

## **MEMORANDUM**

TO: Cass County Board of Commissioners

FROM: Grace Puppe, Cass County Planner

DATE: February 25, 2021

SUBJECT: Consent Agenda Topic for the March 15, 2021  
Commission Meeting: Ostrowski Subdivision  
Application

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The Cass County Planning Commission reviewed the application of the proposed subdivision located in Empire Township, Section 7 at a Public Hearing on February 25, 2021. The intended purpose of the subdivision is to create a new lot to allow a new home to be built on.

The Planning Commission is recommending approval of the proposed plat entitlement request and Empire Township has verified that they do not have township zoning requirements. Therefore, the Planning Commission recommendation is forwarded to the Cass County Board of Commissioners for action.

### **SUGGESTED MOTION:**

To accept the findings and recommendations of the Planning Commission and staff and recommend approval of the Final Plat, 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.



## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Minor Subdivision (1 Lot)</b> of a part of the NW ¼ of Section 28, Township 141 North, Range 53 West		
<b>Title:</b>	<b>Ostrowski Subdivision</b>	<b>Date:</b>	2-16-2021 2-26-2021
<b>Location:</b>	NW ¼ of Section 28, Township 141 North, Range 53 West (Empire Township)	<b>Staff Contact:</b>	Grace Puppe
<b>Parcel Number:</b>	36-0000-04316-020	<b>Water District:</b>	Maple River Water District
<b>Owner(s)/Applicant:</b>	Tom Ostrowski	<b>Engineer/Surveyor:</b>	Bolton & Menk
<b>Status:</b>	County Commission Hearing: March 15, 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 28<sup>th</sup> Street SE for road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments	
<b>County Engineer</b>	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.
<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>	Sprint is clear of project.
<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.

<b>Otter Tail Power Company</b>	No comments were received prior to publishing the staff report.
<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 this property is available from a water main that runs from east to west along 28 <sup>th</sup> Street SE. The applicant has not contacted Cass Rural Water regarding service.
<b>North Dakota Department of Transportation</b>	No comments were received prior to publishing the staff report.
<b>County Sanitarian</b>	No comments were received prior to publishing the staff report.
<b>Township Chairman</b>	The subdivision meets all the zoning regulations of Empire Township.
<b>The City of Fargo</b>	This subdivision is outside the City of Fargo and the City's extra-territorial jurisdiction. We have no comments on this subdivision.
<b>The City of West Fargo</b>	No comments were received prior to publishing the staff report.
<b>Public Comment</b>	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 140<sup>th</sup> Ave SE borders the west of the property and 28<sup>th</sup> 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 the Planning Commission and 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**

