A. Call to Order
B. Roll Call
C. Determination of a Quorum
D. Approve Meeting Minutes of April 25, 2019

E. Public Hearing Items:
   1. Hearing on an application requesting a Minor Subdivision Plat of Cornell Second Subdivision (Located in Cornell Township, A Part of the NE 1/4 of Section 1, Township 141 North, Range 55 West of the 5th Principal Meridian, Cass County North Dakota)

   2. Hearing on an application requesting a Minor Subdivision Plat of Hefty Seed Subdivision (Located in Everest Township, A Part of the SE 1/4 of Section 5, Township 139 North, Range 52 West of the 5th Principal Meridian, Cass County North Dakota)

   3. Hearing on an application requesting a Text Amendment to amend Section 203 of the Cass County Subdivision Ordinance (CCSO) relating to subdivision ordinance exemptions (Cass County).

F. New Business
   a. New Planning Commissioner Elissa Novotny
   b. New Subdivision and Zoning Ordinance Consultant Selection Steering Committee Solicitation

G. Old Business
H. Adjournment

Meeting attendees with disabilities that need special accommodations should contact the Cass County Highway Department at 701-298-2370 prior to the meeting to make arrangements.
CASS COUNTY PLANNING COMMISSION
APRIL 25, 2019

1. MEETING TO ORDER
   A meeting of the Cass County Planning Commission was called to order on April 25, 2019, at 7:00 AM in the Vector Control Conference Room with members present as follows: David Gust, Ken Lougheed, Keith Monson, Dr. Tim Mahoney and Duane Breitling. Brad Olson and Kevin Fisher were absent. Also present were County Planner Barrett Voigt; County Engineer Jason Benson and Assistant County Engineer Tom Soucy.

2. MINUTES, APPROVED
   
   MOTION, passed
   Dr. Mahoney moved and Mr. Breitling seconded to approve the minutes of the February 28, 2019 meeting as presented. Motion carried.

3. PUBLIC HEARING ITEMS
   a. Minor Subdivision application and variance request–Ottis Subdivision in Normanna Township
   Mr. Lougheed opened the public hearing.

   Mr. Voigt provided an overview of an application for a minor subdivision entitled Ottis Subdivision and variance request for the transfer of development rights from land located in the 1% annual chance flood plain located in Normanna Township, a part of the West ½ of Section 34, Township 137 North, Range 50 West.

   Mr. Voigt stated that the applicant is proposing to divide the residence from the farm yard and that there are no proposals for new construction. The access easement will be dedicated on the final plat. The current regulatory Flood Insurance Rate Map delineates the majority of the land of the subject property and surrounding property with the 1% annual chance floodplain. The Cass County Subdivision Ordinance prohibits the transfer of development rights from properties with floodplain designations. Staff recommends the variance because a new flood insurance study shows that the 1% annual chance flood plain will be removed when it is tentatively adopted in the fall. Staff recommends approval with the following conditions:

   1. A deed restriction be recorded that meets the requirements of Section 308 of the Cass County Subdivision Ordinance.

   The public hearing was closed.
   
   MOTION, passed
   Mr. Gust moved and Mr. Monson seconded to approve the minor subdivision and variance request with the conditions outlined by the County Planner. Motion carried.
b. Application requesting a Text Amendment to Cass County Subdivision Ordinance
Mr. Lougheed opened the public hearing.

Mr. Voigt provided an explanation of the proposed text amendment to amend Sections 106.4, 302.1, 302.4, 303, 303.4, and 305.1 of the Cass County Subdivision Ordinance relating to application requirements. This change would remove the 21 day deadline in all sections to eliminate any conflict with state statute.

The public hearing was closed.

MOTION, passed
Dr. Mahoney moved and Mr. Breitling seconded to approve the text amendments to the Cass County Subdivision Ordinance as outlined by the County Planner.
Motion carried.

c. Application requesting a Text Amendment to Cass County Subdivision Ordinance
Mr. Lougheed opened the public hearing.

Mr. Voigt provided an explanation of the proposed text amendment to amend Section 203 of the Cass County Subdivision Ordinance relating to subdivision ordinance exemptions. This change would allow for lot line adjustments of abutting properties with agricultural land use.

Discussion was held by the board as to whether or not it would be necessary to limit the amount of land transferred or gained. Mr. Gust stated that limiting the agricultural land transaction amount prevents building on any development. The opinion of the board members is that the size limit is not needed.

Mr. Ellig was present as a private citizen and spoke with regards to whether the board or county has the authority to regulate something where no development is proposed. He questions whether the county is putting unnecessary or unauthorized restrictions on agricultural land.

The public hearing was closed.

MOTION, passed
Mr. Gust moved and Dr. Mahoney seconded to approve the text amendment to the Cass County Subdivision Ordinance as outlined by the County Planner, striking the 15% limit language.
Motion carried.

4. NEW BUSINESS
a. Recognition of the service of Todd Ellig
The board recognized Todd Ellig for his 22 years of service on the Cass County Planning Commission and thanked him for all of his work.
5. ADJOURNMENT
   On motion by Mr. Gust, seconded by Dr. Mahoney, and all
   voting in favor, the meeting was adjourned at 7:40 AM.

