

**CASS COUNTY PLANNING COMMISSION
AGENDA FOR DECEMBER 12, 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 August 22, 2013 Minutes
2. Job Second Subdivision – A major residential subdivision in Section 35 of Pleasant Township (T137N, R49W)
[Public Hearing]
[Action]
3. Other Business and/or Citizen Comments
4. 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
AUGUST 22, 2013

1. MEETING TO ORDER

The meeting was called to order on August 22, 2013, at 7:00 AM in the Highway Department Conference Room with members present as follows: Ken Lougheed, Keith Monson, Todd Ellig, Mark Brodshaug, David Gust, Mark Wentz, Ken Pawluk and Mark Williams. Melissa Sobolik was absent. Also present were County Planner Hali Durand and Cass County Engineer Jason Benson.

2. MINUTES, APPROVED AS CORRECTED

MOTION, passed

Mr. Gust moved and Brodshaug seconded to approve the minutes as corrected of the June 27, 2013 meeting as presented. Motion carried.

3. INTRODUCTION OF CASS COUNTY PLANNER – HALI DURAND

Mr. Benson introduced the new Cass County Planner Hali Durand to the board.

4. ELLINGSON Subdivision

Mr. Benson reviewed the details of the application. The proposed subdivision is approximately 3 acres and would be divided into one lot, for residential development. The subdivision will use private roads, on-site septic sewer systems, and Cass Rural Water as a water source. The proposed access will be to the east of 165th Ave SE, a gravel township road. The plat is currently within Zone X of the Flood Insurance Rate Map. Mr. Benson stated the planning office sees no issues with this application.

The public hearing was opened.

Mr. Ellig questioned whether or not the present landowner has enough land to satisfy the 40 acre restriction in the ordinance. Mr. Benson indicated, if approved, this will create 2 farmsteads on 80 acres, therefore those 80 acres would then be deed restricted.

Mr. Pawluk looked at the flood elevations and noted it appears they are just out of the flood plain. He questioned if access to the farmstead will be a problem. Mr. Gust stated there are no concerning issues based on his knowledge of the township.

The public hearing was closed.

MOTION, passed

Mr. Gust moved and Mr. Ellig seconded to approve the plat subject to the recommendations of the planning office. Motion carried.

5. OTHER BUSINESS

Mr. Ellig asked for an update on the status of the Diversion project. He would like to know how far the City of Fargo can impose on landowners or begin their processes before the project is officially funded. What rights do the landowners have when the project isn't officially approved? Mr. Brodshaug stated that the Joint Cass Water Resource District is working with the Army Corp of Engineers in doing surveys, etc. If a landowner refuses entry, the joint board can take them to court using Eminent Domain or Right of Entry. Compensation is provided to the landowner for certain things such as soil boring, easements or crop damage, etc.

Mr. Benson stated that property owners in certain areas will see more of this activity as they work through the design process and continue to study different aspects of the project. Certain parts of the project, such as the ring dike around Oxbow, Hickson, and Bakke Subdivision, as well as the 2nd Street Dike in Fargo, will most likely be started in 2014 quite possibly prior to project authorization on the diversion as funds are available for those projects now.

Mr. Brodshaug spoke in regards to the water bill currently passed by the Senate and awaiting action in the House. There are no guarantees that it will go anywhere, but they are hopeful that it will also pass in the House. If it does get passed, the next step will be to secure federal funding.

Mr. Gust stated he is really disturbed by the action taken by the board a few months ago on the Ida Subdivision. He would like to know if there is something the board can do to avoid people having to spend money to survey and plat the land only to have this board deny the subdivision. Is it a possibility to place a moratorium on development in areas to the south that may be affected by the diversion?

Mr. Pawluk feels that the process worked as intended. These issues come before the board and the board makes a decision based on the facts at hand. If someone disagrees with the board's decision, they can appeal it to the Cass County Commission.

Mr. Gust questioned that if the landowner meets all the stipulations in order to develop but we deny them based on what might happen, such as the proposed path of the diversion, are we serving our citizens well?

Mr. Lougheed stated that if everything was black and white, there would be no need for this board. Our role is to make decisions based on the facts as we see them, our experience, and our opinions.

Mr. Brodshaug questioned whether the board wants to continue the discussion regarding a moratorium. Mr. Gust and Mr. Ellig feel it is a good idea so that we can avoid individuals spending money on development needlessly. The board would like Ms. Durand and Mr. Benson to identify what a moratorium would look like and how it would affect different things in the county and bring their findings to the next meeting.

6. ADJOURNMENT

On motion by Mr. Gust, seconded by Mr. Ellig, and all voting in favor, the meeting was adjourned at 7:35 AM.

