

SURVEYORS CERTIFICATE:

I, David E. Hawkes, certify that I am a Professional Land Surveyor as prescribed by the laws of the State of Utah, holding certificate number 356546, and that a survey of the described tract of land has been made by me and is found to be as shown on this Record of Survey.

David E. Hawkes
DAVID E. HAWKES
DATE: Feb. 12, 2004

NARRATIVE:

Boundary Specialists were retained by Anna S. Kaugh and David S. Montgomery to survey their parcels of land located along West 2nd Street, also known as parcel numbers 12-075-0001, -0002, -0004, -0041, -0045, -0075, and 12-094-0022 of the Weber County records, and reestablish the boundary. They felt they were being encroached upon by a new subdivision that adjoined their easterly boundary, West Oaks Phase 2 Subdivision, and by the chain link fence line running along the East and South sides of the Weber-Box Elder Conservation District's parcel of land, known as parcel number 12-094-0013. They informed me that the old fence line along their easterly boundary line, separating their farm from the parcel to the West Oaks Subdivision Phase 2, had been torn down on four separate occasions and that the ditch which ran along that boundary line had been filled in. Field evidence given by David S. Montgomery and Anna S. Kaugh stated that the chain link fence erected by the Weber-Box Elder Conservation District, nine years ago, was done over the objections of Mrs. Kaugh. She stated that she had wanted the remains of the original fence line to stay in place but, against her objections and while she and Mr. Montgomery were away, the chain link fence was erected. According to Mr. Montgomery, the old wire fence had run in that approximate location was a fence of convenience constructed to keep livestock that were grazed on the Alubach parcel, the previous owners of the Conservation District parcel, out of their crops. That old fence was bulldozed into a pile and the new chain link fence was erected without the benefit of a survey. It appears that the course of the chain link fence was determined by extending an existing chain link fence that encloses the Nelson Intermountain Crane parcel upon the Montgomery parcel by approximately 11.5 feet at its Southeast corner (see sheet 2 of 5) and a wire fence that runs along the easterly boundary of the parcel of land owned by Ski Ventures LLC. The parcel of land owned in fee simple by Ski Ventures LLC abuts the North line of the Conservation District parcel and was originally purchased by David Livingood. According to additional parcel evidence given by Mrs. Kaugh and Mr. Montgomery, after Mr. Livingood constructed his building he approached Horvey and Warren Stone and told them, in the presence of Mrs. Kaugh, that he thought that he had encroached on their land and offered to the Stone family to clear and marketable title to the property. The Stone family acknowledged the encroachment and told Mr. Livingood it could be taken care of at a later date. Subsequently Mr. Livingood died and the land was sold to Ski Ventures LLC who purchased the strip of land from the Stone family and cleared and marketable title to the property. The fence along the east line of that strip of land is what the Conservation District built their fence to instead of building it 9.85 feet westerly of that line, in so doing access to a head gate that was substantially located on the Montgomery parcel and controlled the water flow for an irrigation ditch that was constructed owned and maintained by the Stones, has been cut off. Because of the question of encroachment I began my boundary analysis by abstracting title to the Stone/Montgomery Farm and surrounding parcels to:

- 1) Determine seniority.
 - 2) Determine how the parcels had been transferred over the years.
 - 3) Determine if any substantial changes had been made to the properties' descriptions that may account for the apparent ambiguity in the location of the boundary lines in question.
- Through that analysis I have determined the following:
- 1) The West Oaks parcels were owned by John M. Stone, evidenced by those certain Warranty Deeds dated February 1925 in Book 103 at Page 545 of the Weber County Records, and April 21, 1925 recorded in Book 103 at Page 551 of said records.
 - 2) Said parcels were subsequently transferred to the heirs of said John M. Stone by the following Warranty Deeds, which have changed the title to the point of beginning from a set bearing and distance call and replaced with a more or less bearing and distance to the point of beginning and a call to the "West boundary Line fence". These changes create a call to a monument which is superior to the previous bearing/distance call to the point of beginning, Book 119, Page 805. Both subsequent transfers between said heirs evidenced by the following Warranty Deeds in which the "West boundary Fence" is referenced as the point of beginning, Book 207, Page 291, and Book 207, Page 293, and a Warranty Deed recorded in Book 306 at Page 429 in which the point of beginning is described as "being 62 feet East of the present fence line located by Randolph Brown [Parcel Number 12-075-0041] and running thence SOUTH 150.3 feet thence WEST 82 feet to Old fence boundary line, now standing, thence South along said old fence...". Remains of those fences have been located with certainty, and the boundary lines have been adjusted to match those calls.
 - 3) The Weber-Box Elder Conservation District parcel was transferred to William G. Stonehouse by Samuel Gates and by Lorin Farr prior to the remainder of the northwest quarter of Section 17 and the remainder of the northeast quarter of Section 18 being transferred to Erastus Bingham Sr., who subsequently transferred the remainder parcels to John M. and Chauncey Stone, brothers, thus leaving the Weber-Box Elder Conservation District parcel "Senior in Title" to the Stone parcels and as such entitled to EXACTLY that which was transferred, no more, no less, with the Stone's parcels being "Junior in Title" and the remainder parcels subject to any overage or shortage in area.
 - 4) The boundary to the "Conservation District" parcel can be located with certainty by deed, as it is tied to the Historic Monument line of Second Street, which can be retraced and located upon the ground with certainty.
 - 5) The subject parcels of this Record of Survey are "Remainder Parcels" junior in title to the surrounding parcels and as such are subject to any deficiencies in area or, entitled to all the excess ground lying outside of the deeded areas of the surrounding parcels which are not subject to other principles of law, such as encroachment.

