

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1522

2009 HOUSE STANDING COMMITTEE MINUTES

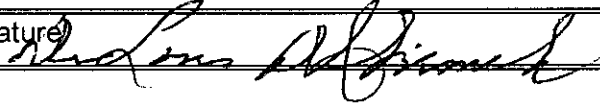
Bill No. HB 1522

House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: February 12, 2009

Recorder Job Number: 9410

Committee Clerk Signature 
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Minutes:

Rep. Headland opened the hearing on HB 1522.

Chairman Wrangham: Introduced the bill. The bill changes some language in the code.

Change the plans to appropriate plans.

Richard Hammond, Burleigh county resident: (see testimony #1).

Rep. Zaiser: Do you work in the city and shop in the city.

Richard Hammond: I spend a lot more money in the city. That is an interesting take that the rural people are using the city and not paying anything. That is not true.

Rep. Zaiser: They don't want to be involved, but most people use the city amenities.

Rep. Koppelman: I have just been reading some of the language that is being deleted.

There are a couple of things that are being deleted like emergency management, which ambulances like 911 and governmental expenditures? Why are you suggesting eliminating them?

Richard Hammond: We have the rural fire department and sheriff's department will come out.

Curley Haugland: Landowner's Association of ND (see testimony #2).

Rep. Conrad: It sounds like the process is working if the commission that tried to do this plan for the county so I am not sure why we need to review a proposed plan that wasn't adopted?

Curley Haugland: the point is the state law currently mandates that the county have a comprehensive plan. We spent \$230,000 in Burleigh County. We did not have to like it; so now we have to pay another \$230,000 for one we like.

Rep. Conrad: We have spent all day talking about problems in Bismarck and now Burleigh County. I don't know if we have these problems state wide. Do you know of other places that are having these problems comprehensive plans are in place?

Curley Haugland: I think you may hear testimony from others today.

Rep. Conrad: I worked on comprehensive plans and I did not spent \$230,000 a plan.

Rep. Kilichowski: You have number two mandating and that is not good.

Curley Haugland: That is the beauty of the so called comp law; if they mention it in the comprehensive plan it then becomes a requirement. That is what the comprehensive plan does.

Rep. Koppelman: Is there a definition in Century Code of comprehensive plan?

Curley Haugland: No that is the point. If it were that would be fine. Now it can be anything. It is in the eyes of the beholder. In other words it is in the comprehensive plan and they each can be different according to counties or townships.

Rep. Koppelman: But this bills calls; in addition to eliminating some of those plans. It changes comprehensive to appropriate and I don't see a definition of appropriate plan either. Are we really doing anything by substituting that word?

Curley Haugland: We are. There is no need for a comprehensive plan. There are zoning ordinances.

Rep. Koppelman: If we pass this bill we could change the word comprehensive to appropriate and we could be in the same boat two years from now in the legislature with you not liking an appropriate plan that the city or county paid \$230,000. Are we really changing anything?

Curley Haugland: The reason that we have to develop this comprehensive plan for \$230,000 because there is a statute in the Century Code that we have a comprehensive plan in the first place.

Rep. Hatlestad: could you not take the plan and the objections you have to the plan to the county commission and remove them and still have a very effective appropriate plan, if you wish, for Burleigh County?

Curley Haugland: I believe that is one of the considerations that Burleigh County made to date right now. Absolutely, once you pay for it you own it. There is a lot of good in this plan. This plan took a tremendous amount of work and we want to utilize what we can of the plan and revise it.

Rep. Nancy Johnson: When you talked about the public input in this comprehensive plan and you did that.

Curley Haugland: We had ample public input. More than we want, but it is under their leadership; they are the facilitators. The citizens were invited to participate and then there was drafting and all that with the technical staff and planners.

Rep. Koppelman: I see your point under 1131.03 which deals with counties. Because the subsection we are dealing with is under a section that starts with this, powers and duties under the direction and supervision of the board of the county commissioners; the county engineer shall so in that case it puts the counties it puts the authority under the engineer. The beginning of the bill has to do with a section of code having to do with soil conservation districts and that seem to grant power rather make a requirement. Some sections are mandatory and some sections limit and others are permissive. Have you found that in your research?

Curley Haugland: I think a good example is that first one; the reason the word comprehensive was changed to appropriate is because sometimes words that are used in the

wrong way and develop the wrong meaning. So we are trying to put appropriate words back in.

Rep. Koppelman: would it make sense to define comprehensive plan somewhere in the code if it is not defined now and simply say comprehensive is a plan that deems appropriate by the governing body or no plan at all.

Curley Haugland: I think the later would be OK. But there is a demand that there be one in the code.

Brian Bitner: I was debating whether I was for or against or neutral on this bill. The comprehensive plan in Burleigh County right now hasn't been updated in approximately 30 years. Basically this is the plan we have not and it is outdated and the commissioners decided an update was necessary. For comprehensive for Apple Creek that was dated in 1979. They are in the process right now of considering updating their plan so I asked the consultant what the cost would be. A minimal update, not changing a whole lot, was going to cost them somewhere between \$7,000-\$10,000 for the township. This plan is the city of Bismarck rural management plan dated August 2003 so the Burleigh County Commission decided they wanted to update this and because of the different things in the law and requirements, apparently that is what we ended up with. They have spent \$400,000 on this plan and the county commission voted it down. Right now we are in the process to see if we can use material out of this or not so my purpose of being here is just to ask that you as citizens simplify that whole process.

Opposition:

Bill Wolken: City Administrator of Bismarck: This bill radically changes the definition of the planning in the state. This will affect our cities, counties, townships and subdivisions. I looked at the dictionary and it says comprehensive means including but for all. Planning

means to arrange parts of details in advance. All 1522 seem to do is lower the standard of planning from full to suitable. So a comprehensive plan tries to look at all their objectives. I would submit to you that comprehensive plan is defined in the statutes. I call your attention to page 2, line 17-19; also page 3 lines 20-30. Read the definition. That definition has been in there for 30 years. Went through the bill and the restrictions. So I think it is in there and is very clear in the statute so I think HB 1522 is not appropriate.

Rep. Koppelman: I am not sure I am reading the section you were talking about specifically as it relates to cities on page 3 Chapter 40 I am not sure it is a definition. It says, currently the regulations provided for in this chapter shall be made in accordance with a comprehensive plan and shall be designed to so it sounds to me like the plan and the regulations are two different things. I think maybe we do need to look at it and update it. Would this help if some of this language was removed; could someone do less and is that a problem?

