

CASS COUNTY PLANNING COMMISSION AGENDA FOR JANUARY 24, 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 December 13, 2012 Minutes
2. Peterson Seed Subdivision – A minor commercial subdivision in Section 1 of Arthur Township
[Public Hearing]
 - 2a. Variance Request
[Action]
 - 2b. Subdivision Application
[Action]
3. Appoint Member to Road Advisory Committee for 2-year term of 2013-2014
[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
DECEMBER 13, 2012**

1. MEETING TO ORDER

The meeting was called to order on December 13, 2012, at 7:00 AM in the Highway Department Vector Conference Room with members present as follows: Ken Lougheed, Chad Peterson, Todd Ellig, Mark Williams, Mark Wentz, Ken Pawluk, and Melissa Sobolik. Keith Monson was absent. Also present were County Engineer Jason Benson and County Planner Tim Solberg.

2. MINUTES, APPROVED

MOTION, passed

Mr. Peterson moved and Mr. Wentz seconded to approve the minutes of the October 11, 2012 meeting as presented. Motion carried.

3. LONE OAK FARM Subdivision, Plat Revisions Approved

Mr. Solberg said at the October 11, 2012 meeting of the Planning Commission, the plat for the Lone Oak Farm Subdivision was approved and forwarded to the Cass County Commission for approval at their October 15, 2012 meeting.

After the plat was signed the developer made some revisions to the lot layout which was based on site preference for a new building site. As the plat has not yet been recorded, a re-plat is not necessary, however; Mr. Solberg found it necessary to have the Planning Commission as well as the Cass County Commission approve and sign the revised plat.

MOTION, passed

Mr. Peterson moved and Mr. Ellig seconded to approve the changes to the Lone Oak Farm Subdivision and to forward a recommendation for approval to the Cass County Board of Commissioners. Motion carried.

4. ELECTION OF 2013 CHAIRMAN AND VICE CHAIRMAN

MOTION TO CONTINUE WITH EXISTING OFFICERS, passed.

Mr. Ellig moved and Mr. Pawluk seconded to keep the officers as they are with Mr. Lougheed as Chairman and Mr. Ellig as Vice-Chairman. Motion carried.

5. APPROVE 2013 MEETING CALENDAR

MOTION, passed

Mr. Pawluk moved and Mr. Wendt seconded to approve the 2013 Planning Commission meeting calendar as present. Motion carried.

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

Mr. Lougheed said Mark Johnson will no longer be serving on the Planning Commission and therefore, will not serve on the Road Advisory Committee any longer. A replacement will be needed to replace Mr. Johnson on the

Road Advisory Committee. David Gust will be replacing Mr. Johnson on the Planning Commission.

The matter was tabled as Mr. Solberg will review the policy regarding who is able to serve on the Road Advisory Committee.

7. OTHER BUSINESS

Mr. Solberg said the Cass County Soil Conservation Service along with Lake Agassiz has compiled a river brochure. Mr. Solberg has them available for anyone wanting one.

8. ADJOURNMENT

On motion by Mr. Pawluk, seconded by Ms. Sobolik, and all voting in favor, the meeting was adjourned at 7:25 AM.

Final Plat Review Report – Peterson Seed Subdivision

An application for subdivision approval of a tract of land located in the NE ¼ of Section 1 in Arthur Township was filed in the Cass County Planning Office by Mr. David Wyum. The purpose of the subdivision is to plat one lot. The plat is approximately 5 acres.

Applicant: Carl Peterson – David Wyum, Agent Phone: 701-282-3473

Analysis

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. Although the development is of a commercial nature and subject to the density restrictions of Section 307, I'd submit to the board that they consider a recommendation to allow for a variance from the regulations of Section 307 based on Policy 2, of Objective B, of Goal Five, (pg. 193) and Policy 4, of Objective B, of Goal One (pg. 186) of the 2005 Cass County Comprehensive Plan which are excerpted below.

Comprehensive Plan Consistency: Staff considers the nature of this development to be consistent with the following policies of the adopted 2005 Comprehensive Plan: *“Goal Five: To preserve and maintain Cass County’s rural heritage... Objective B: Protect the rural atmosphere present in the county... Policy 2: Promote development complimenting the existing land uses, development, and farming lifestyle”* and *“Goal One: To achieve orderly, balanced, and sensible development... Objective B: Prevent incompatible land uses from locating in close proximity to one another... Policy 4: Require new development to compliment the surrounding land use”*.

