



Aaron Nelson, AICP Director of Planning and Zoning
Leslie McGillivray-Rivas, Sr. Planner
Lisa Sankey, Planner
Breanna Siegler, Office Manager

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West Fargo Planning & Zoning Commission Agenda
Tuesday, March 12, 2024 - 5:30 p.m.

- A. Call to Order
- B. Approval of Order of Agenda
- C. Approval of Minutes- February 13th, 2024
- D. Regular Agenda
 - 1. Public Hearing-A24-1 Dakota Territory 14th Addition, a request for a Planned Unit Development at 1018 17 St E. to build townhouse style apartments (Lot 1, Block 1 of Dakota Territory 14th Addition) - Sankey (***continuation from February 13, 2024***)
 - 2. Public Hearing-A24-4 Zoning Ordinance Amendments to Title IV relating to off-street parking- McGillivray-Rivas
 - 3. Public Hearing- A24-5- Zoning Ordinance Amendments to Title IV relating to pool fencing- McGillivray-Rivas
 - 4. Public Hearing-A24-6 Zoning Ordinance Amendments to Title IV relating to backyard chickens- Sankey
- E. Non-Agenda Items
- F. Adjourn from Regular Agenda
- G. Discussion Agenda
 - 1. Proposed revisions to Title IV Ordinances regarding general subdivision provisions, nonconformities, and temporary signs.
- H. Adjourn from Discussion Agenda



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West Fargo Planning & Zoning Commission Meeting Minutes
Tuesday, February 13, 2024 - 5:30 p.m.

Members Present: Joe Kolb, Eric Dodds, Mike Thorstad, Kathi Schwan, Aleya Leibfried

Members Absent: Dave Gust

Others Present: Aaron Nelson, Lisa Sankey, Leslie McGillivray-Rivas, John Shockley, Breanna Siegler

Minutes Submitted by: Breanna Siegler, Office Manager

Meeting was called to order by Chair Kolb at 5:30pm. Commissioner Dodds motioned to approve the order of the agenda, Commissioner Leibfried seconded. No opposition. Motion passed.

Commissioner Leibfried moved and Commissioner Thorstad seconded a motion to approve the minutes from January 9, 2023. No opposition. Motion passed.

Chair Kolb opened a public hearing for A24-1 Dakota Territory 14th Addition, a request for a Planned Unit Development at 1018 17 St E. to build townhouse style apartments (Lot 1, Block 1 of Dakota Territory 14th Addition). Chair Kolb stated that this application will be continued until the March 12, 2024 meeting and asked for any public comment to come forward if present. No comments were brought forth. Chair Kolb closed the public hearing and confirmed application continuation until the March 12, 2024 meeting.

Chair Kolb opened a public hearing for A24-2 Sandhills 8th Addition a request for subdivision and zoning change from A to LI and P for an industrial development located West of 26th St NW and South of 4th Ave NW (Lots 1-2, 8-11, and Parts of 21-22 Block 4, Lots 3, 12-15 and 17-18 Block 5, Lots 5-9, 11-12 and 14-19 Block 8 and Lots 1-2 Block 9 of Meadow Brook Park Subdivision; Lot 1, Block 2 and Lot 1, Block 3, of Sandhills 3rd Addition; Lot 1, Block 1, of Sandhills 5th Addition; Lots 1-2 In Block 1, Lot 1, Block 2, Lots 1-2 In Block 3, of Sandhills 6th Addition; Lot 1, Block 1, of Sandhills 7th Addition). City staff offered clarification stating that some of the line work on the projected images in the packet do not reflect the recently approved Sandhills 6th and 7th Additions (the yellow lines). Planning Director Nelson also said that the details of Lots 7 and 8 are subject to change. With regards to public land dedication, the standard is 5% dedication based on land area. Some of the previous subdivisions have provided this and would be exempt from consideration in this subdivision. A land dedication agreement would be required, and staff recommend fee in-lieu of a park creation. The Park District has reviewed the future zoning and limited number of residential users and feels that creation of a park is not warranted in this location. Subdivision includes dedication for utility easements so that remaining residential properties would have an opportunity to tie in to city utilities. A signed subdivision agreement will be required. Staff recommends approval with conditions.

Commissioner Thorstad motioned to approve the subdivision and rezoning with the recommendations of staff. Commissioner Leibfried seconded. No opposition. Motion passed.

Chair Kolb opened the floor for non-agenda items. None were brought forth. Chair Kolb moved and Commissioner Leibfried seconded adjournment from the regular agenda. No opposition. Motion passed and the regular agenda was adjourned at 5:49pm.

Chair Kolb opened the discussion agenda. Planning Director Nelson brought forth proposed revisions to Title IV Ordinances, specifically regarding Off-Street Parking, Pool Fencing, and Backyard Chicken Keeping. The intent is to bring the proposed changes to the attention of the Planning & Zoning Commission before bringing formal changes to the agenda as actionable items. Director Nelson gave a summary of changes currently being considered (updating minimum parking standards based on physical aspects of building instead of number of employees on the largest shift, general formatting, reduction of off-street parking requirements, and allowing minor reduction requests to be handled at the administrative level (distinguished using specific criteria). Commissioner Thorstad asked if repair/mechanic shops should have a split category for type of repair (Firestone on 13th Ave and 9th St. vs. standard repair where vehicles stay on premises for extended period). Commissions brought forth suggestions for clarification and review.

Director Nelson introduced a first draft of an ordinance for backyard chickens. Title XI deals with animals but Title IV has some language that would need changes. Planning would work with the Police Department for this ordinance.

Director Nelson lastly spoke about a possible reduction in pool fence heights from 6ft to 4 or 5ft to match industry standards.

Commissioner Leibfried moved, and Commissioner Schwan seconded to adjourn from the discussion agenda. No opposition. Motion passed. Meeting adjourned at 6:42 pm.

Clarification from City Attorney Shockley was given regarding motions not being required after the discussion agenda items, only the regular agenda portion.

STAFF REPORT

A24-1 PLANNED UNIT DEVELOPMENT	
Dakota Territory 14 th Addition	
1018 17 th Street East (Lot 1, Block 1 of Dakota Territory 14 th Addition), City of West Fargo, North Dakota	
Owner: Menard Inc. Applicant: Brookstone	Staff Contact: Lisa Sankey
Concept Development Plans – Planning & Zoning Commission Public Hearing:	02-13-2024 – Continued 03-12-2024 –
Detailed Development Plans – Planning & Zoning Commission:	
Detailed Development Plans – City Commission:	

PURPOSE:

Development of residential townhomes within a Planned Unit Development.

STATEMENTS OF FACT:

Land Use Classification:	G-2: Sub-Urban Growth Sector
Existing Land Use:	Vacant
Current Zoning District(s):	PUD: Planned Unit Development
Zoning Overlay District(s):	n/a
Total area size:	3 Acres
Adjacent Zoning Districts:	North – R-1: One and Two Family Dwellings South – PUD: Planned Unit Development (Commercial) East – City of Fargo West – PUD: Planned Unit Development (Residential)
Adjacent street(s):	10 th Avenue East (Local); 17 th Street East (Collector)
Adjacent Bike/Pedestrian Facilities:	Existing along 10 th Ave E and 17 th St E
Available Parks/Trail Facilities:	The development is near West Fargo High School fields and Veterans Memorial arena and within ½ mile from the Meadowridge Park facility accessible by sidewalks.
Park Dedication Requirements:	n/a

DISCUSSION AND OBSERVATIONS:

- The applicant submitted an application and concept plans for proposed townhouses for a PUD: Planned Unit Development.
- A similar development was approved for the property to the west in 2016.
- Concept plans with setbacks, show seven three-unit and six two-unit townhomes. The units will be 1,446 square foot, 4 bedroom, 3 bath, den and living room space with attached two stall garages for a total of 33 units within 13 separate structures.
- The applicant is requesting a reduction of the 25-foot front yard setback to 20 feet, to line up with the buildings to the west.
- The applicant indicated they intend to have decks for all the units.

STAFF REPORT

- Concept plans also include 66 garage and 66 parking spaces in front of the garages, as well as additional nine spaces of overflow parking, for a total of 75 spaces, which exceeds the requirements of City Off-Street Parking regulations found in 4-450 of the City Ordinances.
- The private access easement will be signed with no parking and the access drive will remain clear.
- Public works indicated that in order for trash pickup for the three units to the southwest, tenants will have to set their trash cans further to the north along the private access/driveway. The applicant is aware of this.
- A 20-foot landscape buffer will be provided along the north side of the lot.
- A six-foot opaque single color fence will be located along the east side of the property to screen the view of rear yards of those properties.
- The property would access 10th Avenue East in two locations which allows for multiple access points and the ability to loop utility services, as well as a 40' access/utility easement along 17th Street East.
- There is a shared access easement on the north property line adjacent to 10th Avenue East on the lot to the west, which they intend to utilize for the west access. Despite common ownership for the development, two separate tax parcels (lots) exist, and the city will need confirmation of either an access easement or agreement between the two lots, as ownership could change in the future. The applicant indicated they will provide an agreement.
- At the time it was platted, 10th Avenue East was considered a collector roadway with access control shown on the recorded plat along 10th Avenue East and 17th Street East, as per an agreement between Menards, City of Fargo and West Fargo. Tenth Avenue East, has since been removed as a collector from the functional classification and would no longer require such access control; however, the access control is still shown on the recorded plat.
- The developer has submitted a construction schedule noting that they would likely start construction in summer of 2024 with expected completion by late winters/early spring 2025.

NOTICES:

Sent to:	Property owners within 150' and applicable agencies and departments
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Comments Received:

- | |
|---|
| <ul style="list-style-type: none"> • None to date. |
|---|

CONSISTENCY WITH COMPREHENSIVE PLAN AND OTHER APPLICABLE CITY PLANS AND ORDINANCES:

- The mix of housing types and increased densities will increase the diversity of the neighborhood housing stock consistent with goals of the Comprehensive Plan's Action Plan Big Idea to "Strengthen Neighborhoods and Expand Housing Choice".
- The proposed application is consistent with the City plans and ordinances.

RECOMMENDATIONS:

Staff recommends approval of the Concept Development Plans, subject to the seven conditions listed below:

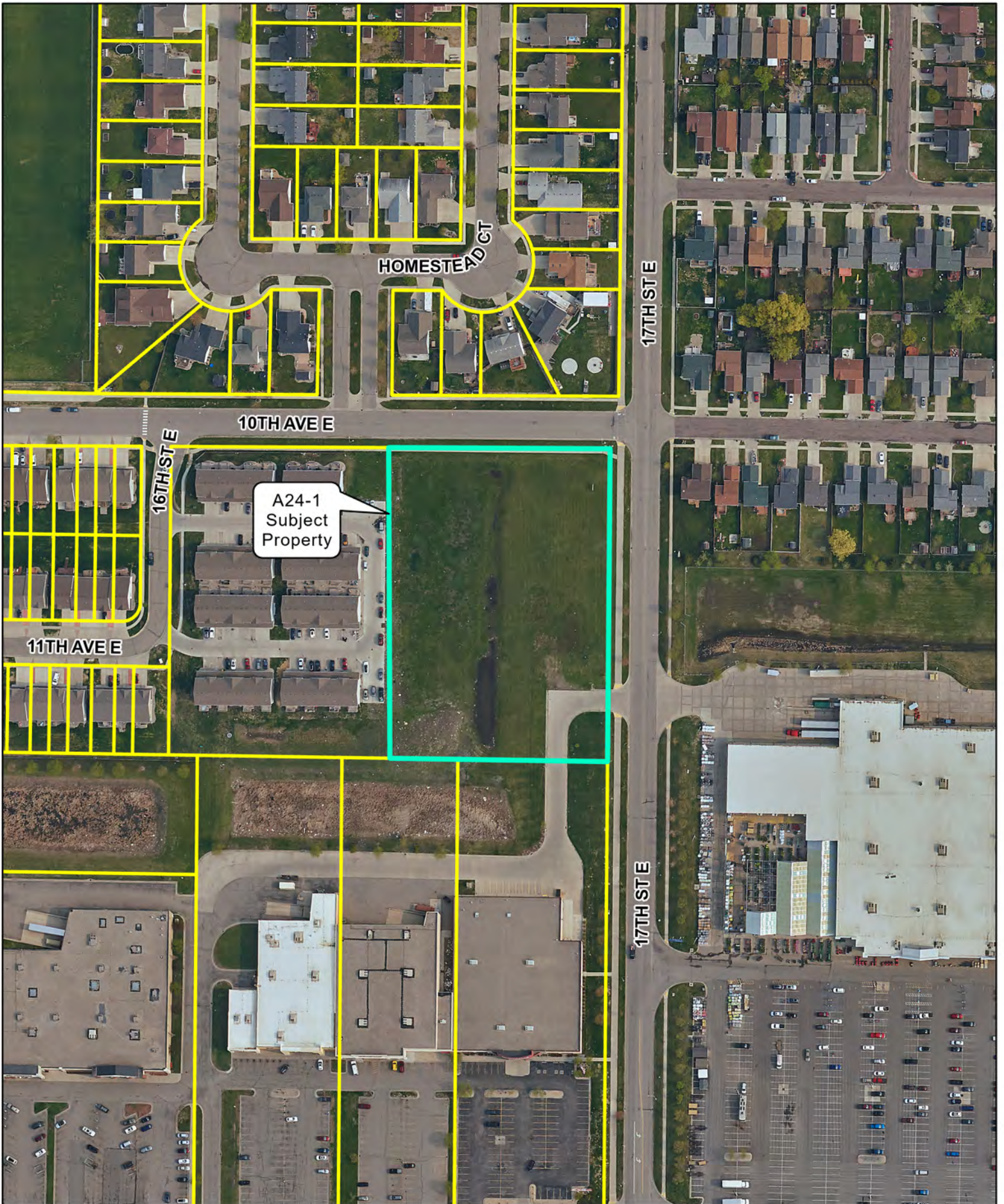
1. Site shall conform to R-3: Multiple Dwellings District regulations as the underlying district standards, unless otherwise indicated and approved with the Detailed Development Plan.

STAFF REPORT

2. A 6-foot tall opaque fence shall be installed along the east lot line to screen the public right-of-way from the rear of the proposed buildings.
3. A landscape buffer shall be planted between the north property line and the buildings located along 10th Avenue E.
4. Balconies/Decks shall be shown on the Detailed Development Plan with setbacks delineated.
5. A drainage and utility plan is approved by the City Engineer.
6. A signed PUD agreement is received and approved in conjunction with the Detailed Development Plan.
7. An access easement or signed agreement between Lots 1 & 2, Block 1, Dakota Territory 14th Addition is established to ensure legal access to all units, as ownership could change in the future.
8. Detailed Development Plans will be subject, but not limited, to provisions of Sections 4-440 Supplementary District Regulations, Section 4-449-A Landscaping Standards, 4-450 Off-Street Parking and Loading Requirements, and 4-460 Sign Regulations.

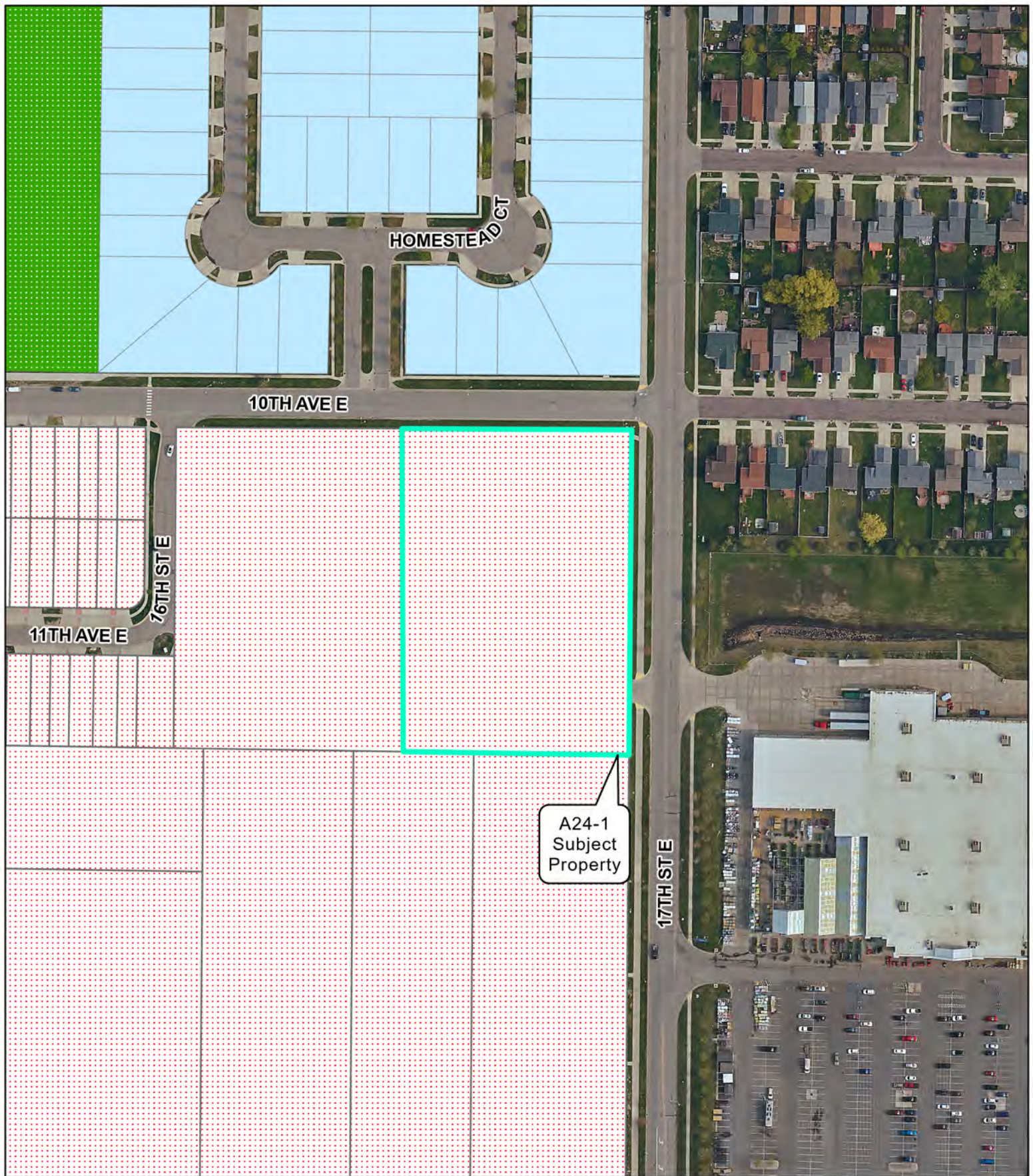
Attachments

1. Aerial map
2. Zoning map
3. Concept Development Plans (Site and Elevations)



Features

Agenda Zone Lots



West Fargo Zoning

A: Agricultural

C: Light Commercial

C-OP: Commercial Office Park

DMU: Downtown Mixed Use

EMU: Entertainment Mixed Use

HC: Heavy Commercial

LI: Light Industrial

M: Heavy Industrial

P: Public

PUD: Planned Unit Development

R-L1A: Large Lot Single Family Dwelling

R-1A: Single Family Dwelling

R-1: One and Two Family Dwelling

R-1SM: Mixed One and Two Family Dwelling

R-2: Limited Multiple Dwelling

R-3: Multiple Dwelling

R-4: Mobile Home

R-5: Manufactured Home Subdivision

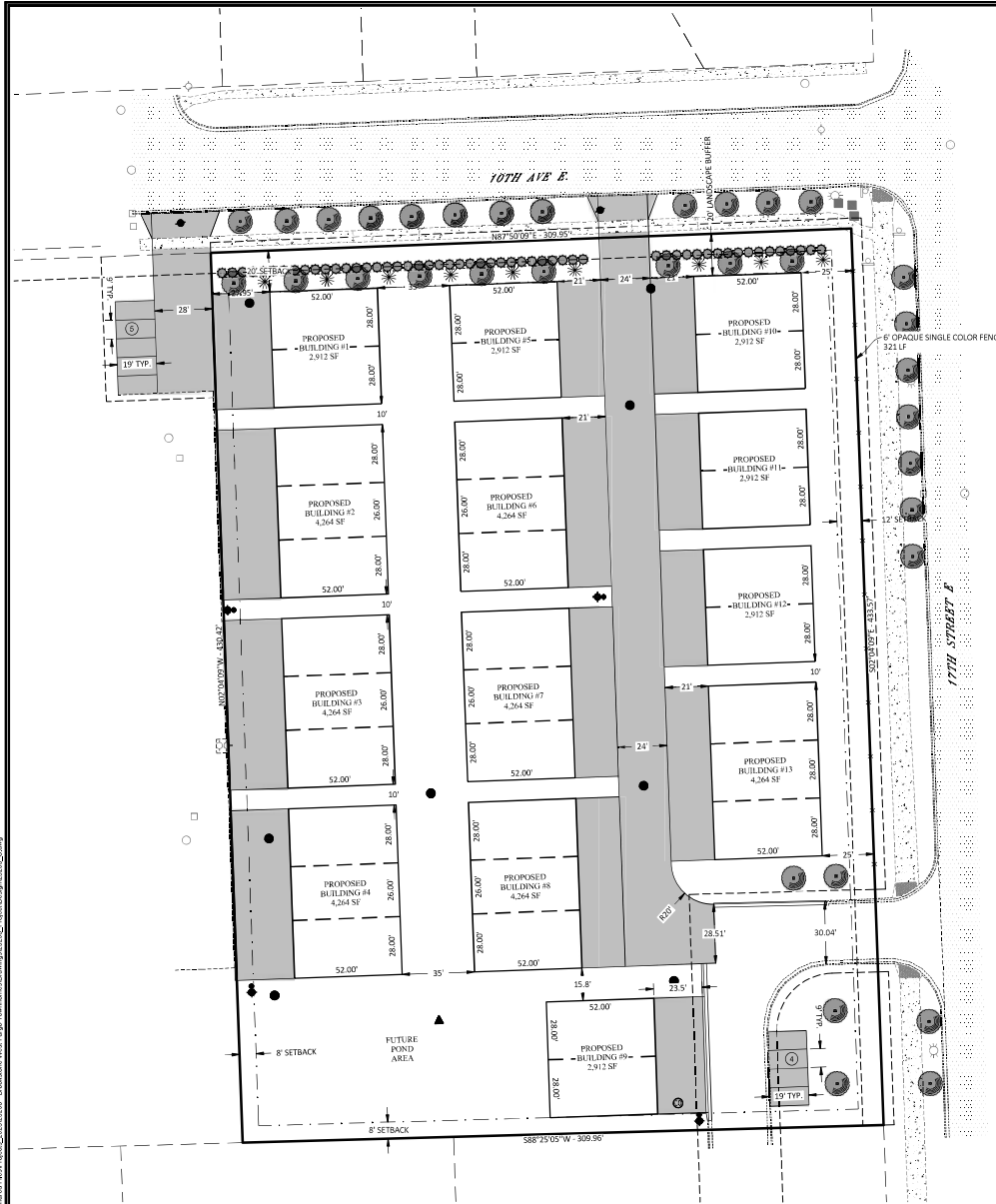
R-1E: Rural Estate

R-R: Rural Residential



0 150 300
US Feet

02/22/24 03:35:14M.Z. Lowry Shared BldgPlan_2025032318 - Breakdown West Fargo TownhomeCampus2320L_PrelimDesign032018_C.dwg

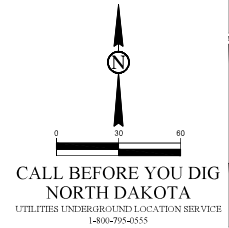


ESTIMATED SITE QUANTITIES		
ITEM	QUANTITY	UNIT
CONCRETE PAVEMENT - 6"	3,800	SY
SUBGRADE PREP	3,930	SY
NDDOT TYPE R1 GEOTEXTILE FABRIC	3,930	SY
NDDOT CLASS 5 AGGREGATE/CRUSHED CONCRETE (6" DEPTH)	660	CY
CURB AND GUTTER	130	LF
6" OPAQUE SINGLE COLOR FENCE	321	LF

ESTIMATED WATER QUANTITIES		
ITEM	QUANTITY	UNIT
LIVE TAP EX. WATER MAIN	3	EA
6" PVC C-900 WATER MAIN	832	LF
6" GATE VALVE	3	EA
HYDRANT	3	EA
1" MUNICIPEX WATER SERVICE	910	LF
1" CURB STOP	33	EA
WATER SERVICE CONNECTION	33	EA

ESTIMATED SANITARY QUANTITIES		
ITEM	QUANTITY	UNIT
CONNECT TO EX. SANITARY STRUCTURE	1	EA
8" SDR 35 SANITARY MAIN	311	LF
6" SDR 35 SANITARY MAIN	653	LF
48" STANDARD SANITARY MANHOLE	5	EA
6" SANITARY CLEANOUT	1	EA
4" SCHD 20 SANITARY SERVICE	813	LF
SANITARY SERVICE CONNECTION	33	EA

ESTIMATED STORM QUANTITIES		
ITEM	QUANTITY	UNIT
15" HDPE STORM PIPE	184	LF
18" HDPE STORM PIPE	103	LF
24" RCP STORM PIPE	111	LF
48" MANHOLE/MANHOLE INLETS	3	EA
24" FLARED END SECTION	1	EA





ENGINEERING
5306 51ST AVENUE SOUTH SUITE A
FARGO, NORTH DAKOTA 58104

MISSION POINT TOWNHOMES
1018 17TH ST E
WEST FARGO, ND

PRELIMINARY
NOT FOR
CONSTRUCTION

LE JOB # 232008
PROJECT DATE: 12/07/2023
CHECKED BY: AJT
DRAWN BY: SAS
APPROVED BY: AJT

OVERALL
SITE
PLAN

C-4

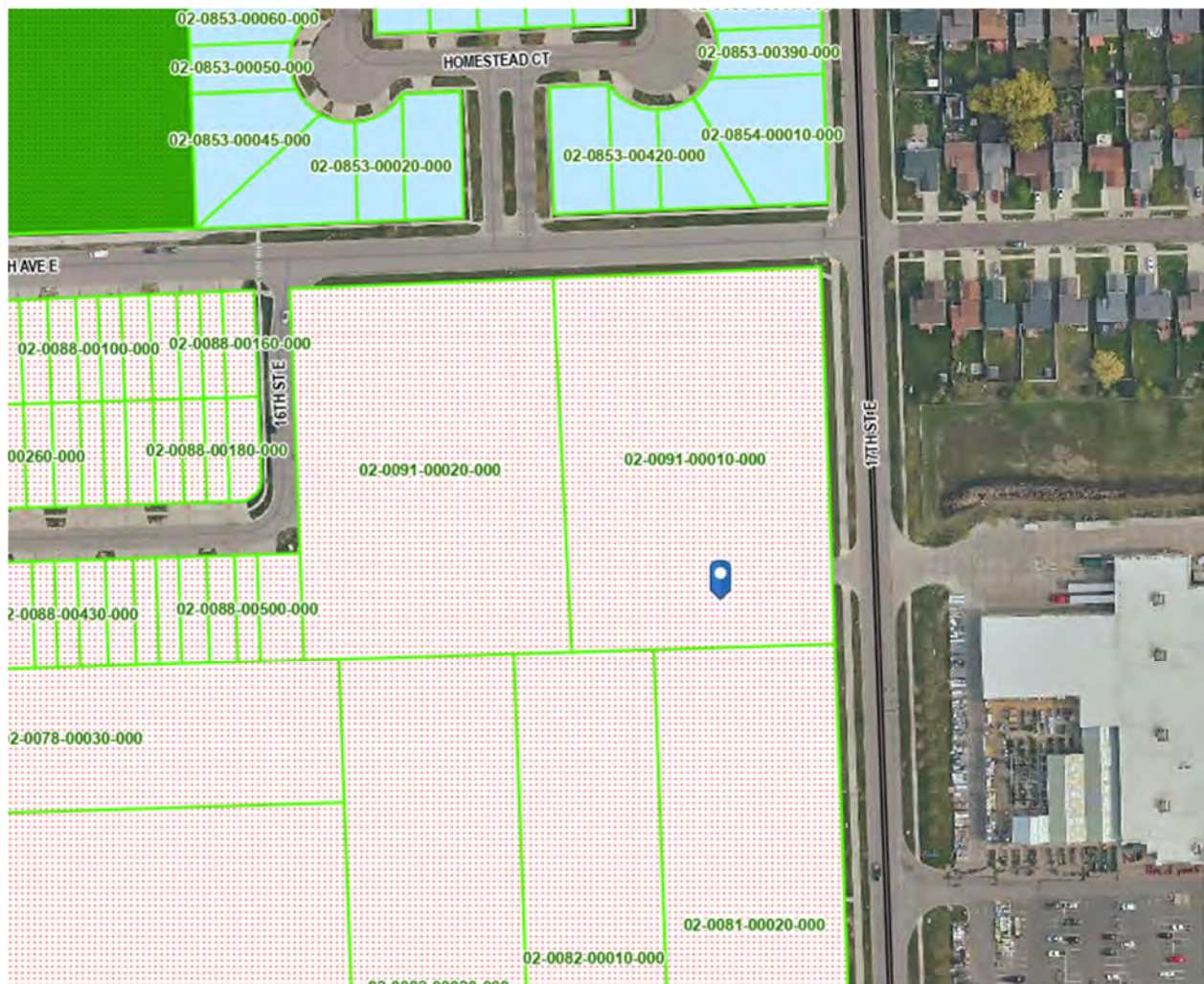
Concept Development Plan Submittal

Address: 1018 17th St E

Legal Description: Lot 1 Block 1 of Dakota Territory Fourteenth Addition

General Character: We intend to build a variety of twinhomes and 3-plexes with a total of 13 buildings, or 33 units on this lot. We intend to add overflow parking that will not only benefit this project, but also our townhome development to the west. This project will be similar in nature to that development. We will be tying into the current road in the southeast corner and adding two additional roads for egress onto 10th Avenue E.

Land Uses: To the north and northeast of the site there is low-density residential. To the east and south, there is commercial land use. To the west there is residential land use.



Site Plan & Plans: Please see the attached site plan showing the building layout, roads, overflow parking, pond, along with the site coverage chart.

Details of the proposed buildings are as follows-

Twinhomes: These buildings would measure 56' wide by 48'-8" deep. This will be a 3-level split design with 4 bedrooms, 3 bathrooms, 2 living rooms, and an attached 2 stall garage. Preliminary drawings are attached.

3-Plex: These buildings would measure 82' wide by 48'-8" deep. These would be a 3-level split design with the two outside units matching the layout of the twinhome. The interior unit would consist of 4 bedrooms, 3 bathrooms, a den, 1 living space, and an attached 2 stall garage.

Schedule: We plan to build this development out in one phase. We would start construction in the Spring of 2024 with the completion date of Spring 2025.

Reason for PUD Amendment: We are seeking the PUD amendment for the benefit of efficient use of land and for the site to be cohesive with the adjoining site to the west. By changing the front setback of the lot to 20' rather than 25', we can achieve the number of units we are proposing on the site plan attached. Without the setback at 20', we would be losing density to the site. We want to make the site as efficient as possible while maintaining a similar look to the site to our west.

We appreciate your time reviewing this proposal and look forward to further discussion.

Thank you,

Miranda Bergdahl
Design Lead
Brookstone Property

No.	Description	Code
1	TRUSS BEARING	117-10 3/8"
2	PARTY WALL	30603
3	GARAGE WALL	30603

2 UNIT TWINHOME
3 LEVEL SPLIT - 4 BEDROOM / 2 STALL GARAGE
FARGO, ND

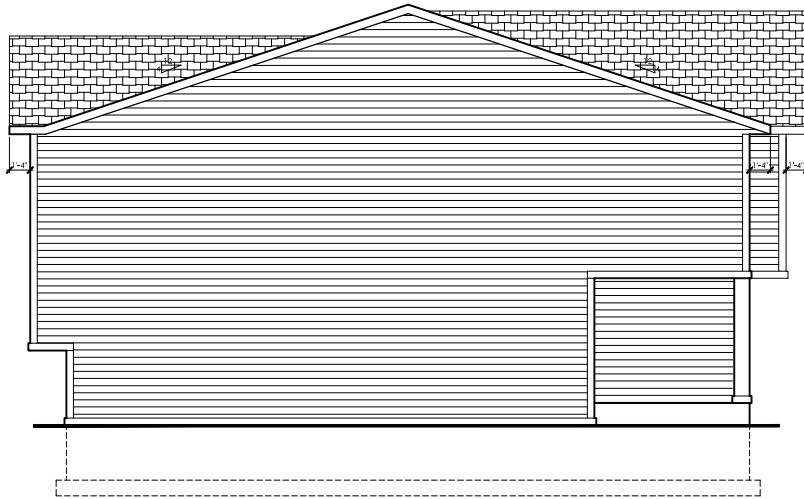
DATE: 05-1-2021
PROJECT: 117

PHASE:
CONSTRUCTION
DOCUMENTS

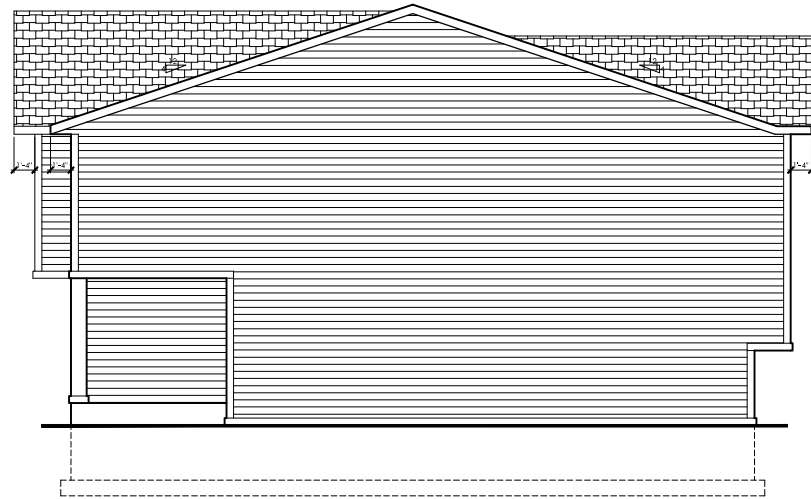
A300

EXTERIOR
ELEVATIONS

NOTE:
SEE DETAIL 1/A300
AND 3/A400
FOR MATERIALS
NOT INDICATED



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

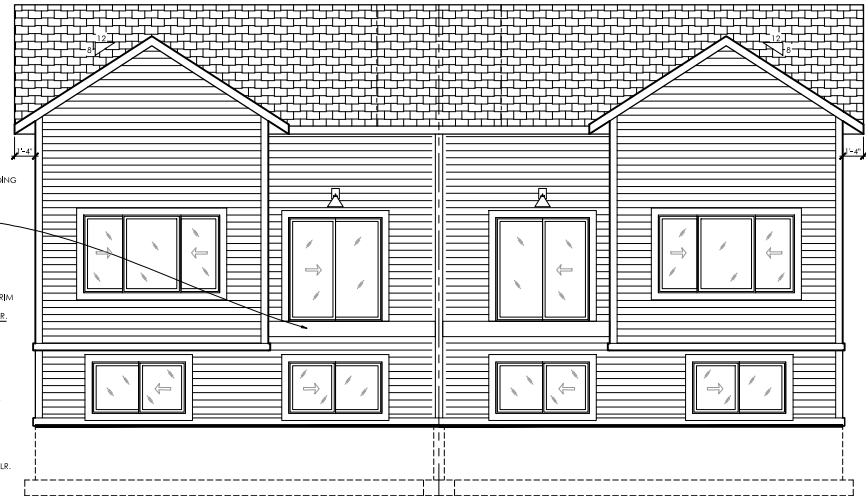


3 EAST ELEVATION
SCALE: 1/4"=1'-0"

NOTE:
SEE DETAIL 1/A300
AND 3/A400
FOR MATERIALS
NOT INDICATED



2 SOUTH ELEVATION
SCALE: 1/4"=1'-0"



1 NORTH ELEVATION
SCALE: 1/4"=1'-0"

- ASPHALT SHINGLES
- FASCIA
- TRUSS BEARING
EL=117'-10 3/8"
- BOARD & BATTEN SIDING
- DECK
- 3RD LEVEL FIN. FLR.
EL=109'-4 1/4"
- HORIZONTAL SIDING
- DOOR & WINDOW TRIM
- UPPER LEVEL FIN. FLR.
EL=105'-3 3/8"
- 12X12 COLUMN
- CORNER TRIM
- HORIZONTAL SIDING
ENTRANCE FIN. FLR.
EL=100'-0"
- LOWER LEVEL FIN. FLR.
EL=95'-7 1/2"

STAFF REPORT

A24-5 Zoning Ordinance Amendments	
Zoning Ordinance Amendment §4-450 Off Street Parking	
Applicant: City of West Fargo	Staff Contact: Leslie McGillivray-Rivas
Planning & Zoning Commission Introduction:	February 13, 2024
Planning & Zoning Commission Public Hearing:	March 12, 2024
City Commission Public Hearing & 1 st Reading	
City Commission 2 nd Reading	

PURPOSE:

Amendments to Chapter IV Zoning Ordinance specific to Off Street Parking

DISCUSSION AND OBSERVATIONS:

- In 2022, a Planning Needs Assessment was initiated for the City of West Fargo Planning Department to establish priority and strategy of projects, assess the City's long-range planning and development related issues. Updates to the parking regulations were identified within the assessment and were identified as a short-term goal. To support this assessment, both the Downtown West Fargo Framework Study and West Fargo 2.0 were cited noting they each stated a need for Title IV parking amendments.
- The 2024, the recently adopted Downtown Placemaking Master Plan identified transportation and parking as key issues. The current zoning requirements for parking were specifically identified as a need to be updated to support the vision for changes to Downtown West Fargo. Within this context, the 2016 Sheyenne Street Corridor Study Phase II was cited:
 - o "At any point of the day, whether weekday or weekend, drivers are likely to find a parking surplus at any location along the corridor....This suggests that current parking requirements may be too high".
- The 2018 Fargo/West Fargo Parking and Access Plan includes recommendations regarding off-street parking standards and is included for your review. This study elaborates a diverse mix of recommendations including how to "Right-Size" parking.
- Off-Street Parking Regulations
The off-street parking regulations of Section 4-450 is proposed to be modified in the following ways:
 - 1) Restructuring of the content for purposes of clarity and ease of use— including structured headings and subheadings.
 - 2) Updating of minimum parking standards:
 - a. To be based on measurable metrics such as floor area as opposed to other metrics such as number of staff for a given business.
 - b. To calibrate minimum parking standards in relation to peer cities and modern best practices, including a slight general reduction in City-mandated parking.
 - 3). Updating of parking reduction options:
 - a. Administrative approval of minor reductions
 - b. Planning & Zoning approval of major reductions.

STAFF REPORT

CONSISTENCY WITH COMPREHENSIVE PLAN AND OTHER APPLICABLE CITY PLANS AND ORDINANCES:

The Proposed text amendments are consistent with City Plans and ordinances

RECOMMENDATIONS:

It is recommended that the City approve the proposed amendment.

Attachments:

- Draft of the proposed updates to §4-450
- Current regulations for §4-450
- 2018 Fargo/West Fargo Parking and Access Plan



§4-450 Off-Street Parking and Loading Regulations

4-450 Purpose

This section establishes regulations for the provision of safe and efficient parking, stacking, and loading facilities in West Fargo, in amounts sufficient to meet existing and/or proposed development, while balancing these needs against equally important safety, environmental, and aesthetic considerations. This section is intended to help protect the public health, safety, and general welfare by:

- A. Avoiding and mitigating traffic congestion in the streets;
- B. Avoiding and mitigating the adverse visual and environmental impacts of large concentrations of exposed parking;
- C. Reducing stormwater runoff, reducing heat island effect from large expanses of pavement, improving water quality, and minimizing dust pollution;
- D. Providing necessary access for service and emergency vehicles;
- E. Providing for safe and convenient interaction between vehicles and pedestrians; and
- F. Providing flexible methods of responding to the transportation and access demands of various land uses in different areas of the city.

4-451 Applicability

4-451.1 New Development

All new development shall provide off-street parking, stacking, and loading areas in accordance with the standards of this section, unless otherwise exempt by this code.

4-451.2 Expansion or Enlargement

- A. Any expansion or enlargement of an existing structure that results in an increase of floor area of greater than 20 percent, or any increase in the number of dwelling units, shall be required to provide additional parking spaces in proportion to the extent of the expansion or enlargement, as required by Table 4-1.
- B. Additional off-street parking and loading spaces shall be required only to serve the enlarged or expanded area, not the entire building or use.

4-451.3 Change of Use

When a new use or combination of uses requires 20 percent more parking than the previous use or combination of uses, the new use or combination of uses shall provide additional parking spaces in proportion to the increase, as required by Table 4-1.

4-452 Parking and Loading Plan Required

- A. Plans for improved, new, or expanding off-street parking spaces and/or private driveways shall be prepared and submitted to the City Building Administrator and City Planner for review and approval.
- B. Before approving any private driveway or parking layout, the Building Administrator and City Planner shall verify that the driveway and/or spaces provided are usable and meet standard design criteria, as described in this ordinance.

4-453 Required Off-Street Parking

4-453.1 Minimum Requirement

Unless otherwise specified by this section, all development shall provide off-street parking in compliance with Table 4-1, Minimum Required Off-Street Parking Spaces.

4-453.2 Accessible Spaces Required

Accessible off-street parking for persons with disabilities must be provided in accordance with the International Building Code, as contained within Title V of the City Ordinances. No reductions or adjustments to ADA-mandated accessible spaces are permitted.

4-453.3 Unlisted Uses

For uses not expressly listed in Table 4-1, the City Planner shall have the authority to make the following determinations:

- A. Apply the minimum off-street parking space requirement specified in Table 4-1 for the listed use that is deemed most similar to the proposed use (based on operating characteristics, the most similar related occupancy classification, or other factors determined by the City Planner); or
- B. Establish the minimum off-street parking space requirement by reference to standards in parking resources published by the National Parking Association, American Planning Association, or the Institute of Transportation Engineers (ITE) Parking Generation Manual.

Table 4-1: Minimum Required Off-Street Parking Spaces

DU = DWELLING UNIT

SQ FT = SQUARE FEET (SQUARE FOOTAGE OF GROSS INDOOR FLOOR AREA, UNLESS OTHERWISE INDICATED)

Proposed Requirement	
Residential Uses	
Dwelling, multi-family	Efficiency/studio & 1 bedroom: 1 per DU 2 or more bedrooms: 2 per DU
Dwelling, single-family	2 per DU
Civic and Institutional Uses	
Community and Cultural Facilities	
Day or nursery school, child care center	1 per 500 sq ft
Library or Museum	1 per 500 sq ft

Table 4-1: Minimum Required Off-Street Parking Spaces

Group assembly spaces (e.g., exhibition hall, church, sports arena, theatre, auditorium)	1 per 5 persons of max. seating capacity in main assembly space
Educational Facilities	
Elementary and junior high school	1 per classroom PLUS 1 per 400 sq ft of office area
High school	10 per classroom PLUS 1 per 400 sq ft of office area
College, trade, and vocational school	1 per 300 sq ft of academic space PLUS 1 per 400 sf of office area
Health Care Services	
Clinic, medical or dental	1 per 250 sq ft
Hospital	1 per 2 beds
Nursing home	1 per 4 beds
Recreation and Entertainment	
Recreation, indoor	Bowling, axe-throwing or similar use: 1 per lane Theaters, auditoriums, arenas, stadiums, or similar use: 1 per 5 seats in main assembly areas; if no seating, 20 percent of maximum capacity Playing/sports surfaces with no fixed seating: 10 per field; 4 per ice rink; 2 per court Other uses not listed separately: 1 per 400 sq ft indoor area
Recreation, outdoor	Playing/sports surfaces with fixed seating: 1 per 5 seats Playing/sports surfaces with no fixed seating: 10 per field; 4 per ice rink; 2 per court Outdoor theaters, stadiums, or similar uses: 1 per 5 seats in assembly areas; if no seating, 20 percent of maximum capacity Golf, miniature golf, or driving range: 4 spaces per golf hole; 2 spaces per miniature golf hole; and 1 space per 2 driving bays. Other uses not listed separately: 1 per 1,000 sq ft of outdoor recreation area
Commercial Uses	
Generally	
If not otherwise specified	1 per 400 sq ft
Food and Beverage Uses	
Eating and drinking establishments, tavern, night club, or lounge	1 per 100 sq ft
Fast food restaurant	1 per 100 sq ft With drive-through: 3 stacking spaces from point of placing order
Lodging Uses	
Hotel or motel	1 per guest room PLUS 50 percent of the spaces otherwise required for accessory uses (e.g. restaurants and bars)

Table 4-1: Minimum Required Off-Street Parking Spaces**Office and Services**

Bank or financial institution	1 per 350 sq ft
Funeral home	1 per 5 seats in communal assembly areas PLUS 1 per 400 sq ft of office area
Gym or health club	1 per 250 sq ft
Laundry, self-service	1 per 400 sq ft
Office	1 per 400 sq ft
Repair Service	1 per 400 sq ft
Veterinary clinic	1 per 300 sq ft

Retail Sales Uses

Grocery or supermarket	1 per 250 sq ft
Furniture and home furnishing stores	1 per 750 sq ft

Vehicle-Related Uses

Vehicle repair, tire, and maintenance services	1 per 400 sq ft of indoor sales/office area PLUS 4 per service bay
Vehicle quick lube	1 per 400 sq ft of indoor sales/office area PLUS 2 per service bay
Vehicle sales	1 per 400 sq ft of indoor sales/office area PLUS 1 per 1,000 sq ft of sales lot area

Industrial Uses

General industrial uses (e.g., industrial services, contractor businesses, manufacturing/production, warehousing, freight/trucking facilities, wholesale distribution), plant nursery or landscaping businesses	1 per 400 sq ft of office or administrative area PLUS 1 per 500 sq ft of indoor sales, service, or display area PLUS 1 per 1,000 sq ft of outdoor sales, service, or display area PLUS 1 per 2,500 sq ft of indoor/outdoor storage, warehousing, equipment service, or manufacturing area.
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4-454 District-Specific Parking Standards**4-454.1 Residential Districts**

- A. In all residential districts, required parking spaces shall be located on the same lot as the use they serve.
- B. Parking areas for one- or two- family dwellings shall be in the garage, in the rear or side yards, or on the driveway leading to the garage only.

