

# **City of Scottsbluff, Nebraska**

**Monday, October 19, 2015**

**Regular Meeting**

## **Item Subdiv.1**

**Council to consider an Ag Estate Dwelling Plat for a tract situated in the E ½ of SW ¼ of Section 10, Scotts Bluff County, and approve the certificate.**

**Staff Contact: Annie Folck, City Planner**

# Agenda Statement

Item No.

For meeting of: October 19, 2015

**AGENDA TITLE:** Ag Estate Dwelling Plat for a tract situated in the E ½ of SW ¼ of Section 10, T22N, R55W of the 6<sup>th</sup> P.M., Scotts Bluff County, Nebraska.

**SUBMITTED BY DEPARTMENT/ORGANIZATION:** Development Services

**PRESENTATION BY:** Rick Kuckkahn

**SUMMARY EXPLANATION:** The applicant(s), Jean Pieper Family Trust, applied for a variance from the Board of Adjustment on an Ag Estate Dwelling (AED) on the southwest corner of their farm. Municipal code allows one ag estate dwelling per 80 acres of farmland, where an ag estate dwelling consisting of 2 to 20 acres can be split off from the rest of the property. The property to be split off can be either an existing farmstead or another portion of the property that is "marginal usage land". The property in question has both an existing farmstead and another piece of marginal usage land that is physically separated from the rest of the property by the Scottsbluff Drain. The variance requested that the property owners be allowed to split off both the farmstead and the piece of marginal usage land. The variance was approved by the Board of Adjustment on August 10, 2015. This plat is for the first of those two AEDs, which is located on the corner of the property that is separated by the Scottsbluff Drain. This property has access off of W 42<sup>nd</sup> Street and access to City sewer. Water will be provided by a domestic well.

**BOARD/COMMISSION RECOMMENDATION:** The Planning Commission at their regular meeting of October 12, 2015 made positive recommendation to City Council, to approve the Ag estate dwelling with certificate of filing for a tract of land in the E ½ of SW ¼ of Section 10, T22N, R55W of the 6<sup>th</sup> P.M. Scotts Bluff County.

**STAFF RECOMMENDATION:** Approve final plat and certificate for filing at the Register of Deeds

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## EXHIBITS

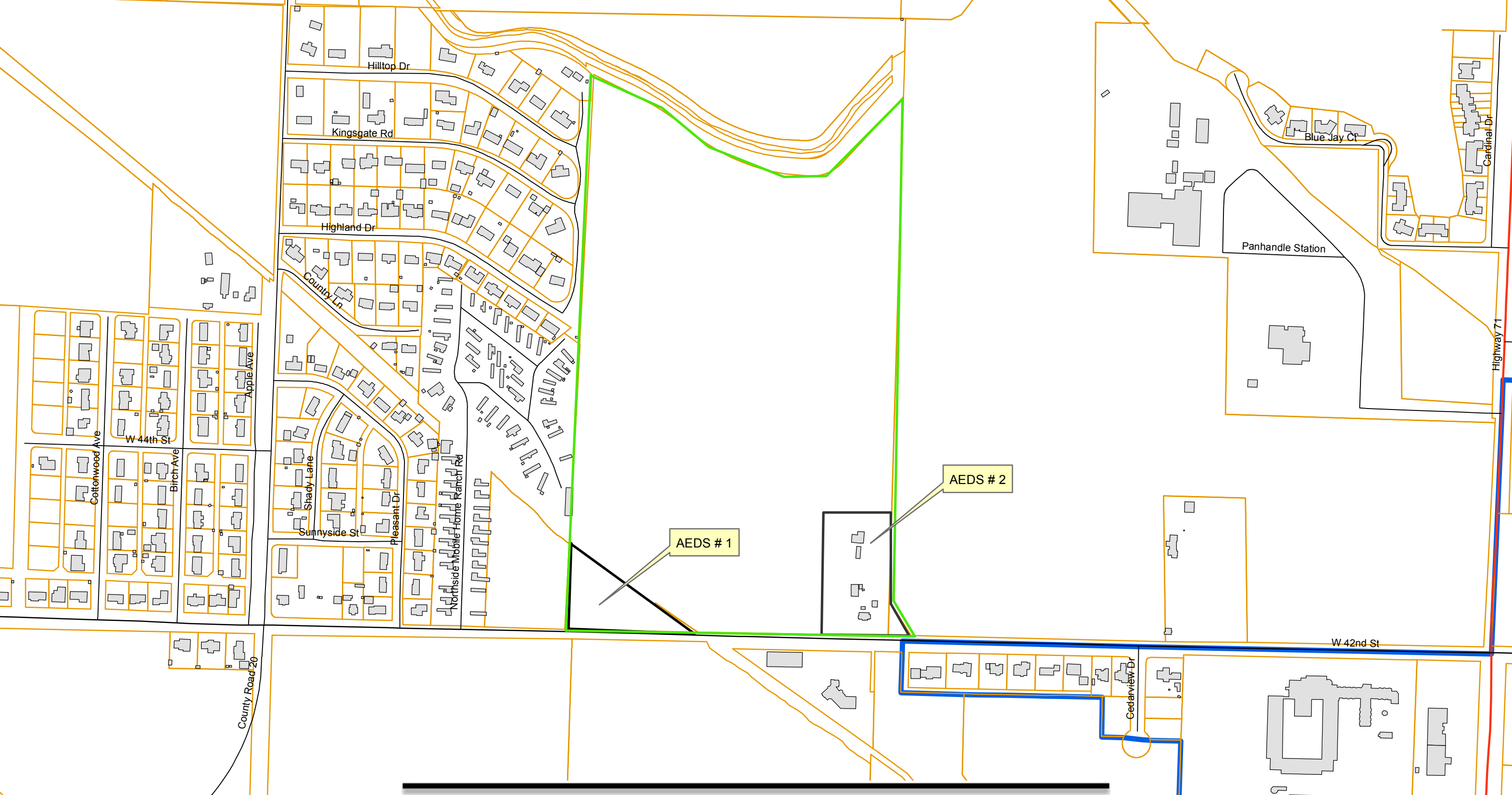
Resolution      Ordinance      Contract      Minutes x      Plan/Map x