Minutes prepared by DeAnn Buckhouse, Election Coordinator
Agenda Items Map
Cass County Planning Commission
September 26, 2019

Agenda Items No.
E2. - Cornell Second Subdivision
E3. - Hefty Seed Subdivision
Cass County Planning Commission Staff Report

Entitlements Requested: Minor Subdivision (1 Lots) of a part of the NE 1/4 of Section 1, Township 141 North, Range 55 West

<table>
<thead>
<tr>
<th>Title:</th>
<th>Cornell Second Subdivision</th>
<th>Date:</th>
<th>08-15-2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location:</td>
<td>NE 1/4 of Section 1, Township 141 North, Range 55 West (2452 138th Ave SE, Cornell Township)</td>
<td>Staff Contact:</td>
<td>Barrett Voigt</td>
</tr>
<tr>
<td>Parcel Number:</td>
<td>31-0000-02701-040 &amp; 31-0100-00010-000</td>
<td>Water District:</td>
<td>Maple River Water District</td>
</tr>
<tr>
<td>Owner(s)/Applicant:</td>
<td>Feder Properties LLP/Shawn Thomasson, Moore Engineering, Inc.</td>
<td>Engineer/Surveyor:</td>
<td>Moore Engineering, Inc.</td>
</tr>
<tr>
<td>Status:</td>
<td>Planning Commission Hearing: September 28, 2019</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Existing Land Use | Proposed Land Use
--- | ---
Agriculture | Residential

Proposal

The applicant is seeking approval of a minor subdivision entitled Cornell Second Subdivision to replat Cornell First Subdivision and plat an unplatted portion of a part of the NE 1/4 of Section 1, Township 141 North, Range 55 West. This proposal seeks approval for a one (1) Lot, one (1) Block subdivision for the purpose of a lot line adjustment to correct a boundary line error of Cornell First Subdivision. The proposal will add approximately more than 2 acres of land on to the west side of Lot 1, Block 1, Cornell Subdivision to satisfy the needs of the applicant. The purpose of the subdivision will remain the same to separate the residential structure from the farmstead. The proposed lot will remain at the location of 2452 138th Ave SE, Cornell Township and is approximately 5.34 acres.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use state highway road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.
<table>
<thead>
<tr>
<th>Agency Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>County Engineer</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>Water Resource District</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>Cass County Electric Cooperative</strong></td>
</tr>
<tr>
<td>CCEC has existing plant serving the current home. If power is needed to the second lot a utility easement may be required to serve the site. See map below for approximate location of CCEC owned electric facilities.</td>
</tr>
<tr>
<td><strong>Century Link</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>Sprint</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>AT&amp;T</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>Xcel Energy</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>Otter Tail Power Company</strong></td>
</tr>
<tr>
<td>Attached is a written notice of approval for Hefty Seed Subdivision. And as I mentioned we have no facilities in the Cornell Addition. So no objections there either. Need anything else, let me know.</td>
</tr>
<tr>
<td><strong>Magellan Pipeline Company</strong></td>
</tr>
<tr>
<td>Magellan Pipeline Company does not run in either of these Townships. No affected by this work. Thanks.</td>
</tr>
<tr>
<td><strong>Nu Star Energy</strong></td>
</tr>
<tr>
<td>NuStar Energy will have no conflicts with these proposals, Thanks</td>
</tr>
<tr>
<td><strong>Cass Rural Water District</strong></td>
</tr>
<tr>
<td>Cornell 2nd Subdivision – it appears that the applicant is splitting the house from the existing property for potential future sale. The existing residence has service from Cass Rural Water District. Consequently, we have no comment.</td>
</tr>
<tr>
<td><strong>North Dakota Department of Transportation</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>County Sanitarian</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>Township Chairman</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>The City of Fargo</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>The City of West Fargo</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>Public Comment</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
</tbody>
</table>
**Surrounding Uses**
The subject property is bound by agricultural production land on the north, west, and east. Land that appears to be used for a farmstead is located south of the property. Cornell Township has not verified if the proposed development meets Township zoning ordinance requirements.

**Floodzone**
According to the FEMA Flood Map Service Center, this property is currently unmapped and no Special Hazard Flood Area has been identified. In addition, no wetlands or other notable features are present on the proposed subdivision Lot.

**Land Development Rights**
The subject quarter-quarter section currently has one (1) platted residential development and a partial unplatted farmstead development that is located on the quarter-quarter line. Section 308 of the Cass County Subdivision Ordinance states that every quarter-quarter section is granted one (1) Development Right to create a buildable lot with a minimum of 40 acres and to allow for development that was legally permitted prior to the adoption of the CCSO. Because the lot subdivision proposal is less than 40 acres, a transfer of a development right is required along with a deed restriction. In addition, interpretation of CCSO Section 308 has determined that partial developments are not one (1) complete development and are not factored into the transfer of development rights evaluation.

When Cornell First Subdivision was platted on April 2, 2019, a deed restriction for the Southwest Quarter of the Northeast Quarter of Section 1, Township 141, Range 55 West was recorded to satisfy the Section 308 requirement of the CCSO (Document number 1559462). Because the subject property is located in the Southeast Quarter of the Northeast Quarter, the recorded deed restriction does not prohibit the proposed expansion to replat Cornell First Subdivision by plating addition land west of Lot 1, Block 1. For more information, please see the illustration provided below.
This subdivision plat application seeks to rectify a boundary error and expand the boundaries of platted land. The applicant claims that because the application is a lot line adjustment and not the addition of another lot, the applicant seeks approval to use deed restriction document 1559462 to satisfy the Section 308 requirements of the CCSO.

