

Rye Township
1774 22nd Ave NE
Grand Forks, ND 58203

August 6, 2008

Mr. Lee Kaldor, Chairman
The Advisory Commission on Intergovernmental Relations
State Capitol
Bismarck, North Dakota 58203

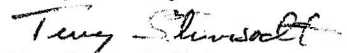
Dear Mr. Kaldor:

This letter is in regard to the 4 mile extraterritorial zoning law. The board of Rye Township is in opposition to this law. We have been opposed and voiced our opinion at the preliminary informational meetings. We are also supportive of the Grand Forks County Citizens Coalition and the lawsuit that has been filed.

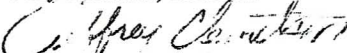
We would appreciate the legislature's reversal of this zoning law from four miles back to two miles.

Thank You for your consideration,

The Rye Township Board



Terry Stromsodt, Chairman



Jeffrey Clemetson, Supervisor



Terry Stadstad, Supervisor

**STANLEY TOWNSHIP
C/O RENEE CLASEN, CLERK
406 118 AVENUE SW
HORACE, ND 58047**

July 8, 2008

**COPY FOR YOUR
INFORMATION**

Representative Lee Kaldor, Chairman
North Dakota Legislative Council
Advisory Commission on Intergovernmental Relations
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

Mr. Kerry Schorsch, President
North Dakota Township Officers Association
6358 111th Avenue SW
New England, ND 58647

Mr. Kenneth Yantes
Executive Secretary/Director of Governmental Relations
P.O. Box 104
Brocket, ND 58321

**RE: Stanley Township, Cass County, North Dakota,
takes a position on pending legislation**

Dear Sirs:

The Board of Supervisors for Stanley Township, Cass County, North Dakota, hereby voices unanimous support for Representative Dwight Wrangham's position(s) seeking to eliminate extra-territorial zoning authority presently given to cities under N.D.C.C. § 40-47-01.1.

For years we have witnessed the adverse effects of extra-territorial zoning – usurpation of political and property rights of landowners; wrongful exertion of municipal power without just compensation; inexact and constantly changing municipal standards, inattention to the agrarian landowner's interests, concerns, and property rights; and meager [sometimes, non-existent] zoning ordinance enforcement. We have witnessed municipal machinations seeking to prevent development under the guise of zoning regulation – in favor of a few, while ignoring the many. When extra-

**COPY FOR YOUR
INFORMATION**

territorial zoning is coupled with other municipal power(s) or authority, political and property abuse can occur.

LEGISLATION TO CREATE A COUNTY "MASTER PLAN"

In place of the statutes currently providing for extra-territorial zoning by a city, we believe legislation establishing the creation of mandatory comprehensive county-wide zoning plan(s) need to be conceived, and enacted, generally providing for the following:

1. Each county should be compelled to establish an official "master plan" [with accompanying maps, plats, charts, and descriptive matter] showing the following:
 - A. The municipal boundaries of all cities within the county;
 - B. The general location of all public buildings and other public property outside of said municipal boundaries;
 - C. The general locations and extent of public utilities and terminals, whether publically or privately owned or operated, outside of said municipal boundaries;
 - D. The general locations, character, and extent of streets, highways, waterways, waterfronts, parks, open spaces, aviation fields, railroads, and other public ways and grounds outside of said municipal boundaries; and
 - E. At the request of any political subdivision of the State of North Dakota following proceedings comporting with Due Process of Law with notice to all affected landowner(s), the proposed site of any of the foregoing items [collectively referred herein as "sites of proposed public use"] that the political subdivision indicates should be included in the county master plan for areas outside of said municipal boundaries.
2. The county master plan should only be adopted after adherence to an established public process granting all interested individuals, including political subdivisions, the right to fully participate, and be heard. The Stanley Township Board of Supervisors believes that the following components are critical to the development of any meaningful county master plan:
 - A. Any township desiring to exercise its existing statutorily authorized zoning authority [N.D.C.C. Chap. 58-03] should be first compelled to create comprehensive regulations.

1. The township shall be obligated to identify its zoning districts [specific regulatory requirements and geographical locations] to the county;
 2. The township shall be obligated to identify those items [sites of proposed public use] statutorily required to be included in the county master plan as are actually located in the township; and
 3. The township shall be obligated to identify those township land(s) [sites of proposed public use] deemed necessary or appropriate to be included in the county master plan [sites of proposed public use] so as to promote orderly growth and development of the township – from the perspective of the township – for the succeeding ten (10) year term.
- B. Any city desiring to exercise its existing statutorily authorized zoning authority [N.D.C.C. Chap. 40-47] should be first compelled to create comprehensive regulations.
1. The city shall be obligated to identify its zoning districts [specific regulatory requirements and geographical locations] located within the city to the county [for the express purpose of establishing the proposed standards for any geographical area to be later annexed to said city; the county master plan would not alter the city's zoning authority as exercised within the city];
 2. The city shall be obligated to identify those township land(s) [sites of proposed public use] deemed necessary or appropriate to be included in the county master plan¹ so as to promote orderly growth and development of the city – from the perspective of the city – for the succeeding ten (10) year term; and
 3. The city shall be obligated to identify those township land(s) proposed to be annexed to the city within five (5) years.