Other (specify) ☐ Certificate

**NOTIFICATION LIST:** Yes      No X      Further Instructions ☐

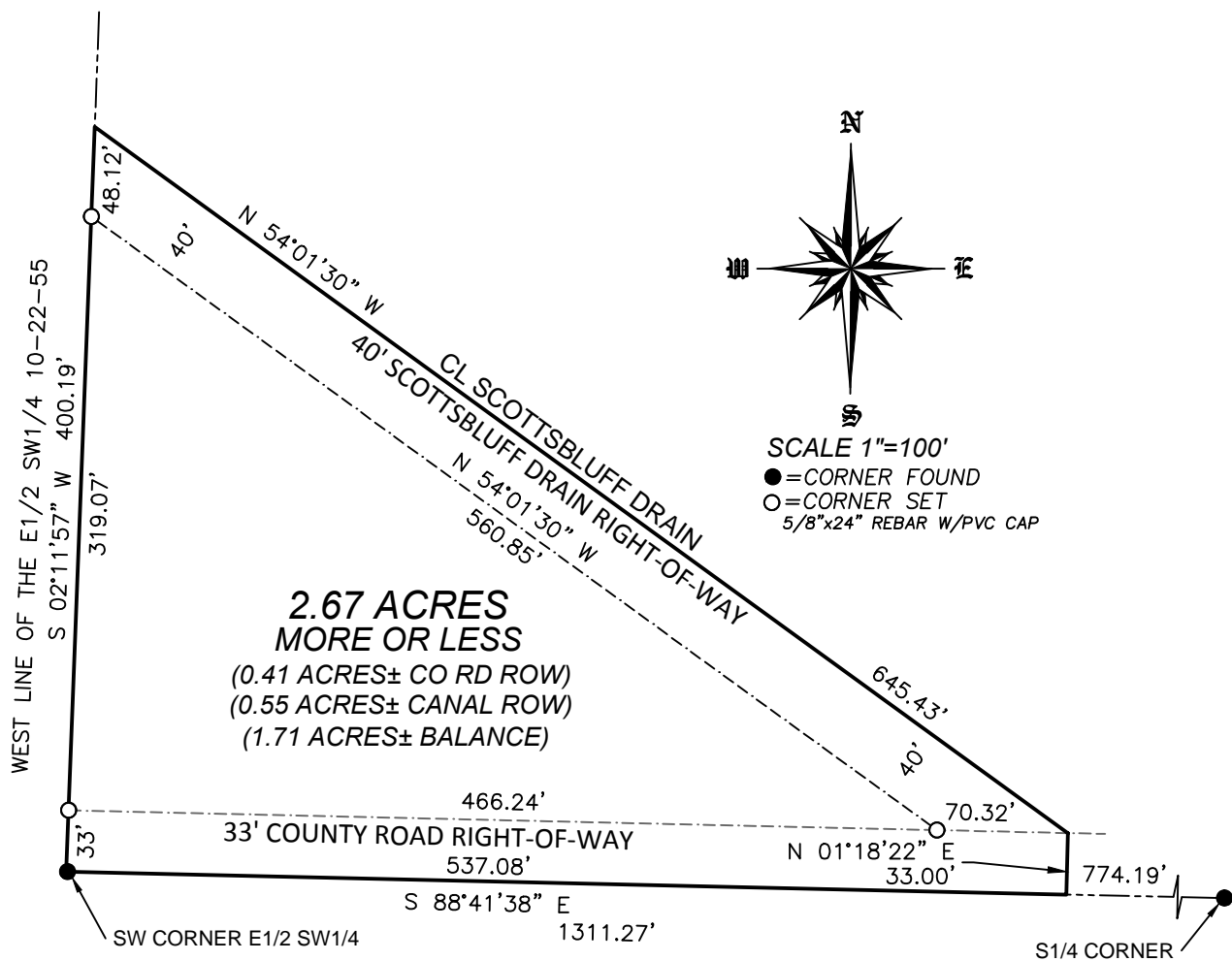
**APPROVAL FOR SUBMITTAL:** \_\_\_\_\_  
City Manager

