

CASS COUNTY PLANNING COMMISSION AGENDA FOR December 17, 2009

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 September 24, 2009 Minutes
2. Tulip Acres Subdivision (NE ¼, S14, Warren Township)
Minor Subdivision
[Public Hearing]
[Action]
3. Other business and citizen comment
4. Adjournment

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

Planning Commissioners:
Please call Highway Department Secretary
at 298-2370 if you are unable to attend.
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at 298-2370 if you are unable to attend.

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

**CASS COUNTY PLANNING COMMISSION
September 24, 2009**

1. MEETING TO ORDER

A meeting of the Cass County Planning Commission was called to order by Chairman Ken Lougheed on September 24, 2009, at 7:00 AM in the Cass County Highway Department Conference Room. The following members were present: Ken Lougheed, Keith Monson, Todd Ellig, Lou Bennett, and Mike Zimney. Absent were: Brad Wimmer, Mark Johnson, Chad Peterson, and Scott Wagner. Also present were County Engineer Keith Berndt, County Planner Tim Solberg, Perry Ronning, Dave Matthson, Brian Gibson, and Mark Williams.

2. MINUTES APPROVED

MOTION, passed

Mr. Bennett moved and Mr. Monson seconded to approve the minutes from the June 25, 2009, as presented. Motion carried.

3. FARGO MOORHEAD AREA LONG RANGE TRANSPORTATION PLAN APPROVED

Brian Gibson, Transportation Planner for the Fargo Moorhead Metropolitan Council of Governments (FM Metro COG) was present to provide background on the need and purpose of the 2009-2035 Fargo Moorhead Area Long Range Transportation Plan. Mr. Gibson explained FM Metro COGs role as the Fargo Moorhead Metropolitan Area MPO and further explained the federal governments mandate for MPOs to complete long range transportation plans. He further went on to explain how the Long Range Transportation Plan can act as a tool to identify long term needs in the transportation network. In identifying the needs planners and officials can more easily make decisions when funding becomes available. He noted that the deadline for submittal of the plan is in October of this year. He also noted a couple of important themes that were evident in the plan; one being that funding is very limited and in limbo due to federal legislation, the other being a desire by the public to accommodate alternative modes of transportation such as bicycle, pedestrian, and public transportation options. He noted that the majority of comments in the public input phase of the plan focused on this desire.

Mr. Lougheed thanked Mr. Gibson for his presentation and commented that although he understands the desire for alternative modes of transportation he feels that in our climate that it is important we understand that the automobile will always be considered the most important mode of travel. Mr. Gibson agreed, but pointed to other communities with similar climates who have embraced bike/ped movements all year 'round and pointed to the college as driving this cultural shift.

Mr. Zimney provided Mr. Gibson with comments and technical corrections in regards to the plan.

Mr. Solberg provided comments to the board in regards to Mr. Gibson's work on the plan and noted staff support of the plan.

Mr. Monson addressed safety concerns he has with bicycles using high-speed county roads and feels that something needs to be done to address this concern. Mr. Gibson noted that Cass County has made a number of paved shoulder improvements to accommodate this movement and also noted he has witnessed this movement is occurring and is gaining in popularity. Mr. Berndt noted some improvements that were made recently and also stated that when funding is available the try to build wider paved shoulders on county roads to accommodate bicycles.

MOTION, passed

Mr. Ellig moved and Mr. Monson seconded to approve the 2009-2035 Fargo Moorhead Area Long Range Transportation Plan and forward this to the County Commission for Action. Motion carried with all in favor.

4. **STANLEY TOWNSHIP CONCERNS REGARDING RIGHT OF WAY DEDICATION**

Perry Ronning, Zoning Administrator for Stanley Township was present to discuss concerns he and the Township have had in regards to plat approval in the extraterritorial area of Fargo. He noted that plats are approved with the City Engineer's signature where roads are dedicated to the township without their approval. He provided some examples where roads were built that did not meet their standard and where adequate right of way was not available to fix roads or drainage. The biggest concern of the township is that homeowners are left to deal with issues they feel should have been taken care of when the development occurred and they do not have the authority to deal with the problem due to extraterritorial zoning legislation.

