

# **CASS COUNTY PLANNING COMMISSION AGENDA**

**Thursday, August 24, 2023 at 7:00 a.m.**

**West Fargo Public Works, 810 12<sup>th</sup> Ave NW, West Fargo, ND 58078**

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**A. Call to Order**

**B. Roll Call**

**C. Determination of a Quorum**

**D. Approve Meeting Minutes of June 22, 2023**

**E. Public Hearing Items**

1. Hearing on an application requesting a Minor Subdivision Plat of **Jeremy King Subdivision** located in Section 9, Township 141 North, Range 52 West of the 5<sup>th</sup> Principal Meridian, Amenia Township, Cass County, North Dakota.
2. Hearing on an application requesting a Minor Subdivision Plat of **Twin Birch Subdivision** located in Section 35, Township 142 North, Range 53 West of the 5<sup>th</sup> Principal Meridian, Erie Township, Cass County, North Dakota.

**F. New Business**

Cole Hansen, County Planner

**G. Old Business**

**H. Adjournment**

**CASS COUNTY PLANNING COMMISSION**  
**June 22, 2023**

**A. CALL TO ORDER**

A meeting of the Cass County Planning Commission was called to order on June 22, 2023 at 7:00 am in the West Fargo Public Works conference room.

**B. ROLL CALL**

Planning Commissioners attending in person were Rocky Bertsch, David Gust, Ken Lougheed, Dr. Tim Mahoney, Brad Olson and Commissioner Duane Breitling. Hugh Veit attended via Teams. Keith Monson, and Keith Gohdes were absent.

Attending in person was Jason Benson, Cass County Engineer, Tom Soucy, Assistant Cass County Engineer. Katherine Naumann attended via Teams.

**C. DETERMINATION OF A QUORUM**

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

**D. MINUTES, APPROVED**

**MOTION, *passed***

**Mr. Gust moved and Mr. Olson seconded to approve the minutes of the May 25, 2023 meeting as presented.**

**Motion carried.**

**E. PUBLIC HEARING**

- 1. Hearing on an application requesting a Minor Subdivision Plat of Link Subdivision located in Section 20, Township 139 North, Range 52 West of the 5th Principal Meridian, Everest Township, Cass County, North Dakota.**

Mr. Lougheed opened the public hearing.

The applicant is seeking approval of a minor subdivision entitled Link Subdivision to plat a one (1) Lot subdivision of approximately 40.19 acres. According to the applicant, the subdivision is requested to build a new home on the established farmstead.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 152nd Ave SE road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.

Mr. Benson said that an applicant platting an entire 40 acres is unique. Looking into a future sale, most banks do not want extra ag land for mortgages. If The Link's decide to consolidate later, then they would need to replat and deed restrict remaining land. At the present time, this subdivision meets county standards. This property will not be a farm, but just a rural residence.

Commissioner Breitling arrived at 7:10am.

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

**MOTION, *passed***

**Mr. Bertsch moved, Mr. Gust seconded 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.**

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

**F. NEW BUSINESS**

Mr. Benson stated that the new Planner, Cole Hansen, will visit the office on 6/23 for a tour. Mr. Benson also gave further information and clarification regarding the FM MetroCOG Housing Needs and Market Analysis meeting that takes place on 6/29.