We performed our initial field survey on September 18, 2003 with subsequent field work on October 12 and 22, 2003, January 7, and March 9, 2004. Our findings are as follows:

After digging four pits, 6 feet square and 24 inches deep, at the record location, deed location and the location of other surveys in the area for the West Oaks Corner of Section 17, a 2X2 hub and tack which appeared to be no more than a couple of years old was found flush with the ground 0.91 feet north and 0.64 feet west of the record location of the West Oaks Corner of Section 17 on the Ogden City Plat Maps and field notes of J.A. Jenkins. No evidence of the original or perpetuated corners was found. No evidence was found of the original or perpetuated corners of either the Northwest or Southwest corners of Section 17. Digging for evidence of these corners was not possible as the calculated positions fell in the yards of private residences. Occupation lines of a majority of the parcels lying and situate in the West Half of Section 17 and the East Half of Section 18 are not in harmony with their deed calls when tied solely to the historic locations of the monument corners that monumented the west line of Section 17, or the east line of Section 18, Township 6 North, Range 1 West, Salt Lake Base and Meridian. Parcels of land that are tied to the "Historic Monument Lines" of Second Street, Seventh Street and Wall Avenue closely match their deed lines and are able to be located upon the ground with much greater certainty than those parcels described in earlier times. The perimeter boundary lines to the Stone/Montgomery farm were reestablished by locating the surrounding deed corners, and calls to monuments. The easterly line of parcels 12-075-0004, -0001, 0002 and 12-091-0054 were reestablished from the remains of the "Old Boundary Fence" mentioned in the above stated deeds. At the Northeast corner of parcel 12-075-0004 a fence post was found that has been in that position so long that a line trunk has grown around it. Affidavit to that fence post was some ancient barbed wire that has been identified as Scutte Arrow Plots and dates to June of 1878. The south end of that fence line was found to be an old cedar post situate at the approximate right of way line of Seventh Street and the easterly line of Parcel Number 12-091-0054, with remains of old fencing as well as more recent barbed wire which has long been honored as the Boundary Line by the parties on both sides of the fence, with the exception of the portion that has been removed and replaced on several occasions throughout the construction of West Oaks Subdivision Phase 2. The boundary along the westerly line of Parcel 12-075-0075 was set by following the old wire fence that runs the length of that parcel and is described in that certain Quit Claim Deed recorded as Entry Number 328173, in Book 1460, at Page 2372 of the Weber County Records. The easterly boundary of Parcel 12-075-0001 was established by honoring the found rafter and plastic caps monumenting the Northerly line of Forest Grove Subdivision Number 2 and then running North 88°12'26" West (WEST per deed) from the intersection point of the Northerly line of said Forest Grove with the record west line of Section 17 (the northeast corner of the plot) and not honoring the "jog" that has been created by the piling of the Mill Creek Meadows Subdivision Phase 2, as the "jog" has not historically existed. This leaves a gap parcel of 5.09 feet between the northerly line of the Mill Creek Meadows Subdivision Phase 2 and Parcel Number 12-075-0001. It is our professional opinion that the gap parcel belongs to Castle Land and Development LLC, developer of said subdivision. The west line of parcels 12-075-0001 and 12-094-0022 were established by locating the center line of the existing Railroad Company main track line and offsetting the center line 50.00 feet to reestablish the railroads easterly right of way line then offsetting that right of way line an additional 81.00 feet as called for in that certain Warranty Deed from John M. and Chauncey Stone to the Ogden, Logan and Idaho Railway, dated November 02, 1915 and recorded in Book 76, at Page 159 of the Weber County Records. The north line of Parcel 12-094-0022 and the westerly lines of Parcels 12-075-0001 and 12-075-0004 were reestablished by holding the "Senior Deeds" to the adjoining parcels which are tied to the existing monument lines of Second Street and Wall Avenue and can be located upon the ground with certainty. The boundary to Parcel 12-075-0041 was reestablished by honoring the calls to a monument, the "Old Boundary Fence" called for in its deed and in the deed of its junior in title. The interior lines to the subject parcels were reestablished holding deed distances in the North-South dimensions and by verbal agreement between David Stone Montgomery and Anna Stone Kaugh or by holding to existing fence and possession lines.

Based upon the field survey I have reached the following conclusions:

- 1) An encroachment exists by the West Oaks Subdivision Phase 2 upon the Warren K. and Clara Stone parcel 12-075-0004 and the Clara S. and Bernell K. Stone parcel 12-075-0004 as shown upon this Record of Survey.
- 2) An encroachment by the Fence Line enclosing the Weber-Box Elder Conservation District Parcel and the Nelson Intermountain Crane Parcel exists upon Parcel Numbers 12-075-0004 and 12-094-0022 as shown hereon.

