FARGO CITY COMMISSION AGENDA
Monday, May 17, 2021 - 5:00 p.m.

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

A. Pledge of Allegiance.

B. Roll Call.

C. Approve Order of Agenda.

D. Minutes (Regular Meeting, May 3, 2021).

CONSENT AGENDA – APPROVE THE FOLLOWING:

1. 2nd reading and final adoption of an Ordinance Rezoning a Certain Parcel of Land Lying in Covey Ranch First Addition.

2. Findings of Fact, Order and Notice of Entry of Order for 1418 1st Avenue North.

3. Findings of Fact, Order and Notice of Entry of Order for 1648 8th Avenue South.

4. Site Authorizations for Games of Chance:
   a. Fargo Metro Baseball Association at Borrowed Bucks Roadhouse, Empire Tavern and Specks Bar.
   b. American Gold Gymnastics at The Box.
   c. Northern Prairie Performing Arts at Space Aliens, Windbreak Lounge, O'Clevy's at the Ramada and Southtown Pourhouse-Fargo.
   d. Team Makers Club, Inc. at Legends Sports Bar and Grill, Lucky's 13 Pub, Sanford Health Athletic Complex-Scheels Arena, FARGODOME, Frank's Lounge and Holiday Inn.
   e. Boys and Girls Club of the Red River Valley at Fargo Billiards/Gastropub.
   f. Prairie Public Broadcasting, Inc. at Tailgators, Slammer's Sports Bar & Grill, Pepper's, Bison Turf and Dempsey's.
   g. Horse Race North Dakota at Chub's Pub, Edgewood Tavern, Labby's Bar & Grill, Sidestreet Grille and Pub and Sickies Garage-Fargo.

5. Applications for Games of Chance:
   a. United Way of Cass Clay for a raffle board on 6/11/21.
   b. El Zagal Shrine – Provost for a raffle on 9/9/21.
   c. FM AM Rotary for a sports pool from 10/1/21 to 2/15/22.
   d. River Keepers for a raffle on 6/14/21.

6. Bid award for modular walls for the Training Room Conversion Project (RFP18023).

7. Change Order No. 3 for a no cost milestone schedule change for Project No. FM-16-A1.

8. Permanent Easement (Levee for Flood Control) and Easement (Temporary Construction Easement) with the Park District of the City of Fargo (Project No. FM-19-B).

9. Memorandum of Offer to Landowner and Permanent Easement (Levee for Flood Control) and Easement (Temporary Construction Easement) with the Park District to the City of Fargo (Project No. FM-19-E).

10. Receive and file General Fund – Budget to Actual through April 2021 (unaudited).

11. Receive and file Financial Status Report Year to Date through 4/30/21 for major operating funds (unaudited).

12. 63-day extension of FMLA for Firefighter Mike Brown.

13. Supplemental Nuisance Policy City of Fargo Ordinance Nos. 11-0805 and 11-0806.

14. Purchase of Service Agreement with Northern Cass Public School District for the 2021-2022 school year.

15. Purchase of Service Agreement with Kindred Public School District for the 2021-2022 school year.

16. Purchase of Service Agreement with Central Cass Public School District for the 2021-2022 school year.

17. First Amendment to Lease Agreement with First Center South, LLC.

18. Grant Agreement with ND Department of Human Services for care coordination services.

19. Purchase of Service Agreement with ND Department of Human Services, Behavioral Health Division for community outreach and engagement services for harm reduction.

20. Purchase Agreement with Lake Agassiz Habitat for Humanity, Inc. for a land transfer of 702 2nd Street North.

21. Purchase Agreement with Lake Agassiz Habitat for Humanity, Inc. for a land transfer and new construction at 1529 10th Avenue South.

22. Bid award for Project No. BP-21-A1.

23. Change Order No. 4 for a decrease in the amount of -$18,352.49 for the GTC Underground Project (BP0041).

24. Memorandums of Understanding with Presentation Partners in Housing, Inc. and the State of North Dakota, Acting through its North Dakota Department of Human Services, Southeast Human Service Center.

25. Adopt Resolutions Approving the following Plats:
    a. Edgewood Estates Second Addition.
    b. Metropolitan Park Second Addition.

26. Storm Sewer Relocation Agreement with Jon Shilling.

27. Extension of the highway deicing salt contract with Compass Minerals America, Inc. for the 2021-2022 season (RFP20080).

28. Change Order No. 1 for an increase of $388.00 for the Metro Transit Garage lighting replacement project.

29. Amendment No. 7 with KLJ, Inc. in the amount of $3,062.84 for the GTC Remodel Project – Exterior Renovations.

30. Contracts and bonds for Project Nos. FM-19-A1 (electrical), FM-19-E1, TM-21-A1 and FARGODOME Canopy Repairs.

31. Bills.

32. Amendment No. 1 with SRF Consulting Group in the amount of $25,700.50 for Improvement District No. MS-16-J0.

33. Easement (Temporary Construction Easement) with Keith A. Ernst and Raymond P. Vogle, as Trustees of the Fred M. Hector Jr. Revocable Trust in association with Improvement District No. FP-19-A1.

34. Bid award for Improvement District Nos. BN-21-B1, PN-21-A1 and PR-21-G1.

35. Create Improvement District Nos. PR-21-F and SL-21-C.

36. Contracts and bonds for Improvement District Nos. BN-21-C1, BN-21-G1 and UN-21-A1.

REGULAR AGENDA:

37. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at FargoND.gov/VirtualCommission).**

38. ***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**

a. Amendments to 2020 Action Plan Community Development Block Grant (CDBG).

b. Golden Valley Fifth Addition (2800 67th Avenue South; 6891, 6907, 6919, 6929, 6941 26th Street South; 2628 69th Avenue South; and 2631 Golden Lane South); approval recommended by the Planning Commission on 1/5/21:
   1. Zoning Change from AG, Agricultural, SR-4, Single-Dwelling Residential and P/I, Public and Institutional with a C-O, Conditional Overlay to SR-2, Single-Dwelling Residential and SR-4, Single-Dwelling Residential.
   2. 1st reading of rezoning Ordinance.
   3. Plat of Golden Valley Fifth Addition.

c. Sanford Addition (6103 38th Street South); approval recommended by the Planning Commission on 2/2/21:
   1. Zoning Change from AG, Agricultural to SR-2, Single-Dwelling Residential, LC, Limited Commercial, with a C-O, Conditional Overlay and P/I, Public and Institutional.
   2. 1st reading of rezoning Ordinance.
   3. Plat of Sanford Addition.

d. EOLA Addition (2470 and 2500 45th Street South); approval recommended by the Planning Commission on 3/2/21 and 4/6/21:

1. Zoning Change from GC, General Commercial with a C-O, Conditional Overlay to GC, General Commercial with a PUD, Planned Unit Development Overlay and a request to repeal the C-O, Conditional Overlay within the boundaries of the proposed EOLA Addition.
2. 1st reading of rezoning Ordinance.
3. Planned Unit Development Master Land Use Plan.
4. Plat of EOLA Addition.

e. 220 Addition (214 and 220 6th Avenue North); approval recommended by the Planning Commission on 3/2/21:
   1. Zoning Change from MR-3, Multi-Dwelling Residential to DMU, Downtown Mixed-Use.
   2. 1st reading of rezoning Ordinance.
   3. Plat of 220 Addition.

f. Plat of Southview Villages Second Addition (1701, 1707, 1713, 1719, 1725, 1731, 1735, 1741, 1747, 1751, 1755 and 1761 Prairie Lane South).

g. Hearing on a dangerous building at 1343 2nd Avenue South; continued from the 4/19/21 Regular Meeting.

h. Hearing on a dangerous building at 1426 4th Avenue North.

i. Renewal Plan and Development Agreement for Tax Increment Financing District No. 2021-02 to review a plan for development of property in the 1600 and 1700 blocks of 1st Avenue North, on the south side of the street.

39. COVID-19 Update:
   a. Fargo Cass Public Health Update.

40. Presentation of the City's Pledge and Acceptance of and Agreement to the Master Indenture of Trust Resolutions and adoption of those Resolutions:
   a. Resolution Pledging and Dedicating 100% of the City 3-21 Sales Tax; 100% of the City 3-22 Sales Tax; and 25% of the $.01 City 3-20 Sales Tax to the Metro Flood Diversion Authority.
   b. City's Pledge Resolution and Resolution Accepting and Agreeing to the Terms and Conditions of the Master Indenture of Trust Between the Metro Flood Diversion Authority, Cass County Joint Water Resource District, The City of Fargo, North Dakota, as Fiscal Agent and the Bank of North Dakota as Trustee.

41. Presentations and updates for the following:
   a. Core Neighborhoods Master Plan.
   b. Land Development Code Diagnostic Report.
   c. Cass Clay Community Land Trust.

42. Discussion on workforce shortage in Fargo.

43. Commissioner Gehrig would like to discuss Fargo's zoning laws regarding firearms sales and the recently enacted North Dakota HB 1248.

44. Appointments to the Liquor Control Board.

THE CITY OF Fargo
FAR MORE

Planning & Development
225 4th Street North
Fargo, ND 58102
Office: 701.241.1474 | Fax: 701.241.1526
Email: planning@FargoND.gov
www.FargoND.gov

38a

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: TIA BRASETH, COMMUNITY DEVELOPMENT PLANNING COORDINATOR TB

NICOLE CRUTCHFIELD, PLANNING DIRECTOR

DATE: MAY 13, 2021

RE: PUBLIC HEARING & APPROVAL OF PROPOSED AMENDMENTS TO COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)/HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) 2020 ANNUAL ACTION PLAN

The Department of Planning & Development is considering amendments to its 2020 Annual Action Plan, most recently approved by City Commission on May 3, 2021. Amendments are being proposed to add a new funding source and a new activity to the 2020 Action Plan. The City Commission is asked to hold a public hearing and then consider the following actions:

Summary of Proposed Amendments to 2020 Annual Action Plan:

1. **Add an Additional Funding Source for "Affordable Single-Family Housing for Ownership" Project**
   In addition to the previously identified $400,000 in HOME Investment Partnerships Program funds, allocate $46,000 in CDBG funds to this project.

2. **Add New Activity to Existing "Affordable Single-Family Housing for Ownership" Project**
   The activity will include the potential acquisition and demolition of a blighted structure located on the 1000 block of 10th Street North, in Census Tract 5.01, Block Group 4, east of Roosevelt Elementary. This activity would be in partnership with the Cass Clay Community Land Trust. A total of $46,000 in CDBG funds would be allocated to this activity. Upon clearance, the Cass Clay Community Land Trust will independently partner with Lake Agassiz Habitat for Humanity to build an affordable, single-family home for homeownership. *National Objective: Low to Moderate Housing Benefit [570.208(a)(3)]. CDBG Matrix Codes: 01 Acquisition, 04 Clearance & Demolition [24 CFR Part 570.201(a), 570.201(d)].*

The proposed amendments are in compliance with federal regulations for the Department of Housing and Urban Development (HUD) HOME program. The following actions were completed as required by the City of Fargo's Citizen Participation Plan:

Public Advertisement Published	May 12, 2021
Public Comment Period Begins	May 13, 2021
Provided Information to the Community Development Committee	May 13, 2021
Public Comment Period Ends	May 17, 2021
Public Hearing and Final City Commission Consideration	May 17, 2021

To date, no public comments have been received and the comment period ends on May 17. Each proposed amendment is detailed in the attached public notice. Once approved, the amendment will be submitted to HUD for approval.

EQUAL HOUSING OPPORTUNITY

Recommended Motion:
Approve proposed amendments to CDBG/HOME 2020 Annual Action Plan.

RESOLUTION APPROVING AMENDMENTS TO THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)/HOME 2020 ACTION PLAN

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the City of Fargo receives Community Development Block Grant (CDBG)/HOME funds from United States Department of Housing and Urban Development (HUD); and

WHEREAS, in compliance with federal regulations, the City of Fargo has amended its CDBG/HOME 2020 Action Plan to make available housing and community development resources that primarily address the needs of low to moderate income persons in Fargo; and

WHEREAS, the City of Fargo has conducted a required citizen participation process including a draft publication of the amendments, a public hearing, and a minimum 5-day public comment period as temporarily allowed through HUD waivers related to COVID-19.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Fargo, North Dakota that the Mayor is herein authorized and directed to submit the amended plans to HUD and enter into and execute contracts and other documents as necessary to effectuate activities identified in the revised plan.

CERTIFICATE

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

I, Timothy J. Mahoney, the duly elected, qualified and acting Mayor of the City of Fargo, North Dakota; and

I, Steven Sprague, the duly appointed, qualified and acting City Auditor of the City of Fargo, North Dakota,

DO HEREBY CERTIFY:

That the foregoing is a full, true and correct copy of the original Resolution, and the whole thereof approving the amendments to the City of Fargo's 2020 Action Plan for the Community Development Block Grant (CDBG) & HOME programs as described in the foregoing Resolution; which Resolution was duly adopted by the Board of City Commissioners of the City of Fargo, North Dakota, at the meeting of the Board held May 17, 2021 at which Regular Meeting all members present voted in favor of the adoption of the Resolution; and

That such Resolution is now a part of the permanent records of the City of Fargo, as such records are now filed in the office of the City Auditor.

(SEAL)

_____
Timothy J. Mahoney,
Mayor of the City of Fargo, North Dakota

ATTEST:

_____
Steven Sprague, City Auditor

On this ____ day of _____, 2021, before me, _____, a Notary Public in and for Cass County, in the State of North Dakota, personally appeared Timothy J. Mahoney, known to me to be the Mayor of the City of Fargo, North Dakota, and Steven Sprague, City Auditor of the City of Fargo, a municipal corporation under the laws of the State of North Dakota, and they acknowledged to me that they executed the foregoing instrument.

_____
Notary Public, Cass County, North Dakota

386

City of Fargo Staff Report			
Title:	Golden Valley Fifth Addition	**Date:** **Updated:**	12/30/20 5/13/2021
Location:	2800 67th Avenue South; 6891, 6907, 6919, 6929, 6941 26th Street South; 2628 69th Avenue South; and 2631 Golden Lane South.	**Staff Contact:**	Donald Kress, current planning coordinator
Legal Description:	Unplatted portion of the South 1/2 of the NW 1/4 of Section 11, Township 138 North, Range 49 West, a replat of Lots 2 through 5, Block 4, Golden Valley Second Addition and Lot 11, Block 1 and Lots 1 and 2, Block 2 of Golden Valley Third Addition, and a vacation and dedication of a portion of 69th Avenue South in Golden Valley Third Addition		
Owner(s)/Applicant:	Ryland Development Corporation / EagleRidge Development, LLC--Jon Youness	**Engineer:**	Mead and Hunt
Entitlements Requested:	**Major Subdivision** (Plat of **Golden Valley Fifth Addition** a plat of an unplatted portion of the South 1/2 of the NW 1/4 of Section 11, Township 138 North, Range 49 West, a replat of Lots 2 through 5, Block 4, Golden Valley Second Addition and Lot 11, Block 1 and Lots 1 and 2, Block 2 of Golden Valley Third Addition, and a vacation and dedication of a portion of 69th Avenue South in Golden Valley Third Addition) and **Zoning Change** (from AG, Agricultural, SR-4, Single-Dwelling Residential, and P/I, Public and Institutional with a C-O, Conditional Overlay to SR-2, Single-Dwelling Residential and SR-4, Single-Dwelling Residential and repeal the conditional overlay)		
Status:	City Commission Public Hearing: May 17, 2021		

Existing		Proposed
Land Use: Undeveloped; partly platted for residential and private park lots		**Land Use:** Residential
Zoning: AG, Agricultural; SR-4, Single-Dwelling Residential; P/I, Parks/Institutional with a C-O, Conditional Overlay		**Zoning:** SR-4, Single-Dwelling Residential and SR-2, Single-Dwelling Residential
Uses Allowed: AG – Agricultural allows detached houses, parks and open space, safety services, basic utilities, and crop production SR-4 - Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities; P/I Allows ~~colleges, community service, daycare centers of unlimited size, detention facilities~~, ~~health care facilities~~, parks and open space, ~~religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use,~~		**Uses Allowed:** SR-2—allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities SR-4 - Single-Dwelling Residential allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities;

~~agriculture, aviation, surface transportation, and major entertainment events;~~ **with a C-O, conditional overlay to restrict uses as shown**		
Maximum Density Allowed: AG allows a maximum of 1 dwelling unit per 10 acres SR-4 allows a maximum 12.1 units per acre; P/I zone has no density or lot coverage standards		**Maximum Density Allowed:** SR-2 allows 5.4 dwelling units per acre; SR-4 allows a maximum 12.1 units per acre;

Proposal:

The applicant requests two entitlements:

1. A major subdivision, entitled **Golden Valley Fifth Addition,** which is a plat of an unplatted portion of the South 1/2 of the NW 1/4 of Section 11 Township 138 North Range 49 West, a replat of Lots 2 through 5, Block 4, Golden Valley Second Addition and Lot 11, Block 1 and Lots 1 and 2, Block 2 of Golden Valley Third Addition, and a vacation and dedication of a portion of 69th Avenue South in Golden Valley Third Addition
2. A zoning change from AG, Agricultural; SR-4, Single-Dwelling Residential; and P/I, Public and Institutional with a C-O, Conditional Overlay to SR-2, Single-Dwelling Residential and SR-4, Single-Dwelling Residential and repeal the conditional overlay.

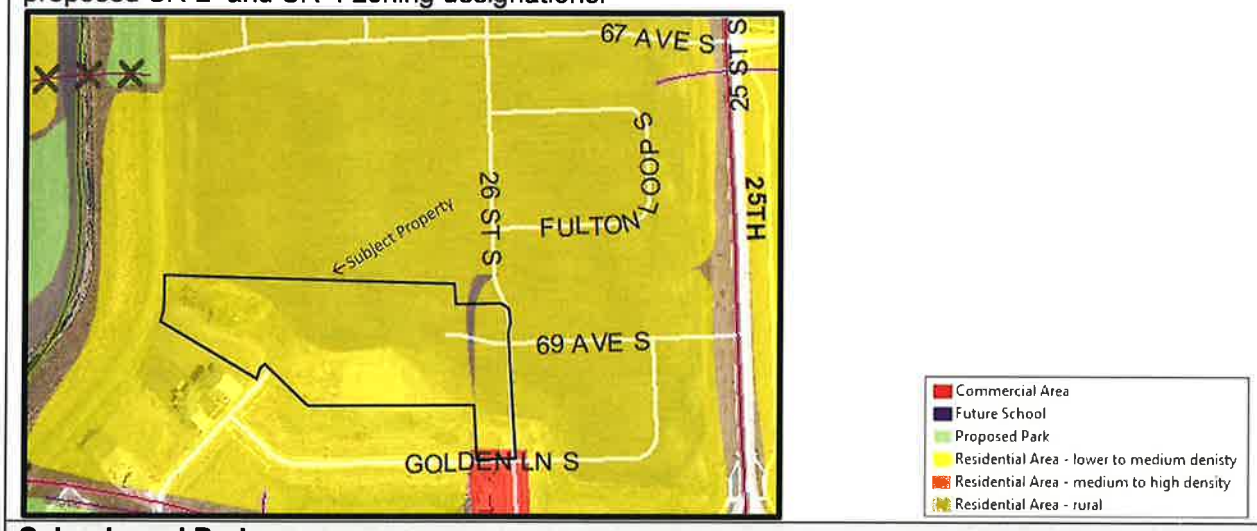
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: AG, undeveloped; SR-4: Single-Dwelling Residential, platted for single family residences
- East: SR-4: Single-Dwelling Residential; single family residences and undeveloped lots
- South: SR-2: Single-Dwelling Residential; single family residences and undeveloped lots
- West: AG: Agricultural and P/I undeveloped, and County Drain 53. Property west of Drain 53 platted as Selkirk Place First Addition.

Area Plans:

The subject property is located within the 2007 Future Land Use Plan. This plan designates the subject proeprty as "Residential Area—Lower to Medium Density." This land use designation includes the proposed SR-2 and SR-4 zoning designations.



Schools and Parks:

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

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

Parks: Davies Recreational Pool (7150 25th Street S) is located approximately 0.30 miles southeast of the subject property and offers concessions, restrooms, and swimming pool amenities. Golden Valley

Park, 6977 Golden Valley Parkway South, is located 0.10 miles south of the subject property and includes amenities of a basketball court, grill and picnic tables, a playground, and a shelter

Pedestrian / Bicycle: Approximately one block east side of the subject property, there are off road bike facilities that run along 25th Street South. A trail is also proposed to be installed alongside Drain 53.

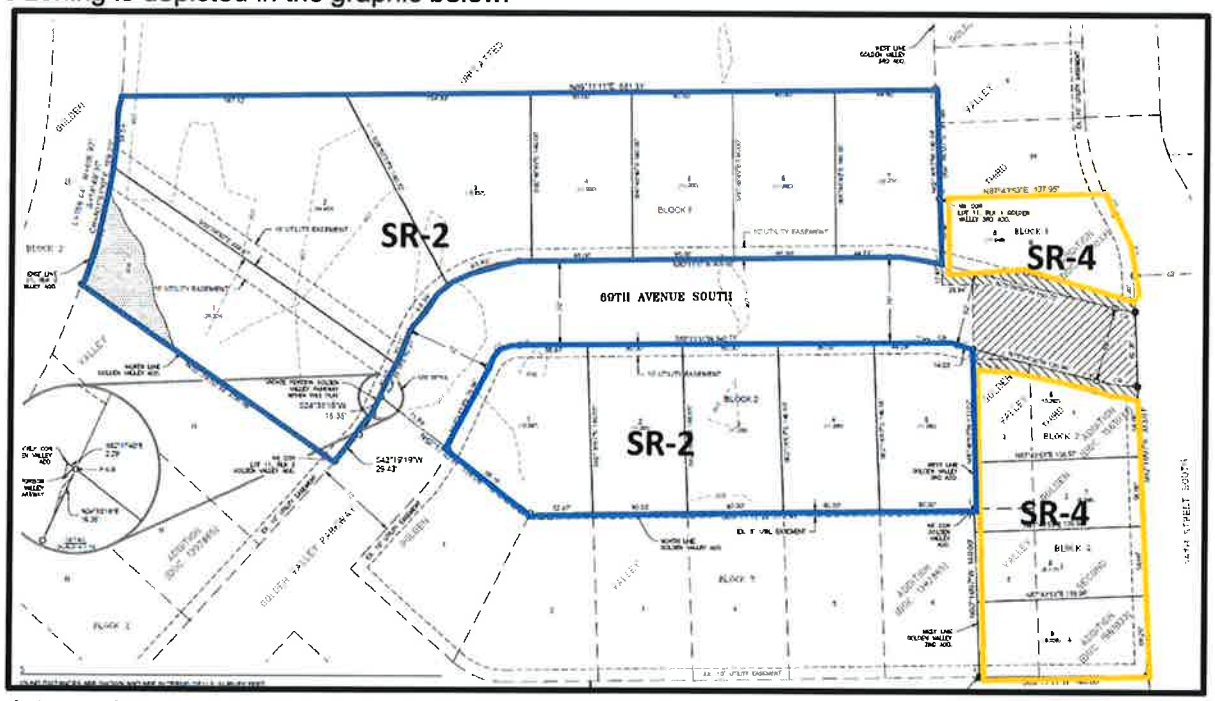
Staff Analysis:

PLAT AND ZONING CHANGE

The plat creates 17 lots zoned as follows:

Lot Number	Block Number	Zoning
1-7	1	SR-2
8	1	SR-4
1-5	2	SR-2
6-9	2	SR-4

This zoning is depicted in the graphic below:



The lots are intended for detached single-dwelling residences.

ELIMINATION OF HOMEOWNERS' ASSOCIATION (HOA)-OWNED LOTS: This plat includes a replat of Lot 2, Block 2, Golden Valley Third Addition and Lot 5, Block 4, Golden Valley Second Addition. These lots were platted for private parks, and were zoned P/I, Public/Institutional with a C-O, Conditional Overlay to restrict uses. The lots were to be owned by the homeowners association (HOA). The replat eliminates these private parks and incorporates the area of these lots into single-dwelling residential lots, to be zoned SR-4, which will terminate the C-O on these lots.

ACCESS: The project site takes access from 26th Street South to the east, with 69th Avenue South continuing through the plat to connect with the existing Golden Valley Parkway.

VACATION OF RIGHT-OF-WAY: This plat includes a vacation of a portion of right-of-way for 69th Avenue South, as depicted on the plat. This right-of-way is not developed as a road, and there are no utilities in it. The plat relocates this right of way slightly to the north and dedicates it for 69th Avenue South. The vacation of right-of-way has separate findings as noted below.

PUBLIC WATER and SEWER: Public water and sewer will be provided in the dedicated public streets.

(continued on next page)

Zoning

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**
   Staff is unaware of any error in the zoning map as it relates to this property. A large part of this property was zoned AG: Agricultural at the time it was annexed. At that time, no development was proposed. Now that development is proposed, the applicant requests a zoning change to SR-2: Single Dwelling Residential. Existing lots that are being replatted are currently zoned SR-4 and P/I, Public and Institutional. When replatted, the lots will be zoned SR-4; the separate P/I-zoned lots will be eliminated, as noted above. The C-O, conditional overlay will also be repealed by this rezoning. **(Criteria Satisfied)**

2. **Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**
   City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing, developed public right-of-way and will dedicate additional rights-of-way, which provide access and public utilities to serve the development. **(Criteria satisfied)**

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

4. **Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?**
   The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The Growth Plan that applies to this property is the 2007 Growth Plan.

   This property is designated "lower to medium density residential" on the 2007 Growth Plan. The 2007 Growth Plan states that the "low to medium density" residential designation includes the SR-0 to SR-5 zones. Thus, the SR-2 and SR-4 zones are consistent with the "lower to medium density residential" designation from the 2007 Growth Plan. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City, contingent on Commission approval of the proposed Growth Plan Amendment. **(Criteria satisfied)**

Major Subdivision

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

1. **Section 20-0907 of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**
   The requested zoning for the residential development on this property is SR-2, Single-Dwelling Residential and SR-4, Single-Dwelling Residential. These zones will accommodate the proposed single-family development and are consistent with the "lower to medium density" designation for this property in the 2007 Growth Plan as noted in the zoning change findings above. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry. **(Criteria Satisfied)**

2. **Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**
   The property is proposed to be zoned SR-2, Single-Dwelling Residential and SR-4, Single-Dwelling Residential. As noted in the zone change findings above, these zones are consistent with the 2007 Growth Plan designation of "lower to medium density residential." The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

3. **Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
   The applicant has provided a draft amenities plan that specifies the terms of securing installation of public improvements to serve the subdivision. This amenities plan was reviewed by the Public Works Project Evaluation Committee (PWPEC) prior to the final plat going to City Commission. Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles
   (Criteria Satisfied)

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

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

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

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

N.D.C.C. 40-39-07. Hearing on petition – Passage of resolution declaring vacation by governing body. The governing body, or such committee as may be appointed by it, shall investigate and consider the matter set forth in the petition specified in section 40-39-05 and, at the time and place specified in the notice, shall hear the testimony and evidence of persons interested. After hearing the testimony and evidence or upon the report of the committee favoring the granting of the petition, the governing body, by a resolution passed by a two-thirds vote of all its members, may declare the public grounds, streets, alleys, or highway described in the petition vacated upon such terms and conditions as it shall deem just and reasonable.
This procedure---hearing by the City Commission following the appropriate notice period—is scheduled for the May 17th, 2021 City Commission agenda. **(Criteria Satisfied)**

NOTE ON THE MOTION: NDCC 40-39-07, noted above, states that a vote of two-thirds of the members of the governing body is required for approval of a vacation. As this plat includes a vacation of right of way, an affirmative vote of four commissioners is required for approval.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff, and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and move to approve the proposed 1) Zoning Change from AG, Agricultural; SR-4, Single-Dwelling Residential; and P/I, Public and Institutional with a C-O, Conditional Overlay to SR-2, Single-Dwelling Residential and SR-4, Single Dwelling Residential and repeal the conditional overlay; and 2) a plat of the **Golden Valley Fifth Addition**, including vacation of right of way, as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Section 40-39."

Planning Commission Recommendation: January 5, 2021

At the January 5, 2021 Planning Commission, by a vote of 8-0 with one Commissioner absent and two Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed 1) Zoning Change from AG, Agricultural; SR-4, Single-Dwelling Residential; and P/I, Public and Institutional with a C-O, Conditional Overlay to SR-2, Single-Dwelling Residential and SR-4, Single Dwelling Residential; and 2) a plat of the **Golden Valley Fifth Addition**, including vacation of right of way, as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2007 Growth Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Section 40-39.

Attachments:

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

Zone Change (AG, P/I & SR-4 to SR-2 & SR-4)
Plat (Major)

2800 67th Ave S
2628 69th Ave S, 2631 Golden Ln S 6891, 6907, 6919, 6929 & 6941 26th St S

Golden Valley Fifth Addition



THE CITY OF Fargo FAR MORE

Legend

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

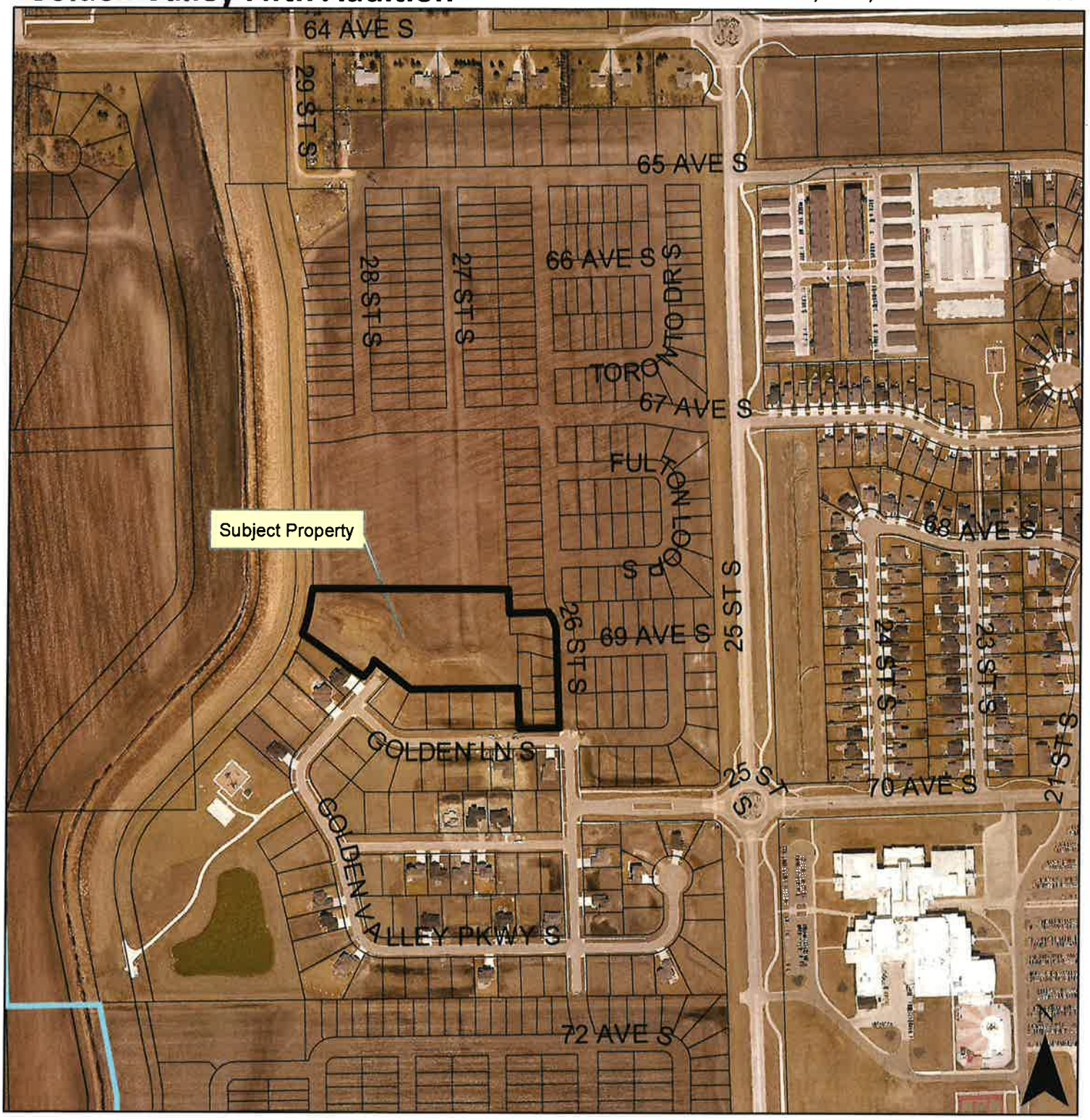
500 Feet

Fargo Planning Commission
January 5, 2020

Zone Change (AG, P/I & SR-4 to SR-2 & SR-4)
Plat (Major)

2800 67th Ave S
2628 69th Ave S, 2631 Golden Ln S 6891,
6907, 6919, 6929 & 6941 26th St S

Golden Valley Fifth Addition



THE CITY OF Fargo FAR MORE

500 Feet

Fargo Planning Commission
January 5, 2020

GOLDEN VALLEY FIFTH ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

AN UNPLATTED PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 138 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN AND A REPLAT OF LOTS 2 THROUGH 5, BLOCK 4 OF GOLDEN VALLEY SECOND ADDITION AND A REPLAT OF A PORTION OF 69TH AVENUE SOUTH TOGETHER WITH LOTS 1 AND 2, BLOCK 2, AND LOT 11, BLOCK 1 ALL IN GOLDEN VALLEY THIRD ADDITION; A VACATION AND DEDICATION OF A PORTION OF 69TH AVENUE SOUTH AND A VACATION OF A PORTION OF GOLDEN VALLEY PARKWAY IN GOLDEN VALLEY ADDITION

(A MAJOR SUBDIVISION)

PLAT BOUNDARY DESCRIPTION:

That part of the South Half of the Northeast Quarter of Section 11, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota and a replat of Lots 2 through 5, Block 4, Golden Valley Second Addition to the City of Fargo as filed and on record at the office of the County Recorder, Cass County, North Dakota and a replat of a portion of 69th Avenue South together with Lots 1 and 2, Block 2 and Lot 11, Block 1 of Golden Valley Third Addition to the City of Fargo as filed and on record at the office of the County Recorder, Cass County, North Dakota and a portion of Golden Valley Parkway in Golden Valley Addition to the City of Fargo as filed and on record at the office of the County Recorder, Cass County, North Dakota described as follows:

Beginning at the southeast corner of Lot 4, Block 4 of Golden Valley Second Addition to the City of Fargo as filed and on record at the office of the County Recorder, Cass County, North Dakota; thence on an assumed bearing of South 88 degrees 11 minutes 11 seconds West on the south line of said lot, a distance of 140.00 to the southwest corner of Lot 5, Block 4, said Golden Valley Second Addition; thence North 02 degrees 16 minutes 07 seconds West on the west line of said Golden Valley Second Addition, a distance of 145.00 feet to the northeast corner of Lot 6, Block 5, Golden Valley Addition to the City of Fargo as filed and on record at the office of the County Recorder, Cass County, North Dakota; thence South 89 degrees 11 minutes 11 seconds West on the north line of said Golden Valley Addition, a distance of 372.47 feet; thence North 52 degrees 17 minutes 40 seconds West on said north line, a distance of 158.06 feet; thence South 24 degrees 33 minutes 18 seconds West, a distance of 16.35 feet; thence southwesterly 20.18 feet along a tangential curve concave to the northwest and on the northwesterly right-of-way line of Golden Valley Parkway of said Golden Valley Addition, said curve has a radius of 65.00 feet, a central angle of 17 degrees 46 minutes 01 seconds, the chord of said curve bears South 33 degrees 26 minutes 19 seconds West, a distance of 20.08; thence South 42 degrees 19 minutes 19 seconds West, tangent to said curve and on said line, a distance of 29.43 feet to the northeast corner of Lot 26, Block 2 of said Golden Valley Addition; thence North 55 degrees 39 minutes 50 seconds West on the northerly line of said Golden Valley Addition, a distance of 258.96 feet to the east line of Lot 21, Block 2 of said Golden Valley Addition; thence northeasterly 159.64 feet along a non-tangential curve concave to the northwest, said curve has a radius of 615.97 feet, a central angle of 14 degrees 49 minutes 31 seconds, the chord of said curve bears North 11 degrees 51 minutes 10 seconds East, a distance of 159.20 feet; thence North 89 degrees 11 minutes 11 seconds East, a distance of 681.31 feet to the west line of Golden Valley Third Addition to the City of Fargo as filed and on record at the office of the County Recorder, Cass County, North Dakota; thence South 02 degrees 16 minutes 07 seconds East on said west line a distance of 91.88 feet to the northwest corner of Lot 11, Block 1 of said Golden Valley Third Addition; thence North 87 degrees 43 minutes 53 seconds East on the north line of said Lot 11, a distance of 137.55 feet to the westerly right-of-way line of 26th Street South; thence southeasterly on said line 20.89 feet along a non-tangential curve concave to the east, said curve has a radius of 162.00 feet, a central angle of 07 degrees 23 minutes 13 seconds, the chord of said curve bears South 29 degrees 01 minutes 43 seconds East, a distance of 20.87 feet; thence southeasterly 53.15 feet along a reverse curve concave to the west having a radius of 100.00 feet and a central angle of 30 degrees 27 minutes 14 seconds, the chord of said curve bears South 17 degrees 29 minutes 43 seconds East, a distance of 52.53 feet; thence South 02 degrees 16 minutes 07 seconds West on said west right-of-way line, a distance of 333.00 feet to the point of beginning.

AND

Vacate that part of 69th Avenue South lying westerly of the west right-of-way line of 26th Street South dedicated per said Golden Valley Third Addition to the City of Fargo, Cass County, North Dakota.

AND

Vacate that part of Golden Valley Parkway lying westerly of the following described line: commencing at the northerly right-of-way corner of Golden Valley Parkway of Golden Valley Addition to the City of Fargo as filed and on record at the office of the County Recorder, Cass County, North Dakota; thence South 52 degrees 17 minutes 40 seconds East on the north line of said addition, a distance of 2.29 feet to the point of beginning of the line to be described; thence South 24 degrees 33 minutes 18 seconds West, a distance of 16.35 feet and said line there terminating.

Plat contains 6.33 acres, more or less.

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

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 2nd day of March, 2021

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

State of North Dakota)
) SS
County of Cass)

On this 2nd day of March, 2021, appeared before me, Joshua J. Nelson, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Leah Martin
Notary Public, Cass County, North Dakota

LEAH MARTIN
Notary Public
State of North Dakota
My Commission Expires May 7, 2021

CITY OF FARGO PLANNING COMMISSION APPROVAL

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

John Gunkelman
Planning Commission Chair

State of North Dakota)
) SS
County of Cass)

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

FARGO CITY COMMISSION APPROVAL

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

Timothy J. Mahoney
Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota)
) SS
County of Cass)

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

Notary Public, Cass County, North Dakota

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

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

Brenda E. Derrig, P.E.
City Engineer

State of North Dakota)
) SS
County of Cass)

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

Notary Public, Cass County, North Dakota

OWNER'S CERTIFICATE:

KNOW ALL PERSONS BY THESE PRESENTS: That Ryland Development Corporation, a North Dakota corporation, as vendor, and Stan Ryland husband and Patricia Ryland, wife, as vendors, and 76th Street Holdings, LLC, a North Dakota limited liability company, as vendee, being owners of a parcel of land located in that part of the South Half of the Northeast Quarter of Section 11, Township 138 North, Range 49 West of the Fifth Principal Meridian and Lots 2 thru 5, Block 4, GOLDEN VALLEY SECOND ADDITION to the City of Fargo, as filed and on record at the office of the County Recorder, Cass County, North Dakota and Lots 1 and 2, Block 2, of GOLDEN VALLEY THIRD ADDITION to the City of Fargo, as filed and on record at the office of the County Recorder, Cass County, North Dakota; that we have caused the same to be surveyed and replatted as **GOLDEN VALLEY FIFTH ADDITION** to the City of Fargo, Cass County, North Dakota, and do hereby dedicate to the public, for public use all Streets, Avenues, and utility easement as shown on this plat and do hereby vacate and dedicate a portion of 69th Avenue South within the boundary of said GOLDEN VALLEY FIFTH ADDITION.

OWNER/VENDER:

Ryland Development Corporation, Contract Vender

Stanley L. Ryland, President

State of North Dakota)
)ss
County of Cass)

On this 3rd day of March, 2021, before me personally appeared Stanley L. Ryland, President, Ryland Development Corporation, a North Dakota corporation, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the corporation.

Notary Public, Cass County, North Dakota

TERESA KUZMA
Notary Public
State of North Dakota
My Commission Expires Sept. 24, 2025

OWNER/VENDER:

Stanley L. Ryland and Patricia J. Ryland, Contract Vender

Stanley L. Ryland, Husband

Patricia J. Ryland, Wife

State of North Dakota)
)ss
County of Cass)

On this 3rd day of March, 2021, before me personally appeared Stanley L. Ryland, Husband and Patricia J. Ryland, wife, 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.

Notary Public, Cass County, North Dakota

TERESA KUZMA
Notary Public
State of North Dakota
My Commission Expires Sept. 24, 2025

CONRACT VENDEE:

76th Street Holdings, LLC

James R. Bullis, President

State of North Dakota)
)ss
County of Cass)

On this 3rd day of March, 2021, before me personally appeared James R. Bullis, President, 76th Street Holdings, LLC, a North Dakota limited liability company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the limited liability company.

Notary Public, Cass County, North Dakota

TERESA KUZMA
Notary Public
State of North Dakota
My Commission Expires Sept. 24, 2025

MORTGAGE HOLDER:

First International Bank and Trust, Mortgagee

Matt Mueller, President

State of North Dakota)
)ss
County of Cass)

On this 3rd day of March, 2021, before me personally appeared Matt Mueller, President, First International Bank and Trust, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of First International Bank and Trust.

Notary Public, Cass County, North Dakota

SAM HOKANSON
Notary Public
State of North Dakota
My Commission Expires Aug. 17, 2021

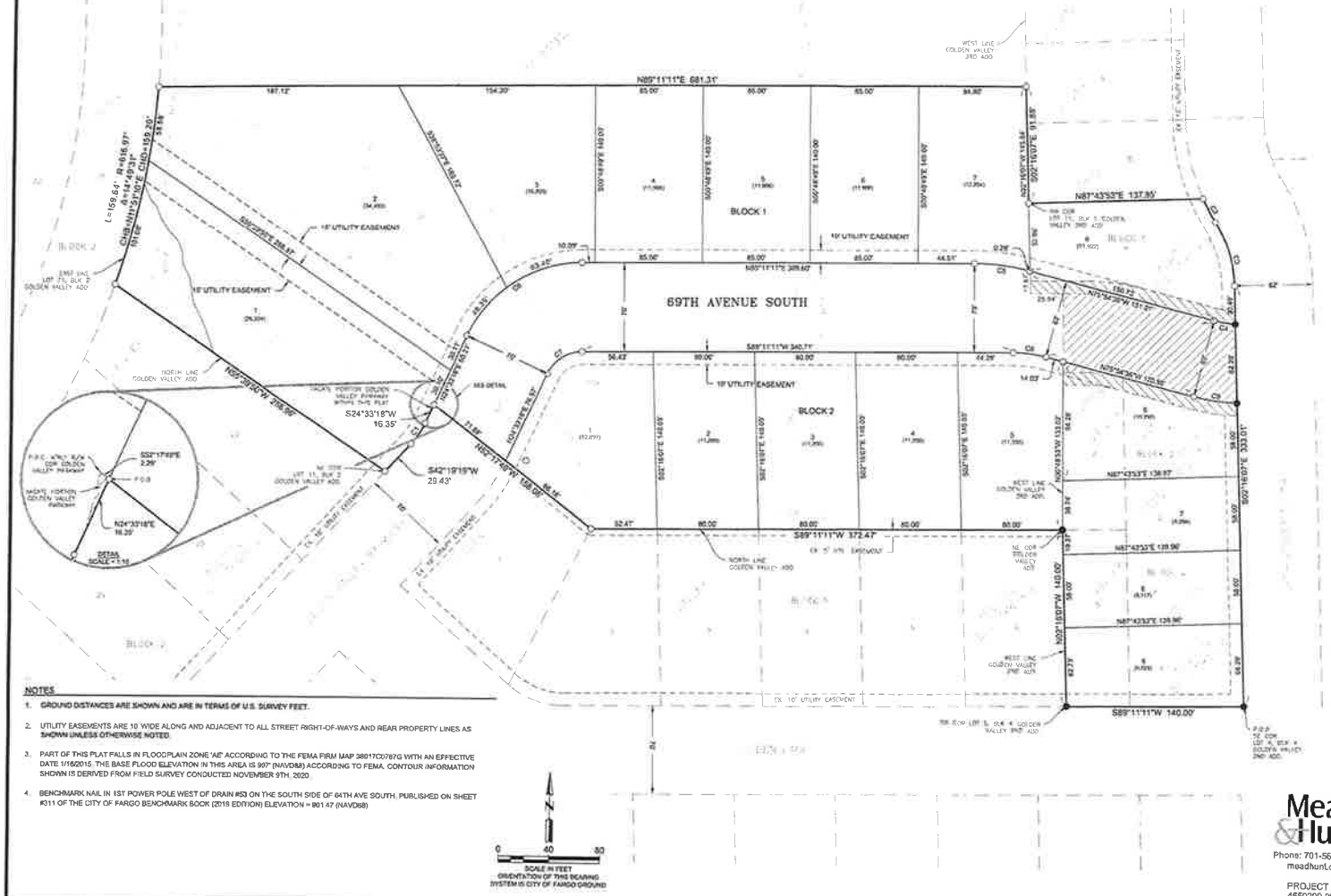
Mead & Hunt

Phone: 701-566-6450
meadhunt.com

PROJECT NO.
4650200-202297.01
SHEET 1 OF 2

GOLDEN VALLEY FIFTH ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
AN UNPLATTED PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 138 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN AND A REPLAT OF LOTS 2 THROUGH 5, BLOCK 4 OF GOLDEN VALLEY SECOND ADDITION AND A REPLAT OF A PORTION OF 69TH AVENUE SOUTH TOGETHER WITH LOTS 1 AND 2, BLOCK 2, AND LOT 11, BLOCK 1 ALL IN GOLDEN VALLEY THIRD ADDITION; A VACATION AND DEDICATION OF A PORTION OF 69TH AVENUE SOUTH AND A VACATION OF A PORTION OF GOLDEN VALLEY PARKWAY IN GOLDEN VALLEY ADDITION
(A MAJOR SUBDIVISION)





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

LEGEND

- MONUMENT IN PLACE
- SET MONUMENT (3/8" REBAR CAPPED PLS-27292)
- LOT AREA (SQUARE FEET)
- EXISTING PROPERTY LINE
- EXISTING EASEMENT LINE
- NEW LOT LINE
- NEW BLOCK LINE
- PLAT BOUNDARY
- NEW EASEMENT LINE
- MAJOR CONTOUR
- MINOR CONTOUR
- 100 YR. FLOODPLAIN
- 10' UTILITY EASEMENT VACATED BY THIS PLAT
- PUBLIC STREET VACATED BY THIS PLAT

Curve Table

Curve #	Length	Radius	Delta	CHORD BEARING	CHORD LENGTH
C1	20.15	65.00	17°45'51"	S33°29'19"W	20.06
C2	20.89	162.00	7°23'13"	S28°01'43"E	20.87
C3	53.15	100.00	30°27'14"	S17°29'43"E	52.53
C4	16.86	100.00	9°40'17"	S80°44'44"E	16.85
C5	44.22	170.00	14°54'13"	N83°21'42"W	44.10
C6	112.60	100.00	64°31'50"	S56°52'15"W	106.92
C7	33.64	30.00	64°13'33"	S58°52'15"W	32.06
C8	26.01	100.00	14°54'13"	N83°21'42"W	25.94
C9	34.60	162.00	12°14'12"	S82°01'42"E	34.53

NOTES

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
2. UTILITY EASEMENTS ARE 10' WIDE ALONG AND ADJACENT TO ALL STREET RIGHT-OF-WAYS AND REAR PROPERTY LINES AS SHOWN UNLESS OTHERWISE NOTED.
3. PART OF THIS PLAT FALLS IN FLOODPLAIN ZONE 'AE' ACCORDING TO THE FEMA FIRM MAP 38017C0787G WITH AN EFFECTIVE DATE 1/16/2015. THE BASE FLOOD ELEVATION IN THIS AREA IS 907' (NAVD88) ACCORDING TO FEMA. CONTOUR INFORMATION SHOWN IS DERIVED FROM FIELD SURVEY CONDUCTED NOVEMBER 9TH, 2020.
4. BENCHMARK NAIL IN 1ST POWER POLE WEST OF DRAIN #53 ON THE SOUTH SIDE OF 64TH AVE SOUTH. PUBLISHED ON SHEET #311 OF THE CITY OF FARGO BENCHMARK BOOK (2019 EDITION) ELEVATION = 901.47 (NAVD88)

Mead & Hunt
Phone: 701-566-6450
meadhunt.com

PROJECT NO.
4650200-202297.01
SHEET 2 OF 2

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

3862

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN GOLDEN VALLEY FIFTH ADDITION
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on January 5, 2021; and,

WHEREAS, the rezoning changes were approved by the City Commission on May 17, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots One (1) through Seven (7), Block One (1); Lots One (1) through Five (5), Block Two (2) of Golden Valley Fifth Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District, to "SR-2", Single-Dwelling Residential, District.

Section 2. The following described property:

Lot Eight (8), Block One (1); Lots Six (6) through Nine (9), Block Two (2) of Golden Valley Fifth Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "SR-4", Single-Dwelling Residential, District, and "P/I", Public and Institutional, District, with a "C-O", Conditional Overlay, District, to "SR-4", Single-Dwelling

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Residential, District, repealing said "C-O", Conditional Overlay, District, in its entirety.

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

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

_____
Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

380

City of Fargo Staff Report			
Title:	Sanford Addition	**Date:** **Update:**	1/27/2021 5/13/2021
Location:	6103 38th Street South	**Staff Contact:**	Aaron Nelson
Legal Description:	Part of the Southeast Quarter of Section 3, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota		
Owner(s)/Applicant:	Sanford North/Mike Erickson	**Engineer:**	MBN Engineering; Mead & Hunt
Entitlements Requested:	**Major Subdivision** (Part of the Southeast Quarter of Section 3, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota); **Zone Change** (from AG, Agricultural to P/I, Public & Institutional, and LC, Limited Commercial, with C-O, Conditional Overlay); and **Growth Plan Amendment** (from future land uses of Low/Medium Density Residential & Medium/High Density Residential to Commercial)		
Status:	City Commission Public Hearing: May 17,2021		

Existing		Proposed
Land Use: Undeveloped		**Land Use:** Parks & Open Space, Community Service, Outdoor Recreation and Entertainment, and Retail Sales & Services
Zoning: AG, Agricultural		**Zoning:** P/I, Public & Institutional, and LC, Limited Commercial, with C-O, Conditional Overlay
Uses Allowed: AG allows detached houses, parks and open space, safety services, basic utilities, and crop production		**Uses Allowed:** P/I allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events. LC allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, ~~off premise advertising signs~~, commercial parking, retail sales and service, self-service storage, vehicle repair, limited vehicle service.
Maximum Density Allowed (Residential): AG allows a maximum of 1 dwelling unit per 10 acres.		**Maximum Lot Coverage Allowed**: LC allows a maximum 55% building coverage.

Proposal:

The applicant is seeking approval of three entitlements (a major subdivision, growth plan amendment, and zoning map amendment) to accommodate the construction of a regional sports complex and future commercial development. The major subdivision, entitled *Sanford Addition*, would plat the subject property into six lots on four blocks. The subdivision would also dedicate public right-of-way to accommodate circulation within the subject property and the extension of 38th Street S south to 64th Avenue S.

The largest of these lots (the 64-acre Lot 1, Block 2), located between I-29 and 38th Ave S, would be rezoned to P/I, Public & Institutional. Here, the applicant (Sanford Health) plans to construct the first phase of a regional multi-sports complex, in conjunction with the Fargo Park District, which would own and operate the facility. The sports complex would include a large building that would house indoor sport facilities (such as ice rinks, basketball &

volleyball courts, and multi-purpose gym space). In addition to the indoor sports building, the complex would also include outdoor ballfields for various sports and related accessory amenities (such as mutli-use trails, parking lots, concession stands, play equipment, etc). A future phase of development of the sports complex is planned for the unplatted area west of 38th Street S, adjacent to Lot 1, Block 2. The applicant intends to plat and rezone this area at a later date, once additional details have been worked through.

Lot 3, Block 2 is intended to be purchased by the City of Fargo to accommodate current and future transportation needs relating to I-29 and 64th Ave S. This lot would also be rezoned to P/I.

The remainder of the lots are proposed to be rezoned to LC, Limited Commercial, with a C-O, Conditional Overlay, for future commercial development.

The proposed growth plan amendment would reclassify the southwestern portion of the subject property from residential classifications to the commercial future land use classification.

NOTE: This property is currently in the City's extra-territorial jurisdiction (ETJ). The process for annexing this property into the City is running concurrently with the subdivision, zone change, and growth plan amendment. The Planning Commission will review the proposed annexation in item E.1 of the February 2, 2021 Planning Commission Agenda.

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: Vacant, crop production, & residential uses within the AG zoning district;
- East: Interstate right-of-way;
- South: Crop production within the AG zoning district; and
- West: Crop production within the AG zoning district.

Area Plans:

The 2007 Fargo Growth Plan identifies the subject property as having future land uses of Low/Medium Density Residential, Medium/High Density Residential, and Commercial. The proposed growth plan amendment would reclassify the area along the North side of 64th Avenue South as future Commercial Land Use.



Context:

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

Neighborhood: The subject property is not currently located within a designated neighborhood, but is adjacent to the District Neighborhood to the north.

Parks: The Pines Park is approximately half a mile to the northwest of the subject property. Amenities include basketball court, playground, shelter, & trails.

Pedestrian / Bicycle: There is an existing shared-use path along the west side of 38th Street S, north of the subject property.

Staff Analysis:

ACCESS: Primary access to the subject property will be provided from the north via 38th Street S and from the east via 64th Avenue S, which are both in various phases of construction. Construction of an overpass over I-29 at 64th Avenue S is anticipated to be completed within the next two years.

TRAFFIC: The applicant provided a traffic impact analysis which analyzes the projected traffic generated by the sports complex in relation to the existing and planned street network. The analysis found that the street infrastructure that is currently planned for this area will be adequate to handle traffic generated by the proposed sports complex. This traffic impact analysis has been reviewed by the City traffic engineer and is attached for reference.

PATHS & TRIALS: Ten-foot-wide multi-use paths will be located along both sides of 38th Street S. A grade-separated pedestrian underpass will be constructed underneath 38th Street S to allow the free flow of bike and pedestrian traffic between both sides of the street. Additionally, the Park District plans to construct an east/west trail to connect the proposed sports complex to the area west of the subject property. This trail will likely be located along a future stormwater drainage ditch (discussed below).

STORMWATER: The City of Fargo is currently working to construct a large regional stormwater detention pond that would handle stormwater runoff for a large portion of the City's southwest growth area, including the subject property. Once the pond is fully constructed and a drainage connection can be made, stormwater runoff from the subject property will be conveyed through an open-ditch drainage channel to the regional stormwater pond, which will be located west of 45th Street S and south of 52nd Avenue S, along Drain 27.

Until this regional pond and related infrastructure is in place, stormwater from the subject property will be handled via on-site ponds, which would connect to traditional stormwater sewer infrastructure within the 38th Street S right-of-way in the interim. Additional information can be found in the attached draft amenities plan.

ANNEXATION: This property is currently within the City's extra-territorial jurisdiction (ETJ). However, the property owner has requested annexation, which has been incorporated into a larger City-initiated annexation. The Planning Commission will evaluate this proposed annexation for consistency with the 2007 Growth Plan in item E(1) of the February 2, 2021 Planning Commission agenda. There is a separate staff report for this item. A resolution of annexation was adopted by the City Commission on January 11, 2021 and a public hearing is scheduled for the annexation at the February 22, 2021 City Commission meeting.

CONDITIONAL OVERLAY: A C-O, Conditional Overlay, zoning district will be established on the properties to be rezoned to LC. The purpose of the Conditional Overlay is to establish basic design standards and limit off-premise billboards. The Conditional Overlay is consistent with Conditional Overlays established along the City's newer commercial corridors. A draft of the Conditional Overlay language is attached.

GROWTH PLAN AMENDMENT NEIGHBORHOOD MEETING: Pursuant to Land Development Code Section 20-0905.E, a public open house is required for a proposed growth plan amendment. This meeting will be held virtually on Thursday, January 28th, 2021. Staff will report on the results of this open house at the February 2nd Planning Commission hearing.

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

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

1. **Is the proposed change consistent with surrounding land uses, both existing and future?**
   Adjacent land uses are primarily agricultural today, along with the I-29 interstate to the east. Future land uses are expected to include commercial development to the north and south, and a mix of commercial and residential to the west. The proposed growth plan amendment provides for additional commercial land use along the north side of 64th Avenue South, which is consistent with anticipated future land uses in this area, which include mix of commercial and residential. The proposed growth plan amendment is more or less an adjustment to the future land uses in this area, rather than a proposal for a different type of land use in this area. **(Criteria Satisfied)**

2. **Does the proposed change involve a street alignment or connection? If so, how does this change affect the transportation system and the land uses in the surrounding area, both existing and future.** The proposed growth plan amendment does not involve a street alignment or connection. The proposed subdivision associated with this growth plan amendment includes the continuation of 38th Street S down to a connection with 64th Avenue S. While not included with this subdivision, staff has noted the need for east/west street connectivity and connection with 38th Street S within the unplatted area on the west side of 38th Street S, as depicted within the 2007 Growth Plan. **(Criteria Satisfied)**

3. **How does the proposed change work with the larger area in terms of land use balance and other factors that could influence the proposed change? Are their physical features or developments in the vicinity that make the change positive or negative for the City and the area in general**?
   The proposed amendment would increase the amount of future commercial land use in this area within the Growth Plan. However, it is important to note that most of the subject property will be owned and operated by the Fargo Park District for a regional sports complex, and will not be put to private commercial use. While the complex will include a large indoor sports building, the surrounding area will consist of numerous sports fields and related park and recreation facilities, which are compatible with most land uses. In many ways, the proposed Fargo Park District facilities is displacing and relocating some of the future commercial area that is currently identified within the 2007 Growth Plan.

   Since the 2007 Growth Plan was adopted, there has been additional discussion and movement towards the potential for an interchange with I-29 at 64th Avenue South. While it may take years for an interchange to be added to the planned overpass at this location, the addition of interstate access is would result in higher traffic volumes along 64th Avenue S than originally anticipated. With the construction of a destination sports complex and the potential for a future interstate connection at 64th Avenue, the proposed growth plan amendment would help to better accommodate the related changes in future growth patterns. **(Criteria Satisfied)**

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**
   Staff is unaware of any error in the zoning map as it relates to this property. The property is currently zoned AG, Agricultural. As noted within §20-0202.A of the Land Development Code, the AG zoning district provides an interim zoning classification for growth areas pending a determination on an appropriate permanent zoning designation. The proposed zoning for this property is P/I, Public & Institutional, and LC, Limited Commercial, with C-O, Conditional Overlay, which will accommodate the proposed development. **(Criteria Satisfied)**

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

City staff and other applicable review agencies have reviewed this proposal. The project site will become eligible to receive City services upon annexation. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subdivision will front on dedicated public streets. The necessary rights of way for these streets will be dedicated with the plat. This street will provide access and public utilities to serve the development. **(Criteria satisfied)**

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

4. **Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?**
   The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo." The 2007 Growth Plan designates this property as appropriate for commercial and low to medium & medium to high density residential land uses. The Growth Plan notes that the P/I zoning district is appropriate for all of these land use categories. Additionally, the proposed growth plan amendment adjusts the location of future commercial land uses, which would accommodate the proposed LC zoning on the subject property.

   Additionally, the proposed zone change is intended to accommodate a regional sports complex, which the Go2030 Comprehensive Plan identifies as a key initiative that will increase the health of residents, attract visitors to support the local economy, and contribute to the livability of the community. Staff finds this proposal is consistent with the purpose of the LDC, the applicable growth plan, and other adopted policies of the City. **(Criteria satisfied)**

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

1. **Section 20-0907. of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**
   A growth plan amendment and zoning map amendment have been included with this application to accommodate the proposed development. The proposed subdivision is consistent with the proposed growth plan amendment and zoning designations. **(Criteria Satisfied)**

2. **Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**
   Pursuant to Item 1 above, the proposed development will comply with the proposed growth plan amendment and proposed zoning map amendment. The subdivision meets the intent of the Land Development Code (LDC) and complies with the standards of Article 20-06 of the LDC. **(Criteria Satisfied)**

3. **Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
   An executed subdivision amenities plan will address any necessary provisions for public improvements associated with this project. See attached amenities plan for additional information. Any improvements associated with the project are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are per City of Fargo assessment policy. **(Criteria Satisfied)**

Update 5/13/2021:
Since the original drafting of this staff report, a public open house was held for the proposed growth plan amendment, as noted in the staff report above. Staff received one inquiry regarding the nature of the open house and the development proposal. Other than this inquiry, there were no other responses to the notice and no attendees to the open house.

Additionally, the subject property has been annexed into the City of Fargo. This annexation was approved by City Commission on February 22, 2021 and included part of Sections 3, 4, and 10, Township 138 North, Range 49 West, of the Fifth Principal Meridian, Cass County, North Dakota.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and move to approve the proposed: 1) growth plan amendment as presented; 2) zone change from AG, Agricultural to P/I, Public & Institutional, and LC, Limited Commercial, with C-O, Conditional Overlay; and 3) plat of **Sanford Addition** as presented; as the proposal complies with the 2007 Growth Plan, Go2030 Comprehensvie Plan, Standards of Article 20-06, Section 20-0906.F (1-4), & Section 20-0905.H of the LDC and all other applicable requirements of the LDC."

Planning Commission Recommendation: February 2, 2021

On February 2, 2021, with a vote of 6-0 with 3 commissioners absent, the Planning Commission recommended approval to the City Commission of the proposed: 1) growth plan amendment as presented; 2) zone change from AG, Agricultural to P/I, Public & Institutional, and LC, Limited Commercial, with C-O, Conditional Overlay; and 3) plat of **Sanford Addition** as presented; as the proposal complies with the 2007 Growth Plan, Go2030 Comprehensvie Plan, Standards of Article 20-06, Section 20-0906.F (1-4), & Section 20-0905.H of the LDC and all other applicable requirements of the LDC.

