

FARGO CITY COMMISSION AGENDA
Monday, June 29, 2009 - 5:00 P.M.

CITY COMMISSION MEETINGS ARE BROADCAST LIVE ON TV FARGO (Channel 99). They are rebroadcast at 7 p.m. each Thursday and again at 8:00 a.m. each Saturday and are also included in our video archive at www.cityoffargo.com/commission

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, June 15, 2009).

* * * Consent Agenda - Approve the Following * * *

- a. 2nd reading, waive reading and final adoption of the following rezoning Ordinances; 1st reading, 6/15/09:
 - (1) Certain Parcels of Land Lying in Davies First Addition.
 - (2) Certain Parcels of Land Lying in C & G Addition.
- b. Police Department authorization to enter into a license agreement with Mattel, Inc. to use the likeness of the Department's patrol vehicles on various die-cast and/or plastic toy replicas.
- c. Resolution Approving The Publication Of A Proposed Resolution And Approving The Advertising For A Public Hearing On The Issuance of \$2,890,000 City of Fargo General Obligation Development Bonds, Series 2009B; hearing to be held at 5:15 p.m. on September 8, 2009.
- d. Contract award to Route Match to provide paratransit scheduling and routing software.
- e. 2009 allocation from Southeastern North Dakota Community Action Agency in the amount of \$52,000 to address emergency needs for people that utilize the Gladys Ray Shelter.
- f. Application filed by Bryan and Tifanie Gelinske for a 5-year tax exemption for improvements made to a building at 1602 3rd Street North.
- g. Applications for Games of Chance:
 - (1) The Arc of Cass County for a raffle on 10/6/09.
 - (2) FM/AM Rotary for a sports pool from 9/1/09 to 2/6/10.
- h. Change Order No. 002 for an increase of \$10,567 for interior signage for the Main Library and an alteration to the Dr. James Carlson Library sign.
- i. Temporary Construction Easement with John Campbell and James Gompf (Project No. 5799).
- j. Project Concept Report for Bicycle/Pedestrian Lift Bridge Replacement (Project No. 5884).
- k. Purchase of 2009 Pictometry Aerial Imagery of the Fargo area taken during the first Red River flood crest.

Page 2 Bid award for Project No. 5896.

- m. Contract Amendment No. 1 with 3M Company for Project No. 5718.
- n. Contract Amendment with Houston Engineering for Project No. 5574-03.
- o. Change Order No. 1 for an increase of \$19,575.98 for Project No. 5846.
- p. Balancing Change Order No. 1 for an increase of \$132.48 for Project No. 5813.
- q. Bid advertisement for Project Nos. 5747-14, 5865, 5897 and 5899.
- r. Contract with T.L. Stroh Architects, Ltd. to provide assistance for flood damage restoration.
- s. Bills.
- t. Change Order No. 2 for an increase of \$3,676.33 for Improvement District No. 5746.
- u. Bid awards for Improvement District Nos. 5784, 5862, 5881, 5882, 5883 and 5886.
- v. Create Improvement District No. 5898.
- w. Contract and bond for Improvement District No. 5861.

* * * Regular Agenda * * *

1. 2nd reading, waive reading and final adoption of an Ordinance Annexing a Certain Parcel of Land Lying in the North Half of the East Half of the Northwest Quarter of Section 13, Township 138 North, Range 49 West, Cass County, North Dakota; 1st reading, 6/15/09.
2. Public Hearings - 5:15 p.m.:
 - a. Application filed by Casa Ramos, Inc. d/b/a Casa Ramos for a Class "F" Alcoholic Beverage License at 1649 38th Street South.
 - b. Application filed by Fargo Billiards, LLC d/b/a Fargo Billiards for a Class "FA-Entertainment" Alcoholic Beverage License at 3234 43rd Street South.
 - c. Addition of Route 33 to Fargo Metro Area Transit to travel between the Memorial Union at NDSU and Klai & Richard H. Barry Halls in Downtown Fargo.
 - d. Renaissance Zone Project for Land Elements, Inc. at 102 Broadway, Ste. 205.

PLEASE NOTE: Adjourn to Monday, July 6, 2009 at 11:30 a.m. to canvass the votes from the June 30, 2009 Special Election.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 241-1310 or TDD 241-8258. Please contact us at least three business days in advance of public meetings to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo Web site at www.cityoffargo.com/commission

1

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE ANNEXING A CERTAIN PARCEL OF LAND
2 LYING IN THE NORTH HALF OF THE EAST HALF OF THE
3 NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 138 NORTH,
4 RANGE 49 WEST, IN CASS COUNTY, NORTH DAKOTA

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

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

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

11 NOW, THEREFORE,

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

13 Section 1. The following described property located in Section 13, Township 138 North,
14 Range 49 West, Cass County North Dakota, is hereby annexed to the City of Fargo, Cass County,
15 North Dakota:

16 The North Half of the East Half of the Northwest Quarter of Section 13,
17 Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County,
18 North Dakota, EXCEPTING THEREFROM the North 100 feet of said North Half
19 of the East Half of the Northwest Quarter of Section 13 previously annexed to the
20 City of Fargo per the Annexation Plat recorded as Document No. 1254145 in the
21 office of the Cass County Recorder.

22 Said part contains 36.26 Acres, more or less, and is subject to all easements and
23 rights-of-way of record.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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Section 2. Effective Date.

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

CITY OF FARGO

By _____
Dennis R. Walaker, its Mayor

(SEAL)

ATTEST:

First Reading:
Second Reading:
Final Passage:

Steven Sprague, City Auditor

2 a

MEMORANDUM

TO: Chief Keith Ternes
FROM: Sergeant Mathew Sanders
DATE: May 26th, 2009
SUBJECT: Application for Class "F" Alcoholic Beverage License for Casa Ramos, Inc, d/b/a: Casa Ramos to be located at 1649 38 St. S.

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation I questioned the applicant's criminal background, credit history, past residence history as well as any interaction they have had with law enforcement in any state.

The following information was discovered through this investigation:

Benjamin Ramos (Owner)

Criminal History: No areas of concern

Credit History: No areas of concern

Kenny Ramos (Manager)

Criminal History: No areas of concern

Credit History: No areas of concern

Business Location

The application submitted is for a business located at 1649 38 St. S., Fargo, ND. Within the immediate area, the following establishments currently hold a liquor license: Granite City, Big D's Bar and Grill, Ramada Plaza and Suites, Buffalo Wild Wings, and Expressway Suites.

Conclusion

I believe I have discovered all information related to the listed applicant(s) and all information related to the issuance of the requested liquor license. I have provided this

completed background investigation to Fargo Police Chief Keith Ternes for his review and recommendation.



32 5-20-09
@R# 003

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

The following section to be completed by City Staff:

Date Received by Auditor's Office: 5-20-09
Investigations Fee Paid (\$250) Yes No Date paid: 5-20-09
Check # 003

Reviewed—Health Department by: _____ Date: _____
Comments (or see attached report):

Reviewed—Fire Department by: _____ Date: _____
Comments (or see attached report):

Reviewed—Inspections Division by: _____ Date: _____
Comments (or see attached report):

Reviewed--Police Department by: Sgt. Matthew J. Anderson Date: 5/26/09
(See attached report):

Approval Recommendation _____ Denial Recommendation
[Signature] _____
Chief of Police May 26, 2009
Date

Reviewed—Liquor Control Committee on (date): _____

____ Approval Recommendation _____ Denial Recommendation
(See attached comments or minutes)

Reviewed-- City Commission on (date): _____

____ Approval _____ Denial
(See attached minutes)

Business/Company name: CASA RAMOS INC.

Doing business as: Casa Ramos
FAMILY RESTAURANT

This application is for the Class or Classes of Licenses checked:

- Class A Authorizes the licensee to sell "on-sale" only.
- Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- Class B "Limited" Authorizes the licensee to sell "off-sale" only. License is Non Transferable. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- Class AB Authorizes the licensee to sell "on-sale" and "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- Class ABH Authorizes the licensee to sell "on-sale" and "off sale", at hotels & motels with 100 more guest rooms only.
- Class ABHRZ Authorizes licensee to sell "on-sale" and "off sale" at hotels in Renaissance Zone with 15 guest rooms
- Class C Authorizes the licensee to sell beer "on-sale" only.
- Class D Authorizes the licensee to sell beer "off-sale" only.
- Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- Class FA Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% of more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- Class FARZ Authorizes the licensee to sell "on-sale" only; physical bar allowed. Required to be in the Renaissance Zone. No gaming and no "E" permits allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages. The initial fee is 1/2 of the FA license.
- Class FA-Golf On USGA Golf Course of 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- Class G Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.
- Class II Authorizes the licensee to sell beer "on-sale" only, served at table of booth, with no bar allowed and requires 50% food sales.
- Class I Authorizes the licensee to sell beer, wine, and other sparkling wine "on-sale" only. A physical bar is allowed and requires 50% food sales.
- Class J Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.
- Class L Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.

