

# CASS COUNTY PLANNING COMMISSION AGENDA

Thursday, June 23, 2022 at 7:00 a.m.

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

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**A. Call to Order**

**B. Roll Call**

**C. Determination of a Quorum**

**D. Approve Meeting Minutes of May 26, 2022**

**E. Public Hearing Items**

1. Hearing on an application requesting a Major Subdivision Plat of **TEPI Fourth Subdivision** located in Section 33, Township 140 North, Range 52 West of the 5<sup>th</sup> Principal Meridian, Casselton Township, Cass County North Dakota.
2. Hearing on an application requesting a Minor Subdivision Plat of **Cottonwood Acres Subdivision** located in Section 4, Township 142 North, Range 55 West of the 5<sup>th</sup> Principal Meridian, Lake Township, Cass County North Dakota.
3. Hearing on an application requesting a Minor Subdivision Plat of **Nudell Subdivision** located in Section 33, Township 139 North, Range 55 West of the 5<sup>th</sup> Principal Meridian, Hill Township, Cass County North Dakota.
4. Hearing on an application requesting a Minor Subdivision Plat of **Douglas Bower Subdivision** located in Section 18, Township 143 North, Range 54 West of the 5<sup>th</sup> Principal Meridian, Page Township, Cass County North Dakota.
5. Hearing on the Cass County Subdivision Ordinance update.

**F. New Business**

**G. Old Business**

Variance Request – Gary Hoglund

**H. Adjournment**

**CASS COUNTY PLANNING COMMISSION  
May 26, 2022**

**A. CALL TO ORDER**

A meeting of the Cass County Planning Commission was called to order on May 26, 2022 at 7:00am in the Vector Conference room at the Highway Department.

**B. ROLL CALL**

Planning Commissioners attending in person were David Gust, Ken Lougheed, Dr. Tim Mahoney, Brad Olson, Commissioner Mary Scherling, Kris Schipper, and Keith Gohdes. Rocky Bertsch and Keith Monson were absent.

Also attending in person were Grace Puppe, Cass County Planner, Jason Benson, Cass County Engineer, Joel Quanbeck, KLJ Planner, Dan Buede and Ryan Thorpe representing the Ethanol Plant, and Gary Hoglund.

**C. DETERMINATION OF A QUORUM**

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

**D. MINUTES, APPROVED**

**MOTION, *passed***

**Mr. Gust moved and Mr. Olson seconded to approve the minutes of the April 28, 2022 meeting as presented.**

**Motion carried.**

**E. PUBLIC HEARING**

- 1. Hearing on an application requesting a Minor Subdivision Plat of McPherson Subdivision located in the SW ¼ of Section 35, Township 143 North, Range 54 West of the 5th Principal Meridian, Page Township, Cass County North Dakota.**

Mr. Lougheed opened the public hearing.

Ms. Puppe provided an overview of an applicant seeking approval of a minor subdivision entitled McPherson Subdivision to plat a one (1) Lot subdivision of approximately 4.59 acres. According to the applicant, the subdivision is requested to break out a tract of land with an existing house on it, from a quarter section to a residential lot.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 18<sup>th</sup> St SE (County Road 26) road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Upon hearing no public comments, the public hearing was closed.

**MOTION, *passed***

**Mr. Gust moved and Dr. Mahoney seconded to accept the findings and recommend approval to the County Commission with any conditions outlined by the County Planner.**

**On a roll call vote with all in favor, motion carried.**

**2. Hearing on an application requesting a Major Subdivision Plat of TEPI Third Subdivision located in Section 33, Township 140 North, Range 52 West of the 5th Principal Meridian, Casselton Township, Cass County North Dakota.**

Mr. Lougheed opened the public hearing.

Ms. Puppe provided an overview of an applicant seeking approval of a minor subdivision entitled TEPI Third Subdivision to plat a seven (7) Lot subdivision of approximately 498.15 acres. According to the applicant, the plat of TEPI Third Subdivision was approved by the City of Casselton, North Dakota and recorded in the Cass County, North Dakota Recorder’s Office on December 19, 2013, as Document No. 1407712.

A consent and joinder by Cass County is required because a portion of such plat lies within the City of Casselton’s ETJ (shared jurisdiction with Cass County) and the other portion of such plat lies outside of the ETJ. This application is being made to cure the jurisdictional defect of such plat by retroactively obtaining Cass County’s consent to and approval thereof.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 153rd Ave SE (County Road 23) road access, ditches and storm sewer system for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Dan Buede explained that the plat was previously platted through the City of Casselton and the County was not included as an oversight of the ETJ area. The idea of a consent and joinder came about to correct this and include the County in the approval of this plat. There has been preliminary discussion with the City of Casselton about annexing the property or coming up with an agreement to control zoning/subdivision with the township and County.

Mr. Benson went over the access to the county road and addressed traffic concerns for this property. The current property has paved roads, stormwater pond, lighting and access to internal lots.

**MOTION, *passed***

**Dr. Mahoney moved and Commissioner Scherling seconded to accept the findings and recommend approval to the County Commission with any conditions outlined by the County Planner.**

**On a roll call vote with all in favor, motion carried.**

**3. Hearing on an application requesting a Major Subdivision Plat of TEPI Fourth Subdivision located in Section 33, Township 140 North, Range 52 West of the 5th Principal Meridian, Casselton Township, Cass County North Dakota.**

Mr. Lougheed opened the public hearing.

Ms. Puppe provided an overview of an applicant seeking approval of a minor subdivision entitled TEPI Fourth Subdivision to plat a five (5) Lot subdivision of approximately 285.51 acres. According to the applicant, the plat of TEPI Fourth Subdivision is a replat of Lot 1, Block 1, TEPI Third Subdivision, splitting such lot into 5 lots.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 153rd Ave SE (County Road 23) road access, ditches and storm

sewer system for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Mr. Buede explained what the 5 additional lots will be used for. Lot 1 is the existing site of the ethanol plant and its current processes. Lot 2 may be sold to a buyer who is wishing to utilize the power to the south of it, still working on the purchase agreement. Lots 3-5 are going to be used for a value-added process. The buildings may be owned by others, but they will process feed grain further increasing the value and make it more efficient to transport.

Mr. Benson went over the access to the county road and addressed traffic concerns for this property. There will be limited additional traffic added due to this project and will be utilizing existing accesses to the property. When the Soybean facility is built additional turn lanes will be added to help control the flow of traffic to that facility as well. At this time, the speed would not need to be reduced on this County Road. The bigger concern is the current interchange. It has low visibility over the top as you are driving over and is only 24 feet wide. This makes it difficult for farm equipment to go over without first having a pilot car to control traffic.

Mr. Buede also said that they are trying to better control the line of trucks waiting on the County Road to access the facility. They working to better coordinate corn delivery to when the farmer sells, they must deliver within the same month. The ethanol facility can stage 65 trucks onsite.

**MOTION, *passed***

**Dr. Mahoney moved and Ms. Schipper seconded to accept the findings and recommend approval to the County Commission with any conditions outlined by the County Planner.**

**On a roll call vote with all in favor, motion carried.**

#### **4. Hearing on amendments to the Cass County Subdivision Ordinance.**

Mr. Gust opened the public hearing.

Mr. Quanbeck provided an overview of the update to the Subdivision Ordinance and the changes still left to make. He is continuing to update the graphics and tables and will review the placement within the document with Ms. Puppe. The new ordinance will have the minor subdivision as its own section that will include all info that will need to be available to the applicant. Mr. Quanbeck will also provide a diagram with the process that will be hyperlinked within the document to be able to jump to specific sections.

Ms. Puppe provided an overview that all applications will be reviewed by the County Planner and then brought before the Planning Commission with a recommendation. Then no matter if the Planning Commission approves or denies the application or variance their recommendation will be heard at the County Commission. If the application is recommended for approval by the Planning Commission, it will be placed on the consent agenda for the County Commission meeting. If the recommendation of the Planning Commission was to deny the application or variance the item will be placed on the regular agenda of the County Commission meeting. This will allow for the County Planner to provide background on the application as well as let the applicant speak also. Commissioner Scherling commented that it will be very helpful in knowing why something is denied assisting with the decision to approve or deny. The County Commission will make the final decision of the plat.



**MOTION, *tabled until next meeting***

**Discussion:** Commission members discuss the updates to the subdivision ordinance and want to look into the variance process further to make sure that there aren't any holes that could be taken advantage of. Ms. Puppe will bring the concerns before Tracy Peters to review before the next meeting.

**Dr. Mahoney moved, and Mr. Gust seconded to table this item until there is further review by staff.**

**On a roll call vote with all in favor, motion carried.**

**F. NEW BUSINESS**

Mr. Lougheed left the meeting at 8:00am.

Information Only – Gary Hoglund Variance Request

Mr. Hoglund is looking to plat a one (1) lot subdivision of approximately 11.65 acres. The subdivision is requested to plat the one lot as a developable lot for sale. The subdivision will be privately maintained and use a new 156<sup>th</sup> Ave SE road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment. He has requested a variance from the deed restriction requirement as he does not own any surrounding property. The adjacent property owners have stated that they are not willing to sign a deed restriction on his behalf. His property is landlocked by these other property owners.

The Planning Commission discussed the property and its current use versus the proposed use. They voiced concerns about granting the variance and requested Ms. Puppe to follow up with Tracy Peters to see what the implications of this variance may be and how they could affect future variance requests.

**G. OLD BUSINESS**

None

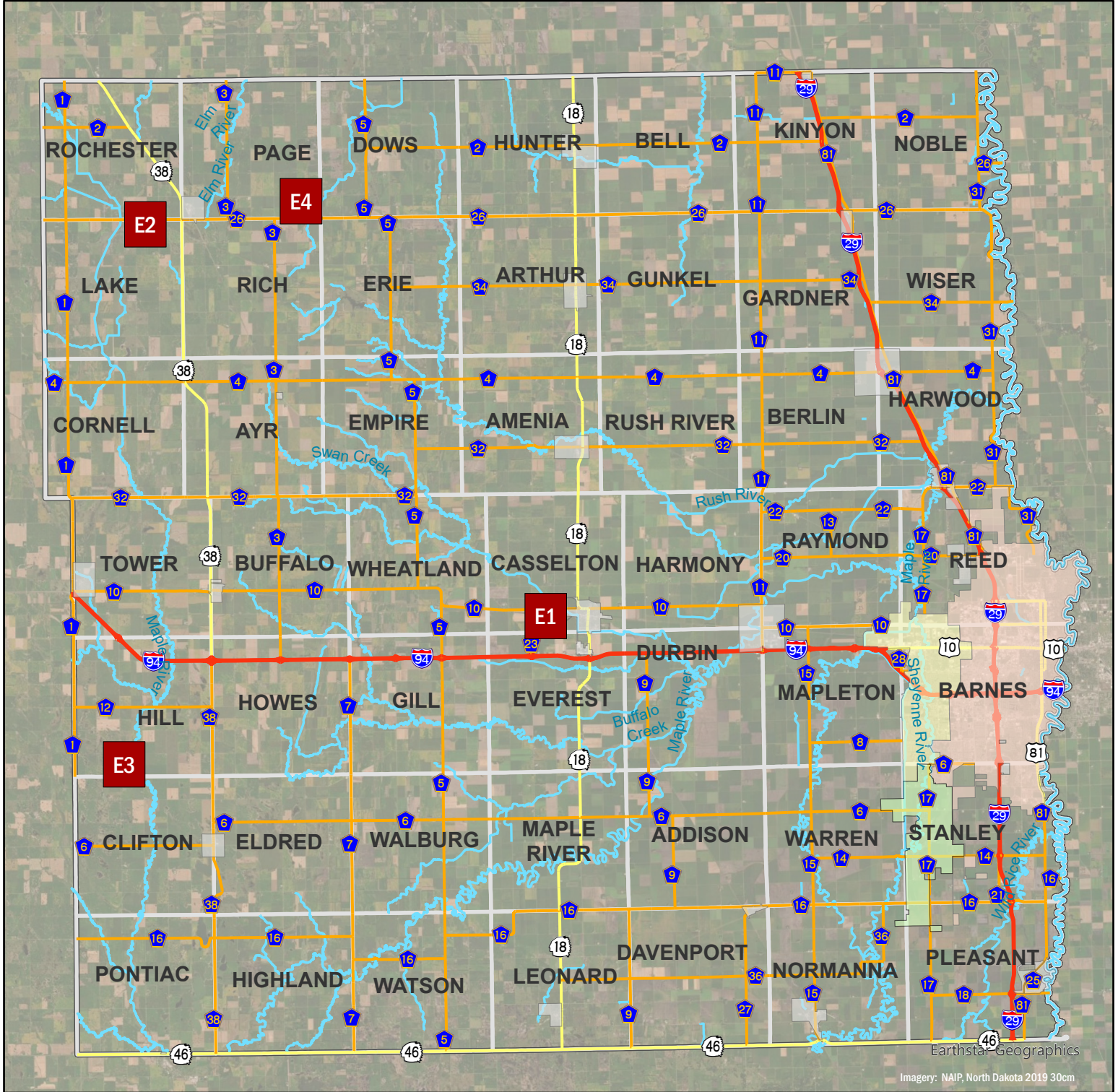
**H. ADJOURNMENT**

On motion by Mr. Olson seconded by Dr. Mahoney and all voting in favor, the meeting was adjourned at 8:10 am.

# Agenda Items Map

Cass County Planning Commission

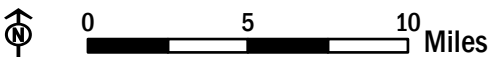
June 23, 2022



Earthstar Geographics  
Imagery: NAIP, North Dakota 2019 30cm

## Agenda Items No.

- E1. - TEPI Fourth Subdivision
- E2. - Cottonwood Acres Subdivision
- E3. - Nudell Subdivision
- E4. - Douglas Bower Subdivision



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





## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Major Subdivision (7 Lot)</b> of a part of Section 33, Township 140 North, Range 52 West		
<b>Title:</b>	<b>TEPI Fourth Subdivision</b>	<b>Date:</b>	06-10-2022
<b>Location:</b>	Section 33, Township 140 North, Range 52 West (Casselton Township)	<b>Staff Contact:</b>	Grace Puppe
<b>Parcel Number:</b>	29-0300-00010-000	<b>Water District:</b>	Maple River Water Resource District
<b>Owner(s)/Applicant:</b>	Tharaldson Ethanol Plant I, LLC	<b>Engineer/Surveyor:</b>	Dan Bueide
<b>Status:</b>	Planning Commission Hearing: June 23, 2022		

Existing Land Use	Proposed Land Use
Commercial	Commercial
Proposal	

The applicant is seeking approval of a major subdivision entitled **TEPI Third Subdivision** to plat a four (4) Lot subdivision of approximately 285.51 acres. According to the applicant, the plat of TEPI Fourth Subdivision is a replat of Lot 1, Block 1, TEPI Third Subdivision, splitting such lot into 4 lots.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 153<sup>rd</sup> Ave SE (County Road 23) road access, ditches and storm sewer system for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments	
<b>County Engineer</b>	No comments were received prior to publishing the staff report.
<b>Water Resource District</b>	No comment.
<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>	Clear
<b>AT&amp;T</b>	AT&T has a fiber cable on the South side of the RR TOW. AT&T is not affected by the subdivision and has no objection.
<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>	Currently supplies this property with water 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>	No comments were received prior to publishing the staff report.
<b>The City of Fargo</b>	No comments were received prior to publishing the staff report.
<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 County Road 23 to the west, BNSF to the north, agriculture to the east, and Legal Drain 62 to the south.

#### *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.

#### *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 this is a major subdivision proposal a transfer of a development right is not required.

### Staff Recommendation

To accept the findings and recommendations of staff and recommend approval to the County Commission of the subdivision application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance and all other applicable regulations, with the following conditions:

1. No additional accesses off of County Road 23.

### Attachments

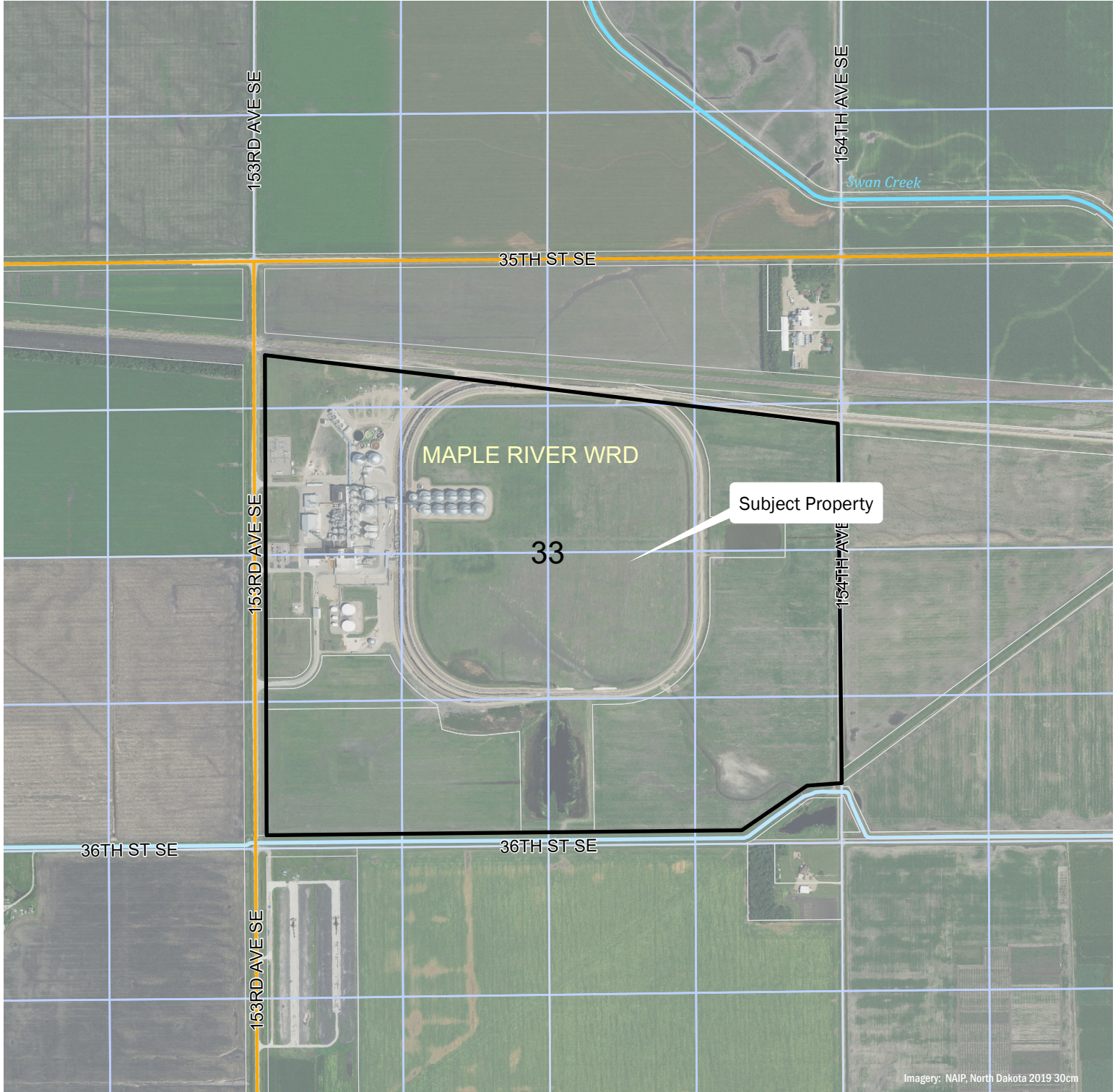
1. Location Map
2. Plat Document
3. Easement Document



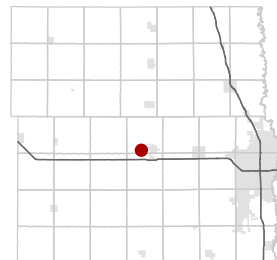
# Minor Subdivision

## TEPI Fourth Subdivision

Casselton Twp, Section 33- Township 140 North - Range 52 West



1000' Notification Area  
June 23, 2022

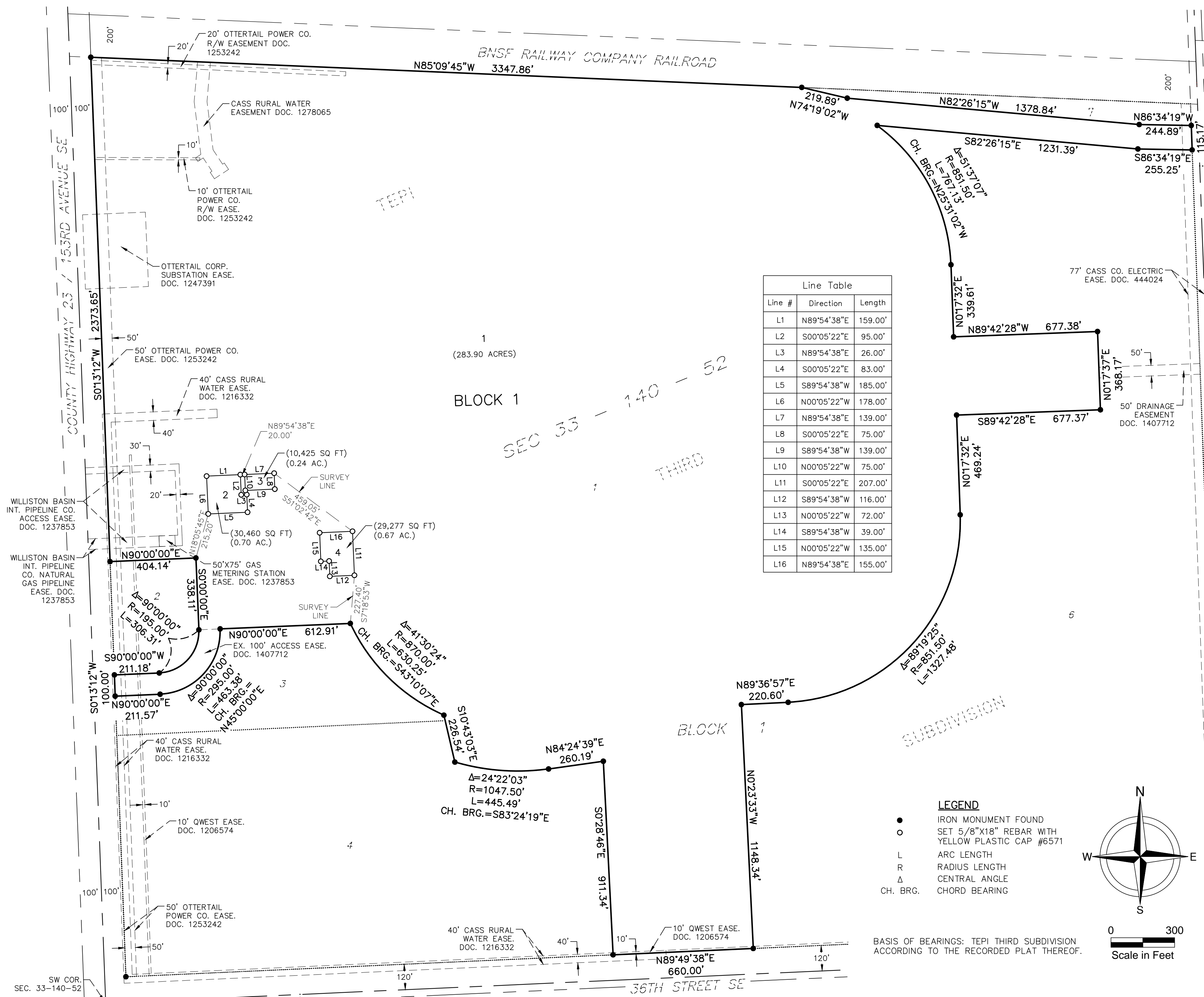


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**PLAT OF  
TEPI FOURTH SUBDIVISION**  
A REPLAT OF LOT 1, BLOCK 1, TEPI THIRD SUBDIVISION IN SECTION 33,  
TOWNSHIP 140 NORTH, RANGE 52 WEST, CASS COUNTY, NORTH DAKOTA



Line #	Direction	Length
L1	N89°54'38"E	159.00'
L2	S00°05'22"E	95.00'
L3	N89°54'38"E	26.00'
L4	S00°05'22"E	83.00'
L5	S89°54'38"W	185.00'
L6	N00°05'22"W	178.00'
L7	N89°54'38"E	139.00'
L8	S00°05'22"E	75.00'
L9	S89°54'38"W	139.00'
L10	N00°05'22"W	75.00'
L11	S00°05'22"E	207.00'
L12	S89°54'38"W	116.00'
L13	N00°05'22"W	72.00'
L14	S89°54'38"W	39.00'
L15	N00°05'22"W	135.00'
L16	N89°54'38"E	155.00'

**LEGEND**  
 ● IRON MONUMENT FOUND  
 ○ SET 5/8"x18" REBAR WITH YELLOW PLASTIC CAP #6571  
 L ARC LENGTH  
 R RADIUS LENGTH  
 Δ CENTRAL ANGLE  
 CH. BRG. CHORD BEARING

BASIS OF BEARINGS: TEPI THIRD SUBDIVISION  
 ACCORDING TO THE RECORDED PLAT THEREOF.