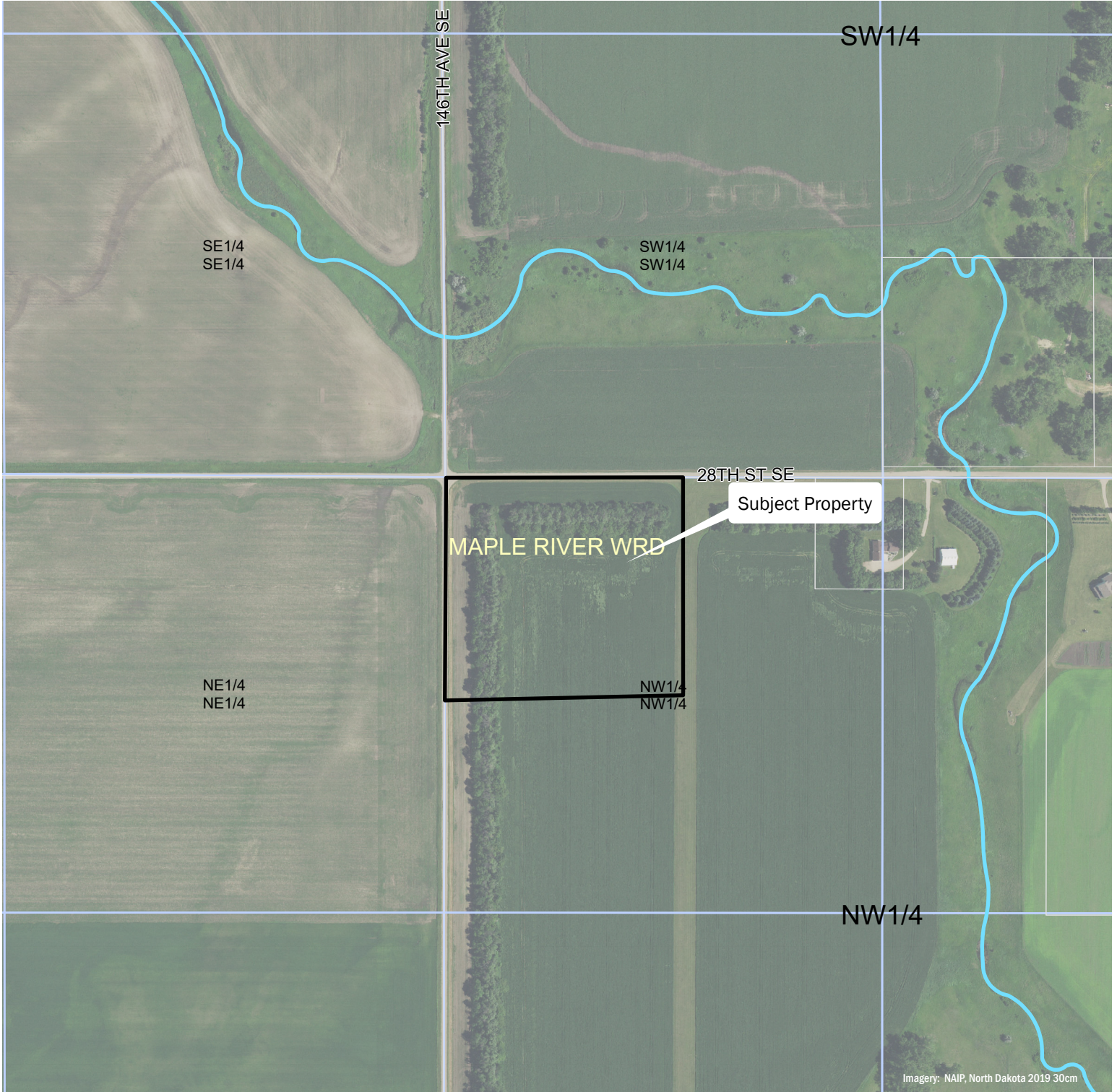
1. Location Map
2. Plat Document
3. Deed Restriction