Mr. Ellig provided comments and examples of concerns he has with the City of Fargo jurisdiction in the extraterritorial area.

Dave Matthson, Stanley Township Chairman was also present and provided comments on enforcement issues in the Fargo extraterritorial area that he felt were not being handled correctly such as with zoning, road construction, and drainage. He also provided examples, and questioned why the City does not hold permit issuance until the roads and drainage is completed.

Mr. Zimney felt that from the County's perspective we have addressed this issue with the adoption of Subdivision Ordinance #2006-1 which requires developers to build the infrastructure necessary for an urban development or at least provide financial guarantee to build the infrastructure prior to approval of the subdivision. Mr. Berndt reminded the board that this does not apply to Fargo extraterritorial area due to state legislation that gives cities authority in their extraterritorial area. Mr. Matthson agreed, but noted he still feels it is a permitting issue that the City of Fargo can handle.

Mr. Lougheed addressed Mr. Ronning's concerns and thanked him for presenting to the board. He commented that he felt that this issue should be brought to the attention of the City of Fargo Planning Commission.

Mr. Solberg commented that he felt it was important for Mr. Ronning to address this board because the board has approved plats with road dedications to the township without the township accepting the road. The township is given a chance to comment on zoning, but not asked to assume responsibility of the road, or sign off on the plat. He feels it is important that in the future the board either amend the ordinance or create an internal policy that requests townships to address the road issue during the platting process.

Mr. Ronning stated that he feels that the issue is something that should be jointly addressed by City, Township, and County.

Mr. Lougheed requested that Mr. Berndt and Mr. Solberg contact the City of Fargo to discuss the issue and try to assist Stanley Township with some of their concerns.

Mr. Monson further stated he felt cities should treat extraterritorial and city limits with the same attention.

5. OTHER BUSINESS AND CITIZEN COMMENT

Mr. Solberg notified the board that he had requested an opinion by the State's Attorney Office regarding illegal lot splits that are occurring in the County. He noted that per Subdivision Ordinance #2006-1 a lot split for residential development is considered a Class B Misdemeanor which he felt the County did not have the resources to enforce, nor did he feel they would want to prosecute for people who were not aware it was a violation. His desire is to catch the split before it occurs to prevent it from happening. He stated that he would report back to the board when there is progress.

Mr. Berndt updated the board on progress with the US Army Corps of Engineers Metro Flood Study and provided some dates to be aware of for public input.

Mr. Lougheed asked Mr. Berndt about progress with County flood buyouts. Mr. Berndt reported that one grant was approved and another was progressing well, and noted that a final grant has yet to be submitted, but will be soon.

6. ADJOURNMENT

On motion by Mr. Monson and seconded by Mr. Bennett with all members voting in favor, the meeting was adjourned at 7:55am.

Final Plat Review Report – Tulip Acres Subdivision

An application for subdivision approval of a tract of land located in the NE ¼ of Section 14 in Warren Township was filed in the Cass County Planning Office by Max Johnson. The purpose of the subdivision is to plat two lots. The plat is approximately 20.7 acres.

Applicant: Max and Kathy Johnson

Phone: 701-799-6143

Analysis

The proposed minor subdivision is approximately 20.7 acres and would be divided into two lots, for residential development. The subdivision will use existing gravel roads, private sewer systems, and Cass Rural Water as a water source. The proposed access will be off of 168th Ave SE, a township gravel road that is maintained up to a ¼ mile south of County Hwy 6, just south of the proposed plat. The plat is currently within Zone A of the Flood Insurance Rate Map. US Fish and Wildlife has delineated a wetland within the parcel which will require the developer to submit evidence of approval/notification by appropriate agency(s). The developer has contacted US Fish and Wildlife and the US Army Corps of Engineers.

Comprehensive Plan Consistency: Along with a deed restriction by the surrounding ¼ section the plat would be consistent with the Comprehensive Plan as it pertains to density. The potential plat has not historically been inundated during spring flooding and access was reported to be dry during 2009 Spring Flooding. The plat is in Zone A and will need to comply with Warren Township floodplain regulations.

