



MEMORANDUM

Highway Department

Jason Benson, P.E.
County Engineer

Thomas B. Soucy, P.E.
Deputy County Engineer

Blaine Laaveg
Superintendent

TO: Cass County Board of Commissioners

FROM: Grace Puppe, Cass County Planner

DATE: September 27, 2021

SUBJECT: Consent Agenda Topic for the October 4, 2021
Commission Meeting: Mark Subdivision
Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Highland Township, Section 23 at a Public Hearing on September 23, 2021. The intended purpose is to create a separate 2.11 acre parcel for residential purposes.

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

1201 Main Avenue West
West Fargo, North Dakota
58078-1301

701-298-2370
Fax: 701-298-2395



Cass County Planning Commission Staff Report

Entitlements Requested:	Minor Subdivision (1 Lot) of a part of the SE ¼ of Section 23, Township 137 North, Range 54 West		
Title:	Mark Subdivision	Date:	09-15-2021
		Update:	09-27-2021
Location:	SE ¼ of Section 23, Township 137 North, Range 54 West (Highland Township)	Staff Contact:	Grace Puppe
Parcel Number:	45-0000-06698-000	Water District:	Maple River Water District
Owner(s)/Applicant:	Steven & Cynthia Mark	Engineer/Surveyor:	Neset Land Surveys
Status:	County Commission Hearing: October 5, 2020		

Existing Land Use	Proposed Land Use
Agriculture	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Mark Subdivision** to plat a one (1) Lot subdivision of approximately 2.11 acres. According to the applicant, the subdivision is requested to create a parcel for residential purposes.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use 52nd St SE for road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments	
County Engineer	No concerns with this subdivision application.
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	No comments were received prior to publishing the staff report.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	No issues with this subdivision.
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 west, north, and south. Township road 52nd Ave SE borders the east of the property.

Floodzone

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

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

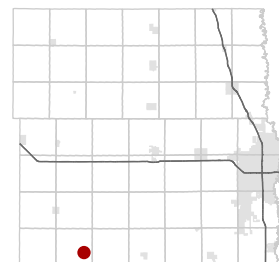
Mark Subdivision

Highland Twp, Section 23 - Township 137 North - Range 54 West



Imagery: NALP, North Dakota 2019 30cm

Cass County Planning Commission
September 23, 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.



MARK SUBDIVISION

PART OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 137 NORTH, RANGE 54 WEST OF THE FIFTH PRINCIPAL MERIDIAN,
CASS COUNTY, NORTH DAKOTA
A MINOR SUBDIVISION

STEVEN & CYNTHIA MARK
PIN: 43-0000-06698-000

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: _____
ROBERT WILSON, CASS COUNTY FINANCIAL DIRECTOR

CASS COUNTY PLANNING COMMISSION

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

KEN LOUGHEED, CHAIRMAN

ATTEST: _____
SECRETARY

HIGHLAND TOWNSHIP

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

DEAN SPRUNK, CHAIRMAN

ATTEST: _____
CHRISTINA SPRUNK, CLERK/TREASURER

OWNER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS, THAT STEVEN M. MARK, AND CYNTHIA A. MARK, ARE THE OWNERS OF LOT 1, BLOCK 1, OF MARK SUBDIVISION IN PART OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 137 NORTH, RANGE 54 WEST OF THE 5TH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM THE SOUTHWEST CORNER OF SECTION 23; THENCE N89°25'36"E ALONG THE SOUTH LINE OF SAID SECTION A DISTANCE OF 3423.00 FEET TO THE POINT OF BEGINNING; THENCE N00°34'24"W ON A LINE PERPENDICULAR TO SAID SECTION LINE A DISTANCE OF 575.00 FEET; THENCE N89°25'36"E ALONG A LINE PARALLEL WITH SAID SOUTH SECTION LINE A DISTANCE OF 160.00 FEET; THENCE S00°34'24"E ALONG A LINE PERPENDICULAR TO SAID SOUTH SECTION LINE A DISTANCE OF 575.00 FEET TO THE SOUTH LINE OF SAID SECTION; THENCE S89°25'36"W ALONG SAID SECTION LINE A DISTANCE OF 160.00 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINS ±2.11 ACRES MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

SAID TRACT OF LAND CONTAINS 2.11 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 MARK SUBDIVISION, A MINOR SUBDIVISION TO THE COUNTY OF CASS, STATE OF NORTH DAKOTA, AND CONSISTS OF 1 LOT AND 1 BLOCK AND CONTAINS 2.11 ACRES MORE OR LESS.

BY: _____
STEVEN M. MARK, OWNER

BY: _____
CYNTHIA A. MARK, OWNER

STATE OF _____)
COUNTY OF _____) SS

BE IT KNOWN ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED STEVEN M. MARK, AND CYNTHIA A. MARK 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, PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA DO HEREBY CERTIFY THAT THE ATTACHED PLAT IS A TRUE AND ACCURATE REPRESENTATION OF THE SURVEY AND SAID SUBDIVISION AND ALL DISTANCES SHOWN ON SAID PLAT ARE CORRECT; THAT THE MONUMENTS FOR THE GUIDANCE OF FUTURE SURVEYS HAVE BEEN CORRECTLY PLACED IN THE GROUND AS SHOWN.

COLE A. NESET

DATE

REGISTERED LAND SURVEYOR No. LS-7513
STATE OF NORTH DAKOTA

STATE OF _____)
COUNTY OF _____) SS

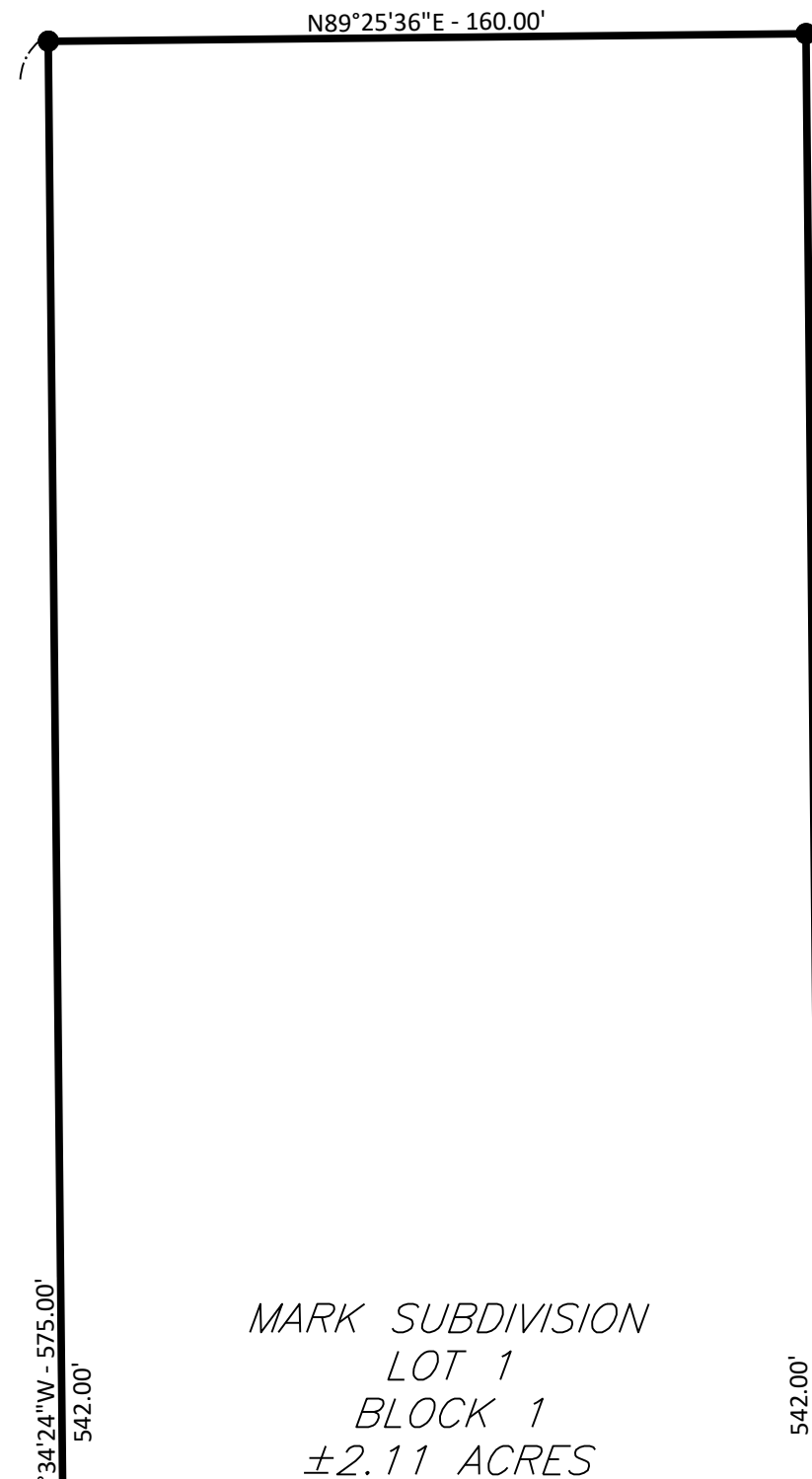
BE IT KNOWN ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED COLE A. NESET, NORTH DAKOTA REGISTERED LAND SURVEYOR, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE EXECUTION OF THE SAME AS A FREE ACT AND DEED.

