

**CASS COUNTY PLANNING COMMISSION  
AGENDA FOR AUGUST 22, 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 June 27, 2013 Minutes
2. Introduction of Cass County Planner – Hali Durand
3. Ellingson Subdivision – A minor residential subdivision in Section 5 of  
Raymond Township (T140N, R50W)  
[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  
JUNE 27, 2013**

**1. MEETING TO ORDER**

The meeting was called to order on June 27, 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 and Ken Pawluk. Mark Williams and Melissa Sobolik were absent. Also present were Former County Planner Tim Solberg and Cass County Administrator Keith Berndt.

**2. MINUTES, APPROVED**

*MOTION, passed*

Mr. Brodshaug moved and Mr. Gust seconded to approve the minutes of the February 28, 2013 meeting as presented.  
Motion carried.

**3. CLIFFHANGER LANDING SECOND Subdivision,**

Mr. Solberg reviewed the details of the application. The proposed subdivision is approximately 16.346 acres and would be divided into seven lots, for accommodating a real estate transaction. The owners of the existing lots 1 and 2 of the original Cliffhanger Landing Subdivision wish to trade some land that was previously used as an aircraft landing strip with the surrounding landowner. The exchange will give the surrounding ¼ Lot 7 in exchange for Lots 3, 4 and 6. The subdivision will use public gravel roads, on-site sewer systems, and Cass Rural Water as a water source. The properties will continue to utilize the existing access off of County Highway 18 and 171<sup>st</sup> Ave SE. The plat appears to be outside of the 1% chance (100 year) floodplain on the preliminary Flood Insurance Rate Map. Mr. Solberg stated that this is favorable to the tax assessor, the auditor and all other parties involved. The owner has expressed that it is his intent to combine all of the lots that will be owned by him into one parcel. Mr. Solberg would recommend approval.

The public hearing was opened.

Mr. Pawluk stated that with no impact to the township, this plat only serves to clean up a land situation and he sees no reason to object.

Mr. Ellig states that he does see reason to object as what stops the owner from putting up multiple houses on these lots? Mr. Solberg indicated that Pleasant Township does have a three acre restriction for a house. Mr. Ellig feels that a meets and bounds description, while understandably more cumbersome, is what is required in this situation, not a plat. He doesn't feel this warrants an exception to the ordinance. Mr. Solberg explained that the only buildable lot would be lot 4 and a solution may be to place a deed restriction on that lot. Mr. Solberg indicated that they had looked at doing an auditor's lot, but it was determined that a plat was the best option. Mr. Solberg stated that they could deed restrict all lots to prevent any future issues or could indicate on the plat that these are unbuildable lots. Mr. Ellig stated that he would be much more agreeable to something like that.

The public hearing was closed.

***MOTION, passed***

Mr. Ellig moved and Mr. Gust seconded to approve the plat with the requirement that the plat include a notation that lots 3 thru 7 are unbuildable lots. Motion carried.

**4. IDA Subdivision,**

Mr. Solberg reviewed the details of the plat. The proposed subdivision is approximately 6.311 acres and would be divided into two lots, for residential development. The subdivision will use existing gravel roads, on-site septic sewer systems, and Cass Rural Water as a water source. The proposed access will be off of 50<sup>th</sup> St SE. Portions of the plat are within Zone AE of the Preliminary Flood Insurance Rate Map, however, the home sites and access are out as illustrated on the second map provided to the board. This plat does conflict with the Comprehensive Plan, specifically with Policy 2 of Objective D of Goal One: "Prevent development with the potential need for flood buyouts, flood mitigation, and temporary flood protection." Mr. Solberg's indicated that an interesting situation exists in that the application is demonstrating that a flood risk is not present, however the owner is requesting to be added to the County buyout list. There are other issues at play in this case, however as the property is within the proposed staging area of the Fargo Moorhead Diversion Project. This situation has in many ways encouraged the homeowner to consider a buyout, but also to submit this plat as he was approached with an offer to purchase land for a new home by an interested party.