RECEIVED

MAR 12 2004

Weber County Surveyor

DATE: 02-18-04
PLAT DATE:
SCALE: 1" = 200'
PROJECT: STONE/MONTGOMERY

RECORD OF SURVEY OF THE
MONTGOMERY - STONE FARM
LYING AND SITUATE IN THE WEST HALF OF SECTION 17, AND THE
EAST HALF OF SECTION 18, TOWNSHIP 6 NORTH, RANGE 1 WEST,
SALT LAKE BASE AND MERIDIAN

BOUNDARY SPECIALISTS
123 South Main Ste. 3, Heber City, Utah
7920 South Highway 89, Willard, Utah
801-792-1569 435-664-1917 FAX

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SEARCHED	INDEXED	CHECKED
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DESCRIPTIONS:

PARCEL 12-075-0001:
Book 2045, Page 1372, Parcels 5, 6 & 7

A part of the southwest quarter and the northwest quarter of Section 17, and the southwest quarter of the northeast quarter of Section 18, in Township 6 North, Range 1 West, of the Salt Lake Base and Meridian, United States Survey. Beginning at a point SOUTH 256.46 feet from the northeast corner of the southeast quarter of said Section 18; Running thence North 72°45' West 795.00 feet, more or less, to the right of way of the railroad; Thence NORTH along said railroad right of way 206.00 feet; Thence South 88° East 895.14 feet to a point 133.27 feet EAST and 141.93 feet North 00°15' East from the west quarter corner of Section 17; Thence North 00°15' East 537.29 feet; Thence EAST 699.5 feet; Thence SOUTH 279.10 feet; Thence WEST 375.5 feet; Thence South 00°30' West 652.00 feet, more or less, to a point that is EAST 458.80 feet from the place of beginning; Running thence WEST 458.80 feet to the place of beginning.

PARCEL 12-075-0002:
Book 1500, Page 1629

Part of the west half of Section 17, Township 6 North, Range 1 West, Salt Lake Base and Meridian described as follows: Beginning at a point which is 8.39 feet EAST and 400.12 feet NORTH from the west quarter corner of said Section 17, running thence SOUTH 1622.12 feet, thence WEST 112.2 feet, thence SOUTH 261.36 feet thence WEST 64.5 feet, thence NORTH 1883.48 feet, to a point WEST of beginning, thence EAST 200 feet to beginning.

PARCEL 12-075-0004:
Book 1428, Page 811

Part of the northwest quarter of Section 17, Township 6 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey. Beginning 133.27 feet EAST and North 00°15' East 679.22 feet from the southwest corner of said quarter section, thence North 00°15' East 531.88 feet to center of 2nd Street, thence EAST 190.5 feet, thence South 00°15' West 252.78 feet; thence EAST 509 feet; thence South 00°15' West 279.1 feet, thence WEST 699.5 feet to beginning. EXCEPTING THEREFROM part of the Northwest quarter of Section 17, Township 6 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey.

Beginning at a point on the south right of way line of Second Street, said point being 133.27 feet EAST and North 00°15' East 1125.76 feet, more or less, from the southeast corner of said quarter section; Running thence South 89°12'45" East along said right of way line 11.83 feet, more or less, to an existing barbed wire fence; Thence South 00°47'35" West 229.99 feet along said existing fence; Thence North 89°12'58" West 9.65 feet, more or less to a point South 00°15'00" West of beginning; Thence North 00°15'00" East 230.00 feet to the point of beginning.

PARCEL 12-075-0006:
Book 1752, Page 2240

Part of the northwest quarter of Section 17, Township 6 North, Range 1 West, Salt Lake Meridian, U.S. Survey. Beginning at a point 18.35 chains NORTH and 342.4 feet EAST of the southwest corner of said quarter section; Running thence EAST 290 feet; Thence SOUTH 3.83 chains; Thence WEST 290 feet; Thence NORTH 3.83 chains to place of beginning.

PARCEL 12-075-0041:
Book 2319, Page 276

Part of the northwest quarter of Section 17, Township 6 North, Range 1 West, Salt Lake Meridian, U.S. Survey, which begins at a point on the south line of 2nd Street, in Ogden City, Weber County, Utah 954.5 feet EAST of the west line of said quarter section, said point being on the Old Fence Boundary Line, and running thence EAST 62 feet along the south line of said street; Thence SOUTH 150.3 feet; Thence WEST 62 feet to Old Fence Boundary Line; Thence NORTH on said Old Fence Boundary 150.3 feet to beginning. Minus State Road (163-511)

PARCEL 12-075-0045:
Book 1403, Page 1786

Part of the northwest quarter of Section 17, Township 6 North, Range 1 West, Salt Lake Meridian, U.S. Survey. Beginning at a point 18.35 chains NORTH and 632.4 feet EAST of the southwest corner of said quarter section; Running thence EAST 120 feet; Thence SOUTH 3.83 chains; Thence WEST 120 feet; Thence NORTH 3.83 chains to the place of beginning. Excepting therefrom that portion within State Highway.

PARCEL 12-075-0075:
Book 2045, Page 1373, Parcel 10

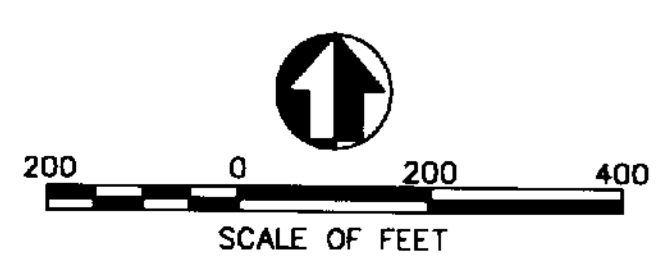
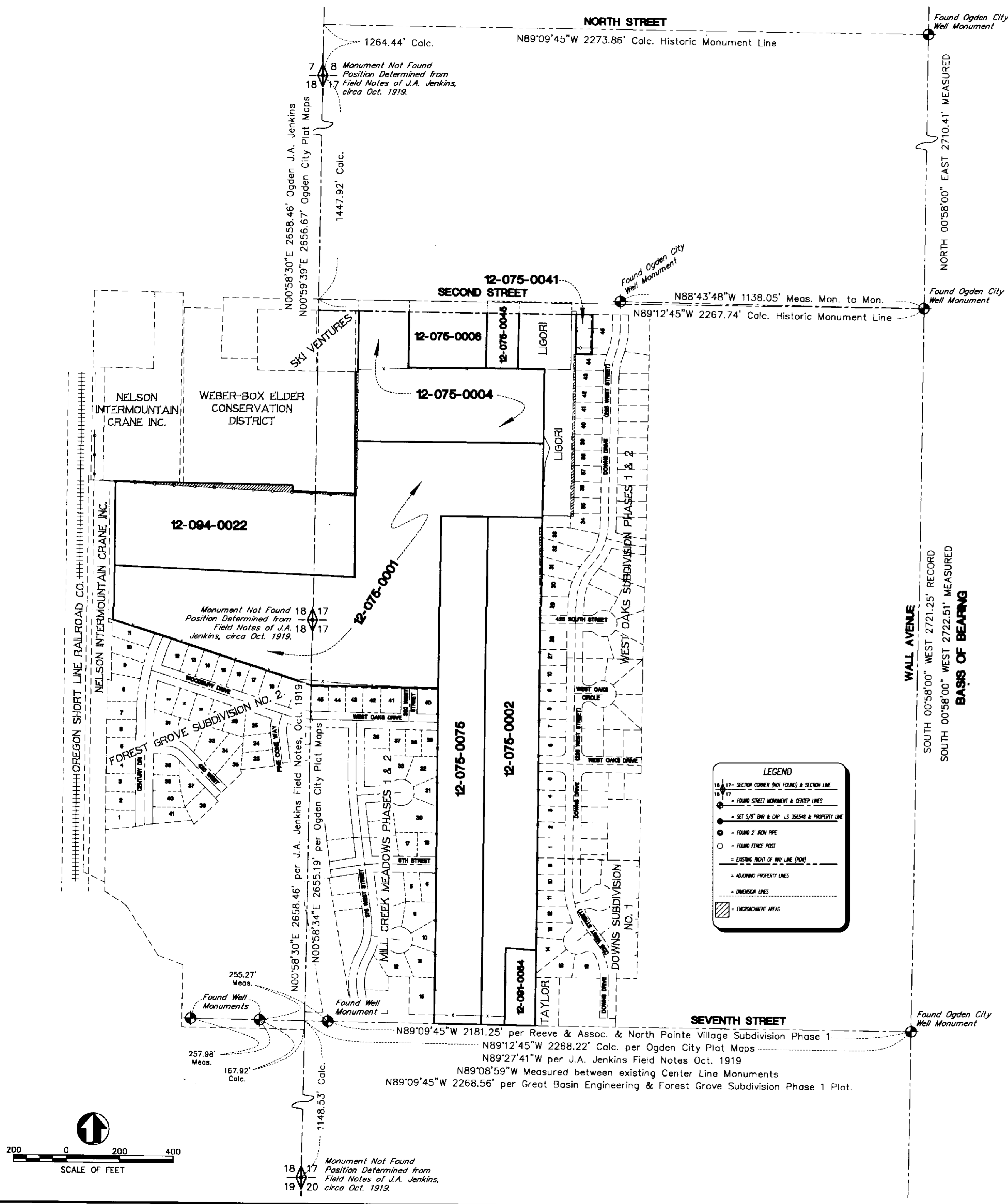
Part of the west half of Section 17, Township 6 North, Range 1 West, Salt Lake Meridian, U.S. Survey. Beginning 6.39 feet EAST and 400.12 feet NORTH of the west quarter corner of said Section 17, Thence SOUTH 1883.48 feet to the center line of 7th Street, Thence WEST along said line 175.5, Thence NORTH 1883.48 feet to a point 175.5 feet west of the beginning, Thence EAST 175.5 feet to the beginning. Excepting therefrom that portion lying within 7th Street. Excepting the Covenant of Warranty as to the west 22.87 feet. Thence west 22.57 feet is Quit Claimed only.

PARCEL 12-091-0054:
Book 1440, Page 2405

Part of the southwest quarter of Section 17, Township 6 North, Range 1 West, Salt Lake Meridian, U.S. Survey. Beginning at a point 8.39 feet EAST and 1483.36 feet SOUTH from the Northwest corner of the said southwest quarter of said Section 17, and running thence NORTH 261.36 feet, thence WEST 112.2 feet, thence SOUTH 261.36 feet, thence EAST 112.2 feet to the point of beginning.

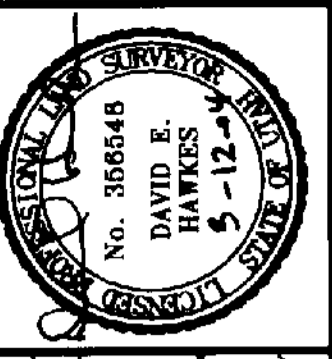
PARCEL 12-094-0022:
Book 2045, Page 1373, Parcel 9

Part of the northeast quarter of Section 18, Township 6 North, Range 1 West, Salt Lake Meridian, U.S. Survey. Beginning North 00°15' East 141.93 feet from the southeast corner of said northeast quarter section; Running thence South 88° East 133.27 feet, Thence North 00°15' East 293.43 feet, Thence North 88° West 232.98 feet, Thence North 2° West 22.57 feet, Thence North 88° West 662.16 feet to Railroad Right of Way as described in deed, recorded November 2, 1915 in Book 76 of Deeds Page 159, Thence SOUTH along right of way 316 feet, Thence South 88° East 761.87 feet to beginning.