- () Class M Authorizes the licensee to operate a "Microbrew Pub" and to sell "on-sale" and "off-sale" offers in conjunction with another license.
- () Class N Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2,500.
- () Class O Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
- () Class P Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale." Allows limited beer sales.
- () Class W Authorizes the licensee to operate a wine bar, serving wine and limited beer "on-sale." A physical bar is allowed and requires 20% food sales.
- () Class Z Authorizes the licensee to sell "on-sale" only issued to individuals and partnerships not currently holding another "A", "AB", "ABH", or "ABH-RZ". This license is non-transferable.

The following section to be completed by the applicant:

Initial #1 - #8 to indicate you understand and agree to these terms of the "Z", "W" or "B Limited" license. Then print your name and sign in the space provided below:

ALL APPLICANTS must initial #9 - #16 and sign in the space provided below.

- 1. B.R. My business may sell "On Sale" only (Class Z & W).
- 1a. B.R. My business may sell "Off Sale" only; **NO** "On-Sale" liquor sales are permitted. ("B Limited)
- 2. B.R. This license shall only be issued to individuals or partnerships (natural persons only), corporations for liability purposes, except as otherwise provided hereinafter.
- 3. B.R. I may not obtain more than one "Z", "W" or "B Limited" license.
- 4. B.R. If I hold an "A", "B", "AB", "ABH or ABH-RZ" license, I may not obtain a "Z", "W" or "B Limited" license.
- 5. B.R. If I voluntarily go out of business, file a bankruptcy petition, become insolvent or otherwise cease business, the license reverts to the City of Fargo. This license may be transferred to reflect a change in location of your licensed premises.
- 6. B.R. The license may be transferred to my heirs (children only) during my lifetime. Upon my death, the license may be transferred to my heir(s), but may not be transferred to any other person, partnership, firm or corporation. If any partner in a partnership holding the license dies, the remaining partner(s) may continue to hold the license, but no partnership interest may be issued to any new partner. The ordinance will allow a partnership between the original licensee and his children which may take the form of a corporate entity under North Dakota law. Shares in the corporation may be transferred to the children, but transfer of shares to anyone else will constitute a sale that will cause the license to revert to the City of Fargo. As the ordinance indicates, the intent of this provision is to allow a transfer between a parent and children but a transfer of shares to anyone else is absolutely prohibited.
- 7. B.R. If I sell my business as a "going concern" (i.e., a complete and operational bar), the purchaser of the business has the first preference to purchase the "Z", "W" or "B Limited" license from the City. (The purchaser must meet all other relevant conditions and requirements for such a purchase.)
- 8a. B.R. If I am issued a "B Limited" license, I must pay an initial fee for the license in the amount of \$80,000 and an annual fee for the license in the amount of the \$1,400 at the beginning of each license year.
- 8b. B.R. "Z" Initial \$105,000. Annual \$1,700.
- 8c. B.R. "W" Initial \$25,000. Annual \$1,000.
- 9. B.R. All Applicants must assure there is adequate off-street parking for my business (within the discretion of and as approved by the City Commission). Membership in the current City parking program (e.g., "P.O.P.") may place me in compliance with this requirement.

- 10. B.R. I have received a copy of the Alcoholic Beverage Ordinance (s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
- 11. B.R. If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.
- 12. B.R. I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
- 13. B.R. I understand that the premises described in this application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
- 14. B.R. I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages MUST attend Server Training.
- 15. B.R. I am familiar with the questions, answers and other information as it appears in the complete application for an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
- 16. B.R. I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44.04-21.1 concerning this claim of confidentiality under 44-04-18.4.

Applicant printed name: Benjamin Ramos Signature: Benjamin Ramos

Applicant printed name: Kenny Ramos Signature: Kenny Ramos

Applicant printed name: _____ Signature: _____

Business/Company name: CASA RAMOS INC / Restaurant
Doing business as: RESTAURANT CASA RAMOS

Business address (location): 1649 38TH ST S, FARGO, ND 58103
Mailing address: _____

Legal description of the premises to be licensed: Lot 6 & S 70' of 5 Block 1 Addition West Acres 4th

Does applicant wish to describe, depict, or otherwise identify various areas or spaces within the building which shall constitute the licensed premises in accordance with Section 25-1501, Subsection 8? Yes ; No ();

Is the premises now occupied by another business? ___ Yes No

Type of business currently there: _____

Mailing address: _____
(address) (city) (state & zip)

Business e-mail address: _____

Phone number: (701) 281-7897 Other number: (928) 242-1374

Do you own or rent the property where the license will be used? ___ Own Rent
If you rent, provide the following information:

JPR Investments 200 45 ST S
(name) (address) (city) (state & zip)

If you are the owner of the property, are there any delinquent taxes against the premises?
___ Yes No If "yes", in what amount? _____

Applicant Information:

Name: BENJAMIN RAMOS
(first) (middle) (last) (maiden name)

Address: 1649 38TH ST S FARGO ND 58103
(address) (city) (state & zip)

How long have you lived at the address? _____

Provide your address history for the past 5 years: (Use additional page if necessary.)

From 6/30/04 to 5/1/09 Address: 3580 W COLLEGE ST SLOW LOW ND 58501
From _____ to _____ Address: _____
From _____ to _____ Address: _____

E-mail address: RAMOSKENNY@Ymail.com

Home phone number: (928) 242-1374 Other number: () _____

Date of Birth: 03/14/61 Place of Birth: MEXICO

List each driver's license you have ever had and the state of issue:

DL#: D02968589 State of Issue: AZ Dates: 7/17/03

DL#: RAM-61-1961 State of Issue: ND Dates: 5/15/09

DL#: _____ State of Issue: _____ Dates: _____

Has your driver's license ever been suspended or revoked? _____ Yes No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked? _____ Yes No If "yes," where and when.

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense"—and therefore must be listed) _____ Yes No If yes, provide the date of arrest, location, charge, and sentence or each conviction.

Have you been issued a citation for any alcohol-related offense? _____ Yes No If "yes," provide the date, location, and charge for each citation:

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

STATE LIQUOR LICENSES IN AZ

Have any of the above named licenses ever been suspended or revoked? Yes No

If yes, list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7 years period: Use additional pages if necessary.)

From: 10/30/01 to 5/15/03 Business name: VIVA VALARTA

Address: 1641 FREMONT CANYON CITY CO ⁸¹²¹² Position/Title: MANAGER

From: 8/1/03 to 2/28/07 Business name: Fiesta Mexicana #7

Address: 350 E. DUECE OF CLUBS Position/Title MANAGER

From: 3/20/07 to Current Business name: CASA RAMOS INC

Address: 1849 HWY 260 Position/Title: OWNER

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages? Yes No If "yes," list each business below:

CASA RAMOS INC

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level? Yes No If "yes," indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol? Yes No If "yes," describe below:

SINCE 2001 IVE BEEN MANAGING AND CURRENTLY OWNING MY OWN RESTAURANT BUSINESS WHERE ~~AND~~ I GAINED EXPERIENCE WITH ALCOHOLIC BEVERAGES. SERVICE.

Partnership/Corporation Information (ALL Partners, Corporate Shareholders and Directors holding 5% or more of the outstanding stock must be listed—make copies and use additional pages as needed)

Is your business a partnership? Yes No If "yes," complete the following Section: (This section may be copied and pages attached for additional partners.)

Name: BENJAMIN RAMOS
(first) (middle) (last) (maiden name)

Temporary
Address: 1649 38TH ST S FARGO ND 58103
(address) (city) (state & zip)

How long have you lived at the address? _____

Provide your address history for the past 5 years: (Use additional page if necessary.)

From 6/30/2003 to now Address: 3580 W. Cooley St Show Low AZ 85901

From _____ to _____ Address: _____

From _____ to _____ Address: _____

E-mail address: _____

Home phone number: (____) _____ Other number: (____) _____

Date of Birth: 3-14-61 Place of Birth: Mexico

List each driver's license you have ever had and the state of issue:

DL#: RAM-61-1264 State of Issue: ND Dates: Now

DL#: _____ State of Issue: _____ Dates: _____

DL#: _____ State of Issue: _____ Dates: _____

Has your driver's license ever been suspended or revoked? Yes No If "yes", where and when.