Minutes prepared by DeAnn Buckhouse, Senior Clerk

Preliminary Plat Report

Title: Job Second Subdivision

Owner(s): Lance Freier

Applicant: Jon Youness, Eagle Ridge Development Company, LLC.

Type of Request: Major Subdivision (5-12 lots)

Status: Preliminary Hearing at the December 12, 2013 Planning Commission Meeting

Proposal:

An application for a Major Subdivision (plat), a replat of Lot 1, Block 1, Job Subdivision has been received by the Cass County Planning Office for approval of a tract of land located in a part of the Northeast $\frac{1}{4}$ of Section 35 in Pleasant Township for the purpose to plat 5 lots for residential development. The said tract contains 25.03 acres of land, more or less.

Staff Analysis:

Comprehensive Plan Consistency

The proposal meets and takes into consideration the goals, objectives, and policies of the Cass County Comprehensive Plan as it relates to Goal One, Objective D. Ensure new development will protect the short and long term health, safety, and general welfare of the county's citizens from flooding by: ensuring that development will not result in flood buyouts; and taking measures to prevent development having limited access during times of high water.

Density Restriction

The density restriction has been met by a Deed Restriction entered into on September 27, 2006 to limit any further divisions or new residences, divisions, or nonagricultural development on the restricted parcel described in the agreement (see attachment).

Streets, Access Drives, and Driveways

Adequate access is provided to all lots consisting of private paved roads and a Home Owners Association will be created and will be responsible for maintenance. The applicant would like to propose a variance in relation to the curb and gutter requirement. Lot access conforms to the County's one-quarter mile minimum spacing requirements and will be built with the required elevation at or above the BFE (base flood elevation).

Storm Water Management

The subdivision is proposing to utilize open ditches for storm water conveyance, which will need to be granted by variance as major subdivisions require an underground storm sewer system. With the proximity of existing facilities, the ability to utilize an existing system is not feasible.

Erosion and Sedimentation

A plan for minimizing erosion and sedimentation control must be reviewed by the Planning Commission and County Engineer.

Floodplain

The proposed subdivision is not located within a special flood hazard area but is within the staging area of the proposed diversion. Lowest floor elevation will need to meet the 922.1 peak water elevation plus a 2.5 foot buffer according to Flood Damage Ordinance #1998-2 and all streets and roads within the new subdivision will need to be constructed to the BFE plus one foot. The attached residential levee map provides further information.

Landscaping

According to the Cass County Subdivision Ordinance, a vegetative buffer planting shall be provided in major subdivisions for all areas adjacent to land used for the production of crops.

Sanitary Wastewater Treatment and Water Supply

On-site septic systems will be utilized for the sanitary wastewater treatment system. Currently, soil testing has not been completed and will need to be provided at the time the Final Plat is considered. The water supply will be served by the Cass Rural Water District.

Parks and Open Space Uses

All plans for residential subdivision of land including 5 or more lots shall provide for the dedication of land for parks and open space uses. The amount to be dedicated shall equal 700 square feet for each single family unit. This proposal would require 3500 square feet or a fee in lieu of dedication as the proposal is a small development.

Agency Comments

Comments have been received from the County Sanitarian stating soil tests are required and need to be forwarded before any septic systems are put in place; and Cass Rural Water District has no concerns and is able to serve the property.