Rev 3/1/99CClerk



# AEDS SURVEY

TRACT OF LAND IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 10,  
TOWNSHIP 22 NORTH, RANGE 55 WEST OF THE 6TH P.M., SCOTTS BLUFF COUNTY,  
NEBRASKA.



**LEGAL DESCRIPTION:**

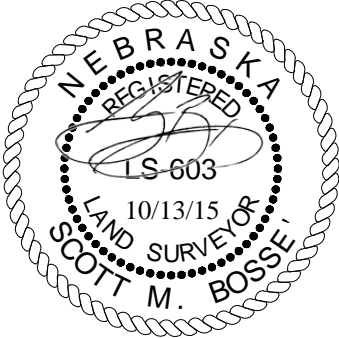
A TRACT OF LAND SITUATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 22 NORTH, RANGE 55 WEST OF THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT THE SOUTHWEST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 10; THENCE, ON THE SOUTH LINE OF SAID SECTION, S88°41'39"E FOR A DISTANCE OF 537.08 FEET; THENCE, AT RIGHT ANGLES, N01°18'22"E TO A POINT OF INTERSECTION WITH THE NORTHERLY COUNTY ROAD RIGHT-OF-WAY AND THE CENTERLINE OF THE SCOTTSBLUFF DRAIN, BEING A DISTANCE OF 33.00 FEET; THENCE, ALONG THE CENTERLINE OF THE SCOTTSBLUFF DRAIN, N54°01'30"W TO A POINT OF INTERSECTION WITH THE WEST LINE OF THE SAID EAST HALF, BEING A DISTANCE OF 645.43 FEET; THENCE, ALONG SAID WEST LINE, S02°11'57"W FOR A DISTANCE OF 400.19 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 2.67 ACRES, MORE OR LESS, OF WHICH 0.41 ACRES ARE CONTAINED IN COUNTY ROAD RIGHT-OF-WAY.

**SURVEYOR'S CERTIFICATE:**

I, SCOTT M. BOSSE', NEBRASKA REGISTERED LAND SURVEYOR NUMBER 603, DO HEREBY CERTIFY THAT I HAVE SURVEYED THE TRACT OF LAND DESCRIBED IN THE LEGAL DESCRIPTION AND SHOWN ON THE ACCOMPANYING DRAWING; THAT THE ACCOMPANYING DRAWING IS A CORRECT DELINEATION OF SAID SURVEY DRAWN TO A SCALE OF 100 FEET TO THE INCH; THAT SAID SURVEY AND DRAWING WAS CONDUCTED BY ME OR UNDER MY DIRECT SUPERVISION; THAT THE DISTANCES ARE GROUND DISTANCES GIVEN IN FEET AND DECIMALS OF A FOOT; AND THE MONUMENTS WERE FOUND OR SET AS INDICATED AND THE BOUNDARY IS DEPICTED BY A THICKENED SOLID LINE.

