#### 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

- A. Call to Order
- B. Roll Call
- C. Determination of a Quorum
- D. Approve Meeting Minutes of June 22, 2023

### E. <u>Public Hearing Items</u>

- 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.
- 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.

#### **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.

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

#### **G. OLD BUSINESS**

#### H. ADJOURNMENT

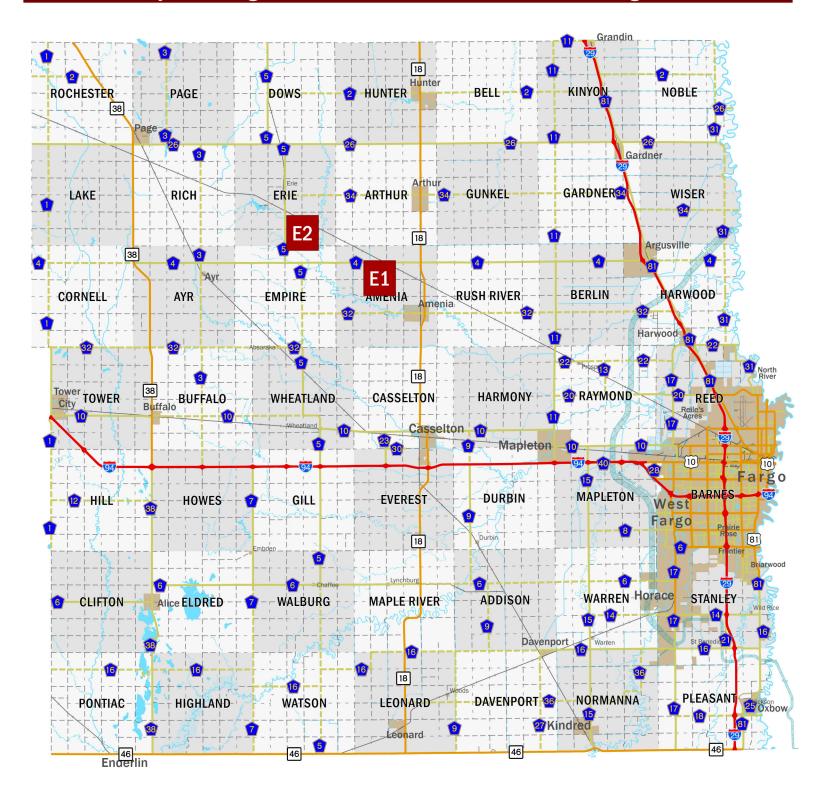
On motion by Mr. Bertsch seconded by Mr. Gust and all voting in favor, the meeting was adjourned at 7:11 am.

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**

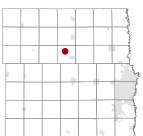
## **Jeremy King Subdivision**

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



Cass County Planning Commission August 24, 2023





#### Imagery: spring 2021

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 missue of the information herein provided.





## Cass County Planning Commission Staff Report

Entitlements Requested:	<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		
Title:	Jeremy King Subdivision	Date:	08/17/23
Location:	SW 1/4 of SE 1/4 of Section 9, Township 141 North, Range 52 West (Amenia Township)	Staff Contact:	Jason Benson
Parcel Number:	22-0000-00341-020	Water District:	Rush River Water District
Owner(s)/Applicant:	Terry Sullivan	Engineer/ Surveyor:	engineer

Status: Planning Commission Hearing: August 24, 2023

Existing Land Use	Proposed Land Use
Residential/Agriculture	Residential/Agriculture
Pro	pposal

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
County Engineer	No concerns from the Highway Department.
Water Resource District	The Rush River WRD has no comment to submit.
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/T-Mobile/Congent	No comments were received prior to publishing the staff report.
AT&T	Clear, no conflict.
Xcel Energy	No comments were received prior to publishing the staff report.
Otter Tail Power Company	No comments were received prior to publishing the staff report.
Magellan Pipeline Company	No comments were received prior to publishing the staff report.