Staff Recommendation

To accept the findings and recommendations of staff and recommend approval to the County Commission of the subdivision application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance, the Township Zoning Ordinance, and all other applicable regulations.

Attachments

1. Location Map
2. Plat Document
3. Deed Restriction document 1559462
Maps and data are to be used for reference purposes only and Cass County, ND, is not responsible for any inaccuracies herein contained. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.
Pursuant to Section 309 of the Cass County Subdivision Ordinance, this DEED RESTRICTION is entered into this ______ day of March, 2019, by:

Owner(s): Feder Properties L.L.P., a North Dakota Limited Liability Partnership

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.

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 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:

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;

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 DEED 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**

   The Southwest Quarter of the Northeast Quarter (SW¼NE¼) of Section One (1), Township One Hundred Forty-one (141) North, Range Fifty-Five (55) West of the Fifth Principal Meridian, Cass County North Dakota.

The legal descriptions were obtained from Jerome D. Feder.
IN WITNESS of the restrictions, the Owner(s) have caused this DEED RESTRICTION to be executed effective as of:

FEDER PROPERTIES L.L.P., Owner

By: Jerome D. Feder, Managing Partner 3-6-2019

State of Arizona )
County of Maricopa ) ss

On this 6 day of March, 2019, before me, a notary public within and for said county and state, personally appeared Jerome D. Feder, known to me to be the Managing Partner of Feder Properties L.L.P., a North Dakota limited liability partnership, the limited liability partnership named in the foregoing instrument, and acknowledged that they executed the same on behalf of said limited liability partnership.

ANNA G. GARCIA
Notary Public

The foregoing instrument was acknowledged before me, this 26th day of March 2019, by Jason Benson, County Engineer.

County Engineer Signature 3/26/19

State of North Dakota )
County of Cass ) ss

On this 26th day of March, 2019, before me, a notary public within and for said county and state, personally appeared Jason Benson, County Engineer, known to be the person(s) described in and who executed the foregoing instrument and acknowledged that they executed same as their free act and deed.

SHARI HALLAND
Notary Public
State of North Dakota
My Commission Expires Aug. 30, 2019
Cass County Planning Commission Staff Report

<table>
<thead>
<tr>
<th>Entitlements Requested:</th>
<th><strong>Minor Subdivision (1 Lot)</strong> of a part of the SE 1/4 of Section 5, Township 139 North, Range 52 West</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title:</strong></td>
<td>Hefty Seed Subdivision</td>
</tr>
<tr>
<td><strong>Date:</strong></td>
<td>08-15-2019</td>
</tr>
<tr>
<td><strong>Location:</strong></td>
<td>SE 1/4 of Section 5, Township 139 North, Range 52 West (Everest Township)</td>
</tr>
<tr>
<td><strong>Staff Contact:</strong></td>
<td>Barrett Voigt</td>
</tr>
<tr>
<td><strong>Parcel Number:</strong></td>
<td>38-0000-04827-030</td>
</tr>
<tr>
<td><strong>Water District:</strong></td>
<td>Maple River Water District</td>
</tr>
<tr>
<td><strong>Owner(s)/Applicant:</strong></td>
<td>Thomas J &amp; Mary A Weiss Revocable Trust Etal/Pifer's Auction &amp; Realty, Steve Link</td>
</tr>
<tr>
<td><strong>Engineer/Surveyor:</strong></td>
<td>Bolton &amp; Menk</td>
</tr>
<tr>
<td><strong>Status:</strong></td>
<td>Planning Commission Hearing: September 28, 2019</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Existing Land Use</th>
<th>Proposed Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Commercial</td>
</tr>
</tbody>
</table>

**Proposal**

The applicant is seeking approval of a minor subdivision entitled **Hefty Seed Subdivision** to plat a one (1) Lot, (1) Block subdivision of approximately 15 acres to construct a structure for retail commercial land use purposes. The proposed lot is located in the northwest corner of the intersection of County Road 23 and U.S. Interstate 94.