**CERTIFICATE**

STEVEN W. HOLM, BEING DULY SWORN, DEPOSES AND SAYS THAT HE IS THE REGISTERED LAND SURVEYOR WHO PREPARED AND MADE THE ATTACHED PLAT OF "TEPI FOURTH SUBDIVISION", A REPLAT OF LOT 1, BLOCK 1, TEPI THIRD SUBDIVISION IN SECTION 33, TOWNSHIP 140 NORTH, RANGE 52 WEST, CASS COUNTY, NORTH DAKOTA; THAT SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY THEREOF; THAT ALL DISTANCES ARE CORRECTLY SHOWN ON SAID PLAT; THAT MONUMENTS HAVE BEEN PLACED IN THE GROUND AS INDICATED FOR THE GUIDANCE OF FUTURE SURVEYS AND THAT SAID ADDITION IS DESCRIBED AS FOLLOWS, TO WIT:

LOT 1, BLOCK 1, TEPI THIRD SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE RECORDER, CASS COUNTY, NORTH DAKOTA.

SAID TRACT CONTAINS 285.51 ACRES, MORE OR LESS, AND IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD, IF ANY.

PRELIMINARY

STEVEN W. HOLM  
 REGISTERED LAND SURVEYOR  
 REG. NO. LS-6571

STATE OF NORTH DAKOTA )  
 COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED STEVEN W. HOLM, REGISTERED LAND SURVEYOR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

**DEDICATION**

WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE LAND DESCRIBED IN THE PLAT OF "TEPI FOURTH SUBDIVISION", A REPLAT OF LOT 1, BLOCK 1, TEPI THIRD SUBDIVISION IN SECTION 33, TOWNSHIP 140 NORTH, RANGE 52 WEST, CASS COUNTY, NORTH DAKOTA; THAT WE HAVE CAUSED IT TO BE PLATTED INTO LOTS AND BLOCKS AS SHOWN BY SAID PLAT AND CERTIFICATE OF STEVEN W. HOLM, REGISTERED LAND SURVEYOR, AND THAT THE DESCRIPTION AS SHOWN IN THE CERTIFICATE OF THE REGISTERED LAND SURVEYOR IS CORRECT.

OWNER: THERALDSON ETHANOL PLANT I, LLC A NORTH DAKOTA LIMITED LIABILITY COMPANY

RYAN THORPE, CHIEF OPERATING OFFICER

STATE OF NORTH DAKOTA )  
 COUNTY OF CASS )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED RYAN THORPE, CHIEF OPERATING OFFICER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF THERALDSON ETHANOL PLANT I, LLC, A NORTH DAKOTA LIMITED LIABILITY COMPANY.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

**CASSELTON TOWNSHIP REVIEW**

REVIEWED BY CASSELTON TOWNSHIP, CASS COUNTY, NORTH DAKOTA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

SIGNED: \_\_\_\_\_  
 RYAN RADERMACHER, CHAIRPERSON

ATTEST: \_\_\_\_\_  
 ROBERT RUNCK JR., CLERK

**COUNTY ENGINEER REVIEW**

REVIEWED BY THE CASS COUNTY ENGINEER THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

SIGNED: \_\_\_\_\_  
 JASON BENSON, CASS COUNTY ENGINEER

**CASS COUNTY PLANNING COMMISSION REVIEW**

REVIEWED BY THE CASS COUNTY PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

SIGNED: \_\_\_\_\_  
 KEN LOUGHEED, CHAIRPERSON

ATTEST: \_\_\_\_\_  
 LISA SHASKY, SECRETARY

**CASS COUNTY COMMISSION APPROVAL**

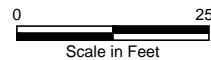
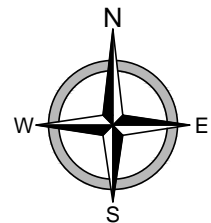
APPROVED BY CASS COUNTY, NORTH DAKOTA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

SIGNED: \_\_\_\_\_  
 RICK STEEN, CHAIRPERSON, BOARD OF COUNTY COMMISSIONERS

ATTEST: \_\_\_\_\_  
 BRANDY MADRIGGA, CASS COUNTY FINANCIAL DIRECTOR

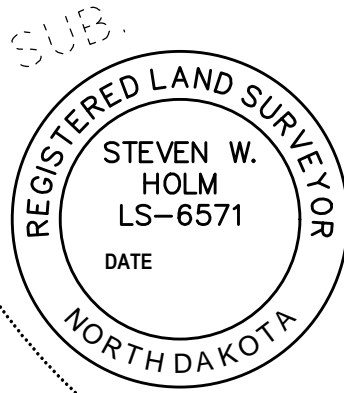
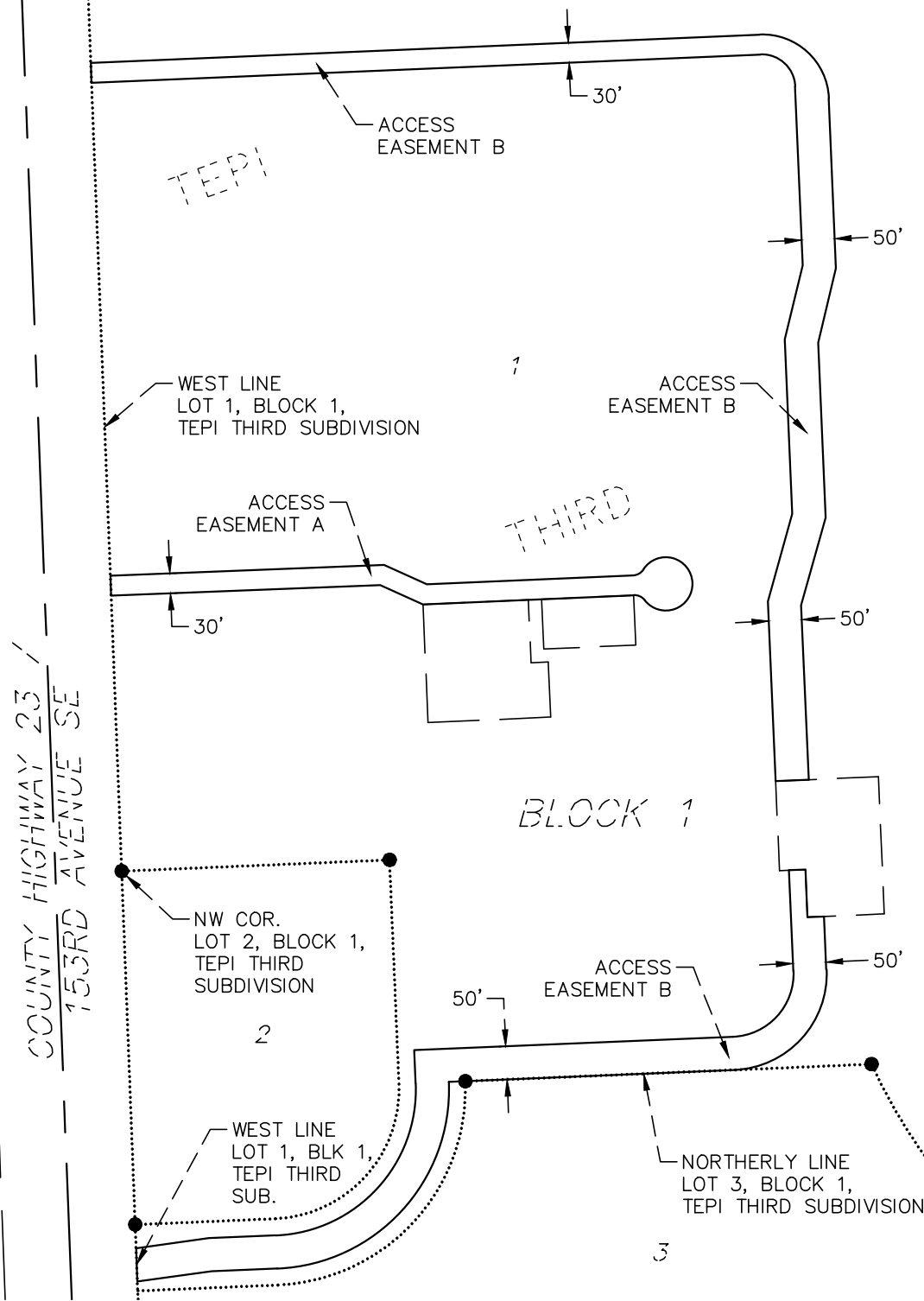
# ACCESS EASEMENTS A & B

PART OF LOT 1, BLOCK 1, TEPI THIRD SUBDIVISION  
 IN SECTION 33, TOWNSHIP 140 NORTH, RANGE 52 WEST,  
 CASS COUNTY, NORTH DAKOTA



## LEGEND

● IRON MONUMENT FOUND



## ACCESS EASEMENTS A & B

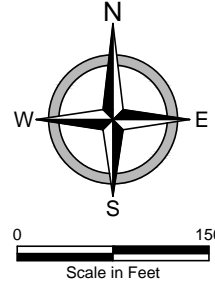
Part of Lot 1, Block 1, TEPI THIRD SUBDIVISION  
 in Section 33, Township 140 North, Range 52 West, Cass County, North Dakota

PROJECT No.	22365
DATE:	06.02.22
REVISED:	-
DRAFTER:	SWH
REVIEWER:	CDH



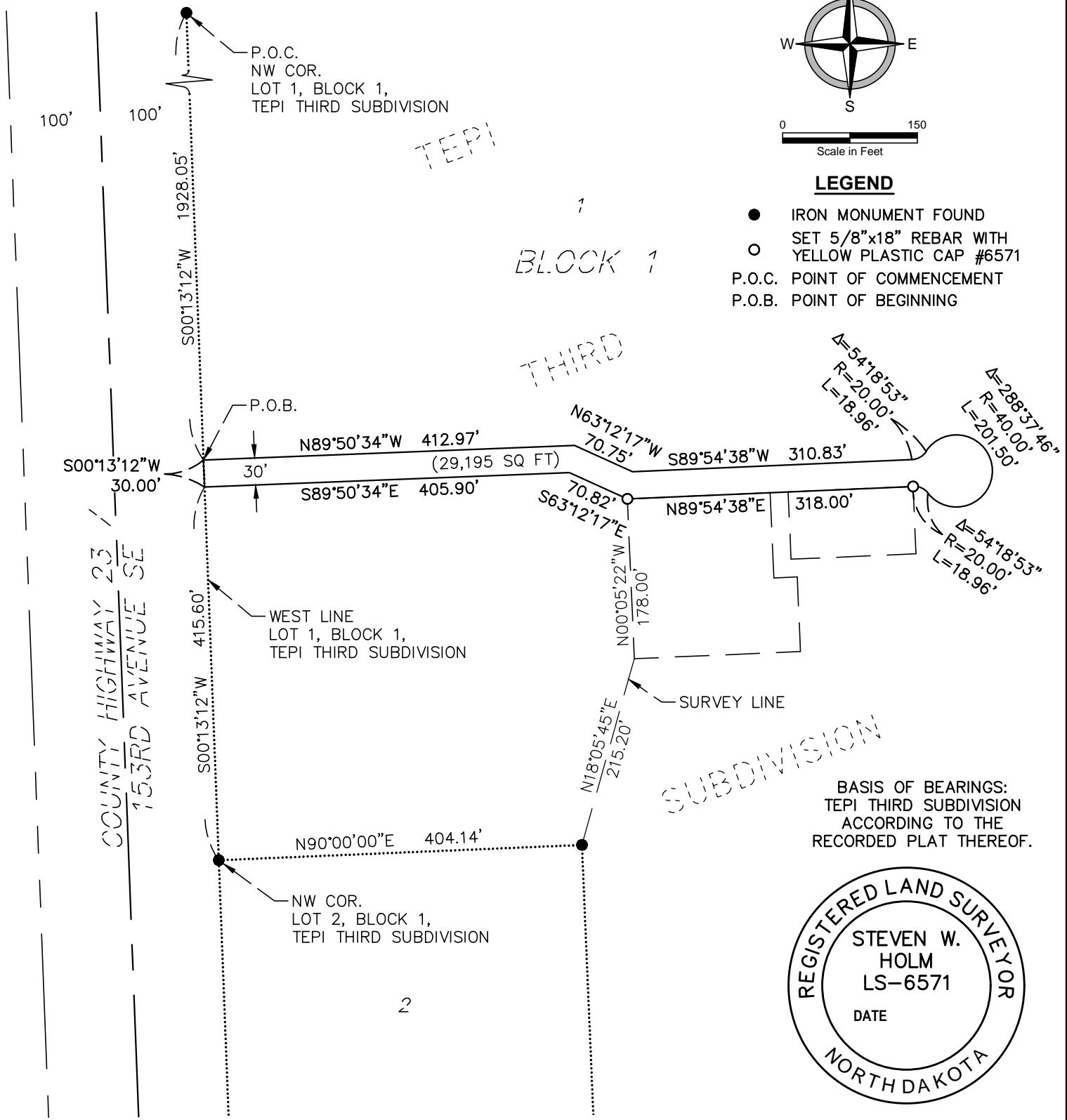
# ACCESS EASEMENT A

PART OF LOT 1, BLOCK 1, TEPI THIRD SUBDIVISION  
IN SECTION 33, TOWNSHIP 140 NORTH, RANGE 52 WEST, CASS COUNTY, NORTH DAKOTA



### LEGEND

- IRON MONUMENT FOUND
- SET 5/8"x18" REBAR WITH YELLOW PLASTIC CAP #6571
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING



BASIS OF BEARINGS:  
TEPI THIRD SUBDIVISION  
ACCORDING TO THE  
RECORDED PLAT THEREOF.



## ACCESS EASEMENT A

Part of Lot 1, Block 1, TEPI THIRD SUBDIVISION  
in Section 33, Township 140 North, Range 52 West, Cass County, North Dakota

PROJECT No.	22365
DATE:	06.02.22
REVISED:	-
DRAFTER:	SWH
REVIEWER:	CDH





# ACCESS EASEMENT A

PART OF LOT 1, BLOCK 1, TEPI THIRD SUBDIVISION  
IN SECTION 33, TOWNSHIP 140 NORTH, RANGE 52 WEST, CASS COUNTY, NORTH DAKOTA

## DESCRIPTION

That part of Lot 1, Block 1, TEPI THIRD SUBDIVISION, according to the recorded plat thereof, on file and of record in the office of the Recorder, Cass County, North Dakota, described as follows:

Commencing at the northwest corner of said Lot 1; thence South 00 degrees 13 minutes 12 seconds West on a record bearing along the west line of said Lot 1 for a distance 1928.05 feet to the point of beginning; thence continuing South 00 degrees 13 minutes 12 seconds West along said west line for a distance of 30.00 feet; thence South 89 degrees 50 minutes 34 seconds East for a distance of 405.90 feet; thence South 63 degrees 12 minutes 17 seconds East for a distance of 70.82 feet; thence North 89 degrees 54 minutes 38 seconds East for a distance of 318.00 feet; thence 18.96 feet southeasterly on a tangential curve concave to the southwest, having a radius of 20.00 feet and a central angle of 54 degrees 18 minutes 53 seconds to a point of reverse curvature; thence 201.50 feet northerly on a reverse curve concave to the west having a radius of 40.00 feet and a central angle of 288 degrees 37 minutes 46 seconds to a point of reverse curvature; thence 18.96 feet southwesterly on a tangential curve concave to the northwest having a radius of 20.00 feet and a central angle of 54 degrees 18 minutes 53 seconds; thence South 89 degrees 54 minutes 38 seconds West for a distance of 310.83 feet; thence North 63 degrees 12 minutes 17 seconds West for a distance of 70.75 feet; thence North 89 degrees 50 minutes 34 seconds West for a distance of 412.97 feet to the point of beginning.

Containing 29,195 square feet, more or less, subject to all easements, restrictions, reservations and rights of way of record, if any.



PAGE 3 OF 6

## ACCESS EASEMENT A

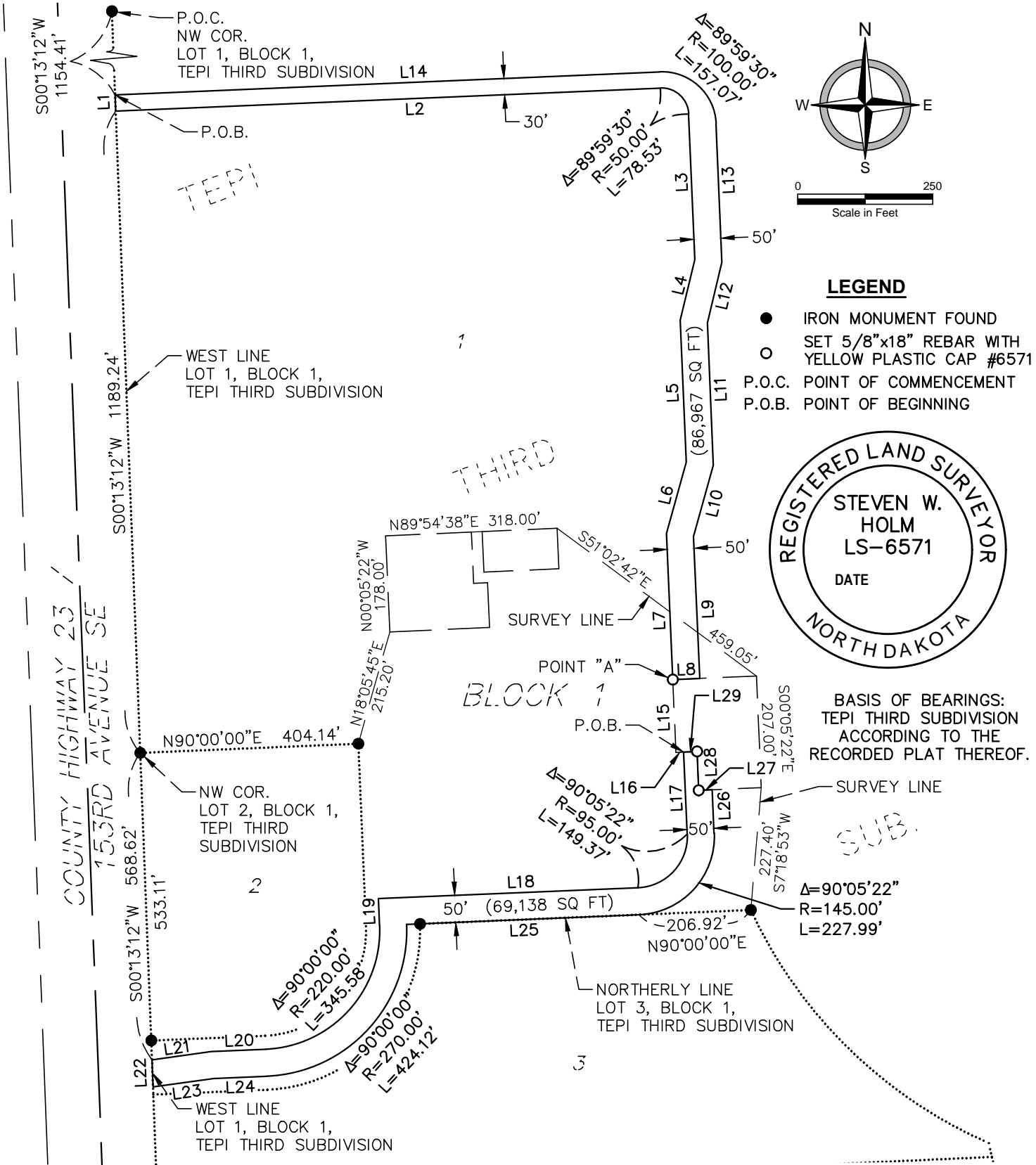
Part of Lot 1, Block 1, TEPI THIRD SUBDIVISION  
in Section 33, Township 140 North, Range 52 West, Cass County, North Dakota

PROJECT No.	22365
DATE:	06.02.22
REVISED:	-
DRAFTER:	SWH
REVIEWER:	CDH



# ACCESS EASEMENT B

PART OF LOT 1, BLOCK 1, TEPI THIRD SUBDIVISION  
 IN SECTION 33, TOWNSHIP 140 NORTH, RANGE 52 WEST, CASS COUNTY, NORTH DAKOTA



## ACCESS EASEMENT B

Part of Lot 1, Block 1, TEPI THIRD SUBDIVISION  
 in Section 33, Township 140 North, Range 52 West, Cass County, North Dakota

PROJECT No.	22365
DATE:	06.02.22
REVISED:	-
DRAFTER:	SWH
REVIEWER:	CDH



# ACCESS EASEMENT B

PART OF LOT 1, BLOCK 1, TEPI THIRD SUBDIVISION  
IN SECTION 33, TOWNSHIP 140 NORTH, RANGE 52 WEST, CASS COUNTY, NORTH DAKOTA

## DESCRIPTION

That part of Lot 1, Block 1, TEPI THIRD SUBDIVISION, according to the recorded plat thereof, on file and of record in the office of the Recorder, Cass County, North Dakota, described as follows:

Commencing at the northwest corner of said Lot 1; thence South 00 degrees 13 minutes 12 seconds West on a record bearing along the west line of said Lot 1 for a distance 1154.41 feet to the point of beginning; thence continuing South 00 degrees 13 minutes 12 seconds West along said west line for a distance of 30.00 feet; thence North 89 degrees 59 minutes 57 seconds East for a distance of 1009.45 feet; thence 78.53 feet southeasterly on a tangential curve concave to the southwest, having a radius of 50.00 feet and a central angle of 89 degrees 59 minutes 30 seconds; thence South 00 degrees 00 minutes 33 seconds East for a distance of 269.87 feet; thence South 15 degrees 53 minutes 38 seconds West for a distance of 115.10 feet; thence South 00 degrees 00 minutes 03 seconds East for a distance of 263.07 feet; thence South 17 degrees 57 minutes 26 seconds West for a distance of 137.16 feet; thence South 00 degrees 05 minutes 22 seconds East for a distance of 270.93 feet to a point hereinafter referred to as Point "A"; thence North 89 degrees 54 minutes 38 seconds East for a distance of 50.00 feet; thence North 00 degrees 05 minutes 22 seconds West for a distance of 262.99 feet; thence North 17 degrees 57 minutes 26 seconds East for a distance of 137.12 feet; thence North 00 degrees 00 minutes 03 seconds West for a distance of 263.99 feet; thence North 15 degrees 53 minutes 38 seconds East for a distance of 115.10 feet; thence North 00 degrees 00 minutes 33 seconds West for a distance of 256.85 feet; thence 157.07 feet northwesterly on a tangential curve concave to the southwest, having a radius of 100.00 feet and a central angle of 89 degrees 59 minutes 30 seconds; thence South 89 degrees 59 minutes 57 seconds West for a distance of 1009.33 feet to the point of beginning.

AND

Commencing at the aforementioned Point "A"; thence South 00 degrees 05 minutes 22 seconds East for a distance of 135.00 feet; thence North 89 degrees 54 minutes 38 seconds East for a distance of 14.00 feet to the point of beginning; thence South 00 degrees 05 minutes 22 seconds East for a distance of 152.18 feet; thence 149.37 feet southwesterly on a tangential curve concave to the northwest, having a radius of 95.00 feet and a central angle of 90 degrees 05 minutes 22 seconds to a point on a line which is 50.00 feet northerly of, as measured at a right angle to and parallel with the northerly line of Lot 3, Block 1, said TEPI THIRD SUBDIVISION; thence South 90 degrees 00 minutes 00 seconds West along said parallel line for a distance of 480.99 feet; thence South 00 degrees 00 minutes 00 seconds East for a distance of 50.00 feet; thence 345.58 feet southwesterly on a tangential curve concave to the northwest, having a radius of 220.00 feet and a central angle of 90 degrees 00 minutes 00 seconds; thence South 90 degrees 00 minutes 00 seconds West for a distance of 101.19 feet; thence South 84 degrees 32 minutes 59 seconds West for a distance of 110.63 feet to the west line of said Lot 1; thence South 00 degrees 13 minutes 12 seconds West along said west line for a distance of 50.25 feet; thence North 84 degrees 32 minutes 59 seconds East for a distance of 113.22 feet; thence North 90 degrees 00 minutes 00 seconds East for a distance of 98.81 feet; thence 424.12 feet northeasterly on a tangential curve concave to the northwest, having a radius of 270.00 feet and a central angle of 90 degrees 00 minutes 00 seconds to a point on the westerly extension of the northerly line of said Lot 3; thence North 90 degrees 00 minutes 00 seconds East along the northerly line of said Lot 3 and the westerly extension thereof, for a distance of 430.99 feet; thence 227.99 feet northeasterly on a tangential curve concave to the northwest, having a radius of 145.00 feet and a central angle of 90 degrees 05 minutes 22 seconds; thence North 00 degrees 05 minutes 22 seconds West for a distance of 80.18 feet; thence South 89 degrees 54 minutes 38 seconds West for a distance of 25.00 feet; thence North 00 degrees 05 minutes 22 seconds West for a distance of 72.00 feet; thence South 89 degrees 54 minutes 38 seconds West for a distance of 25.00 feet to the point of beginning.

Containing a combined 156,105 square feet, more or less, subject to all easements, restrictions, reservations and rights of way of record, if any.



