



MEMORANDUM

Highway Department

Jason, Benson, P.E.
County Engineer

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

Blaine Laaveg
Superintendent

TO: Cass County Board of Commissioners
FROM: Grace Puppe, Cass County Planner
DATE: January 31, 2022
SUBJECT: Consent Agenda Topic for the February 7, 2022
Commission Meeting: Score Subdivision
Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Stanley Township, Section 34 at a Public Hearing on January 27, 2022. The intended purpose of the subdivision is to plat an existing Auditor's Lot to build a house and shop on. The applicant was bought out by the FM Diversion and this parcel was agreed upon between both parties to be built on.

The Planning Commission is recommending approval of the proposed plat entitlement request and Stanley 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 SE ¼ of Section 34, Township 138 North, Range 49 West		
Title:	Score Residence Subdivision	Date:	10-20-2021
		Update:	01-31-2021
Location:	SE ¼ of Section 34, Township 138 North, Range 49 West (Stanley Township)	Staff Contact:	Grace Puppe
Parcel Number:	64-0000-02932-000	Water District:	Southeast Water District
Owner(s)/Applicant:	Eric Score	Engineer/Surveyor:	KPH, Inc.
Status:	Planning Commission Hearing: January 27, 2022		

Existing Land Use	Proposed Land Use
Agriculture	Commercial
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Score Residence Subdivision** to plat a one (1) Lot subdivision of approximately 7.95 acres. According to the applicant, the subdivision is requested to plat an existing Auditor’s Lot to build a house and shop on. The applicant was bought out by the FM Diversion and this parcel was agreed upon between both parties to be built on.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use the existing County Road 21 road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments	
County Engineer	This site has an existing access that would be allowed to remain for 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	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 can be served from an 8 inch line that runs along 38 th Street immediately east of the lot.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	No comments were received prior to publishing the staff report.
Township Chairman	The township has approved a zoning change from agriculture to commercial and meets the zoning requirements of the township.
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 and north. County Road 21 borders the east of the property with County Road 16 to the south.

Floodzone

According to the FEMA Flood Map Service Center, this property is currently located in Special Hazard Flood Area Zone A. In addition, no wetlands or other notable features are present on the proposed subdivision Lot.

Land Development Rights

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

Staff Recommendation

To accept the findings and recommendations of staff and recommend approval to the County Commission of the subdivision application with the variance request 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