Attachments:

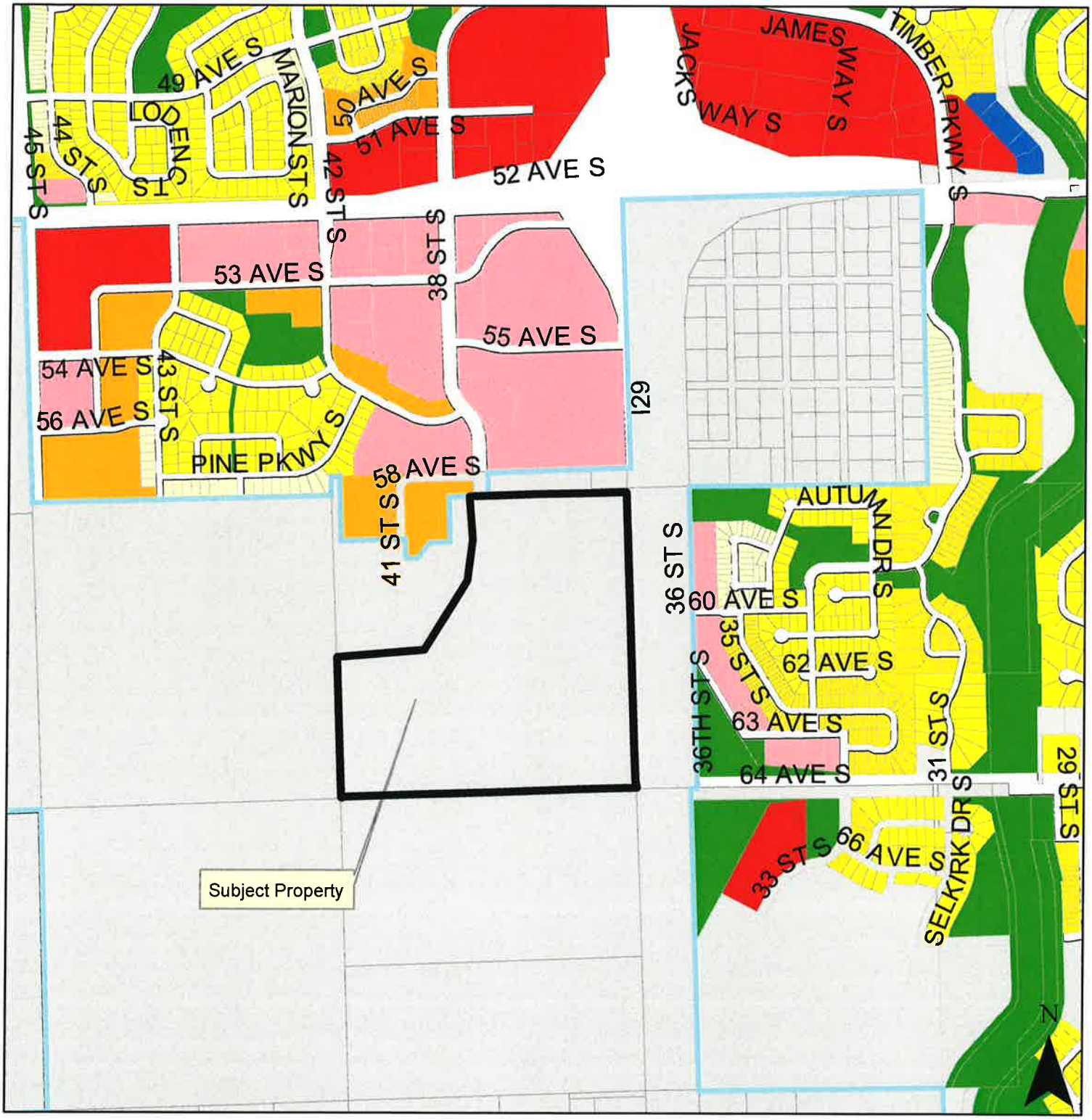
1. Zoning Map
2. Location Map
3. Growth Plan Amendment Maps
4. Subdivision Plat
5. Amenities Plan
6. Conditional Overlay Standards
7. Traffic Impact Analysis
8. Sports Complex Building Renderings

Growth Plan Amendment

Zone Change (AG to P/I & LC with a C-O) & Plat (Major)

Sanford Addition

6103 38th St S



THE CITY OF Fargo FAR MORE

Legend

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

0.25 Miles

Fargo Planning Commission
February 2, 2021

Growth Plan Amendment

Zone Change (AG to P/I & LC with a C-O) & Plat (Major)

Sanford Addition

6103 38th St S



THE CITY OF Fargo FAR MORE

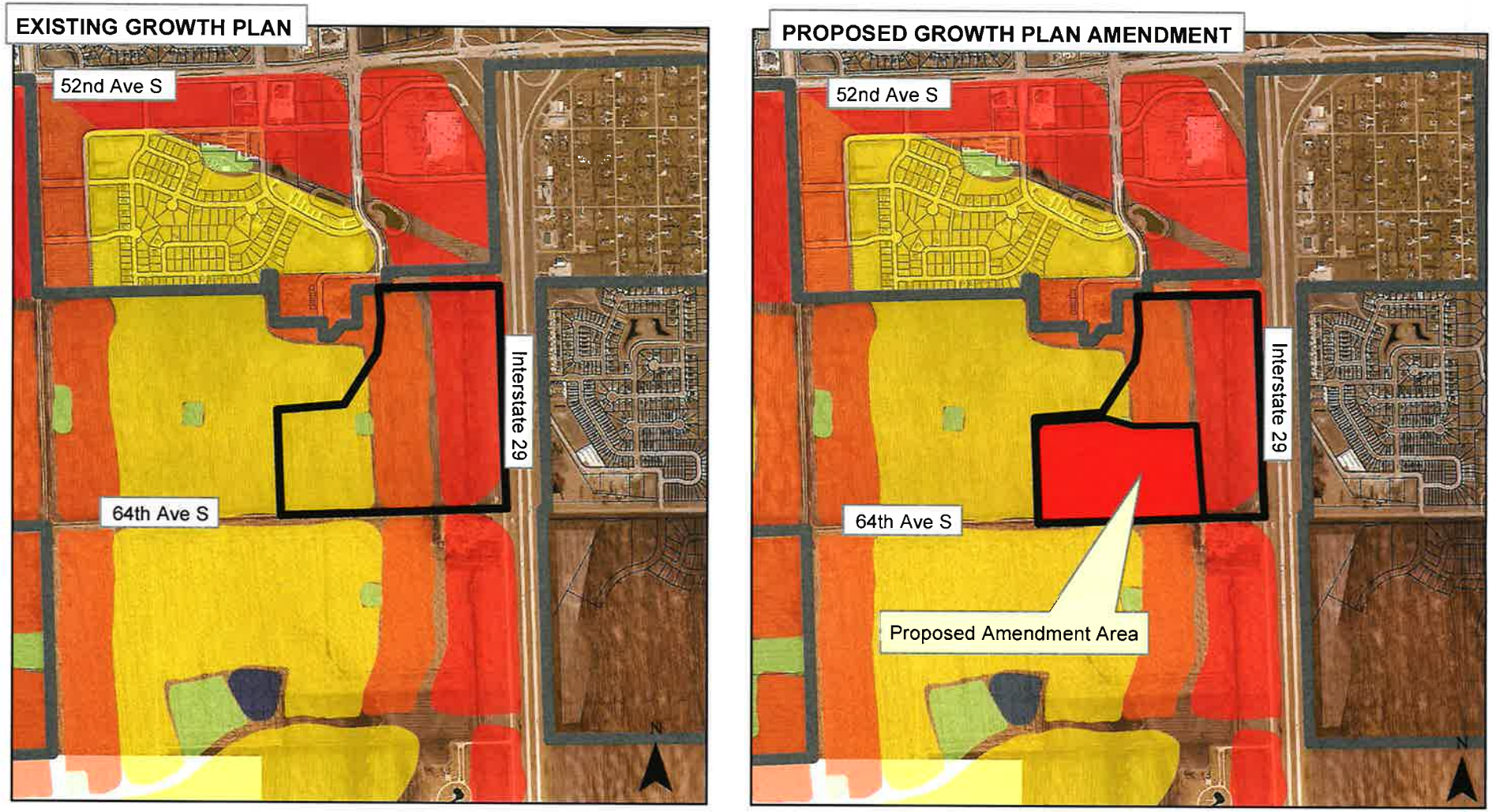
0.25 Miles

Fargo Planning Commission
February 2, 2021

Growth Plan Amendment

Sanford Addition

6103 38th Street South



THE CITY OF Fargo FAR MORE

2007 Tier 1 South West

- City Limits
- Commercial Area
- Future School
- Medium High Density or Commercial
- Proposed Park
- Residential Area - lower to medium density
- Residential Area - medium to high density

Fargo Planning Commission
February 2, 2021

SANFORD ADDITION

PLAT DESCRIPTION

Part of the Southeast Quarter of Section 3, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

Beginning at the southwest corner of the Southeast Quarter of said Section 3, thence on an assumed bearing of South 87 degrees 56 minutes 15 seconds West along the south line of said Southeast Quarter, 2,636.31 feet to the southwest corner of said Southeast Quarter; thence North 02 degrees 06 minutes 48 seconds West on the west line of said Southeast Quarter, 1,240.08 feet; thence North 87 degrees 55 minutes 33 seconds East, 765.91; thence North 27 degrees 12 minutes 16 seconds East, 847.19 feet; thence northerly 253.85 feet on a tangential curve concave to the west having a radius of 500.00 feet and a central angle of 29 degrees 05 minutes 22 seconds; thence North 01 degrees 53 minutes 07 seconds West, 401.04 feet to the south line of MAPLEWOOD ESTATES ADDITION, according to the record plat thereof, said county; thence North 88 degrees 27 minutes 01 seconds East on a line parallel with the north line of said Southeast Quarter, 1,390.13 feet to the east line of said Southeast Quarter; thence South 02 degrees 06 minutes 54 seconds East on said east line, 2,610.77 feet to the point of beginning.

Said plat contains 123.75 acres more or less, and is subject to Easements, Reservations, Restrictions and Rights-of-Ways of record

OWNER'S CERTFICIATE

KNOW ALL PERSONS BY THESE PRESENTS, Sanford North, owner of the above described property, has caused the same to be surveyed and platted as SANFORD ADDITION to the City of Fargo, Cass County, North Dakota, and does hereby dedicate to the public for public use all streets, avenues, and utility easements shown on this plat for purposes specified and to the City of Fargo the "Utility and Drainage" and "Shared Use Path and Utility" easements.

Bill Marlette

Owner
Sanford North
By: Bill Marlette, Treasurer

State of South Dakota)
) SS
County of Minnehaha)

On this 16th day of February 2021, before me, a notary public in and for said county and state, personally appeared Bill Marlette, Treasurer, Sanford North, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same on behalf of Sanford North

Rebecca L Para
Notary Public

REBECCA L. EVANS
NOTARY PUBLIC
SOUTH DAKOTA
My Commission Expires 12/10/21

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 10th day of February, 2021.

JOSHUA J. NELSON
REGISTERED PROFESSIONAL LAND SURVEYOR
LS-27292
NORTH DAKOTA

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

State of North Dakota)
) SS
County of Cass)

On this 10th day of February, 2021, appeared before me, Joshua J. Nelson, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Leah Martin
Notary Public

LEAH MARTIN
Notary Public
State of North Dakota
My Commission Expires Mar. 7, 2023

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this 2nd day of February 2021.

John Gunkelman
Planning Commission Chair

State of North Dakota)
) SS
County of Cass)

On this 23rd day of February, 2021, 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.

Miranda Wolf
Notary Public

MIRANDA WOLF
Notary Public
State of North Dakota
My Commission Expires May 13, 2023

FARGO CITY COMMISSION APPROVAL

Approved by the Board of Commissioners and ordered filed this day of 20

Timothy J. Mahoney
Mayor

Attest:
Steven Sprague, City Auditor

State of North Dakota)
) SS
County of Cass)

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

Notary Public

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by the City Engineer this day of 20

Brenda E. Derrig, P.E.
City Engineer

State of North Dakota)
) SS
County of Cass)

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

Notary Public

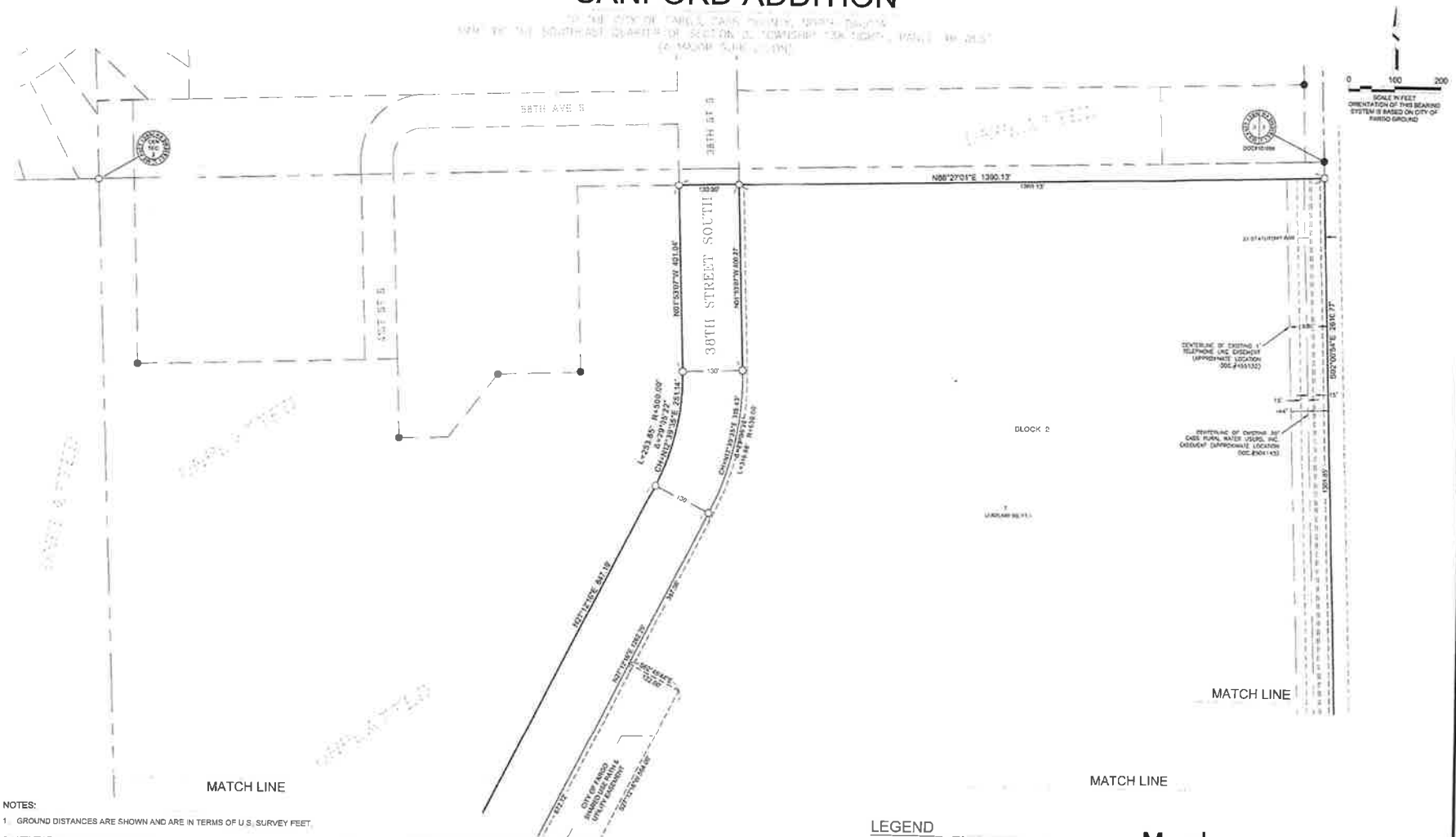


VICINITY MAP
SECTION 3, T.138N. R.49W.
(NO SCALE)

Mead & Hunt
Phone: 701-566-6450
meadhunt.com

Project No.
4269700-181901
SHEET 1 OF 3

SANFORD ADDITION



NOTES:

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
2. UTILITY EASEMENTS ARE 10' WIDE ALONG AND ADJACENT TO ALL STREET RIGHT-OF-WAYS AND REAR PROPERTY LINES AS SHOWN UNLESS OTHERWISE NOTED.
3. NONE OF THIS PLAT FALLS IN FLOODPLAIN ZONE 'AE' ACCORDING TO THE FEMA FIRM MAPS 38017C0786G AND 38017C0787G BOTH WITH AN EFFECTIVE DATE 1/16/2015. THE BASE FLOOD ELEVATION IN THIS AREA IS 905.7' (NAVD88) ACCORDING TO FEMA.
4. NEGATIVE ACCESS EASEMENT, AS NOTED ON THE PLAT OF SANFORD ADDITION, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OF PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OF LAND OR ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.

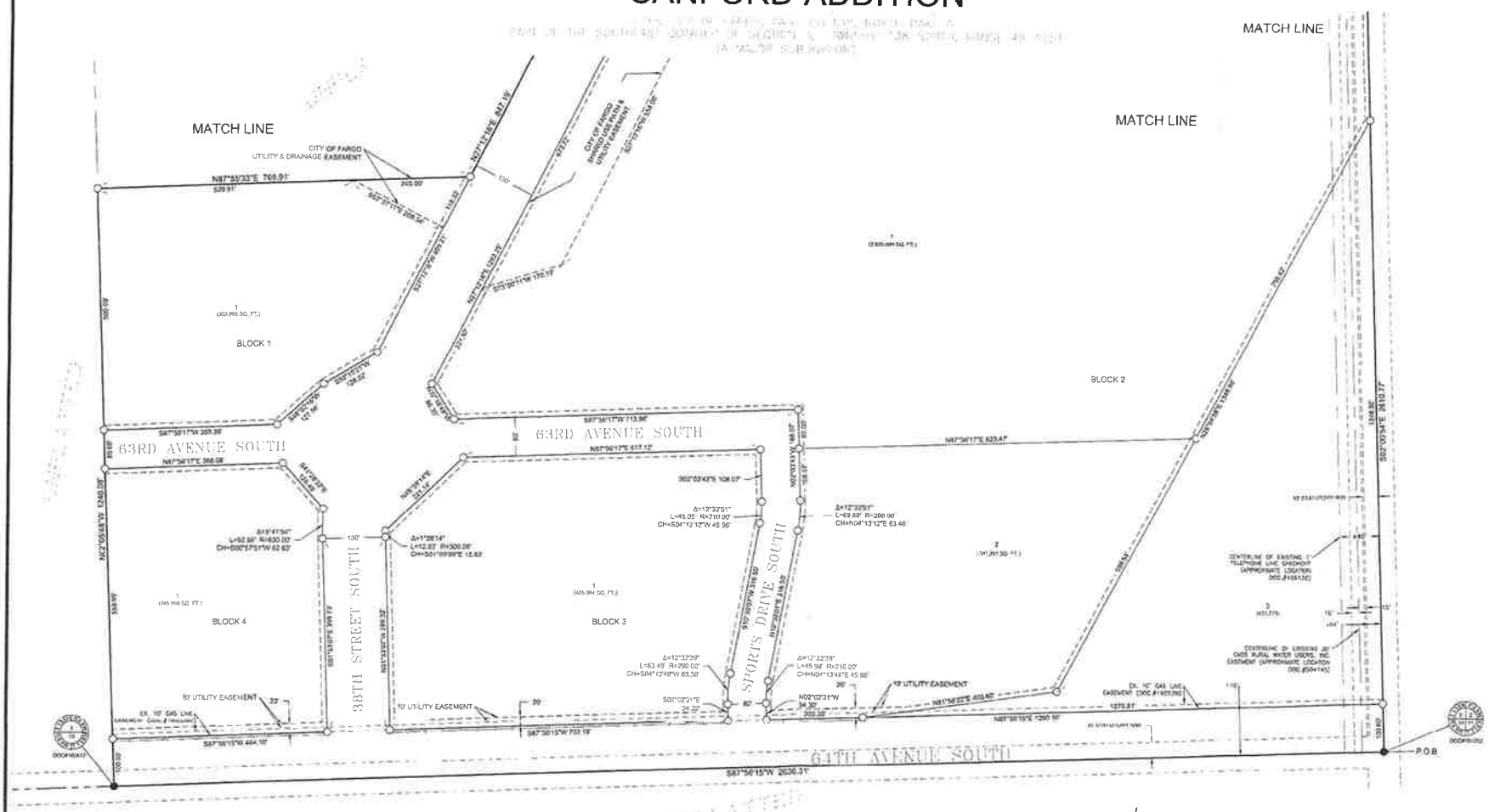
LEGEND

- MONUMENT IN PLACE
- SET MONUMENT (5/8" CAPPED REBAR LS-27292)
- NEGATIVE ACCESS EASEMENT
- EXISTING PROPERTY LINE
- EXISTING EASEMENT LINE
- NEW LOT LINE
- NEW BLOCK LINE
- PLAT BOUNDARY
- NEW EASEMENT LINE
- MAJOR CONTOUR
- MINOR CONTOUR

Mead & Hunt
Phone: 701-568-6450
meadhunt.com

Project No.
4289700-181901
SHEET 2 OF 3

SANFORD ADDITION



NOTES:

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
2. UTILITY EASEMENTS ARE 10' WIDE ALONG AND ADJACENT TO ALL STREET RIGHT-OF-WAYS AND REAR PROPERTY LINES AS SHOWN UNLESS OTHERWISE NOTED.
3. NONE OF THIS PLAT FALLS IN FLOODPLAIN ZONE 'AE' ACCORDING TO THE FEMA FIRM MAPS 38017C0786G AND 38017C0787G BOTH WITH AN EFFECTIVE DATE 1/16/2015. THE BASE FLOOD ELEVATION IN THIS AREA IS 905.7' (NAVD88) ACCORDING TO FEMA.
4. NEGATIVE ACCESS EASEMENT, AS NOTED ON THE PLAT OF SANFORD ADDITION, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OF PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OR LAND OF ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.

LEGEND

- MONUMENT IN PLACE
- SET MONUMENT (5/8" CAPPED REBAR LS 27292)
- NEGATIVE ACCESS EASEMENT
- EXISTING PROPERTY LINE
- EXISTING EASEMENT LINE
- NEW LOT LINE
- NEW BLOCK LINE
- PLAT BOUNDARY
- NEW EASEMENT LINE
- MAJOR CONTOUR
- MINOR CONTOUR
- 100 YR FLOODPLAIN

0 100 200
SCALE IN FEET
ORIENTATION OF THIS BEARING SYSTEM IS BASED ON FARGO 2007

Mead & Hunt
Phone: 701-566-6450
meadhunt.com

Project No.
4289700-181901
SHEET 3 OF 3

Site Amenities and Project Plan
Sanford Addition
February 2021

Location: Part of the Southeast Quarter of Section 3, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

> Beginning at the southeast corner of the Southeast Quarter of said Section 3; thence on an assumed bearing of South 87 degrees 56 minutes 15 seconds West along the south line of said Southeast Quarter, 2,636.31 feet to the southwest corner of said Southeast Quarter; thence North 02 degrees 05 minutes 48 seconds West on the west line of said Southeast Quarter, 1,240.08 feet; thence North 87 degrees 55 minutes 33 seconds East, 769.91; thence North 27 degrees 12 minutes 16 seconds East, 847.19 feet; thence northerly 253.85 feet on a tangential curve concave to the west having a radius of 500.00 feet and a central angle of 29 degrees 05 minutes 22 seconds; thence North 01 degrees 53 minutes 07 seconds West, 401.04 feet to the south line of MAPLEWOOD ESTATES ADDITION, according to the record plat thereof, said county; thence North 88 degrees 27 minutes 01 seconds East on a line parallel with the north line of said Southeast Quarter, 1,390.13 feet to the east line of said Southeast Quarter; thence South 02 degrees 00 minutes 54 seconds East on said east line, 2,610.77 feet to the point of beginning.

Said plat contains 123.75 acres more or less, and is subject to Easements, Reservations, Restrictions and Rights-of-Ways of record.

Details: The Project is generally located north of 64th Avenue, and east of 45th Street and west of Interstate 29. The Project will have both public and private development, consisting of a range of land uses (Commercial, retail, mixed use). The Project will also contain 64 Acres owned by the Fargo Park District to include open green space, outdoor fields and an indoor sports complex facility. The project will be developed on independent timelines by the individual land owners.

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

38th Street S between 58th Avenue S and 63rd Avenue S: This segment of 38th Street S will be a Minor Arterial, and will be a continuation of the existing street to the north, which will connect to a roundabout at 63rd Avenue S.

- ROW dedication for 38th Street shall be 130'
- Street width shall be 49' with no parking along the street. The street would be a two lane road with turning lanes as needed with the ability to add a future lane in each direction.
- 6' to 16' center medians will be installed by the City of Fargo. Landscaping with stamped concrete, trees, grass and mulch will be installed per City of Fargo standards.
- Street lighting shall be determined by the City Engineering Department and installed per city standards;
- Appropriate signage shall be installed by the city of Fargo at which time public improvements are completed.
- 10' trails (shared bicycle and pedestrian) shall be installed along both sides of the roadway, separated from the roadway a minimum of 6' boulevard with street trees.
- A Pedestrian grade separated crossing will be installed per City of Fargo standards and specifications with connections to the 10' path within the ROW
- A Pond box culvert shall be installed between the 2 proposed ponds to provide stormwater and recreational connectivity.

38th Street between 63rd Avenue and 64th Avenue: This segment of 38th Street S will be a Minor Arterial, and will provide a connection between 64th Avenue S and a roundabout at 63rd Avenue S.

- ROW dedication for 38th Street shall be 130'
- Street width shall be 63' with no parking along the street. The street would be a four lane road with turning lanes as needed.

- 6' to 16' center medians will be installed by the City of Fargo. Landscaping with stamped concrete, trees, grass and mulch will be installed per City of Fargo standards.
- Street lighting shall be determined by the City Engineering Department and installed per city standards;
- Appropriate signage shall be installed by the city of Fargo at which time public improvements are completed.
- 10' trails (shared bicycle and pedestrian) shall be installed along both sides of the roadway, separated from the roadway a minimum of 6' boulevard with street trees.

63rd Avenue South and Sports Drive South

These street segments will be Local streets serving the commercial development south of the Sports Complex.

- ROW dedication shall be 80'
- Street width shall be 40' wide, consisting of 12' drive lanes, 2' gutter pan, 12' shared center left turn lane, and no parking along both sides of the street.
- In lieu of the center left turn lane, 6' center medians will be installed by the City of Fargo near the intersection of 38th Street S and 63rd Avenue S.
- Street lighting shall be determined by the City Engineering Department and installed per city standards;
- Appropriate signage shall be installed by the city of Fargo at which time public improvements are completed.
- 10' trail (Shared Use Path) shall be installed along one side of the roadway, separated from the roadway by a minimum 6.5' boulevard with street trees. A 4.5' sidewalk will be installed on the opposite side of the shared use path.

Other:

- Parking signage and street light locations with the City of Fargo Engineering Department. These details shall be determined prior to construction of any public improvements. Consideration to maintenance and snow removal for a group mailbox shall be outlined within restrictive covenants for the project.
- The Fargo Park District will be responsible for turf maintenance and snow removal of the boulevard and shared use paths along 38th Street S, including the pedestrian underpass, within this subdivision.

Storm Water Management:

Storm Water Detention Facilities: The project will accommodate storm water quality and quantity with detention ponds and drainage channels that will be connected to the City's future regional detention pond that will be located one mile to the west of the site, along Drain 27.

A maintenance agreement will be developed between the City of Fargo and the Fargo Park District to coordinate long-term maintenance of the public storm water ponds and future drainage channel.

Interim Storm Water Detention Facilities (Conditions until a storm water drainage channel connection is constructed to Drain 27): Storm water ponds will be constructed to accommodate stormwater quality and quantity requirements for Lot 1, Block 2 (the sports complex site). In the proximity of 58th Avenue S, a temporary stormwater connection from these ponds will be made to the existing storm sewer system along 38th Street S. This connection will provide adequate stormwater requirements for development of the sports complex facilities on Lot 1, Block 2.

Any development of the commercial lots (including Block 1; Lot 2, Block 2; Block 3; & Block 4) prior to the establishment of a drainage channel connection to Drain 27 will require these sites to meet the current City

of Fargo on-site stormwater requirements. Maintenance of private storm water ponds is the responsibility of the property owner.

Flood Protection: Storm sewer systems will be designed and installed to city standards. Construction of structures shall comply with City of Fargo Floodproofing Code when applicable.

Water Supply: Potable water shall be provided by City of Fargo

Engineering and Construction Improvements: The developer shall rely upon and collaborate with the City of Fargo Engineering Department on the design and construction of all public improvements, inclusive of storm water facilities and boulevards, as applicable. The boulevard trees will be installed with the future commercial site plans for each adjacent

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

Multi-use Trails: The development will create an east/west trail through a centralized park adjacent to a 200' drainage easement. The east west trail will be planned to have a grade separated crossing at 38th Street. The Construction of the multi-use trail could potentially be funded through assessed public improvements.

38th Street will have two off-street shared use paths along its length, connecting to the east west trail.

Parks and Open Spaces: Fargo Parks will develop open green spaces to include sports fields in addition to traditional park amenities. An Indoor Sport Complex consisting of multiple ice sheets, indoor soccer fields, indoor basketball courts and other training facilities will be located on Fargo Parks property east of 38th Street (Lot 1, Block 2).

Park Dedication: To be completed upon subdivision approval.

This Amenities Plan is hereby approved

Sanford Health EXEC DIRECTOR — 02.23.21 date

Brenda Derrig, City Engineer — date

Proposed Conditional Overlay Standards
Sanford Addition

1. This Conditional Overlay is intended to provide for a higher quality of design than is afforded by the City of Fargo Land Development Code regarding future development within the described property.

2. All primary buildings shall be constructed or clad with materials that are durable, economically-maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; EIFS (exterior insulation finishing system), glass, metal panes similar to 'Aluco Bond' and synthetic panels similar to 'Trespa'. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the appearance of wood may be used. Horizontal metal lap siding and vertical metal batten shall be allowed on residential and commercial structures but shall not exceed 75% of the building elevation for residential structures and 50% for commercial.

3. All building façades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade, and extending at least 20 percent of the length of the façade. No uninterrupted length of any façade shall exceed 150 horizontal feet. An articulated façade would emphasis elements on the face of a wall including change in setback, materials, roof pitch or height.

4. Ground floor façades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 50 percent of their horizontal length. If the façade facing the street is not the front, it shall include the same features and/or landscaping in scale with the façade.

5. Loading and/or services areas/facilities shall be located at the side or rear of buildings and screened from public streets by structures and/or landscaping, with a minimum opacity of 50%.

6. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain permanent walls on at least three (3) sides. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor; however, if the service side does not face any public right-of-way or residentially zoned property the metal gate shall not be required.

7. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:
    a) the primary entrance or entrances to each commercial building, including pad site buildings.
    b) any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
    c) parking areas or structures that serve such primary buildings.
    d) connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network.

Proposed Conditional Overlay Standards
Sanford Addition

e) any public sidewalk system along the perimeter streets adjacent to the commercial development.
f) where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings.

8. A minimum of 5% of the internal surface area of the parking lot shall be landscaped.

9. Of those permitted or conditionally permitted uses of the base zoning district, the following uses are prohibited:
   a) Detention Facilities
   b) Adult Entertainment Center
   c) Off-Premise Advertising Signs (directional signs that are less than 50 square feet in size are exempt from this prohibition)
   d) Portable Signs
   e) Industrial Service
   f) Manufacturing and Production
   g) Warehouse and Freight Movement
   h) Aviation/Surface Transportation

ENGINEERING, REIMAGINED

SANFORD SOUTH FARGO SPORTS COMPLEX

Traffic Impact and Parking Demand Study

January 2021

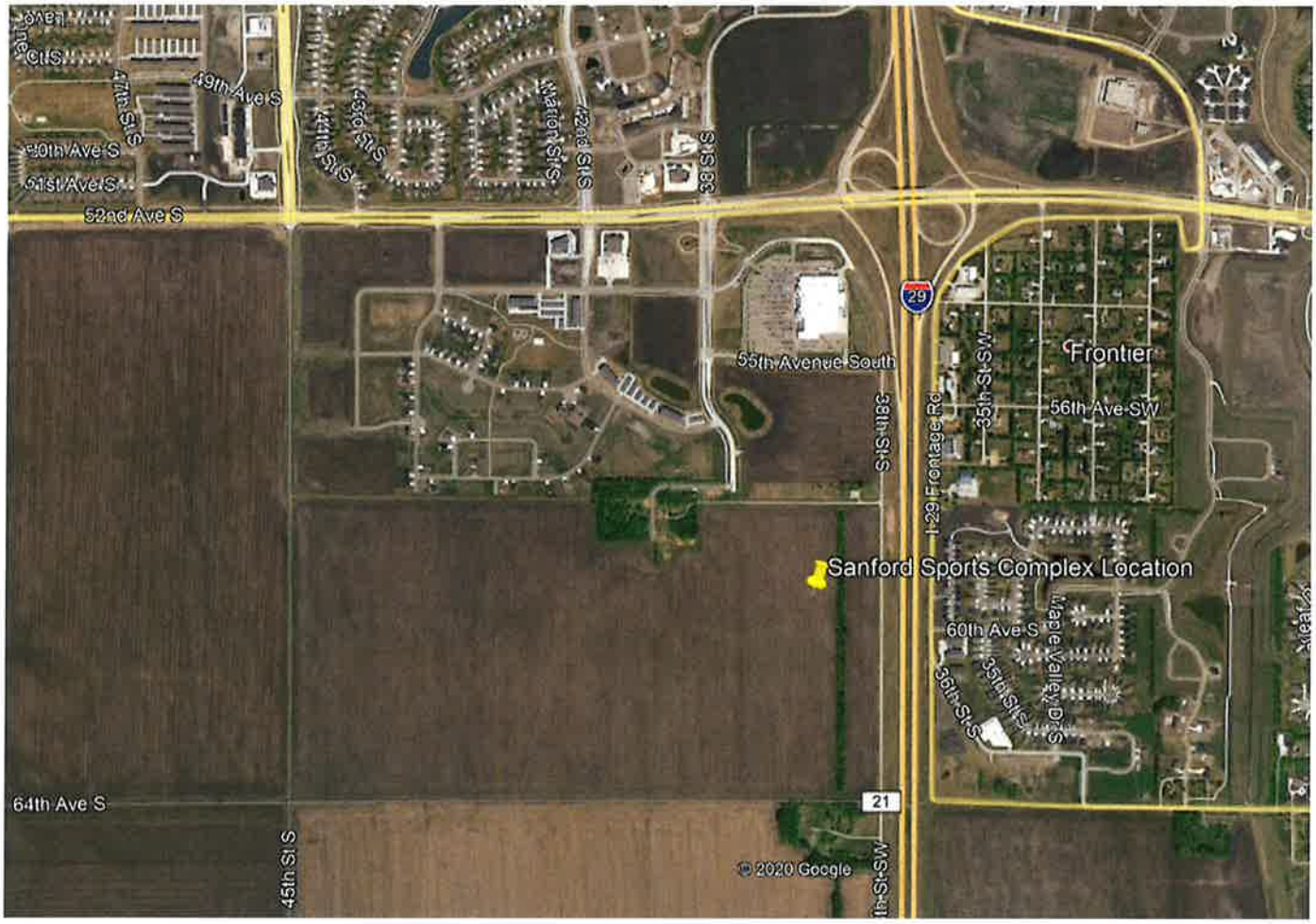
Table of Contents

Introduction 1
Proposed Development Details 2
Phase 1 – Anticipated 2023 Completion 2
Phase 2 – Anticipated 2030 Completion 2
Traffic Impact Analysis 3
Existing and Planned Transportation Infrastructure 3
Background Traffic Volumes 5
Peak Hour Turning Movements 5
Site-Generated Traffic 11
Trip Distribution 11
Trip Assignment 11
Traffic Operations Analysis 17
Roadway Network Assumptions 17
Traffic Operations Analysis Results 17
Traffic Analysis Summary 19
Parking Demand and Supply Analysis 20
Current Parking Provision 20
Parking Demand Estimates 20
Parking Demand Sensitivity 21
Parking Analysis Summary 22

INTRODUCTION

This report has been prepared to document traffic impact and parking demand analysis associated with the proposed Sanford Sports Complex in south Fargo. The proposed complex would be located north of 64th Avenue South, just west of Interstate 29, as shown in **Figure 1**.

Figure 1 - Project Location



Source: Google Earth

PROPOSED DEVELOPMENT DETAILS

The proposed sports complex is expected to be completed in two phases. Analysis assumes the first phase will be completed in 2023 and the second phase will be completed in 2030. More information related to development specifics can be found in **Appendix A**.

Phase 1 – Anticipated 2023 Completion

Phase 1 is assumed to have the following site components:

- Sanford Power Center (Sports and athletic training center)
- One ice rink (and bleachers)
- Four basketball courts (and bleachers)
- One soccer field
- Walking track
- Supporting facilities for above uses (administration areas, locker rooms, etc.)

Phase 2 – Anticipated 2030 Completion

Phase 2 is assumed to include all items from Phase 1, with the following site components added by 2030:

- Two additional ice rinks
- Four additional basketball courts
- One additional soccer field
- Multipurpose rooms (conference/meeting rooms, childcare area)

TRAFFIC IMPACT ANALYSIS

Existing and Planned Transportation Infrastructure

The proposed site location and study area is currently agricultural land with limited existing infrastructure. Key information related to the study location and transportation infrastructure is provided below and summarized in **Figure 2.**

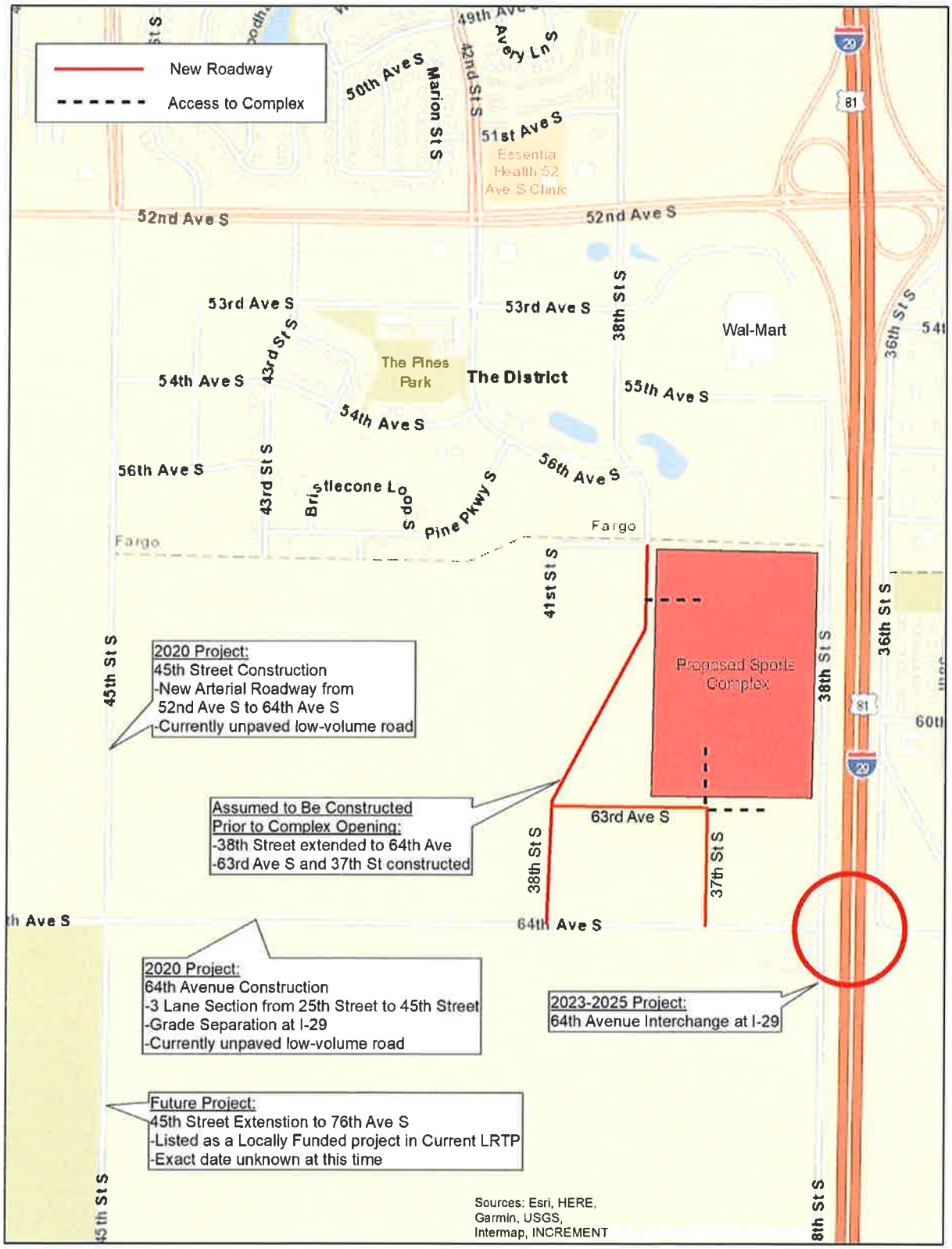
The proposed site is located north of 64th Avenue South, between Interstate 29 and an extended 38th Street.

- **64th Avenue South** is currently an unpaved low-volume roadway, however this is planned to be constructed as a three-lane roadway between 25th Street and 45th Street in 2020.
- **38th Street** will be extended to 64th Avenue South prior to the sports complex opening.
  - Site access will be provided from 38th Street on the northwest corner of the site
  - The proposed access is located approximately 700 feet from the closest access, meeting local access spacing standards for collector roadways
- **63rd Avenue South and 37th Street** will be constructed prior to the sports complex opening.
  - Site access will be provided on the north and east approaches of the intersection of these two future roadways
  - Proposed new access points are at least 400 feet apart, meeting local standards for collector roadways

» Other future study area transportation projects include:

- **45th Street** will be constructed as an urban arterial between 52nd Avenue South and 64th Avenue South in 2020. A further extension to 76th Avenue south is listed in the Fargo-Moorhead Long Range Transportation Plan as a local project, however the date of this project is currently unknown.
- A **64th Avenue Interchange at Interstate 29** is listed as a short-term project in the current Fargo-Moorhead Long Range Transportation Plan. This study assumes the interchange will be completed in 2025.

Figure 2 - Transportation Infrastructure



Background Traffic Volumes

Since the study area roadway infrastructure is undeveloped today, there is little to no existing traffic. To estimate background traffic conditions for 2023 and 2030 (traffic without the proposed Sanford Sports Complex), the Fargo-Moorhead regional travel demand model was used. The travel demand model was updated as part of the recently updated Fargo-Moorhead Long Range Transportation Plan. The updated model was developed to estimate 2025 and 2045 daily traffic volumes based on expected growth in area-wide households and employment.

Key travel demand modeling assumptions include:

- 2025 travel demand model results are assumed to approximate 2023 conditions in the study area and assume the following projects have been completed:
  - 64th Avenue construction between 25th Street and 45th Street
  - 45th Street extension to 64th Avenue South
  - **Does not assume** the 64th Avenue interchange is completed. This is consistent with this traffic impact study's assumption that the interchange will not be completed by 2023 when the sports complex opens.
- 2045 travel demand model results assume the following additional projects have been completed:
  - 64th Avenue interchange at Interstate 29
  - 45th Street extension to 76th Avenue South
  - 38th Street extension to 76th Avenue South
  - 76th Avenue interchange at Interstate 29
- KLJ has estimated 2030 daily traffic volumes by linear interpolation between 2025 and 2045 travel demand model results.
- KLJ adjusted the travel demand model socioeconomic data to ensure other development is not being assumed in the same location as the proposed sports complex.

2023 and 2030 daily traffic volumes without the proposed sports complex are shown in **Figure 3**.

Peak Hour Turning Movements

After establishing 2023 and 2030 daily traffic, peak hour turning movements were estimated using data in the NDDOT annual traffic report and engineering judgement.

Traffic analysis in this study will be performed for weekday PM peak hour conditions and Saturday peak conditions. The following assumptions were made to develop background condition turning movements for these scenarios:

- **Weekday PM peak hour** – assumes that 8.5 percent of daily traffic volumes occur in the PM peak hour
- **Saturday peak hour** – assumes that Saturday peak traffic is 22 percent lower than PM peak hour conditions
- Both peak hours assume a 50-50 directional split since major roadways like 52nd Avenue South, 45th Street, and University Avenue border the study area and a 64th Avenue interchange is expected to be completed by 2030.

Background condition turning movements for the 2023 weekday PM peak hour and 2023 Saturday peak hour are shown **Figure 4** and **Figure 5**, respectively. 2030 weekday and Saturday peak hour volumes for the background condition are shown in **Figure 6** and **Figure 7**.

Figure 3 - 2023 and 2030 Average Daily Traffic Volumes Without Sports Complex

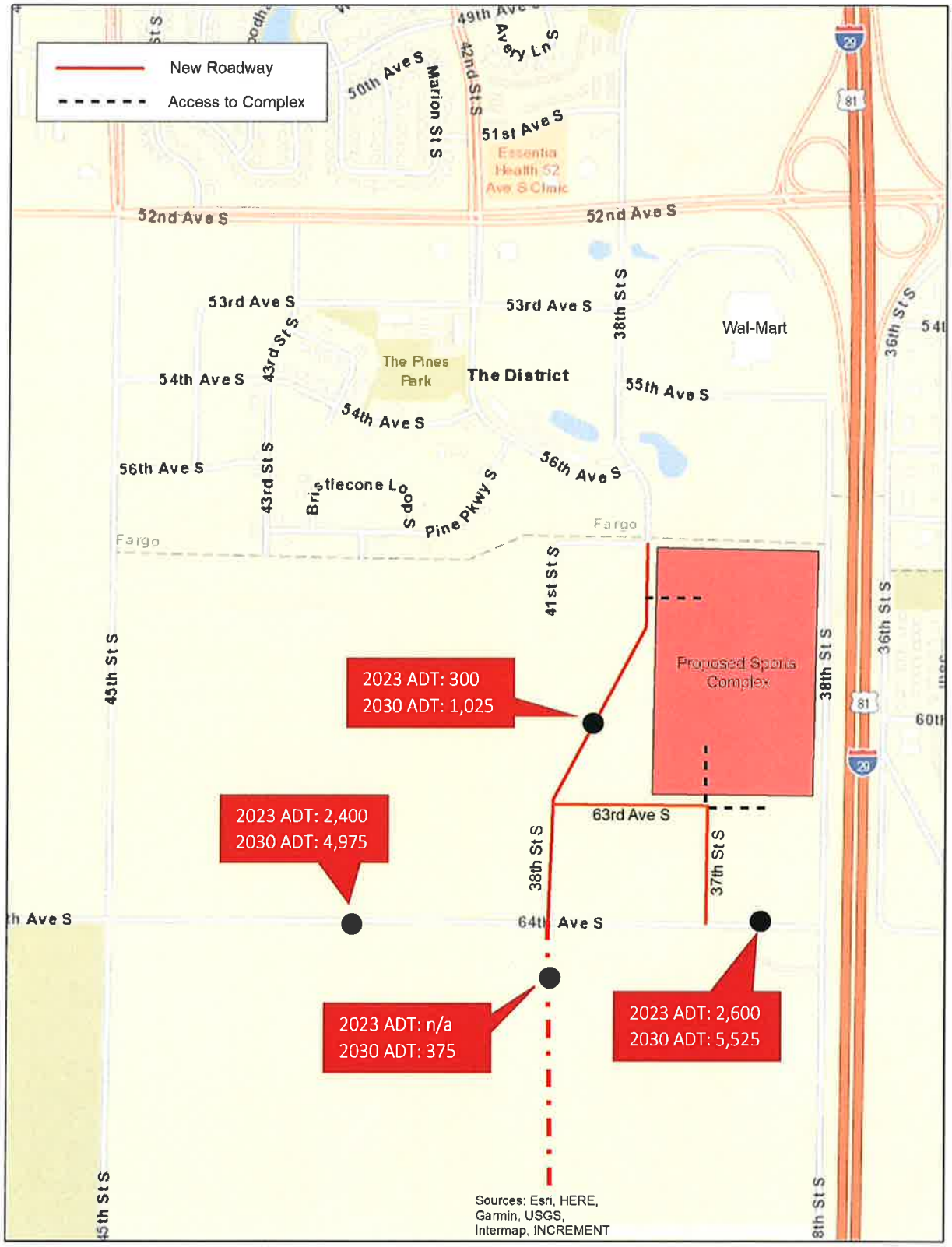


Figure 4 - 2023 Background PM Peak Hour Turning Movements (Without Sports Complex)

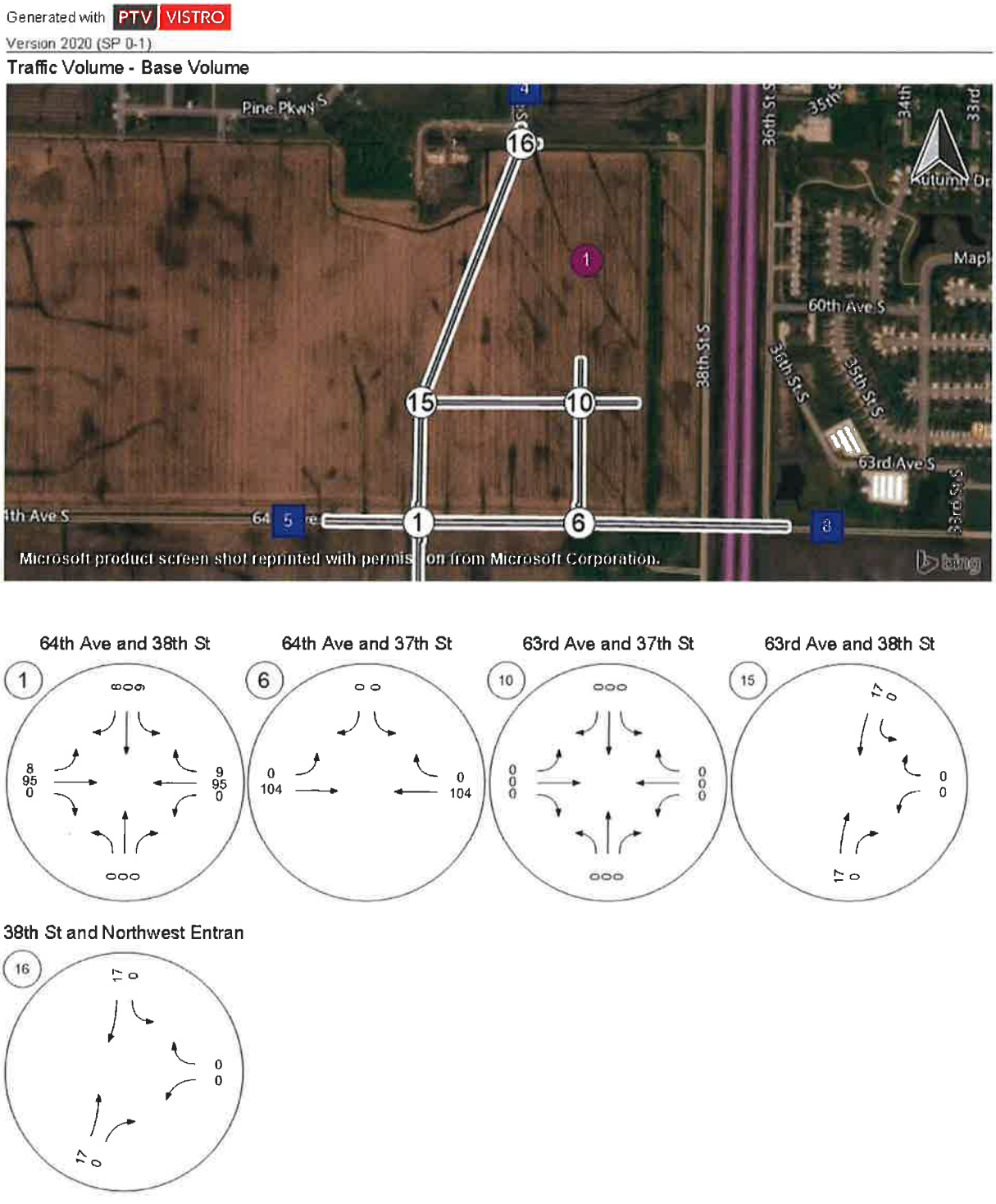
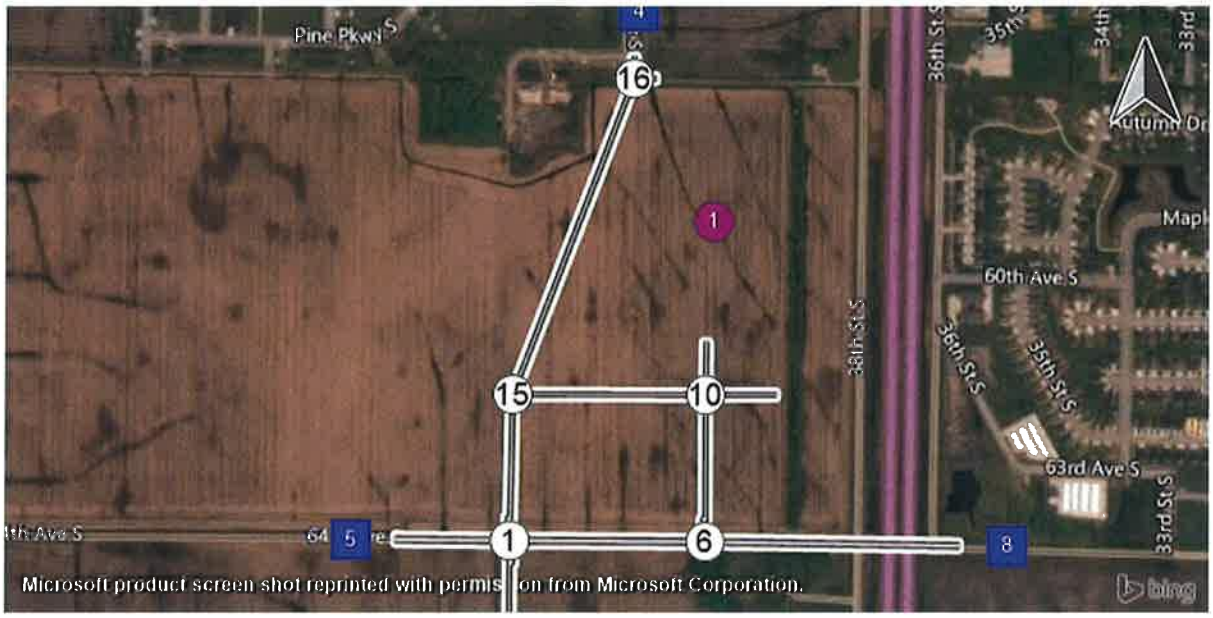
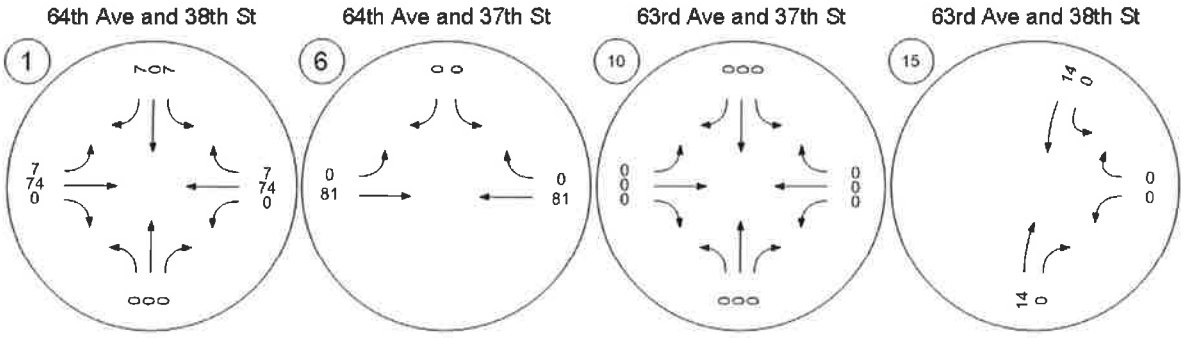


Figure 5 – 2023 Background Saturday Peak Hour Turning Movements (Without Sports Complex)

Generated with PTV VISTRO
Version 2020 (SP 0-1)

Traffic Volume - Base Volume





38th St and Northwest Entran

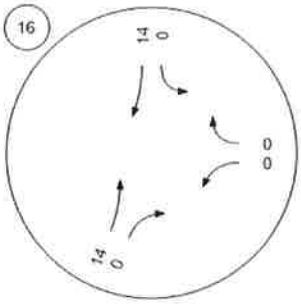


Figure 6 - 2030 Background PM Peak Hour Turning Movements (Without Sports Complex)

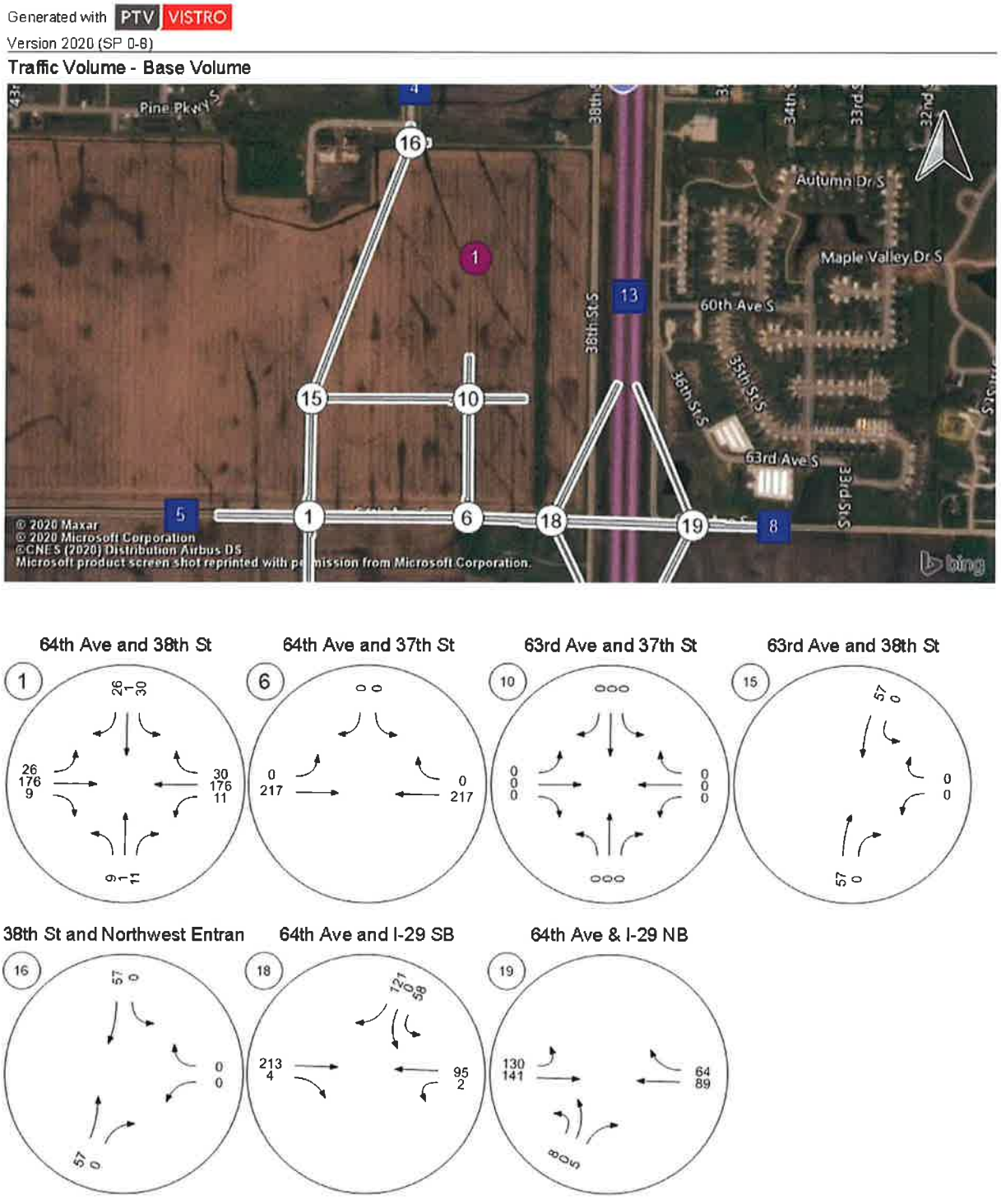
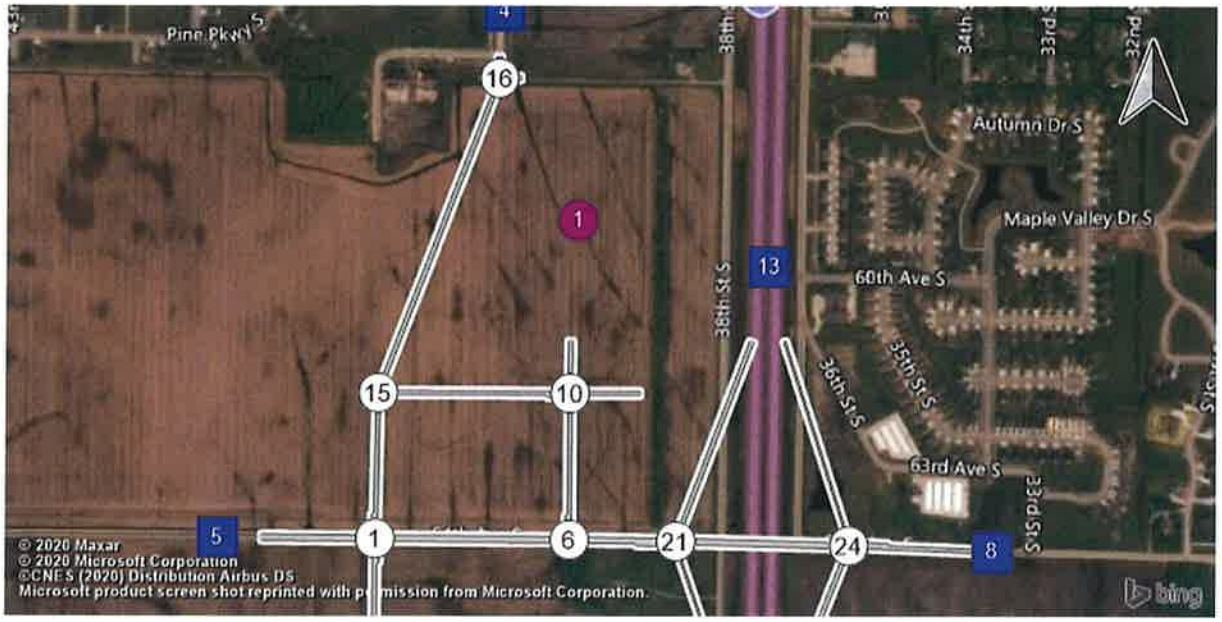


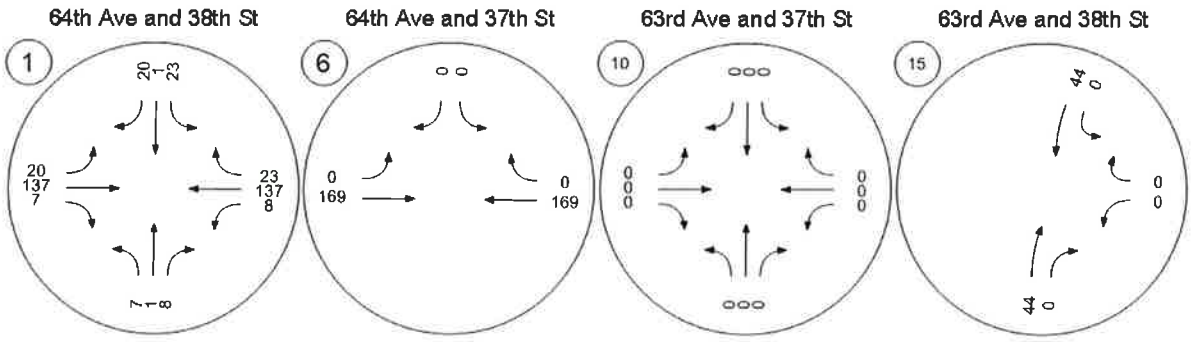
Figure 7 - 2030 Background Saturday Peak Hour Turning Movements (Without Sports Complex)

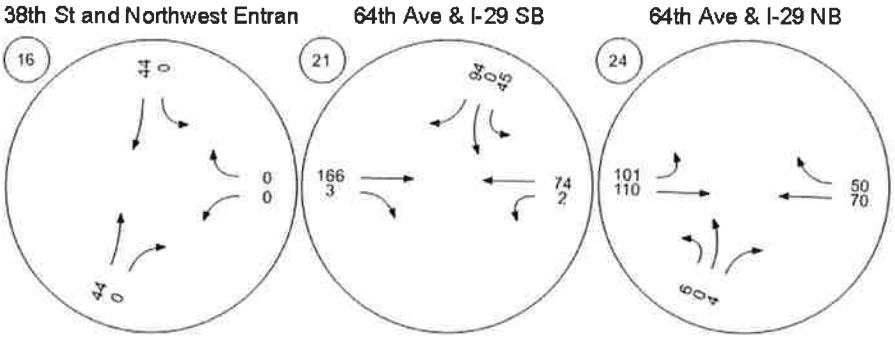
Generated with PTV VISTRO

Version 2020 (SP 0-8)

Traffic Volume - Base Volume







Site-Generated Traffic

Site-generated traffic refers to traffic added to the roadway network by a new development. The amount of weekday PM peak hour and Saturday peak hour traffic generated by the proposed sports complex was estimated using data in the Institute of Transportation Engineers' *Trip Generation* manual. ITE's *Trip Generation* manual is the industry standard for estimating new traffic as part of traffic impact analysis.

Based on ITE data, it is expected the sports complex will generate:

- **2023 weekday PM peak** – 353 bidirectional trips (172 trips in, 180 trips out)
- **2023 Saturday peak** – 428 bidirectional trips (223 trips in, 205 trips out)
- **2030 weekday PM peak** – 560 bidirectional trips (280 trips in, 280 trips out)
- **2030 Saturday peak** – 914 bidirectional trips (476 trips in, 437 trips out)

More detailed trip generation information is shown in **Table 2.** Note that specific ITE data was not available for every component of the site (for example, basketball courts or the Power Center), therefore the most applicable ITE data was used based on engineering judgement.

Trip Distribution

Trip distribution refers to the assumed origins or destinations of traffic entering or exiting a new development. The proportion of site-generated trips originating or destined for specific locations was estimated proportionally based on expected background traffic volumes under both 2023 and 2030 traffic conditions. The assumed origin/destination percentages used in this analysis are shown in **Table 1.**

Table 1 - Origins and Destinations for Site-Generated Traffic

Origin/Destination	2023 Background ADT	Estimated O-D Percent for 2023 Site-Generated Trips	2030 Background ADT	Estimated O/D Percent for 2030 Site-Generated Trips
64th Avenue – East of 38th Street	2,600	49%	5,525	39%
64th Avenue – West of 38th Street/I-29 Interchange	2,400	45%	3,000	21%
I-29 NB Ramps	Not constructed by 2023		4,100	29%
I-29 SB Ramps	Not constructed by 2023		200	1%
38th Street – North of Sports Complex	300	6%	1,025	7%
38th Street – South of 64th Avenue	Not constructed by 2023	-	375	3%

Trip Assignment

Trip assignment refers to the actual roadways that are used to travel between origins and destinations. For this study, trip assignment is based on engineering judgement, assuming that drivers will avoid circuitous routes.

