

MEMORANDUM

TO: Cass County Board of Commissioners

FROM: Grace Puppe, Cass County Planner

DATE: June 1, 2021

SUBJECT: Consent Agenda Topic for the June 7, 2021
Commission Meeting: Russell Subdivision
Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Davenport Township, Section 7 at a Public Hearing on May 27, 2021. The intended purpose is to separate the existing farmstead from surrounding agricultural land.

The Planning Commission is recommending approval of the proposed plat entitlement request and Davenport 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

Entitlements Requested:	Minor Subdivision (1 Lot) of a part of the NW ¼ of Section 7, Township 137 North, Range 51 West		
Title:	Russell Subdivision	Date:	05-06-2021
		Update:	06-01-2021
Location:	NW ¼ of Section 7, Township 137 North, Range 51 West (Davenport Township)	Staff Contact:	Grace Puppe
Parcel Number:	32-0000-03028-020	Water District:	Maple River Water District
Owner(s)/Applicant:	Joel & Jan Russell	Engineer/Surveyor:	Interstate Engineering
Status:	County Commission Hearing: June 7, 2021		

Existing Land Use	Proposed Land Use
Residential	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Russell Subdivision** to plat a one (1) Lot subdivision of approximately 6.19 acres. According to the applicant, the subdivision is requested to separate the existing farmstead from surrounding agricultural land.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing County Road 9 road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments	
County Engineer	I don't have any concerns with this application based on the existing farm site and existing access off County Road 9.
Water Resource District	No comments were received prior to publishing the staff report.
Cass County Electric Cooperative	We have an existing overhead line feeding the property. Otherwise no comments.
Century Link	No comments were received prior to publishing the staff report.
Sprint	Project is clear.
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	The new house on this property has been constructed and has a rural water hook up.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	The department has no issues with this proposed subdivision application.
Township Chairman	No comments were received prior to publishing the staff report.
The City of Fargo	No comments were received prior to publishing the staff report.
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 road 49th St SE borders the north of the property with County Road 9 bordering the west.

