

FARGO CITY COMMISSION AGENDA  
TUESDAY, June 1, 2010 - 5:00 P.M.

CITY COMMISSION MEETINGS ARE BROADCAST LIVE ON TV FARGO 12 (Channel 12). They are rebroadcast each Monday at 5:00 p.m., Thursday at 7:00 p.m. and Saturday at 8:00 a.m.; and are also included in our video archive at [www.cityoffargo.com/commission](http://www.cityoffargo.com/commission)

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, May 17th, 2020).

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

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 5/17/10:
  - (1) Relating to Fargo's Limited Home Rule Charter.
  - (2) Rezoning Certain Parcels of Land Lying in Buland's Subdivision Huntington Addition.
- b. 1st reading of an Ordinance Relating to Dogs and Cats.
- c. 1st reading of Ordinances Relating to Fire Protection and Prevention, the International Building Code, the International Residential Code, the International Existing Building Code, the International Mechanical Code, the International Fuel Gas Code and the International Property Maintenance Code.
- d. Neighborhood Stabilization Program Grant agreements for the redevelopment of 1670 East Gateway Circle South, 4955 28th Avenue South and 1209 4th Avenue North.
- e. Agreement with City Wide Express for mail delivery service at \$200 per month.
- f. Sole source contract with McArthur Tile Company to replace tile on the Metro Transit Garage.
- g. Site Authorizations for Games of Chance:
  - (1) The Arc Upper Valley, Inc. at JT Cigarros.
  - (2) Boys and Girls Club of the Red River Valley d/b/a Fargo Youth Commission at Mr. G's, Slammers Sports Bar/RR Lanes and Borrowed Bucks Roadhouse.
- h. Application filed by SW Optimist Club of Fargo for a raffle on 6/21/10.
- i. Joint Powers Agreement among the local public health units of the State of North Dakota for collective training, policy development, advocacy, planning and coordination of public health services for local public health.
- j. Memorandum of Understanding Agreement with Clay County Public Health to share resources in the event of a public health emergency.
- k. Contract with the North Dakota Department of Health for Epidemiology and Laboratory Capacity Program - West Nile Virus (CFDA #93.283).

Plat of the Shoppes at Osgood Southwest First Addition.

- m. Change Order No. CO 05 for an increase of \$3,000.00 for the GTC deck repair work.
- n. Lease with Barrier Lake Investments for rental of the building at 909 25th Street North for sandbag storage at a rate of \$12,890.00 per month.
- o. Agreement for Special Improvements with Carefree Investments, LLC for municipal improvements in MGB 1st Addition (Improvement District No. 5945)
- p. Purchase Agreements – Temporary Construction Easements in connection with Improvement District No. 5700:  
(1) First International Bank & Trust.
- q. Budget adjustment for the Traffic Engineering Department in the amount of \$65,000 for on-street bike lane striping.
- r. Purchase Agreement – Temporary/Permanent Sanitary Sewer Easements for CFJ Properties, LLC for Improvement District No. 5726.
- s. Amendment to the existing Cost Participation, Construction and Maintenance agreement for Project No. 5919-02.
- t. Engineering Services Agreement with Ulteig Engineers, Inc. in the amount of \$15,500 for Improvement District No. 5732.
- u. Engineering and survey service contract with Ulteig Engineers, Inc. in the amount of \$17,500 for Project No. 5957.
- v. Bid advertisement for Project No. 5229-6.
- w. Contracts and bonds for Project Nos. 5900 and 5917.
- x. Bills.
- y. Bid awards for Improvement District Nos. 5916 and 5931.
- z. Create Improvement District Nos. 5732, 5878 and 5941.
- aa. Contracts and bonds for Improvement District Nos. 5908-1 and 5914.

\*\*\* Regular Agenda \*\*\*

- 1. Request for an extension of the noise ordinance until 12:00 midnight on June 4th for a high school aged dance on top of the Island Park parking ramp.
- 2. Request from Hooters for an extension of the noise ordinance until 11:00 p.m. on June 10th for an outdoor concert in their parking lot.
- 3. Joint Powers Agreement between the City of Fargo, the Cass County Water Resource District and Cass County.

Public Hearings - 5:15 p.m.:

- a. Application filed by Li Li d/b/a 101 Sushi Bar for a Class "GH" Alcoholic Beverage License at 4480 23rd Avenue South.
- b. Renaissance Zone Project for Art Materials, Inc. at 300 Broadway.
- c. Plat of Woodhaven Sixth Addition (On 43rd and 44th Sts. between 49th and 52nd Aves. S.)
  - (1) Approval recommended by the Planning Commission on 5/12/10.
- d. MGB First Addition (1637 76th Ave. S.); approval recommended by the Planning Commission on 3/10/10:
  - (1) Growth Plan Amendment from low-medium residential density to Medium-high residential density on Lots 1 and 2, Block 4 and all of Block 5.
  - (2) Zoning change from AG, Agricultural to MR-1, Multi-Dwelling on Lot 2, Block 4; MR-3, Multi-Dwelling on Lot 1, Block 4 and all of Block 5; SR-2, Single-Dwelling on Lots 3 through 16, Block 1, Lots 4 through 15, Block 4 and all of Blocks 2, 3, 7, 8 and 9; SR-4, Single-Dwelling on Lots 1 and 2, Block 1, Lots 16 and 17, Block 4 and all of Block 6 and P/I, Public Institutional on Lot 17, Block 1 and Lot 3, Block 4.
  - (3) 1st Reading of rezoning Ordinance.
  - (4) Plat of MGB First Addition.

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 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/commission](http://www.cityoffargo.com/commission)

May 11, 2010



Joe Burgum  
10 Tallgrass Trail  
Horace, ND 58047

Fargo City Commission  
200 N 3<sup>rd</sup> St  
Fargo, ND 58102

Dear Fargo City Commissioners:

I am writing to request a temporary extension to the Loud Noise Ordinance from 10PM to 12:00AM to host a high school aged dance on top of the Island Park parking ramp. I have submitted my application for City of Fargo Special Event Permit and have obtained approval for Special Event General Liability Insurance through Warner and Company Insurance. The event will start on Friday, June 4<sup>th</sup> between 8:30 and 9PM and will end at 12:00 AM on June 5<sup>th</sup>.

In October of 2009 I formed the Yo! LLC (Youth Organized) and the Articles of Incorporation were filed with the North Dakota Secretary of State on October 28, 2009. The purpose of the limited liability company is to manage entertainment events and all other lawful business purposes.

I expect between 150 to 200 students ranging in age from 14 to 20 years to be in attendance. Security guards have been secured for the evening as well as adult chaperones. This is an alcohol free party and no student will be allowed to leave the dance and return without being checked by security guards. There will be music provided by a DJ service.

I have hosted 3 teen dances. There have always been hired security officers at every event with adult chaperones. Every dance was accident and injury free.

I appreciate your consideration for this request and looking forward to hearing from you.

Best Regards,

Joe Burgum

I have applied for a public permit to host a high school aged dance on top of the Island Park Parking ramp. I am asking for a temporary extension to the loud noise ordinance to the time of 12:30 am on June 5th, the event will start June 4th at approximately 9:30PM. This event will be an alcohol free dance for high school students between the grades of 9-12.

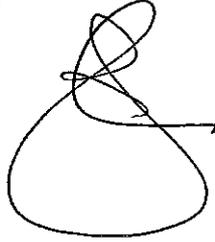
5-20-10

(2)

HOOTERS IS REQUESTING THE NOISE ORDINANCE TO BE EXTENDED FROM 10PM TO 11PM ON JUNE 10<sup>th</sup> FOR AN OUTDOOR CONCERT IN OUR (HOOTERS) PARKING LOT.

HOOTERS  
3431 FEICHTNER DR. S.  
FARGO, ND 58103

THANK YOU FOR YOUR CONSIDERATION,



JOHN MASON  
PROMOTIONS & MARKETING DIRECTOR  
FARGO HOOTERS  
CELL - 701-306-3125  
WORK - 701-281-8302



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**Office of the City Attorney**

May 27, 2010

Board of City Commissioners  
City Hall  
200 North Third Street  
Fargo, ND 58102

*City Attorney*  
**Erik R. Johnson**  
*Assistant City Attorney*  
**Robert L. "Butch" McConnell, Jr.**

*City Prosecutors*  
**Scott O. Diamond**  
**Jodi A. Bass**

**Re: Metro Flood Study – Right of Entry Joint Powers Agreement**

Dear Commissioners:

Attached please find a Joint Powers Agreement between the city of Fargo, the Cass County Joint Water Resource District and County of Cass. The United State Army Corps of Engineers is in the process of conducting surveys upon real property relative to the Fargo Moorhead Metropolitan Feasibility Study in an effort to determine soil sufficiencies for possible diversion channel and structure location. The Corps has gained entry upon many of the parcels. A few landowners, however, have refused entry.

The purpose of the Agreement is to authorize the Cass Joint Water Resource District to gain entry upon land identified by the Corps in those situations where the owner of land has refused entry. To date there are approximately six landowners who have refused entry.

If this Agreement is acceptable, your motion may be stated as follows:

I hereby move to accept and approve the Joint Powers Agreement between the city of Fargo, the Cass County Joint Water Resource District and the County of Cass for the purpose of gaining entry upon property identified by the United States Army Corps of Engineers as being critical to its Study.

Please call if you have any questions.

