

FARGO PLANNING COMMISSION AGENDA  
Tuesday, November 1, 2016 at 3:00 P.M.

- A: Approve Order of Agenda.
- B: Minutes: Regular Meeting of October 4, 2016.
- C: Brown Bag Luncheon - Wednesday, November, 16, 2016.
- D: Public Hearing Items:
- 1a. Continued Hearing on an application requesting a Growth Plan Amendment on Lots 7-11, Block 14, **Kirkham's Second Addition**. (Located at 1128, 1132, and 1136 14th Street North; 1404 12th Avenue North) (L2H Development, LLC) (an/mr): CONTINUED TO JANUARY 3, 2016
  - 1b. Continued Hearing on an application requesting a Zoning Change from SR-3, Single-Dwelling Residential, MR-2, Multi-Dwelling Residential, and LC, Limited Commercial with a C-O, Conditional Overlay to LC, Limited Commercial with a PUD, Planned Unit Development Overlay and extinguishment of the existing C-O, Conditional Overlay on Lots 7-11, Block 14, **Kirkham's Second Addition**. (Located at 1128, 1132, and 1136 14th Street North; 1404 12th Avenue North) (L2H Development, LLC) (an/mr): CONTINUED TO JANUARY 3, 2016
  - 1c. Continued Hearing on an application requesting a Planned Unit Development Master Land Use Plan for Commercial and Residential Development on Lots 7-11, Block 14, **Kirkham's Second Addition**. (Located at 1128, 1132, and 1136 14th Street North; 1404 12th Avenue North) (L2H Development, LLC) (an/mr): CONTINUED TO JANUARY 3, 2016
  2. Continued Hearing on an application requesting a Street Vacation of 22nd Street North between Block 11 and Block 12, **Tyler's Addition**. (Located between the 300 and 400 Blocks of 22nd Street North) (Fabricators Unlimited) (an): CONTINUED TO JANUARY 3, 2016
  - 3a. Continued Hearing on an application requesting a Zoning Change from LI, Limited Industrial to LI, Limited Industrial with a PUD, Planned Unit Development Overlay on Lots 7-8, and the East 10 feet of Lot 9, Block 34, **Beardsleys Addition**. (Located at 2105 7th Avenue North) (Accel Mechanical, LLC) (an): CONTINUED TO JANUARY 3, 2016
  - 3b. Continued Hearing on an application requesting a Planned Unit Development Master Land Use Plan on Lots 7-8, and the East 10 feet of Lot 9, Block 34, **Beardsleys Addition**. (Located at 2105 7th Avenue North) (Accel Mechanical, LLC) (an): CONTINUED TO JANUARY 3, 2016
  - 4a. Continued Hearing on an application requesting a Zoning Change from AG, Agricultural to GC, General Commercial within the boundaries of the proposed **Interstate Business Park Addition**.

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

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 241-1474 or TDD at 241-8258. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

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

(Located at 3801 26th Avenue South and 2852 Thunder Road South) (Kjos Investments, LLC) (dk): CONTINUED TO DECEMBER 6, 2016

- 4b. Continued Hearing on an application requesting a Plat of **Interstate Business Park Addition** (Major Subdivision) a replat of Lot 1, Block 1, Adams 7th Addition, and part of the Northeast Quarter of Section 22, Township 139 North, Range 49 West to the City of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota. (Located at 3801 26th Avenue South and 2852 Thunder Road South) (Kjos Investments, LLC) (dk): CONTINUED TO DECEMBER 6, 2016
5. Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan on Lots 1 and 2, Block 1, **CBC Addition**. (Located at 3535 and 3541 25th Street South) (PACES Lodging) (dl):
6. Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan on Lot 1, Block 1, **West Acres Business Park 6th Addition**. (Located at 4324 20th Avenue South) (TL Stroh Architects, Ltd.) (me):
7. Hearing on an application requesting a Conditional Use Permit to allow for an Alternative Access Plan on Lot 3, Block 1, **Woodhaven Plaza Addition**. (Located at 4055 41st Avenue South) (Aldevron LLC) (me):
8. Hearing on an application requesting a Zoning Change from GC, General Commercial to P/I, Public and Institutional on Lots 1-10, Block 2, **Noridian Center Addition**. (Located at 4814, 4830, 4908, and 4920 14th Avenue South; 4809, 4825, 4905 and 4917 15th Avenue South; and 1403 and 1441 48th Street South) (West Fargo Public Schools) (an):
9. Hearing on an application requesting a Plat of **Bentley Place First Addition** (Minor Subdivision) a replat of Lot 1, Block 1, Brand Crossing First Addition to the City of Fargo, Cass County, North Dakota. (Located at 5503 33rd Avenue South) (PACES Lodging) (km):
- 10a. Hearing on an application requesting a Zoning Change from AG, Agricultural to GI, General Industrial with a PUD, Planned Unit Development Overlay within the boundaries of the proposed **Mid America Steel Addition**. (Located at 5617 19th Avenue North) (Mid America Steel, Inc.) (dk):
- 10b. Hearing on an application requesting a Planned Unit Development Master Land Use Plan and Final Plan within the boundaries of the proposed **Mid America Steel Addition**. (Located at 5617 19th Avenue North) (Mid America Steel, Inc.) (dk):
- 10c. Hearing on an application requesting a Growth Plan Amendment within the boundaries of the proposed **Mid America Steel Addition**. (Located at 5617 19th Avenue North) (Mid America Steel, Inc.) (dk):

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10d. Hearing on an application requesting a Plat of **Mid America Steel Addition** (Major Subdivision) of part of the Southwest Quarter of Section 28, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Located at 5617 19th Avenue North) (Mid America Steel, Inc.) (dk):

11. Hearing on an application requesting a Name Change Plat for 38th Street South, located south of the City of Fargo within the Commerce on I-29 Addition, to be renamed **39th Street South**. (City of Fargo) (an):

E: Other Items:

1. Annexation of approximately 42.6 acres of the Southwest Quarter of Section 28, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota. (Bruce Brand and Elwood (Jay) Brand) (dk):

2. Appeal of an Administrative Decision to Approve a Residential Protection Standard (RPS) waiver on a property located at 2840 and 2860 Calico Drive South. (Calico Prairie Addition): (me)

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**BOARD OF PLANNING COMMISSIONERS  
MINUTES**

**Regular Meeting:**

**Tuesday:**

**October 4, 2016:**

The Regular Meeting of the Board of Planning Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 3:00 o'clock p.m., Tuesday, October 4, 2016.

The Planning Commissioners present or absent were as follows:

Present: Mara Brust, Shara Fischer, John Gunkelman, Mike Magelky, Mary Scherling, Rocky Schneider, Kelly Steffes, Scott Stofferahn, Jan Ulferts Stewart

Absent: Melissa Sobolik

Chair Ulferts Stewart called the meeting to order.

**Business Items:**

**Item A: Approve Order of Agenda**

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

**Item B: Minutes: Regular Meeting of September 6, 2016**

Member Scherling moved the minutes of the September 6, 2016 Planning Commission meeting be approved. Second by Member Gunkelman. All Members present voted aye and the motion was declared carried.

Member Schneider present.

**Item C: Wednesday, October 19, 2016 Brown Bag Luncheon**

Topics: Definition of Infill and the Planning Department Work Plan for 2017

**Item D: Public Hearing Items:**

**Item 1: Interstate Business Park Addition**

**a. Continued Hearing on an application requesting a Zoning Change from AG, Agricultural to GC, General Commercial within the boundaries of the proposed Interstate Business Park Addition. (Located at 3801 26th Avenue South and 2852 Thunder Road South) (Kjos Investments, LLC): CONTINUED TO NOVEMBER 1, 2016**

**b. Continued Hearing on an application requesting a Plat of Interstate Business Park Addition (Major Subdivision) a replat of Lot 1, Block 1, Adams 7th Addition, and part of the Northeast Quarter of Section 22, Township 139 North, Range 49**

**West of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota. (Located at 3801 26th Avenue South and 2852 Thunder Road South) (Kjos Investments, LLC): CONTINUED TO NOVEMBER 1, 2016**

A hearing had been set for August 2, 2016. At the August 2, 2016 meeting the Hearing was continued to September 6, 2016. At the September 6, 2016 meeting the Hearing was continued to this date and time; however, the applicant has requested this item be continued to November 1, 2016.

Member Brust moved this item be continued to the November 1, 2016 Planning Commission meeting. Second by Member Fischer. All Members present voted aye and the motion was declared carried.

**Item 2: Kostman Addition**

**Hearing on an application requesting a Plat of Kostman Addition (Minor Subdivision) a replat of part of Lots 15-17, Block 1, Schultz & Williams Addition, to the City of Fargo, Cass County, North Dakota. (Located at 3481 and 3487 University Drive South) (PACES Lodging): APPROVED**

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

Member Stofferahn present.

Member Brust moved the findings and recommendations of staff be accepted and approval be recommended to the City Commission of the proposed subdivision plat Kostman Addition as outlined within the staff report, as the proposal complies with the adopted Area Plan, the Standards of Article 20-06, and all other applicable requirements of the Land Development Code. Second by Member Schneider. On call of the roll Members Brust, Schneider, Scherling, Steffes, Stofferahn, Fischer, Magelky, Gunkelman, and Ulferts Stewart voted aye. Absent and not voting: Member Sobolik. The motion was declared carried.

**Item 3: Pladson Addition**

**Hearing on an application requesting a Conditional Use Permit to allow a modification of the existing Conditional Use Permit for Household Living in a GC, General Commercial zoning district to increase the allowed number of units to six on Lot 1, Block 1, Pladson Addition. (Located at 508 Oak Street North) (Diamond Rock Properties, LLC): APPROVED WITH CONDITIONS.**

Senior Planner Donald Kress presented the staff report. He noted a neighborhood meeting was held on September 23, 2016 for area property owners, and staff have not received any opposition to-date. Mr. Kress stated all approval criteria have been met and staff is recommending approval.

Board discussion ensued regarding the pavement of the alley as it provides access to this project, and the applicant's responsibility to develop a petition to pave the alley; the special assessment cost for the paving that will be shared by the abutting property owners; and flood protection requirements.

City Engineer April Walker addressed the petition process for the paving of the alley.

Director of Operations Ben Dow, Public Works, talked about the need for this alley to be paved in order to install a storm sewer for proper drainage in this area.

Applicant Riley Rude, Diamond Rock Properties, LLC, presented a PowerPoint and spoke on behalf of the application.

Member Steffes moved the findings and recommendations of staff be accepted and the Conditional Use Permit to allow a modification of the existing Conditional Use Permit for Household Living in a GC, General Commercial zoning district to increase the allowed number of units to six on Lot 1, Block 1, Pladson Addition be approved, as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the Land Development Code, with the following conditions:

1. Applicant shall petition the City for paving the east/west alley between Oak Street and 1st Avenue prior to submitting a building permit. The north/south portion of the alley that "T's" into this alley and connects to 6th Street North will not need to be paved as part of this project.
2. The residential density allowed on Lot 1, Block 1, Pladson Addition shall not exceed six dwelling units.

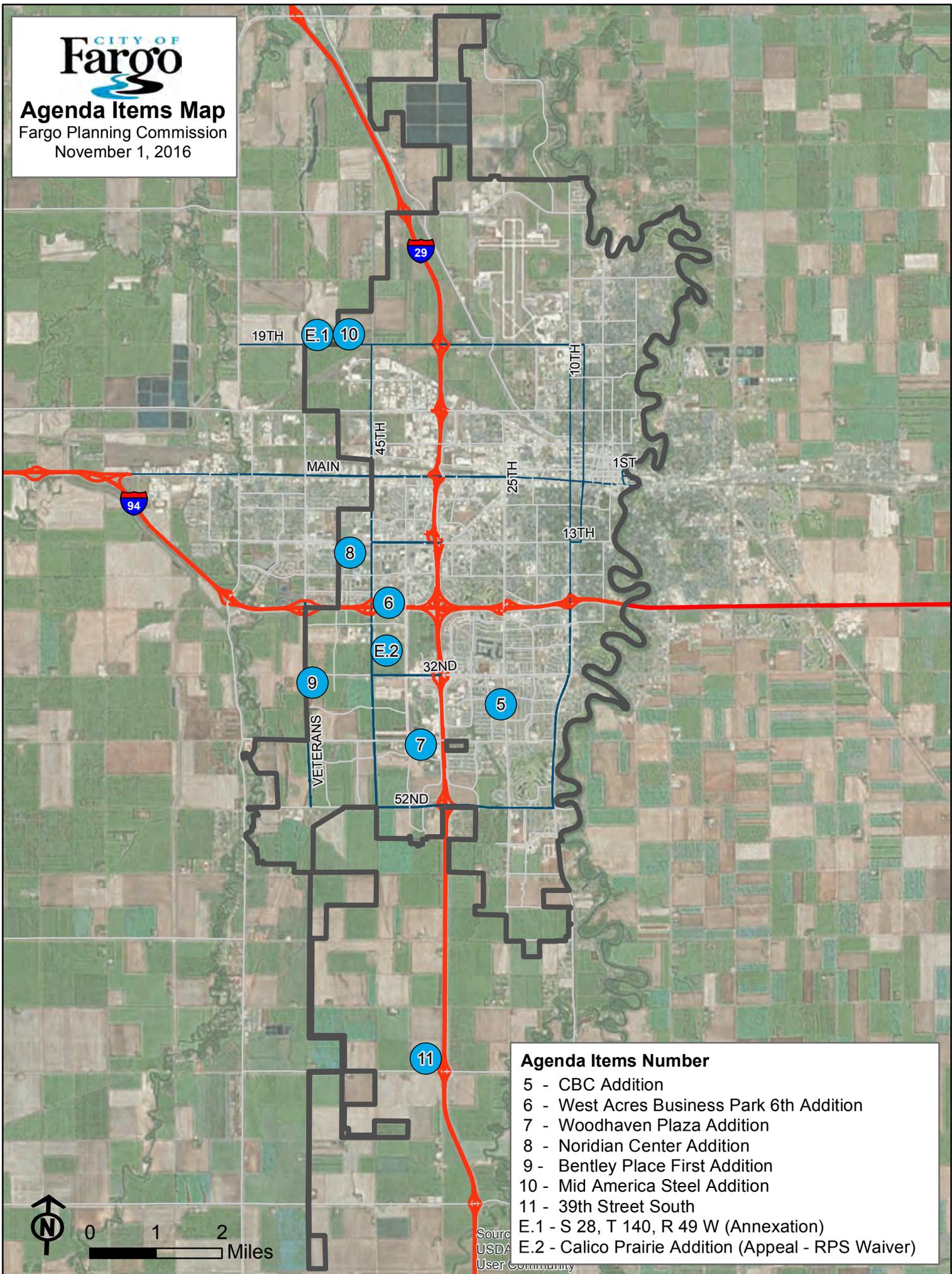
Second by Member Gunkelman. On call of the roll Members Brust, Stofferahn, Scherling, Schneider, Steffes, Magelky, Gunkelman, Fischer, and Ulferts Stewart voted aye. Absent and not voting: Member Sobolik. The motion was declared carried.

The time at adjournment was 3:39 p.m.



# Agenda Items Map

Fargo Planning Commission  
November 1, 2016



### Agenda Items Number

- 5 - CBC Addition
- 6 - West Acres Business Park 6th Addition
- 7 - Woodhaven Plaza Addition
- 8 - Noridian Center Addition
- 9 - Bentley Place First Addition
- 10 - Mid America Steel Addition
- 11 - 39th Street South
- E.1 - S 28, T 140, R 49 W (Annexation)
- E.2 - Calico Prairie Addition (Appeal - RPS Waiver)



0 1 2 Miles

Source  
USDA  
User Community

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	CBC Addition	<b>Date:</b>	10/14/2016
<b>Location:</b>	3535 and 3541 25th Street South	<b>Staff Contact:</b>	Derrick LaPoint
<b>Legal Description:</b>	Lots 1 and 2, Block 1, CBC Addition		
<b>Owner(s)/Applicant:</b>	Community Baptist Church, Osgood Investments LLC/ PACES Lodging	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Conditional Use Permit</b> (CUP) to allow for an Alternative Access Plan on Lots 1 and 2, Block 1, CBC Addition		
<b>Status:</b>	Planning Commission Public Hearing: November 1, 2016		

Existing	Proposed
<b>Land Use:</b> Church and Parking Lot	<b>Land Use:</b> Church and Office
<b>Zoning:</b> LC, Limited Commercial and CUP	<b>Zoning:</b> LC, Limited Commercial and CUP
<b>Uses Allowed:</b> LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.	<b>Uses Allowed:</b> LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.  <b>Plus a CUP to allow for an Alternative Access Plan</b>
<b>Maximum Lot Coverage Allowed:</b> Maximum 55% building coverage	<b>Maximum Lot Coverage Allowed:</b> No Change

**Proposal:**

The applicant is seeking approval of a Conditional Use Permit (CUP) for an alternative access plan, parking reduction, located at 3535 & 3541 25 St S.

In August, 2015 a CUP was approved to reduce the number of parking spaces required for the Community Baptist Church from 100 spaces to 68 spaces. These spaces are accessed through a shared parking agreement that was approved in a CUP on January, 2012 and was written into the purchase agreement when Community Baptist sold the parcel. Additional spaces were to be provided via the shared parking agreement with the future construction of the adjacent lot. The new development plans indicate that the development will now be medical office. The LDC requires 0.4 spaces per occupant for the church and 1 space per 200sf for the medical office. As a result, 100 parking spaces are required for the church and 75 for the medical office. The applicant is seeking to replace the existing CUP to reduce the total required parking spaces from 175 to 108. The private shared parking agreement between the church and medical office states that the church will have full use of 70 spaces Monday-Friday after 6pm, Saturday after 5pm and all-day Sunday.

The average total attendance for the last two years has been under 75 people for the church. The applicant states that the average total number of family units has been around 30 and even if every family drove 2 cars, they would only be using 60 parking spaces on any given Sunday.

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

**Surrounding Land Uses and Zoning Districts:**

- North: LC, Limited Commercial and MR-3, Multi-Dwelling Residential, with Twin Home Unit and Medical Clinic uses
- East: SR-2, Single-Dwelling Residential across 25th Street South, with a church use
- South: LC, Limited Commercial and MR-3, Multi-Dwelling Residential, with Strip Center and Apartment uses
- West: MR-3, Multi-Dwelling Residential, with an apartment use

**Area Plans:**

No area plans apply.

**Schools and Parks:**

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

**Parks:** The subject properties are less than 1,000 feet north of Stonebridge Park #1 (3711 25th Street S) with the amenities of basketball courts, grill, multipurpose field, picnic table, playground, recreational trails, and soccer field.

**Pedestrian / Bicycle:** Off-road bike facilities are located along 25th Street South and are a component of the overall metro area trail system.

**Staff Analysis:**

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

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

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

- 1. Does the proposed conditional use comply with all applicable provisions of the LDC and will it conform to the general intent and purpose of this LDC?**  
The general intent and purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that protect the health, safety, and general welfare of the citizens of Fargo. Exploring reductions in minimum parking standards is a key initiative meant to promote the Plan's guiding principles. Specifically, Transportation Initiative 07 from the Go2030 Comprehensive Plan states to, "Pursue creative parking strategies to fund and activate parking structures, explore reducing minimum parking standards, and share parking between daytime and nighttime uses." The proposed conditional use will comply with all applicable provisions of the LDC.  
**(Criteria Satisfied)**
- 2. Will the proposed conditional use at the specified location contribute to and promote the welfare or convenience of the public?**  
The proposed Alternative Access Plan will contribute to and promote the welfare and convenience of the public by allowing flexibility in location and the sharing of parking spaces within the immediate area. Flexibility and sharing of parking will prevent the need for excess paving.  
**(Criteria Satisfied)**
- 3. Will the proposed conditional use cause substantial injury to the value of other property in the neighborhood in which it is to be located?**  
The developer is following the intending future plans of this site and therefore staff has no data to suggest that the proposed use would cause substantial injury to the value of other property in the neighborhood. In accordance with Section 20-0901.F of the LDC, notices of the proposed use were sent out to property

owners within 300 feet of the subject property. To date, staff has received one call, however no concern was noted.

**(Criteria Satisfied)**

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

The proposed Alternative Access Plan will not dominate the immediate neighborhood or prevent any other sites from being used in the manner allowed by zoning district regulations. Accordingly, staff suggests that the proposed parking reduction would be consistent with the existing neighborhood. In addition, staff finds that the renovations to the facility are limited in scope and would not create a noticeable increase in intensity of the existing use.

**(Criteria Satisfied)**

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

City staff has reviewed the proposal and finds that the necessary utilities, services, facilities and programs are currently in place.

**(Criteria Satisfied)**

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

Roads and entrances to parking lots already exist.

**(Criteria Satisfied)**

Recommended Condition:

1. A minimum of 108 parking spaces shall be required between the two lots.
2. Any expansion of the square footage of office or seating capacity of the religious institution will require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
3. The Conditional Use Permit will cease if the land use changes from office or religious institution.