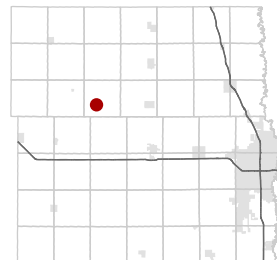
# Minor Subdivision

## Ostrowski Subdivision

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



Cass County Planning Commission  
February 25, 2020



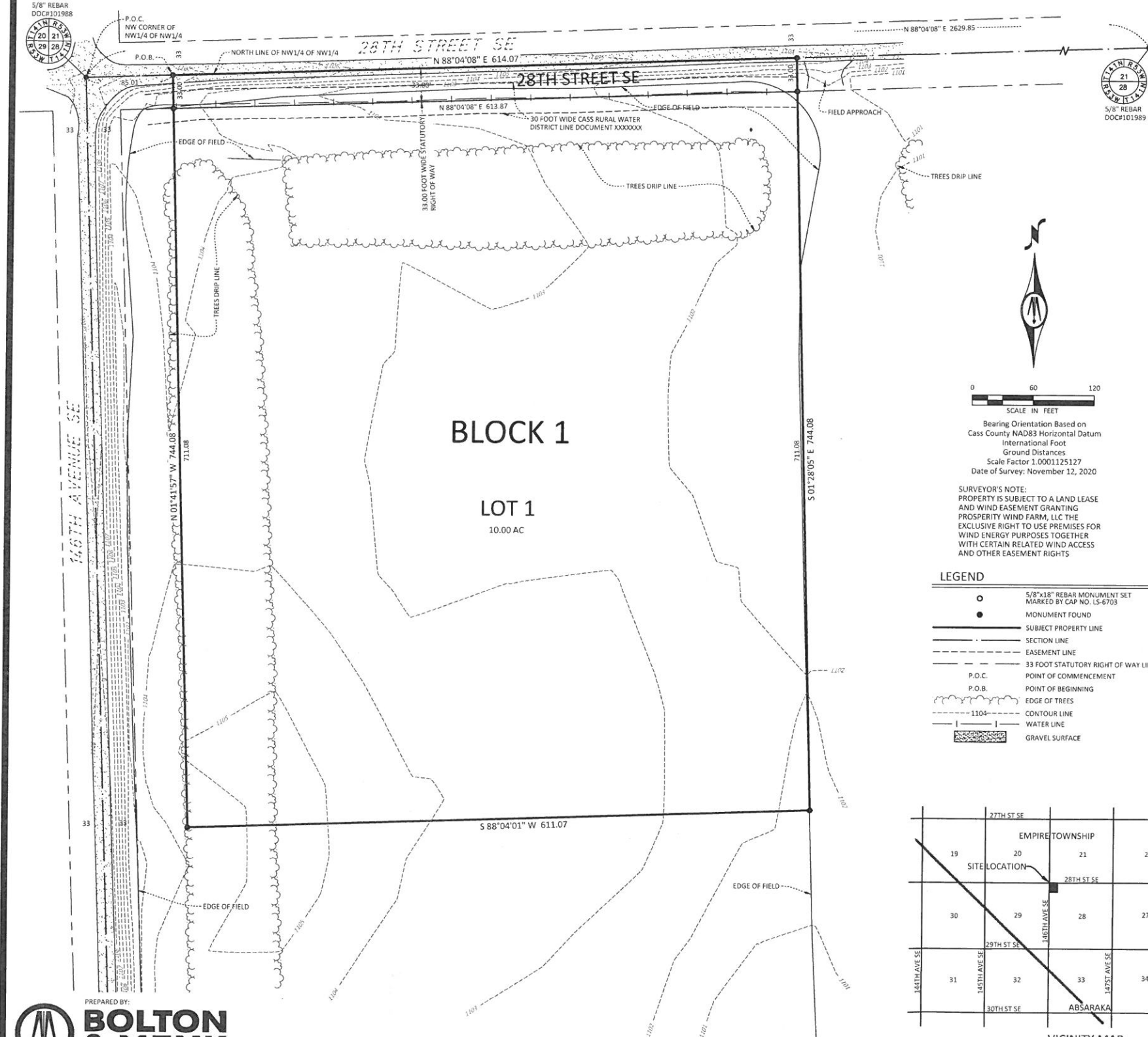
Maps and data are to be used for reference purposes only and Cass County, ND, is not responsible for any inaccuracies herein contained. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.





# 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



Bearing Orientation Based on  
Cass County NAD83 Horizontal Datum  
International Foot  
Ground Distances  
Scale Factor 1.0001125127  
Date of Survey: November 12, 2020

**SURVEYOR'S NOTE:**  
PROPERTY IS SUBJECT TO A LAND LEASE  
AND WIND EASEMENT GRANTING  
PROSPERITY WIND FARM, LLC THE  
EXCLUSIVE RIGHT TO USE PREMISES FOR  
WIND ENERGY PURPOSES TOGETHER  
WITH CERTAIN RELATED WIND ACCESS  
AND OTHER EASEMENT RIGHTS

**LEGEND**

	5/8"x18" REBAR MONUMENT SET MARKED BY CAP NO. LS-6703
	MONUMENT FOUND
	SUBJECT PROPERTY LINE
	SECTION LINE
	EASEMENT LINE
	33 FOOT STATUTORY RIGHT OF WAY LINE
	P.O.C. POINT OF COMMENCEMENT
	P.O.B. POINT OF BEGINNING
	EDGE OF TREES
	1104 CONTOUR LINE
	WATER LINE
	GRAVEL SURFACE

