



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: Jason Benson, County Engineer *JB*
DATE: January 26, 2023
SUBJECT: Consent Agenda Topic for the February 6, 2023
Commission Meeting: Brandon Hovland
Subdivision Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Buffalo Township, Section 4 at a Public Hearing on January 26, 2023. The intended purpose of the subdivision is to break out the farmstead from the southwest quarter of the section in order to build a home.

The Planning Commission is recommending approval of the proposed plat entitlement request and Buffalo Township has verified that this meets the 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.

Minor Subdivision

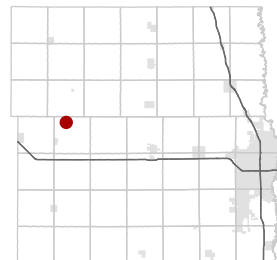
Brandon Hovland Subdivision

Buffalo Twp, Section 4 - Township 140 North - Range 54 West



Imagery: NAIP, North Dakota 2019 30cm

Cass County Planning Commission
January 26, 2023



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

Entitlements Requested:	Minor Subdivision (1 Lot) of a part of the SW 1/4 of Section 4, Township 140 North, Range 54 West		
Title:	Brandon Hovland Subdivision	Date:	12/16/2022
Location:	SW 1/4 of Section 4, Township 140 North, Range 54 West (Buffalo Township)	Staff Contact:	Grace Puppe
Parcel Number:	28-0000-01815-000	Water District:	Maple River Water District
Owner(s)/Applicant:	Brandon Hovland	Engineer/Surveyor:	Neset
Status:	Planning Commission Hearing: January 26, 2023		

Existing Land Use	Proposed Land Use
Agriculture	Agriculture
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Brandon Hovland Subdivision** to plat a one (1) Lot subdivision of approximately 12.55 acres. According to the applicant, the subdivision is requested to split the existing farmstead from the rest of the quarter section.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 31st St SE road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments	
County Engineer	I reviewed this and do not have any comment from the County Engineer perspective.
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	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	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	Public Health has no issue with this subdivision.
Township Chairman	No comments were received prior to publishing the staff report.
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 north and east. Township roads 141st Ave SE borders the west of the property with 31st St SE 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, wetlands are present on the proposed subdivision Lot. The proposed Western Cas FIS map does not show any Special Hazard Flood Area identified.

Land Development Rights

The subject quarter-quarter section currently is developed and requires the transfer of a development right. Section 5.04 (e) 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:

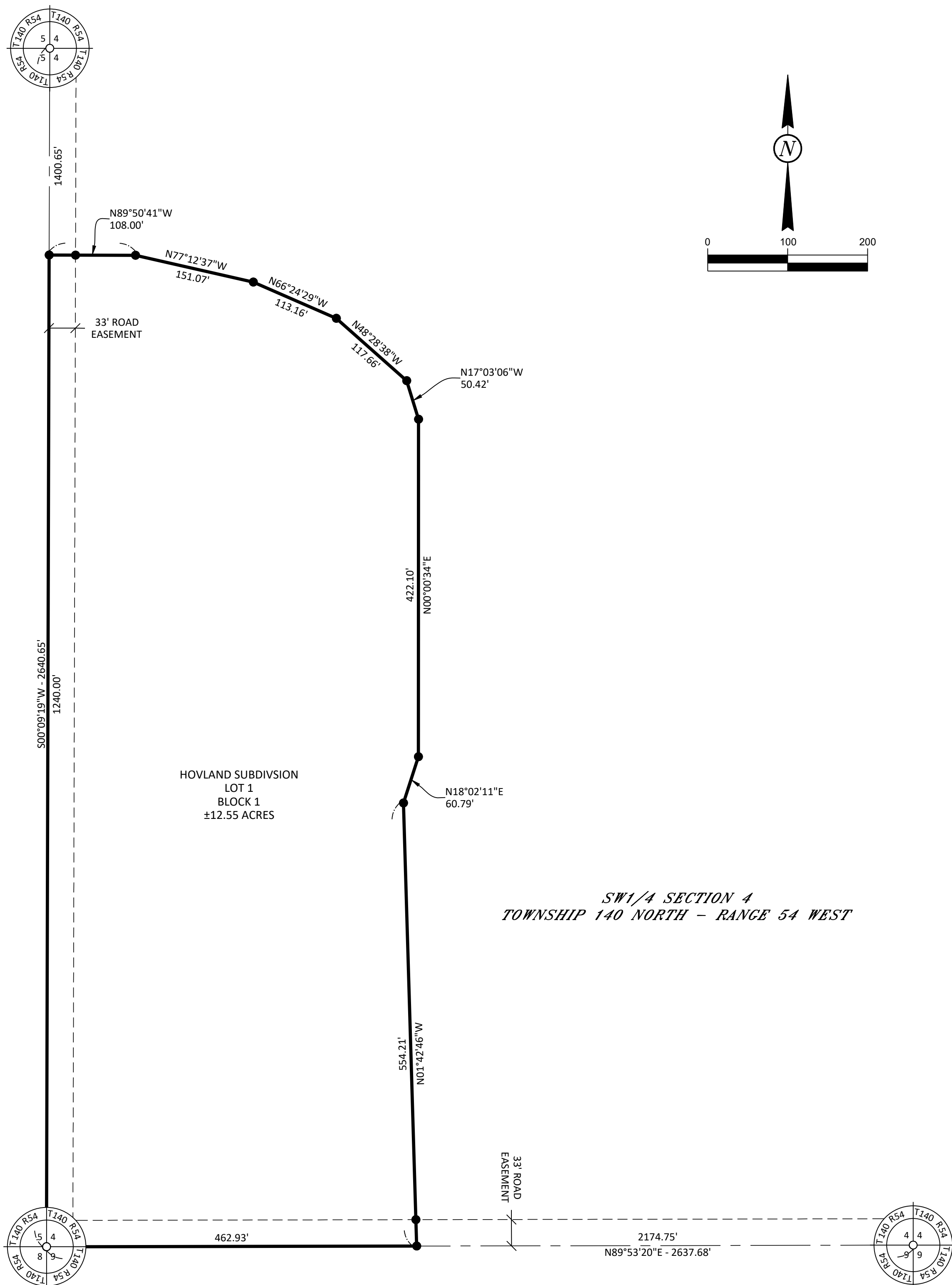
1. A deed restriction be recorded that meets the requirements of Section 5.04(g) of the Cass County Subdivision Ordinance.

Attachments

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

BRANDON HOVLAND SUBDIVISION

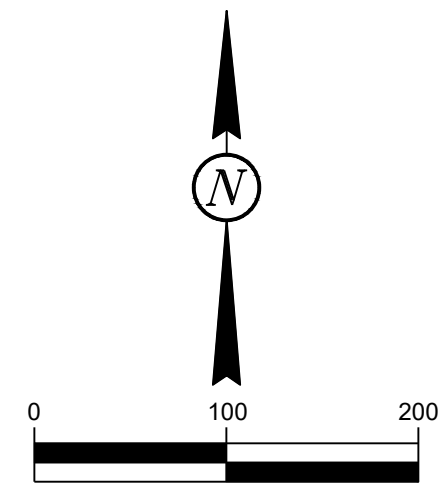
PART OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 140 NORTH, RANGE 54 WEST
CASS COUNTY, NORTH DAKOTA



LEGEND

●	MONUMENT SET
○	MONUMENT FOUND
---	EX. EASEMENT
---	EX. SECTION LINE
---	PROPERTY BOUNDARY LINE
P.O.B	POINT OF BEGINNING

SURVEY INFORMATION
 DATE OF SURVEY: 9-22-2022
 BASIS OF BEARING: THE SOUTH LINE OF SECTION 4 HAS AN ASSUMED BEARING OF N89°53'20"E



CASS COUNTY ENGINEER

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

 JASON BENSON, CASS COUNTY ENGINEER

CASS COUNTY BOARD OF COMMISSIONER'S APPROVAL

REVIEWED BY CASS COUNTY, NORTH DAKOTA THIS _____ DAY OF _____, 2022.