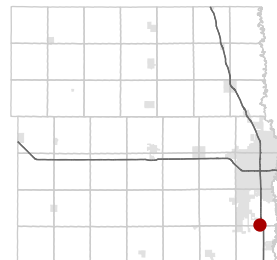
Score Subdivision

Stanley Twp, Section 34 - Township 138 North - Range 49 West



Imagery: NAIP, North Dakota 2019 30cm

Cass County Planning Commission
January 27, 2022

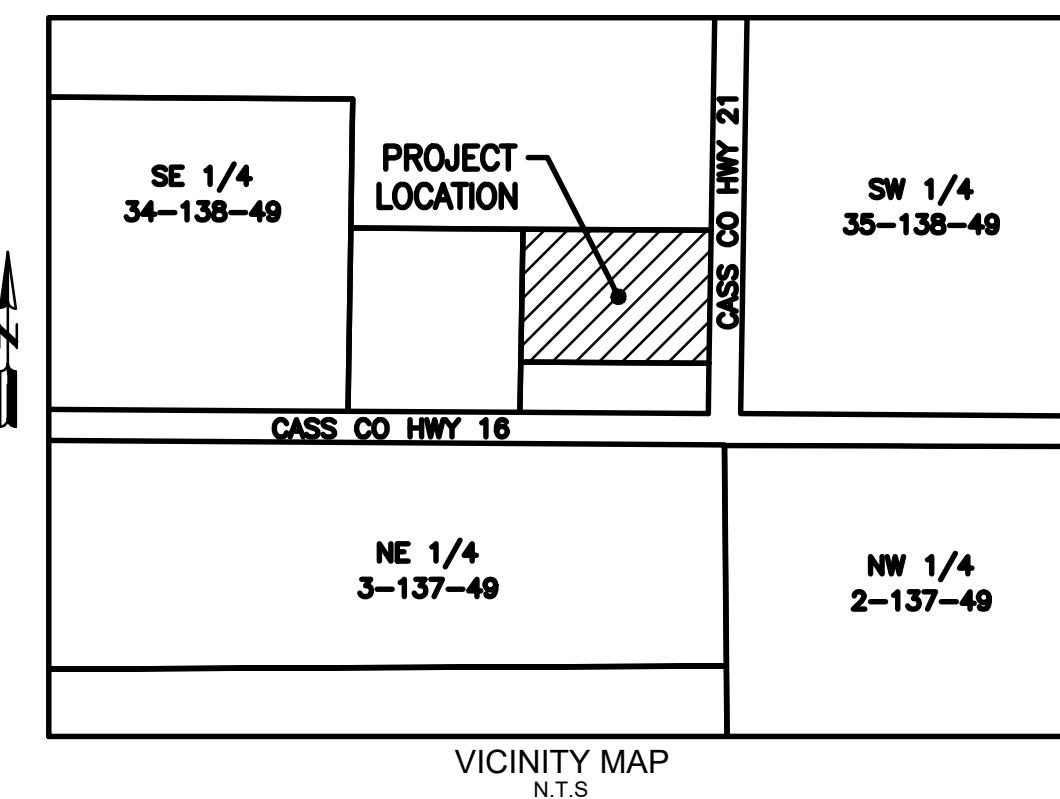


Maps and data are to be used for reference purposes only and Cass County, ND, is not responsible for any inaccuracies herein contained. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



SCORE SUBDIVISION

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 34, TOWNSHIP 138 NORTH, RANGE 49 WEST OF THE FIFTH PRINCIPAL MERIDIAN CASS COUNTY, NORTH DAKOTA
A MINOR SUBDIVISION



OWNER'S CERTIFICATE

KNOW ALL PERSONS BY THESE PRESENTS, That Eric Score, owner of a parcel of land located in that part of the Southeast Quarter of the Southeast Quarter of Section 34, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

Auditors Lot Number Three of the Southeast Quarter of Section 34, Township 138 North, Range 49 West of the Fifth Principal Meridian, recorded as Document Number 656118, on file and of record in the Office of the County Recorder, Cass County, North Dakota.

Containing 7.96 acres, more or less.

Said owners of the above described property, have caused the same to be surveyed and platted as "SCORE SUBDIVISION" to Cass County, North Dakota.

OWNER:

Cass County Joint Water Resource District

Dan Jacobson, Chair

Carol Harbeke Lewis, Secretary

State of North Dakota)
County of Cass) SS

On this ____ day of _____, 20____, appeared before me, Dan Jacobson, Chair and Carol Harbeke Lewis, Secretary, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same on behalf of Cass County Joint Water Resource District.

Notary Public: _____

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, Joshua J. Nelson, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision; that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

Dated this ____ day of _____, 20____.

Joshua J. Nelson, PLS
Professional Land Surveyor
Registration No. LS-27292

State of North Dakota)
County of Cass) SS

On this ____ day of _____, 20____, appeared before me, Joshua J. Nelson, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Notary Public: _____

CASS COUNTY PLANNING COMMISSION APPROVAL

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

Ken Lougheed, Chairman

Attest: _____
Lisa Shasky, Secretary

CASS COUNTY BOARD OF COMMISSIONERS APPROVAL

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

Chad Peterson, Chairman

Attest: _____
Brandy Madrigga, Financial Director

STANLEY TOWNSHIP APPROVAL

Approved by Stanley Township this ____ day of _____, 20____.