Design standards not met include: None noted at this time

Review Agency Comments

Cass County Engineer – none to date

County Sanitarian – approved – 5/2/12

Township – approved – response by certified letter – 12/17/12

Cass Rural Water – not applicable – private well

Cass County Electric – easement adequate – 12/14/12

North Cass Water Resource District – no comment – 12/20/12

Century Link – no comment – 12/14/12

Public Comment – none to date

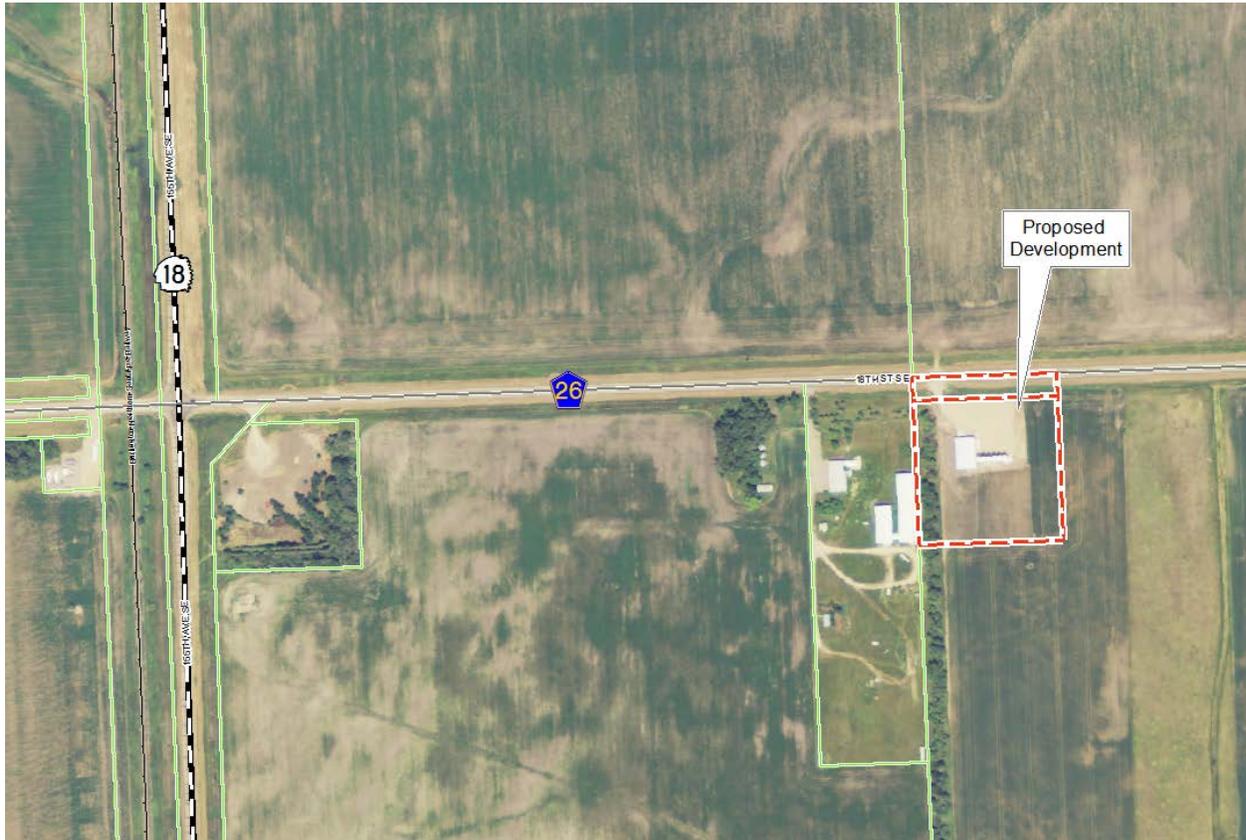
Recommendation

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

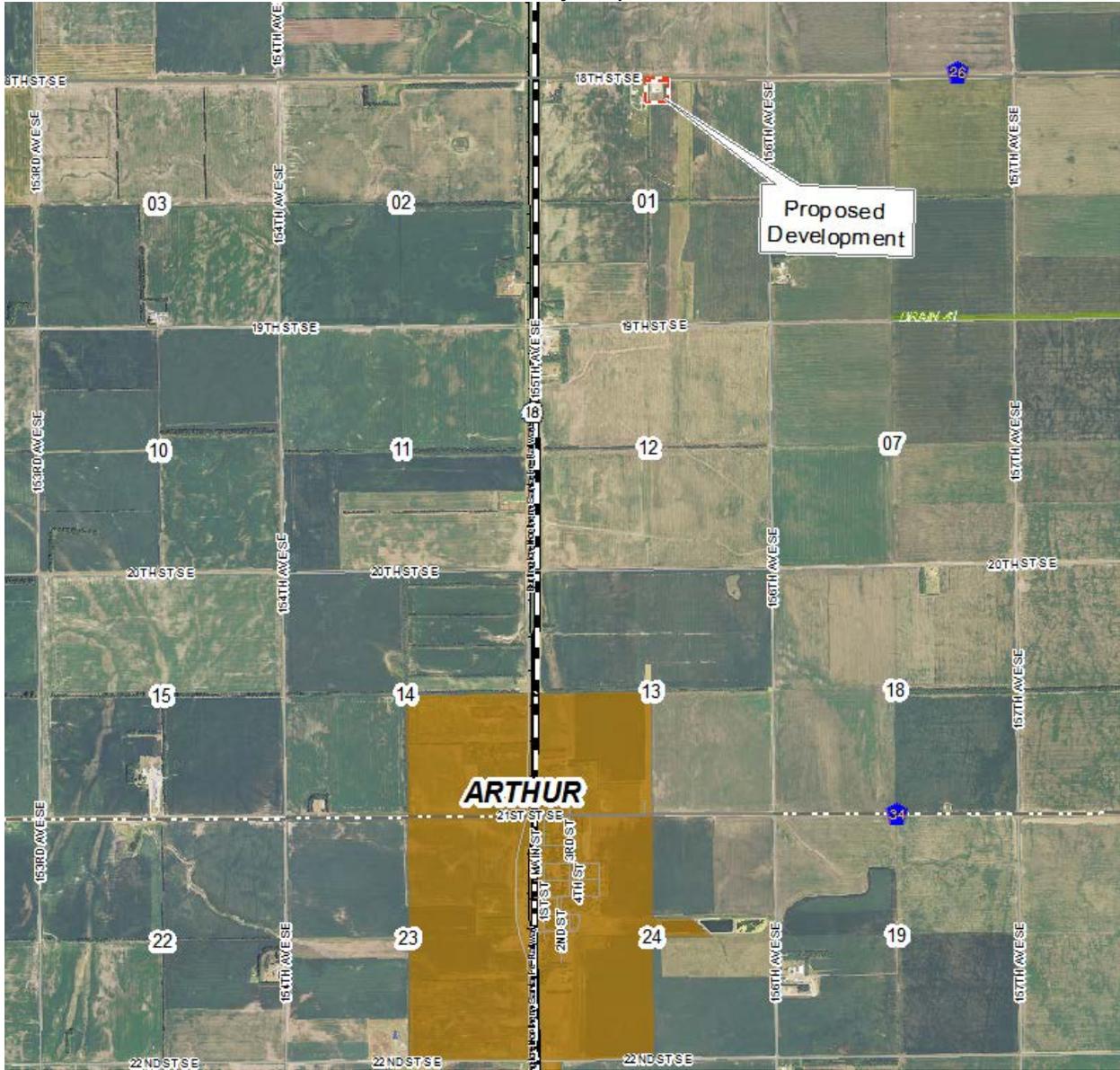
density restrictions in regulations of Section 307 of Cass County Subdivision Ordinance #2007-1 based on Policy 2 of Objective B of Goal Five and Policy 4 of Objective B of Goal One in the 2005 Cass County Comprehensive Plan and approve the final plat which will need to include all requirements for final plat prior to signature by the Planning Commission Chairman.

IMAGES NOT DRAWN TO SCALE-ONLY FOR GENERAL REFERENCE

Aerial View



Vicinity Map



Topography
(2008 2ft Contours)



From: [David Wyum](#)
To: [Solberg, Timothy](#)
Cc: ["Dean Rindy"](#)
Subject: Peterson Seed Subdivision
Date: Monday, January 07, 2013 2:09:20 PM

Cass County Planning Commission:

Re: Peterson Seed Subdivision

After discussion with the legal counsel for Carl Peterson, we, the applicants, are asking for a variance from the Section 307 regulations based on the following.

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. And the sellers of the 5 acres are not willing to restrict the land use at this time.

Also, I would like to remind Tim Solberg I will be out of town from January 19 to January 28, 2013.

