

CASS COUNTY PLANNING COMMISSION AGENDA

Thursday, February 22, 2024 at 7:00 a.m.

West Fargo Public Works, 810 12th Ave NW, West Fargo, ND 58078

A. Call to Order

B. Roll Call

C. Determination of a Quorum

D. Approve Meeting Minutes of January 25, 2024

E. Public Hearing Items

1. Hearing on an application requesting a Minor Subdivision Plat of **Rutten Subdivision** located in Section 33, Township 139 North, Range 50 West of the 5th Principal Meridian, Mapleton Township, Cass County, North Dakota.

F. New Business

G. Old Business

1. Opening on Planning Commission for a Fargo Resident

H. Adjournment

CASS COUNTY PLANNING COMMISSION
January 25, 2024

A. CALL TO ORDER

A meeting of the Cass County Planning Commission was called to order January 25, 2024 at 7:06 am in the West Fargo Public Works conference room.

B. ROLL CALL

Planning Commissioners attending in person were Ken Lougheed, Dr. Tim Mahoney, Brad Olson and Hugh Veit. Keith Gohdes attended via Teams.

David Gust, Keith Monson, and Commissioner Duane Breitling were absent.

Attending in person were Cole Hansen, Cass County Planner, Tom Soucy, Interim Cass County Engineer. Raleigh Robinson, a member of the public attended via Teams for the Grothmann Subdivision.

C. DETERMINATION OF A QUORUM

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

D. MINUTES, APPROVED

MOTION, *passed*

Mr. Olson moved and Mr. Veit seconded to approve the minutes of the December 14, 2023 meeting as presented.

Motion carried.

E. PUBLIC HEARING

- 1. Hearing on an application requesting a Minor Subdivision Plat of Hagensen Subdivision located in Section 17, Township 139 North, Range 50 West of the 5th Principal Meridian, Mapleton Township, Cass County, North Dakota.**

Mr. Lougheed opened the public hearing.

The applicant is seeking approval of a minor subdivision entitled Hagensen Subdivision to plat a one (1) Lot subdivision of approximately 17 acres. According to the applicant, the subdivision is requested to separate the existing farmstead from the farmland for sale.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use 38th St SE for road access, ditches for storm sewer conveyance, rural water. The property currently does have an on-site septic system for wastewater treatment.

There was no public comment, the public hearing was closed.

MOTION, *passed*

Mr. Veit moved, Dr. Mahoney 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.

2. Hearing on an application requesting a Minor Subdivision Plat of Steve King Subdivision located in Section 3, Township 141 North, Range 53 West of the 5th Principal Meridian, Empire Township, Cass County, North Dakota.

Mr. Lougheed opened the public hearing.

The applicant is seeking approval of a minor subdivision entitled Steve King Subdivision to plat a one (1) Lot subdivision of approximately 20 acres. According to the applicant, the subdivision is requested to create a new lot for the creation of a permanent residence.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use County Highway 4 for road access, ditches for storm sewer conveyance, rural water. The property currently does have an on-site septic system for wastewater treatment.

Mr. Olson asked if the lower land has any issues with flooding. Mr. Hansen said that there is higher land, and the trees to the west are all in a slough. Mr. Soucy said that County Road 4 has never flooded. Dr. Mahoney asked if it is unusual to expand the lot for the purpose of hunting. Mr. Hansen said that is it unusual, but the surrounding areas are owned and farmed by one person. There is a deed restriction for the back part of the property to the north.

There was no further public comment, the public hearing was closed.

MOTION, *passed*

Mr. Olson moved, Mr. Veit 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.

3. Hearing on an application requesting a Minor Subdivision Plat of Grothmann Subdivision located in Section 7, Township 142 North, Range 49 West of the 5th Principal Meridian, Wisner Township, Cass County, North Dakota.

Mr. Lougheed opened the public hearing.

The applicant is seeking approval of a minor subdivision entitled Grothmann Subdivision to plat a one (1) Lot subdivision of approximately 13 acres. According to the applicant, the subdivision is requested to increase the size of the parcel.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use 168th St SE for road access, ditches for storm sewer conveyance, rural water. The property currently does have an on-site septic system for wastewater treatment.