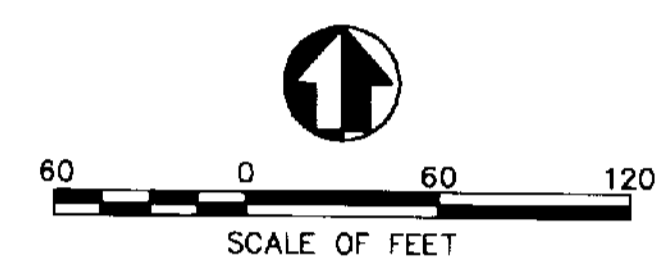


Monument Not Found
Position Determined from
Field Notes of J.A. Jenkins,
circa Oct. 1919.

Monument Not Found
Position Determined from
Field Notes of J.A. Jenkins,
circa Oct. 1919.



HISTORIC MONUMENT LINE OF SECOND STREET SOUTH 89°2'04" EAST



NELSON INTERMOUNTAIN CRANE INC. BOOK 1540, PAGE 2848

WEBER-BOXELDER CONSERVATION DISTRICT BOOK 1404, PAGE 1277

SKI VENTURES LLC BOOK 2104, PAGE 2810, 2820

DAVID S. MONTGOMERY BOOK 1752, PAGE 756 Contains 140 acres more or less

LIGORI BOOK 1361, PAGE 113 R.O.S. 3153

WARREN K. STONE & CLARA S. STONE BOOK 1428, PAGE 811 Contains 5.44 acres more or less

DAVID S. MONTGOMERY AND SHANNA M. LEAVITT BOOK 2045, PAGE 1372 Contains 6.65 acres more or less

DAVID S. MONTGOMERY AND SHANNA M. LEAVITT BOOK 2045, PAGE 1372 Contains 16.09 acres more or less

Monument Not Found Position Determined from Ogden City Plat Maps & Field Notes of J.A. Jenkins, circa 1919

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- 44
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225 WEST STREET

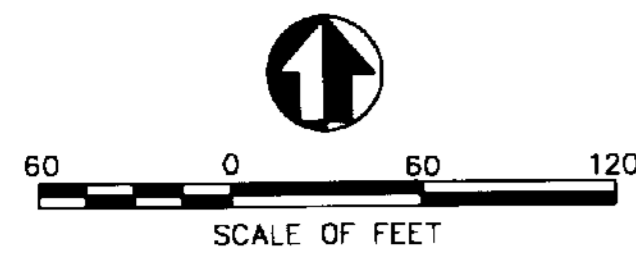
425 SOUTH STREET

RECORD OF SURVEY OF THE MONTGOMERY - STONE FARM Lying and Situate in the West Half of Section 17, and the East AHalf of Section 18, Township 6 North, Range 1 West, Salt Lake Base and Meridian

BOUNDARY SPECIALISTS 123 South Main Ste. 3, Heber City, Utah 7920 South Highway 89, Willard, Utah 801-792-1569 435-654-1917 FAX

DESIGNED	DEH
DRAWN	DEH
CHECKED	JJ

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NELSON INTERMOUNTAIN CRANE INC.
BOOK 1640, PAGE 284B

WEBER-BOXELDER CONSERVATION DISTRICT
BOOK 1404, PAGE 1277

WARREN K. STONE & CLARA S. STONE
BOOK 1428, PAGE 811
Contains 5.44 acres more or less