Sincerely,

David L. Wyum

David L. Wyum, GRI, ABR, CRS

Broker Associate

George Wyum Real Estate

96 Fifth St. E.

West Fargo, ND 58078

Office phone: 701/282-3473

Cellular Phone: 701-361-9121

Email: davidwyum@centurylink.net

Web Site: wyum-realestate.com

Emails sent or received shall neither constitute acceptance of conducting transactions via electronic means nor shall create a binding contract in the absence of a fully signed written contract.

provisions of Section 303 and 304 of this Ordinance.

306.05. Commission Approval and Recordation. All minor subdivision plans shall conform to the provisions of Section 304 of this Ordinance to gain Final Plat approval by the Board of County Commissioners and record the plat.

SECTION 307

Lot Density Restrictions.

For the purpose of encouraging 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) the following lot density restriction is established. This density restriction 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.

Except as noted in the exemptions below, no subdivision of land shall exceed one (1) buildable lot per quarter-quarter section (40 acres).

- A. If the development has followed the transfer of development rights pursuant to Section 308 of this Ordinance and in accordance with all other required provisions of this Ordinance; or
- B. If the subdivision will be built to full urban design standards and the strictest requirements outlined within Article VI of this Ordinance; including but not limited to 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.

SECTION 308

Development Rights.

Except as noted below, every quarter-quarter section or existing legally subdivided lot or "legal lot" as of the effective date of Subdivision Ordinance #2006-1 is granted one (1) Development Right to create a buildable lot. Development Rights can be used, held or transferred to contiguous properties under common ownership. Development Rights may not be transferred if the land has any one of the following characteristics:

- A. Land that has an existing dwelling, either residential or agricultural. In these situations, the Development Right has been used.
- B. Land that has an existing commercial use or other non-agricultural use.
- C. Land that is not under complete and common ownership.
- D. Land that does not have a suitable building site due to a covenant, easement, conservation easement or deed restriction, unless and until such time as said covenant, easement or restriction is dissolved or rescinded.
- E. Land not having a suitable building site due to natural features, such as but not limited to wetlands, floodplains, high water and steep slopes.
- F. Land that does not have a conforming building site without a variance issued by the applicable township.
- G. Land deemed as unbuildable based on the applicable townships ordinances and/or regulations.

308.01. Using Transferred Development Rights.

- A. Development Rights can be used to increase a permitted density on contiguous land that is under common ownership. The maximum number of development rights that can be transferred onto a quarter-quarter section or Legal Lot is eleven (11), therefore limiting each quarter-quarter section or Legal Lot to a maximum of twelve (12) buildable lots (*i.e.*, one permitted existing buildable lot per quarter-quarter section or Legal Lot and up to eleven (11) additional transferred developable rights).
- B. For each development right that is transferred, the said receiving property and subdivision is entitled to an increase of one (1) additional buildable lot.
- C. All lots permitted through transferred development rights are subject to meet all applicable regulations of this Ordinance.
- D. All lots permitted through transferred development rights shall be contiguous and preferably orientated in such a manner to allow for the maximum agricultural use of the surrounding land.
- E. If a Development Right is being transferred, the owner of the property

must submit the following materials to the County Planner during the subdivision and platting process:

- (1) A copy of the Deed Restriction, as outlined in Section 309 of this Ordinance, expressing that a development right has been transferred to the proposed building site from a contiguous quarter-quarter section or Legal Lot under common ownership.
- (2) A map showing the location of the proposed building site's quarter-quarter section or Legal Lot (the receiving property) and the quarter-quarter section or Legal Lot from which the development right was transferred from (the sending property) on a standard 8 > by 11 inch sheet of paper.

SECTION 309

Deed Restriction.

The following section outlines the requirements, procedures and implications of the Deed Restriction as it relates to the transfer of development rights in Section 308 of this Ordinance.

309.01.

The transfer of development rights as outlined in Section 308 of this Ordinance requires the sending property to be deed restricted, limiting future development on said property until said property is no longer under the jurisdiction of the county based on the following scenarios:

- A. The Deed Restricted property is completely within the extraterritorial (ET) boundaries of an incorporated city of Cass County.
- B. The Deed Restricted property is completely annexed by an incorporated city of Cass County.

At which point the Deed Restricted property is completely annexed or within the ET boundaries of an incorporated city of Cass County the restriction on the land will be retired and the property will follow the necessary procedures for development of the applicable incorporated city.

309.02.

The Deed Restriction shall limit any further residences, divisions, or nonagricultural development on such property except for the following provisions:

- A. At such time the Deed Restricted property is completely within the extraterritorial (ET) boundaries of an incorporated city of Cass County.

