

Instrument # 985428
Bonner County, Sandpoint, Idaho
06/17/2021 12:08:23 PM No. of Pages: 9
Recorded for: BOCC
Michael W. Rosedale Fee: \$0.00
Ex-Officio Recorder Deputy *CB*
Index to: MISC



Resolution #2021-50

Planning

Right-Of-Way Vacation File #VS0006-21

RESOLUTION NO. 21- 50

**RIGHT-OF- WAY VACATION
FOR PORTIONS OF TERRY TRAIL
PLANNING DEPARTMENT FILE VS0006-21**

WHEREAS, Brock Parker filed a petition with Bonner County, Idaho for the vacation (abandonment) of that portion of right of way as the end of Terry Trail located in a portion Northwest ¼ of Section 13 Township 56 North Range 5 West, Boise Meridian, Bonner County, Idaho as described; and

WHEREAS, the Bonner County Board of Commissioners held a duly noticed public hearing for the vacation of that portion of right-of-way at the end of Terry Trail, located within the Northwest ¼ Section 13 Township 56 North Range 5 West, Boise Meridian, Bonner County, Idaho (Planning Department File #VS0006-21) on June 9, 2021, pursuant to the procedures of Idaho Code §40-203; and

WHEREAS, following the duly noticed public hearing, the Bonner County Board of Commissioners did adopt findings of fact and conclusions of law in support of the abandonment of the portion right-of-way at the end of Terry Trail within the portion Northwest ¼ of Section 13, Township 56 North, Range 5 West, Boise Meridian, Idaho, finding and concluding that:

Conclusion 1

This proposal was reviewed for compliance with the vacation criteria and standards set forth at Idaho Code, Title 40, Chapter 2, Highways and Bridges, General Provisions.

Conclusion 2

The abandonment of the public right-of-way is in the public interest.

Conclusion 3

By granting this petition for vacation of public right-of-way, real property adjoining the subject highway or public right-of-way will not be left without access to an established highway or public right-of-way.

Conclusion 4

The landowner or landowners abutting said right-of-way do have access to his, her, their property from some other public street, public right-of-way, or private road.

Conclusion 5

The public right-or-way has been opened or used by the public for a period of five years.

WHEREAS, the Board of Commissioners, pursuant to the petition dated June 9, 2021, agreed to vest the vacated area to the owners of the parcels through which the right-of-way traverses, shown of record to be Brock Parker

WHEREAS, pursuant to the Board's conditions of approval, the petitioners have paid all legal advertisement and recording costs for the vacation proceedings.

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners, Bonner County, Idaho, that portion of Terry Trail, located within of Section 13, Township 56 North, Range 5 West, Boise Meridian, Idaho, is hereby vacated.

BE IT FURTHER RESOLVED that all easements, franchise rights, appurtenances, or any other interests of any property owner or public utility in or across the property in question shall not be impaired by the granting of the vacation.

BE IT FURTHER RESOLVED that Bonner County does hereby grant, deed and convey the vacated right-of-way as described:

Commencing at the North Quarter Corner of said Section 13, which is a ½ inch Iron Pipe as shown in Corner Perpetuation Form by PLS No. 6019, recorded November 3, 2005, under Instrument No. 691298, CP & F records of Bonner County, Idaho.

Thence North 88°30'35" West along the North line of said Section 13, a distance of 951.24 feet to point on the easterly right of way of a 60 foot wide road. Said point lies South 88°30'35" East, 1556.77 feet distant from the calculated Northwest Corner of said Section 13 which falls within Priest River and is referenced by a 4 X 4' Concrete Monument, Witness Corner which falls North 88°30'35"W, a distance of 112.20 feet distant from said Section Corner, as shown on Corner Perpetuation Form by PLS No. 5087, recorded August 20, 1998, under Instrument No.529609, CP & F records of Bonner County, Idaho. Said point being the True Point of Beginning of this description;

Thence continuing North 88°30'35" West along said north line of said Section 13, a distance of 560.14 feet;

Thence South 01°22'33" East, 330.41 feet;

Thence South 88°31'42" East, 491.03 feet to the westerly right of way of said 60 foot wide road;

Thence North 00°11'57" East, along said westerly right of way, a distance of 30.01 feet

Thence South 88°31'42" East, a distance of 60.01 feet to said easterly right of way of said 60 foot wide road;

Thence North 00°11'57" East, along said easterly right of way, a distance of 299.89 feet to the Point of Beginning;

The area of the above described parcel contains approximately:
181,494 square feet or 4.17 acres.