Bill Wolken: I think if you look at the items 1-7 and 13-25; of page 3; those are the regulations for that purpose. I think if you come down to the next paragraph; the comprehensive plan shall be a statement in document text setting forth; I think that ties those other things to the definition of comprehensive plan.

Connie Sprynczynatyk: I am handing out testimony from the ND Planning Association and the city of Williston.(see testimony #3, #4, #5 #6) I also have testimony from West Fargo and the City of Fargo. I am not going to read this to you. Community Planning really goes back to the late 1890s. Went into detail about history and comprehensive planning as it dealt with our history. The point of comprehensive planning according to our state law is to prepare people who live among that country side or people that live in a community as it grows in that state to make sure that we have ongoing construction that matches; make sure that we are not taking property. Let's say Rep. Wrangham lives east of Bismarck. Say he has spent years investing

in his property. What planning tries to do is say a neighbor cannot come in next to Rep. Wrangham and have a goat farm next to his deck. Also so someone cannot make a nightmare for the rural fire district to respond to any fire calls or for any other emergency vehicles. She went into much discussion on various incidents across the state. Literally planning and growing creates real expectations among people about what is going to happen. It is right to develop those plans and be able to change those plans with public input. It is suppose to help developers and contractors and everyone be on the same page when it comes to developing your plans.

Rep. Koppelman: I believe in good planning and zoning and regulations where appropriate for all the reasons you have described; but I am looking at the bill language and what the bill does it says in all these sections, if we do what the bill says, it would change the wording basically to say that planning much promote health safety and welfare of the citizens so we would be taking a standard that has a lot of do and don't s in it at the state level and saying what is wrong with saying plan according to your needs?

Connie Sprynczynatky: We have been working on an update for our plan for a several months. If the cities were going to build and we had issued like you just described and we say that here is exactly what we want it to say and here is the language and go make this work. We are trying to set forth boundaries; and direction for growth for everyone concerned. So the fundamental question is do we need comprehensive plans to do reasonable expectation's with everyone.

Rep. Koppelman: I still don't see in the bill anything that would prohibit Bismarck from saying we want to do a comprehensive plan and we want to have a very rigid sign ordinance that clearly provides what we allow and disallow. Are you referring to state law when you say that in some section I am not seeing?

Connie Sprynczynatyk: It is good to create the perimeters for those issues you try to address for reasonable expectations. I think you want to avoid a process that is so expensive.

Chairman Wrangham: Assuming I live east of Bismarck in Apple Creek Township and Apple Creek Township has zoning; couldn't I reasonably be expected that I would be protected from a sheep farm next door by the zoning in Apple Creek Township?

Connie Sprynczynatyk: As long as Apple Creek Township has put in place enough details to assure you or any other property owner that they know what the land can be used for. Not all zoning and planning is created equal.

Rep. Conrad: there has been a lot today about Bismarck and Burleigh County and Park Boards and all of that. Are there other cities around the state that have these situations?

Connie Sprynczynatyk: I can think of an area of Velva that has a problem with cows located very close to the city and apparently they get out. Some of them have more problems than others. Everyone tries to get along.

Carl Hokenstad: Director of Community Development, City of Bismarck, ND: (see testimony #7). Showed us different types of comprehensive area plans.

Rep. Headland: whose comprehensive plan overrules someone else's plan? Does the county plan supersede the city that is located in their county or the township?

Carl Hokenstad: I think it would come down to who would have the zoning jurisdiction. For the City of Bismarck, the city's comprehensive plan would take precedence over the city itself plus the extraterritorial constituents. At that point either the township or counties comprehensive plan could take over so I think the plan has its own whoever has jurisdiction.

Rep. Koppelman: If this were to be changed how that would restrict your ability to do exactly what you are doing?

Carl Hokenstad: It would not necessarily prevent us as a city, county or township from doing such plans. On the other hand I think it is very comfortable to point to a state statute and saying this plan was done in accordance with the board umbrella guidelines of the state of ND. We have a lot of leeway to prepare our own plans yet they are somewhat in concert with what the state things they should be.

Rep. Koppelman: Promoting the health, welfare and safety of the citizens would not be enough to unify that?

Carl Hokenstad: It does seem a little lax to base this on one sentence.

Rep. Koppelman: I would invite planners if they have suggestions for improvements to the law, I would love to hear them.

Carl Hokenstad: We would be very happy to have input in updating some of this language.

Rep. Zaiser: Have you had problems in this area of comprehensive planning?

Carl Hokenstad: We have had problems with some locations of an apartment house was build right close to the property line next to a family neighborhood and the neighbors were not very happy about that. We do have those sorts of case and I suspect as areas continue to go in these will continue.

Had Mr. Bitner come to the podium.

Rep. Jerry Kelsh: Did the county request that large of a plan and they had a lot of input, did the people that they contracted with do this time. What is the reason you turned it down?

Brian Bitner: The direction was to update the plan. The process appeared to be too detailed for an update so somewhere along the line they felt people would not like the more comprehensive plan than was originally requested. The County Commissioners took hands off approach because they wanted to allow professional to do the job. Somehow there were a lot of special interest groups involved and that is where the process derailed. The plan we ended

up with was too difficult to get along with. The public gave their opinions at the meetings, but the citizens input were not taken into consideration. That was accomplished in May 2008. I had problems with it when the citizens input disappeared.

Neutral: None

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1522

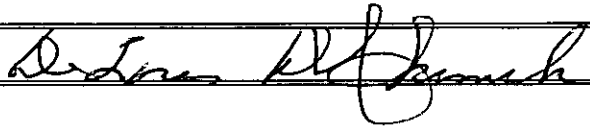
House Political Subdivisions Committee

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Hearing Date: February 13, 2009

Recorder Job Number: 9478

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on HB 1522. Does anyone have enough nerve to fix that or should we just take a vote on it the way it is?

Do Not Pass Motion Made By Rep. Conrad: Seconded By Rep. Zaiser:

Discussion: None

Vote: 11 Yes 2 No 0 Absent Carrier: Rep. Zaiser

Rep. Koppelman: I did visit with Mr. Wolken from Bismarck. I had suggested on this bill if there was any way for the two sides could get together and come up with something to improve the language in language and deal with this, but they did not feel there was but it might be worth a study.

