



# Planning Commission Staff Report

Meeting Date: September 5, 2023

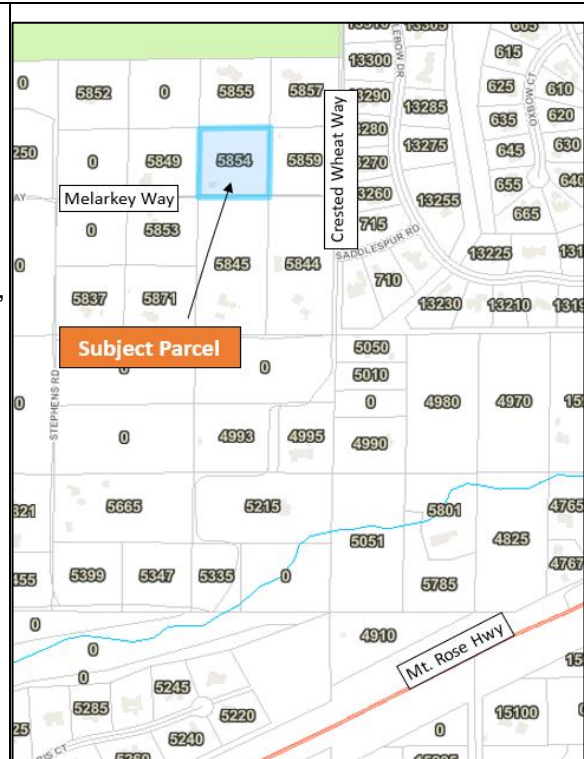
Agenda Item: 9A

ABANDONMENT CASE NUMBER:	WAB23-0002 (5854 Melarkey Abandonment)
BRIEF SUMMARY OF REQUEST:	To abandon a 22-foot-wide stretch of a government patent easement along the southern property line
STAFF PLANNER:	Courtney Weiche, Senior Planner Phone Number: 775.328.3608 E-mail: <a href="mailto:cweiche@washoecounty.gov">cweiche@washoecounty.gov</a>

## CASE DESCRIPTION

For hearing, discussion, and possible action to abandon Washoe County's interest in 220 square feet (a 10-foot-wide x 22-foot-long section) of a 33-foot-wide government patent easement along the southern boundary of the parcel at 5854 Melarkey Way (APN: 150-250-54).

Applicant/Property Owner:	Hershkowitz 2023 Living Trust, D & N
Location:	5854 Melarkey Way
APN:	150-250-54
Parcel Size:	2.5 acres
Master Plan:	Rural Residential
Regulatory Zone:	High Density Rural (HDR)
Area Plan:	Southwest Truckee Meadows
Development Code:	Authorized in Article 806, Vacations and Abandonments of Easements or Streets
Commission District:	2 – Commissioner Clark



**Vicinity Map**

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**STAFF RECOMMENDATION**

**APPROVE**

**APPROVE WITH CONDITIONS**

**DENY**

**POSSIBLE MOTION**

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission approve Abandonment Case Number WAB23-0002 for Hershkowitz 2023 Living Trust, D & N, with the conditions included as Exhibit A to this matter, having made all three findings in accordance with Washoe County Code Section 110.806.20.

*(Motion with Findings on Page 10)*

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**Abandonment Definition**

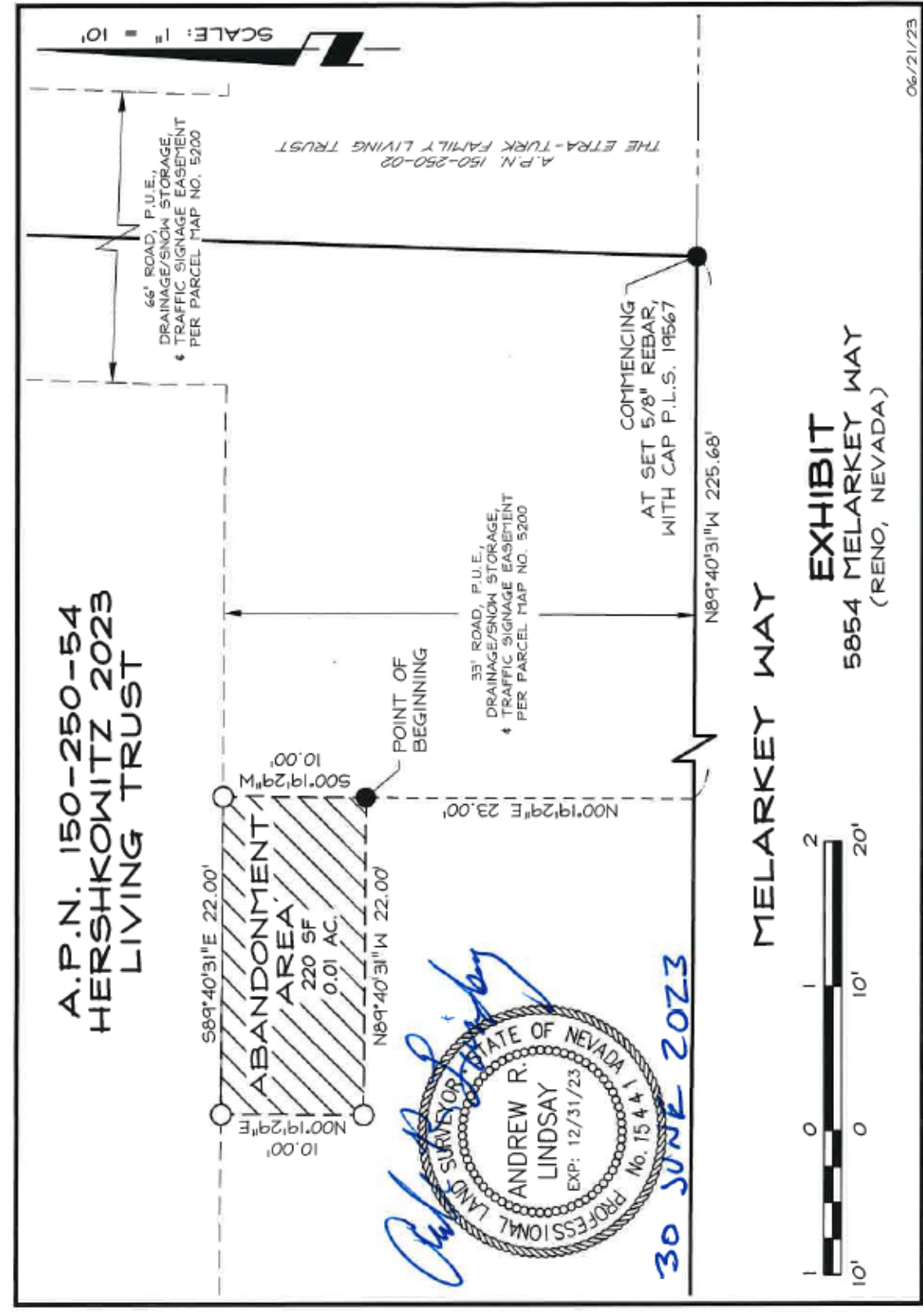
The purpose of an Abandonment is to allow for the vacation or abandonment of easements or streets. If the Planning Commission grants an approval of the Abandonment, that approval is subject to Conditions of Approval. Conditions of Approval are requirements that need to be completed prior to the recordation of the Resolution and Order of Abandonment.

The Resolution and Order of Abandonment is the legal record, prepared by the Engineering and Capital Projects Division which is recorded to complete the Abandonment process. The Engineering and Capital Projects Division completes a technical review of the legal description, exhibit maps and any new easements, submitted by the applicant's surveyor, that are required by the Conditions of Approval. When the Engineering and Capital Projects Division is satisfied that all Conditions of Approval have been met, then the Engineering and Capital Projects Division will record the Resolution and Order of Abandonment with the County Recorder. The Abandonment is complete upon the recordation of the Resolution and Order of Abandonment with the County Recorder.