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

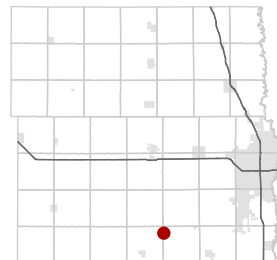
Minor Subdivision

Russell Subdivision

Davenport Twp, Section 7 - Township 137 North - Range 51 West

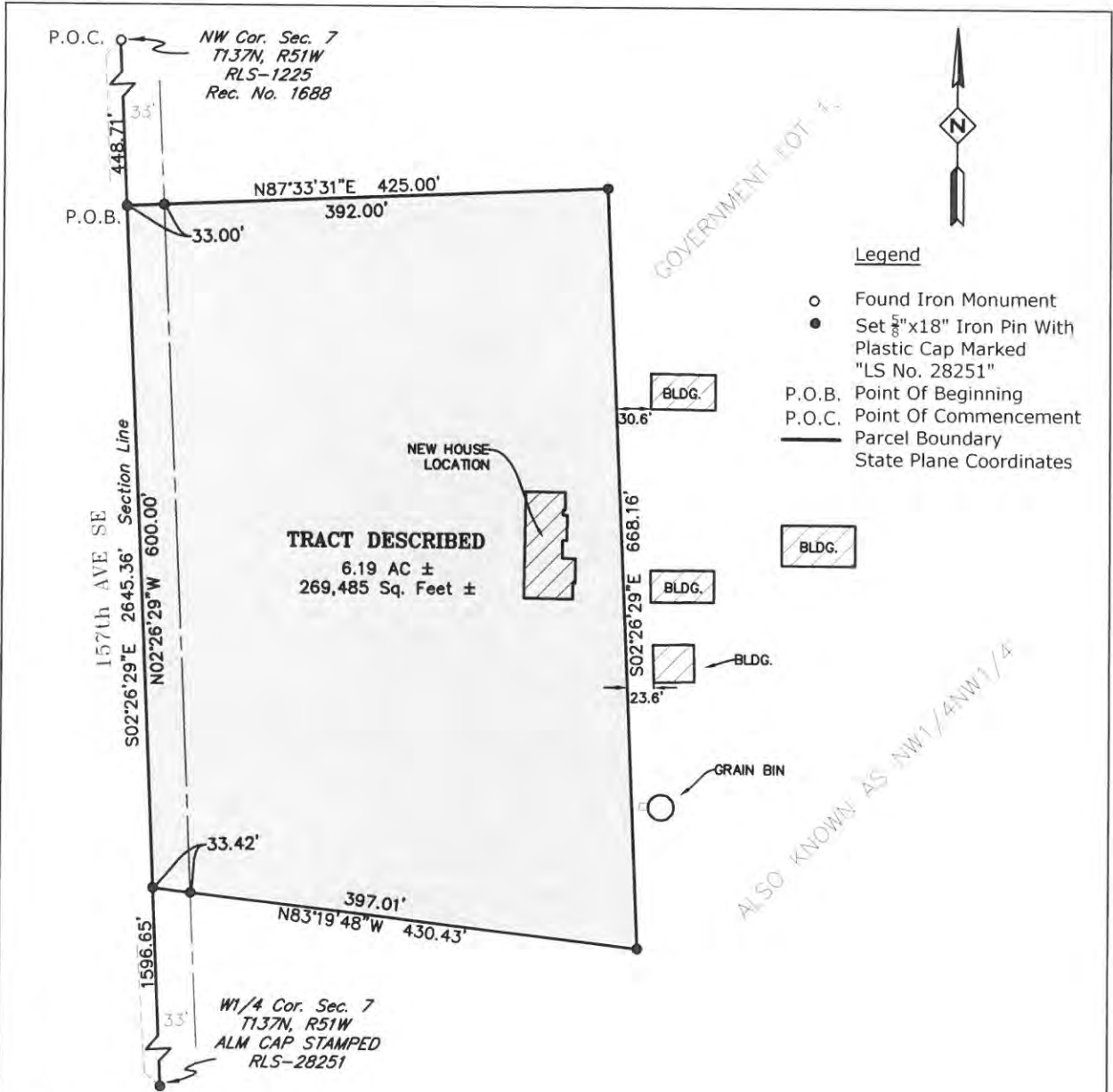


Cass County Planning Commission
May 27, 2021



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.





Tract Description:

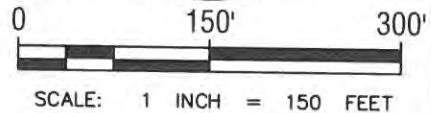
All that part of Government Lot 1, also known as the Northwest Quarter of the Northwest Quarter, Section 7, Township 137 North, Range 51 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Northwest corner of Section 7 (North Dakota Land Survey Monument Record No. 1688); thence S02°26'29"E along the west line of said NW1/4, a distance of 448.71 feet to the POINT OF BEGINNING; thence N87°33'31"E a distance of 425.00 feet; thence S02°26'29"E a distance of 668.16 feet; thence N83°19'48"W a distance of 430.43 feet to a point on the west line of said NW1/4; thence N02°26'29"W a distance of 600.00 feet to the point of beginning.

Said tract contains 6.19 acres, more or less, and is subject to easements, restrictions, reservations and rights of way of sight or record, if any.

I, Jacob Duchsherer, Hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Professional Land surveyor under the laws of the state of North Dakota.

Jacob Duchsherer
 Jacob Duchsherer, Professional Land Surveyor
 North Dakota License No. LS-28251



Interstate Engineering, Inc.
 574 Main St. Suite A
 Horace, ND 58047
 Ph (701) 532-0438
 www.interstateeng.com
Offices in North Dakota, Minnesota,
 Montana and South Dakota

Certificate and Plat of Land Survey
Russell Parcel
 A part of government Lot 1, also known
