MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

1502

2007 HOUSE APPROPRIATIONS

HB 1502

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1502

House Appropriations Committee
Human Resources Division

☐ Check here for Conference Committee

Hearing Date: January 26, 2007

Recorder Job Number: 2063

Committee Clerk Signature Donna Kramer

Minutes:

Rep. Chairman Pollert opened the hearing on **HB 1502,** a Bill for an Act to authorize construction of state correctional facilities at the penitentiary; to require a prison facility master site plan and reports to the legislative council; to authorize contracting with a private vendor, to provide for the sale of department of corrections and rehabilitation land; and to provide an appropriation. All division members present: **Representatives Larry Bellew, Vice Chairman, James Kerzman, Ralph Metcalf, Mary Ekstrom, Jon Nelson, Gary Kreidt, and Alon Wieland.**

Representative Randy Boehning introduced the bill. He wants a private corporation to come in and build the buildings for the state penitentiary; and sell or lease the buildings back to the state of North Dakota. "One way to save money." He stated that there should be amendment on line 11. It should be $48 million instead of $25.7 million. Another change on line 22 would be "shall" instead of "may." He stated he is trying to contact contractors or specialty businesses.

Questions and discussion regarding the facilities, building outside of the fence, management, cost of $48 million, and private vendors.

Representative Alan Carlson testified in support of the bill. "Working with a private company had some merit."

Chairman Pollert: Stated more information would be needed by the middle of next week.

Adjournment.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1502

House Appropriations Committee
Human Resources Division

☐ Check here for Conference Committee

Hearing Date: February 6, 2007

Recorder Job Number: 2894

Committee Clerk Signature	Donna Kramer

Minutes:

Rep. Chairman Pollert opened the hearing on **HB 1502,** a Bill for an Act to authorize construction of state correctional facilities at the penitentiary; to require a prison facility master site plan and reports to the legislative council; to authorize contracting with a private vendor, to provide for the sale of department of corrections and rehabilitation land; and to provide an appropriation. All division members present: **Representatives Larry Bellew, Vice Chairman, James Kerzman, Ralph Metcalf, Mary Ekstrom, Jon Nelson, Gary Kreidt, and Alon Wieland.**

Chairman Pollert: Reviewed the bill and opened for discussion.

Representative Kreidt stated it was indicated that other information would be coming forward, but at this time there has been none.

Discussion

Representative Kreidt: Made a motion for a **"Do Not Pass" on HB 1502.**

Representative Metcalf: Seconded the motion.

Roll call vote: 8 yes, 0 no. Moving to Full Appropriations.

Carrier: Representative Kreidt

Adjournment.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1502

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 2/6/07

Recorder Job Number: 2980

Committee Clerk Signature Tonya Voegele

Minutes:

Chairman Svedjan opened the meeting on House Bill 1502.

Rep. Kreidt: The bill you are looking at came forward in regards to the prisons. This is one of three objectives that we have. You are all familiar with the Governor's proposal. This came from Rep. Boehning, 1502. His would be a contract construction of a new facility for the prisons. He provided us with some very minor information when he was trying to collect additional information to bring to the committee and time constraints he really did not come up with the information that we were trying to extract from him.

A motion was made by Rep. Kreidt, seconded by Rep. Pollert to DO NOT PASS House Bill 1502. The committee vote was 22 Yeas, 0 Nays, 2 Absent and Not Voting. The bill will be carried by Rep. Kreidt.

70765.0101
Title.

Prepared by the Legislative Council staff for
Representative Boehning
January 17, 2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1502

Page 1, line 11, replace "$25,727,128" with "$48,000,000"

Page 1, line 22, replace "may" with "shall"

Renumber accordingly

Date: **02/06/07**
Roll Call Vote #: **1**

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1502

House **HUMAN RESOURCES DIVISION** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken **Do Not Pass**

Motion Made By **Rep. Kreidt** Seconded By **Rep. Metcalf**

Representatives	Yes	No	Representatives	Yes	No
Chairman Pollet	x		**Rep. Nelson**	x	
Vice Chairman Bellew	x		**Rep. Kerzman**	x	
Rep. Wieland	x		**Rep. Metcalf**	x	
Rep. Kreidt	x		**Rep. Ekstrom**	x	

Total (Yes) **8** No **0**

Absent

Floor Assignment **Rep. Kreidt**

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

Date: 2/6/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1502

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number —

Action Taken Do Not Pass

Motion Made By Kreidt Seconded By Pollert

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleson	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	—		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	—		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 22 No 0

Absent 2

Floor Assignment Kreidt

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

REPORT OF STANDING COMMITTEE

HB 1502: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO NOT PASS** (22 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1502 was placed on the Eleventh order on the calendar.

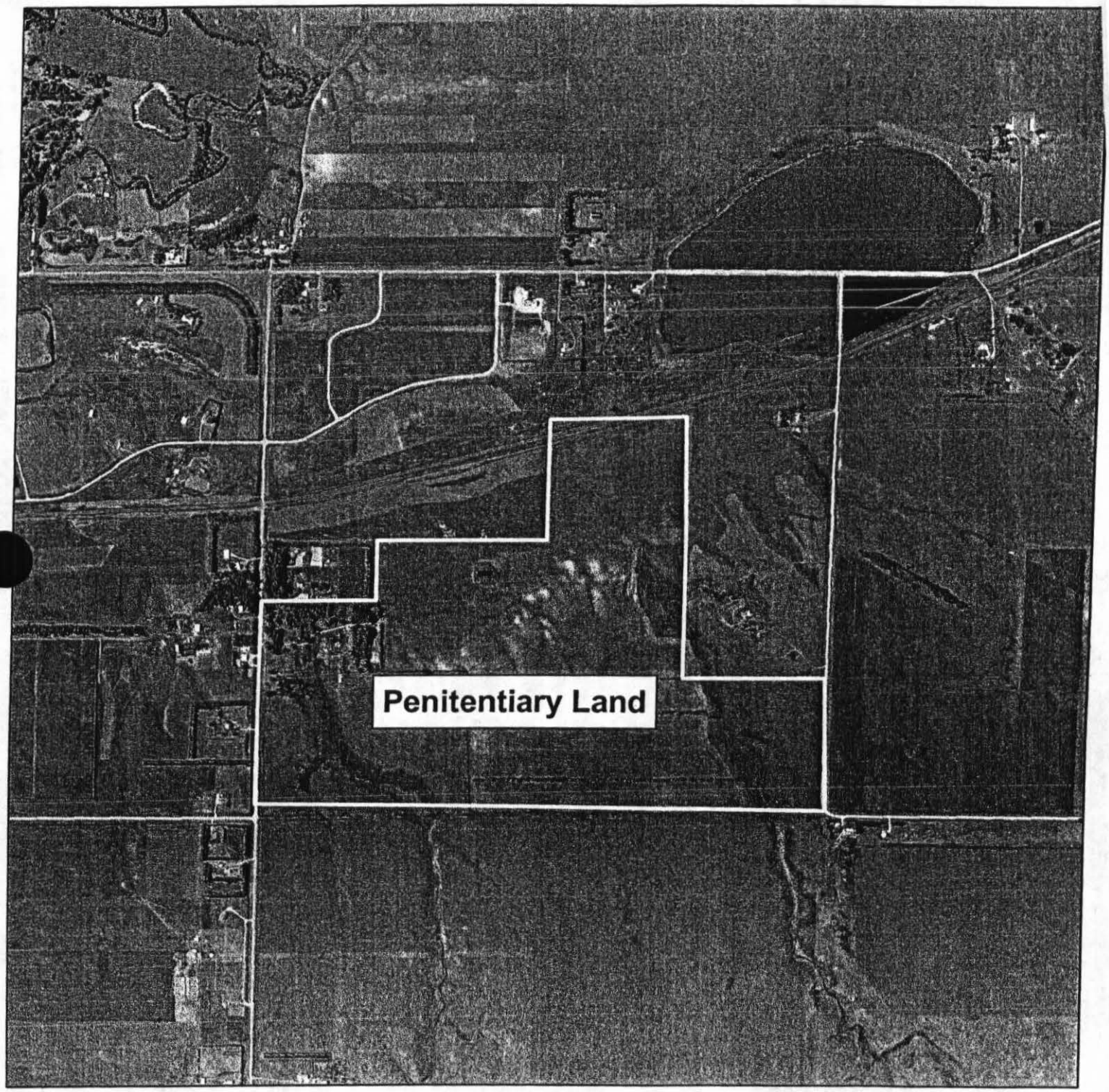
2007 TESTIMONY

HB 1502

10-T138-R79

Burleigh County

Township: Apple Creek



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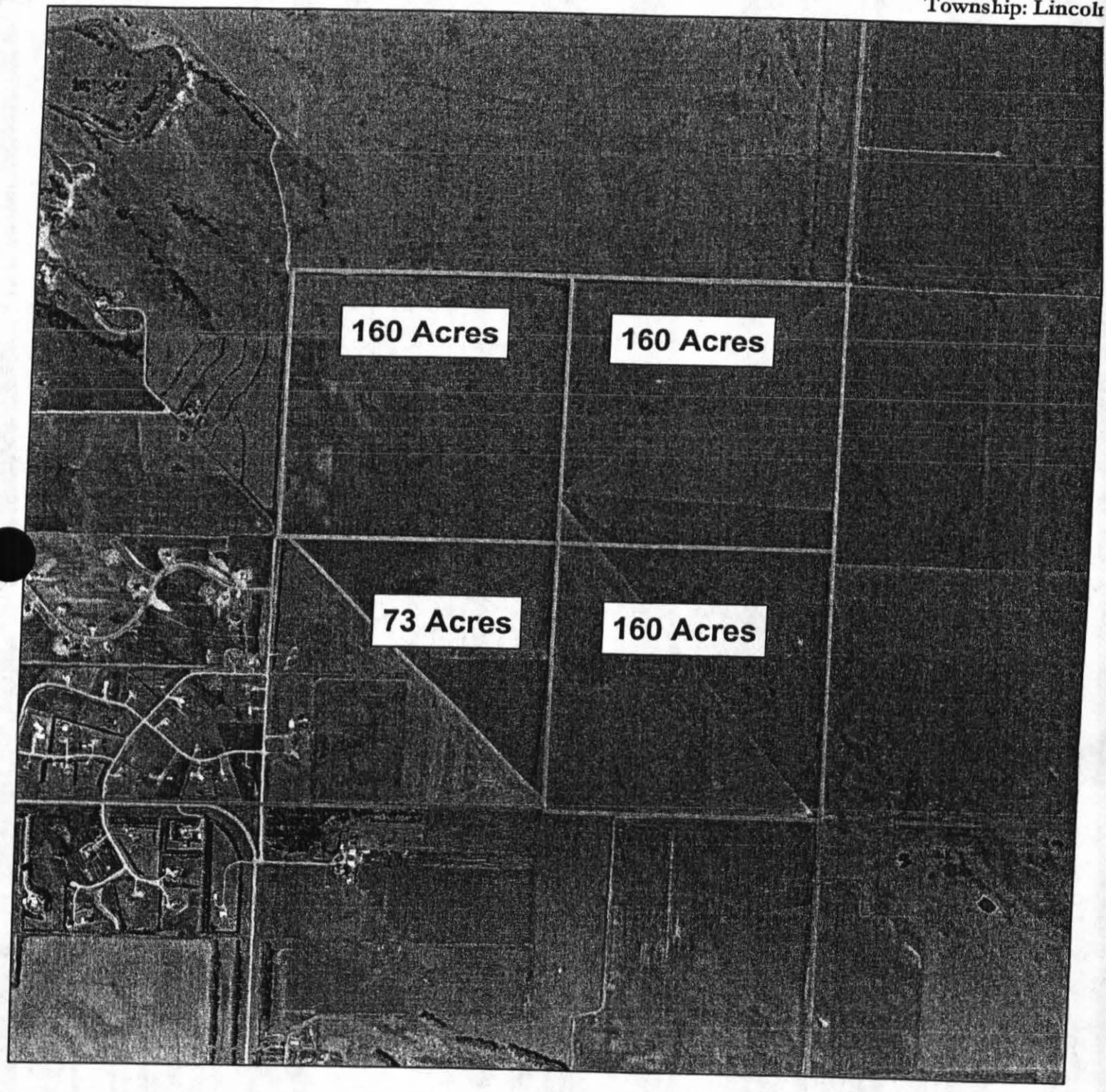
Map Datum is WGS 84 (same as NAD 83)

0 0.5 1 Miles

36-T138-R80

Burleigh County

Township: Lincoln



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Map Datum is WGS 84 (same as NAD 83)

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8-T137-R79

Burleigh County

Township: Missour

Map Datum is WGS 84 (same as NAD 83)

0 0.5 1 Miles

36-T138-R79

Burleigh County

Township: Apple Creek

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S

Map Datum is WGS 84 (same as NAD 83)

0 0.5 1 Miles

36-T140-R79

Burleigh Count

Township: Naughto

Map Datum is WGS 84 (same as NAD 83)

0 0.5 1 Miles

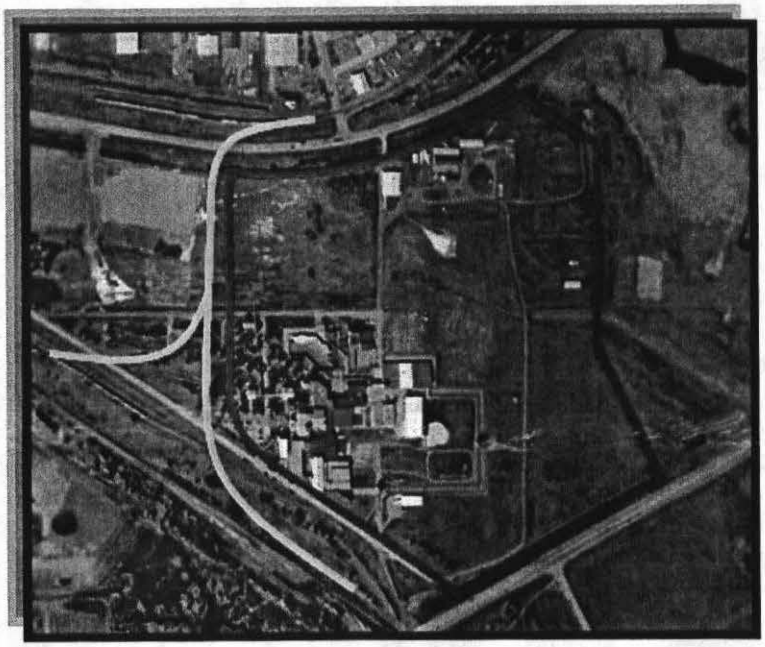
N
W E
S

MR. RICHARD FROHLICH
Director Plant Services - N.D. State Penitentiary

Summary Appraisal Report

Land Valuation Analysis
80± acres N.D. State Penitentiary Land
Part of Section 2, Township 138N, Range 80W
City of Bismarck, Burleigh County, ND 58502
Owner: State of North Dakota

Appraisal's Inspection/Effective Date:
December 12, 2006



Prepared by:
JOSEPH J. IBACH, MAI
NDCG#1009

DAKOTA APPRAISAL & CONSULTING, LTD.
304 East Rosser Avenue
P. O. Box 1235
Bismarck, North Dakota 58502
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PRESIDENT
Joseph J. Ibach, MAI

ADMINISTRATION
Kathy J. Shafer
Linda M. Jabs

APPRAISERS
Wade A. Becker
Belinda M. Maher
F. Nick Boutrous

December 28, 2006

Mr. Richard Frohlich
Director Plant Services - ND State Penitentiary
3100 Railroad Avenue
Bismarck, ND 58502

Re: Summary Appraisal Report
Land Valuation Analysis only of
80± acres N.D. State Penitentiary Land
Part of Section 2, Township 138N, Range 80W
City of Bismarck, Burleigh County, ND
Owner: State of North Dakota

Dear Mr. Frohlich:

This *Summary Appraisal Report* was prepared in accordance with your request to develop *"A complete appraisal of approximately 80 acres, more or less of state property, including the site of the North Dakota State Penitentiary, to determine As-Is Market Value."* It was also verbally instructed that the building improvements (North Dakota State Penitentiary) be disregarded. The appraisal objective is then to develop an opinion of only underlying land's market value. Disregarding the existing improvements is then based on a ***"hypothetical condition"*** or by the *Uniform Standards of Professional Appraisal Practice* (USPAP) definition: *"that which is contrary to what exists but is supposed for the purpose of analysis."* This hypothetical condition is clearly required for purposes of reasonable analysis in the appraisal's objective(s) and intended use. The use of this hypothetical condition would not affect the assignment results, and therefore, still results in a credible analysis. The appraisal's intended use is to assist you and the State Legislature in determining the State's equity position as it relates to the feasibility of developing a new state penitentiary. The appraisal is not intended for any other use or user.