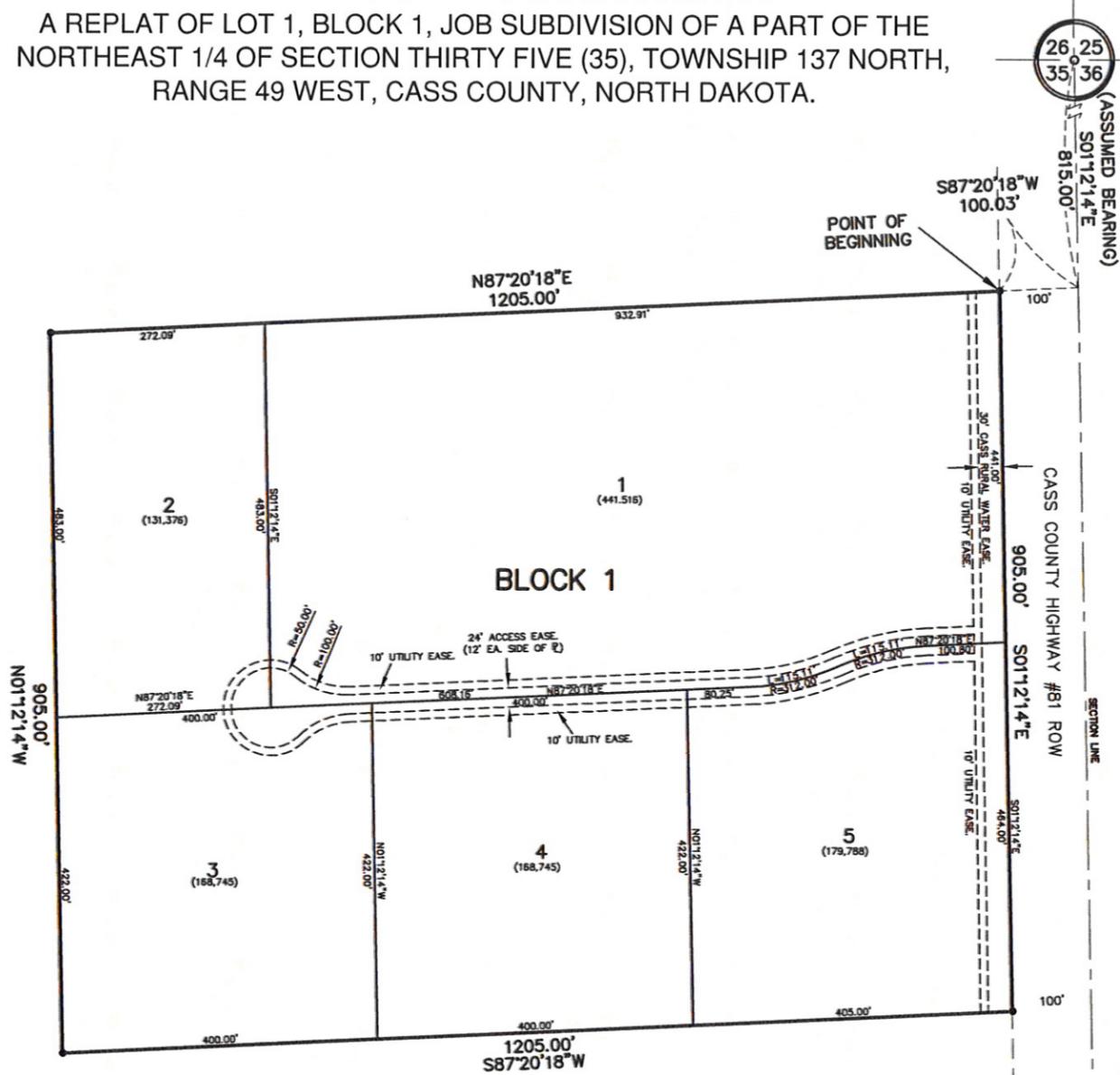
Recommendation:

To approve the preliminary plat as presented with the understanding that additional information will be needed to approve a final plat, including but not limited to: a homeowner's agreement outlining how road and access maintenance will be handled, a site plan outlining vegetative/shelterbelt buffers for the subdivision; a variance request on curb and gutter and park and open space requirements; and documentation on soil testing.

Attachments (IMAGES ARE NOT DRAWN TO SCALE AND ARE FOR GENERAL REFERENCE ONLY)

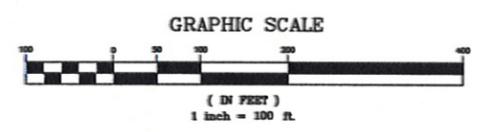
Plat
Aerial Photo
Vicinity Map
Deed Restriction
Residential Levee Map

**PLAT OF
JOB SECOND SUBDIVISION**
A REPLAT OF LOT 1, BLOCK 1, JOB SUBDIVISION OF A PART OF THE
NORTHEAST 1/4 OF SECTION THIRTY FIVE (35), TOWNSHIP 137 NORTH,
RANGE 49 WEST, CASS COUNTY, NORTH DAKOTA.



LEGEND

- IRON MONUMENT FOUND
- SET 5/8"x1/8" REBAR WITH YELLOW PLASTIC CAP #2086
- (L) DENOTES ARC LENGTH
- (R) DENOTES RADIUS LENGTH
- (Δ) DENOTES CENTRAL ANGLE
- (31,983) LOT AREAS IN SQ. FT.
- ALL 10' UTILITY EASEMENTS SHOWN THUS UNLESS OTHERWISE NOTED:



PLATTED PROPERTY LIES WITHIN ZONE C: "AREAS OF MINIMAL FLOODING" AS SHOWN ON PLEASANT TOWNSHIP, CASS COUNTY, NORTH DAKOTA, FLOOD INSURANCE RATE MAP COMMUNITY PANEL #380263 0025 A, EFFECTIVE FEBRUARY 3, 1982.