The basis of bearing for this legal description is the NAD 83, Idaho West Zone, Transverse Mercator Coordinate Grid, from GPS observations.

ADOPTED as a Resolution of the Board of County Commissioners of Bonner County, Idaho, upon a majority vote on the 9th day of June 2021.

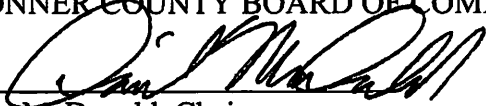
BONNER COUNTY BOARD OF COMMISSIONERS

Chairman: Dan McDonald Aye

Commissioner Jeff Connolly: —

Commissioner: Steve Bradshaw Aye


BONNER COUNTY BOARD OF COMMISSIONERS



Dan McDonald, Chairman

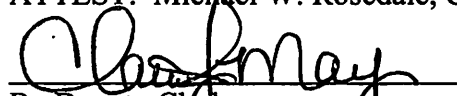
ABSENT

Jeff Connolly, Commissioner



Steve Bradshaw, Commissioner

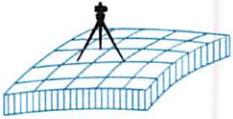
ATTEST: Michael W. Rosedale, Clerk



By Deputy Clerk

June 9, 2021
Date

Legal: Bulson



GLAHE & ASSOCIATES, Professional Land Surveyors

P.O. Box 1863
303 Church St., Ste. A
Sandpoint, ID 83864

Phone: (208) 265-4474
Fax: (208) 265-0675
Website: glaheinc.com

June 11, 2021

A portion of the Northwest Quarter of Section 13, Township 56 North, Range 5 West, Boise Meridian, Bonner County, Idaho, more particularly described as follows:

COMMENCING at the North Quarter Corner of said Section 13, which is a 1/2 inch Iron Pipe as shown on Corner Perpetuation Form by PLS No. 6019, recorded November 3, 2005, under Instrument No.691298, CP & F records of Bonner County, Idaho.

THENCE North 88°30'35" West along the North line of said Section 13, a distance of 951.24 feet to a point on the easterly right of way of a 60 foot wide road. Said point lies South 88°30'35" East, 1556.77 feet distant from the calculated Northwest Corner of said Section 13 which falls within Priest River and is referenced by a 4 x 4" Concrete Monument, Witness Corner which falls North 88°30'35"W, a distance of 112.20 feet distant from said Section Corner, as shown on Corner Perpetuation Form by PLS No. 5087, recorded August 20, 1998, under Instrument No.529609, CP & F records of Bonner County, Idaho. Said point being the **True Point of Beginning of this description;**

THENCE continuing North 88°30'35" West along said north line of said Section 13, a distance of 560.14 feet;

THENCE South 01°22'33" East, 330.41 feet;

THENCE South 88°31'42" East, 491.03 feet to the westerly right of way of said 60 foot wide road;

THENCE North 00°11'57" East, along said westerly right of way, a distance of 30.01feet;

THENCE South 88°31'42" East, a distance of 60.01feet to said easterly right of way of said 60 foot wide road;

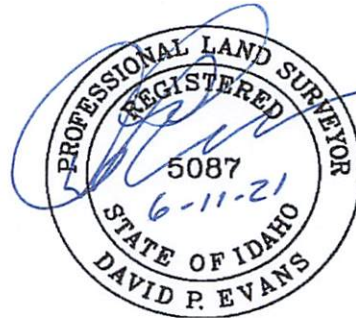
THENCE North 00°11'57" East, along said easterly right of way, a distance of 299.89 feet to the **Point of Beginning**;

The area of the above described parcel contains approximately:
181,494 square feet or 4.17 acres.

The basis of bearings for this legal description is the NAD 83, Idaho West Zone, Transverse Mercator Coordinate Grid, from GPS observations.