**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 } SS  
County of Cass }

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 } SS  
County of Cass }

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**

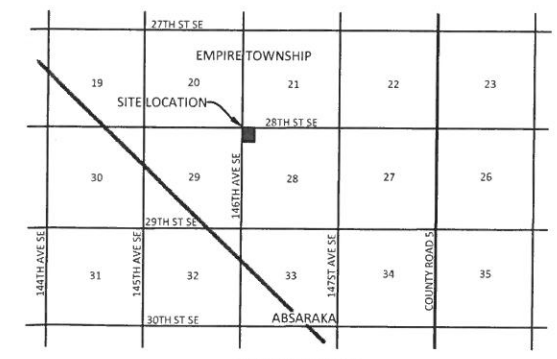
Reviewed by the Cass County Planning Commission this \_\_\_\_ day of \_\_\_\_\_, 2021.

Ken Loughheed, 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**



## **DEED RESTRICTION**

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 12th day of February 2021, by

Owner(s): Robert Punton & Jenifer Punton

### **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 Northwest Quarter of the Northwest Quarter of Section 28, Township 141 North, Range 53 West, Cass County, North Dakota. Less Ostrowski Subdivision a part of the Northwest Quarter of the Northwest Quarter of Section 28, Township 141 North, Range 53 West, Cass County, North Dakota. Less the North 355 feet of the East 265 feet of the Northwest Quarter of the Northwest Quarter of Section 28, Township 141 North, Range 53 West, Cass County, North Dakota.

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

Christina Colon Jennifer Panton  
Owner(s) Signature

2-12-2021  
Date

State of ~~North Dakota~~ Florida )  
County of ~~Cass~~ Pinellas ) ss

On this 12 day of FEB, 2021, before me, a notary public within and for said county and state, personally appeared Robert + Jennifer Panton, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same.



Christina Colon  
State of Florida  
My Commission Expires 09/22/2023  
Commission No. GG 907279

C. Colon  
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 )  
County of Cass ) ss

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



## **MEMORANDUM**

TO: Cass County Board of Commissioners

FROM: Grace Puppe, Cass County Planner

DATE: February 25, 2021

SUBJECT: Consent Agenda Topic for the March 15, 2021  
Commission Meeting: Schmuser Subdivision  
Application

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The Cass County Planning Commission reviewed the application of the proposed subdivision located in Hunter Township, Section 28 at a Public Hearing on February 25, 2021. The intended purpose of the subdivision is to split the property so that each house is on a lot with its respective septic system.

The Planning Commission is recommending approval of the proposed plat entitlement request and Hunter Township has verified that they do not have township zoning requirements. Therefore, the Planning Commission recommendation is forwarded to the Cass County Board of Commissioners for action.

### **SUGGESTED MOTION:**

To accept the findings and recommendations of the Planning Commission and staff and recommend approval of the Final Plat, 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.



## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Minor Subdivision (2 Lot)</b> of a part of the NE ¼ of Section 7, Township 143 North, Range 52 West		
<b>Title:</b>	<b>Schmuser Subdivision</b>	<b>Date:</b>	1-25-2021 2-25-2021
<b>Location:</b>	NE ¼ of Section 7, Township 143 North, Range 52 West (Hunter Township)	<b>Staff Contact:</b>	Grace Puppe
<b>Parcel Number:</b>	48-0000-07526-000	<b>Water District:</b>	North Cass Water Resource District
<b>Owner(s)/Applicant:</b>	John Schmuser	<b>Engineer/Surveyor:</b>	Apex
<b>Status:</b>	County Commission Hearing: March 15, 2021		

Existing Land Use	Proposed Land Use
Residential	Residential
<b>Proposal</b>	

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 151<sup>st</sup> Ave SE road access, ditches for storm sewer conveyance, public water, and on-site septic systems for wastewater treatment.