¹ Existing traveled roads within the congressional section line [33' on either side of the section line] would presumptively be identified as likely highways; should there exist a need for a road right of way greater than established by law, the township, city or county must identify the extent and location of the necessary roads.

- C. The county should be authorized to exercise zoning authority only in the absence of appropriate township action exercising its statutory zoning authority [if a township has not acted to establish zoning districts in accordance with state law prior to a certain specified date in the future, the township shall be deemed to have forever granted such authority to the county].
 - D. Any county desiring to exercise its statutorily authorized zoning authority [N.D.C.C. Chap. 11-33] should be first compelled to create comprehensive regulations.
 - 1. The county shall be obligated to identify its zoning districts [specific regulatory requirements and geographical locations] located within the county;
 - 2. The county shall be obligated to identify those township land(s) [sites of proposed public use] deemed necessary or appropriate to be included in the county master plan² so as to promote orderly growth and development of the county – from the perspective of the county – for the succeeding ten (10) year term.
 - E. Upon application of any landowner for a building/development permit required by law, no political subdivision may assert the need for a “site of proposed public use” as grounds for denial of the permit request unless the county master plan first identifies such need. Even if identified as a “site of proposed public use”, the denial of the permit request should trigger the landowner(s) right to “just compensation” from the nominating political subdivision as hereafter discussed.
3. Individual landowners should have the absolute right to oppose identification of their private land(s) to be used for any public purpose in the county master plan. Unless the landowner first consents in writing to the proposed public use set forth in the county master plan, the political subdivision initially responsible for identification of the proposed public use of private lands should be obligated to pay “just compensation” to the protesting landowner [in accordance with established eminent domain law(s)] should the responsible political subdivision fail to seek, and obtain, vacation of such public use within 120 days of the protest. For instance, if Landowner A owns an entire section of land [640 acres] and the city indicates that

²

See footnote 1.

each section line of Landowner A's real property should have a proposed 120' right of way [60' on each side of the section line; which dimensions are included in the county master plan], when Landowner A later protests [landowner did not consent to such designation in writing], the responsible city will be compelled to accomplish vacation of such public use designation within 120 days or pay "just compensation" for the land in accordance with law. When adopting the "master plan", the county will be deemed responsible for "just compensation" in the absence of clear nominating responsibility by any other political subdivision.

4. If any proposed development is within one (1) mile of any city, and it requires deviation from the established zoning district [by conditional use permit, variance, or actual change in zoning], the Stanley Township Board of Supervisors further believes that all three governmental entities should be required to approve the zoning change(s) required for the proposed development. Greater cooperation should exist among the affected governmental units [township, city, and county] so that landowner(s) and developer(s) can clearly identify all necessary development or building permits.

LEGISLATION CONCERNING ANNEXATION

Concepts of zoning, planning, platting, and annexation overlap. In order to preserve the integrity of the county "master plan", annexation of land(s) should only occur when it satisfies the expectations of all affected government units, and the affected landowner(s) as set forth within said master plan. The Stanley Township Board of Supervisors further suggests the following added statutory protections be created:

1. Annexation of township land(s) within a county master plan shall not take place unless the annexation is done with the prior written approval of all landowner(s), however, **in no event** will annexation be allowed if it results in "ribbon" or "shoestring" annexations. The Stanley Township Board of Supervisors is aware, under the principles of Williams v. Town of Salina, 113 P.3d 482, 485 (Ok. 2005), "(f)or statutory contiguity to be met where a *narrow corridor* is used to gain access to discontinuous tracts of land, *the corridor itself must have a tangible municipal value or purpose at the time of annexation*. The contiguity requirement is not satisfied by means of a territorial appendage that connects several remote tracts of land to the annexing municipality, but has little relationship to a beneficial municipal purpose... We note that courts are generally loath to find one territory to be contiguous to another where the only link between the two is forged by a narrow corridor."

2. In the event any city desires annexation of township land(s), but cannot secure the prior written approval of all landowners, annexation can only occur if the city agrees to provide all necessary infrastructure without resorting to creation of special assessment districts [or the city agrees to pay the amount of “benefit” attributable to the land(s) owned by the non-consenting landowner(s)], and the newly-annexed land(s) are taxed at the township rate so long as the real property is used in the same manner as it was used while within the jurisdiction of the township. The city’s plan for infrastructure development must be implemented within two (2) years of the annexation. Forced annexation should not require landowner(s) to incur any extra taxation until the landowner(s) utilize the lands differently.
3. Any annexation of lands subject to a county master plan that is attempted without the prior written approval of all landowners should also require the approval of the affected township, and the county. The annexing city should be compelled to identify the reasons for the “forced” annexation, the existing infrastructure, the infrastructure proposed to be developed [without financial contribution by the non-consenting landowner(s)], the benefits of annexation, and the adverse effects or impact upon other levels of government services [fire, water, police, sewer, etc.].
4. Unless tracts of land are essentially surrounded by a city’s boundaries, annexation of lands subject to a county master plan should only occur in large contiguous tracts of 80 acres, or more [except where impossible due to other municipal boundaries or geographical limitations]. Piecemeal annexations of small tracts in a scrabble board manner should be prohibited, just as “ribbon” or “shoestring” annexations should be prohibited.

