

City of Scottsbluff, Nebraska

Monday, April 6, 2015

Regular Meeting

Item Pub. Hear.4

Council to conduct a public hearing at 6:05 p.m. to consider an Ordinance amending Chapter 21, Article 1, relating to amending or re-platting a final plat, limiting the number of times a plat can be amended or re-platted, 21-1-68.

Staff Contact: Annie Folck, City Planner

Agenda Statement

Item No.

For meeting of: April 6, 2015

AGENDA TITLE: Council to consider an ordinance text change limiting the number of times a property may be replatted

SUBMITTED BY DEPARTMENT/ORGANIZATION: Planning and Zoning

PRESENTATION BY:

SUMMARY EXPLANATION: At the NPZA Panhandle Planning Workshop last fall, the issue of replats of property was brought up. This has become an issue for the County Register of Deeds office as some properties have been replatted five to ten times. This makes their legal descriptions extremely long and complicated, making errors much more likely to occur. The proposed ordinance would limit a property to two replats. After the second replat, the property owner would be required to vacate the plat before they could make changes.

BOARD/COMMISSION RECOMMENDATION: The Planning Commission recommended approval of this ordinance (see attached minutes).

STAFF RECOMMENDATION: Staff recommends approval of this ordinance.

EXHIBITS

Resolution Ordinance Contract Minutes Plan/Map

Other (specify) Letter from County Register of Deeds

NOTIFICATION LIST: Yes No Further Instructions

APPROVAL FOR SUBMITTAL: _____
City Manager

Rev 3/1/99CClerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SCOTTSBLUFF, NEBRASKA AMENDING CHAPTER 21, ARTICLE 1, RELATING TO AMENDING OR REPLATTING A FINAL PLAT, LIMITING THE NUMBER OF TIMES A FINAL PLAT CAN BE AMENDED OR REPLATTED, REPEALING PRIOR SECTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SCOTTSBLUFF, NEBRASKA:

Section 1. Section 21-1-68 of the Scottsbluff Municipal Code is amended to provide as follows: **“21-1-68. Amended plat; limiting the number of times a final plat can be amended, procedures; notice; fees.**

After approval of a final plat by the mayor and city council such final plat may be amended or replatted, either in whole or in part, a total of two (2) times. If an application for amendment or replat of a final plat or portion of an existing plat, is received by the City for a third time, the final or existing plat must be vacated by ordinance prior to any amendment or replatting, after hearings by the planning commission and the city council, before the city will approve the application by the owners. Except as specifically provided in this section the amended plat and application therefor shall conform to all requirements of this article for final plats provided however, that if only part of the final plat is amended, the certificate required by Section 21-1-59 may be made by the owner or owners of the land shown in the amended plat.

At the time of submitting the amended plat to the Planning and Building Official, the applicant shall pay a fee in the amount provided in Chapter 6, Article 6 plus the additional amount provided in Chapter 6, Article 6 for each property owner who is entitled to notice pursuant to the provisions of this section.

In addition to submitting the drawing, the applicant shall submit the plat on a 3½ inch diskette or CD ROM in AutoCAD format, latest version.

Information relating the plat datum to state plane coordinates shall be provided on the plat so that the plat can be included in the City of Scottsbluff and County of Scotts Bluff GIS data. Each entity shall be responsible for adding the data to the GIS. For plats less than 20 acres, the Point of Beginning on the plat shall be referenced to State Plane Coordinates. The datum shall be NAD 83 (in feet), or the current datum adopted by the City at the time of plat submittal. Information on existing monuments that have established state plane coordinates can be obtained from the Scotts Bluff County Surveyor. The reference can be in the form of a note on the plat that includes a description of the reference point, the coordinates in feet, and the average scale factor. For plats larger than 20 acres the Point of Beginning and one additional point at the opposite corner of the Point of Beginning shall be referenced to State Plane Coordinates. The reference can be in the form of a note on the plat that includes a description of the reference points, coordinates in feet, and the average scale factor.