 RICK STEEN, CHAIRMAN

ATTEST: _____
 BRANDY MADRIGGA, CASS COUNTY FINANCIAL DIRECTOR

CASS COUNTY PLANNING COMMISSION

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

 KEN LOUGHEED, CHAIRMAN

ATTEST: _____
 SECRETARY

BUFFALO TOWNSHIP

REVIEWED BY ERIE TOWNSHIP, CASS COUNTY, NORTH DAKOTA, THIS _____ DAY OF _____, 2022.

 DAVID LARSON, CHAIRMAN

ATTEST: _____
 JEANETTE STOCK, CLERK/TREASURER

OWNER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS, THAT ***** HOVLAND IS THE OWNER OF LOT 1, BLOCK 1, OF BRANDON HOVLAND SUBDIVISION IN PART OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 140 NORTH, RANGE 54 WEST OF THE 5TH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 4; THENCE N89°53'20"E ON AN ASSUMED BEARING ON AND ALONG THE SOUTH LINE OF SAID SECTION A DISTANCE OF 462.93 FEET; THENCE N01°42'46"W A DISTANCE OF 554.21 FEET; THENCE N18°02'11"E A DISTANCE OF 60.79 FEET; THENCE N00°00'34"E A DISTANCE OF 422.10 FEET; THENCE N17°03'06"W A DISTANCE OF 50.42 FEET; THENCE N48°28'38"W A DISTANCE OF 117.66 FEET; THENCE N66°24'29"W A DISTANCE OF 113.16 FEET; THENCE N77°12'37"W A DISTANCE OF 151.07 FEET; THENCE N89°50'41"W A DISTANCE OF 108.00 FEET TO THE WEST LINE OF SECTION 4; THENCE S00°09'19"W A DISTANCE OF 1240.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS ±12.55 ACRES MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

SAID OWNER HAS CAUSED THE ABOVE DESCRIBED TRACT OF LAND SHOWN ON THIS PLAT TO BE SURVEYED AND PLATTED AS BRANDON HOVLAND SUBDIVISION, A MINOR SUBDIVISION TO THE COUNTY OF CASS, STATE OF NORTH DAKOTA, AND CONSISTS OF 1 LOT AND 1 BLOCK AND CONTAINS 12.55 ACRES MORE OR LESS.

BY: _____
 *****HOVLAND, OWNER

STATE OF _____)
)SS
 COUNTY OF _____)

BE IT KNOWN ON THIS _____ DAY OF _____, 2022, BEFORE ME PERSONALLY APPEARED ***** KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE EXECUTION OF THE SAME AS A FREE ACT AND DEED.

MY COMMISSION

EXPIRES: _____

 NOTARY PUBLIC

SURVEYORS CERTIFICATE

I, COLE A. NESET, PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA DO HEREBY CERTIFY THAT THE ATTACHED PLAT IS A TRUE AND ACCURATE REPRESENTATION OF THE SURVEY AND SAID SUBDIVISION AND ALL DISTANCES SHOWN ON SAID PLAT ARE CORRECT; THAT THE MONUMENTS FOR THE GUIDANCE OF FUTURE SURVEYS HAVE BEEN CORRECTLY PLACED IN THE GROUND AS SHOWN.

 COLE A. NESET
 DATE _____

REGISTERED LAND SURVEYOR No. LS-7513
 STATE OF NORTH DAKOTA

STATE OF _____)
)SS
 COUNTY OF _____)

BE IT KNOWN ON THIS _____ DAY OF _____, 2022, BEFORE ME PERSONALLY APPEARED COLE A. NESET, NORTH DAKOTA REGISTERED LAND SURVEYOR, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE EXECUTION OF THE SAME AS A FREE ACT AND DEED.

