

# CASS COUNTY PLANNING COMMISSION AGENDA

Thursday, June 25, 2020 at 7:00 a.m.

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**A. Call to Order**

**B. Roll Call**

**C. Determination of a Quorum**

**D. Approve Meeting Minutes of February 27, 2020**

**E. Public Hearing Items**

1. Hearing on an application requesting a Minor Subdivision Plat of **Meadowlark Stable Subdivision** (Located in Raymond Township, a part of the SW  $\frac{1}{4}$  of Section 13, Township 140 North, Range 50 West of the 5<sup>th</sup> Principal Meridian, Cass County North Dakota).
2. Hearing on an application requesting a Minor Subdivision Plat of **Olson's Acres Subdivision** (Located in Rush River Township, a part of the W  $\frac{1}{2}$  of SW  $\frac{1}{4}$  of Section 2, Township 141 North, Range 51 West of the 5<sup>th</sup> Principal Meridian, Cass County North Dakota).
3. Hearing on an application requesting a Minor Subdivision Plat of **Etal Subdivision** (Located in Empire Township, in the NE  $\frac{1}{4}$  of Section 28, Township 141 North, Range 53 West of the 5<sup>th</sup> Principal Meridian, Cass County North Dakota).
4. Hearing on an application requesting a Minor Subdivision Plat of **Diversion 1<sup>st</sup> Subdivision** (Located in Pleasant Township, in Sections 2 and 3, Township 137 North, Range 49 West of the 5<sup>th</sup> Principal Meridian, Cass County North Dakota).
5. Hearing on an application requesting a Variance from the County Subdivision standards to combine Auditor's Lots 3-6 and part of Lot 7 returning the property to a 9 acre parcel (Located in Reed Township, in the NE  $\frac{1}{4}$  of Section 18, Township 140 North, Range 49 West of the 5<sup>th</sup> Principal Meridian, Cass County North Dakota).

**F. New Business**

**G. Old Business**

**H. Adjournment**

**CASS COUNTY PLANNING COMMISSION  
FEBRUARY 27, 2020**

**1. MEETING TO ORDER**

A meeting of the Cass County Planning Commission was called to order on February 27, 2020, at 7:00 AM in the Vector Control Conference Room with members present as follows: Ken Lougheed, David Gust, Elissa Novotny, Kris Schipper and Mr. Breitling. Dr. Mahoney was present by phone. Mr. Bertsch, Mr. Olson and Mr. Monson were absent. Also present were County Planner, Barrett Voigt and County Engineer, Tom Soucy.

**2. MINUTES, APPROVED**

***MOTION, passed***

**Mr. Gust moved and Mr. Breitling seconded to approve the minutes of the January 23, 2020 meeting as presented. Motion carried.**

**3. PUBLIC HEARING ITEMS**

**a. Minor Subdivision Plat of Hamre Subdivision, located in Watson Township.**

Mr. Lougheed opened the public hearing.

Mr. Voight provided an overview of the Minor Subdivision Plat of **Hamre Subdivision** (located in Watson Township, in the SW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 8, Township 137 North, Range 53 West of the 5th Principal Meridian, Cass County, North Dakota).

The public hearing was closed.

***MOTION, passed***

**Mr. Gust moved and Mr. Breitling seconded to move to approve with easement. Motion carried.**

**4. NEW BUSINESS**

Grace Puppe, new Cass County Planner, March 2<sup>nd</sup> start date.

**5. OLD BUSINESS**

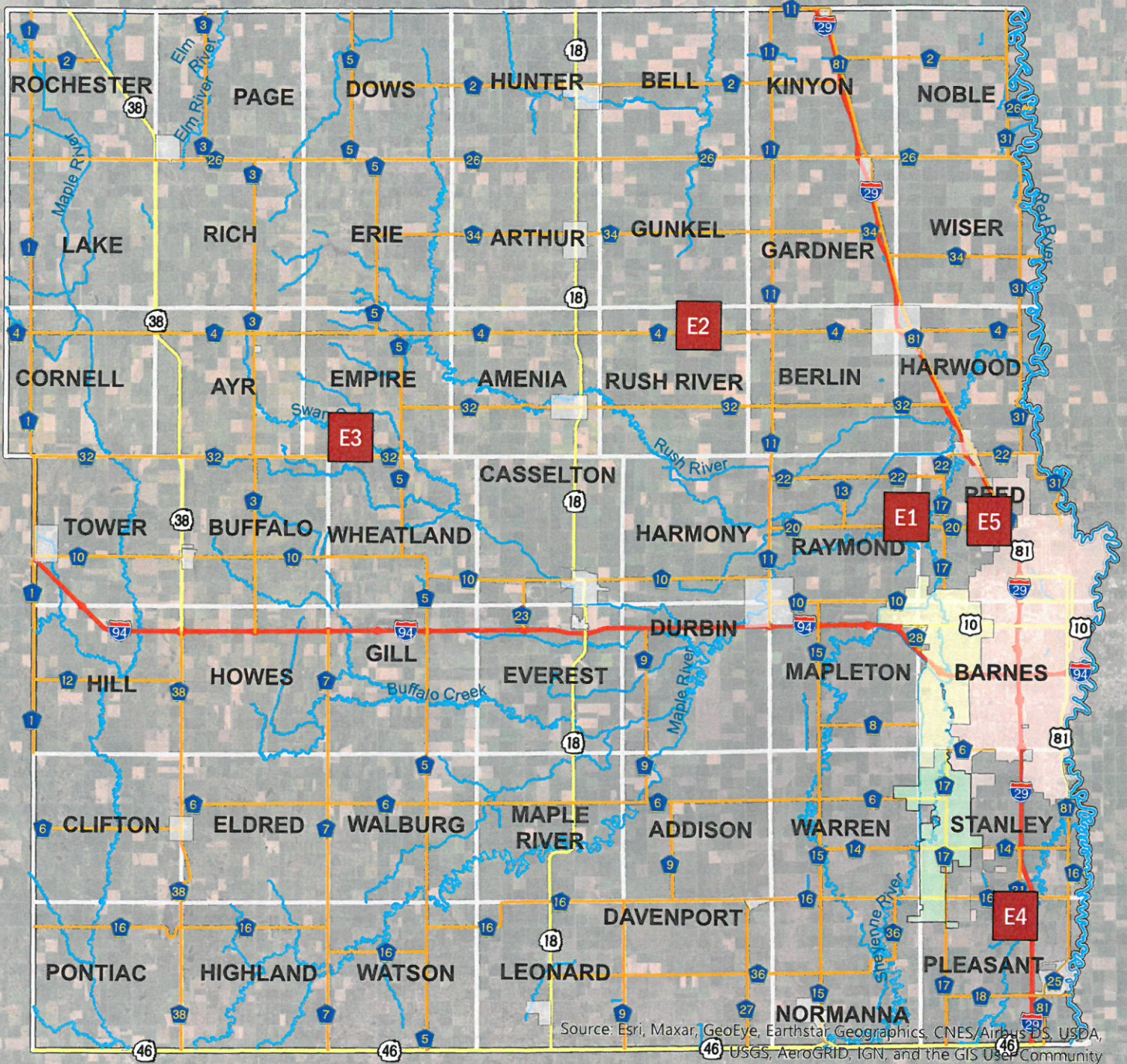
**6. ADJOURNMENT**

**On motion by Mr. Gust, seconded by Mr. Breitling, and all voting in favor, the meeting was adjourned at 7:20 AM.**

# Agenda Items Map

Cass County Planning Commission

June 25, 2020



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
Imagery: NAIP, North Dakota 2019 30cm

## Agenda Items No.

- E1. - Meadowlark Stable Subdivision
- E2. - Olson's Acres Subdivision
- E3. - Etal Subdivision
- E4. - Diversion 1st Subdivision

E5. - Variance in Reed Twp

Maps and data are to be used for reference purposes only and Cass County, ND, is not responsible for any inaccuracies herein contained. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.





## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Minor Subdivision (1 Lot)</b> of a part of the SW ¼ of Section 13, Township 140 North, Range 50 West		
<b>Title:</b>	<b>Meadowlark Stable Subdivision</b>	<b>Date:</b>	6-5-2020
<b>Location:</b>	SW ¼ of Section 13, Township 140 North, Range 50 West (Raymond Township)	<b>Staff Contact:</b>	Grace Puppe
<b>Parcel Number:</b>	59-0000-10861-069	<b>Water District:</b>	Rush River Water District
<b>Owner(s)/ Applicant:</b>	Lana & Dan Feeley	<b>Engineer/ Surveyor:</b>	Houston Engineering
<b>Status:</b>	Planning Commission Hearing: June 25, 2020		

Existing Land Use	Proposed Land Use
Agriculture	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Meadowlark Stable Subdivision** to plat a one (1) Lot subdivision of approximately 9.9 acres. According to the applicant, the subdivision is requested allow for the construction of a single-family home, horse stable, riding arena, and pasture for horses.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing county highway road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment. The property currently does not have a connection to water or electricity. However, has received pre-approval from Cass County Electric Cooperative for service.

### Agency Comments

<b>County Engineer</b>	For this plat I am OK with use of the existing access approach in the SE corner to access Cass Highway 20. I have spoken with the applicant and the site plan is good and appears to ensure the structures will be out of the flood plain.
<b>Water Resource District</b>	No comments were received prior to publishing the staff report.
<b>Cass County Electric Cooperative</b>	No comments were received prior to publishing the staff report.
<b>Century Link</b>	No comments were received prior to publishing the staff report.
<b>Sprint</b>	No comments were received prior to publishing the staff report.
<b>AT&amp;T</b>	No comments were received prior to publishing the staff report.
<b>Xcel Energy</b>	No comments were received prior to publishing the staff report.

Otter Tail Power Company	No comments were received prior to publishing the staff report.
Magellan Pipeline Company	No comments were received prior to publishing the staff report.
NuStar Energy	No comments were received prior to publishing the staff report.
Cass Rural Water	Water service to the property can potentially be made from a line that is on the north side of 40th Ave. To date we have not received an application for service.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	No comments were received prior to publishing the staff report.
Township Chairman	No comments were received prior to publishing the staff report.
The City of Fargo	The proposed Meadowlark Stable Subdivision is in Raymond Township and so outside of the Fargo city limits and Fargo's extraterritorial jurisdiction. The City has no comment.
The City of West Fargo	No comments were received prior to publishing the staff report.
Public Comment	No comments were received prior to publishing the staff report.

### Staff Analysis

#### *Land Use and Surrounding Uses*

The subject property is bound by agricultural production land on the north and west. County Road 20 borders the south of the property. Maple Sheyenne Lutheran Church borders the east of the property.

#### *Floodzone*

According to the FEMA Flood Map Service Center, the west part of the property is located in the 1% annual chance floodplain. The east half of the property is in the 2% annual chance floodplain. In addition, no wetlands or other notable features are present on the proposed subdivision Lot.

#### *Land Development Rights*

The subject quarter-quarter section currently is developed and requires the transfer of a development right. Section 308 of the Cass County Subdivision Ordinance states that every quarter-quarter section is granted one (1) Development Right to create a buildable lot with a minimum of 40 acres. Because the lot subdivision proposal is less than 40 acres, a transfer of a development right is required along with a deed restriction.

### Staff Recommendation

To accept the findings and recommendations of staff and recommend approval to the County Commission of the subdivision application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance and all other applicable regulations, with the following conditions:

1. A deed restriction be recorded that meets the requirements of Section 308 of the Cass County Subdivision Ordinance.

### Attachments

1. Location Map
2. Plat Document
3. Deed Restriction

# Minor Subdivision

## Meadowlark Stable Subdivision

Watson Twp, Section 8 - Township 137 North - Range 53 West



Imagery: NAIP, North Dakota 2019 30cm

Cass County Planning Commission  
June 25, 2020

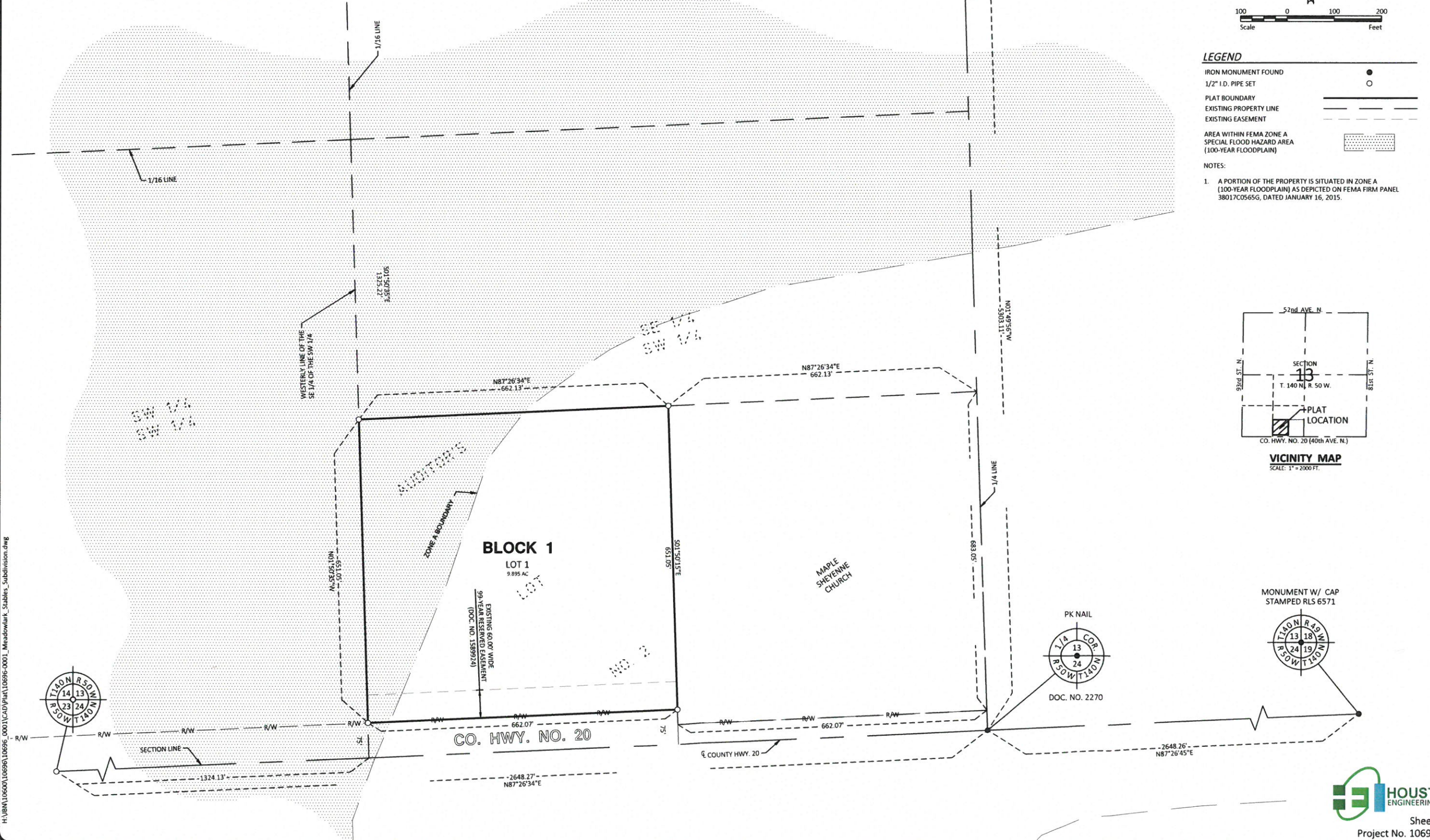


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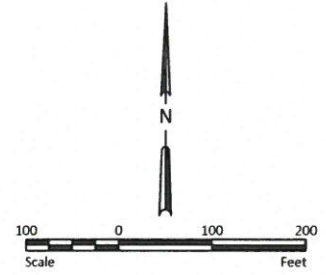
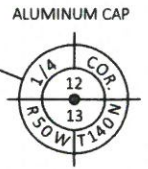


# MEADOWLARK STABLES SUBDIVISION

BEING A PLAT OF AUDITOR'S LOT NO. 2 OF THE SW 1/4 OF SECTION 13, T. 140 N., R. 50 W., 5th P.M. CASS COUNTY, NORTH DAKOTA



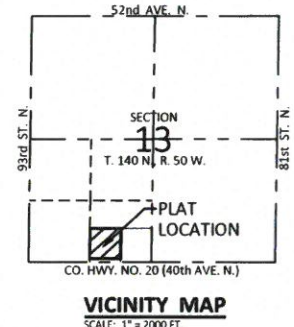
H:\BNA\10696\10696-0001\CAD\Plat\10696-0001\_Meadowlark\_Stables\_Subdivision.dwg



**LEGEND**

IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
PLAT BOUNDARY	—
EXISTING PROPERTY LINE	- - -
EXISTING EASEMENT	- · - · -
AREA WITHIN FEMA ZONE A SPECIAL FLOOD HAZARD AREA (100-YEAR FLOODPLAIN)	[Stippled Area]

- NOTES:**
1. A PORTION OF THE PROPERTY IS SITUATED IN ZONE A (100-YEAR FLOODPLAIN) AS DEPICTED ON FEMA FIRM PANEL 38017C0565G, DATED JANUARY 16, 2015.







## **DEED RESTRICTION**

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this Eighth day of May 2020 by

Owner: Kenneth A Pawluk

### **1. PURPOSE**

The owner recognizes the following agreement is set forth to encourage orderly and economically-feasible growth, prevent new developments from creating economic strains on county residents, protect the county's valuable farmland and agricultural traditions and promote development that will more easily convert to an urban environment and implement the goals and objectives established by the most current Cass County Comprehensive Plan. The following agreement will promote small, truly rural developments that will mesh more easily with existing agricultural land and activities and will encourage larger urban style subdivisions to develop in the urban fringe and other areas with supportive infrastructure. Developments built beyond the density restriction will be constructed with full supportive urban infrastructure, ensuring developments that will more easily transition into an urban development upon annexation without extensive and costly infrastructure upgrades.

### **2. AGREEMENT**

WHEREAS, for the granting of the division described herein pursuant to Section 309 of the Cass County Subdivision Ordinance, acknowledged herein as good and valuable consideration, the Owner(s) consent and agree to the filing of this **DEED RESTRICTION**, and understand that its effect will be to limit any further residences, divisions, or nonagricultural development on the restricted parcel described herein, except as may be permitted by Section 309.02 of the Cass County Subdivision Ordinance and any amendment thereto:

- A. This **DEED RESTRICTION** shall terminate at such time the deed restricted parcel is completely within the extraterritorial (ET) boundaries of an incorporated city of Cass County;
- B. This **DEED RESTRICTION** shall terminate at such time the restricted parcel is completely annexed by an incorporated city of Cass County; or
- C. Any further subdivision of the restricted parcel will conform to full urban design standards and the strictest requirements outlined within Article VI of the Cass County Subdivision Ordinance, including, but not limited: paved roads with curb and gutter, a paved access road, municipal sewer system, public water supply system with functioning fire hydrants, storm water facilities, street lights, street trees, street signs, sidewalks, bike paths, and park dedications.

WHEREAS, this **DEED RESTRICTION** shall run with the land in perpetuity and be binding on all owners, successors, heirs, assigns, lessees, users, or parties having or acquiring any right, title, or interest in the restricted parcel herein described or any part thereof.

WHEREAS, the restricted parcel described herein meets the criteria established in Section 308 of the Cass County Subdivision Ordinance.

WHEREAS, this **DEED RESTRICTION** shall expire at such time any of the exceptions under Section 309.02 of the Cass County Subdivision Ordinance, and any amendment thereto, apply to the restricted parcel described herein. Upon the written request of any interested party, the Cass County Engineer is authorized to record an instrument with the Cass County Recorder, which declares such an exception applies to the restricted parcel described herein and the **DEED RESTRICTION** is expired.

**3. VIOLATION OF DEED RESTRICTION**

In the event of a violation of this **DEED RESTRICTION**, the penalties and remedies provided under Section 906 (Penalties and Violations) of the Cass County Subdivision Ordinance and North Dakota law shall apply.

**4. LEGAL DESCRIPTION OF THE RESTRICTED PARCEL**

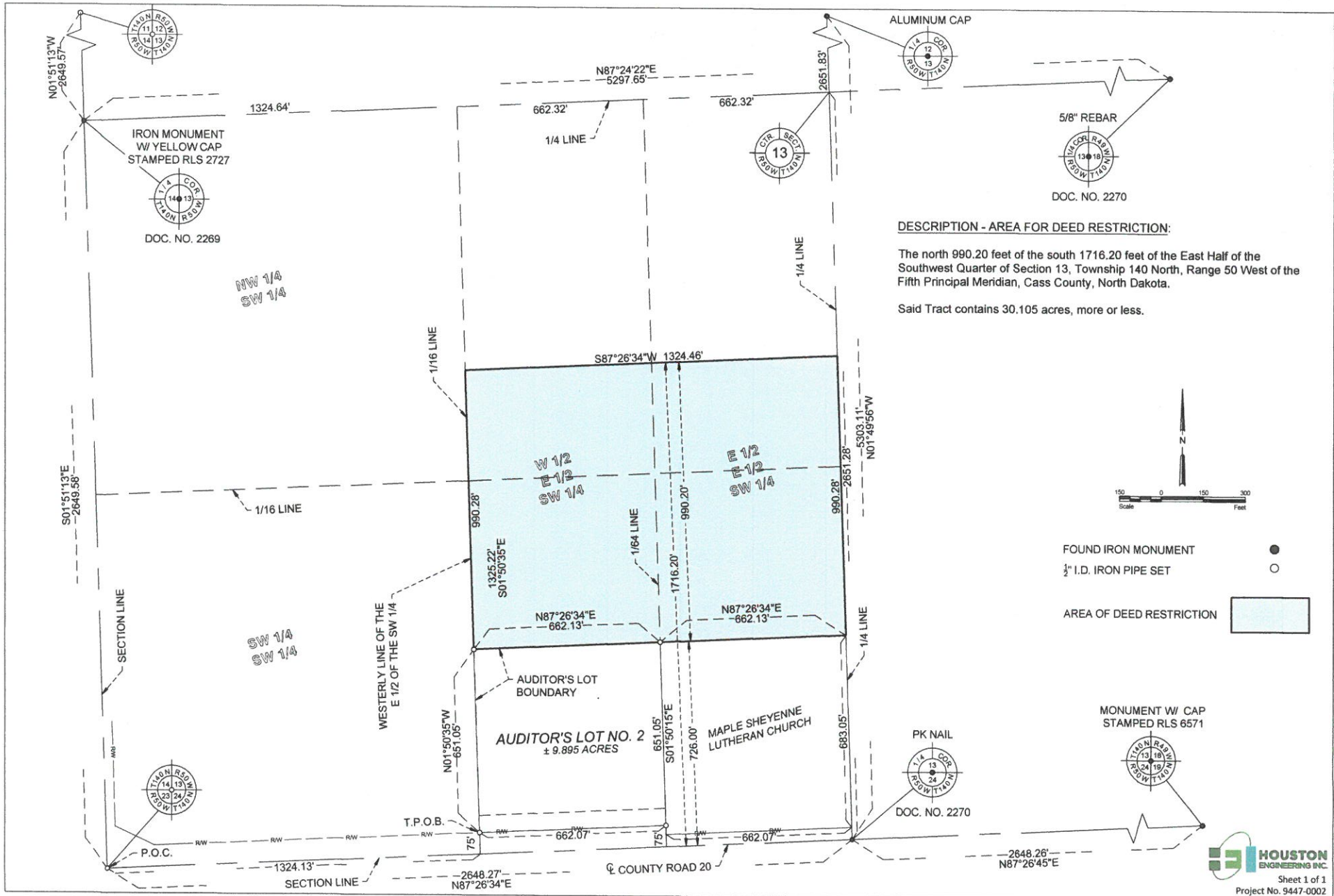
That part of the East Half of the Southwest Quarter of Section 13, Township 140 North, Range 50 west of the Fifth Principal Meridian, Cass County, North Dakota, more particularly described as follows:

**DESCRIPTION – AREA FOR DEED RESTRICTION:**

The north 990.20 feet of the south 1716.20 feet of the East Half of the Southwest Quarter of Section 13, Township 140 North, Range 50 West of the Fifth Principal Meridian, Cass County, North Dakota.

Said Tract contains 30.105 acres, more or less.



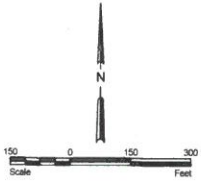


**DESCRIPTION - AREA FOR DEED RESTRICTION:**

The north 990.20 feet of the south 1716.20 feet of the East Half of the Southwest Quarter of Section 13, Township 14 North, Range 50 West of the Fifth Principal Meridian, Cass County, North Dakota.

Said Tract contains 30.105 acres, more or less.

- FOUND IRON MONUMENT ●
- 1/2" I.D. IRON PIPE SET ○
- AREA OF DEED RESTRICTION



MONUMENT W/ CAP  
STAMPED RLS 6571



PK NAIL  
DOC. NO. 2270





## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Minor Subdivision (1 Lot)</b> of a part of the W ½ of SW ¼ of Section 2, Township 141 North, Range 51 West		
<b>Title:</b>	<b>Olson's Acres Subdivision</b>	<b>Date:</b>	6-11-2020
<b>Location:</b>	W ½ of SW ¼ of Section 2, Township 141 North, Range 51 West (Rush River Township)	<b>Staff Contact:</b>	Grace Puppe
<b>Parcel Number:</b>	63-0000-11710-000	<b>Water District:</b>	Rush River Water District
<b>Owner(s)/Applicant:</b>	John & Margaret Olson	<b>Engineer/Surveyor:</b>	Bolten & Menk Inc.
<b>Status:</b>	Planning Commission Hearing: June 25, 2020		

Existing Land Use	Proposed Land Use
Agriculture	Residential

Agency Comments	
<b>County Engineer</b>	For this plat I am OK with use of the existing access approach in the SE corner to access Cass Highway 4. I have spoken with the applicant and the site plan is good and appears to ensure the structures will be out of the flood plain.
<b>Water Resource District</b>	No comments were received prior to publishing the staff report.
<b>Cass County Electric Cooperative</b>	No comments were received prior to publishing the staff report.
<b>Century Link</b>	No comments were received prior to publishing the staff report.
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<b>Magellan Pipeline Company</b>	No comments were received prior to publishing the staff report.
<b>NuStar Energy</b>	No comments were received prior to publishing the staff report.
<b>Cass Rural Water</b>	Water service to the property can potentially be made from a line that runs along 25th Street. To date we have not received an application for service.
<b>North Dakota Department of Transportation</b>	No comments were received prior to publishing the staff report.

County Sanitarian	No comments were received prior to publishing the staff report.
Township Chairman	No comments were received prior to publishing the staff report.
The City of Fargo	The proposed Olson's Acres Subdivision is in Rush River Township and so outside of the Fargo city limits and Fargo's extraterritorial jurisdiction. The City has no comment.
The City of West Fargo	No comments were received prior to publishing the staff report.
Public Comment	No comments were received prior to publishing the staff report.

### Staff Analysis

#### *Land Use and Surrounding Uses*

The subject property is bound by agricultural production land on the north and west. County Road 4 borders the south of the property. Residential and agricultural to the east.

#### *Floodzone*

According to the FEMA Flood Map Service Center, this property is currently unmapped, and no Special Hazard Flood Area has been identified. In addition, no wetlands or other notable features are present on the proposed subdivision Lot.

#### *Land Development Rights*

The subject quarter-quarter section currently is developed and requires the transfer of a development right. Section 308 of the Cass County Subdivision Ordinance states that every quarter-quarter section is granted one (1) Development Right to create a buildable lot with a minimum of 40 acres. Because the lot subdivision proposal is less than 40 acres, a transfer of a development right is required along with a deed restriction.

### Staff Recommendation

To accept the findings and recommendations of staff and recommend approval to the County Commission of the subdivision application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance and all other applicable regulations, with the following conditions:

1. A deed restriction be recorded that meets the requirements of Section 308 of the Cass County Subdivision Ordinance.

### Attachments

1. Location Map
2. Plat Document
3. Deed Restriction

# Minor Subdivision

## Olson's Acres Subdivision

Rush River Twp, Section 2 - Township 141 North - Range 51 West



Cass County Planning Commission  
June 25, 2020

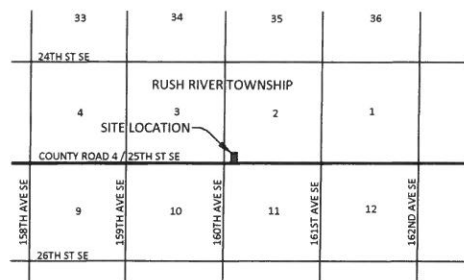


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# OLSON'S ACRES SUBDIVISION

PART OF THE WEST HALF OF THE SOUTHWEST QUARTER, SECTION 2,  
TOWNSHIP 141 NORTH, RANGE 51 WEST OF THE FIFTH PRINCIPAL MERIDIAN,  
RUSH RIVER TOWNSHIP, CASS COUNTY, NORTH DAKOTA  
A MINOR SUBDIVISION



VICINITY MAP  
NO SCALE

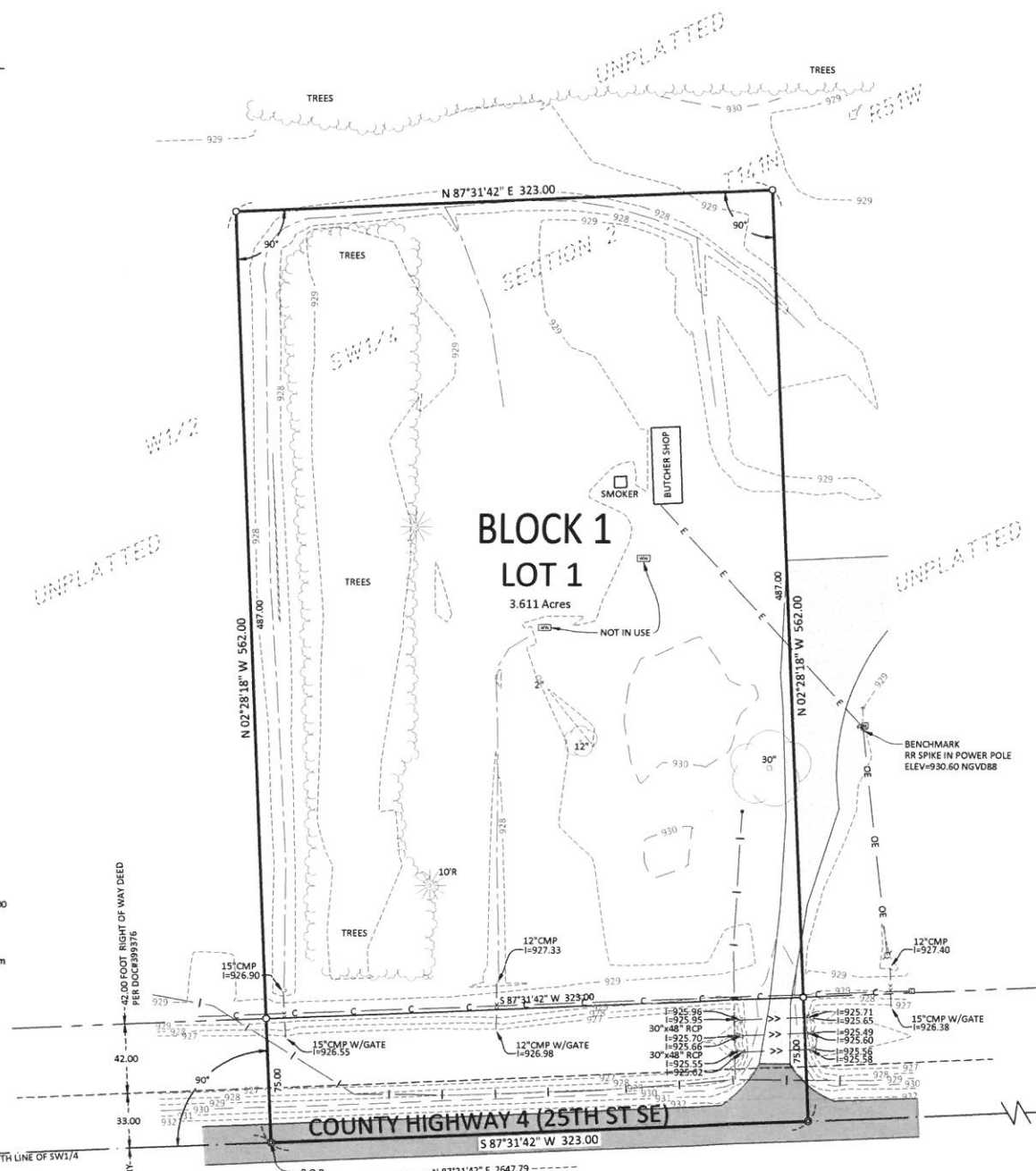
### LEGEND

- 5/8"x18" REBAR MONUMENT SET MARKED BY CAP NO. LS-6703
- MONUMENT FOUND
- SUBJECT PROPERTY LINE
- - - SECTION LINE
- - - EASEMENT LINE
- >> CULVERT
- △ FLARED END
- OE OVERHEAD ELECTRIC
- E - - - ELECTRIC UNDERGROUND
- M ELECTRIC METER
- ☉ LIGHT POLE
- ⊙ ANCHOR
- ☉ UTILITY POLE
- ☉ EDGE OF TREES
- ☉ DECIDUOUS TREE
- ☉ CONIFEROUS TREE
- ☉ WET WELL SANITARY
- - - INTERMEDIATE CONTOUR
- - - INDEX CONTOUR
- - - WATER SYSTEM
- ⊙ CURB STOP VALVE WATER
- - - COMMUNICATION UNDERGROUND
- ▭ GRAVEL SURFACE
- ▭ BITUMINOUS SURFACE



0 50 100  
SCALE IN FEET  
Bearing Orientation Based on  
Cass County NAD83 Horizontal Datum  
International Foot  
Ground Coordinates  
Scale Factor 1.000125127  
Date of Survey: May 20, 2020

- 30°48" RCP
- 1-926.40
- 1-926.49
- 30°48" RCP
- 1-926.46
- 1-926.80
- 1-926.87
- 1-926.51
- 30°48" RCP
- 30°48" RCP
- 1-926.48
- 1-926.68
- 30°48" RCP
- 1-926.23
- 1-926.64
- 1-926.91
- 1-926.47
- 30°48" RCP



### OWNERS DESCRIPTION AND DEDICATION

KNOWN ALL MEN BY THESE PRESENTS, That John C. Olson and Margaret A. Olson, husband and wife, as owners of a parcel of land located in the West Half of the Southwest Quarter of Section 2, Township 141 North, Range 51 West of the Fifth Principal Meridian, Cass County, North Dakota and more particularly described as follows:

Commencing at the southwest corner of said West Half of the Southwest Quarter; thence East, along the south line of said West Half of the Southwest Quarter, 388.56 feet to the point of beginning of the land to be described; thence North at a right angle 562.00 feet; thence East at a right angle 323.00 feet; thence South at a right angle 562.00 feet to the south line of said South Half of the Southwest Quarter; thence West, along said south line, 323.00 feet to the point of beginning.

Containing 4.167 acres, of land, more or less and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Said owner has caused the above described parcel of land to be surveyed and platted as "OLSON'S ACRES SUBDIVISION" to Cass County, North Dakota and do hereby dedicate to the public for public use County Highway 4 as shown on this plat.

### OWNERS:

By: John C. Olson, husband

By: Margaret A. Olson, wife

State of North Dakota } SS  
County of Cass

On this \_\_\_ day of \_\_\_\_\_, 2020, before me, a notary public within and for said County and State, personally appeared John C. Olson, husband and Margaret A. Olson, wife, known to me to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same.

Notary Public

### SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, Gregg Stroeing, Registered Professional Land Surveyor under the laws of the State of North Dakota do hereby certify that this plat is a correct representation of the survey, that all distances shown are correct and that the monuments for the guidance of future surveys have been located or placed in the ground as shown and that the outside boundary lines are correctly designated on the plat.

Gregg Stroeing, Professional Land Surveyor  
North Dakota License Number LS-6703

State of North Dakota } SS  
County of Cass

On this \_\_\_ day of \_\_\_\_\_, 2020, before me, a notary public within and for said County and State, personally appeared Gregg Stroeing, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same.

Notary Public

### CASS COUNTY ENGINEER

Reviewed by the Cass County Engineer this \_\_\_ day of \_\_\_\_\_, 2020.

Jason Benson, Cass County Engineer

### CASS COUNTY PLANNING COMMISSION

Reviewed by the Cass County Planning Commission this \_\_\_ day of \_\_\_\_\_, 2020.

Ken Loughheed, Chairman

Attest:  
Secretary

### RUSH RIVER TOWNSHIP

Reviewed by Rush River Township, Cass County, North Dakota this \_\_\_ day of \_\_\_\_\_, 2020.

name?, Chairman

Attest:  
Clerk

### CASS COUNTY BOARD OF COMMISSIONERS APPROVAL

Approved by Cass County, North Dakota this \_\_\_ day of \_\_\_\_\_, 2019.

By: Mary Scherling, Chair

Attest:  
Michael Montplaisir, Cass County Auditor

*preliminary*



PREPARED BY:

**BOLTON & MENK**



## DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 13 day of May, 2020, by  
Owner(s): John C Olson

### 1. **PURPOSE**

The owner recognizes the following agreement is set forth to encourage orderly and economically-feasible growth, prevent new developments from creating economic strains on county residents, protect the county's valuable farmland and agricultural traditions and promote development that will more easily convert to an urban environment and implement the goals and objectives established by the most current Cass County Comprehensive Plan. The following agreement will promote small, truly rural developments that will mesh more easily with existing agricultural land and activities and will encourage larger urban style subdivisions to develop in the urban fringe and other areas with supportive infrastructure. Developments built beyond the density restriction will be constructed with full supportive urban infrastructure, ensuring developments that will more easily transition into an urban development upon annexation without extensive and costly infrastructure upgrades.

### 2. **AGREEMENT**

WHEREAS, for the granting of the division described herein pursuant to Section 309 of the Cass County Subdivision Ordinance, acknowledged herein as good and valuable consideration, the Owner(s) consent and agree to the filing of this **DEED RESTRICTION**, and understand that its effect will be to limit any further residences, divisions, or nonagricultural development on the restricted parcel described herein, except as may be permitted by Section 309.02 of the Cass County Subdivision Ordinance and any amendment thereto:

- A. This **DEED RESTRICTION** shall terminate at such time the deed restricted parcel is completely within the extraterritorial (ET) boundaries of an incorporated city of Cass County;
- B. This **DEED RESTRICTION** shall terminate at such time the restricted parcel is completely annexed by an incorporated city of Cass County; or
- C. Any further subdivision of the restricted parcel will conform to full urban design standards and the strictest requirements outlined within Article VI of the Cass County Subdivision Ordinance, including, but not limited to: paved roads with curb and gutter, a paved access road, municipal sewer system, public water supply system with functioning fire hydrants, storm water facilities, street lights, street trees, street signs, sidewalks, bike paths, and park dedications.

WHEREAS, this **DEED RESTRICTION** shall run with the land in perpetuity and be binding on all owners, successors, heirs, assigns, lessees, users, or parties having or acquiring any right, title, or interest in the restricted parcel herein described or any part thereof.

WHEREAS, the restricted parcel described herein meets the criteria established in Section 308 of the Cass County Subdivision Ordinance.

WHEREAS, this **DEED RESTRICTION** shall expire at such time any of the exceptions under Section 309.02 of the Cass County Subdivision Ordinance, and any amendment thereto, apply to the restricted parcel described herein. Upon the written request of any interested party, the Cass County Engineer is authorized to record an instrument with the Cass County Recorder, which declares such an exception applies to the restricted parcel described herein and the **DEED RESTRICTION** is expired.

3. **VIOLATION OF DEED RESTRICTION**

In the event of a violation of this **DEED RESTRICTION**, the penalties and remedies provided under Section 906 (Penalties and Violations) of the Cass County Subdivision Ordinance and North Dakota law shall apply.

4. **LEGAL DESCRIPTION OF THE RESTRICTED PARCEL**

The Northwest Quarter of the Southwest Quarter of Section Two, in Township One Hundred Forty-one North, Range Fifty-one West of the Fifth Principal Meridian, Cass County, North Dakota.

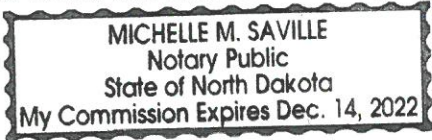
IN WITNESS of the restrictions, the Owner(s) have caused this DEED RESTRICTION to be executed effective as of:

John Colson  
Owner(s) Signature

13 May 20  
Date

State of North Dakota )  
  ) ss  
County of Cass )

On this 13 day of May, 2020, before me, a notary public within and for said county and state, personally appeared John Colson, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same.



Michelle M. Saville  
Notary Public

The foregoing instrument was acknowledged before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by Jason Benson, County Engineer.

\_\_\_\_\_  
County Engineer Signature

\_\_\_\_\_  
Date

State of North Dakota )  
  ) ss  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, a notary public within and for said county and state, personally appeared Jason Benson, County Engineer, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same as their free act and deed.

\_\_\_\_\_  
Notary Public



## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Minor Subdivision (1 Lot)</b> of a part of the NE ¼ of Section 28, Township 141 North, Range 53 West		
<b>Title:</b>	<b>Etal Subdivision</b>	<b>Date:</b>	6-11-2020
<b>Location:</b>	NE ¼ of Section 28, Township 141 North, Range 53 West (Empire Township)	<b>Staff Contact:</b>	Grace Puppe
<b>Parcel Number:</b>	36-0000-04315-000	<b>Water District:</b>	Maple River Water District
<b>Owner(s)/Applicant:</b>	Jeremy King	<b>Engineer/Surveyor:</b>	Neset Land Surveys
<b>Status:</b>	Planning Commission Hearing: June 25, 2020		

Existing Land Use	Proposed Land Use
Agriculture	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Etal Subdivision** to plat a one (1) Lot subdivision of approximately 2.93 acres. According to the applicant, the subdivision is requested to sell off 2.93 acres to allow for a new home to be on the new lot.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 147<sup>nd</sup> Ave SE road access, ditches for storm sewer conveyance, public water, and on-site septic systems for wastewater treatment. The property currently does not have a connection to water and electricity.

Agency Comments	
<b>County Engineer</b>	For this plat I am OK with use of the existing access approach to access Township road. I have communicated with the applicant and the site plan is good and appears to ensure the structures will be out of the flood plain. I also reviewed the 1960 aerial photo and this is the location of a previous farm site.
<b>Water Resource District</b>	No comments were received prior to publishing the staff report.
<b>Cass County Electric Cooperative</b>	No comments were received prior to publishing the staff report.
<b>Century Link</b>	No comments were received prior to publishing the staff report.
<b>Sprint</b>	No comments were received prior to publishing the staff report.
<b>AT&amp;T</b>	No comments were received prior to publishing the staff report.
<b>Xcel Energy</b>	No comments were received prior to publishing the staff report.

Otter Tail Power Company	No comments were received prior to publishing the staff report.
Magellan Pipeline Company	No comments were received prior to publishing the staff report.
NuStar Energy	No comments were received prior to publishing the staff report.
Cass Rural Water	Water service to the property can potentially be made from a line that runs along 147th Ave. To date we have not received an application for service.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	No comments were received prior to publishing the staff report.
Township Chairman	No comments were received prior to publishing the staff report.
The City of Fargo	The proposed Etal Subdivision is located in Empire Township and so outside of the Fargo City limits and Fargo's extraterritorial jurisdiction. The City has no comment.
The City of West Fargo	No comments were received prior to publishing the staff report.
Public Comment	No comments were received prior to publishing the staff report.

### Staff Analysis

#### *Land Use and Surrounding Uses*

The subject property is bound by agricultural production land on the west and south. Township road 147<sup>th</sup> Ave SE borders the east of the property with Swan Creek Tributary bordering the north.

#### *Floodzone*

According to the FEMA Flood Map Service Center, this property is currently unmapped and not Special Hazard Flood Area has been identified. In addition, no wetlands or other notable features are present on the proposed subdivision Lot.

#### *Land Development Rights*

The subject quarter-quarter section currently is developed and requires the transfer of a development right. Section 308 of the Cass County Subdivision Ordinance states that every quarter-quarter section is granted one (1) Development Right to create a buildable lot with a minimum of 40 acres. Because the lot subdivision proposal is less than 40 acres, a transfer of a development right is required along with a deed restriction.

### Staff Recommendation

To accept the findings and recommendations of staff and recommend approval to the County Commission of the subdivision application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance and all other applicable regulations, with the following conditions:

1. A deed restriction be recorded that meets the requirements of Section 308 of the Cass County Subdivision Ordinance.

### Attachments

1. Location Map
2. Plat Document
3. Deed Restriction

# Minor Subdivision

Etal Subdivision

Empire Twp, Section 28 - Township 141 North - Range 53 West



Cass County Planning Commission  
June 25, 2020

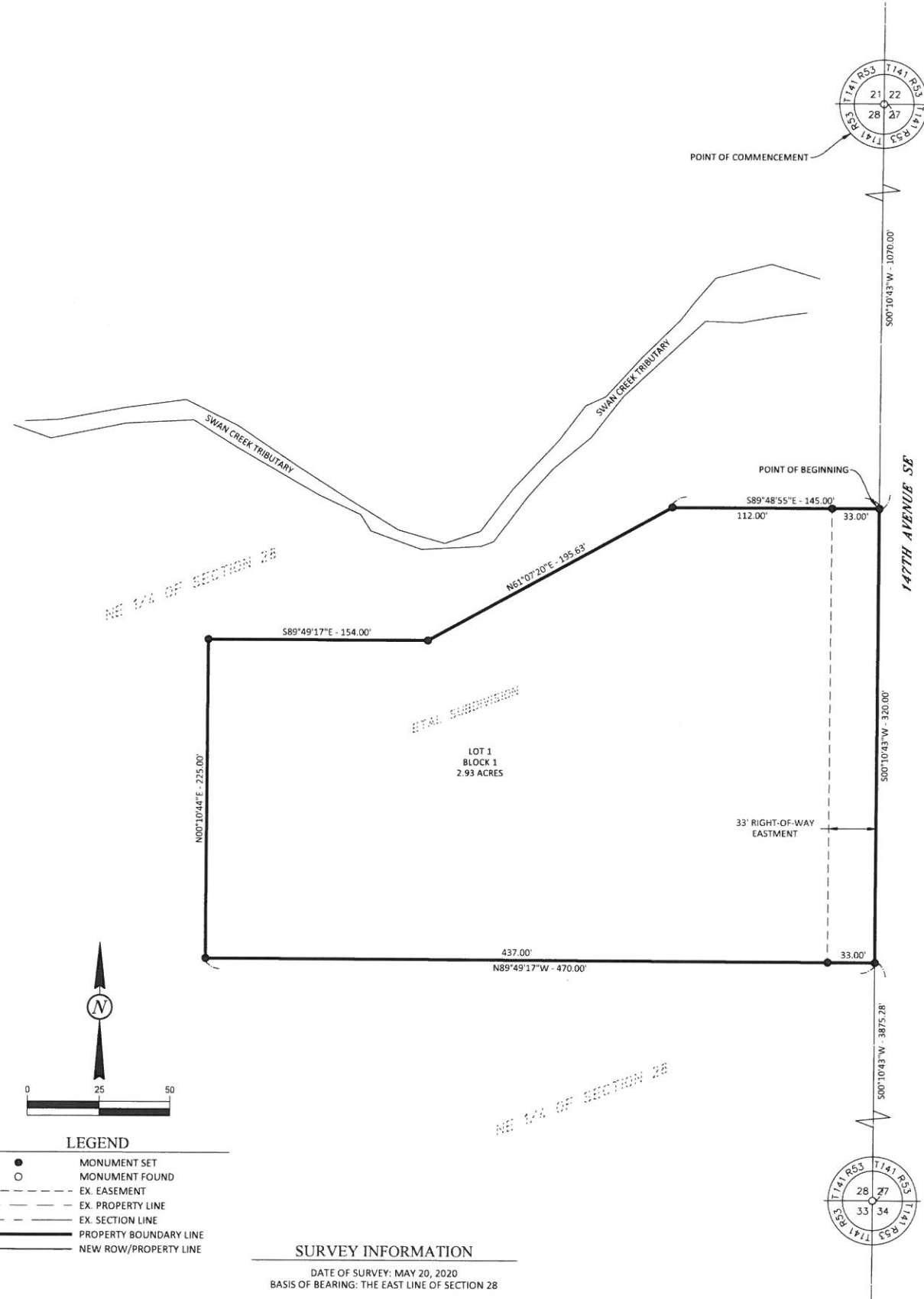
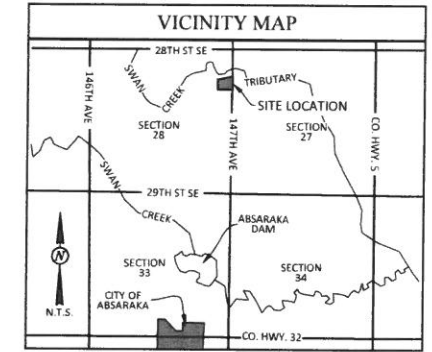


Maps and data are to be used for reference purposes only and Cass County, ND, is not responsible for any inaccuracies herein contained. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



# ETAL SUBDIVISION

A MINOR SUBDIVISION LOCATED IN SECTION 28, TOWNSHIP 141N, RANGE 53W  
EMPIRE TOWNSHIP, CASS COUNTY, STATE OF NORTH DAKOTA



## OWNER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS, THAT JANICE BOYCE ETAL OF EMPIRE TOWNSHIP, NORTH DAKOTA IS THE OWNER OF ETAL SUBDIVISION DESCRIBED AS FOLLOWS;

PART OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 141 NORTH, RANGE 53 WEST OF THE 5TH PRINCIPAL MERIDIAN, EMPIRE TOWNSHIP, CASS COUNTY, NORTH DAKOTA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 28; THENCE  $500^{\circ}10'43''$ W ALONG THE EAST LINE OF SECTION 28, A DISTANCE OF 1070.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHERLY ALONG SAID LINE, A DISTANCE OF 320.00 FEET; THENCE  $N89^{\circ}49'17''$ W A DISTANCE OF 470.00 FEET; THENCE  $N00^{\circ}10'44''$ E A DISTANCE OF 225.00 FEET; THENCE  $S89^{\circ}49'17''$ E A DISTANCE OF 154.00 FEET; THENCE  $N61^{\circ}07'20''$ E A DISTANCE OF 195.63 FEET; THENCE  $S89^{\circ}48'55''$ E A DISTANCE OF 145.00 FEET TO THE POINT OF BEGINNING, SAID TRACT OF LAND CONTAINS  $\pm 2.93$  ACRES MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

SAID OWNERS HAVE CAUSED THE ABOVE DESCRIBED TRACT OF LAND SHOWN ON THIS PLAT TO BE SURVEYED AND PLATTED AS ETAL SUBDIVISION, A MINOR SUBDIVISION TO COUNTY OF CASS, STATE OF NORTH DAKOTA. ETAL A MINOR SUBDIVISION CONSISTS OF 1 LOT, AND 1 BLOCK, AND CONTAINS 2.93 ACRES MORE OR LESS.

BY:

JEREMY KING, POWER OF ATTORNEY ON BEHALF OF JANICE BOYCE  
CONTRACT FOR DEED VENDOR

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )SS

BE IT KNOWN ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020,  
BEFORE ME PERSONALLY APPEARED JEREMY KING, KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE EXECUTION OF THE SAME AS A FREE ACT AND DEED.

MY COMMISSION

EXPIRES: \_\_\_\_\_

NOTARY PUBLIC

CRAIG AND CHARLENE KING, HUSBAND AND WIFE  
CONTRACT FOR DEED VENDEES

CRAIG KING CHARLENE KING

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )SS

BE IT KNOWN ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020,  
BEFORE ME PERSONALLY APPEARED CRAIG AND CHARLENE KING, HUSBAND AND WIFE, KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE EXECUTION OF THE SAME AS A FREE ACT AND DEED.

MY COMMISSION

EXPIRES: \_\_\_\_\_

NOTARY PUBLIC

## SURVEYORS CERTIFICATE

I, COLE A. NESET HEREBY CERTIFY THAT THIS SURVEY, PLAN AND/OR REPORT WAS PREPARED UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

COLE A. NESET \_\_\_\_\_ DATE \_\_\_\_\_  
REGISTERED LAND SURVEYOR No. LS-7513  
STATE OF NORTH DAKOTA

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )SS

BE IT KNOWN ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020, BEFORE ME PERSONALLY APPEARED COLE A. NESET, NORTH DAKOTA REGISTERED LAND SURVEYOR, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE EXECUTION OF THE SAME AS A FREE ACT AND DEED.

MY COMMISSION

EXPIRES: \_\_\_\_\_

NOTARY PUBLIC

## CASS COUNTY ENGINEER

REVIEWED BY THE CASS COUNTY ENGINEER THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

JASON BENSON, CASS COUNTY ENGINEER

## CASS COUNTY PLANNING COMMISSION

REVIEWED BY THE CASS COUNTY PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

KEN LOUGHEED, CHAIRMAN

ATTEST: \_\_\_\_\_  
SECRETARY

## CASS COUNTY BOARD OF COMMISSIONER'S APPROVAL

REVIEWED BY CASS COUNTY, NORTH DAKOTA THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

CHAD PETERSON, CHAIRMAN

ATTEST: \_\_\_\_\_  
MICHAEL MONTPLAISIR, CASS COUNTY FINANCIAL DIRECTOR

## EMPIRE TOWNSHIP

REVIEWED BY HIGHLAND TOWNSHIP, CASS COUNTY, NORTH DAKOTA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

STEVE FAUGHT, CHAIRMAN

ATTEST: \_\_\_\_\_  
JENNA MCPHERSON, CLERK

SHEET 1 OF 1

DRAWN BY: KRS  
CHECKED BY: CAN  
DATE: 5/26/2020



## DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 9th day of June, 2019, by Owner(s): Jeremy King

### 1. **PURPOSE**

The owner recognizes the following agreement is set forth to encourage orderly and economically-feasible growth, prevent new developments from creating economic strains on county residents, protect the county's valuable farmland and agricultural traditions and promote development that will more easily convert to an urban environment and implement the goals and objectives established by the most current Cass County Comprehensive Plan. The following agreement will promote small, truly rural developments that will mesh more easily with existing agricultural land and activities, and will encourage larger urban style subdivisions to develop in the urban fringe and other areas with supportive infrastructure. Developments built beyond the density restriction will be constructed with full supportive urban infrastructure, ensuring developments that will more easily transition into an urban development upon annexation without extensive and costly infrastructure upgrades.

### 2. **AGREEMENT**

WHEREAS, for the granting of the division described herein pursuant to Section 309 of the Cass County Subdivision Ordinance, acknowledged herein as good and valuable consideration, the Owner(s) consent and agree to the filing of this **DEED RESTRICTION**, and understand that its effect will be to limit any further residences, divisions, or nonagricultural development on the restricted parcel described herein, except as may be permitted by Section 309.02 of the Cass County Subdivision Ordinance and any amendment thereto:

- A. This **DEED RESTRICTION** shall terminate at such time the deed restricted parcel is completely within the extraterritorial (ET) boundaries of an incorporated city of Cass County;
- B. This **DEED RESTRICTION** shall terminate at such time the restricted parcel is completely annexed by an incorporated city of Cass County; or
- C. Any further subdivision of the restricted parcel will conform to full urban design standards and the strictest requirements outlined within Article VI of the Cass County Subdivision Ordinance, including, but not limited: paved roads with curb and gutter, a paved access road, municipal sewer system, public water supply system with functioning fire hydrants, storm water facilities, street lights, street trees, street signs, sidewalks, bike paths, and park dedications.

WHEREAS, this **DEED RESTRICTION** shall run with the land in perpetuity and be binding on all owners, successors, heirs, assigns, lessees, users, or parties having or acquiring any right, title, or interest in the restricted parcel herein described or any part thereof.

WHEREAS, the restricted parcel described herein meets the criteria established in Section 308 of the Cass County Subdivision Ordinance.



WHEREAS, this **DEED RESTRICTION** shall expire at such time any of the exceptions under Section 309.02 of the Cass County Subdivision Ordinance, and any amendment thereto, apply to the restricted parcel described herein. Upon the written request of any interested party, the Cass County Engineer is authorized to record an instrument with the Cass County Recorder, which declares such an exception applies to the restricted parcel described herein and the **DEED RESTRICTION** is expired.

**3. VIOLATION OF DEED RESTRICTION**

In the event of a violation of this **DEED RESTRICTION**, the penalties and remedies provided under Section 906 (Penalties and Violations) of the Cass County Subdivision Ordinance and North Dakota law shall apply.

**4. LEGAL DESCRIPTION OF THE RESTRICTED PARCEL**

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 141 NORTH, RANGE 53 WEST OF THE 5TH PRINCIPAL MERIDIAN, EMPIRE TOWNSHIP, CASS COUNTY, NORTH DAKOTA MORE PARTICULARLY DESCRIBED AS FOLLOWS

LESS THE FOLLOWING DESCRIPTION:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 28; THENCE S00°10'43"W ALONG THE EAST LINE OF SECTION 28, A DISTANCE OF 1070.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHERLY ALONG SAID LINE, A DISTANCE OF 320.00 FEET; THENCE N89°49'17"W A DISTANCE OF 470.00 FEET; THENCE N00°10'44"E A DISTANCE OF 225.00 FEET; THENCE S89°49'17"E A DISTANCE OF 154.00 FEET; THENCE N61°07'20"E A DISTANCE OF 195.63 FEET; THENCE S89°48'55"E A DISTANCE OF 145.00 FEET TO THE POINT OF BEGINNING, SAID TRACT OF LAND CONTAINS ±2.93 ACRES MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.





## Cass County Planning Commission Staff Report

**Entitlements Requested:** **Minor Subdivision (1 Lot)** of a part of Sections 2 and 3, Township 137 North, Range 49 West

**Title:** **Diversion 1st Subdivision** **Date:** 6-11-2020

**Location:** Sections 2 and 3, Township 137 North, Range 49 West (Pleasant Township) **Staff Contact:** Grace Puppe

**Parcel Number:** 57-0000-10232-000;  
57-0000-10233-000;  
57-0000-10235-000;  
57-0000-10235-010;  
57-0000-10239-000;  
57-0000-10239-010 **Water District:** Southeast Water District

**Owner(s)/Applicant:** Jeremy King **Engineer/Surveyor:** Houston Engineering

**Status:** Planning Commission Hearing: June 25, 2020

Existing Land Use	Proposed Land Use
Agriculture	Agriculture
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Diversion 1st Subdivision** to plat two (2) block and nine (9) Lot subdivision of approximately 466.205 acres. According to the applicant, the subdivision is requested to plat the parcels impacted by Fargo-Moorhead Flood Diversion right-of-way.