An application to amend a plat shall set forth the number of times a replat or amendment has been applied for by the owner prior to this application and shall be reviewed by the Planning and Building Commission only if the proposed amendment creates more lots than existed on the original final plat or if the amended plat proposes to make changes in any public right-of-way or easement.

Section 2. Previously existing Section 21-1-68 and all other Ordinances and parts of Ordinances in conflict therewith are repealed. Provided, however, this Ordinance shall not be construed to affect any rights, liabilities, duties or causes of action, either criminal or civil, existing or actions pending at the time when this Ordinance becomes effective.

Section 3. This Ordinance shall become effective upon its passage, approval and publication as provided by law.

PASSED AND APPROVED on _____, 2015.

Mayor

ATTEST: APPROVED:

City Clerk (Seal) City Attorney

Planning Commission Minutes
Regular Scheduled Meeting
March 9, 2015
Scottsbluff, Nebraska

The Planning Commission of the City of Scottsbluff, Nebraska met in a regular scheduled meeting on Monday, March 9, 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 February 27, 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, Jim Zitterkopf, Angie Aguallo, Callan Wayman, David Gompert, Henry Huber, and Becky Estrada. Absent: Mark Westphal and Dana Weber. 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 February 9, 2015 were reviewed and approved. A motion was made to accept the minutes by Gompert, and seconded by Huber. "YEAS": Zitterkopf, Chadwick, Aguallo, and Estrada. "NAYS": None. ABSTAIN: None. ABSENT: Westphal and Weber. Motion carried.

NOTE: Commissioner Dana Weber arrived at 6:05 p.m.

ITEM 7A: The Planning Commission opened a public hearing for proposed ordinance text changes in Chapter 25 dealing with Signs and amending 25-6-1.6 setting forth additional restrictions in signs and repealing and removing a portion of 25-6-6. Staff has been working with legal on clearing up some confusion in our sign ordinance, section 25-6-6 currently has two parts a small chart/table with permitted used in different zoning districts and language regarding different requirements for heights, names, and nature of occupancy. The chart/table was removed as this information is already in section 25-6-1.6 and the language was added to the end of 25-6-1.6. This change makes the sign ordinance easier to use for both City Staff and the general public when they look on the City website for information on the City's sign ordinance. Staff will continue to review our code and bring corrections or additions back to the Planning Commission for review.

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Conclusion: A motion was made by Gompert and seconded by Zitterkopf to approve the proposed changes to the Sign Code 25-6-1.6 “**YEAS**”: Weber, Chadwick, Zitterkopf, Aguillo, Gompert, Huber, Wayman, and Estrada. “**NAYS**”: None. **ABSTAIN**: None. **ABSENT**: Westphal. Motion carried.

ITEM 7B: The Planning Commission opened a public hearing for a proposed ordinance amendment change of Chapter 21, Article 1 in our Subdivision Code, relating to amending or re-platting a final plat, and limiting the number of times a plat can be amended or re-platted (21-1-68).

Staff had previously discussed changing the number of times a final plat can be re-platted or amended. When a property is final platting it is assumed this will be the last time the property will be changed and access and size will be developed as shown on the final plat, but there are times when the original final plat was approved several years back and current circumstances have changed, a new plan may work better with the surrounding development and a change in the layout may be a better fit with the surrounding lots either in size or access onto the property which would be a better fit, a re-plat or amended plat could be filed with the Planning Commission for review and approval with final approval from City Council. In working with the Register of Deeds we have found it is easier for them, title companies, and others to track a property if it is vacated instead of repeatedly re-platted. The George Baltes subdivision is one of the subdivisions that have had several amendments and re-platting making it difficult to research and tract the individual lots as they are sold and resold. Also, when the surveyor replats a lot they have to go back to the very beginning and list this in the title of the plat, this can be quite lengthy when it has been platting and changed several times, and if something is missed has to be done over.

