

**CITY PLANNING & ZONING COMMISSION**  
**MEETING MINUTES**  
**January 27, 2010**

The Bismarck Planning & Zoning Commission met on January 27, 2010, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Chairman Yeager presided.

Commissioners present were Mark Armstrong, Mel Bullinger, Jack Hegedus, Curt Juhala, Doug Lee, Ken Selzler, Elden Spier, Lisa Waldoch, John Warford and Wayne Yeager.

Township Representative Paul Zent was present.

Commissioner Jo Conmy was absent.

Staff members present were Carl Hokenstad – Director of Community Development, Gregg Greenquist – Planner, Kim Lee – Planning Manager, Jason Tomanek – Planner, Kimberley Gaffrey – Office Assistant III, Ben Ehreth – Transportation Planner, Ray Ziegler – Building Official, Charlie Whitman – City Attorney, Marcus Hall – County Engineer and Bill Wocken – City Administrator.

Others present were Bill Troe – URS Corporation, Damon Jorgensen – Kadrmass, Lee & Jackson, Joel Brice – 9516 Creekside Drive, Bismarck, Janel Schwab – 9725 Creekside Drive, Bismarck, Edith and Arnold Schieve – 1100 Apple Creek Road, Bismarck, Kerry and Patricia Olson – 1201 100<sup>th</sup> Street SE, Bismarck, Rick and Kaye Hessinger – 10001 Apple Creek Road, Bismarck, Richard Solberg – 9252 Apple Creek Road, Bismarck and Marv Abraham – 6050 93<sup>rd</sup> Street SE, Bismarck.

## **MINUTES**

Chairman Yeager called for consideration of the minutes of the November 18, 2009 meeting.

**MOTION:** Commissioner Hegedus made a motion to approve the minutes of the November 18, 2009 meeting as received. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Hegedus, Juhala, Lee, Selzler, Spier, Waldoch, Wangler and Yeager voting in favor of the motion.

## **INTRODUCTIONS**

Chairman Yeager introduced and welcomed the new City Planning & Zoning Commissioner, Ken Selzler (ETA Representative).

## **PUBLIC HEARING – LONG RANGE TRANSPORTATION PLAN**

Bill Troe with URS Corporation presented the 2009-2035 Bismarck-Mandan Long Range Transportation Plan including a summary of proposed revisions and public comments to the October 2009 draft document. The changes and public comments are attached as Exhibit A.

Commissioner Warford said he wanted to thank everyone for all the hard work and to make sure that the preservation of Centennial Road was included in the Plan. Mr. Troe responded by saying that the

preservation of Centennial Road and 71<sup>st</sup> Avenue has been included and also the potential future need of an interchange at 66<sup>th</sup> Street.

Commissioner Juhala asked if a bridge crossing the river at 71<sup>st</sup> Street has been included in the plan. Mr. Troe answered by saying that a river crossing has not been included in the plan, but should be a part of a future plan.

Chairman Yeager opened the public hearing for the 2009-2035 Bismarck-Mandan Long Range Transportation Plan.

No public comment was received.

Chairman Yeager closed the public hearing.

**MOTION:** Commissioner Juhala made a motion to recommend approval of the 2009-2035 Bismarck-Mandan Long Range Transportation Plan including the summary of proposed revisions and public comments to the October 2009 draft document, as presented. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Hegedus, Juhala, Lee, Selzler, Spier, Waldoch, Wangler and Yeager voting in favor of the motion.

## **URBAN RENEWAL PLAN**

Bill Wocken, Bismarck City Administrator, presented the proposed revisions to the Official Urban Renewal Plan. The plan is attached as Exhibit B.

Commissioner Bullinger suggested that the wording be changed from north line, south line, east line and west line to north property line, south property line, east property line and west property line to eliminate any confusion as to where the boundaries are.

**MOTION:** Commissioner Hegedus made a motion to recommend approval of the Official Urban Renewal Plan as presented including the suggestion of Commissioner Bullinger, as it is consistent with the City's Comprehensive Plan. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Hegedus, Juhala, Lee, Selzler, Spier, Waldoch, Wangler and Yeager voting in favor of the motion.

## **PUBLIC HEARING –ZONING CHANGE FROM A-AGRICULTURAL TO RR5-RESIDENTIAL AND FINAL PLAT – WDH SUBDIVISION**

Chairman Yeager called for the public hearing for the zoning change from A-Agricultural to RR5-Residential and the final plat for WDH Subdivision, a 39.9-acre development with five lots in one block. The property is located south of Lincoln along the west side of 66<sup>th</sup> Street SE and along the north side of 62<sup>nd</sup> Avenue SE (the SE¼ of the SE¼ of Section 30, T138N-R79W/Apple Creek Township).

Mr. Greenquist provided an overview of the requests and listed the following findings for the zoning change:

1. The proposed zoning change is consistent with the Land Use Plan, which identifies this area as rural residential (Bismarck-Mandan Regional Land Use Plan).
2. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include agriculturally-zoned property to the west, RR5-residential lots to the north and east. Copper Ridge Subdivision, which is zoned RR, is to the south.
3. The subdivision proposed for this property will be a large-lot rural residential subdivision, will be served by South Central Regional Water District, and will have access to 66<sup>th</sup> Street SE and 62<sup>nd</sup> Avenue SE; therefore, the zoning change will not place an undue burden on public services.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and planning practice.

Mr. Greenquist then listed the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. This proposed subdivision conforms to the Fringe Area Road Master Plan, which identifies 66<sup>th</sup> Street SE as an arterial roadway and 55<sup>th</sup> Avenue SE as a collector.
3. The lots would be served by private driveways. No interior roadways are proposed.
4. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include agriculturally-zoned property to the west, RR5-residential lots to the north and east. Copper Ridge Subdivision, which is zoned RR, is to the south.
5. The proposed subdivision is a large-lot rural residential subdivision, would be served by South Central Regional Water District, and would have access to 66<sup>th</sup> Street SE and 62<sup>nd</sup> Ave SE; therefore, the zoning change would not place an undue burden on public services.
6. The Apple Creek Township Board of Supervisors has recommended approval of the plat.
7. The City Engineer has approved the Storm Water Management Plan.
8. The proposed subdivision is consistent with adopted plans, policies and accepted planning practice.

Mr. Greenquist said based on the above findings, staff recommends approval of the zoning change from A-Agricultural to RR5-Residential and final plat for WDH Subdivision.

Chairman Yeager opened the public hearing for the zoning change and final plat for WDH Subdivision.

No public comment was received.

Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Armstrong made a motion to approve the zoning change from A-Agricultural to RR5-Residential and final plat for WDH Subdivision. Commissioner Spier seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Hegedus, Juhala, Lee, Selzler, Spier, Waldoch, Wangler, Zent and Yeager voting in favor of the motion.

**PUBLIC HEARING –ZONING CHANGE FROM A-AGRICULTURAL TO RR-RESIDENTIAL AND FINAL PLAT – COUNTRY VIEW ESTATES (FORMERLY KNOWN AS GOLFVIEW ESTATES)**

Chairman Yeager called for the public hearing for the zoning change from A-Agricultural to RR-Residential and the final plat for Country View Estates (formerly known as Golfview Estates), a 27.8-acre development with sixteen lots in three blocks. The property is located north of Apple Creek Road between 80<sup>th</sup> Street SE and 106<sup>th</sup> Street SE (part of the SE¼ of Section 3, T138N-R79W/Apple Creek Township).

Ms. Lee provided an overview of the requests and listed the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Land Use Plan, which identifies this area as rural residential (Bismarck-Mandan Regional Land Use Plan).
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include rural residential to the southwest and agricultural uses to the north, east, west and southeast.
3. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established. In particular, there has been additional rural residential development in this area within the past decade (East Valley Estates platted in 2002).
4. The subdivision proposed for this property would be served by South Central Regional Water District and would have access to Apple Creek Road; therefore, the proposed zoning change will not place an undue burden on public services or facilities.
5. The proposed zoning change would not adversely affect property in the vicinity.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following additional information for the zoning change:

1. The proposed subdivision has been revised to: 1) eliminate one access point on Apple Creek Road to address a concern of the Apple Creek Township Board of Supervisors and area residents; and 2) reduce the number of lots from 22 to 16 in order to comply with the City's secondary access policy.
2. The Apple Creek Township Board of Supervisors has now recommended approval of the subdivision proposed for this property with reservations (see attached resolution). The resolution references the 2010 Extraterritorial Jurisdiction Agreement with the City of Bismarck and the strong opposition of local landowners.