4-454.2 DMU District

Provision of parking in the DMU district shall be subject to limits, location, and design requirements as described in §434.4.1, Parking Areas.

4-454.3 EMU District

Provision of parking in the DMU district shall be subject to limits, location, and design requirements as described in §434.5.1, Parking Areas.

4-454.4 Industrial Districts

- A. Gravel and/or crushed concrete may be used for vehicular circulation areas within industrial zoning districts provided that all circulation areas within 100 feet of any access onto a public street is paved with concrete, asphaltic concrete, or asphalt.

4-455 Adjustments to Off-Street Parking Requirements

4-455.1 Reductions in Parking Requirements

Applicants may pursue reductions in required parking as follows.

- A. Parking reductions of up to 25 percent, as described in §4-455.2 through §4-455.5, may be approved by the City Planner upon finding that the request for reduction complies with all requirements described in the applicable subsection.
- B. Parking reductions of greater than 25 percent, as described in §4-455.2 through §4-455.5, may be approved by the Planning & Zoning Commission upon finding that the request for reduction complies with all requirements described in the applicable subsection.

4-455.2 Parking Demand Study

A parking demand study may be submitted to demonstrate the need for a lower quantity of parking than required by Table 4-1, or as otherwise stated in this Section.

The parking demand study shall be prepared by a traffic engineer or similarly qualified professional and shall estimate parking demand for the proposed use based on the recommendations of the Institute of Traffic Engineers (ITE), Urban Land Institute, the American Planning Association, or other acceptable source of parking demand data for uses and/or combinations of uses of comparable activities, scale, bulk, area, and location.

4-455.3 Shared and/or Off-Site Parking Spaces

The City may approve the use of shared parking lots, and/or off-site parking spaces, subject to the following requirements:

- A. No shared lot or off-site space shall be more than 300 feet from the subject property, measured along a legal pedestrian route.
- B. A long-term agreement shall be negotiated and agreed between property owners for both uses, and shall be submitted to the City for review and approval.
- C. The long-term agreement shall be accompanied by a Parking Plan that shows the current or proposed layout of the off-site parking or the parking area proposed to be shared.

4-455.4 Proximity to a Transit Stop

Except for single- and two-family dwellings, development within 500 feet of a fixed transit stop, measured along a legal pedestrian route, may be reduced by 10% from the requirements in Table 4-1.

4-455.5 Affordable and Senior Housing

Minimum parking requirements may be reduced by 20% if at least 25% of the dwelling units are restricted in occupancy to residents of 55 years of age or older, and/or income-restricted for a period of at least 30 years to households earning 80% or less of the Department of Housing and Urban Development Area Median Income for West Fargo, ND.

4-456 Parking Area Design and Maintenance

4-456.1 General Parking Area Design

- A. Parking areas shall be used for automobile parking only, with no sales, dead storage, repair work, dismantling or servicing of any kind permitted.
- B. Parking areas shall include applicable buffering and/or screening as required by the Zoning Ordinance.

4-456.2 Access and Maneuvering

- A. Except for single- and two-family dwellings and individual townhome dwellings with driveways exiting onto public or private streets, parking areas shall be designed so that exiting vehicles do not back out across a sidewalk onto a street. In all other instances, a means of turnaround must be provided within the parking lot.
- B. Where a parking lot has five or fewer spaces and a turnaround cannot be accommodated within the lot on site, the City may consider an alternative design, subject to review and approval by the Planning & Zoning Commission.

4-456.3 Surfacing

- A. Unless otherwise allowed by this ordinance, all parking areas, drive aisle, aprons, and other areas subject to vehicular access or used for the parking, maneuvering, or storing of motor vehicles shall be surfaced with concrete, asphaltic concrete, or asphalt; unless pervious or semi-pervious surfacing receives conditional use approval.
- B. The use of gravel and/or crushed concrete may be used for parking and vehicular circulation where the property takes primary access from a public street that is graveled.
- C. Unless otherwise specified, all hard-surfaced parking lot stalls shall be striped. Areas used for storing motor vehicles, equipment, or materials, and not required to meet minimum parking space requirements, shall be paved but do not need to be striped.

4-456.4 Parking Lot Layout Dimensions

A. Parking Stall Dimensions

Except as indicated in Table 4-2 below, the minimum size of each parking stall shall be nine feet by 18.5 feet, exclusive of aisle width.

B. Parking Layout Dimensions

Parking lots shall be designed to meet the minimum dimensions in Table 4-2.

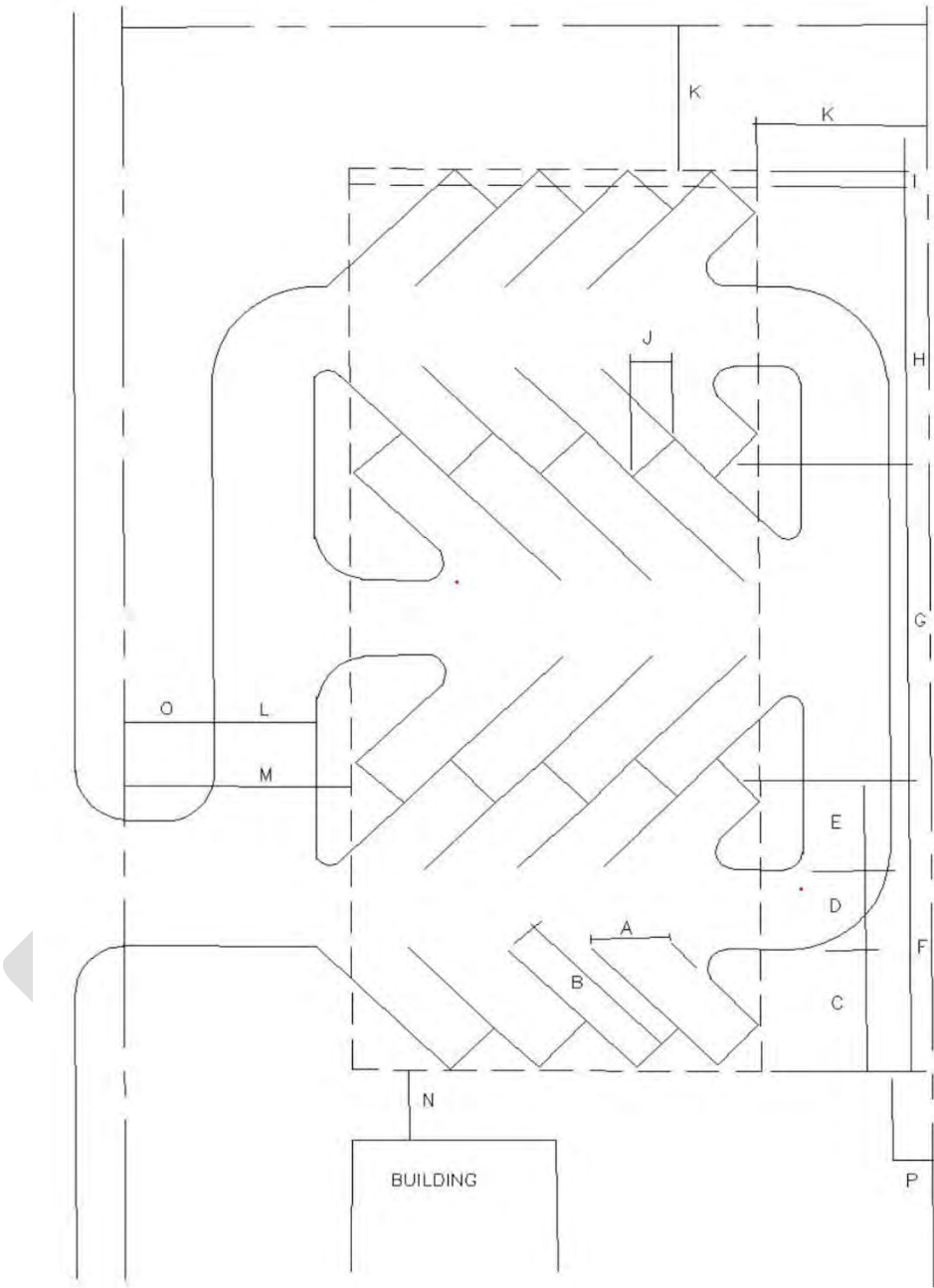
Table 4-2: Parking Layout Dimensions

	45°	60°	75°	90°	Diagram Reference
Stall width, parallel to aisle	12.7	10.4	9.3	9.0	A
Stall length of line	25.0	22.0	20.0	18.5	B
Stall depth	17.5	19.5	19.0	18.5	C
Driving aisle width between stall lines	12.0	16.0	23.0	26.0	D
Stall depth, interlock	15.3	17.5	18.8	18.5	E

Module, edge of pavement to interlock	44.8	52.5	61.3	63.0	F
Module, interlocking	42.6	51.0	61.0	63.0	G
Module, interlock to curb face	42.8	50.2	58.8	60.5	H
Offset	6.3	2.7	0.5	0.0	J
Side and rear yard setback	Lots in Residential & C Districts Abutting Residential Districts: 5 feet Other Districts: None				K
Cross aisle, one-way	14.0	14.0	14.0	14.0	L
Cross aisle, two-way	24.0	24.0	24.0	24.0	L

Figure 1: Parking Layout Dimensions

C. Parking Layout Diagram



4-457 Loading Standards

4-457.1 Applicability

Commercial and industrial uses shall provide for loading areas on the property which do not affect traffic on public streets.

4-457.2 General Requirements

- A. Loading areas shall be shown on the Parking and Loading Plan and approved by the City Planner and Building Administrator as part of the building permit.
- B. Uses requiring loading spaces may provide more loading spaces than required by this subsection, but each space shall meet the dimensional requirements of this subsection.

4-457.3 Number of Spaces Required

- A. Commercial and industrial structures with a total floor area of at least 10,000 square feet, and structures used for office or research purposes with a total floor area of at least 20,000 square feet, shall be provided with one off-street loading space.
- B. Commercial and industrial structures where the floor area of all buildings exceeds 100,000 square feet shall provide at least one additional off-street loading space.

4-457.4 Design Standards

- A. Loading spaces shall be at least 50 feet long and 12 feet wide.
- B. Adequate space shall be provided on the property to allow for ingress into the property, circulation within the property, and egress from the property, without requiring loading vehicles to reverse into or out of a public right-of-way.
- C. Required loading spaces are prohibited in any front setback area or in any required street side setback area.
- D. Loading spaces may occupy all or any part of a required rear setback area where visibility will be minimized.
- E. Loading spaces shall be located so as not to interfere with customer parking and circulation.
- F. Loading spaces and access to loading spaces shall not block or restrict the access of surrounding uses.

4-450. OFF-STREET PARKING AND LOADING REGULATIONS.

Subsections:

- 4-451. Automobile Parking Space Required.
- 4-452. Plans and Approval Required.
- 4-453. Design Standards.
- 4-454. Required Off-Street Loading Spaces.

4-451. AUTOMOBILE PARKING SPACE REQUIRED. No building shall be erected, enlarged to the extent of increasing the floor area, or changed in use unless there is provided on the lot, space for parking of automobiles as specified below. When sufficient off-street parking cannot be provided on the same lot or a lot contiguous to the principal use because of unique circumstances, and arrangements can be made to provide off-street parking on a noncontiguous lot, such parking arrangements shall be considered by the Planning and Zoning Commission on a case-by-case basis. The Planning and Zoning Commission may grant permission to provide parking on a noncontiguous lot provided traffic or land use problems are not created, and a long-term agreement can be negotiated so the required off-street parking is maintained as long as the principal use exists.

The Planning and Zoning Commission may allow sharing of required off-street parking by two separate uses provided the normal peak parking times of the two uses do not coincide. Only the off-street parking spaces not normally used by the off-peak use shall be counted as off-street parking for the peak use. Each use shall have the total required off-street parking available during their respective periods of peak parking use. A long-term agreement shall be negotiated whereby both uses are bound to the establishment and maintenance of the shared off-street parking.

If it can be demonstrated by the property owner through market studies or other means that the required off-street parking is excessive and/or a lower parking demand is supported by the Institute of Traffic Engineers Parking Generation manual and a lesser requirement justifiable, the City Commission may reduce the number of required spaces by passage of a resolution approved by a majority of the members of the City Commission.

Parking areas shall be so designed that vehicles may enter, circulate, park and exit in a convenient and orderly fashion. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. The minimum size of each parking stall shall be nine feet by 19 feet, exclusive of aisle width. For any parking area except for single, two-family, and 3-4 unit townhome dwellings, a suitable means of turnaround must be provided at maximum design capacity so no vehicle shall back onto public streets or alleys. Where this cannot be accomplished for parking lots of five (5) or fewer vehicles, the City may consider an alternative design as a conditional use.

Reference herein to "employee(s) on the largest shift" means the maximum number of employees employed at the facility regardless of the time period during which this occurs and regardless of whether

any such person is a full-time employee. The largest shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.

The term "capacity," as used herein, means the maximum number of persons which may be accommodated by the use as determined by its design or by building or fire code regulations, whichever is greater.

Any use not specifically mentioned below shall meet the requirements for uses most clearly related as determined by the Zoning Enforcement official.

The number of off-street parking spaces which shall be required are as follows:

1. Agricultural Support Uses - One space per employee on the largest shift, plus one space per 200 square feet of gross floor area provided for customer sales and service operations.
2. Residential Uses:
 - a. Single-Family - Two spaces per dwelling.
 - b. Multiple Family Units - One space per efficiency dwelling unit and two spaces per dwelling unit for one or more bedroom units or the floor area divided by 440, whichever is greater.
3. Institutional, Recreational and Special Residential Uses:
 - a. Camps (Day or Youth) - One space per employee on the largest shift, plus one space per camp vehicle normally stored on the premises.
 - b. Church - One space per three seats of maximum capacity.
 - c. Community and Recreation Center - One space per 250 square feet of gross floor area, or one space per four patrons to the maximum capacity, plus one space per employee on the largest shift.
 - d. Day or Nursery School, Child Care Center - One space per teacher/employee on the largest shift, plus one per space per ten students for loading and unloading.
 - e. Group Dwellings, Fraternity or Sorority, Boarding or Lodging Houses - One space per bedroom or sleeping room, unless it can be demonstrated that the occupants will not be driving.
 - f. Libraries and Museums - One space per 350 square feet of floor area or one space per four seats to the maximum capacity, whichever is greater, plus one space per employee on the largest shift.

- g. Monasteries, Convents - One space per six residents, plus one space per employee on the largest shift, plus one space per five chapel seats if the public may attend.
- h. Nursing Homes - One space per six patient beds, plus one space per employee on the largest shift.
- i. Schools:
 - (1) Elementary and Junior High - One space per teacher and staff member.
 - (2) Senior High - One space per teacher and staff member on the largest shift, plus one space per five students.
 - (3) College, Trade and Vocational - One space per staff member of the largest shift, plus one space per four students of the largest class attendance period.
- j. Swimming Facility - One space per 100 square feet of gross water area, plus one space per employee on the largest shift.
- k. Tennis, Racquetball, Handball Courts - Two spaces per court, plus one space per employee on the largest shift.
- l. Bowling Alley - Three spaces per lane, plus one space per employee on the largest work shift.
- m. Miniature Golf - One space per hole, plus one space per employee on the largest work shift.
- n. Outdoor Theatre - One space per four patrons to the maximum capacity of the facility inclusive of both indoor and outdoor capacity.
- o. Skating Rink, Ice or Roller - One space per 300 square feet of gross floor area.
- p. Health Club - One space per 100 square feet of gross floor area, plus one space per employee on the largest shift.
- q. Golf Courses - Five spaces per hole.
- r. Other Commercial Recreational Uses - One space per four patrons to the maximum capacity of the facility, or one space per 250 square feet of gross floor area, whichever is more appropriate.

Source: Ord. 1219, Sec. 14 (2023)

- 5. Commercial and Entertainment Uses, Except as Specifically Designated Below - One space per 250 square feet of gross

floor area of customer sales and services, plus one space per 250 square feet of storage and/or office gross floor area.

- a. Banks - One space per 200 square feet gross floor area.
- b. Eating and Drinking Establishments - One space per four patron seats or one space per 100 square feet of gross floor area, whichever is greater, plus one space per employee on the largest shift.
- c. Fast Food Establishments:
 - (1) With Seating - One space per three patron seats, plus one space per employee on the largest shift.
 - (2) Without Seating - One space per 200 square feet of gross floor area, plus one space per employee on the largest shift.
- d. Funeral Home - One space per four patron seats or 25 spaces per chapel unit, whichever is greater.
- e. Grocery or Supermarket - One space per 200 square feet of gross floor area or customer sales and service, plus one space per 200 square feet gross floor area of storage.
- f. Hospital - One space per three patient beds, plus one space per staff doctor and per employee on the largest shift.
- g. Hotel or Motel - One space per room or suite, plus 50 percent of the spaces otherwise required for accessory uses, e.g. restaurants and bars.
- h. Private Clubs and Lodges - Required parking spaces are to be determined by the specific uses associated with the facility.
- i. Repair Services - A minimum of three spaces shall be provided for the first 2,000 square feet of gross floor area, plus one additional space for each 1,000 square feet of gross floor area thereafter, plus one space per employee on the largest shift.
- j. Furniture and Home Furnishing Stores - One space per 500 square feet of customer sales, plus one space for every 1,000 square feet of storage area.
- k. Self-Service Laundry - One space per three machines.
- l. Assembly or Exhibition Hall, Sports Arenas, Theaters and Auditoriums - One space per five seats based on maximum capacity.

- m. Taverns, Dance Halls, Night Clubs and Lounges - One space per 50 square feet of gross floor area.
 - n. Vehicle Sales - Six parking spaces plus one space per 500 square feet of gross floor area over 1,000 feet.
 - o. Vehicle Repair and Maintenance Services - One space per 400 square feet of gross floor area, plus one space per employee on the largest shift.
 - p. Games of Chance Operations - One space per three patron seats.
6. Offices Uses, Except as Specifically Designated Below - One space per 300 square feet of gross floor area.
- a. Medical Offices and Clinics - One space per 200 square feet of gross floor area.

Source: Ord. 1199, Sec. 1 (2021)

7. Industrial Uses, Except as Specifically Designated Below - One space per employee on the largest shift, plus one space per company vehicle regularly stored on premises.
- a. Veterinary Office - Three spaces per doctor, plus one space per employee on the largest shift.
 - b. Adult Entertainment Center - One space per employee on the largest shift, plus one space per 150 square feet of gross floor area.
8. Nursery Uses - One space per employee on the largest shift, plus one space per 500 square feet gross floor area of inside sales or display.
9. Handicapped Parking - All parking lots must be designed to provide handicapped parking spaces according to standards established under Americans with Disabilities Act (ADA).

Source: Ord. 434, Section 1 (1992); Ord. 458, Sec. 18 (2005); Ord. 1049, Sec. 38 (2015).

4-452. PLANS AND APPROVAL REQUIRED. Plans for improved, new or expanding private driveways and off-street parking spaces, shall be prepared and submitted to the City Building Administrator and City Planner for review and approval. Before approving any private driveway or parking layout, the Building Administrator and City Planner shall satisfy themselves that the driveway and/or spaces provided are usable and meet standard design criteria. All driveways and off-street parking spaces within the City limits shall be improved with a concrete or bituminous surface except for structures which are located on public roads or alleys that are graveled. In lieu of improving all driveways and off-street parking spaces in industrial areas, a property owner may submit a

plan demonstrating that improved driveways and off-street parking spaces will, within reason, retain soils, mud or other loose materials from being carried onto public streets by vehicles or equipment, i.e., by improving with concrete or bituminous surface fifty (50) feet or more of the area on the property where access to the public street(s) is gained. In addition to providing improved driveways and parking areas, industrial areas may need to expand those areas with gravel and/or crushed concrete to avoid carrying soils, mud or other loose materials into the street(s). All required off-street parking spaces shall be clearly marked. All parking lots being hard surfaced must be designed and striped to meet the design standards according to Section 4-453.

Source: Ord. 434, Sec. 2 (1992); Ord. 458, Sec. 19 (2005); Ord. 916, Sec. 48 (2012); Ord. 976, Sec. 4 (2013); Ord. 989, Sec. 1 (2014); Ord. 1066, Sec. 1 (2016)

4-453. DESIGN STANDARDS.

1. In all residential districts, required parking spaces shall be located on the same premises as the use they serve. In other districts, they shall be located on the premises or within 300 feet distance.
2. Parking areas for one or two family dwellings shall be in the garage, in the rear or side yards, or on the driveway leading to the garage only.
3. Parking areas shall be used for automobile parking only, with no sales, dead storage, repair work, dismantling or servicing of any kind permitted.
4. All uses, excluding one and two family residences, where parking or access facilities are located within 20 feet of a one or two family property line shall be required to effectively screen their parking facility from the residential use. Screening may include a sight obscuring fence at least 5 feet in height or plantings of sufficient type, density, and height so as to provide year-round screening. Before a building permit shall be issued, the building official shall approve the screening proposal.
5. Off-street parking areas shall be improved with a durable surface, afford adequate drainage and shall have bumper guards, unless owner can establish to the satisfaction of the Building Official that such guards are not necessary.

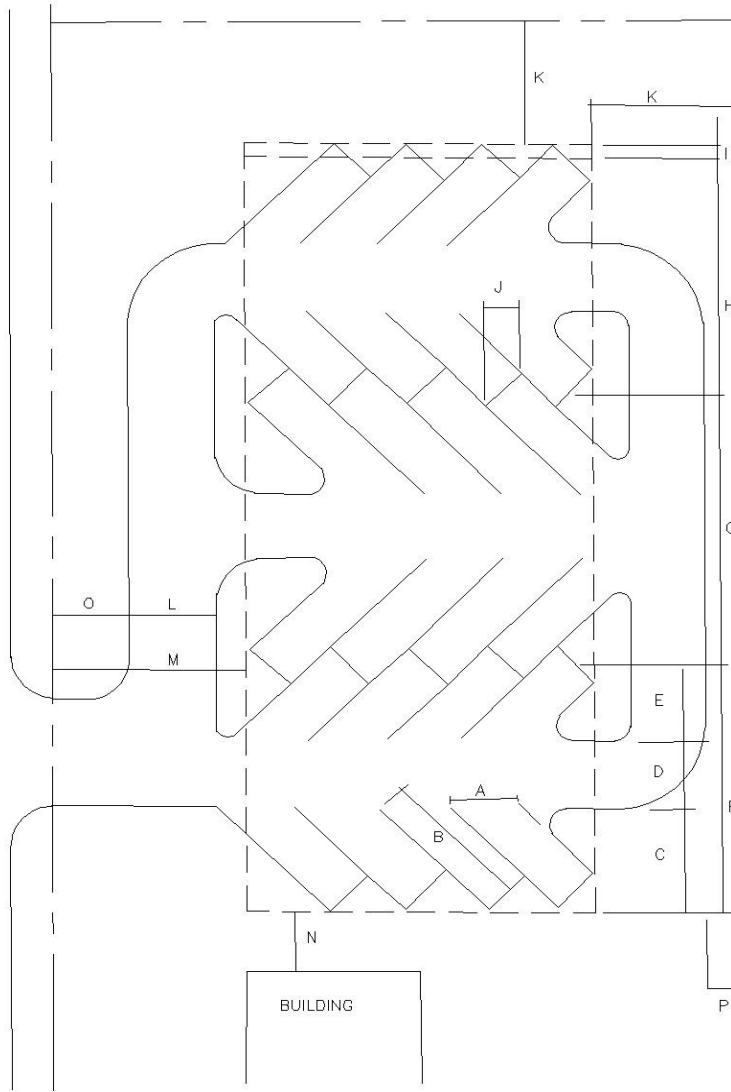
Source: Ord. 1049, Sec. 39 (2015)

PARKING LAYOUT REQUIREMENTS FOR 9 FOOT BY 18.5 FOOT
STALLS AT VARIOUS ANGLES

<u>DIMENSION</u>	<u>ON DIAGRAM</u>	<u>MINIMUM DIMENSIONS (feet)</u>			
		<u>45°</u>	<u>60°</u>	<u>75°</u>	<u>90°</u>
Stall width, parallel to aisle	A	12.7	10.4	9.3	9.0
Stall length of line	B	25.0	22.0	20.0	18.5
Stall depth	C	17.5	19.0	19.5	18.5
Driving aisle width between stall lines	D	12.0	16.0	23.0	26.0
Stall depth, interlock	E	15.3	17.5	18.8	18.5
Module, edge of pavement to interlock	F	44.8	52.5	61.3	63.0
Module, interlocking	G	42.6	51.0	61.0	63.0
Module, interlock to curb face	H	42.8	50.2	58.8	60.5
Bumper overhang (typical)	I	2.0	2.3	2.5	2.5
Offset	J	6.3	2.7	0.5	0.0
Side and rear yard setback	K	Lots in Residential & C Districts Which Abut Residential Districts: 5 feet. Other Districts: None			
Cross aisle, one-way	L	14.0	14.0	14.0	14.0
Cross aisle, two-way	-	24.0	24.0	24.0	24.0
Front yard setback (Parking Lots)	M	10' in Residential Districts or for Residential Uses in "C" Districts. Other: None.			
Setback from principal building	N	Residential Districts: 10 feet. Other Districts: 5 feet			
Front lot line to drive (landscape area)	O	10' in Residential Districts or for Residential Uses in "C" Districts. Other: None.			
Side and rear lot line to drive (landscape area)	P	Residential & C Districts: 5 feet. Other Districts: None			

Source: Ord. 334, Sec. 3 (1992); Ord. 455, Sec. 7 (1993); Ord. 916, Sec. 49 (2012).

PARKING LAYOUT DIAGRAM



4-454. REQUIRED OFF-STREET LOADING SPACES. REQUIRED OFF-STREET LOADING SPACES. Commercial and industrial uses shall provide for loading areas on the property which do not affect traffic on public streets. Adequate space shall be provided on the property to allow for ingress into the property, circulation within the property and egress from the property. Loading areas shall be shown on a site plan and approved by the City Planner and Building Administrator as part of the building permit. Loading spaces required under this section shall be at least 50 feet long and 12 feet wide. Every lot used for commercial or industrial purposes and having a building or buildings with a total floor area of at

least 10,000 square feet and every lot used for office or research purposes on which there is a building or buildings having a total floor area of at least 20,000 square feet, shall be provided with an off-street loading space. An additional off-street loading space shall be required for lots used for commercial or industrial purposes where the floor area of all buildings exceeds 100,000 square feet.

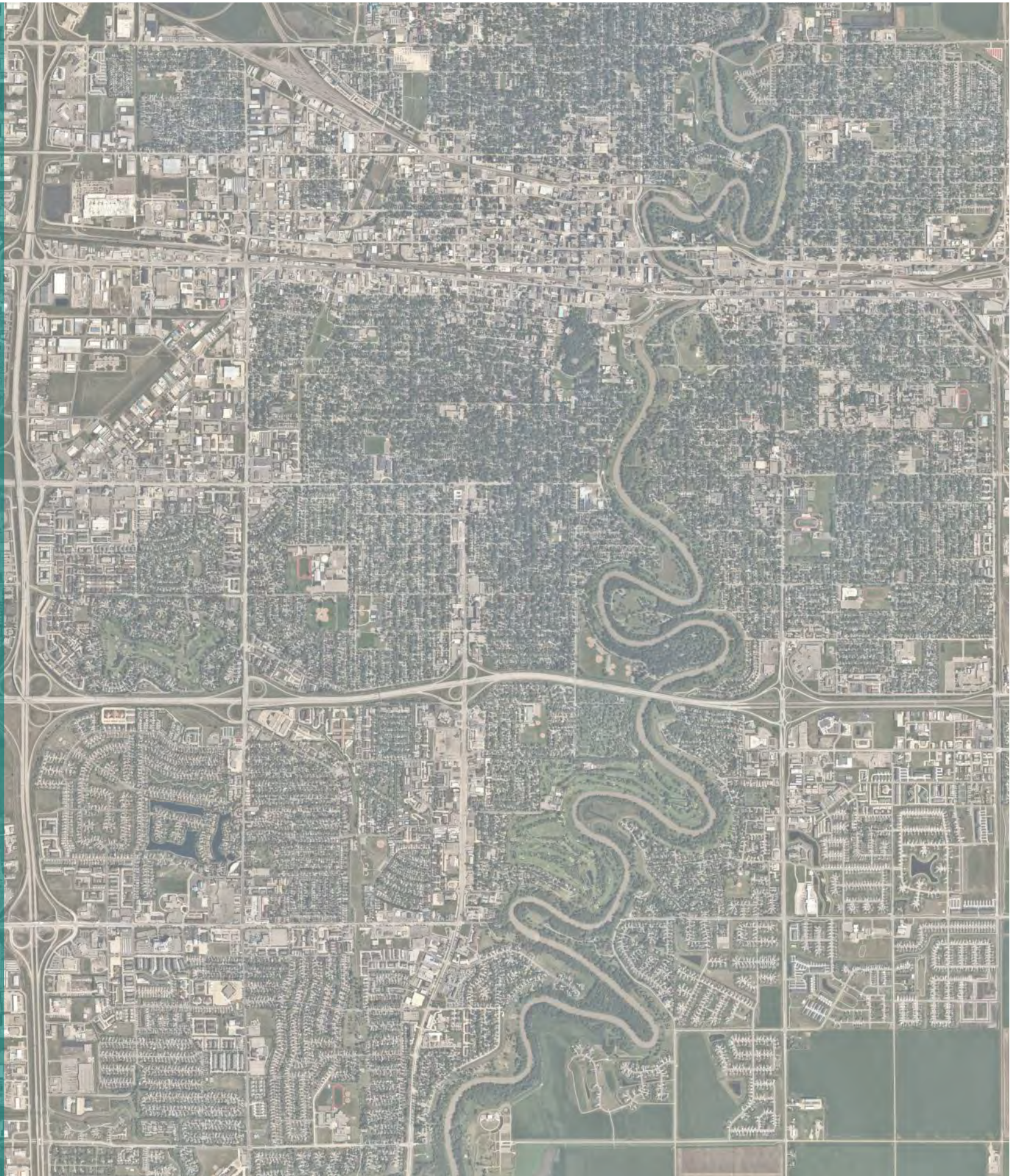
Source: Ord. 458, Sec. 20 (2005)

FARGO/ WEST FARGO PARKING & ACCESS STUDY

Prepared for:

Fargo-Moorhead Metropolitan Council of
Governments (Metro COG)

December 2018



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The contents of this document reflect the views of the authors, who are responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the policies of the state and federal Departments of Transportation.

Prepared by:



partnering with





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INTRODUCTION

Mobility and parking are key, interdependent elements that drive the region’s transportation system. As Fargo and West Fargo undergo unprecedented growth, ensuring that visitors, employees, and residents can get to the places they need to go is key to supporting economic development and enhancing the region’s overall quality-of-life. The purpose of this study is to analyze how parking plays a role in site development, how street networks can be best laid out to create efficiency in the transportation network, and how modifications to both access and parking regulations can achieve the goals of Metro COG, Fargo, and West Fargo.

The key goals of this study are to:

- Develop guidelines that encourage safe traffic flow, as well as a comfortable walking and biking experience
- Develop access and roadway guidelines that complement land use form, as opposed to just functional classifications
- Reduce the need to build excess off-street parking
- Enable sustainable development patterns

Recommendations aim to improve the efficiency of the transportation network and its connection to land use, enhance mobility and access, and encourage sustainable development patterns. In a region like the greater Fargo area, particularly its growth areas, a balance needs to be struck that ensures compact, walkable neighborhoods and corridors that are not congested with traffic. This study discusses how establishing

distinct Street Types that specifically correlate to the surrounding land uses will help create livable neighborhoods that enhance the urban environment and assist in long-term planning decisions. And how better development patterns, illustrated by the Development Prototypes, can support the overall transportation network through an intentional street framework and “Right-Sized” Parking footprint.

Study Review Committee

This study was a collaborative process with a Study Review Committee (SRC) made up of Metro COG and staff from Fargo and West Fargo. The group was responsible for steering the study and providing feedback on critical project direction. At major milestones, the project team met to discuss and collaborate on key issues, potential solutions, and next steps. The names and affiliations of SRC members are listed below:

**Fargo-Moorhead
Metropolitan Council
of Governments**



Michael Maddox, AICP
*Senior Transportation
Planner*

**City of
West Fargo**



Tim Solberg, AICP
*Director of Planning and
Zoning*

**City of
Fargo**



Aaron Nelson, AICP
Planing Coordinator
Jeremy Gordon, PE, PTEO
*Division Engineer -
Transportation*

EXISTING CONDITIONS

Fargo and West Fargo consist of a variety of residential, commercial, office, and industrial land uses that serve over 150,000 residents daily, and is experiencing continued, exponential growth. Creating a seamless connection between the street network and parking system is key to establishing smart growth. As is common in this country, the area roadway classification system is separated from parking requirements and land use patterns, which can lead to sprawling, segmented, and car-centric development patterns.

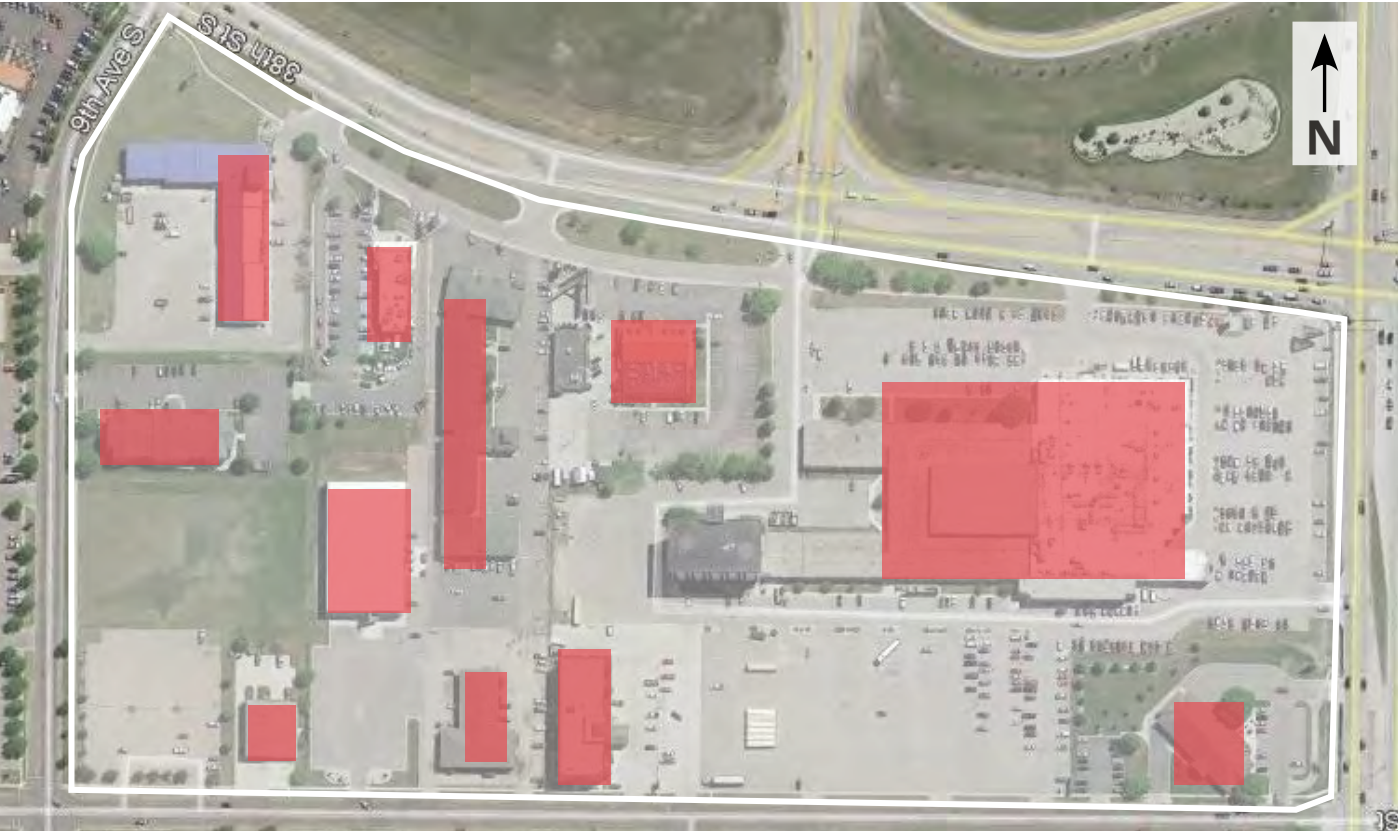
This section identifies the core issues of the region's transportation and development process through assessing existing land uses, surveying parking utilization patterns, and conducting stakeholder interviews.



Development pattern assessment

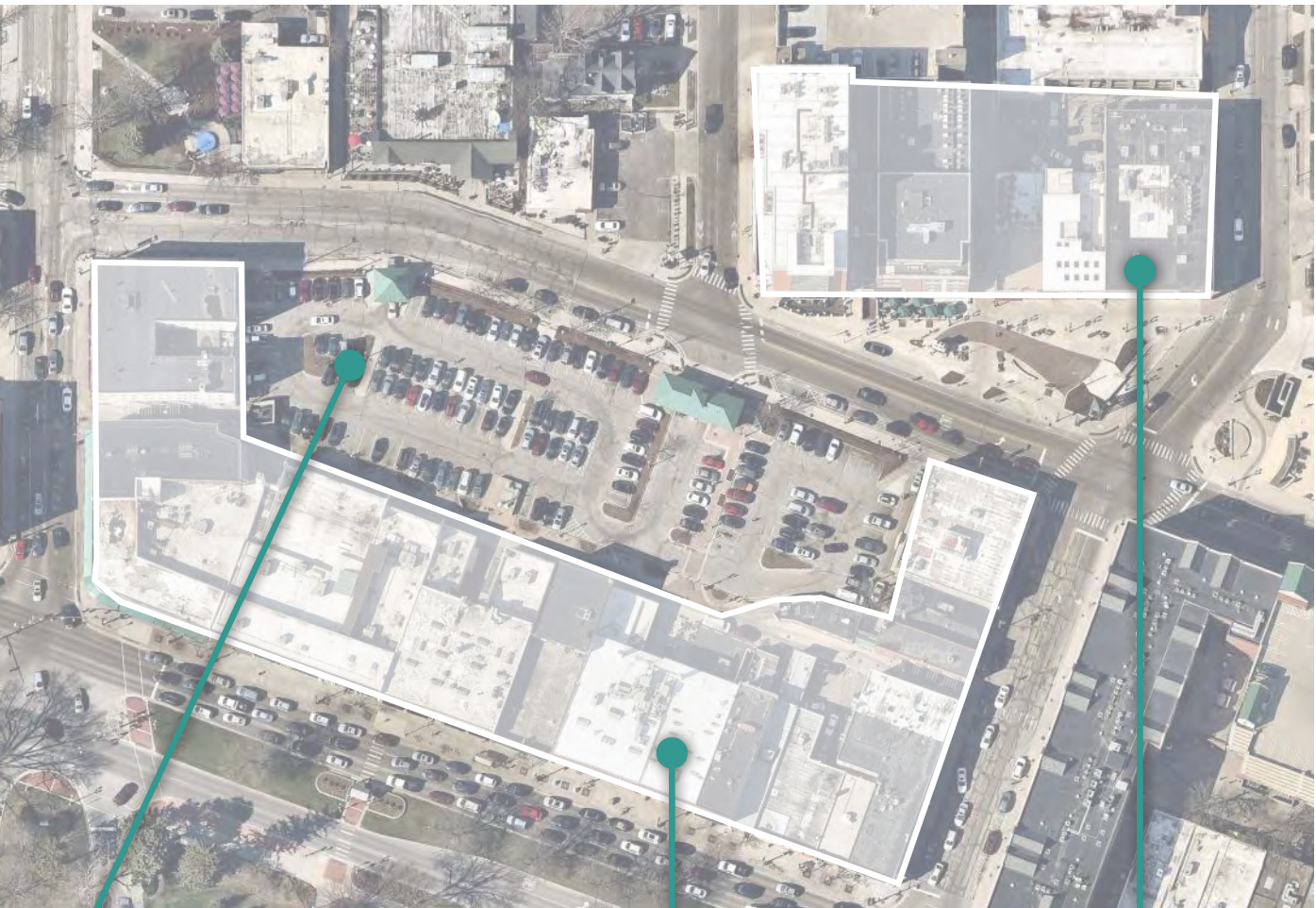
The region’s land use patterns are a product of the existing zoning codes, regulations, and transportation policies currently in place. Assessing the site design elements in Fargo and West Fargo today provides valuable insights into which design tools and strategies should be used in shaping the future. Five primary issues were identified and are outlined below.

Separated land uses



KEY ISSUES
Within this single block in Fargo, there are 11 separate land uses, which are each surrounding by their own separate parking field. This type of development pattern segments land uses, encourages additional car trips, disconnects traffic flow and travel patterns, and discourages pedestrian traffic and cross shopping.

Best Practices

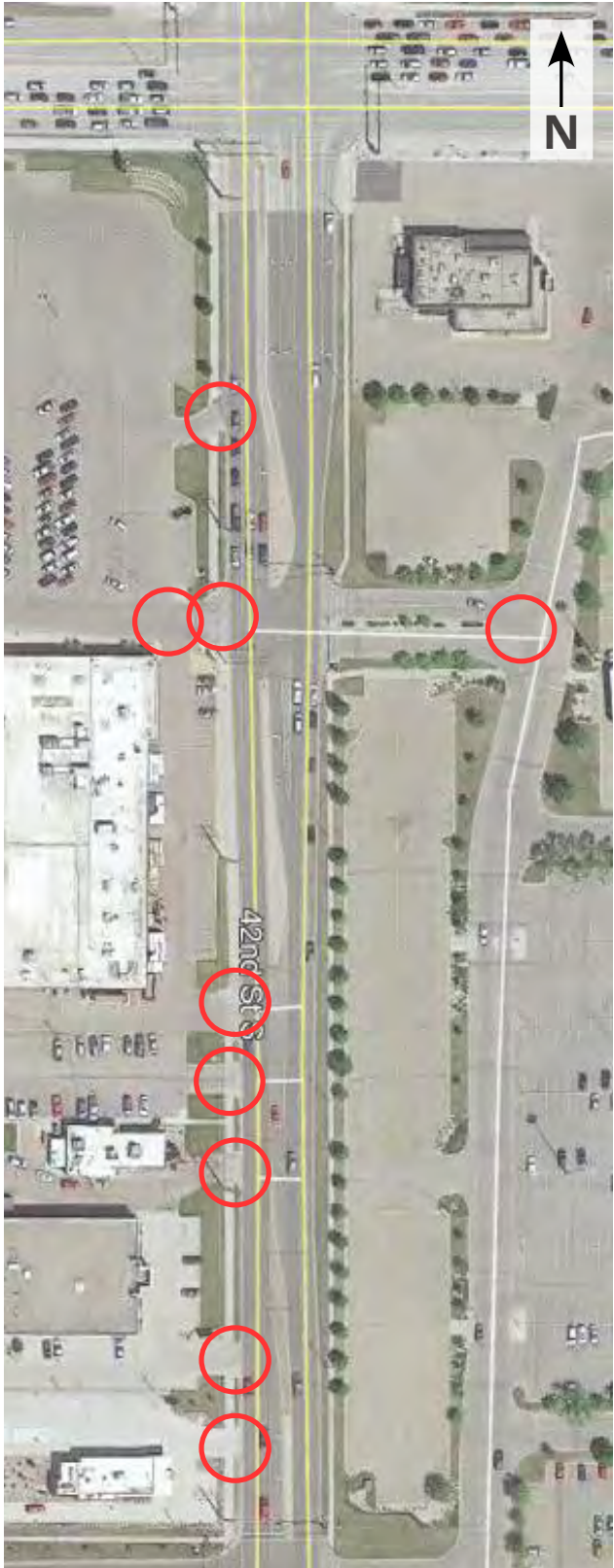


- Shared surface parking lots increase the efficiency of the parking pool and encourages walking
- Businesses and retail services located adjacent to one another encourage cross shopping and discourage additional car trips.
- Small block size and narrow streets encourage walking and provide opportunities for on-street parking.

Large number of curb cuts

KEY ISSUES

This example examines a portion of 42nd Street South between 13th Avenue South and 15th Avenue South. The west side of the street has seven driveways (curb cuts) to access land uses, while the east side of the street has one driveway to access businesses. Many curb cuts along a single blockface creates an uncomfortable and unsafe pedestrian environment, encourages additional car trips if cross access is not provided, segments land uses, and interrupts traffic flow/circulation.



Best Practices



Single access shared with neighboring use creates a more continuous pedestrian environment while improving traffic flow.

Buildings are oriented towards the arterial streets.

Includes designated area for pick-up/drop-off and pedestrian walkway.

Site design barriers between land uses



KEY ISSUES

Osgood Plaza located on 40th Avenue South and 45th Street South offers a variety of services for the needs of adjacent residents; however, with entrances exclusively facing the parking toward the arterial, as well as a lack of pedestrian connections, the large building acts as a physical barrier and residents are forced to drive to access these services. This type of development pattern encourages additional car trips and discourages walking trips.