Agency Comments	
<b>County Engineer</b>	No issues with this subdivision
<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>	Sprint is clear of project.
<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.
<b>Otter Tail Power Company</b>	No comments were received prior to publishing the staff report.

<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>	This site currently has two water services. One service is vacant and the second is active. Have had no contact from the applicant.
<b>North Dakota Department of Transportation</b>	No comments were received prior to publishing the staff report.
<b>County Sanitarian</b>	No comments were received prior to publishing the staff report.
<b>Township Chairman</b>	No comments were received prior to publishing the staff report.
<b>The City of Fargo</b>	This is outside of the City of Fargo and the City's extra-territorial jurisdiction. No comments on this subdivision.
<b>The City of West Fargo</b>	No comments were received prior to publishing the staff report.
<b>Public Comment</b>	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 151<sup>st</sup> Ave SE borders the east of the property with 13<sup>th</sup> 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 the Planning Commission and 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**

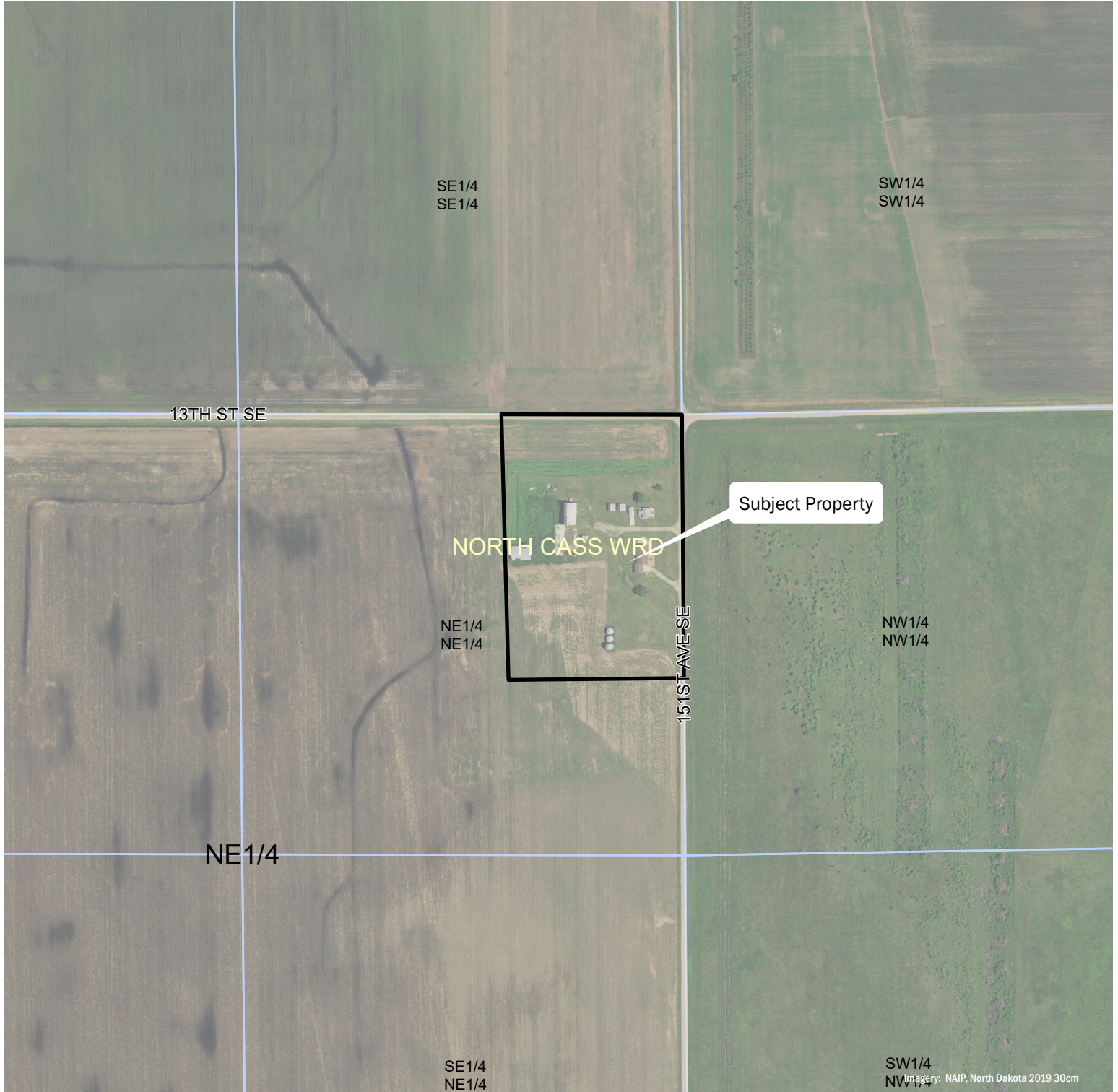
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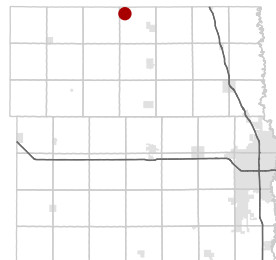
# Minor Subdivision