MY COMMISSION

EXPIRES: _____

 NOTARY PUBLIC

SHEET 1 OF 1

PROJECT #	22000.67
REVISION DATE:	09-22-2022
DRAWN BY:	ZLR
CHECKED BY:	CAN



Neset
 LAND SURVEYS

5306 51ST AVENUE SOUTH, SUITE A
 FARGO, ND 58104
 PHONE: 701-235-0199 EX. 114
 EMAIL: CNESET@NESETSURVEYS.COM

DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this _____ day of _____, 20____, by

Owner(s): Steven J. Hovland & Ann M. Hovland

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 SW1/4 OF THE SW1/4 OF SECTION 4, TOWNSHIP 140 NORTH, RANGE 54 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY NORTH DAKOTA, LESS A ±12.55 ACRE PARCEL MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 4; THENCE N89°53'20"E ON AN ASSUMED BEARING ON AND ALONG THE SOUTH LINE OF SAID SECTION A DISTANCE OF 462.93 FEET; THENCE N01°42'46"W A DISTANCE OF 554.21 FEET; THENCE N18°02'11"E A DISTANCE OF 60.79 FEET; THENCE N00°00'34"E A DISTANCE OF 422.10 FEET; THENCE N17°03'06"W A DISTANCE OF 50.42 FEET; THENCE N48°28'38"W A DISTANCE OF 117.66 FEET; THENCE N66°24'29"W A DISTANCE OF 113.16 FEET; THENCE N77°12'37"W A DISTANCE OF 151.07 FEET; THENCE N89°50'41"W A DISTANCE OF 108.00 FEET TO THE WEST LINE OF SECTION 4; THENCE S00°09'19"W A DISTANCE OF 1240.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS ±12.55 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:

Steven J. Hovland
Steven J. Hovland

12/21/22
Date

Ann M. Hovland
Ann M. Hovland

12-21-2022
Date

State of North Dakota)
County of Cass) ss

On this 21st day of December, 2022, before me, a notary public within and for said county and state, personally appeared Steven J. Hovland & Ann M. Hovland, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same.

ALICIA THOMPSON
Notary Public
State of North Dakota
My Commission Expires 10/13/2025

Alicia Thompson
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)
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

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: Jason Benson, County Engineer *JAB*
DATE: January 26, 2023
SUBJECT: Consent Agenda Topic for the February 6, 2023
Commission Meeting: Killoran Partnership
Subdivision Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Buffalo Township, Section 18 at a Public Hearing on January 26, 2023. The intended purpose of the subdivision is to split the existing farmstead from the parent tract of farmland.

The Planning Commission is recommending approval of the proposed plat entitlement request and Buffalo Township has verified that this meets the 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.

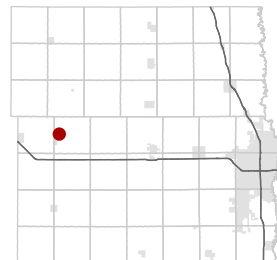
Minor Subdivision

Killoran Partnership Subdivision

Buffalo Twp, Section 18 - Township 140 North - Range 54 West



Cass County Planning Commission
January 26, 2023



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Cass County Planning Commission Staff Report

Entitlements Requested:	Minor Subdivision (1 Lot) of a part of the SE 1/4 of Section 18, Township 140 North, Range 54 West		
Title:	Killoran Partnership Subdivision	Date:	12/16/2022
Location:	SE 1/4 of Section 18, Township 140 North, Range 54 West (Buffalo Township)	Staff Contact:	Grace Puppe
Parcel Number:	28-0000-01878-000	Water District:	Maple River Water District
Owner(s)/Applicant:	Mary Kliniske	Engineer/Surveyor:	Houston Engineering
Status:	Planning Commission Hearing: January 26, 2023		

Existing Land Use	Proposed Land Use
Agriculture	Agriculture
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Killoran Partnership Subdivision** to plat a one (1) Lot subdivision of approximately 14.127 acres. According to the applicant, the subdivision is requested to split the existing farmstead off from the farmland.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 140th Ave SE road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Agency Comments	
County Engineer	No comments were received prior to publishing the staff report.
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	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	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	Public Health has no issue with this subdivision.
Township Chairman	No comments were received prior to publishing the staff report.
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 north, west and south. Township road 140th 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 are present on the proposed subdivision Lot. The proposed Western Cas FIS map does not show any Special Hazard Flood Area identified.

Land Development Rights

The subject quarter-quarter section currently is developed and requires the transfer of a development right. Section 5.04 (e) 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:

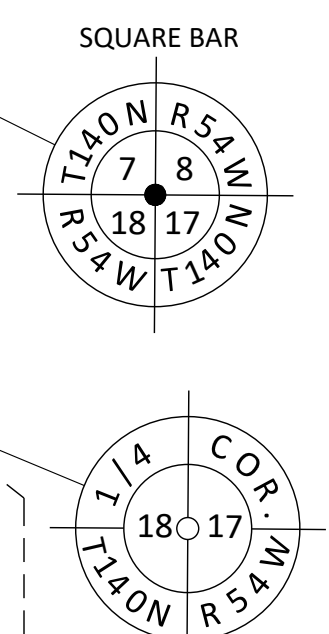
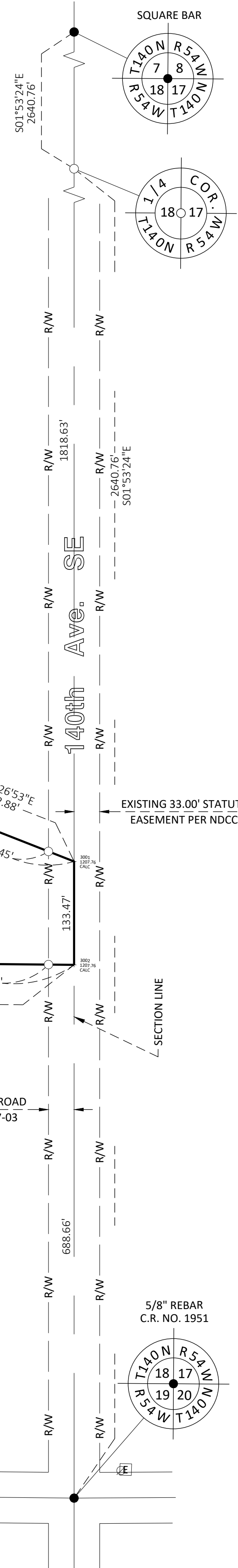
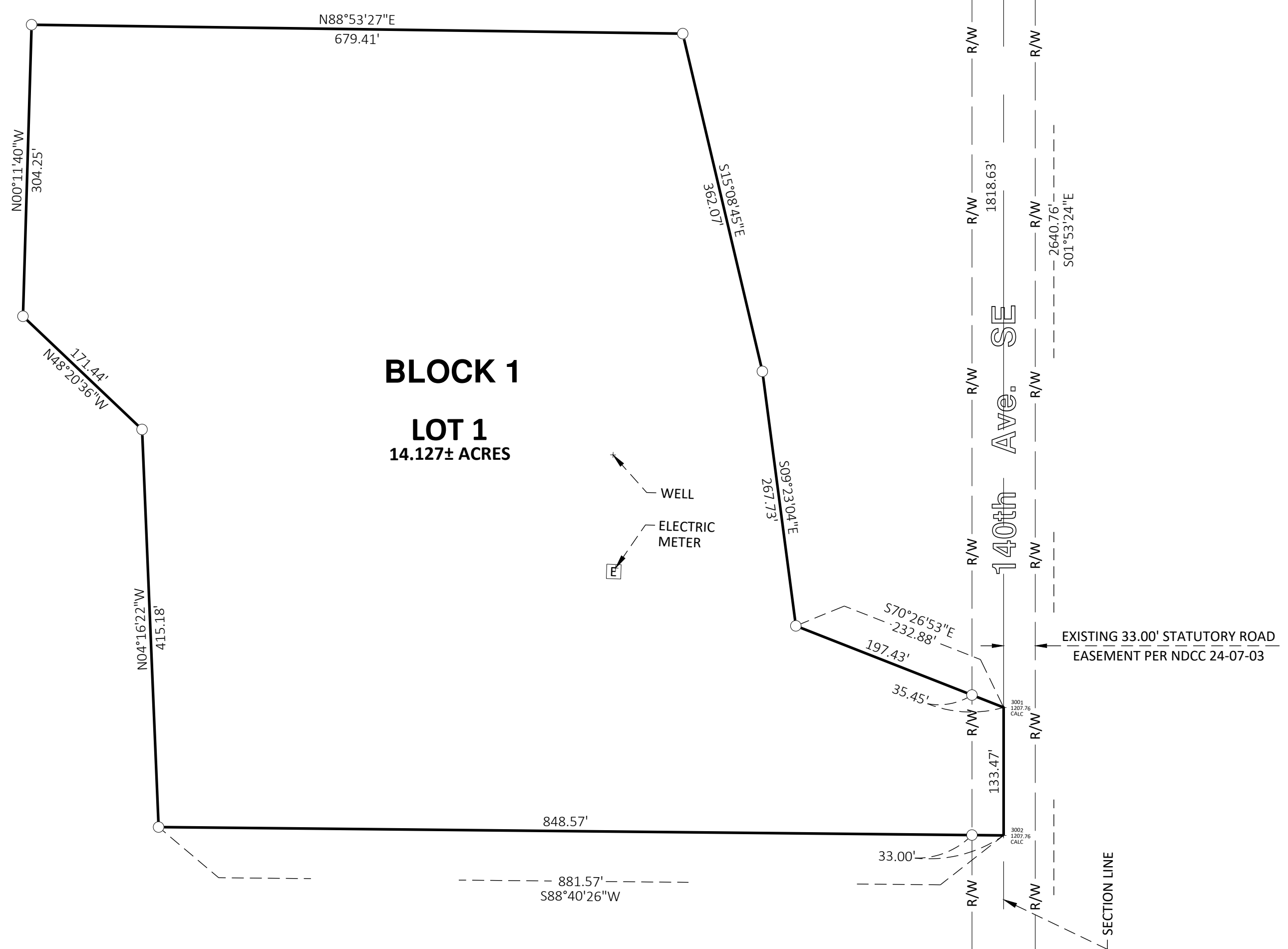
1. A deed restriction be recorded that meets the requirements of Section 5.04(g) of the Cass County Subdivision Ordinance.