Ms. Lee then listed the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The revised storm water management plan for the proposed subdivision has been approved by the City Engineer.
3. The Apple Creek Township Board of Supervisors has recommended approval of the plat (with reservations).
4. The proposed subdivision is outside of the area covered by the Fringe Area Road Master Plan. Apple Creek Road is a section line road and is classified as an arterial.
5. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include rural residential to the southwest and agricultural uses to the north, east, west and southeast.
6. The proposed subdivision would be served by South Central Regional Water District and would have access to Apple Creek Road; therefore, the proposed subdivision would not place an undue burden on public services or facilities.
7. The proposed subdivision would not adversely affect property in the vicinity.
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following additional information for the final plat:

1. The proposed subdivision has been revised to: 1) eliminate one access point on Apple Creek Road to address a concern of the Apple Creek Township Board of Supervisors and area residents; and 2) reduce the number of lots from 22 to 16 in order to comply with the City's secondary access policy.
2. Vehicle count numbers taken in June 2009 for this portion of Apple Creek Road are 450 vehicles per day between 93<sup>rd</sup> Street SE and Apple Way (west of the new development) and

1267 vehicles per day between 93<sup>rd</sup> Street SE and 80<sup>th</sup> Street SE. Using a trip generation standard of 9 vehicle trips per day for single family residential development, approximately 135 additional trips would be added with the proposed development (15 additional dwelling units).

3. The City's secondary access policy generally limits the total number of rural residential lots from the last intersecting primary roadway access to 16 lots and the length of roadways from the last intersecting primary roadway access to 1320 feet.
4. The applicant has requested waivers to use a cul-de-sac because of the existing features and topography in this area and to include lots with minimum widths of less than 150 feet for lots on cul-de-sacs and curved roadways (although all lots will have an average width of 150 or greater).
5. The Apple Creek Township Board of Supervisors has now recommended approval of the subdivision proposed for this property with reservations (see attached resolution). The resolution references the 2010 Extraterritorial Jurisdiction Agreement with the City of Bismarck and the strong opposition of local land owners. The township has also requested verbally that the developer be required to pay for street signs and traffic control signs within the subdivision.

Ms. Lee said based on the above findings, staff recommends approval of the zoning change from A-Agricultural to RR-Residential and final plat for Country View Estates (formerly known as Golfview Estates), and granting waivers to use a cul-de-sac because of the existing features and topography in this area and to include lots with minimum widths of less than 150 feet for lots on cul-de-sacs and curved roadways.

Chairman Yeager opened the public hearing for the zoning change and final plat for Country View Estates (formerly known as Golfview Estates).

Rick Hessinger distributed a list of questions and concerns to the Planning & Zoning Commissioners. Mr. Hessinger then read his questions and concerns that are attached as Exhibit C.

Commissioner Juhala asked where the extra territorial area is located in Apple Creek Township. Township Representative Zent responded by saying the agreement that was just approved gives Apple Creek Township sole jurisdiction for the area where this proposed subdivision is located.

Commissioner Warford said that the resolution signed by the Board of Township Supervisors of Apple Creek Township approves the proposed zoning change and final plat with reservations, but would like clarification from Mr. Hessinger as to why he would like to see the decision go back to the township. Mr. Hessinger responded by saying if the agreement with Apple Creek Township would have been approved and in place sooner than it was, this decision would have been brought before Apple Creek Township and not the City.

Commissioner Armstrong asked Township Representative Zent that if this request would go back to the Township, would the outcome be different. Township Representative Zent answered by saying that if it came back to the Township, the rules of a five acre lot size would have to be met. Township Representative Zent went on to say that at the next annual meeting for the Township, smaller lot sizes would be discussed as a means to getting the roads in the Township paved, because it will be

the responsibility of the developer to pave the roads in turn for allowing the one and a half acre lot size. Township Representative Zent concluded by saying that as it stands right now, the Township is going to support the proposed subdivision because they negotiated and came to an agreement with the developer and engineer.

Commissioner Warford asked staff for clarification regarding the extraterritorial area agreement with Apple Creek Township. Mr. Hokenstad said that the Board of City Commissioners approved the extraterritorial area agreement with Apple Creek Township approximately two weeks ago. The agreement gives Apple Creek Township sole jurisdiction between the two-mile and four mile extraterritorial area for zoning purposes and issuance of building permits. Mr. Hokenstad added that this particular request for a zoning change and plat was submitted in 2009 when the jurisdiction was solely under the City of Bismarck and it would not be fair to change the jurisdiction in the middle of the process. Mr. Hokenstad concluded by saying the thought was to have the City complete the process for this particular application and all subsequent applications for that area would be fully under the jurisdiction of Apple Creek Township.

Chairman Yeager asked of all the subdivisions approved since 2005 in Apple Creek Township, how many of them are one and a half acre lots. Township Representative Zent said none of them have one and a half acre lots.

Commissioner Waldoch asked what would happen with the two remaining phases of this proposed subdivision after this one. Township Representative Zent said the two remaining phases would be under the jurisdiction of Apple Creek Township.

Commissioner Armstrong asked what the wishes of the Township are. Township Representative Zent answered by saying that in all the discussions, the Township Board feels they have to abide with what was negotiated, so the Township Board would approve it with the reservations listed; however, if it were up to the Township Board it would be denied because of the one and half acre lot size.

Kerry Olson said that he has attended all the Township meetings since the proposed subdivision came about and from what he has observed, the proposal may not be a great design, but it meets the minimum standards. Mr. Olson stated that that site distance was improved and he appreciates it, but feels safety is still an issue. He went on to say that the rural fire department had attended one of the meetings and they said that there was limited access because of the one approach. Mr. Olson added that the elected Township officials have said on more than one occasion that they would not accept this subdivision under the current guidelines.

Janel Schwab stated that in November she had the opportunity to visit with some of the residents in Apple Creek Township. One landowner who did not care about the development, two land owners felt it was not their business to tell Mr. Mariner what to do with his land, three land owners thought that two acre lots were acceptable, five landowners stated that the minimum of five acre lots up to forty acres were acceptable and approximately thirty five land owners thought the lot size should be maintained at the present rule of five acre lots. Ms. Schwab continued by saying some of the residents in the Township feel like Mr. Zent misrepresented what they wanted by reading the minutes of the prior commission meetings. Mr. Schwab said that the residents of Township are unaware of any issues that have been resolved. Mr. Schwab added that she does not agree with the one and a half acre lot size.

Richard Solberg commented that the access point has been improved for the development, but he still does not agree with the lot sizes.

Damon Jorgenson said when this request was presented there were discussions between the City, the Township, the County and the developer to reach an agreement so Mr. Mariner could develop the land that he purchased. Mr. Jorgenson thought an agreement had been met and the number of lots was scaled down to sixteen lots to meet the secondary access requirements while also addressing the site distance concerns. Mr. Jorgenson went on to say he is confused where this project is at because everyone was in agreement, and the land was purchased because it was developable land under the City of Bismarck's development guidelines. Mr. Jorgenson went on to say the current project has been reconfigured in the event that Apple Creek Township does not allow one and a half acre lots in the future, and there is adequate land to allow for five acre lots. Mr. Jorgenson said that a cul-de-sac was incorporated into the design because of storm water concerns and future storm water easements could be modified at a later date if there are future phases of this development. Mr. Jorgenson added that the size of the acres in the proposed development allow for a single family house, a shop building as well as a sufficient septic system that is regulated by Burleigh County. Mr. Jorgenson concluded by saying many hours have been spent to reach an agreement. This phase of the development started with the City of Bismarck and should be finished with the City of Bismarck.

Commissioner Armstrong asked what would happen if this proposed plat is not approved. Mr. Jorgenson stated that he is not sure because he did not foresee the denial of the proposed plat because of the approval of Apple Creek Township.

Chairman Yeager closed the public hearing.

Ms. Lee stated that the first preliminary version of the proposed plat was received by the City of Bismarck in January 2008.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Hegedus made a motion to approve the zoning change from A-Agricultural to RR-Residential and final plat for Country View Estates (formerly known as Golfview Estates), and granting waivers to use a cul-de-sac because of the existing features and topography in this area and to include lots with minimum widths of less than 150 feet for lots on cul-de-sacs and curved roadways and with the agreement with Apple Creek Township that in the future any one and a half acre lot size would require paved roads. Commissioner Armstrong seconded the motion.