The subject property's description, the data and detailed analyses of all factors pertinent to the appraisal objective, and all definitions, assumptions, and limiting conditions are summarized in the following report. In particular, your attention is directed to the following important limiting conditions:

1. This letter of transmittal does **not** represent the fully documented appraisal of the subject real estate. Sole reliance by the reader on the contents of this letter without considering the entire contents of the appraisal report (starts with this letter of transmittal and concludes with page 47) could lead the reader to erroneous conclusions. Therefore, this letter must not be used in place of nor represented as the complete appraisal report.

2. The appraisal was prepared to conform to the Appraisal Institute's Code of Professional Ethics and Standards of Professional Appraisal Practice and the most recent edition of the *Uniform Standards of Professional Appraisal Practice* (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation Compliance to the reporting requirements set forth under Standards Rule 2-2(b) of USPAP was intended in completing this *summary* appraisal report. As such, supporting documentation concerning the data, reasoning, and analyses that were used in the appraisal process to develop the opinion of market value is an integral part of the appraisal and is incorporated into the analysis through reference. The appraisal report's depth of discussion is specific to your needs and to your intended use of the appraisal.

3. The appraisal was developed assuming that no environment hazards exist and that the subject parcel is "environmentally clean" with respect to all federal, state, and local laws. The appraisal is subject to revision by and at the discretion of the undersigned in the event that pertinent environment information is disclosed indicating that such a revision is warranted. All other assumptions are detailed in the appraisal report.

4. The appraisal assignment is made based on an impartial or unbiased perspective; it is not made for the purpose of favoring a specific cause of any particular party. The undersigned have no present or contemplated future interest in the real estate that is the subject of this analysis and all opinions were developed through the course of accepted analytical procedures. Therefore, neither the employment to make the analysis nor the compensation is contingent on the analysis's outcome.

5. The subject parcel's concluded market value is based on a reasonable exposure time (time needed to market the subject parcel *preceding* the appraisal's effective date) of about one year. The concluded market value is a nominal or gross value; no adjustment has been made for carrying costs or the time value of money which may be incurred over time if the real estate is marketed.

6. The assistance of Mr. Wade A. Becker, an employee of Dakota Appraisal & Consulting, LTD, and a Certified General Real Estate Appraiser in the State of North Dakota, must be acknowledged in completing this appraisal. Mr. Becker was present during the appraisal inspection, assisted in gathering the information about the subject property and area market, assembled and verified portions of the sale data information, and provided input into the valuation process. However, the undersigned inspected the subject property, is the appraisal's author, and assumes full responsibility of the enclosed appraisal report.

Careful consideration has been given to the valuation methods employed and to an accurate analysis of the subject parcel and its related market. Based on the results of the appraisal investigation and analysis, it is my opinion that the subject parcel's market value, subject to the hypothetical condition that the improvements be disregarded, effective December 12, 2006, is:

"FIVE MILLION DOLLARS
($5,000,000 or $1.43±/s.f.)

It has been a privilege to be of service. If you have any questions or comments after reading the appraisal report, please inquire.

Respectfully submitted,

Joseph J. Ibach, MAI
NDCG #1009

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SALIENT FACTS AND IMPORTANT CONCLUSIONS

I.	Property Description		
	A.	Property Type:	80± acre N.D. State Penitentiary land - improvements to be disregarded.
	B.	Address:	None assigned to the entire parcel. Generally, the parcel is located east of 26th Street, south of Main Avenue, and north and west of Bismarck Expressway.
	C.	Metropolitan Area (MA):	13900 (Bismarck, ND)
	D.	Census Tract #:	State 38, County 015, Tract 0109.00
	E.	Legal Description:	Part of Section 2, Township 138 North, Range 80 West, Burleigh County, ND.
	F.	City Parcel Number:	None assigned to entire tract.
	G.	Parcel Data:	
		1. Size as provided by client:	80± acres
		2. Zoning:	"P" - Public Use District
		3. Flood Plain:	Zone X - not located in a flood plain.
	H.	Real Estate Taxes:	Exempt
	I.	Owner:	State of North Dakota
II.	Parcel's Highest & Best Use Conclusion:		Future mix of retail, commercial and light industrial development.
III.	Fee Simple Market Value Conclusion of the Underlying Land Parcel:		$5,000,000 or $1.43±/s.f.
IV.	Estimated Exposure Time:		Approximately One year

APPRAISAL'S CERTIFICATION AND STATEMENT OF ASSUMPTIONS AND LIMITATIONS

A. Certification

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. My engagement in this assignment is not contingent upon developing or reporting predetermined results.
6. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. The reported analyses, opinions, and conclusions were developed and this report has been prepared in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Practice of the Appraisal Institute, which include the *Uniform Standards of Professional Appraisal Practice.*
8. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
9. I have made a personal inspection of the property that is the subject of this report.
10. The assistance of Mr. Wade A. Becker, an employee of Dakota Appraisal & Consulting, LTD and a Certified General Real Estate Appraiser in the State of North Dakota, must be acknowledged in completing this appraisal. Mr. Becker assisted in gathering the information about the subject property and area market, assembled and verified portions of the sale data information, and provided input into the valuation process. However, the undersigned inspected the subject property, is the appraisal's author, and assumes full responsibility of the enclosed appraisal report.
11. As of the date of this report, I, Joseph J. Ibach, have completed the continuing education program of the Appraisal Institute.
12. The subject parcel's fee simple market value, subject to the hypothetical condition that the improvements be disregarded, effective December 12, 2006, is:

"FIVE MILLION DOLLARS"
($5,000,000 or $1.43±/s.f.)

Date: December 28, 2006

Signed _____
Joseph J. Ibach, MAI, NDCG#1009

B. Assumptions and Limitations of the Appraisal

This appraisal report is subject to the following limiting conditions:

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be intact and marketable and free and clear of any or all liens or encumbrances unless otherwise noted. Special assessments have been addressed in the appraisal report.

2. Responsible ownership and competent property management are assumed.

3. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.

4. All engineering is assumed to be correct. The report's plat maps, plans, and all other illustrative material are included only to assist the reader in visualizing the property. The appraiser has made no survey of the property.

5. Except as addressed in the appraisal, it is assumed that no hidden or unapparent conditions exist in the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required.

6. It is assumed that full compliance with all applicable federal, state, and local environmental regulations and laws exists unless noncompliance is stated, defined, and considered in the appraisal report.

7. It is assumed that all applicable zoning and use regulations and restrictions have been complied with unless a nonconformity has been stated, defined, and considered in the appraisal report.

8. It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

9. It is assumed that the utilization of the site and improvements is within the described property's boundaries and that no encroachment or trespass exists unless noted in the report.

10. While the Appraiser has inspected the subject property and has considered the information developed in the course of such inspection together with the information provided by the ownership and client, the Appraiser is not qualified to verify or detect the presence of hazardous substances or environmental liabilities by visual inspection or otherwise, nor qualified to determine the effect, if any, of known or unknown substances or liabilities present. Unless otherwise stated in the report, the final conclusion of value is based on the assumption that the subject property is free of hazardous substances, hazardous waste contamination, and all other environmental liabilities, and it is specifically assumed that present and subsequent ownerships will exercise due diligence to ensure that the property does not become otherwise contaminated.

11. The concluded market value is based on cash, its equivalent, or on financing terms available for the property type in its locale as of the effective appraisal date. No consideration has been given to the assumption of favorable existing financing (if any) or favorable seller-financing.

12. The distribution, if any, of the total valuation between site and improvements applies only under the stated program of utilization. The separate allocations for site and improvements and any other value components must not be used in conjunction with any other appraisal and are invalid if so used.

13. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event only with proper written qualification and only in its entirety.

14. The appraiser herein by reason of this appraisal is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.

15. The forecasts, projections, or operating estimates contained herein are based on current market conditions, anticipated short-term supply and demand factors, and a continued stable economy. These forecasts are, therefore, subject to changes with future conditions.

16. Unless specifically cited in the appraisal report, no value has been allocated to mineral rights or deposits.

17. Unless otherwise addressed within the appraisal report, no consideration has been afforded to any potential Natural, Cultural, Recreational, or Scientific value that may or may not be inherent to the subject property.

II. APPRAISAL PROCESS

INTRODUCTION/SCOPE OF WORK (rev.7-1-06)

This client or the State of North Dakota acting through its Department of Corrections and Rehabilitation, as represented by Mr. Richard Frohlich, requested that an appraisal of only the 80± acre North Dakota State Penitentiary parcel be prepared; the improvements are to be disregarded. An ***appraisal*** is defined as:

> *The act or process of developing an opinion of value.*
> (Appraisal Institute, *The Dictionary of Real Estate Appraisal, Fourth Edition*: 15)

An appraisal involves the selective research into appropriate market areas, the assemblage of pertinent data, the use of appropriate analytical valuation techniques, and the application of knowledge, experience, and professional judgment to develop and appropriate solution to an appraisal problem. The appraisal provides the client with the appraiser's opinion of real property value that reflects all pertinent market evidence. It is essential that the appraisal communicate accurate analyses and opinions in such a manner that it will be meaningful to the client and not be misleading in the marketplace. (The previous paragraph was paraphrased from *The Appraisal of Real Estate*, 12th Edition as published by the Appraisal Institute.)

A concerted effort has been made to complete this appraisal so as to conform to the 2006 edition of the *Uniform Standards of Professional Appraisal Practice* (USPAP). USPSP was developed in 1986/87 for the purpose of promoting and preserving public trust in the appraisal profession. Appraisal standards for the profession were created which specify the procedures to be followed in performing an appraisal; they are referenced throughout the following appraisal report. The appraisal procedures detail the process of assembling, classifying, analyzing, and interpreting the data used in developing an opinion of the subject property's value reflecting only the opinion(s) of the appraiser(s) involved in the analysis.

In 2006, the "Scope of Work Rule" was added "to emphasize the requirements for problem identification, determining the appropriate scope of work, and disclosure of the scope of work that was performed in an appraisal, appraisal review, and appraisal consulting assignments." On page 12 of the 2006 edition USPAP, the "Scope of Work Rule" is detailed as:

> *For each appraisal, appraisal review, and appraisal consulting assignment, an appraiser must:*
>
> 1. *identify the problem to be solved;*
> 2. *determine and perform the scope of work necessary to develop credible assignment results; and*
> 3. *disclose the scope of work in the report.*
>
> *An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work. The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results.*
>
> *Scope of work includes, but is not limited to, the following:*
> - *the extent to which the property is identified;*
> - *the extent to which tangible property is inspected;*
> - *the type and extent of the data researched; and*
> - *the type and extend of analysis applied to arrive at opinions or conclusions.*

The *Uniform Standards of Professional Appraisal Practice* (USPAP) details the process of "developing" a real property appraisal (Standard Rule 1) and "reporting" the appraisal (Standard Rule 2). Standard 1 states that *"In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve a problem, and correctly complete research and analyses necessary to produce a credible appraisal."* Standard 2 of USPAP states that each written real property appraisal must be *reported* using one of the following three options or (1) Self-Contained Report, (2) Summary Report, and (3) Restricted Use Report.

Each appraisal option is dependent upon the level of detail required in the report. A comprehensive level of detail is presented in the Self-Contained Report; a less detailed, yet concise level of information is presented in the Summary Report; and a minimal level of detail is presented in the Restricted Use Report. USPAP contains specific guidelines that determine what constitutes a Self-Contained, Summary, and Restricted Use Report and when use of a particular option is appropriate. In this particular assignment, the client agreed that the appraisal be reported in a Summary format. Therefore, a *Summary Appraisal Report* will be developed and presented. As such, it presents sufficient information to enable the client and other intended users, as identified, to understand it properly.

This *Summary Appraisal Report* requires that the undersigned:

1. Define the appraisal problem: that is the identification of the real estate and properly and accurately identifying the appraisal's client and any other intended users, the intended use of the appraiser's opinions and conclusions, type and definition of value(s), appraisal's effective date(s), the subject of the assignment and its relevant characteristics, and assignment conditions.

2. Inspect the subject property to note the property's relevant valuation characteristics. The subject property's inspection was conducted only within the context of the appraisal process to uncover valuation issues. This "appraisal inspection" involved a visual inspection of only the subject land. The improvements are <u>not</u> of this assignment. Particular attention should be noted in that:

   a. No special expertise is implied as it relates to but not limited to sanitary sewer or water systems, drainage, soil conditions, or any other property component.
   b. No special expertise is implied relating to the existence of hazardous materials or detrimental environmental conditions to include but not limited to radon gas, lead based paint, mold, sexual predators, etc.

   Based on the preceding, the appraisal inspection, as it relates to the land addresses only the observed conditions that would likely impact its overall appeal and marketability. Any and all references to the inspection infers only to an "appraisal inspection". Qualified experts should be employed to inspect and address any area of concern. If negative conditions are discovered, the appraiser should be notified as the value conclusion may require modification.

3. Investigate the real estate market for both general and detailed information using several of the following sources:

   a. Office files.
   b. Federal, state, and local agencies relating to general data and trade associations and private business enterprises relating to the specific property type.
   c. Market participants including brokers/real estate agents, buyers, sellers, lenders, property managers, landlords, and/or tenants.
   d. County Recorder's/Register of Deeds' records.
   e. County and/or City Assessor records.
   f. Multiple Listing Service records.
   g. City and/or County Planning and/or Engineering Offices.
   h. Building Inspector's Office.
   i. Information provided by the property owner, manager, and/or any other individual(s) involved in the property.

