



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: September 26, 2022
SUBJECT: Consent Agenda Topic for the October 5, 2022
Commission Meeting: Kellerman David
Subdivision Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Highland Township, Section 25 at a Public Hearing on September 22, 2022. The intended purpose of the subdivision is to separate the house from surrounding property to sell

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

SUGGESTED MOTION:

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



Cass County Planning Commission Staff Report

Entitlements Requested:	Minor Subdivision (1 Lot) of a part of the SE ¼ of Section 25, Township 137 North, Range 54 West		
Title:	Kellerman David Subdivision	Date:	09-09-2022
		Update:	09-26-2022
Location:	SE ¼ of Section 25, Township 137 North, Range 54 West (Highland Township)	Staff Contact:	Grace Puppe
Parcel Number:	45-0000-06706-030	Water District:	Maple River Water District
Owner(s)/Applicant:	David & Jean Kellerman	Engineer/Surveyor:	Houston Engineering
Status:	Planning Commission Hearing: September 22, 2022 County Commission Hearing: October 5, 2022		

Existing Land Use	Proposed Land Use
Residential	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Kellerman David Subdivision** to plat a one (1) Lot subdivision of approximately 1 acre. According to the applicant, the subdivision is requested to separate the house from surrounding property to sell.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 53rd St SE road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments	
County Engineer	No comments or issues with this application.
Water Resource District	No comments.
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.
AT&T	No comments were received prior to publishing the staff report.
Xcel Energy	No comments were received prior to publishing the staff report.

Otter Tail Power Company	No comments were received prior to publishing the staff report.
Magellan Pipeline Company	No comments were received prior to publishing the staff report.
NuStar Energy	No comments were received prior to publishing the staff report.
Cass Rural Water	This site currently has rural water service.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	The department has no issues with this subdivision as proposed.
Township Chairman	Meets the zoning and floodplain requirements for the township.
The City of Fargo	The proposed Kellerman David Subdivision is located in Section 25 of Highland Township. This location is outside of Fargo’s city limits and extra-territorial jurisdiction (ETJ). We have 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 north and east with a farmstead to the west. Township road 53rd 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.

Attachments

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

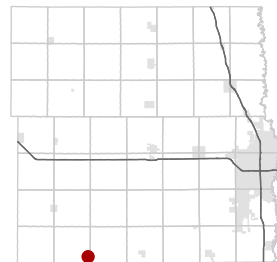
Minor Subdivision

Kellerman David Subdivision

Highland Twp, Section 25 - Township 137 North - Range 54 West



Cass County Planning Commission
September 22, 2022

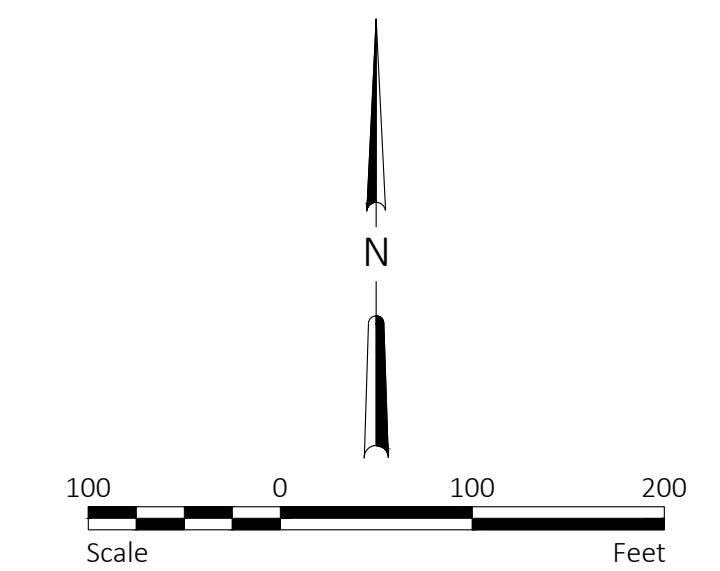
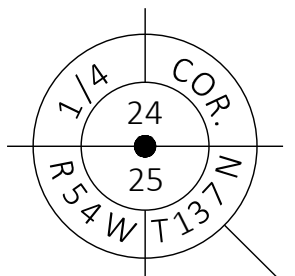