Hearing closed.

Date: 2/13
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1522

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Conrad Seconded By Rep. Zaiser

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman		✓	Rep. Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman		✓	Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad	✓		Rep. Robert Kilichowski	✓	
Rep. Nancy Johnson	✓		Rep. Corey Mock	✓	
Rep. Lawrence Klemin	✓		Rep. Steve Zaiser	✓	
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 11 No 2

Absent 0

Carrier: Rep. Zaiser

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1522: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1522 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1522

1

Comments Supporting House Bill 1522
February 12, 2009

Richard Hammond - Burleigh County resident

I support House Bill 1522 that seeks to correct language in seven different chapters in the Century Code. This series of provisions essentially mandates that counties and townships have some kind of a study called a "comprehensive plan".

This objectionable language, mandating "comprehensive plans", quietly found its way into seven sections spread throughout the Century Code. The language being reviewed was slipped in under the radar, possibly as a "housekeeping bill", with the intent of forcing both counties and townships to produce, or purchase, what is referred to as a "comprehensive plan". This entire concept of making everything conform to some unreal comprehensive plan is flawed. The underlying intent was to take power away from the counties and townships and increase the power of the cities within the state. It is important to recognize that the problems addressed in this bill are very closely related to the problems associated with the cities extraterritorial zoning authority.

The concept of an accurate comprehensive plan is flawed at best. Any one who claims to be able to project the future with the degree of detail placed in any "comprehensive plan" is most likely not telling the truth. It is reasonable for a county to recognize arterial streets and roads and reserve the right of way for these roads. It is not reasonable to have a very detailed plan that is unlikely to have any relation to actual future growth. The City of Bismarck has shown us that they cannot properly plan the arterial streets within the city. The planning lobby has sold the legislature bill of goods.

One of the weaknesses in a democracy is that, as the number of government tasks increase and the complexity of these tasks increase, there is not enough time for the citizens to follow all the complex issues that are handled by their elected officials. The danger in this is, that when the citizens are absent from the process, special interests to move in, pose as subject matter experts, and

frequently succeed in getting their way. All this takes place at the expense of the unsuspecting citizens. Although I have not had time to review the history of the references to having "comprehensive plans" in these various portions of the North Dakota Century Code, I suspect that the planning lobby had a hand in the process. Often times, the most objectionable and dangerous pieces of legislation are represented as "housekeeping bills". Let the citizen beware. The citizens did not realize the implication of these changes until we experienced the results of the legislative changes at the local level.

As representatives serving in the State Legislature, you may be familiar with various unfunded mandates that have been placed upon the state by the federal government. An unfunded mandate is a statute or regulation that requires a state or local government to perform certain actions, yet provides no funds or money for fulfilling those requirements. A large number of these unfunded mandates took place during the 1980's when many of the duties of the federal government were being shifted from the federal government to the States. In response to strong objections by the states and cities, the Unfunded Mandates Reform Act was passed and took effect in 1996. The Act required that the federal government consider the financial impact on state and local governments or the private sector of any "enforceable duty" that accompanied federal laws. The Act contained some loopholes that still allowed some unfunded mandates. One notable unfunded mandate was the No Child Left Behind Act. What is relevant here today is that the State of North Dakota has been at the short end of many unfunded mandates at the hands of the federal government. Therefore, you should have empathy for the counties and townships because the state has itself, forced an unfunded mandate upon these counties and townships, in the form of requiring "comprehensive plans" to be purchased.

These comprehensive plan requirements have had a costly, negative effect on Burleigh County. Most likely, the planners told the county that it was now state law that the county had to have a "comprehensive plan". Burleigh County proceeded to spend in excess of \$100,000.00 to have a consultant prepare a comprehensive study. The "Plan" that the county received was simply a boiler plate plan in which the consultant changed the name in another county's plan and sold this bill of goods to Burleigh County. It is clear from reviewing the consultant's proposed plan that

the City of Bismarck's fingerprints were all over the plan. The plan was in effect the city's plan for the rural areas. To add insult to injury, we county residents were asked to expend our county tax dollars for a plan that was clearly written for the city's benefit. There were goals of the city buried in the plan. Both the city and the planning lobby took advantage of the fact that most citizens do not have time to read these things. The proposed plan stated that the county was to accept that the City of Bismarck had the right of extraterritorial zoning authority. The first draft of the plan contained only "shall" and "will" mandatory language for almost everything in the plan. Although much of the language was changed to "may", there was a high probability that those words "shall" and "will", would find their way back into the document at some quiet time when the citizens are looking the other way. The proposed "plan" contained a statement that the plan itself was a "living document". This would have allowed the document to be changed at will by the commission and without citizens learning of the change before it was too late. Fortunately, The Burleigh County Commission did not approve the plan.

The plan proposed to change the size of a farm on which an individual could live from 40 acres to 160 acres. That proposed change had no relation to health and safety. The plan would not allow anyone to build unless there was a paved road available. The plan would not allow anyone to build unless there was rural water available. Our ancestors drove on trails and gravel roads, and they used domestic water from wells. This was a city plan for the rural area.

Electric utilities, both Cooperatives and utility companies do their own long range planning, and they do a responsible job of planning on their own. Water user cooperatives do responsible planning. You are aware of the disruption to the Grand Forks area water cooperative's planning that was unilaterally caused by the City of Grand Forks. No amount of planning can forecast the irresponsible acts of cities or other political subdivisions when they have no restraints and no accountability for their actions.

The City of Bismarck has always opposed any kind of rural development. The city's strategy has always been to throw every roadblock possible in front of people choosing

to live outside of the city. It is true that many residents have voted with their feet. The positive, productive way that Bismarck should use to address the problem of residents leaving in droves, would be to begin to run the city in a more responsible manner so that citizens would voluntarily choose to live within the city. The only necessary planning is to plan for arterial streets. The rest is anybody's guess. This Comprehensive Plan is simply a more sophisticated strategy to secure the cities long-term goal of control over the rural areas. This is part of the city's alternate plan in the fight over extraterritorial zoning. The alternate plan is to trick the county commission into doing the city's dirty work for them. Had the proposed "comprehensive plan" been accepted, it would have been a major victory for the cities over the rural residents. The city is very skilled at manipulating the system to the disadvantage of rural residents. If the city cannot get its way directly and overtly, then they will get their way incrementally, by working to change laws and regulations one small part at a time. Had the city gotten away with selling the flawed "plan" to the county, it would have been a scam that would rival Mark Twain's Tom Sawyer when he tricked others into whitewashing a fence for him.