Peak hour traffic volumes added to study area intersections for Phase 1 (2023) and Phase 1 + Phase 2 (2030) are shown in **Figure 8** through **Figure 11.**

Table 2 - Trip Generation Calculations

Phase 1 - 2023

Site Component	Corresponding ITE Land Use	Size	Units	PM Peak Hour Trip Rate per Unit	PM Peak Hour Trips	PM % In	PM % Out	PM Trips In	PM Trips Out	Saturday Peak Hour Trip Rate per Unit	Saturday Peak Hour Trips	Saturday % In	Saturday % Out	Saturday Trips In	Saturday Trips Out
Power Center	495 - Recreational Community Center	20.7	1000 SF GFA	2.31	48	47%	53%	22	25	1.1	22	54%	46%	12	10
Mezzanine Level	495 - Recreational Community Center	50.7	1000 SF GFA	2.31	117	47%	53%	55	62	1.1	54	54%	46%	29	25
Admin, Concourse Areas	495 - Recreational Community Center	18.5	1000 SF GFA	2.31	43	47%	53%	20	23	1.1	20	54%	46%	11	9
Ice Rink	465 - Ice Skating Rink	1	Rinks	45.17	45	55%	45%	25	20	145.5	146	53%	47%	77	68
Basketball Court	495 - Recreational Community Center	36.2	1000 SF GFA	2.3	83	47%	53%	39	44	2.2	79	54%	46%	43	36
Soccer Field	488 - Soccer Complex	1	Fields	16.43	16	66%	34%	11	6	107.4	107	48%	52%	52	56
				Total	**353**	**Total**		**172**	**180**	**Total**	**428**	**Total**		**223**	**205**

Phase 1 + 2 - 2030

Site Component	Corresponding ITE Land Use	Size	Units	PM Peak Hour Trip Rate per Unit	PM Peak Hour Trips	PM % In	PM % Out	PM Trips In	PM Trips Out	Saturday Peak Hour Trip Rate per Unit	Saturday Peak Hour Trips	Saturday % In	Saturday % Out	Saturday Trips In	Saturday Trips Out
Power Center	495 - Recreational Community Center	20.7	1000 SF GFA	2.31	48	47%	53%	22	25	1.1	22	54%	46%	12	10
Mezzanine Level	495 - Recreational Community Center	50.7	1000 SF GFA	2.31	117	47%	53%	55	62	1.1	54	54%	46%	29	25
Admin, Concourse Areas	495 - Recreational Community Center	18.5	1000 SF GFA	2.31	43	47%	53%	20	23	1.1	20	54%	46%	11	9
Ice Rink	465 - Ice Skating Rink	3	Rinks	45.17	136	55%	45%	75	61	145.5	437	53%	47%	231	205
Basketball Court	495 - Recreational Community Center	72.4	1000 SF GFA	2.3	167	47%	53%	78	88	2.2	158	54%	46%	85	73
Soccer Field	488 - Soccer Complex	2	Fields	16.43	33	66%	34%	22	11	107.4	215	48%	52%	103	112
Multipurpose Rooms	495 - Recreational Community Center	7.7	1000 SF GFA	2.31	18	47%	53%	8	9	1.1	8	54%	46%	4	4
				Total	**560**	**Total**		**280**	**280**	**Total**	**914**	**Total**		**476**	**437**

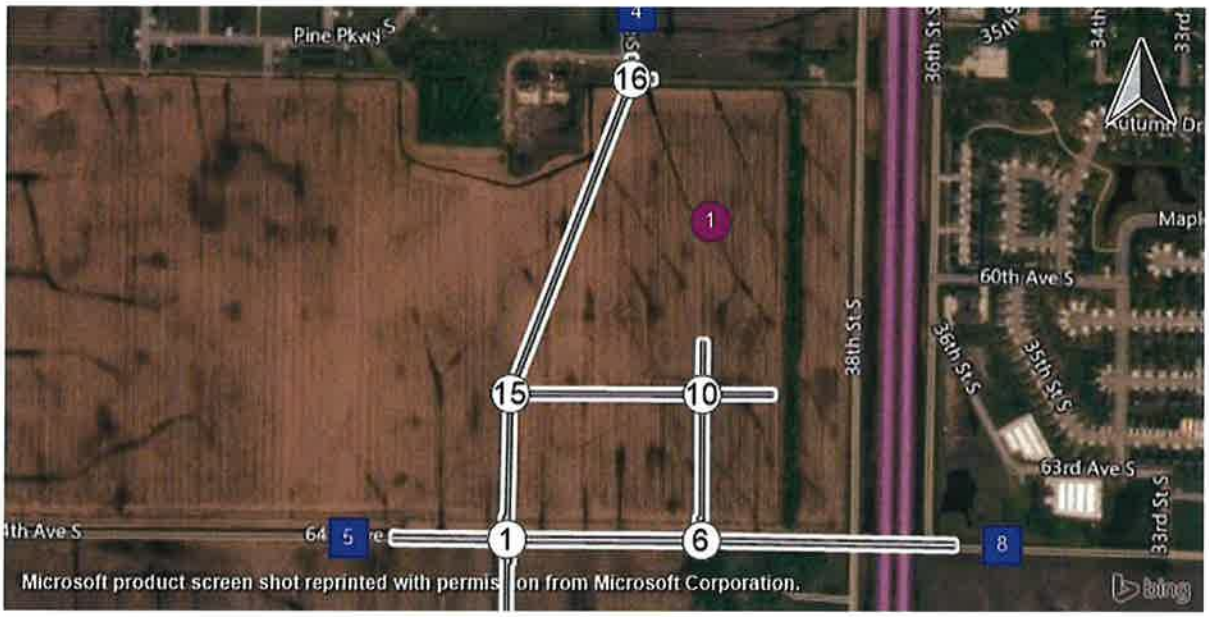
Note: Additional trip generation details can be found in **Appendix B**

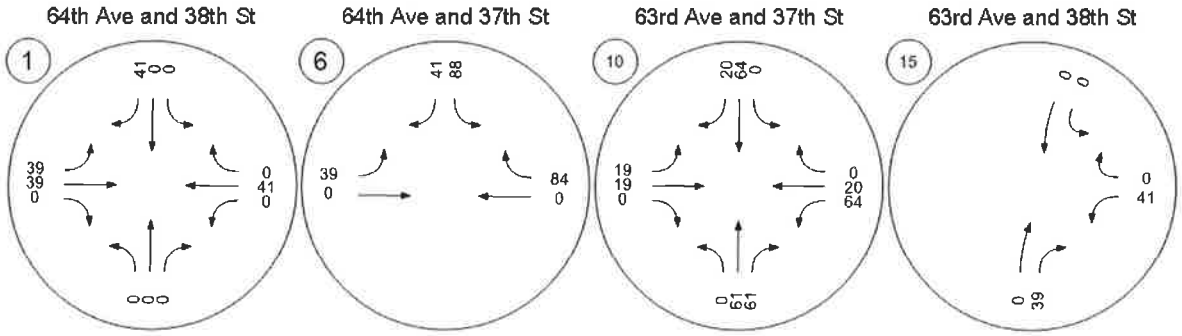
Figure 8 - 2023 Weekday PM Peak Site-Generated Traffic (Phase 1)

Generated with PTV VISTRO

Version 2020 (SP 0-1)

Traffic Volume - Net New Site Trips





38th St and Northwest Entran

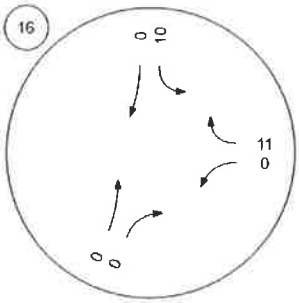
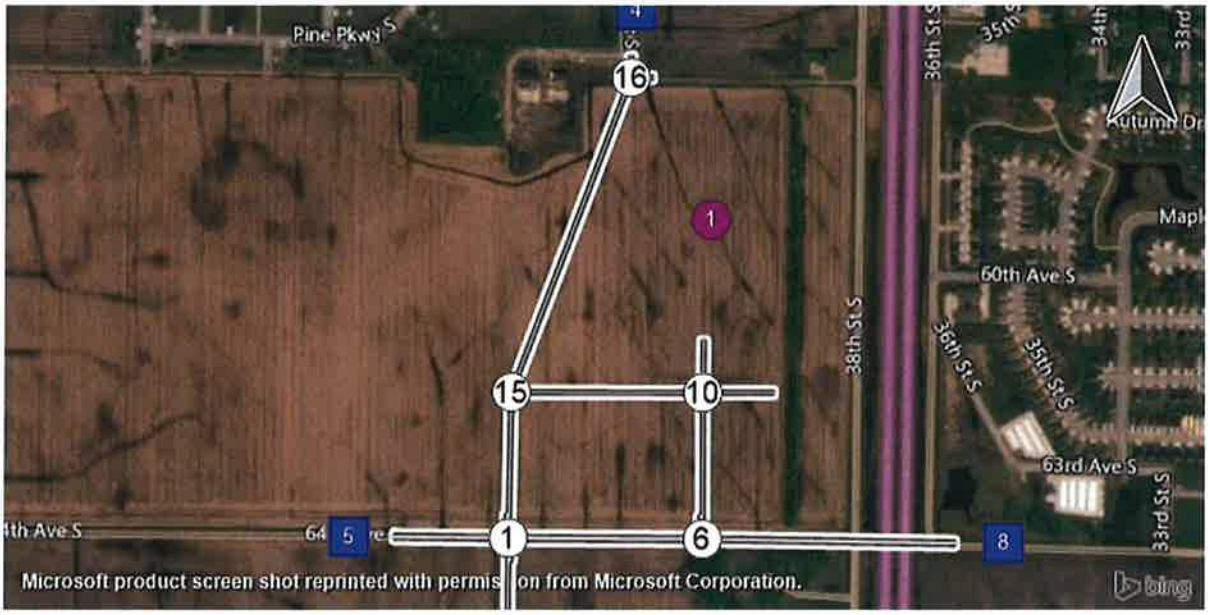


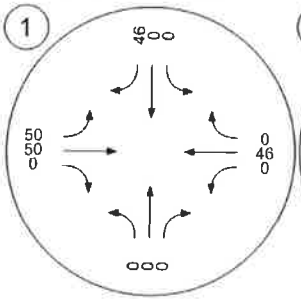
Figure 9 - 2023 Saturday Peak Site-Generated Traffic (Phase 1)

Generated with PTV VISTRO
Version 2020 (SP 0-1)

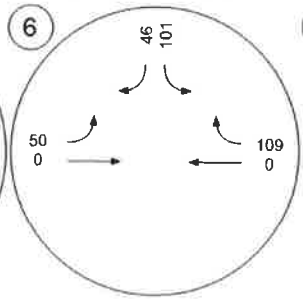
Traffic Volume - Net New Site Trips



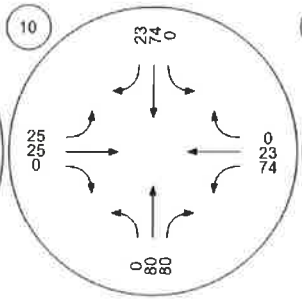
64th Ave and 38th St



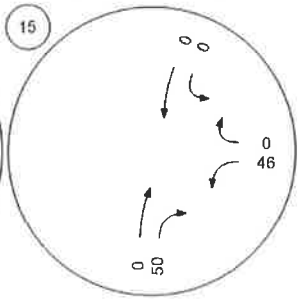
64th Ave and 37th St



63rd Ave and 37th St



63rd Ave and 38th St



38th St and Northwest Entran

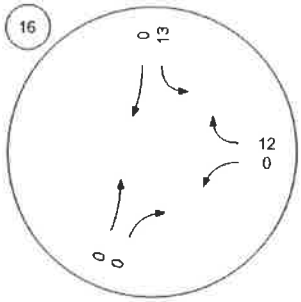
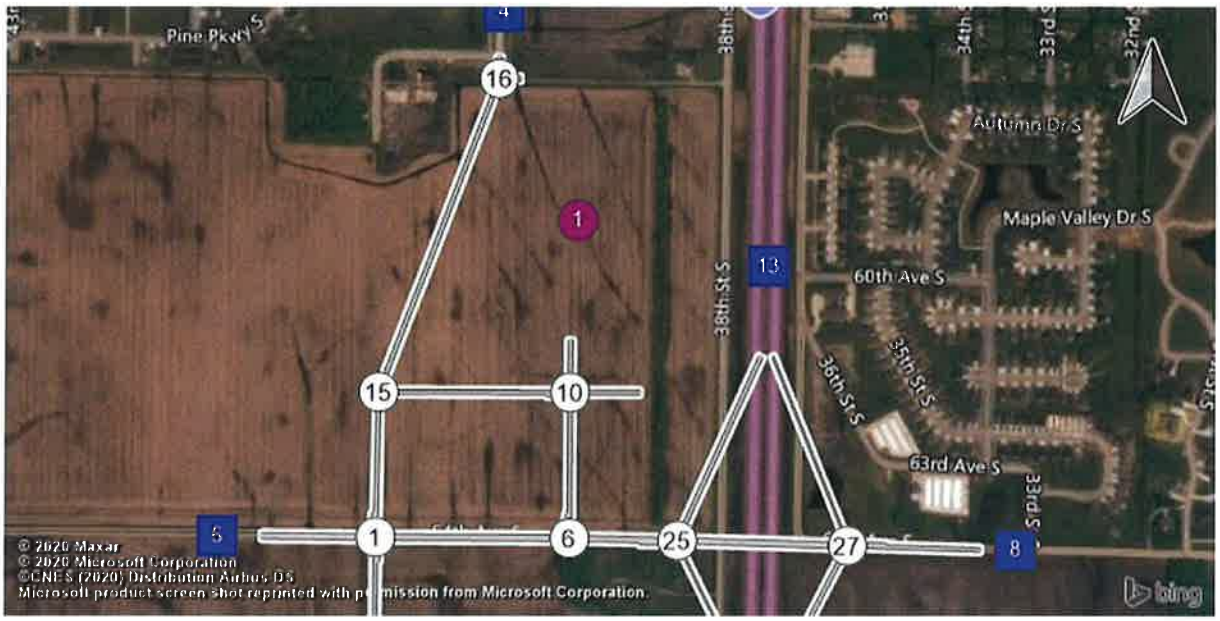


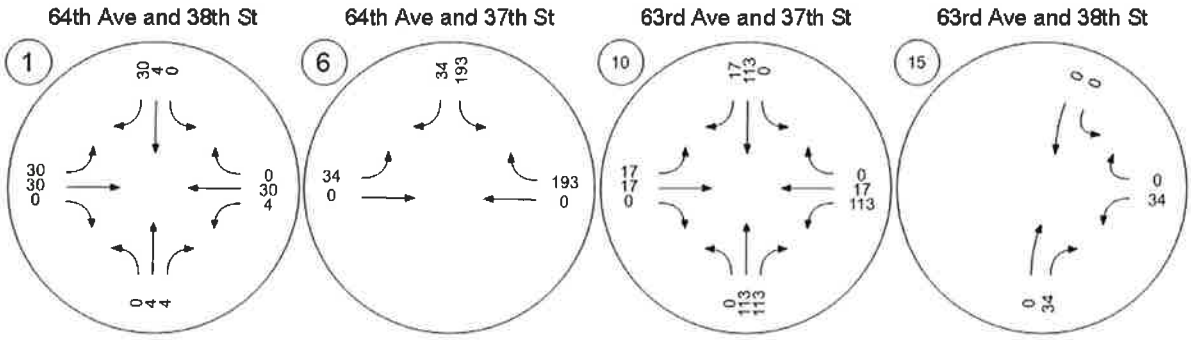
Figure 10 – 2030 PM Peak Site-Generated Traffic (Phase 1 + Phase 2)

Generated with PTV VISTRO

Version 2020 (SP 0-8)

Traffic Volume - Net New Site Trips





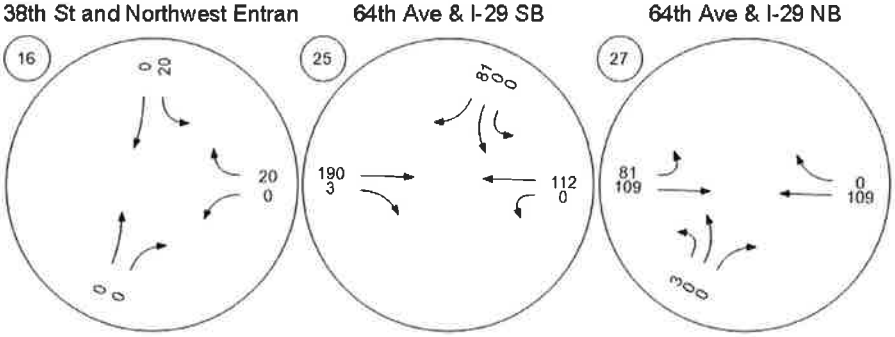
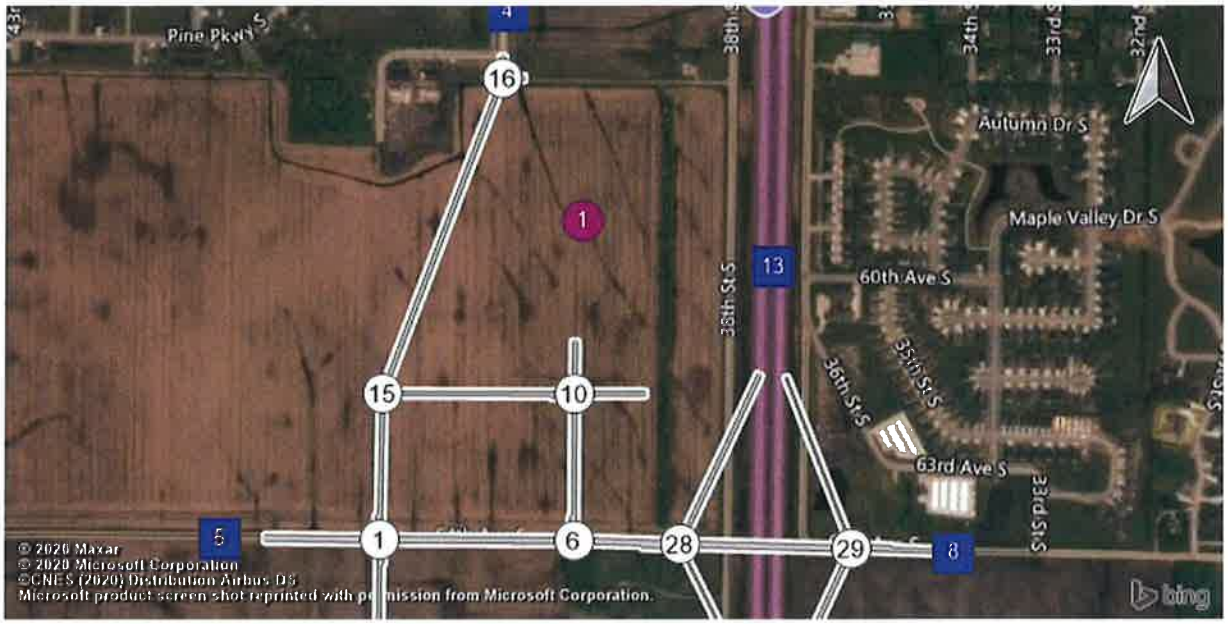


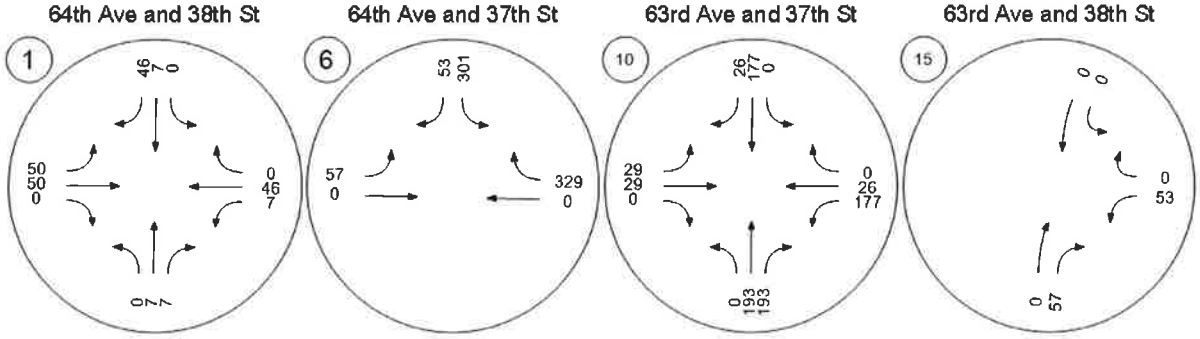
Figure 11 – 2030 Saturday Peak Site-Generated Traffic (Phase 1 + Phase 2)

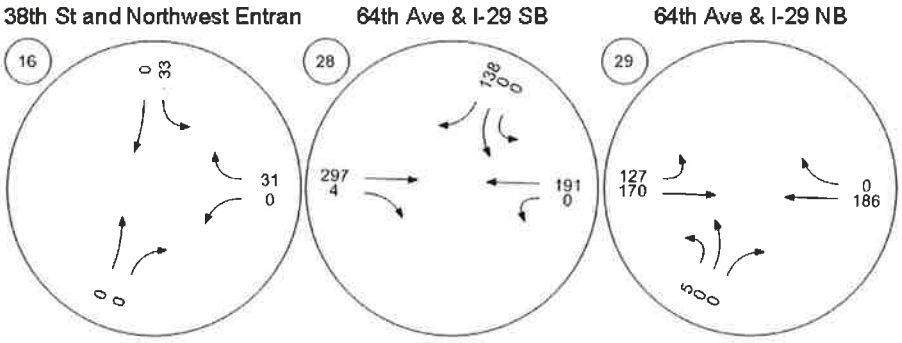
Generated with PTV VISTRO

Version 2020 (SP 0-8)

Traffic Volume - Net New Site Trips







Traffic Operations Analysis

Traffic operations analysis was performed for both background traffic conditions and traffic conditions that include traffic generated by the sports complex. This analysis was performed using the PTV Vistro analysis software which implements the intersection capacity analysis methodology from the *Highway Capacity Manual*.

Traffic operations are presented in terms of level of service. Level of service (LOS) is a letter grade that is assigned based on expected traffic delays, with LOS "A" indicating near free-flow traffic with little delay and LOS "F" indicating breakdown of traffic flow with significant delays. This study considers operations at LOS "D" or better acceptable per NDDOT standards.

Highway Capacity Manual delay-to-LOS thresholds are shown in **Table 3**.

Table 3 - Highway Capacity Manual Delay-to-LOS Thresholds

LOS	Unsignalized Intersection Control Delay Per Vehicle (sec.)	Signalized Intersection Control Delay Per Vehicle (sec.)
A	≤ 10	≤ 10
B	> 10 and ≤ 15	> 10 and ≤ 20
C	> 15 and ≤ 25	> 20 and ≤ 35
D	> 25 and ≤ 35	> 35 and ≤ 55
E	> 35 and ≤ 50	> 55 and ≤ 80
F	> 50	> 80

ROADWAY NETWORK ASSUMPTIONS

The following assumptions were made for the future roadway network surrounding the site:

- 64th Avenue is a three-lane roadway with a two-way left turn lane
- All other roadways will have a two-lane typical section
- A single lane roundabout will be constructed at the intersection of 38th Street and 63rd Avenue South
- All stop-controlled intersection approaches on public roadways will have a dedicated right turn lane
- The I-29 Interchange intersections were analyzed as unsignalized with right and left turn lanes on 64th Avenue South, as well as one shared lane from the I-29 exit ramps to 64th Avenue South. This assumption was made to assess the site impacts with minimal infrastructure at the interchange. Further studies are needed to determine the control and geometrics of these intersections.

Assumed intersection configurations and traffic control are shown in **Figure 12**.

TRAFFIC OPERATIONS ANALYSIS RESULTS

With the roadway assumptions listed above, traffic operations are expected to be at an acceptable LOS "C" or better with Phase 1 and Phase 2 traffic volumes, with little impact to operations compared to background conditions.

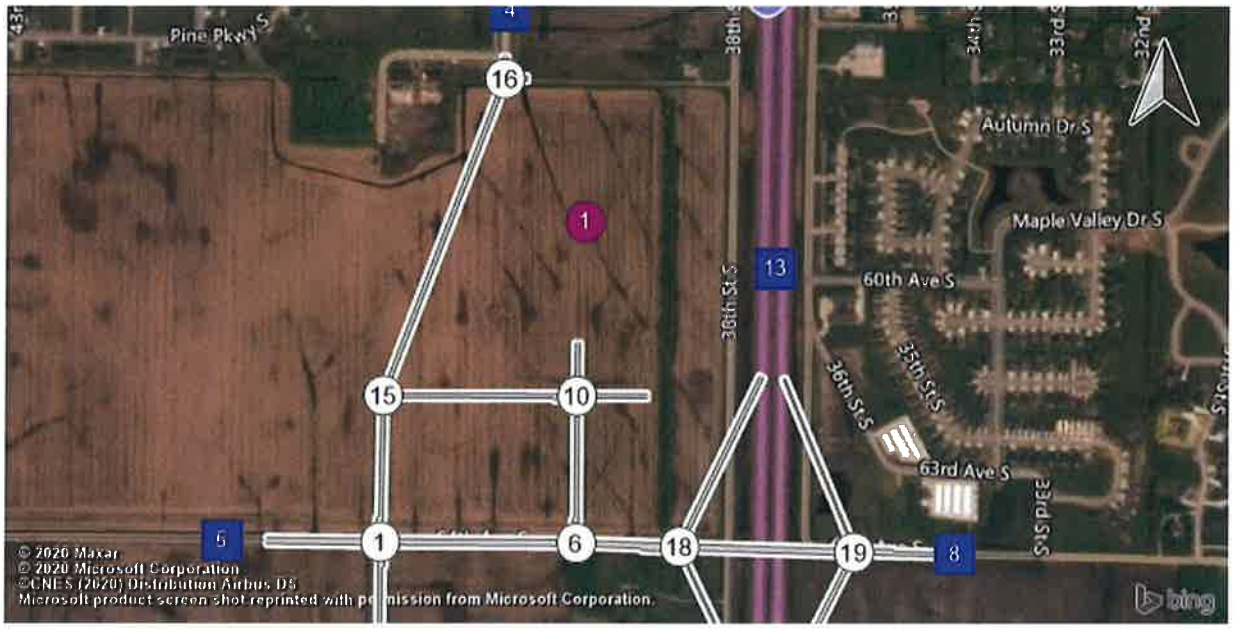
Traffic operations analysis results are summarized in **Table 4**, with detailed worksheets provided in **Appendix C**.

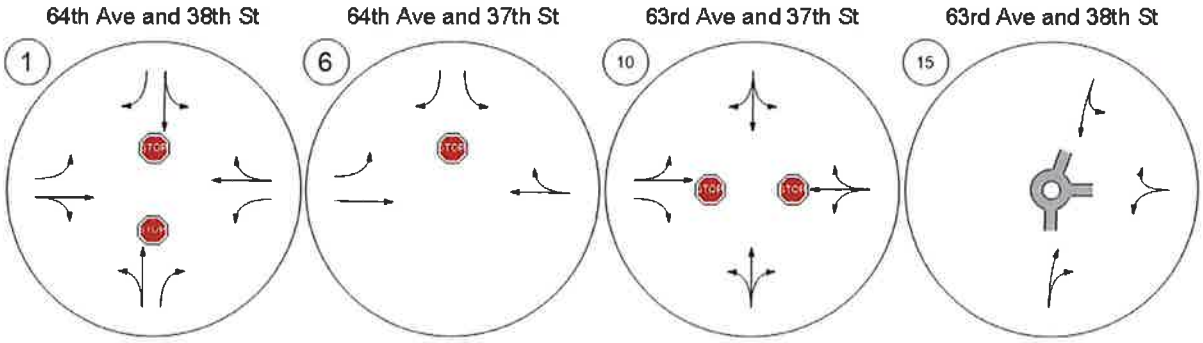
Figure 12 - Assumed Roadway Network and Traffic Control

Generated with PTV VISTRO

Version 2020 (SP 0-8)

Lane Configuration and Traffic Control





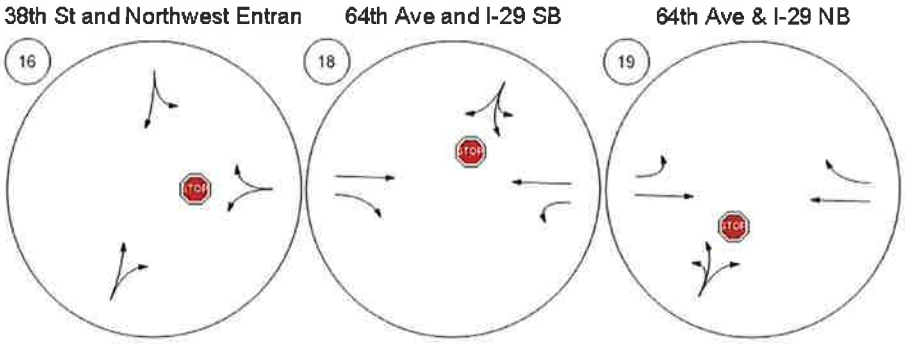


Table 4 - Traffic Operations Analysis Results

Intersection	Scenario		Northbound		Southbound		Eastbound		Westbound		Overall Intersection	
			Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
64th Ave and 38th St	2023 Weekday PM	Background	-	-	9.4	A	0.6	A	0.0	A	1.0	A
		With Complex	-	-	*9.5*	*A*	*2*	*A*	*0.0*	*A*	*2.4*	*A*
	2023 Saturday	Background	-	-	9.1	A	0.6	A	0.0	A	1.0	A
		With Complex	-	-	*9.4*	*A*	*2.4*	*A*	*0.0*	*A*	*2.7*	*A*
	2030 Weekday PM	Background	10.8	B	11.2	B	1.0	A	0.4	A	2.3	A
		With Complex	*12.1*	*B*	*11.7*	*B*	*1.6*	*A*	*0.5*	*A*	*3.1*	*A*
	2030 Saturday	Background	10.2	B	10.3	B	0.9	A	0.4	A	2.1	A
		With Complex	*12.0*	*B*	*11.2*	*B*	*2.1*	*A*	*0.5*	*A*	*3.5*	*A*
64th Ave and 37th St	2023 Weekday PM	Background										
		With Complex	-	-	*10.7*	*B*	*2.1*	*A*	*0.0*	*A*	*3.7*	*A*
	2023 Saturday	Background	No conflicting intersection volumes without site traffic									
		With Complex	-	-	*10.8*		*2.9*	*A*	*0.0*	*A*	*4.2*	*A*
	2030 Weekday PM	Background	No conflicting intersection volumes without site traffic									
		With Complex	-	-	*17.5*	*C*	*1.1*	*A*	*0.00*	*A*	*4.8*	*A*
	2030 Saturday	Background	No conflicting intersection volumes without site traffic									
		With Complex	-	-	*27.7*	*D*	*2.2*	*A*	*0.0*	*A*	*9.6*	*A*
64th Ave & I-29 SB Ramps	2030 Weekday PM	Background	-	-	*10.6*	*B*	*0.0*	*A*	*0.2*	*A*	*3.9*	*A*
		With Complex	-	-	*13.7*	*B*	*0.0*	*A*	*0.1*	*A*	*4.1*	*A*
	2030 Saturday	Background	-	-	*9.9*	*A*	*0.0*	*A*	*0.2*	*A*	*3.6*	*A*
		With Complex	-	-	*14.9*	*B*	*0.0*	*A*	*0.1*	*A*	*4.1*	*A*
64th Ave & I-29 NB Ramps	2030 Weekday PM	Background	*11.9*	*B*	-	-	*3.7*	*A*	*0.0*	*A*	*2.7*	*A*
		With Complex	*18.6*	*C*	-	-	*3.8*	*A*	*0.0*	*A*	*2.8*	*A*
	2030 Saturday	Background	*10.8*	*B*	-	-	*3.7*	*A*	*0.0*	*A*	*2.6*	*A*
		With Complex	*22.4*	*C*	-	-	*3.4*	*A*	*0.0*	*A*	*2.7*	*A*
63rd Ave and 37th St	2023 Weekday PM	Background	No conflicting intersection volumes without site traffic									
		With Complex	*0.0*	*A*	*0.0*	*A*	*10.2*	*B*	*10.3*	*B*	*3.8*	*A*
	2023 Saturday	Background	No conflicting intersection volumes without site traffic									
		With Complex	*0.0*	*A*	*0.0*	*A*	*10.7*	*B*	*10.9*	*B*	*3.9*	*A*
	2030 Weekday PM	Background	No conflicting intersection volumes without site traffic									
		With Complex	*0.0*	*A*	*0.0*	*A*	*11.3*	*B*	*12.1*	*B*	*3.8*	*A*
	2030 Saturday	Background	No conflicting intersection volumes without site traffic									
		With Complex	*0.0*	*A*	*0.0*	*A*	*14.3*	*B*	*18.7*	*C*	*5.5*	*A*
63rd Ave and 38th St	2023 Weekday PM	Background	No conflicting intersection volumes without site traffic									
		With Complex	*3.0*	*A*	*2.9*	*A*	-	-	*3.0*	*A*	*3.0*	*A*
	2023 Saturday	Background	No conflicting intersection volumes without site traffic									
		With Complex	*3.0*	*A*	*2.9*	*A*	-	-	*3.0*	*A*	*3.0*	*A*
	2030 Weekday PM	Background	No conflicting intersection volumes without site traffic									
		With Complex	*3.2*	*A*	*3.1*	*A*	-	-	*3.0*	*A*	*3.1*	*A*
	2030 Saturday	Background	No conflicting intersection volumes without site traffic									
		With Complex	3.3	A	3.1	A	-	-	3.1	A	3.2	A
38th St and Northwest Entrance	2023 Weekday PM	Background	No conflicting intersection volumes without site traffic									
		With Complex	*0.0*	*A*	*2.7*	*A*	-	-	*8.4*	*A*	*3.0*	*A*
	2023 Saturday	Background	No conflicting intersection volumes without site traffic									
		With Complex	*0.0*	*A*	*3.5*	*A*	-	-	*8.4*	*A*	*3.7*	*A*
	2030 Weekday PM	Background	No conflicting intersection volumes without site traffic									
		With Complex	*0.0*	*A*	*0.2*	*A*	-	-	*8.6*	*A*	*2.1*	*A*
	2030 Saturday	Background	No conflicting intersection volumes without site traffic									
		With Complex	*0.0*	*A*	*3.2*	*A*	-	-	*8.6*	*A*	*3.4*	*A*

Traffic Analysis Summary

Traffic impact analysis indicates the proposed complex is not expected to require revisions to current infrastructure plans in the study area.

PARKING DEMAND AND SUPPLY ANALYSIS

Current Parking Provision

The current site plan for the Sanford Sports Complex provided parking lot designs, number of stalls, and phasing. The preliminary parking layout is provided in **Appendix D**, with a summary provided below.

- Phase 1 parking supply was estimated to include the entirety of lots A, D, and E and part of lots B and C for a total of 799 parking stalls.
- Phase 2 parking supply would include the remainder of lots B and C and all of lots F, G, and H for 789 additional stalls.

At full build, the current site plan would provide 1,588 parking stalls. The parking demand analysis will evaluate whether this parking supply and phasing is appropriate.

Parking Demand Estimates

Following the Phase 1 and Phase 2 assumptions discussed at the beginning of this report, parking demand was estimated first using the Institute of Traffic Engineer's *Parking Generation Manual*, 5th Edition, as provided in Appendix E. The manual lacks refined estimates for specific uses like hockey rink, basketball courts, soccer fields, etc. However, does have a number of similar uses that may be applicable for the Sanford Sports Complex.

- Health & Fitness Club (H&F) – facility that primarily focuses on individual fitness or training.
- Athletic Club (AC) – facility that has courts for racquet sports, basketball courts, fitness rooms, swimming pools, team sport activities, and social facilities.
- Recreational Community Center (RCC) – stand-alone public facility that typically include meeting rooms and social facilities, swimming pools, courts, outdoor athletic facilities, weightlifting, locker rooms, etc.

These land use types provide a range of expected parking demand for Phase 1 and Phase 2. Parking demand for each use type was calculated using the square footage and the different parking demand averages from ITE. Demand was rounded up for the most conservative estimates.

Table 5 - ITE Parking Demand Estimates

Phase 1 - Use Type	Number of Facilities	Square Footage	H&F	AC	RCC
Sanford Power Center	1	20,685	98	64	43
Ice Rink	1	25,776	122	79	54
Basketball Court	4	36,231	172	111	75
Soccer Field	1	100,097	474	306	208
Walking Track	1	18,485	88	57	39
Support Facilities	1	50,648	240	155	105
Phase 1 Subtotals		**251,922**	**1,194**	**772**	**524**
Phase 2 - Use Type	**Number of Facilities**	**Square Footage**	**H&F**	**AC**	**RCC**
Ice Rink	2	51,552	244	158	107
Basketball Court	4	36,231	172	111	75
Soccer Field	1	100,097	474	306	208
Multipurpose Rooms	NA	7,728	37	24	16
Phase 2 Subtotals		**195,608**	**927**	**599**	**406**
Total Parking Demand		**447,530**	**2,121**	**1,371**	**930**

Using these land use types, the total parking demand for the site could range from 930 to more than 2,100. Under two of these land uses, both Phase 1 and Phase 2 parking provision would be sufficient, around 86 percent occupied. However, under the highest demand, the parking would not be sufficient in the event all facilities were used. Discussions held with Sanford's development and management team indicated it would be highly improbable all facilities would be occupied at the same time. Thus, it is with high confidence that the existing Phase 1 and Phase 2 parking provision would be appropriate as currently designed.

Parking Demand Sensitivity

Because the ITE land use types are not a perfect fit, an additional sensitivity analysis was completed with the following assumptions.

- The maximum occupancy information was provided for seven different areas of the facility, including courts, turf, Power Center, Administrative spaces, hockey, alternative spaces, and the mezzanine. Assuming full occupancy for every space, this facility could include more than 5,800 occupants.
- The 2017 National Household Travel Survey found a vehicle occupancy rate of 2.1 persons per vehicle for social and recreational trips. This occupancy rate was applied to the maximum occupancy numbers provided by Sanford to understand the maximum parking demand.
    - This approach likely underestimates parking demand for administrative spaces and the Power Center but overestimates parking demand for the recreational areas. Ultimately, it likely balances itself.
- The Mezzanine area was excluded from this demand analysis because it would double count people. People visit the complex for the recreational areas, not the mezzanine space.

Table 6 - Maximum Occupancy and Parking Demand

Use Type	Area	Maximum Occupancy	Parking Demand
Main Floor Courts	36,231	625	298
Main Floor Turf (Soccer Field)	102,097	1,941	925
Main Floor Power Center	20,686	377	180
Main Floor Administrative Spaces	18,485	530	253
Main Floor Hockey	25,776	634	302
Main Floor Alternate Spaces	20,718	655	312
Mezzanine	50,468	1,058	504
Totals	**274,461**	**5,820**	**2,774**

Based on these two factors, parking demand would far exceed the full parking provision at 2,774 (78 percent higher than the supply). However, based on discussions with Sanford, it is unlikely that all spaces would be fully occupied at the same time. A few of the more likely scenarios were evaluated to understand an alternative parking demand methodology.

- **Typical Day** – A typical day would include full occupancy of administrative spaces and the Power Center.
- **High Activity Weekday Tournament** – A weekday soccer tournament that would include full occupancy of administrative spaces, Power Center, and the soccer field.
- **High Activity Weekend Tournament** – A weekend soccer tournament that would include full occupancy of the Power Center, alternate spaces, and the soccer field.
- **Low Activity Weekday Tournament** – A weekday basketball tournament that would include full occupancy of administrative spaces, Power Center, and the courts.
- **Low Activity Weekend Tournament** – A weekend basketball tournament that would include full occupancy of the Power Center, alternate spaces, and the courts.

Table 7 - Occupancy Methodology Scenario Estimates

Use Type	Parking Demand	Occupied Parking
Typical Day	432	27%
High Activity Weekday Tournament	1,357	85%
High Activity Weekend Tournament	1,415	89%
Low Activity Weekday Tournament	1,057	67%
Low Activity Weekend Tournament	789	50%

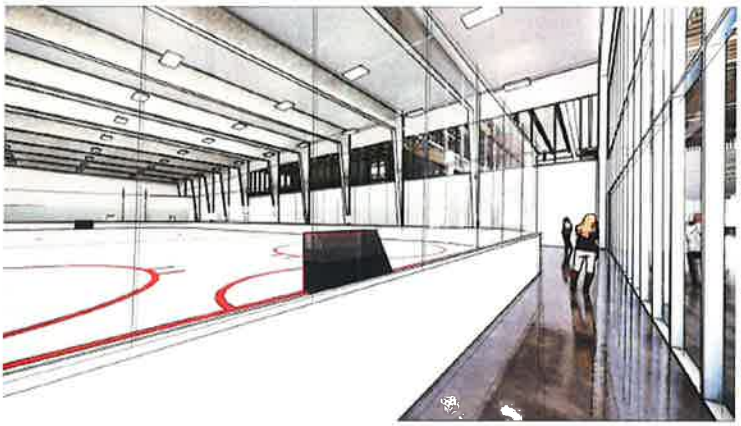
Under these scenarios, parking provision would remain adequate under all but the high activity weekend tournament. This scenario would exceed capacity, typically considered 85 percent of total capacity according to industry standards.

Parking Analysis Summary

Two separate methodologies with multiple scenarios were completed to understand the different parking demands that may arise at the Sanford Sports Complex in south Fargo. Under nearly every methodology and scenario, the proposed parking supply and phasing is appropriate.





















OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

3862

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN SANFORD ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on February 2, 2021; and,

WHEREAS, the rezoning changes were approved by the City Commission on May 17, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots One (1) and Three (3), Block Two (2) of Sanford Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "P/I", Public and Institutional, District.

Section 2. The following described property:

Block One (1); Block Three (3); Block Four (4); Lot Two (2), Block Two (2) of Sanford Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "LC", Limited Commercial, District with a "C-O", Conditional Overlay, District as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1. This Conditional Overlay is intended to provide for a higher quality of design than is afforded by the City of Fargo Land Development Code regarding future development within the described property.

2. All primary buildings shall be constructed or clad with materials that are durable, economically-maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; EIFS (exterior insulation finishing system), glass, metal panes similar to 'Aluco Bond' and synthetic panels similar to 'Trespa'. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the appearance of wood may be used. Horizontal metal lap siding and vertical metal batten shall be allowed on residential and commercial structures, but shall not exceed 75% of the building elevation for residential structures and 50% for commercial structures.

3. All building façades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the façade, and extending at least 20% of the length of the façade. No uninterrupted length of any façade shall exceed 150 horizontal feet. An articulated façade would emphasis elements on the face of a wall including change in setback, materials, roof pitch or height.

4. Ground floor façades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 50% of their horizontal length. If the façade facing the street is not the front, it shall include the same features and/or landscaping in scale with the façade.

5. Loading and/or service areas/facilities shall be located at the side or rear of buildings and screened from public streets by structures and/or landscaping, with a minimum opacity of 50%.

6. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain permanent walls on at least three (3) sides. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor; however, if the service side does not face any public right-of-way or residentially zoned property the metal gate shall not be required.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

7. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:
   a. the primary entrance or entrances to each commercial building, including pad site buildings;
   b. any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development;
   c. parking areas or structures that serve such primary buildings;
   d. connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network;
   e. any public sidewalk system along the perimeter streets adjacent to the commercial development; and
   f. where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings.

8. A minimum of 5% of the internal surface area of the parking lot shall be landscaped.

9. Of those permitted or conditionally permitted uses of the base zoning district, the following uses are prohibited:
   a. Detention Facilities;
   b. Adult Entertainment Center;
   c. Off-Premise Advertising Signs (directional signs that are less than 50 square feet in size are exempt from this prohibition);
   d. Portable Signs;
   e. Industrial Service;
   f. Manufacturing and Production;
   g. Warehouse and Freight Movement; and
   h. Aviation/Surface Transportation

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

_____
Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

380

City of Fargo Staff Report			
Title:	**EOLA Addition**	**Date:** **Update:** **Update:**	2/24/2021 4/28/2021 5/13/2021
Location:	2470 & 2500 45th St S	**Staff Contact:**	Maegin Elshaug
Owner(s)/Applicant:	EOLA Landholdings, LLC & City of Fargo / Epic Companies	**Engineer:**	Mead & Hunt
Reason for Request:	**Major Subdivision** (replat of Lot 4, Block 1, Anderson Park Second Addition to the City of Fargo, Cass County, North Dakota, including a waiver for a reduced street Right of Way), **Zoning Change** (from GC, General Commercial with a C-O, Conditional Overlay to GC, General Commercial to a PUD, Planned Unit Development Overlay and a request to repeal the C-O, Conditional Overlay); and a **PUD Master Land Use Plan**		
Status:	City Commission Public Hearing: May 17, 2021		

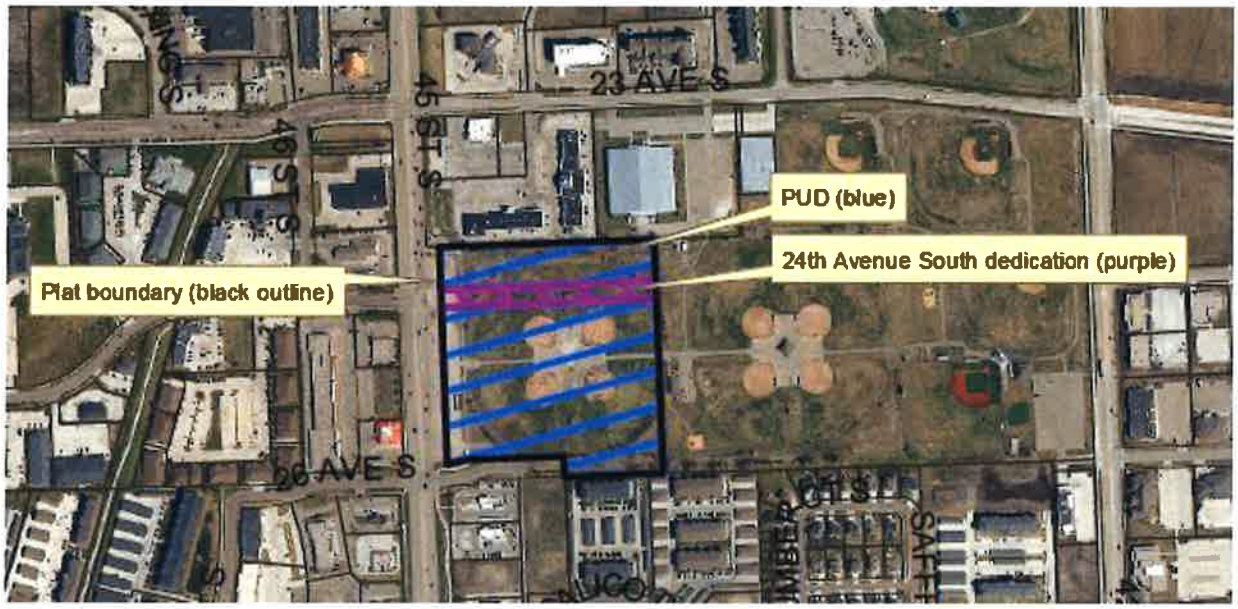
Existing		**Proposed**
Land Use: Vacant (previously sports complex)		**Land Use:** Mixed-use development
Zoning: GC with a C-O, Conditional Overlay		**Zoning:** GC with PUD
Uses Allowed: GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, ~~detention facilities~~, health care facilities, parks and open space, religious institutions, safety services~~, adult entertainment centers~~, offices, ~~off-premise advertising,~~ commercial parking, outdoor recreation and entertainment, retail sales and service, self-storage, ~~vehicle repair, limited vehicle service, aviation, surface transportation~~, and major entertainment events. Plus CUP for TSS structure (location further east of subject property)		**Uses Allowed:** GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, ~~detention facilities~~, health care facilities, parks and open space, religious institutions, safety services~~, adult entertainment centers~~, offices, ~~off-premise advertising,~~ commercial parking, outdoor recreation and entertainment, retail sales and service, self-storage, ~~vehicle repair, limited vehicle service, aviation, surface transportation~~, and major entertainment events. Plus a PUD allowing Residential use
Maximum Density Allowed: 85% maximum building coverage		**Maximum Density Allowed:** building coverage unchanged

Proposal:

Update 5/12/2021: At the March 2 Planning Commission meeting, the Commission voted to recommend approval of the major subdivision, **EOLA Addition**, including a waiver for reduced street Right of Way, to the City Commission. The Commission also recommended continuation of the Zoning change and Planned Unit Development Master Plan to the April 6 Planning Commission meeting. On April 6, the Planning Commission continued the item to the May 4 Planning Commission meeting. The Planning Commission made a motion at that meeting, which is noted at the end of the staff report.

The applicant is seeking approval of 1) a major subdivision, **EOLA Addition**, (two (2) blocks, seven (7) lots), including a waiver for a reduced street Right of Way; 2) a zoning change from GC, General Commercial with a C-O, Conditional Overlay (Ordinance 4904), to GC, General Commercial with a Planned Unit Development (PUD) Overlay and a request to repeal the C-O, Conditional Overlay; and 3) a PUD Master Land Use Plan. The subject property is located at 2470 and 2500 45th Street South and contains approximately 16.74 acres. The property located at 2470 45th Street South is owned by the City of Fargo and is the location of the 24th Avenue South

dedication on the proposed EOLA Addition plat. The applicant intends to build a master-planned mixed-use development. The image on the following page shows the area of the applications.



Project Summary

The applicant has applied for a major subdivision, zoning change and a PUD Overlay in order to tailor development standards to the specifics of the proposed project, the EOLA development, which is a new master-planned mixed-use development surrounding a 4-acre urban park. The proposed project is eight 7-story buildings with underground parking, 1-2 floors of commercial space, with combination of residential condominiums and apartments, with patio spaces that open up to the park. Buildings 3 and 4 (southeast corner) are proposed to be all residential. A parking garage is also proposed on the site; however, if the parking structure was not constructed, the applicant proposes a similar mixed-use structure as the others. The applicant notes that any outdoor dining is anticipated to be facing the public park and not along adjacent right-of-way. The applicant states that the development will be a walkable community that has trails connecting to the park, and coordinated events with surrounding community organizations to naturally coexist with the surrounding amenities.

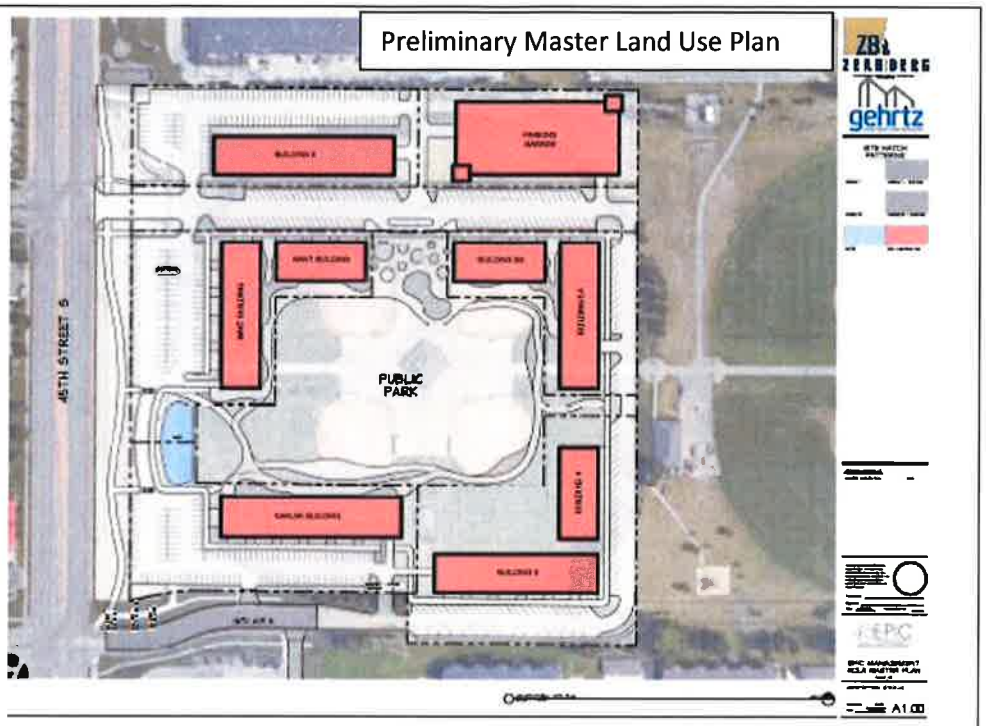
Major Subdivision and waiver for a reduced street Right of Way

In order to accommodate the development, the applicant has applied for a subdivision, EOLA Addition, to create two (2) blocks and seven (7) lots for the subject property. The subdivision will dedicate right-of-way for 24th Avenue South, which is anticipated to connect to 42nd Street South at some point in the future. The right-of-way for the road is narrower than required by the Land Development Code, therefore the application includes a request for waiver for a reduced street Right of Way. The Engineering Department is currently working with a consultant to design 24th Avenue South. The draft amenities plan is attached.

(continued on next page)

PUD Master Land Use Plan

The image to the right is a preliminary Master Land Use Plan submitted by the applicant. The applicant proposes six mixed-use and two residential (southeast corner), 7-story buildings, parking structure and large public park. If the parking structure was not constructed, the applicant proposes a similar mixed-use structure as the other eight. The Master Land Use Plan shows the building envelope of the structures, parking and circulation, and open space. Note that if the zoning change and the Master Land Use Plan are approved by the City Commission, the Planning Commission will review the Final Plans for the PUD at some point in the future.



PUD Overlay

As permitted by Section 20-0301(E) of the LDC, a number of different zoning standards are eligible for modification by the ordinance which establishes the PUD zoning overlay. The proposed PUD overlay is intended to modify the following specific GC zoning standards:

- Allow residential use;
- Establish maximum residential density of 70 units per acre;
- Increase building height within proximity of residentially zoned property and establish building height maximum on property to 85 feet;
- Reduce front, street side, and rear setbacks to 10 feet;
- Establish a minimum of 20% open space;
- Waive requirement for parking lot buffer;
- Increase maximum perennial open space plant units to 40% of requirement;
- Reduce open space plant unit front and street side placement to 25%;
- Modify the minimum off-street parking requirements for a mixed-use development.

The applicant is also requesting to meet all required open space plant units collectively in the development, and requesting to remove the square footage of active recreation from the overall calculation for plant unit requirements. In addition, at the final phase of the development, all required open space plant units will be verified. Landscaping will increase with review of phased Final Plans. Landscape plans will be submitted with each Final Plan for internal review.

In lieu of a parking lot buffer, the applicant is working on a proposal for plantings within the boulevard of 45th Street South, similar to the plantings to the south along 45th Street South. In addition to the modifications noted, the PUD overlay would also establish additional standards for the development, which is largely consistent with the C-O, Conditional Overlay. The draft ordinance for the PUD, including design standards are attached.

Parking

The applicant has prepared a parking needs analysis, which was reviewed by the city's traffic engineer. Based on the report, the traffic engineer concurred with the findings, which support a reduction in parking for the site. The study proposes to provide 1.16 parking spaces per residential unit, and for commercial uses of retail, office, and

restaurant (sit down and fast casual), to provide 4.35 per 1,000 square feet of commercial. To simplify, staff suggests using a ratio of 1 parking space per 230 gross square feet for the noted commercial uses. All other parking requirements will be per the Land Development Code.

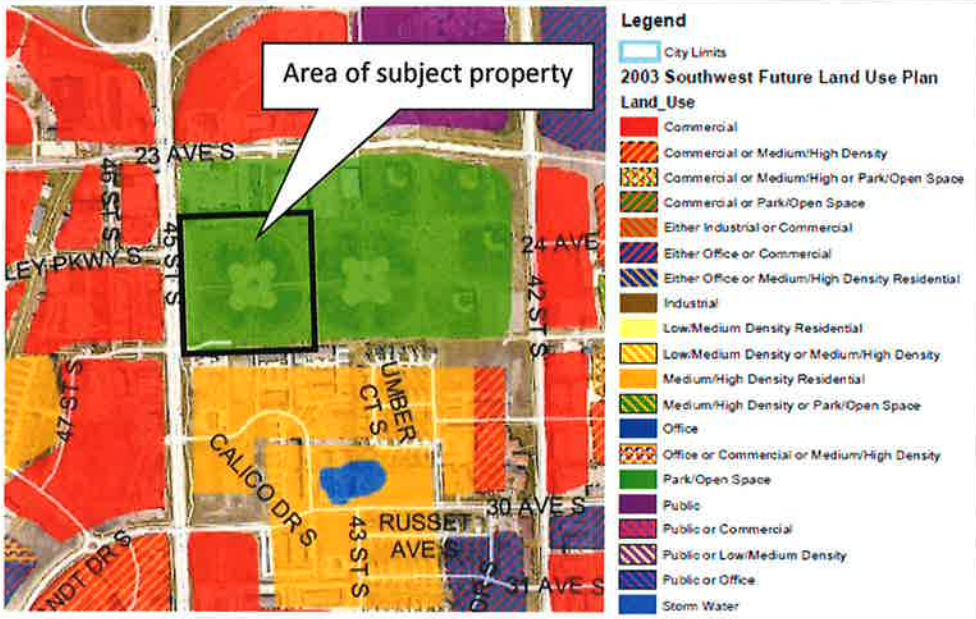
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report. The applicant will also need to submit for a building permit, where all review departments will review the plans for compliance with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

Surrounding Land Uses and Zoning Districts:

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

Area Plans:

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



Context:

Neighborhood: Anderson

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

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

Pedestrian / Bicycle: A shared use facility is located on the east side of 45th Street South and connects to the metro area trail system.

(continued on next page)

Staff Analysis:

Subdivision
Section 20-0907 of the LDC stipulates that the following criteria must be met before a major plat can be approved:

1. **Section 20-0907 of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**
   The property is zoned GC, General Commercial with a C-O, Conditional Overlay. The GC zoning is proposed to remain as the base zoning district for the PUD, while the C-O is proposed to be repealed. The PUD overlay will establish additional standards for the development, anticipated to be largely consistent with the C-O, Conditional Overlay that will be repealed. The GC with PUD overlay zoning will accommodate the proposed development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has not received any public comment or inquiries. **(Criteria Satisfied)**

2. **Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**
   The property is zoned GC, General Commercial with a C-O, Conditional Overlay. The GC zoning is proposed to remain as the base zoning district for the PUD, while the C-O is proposed to be repealed. The PUD overlay will establish additional standards for the development, anticipated to be largely consistent with the C-O, Conditional Overlay that will be repealed. The GC with PUD overlay zoning will accommodate the proposed development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has not received any public comment or inquiries. **(Criteria Satisfied)**

3. **Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
   There are existing utilities located within the property, running east and west, which will be removed or rerouted. Specifically, storm sewer will be rerouted and located within the new 24th Avenue South right-of-way; the water main that exists through the lot, which comes from 42nd Street South, will be removed and capped at the eastern edge of the property and a new water main will be located in the 24th Avenue South right-of-way; and the sanitary sewer will be removed and capped at the eastern edge of the property and new sanitary sewer will be located within 24th Avenue South right-of-way. Some existing utility stubs are located on the west part of the property and are anticipated to remain. Additionally, the City's standard policy is that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

Subdivision Waiver For Street Width
This project requires a subdivision waiver for streets for right of way width as the 24th Avenue South roadway will reduced in overall right of way width, paving width, and boulevard configuration.
Section 20-0907.D.3 (a-c) of the LDC stipulates the following criteria be met before a subdivision waiver can be approved:

1. **Section 20-0907.D.3.a of the LDC stipulates that a Subdivision Waiver must not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the area in which the property is located.**

Twenty-fourth (24th) Avenue South will be a local street with diagonal parking on either side within a GC, General Commercial zoned area. LDC 20-0611(G)(1) specifies an 80-foot wide ROW. The standards between the required and proposed ROW are depicted in the chart below:

STANDARD	LDC	PROPOSED
Overall width	80 feet	73 feet
Lanes	2	2
Paving width	40 feet	32 feet
Sidewalk width	4.5 feet each side	6 feet each side (and 4' furnishing zone)
Sidewalk location	2.0 feet off property line	Just outside the ROW within Utility and Sidewalk easement

The reduced right-of-way width provides sufficient east-west street connectivity and parking while accommodating the mixed-use development. Staff finds this criteria is met. **(Criteria Satisfied)**

2. **Section 20-0901.D.3.b of the LDC stipulates that a Subdivision Waiver must represent the least deviation from this Land Development Code that will mitigate the hardship or practical difficulty that exists on the subject property.**
   Approval of the subdivision waiver for ROW width, as described above, would allow the applicant's project design for a mixed-use development while still providing sufficient right-of-way and connectivity to provide access and on-street diagonal parking on both sides of the street, as well as pedestrian circulation on dedicated public sidewalks. The Public Works department has worked with the applicant on a maintenance agreement to address public improvements, maintenance, and snow removal. **(Criteria Satisfied)**

3. **Section 20-0907.D.3.c of the LDC stipulates that a Subdivision Waiver shall not have the effect of waiving any provisions of this development code other than the Subdivision Design and Improvement Standards of Article 20-06.**
   Only the street standards requirement of Section 20-0611 of the LDC would be affected by approval of this waiver. **(Criteria Satisfied)**

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

1. **Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**
   Staff is unaware of any error in the zoning map as it relates to this property. Staff finds that the requested zoning change is justified by change in conditions since the previous zoning classification was established. The PUD zoning is an overlay with an underlying zoning district of GC, General Commercial. The proposed PUD Overlay zoning district is intended to accommodate the development of this property and specifically identify the proposed development with a specific master land use plan that is to be reviewed concurrently with the zoning change request. **(Criteria Satisfied)**

2. **Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**
   City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property is adjacent to existing developed public rights-of-way, which provide access and public utilities to serve the property. **(Criteria Satisfied)**

3. **Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?**
   Staff has no documentation or supporting evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners within 300

feet of the project site. To date, staff has not received any comment or inquiry. Staff finds that the proposal will not adversely affect the condition or value of the property in the vicinity. **(Criteria Satisfied)**

4. **Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?**
   The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed PUD is in keeping with Fargo's Comprehensive Plan, Go2030, specifically:

   - Sustainable Retail Mixed Use Centers - Noted to have the potential to incorporate more residential density and retail space, with walkability improvements, and public art to become a destination for shopping and entertainment.
   - Public Gathering Spaces - Develop dedicated public gathering spaces in neighborhood centers.
   - Infill—Develop policies to promote infill and density within areas that are already developed and are protected by a flood resiliency strategy. Control sprawl and focus on areas outside of the floodplain.
   - Design Standards—Continue to follow design guidelines for Growth Areas for infill and residential development. Improve quality new housing by fostering strong relationship with the development and building community to promote dense, walkable communities with neighborhood centers.
   - Quality New Development—Require new development to meet site design standards that result in well-designed new neighborhoods.
   - Parking- Pursue creative parking strategies to fund and activate parking structures, explore reducing minimum parking standards, and share parking between daytime and nighttime uses.

   Staff finds that the proposed development is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City. **(Criteria Satisfied)**

Master Land Use Plan
Section 20-0908.B.7 (a—e) of the LDC stipulates that the Planning Commission and Board of City Commissioners shall consider the following criteria in the review of any Master Land Use Plan:

a. The plan represents an improvement over what could have been accomplished through strict application of otherwise applicable base zoning district standards, based on the purpose and intent of this Land Development Code;
The plan represents an improvement over what could have been accomplished through strict application of the base GC zoning district. This PUD is intended to promote a mixed-use development pattern by providing flexibility in terms of residential use and density, parking requirements, setbacks and landscaping requirements while establishing design standards, in order to provide a master-planned large-scale development with residential use. **(Criteria Satisfied)**

b. The PUD Master Land Use Plan complies with the PUD standards of Section 20-0302;
All standards and requirements as set forth in the LDC have been met. **(Criteria Satisfied)**

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

d. The development is consistent with and implements the planning goals and objectives contained in the Area Plan, Comprehensive Plan and other adopted policy documents;
The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed PUD is in keeping with Fargo's Comprehensive Plan, including initiatives of *sustainable mixed use center, public gathering spaces, infill, design standards, quality new development,* and *parking.* The City's Go2030 Comprehensive Plan supports

development within areas that are already serviced with utilities. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan and other adopted policies of the City. **(Criteria Satisfied)**

e. **The PUD Master Land Use Plan is consistent with sound planning practice and the development will promote the general welfare of the community.**
The PUD is consistent with sound planning practice and the development will promote the general welfare of the community by providing a mixed-use development that will allow for a variety of uses within an area of the City that already has access to City services. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading, place the rezoning Ordinance on for first reading, and move to approve the 1) major subdivision plat, **EOLA Addition**, including a waiver for a reduced street Right of Way; 2) zoning change from GC, General Commercial with C-O, Conditional Overlay to GC, General Commercial with a Planned Unit Development and repeal the C-O, Conditional Overlay, and 3) PUD Master Land Use Plan, as outlined within the staff report, as the proposal complies with the adopted Area Plan, Go2030 Fargo Comprehensive Plan, the standards of Article 20-06, Section 20-0906.F(1-4), and Section 20-0908.B(7) of the LDC, and all other applicable requirements of the Land Development Code;

Planning Commission Recommendation:

At the March 2, 2021 Planning Commission hearing, the Commissioners, by a vote of 8-0, with one Commissioner absent and two Commission seats vacant, moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed major subdivision plat, **EOLA Addition**, including a waiver for a reduced street Right of Way, as outlined within the staff report, as the proposal complied with the adopted Area Plan, the standards of Article 20-06, and all other applicable requirements of the Land Development Code.

At the May 4, 2021 Planning Commission hearing, the Commissioners, by a vote of 8-0, with one Commissioner absent and two Commission seats vacant, moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed 1) zoning change from GC, General Commercial with C-O, Conditional Overlay to GC, General Commercial with a Planned Unit Development and repeal the C-O, Conditional Overlay, and 2) PUD Master Land Use Plan, as outlined within the staff report, as the proposal complied with the Go2030 Fargo Comprehensive Plan, Section 20-0906.F(1-4), and Section 20-0908.B(7) of the LDC, and all other applicable requirements of the LDC.

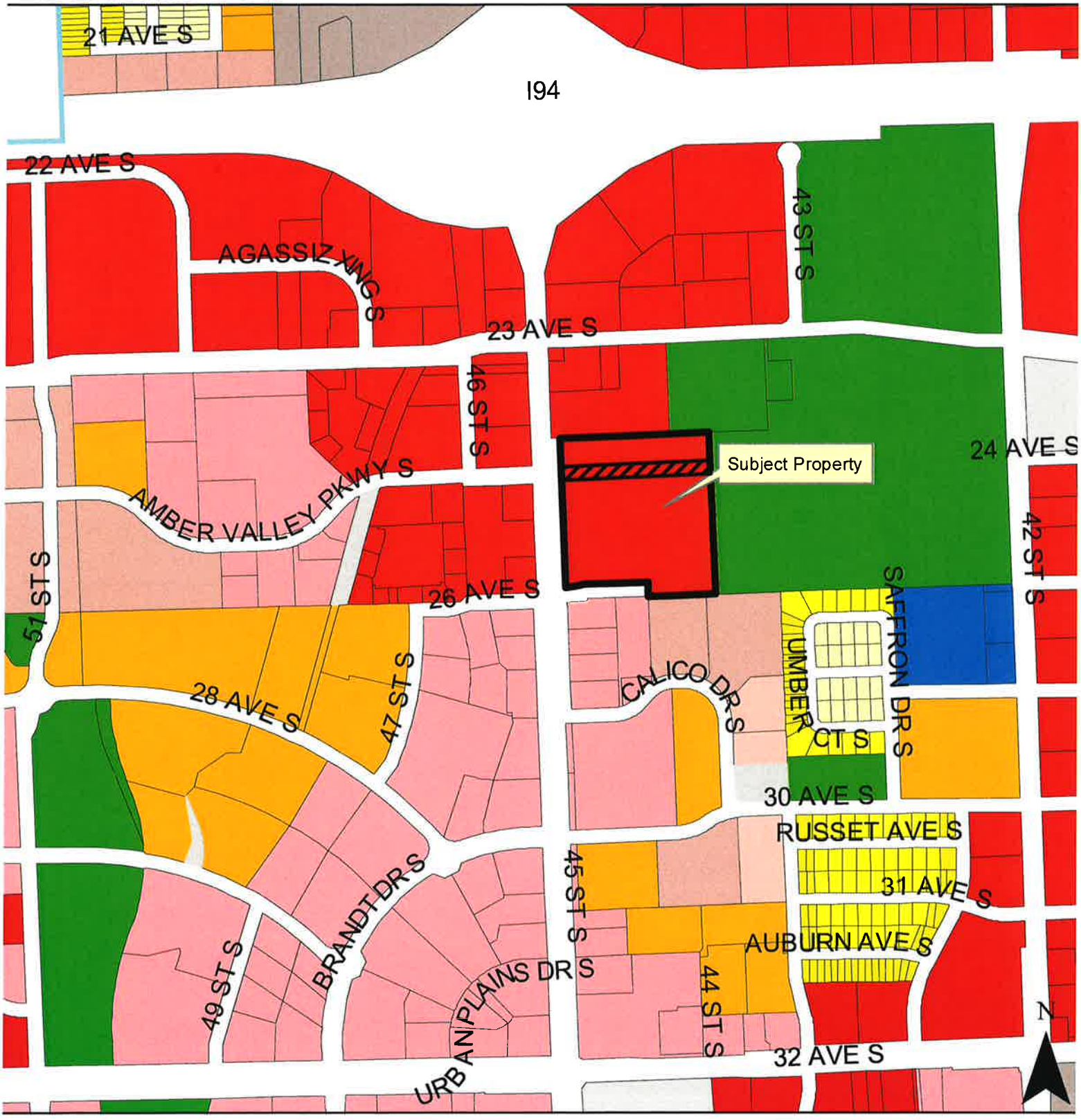
Attachments:

1. Zoning Map
2. Location Map
3. Preliminary Plat
4. Amenities Plan
5. Project narrative from applicant
6. PUD Master Land Use Plan
7. Project plans and renderings from applicant
8. Draft PUD Ordinance

Zone Change (GC with a C-O to GC with a Planned Unit Development [PUD] Overlay, repealing the C-O); PUD Master Land Use Plan; & Plat (Major)

EOLA Addition

2500 & 2470 45th St S



Legend

AG, LC, MHP, SR-2, DMU, LI, NC, SR-3, GC, MR-1, NO, SR-4, GT, MR-2, P/I, SR-5, GO, MR-3, UMU, City Limits, City-Owned Property

500 Feet

Fargo Planning Commission

March 2, 2021

Zone Change (GC with a C-O to GC with a Planned Unit Development [PUD] Overlay, repealing the C-O); PUD Master Land Use Plan; & Plat (Major)

EOLA Addition

2500 & 2470 45th St S



THE CITY OF Fargo FAR MORE

City-Owned Property

500 Feet

Fargo Planning Commission

March 2, 2021

EOLA ADDITION

A REPLAT OF LOT 4, BLOCK 1 OF ANDERSON PARK SECOND ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)

OWNER'S CERTIFICATE AND DEDICATION:
KNOWN ALL PERSONS BY THESE PRESENTS: That EOLA Landings, LLC, and the City of Fargo do hereby certify that we are the owners of the land located in that part of the Northwest Quarter of Section 22, Township 139 North, Range 48 West, Cass County, North Dakota, described as follows:

Lot Four, in Block One of Anderson Park Second Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota.