Maps and data are to be used for reference purposes only and Cass County, ND, is not responsible for any inaccuracies herein contained. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



KELLERMAN DAVID SUBDIVISION

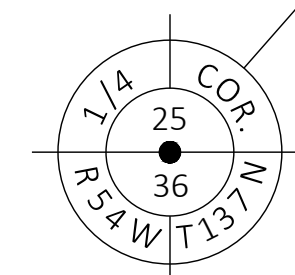
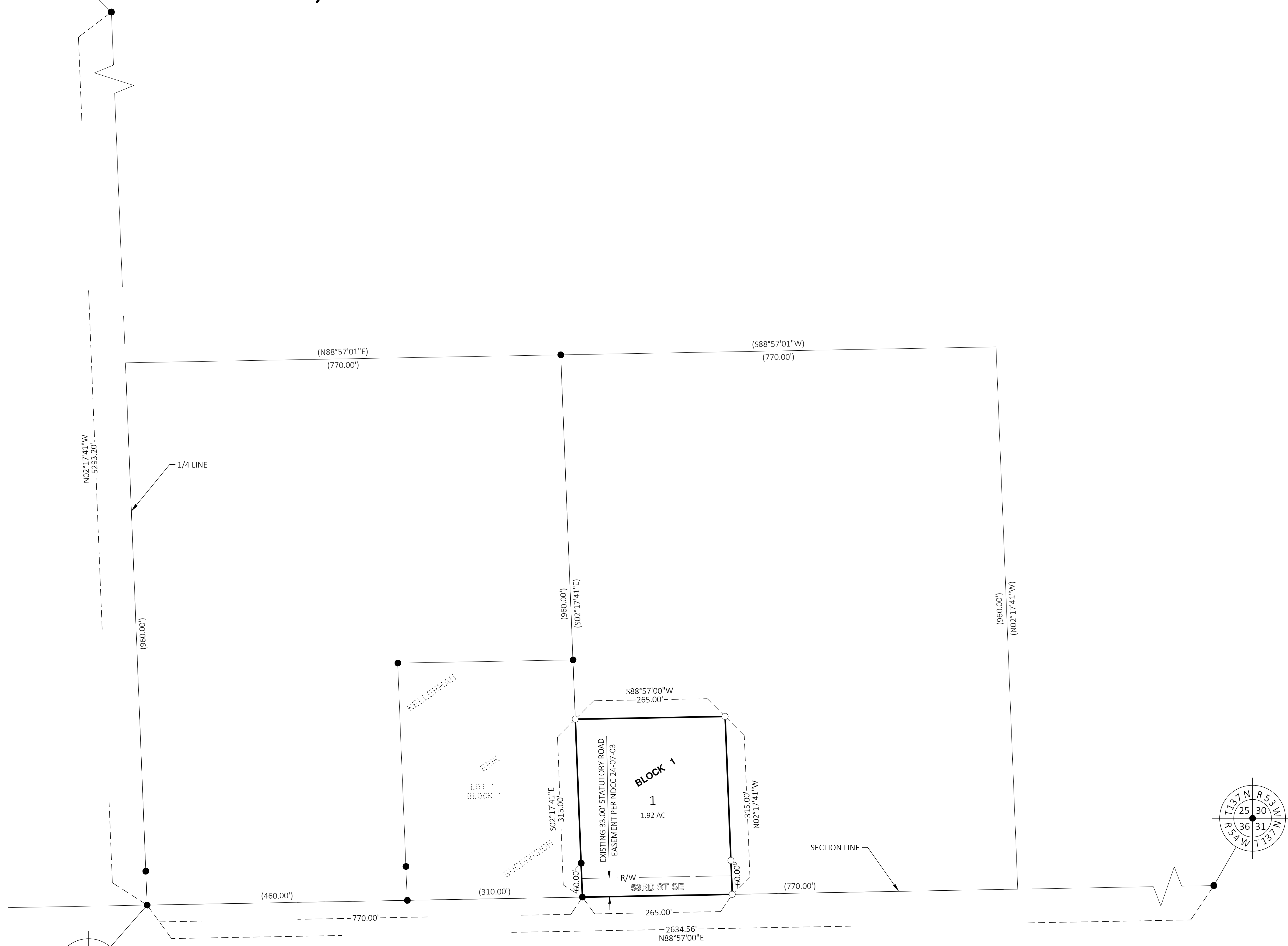
BEING A PLAT OF PART OF THE SW 1/4 OF THE SE 1/4
 SEC. 25, T. 137 N., R. 54 W., 5th P.M.
 CASS COUNTY, NORTH DAKOTA



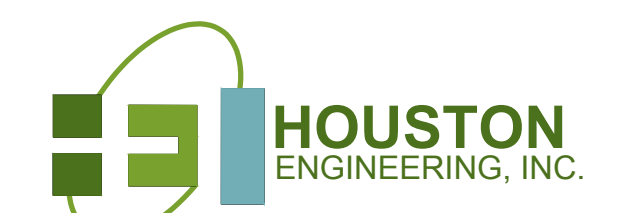
LEGEND

IRON MONUMENT FOUND	●
1/2" I.D. PIPE SET	○
MEASURED BEARING	N00°00'00"E
PLAT BEARING	(N00°00'00"E)
MEASURED DISTANCE	100.00'
PLAT DISTANCE	(100.00')
PLAT BOUNDARY	—————
LOT LINE	—————
UTILITY EASEMENT	- - - - -
EXISTING LOT LINE	—————
EXISTING UTILITY EASEMENT	- - - - -
NEGATIVE ACCESS EASEMENT	XXXXXX

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.



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KELLERMAN DAVID SUBDIVISION

BEING A PLAT OF PART OF THE SW 1/4 OF THE SE 1/4
SEC. 25, T. 137 N., R. 54 W., 5th P.M.

CASS COUNTY, NORTH DAKOTA

Surveyor's Certificate:

I, James A. Schlieman, 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.

James A. Schlieman
North Dakota PLS No. 6086
jschlieman@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 James A. Schlieman, 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

Cass County Planning Commission:

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

Ken Lougheed, Chair

Attest: _____
Secretary

Highland Township:

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

Dean Sprunk, Chair

Attest: _____
Christina Sprunk, Clerk/Treasurer

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

Owners' Certificate and Dedication:

Know All Persons By These Presents: That the David Kellerman Revocable Living Trust under agreement dated December 27, 2012 is the owner and proprietor of the following described tract of land:

That part of the Southwest Quarter of the Southeast Quarter of Section 25, Township 137 North, Range 54 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Southeast Quarter; thence North 88°57'00" East, along the southerly line of said Southeast Quarter, for a distance of 770.00 feet to the southeast corner of Lot 1, Block 1 of Kellerman Erik Subdivision and the true point of beginning; thence North 88°57'00" East, along the southerly line of said Southeast Quarter, for a distance of 265.00 feet; thence North 02°17'41" West for a distance of 315.00 feet; thence South 88°57'00" West, parallel with the southerly line of said Southeast Quarter, for a distance of 265.00 feet to a point of intersection with the easterly line of said Lot 1; thence South 02°17'41" East, along the easterly line of said Lot 1, for a distance of 315.00 feet to the true point of beginning.

Said tract contains 1.92 acres, more or less.

And that said party has caused the same to be surveyed and platted as **KELLERMAN DAVID SUBDIVISION** and does hereby dedicate to the public, for public use, and the easements as shown on the plat.

In witness whereof we have set our hands and seals:

Owner:
David Kellerman Revocable Living Trust
under agreement dated December 27, 2012

David Kellerman, Trustee

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 David Kellerman, Trustee for the David Kellerman Revocable Living Trust under agreement dated December 27, 2012, known to be the person described in and who executed the foregoing instrument and acknowledged that he executed same on behalf of said trust.

Notary Public: _____

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DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 29 day of July, 2022, by Owner(s): David Kellerman

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 NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 25, Township 137 North, Range 54 west of the Fifth Principal Meridian, Cass County, North Dakota.



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: September 26, 2022
SUBJECT: Consent Agenda Topic for the October 5, 2022
Commission Meeting: Bush Subdivision
Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Erie Township, Section 34 at a Public Hearing on August 18, 2022. The intended purpose of the subdivision is to separate the house from surrounding agricultural land.

The Planning Commission is recommending approval of the proposed plat entitlement request and Erie 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 S ½ of Section 34, Township 142 North, Range 53 West		
Title:	Bush Subdivision	Date:	08-09-2022
		Update:	09-26-2022
Location:	S ½ of Section 34, Township 142 North, Range 53 West (Erie Township)	Staff Contact:	Grace Puppe
Parcel Number:	37-0000-04647-000; 37-0000-04648-000	Water District:	Rush River Water District
Owner(s)/Applicant:	Lowell Albert	Engineer/Surveyor:	Neset
Status:	Planning Commission Hearing: August 18, 2022 County Commission Hearing: October 5, 2022		

Existing Land Use	Proposed Land Use
Residential	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Bush Subdivision** to plat a one (1) Lot subdivision of approximately 23.95 acres. According to the applicant, the subdivision is requested to separate the farmstead from surrounding agricultural land.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 24th St SE road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments	
County Engineer	No issues
Water Resource District	No comments were received prior to publishing the staff report.
Cass County Electric Cooperative	Currently serves the existing account.
Century Link	No comments were received prior to publishing the staff report.
Sprint	Clear.
AT&T	No comments were received prior to publishing the staff report.
Xcel Energy	No comments were received prior to publishing the staff report.

Otter Tail Power Company	No comments were received prior to publishing the staff report.
Magellan Pipeline Company	No comments were received prior to publishing the staff report.
NuStar Energy	No comments were received prior to publishing the staff report.
Cass Rural Water	No comments were received prior to publishing the staff report.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	No issues.
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 north, west and east. Township road 24th St SE borders the south of the property.

Floodzone

According to the FEMA Flood Map Service Center, this property is unmapped, and no 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.