   Search parameters such as dates of sales, leases, locations, sizes, types of properties, and distances from the subject will start with relatively narrow constraints and, if necessary, be expanded until sufficient data has been retrieved (in the appraiser's opinion) to develop an opinion of the appropriate value or until the available pool of data has been reasonably exhausted. Researched sales data will be viewed when physically possible but, at a minimum, a photograph provided by a reputable source, and if found to be appropriate, efforts will be made to verify the data with persons directly involved in the transactions such as buyers, seller, brokers, or agents. At the appraiser's discretion, some data will be used without personal verification if, in the appraiser's opinion, the data appear to be correct. In addition, any appropriate listings or properties found through observations during the data collection process will be considered. Only the data deemed to be pertinent to the valuation process will be reported and, when conflicting information was provided, the source determined to be the most reliable was used. Data believed to be unreliable was not included nor used as a basis for the value conclusion. All supporting documentation will be included in the appraisal report and/or in-file depending on the type of reporting format.

4. Investigate and analyze any pertinent easements or restrictions on the fee simple ownership of the subject property. If a title report is not available, a visual inspection and identification of readily apparent easements or restrictions will be relied upon.

5. Analyze the assembled data and reach conclusions regarding the subject property's market value, as defined in the report as of the date of value using the appropriate identified valuation technique(s) or the Cost, Sales Comparison, and/or Income Capitalization approaches.

The entire appraisal process with further expansion of the scope of work when applicable is detailed in the following report, starting with a proper identification of the subject property and concluding with a concluded opinion of its market value(s). For ease of use, an outline format has been used in the following appraisal.

B. SUBJECT PROPERTY IDENTIFICATION:

1. Property Type:

The real estate that is the subject of this appraisal consists of an 80± acre parcel that is improved with the North Dakota State Penitentiary. At the client's request, the appraisal assignment will disregard the building improvements. Only the underlying land parcel's valuation will be addressed.

2. Address/Location:

No specific street address identifies the entire subject property. Generally, the parcel is located east of 26th Street, south of Main Avenue, and north and west of Bismarck Expressway. The street address of "3100 Railroad Avenue, Bismarck, North Dakota" identifies a portion of the subject property that is improved with the North Dakota State Penitentiary. This location places the property on the city's southeast peripheral edge.

3. Metropolitan Area (MA): 13900 (Bismarck, ND)

4. Census Tract #: State 38, County 015, Tract 0109.00

5. City Parcel Numbers: None assigned to entire tract.

6. Legal Description:

A survey or precise legal description identifying the subject parcel was not provided. Therefore, the following legal description was developed by the undersigned based upon client provided information.

> *"Part of Section 2, Township 138N, Range 80W, City of Bismarck, Burleigh County, North Dakota."*

This legal description is sufficiently accurate for purposes of this analysis but should not assumed to be correct but should not be relied upon for legal matters such as title transfers, mortgage, etc. The exhibit on page 12 aids in visualizing the location of the identified parcel.

7. Ownership History:

Detailing the subject property's ownership history is a mandatory element of a fully documented appraisal that conforms to the *Uniform Standards of Professional Appraisal Practice* (USPAP). Standards Rule 1-5 of USPAP requires that the appraisal "*must, if such information is available to the appraiser in the normal course of business*:

(a) analyze all agreements of sale, options, or listings of the subject property current as of the effective date of the appraisal; and

(b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal."

The intent of this requirement is to encourage the research and analysis of prior sales of the subject; the time frames cited are minimums. A complete title search of the subject property has not been made nor is an opinion of the title intended to be rendered in the following discussion. The Burleigh County Recorder's office and the client or Mr. Richard Frohlich were consulted to reasonably formulate the subject property's ownership history. This ownership history applies only for the purposes of this appraisal.

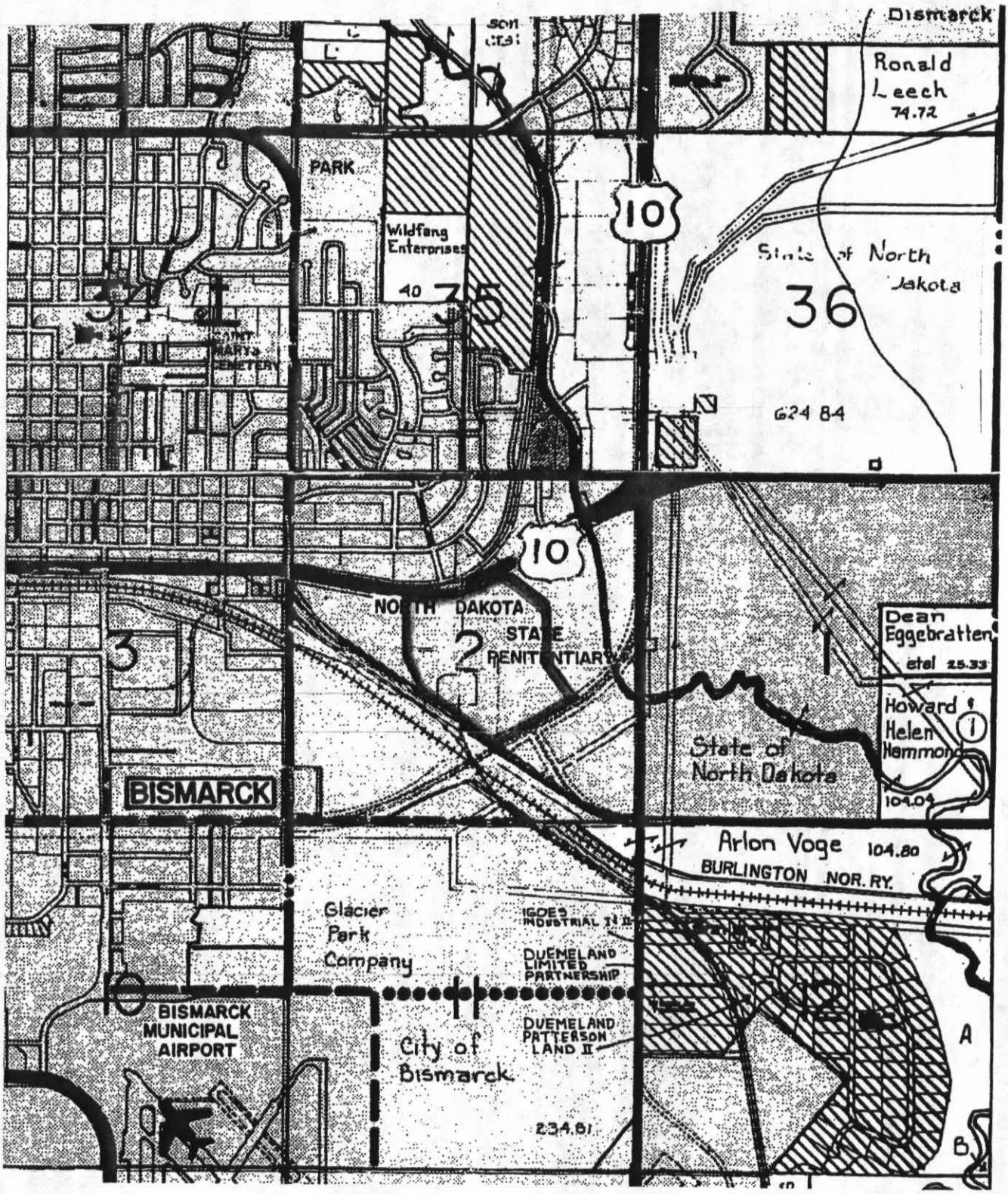
This property has been owned by the State of North Dakota at least since the development of the North Dakota State Penitentiary in the 1910's. To date, no attempt has been made to market the subject property.

NORTH

PARCEL MAP

(Source: Midland Atlas of Burleigh County)
(Detailed boundaries are not exact - this is not a survey.)

● Outlines Subject Parcel - 80± acres



C. PROBLEM IDENTIFICATION:

1. Appraisal's Intended Use and User:

The appraisal contract was secured by Mr. Richard Frohlich, Director Plant Services, N. D. State Penitentiary representing the client or the State of North Dakota acting through its Department of Corrections and Rehabilitations. The appraisal's intended use is to assist Mr. Frohlich and the State Legislature in determining the State's equity position as it relates to the feasibility of developing a new state penitentiary. No other use or users are implied.

2. Appraisal Objective(s):

The appraisal objective was identified through the "Personal Service Contract" and verbal discussions with the client as developing an opinion of only the subject land's ***market value***, defined as:

> *"The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:*
>
> - *Buyer and seller are typically motivated;*
> - *Both parties are well informed or well advised, and acting in what they consider their best interests;*
> - *A reasonable time is allowed for exposure in the open market;*
> - *Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and*
> - *The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."*
>
> (Appraisal Institute, *The Dictionary of Real Estate Appraisal, Fourth Edition:* 177-178 as provided by 12 C.F.R. Part 34.42(g); *55 Federal Register* 34696, August 24, 1990, as amended at *57 Federal Register* 12202, April 9, 1992; *59 Federal Register* 29499, June 7, 1994)

3. Property Rights Appraised:

"Fee simple" title or ownership or free of encumbrances or restrictions that could affect ownership or title in the property.

4. Effective Date(s) of Value Opinion(s): December 12, 2006

5. Report Completion Date: December 28, 2006

6. Extraordinary Assumptions: None

7. Hypothetical Conditions:

At the client's request, this appraisal will disregard the building improvements (N.D. State Penitentiary) and develop an opinion of only the underlying land parcel's market value. Disregarding the improvements is termed a ***"hypothetical condition"***, or by USPAP definition: *"that which is contrary to what exists but is supposed for the purpose of analysis."* This hypothetical condition is clearly required for purposes of reasonable analysis in the appraisal's objective(s) and intended use. The use of this hypothetical condition would not affect the assignment results, and therefore, still results in a credible analysis.

8. Summation of Appraisal Problem:

Develop an opinion of the identified subject land's or parcel's fee simple market value, effective December 12, 2006, or the date of the appraisal inspection based on the hypothetical condition that the parcel is vacant of all building improvements. The results will be used to assist the client and the State Legislature in determining the State's equity position as it relates to the feasibility of developing a new state penitentiary.

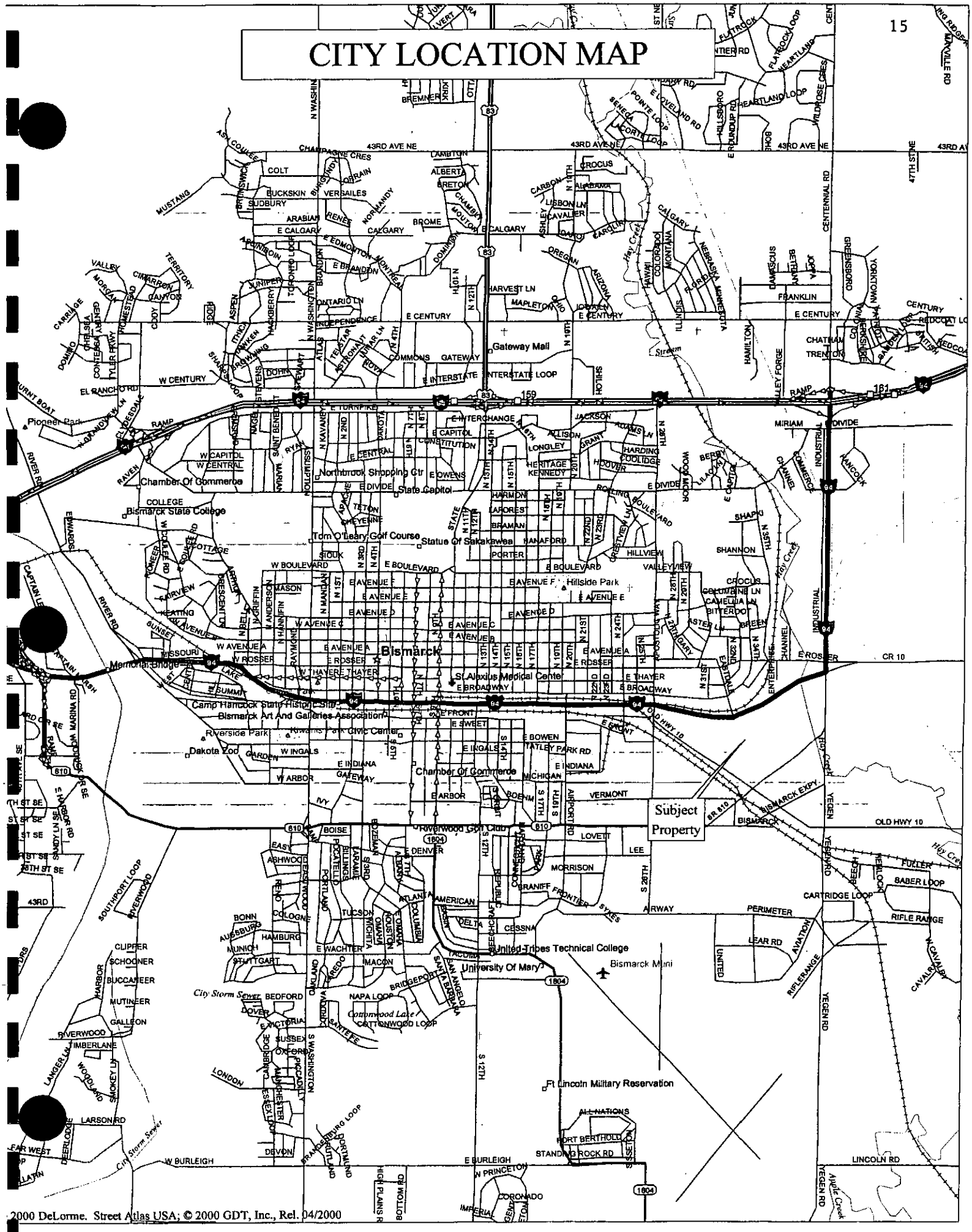
9. Special Instructions and Other Conditions:

The appraisal was prepared to conform to the Appraisal Institute's Code of Professional Ethics and Standards of Professional Appraisal Practice and the most recent edition of the *Uniform Standards of Professional Appraisal Practice* (USPAP), adopted by the Appraisal Standards Board of the Appraisal Foundation.

10. Competency Statement:

The competency provision of the *Uniform Standards of Professional Appraisal Practice* (USPAP) recognizes that the background and experience of appraisers can vary widely, and that a lack of knowledge or experience can lead to inaccurate or inappropriate appraisal practice. The undersigned has achieved ample experience in the appraisal of properties similar to the subject property, is board-certified through the North Dakota Real Estate Appraiser Qualification and Ethics Board or the applicable appraiser regulatory agency if other than North Dakota, and has successfully completed numerous educational courses offered by the Appraisal Institute and other providers (see enclosed Qualifications). Additionally, every effort has been made to secure the information, knowledge, and applicable data needed to complete this assignment. It is the opinion of the undersigned that all necessary steps have been taken to ensure proper development of the appraisal.

CITY LOCATION MAP



2000 DeLorme. Street Atlas USA; © 2000 GDT, Inc., Rel. 04/2000

D. MARKET AREA ANALYSIS:

1. Subject Market Area Delineation:

Bismarck, North Dakota's metropolitan area (MA) had a 2000 population of 94,719 which includes Mandan, North Dakota. It is North Dakota's second largest MA with its population increasing 13% over the last decade or about 1.3% per year. Bismarck is the predominant community having a 2000 population of 55,532 as compared to its "sister" city or Mandan with a 2000 population of 16,718. The communities are separated only by the Missouri River.

