

## **CASS COUNTY PLANNING COMMISSION AGENDA FOR FEBRUARY 28, 2013**

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 January 24, 2013 Minutes
2. Peterson Seed Subdivision – A minor commercial subdivision in Section 1 of Arthur Township  
[Remove from Table]  
[Action]
3. Bison Substation Subdivision – A minor subdivision for development of an electrical substation in Section 11 of Harmony Township  
[Public Hearing]  
[Action]
4. Other Business and/or Citizen Comments
5. 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**  
**January 24, 2013**

**1. MEETING TO ORDER**

The meeting was called to order on January 24, 2013, at 7:00 AM in the Highway Department Conference Room with members present as follows: Ken Lougheed, Keith Monson, Todd Ellig, Mark Williams, Mark Wentz and Ken Pawluk. Melissa Sobolik, Mark Brodshaug and David Gust were absent. Also present was County Planner Tim Solberg.

**2. MINUTES, APPROVED**

***MOTION, passed***

**Mr. Ellig moved and Mr. Wentz seconded to approve the minutes of the December 13, 2012 meeting as presented. Motion carried.**

**3. PETERSON SEED Subdivision, Public Hearing**

Mr. Solberg reviewed the details of the application. The proposed subdivision is approximately 5 acres and would be divided into one lot, for commercial development. The subdivision will use public roads, private sewer systems, and a private well as a water source. The existing access is off of County Highway 26 at the ½ mile line. The plat is in an unmapped area of the Flood Insurance Rate Map. Staff has received and reviewed a preliminary title opinion.

The development is commercial, but tied directly to agriculture. The plat was approved by Arthur Township. The developer built on the lot without yet having closed on the lot or creating the parcel by subdivision.

The public hearing was opened.

The developer is requesting a variance from the regulation of Section 307 for the following reasons: 1) This is an existing agricultural business that is separating the 5 acre parcel it is on from the balance of the quarter section of farm land. 2) This is not a housing development. 3) The sellers of the 5 acres are not willing to restrict the land use at this time.

Section 307 addresses Lot Density Restrictions which encourage orderly and economically feasible growth, preventing new developments from creating economic strains on county residents, protecting the county's valuable farmland and agricultural traditions, promoting development that will more easily convert to an urban environment and implementing the goals and objectives established by the Cass County Comprehensive Plan (2005) which promotes small, truly rural developments that will mesh more easily with existing agricultural land and activities and will encourage larger urban style subdivision to develop in the urban fringe and other areas with supportive infrastructure.

Attorney Dean Rindy representing Carl Peterson was present and stated Mr. Peterson was unaware of the need for any action beyond the approval of the

township. He also stated the owner will comply with any requests from the Planning Commission.

Mr. Solberg provided the following recommendation:

“Given the Peterson Seed Subdivision is a development which is created for the sole purpose of supporting the agricultural industry, is approved by Arthur Township as a permitted use in an agriculturally zoned district, and does not appear to cause a burden to County or Township resources I would recommend that the Planning Commission grant the variance request from density restrictions in regulations of Section 307 of Cass County Subdivision Ordinance #2007-1 based on Policy 2 of Objective B of Goal Five and Policy 4 of Objective B of Goal One in the 2005 Cass County Comprehensive Plan and approve the final plat which will need to include all requirements for final plat prior to signature by the Planning Commission Chairman.”

Mr. Ellig stated that he was uncomfortable granting this developer a variance because he felt that there is no reason not to deed restrict the surrounding property other than the unwillingness of the involved parties. Mr. Pawluk further agreed with this statement and felt that the developer’s construction of the property should not be a reason for the Planning Commission to grant a variance.

Mr. Solberg stated that there is not currently a mechanism in the Ordinance to punish a developer for this situation. He further expounded upon the current situation in Cass County whereby the County has subdivision authority and the townships have zoning authority which makes it difficult to effectively regulate land use.

The public hearing was closed.

***MOTION, passed***

**Mr. Ellig moved and Mr. Pawluk seconded to deny the variance until the owner complies with the regulations as specified in Section 307 of the Subdivision Ordinance. Motion carried.**

***MOTION, passed***

**Mr. Pawluk moved and Mr. Monson seconded to table the application until the issues with the variances are resolved. Motion carried.**

**4. APPOINT MEMBER TO ROAD ADVISORY COMMITTEE FOR TWO YEAR TERM OF 2013-2014**

***MOTION, passed***

**Mr. Pawluk moved and Mr. Ellig seconded to appoint Mark Brodshaug to the Road Advisory Committee for 2013-2014. Motion carried.**

Mr. Solberg will speak with Mr. Brodshaug regarding this appointment.