If "yes," have you ever been issued a citation for driving after you license was suspended or revoked? Yes No If "yes", where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense"—and therefore must be listed) ____ Yes No If yes, provide the date of arrest, location, charge, and sentence for each conviction:

Have you been issued a citation for any alcohol-related offense? ____ Yes No If "yes," provide the date, location, and charge for each citation:

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

STATE liquor license in AZ

Have any of the above named licenses ever been suspended or revoked? ____ Yes No If yes, list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7 year's period: (Use additional pages if necessary.)

From: *See pg 8* to *to 8* Business name: _____

Address: _____ Position/Title: _____

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages? Yes ____ No If "yes," list each business below:

Casa Ramos Inc in Heber AZ

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level? ___ Yes X No If "yes," indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol? X Yes ___ No If "yes," describe below:

IN THE RESTAURANT BUSINESS FOR NINE YEARS.

Are all officers, directors, and shareholders holding more than 5% of the outstanding stock 21 years of age or older? Yes X; No ();

Address of Home Office 1649 38th St S Largo
Date Incorporated MAY 2009 State of Incorporation FL

If a subsidiary of any corporation, state name and address of parent corporation _____

Operator/Manager Information

Are you going to operate this business personally? ___ Yes No If "no", who will operate it?

Name: KENNY RAMOS
(first) (middle) (last) (maiden name)

Address: 1647 55 St S 90071
(address) (city) (state & zip)

Home phone number: (928) 242-1373 Other number: ()

Date of Birth: 9-13-1987 Place of Birth: LOS ANGELES CA

Are you going to have a manager or assistant in this business? ___ Yes No If the manager is not the same as the operator, provide the following manager information:

Name: _____
(first) (middle) (city) (maiden name)

Address: _____
(address) (city) (state & zip)

Home phone number: () Other number: ()

Date of Birth: _____ Place of Birth: _____

(Important: The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

Business Site Plan

On the following page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

- * The scale should be state, such as 1"=20'. The direction N should be indicated towards the top.
- * The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.

26

MEMORANDUM

TO: Chief Keith Ternes
FROM: Sergeant Mathew Sanders
DATE: May 12, 2009

SUBJECT: Application for Class "FA-Entertainment" Alcoholic Beverage License for Fargo Billiards, LLC d/b/a: Fargo Billiards to be located at 3234 43 St. S.

In accordance with Section 25-1505 of the Fargo Municipal Code, I have conducted an investigation into the character, reputation and fitness of the applicant(s) listed on the supplied application.

During this investigation I questioned the applicant's criminal background, credit history, past residence history as well as any interaction they have had with law enforcement in any state.

The following information was discovered through this investigation:

Adele Page (Owner)

Criminal History: No areas of concern

Credit History: No areas of concern

Michael Page (Owner)

Criminal History: No areas of concern

Credit History: No areas of concern

Benjamin Hill (Manager)

Criminal History: No areas of concern

Credit History: Chapter 7 Bankruptcy filed on 3/24/07

I spoke to Mr. Hill by telephone on 5/11/09. He said he filed bankruptcy in 2007 because of medical expenses from an appendectomy he had. He said he was under-insured and the hospital was not willing to work out a payment plan so they turned his bill over to a collection agency. There are no areas of concern in Mr. Hill's credit history before or after the bankruptcy.

Investigation Notes

- The class of license applied for (FA-Entertainment) is hand written on page two of the application. There is no description regarding the restrictions of the license. I contacted Sharon Plecity from the Licensing and Records division of the Auditor's office and she supplied me with the FA-Entertainment restrictions. That document is attached to this report.
- In reviewing the FA-Entertainment restrictions I noted that sub-section 5 states: "No smoking will be allowed on the entire premise (including licensed premises) of an establishment granted an FA-Entertainment." I checked with the City Auditor and he said the word "premise" was drafted into this ordinance to mean the building itself, not the grounds surrounding the building. Fargo Billiards may have a smoking patio outside the building.
- The green area outlined in the floor plan will be an area that minors and adults are allowed to be in. Alcohol will be allowed in that area; however alcohol will not be dispensed in there. Adults will be allowed to bring alcohol from the 21 and older area (shaded red) into the green area.

I asked Mr. Hill how he was going to provide security to deter and detect minors consuming alcohol in the green area. I pointed out that it will be very easy for adults to provided minors with alcohol by simple hand-to-hand transfers.

Mr. Hill said the service counter will be staffed at all times and that staff member has a good view of the green area. Mr. Hill also said there will usually be at least two other employees who will be monitoring that area and those employees will be server-trained and checking for minors consuming and/or possessing alcohol.

- The red area outlined in the floor plan will not be open to minors. Mr. Hill said they are planning on having a door person present on busy nights, but usually there will be no door person. I asked Mr. Hill how they planned on keeping minors out of that area. He said there will be signs posted, and his staff will be required to see identification from any customer who enters that area. (Regardless of whether the customer orders liquor, non-alcoholic beverages, or nothing at all.)
- Mr. Hill said there will not be a person monitoring the exits during closing time. I suggested he post a sign at the exit to notify customers that they are not allowed to bring alcohol outside. He said he would do that. He also said they would shift some staffing to the exits at closing time if they are having problems with people bringing alcohol outside.

- I asked Mr. Hill about their plans to keep the business open after 2 A.M. He said they are constructing their bar area so it can be curtained off and locked. He said on nights they plan to stay open past 2 A.M. they will clear all alcohol from the tables by 2 A.M. and the manager will curtain off the bar and lock it. The manager will be the only employee with a key to the bar area.

I cautioned Mr. Hill to make sure he has enough staff and gives himself enough time to get the alcohol removed from the tables on the nights he plans on doing that. I asked Mr. Hill how often he planned on staying open past 2 A.M. and he was not sure. He said it would be dictated by how many people are still playing pool.

- I contacted Adele Page and did a standard background interview with her. She said she will not be assisting in the on site operations of the business.
- I contacted Michael Page and did a standard background interview with him. He said he will be assisting in the on site operations of the business. I told Mr. Page the information I had received from Mr. Hill about the business operations and he verified it was accurate.

Business Location

The application submitted is for a business to be located at 3234 43 Street South, Fargo, ND. Within the immediate area the following establishments currently hold a liquor license: Mexican Village, Old Chicago, Famous Dave's, and The Windbreak.

Conclusion

I believe I have discovered all information related to the listed applicant(s) and all information related to the issuance of the requested liquor license. I have provided this completed background investigation to Fargo Police Chief Keith Ternes for his review and recommendation.



APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

The following section to be completed by City Staff:

Date Received by Auditor's Office: 5-4-09
Investigations Fee Paid (\$250) [X] Yes [] No Date paid: 5-4-09
Check # 1254

Reviewed -Health Department by: _____ Date: _____
Comments (or see attached report):

Reviewed -Fire Department by: _____ Date: _____
Comments (or see attached report):

Reviewed -Inspections Division by: _____ Date: _____
Comments (or see attached report):

Reviewed -Police Department by: [Signature] Date: 5/12/09
(See attached report):

[Signature] Approval Recommendation _____ Denial Recommendation
Chief of Police Date: May 18, 2009

Reviewed -Liquor Control Committee on (date): _____
_____ Approval Recommendation _____ Denial Recommendation
(See attached comments or minutes)

Reviewed -City Commission on (date): _____
_____ Approval _____ Denial
(See attached minutes)

Business/Company name: Fargo Bulliards LLC

Doing business as: Fargo Billiards or Fargo Billiards & Custer

This application is for the Class or Classes of Licenses checked:

- () Class A Authorizes the licensee to sell "on-sale" only.
- () Class B Authorizes the licensee to sell "off-sale" only. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- () Class B "Limited" Authorizes the licensee to sell "off-sale" only. License is Non Transferable. "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- () Class AB Authorizes the licensee to sell "on-sale" and "off-sale". "Off-Sale" licensed premises must be no closer than 100 feet to any grocery store, drug store or gasoline service station or any part thereof.
- () Class ABH Authorizes the licensee to sell "on-sale" and "off sale", at hotels & motels with 100 more guest rooms only.
- () Class ABHRZ Authorizes licensee to sell "on-sale" and "off sale" at hotels in Renaissance Zone with 15 guest rooms
- () Class C Authorizes the licensee to sell beer "on-sale" only.
- () Class D Authorizes the licensee to sell beer "off-sale" only.
- () Class F Authorizes the licensee to sell "on-sale" only served at table or booth; no bar allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- Class FA *Ent. of a restaurant* Authorizes the licensee to sell "on-sale" only, physical bar is allowed. Requires 50% of more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages.
- () Class FARZ Authorizes the licensee to sell "on-sale" only; physical bar allowed. Required to be in the Renaissance Zone. No gaming and no "E" permits allowed. Requires 50% or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages. The initial fee is 1/2 of the FA license.
- () Class FA-Golf On USGA Golf Course of 9 or more holes. Requires 25% receipts of food sales from April to October and 50% the rest of the year.
- () Class G Authorizes the licensee to sell wine and sparkling wine "on-sale" only, served at table or booth, no bar. Requires 50% food sales.
- () Class H Authorizes the licensee to sell beer "on-sale" only, served at table of booth, with no bar allowed and requires 50% food sales.
- () Class I Authorizes the licensee to sell beer, wine, and other sparkling wine "on-sale" only. A physical bar is allowed and requires 50% food sales.
- () Class J Authorizes the licensee to sell "on-sale" only at a non-profit organization for military purposes.
- () Class L Authorizes the licensee to sell "on-sale" only on an excursion boat operating on the Red River.

- () Class M Authorizes the licensee to operate a "Microbrew Pub" and to sell "on-sale" and "off-sale" offered in conjunction with another license.
- () Class N Authorizes the licensee to sell "on-sale" only at a stadium with a minimum seating capacity of 2,500.
- () Class O Authorizes the licensee to operate a winemaker and/or vendor of winemaking supplies and related services.
- () Class P Authorizes the licensee to operate a domestic winery and to sell wine "on-sale" and "off-sale." Allows limited beer sales.
- () Class W Authorizes the licensee to operate a wine bar, serving wine and limited beer "on-sale." A physical bar is allowed and requires 20% food sales.
- () Class Z Authorizes the licensee to sell "on-sale" only issued to individuals and partnerships not currently holding another "A", "AB", "ABH", or "ABH-RZ". This license is non-transferable.

The following section to be completed by the applicant:

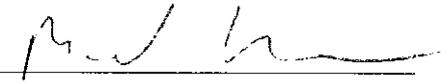
Initial #1 - #8 to indicate you understand and agree to these terms of the "Z", "W" or "B Limited" license. Then print your name and sign in the space provided below:

ALL APPLICANTS must initial #9 - #16 and sign in the space provided below.

1. _____ My business may sell "On Sale" only (Class Z & W).
- 1a. _____ My business may sell "Off Sale" only; **NO** "On-Sale" liquor sales are permitted. ("B Limited)
2. _____ This license shall only be issued to individuals or partnerships (natural persons only), corporations for liability purposes, except as otherwise provided hereinafter.
3. _____ I may not obtain more than one "Z", "W" or "B Limited" license.
4. _____ If I hold an "A", "B", "AB", "ABH or ABH-RZ" license, I may not obtain a "Z", "W" or "B Limited" license.
5. _____ If I voluntarily go out of business, file a bankruptcy petition, become insolvent or otherwise cease business, the license reverts to the City of Fargo. This license may be transferred to reflect a change in location of your licensed premises.
6. _____ The license may be transferred to my heirs (children only) during my lifetime. Upon my death, the license may be transferred to my heir(s), but may not be transferred to any other person, partnership, firm or corporation. If any partner in a partnership holding the license dies, the remaining partner(s) may continue to hold the license, but no partnership interest may be issued to any new partner. The ordinance will allow a partnership between the original licensee and his children which may take the form of a corporate entity under North Dakota law. Shares in the corporation may be transferred to the children, but transfer of shares to anyone else will constitute a sale that will cause the license to revert to the City of Fargo. As the ordinance indicates, the intent of this provision is to allow a transfer between a parent and children but a transfer of shares to anyone else is absolutely prohibited.
7. _____ If I sell my business as a "going concern" (i.e., a complete and operational bar), the purchaser of the business has the first preference to purchase the "Z", "W" or "B Limited" license from the City. (The purchaser must meet all other relevant conditions and requirements for such a purchase.)
- 8a. _____ If I am issued a "B Limited" license, I must pay an initial fee for the license in the amount of \$80,000 and an annual fee for the license in the amount of the \$1,400 at the beginning of each license year.
- 8b. _____ "Z" Initial \$105,000. Annual \$1,700.
- 8c. _____ "W" Initial \$25,000. Annual \$1,000.
9. ~~P.O.P.~~ All Applicants must assure there is adequate off-street parking for my business (within the discretion of and as approved by the City Commission). Membership in the current City parking program (e.g., "P.O.P.") may place me in compliance with this requirement.

- 10. I have received a copy of the Alcoholic Beverage Ordinance (s) of the City of Fargo, read the ordinances and am familiar with the conditions and requirements of these ordinances.
- 11. If granted an alcoholic beverage license, I will obey, abide by and comply with the State of North Dakota Liquor Control Act, and the City of Fargo Alcoholic Beverage ordinances, as well as any amendments to either of these, which may be made from time to time.

- 12. I understand either, I, my manager(s), or both of us must attend a yearly meeting (date and time to be announced) with representatives from the Police and Health departments to discuss law enforcement and safety concerns as a condition of license renewal.
- 13. I understand that the premises described in this application, if licensed for alcoholic beverage sales, may be inspected at any time by the Chief of Police, or any officer of the Police or Health Departments as allowed by city ordinances and state law. My employees and I will cooperate with such inspections.
- 14. I understand that all employees, managers and owners engaged in mixing, pouring or service of alcoholic beverages MUST attend Server Training.
- 15. I am familiar with the questions, answers and other information as it appears in the complete application for an alcoholic beverage license, and the answers and information are, to the best of my belief and knowledge, true, complete and accurate. (Note: This application must be made under oath before a Notary Public.)
- 16. I recognize the City of Fargo is subject to open records laws contained in chapter 44-04 of the N.D. Century Code. Section 44-04-18.4 contains an exception for trade secrets, proprietary, commercial, and financial information. I agree in submitting the application, that I have familiarized myself with this law. If any information being forwarded to the City of Fargo is claimed as confidential or proprietary under this section, I must clearly indicate this in writing when I submit this application, pointing out, in detail, why the information submitted is claimed as an exemption under section 44-04-18.4. I further agree to respond to, as well as to aid the City, in responding to any claim under 44.04-21.1 concerning this claim of confidentiality under 44-04-18.4.

Applicant printed name: Michael Page Signature: 

Applicant printed name: _____ Signature: _____

Applicant printed name: _____ Signature: _____

Business/Company name: Fargo Billiards LLC
Doing business as: Fargo Billiards - Fargo Billiards & Cigar Pub

Business address (location): 3234 43rd St. S. Fargo ND 58104
Mailing address: 1331 Elm Circle Fargo ND 58102

Legal description of the premises to be licensed: _____

Does applicant wish to describe, depict, or otherwise identify various areas or spaces within the building which shall constitute the licensed premises in accordance with Section 25-1501, Subsection 8? Yes (); No (X) Entire building plus ^{outside} smoking area

Is the premises now occupied by another business? Yes () No (X)

Type of business currently there: _____

Mailing address: 3234 43rd St. S. Fargo ND 58104
(address) (city) (state & zip)

Business e-mail address: michaelpage4@gmail.com (for now)

Phone number: () _____ Other number: (701) 306-3762

Do you own or rent the property where the license will be used? Own Rent
If you rent, provide the following information:

(name) (address) (city) (state & zip)

If you are the owner of the property, are there any delinquent taxes against the premises?
 Yes No If "yes", in what amount? _____

Applicant Information:

Name: Michael John Page
(first) (middle) (last) (maiden name)

Address: 1331 Elm Circle Fargo ND 58102
(address) (city) (state & zip)

How long have you lived at the address? 5 1/2 years

Provide your address history for the past 5 years: (Use additional page if necessary.)

From 1992 to 2003 Address: 2915 Maple St. Fargo ND 58102
From _____ to _____ Address: _____
From _____ to _____ Address: _____

E-mail address: Michaelpage4@gmail.com

Home phone number: (701) 298-0716 Other number: (701) 306-3762

Date of Birth: 11-7-56 Place of Birth: Port Chester NY

List each driver's license you have ever had and the state of issue:

DL#: PAG-56-8511 State of Issue: ND Dates: 1992 - present

DL#: 133441849 ? State of Issue: VA Dates: 1984 - 1992

DL#: 133441849 ? State of Issue: NY Dates: 1974 - 1984

Has your driver's license ever been suspended or revoked? Yes No If "yes," where and when.