Township Representative Zent said cannot accept the one and a half acre lot size for future development without the vote of the Township.

Commissioner Hegedus and Armstrong withdrew the motion for further discussion.

Commissioner Lee said the Planning & Zoning Commission should respect the wishes of Apple Creek Township and support their decision. Commissioner Lee added that while not every resident is going to agree with the decision, an agreement has been reached by the Apple Creek Township Board to approve the proposed plat and zoning change.

Commissioner Warford expressed concern over the Planning & Zoning Commission, which is made up of appointed officials, making a decision that would go against the will of the Apple Creek

Township Board, which is an elected board. Commissioner Warford continued by saying that he is inclined to favor sending the proposed subdivision to the Apple Creek Township Board because the proposed subdivision would be the first of multiple phases in this area and also the subsequent phases will be decided by the Apple Creek Township Board under the new jurisdictional area.

Commissioner Armstrong stated that he is also inclined to support sending the proposed subdivision back to the Apple Creek Township Board because Mr. Zent stated that the Township may consider allowing one and a half acre lots within new developments with the condition that the roads would need to be paved and include curb and gutter.

Mr. Zent stated that the Township will be holding an election in March 2010 with one measure on the ballot intended to address the ability of a developer to create one and a half acre lots if the new roadways include asphalt, curb and gutter or to also allow the developers the ability to create five acre lots without asphalt, curb and gutter.

Commissioner Spier inquired what would happen to the agreement between the City of Bismarck and Apple Creek Township if the proposed subdivision is denied. Commissioner Warford replied that the agreement would not be affected in any way and the proposed subdivision could be considered by the Apple Creek Township Board.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve the zoning change from A-Agricultural to RR-Residential and final plat for Country View Estates (formerly known as Golfview Estates). Commissioner Hegedus seconded the motion with Commissioners Bullinger, Hegedus, Lee and Spier voting in favor of the motion and Commissioners Armstrong, Juhala, Selzler, Waldoch, Warford, Yeager and Zent voting against. The motion was denied 7-4.

### **PUBLIC HEARING –ZONING CHANGE FROM CR-COMMERCIAL TO CG-COMMERCIAL – LOTS 1-3, BLOCK 1, KAVANEY COMMERCIAL PARK 2<sup>ND</sup> REPLAT**

Chairman Yeager called for the public hearing for the zoning change from CR-Commercial to CG-Commercial for Lots 1-3, Block 1, Kavaney Commercial Park 2<sup>nd</sup> Replat. The property is located south of Century Avenue and west of State Street, north of the Gateway Fashion Mall property.

Ms. Lee provided an overview of the request and listed the following findings for the zoning change:

1. The proposed zoning change is outside of the area covered by the Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include a variety of commercial uses and undeveloped commercially-zoned property to the east, west and south, and a senior high school to the north across Century Avenue.
3. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established. In particular, this property is no longer part of the Gateway Fashion Mall property.

4. The property is already annexed and has access to Century Avenue via the access easement over Lot 4, Block 1, Kavaney Commercial Park 2<sup>nd</sup> Replat; therefore, the proposed zoning change will not place an undue burden on public services or facilities.
5. The proposed zoning change would not adversely affect property in the vicinity.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Lee said based on the above findings, staff recommends approval of the zoning change from CR-Commercial to CG-Commercial for Lots 1-3, Block 1, Kavaney Commercial Park 2<sup>nd</sup> Replat.

Chairman Yeager opened the public hearing for the zoning change for Lots 1-3, Block 1, Kavaney Commercial Park 2<sup>nd</sup> Replat.

No public comment was received.

Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve the CR-Commercial to CG-Commercial for Lots 1-3, Block 1, Kavaney Commercial Park 2<sup>nd</sup> Replat. Commissioner Hegedus seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Hegedus, Juhala, Lee, Selzler, Spier, Waldoch, Wangler and Yeager voting in favor of the motion.

## **OTHER BUSINESS**

### **URBAN RENEWAL PLAN**

Bill Wocken, Bismarck City Administrator, said that Commissioner Bullinger suggested property line be used instead of line, however, the City Attorney suggested the term right-of-way line be used for interpretation purposes.

**MOTION:** Commissioner Warford made a motion to recommend approval of the Official Urban Renewal Plan as presented using the wording right-of-way line instead of property line, as it is consistent with the City's Comprehensive Plan. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Hegedus, Juhala, Lee, Selzler, Spier, Waldoch, Wangler and Yeager voting in favor of the motion.

### **EXTRA-TERRITORIAL AREA AGREEMENT WITH APPLE CREEK TOWNSHIP**

Mr. Hokenstad said that the Board of City Commissioners approved the extra territorial area agreement with Apple Creek Township, giving them back jurisdiction between the two mile and four mile extra-territorial area for zoning purposes and issuance of building permits.

## **CERTIFICATE OF APPRECIATION FOR JAN WANGLER**

Chairman Yeager said that a Certificate of Appreciation and resolution stating, "Whereas, Jan Wangler has served as a member of the Bismarck Planning and Zoning Commission for the past fifteen years; and Whereas, during this time she has represented the interests of both urban and rural residents of Burleigh County and the City of Bismarck; and Whereas, Ms. Wangler has given freely of her time and expertise in the many matters considered by the Commission; and Whereas during her term of office of the Planning and Zoning Commission, Ms. Wangler has distinguished herself for fair deliberation and common-sense decision making; and Whereas, Ms. Wangler will now leave the Planning and Zoning Commission for a well deserved rest; Now, therefore be it resolved by the Bismarck Planning and Zoning Commission that Jan Wangler be commended for her dedication and her support for planned development of Bismarck and that the appreciation of the Planning and Zoning Commission be extended to her" will be given to Jan Wangler.

## **ADJOURNMENT**

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 6:42 p.m. to meet again on February 24, 2010.

Respectfully submitted,

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Kimberley Gaffrey  
Recording Secretary

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Wayne Yeager  
Chairman



## MEMORANDUM

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**To:** Ben Ehreth

**Date:** December 21, 2009

**Subject:** 2009-2035 Bismarck-Mandan Long-Range Transportation Plan  
Summary of Proposed Revisions to October 2009 Draft Document

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Since the Draft Long Range Transportation Plan (LRTP) document was released for comment and review in October, there have been several comments, suggestions and questions raised by the public, stakeholders and agencies. There have been several minor revisions and additions to the Final LRTP document based on these comments. The purpose of this memorandum is to briefly outline the most significant revisions between the October 2009 Draft and the December 2009 Final LRTP. The most significant changes are:

- **Inclusion of an Environmental Justice Section:** Environmental justice refers to treating all people equally, regardless of race, ethnicity or income in terms of the natural and built environment. This section was added to describe and illustrate the locations of proposed projects in relation to areas of poverty, non-white and Latino / Hispanic populations. This was added to address a comment from FHWA and NDDOT.
- **Recommendations for Corridor Preservation:** There were regionally significant alternatives that were not included in the fundable, recommended transportation plan, but they should have right-of-way preserved for when they are eventually constructed. Thus, although they are not planned for construction by 2035, a recommendation to preserve the necessary corridors for implementation was added to the 2009-2035 document. Additionally, some of the recommended LRTP projects will require right-of-way acquisition, and for those projects corridor preservation should occur prior to project construction. A figure showing these corridors will be included in the Final document.
- **Removed Functional Classification Recommendations:** During the October MPO Technical Advisory Committee meeting, it was decided that the current functional classification system was not consistent between the rural and urban systems, and included some gaps. The result of the discussion was that there should be a comprehensive functional classification study for the metropolitan area, and any corridor-specific recommendations made in the LRTP would be premature. Thus, the discussion of future roadway functional classification and Figure 29 were removed from the December version of the draft LRTP document.

