



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: October 31, 2022
SUBJECT: Consent Agenda Topic for the November 7, 2022
Commission Meeting: Cliffhanger Landing Third
Subdivision Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Pleasant Township, Section 29 at a Public Hearing on October 27, 2022. The intended purpose of the subdivision is to replat lots 1, 4, 5 & 6, Block 1, Cliffhanger Landing Second Subdivision to separate the house for mortgage.

The Planning Commission is recommending approval of the proposed plat entitlement request and Pleasant 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 (2 Lot) of a part of the NE ¼ of Section 29, Township 137 North, Range 49 West | | |
| Title: | Cliffhanger Landing Third Subdivision | Date: | 10/12/2022 |
| | | Update: | 10/31/2022 |
| Location: | NE ¼ of Section 29, Township 137 North, Range 49 West (Pleasant Township) | Staff Contact: | Grace Puppe |
| Parcel Number: | 57-0350-00010-000 | Water District: | Southeast Water District |
| Owner(s)/Applicant: | Ryan & Amanda McDowell | Engineer/Surveyor: | Houston Engineering |
| Status: | Planning Commission Hearing: October 27, 2022 County Commission Meeting: November 7, 2022 | | |

| Existing Land Use | Proposed Land Use |
|-------------------|-------------------|
| Residential | Residential |
| Proposal | |

The applicant is seeking approval of a minor subdivision entitled **Cliffhanger Landing Third Subdivision** to plat a two (2) Lot subdivision of approximately 13 acres. According to the applicant, the subdivision is requested to replat lots 1, 4, 5 & 6, Block 1, Cliffhanger Landing Second Subdivision to separate the house for mortgage.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 171st Ave SE and 52nd St SE (CR 18) road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

| Agency Comments | |
|---|---|
| County Engineer | I'm ok with the lot grading as this is an existing farmstead. No new access will be allowed off of Cass 18, use existing access only. Existing 75' ROW along Cass 18 is satisfactory. |
| Water Resource District | No comments were received prior to publishing the staff report. |
| Cass County Electric Cooperative | No comments were received prior to publishing the staff report. |
| Century Link | No comments were received prior to publishing the staff report. |
| Sprint | Clear |
| AT&T | No comments were received prior to publishing the staff report. |

| | |
|--|--|
| Xcel Energy | No comments were received prior to publishing the staff report. |
| Otter Tail Power Company | No comments were received prior to publishing the staff report. |
| Magellan Pipeline Company | No comments were received prior to publishing the staff report. |
| NuStar Energy | No comments were received prior to publishing the staff report. |
| Cass Rural Water | No comments. |
| North Dakota Department of Transportation | No comments were received prior to publishing the staff report. |
| County Sanitarian | No comments were received prior to publishing the staff report. |
| Township Chairman | The subdivision meets the zoning and floodplain requirements of Pleasant Township. |
| The City of Fargo | No comments were received prior to publishing the staff report. |
| The City of West Fargo | No comments were received prior to publishing the staff report. |
| Public Comment | No comments were received prior to publishing the staff report. |

Staff Analysis

Land Use and Surrounding Uses

The subject property is bound by agricultural production land on the west and south. Township road 171st Ave SE borders the east of the property with County Road 18 to the north.

Floodzone

According to the FEMA Flood Map Service Center, this property is currently not in a Special Hazard Flood Area. In addition, wetlands are located in the northwest corner of the proposed subdivision lot 1.

Land Development Rights

The subject quarter-quarter section currently has previously been platted. Since the number of lots is not increasing no additional development rights are required.

Staff Recommendation

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

Attachments

1. Location Map
2. Plat Document

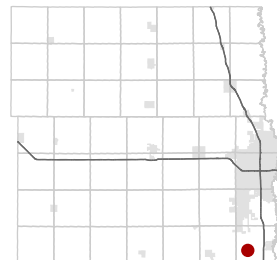
Minor Subdivision

Cliffhanger Landing Third Subdivision Pleasant Twp, Section 29 - Township 137 North - Range 49 West



