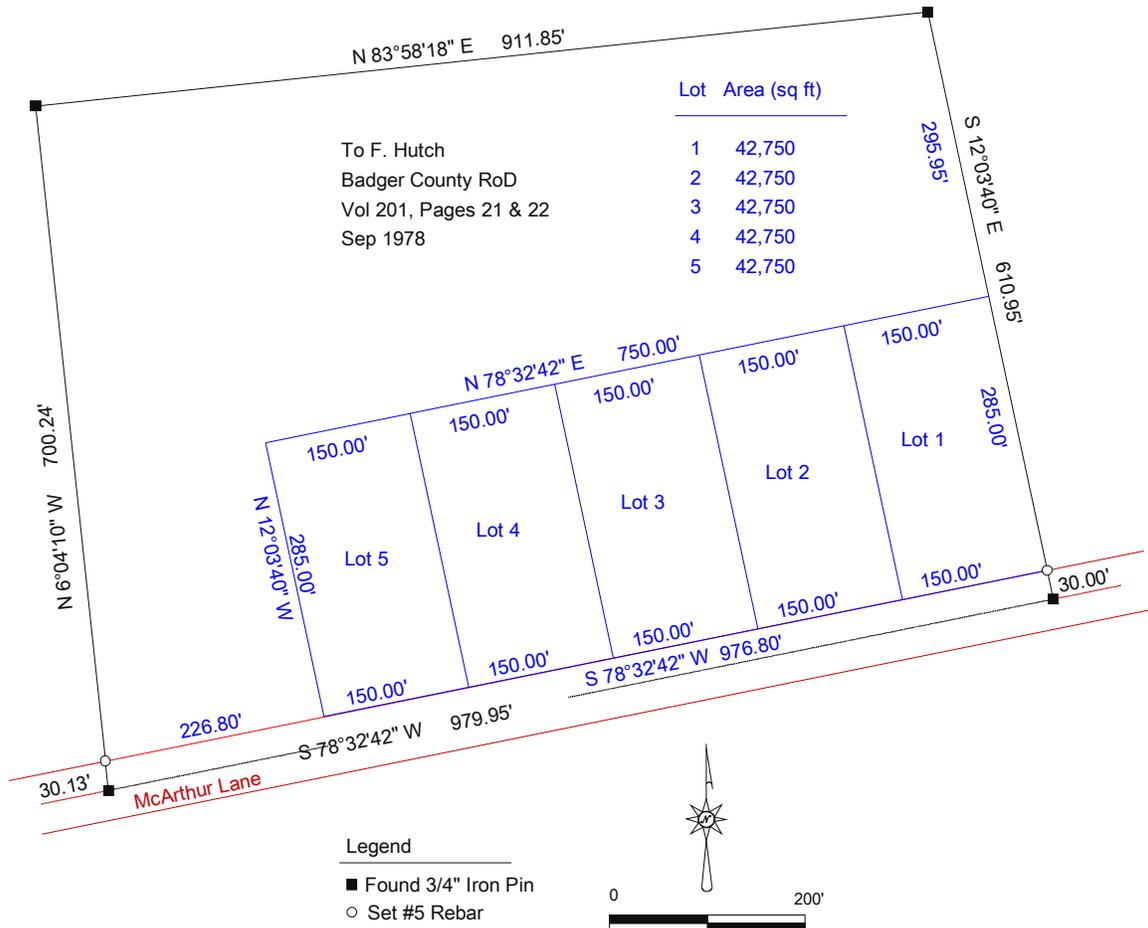


## Discussion Case (A)

A five lot subdivision design got as far as the preliminary plat stage. No lot corner monuments had been set when Hutch decided to not continue. *WhizDump* was paid for their work to date and gave a copy of the preliminary plat to Hutch; lot dimensions are shown in Figure A-1. The land continued to be used for crops.



Nearing retirement and wanting extra money for travel, Francis decided to sell some land. A friend, D. Thomas, expressed interest so Francis, preliminary plat in hand, went to see his attorney about drafting a deed. Although the only property law with which the attorney was familiar was its division between divorcing parties, because Francis was an old client he agreed to draft the deed.