David P. Evans, PLS No. 5087



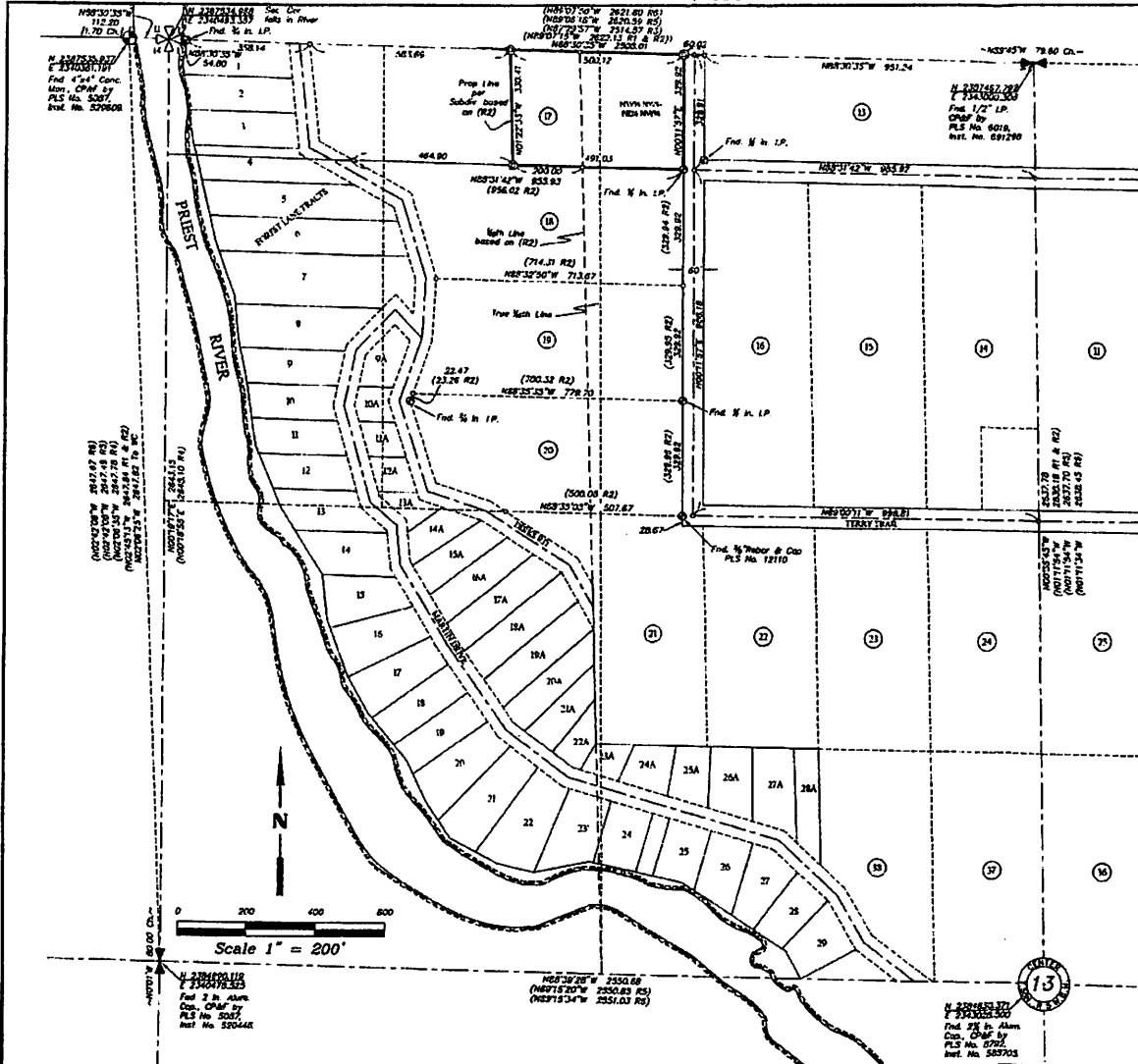
976501

RECORD OF SURVEY

IN SECTION 13, T. 56 N., R. 5W., B.M.,
BONNER COUNTY, IDAHO

NARRATIVE

The original survey of the East and West boundaries and partial subdivision of Township 56 North, Range 5 West, along with the boundary of Section 13 was performed by Ames D. Robinson and James F. Dike under Contract No. 144 in May of 1892. The remainder of the Township was surveyed by Herman E. Groden under contract No. 173 in August of 1896. In 1893 Robinson and Dike were unable to set the northwest corner of Section 13 because it fell in Priest River. They established witness corners on both sides of the river, marking a tree on the right bank at 1.70 ch. West of the Section Corner, and a post on the left bank at 2.00 ch. East of the Corner. In 1967, J. Paul Ramer, PLS No. 1799, subdivided Section 13 and plotted a portion of the Northwest Quarter (Forest Lane Tracts) along the left bank of Priest River. The plot shows that they found the witness corner on the right bank and without consideration of the G.O. assumed that to be the northwest corner of Section 13. Subsequently, a real estate development company known as "Reforestation, Inc.", who was known as a shady real-estate development company, created a plot encompassing the remainder of the north half and a portion of the southeast quarter of Section 13. This development was not recorded with the county but was surveyed and a map created of the tracts. I have no absolute confirmation that this plot was surveyed by Fred A. Hartman, PLS No. 744, but Fred Hartman, PLS No. 5019, in his ROS No. 497553 states that the survey was by Fred A. Hartman and Assoc., for Reforestation, December 10, 1969. His field work and computations appear to be very acceptable, except for the fact that Hartman continued to use the witness corner on the Section Corner. These tracts were all conveyed by aliquot part legal description, which was typical of Reforestation projects, regardless of whether or not a legitimate survey was actually performed. In 1966, James A. Sewall, PLS No. 773, surveyed Section 12 (R2) and reported the position of the Section Corner as calculated and a found concrete man, of the Witness Corner. In 1999 I did a survey for the Idaho Dept. of Transportation in Section 23 (R4), tied the witness corner and utilized James Sewall's position for the Section Corner which falls in the river. In 2003, Glen D. Cash Sr. did a survey in the Northwest