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and hereby move to approve the Conditional Use Permit for an Alternative Access Plan on Lots 1 & 2, Block 1, CBC Addition as the proposal complies with Section 20-0909.D (1-6) and all other requirements of the LDC, with the following condition:

1. A minimum of 108 parking spaces shall be required between the two lots.
2. Any expansion of the square footage of office or seating capacity of the religious institution will require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
3. The Conditional Use Permit will cease if the land use changes from office or religious institution.

**Planning Commission Recommendation:** November 1, 2016

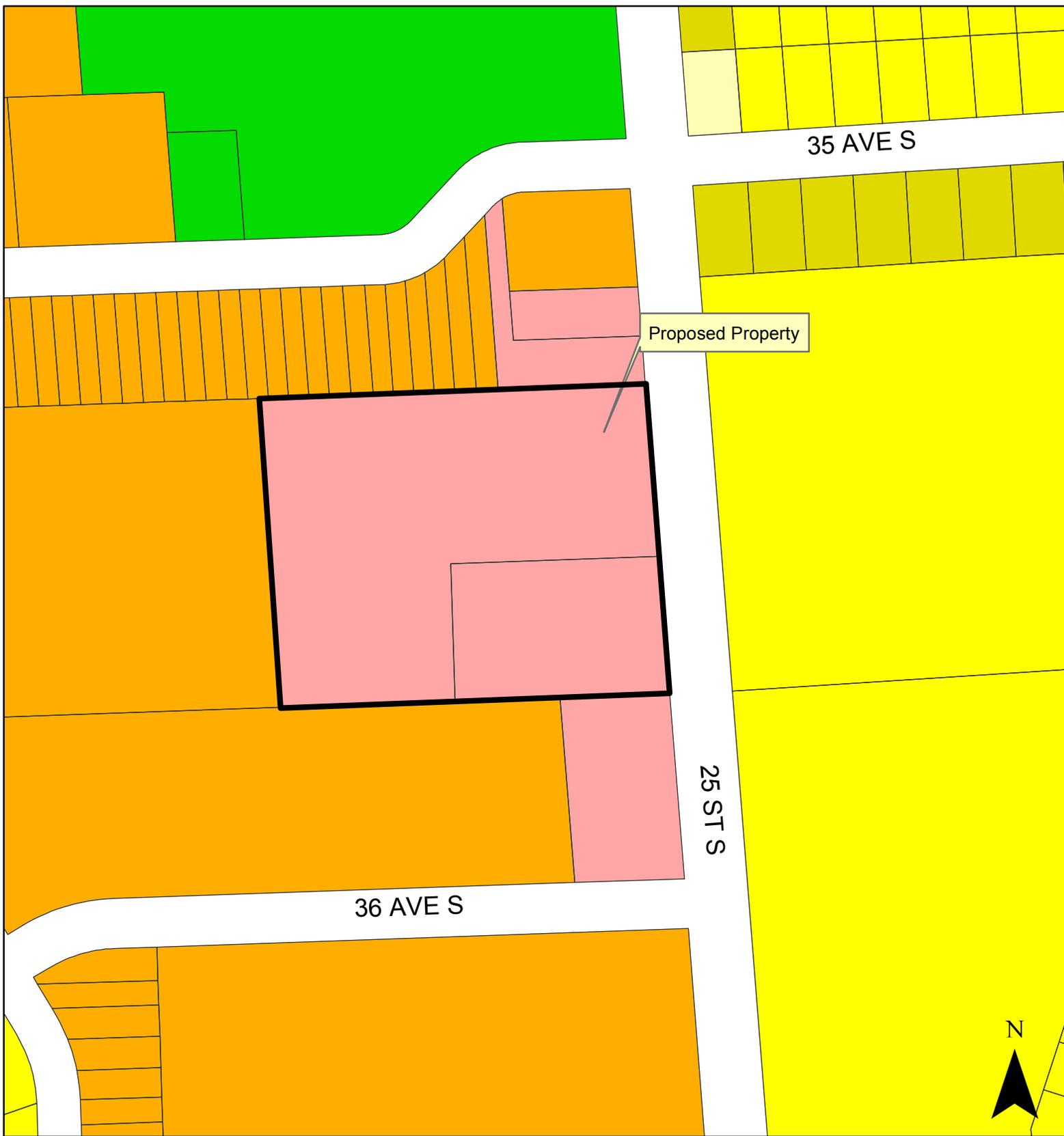
**Attachments:**

1. Zoning Map
2. Location Map
3. Project Narrative
4. Preliminary Site Plan

# CUP (Alternative Access Plan)

## CBC Addition

3535 & 3541 25th Street South



### Legend

AG	LC	MHP	SR-2
DMU	LC	NC	SR-3
GC	MR-1	NO	SR-4
GI	MR-2	P1	SR-5
GO	MR-3	UMU	City Limits

300

Feet

Fargo Planning Commission

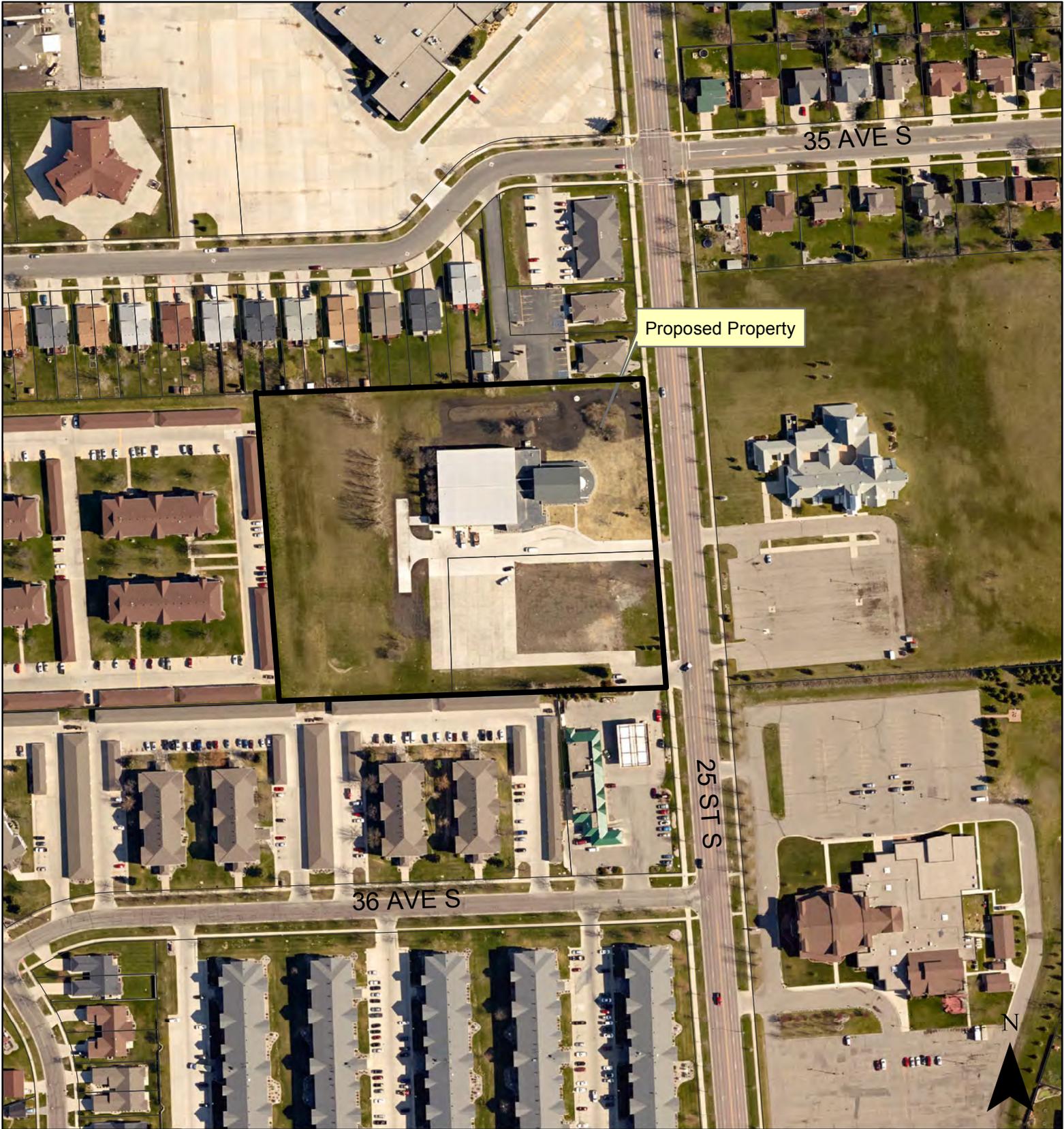
November 1, 2016



# CUP (Alternative Access Plan)

## CBC Addition

3535 & 3541 25th Street South



300  
Feet

Fargo Planning Commission  
November 1, 2016

Derrick,

PACES will work with the Baptist Church to develop a cross parking agreement.

As shown on the schematic site plan, the Church has on its lot 24 parking spots.

As shown on the schematic site plan, the proposed office will provide 84 parking spots.

With regard to the size of the office (15,000sf) we will park it to Medical Office standards (1 spot per 200sf) or 75 spaces.

The remaining spaces will be for overflow and/or use of the church.

The agreement between the office entity and church will follow these guidelines:

Church has full use of 70 office parking lot spaces (at times below). The remaining 14 will be reserved for office use only.

.M-F evening after 6pm

.Saturday after 5pm

.Sunday (all day)

Nate Vollmuth, AIA  
Director of Development Services  
PACES Lodging Corporation  
701-499-3895 O  
701-388-3635 C  
[nv@paces.co](mailto:nv@paces.co)

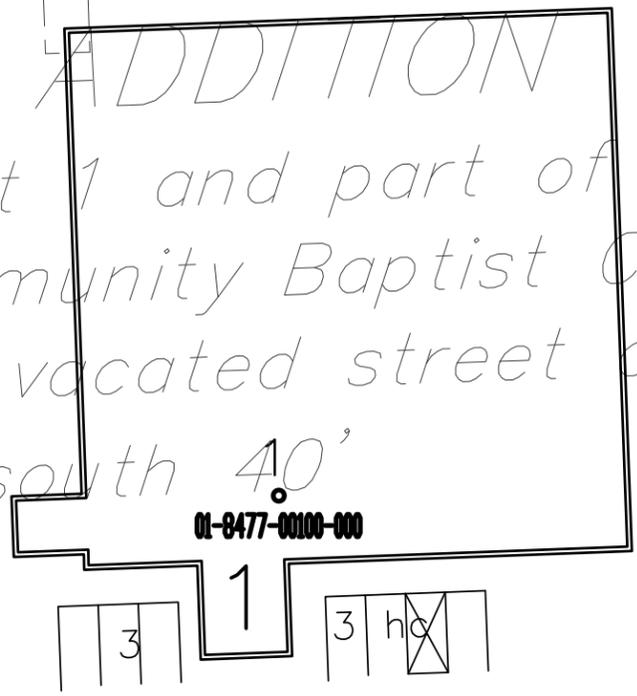
602'  
rainage &  
Easement

15' Drainage & Utility Easement  
274.79'

# CBC ADDITION

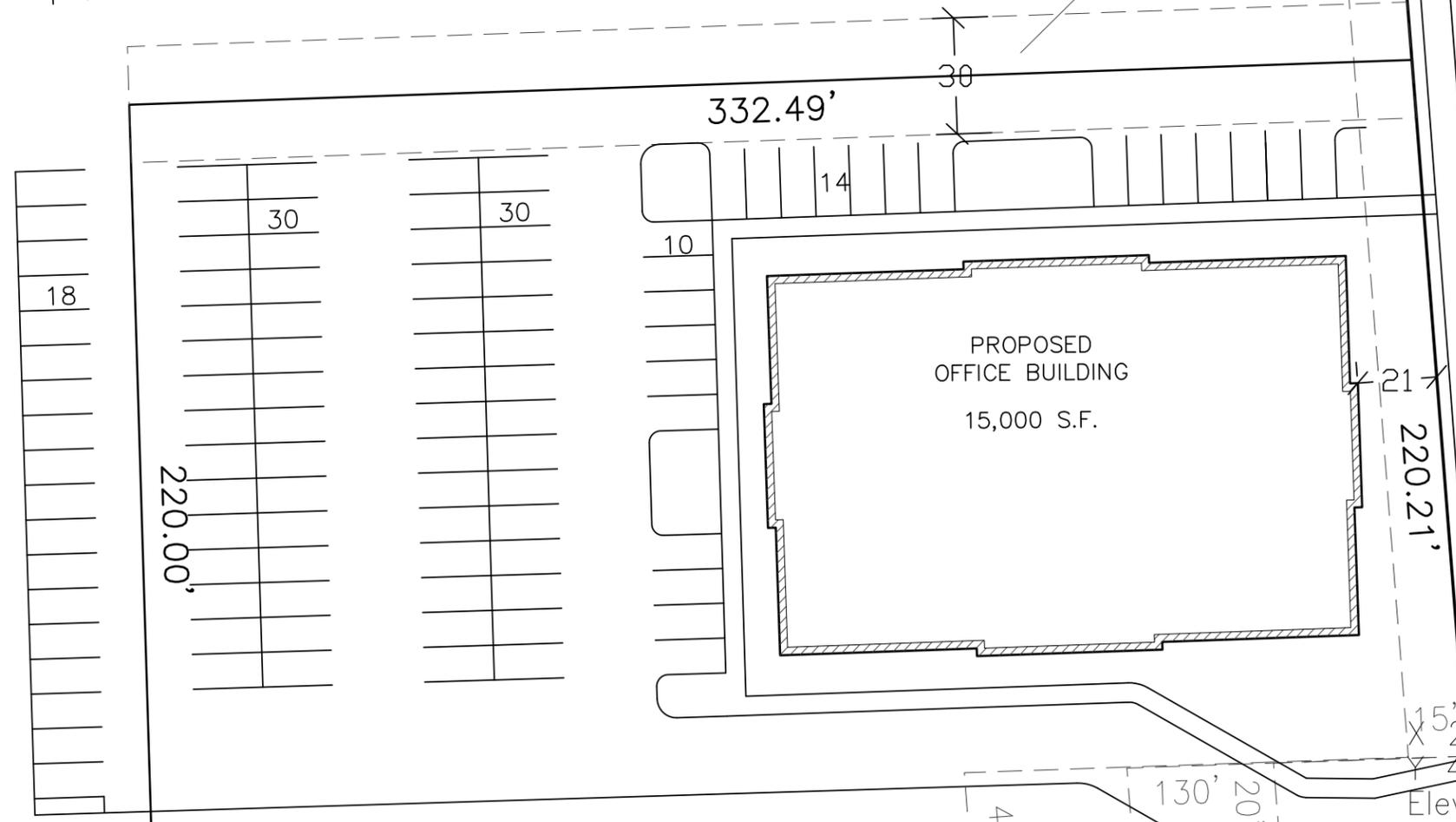
3535

a replat of Lot 1 and part of Lot 2,  
Block 1, Community Baptist Church  
Sub. and the vacated street on the  
south 40'



Private

Condition



X 2889445.90  
Y 444090.99  
Elev. 0.00

1645

10' Drainage & Utility Easement

343.00'

175.00'

50.05'

275.97'

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	West Acres Business Park 6th Addition	<b>Date:</b>	10/26/2016
<b>Location:</b>	4324 20th Avenue South	<b>Staff Contact:</b>	Maegin Elshaug
<b>Legal Description:</b>	Lot 1, Block 1, West Acres Business Park 6th Addition		
<b>Owner(s)/Applicant:</b>	KBH North Shore Properties LLC/ TL Stroh Architects, Ltd.	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Conditional Use Permit</b> (CUP) to allow for an Alternative Access Plan on Lot 1, Block 1, West Acres Business Park 6th Addition.		
<b>Status:</b>	Planning Commission Public Hearing: November 1, 2016		

Existing	Proposed
<b>Land Use:</b> Day Care	<b>Land Use:</b> Day Care and Religious Institution
<b>Zoning:</b> GC, General Commercial	<b>Zoning:</b> GC, General Commercial and CUP
<b>Uses Allowed:</b> 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.	<b>Uses Allowed:</b> 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.  <b>Plus a CUP to allow for an Alternative Access Plan</b>
<b>Maximum Lot Coverage Allowed:</b> up to 85% maximum	<b>Maximum Lot Coverage Allowed:</b> No Change

**Proposal:**

The applicant is requesting a Conditional Use Permit (CUP) to allow for an Alternative Access Plan for a parking reduction on Lot 1, Block 1, West Acres Business Park 6<sup>th</sup> Addition. The site has an existing day care facility, Growing Kids Child Care, and a religious institution, Burning Hearts Church, plans to also locate into the building.

According to Land Development Code requirements, a day care use requires 1 space per 500 square feet, and a religious institution (church) requires 1 space per 0.4 seats. The day care is an 18,219 square foot facility, which requires 37 spaces. The church is proposed to have 311 seats, and would require 125 spaces. The two uses would require a total of 162 parking spaces. The applicant is proposing to provide 44 off-street parking spaces on site, which would reduce the amount of required parking by 118 spaces. The applicant contends that the two site uses have differing peak operating hours, and that the church has differing operating hours than other site uses in proximity, which are primarily offices. The applicant provided information that the day care hours are weekdays from 6:30 a.m. to 6:00 p.m. and the church hours are weeknights 7:00 p.m. to 10:00 p.m. and weekends. Typical office hours are weekdays, morning to early evening. The applicant states that the church is working with two property owners in proximity to utilize a total of 125 parking spaces off-site through private agreements.

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

**Surrounding Land Uses and Zoning Districts:**

- North: LC, Limited Commercial and GC, General Commercial across 20th Avenue South, with office uses;
- East: GC, General Commercial, with office use;
- South: Interstate 94;
- West: GC, General Commercial, with motel use.

**Area Plans:**

No area plans apply.

**Schools and Parks:**

**Schools:** The subject property is located within the West Fargo Public School District and is served by Westside Elementary, Cheney Middle, and West Fargo High schools.

**Parks:** The subject property is within a quarter-mile of The Fargo Project at Rabanus Park (4315 18 Ave S) with amenities of sports recreation facilities, playground, recreational trails, and community gardens, and future amenities of natural play area, welcome garden, and ecological restoration. Across the I-29 to the southeast is the Red River Zoo.

**Pedestrian / Bicycle:** Off-road bike facilities are located along 42nd Street South and 45th Street South. Both facilities are components of the overall metro area trail system.

**Staff Analysis:**

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

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

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

The general intent and purpose of the LDC is to implement Fargo’s Comprehensive Plan and related policies in a manner that will protect the health, safety, and general welfare of the citizens of Fargo. Exploring reductions in minimum parking standards is a key initiative meant to promote the Plan’s guiding principles. Specifically, Transportation Initiative 07 from the Go2030 Comprehensive Plan states to, “Pursue creative parking strategies to fund and activate parking structures, explore reducing minimum parking standards, and share parking between daytime and nighttime uses.” The applicant has submitted a narrative and contends that the two site uses have differing peak operating hours, and that the church has differing operating hours than other site uses in proximity, which are primarily offices. The applicant states that the church is working with two property owners in proximity to utilize a total of 125 parking spaces off-site through private agreements. The proposed Conditional Use Permit includes conditions that are intended to address and mitigate, to the extent practical, the potential negative impacts. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City. **(Criteria Satisfied)**

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

Staff finds that this proposed conditional use permit for an alternative access plan for reduced parking will contribute to and promote the welfare of the public by allowing flexibility within the immediate area, and prevent the need for excess parking. Staff suggests that the property owners of the church work with staff to address parking concerns if any complaints are received. The proposed Conditional Use Permit includes conditions that are intended to address and mitigate, to the extent practical, the potential negative impacts. **(Criteria Satisfied)**

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

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

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

The proposed parking reduction will not dominate the immediate neighborhood or prevent any other sites from being used in the manner allowed by zoning district regulations. The proposed conditions of the CUP are specifically meant to mitigate, to the extent practical, the potential negative impacts. **(Criteria Satisfied)**

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

The site is currently developed. Staff is not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property as proposed. Based on this information, staff finds that the adequate utility, drainage, and other such necessary facilities and services are in place. **(Criteria Satisfied)**

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

The property is located at 4324 20th Avenue South and has direct access to 20<sup>th</sup> Avenue South. The Engineering Department has had an opportunity to review the proposal and no comments or concerns were noted to indicate a deficiency with the access roads or entrances or exit drives. Staff finds that the proposed conditional use will not create traffic hazards or traffic congestion in the public streets. **(Criteria Satisfied)**

Recommended Conditions:

1. 44 parking spaces are required on site.
2. Any expansion of the square footage of the day care use or seating capacity of the religious institution will require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
3. The Conditional Use Permit will cease if the land use changes from day care or religious institution.

**Staff Recommendation:**

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

1. 44 parking spaces are required on site.
2. Any expansion of the square footage of the day care use or seating capacity of the religious institution will require an amendment to the Conditional Use Permit with review and approval by the Planning Commission.
3. The Conditional Use Permit will cease if the land use changes from day care or religious institution.

