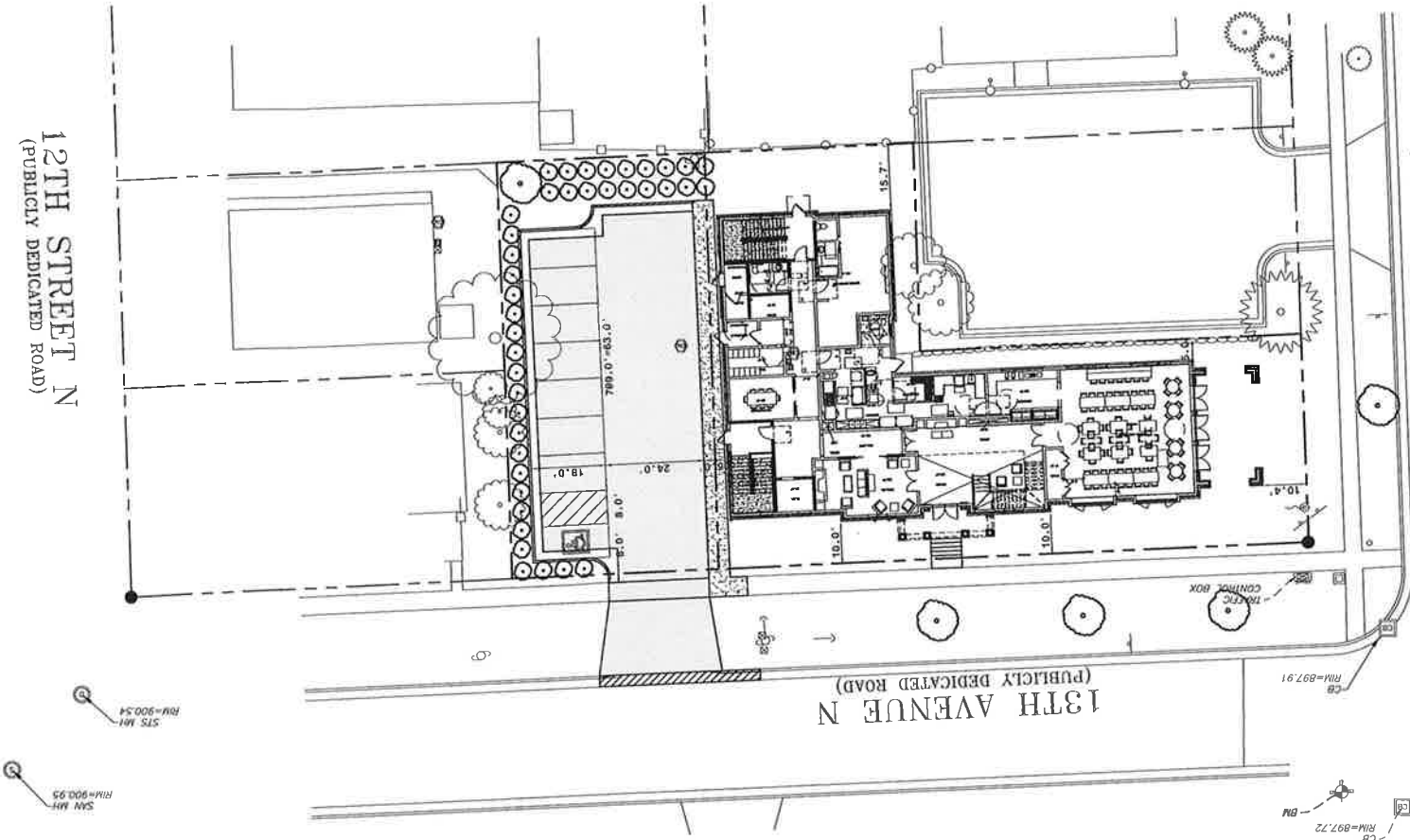
OFF STREET PARKING STALLS PROVIDED: 7 STANDARD / 1 VAN ACCESSIBLE (8 TOTAL) BASED ON 2,187 SF OF SLEEPING AREA

PARKING BUFFER REQUIREMENTS (1-50 STALLS): STREET SIDE - 4' WIDE CONT. HEDGE ROW

STORMWATER RETENTION: NOT REQUIRED FOR THIS SITE

12TH STREET N
(PUBLICLY DEDICATED ROAD)

BM - 900.95
STM - 900.95
RM - 900.54
STM - 900.54



BM: TOP NUT OF HYDRAUNT
ELEV: 902.05 (NAVD 88)