Design standards not met include: Directly adjacent property owners should be noted on plat. Presence in floodplain should be noted on plat. Access should be identified on plat with addition of negative access to Cass County Hwy 6. Presence of wetland should be identified on plat.

Review Agency Comments

Cass County Engineer – none to date

County Sanitarian – 12/4/09 – no soil tests received to date

Township - none to date

Cass Rural Water – 11/30/09 – Adequate infrastructure to service

Cass County Electric – 11/30/09 – in service area, conforms to requirements

Water Resource District – none to date

Qwest – 11/30/09 – no comment

Public Comment – none to date

Recommendation

With the following conditions being met on the final plat staff recommends forwarding approval to the County Board of Commissioners:

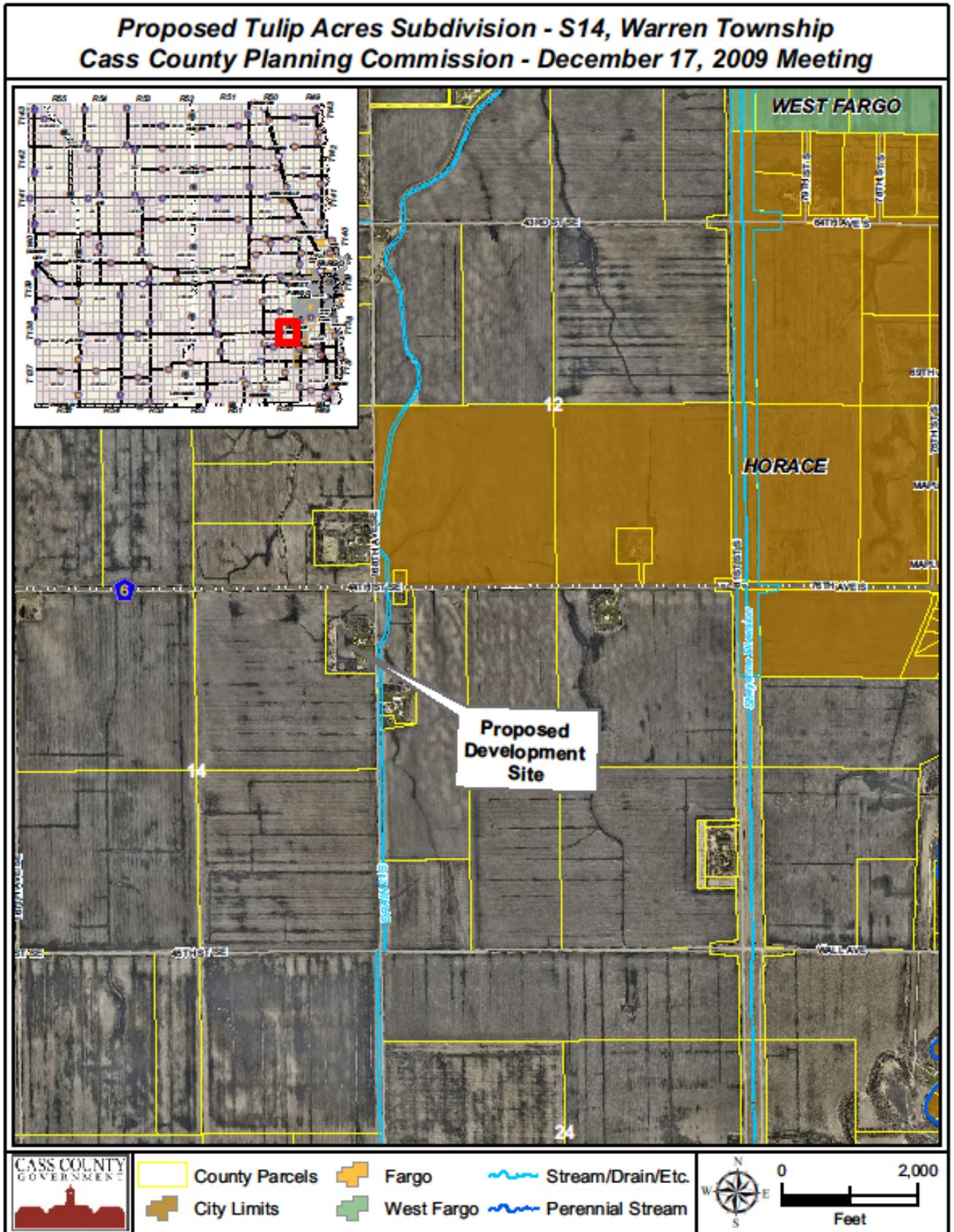
1. Meet recommendations of Planning Commission and Review Agencies
2. Certified letter from Warren Township approving plat for zoning and floodplain requirements
3. Correct design standards as noted
4. Provide evidence of approval/notification as it may pertain to wetlands by appropriate agency(s) per Section 613 of Cass County Subdivision Ordinance
5. Submit deed restriction and record prior to plat