**5. OTHER BUSINESS**

Mr. Solberg said that the Fargo Moorhead Metropolitan Council of Governments is currently working on an update to the long range transportation plan. A demographic forecast study was recently completed and he provided a copy of this to the board.

He also explained some progress of the CAPX2020 project which is a transmission upgrade for a conglomeration of area utility companies. The project is constructing a new electric substation which will likely require the subdivision of a large parcel of land. He explained that the Subdivision Ordinance does not offer an exemption for this split and will likely require approval by this board. This is expected to be upcoming very soon.

**6. ADJOURNMENT**

**On motion by Mr. Ellig, seconded by Mr. Pawluk, and all voting in favor, the meeting was adjourned at 7:40 AM.**



**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 Planning Commission  
FROM: Tim Solberg, County Planner  
DATE: February 22, 2013  
SUBJECT: Peterson Seed Subdivision

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At the January 24, 2013 Meeting the Planning Commission denied a variance request from the density restrictions of Section 307 of Subdivision Ordinance #2006-1 and tabled a decision on the subdivision application for Peterson Seed Subdivision until the applicant could comply with the full requirements of the Ordinance.

In order to comply, the applicant is attempting to obtain signature on a deed restriction from the owner of the ¼ section for which the proposed development is to be subdivided and hopes to have it completed in time for the February meeting time.

**Suggested Motion**

Recommend motion to forward approval to County Commission with the condition that the developer record deed restriction per density restrictions of Section 307 in order for the subdivision to meet the requirements of Cass County Subdivision Ordinance #2006-1.

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

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

## Final Plat Review Report – Bison Substation Subdivision

An application for subdivision approval of a tract of land located in the SE ¼ of Section 11 in Harmony Township was filed in the Cass County Planning Office by Jeff Zeltinger of Ulteig Engineers. The purpose of the subdivision is to plat one lot. The plat is approximately 79.76 acres.

Applicant: Russel P. Ruliffson Phone: 701-282-7874

### Analysis

This substation is a component of the CapX2020 project which is a joint initiative of 11 transmission-owning utilities in Minnesota and the surrounding region (more information available at [www.capx2020.com](http://www.capx2020.com)). This initiative includes a large phase that will be constructed from the site of the proposed Bison Substation northwest of Mapleton, North Dakota extending southeast to St. Cloud, Minnesota. The transmission line has gone through three phases of permitting with the North Dakota Public Service Commission and they have also been required by many townships in our County to obtain conditional use permits for the transmission line and for the substation from Harmony Township.

The proposed subdivision is approximately 79.76 acres and would be divided into one lot, for development of an electrical substation. The subdivision is at the intersection of two township roads and they will not require any water or waste water services. The proposed access will be off of 32<sup>nd</sup> St SE. The plat is not currently mapped on the Flood Insurance Rate Map, and major flooding does not appear to be a concern. Although not required of a minor subdivision, the developer is proposing to construct two detention ponds to ensure post construction runoff does not exceed pre construction levels. The ponds will be constructed to comply with Section 608.08 of Cass County Subdivision Ordinance #2006-1. Staff has received and reviewed a copy of the title opinion.

Comprehensive Plan Consistency:

The Development may conflict with the following policies of the 2005 Comprehensive Plan:

*Policy 4, Objective B, Goal One: Protect valuable farmland from premature development.*

*Policy 2, Objective A, Goal Five: Discourage nonfarm development in farming areas.*

*Policy 1, Objective B, Goal Five: Limit development occurring away from the urban fringes to be small in size and scope so as to reduce its impact on the rural atmosphere and existing land uses.*

*Policy 2, Objective B, Goal Five: Promote development complimenting the existing land uses, development, and farming lifestyle.*

Although the development of a large electrical substation is not desirable, I believe the County's ability to regulate land use to this degree is limited due to the presence of adopted Harmony Township zoning regulations and our lack of zoning regulations. I'd also encourage the Commission to consider the benefit to the greater community as expressed by CapX2020 in the development of this project to increase dependability to the electrical grid.

