

**Cass County Planning Commission Meeting**  
**Thursday, January 22, 2015 at 7:00 a.m.**  
**Cass County Highway Department Conference Room**  
**1201 West Main Avenue in West Fargo**  
**Agenda**

Business Items:

1. Call to Order
2. Establish Quorum of Members
3. Approve Meeting Minutes of December 11, 2014

Public Hearing Items:

4. Monilaws Subdivision – A Minor Subdivision in Section 33 of Empire Township
5. Other Business and/or Citizen Comments
6. Adjournment

**CASS COUNTY PLANNING COMMISSION  
DECEMBER 11, 2014**

**1. MEETING TO ORDER**

The meeting was called to order on December 11, 2014, at 7:00 AM in the Highway Department Conference Room with members present as follows: Ken Lougheed, Keith Monson, David Gust, Todd Ellig, Mark Brodshaug, Mark Wentz and Mark Williams. Vern Bennett and Melissa Sobolik were absent. Also present were County Planner Hali Durand and Election Coordinator DeAnn Buckhouse.

**2. MINUTES, APPROVED**

*MOTION, passed*

**Mr. Gust moved and Mr. Ellig seconded to approve the minutes of the October 23, 2014 meeting as presented. Motion carried.**

**3. RUTHERFORD SUBDIVISION (Minor Subdivision) – Final Plat Approved**

Ms. Durand reviewed the details of the final plat report. The proposed subdivision is located in a part of the Northeast Quarter of Section 17, in Hill Township. The tract contains 5.18 acres of land, more or less. The proposed subdivision is to plat one lot for sale with no intent to develop the land, and reduce the size of the existing parcel from 10.1 acres to 5.18 acres. A deed restriction will be placed on the Southeast Quarter of the Northeast Quarter of Section 17, excluding the proposed plat.

The public hearing was opened. As there was no comment the public hearing was closed.

Discussion was held among the board regarding the specifics of the plat and the deed restriction. Mr. Brodshaug questioned if the subdividing was being done solely due to the requirement of the Planning Commission and if it was possible for them to avoid the platting process. Mr. Durand stated that as the 10 acres was already an Auditor's Lot, it was not possible to avoid platting the subdivision.

*MOTION, passed*

**Mr. Monson moved and Mr. Brodshaug seconded to approve the Final Plat for Rutherford Subdivision (Minor Subdivision) as presented. Motion carried.**

**4. JOB THIRD SUBDIVISION (Minor Subdivision) – Final Plat Approved**

Ms. Durand reviewed the details of the final plat report. The proposed subdivision is a replat of Block 1, Job Second Subdivision of a part of the Northeast Quarter of Section 35 in Pleasant Township. The said tract contains 25.03 acres of land, more or less. This is a change in boundaries. It is a replat of a subdivision already approved by the Planning Commission and the Cass County Commission.

The public hearing was opened. Discussion was held regarding the need for a variance for the access road as it exceeds the 600 feet established in the Commission's ordinance. The developer was present and stated that adjustments can be made to the lot lines to adjust if the 650 foot length is a concern. Further discussions was held with regards to the ordinance and the length of the road. Mr. Gust would not have an

issue granting a variance if the cul-de-sac is moved to the intersection of lots 3, 1 & 4. The developer is in agreement with that modification.

Hearing no further public comment, the public hearing was closed.

***MOTION, passed***

**Mr. Gust moved and Mr. Ellig seconded to approve the Final Plat for Job Third Subdivision (Minor Subdivision) with a variance stipulation that the cul-de-sac is moved to the intersection of lots 3, 1 & 4. Motion carried.**

**5. JOHNSON'S BARN SUBDIVISION (Minor Subdivision) – Final Plat Approved**

Ms. Durand reviewed the details of the final plat report. The proposed subdivision is located in a part of the Southwest Quarter of Section 1 in Arthur Township and contains 6.41 acres of land, more or less. The intention of the proposed subdivision is to plat on lot to be sold as is. If a septic system is to be installed, soil samples will need to be performed. A deed restriction will be placed on the remaining acres under common ownership within the Southwest Quarter of the Southwest Quarter.

The public hearing was opened. Discussion was held regarding the specifics of the plat and the purpose of the subdivision. Hearing no further public comment, the public hearing was closed.