 as the Northwest Quarter of the Northwest
 Quarter, Section 7,
 T137N, R51W of the 5th P.M.,
 Cass County, North Dakota W2110030

DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 24th day of May, 2021, by Joel and Jan Russell

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.

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)

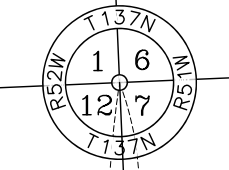
On this _____ day of _____, 20___, before me, a notary public within and for said county and state, personally appeared Jason Benson, County Engineer, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same as their free act and deed.

Notary Public

RUSSELL SUBDIVISION

A PART OF GOVERNMENT LOT 1 OF SECTION 7, TOWNSHIP 137 NORTH, RANGE 51 WEST OF THE 5TH PRINCIPAL MERIDIAN, DAVENPORT TOWNSHIP, CASS COUNTY, NORTH DAKOTA
A MINOR SUBDIVISION

RLS 1225
Rec. No. 1688
P.O.C.



Section Line (Not Determined)



OWNERS DESCRIPTION AND DEDICATION

KNOW ALL PERSONS BY THESE PRESENTS, That Joel Russell and Jan Russell, husband and wife, as joint tenants, as owners of a parcel of land located in Government Lot 1 of Section 7, Township 137 North, Range 51 West of the 5th Principal Meridian, Davenport Township, Cass County, North Dakota described as follows:

Commencing at the Northwest corner of Section 7 (North Dakota Land Survey Monument Record No. 1688); thence S02°26'29"E along the west line of said NW1/4, a distance of 448.71 feet to the POINT OF BEGINNING; thence N87°33'31"E a distance of 425.00 feet; thence S02°26'29"E a distance of 668.16 feet; thence N83°19'48"W a distance of 430.43 feet to a point on the west line of said NW1/4; thence N02°26'29"W a distance of 600.00 feet to the point of beginning.

