

January 16, 2024

To: Bismarck Burleigh Joint Committee

I am writing regarding the Bismarck ETA. We live at 6111 Apple Creek Drive and **fortunately** we are not in city limits but **unfortunately** we are in the Bismarck ETA. I have previously written letters to past and current mayors and city commission members. My position has and continues to be that we live in an area that is not in the Bismarck growth plan and because we in the special flood hazard area (SFHA), likely will never be in the growth plan.

I reviewed the minutes from the July meeting of this committee and comments regarding the ETA and the growth plan. This is the first time I have seen a connection between the growth plan and the ETA. One of the comments, and I will paraphrase, was 'no change is necessary to the ETA because the current ETA includes all the areas in the growth plan for the next 20 years'. This is missing one key point. **There are areas in the current ETA that are not in the growth plan.** Since they are not in the growth plan, these areas could be removed from the ETA. By removing these areas we would fall under the planning and zoning jurisdiction of Burleigh County, like our neighbors who are not in the ETA.

Using the growth plan as the ETA has precedence. The city of Fargo, uses the growth plan as the ETA. They also have a land development code and I see the city of Bismarck is currently in the process of soliciting bids for the development of a code.

The city of Bismarck has spent, and continues to spend, considerable amount of resources, both time and monetary, on the development of the growth plan. Time from the planning department, stakeholder groups, planning and zoning committee, city commission and holding public meetings. Why not use this growth plan for the ETA?

I have also discussed the growth plan with Mr. Nairn with the planning department in relationship to our property. There are various reasons why we are not in the growth plan, but the main issue is we are in the SFHA and connection to city services is problematic. The low elevation makes connection to city sewer and storm water management very difficult and costly. I believe this has been confirmed by the Paradise Valley development and there sewer and storm water costs.

In summary, Bismarck has spent and continues to spend a lot of resources on the growth plan. There is precedence for using the growth plan for ETA management. There is also a process for updating the growth plan versus the ETA. I know the county has proposed changes to the ETA, but the city has not acted on the proposed changes and have taken the same position which is basically **NO CHANGES ARE NECESSARY**. There doesn't seem to be a process for changing the ETA and it is my understanding the ETA has changes for over 10 years, while the growth plan was updated in 2023. Even with the update to the growth plan, or area is not in the growth plan. If we are removed from the ETA, we will still have to follow Burleigh County planning and zoning requirements.

I have attached a few sections from Fargo's ordinances.

## §20-0108 - Zoning of Extra-Territorial Areas



When the City Commission elects to exercise its zoning authority within its Extra-Territorial Zoning Jurisdiction, it shall have the following three options:

To classify such land in the AG zoning district;

To classify such land in a zoning district that reflects the existing use of the property; or

To classify such land in any other zoning district included in this Land Development Code, in accordance with the procedures of [Sec. 20-0906](#).

## §20-0905. - Growth Plans



### A. Applicability

Effective April 1, 2000, an approved Growth Plan is a prerequisite for the approval of a Zoning Map Amendment or Subdivision Plat in portions of the City that have been annexed to the City after February 17, 1998, in Sections 33 and 34 of Reed Township (T140N, R49W), and in the extraterritorial jurisdiction of the City. This section sets out the required review and approval process for Growth Plans. The requirement of an approved Growth Plan shall not take effect until July 1, 2000, provided, however, that as to proposals for zoning map amendments for areas currently zoned Agricultural (AG) in which an approved Growth Plan is not in place, the Planning Commission shall be provided with the following:

1. The opportunity for preliminary review to occur prior to a public hearing;
2. The Planning Department shall provide analysis of the compatibility of the proposed development with existing development, the Comprehensive Policy Plan, physical features of the land and infrastructure availability; and
3. The written notice requirements of 20-0901 shall be extended to landowners within five hundred (500) feet of the subject property.
4. The requirements of subparagraphs 1 through 3, above, shall not apply to development applications submitted prior to March 23, 1999.

### Growth Plan

## §20-0906. - Zoning Map Amendments



This section sets out the required review and approval procedures for amendments to the official zoning map (zoning changes).

### A. Growth Plan Prerequisite

No zoning map amendment application will be accepted for land that is not covered by an approved Growth Plan. If the subject property is not included in an approved Growth Plan, a Growth Plan must be submitted for review and approval before or concurrently with the zoning map amendment application. This provision shall not be interpreted as requiring an approved Growth Plan prior to initial zoning of land brought into the City's Extra-Territorial Zoning Jurisdiction (See also [Sec. 20-0108](#)). The requirement of an approved Growth Plan shall not take effect until April 1, 2000, provided, however, that as to proposals for zoning map amendments for areas currently zoned Agricultural (AG) in which an approved Growth Plan is not in place, the Planning Commission shall be provided with the following: