

CASS COUNTY PLANNING COMMISSION AGENDA

Thursday, February 25, 2021 at 7:00 a.m.

Vector Conference Room, 1201 Main Avenue West, West Fargo, 58078

A. Call to Order

B. Roll Call

C. Determination of a Quorum

D. Approve Meeting Minutes of January 28, 2021

E. Public Hearing Items

1. Hearing on an application requesting a Minor Subdivision Plat of **Longlet Subdivision** (NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 35, Township 142 North, Range 52 West of the 5th Principal Meridian, Cass County North Dakota).
2. Hearing on an application requesting a Minor Subdivision Plat of **Ostrowski Subdivision** (NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 7, Township 141 North, Range 53 West of the 5th Principal Meridian, Cass County North Dakota).
3. Hearing on an application requesting a Minor Subdivision Plat of **Schmuser Subdivision** (NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 28, Township 143 North, Range 52 West of the 5th Principal Meridian, Cass County North Dakota).

F. New Business

G. Old Business

H. Adjournment

**CASS COUNTY PLANNING COMMISSION
JANUARY 28, 2021**

A. MEETING TO ORDER

A meeting of the Cass County Planning Commission was called to order on January 28, 2021, at 7:04 AM in the Vector Control Conference Room.

B. ROLL CALL

Present in person were Dr. Tim Mahoney, Kris Schipper, Rocky Bertsch, Keith Monson, and Cass County Commissioner Jim Kapitan. Ken Lougheed, Brad Olson, Elissa Novotny were present by phone. Also present in person were Cass County Planner, Grace Puppe, Cass County Engineer, Jason Benson and Assistant Cass County Engineer, Tom Soucy.

C. DETERMINATION OF A QUORUM

It was determined that there was a quorum based on the roll call.

D. MINUTES, APPROVED

MOTION, passed

Dr. Mahoney moved and Mr. Bertsch seconded to approve the minutes of the December 10, 2020 meeting as presented.

Motion carried.

E. PUBLIC HEARING ITEMS

- 1. Hearing on an application requesting a Minor Subdivision Plat of Strand Subdivision, located (NE ¼ of the SW ¼ of Section 27, Township 140 North, Range 53 West of the 5th Principal Meridian, Cass County North Dakota)**

Mr. Lougheed opened the public hearing.

Ms. Puppe provided an overview of an application for the minor subdivision entitled Strand Subdivision. The applicant requests approval of the current status of the property.

The application is denied. It is recommended to update the subdivision to comply with septic tank regulations through Fargo Cass Public Health and then be brought back before the Planning Commission for review.

The public hearing was closed.

MOTION, PASSED

Dr Mahoney moved, and Mr. Bertsch seconded to deny the application at this time until the subdivision complies with Fargo Cass Public Health septic tank regulations and approve the requested update for the Strand Subdivision.

Motion carried.

F. NEW BUSINESS

There was no new business to discuss.

G. OLD BUSINESS

There was no old business to discuss.

H. ADJOURNMENT

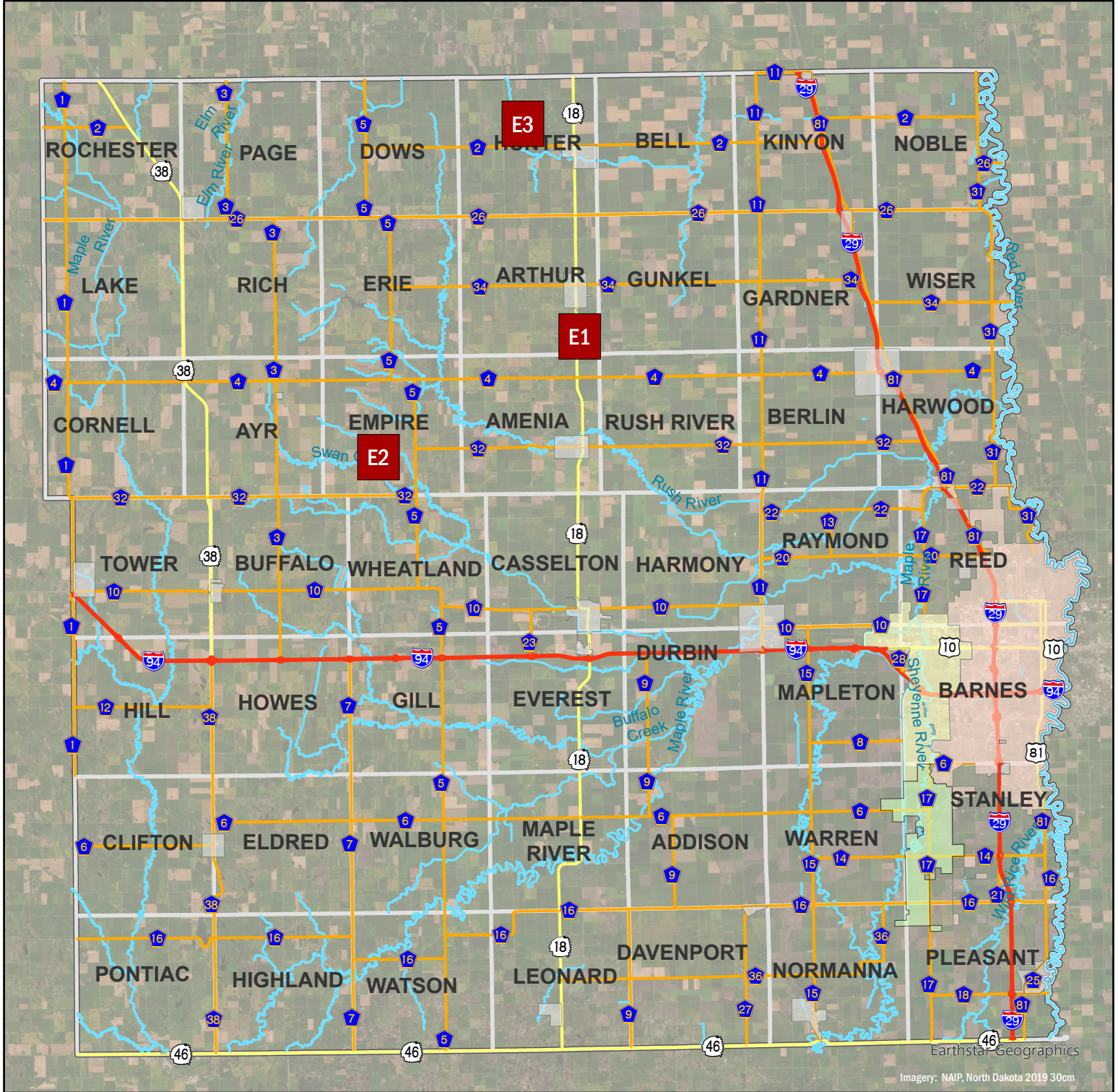
On motion by Ms. Schipper seconded by Mr. Bertsch and all voting in favor, the meeting was adjourned at 7:26 AM.

Minutes prepared by Jodi Miller, Finance Secretary

Agenda Items Map

Cass County Planning Commission

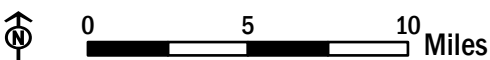
February 25, 2021



Agenda Items No.

- E1. - Longlet Subdivision
- E2. - Ostrowski Subdivision
- E3. - Schmuser Subdivision

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

Entitlements Requested:	Minor Subdivision (1 Lot) of a part of the SE ¼ of Section 35, Township 142 North, Range 52 West		
Title:	Longlet Subdivision	Date:	2-16-2021
Location:	SE ¼ of Section 35, Township 142 North, Range 52 West (Arthur Township)	Staff Contact:	Grace Puppe
Parcel Number:	23-0000-00745-000	Water District:	Rush River Water District
Owner(s)/Applicant:	Fred J. Williams III	Engineer/Surveyor:	Neset
Status:	Planning Commission Hearing: February 25, 2020		

Existing Land Use	Proposed Land Use
Agriculture	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Longlet Subdivision** to plat a one (1) Lot subdivision of approximately 7.36 acres. According to the applicant, the subdivision is requested 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 155th Ave SE road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments	
County Engineer	No issues with this subdivision. I would advise the landowner to contact BNSF regarding the RR crossing as the current field access and RR crossing is for field use.
Water Resource District	No comments were received prior to publishing the staff report.
Cass County Electric Cooperative	In order to provide power to this site, Cass County Electric will need to cross the existing railroad tracks. There will be extra cost involved with the permits to do so and also due to the railroad permitting process this could take anywhere from 45 days to 90 days.
Century Link	No comments were received prior to publishing the staff report.
Sprint	Sprint is clear of project.
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	Service to this site is available from a water main located on the east side of 155 th Ave SE. The applicant has contacted Cass Rural Water but has not yet made an application for water service.
North Dakota Department of Transportation	If no changes to driveway height or width existing access can be used. If changes are made to the driveway would need a driveway permit.
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	This subdivision is outside of the City of Fargo and the City's extra-territorial jurisdiction. No comments on this subdivision.
The City of West Fargo	No comments were received prior to publishing the staff report.
Public Comment	Neighboring property to the west has no issues or concerns for the planned project.

Staff Analysis

Land Use and Surrounding Uses
 The subject property is bound by agricultural production land on the north, west and south. State Highway road 147th 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

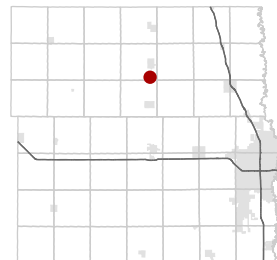
Longlet Subdivision

Arthur Twp, Section 35 - Township 142 North - Range 52 West



Imagery: NAIP, North Dakota 2019 30cm

Cass County Planning Commission
February 25, 2021



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LONGLET SUBDIVISION

A MINOR SUBDIVISION IN SECTION 35, TOWNSHIP 142N, RANGE 52W
ARTHUR TOWNSHIP, CASS COUNTY, NORTH DAKOTA

OWNER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS, THAT WILLIAMS LAND HOLDINGS LLLP IS THE OWNER OF LOT 1, BLOCK 1, LONGLET SUBDIVISION IN SECTION 35, TOWNSHIP 142 NORTH, RANGE 52 WEST OF THE 5TH PRINCIPAL MERIDIAN, ARTHUR TOWNSHIP, NORTH DAKOTA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 35; THENCE S01°00'00"W ALONG THE EAST LINE OF SAID SECTION 35 A DISTANCE OF 2647.42 FEET; THENCE S89°59'03"W A DISTANCE OF 54.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S89°59'03"W ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 1010.00 FEET; THENCE S00°14'35"W A DISTANCE OF 400 FEET; THENCE N89°59'03"E A DISTANCE OF 455.00 FEET; THENCE N00°14'35"E A DISTANCE OF 150.00 FEET; THENCE N89°59'03"E A DISTANCE OF 555.00 FEET; THENCE N00°14'35"E ALONG THE WEST LINE OF THE BNSF RAILROAD RIGHT OF WAY A DISTANCE OF 250.00 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINS ±7.36 ACRES MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

SAID OWNER HAS CAUSED THE ABOVE DESCRIBED TRACT OF LAND SHOWN ON THIS PLAT TO BE SURVEYED AND PLATTED AS LONGLET A MINOR SUBDIVISION TO THE COUNTY OF CASS, STATE OF NORTH DAKOTA. LONGLET A MINOR SUBDIVISION CONSISTS OF 1 LOT AND 1 BLOCK AND CONTAINS 7.36 ACRES MORE OR LESS.

WILLIAMS LAND HOLDINGS LLLP

BY: _____
FRED J. WILLIAMS III, CHIEF MANAGER

STATE OF _____)
COUNTY OF _____)SS

BE IT KNOWN ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED FRED J. WILLIAMS III 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

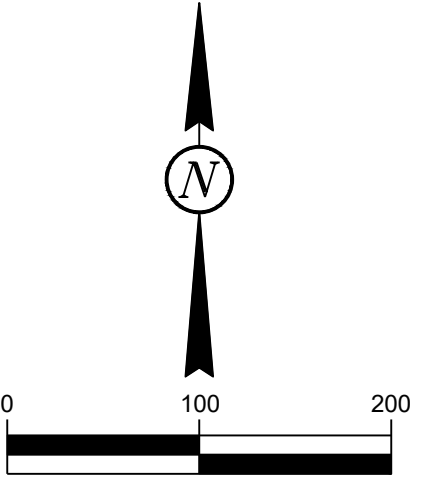
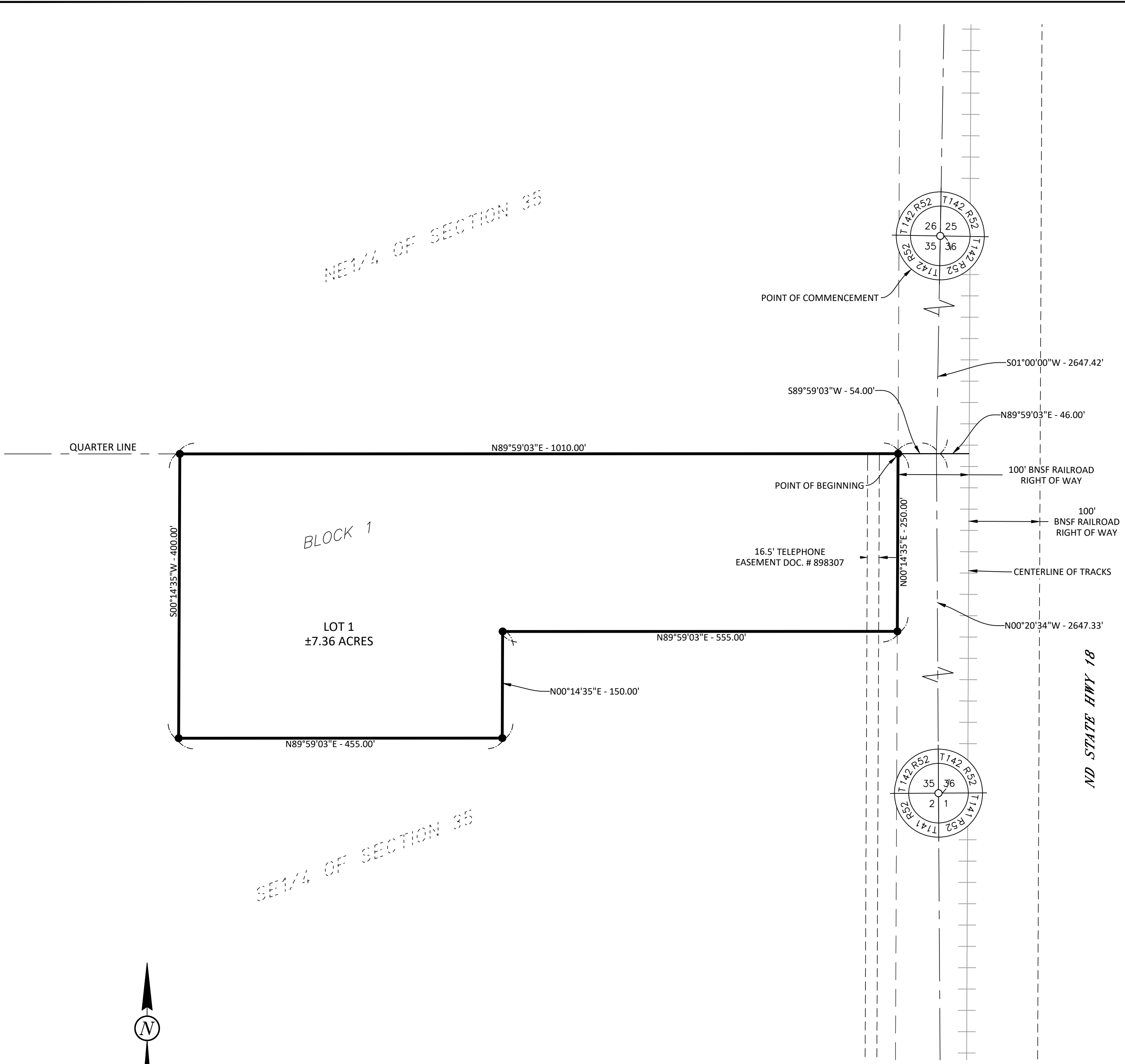
STATE OF _____)
COUNTY OF _____)SS

BE IT KNOWN ON THIS _____ DAY OF _____, 2021, 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

SHEET 1 OF 1



LEGEND

- MONUMENT SET
- MONUMENT FOUND
- EXISTING EASEMENT
- - - EXISTING PROPERTY LINE
- - - EXISTING SECTION LINE
- ==== PROPERTY BOUNDARY LINE
- ||||| RAILROAD TRACKS

SURVEY INFORMATION

DATE OF SURVEY: 10-13-2020
BASIS OF BEARING: SOUTH LINE OF SECTION 35 HAS AN ASSUMED BEARING OF S89°55'19"E

CASS COUNTY ENGINEER
REVIEWED BY THE CASS COUNTY ENGINEER THIS _____ DAY OF _____, 2021.

JASON BENSON, CASS COUNTY ENGINEER

CASS COUNTY BOARD OF COMMISSIONER'S APPROVAL
REVIEWED BY CASS COUNTY, NORTH DAKOTA THIS _____ DAY OF _____, 2021.

CHAD PETERSON, CHAIRMAN
ATTEST: _____
MICHAEL MONTPLAISIR, CASS COUNTY FINANCIAL DIRECTOR

CASS COUNTY PLANNING COMMISSION
REVIEWED BY THE CASS COUNTY PLANNING COMMISSION THIS _____ DAY OF _____, 2021.

KEN LOUGHEED, CHAIRMAN
ATTEST: _____
SECRETARY

ARTHUR TOWNSHIP
REVIEWED BY ARTHUR TOWNSHIP, CASS COUNTY, NORTH DAKOTA, THIS _____ DAY OF _____, 2021.

CHRIS MURCH, CHAIRMAN
ATTEST: _____
DEE DE GEEST, CLERK

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DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 5th day of February, 2021, by Owner(s): Williams Land Holdings LLP – Fred J. Williams III

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

Enter legal description here:

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 142 NORTH, RANGE 52 WEST OF THE 5TH PRINCIPAL MERIDIAN, ARTHUR TOWNSHIP, NORTH DAKOTA LESS THE FOLLOWING:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 35 THENCE; S01°00'00"W ALONG THE EAST LINE OF SECTION 35 A DISTANCE OF 2647.42 FEET; THENCE S89°59'03"W A DISTANCE OF 54.00 FEET TO THE POINT OF BEGINNING THENCE; S89°59'03"W ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 1010.00 FEET THENCE; S00°14'35"E A DISTANCE OF 400 FEET THENCE; N89°59'03"E A DISTANCE OF 455.00 FEET THENCE; N00°14'35"E A DISTANCE OF 150.00 FEET THENCE N89°59'03"E A DISTANCE OF 555.00 FEET THENCE; N00°14'35"E ALONG THE WEST LINE OF THE BNSF RAILROAD RIGHT OF WAY A DISTANCE OF 250.00 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINS ±7.36 ACRES MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

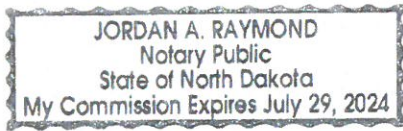
IN WITNESS of the restrictions, the Owner(s) have caused this DEED RESTRICTION to be executed effective as of:

Fred J. Williams III
Fred J. Williams III

2-5-2021
Date

State of North Dakota)
) ss
County of Cass)

On this 5th day of February, 2021, before me, a notary public within and for said county and state, personally appeared Fred J. Williams III, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same.



Jordan A. Raymond
Notary Public

The foregoing instrument was acknowledged before me, this _____ day of _____, 2021, by Jason Benson, County Engineer.

County Engineer Signature

Date

State of North Dakota)
) ss
County of Cass)

On this _____ day of _____, 2021, 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

Entitlements Requested:	Minor Subdivision (1 Lot) of a part of the NW ¼ of Section 28, Township 141 North, Range 53 West		
Title:	Ostrowski Subdivision	Date:	2-16-21
Location:	NW ¼ of Section 28, Township 141 North, Range 53 West (Empire Township)	Staff Contact:	Grace Puppe
Parcel Number:	36-0000-04316-020	Water District:	Maple River Water District
Owner(s)/Applicant:	Tom Ostrowski	Engineer/Surveyor:	Bolton & Menk
Status:	Planning Commission Hearing: February 25, 2021		

Existing Land Use	Proposed Land Use
Agriculture	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Ostrowski Subdivision** to plat a one (1) Lot subdivision of approximately 10 acres. According to the applicant, the subdivision is requested to allow for a new home and shed to be built on the new lot.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use 28th Street SE for road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments

County Engineer	No issues with this subdivision. I would recommend using the east access rather than building a new access in the gap in the tree closer to the township road intersection. Since this is a township access issue, it is the township’s decision.
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	Sprint is clear of project.
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 this property is available from a water main that runs from east to west along 28 th Street SE. The applicant has not contacted Cass Rural Water regarding 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	The subdivision meets all the zoning regulations of Empire Township.
The City of Fargo	This subdivision is outside the City of Fargo and the City's extra-territorial jurisdiction. We have no comments on this subdivision.
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 east and south. Township roads 140th Ave SE borders the west of the property and 28th St SE 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.

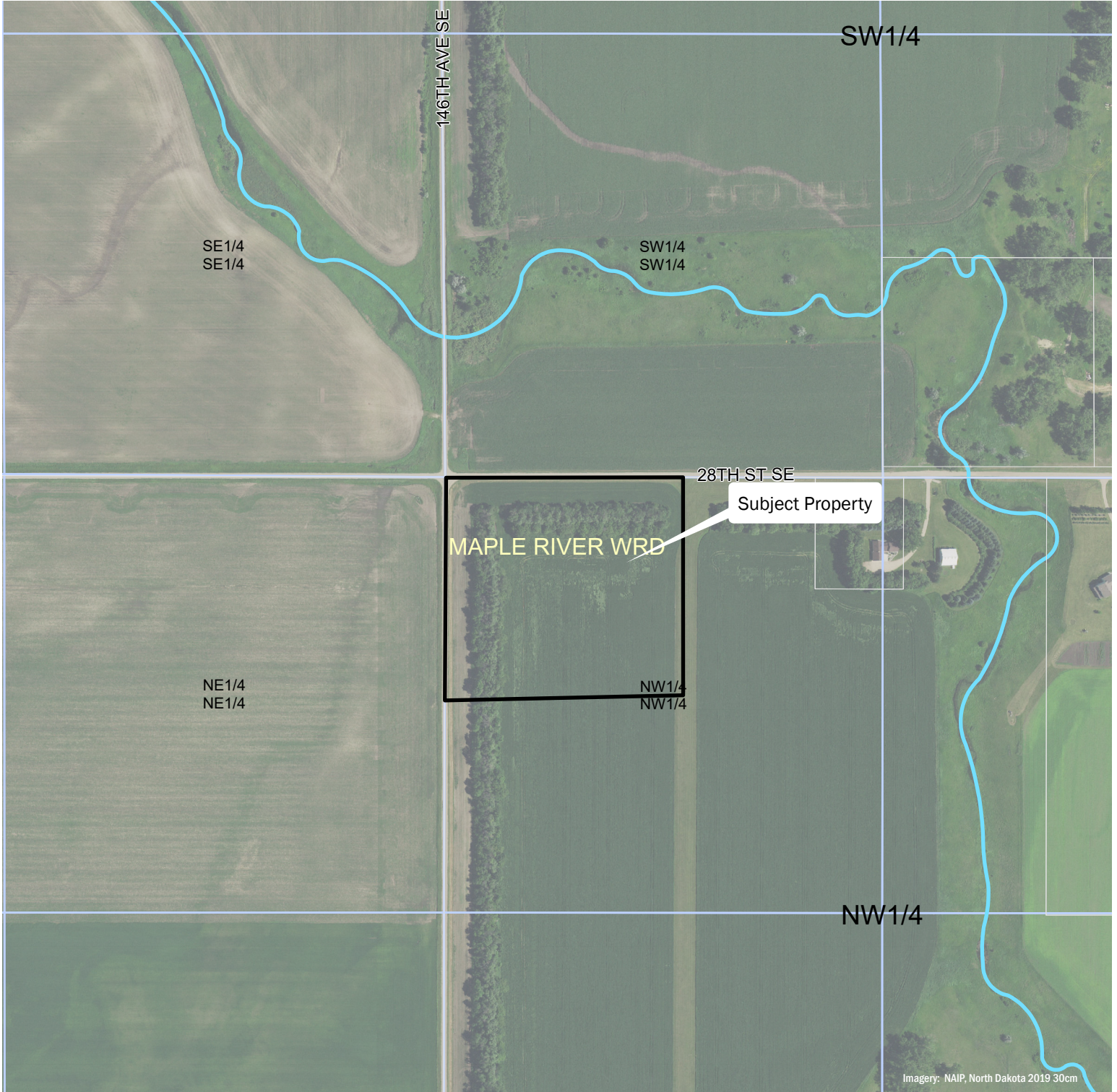
Attachments

1. Location Map
2. Plat Document

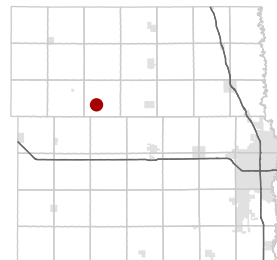
Minor Subdivision

Ostrowski Subdivision

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



Cass County Planning Commission
February 25, 2020

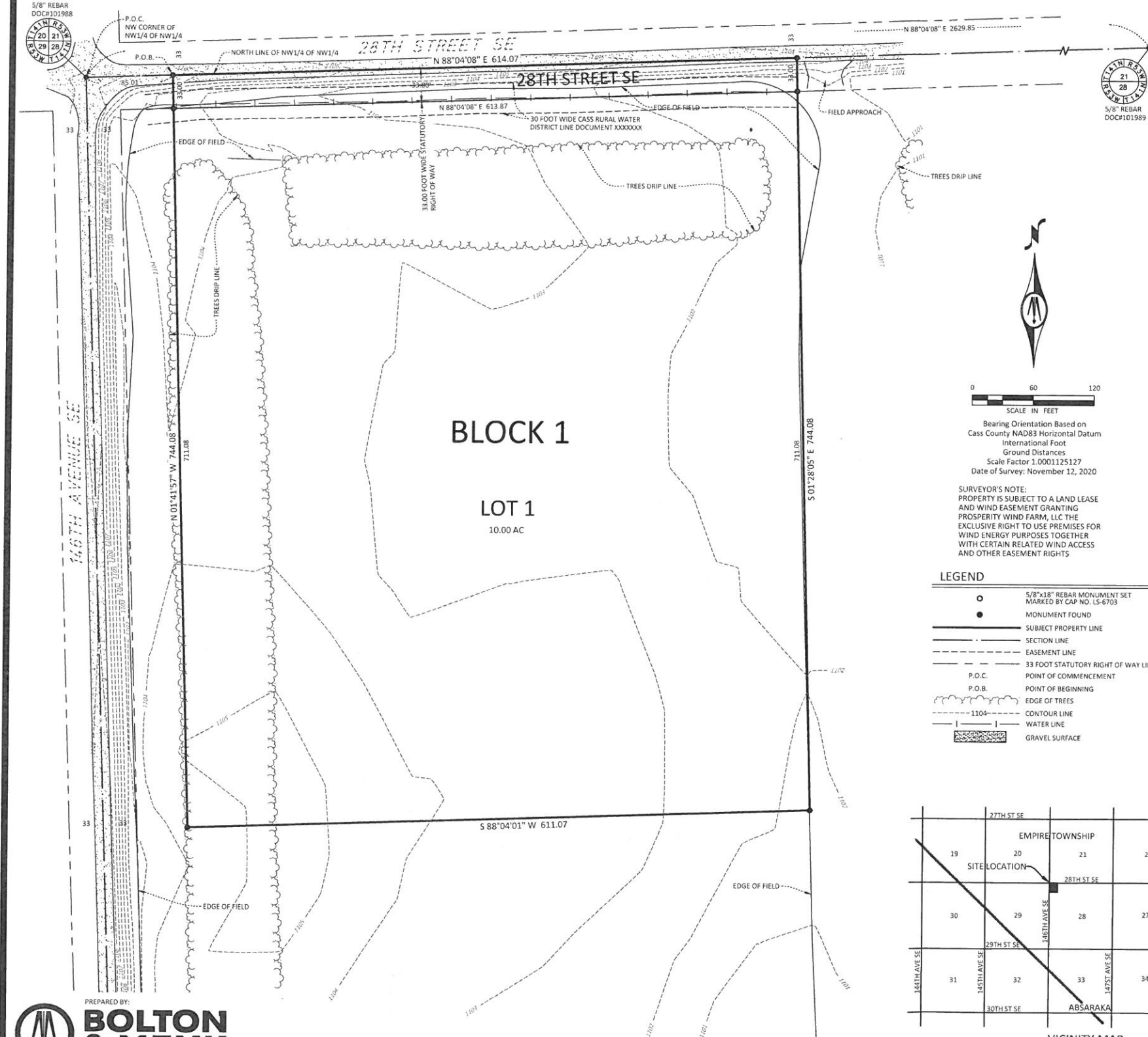


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OSTROWSKI SUBDIVISION

PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER, SECTION 28,
TOWNSHIP 141 NORTH, RANGE 53 WEST OF THE FIFTH PRINCIPAL MERIDIAN,
EMPIRE TOWNSHIP, CASS COUNTY, NORTH DAKOTA
A MINOR SUBDIVISION



OWNERS DESCRIPTION AND DEDICATION

KNOW ALL PERSONS BY THESE PRESENTS, That Robert Punton and Jenifer Punton, husband and wife, as owners of a parcel of land located in the Northwest Quarter of the Northwest Quarter of Section 28, Township 141 North, Range 53 West of the Fifth Principal Meridian, Cass County, North Dakota and more particularly described as follows:

Commencing at the northwest corner of said Northwest Quarter of the Northwest Quarter; thence North 88 degrees 04 minutes 08 seconds East, assumed bearing, along the north line of said Northwest Quarter of the Northwest Quarter, 85.01 feet to the point of beginning of the land to be described; thence continuing North 88 degrees 04 minutes 08 seconds East, along said north line, 614.07 feet; thence South 01 degree 28 minutes 05 seconds East 744.08 feet; thence South 88 degrees 04 minutes 08 seconds West 611.07 feet; thence North 01 degree 41 minutes 57 seconds West 744.08 feet to the point of beginning.

Containing 10.46 acres, of land, more or less and is subject to all easements, restrictions, reservations and rights of way of record, if any.

Said owners have caused the above described parcel of land to be surveyed and platted as OSTROWSKI SUBDIVISION to Cass County, North Dakota and do hereby dedicate to the public for public use forever 28th Street SE as shown on this plat.

OWNERS:

By: Robert Punton, husband

By: Jenifer Punton, wife

State of North Dakota }
County of Cass } SS

On this ____ day of _____, 2021, before me, a notary public within and for said County and State, personally appeared Robert Punton, husband and Jenifer Punton, 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 }
County of Cass } SS

On this ____ day of _____, 2021, 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

EMPIRE TOWNSHIP

Reviewed by Empire Township, Cass County, North Dakota
this ____ day of _____, 2021.