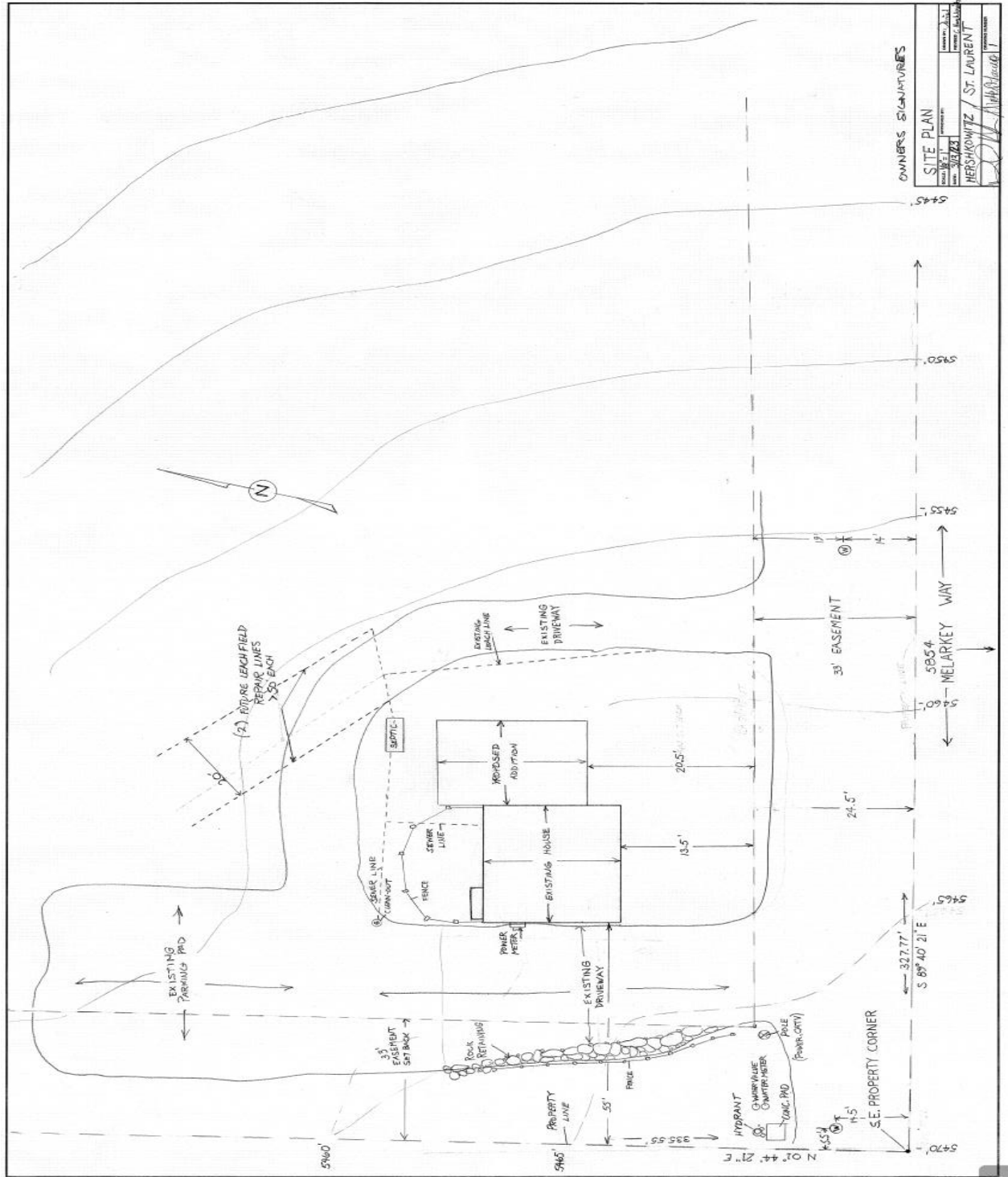
The Conditions of Approval for Abandonment Case Number WAB23-0002 are attached to this staff report and will be included with the Action Order if granted approval.

- All Conditions of Approval are required to be completed before the Abandonment can be recorded and finalized.
- The Abandonment will be effective after the approval of a Resolution and Order of Abandonment by the Engineering and Capital Projects Division and after the recordation of the Resolution and Order of Abandonment by the County Recorder.

The subject property has a regulatory zone of High Density Rural (HDR).



Site Plan



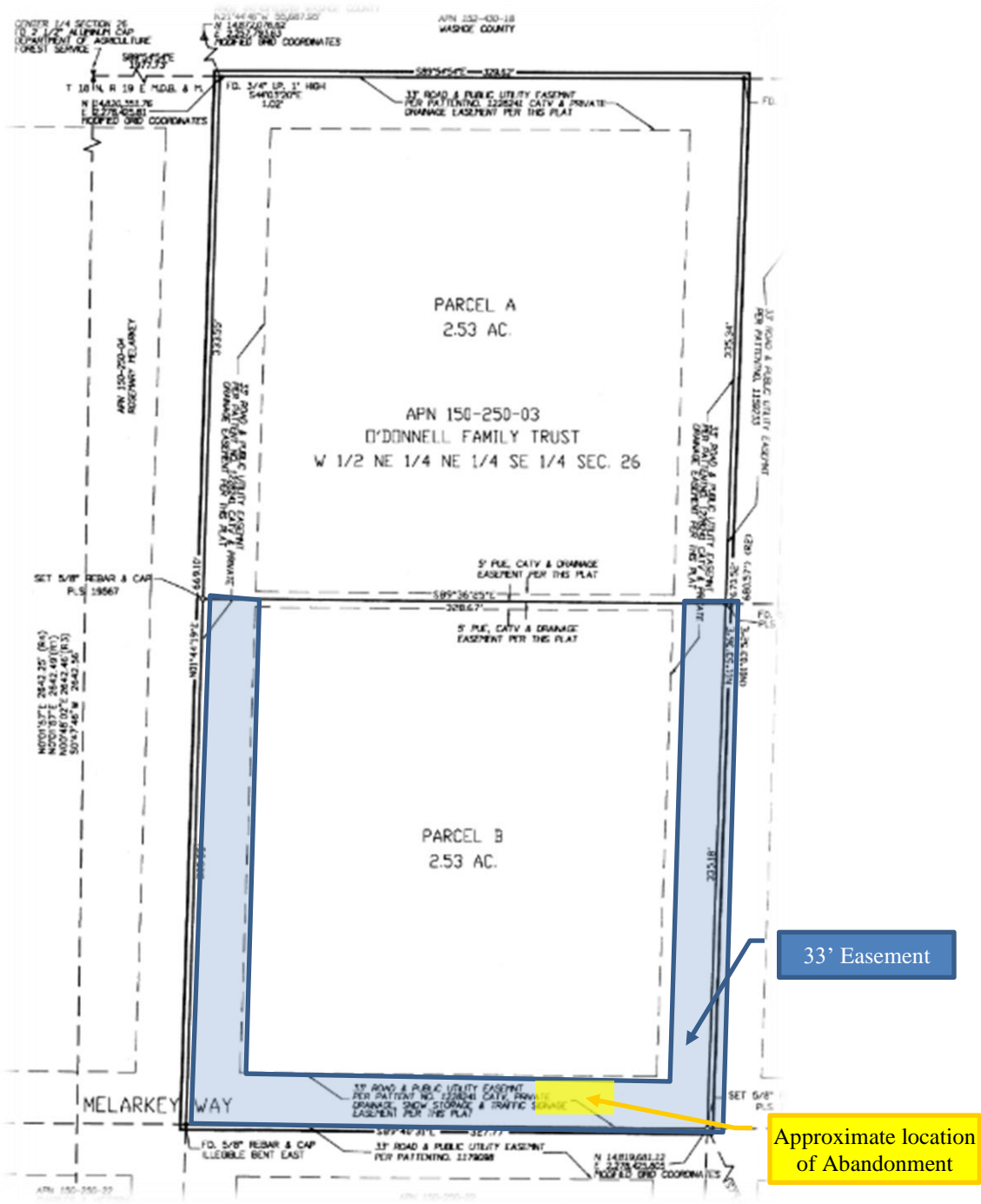
OWNER'S SIGNATURES	
SITE PLAN	DATE: 7/1/23
PROJECT: 5854 MELARKEY ABANDONMENT	DRAWN BY: ST. LAURENT
HEISHKOWITZ / ST. LAURENT	

**Proposed Addition Site Plan**

**Project Evaluation**

The applicant is seeking to abandon a section of a government patent access easement which is 22 feet wide by 10 feet in depth of the 33-foot-wide easement. The easement is located along the southern property line of the subject parcel. The area proposed to be abandoned is depicted on the site plan, on the page above, and is wholly within the applicant's property. The parcel is

bordered on three sides with 33-foot-wide easements along the south, east and west property lines, which were created by a government patent (see Parcel Map 5200, below).