Annie Folck, City Planner, did some research with other cities, The City of Kearney does not allow for any replat and the City of Chadron only allows two. In talking with Jean Bauer at the Register of Deeds on how this could be improved, changing our code to allow a minimum of two re-plats/amendments, seems to be a good fit for the City and if more than two requests for change are made an ordinance to vacate will be required to accompany a new final plat for the requested changes, the ordinance and plat can be done simultaneously.

Carl Gilbert, a surveyor for Baker & Associates addressed the Planning Commission; he wants to make sure that the request to vacate will be allowed for smaller partial vacations of final plats. Working on preliminary and final plats can be a challenge when many changes have been made the vacation plat or ordinance allows for a clean process. This can help developers to pre-plan better and have less re-plats in the future development. The Planning Commission asked if the cost of a re-plat would be prohibitive to the developer this would depend on the type of development. A survey can cost anywhere from \$500 to \$5,000 depending on the factors.

The City can check with legal to make sure partial vacates are allowed, the City wants to work with the developers, surveyors, and the register of deeds and will work on making the process easier.

Conclusion: A motion was made by Weber and seconded by Chadwick to make a positive recommendation to City Council to approve the proposed ordinance amendment changes of Chapter 21, Article 1 Amending Sections 21-1-68 of the City’s Subdivision Code relating to the number of times a plat may be re-platted, limiting the number to two. “**YEAS**”: Weber, Chadwick, Zitterkopf, Aguillo, Gompert, Huber, and Estrada. “**NAYS**”: Wayman. **ABSTAIN**: None. **ABSENT**: Westphal. Motion carried.

99 **ITEM 7C.** The Planning Commission reviewed a proposed ordinance text change in the City’s Chapter
100 20 Obstruction Code. More and more we are receiving requests for Block parties, usually during
101 Holidays or other special events. Annie Folck has been working with Police Chief, Kevin Spencer on
102 setting guidelines for Block parties. The permit will be checked and approved by the Police Department
103 the permit will require that the need to notify all the neighbors, use proper barricades (provided by
104 Transportation Dept.), no alcohol on the public street, sales of any items will be prohibited, no open
105 fires, and emergency access will be available at all times. Time limits of 10:00 p.m. during week days
106 and 12:00 midnight on holidays and weekends.

107
108 The Planning Commission had concerns about emergency access, want to make sure they are not using
109 vehicles as barricades and the area is kept clear in case of an emergency. Also, asked if there was any
110 language on clean up. A \$250 fine will be imposed if the applicant does not clean up after the party and
111 the City have to come in and clean up.

112
113 **ITEM 8. Unfinished Business:** Updated the Planning Commission on the comprehensive development
114 plan. Taking Request for bids for extension of utilities, where to put in future water and sewer lines, the
115 Army Core of Engineers is also working on a study for the City’s floodplain these two items will help
116 plan where physical limitations are and we will be able to plan for future development of the City.
117 PADD is also working on some of the demographics’ of the City everything we hope will be ready in
118 October and these will all be incorporated into our comprehensive development plan.

119
120 There being no further business, a motion to adjourn was made by Weber and seconded by Gompert. The
121 meeting was adjourned at 6.40 p.m. “**YEAS**”: Gompert, Wayman, Weber, Chadwick, Zitterkopf,
122 Aguallo, Huber, and Estrada. “**NAYS**”: None. **ABSTAIN**: None. **ABSENT**: Westphal. Motion
123 carried.

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126 _____
127 Becky Estrada, Chairperson
128
129 Attest: _____
130 Annie Urdiales



February 20, 2015

City of Scottsbluff
Planning Commission
2525 Circle Drive
Scottsbluff, NE 69361

RE: Hearing – March 9, 2015 – Replatting Changes

Dear Commission Members:

On March 9, 2015, the City of Scottsbluff's Planning Commission will hear from City employees and others concerning changes to the City code which affect the platting and replatting of lots/subdivisions within the City of Scottsbluff. Due to a prior commitment, I am unable to attend this meeting as I will be out of town, but offer this letter in support of the changes requested by Annie Folck.

