

AMENDED ITEMS—OCTOBER 15, 2012

CONSENT AGENDA:

h. Quit claim deeds for Tax-Forfeited Properties

SUGGESTED MOTION:

Move to authorize the chairman and county auditor to sign quit claim deeds for tax-forfeited properties redeemed by the former owners.

i. Plat approval

SUGGESTED MOTION:

Grant final plat approval for Andvik Acres Subdivision in Section 34, Township 137N, Range 51W in Cass County, North Dakota; C Runck Subdivision in Section 7 Township 139N, Range 50W in Cass County, North Dakota; and Lone Oak Farm Subdivision in Sections 11 and 14, Township 137N, Range 50W in Cass County, North Dakota.

REGULAR AGENDA:

3b. Flexible Benefits Medical Account Limit

SUGGESTED MOTION:

Move to amend the cafeteria plan for Cass County and adopt for calendar year 2013 the new limit of \$2,500 for flexible medical accounts as outlined in the Affordable Care Act.

QUIT CLAIM DEED

THIS INDENTURE, Made this 10th day of October, 2012, between CASS COUNTY, Grantor, and SHAW INVESTMENTS LLC, Grantee, whose post office address is 1801 23RD AVENUE NORTH, ROOM 111, FARGO ND 58102-1047

WITNESSETH, For and in consideration of the sum of one and no/100 Dollars, grantors do hereby QUIT CLAIM to the grantees, as joint tenants in common, all of the following real property lying and being in the County of Cass and the State of North Dakota, and described as follows, to-wit:

Lot Two in Block Eight-A, of E.G. Clapp 1st Addition, City of Fargo, Cass County, North Dakota; according to the certified plat thereof on file and of record in the Office of the Recorder in and for said county and state, Tax Parcel 01-0470-03500-000

I certify that the requirement for a report or statement of full consideration paid is exempted by NDCC 11-18-02.2(7) (i).

Date: _____

Grantee or Agent: _____

Scott Wagner, Chairman
Cass County Commission

ATTEST:

Michael Montplaisir, County Auditor
Cass County, North Dakota

The legal description was obtained from a previously recorded instrument.

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

The foregoing instrument was acknowledged before me this 15th day of October, 2012, by Scott Wagner, Chairman of the Cass County Board of Commissioners, and Michael Montplaisir, County Auditor, Cass County, North Dakota.

Notary Public
Cass County, North Dakota
My Commission Expires:

QUIT CLAIM DEED

THIS INDENTURE, Made this 11th day of October, 2012, between CASS COUNTY, Grantor, and DWIGHT D AND SHEILA R REMBOLDT, HUSBAND AND WIFE, Grantees, whose post office address is 1001 5th ST S, FARGO, NORTH DAKOTA 58103-2818.

WITNESSETH, For and in consideration of the sum of one and no/100 Dollars, grantors do hereby QUIT CLAIM to the grantees, as joint tenants in common, all of the following real property lying and being in the County of Cass and the State of North Dakota, and described as follows, to-wit:

NORTH NINETEEN (19) FEET OF THE EAST NINETY-SEVEN (97) FEET OF LOT ELEVEN (11) AND THE EAST NINETY-SEVEN (97) FEET OF LOT TWELVE (12) IN BLOCK X OF ERSKINE'S ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, TAX PARCEL 01-0780-01890-000.

I certify that the requirement for a report or statement of full consideration paid is exempted by NDCC 11-18-02.2(7) (i).

Date: _____

Grantee or Agent: _____

Scott Wagner, Chairman
Cass County Commission

ATTEST:

Michael Montplaisir, County Auditor
Cass County, North Dakota

The legal description was obtained from a previously recorded instrument.

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

The foregoing instrument was acknowledged before me this 15th day of October, 2012, by Scott Wagner, Chairman of the Cass County Board of Commissioners, and Michael Montplaisir, County Auditor, Cass County, North Dakota.

Notary Public
Cass County, North Dakota
My Commission Expires:

QUIT CLAIM DEED

THIS INDENTURE, Made this 12th day of October, 2012, between CASS COUNTY, Grantor, and SMM, INC., Grantee, whose post office address is 7902 FOREST RIVER ROAD, FARGO, NORTH DAKOTA 58104-8006

WITNESSETH, For and in consideration of the sum of one and no/100 Dollars, grantors do hereby QUIT CLAIM to the grantees, as joint tenants in common, all of the following real property lying and being in the County of Cass and the State of North Dakota, and described as follows, to-wit:

THE EAST 25 FEET OF THE SOUTH 127 FEET OF LOT 17, BLOCK 5, IN REEVE'S ADDITION; AND THE WEST 45 FEET OF THE SOUTH 127 FEET OF LOT 18, BLOCK 5, IN REEVE'S ADDITION TO THE CITY OF FARGO, SITUATE IN THE COUNTY OF CASS AND THE STATE OF NORTH DAKOTA, TAX PARCEL 01-2340-00334-050

I certify that the requirement for a report or statement of full consideration paid is exempted by NDCC 11-18-02.2(7) (i).