***MOTION, passed***

**Mr. Brodshaug moved and Mr. Williams seconded to approve the Final Plat for Johnson's Barn Subdivision (Minor Subdivision) as presented. Motion carried.**

**6. OTHER BUSINESS**

Mr. Broadshaug currently serves on the Road Advisory Committee as a representative of the Planning Commission. They meet approximately three times per year. Mr. Broadshaug is willing to continue on this committee, but invites another member to take his place if so desired as his schedule does not allow him to attend all of the meetings. Mr. Benson gave a rundown of the makeup and function of the Road Advisory Committee. Mr. Monson indicated a willingness to take Mr. Brodshaug's place on this committee.

***MOTION, passed***

**Mr. Brodshaug moved and Mr. Ellig seconded to appoint Mr. Monson as the Planning Commission representative on the Road Advisory Committee. Motion carried.**

Mr. Ellis serves on the Stanley Township board and wanted to discuss the point at which drainage is addressed. Township supervisors have been told in the past that drainage is to be addressed at the time a building permit is issued but Mr. Ellig feels that it should be addressed at the time of platting. Discussion was held.

Ms. Durand indicated that terms for Mr. Gust and Ms. Sobolik end December 31, 2015.

7. **ADJOURNMENT**

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

Minutes prepared by DeAnn Buckhouse, Election Coordinator

## Final Plat Report

**Title:** Monilaws Subdivision  
**Owner(s):** Lance Monilaws  
**Applicant:** Lance Monilaws, Craig Johnson  
**Type of Request:** Minor Subdivision (1 lot)  
**Status:** Final Hearing at the January 22, 2015 Planning Commission Meeting

### **Proposal:**

An application for a Minor Subdivision (plat) has been received by the Cass County Planning Office for approval of a tract of land located in part of the Southeast Quarter of Section 33 in Empire Township for residential development. The said tract contains 5.00 acres of land, more or less.

### **Staff Analysis:**

#### *Comprehensive Plan Consistency*

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The proposed subdivision is unique in that it lies adjacent to the previously incorporated area of Absaraka. The proposed area requesting to be developed lies within the plat dated 1885. The

The lot will use private roads, based on an easement currently in place. Rural water and a septic system will be used. A septic drain field evaluation, including soil samples, has been submitted as well as a title opinion. The plat is currently within an area that has no floodplain determination made as per FEMA.

A request for a variance has also been submitted to waive the requirements of the plat process.

### **Recommendation:**

To approve and accept the proposed Certificate of Survey and variance request.



**JOHNSON  
& RAMSTAD  
MOTTINGER**

**LAW FIRM**

A Professional Limited Liability Partnership

Craig E. Johnson\*  
Daylen D. Ramstad\*  
Steven D. Mottinger  
Jay Greenwood\*

\*Also Licensed in Minnesota

15 South Ninth Street  
Fargo, North Dakota 58103  
Telephone: 701-235-7501  
Fax: 701-235-8906

[www.jrmlawfirm.com](http://www.jrmlawfirm.com)

January 8, 2015

Via E-mail to DurandH@casscountynd.gov

Hali Durand  
County Planner  
Cass County Government  
1201 Main Avenue West  
West Fargo, ND 58078-1301

RE: Lance Monilaws Lot

Dear Ms. Durand:

Attached hereto please find a photocopy of the title opinion regarding the five acres Lance Monilaws owns at Absaraka, ND.

Also attached is the original plat of the town of Absaraka dated September 12, 1885 as well as an auditors plat showing blocks A-B-5-10-11-12 and 14 of the south half of section 33-1 T141 R53 which was recorded May 9, 1924.

For your convenience I have also attached the Certificate of Survey prepared by Moore Engineering which has been recorded with the deed conveying the five acre tract of land to Lance Monilaws on August 29, 2014 at 4:32 p.m. as document number 1425770 and as part of the partial release of mortgages recorded September 12, 2014 at 1:35 p.m. as document number 1426608 and number 1426809.

I have shaded with green, on the Certificate of Survey prepared by Moore Engineering that part of the tract of land owned by Lance Monilaws which was once part of the town of Absaraka. I have shaded the same area on the copy of the plat of Absaraka dated September 12, 1885. As far as I can tell, the area east of the shaded part was never formally a part of the town of Absaraka but is obviously adjacent thereto.

