

**CASS COUNTY PLANNING COMMISSION
FEBRUARY 28, 2019**

1. MEETING TO ORDER

A meeting of the Cass County Planning Commission was called to order on February 28, 2019, at 7:00 AM in the Vector Control Conference Room with members present as follows: Duane Breitling, Todd Ellig, Kevin Fisher, Tim Mahoney, Keith Monson, and Brad Olson. David Gust and Ken Lougheed were absent. Also present were County Planner Barrett Voigt; County Engineer Jason Benson; County State's Attorney Birch Burdick.

2. MINUTES, APPROVED

MOTION, passed

Mr. Olson moved and Mr. Breitling seconded to approve the minutes of the January 24, 2019, meeting as presented. Motion carried.

3. OTTIS SUBDIVISION (Minor Subdivision)

Mr. Voigt stated that an application was received by the Cass County Planning Office for approval of a minor subdivision to create one lot and one block for the purpose of selling a farmstead. The proposed lot is entitled Ottis Subdivision and is located in the West 1/2 of Section 34, Township 137 North, Range 50 West (5350 166th Ave SE, Normanna Township) and is approximately 4.69 acres.

Mr. Voigt stated that he was informed by the applicant that a new plat will be submitted where the southern border will be extended so that the access easement is delineated within a platted boundary.

Mr. Voigt recommends approval of the application under the conditions that a deed restriction is recorded that meets the requirements of the Cass County Subdivision Ordinance; either a letter of verification is received from Normanna Township verifying that the application complies with township zoning or 60 days lapse; and a new plat is received where the southern border is extended to delineate the access within the platted boundary.

Mr. Ellig opened the public hearing. Hearing no public comment, the public hearing was closed.

Dr. Mahoney arrived for the remainder of the meeting.

MOTION, passed

Mr. Breitling moved and Mr. Fisher seconded to recommend approval of the subdivision application for Ottis Subdivision to the Cass County Commission, with the conditions outlined by the County Planner. Motion carried.

4. BAF SUBDIVISION (Minor Subdivision)

Mr. Voigt stated that an application was received by the Cass County Planning Office for approval of a minor subdivision of a one lot, one block subdivision for the purpose

of establishing a farmstead and to construct a residential structure. The proposed lot is entitled BAF Subdivision and is located in the Southwest 1/4 Section 28, Township 141 North, Range 50 West (no address, Berlin Township) and is approximately 12.85 acres.

Mr. Voigt stated that a letter has been received from the Township Chairman verifying that the proposal meets township zoning requirements.

Mr. Voigt recommends approval of the application under the condition that a deed restriction is recorded that meets the requirements of the Cass County Subdivision Ordinance.

Mr. Ellig opened the public hearing. Hearing no public comment, the public hearing was closed.

MOTION, passed

Mr. Olson moved and Mr. Breitling seconded to recommend approval of the subdivision application for BAF Subdivision to the Cass County Commission, with the conditions outlined by the County Planner. Motion carried.

5. CORNELL FIRST SUBDIVISION (Minor Subdivision)

Mr. Voigt stated that an application was received by the Cass County Planning Office for approval of a minor subdivision to subdivide one lot for the purpose of separating a residential structure from a farmstead. The proposed lot is entitled Cornell First Subdivision and is located in the Northeast 1/4 of Section 1, Township 141 North, Range 55 West (2452 138th Ave SE, Cornell Township) and is approximately 3.01 acres.

Mr. Voigt stated that there is no zoning board in Cornell Township and the Township Chairman confirmed that the township approves of the application.

Mr. Voigt recommends approval of the application under the condition that a deed restriction is recorded that meets the requirements of the Cass County Subdivision Ordinance.

Mr. Ellig opened the public hearing. Hearing no public comment, the public hearing was closed.

Dr. Mahoney inquired why a property owner would separate a residential structure from a farmstead. Mr. Voigt stated that a property owner would be required to plat property prior to sale in order to comply with the Cass County Subdivision Ordinance.

Dr. Mahoney asked if a property owner would separate the property and farm buildings in order to sell them separately. Mr. Fisher said yes, as it is otherwise difficult to secure financing. This type of separation is extremely common.

Mr. Breitling asked if there are three lots. Mr. Voigt said there are three existing Auditor's Lots, but only one lot will be platted; Auditor's Lots cannot be used for platting.

Mr. Ellig asked how a township can issue building permits if they do not have a zoning board. Mr. Voigt said some townships have relinquished their zoning authority.