NuStar Energy	No comments were received prior to publishing the staff report.
Cass Rural Water	This property is currently served by Cass Rural Water District. As a result, we have no comments.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	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.
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 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

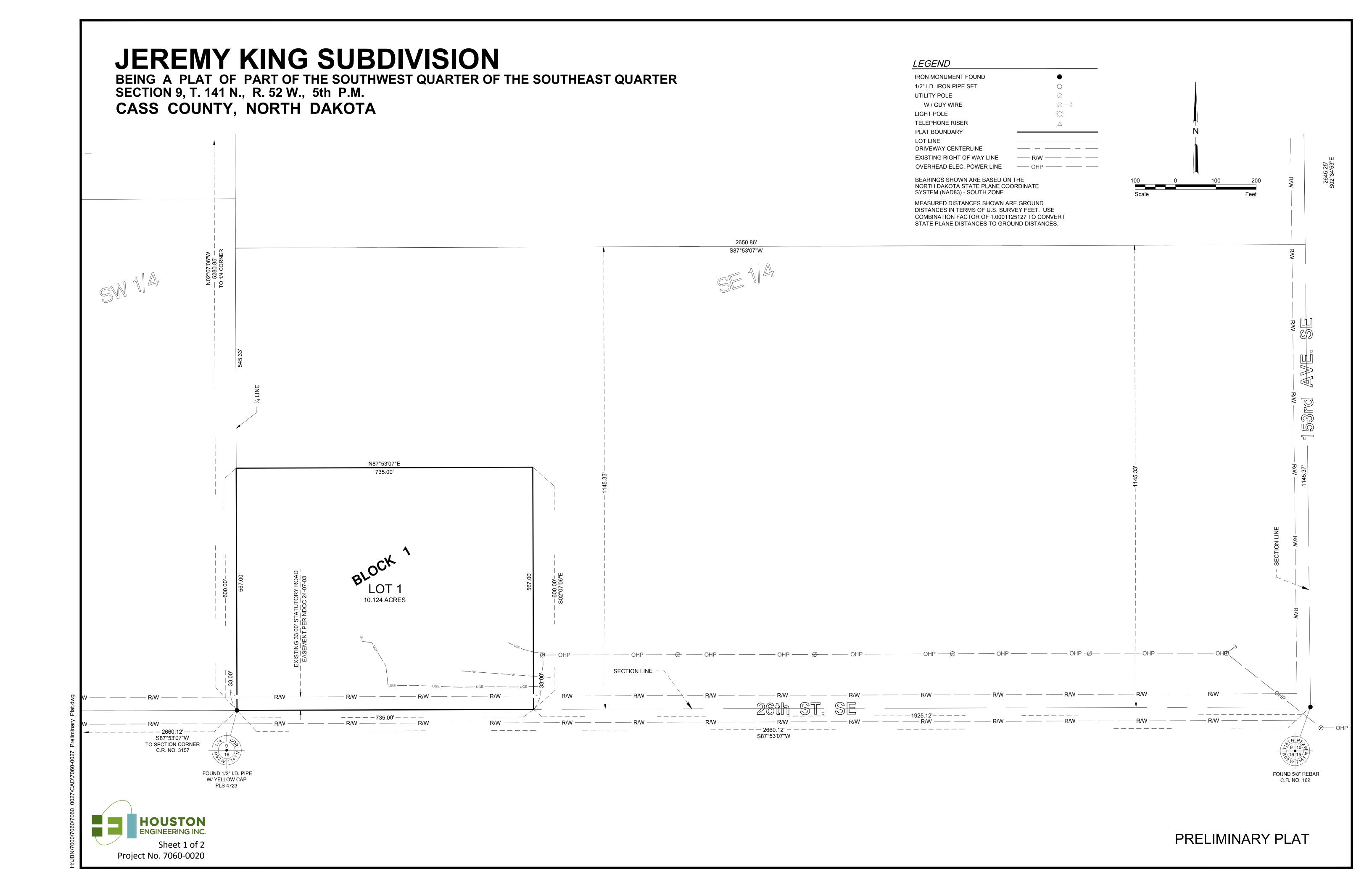
The subject quarter-quarter section currently is developed and requires the transfer of a development right. Section 5.04 (e) of the Cass County Subdivision Ordinance states that every quarter-quarter section is granted one (1) Development Right to create a buildable lot with a minimum of 40 acres. Because 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

|--|

Know all persons by these presents: Terrence J. Sullivan and Luzviminda B. Sullivan, husband and wife, are the owners and proprietors of that part of the Southeast Quarter of Section 9, Township 141 North, Range 52 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