Design standards not met include:

None noted

### Review Agency Comments

Cass County Engineer – no comment – 2/20/2013

County Sanitarian – soil tests needed if they will require on-site septic – 2/07/2013

Township – plat signed by Chairman – conditional use permit issued, please see attached letter that describes concerns by Township Board – 2/22/2013

Cass Rural Water – none to date

Cass County Electric – none to date

Water Resource District – no comment – 2/22/2013

Century Link – no comment – 2/08/2013

Public Comment – none to date

### Recommendation

Deny the application based on subdivision failing to meet the goals and objectives of the 2005 Cass County Comprehensive Plan (Policy 4, Objective B, Goal One; Policy 2, Objective A, Goal Five; Policy 1, Objective B, Goal Five; and Policy 2, Objective B, Goal Five)

**OR**

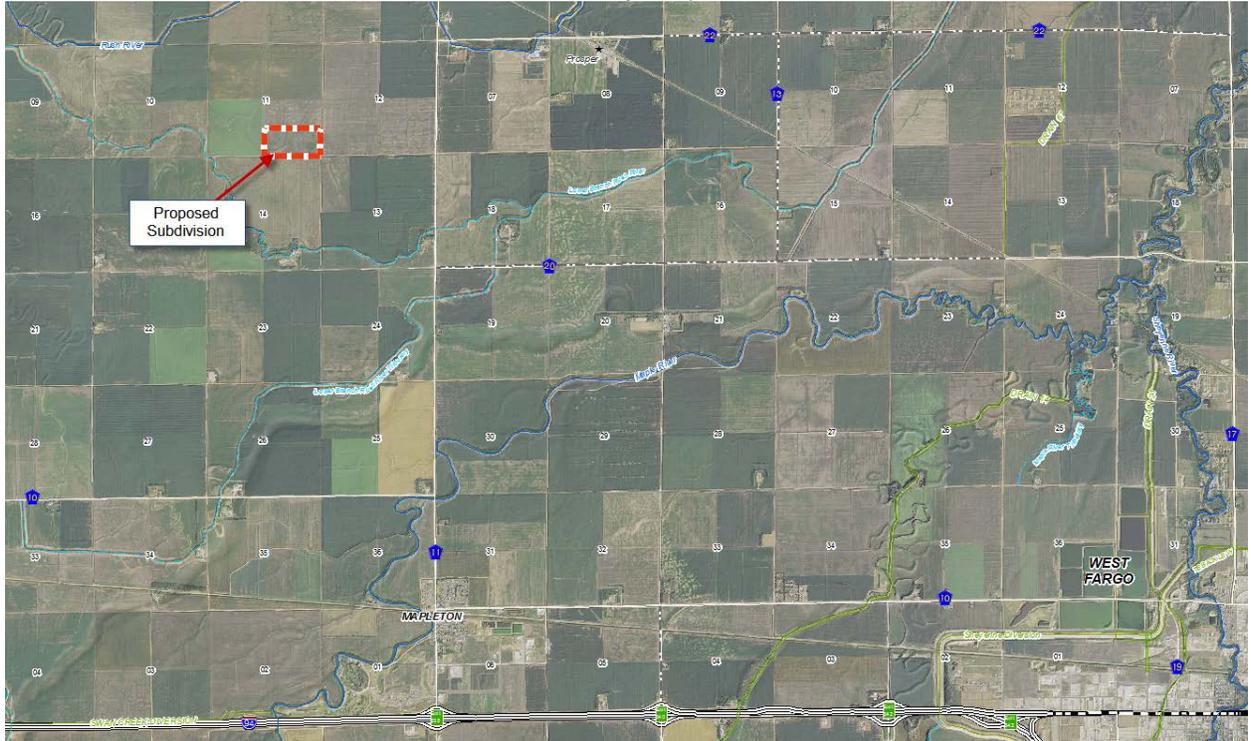
Recommend motion to forward approval to County Commission based on subdivision meeting the requirements of Cass County Subdivision Ordinance #2006-1 with a condition that the final plans for detention ponds are approved by the County Engineer.