- **Recommended Plan Traffic Forecasts / Operations:** The draft LRTP document illustrated 2035 traffic conditions, with future traffic volume forecasts and operations / levels of service, if no transportation improvements were made beyond those included in the 2010-2013 Transportation Improvement Program (which is referred to as the 2035 Existing-plus-Committed Network). It was determined that it would be beneficial if the Final LRTP provided a figure representing 2035 traffic conditions, with the recommended roadway network improvements in place.
- **Minor revisions to the Non-Motorized Recommended Improvements:** Additional comments were received from bicycle user groups and Bismarck Parks and Recreation department related to the non-motorized recommendation included in Figure 28:
  - **Bike Route Adjustments:** Based on bicycle user group comments, one on-street bicycle route was dropped (12<sup>th</sup> Street between Rosser Avenue and Bismarck Expressway) and one on-street route was added (a connection between 10<sup>th</sup> Avenue West and 2<sup>nd</sup> Street North in Mandan).
  - **Trail Adjustments:** Two of the recommended trails had recently been constructed (Burleigh Avenue and Valley Drive), and did not need to be included in the recommended plan. One of the trails shown as already in place had not yet been constructed (Riverwood Road to Burleigh Avenue connection). This trail was added to the list as a short-range recommended project, consistent with Bismarck Parks and Recreation.
- **Minor revision to the Roadway Recommended Improvements:** At the Lincoln Planning Commission meeting in November, there were discussions about different potential improvements in the Lincoln Road corridor, including the concept of a roundabout at 52<sup>nd</sup> Street / Lincoln Road. The LRTP recommendations for Lincoln road were adjusted to reflect that:
  - A Lincoln Road Corridor Study should be completed
  - The recommendation in the LRTP reflects more general intersection improvements, contingent upon the findings of the corridor study.

A summary matrix of the comments we have received on the October draft document is provided in Table 1. A summary matrix all of the general comments received over the course of the study are provided in Table 2. Each matrix categorizes generally what type of comment each was, where the comment originated, and the study team action / response to the comment.

If you have any questions on this, please contact Jason at (402) 952-2506.

Table 1. Summary of Comments Received on October Draft of Long Range Transportation Plan

Type of Comment	Comment Origin	Comment Content	Study Team Response / Action
<b>Draft LRTP Content Comments</b>			
	MPO Technical Advisory Committee	The recommendations for future functional classification may be premature, as there needs to be more consistency between urban and rural classifications on the current system.	Recommended functional classification has been removed from the document. The LRTP will recommend that a regional functional classification study be undertaken.
	Public / Bicycle Advocacy Group	Trail on 19th Street between Capitol and Century not shown.	Added to figure.
	Bismarck Parks and Recreation	Accommodate Northwest Subarea Study Trails / make consistent with LRTP.	LRTP will indicate that NW Subarea trails are still being finalized, that some improvements are assumed. Roadway improvement costs assume adjacent trail construction.
	NDDOT	Please describe the extension of transit from residential growth areas to employment growth areas.	A more complete description was added to the report text.
	NDDOT	Where is a future river crossing outlined in this plan? The location should be kept in mind for corridor preservation as the area develops over time.	Corridor preservation elements will be added into the final LRTP document.
	NDDOT / FHWA	Need an overlay / map of the projects with respect to environmental justice areas.	Environmental justice write-up and maps will be added.
	NDDOT	Consultation with resource agencies should be described in the report.	It is included in "Environmental Mitigation and Consultation" chapter. References to this chapter will be included earlier in report.
	NDDOT	Can percent trucks be included in the Daily Traffic Volumes in Figure 6?	Available truck data from NDDOT website will be added.
	NDDOT	Are there any vehicle / trail accident rates for at-grade rail crossings? This would be good data to have for projecting future safety improvements at these locations.	There have been 3 auto-train property-damage crashes between 2005 and 2007 at three different crossings (all in Bismarck): 3rd St / BNSF, 26th St / BNSF, Railroad Ave / DMVW Stub. None in Morton County evaluation area. Low incidence for estimating a "rate" with confidence.
	NDDOT	Were building permit trends part of the discussions with staff when coming up with the development concept?	Building permits are part of what staff base their growth allocation assumptions on.
	NDDOT	In the bullet list on page 85, is serviceability a considered element, and / or should it be?	Text was modified to reflect that serviceability / traffic operations level of service was considered in developing the bullet list.
	NDDOT	Can projections of future use or ridership be generated for Table 10?	No, the Bismarck-Mandan travel model does person vehicle trips only - no transit forecasting tools are available.
	NDDOT	Page 103 - Are there any planning processes that can be undertaken to develop a more proactive (planning processes) approach to ease truck volumes on non-truck route corridors?	The document will add text that addresses this.
	NDDOT	On page 104 regarding "ITS Elements of the Plan", how were assumptions on system compatibility arrived at?	ITS elements cited here are from the Bismarck-Mandan ITS Architecture report. This paragraph was worded in a confusing way, sentences were rewritten to clarify.
	NDDOT	Are there city ordinances (particularly for the traffic noise item) that come into play for the planning process (in terms of environmental mitigation)?	There are pertinent ordinances related to traffic noise. This information has been added to the document.

Type of Comment	Comment Origin	Comment Content	Study Team Response / Action
Draft LRTP Content Comments (continued)			
	NDDOT	The lead-in discussion on page 59 of how the growth rate projections were developed was very good.	Noted.
	FHWA	Need a statement about preparing the document using Federal dollars inside the front cover.	FHWA-supplied example was incorporated into updated draft.
	FHWA	Pages 6-10 - I like how the plan lists the 8 planning factors and how the plan addresses each of them.	Noted.
	FHWA	Figure 2 - some of the lettering in the diagram is difficult to read.	It was fixed for the updated draft.
	FHWA	Page 18 - 96% auto / truck trips. What percentage are the other modes?	Added a graphic and text to describe this.
	FHWA	Figure 6 - The traffic volumes are difficult to read where they overlap a street name, particularly in the insets.	Fixed the overlaps and label placement for the update draft in a single figure.
	FHWA	Figure 8 - Should probably indicate in the legend that the LOS shown is "Peak Hour" LOS, not all the time LOS.	Note has been added to the updated figure.
	FHWA	Figure 9 - Need to define MEV. Be careful that street names are not blocked by crash dots.	MEV defined on map and added to glossary. Labels have been adjusted.
	FHWA	Isn't 2008 transit ridership available for CAT and Bis-Man transit?	Ridership for both systems was recently received and has been added to the updated draft.
	FHWA	Why does the intercity bus photo show a Trailways bus when there is no mention of Trailways in the text?	Rimrock Stages is also known as Rimrock Trailways. Text has been modified to clarify this.
	FHWA	Page 50 - Should the reference to Figure 13 actually be to Figure 14 or 15?	Yes, Figure 14. It has been fixed for the updated draft.
	FHWA	Page 50 - Is the bullet on "7th / 9th from Avenue B through Divide Avenue" correct?	No, it should read "7th / 9th from Avenue B through Boulevard Avenue". It has been updated.
	FHWA	Page 51 - The first and second bullets refer to 71st Avenue North. Shouldn't this just be 71st Avenue?	"North" has been removed from references to 71st Ave.
	FHWA	The discussion on housing, employment and traffic forecasts is rather technical. It should be in plain English for the audience.	It has been revised in an attempt to make it more readable / accessible to the general public.
	FHWA	You reference a traffic analysis zone, but do not define it or say why you are using it over census divisions.	It has been defined in the text, and an explanation of how it fits with the travel model has been added.
	FHWA	Page 67 - What is meant by "Upgrade Divide Avenue from Volk St through Bismarck Expressway?"	The TIP project description has been revised to include a more complete description.
	FHWA	Pages 76-77 (in "Alternatives Analysis" chapter) please indicate where you will discuss the recommendations.	A reference to the "Recommended Transportation Plan" chapter has been added to the Alternatives Analysis chapter.
	FHWA	Page 81 - You mention "the rule" addressing YOE dollars. Please note what the rule and citation is.	Citation to FHWA and FTA Statewide and Metropolitan Planning Rule (72 Fed. Reg. 7224) has been added.

Type of Comment	Comment Origin	Comment Content	Study Team Response / Action
Draft LRTP Content Comments (continued)			
	FHWA	Page 87 - Please make sure that the discussion of Interstate Maintenance (IM) Funds has been revised per our conversation on October 19, 2009.	Revisions were made, clarifying that the interstate projects we are assuming are eligible for IM funds are reconstruction projects, not "expansion" projects.
	FHWA	Table 5 - Where are all of the other project numbers?	The projects numbers that are not included in the recommended plan Table 5 are those that were evaluated in the Alternatives Analysis, but not included in the final plan. A footnote has been added to clarify. Rather than renumbering the recommended plan projects, we wanted to keep the original alternatives numbering system for consistency.
	FHWA	Page 87 - Suggest last paragraph be moved to same page as Table 6 to be more connected to its explanation.	Referencing text to Table 6 has been moved per comment.
	FHWA	Page 93 - Seventh line from the bottom - "Trail years"?	Text has been corrected.
	FHWA	Collins Road? Or Collins Avenue?	Collins Avenue - it has been fixed.
	FHWA	Page 104 - Disconnect / unfinished sentence in the second ITS paragraph.	The paragraph has been revised.
	FHWA	Is the functional class recommendation consistent with the functional classification update plans for Bismarck and Mandan?	The map and references to future functional classification recommendations have been removed from the document. The upcoming functional classification plan update for Bismarck and Mandan will guide.
	FHWA	Page 113 - Not sure archeological sites should be identified on this map!	The archeological sites were removed as soon as comment was received.