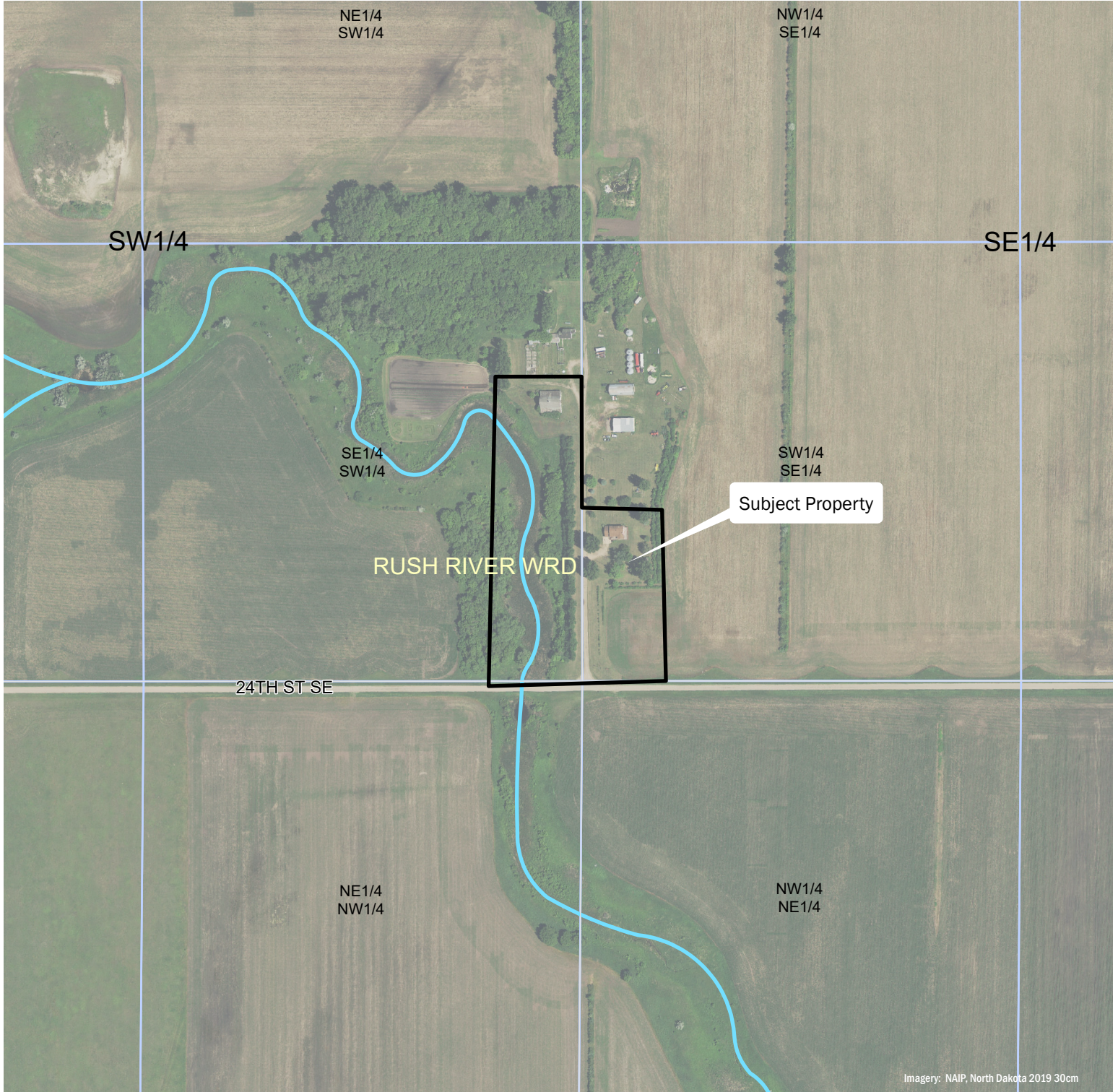
Attachments

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

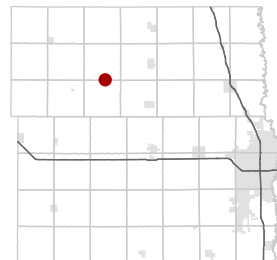
Minor Subdivision

Bush Subdivision

Erie Twp, Section 34 - Township 142 North - Range 53 West



Cass County Planning Commission
August 18, 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.



DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 7th day of July, 2022, by Owner(s): Lowell Albert

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 PARCELS

THE S1/2 OF THE NE1/4 OF THE SW1/4 AND THE SE1/4 OF THE SW1/4 AND THE SW1/4 OF THE SE1/4 OF SECTION 34, TOWNSHIP 142 NORTH, RANGE 53 WEST, CASS COUNTY, NORTH DAKOTA LESS THE FOLLOWING:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 34; THENCE N87°48'50"E ALONG THE SOUTH LINE OF SAID SECTION A DISTANCE OF 2224.38 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N87°48'50"E ALONG SAID LINE A DISTANCE OF 1022.06 FEET; THENCE N02°08'29"W A DISTANCE OF 686.50 FEET; THENCE S87°48'50"W A DISTANCE OF 606.09 FEET TO THE QUARTER LINE OF SAID SECTION; THENCE N02°08'29"W ALONG SAID QUARTER LINE A DISTANCE OF 823.19 FEET; THENCE S87°48'50"W A DISTANCE OF 415.37 FEET; THENCE S02°08'29"E A DISTANCE OF 1509.70 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS ±23.95 ACRES MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.