BENCHMARKS:

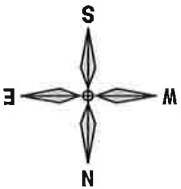
1. ALL WORK SHALL COMPLY WITH THE MOST RECENT CITY OF FARGO STANDARD SPECIFICATIONS FOR CONSTRUCTION OF PUBLIC UTILITIES.
2. CONTRACTOR SHALL NOTIFY UTILITY COMPANIES FOR UNDERGROUND LOCATIONS 48 HOURS PRIOR TO BEGINNING CONSTRUCTION. NORTH DAKOTA ONE CALL PHONE NUMBER: 1-800-795-0555
3. CONTRACTOR SHALL PROTECT ALL PROPERTY PINS. PROPERTY PINS DESTROYED OR DISTURBED SHALL BE REPLACED AT CONTRACTORS EXPENSE.
4. IF THE LAND BOUNDARY DENOTED ON THE PLANS ENCOMPASSES MORE THAN ONE (1) ACRE OR IS LESS THAN ONE (1) ACRE, BUT IS PART OF A LARGER DEVELOPMENT PLAN, A NOTICE OF INTENT TO OBTAIN A STORM WATER POLLUTION PERMIT SHALL BE ACQUIRED BY THE CONTRACTOR AND OWNER FROM THE NORTH DAKOTA STATE HEALTH DEPARTMENT SEVEN (7) DAYS PRIOR TO CONSTRUCTION.
5. CONTRACTOR SHALL MAINTAIN TEMPORARY EROSION CONTROL UNTIL PERMANENT EROSION CONTROL IS ESTABLISHED.
6. CONTRACTOR SHALL ACQUIRE AN EROSION SEDIMENT CONTROL (ESC) PERMIT FROM THE CITY OF FARGO PRIOR TO START OF CONSTRUCTION.
7. CONTRACTOR SHALL COORDINATE TAPPING OF THE EXISTING WATERMAIN WITH THE CITY OF FARGO MAINS AND HYDANTS DEPARTMENT. CALL (701)241-1453
8. ALL GRASSED AREAS DISTURBED BY CONSTRUCTION SHALL BE TOPSOILED (6" DEPTH), GRADED, SEED, AND HYDRO-MULCHED.

PLAN NOTES:

EXISTING PROPERTY LINE	---
EXISTING EASEMENT LINE	- - -
EXISTING PROPERTY PIN	●
EXISTING STORM INLET	⊞
EXISTING SANITARY MANHOLE	⊙
EXISTING BENCHMARK	⊕
EXISTING FIRE HYDRANT	⊕
EXISTING GATE VALVE	⊕
EXISTING LIGHT POLE	⊕
EXISTING FLAG POLE	⊕
EXISTING POWER POLE W/ ANCHOR CABLE	⊕
EXISTING SIGN	⊕
EXISTING PEDESTAL	⊕
EXISTING ELECTRICAL CABINET	⊕
EXISTING ELECTRIC METER	⊕
EXISTING GAS METER	⊕
EXISTING TREE	⊕
NEW CONCRETE PAVEMENT	▬
NEW CONCRETE CURB AND GUTTER	▬
NEW CONCRETE SIDEWALK	▬
NEW TREE/SHRUB/GRASS	⊕
AVAILABLE BUILDING AREA	▬

SYMBOL LEGEND:

SCALE: 1 INCH = 20 FEET
0 10 20 40



SITE PLAN

MBN JOB #: 19-019 DATE: 10-17-19

NOT FOR CONSTRUCTION

FARGO, NORTH DAKOTA

CLINE DESIGN
KAPPA DELTA
SORORITY

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

MBN
ENGINEERING

C1



Roosevelt Neighborhood Association
ATTN: Harold Thompson

Delivered via email

November 20, 2019

Dear Roosevelt Neighborhood Association:

On Friday, Oct. 11, Kappa Delta Sorority representatives met with Harold Thompson to review our proposed building project plans for the Kappa Delta Sorority house at 1210 13th Ave. N. As residents of the Roosevelt Neighborhood, we are excited to share with you plans to improve our current home.

Since 1949, the Kappa Delta house has been a home away from home for hundreds of young women during their time at North Dakota State. The last significant structural update to the house was completed in 1969 when an extension was added to the house with living quarters to accommodate 22 bed spaces. At the time, the address was 1261 University Dr. Once the addition was completed, the front door was relocated to 13th Ave. N. While various interior renovations have been completed since then, the chapter house is once again showing its age. Safety and code requirements present a need to update the structure, and we are ready to make a significant investment in our home.