2. Location and Transportation:

The area's central state location and availability of transportation facilities are perceived as being beneficial to the local economy. The primary mode of area transportation is still via the highway system with Interstate 94 and U.S. Highway 83 intersecting in north Bismarck. The area is also served by a regional airport and freight rail service.

3. Economic Base:

Bismarck's primary source of wage and salary employment closely follows the state's leading industries led by general services at about 40% of employment, government at more than 20%, and retail and wholesale trade at about 17.5%. Non-ag employment totaled 55,200 in 2005 as compared to 51,000 in 2001 or an increase of 1.65% annually. The community's annual unemployment rate has varied between 2.5% to 4.0% from 1995 through 2005 or rates historically less than the state and the nation.

Much of the community growth can be tied to significant expansion in six major business sectors or:

a. Medical - The largest segment of the general services employment consists of medical personnel. Bismarck offers two major hospitals or St. Alexius Medical Center employing about 2,129 and Medcenter One Health Systems employing about 1,954; these two hospitals are the community's major non-government employers.

b. Government - Since Bismarck is the State Capitol of North Dakota and the county seat of Burleigh County, it is a foregone conclusion that, with a proliferation of government agencies and continued government involvement, government will continue to be one of the largest employers in the city.

c. Retail/Wholesale Trade: The Bismarck-Mandan retail trade area serves approximately 200,000 people in a 100 mile radius. This large trade area and the resulting retail growth was the primary reason for the largest retail expansion in Bismarck's history in 2005-2006. Specifically, two 220,000 square foot Wal-Mart Supercenters, a 146,000 square foot Sam's Club, and several multi-tenant retail centers opened.

d. Private Industries: Bismarck is fortunate in that it is the home or headquarters for several significant North Dakota companies. Also, in August of 2005, ground was broken for the Northern Plains Commerce Centre (NPCC) or an industrial, distribution, and technology park with about 220 acres. The NPCC will have the ability to accommodate manufacturers, distributors, and agricultural producers to compete in the global economy by improving opportunities for strategic sourcing, exporting, and access to markets through a transload facility.

e. Energy Resources: The large reserves of lignite coal, natural gas, and oil in western North Dakota makes Bismarck the headquarters to several energy related companies to include Montana Dakota Utilities, Capital Electric, North American Coal, and The Coteau Properties.

f. Higher Education: Bismarck is the home to Bismarck State College, University of Mary, United Tribes Technical College, and Medcenter One College of Nursing. These four institutions' enrollment exceeds 7,000 students. As a result, the combination of students and staff create a significant impact on the local economy.

4. Real Estate Trends:

Diversification in the employment base has also resulted in reasonable growth in most segments of the real estate market. The single family residential market, both in terms of new construction and sales of existing residences, has had sustainable growth. Multi-family development is moderate but reflects a favorable vacancy rate approximating 5%. New commercial development has been occurring in almost every market segment to include office, retail, medical facilities, and warehousing. The only segments somewhat absent from new construction market are those of lodging and manufacturing. Historically, Bismarck has had a comparatively small manufacturing base. Again, the expansion of the retail sector has been significant in recent years. The current supply of competitive commercial property of any type available for sale is limited. Few commercial or industrial properties are currently listed for sale and a limited amount of land exists. A somewhat limited supply of commercial properties has been the primary reason for the significant new construction. The predominant reason for the purchase of most area commercial properties still continues to be for owner occupancy or owner/user reasons.

5. Mandan Overview:

Mandan's economic base benefits from having several large employers to include one of the state's largest industrial operations or Tesoro Oil Refinery, Burlington Northern Santa Fe Railroad, Cloverdale Foods, and National Information Solutions Cooperative (NISC). In contrast to the late 1980's, Mandan has seen economic improvement in recent years. Some of the more significant economic development trends include:

- Over 765 acres of land has been annexed since 2001 for both commercial and residential development.
- 721 new residential units have been added to Mandan's market between 2000 to 2005.
- Single family residential permits have averaged more than 75 permits per year since 2002.
- The total value of all building permits has more than doubled from $16 million in 2002 to $35 million in 2005 and nearly $35 million through October of 2006.
- Sales tax collections reached a record of $1.2 million in 2005. Collections for the first nine months of 2006 are tracking at a 17% increase over the same period in 2005.

Mandan's speculative commercial real estate market still has somewhat limited demand, especially in its ability to generate rent supporting new development costs, especially if not strategically located. Thus, a degree of external obsolescence in the form of a rental market not sufficient to support replacement cost may exist in select market segments.

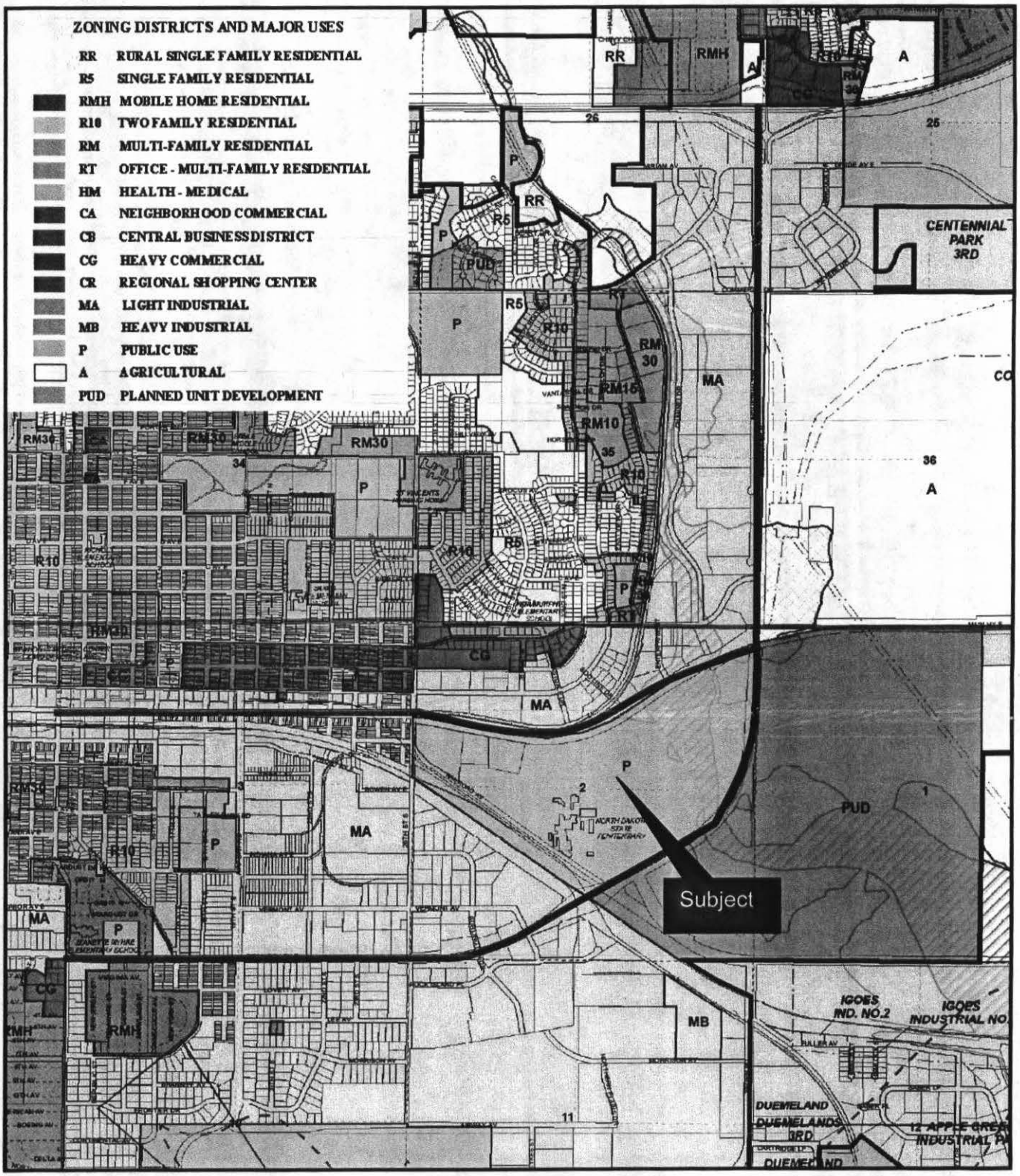
6. Conclusions-Relevance to Subject Property:

The local metropolitan area possesses those value-impacting characteristics that should continue to create demand for most segments of the area real estate market. The diversity in the economic base provides for a favorable community business climate. In turn, the marketability of most area properties has been favorably impacted and continued growth is anticipated.

ZONING/NEIGHBORHOOD LOCATION MAP

NORTH

- Highlights Neighborhood Traffic Arterial Corridors.



E. NEIGHBORHOOD ANALYSIS:

1. Identified Boundaries:

The subject's broader neighborhood, a large commercial and/or industrial area, is located in the southeast part of Bismarck, exclusive of the manufactured housing parks. It is generally bordered on the north by Main Avenue and/or the Burlington Northern Santa Fe Railroad tracks, on the west by 17th Street to Bismarck Expressway to University Drive, on the south by the public land used by the Bismarck Municipal Airport, and on the east by Bismarck's City limits and/or Yegen Road. These neighborhood boundaries were selected since they separate differing land uses.

2. Access:

By far, Bismarck Expressway is the neighborhood's major traffic arterial. Interstate 94 is the main interstate commerce route with Main Avenue and Bismarck Expressway then providing direct links to Bismarck's central, south, and east commercial districts. The neighborhood accessibility was greatly enhanced (1) in 1985 when a much needed, direct connecting link for South Bismarck to Mandan and Interstate 94 was opened or the Bismarck Expressway bridge and (2) in 2004 when the reconstruction of East Bismarck Expressway from a two lane to a four lane traffic carrier was completed. Reconstruction began at about the intersection of Divide Avenue and extended south about one and one-half miles to its intersection with Main Avenue. This reconstruction project significantly enhanced traffic flow through the neighborhood. The major north-south intersecting traffic arterials are South 26th Street, Airport Road, and University Drive. Numerous other secondary intersecting streets provide for adequate internal neighborhood access. Collectively, good neighborhood accessibility is provided.

3. Development/Land Uses/Trends:

Neighborhood development started in about 1970 or when the city's largest regional shopping center or Kirkwood Mall was constructed. Kirkwood Mall is located between 3rd and 7th Streets, north and adjacent to Bismarck Expressway. The neighborhood grew at a modest rate during most of the 1980s until a significant neighborhood development occurred. The Bismarck Expressway overpass opened in 1985 which provided a much needed, direct connecting link for south Bismarck to Mandan and Interstate #94.

The broader neighborhood is now about 85% developed with the vast majority of the undeveloped "transitional" land located in the immediate subject area. Notable development in and around the subject area includes the MDU Service Center, United States Post Office, Slumberland Furniture, MAC's Hardware, Bismarck Public Works Department complex, North Dakota Game & Fish Department, and Valley Sport & Marine. More importantly however is that two of the communities more significant development projects have occurred in the immediate neighborhood area over the past one-two years. First, a large vacant land tract, located on the southeast corner of East Bismarck Expressway and South 26th Street, was developed with a Wal-Mart Supercenter and Sam's Club. This development has and will continue to spur a multitude of supportive retail/commercial development projects in the form of retail strip centers, restaurants, c-stores, sales and service facilities, etc.

Second, plans are evolving to develop a 220 acre parcel of the city owned Airport Industrial Park with a transportation hub and industrial park known as the Northern Plains Commerce Centre (NPCC). The first phase included a mainline rail spur, road grading, water and sewer installation, and the completion of Bobcat manufacturing facility in 2006. In August of 2006, the NPCC announced that an agreement was reached to build a 90,000 square foot agricultural processing facility for United Pulse Trading to be owned by a Canadian investor's group known as Saskcan Pulse Trading, Inc. Phase II of the facility includes bringing the mainline rail into the center, construction of the transload facility, and paving roads. This phase is expected to be operational by the spring of 2007. Additionally, a 150 acre parcel of privately owned land will be available for development adjacent to the transportation hub site.

Neighborhood properties are predominantly owner-occupied with the percentage of tenant occupants being negligible. The general appearance and maintenance level of area properties is rated average to good. Collectively, this new development has and will continue to have a significant impact on this area's future growth.

4. Services:

All municipal utilities and services and general amenities competitive with other areas of Bismarck are provided.

5. Conclusions-Relevance to the Subject Property:

The subject neighborhood's market appeal has been greatly enhanced over the past one-two years by the recent developments and the general decline in available vacant commercial and/or industrial sites throughout the community. The subject property's locational characteristics are strategic to possible future area growth.

F. PARCEL DESCRIPTION:

1. Introduction:

The subject parcel was improved with the N.D. State Penitentiary facility as of the appraisal's inspection date or December 12, 2006. At the client's request, the appraisal will disregard the building improvements though all site preparation and installation of utilities would be complete. Likewise, all plats, surveys, zoning maps, etc. are assumed to be reliable; no warranty is implied as to their accuracy. Lastly, it will be assumed that the parcel is environmentally clean and no adverse soil conditions exist.

2. Identification:

Again, a survey or precise legal description identifying the property was not provided. The legal description detailed on Page 10 was developed by the undersigned based on client provided information. Additionally, the parcel size of 80± acres was based on a reasonable estimation by the client. Any significant changes or deviations from this parcel size may require appraisal report modifications. The Bismarck City Assessor's office has not assigned a parcel number to this entire property as it is tax exempt.

3. Location and Adjacent Land Users:

No specific street address identifies the entire subject property. Generally, the parcel is located east of 26th Street, south of Main Avenue, and north and west of Bismarck Expressway in Section 2, Township 138N, Range 80W, Bismarck, ND. The street address of "3100 Railroad Avenue, Bismarck, North Dakota" identifies a portion of the subject parcel that is improved with the North Dakota State Penitentiary. This location places the land on the city's southeast peripheral edge or a favorable location as it has extensive frontage along two major traffic arterials or Bismarck Expressway and Main Avenue.

Adjacent land users to the north and across Main Avenue include a multitude of commercial/retail development. The N.D. Game & Fish building and the Community Family Forrest land is located to the east. Predominantly vacant "transitional" agricultural land is located adjacent to the parcel's southeast side with the BNSF railroad right-of-way to the southwest transitioning to evolving retail/commercial development. Land use to the west includes the "proposed" railroad spur right-of-way transitioning to the State Lab facility. This rail spur is proposed as a convenient link between the Canadian Pacific Railroad line located north and adjacent to Main Avenue and the Northern Plains Commerce Center. Area land use consistency was apparent.

4. Access and Visibility:

Exceptionally good access to and from the area and to the subject property is provided by Bismarck Expressway, Main Avenue, and 26th Street. Access onto the parcel is limited to the extension of Railroad Avenue along the parcel's southwest side and one egress/ingress point off Main Avenue near the center of the parcel's north boundary. No egress/ingress currently exists off Bismarck Expressway. If developed, optimum parcel access would have to be achieved by an extensive internal street network.