DAVID S. MONTGOMERY
AND
SHANNA M. LEAVITT
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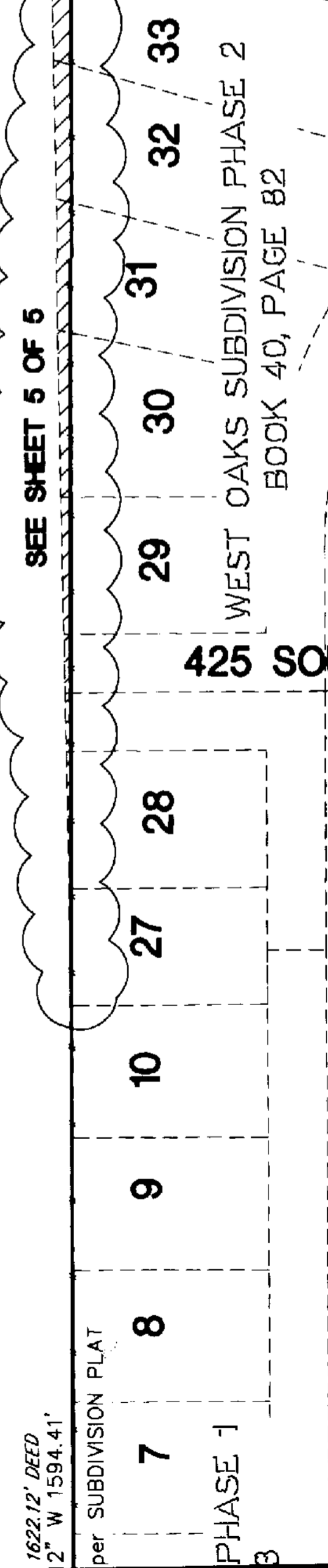
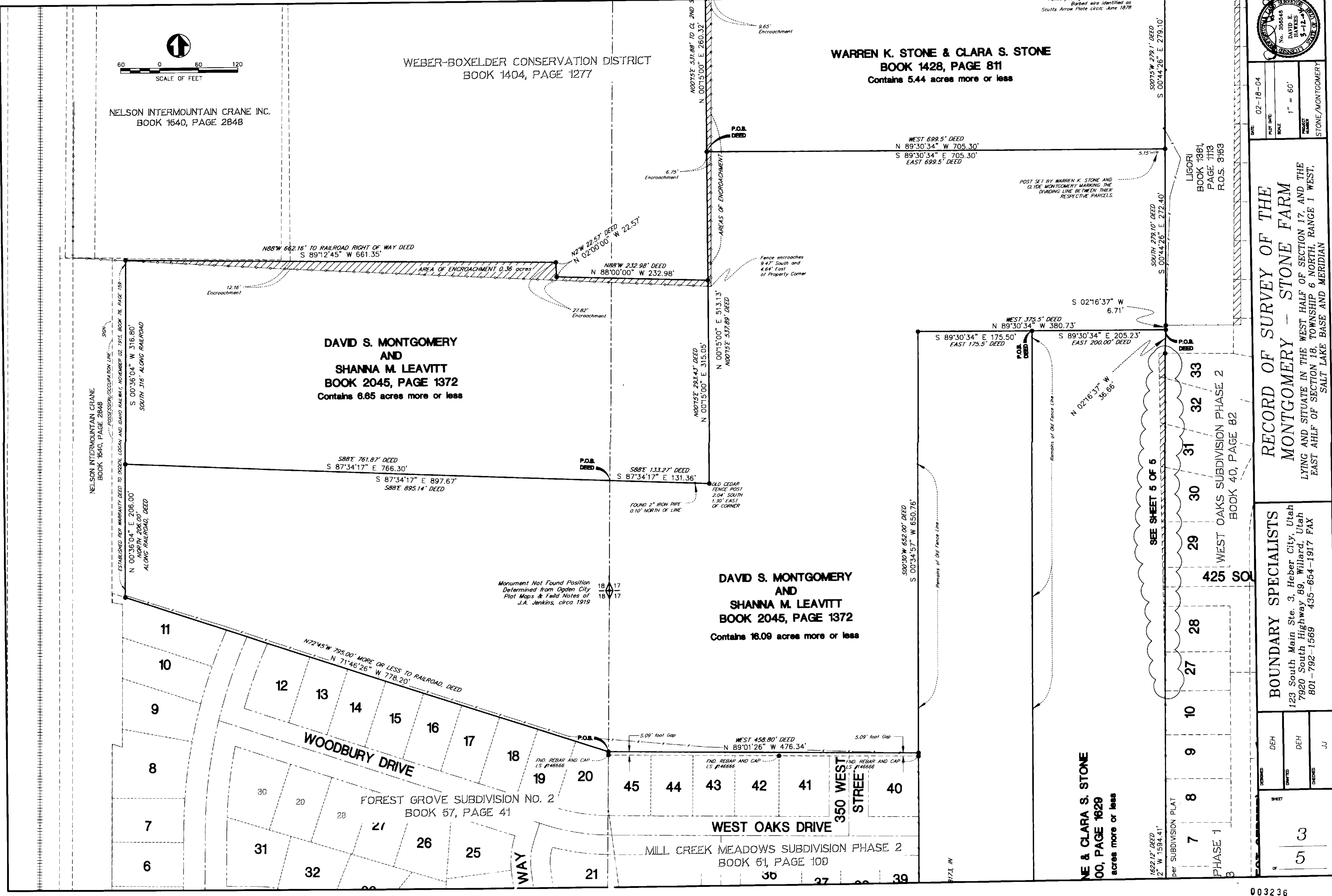
WARREN K. STONE & CLARA S. STONE
BOOK 1428, PAGE 811
Contains 5.44 acres more or less