Sincerely,

Robert L. "Butch" McConnell, Jr.  
Assistant City Attorney

RLM/jmf  
Enclosure

## JOINT POWERS AGREEMENT

THIS AGREEMENT is made this \_\_\_ day of May, 2010, by the City of Fargo, North Dakota, a North Dakota municipal corporation (“Fargo”); the Cass County Joint Water Resource District, a North Dakota political subdivision (the “Joint Board”); and the County of Cass, North Dakota, a political subdivision (“Cass County”).

### RECITALS

A. Under an agreement between the United States Army Corps of Engineers (the “USACE”), Fargo, and the City of Moorhead, a Minnesota municipal corporation (“Moorhead”), dated \_\_\_\_\_ (the “Corps Agreement”), Fargo and Moorhead are the two local sponsors of the USACE’s FARGO-MOORHEAD METROPOLITAN FEASIBILITY STUDY (the “Study”). The USACE is conducting the Study to determine the need for flood damage reduction in the Fargo-Moorhead metropolitan area and surrounding areas. The Corps Agreement incorporates and includes a Project Management Plan (“PMP”) which defines the scope, planning approach, roles and responsibilities, products, schedule, and budget for the Study. A copy of the PMP is attached as Exhibit A.

B. The USACE is currently studying diversion alignments on both the North Dakota and Minnesota sides of the Red River of the North. Although the USACE is charged with studying, designing, and ultimately constructing a project, Fargo and Moorhead are responsible for acquiring the real property necessary to complete any diversion project, including the responsibility of obtaining Rights of Entry for survey work. See paragraph 12.2 of the PMP.

C. The USACE has identified preliminary alignments for a proposed North Dakota diversion channel. To determine the adequacy of the proposed route,

including the sufficiency of soils along the proposed route, the USACE and its local agents, including Fargo, must conduct certain testing and examinations. The USACE and its local agents will require access to certain parcels along the identified diversion corridor to conduct surveys, engineering, and environmental analysis, including geotechnical testing and cultural resource surveys, to determine if the parcels are appropriate for a North Dakota diversion alignment, and whether the parcels could potentially support any project structures or diversion components.

D. If the USACE concludes a North Dakota diversion is feasible, and the USACE, Fargo, Moorhead, and other potential local sponsors ultimately proceed with the development, design, and construction of a North Dakota diversion, Fargo is responsible for acquiring the requisite real property rights for purposes of constructing, operating, and maintaining the project under the Corps Agreement.

E. The Joint Board is a joint water resource district and political subdivision under Chapter 61-16.1 of the North Dakota Century Code, with unique and specific statutory authorities to develop, construct, establish, and maintain flood control and protection projects under North Dakota law. The Joint Board's jurisdictional boundaries encompass the entire project area.

F. The Joint Board has specific statutory authority to acquire the requisite real property rights and interests within its jurisdiction for purposes of constructing, operating, and maintaining a diversion, including the right to acquire real property through eminent domain, if necessary. The Joint Board's jurisdictional boundaries encompass the entire project area regarding the proposed North Dakota diversion.

G. Fargo, Cass County, the Joint Board, Moorhead, Clay County, and the Buffalo-Red River Watershed District are members of a Metro Flood Study Work Group that is currently considering options regarding project sponsorship and the member entities' various roles, including real property acquisition regarding the project. While the members of the Metro Flood Study Work Group anticipate the formation of a joint powers entity, Fargo, Cass County, and the Joint Board recognize the Joint Board is uniquely situated to acquire the requisite real property interests for purposes of a North Dakota diversion outside of Fargo's municipal limits. With that in mind, Fargo, Cass County, and the Joint Board wish to enter into this Agreement under which the Joint Board may ultimately be responsible for real property acquisition for purposes of a North Dakota diversion, with the right to amend or terminate this Agreement if a joint powers entity, including Fargo, Cass County, and the Joint Board, later agree to a different method of real property acquisition.

H. Section 54-40.3-01 of the North Dakota Century Code gives Fargo, Cass County, and the Joint Board the authority to enter into a joint powers agreement to provide for the cooperative administration of a project. Fargo, Cass County, and the Joint Board wish to enter into this Agreement to provide the duties and obligations of each party regarding the requisite Rights of Entry for purposes of conducting the requisite examinations, surveys, and testing to determine the suitability of various parcels for a North Dakota diversion, and ultimately regarding real property acquisition for the project.

In consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

#### **AGREEMENT**

1. **Joint Board Obligations.** In light of the Joint Board's unique authority to develop, construct, establish, and maintain flood control and protection projects, including its rights to acquire real property through eminent domain, if necessary; in light of Fargo's current obligation under the Corps Agreement to obtain Rights of Entry and to ultimately acquire the requisite real property rights for a project; and in light of Cass County's responsibilities to provide for the health, safety, and welfare of its citizenry, Fargo, Cass County, and the Joint Board agree the Joint Board will be responsible for pursuing the Rights of Entry as necessary for the Study, and to ultimately acquire the requisite real property for a North Dakota diversion. Specifically, the Joint Board will acquire Rights of Entry through judicial process or otherwise as necessary to enter upon real property in North Dakota to conduct surveys, engineering, and environmental analysis, including geotechnical testing and cultural resource surveys. In addition, to the extent the USACE and the various local sponsors proceed with the development, design, and construction of a North Dakota diversion, the Joint Board, Fargo, and Cass County will re-convene negotiations, as described in Section 3 below, and may determine if an entity besides the Joint Board will acquire the requisite real property rights for purposes of constructing, operating, and maintaining the project.

2. **Term.** This Agreement will commence upon its execution by all parties. Any party may terminate this Agreement at any time by giving the other parties written notice of such termination. If the Study terminates, Fargo and Cass County will reimburse the Joint Board for costs incurred by the Joint Board as described below, and this Agreement will automatically terminate.

3. **Reimbursement.** Fargo and Cass County agree to equally compensate and reimburse the Joint Board for its reasonable costs and fees associated with, or incurred in, obtaining the requisite Rights of Entry. On a monthly basis, the Joint Board will provide Fargo and Cass County with written notices of reasonable costs and fees associated with, or incurred in, obtaining the requisite Rights of Entry, along with copies of all bills and invoices received by the Joint Board. Fargo and Cass County will each provide 50% payment to the Joint Board for reasonable Rights of Entry costs and fees within 60 days from the date of each written notice.

Notwithstanding the foregoing, the Joint Board understands and agrees Fargo's and Cass County's obligations to compensate and reimburse the Joint Board may be modified or terminated if and when the members of the Metro Flood Study Work Group enter into cost-share agreements or other joint powers agreements; any modification or termination of this Agreement will be without prejudice to any of Fargo's or Cass County's cost obligations already accrued prior to modification or termination regarding costs incurred by the Joint Board prior to modification or termination. Further, with regard to real property acquisition, in the event the USACE and the various local sponsors proceed with the development, design, and construction of a North Dakota

diversion, Fargo, Cass County, and the Joint Board will re-convene negotiations and amend this Agreement, in accordance with the amendment requirements under this Agreement, to determine cost responsibilities and reimbursement procedures, if any, for purposes of real property acquisitions.

4. **Assignment.** None of the parties may transfer or assign this Agreement or any of their rights or obligations under this Agreement without the express written consent of the other parties.

5. **Amendments.** Any modifications or amendments of this Agreement must be in writing and signed by all parties to this Agreement.

6. **Interpretation.** This Agreement will be construed as if it had been prepared by all parties.

(Signatures appear on following pages)

IN WITNESS WHEREOF, the parties executed this Agreement on the above-mentioned date.

CASS COUNTY JOINT WATER  
RESOURCE DISTRICT

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Thomas L. Fischer, Chair

ATTEST:

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Carol Harbeke Lewis  
Secretary-Treasurer

CITY OF FARGO

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Dennis R. Walaker, Mayor

ATTEST:

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Steve Sprague, Auditor

CASS COUNTY

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Darrell Vanyo  
Cass County Commission, Chair

ATTEST:

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Michael Montplaisir, Auditor

**EXHIBIT A**

**Project Management Plan**

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## MEMORANDUM

**TO:** Chief Keith Ternes  
**FROM:** Sergeant Mathew Sanders  
**DATE:** April 28<sup>th</sup>, 2010  
**SUBJECT:** Application for Class "GH" Alcoholic Beverage License for Li Li, d/b/a: 101 Sushi Bar to be located at 4480 23 Ave 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:

### Li Li (Owner/Manager)

Criminal History: No areas of concern

Credit History: Seriously Past Due balance of \$423 – Collection Agency

The past due balance from the collection agency has an open date of 1/17/10. The credit report shows an originating creditor of Dish Network. I spoke with Li's husband, Sawe Li, to help translate. Mr. Li said this past due amount is the result of them cancelling their Dish Network service and then not returning the equipment. He said he will be returning it after he calls Dish Network to find out what address to send it to.

There were no other concerns on the credit report.

### Miscellaneous

I contacted the Detroit Lakes Police Department and found that there have been no problems with the liquor license or any criminal matters at the Hunan Spring Buffet, which is a business managed by the applicant from January 2006 to April 2010.

I asked Mr. Li to inform Mrs. Li that it would be beneficial for her to attend server training. He said she was aware of the server training program and planned on attending it. He said she was aware she needed to do that through the Health Department.

**Business Location**

The application submitted is for a business located at 4480 23 Ave S, Fargo, ND. Within the immediate area the following establishments currently hold a liquor license: Settle Inn and Suites, Fargo Wingate Inn, Pizza Ranch, Old Chicago Famous Daves and Taco Shop.