PAGE 5 OF 6

## ACCESS EASEMENT B

Part of Lot 1, Block 1, TEPI THIRD SUBDIVISION

in Section 33, Township 140 North, Range 52 West, Cass County, North Dakota

PROJECT No.	22365
DATE:	06.02.22
REVISED:	-
DRAFTER:	SWH
REVIEWER:	CDH



# ACCESS EASEMENT B

PART OF LOT 1, BLOCK 1, TEPI THIRD SUBDIVISION  
IN SECTION 33, TOWNSHIP 140 NORTH, RANGE 52 WEST, CASS COUNTY, NORTH DAKOTA

Line Table		
Line #	Direction	Length
L1	S00°13'12"W	30.00'
L2	N89°59'57"E	1009.45'
L3	S00°00'33"E	269.87'
L4	S15°53'38"W	115.10'
L5	S00°00'03"E	263.07'
L6	S17°57'26"W	137.16'
L7	S00°05'22"E	270.93'
L8	N89°54'38"E	50.00'
L9	N00°05'22"W	262.99'
L10	N17°57'26"E	137.12'
L11	N00°00'03"W	263.99'
L12	N15°53'38"E	115.10'
L13	N00°00'33"W	256.85'
L14	S89°59'57"W	1009.33'
L15	S00°05'22"E	135.00'

Line Table		
Line #	Direction	Length
L16	N89°54'38"E	14.00'
L17	S00°05'22"E	152.18'
L18	S90°00'00"W	480.99'
L19	S00°00'00"E	50.00'
L20	S90°00'00"W	101.19'
L21	S84°32'59"W	110.63'
L22	S00°13'12"W	50.25'
L23	N84°32'59"E	113.22'
L24	N90°00'00"E	98.81'
L25	N90°00'00"E	430.99'
L26	N00°05'22"W	80.18'
L27	S89°54'38"W	25.00'
L28	N00°05'22"W	72.00'
L29	S89°54'38"W	25.00'

## CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of North Dakota.

\_\_\_\_\_  
Steven W. Holm, R.L.S.  
N.D. License No. LS-6571

Date: \_\_\_\_\_

State of North Dakota)  
County of Cass )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me, a Notary Public in and for said county and state, personally appeared Steven W. Holm, Registered Land Surveyor, known to me to be the person described in and who executed the foregoing certificate and acknowledged to me that he executed the same as his free act and deed.



\_\_\_\_\_  
Notary Public, Cass County, North Dakota

PAGE 6 OF 6

## ACCESS EASEMENT B

Part of Lot 1, Block 1, TEPI THIRD SUBDIVISION  
in Section 33, Township 140 North, Range 52 West, Cass County, North Dakota

PROJECT No.	22365
DATE:	06.02.22
REVISED:	-
DRAFTER:	SWH
REVIEWER:	CDH





## 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 4, Township 142 North, Range 55 West		
<b>Title:</b>	<b>Cottonwood Acres Subdivision</b>	<b>Date:</b>	06-10-2022
<b>Location:</b>	NW ¼ of Section 4, Township 142 North, Range 55 West (Lake Township)	<b>Staff Contact:</b>	Grace Puppe
<b>Parcel Number:</b>	50-0000-08117-000	<b>Water District:</b>	Maple River Water District
<b>Owner(s)/Applicant:</b>	Brad Davis	<b>Engineer/Surveyor:</b>	Andrew Hemmah / Chris Ingersoll KLJ
<b>Status:</b>	Planning Commission Hearing: June 23, 2022		

Existing Land Use	Proposed Land Use
Residential	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Cottonwood Acres Subdivision** to plat a one (1) Lot subdivision of approximately 11.94 acres. According to the applicant, the subdivision is requested to build a single family dwelling on 10 acres with a 1.94 acre easement parcel located on the north end of the property.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use 134<sup>th</sup> Ave 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 comments were received prior to publishing the staff report.
<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 the 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 property is not within the service territory of Cass Rural Water District. It is in Barnes Rural Water District.
<b>North Dakota Department of Transportation</b>	No comments were received prior to publishing the staff report.
<b>County Sanitarian</b>	No issues with the proposed subdivision.
<b>Township Chairman</b>	No issues with the proposed subdivision.
<b>The City of Fargo</b>	No comments were received prior to publishing the staff report.
<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 road 134th Ave SE borders the west of the property and County Road 26 (18<sup>th</sup> St SE) located to 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, wetlands are present on the proposed subdivision Lot.

*Land Development Rights*

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

**Staff Recommendation**

To accept the findings and recommendations of staff and recommend approval to the County Commission of the subdivision application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance and all other applicable regulations, with the following conditions:

1. A deed restriction be recorded that meets the requirements of Section 308 of the Cass County Subdivision Ordinance.

**Attachments**

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



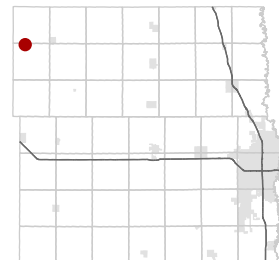
# Minor Subdivision

## Cottonwood Acres Subdivision

Lake Twp, Section 4 - Township 142 North - Range 55 West



Cass County Planning Commission  
June 23, 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.

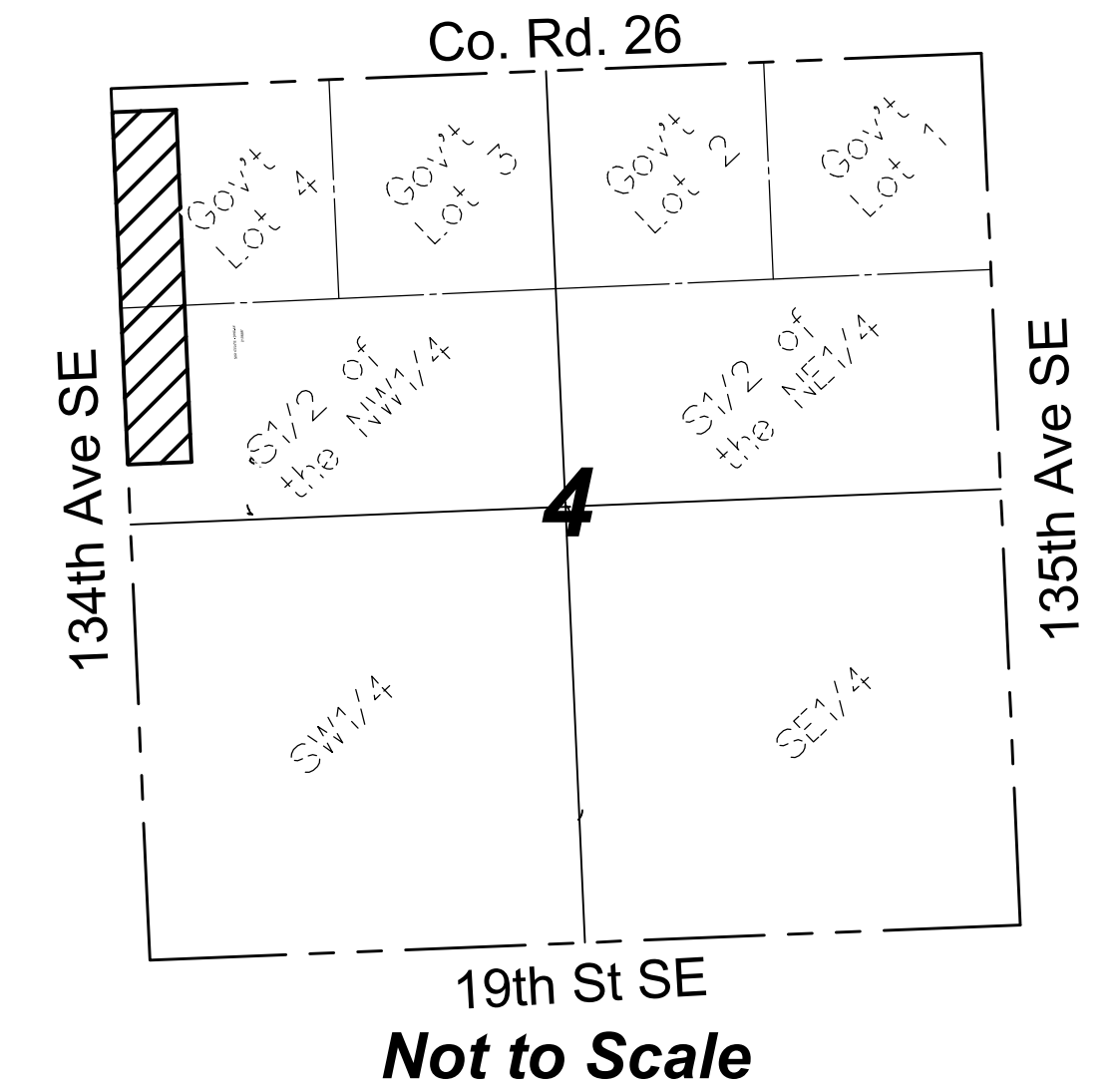


# COTTONWOOD ACRES SUBDIVISION

PART OF GOVERNMENT LOT 4 AND THE SOUTH HALF OF THE NW QUARTER IN  
SECTION 4, TOWNSHIP 142 NORTH, RANGE 55 WEST, FIFTH PRINCIPAL MERIDIAN,  
LAKE TOWNSHIP, CASS COUNTY, NORTH DAKOTA

## LOCATION MAP

T142N R55W

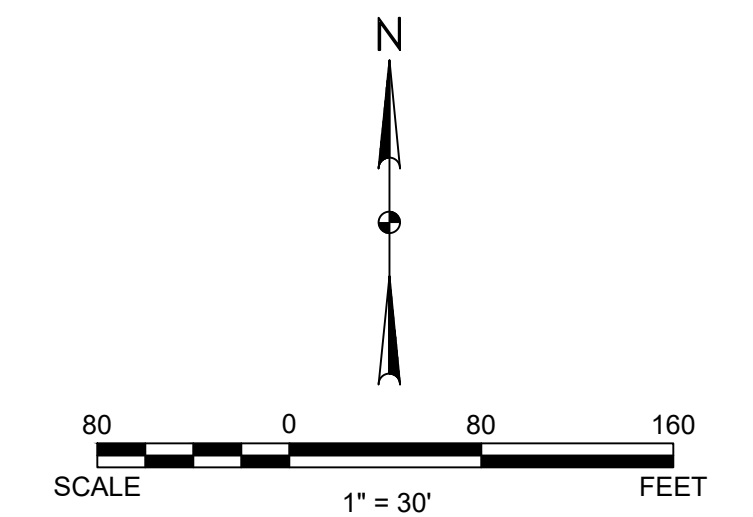


**OWNERS DESCRIPTION AND DEDICATION**  
KNOW ALL PERSONS BY THESE PRESENTS, That Brad Davis, as owners of a parcel of land described as part of Government Lot 4 and part of the South Half of the Northwest Quarter of Section 4, Township 142 North, Range 55 West, of the 5th Principal Meridian, Cass County, North Dakota, more particularly described as follows:

Commencing at the Northwest corner of Section 4; thence South 02 degrees 43 minutes 25 seconds East, along the west line of said Section 4, a distance of 90.01 feet to the Point of Beginning; thence continuing South 02 degrees 43 minutes 25 seconds East, along the west line of said Section 4, a distance of 2106.43 feet; thence North 87 degrees 16 minutes 35 seconds East, a distance of 240.00 feet; thence North 02 degrees 43 minutes 25 seconds West, parallel with said west line of Section 4, a distance of 2102.51 feet to the south right of way line of County Road 26; thence South 88 degrees 18 minutes 48 seconds West, parallel with the north line of said Section 4 and also along said south right of way line of County Road 26, a distance of 240.04 feet to the Point of Beginning.

LAKE TOWNSHIP SUBDIVISION contains 11.60 acres more or less, and is subject to rights-of-way, easements, and other restrictions of record, if any.

Said owner have caused the above described parcel of land to be surveyed and platted as LAKE TOWNSHIP SUBDIVISION to Cass County, North Dakota and do hereby dedicate to the public for public use forever 134th St SE as shown on this plat.



**NOTE:**  
Survey is based on US State Plane, ND South Coordinate System, GEOID 12B (Conus), International Feet. Distances shown are Grid distances.

Said tract of land is subject to any easement restrictions or reservations, either existing or record.

Bearings and distances may vary from previous plats due to different methods of measurement.

**LEGEND**

- FOUND MONUMENT - AS DESCRIBED
- 5/8" REBAR LS 8887





**COTTONWOOD ACRES SUBDIVISION**  
 PLAT OF GOVERNMENT LOT 4 AND THE SOUTH HALF OF THE NW QUARTER IN  
 SECTION 4, TOWNSHIP 142 NORTH, RANGE 55 WEST, FIFTH PRINCIPAL MERIDIAN,  
 LAKE TOWNSHIP, CASS COUNTY, NORTH DAKOTA

**OWNER'S CERTIFICATE**

KNOW ALL MEN BY THESE PRESENTS, BRAD DAVIS, WHOSE ADDRESS IS 2918 7TH ST E WEST FARGO, ND 58078, IS THE OWNER OF THAT PART OF GOV'T LOT 4 AND THE SOUTH HALF OF THE NW QUARTER OF SECTION 4, T142N, R55W LESS CO RD 26 RIGHT-OF-WAY IN CASS COUNTY:

\_\_\_\_\_  
 BRAD DAVIS

STATE OF                    )  
                                   )SS  
 COUNTY OF                )

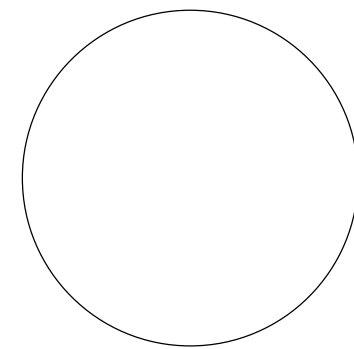
ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED \_\_\_\_\_, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED AS THE OWNER, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

\_\_\_\_\_  
 NOTARY PUBLIC  
 CASS COUNTY, NORTH DAKOTA

**SURVEYOR'S CERTIFICATE**

I, CHRIS INGERSOLL, 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 DISTANCES SHOWN ON THE PLAT ARE CORRECT; THAT MONUMENTS FOR THE GUIDANCE OF FUTURE SURVEYS HAVE BEEN LOCATED OR PLACED IN THE GROUND AS SHOWN.

DATE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.



\_\_\_\_\_  
 CHRIS INGERSOLL  
 PROFESSIONAL LAND SURVEYOR  
 NORTH DAKOTA NO. 8887

STATE OF                    )  
                                   )SS  
 COUNTY OF                )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED \_\_\_\_\_, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING SURVEYOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.

\_\_\_\_\_  
 NOTARY PUBLIC

**CASS COUNTY ENGINEER:**

REVIEWED BY THE CASS COUNTY ENGINEER THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
 JASON BENSON, CASS COUNTY ENGINEER

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

**CASS COUNTY PLANNING COMMISSION:**

REVIEWED BY THE CASS COUNTY PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
 KEN LOUGHEED, CHAIRMAN

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

**LAKE TOWNSHIP:**

REVIEWED BY LAKE TOWNSHIP, CASS COUNTY, NORTH DAKOTA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
 KEVIN BAASCH, CHAIRMAN

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

**CASS COUNTY BOARD OF COMMISSIONERS' APPROVAL**

APPROVED BY CASS COUNTY, NORTH DAKOTA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
 RICK STEEN, CHAIRMAN

ATTEST: \_\_\_\_\_  
 BRANDY MADRIGGA, FINANCE DIRECTOR

**FLOOD PLAIN STATEMENT**

THERE ARE NO PUBLISHED FEMA FLOOD PLAIN MAPS FOR LAKE TOWNSHIP, CASS COUNTY, NORTH DAKOTA.

**ENGINEER:**  
 KLJ Engineering LLC  
 300 23RD AVE E, SUITE 100  
 WEST FARGO, ND 58078

**CLIENT:**  
 ANDREW HEMMAH  
 204 MAIN AVENUE  
 COLGATE, ND 58046



## DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 14<sup>th</sup> day of December, 2021, by

Owner(s): Brad Davis

### 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 North 1550 feet of the West 1550 feet of the Northwest Quarter of Section 28, Township 137 North, Range 51 West of the Prime Meri~~

West 40 acres of Northwest Quarter of Lake township Section 4  
Less Cottonwood acres subdivision

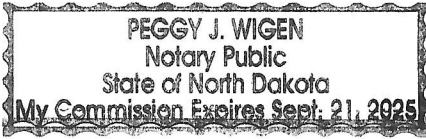
**IN WITNESS of the restrictions, the Owner(s) have caused this DEED RESTRICTION to be executed effective as of:**

Brad Davis  
Owner(s) Signature

12-14-2021  
Date

State of North Dakota )  
  ) ss  
County of Cass )

On this 14<sup>th</sup> day of December, 2021 before me, a notary public within and for said county and state, personally appeared Brad Davis, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same.



Peggy J. Wigen  
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



# Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Minor Subdivision (1 Lot)</b> of a part of the SW ¼ of Section 33, Township 139 North, Range 55 West		
<b>Title:</b>	<b>Nudell Subdivision</b>	<b>Date:</b>	06-10-2022
<b>Location:</b>	SW ¼ of Section 33, Township 139 North, Range 55 West (Hill Township)	<b>Staff Contact:</b>	Grace Puppe
<b>Parcel Number:</b>	46-0000-07045-000	<b>Water District:</b>	Maple River Water District
<b>Owner(s)/Applicant:</b>	Ronald Nudell	<b>Engineer/Surveyor:</b>	KLJ
<b>Status:</b>	Planning Commission Hearing: June 23, 2022		

Existing Land Use	Proposed Land Use
Residential	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Nudell Subdivision** to plat a one (1) Lot subdivision of approximately 5 acres. According to the applicant, the subdivision is requested to split the land for son’s house.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use 42<sup>nd</sup> St 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>	Build lowest opening to the house several feet above the natural ground elevation. Only concern is that the driveway will pass over the field drainage swale, please ensure that a properly sized culvert is placed under the driveway.
<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.
<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 location could be supplied from a main located approximately 3700 feet to the east. To date no application for service has been made.
<b>North Dakota Department of Transportation</b>	No comments were received prior to publishing the staff report.
<b>County Sanitarian</b>	No issues with the proposed subdivision.
<b>Township Chairman</b>	No issues with the proposed subdivision.
<b>The City of Fargo</b>	No comments were received prior to publishing the staff report.
<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, north and east. Township road 42<sup>nd</sup> St SE borders the south 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 staff and recommend approval to the County Commission of the subdivision application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance and all other applicable regulations, with the following conditions:

1. A deed restriction be recorded that meets the requirements of Section 308 of the Cass County Subdivision Ordinance.

**Attachments**

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



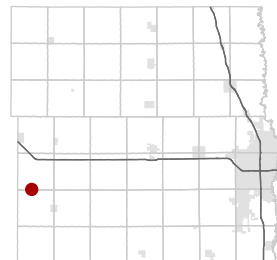
# Minor Subdivision

## Nudell Subdivision

Hill Twp, Section 33 - Township 139 North - Range 55 West



Cass County Planning Commission  
June 23, 2022



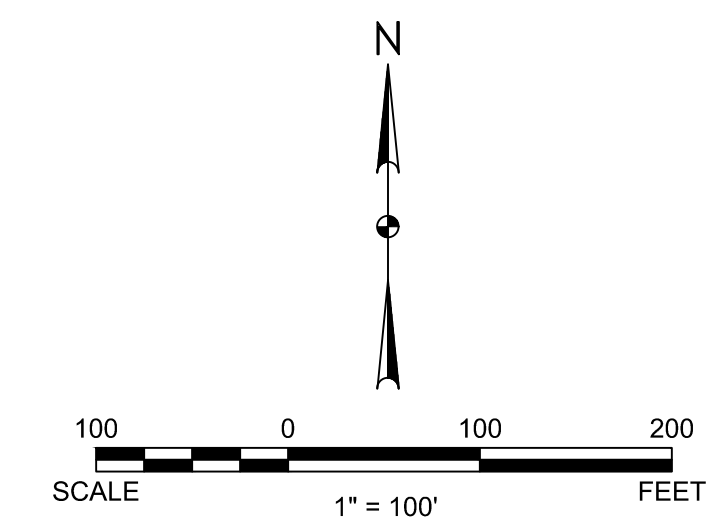
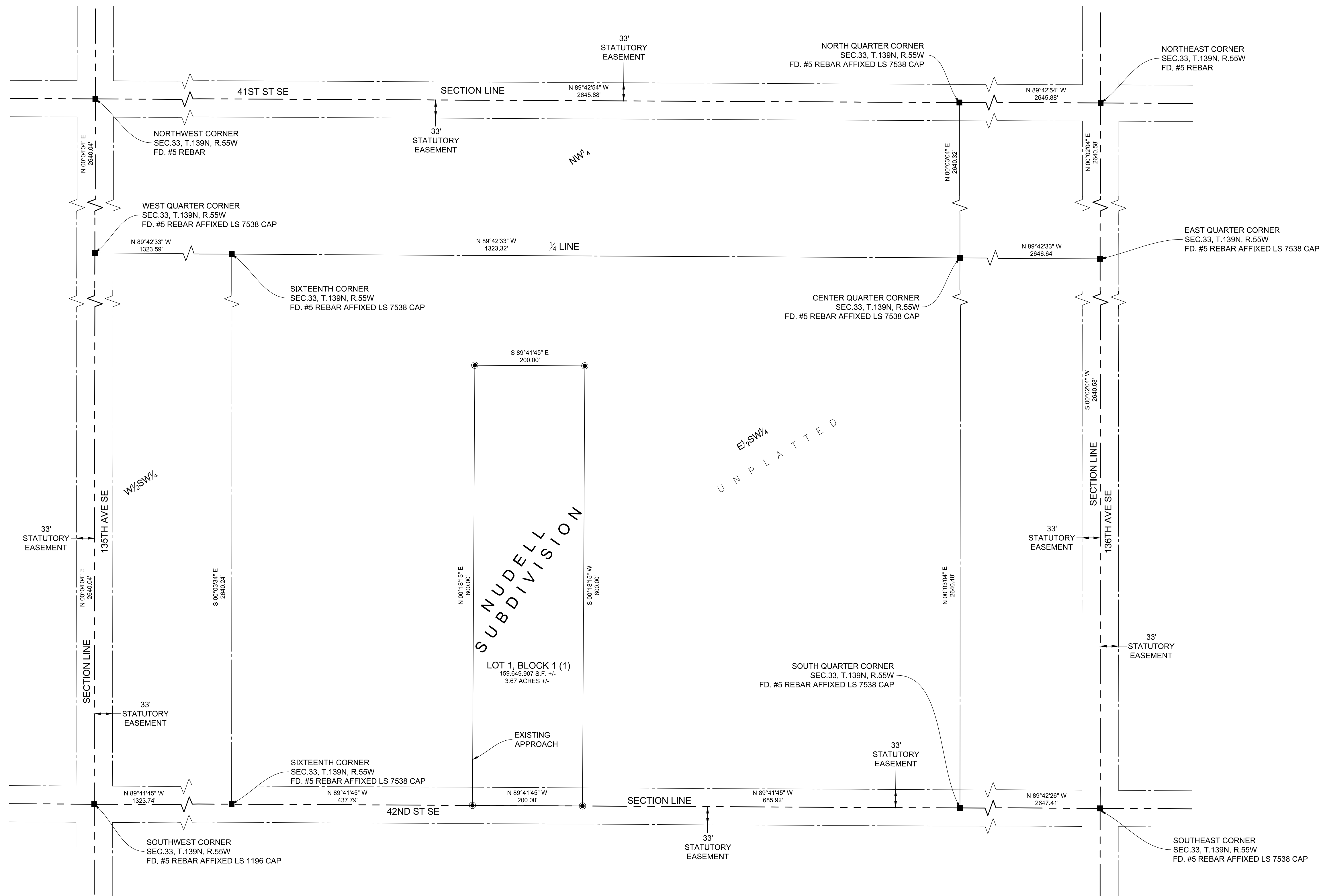
Maps and data are to be used for reference purposes only and Cass County, ND, is not responsible for any inaccuracies herein contained. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



# NUDELL SUBDIVISION

(A MINOR SUBDIVISION)

IN THE EAST HALF OF THE SOUTHWEST QUARTER (E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>) OF SECTION 33, TOWNSHIP 139 NORTH, RANGE 55 WEST, FIFTH PRINCIPAL MERIDIAN, HILL TOWNSHIP, CASS COUNTY, NORTH DAKOTA



DRAWING COMPLETED: 6-15-22  
REVISED DATE: ??-??-22

**FLOOD PLAIN STATEMENT:**  
THERE ARE NO PUBLISHED FEMA FLOOD PLAIN MAPS FOR HILL TOWNSHIP, CASS COUNTY, NORTH DAKOTA.

**ENGINEER:** KLJ  
1010 4TH AVE SW  
VALLEY CITY, ND 58072

**CLIENT:** RON NUDELL  
PO BOX 65  
BUFFALO, ND 58011

**NOTE:**  
A LOCAL SITE, US SURVEY FEET. DISTANCES SHOWN ARE GROUND DISTANCES.

SAID TRACT OF LAND IS SUBJECT TO ANY EASEMENT RESTRICTIONS OR RESERVATIONS, EITHER EXISTING OR RECORD.

BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENT.

