

PROPERTY SURVEY **CODY VANDERLINDEN** & ROBERT FRANKLIN

LOCATED IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 1 WEST, UINTAH SPECIAL MERIDIAN.

PARCEL "B": Franklin's East part being a remainder.
TOWNSHIP 1 SOUTH, RANGE 1 WEST, UINTAH SPECIAL MERIDIAN, SECTION 20: Beginning at the Northeast corner of the Northwest quarter of the Northwest quarter of said Section 20; thence S00°08'40"W 902.31' (South by record) along the East line of said quarter - quarter to a fence running Westerly; thence \$87°08'18"W 147.58' along said fence to a fence corner; thence \$00°01'55"W 43.03' along said fence to a 5/8" rebar with a 1 ½" diameter aluminum cap; thence \$86°34'02"W 224.31' (\$86°41'59"W by record) to a ½" rebar; thence \$N09°17'39"W 977.66' (\$N09°05'25"W 976.20' by record) to a 5/8" rebar with a 1 ½" diameter aluminum cap situated on the North line of said Section 20; thence \$N89°51'32"E 531.50' (\$89°28'18"E 533.00' by record) along the North line of said Section to the Point of Beginning. Contains 9.77 acres more or less. Basis of Bearings is along the West Section line between the West quarter corner and the Northwest Section corner, that bearing being N00°17'00"W.

PARCEL "C": Franklin's West part being a remainder.
TOWNSHIP 1 SOUTH, RANGE 1 WEST, UINTAH SPECIAL MERIDIAN, SECTION 20: Beginning at a 5/8" rebar with a 1 ½" diameter aluminum cap situated on the North line of said Section 20, being N89°51'32"E 322.00' from the Northwest Section corner; thence N89°51'32"E 463.00' (S89°28'18"E by record) along the North Section line to a 5/8" rebar with a 1 ½" diameter aluminum cap; thence S09°17'39"E 21.93' (S09?05'25"E 16.43' by record); thence S89°46'22"W 72.09' (S89°56'53"E 68.52' by record) to a 5/8" rebar with a plastic cap; thence S09°02'19"E 212.40' (N08°45'34"W 212.51' by record) to a 5/8" rebar with a plastic cap; thence N78°02'03"E 72.21' (S78°18'48"W 68.96' by record); thence S09°17'39"E 589.86' (S09°05'25"E by record); thence S89°49'55"W 911.78 (West 907.1' by record) through a ½" rebar situated S89°50'W 2.38' from the beginning of this course, and another ½" rebar situated in the East Right of Way fence on State Highway 121, and projected through to the West Section line; thence N00°17'00"W 126.59' (North 126.30' by record) along said Section line; thence N89°43' 00"E 322.00'; thence N00°17'00"W 672.20' to the Point of Beginning. Contains 10.26 acres more or less. Basis of Bearings is along the West Section line between the West quarter corner and the Northwest Section corner, that bearing being

Together with a Right of Way for ingress, egress and utilities described as follows:
Beginning at the Northwest corner of Section 20, Township 1 South, Range 1 West, Uintah Special Meridian; thence N89°51'32"E 322.00' along the North Section line to a 5/8" rebar with an aluminum cap; thence S00°17'00"E 30.00'; thence S89°51'32"W 322.00' to the West line of said Section 20; thence

N00°17'00"W 30.00' to the Point of Beginning

PARCEL "D": Vanderlinden's West part, being the remainder.
TOWNSHIP 1 SOUTH, RANGE 1 WEST, UINTAH SPECIAL MERIDIAN, SECTION 20: Beginning at the Southwest corner of the Northwest quarter of the Northwest quarter; thence N00°17'00"W 521.54' (517.42' by record) along the West line of said Section; thence N89°49'55"E 911.78' (East 907.10' by record) to the West line of Franklins property; thence S09°17'39"E 168.19' (S09°05'25"E 174.07' by record) to the Southeast corner of Franklins property; thence S02°08'09"E 322.67' to a 5/8" rebar with a 1 ½" diameter aluminum cap situated on the South line of the Northwest quarter of the orthwest quarter; thence S87°50'22"W 949.06' (N89°42'47"W by record) to the Point of Beginning. Contains 10.87 acres more or less. Basis of Bearings is along the West Section line between the West quarter corner and the Northwest Section corner, that bearing being N00°17′00″W.