The proposed ownership and maintenance responsibility of the subdivision will be private. The subdivision will use county highway road access, ditches for storm sewer conveyance, rural water, and on-site septic systems for wastewater treatment.
<table>
<thead>
<tr>
<th>Agency Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>County Engineer</strong></td>
</tr>
<tr>
<td>I have reviewed the site plan for this subdivision and don’t have any critical concerns. Two topics I want to make sure are addressed is the elevation of the building site to ensure it is built up to avoid water issues from spring runoff and summer rain events. The other topic is to ensure there is an adequate storm water/erosion control plan (SWPP) for the site construction to reduce erosion and runoff into the County and NDDOT ditches.</td>
</tr>
<tr>
<td>I have no other issues.</td>
</tr>
<tr>
<td><strong>Water Resource District</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>Cass County Electric Cooperative</strong></td>
</tr>
<tr>
<td>CCEC has existing overhead line as shown in the map below. – No issues.</td>
</tr>
<tr>
<td><strong>Century Link</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>Sprint</strong></td>
</tr>
<tr>
<td>Sprint fiber optic cable runs along the BNRR R/W through Castleton and Wheatland. Clear of the attached areas</td>
</tr>
<tr>
<td><strong>AT&amp;T</strong></td>
</tr>
<tr>
<td>No comments were received prior to publishing the staff report.</td>
</tr>
<tr>
<td><strong>Xcel Energy</strong></td>
</tr>
<tr>
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<tr>
<td><strong>Otter Tail Power Company</strong></td>
</tr>
<tr>
<td>Attached is a written notice of approval for Hefty Seed Subdivision. And</td>
</tr>
<tr>
<td><strong>Magellan Pipeline Company</strong></td>
</tr>
<tr>
<td>Magellan Pipeline Company does not run in either of these Townships. No affected by this work. Thanks.</td>
</tr>
<tr>
<td><strong>NuStar Energy</strong></td>
</tr>
<tr>
<td>NuStar Energy will have no conflicts with these proposals, Thanks,</td>
</tr>
<tr>
<td><strong>Cass Rural Water</strong></td>
</tr>
<tr>
<td>The applicant lists rural water for the water source. Our closest water line to this site is 1 mile to the east or one mile to the north. We recommend the applicant contact the District to make an application for service and obtain a quote for the cost to extend service to the site.</td>
</tr>
<tr>
<td><strong>North Dakota Department of Transportation</strong></td>
</tr>
<tr>
<td>In reviewing the proposed Hefty Seed Subdivision the NDDOT has some concerns that will need to be looked at.</td>
</tr>
<tr>
<td>1.. It appears based on the drawing that the proposed access point may be located within the interstate right of way and within the interstate access control line? All proposed access points will need to be located off of the interstate right of way and access control lines. We are also concerned on the spacing and size of the driveways as it appears they are proposing 80 foot wide approaches?</td>
</tr>
<tr>
<td>2. If changes to drainage of the site are proposed we would ask to be kept in the loop as we typically have problems in the spring in the adjacent I-29 ditch as water passes through a box culvert and flows south under I-29. The ditch often fills with snow in the winter and drainage is poor, any drainage changes</td>
</tr>
</tbody>
</table>

Page 2 of 4
to the site could possibly compound our current problem if changes in flow from the site change from what they are at now.

3. We would ask that Hefty seeds be made aware that snow from the site cannot be pushed onto the I-29 right of way. The NDDOT tends to have problems with this when property is developed adjacent to our interstate System.

3. Any Utilities that will be needed for the site that cross old highway 10 or I-94 will need to be permitted by the NDDOT’s Fargo district office before any Utility work begins.

Thank you for the opportunity to review and comment.

County Sanitarian  
No comments were received prior to publishing the staff report.

Township Chairman  
No comments were received prior to publishing the staff report.

The City of Fargo  
No comments were received prior to publishing the staff report.

The City of West Fargo  
No comments were received prior to publishing the staff report.

Public Comment  
No comments were received prior to publishing the staff report.

---

Staff Analysis

*Land Use and Surrounding Uses*

The subject property is bound by agricultural production land on the north, west, and east. U.S. Interstate 94 borders the south of the property. Everest Township approved the project with the condition that the proposed development meets all of the conditions for approval for subdivision application.

*Floodzone*

According to the FEMA Flood Map Service Center, this property has no Special Hazard Flood Area identified. In addition, no wetlands, blueline perennial watercourse, or other notable features were identified to be present on the proposed subdivision Lot.

*Land Development Rights*

The subject quarter-quarter section currently has no development. Section 308 of the Cass County Subdivision Ordinance states that every quarter-quarter section is granted one (1) Development Right to create a buildable lot with a minimum of 40 acres. Because the lot subdivision proposal is less than 40 acres, a transfer of a development right is required along with a deed restriction.

---

Staff Recommendation

To accept the findings and recommendations of staff and recommend approval to the County Commission of the subdivision application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan, the Cass County Highway Access Plan, the Flood Damage Prevention Ordinance, the Cass County Subdivision Ordinance and all other applicable regulations, with the following conditions:
1. A deed restriction be recorded that meets the requirements of Section 308 of the Cass County Subdivision Ordinance.

2. Snow storage is prohibited from Interstate-94 Right-of-Way

---

**Attachments**

1. Location Map
2. Plat Document
Maps and data are to be used for reference purposes only and Cass County, ND, is not responsible for any inaccuracies herein contained. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.
OWNERS DESCRIPTION AND DEDICATION
KNOW ALL MEN BY THESE PRESENTS, That Thomas J. Weiss and Mary A. Weiss Revocable Trust dated November 7, 2018, as owner of a parcel of land located in the Southeast Quarter of Section 5, Township 139 North, Range 52 West of the Fifth Principal Meridian, Cass County, North Dakota and more particularly described as follows:

Surveyor's Certificate and Acknowledgement
I, Gregg Stroeing, Registered Professional Land Surveyor under the laws of the State of North Dakota do hereby certify that this plat is a correct representation of the survey, that all distances shown are correct and that the monuments for the guidance of future surveys have been located or placed in the ground as shown and that the outside boundary lines are correctly designated on the plat.

Owner:
By: Thomas J. Weiss
By: Mary A. Weiss

CASS COUNTY BOARD OF COMMISSIONERS APPROVAL
Approved by Cass County, North Dakota this ______ day of __________________, 2019.

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT
I, Gregg Stroeing, Registered Professional Land Surveyor under the laws of the State of North Dakota do hereby certify that this plat is a correct representation of the survey, that all distances shown are correct and that the monuments for the guidance of future surveys have been located or placed in the ground as shown and that the outside boundary lines are correctly designated on the plat.

Owner:
By: Thomas J. Weiss
By: Mary A. Weiss

CASS COUNTY PLANNING COMMISSION
Reviewed by the Cass County Planning Commission this ______ day of __________________, 2019.

SECRETARY

CASS COUNTY ENGINEER
Reviewed by the Cass County Engineer this ______ day of __________________, 2019.