**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: 4-27-10  
Investigations Fee Paid (\$250)  Yes  No Date paid: 4-22-10  
Check # 1327

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. Michael J. Jones Date: 4/28/10  
(See attached report): \_\_\_\_\_

Approval Recommendation \_\_\_\_\_ Denial Recommendation \_\_\_\_\_  
[Signature] 04-28-10  
Chief of Police 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: Li Li

1  
d/b/a 101 Sushi Bar

Doing business as: 101 Sushi Bar

**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 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.  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: Li Li Signature: GS

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_

Applicant printed name: \_\_\_\_\_ Signature: \_\_\_\_\_

Business/Company name: Li Li  
Doing business as: 101 Sushi Bar

Business address (location): 4480 23rd AVE S FARGO ND 58104  
Mailing address: 1132 Riverview RD DETROIT LAKES MN 56501

Legal description of the premises to be licensed: 2132 Square Feet of a retail building located at Lot 1, Block 3, Anderson Park Addition to the city of Fargo.

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: Vacant

Mailing address: N/A  
(address) (city) (state & zip)

Business e-mail address: N/A

Phone number: ( ) N/A Other number: ( ) N/A

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

Li Li 4480 23rd AVE S FARGO ND 58104  
(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: Li Li  
(first) (middle) (last) (maiden name)

Address: 1132 Riverview RD DETROIT LAKES MN 56501  
(address) (city) (state & zip)

How long have you lived at the address? 2 Years

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

From 04/2005 to 01/2006 Address: 14010 Franklin AVE #A52 Flushing, NY 11355  
From 01/2006 to 04/2008 Address: 1137 Roosevelt AVE Detroit Lakes MN 56501  
From 04/2008 to 04/2010 Address: 1132 Riverview RD Detroit Lakes MN 56501

E-mail address: sawelili@yahoo.com

Home phone number: (218) 844-6688 Other number: (917) 660-9779

Date of Birth: 05/14/1985 Place of Birth: CHINA

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

DL#: X664212333216 State of Issue: MA Dates: 07-2008

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 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:

Minnesota Drivers License : X664212333216

Servsafe Certification , 5676404

12/12/07-12/12/12

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: N/A

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

From: Jan. 2006 to Apr. 2010 Business name: Huron Spring Buffet

Address: 1657 Hwy 10 W Detroit Lakes MN 56501 Position/Title: Manager

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:

Huron Spring Buffet <3.2 beer only>

**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 Sole Proprietorship (Partnership, Corporation, LLP, LLC)  
(This section may be copied and pages attached for additional partners.)

Name: Li Li  
(first) (middle) (last) (maiden name)

Address: 1132 Riverview RD DETROIT LAKES MN 56501  
(address) (city) (state & zip)

How long have you lived at the address? 2 Years

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

SEE PAGE 5

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

From \_\_\_\_\_ to \_\_\_\_\_ Address: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Home phone number: (\_\_\_\_) \_\_\_\_\_ Other number: (\_\_\_\_) \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

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

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

DL#: \_\_\_\_\_ State of Issue: \_\_\_\_\_ Dates: \_\_\_\_\_

Has your driver's license ever been suspended or revoked? \_\_\_\_\_ Yes X 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 X 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:

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.)

Page 8

From: \_\_\_\_\_ to \_\_\_\_\_ 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:

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:

*Hunan Spring Buffet <3.2 beer license>*

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 *1132 Riverview RD DETROIT LAKES MI 48050*  
Date Incorporated *N/A* State of Incorporation *N/A*

If a subsidiary of any corporation, state name and address of parent corporation *N/A*

Ab



## Memorandum

**Date:** 24 May, 2010  
**To:** Fargo City Commission  
**From:** Robert C. Stein  
**Re:** Renaissance Zone Project Application

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The following Renaissance Zone project was reviewed by staff, and approval was recommended.

1. Art Materials, LLC (Project 186-F) proposal for a lease project located at 300 Broadway. 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 2<sup>nd</sup> 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 Art Materials, LLC for a project located at 300 Broadway and to grant the income tax exemption as recommended by Renaissance Zone Authority and staff.**

## 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.
  - 300 Broadway Units 101 & 102  
SG Roberts Plat #2. Lot 3,4,5,6  
Renaissance Zone Block #2
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.

Art Materials, LLC  
2728 Lyndale Ave S  
Minneapolis, MN 55408  
[REDACTED]

Larry A. Brown email: lbrown@ArtMaterialsOnline.com
4. Current use of property.
  - Vacant
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)
  - 3,805 sf
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.
  - Art Materials' goal is to become the destination for area artists, non-traditional artists, and non-professionals in addition to its historic core customer base of art and graphics professionals, artists, students, teachers, and business professionals. Art Materials is planning a 3,805 square foot retail store in Fargo, North Dakota in the downtown business district to serve a major need in the art and graphics community of Fargo-Moorhead and the region. The business name will be Art Materials/Uptown Pen. The target market will be business professionals, artists (both hobbyists and professionals), families, and the emerging student population living and attending classes in the immediate area as well as the area's universities, colleges and trade schools.

Art Materials carries 42,500 products that will be available both in-store and online through the company website, [www.ArtMaterialsOnline.com](http://www.ArtMaterialsOnline.com). The product selection that is not physically available in-store can be ordered online with Free in-store pickup at the Fargo location. The product offering that will be available in the Broadway location will be customized to satisfy the needs of the downtown customer as well as customers from around the world because of order fulfillment from the web store.

Our objective is to occupy the retail niche that artists are clamoring for: high quality creative products for all kinds of art works – not just paintings and drawings that at the present time are not offered in the chain stores in Fargo-Moorhead.

Our anticipated store opening is July 1<sup>st</sup> with a full transformation of the new, yet empty ground floor of 300 Broadway. Buildout construction will begin in early June, 2010 with completion in early July. We will sign a 5 year lease with an option to purchase.

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).

- The 300 Broadway location is prominently located next to the Fargo Theater. This ground floor location will be a destination store and a new draw for downtown Fargo. Art Materials will focus on serving the artists' creative needs by expanding the product categories to involve more mixed media. We will also offer in-store vendor demonstrations on products and be an active advocate and support of "First Thursday" in the arts community. Our vision is to utilize the 300 Broadway facility as a means of offering small classes or workshops, spotlighting artists' artwork each month, and utilizing "First Thursday" as a means of showcasing local artists work.

Art Materials and Larry and JoAnn Brown own "The Osborn Collection" – a 3000 piece photographic collection of images beginning in 1891 of western North Dakota. Also owned is a limited photographic negative collection of downtown Fargo and the Red River, including images of Broadway in downtown Fargo in the 1920's. These images range from glass plate negatives to large format film negatives and will be published as framed photographic art for sale. These images show the character and history of downtown Fargo and are not available anywhere else. They will be on display at 300 Broadway.

8. Describe how the project fits under the Zone's development guidelines (Attachment D).
  - Art Materials is a destination Specialty retailer. Our customer base will be professional and non-professional artists, students, teachers, art and graphics professionals, business professionals including architects, engineers, and designers; with the greatest growth potential in kids, non-traditional artists, and non-professionals. We are targeting customers who live, work, play and attend classes in the downtown area. We will offer the consumer through our retail location and website 42,500 products and services ranging from a comprehensive line of traditional art supplies, foam, mat board and presentation boards, to ready-made frames, unique gift items, photo albums, stationery, a wide selection of portfolios, presentation cases, and storage solutions, fine writing instruments, handmade papers from around the world, and creative products for children. Our special services will include custom framing, pen engraving, corporate sales, school kits, airbrush repair, fine pen repair, and digital fine art reproduction. Art Materials will be offering this in Fargo. Our store will serve the metro population of Fargo/Moorhead and the surrounding area including Winnipeg.
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.
  - Our sales forecast for this store with a 3805 square foot footprint will provide a tax savings of \$20,000 the first year and should increase as the store becomes more established. We anticipate converting the lease to a purchase of the property through a sister corporation within two years. This will provide an additional tax savings of \$10,000/year on rents paid and property tax exemptions.
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.
  - Attached

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



STATE OF NORTH DAKOTA  
**OFFICE OF STATE TAX COMMISSIONER**  
Cory Fong, Commissioner

May 18, 2010

Ref: L1108773376

ART MATERIALS LLC  
2728 LYNDAL AVE S  
MINNEAPOLIS MN 55408-1301

RE: Renaissance Zone Certificate Of Good Standing, State Income And Sales Taxes Only

This letter is evidence of good standing as required by the North Dakota Division of Community Services for purposes of obtaining final approval of a renaissance zone project.

As of the date of this letter, the records in the North Dakota Office of State Tax Commissioner do not show probable cause to believe that any income taxes (including income tax withheld from wages) or sales and use taxes are due and owing to the State of North Dakota by the following taxpayer:

Taxpayer's Name: ART MATERIALS LLC  
SSN or FEIN: [REDACTED]

The enclosed copy of this letter must be submitted (as part of the zone project application) to the local zone authority for the renaissance zone in which the proposed zone project will be located. Please keep this original letter for your records.

/s/ Nathan Bergman

Nathan Bergman

Supervisor, Individual Income Tax and Withholding

Phone: (701) 328-1296

Email: nwbergman@nd.gov

Enc.