**G. OLD BUSINESS**

**H. ADJOURNMENT**

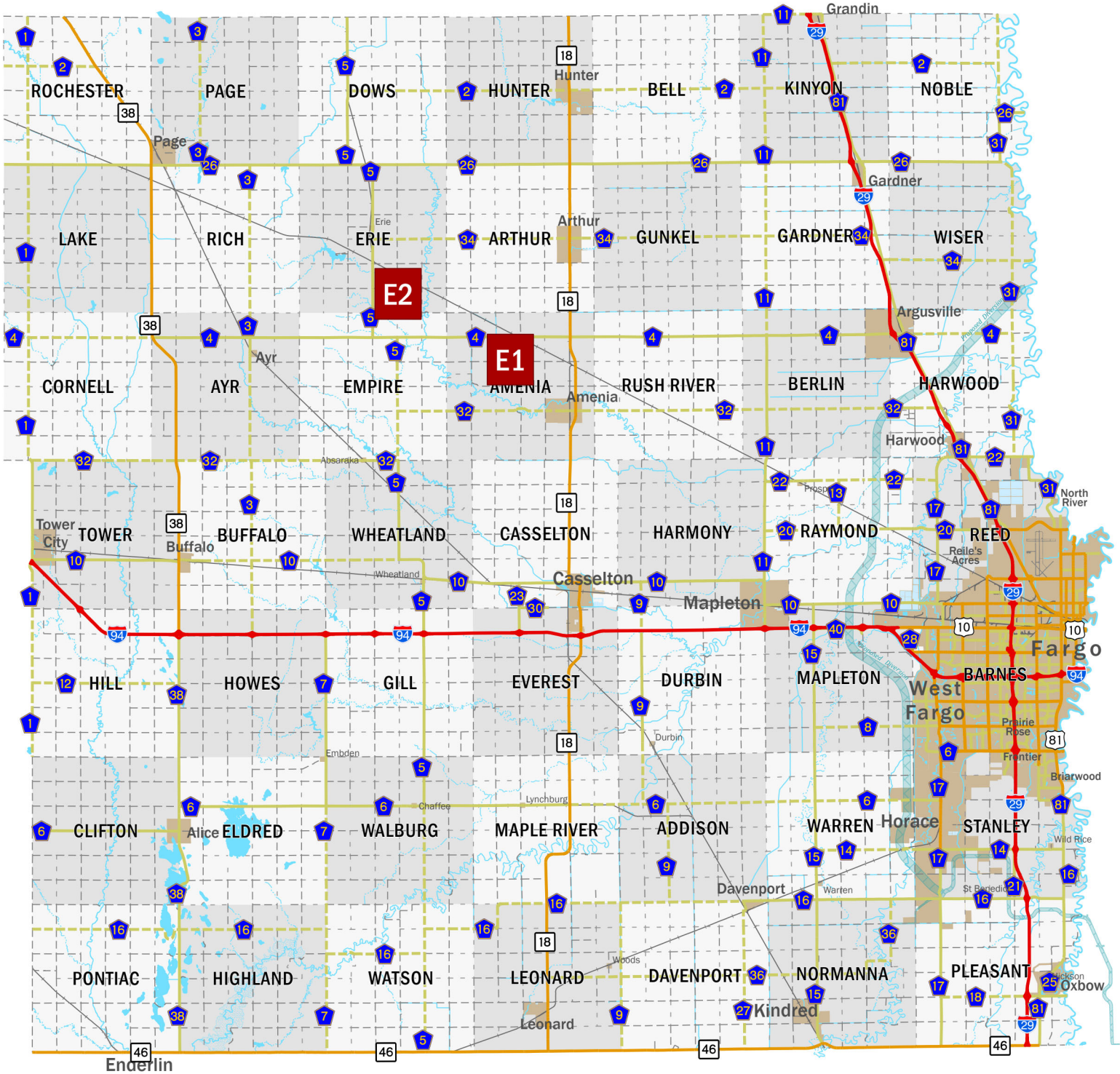
On motion by Mr. Bertsch seconded by Mr. Gust and all voting in favor, the meeting was adjourned at 7:11 am.

Minutes prepared by Lisa Shasky, Principal Secretary, Cass County Highway Department.

# Agenda Items

Cass County Planning Commission

August 24, 2023



## Agenda Items:

- E1 - Jeremy King Subdivision
- E2 - Twin Birch Subdivision

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



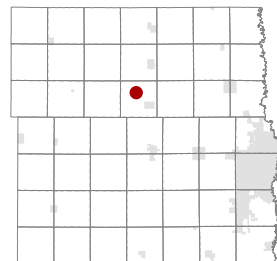
# Minor Subdivision

## Jeremy King Subdivision

Section 9, Amenia Township  
Township 141 North - Range 52 West



Cass County Planning Commission  
August 24, 2023



Imagery: spring 2021  
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## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Minor Subdivision (1 Lot)</b> of a part of the SW 1/4 of SE 1/4 of Section 9, Township 141 North, Range 52 West		
<b>Title:</b>	<b>Jeremy King Subdivision</b>	<b>Date:</b>	08/17/23
<b>Location:</b>	SW 1/4 of SE 1/4 of Section 9, Township 141 North, Range 52 West (Amenia Township)	<b>Staff Contact:</b>	Jason Benson
<b>Parcel Number:</b>	22-0000-00341-020	<b>Water District:</b>	Rush River Water District
<b>Owner(s)/Applicant:</b>	Terry Sullivan	<b>Engineer/Surveyor:</b>	engineer
<b>Status:</b>	Planning Commission Hearing: August 24, 2023		

Existing Land Use	Proposed Land Use
Residential/Agriculture	Residential/Agriculture
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Jeremy King Subdivision** to plat a one (1) Lot subdivision of approximately 9.36 acres. According to the applicant, the subdivision is requested to increase the size of an existing farmstead tract from 9.36 acres to 10.124 acres.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 26<sup>th</sup> St SE road access, ditches for storm sewer conveyance, rural water. The property currently does not have an on-site septic system for wastewater treatment.