Staff recommends, if approved, it include a note on the plat describing the Minimal and Limited Disturbance Zone as required in Section 610 of Subdivision Ordinance #2006-1. They would also recommend that the final plat would need to include all requirements for final plat, plus the following:

1. Copy of title opinion.
2. Deed Restriction filed on adjacent parcel along the river.

Staff recommends, if denied, that the plat be denied based on it not being consistent with Policy 2 of objective D of Goal One of the 2005 Cass County Comprehensive Plan.

The public hearing was opened.

Mr. Ellig stated that their township board was faced with a similar situation where they knew that the rules were most likely going to change in the future, but their decision had to be made based on the rules as they stood at the time. Mr. Ellig doesn't see that they can deny this plat even though he doesn't like it.

Attorney Steve Aakre representing Paul Reinke was present and stated that Mr. Reinke's best option would be a buyout, but that could take a number of years and he needs to do what is best for his family at this time. Now he has someone that would like to purchase a piece of his property. He stated that he sees no reason for us to deny the plat based on today's situation.

Mr. Berndt asked to clarify his status with regards to a buyout. Mr. Solberg indicated that Mr. Reinke is only on the interest list for the diversion buyouts at this time.

Mr. Pawluk states that he sees this situation somewhat differently due to his experience with the FEMA buyouts. He has witnessed the public's opinion when building is allowed in places that have the potential to put people in harm's way. Mr. Pawluk would have a hard time approving something that he feels will inevitably put people in harm's way. Mr. Ellig does not feel that the board would be putting people in harm's way. The matter before the board is the land transaction only. Others would have to approve building permits at the time any home is built.

Mr. Solberg presented the board with maps received reflecting the Corp of Engineers most recent hydrology studies showing both existing and project saturation.

Mr. Pawluk stated that he feels very strongly, after witnessing so many buyouts, that he would do anything to keep people from having to go through that process.

Mr. Brodshaug feels that this goes against the policies in the Comprehensive Plan and could and should be denied based on that

Mr. Aakre stated that access to these lots is above the 100 year flood plain. He also feels that the letter from the Flood Diversion Authority is somewhat misleading as the buildable portion of lot 2 is above the 100 year flood plain.

Mr. Gust states that it is his opinion that the board does not have adequate grounds to deny the plat.

Mr. Ellig needed to leave the meeting, but wished to on record that he would vote in favor of approving the plat.

Mr. Aakre indicated that access in the past 17 years or so, as used in other statistics, has not been hindered by flooding. Mr. Reinke stated that in Mr. Solberg's review he recommended approval. In addition, the letters from the Cass County Engineer and Darrel Vanyo, Cass County Commissioner both state that the plat meets the subdivision ordinance. With that, he asks the board to approve the plat. Mr. Solberg clarified that he did not make

any recommendation for approval or denial of the plat but did make recommendations that if approved, there are certain things that should be included.

Mr. Berndt stated that if all situations were black and white, there would be no need to an appointed board to handle these situations. Staff would be able to handle everything based on the black and white guidelines. This is not the way it is, however, and the board is here to made a decision based on what they feel, within the guidelines, is in the best interest of the county.

The public hearing was closed.

Mr. Pawluk clarified that as he sees it, the board has three options. They can approve the plat, deny the plat or choose to table the plat at this time. Mr. Pawluk cannot support approval of the plat.

***MOTION, failed***

**Mr. Gust moved and Mr. Monson seconded to approve the plat as presented including the requirement for a copy of title opinion as well as the deed restriction to be filed on the adjacent parcel along the river. On roll call vote, the motion failed with Mr. Monson and Mr. Gust voting "Yes"; Mr. Lougheed, Mr. Pawluk, Mr. Brodshaug and Mr. Wentz voting "No".**

***MOTION, passed***

**Mr. Pawluk moved and Mr. Brodshaug seconded to deny the plat based on the Comprehensive Plan. On roll call vote, the motion carried with Mr. Lougheed, Mr. Pawluk, Mr. Brodshaug and Mr. Wentz voting "Yes"; Mr. Monson and Mr. Gust voting "No".**

**5. OTHER BUSINESS**

Mr. Solberg stated that this is his last meeting. He is now working for the City of West Fargo. Mr. Benson, Cass County Engineer, will be handling things in the Planning office until a new County Planner is hired. Mr. Lougheed stated that on behalf of the Cass County Planning Commission he would like to thank Mr. Solberg for his service to Cass County and it has been a pleasure working with him. We wish Mr. Solberg the best of luck in the future.