(ASSUMED BEARING)
S01°12'14"E
815.00'

CERTIFICATE

DAVID S. HEYER, BEING DULY SWORN, DEPOSES AND SAYS THAT HE IS THE REGISTERED LAND SURVEYOR WHO PREPARED AND MADE THE ATTACHED PLAT OF "JOB SECOND SUBDIVISION", A REPLAT OF ALL OF LOT 1, BLOCK 1, JOB SUBDIVISION OF A PART OF THE NORTHEAST QUARTER (N.E. 1/4) OF SECTION THIRTY FIVE (35), TOWNSHIP ONE HUNDRED THIRTY SEVEN (137) NORTH, RANGE FORTY NINE (49) WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA; THAT SAID PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID SURVEY; THAT ALL DISTANCES ARE CORRECTLY SHOWN ON SAID PLAT; THAT MONUMENTS HAVE BEEN PLACED IN THE GROUND AS INDICATED FOR THE GUIDANCE OF FUTURE SURVEYS AND THAT SAID SUBDIVISION IS DESCRIBED AS FOLLOWS:

ALL OF LOT 1, BLOCK 1, JOB SUBDIVISION OF PART OF THE NORTHEAST QUARTER (N.E. 1/4) OF SECTION THIRTY FIVE (35), TOWNSHIP ONE HUNDRED THIRTY SEVEN (137) NORTH, RANGE FORTY NINE (49) WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA.

SAID TRACT CONTAINS 25.03 ACRES, MORE OR LESS.



DAVID S. HEYER
REGISTERED LAND SURVEYOR
REG. NO. 2086
STATE OF NORTH DAKOTA
COUNTY OF CASS

ON THIS _____ DAY OF _____, 2013, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED DAVID S. HEYER, REGISTERED LAND SURVEYOR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES: _____

DEDICATION

WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE LAND DESCRIBED IN THE PLAT OF "JOB SECOND SUBDIVISION", A REPLAT OF ALL OF LOT 1, BLOCK 1, JOB SUBDIVISION OF A PART OF THE NORTHEAST QUARTER (N.E. 1/4) OF SECTION THIRTY FIVE (35), TOWNSHIP ONE HUNDRED THIRTY SEVEN (137) NORTH, RANGE FORTY NINE (49) WEST OF THE FIFTH PRINCIPAL MERIDIAN, CASS COUNTY, NORTH DAKOTA; THAT WE HAVE CAUSED IT TO BE PLATTED INTO LOTS AND BLOCKS AS SHOWN BY SAID PLAT AND CERTIFICATE OF DAVID S. HEYER, REGISTERED LAND SURVEYOR AND THAT THE DESCRIPTION AS SHOWN IN THE CERTIFICATE OF THE REGISTERED PROFESSIONAL LAND SURVEYOR IS CORRECT. WE HEREBY DEDICATE ALL STREETS, AVENUES, AND UTILITY EASEMENTS SHOWN ON SAID PLAT TO THE USE OF THE PUBLIC.

OWNERS: _____ MORTGAGE: GATE CITY BANK
LANCE FREIER _____ NICOLE FREIER _____ KEVIN HANSON, SENIOR VICE PRESIDENT
STATE OF NORTH DAKOTA)
COUNTY OF CASS)

ON THIS _____ DAY OF _____, 2013, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED LANCE FREIER AND NICOLE FREIER, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES: _____

ON THIS _____ DAY OF _____, 2013, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED KEVIN HANSON, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF GATE CITY BANK.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES: _____

REVIEWED BY PLEASANT TOWNSHIP, CASS COUNTY, NORTH DAKOTA, THIS _____ DAY OF _____, 2013.

SIGNED: _____, CHAIRMAN

ATTEST: _____, CLERK

REVIEWED BY THE CASS COUNTY ENGINEER THIS _____ DAY OF _____, 2013.

SIGNED: _____, KEITH BERNDT, CASS COUNTY ENGINEER

REVIEWED BY THE CASS COUNTY PLANNING COMMISSION THIS _____ DAY OF _____, 2013.

SIGNED: _____, CHAIRMAN

ATTEST: _____, SECRETARY

APPROVED BY CASS COUNTY, NORTH DAKOTA, THIS _____ DAY OF _____, 2013.