Date: _____

Grantee or Agent: _____

Scott Wagner, Chairman
Cass County Commission

ATTEST:

Michael Montplaisir, County Auditor
Cass County, North Dakota

The legal description was obtained from a previously recorded instrument.

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

The foregoing instrument was acknowledged before me this 15th day of October, 2012, by Scott Wagner, Chairman of the Cass County Board of Commissioners, and Michael Montplaisir, County Auditor, Cass County, North Dakota.

Notary Public
Cass County, North Dakota
My Commission Expires:



RECEIVED

OCT 11 2012

MEMORANDUM

CASS COUNTY COMMISSION

**Highway
Department**

TO: Cass County Commission

FROM: Tim Solberg, County Planner *TPS*

DATE: October 11, 2012

SUBJECT: Consent Agenda Topic for October 15, 2012 Meeting:
Andvik Acres Subdivision

Jason Benson, P.E.
County Engineer

Richard S. Sieg
Superintendent

Thomas B. Soucy, P.E.
Design and Construction
Engineer

The Cass County Planning Commission reviewed the subject subdivision and held a public hearing on September 27, 2012 and due to lack of quorum at the public hearing later approved at an October 11, 2012 meeting. The plat is located in Davenport Township, Section 34, one mile north of State Highway 46 and west of the City of Kindred. The intended use of the subdivision is to plat one lot for residential development.

The Planning Commission is recommending approval of the proposed plat and the developer has met all conditions for plat approval. We've also received a certified letter from Davenport Township approving of the plat. Therefore, the Planning Commission recommendation is being forwarded to the County Commission Board for action.

SUGGESTED MOTION: Move that the Cass County Board of Commissioners grant Final Plat approval for Andvik Acres Subdivision, Section 34, Township 137N, Range 51W in Cass County, North Dakota.

1201 Main Avenue West
West Fargo, North Dakota
58078-1301

701-298-2370
Fax: 701-298-2395



MEMORANDUM

**Highway
Department**

Jason Benson, P.E.
County Engineer

Richard S. Sieg
Superintendent

Thomas B. Soucy, P.E.
Design and Construction
Engineer

TO: Cass County Commission

FROM: Tim Solberg, County Planner *TS*

DATE: October 11, 2012

SUBJECT: Consent Agenda Topic for October 15, 2012 Meeting:
C Runck Subdivision

The Cass County Planning Commission reviewed the subject subdivision and held a public hearing on September 27, 2012 and due to lack of quorum at the public hearing later approved at an October 11, 2012 meeting. The plat is located in Mapleton Township, Section 7, one mile south of Interstate Highway 94 and the City of Mapleton. The intended use of the subdivision is to plat one lot for residential development.

The Planning Commission is recommending approval of the proposed plat and the developer has met all conditions for plat approval. We've also received a certified letter from Mapleton Township approving of the plat. The City of Mapleton also approves of the plat. Therefore, the Planning Commission recommendation is being forwarded to the County Commission Board for action.

SUGGESTED MOTION: Move that the Cass County Board of Commissioners grant Final Plat approval for C Runck Subdivision, Section 7, Township 139N, Range 50W in Cass County, North Dakota.

1201 Main Avenue West
West Fargo, North Dakota
58078-1301

701-298-2370
Fax: 701-298-2395



MEMORANDUM

**Highway
Department**

Jason Benson, P.E.
County Engineer

Richard S. Sieg
Superintendent

Thomas B. Soucy, P.E.
Design and Construction
Engineer

TO: Cass County Commission

FROM: Tim Solberg, County Planner *TPS*

DATE: October 11, 2012

SUBJECT: Consent Agenda Topic for October 15, 2012 Meeting:
Lone Oak Farm Subdivision

The Cass County Planning Commission reviewed the subject subdivision and held a public hearing on September 27, 2012 and due to lack of quorum at the public hearing later approved at an October 11, 2012 meeting. The plat is located in Normanna Township, Sections 11 and 14, approximately ½ mile west of Cass County Highway 36 between the Cities of Kindred and Horace. The intended use of the subdivision is to plat four lots of which three will be used for residential development; one contains an existing farmstead.