Containing 16.7 acres, more or less.

And that said parties have caused the same to be surveyed and platted as "EOLA ADDITION" to the City of Fargo, Cass County, North Dakota, and do hereby dedicate 24th Avenue South together with all Utility, Sidewalk and Trail Easements shown on said plat to the Public.

Owner:
City of Fargo
Claim of Interest in:
That part of Lot 4, Block 1, of said Anderson Park Second Addition, described as follows:

Commencing at the northwest corner of said Lot 4; thence South 02 degrees 28 minutes 18 seconds East, on the east right-of-way line of 45th Street South a distance of 164.51 feet to the point of beginning; thence North 87 degrees 31 minutes 42 seconds East a distance of 839.96 feet to the east line of said Lot 4; thence South 02 degrees 28 minutes 18 seconds East, along said east line, 73.00 feet; thence South 87 degrees 31 minutes 42 seconds West a distance of 839.96 feet to said east right-of-way line; thence North 02 degrees 28 minutes 18 seconds West, on said east right-of-way, 73.00 feet to the point of beginning.

_____
Timothy J. Mahoney, Mayor

State of North Dakota)
) SS
County of Cass)

On this ___ day of _____, 20___, appeared before me, Timothy J. Mahoney, Mayor, known to me to be the persons whose names are subscribed to the above certificate and did acknowledge to me that they executed the same on behalf of the City of Fargo.

Notary Public: _____

Owner:
EOLA Landholdings, LLC
Claim of Interest in:
That part of Lot 4, Block 1, of said Anderson Park Second Addition EXCEPTING THEREFROM, the following described tract:

Commencing at the northwest corner of said Lot 4; thence South 02 degrees 28 minutes 18 seconds East, on the east right-of-way line of 45th Street South a distance of 164.51 feet to the point of beginning; thence North 87 degrees 31 minutes 42 seconds East a distance of 839.96 feet to the east line of said Lot 4; thence South 02 degrees 28 minutes 18 seconds East, along said east line, 73.00 feet; thence South 87 degrees 31 minutes 42 seconds West a distance of 839.96 feet to said east right-of-way line; thence North 02 degrees 28 minutes 18 seconds West, on said east right-of-way, 73.00 feet to the point of beginning.

_____
Todd Berning, President

State of North Dakota)
) SS
County of Cass)

On this ___ day of _____, 20___, appeared before me, Todd Berning, President, known to me to be the persons whose names are subscribed to the above certificate and did acknowledge to me that they executed the same on behalf of EOLA Landholdings, LLC

Notary Public: _____

Mortgage Holder: Western State Bank

_____
Chad Cola, VP/Business Banking Officer
State of North Dakota)
) SS
County of Cass)

On this ___ day of _____, 20___, appeared before me, Chad Cola, VP/Business Banking Officer known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same on behalf of Western State Bank.

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)
)ss
County of Cass)

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: _____

CITY ENGINEER'S APPROVAL:
Approved by the Fargo City Engineer this _____ day of _____, 20___.

_____
Brenda E. Derrig, P.E., City Engineer

State of North Dakota)
)ss
County of Cass)

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

Notary Public: _____

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

_____
John Gunkelman, Chair
Fargo Planning Commission

State of North Dakota)
)ss
County of Cass)

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 he executed the same on behalf of the Fargo Planning Commission.

Notary Public: _____

FARGO CITY COMMISSION APPROVAL:
Approved by the Board of City Commissioners and ordered filed this _____ day of _____, 20___.

_____
Timothy J. Mahoney, Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota)
)ss
County of Cass)

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

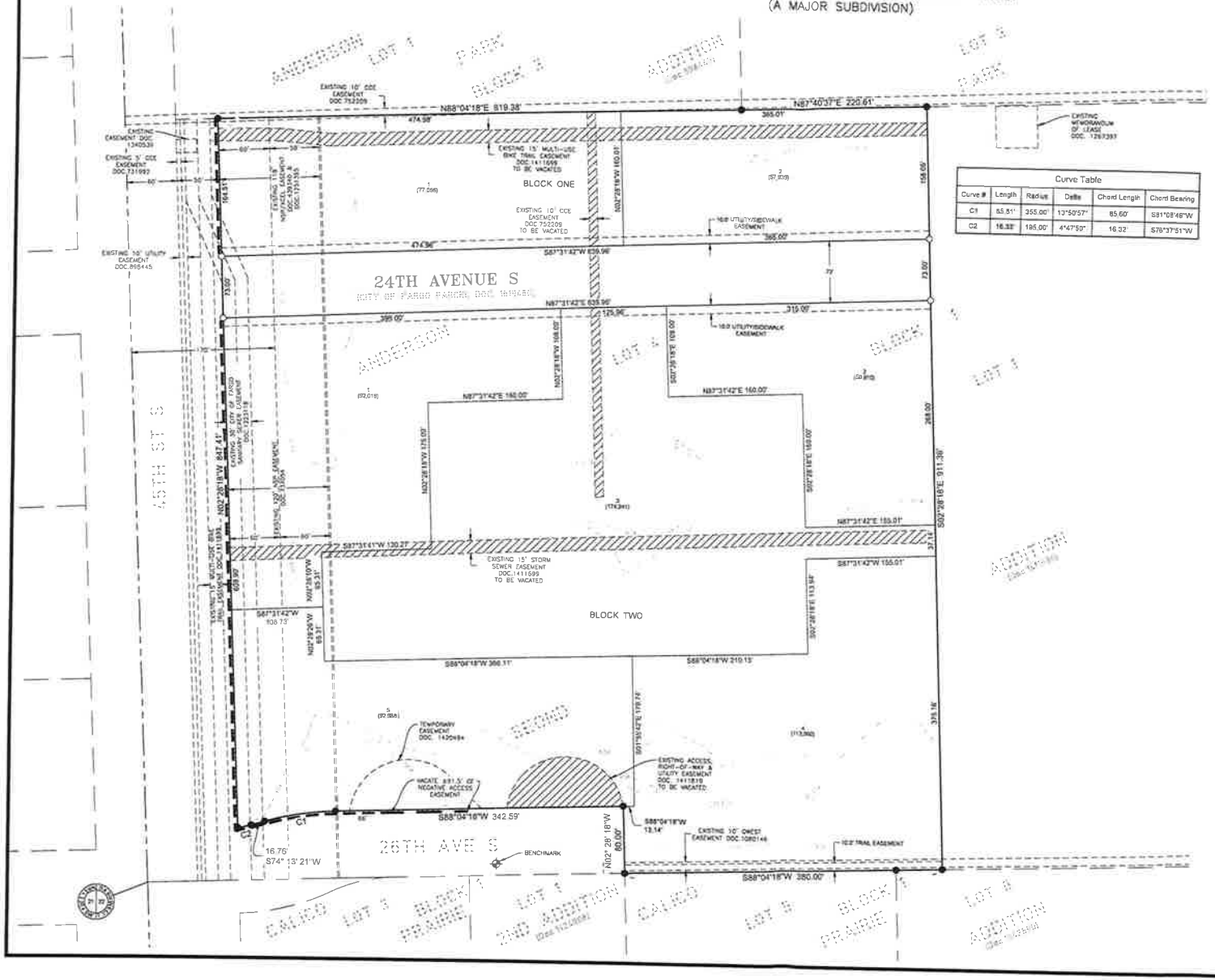
Notary Public: _____

Mead & Hunt
Phone: 701-566-6450
meadhunt.com

PROJECT NO.
4289700-202029.01
SHEET 1 OF 2

EOLA ADDITION

A REPLAT OF LOT 4, BLOCK 1 OF ANDERSON PARK SECOND ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)



Curve Table					
Curve #	Length	Radius	Delta	Chord Length	Chord Bearing
C1	85.51'	355.00'	13°50'57"	85.60'	S81°08'48"W
C2	16.33'	195.00'	4°47'50"	16.32'	S76°37'51"W

0 60 120
SCALE IN FEET
ORIENTATION OF THIS BEARING SYSTEM IS CITY OF FARGO 2007 ADJ.

NOTES

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.
2. BENCHMARK TOP NUT OF HYDRANT LOCATED ± 400' EAST OF THE INTERSECTION OF 26TH AVENUE SOUTH AND 45TH STREET SOUTH ON THE SOUTH SIDE OF 26TH AVENUE SOUTH. ELEVATION = 909.79 (NAVD88)
3. NEGATIVE ACCESS EASEMENT, AS NOTED ON THE EOLA ADDITION, IS AN EASEMENT DEDICATED AS PART OF THE RIGHT-OF-WAY DEDICATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OF PUBLIC WAY FROM THE LOT OR LOTS ADJACENT TO SUCH STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OF LAND OR ANY CERTAIN WIDTH, BUT IS A LINE COTERMINOUS WITH THE BOUNDARY OF THE ADJACENT LOT OR LOTS.
4. BASE FLOOD ELEVATION (BFE) IS 905.7 (NAVD88) PER CITY OF FARGO GIS.
5. ELEVATION CONTOURS DERIVED FROM FARGO 2015 LIDAR DATA.

LEGEND

- MONUMENT IN PLACE
- SET MONUMENT (5/8" REBAR CAPPED PLS-27292)
- BENCHMARK
- (5,000) LOT AREA (SQUARE FEET)
- NEGATIVE ACCESS EASEMENT
- EXISTING PROPERTY LINE
- EXISTING EASEMENT LINE
- NEW LOT LINE
- NEW BLOCK LINE
- PLAT BOUNDARY
- NEW EASEMENT LINE
- MAJOR CONTOUR
- MINOR CONTOUR
- EXISTING EASEMENT TO BE VACATED

Mead & Hunt
Phone: 701-566-6450
meadhunt.com

PROJECT NO.
4289700-202029.01
SHEET 2 OF 2

Site Amenities and
Project Plan
EOLA Addition
PRELIMINARY – February 23, 2021

Location: The subject property is legally referenced to as EOLA Addition including Lots 1 and 2 of Block 1 and Lots 1-5 of Block 2, being a replat of Lot 4 Block 1 of Anderson Park Second Addition to the City of Fargo, Cass County, North Dakota. The property comprises approximately 16.7 acres

Details: The project includes seven (7) General Commercial (GC) zoned lots on two (2) blocks and is generally located on the east side of the of Amber Valley Parkway and 45th Street intersection. As approved, the project is intended to be a master-planned development that will consist of multiple mixed-use buildings, parking lots, a private drive, and green space.

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

24th Avenue South: This segment of 24th Avenue South from 45th Street South to the east edge of the EOLA Addition plat has been designated as a *local roadway* pursuant to §20.0702.

- ROW dedication shall be 73 feet;
- Street widths shall be 64 feet with diagonal parking allowed on both sides of the street, as shown on City of Fargo Standard Detail 4000-5.4 (2012).
- Appropriate signage to be installed by the City of Fargo at which time public improvements are completed;
- Street lighting shall be determined by the City Engineering Department and installed per city standards.
- 6 foot sidewalks shall be incorporated into the boulevards. 4.5 feet is the minimum width required by §20.0611. This sidewalk sits in a dedicated Sidewalk/Utility Easement.
- New Traffic Signals will be installed at the intersection of 24th Avenue South & 45th Street South.
- New ADA compliant crosswalks and associated striping will also be installed at the intersection of 24th Avenue South & 45th Street South.

Other:

26th Avenue South

- Approximately 150 lineal feet of road will be installed to the easternmost edge of the existing dedicated Right-of-Way. This road will taper down to a 24' width that will connect to a private drive that loops up to 24th Avenue South.

Shared-Use Path

- Approximately 775 feet of a 12 foot wide shared-use path will be installed on the west side of the property. This path will be maintained by the Park District and will generally follow the winding pattern that is a prominent feature of the existing shared-use path located throughout the 45th Street South corridor.

Miscellaneous

- Developer shall be responsible for coordinating the placement of parking signage, street light locations, and trees with the appropriate City of Fargo department. These details shall be determined prior to construction of any public improvements.
- A snow removal maintenance plan will be required for this project. The developer is responsible for all snow removal within the 24th Avenue South dedicated Right-of-Way and sidewalks.

Storm Water Management: All stormwater located within the newly platted lots will be detained on-site via acceptable stormwater treatment practices before discharging to the municipal storm sewer system. The proposed private stormwater system will accommodate all detention and water quality requirements.

Flood Protection: Portions of EOLA Addition fall within the existing FEMA floodplain. It is acknowledged by the developer that all occupied structures located within the floodplain will be required to be removed from the floodplain via a Letter of Map Revision (LOMR). It is also acknowledged by the developer that construction of structures shall comply with City of Fargo Flood Proofing Requirement when applicable.

Engineering and Construction Improvements: The developer's engineer, MBN Engineering, Inc., shall rely upon and collaborate with the City of Fargo Engineering Department on the design and construction of all public improvements, inclusive of wet underground facilities and boulevards, as applicable.

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

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

This Amenities Plan is hereby approved.

_____ _____

_____ _____
Blake Nybakken, EOLA Landholdings, LLC date

_____ _____
Brenda E. Derrig, City Engineer date

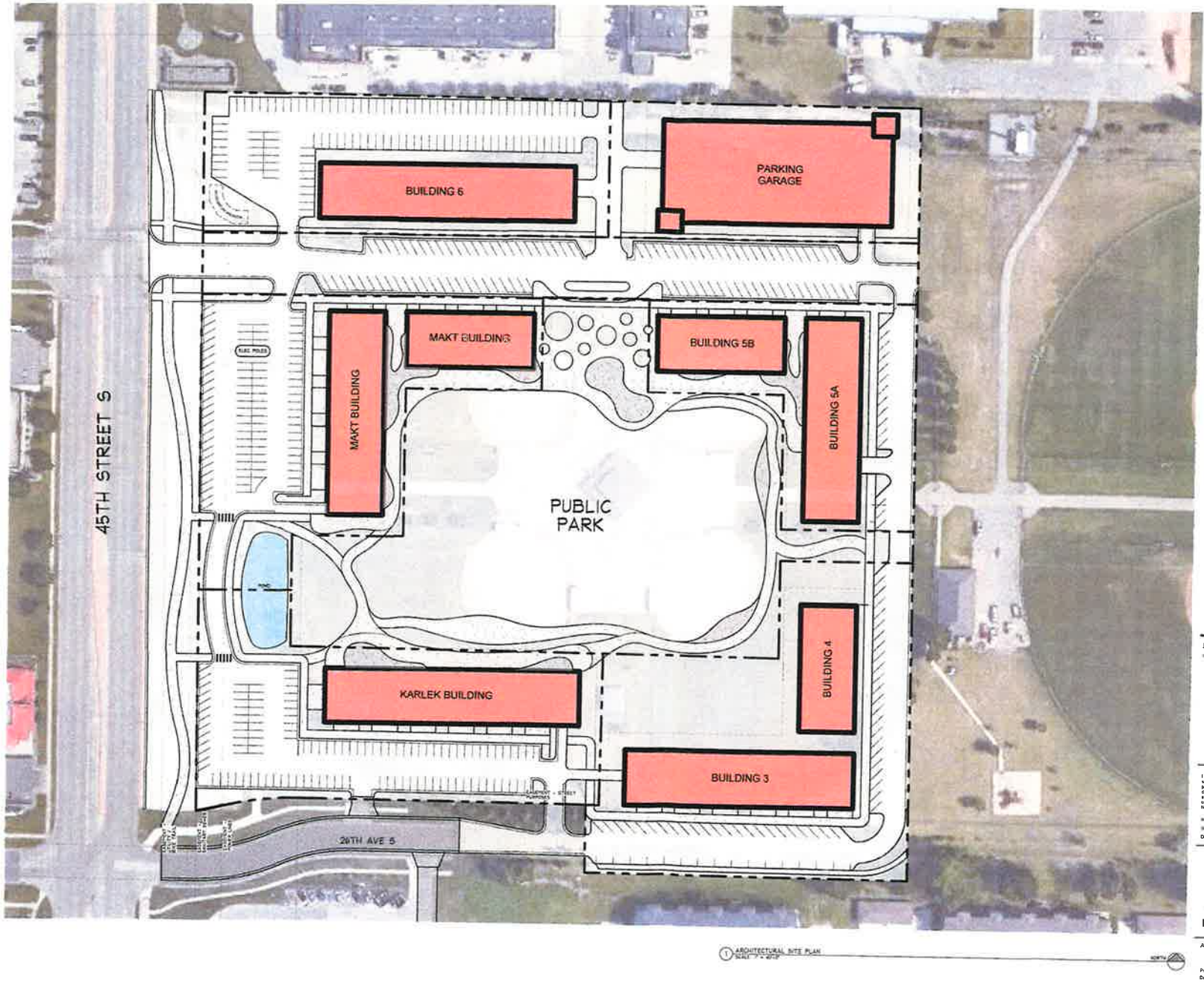
EPIC COMPANIES
Investment • Development • Management

January 14, 2021

EOLA Development at Anderson Fields

PUD required application materials:

1. **Project Narrative:**
    a. The EOLA development at the former Anderson Fields site on 45th Street in South Fargo will be a master-planned mixed-use development that surrounds a 4-acre urban park. The buildings shown on the site plan are anticipated to be 7-stories in height, with underground parking, patio space that opens up to the park, 1-2 levels of commercial space, then a mix of residential condos and apartments on the upper levels. EOLA is Greek for the word 'violet'. The seven rays of light that make up the violet color will be transformed into the representation of seven countries, familiar with the ancestry of the region. EOLA will be a walkable community that has trails connecting to the park and will have coordinated events with surrounding community organizations to naturally coexist with the baseball fields, Southwest Arena and the Red River Zoo.



1 ARCHITECTURAL SITE PLAN

ZERR BERG

gehrtz CONSTRUCTION SERVICES

SITE HATCH PATTERNS

ASPHALT — ASPHALT - EXISTING

CONCRETE — CONCRETE - EXISTING

WATER — NEW CONSTRUCTION

REVISION SCHEDULE

NUMBER DESCRIPTION DATE

I hereby certify that this plan specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Architect under the laws of the State of North Dakota

Print Name:

Signature:

Date: 02/15/2021 Registration No.

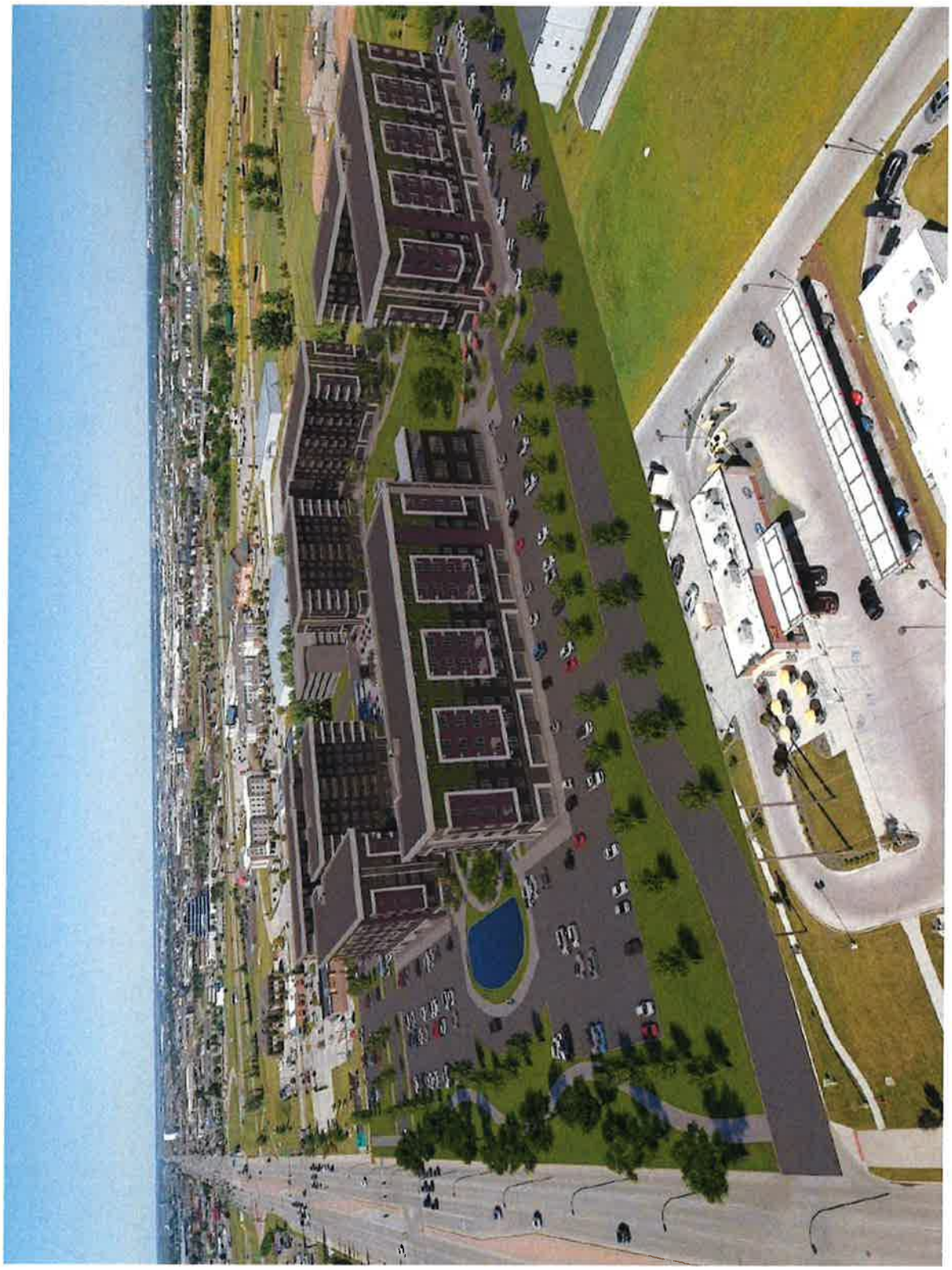
EPIC COMPANIES

EPIC MANAGEMENT
EOLA MASTER PLAN
FARGO ND

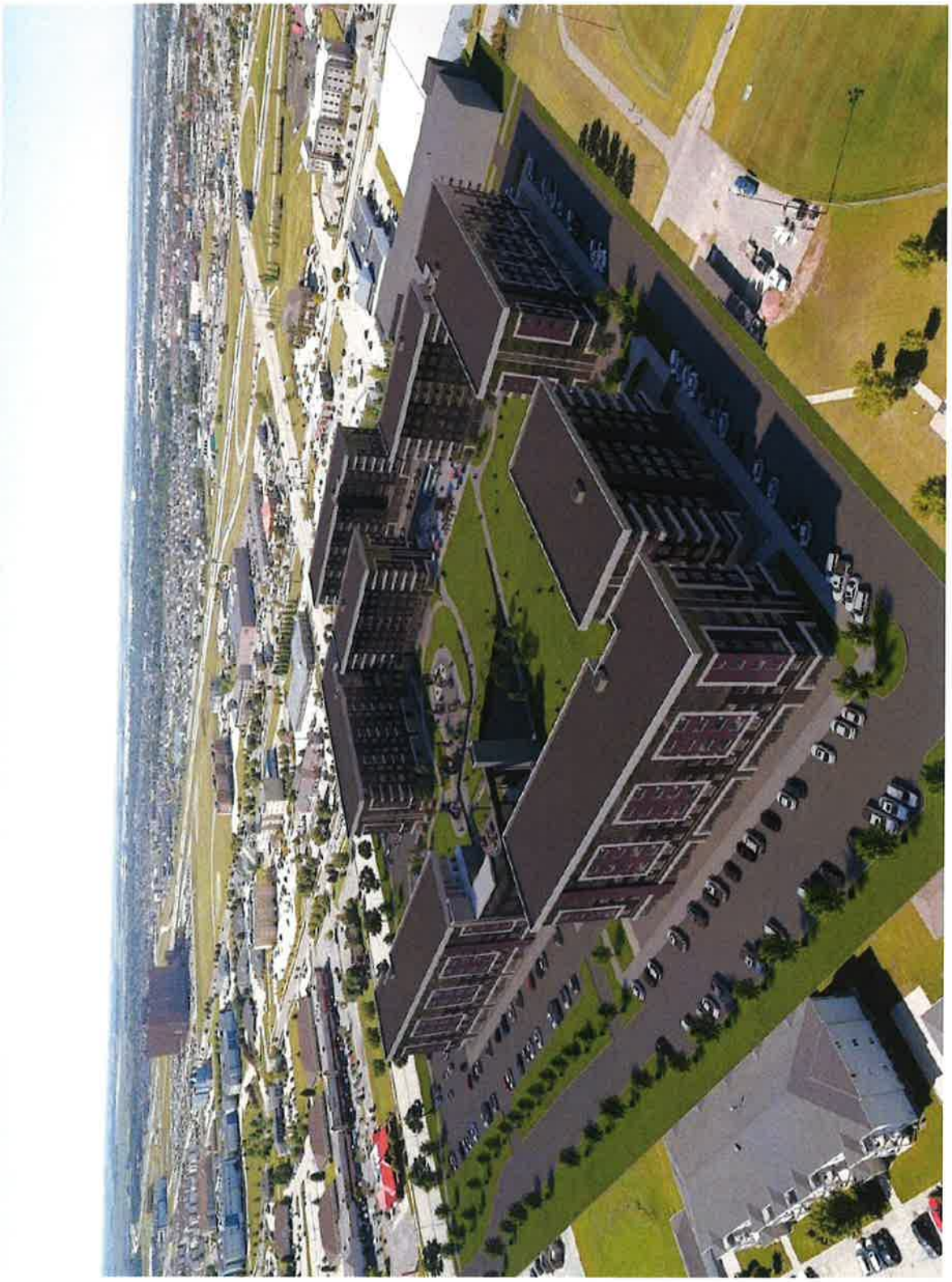
ARCHITECTURAL SITE PLAN

Project No.: 20-022
Date: 02/15/2021

A1.00



Rendering from applicant – view to north-northeast



Rendering from applicant – view to northwest



1 MAKT APTS. - EAST ELEVATION
SCALE: 1/8" = 1'-0"



2 MAKT APTS. - WEST ELEVATION
SCALE: 1/8" = 1'-0"

ZERRIBER

gehrtz CONSTRUCTION SERVICES

EXTERIOR ELEV KEY

- 4"x8"x16" FACEBRICK VENEER, HALF BOND COURSING BY 4"
- PREFINISHED FIBER CEMENT PANEL BY 7E
- PREFINISHED ACM 1 PANEL SYSTEM BY 7E
- PREFINISHED ACM 2 PANEL SYSTEM BY 7E
- PREFINISHED ACM 3 PANEL SYSTEM BY 7E
- PREFINISHED ACM 4 PANEL SYSTEM BY 7E
- CONTROL JOINT
- PANEL JOINT

REVISION SCHEDULE

NUMBER	DESCRIPTION	DATE

I hereby certify that this plan specification or report was prepared by me or under my direct supervision and that I am a duly Registered Architect under the laws of the State of North Dakota.

ANTHONY M. MOTT REGISTERED ARCHITECT 2140

Print Name: Anthony M. Mott
Signature:
Date: 03/10/2021 Registration No. 2140

EPIC COMPANIES

EPIC MANAGEMENT
EOLA - MAKT
FARGO, ND

EXTERIOR ELEVATIONS

Project No. 20045
Date 03/10/2021

A4.00



2 MAKT APTS. - SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



1 MAKT APTS. - NORTH ELEVATION
SCALE: 1/8" = 1'-0"

ZBA ZERRIBERG

gehrtz CONSTRUCTION SERVICES

EXTERIOR ELEV KEY

- 4"x4"x12" FACEBRICK VENEER, HALF BOND COURSING BY 4
- PREFINISHED FIBER CEMENT PANEL BY 7E
- PREFINISHED ACM 1 PANEL SYSTEM BY 7E
- PREFINISHED ACM 2 PANEL SYSTEM BY 7E
- PREFINISHED ACM 3 PANEL SYSTEM BY 7E
- PREFINISHED ACM 4 PANEL SYSTEM BY 7E
- CONTROL JOINT
- P.J. PANEL JOINT

REVISION SCHEDULE

NUMBER	DESCRIPTION	DATE

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Architect under the laws of the State of North Dakota.

Print Name: Anthony M.
Signature:
Date: 03/10/2021 Registration No. 2140

EPIC COMPANIES

EPIC MANAGEMENT
EOLA - MAKT
FARGO, ND

EXTERIOR ELEVATIONS

Project No. 20-046
Date 03/10/2021

A4.01



3 MAKT CONDOS - SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



4 MAKT CONDOS - WEST ELEVATION
SCALE: 1/8" = 1'-0"



2 MAKT CONDOS - NORTH ELEVATION
SCALE: 1/8" = 1'-0"



1 MAKT CONDOS - EAST ELEVATION
SCALE: 1/8" = 1'-0"

ZERRBERG

gehrtz CONSTRUCTION SERVICES

EXTERIOR ELEV KEY

- 4"x8"x16" FACEBRICK VENEER HALF BOND COURSING BY 4
- PREFINISHED FIBER CEMENT PANEL BY 7E
- PREFINISHED ACM 1 PANEL SYSTEM BY 7E
- PREFINISHED ACM 2 PANEL SYSTEM BY 7E
- PREFINISHED ACM 3 PANEL SYSTEM BY 7E
- PREFINISHED ACM 4 PANEL SYSTEM BY 7E
- C — CONTROL JOINT
- P — PANEL JOINT

REVISION SCHEDULE

NUMBER	DESCRIPTION	DATE

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Architect under the laws of the State of North Dakota.

Print Name: Anthony M.
Signature:
Date: 03/19/2021 Registration No.: 3140

EPIC COMPANIES

EPIC MANAGEMENT
EOLA - MAKT
FARGO, ND

EXTERIOR ELEVATIONS

Project No.: 20-045
Date: 03/19/2021

A4.02

EOLA Draft Ordinance

Allowed Uses: In addition to uses allowed within the GC, General Commercial zoning district, Residential Use shall also be allowed.

Residential Density: The maximum residential density allowed shall be 70 units per acre.

Parking: The following parking requirements will be used for the development:

- 1.16 spaces per residential unit.
- 1 space per 230 square feet for commercial uses of retail, office, and restaurant.
- All other uses will be per the Land Development Code.
- Parking can be located anywhere in the development.

Setback: Reduce Front, Street side, and Rear setback to 10 feet.

Landscaping:

- Waive parking lot buffer requirement.
- Increase maximum perennial open space plant units to 40% of requirement.
- Reduce open space plant unit front and street side placement to 25%.
- Open space plant units may be located collectively within the development.
- For purposes of determining open space plant units, active recreation area square footages will be excluded from calculations.
- At the final phase of the development, all required open space plant units will be verified. Landscaping will increase with review of phased PUD Final Plans. Landscape plans will be submitted with each Final Plan for internal review.

Height: Increase building height within proximity of residentially zoned property and establish building height maximum of 85 feet.

Open Space: Minimum of 20% open space for the development.

Additional Standards:

1. All primary buildings shall be constructed or clad with materials that are durable, economically-maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; or glass. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the appearance of wood may be used.

2. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.

3. All building facades greater than 150 feet in length, measured horizontally, shall incorporate a varied material palette. The varied material palette shall be configured whereas the primary material and color shall not exceed 50% of the building façade, the secondary material and color shall not exceed 30% of the building façade, tertiary material and color shall not exceed 20% of the building façade, and any other materials and/or colors shall not exceed the percentage of the tertiary material. Material square footage shall be inclusive of all glazing and door openings as well as deck projections

4. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60 percent of their horizontal length. If the façade facing the street is not the front it shall include the same features and/or landscaping in scale with the façade.

5. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets, including but not limited to the back of the structure. The average height of such parapets shall not exceed one third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance of greater than 150 feet.

6. Loading facilities shall not be located at the front of structures where it is difficult to adequately screen them from view. All loading and service areas shall be screened from the view of adjacent public streets and public parks through a structure and/or landscaping.

7. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way or residentially zoned property. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor.

8. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:
    a. The primary entrance or entrances to each commercial building, including pad site buildings.
    b. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
    c. Parking areas or structures that serve each primary building.
    d. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network.
    e. Any public sidewalk system along the perimeter streets adjacent to the development.
    f. Where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, parks, retails shopping centers, office buildings.

9. The following uses are prohibited:
    a. Detention facilities
    b. Adult entertainment center
    c. Off-premise advertising signs
    d. Portable signs
    e. Vehicle repair
    f. Industrial service
    g. Manufacturing and production
    h. Warehouse and freight movement
    i. Aviation/surface transportation

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

3802

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND LYING IN EOLA ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on May 4, 2021; and,

WHEREAS, the rezoning changes were approved by the City Commission on May 17, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

All of EOLA Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned to repeal the existing "C-O", Conditional Overlay, District established by Fargo Municipal Ordinance No. 4904 in its entirety and to retain the base zoning of "GC", General Commercial Zoning District, and to enact a "PUD", Planned Unit Development Overlay, District as follows:

A. Allowed Uses.
   1. In addition to the uses allowed within the "GC", General Commercial zoning district, residential use shall also be allowed.

B. Residential Density.
   1. The maximum residential density allowed shall be seventy (70) units per acre.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

C. Parking. The following parking requirements are as follows:
   1. 1.16 parking spaces per residential unit;
   2. 1 space per 230 square feet for commercial uses of retail, office, and restaurant;
   3. Parking can be located anywhere in the development; and
   4. All other parking requirements shall be governed by the Land Development Code;

D. Setbacks.
   1. A reduction to 10 feet on the front, side street, and rear setback.

E. Landscaping.
   1. The parking lot buffer requirement shall be waived.
   2. Perennial open space plant units shall be increased to a maximum of 40% of the requirement.
   3. Open space plant unit placed in the front and street side shall be reduced to 25%.
   4. Open space plant units may be located collectively within the development.
   5. For purposes of determining open space plant units, active recreation area square footages shall be excluded from calculations.
   6. At the final phase of development, all required open space plant units will be verified. Landscaping will increase with review of phased PUD Final Plans. Landscape plans will be submitted with each Final Plan for internal review.

F. Height.
   1. The maximum building height for the overall development and within the proximity of residentially zoned property shall be 85 feet.

G. Open Space.
   1. The development shall have a minimum of 20% open space.

H. Additional Standards.
   1. All primary buildings shall be constructed or clad with materials that are durable, economically-maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; or glass. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the appearance of wood may be used.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

2. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.

3. All building façades greater than 150 feet in length, measured horizontally, shall incorporate a varied material palette. The varied material palette shall be configured whereas the primary material and color shall not exceed 50% of the building façade, the secondary material and color shall not exceed 30% of the building façade, tertiary material and color shall not exceed 20% of the building façade, and any other materials and/or colors shall not exceed the percentage of the tertiary material. Material square footage shall be inclusive of all glazing and door openings as well as deck projections.

4. Ground floor façades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60% of their horizontal length. If the façade facing the street is not the front it shall include the same features and/or landscaping in scale with the façade.

5. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets, including but not limited to the back of the structure. The average height of such parapets shall not exceed one third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance of greater than 150 feet.

6. Loading facilities shall not be located at the front of structures where it is difficult to adequately screen them from view. All loading and service areas shall be screened from the view of adjacent public streets and public parks through a structure and/or landscaping.

7. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain permanent walls on three (3) sides with the service opening not directly facing any public right-of-way or residentially zoned property. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

8. Separate vehicular and pedestrian circulation systems shall be provided. An on-site system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:
   a. The primary entrance(s) to each commercial building, including pad site buildings.
   b. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
   c. Parking areas or structures that serve each primary building.
   d. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access form the public sidewalks to the interior walkway network.
   e. Any public sidewalk system along the perimeter streets adjacent to the development.
   f. Where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, parks, retail shopping centers, and office buildings.

1. The following uses are prohibited:
   a. Detention facilities;
   b. Adult entertainment center;
   c. Off-premise advertising signs;
   d. Portable signs;
   e. Vehicle repair;
   f. Industrial service;
   g. Manufacturing and production;
   h. Warehouse and freight movement; and
   i. Aviation/surface transportation

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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

_____
Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

38e

City of Fargo Staff Report			
Title:	220 Addition	**Date:** **Updated:**	2/23/2021 5/13/2021
Location:	214 & 220 6th Avenue North	**Staff Contact:**	Maggie Squyer
Legal Description:	Lot 8 and Part of Lot 9, Block 31, Keeney and Devitts Second Addition		
Owner(s)/Applicant:	River City Holdings Fund, LLC/ James Pladson	**Engineer:**	Mead & Hunt
Entitlements Requested:	**Zoning Map Amendment** (from MR-3. Multi-Dwelling Residential to DMU, Downtown Mixed-Use) and **Minor Subdivision** (A replat of Lot 8 and part of Lot 9, Block 31, Keeney and Devitts Second Addition to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Hearing: May 17, 2021		

Existing
Land Use: Household Living
Zoning: MR-3, Multi-Dwelling Residential
Uses Allowed: Multi-Dwelling Residential allows detached housing, attached housing, duplexes, multi-dwelling structures, group living, group living restricted residency, community service, day care facilities of limited size, parks and open areas, religious institutions, safety services, schools, basic utilities, and limited telecommunications facilities.
Maximum Density: 24 units per acre

Proposed
Land Use: Household Living
Zoning: DMU, Downtown Mixed-Use
Uses Allowed: Downtown-Mixed Use allows detached housing, attached housing, duplexes, multi-dwelling structures, colleges, community service, day care facilities, health care facilities, parks and open areas, religious institutions, safety services, basic utilities, offices, commercial parking, retail sales and services, self-service storage, vehicle repair, limited vehicle service and telecommunications facilities of limited size.
Maximum Density: No limit

Proposal:

The applicant is seeking approval of 1) a Zoning Map Amendment and 2) a Minor Subdivision entitled **220 Addition.** The request is to replat the two existing lots into one lot that will be zoned DMU, Downtown Mixed-Use.

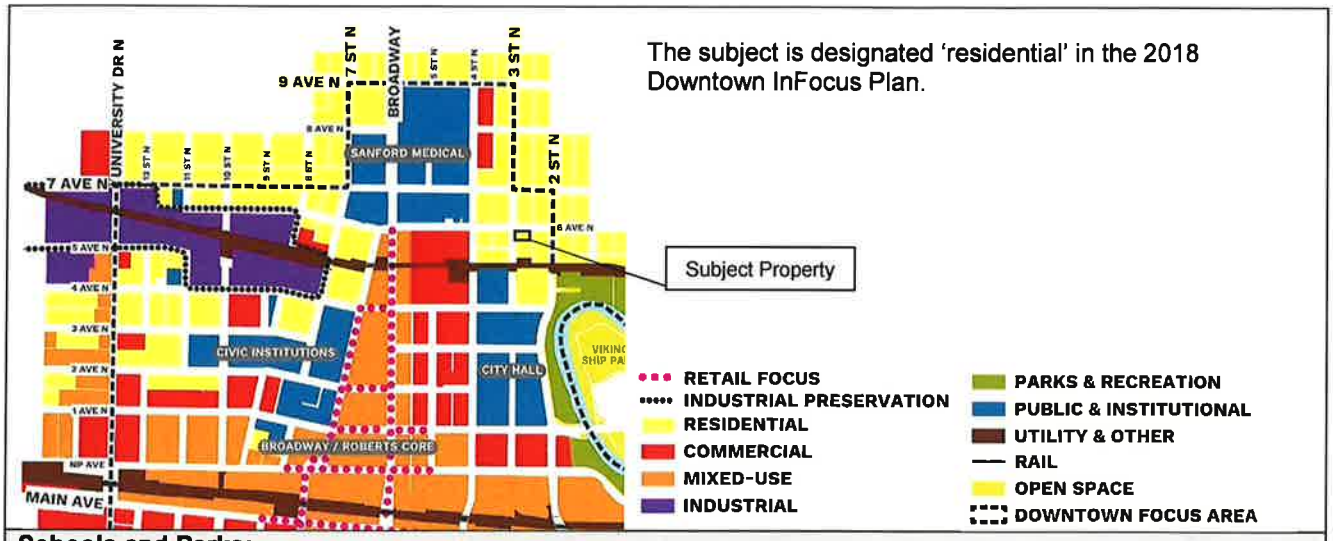
This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: MR-3, Multi-Dwelling Residential, with a duplex and detached house
- East: MR-3, Multi-Dwelling Residential, with a detached house
- South: DMU, Downtown Mixed-Use, with a commercial parking lot
- West: MR-3, Multi-Dwelling Residential, with an apartment complex

Continued on next page.

Area Plans:



The subject is designated 'residential' in the 2018 Downtown InFocus Plan.

Schools and Parks:

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

Neighborhood: The subject property is located in the Downtown Neighborhood.

Parks: The subject property is located within a quarter of a mile from Wildflower Grove Park (9 Lower Terrace North) and Riverside/Civic Gardens which offer recreational trails and gardens.

Pedestrian / Bicycle: The subject property is not connected to bike facilities, but a shared use path is located on the west side of 2nd Street North, near the subject property.

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 regards to the subject property. The property owner is interested in removing the existing structures and building an apartment complex on the proposed lot. The Downtown Mixed-Use zoning was requested to maximize the size of the proposed building and the number of dwelling units allowed on the subject property. DMU zoning has no maximum density requirement per acre. Staff finds that the requested zone change is justified due to the subject property's proximity to the Downtown core and existing DMU-zoned lots. **(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 utility services as needed. The City Engineer and other applicable review agencies have reviewed this proposal. City staff noted that, while the DMU zoning district offers flexible dimensional standards, other site constraints may influence development on the lot. These constraints may include existing easements and street trees. 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 one inquiry and no formal complaints 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 in a way that will protect the general health, safety, and welfare of the citizens. The first goal of the Downtown InFocus plan (Grow as a Neighborhood) supports investing in housing to increase the population living downtown. Rezoning the subject property to DMU provides the opportunity for higher-density housing than what is allowed by right in the MR-3 zoning district. 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)**

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

1. **Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**
   The subject property is located in the Downtown neighborhood, which was recently evaluated through the creation of the Downtown InFocus plan. The proposed use is consistent with the existing and proposed zoning in the area. The proposed subdivision will replat two existing lots into one new lot. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received one inquiry about the application and no formal complaints. Staff has reviewed this request and finds that this application complies with standards of Article 20-06, Downtown InFocus, and all applicable requirements of the Land Development Code. **(Criteria Satisfied)**

2. **Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
   While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principals. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and move to approve the proposed 1) zoning map amendment from MR-3, Multi-Dwelling Residential to DMU, Downtown Mixed-Use and 2) **220 Addition** subdivision, as the proposal complies with Downtown InFocus, the Standards of Article 20-06, Section 20-0906.F(1-4) and all other applicable requirements of the LDC."

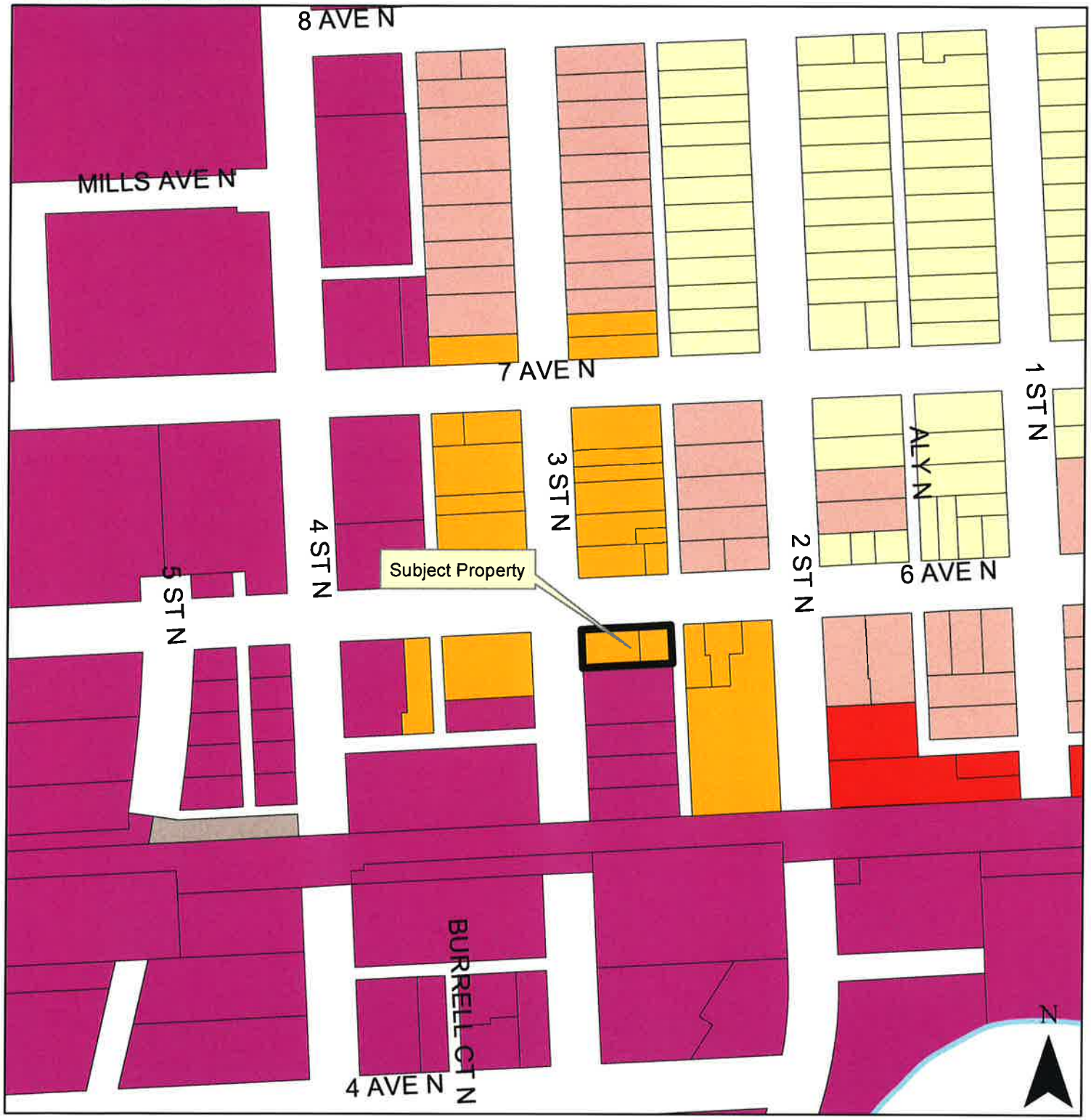
Planning Commission Recommendation: March 2, 2021

On March 2, 2021, with a vote of 7-0 with two commissioners absent, the Planning Commission recommended approval to the City Commission of the proposed 1) zoning map amendment from MR-3, Multi-Dwelling Residential to DMU, Downtown Mixed-Use and 2) **220 Addition** subdivision, as the proposal complies with Downtown InFocus, the Standards of Article 20-06, Section 20-0906.F(1-4) and all other applicable requirements of the LDC.
Attachments:
1. Zoning Map 2. Location Map 3. Preliminary Plat

Zone Change (MR-3 to DMU) & Plat (Minor)

220 Addition

214 & 220 6th Ave N



THE CITY OF Fargo FAR MORE

Legend

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

200 Feet

Fargo Planning Commission
February 2, 2021

Zone Change (MR-3 to DMU) & Plat (Minor)

220 Addition

214 & 220 6th Ave N



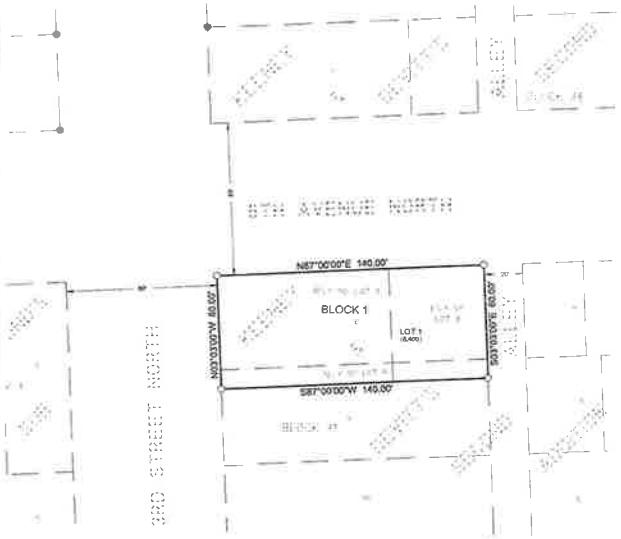
THE CITY OF Fargo FAR MORE

200 Feet

Fargo Planning Commission
February 2, 2021

220 ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
A REPLAT OF LOT 8 AND PART OF LOT 9, BLOCK 31 OF KEENEY & DEVITT'S SECOND ADDITION
(A MINOR SUBDIVISION)



LEGEND

- MONUMENT IN PLACE
- SET MONUMENT (5/8" REBAR CAPPED PLS-27292)
- (5,000) LOT AREA (SQUARE FEET)
- EXISTING PROPERTY LINE
- EXISTING EASEMENT LINE
- PLAT BOUNDARY

NOTES:

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

OWNER'S CERTFICIATE

KNOW ALL PERSONS BY THESE PRESENTS, That the River City Holdings Fund, LLC, a North Dakota Limited Liability Company, as owner of a parcel of land located in that part of the Southeast Quarter of Section 6, Township 139 North, Range 48 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

The west 90.00 feet of Lot 8 and the west 90.00 feet of the north 10.00 feet of Lot 9 and the east 50.00 feet of Lot 8 and the north 10.00 feet of the east 50.00 feet of Lot 9, all in Block 31 of KEENEY & DEVITT'S SECOND ADDITION, according to the recorded plat thereof on file and of record in the Office of the County Recorder, Cass County, North Dakota.

Said plat contains 8,400 square feet, more or less and is subject to Easements Reservations, Restrictions and Rights-of-Ways of record.

OWNER:

River City Holdings Fund, LLC
By: James Pladson

State of North Dakota)
) SS
County of Cass)

On this 24th day of February 2021, before me personally appeared James Pladson, Managing Member, known to me to be the persons who is described in and who executed the within instrument and acknowledged to me that he executed the same as a free act and deed on behalf of River City Holdings Fund, LLC.

Notary Public

LEAH MARTIN
Notary Public
State of North Dakota
My Commission Expires Mar 7, 2023

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 22nd day of February, 2021

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

JOSHUA J. NELSON
LS-27292
NORTH DAKOTA
REGISTERED PROFESSIONAL LAND SURVEYOR

State of North Dakota)
) SS
County of Cass)

On this 22nd day of February, 2021, appeared before me, Joshua J. Nelson, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Notary Public, Cass County, North Dakota

LEAH MARTIN
Notary Public
State of North Dakota
My Commission Expires Mar 7, 2023

CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this 2nd day of March 2021.

John Gunkelman
Planning Commission Chair

State of North Dakota)
) SS
County of Cass)

On this 2nd day of March 2021, 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

MIRANDA WOLF
Notary Public
State of North Dakota
My Commission Expires May 19, 2023

FARGO CITY COMMISSION APPROVAL

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

Timothy J. Mahoney
Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota)
) SS
County of Cass)

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

Notary Public

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

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

Brenda E. Derrig, P.E
City Engineer

State of North Dakota)
) SS
County of Cass)

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

Notary Public

Mead & Hunt
Phone: 701-566-6450
meadhunt.com

PROJECT NO.
4289703-210230.01
SHEET 1 OF 1

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

3862

ORDINANCE NO. _____

AN ORDINANCE REZONING A CERTAIN PARCEL
OF LAND LYING IN 220 ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in the proposed 220 Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on March 2, 2021; and,

WHEREAS, the rezoning changes were approved by the City Commission on May 17, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

All of 220 Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "MR-3", Multi-Dwelling Residential, District to "DMU", Downtown Mixed-Use, District.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

_____
Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

387

City of Fargo Staff Report			
Title:	Southview Villages Second Addition	**Date:** **Updated:**	3/31/2021 5/13/2021
Location:	1701, 1707, 1713, 1719, 1725, 1731, 1735, 1741, 1747, 1751, 1755, and 1761 Prairie Lane South	**Staff Contact:**	Donald Kress, current planning coordinator
Legal Description:	Lots 7 through 18, Block 6B, Southview Villages Addition, and a 21-foot wide strip of right of way for 25th Street South adjacent to these lots		
Owner(s)/Applicant:	Property owners of the addresses noted above—see attached list / John and Darla Dockter	**Engineer:**	Neset Land Surveys
Entitlements Requested:	**Major Subdivision** (Plat of **Southview Villages Second Addition** a replat of Lots 7 through 18, Block 6B, Southview Villages Addition, and vacation of a 21-foot feet wide strip of right of way for 25th Street South adjacent to these lots)		
Status:	City Commission Public Hearing: May 17, 2021		

Existing		Proposed
Land Use: Residential		**Land Use:** No change
Zoning: SR-2, Single Dwelling Residential		**Zoning:** No change
Uses Allowed: SR-2 Allows detached houses, daycare centers up to 12 children, parks and open space, religious institutions, safety services, schools, and basic utilities		**Uses Allowed:** No Change
Maximum Density 5.4 dwelling units per acre		**Maximum Density:** No change

Proposal:

The applicant requests one entitlement:

1. A major subdivision, entitled **Southview Villages Second Addition** a replat of Lots 7 through 18, Block 6B, Southview Villages Addition, and vacation of a 21-foot wide strip of right of way for 25th Street South adjacent to these lots.

The plat proposes to vacate a 21-foot wide strip of 25th Street South right of way adjacent to the west property line of Lots 7 through 18, Block 6B, Southview Villages Addition, and replat those lots to add the vacated area to each individual lot. All lots are zoned SR-2, Single Dwelling Residential and are developed with detached residences. No zone change is proposed.

This plat is considered a major subdivision as it involves vacation of right of way.

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-2 with detached single-dwelling residence.
- East: SR-2 with detached single-dwelling residence.
- South: SR-2 with detached single-dwelling residence. and MR-3: Multi-Dwelling Residential with multi-residential dwellings.
- West: Across 25th Street South zoned P/I, Public Institutional with City-owned lift station and Park District-owned open space and trail.

Area Plans:

The subject property is not included in an area or neighborhood plan.

Schools and Parks:

Schools: The subject property is located within the Fargo School District, specifically within the Lewis & Clark Elementary, Carl Ben Eielson Middle and South High schools.

Neighborhood: The subject property is located within the South High neighborhood.

Parks: Westgate Park, located at 2700 Southgate Drive Southwest, is approximately 0.35 miles west of the subject property, and provides amenities of grill, multipurpose field, hockey rink and outdoor skating along with a playground.

Pedestrian / Bicycle: An off-road multi-use trail, which is a component of the metro area bikeways system, is adjacent to the west side of the subject property

Staff Analysis:

HISTORY OF THE RIGHT-OF-WAY ENCROACHMENT AND REQUEST FOR VACATION
(The summary below was provided by Prairie Lane resident Darla Dockter and reviewed by City staff)

The lots included in this plat were originally platted in 1978.

Along the east side of 25th Street, between the sidewalk and the platted property lines was a forty-foot right-of-way.

In August 1985, the 12 homeowners petitioned to the Fargo Park District for permission to erect a fence as a sight and sound barrier to the anticipated increase in traffic and noise on 25th Street. In an agreement with Bob Johnson, then director of the Fargo Park District, only the first twenty feet would be needed for the bike path and would be cared for by the Park District. The property owners were given permission to erect a privacy fence and tree row in the remaining land. The Park District agreed to care for the boulevard in this area also. This agreement was a signed petition – no formal encroachment existed.

In 2013, a formal encroachment agreement was made to allow the City to acquire federal transportation funds for a street improvement project on 25th Street.

Since 1985 the homeowners have used and maintained the encroached twenty feet of property, fence and trees. As of 2013, homeowners have also been required to pay additional insurance on the encroached footage.

HISTORY OF THE CURRENT APPLICATION
The applicants are the property owners along Prairie Lane South whose lots back up to this encroachment. They came forward to the City to request a vacation of the right of way, with the vacated area to be added to their individual lots. Doing this would end the need for the encroachment agreements; for the payment of additional insurance premiums as required by the encroachment agreement; and for the updating of those agreements and the insurance every time a property changed owners.

City staff reviewed the request for the vacation and determined that the area proposed to be vacated was no longer required for right of way purposes and could be vacated. City staff also directed the applicants to incorporate the vacation of right of way into a replat of their individual properties. This process would clarify the addition of the vacated area to the existing lots.

Findings for vacation of right of way, noted below, are from the North Dakota Century Code (NDCC). Pursuant to NDCC, and additional advertising period is required prior to the City Commission hearing for vacations of right of way.

(continued on next page)

Major Subdivision

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

1. **Section 20-0907 of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.**
   The property within this plat is currently zoned SR-2, Single-Dwelling Residential. No zone change is proposed. No new development is proposed. The area of the plat is not included in a growth plan. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has not received any communication from the neighborhood. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

2. **Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**
   The property within this plat is currently zoned SR-2, Single-Dwelling Residential. No zone change is proposed. No new development is proposed. The area of the plat is not included in a growth plan. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments.
   (Criteria Satisfied)

3 **Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**
   As no new public improvements are being created by this plat, an amenities plan was not required. Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles
   (Criteria Satisfied)

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

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

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

In accordance with the requirement of this section, this information is included on the plat and its application. **(Criteria Satisfied)**

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

Documentation of said action is located within both the Planning project file and Auditor's file. **(Criteria Satisfied)**

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

This procedure---hearing by the City Commission following the appropriate notice period--is scheduled for the May 17, 2021 City Commission agenda. **(Criteria Satisfied)**

NOTE ON THE MOTION: NDCC 40-39-07, noted above, states that a vote of two-thirds of the members of the governing body is required for approval of a vacation. As this plat includes a vacation of right of way, an affirmative vote of four commissioners is required for approval.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the proposed plat of the **Southview Villages Second Addition,** including vacation of right of way, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06 of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Chapter 40-39."

Planning Commission Recommendation: April 6, 2021

At the April 6, 2021 Planning Commission, by a vote of 6-0 with three Commissioners absent and two Commission seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed plat of the **Southview Villages Second Addition,** including vacation of right of way, as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06 of the LDC and all other applicable requirements of the LDC, and of North Dakota Century Code Chapter 40-39.

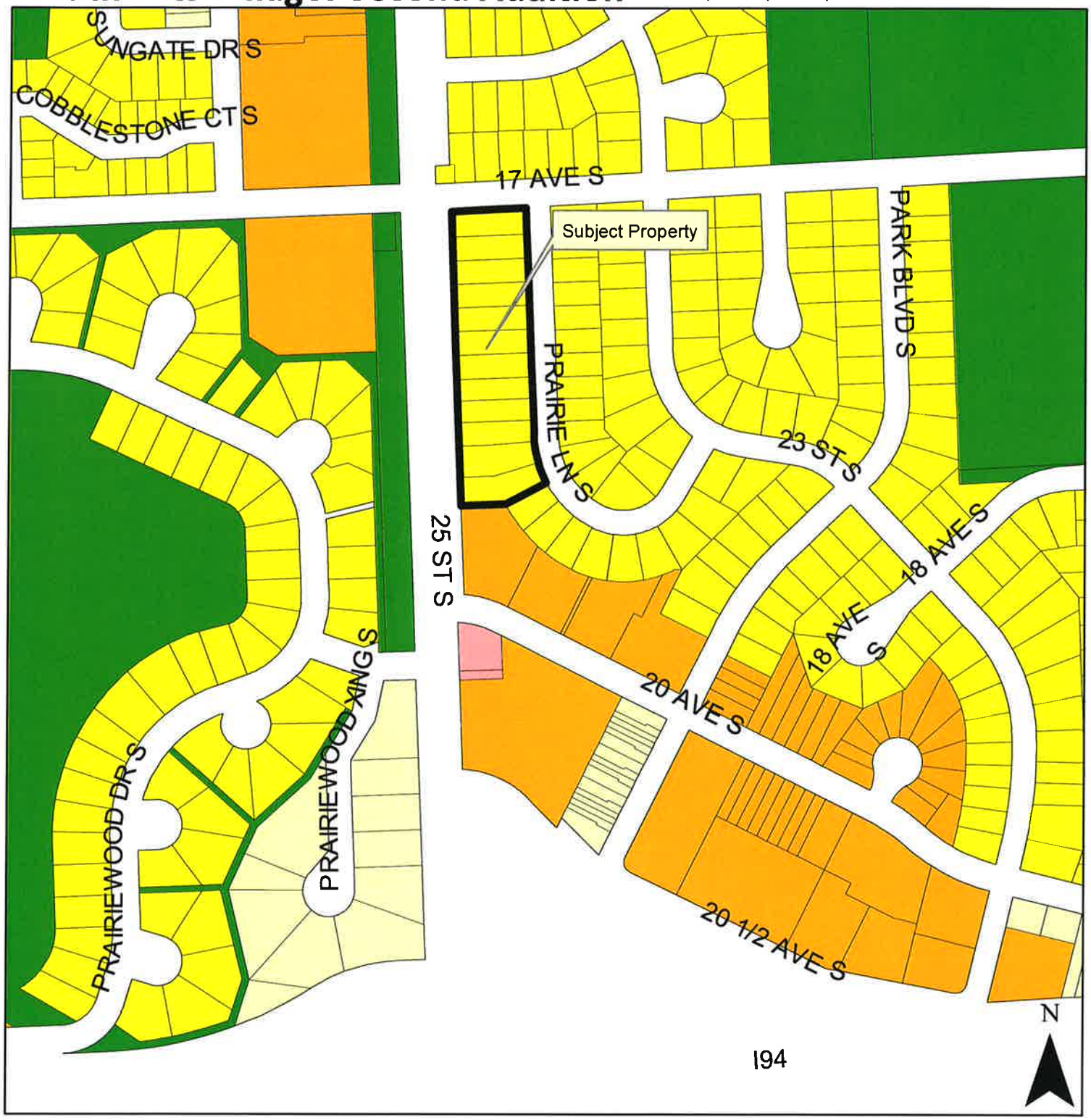
Attachments:

1. Zoning map
2. Location map
3. Preliminary plat
4. List of property owner applicants

Plat (Major) & Vacation of Right-of-Way

Southview Villages Second Addition

1701, 1707, 1713, 1719, 1725, 1731, 1735, 1741, 1747, 1751, 1755 & 1761 Prairie Ln S



THE CITY OF Fargo FAR MORE

Legend

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

300 Feet

Fargo Planning Commission
April 6, 2021

Plat (Major) & Vacation of Right-of-Way

Southview Villages Second Addition

1701, 1707, 1713, 1719, 1725, 1731, 1735, 1741, 1747, 1751, 1755 & 1761 Prairie Ln S



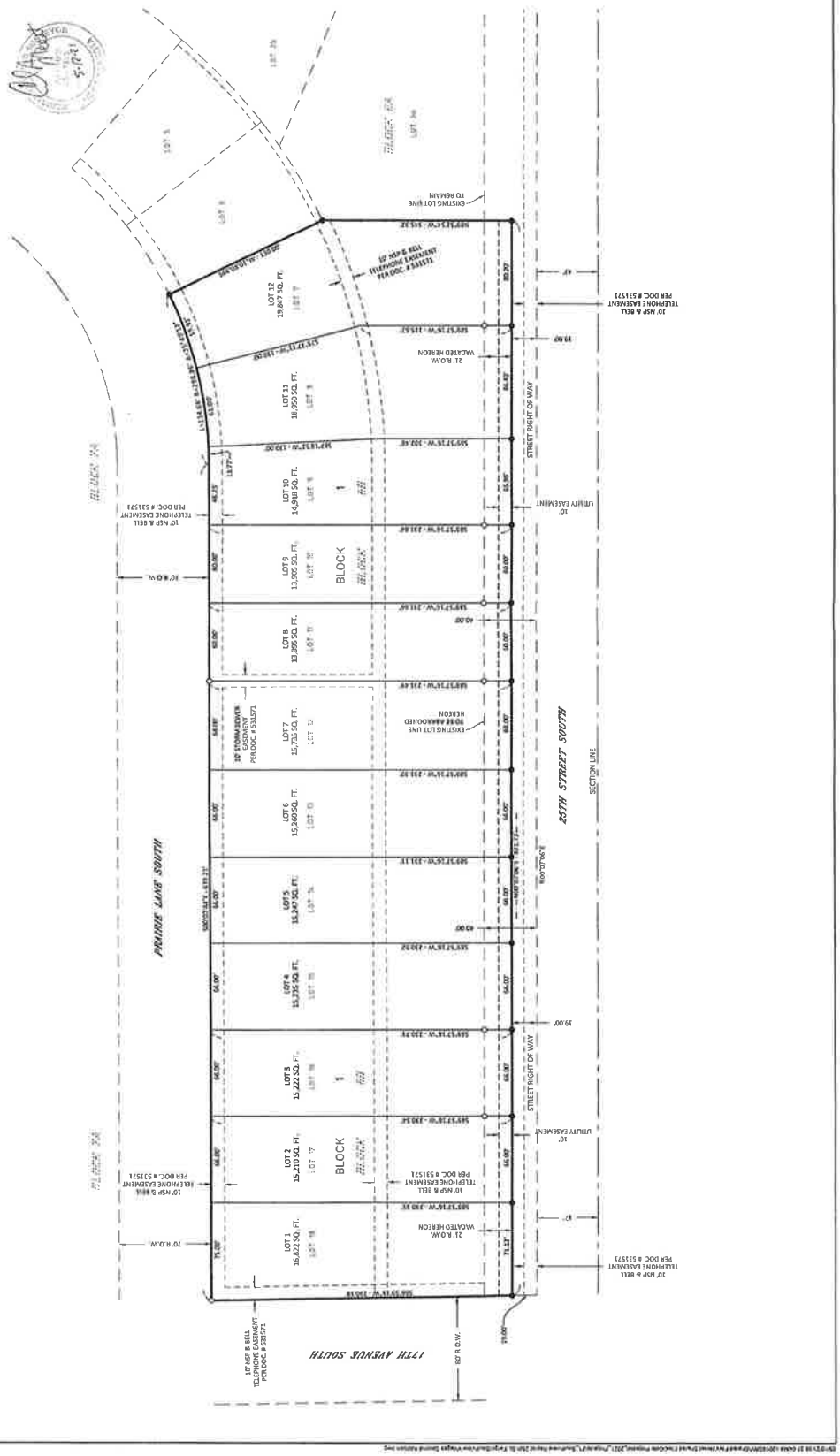
THE CITY OF Fargo FAR MORE

300 Feet

Fargo Planning Commission
April 6, 2021

SOUTHVIEW VILLAGES SECOND ADDITION

A REPLAT OF LOTS 7-18, BLOCK 6B, OF A REPLAT OF LOTS 12-21, BLOCK 7, LOTS 1-16, BLOCK 6, AND LOTS 37-46, BLOCK 6A, SOUTHVIEW VILLAGES ADDITION, THE VACATION OF A PORTION OF 25TH STREET SOUTH RIGHT OF WAY, TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)



SOUTHVIEW VILLAGES SECOND ADDITION

A REPLAT OF LOTS 7-18, BLOCK 6B, OF A REPLAT OF LOTS 12-21, BLOCK 7, LOTS 1-16, BLOCK 6, AND LOTS 37-46, BLOCK 6A, SOUTHVIEW VILLAGES ADDITION. THE VACATION OF A PORTION OF 25TH STREET SOUTH RIGHT OF WAY. TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)

OWNERS' CERTIFICATE

WE, THE CITY OF FARGO DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE EASTERLY 40.00 FEET OF 25TH STREET SOUTH AS SHOWN ON THE PLAT OF "REPLAT OF LOTS 12-21, BLOCK 7, LOTS 1-16, BLOCK 6, AND LOTS 37-46, BLOCK 6A, SOUTHVIEW VILLAGES ADDITION, TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, AND DO HEREBY VACATE THE EASTERLY 21.00 FEET OF SAID RIGHT OF WAY.