**LEGEND**

- FOUND MONUMENT - AS DESCRIBED
- SET #5X18" REBAR W/BPC LS 8441

**PRELIMINARY**



# NUDELL SUBDIVISION

(A MINOR SUBDIVISION)

IN THE EAST HALF OF THE SOUTHWEST QUARTER (E $\frac{1}{2}$ SW $\frac{1}{4}$ ) OF SECTION 33, TOWNSHIP 139 NORTH, RANGE 55 WEST, FIFTH PRINCIPAL MERIDIAN, HILL TOWNSHIP, CASS COUNTY, NORTH DAKOTA

## CERTIFICATE

I, FELIX LIEBOLD, BEING DULY SWORN DEPOSES AND SAYS THAT HE IS THE REGISTERED LAND SURVEYOR WHO PREPARED AND MADE THE ATTACHED PLAT OF "NUDELL SUBDIVISION" TO THE COUNTY OF CASS, A PLAT PART OF THE E $\frac{1}{2}$ SW $\frac{1}{4}$  OF SECTION 33, TOWNSHIP 139 NORTH, RANGE 55 WEST, OF THE 5TH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA; THAT SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY THEREOF; THAT ALL DISTANCES ARE CORRECTLY SHOWN ON SAID PLAT; THAT MONUMENTS HAVE BEEN PLACED IN GROUND AS INDICATED FOR THE GUIDANCE OF FUTURE SURVEYS AND THAT SAID SUBDIVISION IS DESCRIBED AS FOLLOWS, TO WIT:

THAT PART OF THE EAST HALF OF THE SOUTHWEST QUARTER (E $\frac{1}{2}$ SW $\frac{1}{4}$ ), SECTION 33, TOWNSHIP 139 NORTH, RANGE 55 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID EAST HALF OF THE SOUTHWEST QUARTER (E $\frac{1}{2}$ SW $\frac{1}{4}$ ); THENCE N89°41'45"W ALONG THE SOUTH BOUNDARY OF SAID EAST HALF OF THE SOUTHWEST QUARTER (E $\frac{1}{2}$ SW $\frac{1}{4}$ ) A DISTANCE OF 685.92 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N89°41'45"W ALONG SAID SOUTH BOUNDARY A DISTANCE OF 200.00 FEET; THENCE N00°18'15"E A DISTANCE OF 800.00 FEET; THENCE S89°41'45"E A DISTANCE OF 200.00 FEET; THENCE S00°18'15"W A DISTANCE OF 800.00 FEET TO THE POINT OF BEGINNING.

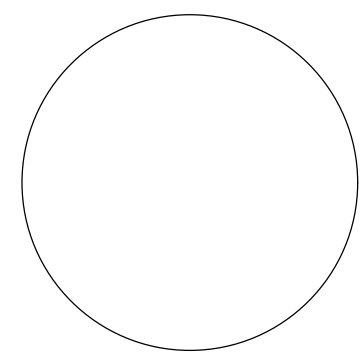
SAID TRACT CONTAINS 3.67 ACRES, AND IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD, IF ANY.

\_\_\_\_\_  
FELIX LIEBOLD  
REGISTERED LAND SURVEYOR  
REG. NO. 8441

STATE OF NORTH DAKOTA)  
  )SS  
COUNTY OF BARNES      )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED \_\_\_\_\_, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING SURVEYOR'S CERTIFICATE, WHO EXECUTED THE SAME AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

\_\_\_\_\_  
NOTARY PUBLIC



## DEDICATION

WE, THE UNDERSIGNED DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE LAND DESCRIBED IN THE PLAT OF "NUDELL SUBDIVISION" TO THE COUNTY OF CASS, A PLAT OF PART OF THE E $\frac{1}{2}$ SW $\frac{1}{4}$  OF SECTION 33, TOWNSHIP 139 NORTH, RANGE 55 WEST, OF THE 5TH PRINCIPAL 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 FELIX LIEBOLD, REGISTERED LAND SURVEYOR, AND THAT THE DESCRIPTION AS SHOWN IN THE CERTIFICATE OF THE REGISTERED LAND SURVEYOR IS CORRECT. WE HEREBY DEDICATE ALL STREETS SHOWN ON SAID PLAT TO THE USE OF THE PUBLIC.

\_\_\_\_\_  
RON NUDELL  
OWNER

STATE OF NORTH DAKOTA)  
  )SS  
COUNTY OF CASS      )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED \_\_\_\_\_, KNOWN TO ME TO BE THE SAME PERSON WHO IS DESCRIBED IN THE FOREGOING DEDICATION AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

\_\_\_\_\_  
NOTARY PUBLIC

## CASS COUNTY ENGINEER:

REVIEWED BY THE CASS COUNTY ENGINEER, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
JASON BENSON, CASS COUNTY ENGINEER

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

## HILL TOWNSHIP:

REVIEWED BY HILL TOWNSHIP, CASS COUNTY, NORTH DAKOTA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
JEFF ZAUN, CHAIRMAN

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

## CASS COUNTY PLANNING COMMISSION:

REVIEWED BY THE CASS COUNTY PLANNING COMMISSION, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
KEN LOUGHEED, CHAIRMAN

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

## CASS COUNTY BOARD OF COMMISSIONERS' APPROVAL

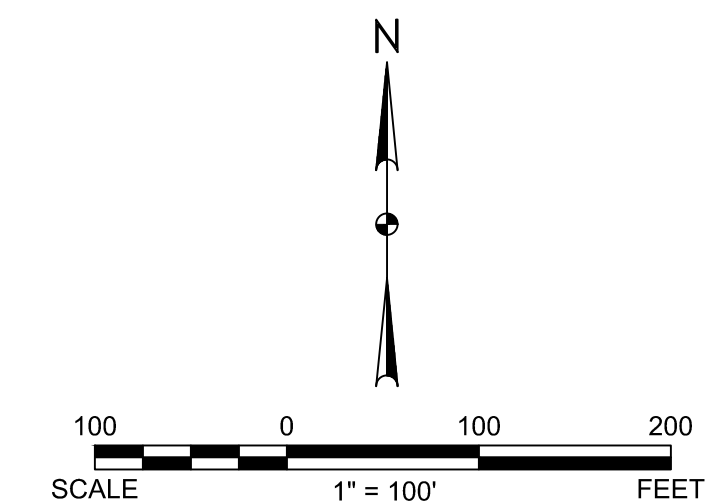
APPROVED BY CASS COUNTY, NORTH DAKOTA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
RICK STEEN, CHAIRMAN

ATTEST: \_\_\_\_\_  
BRANDY MADRIGGA, CASS COUNTY FINANCE DIRECTOR



VICINITY MAP  
NO SCALE



DRAWING COMPLETED: 6-15-22  
REVISED DATE: ??-??-22

## FLOOD PLAIN STATEMENT:

THERE ARE NO PUBLISHED FEMA FLOOD PLAIN MAPS FOR HILL TOWNSHIP, CASS COUNTY, NORTH DAKOTA.

## ENGINEER:

KLJ  
1010 4TH AVE SW  
VALLEY CITY, ND 58072

## CLIENT:

RON NUDELL  
PO BOX 65  
BUFFALO, ND 58011

## NOTE:

A LOCAL SITE, US SURVEY FEET. DISTANCES SHOWN ARE GROUND DISTANCES.

SAID TRACT OF LAND IS SUBJECT TO ANY EASEMENT RESTRICTIONS OR RESERVATIONS, EITHER EXISTING OR RECORD.

BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENT.

SAID TRACT OF LAND IS SUBJECT TO ANY EASEMENT RESTRICTIONS OR RESERVATIONS, EITHER EXISTING OR RECORD.

BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENT.

## DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 31 day of MAY, 2022, by

Owner(s): RONALD NUDELL

### 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**

SE 1/4 of the SW 1/4 of section 33-139-55  
less Nudell subdivision

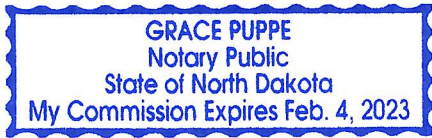
IN WITNESS of the restrictions, the Owner(s) have caused this DEED RESTRICTION to be executed effective as of:

Ronald Nudell  
Owner(s) Signature

5/31/2022  
Date

State of North Dakota )  
  ) ss  
County of Cass )

On this 31 day of May, 2022, before me, a notary public within and for said county and state, personally appeared Ronald Nudell, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same.



G Puppe  
Notary Public

The foregoing instrument was acknowledged before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, 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



## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Minor Subdivision (1 Lot)</b> of a part of the SW ¼ of Section 18, Township 143 North, Range 54 West		
<b>Title:</b>	<b>Douglas Bower Subdivision</b>	<b>Date:</b>	06-10-2022
<b>Location:</b>	SW ¼ of Section 18, Township 143 North, Range 54 West (Page Township)	<b>Staff Contact:</b>	Grace Puppe
<b>Parcel Number:</b>	56-0000-09981-000	<b>Water District:</b>	Maple River Water District
<b>Owner(s)/Applicant:</b>	Beverly Bower and MT, LLLP Michelle Thompson	<b>Engineer/Surveyor:</b>	Houston
<b>Status:</b>	Planning Commission Hearing: June 23, 2022		

Existing Land Use	Proposed Land Use
Residential	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Douglas Bower Subdivision** to plat a one (1) Lot subdivision of approximately 3.266 acres. According to the applicant, the subdivision is requested to split the existing residential portion of a farmstead off from the quarter section of ag land.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing access on 138 ½ Ave SE for road access, ditches for storm sewer conveyance, private water, and on-site septic systems for wastewater treatment.

Agency Comments	
<b>County Engineer</b>	Since there is no new construction a lot grading plan is not needed.
<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 the 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>	No comments as the application lists the water source as private.
<b>North Dakota Department of Transportation</b>	No comments were received prior to publishing the staff report.
<b>County Sanitarian</b>	No issues with the proposed subdivision.
<b>Township Chairman</b>	No comments were received prior to publishing the staff report.
<b>The City of Fargo</b>	No comments were received prior to publishing the staff report.
<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, north and south. Township road 138 1/8 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 staff and recommend approval to the County Commission of the subdivision application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance and all other applicable regulations, with the following conditions:

1. A deed restriction be recorded that meets the requirements of Section 308 of the Cass County Subdivision Ordinance.

**Attachments**

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

# Minor Subdivision

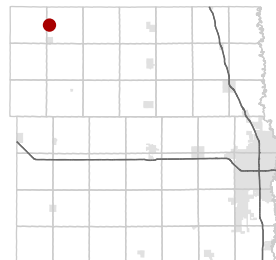
Douglas Bower Subdivision

Page Twp, Section 18 - Township 143 North - Range 54 West



Imagery: NAIP, North Dakota 2019 30cm

Cass County Planning Commission  
June 23, 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.





# DOUGLAS BOWER SUBDIVISION

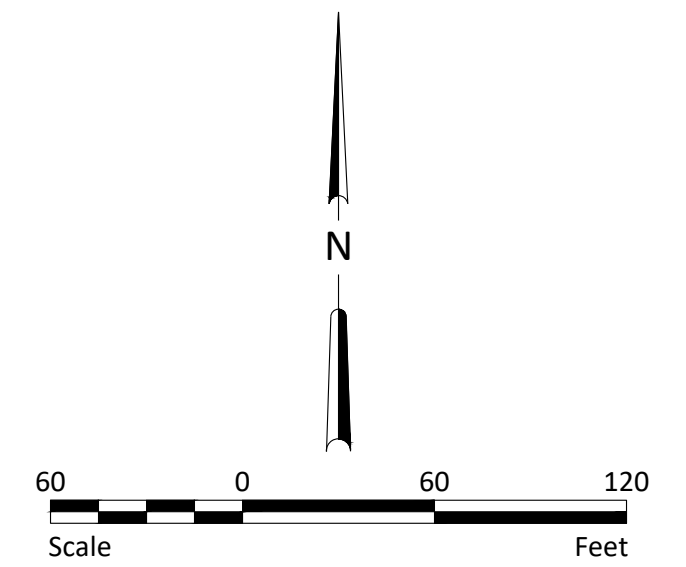
BEING A PLAT OF PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER  
SECTION 18, T. 143 N., R. 54 W., 5th P.M.  
CASS COUNTY, NORTH DAKOTA

## LEGEND

IRON MONUMENT FOUND	●
1/2" I.D. IRON PIPE SET	○
UTILITY POLE	⊗
W / GUY WIRE	⊗→
LIGHT POLE	⊙
TELEPHONE RISER	⊕
PLAT BOUNDARY	=====
LOT LINE	-----
DRIVEWAY CENTERLINE	-----
EXISTING RIGHT OF WAY LINE	--- R/W ---
OVERHEAD ELEC. POWER LINE	--- OHP ---

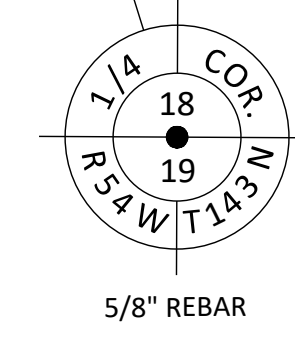
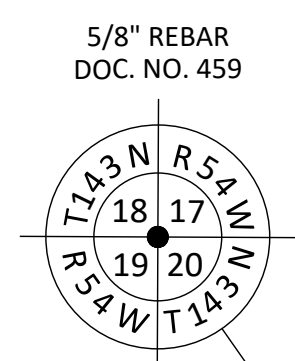
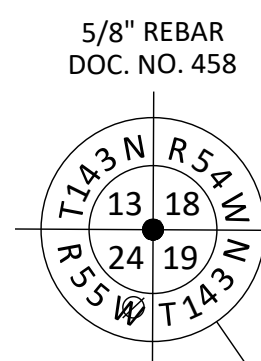
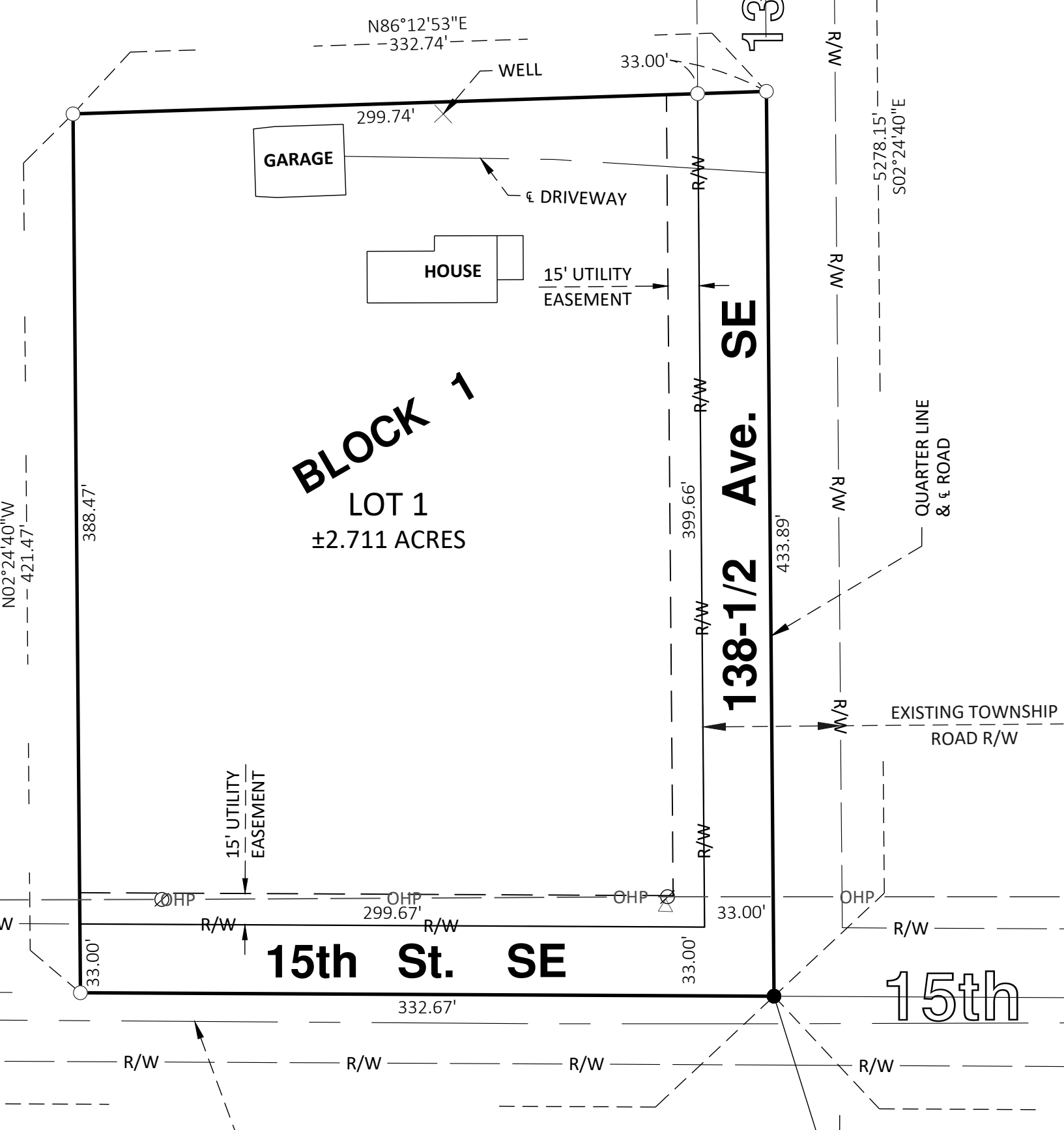
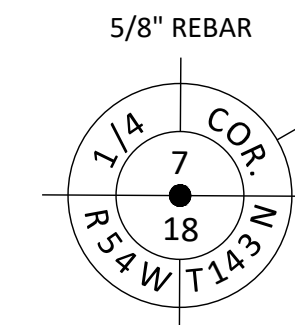
BEARINGS SHOWN ARE BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM (NAD83) - SOUTH ZONE

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.



SE 1/4  
SW 1/4

SW 1/4  
SE 1/4



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# DOUGLAS BOWER SUBDIVISION

BEING A PLAT OF PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER  
SECTION 18, T. 143 N., R. 54 W., 5th P.M.  
CASS COUNTY, NORTH DAKOTA

Owners' Certificate and Dedication:

Know All Persons by these Presents: That Beverly Bower and MT, LLLP, a North Dakota limited liability limited partnership, is the owner and proprietor of the following described tract of land:

That part of the Southeast Quarter of the Southwest Quarter of Section 18, Township 143 North, Range 54 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Beginning at the southeast corner of said Southwest Quarter; thence South 88°21'12" West, along the southerly line of said Southwest Quarter, for a distance of 332.67 feet; thence North 02°24'40" West for a distance of 421.47 feet; thence North 86°12'53" East for a distance of 332.74 feet to a point of intersection with the easterly line of said Southwest Quarter; thence South 02°24'40" East, along the easterly line of said Southwest Quarter, for a distance of 433.89 feet to the Point of Beginning.

Said tract contains 3.266 acres, more or less.

And that said party has caused the same to be surveyed and platted as **DOUGLAS BOWER SUBDIVISION**, and do hereby dedicate to the public for public use the Public Streets and the Utility Easements as shown on this Plat.

In witness whereof we have set our hands and seals:

Owner:  
Beverly Bower and MT, LLLP

\_\_\_\_\_  
Michelle Thompson, General Partner

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 Michelle Thompson, General Partner of Beverly Bower and MT, LLLP, a North Dakota limited liability limited partnership, known to be the person described in and who executed the foregoing instrument and acknowledged that she executed same on behalf of said LLLP.

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 21<sup>st</sup> Ave. N.  
Fargo, ND 58102  
Phone: 701-237-5065  
E-mail address: cskarphol@houstoneng.com

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 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

Page Township:

Reviewed by Page Township, Cass County, North Dakota, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Justin Dahl, Chair

Attest: \_\_\_\_\_  
Keith Koenig, Clerk

Cass County Planning Commission:

Reviewed by the Cass County Planning Commission this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Ken Lougheed, Chair

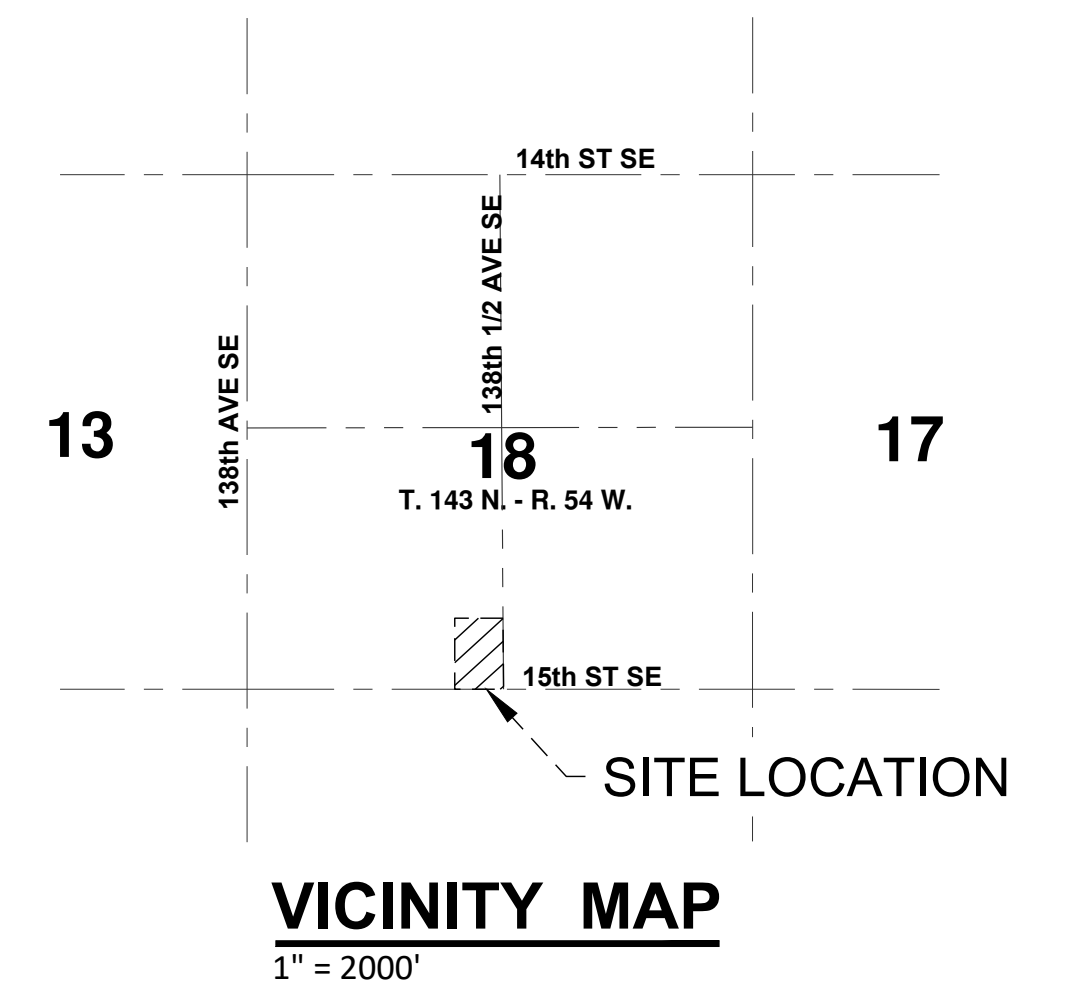
Attest: \_\_\_\_\_  
Secretary

Cass County Board of Commissioners' Approval:

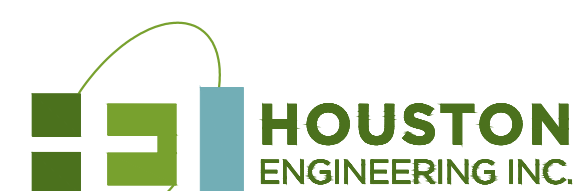
Approved by Cass County, North Dakota, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Rick Steen, Chair

Attest: \_\_\_\_\_  
Brandy Madrigga, Cass County Finance Director



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## DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 8th day of June, 2022, by

Owner(s): Beverly Bower and MT, LLLP, a North Dakota limited liability limited partnership

### 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 Southwest Quarter of Section 18, Township 143 North, Range 54 West of the Fifth Principal Meridian, Cass County, North Dakota.

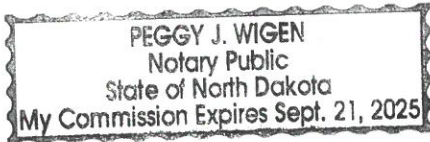
**IN WITNESS of the restrictions, the Owner(s) have caused this DEED RESTRICTION to be executed effective as of:**

Michelle Thompson  
Michelle Thompson, General Partner

6-8-22  
Date

State of North Dakota )  
County of Cass ) ss  
  )

On this 8<sup>th</sup> day of June, 2022 before me, a notary public within and for said county and state, personally appeared Michelle Thompson, General Partner of Beverly Bower and MT, LLLP, a North Dakota limited liability limited partnership, known to be the person described in and who executed the foregoing instrument and acknowledged that they executed same.



Peggy J Wigen  
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 Planning Commission

FROM: Grace Puppe, Cass County Planner

DATE: June 16, 2022

SUBJECT: Subdivision Ordinance Update

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Over the past year the Cass County Planning Department has been working with Joel Quanbeck at KLJ to update our Subdivision Ordinance. During the last few Planning Commission meetings, we have had discussions about major topics in the Subdivision Ordinance. The information obtained from these discussions has been used to update the Draft Subdivision Ordinance Document.

The new Draft Subdivision Ordinance will have the Minor and Major subdivisions separated into different parts to help avoid confusion of the requirements for each.

Included with this memo is the first part of the ordinance pertaining to minor subdivisions. The major subdivisions will be available digitally.

## Article I. General Provisions

### Section 1.01 TITLE

- (a) This Ordinance shall be known and may be cited and referred to as the “Cass County Subdivision Ordinance” and will be referred to herein as “this Ordinance.”

### Section 1.02 AUTHORITY

- (a) This Ordinance is enacted pursuant to the powers granted and limitations imposed on counties by the laws of the State of North Dakota, including without limitation North Dakota Century Code (NDCC) §11-09.1, §11-33 and §11-33.2 and by the Cass County Home Rule Charter. The Board of County Commissioners hereby expresses that neither this Ordinance, nor any amendment to it or any decision under it, may be challenged on the basis of an alleged non-conformity with any other planning document, inclusive of the Cass County Comprehensive and Transportation Plan.