Attachments

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

KILLORAN PARTNERSHIP SUBDIVISION

BEING A PLAT OF PART OF THE SOUTHEAST QUARTER OF SECTION 18, T. 140 N., R. 54 W., 5th P.M. CASS COUNTY, NORTH DAKOTA



Owners' Certificate and Dedication:

Know all persons by these presents: Mary Kliniske and Bradley Kliniske, wife and husband, are the owners and proprietors of that part of the Southeast Quarter of Section 18, Township 140 North, Range 54 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

COMMENCING at the southeast corner of said Section 18; thence North 01°53'24\"/>

Said tract contains 14.127 acres, more or less.

And that said parties have caused the same to be surveyed and platted as **KILLORAN PARTNERSHIP SUBDIVISION**.

In witness whereof we have set our hands and seals.

Owners:

Mary Kliniske _____
Bradley Kliniske _____

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 Mary Kliniske and Bradley Kliniske, wife and husband, known to me to be the persons 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:

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

Ken Lougheed, Chairman

Attest: _____
Secretary

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 herein 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
North Dakota PLS No. 4723

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 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: _____

Buffalo Township:

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

David Larson, Chair

Attest: _____
Jeanette Stock, Clerk

Cass County Board of Commissioners' Approval:

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

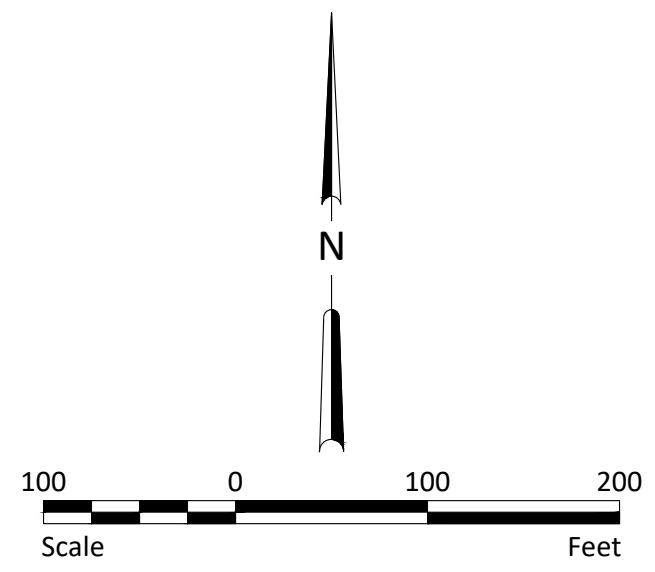
Rick Steen, Chair

Attest: _____
Brandy Madrigga, Cass County Finance Director

Cass County Engineer:

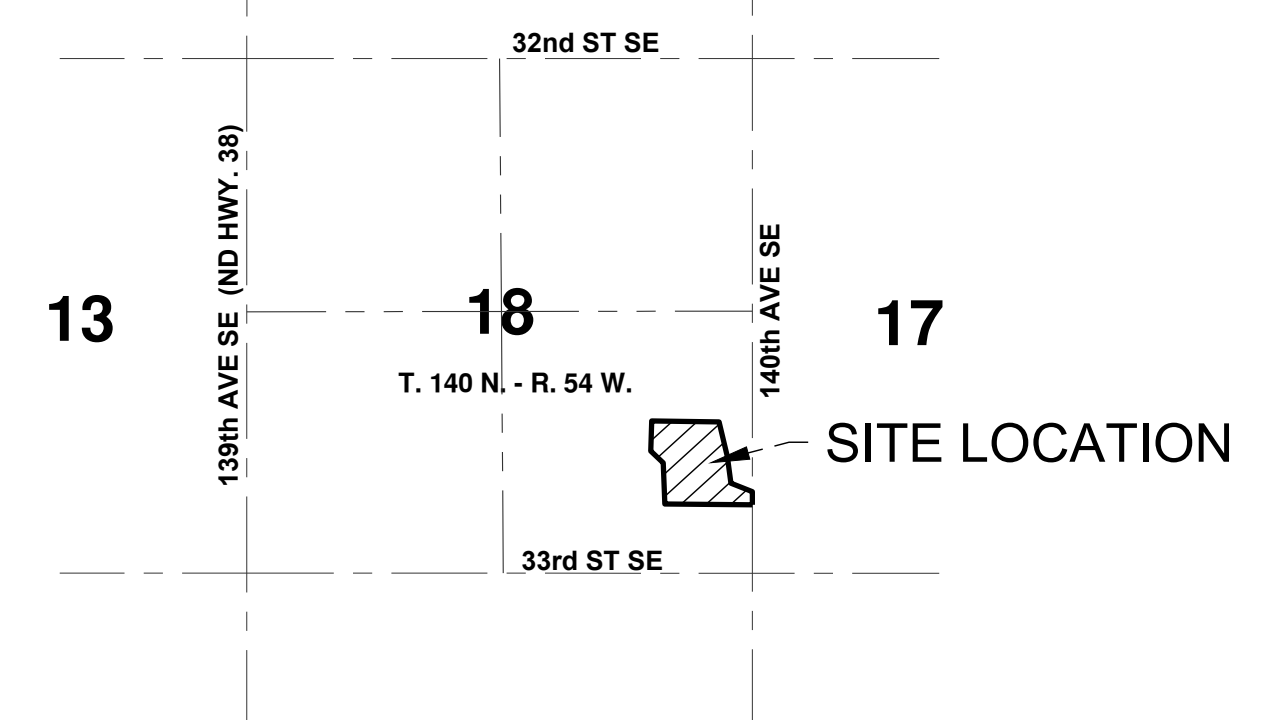
Reviewed by the Cass County Engineer this _____ day of _____, 20____.