Said tract contains 6.19 acres, more or less, and is subject to easements, restrictions, reservations and rights of way of sight or record, if any.

Said owners have caused the above described parcel of land to be surveyed and platted as RUSSELL SUBDIVISION to Cass County, North Dakota and do hereby dedicate to the public for public use forever 157th Avenue SE as shown on this plat.

OWNERS:

Joel Russell, Husband

Jan Russell, Wife

State of _____ }
County of _____ } SS

On this _____ day of _____, 2021, before me, a notary public in and for said County and State, personally appeared Joel Russell, known to me to be the person described in and who executed the foregoing instrument and acknowledged to me that they executed the same.

Notary Public

State of _____ }
County of _____ } SS

On this _____ day of _____, 2021, before me, a notary public in and for said County and State, personally appeared Jan Russell, known to me to be the person described in and who executed the foregoing instrument and acknowledged to me that they executed the same.

Notary Public

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGMENT

I, Jacob Duchsherer, 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.

Jacob Duchsherer, Professional Land Surveyor
North Dakota License Number LS-28251

State of _____ }
County of _____ } SS

On this _____ day of _____, 2021, before me, a notary public in and for said County and State, personally appeared Jacob Duchsherer, known to me to be the person described in and who executed the foregoing instrument and acknowledged to me that they executed the same.

Notary Public

DAVENPORT TOWNSHIP

Reviewed by Davenport Township on this _____ day of _____, 2021.

Vernon Liebelt, Chairman

Attest:
Derek Swenson, Supervisor

CASS COUNTY ENGINEER

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

Jason Benson, Cass County Engineer

CASS COUNTY PLANNING COMMISSION

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

Ken Lougheed, Chairman

Attest:
Secretary

CASS COUNTY BOARD OF COMMISSIONERS

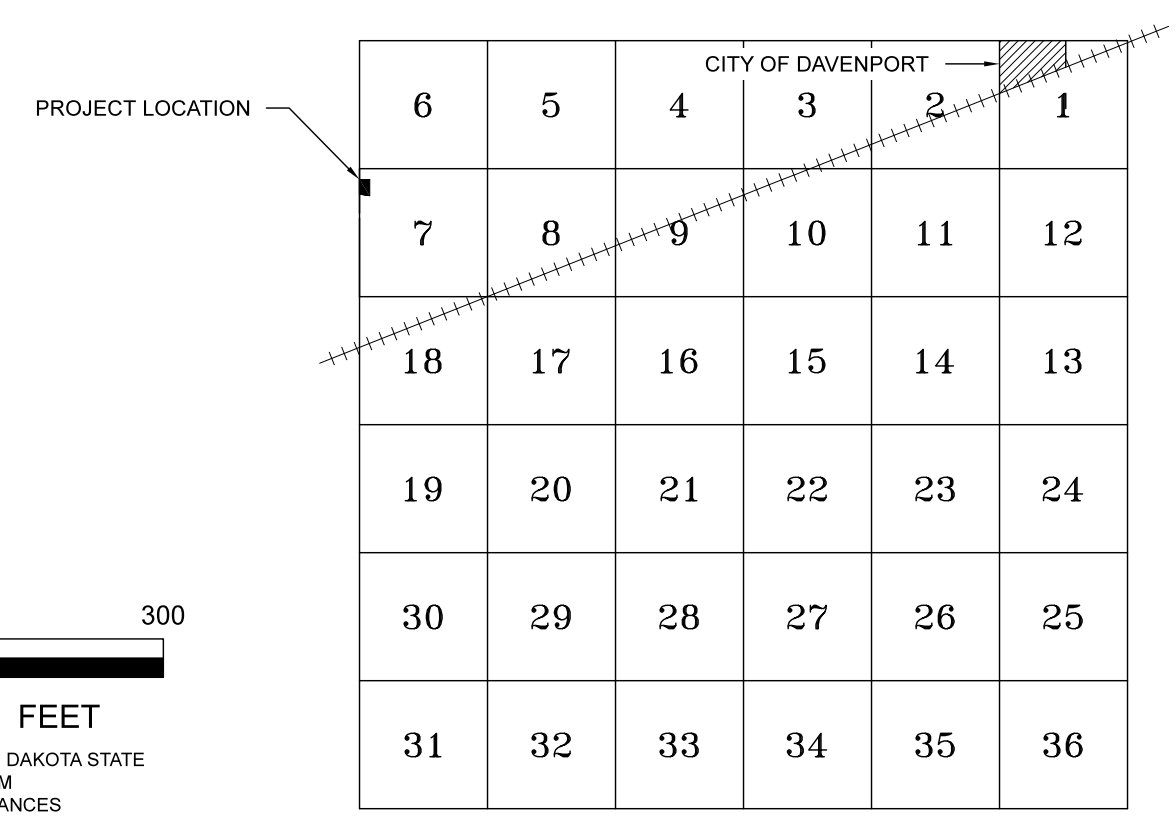
Reviewed by Cass County, North Dakota on this _____ day of _____, 2021.