If "yes," have you ever been issued a citation for driving after your license was suspended or revoked? Yes No If "yes," where and when.

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense"—and therefore must be listed) Yes No If yes, provide the date of arrest, location, charge, and sentence or each conviction.

Have you been issued a citation for any alcohol-related offense? Yes No If "yes," provide the date, location, and charge for each citation:

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

N/A

Have any of the above named licenses ever been suspended or revoked? Yes No

If yes, list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7 years period: Use additional pages if necessary.)

From: 1992 to 2009 Business name: North Dakota State Univ.
Address: Fargo ND 58105 Position/Title: Assoc. Prof. of Chemistry

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

From: _____ to _____ Business name: _____

Address: _____ Position/Title: _____

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages? Yes No If "yes," list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level? Yes No If "yes," indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol? Yes No If "yes," describe below:

Fargo Billiards LLC owned by
Michael Page 50%
Adele Page 50%

Partnership/Corporation Information (ALL Partners, Corporate Shareholders and Directors holding 5% or more of the outstanding stock must be listed—make copies and use additional pages as needed)

List your business structure: LLC (Partnership, Corporation, LLP, LLC)
(This section may be copied and pages attached for additional partners.)

Name: Adele Hedley Page Hedley
(first) (middle) (last) (maiden name)

Address: 1331 Elm Circle Fargo ND 58102
(address) (city) (state & zip)

How long have you lived at the address? 5.8 years

Provide your address history for the past 5 years: (Use additional page if necessary.)

From _____ to _____ Address: _____

From _____ to _____ Address: _____

From _____ to _____ Address: _____

E-mail address: page.adele@gmail.com

Home phone number: (701) 298-0716 Other number: (701) 293-2640

Date of Birth: 4-14-56 Place of Birth: White Plains, NY

List each driver's license you have ever had and the state of issue:

DL#: PAG-56-4260 State of Issue: ND Dates: 1992-present

DL#: 076507119 ? State of Issue: VA Dates: 1984-1992

DL#: 076507119 ? State of Issue: NY Dates: 1974-1984

Has your driver's license ever been suspended or revoked? Yes No If "yes", where and when.

If "yes," have you ever been issued a citation for driving after you license was suspended or revoked? Yes No If "yes", where and when?

Have you ever been convicted, plead guilty, or plead "no contest" to any law of the U.S., or any state, or of any local ordinance (other than traffic)? (DUI **should not** be considered a "traffic offense"—and therefore must be listed) ___ Yes No If yes, provide the date of arrest, location, charge, and sentence for each conviction:

Have you been issued a citation for any alcohol-related offense? ___ Yes No If "yes," provide the date, location, and charge for each citation:

List all federal, state, and local licenses (including liquor licenses; excluding driver's licenses) you currently hold, formerly held, or may have an interest in:

Current: attorney Licenses (ND + MN)

Former: registered Nurse (NY, MD, + VA)

Have any of the above named licenses ever been suspended or revoked? ___ Yes No If yes, list the dates and reasons for the suspensions or revocations:

List your employment/business history for the past 7 year's period: (Use additional pages if necessary.)

From: 2007 to present Business name: YGOME, LLC ← (headquarters in Chicago)
 Address: Case Plaza 12nd St. N. Fargo ND Position/Title: Senior Employment Counsel + Senior VP for Human Resources

From: 2007 to 2007 Business name: Page Law Firm
 Address: Case Plaza 12nd St N Fargo ND Position/Title: Owner/attorney

From: 1998 to 2004 Business name: Dorsey + Whitney LLP.
 Address: 513 Broadway Fargo. Position/Title: Partner, Labor + Employment

From: _____ to _____ Business name: _____
 Address: _____ Position/Title: _____

Do you currently own or have a financial interest in any other business that sells or serves alcoholic beverages? ___ Yes No If "yes," list each business below:

Have you ever manufactured, sold, or distributed alcoholic beverages on the wholesale or retail level? Yes No If "yes," indicate where, when, and for whom below:

Do you have any current or prior management experience working for a business that sells or serves alcohol? Yes No If "yes," describe below:

Are all officers, directors, and shareholders holding more than 5% of the outstanding stock 21 years of age or older? Yes No :

Address of Home Office 1331 Elm Circle Fargo ND 58102
Date Incorporated July 18, 2008 State of Incorporation ND

If a subsidiary of any corporation, state name and address of parent corporation _____

Operator/Manager Information

Are you going to operate this business personally? Yes No If "no", who will operate it?

Name:

(first) (middle) (last) (maiden name)

Address:

(address) (city) (state & zip)

Home phone number: (____) _____ Other number: (____) _____

Date of Birth: _____ Place of Birth: _____

Are you going to have a manager or assistant in this business? Yes No If the manager is not the same as the operator, provide the following manager information:

Name:

Benjamin Hill
(first) (middle) (city) (maiden name)

Address:

1414 9th Ave. S. Fargo ND 58104
(address) (city) (state & zip)

Home phone number: (701) 271-9168 Other number: (701) 388-4024

Date of Birth: 4-6-75 Place of Birth: St. Cloud, MN

(Important: The name and other information about your manager must be provided before a license can be issued. If the manager changes during the course of the license period, you must provide the City Auditor's Office with updated information about the new manager immediately.)

Business Site Plan

On the following page (or on attached pages if additional space is needed), provide a detailed diagram and description of the design, location, and square footage of the premises to be licensed.

- * The scale should be state, such as 1"=20'. The direction N should be indicated towards the top.
- * The diagram should include placement of all pertinent features of the interior of the licensed premises, such as seating areas, kitchens, offices, repair areas, restrooms, etc. The exterior parking area should also be shown.

FARGO BILLIARDS INSERT

This document addresses issues from pages 14 and 15 of the liquor license application.

Brief Description of business concept

The following, in italics, is the Executive Summary from the Fargo Billiards business plan:

Fargo Billiards will be a large, upscale nonsmoking billiard parlor in a new stand-alone 28,550 square foot building easily accessible by both major interstate highways situated in the fastest-growing region of Fargo, ND.

Low-volume blues and acoustic music as well as a coffee shop with computers, books, and wireless internet will greet an entering patron. The patron will move on past the full-service restaurant area to an expanse of 56 top-of-the-line pool tables. The pool tables will be situated in groups separated by half-height walls and overall broken up by a 30' X 100' raised platform area that houses a full-service bar, lounge-style seating arrangements, and a removable stage area. Semi-private rooms are available to be rented by groups, and a large conference room houses the Fargo Billiard Academy, home to private lessons as well as classes and clinics for new and advanced players. A retail sales area displays pool cues, cue cases, clothing, accessories, books, and home tables.

While the majority of customers will be small groups renting individual tables, the bedrock of sustained customer development is the organization and nurturing of a robust system of team league play. An area of 20 tables is designed specifically for the needs of league players. Leagues will be run during the day as well as all evenings except for Friday and Saturday. Leagues will be handicapped and largely will be geared toward new, inexperienced players.

The size and demographics of the Fargo-Moorhead population is well suited to this opportunity. A team is in place that collectively has experience in all aspects of designing and fitting up a billiard parlor layout, managing on a day-to-day level a large billiard parlor with full alcohol service, restaurant service, and organizing as well as running billiard leagues and tournaments.

Fargo Billiards & Gastropub plan for alcohol service

There are three drawing documents attached. One is an architectural drawing of the floorplan. A second is a site plan showing the building and the immediate vicinity. The third is a drawing called Diagram A, which is designed to help describe the conceptual plan for alcohol service at Fargo Billiards & Gastropub. Diagram A (1 inch = 25 feet) shows three distinct areas of the premises coded by shaded coloring. While an adult

patron may consume alcohol anywhere in the building, the three areas differ by whether minors are permitted and whether alcohol is served.

The rear nearly two-thirds of the facility (shaded in red) is restricted to adults. Minors are not permitted in this area. This area includes the raised bar and lounge area, the league area, and three private rooms. There are two walkways that lead to this area. One is adjacent to the service counter. The other is to the left of the raised area by the men's room. Both are 6-7 feet wide and have neutral brown ceramic floor tile. In both cases, the entrance to the adults-only area will be marked by an overhead sign as well as a single line of bright colored (e.g., orange) tiles.