SECRETARY

EVEST TOWNSHIP
Reviewed by Everest Township, Cass County, North Dakota this ______ day of __________________, 2019.

SECRETARY

COUNTY HIGHWAY #10 / 35TH STREET SE
CASSELTON
3534332
36TH STREET SE
151ST AVENUE SE
154TH AVENUE SE
3 2
54
SITE LOCATION
156TH AVENUE SE
COUNTY HIGHWAY #23
37TH STREET SE
38TH STREET SE
STATE HIGHWAY #18
GOVERNORS DR
INTERSTATE HIGHWAY #94
98 1110

PRELIMINARY
Cass County Planning Commission Staff Report

Entitlements Requested:  Cass County Subdivision Ordinance (CCSO) Text Amendment

<table>
<thead>
<tr>
<th>Title:</th>
<th>CCSO §203 Text Amendment</th>
<th>Date:</th>
<th>09-10-2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location:</td>
<td>N/A</td>
<td>Staff Contact:</td>
<td>Barrett Voigt</td>
</tr>
<tr>
<td>Owner(s)/Applicant:</td>
<td>Cass County</td>
<td>Engineer/</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Surveyor:</td>
<td></td>
</tr>
<tr>
<td>Status:</td>
<td>Planning Commission Hearing: September 26, 2019</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Proposal

The County Planner is seeking approval of a text amendment of §203 of the Cass County Subdivision Ordinance (CCSO) for the purpose of expanding the list of exemptions of the CCSO to allow for the exemption of division, sale, or transfer of land for federal, state, or local government.

Staff Analysis

Planning Office staff became aware that past evaluations and historical practices for the sale, transfer, and development of land by local, state, and federal governments did not correspond with the written text of the CCSO. In an attempt to clarify and make the subdivision ordinance process more transparent, Planning staff request a text amendment to the CCSO so that the division, sale, and transfer of lands by municipal governments for the purpose of right-of-way for public use, the acquisition of flood prone properties for a flood buyout, public parks, and drainage easements and storm water management facilities are listed as exemptions to the CCSO and would not require a plat to be evaluated through a public hearing process.

In order to structure the new language to correspond with current practices, proposed text amendments are proposed for exemptions listed in §203B. In addition, a definition of “Flood buyout” was included to provide clarification of the terminology used in the exemption language, as well as text edits to §203A. and §203C. so that the appearance of the text is uniform and consistent with the rest of the document.

Text Amendment Proposal:

Staff proposes the text amendment addition in underlined font and text amendment retraction in strike out font to §302 of the CCSO as follows:
**Flood buyout.** The purchase of private property by a federal, state, or local government for the purpose of mitigating flood damage to structures and properties.

**Right-of Way.** The total width of any land reserved or dedicated for public use to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, legal drains, flood diversion structures, flood diversion channels, shade trees, or for other special use.

**Storm Water Management Facilities.** Those controls and measures (e.g., storm sewers, berms, terraces, bridges, dams, basins, infiltration systems, ditches, watercourses, legal drains, flood diversion structures, flood diversion channels, and floodplains) used to implement a storm water management program.

**Subdivision.** A division of a lot, tract, or parcel of land, creating one or more lots, tracts, or parcels for the purpose, either immediate or future, of sale or of building development and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights of way, whether public or private, for access to or from any such lot, tract, or parcel and the creation of new or enlarged parks, playgrounds, plazas, or open spaces. The following shall not be considered a subdivision and shall be exempt from the requirements of this Ordinance:

A. A division of land pursuant to an allocation of land in the settlement of a decedent’s estate or a court decree for the distribution of property;

B. A division, sale, or transfer of land for federal, state, or local government to:

   1. Acquire street right of way.
   2. Acquire land of flood prone properties for the purposes of a flood buyout.
   3. Acquire land for the purpose of public parks.
   4. Acquire land for the purpose of a drainage easement or storm water management facility.

C. A division of land into lots, tracts, or parcels of ten (10) acres or more in size for the purpose of agricultural use with no anticipation of dwelling unit construction and does not involve any new streets, easements or accesses other than field accesses;

D. A division of land into cemetery plots; or

E. The combination or recombination of portions of previously subdivided and recorded lots if the number of lots is not increased.

F. A division of land involving a sale or transfer to an abutting property owner for the purpose of agricultural use.

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**Staff Recommendation**

To accept the findings and recommendations of staff and recommend approval to the County Commission of the text amendment application as the proposal meets the goals and objectives of the Cass County Comprehensive Plan and the Cass County Subdivision Ordinance and all other applicable regulations.
MEMORANDUM

TO: Cass County Board of Planning Commissioners

FROM: Barrett Voigt, Cass County Planner

DATE: September 16, 2019

SUBJECT: New Business for the September 26, 2019
Commission Meeting: RFP Steering Committee

The Planning Office is pleased to announce that the Cass County Commission approved the release of the Request for Proposals (RFP) at the September 16, 2019 meeting to solicit professional services to create a new County subdivision and zoning ordinance.

The Planning Office is in the process to move forward with releasing the RFP to identify and select a consulting firm to provide this service. Please see the attached RFP document for further information.

A selection committee of County Commissioners, Planning Commissioners, Township Board Supervisors, and County staff will be assembled to start interviews after Thanksgiving (November 28, 2019). The interview date time frame schedule was based on feedback of the time availability of various Township Board Supervisors.