County Engineer Jason Benson said townships are continuously encouraged to review the county’s model township zoning ordinance and to adopt and enforce zoning guidelines.

MOTION, passed

Dr. Mahoney moved and Mr. Monson seconded to recommend approval of the subdivision application for Cornell First Subdivision to the Cass County Commission, with the conditions outlined by the County Planner. Motion carried.

6. SCHMITZ SUBDIVISION (Minor Subdivision)

Mr. Ellig said the public hearing on the Schmitz Subdivision application will be continued until the March 28, 2019, meeting.

7. 2019 MEETING SCHEDULE

Mr. Voigt provided a memo outlining the 2019 meeting dates for the Cass County Planning Commission and requested feedback. Hearing none, the current meeting dates will remain in effect.

8. CASS COUNTY SUBDIVISION ORDINANCE

Draft Judicial Interpretations document

Mr. Voigt said he has identified multiple issues in the Cass County Subdivision Ordinance, some of which demand immediate attention. Edits are needed for liability purposes, to reduce redundancies, and to clarify conflicting language. After conferring with members of this commission, Mr. Voigt has drafted a Judicial Interpretations document for the ordinance with the goal of providing clear and transparent information to citizens. The ordinance could be edited to incorporate the interpretations, or the interpretations could be provided as a standalone document posted online.

Subdivision definition exemption requirements

Mr. Voigt stated that he received an inquiry about what the subdivision ordinance would require to purchase a small portion of agricultural land and combine it with a small agricultural lot. The subdivision ordinance specifies that a division of agricultural land must be 10 acres or more to be exempt from the subdivision ordinance requirements. The question was raised as to whether or not the ordinance should be amended to allow an exemption for comparable situations.

Mr. Ellig said a variance could be granted if the spirit of the ordinance is met. Mr. Voigt said a variance must be granted in tandem with a plat or certificate of survey, which can cost up to \$3,000.

Dr. Mahoney said it seems that amending the ordinance would be the least cost prohibitive option for landowners.

Mr. Fisher said the 10-acre agricultural use requirement may be tied to an outside intent, such as for tax purposes.

MOTION, passed

Mr. Monson moved and Mr. Breitling seconded to recommend that the County Planner draft alternative language for subdivision exemption requirements in the Cass County Subdivision Ordinance, specifically pertaining to the exemption for agricultural land, and to bring proposed changes to the Cass County Planning Commission for review and approval.

Discussion: Mr. Ellig asked if the recommendation is to remove the 10-acre requirement. Mr. Benson said the 10-acre requirement was meant to prevent the development of residential lots without going through the platting process.

Mr. Breitling said perhaps language could be added to permit lot line adjustments.

Mr. Ellig said language could otherwise allow this board to consider or approve similar issues as they arise.

Motion carried.

Application hearing deadline

Mr. Voigt stated that the subdivision ordinance requires that subdivision applications must be submitted a minimum of 21 days prior to being heard by the Planning Commission, and that this resulted in establishing a subdivision application deadline. As February was a short month, there were potential conflicts between the local ordinance deadline and the N.D.C.C. state statutory public hearing notification requirement. Mr. Voigt contacted the office of the Attorney General and the State's Attorney Office to seek clarification on state public hearing notification requirements. As a result, he was provided with an opinion from the Cass County State's Attorney Office that state statute public hearing notice requirements were not clear; however, full seven-day week periods were advised, which resulted in more expensive newspaper advertising fees.

Mr. Voigt stated that other similar planning entities do not impose deadline requirements in which applications must be reviewed, and Mr. Voigt would prefer to eliminate the 21-day requirement to ensure compliance with state statute and to allow more time for thorough staff analysis of applications.

MOTION, passed

Mr. Breitling moved and Mr. Olson seconded to recommend that the County Planner draft alternative language for Final Plat Application requirements in the Cass County Subdivision Ordinance, specifically pertaining to the 21-day review requirement, and to bring proposed changes to the

**Cass County Planning Commission for review and approval.
Motion carried.**

Mr. Breitling left for the remainder of the meeting.

9. OTHER BUSINESS

Deed restriction requirement

Mr. Ellig asked what purpose deed restrictions serve as required in the Cass County Subdivision Ordinance.

Mr. Benson said the purpose of deed restrictions is to keep agricultural areas agricultural, and to ensure that large residential areas are within or near cities that can support the required infrastructure. It also supports growth in smaller communities for residents who do not wish to live in large cities.

10. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:02 AM.

Minutes prepared by Brielle Edwards, HR Assistant