Chad Peterson, Chairman

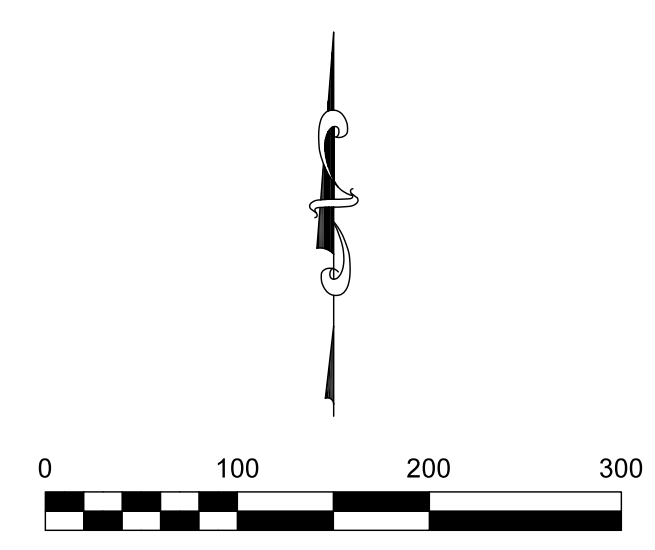
Attest:
Michael Montplaisir, Cass County Auditor

GOVERNMENT LOT 1
GOVERNMENT LOT 2

VICINITY MAP (NTS)
DAVENPORT TOWNSHIP



- LEGEND**
- = CORNER MARKED WITH A 5/8" x 18" SOLID IRON PIN WITH PLASTIC CAP MARKED T.S. NO. 23251
 - = EXISTING OR FOUND CORNER MONUMENT
 - = SECTION LINE
 - - - = GOVERNMENT LOT LINE
 - — — = PUBLIC ROAD R/W LINE
 - — — = PLAT BOUNDARY LINE
 - P.O.C. = POINT OF COMMENCEMENT
 - P.O.B. = POINT OF BEGINNING



SCALE: 1 INCH = 100 FEET
BEARING ORIENTATION BASED ON NORTH DAKOTA STATE PLANE COORDINATE SYSTEM
INTERNATIONAL FEET, GRID DISTANCES

ALM CAP STAMPED
RLS 28251

INTERSTATE ENGINEERING
Professionals you need, people you trust.

Interstate Engineering, Inc.
416 Main Street
Hornsea, ND 58047-4304
Ph: (701) 532-3498
www.interstateeng.com

Offices in North Dakota, Minnesota, Montana and South Dakota

MEMORANDUM

TO: Cass County Board of Commissioners

FROM: Grace Puppe, Cass County Planner

DATE: June 1, 2021

SUBJECT: Consent Agenda Topic for the June 7, 2021
Commission Meeting: Eisenbeisz Subdivision
Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Maple River Township, Section 22 at a Public Hearing on May 27, 2021. The intended purpose of the subdivision is to plat an existing farmstead and purchase land to square off the property line while expanding the existing yard.

The Planning Commission is recommending approval of the proposed plat entitlement request and Maple River 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

Entitlements Requested:	Minor Subdivision (1 Lot) of a part of the SW ¼ of Section 22, Township 138 North, Range 52 West		
Title:	Eisenbeisz Subdivision	Date:	05-06-2021
		Update:	06-01-2021
Location:	SW ¼ of Section 22, Township 138 North, Range 52 West (Maple River Township)	Staff Contact:	Grace Puppe
Parcel Number:	52-0000-08798-010	Water District:	Maple River Water District
Owner(s)/Applicant:	Chris Eisenbeisz	Engineer/Surveyor:	Houston Engineering
Status:	County Commission Hearing: June 7, 2021		

Existing Land Use	Proposed Land Use
Residential	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Eisenbeisz Subdivision** to plat a one (1) Lot subdivision of approximately 2.5 acres. According to the applicant, the subdivision is requested to plat existing farmstead and purchase land to square off the property line while expanding the yard.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing County Road 18 road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments

County Engineer	I've talked with Chris and don't have any concerns 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	Project is clear.
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 property currently is served by CRWD. No comment is required.
North Dakota Department of Transportation	Since you are not changing your access point from ND highway 18 and the property you are purchasing is outside of our highway right of way we have no comments.
County Sanitarian	This property has a large portion of its square footage taken up by the Maple River. Because of this, the septic system area must be reserved well in advance of any dirt work on the site, so that the area remains unchanged prior to septic system construction. This will require a soil analysis and general house requirements to be presented to the Health Department, so that a general size for the property reservation can be provided.
Township Chairman	No comments were received prior to publishing the staff report.
The City of Fargo	No comments were received prior to publishing the staff report.
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. Maple River borders the north and west.