With this background, I request that you give HB 15²² a due pass recommendation.

#2

HB 1522

Repeal Comprehensive Plans in NDCC

February 12, 2009

Testimony of Curly Haugland representing Landowner's Association of North Dakota

Mr. Chairman and members of the House Committee on Political Subdivisions:

I appear today to request your favorable consideration and recommendation for a Do Pass on HB 1522.

"Comprehensive plans" as currently authorized and used in North Dakota pose a clear and present danger to the property rights of individual owners of property in North Dakota.

While the term seems benign and a sort of "soft law" as it appears in the code, that all changes when a dispute arises over the use of land and that dispute ultimately arrives before an administrative law judge for resolution.

In testimony before the ACIR Committee considering ET Zoning last summer, Administrative Law Judge Allen Hoberg testified that the contents of a comprehensive plan are one of the main determinants of the outcome of such a proceeding.

What then are the types of things found in a "comprehensive plan"?

Everything from "soup to nuts", as the saying goes.

A review of the recently proposed Burleigh County Comprehensive Plan, rejected by a 3-2 vote of the County Commission last month, deals with concepts such as:

1. Allowing no more than one dwelling on 160 acres in an agricultural zone.
2. Mandating a "living wage" is paid by any company receiving economic development incentives within the county.
3. Prohibiting construction on bluffs visible from the Missouri River.
4. Requiring "cluster" development, if any development at all.
5. Discouraging "urban sprawl".
6. Forcing landowners to dedicate property for public use. (Rights of way, open space, etc.)
7. Suggesting that the Burleigh County lobby the legislature to repeal current prohibition on perpetual easements.

Attached to this testimony are selected pages from the Burleigh County plan.

Again, the current use of "comprehensive plans" to steal private property rights is a very serious problem in North Dakota. Please give HB1522 a DO PASS!
Thank you.

Chapter VI discusses the function of "zoning ordinances."

Chapter VII discusses the function of "subdivision regulations."

Chapter VIII discusses the function of "capital improvement plans."

Chapter IX reviews special topics which are applicable to land use management.

Following these chapters are appendices which provide additional information on terms, other resources, and an index to primary topics in the text.


B. The Legal Basis for Planning

The authority to regulate the use of land is given by the United States Constitution to the States, to delegate to local governments in the manner States see fit. Although the legal basis for land use management or planning extends far back in recorded history, its roots in the United States stem from the application of police power to address concerns about "health, safety, morals or general welfare" in cities during the later part of the 19th century. The first law to control the location of land uses (zoning) was enacted in 1867 by the City of San Francisco.² The practice of zoning continued to grow during the beginning of the 20th century. In 1928, the Standard City Planning Enabling Act was published by the U.S. Department of Commerce as a recommended basis for States to "enable" municipalities to regulate the use of land. Versions of this model legislation were passed by many states, including North Dakota.

Not surprisingly, land use regulation was and continues to be tested in the courts. Over time a body of caselaw, including Supreme Court decisions, has grown to define the parameters of land use regulation. Generally, the direction of the courts has been toward providing additional flexibility in the types of land use controls which may be used by local jurisdictions. Although dozens of other cases could be cited, the following three cases are among the most far-reaching in their impacts.

Pennsylvania Coal Co. vs. Mahon (1922) In this case, the United States Supreme Court determined that there were limits to the regulation of land, and that there were circumstances under which such regulation could be considered a "taking." A "taking" is an abridgement of the Fifth Amendment which grants private property owners protection from the taking of land for a public use without compensation.

Village of Euclid vs. Ambler Realty Company (1926) In this case, the United States Supreme Court confirmed zoning as a legitimate exercise of police power by a municipality. This case was similar to many others during the same era where zoning was tested in state supreme courts, including one in North Dakota.³ The result has been long standing support for the practice of zoning.



master plan. Additional information about master plans and comprehensive plans is discussed in Chapter V.

C. Administration

In order to properly administer or implement the comprehensive plan and land use regulations, jurisdictions typically appoint officials who are responsible for ensuring compliance with the plans and regulations. These officials may include a zoning administrator, a planner, and/or a building inspector. The persons appointed to these administrative functions may have existing roles in local government, or they may simply have been appointed because they are willing to serve in the administrative role. These and other similar positions are essential to the consistent implementation of the jurisdiction's regulations. Additional information about the administration and enforcement of land use regulations is discussed in Chapters VI and VII.

D. Citizens

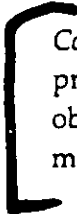
The citizens of a local jurisdiction represent the fourth group of people involved in land use management. They may be involved in a number of ways:

- As the general public, they have the right to provide input on land use decisions including the details of comprehensive plans and land use regulations. They also have the right to offer comments on any other land use decision being made by the advisory body or governing body.
- As petitioners, they have the right to submit applications requesting permission to use or develop land.
- As complainants, they can request redress of grievances where they feel wronged.
- As appellants, they can request consideration of a land use related decision to the appropriate appeals body.

Additional information about procedures relating to citizens' roles are discussed in Chapters V-IX.

E. Terms

There are a number of terms that are essential to the understanding of this Handbook. The following list of definitions provides an explanation of these terms as they are used in this Handbook. Additional terms are defined in the glossary found in Appendix 2.



Comprehensive Plan – an officially adopted document of a local unit of government which provides direction for the future development of the community by establishing goals, objectives, and policies to guide community decision-making and which does so in a manner consistent with a state's planning and zoning enabling legislation.

may arise that were not anticipated when this plan was written. Updates or supplements to the plan can be prepared and adopted, keeping the plan applicable to current conditions.

North Dakota Century Code Basis for Comprehensive Planning

The North Dakota Century Code (NDCC) provides a framework of planning, zoning, and subdivision requirements that place certain responsibilities on counties and townships. The applicable sections of the NDCC are listed below.

Sections Pertaining to Counties

- Chapter 11-09.1-05

7. Provide for zoning, planning, and subdivision of public or private property within the county limits but outside the zoning authority of any city or organized township.

- Chapter 11-33-01

This chapter establishes the authority for counties to have zoning regulations.