Best Practices

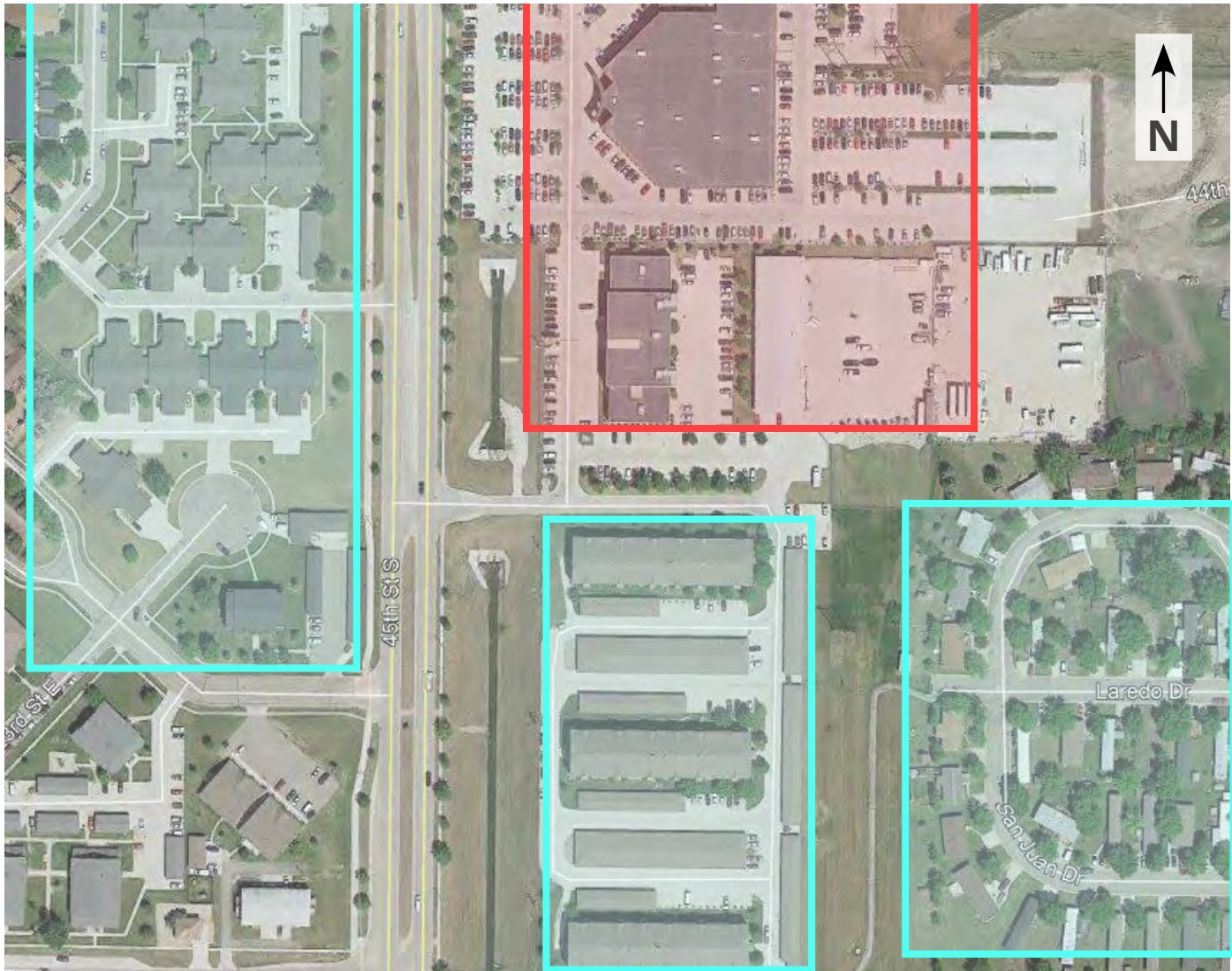


On-street parking slows traffic, increases parking supply, and establishes safe pedestrian connections.

Larger parking facilities are located on the outskirts of the development, with more active uses located in the central part of the development. This type of dense development encourages cross shopping.

Small blocks with narrow streets and landscaping create a more comfortable environment for pedestrians.

Roadway barriers between land uses



The shopping/office plaza located along 45th Street South between Main Avenue and 9th Avenue South, like the previous example, offers services that benefit adjacent residents. However, none of these services are accessible due to limited pedestrian amenities, water detention infrastructure, and entrances exclusively facing the parking lot/arterial roadway. Self-contained and separated residential and commercial development patterns create oversized and car-centric land use patterns.

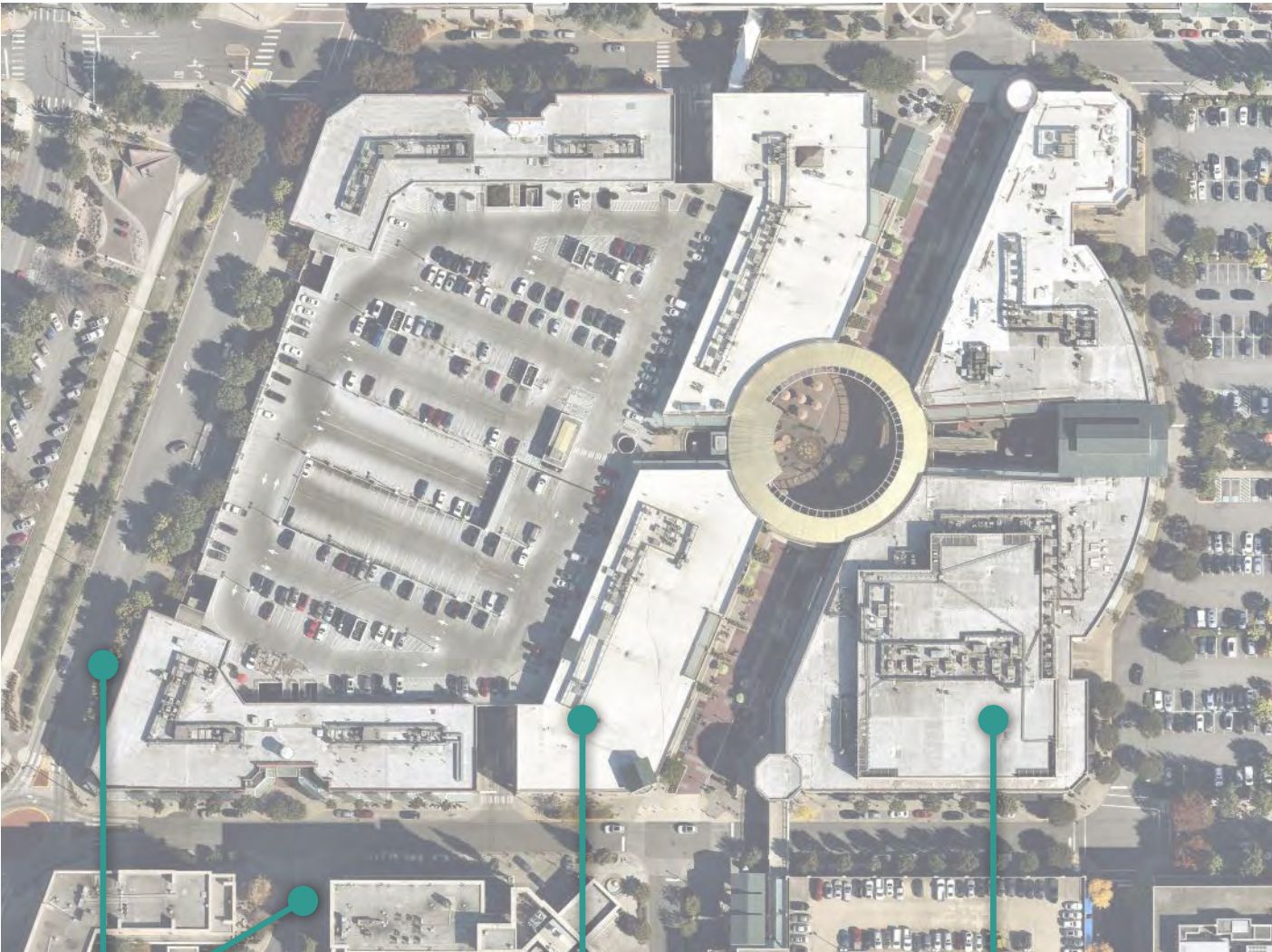
Separated Garages



A series of residential developments on 9th Avenue South is shown that have single-story row garages (in red). This type of development increases the land dedicated to parking and disconnects travel patterns. Stakeholder interviews and anecdotal evidence have informed us that these garages are often used for personal storage, as opposed to vehicle storage.



Best Practices



Businesses and residential front narrow, low volume streets that are easy for pedestrians to cross.

Singular, shared parking facility can be used by customers, employees, and visitors during the day, and residents at night.

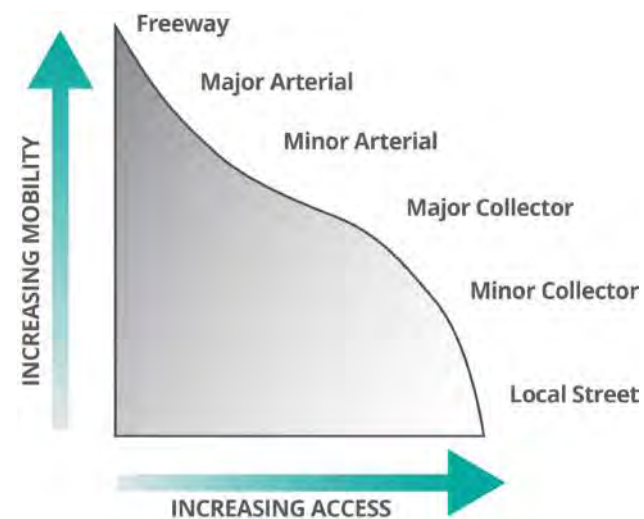
Integrating residential and commercial land uses creates a more dense, walkable environment, while using land more productively and encouraging shared parking.

Functional Classifications

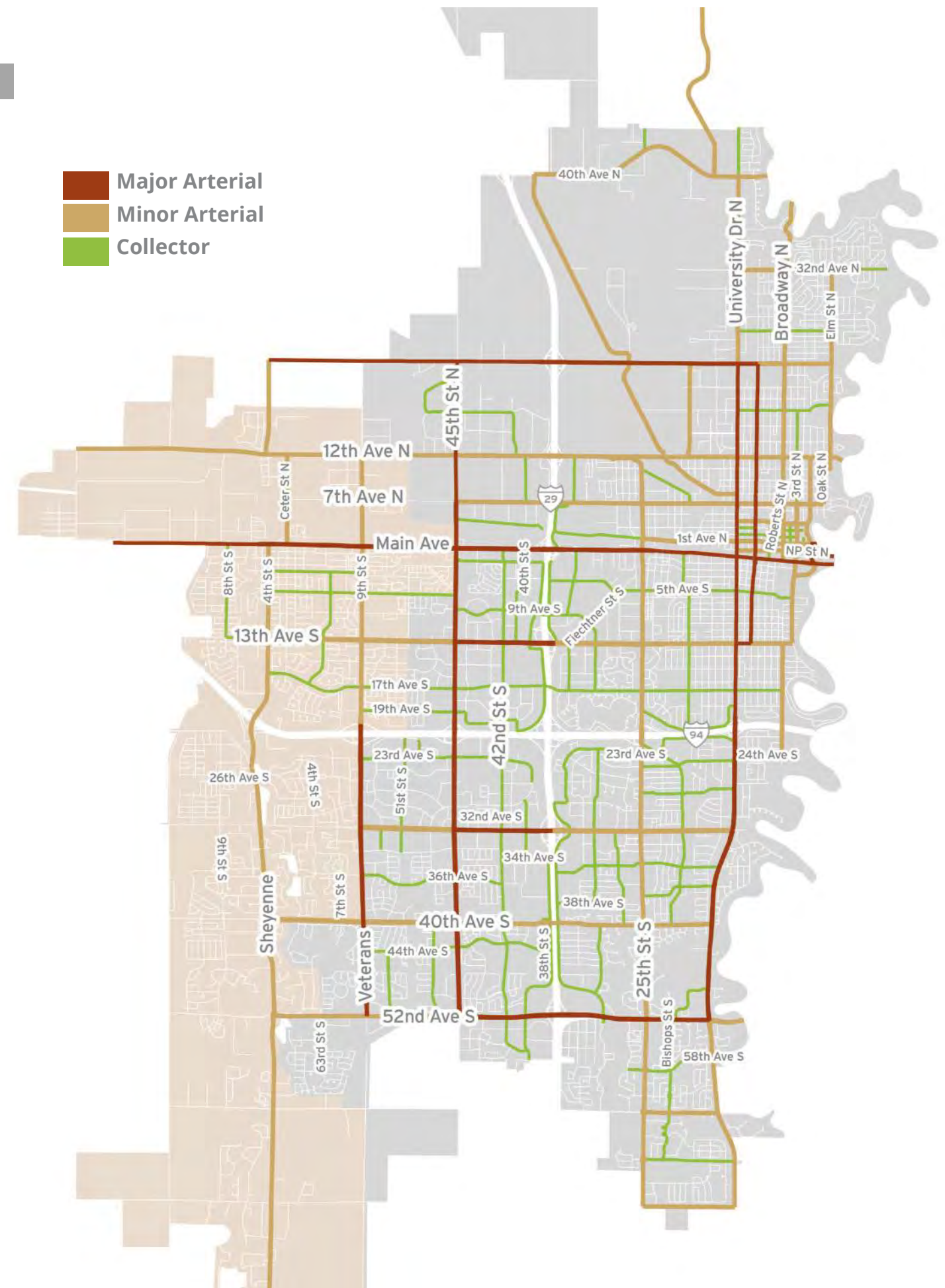
Streets across the United States are typically classified according to the Federal Highway Administration's (FHWA) functional classification system of arterial, collector, and local streets. The intended purpose of the functional classification system is to define a street's role in moving cars within a larger highway network, balancing the movement of vehicles with property access.

Why does a street's classification matter? Functional classifications dictate the way a street is designed, from the width of the lanes to the distance between traffic signals. The classifications also dictate how many access driveways are provided as policies are implemented that minimize/control the number of conflict points on a corridor. The design standards associated with the functional classification system are primarily focused on moving cars without delay. Prioritizing moving cars too quickly though, can create streets that are unsafe, disconnected, and inhospitable for people walking, biking, or waiting for the bus. It can also lead to designing roads that are bigger than they need to be, which means spending extra money on materials, construction, and maintenance.

The current network classifications in the greater Fargo and West Fargo area are no exception and follow a system generally consisting of the following hierarchy:



- Interstate – serve the longest uninterrupted distances at high speeds with limited access opportunities
- Principle Arterial
- Minor Arterial
- Major Collector
- Minor Collector
- Local – serve short, localized trips and provide frequent access opportunities to adjacent properties



Zoning & Variance Procedures

In recent years, Fargo and West Fargo have seen increased requests for variances, waivers, and reductions to the parking requirements prescribed by local zoning codes for both residential and commercial areas, indicating preferences towards lowering parking minimum requirements and increased flexibility. The following section of the report outlines existing policies and procedures surrounding parking requirements and variance requests.

Existing Zoning Code

Parking minimum requirements for both Fargo and West Fargo were examined and compared to national standards. The table below outlines the minimum requirements in comparison to national standards for major land uses. While the single and multi-family households are aligned with—or slightly below—national standards, the minimum parking requirements in Fargo and West Fargo were higher than the national standard for all other land uses. Implementing minimum parking requirements that are greater than the demand for parking raises the cost of construction for developers, increases the distance that land uses can locate between one another, and expands the street and infrastructure system.

Parking Minimum Requirements for major land uses in Fargo, West Fargo, and National Standards

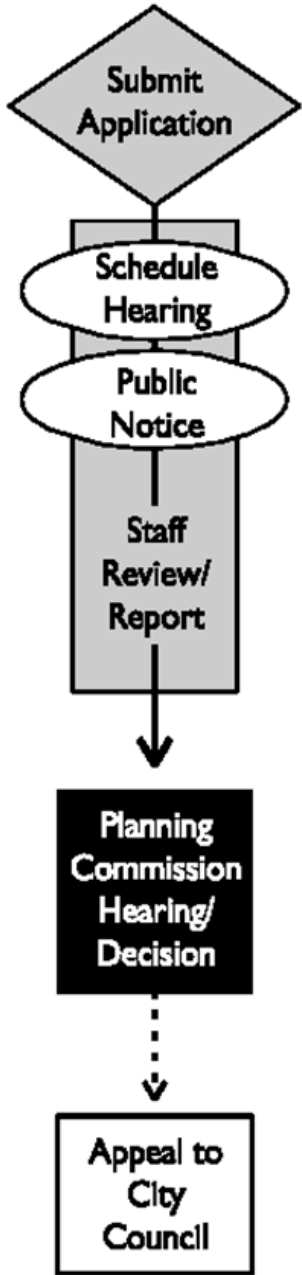
Landuse	City of Fargo	City of West Fargo	National Standard ¹	Unit	% difference
Single family	2.00	2.00	2.00	Bedroom	0%
Multi-dwelling household	2.25	1.00	1.23	Dwelling Unit	45%
Office - medical	5.00	5.00	3.20	1,000 sqft	36%
Office - general	3.33	5.00	2.84	1,000 sqft	15%
Restaurant/bar/tavern/lounge	13.33	10.00	10.60	1,000 sqft	20%
Religious Institutions	0.40	0.33	0.20	Seat	50%

1. ITE (Institute of Transportation Engineers) Parking Generation Manual, 4th Edition

Parking Reduction Request Procedures

City of West Fargo. City of West Fargo. If it can be demonstrated by the property owner through market studies or other means that the required off-street parking is excessive and/or a lower parking demand is supported by the Institute of Traffic Engineers Parking Generation manual and a lesser requirement justifiable, the City Commission may reduce the number of required spaces by passage of a resolution approved by a majority of the members of the City Commission. Shared parking is also encouraged and can be allowed through shared parking agreements.

City of Fargo. City of Fargo provides developers seeking to supply parking below the minimum parking requirement with two types of review/approval procedures for parking reductions: (1) an administrative review for small reductions in parking or (2) review by the Planning Commission for larger reductions. Parking reductions approved administratively are referred to as Alternative Access Plan (AAP), and reductions approved by the Planning Commission are referred to as Conditional Use Permits (CUP). The process in obtaining a CUP involves four key steps to complete prior to a Planning Commission hearing including submitting an application, scheduling a hearing, public notice, and staff review. The City of Fargo has received 19 CUP and AAP applications since 2015.



Key data points for each of these reduction permit types are summarized below:

Conditional Use Permit

- 14 applications since 2015.
- The majority of applicants were pursuing shared parking agreements.
- The average reduction rate was 40%.
- The most common land uses submitting CUP applications were medical, religious institutions, and retail.

Alternative Access Plan

- 5 applications since 2015.
- The majority of applicants were making a case for lower parking demand for their development.
- The average reduction rate was 18%.
- The most common land uses submitting AAP applications were medical, office, and residential land uses.

Furthermore, applicants pursuing a CUP or AAP may apply to use Transportation Demand Management (TDM) and/or shared parking strategies as tools in approving their request, as summarized below.

Transportation Demand Management

May authorize a reduction in the number of required off-street parking spaces for developments that institute and commit to maintain a transportation management program. The applicant must submit a study that clearly indicates the types of transportation management activities and measures proposed.

- Posting and Distribution of Information.
- Transportation Coordinator. Disseminating information on ride-sharing and other transportation options.
- Off-Peak Work Hours. Allow employees to arrive at times other than the peak morning commute period.
- Preferential Parking. Specially marked spaces for each registered car pool and van pool.
- Financial Incentives. Financial incentives for employees commuting by car pool, van pool and transit may also reduce demand.

Shared Parking

Developments or uses with different operating hours or peak business periods may share off-street parking spaces if approved as part of an Alternative Access and Parking Plan.

- Location. Unless shuttles are provided, parking must be located within 600 feet of entrances.
- Zoning Classification. Shared parking areas serving uses located in nonresidential zoning districts must be located in nonresidential zoning districts. Serving uses located in residential zoning districts may be located in residential or nonresidential zoning districts.
- Shared Parking Study. Study must address the size/type of the proposed development, the composition of tenants, turnover rate and anticipated peak for all uses.
- Agreement for Shared Parking. A shared parking plan will be enforced through written agreement among all owners of record.

Parking Utilization Surveys

To better understand parking demand patterns in Fargo and West Fargo today, a parking inventory and utilization survey was completed on three major land use typologies: (1) multi-family residential, (2) commercial, and (3) mixed use. Separate sites that best represent each of these land uses were identified and surveyed during peak demand periods. The location of each of the surveyed sites are identified in the figure to the right; the names of each site, as well as the hours surveyed can be seen below.

A map of the selected sites can be seen in the correlating figure. The names of each site, as well as the hours surveyed can be seen below.

Multi-family Residential Typologies

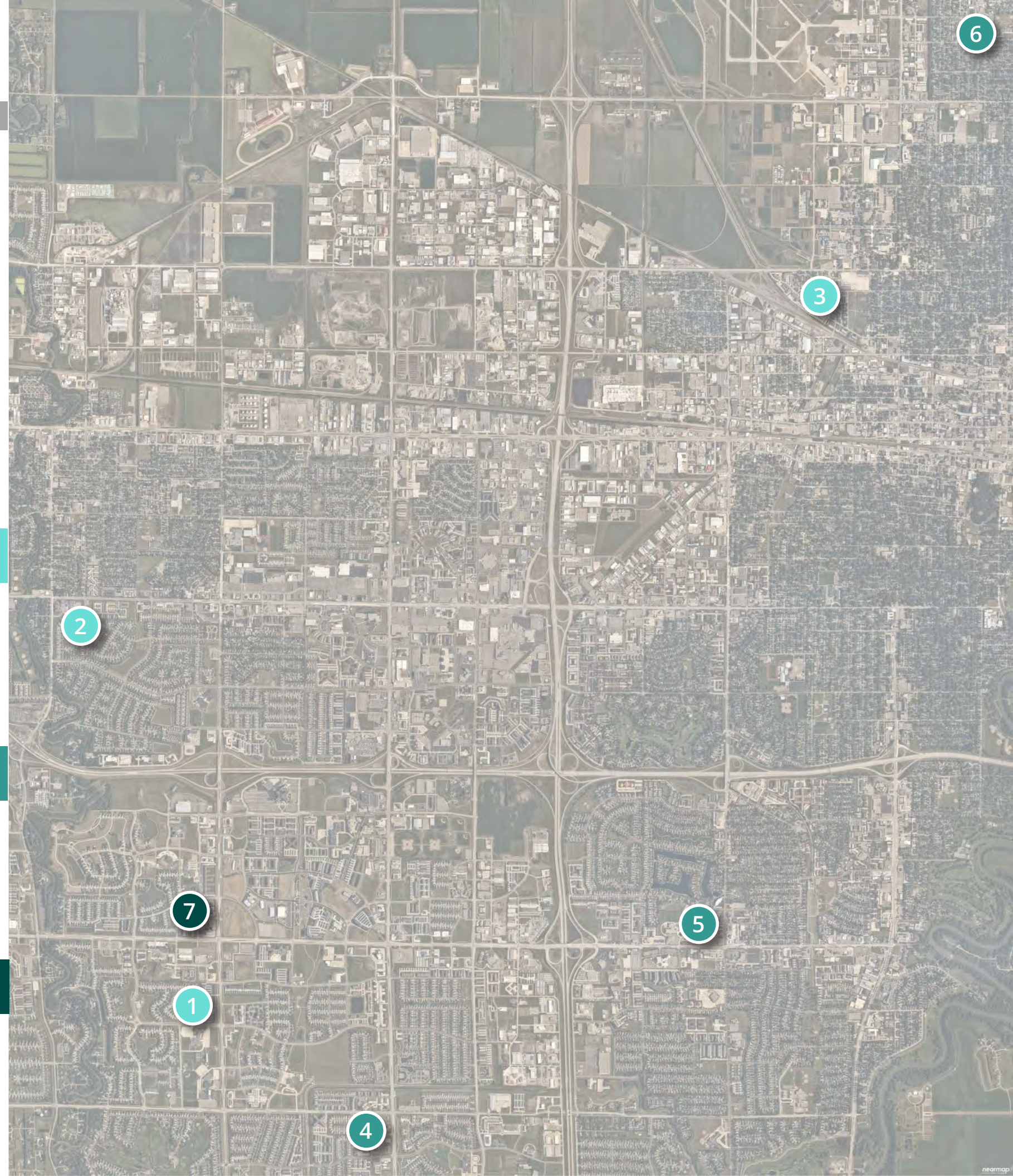
- 1 Shadow Ridge/Shadow Bay Apartments
- 2 Sheyenne Crossing's retirement center
- 3 NDSU student housing units

Commerical

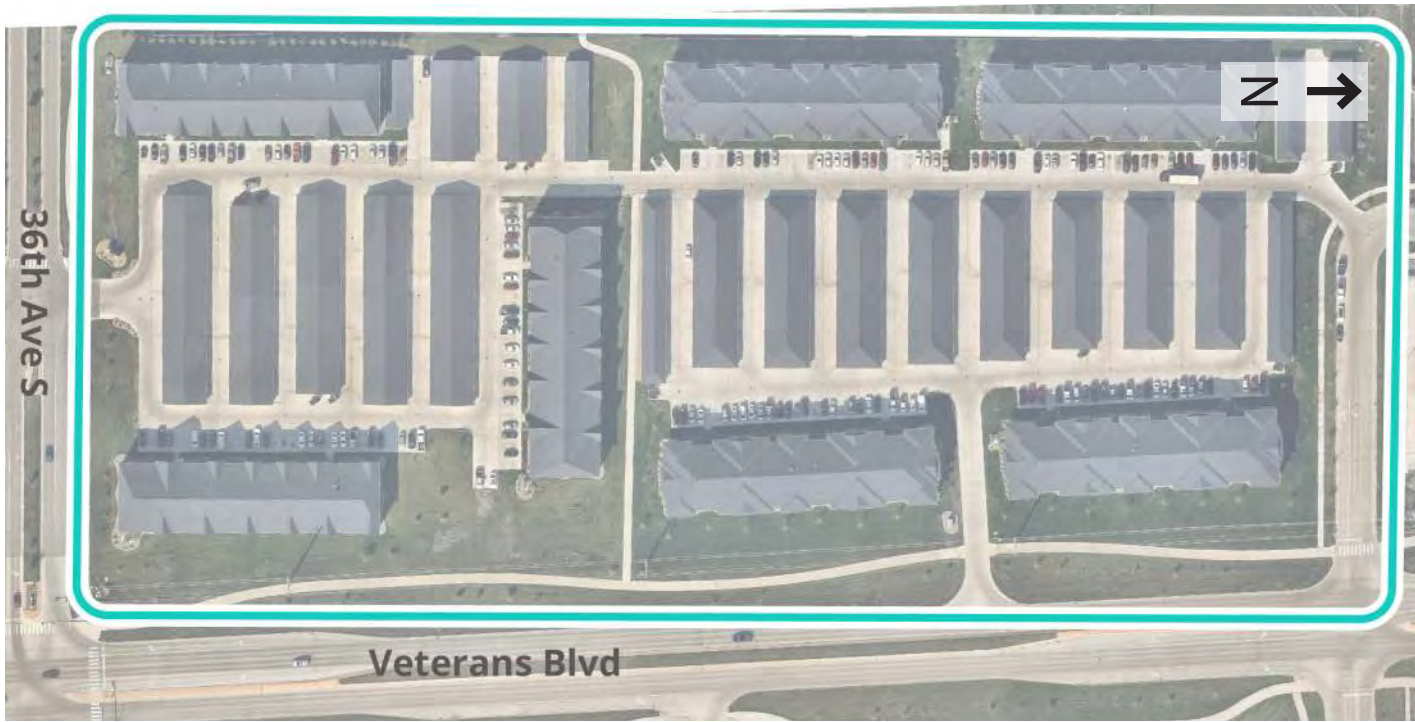
- 4 Osgood Plaza
- 5 1st International Plaza
- 6 Northport Plaza

Mixed use Typologies

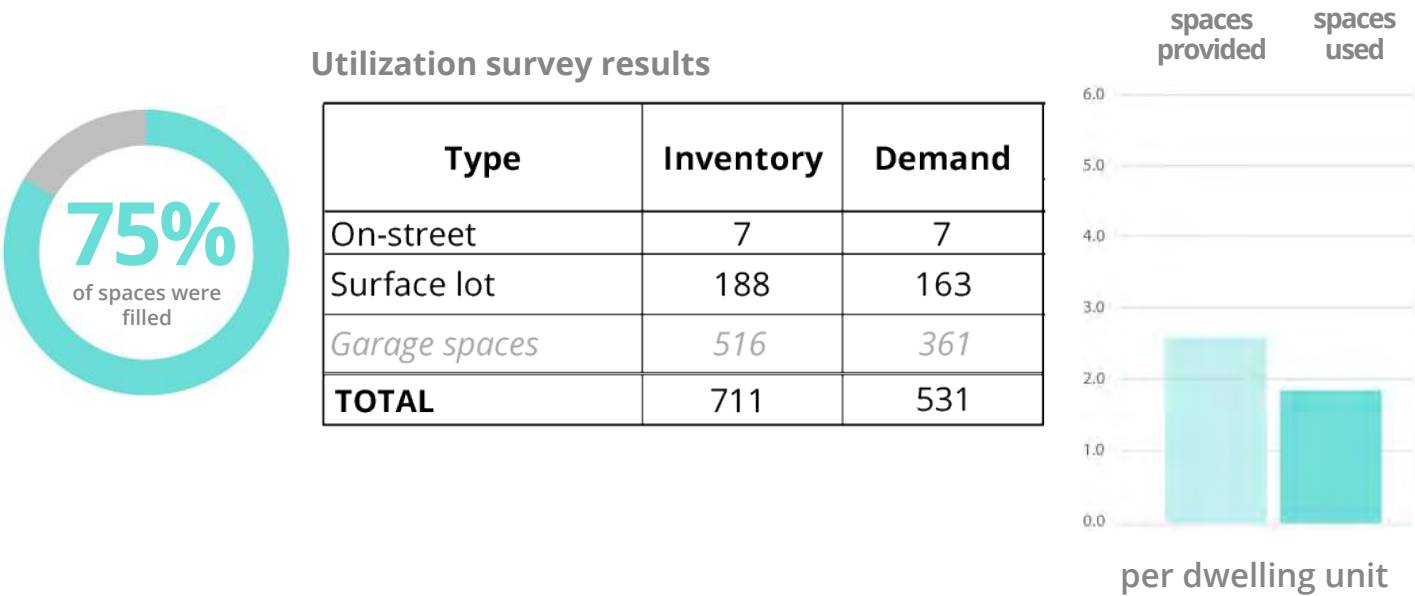
- 7 Boulevard Square



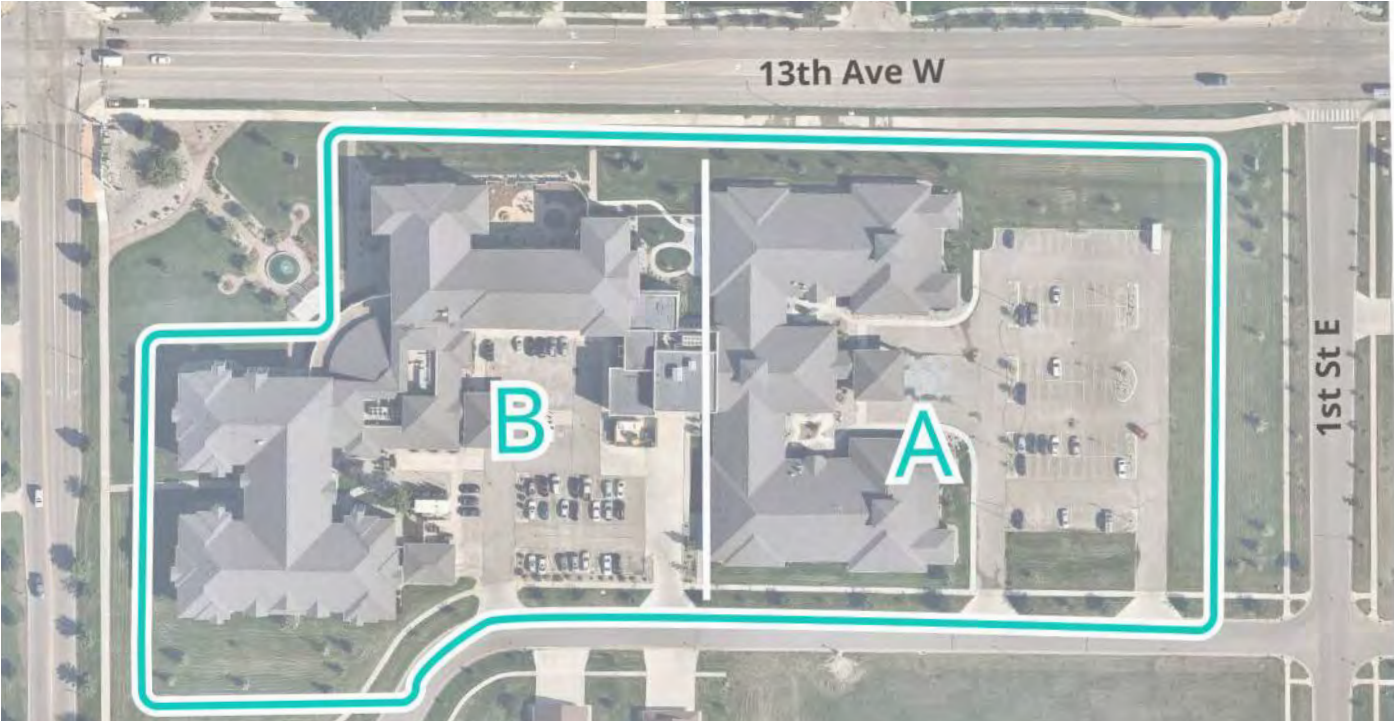
① Shadow Ridge/ Shadow Bay
Multi-family apartments



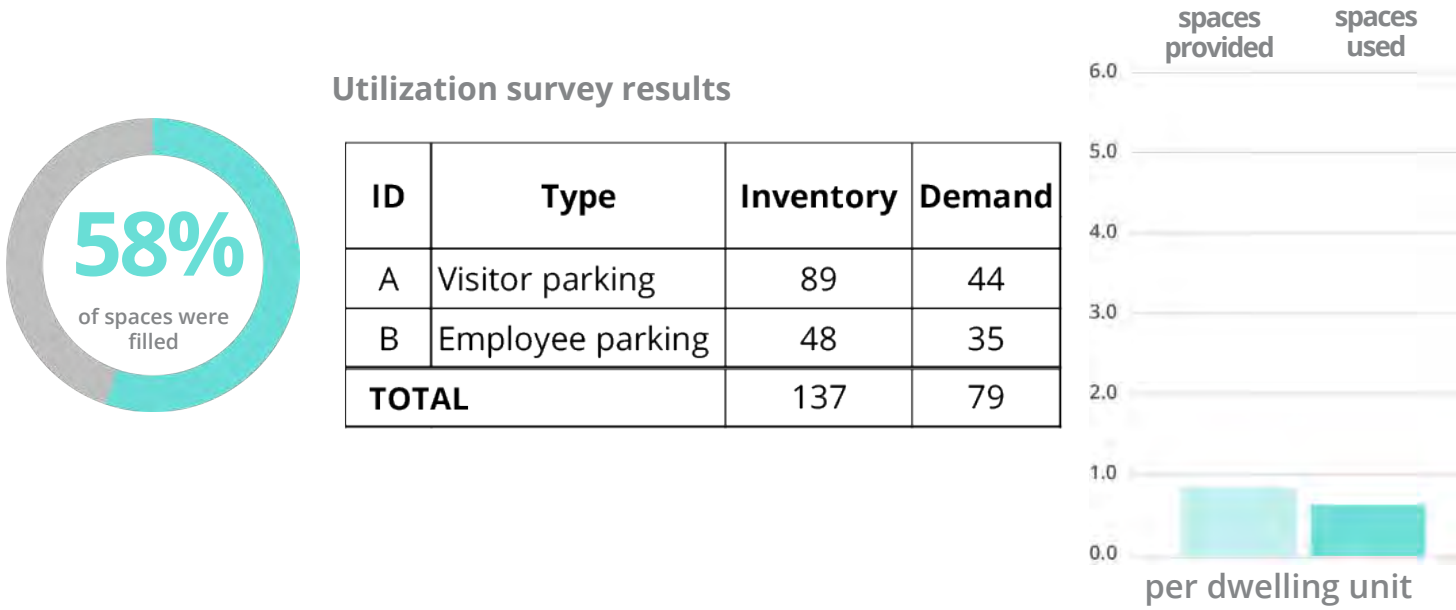
Shadow Ridge/ Shadow Bay is a 276-dwelling unit complex with a variety of apartment types ranging from studio to three-bedroom. While there are 188 outdoor parking spaces, there are also 516 enclosed garage spaces, which were unable to be examined as part of the utilization survey. These facilities were assumed as occupied since incoming vehicles were not able to access them.



② Sheyenne Crossings
Retirement community

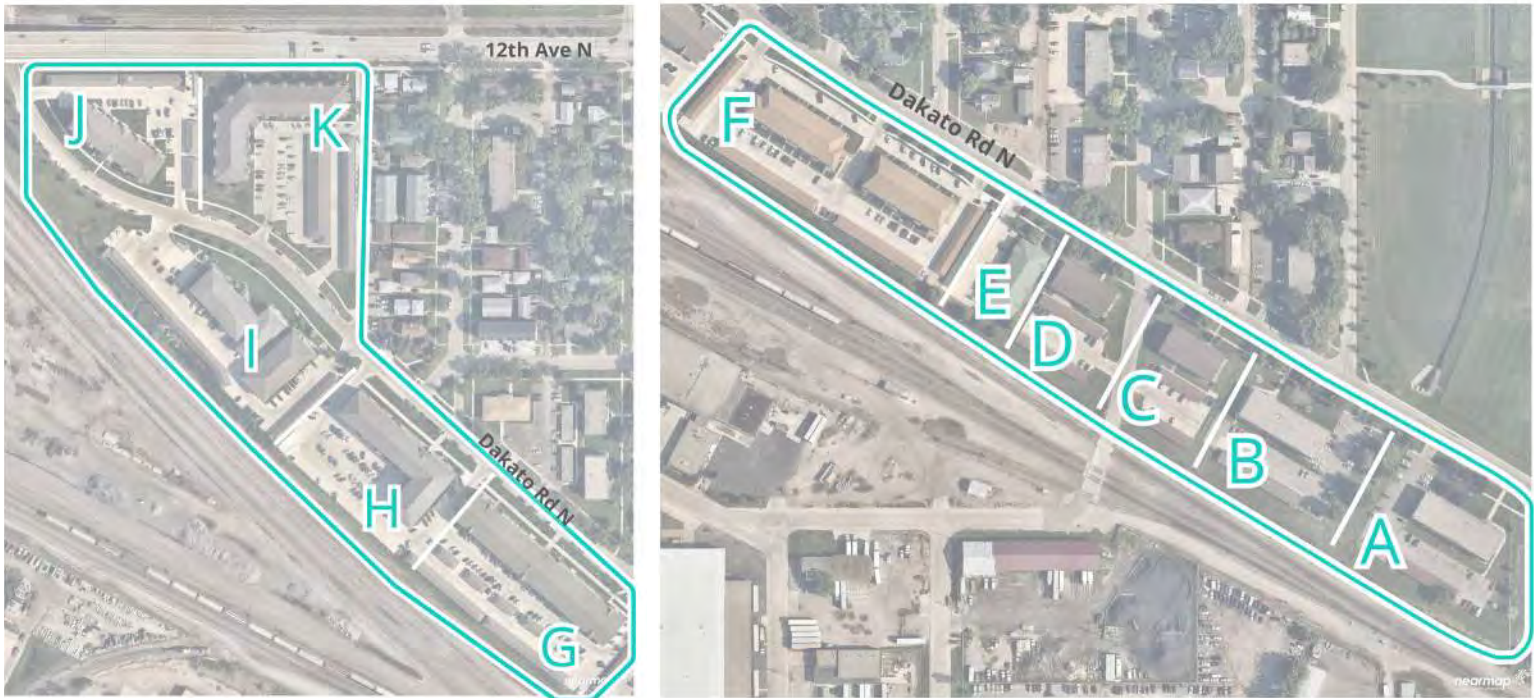


A retirement community that provides a full range of lifestyle and service options from independent living, assisted living, memory care, transitional care, home care, memory care and skilled nursing care. Sheyenne Crossings has 193 units with a total of 137 parking spaces for employees and residents.



*Analysis assumes that 70% of enclosed garages are filled.

③ North Dakota State University, student housing

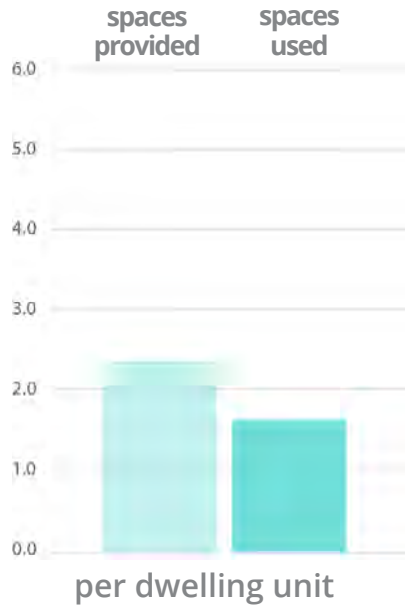
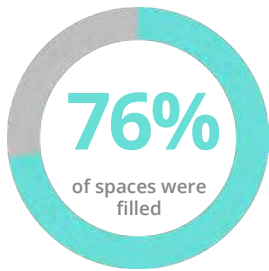


The 11 sites examined are representative of typical student housing developments in that they are mid- to high-rise apartment buildings that are ½- to 1-mile away from the NDSU campus. Similar to the Shadow Bay apartments, several of the examined sites have separated enclosed garages that could not be examined as part of the utilization survey. In addition to the demand in the off-street lot and garages, over 60 vehicles were parked along adjacent side streets, indicating that the demand for parking in this area is high.

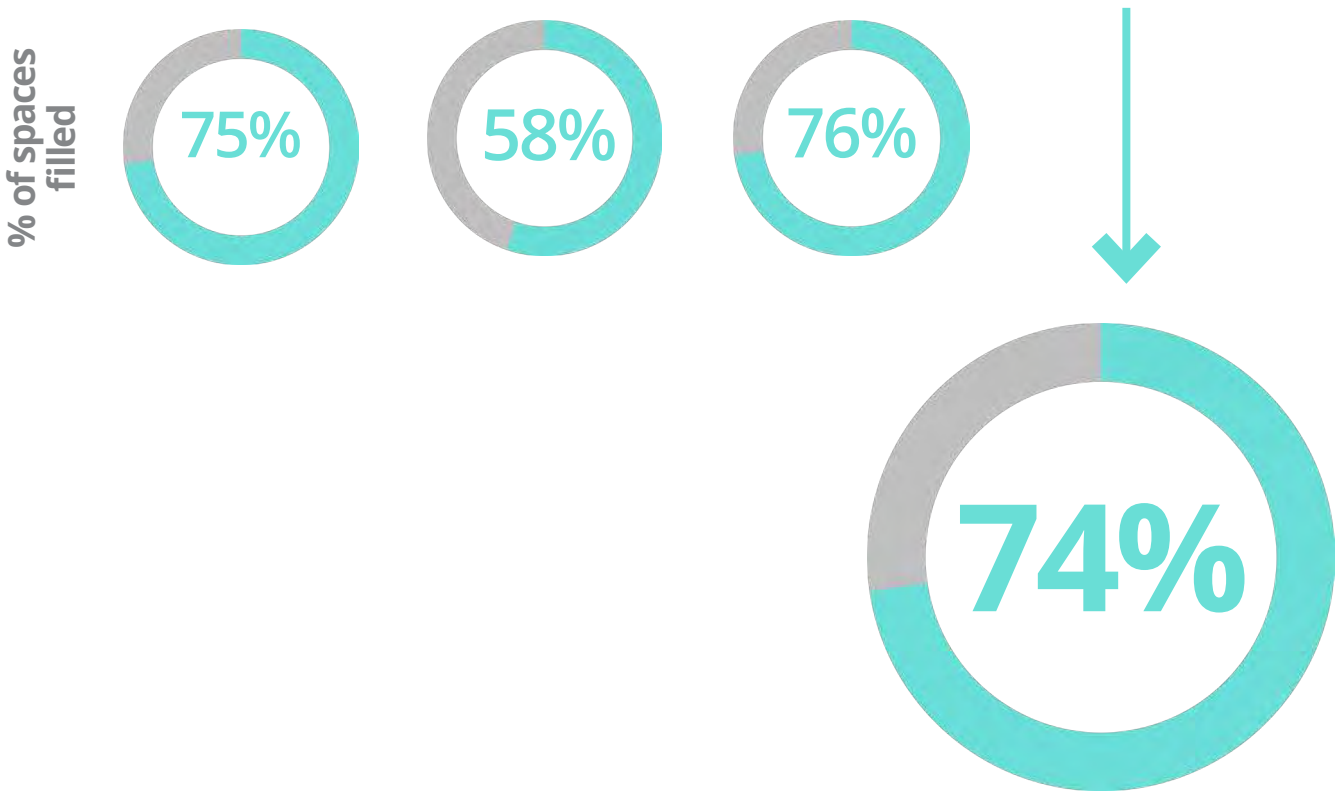
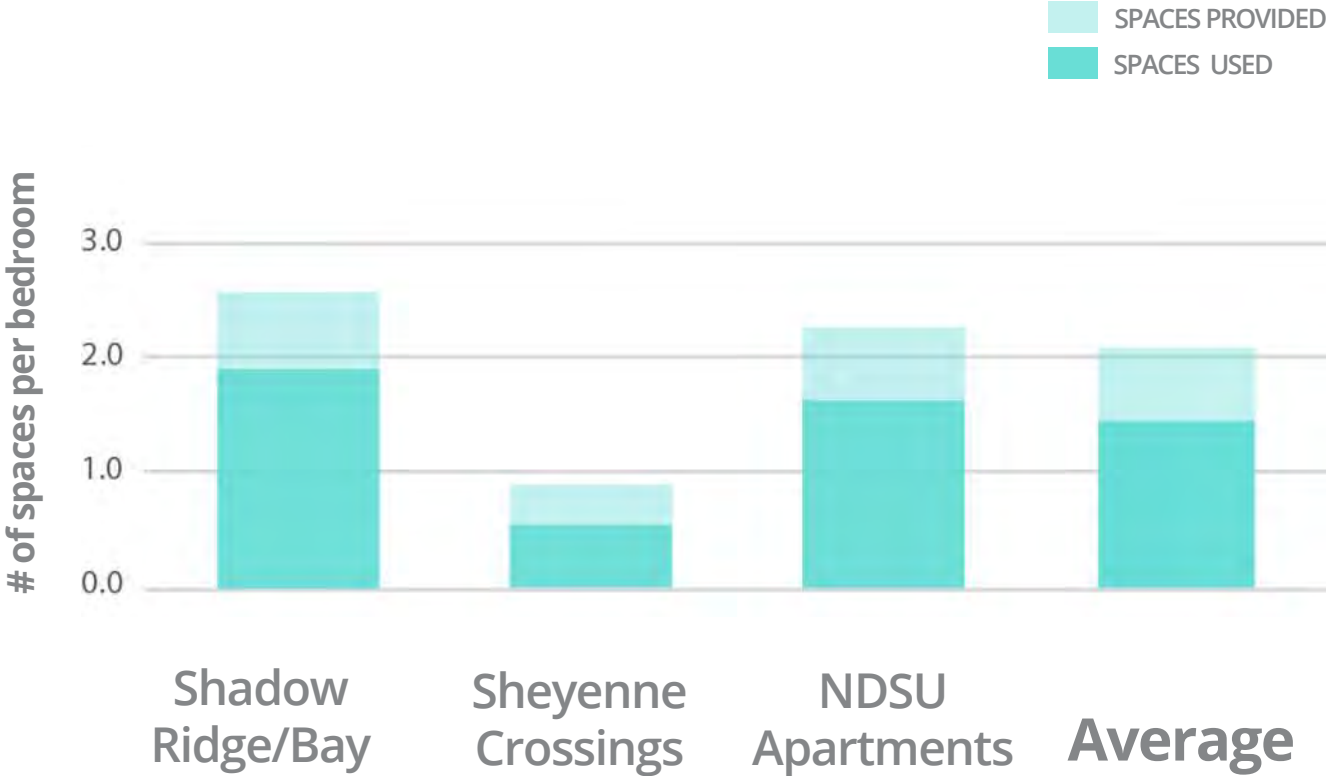
Utilization survey results

ID	Type	Inventory	Demand
A	Surface lot	69	39
	Garage	12	-
B	Surface lot	61	42
	Garage	14	-
C	Surface lot	21	13
	Garage	17	
D	Surface lot	12	10
	Garage	12	
E	Surface lot	18	13
	Garage	14	
F	Surface lot	91	52
	Garage	63	

ID	Type	Inventory	Demand
G	Surface lot	96	88
	Garage	66	
H	Surface lot	124	121
	Garage	0	
I	Surface lot	117	74
	Garage	51	
J	Surface lot	48	47
	Garage	37	
K	Surface lot	73	60
	Garage	58	
	On-street	67	67
	Surface lot	730	559
	Garage	344	241
TOTAL		1,141	867



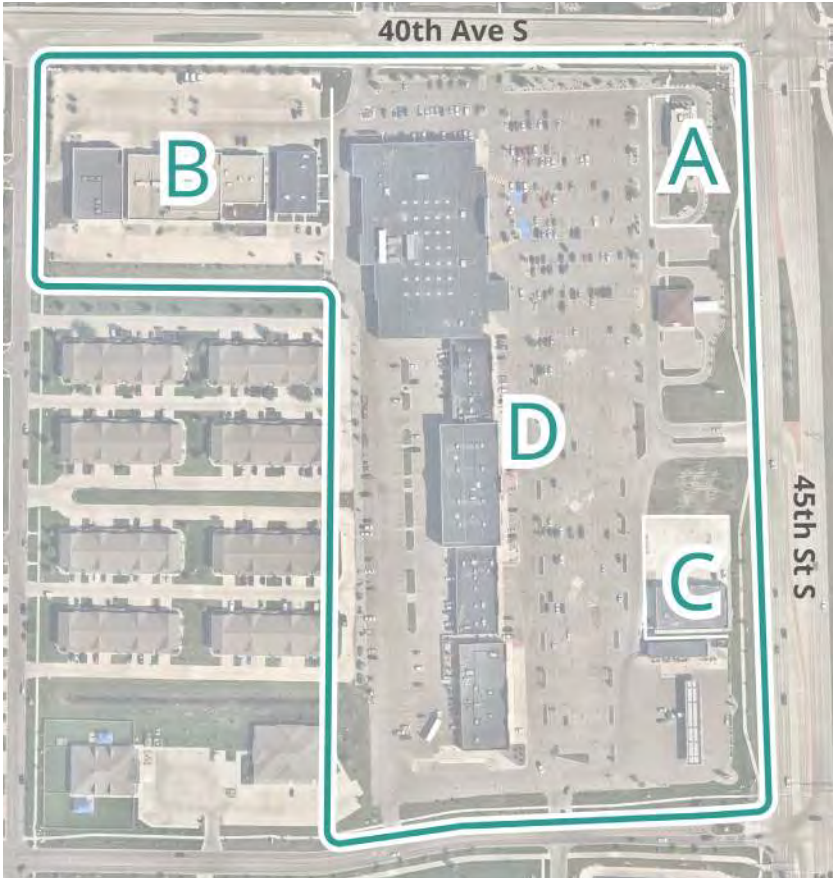
Summary of Residential Land Uses



*Analysis assumes that 70% of enclosed garages are filled.