Steve Faught, Chairman

Attest:
Jenna McPherson, Clerk

CASS COUNTY ENGINEER

Reviewed by the Cass County Engineer this ____ day of _____, 2021.

Jason Benson, Cass County Engineer

CASS COUNTY PLANNING COMMISSION

Reviewed by the Cass County Planning Commission this ____ day of _____, 2021.

Ken Lougheed, Chairman

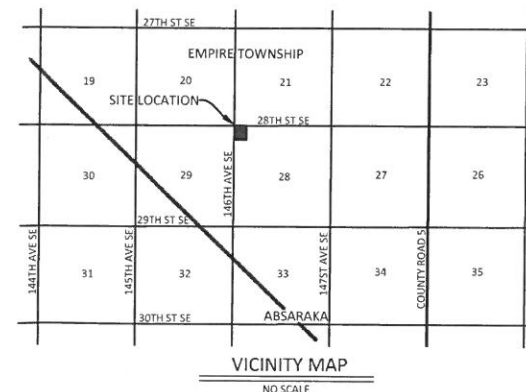
Attest:
Secretary

CASS COUNTY BOARD OF COMMISSIONERS APPROVAL

Approved by Cass County, North Dakota this ____ day of _____, 2021.

By: Chad Peterson, Chairman

Attest:
Michael Montplaisir, Cass County Auditor



PRELIMINARY

PREPARED BY:
BOLTON & MENK



Cass County Planning Commission Staff Report

Entitlements Requested:	Minor Subdivision (2 Lot) of a part of the NE ¼ of Section 7, Township 143 North, Range 52 West		
Title:	Schmuser Subdivision	Date:	1-25-2021
Location:	NE ¼ of Section 7, Township 143 North, Range 52 West (Hunter Township)	Staff Contact:	Grace Puppe
Parcel Number:	48-0000-07526-000	Water District:	North Cass Water Resource District
Owner(s)/Applicant:	John Schmuser	Engineer/Surveyor:	Apex
Status:	Planning Commission Hearing: June 25, 2020		

Existing Land Use	Proposed Land Use
Residential	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Schmuser Subdivision** to plat a one (1) Lot subdivision of approximately 10 acres. According to the applicant, the subdivision is requested to split the lot, so each house is on its own lot with respective septic system.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 151st Ave SE road access, ditches for storm sewer conveyance, public water, and on-site septic systems for wastewater treatment.

Agency Comments	
County Engineer	No issues with this subdivision
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	Sprint is clear of project.
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	This site currently has two water services. One service is vacant and the second is active. Have had no contact from the applicant.
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	This is outside of the City of Fargo and the City's extra-territorial jurisdiction. No comments on this subdivision.
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 151st Ave SE borders the east of the property with 13th St SE 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.