There was no public comment, the public hearing was closed.

MOTION, *passed*

Mr. Veit moved, Dr. Mahoney seconded to accept the findings and recommendations of staff and recommend approval to the County Commission of the subdivision application, including updating the access to only one, 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

Opening on Planning Commission for a Fargo Resident

Dr. Mahoney said that he knows of a couple of people that could be interested and he will reach out to them.

NDDA Regional Livestock Planning Grant

This will be a study of areas within the county that will rate potential sites that may be attractive for development. Lake Agassiz Regional Council will be in charge of selecting consultants for this project. Dr. Mahoney suggested that there be an executive session at a later date for the Planning Commission to review this study and give input before the final product is complete. Mr. Hansen also mentioned that the results of the study are confidential and not subject to open records requests. Mr. Veit asked if that was a requirement and if that was the best course of action for a study undertaken with public money. Mr. Hansen said that he would follow up with that and see what can be done to release the study publicly without revealing any confidential information. Mr. Hansen said he can set up an informational meeting with the consultants if needed. Mr. Hansen will keep the Planning Commissioners updated.

G. OLD BUSINESS

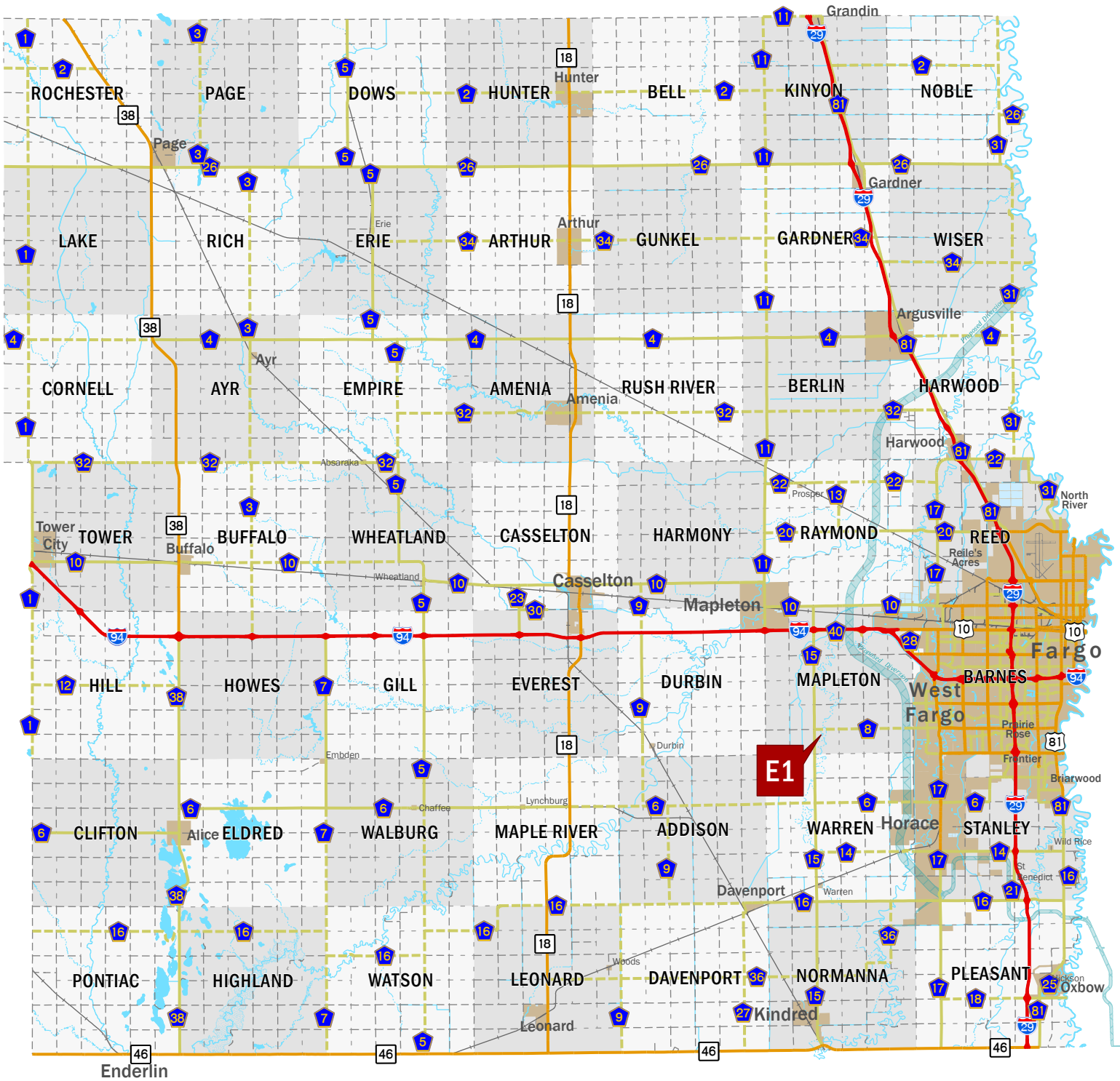
H. ADJOURNMENT

On motion by Mr. Veit and seconded by Mr. Olson and all voting in favor, the meeting was adjourned at 7:44 am.

Agenda Items

Cass County Planning Commission

February 22, 2024



Agenda Items:

E1 - Ruten 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.





Cass County Planning Commission Staff Report

Entitlements Requested:	Minor Subdivision (1 Lot) of a part of the NW ¼ of Section 33, Township 139 North, Range 50 West		
Title:	Rutten Subdivision	Date:	02/22/24
Location:	NW ¼ of Section 33, Township 139 North, Range 50 West (Mapleton Township)	Staff Contact:	Cole Hansen
Parcel Number:	53-0000-09166-020	Water District:	Maple River Water District