CITY ENGINEER'S APPROVAL

THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS _____ DAY OF _____ 2021

_____
BRENDA DERRIG, CITY ENGINEER

STATE OF _____)
) SS
COUNTY OF _____)

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

_____
NOTARY PUBLIC, COUNTY: _____ STATE: _____
MY COMMISSION EXPIRES: _____

FARGO PLANNING COMMISSION APPROVAL

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

_____
JOHN GUNKELMAN, CHAIR
FARGO PLANNING COMMISSION

STATE OF _____)
) SS
COUNTY OF _____)

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

_____
NOTARY PUBLIC, COUNTY: _____ STATE: _____
MY COMMISSION EXPIRES: _____

FARGO CITY COMMISSION APPROVAL

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

_____
TIMOTHY J. MAHONEY, MAYOR

ATTEST:

_____
STEVEN SPRAGUE, CITY AUDITOR

STATE OF _____)
) SS
COUNTY OF _____)

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

_____
NOTARY PUBLIC, COUNTY: _____ STATE: _____
MY COMMISSION EXPIRES: _____

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 SOUTHVIEW VILLAGES SECOND 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 12th DAY OF May, 2021.

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

5/12/21

STATE OF North Dakota)
) SS
COUNTY OF Cass)

ON THIS 12 DAY OF May, 2021, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED COLE A. NESET, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED SAME AS THEIR FREE ACT AND DEED.

Savannah Nahn
NOTARY PUBLIC, COUNTY: Cass STATE: North Dakota
MY COMMISSION EXPIRES: December 29, 2021

SAVANNAH NAHN
Notary Public
State of North Dakota
My Commission Expires Dec. 29, 2021

OWNERS' CERTIFICATE

WE, THE UNDERSIGNED DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF "LOTS 7-18, BLOCK 6B, OF A REPLAT OF LOTS 12-21, BLOCK 7, LOTS 1-16, BLOCK 6, AND LOTS 37-46, BLOCK 6A, SOUTHVIEW VILLAGES ADDITION", TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA.

SAID OWNERS HAVE CAUSED THE ABOVE DESCRIBED TRACT OF LAND SHOWN ON THIS PLAT TO BE SURVEYED AND PLATTED AS SOUTHVIEW VILLAGES SECOND ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA. SAID OWNERS ALSO HEREBY DEDICATES AND CONVEY TO THE PUBLIC, FOR PUBLIC USE, ALL STREET RIGHT OF WAYS AND UTILITY EASEMENTS SHOWN ON SAID PLAT. SAID SOUTHVIEW VILLAGES SECOND ADDITION, CONSISTS OF 12 LOTS AND 1 BLOCK, AND CONTAINS 4.37 ACRES, MORE OR LESS TOGETHER WITH EASEMENTS AND RIGHT OF WAYS OF RECORD.

OWNERS: LOT 7, BLOCK 6B:

_____ _____
JACOB F. ERBELE MARCI L. ERBELE

STATE OF _____)
) SS
COUNTY OF _____)

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

_____
NOTARY PUBLIC, COUNTY: _____ STATE: _____
MY COMMISSION EXPIRES: _____

OWNERS: LOT 8, BLOCK 6B:

_____ _____
JOHN E. DOCKTER DARLA J. DOCKTER

STATE OF _____)
) SS
COUNTY OF _____)

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

_____
NOTARY PUBLIC, COUNTY: _____ STATE: _____
MY COMMISSION EXPIRES: _____

SOUTHVIEW VILLAGES SECOND ADDITION

A REPLAT OF LOTS 7-18, BLOCK 6B, OF A REPLAT OF LOTS 12-21, BLOCK 7, LOTS 1-16, BLOCK 6, AND LOTS 37-46, BLOCK 6A, SOUTHVIEW VILLAGES ADDITION. THE VACATION OF A PORTION OF 25TH STREET SOUTH RIGHT OF WAY. TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
(A MAJOR SUBDIVISION)

OWNERS: LOT 9, BLOCK 6B:

JUDY LEE BRAUN

STATE OF _____)
COUNTY OF _____) SS

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

NOTARY PUBLIC, COUNTY: _____ STATE: _____

MY COMMISSION EXPIRES: _____

OWNERS: LOT 10, BLOCK 6B:

NEIL E. HARLES

STATE OF _____)
COUNTY OF _____) SS

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

NOTARY PUBLIC, COUNTY: _____ STATE: _____

MY COMMISSION EXPIRES: _____

OWNERS: LOT 11, BLOCK 6B:

AUSTIN NHAN NGUYEN

STATE OF _____)
COUNTY OF _____) SS

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

NOTARY PUBLIC, COUNTY: _____ STATE: _____

MY COMMISSION EXPIRES: _____

OWNERS: LOT 12, BLOCK 6B:

MARK L. THOMPSON

CLAUDIA COWING

STATE OF _____)
COUNTY OF _____) SS

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

NOTARY PUBLIC, COUNTY: _____ STATE: _____

MY COMMISSION EXPIRES: _____

OWNERS: LOT 13, BLOCK 6B:

SHAWN D. OLESEN

PATRICIA A. OLESEN

STATE OF _____)
COUNTY OF _____) SS

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

NOTARY PUBLIC, COUNTY: _____ STATE: _____

MY COMMISSION EXPIRES: _____

OWNERS: LOT 14, BLOCK 6B:

JEFF P. POOL

DEBRA A. MCELVEY POOL

STATE OF _____)
COUNTY OF _____) SS

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

NOTARY PUBLIC, COUNTY: _____ STATE: _____

MY COMMISSION EXPIRES: _____

OWNERS: LOT 15, BLOCK 6B:

AARON GEIST

BELINDA GEIST

STATE OF _____)
COUNTY OF _____) SS

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

NOTARY PUBLIC, COUNTY: _____ STATE: _____

MY COMMISSION EXPIRES: _____

OWNERS: LOT 16, BLOCK 6B:

DALE B. HELLER

DEETTA M. HELLER

STATE OF _____)
COUNTY OF _____) SS

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

NOTARY PUBLIC, COUNTY: _____ STATE: _____

MY COMMISSION EXPIRES: _____

OWNERS: LOT 17, BLOCK 6B:

GREGORY S. SEIFFERT

MARY E. SEIFFERT

STATE OF _____)
COUNTY OF _____) SS

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

NOTARY PUBLIC, COUNTY: _____ STATE: _____

MY COMMISSION EXPIRES: _____

OWNERS: LOT 18, BLOCK 6B:

JOSHUA M. KUNTZ

BREE A. KUNTZ

STATE OF _____)
COUNTY OF _____) SS

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

NOTARY PUBLIC, COUNTY: _____ STATE: _____

MY COMMISSION EXPIRES: _____

PROPERTY OWNER APPLICANTS FOR SOUTHVIEW VILLAGES SECOND ADDITION

ERBELE, JACOB F & MARCI L

DOCKTER, JOHN E & DARLA J

BRAUN, GEORGE JR & JUDY LEE

HARLES, NEIL E

NGUYEN, AUSTIN NAHN

THOMPSON, MARK L & COWING, CLAUDIA

OLESEN, SHAWN D & PATRICIA A

POOL, JEFF P & DEBRA A MCELVEY

GEIST, AARON & BELINDA

HELLER, DALE B & DEETTA M

SEIFFERT, GREGORY S & MARY E

KUNTZ, JOSHUA M & BREE A

THE CITY OF Fargo FAR MORE

CITY COMMISSION ACTION
4/19 Continue to May 17, 2021

Inspections Office
Fargo City Hall
225 Fourth Street North
Fargo, ND 58102
Phone: 701.241.1561
Fax: 701.476.6779
www.FargoND.gov

3849

Memorandum

DATE: April 15, 2021

TO: Mayor Mahoney and Board of City Commissioners

FROM: Bruce Taralson, Inspections Director

SUBJECT: Dangerous Building Notice and Order 1343 2 AVE S., Fargo, ND 58103

The property owner of 1343 2 Ave S., Fargo, ND, has failed to comply with my order to obtain a permit to repair or demolish the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-0405, a hearing date is scheduled for April 19, 2021.

The recommendation is to **designate this building to be a dangerous building, direct the City Attorney to prepare findings of fact in this matter, and order its removal on June 21, 2021. Please direct the appropriate staff to secure the removal of this building at that time. If the Owner or Interested Party takes responsibility and obtains a permit to repair this property prior to June 21, 2021, this property will be required to comply with the current Land Development Code (LDC) requirements of use per Section LDC 20-1002.C.**

THE CITY OF Fargo FAR MORE

DANGEROUS BUILDING ORDER TO COMMISSION- Detail and Timeline Regarding 1343 2 Avenue S., Fargo, ND.

A Dangerous Building hearing is required under Article 21-0405 for the purpose of allowing any interested parties the opportunity to comment, and to allow the Owner of the property the opportunity to appear and show cause why the City of Fargo should not cause the removal of this building. The hearing is scheduled for Monday, April 19, 2021 at 5:15PM. The Owner of this property is deceased.

The Inspections Department has taken this action due to a complaint from Xcel Energy of *eminent danger*. Xcel Energy removed the electrical meter and noted that power was still being used. Xcel Energy found that the meter had been tampered with and services were disconnected at the pole. Following this action, an extension cord was observed running *from* the neighboring property *to* 1343 2 AVE S., Fargo, which prompted the complaint to the Inspections Department.

This building meets 5 of the 10 criteria which only one might be required. Our report on ordinance requirements-

1. Inspections Department received complaint on property.
2. Inspections Department inspected the property.
3. Inspections placed notice on the building.
4. Inspections provided notice to Owner giving 30 days.
5. Inspections report to City Commission today.

In your packets, you will find the Dangerous Building Notice. Article 21-0404 requires the Inspections Department give notice to the Owner of the property prior to any action by the City Commission or staff. Our timeline shows the building was placarded on February 12, 2021, and the Dangerous Building order was posted on February 16, 2021. This notice provided a 30-day deadline to obtain a permit to repair, or demolish the structure.

Included in this packet is a timeline of events, photographs and necessary documents.

PROPERTY INFORMATION- Building is currently vacant and is uninhabitable due to electrical issues, and the building has been occupied by squatters for the past 12 months. The building was constructed in 1885.

Description: Two-story, wood-framed structure.

Description of damage:
On February 12, 2021, Inspector, Bill Thompson, was present at 1343 2 Ave S., Fargo, ND to address a complaint inspection. The following violations were found:

- Multiple broken windows.
- Electricity was turned off.
- Multiple extension cords were connected to East neighbor.
- Electrical panel and meter were tampered with.
- Owner is deceased. Multiple squatters on site.
- Contractor boarded openings on February 12, 2021.
- Multiple complaint calls to police department.
- Debris in rear yard.

Timeline for events:

2/4/2016 to 4/11/2021: Record enclosed of 40 complaint calls to the Police Department.
2/12/2021: Inspections received complaint of power being supplied by extension cord from neighboring house.
2/12/2021: Building was placarded as a Dangerous Building. All openings except the front door were secured by a contractor. Tenants were notified that they were not allowed to stay in building due to safety issues, but were given four days to acquire their possessions.
2/16/2021: Structure was secured by contractor. Dangerous Building Notice was posted on structure and mailed to Owner – registered mail.
3/3/2021: Inspections received notice from Police that they responded to a complaint of squatters. The plywood on the North window was unlawfully removed. The Police Department cleared the building, and a contractor re-secured the structure.
3/8/2021: Inspector re-inspected - noted that plywood covering had been tampered with.
4/2/2021: Past tenant requested and was approved for additional time to enter building to obtain personal property. Contractor was present to unsecure and re-secure building. Police department assisted - building inspector was on site.
4/5/2021: Inspections requested Dangerous Building Order to Show Cause Hearing to be scheduled for 4/16/2021.
4/6/2021: Notice of Dangerous Building Hearing was posted on the building and mailed to the Owner – registered mail.
4/11/2021: Last known police call at this property regarding a burglary.
4/13/2021: Approximate date of 4/11/2021, the property was re-secured with metal covers.
4/14/2021: As per City of Fargo Water Department, the water is shut off - no consumption since February of 2021.
4/14/2021: As per Xcel Energy, the electric meter has been pulled, but the gas service is still active.
4/19/2021: Dangerous Building Hearing.

5/4/2021: Anticipated issuance of *Findings of Fact* document.
5/18/2021: Deadline to appeal to District Court
6/21/2021: Deadline for City of Fargo to proceed with action on City Commission's recommendation to demolish.

Please note, this timeline does not include a total calculation of overall staff time spent on this property.

Upon your finding for the Owner to comply with this demolition order, you are required by Article 21-0405 C, D & E, to notify Owner of your determination, and that if an Owner fails to comply with that order for demolition within 10 days, The City Commission can order city staff to take action on demolition and assess costs back to the property.

I suggest you agree with my notice and find this to be a Dangerous Building, and direct the City Attorney to prepare findings of fact in this matter. I also ask that you direct staff to proceed with all necessary measures to secure the removal of this building should the Owner fail to do so. Article 21-0412 allows for the Owner to appeal to the City Commission's action to District Court, which requires a $500 deposit with the City Auditor.

Respectfully submitted,
Dated this 15th day of April, 2021.

Bruce Taralson
Inspections Administrator

Fargo Inspections
City of Fargo
225 Fourth Street North
Fargo, North Dakota 58102
Phone: 701-241-1561
Fax: 701-476-6779

THE CITY OF Fargo FAR MORE

Notice of Dangerous Building Hearing – Order to Show Cause

Date: April 6, 2021

Location: 1343 2 Avenue S., Fargo, ND
Property Owner: Jeremy Kelley
Address of Property Owner: 408 8 Avenue S., Fargo, ND 58103

Inspector: Bill Thompson
Date of Posting: April 6, 2021

Ordinance 21-0405 of the Fargo Municipal Code states:

The board of city commissioners shall:

A. Upon receipt of a report of the building inspector as provided for in § 21-0404, subsection (F), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector(s) notice provided for herein in § 21-0404, subsection (E).

B. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the "dangerous building."

A hearing regarding the dangerous building located at 1343 2 Avenue S., Fargo, ND has been scheduled for Monday, April 19, 2021 at 5:15PM. The hearing will take place in the City Commission Chambers, located at 225 4th Street N., Fargo, ND 58102.

Any interested person or party is encouraged to attend.

Dated on this 6th day of April, 2021.

Christine Rose
Inspections Assistant Director

AFFIDAVIT OF SERVICE

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

Re: Notice of Dangerous Building Hearing - 1343 2 Avenue S., Fargo, ND

Bill Thompson, being first duly sworn and being of legal age, deposes and says that on the 6th day of April 2021, he posted the attached notice upon the following address:

1343 2 Avenue S.
Fargo, ND 58103

Bill Thompson

Subscribed and sworn to before me this 6th day of April, 2021.

MICHELLE R. VANYO
Notary Public
State of North Dakota
My Commission Expires Oct. 26, 2021

(SEAL)

Notary Public
Cass County, North Dakota

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Dangerous Building Hearing Notice – 1343 2 Avenue S., Fargo, ND
CM Receipt#: (7018 3090 0000 3038 6107)

Nancy Turner, being first duly sworn and being of legal age, deposes and says that on the 6th day of April, 2021, she served the attached notice, upon Jeremy Kelly., by placing true and correct copies thereof in an envelope addressed as follows:

Jeremy Kelly
408 8 Avenue S.
Fargo, ND 58103

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.

Nancy Turner

Subscribed and sworn to before me this 6th day of April, 2021.

Michelle R Vanyo
Notary Public
Cass County, North Dakota

MICHELLE R. VANYO
Notary Public
State of North Dakota
My Commission Expires Oct. 26, 2021

(SEAL)

THE CITY OF Fargo FAR MORE

INSPECTIONS DEPT.
225 4th Street North
Fargo, ND 58102-4817

Return Service Requested

CERTIFIED MAIL®

7018 3090 0000 3038 6107

FOE

Jeremy Kelley
408 8 Ave. S.
Fargo, ND 58...

neopost
04/06/2021
US POSTAGE $006.96⁰

ZIP 58102
041L12204758

NIXIE 581 FE 1 0004/08/21

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

58103$2828 C820
58102>4817

BC: 58102481725 *0435-03628-08-48

7018 3090 0000 3038 6107

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
$

Extra Services & Fees (check box, add fee as appropriate)
- ☐ Return Receipt (hardcopy) $
- ☐ Return Receipt (electronic) $
- ☐ Certified Mail Restricted Delivery $
- ☐ Adult Signature Required $
- ☐ Adult Signature Restricted Delivery $

Postage
$

Total Postage and Fees
$

4-6-21

Postmark Here

Sent To Jeremy Kelley
Street and Apt. No., or PO Box No. 408 8 Ave S
City, State, ZIP+4 Fargo, ND 58103

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Fargo Inspections

City of Fargo
225 4th Street North
701-241-1561
701-476-6779 fax

THE CITY OF Fargo FAR MORE

NOTICE OF DANGEROUS BUILDING

TO: Jeremy Kelly
408 8 Avenue S.
Fargo, ND 58103-2828

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.

2. That the building with which this Notice is concerned is commonly known as 1343 2 Ave S, Fargo, ND and is located on that tract of land in the city of Fargo, more particularly described as follows:

Eddy & Fullers Auditors Outlots, Block 14, E 42.5 FT of W 85 FT of S 110 FT of C.

(hereinafter referred to as "the building")

3. That an inspection was made of the building on February 12, 2021 by Bill Thompson, Building Inspector of the City of Fargo.

4. That the building inspector for the City of Fargo has found the building, consisting of a two-story, wood-framed structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 108.1.5 concerning Dangerous Structures.

5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.

6. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.

7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and Section 116 of the International Building Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Building Code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 108.2 of the International Property Maintenance Code, 2018 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 16th day of February, 2021.

11. Order to secure building. The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance. **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

12. Application for Appeal. Section 111.1 of the International Property Maintenance Code states that any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on the claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Dated this 16th day of February, 2021.

Conditions Found Statement

On February 12, 2021, Building Inspector Bill Thompson, was present at 1343 2 Ave S, Fargo, ND to address a compliant inspection. The following violations were found:

- Multiple windows are broken.
- Electricity is turned off.
- Multiple extension cords are connected to East neighbor.
- Electrical panel and meter have been tampered with.
- Owner is deceased. Multiple squatters on site.
- City boarded up property on 2/12/2021.
- Multiple complaint calls to police department.
- Debris in rear yard.

The following action must be taken:

- Remove debris in rear yard.
- Provide full engineering on all systems and structure to obtain a permit. The structure must be repaired according to the permit and within a timely manner.
- Or, the structure must be demolished within 30 days of this notice as noted on page one of this document.

Bill Thompson
Building Inspector
City of Fargo, ND

Bruce Taralson
Inspections Director

2/16/2021
Date Signed

AFFIDAVIT OF SERVICE

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

Re: Posting of Dangerous Building Notice – 1343 2 Avenue S., Fargo, ND

Bill Thompson, being first duly sworn and being of legal age, deposes and says that on the 16th day of January 2021, he posted the attached notice upon the following address:

1343 2 Avenue S.
Fargo, ND 58103

Bill Thompson

Subscribed and sworn to before me this 16th day of February, 2021.

JILL PAGEL
Notary Public
State of North Dakota
My Commission Expires Feb. 26, 2021

Notary Public
Cass County, North Dakota

(SEAL)

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Notice of Dangerous Building – 1343 2 Avenue S., Fargo, ND
CM Receipt#: 9214 8901 9403 8332 3141 74

Gretchen Morlan, being first duly sworn and being of legal age, deposes and says that on the 16th day of February, 2021, she served the attached notice, upon Jeremy Kelly, by placing true and correct copies thereof in an envelope addressed as follows:

Jeremy Kelly
408 8 Avenue S.
Fargo, ND 58103-2828

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.

Gretchen Morlan

Subscribed and sworn to before me this 16th day of February, 2021.

JILL PAGEL
Notary Public
State of North Dakota
My Commission Expires Feb. 26, 2021

Notary Public
Cass County, North Dakota

(SEAL)

CERTIFIED MAIL

neopost
02/16/2021
US POSTAGE $005.86⁰

ZIP 58102
041L12204758

City of Fargo
225 4th Street North
Fargo ND 58108

USPS CERTIFIED MAIL

9214 8901 9403 8332 3141 74

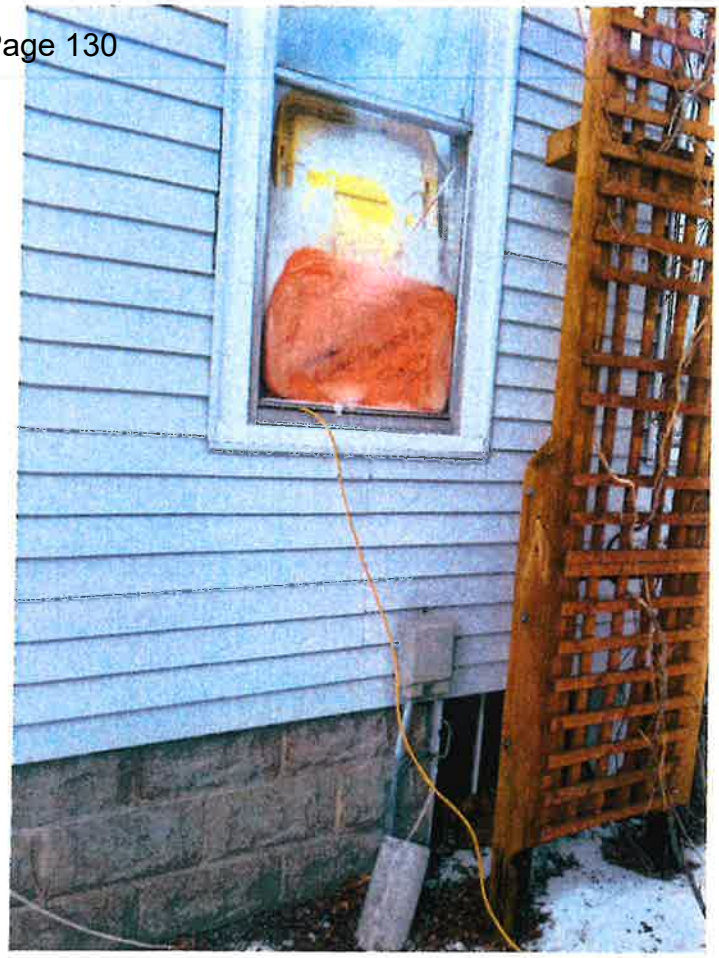
NIXIE 581 7E 1 01/02/19/21

JEREMY KELLY
408 8TH AVE S
FARGO ND 58103-2828

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

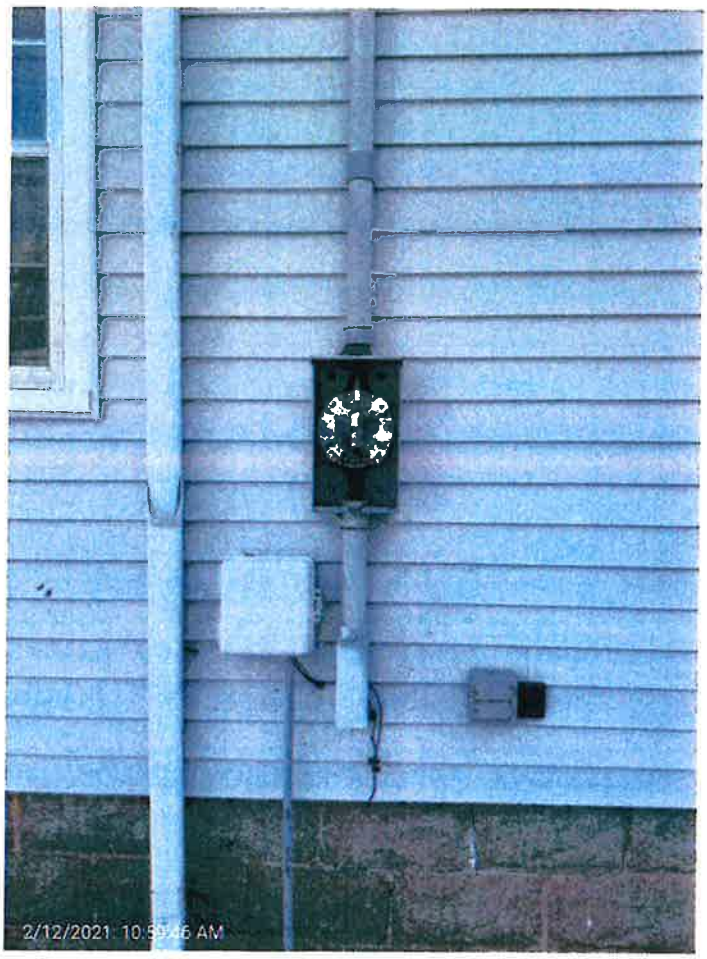
BC: 58102481725 *0235-00822-19-21

58102>4817





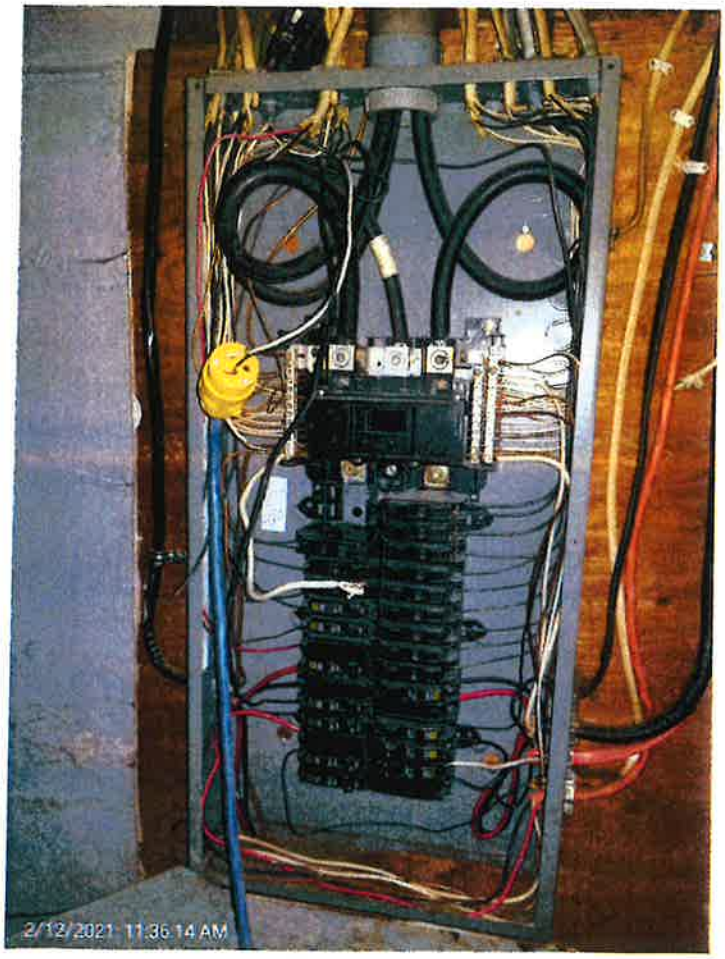




1343 2 Avenue S., Fargo, ND 2/12/2021

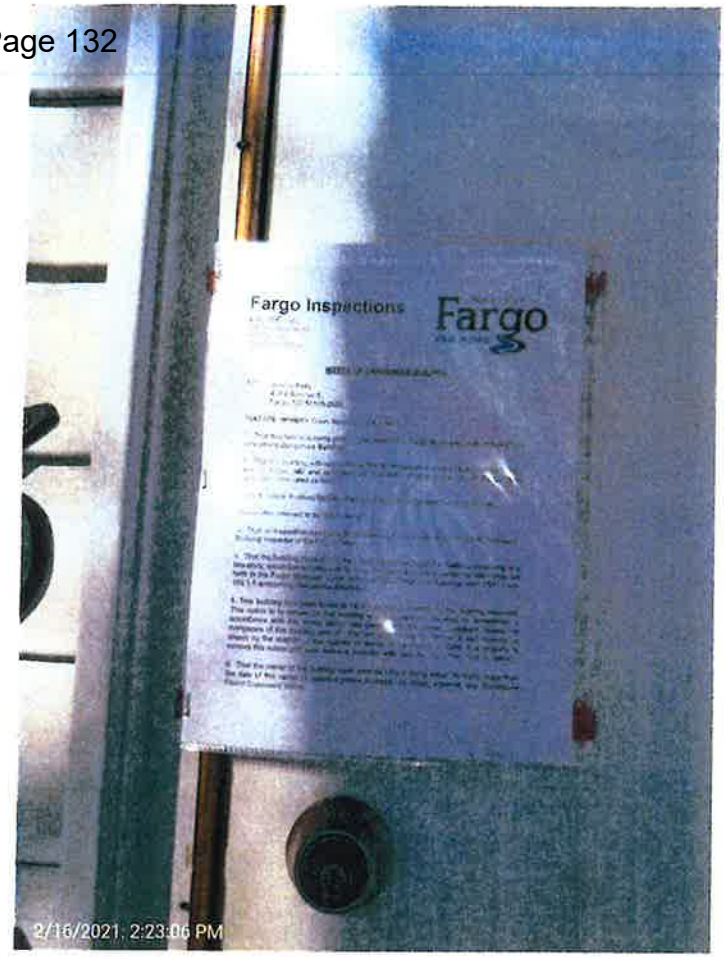






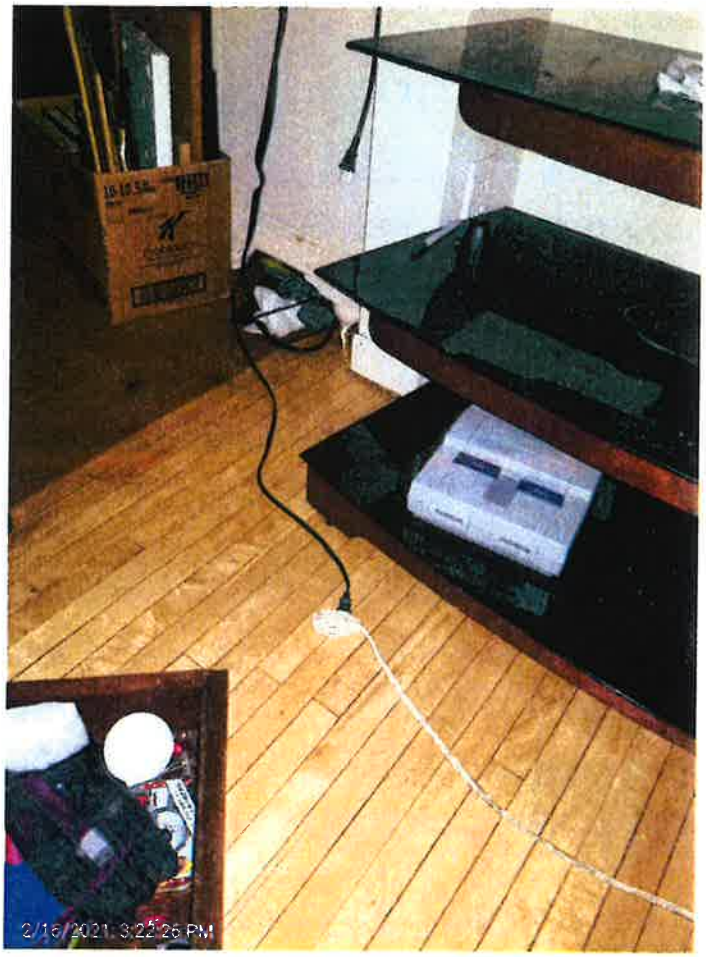


1343 2 Avenue S., Fargo, ND 2/12/2021





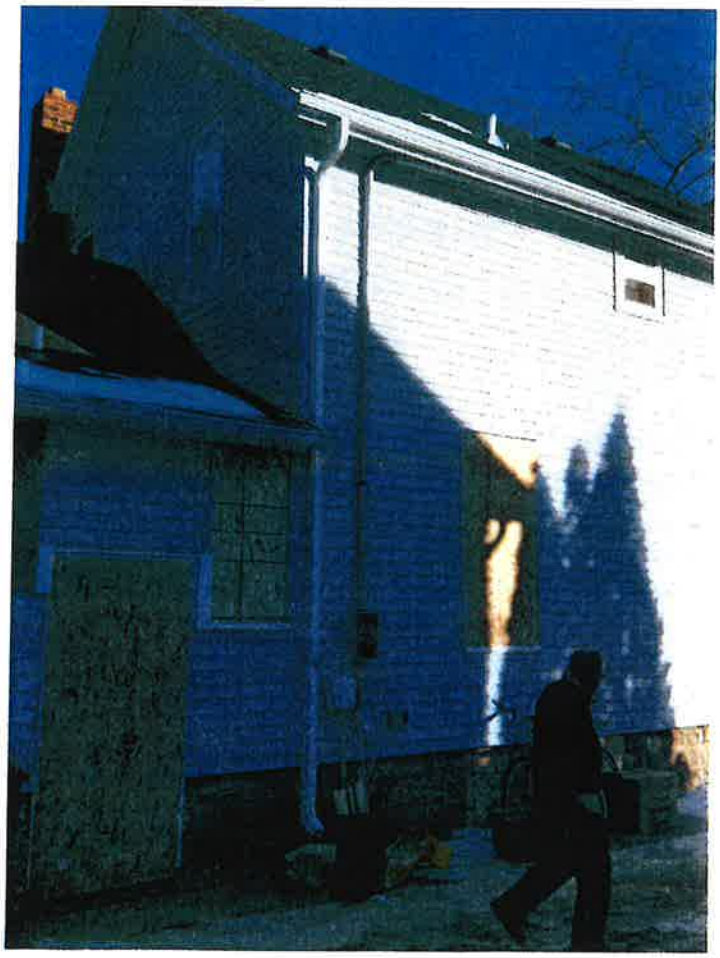




1343 2 Avenue S., Fargo, ND 2/16/2021

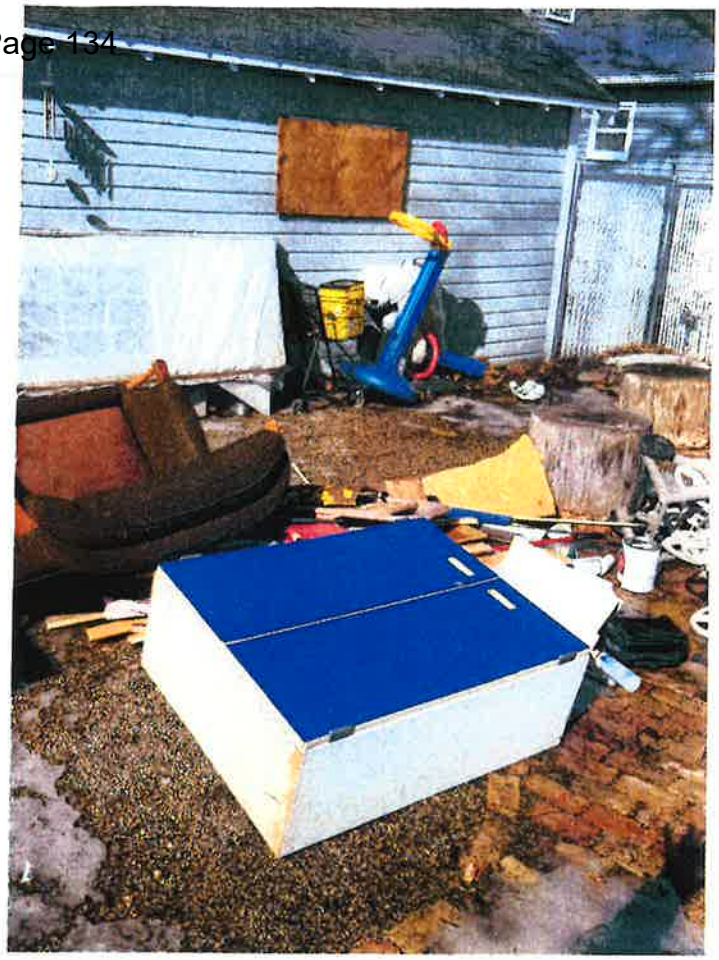








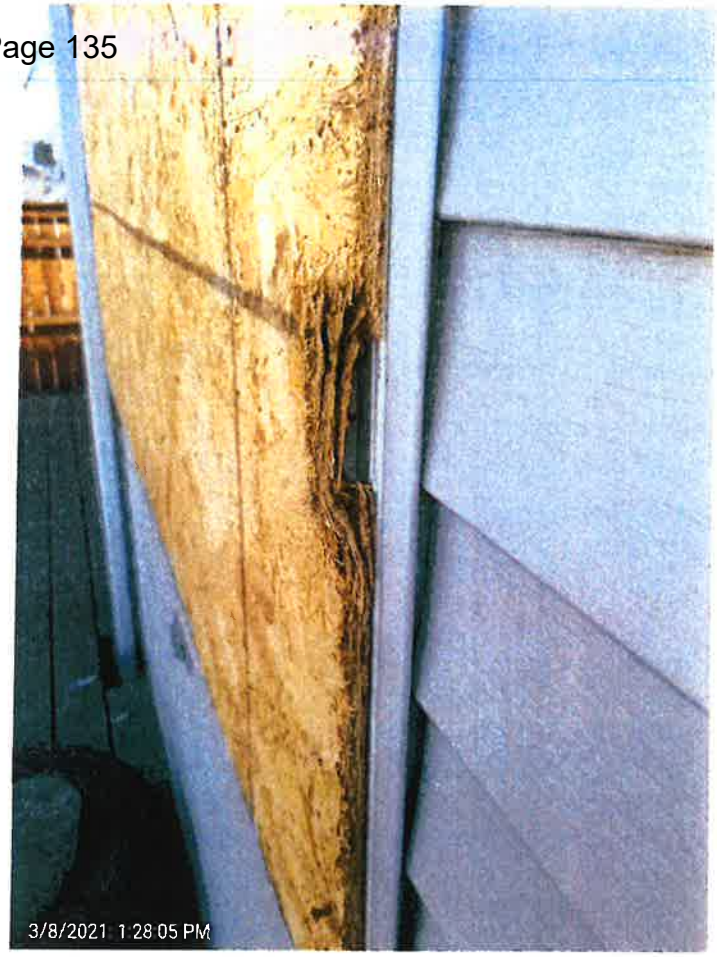
1343 2 Avenue S., Fargo, ND 2/16/2021





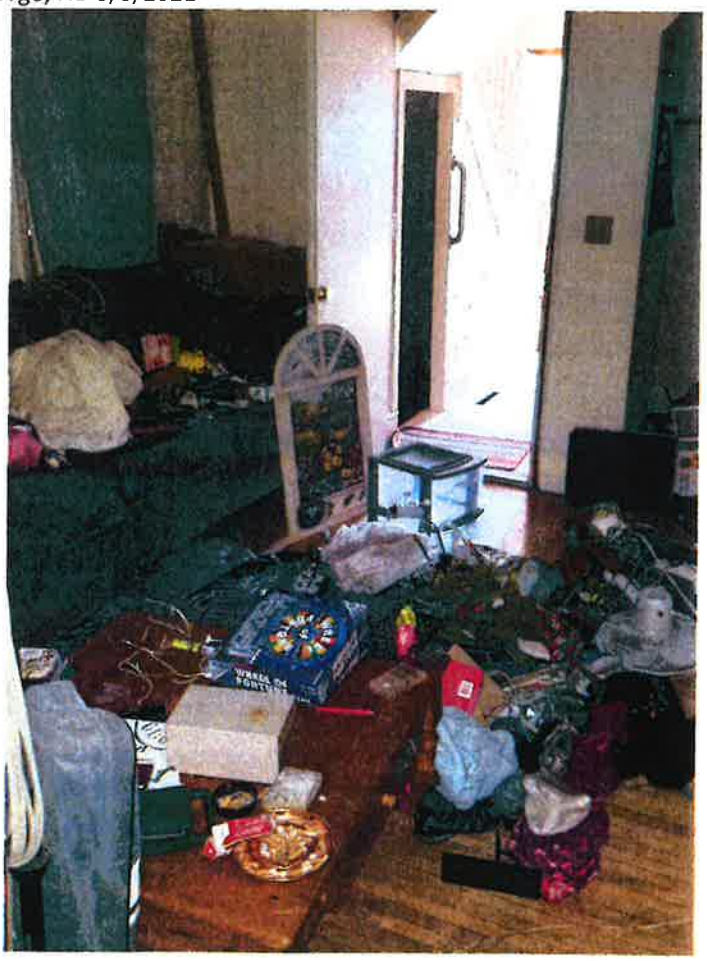


1343 2 Avenue S., Fargo, ND 3/5/2021



1343 2 Avenue S., Fargo, ND 3/8/2021

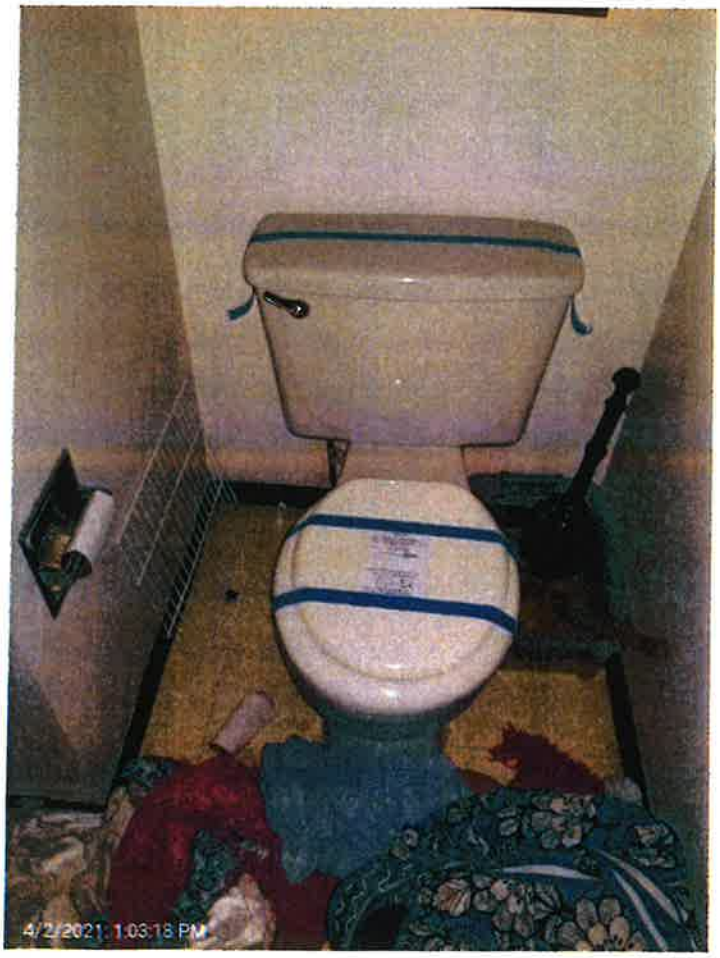


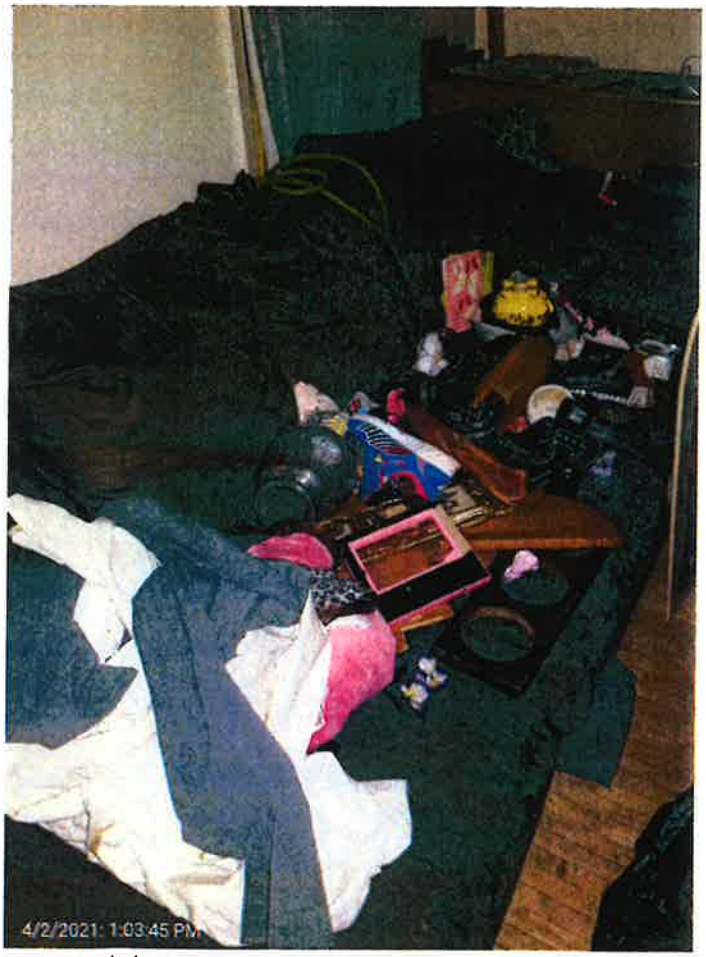


1343 2 Avenue S., Fargo, ND 4/2/2021

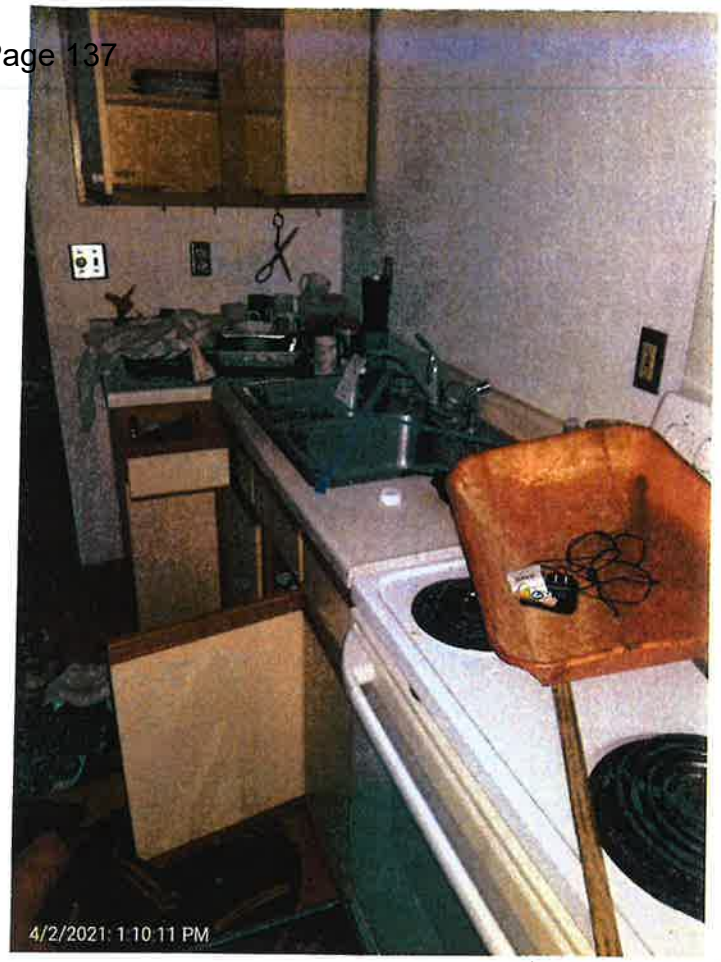








1343 2 Avenue S., Fargo, ND 4/2/2021





1343 2 Avenue S., Fargo, ND 4/2/2021



1343 2 Avenue S., Fargo, ND 4/6/2021

INCIDENT SEARCH
Print Date/Time: 4/14/2021 9:41:32 AM

Incident Number	Call Date/Time	Incident Type	Location	Dispositions
2021-00030029	04/11/2021 11:40:36	Burglary	1343 2ND AVE S, FGO	AC - 1
2021-00018169	03/05/2021 13:20:52	Agency Assist	1343 2ND AVE S, FGO	AC - 1
2021-00018138	03/05/2021 12:07:53	Suspicious	1343 2ND AVE S, FGO	AC - 1
2021-00017327	03/02/2021 17:10:19	Burglary	1343 2ND AVE S, FGO	ICR - 1, AC - 1
2021-00013403	02/16/2021 14:49:10	Suspicious	1343 2ND AVE S, FGO	AC - 1
2021-00012896	02/14/2021 14:18:43	Suspicious	1343 2ND AVE S, FGO	AC - 1
2021-00012891	02/14/2021 14:01:16	Public Assist	1343 2ND AVE S, FGO	AC - 1
2021-00012529	02/13/2021 00:36:56	COP	1343 2ND AVE S, FGO	AC - 1
2021-00012381	02/12/2021 15:40:28	Suspicious	1343 2ND AVE S, FGO	AC - 1
2021-00012302	02/12/2021 10:52:55	Suspicious	1343 2ND AVE S, FGO	AC - 1
2021-00011167	02/08/2021 12:21:19	Welfare Check	1343 2ND AVE S, FGO	AC - 1
2021-00002795	01/10/2021 17:24:53	Suspicious	1343 2ND AVE S, FGO	AC - 1
2021-00001290	01/05/2021 16:53:56	Burglary	1343 2ND AVE S, FGO	AC - 2
2020-00097074	12/18/2020 19:39:25	Stolen Vehicle	1343 2ND AVE S, FGO	ICR - 1
2020-00096026	12/15/2020 14:42:12	Theft	1343 2ND AVE S, FGO	ICR - 1
2020-00072968	09/26/2020 00:01:30	Assault	1343 2ND AVE S, FGO	AC - 1
2020-00072277	09/23/2020 21:12:08	Disturbance	1343 2ND AVE S, FGO	AC - 1
2020-00070961	09/19/2020 20:54:39	Assault	1343 2ND AVE S, FGO	ICR - 1, AC - 1
2020-00070050	09/17/2020 07:13:29	Burglary	1343 2ND AVE S, FGO	ICR - 1
2020-00065297	09/01/2020 09:07:30	Disturbance	1343 2ND AVE S, FGO	AC - 1
2020-00064623	08/29/2020 23:23:05	Disturbance	1343 2ND AVE S, FGO	AC - 1
2020-00061613	08/20/2020 04:02:36	Suspicious	1343 2ND AVE S, FGO	UNF - 1
2020-00055494	07/30/2020 15:27:06	Harassment	1343 2ND AVE S, FGO	AC - 1
2020-00052011	07/18/2020 17:46:22	Disturbance	1343 2ND AVE S, FGO	AC - 1
2020-00050196	07/12/2020 13:31:15	Theft	1343 2ND AVE S, FGO	ICR - 1
2020-00047680	07/03/2020 22:22:54	Fireworks	1343 2ND AVE S, FGO	UNF - 1
2020-00044174	06/22/2020 01:22:27	Assault	1343 2ND AVE S, FGO	ICR - 1, AC - 1
2020-00033604	05/13/2020 00:58:11	Gun Shots	1343 2ND AVE S, FGO	AC - 1
2020-00033219	05/11/2020 13:06:02	Burglary	1343 2ND AVE S, FGO	ICR - 1
2020-00028709	04/20/2020 23:19:13	Disturbance	1343 2ND AVE S, FGO	GOA - 1
2020-00010670	02/08/2020 15:29:58	Disturbance	1343 2ND AVE S, FGO	AC - 1
2019-00000745	01/03/2019 17:56:47	Suspicious	1343 2ND AVE S, FGO	AC - 1
2017-00096657	11/21/2017 11:59:49	Impaired Person	1343 2ND AVE S, FGO	AC - 1
2016-00085962	11/30/2016 22:07:04	Medical Assist	1343 2ND AVE S, FGO	AC - 3
2016-00085724	11/29/2016 21:48:20	Disturbance	1343 2ND AVE S, FGO	AC - 1
2016-00080798	11/09/2016 18:26:22	Harassment	1343 2ND AVE S, FGO	AC - 1
2016-00055009	08/08/2016 07:24:52	Public Assist	1343 2ND AVE S, FGO	AC - 2
2016-00042268	06/22/2016 09:01:27	Welfare Check	1343 2ND AVE S, FGO	AC - 1
2016-00026576	04/24/2016 16:50:54	Public Assist	1343 2ND AVE S, FGO	AC - 2
2016-00007651	02/04/2016 06:53:01	Suspicious	1343 2ND AVE S, FGO	AC - 1

Total Rows: 40

THE CITY OF Fargo FAR MORE

Inspections Office
Fargo City Hall
225 Fourth Street North
Fargo, ND 58102
Phone: 701.241.1561
Fax: 701.476.6779
www.FargoND.gov

38W

Memorandum

DATE: May 13, 2021

TO: Mayor Mahoney and Board of City Commissioners

FROM: Bruce Taralson, Inspections Director

SUBJECT: Dangerous Building Notice and Order 1426 4 AVE N., Fargo, ND 58102

The property owner of 1426 4 Ave N., Fargo, ND, has failed to comply with my order to obtain a permit to repair or demolish the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-0405, a hearing date is scheduled for May 17, 2021.

The recommendation is to **designate this building to be a dangerous building, direct the City Attorney to prepare findings of fact in this matter, and order its removal on July 15, 2021. Please direct the appropriate staff to secure the removal of this building at that time. If the Owner takes responsibility and obtains a permit to repair this property prior to July 15, 2021, this property will be required to comply with the current Land Development Code (LDC) requirements of use per Section LDC 20-1002.C.**

THE CITY OF Fargo
FAR MORE

DANGEROUS BUILDING ORDER TO COMMISSION- Detail and Timeline Regarding 1426 4 Avenue N., Fargo, ND.

A Dangerous Building hearing is required under Article 21-0405 for the purpose of allowing any interested parties the opportunity to comment, and to allow the Owner of the property the opportunity to appear and show cause why the City of Fargo should not cause the removal of this building. The hearing is scheduled for Monday, May 17, 2021 at 5:15PM.

The Inspections Department has taken this action due to multiple neighborhood complaints prompting inspections. This building meets 6 of the 10 criteria which only one might be required. Our report on ordinance requirements-

1. Inspections Department received complaint on property.
2. Inspections Department inspected the property.
3. Inspections placed notice on the building.
4. Inspections provided notice to Owner giving 30 days.
5. Inspections report to City Commission today.

In your packets, you will find the Dangerous Building Notice. Article 21-0404 requires the Inspections Department give notice to the Owner of the property prior to any action by the City Commission or staff. Our timeline shows the building was placarded as a Dangerous Building on February 26, 2021. The Dangerous Building notice provided a 30-day deadline to obtain a permit to either repair or demolish the structure.

Included in this packet is a timeline of events, photographs and necessary documents.

PROPERTY INFORMATION- Building is currently vacant and is uninhabitable. The building was constructed in 1922.

Description: One-story, wood-framed structure.

Description of damage:
On February 18, 2021, Inspector, Lynne Olson, was present at 1426 4 Ave N., Fargo, ND for a rental inspection. The following violations were found:

- Foundation buckling and previous bracing has failed.
- Amateur wiring on furnace in basement.
- Evidence of rodent and larger animal infestation.
- Evidence of squatters in building and garage.

- Building not secure. Multiple missing and boarded up windows.
- Garage roof covered with tarp.
- Front porch structurally unsound.
- Structure has been vacant since September of 2020 as per eviction order.

Timeline for events:

3/19/2004: Notice of Junk Removal – Tires, pallets, lumber, junk, garbage, etc.
11/14/2005: Notice of Junk Vehicle removal.
2008: Referred to City Attorney for 22 failed rental inspections.
2009 to Present: Multiple failed rental inspections.
3/3/2014: Notice of Junk Vehicle removal.
2/18/2021: Rental inspection - multiple violations noted.
2/26/2021: Building placarded as a Dangerous Building.
3/11/2021: Building secured by contractor.
5/3/2021: Inspections requested Dangerous Building Order to Show Cause Hearing to be scheduled for May 17, 2021.
5/4/2021: Notice of Hearing posted on building and mailed to Owner via registered mail.
5/11/2021: As per the City of Fargo Utility Department, there has been no water use since July of 2020.
5/11/2021: As per Xcel Energy, services are still active.
5/17/2021: Dangerous Building Hearing.
6/1/2021: Anticipated issuance of *Findings of Fact* document.
6/15/2021: Deadline to appeal to District Court
7/15/2021: Deadline for City of Fargo to proceed with action on City Commission's recommendation to demolish.

Please note, this timeline does not include a total calculation of overall staff time spent on this property.

Upon your finding for the Owner to comply with this demolition order, you are required by Article 21-0405 C, D & E, to notify Owner of your determination, and that if an Owner fails to comply with that order for demolition within 10 days, The City Commission can order city staff to take action on demolition and assess costs back to the property.

I suggest you agree with my notice and find this to be a Dangerous Building, and direct the City Attorney to prepare findings of fact in this matter. I also ask that you direct staff to proceed with all necessary measures to secure the removal of this building should the Owner fail to do so. Article 21-0412 allows for the Owner to appeal to the City Commission's action to District Court, which requires a $500 deposit with the City Auditor.

Respectfully submitted,
Dated this 13th day of May, 2021.

Bruce Taralson
Inspections Administrator

Fargo Inspections
City of Fargo
225 Fourth Street North
Fargo, North Dakota 58102
Phone: 701-241-1561
Fax: 701-476-6779

THE CITY OF Fargo FAR MORE

Notice of Dangerous Building Hearing – Order to Show Cause

Date: May 4, 2021

Location: 1426 4 Avenue N., Fargo, ND
Property Owner: Susan E Schwartzbauer
Address of Property Owner: 1426 4 Avenue N., Fargo, ND

Inspector: Lynne Olson
Date of Posting: May 4, 2021

Ordinance 21-0405 of the Fargo Municipal Code states:

The board of city commissioners shall:

A. Upon receipt of a report of the building inspector as provided for in § 21-0404, subsection (F), give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass to appear before it on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector(s) notice provided for herein in § 21-0404, subsection (E).

B. Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records of the register of deeds of the county of Cass shall offer relative to the "dangerous building."

A hearing regarding the dangerous building located at 1426 4 Avenue N., Fargo, ND has been scheduled for Monday, May 17, 2021 at 5:15PM. The hearing will take place in the City Commission Chambers, located at 225 4th Street N., Fargo, ND 58102.

Any interested person or party is encouraged to attend.

Dated on this 4th day of May, 2021.

Bruce Taralson
Inspections Administrator

AFFIDAVIT OF SERVICE

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

Re: Posting of OTSC Hearing Notice – 1426 4 Avenue N., Fargo, ND 58102

Lynne Olson, being first duly sworn and being of legal age, deposes and says that on the 4th day of May 2021, she posted the attached notice upon the building located at the following address:

1426 4 Avenue N.
Fargo, ND 58102

Lynne Olson

Subscribed and sworn to before me this 4th day of May, 2021.

Notary Public
Cass County, North Dakota

STEVEN SPRAGUE
Notary Public
State of North Dakota
My Commission Expires Aug. 13, 2023

(SEAL)

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Notice of OTSC Hearing – 1426 4 Avenue N., Fargo, ND
CM Receipt#: 9214 8901 9403 8339 1444 91

Gretchen Morlan, being first duly sworn and being of legal age, deposes and says that on the 4th day of May, 2021, she served the attached notice, upon Susan Schwartzbauer, by placing true and correct copies thereof in an envelope addressed as follows:

Susan E Schwartzbauer
1426 4 Avenue N
Fargo, ND 58102-4234

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.

Gretchen Morlan

Subscribed and sworn to before me this 4th day of May, 2021.

Notary Public
Cass County, North Dakota

STEVEN SPRAGUE
Notary Public
State of North Dakota
My Commission Expires Aug. 13, 2023

CERTIFIED MAIL

neopost
05/04/2021
US POSTAGE $005.86⁰

ZIP 58102
041L12204758

City of Fargo
225 4th Street North
Fargo ND 58108

USPS CERTIFIED MAIL

9214 8901 9403 8339 1444 91

NIXIE 561 CE 1 0105/07/21
RETURN TO SENDER
VACANT
UNABLE TO FORWARD
BC: 581024841 25 *0435-07805-05-39

SUSAN E SCHWARTZBAUI
1426 4TH AVE N
FARGO ND 58102-4234

58102484125 01

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Notice of OTSC Hearing – 1426 4 Avenue N., Fargo, ND
CM Receipt#: 9214 8901 9403 8339 1451 22

Gretchen Morlan, being first duly sworn and being of legal age, deposes and says that on the 4th day of May, 2021, she served the attached notice, upon Susan Schwartzbauer, by placing true and correct copies thereof in an envelope addressed as follows:

Susan E Schwartzbauer
c/o Eldon Laude
313 9 Street S
Fargo, ND 58103-1835

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.

Gretchen Morlan

Subscribed and sworn to before me this 4th day of May, 2021.

STEVEN SPRAGUE
Notary Public
State of North Dakota
My Commission Expires Aug. 13, 2023

Notary Public
Cass County, North Dakota

(SEAL)

UNITED STATES POSTAL SERVICE.

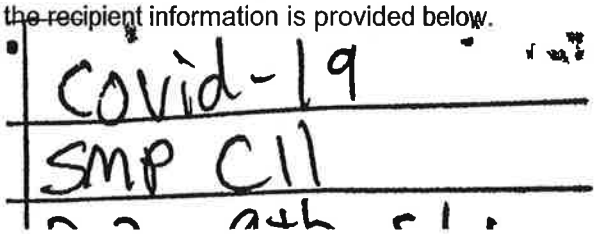
Mailer: City of Fargo

Date Produced: 05/10/2021

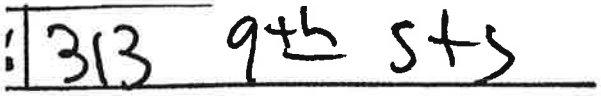
ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8339 1451 22. Our records indicate that this item was delivered on 05/07/2021 at 10:26 a.m. in FARGO, ND 58103. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

SUSAN E SCHWARTZBAUER
C/O: ELDON LAUDE
313 9TH ST S
FARGO ND 58103-1835

Customer Reference Number: C2673822.15411883

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Notice of OTSC Hearing – 1426 4 Avenue N., Fargo, ND
CM Receipt#: 9214 8901 9403 8300 0039 1467 09

Gretchen Morlan, being first duly sworn and being of legal age, deposes and says that on the 4th day of May, 2021, she served the attached notice, upon Susan Schwartzbauer, by placing true and correct copies thereof in an envelope addressed as follows:

Susan E Schwartzbauer
1513 34 ½ Avenue S.
Fargo, ND 58104

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.

Gretchen Morlan

Subscribed and sworn to before me this 4th day of May, 2021.

Notary Public
Cass County, North Dakota

STEVEN SPRAGUE
Notary Public
State of North Dakota
My Commission Expires Aug. 13, 2023

Fargo Inspections
City of Fargo
225 4th Street North
701-241-1561
701-476-6779 fax

THE CITY OF Fargo FAR MORE

NOTICE OF DANGEROUS BUILDING

TO: Susan E Schwartzbauer

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.

2. That the building with which this Notice is concerned is commonly known as 1426 4 Ave N, and is located on that tract of land in the city of Fargo, more particularly described as follows: Reeves Addition, Block 11, Lot 7

(hereinafter referred to as "the building")

3. That an inspection was made of the building on February 18, 2021 by Lynne Olson, Building Inspector.

4. That the building inspector for the City of Fargo has found the building, consisting of a single-story, wood-framed, structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and IPMC Code 108.1.5 concerning Dangerous Structures.

5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.

6. That the owner of the building must demolish the building within 30 (thirty) days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.

7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and Section 116 of the International Building Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Building Code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 108.2 of the International Property Maintenance Code, 2018 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 26 day of 2, 2021.

11. Order to secure building by March 4, 2021. The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance. **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property.

12. Application for Appeal. Section 111.1 of the International Property Maintenance Code states that any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on the claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Dated this 26 day of 2, 2021.

Conditions Found Statement

On February 18, 2021, Building Inspector Lynne Olson, was present at 1426 4 Ave N, Fargo, ND to address a rental inspection. The following violations were found:

- Foundation buckling and previous bracing has failed.
- Amateur wiring on furnace in basement
- Evidence of rodent and larger animal infestation
- Evidence of squatters in building and garage
- Building not secure. Multiple missing and boarded up windows
- Garage roof covered with tarp
- Front porch structurally unsound.
- Structure has been vacant since 9/2020 per eviction order

The following action must be taken:

- Secure building within 4 business days.
- Demolish building or obtain permit to repair within 30 days of date on letter

Lynne Olson
Building Inspector
City of Fargo, ND

Chris Rose
Assistant Director of Inspections

2-26-21
Date Signed

AFFIDAVIT OF SERVICE

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

Re: Posting of Notice of Dangerous Building – 1426 4 Ave N., Fargo, ND

Lynne Olson, being first duly sworn and being of legal age, deposes and says that on the 26th day of February 2021, she posted the attached notice upon the following address:

1426 4 Avenue N.
Fargo, ND 58102

Lynne Olson

Subscribed and sworn to before me this 26th day of February, 2021.