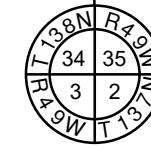
Todd Ellig, Chairman

Attest: _____
Max Cossette, Clerk

CASS COUNTY ENGINEER APPROVAL

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

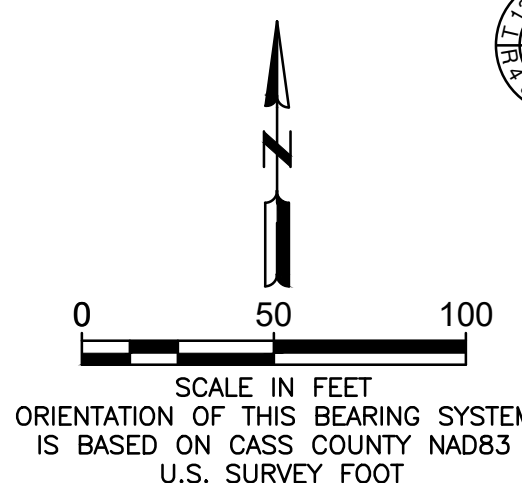
Jason Benson, Cass County Engineer



KPH, INC.
SURVEY
9530 39TH ST. S.
FARGO, ND 58104
701-499-7979

LEGEND

---	SECTION LINE	○	SET MONUMENT
---	EXISTING/BACKGROUND PROP. LINE	●	FOUND MONUMENT
---	PLAT OVERALL BOUNDARY		(5,000) LOT AREA (ACRES)



P:\01 - Eric Score - Plat - Cass County, ND\Drawings\31-578 Eric Score Plat.dwg
 0:\SURVEY\01 - Projects\2021\31-578 Eric Score Plat - Cass County, ND\Drawings\31-578 Eric Score Plat.dwg
 Plot Date & Time: 20 October 2021 4:41 PM

DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 19th day of January, 2022, by Cass County Joint Water Resource District, a North Dakota political subdivision with a post office address of 1201 Main Avenue West, West Fargo, North Dakota, 58078 ("Owner").

1. PURPOSE

Owner recognizes the objectives of this **DEED RESTRICTION** are 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. This **DEED RESTRICTION** will promote 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. LEGAL DESCRIPTION OF THE RESTRICTED PARCEL

Auditor's Lot 5 of the Southeast Quarter of Section 34, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, less the South 225.00 feet of the East 380.57 feet of said Lot 5.

Together with

The North 700.00 feet of the West 1660.00 feet of the North Half of the Northeast Quarter of Section 3, Township 137 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, less the North 70.00 feet thereof.

Said tract contains 32 acres more or less.

Collectively, the property described above is the "Restricted Property".

3. TERMS

Owner consents and agrees to the filing of this **DEED RESTRICTION**, and understands that its effect will be to limit construction or improvement of any further residences, divisions, or nonagricultural development on the Restricted Property, except as may be permitted by Section 309.02 of the Cass County Subdivision Ordinance and any amendment, and except as described in this **DEED RESTRICTION**. The remaining terms of this **DEED RESTRICTION** are as follows:

- A. This **DEED RESTRICTION** will automatically terminate if the Restricted Property is completely within the extraterritorial (ET) boundaries of an incorporated city of Cass County;
- B. This **DEED RESTRICTION** will automatically terminate if the Restricted Property is completely annexed by an incorporated city of Cass County; or
- C. Any further subdivision of the Restricted Property 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.
- D. Owner acquired the Restricted Property as part of its land acquisitions for a flood control project known as the Fargo-Moorhead Metropolitan Area Flood Risk Management Project, commonly referred to as the Fargo-Moorhead Area Diversion Project (the "Diversion Project"), consisting of a channel and side slopes with containment berms, retention structures, wetland features, river control structures, mobility improvements, recreational facilities, utilities and other improvements. Nothing in this **DEED RESTRICTION**, and nothing in the Cass County Subdivision Ordinance, in effect at the time of Owner's execution of this **DEED RESTRICTION**, or in any future amendment, will limit Owner's ability to construct, operate, maintain, reconstruct, improve, modify, repair, or inspect the Diversion Project, or Owner's ability to construct, operate, maintain, reconstruct, improve, modify, repair, or inspect any flood control project, legal assessment drain, water retention project, or any other water infrastructure or project for purposes of flood protection, erosion control, drainage, or watershed improvement on the Restricted Property.
- E. This **DEED RESTRICTION** will run with the Restricted Property in perpetuity and will be binding upon all owners, successors, heirs, assigns, lessees, users, or parties having or acquiring any right, title, or interest in the Restricted Property.
- F. The Restricted Property described herein meets the criteria established in Section 308 of the Cass County Subdivision Ordinance.
- G. This **DEED RESTRICTION** will automatically terminate if any of the exceptions under Section 309.02 of the Cass County Subdivision Ordinance, in effect at the time of Owner's execution of this **DEED RESTRICTION**, or in any future amendment apply to the Restricted Property. Upon the written request of any interested party, the Cass County Engineer has authority to execute and record an instrument with the Cass County Recorder to declare the application of any of the exceptions under Section 309.02.

4. **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 will apply.