*IMAGES NOT DRAWN TO SCALE-ONLY FOR GENERAL REFERENCE*

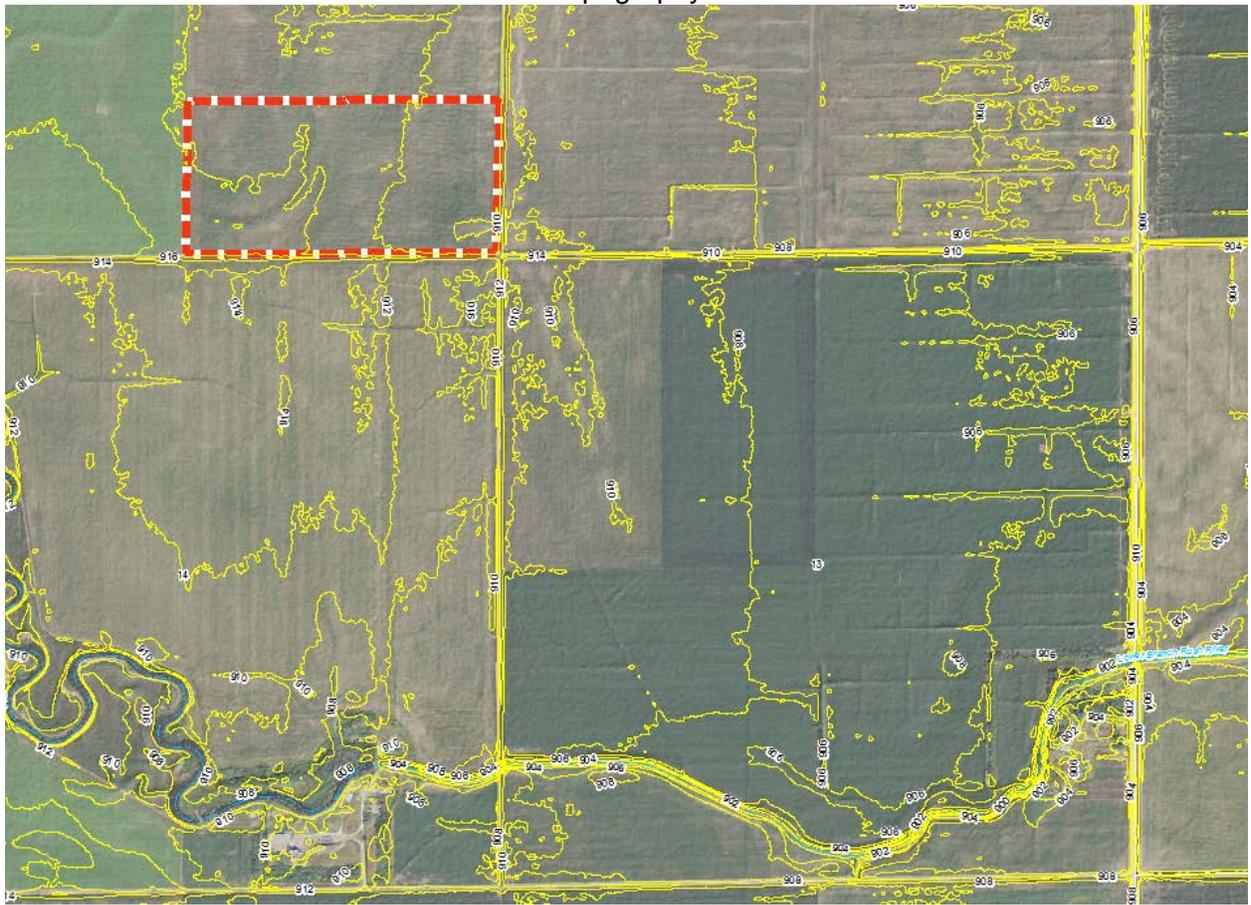
Aerial View



### Vicinity Map



### Topography

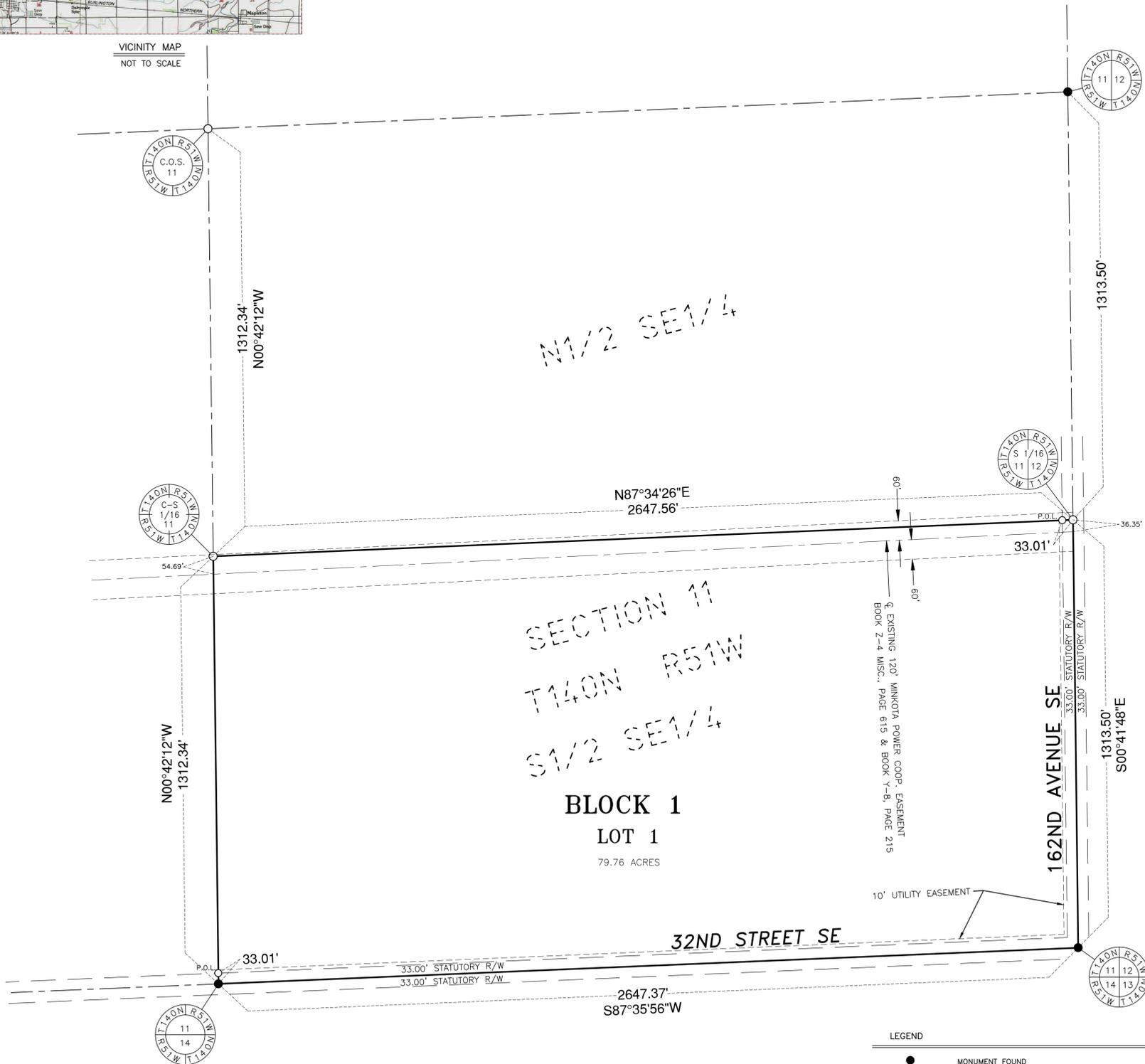


# BISON SUBSTATION SUBDIVISION

AN UNPLATTED PORTION OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 140 NORTH, RANGE 51 WEST  
TO THE COUNTY OF CASS, IN THE STATE OF NORTH DAKOTA



VICINITY MAP  
NOT TO SCALE



## OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That Russell Ruliffson and Melinda Ruliffson, husband and wife, whose address is Harwood, North Dakota as owners of a parcel of land located in the Southeast Quarter of Section 11, Township 140 North, Range 51 West of the Fifth Principal Meridian, Cass County, North Dakota, and more particularly described as follows:

The South Half of the Southeast Quarter of Section 11, Township 140 North, Range 51 West of the Fifth Principal Meridian, Cass County, North Dakota.

Subject to all easements and rights of way of record.

Containing 79.76 Acres more or less.

Said owners have caused the above described tract of land to be surveyed and platted as "BISON SUBSTATION SUBDIVISION" to the County of Cass, State of North Dakota, and do hereby dedicate to the public, for public use, all utility easements as shown on this plat.

OWNER:

By: \_\_\_\_\_  
Russell Ruliffson, husband

By: \_\_\_\_\_  
Melinda Ruliffson, wife

State of North Dakota }  
County of Cass } SS

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 2013, before me, a notary public with and for said County, personally appeared Russell Ruliffson and Melinda Ruliffson, husband and wife known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same.