The Planning Commission is recommending approval of the proposed plat and the developer has met all conditions for plat approval. We've also received a certified letter from Normanna Township approving of the plat. Therefore, the Planning Commission recommendation is being forwarded to the County Commission Board for action.

SUGGESTED MOTION: Move that the Cass County Board of Commissioners grant Final Plat approval for Lone Oak Farm Subdivision, Sections 11 and 14, Township 137N, Range 50W in Cass County, North Dakota.

1201 Main Avenue West
West Fargo, North Dakota
58078-1301

701-298-2370
Fax: 701-298-2395

CASS COUNTY PLANNING COMMISSION AGENDA FOR OCTOBER 11, 2012

Cass County Highway Department Conference Room
10:45 AM
1201 Main Avenue West, West Fargo, ND 58078

1. Call to Order
Establish Quorum of Members
Approve June 28, 2012 Minutes
Approve September 27, 2012 Minutes
2. Andvik Acres Subdivision – A minor residential subdivision in Section 34 of Davenport Township
[Public Hearing]
[Action]
3. C Runck Subdivision – A minor residential subdivision in Section 7 of Mapleton Township
[Public Hearing]
[Action]
4. Lone Oak Farm Subdivision – A minor residential subdivision in Section 11 and 14 of Normanna Township
[Public Hearing]
[Action]
5. Adjournment

Brown bag luncheon immediately following in the Vector Conference Room from 11:30am-1:00pm regarding Planning Commission discussion of agricultural exemptions to road restriction policies.

Additional copies of the agenda and Planning Commission materials are available at:
<http://www.casscountynd.gov/county/Boards/Planning/Pages/default.aspx>

Persons with Disabilities needing accommodations should call 298-2370 prior to the meeting.

**CASS COUNTY PLANNING COMMISSION
SEPTEMBER 27, 2012**

1. MEETING TO ORDER

The meeting was called to order on September 27, 2012, at 7:00 AM in the Highway Department Conference Room with members present as follows: Ken Lougheed, Chad Peterson and Vern Bennett. Keith Monson, Todd Ellig, Mark Williams, Mark Johnson and Melissa Sobolik were absent. Also present were County Engineer Jason Benson and County Planner Tim Solberg.

Due to lack of a quorum, no official action could be taken at today's meeting.

2. ANDVIK ACRES SUBDIVISION (NW ¼ Section of 34, Davenport Township)-Public hearing

Mr. Solberg reviewed the details of the application. The proposed subdivision is approximately 6.84 acres and would be divided into one lot, for residential development. The proposed access will be off of 53rd St., a gravel township road. The plat is currently unmapped on the Flood Insurance Rate Map. Davenport Township does not request assistance from FEMA for flood damaged roads so it cannot be verified if access has been available during past flood events.

The public hearing was opened. As there was no comment the public hearing was closed.

3. C RUNCK SUBDIVISION (SW ¼ of Section 7, Mapleton Township)-Public hearing

Mr. Solberg reviewed the details of the application. The proposed subdivision is approximately 6.9 acres and would be divided into one lot, for residential development. The plat is currently within Zone A of the Flood Insurance Rate Map so any building will require elevation and a floodplain development permit from Mapleton Township.

The County Engineer has recommended extending the right-of-way dedication to 75' on 163rd Ave. SE to the township road. The County Sanitarian has not yet received soil tests, the developer said the contractor is handling the soil testing and will get the permit from the County Sanitarian.

The developer is to meet the goals with deed restriction which is recommended to be a condition of approval as well as properly providing building elevation and access above Base Flood Elevation.

Mr. Solberg said the surrounding parcel should be identified on the plat; Reference to Standard Oil Easement is not identified (location); Mapleton Township signature line states it was reviewed by Arthur Township; and it should be reviewed by the County Engineer.

The public hearing was opened. As there was no comment the public hearing was closed.

4. LONE OAK FARM SUBDIVISION (SE ¼ of Section 11 and NE ¼ of Section 14 in Normanna Township)

Mr. Solberg reviewed the details of the application. The proposed subdivision is approximately 36.36 acres and would be divided into 4 lots, for residential development (with deed restriction). The proposed access will be off of 50th St. SE which a portion thereof is being vacated as part of this plat (a process staff technically approves of based on inability to cross the river and oxbows on the west side of the plat). The plat is currently within Zone AE of the Flood Insurance Rate Map with a Base Flood Elevation of 925 and 926 so any new buildings would require being elevated along with a floodplain development permit from Normanna Township. In reviewing the township and County flood sites it appears the development would have access during large spring flood events.