Agency Comments	
<b>County Engineer</b>	No concerns from the Highway Department.
<b>Water Resource District</b>	The Rush River WRD has no comment to submit.
<b>Cass County Electric Cooperative</b>	No comments were received prior to publishing the staff report.
<b>Century Link</b>	No comments were received prior to publishing the staff report.
<b>Sprint/T-Mobile/Cogent</b>	No comments were received prior to publishing the staff report.
<b>AT&amp;T</b>	Clear, no conflict.
<b>Xcel Energy</b>	No comments were received prior to publishing the staff report.
<b>Otter Tail Power Company</b>	No comments were received prior to publishing the staff report.
<b>Magellan Pipeline Company</b>	No comments were received prior to publishing the staff report.

<b>NuStar Energy</b>	No comments were received prior to publishing the staff report.
<b>Cass Rural Water</b>	This property is currently served by Cass Rural Water District. As a result, we have no comments.
<b>North Dakota Department of Transportation</b>	No comments were received prior to publishing the staff report.
<b>County Sanitarian</b>	FCPH has no permit on file for the septic system on this property. While the subdivision change does not violate any of our codes, the department cannot say whether the house on the property currently has a septic system that meets current Requirements.
<b>Township Chairman</b>	No comments were received prior to publishing the staff report.
<b>The City of Fargo</b>	No comments were received prior to publishing the staff report.
<b>The City of West Fargo</b>	No comments were received prior to publishing the staff report.
<b>Public Comment</b>	No comments were received prior to publishing the staff report.

**Staff Analysis**

*Land Use and Surrounding Uses*  
 The subject property is bound by agricultural production land on all sides of the lot. Township road 26<sup>th</sup> St SE borders the west 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 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