WITNESS MY HAND AND SEAL this 13th day of October, 2015.

\_\_\_\_\_  
Scott M. Bosse'  
NEBRASKA REGISTERED LAND SURVEYOR NUMBER 603



<div>SHEET</div> <div>1 OF 1</div>	<div>PROJECT:</div> <div>AEDS 10-22-55</div> <div>RON ALLEN</div> <div>SCOTTSBLUFF, NEBRASKA</div>	<div>ACCUSTAR SURVEYING</div> <div>30601 COUNTY ROAD 17</div> <div>PHONE: (308) 623-0197</div> <div>MITCHELL, NE 69357</div> <div>CELL: (308) 631-0737</div>	<div>Scale 1"=100'</div> <div>Date: SEPTEMBER 7, 2015</div> <div>Dwn By SMB</div> <div>REVISED: OCTOBER 13, 2015</div>
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**For Recording Only**  
**RET: Development Services, City of Scottsbluff**

**CERTIFICATE**

**This certificate should be indexed and recorded against the real estate described in Paragraph 2 and 3 below.**

**The following action was taken by the Scottsbluff City Planning Commission, and the Scottsbluff City Council.**

**TO-WIT:**

- 1. Jean Pieper Family Trust, has made application to the City of Scottsbluff Planning Commission, and City Council for an Agricultural Dwelling Estate Site located on West 42<sup>nd</sup> Street, in Section 10, Township 22 North, Range 55 West of the 6<sup>th</sup> P.M., Scotts Bluff County, Nebraska under Part 25-3-19(10) of the Scottsbluff Municipal Code zoning regulations. The Planning Commission approved the same at their regular meeting on October 12, 2015 and the City Council accepted such recommendations of the Planning Commission, and gave validity to such recommendations by approving the same, as provided by law, at a meeting of the City of Scottsbluff, City Council on November 2, 2015.**
- 2. The legal description of the tract-site (AEDS), separated as an Agricultural Estate Dwelling site is: A tract of land situated in the East ½ of the Southwest Quarter of (NE ¼) of Section 10, Township 22 North, Range 55 West of the 6<sup>th</sup> P.M. , Scotts Bluff County, Nebraska, more particularly described as follows:**

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 22 NORTH, RANGE 54 WEST OF THE 6TH PRINCIPAL MERIDIAN, SCOTTS BLUFF COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 10; THENCE, ON THE SOUTH LINE OF SAID SECTION, S88°41'39"E FOR A DISTANCE OF 537.08 FEET; THENCE, AT RIGHT ANGLES, N01°18'22"E TO A POINT OF INTERSECTION WITH THE NORTHERLY COUNTY ROAD RIGHT-OF-WAY AND THE CENTERLINE OF THE SCOTTSBLUFF DRAIN, BEING A DISTANCE OF 33.00 FEET; THENCE, ALONG THE CENTERLINE OF THE SCOTTSBLUFF DRAIN, N54°01'30"W TO A POINT OF INTERSECTION WITH THE WEST LINE OF THE SAID EAST HALF, BEING A DISTANCE OF 645.43 FEET; THENCE, ALONG SAID WEST LINE, S02°11'57"W FOR A DISTANCE OF 400.19 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 2.67 ACRES, MORE OR LESS, OF WHICH 0.41 ACRES ARE CONTAINED IN COUNTY ROAD RIGHT-OF-WAY.

- 3. The legal description of the reserved real estate pursuant to Part 25-3-19 (reserved for the above described tract site as a one-time exception from the requirement of platting, and inclusive of all of the other provisions of the applicable zoning regulation) is a tract of land:**

The Northeast Quarter of Section 10, Township 22 North, Range 55 West of the 6th P.M., Scotts Bluff County, Nebraska. Except above described AEDs, containing an area

of 2.67 acres, more or less, of which 0.41 acres are contained in County road Right-of-Way described in item 2 above.

STATE OF NEBRASKA                    )  
  )  
COUNTY OF SCOTTS BLUFF        )

I, Randy Meininger the duly appointed, qualified, and acting Mayor for the City of Scottsbluff, County of Scotts Bluff, State of Nebraska, do hereby certify that the foregoing is a true and complete recitation of the action taken by the City Planning Commission, and City Council, as it relates to the subject therein described, as shown by the records and minutes of the referenced public bodies.