STEVEN SPRAGUE
Notary Public
State of North Dakota
My Commission Expires Aug. 13, 2023

Notary Public
Cass County, North Dakota

(SEAL)

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Notice of Dangerous Building – 1426 4 Avenue N., Fargo, ND
CM Receipt#: 9214 8901 9403 8300 0033 1774 57

Gretchen Morlan, being first duly sworn and being of legal age, deposes and says that on the 26th day of February, 2021, she served the attached notice, upon Susan E Schwartzbauer, by placing true and correct copies thereof in an envelope addressed as follows:

Susan E. Schwartzbauer
1513 34 ½ Ave S
Fargo, ND 58104

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.

Gretchen Morlan

Subscribed and sworn to before me this 26th day of February, 2021.

STEVEN SPRAGUE
Notary Public
State of North Dakota
My Commission Expires Aug. 13, 2023

Notary Public
Cass County, North Dakota

(SEAL)

UNITED STATES POSTAL SERVICE.

Mailer: City of Fargo

Date Produced: 03/01/2021

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8300 0033 1774 57. Our records indicate that this item was delivered on 02/27/2021 at 01:50 p.m. in FARGO, ND 58104. The scanned image of the recipient information is provided below.

Signature of Recipient : BMP RR-6 COVID

Address of Recipient : 1513 34 1/2 ave S

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

SUSAN SCHWARTZBAUER
1513 34 1/2 AVE S
FARGO, ND 58104

Customer Reference Number: C2544834.14631040





1426 4 Avenue S., Fargo, ND 2-18-2021





1426 4 Avenue S., Fargo, ND 2-18-2021

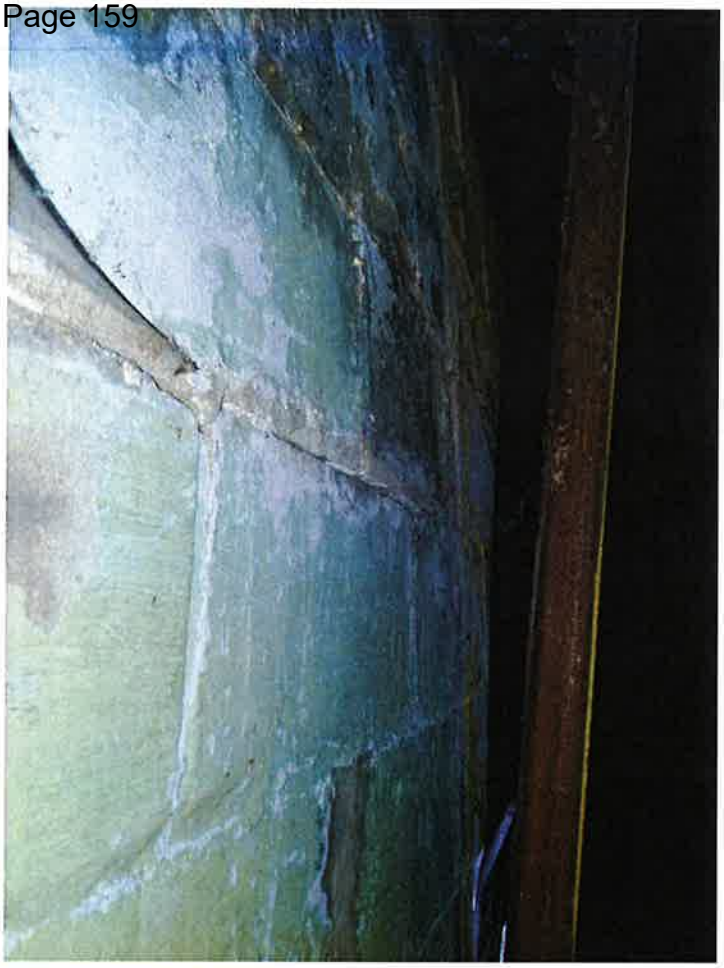




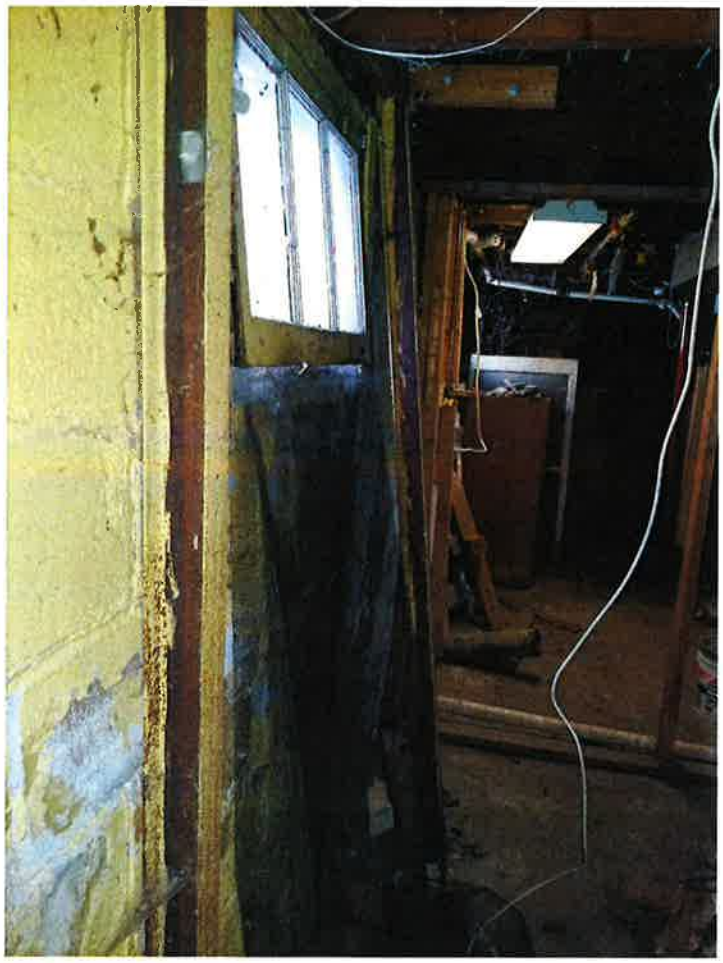




1426 4 Avenue S., Fargo, ND 2-18-2021







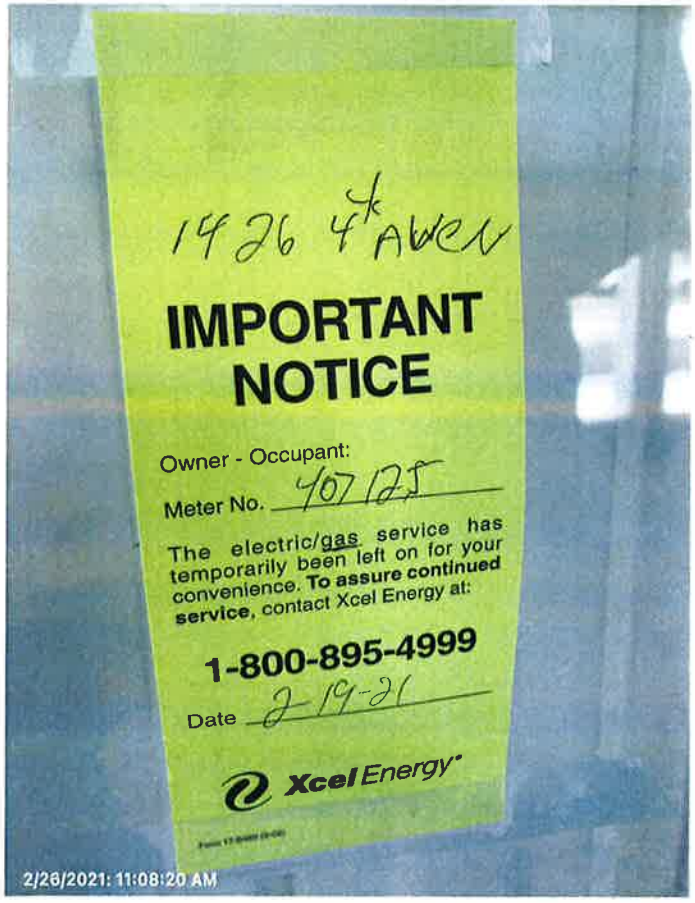


1426 4 Avenue S., Fargo, ND 2-18-2021





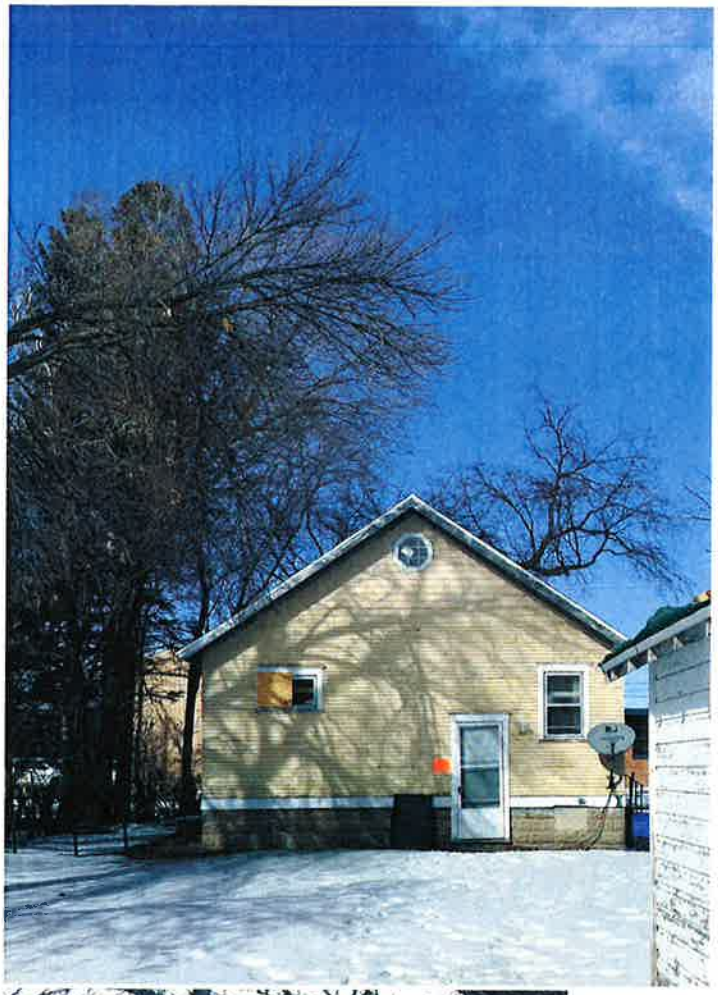
1426 4 Avenue S., Fargo, ND 2-18-2021





1426 4 Avenue S., Fargo, ND 2-26-2021







1426 4 Avenue S., Fargo, ND 2-26-2021

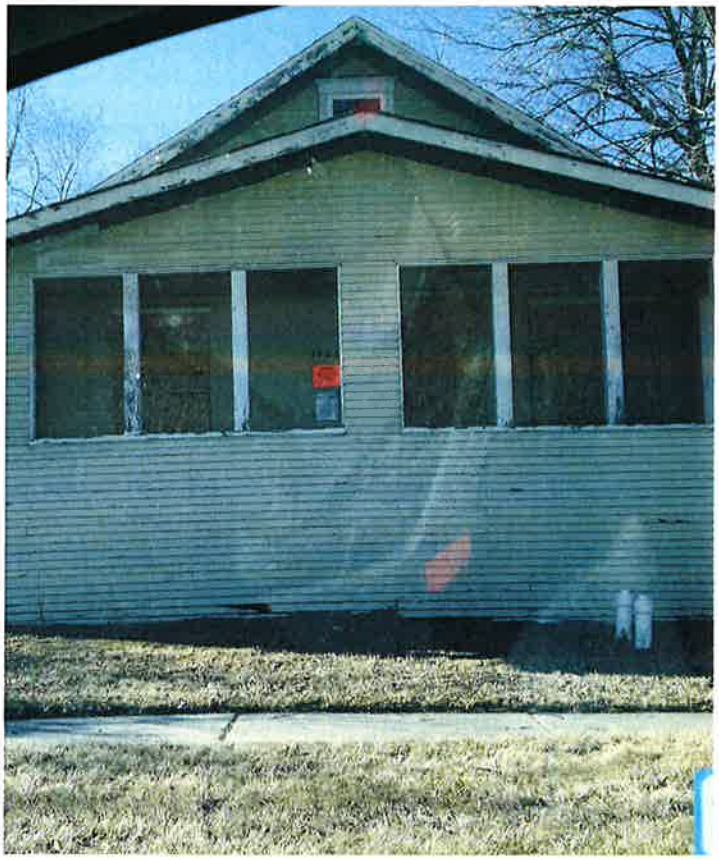






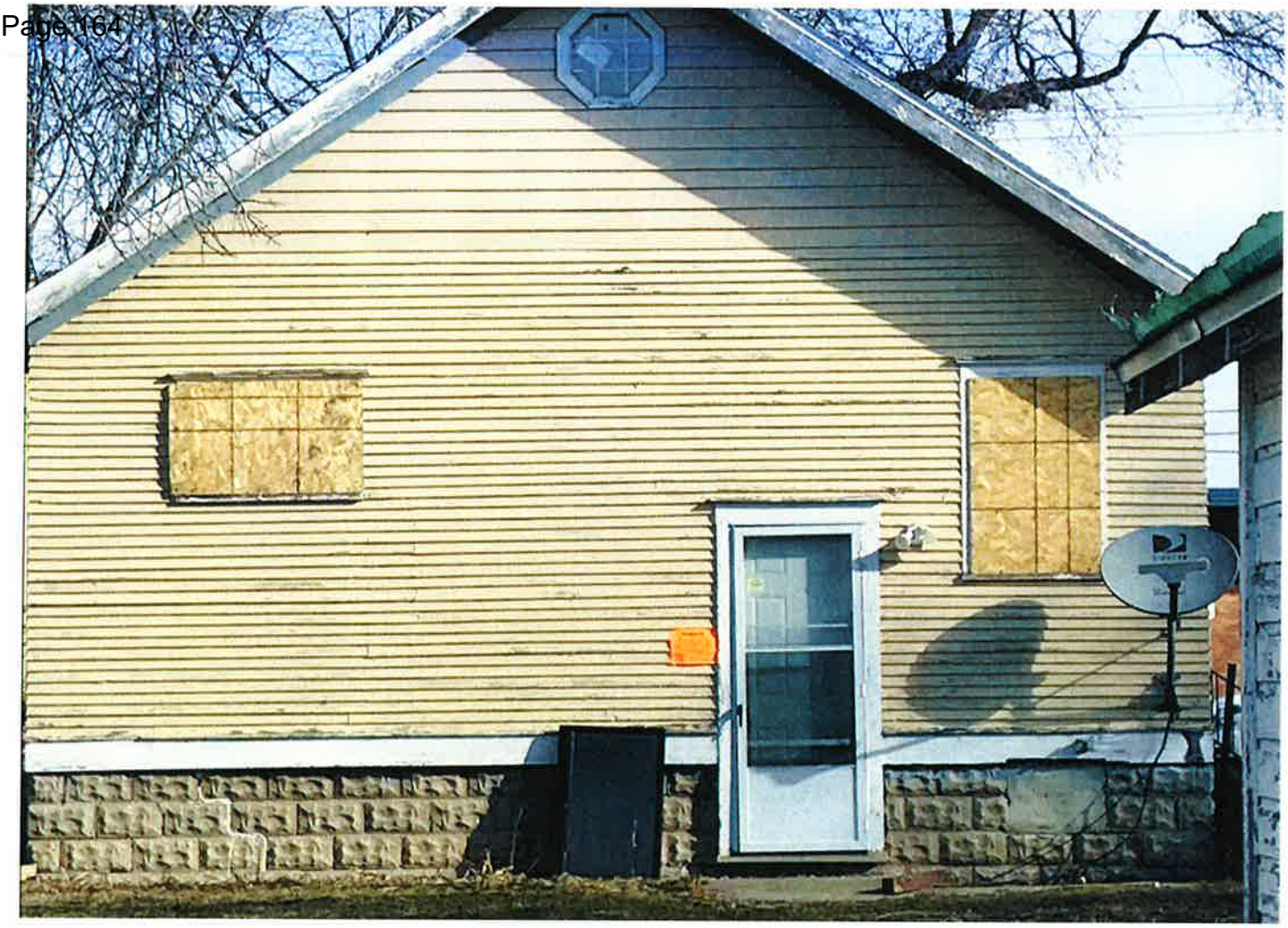
1426 4 Avenue S., Fargo, ND 3-11-2021







1426 4 Avenue S., Fargo, ND 3-11-2021



1426 4 Avenue S., Fargo, ND 3-30-2021



1426 4 Avenue S., Fargo, ND 4-26-2021

THE CITY OF Fargo FAR MORE

381

MEMORANDUM

TO: **BOARD OF CITY COMMISSIONERS**

FROM: **JIM GILMOUR, STRATEGIC PLANNING DIRECTOR**

DATE: **MAY 12, 2021**

SUBJECT: **RENEWAL PLAN & TAX INCREMENT FINANCING**

City staff have completed work on a Renewal Plan for redevelopment of a site in the 1700 block of 1st Avenue North. The project is to clean up a blighted property and construct a new development with retail space, event space, hotel rooms and apartments. Work would begin very soon and be completed in 2023.

The Developer is requesting $1,500,000 including TIF fees paid to the city. TIF eligible costs are land acquisition, removal of fill/debris and public facility costs. The estimated annual TIF revenue is $208,000 a year and the maximum length of the TIF term would be 10 years after project completion.

City financial adviser PFM reviewed the project and stated, "Based on the internal rate of return and the coverage requirements, PFM concludes the project would not be feasible without public assistance." PFM also stated, "The Developer will bear all the risk involved with the project."

A public hearing on the Renewal Plan and Developer Agreement is part of the review process. One of the purposes of the hearing is to provide potential competitors an opportunity to comment if they feel the agreement would result in unfair competition.

RECOMMENDED MOTION:
Approve the Resolution adopting the Renewal Plan and a Developer Agreement form with PS Holdings, LLC to provide tax increment financing for the project.

Attachments:

1. Resolution
2. Renewal Plan
3. Financial "But For" Report
4. Form of the Development Agreement

RESOLUTION
BOARD OF CITY COMMISSIONERS OF THE
CITY OF FARGO

TAX INCREMENT FINANCING DISTRICT 2021-02

Commissioner _____ moved for approval of the following:

WHEREAS, Certain areas within the City are in need of redevelopment in order to prevent further deterioration, to encourage investment and to preserve property values; and

WHEREAS, The Board of City Commissioners desires to avail itself of the power and authority granted by Chapter 40-58 NDCC.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners as follows:

1. That one or more slum or blighted areas, or areas consisting of industrial or commercial property, or a combination of those areas of properties, exist in the City of Fargo.

2. That the development, rehabilitation, conservation or redevelopment, or a combination thereof, of the area contained within the Renewal Plan for Tax Increment Financing District No. 2021-02, is necessary in the interest of public health, safety, morals or welfare of the residents of the City of Fargo and will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the development area by private enterprise.

3. That there are blighted areas and debris within the area contained within the Renewal Plan with deteriorated conditions and other soil conditions existing that discourage redevelopment. The Renewal Area, as defined in the Renewal Plan, is blighted due to the presence of these conditions have substantially impaired the growth of the City, and have slowed the provision of appropriate redevelopment in this area. As a result, the Board of City Commissioners finds that a blighted condition exists in the said area.

4. That the area designated as the Renewal Plan for Tax Increment Financing District No. 2021-02 is appropriate for a development project.

5. That such development, rehabilitation, conservation or redevelopment of the area contained in the Renewal Plan for Tax Increment Financing District No. 2021-02 requires the powers and authority granted in Chapter 40-58 NDCC.

6. That the Renewal Plan for Tax Increment Financing District No. 2021-02 is hereby officially adopted by the Board.

7. That a Developer Agreement be prepared in regard to the Tax Increment Financing.

8. That the appropriate staff be directed to request the County Auditor and Treasurer to compute, certify and remit tax increments resulting from the development or renewal of the area in accordance with the plan and any modifications thereof, and that the County Auditor and Treasurer shall do so in accordance with this section.

Said motion was seconded by Commissioner _____ and, upon call of the roll, the motion carried with Commissioner(s) _____ not being present, Commissioners _____ voting aye, Commissioners _____ voting nay and Commissioner(s) _____abstaining and the motion therefore being declared carried.

RENEWAL PLAN

TAX INCREMENT FINANCING DISTRICT NO. 2021-02

CITY OF FARGO, NORTH DAKOTA

April 2021

RENEWAL PLAN FOR TAX INCREMENT DISTRICT NO. 2021-02 1

SUBSECTION 1.1. DEFINITIONS. 1
SUBSECTION 1.2. STATUTORY AUTHORITY. 1
SUBSECTION 1.3. STATEMENT OF PUBLIC PURPOSE. 2
SUBSECTION 1.4. DESCRIPTION OF RENEWAL AREA 3
SUBSECTION 1.5. LAND ACQUISITION, DEVELOPMENT, DEMOLITION AND REMOVAL OF STRUCTURES, REDEVELOPMENT, OR IMPROVEMENTS 3
SUBSECTION 1.6. LAND USE ATTRIBUTES – TIF DISTRICT 3
SUBSECTION 1.7. ESTIMATE OF DEVELOPMENT COSTS 4
SUBSECTION 1.8. ESTIMATE OF BONDED INDEBTEDNESS 4
SUBSECTION 1.9. TAX INCREMENT FINANCING. 5
SUBSECTION 1.10. ESTIMATE OF TAX INCREMENT. 5
SUBSECTION 1.11. DURATION OF THE TIF DISTRICT. 5

APPENDIX A: LEGAL DESCRIPTION OF PROPERTY
APPENDIX B: MAP OF THE RENEWAL AREA/TIF DISTRICT
APPENDIX C: ZONING MAP
APPENDIX D: PHOTOS OF EXISTING CONDITIONS
APPENDIX E: PLAN FOR REDEVELOPMENT

RENEWAL PLAN FOR TAX INCREMENT DISTRICT NO. 2021-02

Subsection 1.1. Definitions.

For the purposes of the Renewal Plan, the following terms shall have the meanings specified below, unless the context otherwise requires:

"City" means the City of Fargo, a municipal corporation under the laws of the State of North Dakota.

"City Commission" or "Commission" means the Fargo City Commission.

"Comprehensive Plan" means the City's GO 2030 Comprehensive Plan, including the objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and water within the City as and when such plan is adopted and finalized.

"County" means Cass County, North Dakota.

"Development" means the construction of new buildings, structures, or improvements; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures or improvements; the acquisition of equipment; and the clearing and grading of land on industrial or commercial property in the Renewal Area.

"Renewal Area" means the property described in Subsection 1.4 of this Plan.

"Renewal Plan" or "Plan" means this Plan adopted by the Commission for the Renewal Area.

"State" means the State of North Dakota.

"Tax Increment Financing Act" or "TIF Act" means North Dakota Century Code, Section 40-58-20, as amended.

"Tax Increment Bonds" means any general obligation or revenue tax increment bonds or notes issued by the City to finance the public costs associated with the TIF District as stated in this Plan, or any obligations issued to refund the Tax Increment Bonds.

"Tax Increment Financing District" or "TIF District" means Tax Increment Financing District No. 2021-02.

"Urban Renewal Law" means North Dakota Century Code, Chapter 40-58.

Subsection 1.2. Statutory Authority.

The creation of the Renewal Area and the establishment of Tax Increment Financing District No. 2021-02 are authorized by the Urban Renewal Law. Specifically the creation of the Renewal Area is authorized under North Dakota Century Code, Sections 40-58-01.1(7) and (14), which provide that the local governing body may designate industrial or commercial property, a slum or

blighted area, or combination of these properties as appropriate for a development or renewal project.

The Urban Renewal Law provides that communities develop a "workable program" for the use of public and private resources to facilitate the development of industrial or commercial properties, eliminate and prevent the development or spread of slums and urban blight, encourage needed urban rehabilitation, provide for the redevelopment of slum and blighted areas, or undertake these activities or other feasible municipal activities as may be suitably employed to achieve the objectives of the workable program. North Dakota Century Code, Section 40-58-04.

Subsection 1.3. Statement of Public Purpose

In adopting the Renewal Plan for TIF District No. 2021-02, the City Commission intends to make the following findings:

(a) The Renewal Area includes a blighted area.

Factual basis: This Renewal Area is blighted due to the presence of a vacant site with demolition debris which substantially impairs the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

(b) The Renewal Area includes vacant property that was a site used for disposal of old buildings and outdoor storage of materials used in construction.

Factual basis: The renewal area is considered blighted as described in (a) above. Blighted areas are eligible for renewal.

(c) The Renewal Area is appropriate for a development or renewal project.

Factual basis: The renewal area was recently rezoned to allow for a mixed-use development that includes retail space, event space, a hotel, and housing.

(d) The site is vacant and existing housing will not be affected.

Factual basis: No housing will be eliminated by this redevelopment. The redevelopment will include new housing units.

(e) The Plan conforms to the Comprehensive Policy Plan for the City as a whole.

Factual basis: The proposed development is consistent with the goals that are embodied in the Go2030 Comprehensive Plan. Specifically, the Fargo Go2030 Comprehensive Plan supports infill and density within areas that are already developed, serviced with utilities, and protected by a flood resiliency strategy. The promotion of infill development is the number two ranked priority of Go2030. Additionally, the subject property less than a mile from the downtown core, and this redevelopment is compatible with and supportive of downtown redevelopment. The proposed use of the property is consistent with zoning, and may encourage additional

infill development to the west of the site. The proposed development will use existing infrastructure as the property is served with the water and sewer main lines.

Subsection 1.4. Description of Renewal Area

The Renewal Area is located west of downtown Fargo. More specifically, it is located on the south side of 1st Avenue North, west of 16th Street. The site is approximately two and a half acres as legally described in Appendix A. A map of the Renewal Area is attached as Appendix B.

A zoning map of the Renewal Area is attached as Appendix C. Adjacent land uses are vacant sites, commercial uses, and industrial/warehouse uses. The Renewal Area included the Drekker Brewery, commercial buildings, and a residence.

The proposed project will be a 4-story building of 100,000 square feet attached to the west of the Drekker Brewery. The first two floors will be a food market and event/conference space. Floors three and four will be lodging units and apartment units. There will be underground parking on in a basement level, and surface parking for nearly 200 cars, and outdoor patios.

The redevelopment plan is attached as Appendix E.

Subsection 1.5. Land Acquisition, Development, Demolition and Removal of Structures, Redevelopment, or Improvements

The Development of the Renewal Area includes the following activities:

Land Acquisition – The estimate is $970,000.

Demolition & Site Cleaning, Soil Correction and Remediation, and Grading – This cost is the estimate of the cost to remove substandard soils and rubble, plus fill and grade the site. The estimate is $353,000.

Public Works Improvements – This is the cost for needed improvements for infrastructure to serve the site including curb/gutter, sidewalks, utility connections and storm water facilities. The estimate is $119,000.

Administrative/TIF Fees – Other Tax Increment costs include the administrative costs. There are estimated to be $72,000 in administrative costs for the City of Fargo.

These costs represent estimated costs for planning purposes, and may be different when this plan is implemented with a development agreement. The development agreement costs will be determined after a review by City financial advisors. The maximum allowed costs will be specified in the development agreement.

Subsection 1.6. Land Use Attributes – TIF District

(a) *Zoning or Planning Changes.*
The Renewal area was very recently platted into a single lot. No additional zoning and planning changes are required to accommodate this project.

(b) *Maximum Densities.*
The property within the TIF District will be developed in accordance with the applicable zoning district requirements. The site is zoned General Commercial with a Planned Unit Development.

(c) *Building Requirements.*
All properties within this district are subject to the provisions of the City of Fargo Building Codes and the Land Development Code.

(d) *Plan relationship to land use objectives (land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public imps.)*
The physical improvements outlined in the plan meet critical needs required for the redevelopment of this property. The project complies with the General Commercial zoning district and the redevelopment goals of the Go2030 Comprehensive Plan. The development provides for the infill of new mixed use building just west of downtown Fargo.

Subsection 1.7. Estimate of Development Costs

The City anticipates development of the Renewal Area will involve certain public costs. Under North Dakota Century Code, Sections 40-58-20 and 40-58-20.1 allow the use of funds received from tax increments to be applied to certain specified costs. The City will provide for certain costs as listed below in a development agreement. The primary costs involved in the development are, acquisition, demolition & site cleanup, and public works improvements.

Property Acquisition	$970,000
Demolition & Site Cleanup	$353,000
Public Works Improvements	$119,000
Administration	$72,000
TOTAL	$1,514,000

The City and Developer may also obtain reimbursement of interest between the time project costs are incurred and the date the Tax Increment Revenue Note is issued, such interest being capitalized and added to the foregoing costs.

Subsection 1.8. Estimate of Bonded Indebtedness

The City intends to finance certain costs of the Development through the issuance of a Tax Increment Financing Note to the Developer. In addition, the City may use general obligation bonds, special assessment warrants, or refunding improvement bonds pursuant to North Dakota Century

Code, Section 40-58-20 (9), and the City may specially assess all or a portion of the costs of development and apply funds received from tax increments to payment of the special assessments and other bonds.

Subsection 1.9. Tax Increment Financing.

The County Auditor of the County is requested to compute, certify and remit tax increments resulting from the Development within the Renewal Area.

The original assessed value of the property within the Renewal Area, as last assessed and equalized before the base year of this Plan is outlined on Attachment A.

Each year the County Auditor will compute the amount of tax increment generated within the Renewal Area in accordance with the TIF Act. Any year which there is an "incremental value" as provided in the TIF Act, an increment will be payable to the City and deposited in the fund created by the County Auditor for that purpose. Any year in which there is "lost value" pursuant to the TIF Act, no increment will be payable to the City.

Subsection 1.10. Estimate of Tax Increment.

It is anticipated that the Development will result in an increase in true and full value of the Renewal Area redevelopment site to over $15 million. The value of the development site within the TIF district less than $1 million. The increase in value will be approximately $15 million. Under the mill rate in effect as of the date of this Plan, the Renewal Area will generate tax increment each year in the estimated amount of $208,000.

Subsection 1.11. Duration of the TIF District.

The City anticipates that the TIF District will continue until all development costs are reimbursed through the receipts of tax increment, or after a maximum of ten years after completion of the project. The first substantial tax increment payment will be received in 2023, with the full value increased value in 2024.

APPENDIX A

LEGAL DESCRIPTION OF PROPERTY

Lot 1, Block 1, Brewhalla Addition to the City of Fargo

APPENDIX B

MAP OF THE RENEWAL AREA/TIF DISTRICT

TIF District No. 2021-02



THE CITY OF Fargo
FAR MORE

TIF District

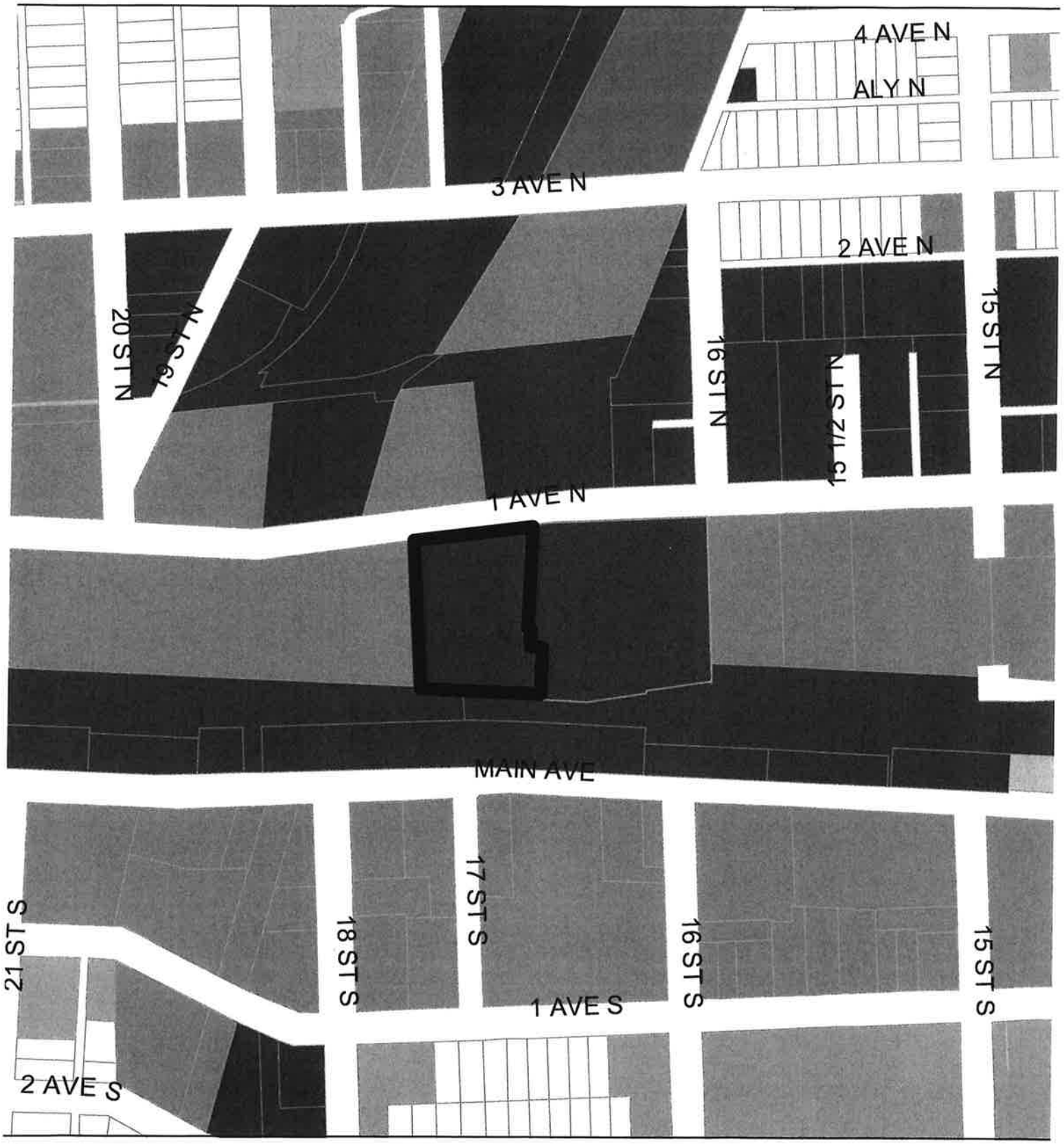
0 150 300 Fee

N

APPENDIX C

ZONING MAP

TIF District No. 2021-02



THE CITY OF Fargo FAR MORE

Zoning Districts

AG	LC	MHP	SR-2	
DMU	LI	NC	SR-3	
GC	MR-1	NO	SR-4	
GI	MR-2	P/I	SR-5	
GO	MR-3	UMU		

TIF District

0 150 300 Fee

N

APPENDIX D

PHOTOS OF EXISTING CONDITIONS

APPENDIX E

PLAN FOR REDEVELOPMENT

BREWHALLA
MARKET
Fargo, North Dakota
M | B | A
PUD MASTER PLAN
1ST AVENUE NORTH

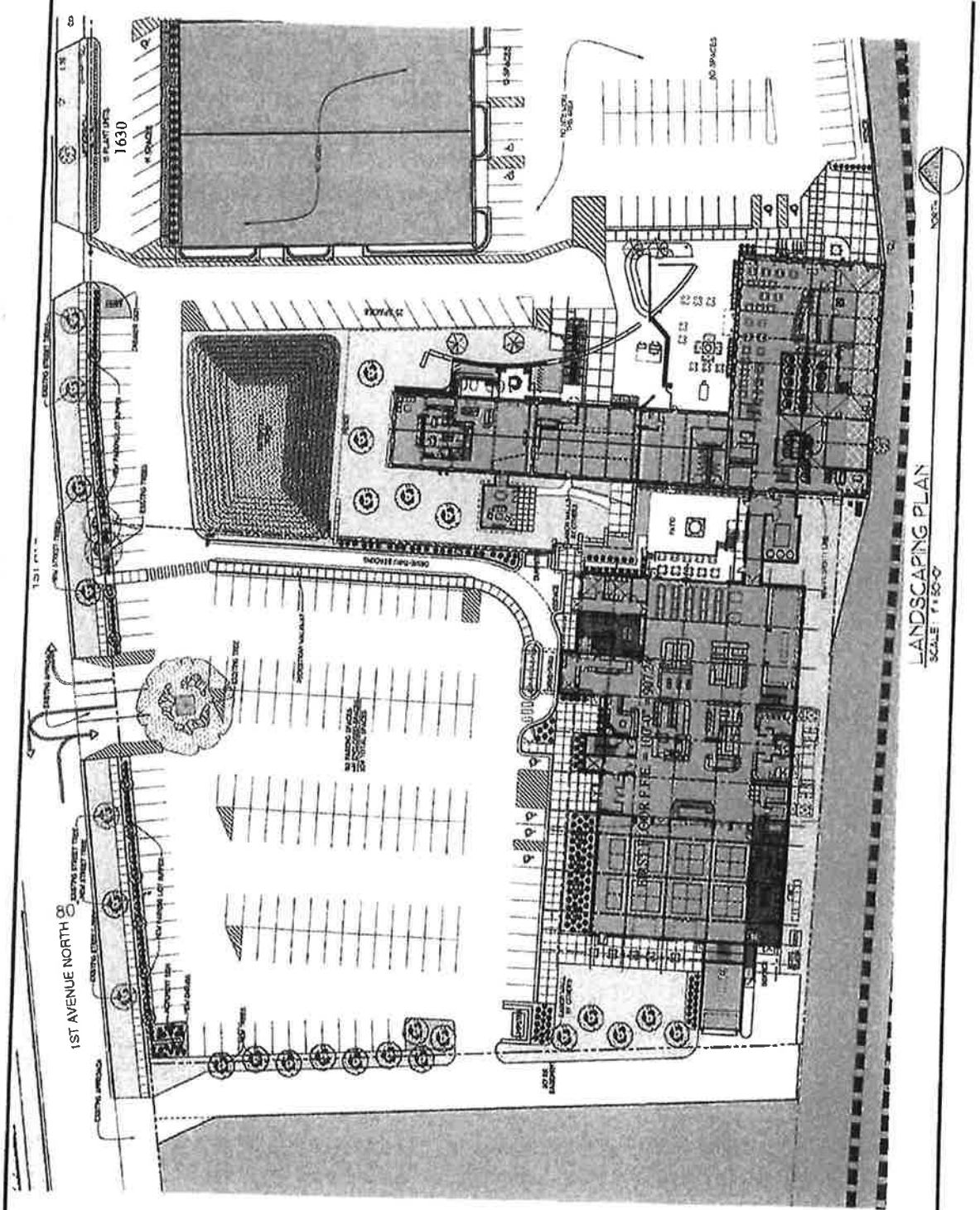
BREWHALLA MARKET

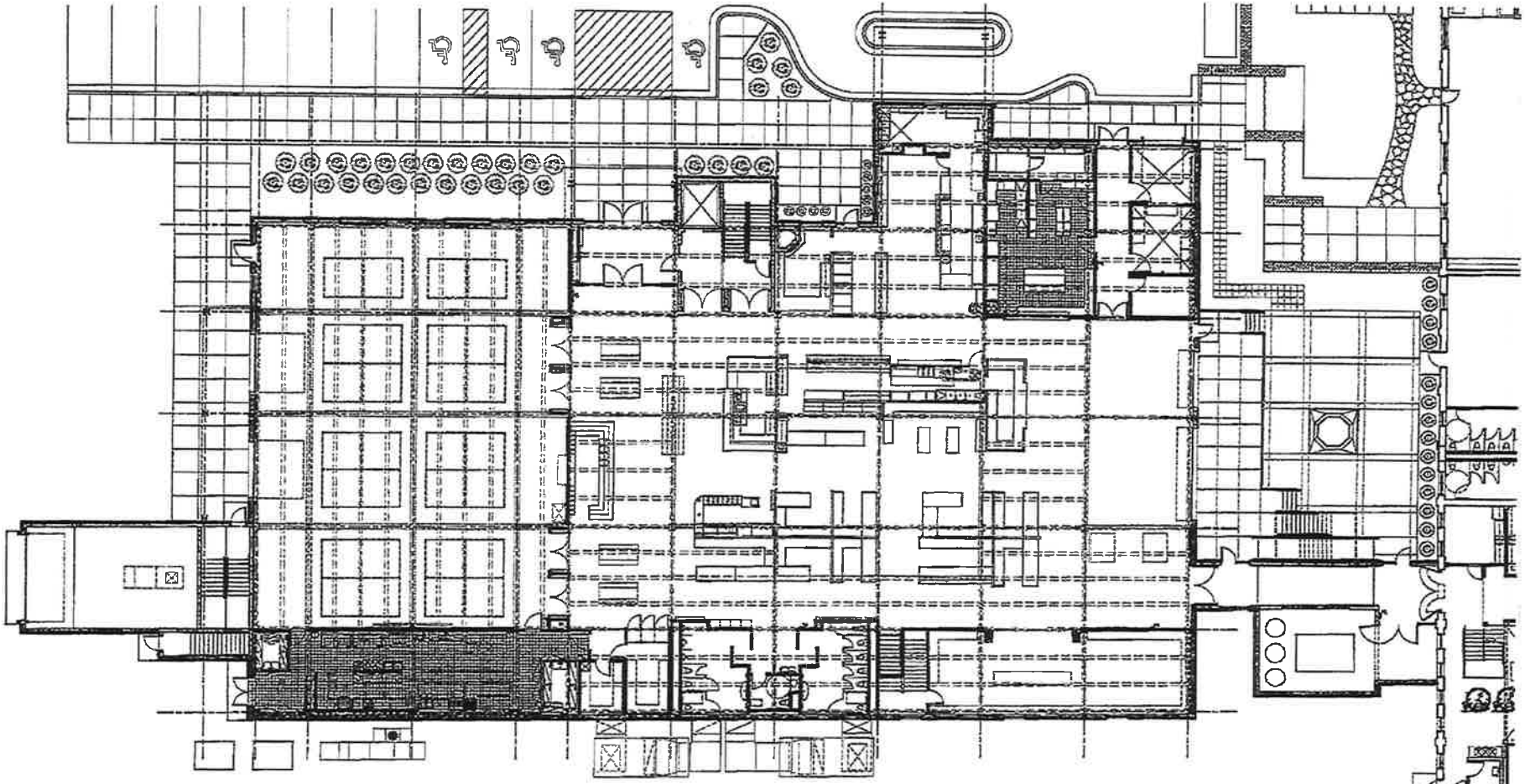
Fargo, North Dakota

M | B | A

LANDSCAPING PLAN

A1.1





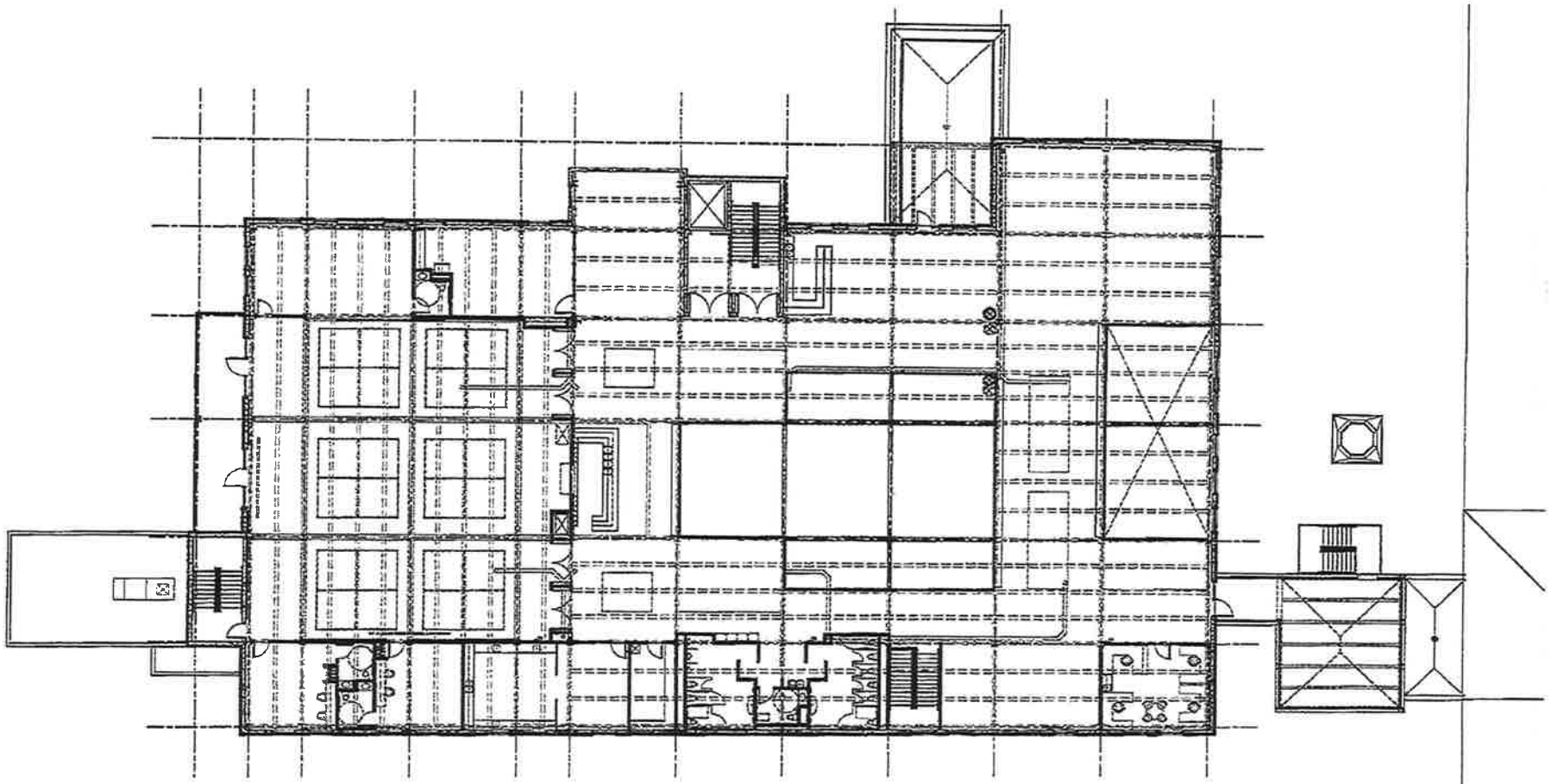
FIRST FLOOR PLAN
SCALE: 1" = 30'-0"

NORTH

BREWHALLA MARKET

FARGO, NORTH DAKOTA

M | B | A
ARCHITECTS



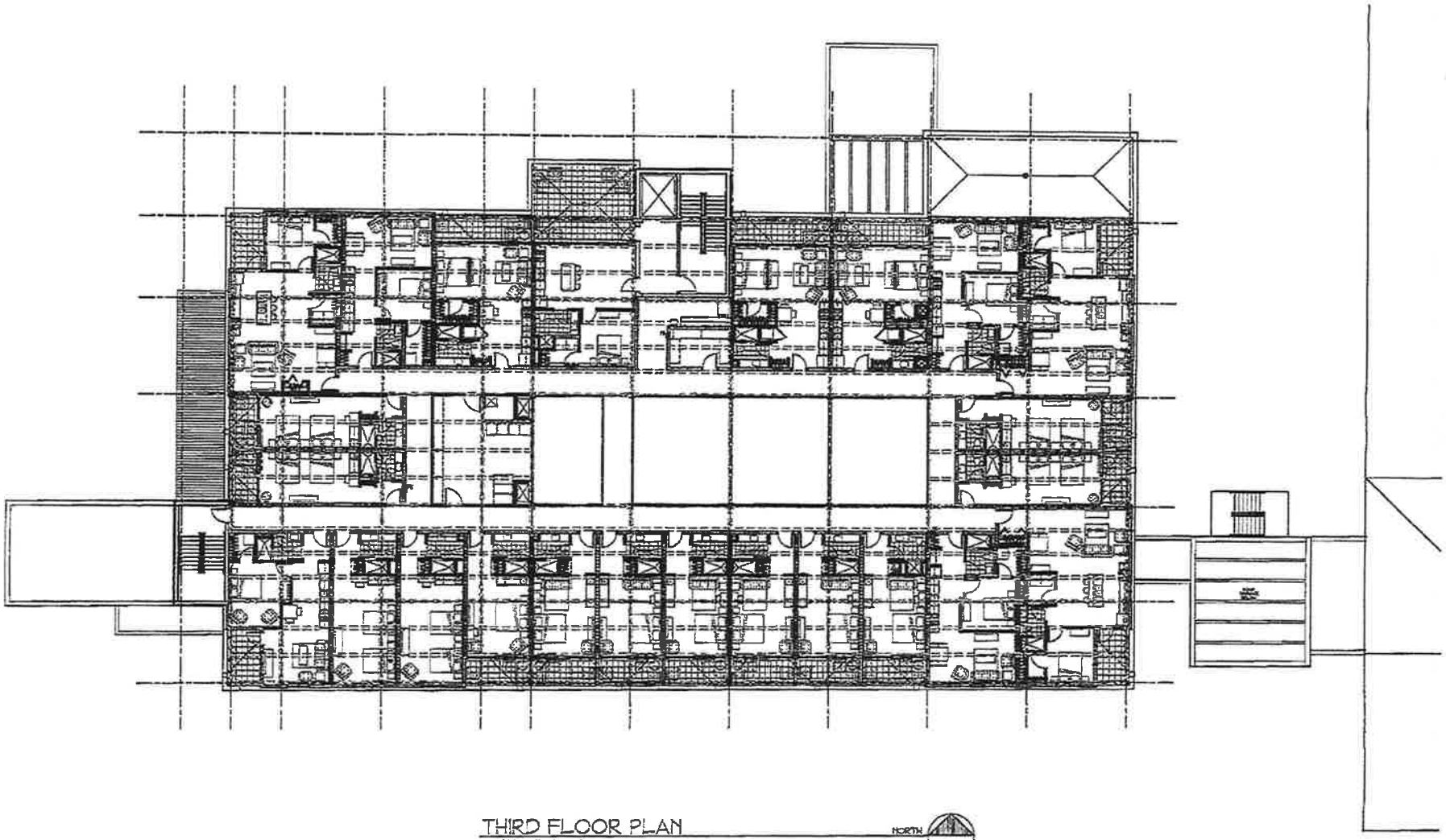
SECOND FLOOR PLAN
SCALE: 1" = 30'-0"

NORTH

BREWHALLA MARKET

FARGO, NORTH DAKOTA

MBA ARCHITECTS



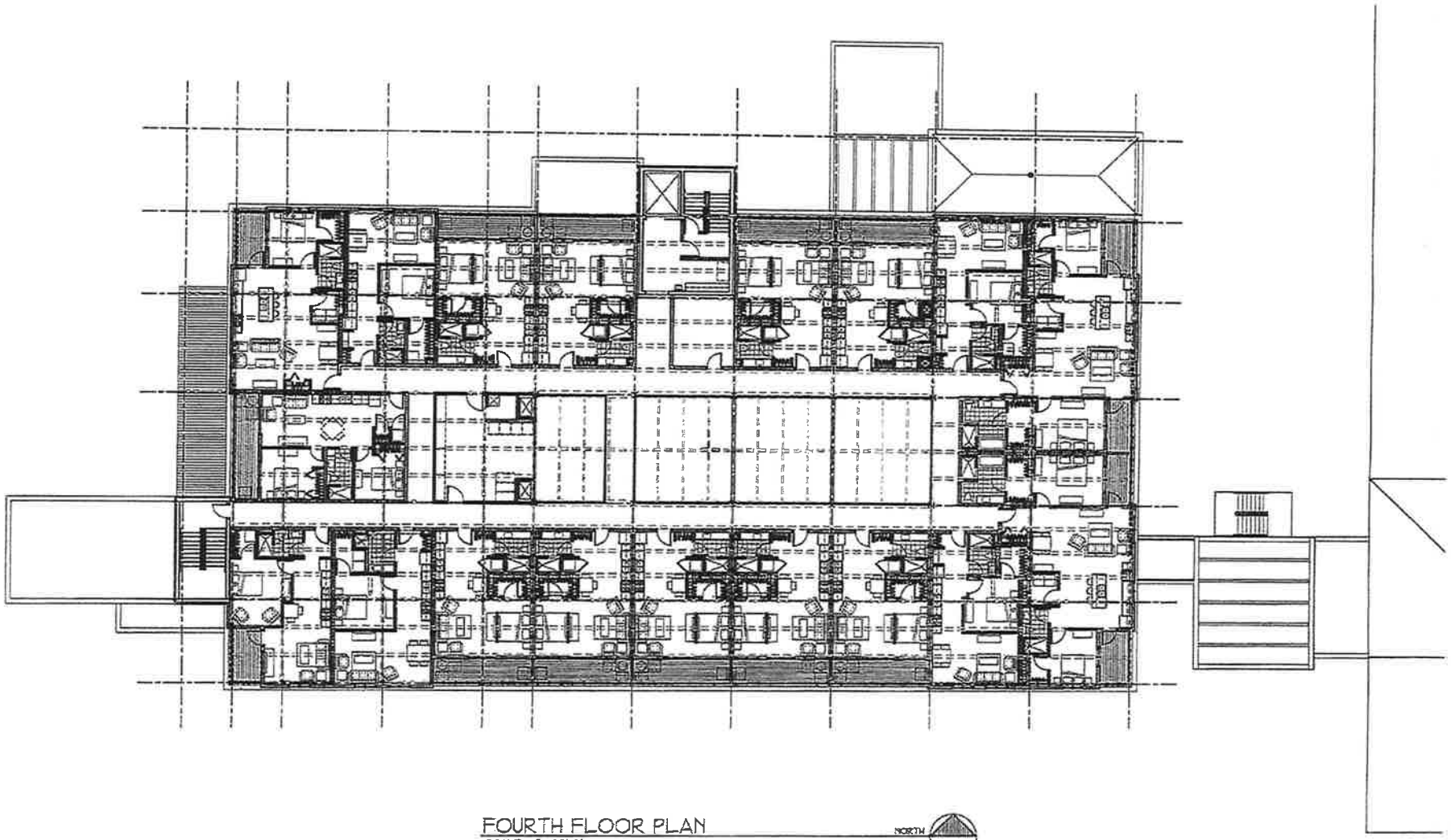
THIRD FLOOR PLAN
SCALE: 1" = 30'-0"

NORTH

BREWHALLA MARKET

FARGO, NORTH DAKOTA

M | B | A
ARCHITECTS



FOURTH FLOOR PLAN
SCALE: 1" = 30'-0"

NORTH

BREWHALLA MARKET

FARGO, NORTH DAKOTA

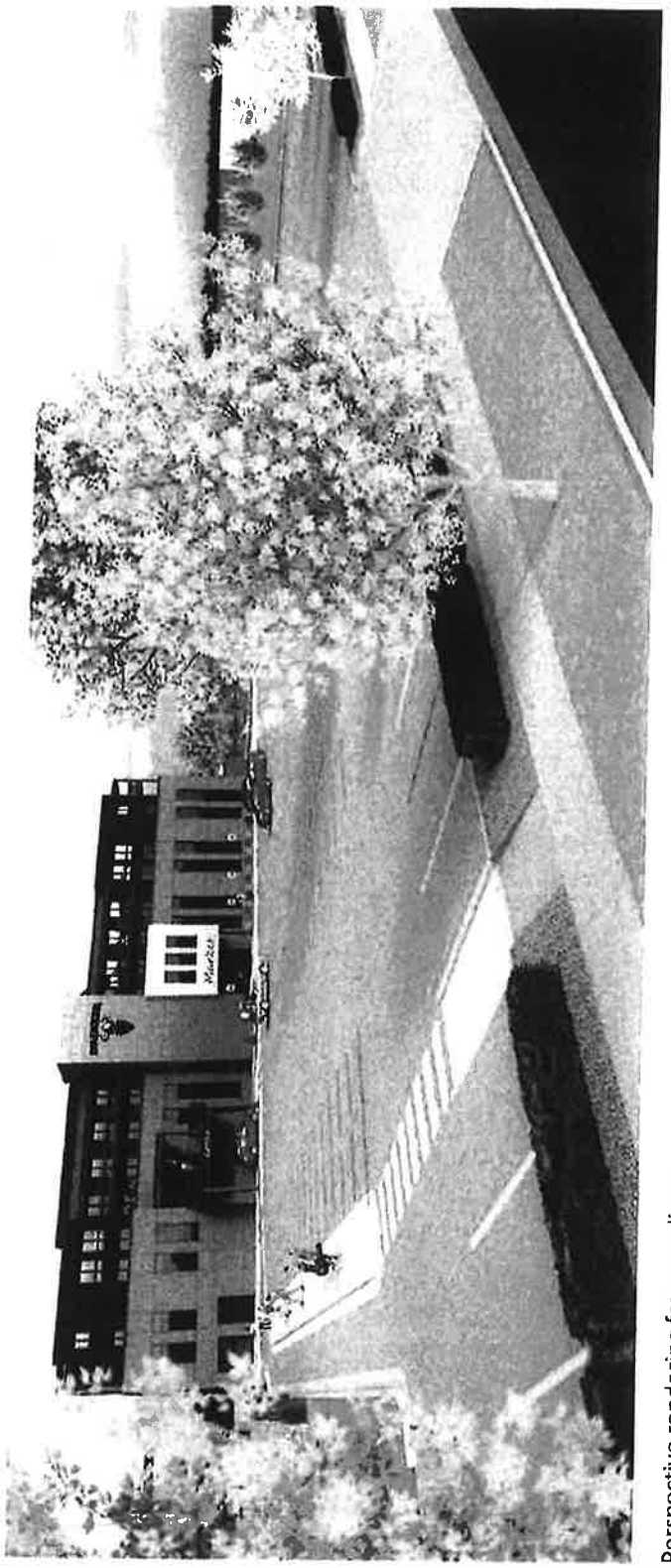
MBA ARCHITECTS



Perspective rendering from applicant



Perspective rendering from applicant



Perspective rendering from applicant

City of Fargo, North Dakota

Tax Increment Financing Program
"But-For" Report

Brewhalla

1702 1st Ave N.

CITY OF Fargo

May 12, 2021

Table of Contents

		Page
1.	Purpose	1
2.	Project	2
3.	Assistance Request	3
4.	Project Financing	5
5.	Return Analysis	6
6.	Conclusion	8

Purpose

The purpose of this report is to establish and determine the allowable value of the tax increment financing (TIF) for the Brewhalla Market, a development by PS Holdings, LLC (the "Developer").

The Developer will receive lease payments from Brewhalla, LLC as the operator of the project. PFM reviewed the capitalization rate and annual lease payments the Developer assumed for their pro forma. Based on those assumptions, PFM projected a 10-year cash flow, calculating an internal rate of return ("IRR") and annual debt service coverage. We also made sure the Developer followed the City of Fargo's (the "City") Tax Increment Financing Policy (the "Policy") including the allowable costs and the Developer's calculations for determining the amount of allowable subsidy financing. The following report details PFM's analysis and conclusions concerning the viability of the proposed project without the subsidy.



Project

The project being proposed by the Developer includes the development of a food market with 20-25 local shops, a 24-room hotel, 18 1 – 2 bedroom market rate apartments, event halls, and 375+ parking spots located at 1702 1st Avenue North.

The Developer estimates the construction will be completed in the Fall of 2022 with occupancy immediately following. The Developer has requested TIF assistance in the amount of 1,500,000 to complete the project.

Assistance Request

The Developer is requesting assistance in the form of tax increment financing under the City's Tax Increment Financing Policy. The Policy provides public assistance to a development through tax increment financing for private development. According to Policy #3, the maximum TIF assistance is 15 years and the Developer is asking for a 10-year exemption.

Requested Reimbursement

Below is the detailed requested cost of the proposed project to be reimbursed.

Property Acquisition	$971,639
Demolition & Site Clearing/Grading	241,650
Enhanced Structural System Due to Poor Soils	101,600
Public Works Improvements	118,750
Legal and TIF Fees	71,682
Total Requested Cost to be Reimbursed	**$1,505,321**

The Developer is requesting a total of approximately $1,500,000 of costs to be reimbursed.

Policy #8

Policy #8 limits the TIF assistance to 15% of hard construction costs, including the costs of acquisition. Based on total hard construction costs of $15,152,605 the Developer can receive up to $2,272,891. The Developer is requesting $1,500,000 which is well below the maximum allowed. Policy #8 also states that the Developer must provide at least 10% of total capital costs as Developer's equity in the project. It is estimated the Developer will contribute $3,840,000 as equity which is 20% of the total capital costs.

Land Cost

The Developer states the purchase price to acquire the property for the project is $1,250,000 including the land value at $309,000. The price is based on the actual purchase agreement of the property. Land acquisition is reimbursable under the Policy. The Developer is requesting to be reimbursed $971,639 for the land acquisition which complies with Policy #5.

Policy #6

The Policy states that the maximum eligible land costs to be recouped by the Developer should be limited to the lesser of:

1.) **The total acquisition cost for the property, provided that the acquisition cost is no more than 150% of the assessor's market value of the property.** The Developer's cost to acquire the property is $1,250,000. The assessor's market value for the property totals $1,134,400. The eligible amount for reimbursement is 150% of $1,134,400 which totals $1,701,600. The Developer's reimbursement request of $971,639 is within the allowable reimbursable amount under this policy.

2.) **The difference between what was paid by the Developer for the property less the assessor's market value for the land (as opposed to land and buildings).** The current assessor's land value is $309,000. Based on an acquisition price of $1,250,000 the maximum reimbursement is $941,000.

The lesser of the two tests detailed above is $941,000. The requested reimbursement for land acquisition of $971,639 is slightly above the allowable amount of $941,000 under Policy #6.

Policy #3

Policy #3 states the length of the term will be limited to 15 years or less. The Developer is requesting reimbursement for 10 years.

TIF Estimate

PFM estimates that $1,957,383 of TIF will be generated over the 10 years assuming a 1.50% market growth rate. Based on a discount rate of 4.00%, the present value of the estimated TIF cash flow is $1,563,939. PFM's analysis assumes the Developer receives a maximum of $1,500,000 on a present value basis so the final year would be a partial collection of the estimated available TIF.

Project Financing

The Developer is investing 20% equity, or $3,840,000, and will be privately financing $15,360,000. The Developer is additionally requesting annual TIF assistance in the total amount of approximately $1,500,000. The private financing is estimated to be a 20-year loan with an estimated interest rate of 4.00% resulting in an annual principal and interest payment of $1,130,216. The application states the project will be completed by the Fall of 2022.

Return Analysis

In calculating the internal rate of return, PFM first analyzed the Developer's capitalization rate assumption of 7.25% which is how the annual lease payments of $1,450,000, the Developer's only source of revenue for the project, was calculated. To ensure a reasonable capitalization rate was used, PFM estimated the annual revenues from the hotel, apartments, event spaces, and market assuming the following:

Hotel		**Apartments**	
Average Room Rate	$150/night	Rent	$1,050 - $1,500
Occupancy	45%	Occupancy	92.5%
Retail Market		**Event Space**	
Rent/Sq. Ft.	$17.50	Rent/Sq. Ft.	$17.50
Occupancy	90%	Occupancy	30%

The Developer has proposed a reasonable amount for rent for the current market and location. PFM estimated the average hotel rate. Operating expenses are being passed through to the lessee so PFM did not analyze those. Based on these assumptions the operator can expect approximately $1,330,000 in annual revenue. This amount is approximately $100,000 below what the Developer has estimated as payment from the operator. This is a little concerning, but the Developer is taking the risk. If the amount they receive from the operator is less than what the Developer is estimating then that only enhances the need for TIF. The real concern would be if the estimate of the operator's revenue was well *above* the Developer's estimate of $1,450,000, however, this is not the case.

Once the capitalization rate was determined to be reasonable, an internal rate of return was calculated over a 10-year period. PFM determined that without TIF assistance the Developer would have about a 8.46% internal rate of return based on 10 years. The Developer would have about a 16.15% internal rate of return for 10 years if it received the public assistance up to $1,500,000. A reasonable rate of return for the proposed project is 15% - 20%.

Another measure of feasibility and project viability is the debt coverage ratio. PFM has projected a maximum debt coverage ratio in Year 2 of 1.07x without assistance, with a Year 5 coverage of 1.06x. If the City provided assistance to the project the maximum debt coverage is projected to be approximately 1.42x through the 10-year term. The Developer has stated the lender for the private financing requires a minimum of a 1.20x coverage which is a common minimum requirement by lenders.

Using PFM's "without assistance" cash flow as the base scenario, PFM ran sensitivity analyses in order to determine if the project would be likely to occur without public assistance. For the first sensitivity analysis, PFM analyzed how much project funds would have to decrease in order to produce a reasonable internal rate of return. We also looked at how much the rental rates would have to fluctuate in order to achieve a reasonable internal rate of return. Lastly, we looked at a combination of the two scenarios. For the sensitivity analyses, we assumed a reasonable internal rate of return of 17.50%.

Sensitivity Scenario 1 – Project Costs

The project would have to be reduced by $2,670,000 or 13.9% in order for the project to become viable without assistance. This reduces the amount to be financed from $15,360,000 to $13,244,000 and reduces the annual payment from $1,130,216 to $973,045 for the loan. It is unlikely that a reduction in project costs of this magnitude would occur at this stage in the development.



Sensitivity Scenario 2 – Rental Rates / Lease Revenue

In order for the project to be viable without public assistance, the lease revenue received from the operator would have to increase by 21.8%. PFM believes this is a high increase and is unlikely especially since PFM's estimate of available revenues to be paid to the Developer is below the Developer's estimate.

Sensitivity Scenario 3 – Combination of Project Costs and Lease Revenue

The final scenario looks at both a reduction of project costs and an increase in lease revenue. The analysis showed that project costs would have to be reduced by $1,400,000 or 7.3% and the lease revenue would have to increase by 10.3%. While either of these events could occur, PFM does not believe they are likely to occur at this point in the process, especially together. Again, it should be noted that PFM's estimate of available lease revenue is below the Developer's estimate so it is even more unlikely that the lease revenue increases by 10.3% from the Developer's estimate.

The above scenarios show the circumstances in which the project would become viable without public assistance. PFM has determined that the project is unlikely to occur "but-for" the public assistance.



Conclusion

The Developer will bear all the risk involved with the project. The Developer is dependent on a number of factors before and after the project is completed, including project costs, occupancy of the buildings, the apartment, retail, venue, and hotel markets. The base scenario without assistance along with the sensitivity analyses demonstrates that the project would be unlikely to be feasible without assistance.