COMMENCING at the southeast corner of said Section 9; thence South 87°53'07" West (assumed bearing), along the southerly line of the Southeast Quarter of said Section 9, for a distance of 1925.12 feet to the TRUE POINT OF BEGINNING; thence continue South 87°53'07" West, along the southerly line of the Southeast Quarter of said Section 9, for a distance of 735.00 feet to the southwest corner of the Southeast Quarter of said Section 9; thence North 02°07'06" West, along the westerly line of the Southeast Quarter of said Section 9, for a distance of 600.00 feet; thence North 87°53'07" East for a distance of 735.00 feet; thence South 02°07'06" East for a distance of 600.00 feet to the TRUE POINT OF BEGINNING.

Said tract contains 10.124 acres, more or less.

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

In witness whereof we have set our hands and seals.

Owners:			
Terrence J. Sullivan		Luzviminda B. Sullivan	
State of	)		
County of	) ss )		

On this \_\_\_\_\_day of \_\_\_\_\_\_, 20 \_\_\_\_\_, before me, a notary public within and for said county and state, personally appeared Terrence J. Sullivan and Luzviminda B. Sullivan, husband and wife, 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:\_\_\_\_\_

### 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 North Dakota PLS No. 4723

State of North Dakota )

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

Notary Public:\_\_\_\_\_

Cass County Engineer:

his free act and deed.

County of Cass

Reviewed by the Cass County Engineer this \_\_\_\_\_day of \_\_\_\_\_, 20\_\_\_\_.

Jason Benson, Cass County Engineer

Cass County Planning Commission:

Reviewed by the Cass County Planning Commission this \_\_\_\_\_\_day of \_\_\_\_\_\_, 20\_\_\_\_\_

Ken Lougheed, Chairman

Attest: \_\_\_\_\_\_Secretary

Amenia Township:

Reviewed by Amenia Township, Cass County, North Dakota, this\_\_\_\_\_day of \_\_\_\_\_\_, 20\_\_\_\_

Kim Brucsh, Chair

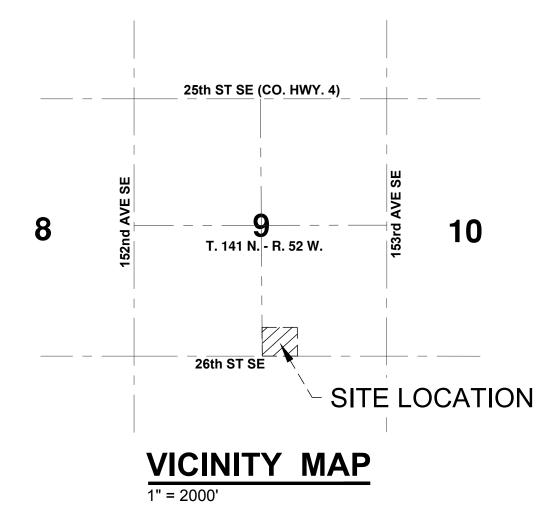
Cass County Board of Commissioners' Approval:

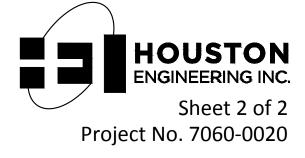
Approved by Cass County, North Dakota, this \_\_\_\_\_day of\_\_\_\_\_, 20\_\_\_.

