



MEMORANDUM

Highway Department

Jason, Benson, P.E.
County Engineer

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

Blaine Laaveg
Superintendent

TO: Cass County Board of Commissioners
FROM: Grace Puppe, Cass County Planner
DATE: June 23, 2022
SUBJECT: Consent Agenda Topic for the July 5, 2022
Commission Meeting: Douglas Bower
Subdivision Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Page Township, Section 18 at a Public Hearing on June 23, 2022. The intended purpose of the subdivision is to split the existing residential portion of a farmstead off from the quarter section of land.

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

SUGGESTED MOTION:

To accept the findings and recommendations of the Planning Commission and staff and recommend approval of the Final Plat, as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance, and all other applicable regulations.



Cass County Planning Commission Staff Report

Entitlements Requested:	Minor Subdivision (1 Lot) of a part of the SW ¼ of Section 18, Township 143 North, Range 54 West		
Title:	Douglas Bower Subdivision	Date:	06-10-2022
		Update:	06-23-2022
Location:	SW ¼ of Section 18, Township 143 North, Range 54 West (Page Township)	Staff Contact:	Grace Puppe
Parcel Number:	56-0000-09981-000	Water District:	Maple River Water District
Owner(s)/Applicant:	Beverly Bower and MT, LLLP Michelle Thompson	Engineer/Surveyor:	Houston
Status:	Planning Commission Hearing: June 23, 2022 County Commission Meeting: July 5, 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	
County Engineer	Since there is no new construction a lot grading plan is not needed.
Water Resource District	No comments were received prior to publishing the staff report.
Cass County Electric Cooperative	No comments were received prior to publishing the staff report.
Century Link	No comments were received prior to publishing the staff report.
Sprint	Sprint is clear of the project.
AT&T	No comments were received prior to publishing the staff report.
Xcel Energy	No comments were received prior to publishing the staff report.

Otter Tail Power Company	No comments were received prior to publishing the staff report.
Magellan Pipeline Company	No comments were received prior to publishing the staff report.
NuStar Energy	No comments were received prior to publishing the staff report.
Cass Rural Water	No comments as the application lists the water source as private.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	No issues with the proposed subdivision.
Township Chairman	No comments were received prior to publishing the staff report.
The City of Fargo	No comment.
The City of West Fargo	No comments were received prior to publishing the staff report.
Public Comment	No comments were received prior to publishing the staff report.

Staff Analysis

Land Use and Surrounding Uses

The subject property is bound by agricultural production land on the west, north and south. Township road 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 with the variance request as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance and all other applicable regulations.

Attachments

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

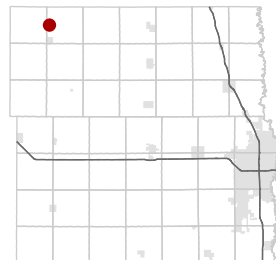
Minor Subdivision

Douglas Bower Subdivision

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



DOUGLAS BOWER SUBDIVISION

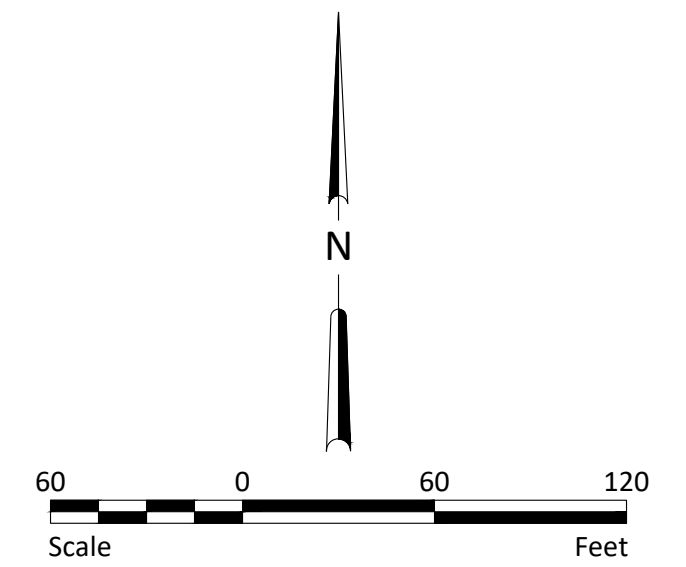
BEING A PLAT OF PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER
SECTION 18, T. 143 N., R. 54 W., 5th P.M.
CASS COUNTY, NORTH DAKOTA

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	- - - - -
OVERHEAD ELEC. POWER LINE	- - - - -