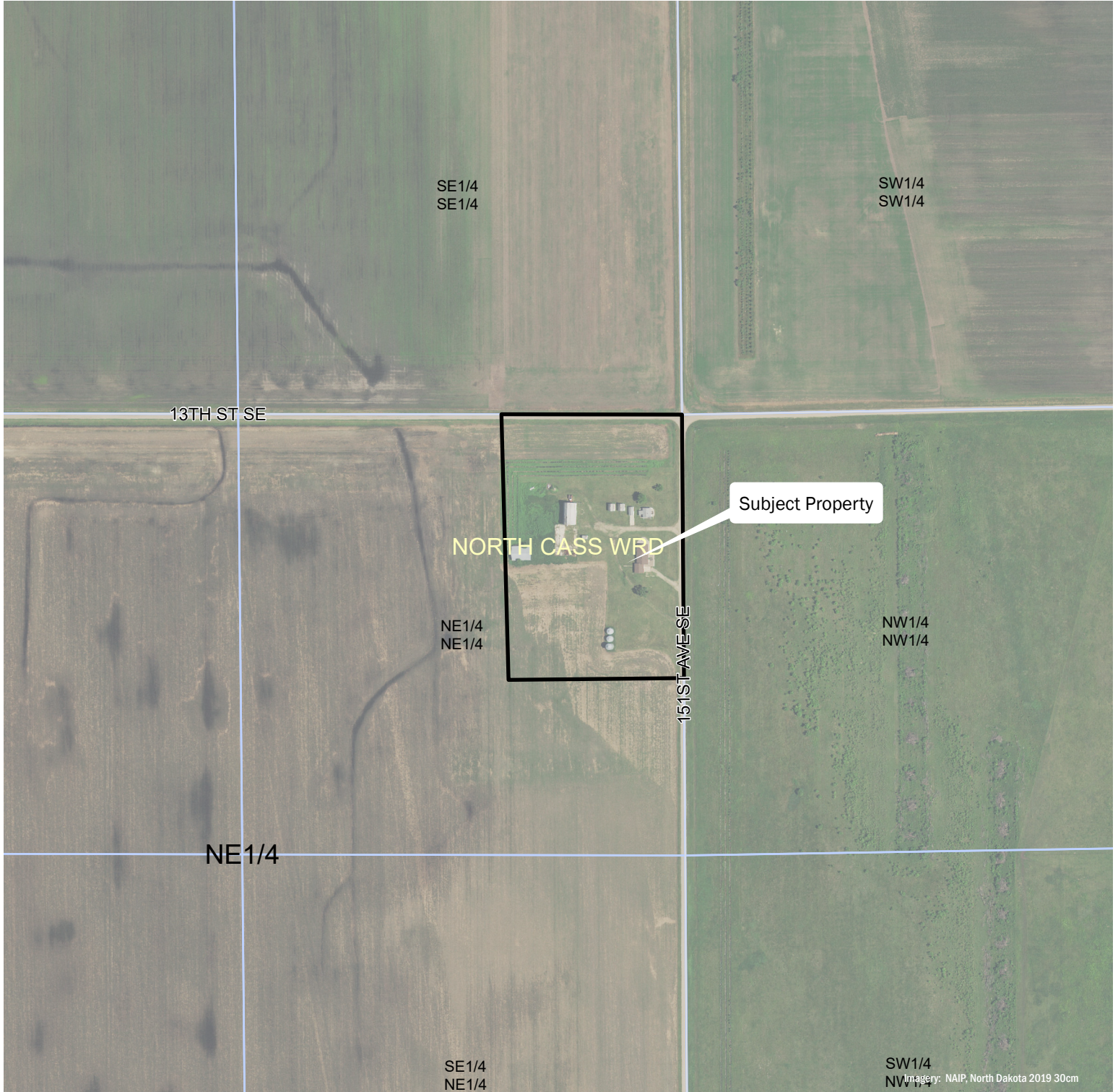
Attachments

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

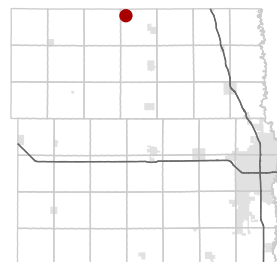
Minor Subdivision

Schmuser Subdivision

Hunter Twp, Section 7 - Township 143 North - Range 52 West



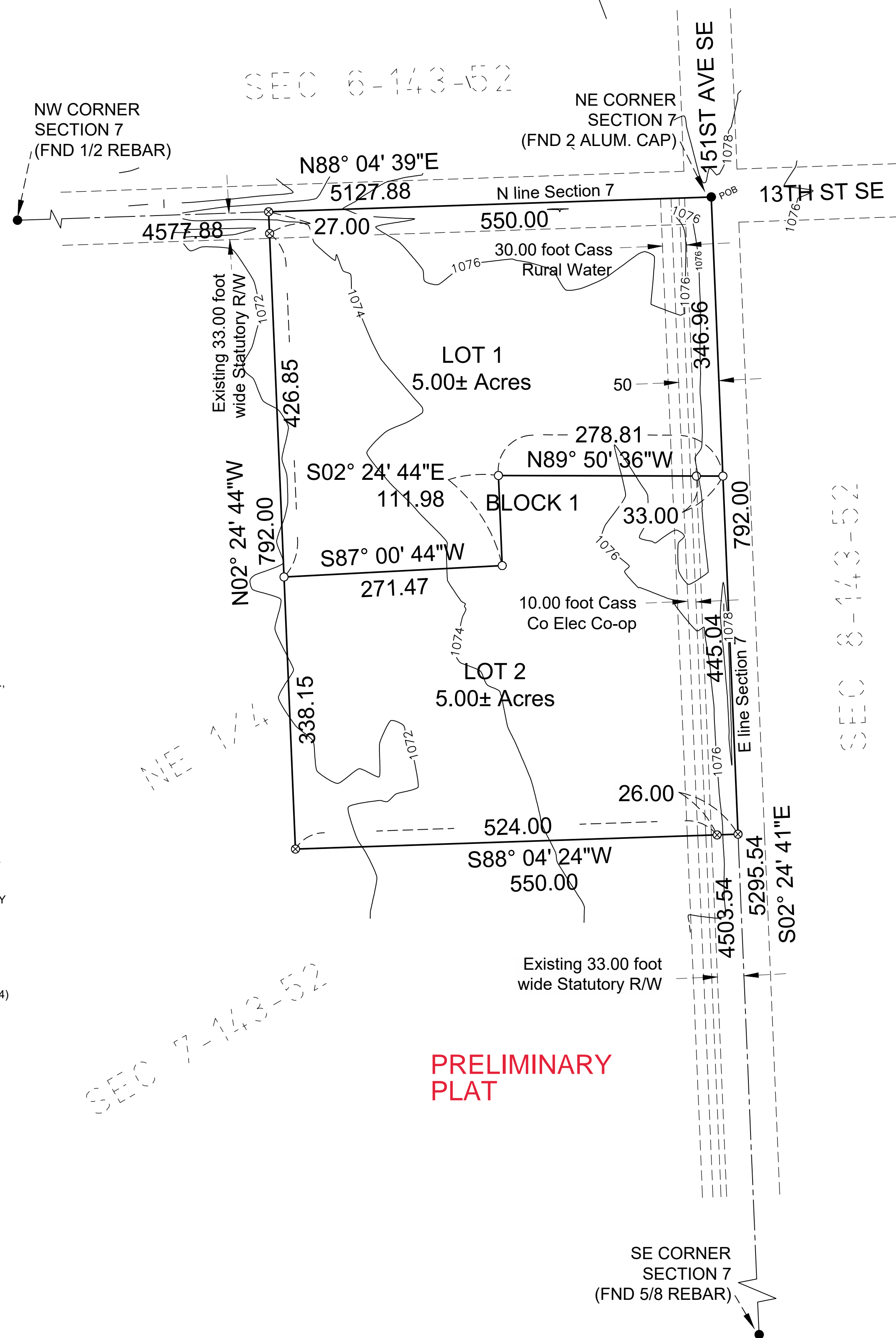
Cass County Planning Commission
February 25, 2021



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.



PLAT OF
SCHMUSER SUBDIVISION
A MINOR SUBDIVISION PLAT OF PART OF THE
NORTHEAST QUARTER OF SECTION 7,
TOWNSHIP 143 NORTH, RANGE 52 WEST OF THE 5TH
PRINCIPLE MERIDIAN, CASS COUNTY, NORTH DAKOTA)



N
SCALE: 1 INCH = 100 FEET

- MONUMENT FOUND - EXISTING IRON IN PLACE
- ⊗ MONUMENT FOUND - 5/8" REBAR WITH BLUE PLASTIC CAP LS-8426
- MONUMENT SET - 5/8" x 18" REBAR WITH 1 1/2" ALUMINUM CAP LS-8426

POB - POINT OF BEGINNING

BASIS OF BEARING:
THE EAST LINE OF SECTION 7 HAS AN ASSUMED BEARING OF S02° 24' 41"E

EASEMENTS OF RECORD

1. CASS RURAL WATER USERS, INC., RIGHT OF WAY EASEMENT, DOCUMENT No. 558235 RECORDED IN CASS COUNTY RECORDER'S OFFICE IN BOOK H-8 PAGE 478: THE EASEMENT SHALL BE THIRTY (30) FEET IN WIDTH, THE CENTER LINE OF WHICH IS DESCRIBED AS FOLLOWS, TO WIT:
15 FEET WEST OF THE HIGHWAY RIGHT OF WAY ADJOINING THE EAST BOUNDARY LINE BUT IN NO INSTANCE LESS THAN 48 FEET WEST OF THE EAST SECTION LINE.