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. Due to the location of the property and the proximity of the Maple River and State Highway 18 a variance from the deed restriction requirement may be considered.

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.

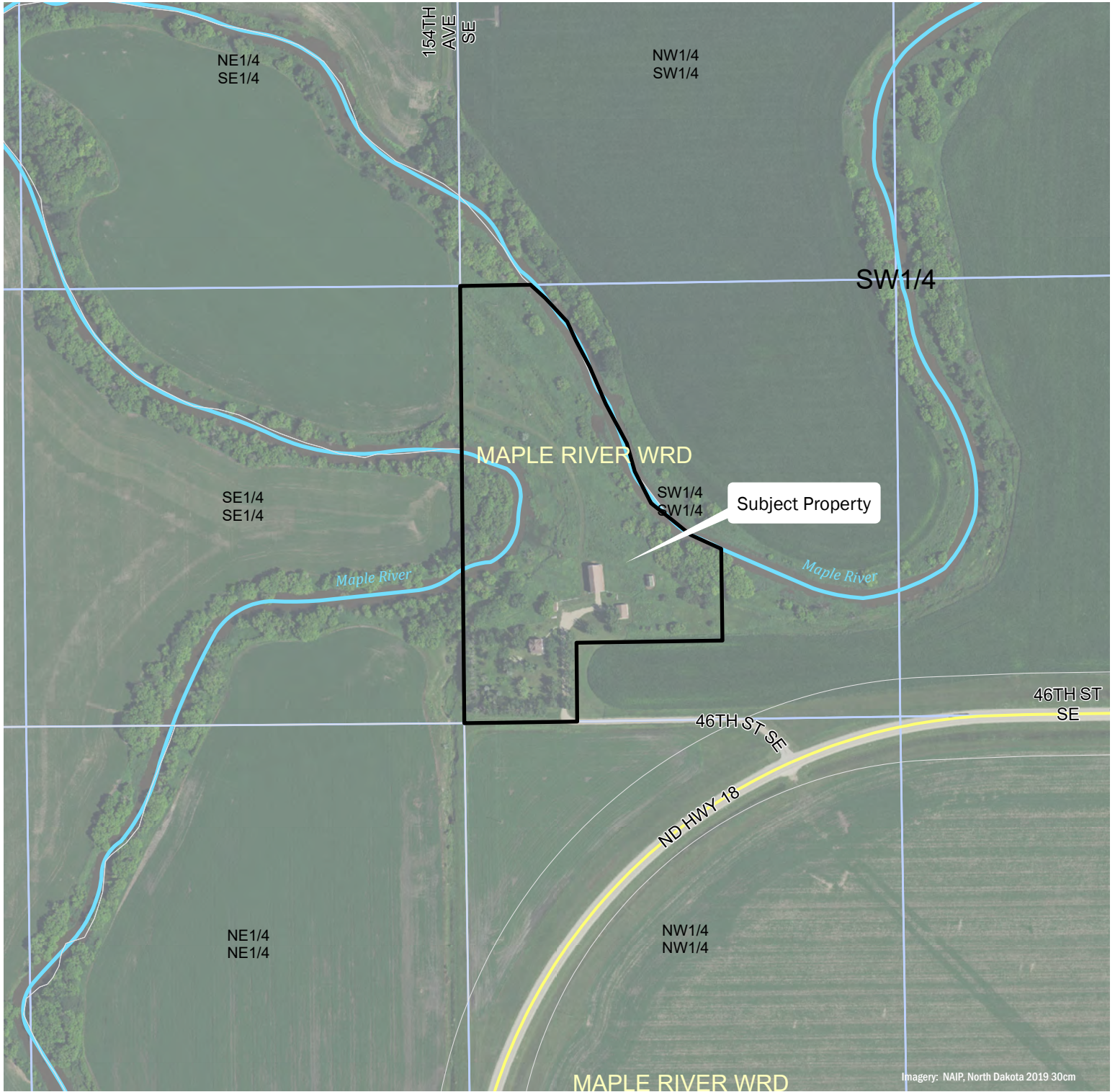
Attachments

1. Location Map
2. Plat Document
3. Variance Request

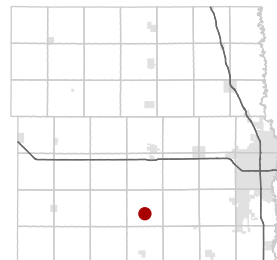
Minor Subdivision

Eisenbeisz Subdivision

Maple River Twp, Section 22 - Township 138 North - Range 52 West



Cass County Planning Commission
May 27, 2021

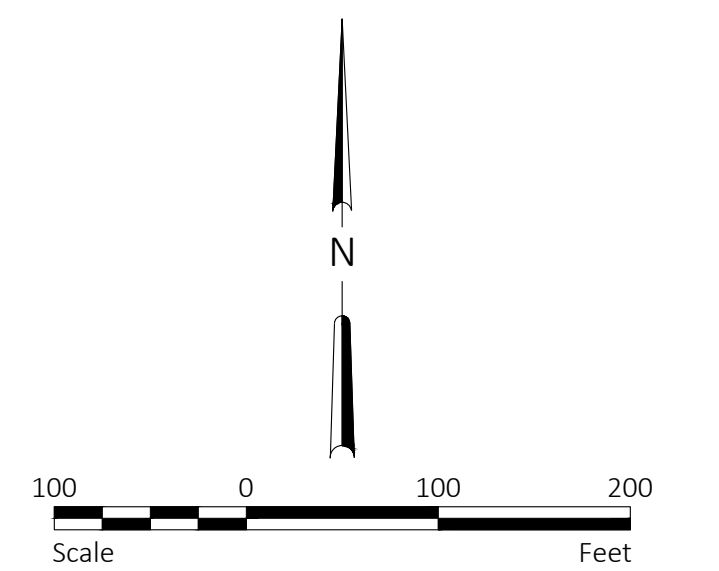
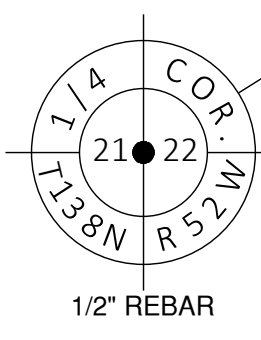