Mr. Solberg reviewed correspondence received addressed to the Planning Commission.

**6. ADJOURNMENT**

**On motion by Mr. Pawluk, seconded by Mr. Brodshaug, and all voting in favor, the meeting was adjourned at 8:05 AM.**

## Plat Review Report –Ellingson Subdivision

An application for subdivision approval of a tract of land located in the SE ¼ of Section 5 in Raymond Township was filed in the Cass County Planning Office by Joel Ellingson. The purpose of the subdivision is to plat 1 lot. The plat is approximately 3 acres.

Applicant: Joel Ellingson Phone: 701-388-7576

### Analysis

The proposed subdivision is approximately 3 acres and would be divided into 1 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 off of 165<sup>th</sup> Ave SE, a gravel township road. The plat is currently within Zone X of the Flood Insurance Rate Map.

Comprehensive Plan Consistency: Will meet goals with deed restriction which recommended as a condition of approval.

Design standards not met include: 10' Utility access

### Review Agency Comments

Cass County Engineer – none to date

County Sanitarian – no issues, soil testing completed

Township - none to date

Cass Rural Water – none to date

Cass County Electric – 10 ft easement requested to road right of way

Water Resource District – none to date

Century Link - none to date

Public Comment – notified property owners within 1000' – no comment to date

### Recommendation

Final plat would need to include all the requirements for final plat, plus the following:

1. Copy of the title opinion.
2. Deed restriction filed on adjacent parcel.
3. Approval of County sanitarian for on-site septic.

**ELLINGSON SUBDIVISION**  
 (A MINOR SUBDIVISION)  
 PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 140 NORTH, RANGE 50 WEST OF THE  
 FIFTH PRINCIPAL MERIDIAN,  
 COUNTY OF CASS, STATE OF NORTH DAKOTA



**LEGEND**

—————	PROPERTY LINE
—————	BOUNDARY OF RECORD
—————	EXISTENT LINE

CLASS COUNTY ENGINEER

CLASS COUNTY ENGINEER

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 CLASS COUNTY ENGINEER

SHEET 1 OF 1  
 PART OF CASS COUNTY, NORTH DAKOTA

VICINITY MAP  
**ELLINGSON SUBDIVISION**  
PART OF THE SOUTHEAST QUARTER, OF SECTION 5, TOWNSHIP 145 NORTH,  
RANGE 50 WEST OF THE FIFTH PRINCIPAL MERIDIAN,  
COUNTY OF CASS, STATE OF NORTH DAKOTA.



DRAFT, NOT TO SCALE



Maptek  
2011

REFINED VIEW  
ELLINGSON SUBDIVISION

PART OF THE SOUTHEAST QUARTER OF SECTION 07, TOWNSHIP 141 NORTH,  
RANGE 50 WEST OF THE FIFTH PRINCIPAL MERIDIAN,  
COUNTY OF CASS, STATE OF NORTH DAKOTA