### Section 1.03 PURPOSE

- (a) The purpose of this Ordinance is to promote the health, safety, morals, public convenience, general prosperity, and public welfare of Cass County and its residents.
- (b) The regulations herein established for the subdivision of land are adopted in order to:
  1. Establish standard procedures and requirements for the preparation, submission, and consideration for approval of plats for the subdivision of land as provided in NDCC §11-33.2 and NDCC §40-50.1 and this Ordinance.
  2. Encourage the rational development of land in ways that are consistent with the Cass County Comprehensive Plan.
  3. Encourage the development of land in ways that provide for safe and adequate transportation, access of emergency vehicles, and adequate ingress and egress to public and private property.
  4. Require that adequate public facilities and necessary public improvements are available and will have sufficient capacity to serve the subdivision.
  5. Promote development in ways that minimize costs to local citizens and that promote effective and efficient provision of public services.
  6. Encourage the wise use and management of natural resources throughout the County in order to preserve the integrity, stability and beauty of the County and the value of its land.
  7. Minimize impacts of development on surrounding property owners.
  8. Encourage that land development be consistent with the goals and strategies of the Cass County Multi-Hazard Mitigation Plan.
  9. Provide uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey.

#### Section 1.04 APPLICABILITY AND JURISDICTION

- (a) This Ordinance applies to all lands over which the Cass County Board of County Commissioners has jurisdiction under the constitution and laws of the State of North Dakota and of the United States, except for land within the corporate limits of any municipality or land within the area of application of extraterritorial zoning pursuant to NDCC §40-47-01.1.
- (b) This Ordinance applies to any person, partnership, corporation, or limited liability company who or which being the owner or agent of any lot, tract, or parcel of land shall lay out, construct, open, or dedicate any street, sanitary sewer, storm sewer, water main, or other improvements for public use, travel or other purposes or for the common use of occupants of buildings abutting thereon, or who or which sells, transfers, or agrees or enters into an agreement to sell or transfer any land in a subdivision or engages in the subdivision of land or erects any buildings thereon.
- (c) This Ordinance shall not prohibit or prevent the use of land or buildings for farming or any of the normal incidents of farming.
- (d) A county auditor's plat made pursuant to NDCC §57- 02-39 is for taxation purposes for convenience of tax officials in describing property on tax rolls and does not confer rights in or transfer title to land. Such an auditor's plat may only be initiated by a tax official of Cass County. Thus, an Auditor's Lot is not approved by the County as an instrument for the purposes of sale or development.

#### Section 1.05 COMPLIANCE

- (a) No lot of record that did not exist on the effective date of this Ordinance shall be created, by subdivision or any other mechanism, that does not conform to the applicable requirements of this Ordinance.
- (b) No access connection (new, changed, altered, re-constructed) including any field entrance, driveway or public/private roadway (permanent, temporary or field access/opening) onto a County highway or public right-of-way shall be permitted except in accordance with the applicable regulations as set forth within this Ordinance.

#### Section 1.06 SEVERABILITY

- (a) If any section, paragraph, clause, phrase, or part of this Ordinance is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance; and the application of the remaining provisions to any persons or circumstances shall not be affected.
- (b) If any application of any part of this Ordinance to a particular lot, tract, parcel, building, structure, land, or use is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the application of the same provision to any other lot, tract, parcel, building, structure, land or use not specifically included in the decision.

#### Section 1.07 EFFECTIVE DATE

- (a) The Cass County Subdivision Ordinance, and any amendment to this Ordinance, shall be effective after its passage, publication, and recordation as provided by NDCC §11-33.2-06.

#### Section 1.08 REPEAL

- (a) Any Cass County subdivision ordinances, resolutions or regulations previously established by the Cass County Board of County Commissioners, and all amendments of said ordinances, resolutions or regulations are hereby repealed.
- (b) Notwithstanding Section 1.08 (a) of this Ordinance, the Cass County Floodplain Regulations adopted February 2, 1998 remain effective.

#### Section 1.09 TRANSITIONAL PROVISIONS

- (a) Decisions based on previous subdivision ordinances, resolutions or regulations approving divisions of land or other matters addressed by the previous ordinances, resolutions or regulations that were effective prior to the effective date of this Ordinance remain effective. It is the intention of this Ordinance to continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced, unless specifically surrendered by specific provisions of this Ordinance.
- (b) The adoption of this Ordinance, and any amendment thereto, shall not adversely affect the County's right to prosecute any violation of the predecessor subdivision ordinances, resolutions, or regulations provided that such violation first occurred while said ordinances, resolutions or regulations were in effect.
- (c) Applications for land use or development that were submitted in complete form and were pending approval on or before the effective date of this ordinance, or any amendment to this ordinance, shall be reviewed wholly under the terms of any ordinance, resolution, or regulation as it existed at the time the complete application was submitted.



## Article II. Administration and Enforcement

### Section 2.01 Board of County Commissioners

(a) Powers and Authority

In addition to all powers and authority granted to the Board of County Commissioners by general or specific law, the Board of County Commissioners shall have the following powers and authority under the provisions of this Ordinance.

(b) Appoint County Planner

The Board of County Commissioners may appoint a County Planner. The County Planner may be an employee of Cass County or a contract consultant.

(c) Appoint Planning Commission

The Board of County Commissioners shall appoint members of the Planning Commission.

(d) Comprehensive Plan

The Board of County Commissioners shall have the authority to adopt the Cass County Comprehensive Plan and, from time to time, approve or disapprove amendments to the Comprehensive Plan.

(e) Subdivision Ordinance

The Board of County Commissioners shall have the authority to adopt the Cass County Subdivision Ordinance, and from time to time, approve or disapprove amendments to the Ordinance.

(f) Plat Approval

The Board of County Commissioners shall have the authority to consider applications for plat approval, and to deny, amend, or approve such applications.

(g) Appeals

The Board of County Commissioners shall hear and decide any appeals of a decision made by the County Planner regarding the administration, interpretation, and enforcement of this Ordinance.

(h) Variance

The Board of County Commissioners shall have the authority to adjust the application or enforcement of any provision of this Ordinance in any specific case when a literal enforcement of such provision would result in great practical difficulties, unnecessary hardship, or injustice, so as to avoid such consequences, provided such action shall not be contrary to the public interest or the purposes of this Ordinance or the general purposes of NDCC §11-33.2.

(i) Other Actions

The Board of County Commissioners shall have the authority to take other actions not delegated to another decision-making or administrative body that the Board of County Commissioners deem necessary and desirable to implement provisions of the Comprehensive Plan or this Ordinance.

### Section 2.02 County Planner

- (a) There is hereby created the position of County Planner, who shall be a duly appointed person charged with the administration, interpretation, and enforcement of this Ordinance.
- (b) The County Planner shall have the following duties:
  1. Complete such activities as will assist the Board of County Commissioners and the Planning Commission in fulfilling the duties established by this Ordinance
  2. Complete research and prepare findings of fact pertaining to applications for plat approval or other applications to be considered by the Planning Commission
  3. Make determinations regarding the interpretation of this Ordinance when it becomes necessary
  4. Carry out such activities as may be necessary to assist in the enforcement of this Ordinance
  5. Conduct such other business as may be authorized or directed by the Board of County Commissioners or the Planning Commission

### Section 2.03 Planning Commission

- (a) The Planning Commission for Cass County shall be known as the “Cass County Planning Commission” and may be referred to as the “Planning Commission.”
- (b) The membership of the Planning Commission shall consist of nine (9) members appointed by the Board of County Commissioners in a manner consistent with NDCC §11-33.2-04, §11-33-04, and §11-33-05.
- (c) The members of the Planning Commission may be compensated in a manner established by the Board of County Commissioners and consistent with NDCC §11-33-05.
- (d) The Planning Commission shall have the following duties:
  1. Prepare proposed subdivision ordinance to be submitted to the Board of County Commissioners
  2. Prepare proposed subdivision ordinance amendments to be submitted to the Board of County Commissioners
  3. Prepare recommendations to be submitted to the Board of County Commissioners pertaining to any proposed plat or other application which is presented for consideration
  4. Conduct such other business as may be authorized or directed by the Board of County Commissioners

### Section 2.04 Appeals

- (a) Any person, unit of government or agency may file an appeal when aggrieved by a decision or interpretation by the County Planner, provided that the appeal is based on an allegation that:
  1. The County Planner made an error in the interpretation of this Ordinance, and
  2. The erroneous interpretation specifically aggrieves the appellant.
- (b) Application and Procedure.
  1. A letter of appeal must be filed with the Finance Director within 30 days of the date of written notice of interpretation or determination. The letter shall cite the decision made

- and state the alleged error. If an appeals fee is established by the Board of County Commissioners, the letter of appeal shall be accompanied by the fee so established.
2. If after such fee has been paid and a properly filed appeal is successful, the fee shall be refunded. Otherwise, no part of any such fee shall be refundable after an appeal is filed and such fee paid.
  3. A letter of appeal is not considered complete until such fee has been paid.
  4. After the Finance Director determines that letter of appeal is complete, the Finance Director shall transmit the letter of appeal to the Board of County Commissioners.
  5. The Finance Director shall set a hearing date within 30 days of acceptance of the letter of appeal and payment of the established appeal fee, publish notice thereof as provided for in this Ordinance, and notify all parties of interest. Public notice of the hearing shall be placed in the official County newspaper and any newspaper of general circulation in the County at the discretion of the Finance Director for two successive weeks prior to the date of the hearing.
  6. Where an appeal concerns a particular piece of property, written notice shall be mailed to all property owners with property within 5,280 feet of the subject property at least 15 days prior to the said hearing. Where the subject property abuts a right-of-way, the 5,280-foot measurement shall be in addition to this right-of-way along the abutting side.
  7. An appeal under the terms of this Ordinance stays all proceedings in the matters appealed unless the County Planner certifies to the Board of County Commissioners that the application, by reason of the facts stated in the certification, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by the Board of County Commissioners or a court of record.
  8. The Board of County Commissioners shall conduct a public hearing on the letter of appeal. At that hearing, the Board of County Commissioners shall review the particular facts and circumstances of appeal and develop findings and conclusions. The Board of County Commissioners shall make a decision by motion. The concurring vote of a majority of the Board of County Commissioners members present shall be necessary to reverse any order, requirement, decision, or determination of the County Planner or to decide in favor of the appellant on any other matter.
  9. Any person aggrieved by a decision of the Board of County Commissioners may file an appeal to the district court in the manner provided in NDCC §28-34-01.

(c) Findings Required.

Every decision of the Board of County Commissioners pertaining to a letter of appeal shall be based upon findings of fact and every finding of fact shall be supported in the record of its proceedings.

## Section 2.05 Variance

- (a) Certain circumstances may exist or arise wherein an unnecessary hardship is created through strict adherence to the provisions of this Ordinance. Hereinafter are provisions for the granting of a variance to adjust the application or enforcement of any provision of this Ordinance, so that the public welfare is secured, and substantial justice can be done to those so affected.
- (b) Application and Procedure.
1. An application for a variance shall be made on a form provided by the County Planner. Requests for more than one variance for the same project on the same property may be filed on a single application and charged a single fee. An application for a variance may be submitted prior to submitting a subdivision application in order to determine the feasibility of a potential subdivision plat.
  2. The completed application and fee as set by the Board of County Commissioners shall be submitted to the County Planner.
  3. No part of any such fee shall be refundable after an application is filed and such fee paid. However, if a variance application separate from a subdivision application is approved the amount of the fee may be applied as partial payment of the subdivision application fee.
  4. An application is not considered complete until such fee has been paid.
  5. After the County Planner determines that the application is complete, the completed application shall be transmitted to the Planning Commission and the Board of County Commissioners.
  6. The County Planner shall set a Planning Commission hearing date, publish notice thereof as provided for in this Ordinance, and notify all parties of interest. Public notice of the hearing shall be placed in the official County newspaper and any newspaper of general circulation in the County at the discretion of the County Planner or the Planning Commission for two successive weeks prior to the date of the hearing.
  7. Written notice shall be mailed to all property owners with property within 5,280 feet of the subject property at least 15 days prior to the hearing. Where the subject property abuts a right-of-way, the 5,280-foot measurement shall be in addition to this right-of-way along the abutting side.
  8. The Planning Commission shall conduct a public hearing on the variance application. At that hearing, the Commission shall review the particular facts and circumstances of the situation and develop findings and conclusions.
  9. When considering a variance application, the Planning Commission may recommend such conditions as are, in its judgment, necessary to promote the general provisions of this Ordinance.
  10. The Planning Commission shall make a decision by motion. It shall take the affirmative vote of a majority of the Planning Commissioners present to recommend approval of a variance. An affirmative vote by the Planning Commission shall mean that the Planning Commission recommends the Board of County Commissioners approve the requested variance. Any conditions included in the Planning Commission's affirmative vote are a part of the Planning Commission recommendation.



11. The County Planner shall set a Board of County Commissioners hearing date, publish notice thereof as provided for in this Ordinance, and notify all parties of interest. Public notice of the hearing shall be placed in the official County newspaper and any newspaper of general circulation in the County at the discretion of the County Planner or the Board of County Commissioners for two successive weeks prior to the date of the hearing.
12. Written notice shall be mailed to all property owners with property within 5,280 feet of the subject property at least 15 days prior to the said hearing. Where the subject property abuts a right-of-way, the 5,280-foot measurement shall be in addition to this right-of-way along the abutting side.
13. The Board of County Commissioners shall conduct a public hearing on the variance application. At that hearing, the Commission shall review the recommendation of the Planning Commission and the particular facts and circumstances of the situation and develop findings and conclusions.
14. In approving a variance, the Board may impose such conditions as are, in its judgment, necessary to promote the general provisions of this Ordinance.
15. The Board of County Commissioners shall make a decision by motion. It shall take the affirmative vote of three members of the Board to grant a variance. Failing such vote, the request for variance is denied.
16. A hearing may be continued at the request of the applicant or upon motion of the Board, provided however, that the granting of a continuance is a matter of grace, resting solely in the discretion of the Board, and a refusal to continue is not a denial of a right, conditional or otherwise.
17. Decision on continuance of a hearing can be reached by a simple majority but must be made prior to voting on the application itself.
18. A variance shall be valid indefinitely, provided it is exercised within one year of the date of issuance, or as otherwise provided for by the Board of County Commissioners.
19. A request may be re-heard only when there has been a manifest error affecting the Board's decision or it appears that a substantial change in facts, evidence, or conditions has occurred. Such determination shall be made by the County Planner within 60 days of final action of the Board.
20. Any persons aggrieved by a decision of the Board of County Commissioners pertaining to a variance application may file an appeal with a court of competent jurisdiction.

(c) **Criteria for Consideration; Findings Required**

1. Findings are required to be made by the Board of County Commissioners for approval of a variance. No variance shall be granted unless the Board finds that all of the following conditions are met or found to be not pertinent to the particular case:
  - a. Strict compliance with the provisions of this Ordinance will:
    - i. Limit the reasonable use of the property, and
    - ii. Deprive the applicant of rights enjoyed by other properties similarly situated, and
    - iii. Will result in a hardship to the applicant.
  - b. The hardship is the result of lot size, shape, topography, or other circumstances over which the applicant has no control.
  - c. The hardship is peculiar to the property.

- d. The hardship was not created by the applicant.
  - e. The hardship is not economic (when a reasonable or viable alternative exists).
  - f. Granting the variance will not adversely affect the neighboring properties or the public.
  - g. The variance requested is the minimum variance which will alleviate the hardship.
  - h. Granting the variance will not confer a special privilege that is denied other similar properties in the same district.
2. Every decision of the Board of County Commissioners pertaining to a variance application shall be made by motion and shall be based upon "Findings of Fact" and every Finding of Fact shall be supported in the record of its proceedings. The above criteria required to grant a variance under this Ordinance shall be construed as limitations on the power of the Board to act. A mere finding or recitation of the enumerated conditions unaccompanied by findings of specific fact shall not be deemed in compliance with this Ordinance.

## Section 2.06 Amendments to this Ordinance

- (a) The provisions of this Ordinance may, from time to time, and for the furtherance of public necessity, convenience, and welfare and in recognition that circumstances, and conditions may be altered substantially as time passes, be amended, supplemented, changed, modified, or replaced.
- (b) Requests to amend the text of this Ordinance may be initiated by the Board of County Commissioners, the Planning Commission, or any affected party or entity.
- (c) Application and Procedures
  1. An application for an Ordinance Amendment shall be made on a form provided by the County Planner.
  2. The completed application and fee as set by the Board of County Commissioners shall be submitted to the County Planner.
  3. No part of any such fee shall be refundable after an application is filed and such fee paid.
  4. An application is not considered complete until such fee has been paid.
  5. After the County Planner determines that the application is complete, the completed application shall be transmitted to the Planning Commission for their review and evaluation.
  6. After the County Planner determines that the application is complete, the completed application shall be reviewed under the regulations in place on the date a complete application is submitted to the County Planner.
  7. The County Planner shall set a public hearing date and publish notice of the time, place and purpose of the hearing once each week for two consecutive weeks in the official County newspaper and any newspaper published in the County as the County Planning Commission may deem necessary. Said notice shall describe the nature, scope, and purpose of the proposed amendment, and shall state the times at which it will be available to the public for inspection and copying at the office of the Finance Director.
  8. The Planning Commission shall consider the application at the date established for the hearing and give opportunity for parties of interest and citizens to be heard. The Planning Commission shall make a recommendation to the Board of County Commissioners to grant, amend, or deny the application.

9. Upon receipt of the recommendation of the Planning Commission, the Board of County Commissioners shall hold a public hearing. Notice of this hearing (including the general character of the proposed amendments, the time and place of the hearing and that the proposed amendments are on file for public inspection at the office of the Finance Director) shall be posted and advertised once a week for two weeks prior to the hearing in the official County newspaper and any newspaper of general circulation in the county at the discretion of the County Planner or the Board of County Commissioners. Based on the results of the hearing, other public input, the staff report and findings of the Planning Commission, the Cass County Board of Commissioners may adopt the proposed amendments with such changes it may deem advisable.
  10. Upon adoption of the proposed amendment with any changes it deems advisable, the Finance Director shall file a certified copy of the adopted amendment with the County Recorder. Immediately after the adoption of the amendment with any changes, the Finance Director shall cause notice of the same to be published for two successive weeks in the official newspaper of the County and in such other newspapers published in the county as the Board of County Commissioners may deem necessary. Said notice of the same shall describe the nature, scope, and purpose of the adopted amendment, and shall state the times at which it will be available to the public for inspection and copying at the office of the recorder. Proof of such publication shall be filed in the office of the Finance Director. If no petition for a separate hearing is filed within 30 days after the first notice publication pursuant to NDCC §11-33-10 or NDCC §11-33.2, the amendment thereto shall take effect upon the expiration of the time for filing said petition. If a petition for a separate hearing is filed within 30 days after the first notice publication pursuant to NDCC §11-33-10 or NDCC §11-33.2, the amendment shall not take effect until the Board of County Commissioners has affirmed such amendment in accordance with the relevant procedures established in the NDCC. This Ordinance may, from time to time, be amended or repealed by the Board of County Commissioners upon like proceedings as in the case of its original adoption or subsequent amendment.
  11. In the event that an application to amend this Ordinance is denied by the Board of County Commissioners or that the application for amendment is withdrawn after the hearing of the Planning Commission, the County Planner shall have the authority to refuse to accept another application for any similar amendment for one year from the date of hearing of the previous application by the Planning Commission.
- (d) Criteria for Consideration; Findings Required. When considering an application for amendment to the provisions of this Ordinance, the Planning Commission and the Board of County Commissioners shall be guided by and adopt findings of fact based upon the following:
1. Whether the proposed amendments are made in accordance with the Comprehensive Plan
  2. Whether the proposed provisions of the Ordinance are designed to:
    - a. Secure safety from fire and other dangers
    - b. Promote public health, safety, and general welfare, and
    - c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
  3. Consideration of

- a. The reasonable provision of adequate light and air;
- b. The effect on motorized and non-motorized transportation systems;
- c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities.

#### Section 2.07 Procedures for the Review and Consideration of Plat Applications

- (a) Procedures for the Review and Consideration of Plat Applications in accordance with this Ordinance are described in Articles IV, V, and VI.

#### Section 2.08 Public Hearings Procedure

- (a) Public Hearings required by this Ordinance shall be conducted pursuant to the standards and procedures of this Section.
- (b) Notice  
Unless state law requires differently, written notice of the public hearing, pursuant to Section 2.09 Public Notice, shall be sent by mail to the owner of the property that is subject to the public hearing and to owners of land that is with property within 5,280 feet of the property that is subject to the public hearing. In addition to the mailed notice, a Public Notice of the hearing that describes the application and provides the time, date and place of the public hearing shall be published in the official county newspaper and any newspaper of general circulation in the county at the discretion of the County Planner or the body holding the hearing. The Public Notices shall be mailed, and the published notice shall appear in each newspaper once a week for two successive weeks prior to the date of the hearing.
- (c) Announcement  
The presiding officer shall announce the purpose and subject of the public hearing, verify that proper public notice was given and provide the opportunity for any member of the Commission or Board to declare a conflict of interest.
- (d) Right to Speak  
Any interested person may appear at the public hearing and submit evidence or make comments either as an individual or on behalf of an organization. Each person appearing at the public hearing shall be identified by name and address of residence and name of organization if applicable.
- (e) Staff Report Presentation  
The County Planner shall present a report that provides a detailed overview of the application and requested decision, its site, context and its compliance with the comprehensive plan and this ordinance.
- (f) Applicant Presentation  
The applicant shall present any information the applicant deems appropriate.
- (g) Public Comments  
Members of the public shall be provided the opportunity to speak about the merits or shortcomings of the application. At the discretion of the presiding officer, reasonable time limits may be placed on all speakers in the interest of accommodating all people desiring to speak and to provide for an efficient meeting. Comments shall be directed only to the presiding officer.



- (h) **Applicant Response**  
After the members of the public have given their comments, the applicant shall be provided the opportunity to respond to any public comments made during the public hearing.
- (i) **Staff Response**  
After the public comments and applicant response, the County Planner or any other County official shall be provided the opportunity to clarify or address public comments and applicant responses made during the public hearing.
- (j) **Deliberation, Decision**  
The presiding officer shall declare the public comment period of the meeting to be closed and invite discussion, deliberation and a decision by the body holding the hearing (Board of County Commissioners or Planning Commission).
- (k) **Record of Proceedings**  
The public hearing and meeting shall be audio taped and the tape shall be retained by the County for the minimum length of time established by the Board of County Commissioners. A recording secretary shall record written minutes of the public hearing. All exhibits, reports, evidence and written materials submitted during the public hearing shall be retained by the County as part of the record of the proceeding.
- (l) **Continuance**  
The body conducting the public hearing, on its own initiative, may continue the hearing to a future date. Notice of continuance shall be posted in a conspicuous and visible location at the County Courthouse and other regular locations determined by the County Planner.

#### Section 2.09 Public Notice

- (a) **Public Notice** shall be published in the official newspaper of the County. Public notice may also be published in any other newspaper of general circulation in the county at the discretion of the County Planner or the body holding the hearing. The public notice shall contain the following information and comply with public notice requirements of state law.
- (b) **Type of Application**  
The type of application, such as Subdivision, Variance, Appeal, or Ordinance Amendment.
- (c) **Description of Decision**  
A brief description of the decision or action sought by the applicant.
- (d) **Name of Owner, Applicant**  
The name of the landowner and applicant.
- (e) **Location of Land**  
A legal description and a general description of the location of the subject land, if applicable.
- (f) **Location, Date, Time**  
The location, date and time of the public hearing or public meeting.
- (g) **Where Information Available**  
The location where information about the application may be viewed and the general hours available for viewing.
- (h) **Proposed Use**  
When applicable, a description of the type of use being proposed.

## Article III. Interpretation

### Section 3.01 Liberal Interpretation to Further Underlying Purposes

- (a) Interpretation and application of this Ordinance are the basic and minimum requirements for the protection of public health, safety, comfort morals, convenience, prosperity, and welfare. This Ordinance shall be liberally interpreted in order to further its underlying purposes. The meaning of any and all words, terms, or phrases in this Ordinance shall be construed in accordance with the following Rules and Definitions.

### Section 3.02 Rules of Construction and Interpretation

- (a) Words, phrases, and terms defined in this Ordinance shall be given the defined meaning as set forth in the following text.
- (b) Words, phrases, and terms not defined in this Ordinance shall be given their usual and customary meanings except where the context clearly indicates a different meaning.
- (c) The word “shall” is mandatory and not permissive; the word “may” is permissive and not mandatory.
- (d) Words used in the singular include the plural, and words used in the plural include the singular.
- (e) Words used in the present tense include the future tense, and words used in the future tense include the present tense.
- (f) In computing any period of time prescribed or allowed by this Ordinance, the day of the notice or final application, after which the designated period of time begins to run, is not to be included. Further, the last day is to be included unless it is not a working day, in which event the period runs until the next working day.
- (g) The word “person” indicates a corporation, a sole proprietorship, an unincorporated association, a partnership, estate, or any other legally recognized entity, as well as an individual.
- (h) Within this Ordinance, sections prefaced “purpose” are intended to convey official statements of legislative findings or purpose. These statements are intended to guide the administration and interpretation of this Ordinance and shall be treated in the same manner as other aspects of legislative history. However, they are not binding standards.