Imagery: NAIP, North Dakota 2019 30cm

Cass County Planning Commission
October 27, 2022

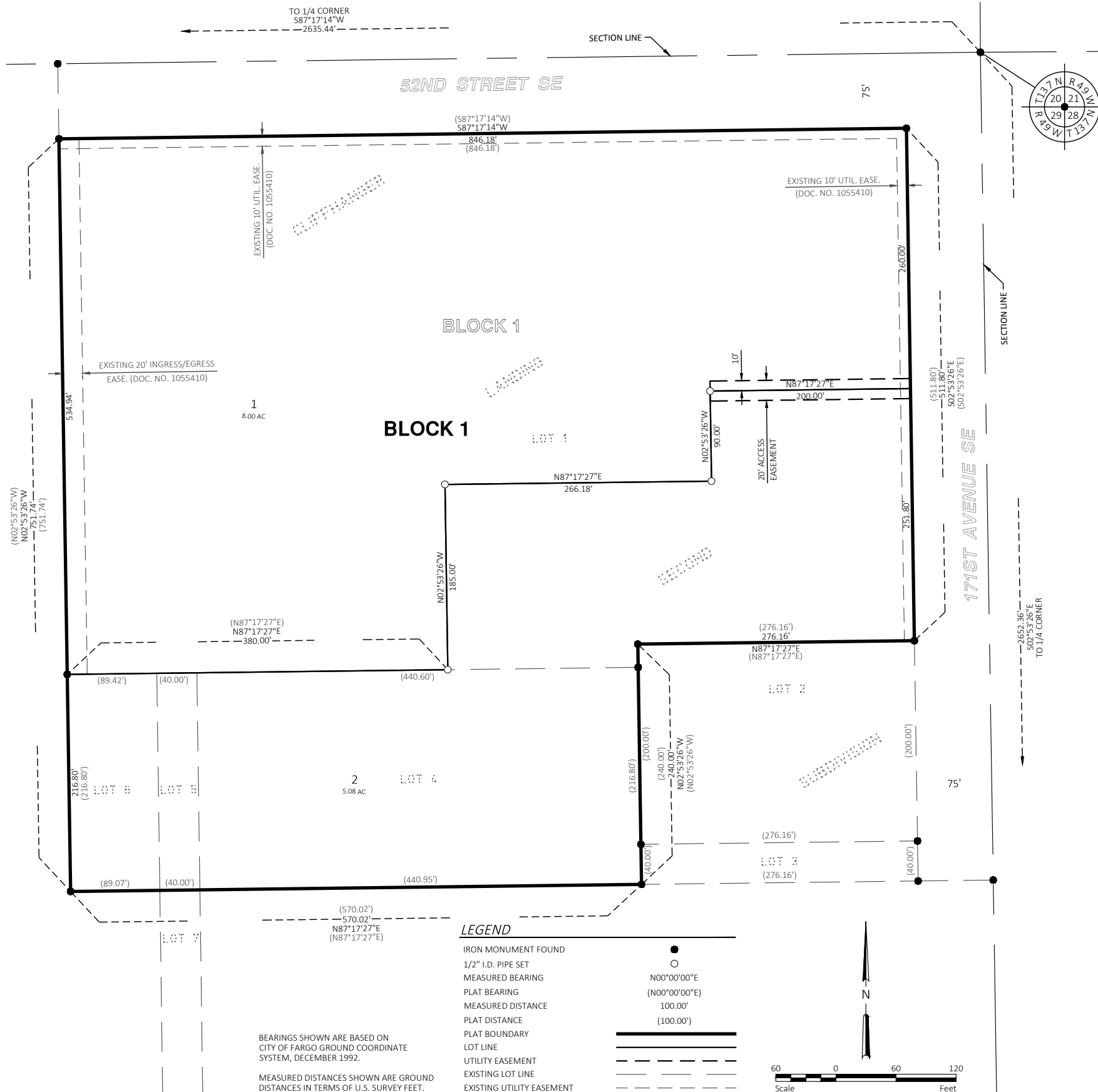


Maps and data are to be used for reference purposes only and Cass County, ND, is not responsible for any inaccuracies herein contained. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



CLIFFHANGER LANDING THIRD SUBDIVISION

BEING A REPLAT OF LOTS 1, 4, 5 & 6, BLOCK 1, CLIFFHANGER LANDING SECOND SUBDIVISION
OF THE NE 1/4, SEC. 29, T. 137 N., R. 49 W., 5th P.M.
CASS COUNTY, NORTH DAKOTA



Owners' Certificate and Dedication:

Know All Persons by these Presents: That Ryan and Amanda McDowell are the owners and proprietors of Lots 1, 4, 5 and 6, Block 1, Cliffhanger Landing Second Subdivision of the Northeast Quarter of Section 29, Township 137 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota.