Quarter of Section 13 (R5), utilizing the Section subdivision created by Sargent-Ramer & Assoc., for the plot of Forest Lane Tracts and perpetuated by Fred Hartman in the Reforestation survey. Glen Cash continued to refer to the Witness Corner as the Section Corner even though the original G.O. notes and plots are clear, and that surveys had been filed reporting this discrepancy. In 2008 Joshua A. Bagley, PLS No. 12110, did a survey in the Northwest Quarter of Section 13 (R6), utilizing the same erroneous Section subdivision, again pretending that the Witness corner is the Section Corner, again without being transparent as to the true position of the Section Corner. My contention is that it is the duty and responsibility of a Land Surveyor to report any and all discrepancies found in the course of the performance of a survey, especially when it involves a section corner. As a result, I am faced with subdivisional parcels that have been created by aliquot part with an erroneous breakdown of the Northwest Quarter of Section 13. My belief has always been that it is the duty of a Land Surveyor to place corners in the position that the legal description states, and that it is not the right of a Land Surveyor to decide whether or not *Uti res passat* due to circumstances of adverse possession or otherwise. Yet, in this particular case there are two interpretations of where the legal descriptions may fall. The orthodox position is that of the legal description the way it was written, by true aliquot part, utilizing the true Section Corner position, the other is that of the intent of not only the seller, but the surveyed, unrecorded plot itself. I have chosen to hold the latter. Even though the plot was never recorded, its presence and standing, along with the fact that other Land Surveyors have been using the unrecorded Reforestation plot appears to carry similar weight to the legal descriptions themselves. The main concern is that all of the legal descriptions in the Northwest Quarter, because they do not refer to specific Lot and Block Numbers, will remain in error until another solution is put forward. My suggestion to the land owners affected by this survey is that in order to repair the existing legal, a boundary line agreement with corrected legal descriptions should be recorded.



Instrument # 878301
 87/12/2011 11:21 AM 1 of 2 Pages 2
 10

DEEDS
 ND—Frances Terry to Brock Parker, Inst. No. 630181
 TD—First American Title to Patrick Keam, Inst. No. 576655.