**Proposed Tulip Acres Subdivision - S14, Warren Township
Cass County Planning Commission - December 17, 2009 Meeting**



	 County Parcels	 Lot Lines from Preliminary Plat
 City Limits	 US FWS Delineated Wetlands	

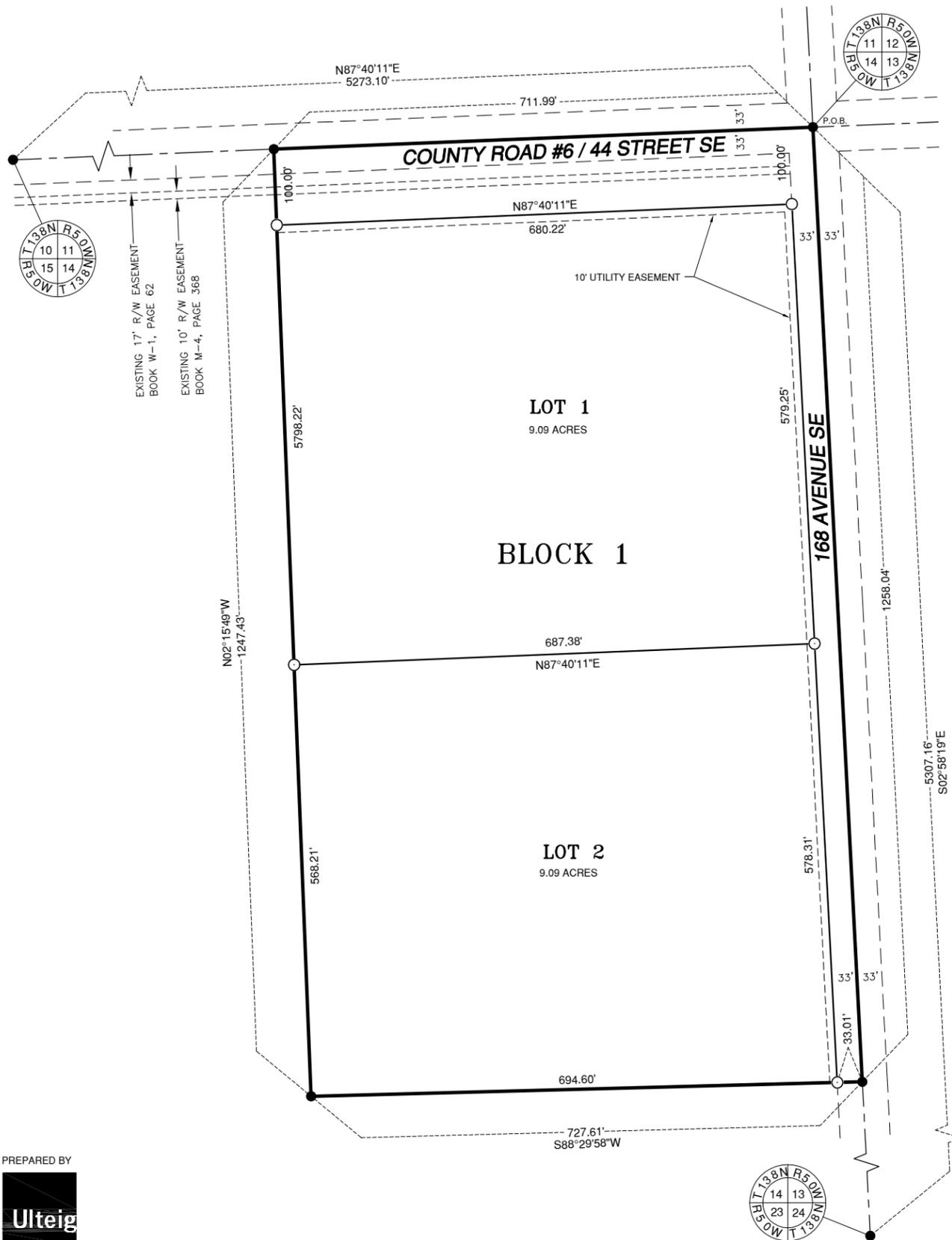
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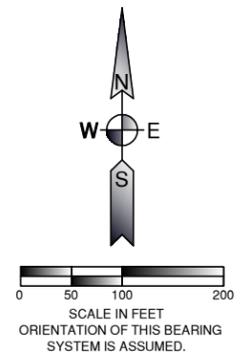
TULIP ACRES SUBDIVISION