Said tract contains 13.082 acres, more or less.

And that said party has caused the same to be surveyed and platted as **CLIFFHANGER LANDING THIRD SUBDIVISION**, and do hereby dedicate to the owners of Lots 1 and 2, the Access Easement shown on the Plat.

In witness whereof we have set our hands and seals:

Owner: Ryan McDowell
Owner: Amanda McDowell

Cass County Engineer:
Reviewed by the Cass County Engineer this _____ day of _____, 20____.

State of North Dakota)
County of Cass) ss

Jason Benson, Cass County Engineer

On this _____ day of _____, 20____, before me, a notary public within and for said county and state, personally appeared Ryan and Amanda McDowell, husband and wife, known to be the people described in and who executed the foregoing instrument and acknowledged that they executed same as their free act and deed.

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

Notary Public: _____

Mark Hiatt, Chair

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

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

Attest: _____
Nicole Bice, Clerk

Dated this _____ day of _____, 20____.

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

James A. Schlieman, Professional Land Surveyor No. 6086

Ken Lougheed, Chair

State of North Dakota)
County of Cass) ss

Attest: _____
Secretary

On this _____ day of _____, 20____ before me personally appeared James A. Schlieman, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Cass County Board of Commissioners' Approval:
Approved by Cass County, North Dakota, this _____ day of _____, 20____.

Notary Public: _____

Rick Steen, Chair

Attest: _____
Brandy Madrigga, Cass County Finance Director



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: October 31, 2022
SUBJECT: Consent Agenda Topic for the November 7, 2022
Commission Meeting: Jahnke Second
Subdivision Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Maple River Township, Section 3 at a Public Hearing on October 27, 2022. The intended purpose of the subdivision is to create a lot for a house to be built on.

The Planning Commission is recommending approval of the proposed plat entitlement request and Maple River 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 NE ¼ of Section 3, Township 138 North, Range 52 West | | |
| Title: | Jahnke Second Subdivision | Date: | 10-12-2022 |
| | | Update: | 10-31-2022 |
| Location: | NE ¼ of Section 3, Township 138 North, Range 52 West (Maple River Township) | Staff Contact: | Grace Puppe |
| Parcel Number: | 52-0000-08715-080 | Water District: | Maple River Water District |
| Owner(s)/Applicant: | Lowell Jahnke | Engineer/Surveyor: | Houston Engineering |
| Status: | Planning Commission Hearing: October 27, 2022 County Commission Meeting: November 7, 2022 | | |

| Existing Land Use | Proposed Land Use |
|-------------------|-------------------|
| Agriculture | Residential |
| Proposal | |

The applicant is seeking approval of a minor subdivision entitled **Jahnke Second Subdivision** to plat a one (1) Lot subdivision of approximately 4.463 acre. According to the applicant, the subdivision is requested to create a lot for a house to be built on.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 42nd 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 | CCEC has an existing underground primary line serving the existing farmstead. |
| Century Link | No comments were received prior to publishing the staff report. |
| Sprint | No comments were received prior to publishing the staff report. |
| 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 | Water service to this location is available from a water main that runs east to west along 42nd Ave. To date no application for service has been made. |
| 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 of the township. |
| The City of Fargo | The proposed Jahnke Subdivision is located in Section 3 of Maple River 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 east and south with a farmstead to the west. Township road 42nd St SE borders the north of the property.