In 2017, we began assessing property and facility needs, including the need for onsite parking. It became evident a larger lot would be needed to provide meeting space for a chapter of nearly 80 women, approximately 20-25 bed spaces, and onsite parking. An opportunity became available in 2018 to purchase the property directly next door at 1206 13th Ave N.

To meet safety and code requirements, onsite parking and facility needs, we plan to demolish both houses at 1210 and 1206 13th Ave. N. and build one new house with a parking lot. Below is a summary of the proposed building features, timeline and exterior renderings.

Zoning and conditional use permit applications have been submitted to the City of Fargo Planning Department, to be reviewed at the Dec. 3, 2019, Planning Commission public hearing.

As longtime neighbors in the Roosevelt Neighborhood, we look forward to enhancing our current home, adding onsite parking and continuing to provide a home for young women for years to come. If you have any questions about the proposed building plans, please contact Jennifer Jameson, housing project manager, at jennifer.jameson@kappadelta.org or 901-746-3691.

Sincerely,

Jennifer Jameson
Housing Project Manager

Enclosed: Proposed Building Project Features and Timeline
Proposed Building Plans and Architectural Renderings

Kappa Delta Sorority Proposed Building Project Features and Timeline

- The new house will include two stories and a basement to provide safe, accessible and adequate housing for Kappa Delta Sorority. The building height will not exceed neighboring structures, such as the McGovern Alumni Center or the Alpha Gamma Rho Fraternity house.
- The new facility will replace an outdated house that is not ADA accessible or compliant with current building codes.
- The space will include a new commercial kitchen and increased dining space for members. The current kitchen does not have correct equipment, proper food storage, preparation areas or features to support chapter meals. The new kitchen will be commercial grade and designed specifically for preparing meals. Food service is only for chapter members.
- The new house will include multiple study and educational spaces.
- The resident population is expected to be 24 members. The current in-house population is 22, so there will be a minimal increase in residents.
- We will continue to have a full-time, live-in house director with her own apartment year-round.
- The basement area will include enough space for chapter meetings, mechanical equipment and storage.
- The new house will be designed to fit into the residential character of the neighborhood and incorporate sloped roof forms, residential-style windows and door, bay windows and masonry/stone/siding exterior materials. It will include gables, plane changes, porches and roof changes to create a neighborhood sense of scale and compatibility. The new house will include exterior landscaping to complement the house and neighborhood.
- There will be a covered entry from the parking area, a covered front porch on 13th Ave. N., and a covered porch on University Dr. to create a sense of entry and welcome while connecting to the sidewalks and pedestrian traffic patterns.
- The new site plan has eight parking spaces including a handicap accessible space. The current site has no on-site parking. Other members can purchase parking passes through the university, as our residents currently do.
- The new house will be within the current building setback limits; the front porch is open and extends beyond the current line but is not an enclosed structure.
- Some of the mechanical equipment will be on the roof and screened from the street view.
- Pending necessary approvals, we intend to demolish both properties in May 2020. Construction will take place from Summer 2020 to Summer 2021, and we will open the new house in August 2021.