The proposed ownership and maintenance responsibility of the subdivision will be private.

### Agency Comments

**County Engineer** I have reviewed this plat and have a strong understanding of the Diversion project, plat, and access. I don't have any issues with the plat. I understand that the north end of the platted area will ultimately result in reconstructing Cass Highway 16 to go up and over the Diversion embankment. The specifics of this up and over are outlined in the draft Memorandum of Agreement between the FM Diversion Authority and Cass County. The primary access for this plat will be to use 173rd Ave SE south of Cass Highway 16 to the point where 173rd Ave will be vacated.

**Water Resource District** No comments were received prior to publishing the staff report.

**Cass County Electric Cooperative** No comments were received prior to publishing the staff report.

Century Link	No comments were received prior to publishing the staff report.
Sprint	No comments were received prior to publishing the staff report.
AT&T	No comments were received prior to publishing the staff report.
Xcel Energy	No comments were received prior to publishing the staff report.
Otter Tail Power Company	No comments were received prior to publishing the staff report.
Magellan Pipeline Company	No comments were received prior to publishing the staff report.
NuStar Energy	No comments were received prior to publishing the staff report.
Cass Rural Water	CRWD is working with the Diversion Authority to relocate a water line in the area. Otherwise we have no comment.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	No comments were received prior to publishing the staff report.
Township Chairman	No comments were received prior to publishing the staff report.
The City of Fargo	The proposed Diversion 1st Subdivision is in Pleasant Township and so outside of the Fargo City limits and Fargo's extraterritorial jurisdiction. The City has no comment.
The City of West Fargo	No comments were received prior to publishing the staff report.
Public Comment	No comments were received prior to publishing the staff report.

### Staff Analysis

#### *Land Use and Surrounding Uses*

The subject property is bound by agricultural production land on the north, west and south. Interstate 29 borders the east of the property.

#### *Floodzone*

According to the FEMA Flood Map Service Center, this property is located in Special Hazard Flood Area Zone AE and within the Floodway.

### Staff Recommendation

1. To accept the findings and recommendations of staff and recommend approval to the County Commission of the subdivision application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance and all other applicable regulations.

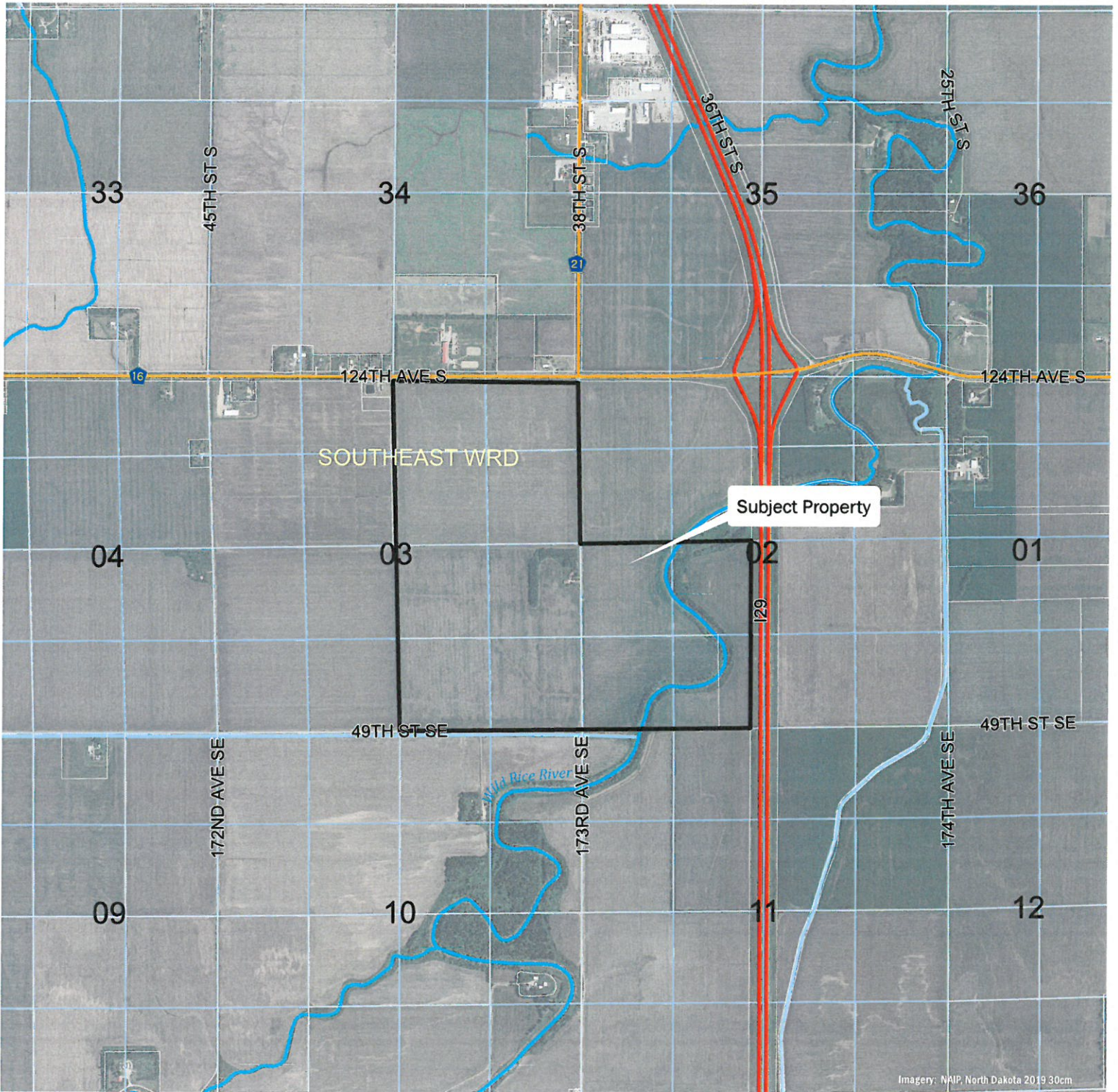
### Attachments

1. Location Map
2. Plat Document
3. Project Explanation

# Minor Subdivision

## Diversion 1st Subdivision

Pleasant Twp, Section 2 & 3 - Township 137 North - Range 49 West



Cass County Planning Commission  
June 25, 2020

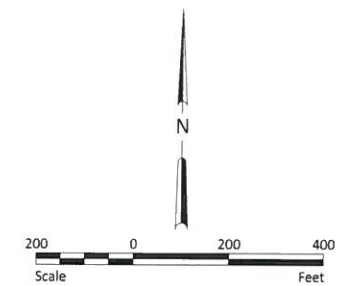


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# DIVERSION 1ST SUBDIVISION

BEING A PLAT OF PART OF THE SOUTHWEST QUARTER  
OF SECTION 2 AND THE EAST HALF OF SECTION 3,  
T. 137 N., R. 49 W., 5th P.M.  
CASS COUNTY, NORTH DAKOTA



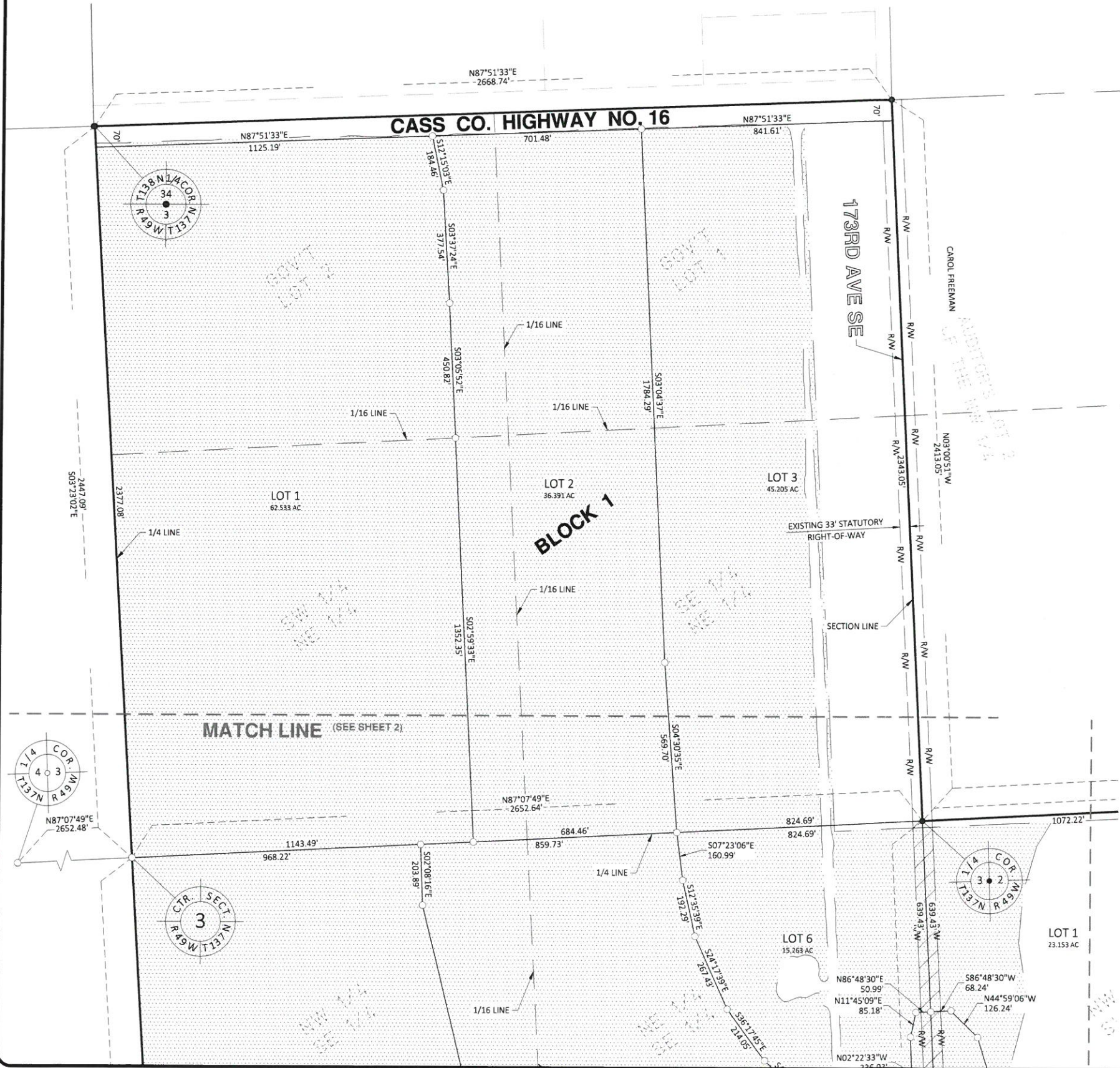
**LEGEND**

IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
MEASURED BEARING	N00°00'00"E
PLAT BEARING	(N00°00'00"E)
MEASURED DISTANCE	100.00'
PLAT DISTANCE	(100.00')
PLAT BOUNDARY	—————
LOT LINE	—————
UTILITY EASEMENT	-----
EXISTING LOT LINE	-----
EXISTING UTILITY EASEMENT	-----
EXISTING STATUTORY R/W TO BE ABANDONED BY THIS PLAT	▨
AREA WITHIN FEMA 100-YEAR FLOODPLAIN	▨

BEARINGS SHOWN ARE BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM (NAD83) - SOUTH ZONE  
DISTANCES SHOWN ARE GROUND DISTANCES