**Planning Commission Recommendation:** November 1 , 2016

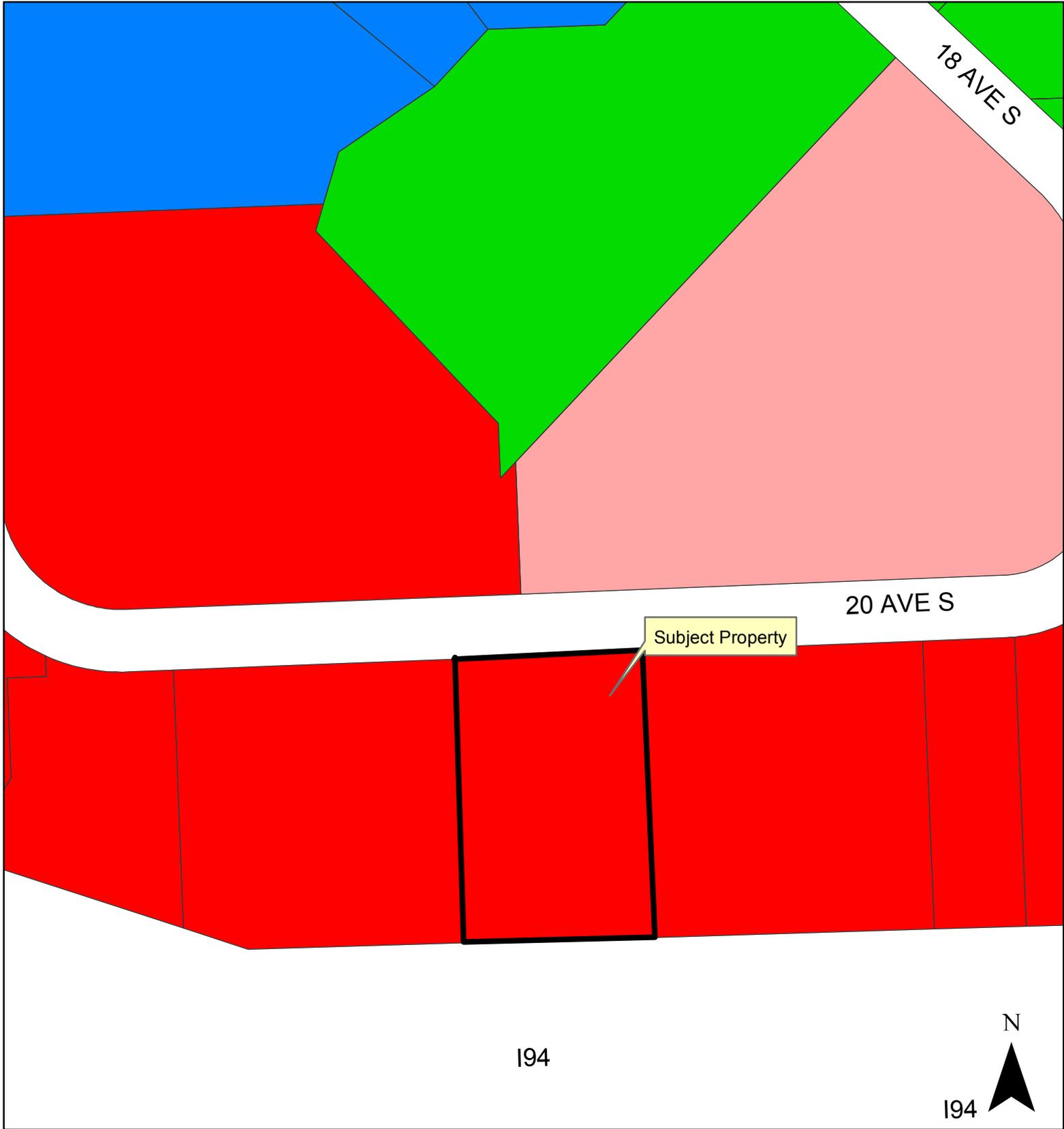
**Attachments:**

1. Zoning Map
2. Location Map
3. CUP Application
4. Additional information provided by applicant

# CUP (Alternative Access Plan)

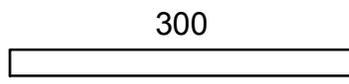
## West Acres Business Park 6th Addition

4324 20th Avenue South



### Legend

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



Fargo Planning Commission

November 1, 2016

# CUP (Alternative Access Plan)

## West Acres Business Park 6th Addition

4324 20th Avenue South





PLANNING AND DEVELOPMENT

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

APPLICATION FOR CONDITIONAL USE PERMIT

We, the undersigned, do hereby submit an application to the Planning Commission of the City of Fargo, North Dakota, to take such action as may be required by law of the City of Fargo to establish a Conditional Use Permit pursuant to Section 20-0909 of the Land Development Code of the City of Fargo. We understand that the Planning Commission may not approve the Conditional Use Permit unless it finds that all criteria have been satisfied (as cited in Section 20-0909 of the Land Development Code).

The following must accompany this application:

- a. Application Fee
b. If multiple property owners are involved in this zoning change request, a letter of consent must be included for all property owners who have not signed the acknowledgement below (see attached letter from Planning Administrator).
c. If property is in the process of being purchased or sold, and final ownership is expected to change prior to action on this application, please provide a letter outlining this intent.

Property Owner Information
Name (printed): KBH North Shore Properties LLC
Address: 4627 Timberline Dr. Fargo ND
Primary Phone: 701-361-4291
Alternative Phone: 701-730-1742
Fax:
Email: bkelley@eidebaily.com

Representation Information (primary contact)
Name (printed): Terry Stroh
Company: TL Stroh Architects Ltd
Address: 8 7th Street N. Fargo, ND 58102
Primary Phone: 701-239-4198
Alternative Phone: 701-371-3580
Fax: 701-239-9643
Email: terrys@tistroh.com
[ ] Same as property owner

Location of property involved in the application decision (if applicable)
Zoning district of subject property (see Section 20-02 of LDC): GC
Address: 4324 20th AVE South
Legal Description (attach separate sheet if more space is needed):
Lot 1, Block 1, West Acres Business Park 6th Addition
City of Fargo, County of cass State of North Dakota

Acknowledgement - We hereby acknowledge that we have familiarized ourselves with the rules and regulations to the preparation of this submittal and that the forgoing information is true and complete to the best of our knowledge.
Owner (Signature): [Signature] Date: Sept 12, 16
Representative (Signature): [Signature] Date: 9.15.16
Note: A nonrefundable filing fee of \$185.00 must be accompanied with the application at time of submittal.

The applicant believes that a Conditional Use Permit should be granted for the following reasons (attach additional pages if necessary):

KBH North Shore Properties LLC would like to enter in to a lease agreement with Burning Hearts Church to lease space in their newly acquired building which is going to be used for their business Growing Kids Child Care which is moving from the Scheels Store in January. The CUP is for parking for the church because the property has 44 parking stalls existing, The Child Care needs 36 and the Church needs 125 per the land development code. So we are 117 stalls short. Burning Hearts Church has obtained two agreements with property owners, one to the North (Discovery Benefits) 50 Stalls and other to the west (Bagan Strinden Vision) 75 Stalls for use when the church has services on Sundays and evenings during the week. There is more than enough parking for the Child Care and the churches weekly staff on site. Services and other meetings are held in the evening and on weekends are covered by the parking agreements. (See attached) Growing Kids Child Care only operates Monday through Friday from 7:00 AM to 6:00 PM. And the hours for the two business Burning Hearts has have very similar hours of business. We feel we are using parking lots more efficiently and not destroying more green space. The church hopes to have its own building in 7 to 10 years and at the time Growing Kids Child Care is hoping to be able to utilize the church occupied space for expanding their Child Care operation at which time they would increase their parking on site to meet land development code requirements. This however would never need to be as much as the Church requires now. Thanks you for your consideration.

**Office Use Only**

Date Filed: 9-15-16 Planning Office Contact: \_\_\_\_\_

Nonrefundable Filing Fee \$185.00: ck.#15090 Major Home Occupation \_\_\_\_\_

T.L. Strah Architects, Ltd.  
701-239-4198  
8 Seventh St. N.  
Fargo, ND 58102

## Maegin Elshaug

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**From:** Terry Stroh <terryst@tlstroh.com>  
**Sent:** Saturday, October 08, 2016 12:09 PM  
**To:** Maegin Elshaug  
**Subject:** RE: West Acres Business Park - CUP application

Yes Maegin the CUP is for a parking reduction for the Church. The Church needs for parking are on a totally different schedule than ever the Child Care and or the adjacent property owners that they have agreements with. The businesses that they have agreements with and the Child Care have hours that are week days from 6:30AM to 6:00PM the churches hours are on weeknights between 7PM and 10PM or Saturdays on various times depending on the time of year and Sunday mornings from 7AM to 12PM and some Sunday evenings from 5PM to 9PM. Also most the traffic in the area or on that street is generated by the business during their business hours and off street parking is also available during the times that the church is in operation. The church has 3 full time employees during week day business hours but we have addition parking on site for those individuals. The hotel that is next door is the only business that operates during the same times as the church and Child care but they have all the parking required for business so off street parking isn't something they don't use.

I hope this helps!

Thanks Maegin!

Terry

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**From:** Maegin Elshaug [mailto:MElshaug@cityoffargo.com]  
**Sent:** Friday, October 07, 2016 3:48 PM  
**To:** Terry Stroh  
**Subject:** West Acres Business Park - CUP application  
Hi Terry,

I was able to speak with Nicole yesterday. To confirm, the request is for a Conditional Use Permit for a parking reduction (for a total of 44, which are the spaces that exist today)? It also sounds like the property owner is working on private agreements with two other property owners in proximity.

Additionally, as I continue to review the application, I may ask for some additional information. I believe you mentioned over the phone that the church use and day care use have opposite hours, and that the church also has opposite hours of the businesses adjacent (specifically the properties with the private agreements in process?).

So, to follow-up, please confirm the CUP request for a parking reduction on the property to provide 44 spaces.

Thanks - please give me a call if you have any questions.

Regards,  
Maegin Elshaug  
Planner  
City of Fargo | Planning and Development  
200 3rd Street North  
Fargo, ND 58102  
Office: (701) 476-4120  
[melshaug@cityoffargo.com](mailto:melshaug@cityoffargo.com)

### Disclaimer

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Woodhaven Plaza Addition	<b>Date:</b>	10/26/2016
<b>Location:</b>	4055 41st Avenue South	<b>Staff Contact:</b>	Maegin Elshaug
<b>Legal Description:</b>	Lot 3, Block 1, Woodhaven Plaza Addition		
<b>Owner(s)/Applicant:</b>	Aldevron LLC	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Conditional Use Permit (CUP)</b> to allow for an Alternative Access Plan on Lot 3, Block 1, Woodhaven Plaza Addition.		
<b>Status:</b>	Planning Commission Public Hearing: November 1, 2016		

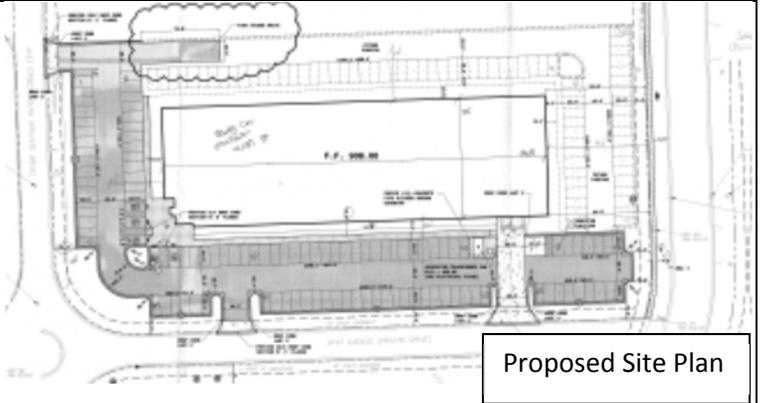
<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Vacant Land	<b>Land Use:</b> Medical Office (Research)
<b>Zoning:</b> LC, Limited Commercial <b>with a CUP</b>	<b>Zoning:</b> LC, Limited Commercial <b>with a CUP</b>
<b>Uses Allowed:</b> LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.  <b>With a CUP to allow for an Alternative Access Plan</b>	<b>Uses Allowed:</b> LC – Limited Commercial. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service.  <b>Plus a CUP to allow for an Alternative Access Plan</b>
<b>Maximum Lot Coverage Allowed:</b> Maximum 55% building coverage	<b>Maximum Lot Coverage Allowed:</b> Maximum 55% building coverage

**Proposal:**

The applicant is requesting a Conditional Use Permit (CUP) to allow for an Alternative Access Plan for a parking reduction on Lot 3, Block 1, Woodhaven Plaza Addition. Aldevron, a medical office use, plans to utilize the facility space for administrative offices, conference rooms, research laboratories, DNA plasmid production, locker rooms, staging areas and warehousing for a total facility size. The CUP is intended to replace the existing CUP on the property.

Background:  
 In June 2016, the Planning Commission approved a CUP for an Alternative Access Plan for a parking reduction. One of the conditions of approval included that 88 off-street parking spaces are required on-site, for up to a 50,000 square foot facility. The Land Development Code requires a medical office to provide one space per 200 square feet, however, the approved CUP would provide approximately one off-street parking space per 570 square feet for the medical research facility. At the time of the original CUP application, the applicant contended that Aldevron does not accommodate walk-in clients as a typical medical office use would, and that the number of employers per gross building square footage is low.

Currently, Aldevron is planning to construct a 66,500 square foot facility, which exceeds the previously approved facility of up to 50,000 square feet. The applicant is seeking to maintain the previously approved ratio of 1 off-street parking space per 570 square feet, rather than a set facility size to allow for flexibility. The proposed site plan is shown to the right.



Proposed Site Plan

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

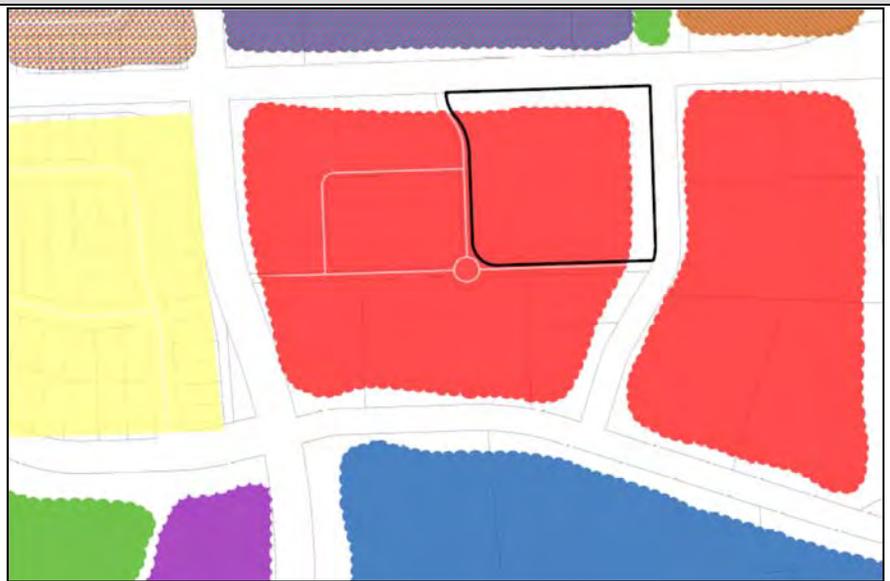
**Surrounding Land Uses and Zoning Districts:**

- North: Across 40<sup>th</sup> Avenue South is GC, General Commercial, with a CUP, Conditional Use Permit, with uses of manufacturing and warehouse facilities and retails;
- East: Across 40<sup>th</sup> Street South is LC, Limited Commercial with uses offices and retail;
- South: LC, Limited Commercial with office facilities and vacant land;
- West: LC, Limited Commercial with a CUP, Conditional Use Permit, with residential facilities and vacant land.

**Area Plans:**

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

Legend	
2003 Southwest Future Land Use Plan	
[Red]	Commercial
[Dark Red]	Commercial or Medium/High Density
[Light Red]	Commercial or Medium/High or Park/Open Space
[Light Green]	Commercial or Park/Open Space
[Brown]	Either Industrial or Commercial
[Blue]	Either Office or Commercial
[Dark Blue]	Either Office or Medium/High Density Residential
[Dark Brown]	Industrial
[Yellow]	Low/Medium Density Residential
[Orange]	Low/Medium Density or Medium/High Density
[Light Orange]	Medium/High Density Residential
[Light Green]	Medium/High Density or Park/Open Space
[Light Blue]	Office
[Light Green]	Office or Commercial or Medium/High Density
[Light Green]	Park/Open Space
[Purple]	Public
[Light Purple]	Public or Commercial
[Light Purple]	Public or Low/Medium Density
[Light Blue]	Public or Office
[Light Blue]	Storm Water



**Schools and Parks:**

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

**Parks:** The subject property is less than a half mile east of Woodhaven North Park with the amenities of an ADA fishing ramp, fishing, picnic table, playground, recreational trails, and soccer field.

**Pedestrian / Bicycle:** Off-road bike facilities are located along 40th Avenue South and are a component of the overall metro area trail system.

## Staff Analysis:

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

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

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

The general intent and purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that will protect the health, safety, and general welfare of the citizens of Fargo. Exploring reductions in minimum parking standards is a key initiative meant to promote the Plan's guiding principles. Specifically, Transportation Initiative 07 from the Go2030 Comprehensive Plan states to, "Pursue creative parking strategies to fund and activate parking structures, explore reducing minimum parking standards, and share parking between daytime and nighttime uses." The applicant is requesting to establish a parking ratio as part of the CUP to allow for flexibility in facility size. The parking ratio proposed is one space per 570 square feet, which maintains the previously approved CUP parking ratio. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City. **(Criteria Satisfied)**

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

Staff finds that this proposed conditional use permit for an alternative access plan for reduced parking will contribute to and promote the welfare of the public by allowing flexibility within the immediate area, and prevent the need for excess parking. The proposed Conditional Use Permit includes conditions that are intended to address and mitigate, to the extent practical, the potential negative impacts. **(Criteria Satisfied)**

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

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

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

The proposed parking reduction will not dominate the immediate neighborhood or prevent any other sites from being used in the manner allowed by zoning district regulations. As with the original CUP, staff is concerned that futures uses may not be able to provide the required parking should Aldevron vacate the facility, as the size of the facility is large and the reduction request is high. The proposed conditions of the CUP are specifically meant to limit the intensity of the requested reduction and accommodate potential future uses. **(Criteria Satisfied)**

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

Staff if not aware of any deficiencies regarding drainage or utilities that would limit the ability of the applicant to utilize the property as proposed. Based on this information, staff finds that the adequate utility, drainage, and other such necessary facilities and services are in place. **(Criteria Satisfied)**

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

The property has access from 40<sup>th</sup> Avenue South and 40<sup>th</sup> Street South. A partially built private drive also provides access to the site. In addition, the Engineering Department has had an opportunity to review the proposal and no comments or concerns were noted to indicate a deficiency with the access roads or entrances or exit drives. Staff finds that the proposed conditional use will not create traffic hazards or traffic congestion in the public streets. **(Criteria Satisfied)**

**Recommended Conditions:**

1. One off-street parking space be provided per 570 square feet of medical research office use.
2. In order to accommodate future change of use of the medical research office, the site plan shall depict undeveloped area sufficient to accommodate the LDC's parking requirement of other office, which is currently 1 space per 300 square feet of gross floor area.
3. The Conditional Use Permit will cease if the medical research office use ceases.

**Staff Recommendation:**

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

1. One off-street parking space be provided per 570 square feet of medical research office use.
2. In order to accommodate future change of use of the medical research office, the site plan shall depict undeveloped area sufficient to accommodate the LDC's parking requirement of other office, which is currently 1 space per 300 square feet of gross floor area.
3. The Conditional Use Permit will cease if the medical research office use ceases.