**City of Fargo  
Staff Report**

<b>Title:</b>	Woodhaven Sixth Addition	<b>Date:</b>	4/27/10 <b>UPDATED: 5/26/10</b>
<b>Location:</b>	44 St S between 49 & 52 Ave S	<b>Staff Contact:</b>	Mark Williams
<b>Owner(s)/Applicant:</b>	Steve Stoner	<b>Engineer:</b>	Ulteig Engineering
<b>Reason for Request:</b>	Minor Subdivision		
<b>Status:</b>	City Commission Public Hearing		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Vacant	<b>Land Use:</b> Low Density Residential
<b>Zoning:</b> The proposed lots 1-5 of Woodhaven Sixth Addition are zoned SR-2.  The proposed lots 6-19 of Woodhaven Sixth Addition are zoned SR-3.	<b>Zoning:</b> The proposed lots 1-5 of Woodhaven Sixth Addition are zoned SR-2.  The proposed lots 6-19 of Woodhaven Sixth Addition are zoned SR-3.
<b>Uses Allowed:</b> SR-2 and SR-3 Allows detached houses, daycare centers up to 7 children, parks and open space, religious institutions, safety services, schools, and basic utilities	<b>Uses Allowed:</b> SR-2 and SR-3 Allows detached houses, daycare centers up to 7 children, parks and open space, religious institutions, safety services, schools, and basic utilities
<b>Maximum Density Allowed:</b> SR-2 allows up to 5.4 dwelling units per acre and 30% building coverage. SR-3 allows 8.7 dwelling units per acre and 35% building coverage.	<b>Maximum Density Allowed:</b> SR-2 allows up to 5.4 dwelling units per acre and 30% building coverage. SR-3 allows 8.7 dwelling units per acre and 35% building coverage.

**Area Plans:**

This project area falls within the 2003 Southwest Area Future Land Use Plan. The plan designates this property as low/medium density residential. The land use is remaining consistent to the area plan.

**Schools and Parks:**

Woodhaven Park is northeast approximately 600 feet, across 49<sup>th</sup> Avenue South. The property is surrounded by a shared use path system. This property is within the Fargo School District.

**Staff Analysis:**

The property is located from 49<sup>th</sup> Avenue South to 52<sup>nd</sup> Avenue South and 43<sup>rd</sup> Street South to 44<sup>th</sup> Street South. The request for this minor plat is a replat of Lots 24-37, Block 2 of Woodhaven Fifth Addition. The replat proposal is to subdivide 14 lots into 19 lots. The developer intends for 19 low density residential units to be developed on these lots. An increase of 5 units from the previous plat.

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

**Minor Subdivision Criteria**

- Section 20-0907.B.3 of the LDC stipulates that the Planning Commission shall 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 by the City Commission 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 purpose of subdividing the property is to increase the amount of dwelling units by reducing the lot widths, making the property more marketable. The property meets the land use as proposed in the

Page 36 adopted area plan. The proposed development is considered an allowed use within the existing zoning districts (SR-2 and SR-3) designation. Access to the site will follow the Land Development Code. The property is already served with utilities and further drainage retention, utility and building code requirements will be addressed during the site plan permit and building permit review procedures.

Staff finds that the proposal has met the criteria as referenced above, and therefore recommends approval.

**(Criteria Satisfied)**

**Planning Commission Recommendation:**

**05/12/10:** In a unanimous decision the Planning Commission recommended approval to the City Commission of the Woodhaven Sixth Addition on the basis that it satisfactorily complies with the Comprehensive Plan, Area Plan, Standards of Article 20-06 and all other applicable requirements of the LDC.

**Staff Recommendation:**

**Suggested Motion** "To accept the findings of the Planning Commission and hereby approve the proposed Woodhaven Sixth Addition on the basis that it satisfactorily complies with the Comprehensive Plan, Standards of Article 20-06 and all other applicable requirements of the LDC."

**City Commission:**

**06/01/10**

# Minor Subdivision

## Woodhaven Sixth Addition Located on 43rd and 44th Street between 49th Avenue and 52nd Avenue South



### Legend

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



**Fargo Planning Commission**  
**May 12, 2010**







<b>City of Fargo Staff Report</b>			
<b>Title:</b>	MGB First Addition	<b>Date:</b>	03-05-10 As amended 05-27-10
<b>Location:</b>	70th Avenue S & 73rd Avenue S and US Highway 81	<b>Staff Contact:</b>	James Hinderaker
<b>Owner(s)/Applicant:</b>	James R. Bullis	<b>Engineer:</b>	Moore Engineering
<b>Reason for Request:</b>	Growth Plan Amendment, Zoning Change, Major Subdivision		
<b>Status:</b>	Planning Commission Public Hearing: March 10, 2010		

Existing	Proposed
<b>Land Use:</b> Vacant	<b>Land Use:</b> Residential (Single-Family & Multi-Family)
<b>Zoning:</b> Agriculture	<b>Zoning:</b> SR-3, SR-4, MR-1, MR-3 and P/I
<b>Uses Allowed:</b>	<b>Uses Allowed:</b> Residential (Including Twinhomes and Apartments), Churches, Daycare, Group Living, Community Service, Parks
<b>Maximum Density Allowed:</b>	<b>Maximum Density Allowed:</b>

**Proposal:**

The subject property is located at 1637 76<sup>th</sup> Ave S. The property is legally known as part of the Southeast Quarter of Section 12, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota. The property makes up the majority of the north 1/2 of the Southeast Quarter of Section 12 and contains approximately 66 acres. The property is bounded to the south by vacant land currently under option by the petitioner, to the west by an undeveloped property (location of a proposed new elementary school, park, the extension of the Milwaukee Trail) and the new Davies High School property, to the east by Chrisan West Subdivision, and to the north by another vacant and undeveloped property. The petitioners, MGB, are not the actual owners of the subject property. However, the owners of record, Gerald Johnson (50%) ETAL, are aware of this application and staff has confirmed that the petitioners do have a legal option to purchase the property from the current owners. The petitioners are seeking approval of a Growth Plan Amendment on a portion of the subject property, a zone change, and final lat. Specifically,

<b>Proposal/Lot &amp; Block</b>	<b>Zone Change from Agriculture</b>	<b>Growth Plan Amendment</b>
Lots 3-16, Block 1 Lots 1-10, Block 2 Lots 1-10, Block 3 Lots 4 -15, Block 4 Lots 1-16, Block 6	Single-Dwelling (SR-2)	No Change
Lots 1 & 2, Block 1 Lots 16 &17, Block 4 Lots 1-34, Block 7 Lots 1-28, Block 8 Lots 1-12, Block 9	Single-Dwelling (SR-4)	No Change
Lot 1, Block 4 Lot 1, Block 5	Multi-Dwelling (MR-1)	Low/Med to Med/High
Lot 2, Block 4	Multi-Dwelling (MR-3)	Low/Med to Med/High

Lot 17, Block 1 Lot 11, Block 2 Lot 3, Block 4	Public Institutional (P/I )	No Change
--	-----------------------------	-----------

**Area Plans:**

The subject property is located within the South Fargo Tier 1 East as identified within the 2007 Growth Plan. The plan recommends low to medium density residential future land uses. (see Figure 1) The plan adopts a two-tier approach to future growth of the ET area; however, this property was annexed into the city in April of 2008 and therefore the tier system of the plan is not applicable. The plan also calls for a trail connection along the west boundary of the subject property.

The plan is not intended to be a rigid regulatory document that mandates a particular development pattern, but rather the plan is intended to be used as a framework for development, setting forth a general mix of land uses, approximate size of each land use mass, street connections and so forth. However, successful implementation of the plan will depend in large part on land use decisions that are consistent with the plan. To that end, development proposal should be consistent and, to the extent practical, in compliance with the plan. Specifically, the various land use zoning district categories, in this case low to medium density residential, are key to creating land use transitions and the appropriate mixture of land uses so as to be compatible with existing and future development.

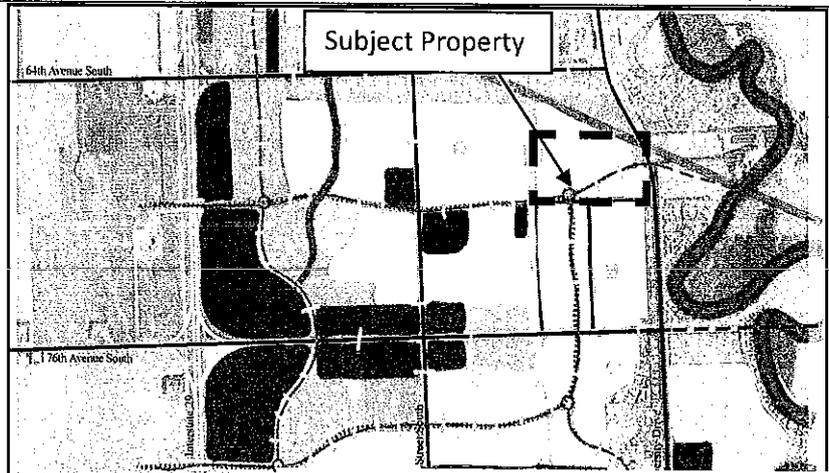


Figure 1

**Proposed Land Uses**

-  Residential Area - lower to medium density
-  Residential Area - medium to high density
-  Residential Area - rural
-  Commercial Area
-  Industrial Area

The plan also notes that the expansion of the city in undeveloped area places increased burdens on the infrastructure elements of the City of Fargo. The initial construction of infrastructure is expensive and the long-term maintenance costs are significant and on-going. On top of the typical infrastructure needed to serve the development, Fargo also faces the need to provide flood protection. The subject property is not currently in the FEMA mapped 100-year flood plain, but like most areas in south Fargo, will be included in the 100-year flood plain once the updated FEMA map is released.