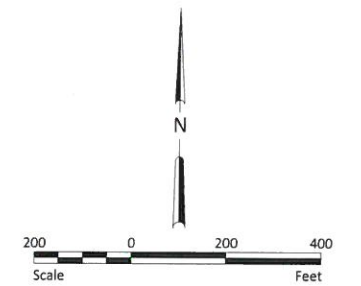
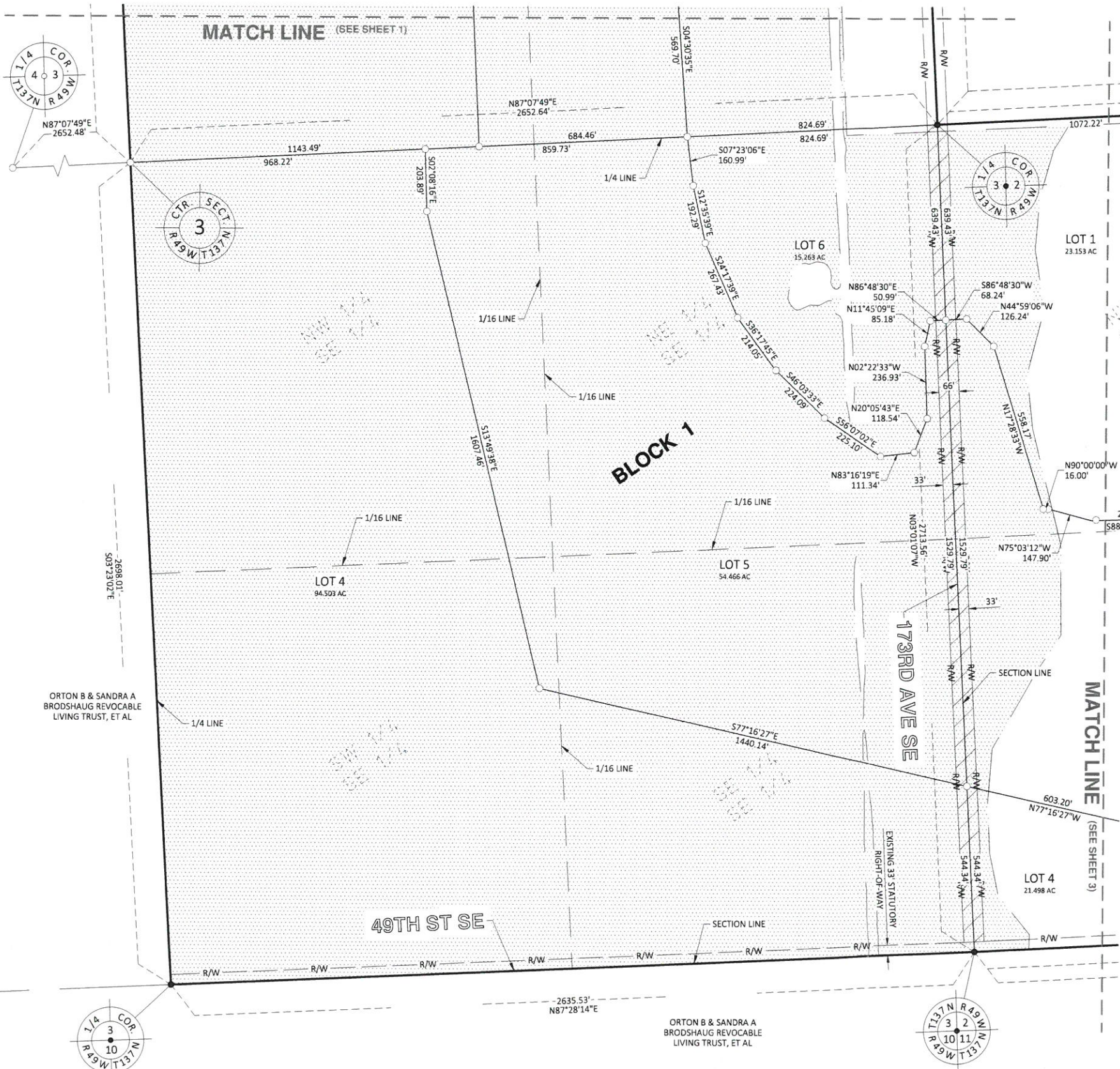
**VICINITY MAP**  
NOT TO SCALE



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# DIVERSION 1ST SUBDIVISION

BEING A PLAT OF PART OF THE SOUTHWEST QUARTER  
OF SECTION 2 AND THE EAST HALF OF SECTION 3,  
T. 137 N., R. 49 W., 5th P.M.  
CASS COUNTY, NORTH DAKOTA



**LEGEND**

IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
MEASURED BEARING	N00°00'00"E
PLAT BEARING	(N00°00'00"E)
MEASURED DISTANCE	100.00'
PLAT DISTANCE	(100.00')
PLAT BOUNDARY	—————
LOT LINE	—————
UTILITY EASEMENT	- - - - -
EXISTING LOT LINE	- - - - -
EXISTING UTILITY EASEMENT	- - - - -
EXISTING STATUTORY R/W TO BE ABANDONED BY THIS PLAT	▨
AREA WITHIN FEMA 100-YEAR FLOODPLAIN	▨

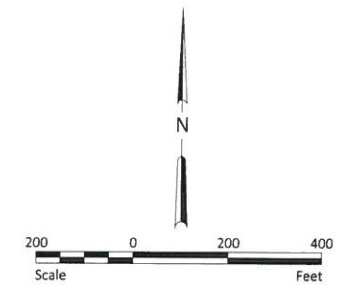
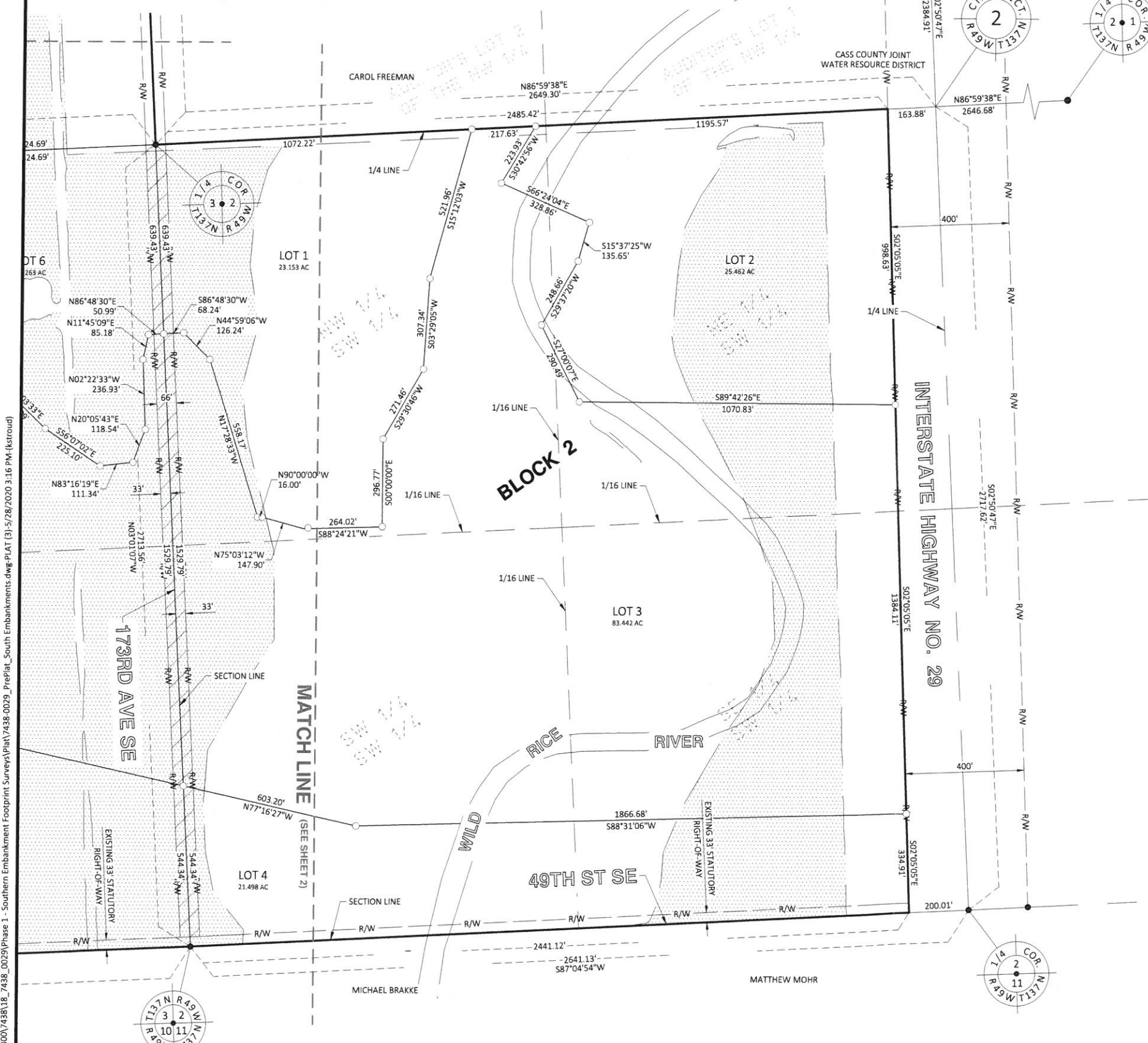
BEARINGS SHOWN ARE BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM (NAD83) - SOUTH ZONE  
DISTANCES SHOWN ARE GROUND DISTANCES

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# DIVERSION 1ST SUBDIVISION

BEING A PLAT OF PART OF THE SOUTHWEST QUARTER  
OF SECTION 2 AND THE EAST HALF OF SECTION 3,  
T. 137 N., R. 49 W., 5th P.M.  
CASS COUNTY, NORTH DAKOTA



**LEGEND**

IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
MEASURED BEARING	N00°00'00"E
PLAT BEARING	(N00°00'00"E)
MEASURED DISTANCE	100.00'
PLAT DISTANCE	(100.00')
PLAT BOUNDARY	—————
LOT LINE	—————
UTILITY EASEMENT	- - - - -
EXISTING LOT LINE	- - - - -
EXISTING UTILITY EASEMENT	- - - - -
EXISTING STATUTORY R/W TO BE ABANDONED BY THIS PLAT	▨
AREA WITHIN FEMA 100-YEAR FLOODPLAIN	▨

BEARINGS SHOWN ARE BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM (NAD83) - SOUTH ZONE  
DISTANCES SHOWN ARE GROUND DISTANCES

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# DIVERSION 1ST SUBDIVISION

BEING A PLAT OF PART OF THE SOUTHWEST QUARTER OF SECTION 2 AND THE EAST HALF OF SECTION 3, T. 137 N., R. 49 W., 5th P.M. CASS COUNTY, NORTH DAKOTA

**Owners' Certificate and Dedication:**

Know All Persons By These Presents: That Cass County Joint Water Resource District, a North Dakota political subdivision, and Cass County, a North Dakota political subdivision, are the owners and proprietors of the following described tracts of land:

The Southeast Quarter, the South Half of the Northeast Quarter, and Government Lots 1 and 2, Section 3, Township 137 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota.

together with

That part of the Southwest Quarter of Section 2, Township 137 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at the Northwest Corner of said Southwest Quarter; thence North 86°59'38" East, along the northerly line of said Southwest Quarter, for a distance of 2485.42 feet to a point of intersection with the westerly line of Interstate Highway 29 right-of-way; thence South 02°05'05" East, along the westerly line of said right-of-way, for a distance of 2717.65 feet to a point of intersection with the southerly line of said Southwest Quarter; thence South 87°04'54" West, along the southerly line of said Southwest Quarter, for a distance of 2441.12 feet to the southwest corner of said Southwest Quarter; thence North 03°01'07" West, along the westerly line of said Southwest Quarter, for a distance of 2713.56 feet to the point of beginning.

Said tract contains 466.205 acres, more or less.

And that said parties have caused the same to be surveyed and platted as DIVERSION 1st SUBDIVISION and do hereby dedicate to the public for public use the public street and the easements as shown on the plat.