The lavender area is the restaurant seating area. This is a full-service restaurant with a wine list and table service. Minors are permitted in this area. Alcohol will be served to adult dining patrons at dining tables.

The green area will be treated like the lanes of a bowling alley. Minors are permitted in this area. Alcohol may be consumed by adults in this area. No alcohol will be served or sold in this area.

The neighborhood/business area

The Fargo Billiards site is just a quarter mile east of Urban Plains, a key developing commercial/retail area in Fargo. Adjacent commercial sites in the Asleson Commercial 2nd Add. are undeveloped at this time. A private east-west drive is scheduled to be constructed this spring along the north edge of the property. Directly across 43rd street from the site are two businesses, the ARC Attic Treasures Thrift Store, and Five-Star Storage. Both businesses are likely to be busiest at times (during the day) that are complementary to Fargo Billiards busy times (later in the evening).

Because the entrance to the building is on the west side, west side parking will be preferred. When this is filled customers will use parking on the south side of the building. To the south of the south parking are residential apartments. I don't anticipate there will be any problem here because (1) the residential area is adjacent to the least desirable parking, (2) there will be a landscaped residential buffer, and (3) the beginning of the residential property is the backs of a line of garages.

Noise issues

I can imagine two types of noise issues that in principle are potential concerns. One is noise that comes from the establishment, i.e., from bands or loud music. The other is from patrons that may leave in groups—particularly at bar closing on a weekend night. Once again, I anticipate neither will be a problem for Fargo Billiards. Fargo Billiards will have no loud “bands,” no dancing, no karaoke, and generally no loud music. Furthermore, unlike bars that must close for business at bar closing (thus putting a crowd of customers out into the parking lot at bar closing time), Fargo Billiards generally will close the bar and remain open for business. A consequence is patrons likely won't be leaving all at once.

Finally, because Fargo Billiards wishes to be responsive, respectful neighbor to both businesses and residents in the area, we will be available to discuss and address any concerns in the event something did arise.

Over-serving, intoxicated or disorderly patrons:

Besides the safety/public health concerns related to over-serving and intoxicated patrons, which we acknowledge and appreciate, FB has good business reasons to be particularly vigilant here. Because of the negative reputation billiards has to so many people, we must be particularly sensitive to not feeding that stereotype.

Several aspects of the environment we create will be inconsistent with the environment that seems to encourage or promote excessive drinking.

- There will be no cheap alcohol. No two-for-ones. No ladies drink free. No alcohol specials. No excessively large (32+oz) beer containers.
- There will be no wall advertisements that encourage over consumption.
- No dancing or loud music or karaoke
- Billiards is a low-density activity. People tend to be spread out.
- There will always be food available when there is alcohol available.

Still we recognize the issue will exist. We intend to be serious about internalizing and implementing the advice we receive in server training. We intend to encourage safe methods of transportation, including taxicabs, sober guy, and designated drivers. We intend to have a low threshold for refusing service to intoxicated patrons or serving to intoxication. We aim to develop a rapport with our patrons such that we can politely and kindly steer them toward executing good judgment before refusing service or requesting they leave the premises. When necessary, though, we will refuse service and bar staff will be able to get a manager's assistance in escorting a patron off the premises.

Ben Hill, who will be Food and Beverage Director, spent two years training servers on these issues at TGI Fridays in Minneapolis. In addition, he has been restaurant manager at the Speakeasy in Moorhead and the Gallery (Holiday Inn) in Fargo. Also he was the restaurant and lounge manager at the HoDo.

Safety and security/crowd control

Once again, with the exception of the bar/lounge area, people will be naturally spread out with small groups at different pool tables. We have designed extra room around the pool tables so that people can easily pass by. Also, as mentioned before, we anticipate no bar-closing crowd because the business will stay open for people who want to continue to play pool.

Minors on the premises/consumption by minors

Generally every patron who is going to play pool is logged in at the service counter. Then the group is assigned to a particular table, given the balls, and the light goes on to

that table. In other words, people at the pool tables in the back are generally not wandering around aimlessly; they are assigned to a particular table. The servers for the most part will know who belongs at what table. Minors must stay in the area in front of the service counter.

It is very important to us that Fargo Billiards not be a place where minors *hang out*. This is both because we are serious about the billiards and also because we think that perception would negatively affect our adult patrons. For this reason we plan to open with a few policies that will help our rigorous compliance efforts when it comes to avoiding service to minors. We intend to require that (1) any of the front tables with a minor present have no more than four players assigned to it, and (2) any minor in the billiard table area must be renting a table. So, for instance, if a group of five came in that included one or more minors, then the group would be required to spread between two pool tables. They could not have three play and two “watch.”

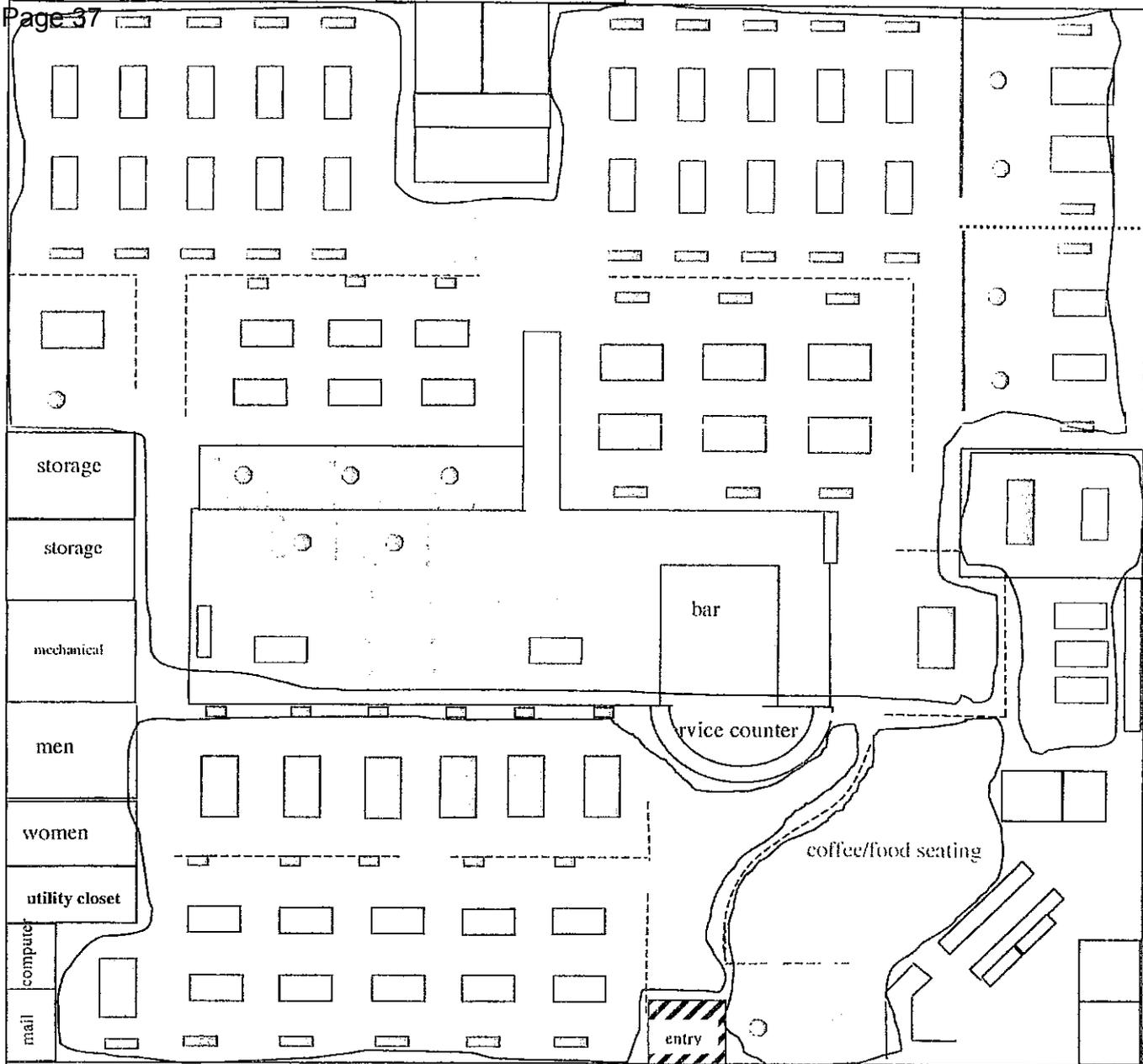
The third policy we intend to implement is that during our busiest times (say Friday and Saturday nights after 9:00 pm or 10:00 pm) minors are not allowed in the building.