- Chapter 11-33-02

This chapter states that county zoning regulations shall be made in accordance with a comprehensive plan designed for any or all of the following:

- To protect and guide the development of non-urban areas,
- To provide for emergency management,
- To regulate land use and construction,
- To lessen governmental expenditures,
- To conserve and develop natural resources.

"The comprehensive plan shall be a statement in documented text setting forth explicit goals, objectives, policies, and standards of the jurisdiction to guide public and private development within its control."

- Chapter 11-33.2-04 pertains to the preparation of a subdivision resolution. It states that subdivision regulations may include provisions for ensuring that the location, layout, or arrangement of a proposed subdivision shall conform to the comprehensive plan of the county.
- Chapter 11-33.2-12 states that the County Commission shall determine if the plat serves the public use and interest, and if it complies with the county subdivision regulations (which in turn refer to the county's comprehensive plan).

Sections Pertaining to Townships

- Chapter 58-03-11 establishes the authority for townships to have zoning regulations.

4

- Chapter 58-03-12 states that township zoning regulations must be made in accordance with a comprehensive plan.

"The comprehensive plan shall be a statement in documented text setting forth explicit goals, objectives, policies, and standards of the jurisdiction to guide public and private development within its control."

The statutes clearly state that townships have the authority to establish and enforce zoning if they choose to do so. The county has the authority to establish and enforce zoning in townships that have relinquished that authority. When townships choose to become unorganized, their zoning becomes the responsibility of the county. Similarly, when organized townships choose not to enact their zoning authority, and therefore do not have a zoning ordinance, the zoning becomes the responsibility of the county. Both counties and townships are required by state statutes to base their zoning on a comprehensive plan, which is to be "a statement in documented text setting forth explicit goals, objectives, policies, and standards of the jurisdiction to guide public and private development within its control." Furthermore, the statutes address the subdivision authority of counties, stating that subdivision regulations may include provisions for ensuring that the location, layout, or arrangement of a proposed subdivision conforms to the comprehensive plan of the county.

These statutes provide the foundation for comprehensive planning at the county and township levels in the State of North Dakota.

Decision to Update Comprehensive Plan

Over the years, the Burleigh County Planning Commission and County Commission have discussed the need for an updated Comprehensive Plan. The decision to move ahead with the project was made in 2006, after the county addressed two controversial rural residential subdivision proposals. This decision was accompanied by the adoption of a moratorium on subdivisions in the county through the end of 2007. The moratorium was extended through March of 2008 to allow time for completion and adoption of the comprehensive plan.

Primary Focus of County Comprehensive Plan

The Comprehensive Plan Update is intended to address the development, environmental, economic, recreation, public service, and land use issues typically addressed by a County Comprehensive Plan; however, the primary focus of updating the Plan is to address the need for growth management and to identify the tools and implementation measures needed to manage growth effectively, in a cost effective manner.

- ②
- b. Encourage connections to existing municipal wastewater treatment systems whenever possible.
 - c. Protect or establish vegetation buffers along rivers, creeks, and bodies of water to improve water quality and prevent erosion.
 - d. Protect wetlands and aquifer recharge areas from pollution.
 - e. Continue collaboration and coordination with the Burleigh County Water Resource District with respect to drainage issues and new development.

Goal 2: Protect the Missouri River Corridor.

Objectives:

- a. Identify the desired level of public access to the Missouri River and work toward preservation and creation of access at that level.
- b. Comply with the recommendations of the Sovereign Lands Study.
- c. Promote access to and enjoyment of the river in a manner that enhances public safety, enjoyment, and integrity of the river environment.
- d. Protect the natural bluff line closest to the river from visual degradation as a result of structures placed on top of the bluff.

Goal 3: Protect the landscape from potential negative impacts of development.

Objectives:

- a. Avoid subdivision locations and designs that are prone to cause or be affected by erosion or slope failure.
- b. Control erosion during construction and site development.
- c. Protect cultural and historical resources.
- d. Accommodate increases in stormwater runoff due to development.

Public Infrastructure and Services

Goal 1: Provide a safe and efficient roadway system.

Objectives:

- a. Continue good road maintenance services to existing properties in the county's service area.
- b. Prohibit non-farm development from being placed in a location that does not have a paved road or highway as its primary route of access to the development's local street system.
- c. Prohibit development from taking access via an unpaved road by continuing the policy for developers to provide paved roadway access to new developments. Modify the subdivision regulations to include this policy as a regulation.
- d. Update subdivision standards to establish requirements for developer financing of paving access roads between the paved highway system and the local streets within the development.
- e. Update subdivision standards to include requirements for multiple access points in relation the number of proposed dwelling units.
- f. Update subdivision standards to include access management standards and monitor through continuation of the existing permitting process.

Another recommended growth strategy is a second agricultural zoning district that limits density to one dwelling unit per 160 acres (quarter section) rather than 40 acres (quarter section). Many other counties and cities around the US have more than one agricultural zoning district. The purpose of having two agricultural districts is to restrict development to a higher degree in one district over the other. Some townships both within and outside of Burleigh County also have agricultural zoning districts that use the maximum density of one dwelling per quarter section.

Figures 5.8 through 5.10 illustrate different options of how this lower density zoning district could be applied in Burleigh County.

Figure 5.8 illustrates a tiered agricultural zoning approach that would use the higher density district in the community growth areas, rural neighborhoods, the north end of crossroads communities, along I-94, and between ND Highway 1804 and the Missouri River. This approach results in the least amount of land in the higher density agricultural district. The advantage to this approach is that it allows more development in areas closer to population centers, service centers, and transportation facilities. The disadvantage to this approach is that more scattered development is allowed on some of the land most likely to be rezoned and subdivided into more concentrated forms of development, such as around Wilton, Menoken, McKenzie, Sterling and Driscoll.