Floodzone

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

Land Development Rights

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

Staff Recommendation

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

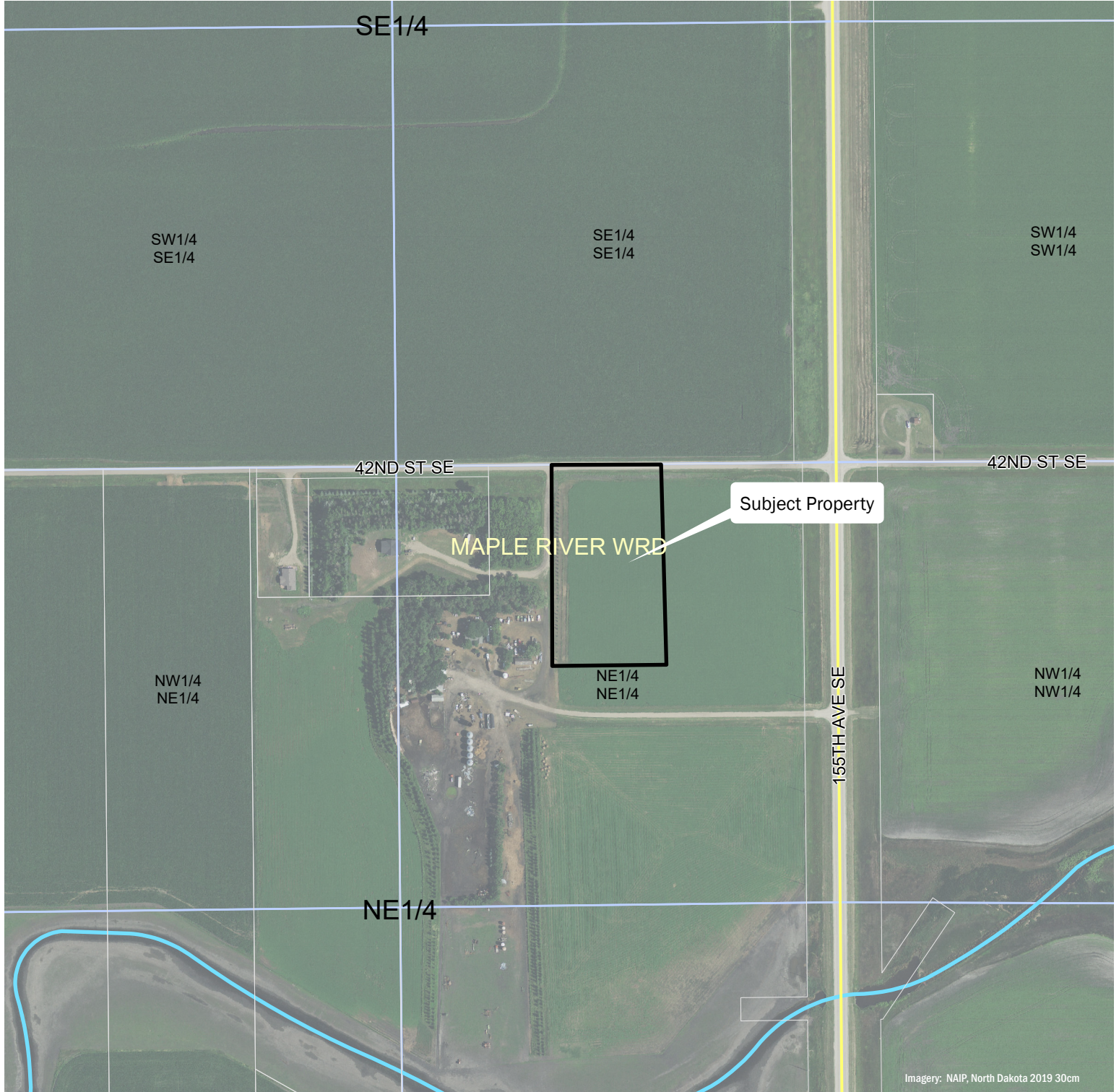
Attachments