The river setback including minimum and limited disturbance zones should be delineated and noted on the final plat. Also, the County Engineer will review the access plan and suggest revisions for Lot 1 access. The township approved the portion of the section line vacation and the plat meets the zoning and floodplain as of August 31st.

The public hearing was opened. As there was not comment the public hearing was closed.

5. SCHEDULING OF ROAD RESTRICTIONS BROWN BAG LUNCHEON

Mr. Solberg said there will be a brown bag luncheon on October 11th at the Cass County Highway Department. The meeting will begin at 10:45 with plat approval for the plats which received a public hearing at this meeting and at 11:30 the road restrictions will be reviewed by the Planning Commission. The Road Advisory Committee as well as representatives from Cass County Farm Bureau and Cass County Farmers Union will be invited to attend.

6. ADJOURNMENT

The meeting was adjourned at 7:55 AM.

CASS COUNTY PLANNING COMMISSION AGENDA FOR SEPTEMBER 27, 2012

Cass County Highway Department Conference Room
7:00 AM
1201 Main Avenue West, West Fargo, ND 58078

1. Call to Order
Establish Quorum of Members
Approve June 28, 2012 Minutes
2. Andvik Acres Subdivision – A minor residential subdivision in Section 34 of Davenport Township
[Public Hearing]
[Action]
3. C Runck Subdivision – A minor residential subdivision in Section 7 of Mapleton Township
[Public Hearing]
[Action]
4. Lone Oak Farm Subdivision – A minor residential subdivision in Section 11 and 14 of Normanna Township
[Public Hearing]
[Action]
5. Scheduling of Road Restrictions Brown Bag Luncheon
6. Other Business and Citizen Comment
7. Adjournment

Additional copies of the agenda and Planning Commission materials are available at:
<http://www.casscountynd.gov/county/Boards/Planning/Pages/default.aspx>

Persons with Disabilities needing accommodations should call 298-2370 prior to the meeting.

**CASS COUNTY PLANNING COMMISSION
JUNE 28, 2012**

1. MEETING TO ORDER

The meeting was called to order on June 28, 2012, at 7:00 AM in the Highway Department Conference Room with members present as follows: Ken Lougheed, Keith Monson, Todd Ellig, Vern Bennett, Mark Williams, Mark Johnson and Brad Wimmer. Chad Peterson and Lou Bennett were absent. Also present were County Engineer Jason Benson and County Planner Tim Solberg.

2. MINUTES APPROVED

MOTION, passed

**Mr. Ellig moved and Mr. Johnson seconded that the minutes from the January 26, 2012, meeting be approved as written.
Motion carried.**

3. CASS COUNTY COMPREHENSIVE HIGHWAY PLAN-2013-2017

Mr. Benson reviewed the five-year Comprehensive Highway Plan using a power point presentation. He said Cass County has approximately 700 miles of roads and 500 structures. Testing will be completed this summer to ensure the roadways scheduled for work receive the proper work. Included in the presentation were maps outlining pavement and bridge conditions. Mr. Benson said comments from the Planning Commission will be forwarded to the Road Advisory for consideration, however; there were no formal comments from the commission.

MOTION, passed

**Mr. Wimmer moved and Mr. Johnson seconded to recommend approval of the 2013-2017 Comprehensive Highway Plan to the Cass County Board of Commissioners for formal adoption.
Motion carried.**

4. QUESTION ON LEGAL AUTHORITY TO ENFORCE DENSITY RESTRICTIONS

Mr. Solberg said a question was raised at the January 26 Planning Commission meeting regarding the legality of the use of density restrictions regulated in Cass County Subdivision Ordinance #2006-1. Section 307,308 and 309 of Cass County Subdivision Ordinance #2006-1 regulates density restrictions. In legal opinions obtained from Mr. William Delmore of the law firm Kelsch Kelsch Ruff and Kranda as well as Cass County States Attorney Birch Burdick, it appears the two attorneys agree that Cass County does have the legal authority to enforce density restrictions as we do in our current form.

5. CORRESPONDENCE

Mr. Solberg shared correspondence from the North Dakota DOT regarding a proposed change of intersection of Highways 10 & 18 as well as correspondence received from the City of Fargo for two projects plus a Fargo corridor study.