The deed was recorded on 13 May 2004 in Volume 214, pages 35-36 using this description

*A parcel located in the northwest quarter of Section 28, Township 3 North, Range 4 West, 4th Meridian, Grant County, Wisconsin, and part of the property of F. Hutch (vol 212, pages 21-22), described as follows:*

*Commencing at the northeast corner of said Hutch property; thence S 12°03'40" E a distance of 295.95 ft to the point of beginning; thence continuing S 12°03'40" E a distance of 285 ft; thence S 78°32'42" W a distance of 150 ft; thence N 12°03'40" W a distance of 285 ft; thence back to the point of beginning, containing 42,750 square feet, more or less.*

A second friend, A. Warner, wanted to purchase a parcel although not near Thomas'. Seeing that all lot dimensions were the same and the previous description wasn't all that complicated, Francis decided to write it himself to save money. The deed was recorded on 28 March 2005, in Volume 214, pages 163-164. The description was:

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## Discussion Case (A)

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*Located in the northwest quarter of Section 28, Township 3 North, Range 4 West, 4th Meridian, Grant County, Wisconsin, and part of the property of F. Hutch (vol 201, pages 21-22), described as follows:*

*Commencing at the southwest corner of said Hutch property; thence N 6°04'10"W a distance of 30.13 ft; thence N 78°32'42" E a distance of 226.80 ft to the point of beginning; thence continuing N 78°32'42" E a distance of 150 ft; thence N 12°03'40" W a distance of 285 ft; thence S 78°32'42" W a distance of 150 ft; thence back to the point of beginning, containing 42,750 square feet, more or less.*

Francis sold off two more parcels, over the next few years, each time writing the descriptions himself.

To T. Brown, recorded 8 June 2006 on pages 23-24 in volume 215

*Located in the NW quarter of Section 28, Township 3 North, Range 4 West, 4th Meridian, Grant County, Wisconsin, and part of the property of F. Hutch (vol 212, pages 21-22), described as follows:*

*Beginning at the southeast corner of the property described on pages 163 and 164 in volume 214 in the Register of Deeds Office; thence N 78°32'42" E a distance of 300 ft; thence N 12°03'40" W a distance of 100 ft; thence S 78°32'42" W a distance of 150 ft; thence N 12°03'40" W a distance of 185 ft; thence S 78°32'42" W a distance of 150 ft; thence return to the beginning point. Contains approximately 60,000 sq ft.*

To P. Taylor, recorded 27 Feb 2008 on pages 91 and 92 in volume 216

*Located in the northwest quarter of Section 28, Township 3 North, Range 4 West, 4th Meridian, Grant County, Wisconsin, and part of the property of F. Hutch (vol 212, pages 21-22), described as follows:*

*Beginning at the northwest corner of the property described on pages 35 and 36 of volume 214 in the Register of Deeds Office; thence S 78°32'42" W a distance of 300 ft; thence S 12°03'40" E a distance of 185 ft; thence N 78°32'42" E a distance of 150 ft; thence S 12°03'40" E a distance of 100 ft; thence N 78°32'42" E a distance of 150 ft; thence return to the beginning point. Contains approximately 70,000 sq ft.*

A. Warner sold her property to B. Starky using the same description as on her deed and moved to Florida. Starky's deed was recorded on 6 Sept 2010 in Vol 216 on pages 18 and 19.

In 2020, *Location Specialties, Inc.*, was engaged by Brown to locate his property corners. Monuments along the easterly and southerly lines of the original Hutch parent parcel were found and surveyed. The easterly line was used for the direction basis.

All evidence of physical locations were surveyed and their positions plotted on a map with the preliminary plat information. Figure A-2 shows evidence locations by offsets (blue) from nearest preliminary plat (green) lot corners. All the property owners were interviewed to determine the origins of the physical evidence.

Brown told *Location Specialties'* surveyor he'd planted the hedge right after buying the property. He'd met with Warner who showed him the two rebar and told him those were her corners. Brown paced 150 feet from her northwest rebar to establish the north edge of the hedge and used the other rebar as its south end.

Brown said the north fence post was set by Taylor. He didn't know the origin of the two rebar on his east line, he just assumed they were his corners.

Starky said he was told by Warner the hedge was the east property line. He was unaware of the rebar near the northwest and southeast corners.

Taylor explained that he used a 50-foot tape to measure 150 ft from the north end of Brown's hedge to set the fence post, then measured another 300 ft to set the second post. For direction, he used the rebar near Thomas' northeast corner.

## Discussion Case (A)

Along his south line, he measured 300 ft “parallel with the street” from the rebar at the south end of the hedge and set a rebar to mark his southwest corner. He measured an additional 150 ft “parallel with the street” and set the southern fence post. A few weeks later, he measured 100 ft from his southwest pin to set the interior rebar. When asked, Thomas said he assumed Taylor had placed the fence on their common line. He didn’t know who set the rebar near the northeast corner, but used it as his corner as well as using the rebar as his southeast corner.