SIGNED: _____, CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

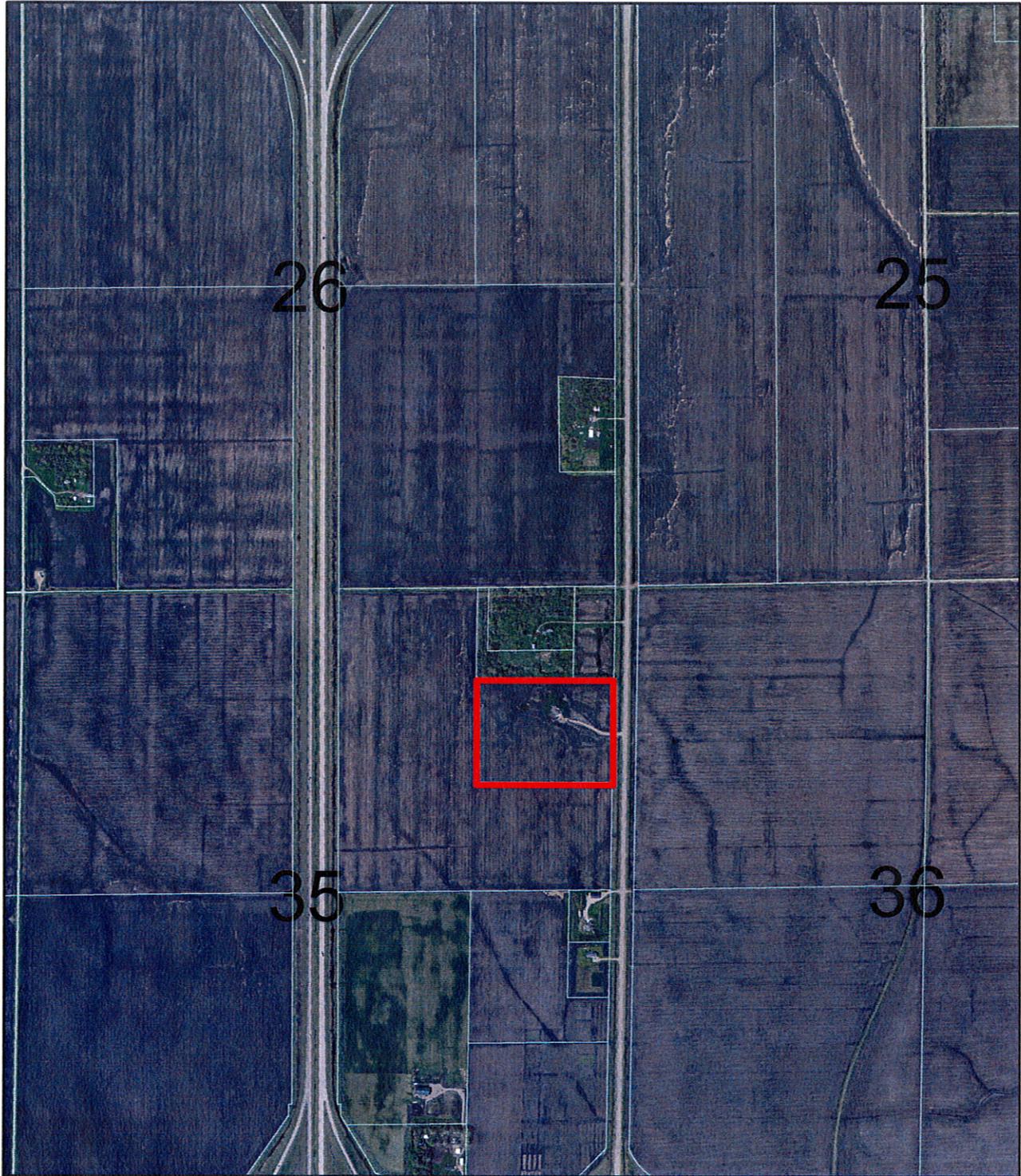
ATTEST: _____, MICHAEL MONTPLASIR, CASS COUNTY AUDITOR

10/07/13: PRELIMINARY PLAT

Job Second Subdivision - Major Subdivision

Northeast quarter of Section 35, Township 137 North, Range 49 West
Pleasant Township