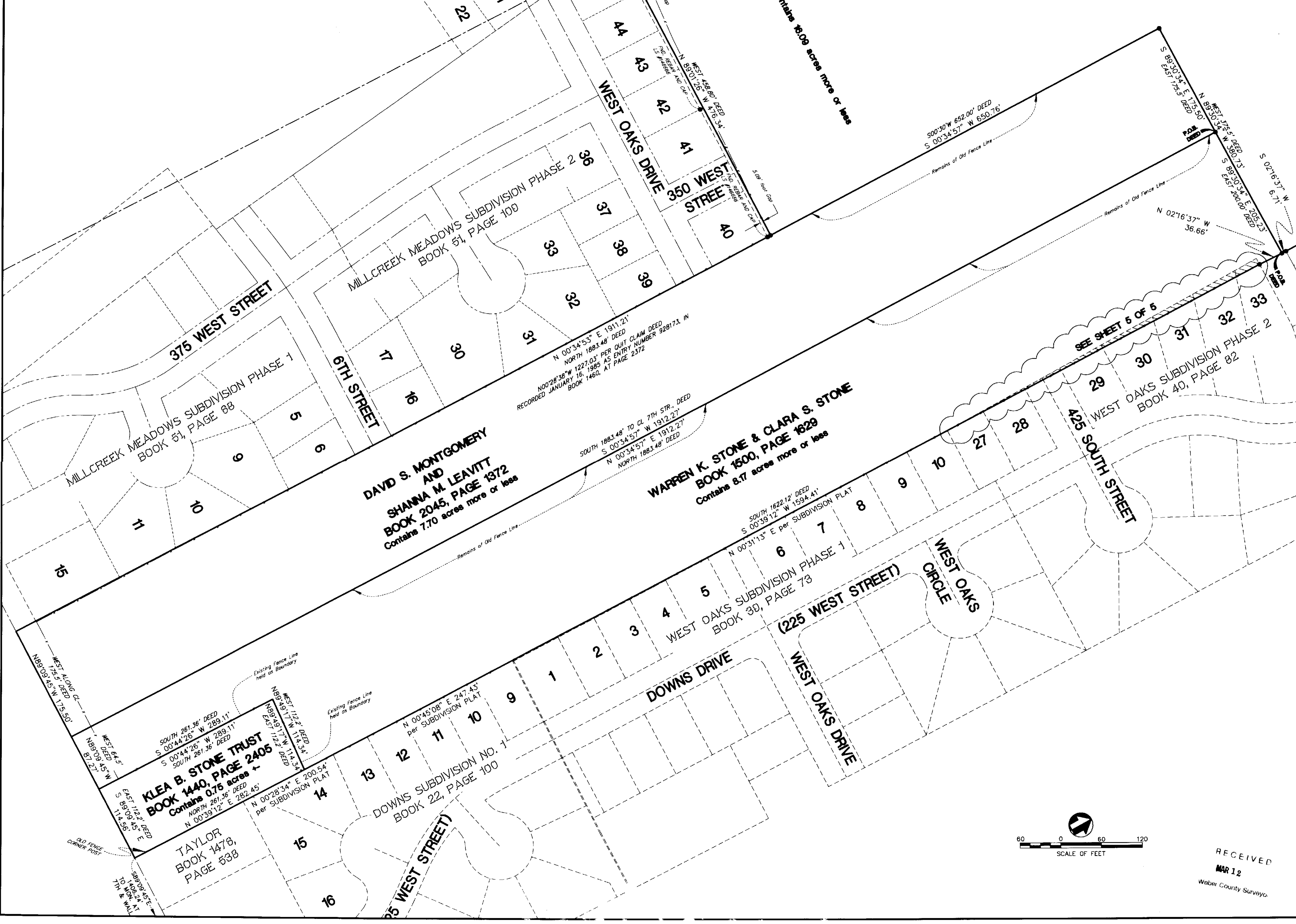
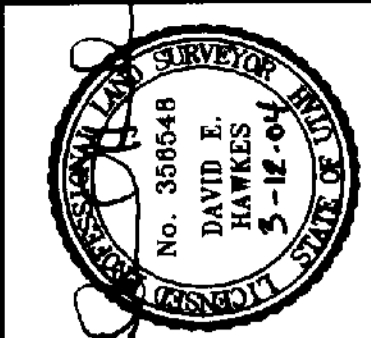
LIGORI
BOOK 1361,
PAGE 113
R.O.S. 3163

BOUNDARY SPECIALISTS
123 South Main Ste. 3, Heber City, Utah
7920 South Highway 89, Willard, Utah
801-792-1569 435-654-1917 FAX

RECORD OF SURVEY OF THE
MONTGOMERY - STONE FARM
LYING AND SITUATE IN THE WEST HALF OF SECTION 17, AND THE
EAST AHALF OF SECTION 18, TOWNSHIP 6 NORTH, RANGE 1 WEST,
SALT LAKE BASE AND MERIDIAN

DATE: 02-18-04
PLAT DATE:
SCALE: 1" = 60'
SHEET NUMBER:
STONE/MONTGOMERY





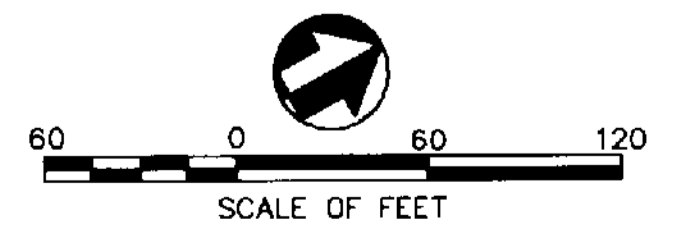
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PLOT DATE
SCALE 1"=60'
PROJECT
OWNER STONE/MONTGOMERY