Parcel "H", to be partitioned out from Franklin's property.
TOWNSHIP 1 SOUTH, RANGE 1 WEST, UINTAH SPECIAL MERIDIAN, SECTION 20: Beginning at the Northwest corner of said Section; thence N89°51'32"E 322.00' (S89°28'18"E by record) along the North line of said Section to a 5/8" rebar with a 1 ½" diameter aluminum cap; thence S00°17'00"E 352.20' to the Northeast Corner of the Mitchell Property, being first created by Warranty Deed which was recorded on June 27, 1977 in Book A-55, Page 748; thence S89°43'00"W 322.00' along the North line of Mitchell's property to the West Section line; thence N00°17'00"W 353.00' along the West Section line to the Point of Beginning. Contains 2.61 acres more or less. Basis of Bearings is along the West Section line between the West quarter corner and the Northwest Section corner, that bearing being N00°17'00"W.

PARCEL "I": Vanderlinden's East part, encompassing parcels E, F, & J.
TOWNSHIP 1 SOUTH, RANGE 1 WEST, UINTAH SPECIAL MERIDIAN, SECTION 20: Beginning at a point on the East line of the Northwest quarter of the Northwest quarter, being S00°08'40"W 943.87' (South 937.00' by record) from the Northeast corner of said Northwest quarter of the Northwest quarter; thence S00°08'40"W 331.19' (S00°12'23"E 374.16' by record) to the Southeast corner of said quarter - quarter; thence S87°50'22"W N89°42'47"W by record) 358.62' along the South line of said quarter - quarter to a 5/8" rebar with a 1 ½" diameter aluminum cap; thence N02°08'09"W 22.67' to a ½" X 24" rebar at the Southwest corner of Franklin's true property; thence N86°34'02"E (N86°41'59"E by record) 224.31' to a North - South running fence; thence N00°01'55'E 43.03' along said fence to a fence corner; thence N87°08'18"E 147.58' along said fence to the East line of said Northwest quarter of the Northwest quarter; thence S00°08'40"W 41.56' to the Point of Beginning. Contains 2.88 acres more or less. Basis of Bearings is along the West Section line between the West quarter corner and the Northwest Section corner, that bearing being N00°17'00"W.

TOWNSHIP 1 SOUTH, RANGE 1 WEST, UINTAH SPECIAL MERIDIAN, SECTION 20: Beginning at a point on the East line of the Northwest quarter of the Northwest quarter, being S00°08'40"W 943.87' (South 937.00' by record) from the Northeast corner of said Northwest quarter of the Northwest quarter; thence S86°34'02"W (S86°41'59"W by record) 147.58' to a North - South running fence; thence N00°01'55"E 43.03' along said fence to a fence corner; thence N87°08'18"E 147.58' along said fence to the East line of said Northwest quarter of the Northwest quarter; thence S00°08'40"W 41.56' to the Point of Beginning. Contains 0.14 acres more or less. Basis of Bearings is along the West Section line between the West quarter corner and the Northwest Section corner, that bearing being N00°17'00"W

I was contacted by Lisa Vanderlinden to perform a survey that would divide their property into two parts. The portion to the East was to encompass two smaller parcels around their existing residence. The West portion was to be separated for the construction of a new house. Prior to starting this survey I was also ontacted by Robert Franklin to partition off and describe a new parcel of land in the Northwest corner of his property by Highway 121.