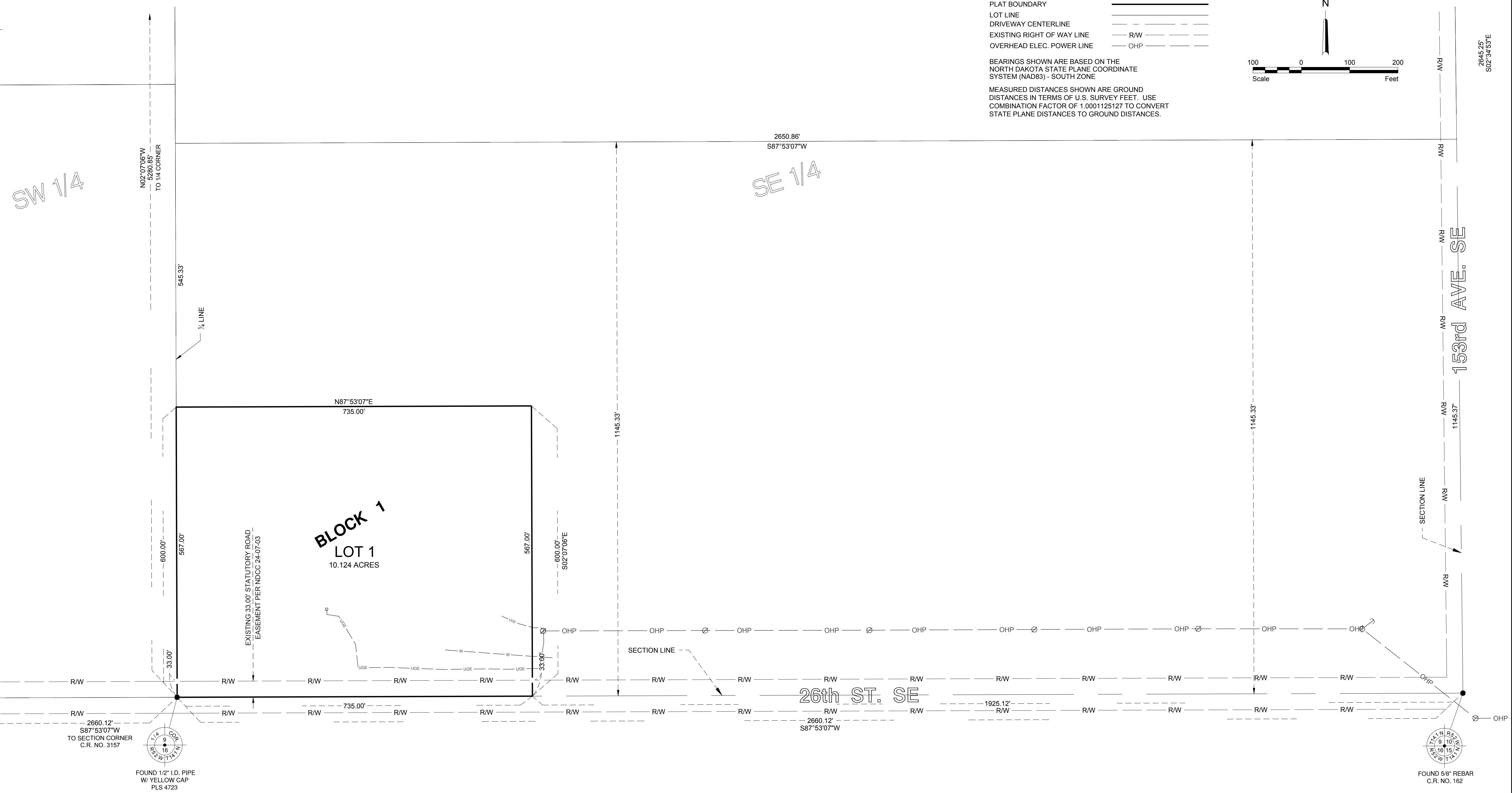
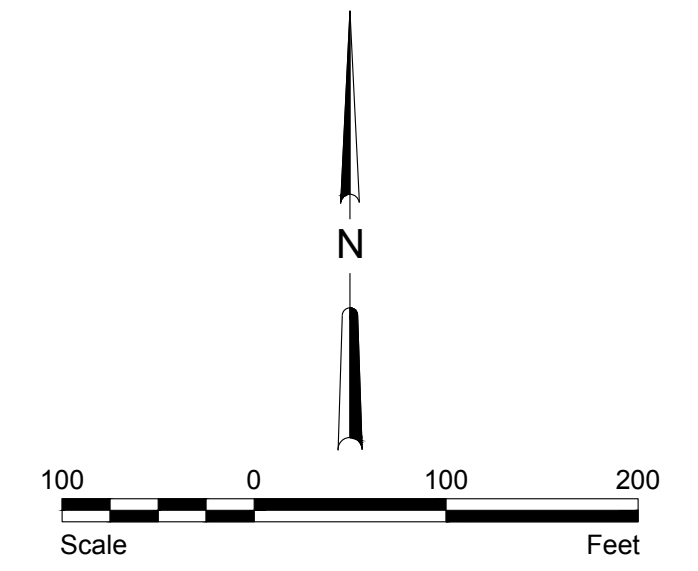
# JEREMY KING SUBDIVISION

BEING A PLAT OF PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER  
SECTION 9, T. 141 N., R. 52 W., 5th P.M.  
CASS COUNTY, NORTH DAKOTA

## LEGEND

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

BEARINGS SHOWN ARE BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM (NAD83) - SOUTH ZONE  
MEASURED DISTANCES SHOWN ARE GROUND DISTANCES IN TERMS OF U.S. SURVEY FEET. USE COMBINATION FACTOR OF 1.0001125127 TO CONVERT STATE PLANE DISTANCES TO GROUND DISTANCES.



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## DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by  
Owner(s): Terrance J. Sullivan and Luzviminda B. Sullivan, husband and wife

### 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 west 1521.50 feet of the south 1145.33 feet of the Southeast Quarter of Section 9, Township 141 North, Range 52 West, Cass County, North Dakota, LESS Lot 1, Block 1, Jeremy King Subdivision.