The Planning Office is seeking a recommendation from the Planning Commission to identify which Commissioners will be appointed to the selection committee.
MEMORANDUM

TO: Cass County Board of Commissioners
FROM: Barrett Voigt, Cass County Planner
DATE: September 6, 2019
SUBJECT: Consent Agenda Topic for the September 16, 2019 County Commission Meeting: New Subdivision and Zoning Ordinance RFP Release Request

The Cass County Commission was provided with a proposed budget for the Planning Office on July 24, 2019. One of the line items discussed at the hearing was the proposal to hire a consulting firm to write the new subdivision and zoning ordinance. The Planning Office is ready to move forward with releasing the RFP to identify and select a consulting firm to provide this service. Please see the attached RFP document for further information.

After the RFP is released, a selection committee of County Commissioners, Planning Commissioners, Township Board Supervisors, and County staff will be assembled to start interviews after Thanksgiving (November 28, 2019). The interview date time frame schedule was based on feedback of the time availability of various Township Board Supervisors.

The Planning Office is seeking approval to release the RFP document so that the process may be initiated to hire a consulting company for the task as well as a recommendation for which Commissioners will be appointed to the selection committee.

SUGGESTED MOTION:

To accept the recommendation of the Planning Office to release the RFP for professional services for a new Cass County subdivision and zoning ordinance.
Cass County, North Dakota

www.casscountynd.gov

REQUEST FOR PROPOSALS
PROFESSIONAL SERVICES FOR
SUBDIVISION AND ZONING ORDINANCE

August 2019
Cass County Highway Department, Planning Office
1201 Main Ave West
West Fargo, ND 58078
Overview

Request

Cass County, North Dakota is currently accepting proposals from qualified firms with expertise in zoning for leading a process resulting in the preparation of the new zoning and subdivision ordinance for the County. Proposals received via the RFP process will be reviewed by an evaluation committee comprised of County staff and selected representatives with interests in zoning matters in Cass County.

General Background

Cass County, North Dakota is located along the Red River in eastern North Dakota and shares a border with the state of Minnesota. The county was established in 1873 and named for George W. Cass, the president of the Northern Pacific Railway at that time. Cass County is approximately 1,768 square miles, with 27 incorporated cities/municipalities, 49 townships, and the City of Fargo as the county seat. Cass County has experienced a population growth of 43.1% since the year 2000. The county currently has an estimated growing population of 168,930 as of the 2015 American Community Survey and is a component of the Fargo-Moorhead metropolitan area with an estimated population of 241,356 as of 2017. The Cass County population estimate comprises approximately 22.3% of the 2015 state population (756,835).
Cass County is served by a regional international airport, two (2) major highway interstates, is home to one of the largest Microsoft offices outside of Redmond, Washington, is served by two (2) state universities, and has experienced massive growth and development pressure for the past couple of decades. Some of the most recent notable projects are the construction of a new skyscraper in downtown Fargo, the opening of a new $900 million hospital, the ongoing proposal of a $320 million solar farm project, and a $2.75 billion flood diversion project underway.

Cass County seeks to balance the management of growth around the urban fringe of the metropolitan area, proactively prepare for new land uses not identified in past ordinances, and preserve agricultural land uses in unincorporated areas.

Cass County operates under a Home Rule Charter with a 5-member board known as the County Commission. Due to the demands to have the county provide zoning services for townships, changes in land use, and the persistent pressure of development with new land use types, funding has been provided by the Cass County Commission to initiate the process to create a new zoning and subdivision ordinance.

**Comprehensive Plan**

During 2018, the Cass County Comprehensive & Transportation Plan was adopted. As a result, the comprehensive plan directs the planning office to employ various strategies to manage land use and growth management effectively. Some of these strategies are to develop model township zoning ordinances and develop regulations to manage soil instability issues. The plan also provides guidance on land use and growth management by establishing objectives to promote compact and orderly development, prevent incompatible land uses, promote major subdivision development that will transition to the urban design standards of the annexing community, and mitigate flood, soil stability, and drainage system impacts. Furthermore, it directs the Planning Office to update the Cass County Subdivision Ordinance to compliment local ordinances within the county and encourage township zoning to address land use compatibility.

**Current County Land Use and Growth Management**

The current existing Cass County Subdivision Ordinance was adopted in 2006 to regulate the land subdivision platting processes for land areas within the county that are not located in corporate city limits and their corresponding extraterritorial jurisdictions. The current subdivision ordinance experiences the following issues:

- The subdivision ordinance does not address land use or design standards. Currently, each township within the county regulates land use and design standards under their own individual zoning ordinances.
- The document lacks organization
• The document language is redundant
• The Planning Commission has requested that the transfer of development rights process and agricultural preservation strategy be examined for better methods
• Definitions are inconsistent and unclear

In addition, there are 49 townships in the county, many of whom have their own zoning ordinance. Township zoning ordinances regulate land use and design standards, but do not regulate subdivision platting.

Over time, political demands have changed and there currently is an interest among several townships to have the county make the option available to have the county manage a comprehensive subdivision and zoning ordinance for the townships that request the service. In addition, several townships that have no interest in having the county manage zoning for their community have requested the county to make a zoning ordinance template for various land use types readily available so that these templates can be easily adopted into township ordinances.

In addition, there has been growing pressure to address development proposals for land uses that were not anticipated in the past. The county and the townships will need the ability to address development proposals for the land uses of autonomous farming, community solar gardens, wind farms, animal confinement operations, and crew camps as they become evident.