## Schmuser Subdivision

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



Cass County Planning Commission  
February 25, 2021



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**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)

**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.

**DEDICATION**

I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT I AM THE OWNER 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 BRUCE W. SKIPTON, PROFESSIONAL LAND SURVEYOR AND THAT THE DESCRIPTION AS SHOWN IN THE CERTIFICATE OF THE REGISTERED PROFESSIONAL LAND SURVEYOR IS CORRECT. WE HEREBY DEDICATE ALL STREETS, AVENUES, AND UTILITY EASEMENTS SHOWN ON SAID PLAT TO THE USE OF 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, BRUCE W. SKIPTON, 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.

BRUCE W. SKIPTON, LS-8251

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 RICHTSMIEIER, CHAIRMAN

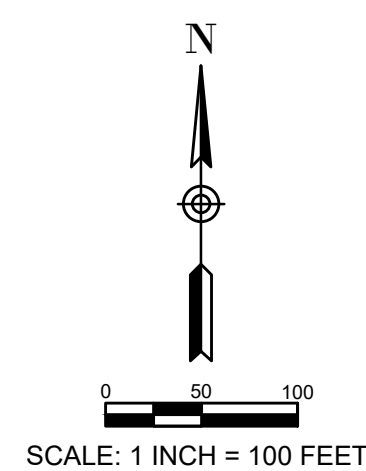
ATTEST: \_\_\_\_\_  
DONNA PORTER, CLERK/TREASURER

**CASS COUNTY BOARD OF COMMISSIONER'S APPROVAL:**

APPROVED BY CASS COUNTY, NORTH DAKOTA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.

CHAD PETERSON, CHAIRMAN

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



- 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
- CR - NORTH DAKOTA LAND SURVEY MONUMENT RECORD

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



## 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

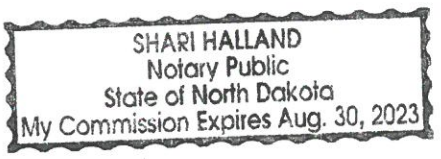
IN WITNESS of the restrictions, the Owner(s) have caused this DEED RESTRICTION to be executed effective as of:

[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



## **MEMORANDUM**

TO: Cass County Board of Commissioners

FROM: Grace Puppe, Cass County Planner

DATE: February 25, 2021

SUBJECT: Consent Agenda Topic for the March 15, 2021  
Commission Meeting: Longlet Subdivision  
Application

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The Cass County Planning Commission reviewed the application of the proposed subdivision located in Arthur Township, Section 35 at a Public Hearing on February 25, 2021. The intended purpose of the subdivision is to create a new lot to allow a new home to be built on.

The Planning Commission is recommending approval of the proposed plat entitlement request and Arthur Township has verified that they do not have township zoning requirements. Therefore, the Planning Commission recommendation is forwarded to the Cass County Board of Commissioners for action.

### **SUGGESTED MOTION:**

To accept the findings and recommendations of the Planning Commission and staff and recommend approval of the Final Plat, 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.



## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Minor Subdivision (1 Lot)</b> of a part of the SE ¼ of Section 35, Township 142 North, Range 52 West		
<b>Title:</b>	<b>Longlet Subdivision</b>	<b>Date:</b>	2-16-2021 2-25-2021
<b>Location:</b>	SE ¼ of Section 35, Township 142 North, Range 52 West (Arthur Township)	<b>Staff Contact:</b>	Grace Puppe
<b>Parcel Number:</b>	23-0000-00745-000	<b>Water District:</b>	Rush River Water District
<b>Owner(s)/Applicant:</b>	Fred J. Williams III	<b>Engineer/Surveyor:</b>	Neset
<b>Status:</b>	County Commission Hearing: March 15, 2021		

Existing Land Use	Proposed Land Use
Agriculture	Residential
<b>Proposal</b>	

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	
<b>County Engineer</b>	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.
<b>Water Resource District</b>	No comments were received prior to publishing the staff report.
<b>Cass County Electric Cooperative</b>	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.
<b>Century Link</b>	No comments were received prior to publishing the staff report.
<b>Sprint</b>	Sprint is clear of project.
<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.
<b>Otter Tail Power Company</b>	No comments were received prior to publishing the staff report.
<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>	Service to this site is available from a water main located on the east side of 155 <sup>th</sup> Ave SE. The applicant has contacted Cass Rural Water but has not yet made an application for water service.
<b>North Dakota Department of Transportation</b>	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.
<b>County Sanitarian</b>	No comments were received prior to publishing the staff report.
<b>Township Chairman</b>	No comments were received prior to publishing the staff report.
<b>The City of Fargo</b>	This subdivision is outside of the City of Fargo and the City's extra-territorial jurisdiction. No comments on this subdivision.
<b>The City of West Fargo</b>	No comments were received prior to publishing the staff report.
<b>Public Comment</b>	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 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 the Planning Commission and 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. Deed Restriction



# Minor Subdivision

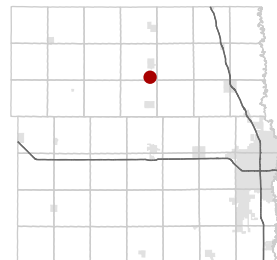
## Longlet Subdivision

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



Imagery: NAIP, North Dakota 2019 30cm

Cass County Planning Commission  
February 25, 2021



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.