**Planning Commission Recommendation:** November 1, 2016

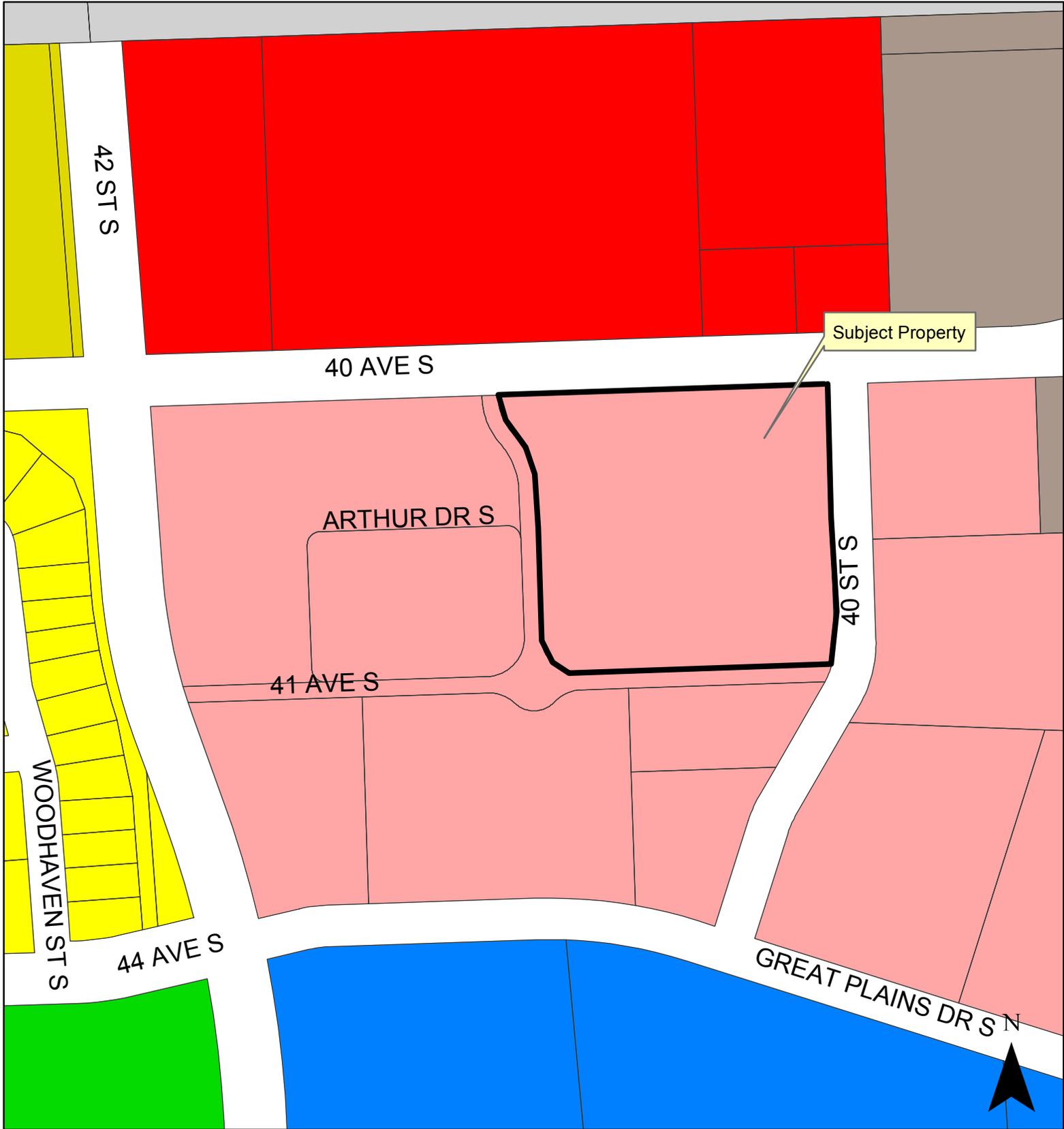
**Attachments:**

1. Zoning Map
2. Location Map
3. Information provided by Applicant

# CUP (Alternative Access Plan)

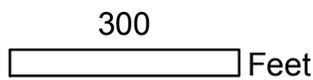
## Woodhaven Plaza Addition

4055 41st Avenue South



**Legend**

AG	LC	MHP	SR-2
DMU	MC	NC	SR-3
GC	MR-1	NO	SR-4
GI	MR-2	P/T	SR-5
GO	MR-3	UML	SR-6
			City Limits



**Fargo Planning Commission**  
**November 1, 2016**

# CUP (Alternative Access Plan)

## Woodhaven Plaza Addition

4055 41st Avenue South



300  
Feet

Fargo Planning Commission  
November 1, 2016

**Conditional Use Permit: Amendment September 2016**

Aldevron seeks to increase the size of its proposed facility while maintaining the parking ratio in the previously approved Conditional Use Permit. Final building size to be determined and shall maintain the approved parking ratio of 1:586 sf with additional space to increase parking to 1 per 300 sf. Attached drawing illustrates a 66,500 sf facility (38,000 sf footprint) with 113 spaces.

1:568 (Melshang)

**\*\* Note: Approved CUP = 88 parking spaces/50,000 sf. (Ratio = 1 space per 586 sf) and maintain space for an additional 790 spaces for a total of 1 per 300 sf.**

submitted by applicant of CUP application

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Noridian Center Addition	<b>Date:</b>	10/24/2016
<b>Location:</b>	4814, 4830, 4908, and 4920 14th Avenue South; 4809, 4825, 4905 and 4917 15th Avenue South; and 1403 and 1441 48th Street South	<b>Staff Contact:</b>	Aaron Nelson
<b>Legal Description:</b>	Lots 1-10, Block 2, Noridian Center Addition		
<b>Owner(s)/Applicant:</b>	West Fargo Public Schools	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	<b>Zoning Change</b> (from GC, General Commercial to P/I, Public and Institutional)		
<b>Status:</b>	Planning Commission Public Hearing: November 1, 2016		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Vacant Land	<b>Land Use:</b> Public Elementary School
<b>Zoning:</b> GC, General Commercial	<b>Zoning:</b> P/I, Public and Institutional
<b>Uses Allowed:</b> 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.	<b>Uses Allowed:</b> P/I – Public and Institutional. 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.
<b>Maximum Building Coverage:</b> 85% of Lot Area	<b>Maximum Building Coverage:</b> N/A

<b>Proposal:</b>
<p>The applicant is seeking approval of a zoning map amendment to rezone the subject property from GC (General Commercial) to P/I (Public &amp; Institutional). The subject property (All of Block 2, Noridain Center Addition) contains approximately 12 acres.</p> <p>According to the applicant, the purpose of the proposed zoning map amendment is to allow the development of the subject property for a public elementary school for West Fargo Public Schools. The P/I zoning district is intended to accommodate uses of a governmental, civic, public service, or quasi-public nature.</p> <p>This project was reviewed by the City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: GC, General Commercial, across 14<sup>th</sup> Avenue South, with strip center use</li> <li>• East: GC, General Commercial, across 48<sup>th</sup> Street South, with office use</li> <li>• South: MR-3, Multi-Dwelling Residential, across 15<sup>th</sup> Avenue South, with apartment use</li> <li>• West: GC, General Commercial, and MR-3, Multi-Dwelling Residential, across 50<sup>th</sup> Street South, with apartment and retail uses</li> </ul>

<b>Area Plans:</b>
No area plans apply.
<b>Schools and Parks:</b>
<b>Schools:</b> The subject property is located within the West Fargo Public School District and is currently served by Eastwood Elementary, Cheney Middle, and West Fargo High schools.
<b>Parks:</b> The subject property is less than 250 feet east of Willow Park with the amenities of basketball courts, grill, multipurpose field, playground, shelter, and recreational trails.
<b>Pedestrian / Bicycle:</b> Off-road bike facilities are located along 15 Avenue South, 48 Street South, and 50 Street South. All facilities listed at components of the overall metro area trail system.
<b>Staff Analysis:</b>
<b>Zoning</b>
Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:
<ol style="list-style-type: none"> <li>1. <b>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?</b>  Staff suggests that the requested zone change is justified by a change in conditions since the previous zoning classification was established. West Fargo Public Schools did not own the subject property at the time it was originally zoned GC, General Commercial. Now that the subject property is owned by a public entity that intends to use it for a public purpose, staff finds that the conditions warrant the proposed zoning map amendment. <b>(Criteria Satisfied)</b></li>   <li>2. <b>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?</b>  City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on existing, developed public rights-of-way which provide access and public utilities to serve the development. <b>(Criteria satisfied)</b></li>   <li>3. <b>Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?</b>  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. As noted above, the purpose of the proposed zoning map amendment is to provide additional public services to this area via the construction of a new public elementary school. The area to the south and west of the subject property is predominantly residential, which would benefit from the addition of a new public school within walking distance. <b>(Criteria satisfied)</b></li>   <li>4. <b>Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?</b>  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." While there is no growth plan which would address future land use for the subject property since it is located in a previously developed area of the City, the Go2030 Comprehensive Plan does address several key initiatives which relate to the proposed land use and zoning map amendment, such as improving safe routes to school and the retention of neighborhood schools. Although the proposed rezone is for the construction of a new school, placing and keeping schools in close proximity to neighborhoods fosters a sense of community and allows the opportunity for children to walk and bike to school.   Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other applicable policies of the City. <b>(Criteria satisfied)</b></li> </ol>

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and recommend approval to the City Commission of the proposed zoning change from GC, General Commercial, to P/I, Public and Institutional, on the basis that it satisfactorily complies with the Go2030 Fargo Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC."

**Planning Commission Recommendation:** November 1, 2016

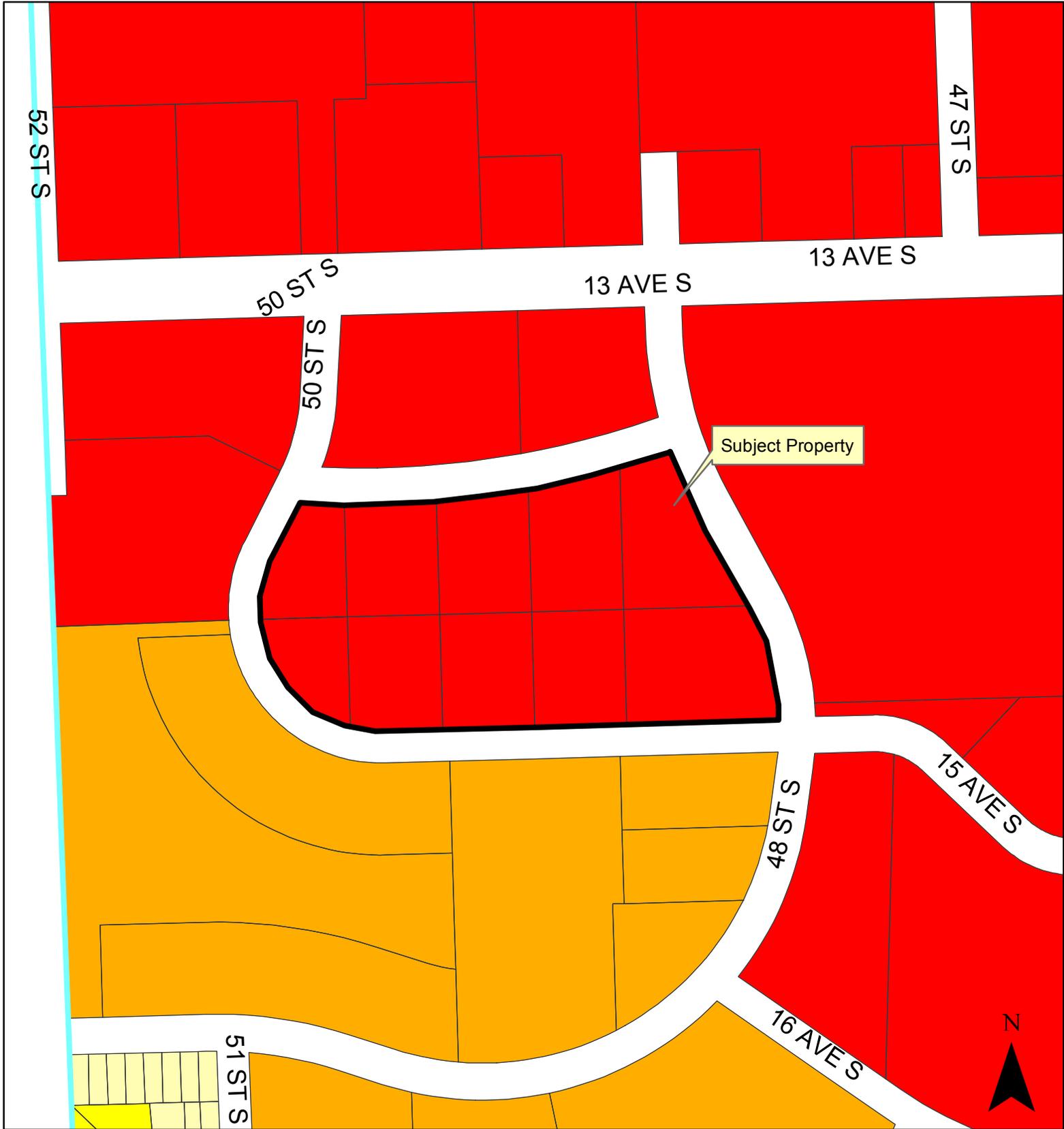
**Attachments:**

1. Zoning Map
2. Location Map

# Zone Change (GC to P/I)

## Noridian Center Addition

1403 48th St S, 4814-4920 14th Ave S,  
4809-4917 15th Ave S, 1441 48th St S

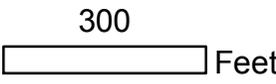


Subject Property



### Legend

- |    |      |     |             |
|----|------|-----|-------------|
| AG | LC   | MHP | SR          |
| GG | MLC  | NO  | SR-2        |
| GO | MR-1 | P/I | SR-3        |
|    | MR-2 | UML | SR-4        |
|    | MR-3 |     | SR-5        |
|    |      |     | City Limits |

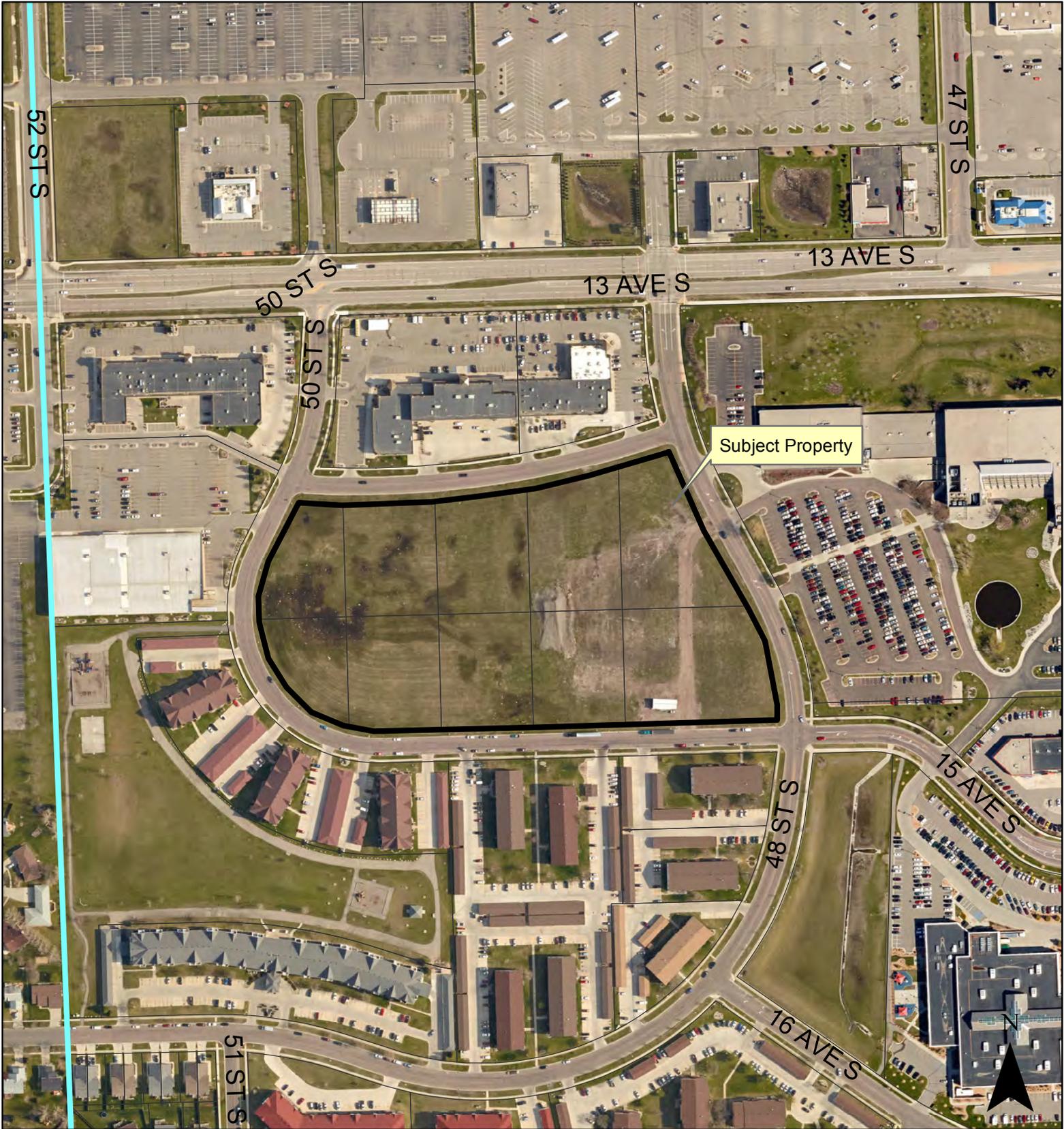


Fargo Planning Commission  
November 1, 2016

# Zone Change (GC to P/I)

## Noridian Center Addition

1403 48th St S, 4814-4920 14th Ave S,  
4809-4917 15th Ave S, 1441 48th St S



<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Bentley Place First Addition	<b>Date:</b>	10/14/2016
<b>Location:</b>	5503 33rd Avenue South	<b>Staff Contact:</b>	Kylie Murphy
<b>Legal Description:</b>	Lot 1, Block 1, Brand Crossing First Addition		
<b>Owner(s)/Applicant:</b>	Brandt Crossing LLC/PACES Lodging	<b>Engineer:</b>	Ulteig
<b>Entitlements Requested:</b>	Minor Subdivision ( Replat of Lot 1, Block 1, Brand Crossing First Addition to the City of Fargo, Cass County, North Dakota)		
<b>Status:</b>	Planning Commission Public Hearing: November 1, 2016		

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

<b>Proposal:</b>
<p>The applicant is seeking approval of a minor subdivision, entitled <b>Brand Crossing First Addition</b>, which is a replat of Lot 1, Block 1, Brand Crossing First Addition to the City of Fargo, Cass County, North Dakota. The subject property is located at 3307 52nd Avenue South and 5503 33rd Avenue South, and encompasses approximately 26 02 acres. The applicant is proposing a commercial development within one (1) block and six (6) lots.</p> <p>This project was reviewed by the City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: LC, Limited Commercial across 32 Avenue South, with agriculture use</li> <li>• East: MR-3, Multi-Dwelling Residential across Seter Parkway South, with apartment use</li> <li>• South: MR-3, Multi-Dwelling Residential across 33 Avenue South, with apartment use</li> <li>• West: C – Light Commercial with a Corridor Overlay (West Fargo) across Veteran’s Boulevard, with an educational use</li> </ul>
<b>Area Plans:</b>
<p>The subject property is located within the boundaries of the 2003 Southwest Future Land Use Plan. This land-use plan identifies the subject property as being appropriate for “Either Office or Commercial” land uses, which is consistent with the Light Commercial zoning district and proposed development.</p>



**Schools and Parks:**

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

**Parks:** The subject property is less than a half mile west of Urban Plains Park (5050 30th Avenue S) that currently does not have amenities and less than a half mile west of Brandt Crossing Park (5009 33rd Avenue S) with the amenities of basketball courts, dog park, playground, recreational trails, and shelter.

**Pedestrian / Bicycle:** Off-road facilities are located along 32nd Avenue South and Veteran’s Boulevard. Both facilities are components of the overall the metro area trail system.

**Staff Analysis:**

**Minor Subdivision**

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

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

The subdivision is intended to split one (1) exiting lot into six (6) new lots to accommodate future commercial development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no calls of inquiry on the application. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code.

**(Criteria Satisfied)**

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

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

**(Criteria Satisfied)**

The applicant is proposing a 50-foot wide ingress/egress easement along 32<sup>nd</sup> Avenue South, to allow right-in right-out driveway access. The proposed access point does not meet spacing requirements as outlined within Section 20-0702 Roadway Access and Driveways of the Land Development Code of a minimum spacing of 600 feet between driveways and intersections of a principal arterial roadway. The proposed driveway spacing to the intersections are approximately 554 and 450 feet (see attachment). The Engineering Department is not in support of the proposed access point. As such, the applicant has requested that the Planning Commission weigh in on the applicability of this code requirement and make judgement apart from the City Engineer review.

**Staff Recommendation:**

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

**Planning Commission Recommendation:** November 1, 2016

Suggested Motion: "To accept the findings and recommendations of Planning Commission and staff and move to approve the proposed **Bentley Square Second Addition** subdivision plat as presented, with the following conditions:

1. that the proposed 50-foot wide ingress/egress access easement along 32<sup>nd</sup> Avenue South be removed from the plat

...as the proposal complies with the Go2030 Fargo Comprehensive Plan, Standards of Article 20-06, and Section 20-0906.F (1-4) of the LDC and all other applicable requirements of the LDC."