To accomplish this task, Cass County is seeking a consultant who can provide the skills necessary to complete a zoning and subdivision ordinance following accepted planning practices.

Staff

The Planning Office is tasked with managing the subdivision ordinance application process under the direction of the Planning Commission. The County Planner will serve as the Project Manager for the County.

The County anticipates that members of the interested Township Supervisor Boards, County Planning Commission, and County Commission will play large roles in the process by guiding and supporting the project through a series of public updates, discussions, and public engagement opportunities.
Preliminary Project Schedule

The County anticipates the following project schedule below. However, the County reserves the right to modify the timeline as necessary.

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>RFP Available for Viewing</td>
<td>September 27, 2019</td>
</tr>
<tr>
<td>Questions Due</td>
<td>October 1, 2019</td>
</tr>
<tr>
<td>Question Responses Posted</td>
<td>October 15, 2019</td>
</tr>
<tr>
<td>Proposals Due</td>
<td>12:00 CDT - October 29, 2019</td>
</tr>
<tr>
<td>Interview Selection Notice</td>
<td>November 26, 2019</td>
</tr>
<tr>
<td>Interviews</td>
<td>December 6, 2019</td>
</tr>
<tr>
<td>Award Notice</td>
<td>December 16, 2019</td>
</tr>
<tr>
<td>Contract Due</td>
<td>January 20, 2020</td>
</tr>
<tr>
<td>Contract to County Commission for Approval</td>
<td>February 3, 2020</td>
</tr>
<tr>
<td>Project Kick-off</td>
<td>February 17, 2020</td>
</tr>
<tr>
<td>Project Completion</td>
<td>January 10, 2022</td>
</tr>
</tbody>
</table>

Scope of Work

With oversight from County staff, as well as guidance from a project steering committee, the selected consultant(s) will lead the planning process to develop a new subdivision and zoning ordinance for Cass County as outlined in the RFP. The anticipated timeframe to complete the project is 2 to 3 years. The County anticipates that the consultant will work with the community to develop a subdivision and zoning ordinance that incorporates a subdivision process that preserves agricultural land uses at the urban fringes as well as provide land use and design standards for unincorporated areas. The consultant will develop a final work program in conjunction with County staff prior to contract approval.

The scope of work provided below are a general framework to be incorporated into proposals. However, the proposed scope of work is not limited to proposals for additional items. The minimum scope of work should include the following:

- **Project Management:** The consultant will take the lead in managing their time, staff, resources, budget, and related activities to ensure that the project objectives are met. The consultant will be in close communication with staff throughout the life of the project. Staff will provide general oversight of the consultant and will help to facilitate interactions with County staff, board/committee members, and project stakeholders.
- **Existing Conditions & Data Analysis:** The consultant will work to gain a firm understanding of the context, trends, and related information applicable to the project objective and utilize the data to inform outcome of the document.
• **Review of Comprehensive Plan:** The consultant will review and identify Plan Implementation Strategies, Objectives, and Policies to ensure that the new ordinance will be consistent with current planning documents.

• **Review of Chapter 11-33 of the North Dakota Century Code:** The consultant will review state statutes to ensure that the new ordinance will be consistent with state law.

• **Public Outreach:** The consultant will develop a comprehensive public and stakeholder participation outreach strategy designed to meet project objectives. This outreach will inform community stakeholders and the public on the benefits of the subdivision and zoning ordinance, as well as conduct regular meetings and web/social media interaction throughout the process.

• **Drafting the Document:** The consultant will prepare drafts of the subdivision and zoning ordinance (text document and zoning map), including graphics, for review by staff and the steering committee, culminating in a final version to be acted upon by the Planning Commission and the County Commission.

• **Toolkit:** The consultant will prepare a toolkit to replicate the public outreach activities for townships that request to have the county manage zoning for their township in the future.

• **Integration of the New Code into User-Friendly Formats:** The consultant will work with County staff as well as its information technology vendors to make the new code accessible and interactive with the public, including GIS display.

• **Project Schedule:** The consultant will provide the County an anticipated schedule for the above work, with a goal of completion by the end of 2022. Proposals should include a proposed schedule showing major milestones for project completion, key public involvement events, and completion of draft and final deliverables.
Submission Requirements

Format

The content and sequence of the information contained in each copy of the proposal shall be as follows:

A. Cover Letter
   Include your firm's understanding of the work to be performed within the terms and conditions set forth in this RFP. In addition, state why your firm believes it to be the best qualified to perform the services requested, including features, skills or services which distinguish your firm and make it the better choice for the County. The length of time during which the proposal and the prices quoted shall be valid for consideration by the County is required to be 120 days from the proposal's due date. The RFP cover letter must be signed by an officer of the consultant or a designated agent empowered to bind the firm in the contract offer. (Please keep response to one (1) page.)

B. Table of Contents
   Include a clear identification of the material by section and by page number.

C. Contact Summary Sheet
   This section of the proposal must be a completed copy of the Contact Summary Sheet (Appendix A) included with this RFP.

D. Proposed Work Program
   Provide a conceptual work program for the project that you believe is appropriate based on your understanding of the County’s needs, as well as the outcomes, deliverables, and the scope of work elements outlined within this RFP. Submittal of a draft project schedule is required as part of the conceptual work program. Submit specific plans of how you will manage, control, and supervise the project in order to ensure satisfactory provision of services.