A somewhat different approach is shown in Figure 5.9. The current density of the agricultural zoning district of one dwelling per 40 acres would be allowed around the Bismarck urbanized area, along US Highway 83, south of Wilton, and within a wide band along I-94 all the way to the east edge of Burleigh County. This approach intensifies the potential for creating 40-acre tracts of land in the areas closest to Wilton, Bismarck, US Highway 83 and I-94. Land farther away from these activity areas would only be allowed one

Burleigh County Policies with Respect to Rural Values

1. Burleigh County will work toward the development of an informational document modeled after The Code of the West, to inform the public about the presence of agricultural activities, the difference between rural and urban services, and the difference between rural and urban infrastructure.
2. Burleigh County will consider zoning and subdivision regulations aimed at providing a limited exception to the requirement for re-zoning and subdivision of legal non-conforming agricultural properties when building proposals are consistent with the agricultural nature of the property and will not result in a change of use that would make the property less consistent with agricultural zoning.
3. Burleigh County will consider zoning and subdivision regulations allowing for the option of Conservation Design Subdivisions and Cluster Developments.
4. In situations where proposed development generates concerns about slopes, natural resources, extensions of infrastructure, or other impacts of development, Burleigh County may provide guidance to potential developers by suggesting use of the Conservation Design development option.
5. Burleigh County supports the use of Cluster Developments as a method of allowing for rural residential land use while retaining significant tracts of agricultural land.
6. Burleigh County supports the creation of a second agricultural zoning district that will limit density to one dwelling unit per 160 acres.
7. Burleigh County will work with the State Legislature to make farmland preservation more feasible for property owners who choose preservation.

perpetual easements

7

Economic Development

Broadly speaking, economic development focuses on:

1. governmental policies and programs directed at various elements of the economy such as expanding the tax base, regulation of financial institutions and trade;
2. policies and programs directed at provision of high quality transportation systems, public safety, housing, health, work-force training, and educational institutions; and
3. policies and programs directed at job creation and retention, higher wage levels within the community, and real estate development.

Local economic development groups typically focus their efforts on policies and programs that create and retain jobs, facilitate real estate development, and grow the average incomes in the community. Sometimes the creation and retention of jobs is enhanced when an economic development group becomes involved with local or regional

educational institutions to ensure that vocational or technical job training are in line with the needs of current industries. This helps the entire community by building a well-educated and well-trained population that attracts the type of businesses that pay a living wage.

Communities with a higher level of natural beauty and recreational opportunities (i.e. natural features that typically attract tourists, hikers, boaters, campers, bicyclists, hunters, fishers, bird-watchers, etc.) are typically viewed as high quality places in which to live; therefore, they are also the most successful at attracting a strong employment base that is needed by businesses and industries. This dynamic makes it very

Economic Development

Goal 1: Enhance and diversify Burleigh County Economy

Objectives

- a. Coordinate plans to ensure an adequate supply of industrial and commercial land.
- b. Identify growth areas that have strong potential as a tax base, support density levels and land uses that result in a strong tax base.
- c. Emphasize the importance of agriculture-related industries and businesses.
- d. Encourage workforce development and training efforts to retain a viable workforce for economic growth.
- e. Maintain a high level of environmental integrity while considering job development.
- f. Support the establishment of jobs with wages and benefits that provide adequately for families and contribute to the community.
- g. Consider the potential for an expanded tourism industry in land use and transportation decisions.

Goal 2: Develop and protect the Missouri River System for Economic and Resource Benefits within the County

Objectives

- a. Provide local, city and county leadership with information relative to the importance and values of the Missouri River System to the needs of Burleigh County, including water supply, irrigation, recreation, and quality of life issues.
- b. Provide an educational training program for city and county leadership regarding the critical importance of the Missouri River System to the economies of the area, the State of North Dakota, and to identify the issues which threaten the beneficial use and protection of that system by Burleigh County and by the State.
- c. Encourage local leadership to participate in State and Federal planning and management efforts of the Missouri River System to develop and protect the resources of the River within Burleigh County and within the State of North Dakota.
- d. Continue to support the Burleigh County Water Resource Board in their involvement in basin-wide and State-wide organizations which seek to develop and protect the resources of the Missouri River System.

(8)

or fees. It makes a statement about the public's right to have access to the most valued natural feature in the region without the need to own a boat.

The combination of increased setback requirements for structures, limitations on removal of existing vegetation, and the requirement to maintain a vegetative buffer zone along the river will ensure the protection of private property owners who invest in developing the property and will also protect the public from using public funds to purchase these properties if unstable riverbanks result in damage to near-by structures.

Burleigh County Policies with respect to Environmental Protection

1. Burleigh County supports an amendment to its subdivision regulations to require a water use plan for all subdivisions within the County. The water use plan will estimate the amount of water usage and will identify the initial and future (if applicable) source of water. Local water monitoring professionals will review water use plans and seek assistance from the State Water Commission or the Office of the State Engineer as needed.
2. Burleigh County supports development that will be served by a municipal or public waste water treatment facility over development that must be served by on-site septic systems and drainfields.
3. Burleigh County supports collaboration with the City of Bismarck in the updating of stormwater regulations aimed at protecting the quality and quantity of storm water run-off.
4. Burleigh County will consider future amendments to its subdivision regulations to provide safeguards that will guarantee construction of the storm water management features approved in the storm water management plan for each subdivision.
5. Burleigh County may consider periodic review of and amendments to its subdivision regulations related to sovereign lands regulations, setbacks, and disturbance of existing vegetation along rivers, streams, and other appropriate surface water features.
6. Burleigh County will consider an amendment to its subdivision regulations to define "steep slopes" and to require a slope and geotechnical analysis for all subdivisions with steep slopes. Standards and procedures for such an analysis would be established by the County Engineer.
7. Burleigh County may consider periodic review and amendments to its subdivision regulations to include provisions for preserving a vegetative buffer zone along the Missouri River for the purpose of protecting the natural riverbanks. These provisions could include setback requirements for structures, limitations on the disturbance of natural vegetation along the river, including the preservation of trees and/or native forest. These regulations could also include a public land dedication policy to preserve public access to the river and the requirement for a plan which demonstrates how public road right-of-way, trail easements, etc. could be used to connect public access locations with a bicycle/pedestrian system.
8. Burleigh County supports coordination with the Burleigh County Water Resources District with respect to drainage issues, floodplain management and new development.

CHAPTER SIX: ACTION PLAN

A comprehensive plan is most effective when it provides an action plan that provides clear direction towards implementation. The planning process is lengthy, and often the outcome of the plan can be overwhelming as far as follow-up steps that need to be taken. An implementation plan is important for the citizens, the staff, and public officials.