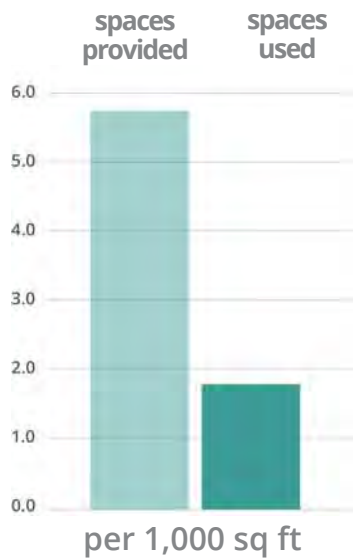
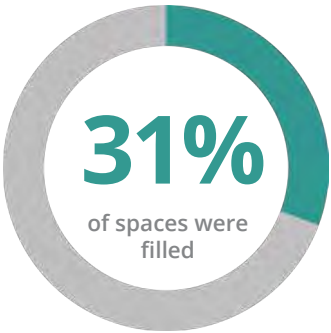
④ Osgood Plaza,
4151 45th Street

The shopping center is anchored by Hornbacher’s and includes other personal services such as a Men’s Hair Company, Nail Spa, Cherry Berry, Jimmy John’s, and Bulldog Tap. Area A is a Dairy Queen, Area B includes an Essentia Health Day Clinic, Lil Bloomers, Chiropractor, and other restaurants. This site is surrounded by residential housing developments.

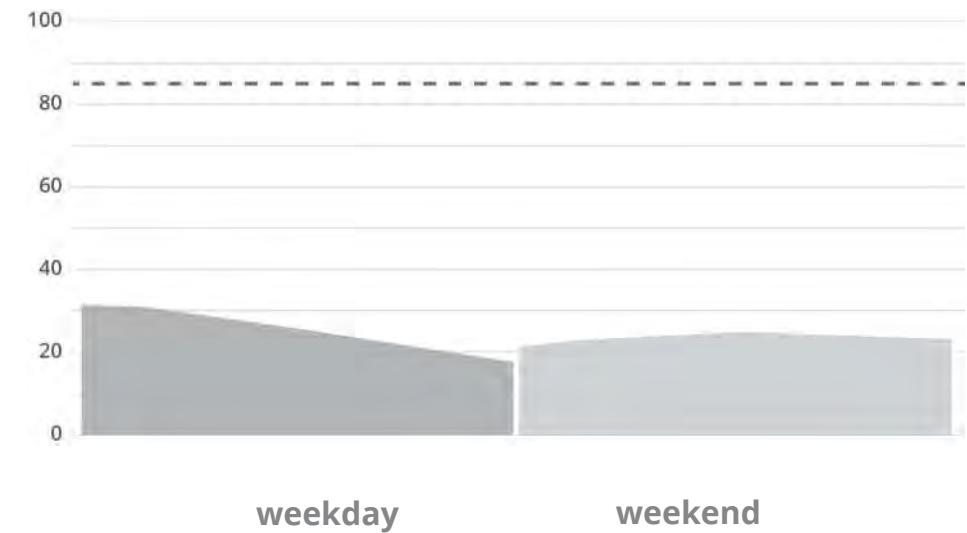


Utilization survey results

ID	Subsection	Inventory	Demand					
			Weekday			Weekend		
			5pm	6pm	7pm	11am	12pm	1pm
A	Dairy Queen	12	3	2	4	4	9	2
B	Western retail	240	75	31	19	16	14	12
C	T+Mobile area	35	1	1	1	0	1	1
D	Main lot	948	298	268	200	263	279	275
TOTAL		1,235	377	302	224	283	303	290

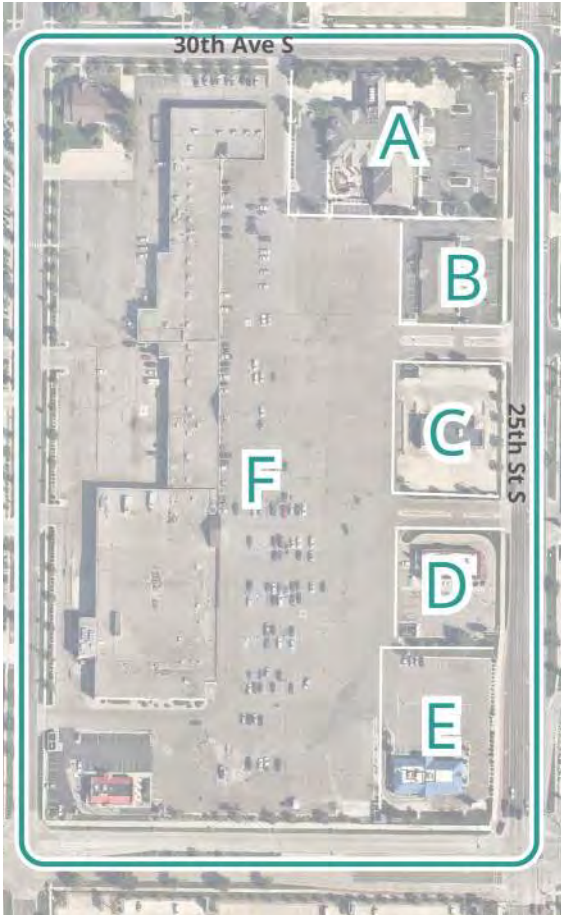


Total hourly parking demand percentage



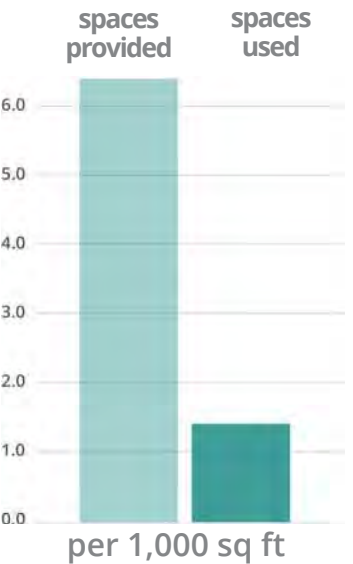
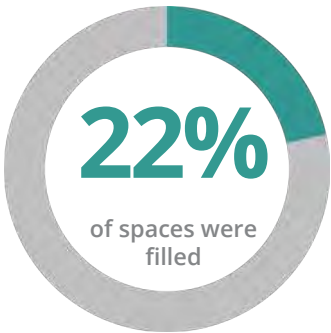
⑤ 1st International Plaza,
3051 25th Street

The largest of the three commercial sites examined, it has the largest number of retail stores, with Area F including a Coinstar, Family Fare Super market, Caribou Coffee, Royal Liquors, Pizza Hut, Great Clips, Boppa’s Bagels, Shang Hai, and a Men’s Hair Company. Area A is a First National Bank & Trust; Area B is a Schmidt’s Gems & Fine Jewelry; Area D is an Arby’s; and Area E is a Culver’s. The site is primarily surrounded by commercial land uses with some residential.

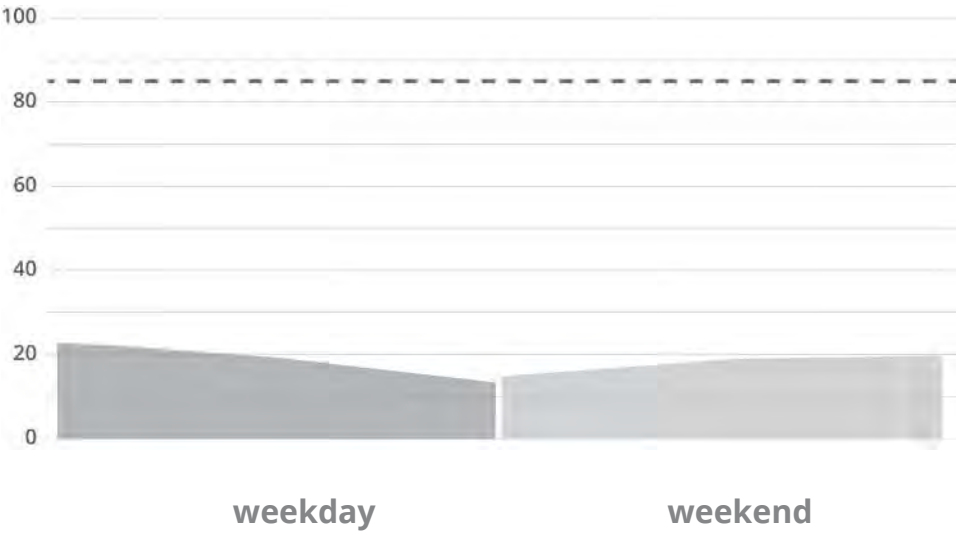


Utilization survey results

ID	Subsection	Inventory	Demand					
			Weekday			Weekend		
			5pm	6pm	7pm	11am	12pm	1pm
A	First Int'l Bank	81	29	9	9	12	10	11
B	Jewelry Store	30	11	4	3	3	3	4
C	KFC	39	8	10	5	1	6	9
D	Arby's	36	4	4	3	2	3	4
E	Culvers	56	12	14	11	6	11	13
F	Main lot	711	149	143	98	132	151	145
TOTAL		953	213	184	129	156	184	186

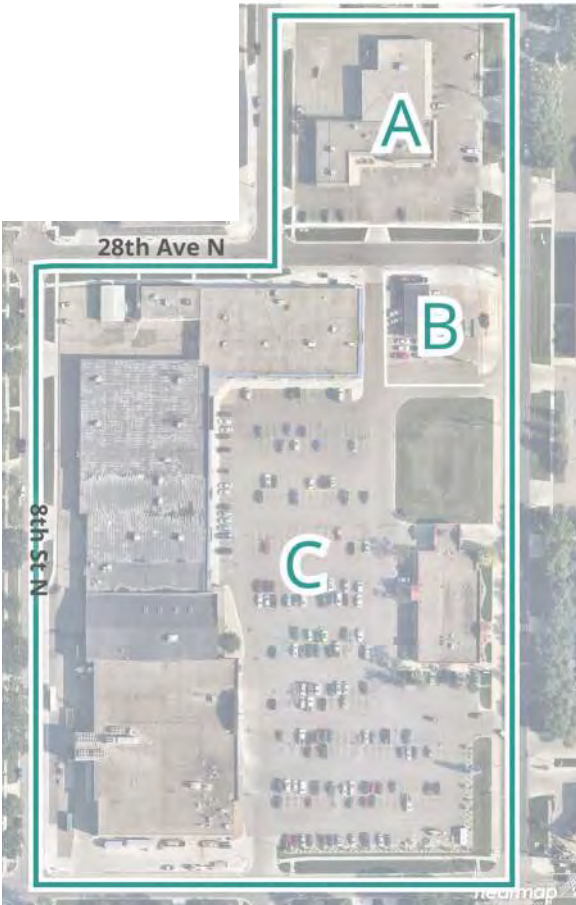


Total hourly parking demand percentage

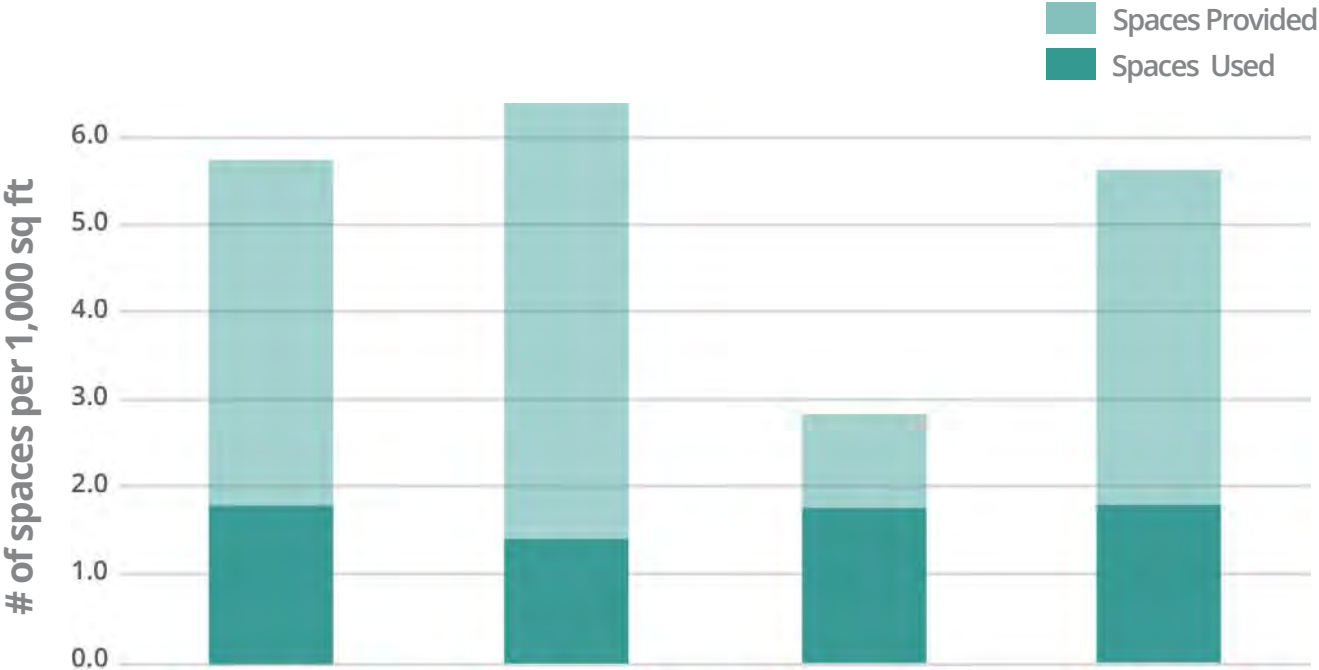


⑥ Northport Plaza, 2602 Broadway North

Considered to be one of the older retail developments in the region with several larger tenants in Area C including a Hornbacher's, Ace Hardware, Anytime Fitness, and Fargo Public Library. Area A consists of a Family Dollar and Dog Grooming facility; and Area B is a Tesero gas station. There is a combination of residential and retail uses surrounding the Northport Plaza.

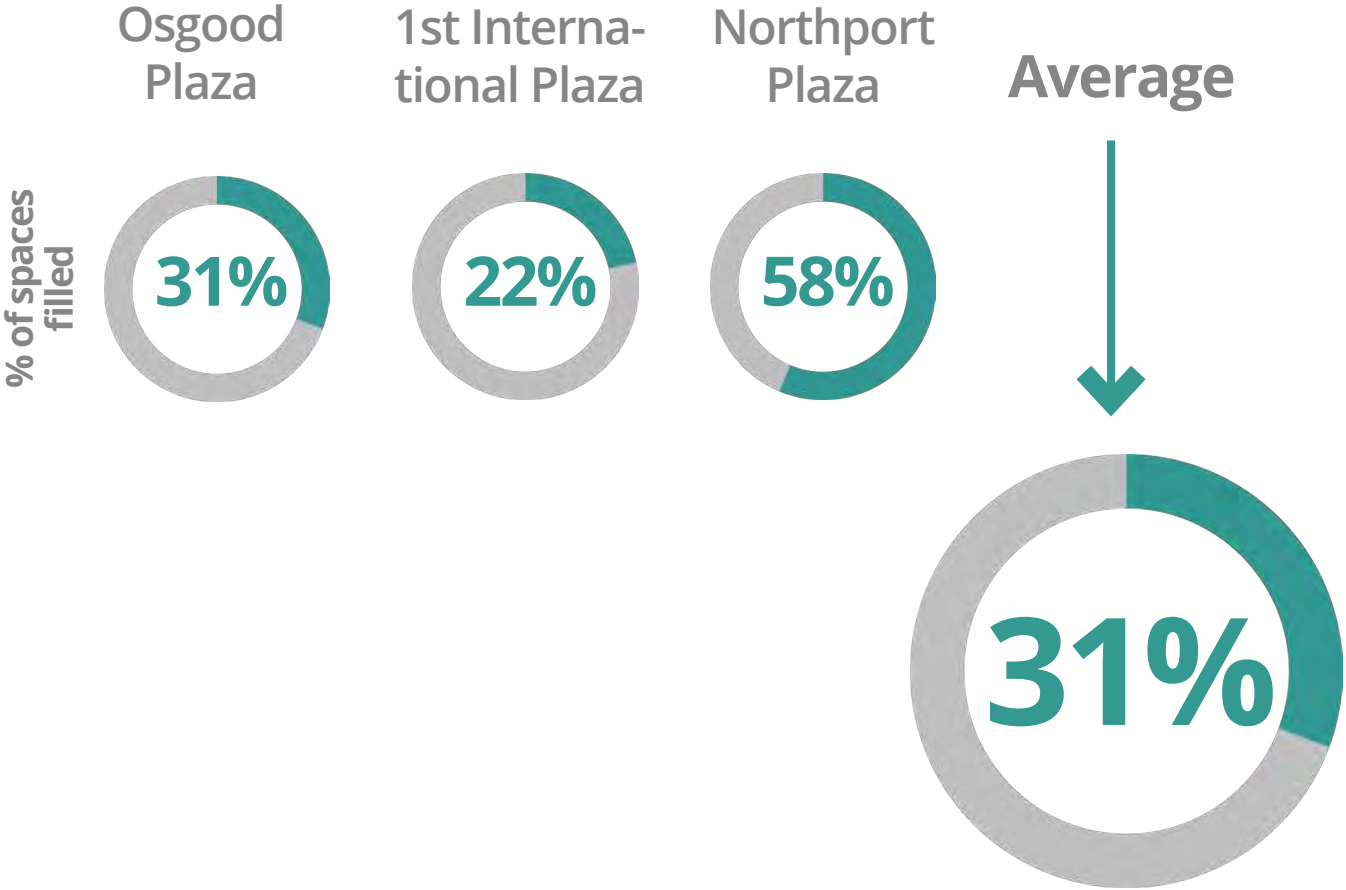
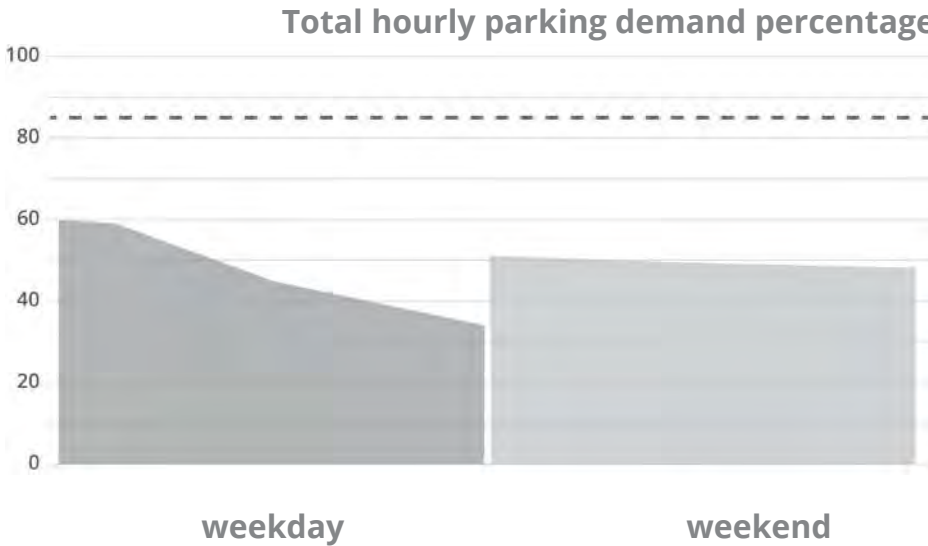
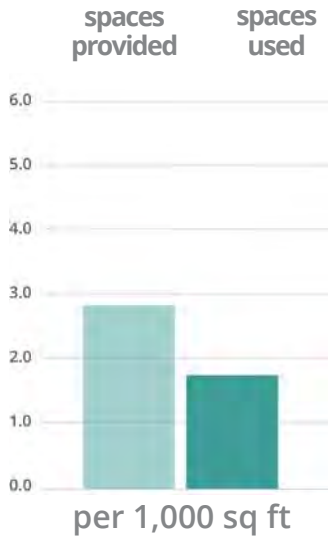
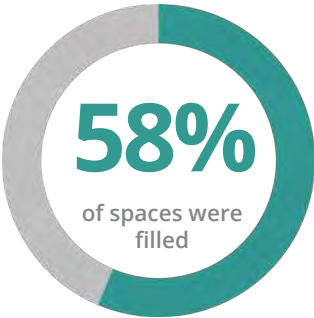


Summary of Commercial Land Uses



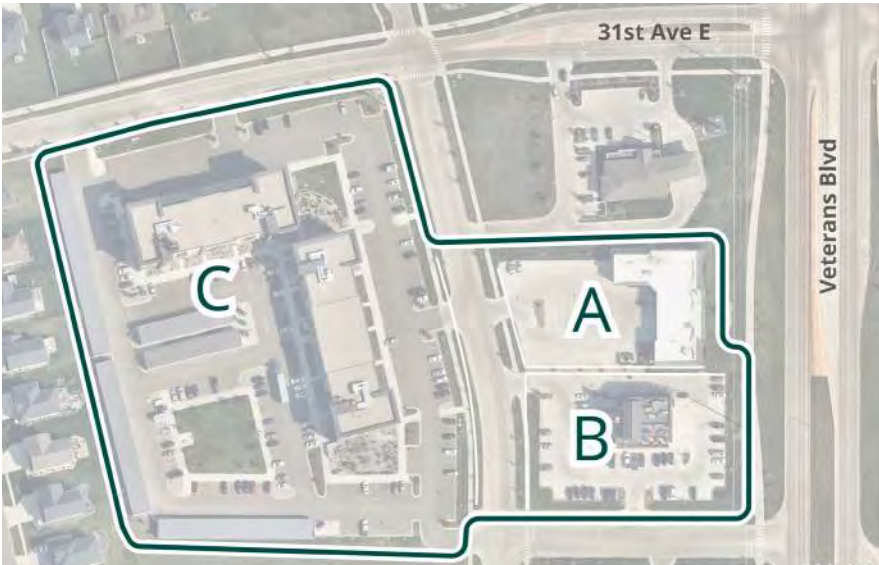
Utilization survey results

ID	Subsection	Inventory	Demand						
			Weekday			Weekend			
			5pm	6pm	7pm	11am	12pm	1pm	
A	Family dollar	52	27	14	13	14	15	12	
B	Gas station	13	12	11	6	15	15	15	
C	Main lot	366	213	167	136	188	181	180	
TOTAL		431	252	192	155	217	211	207	



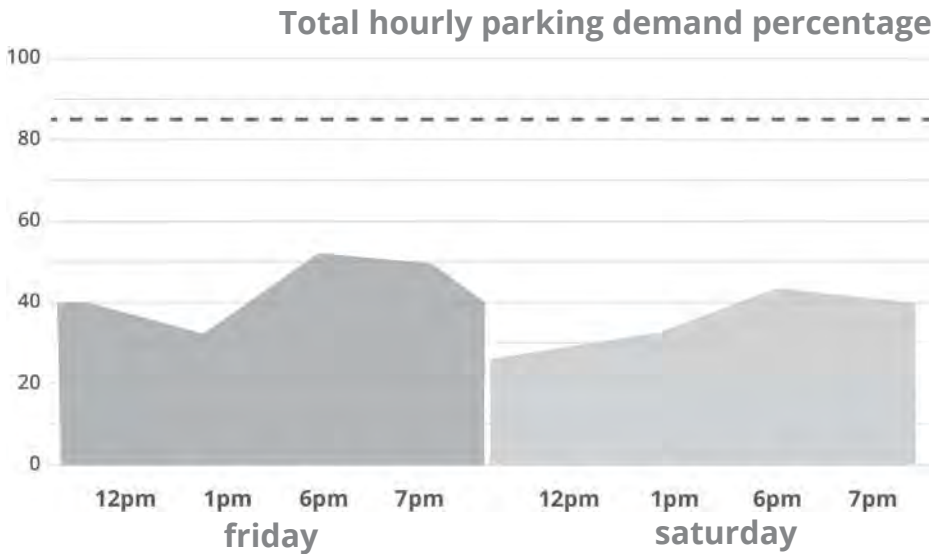
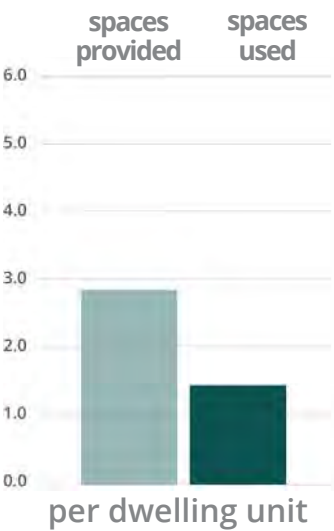
7 Boulevard Square, 745 31st Avenue East

Boulevard Square was recently constructed and includes a variety of retail stores such as Spicy Pie, Flatland Brewery, Pub West, Summit Software, and TrueIT, as well two stories of residential units above the commercial amenities. Area A consists of a Steep Me A Cup of Tea, Insurance Agent, and Glacial Peak Cryotherapy; and Area C consists of a Boulevard Pub.

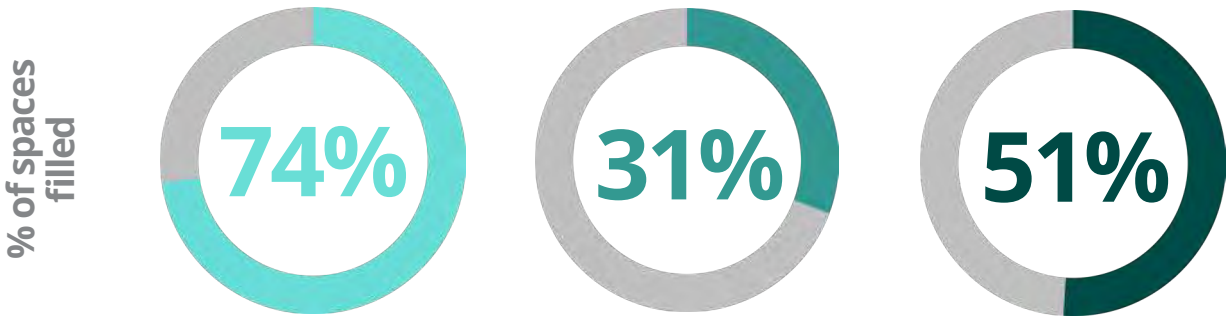
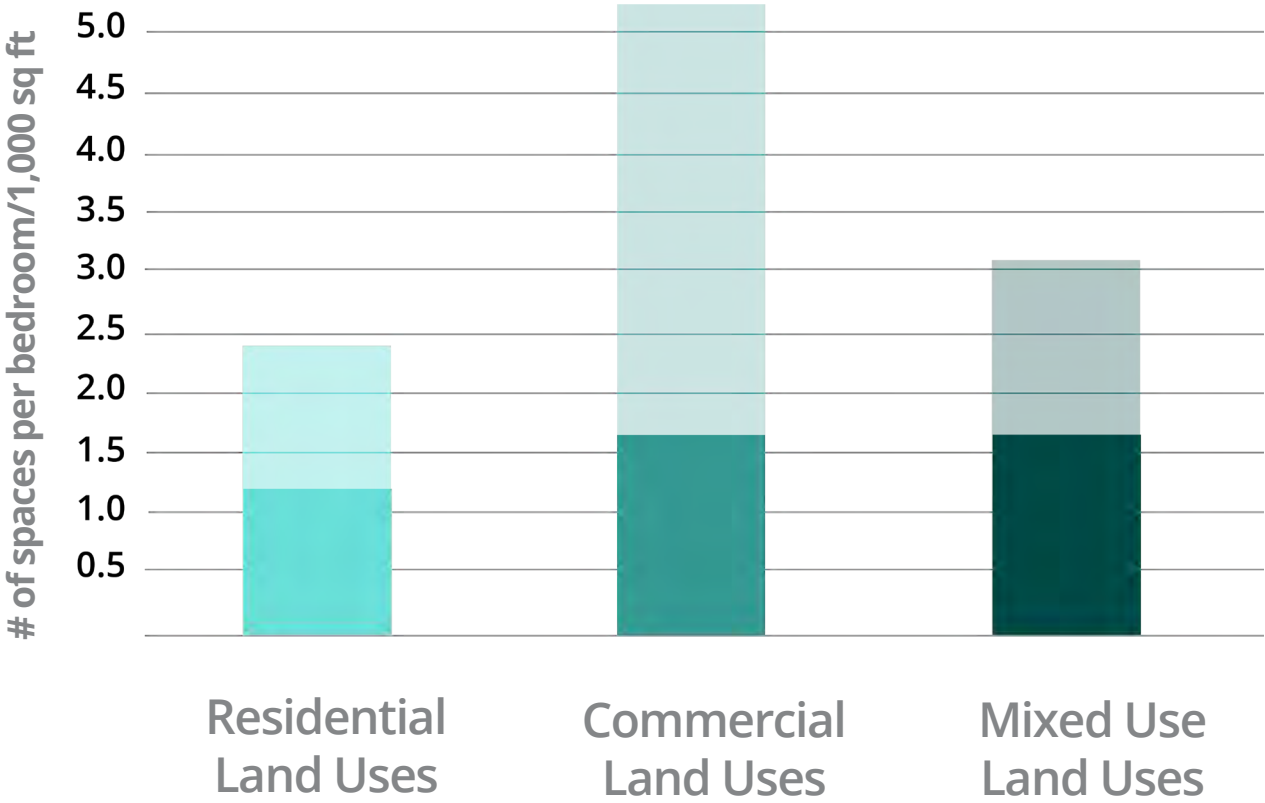


Utilization survey results

ID	Subsection	Inventory	Demand							
			Friday				Saturday			
			12pm	1pm	6pm	7pm	12pm	1pm	6pm	7pm
A	Steep me a cup	47	16	14	0	0	8	8	0	0
B	Boulevard Pub	75	26	22	50	54	14	27	47	45
C	Retail	285	119	98	159	146	97	100	129	120
	Structured garages	71								
	TOTAL	407	161	134	209	200	119	135	176	165



Summary of All Land Uses



Stakeholder Interviews

With the area’s primary parking and access issues quantified, hearing from residents, employees, customers, and other day-to-day users provided us with a more complete picture. One-on-one interviews with developers, financial institutions, and non-profit organizations were conducted to understand the specific parking needs, challenges, and opportunities for alterations in the development process.

The key stakeholders identified for this process were determined by the SRC and consultant team. Those willing to be interviewed included:

- Homebuilders Association
- Greater Fargo/Moorhead Economic Development Corporation
- Goldmark Commercial Real Estate
- Kilbourne Group
- Investor Group
- Dietrich Construction
- Terry Welle Construction

“Whenever you want to do anything that is out of the norm, you have to spend a lot of time and money”.

Overall, developers were interested in letting the market dictate development, allowing them to build more of what is selling and less of what is not. Six of the seven stakeholders interviewed were aware of options to alter minimum parking requirements but commented that the City is stringent on their minimum parking requirements, stating that they would be very unlikely to offer a variance. Those that were aware of the opportunity to reduce minimum parking requirements in Fargo through a CUP or AAP commented on the increased time and money spent on in filling out the application, preparing the proper documentation and studies, and presenting at the Planning Commission. Developers commented that they prioritize “following the path of least resistance” and are not likely to reduce the number of spaces supplied because it would take more time and cost more money. They are more likely to continue developing the same (or similar) projects since they have successfully done so in the past and feel more secure in the profitability. Several stakeholders stated interest in learning more about the procedures associated with reducing parking supply, shared parking, and other zoning regulations that could be applied to their developments in the future.

Some of the other key points stated by the stakeholders interviewed are outline below:

- The cost of building in the metro area has increased dramatically due to infrastructure costs associated with flood protection. This has led the majority of residential construction to occur in the surrounding neighborhoods. However, the majority of jobs (schools, hospitals, healthcare, etc) are still located—and being constructed—in Fargo, which leads to a large number of commuters between Fargo and the surrounding region. Residential housing stock in Fargo tends to be multi-family rental.

- Generally, the design of homes is a direct reaction to market preferences – builders build homes that are selling. The goal is to find a balance between what the consumer is willing to pay for, what regulations allow, and what is affordable. One example stated that there was a push for neo-traditional development with alleyways and front porches but people do not want to walk to and from their car and wanted larger garages so that is what is built.
- Senior housing is a common housing development type but the parking requirement for this land use is much higher than the demand for parking. Many senior housing residents want a 2-bedroom unit for one resident. About 60 to 75% of residents do not have a car and none have 2 cars which leads to an oversupply of parking for these developments.
- There are several developments in which the developer spent a ton of money on parking that is just sitting there remaining unused. And reducing the volume of parking requires the developer to spend additional money and time to hire a firm to complete a parking study to justify it. When everything is purely by the book, the characteristics of the individual sites are neglected. The City should have guidelines to allow for substantiated parking reductions, why would they not allow developers to downscale to a level that is adequate? There are several developments in which they spent a ton of money on parking that is just sitting there remaining unused.
- Developers, builders and property management companies understand the preferences of the region, so the City should give these entities more flexibility and independence moving forward.

“There are several developments in which we spent a ton of money on parking that is just sitting there unused”.

- Parking is an element for every business that considers locating in Fargo and West Fargo; it has never been the sole reason that a business or company has chosen not to locate in the Fargo, but it has been a contributing factor.
- Preferences in downtown and nodal areas is mixed use development, for which shared parking has become easier to get approval on. Residents living in these units understand that it is an urban environment and that walking is part of that experience. Office employees can be more challenging since the employees are more likely to be commuting from further and expect parking directly in front of the office.

Issues & Opportunities

! **ISSUE.** Many of the streets in Fargo and West Fargo are designed to maximize traffic flow, with several lanes and high speeds. It negatively impacts walkability and creates safety issues for all users.

+ **OPPORTUNITY.** Not all streets are used the same way, and their amenities need to reflect that. Different streets should accommodate different users based on the distinct characteristics and land use patterns.

! **ISSUE.** Fargo and West Fargo's non-vehicular networks are limited and disconnected from one another, preventing people who are walking, biking, or accessing transit from reaching their destination.

+ **OPPORTUNITY.** Future development needs to be more compact and connected to give people more options when traveling in and around Fargo. Managing street intervals and driveways is a key factor in shaping development pattern.

! **ISSUE.** Developers are attuned to the distinct parking characteristic for different land uses, but are more likely to follow existing regulations than challenge parking minimum requirements as it would slow down the approval process.

+ **OPPORTUNITY.** Giving developers the flexibility to provide less parking is a key aspect of satisfying market demand and increasing affordability.

! **ISSUE.** The amount of parking supplied vastly exceeds demand. All three of the land use types surveyed did not require the amount of parking that was supplied. Creating too much parking diminishes a neighborhood's vitality and walkability, creating sprawled development patterns, and leading to vehicle-dominated neighborhoods.

+ **OPPORTUNITY.** When planned holistically, parking can accommodate residents, employees, and businesses, without detracting from the vitality of the public realm. Creating policies and regulations that accurately reflect the parking demand, costs, and economic characteristics of a particular location is essential in achieving a balanced parking supply overall.

FRAMEWORK FOR THE FUTURE

Recommendations presented in this section consider the intrinsic connection between land use, parking and transportation, and specifically address the key access issues identified through this study. The following framework establishes distinct street types that specifically correlate to the surrounding land uses, supporting the development of livable neighborhoods and the right amount of parking.



Streets for the Future

In a region like the greater Fargo area that needs to provide a broad range of infrastructure facilities to support its current footprint and upcoming developments, establishing distinct typologies that consider the residents of the region first will improve the efficiency of the transportation network and assist in long-term planning decisions. Streets of the future will be classified to better reflect how people use the street and the street’s character, in addition to the street’s role in the network. The typologies will align the way streets are designed with the surrounding land uses.

Seven Street Types were identified that encapsulate the variety of street functions needed to create a complete transportation network. The street typologies are designed to align with the existing and future land uses, as well as the more traditional corridor classifications. Thus, the street typologies follow a similar naming convention, combining the predominate land use with the scale (e.g., residential + neighborhood or mixed use + arterial).

The Street Types explained on the following pages will guide Fargo and West Fargo in designing streets and deciding what elements to include on certain streets, such as on-street parking, a landscaped median, or crosswalks. The street typologies will also help inform important policy decisions that impact all users of the streets, such as setting speed limits that are comfortable and safe and providing convenient access to housing and businesses.

The design and configuration of a street has a major impact on how safe and easy it is to cross the street for people walking, how efficient it is for cars, trucks and buses, and how comfortable it is to visit with friends or shop at local businesses. For each of the street types, guidelines detailed below will help decide which street elements (e.g., medians, on-street parking) should be included on which streets, the spacing and/or configuration of those elements, and other important factors such as speed limit.



Land Use

Since street design should be informed by context, compatible land use types are important in determining street type.



Speed Limit

Speed is a crucial factor in the number of traffic crashes that occur on streets and a major determinant of the severity of those crashes. Speed should be linked to access, context, users, and purpose.



Travel lanes

Streets should have enough lanes to move people, within reasonable delay parameters, driving but also consider the impact on people crossing the street, how a wider a street can alter a community’s character, and the added construction and maintenance costs of building larger streets.



Median

On streets with multiple lanes of traffic moving in opposite directions, providing physical separation will improve safety, regulate access, and present an opportunity for landscaping and traffic calming benefits.



Parking

On-street parking is convenient for residents and visitors, leads to more efficient land use, and provides safety benefits for all street users; however, on streets with higher speeds and traffic volumes, on-street parking may not be appropriate.



Pedestrian Crossing

The appropriate type of pedestrian crossing depends on vehicle speeds and volumes along the street and should be tailored to the surrounding land uses.



Access spacing

Managing street intervals and driveways is a key factor in shaping development pattern. On streets with higher speeds and traffic volumes, increasing the distance between full access points or traffic signals improves traffic flow; however, controlled access must be balanced with a connected, walkable street network.

Regional Arterial. Act as a secondary alternative and direct connection to the Interstate system, serving large traffic volumes with highly controlled/limited interruptions.

Commercial Arterial. Act as gateways, connecting people from Fargo, West Fargo, and the wider region to the area's major destinations.

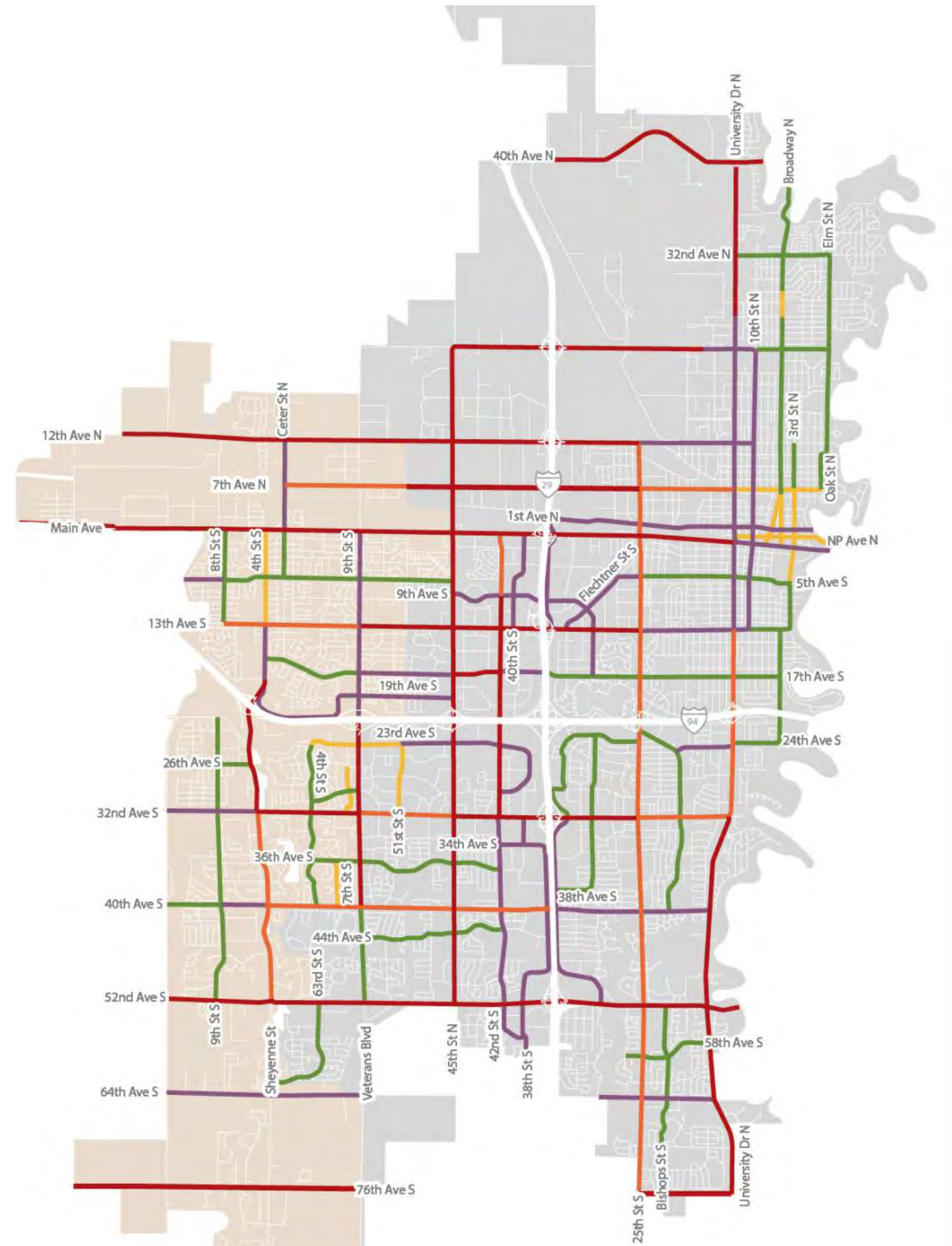
Mixed Use Arterial. Act as cross-town links and business corridors where people live, shop, dine, and work while supplying parking to support economic activity.