### Section 3.03 Definitions

- (a) The following words, unless the context otherwise requires, have the specific meaning listed:
  1. **AADT.** Annual average daily traffic count.
  2. **Abutting.** To physically touch or border upon; or to share a common property line.
  3. **Access.** A way or means of approach to provide physical entrance to a property.
  4. **Access Drive.** A private drive providing vehicular access to and between parking areas for more than two parking spaces within a subdivision; any drive servicing two or more units of occupancy on a single lot.

5. Adjacent. To be located in close proximity, but not necessarily touch at a common point or line.
6. Adjoining. To physically touch at a point or line.
7. Agricultural Land. Land used exclusively for the cultivation of the soil, the production of crops or livestock, or the science of forestry; also, land diverted from agricultural use by an active Federal farm program, provided the diverted land has a conservation cover of grass, legume, trees, or wildlife shrubs. Agricultural land may include, to a minor degree, farmsteads inhabited by the cultivator of the land housing for farm employees and land, used for preparation of agricultural products by the cultivator of the land.
8. Agricultural Operation. The science and art of producing plants and animals useful to people operated as a business. It includes the preparation of products resulting from said crops or animals and the disposition of these products by marketing or other means. The term includes livestock auction markets, horticulture, floriculture, viticulture, forestry and tree farming and nurseries, dairy, livestock, poultry, bee, and any and all forms of farm products, and farm production. It also includes agritourism activities.
9. Agriculture. See Agricultural Land.
10. Alley. A public right-of-way which affords a secondary means of access to abutting property (see also Street).
11. Animal Feeding Operation. A place where: livestock have been, are, or will be confined, concentrated and fed for 45 or more days in any 12 month period; pasture, crops, or other vegetation are not normally managed or sustained for grazing during the normal growing season; and, animal waste or manure accumulates. This term does not include an animal wintering operation. Adjoining animal feeding operations under common ownership are considered to be one animal feeding operation, if they use common areas or systems for manure handling.
12. Animal Wintering Operation. The confinement of cattle or sheep used or kept for breeding purposes in a feedlot or sheltered area at any time between October 15 and May 15 of each production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. This term includes the weaned offspring of cattle and sheep but does not include the breeding operations of more than one thousand (1000) animal units (as defined by the North Dakota Department of Health) or weaned offspring which are kept longer than one hundred and twenty (120) days and that are not retained for breeding purposes.
13. Applicant. A developer and/or landowner, as hereinafter defined, including heirs, successors, and assigns, who has filed an application for subdivision, a variance, a text amendment, or some other application based on this Ordinance.
14. Application for Subdivision. The application form and all documents and exhibits required of an applicant by the County Planner, Planning Commission or Board of County Commissioners for subdivision review purposes.
15. Area Sketch. An area sketch is a rough map of a proposed subdivision and the surrounding land to be used for the purpose of discussion and clarification of proposed land divisions.
16. Block. A tract of land comprised of one or more lots which is entirely bounded by streets, public parks, cemeteries, railroads and/or watercourses.
17. Board of County Commissioners. The Board of County Commissioners of Cass County.

18. **Buildable Lot.** All lots in a proposed subdivision that are not defined as an unbuildable lot due to environmental conditions and lots meeting all requirements of this Ordinance, as specified in this Ordinance.
19. **Building.** Any enclosed or open structure, other than a boundary wall or fence, occupying more than four (4) square feet of area and/or having a roof supported by columns, piers, or walls.
  - a. **Accessory Building.** A detached, subordinate building, the use of which is customarily incidental and subordinate to that of the principal building, which is located on the same lot as that occupied by the principal building. Farm buildings not intended for habitation are considered to be accessory buildings.
  - b. **Principal Building.** A building which is enclosed within exterior walls or fire walls and is built, erected, and framed of component structural parts. The Principal Building is also designed for housing, shelter, enclosure and support of individuals, animals, or property of any kind and is a main structure on a given lot.
20. **Building Setback Line.** A line within a lot, designated on a plan as the minimum required distance between any structure and the adjacent street centerline, right-of-way line, lot line, natural feature, another structure, or as specified by any applicable zoning ordinances, regulations, or this Ordinance.
21. **Capacity.** The maximum number of vehicles that can be expected to pass over a given section of roadway or on a specific lane.
22. **Cass County Planning Commission.** The Cass County Planning Commission or, when authorized, the Planning Commission's staff.
23. **Cass County Subdivision Ordinance.** See Ordinance.
24. **Cemetery.** A tract of land used or established to be used as a human burial site for the human remains of one or more humans.
25. **Cemetery Plot.** An area of land within a cemetery, separated from other areas within the cemetery, to allocate for burial of human remains by a specified plot owner.
26. **Certificate of Survey.** A graphic representation of any parcel or tract of real property whose primary purpose is to show the results of a boundary survey.
27. **Clear Sight Triangle.** An area of unobstructed vision at a street intersection defined by a line of sight between points at centerlines.
28. **Comprehensive Plan.** A document consisting of maps, charts, and textual material, that constitutes a policy guide to decisions about the physical and social development of a township, city, or county.
29. **Condominium.** An estate in real property consisting of undivided interest of land and common facilities together with separate ownership interest of individual units of occupancy.
30. **County.** The County of Cass, North Dakota.
31. **County Commission.** See Board of County Commissioners.
32. **County Planning Commission.** See Cass County Planning Commission.
33. **Dedication.** The deliberate appropriation of land by its owner for general public use.
34. **Deed.** A written instrument whereby an estate in real property is conveyed.



35. Deed Restriction. A restriction upon the use of a property placed in a deed. As specified in this Ordinance, a deed restriction refers to the legally binding restrictions placed on development as it relates to this Ordinance.
36. Density. The number of buildable lots permitted per acre, exclusive of street rights-of-way.
37. Design Standards. The specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum, or maximum dimensions of such items as rights of ways, blocks, easements and lots.
38. Detention Basin. A reservoir which temporarily contains stormwater runoff and releases it gradually into a watercourse or stormwater facility.
39. Developer. Any landowner, agent of such landowner, equitable owner, or tenant with the permission of the landowner, for whom subdivision plans are being or have been made.
40. Development. An activity which materially alters or affects the existing conditions or use of any land.
41. Development Plan. The provisions for development, including a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space, and public facilities. The phrase "provisions of the development plan" when used in this Ordinance shall mean the written and graphic materials referred to in this definition.
42. Development Rights. An interest in and the right to use and subdivide land for any and all residential, commercial and industrial purposes and activities which are not incident to agriculture and open space, in accordance with zoning and other regulations. Development rights can be used, held, or transferred, from adjacent property under common ownership, to plat an additional buildable lot on a contiguous receiving property.
43. Double Frontage Lot. A lot with front and rear street frontage.
44. Drainage Easement. The land required for the installation of storm sewer or drainage facilities or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein, or to safeguard the public against flood damage.
45. Driveway. A private drive providing vehicular access between a street or access drive and a parking area for a single residential unit of occupancy, or a private drive for non-residential uses permitted to provide less than three parking spaces.
46. Easement. A right-of-way granted for limited use of property by the landowner for a public or quasi-public or private purpose and within which the owner of the property shall not have the right to make use of the land in a manner that violates the right of the grantee.
47. Engineer. See Registered Engineer.
48. Farm. An agricultural operation.
49. Final Plat. See Plat.
50. Flood buyout. The purchase of private property by a federal, state, or local government for the purpose of mitigating flood damage to structures and properties.
51. Floodplain. The area of inundation which functions as a storage or holding area for floodwater to a width required to contain a base flood of which there is a one percent (1%) chance of occurring in any given year. The floodplain also contains both the floodway and the flood fringe. The floodway is the channel of a water course and the adjoining land area which are required to carry and discharge the base flood. The flood fringe is the adjoining area which may be covered by water of the base flood. The location of a floodplain shall be

- established in accordance with Section 612 of this Ordinance and may include an area of greater magnitude than the base flood if a greater flood hazard area is designated by a municipal ordinance.
52. Future Access Strip. A right-of-way reserved for the future improvement of a street.
  53. Grading. Any stripping, cutting, filling, stockpiling of earth or land, including the land in its cut or filled condition.
  54. Gross Floor Area. The total floor area of a building.
  55. Half Street. A street of less than the required right-of-way and/or road width, such as a street built from the shoulder edge to the eventual centerline (See also Street).
  56. Historic Feature. Any building, site, structure, object, district, or area that:
    - a. Is listed on the National Register of Historic Places.
    - b. Has received a Determination of Eligibility for the National Register from the National Park Service.
    - c. Which is listed on any officially adopted municipal register or inventory of historic features.
    - d. Which is listed on the State Historical Society of North Dakota 1990 North Dakota Comprehensive Plan for Historic Preservation: Archeological Component This term shall include the site, principal structures, accessory structures, yards, vegetation, fences, road alignments and signage associated with such features.
  57. Homeowners association (HOA). A group governing a subdivision through an association collecting monthly fees from all owners/members to pay for maintenance of common areas, handle legal and safety issues and enforce the covenants, conditions and restrictions set by the developer.
  58. Horizon Year. The anticipated opening year of a development, assuming full buildout and occupancy.
  59. Human Burial Site. any place of interment, by any means, of human remains or burial goods, which is designated by a grave marker or other burial structure or which is not so designated, but is, in fact, discovered or believed to exist on the basis of archaeological or historical evidence.
  60. Impervious Surface. A ground cover such as cement or asphalt through which water cannot penetrate.
  61. Improvements. Physical changes to the land, including but not limited to, grading, paving, curbs, gutters, storm sewers and drains, improvements to existing watercourses, sidewalks, street signs, monuments, water supply facilities and sewage treatment facilities.
  62. Influence Area. An area which contains 80% or more of the trips that will be attracted to a development site.
  63. Intensive Vegetation Clearing. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
  64. Land Development. The subdivision of land, in contrast to development as separately defined in this ordinance.
  65. Landscape Architect. A landscape architect registered by the State of North Dakota
  66. Land Use. A description of how land is occupied or utilized.
  67. Legal Lot. A designated parcel, tract, or area of land established by a plat or otherwise permitted by law at the time of its creation to be used, developed, or built upon as a unit.

68. Level-of-Service. A measure of the effect of traffic on the capacity of a road.
69. Livestock. Beef cattle, dairy cattle, sheep, swine, poultry, horses, donkeys, bison, elk, fur animals raised for their pelts, and any other animals that are raised, fed, or produced as a part of farming or ranching activities. Livestock include alpacas, llamas, or other similar animals typically raised for their fleece, fiber, or hair.
70. Lot. Any separately described area of land capable of having title conveyed.
71. Lot Area. The area contained within the property lines of the individual parcel of land, excluding space within the street right-of-way. The lot area includes the area of any utility easement or stormwater management facility.
72. Lot Depth. The average distance between the street right-of-way and the rear lot line, measured perpendicular or radial to the right-of-way.
73. Lot Frontage. That side of a lot abutting on the street right-of-way and regarded as the front of the lot.
74. Lot Line Marker. A metal plate or pin used to identify lot line intersections.
75. Lot of Record. A lot that has a clear description stemming from a document on file at the County Recorder's office.
76. Lot Width. The average distance between the side lot lines of a lot, measured parallel to the right-of-way.
77. Major Subdivisions. See Subdivision.
78. Minor Subdivision. See Subdivision.
79. Mixed Use. A development that provides multiple compatible uses in close proximity to one another. And/or a land use pattern that seeks to increase concentrations of population and employment in well- defined areas with a mix of diverse and compatible land uses.
80. Mobile Home. A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units, designed to be joined into one integral unit and capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and constructed so that it may be used without a permanent foundation. The term "manufactured home" may be used synonymously.
81. Monument. A concrete or stone monument used to identify street line intersections.
82. Municipal Governing Body. The Council in cities, the Board of Commissioners in townships, the Board of County Commissioners, or any other similar body with the final decision-making, budgeting, and appointing authority of a general-purpose unit of government.
83. Municipality. Any city, township, county, or other similar general-purpose unit of government.
84. Non-Site Traffic. Vehicle trips passing within the study area as defined in the traffic impact study that do not enter or exit the site and are generally the result of through traffic and traffic generated by other developments.
85. Off-Street Parking. Parking spaces provided outside of the right-of- way of a street or highway.
86. On-Street Parking. Parking spaces provided within the right-of-way of a street or highway.
87. Ordinance. The Cass County Subdivision Ordinance, as subsequently amended.
88. Parcel. A lot or combination of lots that are contiguous and under common ownership; may or may not have a single tax parcel identification.

89. Peak Hour. The hour during which the heaviest volume of traffic occurs on a road.
90. Pedestrian Way. A right-of-way, publicly or privately owned, intended for human movement by walking or bicycling.
91. Pervious Surface. Ground cover through which water can penetrate at a rate comparable to that of water through undisturbed soils.
92. Planning Commission. See Cass County Planning Commission.
93. Plat. The map or plan of a subdivision, whether preliminary or final.
  - a. Preliminary Plat. A tentative drawing or map of a proposed subdivision meeting the requirements herein enumerated.
  - b. Final Plat. A drawing or map of a subdivision meeting all the requirements of the County and in such form as required by Cass County for the purpose of recording (See Certificate of Survey).
94. Public Improvement. Any improvement or other facility for which a governmental unit may ultimately assume responsibility for maintenance and operation.
95. Public Meeting. A forum held pursuant to NDCC §44-04-19 and §44-04-20
96. Public Utility. Any person, firm, corporation, municipal department, or board duly authorized to furnish and furnishing, under public regulation, to the public, electricity, gas, heat, power, steam, telephone, telegraph, transportation, or water.
97. Receiving Property. A parcel that receives a transferred development right from a contiguous undeveloped quarter-quarter section, government lot, or legal lot (See Sending Property) under common ownership, as specified in this Ordinance.
98. Registered Engineer. An individual licensed and registered as a professional engineer under the laws of the state of North Dakota.
99. Registered Land Surveyor. An individual licensed and registered as a professional land surveyor under the laws of the state of North Dakota.
100. Restrictive Covenant. A restriction on the use of land usually set forth in the deed.
101. Retention Basin. A reservoir designed to retain stormwater runoff with its primary release of water being through the infiltration of said water into the ground.
102. Reverse Frontage Lot. A lot with front and rear street frontage, where vehicular access is prohibited to and from the higher intensity street.
103. Right-of-Way. The total width of any land reserved or dedicated for public use to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, legal drains, flood diversion structures, flood diversion channels, shade trees, or for other special use.
104. Road. The surface of a street, drive, or alley available for vehicular traffic. (See also street)
105. Runoff. The surface water discharge and rate of discharge of a given watershed after a full rain or snow that does not enter the soil but runs off the surface of the land.
106. Sedimentation. The process by which soil or other surface material is accumulated or deposited by wind, water, or gravity.
107. Sending Property. A parcel that transfers its development right to a contiguous or eligible property under common ownership (see Receiving Property) as specified in Section 308 of this Ordinance.
108. Service Street. See Street, Alley (Service Street).
109. Setback Line. See Building Setback Line.



110. Shared Parking. When parking spaces are shared among different structures or uses or among mixed uses and can include properties with different owners.
111. Shared Trips. Vehicle trips entering and exiting the site which were using the facility on the adjacent streets and therefore did not generate new trips on the road.
112. Shopping Center. An area that is comprised of three (3) or more commercial establishments, the purpose of which is primarily retail sales, that has a combined gross floor area of twenty thousand (20,000) square feet or more, that is owned or managed as a unit.
113. Sight Distance. The length of road visible to the driver of a vehicle at any given point in the road when viewing is unobstructed by traffic.
114. Site. The existing lot of record proposed for a subdivision.
115. Solid Waste. Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. The term does not include:
  - a. Agricultural waste, including manures and crop residues, returned to the soil as fertilizer or soil conditioners; or
  - b. Solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended [Pub. L. 92-500; 86 Stat. 816; 33.
  - c. U.S.C. 1251 et seq.], or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended [68 Stat. 919; 42 U.S.C. 2011 et seq.].
116. Staff. The Cass County Planning and Highway Department staff.
117. Steep Slope. Lands having average slopes with a horizontal to vertical change of 11:1 (or steeper), slope to rise ratio, as measured over horizontal distances of fifty (50) feet or more.
118. Stormwater Management Data. The plan information, designed in accordance with this Ordinance, which identifies design and construction details for managing the quantity and quality of stormwater runoff.
119. Stormwater Management Facilities. Those controls and measures (e.g., storm sewers, berms, terraces, bridges, dams, basins, infiltration systems, ditches, watercourses, legal drains, flood diversion structures, flood diversion channels, and floodplains) used to implement a stormwater management program.
120. Street. A strip of land, including the entire right-of-way, publicly or privately owned, serving primarily as a means of vehicular and pedestrian travel, and furnishing access to abutting properties. This term shall include the terms avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct, or any other way used for similar purposes. Streets shall conform to one of the following categories:
  - a. Principal Arterial. An interregional road in the street hierarchy system which carries vehicle traffic to and from the region as well as any through traffic. This street may be a controlled access street.
  - b. Minor Arterial. The Minor arterial street system interconnects with the principal arterial system. It provides connections between boroughs, larger villages, major

- resort areas and other traffic generators which develop substantial volumes of traffic.
- c. Collector. This classification includes streets that provide connections with local access and arterial streets. They may serve a traffic corridor connecting villages, small boroughs, shopping points, mining and agricultural areas on an intra-county or municipal basis.
  - d. Local Access. This classification provides direct access to adjacent land and includes connections to farms, individual residences, and commercial properties and to higher classes of highway systems.
  - e. Alley (Service Street). A service road that provides secondary means of access to lots. Alleys are on the same level as a local access street and are used in cases of narrow lot frontages. No parking shall be permitted, and alleys should be designed to discourage through traffic. AADT level corresponds to that of local access street.
  - f. Cul-de-sac. A street with a single means of ingress and egress and having a turnaround. The design of the turnaround may vary. Cul-de-sacs shall be classified and designed according to anticipated ADT level: A residential street will use the design standards of a local access street; a non-residential street will use the design standards for Commercial/Industrial streets.
  - g. Marginal Access Street. A service street that runs parallel to a higher-order street and provides access to abutting properties and separation from through traffic. Marginal Access Street may be designed as local access street or collector according to anticipated daily traffic.
  - h. Divided Street. A street in which the traffic directions are physically separated.
  - i. Stub Street. A short dead-end street which is a portion of a street which has been approved in its entirety. Stub streets may extend to a property line to permit connection of streets in adjoining subdivisions.
121. Street Line. The right-of-way line of any given street.
122. Street, private. A street not accepted for dedication by a municipality.
123. Structure. Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.
124. Subdivision. A division of a lot, tract, or parcel of land, creating one or more lots, tracts, or parcels for the purpose, either immediate or future, of sale or of building development and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights of way, whether public or private, for access to or from any such lot, tract, or parcel and the creation of new or enlarged parks, playgrounds, plazas, or open spaces. The term "subdivision" shall be further defined into two classifications, which are as follows:
- i. Minor Subdivision: A division of land into lots, tracts, or parcels not exceeding four (4) total buildable lots.
  - ii. Major Subdivision: A division of land into lots, tracts, or parcels exceeding four (4) lots.
125. Subject Tract. The site proposed for a subdivision.
126. Surveyor. See Registered Land Surveyor.
127. Tract. A lot or group of lots that are contiguous.

- 128. Top of Bank. The elevation at which water overflows the natural banks of streams or the waters of the state and begins to inundate upland areas.
- 129. Trip. A single or one-directional vehicle movement.
- 130. Unbuildable Lot. Those lots in a proposed subdivision or lots or parcels resulting from a subdivision of land that are restricted from development due to environmental conditions such as steep slopes, the presence of wetlands or waterways, or sending properties restricted from development because of this Ordinance.
- 131. Variance. A process for alleviating specific requirements imposed by this Ordinance and provided under this Ordinance.
- 132. Watercourse. A permanent topographic feature, whether natural or man-made, that serves to gather and carry flowing surface water such as a permanent or intermittent stream, a river, creek, brook, run, or ditch; and which measured by the width of the channel during normal high water.
- 133. Watershed. All land and water within the confines of a drainage basin.
- 134. Wetlands. Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturate soil conditions, including swamps, marshes, bogs, and similar areas.

#### Section 3.04 Responsibility for Interpretation

- (a) In the event a question of interpretation arises concerning any provision or the application of any provision of this Ordinance, the County Planner, in consultation with the State's Attorney for Cass County as may be necessary, shall be responsible for such interpretation. Such interpretation shall look to the Cass County Comprehensive Plan and the overall purpose and intent of this Ordinance for guidance. The County Planner shall provide such interpretations in writing upon request. Records of all such interpretations shall be maintained at the County Planner's office for future reference. If any person having an interest in such an interpretation chooses to appeal such a decision, the matter may be referred to the Planning Commission to be reviewed. The Planning Commission shall make a recommendation to the Board of County Commissioners for a final decision on the appeal.

## Article IV. Plat Approval Required

### Section 4.01 Subdivision Review and Plat Approval Required

- (a) Within all of Cass County outside of any municipal boundary and outside the authority of any extraterritorial boundary for subdivision or zoning control, no subdivision of any lot, tract, or parcel of land shall be made; no street, road easement, sanitary sewer, water main, or other improvements in connection therewith shall be laid out, constructed, opened, or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in accordance with a plat as reviewed and finally approved by the Board of County Commissioners.
- (b) For the purposes of this ordinance, “subdivision” means the division of a lot, tract, or parcel of land, creating one or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale or of building development, and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights-of-way, whether public or private, for access to or from any such lot, tract, or parcel, and the creation of new or enlarged parks, playgrounds, plazas, or open spaces.
- (c) A subdivision which (1) contains not more than four lots, (2) that meets the provisions of the applicable zoning district, and (3) that does not exceed one buildable lot per quarter-quarter section unless it followed the transfer of development rights pursuant to this ordinance may be processed as a minor subdivision. All other subdivisions must be processed as major subdivisions.
- (d) Any exemptions from subdivision review established by this Ordinance or by North Dakota law may be executed so long as the following requirements are met:
  - 1. All applications that are exempt from subdivision review shall be reviewed and approved by the following Cass County departments administratively prior to transfer of title: Planning Office, Auditor, Recorder, Assessor, State’s Attorney and County Highway Department. These departments will require a commitment of title or an attorney’s opinion of title and written consent from all property owners and lienholders prior to approving the use of an exemption.
  - 2. All lots created through the use of an exemption shall comply with the zoning district requirements of the applicable jurisdiction.
  - 3. All development on lots created through the use of an exemption shall comply with the development standards of this ordinance.
- (e) Any exemptions used under this section shall be executed via a certificate of survey and a deed of transfer filed with the Recorder’s Office.
- (f) Any exemptions that do not meet all of the requirements of this Section shall be reviewed as subdivisions and subject to all the subdivision review provisions of this Ordinance.



#### Section 4.02 Exemptions from Subdivision Review

- (a) A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of real property.
- (b) A division of land for federal, state, or local government to:
  - 1. Acquire right-of-way for public use. Including but not limited to streets, crosswalks, railroad, electric transmission lines, oil or gas pipelines, water mains, sanitary or storm sewer mains, shade trees, legal drains, flood diversion structures, and flood diversion channels.
  - 2. Acquire land of flood prone properties for the purposes of a flood buyout.
  - 3. Acquire land for the purpose of public parks.
  - 4. Acquire land for the purpose of a drainage easement or stormwater management facility.
- (c) A division of land into lots, tracts, or parcels of ten acres or more in size for the purpose of agricultural use with no anticipation of dwelling unit construction and does not involve any new streets, easements, or accesses other than field accesses.
- (d) A division of land into cemetery plots.
- (e) The combination or recombination of portions of previously subdivided and recorded lots if the number of lots is not increased.
- (f) A division of land involving a sale or transfer to an abutting property owner for the purpose of agricultural use.
- (g) A division of one parcel of land for the purpose of a mortgage of the agricultural operator's residence meeting the following criteria:
  - 1. The site of the operator's residence must be within a farmstead which was developed prior to March 6, 2006.
  - 2. The new parcel must be less than 10 acres in size.
  - 3. All future divisions of either the parent parcel or the new parcel shall be reviewed as subdivisions and subject to all requirements of this Ordinance pertaining to subdivision of land.

## Article V. Minor Subdivisions

### Section 5.01 Minor Subdivision Procedures for Plat Review

- (a) Pre-Application Sketch Plan Review. An individual seeking to divide land within the subdivision jurisdiction of Cass County shall provide a sketch plan to the County Planner in order to verify the process and application requirements needed for plat review. It is recommended that a meeting be scheduled with the County Planner to discuss the review process and proposed plans. Such a meeting and/or review shall be considered confidential between the applicant and county staff. However, any documents submitted to the County relative or resulting from this meeting are subject to North Dakota Open Records Laws pursuant to NDCC §44-04.

It is recommended that the applicant submit at least the information noted in Section 5.02 (b). Materials submitted, provided, or discussed by the applicant for or during the pre-application review shall not satisfy any portion of the materials needed to complete a subdivision application. Any advice or assistance provided by county staff shall not be considered the County's final response. The Board of County Commissioners has the final authority on all matters relating to subdivision plat application, review, and approval.