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

Minor Subdivision

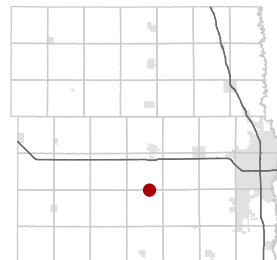
Jahnke Second Subdivision

Maple River Twp, Section 3 - Township 138 North - Range 52 West



Imagery: NAIP, North Dakota 2019 30cm

Cass County Planning Commission
October 27, 2022



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



JAHNKE SECOND SUBDIVISION

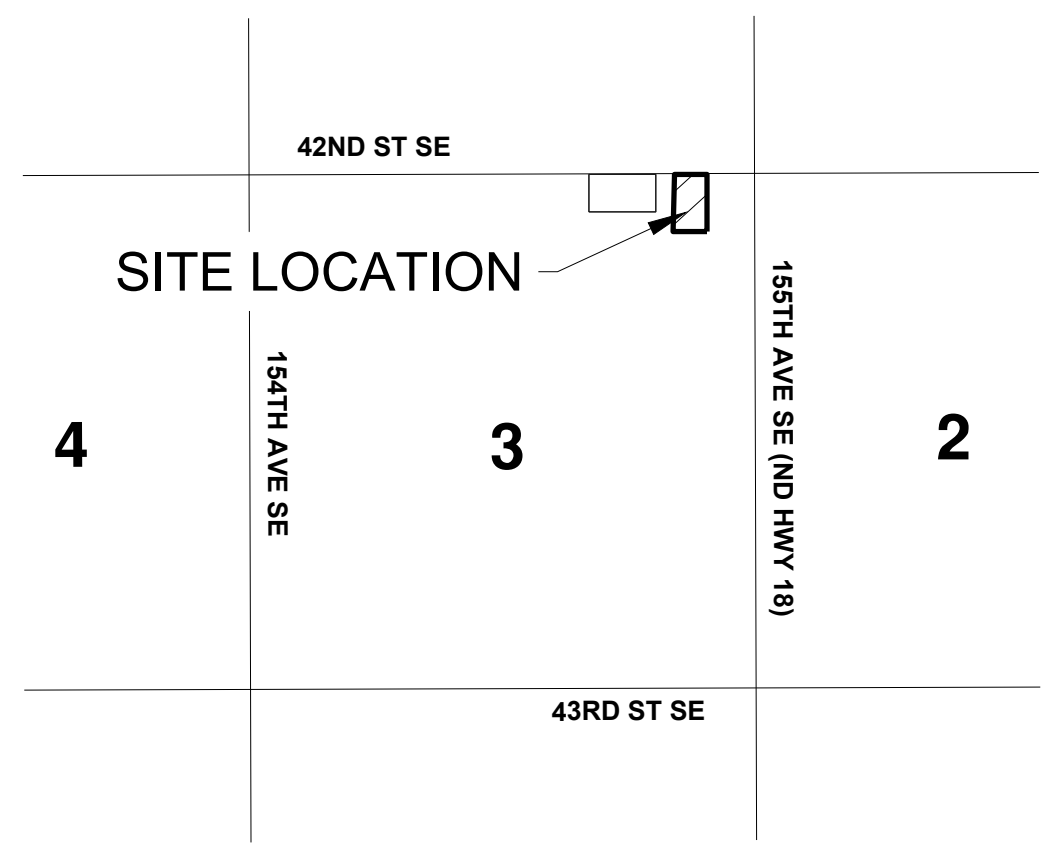
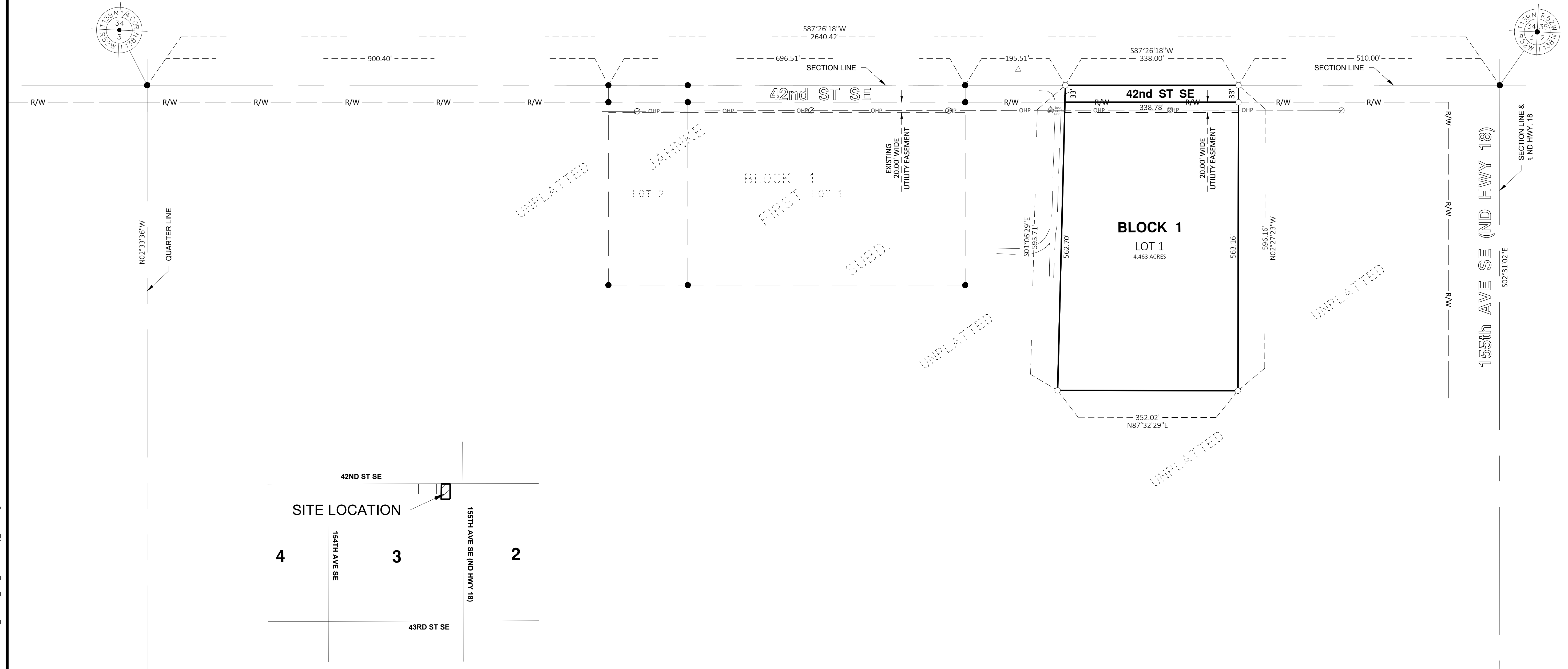
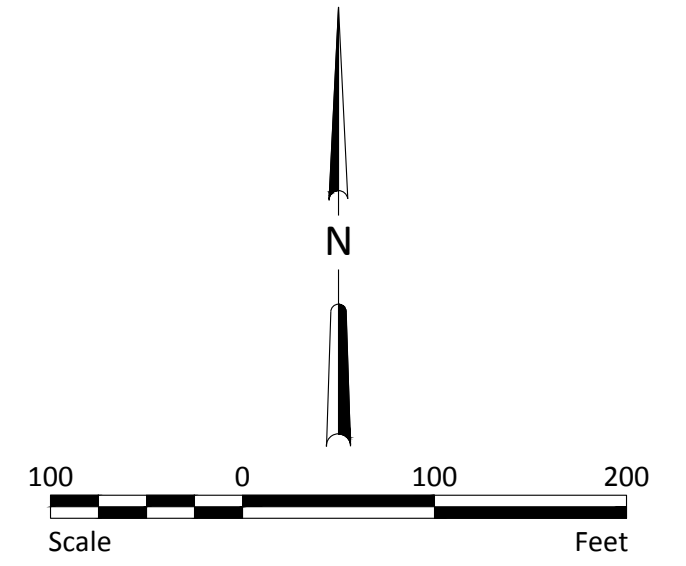
BEING A PLAT OF PART OF THE NORTHEAST QUARTER OF
SECTION 3, T. 138 N., R. 52 W., 5th P.M.
CASS COUNTY, NORTH DAKOTA