The request is to remove 10' x 22' feet (220 square feet) from the 33-foot-wide easement to the south located along Melarkey Way. Areas outside of the proposed 220 square foot Abandonment will remain an easement. Melarkey Way will continue to provide roadway access for the subject parcel and surrounding parcels, see the Access Map below.



### Access Map

The applicant is requesting the Abandonment in order to be able to construct a garage in the southeast area of the parcel (see site plan on page 5). The parcel has a regulatory zone of high density rural (HDR), as do the parcels to the north, south, west and east. The HDR setbacks are 30 feet from the front and rear yards and 12 feet from the side yards. The requested Abandonment of 10 feet by 22 feet will allow the garage to be constructed in this location while still meeting setback requirements.

The Truckee Meadows Fire Protection District (TMFPD), Washoe County Health District and Engineering Division all stated they have no specific conditions for the requested Abandonment.

### Southwest Truckee Meadows Area Plan

The subject parcel is located within the Southwest Truckee Meadows Area Plan in the Timberline Wildland Transition Suburban Character Management Area. Staff was unable to find any relevant policies related to the abandonment of easements.

### Reviewing Agencies

The following agencies/individuals received a copy of the project application for review and evaluation.



Agencies	Sent to Review	Responded	Provided Conditions	Contact
NDOW (Wildlife)	X			
Washoe County Building & Safety	X			
Washoe County GIS	X			
Washoe County Parks & Open Space	X	X		
Washoe County Sewer	X			
Washoe County Surveyor (PMs Only)	X			
Washoe County Traffic	X			
Washoe County Water Resource Planning	X	X		
Washoe County Water Rights Manager (All Apps)	X	X		
Washoe County Engineering (Land Development) (All Apps)	X	X		
WCHD Air Quality	X			
WCHD Environmental Health	X	X		
TMFPD	X	X		
Truckee Meadows Regional Planning	X			
AT&T	X			
NV Energy	X			
Truckee Meadows Water Authority	X	X		

All conditions required by the contacted agencies can be found in Exhibit A, Conditions of Approval.

**Staff Comment on Required Findings**

WCC Section 110.806.20 requires that all of the following findings be made to the satisfaction of the Washoe County Planning Commission before granting approval of the Abandonment request. Staff has completed an analysis of the application and has determined that the proposal is in compliance with the required findings as follows.

- (a) Master Plan. The abandonment or vacation is consistent with the policies, action programs, standards and maps of the Master Plan and the Southwest Truckee Meadows Area Plan.

*Staff Comments: The proposed Abandonment does not affect any standards of either the Master Plan or the Southwest Truckee Meadows Area Plan. Staff has not found any applicable policies, action programs, standards or maps in either the Master Plan or Southwest Truckee Meadows Area Plan related to this Abandonment request.*

- (b) No Detriment. The abandonment or vacation does not result in a material injury to the public.

*Staff Comments: The request was submitted to all relevant agencies and departments for review and Conditions of Approval are included with the staff report as Exhibit A. The*

*request proposes to abandon 10 feet by 20 feet of a 33-foot-wide right-of-way easement located along the southern property line of the subject parcel. The remaining portion of the roadway will remain in the easement. Property owners in the area will continue to have access to their properties and roadways will be preserved.*

- (c) Existing Easements. Existing public utility easements in the area to be abandoned or vacated can be reasonably relocated to provide similar or enhanced service.

Staff Comments: Washoe County Engineering, AT&T, NV Energy and Truckee Meadows Water Authority (TMWA) were sent the project description and application for evaluation and no Conditions of Approval were proposed and no objection to the request was received.

### **Recommendation**

After a thorough analysis and review, Abandonment Case Number WAB23-0002 is being recommended for approval with conditions. Staff offers the following motion for the Commission's consideration.

### **Motion**

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission approve Abandonment Case Number WAB23-0002 for Hershkowitz 2023 Living Trust, D & N, with the conditions included as Exhibit A to this matter, having made all three findings in accordance with Washoe County Code Section 110.806.20.

- (a) Master Plan. The abandonment or vacation is consistent with the policies, action programs, standards and maps of the Master Plan and the Southwest Truckee Meadows Area Plan; and
- (b) No Detriment. The abandonment or vacation does not result in a material injury to the public; and
- (c) Existing Easements. Existing public utility easements in the area to be abandoned or vacated can be reasonably relocated to provide similar or enhanced service.

### **Appeal Process**

Planning Commission action will be effective 10 calendar days after the written decision is filed with the Secretary to the Planning Commission and mailed to the applicant(s), unless the action is appealed to the Washoe County Board of County Commissioners, in which case the outcome of the appeal shall be determined by the Washoe County Board of County Commissioners. Any appeal must be filed in writing with the Planning and Building Division within 10 calendar days from the date the written decision is filed with the Secretary to the Planning Commission and mailed to the applicant(s).

Applicant/Owner: Daniel C. Hershkowitz, dch@kalickicollier.com



# Conditions of Approval

Abandonment Case Number WAB23-0002

The project approved under Abandonment Case Number WAB23-0002 shall be carried out in accordance with the conditions of approval granted by the Planning Commission on August 1, 2023. Conditions of approval are requirements placed on a permit or development by each reviewing agency. These conditions of approval may require submittal of documents, applications, fees, inspections, amendments to plans, and more. These conditions do not relieve the applicant of the obligation to obtain any other approvals and licenses from relevant authorities required under any other act or to abide by all other generally applicable Codes, and neither these conditions nor the approval by the County of this project/use override or negate any other applicable restrictions on uses or development on the property. Furthermore, to the extent that Washoe County does not own the easements in question, it cannot abandon them. Therefore, this request is in effect a “quitclaim” by the County of whatever interest it might have in the easements in favor of the owners who applied for the abandonment. Nothing in this abandonment should be construed as an assertion by the County of ownership over the easements in question. To the extent other property owners nearby or other entities might have any ownership interests in these easements, this abandonment does not affect those interests and the property owners associated with this abandonment are responsible for utilizing whatever legal mechanisms are necessary to address those interests on their own.

**Unless otherwise specified**, all conditions related to the approval of this Abandonment shall be met prior to recordation of the Resolution and Order of Abandonment. Prior to recordation of the Resolution and Order of Abandonment, each agency shall determine when compliance of their specific conditions is met by the applicant as set forth in the Conditions of Approval. All agreements, easements, or other documentation required by these conditions shall have a copy filed with the County Engineer and the Community Services Department – Planning and Building Division.

Compliance with the conditions of approval related to this abandonment is the responsibility of the applicant, his/her successor in interest, and all owners, assignees, and occupants of the property and their successors in interest. All conditions of approval must be met prior to the Engineering and Capital Projects Division recording the required Resolution and Order of Abandonment.

For the purpose of conditions imposed by Washoe County, “may” is permissive and “shall” or “must” is mandatory.

- All conditions of approval are required to be completed before the Abandonment can be recorded and finalized.
- The abandonment will be effective after the approval of a Resolution and Order of Abandonment by the Engineering and Capital Projects and after the recordation of the Resolution and Order of Abandonment by the County Recorder.