NOTE:
 Coordinates shown
 are Grid Coordinates



1/4	Section	Range	Township
13	56	5	N
W			
E			

**SURVEY FOR
 BROCK W. PARKER**

GLAHE & ASSOCIATES
 PROFESSIONAL LAND SURVEYORS
 303 Church Street
 Sandpoint, Idaho 83864
 208-263-4474

Scale: 1 in. = 200 Ft.
 Checked By: TSW
 Drawn By: JPC
 Sheet: 2 of 2

976501

RECORD OF SURVEY

IN SECTION 13, T.56 N., R.5W., R.M.,
BONNER COUNTY, IDAHO

LEGEND

- Fnd Sec. Corner / 1/4 Sec. Corner (as noted)
- Calculated Section Corner position.
- Found Witness Corner (as noted)
- Found Monumentation (as noted)
- Set, 3/8" Rebar & Cap, marked "David P. Evans, PLS 5087"
- Calculated position (nothing set)
- Existing Fenceline

REFERENCES

- D&D- GLO per 1894 Plat by Robinson & D&E, Contract No. 144
- [B&D] GLO per 1898 Plat, Herman D. Gradon, Contract No. 173
- (R1) Plat of Forest Lane Tracts. L. Paul Ramer, PLS No. 1799, May 18, 1967.
- (R2) Reforestation Plat, Fred A. Hartman, PLS No. 744, Dec. 10, 1969
- (R3) ROS No. 325114, James A. Sewall, PLS No. 775, Sept. 28, 1985
- (R4) ROS No. 542180, David P. Evans, PLS No. 5087, March 30, 1999.
- (R5) ROS No. 629604, Glen D. Cash Sr., PLS No. 8792, July 22, 2003.
- (R6) ROS No. 744533, Joshua A. Bogley, PLS No. 12110, Jan. 16, 2008.

NOTE

This Survey makes no representation of ownership, nor attempts to show all easements of record or in view, nor physical features and improvements of the property.

METHOD OF SURVEY

The Control Survey was performed using TRIMBLE R-B, Dual Frequency GPS RECEIVERS and Data processed using MGS OPTIS and TRIMBLE BUSINESS CENTER SOFTWARE. The Survey was completed by RIN positioning and Conventional Traverse and Radial Tie techniques using a Total Station.

BASIS OF BEARINGS

Bearing Datum is Idaho Transverse Mercator Grid, West Zone, NAD 83. Derived From GPS Static observations with Trimble R-B, Dual Frequency Receivers. Coordinate Datum has a Combined State Plane and Sea Level Factor (CAF) of 1.0000750719 directly applied to Idaho Transverse Mercator, West Zone, NAD 83 coordinate datum in order to represent actual ground distances. Geodetic North is an angular rotation of 0°52'08" to the left at the West Quarter Corner of Section 13, T56N., R5W., B.M..