Mixed Use Collector. Connect residents from their neighborhoods to commercial nodes and corridors and are critical in enabling economic activity

Residential Collector. Connect neighborhoods and link residents with important facilities like libraries, schools and parks.

Mixed Use Neighborhood. Prioritize pedestrian safety and comfort over the mobility of cars.

Residential Neighborhood. Connect residents to each other and serve as shared space for neighbors to socialize and play.

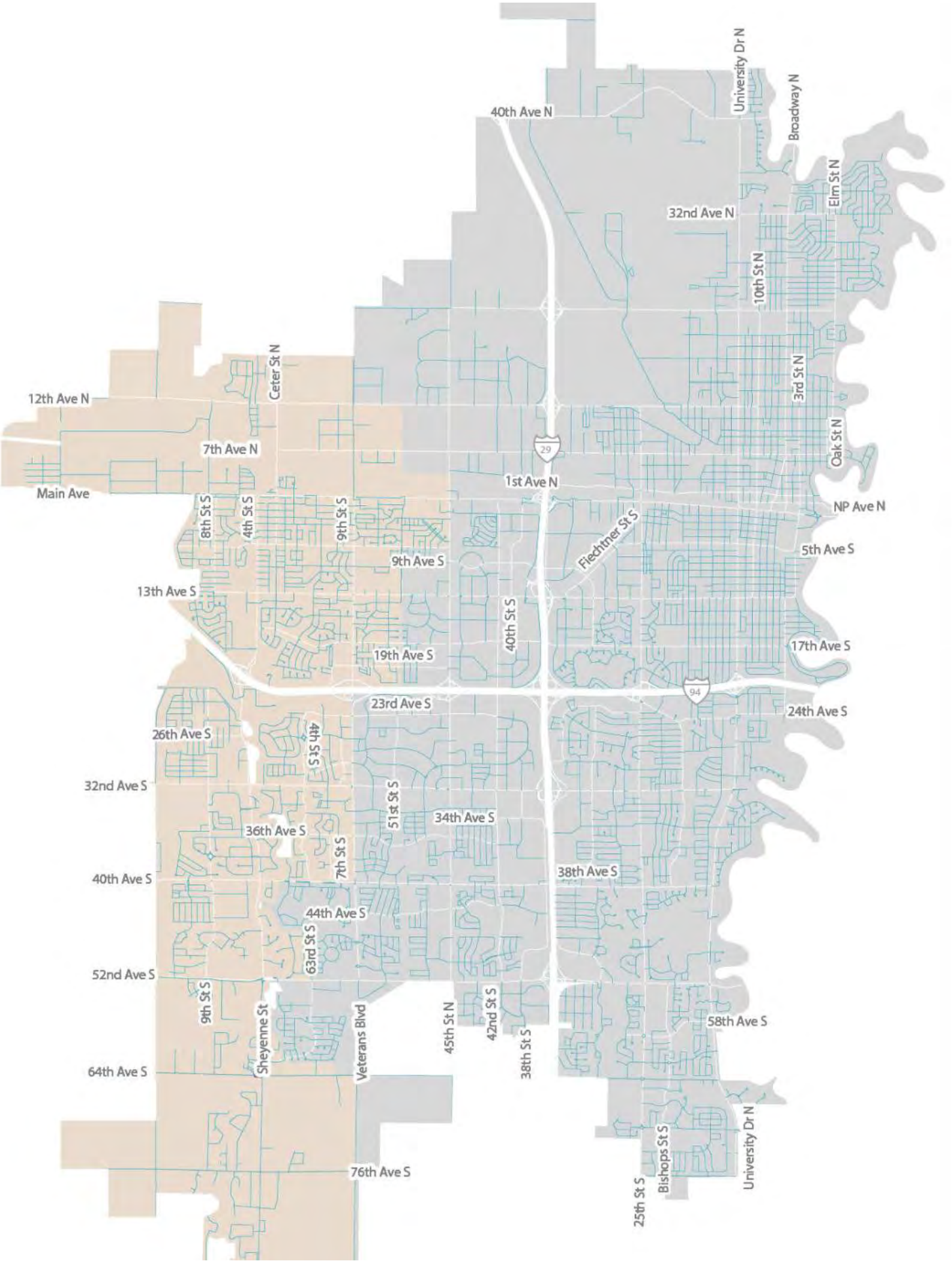


RESIDENTIAL NEIGHBORHOOD

Residential Neighborhood streets are calm and connect residents to each other and nearby destinations, carrying low traffic volumes at low speeds. These streets serve as much as a place for neighbors to socialize and play as they do to move vehicles. Neighborhood residential streets are predominately fronted by single family houses or other low-density housing and access occurs at the property level. Direct property access is a functionality of this street type.

Land Use	Speed Limit	Travel lanes	Other	Parking	Pedestrian Crossing
Low-density Residential, Civic	25 mph maximum	2 travel lanes	No median	On-street parking	Crosswalk

Access spacing	Traffic Signal:	Unsignalized Full Access:	Right-in/Right-out:	Driveways:
	N/A	Block-Level (300-400 feet)	N/A	30-50 feet

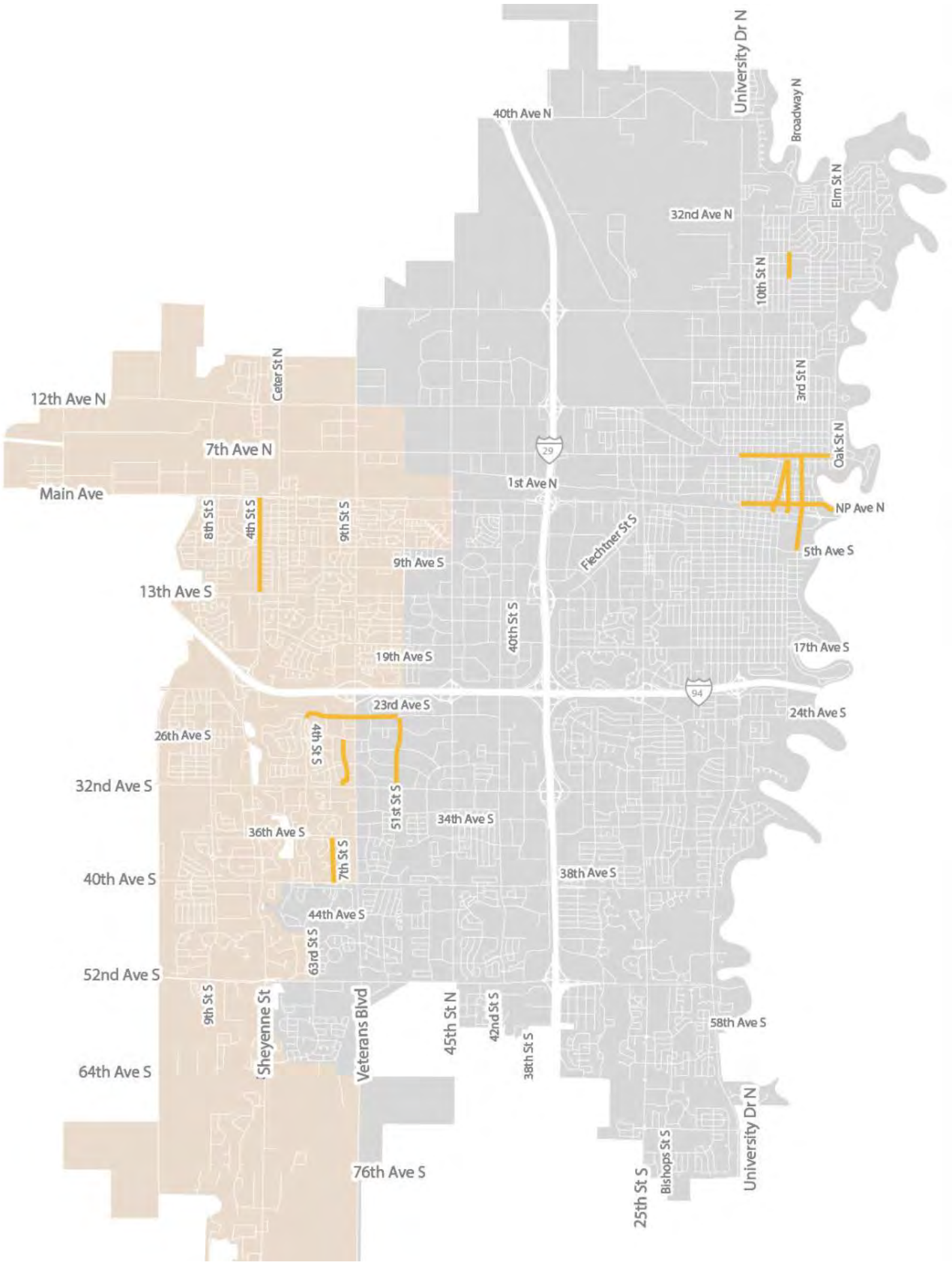


MIXED USE NEIGHBORHOOD

Mixed Use Neighborhood streets have a particular focus on prioritizing pedestrian safety and comfort over the mobility of cars. These streets are activity corridors that foster economic interaction and provide convenient parking opportunities to that effect. Mixed Use Neighborhood streets accommodate traffic at low speeds but limit access points to minimize pedestrian conflicts.

Land Use	Speed Limit	Travel lanes	Other	Parking	Pedestrian Crossing
					
Multi-family Residential, Ped-oriented	25 mph maximum	2 travel lanes	Boulevard	On-street parking	Crosswalk

Access spacing	Traffic Signal:	Unsignalized Full Access:	Right-in/Right-out:	Driveways:
	600-800 feet	Block-Level (300-400 feet)	N/A	150-200 feet



RESIDENTIAL COLLECTOR

Residential Collector streets connect neighborhoods and link residents with important institutional and recreational facilities like libraries, schools, and parks. These streets act as important links in the network for people using all modes of travel. There are a variety of housing types along these corridors from single family homes to apartment buildings, as well as community facilities. While these streets carry a moderate level of vehicular traffic, Residential Collector streets should also support community uses and character. These streets function to funnel traffic to defined access points on the arterial system that are usually attenuated by a traffic signal, allowing for ease of access.

Land Use	Speed Limit	Travel lanes	Other	Parking	Pedestrian Crossing
					
Variety of Residential, Institutional	25 mph maximum	2 travel lanes	Roundabout	On-street parking	Crosswalk

Access spacing	Traffic Signal:	Unsignalized Full Access:	Right-in/ Right-out:	Driveways:
	N/A	Block-Level (300-400 feet)	N/A	50-100 feet

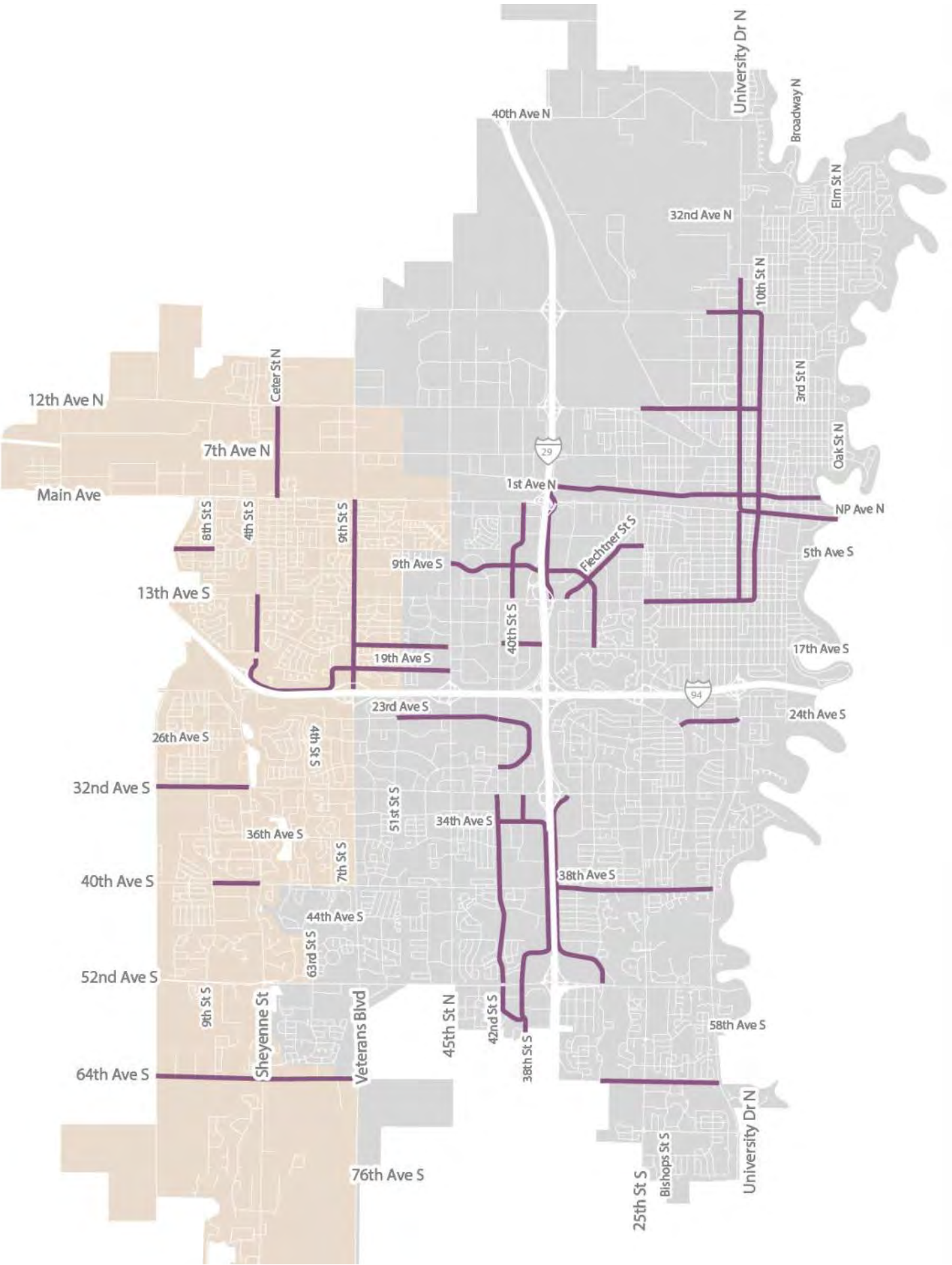


MIXED USE COLLECTOR

Mixed Use Collector streets connect residents from their neighborhoods to commercial nodes and corridors and are critical in enabling economic activity. There is a mix of uses along these types of streets, including multi-family housing, employment centers, and businesses. Mixed Use Collector streets should accommodate a moderate level of vehicles, as well as buses, delivery trucks, and people walking for daily errands.

Land Use	Speed Limit	Travel lanes	Other	Parking	Pedestrian Crossing
Low-density Residential, Civic	25-30 mph	3 travel lanes	Center turn lane	On-street parking	Median-protected

Access spacing	Traffic Signal:	Unsignalized Full Access:	Right-in/Right-out:	Driveways:
	N/A	Block-Level (300-400 feet)	N/A	200 feet

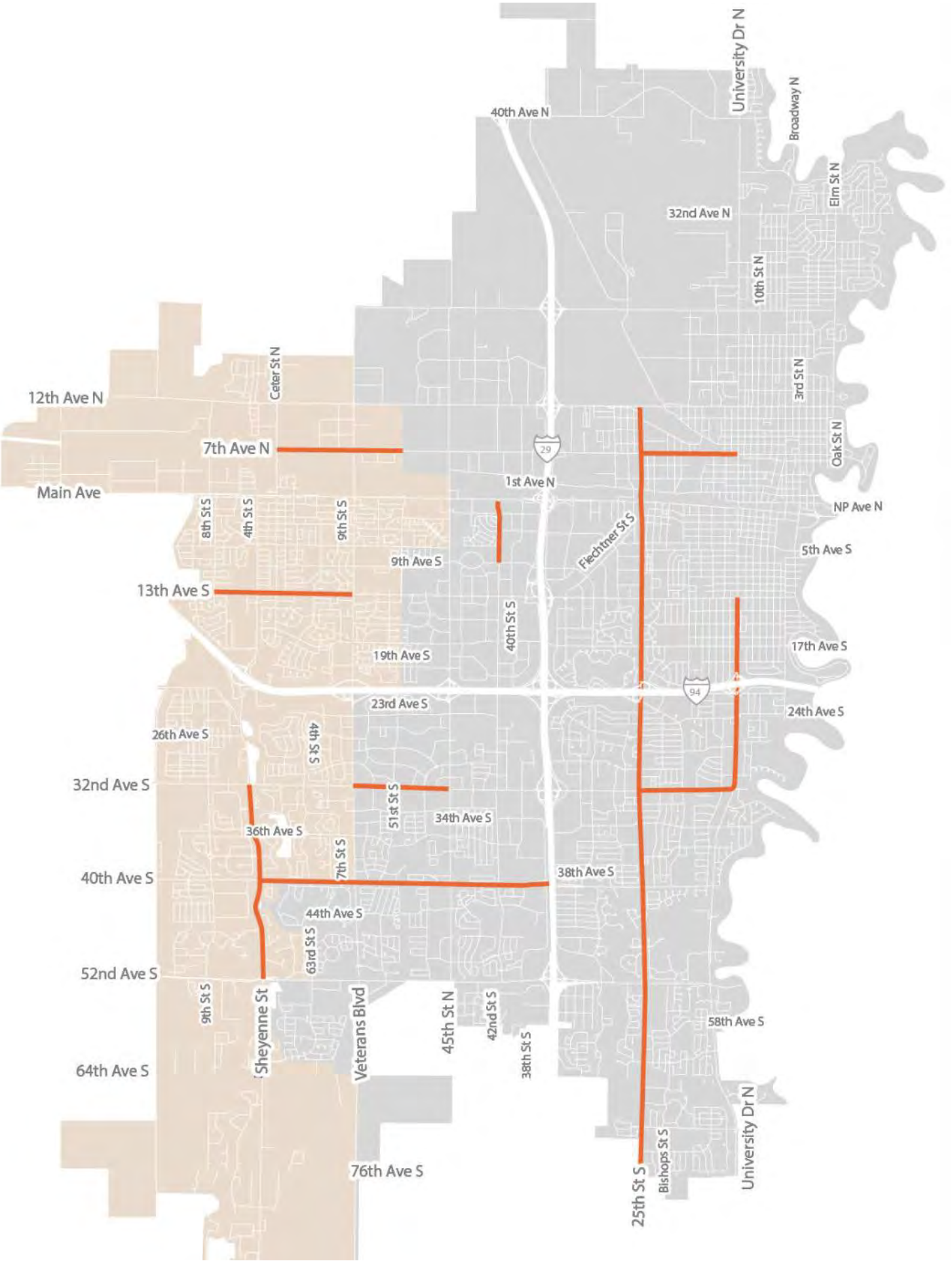


MIXED USE ARTERIAL

Mixed Use Arterial streets are business corridors where people live, shop, dine, and work. Mixed Use Arterial streets provide cross-town links to employment and commercial centers. These types of streets carry a higher volume of cars while providing access to a walkable street network. On-street parking should be allowed on these types of streets to encourage economic activity, as well as calm traffic and create a pedestrian buffer.

Land Use	Speed Limit	Travel lanes	Other	Parking	Pedestrian Crossing
					
Commercial, Multi-family Residential, Industrial	30-35 mph	3-5 travel lanes	Landscaped median or center turn lane	On-street parking	Signal or median-protected crosswalk

Access spacing	Traffic Signal:	Unsignalized Full Access:	Right-in/Right-out:	Driveways:
	600-800 feet	Block-Level (300-400 feet)	200 feet	Preferred on minor street

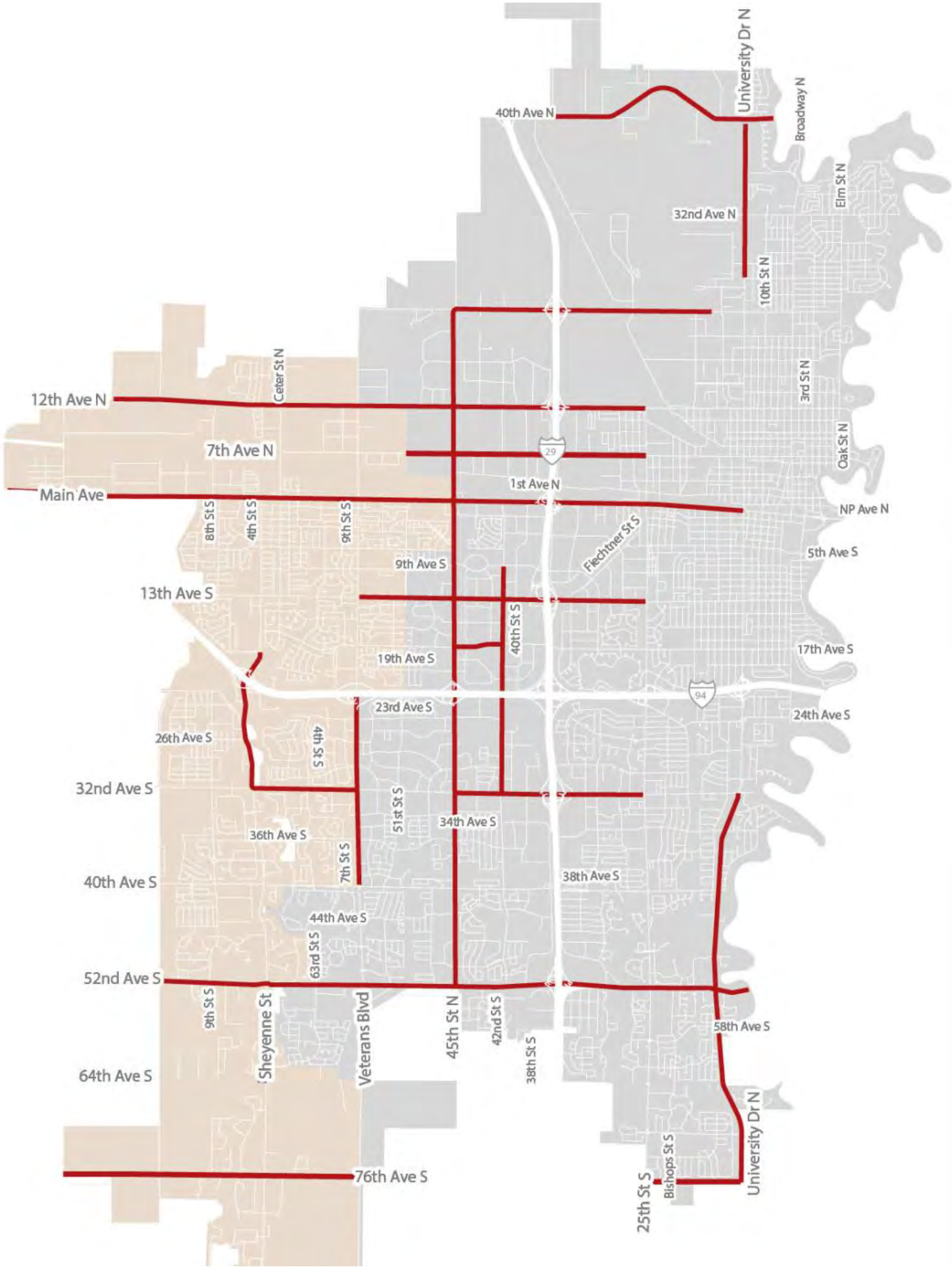


COMMERCIAL ARTERIAL

Commercial Arterial streets act as gateways, connecting people from Fargo, West Fargo, and the wider region to the area’s major destinations. Because these streets link everyone to important points of interest, it is critical that pedestrians have safe crossing opportunities. Access is more stringently managed on these types of streets, and on-street parking is generally not appropriate, so that a high volume of cars, trucks, and buses can travel efficiently.

Land Use	Speed Limit	Travel lanes	Other	Parking	Pedestrian Crossing
					
Commercial, multi-family	30-40 mph maximum	4-6 travel lanes	Landscaped medians	No on-street parking	Signalized crosswalks only

Access spacing	Traffic Signal:	Unsignalized Full Access:	Right-in/Right-out:	Driveways:
	1/4 mile	None	400 ft	None

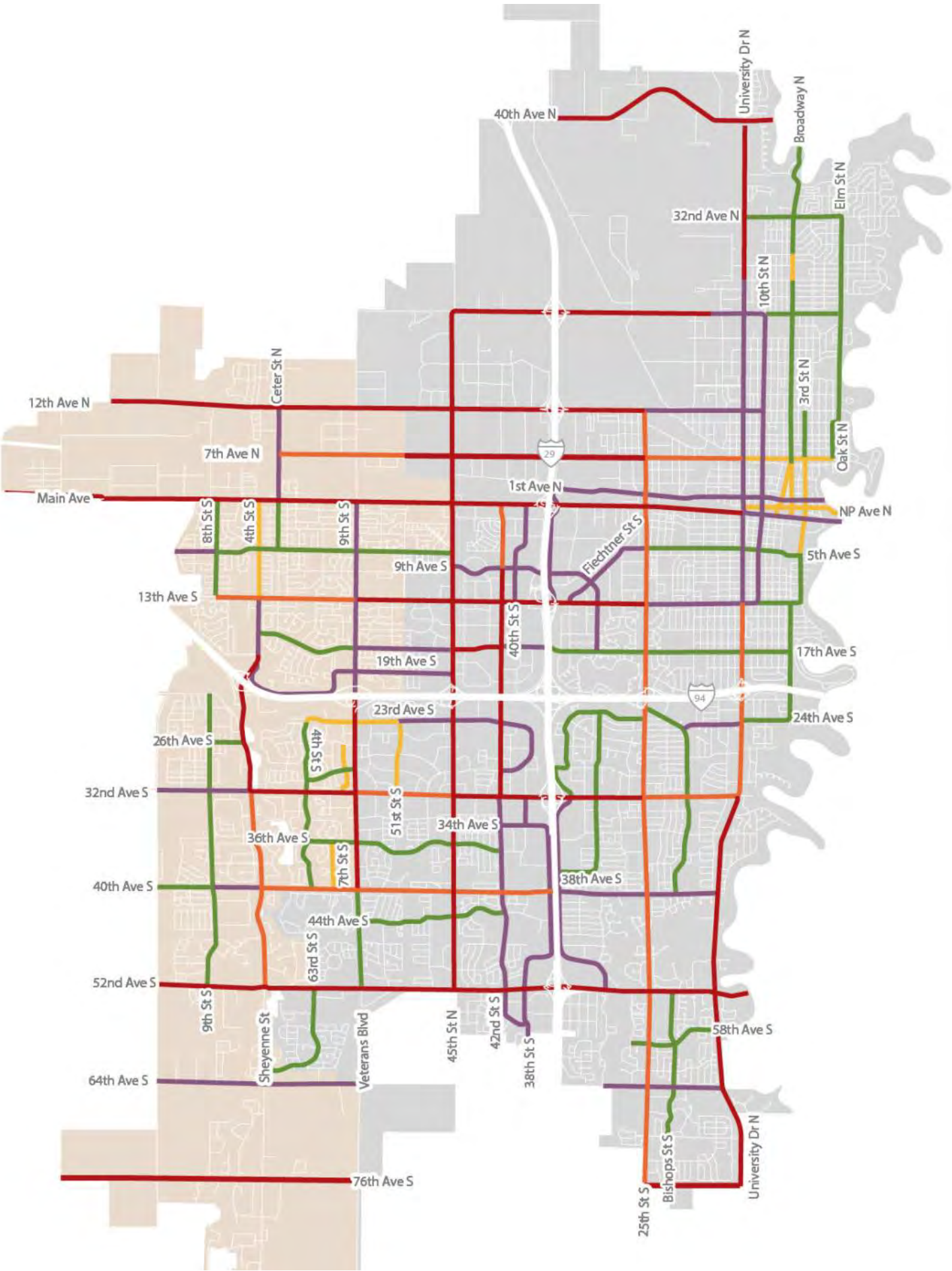


REGIONAL ARTERIAL

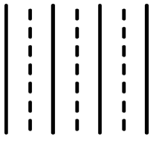
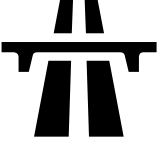
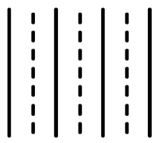
Regional Arterial streets are intended to serve large traffic volumes with highly controlled interruptions and function as a secondary alternative and direct connection to the Interstate system. This type of street does not exist currently in the Fargo/West Fargo area and is intended to be used for future planning purposes.

Land Use	Speed Limit	Travel lanes	Other	Parking	Pedestrian Crossing
					
Commercial, Industrial, Multi-family	45 mph maximum	4 travel lanes	Divided Roadways	No on-street parking	Grade-separated or signalized crosswalks

Access spacing	Traffic Signal:	Unsignalized Full Access:	Right-in/Right-out:	Driveways:
	1/2 mile	None, frontage system	1/4 mile	None



Guidelines for each street type are summarized in the table.

	 Functional Classification	 Grade Separation	 Land Use	 Pedestrian Crossing	 Median	 Travel lanes	 Speed Limit	 Parking	 Access spacing			
									Traffic Signal:	Unsignalized Full Access:	Right-in/ Right-out:	Driveways:
Regional Arterial	Primary Artery	Interstate, other Regional Arterials	Commercial, Industrial, High-density residential	Grade separation, Signal	Yes	4 travel Lanes	45 mph	No	1/2-mile	None/ frontage system	1/4-mile	None
Commercial Arterial	Primary Artery Minor Artery	Interstate, probably Regional Arterials	Commercial, Mixed Use, Multi-family	Signal	Yes	4-6 travel Lanes	30-40 mph	No	1/4-mile	None	400 feet	None
Mixed Use Arterial	Minor Artery	Interstate	Neighborhood, Commercial, Mixed Use, Institutional	Signal, Median protected	Yes or No	3-5 travel Lanes	30-35 mph	Yes	600-800 feet	300-400 feet	200 feet	Preferred on minor street
Mixed Use Collector	Major Collector	No	Commercial, Mixed Use, Multi-family	Median protected, Crosswalk	No	3 travel Lanes	25-30 mph	Yes	N/A	300-400 feet	N/A	200 feet
Residential Collector	Minor Collector	No	Mixed Use, Residential	Crosswalk	No	2 travel Lanes	25 mph	Yes	N/A	300-400 feet	N/A	50-100 feet
Mixed Use Neighborhood	Major/ Minor Collector Local	No	Pedestrian-oriented commercial, Mixed Use, Residential	Highest priority	No/Blvd	2 travel Lanes	25 mph	Yes	600-800 feet	300-400 feet	N/A	150-200 feet
Residential Neighborhood	Local	No	Residential	Crosswalk	No	2 travel Lanes	25 mph	Yes	N/A	300-400 feet	N/A	30-50 feet

RIGHT-SIZING THE REGIONAL PARKING FOOTPRINT

Parking plays a critical role in site development and overall development patterns and, as this study determined, Fargo and West Fargo have significant areas of underutilized parking. Several strategies can be implemented by the communities, and supported by MetroCOG, that allow for “Right Sized” parking.

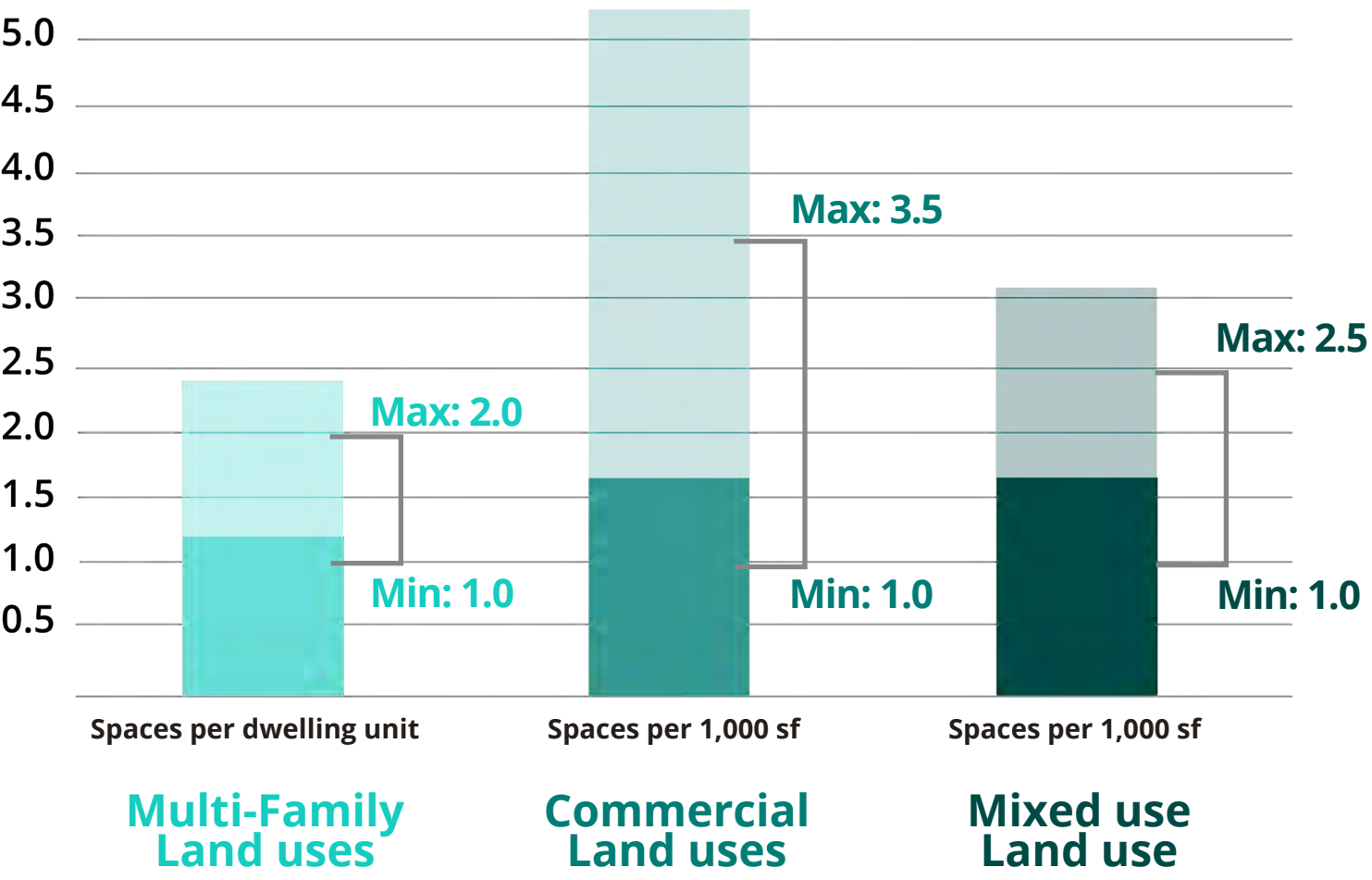


MINIMUM AND MAXIMUM REQUIREMENTS

Excessive parking requirements make market-rate housing more expensive, reduce the amount of space for non-parking uses, increase impervious surface, and encourage people to drive more frequently. When minimum parking requirements are implemented, even those that do not drive share in the cost of parking through higher retail prices, higher rents, and other taxes. Deregulating off-street parking allows the market to determine parking supply levels, creates more walkable development patterns, and begins to level the playing field for all travel modes. Additionally, mobility services like Uber and Lyft, and – eventually – the widespread adoption of driverless vehicles, are likewise contributing to a trend toward needing less parking and more pick-up/drop-off space. Even if traffic volumes and driving mode split were to stay the same, the demand for parking will decline, making the implementation of parking maximums a powerful and necessary tool to prepare for emerging transportation trends.

Recommendation. It is recommended that the cities of Fargo and West Fargo adopt parking maximums in combination with minimum requirements to provide developers with the flexibility to provide parking over demand while preventing excessive parking from being constructed. The parking ranges shown below summarize potential minimum and maximum requirements for the land use typologies for which demand was determined. Each of the minimum requirements is set below the existing demand to ensure that enough parking is provided, but the maximums are set below the volume of parking that is currently provided to ensure that excess parking is not constructed.

Proposed minimum and maximum parking requirements



MINIMUM AND MAXIMUM REQUIREMENTS: CASE STUDIES

Eliminate Parking Minimums. Fayetteville, AR



In 2015, Fayetteville eliminated all nonresidential parking requirements citywide. This was part of the City’s “Smart Parking” approach in it’s Master Plan, along with the adoption of shared parking standards. The impetus of this initiative came from the community’s commercial real estate brokers who had growing frustrations filling vacant commercial spaces with new uses. After two years of this program being in place, the City’s planning staff have found that businesses continue to provide the maximum amount of parking in more auto-oriented suburbs, while others, closer to the downtown core, have made use of the increased flexibility to fill spaces that were previously vacant.

Various Parking Maximums.

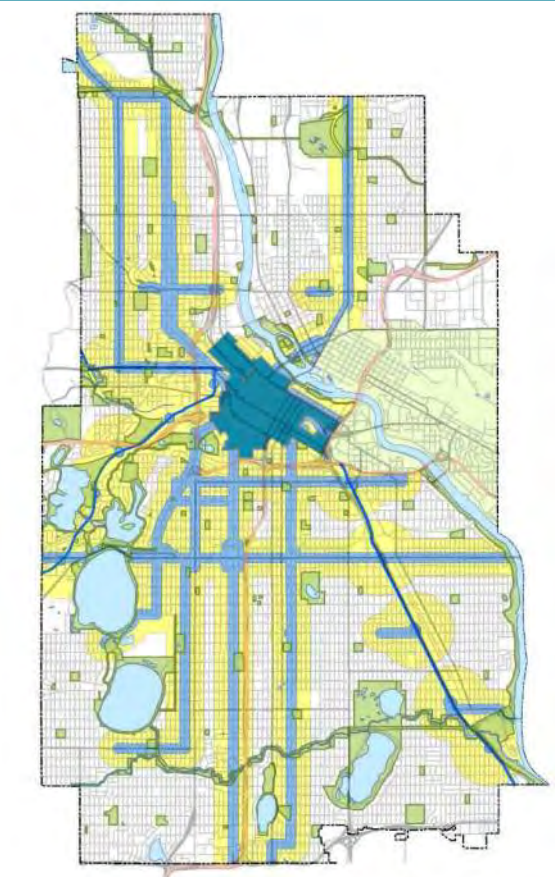
Cities across the country are picking up on the negative impacts minimum parking requirements have on the livability of their communities. And in response, have eliminated minimum parking requirements, introduced overlays, or established parking maximums. Strong Towns, a nonprofit research organization, has mapped cities that have adopted these policies. The organization also documents low parking demand during Black Friday each year, to show that parking minimums are excessive, even during the day of the year that is associated with one of the highest parking volumes.



Transit Oriented Development. Minneapolis, MN

The City of Minneapolis has instituted a series of Transit-Oriented Development (TOD) ordinances that allow for the elimination of off-street parking requirements in proximity to transit. These policies are distinguished between “high” and “moderate” frequency transit service: moderate frequency is defined as a 15-30 minute midday service, while high frequency is defined as midday service every 15 minutes or less. The ordinance allows for the elimination of off-street parking requirements for multi-family residential buildings located within 350 feet of a high frequency bus route or rail station. Depending on the size of the building, a 50 to 100 percent reduction is allowed within a TOD area, ¼-mile around a high frequency bus route or, ½-mile from a rail station. The City also has an ordinance that allows for a 10 percent reduction of off-street parking requirements for multi-family residential buildings located within 350 feet of a moderate-frequency bus route or rail station.

Minneapolis has two light rail lines, one commuter rail line and over 100 bus routes that carry over 85 percent of the system’s daily passengers.



Parking Spaces Required Per Residential Unit		
	3-50 Units	>50 Units
Within 350 feet of a bus or rail transit stop with midday service headways of 15 minutes or less	No Parking Required	No Parking Required
Within one-quarter mile of a bus stop with midday service headways of 15 minutes or less, or within one-half mile of a rail transit stop with midday service headways of 15 minutes or less	No Parking Required	One Parking Space Per Two Units
Within 350 feet of a bus or rail transit stop with midday service headways between 15 and 30 minutes	10% Reduction from 1:1	10% Reduction from 1:1

MINIMUM AND MAXIMUM REQUIREMENTS: NEXT STEPS

Task	Parties Involved	Level of Complexity (low, medium, high)	Priority (short, mid, long)
Conduct parking utilization surveys for other land uses in the region. The land use typologies used in this report were selected based on discussions held by the SRC. There are a number of other land uses throughout the region that should be accounted for when introducing new parking minimum or maximum requirements. And in order to ensure the requirement reflects the demand for these spaces, a parking utilization survey should be completed and used to guide zoning policies. These studies should monitor the utilization of at least three modes and capture what is understood to be the peak demand period by local users, as well as national parking publications.	City of Fargo, City of West Fargo, Metro COG	Low	Short-term
Streamline land use type and categories. These three categories include a variety of other land uses, with their own parking requirements. The City of Fargo has over 30 separate land uses defined in their parking code, while the City of West Fargo has over 45. Simplifying the code to be more flexible within broader categories would provide developers with more freedom to construct parking below the requirements. For example, the residential parking minimum of one (1) and maximum of two (2) should be enforced, and on-street parking can accommodate additional supply.	City of Fargo, City of West Fargo	High	Mid-term
Eliminate parking minimums in Transit Oriented Development (TOD) areas or in transit hubs. Many communities throughout the country have eliminated parking minimum requirements in proximity to transit. This has enabled the presence of dense, walkable environments while encouraging the use of transportation. Through eliminating parking requirements within a 1/2-mile radius of transit hubs or bus stations, the possibility of more dense development will become possible, which will further encourage the use and availability of transit when traveling to and from these areas.	City of Fargo, City of West Fargo, MATBUS, Bicycle bikeshare	Medium	Mid-term

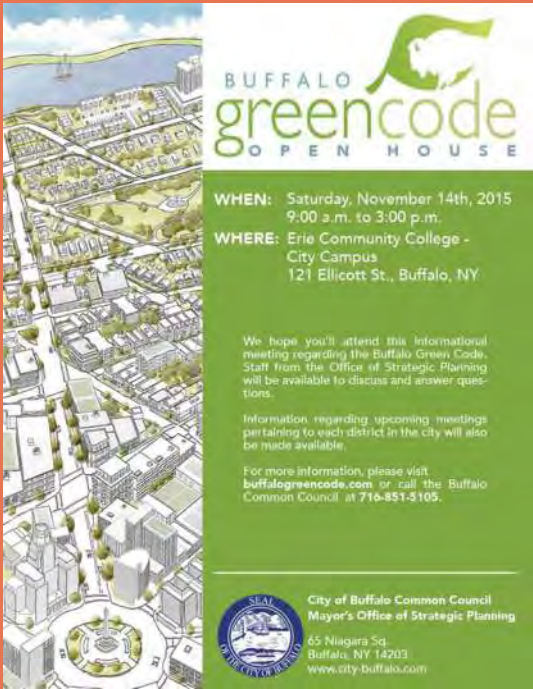
ALTERNATIVE TRANSPORTATION MODE INITIATIVES

Supplemental to the proposed minimum and maximum parking requirements will be changing the procedures associated with requesting and receiving parking variances. Existing policies encourage developers to construct parking beyond their demand by requiring them to obtain a variance if they wish to provide parking below the existing minimum requirement.

It is recommended that this is reversed: if a development provides parking above the maximum range, a Transportation Demand Management (TDM) or shared parking analysis must be completed to justify that the project will generate the additional demand requested and demonstrate that the demand cannot be accommodated by shared parking initiatives or other transportation programs. And if a development wishes to provide parking below the minimum requirement, they make up for the cost through a payment-in-lieu of parking, as discussed in the subsequent recommendation. The goal of these policy changes is to make it more difficult to provide parking that is not necessary.

TDM requirements. Buffalo, NY

Buffalo New York became the first city in the United States to remove parking minimum requirements city-wide. This alteration was part of the Buffalo Green Code, a Unified Development Ordinance that replaced standard land use-based code with form-based code. In addition to eliminating parking requirements, the code required certain buildings to prepare a TDM plan justifying that the project accommodates the travel demand it generates and specifying the tools that are used to accommodate that demand (bicycle parking, subsidized bus passes, alternative work schedules, etc.).



SHIFT TDM Ordinance. San Francisco, CA

In combination with San Francisco's Transportation Sustainability Program, the City created SHIFT TDM Ordinance to reduce SOV trips and encourage the use of other modes. The program allows developers to choose an applicable combination of TDM measures that will work best for reducing vehicle trips associated with their project. TDM measures are comprised of a menu of different on-site TDM measures, each worth different point values based on the relative impact and effectiveness they will have on reducing vehicle trips. For example, providing showers for bike commuters is worth one point, while reducing on-site parking is worth up to 11 points. Each project is required to meet a minimum point threshold based on project size, characteristics, and location.

The program is part of the development application. Meaning, developers are required to select the measures they are planning to utilize before filing a development application which allows planning staff an opportunity to comment or recommend measures for a project prior to starting the development application process.

There is also an inspection prior to the before occupancy is certified, as well as ongoing monitoring requirements, and a program audit every three years. Enforcement is funded through program fees—developers must pay an initial fee of \$6,000 and an annual fee of \$1,000. Building applicable to SHIFT TDM include projects that exceed 10,000 square feet of non-residential development or over 10 residential projects.