FOLLOWING ARE CONDITIONS OF APPROVAL REQUIRED BY THE REVIEWING AGENCIES. EACH CONDITION MUST BE MET TO THE SATISFACTION OF THE ISSUING AGENCY.

## **Washoe County Planning and Building Division**

1. The following conditions are requirements of CSD – Planning and Building Division, which shall be responsible for determining compliance with these conditions.

**Contact Name – Courtney Weiche, Senior Planner, 775.328.3608,  
cweiche@washoecounty.gov**

- a. **The applicant shall attach a copy of the action order approving this project to all permits and applications (including building permits) applied for as part of this abandonment.**
- b. The applicant shall demonstrate substantial conformance to the plans approved as part of this abandonment action. The County Engineer shall determine compliance with this condition.
- c. This Abandonment will be effective upon recordation of the Resolution and Order of Abandonment by the County Recorder.

\*\*\* End of Conditions \*\*\*

Date: July 6, 2023

To: Courtney Weiche, Senior Planner, Planning and Building Division  
From: Robert Wimer, P.E., Engineering and Capital Projects Division  
Re: Abandonment Case **WAB23-0002**

**GENERAL PROJECT DISCUSSION**

Washoe County Engineering and Capital Project staff has reviewed the above referenced application. The application is for the abandonment of a 10-foot by 20-foot portion of the access easement along the southern border of the subject parcel. The Engineering and Capital Projects Division recommends approval.

**From:** [Way, Dale](#)  
**To:** [Weiche, Courtney](#)  
**Cc:** [Lemon, Brittany](#)  
**Subject:** WAB23-0002 (5854 Melarkey Way) - Conditions of Approval  
**Date:** Tuesday, May 16, 2023 12:22:10 PM

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Courtney,

TMFPD has no specific conditions of approval to this Abandonment Request.

Thank you.

**Dale Way**

**Deputy Fire Chief – Fire Prevention | Truckee Meadows Fire & Rescue**

[dway@tmfpd.us](mailto:dway@tmfpd.us) | Office: 775.326.6000

3663 Barron Wy, Reno, NV 89511



*"Committed to excellence, service, and the protection of life and property in our community"*

**WASHOE COUNTY  
HEALTH DISTRICT**  
ENHANCING QUALITY OF LIFE

May 30, 2023

Washoe County Community Services  
Planning and Development Division

RE: 5854 Melarkey Way; 150-250-54  
Abandonment Case; WAB23-0002

Dear Washoe County Staff:

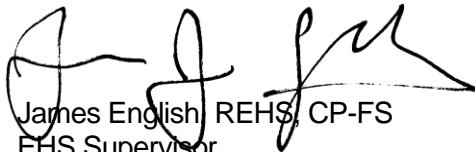
The following conditions are requirements of the Washoe County Health District, Environmental Health Services Division, (WCHD), which shall be responsible for determining compliance with these conditions.

**Contact Name – James English - [jenglish@washoecounty.us](mailto:jenglish@washoecounty.us)**

- a) Condition #1: The WCHD has reviewed the above referenced application and has no issues with the proposed application.
- b) Condition #2: If the project is approved as submitted, all future plans and development of the parcel must be reviewed and approved by the WCHD.

If you have any questions or would like clarification regarding the foregoing, please contact James English, EHS Supervisor at [jenglish@washoecounty.us](mailto:jenglish@washoecounty.us) regarding all Health District comments.

Sincerely,



James English, REHS, CP-FS  
EHS Supervisor  
Environmental Health Services  
Washoe County Health District



## Weiche, Courtney

---

**From:** Steve Shell <sshell@water.nv.gov>  
**Sent:** Thursday, May 18, 2023 9:25 AM  
**To:** Weiche, Courtney  
**Subject:** WAB23-0002, WRZA23-0007, WTM21-012

[NOTICE: This message originated outside of Washoe County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

The Division of Water Resources has no comment.

WTM21-012:

There are no active water rights on the subject property.

The subject properties lie within the Incline Village General Improvement District service area.

Any water used on the described lands should be provided by an established utility or under permit issued by the State Engineer's Office.

As of June 1, 2021, the Office of the State Engineer is open to the public. Please call 684-2800 upon arrival and a representative will come down to escort you to our office.

### Steve Shell

Water Rights Specialist II  
Department of Conservation and Natural Resources  
Nevada Division of Water Resources  
901 S. Stewart St., Suite 2002  
Carson City, NV 89701  
[sshell@water.nv.gov](mailto:sshell@water.nv.gov)  
(O) 775-684-2836 | (F) 775-684-2811



NEVADA DIVISION  
OF WATER RESOURCES



Nevada Department of  
**CONSERVATION &  
NATURAL RESOURCES**

Connect with us:





**From:** [Pekar, Faye-Marie L.](#)  
**To:** [Weiche, Courtney](#)  
**Subject:** May Agency Reviews Memo II WAB23-0002 (5854 Melarkey Way)  
**Date:** Tuesday, May 30, 2023 9:10:34 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

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Good Morning Courtney,

I have reviewed WAB23-0002 (5854 Melarkey Way) and do not have any comments from Parks.

Thank you,



**Faye-Marie L. Pekar, MPA**  
**Park Planner, Planning & Building Division | Community Services Department**  
[fpekar@washoecounty.gov](mailto:fpekar@washoecounty.gov) |

Visit us first online: [www.washoecounty.gov/csd](http://www.washoecounty.gov/csd)  
Planning Division: 775.328.6100 | [Planning@washoecounty.gov](mailto:Planning@washoecounty.gov)  
CSD Office Hours: Monday-Friday 8:00am to 4:00pm  
1001 East Ninth Street, Reno, NV 89512



Have some kudos to share about a Community Services Department employee or experience?  
Submit a nomination for a Washoe Star by clicking this link: [WASHOE STAR](#)

May 24, 2023

TO: Courtney Weiche, Senior Planner, CSD, Planning & Development Division

FROM: Timber Weiss, Licensed Engineer, CSD

SUBJECT: Abandonment Case Number WAB23-0002 (5854 Melarkey Way)

**Project description:**

The applicant is proposing to approve an abandonment for a 10 foot by 20-foot portion of the 33 feet public utility easement per Document #367505.

Location: 5854 Melarkey Way, APN: 150-250-54

*The Community Services Department (CSD) recommends approval of this project with the following Water Rights conditions:*

No water rights comments for this.

**Public Notice**

Washoe County Code requires that public notification for an abandonment must be mailed to abutting property owners of the subject property a minimum of 10 days prior to the public hearing date. A notice setting forth the time, place, purpose of hearing, a description of the request and the land involved was sent to a total of 9 separate property owners who were noticed a minimum of 10 days prior to the public hearing date.



**Public Notice Map**

**Case Number WAB23-0002**

## Washoe County Development Application

Your entire application is a public record. If you have a concern about releasing personal information, please contact Planning and Building staff at 775.328.6100.