6. Other Business

Discussion occurred on overweight vehicle permitting on Cass County Highways based on a question posed by Chairman Lougheed to Mr. Johnson, whom is the

Planning Commission representative on the Road Advisory Committee. Mr. Bennett encouraged the County Planner to work with the County Engineer in bringing forward the issue to the County Planning Commission at a future date. Chairman Lougheed concurred that it would be a good topic for future discussion.

7. ADJOURNMENT

MOTION, passed

On motion by Mr. Bennett, seconded by Mr. Johnson, and all voting in favor, the meeting was adjourned at 8:06 AM.

Minutes prepared by Cindy Stoick, Principal Secretary

Final Plat Review Report – Andvik Acres Subdivision

An application for subdivision approval of a tract of land located in NW ¼ of Section 34 in Davenport Township was filed in the Cass County Planning Office by Josh Roberts. The purpose of the subdivision is to plat 1 lot. The plat is approximately 6.84 acres.

Applicant: Josh Roberts/Dean Andvik Phone: 719-433-3930 or 701-428-9110

Analysis

The proposed subdivision is approximately 6.84 acres and would be divided into one lot, for residential development. The subdivision will use private roads, private sewer systems, and Cass Rural Water as a water source. The proposed access will be off of 53rd St, a gravel township road. The plat is currently unmapped on the Flood Insurance Rate Map. Davenport Township does not request assistance from FEMA for flood damaged roads so we are unable to verify in that manner if access has been available during past flood events.

Comprehensive Plan Consistency:

Will meet goals with deed restriction which is recommended to be a condition of approval and proof that the subdivision will have access during a 1% (100 year) chance flood event

Design standards not met include:

Change name of plat on final plat; County Engineer should read Jason Benson;

Review Agency Comments

Cass County Engineer – none to date

County Sanitarian – no soil tests to date – he has ordered them done

Township - none to date

Cass Rural Water – sufficient capacity – 9/13/12

Cass County Electric – none to date

Water Resource District – No observed flooding on site – concerns on site access during flood events

Century Link – no comment

Public Comment – notified property owners within 1000' – no comment to date

Recommendation

Recommend motion to forward approval to County Commission based on subdivision meeting the requirements of Cass County Subdivision Ordinance #2006-1 with the following conditions being met prior to signature and recording:

1. Conditions of Planning Commission and review agencies be met including plat revisions
2. Approval of County Sanitarian for on-site septic

IMAGES NOT DRAWN TO SCALE-ONLY FOR GENERAL REFERENCE

Vicinity Map



Area Map



Preliminary Plat Review Report – Lone Oak Farm Subdivision

An application for subdivision approval of a tract of land located in the SE ¼ of Section 11 and NE ¼ of Section 14 in Normanna Township was filed in the Cass County Planning Office by Mr. Andy Westby. The purpose of the subdivision is to plat 4 lots. The plat is approximately 36.36 acres.

Applicant: Andy Westby

Phone: 701-367-5354

Analysis

The proposed subdivision is approximately 36.36 acres and would be divided into 4 lots, for residential development (with deed restriction). The subdivision will use private gravel roads, private sewer systems, and Cass Rural Water as a water source. The proposed access will be off of 50th St SE which a portion thereof is being vacated as part of this plat (a process staff technically approves of based on inability to cross the river and oxbows on the west side of plat). The plat is currently within Zone AE of the Flood Insurance Rate Map with a Base Flood Elevation of 925 and 926 so any new buildings would require being elevated along with a floodplain development permit from Normanna Township. The current structure on the site is 930.8 at the lowest opening. In reviewing township and County flood sites it appears that this development would have access during large spring flood events.

Comprehensive Plan Consistency:

Will meet goals with properly executed deed restriction and strict adherence to setback conditions which are recommended to be a condition of approval

Design standards not met include:

River Setback including minimum and limited disturbance zones should be delineated and noted on final plat; County Engineer should read Jason Benson;

Review Agency Comments

Cass County Engineer – would like to review access plan and suggests revisions for Lot 1 access

County Sanitarian – has received soil tests and provides specs

Township – Approved portion of section line vacation and plat meets zoning and floodplain – 8/31/12