**Schools and Parks:**

The subject property is located within Fargo School District No. 1. Fargo South Secondary and Bennett Elementary schools currently serve the subject property. A new high school, Davies (see Figure 2), is under construction just south of 70th Ave S, east of 25th S, and west of this proposed development. The new Davies High School is estimated to be completed in the summer of 2011 for a fall school opening. Land has also been set aside east of the new Davies High School for a possible new elementary school and future Fargo Park District programs and facilities. A trail dedication has been established on the eastern boundary of the

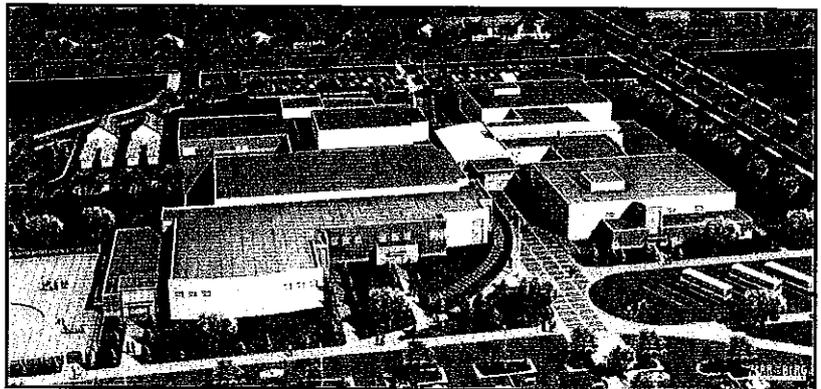


Figure 2

future elementary school/park facilities to accommodate the extension of the Milwaukee Trail. This trail is the same one referenced above that is proposed along the west side of the subject property.

**Staff Analysis:**

The city's major subdivision review process (Section 20-0907.C) is in fact a two-step process. The first step is intended to provide the petitioner with a comprehensive review of their conceptual plan and to determine general compliance with the Area Plan, Comprehensive Plan, the standards of Article 20-06 and all other requirements of the Land Development Code (LDC). The second step of the two-step process is a more thorough final review to ensure that all the details of the subdivision proposal have been completed; including a complete Amenities Plan, Clear Title Opinion, and final plat review (compliance with standards of Article 20-06 and all other requirements of the LDC), and signed Mylar. The second step also requires assurance the proposed subdivision is located in a zoning district that allows the proposed development (uses and density/dimensional standards) and that provisions for public improvements (water, sewer, utility easements, street, curb, gutter, sidewalks, etc) to be installed and paid for, which is typically through special assessments, are in place. In practice, almost all subdivision applications in recent years have foregone this first step of the subdivision process; however, the petitioner, due to the uncertainties surrounding the development of this property, specifically related to flood protection/mitigation, chose the two-step review process.

On January 13, 2010, the Planning Commission recommended approval of the first step (preliminary plat – see Figure 3) but cited concerns related to flood protection and the need for appropriate flood mitigation. Since the Planning Commission approval of the preliminary plat, staff has been working with the petitioner to address the issues related to the proposal. According to the petitioner engineer, the southern half of the area depicted on preliminary plat is too low to development at this time. The amount of fill necessary to raise the proposed new lots and dwelling units to a level required to meet the city's flood protection standards is simply not feasible. As a result, the petitioner proposes 146 lots in the first phase (see figure 4), whereas the second phase of the development, the southern half of the preliminary plat, will be delayed until such time that regional

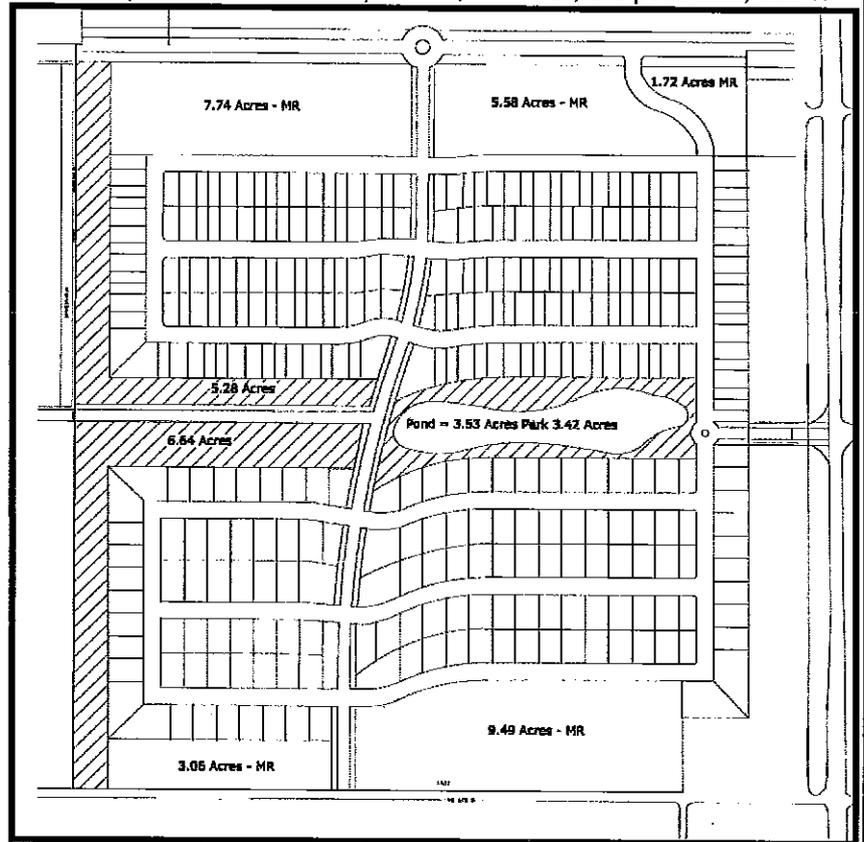


Figure 3

flood protection is in place.

**Growth Plan Amendment**

The Growth Plan Amendment is necessary to accommodate the multi-dwelling zoning proposed along 70<sup>th</sup> Avenue South. The Growth Plan should be used as guideline to adhere to the goals and objectives of the plan. Developments must be accepted as being in compliance with the growth plan prior to being reviewed for zoning compliance and compliance with the Land Development Code. As part of this amendment, the proposed change needs to be evaluated to determine the following:

1. Is the proposed change consistent with surrounding land use, both existing and future? The

subject property abuts the future 70<sup>th</sup> Avenue South alignment which will become a significant east west roadway between 25<sup>th</sup> Street South and University Drive South. In addition, the new Davies High School is under construction and 70<sup>th</sup> Avenue South will be the primary entrance to the new school. Also, immediately to the east of the high school and new elementary school and park system are proposed. As a result of these existing and future developments, 70<sup>th</sup> Avenue South will become a very significant collector roadway. According to the Growth Plan, single-family residential zoning, when possible, should be avoided on major roadways. As a result of these issues, staff contends that the proposed Growth Plan Amendment is consistent with the surrounding land use both existing and future.

- 2. Does the proposed change involve a street alignment or connection? If so, how does the change affect the transportation systems and the land uses in the surrounding areas, both existing and future?** Staff contends that the proposed growth plan change does not of itself involve a street alignment or connection; however, the development does propose to establish new streets and connections to existing street systems. One of the more significant challenges facing this development proposal is the fact that the neighboring property owner to the north, via counsel, has objected to establishing 70<sup>th</sup> Avenue South roadway alignment on the allocate ½ section line of the two properties as is typical with collector roadways. To this issue, the petitioner has shifted the entire needed right-of-way (100 feet) onto the subject property. Therefore no additional right-of-way will be needed in order to construct 70<sup>th</sup> Avenue South.
  
- 3. How does the proposed change work with the larger area in terms of the land use balance and other factors that could influence the proposed change? Are their physical features or developments in the vicinity that make the change positive or negative for the city and the area in general.** Staff contends that the mixture of low to medium density versus medium to high density is appropriate in this area as the plan strongly encourages a mix of housing types within any given development. In terms of land use balance in the area, there are currently no high density land uses within the vicinity of the proposal. Chrisan West Subdivision, a larger lot rural development, is the closest development to the subject property. The Davies High School is the second closest development. Staff contends that due to the proximity of the high school, 70<sup>th</sup> Avenue South (a significant collector roadway) and the lack of any existing multi-dwelling housing opportunities that the change is positive for the city and the area in general.
  
- 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?** Staff contends that one of the more important elements to long term sustainability is increased density. By increasing the number of people living in a particular area, the cost of the delivery of services goes down. A variety of housing opportunities within the development will allow people with different economic situations to live in the same neighborhood. As a result, people may work and play at different hours of the day and therefore a greater variety of activity on the street and in the neighborhood. Staff contends the neighborhood is safer and more livable because people scheduled are different. Instead of everyone going to work in the morning and coming home in the evening, there will likely be people actively out in their yards, walking their pets, enjoying a nice day outside at all times of the day. Therefore staff contends that the proposed growth plan amendment to increase the existing density recommended by the plan not only improves the long term sustainability of the city but it also improves the walkability and livability of the neighborhood and city.

**Zoning Criteria: Section 20-0906.F (1-4) of the LDC**

The LDC stipulates that the Planning Commission and Board of City Commissioners shall consider the following criteria in their review of zoning map amendment requests. Proposed zoning map amendments that satisfy all of the criteria may be approved.