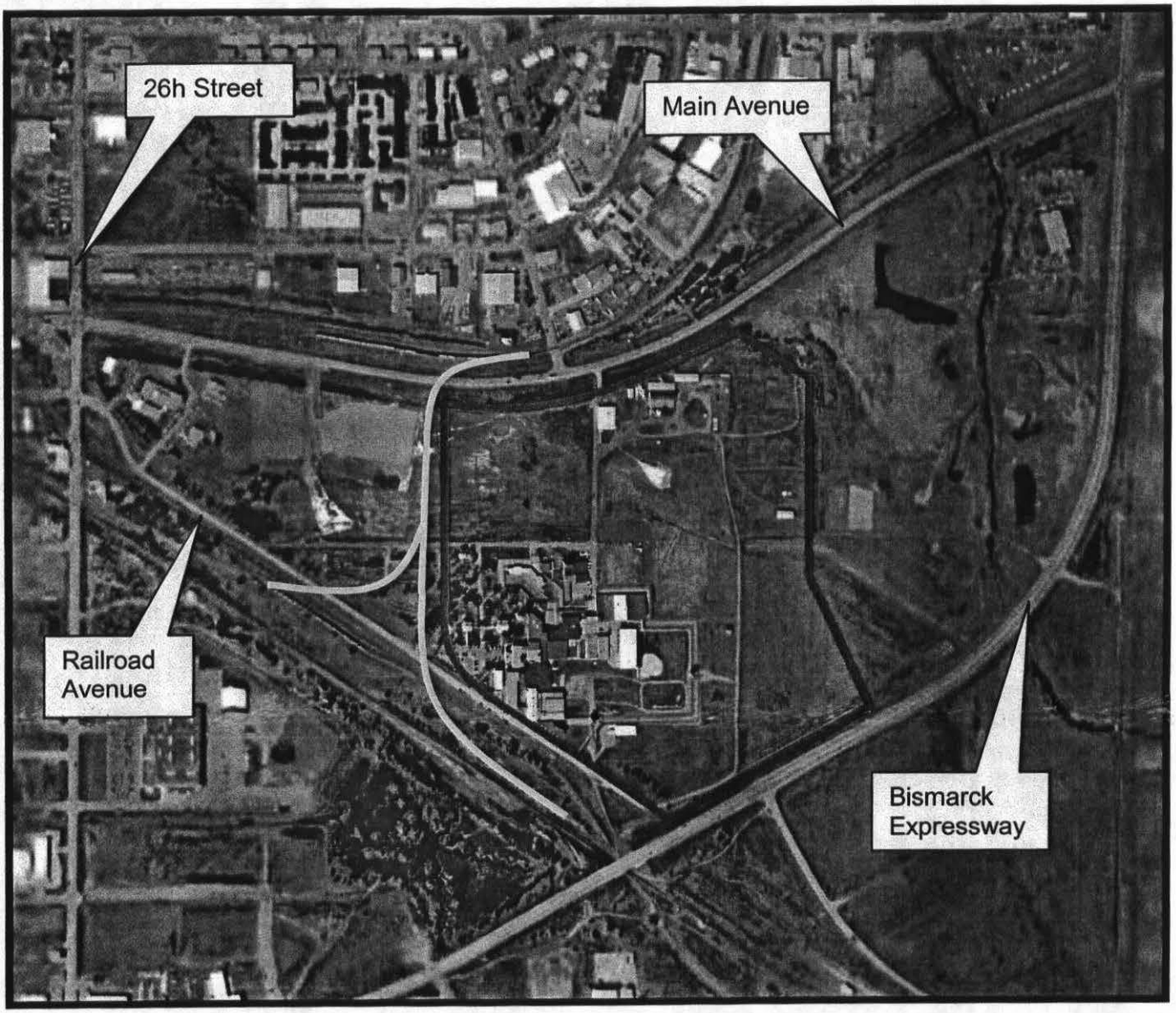
The parcel areas located in proximity to the arterial corridors or Bismarck Expressway and Main Avenue afford good visibility. However, the parcel's significant depth limits the exposure to the areas beyond the immediate arterial corridors.

NORTH

AERIAL PHOTO

- Outlines Subject Parcel - 80± acres
- Location of Proposed Railroad Track

(Source: Google Earth)
(Detailed boundaries are not exact - this is not a survey.)



5. Physical Characteristics (Shape, Size, Use, Topography, Etc.):

The previous aerial photo greatly assists in visualizing this parcel's physical characteristics. The following valuation process will demonstrate that the parcel's size of 80± acres or 3,484,800 s.f. is comparatively large relative to other area land parcels purchased for commercial/light industrial development. It features approximately 1,700' of frontage along Main Avenue on the north, 1,200' along Bismarck Expressway on its southeast side, and 1,000' along Railroad Avenue on its southwest side. Parcel depth ranges from 1,500'± along its west side or along the proposed railroad spur right-of-way to 2,100' along its east boundary. The parcel has mostly level topography with an elevation below the adjacent street level. Generally, the parcel is low lying, especially in its northwest corner. These low lying areas, combined with the parcel's reported high water table, would require significant site preparation to ready it for development. In the absence of a soil test, it can only be assumed that the soils are sufficient to support development.

6. Flood Plain Status, Easements, Environmental Concerns, and Other Encumbrances:

The flood map located in the Addenda details that the site is located in a Zone "X" flood plain or not in an identified flood hazard area. Zone X areas do not require flood insurance as a required contingency in obtaining lender financing. The visual site inspection did not reveal any environmental concerns. Likewise, a recorded plat detailing easements, encumbrances, or any other type of site encumbrances does not exist. Thus, it can only be assumed that no significant site encumbrances exist. The site is located in the corporate city limits of Bismarck and, therefore, it can only be assumed that all municipal services and public utilities have been provided to the parcel through proper easements.

7. On- and Off-Site Improvements:

The adjacent streets are concrete and/or asphalt surfaced but have not been improved with curbing, street lights, storm sewer, or sidewalks. All municipal services (electricity, natural gas, telephone, and water) are installed to the N.D. State Penitentiary but their current size and capacity would likely be insufficient to support development of the entire parcel. Even so, the on-site existence of the utilities would be perceived as a favorable market characteristic.

8. Zoning:

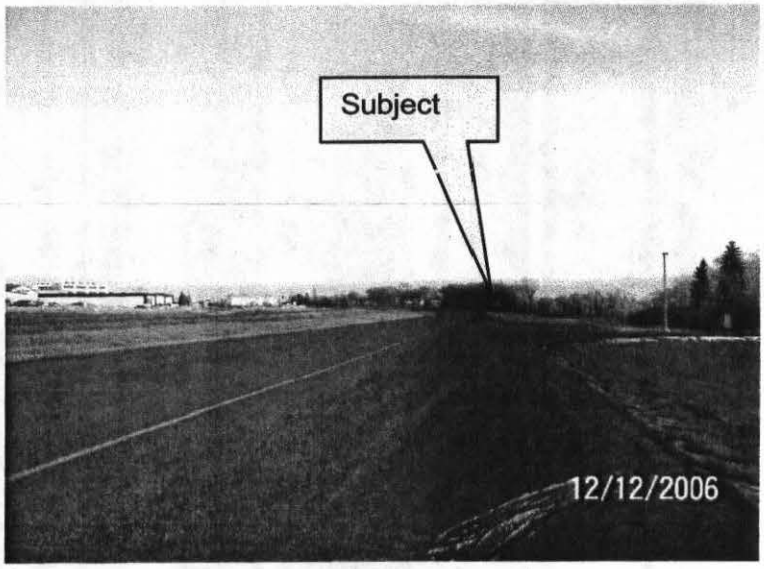
The subject parcel is zoned "P" - Public Use District. Section 14-04-16, page 144, of the City of Bismarck Zoning Ordinance details that "*The P public use district is established as a district in which the predominant use of land is for public use.*" Permitted uses include educational groups, public recreational groups, water treatment plants, buildings and necessary on-site facilities required for conduct of government, commercial recreation groups occupying public owned lands, sewer treatment plants, municipal landfills, parking lots, gift shops occupying pubic owned lands, food service establishments exclusive of drive-in restaurants, occupying public owned lands, and even special uses to include airports and cemeteries. Various lot size, setback requirements, and regulations exist depending on a particular use. This zoning is specific to all area publicly owned land. If the property were placed on the open market and sold, rezoning would then be required.

9. Conclusions:

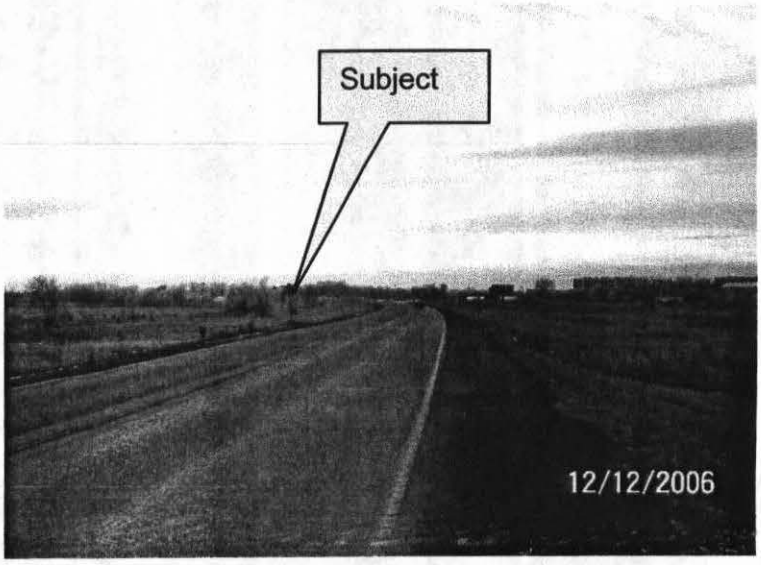
This 80± acre land parcel has several favorable characteristics to include (a) extensive frontage along two major traffic arterials or Bismarck Expressway and Main Avenue, (b) ease of neighborhood access, (c) good visibility, and (d) availability of all municipal utilities. Limiting characteristics include (a) its comparatively large size and depth, (b) limited egress/ingress from the adjacent traffic arterials, and (c) low lying elevations and reported high water table requiring extensive site preparation if ever developed. The combination of these somewhat opposing characteristics creates a unique land parcel.

10. Photographs:

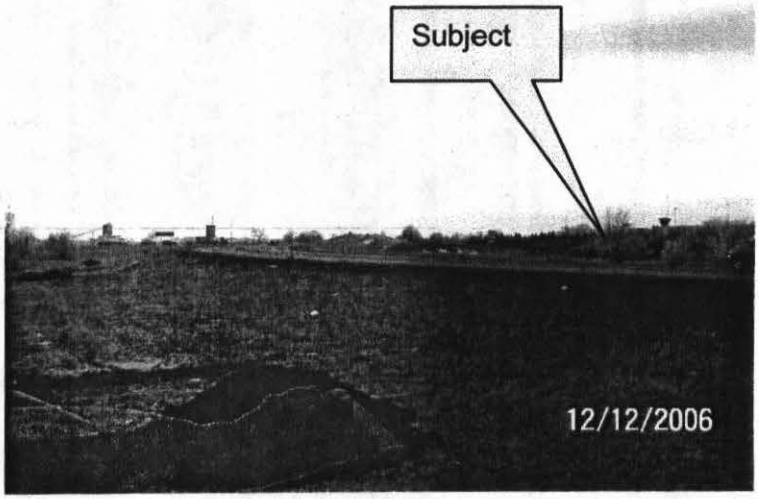
The following photographs, taken on December 12, 2006, attempt to depict the parcel's overall characteristics and vicinity/street scenes but are not to be regarded as necessarily all inclusive.



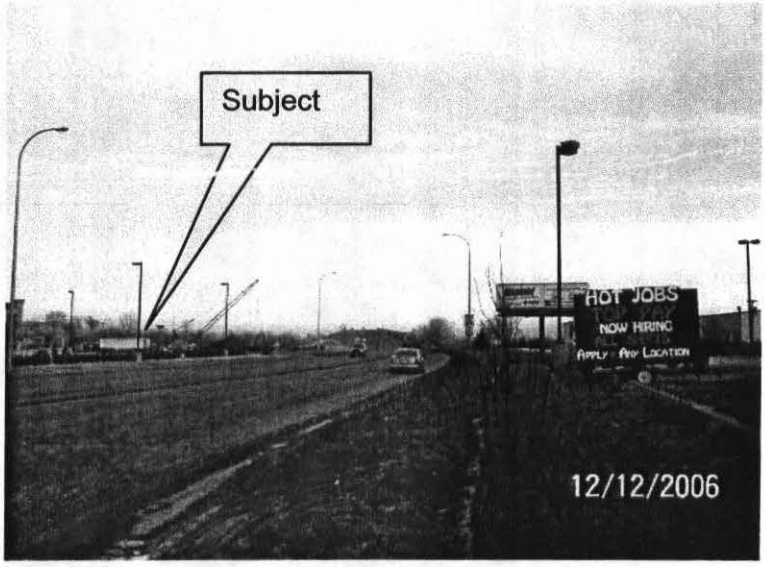
Street scene looking east
on East Main Street.



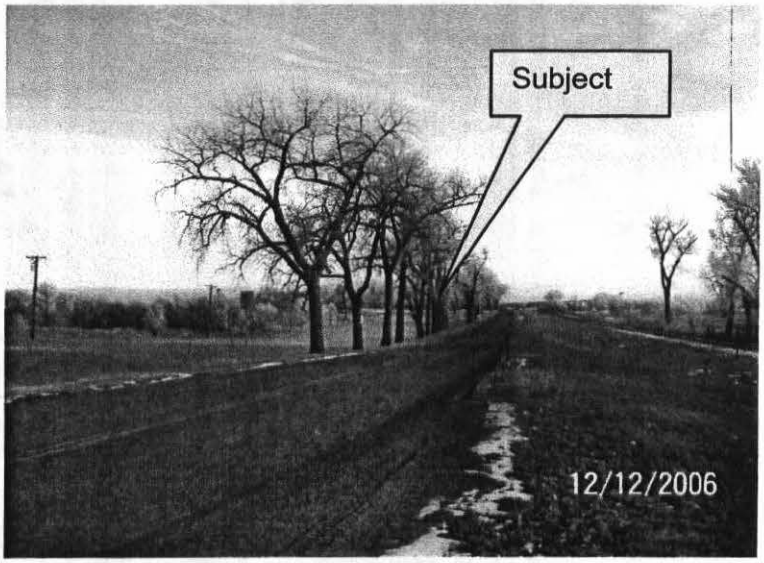
Street scene looking southwest
on East Main Street.



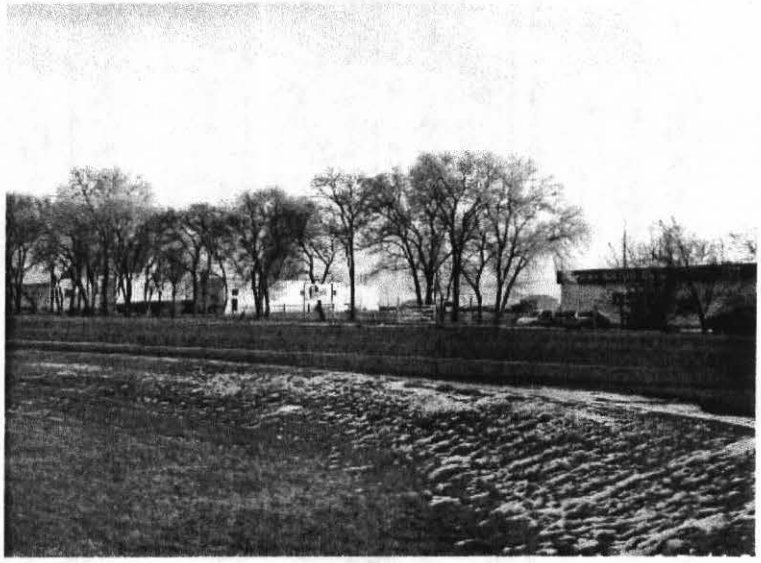
Street scene looking southwest
on East Bismarck Expressway.