**Table 2. Summary of General Comments Received During Long Range Transportation Plan Update**

Type of Comment	Comment Origin	Comment Content	Study Team Response / Action
<b>Project / Corridor Specific Comments</b>			
Public		Expand the proposed 12th St. bike route from Bis. Expwy. up to Ave B by extended the route east to 15 St then North up to Divide Ave. and stop.	This comment was incorporated into the recommended LRTP.
Public / Bicycle Advocacy Group		Concerns with safety on proposed on-street route for 12th Street.	12th Street removed from the recommended list. LRTP is recommending a Pedestrian / Bike Master Plan be completed, including implementation plan for on-street routes.
Public		The north-south bike route on 28th St from Bis. Expwy. up to Ave D is good. Why not continue this route up 28th St. north to tie into the Sleepy Hollow bike path, or just continue along that road.	Extending the 26th St bike route further north would require some extreme grades for bicyclists - with grades at 10%. This extension is not included in the recommended LRTP, but might be included in Bike Master Plan.
Public		Extend the proposed north-south bike route on 5th St as a separated bike path along the west side of the mall either through the parking lot or along the edge of it, then end the path at the 3rd St intersection with Expwy.	Suggestion will be noted and should be considered in more detailed Bicycle and Pedestrian Master Plan. As commenter noted, agreement with mall to use their property would be required.
Public		There should be a sidewalk added on the east side of the mall along 9th St where there currently is not one.	Suggestion is noted, and will be passed along to Bismarck Engineering.
Public		Desire to use abandoned rail line and bridge north of Lincoln Road as a rails to trail project for connection to Bismarck / recreation.	This trail is in the recommended LRTP.
Public / Bicycle Advocacy Group		Consider linking the trail from Pioneer Park to the Tyler Parkway trail.	There is potential to widen the existing sidewalk along Burnt Boat, some light poles are in place adjacent to sidewalk and concerns about cultural resources in this area.
Public / Bicycle Advocacy Group		Consider linking 10th Ave SW to 2nd Street in Mandan.	These are low volume streets (800 to 2400 vehicles a day) so a bike route would likely work here. Some short grades on 2nd St (3-6%) Will add to LRTP recommendations.
Public		Add new interchange at 52nd / I-94	This was an alternative that we looked at. The interchange would have constructability issues due to the landfill / grades at I-94, and was dropped from further consideration.
Public		12th Street as an improved north-south corridor through: changing intersection controls, removing one side of on-street parking.	Several similar improvements were considered for 12th Street in the alternatives analysis. Concerns for neighborhood impacts with parking removal.
Public		Need an overpass / exit at 71st/Highway 1804 and US 83	An interchange at US 83/Hwy 1804 was considered. It did not make the fundable list of recommended projects through 2035, but corridor preservation will be recommended.
Public		Signals on Expressway, Main, 9th St, 7th St and State Street/US 83 need to be synchronized.	The City recently implemented improved corridor timings / "synchronization" in the State Street and Bismarck Expressway corridors. It is anticipated that more corridors will have similar signal timing improvements in the future.
Public		Consider adding ramps at Collins Ave / I-94.	LRTP update looked at adding an interchange at Collins Ave. Collins is located less than a mile from Sunset Ave and Mandan Ave, too close for a standalone interchange to meet FHWA spacing guidelines.

Type of Comment	Comment Origin	Comment Content	Study Team Response / Action
<b>Project / Corridor Specific Comments (continued)</b>			
	Lincoln Planning Commission	Can we consider a roundabout at 52nd Street / Lincoln Road? Difficulty turning onto Lincoln Road throughout Lincoln.	Recommendation will be adjusted to reflect intersection / access improvements along Lincoln Road and a corridor completed (potentially including roundabout) to determine details of each access.
	Public / Stakeholder Issue	Improve Highway 10 connection to I-94.	Alternatives were developed that included improved connectivity in this area. Not part of recommended plan.
	Public / Stakeholder Issue	Desire to extend 37th St.	Northwest Mandan grid improvements were considered; not part of recommended plan. Some will be developer-funded as development occurs.
	Public / Stakeholder Issue	Desire for south Missouri River crossing.	Included as an alternative, not part of recommended 2035 LRTP.
	Public / Stakeholder Issue	Speeding concerns on 7th / 9th.	Arterial roadways posted at 25 mph. Enforcement concern passed on to Bismarck Police.
	Public / Stakeholder Issue	Safety and congestion along Highway 10.	Improvements were included in recommended LRTP.
	Public / Stakeholder Issue	Concerns with safety, turning traffic and no shoulders along Lincoln Road.	Improvements were included in recommended LRTP - recommended corridor study in near future as well.
	Public / Stakeholder Issue	Limited shoulders along Business Loop 94 in Morton County west of Mandan.	Rehabilitation project. Forwarded comment to NDDOT staff.
	Public / Stakeholder Issue	Desire to divert heavy trucks from Main Street.	Beltway concept was considered in alternatives analysis, not part of recommended LRTP.
	Public / Stakeholder Issue	Desire to extend Divide Avenue.	In current TIP.
	Public / Stakeholder Issue	Pedestrian crossing conflicts with Bismarck Expressway traffic.	LRTP recommends pedestrian crossing enhancements; recently implemented signal optimization in corridor accommodates pedestrian crossing, more time given to crossing at 3rd Street.
	Public / Stakeholder Issue	Improve Highway 6 connection to I-94.	Significant residential impacts with direct connection. Morton County beltway concept provides Highway 6 to I-94 connection; not on funded LRTP list.
	Public / Stakeholder Issue	Desire for 24th Avenue interstate access.	Part of the Morton County beltway alternative - not in funded 2035 LRTP, but preserve corridor.
	Public / Stakeholder Issue	Desire for Collins Avenue interchange.	This was considered; located less than 1 mi from Sunset Ave and Mandan Ave, likely to close for approval. Potential impacts to development near I-94 / Collins Ave.
	Public / Stakeholder Issue	I-94/I-194 safety concerns between Mandan Avenue and McKenzie Dr.	Improvement projects along I-94/I-194 part of recommended LRTP.
	Public / Stakeholder Issue	Intersection safety concerns at 43rd Ave / Centennial.	Improvements including addition of turn lanes included in recommended LRTP.
	Bismarck Airport	Preserve right-of-way for north and south Missouri River crossings.	Corridor preservation elements will be added into the final LRTP document.
	Bismarck Airport	Airport requests that Burleigh Beltway alignment is retained. Comment also notes that Airport Master Plan shows a direct connection between the National Guard Building and Beltway.	Beltway (project #2) is included as a recommended LRTP project. Text will be added to recommendations referring to Airport Master Plan, funding for airport roadway projects will not be from FHWA / FTA sources.