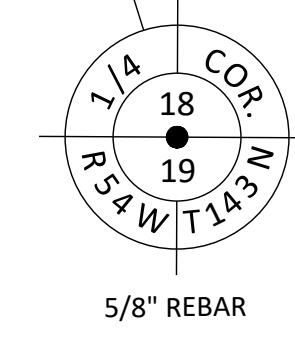
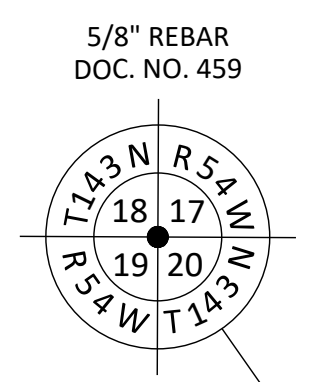
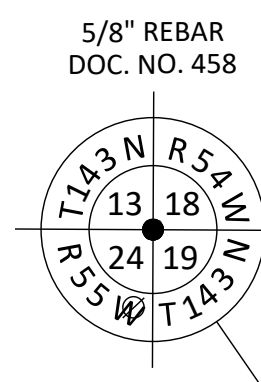
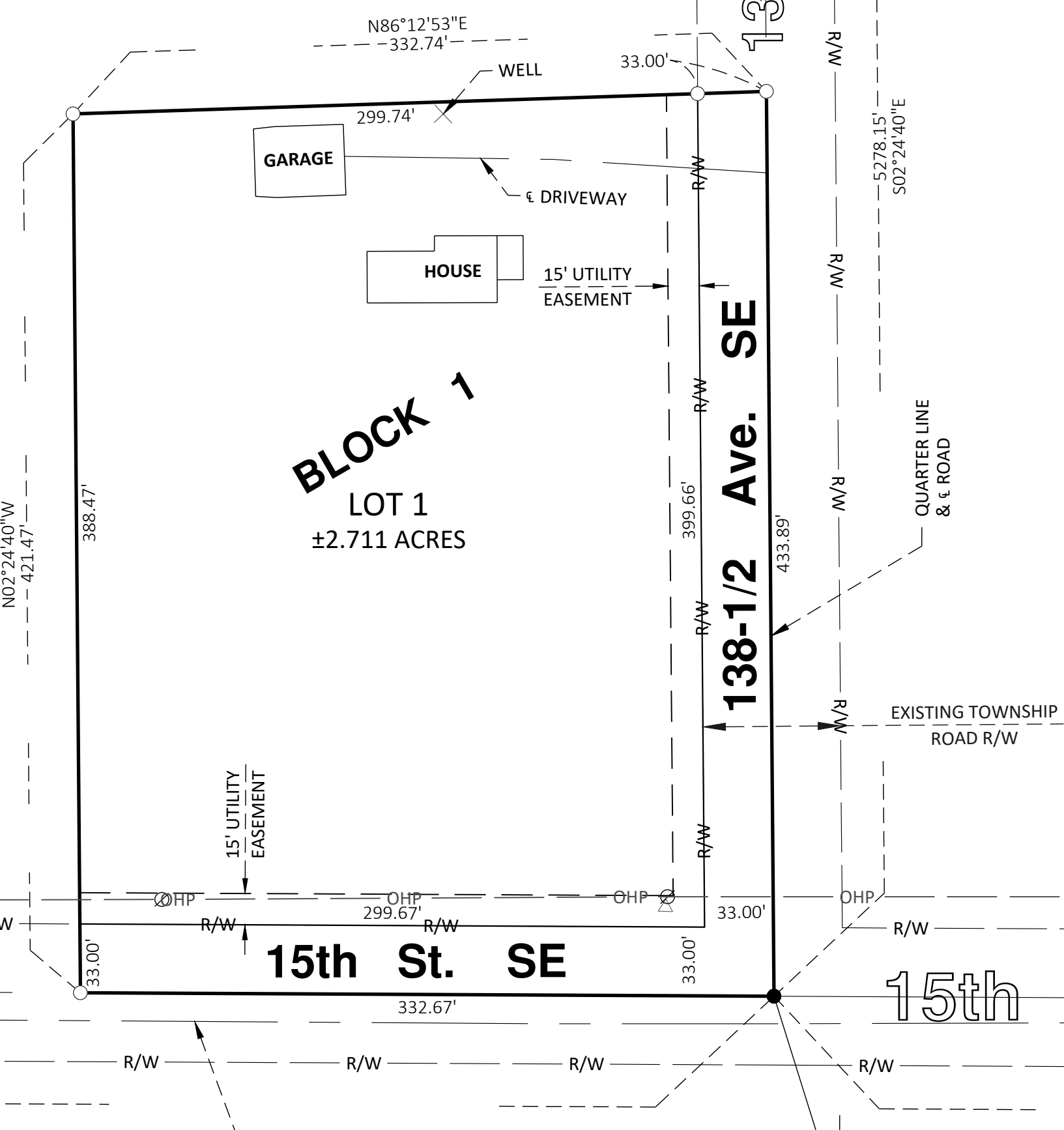
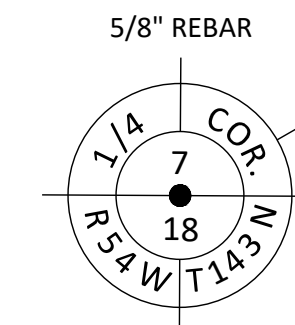
BEARINGS SHOWN ARE BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM (NAD83) - SOUTH ZONE