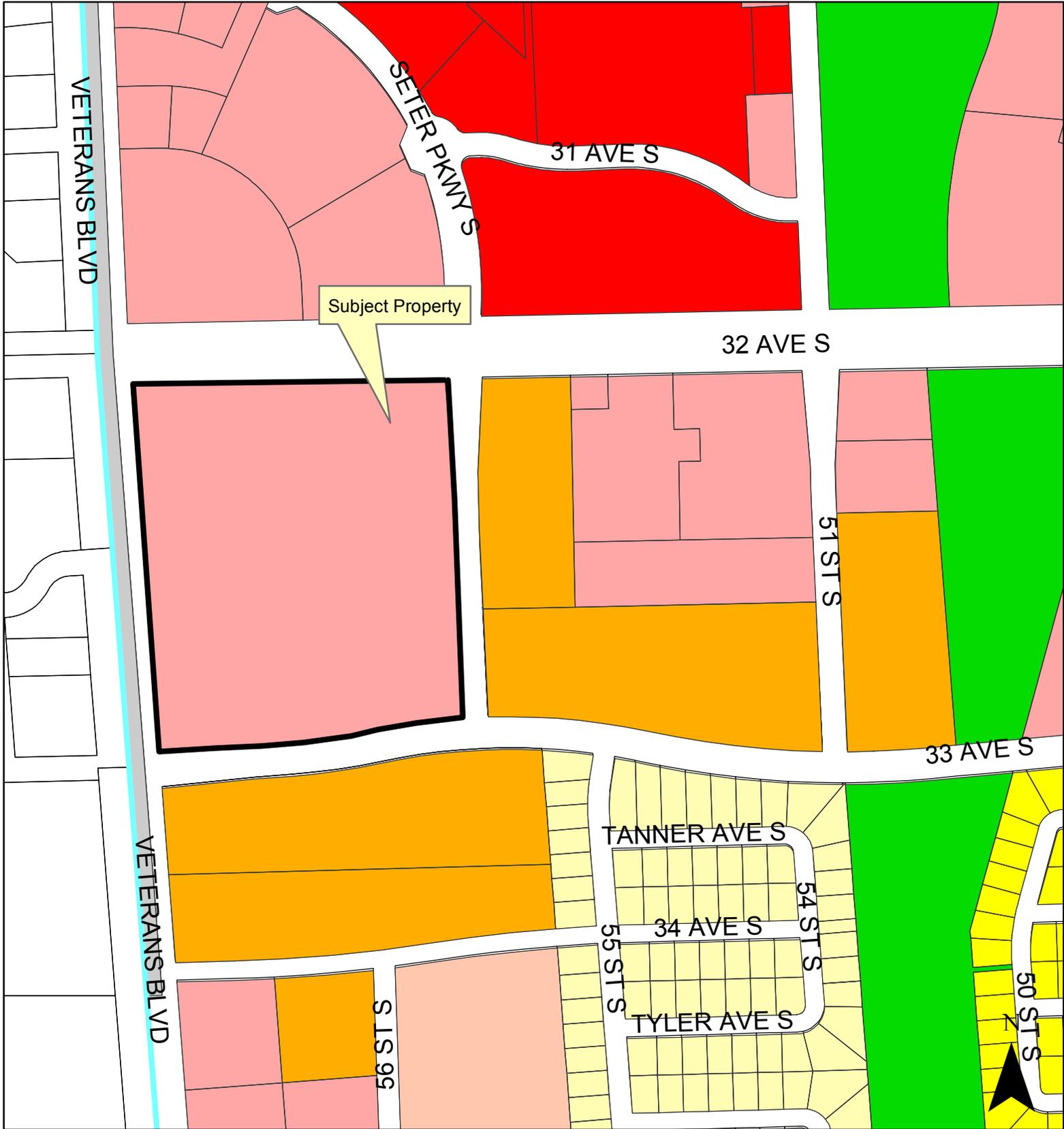
**Attachments:**

1. Zoning Map
2. Location Map
3. Plat

# Plat (Minor Subdivision)

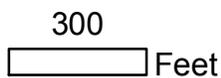
## Bentley Place First Addition

5503 33 Avenue South



### Legend

AG	LC	MHP	21-1-2
DDML	ML	NC	21-1-3
GGC	MR-1	NO	21-1-4
GO	MR-2	D/I	21-1-5
	MR-3	UMI	21-1-6
			City Limits



Fargo Planning Commission  
November 1, 2016

# Plat (Minor Subdivision)

## Bentley Place First Addition

5503 33 Avenue South



# BENTLEY PLACE FIRST ADDITION

A REPLAT OF LOT 1, BLOCK 1 OF BRANDT CROSSING FIRST ADDITION  
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA  
(A MINOR SUBDIVISION)

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

April E. Walker, City Engineer

State of North Dakota }  
County of Cass } SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared April E. Walker, City Engineer, to me known to be the person described in and who executed the same as a free act and deed.

Notary Public

### OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That Brandt Crossing, LLC whose address is Fargo, North Dakota as owner of a parcel of land located in the Northwest Quarter of Section 28, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, and more particularly described as follows:

Lot 1, Block 1 of BRANDT CROSSING FIRST ADDITION to the City of Fargo according to the record plat thereof on file in the office of the County Recorder, Cass County, North Dakota.

Containing 1,133,562 square feet or 26.023 acres more or less.

Said owner has caused the above described tract of land to be surveyed and platted as "BENTLEY PLACE FIRST ADDITION" to the City of Fargo, Cass County, North Dakota, and do hereby dedicate to Lots 1, 2, 3, 4, 5 and 6 the ingress/egress and utility easement as shown on this plat for the purposes so stated.

OWNER:  
Brandt Crossing, LLC

By: \_\_\_\_\_  
Kevin Christianson, President

State of North Dakota }  
County of Cass } SS

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 2016, before me, a notary public with and for said County, personally appeared Kevin Christianson, President, Brandt Crossing, LLC known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same.

Notary Public

MORTGAGEE:  
Cornerstone Bank

By: \_\_\_\_\_  
Jim Hambrick, Vice President

State of North Dakota }  
County of Cass } SS

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 2016, before me, a notary public with and for said County, personally appeared Jim Hambrick, Vice President, Cornerstone Bank known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same.

Notary Public

### CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Jan Ulerts Stewart, Planning Commission Chair

State of North Dakota }  
County of Cass } SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared Jan Ulerts Stewart, Planning Commission Chair, to me known to be the person described in and who executed the same as a free act and deed.

Notary Public

### FARGO CITY COMMISSION APPROVAL

Approved by the Board of City Commissioners and ordered filed this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

Timothy J. Mahoney, Mayor

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

State of North Dakota }  
County of Cass } SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, before me, a notary public with and for said County, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor, to me known to be the persons described in and who executed the same as a free act and deed.

Notary Public

### SURVEYOR'S CERTIFICATE AND ACKNOWLEDGMENT

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

Daniel W. Skinner, Professional Land Surveyor  
North Dakota License No. LS-6206

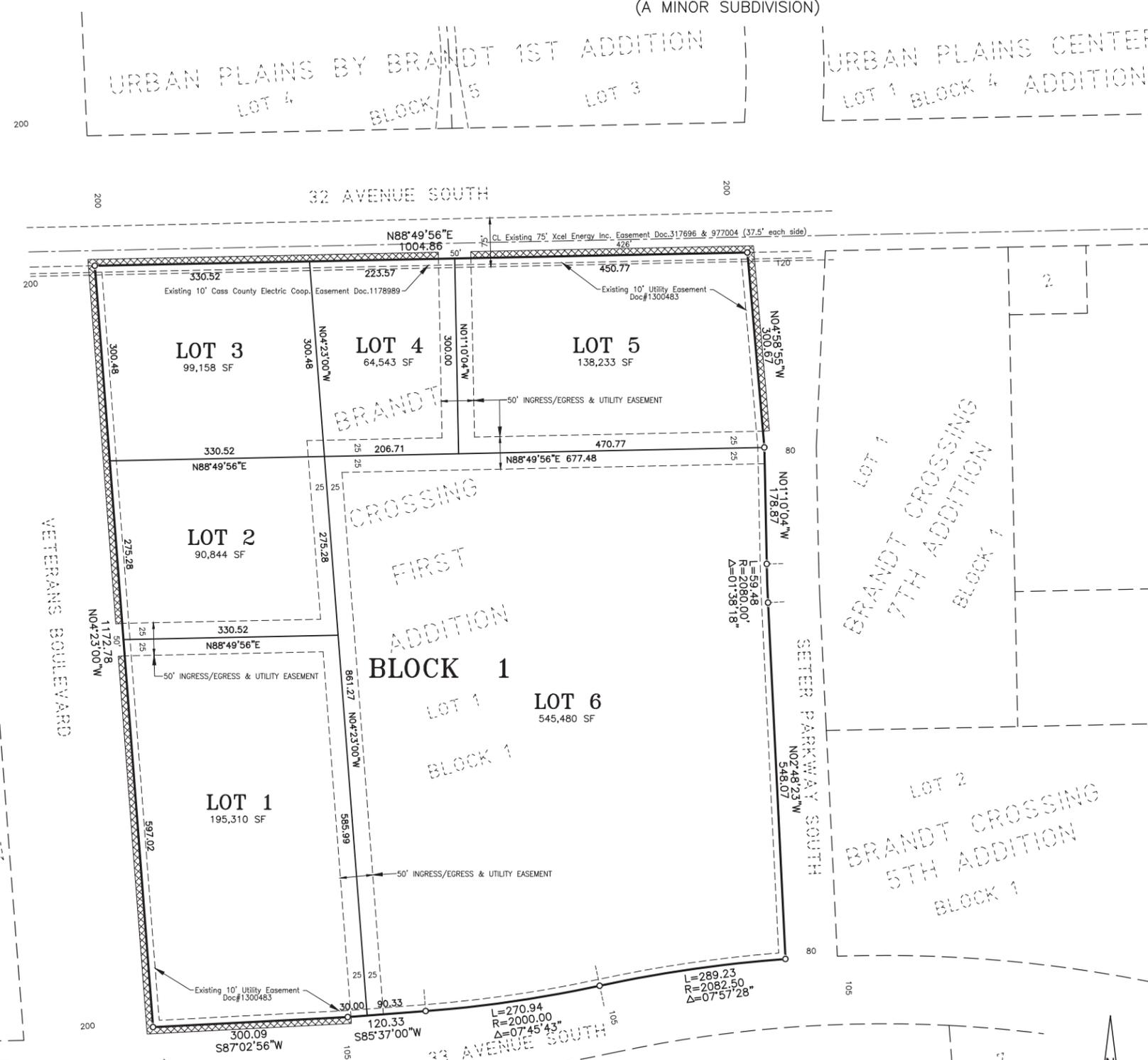
State of North Dakota }  
County of Cass } SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared Daniel W. Skinner, to me known to be the person described in and who executed the same as a free act and deed.

Notary Public

LEGEND	
●	MONUMENT FOUND
○	MONUMENT SET, 5/8" REBAR, CAPPED "LS-6206"
—	SUBJECT PROPERTY LINE
- - -	EXISTING PROPERTY LINE
- - - - -	EASEMENT LINE
XXXXXX	NEGATIVE ACCESS EASEMENT

\*Negative Access Easement, as noted on this plat, is an easement dedicated as part of the right of way dedication which easement denies direct vehicular access to a street or public way from the lot or lots adjacent to such street or way. The negative access easement is not a strip of land of any certain width, but is a line coterminous with the boundary of the adjacent lot or lots.



SOUTH POND AT THE PRESERVE 6TH ADD. BLOCK 1 LOT 3

URBAN PLAINS BY BRANDT 1ST ADDITION LOT 4 BLOCK 5 LOT 3

URBAN PLAINS CENTER LOT 1 BLOCK 4 ADDITION

LOT 8 OAK RIDGE 6TH ADDITION

LOT 1 BLOCK 1

33 AVE EAST

OAK RIDGE 3RD ADDITION

LOT 1 BLOCK 1

34 AVE EAST

SHADOW WOOD 6TH

BLOCK 14 LOT 30 BRANDT CROSSING FIRST ADDITION



preliminary

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Mid America Steel Addition	<b>Date:</b>	10/26/16
<b>Location:</b>	North of 19 <sup>th</sup> Avenue North approximately ¼ mile west of 45 <sup>th</sup> Street North	<b>Staff Contact:</b>	Donald Kress, senior planner
<b>Legal Description:</b>	Portion of the Southwest Quarter of Section 28, T140N R49W of the Fifth Principal Meridian, Cass County, North Dakota (in the city's ETJ)		
<b>Owner(s)/Applicant:</b>	Bruce and Elwood (Jay) Brand / Mid America Steel, Inc.	<b>Engineer:</b>	AE2S
<b>Entitlements Requested:</b>	<b>Major Subdivision</b> (Plat of Portion of the Southwest Quarter of Section 28, T140N R49W of the Fifth Principal Meridian, Cass County, North Dakota); <b>Growth Plan Amendment</b> (change the land use designation of approximately 19.6 acres of the project site from "commercial" to "industrial") <b>Zone Change</b> (from AG, Agricultural to GI: General Industrial); <b>Planned Unit Development Master Land Use Plan</b>		
<b>Status:</b>	Planning Commission Public Hearing: November 1, 2016		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Undeveloped	<b>Land Use:</b> Industrial (metal fabrication facility)
<b>Zoning:</b> AG, Agricultural	<b>Zoning:</b> GI: General Industrial with PUD: Planned Unit Development
<b>Uses Allowed:</b>  AG – Agricultural allows detached houses, parks and open space, safety services, basic utilities, and crop production.	<b>Uses Allowed:</b>  GI-General Industrial allows detention facilities, health care facilities, safety services, adult entertainment centers, off-premise advertising, commercial parking, industrial service, manufacturing and production, warehouse and freight movement, waste related use, wholesale sales, aviation, surface transportation, and mining. PUD to modify certain development standards of the GI zone (these are enumerated below)
<b>Maximum Density Allowed (Residential):</b> AG allows a maximum of 1 dwelling unit per 10 acres.	<b>Maximum Lot Coverage Allowed:</b> 85%

<b>Proposal:</b>
<p>The applicant requests four entitlements:</p> <ol style="list-style-type: none"> <li>1. A major subdivision, entitled <b>Mid America Steel Addition</b>, which is a plat of Portion of the Southwest Quarter of Section 28, T140N R49W of the Fifth Principal Meridian, Cass County, North Dakota (in the city's extra-territorial jurisdiction--ETJ)</li> <li>2. A growth plan amendment</li> <li>3. A zoning change from AG, Agricultural to GI: General Industrial</li> <li>4. Planned Unit Development (PUD) Master Land Use Plan. The PUD Final Plan will be reviewed by the Planning Commission at a future meeting.</li> </ol> <p>Additionally, the annexation of this property into the city is running concurrently with the above entitlements. Annexation is a separate process. The date for the hearing for sufficiency of protests to the annexation is December 5, 2016.</p>

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

**Surrounding Land Uses and Zoning Districts:**

- North: Extraterritorial jurisdiction of Riley’s Acres, with agricultural use
- East: Zoning in transition, with agricultural use
- South: P/I Public and Institutional and GI, General Industrial across 19 Avenue North, with recreational, educational, and vacant land uses
- West: AG: Agricultural, with agricultural use

**Area Plans:**

The subject property is located within the 2007 Growth Plan. Approximately 19.6 acres are designated “Commercial” and the remaining 20.45 acres are designated “Industrial.” The Growth Plan Amendment proposes to change the 19.6 acres designated “Commercial” to “Industrial,” as shown in the graphic below.



**Legend**

Low Med Res	Low Med Res or Parkland	Office	Commercial Area
Low Med Res or Med High Res	Med High Res	Parkland	Residential Area - medium to high density
	Commercial	Public and Inst	Residential Area - lower to medium density
		<b>Tier 1 Northwest Area Plan</b>	Proposed Park
		Industrial Area	Future School
		Agricultural Research	

**Schools and Parks:**

**Schools:** The subject property is located within the West Fargo Public School District and is served by LE Berger Elementary, Cheney Middle, and West Fargo High schools.

**Parks:** The subject property is more than 2 miles west of Pepsi Hector Soccer Complex (3101 Highway 81 N) with the amenities of concessions, multipurpose field, picnic table, playground, restroom and soccer and more than 2 miles west of Madison Park (3010 11th Avenue N) with the amenities of baseball, softball, basketball, outdoor skating, warming house, playground, shelter, and soccer.

**Pedestrian / Bicycle:** Off-road bike facilities are located along 45th Street North and is a component of the metro area trail system.

## **Staff Analysis:**

### PROJECT OBJECTIVE

Mid America Steel is currently located in downtown Fargo on a site that was recently bought out by the city of Fargo for flood protection. Mid America is relocating their facility to this new site on the north side of 19<sup>th</sup> Avenue. This single-building facility will encompass all the workshops and storage areas that are now broken up between 14 separate buildings plus considerable outdoor storage at the downtown facility. The new facility will have approximately 25% greater production capacity. One of the major efficiencies of the new facility is in materials handling and storage. The facility will have a rail spur coming directly into the storage portion of the facility. There will still be an area designated for outdoor storage on the north side of the building for very large pieces of work or materials.

Future expansion could be in the form of adding on to the existing building or constructing a second building on the site, though there are no plans for either of these options at this time. The proposed Planned Unit Development is intended to accommodate these expansions.

### PLAT

The plat will create one 37.40 acre lot. The remaining 2.65 acres of the plat is dedicated right of way for 19<sup>th</sup> Avenue.

### ACCESS:

The project site will take access from 19<sup>th</sup> Avenue North. The plat includes a 100-foot wide dedication for 19<sup>th</sup> Avenue right of way along the southerly boundary of the plat. There are no dedicated streets within the project site. Due to the anticipated size of the building to be built (greater than 124,000 square feet), fire code requires a second means of access. Following discussion with staff and the city administrator, the applicant has provided four options for a second means of access that are currently being reviewed by staff, the second means of access is provided for in the PUD, as noted below.

### PUBLIC WATER AND SEWER:

Public water and sewer will be available from 19<sup>th</sup> Avenue.

### FLOOD PROTECTION:

A primary line is required. Raising the building pad to the elevation required for the primary line satisfies the requirement.

### STORMWATER:

Stormwater detention must be provided onsite as no regional facility is available.

### PARKS and TRAILS

The Park District does not require any dedication of park land or trails within this addition. Any recreational trail would be within the 19<sup>th</sup> Avenue right of way.

### AMENITIES PLAN

A draft amenities plan has been provided by the applicant.

### GROWTH PLAN AMENDMENT

The growth plan amendment proposes to amend the 2007 Growth Plan to change the land use designation of approximately 19.6 acres of the project site (53 percent of the project area) from "commercial" to "industrial". This change is consistent with the surrounding land use designation as it would bring the entire project site under the "industrial" designation. Adjacent area to the north and east along the north side of 19<sup>th</sup> Avenue North is also designated "industrial." As required by the Land Development Code, an open house to allow neighbors of the project site to learn more about the proposed growth plan change will be held on the afternoon of Wednesday, October 26, 2016. Staff will report on any comments resulting from this meeting at the November 1, 2016 Planning Commission meeting.

### ZONE CHANGE AND PUD

The property will be rezoned from AG: Agricultural to GI: General Industrial, with a PUD overlay. The PUD will modify the following development standards of the GI zone:

- Permitted uses: permitted uses in the PUD are focused specifically on the needs of an industrial facility
- Rear yard setback: rear yard setback in the PUD is zero feet, as the property abuts the Burlington Northern Santa Fe railroad (BNSF) on the rear (north) portion of the lot
- Landscaping: PUD reduces the required number of planting units by 50% and concentrates the landscaping in the front (south, or 19<sup>th</sup> Avenue side) of the lot
- Parking: PUD provides 1 parking space per 2,500 square feet for all other uses not specifically office/administration or indoor storage/manufacturing.

The PUD also provides for a second means of access, as required by fire code.

The PUD Master Land Use Plan, which includes a narrative, a chart comparing the development standards of the GI zone with the modifications requested in the PUD, and a site plan is attached. This document was prepared by the applicant.

#### CONCURRENT ANNEXATION

This property is currently within the city's four-mile extra-territorial jurisdiction (ETJ). Concurrent with this plat and zone change application, this property, along with a 100-foot wide area of right of way for 19<sup>th</sup> Avenue extending to 57<sup>th</sup> Street North, is going through the annexation process. As this property is within the ETJ, the city still has the authority to plat and zone it. The annexation will be recorded prior to plat recordation to allow the city to accept the right of way dedications.

At their October 10, 2016 meeting, the City Commission adopted the resolution of annexation and set the date for the sufficiency of protests hearing for December 5, 2016.

The Planning Commission will review this annexation for consistency with the growth plan. This review is item E (1) on the November 1, 2016 Planning Commission agenda.

**Growth Plan Evaluation Criteria:** Section 20-0905(H) of the LDC states that the Planning Commission and City Commissioners shall consider whether the Growth Plan Amendment 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?** The growth plan amendment proposes to amend the 2007 Growth Plan to change the land use designation of approximately 19.6 acres of the project site (53 percent of the project area) from "commercial" to "industrial". This change is consistent with the surrounding land use designation as it would bring the entire project site under the "industrial" designation. The area adjacent to the north and east of the area of growth plan change is also designated "industrial."  
**(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 change does not involve a street alignment or connection. **(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 there physical features or developments in the vicinity that make the change positive or negative for the City and the area in general?** The proposed change would create a project site that is entirely designated as "industrial," which supports the proposed GI: General Industrial zoning. The surrounding area to the north, east, and northwest is designated as "industrial," as well. There are no physical features or existing developments that constrain development. The property is undeveloped with only small changes in elevation. No existing developments need to be removed. **(Criteria Satisfied)**

4. **How does the proposed change impact the long term sustainability of the city? Does the change contribute to or detract from the walkability and livability of the city?** The change provides an industrial project site for a manufacturing facility relocated due to flood buyout. This new site provides a safer, more modern environment for the production facility as well as considerable room for future expansion. As this project site has access to both rail and highway transportation, and is remote from major residential developments, development of this site as “industrial” is in line with the 2007 Growth Plan. Walkability is not an emphasis in large-scale industrial developments. **(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 and is within the city’s ETJ. The property was not developed at the time it was included in the ETJ. Now that the property is proposed to be annexed and developed, the applicant requests a zoning change to GI: General Industrial.