Notary Public

## COUNTY ENGINEER'S REVIEW

Reviewed by the County Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Jason Benson, Cass County Engineer

## HARMONY TOWNSHIP REVIEW

Reviewed by the Harmony Township, Cass County, North Dakota this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Chairman, Harmony Township

Attest: \_\_\_\_\_  
Clerk

## CASS COUNTY PLANNING COMMISSION REVIEW

Reviewed by the Cass County Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Chairman, Cass County Planning Commission

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

## CASS COUNTY COMMISSION APPROVAL

Approved by the Board of County Commissioners and ordered filed this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Chairman, Cass County Commission

Attest: \_\_\_\_\_  
Michael Montplaisir, Auditor

## SURVEYOR'S CERTIFICATE AND ACKNOWLEDGMENT

I, Jason Ness, Registered Professional Land Surveyor under the laws of the State of North Dakota do hereby certify that this plat is a true and correct representation of the survey of said subdivision; that all distances shown on said plat are correct; that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

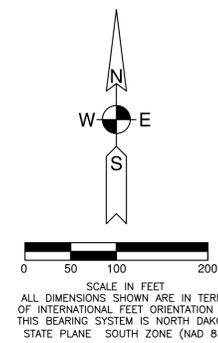
Jason Ness, Professional Land Surveyor  
North Dakota License No. LS-6884

State of North Dakota }  
County of Cass } SS

On this \_\_\_\_\_ day of \_\_\_\_\_, C., 2013, before me, a notary public with and for said County, personally appeared Jason Ness, to me known to be the person described in and who executed the same as a free act and deed.

Notary Public

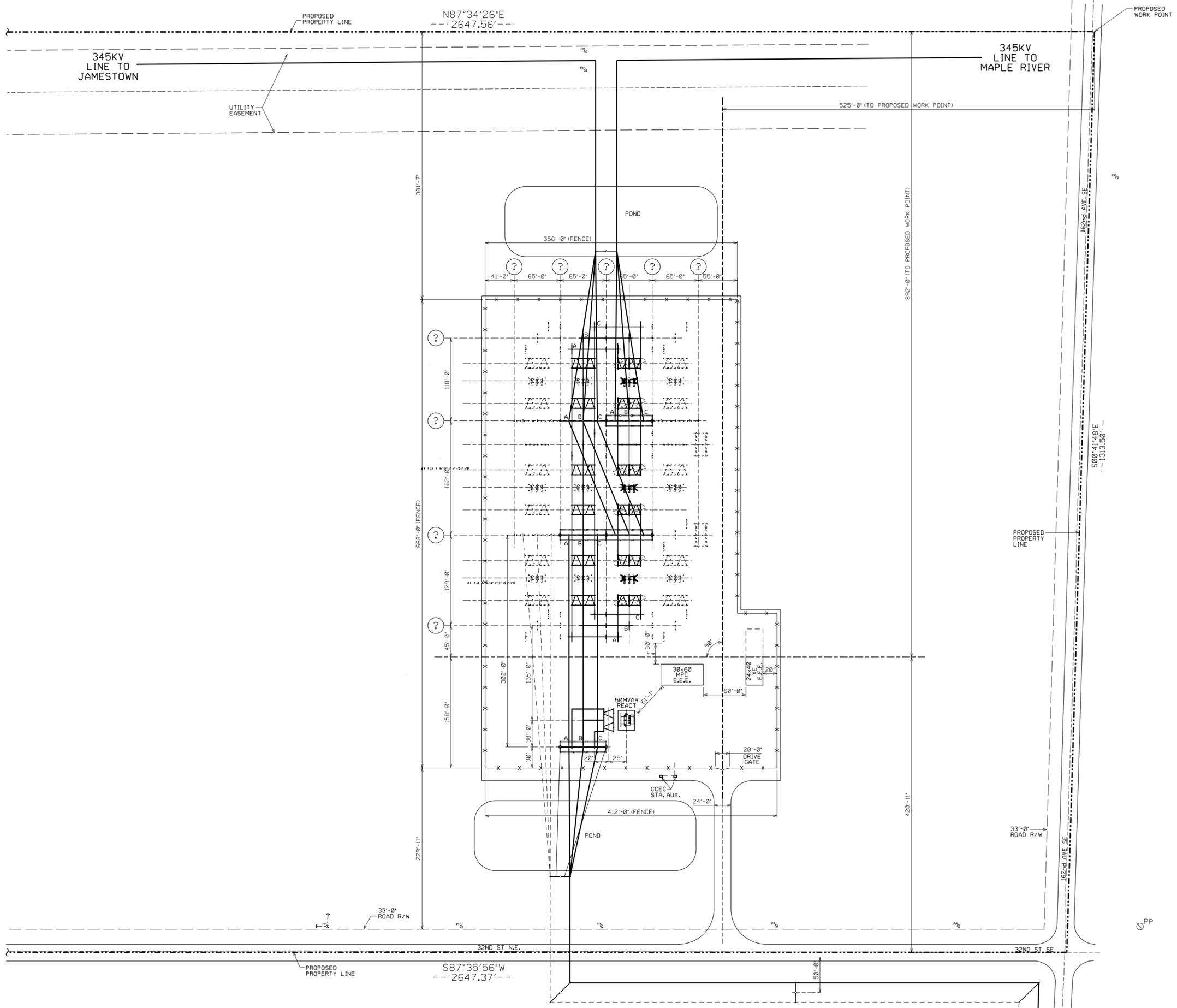
LEGEND	
●	MONUMENT FOUND
○	MONUMENT SET. 5/8" REBAR, CAPPED PLS#LS-5582
P.O.L.	POINT ON LINE
—	SUBJECT PROPERTY LINE
- - -	SECTION LINE
- - - - -	EXISTING RIGHT OF WAY LINE
- - - - -	EASEMENT LINE