Street scene looking northeast on East Bismarck Expressway.



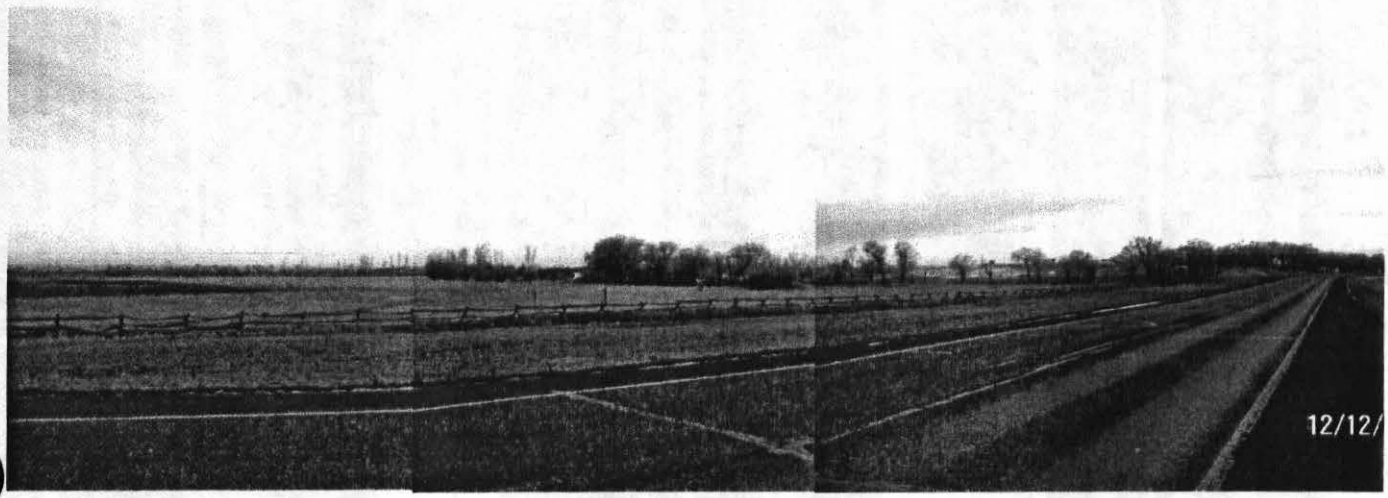
Street scene looking southeast on Railroad Avenue.



Access point off East Main Street located near the middle of the parcel north boundary.

Property overview looking east from just beyond the location of the proposed railroad tracks.

Property overview looking southeast from just beyond the parcel's northwest corner.



Property overview looking southwest from just beyond the parcel's northeast corner.

G. HIGHEST AND BEST USE ANALYSIS

1. Introduction:

Highest and best use is a market driven concept or analysis that attempts to identify the most *probable* and *profitable*, competitive use to which the market and property can support; key determinants in the concept of value. In essence, this analysis reconciles the previously assembled market information into the foundation on which the applicable value rests. Because of its importance, the definition of ***highest and best use*** is presented as:

> *The reasonably probable and legal use of vacant land or an improved property which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability.*
> (Appraisal Institute, *The Dictionary of Real Estate Appraisal, Fourth Edition*: 135)

Conclusions of highest and best use for real estate are normally made according to two premises. The first premise assumes that the site is *vacant* and *available* for development and the second premise addresses the highest and best use of the site *as improved*. The subject parcel's highest and best use conclusion is made according to only one premise or as vacant as the building improvements will be disregarded for the purpose of this analysis.

2. Highest and Best Use As-Vacant Analysis:

The four criteria formulating the parcel's highest and best as vacant, are now applied:

a. Legally Permissible: Typically, the most obvious legal consideration that affects development of a particular site is zoning. It was previously detailed that the subject parcel is zoned as "P" or Public Use District. This zoning is definitely restrictive as it relates to permitted uses. However, a distinct probability exists that the parcel would be rezoned if alternative uses were planned. Its location on the southeast peripheral edge of the Bismarck city limits creates a locational appeal factor that implies a land use transition beyond its current use. Reference to the previous zoning map (page 18) indicates that, by far, the predominant land to the north, south, and west is zoned "MA" or light industrial. The land east of Bismarck Expressway is zoned "PUD" or Planned Unit Development and is improved with the Missouri Valley Fairgounds. Therefore, re-zoning would not be a restricting characteristic relative to future development. No other legal considerations were noted that would restrict parcel development.

b. Physically Possible:

The test of physical possibility addresses the parcel's physical characteristics (location, size, topography, soil types, etc.) as to how they will impact its highest and best use. The two most significant characteristics that would readily impact this parcel's probable use(s) would be that of size and location. Most other physical characteristics or those relating to elevation, drainage, site preparation, etc. would not have a measurable impact on its probable use.

The subject parcel's 80± acres allows for considerable flexibility as to possible future uses. This size is comparatively large when compared to other land parcels purchased for commercial and/or light industrial development. (The sales referenced in the following valuation process have parcel sizes ranging from about 2 acres to 60 acres.) Subdividing the subject parcel into smaller tracts is a consideration but optimum utility would still results if viewed as one parcel. Specifically, the parcel's combination of access, shape, and potential uses precludes optimum value if subdivided into smaller development parcels.

The other significant characteristic that will impact its probable use is location. The subject parcel is located on the city's extreme southeast peripheral edge and features frontage along the two major traffic arterial servicing the neighborhood or Bismarck Expressway on the south and Main Avenue on the north. Again, the broader neighborhood is approximately 85% developed with the vast majority of the undeveloped "transitional" land located in the immediate area. Historically, most area land tracts were perceived as having a more commercial/light industrial appeal. However, the neighborhood's recent "big box" retail development of Wal-Mart and Sam's Club has and will continue to spur a multitude of surrounding retail/commercial development. This recent retail development has had a significant impact on the area's use potential and/or appeal.

Another significant change occurred with the development of a neighborhood transportation hub and industrial park known as the Northern Plains Commerce Centre. It is located approximately one mile south of the subject parcel. This project's continued evolution has prompted the City of Bismarck to "link" it with the BNSF railroad tracks bordering the parcel's south boundary and the Canadian Pacific Railroad line located north and adjacent to Main Avenue. The proposed railroad spur, located adjacent to the parcel's west boundary, would provide the necessary link between the existing railways.

Based on this analysis, it is probable that the subject parcel's land area located along Bismarck Expressway could support retail/commercial development similar to what has been evolving along this traffic arterial. Conversely, the Main Avenue corridor has far inferior appeal when compared to the Bismarck Expressway corridor and has experienced limited development over the last several years. Therefore, the area along Main Avenue and the parcel's interior or "back" locations most likely will be developed with general commercial/light industrial development or development supportive of the Northern Plain Commerce Centre such as transit/distribution warehouses, trucking terminals, service businesses, and/or storage facilities.

Considered collectively, the subject parcel's locational and physical characteristics readily indicate that a mix of commercial/industrial development would be the parcel's predominant land use though intensive retail/commercial development would likely evolve along the Bismarck Expressway corridor.

c. Financially Feasible:

The preceding tests of legal permissibility and physically possible imply that the parcel's probable use includes a mix of commercial/light industrial development with more intensive retail/commercial uses probable along the Bismarck Expressway corridor. Prior to the recent "big box" retail development, neighborhood development consisted predominantly of general commercial and/or light industrial. The neighborhood's continued growth and its evolution has resulted from the city's natural growth progression and from the now limited supply of commercial sites with favorable locational attributes. The significant amount of development occurring in the immediate area and even at other peripheral areas of Bismarck suggests that this parcel's appeal now extends beyond it current use. A limited number of vacant sites exist along Bismarck Expressway and, for this reason, a market is and will continue to evolve for secondary or back locations. Additionally, the ongoing development and success of the nearby Northern Plains Commerce Centre could result in increased demand for secondary sites. Based on these market observations, development of the subject parcel with a mix of retail, commercial and light industrial development would be financially feasible.

d. Maximally Productive:

The preceding three tests imply that the parcel's highest and best use would be a mix of retail, commercial, and/or light industrial uses. Selecting a particular mix of uses that would be financially feasible and result in maximum economic productivity would be dictated by the current balance of supply within each particular market segment. Again, a zoning change to light industrial zoning would be required. Re-zoning is a reasonable expectation as numerous sites with similar neighborhood locations are appropriately zoned. Generally, the demand for commercial and/or light industrial sites offering good characteristics is in reasonable balance though some exceptions exist where demand even exceeds the available supply, especially those sites containing optimum locational characteristics. Immediate development (within one year) of the entire 80± acres parcel is not likely. Rather, it would develop as the market around the neighborhood's major land use evolves.

Based on this market analysis, the subject 80± acre parcel's highest and best use is concluded to be a mix of commercial/light industrial development with more intensive retail/commercial uses along the Bismarck Expressway corridor. The conclusion as the subject parcel's highest and best use is the basis for the following valuation analysis.

H. VALUATION PROCESS (rev. 2-1-05)

The previous discussion and analysis outlined the appraisal problem, detailed the subject's area market, neighborhood, and the subject property, and concluded with a determination of the property's highest and best use. The next step or developing a reliable opinion of the property's applicable value normally involves the three traditional valuation techniques or the: (1) Cost Approach, (2) Sales Comparison Approach (also known as the Market Approach), and (3) Income Capitalization Approach. The reliability of these valuation techniques hinges on the proper assemblage and comparison of similar market data to include sufficient information to estimate the improvements' current reproduction or replacement cost (basis for the Cost Approach), sale and/or asking prices of similar improved properties (basis for the Sales Comparison Approach), and data needed to estimate and convert future anticipated benefits (generally termed "net income") into a value indication (basis for the Income Capitalization Approach). And lastly, the subject property's market value is concluded by reconciling the three techniques' results.

Each valuation technique is not an independent system of valuation unrelated to the other technique(s) or method(s). The entire valuation process is comprised of integrated, interrelated, and inseparable techniques and procedures that have the common objective of providing a convincing and reliable value indication. Each valuation technique normally references conclusions from the other technique(s). For these reasons, there is no predetermined sequence in the application of the applicable valuation techniques.

In this particular assignment, the Cost Approach is not applicable as it based on the hypothetical condition that the improvements be disregarded. By far, only the Sales Comparison Approach is used in the appraisal of vacant sites. This valuation technique is the most recognized method of buying and selling similar land in the area market as it provides the most accurate reflection of actual market behavior. The Income Capitalization Approach is most applicable to properties purchased predominantly for their income-producing potential. The area market simply has not realized sufficient investment-only motivated purchases of similar sites to provide consistent, reliable trends for site capitalization and/or discount rates. Similar sites are most frequently purchased for owner occupancy/use. Thus, insufficient data is available for a reliable, conclusive market value indication by the Income Capitalization Approach.

Again, the valuation analysis of vacant sites typically involves the Sales Comparison Approach. The methodology used in the Sales Comparison Approach is continued in the following report.

I. SALES COMPARISON APPROACH:

1. Introduction:

The Sales Comparison Approach is a method of developing an indication of a site's market value by assembling, analyzing, and comparing the subject site to *recent* and *similar* properties that have sold, are under contract, and/or current listings. If sufficient data is available and properly analyzed, the resulting pattern generally provides an indication of probable market value. Typically, the Sales Comparison Approach is the most reliable and easily understood method of providing a market value opinion, especially for properties that are bought and sold regularly. This valuation technique can normally be accomplished in two basic steps or: (1) research the market for the applicable market data and analyze the market data to determine a relevant unit(s) of comparison and (2) reconcile the data to the subject parcel resulting in a single value indication or a range of values.

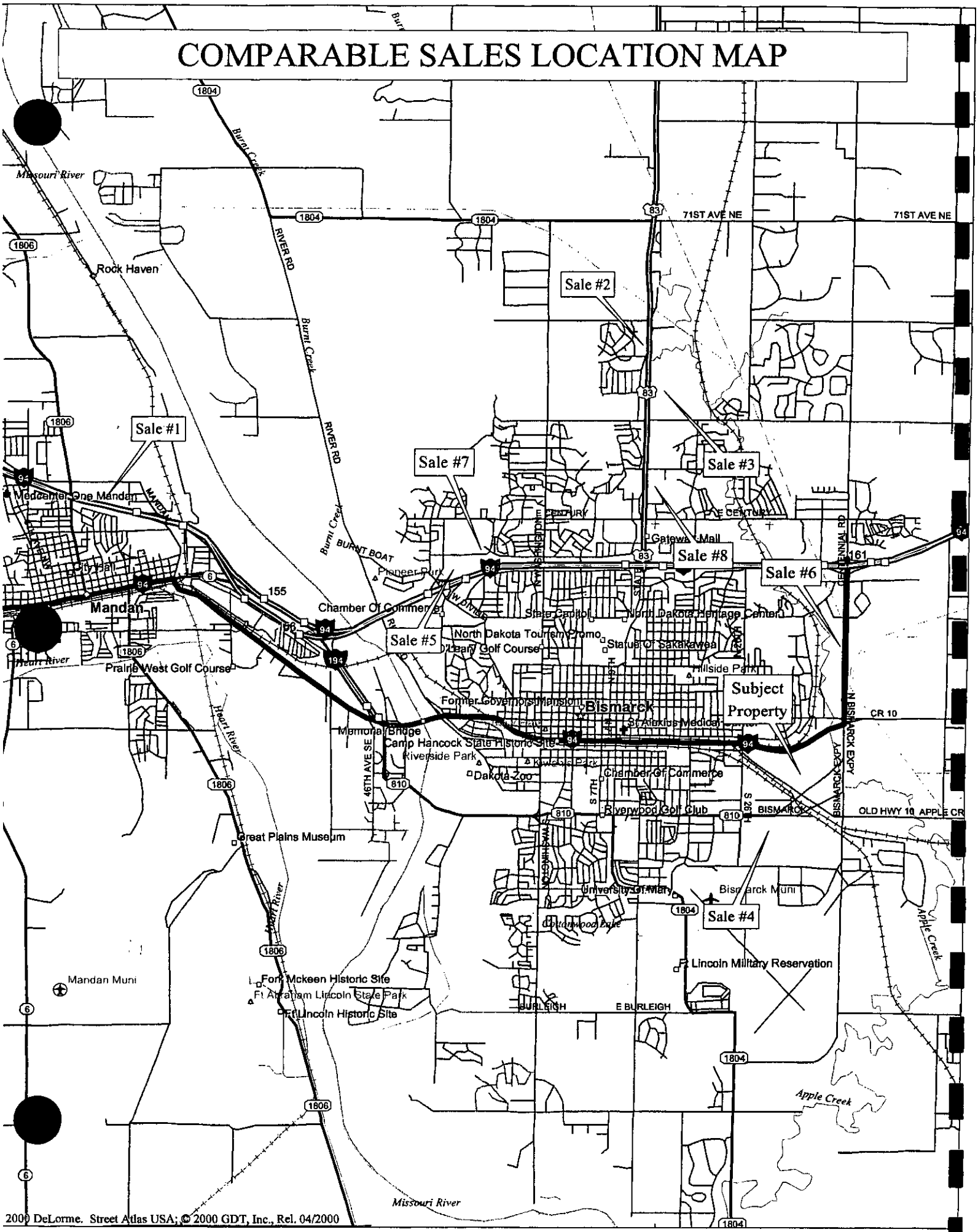
2. Market Data Assemblage:

Application of the Sales Comparison valuation technique starts by assembling "recent and similar" market data, preferably comparable sales or, if necessary and available, competitive listings. This market data should be similar to the subject parcel in property rights conveyed, locational characteristics, physical characteristics, and use or potential use. Again, the subject parcel consists of an 80± acre transitional use parcel located on the southeast peripheral edge of Bismarck. The highest and best use analysis concluded that the subject parcel would be perceived as having a mix of commercial/light industrial development with more intensive retail/commercial uses along the Bismarck Expressway corridor. In researching the market, eight sales were assembled affording reasonably similar characteristics.