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: September 26, 2022
SUBJECT: Consent Agenda Topic for the October 5, 2022
Commission Meeting: Dean Rust Subdivision
Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Raymond Township, Section 3 at a Public Hearing on August 18, 2022. The intended purpose of the subdivision is to separate the house from surrounding agricultural land.

The Planning Commission is recommending approval of the proposed plat entitlement request and Raymond 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 3, Township 140 North, Range 50 West		
Title:	Dean Rust Subdivision	Date:	08-09-2022
		Update:	09-26-2022
Location:	SW ¼ of Section 3, Township 140 North, Range 50 West (Raymond Township)	Staff Contact:	Grace Puppe
Parcel Number:	59-0000-10815-000	Water District:	Rush River Water District
Owner(s)/Applicant:	Dean Rust	Engineer/Surveyor:	Neset
Status:	Planning Commission Hearing: August 18, 2022 County Commission Hearing: October 5, 2022		

Existing Land Use	Proposed Land Use
Residential	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Dean Rust Subdivision** to plat a one (1) Lot subdivision of approximately 14.64 acres. According to the applicant, the subdivision is requested to separate the farmstead from surrounding agricultural land.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing Cass County Hwy 22 road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments	
County Engineer	Require 75' of ROW along Cass 22.
Water Resource District	No comments were received prior to publishing the staff report.
Cass County Electric Cooperative	Currently serves the existing account.
Century Link	No comments were received prior to publishing the staff report.
Sprint	Clear.
AT&T	No comments were received prior to publishing the staff report.
Xcel Energy	No comments were received prior to publishing the staff report.

Otter Tail Power Company	No comments were received prior to publishing the staff report.
Magellan Pipeline Company	No comments were received prior to publishing the staff report.
NuStar Energy	No comments were received prior to publishing the staff report.
Cass Rural Water	No comments were received prior to publishing the staff report.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	No issues.
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 north and west. Township road 105th St N borders the east of the property and Cass County Hwy 22 borders the south.

Floodzone

According to the FEMA Flood Map Service Center, this property is not Special Hazard Flood Area. 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.