- B. The property is completely annexed by an incorporated city of Cass County.
- C. The subdivision will be built to full urban design standards and the strictest requirements outlined within Article VI of this Ordinance; including but not limited to paved roads with curb and gutter, a paved access road, municipal sewer system, public water supply system with function fire hydrants, storm water facilities, street lights, street trees, street signs, sidewalks, bike paths and park dedications.

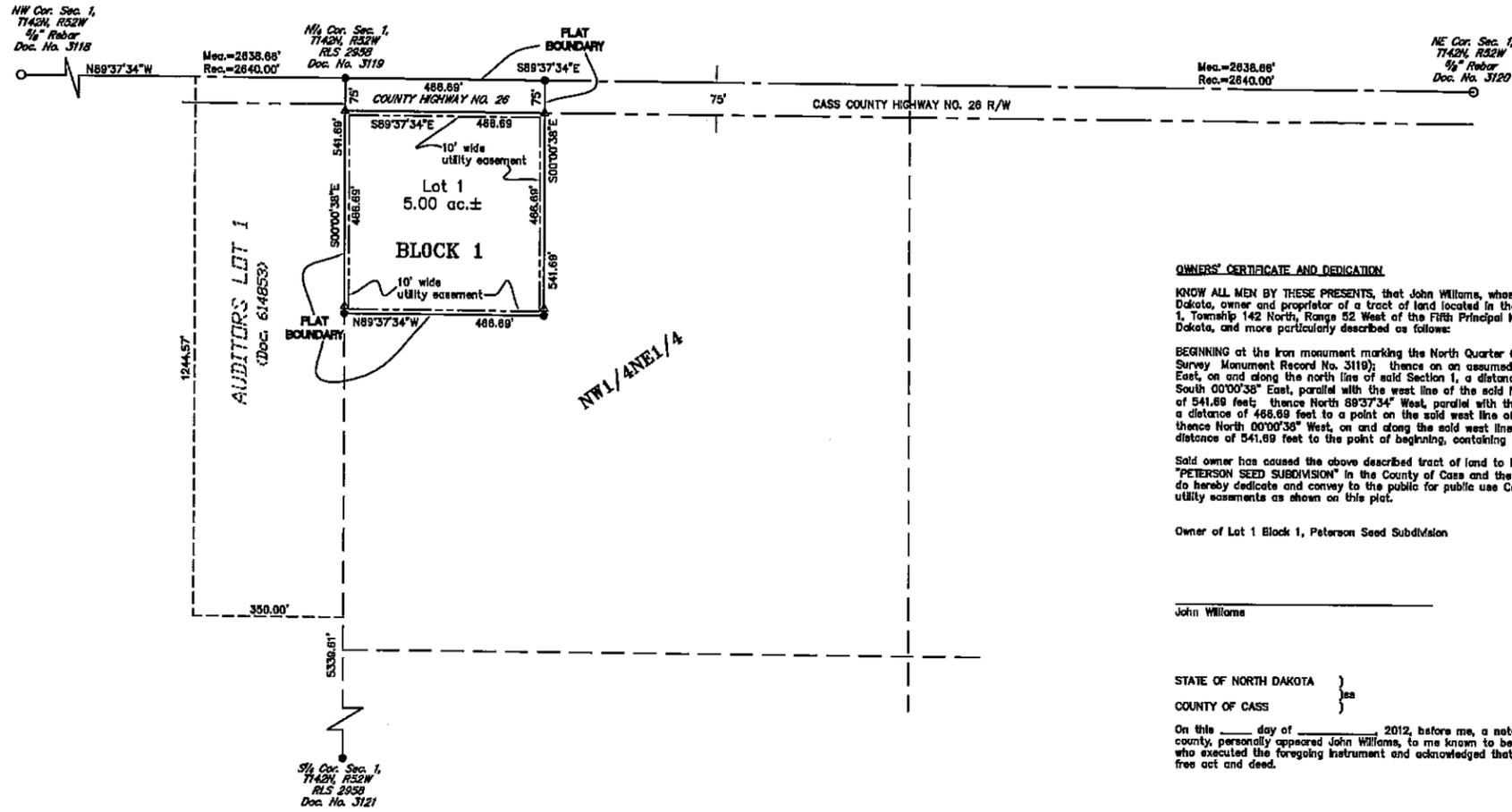
309.03.