E. Qualifications and Experience of Assigned Personnel
   List the proposed principal(s) who will be responsible for the work, proposed project manager, and project team members and provide relevant background information for each, such as education, professional experience, certifications, etc. Additionally, provide a breakout of hours for each member of the team by major task area within your proposed work program, and an overall indication of the level of effort (percentage of overall project team hours) allocated to each task.
F. References
List all of the municipal governments that your firm has worked for or with in a similar capacity to the work outlined within this RFP within the last five (5) years. List names of organizations, and names, telephone numbers, and email addresses of persons who can be contacted regarding the services you have provided.

G. Cost
The County wishes to know the final and complete cost of each proposal and to realize only those additional costs beyond the proposal that the County requests. All cost quotations must include but not be limited to fees, modifications, travel and per diem, documentation, taxes, discounts, etc. All cost tables should be sub-totaled and totaled. The maximum amount available per year is as follows:
- 2020 - $65,000
- 2021 – To be determined

Evaluation Criteria
Proposals will first be reviewed for completeness. Only those proposals that are properly completed and meet the minimum content requirements will be considered in the evaluation process. Complete proposals will then be evaluated by a selection committee. The selection committee may elect to conduct short phone interviews with select consultants in order to further evaluate the proposals.

The selection committee will choose a limited number of consultants with which to conduct in-person interviews, for the final selection. Notification of these consultants will be made as soon as possible, but the consultant team should be prepared to convene in West Fargo for these interviews.

Proposals will be evaluated based on the following general criteria:

- Proposed Work Plan and Deliverables – Understanding of the project scope, quality of response to proposed work program, and any submitted work samples
- Relevant Experience of Firm – Past performance of consultant firm on similar projects, expertise and experience of project manager and team members, current workload, and availability of consultant and team members
- References and Work Product Examples – Confirmation that consultant has performed similar work in past; assessment of ability to produce quality product within the project schedule; assessment of ability to conduct
productive meetings; assessment of ability to work with staff, stakeholders, and elected officials; quality and applicability of submitted work examples).

- Understanding of the Issues
- Clarity of Presentation – Organization/completeness of response, writing skills, quality of submitted work samples
- Estimated cost of services

All proposals, whether rejected or accepted, are the property of the County. The County may waive any irregularity, or it may reject any or all RFP responses without explanation. The County may withdraw the RFP at any time and need not select a consultant for award of this study. All proposal responses must be signed dated by a company official who has the authority to bind the company.

The County may request additional information from consultants during the selection process. Additionally, discussion may be conducted with consultants to assure full understanding of, and responsiveness to, the requirements of this RFP.

**Proposal Submission**

Consultants are to submit six (6) hard copies of the proposal in accordance with the requirements set forth within this RFP. In addition, an electronic version of the proposal shall be provided on a Flash Drive. The information included should be as concise as possible. Proposals should generally be printed on 8 ½” x 11” paper, but pages with organizational charts, matrices, or diagrams may be printed on larger sheets. Document pages should be numbered. Type size should be no smaller than 11 points for narrative sections, but may be reduced for captions, footnotes, etc. as required while still maintaining legibility.

The proposal must be placed in an envelope, box, or similar container securely sealed therein and labeled: "Proposal for Professional Consulting Services for Subdivision and Zoning Ordinance for Cass County."

Sealed proposals must be submitted to the Cass County Highway Department, 1201 Main Avenue West Fargo, ND 58078 by **12:00 pm on October 29, 2019** to the attention of Barrett Voigt, County Planner. Proposals received later than the time and date specified will not be considered.
Communications

This Request for Proposals (RFP) is available to download on the County website: https://www.casscountynd.gov/our-county/rfp-rfq. Any addendum made to this Request for Proposals will be posted at the same website used for downloading the RFP.

All questions related to this RFP must be submitted in writing by email to the project contact, Barrett Voigt, at voigtb@casscountynd.gov. The question period shall expire as defined within the Project Schedule section of this RFP. Responses to questions will be posted on the same webpage as this RFP (https://www.casscountynd.gov/our-county/rfp-rfq). Questions received after the deadline for questions will not be answered.

Office hours are 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding holidays.

Contract Award

The County will select a consultant with whom County staff shall commence contract negotiations. The selection of a proposal shall not imply acceptance by the County of all terms of the proposal, which may be subject to further negotiations prior to approval by the County Commission before the County may be legally bound thereby. If a satisfactory contract cannot be negotiated in a reasonable time the County, at its sole discretion, may terminate negotiations with the highest ranked consultant and begin contract negotiations with the next highest ranked consultant.
Appendix A: Contact Summary Sheet

Firm Name: ________________________________________________________________

Firm Parent or Ownership: ________________________________________________

Firm Address: ____________________________________________________________

Firm Telephone Number: _________________________________________________

Person responsible for direct contact with the City of Fargo and services required for this Request for Proposal (This is typically the project manager or primary point of contact throughout the life of this project):

Name: ___________________________ Title: ________________________________

Telephone Number: ___________________________ Email: ______________________

Person responsible for day-to-day servicing of the account (This is typically an administrative or financial staff member who coordinates billing and payments):

Name: ___________________________ Title: ________________________________

Telephone Number: ___________________________ Email: ______________________

Types of services provided by the firm: ______________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
Appendix

1. Cass County Subdivision Ordinance:  
   https://www.casscountynd.gov/home/showdocument?id=5759
2. Cass County Comprehensive and Transportation Plan:  
   https://www.casscountynd.gov/home/showdocument?id=5324