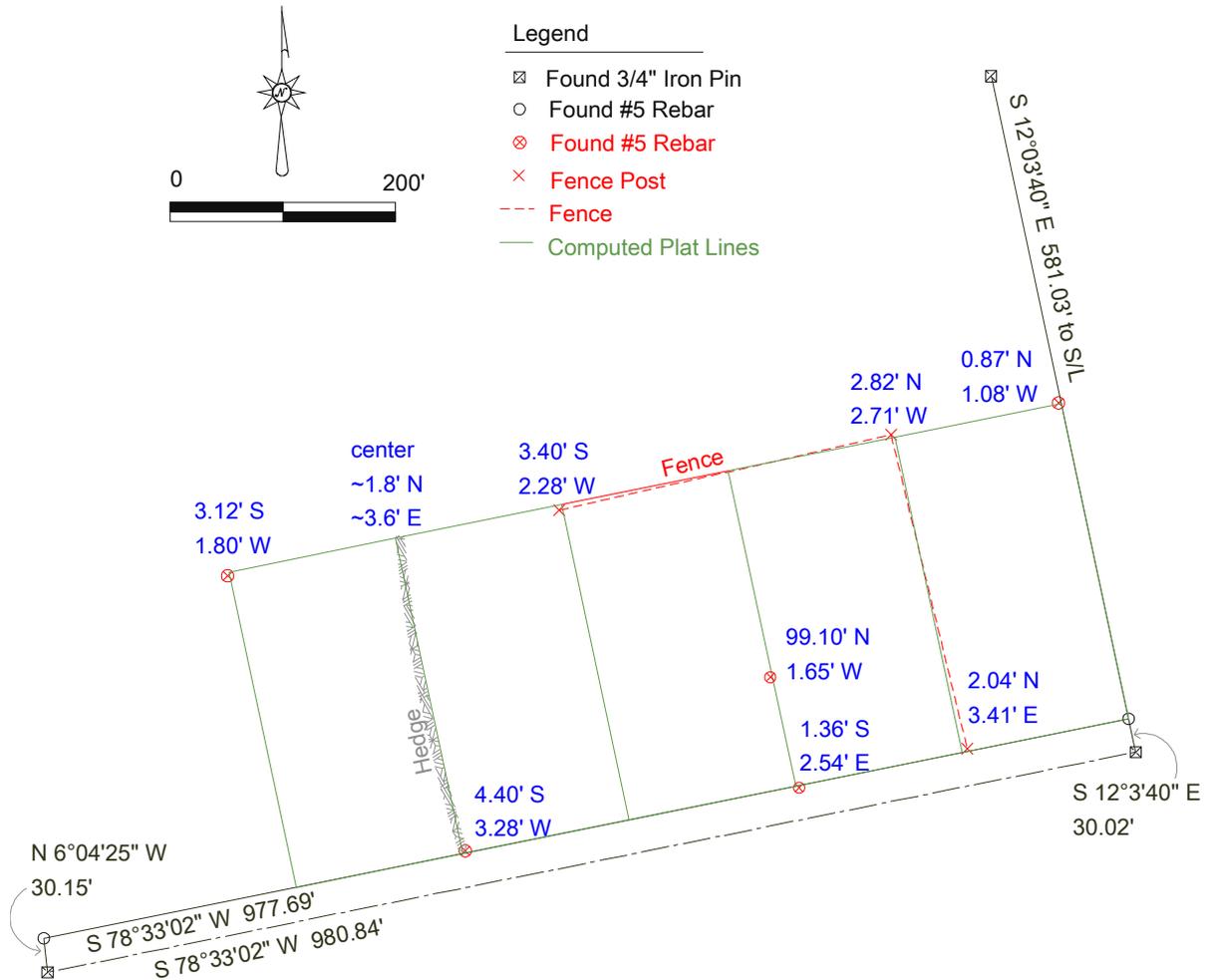


Figure A-2

### Questions:

Explain your answers; include discussion of alternative considerations.

1. What role(s) do the monuments have?
2. What role does the preliminary plat have?
3. Do junior and senior rights exist? If so, list the parcels, by current owner, from most to least senior.
4. Do the parcels have reversionary rights in McArthur Lane?
5. Are there any encroachments?
6. Are there any other issues that may/probably will arise?