Owner(s)/Applicant:	John Rutten	Engineer/Surveyor:	Houston Engineering
Status:	Planning Commission Hearing: February 22, 2024		

Existing Land Use	Proposed Land Use
Residential	Residential
Proposal	

The applicant is seeking approval of a minor subdivision entitled **Rutten Subdivision** to plat a two (2) Lot subdivision of approximately 17.7 acres. According to the applicant, the subdivision is requested to help convey land to future Rutten generations by separating the home and farmstead from the tillable land.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use County Road 8 for road access, ditches for storm sewer conveyance, rural water. The property currently does have an on-site septic system for wastewater treatment.

Agency Comments	
County Engineer	No comment.
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/T-Mobile/Congent	No comments were received prior to publishing the staff report.
AT&T	No comments were received prior to publishing the staff report.
Xcel Energy	No comments were received prior to publishing the staff report.
Otter Tail Power Company	No comments were received prior to publishing the staff report.
Magellan Pipeline Company	No comments were received prior to publishing the staff report.

NuStar Energy	No comments were received prior to publishing the staff report.
Cass Rural Water	Water service from shared wells, no comment to submit.
North Dakota Department of Transportation	No comments were received prior to publishing the staff report.
County Sanitarian	Septic system certified in 2001 for 4-bedroom house.
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, south, and east sides of the lot. County Road 8 borders the north of the property.

Floodzone
 According to the FEMA Flood Map Service Center, this property is currently unmapped and no 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

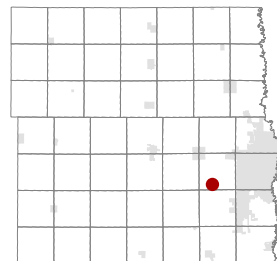
Minor Subdivision

Rutten Subdivision

Section 33, Mapleton Township
Township 139 North - Range 50 West



Cass County Planning Commission
February 22, 2024



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 misuse of the information herein provided.