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EISENBEISZ SUBDIVISION

BEING A PLAT OF PART OF THE SW 1/4
SEC. 22, T. 138 N., R. 52 W., 5th P.M.
CASS COUNTY, NORTH DAKOTA

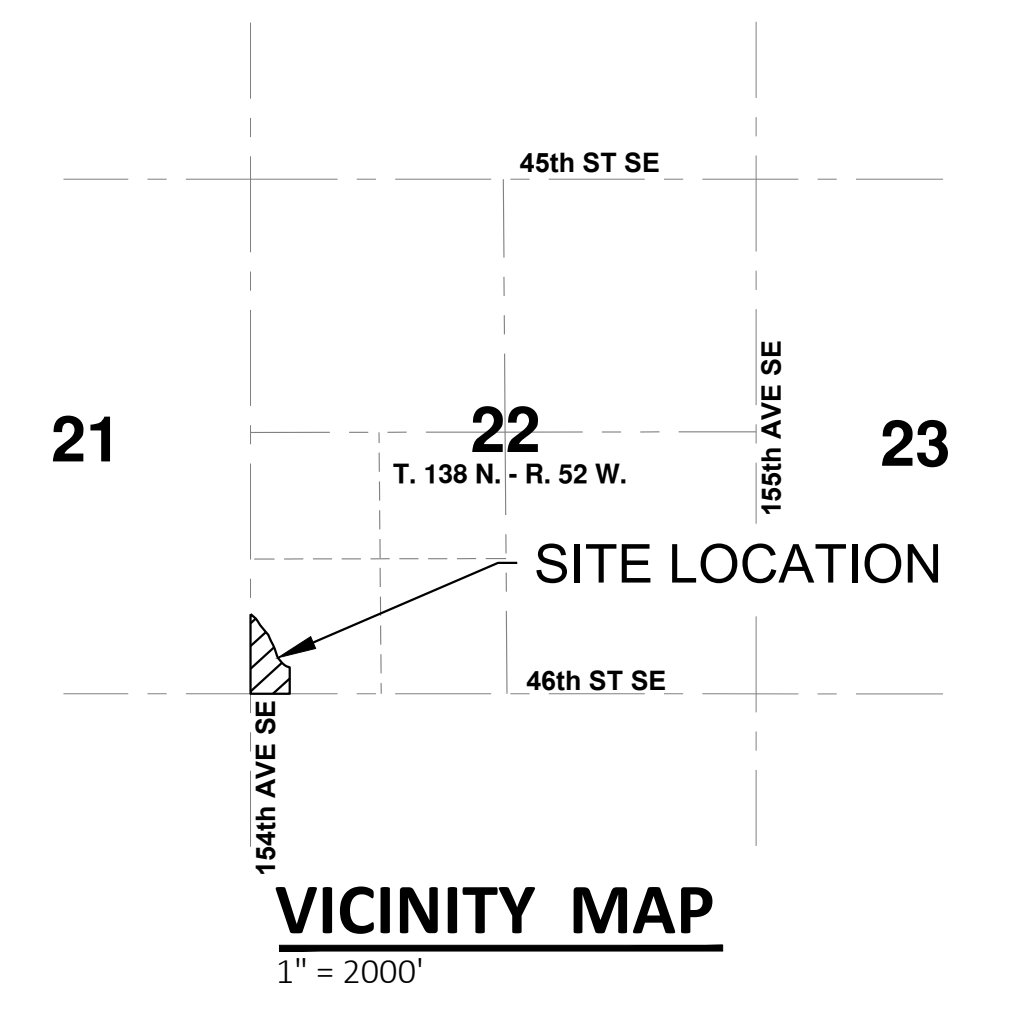
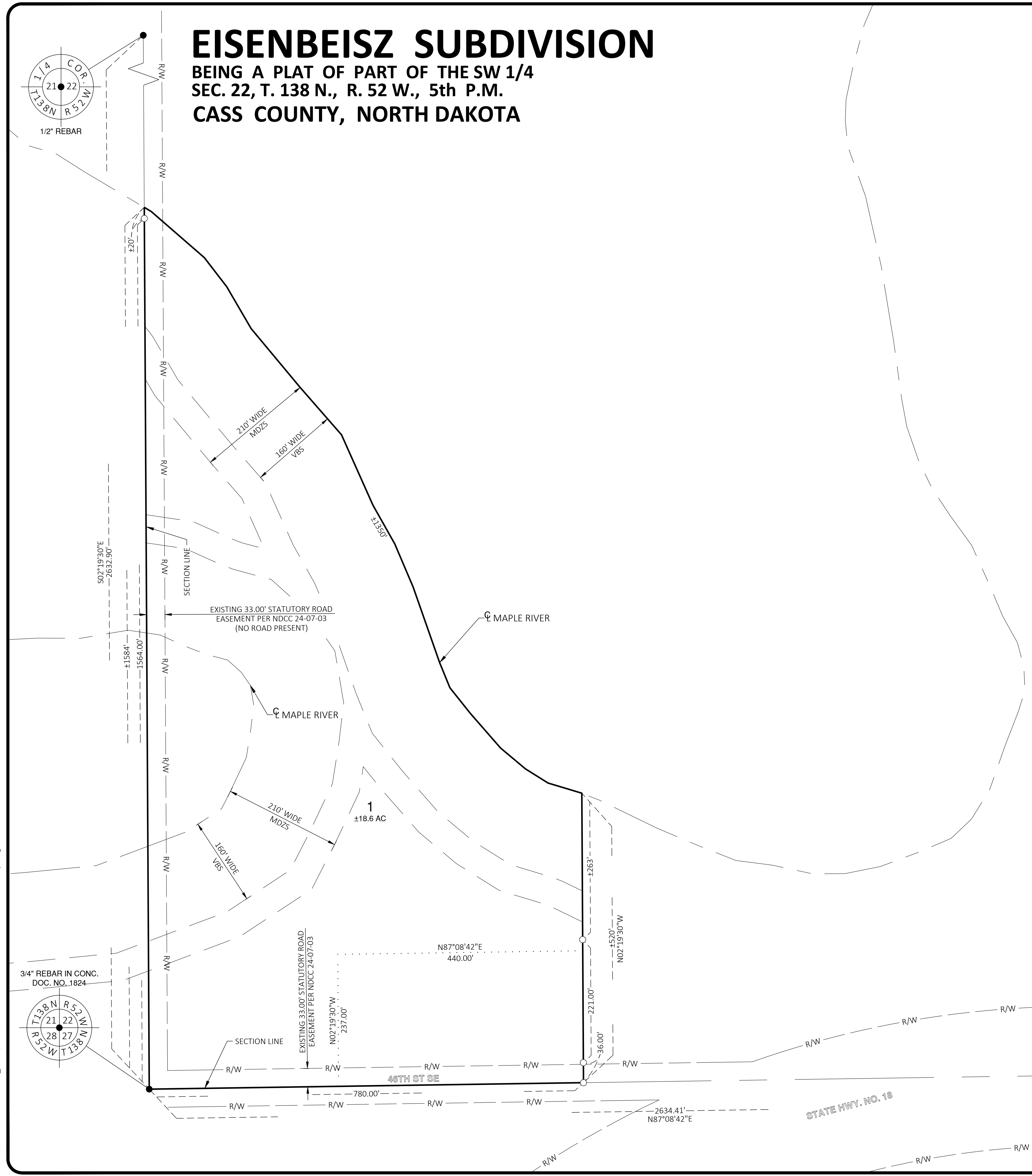