2. CASS COUNTY ELECTRIC COOPERATIVE, INC., RIGHT OF WAY EASEMENT, DOCUMENT No. 1368272:
TO INSTALL UNDERGROUND POWER CABLE IN THE WEST TEN (10) FEET OF THE EAST FIFTY (50) FEET OF THE EAST HALF (E 1/2) OF THE NORTH EAST QUARTER (NE 1/4) OF SECTION 7, TWP 143N, RANGE 52W, CASS COUNTY, NORTH DAKOTA

TOTAL PLAT AREA: 10.00 ACRES

FLOOD PLAIN STATEMENT:
UNMAPPED AREA

OWNER:
JOHN SCHMUSER
2943 6TH ST SE
WEST FARGO, ND 58078

SURVEYOR:
Apex Engineering Group
4733 Amber Valley Parkway South
Fargo, ND 58104



APEX ENGINEERING GROUP, INC. BISMARCK - DETROIT LAKES - DICKINSON - FARGO

OWNER'S CERTIFICATE

KNOWN ALL MEN BY THESE PRESENTS, JOHN SCHMUSER, WHOSE ADDRESS IS 2943 6TH STREET SE, WEST FARGO, NORTH DAKOTA, IS THE OWNER OF A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 143 NORTH, RANGE 52 WEST OF THE 5TH PRINCIPLE MERIDIAN, CASS COUNTY, NORTH DAKOTA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 7; THENCE SOUTH 02 DEGREES 24 MINUTES 41 SECONDS EAST, ON AND ALONG THE EAST LINE OF SAID SECTION 7, 792.00 FEET; THENCE SOUTH 88 DEGREES 04 MINUTES 24 SECONDS WEST, 550.00 FEET; THENCE NORTH 02 DEGREES 24 MINUTES 44 SECONDS WEST, 792.00 FEET TO THE NORTH LINE OF SAID SECTION 7; THENCE NORTH 88 DEGREES 04 MINUTES 39 SECONDS EAST, ON AND ALONG THE NORTH LINE OF SAID SECTION 7, 550.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 10.00 ACRES, MORE OR LESS, AND IS SUBJECT TO ANY EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD.

OWNER:

JOHN SCHMUSER

STATE OF NORTH DAKOTA }
COUNTY OF _____ }

I, _____, NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT ON THIS _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME JOHN SCHMUSER TO ME KNOWN TO BE THE SAME PERSON DESCRIBED IN AND WHO EXECUTED THE WITHIN AND FOREGOING INSTRUMENT AND ACKNOWLEDGE THAT HE EXECUTED THE SAME FREELY AND VOLUNTARILY.

NOTICE OF RESERVATION FROM PUBLIC DEDICATION

WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE LAND DESCRIBED IN THE PLAT OF "SCHMUSER SUBDIVISION", A PLAT OF PART OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 143 NORTH, RANGE 52 WEST, OF THE 5TH PRINCIPLE MERIDIAN, CASS COUNTY, NORTH DAKOTA; THAT WE HAVE CAUSED IT TO BE PLATTED INTO LOTS AND BLOCKS AS SHOWN BY SAID PLAT AND CERTIFICATE OF DURHAM SNIDER, PROFESSIONAL LAND SURVEYOR AND THAT THE DESCRIPTION AS SHOWN IN THE CERTIFICATE OF THE REGISTERED PROFESSIONAL LAND SURVEYOR IS CORRECT. WE HEREBY RESERVE FROM DEDICATION ALL STREETS, AVENUES, AND UTILITY EASEMENTS FROM THE PUBLIC.

OWNER: JOHN SCHMUSER

JOHN SCHMUSER

STATE OF NORTH DAKOTA }
COUNTY OF _____ }

I, _____, NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT ON THIS _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME JOHN SCHMUSER TO ME KNOWN TO BE THE SAME PERSON DESCRIBED IN AND WHO EXECUTED THE WITHIN AND FOREGOING INSTRUMENT AND ACKNOWLEDGE THAT HE EXECUTED THE SAME FREELY AND VOLUNTARILY.

SURVEYOR'S CERTIFICATE

I, DURHAM SNIDER, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA DO HEREBY CERTIFY THAT THE SURVEY PLAT SHOWN HEREON WAS MADE BY ME OR UNDER MY DIRECT SUPERVISION FROM A GROUND SURVEY AND THAT I HAVE COMPUTED OR ESTABLISHED THE MONUMENTS AND LINES AS SHOWN, THE SAME IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DURHAM SNIDER, LS-8426 _____ DATE _____

STATE OF NORTH DAKOTA }
COUNTY OF _____ }

I, _____, NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT ON THIS _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME DURHAM SNIDER TO ME KNOWN TO BE THE SAME PERSON DESCRIBED IN AND WHO EXECUTED THE WITHIN AND FOREGOING INSTRUMENT AND ACKNOWLEDGE THAT HE EXECUTED THE SAME FREELY AND VOLUNTARILY.

CASS COUNTY ENGINEER:
REVIEWED BY THE CASS COUNTY ENGINEER THIS _____ DAY OF _____, 2021.

JASON BENSON, CASS COUNTY ENGINEER

CASS COUNTY PLANNING COMMISSION:
REVIEWED BY THE CASS COUNTY PLANNING COMMISSION THIS _____ DAY OF _____, 2021.

KEN LOUGHEED, CHAIRMAN

ATTEST: _____
SECRETARY

HUNTER TOWNSHIP:
REVIEWED BY HUNTER TOWNSHIP, CASS COUNTY, NORTH DAKOTA, THIS _____ DAY OF _____, 2021.

MARK RICHTSMEIER, CHAIRMAN

ATTEST: _____
DONNA PORTER, CLERK/TREASURER

CASS COUNTY BOARD OF COMMISSIONER'S APPROVAL:
APPROVED BY CASS COUNTY, NORTH DAKOTA, THIS _____ DAY OF _____, 2021.

CHAD PETERSON, CHAIRMAN

ATTEST: _____

DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 19th day of January, 2021, by

Owner(s): John Schmuser

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 SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 143 NORTH, RANGE 52 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA

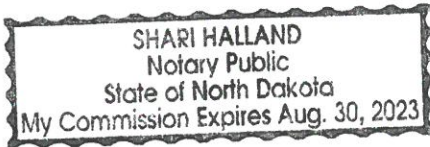
IN WITNESS of the restrictions, the Owner(s) have caused this DEED RESTRICTION to be executed effective as of:

[Signature]
Owner(s) Signature

01-19-21
Date

State of North Dakota)
) ss
County of Cass)

On this 19th day of January, 2021, before me, a notary public within and for said county and state, personally appeared John Schmussek, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same.



Shari Halland
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 _____, 20____, 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