IT WITNESS WHEREOF, I DO HERBY SET MY OFFICIAL HAND, THIS  
\_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor, City of Scottsbluff  
Randy Meininger

STATE OF NEBRASKA                    )  
CITY OF SCOTTSBLUFF                )  
COUNTY OF SCOTTS BLUFF        )

On the date immediately above set out, before me, a Notary Public duly commissioned and qualified to act in Scottsbluff, Scotts Bluff County, personally came the referenced Mayor \_\_\_\_\_, to me known to be the identical person whose name is affixed to the foregoing certificate, and acknowledged the same to be his voluntary act and deed as such official.

\_\_\_\_\_  
Notary Public

(NOTARY SEAL & COMMISSION EXPIRES)

**Planning Commission Minutes  
Regular Scheduled Meeting  
October 12, 2015  
Scottsbluff, Nebraska**

The Planning Commission of the City of Scottsbluff, Nebraska met in a regular scheduled meeting on Monday, October 12, 2015, 6:00 p.m. in the City Hall Council Chambers, 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting had been published in the Star-Herald, a newspaper of general circulation in the City, on October 2, 2015. The notice stated the date, hour and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodation to attend the Planning Commission meeting should contact the Development Services Department, and that an agenda of the meeting kept continuously current was available for public inspection at Development Services Department office; provided, the City Planning Commission could modify the agenda at the meeting if the business was determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each Planning Commission member. An agenda kept continuously current was available for public inspection at the office of the Development Services Department at all times from publication to the time of the meeting.

**ITEM 1:** Chairman, Becky Estrada called the meeting to order. Roll call consisted of the following members: Anita Chadwick, Angie Aguillo, Callan Wayman, David Gompert, Jim Zitterkopf, Henry Huber, and Becky Estrada. Absent: Dana Weber, Mark Westphal, & Jim Zitterkopf. City officials present: Annie Urdiales, Planning Administrator, Annie Folck, City Planner, and Gary Batt, Code Administrator II.

**ITEM 2:** Chairman Estrada informed all those present of the Nebraska Open Meetings Act and that a copy of such is posted on bookcase in the back area of the City Council Chamber, for those interested parties.

**ITEM 3:** Acknowledgment of any changes in the agenda: None.

**ITEM 4:** Business not on agenda: None

**ITEM 5:** Citizens with items not scheduled on regular agenda: None

**ITEM 6:** The minutes of September 14, 2015 were reviewed and approved. A motion was made to accept the minutes by Wayman, and seconded by Gompert. **"YEAS"**: Huber, Wayman, Gompert, Chadwick, and Estrada. **"NAYS"**: None. **ABSTAIN**: Aguillo. None. **ABSENT**: Weber, Westphal, and Zitterkopf. Motion carried.

**ITEM 7A:** The Planning Commission opened a public hearing for an Ag Estate Dwelling Site (AEDS). This AEDS is located on West 42<sup>nd</sup> street. The Jean Pieper Family Trust applied for a variance from the Board of Adjustment for an AEDS on the southwest corner of their farm. The farm property is addressed as 1605 W. 42nd Street. The variance requested was to allow for two (2) Agricultural Estate Dwellings sites (AEDS) on the farm ground. The property is situated in our extra territorial jurisdiction northwest of the City and zoned Agricultural, our code allows for one Agricultural Estate Dwelling is allowed in an A - Agricultural zoning district. The Pieper Family was approached about buying a separate two acres of land on the southwest corner which is cut off by the Scottsbluff drain which makes the area difficult & unproductive to farm. In the future, if the property were to be subdivided, this area would remain cut off from the rest of the property by the Scottsbluff Drain the family asked for the variance to allow them to do two Ag Estate Dwellings on the farm land. The Board of Adjustment approved the variance at their meeting of August 10, 2015. Both areas front West 42nd Street (an existing dedicated public road) and will have a width of 150 feet; they will also meet the two acre minimum lot size requirement for an AEDS. City sewer runs along 42nd Street and to the back of the area on the SW corner. A well will be used for this Ag dwelling site. The second AEDS will come before the Planning Commission at one of our future Planning Commission meetings.