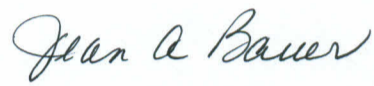
When developing a parcel of property, the builder has a vision for what he wants that parcel to look like once it is fully developed. The builder plats the property into lots to be sold to various buyers for further development. The plat is then filed with the Register of Deeds office creating lots/blocks out of what was previously unplatted ground. In the process of selling those lots to buyers, the seller often realizes that what the vision was for a particular parcel is not going to be workable for the buyer. For example, the buyer needs more land, less land, more frontage, etc. The seller then finds that the lot(s) need to be replatted to accommodate what the buyer wants to build. A surveyor is hired to prepare a new plat (replatting the old lots); the replat goes through the planning commission and is approved; and ultimately the replat is filed at the Register of Deeds office. The buyer purchases the lot(s), builds residential or commercial development, and all is good with the world. Typically, we see a development platted once and then possibly one or two replats on specific lots. The property is never again replatted or altered in any way.

Contrary to the above scenario, we have been seeing an increase in the number of areas which have been replatted upward of five (5) to ten (10) times. For some reason, we cannot seem to understand why this happens, but there are a few areas in town which have fallen into this category. You may be asking why this is an issue. I will try to explain.

City of Scottsbluff
Planning Commission
February 20, 2015
Page Three

I am writing this letter in support of Ms. Folck's request that the City of Scottsbluff limit the number of replats on property. There are many counties/cities across our state which do not allow replats and simply make the property owner go through the process of vacating the previous plat and starting over. It is my understanding the vacation process can be done simultaneously with the approving of a new plat. By limiting the number of replats, you are allowing my office to have cleaner records which are more easily searchable by the public, surveyors, banks, attorneys and title companies. The Scotts Bluff County Register of Deeds office would like to encourage you to approve the limiting of replats.

Sincerely,



Jean A. Bauer
Register of Deeds

/jab
Enclosures

When property is bought, sold and mortgaged, documents are filed at the Register of Deeds office which transfer and mortgage the property. Those documents contain legal descriptions which reference what property is being sold and mortgaged. When we have replat after replat, the legal descriptions on these documents become a problem. Let me give you an example of a property which is confusing:

1. On April 9, 2012, Zitterkopf Subdivision was platted creating Lots 1, 2 and 3.
2. On May 23, 2012, Lots 1-2-3 of Zitterkopf Subdivision were replatted into Lots 1A and 2A, Zitterkopf Subdivision.
3. On November 15, 2012, Lots 1A and 2A, Replat of Lots 1-2-3 Zitterkopf Subdivision were again replatted into Lots 1, 2 and 3, **Block 1**, Zitterkopf Subdivision.

While #1 through #3 above are somewhat confusing, the legal descriptions associated with these replats are even more so. In **#1 above**, the legal would read **Lots 1, 2 and 3, Zitterkopf Subdivision, City of Scottsbluff, Scotts Bluff County, Nebraska**. In **#2 above**, the legal would read **Lots 1A and 2A, Replat of Lots 1, 2 and 3, Zitterkopf Subdivision, City of Scottsbluff, Scotts Bluff County, Nebraska**. In **#3 above**, the legal would read **Lots 1, 2 and 3, Block 1, Replat of Lots 1A and 2A, Replat of Lots 1, 2 and 3, Zitterkopf Subdivision, City of Scottsbluff, Scotts Bluff County, Nebraska**. Honestly, this area is pretty light on the replats compared to what we are experiencing in some other areas. Essentially, each time you replat, you need to refer to that replat in your legal description. The more replats, the more you have for reference on your legal description.

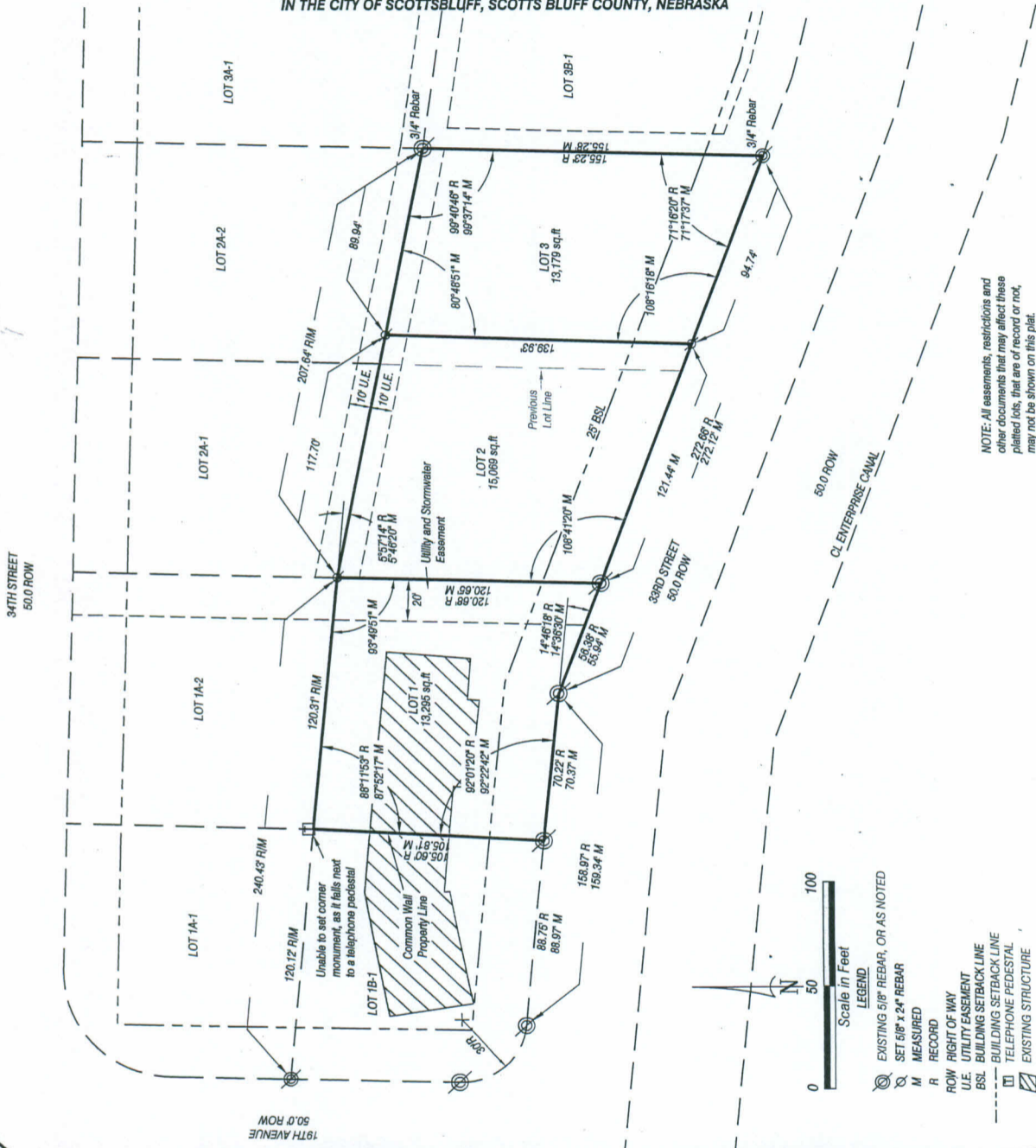
Obviously, this becomes more of an issue with multiple replats, but sometimes with even one replat, the Register of Deeds office experiences problems with filings. In the Zitterkopf Subdivision, you just have these three (3) lots. Imagine having ten (10) blocks with multiple lots in each block, and multiple replats of those lots. The legal descriptions can get pretty dicey and cause error on behalf of banks, attorneys and title companies when filing deeds and deeds of trust.