Type of Comment	Comment Origin	Comment Content	Study Team Response / Action
<b>Project / Corridor Specific Comments (continued)</b>			
	Public / Stakeholder Issue	Intersection safety concerns at Tyler Parkway / Century Avenue.	Several alternatives investigated in area to relieve traffic / realign intersection. LRTP assumes some NW Subarea Study improvements. Crash rate lower than region average.
	Public / Stakeholder Issue	19th/Divide bicycle safety concerns.	On-street bicycle routes provide alternatives to this corridor.
	NDDOT	Page 91 - Why isn't project 21 a short-range project? Wouldn't this alleviate some of the delays we are currently seeing for a relatively low cost?	The recommended projects were prioritized against one another by the MPO TAC and anticipated funding levels were evaluated by period. The projects selected ahead of it reflected a higher priority / need.
<b>Subarea Mobility Comments</b>			
	Public	Increased bike traffic between Bismarck and Lincoln. Need for trails / bike lanes / paved shoulders for bicycle safety.	Recommendations are included for bike trails connecting Lincoln to Bismarck and trails along Bismarck Expressway to improve regional trail connectivity to southeast Bismarck.
	Public / Stakeholder Issue	I-94 crossing desired west of Mandan.	Alternatives were developed that included this crossing.
	Public / Stakeholder Issue	Look for a river crossing farther north.	Discussions included a crossing farther north. Northern River Crossing study inputs and process were confirmed, no river crossing was included in the recommended plan.
	Public / Stakeholder Issue	Lack of West Bismarck access to west Main / Memorial Highway	Concepts were included in West Side Study, but neighborhood impacts were identified.
	Public / Stakeholder Issue	Improve northwest Bismarck connectivity.	Recommendations assume improvements to this area are made, contingent on outcome of NW Subarea study.
	Public / Stakeholder Issue	Desire for improved north Mandan subarea access to Mandan.	Alternative was developed for this issue - constructability issues.
	Public / Stakeholder Issue	Desire for improved Lincoln connectivity to Bismarck.	Confirmed the findings of the Lincoln-Bismarck Connector Study, recommend improvements to 66th Street, grade separation with railroad and improvements to Apple Creek Road.
	Public / Stakeholder Issue	Desire for improved access to BSC and Community Bowl.	Alternatives for connections via Schafer Street and across I-94 were considered. Potential for impacts to neighborhoods and Fraine Barracks.
	Public / Stakeholder Issue	Lincoln transit service desired.	Included in Transit portion of recommended plan.
	Public / Stakeholder Issue	U of Mary transit service desired.	Included in Transit portion of recommended plan.
	Public / Stakeholder Issue	North-South discontinuities throughout Bismarck.	Several multimodal improvements were included that would address this issue.
	Public / Stakeholder Issue	More Heart River bridges desired southwest of Mandan.	Considered; need by 2035 not identified.
	Public / Stakeholder Issue	Improve southeast Mandan east-west connectivity.	McKenzie Road extension is part of recommended LRTP.
	Public / Stakeholder Issue	Concern about traffic impacts from new Bismarck elementary school.	Several improvements to roadway, trail and transit system recommended in the area.
	Public / Stakeholder Issue	Concern about truck traffic increases with NPCC.	Beltway concept in LRTP, improvements to Bismarck Expressway and I-94 ramps address regional truck traffic access to / from NPCC.
	Public / Stakeholder Issue	Concern about traffic impacts from new Mandan middle school.	Improvements to adjacent roadways included in LRTP.
	Public / Stakeholder Issue	Improve rural fire access to University of Mary.	Burleigh County beltway concept recommended would provide improved access.

Type of Comment	Comment Origin	Comment Content	Study Team Response / Action
<b>General Regionwide Comments</b>			
	Public / Stakeholder Issue	Habitat / cultural resource concerns in Burnt Boat Drive / Golf Drive area.	Detailed NW Subarea Study will provide more corridor-specific analysis. Concern will be passed along to study team.
	Public	Allow more unprotected left turns at signals throughout the area.	There are engineering standards related to traffic flow and safety for when protected lefts are and are not implemented at an intersection. This suggestion will be forwarded on to Engineering departments.
	Public	Improve traffic flow at intersections across the area by removing on-street parking adjacent to the intersection and restriping for turn lanes.	There were several of these intersection improvements recommended throughout the study area.

**OFFICIAL URBAN RENEWAL PLAN**  
**CITY OF BISMARCK**  
**BISMARCK, NORTH DAKOTA**  
**CENTRAL CITY REDEVELOPMENT PROJECT**  
**AS MODIFIED**

JANUARY 1979

REVISED DECEMBER 11, 1979

REVISED JULY 31, 1984

REVISED JUNE 21, 1988

REVISED NOVEMBER 8, 1994

REVISED OCTOBER 24, 2006

REVISED

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Exhibit "A" - Boundary Description

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Map No. 1, Boundary Map

## OFFICIAL URBAN RENEWAL PLAN

### A. Description of Project

#### 1. Boundaries of Revised Urban Renewal Project Area

The boundaries of the project area as set forth in the Official Urban Renewal Plan revised \_\_\_\_\_, are as shown on Map No. 1, Boundary Map, attached hereto and made a part hereof and as described in Exhibit A, "Boundary Description", attached hereto and made a part hereof. Previous revisions of the boundaries have included additional land adjoining the original area, the rehabilitation, conservation and redevelopment of which is necessary in the public interest for the completion of an adequate urban renewal plan for the central City, including the sites of additional proposed public and private developments. The entire revised area is deemed appropriate for an urban renewal project, having originally consisted of a combination of slum and blighted areas, some of which have heretofore been redeveloped. Certain redevelopments and rehabilitation on land added to the project area have heretofore been aided by the City. It is deemed appropriate and necessary that the redeveloped land be included in the project area as a resource for the completion of the Urban Renewal Plan as a whole.

#### 2. Objectives of the Urban Renewal Plan

The general objectives of the Urban Renewal Plan are:

- a. To arrest the decay pattern of sprawl and fragmentation of the core area by reinforcing the core as a "central place" of regional and local service and commerce.
- b. To stimulate and provide a climate for local and regional growth and permit the expansion of existing retail and professional facilities and promote the introduction of new retailing, transient and permanent housing facilities and professional services.
- c. To maintain and improve the core area by encouraging investment through the use of various programs.
- d. To re-establish the core area as a focal place appropriate and suitable for the interaction of ideas, events and human activities by:
  - 1) Eliminating existing blighting conditions such as substandard and/or obsolete structures; impediments to the assemblage of adequate reuse sites; overhead utility lines; land use conflicts; undersized lots; lack of open space and amenities.

- 2) Improving existing circulation routes for both vehicles and pedestrians.
- 3) Provide adequate parking for existing and new uses in centralized parking areas within a reasonable pedestrian distance from the uses to be served.
- 4) Encouraging new development in conformance with the objectives of the plan to emphasize place and purpose of each structure and a conscious effort to establish unity and coherence in the new architecture.
- 5) Providing for future growth and a high level of core development by:
  - a) Establishing and implementing public actions directed at supporting and assisting the renewal plan.
  - b) Encouraging increased parking facilities when demand justifies.
  - c) Establishing a program of rehabilitation of the structures to remain so that they will be compatible with anticipated new development.

### 3. Proposed Renewal Actions

A summary of renewal action in the project area, includes the following:

- a. Acquisition and clearance of substandard and blighting properties as well as those required for achievement of Plan objectives.
- b. Disposal, retention or dedication of various lands for redevelopment by private or corporate developers in accordance with the provisions of the Plan.
- c. Installation of all public improvements and facilities described in the Plan.
- d. Rehabilitation of buildings and lands to local standards established by the Plan.

The Revised Urban Renewal Project Area is planned for predominately office, commercial, residential and service uses.

The development plan for the project area includes spot acquisition and subsequent development for commercial, transient and

permanent housing, parking and public use, including a pedestrian semi-mall system with appropriate traffic circulation measures and a climatized overhead walkway system. Major core structures which are considered capable of being rehabilitated to standards set forth elsewhere in the Plan shall be retained, and a rehabilitation program initiated.

The majority of the existing public improvements within the area are presently considered adequate. The only additional major installations, other than the repair and/or replacement of existing improvements which are anticipated is are the improvement of the Civic Center by installation of seating and the construction of an addition. New improvements also will also embrace as much of a skyway system as financially possible, ~~Also to be constructed will be parking structures, and quiet rail improvements.~~ The goal of all these public improvements is to create an environment that attracts redevelopment and eliminates blighting influences and other deteriorating conditions that limit the quality of life and opportunities for development or redevelopment of downtown properties.

The City of Bismarck will acquire property, remove structures, construct site improvements and dispose of, by either sale or dedication, all property acquired by it for the uses outlined in the Plan and subject to the controls and restrictions contained in the Plan and requirements of applicable laws. Specific items involving City acquisition and construction within the Revised Urban Renewal Area are the following:

- 1) Public parking to be provided on Block 44, Original Plat.
- 2) Restoration and acquisition of the Burlington Northern Depot.
- 3) Overhead walkway between the parkade (N1/2 Block 46, Original Plat) parking facilities and adjacent structures where feasible.
- 4) Addition of two stories to parkade (N1/2 Block 46, Original Plat) (completed)
- 5) Rehabilitation and renewal of structures as recommended by the City Building Inspector and approved by the City Commission.
- 6) ~~Federally assisted low income elderly housing on part of E1/2 Block 72, Original Plat.~~

- 7) Addition of seating and exhibit space to Development of the Bismarck Civic Center in concert with the facility master plan.
- 8) Chancellor Square pedestrian mall renovation Renovation and maintenance of public improvements within the DC zoning district.
- 9) Construction of a public parking ramp on the East half E ½ of Block 68, Original Plat.
- 10) Construction of Quiet Rail facilities at surface crossings within the Urban Renewal Plan area.