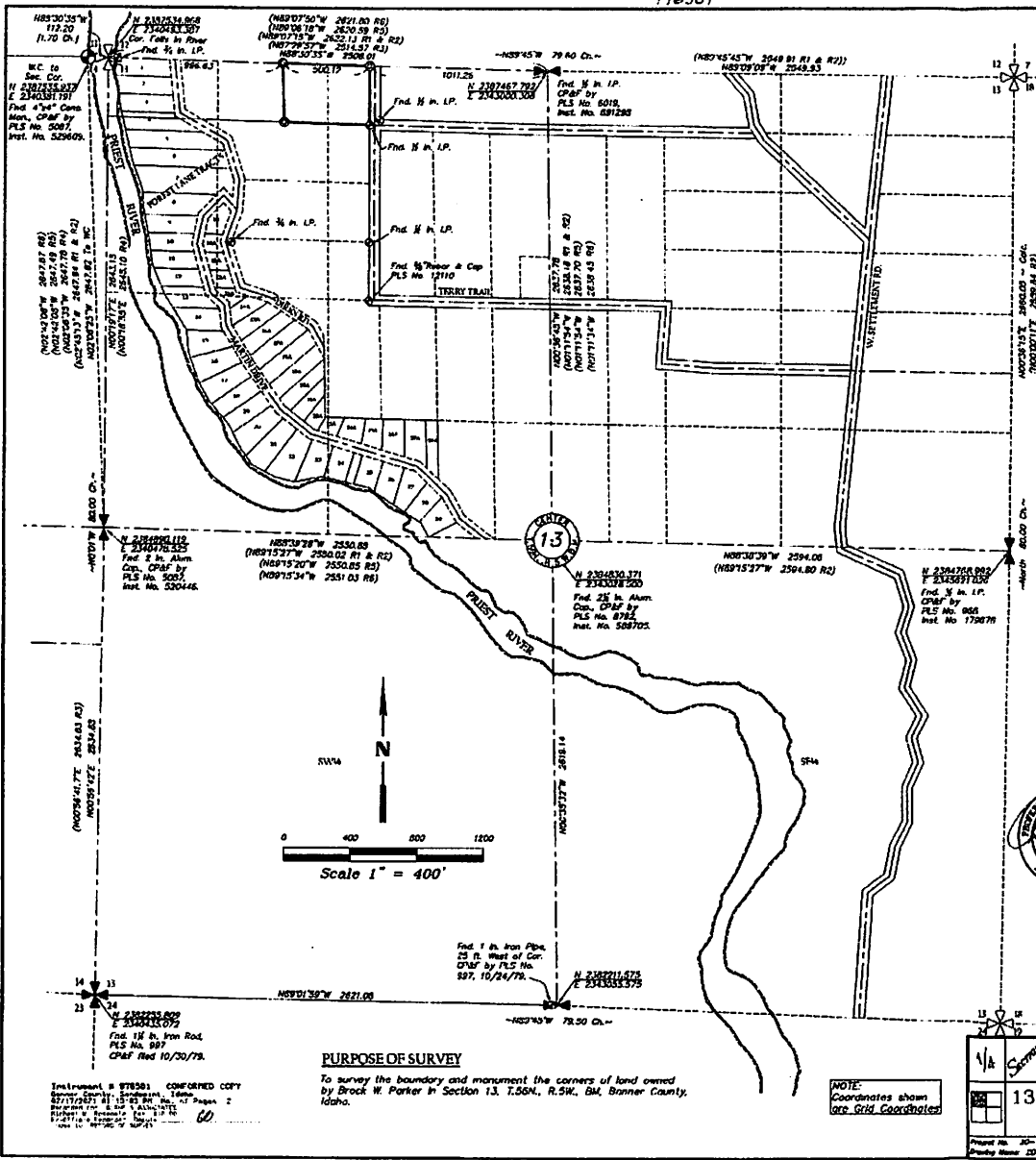
SURVEYOR'S CERTIFICATE

I, David P. Evans, P.L.S. 5087, State of Idaho, do hereby certify that this Record of Survey has been prepared by me or under my direction in conformance with Chapter 19, Title 55 of the Idaho Code and that the Map shown hereon is a true representation of a survey made by me during November, 2020.

RECORDER'S CERTIFICATE

Filed this 17th day of February, 2021, at 10:00 a.m.
at the request of Glane & Associates, Inc., as Instrument
No. 976501

H. Rosedale County Recorder
Cynthia Shanon Deputy



1/4	Section	56	Range	5
13		N	W	
Project No. 20-01 Brock Parker Property Name 20-01 Parker BCC Plot Date 2-10-21				

SURVEY FOR
BROCK W. PARKER.