**RECORD OF SURVEY OF THE
MONTGOMERY - STONE FARM**
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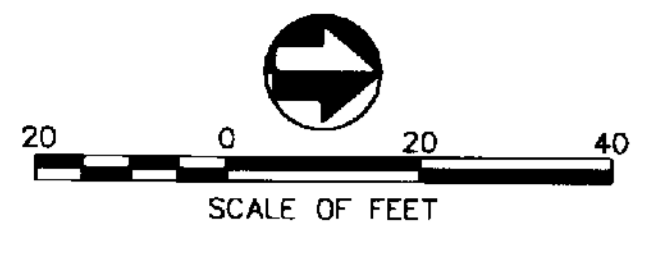
BOUNDARY SPECIALISTS
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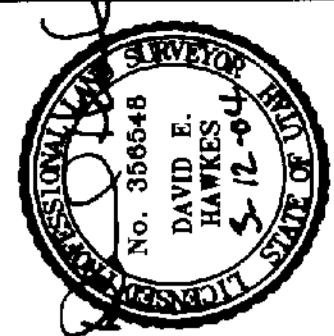
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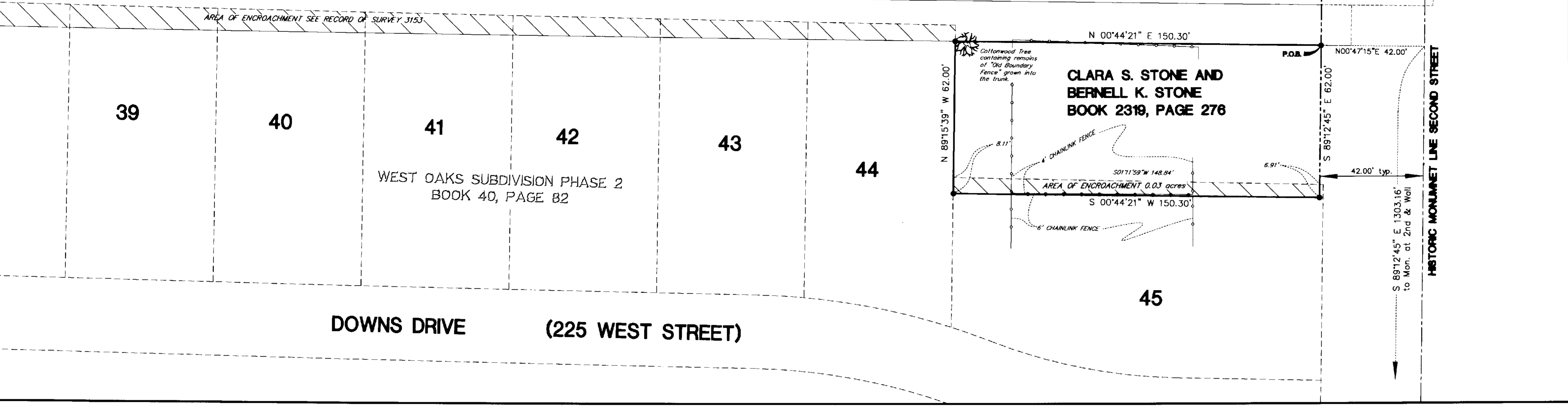
RECEIVED
MAR 12
Weber County Surveyor



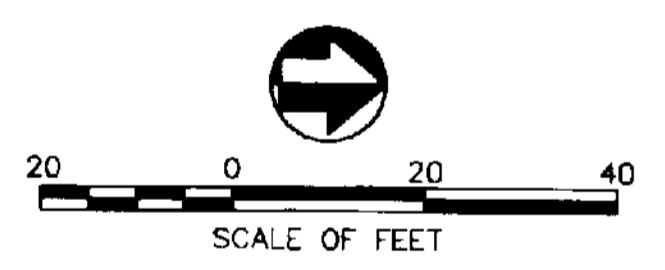
LIGORI
BOOK 1361, PAGE 1113
R.O.S. 3153



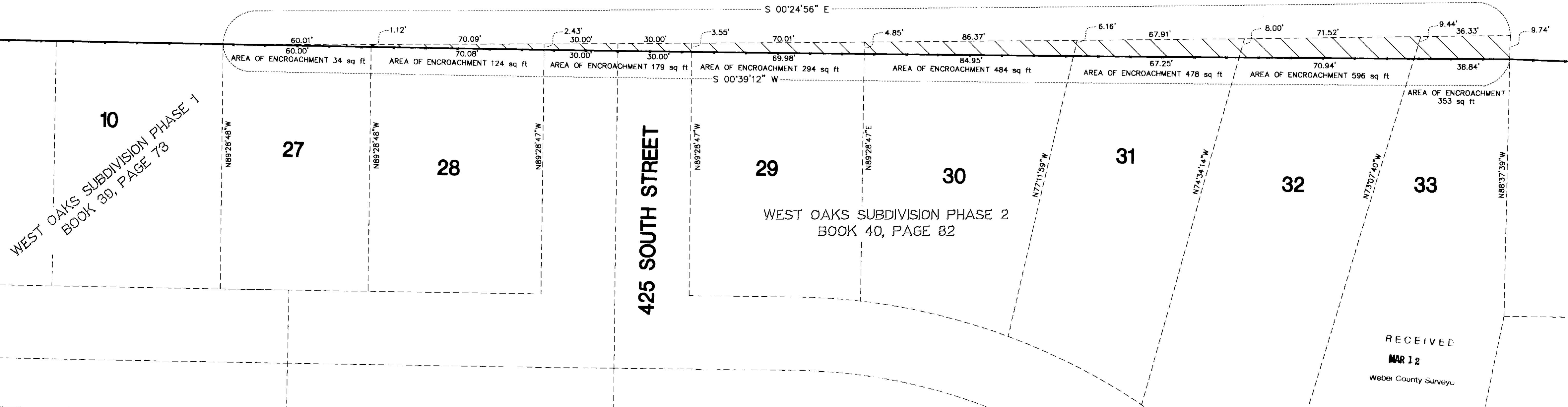
DATE: 02-18-04
PLAT DATE:
SCALE: 1"=20'
PROJECT NUMBER: STONE/MONTGOMERY



RECORD OF SURVEY OF THE
MONTGOMERY - STONE FARM
LYING AND SITUATE IN THE WEST HALF OF SECTION 17, AND THE
EAST AHALF OF SECTION 18, TOWNSHIP 6 NORTH, RANGE 1 WEST,
SALT LAKE BASE AND MERIDIAN



WARREN K. STONE & CLARA S. STONE
BOOK 1500, PAGE 1829



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DEH DEH JU

RECEIVED
MAR 12
Weber County Surveyor

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