- e. Creation of various programs to encourage private investment in the core of the community through the use of the following programs:
  - 1) Purchase and maintenance of Downtown Streetscape Elements
  - 2) Sidewalk Subsurface Infill
  - 3) Technical Assistance Bank
  - 4) Façade and Signage Incentive Grant
  - 5) Housing Incentive Grant
  - 6) Revolving Loan Fund
  - 7) Project-related Skyway Development
  - 8) Quiet Rail Zone
  - 9) Downtown plans and studies

**B. Land Use Plan**

1. Land Use & Zoning Plan

The city zoning map is included by reference to this Plan. The land uses within the area of the Plan are in compliance with the requirements of the Bismarck zoning ordinance.

2. Land Use Provisions and Requirements

Notwithstanding the less restrictive provisions of any zoning or building ordinance now in force or hereafter enacted, there are hereby imposed on each disposition parcel in the project area the following general and specific controls on redevelopment and land use which shall be implemented by appropriate covenants and other provisions in redevelopment contracts and deeds for each parcel.

a. Statement of uses to be permitted:

Public:                    Mall and plaza area  
                                   Open space

Commercial:            Retail  
                                   Public utility  
                                   Office/Bank  
                                   Transient housing (motel, hotel, etc.)

Public open spaces

Residential: All types

Parking: Private or public parking

Rights-of-way: Publicly owned

Utility Easements

b. Additional regulations and controls on the sale or dedication of real property to be disposed of:

1) Public and Open Space

Uses include all type of public and pedestrian areas: malls, walkways, enclosed skyways, sitting areas and landscape areas. Amenities such as information booths, kiosks, display areas, street furniture, planters and similar attractive fixtures.

2) Commercial

The proposed commercial uses are to encourage and permit the strengthening of the retail and service core of the central business district.

Permitted uses generally include those retail, commercial office, service and public open-space uses which augment the existing central area retail development.

It is understood that all accessory uses allowed by local land use controls are allowed. Development controls shall be enforced as per zoning ordinance requirements.

3. Interim Land Uses

Any property acquired as part of this Urban Renewal Plan may be devoted to a temporary use by the City of Bismarck prior to the permanent disposition to a redeveloper when such is for parking, relocation purposes, or public recreation uses, and is in accordance with the intent of this Urban Renewal Plan as reflected by the controls and regulations herein.

In no case shall such temporary use delay completion of this project.

4. Other Controls and Regulations

The following landscaping, lighting, and sign regulations shall apply to all land to be redeveloped.

a. Landscaping and Lighting

- 1) All parking areas shall be subject to the applicable provisions of the Zoning Ordinance, which include paving and landscaping requirements.

b. Permitted Uses

- 1) The permitted primary uses for the plan area are included in the zoning districts which are appropriate to the plan area.
- 2) The design and type of light standards for the illumination of all off-street vehicular areas shall be subject to approval by the City of Bismarck.
- 3) Any area not paved shall be maintained in grass and landscaping.
- 4) Parking and loading areas and structures shall conform to the standards and controls of the City of Bismarck ordinance.

c. Signs

All signs shall conform to the requirements of the City of Bismarck, including the Building Regulations found in Title 4 of the City Code of Ordinances and the Zoning Regulations found in Title 14 of the City Code of Ordinances.

d. Duration of Urban Renewal Controls

All land use provisions, requirements and regulations and modification of same will become effective on the date of the approval of this Plan and shall be effective for a period of twenty-five (25) years therefrom.

The termination of this Plan under this provision shall not affect the provisions of Section B-2, hereof relative to the covenants respecting restrictions upon the basis of race, religion, color or national origin, which covenants shall run in perpetuity.

e. Applicability for properties not to be acquired

Where an owner of property not to be acquired desires to acquire project land for the expansion of his existing facilities, he will be

required to execute a redevelopment contract wherein he will agree to comply to the extent possible with the land use, controls and standards of the Plan for his present property.

## C. Project Proposals

### 1. Land Acquisition

- a. The following maps are attached hereto and made a part hereof:

Map No. 1, Boundary Map

- b. Properties within the boundary of the Urban Renewal Plan may be acquired by the City of Bismarck if in the course of executing this Urban Renewal Program it is determined that the land areas are required for creation of a marketable disposition parcel and further that project eligibility for Urban Renewal treatment is not compromised.

### 2. Rehabilitation and Conservation

The Plan establishes rehabilitation standards for real property within the project area which is not to be acquired. Said rehabilitation standards are those existing city codes and ordinances of the City of Bismarck.

### 3. Redeveloper's Obligations

- a. The Redeveloper shall devote each such parcel to the uses specified for it in this Plan.
- b. The Redeveloper shall begin and complete the development of such land for uses required in the Plan within a reasonable time specified in the disposition instruments.
- c. The Redeveloper shall agree to retain the interest he acquires in individual properties transferred to him until he has completed the construction and development of said properties in accord with the provisions of this Plan and disposition instruments, and he shall agree not to sell, lease or otherwise transfer the interest he acquired or any part thereof without the prior written consent of the city.
- d. No covenant, agreement, lease, conveyance or other instrument shall be effected or executed by the city or by a Redeveloper (or any successor in interest) whereby the use of the land in the Project area is restricted, either by the Urban Renewal Agency or Redeveloper (or any successor in interest) upon the basis of race, creed, color, or national origin in the sale, lease, or occupancy thereof.

The foregoing restriction shall be implemented by appropriate covenants or other provision in disposal instruments as covenants running with the land.

- e. No Redeveloper, his successors, or assigns, shall discriminate in the use, sale or lease of any property within the project area or any part thereof, against any person because of race, color, religion or national origin and such provision shall be included in disposition instruments as a covenant running with the land.
- f. All plans for structures, site improvements, signs (other than directional signs) and landscaping must be approved in writing for conformance with the provisions of this Plan by the City of Bismarck before construction is commenced.

4. Underground Utility Lines

All utility lines, both public and private, shall be placed underground, or otherwise incorporated into proposed or existing structures.

5. Temporary Project Improvements

Not applicable as no temporary project improvements are a part of the redevelopment activity.

**D. Financing**

The cost of renewal heretofore accomplished within the area has been paid from the proceeds of grants received from the federal government and of bonds issued by the City for the construction of the parking facility within the original project area. It is contemplated that the cost of the completion of the renewal of the Revised Area will be paid or reimbursed from tax increments as authorized and provided in Section 40-58-20, NDCC (enacted by S.L. 1973, Chapter 342).

The cost of renewal subject to reimbursement from tax increments shall include all expenditures incident to carrying out the Urban Renewal Plan for the Revised Area and any modification thereof; including but not limited to all expenses of the clearance, redevelopment, rehabilitation and conservation of the area, installation of improvements provided in accordance with the Urban Renewal Plan, and all interest and redemption premiums on bonds or other obligations issued by the City to provide funds for payment of such expenses. From the total cost to be reimbursed there shall be deducted all amounts, if any, received from the federal government or others and from special assessments, revenues and other receipts (other than property taxes) which are actually collected and applied to the payment of such cost or to the payment of said bonds or other obligations.

It is contemplated that it will be necessary for the City to issue general obligation bonds to provide some or all of the cash funds required, and that the tax increments will be appropriated by the Board of City Commissioners for the payment of such bonds and interest and redemption premiums thereon. The Board of City Commissioners will exercise all of the urban renewal project powers

granted under the Urban Renewal Law, and will request the County Auditor and Treasurer to compute, certify and remit tax increments resulting from the renewal of the Revised Area in accordance with the revised Urban Renewal Plan and any modifications thereof. The Auditor will be requested to compute and certify the original taxable value of each lot and parcel of real estate in the Revised Area, as last assessed and equalized in 1978, as a basis for the computation of incremental values and tax increments in subsequent years.”

**E. Other Provisions Necessary to Meet State & Local Requirements**

If any further displacement occurs as a result of project area improvements it will be dealt with according to the North Dakota Century Code and the relocation requirements thereof.