AN UNPLATTED PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, SECTION 14, TOWNSHIP 138 NORTH, RANGE 50 WEST TO THE COUNTY OF CASS, IN THE STATE OF NORTH DAKOTA



SYMBOL LEGEND

●	MONUMENT IN PLACE
○	MONUMENT SET (5/8" REBAR, CAPPED PLS #5582)
—	PROPERTY LINE
- - -	EXISTING RIGHT OF WAY LINE
- - -	EASEMENT LINE
- - -	SECTION LINE
—	NEW LOT LINE



OWNERS DESCRIPTION AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That Max R. Johnson, husband and Kathleen T. Johnson, wife whose address is Horace, North Dakota as owners of a parcel of land located in the Northeast Quarter of the Northeast Quarter of Section 14, Township 138 North, Range 50 West of the Fifth Principal Meridian, Cass County, North Dakota, being further described as follows:

Beginning at the northeast corner of said Section 14; thence South 02 degrees 58 minutes 19 seconds East on the east line of said Section 14 for a distance of 1258.04 feet; thence South 88 degrees 29 minutes 58 seconds West for a distance of 727.61 feet; thence North 02 degrees 15 minutes 49 seconds West for a distance of 1247.43 feet to the north line of said Section 14; thence North 87 degrees 40 minutes 11 seconds East on said north line for a distance of 711.99 feet to the point of beginning.

Containing 20.70 acres, more or less, and is subject to all easements and rights-of-way of record.

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

OWNER:
By: _____
Max R. Johnson, husband

By: _____
Kathleen T. Johnson, wife

State of North Dakota }
County of Cass } SS

On this _____ day of _____, in the year of 2009, before me, a notary public with and for said County, personally appeared Max R. Johnson, husband and Kathleen T. Johnson, 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 _____, 2009.

Keith Berndt, County Engineer

WARREN TOWNSHIP REVIEW

Reviewed by the Warren Township, Cass County, North Dakota this _____ day of _____, 2009.

Chairman, Warren Township

Attest: _____
Clerk

CASS COUNTY PLANNING COMMISSION REVIEW

Reviewed by the Cass County Planning Commission this _____ day of _____, 2009.

Chairman, Cass County Planning Commission

Attest: _____

CASS COUNTY COMMISSION APPROVAL

Approved by the Board of County Commissioners and ordered filed this _____ day of _____, 2009.

Chairman, Cass County Commission

Attest: _____
Michael Montplaisir, Auditor

AUDITOR'S TAX RECORD

Delinquent taxes and special assessments or installments of special assessments paid and transfer entered.

Michael Montplaisir, Cass County Auditor

CASS COUNTY RECORDER

Document No. _____

State of North Dakota }
County of Cass } SS

I hereby certify that the above instrument was filed and recorded in this office on the _____ day of _____, 2009, at _____ o'clock _____ M. and was duly recorded in book of _____, page _____.

Jewel A. Spies, Cass County Recorder

PREPARED BY
Ulteig
FARGO - BISMARCK - DETROIT LAKES - MINNEAPOLIS - SIOUX FALLS - DENVER

PRELIMINARY