The primary sources used in researching this market included the local multiple listing service (MLS), Burleigh County Recorder's and Tax Director's office, Bismarck City Assessor's office, commercial real estate brokers, and in-file data. All parcels were personally inspected.

Price per square foot, extracted by dividing the sales price (excluding special assessments as all were buyer assumed) by each site's total size, was selected as the common unit of comparison. This unit of comparison was chosen for analytical purposes since it is the most widely recognized and most easily understood comparative unit in the local market. This assembled market data is tabulated on the following chart. The sales are arrayed by price per square foot, lowest to highest. The adjoining map depicts the location of the site sales in relation to the subject parcel.

COMPARABLE SALES LOCATION MAP



COMPARABLE PARCEL SALES

	Seller/ Buyer	Location	Sale Date	Zoning	Parcel Size	Price/ Sq.Ft	Comments.
1.	Wetzstein/ Hushka & Mandan 94 Investors	Old Red Trail Mandan	1-06	MA & RM	2,597,035 s.f. or 59.62 acres	$0.91	Buyers intend to rezone as commercial and develop.
2.	Boehm & Larson/ Trees Investors, LLP	U.S. Highway 83 Bismarck	7-04	A	837,659 s.f. or 19.23 acres	$1.49	Purchased as "raw" land, rezoned, platted, improved with city services, & now partially now improved with TSC & Furniture Row.
3.	Meadowlark Hills, LLC/ G4 LLC	U.S. Highway 83 Bismarck	1-05	CG	1,269,624 s.f. or 29.15 acres	$1.50	Improved with Wal-Mart Supercenter.
4.	JL Partnership/ VP Properties	East Bismarck Expressway Bismarck	1-05	MA	2,561,894 s.f. or 58.81 acres	$1.82	Improved with Wal-mart Supercenter & Sam's Club.
5.	Anderson Ltd.Partnership/ EDJ Investments L.P./ CNLRS Bismarck, ND, LLC	1400 Block West Century Avenue Bismarck	9-04	CG	2,010,050 s.f 232,931 s.f. 2,242,291 s.f. or 51.49 acres	$2.04	Pinehurst Square - Improved with retail power center including Lowe's, Kohl's, Old Navy, etc.
6.	Traynor Investments/ Linden & Diana Cofell/ S&P Partnership	1430 Industrial Dr. 1400 Industrial Dr. Bismarck	8-04 8-04	MA MA	147,600 s.f. 335,962 s.f. 483,562 s.f. or 11.10 acres	$1.75 $2.31 $2.14	Industrial Drive frontage though perceived as Bismarck Expressway site.
7.	Anderson Ltd Partnership/ Futuresource Corp.	1200 W. Century Ave. Bismarck	12-03	A	403,393 s.f. or 9.26 acres	$3.84	Improved with MDU campus.
8.	Edith Schweitzer/ Warner of Sturgis, LLC	Lot 1, Block 1, & Lots 1-3, Block 2, Schweitzer Addition Bismarck	9-04	CG	744,440 s.f or 17.09 acres	$4.06	Home Depot tract with outlots
	Subject Parcel:	3100 Railroad Ave./ East Bismarck Expressway Bismarck	N/A	P	3,484,800 s.f. or 80± acres	N/A	Bismarck Expressway & Main Avenue frontage.

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3. Market Data Analysis:

In theory, two absolutely identical parcels simply do not exist since no two parcels can occupy the same location. The sales have then been analyzed through use of the relative comparison analysis, as opposed to qualitative analysis using specified adjustments. (The local market precludes the ability to quantify accurate adjustments.) This relative comparison analysis or "parcel-to-parcel" comparison is more reflective of typical market behavior and tends to provide a more accurate market value range.

The application of the qualitative analysis in the comparable sales indicated reasonably good similarity in most elements of consideration or property rights conveyed, financing terms, and condition of sale. All eight sales involved the transfer of fee simple ownership. Thus, no adjustments for ownership rights are required. All were sold on the basis of cash or cash-equivalent term and all listed prices reflect cash or cash equivalent terms; thus, no adjustments are necessary for special financing. Individual motivations for each sale are apt to be as diverse as the market and, consequently, it simply is impossible to adjust each sale for individual sale and/or purchasing motivations. The eight sales sold from December of 2003 to January of 2006. It is unlikely that this particular market segment has had a measurable change over the last three years. Even so, an attempt will be made to reflect current market conditions.

The remaining factors requiring analytical consideration are differences in physical characteristics to include location and parcel size. The eight sales indicate an overall price/value range of $0.91 to $4.06/square foot. When applied to the subject parcel's size of 3,484,800 s.f. or 80± acres, the following price/value range results:

3,484,800 s.f.	x	$0.91/s.f.	=	$ 3,171,168
3,484,800 s.f.	x	$4.06/s.f.	=	$14,148,288

This comparatively wide price/value range undoubtedly brackets the subject parcel's anticipated market value. However, this price range can be narrowed when observing some noted property characteristics.

Three sales or Sales #6 through #8, selling between $2.14/square foot and $4.06/square foot, are perceived as the upper limit price indictors. Specifically, these three sales (1) afford locations in more established neighborhoods having superior development appeal and (2) they feature comparatively smaller parcels sizes ranging from 9.26 acres to 17.09 acres. Generally, smaller parcels sell for more on a price per square foot basis that large parcels, all other things considered equal.

The remaining five sales or Sale #1 through Sale #5 indicate a price/probable market value range of about $0.90/square foot to $2.00/square foot. Sale #1 is the most recent sale selling in January of 2006 for $0.91/square foot. The parcel offers good similarity in terms of size (nearly 60 acres) and features extensive street frontage and good Interstate 94 exposure. However, its Mandan market location is far inferior to the subject parcel's Bismarck location. Sale #5 or the "Pinehurst Square" parcel, selling for $2.04/square foot in September of 2004, also offers good similarity in terms of size (51.49 acres). This parcel is located on the northeast quadrant of Exit 157 and has exceptionally good access and visibility from Interstate 94. As such, this parcel is perceived as affording an excellent location in its developing neighborhood and the entire community. The parcel has since been developed with a retail power center or with development that extends beyond that of the subject parcel's development potential.

Most consideration is given to Sales #2, #3, and #4. Sales #2 and #3, selling for about $1.50/square feet, afford similar locational characteristics as they were located in an evolving commercial "strip" neighborhood along a major traffic arterial or U.S. Highway 83. Both parcels are perceived as being slightly superior as their combined physical characteristics (location, size, and shape) resulted in an entire parcel supportive of retail development. It is important to note, however, that both parcels were located just beyond Bismarck's urbanized development and incurred significant development cost in terms of municipal improvements and site preparation. Sale #4, selling in January of 2005 for $1.82/s.f., is a comparatively large (58.81 acres) industrial zoned parcel located in the subject neighborhood with 1,100± feet of frontage along Bismarck Expressway. Parts have been resold and improved with Wal-Mart and Sam's Club. This parcel is superior in terms of its locational appeal as it affords a corner location with exceptionally good access and visibility from Bismarck Expressway. This parcel is comparatively large but, yet, its rectangular shape and corner location was entirely supportive of retail development. Comparatively, the previous highest and best use analysis detailed that only the subject parcel areas located in proximity to the Bismarck Expressway corridor would be supportive of intensive retail/commercial development.

The final element of consideration required for a properly developed market value relates to reasonable exposure time (i.e., the length of time the subject property would have been exposed for sale in the market had it sold at the market value concluded in this analysis as of the date of this valuation). The information gathered through assemblage of the market data and conversations with various market participants indicated that, if competitively priced, an exposure time should not have exceeded on year.

The preceding market analysis suggests a probable price/market value range of something more than Sale #1 at about $0.90/square foot or about $3,136,000 but considerably less than Sale #5 at about $2.00/square foot or $6,970,000 with most consideration afforded to Sales #2 through #4 ranging from about $1.50 or $5,227,000 to $1.80/square foot or $6,273,000. The simple lack of vacant competitive parcels located *anywhere* within the defined neighborhood, or for that matter in the entire community, definitively enhances the subject parcel's overall appeal and marketability. Even so, the market value conclusion must be tempered by its comparatively large size, less than ideal frontage along Bismarck Expressway, and elevation issues. Based on this analysis and considering the subject parcel's overall characteristics, its fee simple market value, as of December 12, 2006, based on the hypothetical condition that the existing improvements are disregarded, is concluded at:

"FIVE MILLION DOLLARS
($5,000,000 or $1.43±/s.f.)

ADDENDA

PERSONAL SERVICE CONTRACT

The parties to this contract are the State of North Dakota, acting through its Department of Corrections and Rehabilitation (STATE), and Dakota Appraisal and Consulting, Ltd. (CONTRACTOR);

1. SCOPE OF SERVICE

CONTRACTOR, in exchange for the compensation paid by the STATE under this contract, agrees to provide the following services:

A complete land appraisal of approximately 80 acres, more or less of state property, including the site of the North Dakota State Penitentiary, to determine **As-is Market Value**. Legal property description is portions of NW ¼, Section 2, Township 138, Range 80, Burleigh County, North Dakota. Appraisal process shall include a **Summary Report** to detail: (1) Introduction and Scope of Work; (2) Subject Property Description; (3) Definition of Any Appraisal Problems; and (4) Statement of Competency; (5) Market Area Analysis; and (6) Neighborhood Analysis.

2. TERM OF CONTRACT

The term of this contract is for a period of two months, commencing on the 1 day of November, 2006, and terminating on the 31st day of December, 2006, unless earlier terminated as provided in Article 4 herein.

3. COMPENSATION

STATE will pay for the services provided by CONTRACTOR under this contract an amount not to exceed to be paid at the completion of project.

4. TERMINATION OF CONTRACT

a. Termination without cause. This contract may be terminated by either party upon 30 days' written notice.

b. Termination for lack of funding or authority. The STATE may terminate this contract effective upon delivery of written notice to the CONTRACTOR, or on any later date stated in the notice, under any of the following conditions:

1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.

2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.

3) If any license, permit or certificate required by law or rule, or by the terms of this contract, is for any reason denied, revoked, suspended or not renewed.

Termination of this contract under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

c. Termination for cause. The STATE by written notice of default to the CONTRACTOR may terminate the whole or any part of this contract, after providing CONTRACTOR seven (7) days to cure any such default:

1) If the CONTRACTOR fails to provide services required by this contract within the time specified or any extension agreed to by the STATE; or

2) If the CONTRACTOR fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms.

The rights and remedies of the STATE provided in the above clause related to defaults by the CONTRACTOR are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

5. FORCE MAJEURE

CONTRACTOR shall not be held responsible for delay or default caused by acts of government agencies, strikes, labor disputes, theft, vandalism, unavailability of parts, materials or supplies, fire, riot, acts of God or war if the event is beyond the CONTRACTOR's reasonable control and the CONTRACTOR gives notice to the STATE immediately upon occurrence of the event causing the delay or default or which is reasonably expected to cause a delay or default.

6. RENEWAL

This contract will not automatically renew. STATE will provide written notice to CONTRACTOR of its intent to renew this contract at least sixty days before the scheduled termination date.

7. MERGER AND MODIFICATION

This contract constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this contract. This contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

8. SEVERABILITY

If any term of this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms shall not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

9. ASSIGNMENT AND SUBCONTRACTS

CONTRACTOR may not assign or otherwise transfer or delegate any right or duty without the STATE's express written consent. However, the CONTRACTOR may enter into subcontracts provided that any such subcontract acknowledges the binding nature of this contract and incorporates this contract, including any attachments. CONTRACTOR is solely responsible for the performance of any subcontractor. CONTRACTOR shall not have the authority to contract for or incur obligations on behalf of the STATE.

10. NOTICE

All notices or other communications required under this contract shall be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

Leann K. Bertsch
Director, N. D. D.O.C.R.
PO Box 5521
Bismarck, N. D. 58506-5521

and

Joseph Ibach, MAI
PO Box 1235
Bismarck, N. D. 5850201235

11. APPLICABLE LAW AND VENUE

This contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought in the District Court of Burleigh County, North Dakota.

12. SPOLIATION – NOTICE OF POTENTIAL CLAIMS

CONTRACTOR shall promptly notify STATE of all potential claims which arise or result from this contract. CONTRACTOR shall also take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to the STATE the opportunity to review and inspect the evidence, including the scene of an accident.

13. INDEMNITY

CONTRACTOR shall defend, indemnify, and hold harmless the State of North Dakota, its agencies, officers, and employees (NORTH DAKOTA), from any and all claims of any nature, including all costs, expenses and attorneys' fees, which may in any manner result from or arise out of this contract, except for claims resulting from or arising out of NORTH DAKOTA's sole negligence. The legal defense provided by CONTRACTOR to NORTH DAKOTA under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for NORTH DAKOTA is necessary. CONTRACTOR shall also defend, indemnify, and hold NORTH DAKOTA harmless for all costs, expenses, and attorneys' fees incurred in establishing and litigating the indemnification coverage provided in this section. The obligation in this section shall continue after termination of this contract, or any extensions or renewals of it.

14. INSURANCE

a. Required Coverages. CONTRACTOR shall secure and keep in force during the term of this contract, from insurance companies authorized to do business in North Dakota, the following insurance coverages covering the CONTRACTOR for any and all claims of any nature which may in any manner arise out of or result from this contract:

1) Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits of $250,000 per person and $1,000,000 per occurrence.

2) Automobile liability, with minimum liability limits of $250,000 per person and $1,000,000 per occurrence.

3) Workers compensation coverage meeting all North Dakota statutory requirements, including: a) an "all states endorsement" to cover claims occurring outside the State of

North Dakota if any of the services provided under this contract involve work outside the State of North Dakota; and b) employer's liability or "stop gap" insurance of not less than $1,000,000 as an endorsement on the workers compensation or commercial general liability insurance if CONTRACTOR is domiciled outside the State of North Dakota.