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



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 21st 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

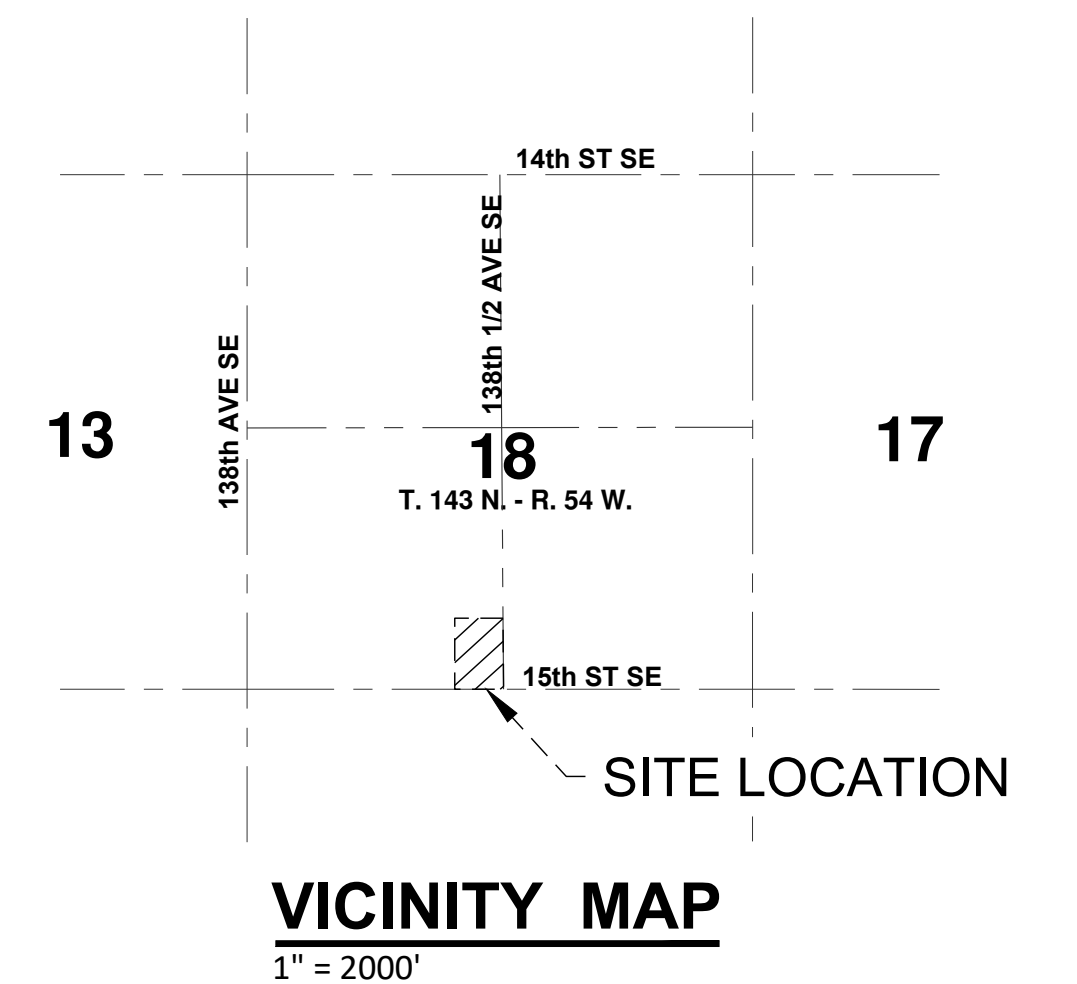
Attest: _____
Secretary

Cass County Board of Commissioners' Approval:

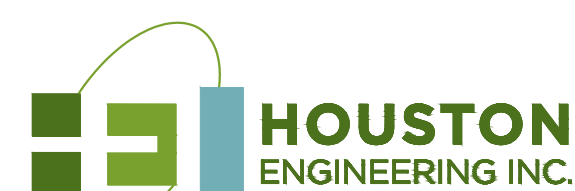
Approved by Cass County, North Dakota, this ____ day of _____, 20____.

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.

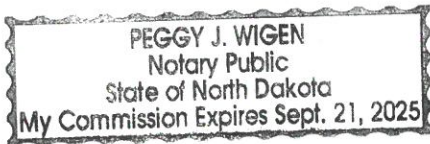
IN WITNESS of the restrictions, the Owner(s) have caused this DEED RESTRICTION to be executed effective as of:

Michelle Thompson
Michelle Thompson, General Partner

6-8-22
Date

State of North Dakota)
) ss
County of Cass)

On this 8th 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)
) 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