ALTERNATIVE TRANSPORTATION MODE INITIATIVES: NEXT STEPS

Task	Parties Involved	Level of Complexity (low, medium, high)	Priority (short, mid, long)
Require pedestrian amenities and landscaping to be included in surface lots. Existing parking lots in the Fargo region mostly consist of large swaths of asphalt, which creates an uncomfortable and unsafe experience for pedestrians. Including walkways to/from store entrances, landscaping, and lighting improves the pedestrian environment and encourages cross shopping.	City of Fargo zoning department, City of West Fargo zoning department, shopping center merchants	Low	Mid-term
Require and enforce Transportation Demand Management (TDM) for new developments. TDM strategies are key to shifting the demand for parking and beginning to shift modes to transit. While the Fargo region is dominated by car use, enforcing TDM measures will provide more people with more options when traveling, and begin to make driving an option as opposed to a necessity. TDM requirements for incoming developments might include, the presence of bicycle facilities, improved bus stops, pedestrian amenities, or discounted transit passes for employees. There are a wide array of TDM options, and this would work towards identifying an effective combination of strategies for each incoming development.	City of Fargo, City of West Fargo, major employers	High	Long-term
Allow development projects to include on-street parking to meet minimum parking requirements. On-street parking can increase the parking supply without increasing the parking footprint, while slowing traffic and creating a more pedestrian oriented roadway. We recommend that the Fargo region encourage the use of shared on-street parking, by allowing developments to count adjacent on-street spaces to meet their parking minimum, and that these spaces be shared with nearby buildings.	City of Fargo, City of West Fargo	Medium	Short-term

FEE-IN-LIEU OF PARKING PROGRAM

Under a fee-in-lieu of parking program, a developer is given the choice to opt out of providing the minimum amount of parking required in substitution for a payment given to a governing entity. These funds can then be used towards alternative transportation initiatives, creating additional shared parking supply, or upgrading existing parking assets.

The rate of the in lieu fee varies from city to city. While some entities set fees-in-lieu on a case-by-case basis, most set a uniform rate for all incoming development. The majority of fee-in-lieu rates do not cover the full cost of providing a public parking space but aim to be high enough to pay for parking and low enough to attract development. Considering these factors, we recommend setting a uniform fee-in-lieu rate that is based on the cost to construct a surface parking lot in Fargo and West Fargo.

Task	Parties Involved	Level of Complexity (low, medium, high)	Priority (short, mid, long)
Determine fee in-lieu of parking payment. The rate of fee-in-lieu payments should reflect the cost of constructing a parking facility in that particular region. To gain an accurate understanding of this number, the City of Fargo and West Fargo should research local construction costs for surface lots and determine a rate per space.	City of Fargo, City of West Fargo	Medium	Short-term
Create list of capital improvement projects that can be performed with additional funding based on feedback from developers and business owners. Many cities use direct feedback from the business and/or the real estate community to guide how fee-in-lieu money is spent. This increases collaboration between the city and stakeholders, and incentivizes stakeholder to use this tool.	City of Fargo zoning department, City of West Fargo zoning department, developers, employers, merchants	Medium	Mid-term

Fee-in-lieu of Parking. Miami, FL

Miami's Coconut Grove allows developers to pay the City a flat rate or monthly payment in lieu of constructing the required amount of parking for a site. This money goes towards the City's public parking and other mobility efforts. Since the program was adopted, developers have opted out of approximately 1,000 spaces, generating approximately \$3 million in revenues. Funds from this program have been used to:

- Develop a 416-space garage with ground floor retail
- Fund a study for a downtown circulator shuttle
- Pursue landscaping improvements
- Install traffic control devices to improve parking and pedestrian access



SHARED PARKING PROGRAM

Shared parking is crucial in creating a vibrant region; different land uses have different peak parking demands. Sharing parking among a daytime office building and adjacent restaurant for example, allows less parking to be built than if each entity had to construct its own parking. This results in less land being dedicated to parking and enables growth without exacerbating congestion problems. Building reserved parking for each individual building induces more vehicle trips on Fargo streets.

It is recommended that the City of Fargo and West Fargo takes steps that encourage the use of shared parking including variance alterations, establishing parking management districts around key commercial nodes, and encouraging the use of on-street parking.

Shared Parking with Private Entities. Omaha, NB

Omaha’s parking system includes a Partners program which provides a user-friendly, online process for property owners to offer their unused spaces, at a specified schedule, to the Park Omaha network through a shared parking agreement.

The process begins with an online application. Partner locations are added to the Park Omaha interactive map and includes information on location and hours of operation. Park Omaha identifies these facilities, as “partner” facilities, and distinguishes them from Park Omaha facilities, in its maps and information materials. As Partner facilities, private lots are given official (copyrighted) signage/iconography with a distinct logo that identifies them as part of the Park Omaha network.



Park Omaha

OFF-STREETON-STREETSERVICES

Interested in becoming a Park Omaha Partner?

If your residential or business building has unused parking spaces (for example after 5 p.m. or on weekends) and you would like to be part of the shared Park Omaha Partner program, fill out the form below or call City of Omaha Parking Division at 402-444-PARK to learn more.

NAME OF FACILITY

LOCATION OF FACILITY *

TYPE OF FACILITY *

AVAILABILITY *

How many spaces will you have available for public parking?

HOURS/RATES *

Shared Parking Districts. Montgomery County, VA

Montgomery County has established several parking management districts that correspond with commercial nodes or central business districts. In each city, a shared parking program has been developed and is part of a long-term strategy to offer parking as a shared resource. City officials have found that financial lenders are more accepting of shared parking when these districts are established, which has worked successfully promoting mixed use and more dense development patterns in these areas.



SHARED PARKING PROGRAM: NEXT STEPS

Task	Parties Involved	Level of Complexity (low, medium, high)	Priority (short, mid, long)
Eliminate zoning stipulations that require developers to obtain a conditional use permit to share parking. Parking utilization surveys reveal that the City of Fargo and West Fargo both have an excess supply of parking, however 14 CUP applications were presented to Fargo’s City council since 2015. It is recommended that Fargo and West Fargo eliminate the need to obtain a CUP to share parking, and instead present a written agreement to Council.	City of Fargo, City of West Fargo	Medium	Short-term
Establish Shared Parking Districts. Creating Shared Parking Districts would provide a boundary in which tenants would be able to share parking with one another, and use these assets to meet their minimum requirement. To pursue this, both cities should identify and prioritize nodes with a 1/2-mile to 1/4-mile radius and begin to draft zoning stipulations that would promote this type of development.	City of Fargo, City of West Fargo	Medium	Mid-term

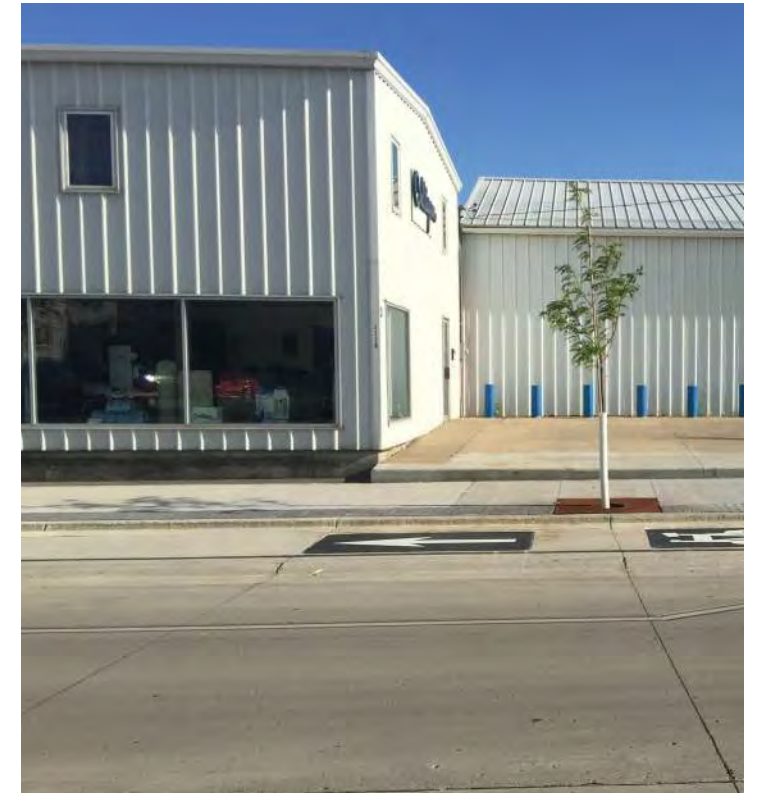
Development Prototypes

To translate how Street Types and their associated access guidelines can set a successful and connected development pattern, three prototypes were developed. These prototypes illustrate how each of the roadway typologies should be accessed by different land uses, while incorporating parking in a shared and effective manner. These prototypes are meant to be used as guidelines to reference when approving building permits, initiating parking policy changes, or constructing new roadways.

The following prototypes represent three land use typologies, with key features highlighted throughout:

- (1) commercial
- (2) mixed use
- (3) residential

The dimensions of the blocks and buildings included in each prototype, were derived from existing land uses throughout the region to ensure that these models are aligned with the regions market and preferences.



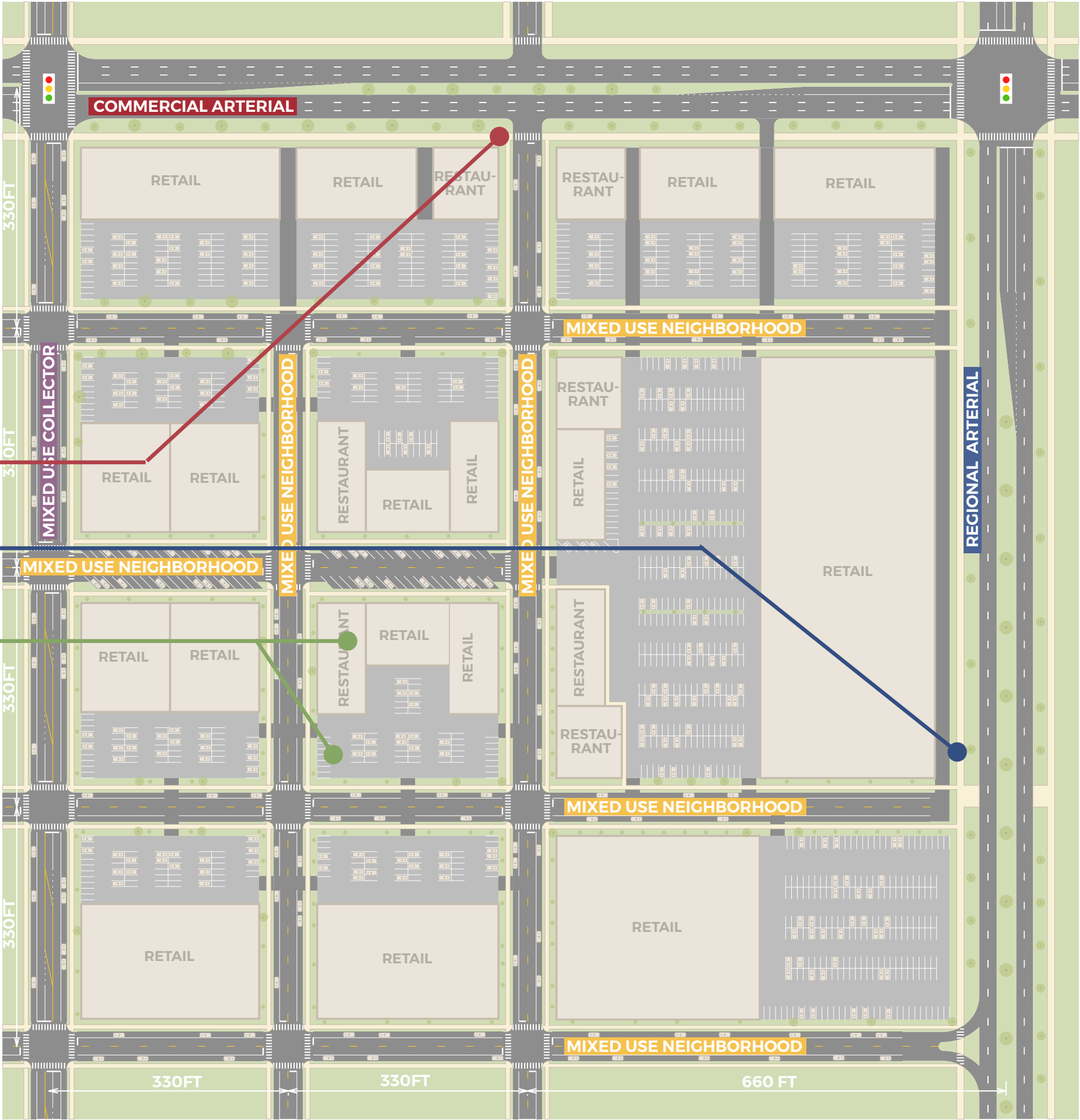
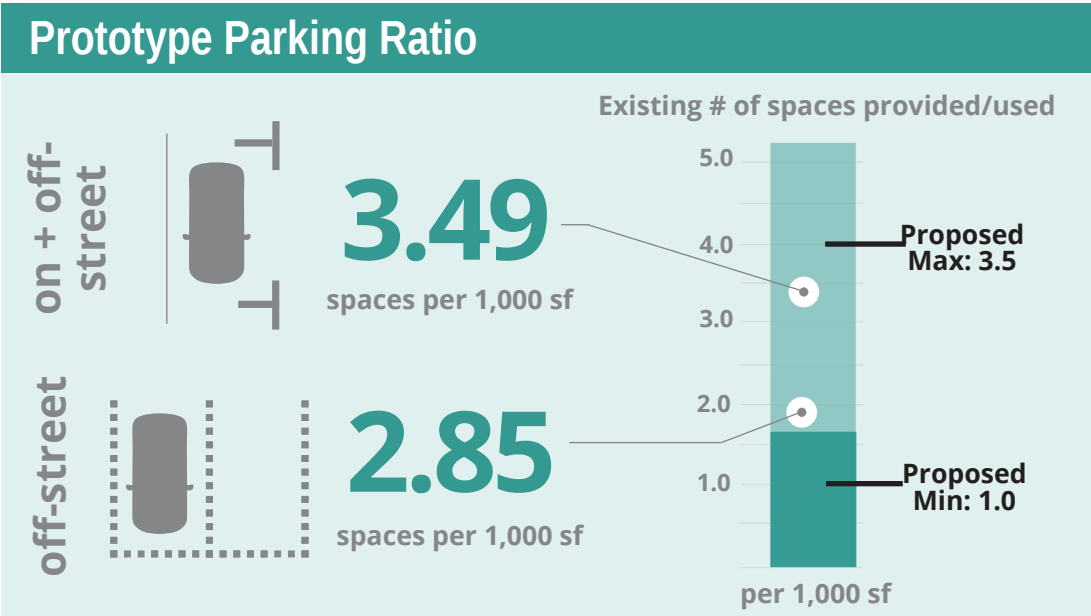
Commercial Prototype

The framework presented here on this 1/4-mile by 1/4-mile tracts uses regular block sizes to set a walkable grid pattern with sidewalks and plentiful on-street parking to reduce the need for large surface parking lots. Shared parking fields are made feasible by slow traffic speeds and safe pedestrian crossing points. Building fronts are generally oriented toward the street. This development illustration is bordered by a Regional Arterial, which allows only stringent right-in/right-out vehicular access, so neighborhood connections are maintained with sidewalks and grade-separated pedestrian crossings.

Access points managed along the arterial streets while still allowing for a connected, walkable grid

Grade-separated pedestrian crossings needed along Regional Arterial to connect neighborhoods

Shared surface parking lots increase the efficiency of the parking pool and encourages walking



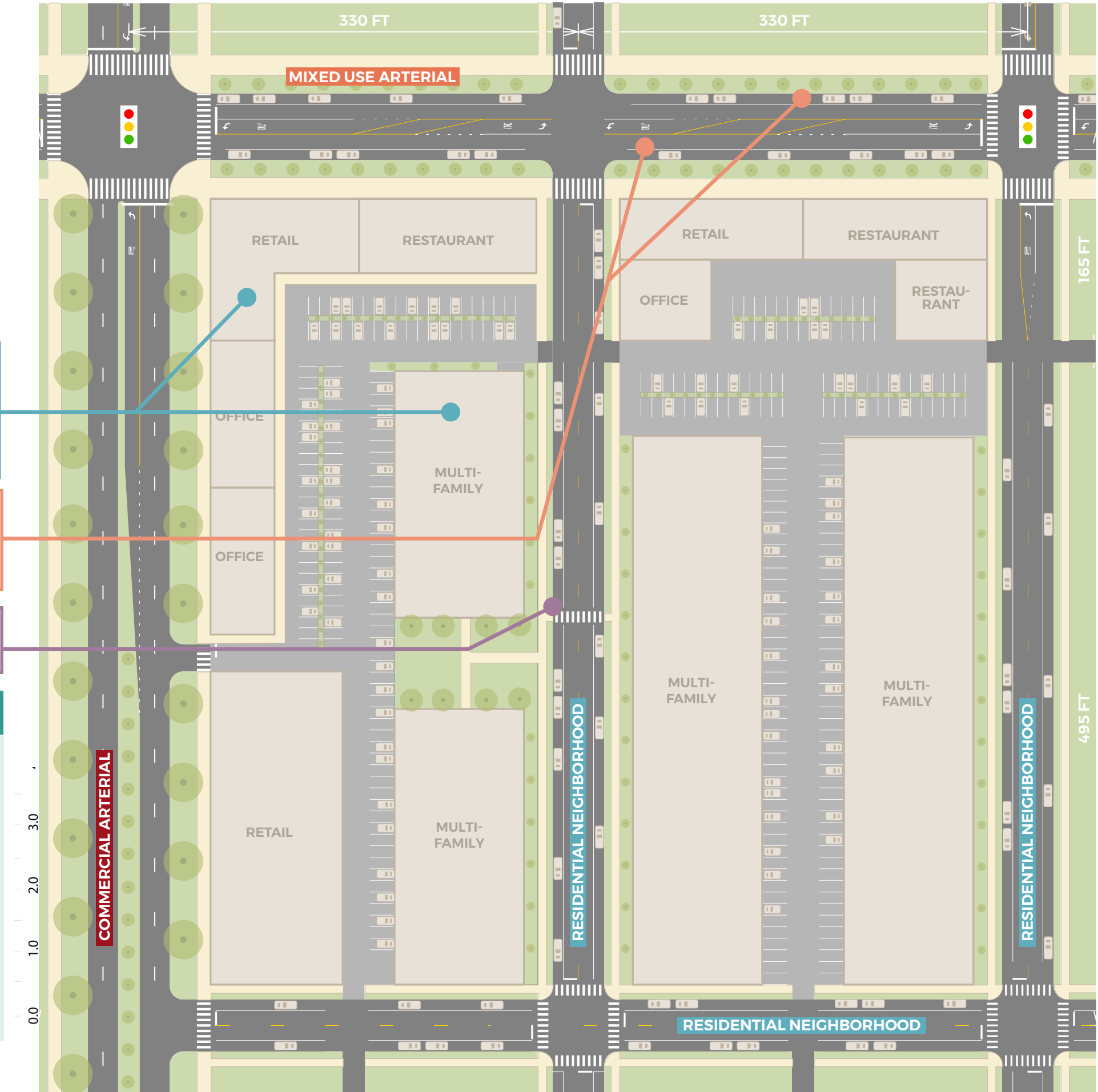
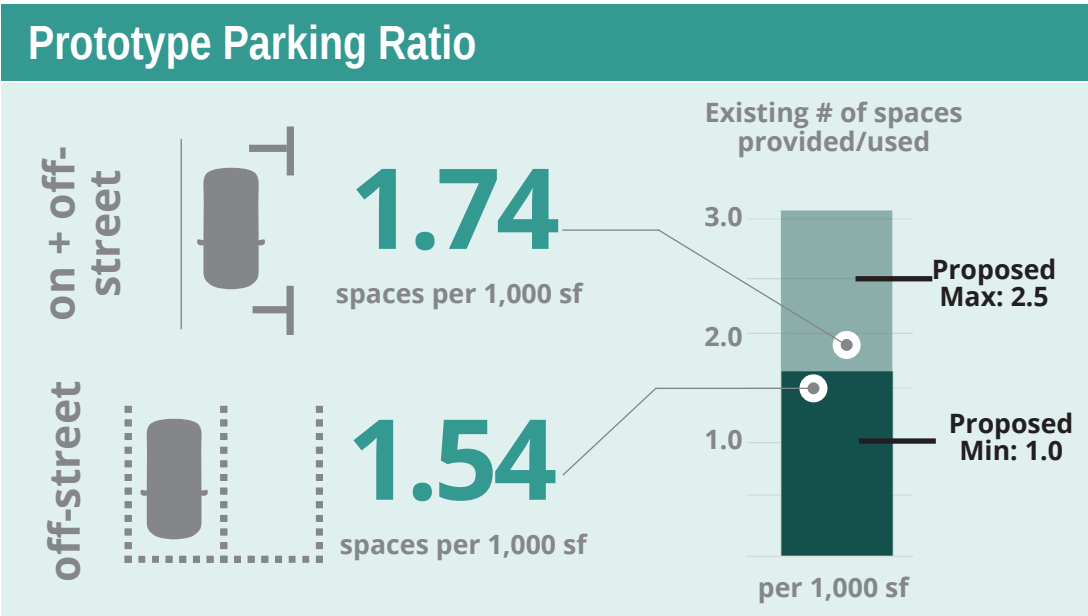
Mixed Use Prototype

The framework presented here on this 1/8-mile by 1/8-mile tracts assumes typical blocks at the intersection of a Commercial Arterial and Mixed Use Arterial. The commercial and residential uses are connected with sidewalks to encourage walking trips. Plentiful on-street parking is provided along the Mixed Use Arterial street, as well as the Residential Neighborhood streets, to slow traffic and create a buffer for pedestrians. Building fronts are generally oriented toward the street with parking in the rear.

Retail, office, and mixed use buildings are oriented towards the arterial streets and residential buildings are oriented toward the Residential Neighborhood streets. Underground or 1st floor residential parking is assumed.

On-street parking on the Mixed Use Arterial street supports businesses, reduces the off-street parking footprint, and calms traffic

Sidewalks and crosswalks encourage walkability between blocks.



*Assumes for approximately 350 residential units between multi-family structures and on top of retail office spaces

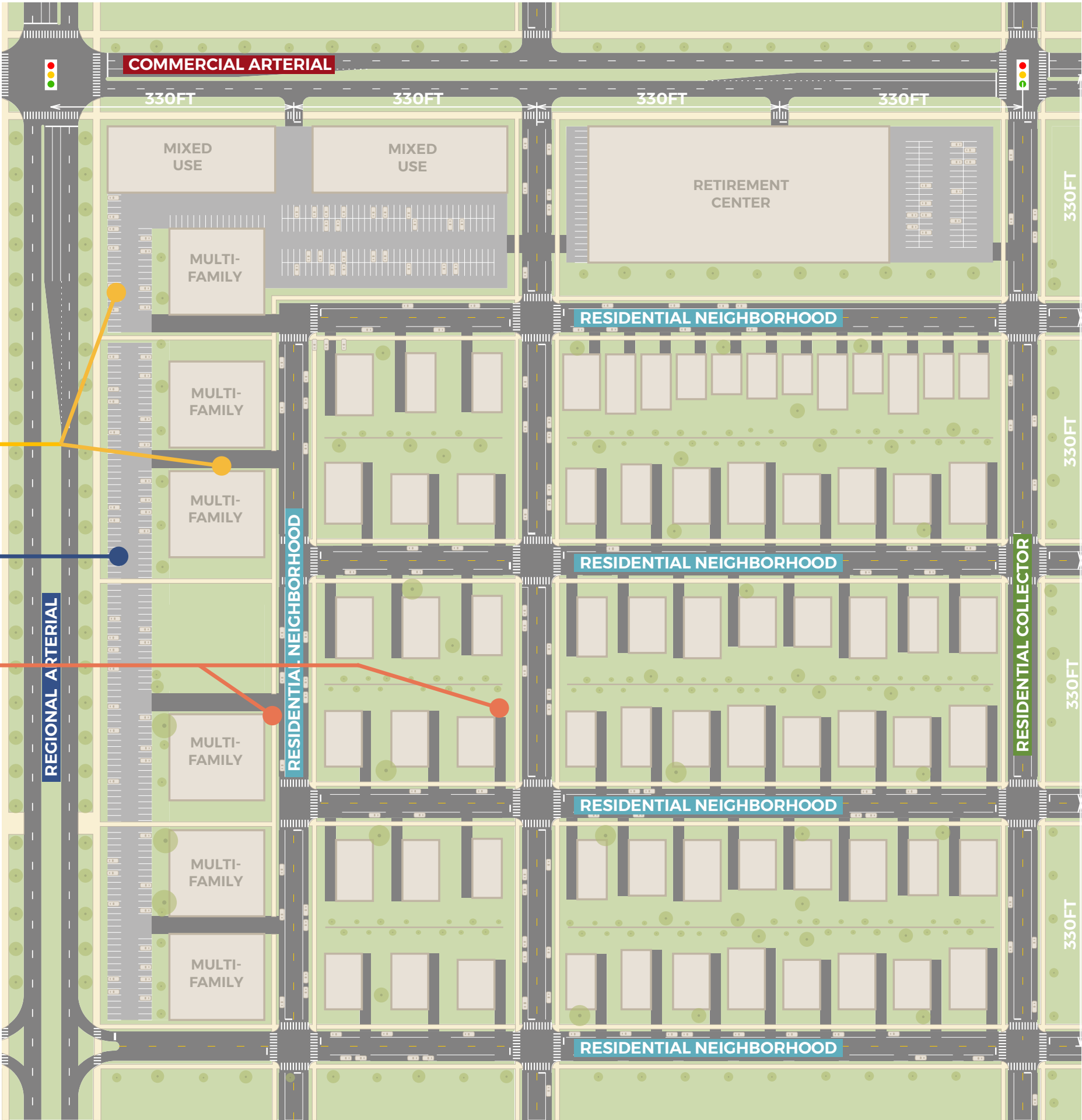
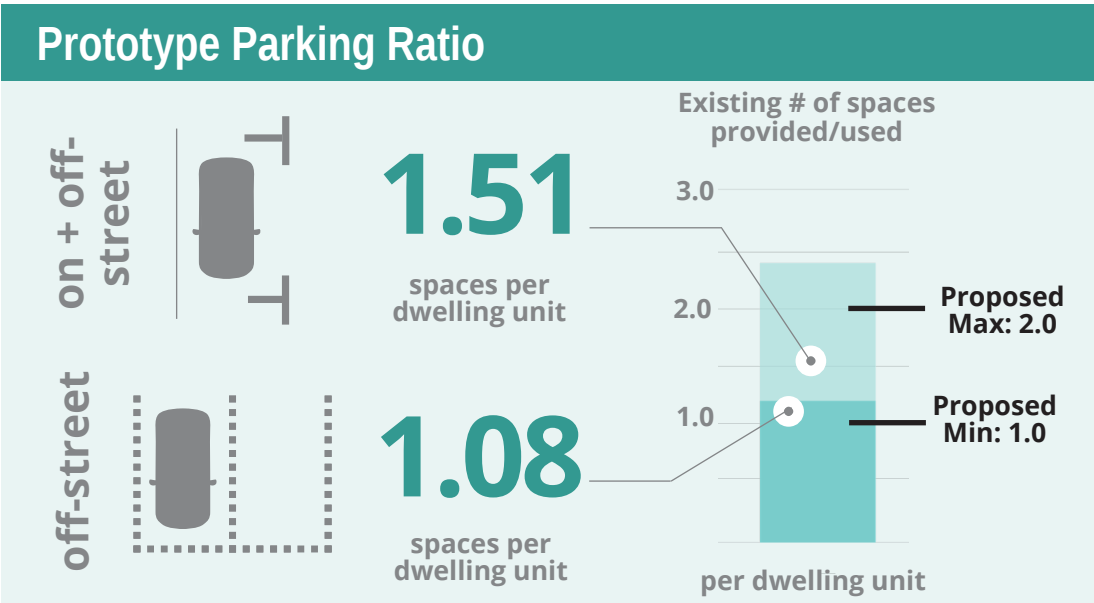
Residential Prototype

The framework presented here on this ¼-mile by ¼-mile tracts uses regular block sizes to set a walkable grid pattern even though a Regional Arterial borders the site and limits street connections. Neighborhood connections are maintained with sidewalks and signalized/grade-separated pedestrian crossings. Multi-family housing and mixed use buildings are oriented along the Regional Arterial and Commercial Arterial streets, respectively, while single-family homes front the Residential Neighborhood streets. Interior residential parking garages eliminate the need for a separated, covered garages.

Multi-family residential parking is shared with retail land uses during non-peak hours. Enclosed row garages may be appropriate along the Regional Arterial.

Multi-family residential buildings are oriented away from the Regional Arterial, with surface parking facing the corridor.

Access to driveways, on-street parking, and crosswalks slow traffic and encourage walking.





STAFF REPORT

A24-5 Zoning Ordinance Amendments	
Zoning Ordinance Amendment 4-441.5 General Fencing and Screening Requirements and 4-442.6 Accessory Building and Use Provisions regarding Swimming Pool Fence Height	
Applicant: City of West Fargo	Staff Contact: Leslie McGillivray-Rivas
Planning & Zoning Commission Introduction:	February 13, 2024
Planning & Zoning Commission Public Hearing:	March 12, 2024
City Commission Public Hearing & 1 st Reading	
City Commission 2 nd Reading	

PURPOSE:

Amendments to Chapter IV Zoning Ordinance specific to Fence Heights surrounding permanent swimming pools.

DISCUSSION AND OBSERVATIONS:

- Late December of 2021, a proposed zoning ordinance amendment was approved which added definition for temporary pools, permanent pools, and provided clarity that a hard or soft pool cover does not constitute an adequate safety barrier. The language adopted also clarified what is considered an acceptable height for locking mechanisms for gates and other barrier openings. The West Fargo fence height was approved to be minimally six (6) feet.
- As a result, any permanent pool built after January 1, 2022, has been required to be permitted by the West Fargo Building Inspections Department. Planning & Zoning supports permitting efforts with an application desktop review.
- In January 2024, a citizen requested consideration of amending the fence height standard from the existing six (6') height to a lesser value.
- Concurrent with this request, a review of Title V's Building Code noted that within Chapter 5-05, Section 5-0501; the Adoption of International Property Maintenance Code (IMPC) was in place.
- Within the 2021 IMPC Code, it was found that Section 303; Swimming Pools, Spas and Hot Tubs has the desired code enforceable language in greater clarity and detail than the language which was adopted into the zoning ordinance in 2021.
- Further, a recent zoning code amendment specific to this subject was recently adopted by Fargo, ND. In that amendment, the fence height surrounding permanent pools can be no less than four (4) feet. It is desired that consistency between municipalities occur and that the fence height requirement be reduced from the six (6) foot standard to four (4) feet.
- Title V of the Building Code is proposed to be amended to incorporate the additional language and content within which is intended to be legally enforceable regarding pool enclosures and related pool and structural safety features.
- Thus, it is recommended that the zoning ordinance be amended to remove the language which would create either redundancy or conflict with the updated Title V Building Code language amendment.

STAFF REPORT

NOTICES:

Sent to: Notice in the newspaper and to City Departments

Comments Received:

- None Received

CONSISTENCY WITH COMPREHENSIVE PLAN AND OTHER APPLICABLE CITY PLANS AND ORDINANCES:

- The proposed amendments do not make major substantive changes to the existing ordinances and are consistent with the comprehensive plan.
- The proposed updates to Title V of the Building Code will provide the provision for administration and enforcement of requirements and standards pertaining to Swimming Pools, Spas and Hot Tubs

RECOMMENDATIONS:

It is recommended that the City approve the proposed amendment.

Attachments:

Pool Ordinance Amendments

Chapter V Amendment Section 303.2

4-200.DEFINITIONS

ACCESSORY USE OR STRUCTURE: A use structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, to include ~~privately-owned, fenced swimming~~ **private residential** pools, and satellite dishes.

PRIVATE RESIDENTIAL POOL: A pool connected with a single family residence or with a multi-unit owner-occupied complex, that is located on private property and that is under the control of the property owner or owners, the use of which pool is limited to the owner or owners or the family members or invited guests of the owner or owners or of their families, is deeper than 2 feet. A pool that is used for commercial purposes is not a private residential pool.

~~PERMANENT SWIMMING POOL: Any structure, basin, or tank, either above or below the ground, designed to be used for swimming or wading, which has a capacity of five thousand (5,000) gallons or more, or which has a depth of over twenty-four (24) inches.~~

~~Source: Ord. 1202, Sec. 1 (2022)~~

~~SWIMMING POOL: A structure designed to be used for swimming which has a capacity of one thousand (1,000) gallons or more or which has a depth of over twenty-four (24) inches.~~

~~Source: Ord. 501, Sec. 4 (1996).~~

~~TEMPORARY SWIMMING POOL: Any structure, basin, or tank, either above or below the ground, designed to be used for swimming or wading, which has a capacity of less than five thousand (5,000) gallons, or which has a depth of less than twenty-four (24) inches.~~

~~Source: Ord. 1202, Sec. 1 (2022)~~

4-440. SUPPLEMENTARY DISTRICT REGULATIONS.

4-441. GENERAL FENCING AND SCREENING REQUIREMENTS.

5. PRIVATE RECREATIONAL FENCES. Private recreational fences shall conform to the provisions attached to residential fences. Swimming pool fences shall **be governed by Title V. of the City of West Fargo Ordinance, Chapter 5-05 International Property Maintenance Code and specifically Section 303 Swimming Pools, Spas and Hot Tubs, as locally amended.** ~~be six (6) feet in height.~~

4-442. ACCESSORY BUILDING AND USE PROVISIONS. Accessory buildings and uses, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

6. All private residential pools as defined by this ordinance shall be regulated ~~as follows:~~ by adherence to **Title V. of the City of West Fargo Ordinance, Chapter 5-05 International Property Maintenance Code and specifically Section 303 Swimming Pools, Spas and Hot Tubs, as locally amended. No pool may be built, constructed, or otherwise assembled or placed without the owner thereof having obtained a permit from the office of the City Building Administrator.**

- ~~a. All permanent swimming pools shall be provided with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, screening or other enclosure, or any combination thereof (collectively "barrier") of sufficient density as to curtail access. Hard and soft pool covers are not considered to be adequate barriers. All barriers must be at least six feet (6') in height. Fences shall be of a noncorrosive material and shall be constructed so as to be not easily climbable. All barrier openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to permanent swimming pools shall be equipped with self-closing and self-latching devices placed at a height of at least fifty-four (54) inches from finished grade so as to be inaccessible to all small children. All barrier supports shall be decay or corrosion resistant and shall be set in concrete bases or other suitable protection. The opening between the bottom of the barrier and the ground or other surfaces shall not be more than four inches (4"). A permit for permanent pools is required to be reviewed and approved by the West Fargo Building Inspections Department and West Fargo Planning and Zoning Department prior to construction.~~
- ~~b. Permanent swimming pools with platforms and railings that are six (6) feet in height above the ground and temporary pools are not required to be enclosed as provided in paragraph (a) above; however, all ladders and stairways providing access to such swimming pools shall be removed from the swimming pool or shall be adequately fenced and fitted with gates, or folded up and locked to prevent entry when the swimming pool is not in use.~~

Source: Ord. 501, Sec. 11 (1996); Ord. 916, Sec. 44, (2012); Ord. 1137,

AMENDMENT TO INTERNATIONAL PROPERTY MAINTENANCE CODE

SECTION 303.2

303.2 Enclosures.

Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier as required by Sections 303.2.1 through 303.2.13. An existing pool enclosure shall not be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F1346 shall be exempt from the provisions of this section.

303.2.1 Barrier height and clearances. Barrier heights and clearances shall be in accordance with all of the following:

1. The top of the barrier shall be not less than 48 inches (1219 mm) above grade where measured on the side of the barrier that faces away from the pool or spa. Such height shall exist around the entire perimeter of the barrier and for a distance of 3 feet (914 mm) measured horizontally from the outside of the required barrier.
2. The vertical clearance between grade and the bottom of the barrier shall not exceed 2 inches (51 mm) for grade surfaces that are not solid, such as grass or gravel, where measured on the side of the barrier that faces away from the pool or spa.
3. The vertical clearance between a surface below the barrier to a solid surface, such as concrete, and the bottom of the required barrier shall not exceed 4 inches (102 mm) where measured on the side of the required barrier that faces away from the pool or spa.
4. Where the top of the pool or spa structure is above grade, the barrier shall be installed on grade or shall be mounted on top of the pool or spa structure. Where the barrier is mounted on the top of the pool or spa, the vertical clearance between the top of the pool or spa and the bottom of the barrier shall not exceed 4 inches (102 mm).

303.2.2 Openings. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.

303.2.3 Solid barrier surfaces. Solid barriers that do not have openings shall not contain indentations or protrusions that form handholds and footholds, except for normal construction tolerances and tooled masonry joints.

305.2.4 Mesh fence as a barrier. Mesh fences, other than chain link fences in accordance with Section 303.2.7, shall be installed in accordance with the manufacturer's instructions and shall comply with the following:

1. The bottom of the mesh fence shall be not more than 1 inch (25 mm) above the deck or installed surface or grade.
2. The maximum vertical clearance from the bottom of the mesh fence and the solid surface shall not permit the fence to be lifted more than 4 inches (102 mm) from grade or decking.

3. The fence shall be designed and constructed so that it does not allow passage of a 4-inch (102 mm) sphere under any mesh panel. The maximum vertical clearance from the bottom of the mesh fence and the solid surface shall be not greater than 4 inches (102 mm) from grade or decking.
4. An attachment device shall attach each barrier section at a height not lower than 45 inches (1143 mm) above grade. Common attachment devices include, but are not limited to, devices that provide the security equal to or greater than that of a hook-and-eye-type latch incorporating a spring-actuated retaining lever such as a safety gate hook.
5. Where a hinged gate is used with a mesh fence, the gate shall comply with Section 303.2.10.
6. Patio deck sleeves such as vertical post receptacles that are placed inside the patio surface shall be of a nonconductive material.
7. Mesh fences shall not be installed on top of on ground residential pools.

305.2.4.1 Setback for mesh fences. The inside of a mesh fence shall be not closer than 20 inches (508 mm) to the nearest edge of the water of a pool or spa.

303.2.5 Closely spaced horizontal members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the pool or spa side of the fence. Spacing between vertical members shall not exceed 13/4 inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 13/4 inches (44 mm) in width.

303.2.6 Widely spaced horizontal members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, the interior width of the cutouts shall not exceed 13/4 inches (44 mm).

303.2.7 Chain link dimensions. The maximum opening formed by a chain link fence shall be not more than 13/4 inches (44 mm). Where the fence is provided with slats fastened at the top and bottom that reduce the openings, such openings shall be not greater than 13/4 inches (44 mm).

303.2.8 Diagonal members. Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be not greater than 13/4 inches (44 mm). The angle of diagonal members shall be not greater than 45 degrees (0.79 rad) from vertical.

303.2.9 Clear zone. Where equipment, including pool equipment such as pumps, filters and heaters, is on the same lot as a pool or spa and such equipment is located outside of the barrier protecting the pool or spa, such equipment shall be located not less than 36 inches (914 mm) from the outside of the barrier.

303.2.10 Doors and gates. Doors and gates in barriers shall comply with the requirements of Sections 303.2.11 through 303.2.13 and shall be equipped to accommodate a locking device. Pedestrian access doors and gates shall open outward away from the pool or spa, shall be self-closing and shall have a self-latching device.

303.2.11 Utility or service doors and gates. Doors and gates not intended for pedestrian use, such as utility or service doors and gates, shall remain locked when not in use.

303.2.12 Double or multiple doors and gates. Double doors and gates or multiple doors and gates shall have not fewer than one leaf secured in place and the adjacent leaf shall be secured with a self-latching device.

303.2.13 Latch release. For doors and gates in barriers, the door and gate latch release mechanisms shall be in accordance with the following:

1. Where door and gate latch release mechanisms are accessed from the outside of the barrier and are not of the self-locking type, such mechanism shall be located above the finished floor or ground surface at residential pools and spas, not less than 54 inches (1372 mm).
2. Where door and gate latch release mechanisms are of the self-locking type such as where the lock is operated by means of a key, an electronic opener or the entry of a combination into an integral combination lock, the lock operation control and the latch release mechanism shall be located above the finished floor or ground surface at residential pools and spas, at not greater than 54 inches (1372 mm).
3. At private pools, where the only latch release mechanism of a self-latching device for a gate is located on the pool and spa side of the barrier, the release mechanism shall be located at a point that is at least 3 inches (76 mm) below the top of the gate.

303.2.14 Barriers adjacent to latch release mechanisms. Where a latch release mechanism is located on the inside of a barrier, openings in the door, gate and barrier within 18 inches (457 mm) of the latch shall not be greater than 1/2 inch (12.7 mm) in any dimension.

303.2.15 Structure wall as a barrier. Where a wall of a dwelling or structure serves as part of the barrier and where operable windows having a sill height of less than 48 inches (1219 mm) above the indoor finished floor, doors and gates shall have an alarm that produces an audible warning when the window, door or their screens are opened. The alarm shall be listed and labeled as a water hazard entrance alarm in accordance with UL 2017.

Exception: An approved means of protection, such as self-closing doors with self-latching devices, is provided. Such means of protection shall provide a degree of protection that is not less than the protection afforded by an alarm that produces an audible warning when the window, door or their screens are opened.

303.2.16 On ground residential pool structure as a barrier. An on ground residential pool wall structure or a barrier mounted on top of an on ground residential pool wall structure shall serve as a barrier where all of the following conditions are present:

1. Where only the pool wall serves as the barrier, the bottom of the wall is on grade, the top of the wall is not less than 48 inches (1219 mm) above grade for the entire perimeter of the pool, the wall complies with the requirements of Section 303.2 and the pool manufacturer allows the wall to serve as a barrier.
2. Where a barrier is mounted on top of the pool wall, the top of the barrier is not less than 48 inches (1219 mm) above grade for the entire perimeter of the pool, and the wall and the barrier on top of the wall comply with the requirements of Section 303.2.

3. Ladders or steps used as means of access to the pool are capable of being secured, locked or removed to prevent access except where the ladder or steps are surrounded by a barrier that meets the requirements of Section 303.
4. Openings created by the securing, locking or removal of ladders and steps do not allow the passage of a 4-inch (102 mm) diameter sphere.
5. Barriers that are mounted on top of on ground residential pool walls are installed in accordance with the pool manufacturer's instructions.

303.2.17 Natural barriers. In the case where the pool or spa area abuts the edge of a lake or other natural body of water, public access is not permitted or allowed along the shoreline, and required barriers extend to and beyond the water's edge not less than 18 inches (457 mm), a barrier is not required between the natural body of water shoreline and the pool or spa.

303.2.18 Natural topography. Natural topography that prevents direct access to the pool or spa area shall include but not be limited to mountains and natural rock formations. A natural barrier approved by the governing body shall be acceptable provided that the degree of protection is not less than the protection afforded by the requirements of Sections 305.2 through 305.5.

CITY OF WEST FARGO PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

A24-6 ZONING ORDINANCE AMENDMENTS	
Zoning Ordinance Amendment to Title IV of the City Ordinances (Zoning Regulations)	
Applicant: City of West Fargo	Staff Contact: Lisa Sankey
Planning and Zoning Commission Public Hearing:	03-12-2024
City Commission Public Hearing & 1 st Reading:	03-18-2024
2 nd Reading:	

PURPOSE:

The purpose of the proposed zoning amendment is to clarify language relating to backyard chickens.

DISCUSSION AND OBSERVATIONS:

- At the direction of the West Fargo City Commission, Title 11 of the Animal ordinance is being amended to allow for the keeping of chickens. Backyard chickens would be allowed with issuance of an annual permit, subject to conditions, which would be administered through the police department, as they already administer pet licenses, etc.
- The annual permit (example is attached to the staff report) would include:
 - Site plan showing location of coop & run, setbacks, required fencing, property lines & existing structures.
 - No more than six chickens via an annual permit for properties with one or two residential units.
 - Applicant would be responsible for notifying abutting neighbors.
 - Coops and Runs must not be located within the front yard.
 - Must be set back a minimum of three feet from any adjacent structures and minimum of 10' from all property lines.
 - Chickens must be confined at all times in a coop and run and may not be allowed to run at large.
 - The permit may be revoked or suspended for any violation of Title 11.
- Chickens would be allowed on one and two family residential lots and not permitted in mixed use, commercial, industrial or institutional zoned lots or on lots exceeding three dwelling units.
- According to the zoning ordinance, Farm Animals are conditionally permitted use in the R-R: Rural Residential and R-1E: Rural Estate District.
- An amendment to the zoning ordinance would add the following language to the R-R and R-1E Districts:
 - "Provided that this section shall not apply to properties that have received a permit to keep chickens pursuant to Title 11 Permits for Keeping of Chickens."
- Specific text amendments are attached to this staff report.

NOTICES:

Sent to: Notice in the newspaper.

Comments Received:

- None to date.

STAFF REPORT

CONSISTENCY WITH COMPREHENSIVE PLAN AND OTHER APPLICABLE CITY PLANS AND ORDINANCES:

- The proposed amendments do not make major substantive changes to the existing ordinances and are consistent with the Comprehensive Plan. The proposed amendments are consistent with the Comprehensive Plan.

RECOMMENDATION:

It is recommended that the City approve the proposed amendments on the basis that they are consistent with City plans and ordinances.

Attachments

- Proposed Backyard Chicken Ordinance
- Draft Backyard Chicken Permit

ORDINANCE NO. 1221

AN ORDINANCE TO AMEND AND REENACT SECTIONS 4-421-A.4.4 (RELATING TO CONDITIONALLY PERMITTED USES IN THE R-R DISTRICT), 4-421-B.4.4 (RELATING TO CONDITIONALLY PERMITTED USES IN THE R-1E DISTRICT), 11-0101 (RELATING TO DEFINITIONS) AND 11-0106 (RELATING TO KEEPING AND/OR FEEDING OF FOWL AND OTHER NON-DOMESTIC ANIMALS), AND TO CREATE AND ENACT SECTION 11-0112 (RELATING TO KEEPING OF CHICKENS) OF THE REVISED ORDINANCES OF 1990 OF THE CITY OF WEST FARGO.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WEST FARGO, NORTH DAKOTA:

SECTION 1. Section 4-421-A.4 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

4-421-A.4 CONDITIONALLY PERMITTED USES.

* * *

4. Farm animals, provided the lots in the subdivision/development have a minimum of two acres. The number of animals allowed is one animal for the first two acres, plus one additional animal for each additional acre of lot area. Each lot may be reviewed individually or the subdivision or lots being rezoned may be reviewed as part of the rezoning or conditional use application. Provided, that this section shall not apply to properties that have received a permit to keep chickens pursuant to Title 11 Permits for Keeping of Chickens.