Cass Rural Water – sufficient capacity – 9/13/12

Cass County Electric – none to date

Water Resource District – none to date

Century Link – add 10' Utility easement to east lot line of lot 4

Public Comment – notified property owners within 1000' – no comment to date

City of Horace – no comment to date

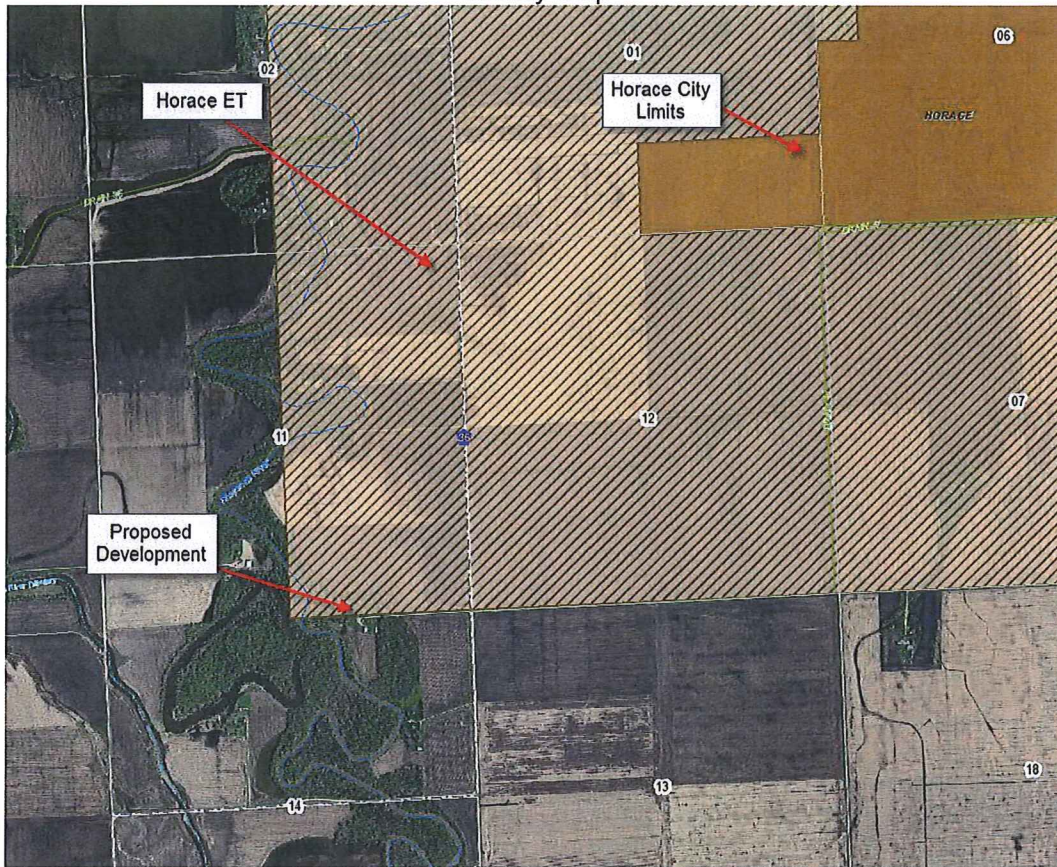
Recommendation

Recommend motion to forward approval to County Commission based on subdivision meeting the requirements of Cass County Subdivision Ordinance #2006-1 with the following conditions being met prior to signature and recording:

1. Deed Restriction to be filed with plat
2. Conditions of Planning Commission and review agencies be met including plat revisions

IMAGES NOT DRAWN TO SCALE-ONLY FOR GENERAL REFERENCE

Vicinity Map



Area Map (2011 Flood)



Final Plat Review Report – C Runck Subdivision

An application for subdivision approval of a tract of land located in SW ¼ of Section 7 in Mapleton Township was filed in the Cass County Planning Office by Craig Runck. The purpose of the subdivision is to plat one lot. The plat is approximately 6.9 acres.

Applicant: Craig Runck

Phone: 701-371-1256

Analysis

The proposed subdivision is approximately 6.9 acres and would be divided into one lot, for residential development. The subdivision will access public roads, private sewer systems, and Cass Rural Water as a water source. The proposed access will be off of 163 Ave SE. The plat is currently within Zone A of the Flood Insurance Rate Map so any building will require elevation and a floodplain development permit from Mapleton Township.