**(Criteria Satisfied)**

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

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

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

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, staff has not received any comments. 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 plan designates this property as appropriate for commercial and industrial development. The proposed growth plan amendment would designate the entire property for industrial development. The GI zone would be consistent with the industrial land use designation. 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)**

### Planned Unit Development

The LDC stipulates that the following criteria are met before a PUD Master Plan can be approved.

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

Strict application of the development standards of the applicable base zoning (GI:General Industrial) would require the landscaping of a considerable area of property not visible to public view and along a railroad. The applicant intends to use this area for a rail spur and storage. The PUD reduces the required amount of landscaping but increases the intensity of the landscaping in the areas visible to the public, mainly from 19<sup>th</sup> Avenue North. The rear setback is reduced to zero also to accommodate the rail and storage area in the rear yard (north side) of the facility. The uses allowed by the base zoning district have been limited to those specific to an industrial production facility. Parking for future industrial-related uses is modified to be the same as the

requirement for industrial production. These modifications adapt the GI zone development standards to an industrial production facility on this site while still meeting the intent of the LDC.

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

Staff has reviewed the PUD Master Land Use Plan and found that it complies with the PUD standards of Sec. 20-0302. The PUD provides for the site to be developed with a modern industrial facility that integrates both rail and road transportation on a site already served by public utilities on a roadway (19<sup>th</sup> Avenue North) already intended for reconstruction and expansion. Though the area along 19<sup>th</sup> Avenue North is not yet heavily developed, there are existing industrial developments along this road and the 2007 Growth Plan designates much of the as-yet undeveloped area as “industrial.”

**3. The City and other agencies will be able to provide the necessary public services, facilities, and programs to serve the development proposed, at the time the property is developed;**

The property will be served by public water and sewer available in 19<sup>th</sup> Avenue North. This heavy industrial facility will have access via 19<sup>th</sup> Avenue to Interstate 29 and will also have a rail spur of the Burlington Northern Santa Fe Railroad on the site.

**4. The development is consistent with and implements the planning goals and objectives contained in the Area Plan, the Comprehensive Plan, and other adopted policy documents.**

The Go2030 Comprehensive Plan does not state any policy about heavy industrial development such as that proposed on this site. The 2007 Growth Plan designates much of the surrounding territory to the north and east as “industrial.” That plan states that the land designated as “industrial” would “be predominantly industrial in nature” and are in areas “impacted by airport noise, railroad tracks, interstate highway noise, or other potential negative impacts that are undesirable for other types of development (p.48).”

**5. The PUD Master Land Use Plan is consistent with sound planning practice and the development will promote the general welfare of the community.**

The PUD Master Land Use Plan is consistent with sound planning practice as it accommodates the needs of a heavy industrial facility on a very large lot while maintaining the intent of the development standards of the LDC.

The development will promote the general welfare of the community by being able to retain this manufacturing operation in Fargo, relocating it from a site bought out for flood protection to a site that provides sufficient space for the current as well as future expanded operations of Mid America Steel that is convenient to rail and interstate transportation routes.

**Subdivision**

The LDC stipulates that the following criteria are 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 requested zoning for the industrial development on this property is GI: General Industrial. The GI zoning will accommodate the metal fabrication facility, and the PUD Overlay will specify that modifications to certain development standards of the GI zone as noted above. The GI zoning designation is consistent with the “industrial” land use designation for this property in the 2007 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 inquiries or comments on the application.

**(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 GI: General Industrial. This zoning is consistent with the 2007 Growth Plan which designates the project site as “industrial.” The project has been reviewed by the city’s Planning,

Engineering, Public Works, Inspections, and Fire Departments and found to meet the standards of Article 20-06 and other applicable requirements of the Land Development Code.  
**(Criteria Satisfied)**

**3. Section 20-907.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 or securing installation of public improvements to serve the subdivision. This amenities plan will be 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)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of staff and move to recommend approval to the City Commission of the proposed: 1) growth plan amendment to the 2007 Growth Plan to change the designation of approximately 19.6 acres from "commercial" to "industrial"; 2) zone change from AG, Agricultural to GI: General Industrial; 3) Planned Unit Development Master Land Use Plan; and 4) **Mid America Steel Addition** subdivision plat as presented; as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2007 Growth Plan, Standards of Article 20-06, and Sections 20-0906.F (1-4), 20-0907, and 20-0908(B)(7)(a-e) of the LDC, and all other applicable requirements of the LDC."

**Planning Commission Recommendation:** November 1, 2016

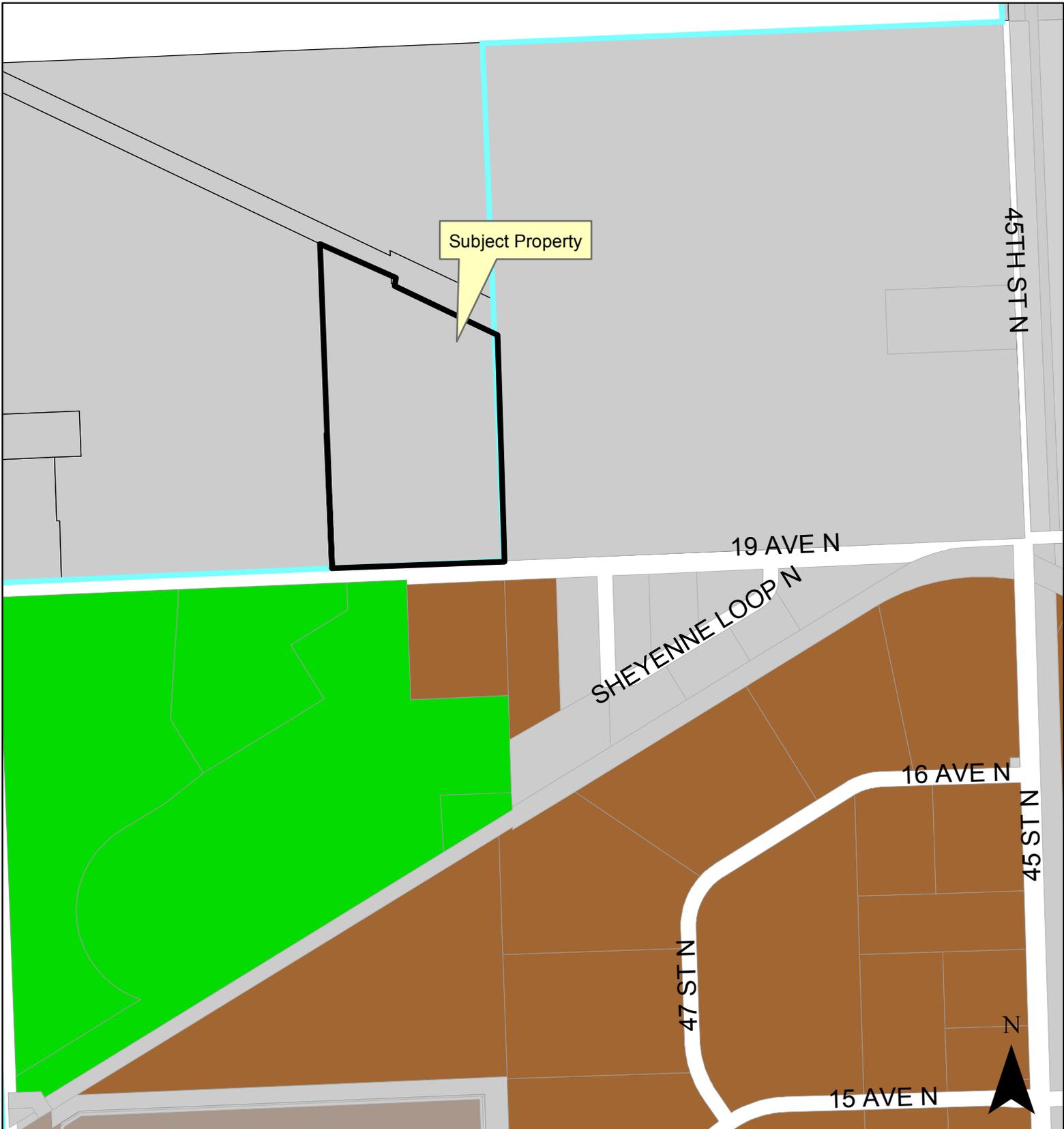
**Attachments:**

1. Zoning Map
2. Location Map
3. Growth Plan Amendment Map
4. Planned Unit Development Master Land Use Plan (narrative, comparison chart, site plan)
5. Preliminary Plat

# PUD, Plat (Major), Growth Plan Amendment, Zone Change (AG to GI)

## Mid America Steel Addition

5617 19th Avenue North



**Legend**

AG	LC	MHP	SS-2
DMU	LI	NC	SS-3
GC	MR-1	NO	SS-4
GO	MR-2	P/I	SS-5
	MR-3	UMI	SS-6
			City Limits

300  
Feet

**Fargo Planning Commission  
November 1, 2016**

# PUD, Plat (Major), Growth Plan Amendment, Zone Change (AG to GI)

## Mid America Steel Addition

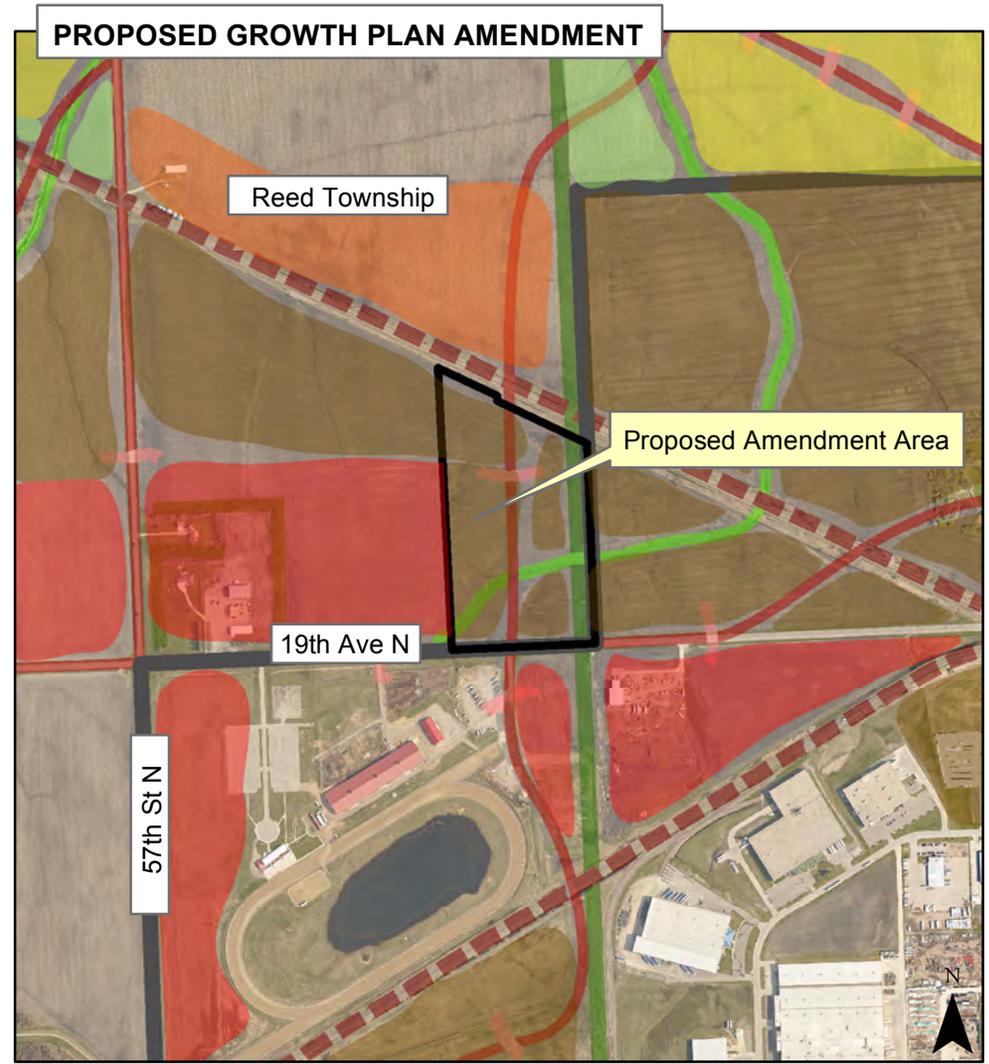
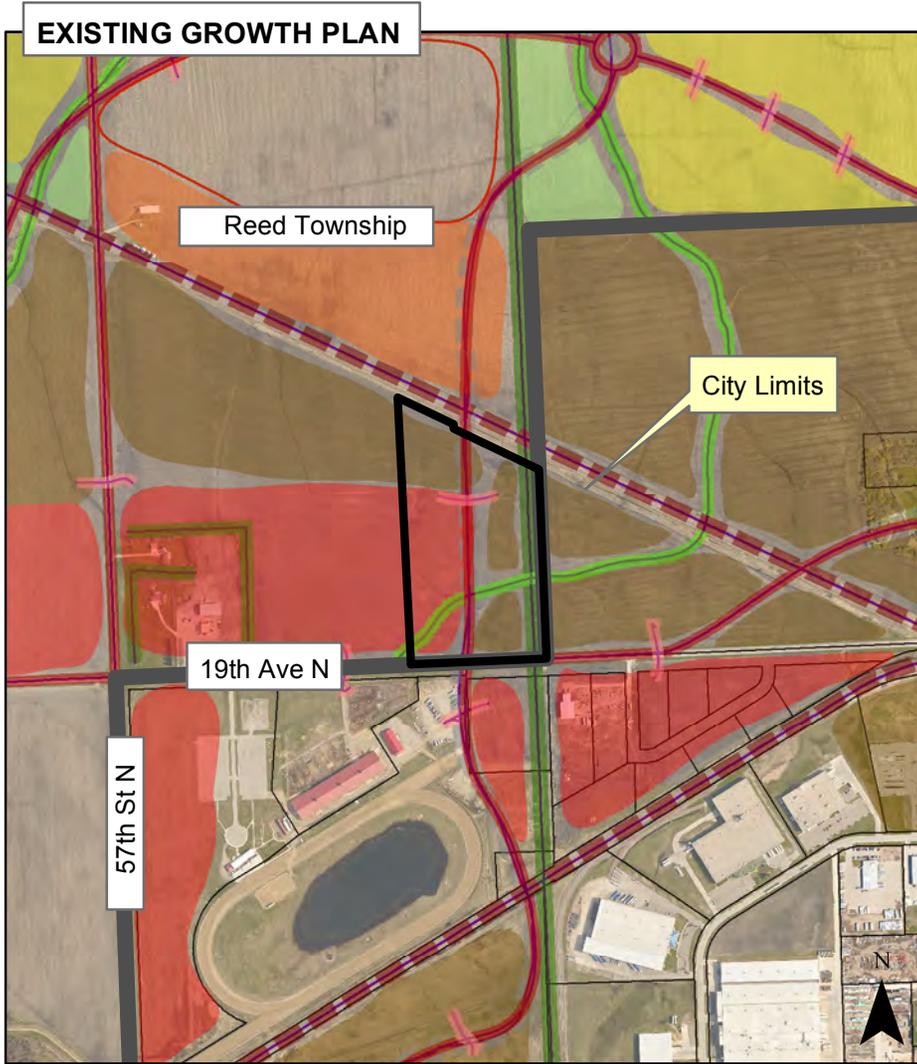
5617 19th Avenue North



# PUD, Plat (Major), Growth Plan Amendment, Zone Change (AG to GI)

## Mid America Steel Addition

5617 19th Avenue North



- Legend**
- Tier 1 Northwest Area Plan**
- Industrial Area
  - Agricultural Research
  - Commercial Area
  - Residential Area - medium to high density
  - Residential Area - lower to medium density
  - Proposed Park
  - Future School

Fargo Planning Commission  
November 1, 2016

## MID AMERICA STEEL PUD NARRATIVE

Mid America Steel (“MAS”) is proposing to build an approximately 186,000 square foot metal fabrication facility on approximately 37.40 acres of land located North of and adjacent to 19<sup>th</sup> Avenue North, and between 45<sup>th</sup> and 57<sup>th</sup> Streets. This facility will replace its current facility acquired by the City of Fargo and Diversion Authority in downtown Fargo. The development parcel is larger than needed for MAS’s immediate uses because of the following inter-related factors: minimum acreage and shape of parcel Seller was willing to sell (straight West boundary); shape of land in area Seller was willing to sell (North boundary angled because of BNSF RoW); North boundary dimension needed to accommodate rail spur/siding; and the powerline easement currently located on East end of the parcel. This over-sizing creates future expansion capabilities, but greatly in excess of any anticipated needs. The over-sizing also creates a harsh application of certain GI performance criteria. The PUD will, generally, apply the GI performance criteria, except as otherwise provided below:

	Mid America Steel PUD		
	GI	PUD	NOTES
Allowed Uses	Detention facilities, health care facilities, safety services, adult entertainment centers, off-premise advertising, commercial parking, industrial service, manufacturing and production, warehouse and freight movement, waste related use, wholesale sales, aviation, surface transportation, and mining.	Safety services, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, surface transportation, <i>retail sales</i>	Several GI permitted uses are eliminated to reflect this industrial-focused project, and “Retail sales” is added because the public can order and purchase items from MAS’s city desk.
Lot Size	none	<i>no change</i>	
Residential Density	none	<i>no change</i>	
Setbacks	50’ front and rear, and 20’ sides.	50’ front, 20’ sides and <i>zero rear</i>	The rear yard abuts BNSF RoW and will contain spur/siding infrastructure to the lot line.
Max. Height	none	<i>no change</i>	
Building Coverage	85%	<i>no change</i>	

Landscaping - Planting Units	1 per 1,000 SF Lot	<i>1 per 2,000 SF Lot</i>	Lot size 1,629,232 SF, thus GI would require 1,629 Planting Units. The rear of site is bordered by BNSF RoW and thus landscaping/buffering not useful there. Expansion or additional building areas undetermined at this time. Planting Units will be concentrated in front of property to provide aesthetic value and screening where most-warranted, to satisfy boulevard planting requirements, to compliment large native grass area and to best-ensure their preservation in the event of future expansions or buildings.
Outdoor parking, drive areas and storage areas	All Outdoor parking, drive areas and storage areas paved	All Outdoor parking and primary drive areas concrete or asphalt paved. <i>Most outdoor storage areas and drive areas adjacent thereto Class V or similar surface.</i>	The areas proposed to be surfaced in Class V or similar are the most-likely to change with expansion or new buildings. Also, the size and proposed uses of such areas don't make concrete or asphalt paving cost-effective.
Accesses	2	<i>2, but 1 potentially gated/controlled to address spacing/alignment concerns, if any.</i>	With existing curb-cuts South of 19 <sup>th</sup> Ave., and based on Seller's sales parcel configuration requirements, it not possible to provide a secondary access that meets spacing requirements. Several secondary access

			location options presented. In order to mitigate concerns for secondary access not lining up with curb cuts to South and/or minimum spacing requirements, if any, MAS willing to install gates at entrance to secondary access point, with gate code provided to emergency services, and keep area free from snow and other obstructions.
Parking - Office/Admin	1 per 300 SF	<i>no change</i>	10,000 SF Office/Admin area
Parking - Indoor storage/manufacturing	1 per 2500 SF	<i>no change</i>	186,000 SF fabrication and cold storage
Parking - All other uses	not in code	<i>1 per 2,500 SF</i>	Other permitted uses are also industrial-focused uses.