RUTTEN SUBDIVISION

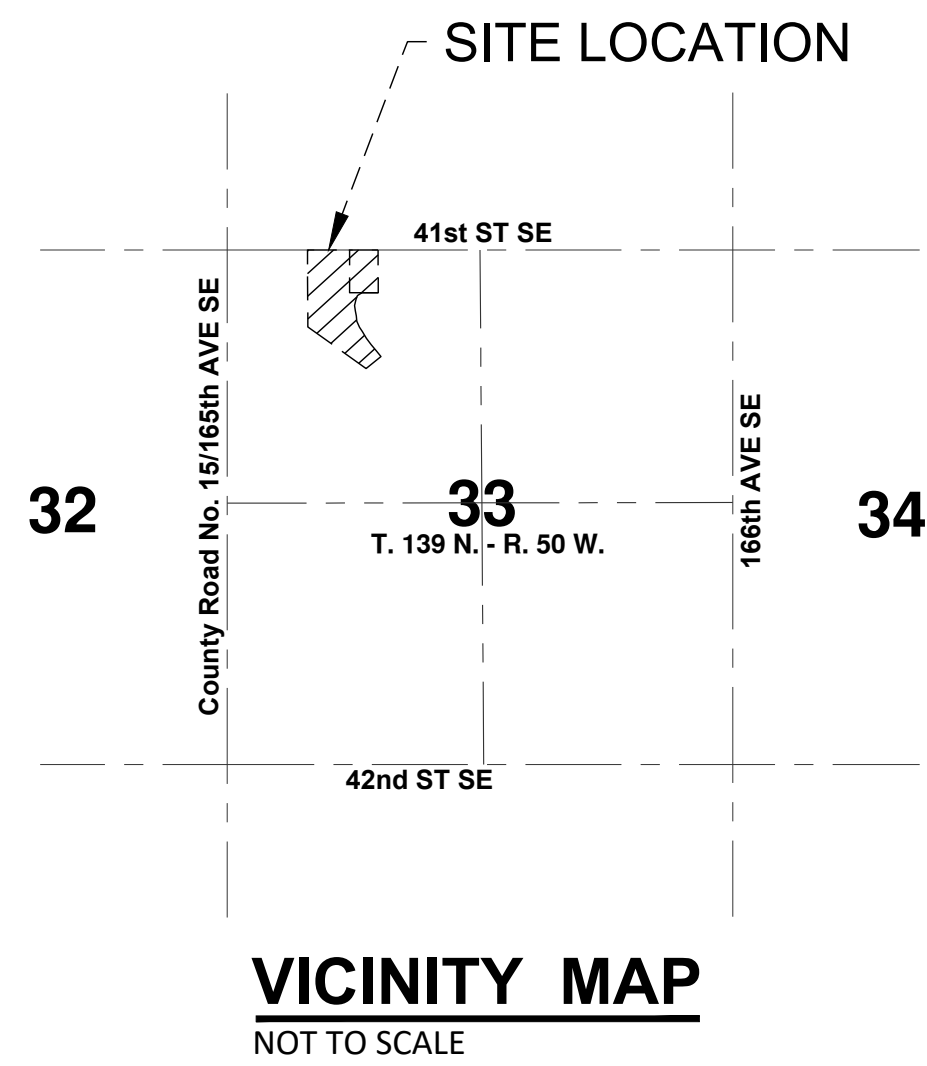
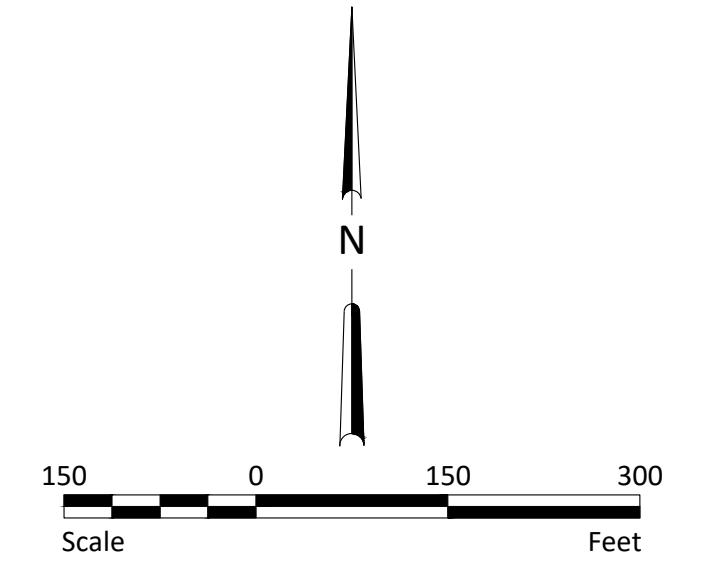
BEING A PLAT OF PART OF THE NORTHWEST QUARTER
SECTION 33, T. 139 N., R. 50 W., 5th P.M.
CASS COUNTY, NORTH DAKOTA

LEGEND

- IRON MONUMENT FOUND
- 1/2" I.D. IRON PIPE SET
- PLAT BOUNDARY
- LOT LINE
- EXISTING RIGHT OF WAY LINE R/W
- OVERHEAD ELEC. POWER LINE OHP
- UTILITY POLE
- LIGHT POLE

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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RUTTEN SUBDIVISION

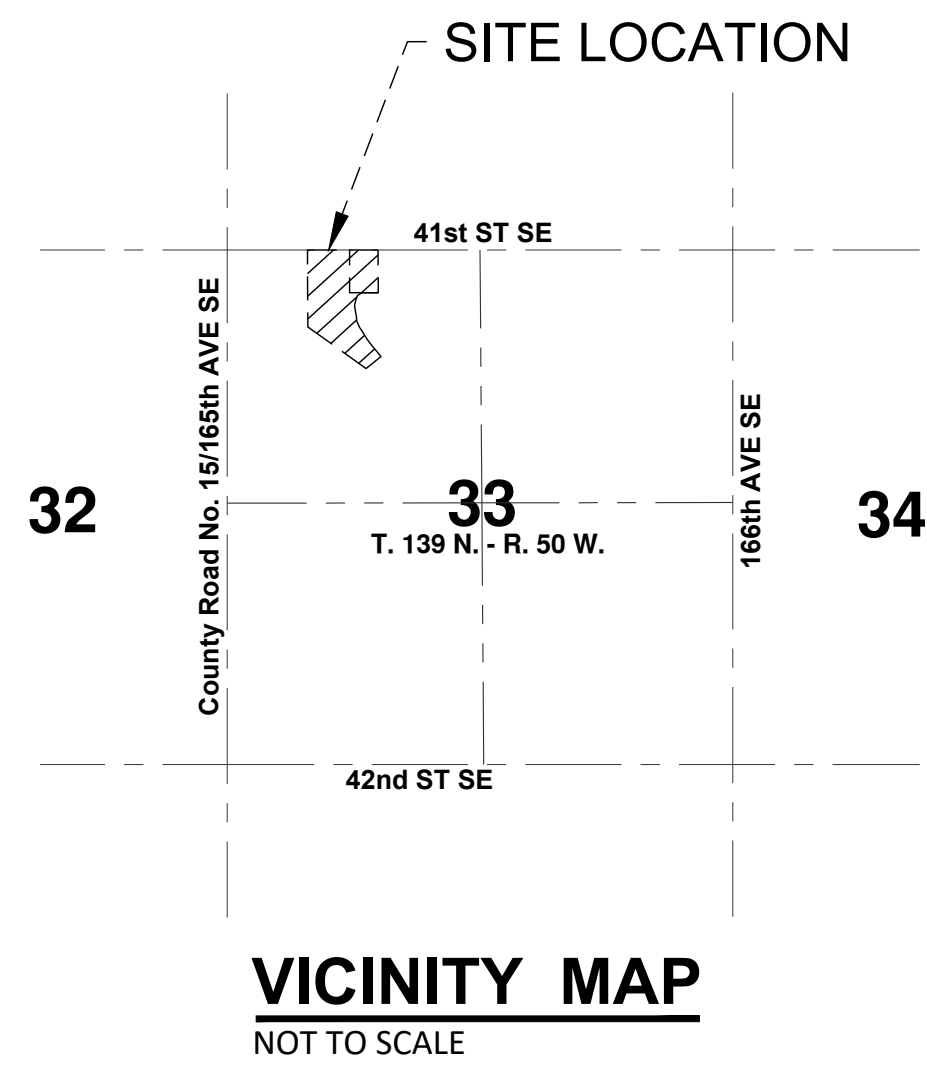
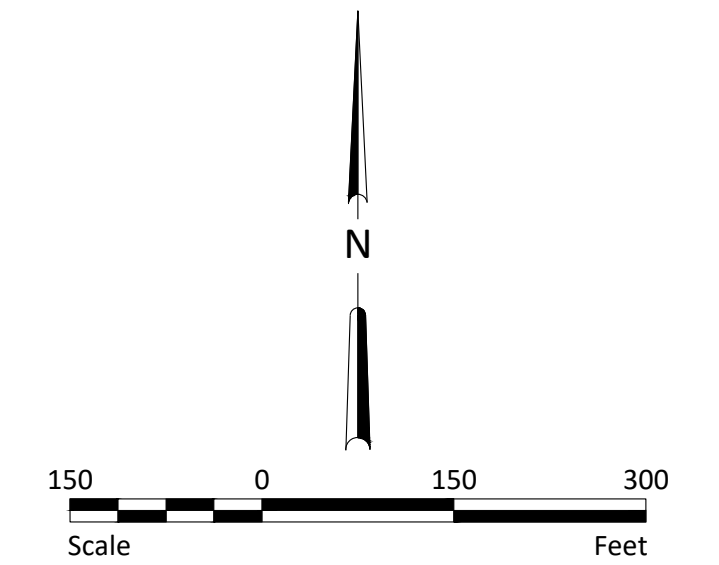
BEING A PLAT OF PART OF THE NORTHWEST QUARTER
SECTION 33, T. 139 N., R. 50 W., 5th P.M.
CASS COUNTY, NORTH DAKOTA