- 1. The requested zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;**

Staff is unaware of any zoning map error. The existing zoning should be seen as interim zoning intended to be a place holder until such time that an urban zoning designation can be established. The petitioner is seeking to develop the property at urban densities and therefore the zoning change is justified. **(Criteria Satisfied)**

**2. The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development allowed by the new zoning classification at the time the property is developed;**

As with all development improvements, the onus to ensure that adequate services are provided to the development to meet the minimum standards of the Article 20-06 and other regulations for subdivision approval falls with the petitioner. While the city and other service providers have established a number public and private systems to ensure that the delivery of services is cost efficient and viable, such as the extension of roads, water, sewer, utilities (electricity, gas, phone, cable, internet, etc), police/fire protection, and regional flood protection, if these services are not available, it is the responsibility of the developer to provide an acceptable alternative. As part of the review of the proposal, review agencies have been sent a copy of the proposal. Other than concerns raised by neighboring property owners to the south and the Stanley Township Board of Supervisors related to storm water drainage from the south of 76<sup>th</sup> Avenue South that naturally flow through the subject property (which will be addresses by engineers that are design the storm water system required within the development), no deficiencies have been noted. As with the neighboring Davies High School, the city engineering department has indicated that the city is able to provide the necessary services to the subject property at the time the property is developed. One major area of concern raised during the preliminary review of this application was ensuring that the development had adequate flood protection. The developer has been working with the city engineering department to develop a mitigation plan that will include the elevation of the home sites to conform to the city's standards. **( Criteria Satisfied)**

**3. The approval will not adversely affect the condition or value of property in the vicinity;**

Staff has no documentation or supporting evidence that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. In accordance with the notification requirements of the Land Development Code, notice was provided to neighboring property owners. To date, staff has received a number of phone calls from neighboring property owners with questions about the proposal. Staff has received on letter of concern from Terry Engberg (Granberg Addition). Mr. Engberg is concerned that adequate flood protection is not being provided. He is also concerned that the Granberg Development and area fields drain through the proposed development and that raising the home sites (needed to meet city flood protection standards) will restrict natural water flow. Staff has discussed this matter with the engineering department and they have indicated that the development must and will be designed to accommodate natural water flow across the development.

Staff is also aware that the neighboring property owner (Fred Hector) to the north of the subject property, via communication through counsel (Jonathon Garaas) at the January 13, 2010 Planning Commission meeting and at both the January 12 and February 9, 2010 Stanley Township Board of Supervisor meetings, was opposed to the preliminary plat because of potential exposure (right-of-way dedication/special assessments) his client may have to 70<sup>th</sup> Avenue South. While the original proposal included 50-feet of right-of-way dedication, which is typical, the petitioner has modified the final plat to include the entire 100-feet of right-of-way needed for the future roadway. Therefore, staff finds that the proposal will not adversely affect the condition or value of the property in the vicinity. **(Criteria Satisfied)**

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

The purpose of the LDC is to implement Fargo's Comprehensive Plan and related policies in a manner that

protects the health, safety, and general welfare of the citizens of Fargo. As indicated above, staff suggests that the proposed zone change is in keeping with adopted plans. Staff finds that the proposal is consistent with the purpose of the LDC, the applicable Growth Plan and other adopted policies of the City. **(Criteria Satisfied)**

**Subdivision**

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

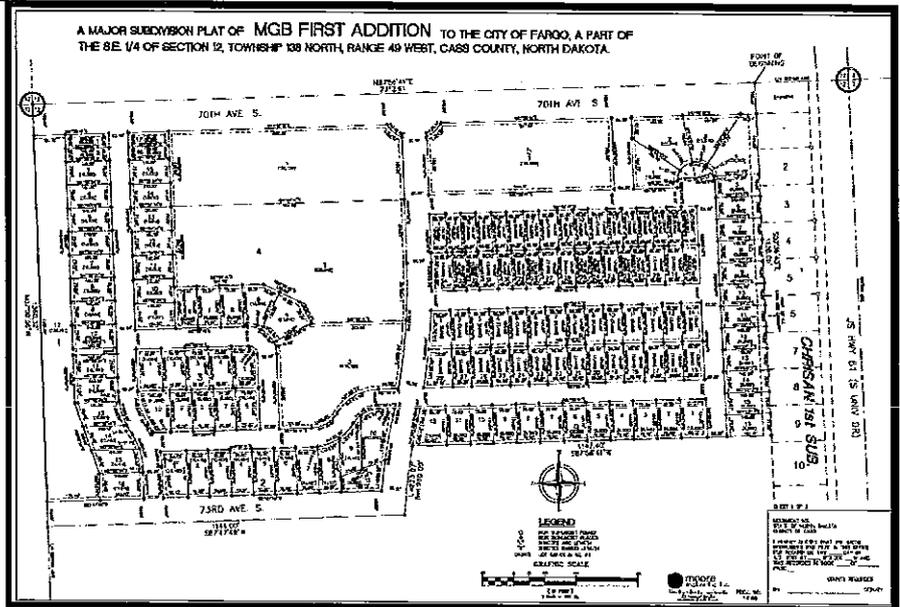


Figure 4

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.**

If the Growth Plan Amendment is accepted, the proposed subdivision is consistent with the Growth Plan. The plan supports residential land uses at this location. The petitioner is seeking the appropriate zone district classification to accommodate the proposed development. **(Criteria Satisfied)**

2. **Section 20-0907.C 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.C of the LDC further stipulates that the City Commission shall not approve a Major Subdivision Plat 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.**

Article 20-06 specifically addresses subdivision design and improvements. No deficiencies are noted in terms of availability of services, utilities, or access. Staff therefore finds that the proposal is in compliance the standards of Article 20-06. Staff further finds that the proposal complies with the adopted Area Plans, with the applicable zoning districts standards and all other applicable requirement of the Land Development Code **(Criteria Satisfied)**

3. **Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

An executed Amenities Plan will address the details of the final distribution of special assessments; but in general, the special assessments associated with the costs of the public infrastructure improvements are spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principals. **(Criteria Satisfied)**

**Update:**

On March 10, 2010, the Fargo Planning Commission recommended approval of the Growth Plan, Zone Change,

Major Plan as defined above with the stipulation that the Petitioner work with city staff to address an issue related to minimum lots sizes. In addition, concerns were raised about drainage and the elevation of the land. City Engineer Mark Bitter stated that there were a number of options available to the petitioner to provide flood protection. The petitioner indicated that he would work with the City staff to provide the best option for flood protection. To that end, the petitioner has chosen to elevate the entire site in order to remove the subject property from the 100-year flood plan. As a result of this action, the property needs to be elevated to a point that it would create drainage issues with the neighboring subdivision to the east – Chrisan 1<sup>st</sup> Subdivision. To mitigate this issue the proposed subdivision was reconfigured to establish Lot 15, Block 9 as a buffer area. While the subdivision was reconfigured to address these concerns, the overall scope (area, number of lots and type of zone district classification) of the project is for the most part unchanged or reduced. The following is a description of the duly advertised request for a Growth Plan Amendment, Zone Change and Subdivision Plat being presented to the City Commission for final approval:

Revised petition 1) a Growth Plan Amendment from Low-Medium residential density to Medium-High residential density on a Lots 1 & 2, Block 4, and all of Block 5 of the proposed MGB First Addition, and 2) a Zoning Change from AG, Agricultural to MR-1, Multi-Dwelling on Lot 2, Block 4; MR-3, Multi-Dwelling on Lot 1, Block 4 and all of Block 5; SR-2, Single-Dwelling on Lots 3 -16, Block 1, and Lots 4-15, Block 4, and all of Blocks 2, 3, 7, 8, and 9; to SR-4, Single-Dwelling on Lots 1 & 2, Block 1, and Lots 16 & 17, Block 4, and all of Block 6; and P/I Public Institutional on Lot 17, Block 1, and Lot 3, Block 4, all of the proposed MGB First Addition, and 3) a Plat of **MGB First Addition** (Major Subdivision) a part of the Southeast Quarter of Section 12, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota.

**Planning Commission Recommendation: March 10, 2010**

Ms. Palmes moved the findings and recommendations of staff be accepted and recommend to the City Commission: 1) Approval of the Growth Plan Amendment, as presented, as it is consistent with and serves to implement adopted plans and policies of the City; 2) Approval of the proposed Major Plat, MGB First Addition, as presented, as it meets the standards of Article 20-06, the Growth Plan, and other applicable standards of the Land Development Code; and 3) Approval of the Zone Change, as presented, as it meets the standards of Section 20-0906.F (1-4), the Growth Plan and other applicable standards of the Land Development Code with the condition that the correction be made to the lot sizes of the block in question. Second by Mr. Morrau. On call of the roll Members Ulferts-Stewart, Wiley, Palmes, Miller, Morrau, Slagle, and Paulsen voted aye. Absent and not voting: Members Fremstad and Steffes. The motion was declared carried.