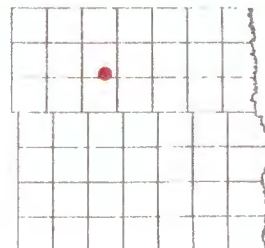
# Minor Subdivision

Twin Birch Subdivision

Section 35, Erie Township  
Township 142 North - Range 53 West



Cass County Planning Commission  
August 24, 2023



Imagery: spring 2021  
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## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	<b>Minor Subdivision (1 Lot)</b> of a part of the NW ¼ of Section 35, Township 142 North, Range 53 West		
<b>Title:</b>	<b>Twin Birch Subdivision</b>	<b>Date:</b>	08/17/23
<b>Location:</b>	NW ¼ of Section 35, Township 142 North, Range 53 West (Erie Township)	<b>Staff Contact:</b>	Jason Benson
<b>Parcel Number:</b>	37-0000-04650-000	<b>Water District:</b>	Rush River Water District
<b>Owner(s)/Applicant:</b>	Dawn Moore	<b>Engineer/Surveyor:</b>	engineer
<b>Status:</b>	Planning Commission Hearing: August 24, 2023		

Existing Land Use	Proposed Land Use
Residential	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Twin Birch Subdivision** to plat a one (1) Lot subdivision of approximately 7 acres. According to the applicant, the subdivision is requested to sell the existing farmstead and separate it from the balance of the parcel.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use an existing 148<sup>th</sup> Ave SE road access, ditches for storm sewer conveyance, rural water. The property currently does not have an on-site septic system for wastewater treatment.

Agency Comments	
<b>County Engineer</b>	No concerns from the Highway Department.
<b>Water Resource District</b>	The Rush River WRD has no comment to submit.
<b>Cass County Electric Cooperative</b>	No comments were received prior to publishing the staff report.
<b>Century Link</b>	No comments were received prior to publishing the staff report.
<b>Sprint/T-Mobile/Cogent</b>	No comments were received prior to publishing the staff report.
<b>AT&amp;T</b>	Clear, no conflict.
<b>Xcel Energy</b>	No comments were received prior to publishing the staff report.
<b>Otter Tail Power Company</b>	No comments were received prior to publishing the staff report.
<b>Magellan Pipeline Company</b>	No comments were received prior to publishing the staff report.

<b>NuStar Energy</b>	No comments were received prior to publishing the staff report.
<b>Cass Rural Water</b>	The property is not currently served by CRWD. The site could be served from a water main located about 1,400 feet north along 23rd Street SE. To date we have received no application for service.
<b>North Dakota Department of Transportation</b>	No comments were received prior to publishing the staff report.
<b>County Sanitarian</b>	FCPH has no issue with this subdivision, as there is ample room for a future septic system.
<b>Township Chairman</b>	No comments were received prior to publishing the staff report.
<b>The City of Fargo</b>	No comments were received prior to publishing the staff report.
<b>The City of West Fargo</b>	No comments were received prior to publishing the staff report.
<b>Public Comment</b>	No comments were received prior to publishing the staff report.

**Staff Analysis**

*Land Use and Surrounding Uses*

The subject property is bound by agricultural production land on all sides of the lot. Township road 148<sup>th</sup> Ave SE borders the west 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 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







## DEED RESTRICTION

Pursuant to Section 5.04 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this 27<sup>th</sup> day of July, 2023 by

Owner(s):

Dawn B. Moore

### 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 5.04 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 5.04 (g) of the Cass County Subdivision Ordinance and any amendment thereto:

1. 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;
2. This **DEED RESTRICTION** shall terminate at such time the restricted parcel is completely annexed by an incorporated city of Cass County; or
3. Any further subdivision of the restricted parcel will conform to full urban design standards and the strictest requirements outlined within Section 6.05 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, streetlights, 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 5.04 (e) of the Cass County Subdivision Ordinance.

WHEREAS, this **DEED RESTRICTION** shall expire at such time any of the exceptions under Section 5.04 (g) 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 North Dakota law shall apply. (NDCC 11-33.2-15)

4. **LEGAL DESCRIPTION OF THE RESTRICTED PARCEL**

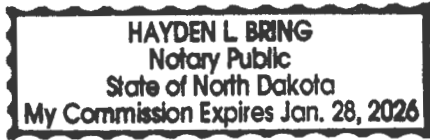
The NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of section 35  
Twp 142 N - 53 W Cass County  
less Twin Birch subdivision.

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

Dawn B Moore  
Owner(s) Signature

7/26/23  
Date

State of North Dakota )  
  ) ss  
County of Cass )



On this 26 day of July, 2023, before me, a notary public within and for said county and state, personally appeared Dawn B Moore, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same.

Hayden L Bring  
Notary Public

The foregoing instrument was acknowledged before me, this 9<sup>th</sup> day of August, 2023, by Jason Benson, County Engineer.

Jason Benson  
County Engineer Signature

8/2/23  
Date

State of North Dakota )  
  ) ss  
County of Cass )

On this 3<sup>rd</sup> day of August, 2023 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.

Nina M Stone  
Notary Public