Jason Benson, Cass County Engineer



LEGEND

IRON MONUMENT FOUND	●
1/2" I.D. IRON PIPE SET	○
MEASURED BEARING	N00°00'00"E
PLAT OR RECORD BEARING	(N00°00'00"E)
MEASURED DISTANCE	100.00'
PLAT OR RECORD DISTANCE	(100.00')
PLAT BOUNDARY	_____
NEW LOT LINE	_____
UTILITY EASEMENT	_____
EXISTING LOT LINE	_____
EXISTING UTILITY EASEMENT	_____
EXISTING RIGHT-OF-WAY LINE	_____ R/W _____



H:\JBM\7000\7060\7060_0026\CAD\7060-0026_Kliniske_Prelim_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): Mary Kliniske

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 Northwest Quarter of the Southeast Quarter of Section 18, Township 140 North, Range 54 West, 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: Jason Benson, County Engineer *JAB*
DATE: January 30, 2023
SUBJECT: Consent Agenda Topic for the February 6, 2023
Commission Meeting: Wheatland Colony
Subdivision Application

The Cass County Planning Commission reviewed the application of the proposed subdivision located in Tower Township, Section 31 at a Public Hearing on December 8, 2022. The intended purpose of the subdivision is to plat a four (4) Lot subdivision of approximately 160 acres and to split the property into four developable parcels to separate each use.

The Planning Commission is recommending approval of the proposed plat entitlement request and Tower Township has verified that this meets the 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.

Minor Subdivision

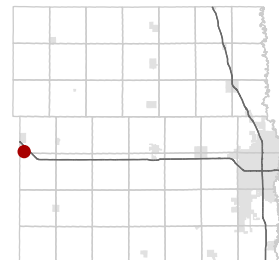
Wheatland Colony Subdivision

Tower Twp, Section 31 - Township 140 North - Range 55 West



Imagery: NAIP, North Dakota 2019 30cm

Cass County Planning Commission
December 8, 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.





Cass County Planning Commission Staff Report

Entitlements Requested:	Minor Subdivision (4 Lot) of a part of the SE ¼ of Section 31, Township 140 North, Range 55 West		
Title:	Wheatland Colony Subdivision	Date:	11/17/22
Location:	SE ¼ of Section 31, Township 140 North, Range 55 West (Tower Township)	Staff Contact:	Grace Puppe
Parcel Number:	65-0000-12129-000	Water District:	Maple River Water District
Owner(s)/Applicant:	Eli Wipf	Engineer/Surveyor:	Houston Engineering
Status:	Planning Commission Hearing: December 8, 2022		

Existing Land Use	Proposed Land Use
Agriculture	Agriculture
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Wheatland Colony Subdivision** to plat a four (4) Lot subdivision of approximately 160 acres. According to the applicant, the subdivision is requested split the property into four developable parcels to separate each use.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 36th St SE road access, ditches for storm sewer conveyance, rural water, and on-site lagoons for wastewater treatment.

Agency Comments	
County Engineer	No issues
Water Resource District	No comment.
Cass County Electric Cooperative	No issues. Power is already on site.
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	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 comments were received prior to publishing the staff report.
Township Chairman	No comments were received prior to publishing the staff report.
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 north and east. Township road 133 ½ Ave SE borders the west of the property and Township road 36th St SE borders 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, four 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 5.04 (e) 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