December 12, 2013 Planning Commission Meeting



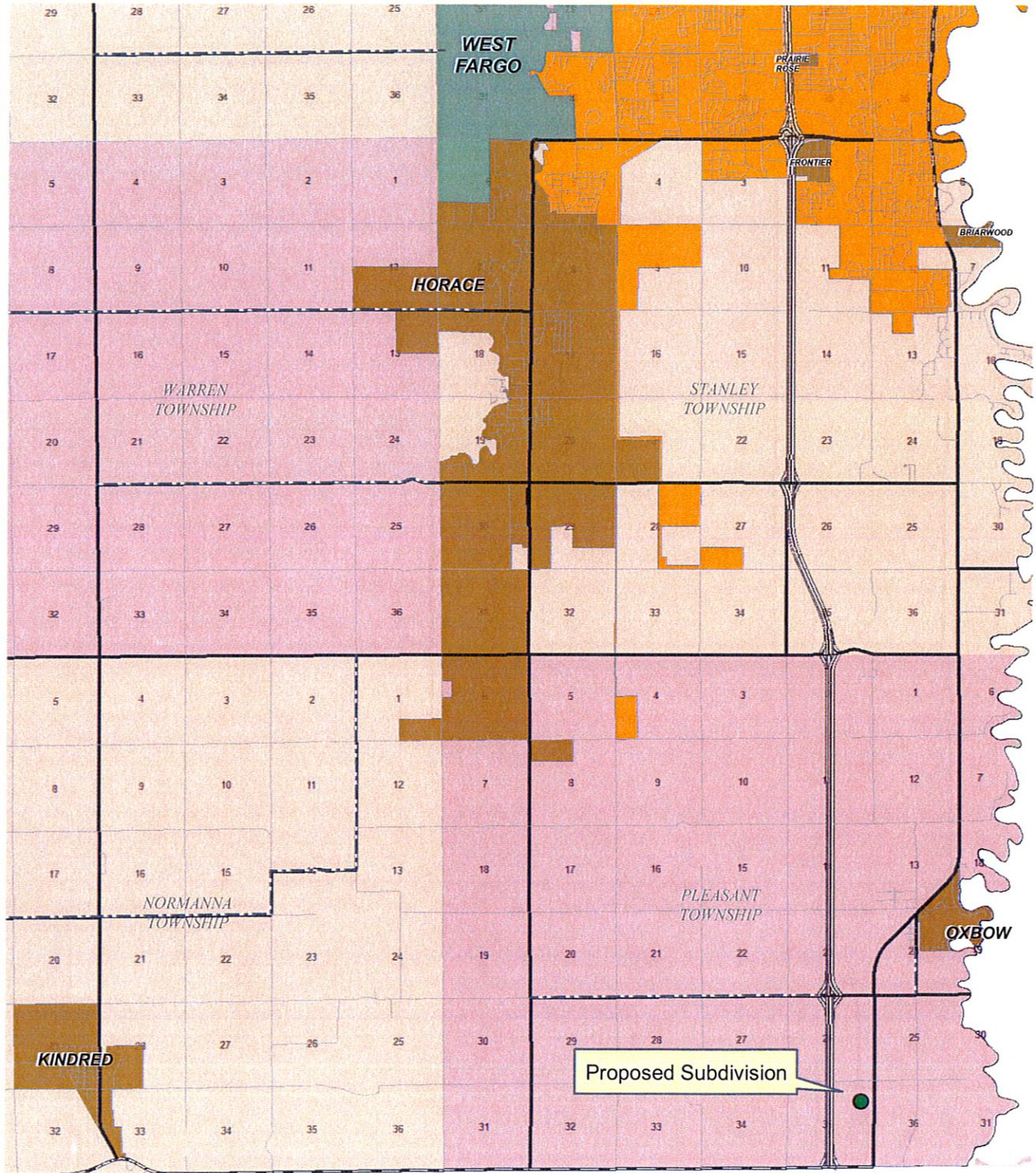
Cass County Highway Department
1201 West Main Avenue
West Fargo, ND 58078

701-298-2370

Web: www.casscountynd.gov
Email: highway@casscountynd.gov

Job Second Subdivision - Major Subdivision

Northeast quarter of Section 35, Township 137 North, Range 49 West
Pleasant Township
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APPENDIX 14

DEED RESTRICTION

105824

Pursuant to Section 309 of the Cass County Subdivision Ordinance, THIS AGREEMENT is entered into on September 21, 2006, by:

Owner(s): Donald J. Solberg and Donna M. Solberg
630 7th St SW
West Fargo ND 58078-1524

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 Cass County Comprehensive Plan (2005). 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.

Further, the owner desires to assign the development rights for the restricted property to the property described as the receiving property in Paragraph 5 herein.

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 divisions or new 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, and to assign the restricted properties' development rights consisting of four (4) transfers to the receiving property identified in Paragraph 5 herein entitling the receiving property to four (4) lot splits, subject to the following:

- 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;

1 Title Co.



- 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 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.