SECTION 2. Section 4-421-B.4.4 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

4-421-B.4. CONDITIONALLY PERMITTED USES.

* * *

4. Farm animals, provided the lots in the subdivision/development have a minimum of two acres. The number of animals allowed is one animal for the first two acres, plus one additional animal for each additional acre of lot area. Provided, that this section shall not apply to properties that have received a permit to keep chickens pursuant to Title 11 Permits for Keeping of Chickens.

SECTION 3. Section 11-0101 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted by adding and/or amending the following definitions and renumbering the existing definitions accordingly:

11-0101. DEFINITIONS.

1. As used in this chapter, “owner” means any person, firm or corporation owning, harboring, or keeping an animal.
2. “At large” means off the premises of the owner and not under the control of the owner or some member of his immediate family or other authorized person either by leash, cord, or chain.
3. “Animal” includes every living animal except a member of the human race.
4. “Chicken” means a female chicken or hen.
5. “Coop” means a structure for housing chickens made of wood or other similar materials that provides shelter from the elements.
46. “Dangerous or Vicious Animal” is any animal that:
 - a. when unprovoked, inflicts bite(s) on any human or domestic animal either on private or public property;
 - b. has a documented history with the West Fargo Police Department or other public agency of biting or attacking any human or domestic animal;
 - c. has a known propensity, tendency, or disposition to attack, to cause injury, or otherwise threaten or endanger the safety of humans or domestic animals;
or
 - d. is not properly vaccinated.
57. "Feed" means making food, including corn or seeds, available for consumption outdoors, either by spreading on the ground or hanging at a height of less than five feet (5') as measured from the grade at the pole or structure supporting the bird feeder. For purposes of this chapter, a person does not feed wildlife by maintaining live vegetation such as fruit trees, gardens, or flower beds.
68. “Non-Domestic Animal” or "Wildlife" is an animal commonly considered to be naturally wild and not naturally trained or domesticated. Unless otherwise defined, such animals shall include, but are not limited to:
 - a. Any member of the large cat family (family *lanidae*) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
 - b. Any naturally wild member of the canine family (family *lanidae*) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

- c. Any crossbreeds such as the crossbreeds between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
 - d. Any member of or relative of the rodent family including any skunk (whether or not de-scented), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
 - e. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families, including rattlesnakes, restricted non-venomous constricting snakes, pit vipers, crocodiles, and alligators.
 - f. Any other animal which is not explicitly listed above, but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish.
 - g. Any type, species or breed of turkey, geese, ducks, pheasants, wood ducks, owls, eagles, and any other type of fowl not being kept for agricultural purposes within an agriculturally zoned district.
9. “Owner” means any person or persons, firm, association or corporation owning, keeping or harboring a dog or a cat.
10. “Persons” means the resident, property owner, custodian or keeper of any chicken.
11. “Premises” means any lot or group of contiguous lots, parcels or tracts of land located within the City of West Fargo.
12. “Proper Enclosures” shall have sidewalls with a minimum height of five feet (5') and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches (2"). Support posts shall be one and one-fourth inch (1 1/4") or larger steel pipe buried in the ground eighteen inches (18") or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of eighteen inches (18") in the ground.
713. “Restricted non-venomous constricting snake” include the following non-venom producing constricting snakes:
- a. Green anacondas;
 - b. Yellow anacondas;
 - c. Reticulated pythons;
 - d. Indian pythons;
 - e. Burmese pythons;

- f. North African rock pythons;
- g. South African rock pythons;
- h. Amethystine pythons;
- i. Boa constrictors.

14. “Run” means an enclosed outside yard for keeping chickens.

815. “Service animal” means any guide dog, signal dog, or other animal trained to do work, perform tasks, or provide assistance for the benefit of an individual with a disability. The term includes an animal trained to provide assistance or protection services to an individual with a disability, pull a wheelchair, lend balance support, retrieve dropped objects, or provide assistance in a medial crisis.

SECTION 4. Section 11-0106 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby created and enacted to read as follows:

11-0106. KEEPING AND/OR FEEDING OF FOWL AND OTHER NON-DOMESTIC ANIMALS. Except as authorized pursuant to Section 11-0112 of this chapter, ~~No~~ person shall keep, Feed, or maintain Wildlife, fowl or other non-domestic animals of any kind within the City, except horses, swine or cattle temporarily held in shipping pens for shipment to market or elsewhere, or as otherwise permitted by the applicable Zoning Ordinances of the City of West Fargo, and/or if that person is doing so in the course of that person’s employment as a veterinarian, City employee or State of North Dakota employee. No person shall keep, feed, or maintain restricted non-venomous constricting snakes as defined by Chapter 11-01 of the City of West Fargo Ordinances, except as otherwise permitted by the applicable Ordinances of the City of West Fargo.

- 1. No person that possesses a restricted non-venomous constricting snake shall fail to post and display any of the following:
 - a. On each container in which a restricted non-venomous constricting snake is confined, signs warning the public that a restricted non-venomous constricting snake is in the container;
 - b. At the main entrance to each structure where a restricted non-venomous constricting snake is confined, a sign warning the public that a restricted non-venomous constricting snake is in the structure.
- 2. No person shall allow a restricted non-venomous constricting snake to roam off the property where it is confined.

SECTION 5. Section 11-0112 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby created and enacted to read as follows:

11-0112. KEEPING OF CHICKENS. Pursuant to Section 11-0106 of this chapter, it is unlawful for any person to own, control, keep, maintain, or harbor chickens on any premises within the City unless that person has a permit to do so as provided in this chapter. A permit will not be issued for the keeping or harboring of more than six (6) chickens on any premises. The keeping or harboring of male chickens or roosters is prohibited.

1. Permit. A person shall not maintain a coop or run unless granted a permit by the City. The permit is subject to all terms and conditions of this chapter and any additional conditions deemed necessary by the City to protect public health, safety, and welfare.
 - a. Annual Permit. Permits will not exceed one (1) year and are subject to annual renewal. The initial permit automatically expires at the end of the initial calendar year and, thereafter, renewals of said permit extend for calendar-year periods. The annual permit fee is set by resolution of the City Commission, as amended from time to time.
 - b. Permit Requirements. An application for a permit includes a complete application with a scaled diagram that indicates the location of the coop and run, approximate size and distance of the coop and run from adjoining structures and property lines, the number and species of chickens to be maintained at the premises, and a signed statement that the applicant will, at all times, keep the chickens in accordance with this chapter and comply with all the conditions within the application and permit. Failure to comply with said conditions, or modification thereof, will constitute a violation of the provisions of this chapter and are grounds for revocation or suspension of the permit. Chickens may be slaughtered on the premises only if for consumption by the occupants of the premises.
 - c. A property with three (3) or more residential dwelling units, commercial, mixed use, and industrial properties is prohibited from keeping chickens.
2. Confinement. A person who owns, controls, keeps, maintains, or harbors chickens must keep them confined at all times in a coop and run and may not allow the chickens to run at large. Chickens must be secured in a chicken coop from sunset to sunrise each day.
 - a. The following conditions apply to both coops and runs:
 - i. Must not be located within the front yard;
 - ii. Must be setback a minimum of three (3) feet from any adjacent structures;
 - iii. Must be setback a minimum of ten (10) feet from all property lines;
 - iv. Must not be located on any public easements;

- v. Must be a minimum of four (4) square feet per chicken and may not exceed ten (10) square feet per chicken;
- vi. Must not exceed seven (7) feet in total height from adjacent ground level;
- vii. May be a commercially purchased chicken coop that substantially conforms with the requirements of this ordinance;
- viii. Fencing for coops and runs may not exceed six (6) feet in total height from adjacent ground level;
- ix. Must not be located in any part of a dwelling unit or garage;
- x. Feed must be kept within the coop and run and must be kept in metal predator proof containers; and
- xi. Manure must be removed frequently, and use of quality bedding material is recommended. Manure which is not properly disposed of and/or causes odor issues will result in revocation of the permit.
- xii. Coops and runs shall be located within a yard enclosed by a solid opaque fence or wall, or shall otherwise be screened from view of adjacent properties. Fences, walls, or screening used for this purpose shall measure a minimum of five feet (5') in height and not more than four inches (4") from the ground or other surface..

b. The following conditions apply to coops:

- i. Must be either elevated with a clear open space of at least sixteen (16) inches between the ground surface and grading/floor of the coop or;
- ii. May be a commercially purchased chicken coop that substantially conforms with the requirements of this ordinance.
- iii. The coop floor, foundation and footings must be constructed using rodent resistant construction.

c. The following apply to runs:

- i. Must not exceed ten (10) square feet per chicken;
- ii. Fencing must not exceed six (6) feet in total height from adjacent ground level; and
- iii. May be enclosed with wood, woven wire materials, or a combination thereof.

3. Conditions and Inspections. A person who owns, controls, keeps, maintains, or harbors chickens must not permit the premises where the chickens are kept to be maintained in an unhealthy, unsanitary, or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent properties. Any coop or run authorized by permit under this chapter may be inspected at any reasonable time by the animal control officer, law enforcement officer, public health official, or other employee or agent of the City.

4. Private Restrictions/Covenants. A permit issued to a person whose premises is subject to private restrictions and/or covenants that prohibit the keeping of chickens

is the sole responsibility of the person applying for the permit. The interpretation and enforcement of the private restrictions and/or covenants is the sole responsibility of the private parties involved, the City is in no way responsible for interpreting or enforcing private restrictions and/or covenants.

5. Refusal to Grant Permit. The City may refuse to grant or renew a permit to keep or maintain chickens for failure to comply with the provisions of this chapter, submitting an inaccurate or incomplete application, failure to comply with permit conditions, creation of a nuisance condition, or if the public health and safety is unreasonably endangered by the granting or renewing of such permit. Any coop or run constructed or maintained on any premises must be removed from said premises within thirty (30) days after the suspension, expiration, or revocation of the permit for said premises or after a period of thirty (30) days from which chickens have not been lawfully kept on the premises.
6. Suspension and Appeal. A permit for keeping of chickens may be revoked or suspended by the City for any violation of this chapter following written notice or, upon request for renewal, the renewal permit may be refused by the City. The applicant may appeal the revocation, suspension, or refusal to renew the permit to the City Auditor by requesting a hearing before the City Commission within seven (7) days of the date of the notice. The City Commission shall hear testimony from the permittee and City staff and render a decision on the matter or request additional information.
7. Violation. A person who owns, controls, keeps, maintains, or harbors chickens without obtaining or maintaining a current permit or after a permit has been suspended or revoked is guilty of an infraction as provided under Section 1-0211.
8. A person who had a permit to harbor chickens and who no longer harbors chickens must remove any related structures (coop, run, or other) within ten (10) days of no longer harboring chickens.

SECTION 6. Effective Date. This ordinance shall be in full force and effect from and after the date of its final passage and publication.

President of Board of City Commissioners
of the City of West Fargo, North Dakota

ATTEST:

City Auditor

Date of First Reading:

Date of Second Reading:
Date of Publication:



West Fargo Police Department
800 4th Ave E., Suite 2
West Fargo, ND 58078
Ph: 701-515-5500
Michelle.glaser@westfargond.gov

Chicken Permit

PERMIT IS VALID FOR ONE CALENDAR YEAR BEGINNING JANUARY 1, AND ENDING DECEMBER 31.

Permits purchased after January 1 in any given calendar year will also expire December 31 of that year; and permit fees will not be pro-rated. Chickens are permitted to be kept at single, two-family, and three-family homes only. Chickens not permitted in mixed-use, commercial, industrial, or institutional districts.

APPLICANT/PROPERTY INFORMATION

Applicant Name: _____ Date: _____

Address: _____

Phone #: _____ Email: _____

Property Zoning Code: _____ Find the information [here](#) by searching for your property or contact Planning and Zoning at 701-515-5370

APPLICATION REQUIREMENTS

Total Number of hens to be kept: _____ (a maximum of six (6) hens, no roosters, are allowed)

Species of hen(s): _____

INITIAL HERE	Review and Initial
	Site plan showing location of coop & run, setbacks, required fencing, property lines & existing structures
	FEE - \$25.00 (checks made payable to CITY OF WEST FARGO)
	Applicant has reviewed the Keeping of chicken standards
	Applicant has reviewed covenants and obtained approval from developer/townhouse/condo/homeowner's association, if applicable. (The City of West Fargo does NOT enforce covenants.)
	All abutting properties were notified on the following date(s) of my intention to have chickens: Date(s): _____

Complete regulations regarding the keeping of chickens within the City of West Fargo can be found on the City of West Fargo website at www.westfargond.gov City Ordinances, Title 11 – Animals, section 11-0112.

REQUEST AND AFFIDAVIT

The applicant must read the following statement carefully and sign below:

I hereby certify that the information submitted is true and correct to the best of my knowledge. In submitting the permit application, I acknowledge and agree the application is subject to all the regulations found in City Ordinances, Title 11 – Animals, section 11-0112 and further agree to fully comply with said regulations. If the requirements of City Ordinances, Title 11 – Animals, section 11-0112, are not complied with, the City of West Fargo may revoke the permit.

Applicant Signature

Date

Office Use Only:**Date:**

Planning & Zoning Approver Name:

☐

Approved

☐

Denied – Please correct noted issues and resubmit application

Please correct the following:

KEEPING OF CHICKEN STANDARDS

- **Number:** No more than six (6) chickens may be kept by a single applicant. Roosters are prohibited.
- **Containment:** Chickens must be kept in a coop and run. Keeping chickens in a garage is prohibited. Chickens must be contained within the coop and run between sunset and sunrise.
- **Side Yard / Backyard Fencing:** Coop and run must be surrounded by a solid, non-see-through fence or wall in addition to the fencing required for the run. Fencing shall be at least five (5) feet in height and not more than four (4) inches raised off the ground.
- **Construction:** Coop must be a minimum of 16 inches off the ground and may not exceed seven (7) feet in height when measured from the ground. Coop floor, footings, and foundation must be constructed using rodent resistant materials.
- **Coop Size:** A minimum of four (4) square feet of space per chicken not to exceed ten (10) square feet per chicken. A commercially purchased coop which substantially conforms to the requirements of the Ordinance may be permitted. Substantially conforms means that it may not differ more than twenty percent (20%) of the noted chicken coop standards.
- **Run:** Must be fully fenced and attached to the coop. A minimum of four (4) square feet of space per chicken not to exceed ten (10) square feet per chicken. A solid roof or wire top is required to keep predators out and prevent chickens from escaping. Run fencing may not exceed six (6) feet in height.
- **Zoning:** Chickens are not permitted in mixed-use, commercial, industrial, or institutional zoning districts or on lots exceeding three (3) dwelling units.
- **Setbacks:** Chicken coop and run must be setback at least ten (10) feet from the property line and three (3) feet from any structure on the property. Chicken coops and runs may not be located in any front yard or within easements.
- **Food Containers:** Food containers must be kept within the coop, run, shed, or garage in an animal proof container.
- **Bedding:** Chicken coops and runs layered with quality bedding is recommended. Bedding must be cleaned and changed frequently so as to prevent odor, pests, or other nuisances.
- **Maintenance and Waste Disposal:** Coop and run must be maintained and kept in good repair. Manure must be removed frequently to prevent issues with odors, pests, or other nuisances. Chicken manure must be disposed of in the trash and may not be composted with yard waste items collected by the City.
- **Covenants:** Restrictive covenants may prohibit the keeping of chickens on your property. The City does not enforce covenants and it is your responsibility to review your property for covenants prior to submitting an application.

*Chickens that escape your yard are your responsibility to catch and contain. **West Fargo police will not respond to calls relating to chicken issues.** Providing false or misleading information, complaints of birds escaping, odors, etc., or failing to adhere to the requirements above can lead to your permit being revoked.

Site Plan Example

Chicken Permit Site Plan Requirements:

Please clearly define and label the following on the site plan:

- Location and dimensions of chicken coop and run
- Property Lines
- Existing Structures
- Property / Building Setbacks
- *Required Fencing - Either a solid/non-see through fully fenced in backyard or fencing around the coop and run. Please indicate the height and material to be used.

Helpful Tips!

Review Keeping of Chicken Standards

Review City Ordinances, Title 11, section 11-0112, Animals for the complete ordinance at www.westfargond.gov

NDSU Extension page at <https://www.ndsu.edu/agriculture/extension/publications/beginners-guide-raising-chickens> to learn more about keeping chickens.

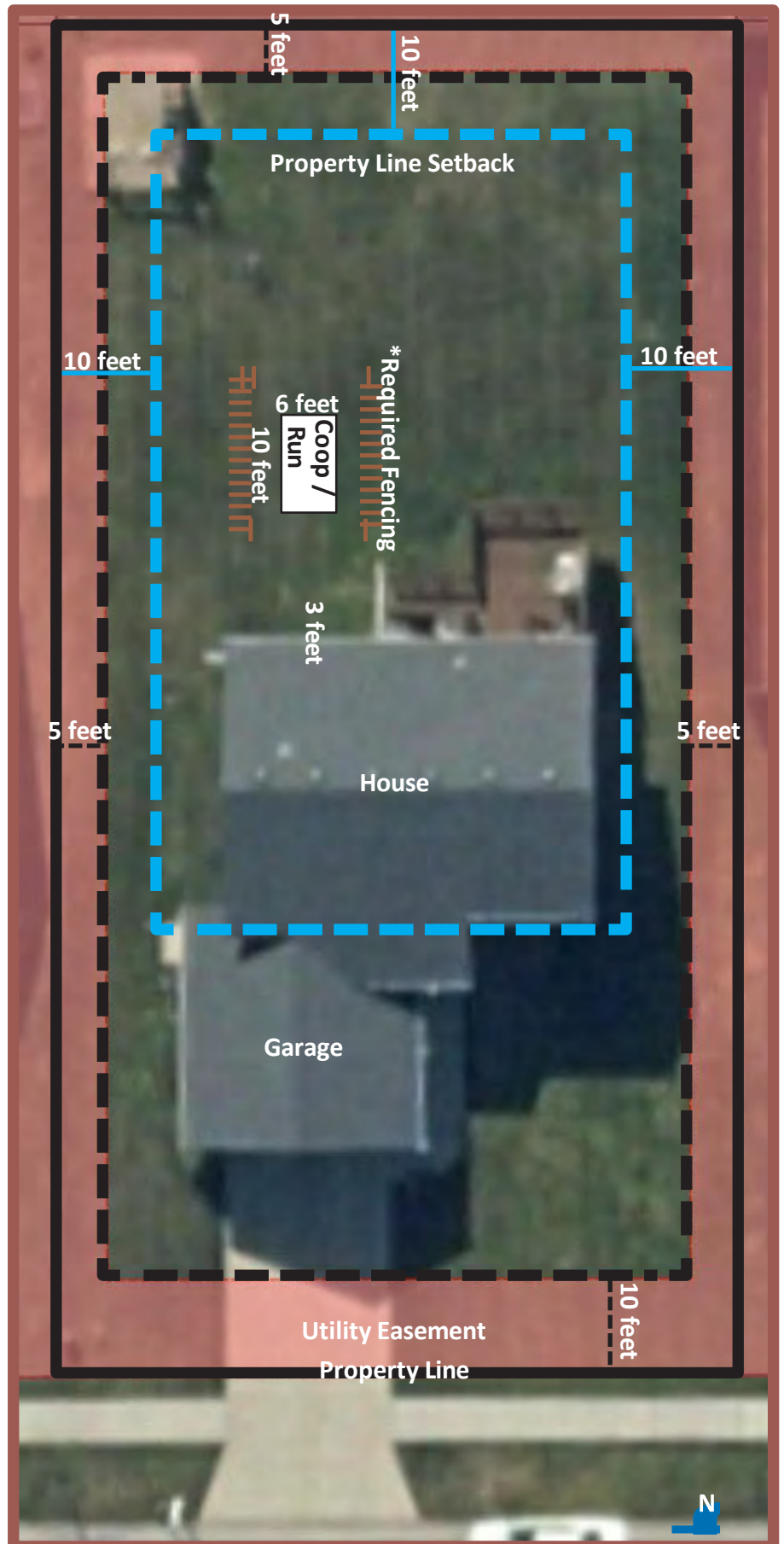
OR

Visit the U of M Extension page at <https://extension.umn.edu/poultry/small-scale-poultry>

Coop & Run Setback Requirements:

- Property Line: 10 feet
- From other structures on property: 3 feet

Call North Dakota One Call (811) before you dig.



MEMORANDUM

TO: West Fargo Planning & Zoning Commission
FROM: Aaron Nelson, Planning Director *AN*
DATE: March 8, 2024
SUBJECT: Discussion on Proposed Revisions to Title IV Ordinances Regarding Subdivisions, Temporary Signs, and Nonconformities

Targeted text amendments to Title IV zoning & subdivision ordinances were identified as a short-term project need within the West Fargo Planning Needs Assessment Action Plan in 2023. Staff is continuing to work on a series of proposed Title IV ordinance amendments which will first be brought forth for introduction and discussion purposes at least one month prior to inclusion on the regular Planning & Zoning Commission agenda as an actionable item.

At the March 12 meeting, staff will provide an overview of proposed text amendments to three different topic areas for discussion by the Planning & Zoning Commission. These topic areas include:

- 1) General Subdivision Provisions (§4-0403)
- 2) Temporary Signs (§4-460)
- 3) Nonconformities (§4-470)

General Subdivision Provisions

The general subdivision provisions are proposed to be modified in the following ways:

- 1) Restructuring of the content for purposes of clarity and ease of use—including modified heading and subheading structure.
- 2) Updating application standards to match current practices.
- 3) Reclassification of subdivision types into three categories:
 - a. Administrative Subdivisions
 - i. Approved by planning staff
 - ii. Includes lot line adjustments, lot mergers, retracement plats & lot splits
 - b. Minor Subdivisions
 - i. Approved by Planning & Zoning Commission
 - ii. Includes such things as platting of 5 or fewer lots, simple replats
 - c. Major Subdivisions
 - i. Approved by City Commission
 - ii. Includes any subdivision not classified as *Administrative* or *Minor*

Temporary Signs

The West Fargo City Commission has directed the City Attorney and staff to amend the sign code regulations to better regulate the use of semi-truck trailers as temporary signs. The proposed amendments seek to prohibit the use of equipment/vehicles/trailers as signage unless approved and permitted as a Portable Sign or High Impact Sign. The amendments also seek to clarify standards for temporary signs and to restrict the use of temporary signs on vacant lots.

Nonconformities

The primary reason for amending the nonconformities provisions of the zoning ordinance is to address homeowner concerns regarding the current inability to rebuild a nonconforming home if destroyed. The current restriction on reconstructing a nonconforming home is a barrier for individuals to secure mortgage financing and, consequently, creates issues for individuals looking to buy or sell a nonconforming home. The proposed amendment would create a new classification of nonconforming residential structure—called a “Compliant Structure”—which could be reconstructed if destroyed, but would not be allowed to expand the nonconformity beyond what is existing.

Attachments

- Proposed amendments to general subdivision ordinances
- Existing general subdivision ordinances
- Proposed amendments to sign code ordinances regarding temporary signs
- Proposed amendments to nonconformities ordinances
- Existing nonconformities ordinances



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Chapter 4-04 Subdivision Regulations

4-0401 Introductory Provisions¹

4-0402 Definitions

4-0402.1 General Usage

4-0402.2 Definitions²

Plat, Retracement³

Plats of existing metes and bounds parcels which have been of record with the Cass County Register of Deeds since before December 2, 1985.

Subdivision, Administrative⁴

A division of land that is not a Minor Subdivision or a Major Subdivision and that includes any of the following: Lot Combination, Simple Lot Split, Retracement Plat, & Lot Line Adjustment, as described in §4-0404.2.

Subdivision, Major⁵

Any subdivision of land that is not classified as an Administrative or Minor Subdivision.

Subdivision, Minor⁶

A subdivision of land that does not include any of the following:

1. Administrative Subdivision;
2. Creation of five or more lots;
3. Dedication of public rights-of-way;
4. Creation of any public improvements other than sidewalks;
5. Possible adverse effects on adjoining properties, such as the impairment of convenient ingress and egress; or
6. Conflicts with any provision of official city maps, plans, the Zoning Ordinance, or these regulations.

Subdivision Adjustment⁷

Permission to deviate from the literal requirements of these subdivision regulations.

¹ No proposed changes to existing language.

² New definitions added to current list of definitions.

³ Existing definition relocated from §4-0403.5.

⁴ New.

⁵ Modified existing definition to align with new tiered subdivision process.

⁶ Modified existing definition to align with new tiered subdivision process.

⁷ Replaced the definition of Variance in §4-0402.2.

4-0403 General Provisions

4-0403.1 General Classification of Subdivisions

Subdivision requests shall be classified and reviewed according to §4-0404, Subdivision Procedures.

4-0403.2 Transfer of Land⁸

No person shall transfer, sell, or agree to sell any land using the legal description in a proposed plat before such plat has been approved and recorded with the Cass County Register of Deeds.

4-0403.3 Grading of Site Prior to Final Plat Approval

Following preliminary approval of a Major Subdivision plat by the Planning and Zoning Commission, the City Planner and City Engineer may grant permission to commence site grading as approved by the City Engineer. Under no circumstances shall this approval be grounds for the premature issuance of a building permit, nor shall it constitute grounds for automatic approval of the final plat by the City Commission.

4-0403.4 Building Permits⁹

Building Permits may be issued only for development on lots established in accordance with this Subdivision Ordinance, unless otherwise noted.

A building permit shall not be issued for any property included in a subdivision application until an approved plat has been recorded with the Cass County Register of Deeds.

A. Exemptions

1. A building permit may be issued for a property included in a subdivision application if the proposed building or structure meets all standards typically required for a building permit on both the original lot and the lot as proposed in the subdivision application. If approved, the building permit shall be issued under the existing lot description at the time of approval.
2. For land outside the corporate City limits and within the area where the City has exercised its extraterritorial zoning jurisdiction, the Planning Director is authorized to waive the subdivision requirement for issuance of a building permit when the Planning Director is satisfied that roadway access and subdivision design and improvement issues as identified in Section 4-0406 can be properly addressed without a platting or subdivision approval process.

4-0403.5 Schedule of Fees, Charges, and Expenses¹⁰

The City Commission shall establish a schedule of fees, charges, and expenses and a collection procedure for any subdivision of land subject to the standards of this Chapter 4-04. A schedule of fees shall be on file in the office of the West Fargo Planning Department and may be altered or amended from time to time by the City Commission

⁸ §4-0403.1.E.

⁹ Modifications to §4-0403.3.C to clarify platting as a prerequisite to obtaining a building permit and to allow waiving this requirement within the City's extraterritorial jurisdiction.

¹⁰ Minor updates to §4-0403.4 to improve clarity.

by resolution. An application for subdivision shall not be considered complete until all applicable fees, charges, and expenses have been paid in full by the applicant.

4-0404 Subdivision Procedures

4-0404.1 Exemptions¹¹

Land splits, by deed or otherwise, shall be required to have subdivision review and shall be in conformance with the provisions stated in these regulations. Exemptions to subdivision review for transfers of property are only as follows:

- A. A division of land that may be court-ordered or -approved, or affected by the testamentary or intestate provisions;
- B. A division of land for use as a right-of-way for municipal public facilities that does not involve any new streets or easements of access;
- C. A division of land made to correct errors in prior divisions pursuant to Chapter 40-50.1, N.D.C.C.;
- D. A division of land into lots, tracts, or parcels of forty¹² acres or more in size for the purpose of agricultural use which does not involve any new streets or easements; or
- E. A division of land into lots, tracts, or parcels in which one lot, tract, or parcel has an existing single family residential district dwelling and the other lot(s), tract(s), or parcel(s) is/are also exempt by the one of the provisions A through E stated above.

4-0404.2 Administrative Subdivisions¹³

A. Applicability

The following land division processes are subject to Administrative Subdivision review:

1. Lot Combination

Combining previously platted, contiguous lots under common ownership.

2. Lot Line Adjustment

Shifting the adjoining boundary line between two adjacent lots.

3. Retracement Plat¹⁴

Platting parcels which have not been previously platted and are located within the City limits of the City of West Fargo to provide clear legal descriptions with an associated subdivision plat title and accurate parcel size information.

Applicants interested in developing unplatted parcels which have been of record with the Cass County Register of Deeds since before December 2, 1985,

¹¹ Excerpt from §4-0403.1.A.

¹² Proposed increase from 10 acres to 40 acres for agricultural exemptions. Division of land less than 40 acres would require subdivision approval.

¹³ The Administrative Subdivision process has been added to allow staff review and approval of simpler land division requests.

¹⁴ Drafted based on language from §4-0403.5.A.

shall be required to file a Retracement Plat prior to receiving a building permit for development.

4. Simple Lot Split¹⁵

Dividing an existing lot into two new lots. A Simple Lot Split shall not be used as part of a continuing scheme of lot splitting in a particular area to avoid the Major or Minor Subdivision process.

B. Application Submittal

Submittal requirements for an Administrative Subdivision include:

1. An application for an Administrative Subdivision, as established by the City Planner, and associated fee. As part of the application, the applicant shall identify if they are seeking a Lot Combination, Lot Line Adjustment, Retracement Plat, or Simple Lot Split.
2. A site plan in accordance with the requirements of §4-0405.2.
3. A plat prepared in accordance with N.D.C.C. platting requirements and §4-0405.4 of this Ordinance.
4. Any other support materials as requested by the City Planner.

C. Staff Review and Decision¹⁶

The City Planner and applicable review departments and agencies shall review the Administrative Subdivision application. The City Planner will make the final determination on the application. The following criteria shall be considered when reviewing a request for Administrative Subdivision:

1. There is no proposed or perceived need of public improvements as a result of the requested subdivision; and
2. The application does not violate any provision of the Zoning Ordinance, official City Plans, or any other state or local ordinance.
3. The application does not request a Subdivision Adjustment under this ordinance.

Notice of denial of an Administrative Subdivision by the City Planner shall be provided to the applicant in writing.

D. Appeal of Administrative Decision¹⁷

Upon denial of an Administrative Subdivision by the City Planner, an applicant may appeal the decision to the Board of Adjustment in accordance with §4-560. Such appeal shall be made by the applicant within 10 days of issuance of the notice of denial by the City Planner.

E. Recordation¹⁸

Upon approval of an Administrative Subdivision, the City Planner shall be responsible for recording the Final Plat with the Cass County Register of Deeds.

¹⁵ Drafted based on language from §4-0403.1.B.

¹⁶ Criteria for approval modified from §4-0403.5.B.

¹⁷ Language from §4-0403.1.C.

¹⁸ Modified from §4-0403.5.B.5.

4-0404.3 Minor Subdivisions

A. Applicability

A proposed subdivision of land that may not be considered using the Administrative Subdivision process and that does not include any of the following may be processed as a Minor Subdivision:

1. Creation of five or more lots;
2. Dedication of public right-of-way;
3. Creation of any public improvements other than sidewalks;
4. Possible adverse effects on adjoining properties, such as the impairment of convenient ingress and egress; or
5. Conflicts with any provision of official city maps, plans, the Zoning Ordinance, or these regulations.

B. Pre-Application Conference¹⁹

Prior to the preparation of any plat, the applicant shall meet with the City Planner to discuss:

1. General plan of development;
2. Subdivision approval process;
3. Timetable and submittal requirements;
4. Zoning requirements;
5. Subdivision design requirements; and
6. Applicable City plans and policies.

C. Application Submittal

1. Submittal Requirements

Submittal requirements for a Minor Subdivision include:

¹⁹ Section 4-0404.4.

- a. An application for a Minor Subdivision, as established by the City Planner, and associated fee;
- b. An area sketch plan in accordance with the requirements of §4-0405.1.
- c. A site plan in accordance with the requirements of §4-0405.2.
- d. A plat prepared in accordance with N.D.C.C. platting requirements and §4-0405.4 of this Ordinance.
- e. A current title opinion or copy of title insurance policy;
- f. County Tax Statement or other certification that there are no delinquent special assessments and/or taxes for the parcel(s) being platted;
- g. Subdivision grading and drainage/stormwater plan (as applicable);
- h. Letter from the West Fargo Park District indicating their recommendations for land dedication or payment in lieu of fees (as applicable); and
- i. Any other support materials as requested by the City Planner.

2. Determination of Application Completeness

The City Planner shall determine whether the application is complete or incomplete and provide notification of such determination to the applicant. An incomplete application shall not be processed or reviewed. Any deficiencies noted by the City Planner shall be addressed by the applicant prior to resubmitting the application.

D. Staff Review

Upon receipt of a complete application, the City Planner and applicable review agencies shall review the Minor Subdivision application. The City Planner shall forward any comments received from review agencies to the applicant to be incorporated into the final plat. The City Planner shall prepare a staff report that reviews the application in light of the Comprehensive Plan, the subdivision & zoning standards of Title IV, and all other applicable requirements.

E. Planning and Zoning Commission Review

1. Public Hearing

A public hearing shall be held before the Planning and Zoning Commission after notice of the time and place has been published in the City's official newspaper for two consecutive weeks prior to the date of the public hearing.

2. Criteria for Approval

The following criteria shall be considered when reviewing a request for Minor Subdivision:

- a. The Minor Subdivision is consistent with official City Plans;
- b. The Minor Subdivision complies with §4-0406, Subdivision Design and Improvement Standards, and all other applicable provisions of the Zoning Ordinance; and
- c. The Minor Subdivision does not result in the creation of any public improvements other than sidewalks.

3. Planning and Zoning Commission Decision

Following a public hearing, the Planning and Zoning Commission shall approve, conditionally approve, or deny the plat based on the criteria in provision 2 above.

F. Appeal of Planning Commission Decision

Upon denial of a Minor Subdivision by the Planning and Zoning Commission, an applicant may appeal the decision to the Board of Adjustment in accordance with §4-560 for final determination. Such appeal shall be made within 10 days of the date of denial by the Planning & Zoning Commission.

G. Recordation

Upon approval of a Minor Subdivision, the City Planner shall be responsible for recording the Final Plat with the Cass County Register of Deeds.

4-0404.4 Major Subdivisions

A. Applicability

A Major Subdivision includes any subdivision that cannot be classified as an Administrative Subdivision or Minor Subdivision.

B. Pre-Application Conference

Prior to the preparation of any plat, the applicant shall meet with the City Planner to discuss:

1. General plan of development;
2. Subdivision approval process;
3. Timetable and submittal requirements;
4. Zoning requirements;
5. Subdivision design requirements; and
6. Applicable City plans and policies.

C. Application Submittal

1. Submittal Requirements

Submittal requirements for a Major Subdivision include:

- a. An application for a Major Subdivision and associated fee, as established by the City Planner.
- b. An area sketch plan in accordance with the requirements of §4-0405.1.
- c. A site plan in accordance with the requirements of §4-0405.2.
- d. A preliminary plat prepared in accordance with N.D.C.C. platting requirements and §4-0405.3 of this Ordinance.
- e. A current title opinion or copy of title insurance policy;
- f. County Tax Statement or other certification that there are no delinquent special assessments and/or taxes for the parcel(s) being platted;
- g. Subdivision grading and drainage/stormwater plan (as applicable);
- h. Letter from the West Fargo Park District indicating their recommendations for land dedication or payment in lieu of fees (as applicable); and
- i. Any other support materials as requested by the City Planner.

2. Determination of Application Completeness

The City Planner shall determine whether the application is complete or incomplete and provide notification of such determination to the applicant. An incomplete application shall not be processed or reviewed. Any deficiencies noted by the City Planner shall be addressed by the applicant prior to resubmitting the application.

D. Staff Review

Upon receipt of a complete application, the City Planner and applicable review agencies shall review the Minor Subdivision application. The City Planner shall forward any comments received from review agencies to the applicant to be incorporated into the final plat. The City Planner shall prepare a staff report that reviews the application in light of the Comprehensive Plan, the subdivision & zoning standards of Title IV, and all other applicable requirements.

E. Planning and Zoning Commission Review

1. Public Hearing

A public hearing shall be held before the Planning and Zoning Commission after notice of the time and place has been published in the City's official newspaper for two consecutive weeks prior to the date of the public hearing.

2. Criteria for Approval

The following criteria shall be considered when reviewing a request for Major Subdivision:

- a. The Major Subdivision is consistent with official City Plans; and
- b. The Major Subdivision complies with §4-0406, Subdivision Design and Improvement Standards, and all other applicable provisions of the Zoning Ordinance.

3. Planning and Zoning Commission Recommendation

Following a public hearing, the Planning and Zoning Commission shall approve, approve with conditions, or deny the preliminary plat based on the criteria listed above.

F. City Commission Review

1. Timeline for Filing for Final Review

- a. Preliminary Plat approval of a Major Subdivision by the Planning and Zoning Commission is valid for one year.
- b. If this time limit expires without a final plat being filed for review, Planning and Zoning Commission approval will be considered void, unless an extension is requested in writing by the applicant and granted by the Planning and Zoning Commission.
- c. The request for an extension shall be submitted to the City Planner at least 30 days before the original approval expires. If authorized, the extension is valid for one year.²⁰

2. City Commission Review

Before the application may be scheduled for final consideration by the City Commission, the applicant shall submit the following to the City Planner:

- a. One plastic-backed (mylar) print of the final plat signed by the appropriate authorities;
- b. A Vacation of Plat Certificate, if necessary;
- c. Subdivision Development/Improvement Agreement, if necessary; and
- d. Park Dedication Agreement, if necessary.

3. City Commission Decision

The City Commission shall approve or deny the request for Major Subdivision based on the criteria in §4-0404.4.E.3.

G. Recordation

Upon approval of a Major Subdivision, the City Planner shall be responsible for recording the final plat with the Cass County Register of Deeds. Should recording not take place within six months of City Commission approval, the approval will be considered null and void.

²⁰ Proposed timeframe for extension request/approval suggested in this section is new.

4-0404.5 Subdivision Adjustments

A. Applicability

An applicant for Minor or Major Subdivision may request a Subdivision Adjustment from the Planning and Zoning Commission when the strict application of this Chapter 4-04 would result in an undue hardship.

B. Application Submittal

An application for Subdivision Adjustment shall be submitted to the City Planner in a form established by the City Planner at the time the associated subdivision plat application is submitted. At a minimum, the application for Subdivision Adjustment shall include:

1. A description of the subdivision design or improvement standards to be waived or modified, and
2. The reasons and justifications for the requested Subdivision Adjustment.

C. Staff Review and Recommendation

Upon receipt of the completed application, the City Planner shall distribute copies of the request to all applicable review agencies. A formal recommendation shall be prepared by the City Planner including:

1. Feedback provided by the review agencies; and
2. Any suggested conditions of approval.

In conjunction with the subdivision plat, the City Planner shall schedule review of the Subdivision Adjustment before the Planning and Zoning Commission, which may approve, conditionally approve, or deny said request.

D. Planning and Zoning Commission Review and Decision

The Planning and Zoning Commission shall not approve a Subdivision Adjustment unless the applicant can demonstrate the request meets the following criteria:

1. The Subdivision Adjustment must not be detrimental to the public safety, health or welfare, or injurious to other property improvements in the area in which the property is located;
2. The Subdivision Adjustment must represent the minimum extent of deviation from this Zoning Ordinance that will mitigate the hardship that exists on the subject property; and
3. The Subdivision Adjustment shall not have the effect of waiving any provisions of this Ordinance other than the applicable regulations of §4-0406.

4-0404.6 Resubdivision of Land²¹

A. Procedure

All requests to modify an approved or recorded subdivision plat shall follow the applicable procedures outlined in §4-0404.

²¹ §4-0403.3.

B. Future Resubdivision of Land

Where a request has been made to modify an approved or recorded plat and the proposed plat shows one or more lots containing more than twice the minimum lot size required in the Zoning Ordinance, and there are indications that such lots will eventually be resubdivided into smaller building sites, the Planning and Zoning Commission may require that:

1. The lots allow for a future opening of streets and the ultimate extension of adjacent streets.
2. Easements providing for the future opening and extension of the street be made a requirement of approval.

C. Limitations²²

Under no circumstances shall repeated use of the Administrative Subdivision and/or Minor Subdivision process be used to avoid the requirements of the Major Subdivision process.

²² New.

CHAPTER 4-04

SUBDIVISION REGULATIONS

SECTIONS:

- 4-0401. Introductory Provisions.
 - 4-0402. Definitions.
 - 4-0403. General Provisions
 - 4-0404. Subdivision Application Procedure and Approval Process.
 - 4-0405. Document Specification Requirements.
 - 4-0406. Subdivision Design and Improvement Standards.
 - 4-0407. Public Sites and Uses.
 - 4-0408. Extraterritorial Provisions.
 - 4-0409. Subdivision Improvement Agreements. (Ord. 860, Sec. 1 [2010])
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4-0401. INTRODUCTORY PROVISIONS.

Subsections:

- 4-0401.1. Title.
 - 4-0401.2. Purpose.
 - 4-0401.3. Legal Authority.
 - 4-0401.4. Provisions of Ordinance Declared to be Minimum Requirements.
 - 4-0401.5. Severability.
 - 4-0401.6. Amendments to Regulations.
 - 4-0401.7. Conditions Imposed Upon Subdivision Plats.
 - 4-0401.7. Penalties for Violation. (Ord. 748, Sec. 2 - 2005)
-

4-0401.1. TITLE. These regulations shall be known, cited, and referred to as "The Subdivision Regulations of the City of West Fargo, North Dakota."

4-0401.2. PURPOSE. It is the purpose of these regulations:

- A. To provide for the proper arrangements of streets in relation to other existing and planned streets and to City Plans; and
- B. To provide for adequate and convenient open spaces for traffic, utilities, access of emergency vehicle apparatus, recreation, light, and air, for the avoidance of congestion of population, and for easements for building setback lines or for public utility lines; and

- C. To establish reasonable standards, designs, and procedures for land subdivisions in order to further beneficial planning of the City and to insure proper legal descriptions of land; and
- D. To insure that adequate public facilities and necessary public improvements are available and will have sufficient capacity to serve the subdivision; and
- E. To encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the City and the value of its land; and
- F. To prohibit land subdivision of such character where the land cannot be used safely for building purposes without danger to health or peril from fire, flood, or other menace; and
- G. To promote and protect the provisions of public health, safety, and general welfare; and
- H. To complement and enforce the provisions contained in the Zoning Ordinance, City Plans, and building and housing codes; and
- I. To promote energy conservation and the use of renewable energy resources through energy efficient land use patterns, solar energy use, and other energy efficient techniques.

4-0401.3. LEGAL AUTHORITY.

- A. The City of West Fargo shall have jurisdiction over the subdivision of land (as defined herein) within the limits established by Section 4-0107.
- B. Land shall not be subdivided within the jurisdiction of the City of West Fargo until:
 - (1) The subdivider or his agent has complied with the stated procedures required under these regulations necessary to review such land subdivision.
 - (2) The subdivider or his agent has established that the land to be subdivided and subsequently developed will be in compliance with the Zoning Regulations of the City of West Fargo.
 - (3) The subdivider or his agent obtains approval of the preliminary and final plat by the Planning Commission and the City Commission of West Fargo. The approved plat shall then be recorded with the County Register of Deeds.

4-0401.4. PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS. The provisions of these regulations shall be held to be the minimum requirements adopted for the promotion of public health, safety and general welfare. Whenever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances of the State of North Dakota or City of West Fargo, the most restrictive or that which imposes the higher standards, shall govern.

4-0401.5. SEVERABILITY. If any section, provision, or portion of this ordinance is adjudged invalid by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

4-0401.6. AMENDMENTS TO REGULATIONS. For the purpose of providing for the public health, safety, and general welfare, the City of West Fargo may from time to time amend the provisions imposed by these subdivision regulations. Public hearings on all proposed amendments shall be held by the Planning and Zoning Commission and City Commission in accordance with the procedures contained herein and state law.

Source: Ord. 748, Sec. 1 (2005)

4-0401.7. CONDITIONS IMPOSED UPON SUBDIVISION PLATS. Subdivision regulations and the attachment of reasonable conditions to land subdivisions are valid exercises of the police power delegated by the State of North Dakota to the City of West Fargo. The developer or subdivider has the duty of compliance with the conditions laid down by the planning or City Commission.

4-0401.8. PENALTIES FOR VIOLATION. Any owner, or agent of any owner, of land located within an subdivision who transfers, sells, any such land by reference, to or exhibition of a plat of a subdivision, or by any other use thereof, before such plat has been approved by the Planning and Zoning Commission and governing body and recorded as approved in the office of the appropriate County Recorder, shall forfeit and pay a penalty as provided by Section 40-48-23 of the North Dakota Century Code (One Hundred Dollars [\$100.00] for each lot or parcel transferred or sold or agreed or negotiated to be sold). The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided in this section. The municipality may enjoin such transfer, sale or agreement by an action for injunction, or it may recover the penalty by civil action.

Source: Ord. 748, Sec. 2 (2005)

4-0402. DEFINITIONS.

Subsections:

- 4-0402.1. General Usage.
- 4-0402.2. Definitions.

4-0402.1. GENERAL USAGE.

- A. Words within these regulations shall be used, interpreted, and defined as presented in this chapter.
- B. The word "City" shall mean the City of West Fargo, North Dakota.
- C. The word "shall" is mandatory and the words "may" or "should" are permissive.
- D. The words "subdivider," "developer," "applicant," "person," and "owner" include an individual, a corporation, an unincorporated association, a partnership, or other legal entities.
- E. Anything not specifically included in a definition is automatically excluded.
- F. In the event of conflicting provisions in the meanings of any words in these regulations, the most restrictive or that which imposes a higher standard shall govern.
- G. Any definition not found in these regulations, and found in the Zoning Ordinance Definitions, shall have the same meaning as defined in the Zoning Ordinance.

4-0402.2. DEFINITIONS.

Abutting - To physically touch or border upon; or to share a common property line. Also ADJACENT LAND.

Access - A way or means of approach to provide physical entrance to a property.

Alleys. Minor public ways which are used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Source: Ord. 808, Sec. 1 (2007)

Applicant - The person(s) submitting the application for subdivision.

Application to Subdivide - The application form and all documents and exhibits required of an applicant by the Planning Commission for subdivision review purposes.

Area Sketch Plan - A rough map of a proposed subdivision and its adjacent land area of sufficient accuracy to be used for the purpose of discussion and classification. See Figure 5, page 22.