Comprehensive Plan Consistency:

Will meet goals with deed restriction which is recommended to be a condition of approval as well as properly providing building elevation and access above Base Flood Elevation

Design standards not met include:

Surrounding parcel should be identified on the plat; Reference to Standard Oil Easement is not identified (location); Mapleton Township signature line states it was reviewed by Arthur Township; County Engineer should read Jason Benson;

Review Agency Comments

Cass County Engineer – extend right of way dedication to 75' on 163 AVE SE – Township Road

County Sanitarian – has not yet received soil tests – developer stated the contractor is handling it and will permit with County Sanitarian

Township – approved – 9/18/12

Cass Rural Water – sufficient capacity – 9/13/12

Cass County Electric – none to date

Water Resource District – note that it is mapped in Zone A – builder will need to elevate the structure

Century Link – no comment

Public Comment – notified property owners within 1000' – no comment to date

City of Mapleton – meeting with on Tuesday September 25

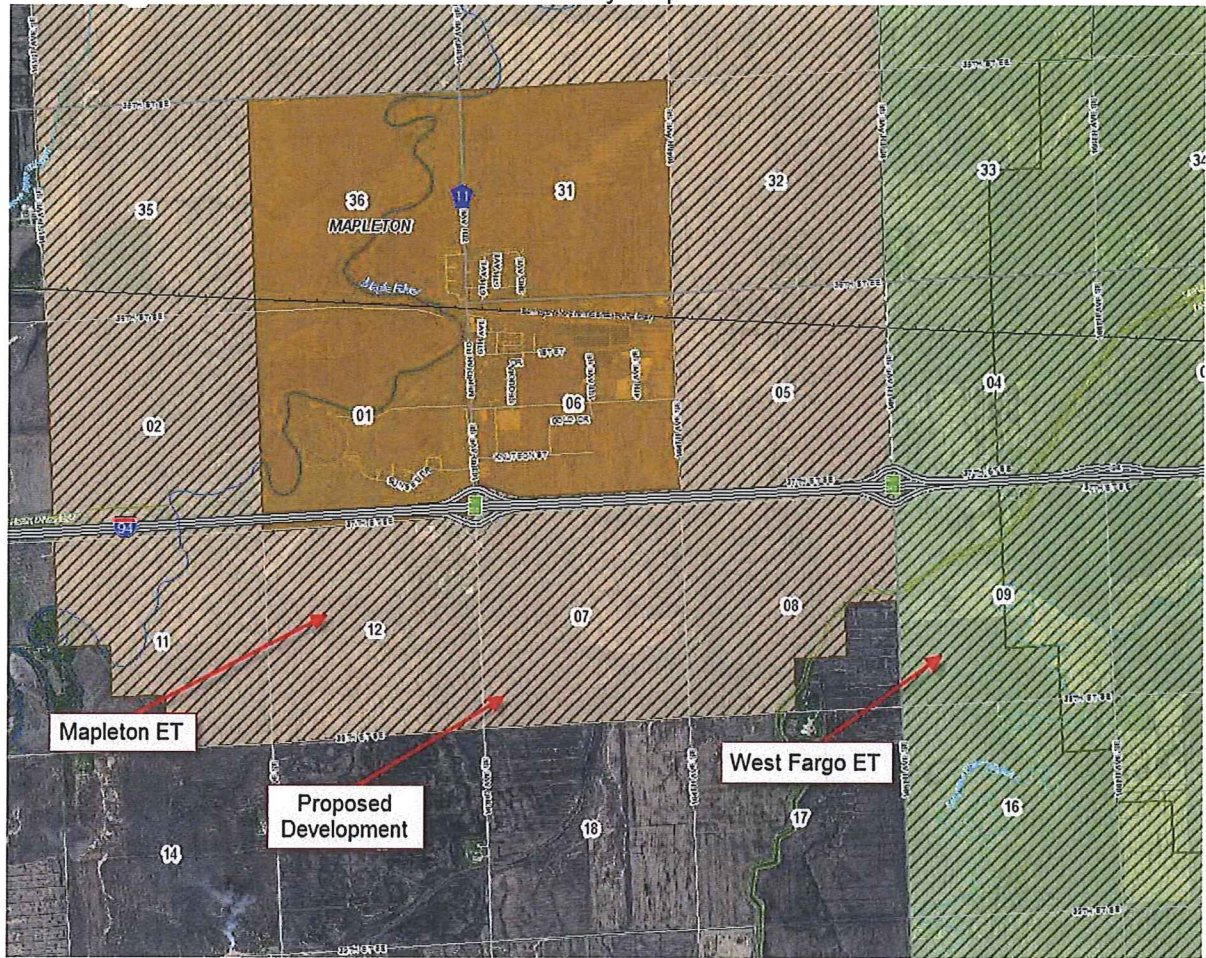
Recommendation

Recommend motion to forward approval to County Commission based on subdivision meeting the requirements of Cass County Subdivision Ordinance #2006-1 with the following conditions being met prior to signature and recording:

1. Deed Restriction to be filed with plat
2. Copy of Title Opinion
3. Conditions of Planning Commission and review agencies be met including plat revisions
4. Approval of County Sanitarian for on-site septic

IMAGES NOT DRAWN TO SCALE-ONLY FOR GENERAL REFERENCE

Vicinity Map



Area Map (2011 Flood)





October 10, 2012

Board of County Commissioners
Cass County Courthouse
211 9th Street South
Fargo ND 58103

RECEIVED

OCT 10 2012

CASS COUNTY COMMISSION

Auditor

RE: Flex Medical Limit

Michael Montplaisir, CPA
701-241-5601

Dear Commissioners:

Treasurer

I apologize for the short notice, but we would like to talk about raising the limit on the Flexible Benefits Medical Account for employees to set aside dollars for the 2013 calendar year. Open enrollment for the program begins shortly, so we need a quick decision.

Charlotte Sandvik
701-241-5611

Director of Equalization

Currently the county allows employees to deposit up to \$2,000 a calendar year into a flex account to use toward medical costs not covered by health insurance. Years ago, we set that limit to offer the employee a chance to save pre-tax dollars from their salary. Before the Affordable Care Act, there was no limit on how much an employee could set aside; however, since the employer was responsible in some cases where the family status changed, most employers adopted a limit.

Frank Klein
701-241-5616

The Affordable Care Act now provides for an upper limit of \$2,500 per year, and with the possibility of deductibles and co-payments increasing, it may be appropriate to increase our flexible spending limit to the same as the Affordable Care Act.

Under the flexible spending account mentioned above, we do have some liability for shortages—such as an employee who spends the dollars early in the year and leaves employment, or has a change in family status, before the dollars are deducted from their payroll. We also have some funds forfeited under this section in cases where employees do not have sufficient medical expenses to claim toward the amounts withheld. This is basically a “use it or lose it” program. In most years, and overall, we have gained more dollars than we have lost.

Sincerely,

Michael Montplaisir, CPA
Cass County Auditor

Box 2806
211 Ninth Street South
Fargo, North Dakota 58103

SUGGESTED MOTION:

Move to amend our cafeteria plan to adopt the Affordable Care Act new limit of \$2,500 for calendar year 2013 for flexible medical accounts.

Fax 701-241-5728

Explanation under the old law:

www.bls.gov/opub/cwc/cm20031022ar01p1.htm

Flexible spending accounts

Health care flexible spending accounts are employer-established benefit plans that reimburse employees for specified medical expenses as they are incurred. These accounts are allowed under section 125 of the Internal Revenue Code and are also referred to as "cafeteria plans" or "125 plans."

The employee contributes funds to the account through a salary reduction agreement and is able to withdraw the funds set aside to pay for medical bills. The salary reduction agreement means that any funds set aside in a flexible spending account escape both income tax and Social Security tax. Employers may contribute to these accounts as well.

There is no statutory limit on the amount of money that can be contributed to health care flexible spending accounts. However, some companies place a limit of \$2,000 to \$3,000 on flexible spending accounts. Once the amount of contribution has been designated during the open enrollment period that occurs once each year, the employee is not allowed to change the amount or drop out of the plan during the year unless he or she experiences a change of family status. By law, the employee forfeits any unspent funds in the account at the end of the year. There have been proposals introduced in Congress to ease this "use it or lose it" rule by allowing up to \$500 to be carried over to the next year; such proposals have not been enacted.

Update on New Law:

www.irs.gov/pub/irs-drop/n-12-40.pdf

The U.S. Internal Revenue Service issued **Notice 2012-40** on May 30, 2012, with guidance on the \$2,500 limit on pretax employee contributions to health care flexible spending accounts (FSAs) under the Patient Protection and Affordable Care Act (PPACA). The reform law limit on the amount that employees can set aside in FSAs is scheduled to take effect in 2013.

Among the points clarified in the notice:

- The \$2,500 limit is effective for plan years starting January 1, and not the taxpayer's tax year. Employers with fiscal year health FSAs may keep higher reimbursement limits in effect through the end of their 2012-2013 plan year.
- Employers may adopt retroactive amendments to impose the \$2,500 limit before Dec. 31, 2014.
- The \$2,500 limit applies only to salary reduction contributions under a health FSA and not to employer non-elective contributions (sometimes called flex credits).