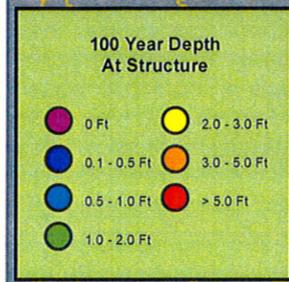
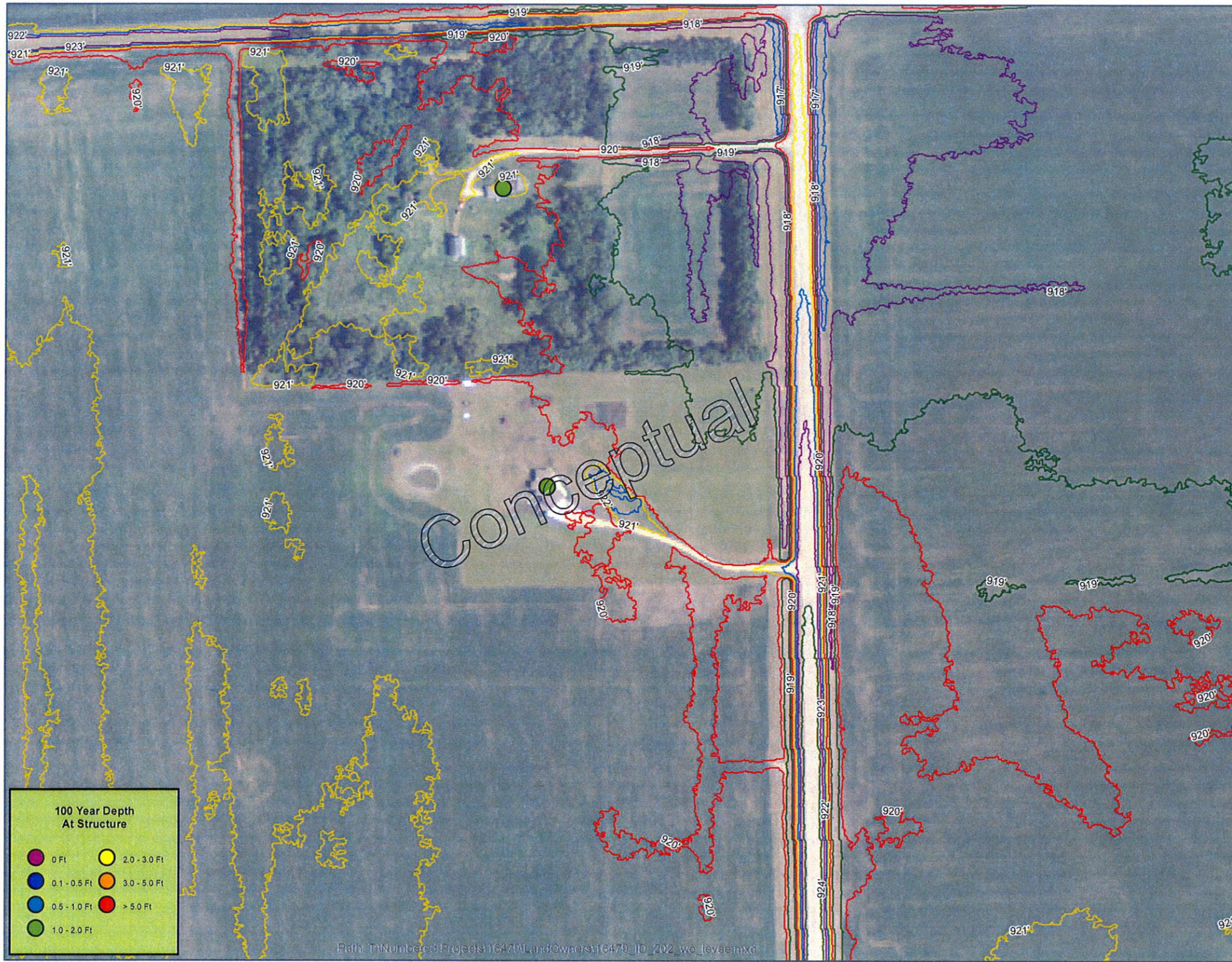
4. LEGAL DESCRIPTION OF THE RESTRICTED PARCEL:

NW ¼ 36-137-49, Cass County, North Dakota.
Acres: 153.63

The foregoing legal description was obtained from a previously recorded instrument.