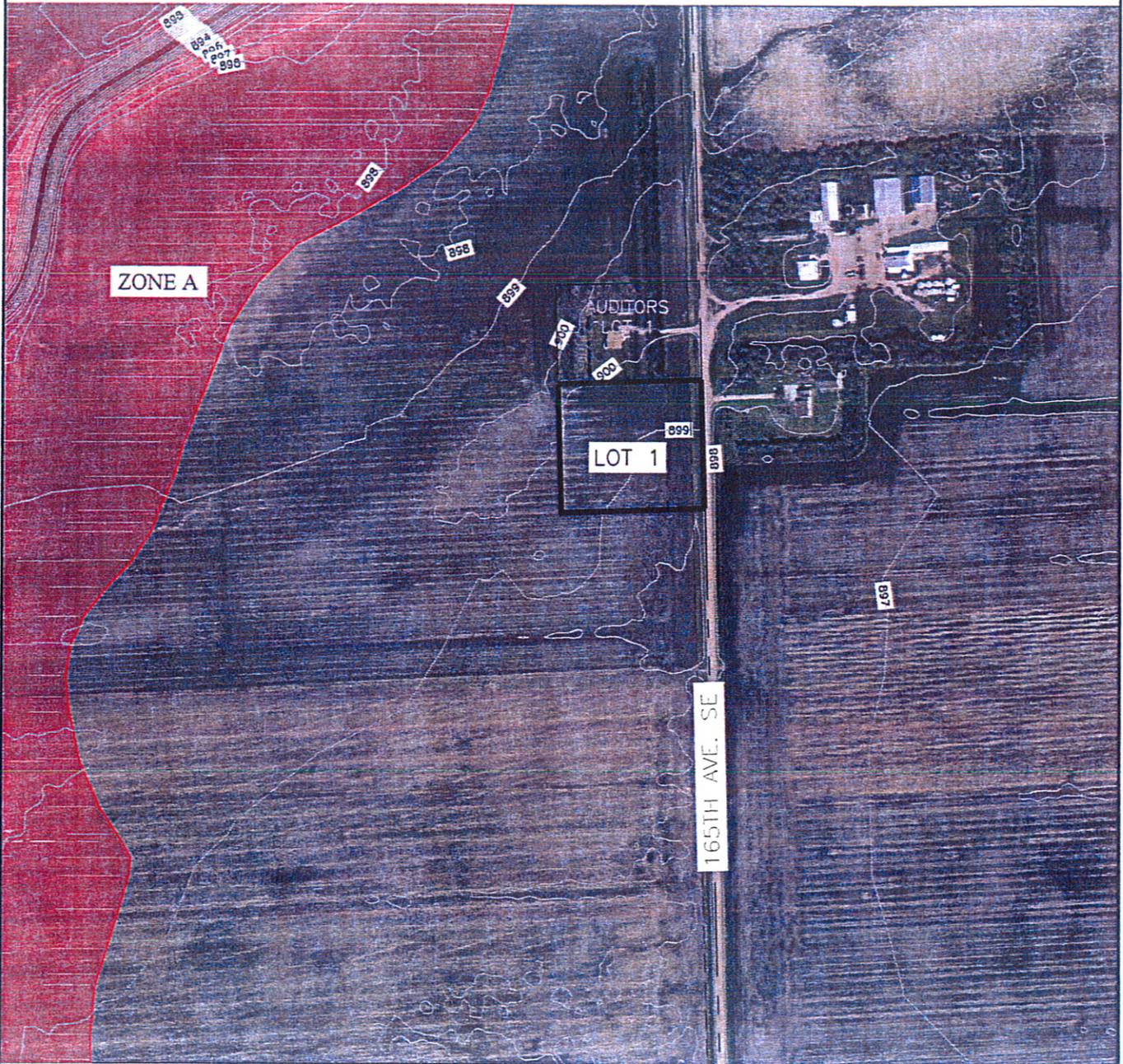
LOCATIONS NOT TO SCALE



CASS COUNTY  
AUDITOR'S OFFICE

FLOOD INSURANCE RATE MAP  
ELLINGSON SUBDIVISION

PART OF THE SOUTHEAST QUARTER, OF SECTION 5, TOWNSHIP 14 NORTH,  
RANGE 50 WEST OF THE FIFTH PRINCIPAL MERIDIAN,  
COUNTY OF CASS, STATE OF NORTH DAKOTA.



DRAWING NOT TO SCALE

 - ZONE A

MAP# 38008100150  
REVISED: JANUARY 14, 2002



# LEGEND

SPECIAL FLOOD HAZARD AREAS INUNDATE  
BY 100-YEAR FLOOD

ZONE A No base flood elevations determined.

ZONE AE Base flood elevations determined.



CORPORATE



NATIONAL FLOOD INSURANCE PROGRAM

## FIRM FLOOD INSURANCE RATE MAP

TOWNSHIP OF  
RAYMOND,  
NORTH DAKOTA  
CASS COUNTY

ONLY PANEL PRINTED

COMMUNITY-PANEL NUMBER  
3802610025 C

MAP REVISED:  
JANUARY 4, 2002



Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)