FINAL PLAT

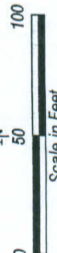
LOTS 1, 2 AND 3, ZITTERKOPF SUBDIVISION, IN THE CITY OF SCOTTSBLUFF, SCOTTS BLUFF COUNTY, NEBRASKA

SITUATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13,
TOWNSHIP 22 NORTH, RANGE 55 WEST OF THE 6TH P.M.,
SCOTTS BLUFF COUNTY, NEBRASKA

A PLAT OF VACATED LOTS 4B AND 2B2, BLOCK 1, DITCH NORTH ADDITION,
IN THE CITY OF SCOTTSBLUFF, SCOTTS BLUFF COUNTY, NEBRASKA



NOTE: All easements, restrictions and other documents that may affect these platted lots, that are of record or not, may not be shown on this plat.



LEGEND

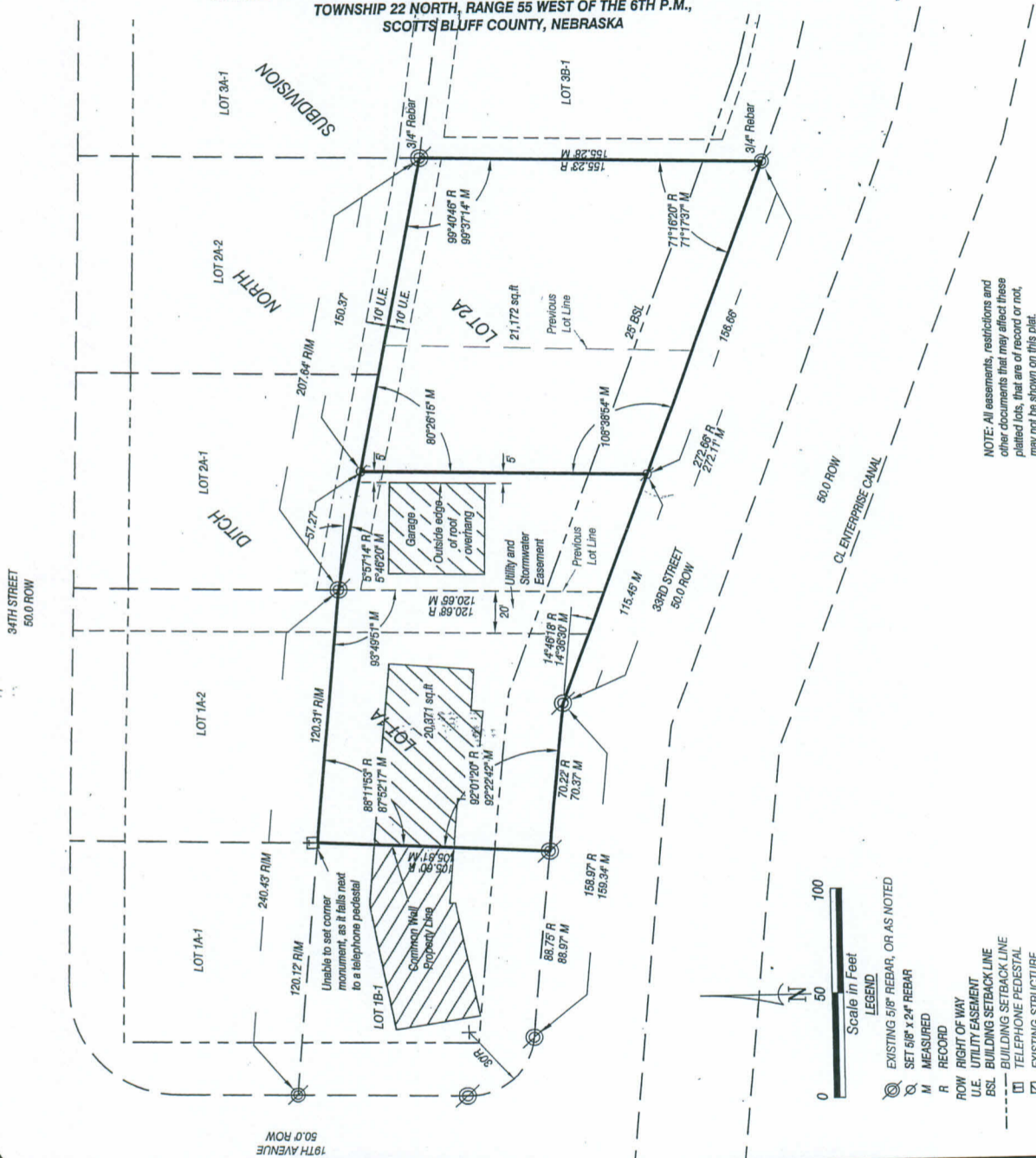
- EXISTING 5/8" REBAR, OR AS NOTED
- SET 5/8" x 24" REBAR
- M MEASURED
- R RECORD
- ROW RIGHT OF WAY
- U.E. UTILITY EASEMENT
- B.S.L. BUILDING SETBACK LINE
- BUILDING SETBACK LINE
- TELEPHONE PEDESTAL
- EXISTING STRUCTURE