LEGEND

IRON MONUMENT FOUND	●
1/2" I.D. IRON PIPE SET	○
PLAT BOUNDARY	———
LOT LINE	———
EXISTING RIGHT OF WAY LINE	— R/W —
OVERHEAD ELEC. POWER LINE	— OHP —
UTILITY POLE	⊙
LIGHT POLE	⊙

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

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DEED RESTRICTION

Pursuant to Section 309 of the Cass County Subdivision Ordinance, this **DEED RESTRICTION** is entered into this ^{7th} ~~15th~~ day of January, 2024, by Owner(s): John W. Rutten and Margaret T. Rutten

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 Northeast Quarter of the Southeast Quarter of the Northwest Quarter, together with the South Half of the Southeast Quarter of the Northwest Quarter, together with the Northeast Quarter of the Southwest Quarter, all in Section 33, Township 139 North, Range 50 West of the Fifth Principal Meridian, Cass County, North Dakota.

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

John W. Rutten
John W. Rutten

1-24-2024
Date

Margaret T. Rutten
Margaret T. Rutten

1-24-2024
Date

State of ARIZONA)
County of PINAL) ss

On this 24 day of JANUARY, 2024, before me, a notary public within and for said county and state, personally appeared John W. Rutten and Margaret T. Rutten, husband and wife, 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.



[Signature]
Notary Public

The foregoing instrument was acknowledged before me, this _____ day of _____, 20____, by Tom Soucy, Interim County Engineer.