Under the circumstances, I ask for a variance that Cass County waive the requirement for Mr. Monilaws to go through the time and expense of the subdivision approval process and allow the immediate issuance of a building permit. His access to the property is via a public road. He is going to build a single family residence. All of the site planning, soil testing, etc. has been done. He will not be laying out any streets, curb or gutter, providing any utilities or structures for anyone other than himself and his family He will receive water from Cass Rural Water and they will have their own certified private septic system.

I am sure it is not the intent of the subdivision ordinance to subject the citizens of Cass county to needless red tape. This appears to be the perfect example of when its requirements should be waived.

I appreciate your consideration of this request.

Respectfully,

A handwritten signature in cursive script that reads "Craig E. Johnson". The signature is written in black ink and is positioned above the printed name.

Craig E. Johnson

CEJ:skd

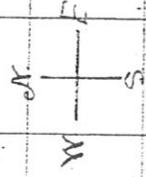
cc: Lance Monilaws

Copied in  
Drawn June 9 1914  
By W. T. Tucker

C.G. Thomson  
Sept 12 1885  
Superior

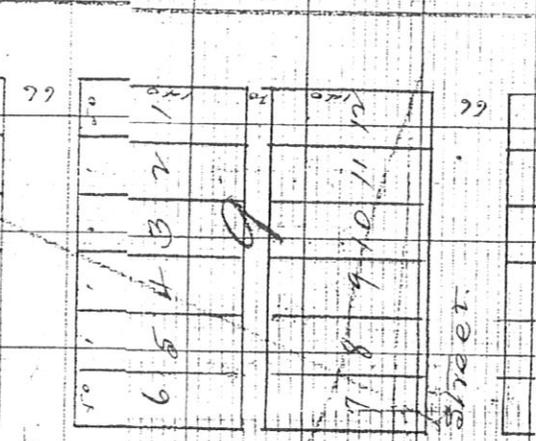
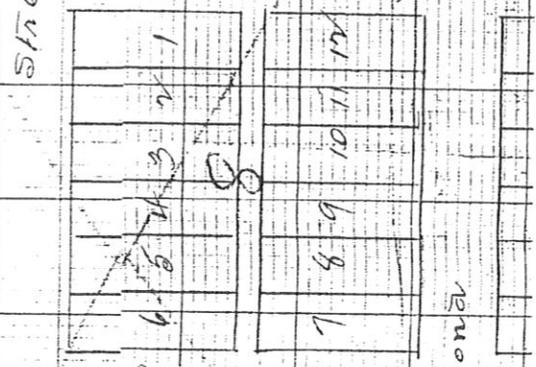
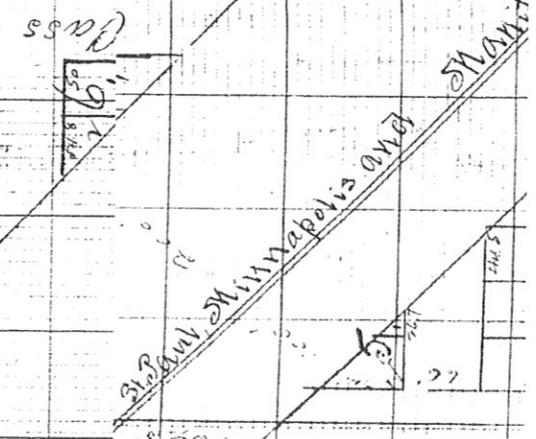
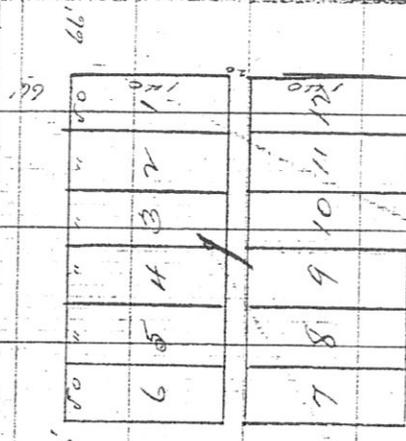
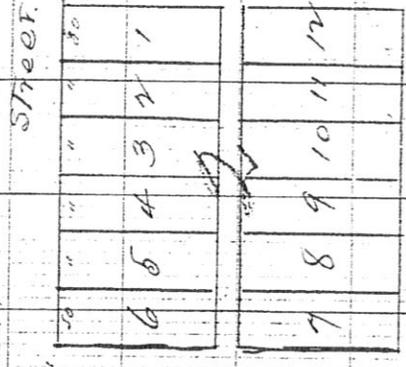
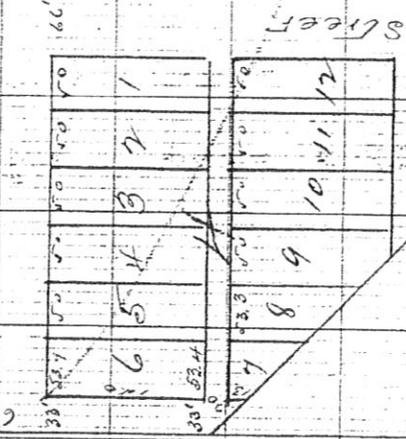
PLAN OF THE TOWN  
OF  
Absaroka