LEGEND

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

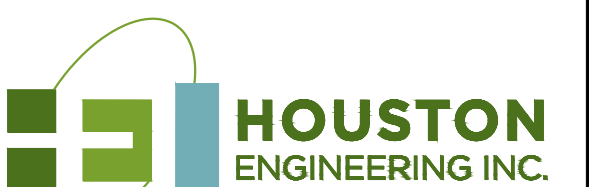
BEARINGS SHOWN ARE BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM (NAD83) - SOUTH ZONE

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.



VICINITY MAP
1" = 2000'

PRELIMINARY PLAT



JAHNKE SECOND SUBDIVISION

BEING A PLAT OF PART OF THE NORTHEAST QUARTER OF SECTION 3, T. 138 N., R. 52 W., 5th P.M. CASS COUNTY, NORTH DAKOTA

Owners' Certificate and Dedication:

Know All Persons by these Presents: Lowell O. Jahnke and Melissa L. Welter-Jahnke, husband and wife, are the Owners and Proprietors of that part of the Northeast Quarter of Section 3, Township 138 North, Range 52 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the Northeast Corner of the Northeast Quarter of said Section 3; thence South 87°26'18" West (assumed bearing), along the northerly line of the Northeast Quarter of said Section 3, for a distance of 510.00 feet to the True Point of Beginning; thence continue South 87°26'18" West, along the northerly line of the Northeast Quarter of said Section 3, for a distance of 338.00 feet; thence South 01°06'29" East for a distance of 595.71 feet; thence North 87°32'29" East for a distance of 352.02 feet; thence North 02°27'23" West for a distance of 596.16 feet to the True Point of Beginning.

Said tract contains 4.719 acres, more or less.

And that said parties have caused the same to be surveyed and platted as **JAHNKE SECOND SUBDIVISION**, and do hereby dedicate to the public for public use the Public Street and the Utility Easement as shown on this Plat

In witness whereof we have set our hands and seals:

Owner: _____ Owner: _____
 Lowell O. Jahnke Melissa L. Welter-Jahnke

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 Lowell O. Jahnke and Melissa L. Welter-Jahnke, husband and wife, known to be the people described in and who executed the foregoing instrument and acknowledged that they executed same as their free act and deed.

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
 701-237-5065
 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

Maple River Township:

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

 Scott Saewert, Chair

Attest: _____
 Jessica Hoglund, Clerk

Cass County Planning Commission:

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

 Ken Loughheed, Chair

Attest: _____
 Secretary

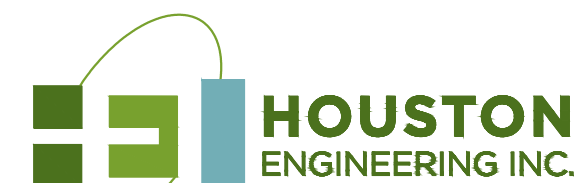
Cass County Board of Commissioners' Approval:

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

 Rick Steen, Chair

Attest: _____
 Brandy Madriga, Cass County Finance Director

H:\JBW\8442\8442_0002\CAD\Jahnke_Second_Sub_Preliminary_Plat.dwg



DEED RESTRICTION

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

Owner(s): Lowell O. Jahnke, a married person.

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 E $\frac{1}{2}$ NE $\frac{1}{4}$ and the East 440 feet of the W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 3, Township 138 North, Range 52 West, Cass County, North Dakota, less the following described tracts:

1. Auditor's Lot 1 of the East Half of Section 3, Township 138 North, Range 52 West, Cass County, North Dakota;

2. Lots 1 and 2, Block 1, Jahnke 1st Subdivision; and

3. The following described parcel located in the NE $\frac{1}{4}$ of Section 3, Township 138 North, Range 52 West: Commencing at the Northeast Corner of the Northeast Quarter of said Section 3; thence South 87°26'18" West (assumed bearing), along the northerly line of the Northeast Quarter of said Section 3, for a distance of 510.00 feet to the True Point of Beginning; thence continue South 87°26'18" West, along the northerly line of the Northeast Quarter of said Section 3, for a distance of 338.00 feet; thence South 01°06'29" East for a distance of 595.71 feet; thence North 87°32'29" East for a distance of 352.02 feet; thence North 02°27'23" West for a distance of 596.16 feet to the True Point of Beginning.

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

Lowell O. Jahnke

Date

State of North Dakota)
) ss.
County of Cass)

On this ____ day of _____, 2022, before me, a notary public within and for said county and state, personally appeared Lowell O. Jahnke, a married person, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he executed same.

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)
) ss.
County of Cass)

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 he executed same as their free act and deed.

Notary Public