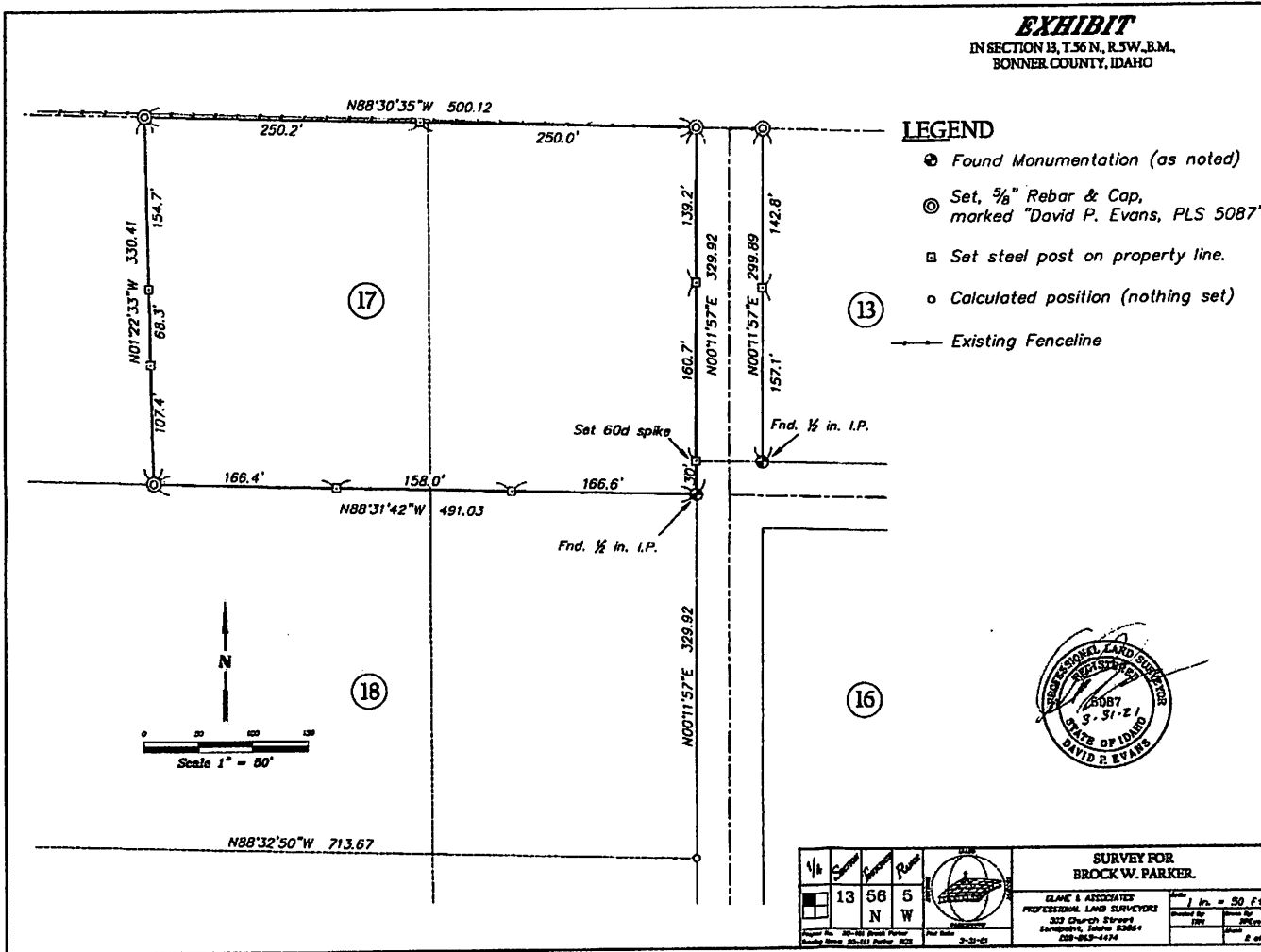
GLANE & ASSOCIATES
PROFESSIONAL LAND SURVEYORS
329 Church Street
Sandpoint, Idaho 83864
208-265-4474

Scale 1 in. = 400 Ft.
Checked By TRM
Drawn By DPC/evs
Sheet 1 of 2

EXHIBIT
 IN SECTION 13, T.56 N., R.5W., B.M.,
 BONNER COUNTY, IDAHO

LEGEND

- ⊕ Found Monumentation (as noted)
- ⊙ Set, 3/8" Rebar & Cap, marked "David P. Evans, PLS 5087"
- ⊠ Set steel post on property line.
- Calculated position (nothing set)
- Existing Fenceline



1/4	Section	Range	Township	SURVEY FOR BROCK W. PARKER	
13	56	5	56	DAVID P. EVANS PROFESSIONAL LAND SURVEYOR 307 Church Street Coeur d'Alene, Idaho 83814 CSP-262-4124	
N	N	W	W	Scale: 1" = 50'	
Project No. 20-161 Brock Parker Working Sheet: 20-161 Parker 025				Date: 9-21-01 Sheet: 2 of 2	