<b>Project Information</b>		Staff Assigned Case No.: _____	
Project Name: <b>Permit WBLD22-102499: 5854 Melarkey Way Addition</b>			
Project Description: Permit WBLD22-102499: 5854 Melarkey Way: Abandon/vacate a 10 foot by 20 foot portion of the 33' Road, P.U.E., and Drainage Easement on the south side of the property to comply with the 30' front yard setback requirement. the owners' are requesting a 7 foot abandonment to accommodate the three room addition and expansion of the existing bathroom as currently planned for.			
Project Address: 5854 Melarkey Way, Reno, Nevada 89511 (APN: 150-250-54)			
Project Area (acres or square feet): Existing Structure: 702 square feet; Addition: 520 square feet; Total Project Area: 1,222 square feet.			
Project Location (with point of reference to major cross streets AND area locator): <b>Southwest portion of the property (abutting Melarkey Way)</b>			
Assessor's Parcel No.(s):	Parcel Acreage:	Assessor's Parcel No.(s):	Parcel Acreage:
150-250-54	2.53		
Indicate any previous Washoe County approvals associated with this application: Case No.(s). Permit WBLD22-102499: 5854 Melarkey Way Addition. Issued April 12, 2018			
<b>Applicant Information (attach additional sheets if necessary)</b>			
<b>Property Owner:</b>		<b>Professional Consultant:</b>	
Name: Daniel C. Hershkowitz & Nicole A. St Laurent		Name:	
Address: 5854 Melarkey Way, Reno Nevada		Address:	
Zip: 89511		Zip:	
Phone: 7755442451 Fax:		Phone: Fax:	
Email: dch@kalickicollier.com		Email:	
Cell: Other: 92585879		Cell: Other:	
Contact Person:		Contact Person:	
<b>Applicant/Developer:</b>		<b>Other Persons to be Contacted:</b>	
Name: Daniel C. Hershkowitz		Name:	
Address: See above		Address:	
Zip:		Zip:	
Phone: Fax:		Phone: Fax:	
Email:		Email:	
Cell: Other:		Cell: Other:	
Contact Person:		Contact Person:	
<b>For Office Use Only</b>			
Date Received: Initial:		Planning Area:	
County Commission District:		Master Plan Designation(s):	
CAB(s):		Regulatory Zoning(s):	

**Abandonment Application  
Supplemental Information**  
(All required information may be separately attached)

1. What and where is the abandonment that is being requested?

Please see the attached Supplemental Information Document attached to this Abandonment Application as Exhibit 1.

2. On which map or document (please include with application) is the easement or right-of-way first referenced?

Please see the attached Supplemental Information Document attached to this Abandonment Application as Exhibit 1.

3. What is the proposed use for the vacated area?

Please see the attached Supplemental Information Document attached to this Abandonment Application as Exhibit 1.

4. What replacement easements are proposed for any to be abandoned?

Please see the attached Supplemental Information Document attached to this Abandonment Application as Exhibit 1.

5. What factors exist or will be employed to prevent the proposed abandonment from resulting in significant damage or discrimination to other property in the vicinity?

Please see the attached Supplemental Information Document attached to this Abandonment Application as Exhibit 1.

6. Are there any restrictive covenants, recorded conditions, or deed restrictions (CC&Rs) that apply to the area subject to the abandonment request? (If so, please attach a copy.)

* Yes	* No X
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**IMPORTANT**

**NOTICE REGARDING ABANDONMENTS:**

To the extent that Washoe County does not own the easements in question, it cannot abandon them. Therefore, an abandonment request is in effect a “quitclaim” by the County of whatever interest it might have in the easements in favor of the owners who applied for the abandonment. For example, if the abandonment is approved by Washoe County and recorded, it will likely affect the allowable building envelope on the property, to the benefit of the applicant. However, even if the abandonment is approved, it should not be construed as an assertion by the County of ownership over the easements in question. To the extent other property owners nearby or other entities might have any ownership interests in these easements, an approved abandonment by the County does not affect those interests and the property owners associated with this abandonment are responsible for utilizing whatever legal mechanisms are necessary to address those interests on their own.

# **EXHIBIT 1**

# **EXHIBIT 1**

**WBLD22-102499, 5854 MELARKEY WAY, RENO, NEVADA 89511: ABANDONMENT  
APPLICATION SUPPLEMENTAL INFORMATION**

1. *What and where is the abandonment that is being requested?*

The owners, Daniel C. Hershkowitz and Nicole A. St. Laurent (hereinafter the "Owners") are requesting a 10-foot in width by 20-foot in length abandonment/vacation of the 33' Road, P.U.E., and Drainage Easement (hereinafter the "Easement") that runs east to west on the south end of the property to comply with front yard setback requirements, Article 406: Building Placement Standards, Sections 110.406.05: General; and Table 110.406.05.01: Standards, Part Three: Yard and Setback Dimensions (30-foot front yard setback) (hereinafter the "Abandonment").

2. *On which map or document (please include with application) is the easement or right of way referenced?*

Recording No.: Book G, Page 223, as Document No.: 367505, Official Records, recorded on September 17, 1962. Please find a copy of the same attached hereto as Exhibit 2.

3. *What is the proposed use for the vacated area?*

The proposed use and purpose of the abandoned/vacated area is to comply with the Washoe County Development Code, Article 406: Building Placement Standards, Sections 110.406.05: General; and Table 110.406.05.01: Standards, Part Three: Yard and Setback Dimensions' requirements for front yard setbacks (30-foot front yard setback) to construct an addition to the existing residential structure.

4. *What replacement easements are proposed for any to be abandoned?*

The owners have not proposed any replacement easements for the following reasons:

- A) The abutting property, 5845 Rock Farm Road, Reno, NV 89511 (APN: 150-250-22) also maintains an identical 33' Road, P.U.E., and Drainage Easement that runs adjacent to the Easement allowing for additional road/street space if need be (over 56 feet of total available road space even when the Abandonment is approved);
- B) Almost the entirety of Melarkey Way (the street that runs west and east for neighborhood ingress and egress) is on the Easement and Owners' property, 5854 Melarkey Way, which almost exclusively burdens the Easement and Owners' property, 5854 Melarkey Way;
- C) The Owners are requesting as minimal of an abandonment as possible while satisfying the 30-foot front yard setback requirements, which is a 10-foot by 20-foot Abandonment; and

D) The total width of the road would still be well over 30 feet when the Abandonment is approved.

5. *What factors exist or will be employed to prevent the proposed abandonment from resulting in significant damage or discrimination to other propert[ies] in the vicinity?*

There are no factors will cause any damage or discrimination to other properties. The Owners have requested their neighbors to be present at the Neighborhood Meeting /Public Hearing personally in addition the 10-Day Notice requirement, so that they can confirm the same.

Even when the Abandonment is approved, the width of the road will still be well over 30 feet, which is 6 feet more than is required for ingress and egress to service 8 -10 lots in the vicinity.

The Abandonment would actually benefit the properties in the vicinity. The road, Melarkey Way, is unmaintained by Washoe County or the City of Reno. The Owners have and will continue to maintain their portion of the road by:

- A) Removing snow from the road and storing the same;
- B) Clear debris, rocks, and brush;
- C) Mitigate erosion; and
- D) Maintain as smooth a road surface as possible for public ingress and egress.

This has increased pedestrian and bicycle traffic (safer road conditions), and made the access for emergency vehicles and personnel, waste management, and utility companies' much easier and safer. The Addition complies with the IWUIC requirements, which makes the structure as a whole, less of a fire risk and safer to the surrounding area (materials used, defensible space, etc.).

Further, the Owners' property, 5854 Melarkey Way, is the most burdened and discriminated property among abutting properties. Almost the entirety of Melarkey Way (the street that runs west and east for neighborhood ingress and egress) is on the Easement and the Owners' property, 5854 Melarkey Way, which almost exclusively burdens and discriminates against the Easement and Owners' property, 5854 Melarkey Way. In addition to the 33' Road, PUE, and Drainage Easements on the West, South, and East side of the Owners' property, another easement was recorded on July 12, 1994, burdening the Owners' property (servient estate) for the benefit of 5855 Melarkey Way, (APN: 150-250-53), and 5853 Melarkey Way (APN: 150-250-01) (dominant estate). Please find a copy of the same attached hereto as Exhibit 3.



# **EXHIBIT 2**

# **EXHIBIT 2**

Nevada 052350

# The United States of America,

323

To all whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Land Office at Reno, Nevada, has been issued showing that full payment has been made by the claimant Marjorie I. Cocks pursuant to the provisions of the Act of Congress approved June 1, 1938 (52 Stat. 609), entitled "An Act to provide for the purchase of public lands for home and other sites," and the acts supplemental thereto, for the following-described land:

Mount Diablo Meridian, Nevada.

T. 18 N., R. 19 E.,

Sec. 26, W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ .

The area described contains 5.00 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said claimant and to the heirs of the said claimant the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States. Excepting and reserving, also, to the United States all oil, gas and other mineral deposits, in the land so patented, together with the right to prospect for, mine, and remove the same according to the provisions of said Act of June 1, 1938. This patent is subject to a right-of-way not exceeding 33 feet in width, for roadway and public utilities purposes, to be located along the boundaries of said land.

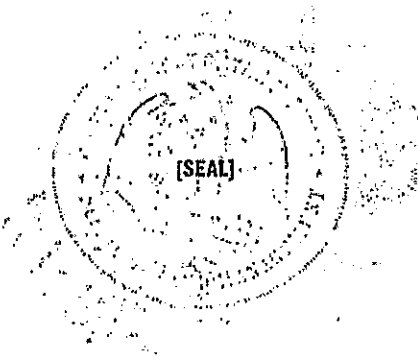
Subject to such rights for telephone line purposes as the Bell Telephone Company of Nevada may have under the Act of March 4, 1911 (36 Stat. 1253) as amended (43 U.S.C. Sec. 961).

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in the District of Columbia, the TWENTY-FIRST day of AUGUST in the year of our Lord one thousand nine hundred and SIXTY-TWO and of the Independence of the United States the one hundred and EIGHTY-SEVENTH.

For the Director, Bureau of Land Management.

By Elizabeth B. Duck  
Acting Chief, Patents Section.



Patent Number 1228241

H-76804-M

224

DOCUMENT No. 7505

PIONEER TITLE INSURANCE CO.  
OF NEVADA

Filed for record at the request of.....

SEP 17, 1962 at ..... Minutes past 9 o'clock 11 M.

Recorded in Book 9 of LAND PATENTS

Page 223 Records of Washoe County, Nevada

Fee: \$ 1.75

County Recorder  
By *[Signature]* Deputy

COPY

# **EXHIBIT 3**

# **EXHIBIT 3**

1818322

After recording mail to:

Redfield Land Company  
1755 East Plumb Lane, Suite 212  
P. O. Box 61  
Reno, NV 89504

EASEMENT

This Easement is made this 12th day of July, 1994 by and between TMS Associates, a limited partnership ("TMS") and Betty Alyce Jones, Helen Jeanne Jones, Iris G. Brewerton, Kenneth G. Walker and Gerald C. Smith, surviving trustees of the Nell J. Redfield Trust (collectively referred to herein as the "Trust").

RECITALS:

This Easement is made with reference to the following facts:

1. On or about July 1, 1980 Nell J. Redfield and TMS Associates entered into an agreement wherein TMS would provide to Redfield the location of an easement over a portion of the properties owned by TMS more particularly described in Exhibit "A" attached hereto (the "TMS Property") for use in conjunction with certain real property then owned by Ms. Redfield.
2. The Trust, successor-in-interest of Nell J. Redfield, owns that certain real property described in Exhibit "B" (the "Trust Property") and wishes to obtain an easement for the purposes described hereinafter.

NOW THEREFORE, it is hereby agreed between the parties as follows:

A. Easement Over The Easement Property.

1. Grant of Easement: TMS hereby grants to the Trust, for the benefit of the Trust Property and the mortgagees, holders of security interest, tenants, lessees, sublessees, employees and agents of the Trust an easement for the ingress and egress of vehicles to the Trust Property over that portion of the TMS Property described on Exhibit "C" attached hereto (hereinafter the "Easement Property").

2. Purpose of Easement: The easement granted hereby shall be for the purpose of allowing the ingress and egress of vehicles from Zolezzi Lane to the Trust Property and providing for underground utilities.

BK4114PG0118

BK 4 114 PG 0119

B. Non-Exclusive Easement. This Easement is non-exclusive and may be used by TMS, its mortgagees, holders of security interest, tenants, lessees, sub-lessees, grantees, employees, agents, licensees, visitors and invitees for any purpose, including general unrestricted access to the TMS Property. TMS may, at TMS's sole discretion, pave the road constructed on the Easement Property (the "Road"), widen it and move it to another location on the TMS Property so long as access is still provided to the Trust Property to the satisfaction of Washoe County and the Nevada Division of Forestry. TMS may, at TMS's sole discretion, relocate the roadway and utilities, if so placed within the Easement Property, with the consent of the Trust which consent will not be unreasonably withheld. The Trust agrees to provide TMS with no less than sixty days notice prior to the placement of any utilities within the Easement Property. The Trust agrees to withhold any and all objections to TMS tying into utilities placed within the Easement Property. TMS agrees to fund its proportionate share of the utility construction cost if TMS ties into the utilities placed within the Easement Property.

C. Road Design; Bridges. The Road shall be constructed at the expense of the Trust and/or the County of Washoe and under no circumstances at the expense of TMS. The Road design, method of construction, any bridges constructed thereon, culverts and all other matters in connection with the design and construction of the Road on the Easement Property must comply with all ordinances and requirements of all governmental agencies for such a road and must be approved by TMS, which approval shall not be unreasonably withheld.

D. Maintenance. The Trust shall maintain the Road at all times, all culverts and bridges constructed thereon or associated therewith and all slopes and shall grade the Road, keep it free of debris and vegetation and keep it passable at all times as shall be reasonably required and approved by TMS and in conformance with all regulations of Washoe County.

E. Easement Runs With The Land. The easement granted hereby shall run with the land, benefit the Trust Property, burden the TMS Property and shall bind and inure to the benefit of the respective heirs, executors, administrators, successors and assigns of both TMS and the Trust in ownership of their respective properties described herein. Neither the benefits nor the burdens of the easement granted hereby shall run with any other land or to the benefit of any other entity or person whatsoever. No other person or entity is intended to nor shall any such person or entity be the beneficiary of any provision of this document.

F. Indemnity. The Trust shall indemnify and hold TMS harmless from any liability, claims, causes of action, damages or costs, including attorneys fees, which TMS may incur in connection with or relative to the easement granted hereby and to the

construction, use and maintenance of the Road, arising from any act or failure to act, except the intentional act, failure to act or negligence of TMS. The Trust shall protect, indemnify and hold harmless TMS, its partners, officers, agents, employees, attorneys, successors and assigns from and against any loss, damage, claim, expense or liability (including attorneys fees) directly or indirectly arising out of or attributable to the use, presence, generation, production, release, discharge or disposal of a hazardous substance (as defined in any statute, ordinance or governmental regulation) on or about the Easement Property caused in any way by the Trust or its successors and assigns or anyone using the Easement Property granted hereby, or any replacement thereof, for access to the Trust Property.

G. Prior Agreements. This Easement supersedes any and all prior understandings and agreements between TMS and the Trust of any kind whatsoever, including but not limited to the agreement of July 1, 1980 described in recital 1 above, and shall be deemed to be in complete satisfaction of and in complete compliance with all such agreements and understandings.

H. Attorneys Fees. Either party may enforce this instrument by appropriate action and the prevailing party shall be entitled to recover costs, including reasonable attorneys fees.

I. Law. This Easement shall be governed by Nevada law.

TMS ASSOCIATES, a limited partnership

By: *Peter M. Thomas*  
Peter M. Thomas, General Partner

By: *Robert J. Sullivan*  
Robert J. Sullivan, General Partner

*Betty Alyce Jones*  
Betty Alyce Jones, surviving trustee  
of the Nell J. Redfield Trust

*Helen Jeanne Jones*  
Helen Jeanne Jones, surviving trustee  
of the Nell J. Redfield Trust

BK 4114 PGO 120

Iris G. Brewerton, surviving trustee  
of the Nell J. Redfield Trust

Kenneth G. Walker, surviving trustee  
of the Nell J. Redfield Trust

*Gerald C. Smith*  
Gerald C. Smith, surviving trustee  
of the Nell J. Redfield Trust

State of Nevada  
County of Washoe

This instrument was acknowledged before me on July 12, 1994 by Peter M. Thomas, General Partner of TMS Associates, a limited partnership.

*Linda A. Sealock*  
Notary Public



State of NEVADA  
County of WASHOE

This instrument was acknowledged before me on June 15,  
1994 by Robert J. Sullivan, General Partner of TMS Associates, a limited partnership.