These policies and our approach may evolve with our experience. But rest assured that we recognize we have both alcohol and minors in the building and that it is critically important we serve only unintoxicated legal adults.

Live entertainment

We plan not to have “shows,” i.e., we have no intention of having live performances for which we charge admission. We do, however, plan to have frequent generally acoustic performers that are incidental to the main reason people are there and serve to create and nurture a particular kind of environment. Such music will never be loud because there are patrons in the vicinity who are talking and playing pool and who didn’t come to hear a performer. We may do this as much as several nights per week. These would be the types of performers who play occasionally at the Fargo Cork or occasionally play with no admission at the HoDo.

DIAGRAM A



Minors are not permitted. Alcohol is served.



Minors are permitted. While an adult patron may consume alcohol here, there is no alcohol service to this area.



Minors are permitted. Alcohol is served to adult restaurant patrons at dining tables.

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MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: PLANNING DIRECTOR JIM GILMOUR 

DATE: JUNE 24, 2009

RE: ADDITIONAL BUS ROUTE – ROUTE 33

The City has been working with NDSU to provide additional capacity on bus routes between the NDSU campus and the downtown. In order to meet the growing bus transit needs, a new route has been designed to provide service between Klai Hall and Richard H. Barry Hall located in the downtown and the NDSU main campus. This new route will connect with the other bus routes at the NDSU Union bus stop shelter.

NDSU will provide the money needed for the cost of this new route. The cost of this route has been incorporated into two transit agreements between NDSU and the City of Fargo for the 2009-2010 year. These agreements are attached for your consideration.

This proposed Route 33 will build on Routes 13A and 13B to provide increased capacity on bus routes that will link the downtown with the core of the NDSU campus. Route 33 will operate at a 12 minute frequency. There is an open public comment period on the route and timing. A copy of the proposed route map and timing is attached for your consideration. Public notice on the proposed new route has been provided per City of Fargo policy, and a public hearing has been scheduled for your meeting. This service will be open to the general public and be part of the transit system.

Recommended Motions:

Approve the addition of Route 33 as outlined in the attached map and schedule, effective August 22, 2009.

Approve a Transit Services Agreement with NDSU for 2009-2010 and an Amendment to the Joint Powers Agreement for Transit Support with NDSU.

**Amendment to
Joint Powers Agreement for Transit Support
Between
The City of Fargo, North Dakota
and
North Dakota State University**

This Amendment to Agreement is effective the 1st day of July, 2009, and is by and between the City of Fargo ("CITY") and the North Dakota State Board of Higher Education on behalf of North Dakota State University ("NDSU").

WHEREAS, CITY and NDSU entered into a Joint Powers Agreement for Transit Support dated August 17, 2004; and,

WHEREAS, Article 11 of said Joint Powers Agreement stated that the CITY and NDSU shall be authorized to adjust the financial terms of said agreement and the term of said agreement as they mutually agree in writing, from time to time; and,

WHEREAS, the CITY and NDSU wish to make such adjustments for the school-year 2009-2010.

NOW, THEREFORE, it is mutually understood and agreed as follows:

A. Article 3, entitled "Payment" shall be amended to read as follows:

ARTICLE 3 – PAYMENT

3.1 NDSU will donate to the CITY \$738,000 over the term of this agreement. A first payment of \$241,000 will be made in August, 2009. After the initial payment, donations of \$49,700 will be made each month for 10 months, starting in August, 2009. Said monthly payments shall be made, in arrears, by the end of each month.

B. Article 6, entitled "Term of Agreement" shall be amended to read as follows:

ARTICLE 6 – TERM OF AGREEMENT

This Agreement shall become effective August 1, 2009 and shall remain in full-force and effect for one year unless terminated earlier as herein provided.

C. Article 11, entitled "Notices" shall be amended to read as follows:

ARTICLE 11 – NOTICES

All notices herein required and any communications with respect to this Agreement shall be effected upon the mailing thereof, and addressed as follows:

NDSU

Mr. Bruce Frantz
Director of Facilities Management
North Dakota State University
Box 5383
Fargo, ND 58105

City of Fargo

Ms. Julie Bommelman
Transit Administrator
Metro Area Transit Garage
650 23rd St. N.
Fargo, ND 58102

D. In all other respects, the Joint Powers Agreement for Transit Support shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and effective July 1, 2009.

North Dakota State University

City of Fargo

John Adams
Vice President for Finance and Administration
Date: _____

Dennis Walaker, Mayor
Date: _____

Attest: City Auditor Date

**Agreement for Transit Services
Between
The City of Fargo, North Dakota
and
North Dakota State University**

This Agreement, dated July 1, 2009, is by and between the City of Fargo (“CITY”) and North Dakota State University (“NDSU”).

WHEREAS, NDSU wishes to provide transit services for the benefit of students, faculty, staff, and guests, including student, faculty, and staff use of the regular fixed route system serving the Fargo-Moorhead metropolitan area, and three circulator shuttle routes serving the NDSU campus and vicinity, and;

WHEREAS, The CITY, through its Transit Division, in partnership with the City of Moorhead, Minnesota, provides bus service within the Fargo-Moorhead metropolitan area, and;

WHEREAS, The CITY has the infrastructure, vehicles, staffing, funding, and operational capacity to provide these services to NDSU in accordance with the articles in this agreement.

NOW, THEREFORE, it is mutually understood and agreed as follows:

ARTICLE 1 – GENERAL PURPOSE

The purpose of this agreement is to provide public transportation opportunities for NDSU students, faculty, and staff while reducing traffic congestion in the City of Fargo. This Agreement will allow NDSU students, faculty, and staff to ride any bus route within the Fargo-Moorhead Metropolitan Area Transit system free of charge to the student, in accordance with Article 3.1 below. Students, faculty, and staff must present a current NDSU ID card when boarding. In addition to use of the regular fixed route system, five NDSU circulator shuttle routes will be maintained to increase student mobility in and around the NDSU campus.

ARTICLE 2 – SERVICE

- 2.1 Route: The CITY will maintain service on Route 13 which connects the NDSU campus to the Ground Transportation Center where connections are made to routes serving the Fargo-Moorhead area. The CITY will also maintain five circulator routes in and around the NDSU campus, to be funded in accordance with Article 2.2 below.
- 2.2 Service: Route 13 will operate with a half hour frequency on weekdays and Saturdays during the day, and hourly at night. Routes 13/13B will operate with a 15 minute frequency between the NDSU main campus and the downtown campus Monday through Friday throughout the year, except on State Holidays.
Five circulator shuttle routes will operate in and around campus. Each will operate on routes/schedules determined by the CITY. Route 31, will operate 12.5 hours a day during all days that class are in session, and the day prior to class starting each semester and during finals week of each semester. Route 32, will operate 11 hours a day on days that classes are in session, the day prior to class starting each semester, and during finals week of each semester. Route 33

will operate 11.5 hours a day on days that classes are in session, the day prior to class starting each semester, and during finals week of each semester. Route 34 will operate 9.25 hours a day Monday through Friday throughout the year, except on State Holidays. An evening campus route, Route 35, will operate 2.5 hours a day during all days that classes are in session, and the day prior to class starting each semester, and during finals week of each semester.

ARTICLE 3 – PAYMENT

- 3.1 Bison Roam Free U-Pass Program: All enrolled NDSU students, faculty, and staff, regardless of full or part-time status, class standing, or location of residence shall be authorized to ride any fixed route within the Fargo-Moorhead Metropolitan Area Transit system free of charge. This service is referred to as the “Bison Roam Free U-Pass Program”, or simply as “U-Pass.” To be eligible for participation, students, faculty, and staff must show a current NDSU ID at the time of boarding. In exchange, NDSU will pay the CITY an annual amount equal to the number of full-time equivalent (FTE) students plus 1,000 full-time faculty/staff members multiplied by a fee of six dollars (\$6.00) per person. This fee will be based on the number of FTE students enrolled thirty (30) days after the first day of classes of the Fall Semester, plus 1,000 faculty/staff members. This fee will be payable sixty (60) days after it is finalized.