Block - A unit of land bounded by streets or by a combination of streets and public lands, railroad right-of-way, water-ways or any other barrier to the continuity of development. See Figure 3, page 8.

Buffer Strip - Land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances. Also SCREENING. See Figure 1.



FIGURE 1. BUFFER STRIP

Building Line - That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed. Also SETBACK LINE. See Figure 2.

Building Permit - Written permission issued by the Building Inspector for the construction, repair, alteration or addition to a structure.

Central Sewerage System - A community sewer system including collection and treatment facilities established to serve a new subdivision in the extraterritorial area.

Central Water System - A private water company formed to serve a new development in the extraterritorial area including water treatment and distribution facilities.

City Commission - The City Commission of the City of West Fargo.

Collector - See STREET, COLLECTOR.

Cul-de-sac - See STREET, CUL-DE-SAC.

Dead-End - See STREET, DEAD-END.

Developer - The person proposing to develop the land either as the owner or as an agent of such owner.

Drainage Plan - The plan of the subdivision showing the direction of surface water runoff and the removal of surface water or groundwater by drains, grading, runoff controls, or other means.

Dwelling Unit - One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Easement - A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or entity.

Excavate - Removal of soil, rock, or organic substances from land for building purposes.

Grading - Any stripping, cutting, filling, stockpiling of earth or land, including the land in its cut or filled condition.

Final plat - See PLAT, FINAL.

Improvement, Public - Any street, tree, sidewalk, lot improvement or other facility for which a governmental unit may ultimately assume responsibility for maintenance and operation.

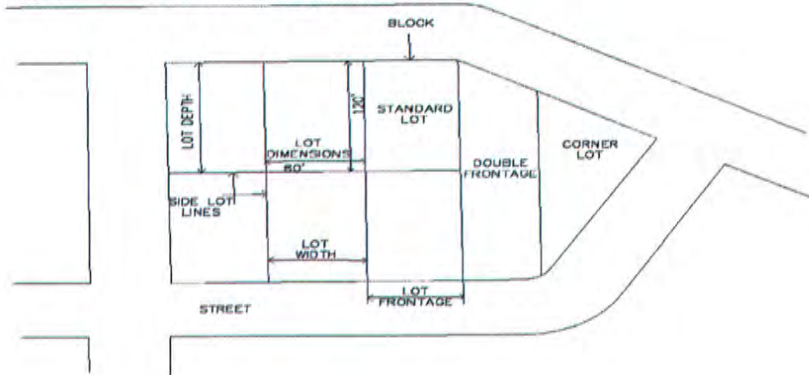
Individual Sewage Disposal System - A privately owned and maintained system for the disposal of sanitary sewage in the ground, which is so designed, constructed, and approved as to treat sewage in a manner that will retain most of the settleable solids in a septic tank and discharge the liquid portion to an adequate disposal field.

Land Use - A description of how land is occupied or utilized.

Local Street - See STREET, LOCAL.

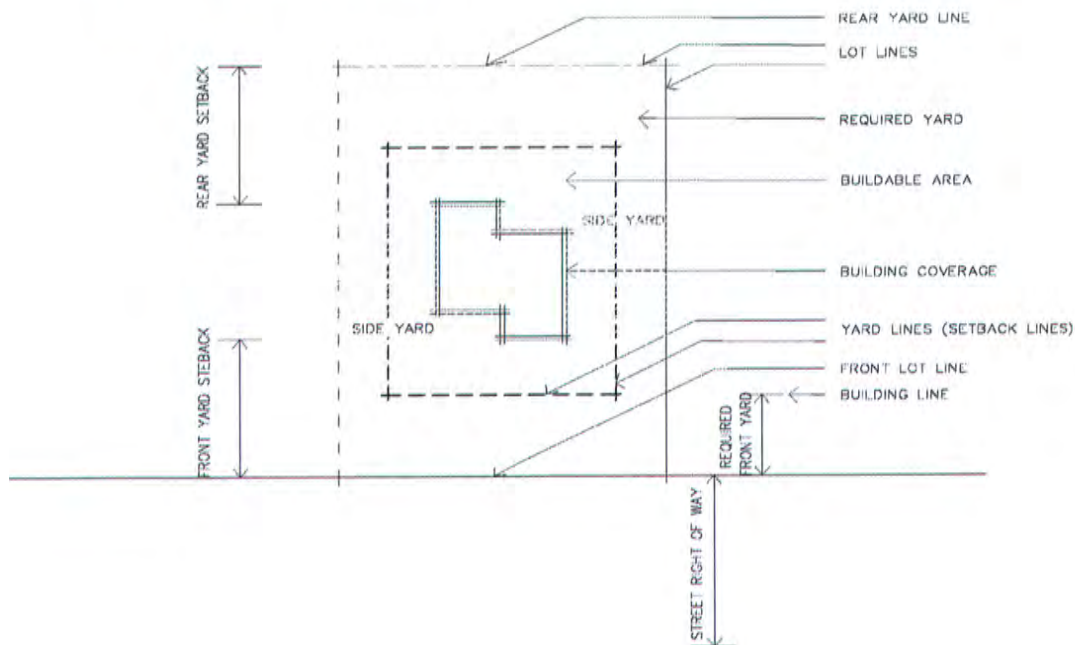
Lot - A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit. See Figure 3.

FIGURE 3. LOTS AND BLOCKS



Lot Dimensions - The measurement of a lot expressed in feet to include yard setbacks, lot width and depth and other features necessary to insure lot and building compliance with the Zoning Ordinance. See Figure 2.

FIGURE 2. LOT DIMENSIONS



Lot, Double Frontage - A lot, other than a corner lot, which fronts upon two streets. See Figure 3.

Metes and Bounds - A method of describing the boundaries of land by directions and distances from a known point of reference.

Minor Subdivision - See SUBDIVISION, MINOR.

Major Subdivision - See SUBDIVISION, MAJOR.

Official Map - A legally adopted map that shows the proposed location and width of proposed streets, highways, public facilities, public areas, and drainage right-of-ways, including subdivision plats approved by the City Commission and the subsequent filing of such approved plats.

Official Plans - Any adopted document approved by the City Commission, including any amendments or additions thereof, detailing the future course of development for the City.

Placement of Mail Box Plan - A plan setting out the placement of mail boxes either individually or as combined units to serve the property in the plat.

Source: Ord. 712, Sec. 2 (2004)

Planning Commission - The Planning and Zoning Commission of the City of West Fargo.

Plat - A map of a subdivision showing the boundaries, dimensions, and locations of individual properties and streets which has been approved by the City of West Fargo and recorded with the Cass County Register of Deeds.

SOURCE: Ord. 501, Sec. 1 (1996).

Plat, Preliminary - A preliminary map indicating the proposed layout of the subdivision which is presented to the Planning Commission for consideration and preliminary approval.

Plat, Final - The final map of subdivision which is presented to the City Commission for final approval.

Primary Arterial - See STREETS, PRIMARY ARTERIAL.

Restrictive Covenant - A restriction on the use of land usually set forth in the deed.

Resubdivision - A change in an approved and recorded subdivision plat, but not including conveyances made so as to combine existing lots by deed or other instrument.

Right-of-Way - A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary sewers and other similar uses. See Figure 2.

Setback Line - See BUILDING LINE.

Site Plan - The development plan of the subdivision showing the existing and proposed conditions on the lots including: streets, lots, means of ingress and egress, landscaping,

sidewalks, buildings, lot and building dimensions, screening devices; any other information that reasonably may be required in order that an informed decision can be made by the Planning Commission. See Figure 6.

Solar Access - A property owner's right to have the sunlight shine on his land.

Street - An open way for vehicles and pedestrians constructed for the use of the public.

Street, Collector - A street which collects traffic from local streets and connects with minor and primary arterials. See Figure 4.

Street, Cul-de-sac - A street with a single common ingress and egress and with a turnaround at the end. See Figure 4.

Street, Dead End - A street with a single common ingress and egress. See Figure 4.

Street, Half - A public street where only half the required right-of-way width is shown on the subdivision plat.

Street, Local - A street designed to provide vehicular access to abutting property and to discourage through traffic. See Figure 4.

Street, Loop - A local street which has its only ingress and egress at two points of the same collector street. See Figure 4.

Street, Minor Arterial - A street with signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets. See Figure 4.

Street, Primary Arterial - A major street intended to move through traffic to and from major facilities and also distributes traffic to and from minor arterials. Primary arterials shall also include routes which carry traffic between communities or which provides ingress into egress out of communities. See Figure 4.

Street, Service - A street running parallel to a primary arterial and servicing abutting property. See Figure 4.

Subdivider - Any person having an interest in land that is the subject of an application for subdivision. See APPLICANT.

Subdivision - The division of a lot, tract, or parcel of land into two or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale or of building development, and any plat or plan which includes the creating of any part of one or more streets, public easements, or other rights of way, whether public or private, for access to or

from such lots, and the creation of new or enlarged parks, playgrounds, plazas, or open spaces.

Source: Ord. 501, Sec. 1 (1996).

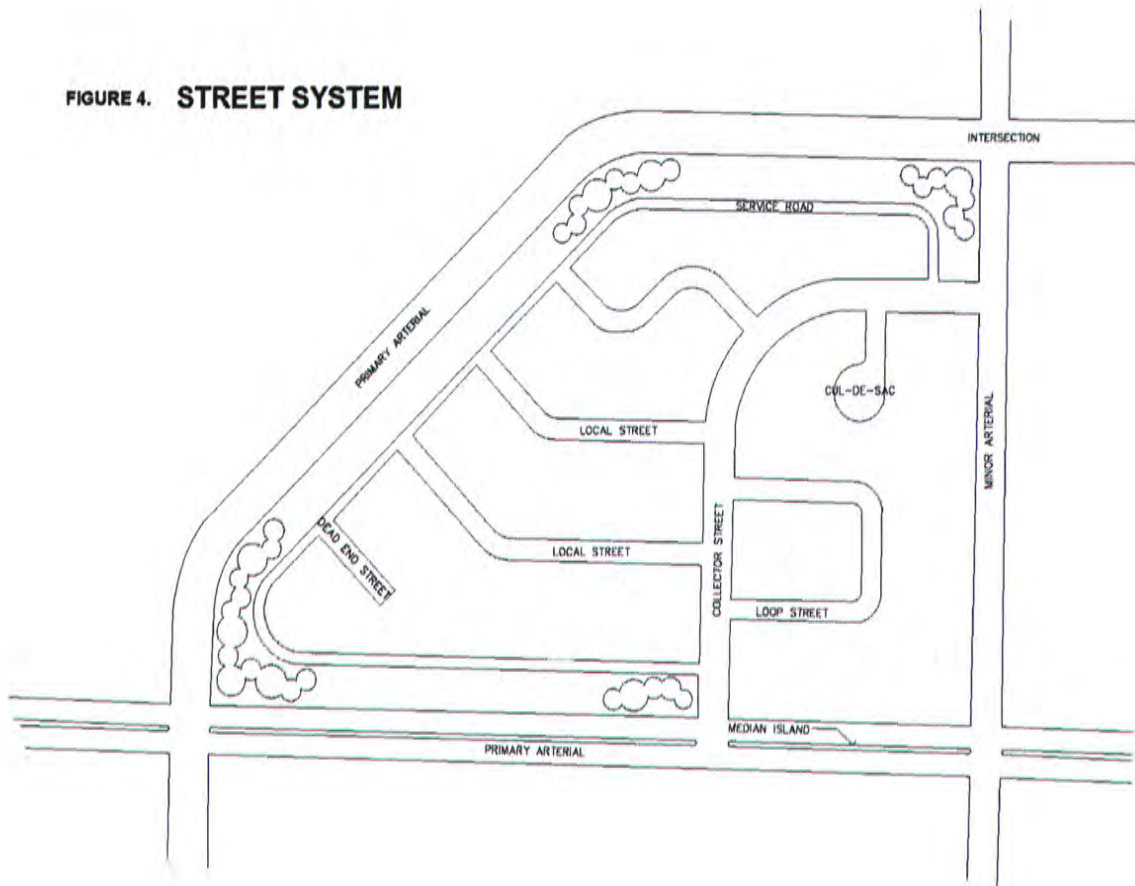
Subdivision, Major - Any subdivision not classified as a minor subdivision.

Subdivision, Minor - A subdivision of land that does not include any of the following: (1) six or more single family lots; (2) high density residential; commercial, or industrial lots; (3) a planned unit development; (4) a new street; (5) possible adverse effects on adjoining property; and (6) conflicts with any provisions of official city maps, plans, the Zoning Ordinance, or these regulations.

Variance - Permission to depart from the literal requirements of these regulations.

Zoning Ordinance - The Zoning Ordinance of the City of West Fargo.

FIGURE 4. STREET SYSTEM



4-0403. GENERAL PROVISIONS.

Subsections:

- 4-0403.1. Transfer of Lots and Splitting of Land.
- 4-0403.2. Variances.
- 4-0403.3. Resubdivision of Land.
- 4-0403.4. Schedule of Fees, Charges and Expenses.
- 4-0403.5. Retracement Plats.

4-0403.1. TRANSFER OF LOTS AND SPLITTING OF LAND.

A. LAND SPLITS. Land splits, by deed or otherwise, shall be required to have subdivision review and shall be in conformance with the provisions stated in these regulations. No building permit shall be issued on land divided or split other than in conformity with the provisions of this chapter. Exceptions to subdivision review for transfers of property are only as follows:

- 1. A division of land which may be ordered or approved court or affected by testamentary or intestate provisions;
- 2. A division of land for use as right-of-way for municipal public facilities which do not involve any new streets or easements of access;
- 3. A division of land made to correct errors in prior divisions pursuant to Chapter 40-50.1, N.D.C.C.;
- 4. A division of land into lots, tracts, or parcels of ten (10) acres or more in size for the purpose of agricultural use which does not involve any new streets or easements.
- 5. A division of land into lots, tracts, parcels in which one lot, tract, or parcel has existing a single family residential district dwelling and the other lot(s), tract(s), or parcel(s) is/are also exempt by the previous stated exemptions.

B. SIMPLE LOT SPLITS. Simple lot splits may be exempt from the platting provisions provided in this chapter provided the following conditions are met:

- 1. The lot split does not contain more than two (2) lots; and
- 2. The two lots created are not more than $\frac{1}{2}$ acre in size each for lots located within the City limits; and

3. There is no proposed or perceived need of public improvements as a result of the split. The lot split does not occur in general proximity to an area organized by metes and bounds description and/or where there is a perceived need to create an organized development pattern through platting; and
4. That any platted lot be split only once under the terms of this provision; and
5. That the lot split is not part of a continuing scheme of lot splitting for a particular area; and
6. That the lot split does not violate any provision of the Zoning Ordinance, Official City Plans, or any other state or local ordinance; and
7. That the lot split does not adversely affect public health, safety or welfare.

Source: Ord. 501, Sec. 2 (1996).

- C. PROCEDURE FOR SIMPLE LOT SPLIT. An application for a simple lot split shall be submitted to the City Planner on forms as provided. The City Planner and Auditor shall review such application and determine if all requirements to grant the lot split have been met. If concurred approval is given, the City Planner shall then schedule a review before the Planning Commission following written notice to property owners within one hundred fifty (150) feet, excluding streets, of the application. The Planning Commission may approve, conditionally approve, or deny said simple lot split. If approval is granted, the Planning Commission Chairperson, City Auditor, and City Planner shall authorize such approval by signing a certificate which shall subsequently be given to the applicant. There shall be a right to appeal to the Planning Commission if the City Planner and Auditor shall not give their approval.
- D. APPLICATION FEE. The application for a simple lot split shall be submitted to the City Planner along with the fee set by the City Commission. If the City Planner and Auditor do not approve the lot split so that the matter is not sent to the Planning Commission, the fee shall be refunded.
- E. TRANSFER OF LOTS. No owner, or agent of any owner, shall transfer, sell, or agree to sell any land, using the legal description in a proposed plat, before such plat has been approved by the Planning and Zoning Commission and City Commission and recorded with the Cass County Register of Deeds, or using the legal description of a

split lot before such lot split has been approved by the Planning and Zoning Commission.

4-0403.2. VARIANCES.

- A. GENERAL. Where the subdivider proves that extraordinary hardship would result from the strict interpretation of this ordinance, the Planning Commission may grant a variance from these regulations. The Planning Commission shall not approve variances unless it can be shown by the subdivider that the following conditions apply:
- (1) The conditions upon which the variance is based are unique to the property and are not applicable generally to other property in the same district.
 - (2) Because of the particular physical surrounding of the property, a particular hardship to the owner would result, as opposed to mere inconvenience, if the strict letter of these regulations were carried out.
 - (3) The granting of the variance would not harm the surrounding neighborhood in any way and would be beneficial to public health, safety, and welfare.
 - (4) The variance is consistent with the proper development of the area.
- B. CONDITIONS. In approving variances, the Planning Commission may add conditions to approval in order to secure the objectives of these regulations.
- C. PROCEDURE. An application for variance shall be submitted to the City Planner by the subdivider on forms as provided. Upon receipt of the completed application, and any other information as requested, the City Planner shall schedule review before the Planning Commission. The Planning Commission may approve, conditionally approve, or deny said variance.

4-0403.3. RESUBDIVISION OF LAND.

- A. PROCEDURE. For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or vacates any portion of said plat, such parcel shall follow the same procedures, rules, and regulations as an original subdivision plat.
- B. FUTURE RESUBDIVISION OF LAND. Where a resubdivision request has been made and the plat shows one or more lots

containing more than twice the minimum lot size required in the Zoning Ordinance, and there are indications that such lots will eventually be resubdivided into smaller building sites, the Planning Commission may require that:

- (1) The lots allow for a future opening of streets and the ultimate extension of adjacent streets.
- (2) Easements providing for the future opening and extension of the street be made a requirement of final replat approval.

- C. BUILDING PERMITS. Building permits in resubdivisions shall not be issued until the final plat has been approved by the City and recorded with the County Register of Deeds. However, if a person seeks a building permit for a parcel of land which could be properly granted under existing regulations and which could also be granted under the proposed replat, then a permit may be granted prior to Planning Commission approval of the replat. The building permit shall be issued under the existing lot description rather than the proposed lot description.

4-0403.4. Schedule of Fees, Charges and Expenses. The City Commission shall establish a schedule of fees, charges and expenses and a collection procedure for plats, replats and other matters pertaining to Chapter 4-04 of the Revised Ordinances of the City of West Fargo. A schedule of fees shall be on file in the office of the West Fargo City Auditor, and may be altered or amended by the City Commission by resolution. Until all applicable fees, charges and expenses have been paid in full, no final action shall be taken.

4-0403.5. Retracement Plats.

- A. RETRACEMENT PLATS REQUIRED FOR UNDEVELOPED PARCELS. Any undeveloped parcels which have not been previously platted and are located within the City limits of the City of West Fargo shall be required to file a Retracement Plat prior to receiving a building permit for development. Retracement Plats are defined as plats of existing metes and bounds parcels which have been of record with the Cass County Register of Deeds since before December 2, 1985, therefore are not considered subdivisions under the West Fargo Subdivision Ordinance and are not subject to all the Subdivision requirements.

The purpose of Retracement Plats is to provide clear legal descriptions with an associated subdivision plat title and accurate parcel size information.

B. PROCEDURE. The procedure for review and approval of Retracement Plats is as follows:

1. Plats shall be prepared in accordance to N.D.C.C. platting requirements and Section 4-0405.4 of the Code of City Ordinances, Subdivision Regulations of the City of West Fargo, and shall denote any existing right-of-ways or easements.
2. The City Planning Department shall review the plat and shall forward copies to appropriate departments for their review and comments.
3. The City Planning and Zoning Commission shall review the plat and forward their recommendation to the City Commission. No public hearing shall be required.
4. The City Commission shall give consideration to the plat at their next regular meeting.
5. Upon City Commission approval the plat shall be signed and recorded with the Cass County Register of deeds.

C. PARTIALLY OR FULLY DEVELOPED PARCELS. Property owners with partially or fully developed parcels are encouraged to file retracement plats with the City to provide clear legal descriptions with an associated subdivision plat title and accurate parcel size information. This will provide for a cleaner abstract and will allow the City to better manage property information. The same procedure for approval as in Section 4-0403.5B shall be followed.

D. COMBINING OF PREVIOUSLY PLATTED LOTS. Property owners wishing to combine properties which have been previously platted for the purpose of building across lot lines and/or increasing lot area to address district requirements may submit a retracement plat following the above procedures; provide the following conditions are met:

1. No additional right-of-way is required or being established.
2. There is no proposed or perceived need of public improvements as a result of the combining of platted lots
3. Lots to be combined are contiguous and under common ownership.

4-0404. SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS.

Subsections:

- 4-0404.1. General Classification and Procedure.
- 4-0404.2. Official Submission Date and Public Hearing Notification.
- 4-0404.3. Public Hearing Requirements.
- 4-0404.4. Preapplication Conference.
- 4-0404.5. Area Sketch Plan.
- 4-0404.6. Site Plan.
- 4-0404.7. Final Plat Review (Minor Subdivisions)
- 4-0404.8. Preliminary Plat Review (Major Subdivisions)
- 4-0404.9. Final Plat Review by City Commission.

4-0404.1. General Classification and Procedure. For every land subdivision request, the subdivider or his agent shall make application to the City planner and secure approval of such application by the Planning Commission and the City Commission prior to subdivision plat recording. In order to secure approval of a subdivision request, the request shall be classified by the City Planner and reviewed in its entirety according to the following procedures and classifications:

A. MINOR SUBDIVISIONS. Includes subdivisions containing five single-family residential lots or less. Three steps are required for approval:

- (1) Preapplication Conference
- (2) Site Plan
- (3) Final Plat

B. MAJOR SUBDIVISIONS. Includes all other subdivisions. Five steps are required for approval:

- (1) Preapplication Conference
- (2) Area Sketch Plan
- (3) Site Plan
- (4) Preliminary Plat
- (5) Final Plat

Where warranting circumstances exist, the City Planner may add or relieve the applicant of certain submission requirements.

4-0404.2. Official Submission Date and Public Hearing Notification. The subdividing owner, or his authorized agent, shall take application to subdivide and to pay the required fee to the City Planner at least three (3) weeks prior to any public hearing held before the Planning Commission. Failure to meet this timetable shall be grounds to withhold public hearing notification. At least five days before a public hearing, notice of the time and place of such hearing shall be sent by certified mail to the

person(s) whose name(s) will appear on the final plat application. A subdivision plat is considered to be officially submitted when first reviewed by the Planning Commission.

Source: Ord. 916, Sec. 1 (2012)

4-0404.3. Public Hearing Requirements. A public hearing shall be held before the Planning and Zoning Commission after notice of the time and place thereof has been published in the City's official newspaper for two (2) consecutive weeks prior to the date of the public hearing. Before a public hearing can be scheduled, the subdivider or his agent shall submit the following data to the City Planner:

- A. County Tax Statement for the parcel(s) being platted.
- B. Area sketch plan (two (2) paper copies and one (1) digital copy), when necessary.
- C. Site Plan (two (2) paper copies and one (1) digital copy).
- D. Three (3) paper copies of preliminary plat for major subdivisions and one (1) digital copy; three (3) paper copies of Final Plat for minor subdivisions and one digital copy.

Source: Ord. 916, Sec. 2 (2012)

4-0404.4. Preapplication Conference. Prior to the preparation of any plan or plat, the subdivider or his agent shall meet with the City Planner and discuss:

- A. General Plan of Development.
- B. Subdivision Approval Process.
- C. Timetable and Submission Requirements.
- D. Zoning Requirements.
- E. Subdivision Requirements.
- F. City Plans and Policies.
- G. Placement of Mail Box Plan. (Source: Ord. 712, Sec. 3 (2004))

At this time, a subdivision fee shall be filed and a subdivision application shall be recorded.

4-0404.5. Area Sketch Plan. For Major Subdivisions, an area sketch plan shall be prepared by the applicant and submitted to the City Planner prior to preliminary plat preparation. Two (2) paper copies and one (1) digital copy of this plan shall be submitted. The area sketch plan will be reviewed by City Staff and comments shall be forwarded to the Planning Commission. The

Planning Commission shall review this plan to determine the proposed subdivision's compatibility with adjacent land uses and with future development of the surrounding area (See Figure 5 in Section 4-0405).

Source: Ord. 916, Sec. 3 (2012)

4-0404.6. Site Plan. For all subdivisions, a site plan shall be prepared by the applicant and submitted to the City Planner prior to plat review by the Planning Commission. For major subdivision requests, this plan shall be submitted with the submission of the area sketch plan. Upon receipt of the site plan, the City Planner will receive comments on said plan from appropriate city departments. The City Planner will then forward these comments to the applicant in order to be incorporated onto the Preliminary or Final Plat. Two (2) paper copies and one (1) digital copy of the site plan shall be submitted to the City Planner for review (See Figure 6 in Section 4-0405).

Source: Ord. 916, Sec. 4 (2012).

4-0404.7. Final Plat Review (Minor Subdivisions). Final Plat review for minor subdivisions shall follow the same procedures and rules for approval as for Preliminary Plats for major subdivisions. Three (3) paper copies and one (1) digital copy of the Final Plat shall be submitted to the City Planner. The mylar print shall be submitted following Planning Commission and City Commission reviews of the Final Plat in order to include the conditions that may be attached to Planning Commission and City Commission approvals.

Source: Ord. 916, Sec. 5 (2012).

4-0404.8. Preliminary Plat Review (Major Subdivisions).

- A. GENERAL. Following the successful completion of all submission requirements, Three (3) paper copies and one (1) digital copy of the Preliminary Plat shall be submitted to the City Planner. The City Planner shall schedule a public hearing and distribute copies of the plat to appropriate agencies for comment. The Preliminary Plat must be submitted at least three (3) weeks prior to any public hearing on the plat.
- B. PLANNING COMMISSION REVIEW. After the public hearing, the Planning Commission shall have thirty (30) days to approve, conditionally approve, or deny the preliminary plat. The applicant may waive the requirement that the Commission act within thirty (30) days and may consent to an extension of such period. Following the Commission's decision, the subdivider will be notified of its action.
- C. APPROVAL OR CONDITIONAL APPROVAL. Conditional approval or unconditional approval of the Preliminary Plat shall not constitute approval of the Final Plat. Rather, it shall be deemed an expression of approval of the layout submitted on the Preliminary Plat and shall serve as a

guide to the preparation of the Final Plat. All conditions stated upon approval must be completed or included on the Final Plat prior to Final Plat review by either the Planning Commission or the City Commission.

- D. GRADING OF SITE PRIOR TO FINAL PLAT APPROVAL. Following major or minor plat approval by the Planning Commission, the developer may request approval from the Planning Commission to excavate and grade site. Upon consultation and approval from the City Engineer, the Planning Commission may grant the developer permission to commence site preparation to the grades and elevations as required and approved by the Engineer. However, under no circumstances shall this approval be grounds for the premature issuance of a building permit nor shall it constitute grounds for automatic approval of the Final Plat by the City Commission.

Source: Ord. 916, Sec. 6 (2012)

4-0404.9. Final Plat Review by City Commission.

- A. GENERAL. The subdivider or his agent shall submit three (3) paper copies, one (1) digital copy, and 1 mylar print of the Final Plat to the City Planner within one (1) Year of Preliminary Subdivision Plat approval by the Planning Commission. Should this time limit expire, Planning Commission approval will be considered void unless for good cause an extension is requested in writing by the subdivider and granted by the Planning Commission. Final Plats shall include all data as required by these regulations.
- B. CONDITIONS. All Final Plats shall comply in all respects with these regulations and the conditions given to said plat for approval by the Planning Commission. If the attached conditions are not met, a second review by the Planning Commission shall occur. If it can be determined that the preliminary approval is in conformance with the stipulated conditions and these regulations, secondary review by the Planning Commission shall be waived by the City Planner. Recommendation for approval shall then be sent to the City Commission for their consideration.
- C. CITY COMMISSION REVIEW. Prior to putting application on the City Commission Agenda, the following items shall be submitted to the City Planner at least one (1) week prior to the City Commission meeting:
 - (1) Certification that there are no delinquent special assessments and/or taxes on subject property.
 - (2) A current title opinion.
 - (3) A Vacation of Plat Certificate, if necessary.

- (4) Developer Subdivision Improvement Agreement.
- (5) Park Dedication Agreement.
- (6) Final Plat Document Signed by Developer.

Should Final Plat be approved, the City Auditor and Mayor shall execute the Plat. The subdivider or his agent shall provide the City with the necessary mylars and copies of the plat required for recording. The plat shall then be recorded with the Cass County Register of Deeds. Should recording not take place within six (6) months of City Commission approval, that approval will be considered null and void.

Source: Ord. 916, Sec. 7 (2012)

**Proposed Amendments to Sign Code
Ordinances Regarding Temporary Signs**

ORDINANCE NO. 1240

AN ORDINANCE TO AMEND AND REENACT SECTION 4-460.3, SUBSECTION 8 OF SECTION 4-460.7, AND SECTION 4-460.8 OF THE REVISED ORDINANCES OF 1990 OF THE CITY OF WEST FARGO RELATING TO TEMPORARY SIGNS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WEST FARGO, NORTH DAKOTA:

SECTION 1. Section 4-460.3 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted by amending the definition of “Banners” to read as follows:

BANNERS. Attention getting devices which resemble flags and are of a paper, cloth, or plastic-like consistency, or similar material.

SECTION 2. Subsection 8 of Section 4-460.7 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

4-460.7. GENERAL SIGN PROVISIONS.

* * *

8. The use of ~~Temporary~~ Signs such as banners, inflatable signs, tethered balloons and/or similar devices may be erected on the premises of an establishment for special events, provided that such signs may not be displayed for more than thirty (30) calendar days within any four (4) month period. Said four (4) month period shall commence on the first day that the temporary sign is erected. ~~Violations for temporary signs must be corrected within seven (7) days of written notification.~~ Banners may be considered permanent signs provided they are constructed of canvass or other durable fabric enclosed within a cabinet or frame which is permanently and entirely mounted on the wall of a building and comply with the sign regulations set forth herein. Temporary signs are restricted to less than twelve (12) square feet in area.

SECTION 3. Section 4-460.8 of the Revised Ordinances of 1990 of the City of West Fargo, North Dakota, is hereby amended and reenacted to read as follows:

4-460.8. SIGNS NOT REQUIRING PERMIT AND PROHIBITED SIGNS.

1. Permitted Signs. The following signs are allowed without a permit; however are included within the allowable sign area, unless otherwise indicated.

- a. Public Signs. Signs of a public, noncommercial nature, including safety signs, directional signs to public facilities, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when erected by or on behalf of a public official or employee in the performance of official duty.
- b. Identification Signs. Identification signs not exceeding one (1) square foot for single and two-family structures and sixteen (16) square feet for multiple family structures.
- c. Informational Signs. Informational Signs not exceeding twenty-four (24) square feet. One informational sign shall be allowed for each business and is not included within the allowable sign area, provided it does not exceed twenty-four (24) square feet and is fastened to an existing sign structure or building, or is a menu board for a restaurant.
- d. Directional Signs.
 - (1) On-Premise Signs. Shall not be larger than four (4) square feet. The number of signs shall not exceed four (4) unless approved by the Planning and Zoning Commission, and shall not be included within the allowable signage.
 - (2) Off-Premise Signs. Shall be limited to situations where access is confusing and traffic safety could be jeopardized or traffic could be inappropriately routed through residential streets. The size of the sign shall be approved by the City Commission and shall contain no advertising.
- e. Integral Signs. Integral signs shall not be included within the allowable sign area.
- f. Campaign Signs. Campaign signs not exceeding thirty-two (32) square feet for any one sign, or for all signs on any lot. The sign must contain the name and address of the person responsible for such sign, and that person is responsible for its removal.
- g. Flags and Insignia. Flags and insignia of any government except when displayed in connection with commercial promotion.
- h. Holiday Signs. Signs or displays which contain or depict a message pertaining to a religious, national, state or local holiday and no other matter, and which are displayed for a period not to exceed forty-five (45) days in any calendar year, provided that the type of sign conforms to all requirements of this Ordinance.
- i. Construction/Development Signs. A non-illuminated construction or development sign confined to the site of the construction, alteration, repair

or development. Such sign must be removed within two (2) years of the date of issuance of the first building permit on the site or when the particular project is completed, whichever is sooner, unless said sign is intended to be a permanent identification sign for the development and is approved as a conditional use. One sign shall be permitted for each street the project abuts. No sign may exceed thirty-two (32) square feet in the R-1E, R-1A, R-1, R-4 and R-5 Districts, or sixty-four (64) square feet in the A, R-2, R-3, C, EMU, DMU, HC, LI and M districts unless otherwise approved as a conditional use.

- j. Roadside Market Signs. Signs advertising produce grown and sold on the premises on which they are located, provided such signs shall not exceed thirty-two (32) square feet in area or be displayed for a period exceeding six (6) months of any calendar year.
- k. “For Sale” and “To Rent” Signs. “For Sale” and “To Rent” signs shall be permitted subject to the following regulations:
 - (1) Six (6) or Less Residential Dwelling Units. The following applies to the for sale or for rent of a single family residence or where six (6) or less dwelling units (or lots for residential development) are for sale or rent: No more than one such sign per lot, except on a corner lot (2) signs, one facing each street, shall be permitted. No such signs shall exceed sixteen (16) square feet in area, or be illuminated. Each such sign must be devoted solely to the sale or rental of the property being offered and must be removed immediately upon the sale or rental of the property. Each sign must be placed only upon the property offered for sale or rent.
 - (2) Seven (7) or More Residential Dwelling Units. Where more than six (6) dwelling units (or lots for residential development purposes) are offered for sale or rental by the same party, signs advertising such sale or rental may be constructed therefore in any district. There shall be permitted one sign facing each public street providing access to the property being offered. Each such sign shall not exceed twenty-four (24) square feet in area; shall be located at least one hundred (100) feet from any preexisting home; and shall be removed within one year from the date of building permit issuance, or when less than six (6) units remain for sale or rent, whichever is less. Said sign shall fully comply with the setback requirement for the zoning district in which the property is located.
 - (3) Industrial or Commercial Property. In the event of an industrial or commercial sale or rental of real property, there shall be permitted one sign facing each public street providing access to the property being offered. Each sign shall not exceed thirty-two (32) square feet in area for signs located within fifty (50) feet of the front property line, or sixty-four (64) square feet in area if located fifty (50) or more

feet from the front property line and must be devoted solely to the sale and rental of the property being offered and must be removed immediately upon the sale or rental of the last property offered at that location. Said sign may not be located closer to the property line than fifty (50) percent of the setback required within the particular zoning district in which the property is located.

- l. Rummage (Garage) Sale Signs. Rummage sale signs shall not be posted until one day before the date of the sale and shall be removed within one (1) day after the end of the sale and shall not exceed six (6) square feet. Rummage sale signs shall not be located in any public right-of-way, or on utility poles or equipment.
 - m. Signs relating to official local, state or federal government agencies and City entrance signs.
 - n. Window Signs. Window signs shall not exceed fifty (50) percent of the total glass area of the face of the building on which the window in which they are displayed and shall not be included within the allowable sign area.
 - o. Small Signs. Small signs which do not exceed one (1) square foot in area shall not be counted as part of the allowable sign area, provided the signs are not part of a larger sign scheme for the building or property.
 - p. Pennants. Pennants may be erected on the premises of an establishment in commercial and industrial zoning districts which are not in the "Corridor Overlay District. Pennant displays must be properly maintained as to not create a safety hazard, nor shall they detract from the character of adjacent properties and other property in the district. The rope, wire or string used to display the pennants must be fastened securely and remain taut.
2. Prohibited Signs. The following signs are prohibited:
 - a. Off-Premise Advertising Signs with the following exceptions:
 - (1) Approved signs within a commercial or industrial planned unit development, advertising businesses within the PUD.
 - (2) Signs as provided for in the district provisions.
 - b. ~~Advertising or business signs~~ Signs on or attached to equipment such as semi-truck trailers or motor vehicles (other than High Impact Signs and Portable Signs, as regulated by this Ordinance) where signing is a principal use of the equipment on either a temporary or permanent basis, unless otherwise approved as a permanent sign. ~~Such signs may be used for special events on site and may not be displayed for more than fourteen (14) calendar days within any four (4) month period.~~

- c. Beacon, motion and flashing signs, except reader boards, time and temperature signs and barber poles.
- d. Roof Signs. Except that a business sign may be placed on the fascia or marquee of a building, provided it does not extend above the highest elevation of the building, excluding chimneys.
- e. Business signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for not more than thirty (30) days from the date of vacancy.
- f. Portable signs, banners, inflatable signs, tethered balloons and similar devices except as provided in this chapter.
- g. Signs which are tacked on bridges, fire hydrants, official public signs, trees, fences, utility poles or in any portion of a public right-of-way; temporary signs fastened to sign structures, parking lot light poles or other structures; and temporary signs secured by wires, stakes or weights.
- h. Bench signs except by special permit of the City Commission.
- i. Home occupation signs except as part of an identification sign for the residence, which does not exceed one (1) square foot in area and is mounted flush against the buildings.
- j. Pennants within the "Corridor Overlay District."
- k. Temporary signs located on vacant lots, which are not "for sale" and "to rent" signs as permitted pursuant to Section 4-460.8 (1) (k) of these ordinances.

SECTION 2. Effective Date. This ordinance shall be in full force and effect from and after the date of its final passage and publication.

President of Board of City Commissioners
of the City of West Fargo, North Dakota

ATTEST:

City Auditor

Date of First Reading:

Date of Second Reading:

Date of Publication:



**§4-470 Nonconformities
Draft February 2024**

4-470 Nonconformities

4-471 Intent

The intent of this Chapter 4-470 is to regulate the continued existence of lots, structures, and uses of land that came into existence legally, but owing to the adoption of this Ordinance and subsequent amendments, or to previously applicable ordinances, no longer comply with one or more requirements of this Title. All such situations are collectively referred to in this Chapter as “nonconformities.” It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Nonconformities may continue until they are removed, and in some cases as described in this section, may be restored or replaced subsequent to damage or destruction.

This Chapter address the following types of nonconformities:

A. Nonconforming Lots

Nonconforming lots are lots that were legally created in accordance with zoning district minimum lot size and dimensional standards in effect at the time of their creation, but which, because of amendments to the zoning regulations, no longer comply with the minimum lot size or other dimensional standards of the zoning district.

B. Nonconforming Structures

Nonconforming structures are buildings or structures, other than compliant structures, that were established in accordance with all zoning regulations in effect at the time of their establishment, but which, because of amendments to the zoning regulations, no longer comply with the dimensional standards of the underlying zoning district.

C. Compliant Structures

Compliant structures are single-family and two-family residential structures (including single-family townhomes on individual lots) that were established in accordance with all zoning regulations in effect at the time of their establishment, but which, because of amendments to the zoning regulations, no longer comply with the dimensional standards of the underlying zoning district(s).

D. Nonconforming Uses

Nonconforming uses are uses that were established in accordance with zoning regulations in effect at the time of their establishment, but which, because of amendments to the zoning regulations, no longer comply with the use regulations of the underlying zoning district.

4-472 Regulations Applicable to All Nonconformities

A. Authority to Continue

Nonconformities shall be allowed to continue in accordance with the regulations of this Chapter.

B. Determination of Nonconforming Status

The owner of the property containing the nonconformity shall bear the burden of demonstrating that the lot, structure, use, or site feature was lawfully established.

C. Minor Repairs and Maintenance

1. Minor repairs and maintenance of nonconformities are permitted and encouraged, provided that such repairs and maintenance are in compliance with this Code and that no repair or maintenance work shall increase the extent of nonconformity.
2. If a nonconformity becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district(s) in which it is located. However, nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

D. Change of Ownership or Tenancy

Changes in ownership, tenancy, or management of property with an existing nonconformity may occur, but such nonconformities shall continue to be subject to the standards of this Chapter 4-470.

4-473 Nonconforming Lots

A nonconforming lot may be used or continue in use so long as it remains otherwise lawful, subject to the following provisions. This includes compliance with applicable yard dimensions and requirements unrelated to lot area or lot width, which shall only be adjusted by means of a variance approval obtained from the Board of Adjustment.

4-473.1 Lot with Buildings or Structures

An existing building or structure on a nonconforming lot may be expanded provided that any such expansion does not increase the existing nonconformity, and any expansion or new construction shall be in full compliance with all applicable zoning district and dimensional standards of this Ordinance.

4-473.2 Lot Merger

- A. If two or more lots or combinations of lots and portions of lots with continuous frontage under single ownership are of record upon the adoption date or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width, then the lots involved shall be considered as one undivided parcel for the purposes of this Ordinance.
- B. No portion of such a parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any parcel be divided in a manner that creates a lot with width or area below the requirements stated in this Ordinance.

4-474 Nonconforming Structures

A nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming structure may be enlarged or altered in any way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- B. Should such nonconforming structure or nonconforming portion of structure be damaged or destroyed by any means to the extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- C. Nonconforming structures may not be moved for any reason for any distance whatever unless the move or relocation will bring the structure into compliance with all applicable zoning district regulations.

4-475 Compliant Structures

- A. Notwithstanding the nonconforming structures provisions of Section 4-474, single-family and two-family residential structures (including single-family townhomes on individual lots) that were established in accordance with all zoning regulations in effect at the time of their establishment, but which, because of amendments to the zoning regulations, no longer comply with the dimensional standards of the underlying zoning district(s) shall be deemed compliant Structures, provided the structures do comply with all other applicable zoning regulations.
- B. Should a compliant structure be damaged or destroyed by any means, it may be replaced or rebuilt to occupy the same location on the lot and the same building footprint it occupied prior to the damage or destruction.
- C. Existing compliant structures may be enlarged or expanded, provided the alteration is in compliance with all applicable zoning standards and does not increase the nature of the nonconformity. The determination of whether a proposed expansion is in compliance with all applicable zoning standards shall be made by the Planning Director.

4-476 Nonconforming Uses

4-476.1 Nonconforming Uses Conducted Within a Building or Structure

A nonconforming use conducted within a building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. An existing structure that houses a nonconforming use shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered, unless the use in the structures changes to one that is permitted in the district in which it is located.
- B. A nonconforming use may be expanded throughout any parts of an existing building that were manifestly arranged or designed to be occupied by the use at the time of adoption or amendment of this Ordinance; however, the use shall not be extended to occupy any land outside such building.

- C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may request from the City Commission conditional use approval to be changed to another nonconforming use, provided that the City Commission finds, either by general rule or through findings in the specific case, that the proposed use is equally appropriate or more appropriate in the district than the existing nonconforming use. In permitting such change, the City Commission may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
- D. Once a permitted use replaces a nonconforming use in any structure, or structures and land in combination, all uses thereafter shall conform to the regulations for the district, and no nonconforming use may thereafter be resumed.
- E. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months, or for 18 months during any three-year period (except when government action impedes access to the premises), the nonconforming use shall not be resumed, and the structure, or structure and premises in combination, shall thereafter be used in conformity with the regulations of the district in which it is located.
- F. Should a structure containing a nonconforming use be damaged or destroyed by any means to the extent of more than 50 percent of its replacement cost at time of destruction, the destruction shall eliminate the nonconforming status of the use. Upon reconstruction, any use established in the structure shall thereafter be in conformity with the regulations of the district in which it is located.

4-476.2 Nonconforming Uses Conducted Outside Buildings or Structures

A nonconforming use of land conducted outside buildings or structures may be continued so long as it remains otherwise lawful, provided that the nonconforming use shall not:

- A. Be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of this Ordinance.
- B. Be moved or relocated in whole or in part to any portion of the lot or parcel other than that which the use occupied upon the effective date of this Ordinance.
- C. Cease operation for any reason for a period of six consecutive months, or for 18 months during any three-year period (except when government action impedes access to the premises) or more. If the use does cease for a period of six consecutive months, or for 18 months during any three-year period, it shall be considered permanently discontinued, and any subsequent use shall be in conformity with the regulations of the district in which it is located.
- D. Cause to be constructed or erected on the same lot occupied by the nonconforming use any new or additional structure that does not conform to all applicable requirements of this Ordinance.

4-476.3 Exception for Conditional Uses

Any use which is allowed in a specific district as a conditional use shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

Existing Nonconformities Ordinances

4-470. NONCONFORMING LOTS, USES OF LAND, STRUCTURES, AND USES OF STRUCTURES.

Subsections:

- 4-471. Intent.
- 4-472. Nonconforming Lots of Record.
- 4-473. Nonconforming Uses of Land (or Land with Minor Structures Only).
- 4-474. Nonconforming Structures.
- 4-475. Nonconforming Uses of Structures or of Structures and Premises in Combination.
- 4-476. Repairs and Maintenance.
- 4-477. Uses Allowed as Conditional Uses Not Nonconforming Uses.

4-471. INTENT. Within the districts established by this Ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

4-472. NONCONFORMING LOTS OF RECORD. In any district in which single-family dwellings are permitted, a single-family

dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained through action of the Board of Adjustment. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

4-473. NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY). Where at the time of passage of this Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding \$1,000, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
3. If any such nonconforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located;
4. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

4-474. NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the

structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in any way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to the extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

4-475. NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION. If lawful use involving individual structures with a replacement cost of \$1,000 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located. However, accessory buildings to residential uses may be enlarged, extended, constructed, reconstructed, moved or structurally altered provided that these improvements shall meet the yard and lot coverage requirements of the residential district, or in the case of accessory buildings located in commercial or industrial districts the lot coverage may not exceed fifty percent (50%) for buildings and may not exceed seventy-five percent (75%) impervious surfaces. Setback and building height requirements for accessory buildings located in commercial or industrial districts will follow the requirement of the C: Light Commercial District.

Source: Ord. 934, Sec. 1 (2012)

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a conditional use be changed to another nonconforming use provided that the City Commission, either by general rule

or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate in the district than the existing nonconforming use. In permitting such change, the City Commission may require appropriate conditions and safeguards in accord with the provisions of this Ordinance;

4. Any structure, or structures and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;
6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at the time of destruction.

Source: Ord. 501, Sec. 12 (1996).

4-476. REPAIRS AND MAINTENANCE. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 25 percent of the current replacement cost of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

4-477. USES ALLOWED AS CONDITIONAL USES NOT NONCONFORMING USES. Any use which is allowed in a specific district as a conditional use shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.