PREPARED BY

Ulteig engineers

FARGO - BISMARCK - DETROIT LAKES - MINNEAPOLIS - SIOUX FALLS - DENVER - CEDAR RAPIDS - WILLISTON



**PRELIMINARY**  
NOT FOR CONSTRUCTION

THIS MAP/DRAWING IS A TOOL TO ASSIST EMPLOYEES IN THE PERFORMANCE OF THEIR DUTIES. PERSONAL SAFETY IS PROVIDED FOR BY USING SAFETY PRACTICES, PROCEDURES AND EQUIPMENT AS DESCRIBED IN THE SAFETY TRAINING PROGRAMS, MANUALS AND DRILLS. INTERNAL INFORMATION. DO NOT COPY OR DISTRIBUTE WITHOUT EXPRESS WRITTEN CONSENT FROM XCEL ENERGY.

NSP OPERATING AREA	<b>BISON SUBSTATION</b>	BIN
ENGINEERING	<b>LOCATION PLAN</b>	
MINNEAPOLIS, MN	PROPOSED 345KV OPTION #2	
SCALE	1"=50'-0"	
PROJECT NUMBER	NH-246095P02	REV 7

February 22<sup>nd</sup>, 2013

Cass County Planning Commission  
Cass County Highway Department  
1201 Main Ave West  
West Fargo, ND 58078

Dear Mr Solberg,

This letter is in response to your inquiry regarding the zoning of the Bison Substation which is to be located in Harmony Township in the southeast ¼ of Section 11 (140N-51W). To the best of our knowledge, the final plat meets Harmony Township's zoning requirements and ordinances. Attached you will find a copy of the Conditional Use Permit granted to CapX2020 on October 26<sup>th</sup>, 2012.

Although Harmony Township and its residents are not in favor of this project, we realize that the project is going to probably happen. We feel that CapX2020 went ahead with this project to the North Dakota Public Service Commission and the State of Minnesota in the routing before even contacting the Township regarding the substation and transmission lines. This does not create the start of a real friendly working relationship on a project that has no practical benefit to the Township.

A major concern we have is this substation will be located on minimum maintenance roads. Xcel Energy has agreed to be responsible for constructing and maintaining the road to the substation. This is addressed in the Conditional Use Permit. Our hope is that this doesn't become a problem or burden to Harmony Township in the future, both economically and logistically.

Another major concern is possibility of future transmission lines coming into and going out of the Bison Substation. The last thing Harmony Township and our residents would like to see is a network of power lines gutting our township.

If you have any other questions or concerns, please feel free to contact us at any time.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Jim Howe". The signature is written in a cursive, flowing style.

Harmony Township Board of Supervisors  
Jim Howe, Chair

**HARMONY TOWNSHIP  
BOARD OF SUPERVISORS**

**CONDITIONAL USE PERMIT FOR BISON SUBSTATION**

Permit No. 002  
Issue Date: October 26, 2012

The Harmony Township Board of Supervisors (the Board), having considered the applicants/permittees' application for a conditional use permit for the CapX2020 Bison Substation, having considered the Harmony Township Board's Zoning Commission's recommendation that the Board issue the conditional use permit subject to satisfactory conditions, and having determined that the applicants/permittees have met all requirements of the Harmony Township Zoning Ordinance, hereby issues this permit by unanimous vote for construction/use of the CapX2020 Bison Substation consistent with the applicants/permittees' application.