CASS COUNTY NORTH DIVISION  
SCALE 100 FEET = 1 INCH

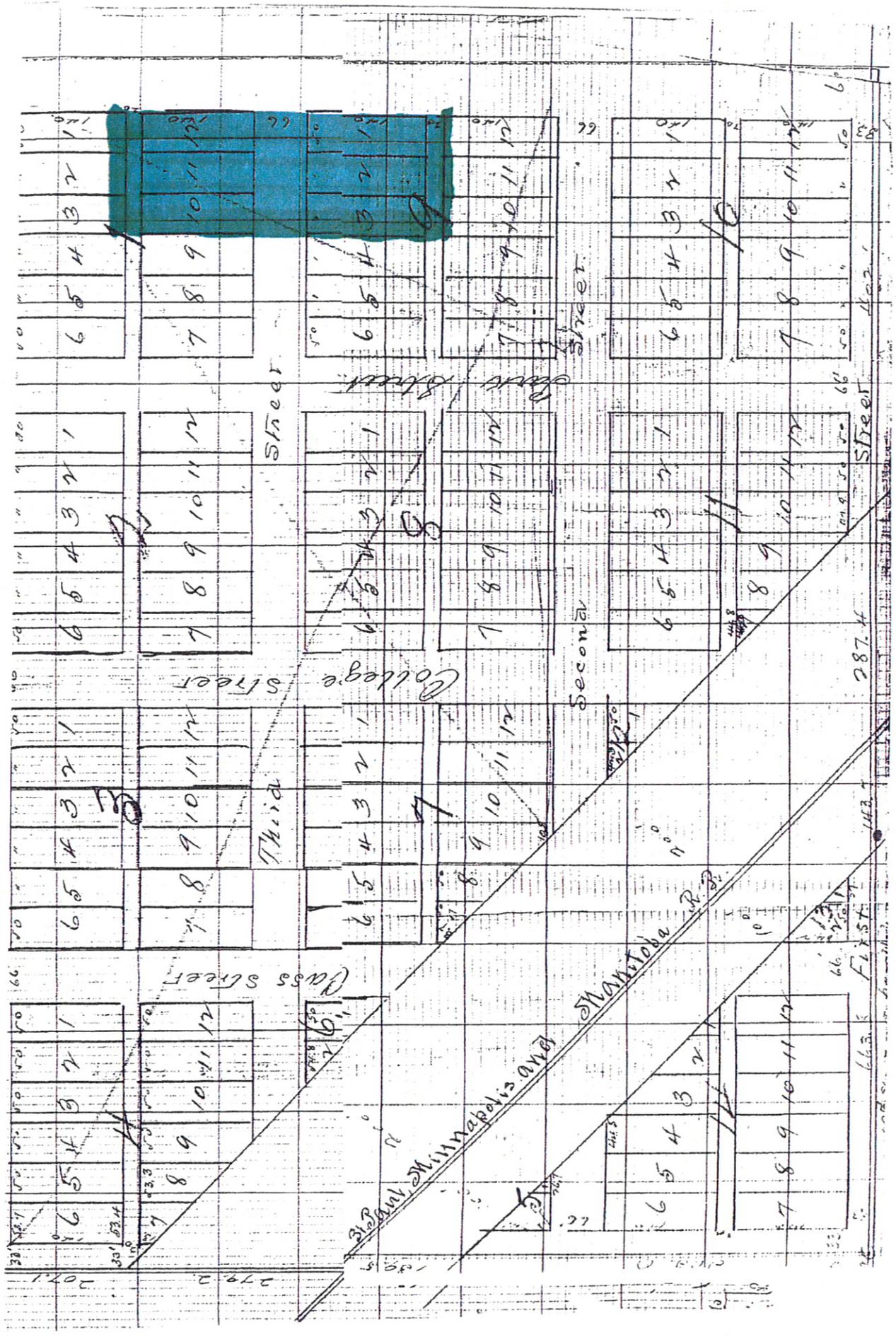


E.W. Lewis Surveyor Fargo N.D.