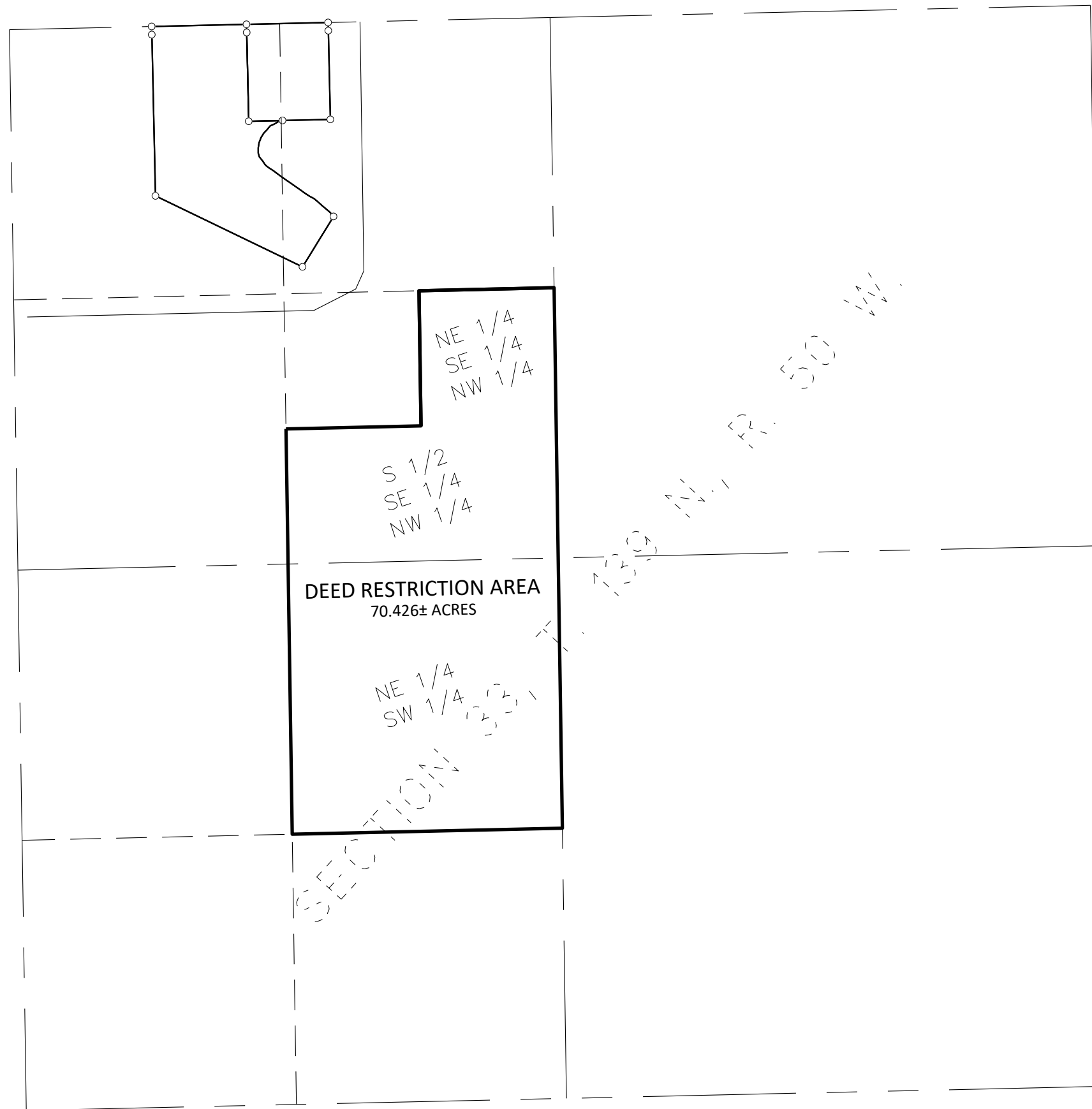
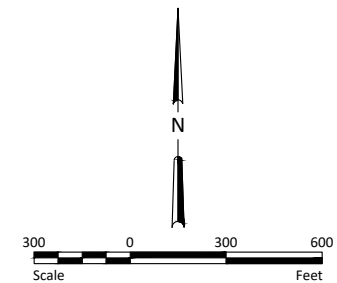
Interim County Engineer Signature

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 Tom Soucy, Interim County Engineer, 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



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No.	Revision	Date	By



Drawn by TRK	Date 1-25-24
Checked by CAS	Scale AS SHOWN

JOHN RUTTEN - DEED RESTRICTION EXHIBIT
PART OF THE NW 1/4, SECTION 33, T. 139 N., R. 50W.,
CASS COUNTY, NORTH DAKOTA

EXHIBIT
PROJECT NO. 12237-0001

SHEET
1 OF 1



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No.	Revision	Date	By



Drawn by	Date
TRK	1-25-24
Checked by	Scale
CAS	AS SHOWN

JOHN RUTTEN - DEED RESTRICTION EXHIBIT
 PART OF THE NW 1/4, SECTION 33, T. 139 N., R. 50W.,
 CASS COUNTY, NORTH DAKOTA

EXHIBIT
 PROJECT NO. 12237-0001

SHEET
 1 OF 1