The Deed Restriction as it related to the transfer of development rights as outlined in Section 308 of this Ordinance requires the following:

- A. The restriction shall limit any further residences, divisions or nonagricultural development on the quarter-quarter section or Legal Lot. The restriction shall be on a form provided by the County Planner (*see Appendix 14*) and shall include the following information:
 - (1) Record Fee Owner(s) legal name.
 - (2) Legal Description of Restricted Parcel.
 - (3) Agreement Description stating the following:
 - (a) The land meets the criteria established in Section 308 of this Ordinance.
 - (b) A legal description of the receiving property on the adjacent quarter-quarter section or Legal Lot.
 - (c) The Deed Restriction shall limit any further residences, divisions or nonagricultural development on the quarter-quarter section or Legal Lot in accordance with Section 309 of this Ordinance.
 - (d) Date and signature of Fee Owner(s).
 - (e) Date and signature of Notary Public.
 - (f) Date and signature of County Engineer.

PETERSON SEED SUBDIVISION

A part of the Northwest Quarter of the Northeast Quarter of
Section 1, Township 142 North, Range 52 West of the Fifth
Principal Meridian, Arthur Township,
Cass County, North Dakota



OWNERS' CERTIFICATE AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that John Williams, whose address is Arthur, North Dakota, owner and proprietor of a tract of land located in the Northeast Quarter of Section 1, Township 142 North, Range 52 West of the Fifth Principal Meridian, Cass County, North Dakota, and more particularly described as follows:

BEGINNING at the iron monument marking the North Quarter Center of said Section 1 (Land Survey Monument Record No. 3119); thence on an assumed bearing of South 89°37'34" East, on and along the north line of said Section 1, a distance of 488.89 feet; thence South 00°00'38" East, parallel with the west line of the said Northeast Quarter, a distance of 541.69 feet; thence North 89°37'34" West, parallel with the said north line of Section 1, a distance of 488.89 feet to a point on the said west line of the Northeast Quarter; thence North 00°00'38" West, on and along the said west line of the Northeast Quarter, a distance of 541.69 feet to the point of beginning, containing 5.80 acres, more or less.

Said owner has caused the above described tract of land to be surveyed and platted as "PETERSON SEED SUBDIVISION" in the County of Cass and the State of North Dakota, and do hereby dedicate and convey to the public for public use County Highway No. 28 and the utility easements as shown on this plat.

Owner of Lot 1 Block 1, Peterson Seed Subdivision

John Williams

STATE OF NORTH DAKOTA }
COUNTY OF CASS }

On this ____ day of _____, 2012, before me, a notary public, with and for said county, personally appeared John Williams, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as a free act and deed.

Notary Public
My commission expires _____, 20__.

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGMENT

I, Steven A. Ackerman, Registered 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 the 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.

Dated this ____ day of _____, 2012.

Steven A. Ackerman, Registered Land Surveyor

STATE OF NORTH DAKOTA }
COUNTY OF RICHLAND }

On this ____ day of _____, 2012, before me, a notary public, with and for said county, personally appeared Steven A. Ackerman, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same.

Notary Public
My commission expires _____, 20__.

COUNTY ENGINEER REVIEW

Approved by Cass County Engineer this ____ day of _____, 2012.

Jason Benson, Cass County Engineer

ARTHUR TOWNSHIP REVIEW

Reviewed by Arthur Township, Cass County, North Dakota this ____ day of _____, 2012.

Chairman

Attest: Clerk

CASS COUNTY PLANNING COMMISSION REVIEW

Reviewed by the Cass County Planning Commission this ____ day of _____, 2012.

Ken Loughheed, Chair

Attest: Secretary

CASS COUNTY COMMISSION APPROVAL

Approved by the Board of County Commissioners and ordered filed this ____ day of _____, 2012.

Chairman

Attest: Michael Montplaisir, Cass County Auditor



LEGEND

- = CORNER MARKED WITH A 5/8" X 24" IRON REBAR WITH RED PLASTIC CAP MARKED "ACKERMAN ND2958 SD5228"
- = EXISTING OR FOUND CORNER MONUMENT
- △ = STEEL FENCE POST
- REC. = RECORD OR ORIGINAL DISTANCE
- MEA. = MEASURED DISTANCE THIS SURVEY
- DOC. = MONUMENT RECORD ON FILE AT COUNTY REGISTER OF DEEDS
- NOTE: THIS SURVEY IS BASED ON AN ASSUMED MERIDIAN
- = EASEMENT LINE
- = PROPERTY LINE
- = PROPERTY LINE

GRAPHIC SCALE