Chad M. Peterson, Chair

Attest:

Brandy Madrigga, Cass County Finance Director





#### **DEED RESTRICTION**

Pur	suant to Section	309 of the Cass	County Subdivisi	ion Ordinance,	this <b>DEED</b>	RESTRICTIO	<b>V</b> is
entered into	this	day of	,	2023, by			
Owner(s):	Terrance J. Sull	ivan and Luzvimi	inda B. Sullivan, I	nusband and w	rife		

#### 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. <u>VIOLATION OF DEED RESTRICTION</u>

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.

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

Terrance J. Sullivan	Date
Luzviminda B. Sullivan	Date
State of North Dakota ) ) ss County of Cass )	
On thisday of, 2 said county and state, personally appeared Terrance J. and wife, known to be the person(s) described in and w acknowledged that they executed same.	20, before me, a notary public within and for Sullivan and Luzviminda B. Sullivan, husband tho executed the foregoing instrument and
	Notary Public
The foregoing instrument was acknowledged before me 20, by Jason Benson, County Engineer.	e, this,
County Engineer Signature	Date
State of North Dakota ) ) ss County of Cass )	
On thisday of, 2 said county and state, personally appeared Jason Bens described in and who executed the foregoing instrument free act and deed.	son, County Engineer, known to be the person
	Notary Public

## **Minor Subdivision**

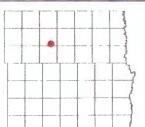
## **Twin Birch Subdivision**

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



Cass County Planning Commission August 24, 2023





Imagery: spring 2021

Maps and data are to be used for reference purposes only and Class County, NO, is not responsible for any lonacurecies herein contained. No responsibility is assumed for damages or other liabilities due to the accuracy, regulability, use or missue of the





## Cass County Planning Commission Staff Report

Entitlements Requested:	Minor Subdivision (1 Lot) of a part of the NW ¼ of Section 35, Township 142 North, Range 53 West		
Title:	Twin Birch Subdivision	Date:	08/17/23
Location:	NW 1/4 of Section 35, Township 142 North, Range 53 West (Erie Township)	Staff Contact:	Jason Benson
Parcel Number:	37-0000-04650-000	Water District:	Rush River Water District
Owner(s)/Applicant:	Dawn Moore	Engineer/ Surveyor:	engineer

Status: 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
County Engineer	No concerns from the Highway Department.
Water Resource District	The Rush River WRD has no comment to submit.
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/T-Mobile/Congent	No comments were received prior to publishing the staff report.
AT&T	Clear, no conflict.
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	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.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	FCPH has no issue with this subdivision, as there is ample room for a future septic system.
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 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

# TWIN BIRCH SUBDIVISION BEING A PLAT OF PART OF THE NORTHWEST QUARTER OF SECTION 35, T. 142 N., R. 53 W., 5th P.M. CASS COUNTY, NORTH DAKOTA - RW 2319-LEGEND IRON MONUMENT FOUND 1/2" I.D. IRON PIPE SET PLAT BOUNDARY EXISTING RIGHT OF WAY LINE EXISTING UTILITY EASEMENT SETBACK LINE MINIMAL DISTURBANCE ZONE SETBACK BEARINGS SHOWN ARE BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM (NAD83) - SOUTH ZONE 29.00'— 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. — — — — — 2645.17' — — — — — S02°07'58"E TO SECTION CORNER S02°07'54"E HOUSTON ENGINEERING INC. PRELIMINARY PLAT Sheet 1 of 2 Project No. 11786-0001

# TWIN BIRCH SUBDIVISION

BEING A PLAT OF PART OF THE NORTHWEST QUARTER OF SECTION 35, T. 142 N., R. 53 W., 5th P.M. CASS COUNTY, NORTH DAKOTA

	0		<b>D</b>
Owners'	Certificate	and	Dedication

Know all persons by these presents: Dawn B. Moore and Joel C. Moore, wife and husband, are the owners and proprietors of that part of the Northwest Quarter of Section 35, Township 142 North, Range 53 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

COMMENCING at the northwest corner of said Section 35; thence South 02°27'54" East (assumed bearing), along the westerly line of the Northwest Quarter of said Section 35, for a distance of 855.74 feet to the TRUE POINT OF BEGINNING; thence continue South 02°27'54" East, along the westerly line of the Northwest Quarter of said Section 35, for a distance of 905.36 feet; thence North 87°52'06" East for a distance of 350.00 feet; thence North 02°27'54" West for a distance of 905.36 feet; thence South 87°52'06" West for a distance of 350.00 feet to the TRUE POINT OF BEGINNING.