MY COMMISSION

EXPIRES: _____

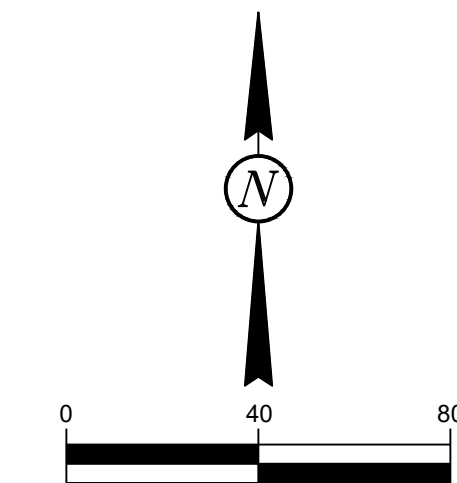
NOTARY PUBLIC

SOUTHEAST QUARTER
SEC. 23-137-54



MARK SUBDIVISION
LOT 1
BLOCK 1
±2.11 ACRES

66' STATUTORY SECTION
LINE RIGHT OF WAY



LEGEND

- MONUMENT SET
- MONUMENT FOUND
- - - EX. SECTION LINE
- PROPERTY BOUNDARY LINE
- - - EX. EASEMENT

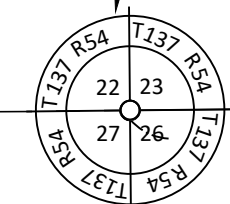
SURVEY INFORMATION

DATE OF SURVEY: 6-10-2021
BASIS OF BEARING: THE SOUTH LINE OF SECTION 23
HAS AN ASSUMED BEARING OF N89°25'36"E

STEVEN & CYNTHIA MARK
PIN: 43-0000-06698-000

POINT OF COMMENCEMENT

POINT OF BEGINNING



N89°25'36"E - 3423.00'

52ND STREET SE

S89°25'36"W - 160.00'



DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 16th day of September 2021, by Owner(s): Steven M. Mark, and Cynthia A. Mark

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 NORTH 650.00 FEET OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 137 NORTH, RANGE 54 WEST OF THE 5TH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA.

SAID TRACT OF LAND CONTAINS 39.39 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:

Steven M. Mark
Steven M. Mark

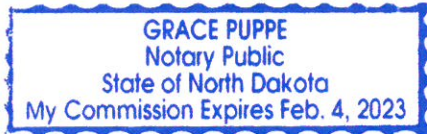
9-16-2021
Date

Cynthia A. Mark
Cynthia A. Mark

9/16/2021
Date

State of North Dakota)
) ss
County of Cass)

On this 9th day of September, 2021, before me, a notary public within and for said county and state, personally appeared Steven M. Mark, and Cynthia A. Mark, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same.



[Signature]
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