Research shows that in 1977 parcel "A" was the first tract of land broken out of the Northwest quarter of the Northwest quarter, making it the first senior parcel out of them all. Three larger tracts were later broken out in the mid 1980's and early 1990's. The data in the legal descriptions on the current vesting deeds for hese three tracts revealed that they were likely prepared by a Land Surveyor, or Engineer. I checked back to the first deeds creating each parcel, and found that they each recited the same information, so that no modifications had been made from that time to the present. Working from the West Section line, I searched for any physical evidence of survey markers still in existence from the original surveys that had been conducted to partition out these parcels, and wherein the original descriptions had been created. I found about half of these rebar still in place. It also appears that fence lines, still in place, had been erected after those original surveys. I checked with Basin Land Title Company in Roosevelt who had prepared the first deed in 1986 for the East portion of Franklins property, and found that its description had been prepared by a Licenced surveyor, wherein they still had a certified copy of it in file. The other two parcels which were split out in 1991 were also the product of original surveys, apparently having the same surveyor, wherein the language within these descriptions has the same data on common courses, and the same type of phrasing as that of the first one from 1986. However it appears that the surveys conducted on the ground in 1986 and 1991 somehow missed each other as is shown on this drawing along the South and West lines of parcel "B". But according to a common law principle, no long narrow gaps would exist, this would be contrary to the intent of the original subdivider. See Boundary Control and Legal Principles 3rd Edition page 67, "there is a presumption that the grantor did not intend to retain a long narrow strip outside one of his exterior lines". The senior parcel, or survey, would remain fixed in place by its remaining survey evidence, while the junior parcels, or surveys, would extend to take in the remaining area of the gap The corner evidence of the junior surveys would be used as line points, guiding the extension of their lines until they terminate at the senior line. See Boundary Control and Legal Principles 3rd Edition page 124, "a surveyor cannot come back and change his original stakes if found in error when the client has relied

Such was the status of these tracts, until in 1997 when a second surveyor had been asked to survey parcel "E", which had been newly created by a foreclosure lis survey utilized the "three-mile method" to subdivide section 20 down to the Northwest quarter of the Northwest quarter. The first surveyor had used the 'standard method' for subdividing sections. The differences in these two are shown by the dashed and solid lines along the exteriors of the "forty", or sixteent section lines. The three mile method was the correct method to use in this section, but was not known by local surveyors until mid 1991 when Nelson Marshall, he Uintah County Surveyor discovered the correct method and published it throughout the surveying community. However prior to that time surveyors commonly used the standard method, as was the case with the surveyor of Parcels "B" - "D" in 1986 and 1991. The description to parcel "E" was prepared without the benefit of a survey, but instead was created using data from its source parcel, being parcel "D". In laying out parcel "E", the second surveyor relied ly upon the bearings and distances in that description, and measured them Northward from where he judged the true sixteenth corner to be as determined by using the three mile method. The result was an overlap of over 40' into parcel "B" as originally surveyed. It does not appear that the original interior lines surveyed within the Northwest quarter of the Northwest quarter had been considered in his survey. This is a common deed interpretation among surveyors where there are no calls mentioned in the description for surveys or monuments (markers). It is a principle widely published in surveying texts, but originates in the Eastern United States where it is common for deeds to have calls for monuments. Here in Utah, for unknown reasons it has not been common to place calls for monuments in legal descriptions, even when the description had been prepared by a surveyor. In recent times this recognition has weakened the requirement or the call of monuments that had been placed in course of an original survey to divide land for a sale. See Boundary Control and Legal Principles 3rd Edition page 83, Maxim of jurisprudence: "When the reason for the principle ceases, so should the principle itself". Also see Boundary Control and Legal Principles 3rd Edition page 84, "if an owner incurs the expense of a survey and then describes lands in accordance with the lines laid out, it can only be presumed that he intended to convey to the lines delineated upon the ground and not to erroneous informative calls for bearings and distances. Measurements taken upon the ground are aids to locate where the lines are if lost; but the lines themselves, when identified upon the ground, represent the original lines intended for the onveyance and are controlling for that conveyance survey".