Said tract contains 7.274 acres, more or less.

And that said parties have	coursed the same to be	our loved and platted as	: TWIN BIRCH SUBDIVISION
And mar said barnes have	caused the same to be s	surveveo ano bianeo as	CIVVIN DIRUG SUDIJIVISKI

In witness whereof we have set our hands and seals.

_	
Owners:	

Dawn B. Moore	Joel C. Moore	

State of	)
	) s
Country of	\

On this \_\_\_\_\_day of \_\_\_\_\_\_, 20 \_\_\_\_\_, before me, a notary public within and for said county and state, personally appeared Dawn B. Moore and Joel C. Moore, 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.

<b>Notary Public:</b>	· ·	

## 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

Curtis A. Skarphol	
North Dakota PLS No. 4723	

HOUSTON ENGINEERING INC.

Project No. 11786-0001

Sheet 2 of 2

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

## Cass County Planning Commission:

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

## Ken Lougheed, Chairman

Attest: Secretary

## Erie Township:

Reviewed by Erie Township, Cass County, North Dakota, this\_\_\_\_\_day of \_\_\_\_\_\_, 20\_\_\_\_.

## Robert Kyser, Chair

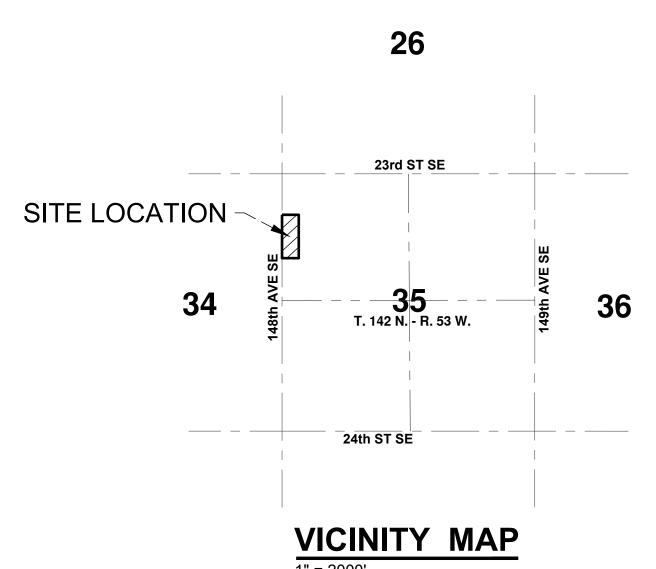
Alan Idso, Clerk

## Cass County Board of Commissioners' Approval:

Approved by Cass County, North Dakota, this \_\_\_\_\_day of\_\_\_\_\_, 20\_\_\_.

## Chad M. Peterson, Chair

Brandy Madrigga, Cass County Finance Director



#### DEED RESTRICTION

Pursuant to Section 5.04 of the Cass County Subdivision Ordinance, this DEED RESTRICTION is

entered into this 27th day of July , 2023 by

Owner(s)

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:

- 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;
- 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 14 of the NW 14 of Section 35
Two 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:
Naun B Moore  Owner(s) Signature  7 /26/23  Date
ownsi, o y origination
State of North Dakota ) HAYDEN L BRING Notary Public State of North Dakota County of Cass ) HAYDEN L BRING Notary Public State of North Dakota My Commission Expires Jan. 28, 2026
County of Cass ) My Commission Expires Jan. 28, 2026
On this
Notary Public
The foregoing instrument was acknowledged before me, this day of
And Ben 8/2/23
County Engineer Signature Date
State of North Dakota ) ) ss County of Cass )
On this
Notary Public
NINA M. STONE Notary Public State of North Dakota My Commission Expires Jan. 6, 2024