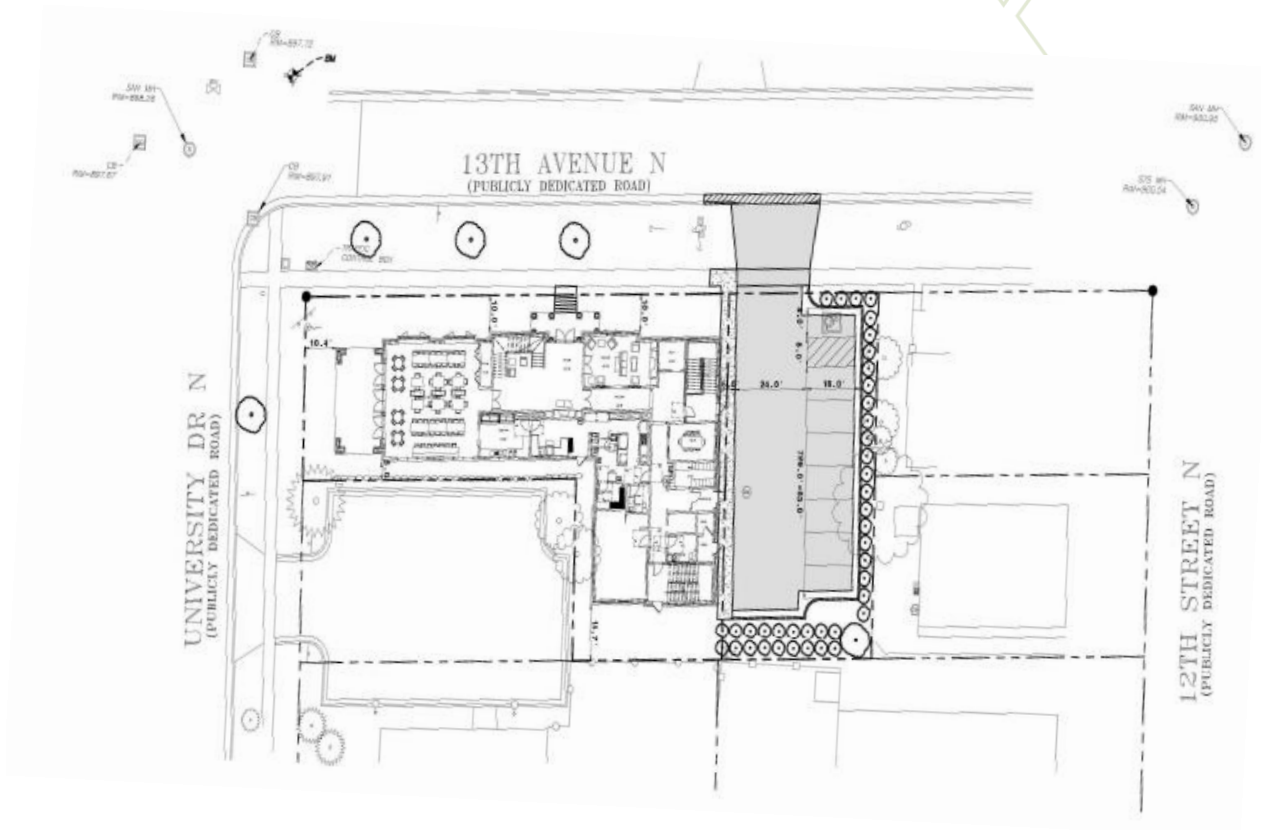


Exhibit A. Site plan for 1210 and 1206 13th Ave. N to include onsite parking.

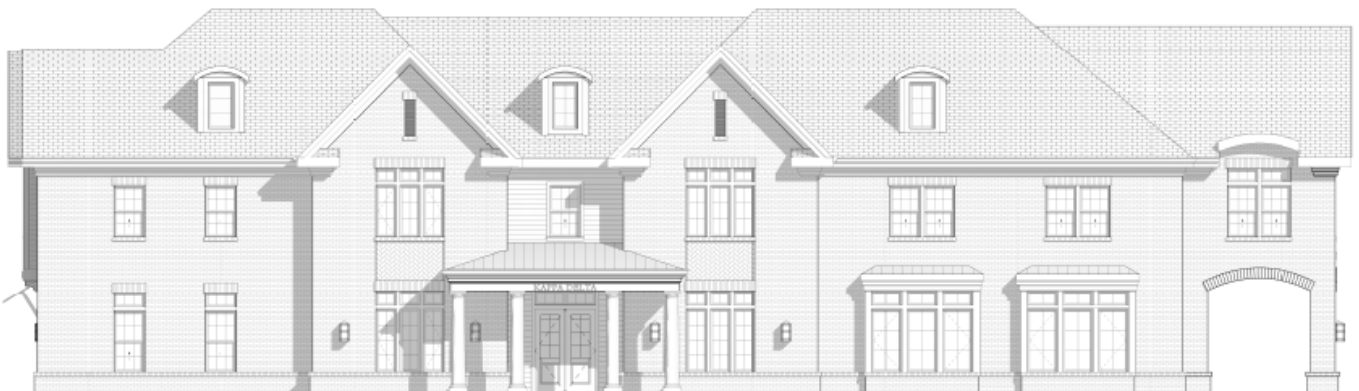


Exhibit B. Exterior front entrance on 13th Ave. N.



Exhibit C. Exterior rendering from intersection of 13 Ave. N. and University Dr.



Exhibit D. Exterior rendering from University Dr.



Exhibit E. Exterior rendering from University Dr. and McGovern Alumni Center.



Exhibit F. Exterior rendering from 13th Ave. N. facing NDSU campus.