ARTICLE 4 – ROUTE/SERVICE ADJUSTMENTS

The CITY will closely monitor NDSU student ridership statistics, patterns, and other information to create periodic reports for NDSU. NDSU will consult with students and staff on the usefulness of the transit service, and provide this information to the CITY. Based on this information, the CITY may make adjustments to the routes and transit schedule. Both parties acknowledge that any such adjustments must comply with all applicable federal, state and local rules and regulations regarding transit operations, and with basic safety requirements pertaining to the operation of public transit vehicles.

ARTICLE 5 – INSURANCE

The CITY shall maintain and provide casualty, liability, body injury, collision and comprehensive insurance on the buses and equipment it deems necessary, and NDSU shall have no responsibility to provide such coverage. The CITY is authorized to self-insure for such risks, subject to the liability limits of the State of North Dakota.

ARTICLE 6 – FORCE MAJEURE

Neither Party shall be held responsible for delays or lack of performance caused by events or acts beyond their control. Such events and acts include, but are not limited to, acts of God, inclement weather, strikes and labor disputes, lack of fuel, road closures, changes in government regulation, war, insurrection or civil unrest.

ARTICLE 7 – TERM OF AGREEMENT

This Agreement shall become effective August 18, 2009 and shall remain in full-force and effect until August 17, 2010 unless terminated earlier as herein provided. The U-Pass portion of the agreement is in

effect for the term of this agreement, and the shuttle service portions of the agreement that reference days that class is in session are in effect for the NDSU Fall 2009 and Spring 2010 semesters.

ARTICLE 8 – TERMINATION OF AGREEMENT

- 8.1 Changes in City Cost, Funding, or Service: The CITY may terminate or reduce the amount of service in this Agreement if there is, in the opinion of a majority of the City Commission, a significant increase in local costs; or insufficient local, state or federal funding available for the service. In such an event the CITY will provide NDSU a written notice ninety (90) days prior to any changes in the service.
- 8.2 NDSU Initiated Termination of U-Pass Program: NDSU may terminate the portion of this Agreement with the CITY that allows NDSU students, faculty, and staff to ride for no charge by providing written notice ninety (90) days prior to the termination of the Agreement. Any monies paid by NDSU to the CITY will be reimbursed on a prorated basis in which the numerator is the length of time from the beginning of the term to the termination date and the denominator is the length of time from the beginning of the term to May 15, 2010. NDSU understands that termination of the U-Pass program may result in the termination of the shuttle services due to required compliance with federal rules and regulations.

ARTICLE 9 – GENERAL PROVISIONS

- 9.1 Safety and Environmental Codes: All practices, materials, supplies, and equipment shall comply with the Federal Occupational Safety and Health Act as well as any pertinent federal, state and local safety or environmental codes.
- 9.2 Compliance with Applicable Rules and Regulations: This Agreement shall be subject to, governed by, and construed according to all applicable administrative codes and laws of the City of Fargo, State of North Dakota, and federal government.
- 9.3 Severability Clause: In the event that any provision of the Agreement is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not affect in any manner the legality or the remaining provisions of the Agreement, and each provision of the Agreement will be, and is deemed to be separate and severable from each other provision.

ARTICLE 10 – AUTHORITY TO AMEND FINANCIAL TERMS OF AGREEMENT

The City and NDSU shall be authorized to adjust the financial terms of this agreement and the term of agreement as they mutually agree, from time to time.

ARTICLE 11 – DISPUTES

In the event of a dispute regarding the performance of, or adherence to the provisions of this Agreement by either party to the Agreement, the CITY and NDSU shall select a representative(s) who will attempt to resolve the dispute. If the representatives are unable to resolve the dispute, the issue will be presented to the City's Administrator. If the City Administrator cannot resolve the dispute, then it will be referred to the Fargo City Commission. If the Fargo City

Commission's decision does not resolve the dispute, the parties have such remedies as provided by law.

ARTICLE 12 – NOTICES

All notices herein required and any communications with respect to this Agreement shall be effected upon the mailing thereof, and addressed as follows:

NDSU

Mr. Bruce Frantz
Director of Facilities Management
North Dakota State University
Box 5383
Fargo, ND 58105

City of Fargo

Ms. Julie Bommelman
Transit Administrator
Metro Area Transit Garage
650 23rd St. N.
Fargo, ND 58102

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective July 1, 2009.

North Dakota State University

City of Fargo

John Adams
Vice President for Finance and Administration

Dennis Walaker, Mayor

Date: _____

Date: _____

Attest:

Steven Sprague, City Auditor

Route 33

Hours: 6:55 a.m. – 6:31 p.m.

1. Departs Union	:55	:07	:19	:31	:43
2. Klai Hall	:04	:16	:28	:40	:52
3. Barry Hall	:05	:17	:29	:41	:53
4. University Village	:11	:23	:35	:47	:59
5. Bison Sports Arena (BSA)	:12	:24	:36	:48	:00
6. Centennial Shelter	:13	:25	:37	:49	:01
7. Returns to Union	:19	:31	:43	:55	:07

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Memorandum

Date: 25 June, 2009
To: Fargo City Commission
From: Robert C. Stein
Re: Renaissance Zone Project Application

The following Renaissance Zone project was reviewed by Planning staff according to Renaissance Zone Authority policy.

1. Land Elements, Inc. (Project 182-F) proposal for a lease project located at 102 Broadway, Ste 205. This project will consist of the lease of commercial office space in an approved Renaissance Zone project location. **The application is included as Attachment 1.** The project is consistent with the goals and objectives of the Fargo Renaissance Zone Development Plan and other Downtown Plans. The proposed 2nd floor commercial use is a priority use in the Zone.

This project meets the State and local requirements for designation as a Renaissance Zone project in the City of Fargo. If you have any further questions, please contact me at 241-1474.

Recommended action:

to approve the Renaissance Zone application of Land Elements, Inc. for a project located at 102 Broadway, Ste 205 and to grant the income tax exemption as recommended by Renaissance Zone Authority and staff; and

CITY OF FARGO RENAISSANCE ZONE LEASE PROJECT APPLICATION

Attn: This application must be approved by all local and state review entities prior to executing a lease.

1. Street address, legal description, and Renaissance Zone Block number of proposed project. If the proposed project involves more than one parcel, please provide relevant information for each parcel.
 - 102 Broadway N., Suite 205, Fargo ND 58102
ROBERTS LOTS 1 & 2 BLK 2
Block 6 of RZ Zone
2. Current property owner(s).
 - Kilbourne Group, LLC
3. Name of applicant(s), mailing address, Federal ID number or SSAN, and type of entity (partnership, LLC, S-corporation, etc.). Phone number and email address.
 - Land Elements, Inc
45 Fremont Drive, Fargo ND 58103
[REDACTED]
S-Corporation
[REDACTED]
mike@landelements.com
4. Current use of property.
 - Office Space
5. Square footage of the lot, the building, and the space leased. List each floor separately and provide a floor plan of the leased space)
 - Lot size 14,000sf/ Building total of 26,639sf/ space leased for Land Elements is 1100sf
6. Project Description. Describe the anticipated tenant activities, scope of the activities that the tenant will undertake, and describe and the expected date of occupancy and lease.
 - Land Elements is a Landscape Architectural business and consulting business for building developments. The space is ready for tenants and lease will be signed once Renaissance application is approved.
7. Describe how the project enhances the stated Renaissance Zone goals and objectives, being as specific as possible. Describe how this project addresses the needs and interests of the community (see Attachment C).
 - Vision of Land Elements office space is to enhance economic viability of Downtown Fargo by offering service to the Fargo region and this business located in Downtown Fargo will increase the pedestrian traffic and business conducted in Downtown Fargo.
8. Describe how the project fits under the Zone's development guidelines (Attachment D).
 - Land Elements has been temporarily located in office space during the startup part of the business and will now be expanding the services offered for building development services and Landscape Architecture services in the region. This expansion of services

will require more space at the 102 Broadway project than what was available at the previous temporary space where our lease has not been renewed.

9. List of public and private financial commitments. If the project is funded by the Renaissance Zone Fund, describe type of funding and amounts.
 - No Renaissance Zone Funds or Public Money
10. Estimated tax impact of Zone incentives to the applicant: Estimate the potential annual income tax savings.
 - \$4,000
11. Provide evidence that the applicant is current on state and local taxes (Certificate of Good Standing from State Tax Commissioner (see Attachment E) and receipt showing proof that local taxes have been paid.
 - Will submit to ND State Tax Commissioner

Submit Project Proposals to:
Department of Planning and Development, 200 N 3rd Street, Fargo, ND 58102
Phone 701-241-1474