FOURTH



MINNAPOLIS AND  
MANIT



**Auditor's Plat-Showing Blocks A-B-5-10-11-12 & 14 Of S 1/2 Of Sec. 33 T. 141 R. 53 West.  
Being the Parcels Of Land which have Been Conveyed Out Of S 1/2 Of Sec. 33 T. 141 R. 53.  
Adjacent to The Town Of Absaroka N.D.**

Scale 1"=100'  
Dec. 3, 1914.



DOCUMENT NO. 1538353

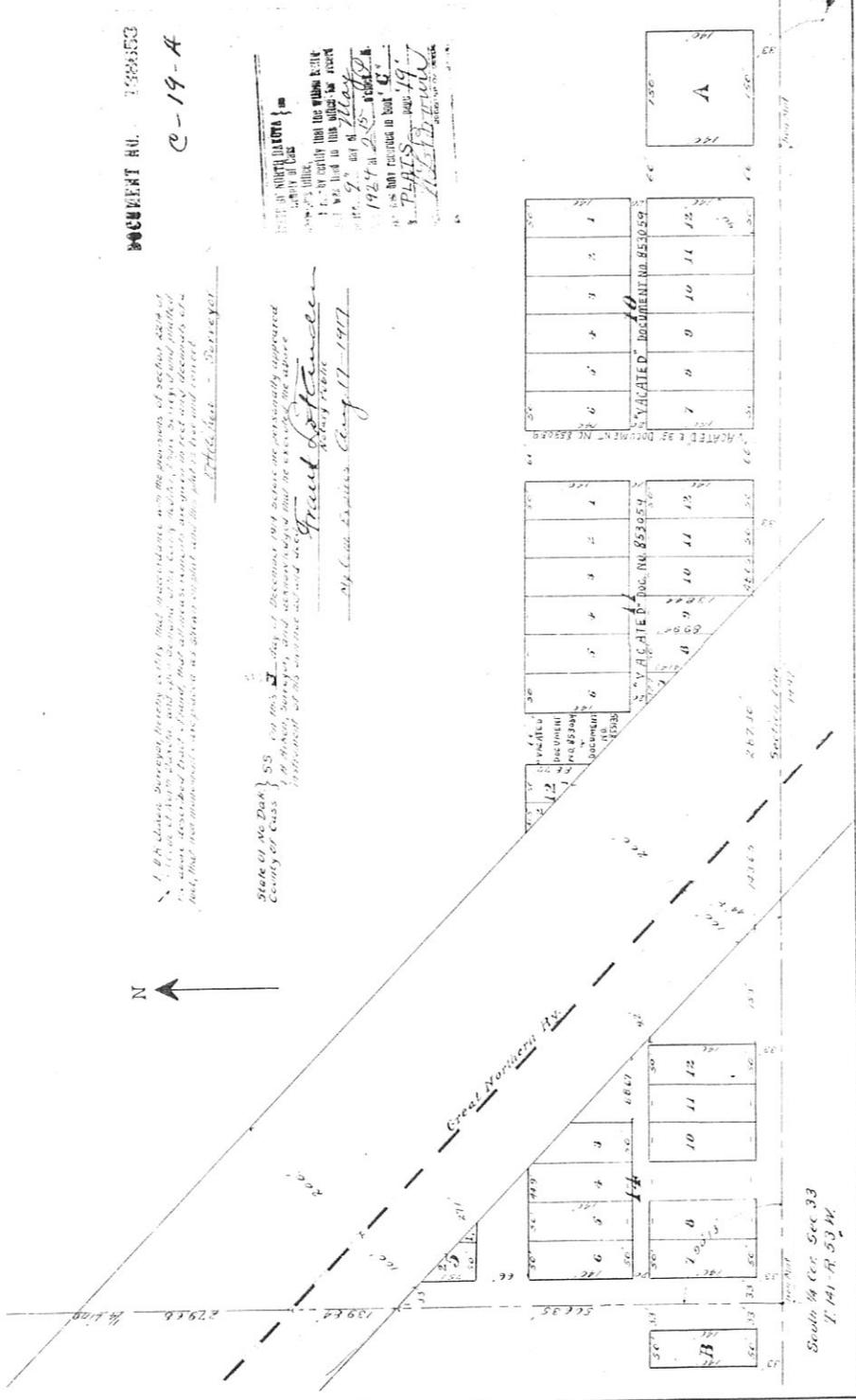
C-19-A

I, B. J. Jones, Surveyor, hereby certify that measurements in the portions of section 33, 24<sup>th</sup> of T. 141 N. & R. 53 W., with its 1/2 section, were correctly made, from a copy of and plotted on same, described plat. I found that all areas marked are given in feet and decimals of a foot, that the measurements are given as shown on plat with this plat is true and correct.  
B. J. Jones, Surveyor

State of North Dakota }  
County of Cass } SS On this 3<sup>rd</sup> day of December 1914 before me personally appeared  
J. B. Jones, Surveyor, and acknowledging that he executed the above  