5. LEGAL DESCRIPTION OF THE RECEIVING PROPERTY:

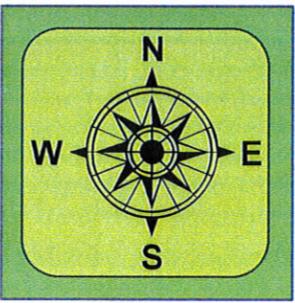
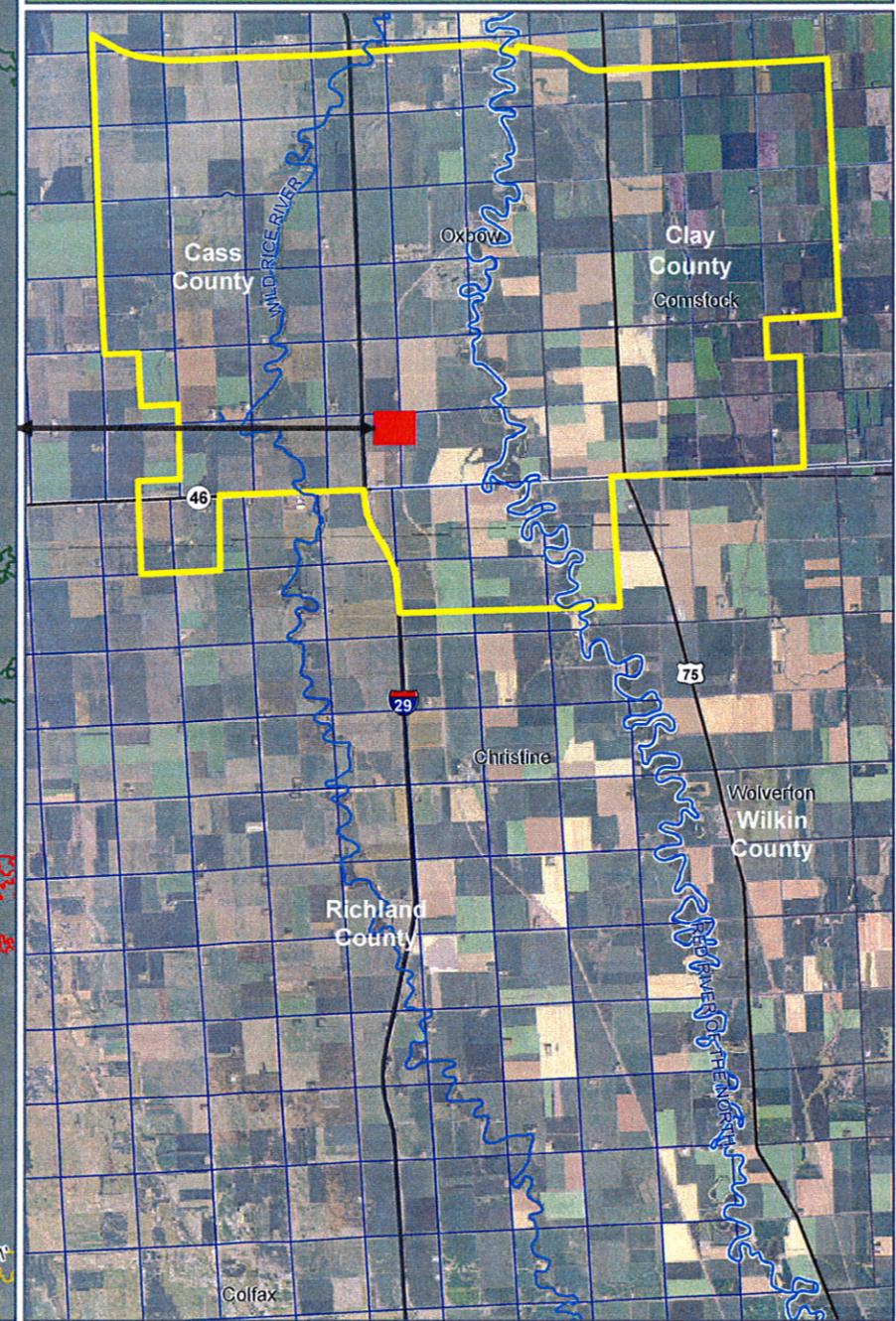
Lot One in Block One of Job Subdivision, a part of the Northeast Quarter (NE ¼) of Section Thirty-five (35), Township 137 North, Range 49 West, Cass County, North Dakota.



Path: T:\Numbered Projects\16479\LandOwners\16479_ID_202_wo_levee.mxd

Residential Levee Map

Land Owner:
Lance Freier



Return Frequency	Existing Conditions		With Project	
	Peak Water Elevation	Duration (Days) of WSEL Above Natural Ground	Peak Water Elevation	Duration (Days) of WSEL Above Natural Ground
10-Year	915.5	0	915.5	0
50-Year	915.5	0	921.6	3
100-Year	915.5	0	922.1	5
500-Year	917.0	0	922.4	5.5

Note: 920.0 is the average natural ground elevation at ring dike.

Site Number: 202
Pin: 57057000010000
County: Cass County, ND