Implementation Tools

The methods of plan implementation fall into different categories. Some implementation measures can reasonably be planned for the short term, while others will take longer to put in place. Some measures involve regulatory changes, while others involve educational programs or staffing modifications. A single implementation measure is usually not adequate to carry out the goals, objectives, and policies of the Comprehensive Plan. The implementation tools that are incorporated into this plan include:

- Ordinances and Regulations
- Education and Promotion
- Policies and Procedures

Each policy set forth in Chapter 5 of the Comprehensive Plan is shown in the tables below. The recommended follow-up action is shown, along with an indication as to the timing (short term or long term). Short term describes an action that should take place within the next year. Long term indicates that the implementation requires more time or is not as urgent in terms of dealing with the county's future.

Implementation Measures

Burleigh County Policies for:

Rural Values

Policies:	Ordinances and Regulations	Education and Promotion	Policies and/or Procedures	Time Frame	Notes
Burleigh County supports the creation of a second agricultural zoning district that will limit density to one dwelling unit per 160 acres...	Prepare zoning district and add language to zoning ordinance. Prepare proposal for rezoning of existing areas in the agricultural zoning district to the new agricultural zoning district.	Prepare informational material regarding the new agricultural zoning district. Provide materials at county offices and on county website.		Short Term	
Burleigh County will work with the State Legislature to make farmland preservation more feasible for property owners who choose preservation.					

TABLE 6.5

Implementation Measures

Burleigh County Policies for:

Economic Development

Living wage, etc.

Policies:	Ordinances and Regulations	Education and Promotion	Policies and/or Procedures	Time Frame	Notes
Burleigh County supports collaborative planning efforts with all local jurisdictions in the county, with Mandan and Morton County, and with economic development organizations such as BMDA, directed at identifying the need for future commercial/industrial land.	—?	At appropriate times, provide information regarding the importance of commercial/industrial land to the county's tax base, regardless of whether or not this land is located in city limits or outside city limits. Establish and/or retain open lines of communication between the county and BMDA regarding the county's policies related to development.	Actions that provide fiscal incentives to develop in Burleigh County, such as property tax deferrals, tax increment financing, or any other financial incentives, shall only be approved for development proposals that are consistent with the Burleigh County Comprehensive Plan.	On-going	
Burleigh County supports efforts made toward sustainable economic development that results in good stewardship of natural resources.		Consideration of short term economic benefits versus long term environmental and/or fiscal impacts should be given to all applicants.	The criteria developed to review proposed zoning changes, subdivisions, and special use permits should be consistent with this policy.	Short Term and On-going	



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HB 1522

City of Williston Testimony

HB 1522 would remove the basis for zoning. In this Bill there would be nothing governing zoning, which does apply limitations to land use. The passing of this Bill would essentially provide an open forum for dictating zoning with no rational decision process for applying zoning. Procedures for processing and implementing comprehensive plans and zoning may need to be reviewed from time to time, but removing the tools and forum for good planning is not the solution.

The City of Williston is opposed to HB 1522 and provides the following support.

The comprehensive planning tool strives to achieve the following purposes:

1. "To improve the physical environment of the community.
2. To promote the interest of the community at large, rather than the interest of individuals or special interest groups.
3. To facilitate the democratic determination and implementation of community policies on physical development.
4. To effect political and technical coordination in community development.
5. To inject long-range considerations into the determination of short-range actions.
6. To bring professional and technical knowledge to bear on the making of political decisions concerning the physical development of the community." (The Urban General Plan" written by T. J. Kent)

"Planning accomplishes what regulation alone cannot. It allows communities to anticipate rather than react, to coordinate rather than compete, and to rely on shared goals and values in land use decisions." Consistency in development planning relates both to physical issues and policy issues (reference: Planning, Zoning, and the Consistency Doctrine: The Florida Experience; Center for Urban Transportation Research, University of South Florida).

HB 1522 as outlined calls for appropriate plans for roads, zoning and Public, Health, Welfare and Safety, but removes the guidelines to do so. For example, Subsection 2 of section 11-31-03 calls for an appropriate plan of county highways and then removes what is needed to do so. In Section 11-33-03

the consideration of population density and intensity of future developments are items used in planning future roads, which is removed .

Section 40-47-03 calls for regulations to be made to promote the health, safety, and welfare of the citizens in the city and then removes the seven items that allow you to do that including #3 "Promote health and General Welfare."

The City of Williston is opposed to HB 1522 and feels that it would be a detriment to the residents and would not promote a healthy City or surrounding area.

E. Ward Koeser, President
Williston City Commission

Kent Jarclik, City Planner
City of Williston



Officers

Steven Zimmer – President
Brad Gengler – Vice President
Ben Ehreth – Secretary/Treasurer
Past President – Joel Quanbeck

Board Members

Stephen Miller, AICP
Larry Weil
Greg Hoover

#4

Website: www.NDPlanning.org

North Dakota Planning Association Testimony on HB 1522

- This bill's intent is to remove any reference to planning from a number of existing statutes. The North Dakota Planning Association believes this handicaps the ability to properly plan for the future by limiting state enabled police powers that allow jurisdictions to regulate land use and zoning to help create a healthy, safe community for its citizens.
- Comprehensive Planning and planning in general is a process, not just a document, created by the citizens of a community to guide the policies and decisions of a jurisdiction's elected officials. The NDPA believes this is a necessary tool for any body of government.
- A comprehensive plan creates a vision into the future and formulates lists of future projects, timelines for projects, and helps identify budget priorities.
- The policies and priorities set forth in a comprehensive plan, or any plan, are the framework for all of the decisions that are made. Without this guidance there is a very real concern that decision making would become extremely arbitrary.
- Concerns about arbitrary decision making prompted legislation to be passed last session making it mandatory for a governing body to state the findings of fact, or the reasoning behind why and how a decision was made. Consistency or inconsistency with the comprehensive plan is a legal, legitimate, reason upon which to make a decision. The comprehensive plan has been created and approved by the citizens of a jurisdiction and basing a decision on what is stated in the plan helps ensure that decisions are not arbitrary and are in the best interest of all citizens.
- Section 5 of the bill limits the purpose for zoning "to promote the health, safety, and welfare of the citizens of a city." There is no definition for any of these factors. What promotes the health, safety, and welfare of a citizen? Is it to assure that a heavy industrial business is not constructed next to a residential neighborhood? If so, that is the same reasoning for zoning. Zoning was originally created to stop the spread of disease in large cities and has since been used to regulate land uses to ensure uses are compatible with the uses of the surrounding lands. Future Land Use Plans are used to guide future development so that land uses are compatible and ensure the health, safety and welfare of citizens.
- This bill appears to allow townships a wider spectrum of powers, pertaining to the basis for future planning and zoning than it allows cities and counties. This is not equitable.