The permit is subject to the following terms and conditions:

1. The terms and conditions identified herein are applicable to Northern States Power Company d/b/a Xcel Energy and its successors and assigns including any entity that obtains an interest in any Route Permit for the CapX2020 Project issued by the North Dakota Public Service Commission. The phrase Xcel Energy used below refers to Xcel Energy, as well as its successors and assigns.
2. During wet conditions, Xcel Energy removes mud and other debris daily from all roadways caused as a result of the activities of Xcel Energy in constructing the conditional use permitted herein (the Bison Substation).
3. Xcel Energy is responsible for preparing, constructing, maintaining, and otherwise dealing with the road identified as 32<sup>nd</sup> Street SE, which is maintained as a "minimum maintenance road" by Harmony Township, as necessary for the construction, maintenance, and operation of the Bison Substation. This includes, but is not limited to, Xcel Energy obtaining, as it deems necessary, grading, snow removal, and other road related services for 32<sup>nd</sup> Street SE at Xcel Energy's expense. Xcel Energy shall notify the Board of the methods of road preparation and/or road construction that Xcel Energy intends to use to prepare 32<sup>nd</sup> Street SE

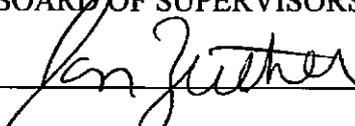
for construction of the Bison Substation before such road preparation and/or road construction is commenced.

4. That during construction, Xcel Energy is responsible for blading, adding gravel to, leveling, and controlling dust on roadways per Harmony Township's specifications; provided that such activities are necessary as a result of the activities of Xcel Energy in constructing the Bison Substation. Following construction of the Bison Substation, Xcel Energy shall assure roads (other than 32<sup>nd</sup> Street SE, which may be altered (e.g., added gravel) as set forth for the construction of the Bison Substation) are returned to their pre-construction condition. Xcel Energy shall, at its expense, obtain a survey of 32<sup>nd</sup> Street SE before and after the construction of the Bison Substation.
5. That Xcel Energy will designate a person to be the point of contact for Harmony Township and provide the phone number and email address of that person to Harmony Township prior to construction of the Bison Substation.
6. That Xcel Energy agrees to be principally liable to Harmony Township for all claims by Harmony Township as against Xcel Energy due to the acts or omissions of contractors/subcontractors engaged by Xcel Energy to perform work on the Bison Substation; provided, however, that such obligation to be principally liable shall not interfere with any contractual right of such contractor/subcontractor to conduct the defense of any such claim by Harmony Township as against Xcel Energy.
7. Xcel Energy shall, at Xcel Energy's request and at Harmony Township's request, make all reasonable efforts to obtain appropriate signage at or around 32<sup>nd</sup> Street SE, including stop signs and signage that 32<sup>nd</sup> Street SE is a "Dead End" road.
8. Xcel Energy, during construction, operation, maintenance, or reconstruction of the Bison Substation shall implement a strategy to mitigate and eliminate negative impacts on drainage patterns caused by the activities of Xcel Energy in constructing the Bison Substation, including mandatory construction culverts in all temporary approaches constructed in connection with the Bison Substation.
9. Xcel Energy shall restore lands such that drainage patterns affected by construction of the Bison Substation are returned to their pre-construction conditions after constructing the Bison Substation, within a reasonable timeframe under the circumstances, including returning all temporary approaches constructed for the Bison Substation to pre-construction grades after construction is complete.
10. Xcel Energy shall submit a \$500,000 performance bond to Harmony Township before constructing the Bison Substation to assure roads, drainage, and bridges are returned to pre-construction condition upon completion of construction of the Bison Substation.

11. Xcel Energy shall restrict speed limit to 45 mph in Harmony Township for all vehicles used by Xcel Energy in connection with construction of the Bison Substation.
12. The permission granted shall extend for the life of the substation to be constructed and shall not require further extension provided that construction of the Bison Substation has commenced by August 18, 2014.

Harmony Township expects the above requests to be an exhaustive list of conditions that will be included in the Conditional Use Permit issued by Harmony Township to Xcel Energy for the construction, operation, maintenance, and removal of the Bison Substation (although additional issues may be considered in the ordinary course in the permitting process).

HARMONY TOWNSHIP  
BOARD OF SUPERVISORS

By:   
Its: Zoning Administrator