In witness whereof we have set our hands and seals:

Owner:  
Cass County Joint Water Resource District

\_\_\_\_\_  
Dan Jacobson, Chairman

\_\_\_\_\_  
Carol Harbeke-Lewis, Secretary-Treasurer

State of North Dakota )  
                                  ) ss  
County of Cass            )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public within and for said county and state, personally appeared Dan Jacobson, Chairman, and Carol Harbeke-Lewis, Secretary-Treasurer for Cass County Joint Water Resource District, a North Dakota political subdivision, known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed same on behalf of said water resource district.

Notary Public: \_\_\_\_\_

Owner:  
Cass County

\_\_\_\_\_  
Chad M. Peterson, Chair  
Cass County Board of Commissioners

Attest: \_\_\_\_\_  
Michael Montplaisir, Cass County Auditor

State of North Dakota )  
                                  ) ss  
County of Cass            )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public within and for said county and state, personally appeared Chad M. Peterson, Chair of the Cass County Board of Commissioners, and Michael Montplaisir, Cass County Auditor, known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed same on behalf of said county.

Notary Public: \_\_\_\_\_

**Surveyor's Certificate:**

I, James A. Schlieman, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that the plat hereon is a true and correct representation of the survey thereof, that all distances are correctly shown on said plat in feet and decimals of a foot, and that the monuments for the guidance of future surveys have been placed in the ground as shown.

\_\_\_\_\_  
James A. Schlieman  
North Dakota PLS No. 6086  
jschlieman@houstoneng.com

State of North Dakota )  
                                  ) ss  
County of Cass            )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public within and for said county and state, personally appeared James A. Schlieman, known to be the person described in and who executed the foregoing instrument and acknowledged that he executed same as his free act and deed.

Notary Public: \_\_\_\_\_

**Cass County Engineer:**

Reviewed by the Cass County Engineer this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Jason Benson, Cass County Engineer

**Cass County Planning Commission:**

Reviewed by the Cass County Planning Commission this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Ken Lougheed, Chair

Attest: \_\_\_\_\_  
Secretary

**Pleasant Township:**

Reviewed by Pleasant Township, Cass County, North Dakota, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mark Hiatt, Chair

Attest: \_\_\_\_\_  
Nicole Bice, Clerk

**Cass County Board of Commissioners' Approval:**

Approved by Cass County, North Dakota, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chad Peterson, Chair

Attest: \_\_\_\_\_  
Michael Montplaisir, Cass County Auditor

H:\JBN\7400\7438\18\_7438\_0029\Phase 1 - Southern Embankment Footprint Surveys\Plat\7438-0029\_PrePlat\_South Embankments.dwg-PLAT (4)-5/28/2020 3:16 PM-[kstroud]



“Along with the Diversion Inlet Structure(DIS) construction, the Wild Rice River Structure(WRRS) began its own this spring. In the construction contract for the WRRS a option 1 was added in case a certain amount of land was acquired for the building of the southern embankment west of the structure to tie into it. That land was acquired in March and AMES exercised option 1 of the contract. AMES is the general contractor at the WRRS as well as the DIS. For AMES to complete their work in their contract they must cut a observation trench in the ground. This trench runs under the Southern Embankment to be placed west of the WRRS for the option 1. The trenching and placement of the Southern Embankment crosses 173<sup>rd</sup> Ave SE. 173<sup>rd</sup> Ave SE must be closed permanently and removed in that area for the work to be completed in the contract.”



## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Variance request in Reed Township (1 Lot)</b> of a part of the NE ¼ of Section 18, Township 140 North, Range 49 West		
<b>Title:</b>		<b>Date:</b>	6-11-2020
<b>Location:</b>	Auditor's Lots 3-6 and part of Lot 7, NE ¼ of Section 18, Township 140 North, Range 49 West (Reed Township)	<b>Staff Contact:</b>	Grace Puppe
<b>Parcel Number:</b>	60-0000-01190-030; 60-0000-01190-040; 60-0000-01190-050; 60-0000-01190-060; 60-0000-01190-080	<b>Water District:</b>	Maple River Water District
<b>Owner(s)/Applicant:</b>	Dylan Slotten	<b>Engineer/Surveyor:</b>	Lowry Engineering
<b>Status:</b>	Planning Commission Hearing: June 25, 2020		

Existing Land Use	Proposed Land Use
Agriculture	Residential
Proposal	

The applicant is seeking approval of a variance to combine auditor's lots 3-7 to plat a one (1) Lot subdivision of approximately 9 acres. According to the applicant, the lots would be combined back into one 9-acre parcel to build one residential house on.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 48<sup>th</sup> Ave N road access, ditches for storm sewer conveyance, public water, and on-site septic systems for wastewater treatment. The property currently does not have a connection to water and electricity.

Agency Comments	
County Engineer	Request that any variance for this property does not include a access off of Cass Highway 17. There are currently 5 lots owned by SLOT10 LLP. If this variance was granted all five lots should be combined into one.
Water Resource District	No comments were received prior to publishing the staff report.
Cass County Electric Cooperative	No comments were received prior to publishing the staff report.
Century Link	No comments were received prior to publishing the staff report.
Sprint	No comments were received prior to publishing the staff report.

AT&T	No comments were received prior to publishing the staff report.
Xcel Energy	No comments were received prior to publishing the staff report.
Otter Tail Power Company	No comments were received prior to publishing the staff report.
Magellan Pipeline Company	No comments were received prior to publishing the staff report.
NuStar Energy	No comments were received prior to publishing the staff report.
Cass Rural Water	Water service to the property can potentially be made from a line that runs along County Road 17. We have been contacted by the applicant but to date we have not received an application for service.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	No comments were received prior to publishing the staff report.
Township Chairman	No comments were received prior to publishing the staff report.
The City of Fargo	The subject property is located in Reed Township but is outside of the Fargo City limits and Fargo's extraterritorial jurisdiction. The City has no comment.
The City of West Fargo	No comments were received prior to publishing the staff report.
Public Comment	No comments were received prior to publishing the staff report.

### Staff Analysis

#### *Land Use and Surrounding Uses*

The subject property is bound by agricultural production land on the north, west and south. Interstate 29 borders the east of the property.

#### *Floodzone*

According to the FEMA Flood Map Service Center, this property is currently unmapped and not Special Hazard Flood Area has been identified. In addition, no wetlands or other notable features are present on the proposed subdivision Lot.

### Staff Recommendation

1. To accept the findings and recommendations of staff and recommend approval to the County Commission of the subdivision application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance and all other applicable regulations.

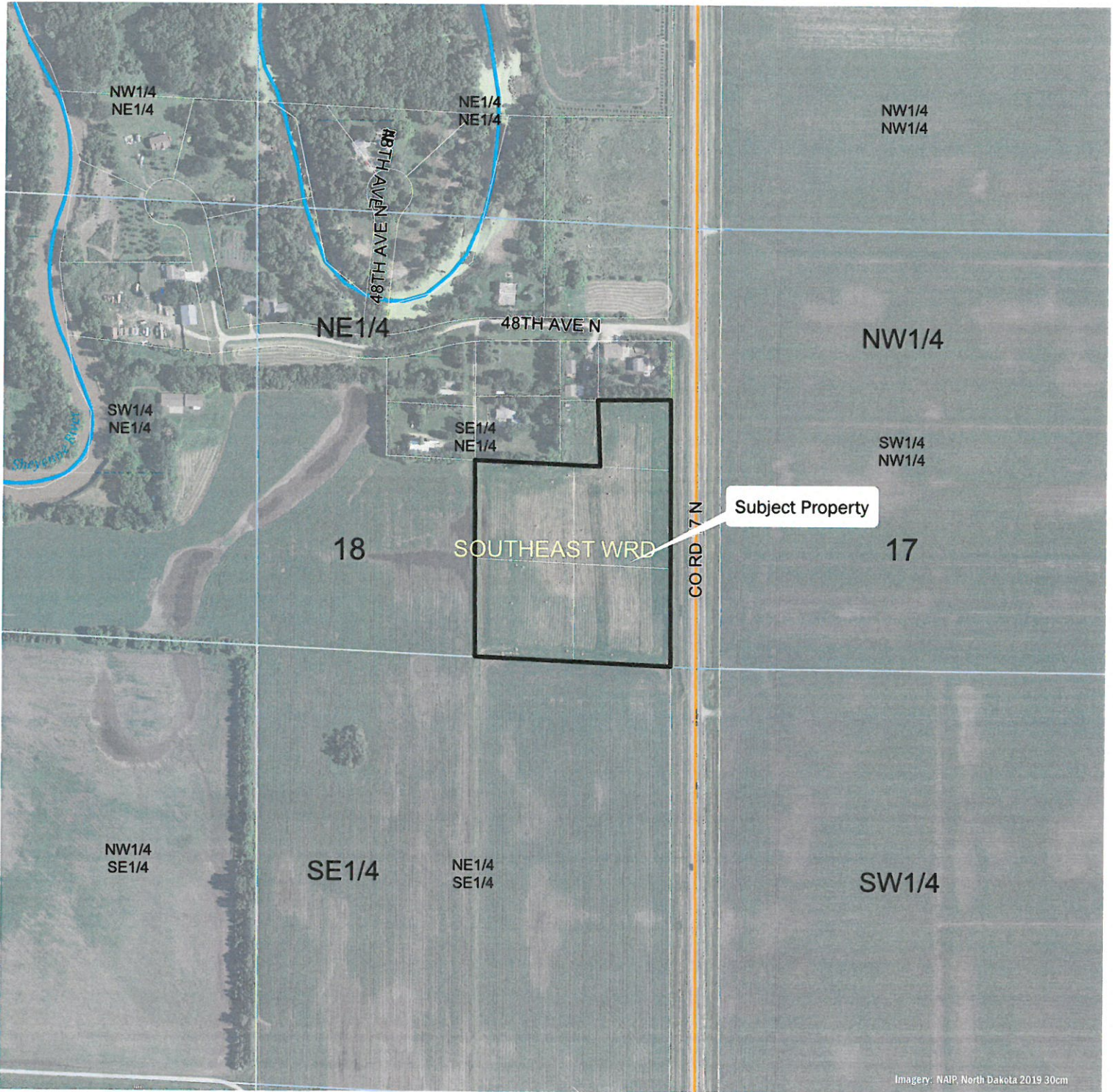
### Attachments

1. Location Map
2. Explanation of request

# Minor Subdivision

Variance

Reed Twp, Section 18 - Township 140 North - Range 49 West



Cass County Planning Commission  
June 25, 2020



Maps and data are to be used for reference purposes only and Cass County, ND, is not responsible for any inaccuracies herein contained. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



**Variance – Located in Reed Township**

Date: 6/10/20

The property owner currently owns Auditor's Lots 3-7 in the Northeast Quarter of Section 18, Township 140 North, Range 49 West of the 5<sup>th</sup> Principal Meridian, Cass County North Dakota.



**General Information:**

Owner's Name:

Property Address: Rural Address

School District: WEST FARGO PUBLIC SCHOOL DISTRICT #6

Fire District:

Water District: W060

Year Built: 0

Frontage Length: 0

Depth Factor: 0

Lot Area: 9 ACRES

**Legal Information:****Block:****Lot:**3-6, Part of Lot 7**Recorded Acres:**9**Description:** AUD LOT 3-6 and part of Lot 7 OF NE ¼ 18-140-49 A 2.00 (2 acres each)**Subdivision of Land**

The lots look to have been split in 2011 after the most recent version of our Subdivision Ordinance in 2006. These lot splits through Quit Claim Deeds would be for agricultural purposes, not for residential development. To add four new developable lot would require a deed restriction of 160 acres of adjacent land, which would be hard to do. The Northeast Quarter of Section 18 already has 10-12 residential properties that have been in place since before 2006.

The property owner is looking at joining the 5 lots back into a single parcel as they were prior to 2011 to grant a variance, as if the parcel hadn't been broken up in 2011 that he could have possibly put a home upon the larger parcel. The proposed driveway location is shown below.



Reed Township approved a building permit for this property with the condition that the lots were joined back into a single parcel.

We are seeking preliminary thoughts and recommendation from the County Planning Commission on the feasibility of subdividing this property.