4. Professional errors and omissions, including a three year "tail coverage endorsement", with minimum liability limits of $1,000,000 per occurrence and in the aggregate.

b. General Insurance Requirements. The insurance coverages listed above must meet the following additional requirements:

1) Any deductible or self insured retention amount or other similar obligation under the policies shall be the sole responsibility of the CONTRACTOR.

2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed and maintained for the term of this contract and any extensions with insurers rated "A" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. The policies shall be in form and terms approved by the STATE. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which it is excess.

3) NORTH DAKOTA will be defended, indemnified, and held harmless pursuant to Section 13 to the full extent of any coverage actually secured by the CONTRACTOR in excess of the minimum requirements set forth above. The duty to indemnify NORTH DAKOTA under Section 13 shall not be limited by the insurance required in this section.

4) NORTH DAKOTA shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insureds, with respect to liability arising out of operations performed by or on behalf of the CONTRACTOR, but only to the extent of damages directly caused by the negligence of the CONTRACTOR. NORTH DAKOTA shall have the same rights and coverages as CONTRACTOR under said policies, unless any loss, claim or action is caused by the negligence of one or more of the additional insureds. The additional insured endorsement for the commercial general liability policy shall be written on a form equivalent to the ISO 1985 CG 20 10 form, or such other form as approved by the STATE, and the endorsement shall not limit or delete NORTH DAKOTA's coverage in any way based upon NORTH DAKOTA's acts or omissions.

5) The insurance required in this section, through a policy or endorsement, shall include:

a. a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned STATE representative;

b. a provision that any attorney who represents NORTH DAKOTA under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08;

c. a provision that CONTRACTOR's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by NORTH DAKOTA and that any insurance, self-insurance or self-retention maintained by NORTH DAKOTA shall be excess of the CONTRACTOR's

insurance and shall not contribute with it, unless any loss, claim or action is caused by the negligence of one or more of the additional insureds;

d. cross liability/severability of interest coverage for all policies and endorsements.

6) The legal defense provided to NORTH DAKOTA under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for NORTH DAKOTA is necessary.

7) CONTRACTOR shall, upon request, furnish a certificate of insurance, the additional insured endorsement adding NORTH DAKOTA as an additional insured, a copy of the insurance policy and all endorsements relative to this agreement, to the undersigned STATE representative prior to commencement of this contract.

8) Failure to provide insurance as required in this section is a material breach of contract entitling STATE to immediately terminate this contract.

15. ATTORNEY FEES

Each party shall be responsible for its own attorneys fees incurred as a result of instituting any action pursuant to this contract to obtain performance from the other party.

16. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

The STATE does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. The STATE does not waive any right to a jury trial.

17. CONFIDENTIALITY

CONTRACTOR agrees not to use or disclose any information it receives from the STATE under this contract that the STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this contract or as authorized in advance by the STATE. The STATE agrees not to disclose any information it receives from CONTRACTOR that the CONTRACTOR has previously identified as confidential and which is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. § 44-04-18. The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this contract, or any extensions or renewals of it.

18. COMPLIANCE WITH PUBLIC RECORDS LAW

CONTRACTOR understands that, except for disclosures prohibited in Section 17, the STATE must disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records which are obtained or generated by the CONTRACTOR under this contract, except for records that are confidential under Section 17, may, under certain circumstances, be open to the public upon request under the North Dakota open records law. CONTRACTOR agrees to contact the STATE immediately upon receiving a request for information under the open records law and to comply with the STATE's instructions on how to respond to the request.

Notwithstanding the foregoing, CONTRACTOR shall retain ownership of, and all rights in and to, all intellectual property made, conceived, invented, reduced to practice or otherwise owned by CONTRACTOR prior to entering into this contract (the "CONTRACTOR Intellectual Property"). To the

extent any materials delivered or otherwise provided to STATE by CONTRACTOR in furtherance of CONTRACTOR's obligations hereunder contain CONTRACTOR Intellectual Property, CONTRACTOR hereby grants to STATE a limited license to use and/or copy such CONTRACTOR Intellectual Property, but only to the extent such use and/or copying is in furtherance of the purpose of this contract.

19. WORK PRODUCT, EQUIPMENT AND MATERIALS

All work product, equipment or materials created or purchased under this contract belong to the STATE and must be delivered to STATE at STATE's request upon termination of this contract. CONTRACTOR agrees that all materials prepared under this contract are "works for hire" within the meaning of the copyright laws of the United States and assigns to STATE all rights and interests CONTRACTOR may have in the materials it prepares under this contract, including any right to derivative use of the material. CONTRACTOR shall execute all necessary documents to enable STATE to protect its rights under this section.

20. INDEPENDENT ENTITY

CONTRACTOR is an independent entity under this contract and is not a STATE employee for any purpose, including but not limited to the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workers' Compensation Act. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out the CONTRACTOR's activities and responsibilities under this contract, except to the extent specified in this contract.

21. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

CONTRACTOR agrees to comply with all applicable laws, rules, regulations and policies, including but not limited to those relating to nondiscrimination, accessibility and civil rights. CONTRACTOR agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including but not limited to sales and use taxes and unemployment compensation and workers' compensation premiums. CONTRACTOR shall have and keep current at all times during the term of this contract all licenses and permits required by law, including any license or permit required under N.D.C.C. ch. 43-23.3.

22. STATE AUDIT

All records, regardless of physical form, and the accounting practices and procedures of CONTRACTOR relevant to this contract are subject to examination by the North Dakota State Auditor or the Auditor's designee. CONTRACTOR will maintain all such records for at least three years following completion of this contract.

23. PREPAYMENT

The STATE will not make any advance payments before performance by the CONTRACTOR under this contract.

24. TAXPAYER ID

CONTRACTOR's North Dakota tax ID number is: 450369681 01.
CONTRACTOR's federal employer ID number is: 450369681.

26. HAZARDOUS MATERIALS

CONTRACTOR's obligations hereunder expressly exclude any work or services of any nature associated or connected with the identification, abatement, cleanup, control, removal or disposal of hazardous materials or substances, including, but not limited to, asbestos or PCB's in or on the premises. The STATE represents that, to the best of its knowledge, there is no asbestos or hazardous material in the STATE's buildings that will in any way affect CONTRACTOR's work. Should CONTRACTOR become aware of or suspect the presence of asbestos or hazardous materials, CONTRACTOR shall have the right to stop work in the affected area immediately and notify the STATE. The STATE will be responsible for doing whatever is necessary to correct the condition in accordance with all applicable statutes and regulations. The STATE agrees to assume responsibility for any claims arising out of or relating to the presence of asbestos or hazardous materials in the STATE's building, except those that arise from CONTRACTOR's negligence.

27. EFFECTIVENESS OF CONTRACT

This contract is not effective until fully executed by both parties.

CONTRACTOR

Dakota Appraisal + Consulting, Ltd

BY: _____

ITS: President

DATE: 11-6-06

STATE OF NORTH DAKOTA
DEPARTMENT OF CORRECTIONS AND
REHABILITATION

_____

BY: LeAnn K. Bertsch, Director

DATE: 11-8-06

InterFlood by a la mode

www.interflood.com • 1-800-252-6633

Prepared for:
Dakota Appraisal

EAST BISMARCK EXPRESSWAY
Bismarck, ND 58504

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QUALIFICATIONS
JOSEPH J. IBACH, MAI

EDUCATION

Appraisal Institute - Successfully Completed Courses

1976-Present
Course 410 & 420, *Standards of Professional Practice*
Course 110, *Faculty Training Workshop*
Course 1B-A, *Capitalization Theory & Techniques, Part A*
Course 1B-B, *Capitalization Theory & Techniques, Part B*
Course 1A1, *Real Estate Appraisal Principals*
Course 1A2, *Basic Valuation Procedures*
Course 2-1, *Case Studies in Real Estate Valuation*
Course 2-2, *Valuation Analysis & Report Writing*
Course 3, *Rural Valuation*
SREA Course 201, *Principals of Income Property Appraising*

1971 - 1975 Dickinson State College, Dickinson, North Dakota
B.A. Degree, Business Administration
B.S. Degree, Secondary Education

1967 - 1971 Linton Public High School, Linton, North Dakota

SEMINARS

2001 – Present

**National Standards of Professional Appraisal Practice Update*, June 2006, Sponsored by ND Appraisal Board (7 hrs.)
**Residential Cost Approach & USPAP Compliance*, December 2005, Sponsored by ND Appraisal Board (7 hrs.)
**The Professional's Guide to the Uniform Residential Appraisal Report*, August 2005, Sponsored by ND Appraisal Board (7 hrs.)
**Peer to Peer: Is My Judgment Up to Standards?*, November 2004, Sponsored by ND Appraisal Board (7 hrs.)
**Business Practices and Ethics*, October 2004, Sponsored by MN Chapter Appraisal Institute (8 hrs.)
**National USPAP Update*, October 2004, Sponsored by MN Chapter Appraisal Institute (7 hrs.)
**Avoiding Liability as a Residential Appraiser*, December 2003, Sponsored by ND Appraisal Board (7 hrs.)
**Scope of Work*, September 2003, Sponsored by ND Appraisal Board (7 hrs.)
*Appraisal 106: *Appraisal Investment & Financial Analysis*, August 2003, Sponsored by PROSOURCE Educational Services, Inc. (15 hrs.)
**USPAP Update 2003,* December 2002, Sponsored by ND Appraisal Board (7 hrs.)
**Counting The Cost*, December 2002, Sponsored by ND Appraisal Board (7 hrs.)
**National Summer Conference Courses*, June 2001, Sponsored by Appraisal Institute (12.5 hrs.)
**Case Studies in Commercial Highest & Best Use*, June 2001, Sponsored by MN Chapter Appraisal Institute (7 hrs.)
**Appraisal Report Writing*, April 2001, Sponsored by ND Appraisal Board (3.5 hrs.)
**USPAP 2001*, April 2001, Sponsored by ND Appraisal Board (4.0 hrs.)

WORK EXPERIENCE

1982-Present Dakota Appraisal & Consulting, Ltd., Bismarck, North Dakota; Owner/President.

1977-1982 Ray Reilly Appraisal Consultants, Inc., Grand Forks, North Dakota
Fee Appraiser on a multitude of appraisal assignments.

1975-1977 Gate City Savings and Loan Association, Bismarck, North Dakota
Staff Appraiser responsible for all residential and commercial appraising and the supervision of construction loans.

STATE CERTIFICATIONS

North Dakota CG#1009, South Dakota #324CG-2006R, Minnesota #4001062, Montana #241, and Wyoming #420.

QUALIFICATIONS (Cont'd.)
JOSEPH J. IBACH, MAI

PROFESSIONAL MEMBERSHIPS

*MAI Member of the Appraisal Institute
*President of North Dakota Real Estate Appraiser Qualification and Ethics Board, 1996 to present. (Board member since 1993)
*Federal Housing Administration (FHA) approved appraiser
*Realtor Member of the Bismarck-Mandan Board of Realtors
*American Society of Farm Managers & Rural Appraisers
*Board Member Fannie Mae North Dakota Partnership

COURT TESTIMONY Qualified as an expert witness in Walsh, Emmons, Burleigh and Mercer County District Courts and U. S. District Bankruptcy Court in Fargo, Bismarck, and Minot, ND

PARTIAL LIST OF MAJOR CLIENTS SERVED

Financial Institutions:
American National Bank, Bank America Mortgage, Bank Center One, Bank of North Dakota, BNC National Bank, Bremer Bank, Dakota Community Bank, Farm Credit Services, First American Bank West, First International Bank, First Southwest Bank, First Western Bank & Trust, Gate City Bank, Imperial Thrift & Loan Assoc. (Glendale, CA),), Ocwen Federal Bank (West Palm Beach, FL), Ramsey National Bank & Trust Co., Security State Bank (Linton, ND), Steams Bank (St. Cloud, MN), State Bank of Fargo, Superior Bank (Rosemont, IL), U.S. Bank National Association, Wells Fargo Bank, Yellowstone Bank.

Government Agencies:
City of Bismarck, City of Minot, Emmons County, Federal Deposit Insurance Corporation (FDIC), General Services Administration (GSA), N.D. Department of Transportation, N.D. Public Service Commission, Oliver County, N.D. State Land Department, N.D. State Water Commission, University of North Dakota, U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, U.S. Department of Agriculture, U.S. National Park Service, Veterans Administration.

Employee Relocation Companies:
AMCO Relocation, Cendant Mobility Relocation, Coldwell Banker Relocation Management Services Inc., Corporate Transfer Service, Equitable Relocation Management Corp., GMAC, Homequity, PHH Relocation, Prudential Relocation, WHR Group, Inc.

Businesses/Corporations:
Advanta Mortgage, Alliance Pipeline Co., Basin Electric Power Cooperative, Brutger Equities, Burlington Northern/Santa Fe Railroad, Cities Service Company, Cloverdale Foods Company, Diamond Shamrock, Dougherty Funding, Falkirk Mining, FannieMae, FreddieMac, G.E. Assurance Holdings, Inc., Glaser Financial, GreenTree Mortgage, Houston Engineering, Inc., Minnkota Power Cooperative, North American Coal, North Central Food Systems, Inc., St. Alexius Medical Center, Scott Financial Corp., Super Valu Stores, Inc, Tharaldson Enterprises, The Nature Conservancy, Ulteig Engineers, United Power Cooperative, Venture Mortgage, Wal-Mart, and numerous realty firms, law firms, and private clients.

TYPES OF ASSIGNMENTS

1. Residential: Single family & multi-family, condominium units & projects, townhouse units & projects.
2. Commercial: Motels/hotels, resorts, medical clinics, office buildings, retail/commercial buildings, automobile dealerships, grain elevators, industrial buildings, restaurants, manufactured housing parks, financial institution buildings, gas stations, convenience stores, truck stops, warehouses, agricultural processing facilities, etc.
3. Land: Residential, commercial, industrial, farms, and ranches.
4. Other: Condemnation (representing property owners and condemning agencies), rent analysis, informational studies, and feasibility studies.

NORTH DAKOTA REAL ESTATE APPRAISER
QUALIFICATIONS AND ETHICS BOARD

THIS IS TO CERTIFY THAT No. CG-1009

Joseph J. Ibach

Is fully qualified in the State of North Dakota as a:
CERTIFIED GENERAL REAL PROPERTY APPRAISER

To be in force until 1/1/08
unless sooner suspended or revoked as provided by law.

Date of issue 1/1/07

NORTH DAKOTA REAL ESTATE APPRAISER BOARD

By Jodie R Campbell
Executive Secretary

North Dakota
Real Estate Appraiser
Qualification and Ethics Board

THIS IS TO CERTIFY THAT

Joseph J. Ibach

IS FULLY QUALIFIED IN THE STATE OF NORTH DAKOTA AS A:

CERTIFIED GENERAL REAL PROPERTY APPRAISER

PERMIT NO. **CG-1009**

FROM THE DATE HEREOF UNLESS TERMINATED BY THE APPRAISAL BOARD

IN WITNESS WHEREOF, The Appraisal Board has caused these presents to be signed and the official seal to be hereunto affixed this 16th day of December, 19 91

North Dakota Real Estate Appraiser Qualifications and Ethics Board

Jodie R Campbell
Executive Secretary

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