FINAL PLAT

**LOTS 1A AND 2A, ZITTERKOPF SUBDIVISION,
IN THE CITY OF SCOTTSBLUFF,
SCOTTS BLUFF COUNTY, NEBRASKA**

A REPLAT OF LOTS 1, 2 AND 3, ZITTERKOPF SUBDIVISION,
IN THE CITY OF SCOTTSBLUFF,
SCOTTS BLUFF COUNTY, NEBRASKA

SITUATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13,
TOWNSHIP 22 NORTH, RANGE 55 WEST OF THE 6TH P.M.,
SCOTTS BLUFF COUNTY, NEBRASKA



NOTE: All easements, restrictions and other documents that may affect these platted lots, that are of record or not, may not be shown on this plat.



2012-6277

RECORDED
SCOTTS BLUFF COUNTY, NE

Date 11-15-12 Time 1:33pm

Inst. 2012 6277

Jean A. Bauer

REGISTER OF DEEDS

NUM INDEX
COMPUTER
PICTURED
IMAGED

NUM PAGES 3
DATE 11-15-12 PD CHG RET
FEE 17.50 PD CHG RET
TOTAL 17.50
REC'D James Zitterkopf
RET

2014

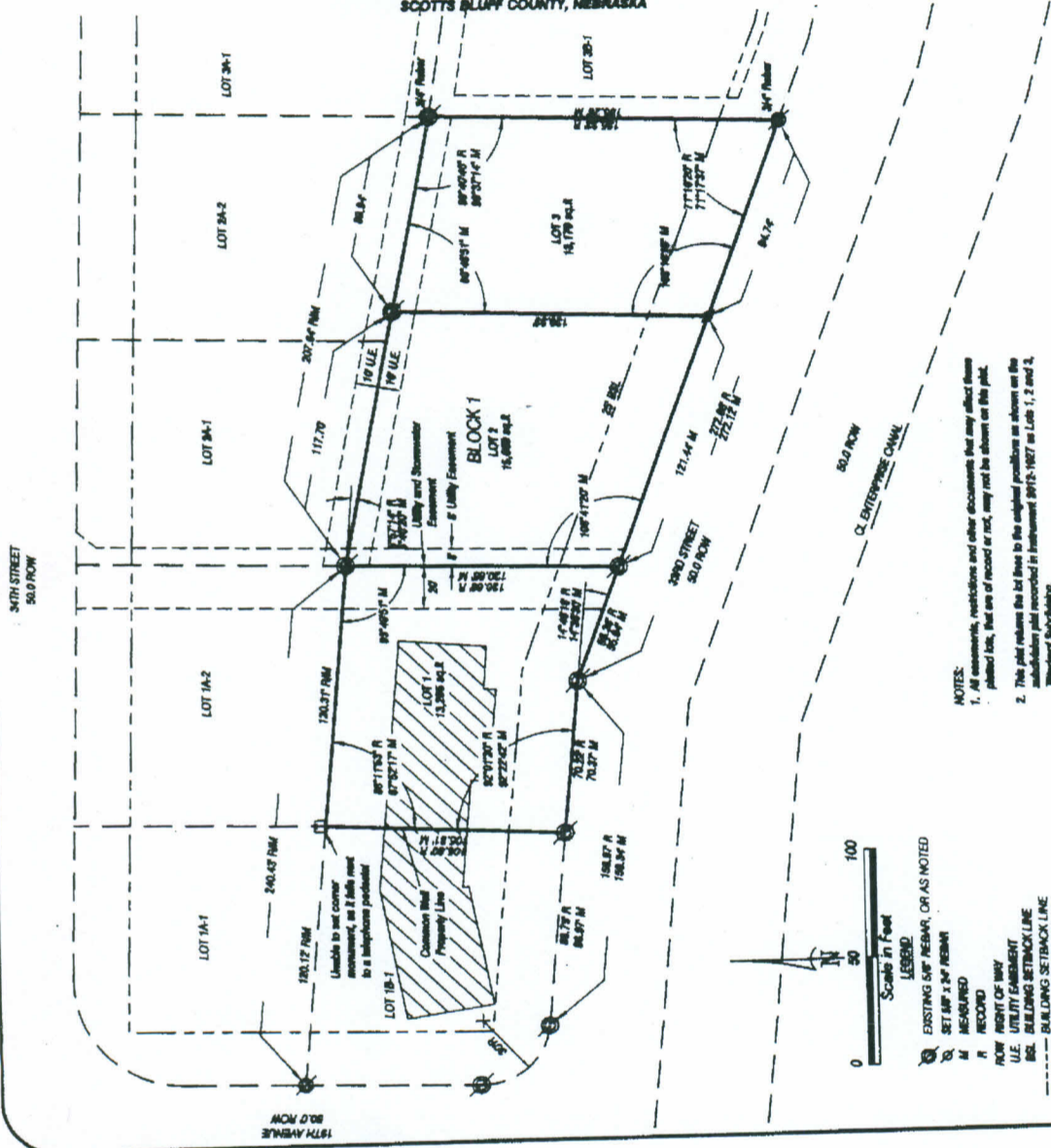
FINAL PLAT

LOTS 1, 2 AND 3, BLOCK 1, ZITTERKOPF SUBDIVISION, IN THE CITY OF SCOTTSBLUFF, SCOTTS BLUFF COUNTY, NEBRASKA