- (b) Final Plat Application – Minor Subdivision. An application for Final Plat Approval for a Minor Subdivision may be submitted without a preliminary plat review and approval. Regardless of the results of a sketch plan review, submission of a final plat does not guarantee the final plat will be approved with or without changes. A final plat application shall be accompanied by all required documents and the required filing fee. Required final plat application documents include:
1. An application form (obtained from the County Planning Office) completely and properly executed with all information legible and bearing all required signatures.
  2. A final plat containing all required information
  3. A filing fee consisting of a check or money order draw to the Cass County Highway Department.
  4. One copy of all supplemental information not included on the final plat.
  5. An attorney's opinion of title or similar document.

County staff shall have 7 days from the date of submission of an application to check the documents to determine if on their face they are in proper form and contain all the information required by this Ordinance. If defective, the application may be returned to the applicant with a statement that the application is incomplete; otherwise the application shall be deemed accepted as of the date of submission.

- (c) Final Plat Review. Upon acceptance of the final plat application, the following steps will be completed as part of the plat review process:
1. A copy of the completed application documents will be sent by certified mail to the relevant township soliciting comments
  2. Copies of the completed application documents will be distributed to each of the following, when relevant, for review and comment:

- a. Cass County Engineer
  - b. Cass County Planning Commissioners.
  - c. Water Resource District.
  - d. Electric company.
  - e. Telephone company.
  - f. Gas Company.
  - g. Cass Rural Water Users.
  - h. North Dakota Department of Transportation (if the subject site abuts a State road).
  - i. County Sanitarian.
  - j. Adjoining municipality (if site is located within one (1) mile of a municipal or ET boundary).
3. The County will notify the applicant or representing agent and all landowners within a minimum of 1,000 feet of the proposed final plat that the application is under review and will be considered by the Planning Commission at a public hearing on a specified date.
  4. The County Planner will schedule the Final Plat application for action at a regularly scheduled public meeting within ninety (90) days of the first public meeting of the Planning Commission after the date of filing.
  5. The County Planner will prepare a report of findings pertaining to the consistency of the proposed plat with this Ordinance and noting any comments or concerns raised by the relevant township or other reviewing parties.
- (d) Planning Commission Action. At a regularly scheduled Planning Commission meeting, following the closure of the relevant public hearing, the Planning Commission shall consider the reported findings and received public comment and shall make a determination if the requested plat is consistent with this Ordinance. The Planning Commission shall take an action to recommend denial of the application, approval of the application, or approval of the application with conditions.
- (e) Notification of Commission Action. Within fifteen (15) consecutive days after the meeting at which the Final Plat application is reviewed, the county staff shall send written notice of the Planning Commission's action to the following:
1. Landowner or his agent.
  2. Applicant.
  3. Firm that prepared the plan.
  4. Township Chairman.
- (f) If the application is disapproved, the staff will notify the above individuals, in writing, of the defects in the application and will identify the requirements which have not been met and citing the provisions of the statute or ordinance relied upon.
- (g) Compliance with Planning Commission Action. If the Planning Commission conditions its Final Plat approval upon receipt of additional information, changes and/or notifications, such data shall be submitted and/or alterations noted on two (2) copies of the Plan to be submitted to the county staff for approval.

- (h) Board of County Commissioner Agenda. If the Planning Commission recommendation is to deny the application, the Final Plat review shall be placed on the regular agenda of the Board of County Commissioners with a public hearing. If the Planning Commission recommendation is to approve the application (with or without conditions), the Final Plat review may be placed on the consent agenda of the Board of County Commissioners.
- (i) Board of County Commissioners Action. No plat shall be finally approved or disapproved by the Board of County Commissioners until the following has been met:
  - 1. Receipt of recommendation by the Planning Commission. The recommendations by the Planning Commission shall not be binding on the Board of County Commissioners.
  - 2. Receipt of written recommendation by the board of township supervisors of the township in which the proposed subdivision is located or more than 60 days have lapsed since notification to the relevant township without receipt of a recommendation by the board of township supervisors. If no written recommendation was received within the 60 day period, the Board of County Commissioners may take action on the final plat. The recommendations of the board of township supervisors shall not be binding on the Board of County Commissioners.
  - 3. The receipt of a Final Plat meeting all conditions established by the Planning Commission and all necessary information and materials prepared in accordance with this Ordinance.
  - 4. In determining whether a plat shall be finally approved or disapproved, the Board of County Commissioners shall inquire into the public use and interest proposed to be served by the subdivision. It shall determine if appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds, but its determination is not limited to the foregoing. The Board of County Commissioners shall consider all other relevant facts and determine whether the public interest will be served by the subdivision. If it finds that the proposed plat makes appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds, and that the public use and interest will be served by the platting of such subdivision, and that the proposed plat complies with this Ordinance, such plat shall be finally approved with such conditions as the Board of County Commissioners may deem necessary. If it finds that the proposed plat does not make appropriate provisions, or that the public use and interest will not be served, or that the proposed plat does not so comply with this Ordinance, then the Board of County Commissioners shall disapprove the proposed plat. Dedication of land to any public body may be required as a condition of subdivision approval and shall be clearly shown on the final plat.
- (j) Final Plat Recordation. Upon approval and certification of a final plat by the Board of County Commissioners, the applicant shall record the approved final plat in the office of the Cass County Recorder of Deeds.



### Section 5.02 Minor Subdivision Sketch Plan Content

- (a) An individual seeking to divide land within the subdivision jurisdiction of Cass County may provide a sketch plan to the County Planner in order to verify the process and application requirements needed for plat review. It is recommended that a meeting be scheduled with the County Planner to discuss the review process and proposed division of land.
- (b) The sketch plan should include at least the following information.
  - 1. Name and address of the landowner, and the developer (if different than the landowner).
  - 2. Name of the individual and firm that prepared the sketch plan. The sketch plan may be prepared by the landowner or developer but must meet the following requirements.
  - 3. Location map with labels showing the location of the land proposed to be platted and the sections adjacent to it.
  - 4. Existing parcel boundaries accurately labeled with the names of adjacent property owners and adjacent plats.
  - 5. Existing zoning of the land proposed to be platted and the land within 1,320 feet of it.
  - 6. Location map showing significant natural and man-made features (existing major buildings, bodies of water or wetlands, utilities, tree lines or groups of trees, excavations) on the land proposed to be platted and the land within 1,320 feet of it.
  - 7. Location of 100 year floodplain, floodway, and major drainage patterns on the land proposed to be platted and within 1,320 feet of it.
  - 8. Proposed lot layout in relationship to existing streets and drainageways drawn to approximate scale.
  - 9. Proposed land use(s) and their location in relationship to the proposed lot layout.
  - 10. Proposed methods for water supply and sewage treatment.

### Section 5.03 Minor Subdivision Final Plat Content

- (a) Final plats shall be prepared by an engineer, a surveyor, or a landscape architect licensed in North Dakota.
- (b) Final plats must include the following information in order to be approved by the Cass County Board of County Commissioners and filed at the Cass County Recorder's Office.
  - 1. Lot lines, with accurate bearings and distances and lot areas for all lots. Curve segments shall be comprised of central angle, radii, and arc distances and also include arc, chord, bearing and distance for non-tangent curves. Along existing street rights-of-way, the description may utilize the existing deed lines or road centerlines; along all proposed street rights-of-way, the description shall be prepared to the right-of-way lines.
  - 2. Complete description of the right-of-way lines for all new streets. This description shall include distances and bearings with curve segments comprised of central angle, radii, and arc distances and also include arc, chord, bearing and distance for non-tangent curves.
  - 3. Easements and the purpose of each must be clearly stated. Easement dimensions must be sufficient to accurately describe their extent and boundaries.
  - 4. Lot numbers and block designations.
  - 5. Final street names.
  - 6. Identification of any lands to be dedicated, reserved, donated or granted for public use or for donation to any individual, religious society, corporation, or limited liability company.

7. Any plat which includes lands abutting upon any lake, river, creek, or stream must show a contour line denoting the present shoreline, water elevation, and the date of survey. If any part of a plat lies within the one hundred year floodplain of a lake, river, or stream as designated by the department of water resources or a federal agency, the mean sea level elevation of that one hundred year flood must be denoted on the plat by numerals. Topographic contours at a two-foot contour interval referenced to mean sea level must be shown for the portion of the plat lying within the floodplain. All elevations must be referenced to a durable benchmark described on the plat with its location and elevation to the nearest hundredth of a foot, which must be given in mean sea level datum.
8. The names and adjacent boundary lines of any adjoining platted lands must be dotted on the plat. The designations and adjacent boundary lines of any unplatted parcels must be dotted on the plat.
9. The location and material of all permanent monuments and lot line markers, including a note that all monuments and lot line markers are set or indicating when they will be set.
10. Certificate, signature, and seal of the surveyor, to the effect that the survey is correct and certificate, signature and seal of the surveyor, engineer, or landscape architect that prepared the plat indicating that all other information shown on the plat is accurate. This statement shall be of a form shown in Figure 1, as applicable.

**Figure 1.**

**Certification of Accuracy**

I hereby certify that, to the best of my knowledge, the survey shown and described hereon is true and correct to the accuracy required by the Cass County Subdivision Ordinance.

\_\_\_\_\_, 20\_\_ \* \_\_\_\_\_

\*\*

\*Signature of the registered surveyor responsible for the survey for the plat; \*\*Seal of the surveyor

**Certification of Accuracy**

I hereby certify that, to the best of my knowledge, the plat shown and described hereon is true and correct to the accuracy required by the Cass County Subdivision Ordinance.

\_\_\_\_\_, 20\_\_ \* \_\_\_\_\_

\*\*

\*Signature of the registered engineer, registered surveyor, or licensed landscape architect responsible for the preparation of the plan; \*\*Seal of the registered engineer, registered surveyor, or licensed landscape architect

June 15, 2022

- 11. A statement, duly acknowledged before an officer authorized to take acknowledgement of deeds and signed by the landowner, to the effect that the subdivision shown on the plat is the act and the deed of the owner, that all those signing are all the owners of the property shown on the survey and plat and that they desire the same to be recorded as such. This statement must be dated following the last change or revision to said plat. This statement shall be of the applicable form shown in Figure 2.

**Figure 2.**

**Certificate of Ownership, Acknowledgement of Plat, and Offer of Dedication (Individual)**

**STATE OF NORTH DAKOTA COUNTY OF CASS**

On this, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_ being one of the firm of \*\* \_\_\_\_\_, who being duly sworn according to law, deposes and says that the co-partnership is the \* \_\_\_\_\_ of the property shown in this plat, that the plat thereof was made at its direction, that it acknowledges the same to be its act and plan, and desires the same to be recorded, and that all streets and other property identified as proposed public property (excepting those areas labeled "NOT FOR DEDICATION" are hereby dedicated to the public use.

\*\* \_\_\_\_\_

\*\*\* \_\_\_\_\_

My Commission expires \_\_\_\_\_, 20\_\_\_\_

\*Identity Ownership or Equitable Ownership; \*\*Signature of the individual; \*\*\*Signature and Seal of Notary Public

**Certificate of Ownership, Acknowledgement of Plat, and Offer of Dedication (Co-Partnership)**

**STATE OF NORTH DAKOTA COUNTY OF CASS**

On this, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_ who being duly sworn according to law, deposes and says that he is the \* \_\_\_\_\_ of the property shown in this plat, that he acknowledges the same to be his act and plan, that he desires the same to be recorded, and that all streets and other property identified as proposed public property (excepting those areas labeled "NOT FOR DEDICATION" are hereby dedicated to the public use.

\*\* \_\_\_\_\_

\*\*\* \_\_\_\_\_

My Commission expires \_\_\_\_\_, 20\_\_\_\_

\*Identity Ownership or Equitable Ownership; \*\*Signature of the individual; \*\*\*Signature and Seal of Notary Public

June 15, 2022

**Certificate of Ownership, Acknowledgement of Plat, and Offer of Dedication (Corporate)**

**STATE OF NORTH DAKOTA COUNTY OF CASS**

On this, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_ being \* \_\_\_\_\_ of \*\* \_\_\_\_\_, who being duly sworn according to law, deposes and says that the corporation is the \*\*\* \_\_\_\_\_ of the property shown on this plat, that he is authorized to execute said plat on behalf of the corporation, that the plat is the act and deed of the corporation, that the corporation desires the same to be recorded and on behalf of the corporation further acknowledges, and that all streets and other property identified as proposed public property (excepting those areas labeled "NOT FOR DEDICATION") are hereby dedicated to the public use.

\*\*\*\* \_\_\_\_\_

\*\*\*\*\*

\*\*\*\*\* \_\_\_\_\_

My Commission expires \_\_\_\_\_, 20\_\_\_\_

\*Individual's Title; \*\*Name of Corporation; \*\*\*Identify Ownership or Equitable Ownership; \*\*\*\*Signature of Individual; \*\*\*\*\*Corporate Seal; \*\*\*\*\*Signature and Seal of Notary Public

**Section 5.04 Minor Subdivision Development Standards**

- (a) Lot Requirements. The lots of the Minor Subdivision shall meet all applicable yard and size requirements of the relevant zoning regulations, except that under no circumstances shall the minimum lot size be less than the minimum lot size required by the County Sanitarian.
- (b) Access and Easements. Access to the lots of the Minor Subdivision shall be determined by issuance of an access permit by the Cass County Highway Department. A single access point granting access to more than one lot is acceptable if appropriate easements across one lot to additional lots or parcels is provided. In the case of a plat requiring access to a highway under the jurisdiction of the North Dakota Department of Transportation (NDDOT), the applicant must submit documentation from the NDDOT demonstrating approved access onto said highway.
- (c) Drainage and Floodplain.
  - 1. All developments with one (1) to four (4) buildable lots may construct and utilize open ditches for stormwater conveyance pursuant to this Ordinance. Ditches within the proposed subdivision and along all roads providing access to three (3) or more buildable lots shall have a minimum ditch grade of not less than two and one half tenths of one percent (0.25%)

- with inslope no steeper than five (5) horizontal to one (1) vertical (5:1) and backslope no steeper than four (4) horizontal to one (1) vertical (4:1) and a minimum ditch bottom of five (5) feet.
2. Existing section line ditches within the proposed subdivision shall have a minimum ditch grade of not less one tenth of one percent (0.1%) with inslope no steeper than five (5) horizontal to one (1) vertical (5:1) and backslope no steeper than four (4) horizontal to one (1) vertical (4:1) and a minimum ditch bottom of five (5) feet. This standard may extend to the section lines ditches outside of the proposed subdivision at the discretion of the County Engineer.
  3. Lot grading plans that meet the requirements of the County Engineer shall be submitted (see *Figures 3-7* below and on the following pages for examples).
  4. All necessary drainage easements shall be provided on the plat.
  5. Proposed drainage shall demonstrate no adverse impact on surrounding land and drainage systems.
  6. All proposed developments, except those in townships with adopted floodplain management regulations, shall be built pursuant to the Cass County Flood Damage Ordinance #1998-2, as it presently exists or may hereafter be amended.
- (d) Lot Density Restrictions. For the purpose of encouraging orderly and economically-feasible growth, preventing new developments from creating economic strains on county residents, protecting the county's valuable farmland and agricultural traditions, promoting development that will more easily convert to an urban environment and implementing the goals and objectives established by the 2005 Cass County Comprehensive Plan and supported in the 2018 Cass County Comprehensive Plan the following lot density restriction is established. This density restriction 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. Except as noted in the exemptions below, no subdivision of land shall exceed one (1) buildable lot per quarter-quarter section or government lot.
1. If the development has followed the transfer of development rights pursuant to this Ordinance and in accordance with all other required provisions of this Ordinance; or
  2. If the subdivision will be built to full urban design standards and the strictest requirements outlined within Article VI of this Ordinance; including but not limited to paved roads with curb and gutter, a paved access road, municipal sewer system, public water supply system with functioning fire hydrants, stormwater facilities, street lights, street trees, street signs, sidewalks, bike paths and park dedications.



Figure 3.

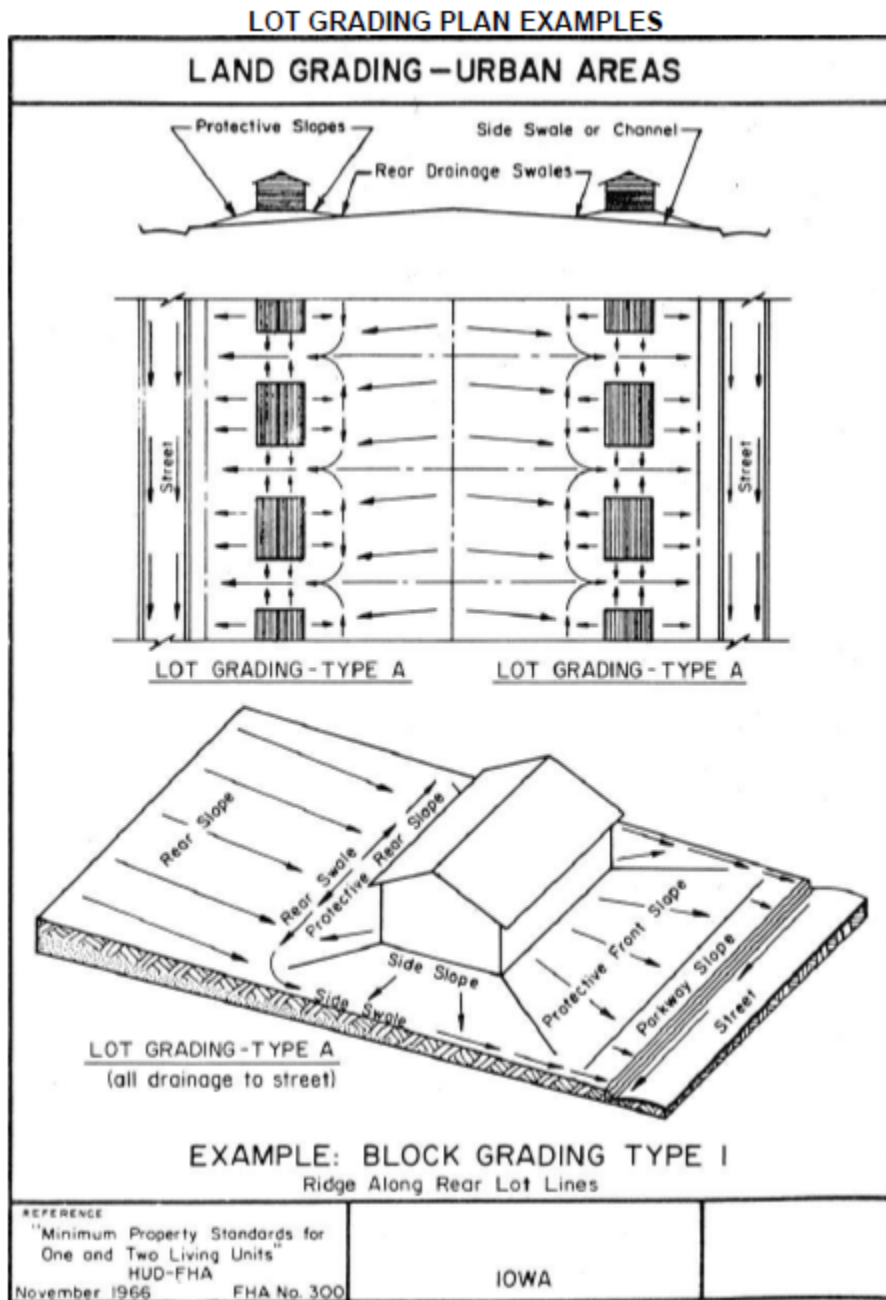


Figure 4.

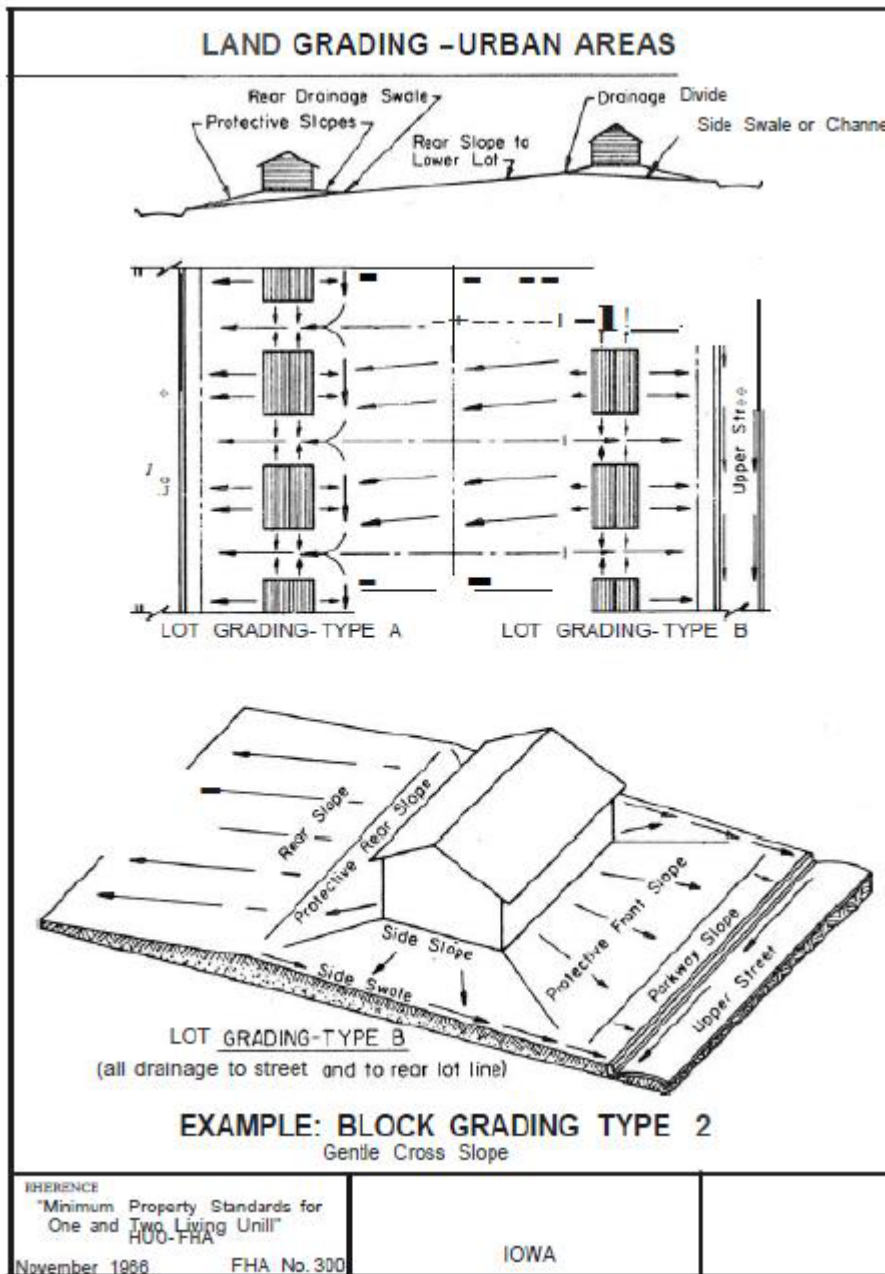
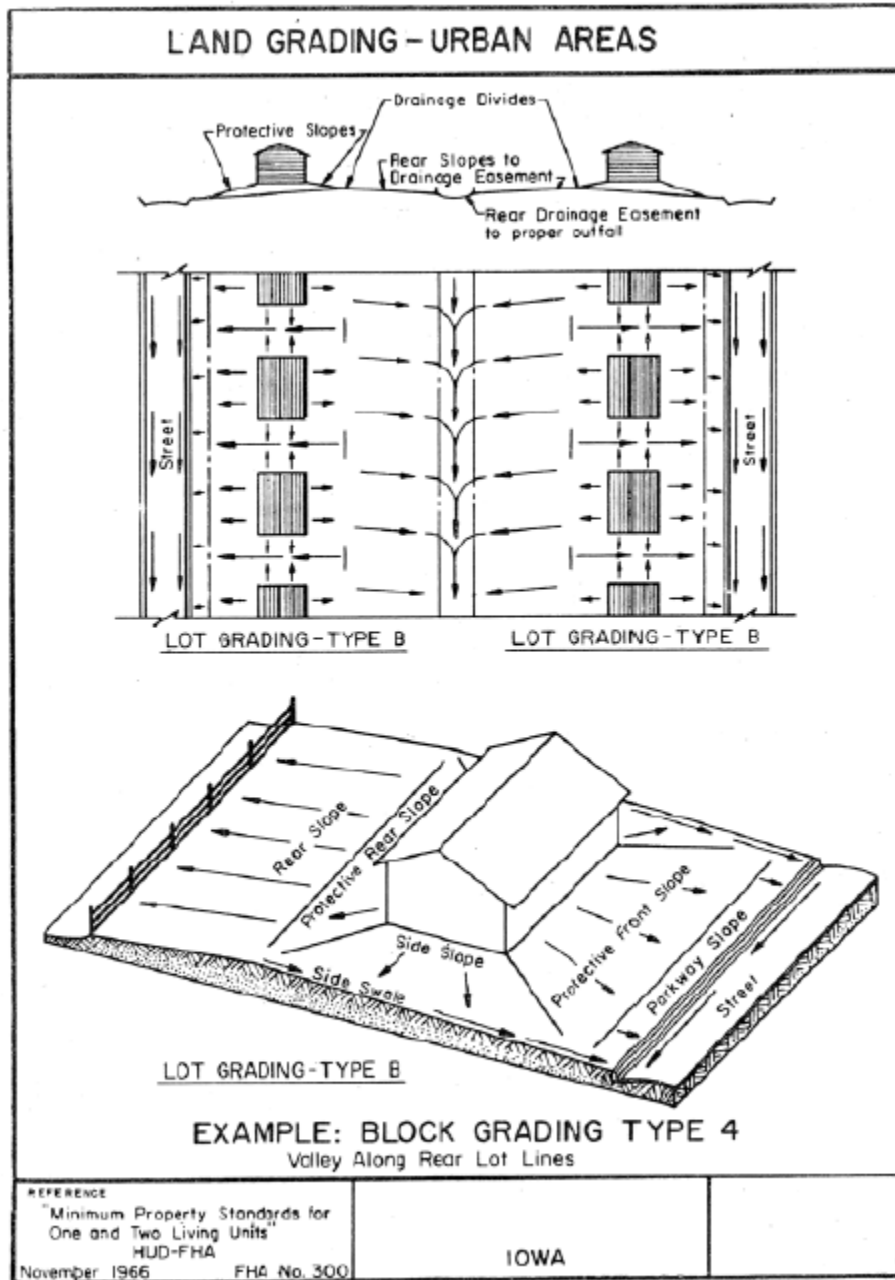
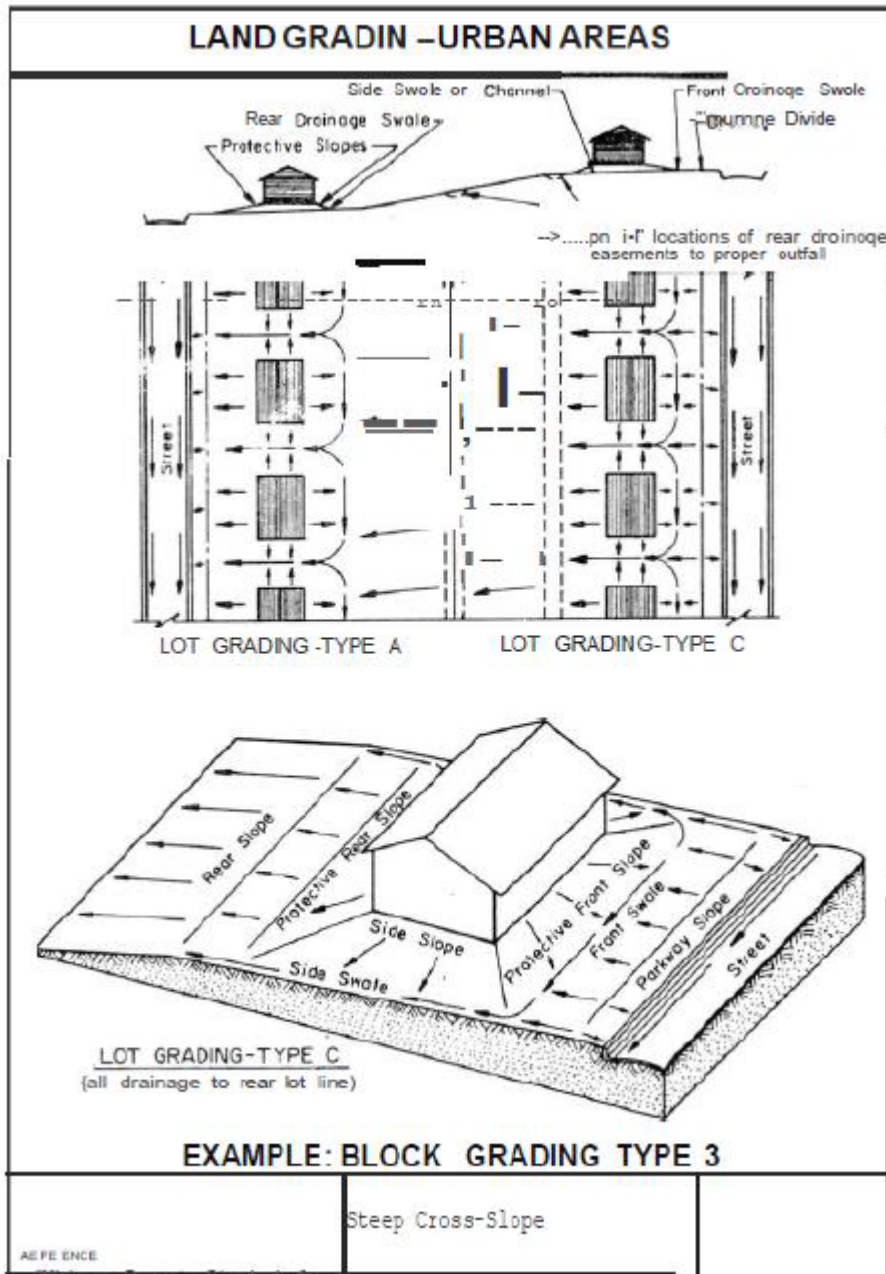