Scale in Feet
   
 0 100
   
 ORIGINAL PLAN SIZE - 22" X 34"
   
 HALF SIZE PLAN SIZE - 11" X 17"

- LEGEND**
- CONCRETE PAVEMENT
  - GRAVEL PAVEMENT
  - LANDSCAPING AREA
  - PRAIRIE GRASSES
  - OPEN SPACE

SYM	DATE	DESCRIPTION	APPR



**FARGO RELOCATION**  
**MID AMERICA STEEL**  
 FARGO, NORTH DAKOTA  
 SITE PLAN - SINGLE DRIVEWAY

-0-

DRAWING TYPE	EXHIBIT
PREPARED BY	ABC
CHECKED / APPROVED	DEF / GHI
DATE	OCTOBER 2016
PROJECT NUMBER	P13254-2016-00
SHEET	X of 01
DRAWING	<b>SP2</b>



<b>City of Fargo Staff Report</b>			
<b>Title:</b>	39th Street South	<b>Date:</b>	10/24/2016
<b>Location:</b>	South of the City of Fargo within the Commerce on I29 Addition	<b>Staff Contact:</b>	Aaron Nelson
<b>Owner(s)/Applicant:</b>	City of Fargo	<b>Engineer:</b>	N/A
<b>Entitlements Requested:</b>	Name Change Plat		
<b>Status:</b>	Planning Commission Public Hearing: November 1, 2016		

<b>Staff Analysis:</b>
<p>The proposed <i>Name Change Plat</i> has been initiated by the City of Fargo and involves approximately 970 lineal feet of the existing 38<sup>th</sup> Street South located north of 98<sup>th</sup> Avenue South within the Commerce on I29 subdivision. The plat would effectively rename this section of street as <b>39<sup>th</sup> Street South</b> in order to better align with the City's addressing standards and street naming grid. Currently, the gravel frontage road located east of the Commerce on I29 subdivision and west of Interstate 29 is also designated as 38<sup>th</sup> Street South. This name change plat would correct this duplication in street naming.</p> <p>As a matter of practice the City has utilized plats to assign and document street names. The Land Development Code (LDC) is essentially silent on street naming requirements, procedures, or criteria for approval, other than §20-0604 which states, "Street names may not duplicate names of any existing street in the City or in adjacent communities except where the street is a continuation of an existing street. Streets must be numbered in accordance with the City of Fargo Street and property numbering system approved by the Board of City Commissioners."</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p><u>Property Owner Notices:</u> Although not specifically required by the LDC, as a courtesy, the City has sent notification letters to property owners within 300 feet of the subject street consistent with Section 20-0901 of the LDC, in addition to published notification. To date, staff has not received any comments or negative feedback regarding the proposed <i>Name Change Plat</i>.</p>
<b>Staff Recommendation:</b>
<p>Suggested Motion: "To accept the findings and recommendations of staff and hereby recommend approval to the City Commission of the <i>Name Change Plat</i> on the basis that it satisfactorily complies with the Comprehensive Plan, Standards of Article 20-06 and all other applicable requirements of the LDC.</p>
<b>Planning Commission Recommendation:</b> November 1, 2016
<b>Attachments:</b>
<ol style="list-style-type: none"> <li>1. Location Map</li> <li>2. Name Change Plat</li> </ol>

# Plat (Name Change)

## Commerce on I29 Addition

39th Street South



# NAME CHANGE PLAT

COMMERCE ON I29 ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



### DESCRIPTION OF NAME CHANGE

The following Drive in COMMERCE ON I29 ADDITION to the City of Fargo, Cass County, North Dakota shall be changed as hereinafter designated and in the future shall be known by said designated name.

38 Street South shall be known as 39 Street South.

### CERTIFICATE OF ACCURACY

I, Daniel W. Skinner, Registered 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 Streets or Avenues to be named or renamed as shown.

Daniel W. Skinner, Professional Land Surveyor  
North Dakota License No. LS-6206

State of North Dakota } SS  
County of Cass }

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared Daniel W. Skinner, to me known to be the person described in and who executed the same as a free act and deed.

Notary Public

### CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

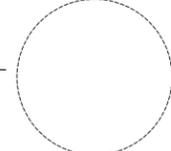
This Name Change plat is hereby approved this \_\_\_\_ day of \_\_\_\_\_, 2016.

April E. Walker, City Engineer

State of North Dakota } SS  
County of Cass }

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared April E. Walker, City Engineer, to me known to be the person described in and who executed the same as a free act and deed.

Notary Public



### FARGO CITY COMMISSION APPROVAL

Approved by the Board of City Commissioners and ordered filed this \_\_\_\_ day of \_\_\_\_\_, 2016.

Timothy J. Mahoney, Mayor

Attest: Steven Sprague, City Auditor

State of North Dakota } SS  
County of Cass }

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor, to me known to be the persons described in and who executed the same as a free act and deed.

Notary Public

### CITY OF FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this \_\_\_\_ day of \_\_\_\_\_, 2016.

Jan Ulferts Stewart, Planning Commission Chair  
Fargo Planning Commission

State of North Dakota } SS  
County of Cass }

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me, a notary public with and for said County, personally appeared Jan Ulferts Stewart, Planning Commission Chair, to me known to be the person described in and who executed the same as a free act and deed.

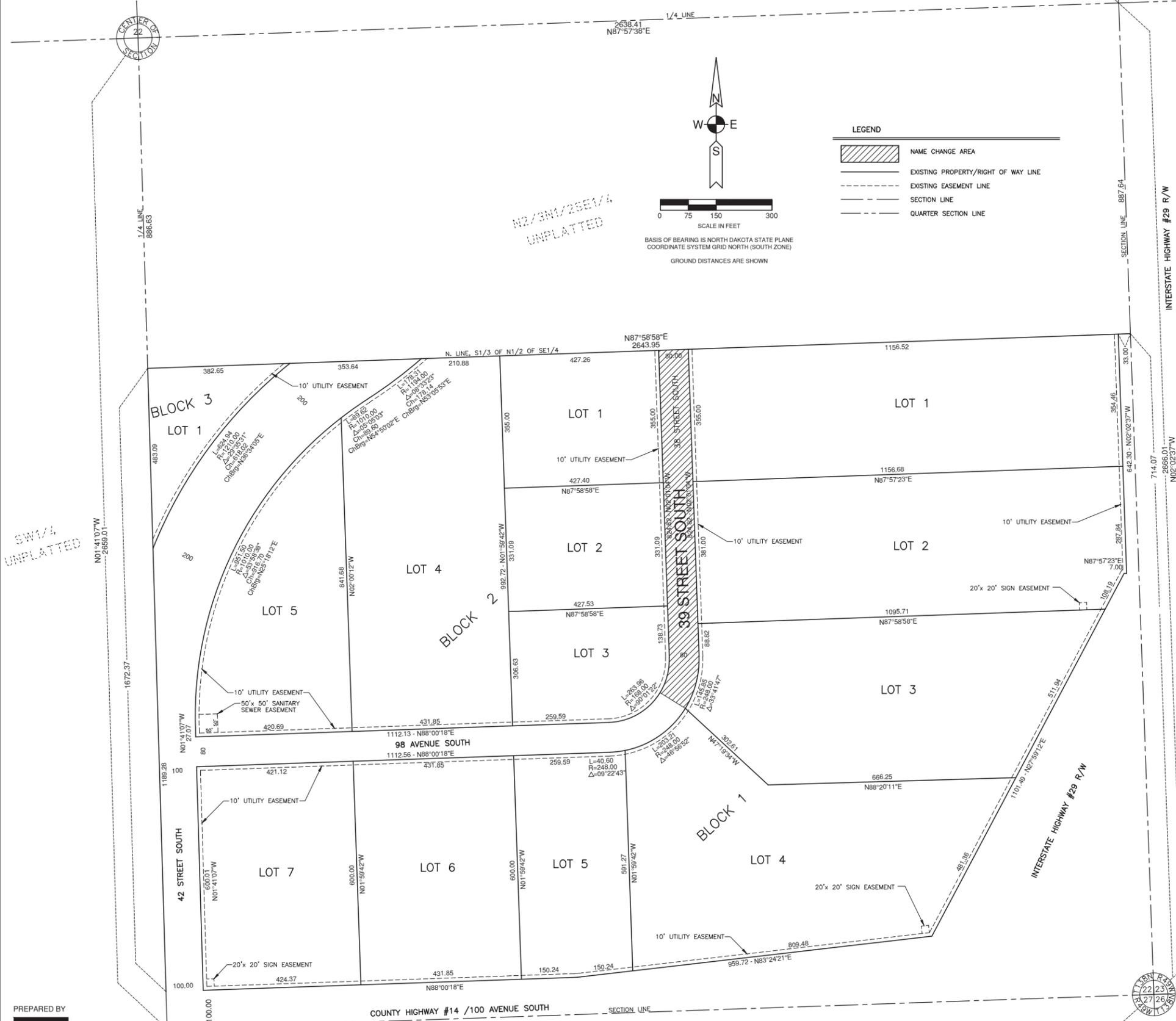
Notary Public

### STANLEY TOWNSHIP APPROVAL

Approved by Stanley Township this \_\_\_\_ day of \_\_\_\_\_, 2016.

Chairman, Stanley Township

Attest: Clerk



N2/3NW/2SE/4  
UNPLATTED

SW1/4  
UNPLATTED

PREPARED BY



FARGO - BISMARCK - DETROIT LAKES - MINNEAPOLIS - SIOUX FALLS - DENVER - CEDAR RAPIDS - WILLISTON

preliminary

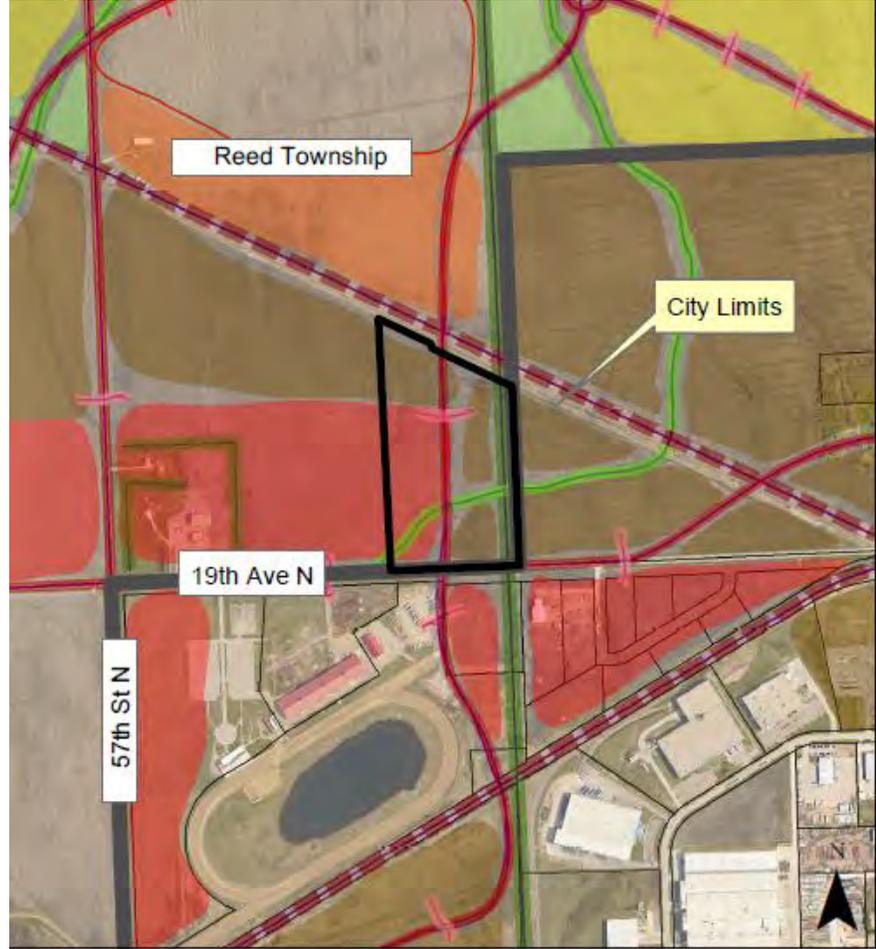
<b>City of Fargo Staff Report</b>			
<b>Title:</b>	Annexation of a portion of Section 28, Township 140 North, Range 49 West, Cass County, North Dakota	<b>Date:</b>	October 26, 2016
<b>Location:</b>	North of 19 <sup>th</sup> Avenue North approximately ¼ mile west of 45 <sup>th</sup> Street North	<b>Staff Contact:</b>	Donald Kress, Senior Planner
<b>Legal Description:</b>	Portion of Section 28, Township 140 North, Range 49 West, Cass County, North Dakota (see detailed legal description in attached resolution)		
<b>Owner(s)/Applicant:</b>	City-initiated	<b>Engineer:</b>	City
<b>Entitlements Requested:</b>	Planning Commission review of consistency with comprehensive plan.		
<b>Status:</b>	Planning Commission review November 1, 2016		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Undeveloped	<b>Land Use:</b> Industrial—Mid America Steel metal fabrication facility (relocated from downtown)
<b>Zoning:</b> AG, Agricultural, allows detached houses, parks and open space, safety services, basic utilities, and crop production.	<b>Zoning:</b> GI, General Industrial, allows detention facilities, health care facilities, safety services, adult entertainment centers, off-premise advertising, commercial parking, industrial service, manufacturing and production, warehouse and freight movement, waste related use, wholesale sales, aviation, surface transportation, and mining.
<b>Maximum Density Allowed:</b> Maximum of 1 dwelling unit per 10 acres.	<b>Maximum Density Allowed:</b> Maximum 85% building coverage.

<b>Proposal:</b>
<p>The applicant, City of Fargo, proposes to annex approximately 42.6 acres of land currently within the city's four-mile extra-territorial jurisdiction. This area includes an undeveloped 40.05 acres bounded by 19<sup>th</sup> Avenue North (south), Burlington Northern Santa Fe (BNSF) Railroad (north), Montplaisir AG &amp; Rental LLP property (east), Brand property (west). which is intended for the development of the Mid America Steel Addition. Additional territory in the annexation, approximately 2.55 acres, is along and north of the centerline of 19<sup>th</sup> Avenue North, from the west side of the future Mid America Steel Addition to 57<sup>th</sup> Street North. This area will be right of way for the future expansion of 19<sup>th</sup> Avenue North.</p>

**Area Plans:**

The proposed annexation area is included in the 2007 Growth Plan.



**Legend**

- Tier 1 Northwest Area Plan
- Industrial Area
- Agricultural Research
- Commercial Area
- Residential Area - medium to high density
- Residential Area - lower to medium density
- Proposed Park
- Future School

**Staff Analysis:**

This project was reviewed by the City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”) and recommended for approval by the Public Works Project Evaluation Committee (PWPEC). Comments from staff and PWPEC are included in this report.

The 40.05 acre portion of this annexation is intended to be developed as the Mid America Steel Addition, a one-block, one-lot subdivision intended for industrial development. The entitlements for this development—growth plan amendment, zone change, Planned Unit Development (PUD) Master Land Use Plan, and major subdivision plat--are items 10a through 10d on the November 1, 2016 Planning Commission agenda.

The entire property involved in the annexation is owned by Bruce and Elwood (Jay) Brand, who have agreed to the annexation by a petition. No existing residences or businesses are included in the annexation area.

A graphic of the approximate annexation area is attached.

**CITY COMMISSION ACTION ON RESOLUTION**

At their October 10, 2016 meeting, the City Commission adopted a resolution resolving to annex the area described in the resolution and setting a hearing date to determine the sufficiency of protests of December 5, 2016 at the regularly scheduled City Commission meeting that day. A copy of this resolution is attached.

**CONSISTENCY WITH 2007 GROWTH PLAN**

The proposed annexation area is depicted on the North Fargo Tier 1 West map of the 2007 Growth Plan. The 2007 Growth Plan describes the "Tier 1" designation as the "Intended Growth Sector" for the city of Fargo.

**Staff Recommendation:**

Staff recommends the Planning Commission find that the proposed annexation of a portion of Section 28, Township 140 North, Range 49 West, Cass County, North Dakota be found consistent with the 2007 Growth Plan.

**Attachments:**

1. Graphic of the proposed annexation area
2. Annexation resolution

# Annexation

## Section 28, Township 140N, Range 49W



## RESOLUTION OF ANNEXATION

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

WHEREAS, the City of Fargo, Cass County, North Dakota, is a municipal corporation, organized and existing under the laws of the State of North Dakota, with approximately one hundred eighteen thousand (118,000) inhabitants; and

WHEREAS, there is contiguous and adjacent to the City of Fargo, a tract or parcel of land hereinafter specifically described, containing approximately 42.6 acres, more or less, which tract or parcel of land is not presently a part of the City of Fargo.

NOW, THEREFORE, BE IT RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that the boundaries of the City of Fargo be, and they hereby are, extended so as to include and incorporate within the corporate limits of the City of Fargo, Cass County, North Dakota, all the land described as follows:

That part of the Southwest Quarter (SW1/4) of Section 28, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the South Quarter Corner of said Section 28, thence South 87° 30' 54" West on the south line of said SW1/4 a distance of 1155.00 feet, thence North 02° 23' 16" West parallel with the east line of said SW1/4 a distance of 1832.59 feet to the southerly line of the BNSF Railway Company right-of-way; thence South 64° 43' 13" East on said southerly line a distance of 467.90 feet; thence South 25° 16' 47" West on said southerly line a distance of 25.00 feet; thence South 64° 43' 13" East on said southerly line a distance of 849.32 feet to said east line of the SW1/4; thence South 02° 23' 16" East on said east line a distance of 1196.85 feet to the Point of Beginning.

Said parcel contains 1,744,732 square feet or 40.05 acres, more or less, and is subject to all easements and rights-of-way of record.

and

That part of the Southwest Quarter of Section 28, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

The south one hundred feet (100') of said southwest quarter less the east one thousand one hundred and fifty-five feet thereof.

Said parcel contains 111,214 square feet or 2.55 acres, more or less.

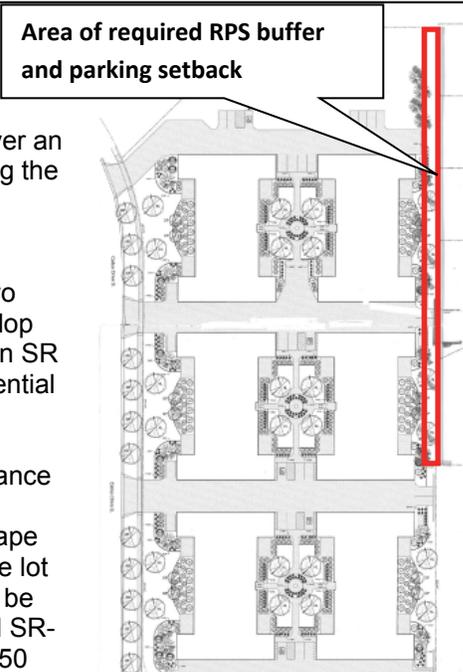
BE IT FURTHER RESOLVED, By the Board of City Commissioners of the City of Fargo, North Dakota, that this Resolution be published in the official newspaper for the City of Fargo once each week for two successive weeks, and a hearing be held on the 5th day of December, 2016, at 5:15 p.m., in the City Commission Room, City Hall, Fargo, North Dakota.



City of Fargo Staff Report			
<b>Title:</b>	Calico Prairie Addition	<b>Date:</b>	10-25-2016
<b>Location:</b>	2840 & 2860 Calico Drive South	<b>Staff Contact:</b>	Maegin Elshaug
<b>Petitioner:</b>	Roers Development	<b>Engineer:</b>	N/A
<b>Reason for Request:</b>	Appeal of an administrative decision to approve a Residential Protection Standards waiver		
<b>Status:</b>	Planning Commission: November 1, 2016		

Existing	Proposed
<b>Land Use:</b> Multi-Dwelling Residential and vacant	<b>Land Use:</b> unchanged
<b>Zoning:</b> MR-1, Multi-Dwelling Residential	<b>Zoning:</b> unchanged
<b>Uses Allowed:</b> MR-1 Allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children, group living, parks and open space, religious institutions, safety services, schools, and basic utilities	<b>Uses Allowed:</b> unchanged
<b>Maximum Density Allowed:</b> 16 units per acre	<b>Maximum Density Allowed:</b> unchanged

Request:
<p>The applicant for the Residential Protection Standard waiver, Roers Development, is requesting a waiver to a residential protection standard that requires a landscape buffer, as well as parking to be setback 10 feet on property located at 2840 &amp; 2860 Calico Drive South. An administrative decision was made by the City Planner to grant the requested waiver, however an adjacent property owner objects to the granting of the waiver and is appealing the decision to the Planning Commission.</p> <p><b>Background:</b> The subject property owner, Roers Development, is currently constructing two multi-dwelling buildings at the sound end of the property and intends to develop the rest of the property. The next phases of construction are in proximity to an SR zoning district, therefore a portion of the property must conform to the Residential Protection Standards of the LDC.</p> <p>In September, 2016, Roers Development submitted an application in accordance with Section 20-0704.I of the LDC for a waiver of the residential protection standard imposed by Section 20-0704.E of the LDC which requires a landscape buffer and a 10-foot parking setback along a portion of the property where the lot lines are adjacent to residential zoning districts. This landscape buffer would be required along the eastern lot line where the property abuts properties zoned SR-2 and SR-4. Specifically, the requested waiver is for the approximate north 450 feet of the property, as highlighted in red in the image to the right. The applicant has proposed to provide no shrubs and twice the amount of trees for the</p>



Proposed Site Plan

landscape buffer, and has also proposed to install a 5-foot tall opaque fence for a portion of the property to block views of the parking and headlights.

Upon sending out notices of staff's intention to approve the requested waiver, adjacent property owners have appealed staff's decision. Staff received two written appeals, as well as a petition from the neighborhood in opposition. These items are attached.

The applicant has scheduled a neighborhood meeting for the evening of Thursday, October 27<sup>th</sup>. Additional information will likely be forthcoming at the Planning Commission meeting.

**Process:**

In accordance with the Residential Protection Standards waiver process, appeals of staff's decision must be taken to the Planning Commission. The Planning Commission shall consider the appeal and waiver request as a new matter, and shall act to approve or deny the original waiver application.