PFM has calculated that with public assistance, and based on the assumptions outlined in this report, a 10-year internal rate of return is estimated to be 16.15%. In addition, the coverage ratio in Year 5 is estimated to be 1.42x. The estimated internal rate of return is on the lower end given the risk level for this type of project but is still within an acceptable range. Based on the internal rate of return and the coverage requirements, PFM concludes the project would not be feasible without public assistance.

DEVELOPER AGREEMENT

By and Between

CITY OF FARGO, NORTH DAKOTA

And

PS Holdings, LLC

TABLE OF CONTENTS
(continued)

ARTICLE X Additional Provisions 24
Section 10.1. Titles of Articles and Sections 24
Section 10.2. Notices and Demands 24
Section 10.3. Counterparts 24
Section 10.4. Law Governing 24
Section 10.5. No Filing of Agreement 24
Section 10.6. Modification 24
Section 10.7. Legal Opinions 24
Section 10.8. Approvals; Officer Action 25

ARTICLE XI Termination of Agreement; Expiration 26
Section 11.1. City's Option to Terminate 26
Section 11.2. Expiration 26
Section 11.3. Effect of Termination or Expiration 26
Section 11.4. No Third Party Beneficiaries 26
Section 11.5. Intentionally left blank 26

EXHIBIT A – LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY A-1
EXHIBIT B – INTENTIONALLY OMITTED B-1
EXHIBIT C – FORM OF TAX INCREMENT NOTE C-1
EXHIBIT D –INTENTIONALLY OMITTED D-1
EXHIBIT E –INTENTIONALLY OMITTED E-1
EXHIBIT F – FORM OF CERTIFICATION F-1
EXHIBIT G – INTENTIONALLY OMITTED G-1
EXHIBIT H – FORM OF LEGAL OPINION OF DEVELOPER'S COUNSEL H-1

"Developer Tax Increments" means the portion of Developer's Taxes which constitutes Tax Increments, or the portion of Tax Increments derived from Developer's Taxes.

"Developer's Taxes" means taxes paid with respect to the portions of the Development Property and Improvements completed by the Developer.

"Development Costs" means those costs incurred and to be incurred by or on behalf of the Developer in acquiring the Development Property, in completing the Improvements and in financing those undertakings (including all interest charges on borrowed funds.

"Development Plan" means the Developer's development plan for the Development Property approved by the City on May 17, 2021 including all exhibits thereto, as the same may be amended from time to time.

"Development Property" means the real property described in Exhibit A to this Agreement.

"Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. sec. 96.01 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. sec. 69.01 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. sec. 1802 et seq., the Toxic Substances Control Act, 15 U.S.C. sec. 2601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. sec. 1251 et seq., the Clean Water Act, 33 U.S.C. sec. 1321 et seq., the Clean Air Act, 42 U.S.C. sec. 7401 et seq., , and any other federal, state, county, municipal, local or other statute, law, ordinance or regulation which may relate to or deal with human health or the environment, all as may be from time to time amended.

"Event of Default" means an event of default defined in Section 9.1 of this Agreement.

"Hazardous Substances" means asbestos, ureaformaldehyde, polychlorinated biphenyls ("PCBs"), nuclear fuel or material, chemical waste, radioactive material, explosives, known carcinogens, petroleum products and by-products and other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law.

"Improvements" means the improvements constructed or to be constructed by the Developer on the Development Property, including all related landscaping, lighting, parking, and other site improvements. The Improvements may exceed, but shall not be less than, the Minimum Improvements, as provided in Section 4.1

"Maturity Date" means December 31, 2033.

"Minimum Improvements" means the improvements contemplated by and in accordance with this Agreement and generally described in Section 4.1. The Improvements may exceed, but shall not be less than, the Minimum Improvements, as provided in Section 4.1.

"Mortgage" means any mortgage or security agreement in which the Developer has granted a Mortgage or other security interest in the Development Property, or any portion or

ARTICLE II

Representations, Warranties and Covenants

Section 2.1. **Representations, Warranties and Covenants by City**. The City represents and warrants that:

(a) The City has received the approval of its Board of City Commissioners to enter into and perform its obligations under this Agreement.

(b) The City herein makes no representation or warranty, either express or implied, as to the Development Property or its condition or the soil conditions thereon or that the Development Property shall be suitable for the Developer's purposes or needs.

Section 2.2. **Representations, Warranties and Covenants by Developer**. The Developer represents and warrants that:

(a) The Developer is a limited liability company duly organized and in good standing under the laws of the State of North Dakota, is not in violation of any provisions of its bylaws or articles of organization or the laws of the State of North Dakota and is authorized to enter into and perform its obligations under this Agreement.

(b) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented or limited by and will not conflict with or result in a breach of any provision or requirement applicable to the Developer or of any provision of any evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound.

(c) The Developer, with respect to its construction, operation and maintenance of the Improvements upon the Development Property, will cause the same to occur in accordance in all material respects with this Agreement and all local, state and federal laws and regulations (including without limitation environmental, zoning, building code and public health laws and regulations and including any relocation requirements under local, state or federal law).

(d) The Developer has received no notice or communication from any local, state or federal official or body that any activities of the Developer respecting the Development Property contemplated by this Agreement, including the construction of the Improvements on the Development Property, may be or will be in violation of any law or regulation.

(e) The Developer will use its reasonable efforts to obtain, in a timely manner, all required permits, licenses and approvals, and to meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Improvements may be lawfully constructed and completed.

(f) To the best knowledge and belief of the Developer, the construction of the Improvements on the Development Property within the reasonably foreseeable future is

(p) As of the Closing Date, the City shall be satisfied in its reasonable judgment that the Developer has firm arrangements for financing construction or acquisition of the Project in an amount sufficient, together with equity commitments, to complete the Project in conformance with such Construction Plans, or the City shall receive such other evidence of financial ability as in the reasonable judgment of the City is required.

(q) As of the Closing Date, the Developer shall have obtained an opinion from its independent legal counsel that this agreement is in accordance with North Dakota state law, including the provisions of N.D.C.C. Chapter 40-58, and is a binding and enforceable agreement.

(r) As of the Closing Date, the Developer has marketable record title to Developer's Property free and clear of any encumbrances or lienholders except as provided in Article VII of this Agreement or, to the extent Developer does not have marketable record title, Developer has obtained from the person, firm or entity having such title an agreement [hereinafter referred to as an "Agency Agreement"] authorizing Developer to develop Developer's Property as contemplated by this agreement and authorizing Developer to enter into this Agreement, said Agency Agreement to be in a form approved by the City.

Per Annum to be paid to Developer under the Tax Increment Note. All of the said costs, and interest, meet the representation set forth at Section 2.2(g) by issuing the Tax Increment Note, substantially in the form of Exhibit C to this Agreement, subject to the following conditions:

(a) There shall be one (1) Tax Increment Note. The amount of the Tax Increment Note shall be determined by adding the $1,500,000.00 (or so much thereof as shall be demonstrated as set forth in Section 3.3(d)) plus a sum equal to Capitalized Interest, for a term of ten (10) years.

(b) The Tax Increment Note shall be delivered only if no Event of Default shall have occurred and be at the time continuing.

(c) The Tax Increment Note shall be delivered upon payment to the City by Developer of those eligible costs of Improvements, described above, for the Second Component and Third Component, above-described.

(d) If the conditions set forth in subsections (a), (b) and (c) are met, the Tax Increment Note shall be dated, issued and delivered when the Certificate of Completion has been delivered and when the Developer shall have demonstrated in writing to the reasonable satisfaction of the City that the Developer has incurred and paid eligible costs of the Improvements to be borne by Developer (i.e. First Component, above-described) which will not be otherwise reimbursed or paid hereunder. Demonstration of eligible costs of Improvements up to the maximum amount of the Tax Increment Note shall be made pursuant to one or more certifications in form and substance satisfactory to the City that all or a portion of the costs of the Improvements have been incurred, together with lien waivers and evidence satisfactory to the City of the nature and amount of the costs of the Improvements and of the costs incurred by the Developer. Each certification shall demonstrate the specific purpose and amount of the costs of the Improvements and their compliance with the representation set forth at Section 2.2(g). The City's determination of a cost's compliance with the representation set forth at Section 2.2(g) shall, if based on the advice of its bond counsel after consultation with the Developer or its counsel, be conclusive. Added to the eligible costs of the Improvements to be borne by Developer (i.e. First Component, above-described) shall be the eligible costs of the Improvements to be borne by the City (i.e. Second Component and Third Component) that are to be reimbursed by Developer to the City prior to issuance of the Tax Increment Note. The delivery of the Tax Increment Note itself constitutes reimbursement of expenditures in an amount equal to the principal amount of the Tax Increment Note; there are no monetary proceeds received by Developer upon delivery of the Tax Increment Note.

(e) Subject to the provisions of the Tax Increment Note, the principal of and interest on the Tax Increment Note shall in the aggregate be payable on each May 1 and November 1, commencing on the May 1 after completion of the project, issuance of the certificate of completion and Tax Increment Note, and continuing through the Maturity Date (the "Payment Dates"), in the amount described in this subsection. The sole source of funds available for payment of the City's obligations to the Developer under this Section shall be the Tax Increment Note (a non-cash source), and the sole source of funds available for payment of the Tax Increment Note shall be the Available Tax Increments. The amounts otherwise payable on the

(b) Except for any willful misrepresentation or any willful or wanton misconduct or negligence of the Indemnified Parties, the Developer agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever brought prior to the issuance of a Certificate of Completion and arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Improvements; provided that this indemnification shall not apply to the warranties made or obligations undertaken by the City in this Agreement.

(c) The Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Project due to any act of negligence of any person, other than any act of negligence on the part of any such indemnified party or its officers, agents, servants or employees.

(d) All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any governing body member, officer, agent, servant or employee of the City.

(e) This Agreement shall not create nor be construed to create any partnership, joint venture, agency, or employment relationship between the Parties.

Section 3.5. Intentionally left blank.

Section 3.6. **Use of Tax Increments.**

The City receives the Tax Increments generated by the TIF District from the County. The City may use Tax Increments which are not Developer Tax Increments for any purpose permitted by law. Developer Tax Increments shall be used on any date of application for the following purposes in the following order of priority: to make payments on the Tax Increment Note; and, after payment of the City Development Costs and Tax Increment Note in full, to pay or reimburse redevelopment costs identified by the City and to pay other eligible expenses for other projects that may be approved for the TIF District, from time to time, by the governing body of the City.

Section 4.4. **Certificate of Completion**. Promptly after completion of the Minimum Improvements in accordance with the provisions of this Agreement, the City will furnish the Developer with a Certificate of Completion, in substantially the form set forth in Exhibit F attached hereto. Such Certificate of Completion shall be a conclusive determination that the Developer has fulfilled the obligations of the Developer, and its successors and assigns, to construct the Minimum Improvements.

The Certificate of Completion shall be in a form recordable in the proper office for the recordation of deeds and other instruments pertaining to the Development Property. If the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 4.4, the City shall, within twenty (20) days after written request by the Developer, provide the Developer with a written statement indicating in adequate detail in what respects the Developer has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what measures or acts it will be necessary, in the opinion of the City, for the Developer to take or perform in order to obtain such Certificate of Completion.

ARTICLE VI

Intentionally left blank.

(a) the fact of the default;

(b) the elements of the default; and

(c) the actions required to cure the default.

If the default is an "Event of Default" under such Mortgage, which shall entitle such holder thereof to foreclose upon the Development Property covered by the Mortgage or any portion thereof, the Developer shall afford the City an opportunity to cure the "Event of Default" to the extent consistent with the Mortgage or permitted by the holder of the Mortgage upon request of the Developer, which request the Developer hereby covenants to make, within the time for cure provided by the Mortgage or within such longer reasonable time period as the holder shall deem appropriate. The City shall have no obligation to cure any such default.

the remaining obligations of the Developer under this Agreement and agreed to be subject to all the conditions and restrictions to which the Developer is subject (unless the Developer agrees to continue to fulfill those obligations, in which case the preceding provisions of this Section 8.2(b)(ii) shall not apply); provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the City) deprive the City of any rights or remedies or controls with respect to the Development Property or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Minimum Improvements that the City would have had, had there been no such transfer or change. In the absence of specific written approval by the City to the contrary, no such transfer or approval by the City thereof shall be deemed to relieve the Developer, or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Minimum Improvements, from any of its obligations with respect thereto.

(iii) There shall be submitted to the City for review and prior written approval all pertinent instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article VIII.

(c) Upon the furnishing of a Certificate of Completion pursuant to Section 4.4, notwithstanding any provisions to the contrary in this Article VIII, the Developer may sell or transfer such property or a portion thereof without any approval pursuant to Section 8.2(a) or (b).

Section 8.3. **Approvals**. Any approval of a transfer of interest in the Developer, this Agreement, or the Development Property or of a release of the Developer from its obligations hereunder required to be given by the City under this Article VIII may be denied only in the event that the City reasonably determines that the ability of the Developer to perform its obligations under this Agreement and its statutory duty, as owner, to pay ad valorem real property taxes assessed with respect to the Development Property, or any part thereof, or the overall financial security provided to the City under the terms of this Agreement, or the likelihood of the Minimum Improvements being successfully constructed and operated pursuant to the terms of this Agreement, will be materially impaired by the action for which approval is sought.

if the Event of Default has not been cured within said sixty (60) days, or, if the Event of Default cannot be cured within sixty (60) days, the Developer does not provide assurances to the City reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible, terminate this Agreement, without further obligation whatsoever hereunder to the Developer.

Notwithstanding anything to the contrary stated in this Agreement, the City shall not exercise any remedies at law or in equity or under this Agreement upon an Event of Default by the Developer, other than the City's right to suspend its performance under this Agreement, until after provision of sixty (60) days written notice to the Developer of the Event of Default, but only if the Event of Default has not been cured within said sixty (60) days, or, if the Event of Default cannot be cured within sixty (60) days, the Developer does not provide assurances to the City reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible.

As a remedy for an Event of Default:

(a) The City may suspend or terminate payments on the Tax Increment Note, if the Event of Default is a Specified Event of Default.

(b) The City may withhold a Certificate of Completion.

(c) The City may take any action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, to recover any damages or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

Section 9.3. **No Remedy Exclusive.** No remedy herein conferred upon or reserved to the either Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 9.4. **No Additional Waiver Implied by One Waiver.** If any agreement contained in this Agreement should be breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.5. **Agreement to Pay Attorneys' Fees and Expenses.** Whenever any Event of Default occurs and has not been cured within sixty (60) days and the City shall employ attorneys or incur other expenses for the enforcement, performance or observance of any obligations or agreement on the part of the Developer contained herein, or for the identification and/or pursuit of any remedies or possible workouts of such default, the Developer agrees that it shall, on demand therefor, pay to the City the reasonable fees of such

ARTICLE X

Additional Provisions

Section 10.1. **Titles of Articles and Sections.** Any titles of the several parts, Articles and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions hereof.

Section 10.2. **Notices and Demands.** Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under this Agreement by either Party to the other shall be sufficiently given or delivered if sent by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and,

(a) in the case of the Developer, to PS Holdings, LLC, 1666 1st Ave N, Fargo, North Dakota 58102, and

(b) in the case of the City, to the City at 225 4th Street North, North Dakota 58102, Attention: Director of Planning and Development;

or at such other address with respect to either such Party as that Party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 10.3. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall constitute an original hereof.

Section 10.4. **Law Governing.** The Parties agree that this Agreement shall be governed and construed in accordance with the laws of the State of North Dakota.

Section 10.5. **No Filing of Agreement.** The Parties agree that this Agreement shall not be filed against the Development Property, and each Party agrees that if it shall inadvertently cause or suffer this Agreement to be so filed, it will take such actions as may be necessary to remove, satisfy and render ineffective any such filing.

Section 10.6. **Modification**. If the Developer is requested by the holder of a Mortgage or by a prospective holder of a prospective Mortgage to amend or supplement this Agreement in any manner whatsoever, the City will, in good faith, consider the request with a view to granting the same unless the City, in its reasonable judgment, concludes that such modification is not in the public interest, or will significantly and undesirably weaken the financial security provided to the interests of the City by the terms and provisions of this Agreement.

Section 10.7. **Legal Opinions**. Upon execution of this Agreement, each party shall, upon request of the other parties, supply the other parties with an opinion of its legal counsel to the effect that this Agreement is legally issued or executed by, and valid and binding upon, such party, and enforceable in accordance with its terms.

ARTICLE XI

Termination of Agreement; Expiration

Section 11.1. **City's Option to Terminate.** As provided and under the conditions specified in Section 9.2, the City may terminate this Agreement if an Event of Default shall have occurred hereunder and be continuing. Nothing in that or in this Section shall affect the City's right, should the City not so elect to terminate this Agreement and as recourse against the Developer, to insist on performance hereunder by the Developer.

Section 11.2. **Expiration.** This Agreement shall expire when the Tax Increment Note is paid in full or, if earlier, on the Maturity Date.

Section 11.3. **Effect of Termination or Expiration.** No termination or expiration of this Agreement pursuant to the terms hereof shall terminate (i) any rights or remedies of the City arising hereunder due to an Event of Default, or of the Developer arising hereunder due to a breach of this Agreement by the City, occurring prior to such termination or expiration or (ii) the provisions of Sections 3.5, 3.6 and 9.7 hereof.

Section 11.4. **No Third Party Beneficiaries.** There shall, as against the City, be no third party beneficiaries to this Agreement. More specifically, the City enters into this Agreement, and intends that the consummation of the City obligations contemplated hereby shall be, for the sole and exclusive benefit of the Developer, and notwithstanding the fact that any other "persons" may ultimately participate in or have an interest in the Improvements, the City does not intend that any party other than the Developer shall have, as alleged third party beneficiary or otherwise, any rights or interests hereunder as against the City, and no such other party shall have standing to complain of the City's exercise of, or alleged failure to exercise, its rights and obligations, or of the City's performance or alleged lack thereof, under this Agreement.

Execution Page to Developer Agreement between the above-named Party and PS Holdings, LLC

PS Holdings, LLC

By _____,
Kevin J. Bartram, President

[Execution Page to Developer Agreement between the City of Fargo, North Dakota, and the above-named Party.]

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

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Kevin J. Bartram, the President of PS Holdings, LLC, a North Dakota limited liability company, on behalf of said company.

_____
Notary Public

EXHIBIT B

INTENTIONALLY LEFT BLANK.

was the Registered Owner of the Note at the close of the last business day of the City preceding such Payment Date an amount equal to the lesser of (1) the Available Tax Increments received within the 6-month period preceding said Payment Date, and (2) the sum of (i) the accrued and unpaid interest on the Note and (ii) the aggregate amount of the unpaid principal of the Note. The City shall have the option at any time to prepay in whole or in part the principal amount of this Note at par plus accrued interest. All payments made by the City under this Note shall be applied first to pay accrued and unpaid interest on this Note and second toward payment of principal hereof.

Redemption. In addition to the amounts of principal required to be paid by the City as hereinabove set forth, the City shall have the right to prepay on any date the entire principal amount hereof then remaining unpaid, or such lesser portion thereof as it may determine upon, in multiples of $1,000, at par plus accrued interest. Notice of any such optional prepayment shall be given prior to the prepayment date by mailing to the registered owner of this Note a notice fixing such prepayment date and the amount of principal to be prepaid.

Available Tax Increments. "Available Tax Increments" are defined in the Developer Agreement as follows:

> "Developer Tax Increments minus the reasonable and not theretofore reimbursed actual expenses incurred by the City in establishing and maintaining the TIF District, in preparing and implementing this Agreement, and in general in administering the TIF District and this Agreement and any supplements hereto and in participating in the actions or transactions contemplated thereby and hereby."

In addition, "Developer Tax Increments" are defined in the Developer Agreement as follows:

> "the portion of Developer's Taxes which constitutes Tax Increments, or the portion of Tax Increments derived from Developer's Taxes."

In addition, Section 3.6 of the Developer Agreement provides as follows:

" The City receives the Tax Increments generated by the TIF District from the County. The City may use Tax Increments which are not Developer Tax Increments for any purpose permitted by law. Developer Tax Increments shall be used on any date of application for the following purposes in the following order of priority:

> (a) to make payments on the Tax Increment Note; and,
>
> (b) after payment of the City Development Costs and Tax Increment Note in full, to pay or reimburse redevelopment costs identified by the City and to pay other eligible expenses for other projects that may be approved for the TIF District, from time to time, by the governing body of the City.

Any registered owner desiring to effect a transfer shall, and does hereby, agree to indemnify the City against any liability, cost or expense (including attorneys' fees) that may result if the transfer is not so made.

Registration; Transfer. This Note shall be registered in the name of the payee on the books of the City by presenting this Note for registration to the officer of the City performing the functions of the Treasurer, who will endorse his or her name and note the date of registration opposite the name of the payee in the certificate of registration on the reverse side hereof. Thereafter this Note may be transferred to a bona fide purchaser who is a permitted transferee only by delivery with an assignment duly executed by the registered owner or his, her or its legal representative, and the City may treat the registered owner as the person exclusively entitled to exercise all the rights and powers of an owner until this Note is presented with such assignment for registration of transfer, accompanied by assurance of the nature provided by law that the assignment is genuine and effective, and until such transfer is registered on said books and noted hereon by the Treasurer of the City.

Developer Agreement. The terms and conditions of the Developer Agreement are incorporated herein by reference and made a part hereof. The Developer Agreement may be attached to this Note, and shall be attached to this Note if the holder of this Note is any person other than PS Holdings, LLC. No payments will be made on this Note during such time as there is a Specified Event of Default under the Developer Agreement which has not been cured by the Developer.

Taxable Obligation. This Note is intended to bear interest that is included in the gross income of the owner.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and laws of the State of North Dakota to be done, to happen and to be performed, precedent to and in the issuance of this Note, have been done, have happened and have been performed, in regular and due form, time and manner as required by law; and that this Note, together with all other debts of the City outstanding on the date hereof, being the date of its actual issuance and delivery, does not exceed any constitutional or statutory limitation of indebtedness.

CERTIFICATE OF REGISTRATION

The transfer of ownership of the principal amount of the attached Note may be made only by the registered owner or his, her or its legal representative last noted below.

DATE OF REGISTRATION	REGISTERED OWNER	SIGNATURE OF AUTHORITY'S TREASURER
	PS Holdings, LLC	
_____, 2021	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

EXHIBIT E

INTENTIONALLY LEFT BLANK.

EXHIBIT G

INTENTIONALLY LEFT BLANK.

of, or in default under, the articles of organization, member control agreement or operating agreement of the Company or any indenture, mortgage, deed of trust, indebtedness, agreement, judgment, decree, order, statute, rule, regulation or restriction to which the Company is a party or by which it or its property is bound or subject, and do not constitute a loan to the Company.

3. The undersigned has provided an opinion to the Company that the Development Agreement is in accordance with North Dakota state law, including N.D.C.C. Chapter 40-58, and is a binding and enforceable agreement. A copy of such opinion, fully dated and executed, is in turn attached to this opinion.

Very truly yours

THE CITY OF Fargo
FAR MORE

FINANCE OFFICE
PO Box 2083
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1333 | Fax: 701.476.4188
www.FargoND.gov

40a

TO: BOARD OF CITY COMMISSIONERS

FROM: KENT COSTIN, DIRECTOR OF FINANCE KAC

RE: RESOLUTION PLEDGING AND DEDICATING ONE HUNDRED PERCENT (100%) OF THE CITY 3-21 SALES TAX; ONE HUNDRED PERCENT (100%) OF THE CITY 3-22 SALES TAX; AND TWENTY FIVE PERCENT (25%) OF THE ONE CENT ($0.01) 3-20 CITY SALES TAX TO THE METRO FLOOD DIVERSION AUTHORITY

DATE: MAY 10, 2021

John Shockley, legal counsel for the FM Diversion Authority is requesting your approval of a resolution related to the long term financing of the project. The attached resolution pledges certain sales tax revenues currently in place to the project, and ratifies and approves this issuance and defeasance of long-term debt associated with the project.

John will provide a short presentation and will be available for any questions you may have relating to this request prior to approving the suggested motion.

Suggested Motion:

I move to approve the City Pledge resolution in substantially the form presented to Fargo City Commission on May 17, 2021 with any non-substantive changes deemed necessary by the Assistant City Administrator, City Finance Director and Bond Counsel for the Transaction.

RESOLUTION PLEDGING AND DEDICATING ONE HUNDRED PERCENT (100%) OF THE CITY 3-21 SALES TAX; ONE HUNDRED PERCENT (100%) OF THE CITY 3-22 SALES TAX; AND TWENTY-FIVE PERCENT (25%) OF THE ONE CENT ($0.01) CITY 3-20 SALES TAX TO THE METRO FLOOD DIVERSION AUTHORITY

("CITY PLEDGE RESOLUTION")

CITY OF FARGO, NORTH DAKOTA

Adopted: May 17, 2021

This instrument was drafted by:
Ohnstad Twichell, P.C.
John T. Shockley
P.O. Box 458
West Fargo, North Dakota 58078

Initial Draft Issuance:

V-1:	August 28, 2020
V-2:	December 16, 2020
V-3:	January 29, 2021
V-4:	February 4, 2021
Near Final:	March 26, 2021

TABLE OF CONTENTS

ARTICLE I. DEFINITIONS **3**

SECTION 1.01 DEFINITIONS 3

ARTICLE II. PLEDGE AND DEDICATION BY THE CITY OF FARGO **4**

SECTION 2.01 PLEDGE AND DEDICATION 4

ARTICLE III. AUTHORITY FINANCING OF COMPREHENSIVE PROJECT **4**

SECTION 3.01 AUTHORIZATION 4

ARTICLE IV. RATIFICATION AND CONFIRMATION **4**

SECTION 4.01 RATIFICATION AND CONFIRMATION 4

ARTICLE V. WELLS FARGO CREDIT FACILITY **5**

SECTION 5.01 WELLS FARGO CREDIT FACILITY 5
SECTION 5.02 CITY 2017 LOAN AGREEMENT 5
SECTION 5.03 INTERGOVERNMENTAL AGREEMENTS 5
SECTION 5.04 TERMINATION OF INTERGOVERNMENTAL AGREEMENT 5
SECTION 5.05 EVIDENCE OF TERMINATION AND CANCELLATION OF INTERGOVERNMENTAL AGREEMENT 5

ARTICLE VI. AUTHORIZATION OF WIFIA LOAN **6**

SECTION 6.01 AUTHORIZATION TO ISSUE WIFIA LOAN 6

ARTICLE VII. APPROVAL AND CONSENT OF WIFIA LOAN **6**

SECTION 7.01 APPROVAL AND CONSENT OF WIFIA LOAN 6

ARTICLE VIII. AUTHORIZATION OF USACE WIFIA LOAN **6**

SECTION 8.01 AUTHORIZATION OF USACE WIFIA LOAN 6

ARTICLE IX. APPROVAL AND CONSENT OF USACE WIFIA LOAN **6**

SECTION 9.01 APPROVAL AND CONSENT OF USACE WIFIA LOAN 6

ARTICLE X. AUTHORIZATION OF SALES TAX REVENUE BONDS **7**

SECTION 10.01 AUTHORIZATION OF SALES TAX REVENUE BONDS 7

ARTICLE XI. APPROVAL AND CONSENT OF SALES TAX REVENUE BONDS **7**

SECTION 11.01 APPROVAL AND CONSENT OF SALES TAX REVENUE BONDS 7

ARTICLE XII. AUTHORIZATION OF SRF LOANS **7**

SECTION 12.01 AUTHORIZATION OF SRF LOAN 7

ARTICLE XIII. APPROVAL AND CONSENT OF SRF LOANS **7**

SECTION 13.01 APPROVAL AND CONSENT OF SRF LOANS 7

ARTICLE XIV. LIMITED OBLIGATION 8

SECTION 14.01 LIMITED OBLIGATION 8

ARTICLE XV. IRREPEALABLE PLEDGE AND DEDICATION OF THE CITY PLEDGED REVENUES 8

SECTION 15.01 PLEDGE OF CITY 3-20 SALES TAX 8
SECTION 15.02 PLEDGE OF CITY 3-21 SALES TAX 8
SECTION 15.03 PLEDGE OF CITY 3-22 SALES TAX 8
SECTION 15.04 DEPOSIT OF THE CITY 3-20 SALES TAX, CITY 3-21 SALES TAX, AND CITY 3-22 SALES TAX REVENUES 8
SECTION 15.05 IRREPEALABILITY OF PLEDGE OF CITY 3-20 SALES TAX 9
SECTION 15.06 IRREPEALABILITY OF PLEDGE OF CITY 3-21 SALES TAX 9
SECTION 15.07 IRREPEALABILITY OF PLEDGE OF CITY 3-22 SALES TAX 9

ARTICLE XVI. ACKNOWLEDGMENT OF FUNDS 9

SECTION 16.01 USE OF THE CITY 3-20 SALES TAX, CITY 3-21 SALES TAX, AND CITY 3-22 SALES TAX 9

ARTICLE XVII. TRUSTEE AS FIDUCIARY PURSUANT TO THE TERMS AND CONDITIONS OF THE MASTER INDENTURE OF TRUST 9

SECTION 17.01 MASTER INDENTURE OF TRUST 9
SECTION 17.02 TRUSTEE AS A FIDUCIARY 10
SECTION 17.03 ENFORCEMENT OF THIRD PARTY RIGHTS. 10

ARTICLE XVIII. THIRD-PARTY BENEFICIARIES 10

SECTION 18.01 DEVELOPER AS THIRD-PARTY BENEFICIARY 10
SECTION 18.02 HOLDERS OF DEBT OBLIGATIONS AS THIRD-PARTY BENEFICIARIES 10
SECTION 18.03 ENFORCEMENT OF THIRD PARTY RIGHTS 10
SECTION 18.04 ADDITIONAL RIGHTS 10

ARTICLE XIX. TERM AND TERMINATION 10

SECTION 19.01 TERM. 10
SECTION 19.02 TERMINATION. 11

ARTICLE XX. CITY COVENANTS 11

SECTION 20.01 COVENANTS 11
SECTION 20.02 ENFORCEMENT AND PERFORMANCE OF COVENANTS 11
SECTION 20.03 NO OTHER PLEDGE 11

ARTICLE XXI. CONFLICT OF TERMS 11

SECTION 21.01 CONFLICTING TERMS 11

ARTICLE XXII. MISCELLANEOUS 12

SECTION 22.01 SEVERABILITY 12
SECTION 22.02 AMENDMENTS 12

SECTION 22.03 HEADINGS 12
SECTION 22.04 NORTH DAKOTA LAW APPLIES 12
SECTION 22.05 ELECTRONIC SIGNATURES 12
SECTION 22.06 EFFECTIVE DATE 12

SIGNATURE PAGE **S-1**

EXHIBIT A - INTERGOVERNMENTAL AGREEMENTS AND PLEDGE TERMINATION CERTIFICATE

Commissioner _____ introduced the following resolution and moved for its adoption:

RESOLUTION NO. 2021 -___

RESOLUTION PLEDGING AND DEDICATING ONE HUNDRED PERCENT (100%) OF THE CITY 3-21 SALES TAX; ONE HUNDRED PERCENT (100%) OF THE CITY 3-22 SALES TAX; AND TWENTY-FIVE PERCENT (25%) OF THE ONE CENT ($0.01) CITY 3-20 SALES TAX TO THE METRO FLOOD DIVERSION AUTHORITY

WHEREAS, pursuant to and in accordance with Chapters 11-09.1 and 40-05.1 of the North Dakota Century Code, North Dakota cities which have previously adopted a home rule charter may impose, levy, and collect sales and use tax upon all retail sales occurring within the boundaries of the respective county or city; and

WHEREAS, the electorate of the City of Fargo, North Dakota, (the "City of Fargo" or "City") has adopted a home rule charter in accordance with Chapter 40-05.1 of the North Dakota Century Code and authorized the City of Fargo to impose, levy, and collect sales and use tax; and

WHEREAS, the City of Fargo is a Member Entity of the Authority and is authorized by Article XI of the JPA to cooperate in the issuance of Debt Obligations for the Comprehensive Project; and

WHEREAS, the Authority will be the entity issuing Debt Obligations to finance components of the Comprehensive Project which includes the U.S. EPA WIFIA Loan (the "WIFIA Loan"), the USACE WIFIA Loan (the "USACE WIFIA Loan"), the North Dakota State Revolving Fund Loans (the "SRF Loans"), Sales Tax Revenue Bonds, and Additional Revenue Bonds; and

WHEREAS, pursuant to Article IX of the JPA, the Authority has multiple sources of Pledged Revenues to provide funding for the Comprehensive Project. The Authority will use Net Pledged Revenues consisting of City sales and use taxes to fund payments due under the Authority Loan Agreements, the USACE WIFIA Loan, Sales Tax Revenue Bonds, Additional Revenue Bonds, and the Project Agreement; and

WHEREAS, the JPA gives the Authority and the Member Entities broad authority to levy and collect sales and use tax for the payment of Authority Loans, Debt Obligations, Milestone Payments, Availability Payments, and P3 Payments for the Comprehensive Project; and

WHEREAS, the City of Fargo has adopted a sales and use tax (the "City 3-21 Sales Tax") by enacting Article 3-21 of the City of Fargo Municipal Code to impose a one-half of one percent (0.5%) sales and use tax upon the gross receipts of retailers from all sales at retail, including leasing or rental of tangible personal property, within the corporate limits of the City; and

WHEREAS, the proceeds of the City 3-21 Sales Tax are dedicated for acquiring property; making, installing, designing, financing, and constructing improvements; engaging in projects that are necessary for the goal of achieving risk reduction and the ability to defend the Fargo-Moorhead

Metropolitan Area against a five hundred (500)-year flood event; and servicing bonds or other debt instruments; and

WHEREAS, the City of Fargo has not previously dedicated or pledged any portion of the City Flood Control Tax; and

WHEREAS, the City of Fargo will dedicate one hundred percent (100%) of the City 3-21 Sales Tax to the Authority as security for and for payment of debt service on the Authority Loans, Debt Obligations, and Availability Payments, Milestone Payments, P3 Payments, and all other Comprehensive Project Costs; and

WHEREAS, the City of Fargo adopted a second sales and use tax (the "City 3-22 Sales Tax") by enacting Article 3-22 of the City of Fargo Municipal Code to impose a one-half of one percent (0.5%) sales and use tax upon the gross receipts of retailers from all retail sales, including the leasing or renting of tangible personal property, within the corporate limits of the City; and

WHEREAS, the proceeds of the City 3-22 Sales Tax are dedicated for infrastructure capital improvements as selected by the Governing Body of the City, including streets and traffic management; water supply and treatment needs, including construction or expansion of water treatment facilities; water distribution system needs; sewerage treatment and collection system needs, including construction or expansion of sewage treatment facilities; and flood protection or flood risk mitigation projects and related improvements and activities; and

WHEREAS, the City of Fargo has previously issued the Prior ND Capital Program Bonds to provide funding for elements of the Comprehensive Project; and

WHEREAS, other than the dedication and pledge supporting the Prior ND Capital Program Bonds, the City of Fargo has not previously dedicated or pledged any portion of the City Infrastructure Tax; and

WHEREAS, the City of Fargo will dedicate one hundred percent (100%) of the City 3-22 Sales Tax not being utilized for debt service for the Prior ND Capital Program Bonds to the Authority to be used for the repayment of Authority Loans, Debt Obligations, and Availability Payments, Milestone Payments, and P3 Payments; and

WHEREAS, the City of Fargo and Cass County have previously issued the Wells Fargo Credit Facility; and

WHEREAS, following the approval of the Master Indenture of Trust by the Authority and Cass County Joint Water Resource District ("CCJWRD"), CCJWRD will issue its CCJWRD Series 2021A Bonds to refund and prepay the Wells Fargo Credit Facility; and

WHEREAS, the Authority, either through the issuance of Debt Obligations or through the issuance of a Definitive Refunding Improvement Bond by CCJWRD, intends to Redeem the Prior ND Capital Program Bonds; and

WHEREAS, the City of Fargo additionally imposed a sales and use tax (the "City 3-20 Sales Tax") by enacting Article 3-20 of the City of Fargo Municipal Code to impose a one percent (1%) sales and use tax upon the gross receipts of retailers from all retail sales, including the leasing or renting of tangible personal property, within the corporate limits of the City of Fargo; and

WHEREAS, proceeds of the City 3-20 Sales Tax are dedicated for such infrastructure capital improvements as the Fargo City Commission selects, including streets and traffic management; water supply and treatment needs, including construction or expansion of water treatment facilities; water distribution system needs; sewage treatment and collection system needs, including construction or expansion of sewage treatment facilities; and flood protection or flood risk mitigation projects; and

WHEREAS, the City of Fargo has not previously dedicated or pledged any portion of the City Capital Improvements Tax; and

WHEREAS, the City of Fargo will dedicate one quarter of the one percent (0.25%) City Capital Improvement Tax to the Authority to use for Authority Loans, Debt Obligations, and Availability Payments, Milestone Payments, and P3 Payments; and

WHEREAS, the City of Fargo, pursuant to Articles 3-20, 3-21, and 3-22 of the City of Fargo Municipal Code, desires to pledge and dedicate the City 3-21 Sales Tax, City 3-22 Sales Tax, and a portion of City 3-20 Sales Tax revenues (collectively, the "City Pledged Revenues") to the Authority to use to pay debt service on the WIFIA Loans, SRF Loans, USACE WIFIA Loans, Sales Tax Revenue Bonds, Additional Revenue Bonds, Maintenance Levy Improvement Bonds, Temporary Construction Loans, Temporary Refunding Improvement Bonds, Refunding Improvement Bonds, and any other Bonds issued by the Authority, and Milestone Payments, Availability Payments, and P3 Payments, and all other costs of the Comprehensive Project.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City:

ARTICLE I.
DEFINITIONS

Section 1.01 DEFINITIONS. Unless a different meaning clearly applies from the context, all capitalized terms used and not otherwise defined herein shall have the meaning given to them in the Master Indenture of Trust.

"CCJWRD Series 2021A Bonds" means the Temporary Refunding Improvement Bonds Series 2021A of the Cass County Joint Water Resource District issued by CCJWRD to refund and prepay the Wells Fargo Credit Facility.

"City of Fargo Municipal Code" means the current Municipal Code of the City of Fargo, North Dakota, which includes ordinances approved by the City Commission.

"DocuSign" means DocuSign, Inc.

"North Dakota" means the State of North Dakota.

"Tax Commissioner" means the Tax Commissioner of the State of North Dakota.

"Wells Fargo Credit Facility Redemption Date" means the Redemption Date of the Wells Fargo Credit Facility.

ARTICLE II.
PLEDGE AND DEDICATION BY THE CITY OF FARGO

Section 2.01 PLEDGE AND DEDICATION. The City of Fargo acknowledges and agrees that (i) the Authority will be the entity entering into Authority Loan Agreements, which includes the WIFIA Loan and the SRF Loans, and (ii) the Authority may issue a USACE WIFIA Loan, Sales Tax Revenue Bonds, and/or Additional Revenue Bonds to finance components of the Comprehensive Project. The City of Fargo hereby pledges and dedicates the City 3-21 Sales Tax revenues, the City 3-22 Sales Tax revenues, and twenty-five percent (25%) of the City 3-20 Sales Tax revenues, as security for payment of debt service for Authority Loans, Additional Revenue Bonds, and all other expenses of the Authority, including, but not limited to, the WIFIA Loans, SRF Loans, USACE WIFIA Loans, Sales Tax Revenue Bonds, Temporary Construction Loans, Temporary Refunding Improvement Bonds, Definitive Refunding Improvement Bonds, Milestone Payments, Availability Payments, and P3 Payments for the Comprehensive Project and any other Comprehensive Project Costs. Commencing June 15, 2021, City Pledged Revenues shall be deposited to the Revenue Fund held by the Trustee in accordance with the terms and conditions set forth in the Master Indenture of Trust. Once deposited into the Revenue Fund, all funds within the Revenue Fund shall be considered Gross Pledged Revenues. The Trustee, in accordance with the Master Indenture of Trust, has the power to use the Gross Pledged Revenues to make debt service payments on Debt Obligations, Milestone Payments, Availability Payments, P3 Payments, and all other payments or deposits required to be made by the Master Indenture of Trust and for costs associated with the Comprehensive Project.

ARTICLE III.
AUTHORITY FINANCING OF COMPREHENSIVE PROJECT

Section 3.01 AUTHORIZATION. Pursuant to Section 7.01, subd. (m), of the JPA, the Authority is expressly authorized to issue Debt Obligations for the Comprehensive Project. For purposes of Minn. Stat. § 471.59, subd. 11, and to resolve any doubt, the City expressly authorizes the Authority to issue Debt Obligations for the Comprehensive Project. ***Any Debt Obligations issued by the Authority shall not and will not be an obligation of the City of Fargo and shall not be considered a pledge of the full faith or credit or taxing power of the City of Fargo.***

ARTICLE IV.
RATIFICATION AND CONFIRMATION

Section 4.01 RATIFICATION AND CONFIRMATION. All acts performed, resolutions, motions, or ordinances adopted or passed, and all publications incidental to the financing of the Comprehensive Project performed by the Authority and the City of Fargo are hereby ratified and confirmed, and all resolutions and other acts or proceedings of the City of Fargo that are in any way inconsistent with this City Pledge Resolution are hereby amended to the extent necessary to give full force and effect to this City Pledge Resolution.

ARTICLE V.
WELLS FARGO CREDIT FACILITY

Section 5.01 WELLS FARGO CREDIT FACILITY. In 2017, to cover costs and expenses of the Comprehensive Project, including, but not limited to, land, easements, buildings, structure, machinery, and equipment, and the cost of all architectural engineering, legal, and other professional services, and other costs reasonable, necessary, and incidental, Cass County and the City of Fargo collectively issued $200,000,000 (with approximately $50,000,000 undrawn) worth of temporary draw-down sales tax notes held by Wells Fargo (the "Wells Fargo Credit Facility"). In 2019, Cass County and the City of Fargo reissued the Wells Fargo Credit Facility, which has a first priority lien on ninety-one percent (91%) of the County 2010-26 Sales Tax revenue and one hundred percent (100%) of the City 3-21 Sales Tax revenue.

Section 5.02 CITY 2017 LOAN AGREEMENT. Pursuant to the Resolution Authorizing the Execution and Delivery of the Intergovernmental Agreement (Series 2017); Authorizing Loan from Wells Fargo Bank, N.A., To The City of Fargo, North Dakota; and Consenting To Loan Agreement Between Wells Fargo Bank, N.A., and Cass County, North Dakota, the City of Fargo determined that it would be the issuer of $100,000,000 Revenue Notes purchased by Wells Fargo to prepay the City 2016 additional loan and the City 2016 refund loan, and to provide up to $49,750,000 of temporary construction financing for payment of Comprehensive Project expenses. The City of Fargo and Wells Fargo memorialized the terms and conditions of the loan within a loan agreement (the "City 2017 Loan Agreement").

Section 5.03 INTERGOVERNMENTAL AGREEMENTS. Nothing in this City Pledge Resolution is intended to diminish the City of Fargo's obligations under the 2017 Loan Agreement except through refunding/Redemption in accordance with the terms and conditions set forth in the City 2017 Loan Agreement. The City of Fargo hereby authorizes CCJWRD and the Authority to current refund the Wells Fargo Credit Facility. As a result, any pledge, lien, condition, or obligation contained within or pledged by the Intergovernmental Agreements and City 2017 Loan Agreement as amended by the Wells Fargo Credit Facility shall terminate and shall be of no further force or effect on the Wells Fargo Credit Facility Redemption Date unless terminated later pursuant to the City 2017 Loan Agreement.

Section 5.04 TERMINATION OF INTERGOVERNMENTAL AGREEMENT. Upon the prepayment and Redemption of the Wells Fargo Credit Facility, the Intergovernmental Agreement is and shall be terminated without future action by the Fargo City Commission.

Section 5.05 EVIDENCE OF TERMINATION AND CANCELLATION OF INTERGOVERNMENTAL AGREEMENT. The Authority shall promptly give notice to the City of Fargo that the Wells Fargo Credit Facility has been Redeemed, but in no event later than ten (10) Business Days after the Wells Fargo Credit Facility Redemption Date. The City of Fargo shall then execute a certificate of Intergovernmental Agreement termination, the form of which is attached to this City Pledge Resolution as Exhibit A.

ARTICLE VI.
AUTHORIZATION OF WIFIA LOAN

Section 6.01 AUTHORIZATION TO ISSUE WIFIA LOAN. Pursuant to Article IX of the JPA, the City of Fargo acknowledges that in order to finance the design, construction, operation, and maintenance of the Comprehensive Project, the Authority through its Member Entities will have to draw upon multiple streams of revenue from which Member Entities have jurisdiction to levy, impose, and collect. It is hereby found and determined to be necessary for the Authority to issue up to a $569,000,000 (plus capitalized interest, if any) WIFIA Loan, subject to the terms and conditions set forth in the Master Indenture of Trust, the WIFIA Loan Agreement, the WIFIA Loan Bond Supplemental Indenture, and the WIFIA Loan Bond. The Authority is hereby authorized to borrow $569,000,000 (plus capitalized interest, if any) from the WIFIA Lender and to enter into the WIFIA Loan Agreement and WIFIA Loan Bond Supplemental Indenture, and issue the WIFIA Loan Bond.

ARTICLE VII.
APPROVAL AND CONSENT OF WIFIA LOAN

Section 7.01 APPROVAL AND CONSENT OF WIFIA LOAN. The City of Fargo hereby consents to and approves of the Authority borrowing $569,000,000 (plus capitalized interest, if any) from the WIFIA Lender for the WIFIA Loan secured by a first priority lien on Required Temporary Debt Service Revenue, Construction Period Net Revenues, Net Pledged Revenues, Authority Loan Special Assessment Revenue, and Authority Loan Deficiency Tax Levy Revenue, with interest payable at that rate set forth in the form of the WIFIA Loan Agreement. The City of Fargo hereby approves the Authority (i) entering into the WIFIA Loan Agreement with the WIFIA Lender, (ii) entering into the WIFIA Loan Bond Supplemental Indenture, and (iii) issuing the WIFIA Loan Bond.

ARTICLE VIII.
AUTHORIZATION OF USACE WIFIA LOAN

Section 8.01 AUTHORIZATION OF USACE WIFIA LOAN. Pursuant to Article IX of the JPA, the City acknowledges that in order to finance the design, construction, operation, and maintenance of the Comprehensive Project, the Authority through its Member Entities will have to draw upon multiple streams of revenue from which Member Entities have jurisdiction to levy, impose, and collect. It is hereby found and determined to be necessary for the Authority to issue a USACE WIFIA Loan in accordance with the terms and conditions set forth in the Master Indenture of Trust, the USACE WIFIA Loan Agreement, and the Supplemental Indenture authorizing such USACE WIFIA Loan.

ARTICLE IX.
APPROVAL AND CONSENT OF USACE WIFIA LOAN

Section 9.01 APPROVAL AND CONSENT OF USACE WIFIA LOAN. The City of Fargo hereby consents to and approves of the Authority borrowing from USACE for the USACE WIFIA Loan secured by and payable from Net Pledged Revenues in accordance with the terms and

conditions set forth in the Master Indenture of Trust, the USACE WIFIA Loan Agreement, and the Supplemental Indenture authorizing such USACE WIFIA Loan.

ARTICLE X.
AUTHORIZATION OF SALES TAX REVENUE BONDS

Section 10.01 AUTHORIZATION OF SALES TAX REVENUE BONDS. Pursuant to Article IX of the JPA, the City of Fargo acknowledges that in order to finance the design, construction, operation, and maintenance of the Comprehensive Project, the Authority through its Member Entities will draw upon multiple streams of revenue from which Member Entities have jurisdiction to levy, impose, and collect. It is hereby found and determined to be necessary to authorize the Authority to issue Sales Tax Revenue Bonds in accordance with the terms and conditions set forth in the Master Indenture of Trust and the Supplemental Indenture authorizing such Sales Tax Revenue Bonds.

ARTICLE XI.
APPROVAL AND CONSENT OF SALES TAX REVENUE BONDS

Section 11.01 APPROVAL AND CONSENT OF SALES TAX REVENUE BONDS. The City of Fargo hereby consents to and approves of the Authority issuing Sales Tax Revenue Bonds by and payable from Net Pledged Revenues in accordance with the terms and conditions set forth in the Master Indenture of Trust and the Supplemental Indenture authorizing such Sales Tax Revenue Bonds.

ARTICLE XII.
AUTHORIZATION OF SRF LOANS

Section 12.01 AUTHORIZATION OF SRF LOAN. Pursuant to Article IX of the JPA, the City of Fargo acknowledges that, in order to finance the design, construction, operation, and maintenance of the Comprehensive Project, the Authority through its Member Entities will draw upon multiple streams of revenue from which Member Entities have jurisdiction to levy, impose, and collect. It is hereby found and determined to be necessary for the Authority to issue several SRF Loans in the aggregate amount of $81,600,000 subject to the terms and conditions set forth in the Master Indenture of Trust, the SRF Loan Agreements, and the Supplemental Indentures authorizing such SRF Loans. The Authority is hereby authorized to borrow $81,600,000 from the ND PFA and to enter into the SRF Loan Agreements and the Supplemental Indentures authorizing such SRF Loans.

ARTICLE XIII.
APPROVAL AND CONSENT OF SRF LOANS

Section 13.01 APPROVAL AND CONSENT OF SRF LOANS. The City of Fargo hereby consents to and approves of the Authority borrowing $81,600,000 from the ND PFA for the SRF Loans secured by and payable from Net Pledged Revenues, with interest payable at the rate set forth in the form of the SRF Loan Agreements. The City of Fargo hereby approves the Authority entering into the SRF Loan Agreements for the CWSRF Loans and the DWSRF Loans in

accordance with the terms and conditions set forth in the Master Indenture of Trust and the Supplemental Indenture authorizing such SRF Loans.

ARTICLE XIV.
LIMITED OBLIGATION

Section 14.01 LIMITED OBLIGATION. ***The City of Fargo's pledge and dedication under this City Pledge Resolution will not constitute a charge, lien, or encumbrance upon any property of the City of Fargo, and any Third Party Claims arising from the financing of the Comprehensive Project or in relation to the subject matter of this City Pledge Resolution shall not be entitled to compel the City of Fargo to pledge and/or dedicate more than the City Pledged Revenues.***

ARTICLE XV.
IRREPEALABLE PLEDGE AND DEDICATION OF THE CITY PLEDGED REVENUES

Section 15.01 PLEDGE OF CITY 3-20 SALES TAX. The City of Fargo does hereby pledge and dedicate to the Authority twenty-five percent (25%) of the one cent ($0.01) sales and use tax upon the gross receipts of retailers from all retail sales, including the leasing or renting of tangible personal property, within the corporate limits of the City of Fargo. The proceeds generated by the City 3-20 Sales Tax are hereby pledged and dedicated to the Authority for debt service for the Authority Loans, the USACE WIFIA Loans, Sales Tax Revenue Bonds, Temporary Construction Loans, Additional Revenue Bonds, Temporary Refunding Improvement Bonds, and all other expenses of the Authority, including, but not limited to, Milestone Payments, Availability Payments, P3 Payments, and all other costs associated with the Comprehensive Project.

Section 15.02 PLEDGE OF CITY 3-21 SALES TAX. The City does hereby pledge and dedicate to the Authority the half cent ($0.005) sales and use tax upon the gross receipts of retailers from all retail sales, including the leasing or renting of tangible personal property, within the corporate limits of the City of Fargo. The proceeds generated by the City 3-21 Sales Tax are hereby pledged and dedicated to the Authority for annual debt service on the Authority Loans or to replenish reasonably required debt service reserve funds on the Authority Loans, or to the payment of debt service and Milestone Payments, Availability Payments, P3 Payments, and all other costs associated with the Comprehensive Project.

Section 15.03 PLEDGE OF CITY 3-22 SALES TAX. The City does hereby pledge and dedicate to the Authority the half cent ($0.005) sales and use tax upon the gross receipts of retailers from all retail sales, including the leasing or renting of tangible personal property, within the corporate limits of the City of Fargo. The proceeds generated by the City 3-22 Sales Tax are hereby pledged and dedicated to the Authority for Authority Loans, and toward the payment of Debt Obligations and Milestone Payments, Availability Payments, P3 Payments, and all other costs associated with the Comprehensive Project.

Section 15.04 DEPOSIT OF THE CITY 3-20 SALES TAX, CITY 3-21 SALES TAX, AND CITY 3-22 SALES TAX REVENUES. Following execution of this City Pledge Resolution and commencing on June 15, 2021, the City of Fargo shall deposit twenty-five percent (25%) of the one cent ($0.01) City 3-20 Sales Tax, one hundred percent (100%) of the half cent ($0.005) City 3-21 Sales Tax,

and one hundred percent (100%) of the half cent ($0.005) City 3-22 Sales Tax in the Revenue Fund, held by the Trustee, in accordance with the terms and conditions set forth in the Master Indenture of Trust and without obtaining prior approval from the Fargo City Commission on a monthly basis. The City of Fargo staff are hereby authorized to take any and all necessary action to implement the provisions of this Section.

Section 15.05 IRREPEALABILITY OF PLEDGE OF CITY 3-20 SALES TAX. The City of Fargo's pledge of twenty-five percent (25%) of the one cent ($0.01) City 3-20 Sales Tax proceeds shall be irrepealable for as long as any Debt Obligations, including, but not limited to, the WIFIA Loan, the SRF Loans, or the USACE WIFIA Loans, remain Outstanding, or the City 3-20 Sales Tax Sunset Date, or upon the termination of the Master Indenture of Trust, whichever occurs first.

Section 15.06 IRREPEALABILITY OF PLEDGE OF CITY 3-21 SALES TAX. The City of Fargo's pledge of one hundred percent (100%) of the half cent ($0.005) City 3-21 Sales Tax proceeds shall be irrepealable for as long as any Debt Obligations, including, but not limited to, the WIFIA Loan, the SRF Loans, or the USACE WIFIA Loans, remain Outstanding, or upon the termination of the Master Indenture of Trust, or the City 3-21 Sales Tax Sunset Date, whichever occurs last.

Section 15.07 IRREPEALABILITY OF PLEDGE OF CITY 3-22 SALES TAX. The City of Fargo's pledge of one hundred percent (100%) of the half cent ($0.005) City 3-22 Sales Tax proceeds shall be irrepealable for as long as any Debt Obligations, including, but not limited to, the WIFIA Loan, the SRF Loans, or the USACE WIFIA Loans, remain Outstanding, or upon the termination of the Master Indenture of Trust, or the City 3-22 Sales Tax Sunset Date, whichever occurs last.

ARTICLE XVI.
ACKNOWLEDGMENT OF FUNDS

Section 16.01 USE OF THE CITY 3-20 SALES TAX, CITY 3-21 SALES TAX, AND CITY 3-22 SALES TAX. As provided in the JPA, the Authority's direct costs, Authority Bond and/or Debt Obligation payments, Milestone Payments, Availability Payments, and P3 Payments for the SWDCAI, and all other costs associated with the Comprehensive Project, shall be funded through a variety of non-federal revenue sources including the City Pledged Revenues. The City of Fargo acknowledges the Master Indenture of Trust will establish various Funds and Accounts for the management of the City Pledged Revenues that have been pledged and dedicated to the Comprehensive Project by the City of Fargo.

ARTICLE XVII.
TRUSTEE AS FIDUCIARY PURSUANT TO THE TERMS AND CONDITIONS OF THE MASTER INDENTURE OF TRUST

Section 17.01 MASTER INDENTURE OF TRUST. The City of Fargo agrees, acknowledges, and authorizes the Authority to enter into a Master Indenture of Trust with CCJWRD; the City of Fargo, as Fiscal Agent; and the Bank of North Dakota, as Trustee.

Section 17.02 TRUSTEE AS A FIDUCIARY. Pursuant to the Master Indenture of Trust and the JPA, the Trustee shall be deemed a fiduciary with the ability to enforce provisions of the Master Indenture of Trust and the JPA related to collection and distribution of the City Pledged Revenues.

Section 17.03 ENFORCEMENT OF THIRD PARTY RIGHTS. At any time during which the City of Fargo is in breach or default of its respective obligations under this City Pledge Resolution or the JPA, the Trustee may enforce the terms and conditions of this City Pledge Resolution and the JPA.

ARTICLE XVIII.
THIRD-PARTY BENEFICIARIES

Section 18.01 DEVELOPER AS THIRD-PARTY BENEFICIARY. To the extent permitted by the Master Indenture of Trust and pursuant to Sections 17.01 and 17.02 of the JPA, the Developer shall be deemed a third-party beneficiary of the JPA and this City Pledge Resolution with the ability to enforce provisions of this City Pledge Resolution and the JPA related to collection and distribution of the City Pledged Revenues.

Section 18.02 HOLDERS OF DEBT OBLIGATIONS AS THIRD-PARTY BENEFICIARIES. To the extent permitted by the Master Indenture of Trust and pursuant to Sections 17.01 and 17.02 of the JPA, the holders of Debt Obligations issued in connection with the Comprehensive Project shall be deemed third-party beneficiaries with the ability to enforce provisions of this City Pledge Resolution and the JPA related to collection and distribution of Pledged Revenues.

Section 18.03 ENFORCEMENT OF THIRD PARTY RIGHTS. To the extent permitted by the Master Indenture of Trust and at any time during which the City is in breach or default of its respective obligation arising out of or related to this City Pledge Resolution or the JPA, the Trustee and/or the holder of Debt Obligations may enforce this City Pledge Resolution and the terms and conditions of the JPA, including the option to secure a court order directing the City of Fargo to disburse the City Pledged Revenues to the Trustee.

Section 18.04 ADDITIONAL RIGHTS. The Developer and/or the holder of Debt Obligations shall have all other rights available to it at law or equity (including, without limitation, by petition for writ of mandamus seeing the levy and collection of the City 3-20 Sales Tax, City 3-21 Sales Tax, and City 3-22 Sales Tax pledged hereunder) and all of the rights and remedies not exclusive of any rights or remedies provided by law or otherwise available to the third-party beneficiary.

ARTICLE XIX.
TERM AND TERMINATION

Section 19.01 TERM. The City of Fargo's obligations pursuant to this City Pledge Resolution shall remain outstanding until such a time that all the costs for the Comprehensive Project, including all Authority Loans, USACE WIFIA Loans, Sales Tax Revenue Bonds, Additional Revenue Bonds, Debt Obligations and/or Availability Payments, Milestone Payments, and P3 Payments, have been paid or are otherwise provided, and once all debt and all other contractual obligations related to the financing of said costs have been retired, or the payment for

which have been otherwise sufficiently provided and arranged, or the City 3-20 Sales Tax Sunset Date, the City 3-21 Sales Tax Sunset Date, or the City 3-22 Sales Tax Sunset Date, whichever date occurs last.

Section 19.02 TERMINATION. The City of Fargo may direct the Tax Commissioner to cease collection of the City sales and use taxes only after all debt and all other contractual obligations related to the financing of the Comprehensive Project have been retired, or the payment for which has been otherwise sufficiently provided, or the City 3-20 Sales Tax Sunset Date, the City 3-21 Sales Tax Sunset Date, or the City 3-22 Sales Tax Sunset Date, whichever date occurs last. Without limiting the foregoing, such termination shall not occur until the Authority has been notified in writing of the date upon which the City of Fargo will exercise its rights under this Section.

ARTICLE XX.
CITY COVENANTS

Section 20.01 COVENANTS. The City of Fargo covenants as follows:

(a) The City of Fargo will faithfully perform at all times all covenants, undertakings, stipulations, and provisions contained in this City Pledge Resolution.

(b) The City of Fargo is duly authorized under the constitution and laws of the State of North Dakota to pledge the City Pledged Revenues in the manner and to the extent set forth in this City Pledge Resolution.

(c) All action on the part of the City of Fargo for the levy and collection of the City 3-20 Sales Tax, City 3-21 Sales Tax, and City 3-22 Sales Tax and for the execution and delivery thereof has been duly and effectively taken.

(d) The City 3-20 Sales Tax, City 3-21 Sales Tax, and City 3-22 Sales Tax are valid and enforceable by the City of Fargo according to the terms thereof.

Section 20.02 ENFORCEMENT AND PERFORMANCE OF COVENANTS. The City of Fargo agrees to perform all covenants and other provisions pertaining to this City Pledge Resolution.

Section 20.03 NO OTHER PLEDGE. The City of Fargo shall not dedicate or pledge the one quarter of one percent (0.25%) of the City Capital Improvements Tax, the City Flood Control Tax, or the City 3-22 Sales Tax for purposes except for the dedication and pledge under this City Pledge Resolution.

ARTICLE XXI.
CONFLICT OF TERMS

Section 21.01 CONFLICTING TERMS. Any conflict among or between the terms and conditions included in the documents related to this Resolution will be resolved in accordance with the following order of precedence (from highest to lowest priority):

(a) Master Indenture of Trust;

(b) JPA; and

(c) City Pledge Resolution.

ARTICLE XXII.
MISCELLANEOUS

Section 22.01 SEVERABILITY. If any provision of this City Pledge Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses, or paragraphs contained in this City Pledge Resolution shall not affect the remaining portions of this City Pledge Resolution or any part thereof.

Section 22.02 AMENDMENTS. This City Pledge Resolution shall not be amended except upon the mutual consent of the Authority, Trustee, and Fiscal Agent.

Section 22.03 HEADINGS. Headings in this City Pledge Resolution are included for convenience of reference only and are not part hereof and shall not limit or define the meaning of any provision hereof.

Section 22.04 NORTH DAKOTA LAW APPLIES. This City Pledge Resolution shall be controlled by the laws of the State of North Dakota, and, as a result, any claim, demand, or cause of action arising under the terms of this City Pledge Resolution shall be brought in an appropriate venue in the State of North Dakota.

Section 22.05 ELECTRONIC SIGNATURES. The City of Fargo agrees that the electronic signature to this City Pledge Resolution shall be as valid as an original signature of the City of Fargo and shall be effective to bind the City of Fargo to this City Pledge Resolution. For purposes hereof: (i) "electronic signature" means a manually signed original signature that is then transmitted by electronic means; and (ii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a portable document format ("pdf") or DocuSign, or other replicating image attached to an electronic mail or internet message.

Section 22.06 EFFECTIVE DATE. This City Pledge Resolution shall become effective on May 17, 2021.

(Remainder of page intentionally left blank.)

The Governing Body of the City of Fargo approved this City Pledge Resolution on the 17th day of May, 2021.

CITY OF FARGO:

Fargo, North Dakota

_____

Timothy J. Mahoney, Mayor

ATTEST:

_____

Steven Sprague, City Auditor

The motion for adoption of the foregoing resolution was duly seconded by Commissioner _____, and upon roll call vote, the following Commissioners voted in favor thereof: _____. The following Commissioners were absent and not voting: _____. The following Commissioners voted against the same: _____. All of the Commissioners having voted aye, the resolution was declared duly passed and adopted.

EXHIBIT A

INTERGOVERNMENTAL AGREEMENTS AND PLEDGE
TERMINATION CERTIFICATE

We, the undersigned, being respectively the duly qualified and acting Mayor and City Auditor of the City of Fargo, North Dakota (the "City"), hereby certify and agree, as of this ____ day of _____, 2021, to the following:

1. The City and Cass County, North Dakota (the "County"), entered into an Intergovernmental Agreement, dated as of July 1, 2014 (the "Original Intergovernmental Agreement"), in connection with a loan to the County from U.S. Bank National Association to temporarily finance expenses associated with the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the "Comprehensive Project").

2. The City and the County entered into a Supplemental Intergovernmental Agreement, dated as of May 1, 2015 (the "Supplemental Intergovernmental Agreement"), in connection with a loan to the City from U.S. Bank National Association to temporarily finance expenses associated with the Comprehensive Project.

3. The City and the County entered into an Intergovernmental Agreement (Series 2016), dated as of September 1, 2016 (the "Series 2016 Intergovernmental Agreement"), in connection with loans to the City and the County from Wells Fargo Bank, National Association, to refund the loans from U.S. Bank National Association to the City and the County.

4. The City and the County entered into an Intergovernmental Agreement (Series 2017), dated as of July 1, 2017 (the "Series 2017 Intergovernmental Agreement"), in connection with loans to the City and the County from Wells Fargo Bank, National Association, to refund the 2016 loans from Wells Fargo Bank, National Association, to the City and the County.

5. The City and the County entered into a First Amendment to Intergovernmental Agreement (Series 2017), dated as of July 1, 2019 (the "Series 2019 Intergovernmental Agreement"), to extend the maturity date of the 2017 loans to the City and the County from Wells Fargo Bank, National Association (the "Outstanding Loans").

6. In each of the Original Intergovernmental Agreement, the Supplemental Intergovernmental Agreement, the Series 2016 Intergovernmental Agreement, the Series 2017 Intergovernmental Agreement, and the Series 2019 Intergovernmental Agreement (collectively, the "Agreements"), the City dedicated, pledged, and granted a security interest, on a primary and a subordinate basis, in one hundred percent (100%) of its one-half of one percent (0.5%) sales and use tax, as defined in Article 3-21 of the City Code (the "City 3-21 Sales Tax"), for payment of the principal of and interest on, and as security for, obligations described in each of the Agreements.

7. In each of the Original Intergovernmental Agreement, the Supplemental Intergovernmental Agreement, the Series 2016 Intergovernmental Agreement, the Series 2017 Intergovernmental Agreement, and the Series 2019 Intergovernmental Agreement, the County

dedicated, pledged, and granted a security interest, on a primary and a subordinate basis, in ninety-one percent (91%) of its one-half of one percent (0.5%) sales and use tax, as defined in Cass County Ordinance 2010-2 (the "County 2010-2 Sales Tax"), for payment of the principal of and interest on, and as security for, obligations described in each of the Agreements.

8. On _____, 2021, the City and the County will prepay and terminate the Outstanding Loans, leaving no financial obligation under the Agreements outstanding.

9. On _____, 2021, the Original Intergovernmental Agreement, the Supplemental Intergovernmental Agreement, the Series 2016 Intergovernmental Agreement, the Series 2017 Intergovernmental Agreement, and the Series 2017 Intergovernmental Agreement will each terminate and have no further force or effect, and the dedications, pledges, and grants of the City 3-21 Sales Tax and the County 2010-2 Sales Tax to the Agreements will terminate and have no further force or effect.

10. Following the termination of the Agreements, the pledge and dedication of the City 3-21 Sales Tax to finance expenses associated with the Comprehensive Project will be in accordance with the Resolution Pledging and Dedicating One Hundred Percent (100%) of the City 3-21 Sales Tax; One Hundred Percent (100%) of the City 3-22 Sales Tax; and Twenty-Five Percent (25%) of the One-Cent City 3-20 Sales Tax to the Metro Flood Diversion Authority, and the pledge and dedication of the County 2010-2 Sales Tax to finance expenses associated with the Comprehensive Project, will be in accordance with the Resolution Pledging and Dedicating Ninety-Four Percent (94%) of the County 2010-Sales Tax to the Metro Flood Diversion Authority of the County.

Dated: _____, 2021.

CITY OF FARGO, NORTH DAKOTA

_____(do not sign)_____
Mayor

_____(do not sign)_____
City Auditor

CERTIFICATE

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

I, the undersigned, being respectively the duly qualified and appointed City Auditor of the City of Fargo, North Dakota, do hereby certify that attached hereto is a full, true and correct copy of the **RESOLUTION PLEDGING AND DEDICATING ONE HUNDRED PERCENT (100%) OF THE CITY 3-21 SALES TAX; ONE HUNDRED PERCENT (100%) OF THE CITY 3-22 SALES TAX; AND TWENTY-FIVE PERCENT (25%) OF THE ONE CENT ($0.01) CITY 3-20 SALES TAX TO THE METRO FLOOD DIVERSION AUTHORITY** adopted by the Governing Body of the City of Fargo at the meeting of the Governing Body held on May 17, 2021, and that such Resolution is now a part of the permanent records of the City of Fargo, North Dakota, and such records are filed in the office of the City Auditor.

Dated this _____ day of _____, 2021.

_____
Steven Sprague, City Auditor

THE CITY OF Fargo FAR MORE

FINANCE OFFICE
PO Box 2083
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1333 | Fax: 701.476.4188
www.FargoND.gov

406

TO: BOARD OF CITY COMMISSIONERS

FROM: KENT COSTIN, DIRECTOR OF FINANCE KAC

RE: RESOLUTION ACCEPTING AND AGREEING TO THE TERMS AND CONDITIONS OF THE MASTER INDENTURE OF TRUST BETWEEN THE METRO FLOOD DIVERSION AUTHORITY, CASS COUNTY JOINT WATER RESOURCE DISTRICT, THE CITY OF FARGO, NORTH DAKOTA, AS FISCAL AGENT, AND THE BANK OF NORTH DAKOTA, AS TRUSTEE

DATE: MAY 13, 2021

Pursuant to the Joint Powers Agreement (JPA) of the Metro Flood Diversion Authority, a resolution appointing the City of Fargo as permanent Fiscal Agent for the flood diversion project is requested.

The City of Fargo has been acting as interim fiscal agent for the project since inception and once permanent financing is consummated the terms and conditions require the appointment of a permanently appointed Fiscal Agent.

All costs associated with the Fiscal Agent will be reimbursed by the Metro Flood Diversion Authority.

John Shockley, legal counsel for the Metro Flood Diversion Authority will be attending the City Commission meeting on May 17, 2021 in case you have any questions regarding the appointment of the City of Fargo, as Fiscal Agent.

Suggested Motion:

Approve a resolution accepting and agreeing to the terms and conditions of the Master Indenture of Trust between the Metro Flood Diversion Authority, Cass County Joint Water Resource District, the City of Fargo, North Dakota, as Fiscal Agent, and the Bank of North Dakota, as Trustee.

RESOLUTION NO. ____

RESOLUTION ACCEPTING AND AGREEING TO THE TERMS AND CONDITIONS OF THE MASTER INDENTURE OF TRUST BETWEEN THE METRO FLOOD DIVERSION AUTHORITY, CASS COUNTY JOINT WATER RESOURCE DISTRICT, THE CITY OF FARGO, NORTH DAKOTA, AS FISCAL AGENT, AND THE BANK OF NORTH DAKOTA, AS TRUSTEE

Adopted: May 17, 2021

This instrument was drafted by:
Ohnstad Twichell, P.C.
John T. Shockley
P.O. Box 458
West Fargo, North Dakota 58078

Commissioner _____ introduced the following resolution and moved its adoption:

RESOLUTION ACCEPTING AND AGREEING TO THE TERMS AND CONDITIONS OF THE MASTER INDENTURE OF TRUST BETWEEN THE METRO FLOOD DIVERSION AUTHORITY, CASS COUNTY JOINT WATER RESOURCE DISTRICT, THE CITY OF FARGO, NORTH DAKOTA, AS FISCAL AGENT, AND THE BANK OF NORTH DAKOTA, AS TRUSTEE

WHEREAS, the Metro Flood Diversion Authority (the "Authority") was created by a Joint Powers Agreement ("JPA"), dated June 1, 2016, for the purpose of providing the Fargo-Moorhead Metropolitan Area with permanent and comprehensive flood protection; and

WHEREAS, the Member Entities of the Authority consist of the City of Fargo, North Dakota (the "City of Fargo"), the City of Moorhead, Minnesota (the "City of Moorhead"); Cass County, North Dakota ("Cass County"); Clay County, Minnesota ("Clay County"); and the Cass County Joint Water Resource District, North Dakota (the "CCJWRD"); and

WHEREAS, pursuant to the JPA, the Member Entities have agreed to cooperate in financing the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the "Comprehensive Project") and in the issuance of any Debt Obligations necessary for the Comprehensive Project; and

WHEREAS, pursuant to Section 10.03 of the JPA, the Authority is authorized to appoint a Fiscal Agent who shall be responsible for the administration of financial and accounting functions for the Authority; and

WHEREAS, the City of Fargo was appointed to serve as the Interim Fiscal Agent for the Comprehensive Project on a temporary, interim basis and until such time as the Authority shall appoint a Fiscal Agent, to establish and maintain for the management of Comprehensive Project funds including but not limited to, annual budgets, revenues, proceeds of Debt Obligations and the repayment of the debt service on Debt Obligations, Milestone Payments, Availability Payments, and P3 Payments; and

WHEREAS, pursuant to Section 5.09 of the JPA, the Diversion Authority Board will appoint the City of Fargo as the Fiscal Agent; and

WHEREAS, pursuant to Section 7.01(m) of the JPA, the Authority is authorized to take any and all necessary action to secure financing for the Comprehensive Project, including but not limited to entering into a Master Indenture of Trust, issuing Authority Loans, entering into the Project Agreement, issuing any USACE WIFIA Loans (if needed), Sales Tax Revenue Bonds (if needed), and Additional Revenue Bonds contemplated in the Master Indenture of Trust, and pledging Net Pledged Revenues for the payment of Debt Obligations and payments due under the Project Agreement; and

WHEREAS, the Authority will enter into a Master Indenture of Trust (the "Master Indenture of Trust") with CCJWRD, the City of Fargo, as Fiscal Agent, and the Bank of North Dakota, as Trustee, which creates a trust and contains the terms and conditions for the authorization, issuance, and repayment of Debt Obligations for the Comprehensive Project; and

WHEREAS, the Member Entities have consented to the Authority entering into the Master Indenture of Trust, the issuance of Authority Loans, the USACE WIFIA Loans, Sales Tax Revenue Bonds, and Additional Revenue Bonds, by and through approval of the Pledge Resolutions; and

WHEREAS, the City of Fargo, as Fiscal Agent, has reviewed the Master Indenture of Trust and approves of the terms and conditions within the Master Indenture of Trust.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Fargo:

Section 1. Definitions. Unless a different meaning clearly applies from the context, all capitalized terms used and not otherwise defined herein shall have the meaning given to them in the Master Indenture of Trust.

Section 2. Appointment of Fiscal Agent. Pursuant to and in accordance with Section 10.03 of the JPA, the Authority appoints the City of Fargo as Fiscal Agent, and the City of Fargo agrees to act as Fiscal Agent under the terms and conditions of the Master Indenture of Trust.

Section 3. Fiscal Agent Acceptance of Performance of Duties. The Fiscal Agent shall perform such duties and only such duties as are specifically set forth in the Master Indenture of Trust and in Article X of the JPA, except as modified, clarified, amended, and/or superseded in the Master Indenture of Trust.

Section 4. Fiscal Agent May Rely Upon Certain Documents and Opinions.

(a) The Fiscal Agent may rely on and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) Any request, direction, election, order certification, or demand of the Authority shall be sufficiently evidenced by an instrument signed by an Authorized Representative of the Authority, as the case may be (unless otherwise specifically prescribed in the Master Indenture of Trust), and any resolution of the Authority and CCJWRD may be evidenced to the Fiscal Agent by a certified resolution;

(c) The Fiscal Agent may consult with Bond Counsel (who may be Bond Counsel for the Authority and/or CCJWRD) and the opinion of such Bond Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel; and

(d) Whenever, in the administration of the trusts of the Master Indenture of Trust, the City of Fargo, as Fiscal Agent, shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering an action pursuant to the Master Indenture of Trust, such matter (unless other evidence in respect thereof be specifically prescribed in the Master Indenture of Trust) may, in the absence of negligence or bad faith on the part of the Fiscal Agent, be deemed to be conclusively proved and established by a Certificate of the Authority and such Certificate of the Authority shall, in the absence of negligence or bad faith on the part of the Fiscal Agent, be full warrant to the Fiscal Agent for any action taken or suffered by it under the provisions of the Master Indenture of Trust.

Section 5. Fiscal Agent Not Responsible for Master Indenture of Trust Statements. The Fiscal Agent shall not be responsible for any recital or statement within the Master Indenture of Trust or Authority Loans or for the validity of the execution by the Authority, CCJWRD and/or the Trustee of the Master Indenture of Trust, of any supplemental instrument, or for the sufficiency of the security of the Debt Obligations issued pursuant to the Master Indenture of Trust; and the Fiscal Agent shall not be bound to ascertain or inquire as to the performance or observance of any covenant, condition, or agreement on the part of the Authority except as provided in the Master Indenture of Trust.

Section 6. Compensation of Fiscal Agent. All advances, counsel fees, and other expenses reasonably made or incurred by the City of Fargo, as Fiscal Agent, in and about the execution of the Master Indenture of Trust shall be paid by the Authority.[1]

Section 7. Approval of the Master Indenture of Trust. The Governing Body of the City of Fargo, as Fiscal Agent, has reviewed the terms and conditions of the Master Indenture of Trust and hereby accepts and approves the Master Indenture of Trust.

Section 8. Severability. Each provision, section, sentence, clause, phrase, and word of this Resolution is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the Master Indenture of Trust or this Resolution.

Section 9. Applicable Law. This Resolution shall be governed exclusively by the constitution and laws of the State of North Dakota.

[1] NTD – Need information regarding compensation of Fiscal Agent.

Section 10. Electronic Signatures. The City of Fargo, as Fiscal Agent, agrees that the electronic signature to this Resolution shall be as valid as an original signature of the City and shall be effective to bind the Authority to this Resolution. For purposes hereof: (i) "electronic signature" means a manually signed original signature that is then transmitted by electronic means; and (ii) "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a portable document format ("pdf"), *DocuSign*, or other replicating image attached to an electronic mail or internet message.

(Signatures appear on the following page).

The Governing Body of the City of Fargo approved this Resolution on the 17th day of May, 2021.

CITY OF FARGO:

Fargo, North Dakota

_____

Timothy J. Mahoney, Mayor

ATTEST:

_____

Steven Sprague, City Auditor

The motion for adoption of the foregoing resolution was duly seconded by Commissioner _____, and upon roll call vote, the following Commissioners voted in favor thereof: _____. The following Commissioners were absent and not voting: _____. The following Commissioners voted against the same: _____. All of the Commissioners having voted aye, the resolution was declared duly passed and adopted.

THE CITY OF Fargo FAR MORE

Planning & Development
225 4th Street North
Fargo, ND 58102
Office: 701.241.1474 | Fax: 701.241.1526
Email: planning@FargoND.gov
www.FargoND.gov

MEMORANDUM

TO: **Board of City Commissioners**

FROM: **Nicole Crutchfield, Director of Planning & Development**
Aaron Nelson, Planning Coordinator AN

DATE: **May 13, 2021**

SUBJECT: **Approval & Adoption of the Fargo Core Neighborhoods Master Plan**

Over the past year, the City of Fargo has undertaken a neighborhood planning effort focusing on the key issues facing the City's oldest residential neighborhoods, which has culminated in the creation of the Fargo Core Neighborhoods Master Plan. This project was presented at a joint meeting of the City Commission, Planning Commission, and project steering committee on February 8, 2021, along with a draft of the plan document. Now, the attached Fargo Core Neighborhoods Master Plan is being presented for your final review and consideration of adoption. The Planning Commission unanimously recommended approval of the adoption of this plan at their regular meeting on April 6, 2021. At the May 17, 2021 meeting of the City Commission, staff and the project consultant team will provide a brief overview of the project, as well as a summary of the findings and key takeaways. A suggested motion is included below and a proposed resolution of adoption is attached.

Background:

The Board of City Commissioners initiated this project on July 1, 2019 and, shortly thereafter, hired the project consultant, *czb*, to lead the City through a collaborative planning process. Work began in early 2020 with the formation of four steering committees: an overarching project steering committee (consisting of City officials and representatives of partner organizations) and three neighborhood sub-area committees (consisting of residents and citizen stakeholders from each of the nine core neighborhoods). These committees together comprised over 70 individuals, with each committee convening six times throughout the development of the plan. Input from over 400 resident respondents to public survey and open house questions added additional voices to the mix and helped to supplement input gleaned from the steering committees and from the robust data analysis conducted by the project team. Through this process of discovery, analysis, and public discussion, several key issues were identified and explored before potential solutions were developed and honed.

EQUAL HOUSING OPPORTUNITY

Ultimately, the Core Neighborhoods Master Plan includes a comprehensive "toolkit" that is designed to tackle these complex neighborhood issues across multiple fronts, through various stakeholders, over many years. To this end, the Plan includes individual "Neighborhood Implementation Briefs," which are tailored to the unique conditions within each neighborhood and are geared towards implementation steps that can be taken at the neighborhood level.

In terms of implementation at the City level, staff will use the Plan to provide vision and direction to inform future work plans and future programing needs. The recommendations within the Plan are "high-level" in nature and are not set in stone. If adopted, it will be incumbent upon the City to determine the best approach to operationalize the recommendations included in the Plan "toolkit." While no budget adjustments or resources are being requested with the adoption of the Plan, it is important to recognize that successful implementation of the Plan will no doubt require future adjustments to existing processes, staffing, and resource allocation. Such requests would be made via standard processes, such as the annual budgeting process, once applicable details have been sorted out for any given implementation effort.

Attached you will find a letter from the project consultant, project executive summary, the Core Neighborhoods Master Plan document, proposed resolution of adoption, and an email from one of the citizen steering committee members. Additional project information can be found on the project website: https://FargoND.gov/CoreNeighborhoodsPlan.

Suggested Motion: "...to accept the recommendations of the Planning Commission and staff and hereby approve the resolution of adoption for the Fargo Core Neighborhoods Master Plan, for the purpose of guiding City policy in relation to the core neighborhoods."

Attachments

Commissioner _____ moved for the approval of the following:

RESOLUTION OF ADOPTION

For the Core Neighborhoods Master Plan

WHEREAS, the City of Fargo has undertaken a neighborhood planning effort focusing on the key issues facing the City's oldest nine neighborhoods; and,

WHEREAS, the Board of City Commissioners initiated the Core Neighborhoods Master Plan project on July 1, 2019, and shortly thereafter, hired the project consultant, czb, LLC, to lead the City through a collaborative planning process; and,

WHEREAS, as a part of that collaborative process, the City of Fargo formed four committees that convened six times throughout the development of the plan and was comprised of over 70 individuals, including City officials, representatives of partner organizations, and residents and citizen stakeholders from the nine core neighborhoods, and additionally over 400 citizens provided feedback regarding issues in their neighborhoods through a public survey and online open house; and,

WHEREAS, on February 8, 2021, the City of Fargo Core Neighborhoods Master Plan was presented, along with a draft of the plan, at a joint meeting of the Board of City Commissioners, Planning Commission, and project steering committee for review and discussion; and,

WHEREAS, the Planning Commission held a public hearing at its April 6, 2021 meeting on the completed plan and recommended approval and adoption of the plan to the Board of City Commissioners; and,

WHEREAS, the adopted City of Fargo Core Neighborhoods Master Plan will provide a big-picture approach designed to tackle complex neighborhood issues as well as achieve a unified approach to policy and decision-making in regards to these core neighborhoods;

NOW, THEREFORE, BE IT RESOLVED, that the Fargo City Commission does hereby adopt the City of Fargo Core Neighborhoods Master Plan for use as a tool to implement its recommendations to enhance the overall development and preservation of the City of Fargo's core neighborhoods.

Said motion was seconded by Commissioner _____ and, upon call of the roll Commissioners _____ voted "aye", Commissioners _____ voted "nay" and with Commissioners _____ being absent the Resolution was declared as approved and enacted.

Date of approval: _____, 2021.

_____
Timothy J. Mahoney, M.D., Mayor

Attest:

_____
Steven Sprague, City Auditor

Aaron Nelson

From: HAROLD A <hthompsen@msn.com>
Sent: Tuesday, March 23, 2021 1:55 PM
To: Aaron Nelson
Cc: Nicole Crutchfield; 'Ken Enockson'; Jim Laschkewitsch; Peter Lombardi
Subject: Core Neighborhood Mastker Plan

Follow Up Flag: Follow up
Flag Status: Flagged

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

Aaron,
Please know that I will not be in town to address the Planning Commission on April 6th.
Please let them know that I am in full support of the recommendations outlined in the Core Neighborhood Master Plan.
The Top Five Implementation Steps recommended are essential and doable and I highly recommend the Planning Commision adopt them and forward them to the City Commission for implementation.
Also know that I am extremely grateful for the city's investment in czbLLC. czbLLC has been a pleasure to work with and the quality of their research, analysis and recommendations are invaluable. My hope is that the Planning Commission and City Commission agree.

In addition, I would like to ask the Planning Commission to extend czb's contract to work with our neighborhood, Roosevelt/NDSU. I believe that their expertise to implement an updated Future Land Use Map for our neighborhood would be invaluable and beneficial to all.

Please let me know if a more formal request is needed.
Thank you, again, for all that you have done for our neighborhoods.

Harold Thompsen - Roosevelt/NDSU resident



January 29, 2021

To the Fargo community:

Throughout 2020, our team had the privilege of working with dozens of dedicated and thoughtful community volunteers and public servants on the development of the Core Neighborhoods Master Plan. Despite limited face-to-face interaction due to the pandemic, it was hard for us not to recognize distinct qualities that make Fargo special, including a humility that belies justifiable civic pride.

On our visits to Fargo's core, we saw much for the community to be proud of—from the exceedingly rare canopies of mature elm trees, to blocks of quaint historic homes, to the schools that anchor walkable neighborhoods, and scores of other assets that give Fargo's core character and authenticity. We also encountered a community that hasn't been complacent. Where mature elms are threatened, the City has a robust canopy replacement effort in place. Where too many other cities have neglected their downtowns, that has not been the case in Fargo. Investments in downtown public spaces, along Main Avenue, and in the attention to detail at the new City Hall are recent demonstrations of this pride; they communicated to us that Fargo is serious about investing in itself to ensure that it remains a place worth caring about, and a place that continues to be appealing to households and businesses that have options, well into the future.

That seriousness—that willingness to continually reinvest—is going to be tested. While we saw much that is impressive, we also documented significant levels of disinvestment in the urban core that, though not yet overwhelming, should be a cause for concern and action. One out of every six residential properties in Fargo's core neighborhoods now show visible signs of deferred maintenance, signs you can be sure the market prices into its determination of value. In addition, more than one out of three properties show signs of neither neglect nor active care, making them vulnerable to decline in the coming decade. That means that just over half of the 9,000 residential properties in Fargo's core are vulnerable to a loss of value right now. Unattended, that will categorically translate into a shrinking tax base, reduced demand, falling values, and a weakened ring around downtown and NDSU.

This twin reality—a history of reinvesting when needed amid a well-documented empirical threat— presents Fargo with an opportunity. When facing similar conditions in the past, countless American cities have opted to stay the course in their older neighborhoods despite the warning signs, doing nothing differently and hoping that troublesome trends might reverse on their own. Rarely has this worked, putting communities in a position one or two decades down the line where problems have worsened, interventions have become more onerous and expensive, and their capacity to intervene and shape their own future has diminished.

Des Moines, a community we worked in recently, waited 20 years too long to change gears and actually grapple with long-observed trends in its older neighborhoods. It has now committed to a $50 million process of revitalizing four older neighborhoods over the next 10 years. But in doing so, it had to decide not to intervene in many other neighborhoods that would be far more expensive to revitalize due to their slippage. Des Moines' $50 million problem today was curable at a fraction of that cost 20 years ago.

Conditions in Fargo do not yet require such difficult trade-offs. But they do require a trade-off to avoid following a similar path: act now or act later.

If the Fargo community acts now, it can do so from a position of strength. Despite the signs of disinvestment, more than 40% of homes in the core show signs of active maintenance and pride of ownership, schools are primarily regarded as neighborhood assets, and several areas of the core compete well with other neighborhoods in the Fargo-Moorhead region. This is why, more than anything else, the Core Neighborhoods Toolkit in the

czbLLC
2001 Mount Vernon Avenue
Alexandria, VA 22301
703-548-3708

Charles Buki, President
cbuki@czb.org

master plan is a blueprint for preventive maintenance—making strategic, cost-effective interventions that are akin to changing the oil regularly in a car to avoid costlier repairs in the future.

Taking on more active forms of preventive maintenance must be a community-wide commitment and one that primarily leans on, and leverages the investment decisions of, thousands of private property owners. It will take the form of property owners catching up on deferred maintenance because they have the confidence that doing so makes financial sense and that others on their block are doing the same and raising standards. It will also take the form of property owners keeping up with improvements and updates to older homes so that they remain marketable—and likely to attract good buyers—well into the future.

The City's role—and the roles of other public and non-profit agencies—will be to cultivate the confidence of property owners by keeping public infrastructure in good shape, investing in amenities that make neighborhoods livable and desirable, taking action when a declining property threatens to dampen the confidence and quality of life of neighbors, offering help when a resident is financially unable to make basic repairs, and being a good partner when neighbors work together to manage and improve their blocks. Now is the time to protect the legacy strengths of Fargo's core and, in the process, leverage the presence of NDSU and downtown.

Fargo is fully capable of doing the work necessary to make its core neighborhoods healthier and stronger, and to avoid the pitfalls of inaction. That is evident in the City's decision to develop a big-picture, core-wide plan instead of creating a patchwork of plans over a period of years that would be easy to lose track of. And it is evident in decades of work to remake downtown Fargo into a more vibrant and attractive place—work that required the right combination of private and public sector investment.

But fully implementing the Core Neighborhoods Master Plan over the next decade will also require a degree of focus, risk-tolerance, collaboration, patience, and long-term thinking that is rare in most communities—including Fargo. This is also an opportunity: implementing the plan will require Fargo to stretch itself on each of these fronts and build civic muscles that can be used in other ways to achieve other goals.

2020 was a challenging year, but also one for reassessing what's important and taking a long-term perspective on where Fargo has been and where it is going. As a product of that tumultuous year, the Core Neighborhoods Master Plan offers Fargo an opportunity to think and act differently about strengthening the neighborhoods that define its history and that, with careful and active stewardship, will help define a future that Fargoans will be proud of.

Sincerely,

czbLLC

czbLLC
2001 Mount Vernon Avenue
Alexandria, VA 22301
703-548-3708

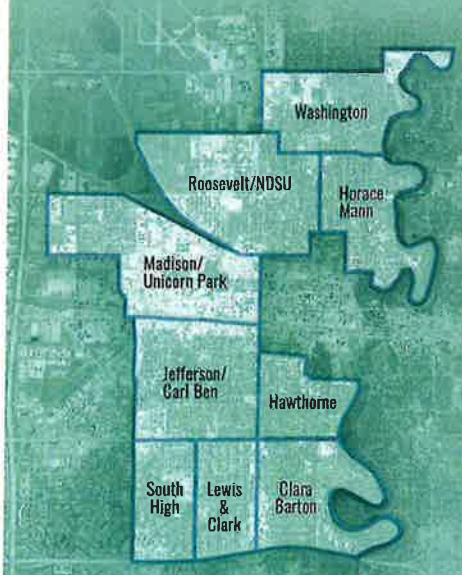
Charles Buki, President
cbuki@czb.org

EXECUTIVE SUMMARY

City of Fargo

CORE NEIGHBORHOODS

Master Plan



City of Fargo
CORE NEIGHBORHOODS

Nine neighborhoods surrounding a resurgent downtown Fargo

Fargo's traditional 19th and 20th century neighborhood fabric

34,000 residents in 14,000 households

9,000 residential properties

Major institutions and cultural assets

A wide variety of pressures, challenges, and opportunities

JANUARY 2021

THE CITY OF Fargo FAR MORE

PREPARED BY czb

What is the Core Neighborhoods Master Plan?

Fargo's core neighborhoods are a vital part of the city's past, present, and future. As Fargo's original neighborhoods, they house many of its most important assets and offer a wide range of residential and economic opportunities to a growing and increasingly diverse region.

Appreciation of the roles that these neighborhoods play in the life of Fargo—and the issues that inevitably affect neighborhoods as they age and evolve—is the impetus for this plan. In the wake of the Downtown InFocus plan from 2018 and the earlier Go2030 Comprehensive Plan, the need for renewed and focused attention to the core neighborhoods has become broadly recognized.

Rather than a piecemeal approach to planning for the future of the core neighborhoods, a process was designed for residents and other stakeholders to come together and create a unified plan for the core that also responds to the opportunities and challenges in each neighborhood.

The result is a Core Neighborhoods Master Plan that achieves both a core-wide perspective for long-term policymaking and a neighborhood-level focus on desired outcomes and implementation.

Who was involved in developing the plan?

The Core Neighborhoods Master Plan was shaped by the contributions of over 80 community volunteers who served on four project committees in 2020. Through an online survey and a month-long virtual open house to accommodate COVID-19 public health protocols, more than 400 other core neighborhood residents provided feedback on issues, assets, and potential actions to pursue in their neighborhoods.



The Core Neighborhoods Master Plan is organized into **five interconnected parts to guide decision-making and action** by the City of Fargo, resident leaders, and a variety of other stakeholders from individual neighborhoods up to the regional and state levels.

Broad commonalities across Fargo's core—revealed throughout the planning process—resulted in a plan that offers a unified approach to decision-making and strategy development throughout the core. This is evident in the issues described in Part 1, in the neighborhood planning concepts covered in Part 2, and in the shared vision—driven by a set of common values and planning principles—presented in Part 3. All of these pieces are echoed in the blueprint for a core-wide toolkit of policies and programs in Part 4.

Successfully implementing the toolkit, however, will require respect for the distinct characteristics and goals of each of the core neighborhoods. Part 5 features implementation briefs for each neighborhood that call attention to these distinctions and how they can be used to inform implementation efforts.

PART 1

Key Issues, Conditions, and Trends

Four issues are singled out as priorities in Part 1 due to their currency, at some level, throughout out the core neighborhoods. Of those four issues, the two that were voiced most frequently are directly related to the condition, maintenance, marketability, and impact of the core's aging housing stock.

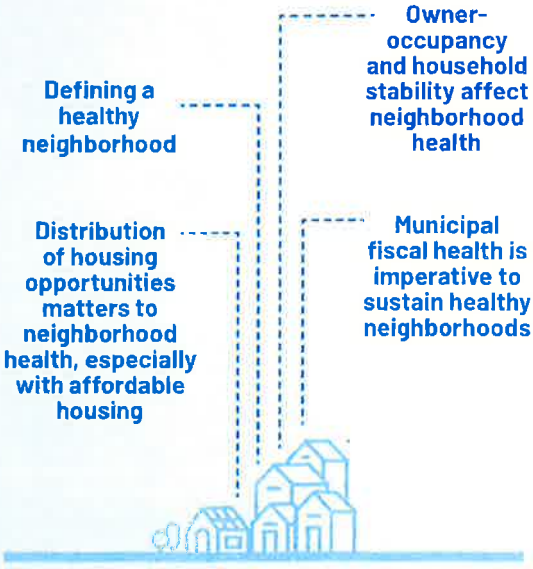


PART 2

Critical Concepts for Neighborhood Planning in Fargo

Fargo's core neighborhoods feature residential areas developed late in the 19th century when the city was in its infancy, areas developed during the height of the postwar Baby Boom, and everything in between. There are also areas where new construction is a prominent part of the landscape.

This level of variety, and the life cycles of homes and social fabric that go with it, are part and parcel of having neighborhoods that have been around for generations. For a relatively young city like Fargo—where most people now live in much newer neighborhoods outside the core—this requires recognition and application of planning concepts that are especially relevant for aging neighborhoods.



PART 3

Vision, Values, and Planning Principles

On what basis should decisions on a wide range of issues be made? And how can those decisions be made in a manner that cumulatively moves Fargo and its core neighborhoods in their desired direction?

The values and planning principles in Part 3 provide a basic and flexible framework for evaluating opportunities and options—foreseeable and unforeseeable—that are likely to have either a direct or indirect impact on the health and vitality of core neighborhoods. Importantly, this framework makes it clear that many decisions that impact the core in some manner are often not recognizable at first blush as relevant to the core.

VALUES

- Character
- Sustainability
- Inclusion

PLANNNING PRINCIPLES

- Housing is balanced, diverse, and contributes to neighborhood character
- Neighborhoods are amenity-rich
- Settlement patterns do not inhibit economic mobility
- Growth pays for itself (including negative externalities)

PART 4

Core Neighborhoods Toolkit

1. **Development Regulation and Incentive Tools**
2. **Neighborhood Leadership & Engagement Tools**
3. **Housing Reinvestment Tools**
4. **Public Infrastructure Investment Tools**
5. **Public Health & Safety Tools**

Owing to the range of issues that affect the healthy and vitality of Fargo's core neighborhoods, a comprehensive toolkit will be needed to adequately address the opportunities and challenges facing the core.

The five components of the toolkit in Part 4 acknowledge current practices around each set of tools and recommend changes or additions to those practices. Rather than treating the toolkit as an a la carte menu, it will be critical to view them as parts that reinforce each other. In other words, deriving the full impact of one set of tools will not be possible without the others.

PART 5

Neighborhood Implementation Briefs

- **Assets**
- **Issues**
- **Conditions**
- **Vision**
- **Outcomes**
- **Implementation Guidance**



While there is much that each of the core neighborhoods have in common, there are significant differences that can and should be reflected by how decisions are made and how tools identified in Part 4 are applied.

The implementation briefs for each neighborhood describe the characteristics and trends that shape life in each neighborhood, the vision that residents have for their neighborhoods, and guidance for implementing the toolkit in a manner that responds to local conditions.

Essential Takeaways

The Core Neighborhoods Master Plan provides detailed findings on a number of issues and provides broad direction of decision-making and the implementation of a specific set of tools. When boiled down to its essence, however, four essential points are critical for understanding what the core neighborhoods need and how to approach the work in coming years.

Preventive maintenance—to avoid more serious and widespread problems in 10 or 15 years—is what Fargo's core neighborhoods need in the 2020s

Blight is not widespread or overwhelming in the core neighborhoods today, but it is likely to become a bigger issue over time without careful intervention. While the housing market in the core is now generally strong, it would be a mistake to not induce property owners to catch-up on deferred maintenance costs while they can do so for pennies on the long-term dollar.

The Core Neighborhoods Master Plan provides an approach to preventive maintenance to make sure that smart, and quite modest, investments in the near term save the community from having to make far costlier interventions in the future.

A comprehensive set of tools—not an isolated policy or two—will be needed to address the issues and opportunities that exist in the core neighborhoods

Neighborhoods, especially older ones, are complicated and influenced by a wide range of social, economic, and environmental factors. Such factors are rarely within the sole discretion of any single neighborhood or any single public agency to manage.

The Core Neighborhoods Master Plan includes a toolkit for the core that covers land use policy, resident engagement, housing reinvestment, public infrastructure, and enforcement of basic health and safety codes. It also provides a set of values and planning principles to serve as a flexible decision-making framework.

A citywide—and even regional—perspective is needed to achieve core neighborhood goals and sustain broad public support for policies and investments

The core neighborhoods contribute much to the city and the Fargo-Moorhead region in terms of the desirability and diversity of the housing stock and the institutional, cultural, and recreational assets located there. The relative age of their housing also means they contain a vital repository of the city's less costly housing.

The Core Neighborhoods Master Plan identifies investments in housing, regulatory systems, and infrastructure that make good long-term fiscal and strategic sense to the City of Fargo. It also identifies opportunities to rethink how growth occurs within and beyond the core, how affordable housing opportunities are distributed, and how to balance preservation and redevelopment in order to keep core neighborhoods and their housing markets vibrant and competitive.

Patience, risk tolerance, and collaboration are required for success to be achieved and sustained

While the task at hand for Fargo is preventive maintenance in its core neighborhoods, changes to current practices are needed and this is never easy or quick work. A tolerance for trying new and bold approaches to longstanding issues, and giving those approaches the time and space to be tested, will be required of City leaders, residents, and everyone else involved.

The Core Neighborhoods Master Plan is designed to be implemented over the course of a decade and will rely on high levels of coordination, ingenuity, and trust to work. It recommends specific tools but leaves many details up to those doing the work to collectively design, test, and adapt those tools as needed.



Learn more

The Core Neighborhoods Master Plan is available online by visiting the City of Fargo's website at the link below. The Master Plan achieves both a core-wide vantage point and a localized focus on implementation, building upon the Downtown InFocus Plan and the Go2030 Comprehensive Plan.

https://fargond.gov/CoreNeighborhoodsPlan

THE CITY OF Fargo FAR MORE

Planning & Development
225 4th Street North
Fargo, ND 58102
Office: 701.241.1474 | Fax: 701.241.1526
Email: planning@FargoND.gov
www.FargoND.gov

MEMORANDUM

416

TO: **Board of City Commissioners**

FROM: **Nicole Crutchfield, Director of Planning & Development**
Aaron Nelson, Planning Coordinator AN

DATE: **May 13, 2021**

SUBJECT: **Land Development Code Diagnostic – Preferred Approach & Work Plan**

At the May 17 meeting of the City Commission, staff and the project consultant (Lisa Wise Consulting, Inc.) will provide a final project update for the Land Development Code (LDC) Diagnostic study.

This study was initiated by the City Commission in 2019 with the issuance of a request for proposals (RFP) in order to explore perceptions that the LDC was in need of updating. The two main objectives of this study are 1) to identify and to better understand the strengths and weaknesses of the current Land Development Code and 2) to build consensus around a preferred set of action steps towards addressing identified issues. These objectives correspond to the project's two primary deliverables: 1) the *LDC Diagnostic Report* and 2) the *Preferred Approach and Work Plan*.

You may recall participating in a joint meeting of the City Commission and Planning Commission on November 30, 2020, at which the LDC Diagnostic Report was presented, along with three alternative options for how to go about addressing the issues identified within the report. Based on feedback from this meeting, a comprehensive update to the LDC was identified as the "preferred alternative" out of the three options discussed.

The attached Preferred Approach and Work Plan document outlines the main components of this preferred alternative and provides an overview of the interrelated steps the City should take in order to commence a comprehensive update to the Land Development Code.

Staff plans to integrate the recommendations and task items from this study into the department work plan in order to coordinate this work with the City's other planning needs and department priorities. With this in mind, staff is requesting that the City Commission direct staff to proceed with the formation of a work plan to develop the RFP for a comprehensive update to the LDC.

Suggested Motion: "...to direct staff to proceed with the formation of a work plan to develop the RFP for a comprehensive update to the Land Development Code."

Attachment

EQUAL HOUSING OPPORTUNITY

THE CITY OF Fargo
FAR MORE






PREFERRED APPROACH AND WORK PLAN

MAY 2021

Contents

I. Project Overview 1
II. Preferred Alternative 2
III. Work Plan 3
Phase 1: Long-Range Planning and Preparation (12-22 months) 3
Phase 2: Preparation for the Comprehensive LDC Update (5 months) 5
Phase 3: Prepare and Issue Request for Proposal (4 months) 7
IV. Scope of Work Framework 8

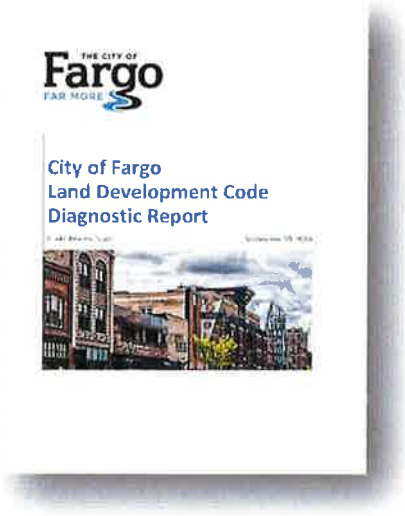
I. Project Overview

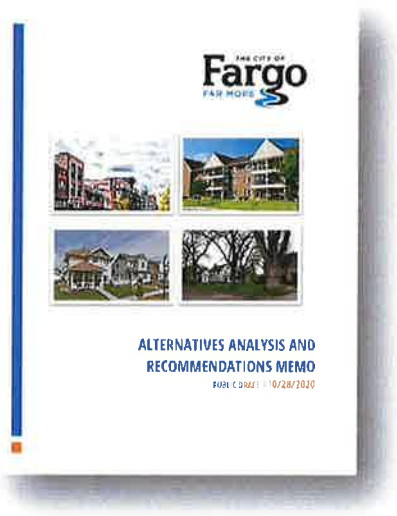
In 2019, the City of Fargo hired the Lisa Wise Consulting, Inc. (LWC) Consulting Team (including SRF Consulting) to review and assess the City's Land Development Code (LDC) and related ordinances, document any deficiencies or opportunities for improvement, and develop a preferred alternative and work plan to remedy any noted deficiencies.

The project began in November 2019, with a public workshop and staff and stakeholder interviews to gather information regarding what is and is not working within the LDC. This information, combined with the Consulting Team's analysis of the LDC, was summarized in the Land Development Code Diagnostic Report released in June 2020. This Report documented existing challenges and shortfalls within the LDC including an analysis of the effectiveness of the existing zoning districts' development regulations, and entitlement procedures to implement the City's land use policies and goals in the Comprehensive Plan, *Go2030*. In addition, this Report served as the foundation for developing appropriate recommendations and establishing clear priorities for future LDC revisions and/or amendments. The Final Report was presented to the Planning Commission for public comment in August 2020.

An Alternatives and Recommendations Memo was prepared in October 2020 providing three options to address the issues identified in Diagnostic Report. The memo was presented for discussion and consideration at a joint meeting of the Planning Commission and City Commission on November 30, 2020. As further described in the next section, it was agreed that work on a comprehensive update to the LDC was a priority.

This work plan is intended to guide staff as they begin the implementation of the Preferred Alternative. This will ensure the revised LDC implements *Go2030* and will produce the type of high-quality development that the City and its residents desire.





II. Preferred Alternative

At the November 2020 joint meeting of the Planning Commission and City Commission, it was agreed that the City should undertake a comprehensive update to the LDC, addressing all issues identified in the Diagnostic Report, incorporating industry best practices.

The preferred approach to the comprehensive LDC update includes the following components:

- Form-based development standards for the Downtown Mixed-Use and University Mixed-Use zones as well as for the multi-family residential zones and commercial corridors;
- Objective design and development standards for all mixed-use, multi-family residential, and commercial development projects which build on the form-based standards, with more specific provisions for elements such as façade articulation;
- New Planned Unit Development (PUD) standards and the rethinking of the Conditional Overlay (CO) process
- An Inclusionary Housing Ordinance to incentivize the development of more affordable housing options in the City;
- Modernized and updated subdivision regulations with appropriate best practices;
- Streamlined and clarified approval processes, while also adding administrative level flexibility;
- Clear, easy to read, and user-friendly regulations in an easy to navigate format; and
- Amendments to existing regulations to address other code deficiencies identified in the Diagnostic Report

The components listed above were identified as potential solutions to the issues identified in the LDC Diagnostic Report. The scale of the changes and impact on certain Code sections will vary depending on need and feasibility at the time of the comprehensive LDC update, based on agreed upon scope and budget. The Preferred Alternative also identifies the need for additional policy development and planning initiatives (such as updates to the Comprehensive Plan or Growth Plan,). Notably, the City should develop a citywide Future Land Use Map prior to beginning the comprehensive LDC update, as this will determine the extent of changes anticipated in the update. The end goal is to create a more user-friendly code which utilizes best practices to implement the goals of *Go2030* with a focus on context-sensitive design, expanded housing options, and a more predictable entitlement process.

III. Work Plan

Given the general agreement to proceed with the Preferred Alternative (described above), the next phase of the project is to develop a work plan that addresses all the issues identified in the LDC Diagnostic Report and clearly outlines the steps the City needs to take to commence a comprehensive update of the LDC. To implement the Preferred Alternative, the Work Plan outlines a deliberate process to prepare for the eventual issuance of a Request for Proposals (RFP) for the LDC update. This Work Plan outlines the crucial initial steps to prepare the City staff and governing bodies for a LDC update process that involves new zoning tools that have not been previously applied in Fargo. Given the current context and development pressure the City is facing, the work plan targets the release of an RFP within the next 18-20 months. LWC recommends a phased approach to ensure a successful outcome. The phased approach will help with scheduling and the internal management of the process to ensure the strength and clarity of each initiative. One key aspect in the overall process management is keeping the long-range planning efforts and the LDC update preparation tasks operating concurrently. Embarking on simultaneous planning efforts which include multiple public meetings and workshops runs the risk of "planning-fatigue" among residents. The City can avoid this by structuring any simultaneous planning efforts to build upon each other, rather than run independently of one another, and therefore avoid redundancy, repetition, and overlap in the outreach process.

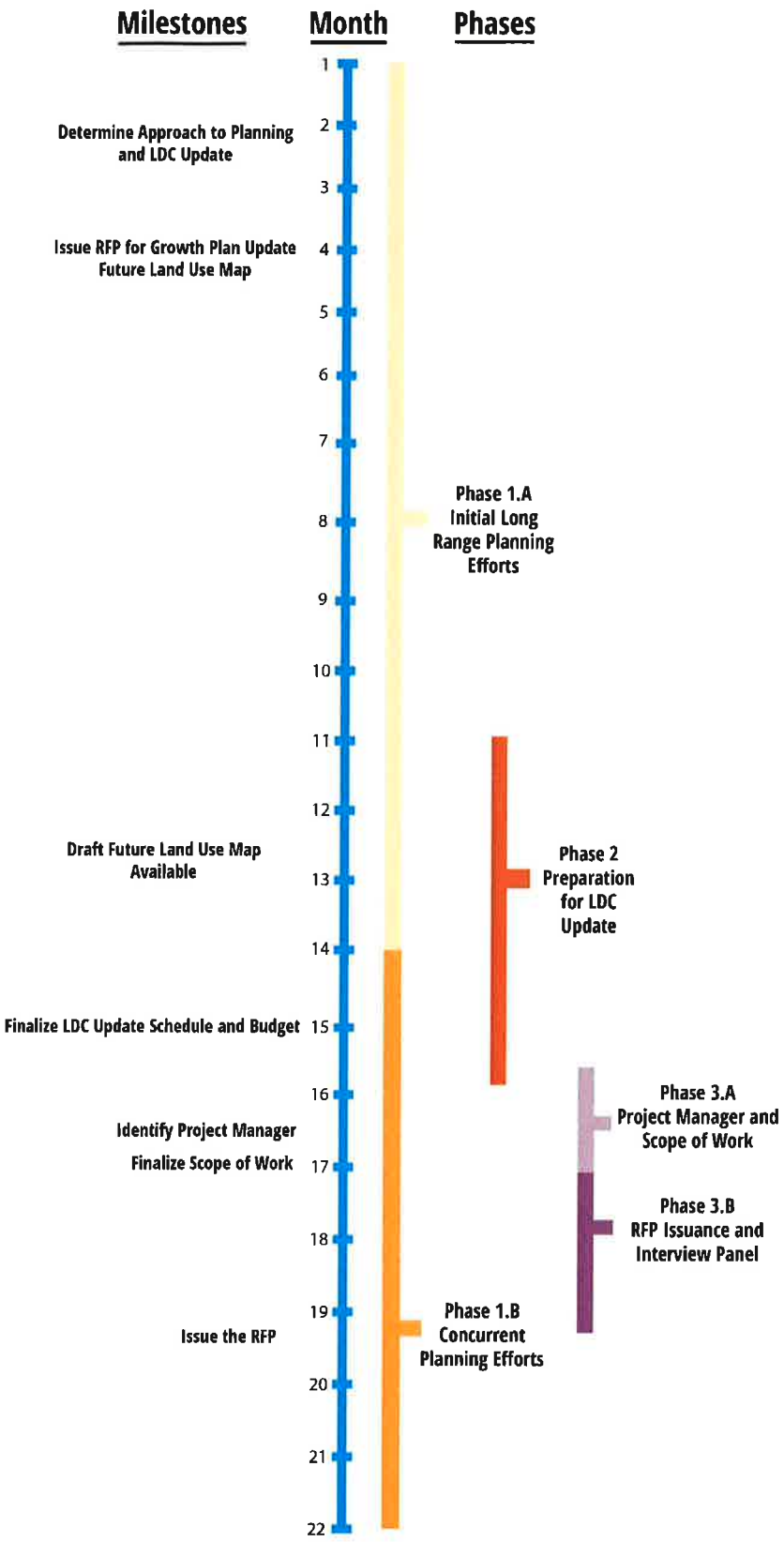
The sections below highlight each phase of work and its intent. The timeline on the following page shows the alignment of the three phases with key milestones. Not all Phases must occur consecutively. Phases may be completed more quickly than outlined, when possible, to achieve an earlier RFP issuance date.

Phase 1: Long-Range Planning and Preparation (12-22 months)

To inform the scope of the LDC update, City staff must identify additional long range planning work to be completed prior to, and/or concurrently with, future phases of the Code update. The City should start Phase 1A before beginning Phase 1B. The two can run concurrently.

A. *Phase 1.A: Identify and Begin Initial Long Range Planning Efforts*

Some planning work should be considered before engaging in the LDC update process, including the update to the Growth Plan and development of a Future Land Use Map. Developing even a preliminary or draft Future Land Use Map before beginning to plan for the LDC update will help in understanding the extent of the zoning changes that need to occur and, thereby, fine-tune the scope of work. In addition, any necessary updates to *Go2030* could occur before the LDC update begins or during the consultant selection process. If City staff and City officials have


Milestones
Month
Phases
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
Determine Approach to Planning and LDC Update
Issue RFP for Growth Plan Update Future Land Use Map
Draft Future Land Use Map Available
Finalize LDC Update Schedule and Budget
Identify Project Manager
Finalize Scope of Work
Issue the RFP
Phase 1.A Initial Long Range Planning Efforts
Phase 2 Preparation for LDC Update
Phase 3.A Project Manager and Scope of Work
Phase 3.B RFP Issuance and Interview Panel
Phase 1.B Concurrent Planning Efforts

already identified goals and policy areas of *Go2030* that need to be updated, these updates should occur before the LDC update process commences. This allows uncoupling the land use policy development process from implementation. Given the considerable amount of change anticipated as part of an update to the 2007 Growth Plan, it is important to have these bigger, City-wide conversations regarding the City's approach and goals early on to develop community consensus and support around a long-range vision, so implementation via the LDC Update does not get delayed or stalled as a result of community pushback.

B. *Phase 1.B: Identify Long Range Planning Efforts Concurrent with LDC Update*

Some planning initiatives can begin and run concurrently with an LDC update. This includes implementation of the Core Neighborhood Master Plan, which would not interfere with the type of work needed to update the LDC. The City could utilize the public outreach momentum it gained during the Core Neighborhood planning process and direct it towards the LDC update while also reaching a wider audience by involving other neighborhoods and stakeholders outside of the core. Additionally, detailed design charrettes or planning workshops needed for areas targeted for application of form-based code standards, such as Downtown and key commercial corridors, can be part of the scope of work for the LDC update.

Phase 2: Preparation for the Comprehensive LDC Update (5 months)

All elements of Phase 2 listed below can occur concurrently as a means of preparing for the LDC update process. LWC recommends completing some initial education and training with staff to help inform other Phase 2 efforts.

Education and Training

As the LDC Diagnostic Report and the Alternatives and Recommendations Memo have been completed, the next step is to ensure that City staff and associated approval authorities, such as the Planning Commission, understand the new, proposed zoning tools that will be utilized in an updated LDC, such as form-based zoning. Education on form-based zoning and other updated best practices can be accomplished by participation in education sessions for Boards and Commissions as well as training for City staff on these new regulations. If possible, staff training and education should be completed prior to beginning other preparations listed in Phase 2, as the education will inform next steps, such as timeline, schedule, and outreach. Organizations such as the Form-Based Code Institute and the American Planning Association offer virtual courses ranging from Form-Based Code 101classes that provide a high-level overview of form-based codes to deep-dive sessions on how to administer a form-based code. It is also important to offer key stakeholders with opportunities to participate in the education sessions, as well as

residents, local design professionals, local developers, and contractors etc. Finally, there are many useful articles available online in the public domain that can be shared with interested members of the public.

Project Schedule and Budget

City staff should identify budget targets and funding sources for the LDC update process prior to development of an RFP. While the exact budget amount will be informed by the final scope of work, extensive Code update projects that involve a change from a use-based Euclidean zoning code to a hybrid code with form-based elements typically costs between $500,000 and $1,000,000, over a period of 3 to 5 years. A determination of the extent of the updates required to the Code (versus what provisions can be carried forward), the number and duration of meetings with City staff, and the extent of the public outreach process will help inform the amount of funding needed. This, in turn, will inform the RFP, as the City should provide a budget range in the RFP to ensure prospective consultants prepare a scope of services in line with the City's budget objectives.

Depending on budget cycles, available funding sources, and the City's desired completion date, the City can then develop the project schedule. Project schedules will vary depending on the scope of work and the desired amount of public outreach. Overall, a comprehensive code update project for a city the size of Fargo will typically require a minimum of two years to complete.

Public Outreach Strategy

The City should develop goals for a comprehensive public outreach strategy to inform and involve the City's residents and stakeholders of the LDC update process and describe how they can participate. This should occur concurrently with developing the desired project schedule and budget, as they inform each other. City staff does not need to develop the entire outreach plan but should have an idea of the extent of outreach, number of meetings, and other key details needed to inform the budget and timeline.

A successful strategy employed by many cities who have worked on comprehensive code rewrite projects is to appoint a Code Advisory Group or Committee made up of residents and appointed officials to help oversee the process, provide a forum for community input, and provide policy direction and guidance to City staff and the consultant team on important issues associated with the LDC update.

In addition, some cities identify a local resident to serve as a "citizen champion" for a Code update project. The citizen champion is typically a resident or business owner who is respected in the community and who can help the City staff to overcome challenges and issues that may surface during the update and approval process.

Phase 3: Prepare and Issue Request for Proposal (4 months)

Phase 3A should be completed prior to beginning Phase 3B.

A. *Phase 3.A: Project Manager and Scope of Work*

1. *Identify a Project Manager*

Identify a project manager within the Department of Planning and Development and ensure that they can dedicate sufficient time to the project to guarantee its success as well as enough support staff to help up until project completion. The Director should review other current and future projects and reallocate resources, or request additional resources, as needed to maintain the project manager's availability.

2. *Finalize Project Objectives, Scope, and Timeline*

The project manager will finalize the project objectives and confirm that they are consistent with the expectations of the City's policy makers/elected officials, as well as finalize the scope of work and the overall project timeline.

B. *Phase 3.B: RFP Issuance and Consultant Interview Panel*

1. *Write and Issue the RFP*

The project manager should write the RFP in consultation with the City's Auditor's office, City guidelines and, as necessary, utilizing resources on RFPs from the American Planning Association and the Form-Based Code Institute. The RFP should include project objectives, timeline, scope framework, and budget range. To ensure adequate time to evaluate the RFP, submit and receive responses to questions, and participate in a pre-bid meeting, the City should allow for minimum six weeks to submit a proposal. The RFP should be posted in local media outlets, the City's website, as well as national planning websites including Planetizen and the American Planning Association to get the widest range of responses possible.

2. *Establish Interview Panel*

During the six-week response period or prior to release of the RFP, establish an interview panel of no more than seven persons. Ideally, the interview panel will include members from multiple disciplines and/or agencies including, for example, the City Department of Planning and Development staff, Planning Commissioners, City Attorney, staff from other departments, and/or the identified citizen champion for the code.

IV. Scope of Work Framework

The RFP should include a high-level scope of work to specify, as much as possible, the minimum number of tasks that will occur for the City to achieve desired project goals. The list below is a high-level scope framework to be addressed in the proposer's scope of work for a code rewrite project. The City can provide additional details, as appropriate, once Phase 1 is complete.

1. Project Management

The consultant team will prepare a Project Management and Communications Plan to establish work protocols and ensure information flows consistently among the City and consultant team. The project lead will be responsible for ensuring quality of deliverables, reporting on progress, and compliance with the timeline and budget. Components of the plan will include:

- Regular calls/meetings with City staff
- Kickoff meeting

2. Public Outreach

The consultant team will work with the City to formulate a Public Outreach Plan to outline all public meetings, work sessions, interviews, and other outreach efforts. The Plan could go further to help establish an LDC Update Advisory Committee or similar type of body to oversee the process. The consultant team's goal should be focused on proactive and consistent messaging and regular noticed meetings with community leaders and stakeholders aimed at transparency and ensuring that residents are a key partner in the decision-making process.

3. Background Review and Final Approach

An in-depth analysis of the LDC, key policy documents, and the Diagnostic Report should occur early in the process to establish the necessary changes to each LDC section and how any changes implement the City's land use goals and policies. Potential deliverables for this task include:

- Recommendations and Strategy Memo
- Annotated Outline and Style Guide

4. Draft the LDC

The proposer should clearly identify the number of drafts, approach to deliverables, time reserved for City staff and/or public review. The drafts should address all

chapters/sections identified in the Annotated Outline. The LDC should include the following updated and/or new sections:

- Zoning Districts: Single-family Residential, Mixed-Use, Multi-family Residential, Commercial, Industrial, Overlay Zones, Other
- Land Use Regulations: definitions, specific to use regulations
- Form-Based Zones: frontage standards, building type standards, public realm standards, civic space standards
- Citywide Standards: landscaping, parking, open space
- Subdivision Regulations
- Administration and Procedures: use permits, site plan review, administrative relief, variances
- Zoning Map

5. Review and Approval

The consultant team will attend review meetings with City staff and make formal presentations to the Planning Commission to get feedback on the draft LDC. Revised drafts will culminate into a final draft LDC for the Planning and City Commissions to consider for recommendation and approval, respectively, at a certain number of public hearings.

THE CITY OF Fargo FAR MORE

410

May 17, 2021

To: **Board of City Commissioners**
Fr: **Michael Redlinger, Assistant City Administrator**
Re: **Cass Clay Community Land Trust Update**

The Cass Clay Community Land Trust (CCCLT) will provide a presentation and update to the City Commission on May 17, 2021. Mr. Trenton Gerads, Cass Clay Community Land Trust Executive Director, will provide brief remarks and answer questions from the City Commission on the following topics:

- What the CCCLT is and how it works in the City of Fargo;
- What project needs the CCCLT has identified within the metropolitan area;
- Active projects the CCCLT is working on in the City of Fargo
- Partnerships the CCCLT has with other organizations/individuals; and
- An overview of the City of Fargo's investment in the CCCLT.

In 2020, the City of Fargo provided $50,000 in operating support to the CCCLT. The City's 2021 Social Services budget contains $50,000 to support continued CCCLT operations.

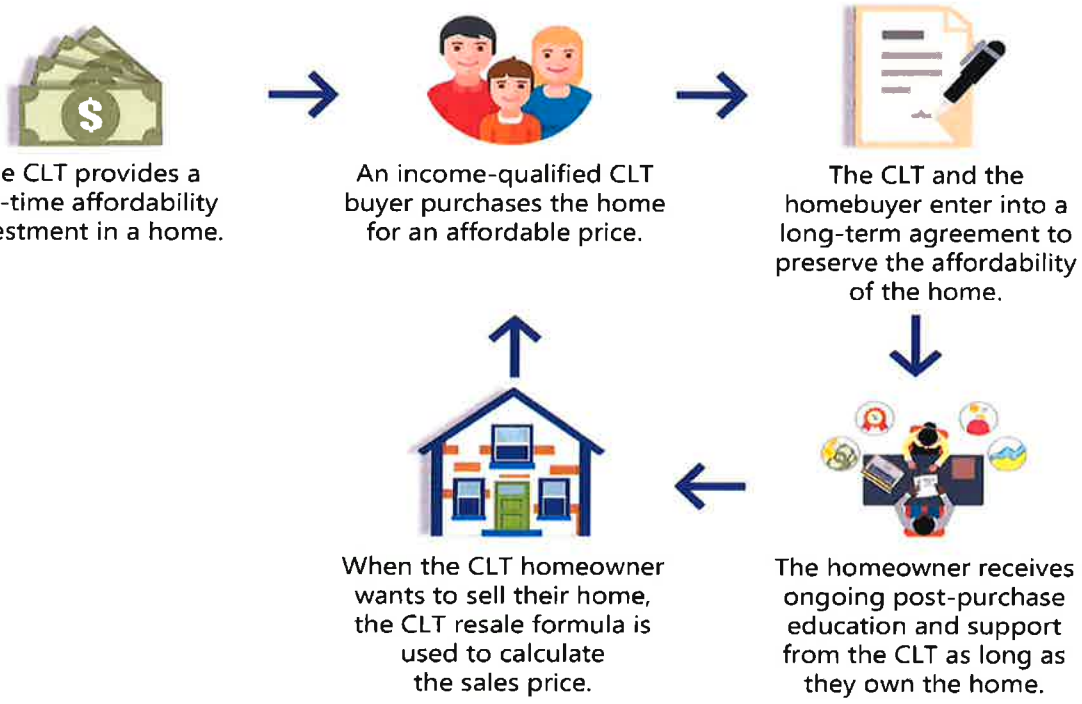
Attachments: CCCLT Overview
Comparison of CCCLT Housing Costs to Other Housing Types

Cass Clay
COMMUNITY LAND TRUST

How Cass Clay CLT works

Cass Clay CLT is a non-profit that buys or receives donated land and builds or arranges for the construction of new homes and/or acquires and rehabilitates existing homes and makes these homes available for sale to limited income homebuyers, writing down the purchase price to an affordable level through the use of public and/or private subsidies. The Cass Clay CLT sells the home at an affordable price to an eligible, qualified homebuyer household but retains ownership of the land parcel on which the home sits, leasing the parcel to the homeowner through a 99-year, inheritable, renewable ground lease. The ground lease conveys to the homeowner an exclusive, durable, enforceable right to occupy and use the land, along with most of the rights and responsibilities available to traditional, fee simple homeowners. At the same time, the Cass Clay CLT ground lease details specific expectations and requirements regarding the homeowner's use and occupancy of the property while they own their home and limits the resale price of the home, should the homeowner ever decide to sell. In exchange for the opportunity to purchase a home they would not have otherwise been able to afford, Cass Clay CLT homeowners agree to limit the amount of equity they will keep through the sale of their home at resale, thereby allowing incoming limited-income homebuyer households the same opportunity and affordable price initially made available them.

Cass Clay CLT Perpetual Affordability Cycle



Comparing CLT Ownership to Other Types of Housing

See how CLT home ownership compares to renting a three-bedroom home and purchasing a home through non-CLT ownership over a seven-year period:

	Rental	CLT Ownership	Non-CLT Ownership
Purchasing the Home			
Initial Market Value of Home	N/A	$180,000	$180,000
Cass Clay CLT Affordability Investment	N/A	$40,000	N/A
Total Purchase Price	N/A	$140,000	$180,000
Monthly Housing Costs*			
Monthly Rent	$1,200	N/A	N/A
Mortgage Payment: Principal and Interest	N/A	$752	$966
Taxes and Insurance	N/A	$350	$350
Utilities (Sewer, Water, Trash, Heat, Electric)	$150	$150	$150
Cass Clay CLT Ground Lease or Covenant Fee	N/A	$50	N/A
Total Monthly Housing Cost	$1,350	$1,302	$1,466
After 7 Years – Selling the Home			
New Value of Property (assumes 5%/year increase)	N/A	$229,700	$229,700
Total Increase in Value – Market Equity	N/A	$49,700	$49,700
Owner's Share of Market Equity (assumes resale formula allowing 25% of market equity to go to CLT owner)	N/A	$12,425	$49,700
New Sales Price (original purchase price plus owners increase in appreciation)	N/A	$152,425	$229,700
Financial Gain			
Amount of Mortgage Paid Off – Earned Equity	N/A	$16,877	$21,699
Plus Share of Market Equity	$0	$12,425	$49,700
Total Financial Gain	$0	$29,302	$71,399
Additional Benefits	**Rental**	**CLT Ownership**	**Non-CLT Ownership**
Ability to Deduct Mortgage Interest on Taxes	X	√	√
Monthly Housing Payments Protected from Increase	X	√	√
Property Tax Write-Off Allowed	X	√	√
Long-Term Security	X	√	√
Ability to Make Alterations and Improvements	X	√	√
Future Affordability	?	√	X

*Assumes 30-year 5% mortgage, annual property tax of $3,000 and annual property insurance of $1,200.

THE CITY OF Fargo FAR MORE

43

MEMORANDUM

TONY GEHRIG, CITY COMMISSIONER
Fargo City Hall
225 4th Street North
Fargo, ND 58102-4817
Phone: 701.893.8185 | Fax: 701.476.4136
www.FargoND.gov

TO: **CITY COMMISSION**

FROM: **COMMISSIONER TONY GEHRIG**

DATE: **MAY 13, 2021**

SUBJECT: **FARGO ZONING LAWS REGARDING FIREARMS SALES AND RECENTLY ENACTED NORTH DAKOTA HB 1248**

As you probably already know, North Dakota House Bill 1248, as amended, has been enacted. I ask for your approval of a motion that authorizes the City Attorney to prepare an Ordinance that will bring Fargo's Ordinances into line with the requirements and restrictions of HB 1248—an Ordinance that would repeal Fargo's prohibition of firearms and ammunition sales as an eligible home occupation. I have attached a copy of HB 1248, as enacted.

House Bill 1248 was introduced for the purpose of addressing City of Fargo's zoning law—in particular the portion of Fargo's "home occupations" zoning law that prohibited city residents who qualify for a Federal firearms license from being able to use their home as a base for an occupation (usually a very part time occupation) in buying and selling (and assisting in transfers of licenses) of firearms and ammunition. To my knowledge, no other city in our state has had any zoning laws that isolate and distinguish firearm and/or ammunition sales as a prohibited "use" of a property when retail sales and service is otherwise permitted. The state legislator who was the principal sponsor of HB 1248 was targeting our city. Fargo's home occupation restriction was the focus of this bill, which restriction[1] reads as follows:

> **e. Firearms and Ammunition Sales:**
> The sale of firearms and/or ammunition, and the production of ammunition for sale or resale are prohibited as home occupations.
>
> [Fargo Land Development Code Section 20-0403.C (5)(e).]

The State Legislature has recently adjourned from its 2021 session and I would like us, the Fargo City Commission, to take action in a responsible manner to bring our City zoning ordinance into compliance with this new state law. I recognize that our City Commission, as well as our city residents, had divided sentiments about this bill. For example, some felt that the bill invaded territory that should be a matter of "local control". Others simply did not like the idea of firearms and/or ammunition being sold

[1] Fargo's LDC "use table" also permits agriculturally-zoned land to be used for certain non-agricultural commercial uses; however, the same firearms and ammunition sales restriction applies to AG-zoned property as it does for home occupations. See Fargo LDC Section 20-0402.T (3). This provision would also be contrary to HB 1248.

or traded in residential neighborhoods. As a result of considerable discussion about HB 1248, the Fargo City Commission took an official position opposing passage of the bill. I can appreciate the fact that passage of HB 1248 will not change people's feelings or their arguments about the bill but now that the bill has become law, I see this as really a housekeeping matter—the City would be simply revising its laws to conform to the new state law.

Fargo's home occupation restrictions on firearm and ammunition sales is a "zoning law" and, therefore, an amendment requires a public hearing to be held by the Fargo Planning Commission—a hearing which, I understand, is scheduled to occur at the next regular meeting of the Planning Commission. I trust that the Planning Commission will recognize the need for this housekeeping measure and will recommend approval of the appropriate amendment to city law. Thereafter, the housekeeping amendment would be scheduled for hearing and decision by the Fargo City Commission.

I have asked our City Attorney about HB 1248 and he has advised that the bill, now that it has been enacted, will render our "firearm sales restrictions" zoning law to be void and unenforceable. He also has noted that the bill empowers any person who is aggrieved by a city ordinance, including a zoning ordinance, that conflicts with the state law (N.D.C.C. Section 62.1-01-03, as amended) to bring a civil action for damages against the city.

I would appreciate your consideration of this matter and I urge your passage of the following suggested motion.

SUGGESTED MOTION: To direct the City Attorney to draft an appropriate Ordinance that will bring Fargo's home occupation regulations into conformance with North Dakota law, specifically, House Bill 1248 from the 2021 regular session of the North Dakota Legislature.

Enclosure (HB 1248)

Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021

HOUSE BILL NO. 1248
(Representative B. Koppelman)

AN ACT to amend and reenact section 62.1-01-03 of the North Dakota Century Code, relating to the authority of a political subdivision regarding firearms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 62.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

62.1-01-03. Limitation on authority of political subdivision regarding firearms - Civil action.

1. A political subdivision, including home rule cities or counties, may not enact a zoning ordinance or any other ordinance relating to the purchase, sale, ownership, possession, transfer of ownership, registration, or licensure of firearms and ammunition which is more restrictive than state law. All such existing ordinances are void.

2. A person aggrieved under subsection 1 may bring a civil action against a political subdivision for damages as a result of an unlawful ordinance.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1248.

House Vote:	Yeas 81	Nays 11	Absent 2
Senate Vote:	Yeas 26	Nays 20	Absent 1

Chief Clerk of the House

Received by the Governor at 3:55 P.M. on April 20, 2021.

Approved at 7:58 P.M. on April 21, 2021.

Governor

Filed in this office this 22nd day of April, 2021,

at 9:23 o'clock A. M.

Secretary of State

THE CITY OF Fargo
FAR MORE

DR. TIMOTHY J. MAHONEY, MAYOR
Fargo City Hall
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1310 | Fax: 701.476.4136
www.FargoND.gov

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY

DATE: MAY 17, 2021

SUBJECT: APPOINTMENTS TO THE LIQUOR CONTROL BOARD

The Ordinance creating the Liquor Control Board was passed on April 5, 2021. The City received several applications for appointment to that Board.

City Commissioner Dave Piepkorn, City Auditor Steve Sprague, Environmental Health Director Grant Larson, Assistant City Administrator Michael Redlinger and I have reviewed the applications and recommend appointment of the following for terms beginning today, May 17, 2021 and ending as indicated:

Kay Schwarzwalter – July 1, 2023
Robert Nelson – July 1, 2023
Lydia Tackett – July 1, 2025
John Stibbe – July 1, 2025

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: To approve the appointment of members to the Liquor Control Board as outlined above.

mmappt21lcb