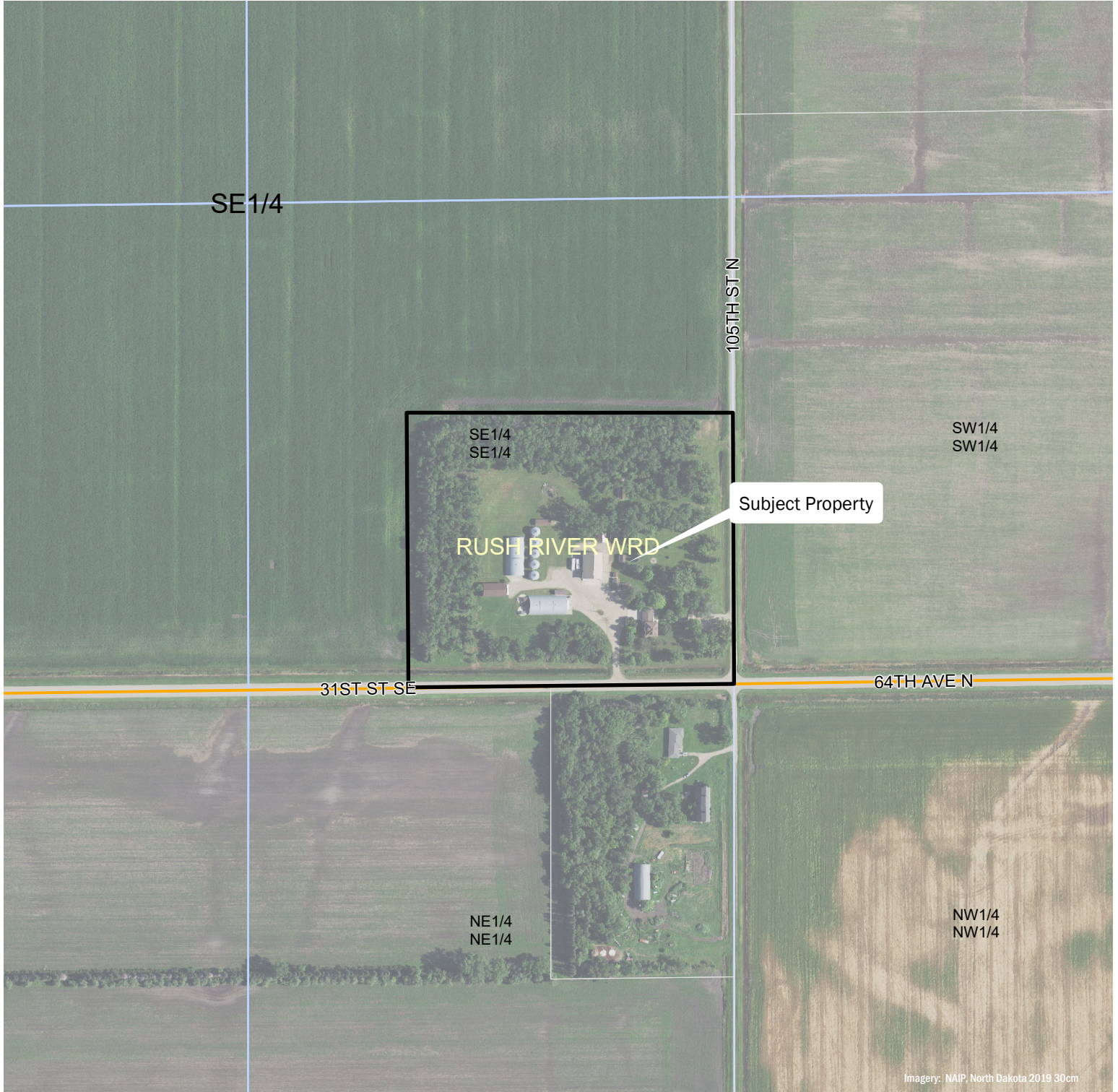
Attachments

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

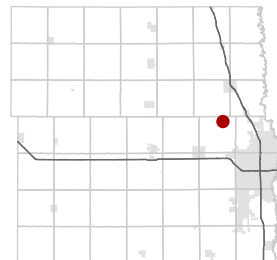
Minor Subdivision

Dean Rust Subdivision

Raymond Twp, Section 3 - Township 140 North - Range 50 West



Cass County Planning Commission
August 18, 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.



DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 6th day of July, 2022, by Owner(s): Dean & Gwendolyn Rust

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 SE1/4 OF THE SE1/4 OF SECTION 3, TOWNSHIP 140 NORTH, RANGE 50 WEST, CASS COUNTY, NORTH DAKOTA, LESS THE FOLLOWING:

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 3; THENCE S89°53'11"W ON AN ASSUMED BEARING ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 865.00 FEET; THENCE N00°21'55"E A DISTANCE OF 745.00 FEET; THENCE S89°07'12"E A DISTANCE OF 865.00 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER; THENCE S00°21'54"W ALONG SAID EAST LINE A DISTANCE OF 730.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS ±14.64 ACRES MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

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

Dean Rust
Dean Rust

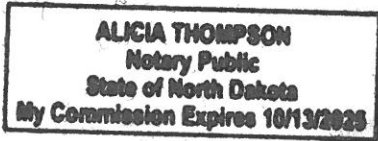
7-6-22
Date

Gwendolyn Rust
Gwendolyn Rust

7-6-22
Date

State of North Dakota)
County of Cass) ss

On this 6th day of July, 2022, before me, a notary public within and for said county and state, personally appeared Dean & Gwendolyn Rust, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same.



Alicia Thompson
Notary Public

The foregoing instrument was acknowledged before me, this _____ day of _____, 2022, by Jason Benson, County Engineer.

County Engineer Signature

Date

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 2022, 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