LEGISLATION RELATING TO BUILDING PERMITS/DEVELOPMENT PERMITS

A final consistent comment – there must be enacted appropriate legislation recognizing building permits should be issued by the governmental entity exercising zoning authority. Landowner(s), developers, political subdivisions, and utility companies should be able to rely upon the various sets of regulations [including building codes, plumbing codes, electrical codes, etc.] so that everyone knows what regulatory conditions must be met before the necessary approvals can occur.

If you have any questions concerning this matter, please feel free to contact us at any time. We stand ready to meet in public session with any other governmental entity at any reasonable time. We ask each of you to provide a copy of this letter to anyone you deem appropriate. We are sending Representative Wrangham a copy of this letter for his information.

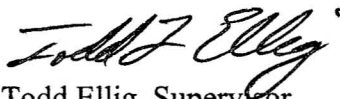
We invite any of your representatives to attend our regular meetings to discuss these matters. There are undoubtedly many variations upon these themes that could also meet with our approval. We are attempting to identify the direction that we believe the laws of the State of North Dakota should take in respecting, and protecting, a valuable resource – our citizens, their property, and their rights. May we hear from you please.

Very truly yours,

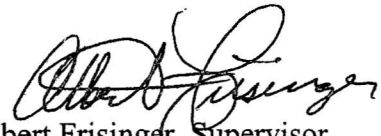
STANLEY TOWNSHIP BOARD OF
SUPERVISORS



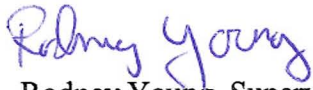
Dave Mathson, Chairman



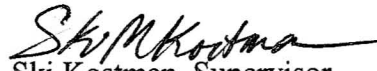
Todd Ellig, Supervisor



Albert Frisinger, Supervisor



Rodney Young, Supervisor



Ski Kostman, Supervisor

cc: Rep. Dwight Wrangham - home address
Brian D. Bitner
Rep. Lee Kaldor - home address
J. Garaas

Grand Forks County

AUG 11 2008

DIANE K. KNAUF
GRAND FORKS, ND

ARVIN KVASAGER
GRAND FORKS, ND

GARY MALM
GRAND FORKS, ND

WILLIAM "SPUD" MURPHY
LARIMORE, ND

CONSTANCE TRIPLETT
GRAND FORKS, ND

Board of Commissioners

P.O. Box 6372
GRAND FORKS, NORTH DAKOTA 58206-6372



August 7, 2008

Representative Lee Kaldor
Chair, Advisory Commission on Intergovernmental Relations
PO Box 215
Mayville, ND 58257-0215

RE: Four Mile Extraterritorial Zoning

Dear Representative Kaldor:

This letter is written on behalf of the Grand Forks County Commission. On August 5, 2008, the Board of Commissioners passed a resolution requesting the North Dakota Legislature to reexamine the issue of extraterritorial jurisdiction and to return it back to two miles.

The County Commission acknowledges the need for metropolitan areas to plan beyond their city limits. However, the current ability to extend land-use control out four miles is viewed by the Commission as excessive and unnecessary. Our constituents in the ET zone feel that they have absolutely no control over their own land use decisions and no elected official who needs to pay any attention to them. Given that situation, the Grand Forks County Commission believes strongly that the ET area should be carefully drawn to include only the area that is actually necessary for a city's planning needs.

Census numbers indicate that Grand Forks County has not grown in population over the past twenty years. Any population gains within the City of Grand Forks have been minimal at best. The combination of the stagnant growth rate and redevelopment within city limits makes it completely improbable that Grand Forks will expand quickly enough to warrant land-use control four miles out. The Grand Forks County Commission feels that a two mile extraterritorial zoning jurisdiction is more than adequate for North Dakota's cities to be able to plan for their future needs. We have consistently expressed a willingness to work with the City of Grand Forks to iron out differences at the line between the City's jurisdiction and the County's jurisdiction and we will continue to do so in the future.

By copy of this letter to staff council, I am requesting that copies be made available to all members at the next ACIR meeting and that this letter be made a part of the official record of your proceedings. Thank you for your time and consideration.

Sincerely,

Constance Triplett
Grand Forks County Commission Chair

cc: Tim Dawson, Staff Attorney Legislative Council