*Esther D. DeVries*  
Notary Public

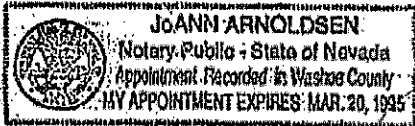


BK 4114 PGO 121



State of Nevada  
County of Washoe

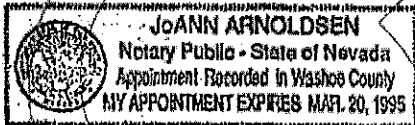
This instrument was acknowledged before me on June  
29, 1994 by Betty Alyce Jones, surviving trustee of the Nell  
J. Redfield Trust.



JoAnn Arnoldsen  
Notary Public

State of Nevada  
County of Washoe

This instrument was acknowledged before me on June  
29, 1994 by Helen Jeanne Jones, surviving trustee of the  
Nell J. Redfield Trust.



JoAnn Arnoldsen  
Notary Public

State of \_\_\_\_\_  
County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_  
by Iris G. Brewerton, surviving trustee of the Nell  
J. Redfield Trust.

\_\_\_\_\_  
Notary Public

BK 4 114 PG 0122

State of \_\_\_\_\_

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_  
by Kenneth G. Walker, surviving trustee of the Nell  
J. Redfield Trust.

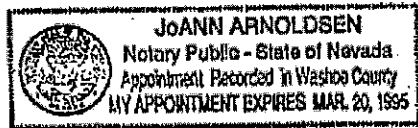
\_\_\_\_\_  
Notary Public

State of Nevada

County of Washoe

This instrument was acknowledged before me on June  
29, 1994 by Gerald C. Smith, surviving trustee of the Nell  
J. Redfield Trust.

JoAnn Arnoldsen  
\_\_\_\_\_  
Notary Public



BK 4114 PG 0123

EXHIBIT "A"

TMS PROPERTY

The real property situate in the County of Washoe, State of Nevada,  
described as follows:

All of Section 13, Township 18 North, Range 19 East,  
M.D.B. & M.

EXCEPTING THEREFROM that portion lying Northeasterly of  
the Steamboat Ditch.

Said land is shown on Survey Map No. 1326 recorded August  
23, 1979, as File No. 625159.

BK 41 14 950 124

APN 49-010-05  
06

EXHIBIT "B"  
TRUST PROPERTY

The real property situate in the County of Washoe, State of Nevada,  
described as follows:

All of the following sections of Township 18 North, Range  
19 East, M.D.B. & M.:

2, 10, 14, 15, 22, 23, 24, 26, 27.

APN 49-010-10

BK 4 114 PG 0125

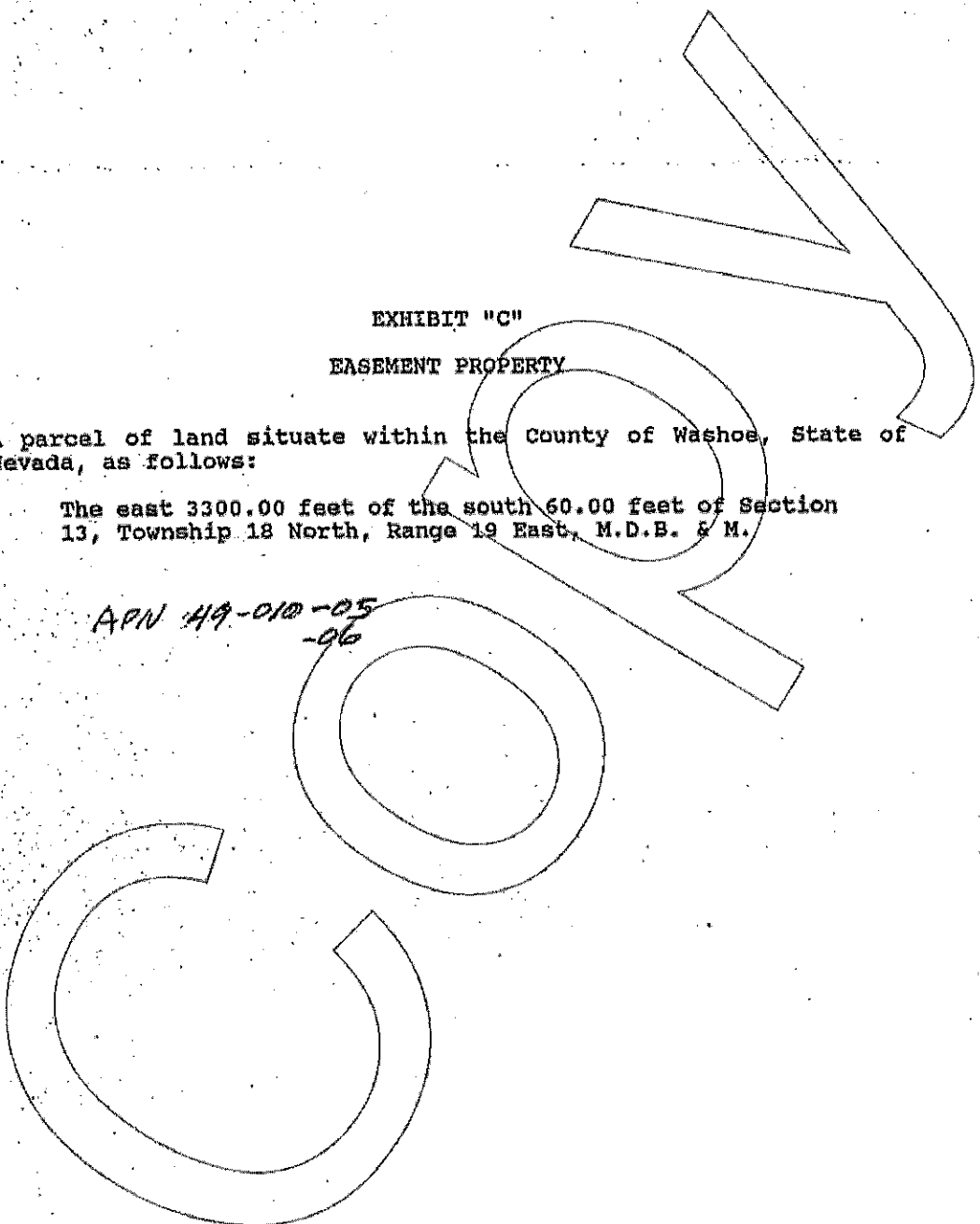
EXHIBIT "C"  
EASEMENT PROPERTY

A parcel of land situate within the County of Washoe, State of Nevada, as follows:

The east 3300.00 feet of the south 60.00 feet of Section 13, Township 18 North, Range 19 East, M.D.B. & M.

APN 49-010-05  
-06

BK 4114 PG 0126



OFFICIAL RECORDS  
WASHOE CO., NEVADA  
RECORD REQUESTED BY  
*James Arnoldson*  
'94 JUL 25 A9:07

1818322

JOE MELCHER  
COUNTY RECORDER  
FEE 15.00 DEP 68

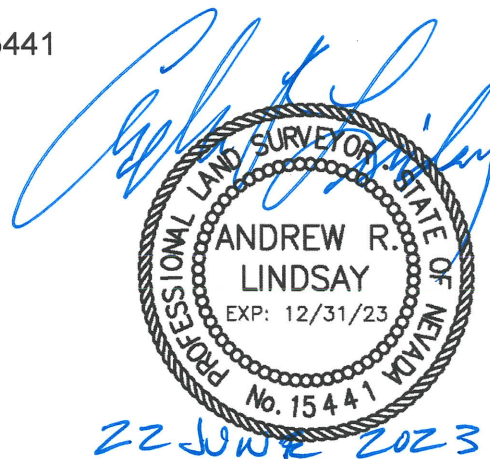
**DESCRIPTION  
ABANDONMENT AREA  
(Portion of A.P.N. 150-250-54)**

A strip of land situate in Washoe County, Nevada, SE 1/4 Section 26, Township 18 North, Range 19 East, M.D.M., and lying within the road, public utility easement, drainage/snow storage and traffic signage easement as shown on the Parcel Map for O'Donnell Family Trust 1992 filed for record December 9, 2015, in the office of Recorder, Washoe County, Nevada as File No.4540177, Parcel Map No. 5200, more particularly described as follows:

**COMMENCING** at the southeast corner of Parcel B, said point falling on the South property line of said Parcel B;  
thence along the South property line of said Parcel B, North 89°40'31" West, 125.68 feet;  
thence leaving said South property line of said Parcel B, North 00°19'29" East, 23.00 feet to the **POINT OF BEGINNING**;  
thence North 89°40'31" West, 22.00 feet;  
thence North 00°19'29" East, 10.00 feet;  
thence South 89°40'31" East, 22.00 feet;  
thence South 00°19'29" West, 10.00 feet to the **POINT OF BEGINNING**, containing 220.00 square feet, more or less.

The basis of bearing for this description is identical to the Parcel Map for O'Donnell Family Trust 1992 filed for record December 9, 2015, in the office of Recorder, Washoe County, Nevada as File No.4540177, Parcel Map No. 5200.

Prepared By: Andrew R. Lindsay, P.L.S. 15441



A.P.N. 150-250-54  
HERSHKOWITZ 2023  
LIVING TRUST



POINT OF BEGINNING

33' ROAD, P.U.E.,  
DRAINAGE/SNOW STORAGE,  
& TRAFFIC SIGNAGE EASEMENT  
PER PARCEL MAP NO. 5200

66' ROAD, P.U.E.,  
DRAINAGE/SNOW STORAGE,  
& TRAFFIC SIGNAGE EASEMENT  
PER PARCEL MAP NO. 5200

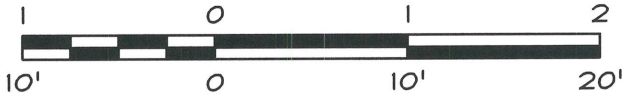
SCALE: 1" = 10'

A.P.N. 150-250-02  
THE ETRA-TURK FAMILY LIVING TRUST

COMMENCING  
AT SET 5/8" REBAR,  
WITH CAP P.L.S. 19567

N89°40'31"W 225.68'

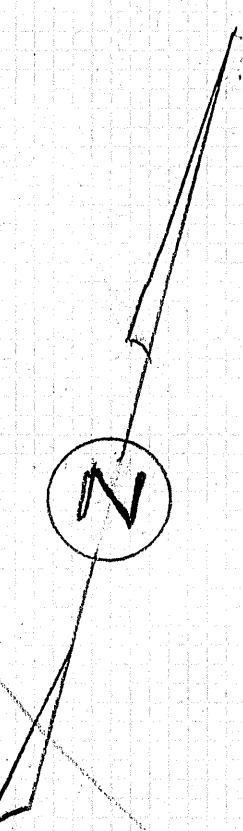
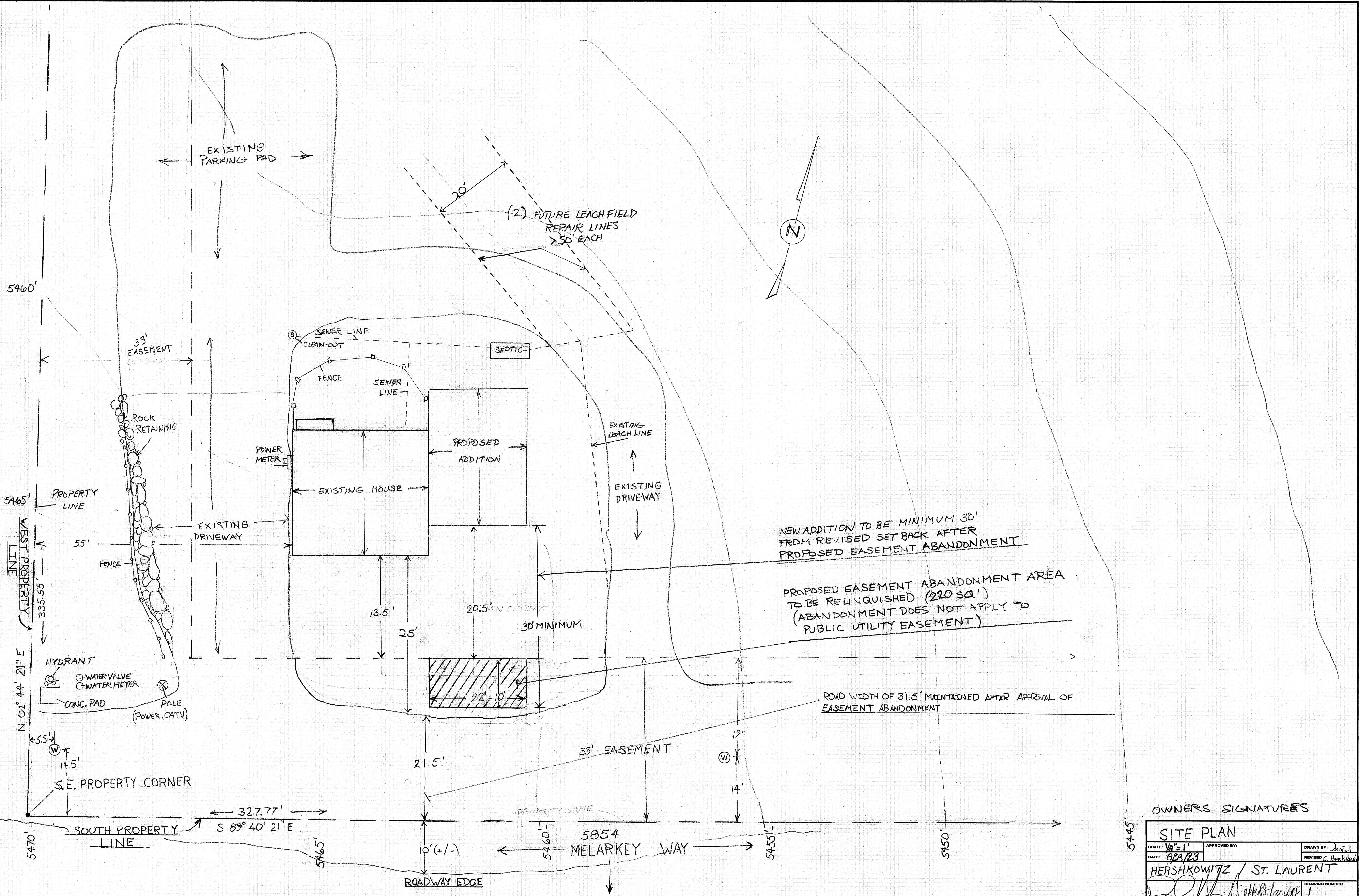
MELARKEY WAY



**EXHIBIT**  
5854 MELARKEY WAY  
(RENO, NEVADA)

06/21/23

*Andrew R. Lindsay*  
PROFESSIONAL LAND SURVEYOR  
STATE OF NEVADA  
ANDREW R. LINDSAY  
EXP: 12/31/23  
No. 15441  
22 JUNE 2023



NEW ADDITION TO BE MINIMUM 30'  
FROM REVISED SET BACK AFTER  
PROPOSED EASEMENT ABANDONMENT

PROPOSED EASEMENT ABANDONMENT AREA  
TO BE RELINQUISHED (220 SQ')  
(ABANDONMENT DOES NOT APPLY TO  
PUBLIC UTILITY EASEMENT)

ROAD WIDTH OF 31.5' MAINTAINED AFTER APPROVAL OF  
EASEMENT ABANDONMENT

OWNERS SIGNATURES

<b>SITE PLAN</b>	
SCALE: 1/8" = 1'	APPROVED BY:
DATE: 6/23/23	REVISOR: G. Herszkowitz
HERSHKOWITZ / ST. LAURENT	
DRAWING NUMBER	