**Conclusion:** A motion was made by Huber and seconded by Wayman to make a positive recommendation to approve the Ag Estate Dwelling – a tract of land situated in the east half of the SW ¼ of Section 10, T22N, R55W of the 6th P.M., Scotts Bluff County, Nebraska located in an A – Agricultural zoning district. **“YEAS”:** Aguillo, Chadwick, Gompert, Wayman, Huber, and Estrada. **“NAYS”:** None. **ABSTAIN:** None. **ABSENT:** Weber, Westphal, & Zitterkopf. Motion carried.

**ITEM 7B:** The Planning Commission re-opened a public hearing for a proposed text amendment change to Chapter 21 of the Subdivision Code 21-1-20 alley location – an alley shall be provided at the rear of every lot proposed for business purposes. At the last meeting we discussed how we have had a few commercial developments/subdivisions come before the Planning Commission and discussed is the placement of alleys on these developments. These alley requirements have hindered some of the proposed developments and the developers have asked for variances to this requirement. We checked with legal and they proposed some language to the code. The Planning Commission asked if there was anyway stronger language could be added that would allow for stronger enforcement on the maintenance of the easements and alleys. When the City reviews new commercial development and subdivisions alleys and easements are shown on the plats/plats this is when we can ask for changes and requirements from the owners/developers, there are city wide alleys and easements and the City maintains what's required by us (grading, gravel & general maintenance) and if the property owner is responsible we have our code enforcement send notices if and when we get complaints. The change to code adds more flexibility to new development allowing for the best plan for each type of development and puts the burden on the developer on how access will be provided for the best plan for all types of maintenance and emergency vehicles.

The following language was added to the code - *An alley shall be provided at the rear of every lot used or proposed to be used for business purposes. Provided, however, a subdivision may be approved without an alley at the rear of a lot, if the following conditions are met:*

*(1) The applicant has provided and will maintain access sufficient for emergency vehicles and City vehicles needed for trash, sewer, water or other City services, as well as access for delivery vehicles; or*

*(2) The applicant has provided and will maintain an access easement(s) sufficient for the City to use for emergency vehicles, other city vehicles for trash, sewer or water.*

*If the Owner agrees to provide access under subparagraph (1) or subparagraph (2), in either situation, the City, through its Planning and Development Department, Public Works Department and Fire Department (“Departments”), will conduct a review of the proposed subdivision to determine if sufficient access or easements are present, if the Departments make such a determination they will recommend the Mayor or Council President sign a written waiver on behalf of the City for the required alley and its location.*

**Conclusion:** A motion was made by Wayman and seconded by Aguillo to approve the ordinance amendment change to 21-1-20 alley location on commercial development. **“YEAS”:** Huber, Aguillo, Chadwick, Gompert, Wayman, and Estrada. **“NAYS”:** None. **ABSTAIN:** None. **ABSENT:** Weber, Westphal, & Zitterkopf. Motion carried.

**ITEM 8: Unfinished Business:** Annie Folck, reminded the Planning Commission about the Planning Conference to be held on Thursday, October 15<sup>th</sup>, we hope to see some of the members there. Also the open houses for the public hearings regarding updates to the Comprehensive Development, she will email the information for the website which is [scottsbluffplanning.org](http://scottsbluffplanning.org). The open houses are scheduled for October 17<sup>th</sup> at the Winter Farmers Market, parent teacher conferences will be held on October 27<sup>th</sup> at Bluff's Middle School 4:00 p.m. to 7:30 p.m., the 28th Roosevelt Elementary School 4:00 p.m. to 7:30 p.m., and the 29th Westmoor Elementary from 8:00 a.m. to 11:00 a.m. Information will be available to the public and we will have a survey people can do on line; the schools have also agreed to have their computer labs open and made available to the public who do not have access to a computer, we hope that they will take the time while at the conference and fill out the surveys.

There being no further business, a motion to adjourn was made by Aguillo and seconded by Chadwick. The meeting was adjourned at 6:25 p.m. **"YEAS"**: Gompert, Aguillo, Wayman, Chadwick, Huber, and Estrada. **"NAYS"**: None. **ABSTAIN**: None. **ABSENT**: Weber, Westphal, and Zitterkopf. Motion carried.

\_\_\_\_\_  
Becky Estrada, Chairperson

Attest: \_\_\_\_\_  
Annie Urdiales