After the survey of parcel "E" had been conducted in 1997, the fence along the South line of parcel "B" jogged to the North to reflected this overlap to accommodate that survey. Since that time this area had also become used as a driveway to enter Vanderlindens garage from the North side. Originally the garage had been accessed along a lane which ran Southerly along the line between parcels "B & C". Both Franklins and Vanderlindens realized that the area verlapping more than 40' into parcel "B" was needed by Vanderlindens to access the garage. So a quit claim deed will be prepared to convey title of this area

The area outside of the true sixteenth section lines as shown in this survey, that had been originally surveyed as a part of these parcels, cannot be considered land claimed by the occupants in this quarter - quarter section. See Boundary Control and Legal Principles 3rd Edition page 120, "A subdivider who subdivides

In this survey I have determined to use the same position as did the surveyor of 1997 for the Southeast corner of the Northwest quarter of the Northwest quarter. If better evidence is found in the future that would relocate this corner to another position, the interior boundaries will still remain as originally laid out. Also the description which I have prepared for the conveyance of parcel "J" has calls inserted within the writings for the lines to run to, and along the fences (monuments) as a controlling element over bearings and distances. See Boundary Control and Legal Principles 3rd Edition page 78, "Order of importance of conflicting title elements". Also, the South line of this quarter - quarter is shown on this plat to run along an old existing fence line which has been in place in excess of 62 years. So that even if the South line of this quarter - quarter is later determined to run a different course, the old fence may still very likely hold as a boundary line by operation of law. I have located the Northeast corner of this quarter - quarter section in a different position than Either of the other two previous surveyors. In correlation with the testimony of Calvin Horrocks who has lived in the area for 62 years, and occupies the quarter - quarter section to the East, and Lamar (Sandy) Richman who owned the subject quarter - quarter and the adjoining quarter - quarter section to ne North, and physical evidence on the ground of old fence lines as shown on this plat, I have placed the Northeast corner accordingly as noted hereon.

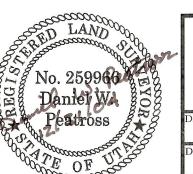
Where sequences of missing monuments occurred from the original surveys in 1986 and 1991, a traverse was calculated to the next original monument found, the resulting misclosure was adjusted out using the compass rule, giving adjusted measurements for the series of boundary lines within the area of missing monuments. Where an "(A)" is shown following a dimension along one of the boundary lines, the "(A)" is meant to represent the "actual" dimension of the line beginning from, and extending at its true limits. This means that it may run past its nominal terminal point at an original marker, to a enior line if found just beyond it. Or the line is cut short because the original line surveyed was beyond the exterior ownership lines of the original subdivider. The "(M)" shown following a dimension represents what was measured in this survey along the lines originally ran in the 1986, and 1991 surveys, wether it stopped short of a senior line, or ran beyond the true exterior boundaries of the original subdivider. The "(R)" shown following a dimension, and always aired with a measured dimension - (M), represents what is given in the record, or recited in the deed, which is also the measured results of the original surveys. I have provided legal descriptions above for those parcels that are being newly partitioned in this survey, or are having the boundary line moved to a new location, as well as a remainder description for those parcels that are having a portion of them taken out. The others I feel, are sufficient as they currently stand, being locatable by any competent surveyor, as long as the rules and principles above are honored.

The basis of bearings is along the West Section line between the West quarter corner and the Northwest Section corner, that bearing being

County Surveyor File# 1680

ATE DRAFTED:

I, Daniel W. Peatross, do hereby certify that I am a Registered Land Surveyor, and that I hold certificate No. 259966, as prescribed by the laws of the State of Utah. I further certify that I have made a survey of the tract of land as shown on this plat, and that the same is correct and true to the best of



REGISTERED SURVEYORS CORP.

61 EAST 300 NORTH, P.O. BOX 564, DUCHESNE, UTAH 84021

(435) 738-2718 D. PEATROSS SEPTEMBER 22, 23, 29, 2004

SEPTEMBER 23, 29, 2004 **BRUCE PEATROSS** TECHNICAL DRAFTING SERVICES

> ILE NAME: FRANKLIN

P.O. BOX 633, DUCHESNE, UTAH 84021 (435) 738-2089 D. PEATROSS, B. PEATROSS Friday 12/9/5 SEPTEMBER - OCTOBER