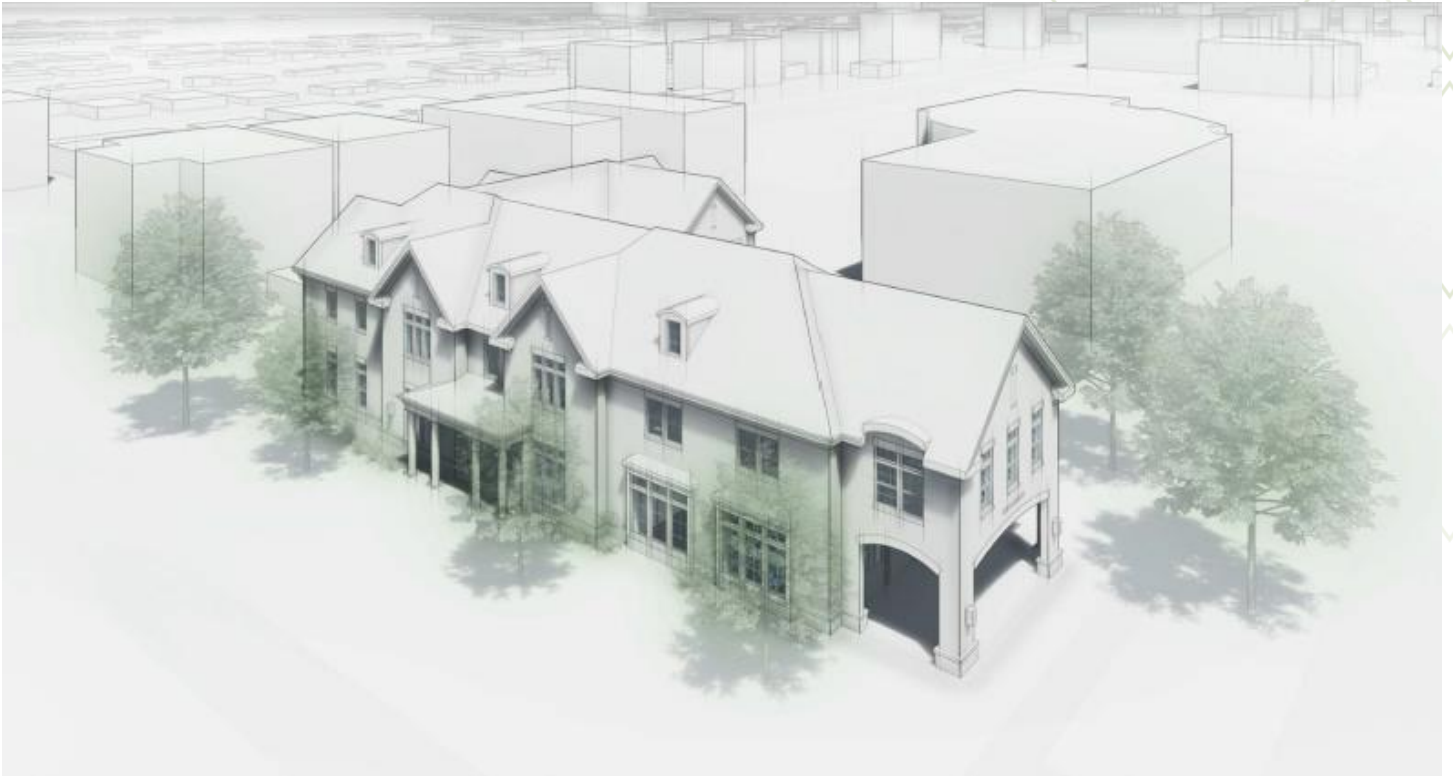


Exhibit G. Exterior rendering with bird's-eye view from intersection of 13th Ave. N. and University Dr.

MEMORANDUM

TO: ALL DEPARTMENTS

FROM: ALBERT GIBSON, PLANNING AND DEVELOPMENT DEPARTMENT AG

DATE: NOVEMBER 5, 2019

SUBJECT: 2020 PLANNING COMMISSION MEETING SCHEDULE

Listed below are the Planning Commission meeting dates for the calendar year 2020.

2020 Meeting Schedule

Planning Commission Meetings
January 7
February 4
March 3
April 7
May 5
June 2
July 7
August 4
September 1
October 6
November 3
December 1
Planning Commission meetings will be held the 1st Tuesday of each month at 3:00 p.m. in the Commission Chambers at City Hall.