LEGEND

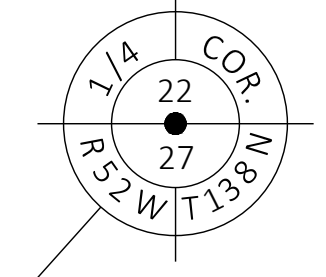
IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
MEASURED BEARING	N00°00'00"E
PLAT BEARING	(N00°00'00"E)
MEASURED DISTANCE	100.00'
PLAT DISTANCE	(100.00')
VEGETATIVE BUFFER ZONE	VBS
MINIMAL DISTURBANCE ZONE SETBACK	MDZS
PLAT BOUNDARY	—————
LOT LINE	—————
UTILITY EASEMENT	- - - - -
EXISTING LOT LINE	—————
EXISTING UTILITY EASEMENT	- - - - -
EXISTING RIGHT OF WAY LINE	— R/W —
OVERHEAD ELEC. POWER LINE	— OHP —
SETBACK LINE	—————

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

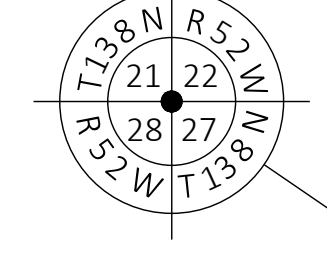
MEASURED DISTANCES SHOWN ARE GROUND DISTANCES IN TERMS OF U.S. SURVEY FEET. USE COMBINATION FACTOR OF 1.0001125127 TO CONVERT STATE PLANE DISTANCES TO GROUND DISTANCES.



GREEN CAP
LS 8887
DOC. NO. 3605



3/4" REBAR IN CONC.
DOC. NO. 1824



H:\BNA\10867\10867_0001\CAD\10867-0001 Eisenbeisz Subdivision Preliminary.dwg

EISENBEISZ SUBDIVISION

BEING A PLAT OF PART OF THE SW 1/4
SEC. 22, T. 138 N., R. 52 W., 5th P.M.

CASS COUNTY, NORTH DAKOTA

Owners' Certificate and Dedication:

Know All Persons by these Presents: That Chris M. Eisenbeisz and Emily J. Eisenbeisz, husband and wife, are the owners and proprietors of the following described tract of land:

That part of the Southwest Quarter of Section 22, Township 148 North, Range 52 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Southwest Quarter; thence North 87°08'42" East, along the southerly line of said Southwest Quarter, for a distance of 780.00 feet; thence North 02°19'30" West, parallel with the westerly line of said Southwest Quarter, for a distance of 520 feet, more or less, to the centerline of the Maple River; thence Northwesterly and upstream, along said river centerline, for a distance of 1350 feet, more or less, to a point of intersection with the westerly line of said Southwest Quarter; thence South 02°19'30" East, along the westerly line of said Southwest Quarter, for a distance of 2632.90 feet to the point of beginning.

Said tract contains 18.6 acres, more or less.

And that said party has caused the same to be surveyed and platted as **EISENBEISZ SUBDIVISION**.

In witness whereof we have set our hands and seals:

Owner:
Chris M. Eisenbeisz

Owner:
Emily J. Eisenbeisz

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 Chris M. Eisenbeisz and Emily J. Eisenbeisz, husband and wife, known to be the people described in and who executed the foregoing instrument and acknowledged that they executed same as their free act and deed.

Notary Public: _____

Surveyor's Certificate:

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

Curtis A. Skarphol, Professional Land Surveyor
North Dakota Reg. No. 4723
1401 21st Ave. N.
Fargo, ND 58102
701-237-5065
cskarphol@houstoneng.com

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 Curtis A. Skarphol, known to be the person described in and who executed the foregoing instrument and acknowledged that he executed same as his free act and deed.

Notary Public: _____

Cass County Engineer:

Reviewed by the Cass County Engineer this ____ day of _____, 20____.

Jason Benson, Cass County Engineer

Highland Township:

Reviewed by Maple River Township, Cass County, North Dakota, this ____ day of _____, 20____.

Scott Saewert, Chair

Attest: _____
Jessica Hoglund, Clerk

Cass County Planning Commission:

Reviewed by the Cass County Planning Commission this ____ day of _____, 20____.

Ken Lougheed, Chair

Attest: _____
Secretary

Cass County Board of Commissioners' Approval:

Approved by Cass County, North Dakota, this ____ day of _____, 20____.

Chad Peterson, Chair

Attest: _____
Michael Montplaisir, Cass County Auditor

Variance Request – Eisenbeisz Subdivision

Grace,

I will request a variance from deed restricting land given the existing farmstead's close proximity to the Maple River and State Highway 18.

Respectfully,

Chris Eisenbeisz

Plant Manager

Cass-Clay Creamery

200 20th St N, Fargo, ND 58102

P: 701-893-1094 C: 701-526-6803

chris.eisenbeisz@cassclay.com