**Staff Analysis:**

As stated above, the subject property is located at 2840 & 2860 Calico Drive South and is zoned MR-1, Multi-Family Dwelling Residential. Residential protection standards are required whenever multi-family development occurs on a site located within 150 feet of any SR zoning district. The subject property abuts properties that are zoned SR-2, Single-Dwelling Residential and SR-4, Single-Dwelling Residential.

Section 20-0704.E of the LDC requires that a landscape buffer be installed along lot lines that are adjacent to single-family residentially zoned properties. Within this section there are two types of landscape buffers that may be used to satisfy this requirement:

1. "Type A" landscape buffers are comprised of a 10 foot wide buffer area with a minimum of 1 tree and 20 shrubs per 50 linear feet of buffer.
2. "Type B" landscape buffers are comprised of a 20 foot wide buffer area with a minimum of 1 tree and 10 shrubs per 50 linear feet of buffer.

Section 20-0704.B of the LDC requires that off-street parking spaces be setback a minimum of 10 feet from the property lines.

As outlined in Section 20-0704.I of the LDC, the City Planner is authorized to reduce or waive one or more of the residential protection standards if it is found that the reduction or waiver is appropriate and will not harm the surrounding area.

**Waiver:**

The original waiver application submitted proposed to provide 6 trees east of each of the two north structures, where the RPS buffer is required, for a total of 12 trees, in lieu of 9 trees that would otherwise be required, and to provide no shrubs. The applicant also proposed to waive the 10-foot setback for parking. In reviewing the requested waiver, staff found that the proposed modified buffer was not sufficient and that additional trees should be provided, and that the applicant should provide a 5-foot tall opaque fence along areas where the parking is closer than 10 feet from the property line, in order to shield adjacent single-family homes from headlights. The applicant modified the application, and staff intended to approve the waiver with the following conditions:

1. One tree per 25 linear feet be provided along the east property line that requires a buffer.
2. A 5-foot tall opaque fence be provided in the area where parking is closer than 10 feet from the east property line. The fence section shall be at least 40 feet in length and span between the proposed primary structures.

As noted, staff received two written appeals, as well as a petition from the neighborhood in opposition. The petition does not appear to object with the waiver in its entirety, but would like to see some additional improvements. In addition to condition 1 noted above, the petition proposes that a 5-foot tall opaque fence be provided along the entire east property line of the proposed primary structures. The fence proposed within the petition would include portions of the property that do not require an RPS buffer or parking setback.

**Staff Position:**

Staff supports the granting of a waiver. The applicant worked with staff to revise original waiver application. The updated application (which was approved by the City Planner and what is outlined within this staff report) provides more trees than originally proposed, and includes the 5-foot tall opaque fence for portion of the property. Staff finds that the waiver is appropriate.

**Action on Appeal:** (Section 20-0704.I.1.d of LDC)

The Planning Commission shall consider the appealed decision on the request for waiver of residential protection standards required by Section 20-0704 as a new matter. After considering the matter, the Planning Commission shall act to approve or deny the original application.

**Staff Recommendation:**

Recommended Motion: "To accept the findings and recommendations of staff and hereby move to approve the waiver for the applicable residential protection standards as presented, and require that in lieu of a standard landscape buffer and 10-foot parking setback as outlined in LDC Section 20-0704, the petitioner shall be required to meet the following conditions:

1. One tree per 25 linear feet be provided along the east property line that requires a buffer
2. A 5-foot tall opaque fence be provided in the area where parking is closer than 10 feet from the east property line. The fence section shall be at least 40 feet in length and span between the proposed primary structures

as outlined in the staff report."

**Planning Commission Decision: 11-01-2016**

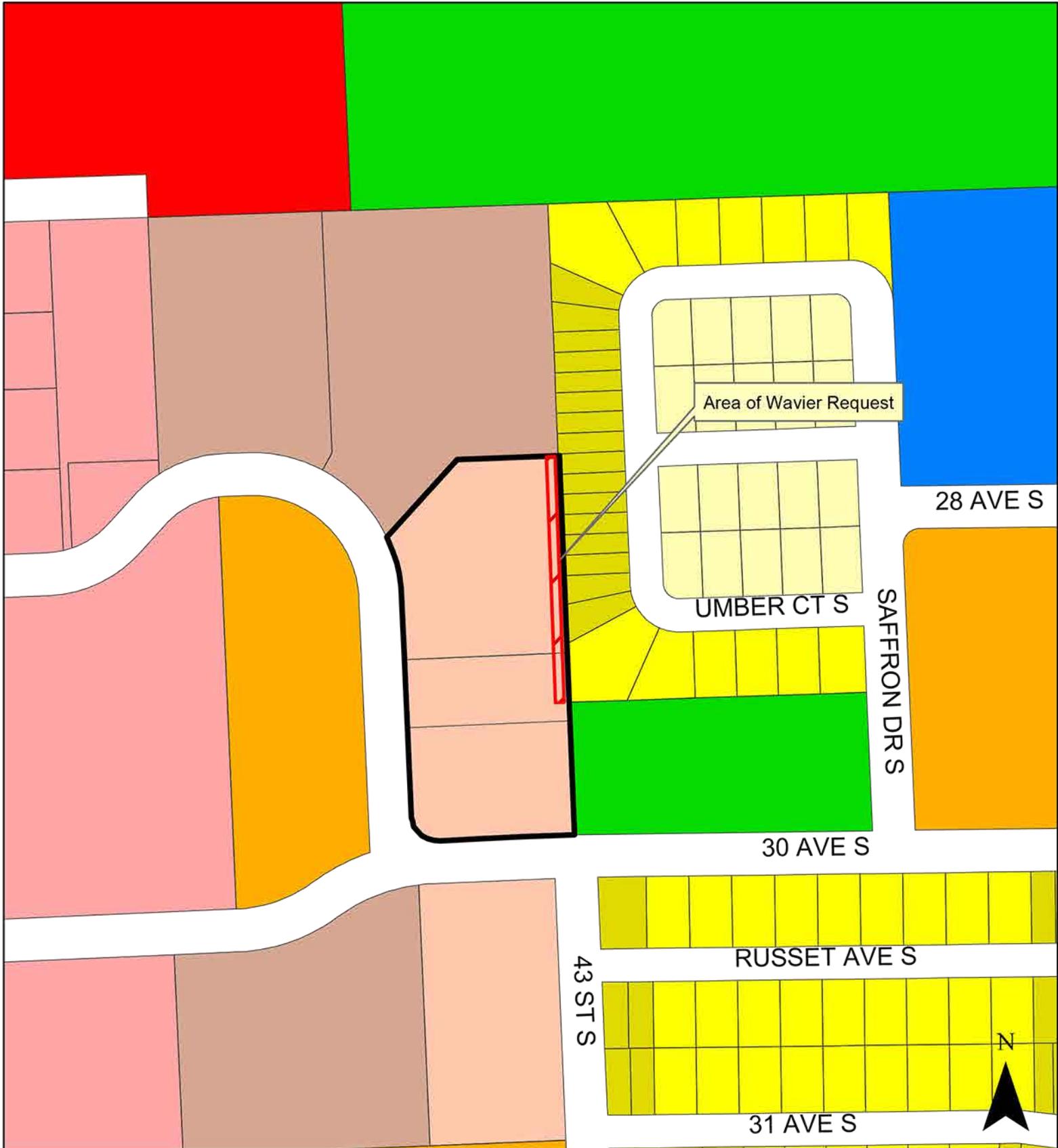
**Attachments:**

1. Zoning Map
2. Location Map
3. Proposed Site Plan
4. Appeals

# Appeal of a Waiver of Residential Protection Standards

## Calico Prairie Addition

2840 & 2860 Calico Drive South



### Legend

AG	LC	MHP	SR-2
DDMU	LL	NZO	SR-3
GGC	MR-1	PA	SR-4
GG	MR-2	UMU	SR-5
GO	MR-3		City Limits

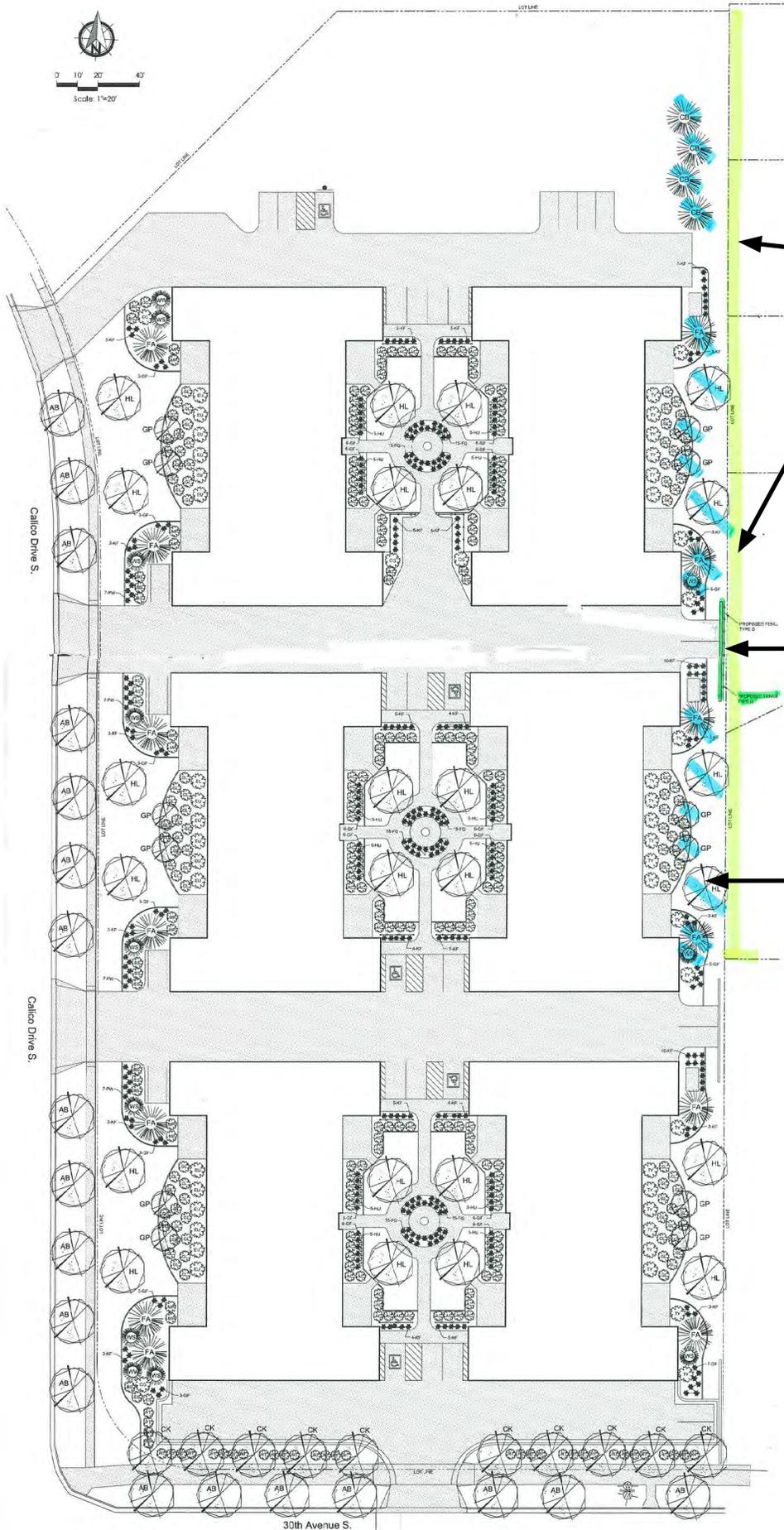
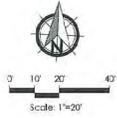
Fargo Planning Commission  
November 1, 2016

# Appeal of a Waiver of Residential Protection Standards

## Calico Prairie Addition

2840 & 2860 Calico Drive South





Area of RPS buffer (yellow)

Area of 5-foot tall opaque fence (green)

Trees, 1 per 25 linear feet of buffer (blue)

## Maegin Elshaug

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**From:** Reid Middaugh <reid.middaugh@gmail.com>  
**Sent:** Wednesday, October 12, 2016 6:42 PM  
**To:** Planning E-mails; Maegin Elshaug  
**Subject:** Written Appeal

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

This is my written appeal to the Fargo Planning Commission to oppose a decision by the Commission to allow Roers Development to build four more structures as planned located at 2840 and 2860 Calico Drive South. Roers was already given a zoning change to build these condos and now wants more rules changed so they can have an inadequate buffer zone around the property.

In my opinion this is unacceptable and Roers should comply with current code. Additionally, a five foot tall opaque fence should be built along the entire east edge of the property, not just 40 feet of it.

Should the Planning Commission not overturn their decision it will once again be an example of them bending over for developers. ,

Sincerely,

Reid Middaugh  
2791 Umber Ct S

## Maegin Elshaug

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**From:** Kelly Fralin <kelly.fralin@hotmail.com>  
**Sent:** Wednesday, October 12, 2016 7:24 PM  
**To:** Maegin Elshaug  
**Subject:** Appeal

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

Maegin,

I received letter in the mail regarding Crestwood Condominiums proposal for the east property line barrier. Our neighborhood is against their proposal and we have drafted a petition. The letter we received states that a written appeal must be submitted no later than October 17, 2016. Does this mean by 5pm on October 17?

Sent from my Samsung Galaxy smartphone.

We, the citizens of neighborhood surrounding Crestwood Condominiums at Calico Drive South, petition the Fargo Planning Department to appeal the waiver of Residential Protection Standards requested by Roers Development.

Per the City of Fargo's notice on October 5, 2016, the City Planner intends to approve the request for waiver and require Roers Development to meet the following conditions:

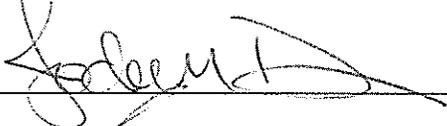
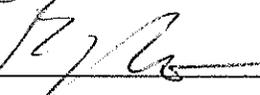
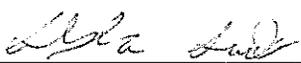
1. One tree per 25 linear feet be provided along the east property line that requires a buffer.
2. A 5-foot tall opaque fence be provided in the area where parking is closer than 10 feet from the east property line. The fence section shall be at least 40 feet in length and span between the proposed primary structures.

We are proposing the following waiver in lieu of the one outlined above:

1. One tree per 25 linear feet be provided along the east property line that requires a buffer.
2. A 5-foot tall opaque fence be provided along the entire east property line of the proposed primary structures.

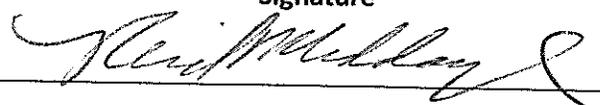
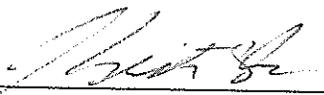
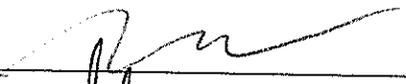
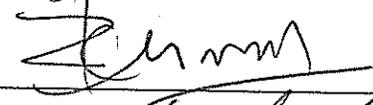
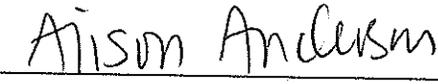
The construction of the condos has altered our perception of our privacy and safety. The condo is tall compared to our homes and the condo residents will have a direct view into some of our backyards and our windows. With the proposal of one tree per 25 linear feet, hopefully this will aid it providing some privacy.

Also, there is no barrier between the condo property, the public Autumn Fields park, and some of our backyards. The Autumn Fields park is heavily used in our neighborhood, we have many small children in the area and are happy to have a public area to play in. However, now that the condos are built right next to the park without a barrier, when at the park, it feels like one is on the condo's property versus public property. Also, as you sit on one of the benches to watch your kids play, your back is to the condos and it feels unsafe. Building an opaque fence along the entire property will provide security and comfort to those at the park, those that live in the condos, and those whose backyards meet the condo's east property line.

Name	Address	Signature
Nicole Hahn	2841 UMBER CTS	
Kathy Palensky	2845 UMBER CTS	
Jodee Downs	2793 UMBER CTS	
Peter Nettleton	2787 UMBER CTS	
Sk / Kar Smith	2743 UMBER CTS	
Nikki Knodle	2721 UMBER CTS	Nikki Knodle
Tiffany Voigt	2710 UMBER CTS	
Must 2 Lumsden	2736 UMBER C.	

Continued signatures to propose the following waiver for the Crestwood Condominiums:

1. One tree per 25 linear feet be provided along the east property line that requires a buffer.
2. A 5-foot tall opaque fence be provided along the entire east property line of the proposed primary structures.

Name	Address	Signature
Reid Middaugh	2791 Umber Ct	
Chase Cline	4216 35th Ave S.	
Elizabeth Zee	4287 28th Aves.	
Keith Ben	2824 Umber Ct S	
C. W.	2885 Umber Ct	
Jason Boynton	2871 Umber Ct	
Kelly Smiler	2862 Umber Ct	
Amy Little	2819 Umber Ct	
Leah Martinetti	2831 Umber Ct.	
Andy Muscha	2705 Umber Ct	
Krisia Johnson	2750 Umber Ct.	
Kyle Peterson	2764 Umber Ct S	
Susan Berger	2809 Umber Ct S	
Angie Strand	2839 Umber Ct S.	
Alison Anderson	2833 Umber Ct	

Continued signatures to propose the following waiver for the Crestwood Condominiums:

1. One tree per 25 linear feet be provided along the east property line that requires a buffer.
2. A 5-foot tall opaque fence be provided along the entire east property line of the proposed primary structures.

Name	Address	Signature
Fikret Golubovic	2863 UMBER CT	Fikret Golubovic
Kathy Leingang	2897 UMBER CT	Kathy Leingang
Cindy Belohlavik	2841 UMBER CT	Cindy Belohlavik
Aorn Miller	3435 Russett Ave	Aorn Miller
Jeffrey Skinner	4253 Russett Ave	Jeffrey Skinner
Kari Johnson	4267 Auburn Ave	Kari Johnson
Tammy Lawson	4167 Auburn Ave	Tammy Lawson
Steve Schwartz	4273 Russett Ave S	Steve Schwartz
Renee Schwandt	4277 Russett Ave S	Renee Schwandt
Amanda Terven	4281 Russett Ave S	Amanda Terven
Jeff Dwyer	4285 Russett Ave S	Jeff Dwyer
Ronda Suetzle	4288 Russett Ave	Ronda Suetzle
Joy Lupeac	4274 Russett Ave S	Joy Lupeac
Thomas Bealk	4266 Russett Ave S	Thomas Bealk
Quang Son	4264 Russett Ave S	Quang Son
Brenda Barfield	4256 Russett Ave	Brenda Barfield

Continued signatures to propose the following waiver for the Crestwood Condominiums:

1. One tree per 25 linear feet be provided along the east property line that requires a buffer.
2. A 5-foot tall opaque fence be provided along the entire east property line of the proposed primary structures.

Name	Address	Signature
Andrea Payne	2057 Umber Ct S Fargo, ND	Andrea Payne
Amanda Kelley	4299 28th ave S Fargo ND	A Kelley
Wayne Oakland	2767 Umber CTS	Wayne Oakland
Kerry J. Werburg	2737 Umber Ct. S.	Kerry Werburg
Paul Brien	2713 Umber Ct S	Paul Brien
Jack Colson	2779 Umber Court	Jack Colson
Anthea Varrino	2797 Umber Ct S	Anthea Varrino
Jenny Vangerud	4241 31 Ave S	JVangerud
Shirley Woinarowicz	4247 31 Ave S.	Shirley Woinarowicz
Robyn Bagu	4259 31 Ave S	Robyn Bagu
Sarah Helmer	4289 31st Ave	Sarah Helmer
Kaitlen Waslien	4293 31st Ave	Kaitlen Waslien
Jasmine Jilek	4272 31st Ave S.	Jasmine Ottman
Robyn Wilson	4252 Russet Aves	Robyn Wilson

Continued signatures to propose the following waiver for the Crestwood Condominiums:

3

1. One tree per 25 linear feet be provided along the east property line that requires a buffer.
2. A 5-foot tall opaque fence be provided along the entire east property line of the proposed primary structures.

Name	Address	Signature
Johnell Adland	4249 Auburn Ave	Johnell Adland
Jason Anderson	4255 Auburn Ave	JA
Gudwin Omsine	4275 Auburn Ave.	Gudwin Omsine
Alan Siefert	4294 Auburn Ave.	Alan Siefert
Austin Ulmer	4288 Auburn Ave	Austin Ulmer
KAREN Westrick	4200 Auburn Ave	Karen Westrick
JEFF GRISSE	4286 AUBURN AVE	Jeff Grisse
Jimi Mehrhoff	4274 Auburn Ave	Jimi Mehrhoff
Mike Brandt	4260 Auburn Ave	Mike Brandt
Chris Johnson	4250 Auburn Ave	Chris Johnson
Abeer Megahed & Magedy Abdelrahman	4278 Russet Ave. S.	Abeer Megahed