affidavit which is true and correct.  
Fred G. Johnson  
Notary Public

My Comm. Expires Aug. 17, 1917

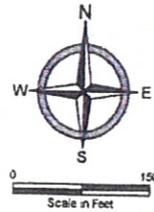
STATE OF NORTH DAKOTA }  
County of Cass }  
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B. J. Jones, Surveyor



South 1/2 Sec. 33  
T. 141 N. R. 53 W.

# CERTIFICATE OF SURVEY

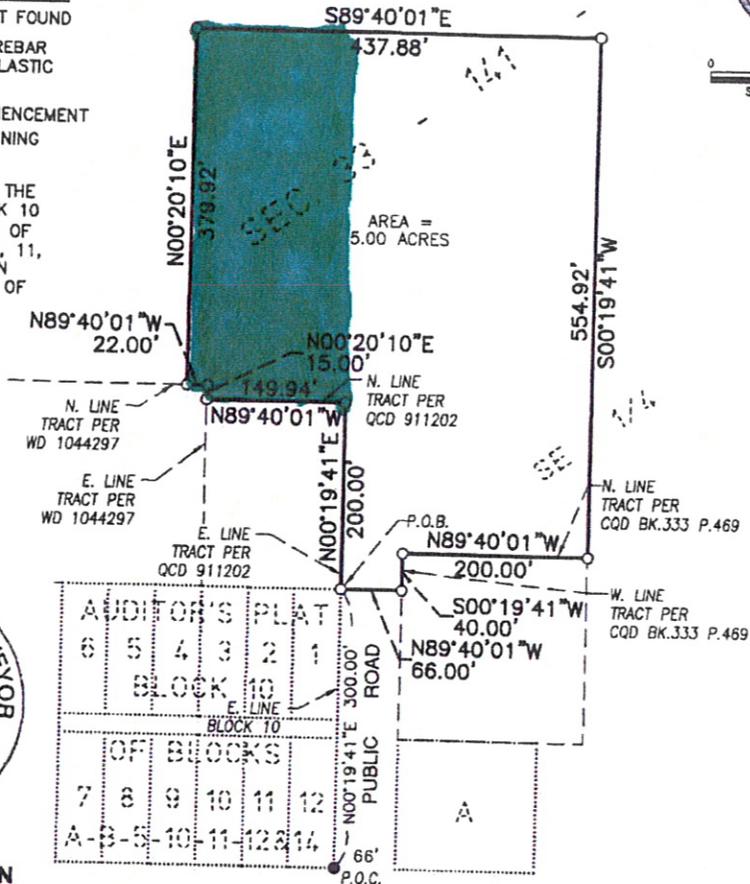
PART OF THE SE1/4 OF SECTION 33, TOWNSHIP 141 NORTH,  
RANGE 53 WEST, CASS COUNTY, NORTH DAKOTA



## LEGEND

- IRON MONUMENT FOUND
- SET 5/8"x18" REBAR WITH YELLOW PLASTIC CAP #6571
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING

BASIS OF BEARING: THE EAST LINE OF BLOCK 10 OF AUDITOR'S PLAT OF BLOCKS A, B, 5, 10, 11, 12 & 14 HAS AN ASSUMED BEARING OF N00°19'41"E



## LEGAL DESCRIPTION

That part of the Southeast Quarter in Section 33, Township 141 North, Range 53 West of the Fifth Principal Meridian in Cass County, North Dakota, described as follows:

Commencing at a found iron monument which designates the southeast corner of Lot 12, Block 10, AUDITOR'S PLAT OF BLOCKS A-B-5-10-11-12 & 14, according to the recorded plat thereof on file and of record in the office of the Recorder, said County; thence North 00 degrees 19 minutes 41 seconds East on an assumed bearing along the east line of said Block 10 for a distance of 300.00 feet to an iron monument at the northeast corner of Lot 1, Block 10, said plat, said point also being the southeast corner of Kenneth Monilaw's land as described in Quit Claim Deed Document Number 911202, recorded September 21, 1988, on file and of record in the office of said Recorder, the point of beginning of the land to be described; thence continuing North 00 degrees 19 minutes 41 seconds East along the east line said Kenneth Monilaw's land for a distance of 200.00 feet to an iron monument at the northeast corner of said Kenneth Monilaw's land; thence North 89 degrees 40 minutes 01 second West along the north line of said Kenneth Monilaw's land for a distance of 149.94 feet to an iron monument at the northwest corner of said Kenneth Monilaw's land, said point also being on the east line of Arthur Idso's land as described in Warranty Deed Document Number 1044297, recorded February 7, 2003, on file and of record in the office of said Recorder; thence North 00 degrees 20 minutes 10 seconds East along the east line of said Arthur Idso's land for a distance of 15.00 feet to an iron monument at the northeast corner of said Arthur Idso's land; thence North 89 degrees 40 minutes 01 second West along the north line of said Arthur Idso's land for a distance of 22.00 feet to an iron monument; thence North 00 degrees 20 minutes 10 seconds East for a distance of 379.92 feet to an iron monument; thence South 89 degrees 40 minutes 01 second East for a distance of 437.88 feet to an iron monument; thence South 00 degrees 19 minutes 41 seconds West for a distance of 554.92 feet to an iron monument at the northeast corner of Absaraka Cooperative Telephone Company's land as described in a Quit Claim Deed recorded May 17, 1968, in Book 333 of Deeds, page 469, on file and of record in the office of said Recorder; thence North 89 degrees 40 minutes 01 second West along the north line of said Absaraka Cooperative Telephone Company's land for a distance of 200.00 feet to an iron monument at the northwest corner of said Absaraka Cooperative Telephone Company's land; thence South 00 degrees 19 minutes 41 seconds West along the west line of said Absaraka Cooperative Telephone Company's land for a distance of 40.00 feet to an iron monument; thence North 89 degrees 40 minutes 01 second West for a distance of 66.00 feet to the point of beginning.

Said tract contains 5.00 acres, more or less and is subject to all easements, restrictions and reservations of record, if any.



**BOUNDARY SURVEY**  
FOR: LANCE MONILAWS

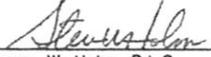
DATE	LAST DAY ON SITE	CH'D BY	PROJECT NO.
8/20/14	8/1/14	CDH	18072
REVISED	SCALE	DRAWN BY	SHEET
	1" = 150'	SWH	1 OF 2

# CERTIFICATE OF SURVEY

PART OF THE SE1/4 OF SECTION 33, TOWNSHIP 141 NORTH,  
RANGE 53 WEST, CASS COUNTY, NORTH DAKOTA

## CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of North Dakota.

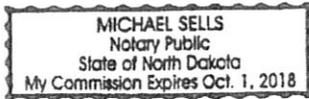
  
Steven W. Holm, R.L.S.  
N.D. License No. LS-6571

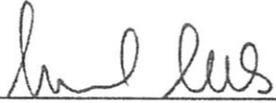


Date: 8-20-2014

State of North Dakota,  
County of Cass

On this 20th day of AUGUST, 2014, before me, a Notary Public in and for said county and state, personally appeared Steven W. Holm, Registered Land Surveyor, known to me to be the person described in and who executed the foregoing certificate and acknowledged to me that he executed the same as his free act and deed.



  
Notary Public, Cass County, North Dakota  
My Commission Expires: OCT. 1, 2018



**BOUNDARY SURVEY**  
FOR: LANCE MONILAWS

DATE	LAST DAY ON SITE	CH'D BY	PROJECT NO.
8/20/14	8/1/14	CDH	18072
REVISED	SCALE	DRAWN BY	SHEET
	1" = 150'	SWH	2 OF 2