Figure 5.



Source: Iowa Department of Soil Conservation, *Guidelines for Soil and Water Conservation in Urbanizing Areas*

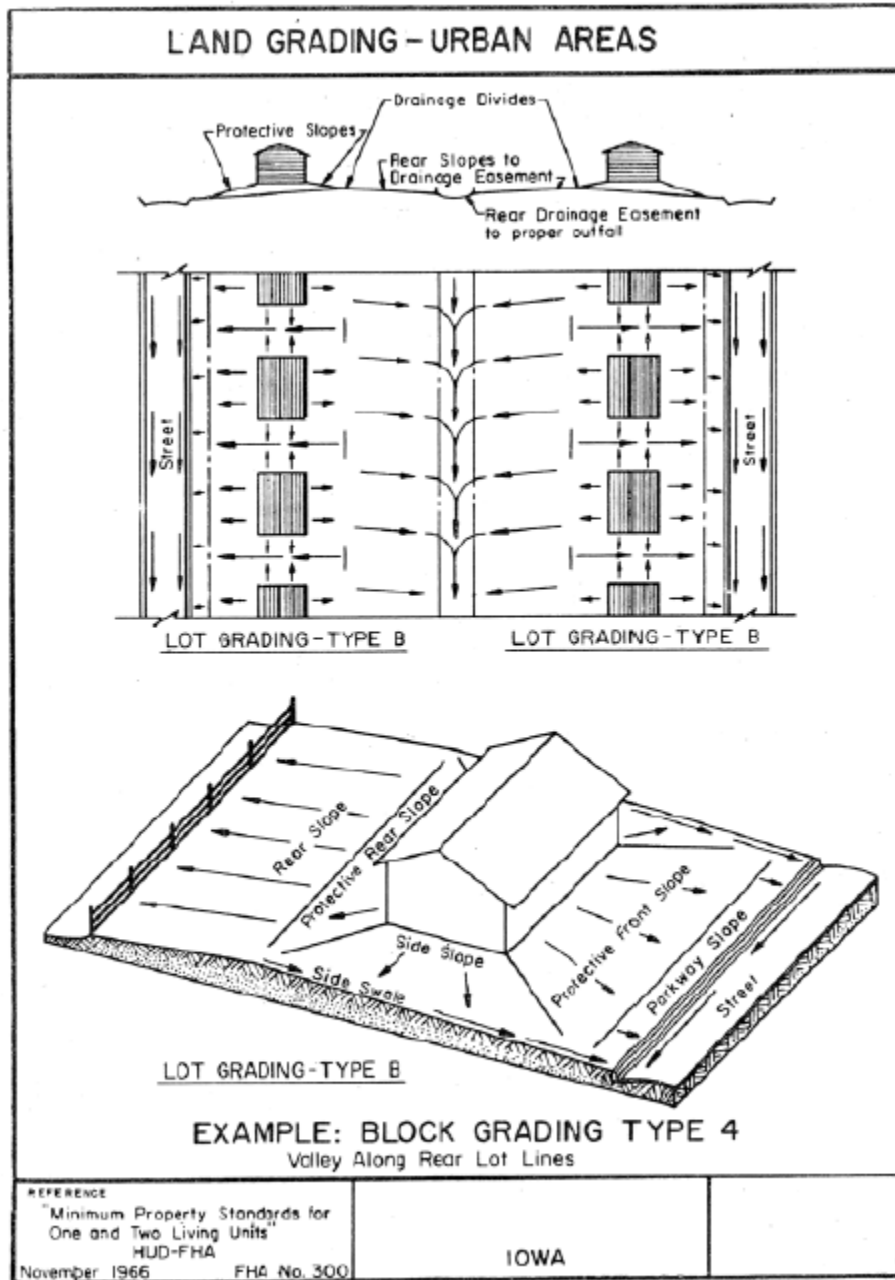
Figure 6.



REFERENCE  
Minimum Property Standards for  
One and Two Living Units"  
H.U.O.-F.H.A.  
November 1960      F.H.A. No. 300

IOWA

Figure 7.



Source: Iowa Department of Soil Conservation, *Guidelines for Soil and Water Conservation in Urbanizing Areas*



- (e) Development Rights. Except as noted below, every quarter-quarter section, government lot, or existing legally subdivided lot or “legal lot” as of March 6, 2006, is granted one (1) Development Right to create a buildable lot. Development Rights can be used, held, or transferred to contiguous properties under common ownership. Development Rights may not be transferred if the land has any one of the following characteristics:
1. Land that has an existing dwelling, either residential or agricultural. In these situations, the Development Right has been used.
  2. Land that has an existing commercial use or other non-agricultural use.
  3. Land that is not under complete and common ownership.
  4. Land that does not have a suitable building site due to a covenant, easement, conservation easement or deed restriction, unless and until such time as said covenant, easement or restriction is dissolved or rescinded.
  5. The subdivision will be built to full urban design standards and the strictest requirements outlined within Article VI of this Ordinance; including but not limited to paved roads with curb and gutter, a paved access road, municipal sewer system, public water supply system with functioning fire hydrants, stormwater facilities, streetlights, street trees, street signs, sidewalks, bike paths and park dedications.
- (f) Development Rights Transferable. Development rights can be used to increase the density permitted on contiguous land under common ownership when platted to meet all applicable requirements of this Ordinance. The development right of a property may be transferred to another eligible property. The maximum number of development rights that can be transferred onto a quarter- quarter section, government lot, or legal lot is eleven (11), therefore limiting each quarter-quarter section, government lot, or legal lot to a maximum of twelve (12) buildable lots (i.e., one permitted existing buildable lot per quarter- quarter section, government lot, or legal lot and up to eleven (11) additional transferred developable rights). Each development right that is transferred provides the receiving property with one additional buildable lot. In order to transfer a development right, the owner of the sending property must submit the following materials to the County Planner during the subdivision and platting process:
1. A copy of the Deed Restriction, as outlined in this Ordinance, expressing that a development right has been transferred to the proposed building site from a contiguous quarter-quarter section, government lot, or legal lot under common ownership.
  2. A map showing the location of the proposed building site’s quarter-quarter section, government lot, or legal lot (the receiving property) and the quarter-quarter section, government lot, or legal lot from which the development right was transferred from (the sending property) on a standard 8 ½ by 11 inch sheet of paper.
- (g) Deed Restrictions. The transfer of development rights as regulated in this Ordinance requires the sending property to be deed restricted, limiting future development on the sending property until such time as:
1. The deed restricted property is completely within the extraterritorial (ET) boundaries of an incorporated city of Cass County, or

2. The deed restricted property is completely annexed by an incorporated city of Cass County, or
3. The deed restricted property is platted as a major subdivision to be built to full urban design standards and the strictest requirements of this Ordinance; including but not limited to paved roads with curb and gutter, a paved access road, municipal sewer system, public water supply system with functioning fire hydrants, storm water facilities, streetlights, street trees, street signs, sidewalks, bike paths and park dedications.

When one of these three circumstances exist the deed restriction on the land will be retired and the property will follow the necessary procedures for development of the applicable jurisdiction.

The deed restriction shall limit any further residences, subdivisions, or nonagricultural development on the sending property, and shall be on a form provided by the County Planner and shall include the following information:

1. Record Fee Owner(s) legal name
2. Legal description of the deed restricted property
3. Agreement description stating the following:
  - a. The land meets the criteria established by this Ordinance for sending properties
  - b. The legal description of the receiving property on the adjacent quarter-quarter section, government lot, or legal lot
  - c. The described sending property cannot be developed by subdivision or construction of any further residences or nonagricultural structures or uses
  - d. Date and signature of Fee Owner(s)
  - e. Date and signature of Notary Public
  - f. Date and signature of County Engineer

When an existing deed restriction needs modification in order to accomplish a legitimate objective allowed by this Ordinance, the process, forms, and requirements applicable to the original deed restriction shall be required for the modification of the original deed restriction. The form shall be provided by the County Planner and contain the same information as was on the original deed restriction form. When a deed restriction is being retired, the retirement shall be noted on the same form as used for modifications of deed restrictions. In the event a deed restriction is retired completely, the formerly restricted property will follow the necessary procedures for development in the applicable jurisdiction.

(h) Watercourse Setback Requirements.

1. Purpose. In order to minimize the potential for slumping, bank failures, landslides, other environmental impacts, and the associated damage to structures and property certain requirements are established by this ordinance for all proposed subdivisions adjacent to blue line perennial watercourses, as identified on the most recent version of a 1:100,000 or 1:24,000 USGS quadrangle.
2. Setbacks. Applicants proposing subdivisions adjacent to blue line perennial watercourses, as identified on the most recent version of a 1:100,000 or 1:24,000 USGS quadrangle, shall

delineate building control lines on the recorded plat limiting certain activities and land uses in these designated areas.

3. Building Control Lines. Except when using the Alternate Method of establishing the Minimal Disturbance Zone Setback of this Ordinance, all subdivisions shall provide the following building control lines, measured horizontally and perpendicular from the centerline of the watercourse towards the proposed development, regulating the use and activities within these building control lines in accordance with Minimal and Limited Disturbance Zone Requirements of this Ordinance:
  - a. Minimal Disturbance Zone Setback: three hundred and fifty (350) feet for the Red and Wild Rice rivers. All other blue line perennial watercourses Minimal Disturbance Zone Setback may be based on the three hundred and fifty (350) foot setback or be equal to vertical difference between the top of bank and the river bottom (plus any additional flood plain elevation requirements) multiplied by eight (8).
  - b. Limited Disturbance Zone Setback: beginning at the outer edge of the Minimal Disturbance Zone Setback and extending one hundred (100) feet.
4. Alternate Method of establishing Minimal Disturbance Zone Setbacks. As an alternative to using the established Minimal Disturbance Zone Setback along the blue line perennial watercourses, an applicant may request to use a site specific Minimal Disturbance Zone Setback, determined as a result of a detailed geotechnical investigation. The investigation must be performed by a registered professional engineer and testing firm acceptable to the County Engineer. Sufficient number of soil borings must be performed and at appropriate locations to provide a representative sampling of the site. The soils report and determination shall use accepted engineering/ASTM evaluation methods including, but not limited to, triaxial shear test in a supersaturated condition. Borings must be of sufficient depth to allow evaluation of the soils within the Upper Brenna Formation. Report recommendations shall use a minimum 1.3 factor of safety. The County reserves the right for the County Engineer or Planning Commission to reject proposed alternate building control lines.
  - a. The alternate Minimal Disturbance Zone Setback shall meet the requirements set forth in Minimal Disturbance Zone Setback Requirements of this Ordinance.
  - b. The Limited Disturbance Zone Setback Requirements shall apply to all subdivisions employing the alternate method of establishing the Minimal Disturbance Zone Setback.
5. Minimal Disturbance Zone Setback Requirements. All property within the minimal disturbance zone setback shall conform to the following regulations:
  - a. No permanent structures shall be allowed except the following:
    - i. Stairways, lifts, and landings.
    - ii. Roads, bridges, trails, storm drainage, stormwater management facilities, and utilities are permitted within the minimal disturbance zone provided that an alternatives analysis has clearly demonstrated that no other feasible alternative exists and that minimal disturbance will take place. These structures shall be located, designed, constructed, and maintained to provide maximum erosion protection, to have the least adverse effects on wildlife, aquatic life and their habitats and to maintain hydrologic processes

and water quality. Following any disturbance, the impacted area shall be restored.

- iii. Bike paths, walking trails, or other multi-use paths.
- b. No additional fill shall be allowed, except fill required to plant new trees or vegetation pursuant to the Vegetation Standards of this Ordinance
- c. No grading shall be allowed, except grading for bank restoration in areas experiencing bank slumping.
- d. No excavating shall be allowed, except excavating required to plant new trees or vegetation pursuant to the Vegetation Standards of this Ordinance.
- e. On-site septic systems and drain fields shall not be permitted.
- f. Irrigation systems shall not be permitted.
- g. Vegetation Standards. Alterations of vegetation and topography shall prevent erosion into public waters, fix nutrients, preserve watercourse natural aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat. Removal or alterations of vegetation is allowed according to the following standards:
  - i. Intensive vegetation clearing shall not be allowed.
  - ii. Vegetation previously disturbed or disturbed during the construction of the development or dwellings shall provide native riparian vegetation cover.
  - iii. Replacement of native riparian vegetation with non-native species shall not be allowed.
  - iv. Limited clearing of trees and shrubs and cutting, pruning and trimming of trees to accommodate the placement of stairways and landings, access paths and watercraft access areas, as well as providing a view to the watercourse from the principal dwelling unit or dwelling site, provided that:
    - 1. The removal of vegetation shall be limited to a width less than six (6) feet to provide the placement of a stairway or path access to watercourse for residential lots. The removal of vegetation shall be limited to a width less than ten (10) feet to provide the placement of a stairway or path to provide access to watercourse for commercial properties or public open-space recreational properties.
    - 2. The removal of vegetation shall be limited to a width less than six (6) feet for facilities such as ramps, lifts or mobility paths for physically challenged to achieve watercourse access on residential lots. The removal of vegetation shall be limited to a width less than ten (10) feet for facilities such as ramps, lifts or mobility paths for physically handicapped persons to achieve watercourse access for commercial properties or public open-space recreational properties.
    - 3. The removal of vegetation shall be limited to an area less than forty-nine (49) square feet for stairway and lift landings on residential lots. The removal of vegetation shall be limited to eighty-one (81) square feet for landings used for commercial properties or public open-space recreational properties.

4. Limited pruning of tree limbs to afford a view of the watercourse from the principal dwelling unit or dwelling site shall be permitted and shall be performed in conformance with good nursery and landscape practices. The complete removal of trees or intensive vegetation clearing to afford a view of the watercourse shall not be permitted.
  5. The screening of structures, vehicles, or other facilities as viewed from the watercourse, assuming summer leaf-on conditions, is not substantially reduced.
  6. Along rivers, existing shading of water surfaces is preserved.
  7. The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased, or pose safety hazards.
6. Limited Disturbance Zone Setback Requirements. All property within the limited disturbance zone setback shall conform to the following regulations:
- a. No permanent structures shall be allowed except the following:
    - i. Stairways, lifts, and landings.
    - ii. Roads, bridges, trails, storm drainage, stormwater management facilities, and utilities are permitted within the minimal disturbance zone provided that an alternatives analysis has clearly demonstrated that no other feasible alternative exists, and that minimal disturbance will take place. These structures shall be located, designed, constructed, and maintained to provide maximum erosion protection, to have the least adverse effects on wildlife, aquatic life and their habitats and to maintain hydrologic processes and water quality. Following any disturbance, the impacted area shall be restored.
    - iii. Bike paths, walking trails, or other multi-use paths.
    - iv. One accessory building not to exceed one hundred and twenty (120) square feet.
  - b. No additional fill shall be allowed.
  - c. No grading shall be allowed, except grading for bank restoration in areas experiencing bank slumping.
  - d. On-site septic systems and drain fields shall not be allowed.
  - e. Irrigation systems shall not be allowed.
- (i) **Vegetative Buffer Requirements.**
1. **Purpose.** A vegetative buffer is a strip of undisturbed native vegetation, either original or reestablished, that borders streams, rivers, ponds and lakes, wetlands, and seeps. These vegetative buffer areas filter excess sediment, provide flood protection, reduce storm runoff velocities, protect channel bank areas from scour and erosion, stabilize riverbanks and provide shade to cool adjacent water.
  2. A vegetative buffer shall be required along all blue line perennial watercourses and wetlands as identified on the most recent version of a 1:100,000 or 1:24,000 USGS quadrangle map based on the following requirements.
    - a. In areas where a floodway profile has been computed as part of an approved flood study, the buffer zone shall be the width of the floodway plus at least fifty (50) feet perpendicular from the edge of the floodway on each side of the waterway.



- b. In areas where a floodway profile has not been computed as part of an approved flood study, the buffer zone shall be at least fifty (50) feet perpendicular from the top of bank on each side of the waterway.
- c. When a delineated wetland extends beyond the edge of the required buffer zone width, the buffer zone shall be adjusted so that the buffer zone consists of the extent of the delineated wetland plus twenty-five (25) feet extending perpendicular beyond the wetland edge.
- d. When a vegetative buffer is established parallel to contour lines along the watercourse and at increased widths for areas of steeper slopes, the minimum required width may be reduced in accordance with the following table:

<b>Table 1. Buffer Reduction Table</b>	
<b>Percent Slope</b>	<b>Width of Buffer</b>
0%-2%	Subtract 15 feet
3%-5%	Subtract 10 feet
6%-10%	Subtract 5 feet
11%-14%	No change

- 3. The vegetative buffer zone width shall be adjusted to meet the following requirements:
  - a. All vegetative buffer zone widths shall be adjusted if the following slopes are present within the vegetative buffer zone:

<b>Table 2. Slope-Width Table</b>	
<b>Percent Slope</b>	<b>Width of Buffer</b>
15%-17%	Add 10 feet
18%-20%	Add 30 feet
21%-23%	Add 50 feet
24%-25%	Add 60 feet

- b. If the proposed or existing land use or activity involves the storage of hazardous substances or petroleum facilities, the buffer zone width shall also be adjusted to include an additional one hundred and fifty (150) feet plus any additional distance required based on the Slope-Width Table.
    - c. If the proposed or existing land use or activity involves animal feeding operations, the buffer zone width shall also be adjusted to include an additional two hundred and fifty (250) feet, plus any additional distance required based on the Slope-Width Table.
    - d. If the proposed or existing land use or activity involves solid waste landfills or junkyards, the buffer zone width shall also be adjusted to include an additional three hundred (300) feet, plus any additional distance required based on the Slope-Width Table.
- 4. Management of the vegetative buffer zone includes specific limitations on alteration of the natural conditions pursuant to the minimal and limited disturbance zone setbacks of this Ordinance.
- 5. Stream banks and other areas within the vegetative buffer zone must be left in a stabilized condition upon completion of the development activities. The vegetative condition of the entire streamside vegetative buffer zone must be monitored, and landscaping or

stabilization performed to repair erosion, damaged or removed vegetation, bare ground, or other problems identified. Only native riparian vegetation may be used in conjunction with stabilization activities.

6. All vegetative buffer zones must be protected during development activities. Prior to the initiation of development activities, ensure adequate visibility of the water quality buffer zones by staking and flagging. Vegetative buffer zones, except vegetative buffer zones that are completely within the limited or minimal disturbance zone setbacks, shall be surveyed and iron pins set in the ground on side lots lines.

(j) Erosion and Sedimentation Requirements.

1. Purpose. In order to minimize erosion and sedimentation, certain requirements shall apply to all sites disturbing one or more acres of land by grading or excavation. The following standards are intended to ensure conformance with requirements established by the ND Department of Environmental Quality.
2. No changes shall be made in the contour of the land; no grading, excavating, removal, or destruction of topsoil, trees, or other vegetative cover of the land shall be commenced within a proposed subdivision tract until such time that a plan for minimizing erosion and sedimentation control has been reviewed by the Planning Commission and the County Engineer.
3. The following measures are effective in minimizing erosion and sedimentation and shall be included where applicable in the control plan using the ND Department of Transportation Erosion and Sediment Control Handbook, as it presently exists or may hereafter be amended.
  - a. Stripping of vegetation and grading shall be kept to a minimum;
  - b. Development plans shall preserve significant natural features, cut and fill operations shall be kept to a minimum and plans shall conform with the topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.
  - c. Whenever feasible, natural vegetation shall be retained, protected, and supplemented.
  - d. The disturbed area and the duration of exposure shall be kept to a practical minimum.
  - e. Disturbed soils shall be stabilized by permanent vegetation and/or by engineered erosion control and drainage measures as soon as practicable in the development process.
  - f. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
  - g. Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary the rate of surface water runoff will be mechanically retarded.
  - h. Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of debris basins, sediment basins, silt traps, or similar measures.
  - i. Basin and perimeter controls shall be established at the commencement of work on the site.
  - j. Storage piles shall be protected and stabilized within thirty (30) days.

- k. Earth or paved interceptors and diversions shall be installed at the top of cut or fill slopes where there is a potential for erosive surface runoff.
- 4. In order to prevent pollution of any watercourse and to reduce erosion of soil, sediment control devices shall be installed prior to any grading, filling, or excavation. Such devices shall be designed to retain sediment on the site or flowing adjacent to the site.
- 5. Within thirty (30) days after completion of grading, all surfaces disturbed by vegetation removal, grading, haul roads, or other construction activity that alters natural vegetative cover, are to be revegetated to control erosion, unless covered with impervious or other improved surfaces authorized by approved plans. Erosion controls may include any combination of approved engineering or vegetative measures using the NDDOT Erosion and Sediment Control Handbook, as it presently exists or may hereafter be amended.
- 6. Within thirty (30) days after completion of grading, all surfaces disturbed by vegetation removal, grading, haul roads, or other construction activity that alters natural vegetative cover, are to be revegetated to control erosion, unless covered with impervious or other improved surfaces authorized by approved plans. Erosion controls may include any combination of approved engineering or vegetative measures using the NDDOT Erosion and Sediment Control Handbook, as it presently exists or may hereafter be amended.