The North Dakota Planning Association asks that the Legislature **vote to defeat HB 1522.**

#5

February 12, 2009 testimony to

THE HOUSE POLITICAL SUBDIVISIONS COMMITTEE

HOUSE BILL 1522

By James Hinderaker, Senior Planner, City of Fargo

Good afternoon Representative Wrangham and members of the House Political Subdivisions Committee. I'm Jim Hinderaker, a Senior Planner from the City of Fargo. I oppose HB1522 that would amend or reenact sections of the North Dakota Century Code relating to comprehensive plans.

Comprehensive planning, as a land use tool, has been around for a long time – emerging from the “City Beautiful Movement” of the late 1890’s. The legal basis for comprehensive planning comes from the government’s ability to protect the health and welfare of its citizens, and as such, a comprehensive plan is the best tool leaders of a community can utilize to establish the policies that guide decisions regarding the physical development of a community. While the content of a comprehensive plan may vary from community to community, I believe it is important for the state to establish clear perimeters, like those that exist today, to help guide communities that wish to establish comprehensive plans.

I recognize that legislation must change over time to fit the needs of the citizens of North Dakota, but this bill is simply an attempt to erode at the very principles of comprehensive planning in North Dakota. The bill does nothing to improve the comprehensive planning process, but rather replaces or eliminates specific language that spells out why comprehensive planning is so important. Why would we want to

reverse the progress that has been made as a result of the existing language within the North Dakota Century Code? Why would we want to make these changes?

Is it not important, as outlined in Section 40-47-03 of the N.D.C.C., to:

1. Lessen congestion in the streets;
2. Provide for emergency management;
3. Promote health and the general welfare;
4. Provide adequate light and air;
5. Prevent the overcrowding of land;
6. Avoid undue concentration of population; and
7. Facilitate adequate provisions for transportation, water, sewage, schools, parks, and other public requirements.

Is it not important to establish a comprehensive plan that would set forth the goals, objectives, policies, and standards of a jurisdiction to guide public and private development within its control? I contend that all of these issues are important and should continue to be a part of the North Dakota Century Code. I respectfully urge the Political Subdivisions Committee to recommend **do not pass** on HB 1522.

Thank you for the opportunity to testify before your committee.



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#6

Sharon Schacher, Finance Director
Larry M. Weil, Planning Director
Wanda J. Wilcox, City Assessor
Dorinda Anderson, Business Development Director
Jim Brownlee, CPA, City Administrator

HB 1522 City of West Fargo Testimony

HB 1522 intends to eliminate reference to planning or comprehensive planning in several statutes, as well as certain purposes or guiding principals in the development of such a plan, particularly with reference to land use regulation or zoning. The City of West Fargo would like to go on record as opposed to the bill for the following reasons:

- The planning process and development of plans is one of the most public participation oriented processes in government. Within municipalities (townships, counties and cities) the citizens care about what has taken place around them and what may take place in the future. The citizen stakeholders should be involved as much as possible in the planning for a community so that when regulations are developed, they are well conceived.
- The community should have opportunity not only to be heard during the plan and ordinance adoption phase, but before plans and ordinances are even developed. Plans are wishes of the citizens which are formulated within a document.
- The current statutes provide guidance for municipalities to develop a framework (plan) for making decisions with regard to land use regulation. This framework for decision-making can help guard against arbitrary decisions which are held to be illegal by the courts.
- Arbitrary decision-making within municipalities is partially the reasoning for previous legislation and current statutes requiring a governing body to state the grounds for which a zoning amendment or variance is approved or disapproved and providing written findings in the record.
- By approving the proposed legislation, municipalities will have less statutory guidance in establishing the basis for land use regulation.

The City of West Fargo urges the Political Subdivisions Committee to forward to the Legislature a "do not pass" recommendation on HB 1522.

#7

HOUSE BILL 1522
FEBRUARY 12, 2009
HOUSE POLITICAL SUBDIVISIONS COMMITTEE

Testimony in opposition to the bill by
Carl Hokenstad
Director of Community Development
City of Bismarck, ND

House Bill 1522 would delete references to "Comprehensive Plan" in the Century Code for cities, counties and townships in North Dakota. In some cases, terms such as "appropriate plan", "regional plan", or simply "plan" are substituted in its place. The bill also eliminates most of the descriptions of what constitutes a comprehensive plan. In essence, this bill removes most of the already brief, limited references in State law that form the basis for how zoning is conducted in North Dakota political jurisdictions.

Comprehensive planning has been defined as "a land use development policy intended to guide future zoning decision making". It is a term commonly used around the country and most states have a requirement that zoning conform to a comprehensive plan. It is a well established term and has been used for many years. The written concept of zoning and comprehensive planning originated in the Standard Zoning Enabling Act of 1922, which has served as a model for the country ever since.

The existing law is very permissive in nature and does not include a long list of specific requirements as to what constitutes a comprehensive plan. For example, the law only specifies that a comprehensive plan be a written statement that includes goals, objectives, policies and standards of the jurisdiction to guide public and private development. This statement of goals and objectives can be tailored to meet the needs of a wide variety of political jurisdictions, ranging from a simple one-page list of goals to a 200-page complex plan.

Other descriptions of comprehensive plans in current State law include: protecting and guiding development, providing for emergency management, regulating the

construction of buildings, lessening governmental expenditures, conserving and developing natural resources, lessening congestion in the streets, preventing the overcrowding of land, etc. – concepts that are hardly out of the mainstream or radical in any way.

I believe that the current law works well and is appropriate for North Dakota. It simply requires that zoning in a community be tied somewhat to a comprehensive plan or a statement of goals, policies, objectives and standards. In other words, just a road map of where a community wants to go in the future. The provisions in current law are a common-sense way of providing a basis for rational zoning decisions.

Eliminating the term “comprehensive” from State law will not eliminate the need and desire of communities to think about and plan for their future.

Again, provisions for comprehensive planning in the Century Code have worked well for many years, are simple and adaptable for diverse cities, counties and townships in North Dakota, and are in the mainstream of national statutes and standards. I don't believe a convincing case has been made to change a law that is very well suited for the State of North Dakota.

On behalf of the City of Bismarck, I would ask that you give House Bill 1522 a **do not pass** recommendation.