# 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



## 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

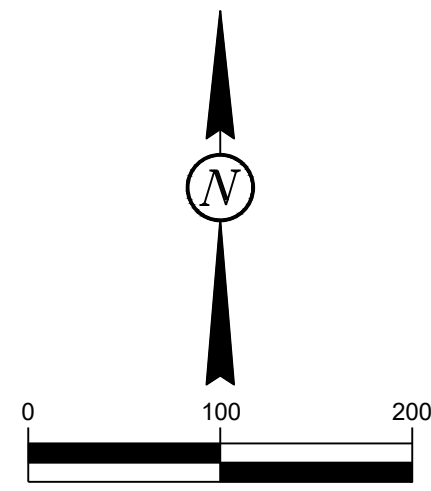
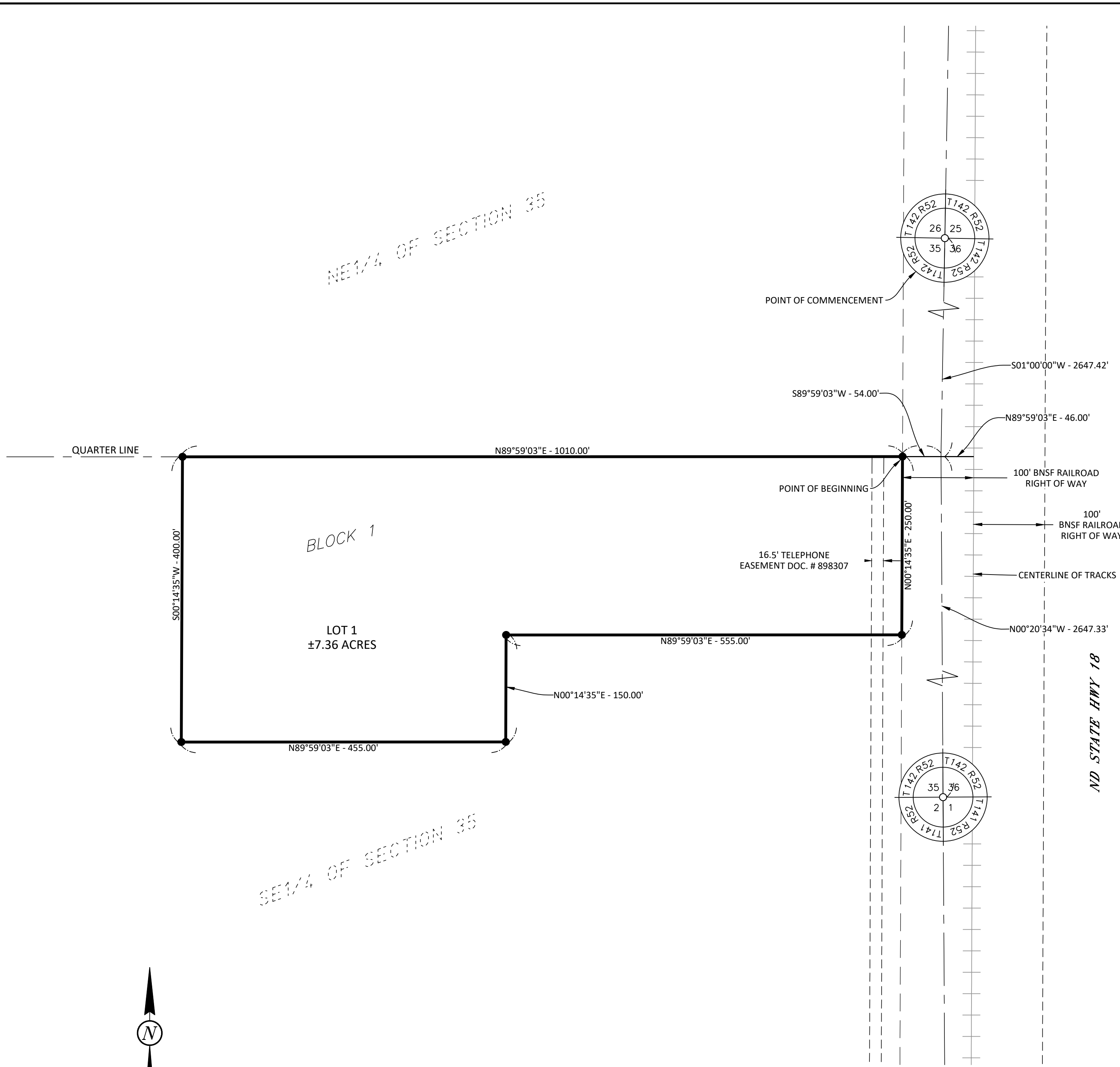
ATTEST: \_\_\_\_\_  
SECRETARY

## ARTHUR TOWNSHIP

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

\_\_\_\_\_  
CHRIS MURCH, CHAIRMAN

ATTEST: \_\_\_\_\_  
DEE DE GEEST, CLERK



## 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

C:\2021\10-13-2020\102716SRV\SShare\Files\Neset\Share\Files\Neset\Shared\Files\Neset\Longlet Subdivision\2350\_15th Ave SE.dwg

## DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 5<sup>th</sup> 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.



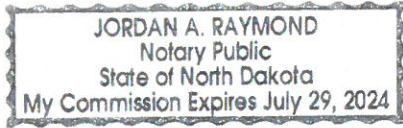
IN WITNESS of the restrictions, the Owner(s) have caused this DEED RESTRICTION to be executed effective as of:

*Fred J. Williams III*  
Fred J. Williams III

2-5-2021  
Date

State of North Dakota )  
  ) ss  
County of Cass )

On this 5<sup>th</sup> 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