**F. Procedure for Changes in Approved Plan**

Minor administrative alterations to the foregoing Official Plan provisions may be made at the discretion of the City of Bismarck. Major modifications to said Official Plan must be approved by the governing body in a manner consistent with the previous approval.

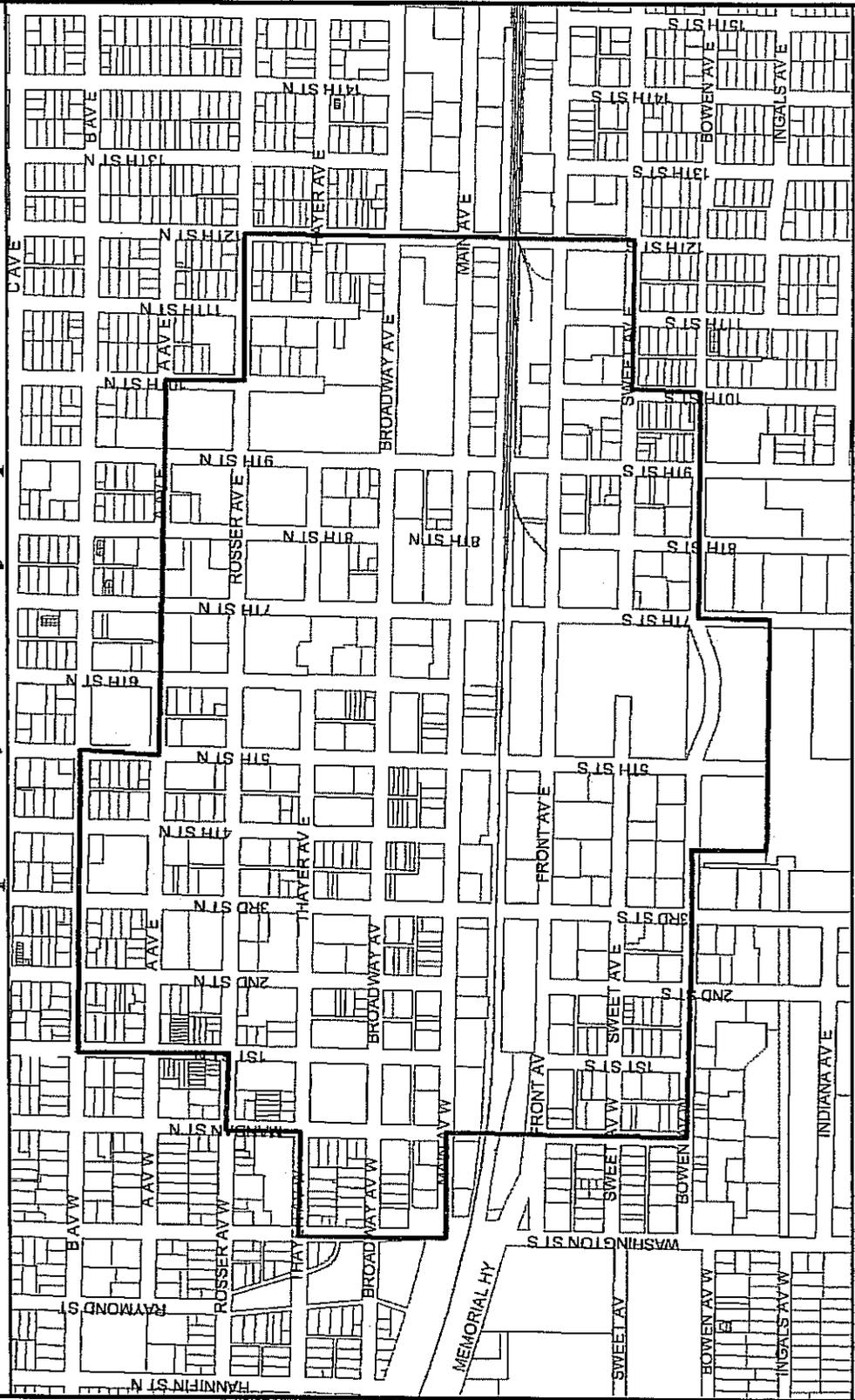
EXHIBIT "A"

BOUNDARY DESCRIPTION

All that area within the City of Bismarck falling within the following described premises:

Beginning at the centerline west line of Washington Street and Main Avenue; thence north along the centerline west line of Washington Street to the centerline north line of Thayer Avenue; thence east along the centerline north line of Thayer Avenue to the centerline west line of Mandan Street; thence north along the centerline west line of Mandan Street to the centerline north line of Rosser Avenue; thence east along the centerline north line of Rosser Avenue to the centerline west line of 1<sup>st</sup> Street; thence north along the centerline west line of 1<sup>st</sup> Street to the centerline north line of Avenue B; thence east along the centerline north line of Avenue B to the centerline east line of 5<sup>th</sup> Street; then south along the centerline east line of 5<sup>th</sup> Street to the centerline north line of Avenue A; thence east along the centerline north line of Avenue A to the centerline east line of 10<sup>th</sup> Street; thence south along the centerline east line of 10<sup>th</sup> Street to the centerline north line of Rosser Avenue; thence east along the centerline north line of Rosser Avenue to the centerline east line of 12<sup>th</sup> Street; thence south along the centerline east line of 12<sup>th</sup> Street extending across Burlington Northern right of way to the centerline south line of Sweet Avenue; thence west along the centerline south line of Sweet Avenue to the centerline east line of 10<sup>th</sup> Street; thence south along the centerline east line of 10<sup>th</sup> Street to the centerline south line of Bowen Avenue; thence west along the centerline south line of Bowen Avenue to the centerline east line of 7<sup>th</sup> Street; thence south along the centerline east line of 7<sup>th</sup> Street to the a point on the centerline east line on 7<sup>th</sup> Street in line with the southern edge of Lot 1, Block 4, Wachter's Addition; thence west along the southern edge of Lots 1 and 2, Block 4, Wachter's Addition; thence north along the western edge of Lot 2, Block 4, Wachter's Addition to the centerline south line of Bowen Avenue; thence west along the centerline south line of Bowen Avenue to the to the centerline west line of Mandan Street; thence north along the centerline west line of Mandan Street extending across Burlington Northern right of way to the centerline south line of Main Avenue; thence west along the centerline south line of Main Avenue to the centerline west line of Washington Street, the point of beginning.

*Official Urban Renewal Plan (Revised)  
Map No. 1, Boundary Map*



CITY OF BISMARCK  
PLANNING & DEVELOPMENT DEPARTMENT  
09/26/06

City Planning/Zoning Commission

Tom Baker Meeting Room

Wednesday, January 26, 2010

**Questions/concerns regarding the proposed Country View Estates (Formerly Golfview Estates)**

1. It is my understanding that in this first phase of the development there will be (16) sixteen large single family residential units. Based on the plat drawing, there appears to be storm water drainage easements on (7) seven of the lots. What is the potential effect of these easements related to building locations or actual land usage on these lots?
2. At a previous meeting, this commission may have received the impression that previous concerns regarding the proposed lot sizes within this rezoning/plat request had been resolved or mitigated to the satisfaction of the township residents and/or neighbors. Such an impression is erroneous. Residents and neighbors still disagree with the 1.5 acre lot concept.
3. Generally people move into the country to be in a rural setting and enjoy a rural lifestyle. I personally do not feel that the 1.5 acre lots are conducive to a rural lifestyle. In fact, 1.5 acre lots are more in line with an urban housing development concept which I feel detracts from the rural setting.
4. If this development were proposed adjacent to, or in an area wherein urban housing developments are presently located rather than an area zoned agricultural, it would likely have better acceptance from neighboring residents and land owners.
5. Apple Creek Township has, through due process, determined minimum lot size of 5 acres. The City has determined minimum lot size of 1.5 acres. Obviously this is an example of the rural versus the urban concept of lifestyle.
6. It is my understanding that this authority was previously with the Township, then legislated to the City via the 2009 Legislature, and the legislation allows the entities to tailor agreements for the extra territorial zone.
7. Again, it is my understanding that such an agreement has been determined. The City presently has jurisdictional zoning authority but the authority will soon (if not already) revert to the Apple Creek Township.
8. I am opposed to the rezoning and plat approval as requested for Country View Estates. I would like to request the Commission, based on mitigating circumstances related to the timing of this request, defer the request to the Apple Creek Township Board for final approval.

Rick Hessinger  
10001 Apple Creek Road  
Bismarck, ND. 58504