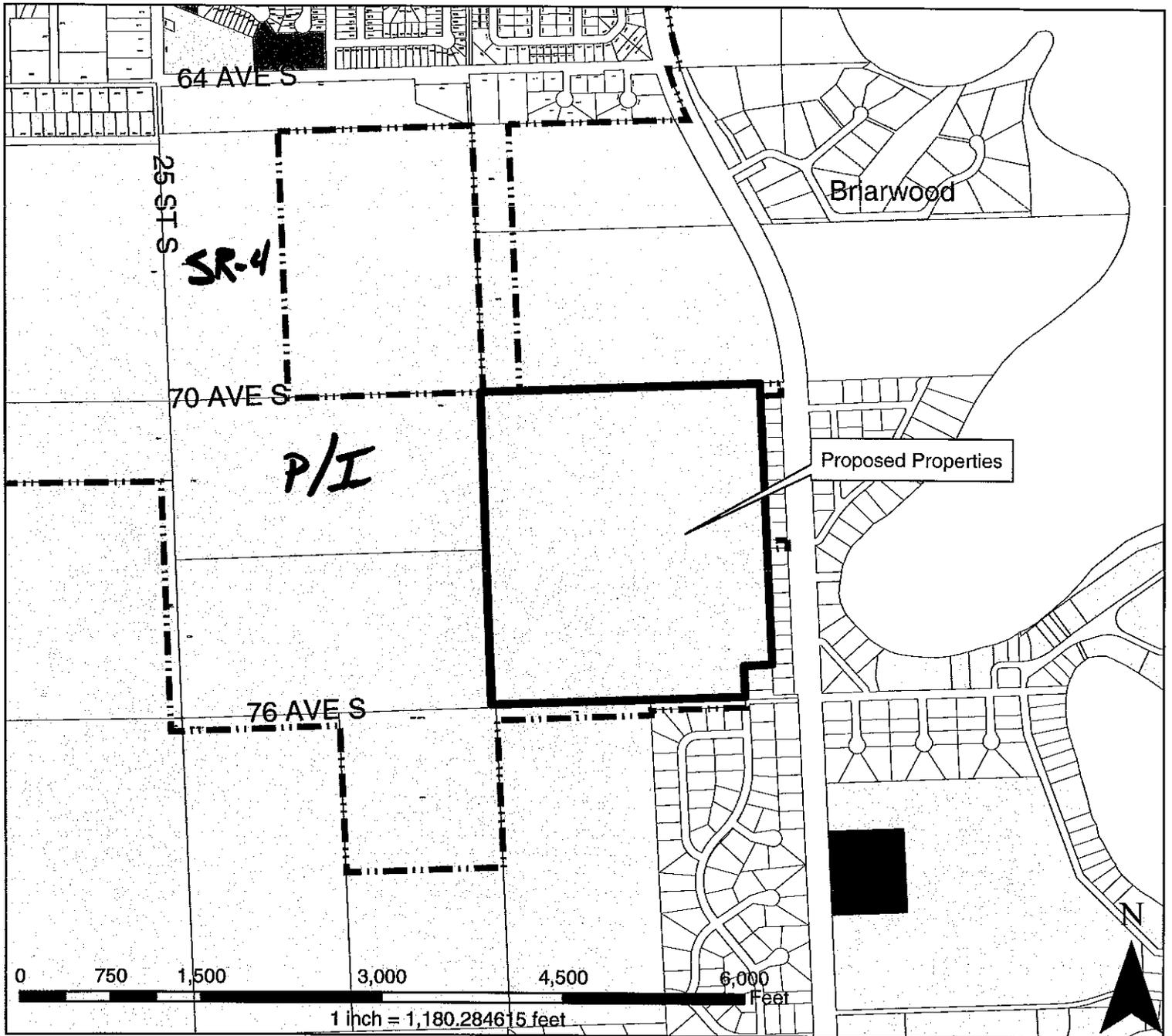
**Staff Recommendation:**

To hereby accept the findings and recommendations of staff and the Planning Commission and hereby move for 1) Approval of the Growth Plan Amendment, as presented, as it is consistent with and serves to implement adopted plans and policies of the city; 2) Approval of the Zone Change, as presented, as it meets the standards of Section 20-0906.F (1-4), Growth Plan and other applicable standards of the LDC; and 3) Approval of the propose Major Plat, MGB First Addition, as presented, as it meets the standards of Article 20-06, Growth Plan and other applicable standards of the LDC.

**City Commission Decision: June 1, 2010**

# Growth Plan Amendment, Plat (Major Subdivision) & Zoning Change MGB First Addition

1637 76 Ave S



## Legend

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



**Fargo Planning Commission**  
March 10, 2010

# Growth Plan Amendment, Plat (Major Subdivision) & Zoning Change MGB First Addition

1637 76 Ave S



Fargo Planning Commission  
March 10, 2010

A MAJOR SUBDIVISION PLAT OF MCB FIRST ADDITION TO THE CITY OF FARGO, A PART OF THE S.E. 1/4 OF SECTION 12, TOWNSHIP 138 NORTH, RANGE 49 WEST, CASS COUNTY, NORTH DAKOTA.

12 7  
12 7

12 12  
12 12

SECTION LINE

US HWY 81 (S UNIV DR)

CHRISAN 1st SUB.

502°36'43"E  
1136.04'

14TH ST. S.

15TH ST. S.

16TH ST. S.

70TH AVE. S.

71ST AVE. S.

72ND AVE. S.

73RD AVE. S.

70TH AVE. S.

72ND AVE. S.

73RD AVE. S.

73RD AVE. S.

N87°56'41"E  
2512.61'

N87°56'41"E  
2512.61'

1360.32'  
N02°00'56"W

SHEET 1 OF 2

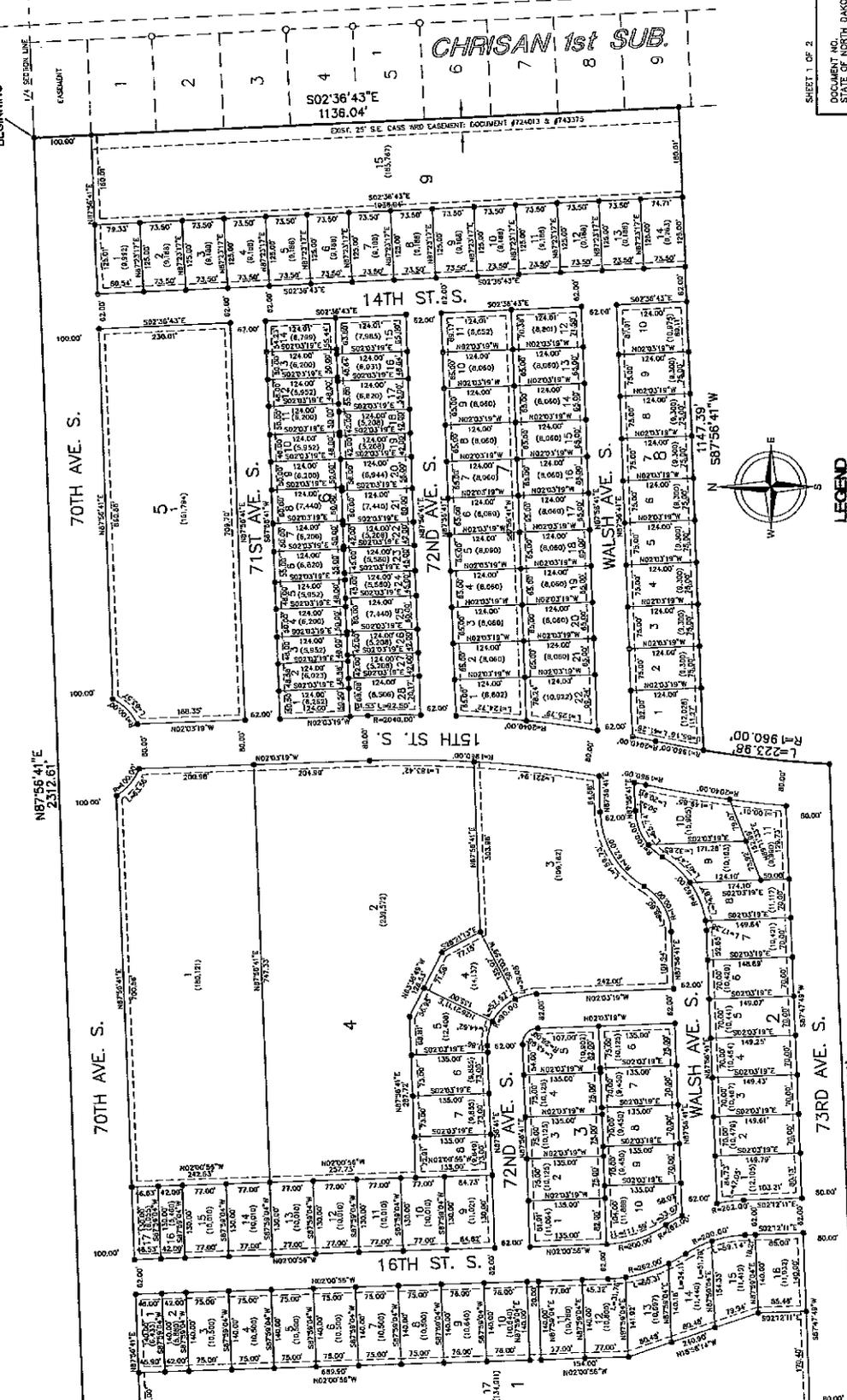
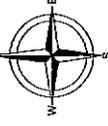
DOCUMENT NO. \_\_\_\_\_  
STATE OF NORTH DAKOTA  
COUNTY OF CASS  
I HEREBY CERTIFY THAT THE ABOVE  
INSTRUMENT WAS FILED IN THIS OFFICE  
ON \_\_\_\_\_ AT \_\_\_\_\_ AND  
WAS RECORDED IN BOOK \_\_\_\_\_ OF  
PAGE \_\_\_\_\_

COUNTY RECORDER  
DEPUTY

PROJ. NO.  
14168



LEGEND  
ALL UTILITY EASEMENTS ARE  
IRON MONUMENT FOUND  
IRON MONUMENT PLACED  
UNLESS OTHERWISE NOTED.  
D (1.000) LOT AREAS IN SQ. FT.  
GRAPHIC SCALE



A MAJOR SUBDIVISION PLAT OF MGB FIRST ADDITION TO THE CITY OF FARGO, A PART OF THE SE. 1/4 OF SECTION 12, TOWNSHIP 138 NORTH, RANGE 49 WEST, CASS COUNTY, NORTH DAKOTA.