A REPLAT OF LOTS 1A AND 2A, ZITTERKOPF SUBDIVISION,
IN THE CITY OF SCOTTSBLUFF, SCOTTS BLUFF COUNTY, NEBRASKA

A REPLAT OF LOTS 1, 2 AND 3, ZITTERKOPF SUBDIVISION,
IN THE CITY OF SCOTTSBLUFF, SCOTTS BLUFF COUNTY, NEBRASKA

SITUATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13,
TOWNSHIP 22 NORTH, RANGE 86 WEST OF THE 6TH P.M.,
SCOTTS BLUFF COUNTY, NEBRASKA



NOTES:

- All easements, restrictions and other documents that may affect these platted lots, that are of record or not, may not be shown on this plat.
- This plat returns the lot lines to the original positions as shown on the subdivision plat recorded in Instrument 2012-1167 in Lots 1, 2 and 3, Zitterkopf Subdivision.

Scale in Feet

0 50 100

LEGEND

- EXISTING SUR. REBAR, OR AS NOTED
- SET SUR. + SUR. REBAR
- M. MEASURED
- R. RECORDED
- PCOR. FRONT OF SUR.
- U.E. UTILITY EASEMENT
- BL. BUILDING SETBACK LINE
- SL. BUILDING SETBACK LINE
- TEL. TELEPHONE PRESTAL
- EXISTING STRUCTURE