CERTIFICATE

GREG MUND, BEING DULY SWORN, DEPOSES AND SAYS THAT HE IS THE REGISTERED PROFESSIONAL LAND SURVEYOR WHO PREPARED AND MADE THE ATTACHED PLAT OF "MGB FIRST ADDITION" TO THE CITY OF FARGO, A PART OF THE SOUTHEAST QUARTER (S.E. 1/4) OF SECTION TWELVE (12), TOWNSHIP ONE HUNDRED THIRTY EIGHT (138) NORTH, RANGE FORTY NINE (49) WEST, CASS COUNTY, NORTH DAKOTA. THAT HE IS A DULY LICENSED AND REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA AND HAS BEEN SHOWN THAT SAID ADDITION IS DESCRIBED AS FOLLOWS: TO WIT:

THAT PART OF THE SOUTHEAST QUARTER (S.E. 1/4) OF SECTION TWELVE (12), TOWNSHIP ONE HUNDRED THIRTY EIGHT (138) NORTH, RANGE FORTY NINE (49) WEST, CASS COUNTY, NORTH DAKOTA DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF CHRISAN FIRST SUBDIVISION OF THE SOUTHEAST QUARTER (S.E. 1/4) OF SAID SECTION TWELVE (12), SAID CORNER LYING ON THE NORTH LINE OF SAID SOUTHEAST QUARTER (S.E. 1/4); THENCE S 02°39'43" E ALONG THE WEST LINE OF SAID CHRISAN FIRST SUBDIVISION FOR A DISTANCE OF ONE THOUSAND ONE HUNDRED THIRTY SIX AND FOUR HUNDREDTHS (1,136.04) FEET; THENCE S 87°56'41" W PARALLEL TO THE NORTH LINE OF SAID SOUTHEAST QUARTER (S.E. 1/4) FOR A DISTANCE OF ONE THOUSAND ONE HUNDRED FORTY SEVEN AND THIRTY NINE HUNDREDTHS (1,147.39) FEET; THENCE SOUTHERLY ALONG A CURVE TO THE LEFT (R = 1,860.00', Δ = 06°32'51", CHORD BEARING = S 06°28'16" W) FOR AN ARC DISTANCE OF TWO HUNDRED TWENTY THREE AND NINETY EIGHT HUNDREDTHS (223.98) FEET; THENCE S 87°47'49" W PARALLEL TO THE SOUTH LINE OF SAID SOUTHEAST QUARTER (S.E. 1/4) FOR A DISTANCE OF ONE THOUSAND ONE HUNDRED FORTY FOUR (1,144.00) FEET TO A POINT ON THE WEST LINE OF SAID SOUTHEAST QUARTER (S.E. 1/4); THENCE N 02°00'36" W ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER (S.E. 1/4) FOR A DISTANCE OF ONE THOUSAND THREE HUNDRED SIXTY AND THIRTY TWO HUNDREDTHS (1,300.32) FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER (S.E. 1/4); THENCE N 87°56'41" E ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER (S.E. 1/4) FOR A DISTANCE OF TWO THOUSAND THREE HUNDRED TWELVE AND SIXTY ONE HUNDREDTHS (2,312.61) FEET TO THE POINT OF BEGINNING, AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD. SAID TRACT CONTAINS 66.39 ACRES, MORE OR LESS, AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.



GREG MUND  
REGISTERED PROFESSIONAL LAND SURVEYOR  
REG. NO. 2727

STATE OF NORTH DAKOTA )  
COUNTY OF CASS )  
ON THIS 12th DAY OF April 2010, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED GREG MUND, REGISTERED PROFESSIONAL LAND SURVEYOR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.



JAMES R. BULLIS  
Notary Public  
My Commission Expires: 01-14-15

DEDICATION

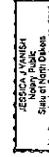
WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE LAND DESCRIBED IN THE PLAT OF "MGB FIRST ADDITION" TO THE CITY OF FARGO, A PART OF THE SOUTHEAST QUARTER (S.E. 1/4) OF SECTION TWELVE (12), TOWNSHIP ONE HUNDRED THIRTY EIGHT (138) NORTH, RANGE FORTY NINE (49) WEST, CASS COUNTY, NORTH DAKOTA; THAT WE HAVE CAUSED IT TO BE PLATTED INTO LOTS AND BLOCKS AS SHOWN BY SAID PLAT AND CERTIFICATE OF GREG MUND, REGISTERED PROFESSIONAL LAND SURVEYOR AND THAT THE DESCRIPTION AS SHOWN IN THE CERTIFICATE OF THE REGISTERED PROFESSIONAL LAND SURVEYOR IS CORRECT. WE HEREBY DEDICATE ALL STREETS, AVENUES, AND UTILITY EASEMENTS SHOWN ON SAID PLAT TO THE USE OF THE PUBLIC.

OWNERS: CAREFREEINVESTMENTS, LLC.



HEATHER HOERGER  
Notary Public  
My Commission Expires: 01-14-15

JAMES R. BULLIS, PRESIDENT  
STATE OF NORTH DAKOTA )  
COUNTY OF CASS )  
ON THIS 14th DAY OF April 2010, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED JAMES R. BULLIS, PRESIDENT OF CAREFREE INVESTMENTS, LLC, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF FIRST INTERNATIONAL BANK AND TRUST.



JESSICA VAUGHN  
Notary Public  
My Commission Expires: 01-14-15

STATE OF NORTH DAKOTA )  
COUNTY OF CASS )  
ON THIS 14th DAY OF April 2010, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED HEATHER HOERGER, VICE PRESIDENT OF FIRST INTERNATIONAL BANK AND TRUST, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME IN THE NAME OF FIRST INTERNATIONAL BANK AND TRUST.

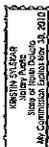


JESSICA VAUGHN  
Notary Public  
My Commission Expires: 01-14-15

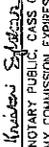
FARGO PLANNING COMMISSION APPROVAL

APPROVED BY THE FARGO PLANNING COMMISSION THIS 10th DAY OF March, 2010.

JOHN O. PAULSEN, CHAIR  
STATE OF NORTH DAKOTA )  
COUNTY OF CASS )



MARK BITTNER, CITY ENGINEER  
STATE OF NORTH DAKOTA )  
COUNTY OF CASS )



KAMBOUJ SPHARZA  
NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES: 11-30-12

ON THIS 14th DAY OF April 2010, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MARK BITTNER, CITY ENGINEER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.



KAMBOUJ SPHARZA  
NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES: 11-30-12

FARGO CITY COMMISSION APPROVAL  
APPROVED BY THE FARGO CITY COMMISSION THIS 10th DAY OF March, 2010.

DENNIS R. WALAKER, MAYOR  
STATE OF NORTH DAKOTA )  
COUNTY OF CASS )

STEVE SPRAGUE, CITY AUDITOR

ON THIS 14th DAY OF April 2010, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED DENNIS R. WALAKER, MAYOR, AND STEVE SPRAGUE, CITY AUDITOR, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN THE NAME OF THE FARGO CITY COMMISSION.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES: \_\_\_\_\_

COUNTY AUDITORS TAX RECORD

HEREBY CERTIFY THAT ALL TAXES AND SPECIAL ASSESSMENTS ON THE ABOVE PLAT ARE PAID AND TRANSFERS ENTERED.

MICHAEL MONTEPLAISIR, CASS COUNTY AUDITOR



PROJ. NO. 14168

SHEET 2 OF 2

DOCUMENT NO. \_\_\_\_\_  
STATE OF NORTH DAKOTA  
COUNTY OF CASS

I HEREBY CERTIFY THAT THE ABOVE INSTRUMENT WAS FILED IN THE PUBLIC RECORD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2010 AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M AND WAS RECORDED IN BOOK \_\_\_\_\_ OF PAGE \_\_\_\_\_

BY \_\_\_\_\_ COUNTY RECORDER  
DEPUTY \_\_\_\_\_

4d3

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
LYING IN MGB FIRST ADDITION, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on March 10, 2010; and,

WHEREAS, the rezoning changes were approved by the City Commission on June 1, 2010,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot Two (2), Block Four (4), MGB First Addition, situate in the County of Cass and State of North Dakota,

is hereby rezoned from "AG", Agricultural, District to "MR-1", Multi-Dwelling, District; and

Lot One (1), Block Four (4), and all of Block Five (5), MGB First Addition, situate in the County of Cass and State of North Dakota,

is hereby rezoned from "AG", Agricultural, District to "MR-3", Multi-Dwelling, District; and

Lots Three (3) through Sixteen (16), Block One (1); Lots Four (4) through Fifteen (15), Block Four (4); and all of Blocks Two (2), Three (3), Seven (7), Eight (8) and Nine (9), MGB First Addition, situate in the County of Cass and State of North Dakota,

is hereby rezoned from "AG", Agricultural, District to "SR-2", Single-Dwelling, District; and

Lots One (1) and Two (2), Block One (1); and Lots Sixteen (16) and Seventeen (17), Block Four (4); and all of Block Six (6), MGB First Addition, situate in the County of Cass and State of North Dakota,

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

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

1 Lot Seventeen (17), Block One (1); and Lot Three (3), Block Four (4), MGB First  
2 Addition, situate in the County of Cass and State of North Dakota,

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

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

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

8 \_\_\_\_\_  
9 Dennis R. Walaker, Mayor

10 (SEAL)  
11 Attest:

12 \_\_\_\_\_  
13 Steven Sprague, City Auditor

14 First Reading:  
15 Second Reading:  
16 Final Passage: