



WASHOE COUNTY

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CM/ACM _____
Finance _____
DA _____
Risk Mgt. N/A
Clerk _____
Comptroller _____

STAFF REPORT

BOARD MEETING DATE: October 25, 2016

DATE: September 30, 2016
TO: Board of County Commissioners
FROM: Trevor Lloyd, Senior Planner, Planning and Development Division
Community Services Department, 328.3620, tlloyd@washoecounty.us
THROUGH: William H. Whitney, Division Director, Planning and Development
Community Services Department, 328-3617, bwhitney@washoecounty.us
SUBJECT: Hearing, discussion, and possible action to affirm or reverse, with or without conditions, Appeal Case No. AX16-006 (Mil Drae Lane), an appeal of the Planning Commission's decision to deny Abandonment Case Number AB16-001 (1) to accept dedication of Mil Drae Lane and, following the acceptance of dedication, (2) to abandon Mil Drae Lane to the seven adjacent properties shown on the Mil Drae Country Estates Subdivision Tract Map #1568. The applicants for the abandonment are Ryan M Dolan Family Trust, Roland and Tina Scarselli, Nunnally Family Trust, Ernaut Family Trust, Faulstich Family Trust, and Herbert and Susan H Family Trust.

The subject parcel (APN: 040-581-20) is located about 1,500 feet north of the intersection of Huffaker and Del Monte. The property is ±2.523 acre in size within the Southeast Truckee Meadows Area Plan and the South Truckee Meadows Washoe Valley Citizen Advisory Board boundaries, Section 1, Township 18N, Range 19E, MDM. The Development Code section applicable to this amendment is Article 806.

(Commission District 2.)

SUMMARY

The Washoe County Board of Commissioners may choose to affirm or reverse the Planning Commission's denial of Abandonment Case Number AB16-001, which requested approval (1) to accept dedication of Mil Drae Lane and, following the acceptance of dedication, (2) to immediately abandon Mil Drae Lane to the seven adjacent properties shown on the Mil Drae Country Estates Subdivision Tract Map #1568.

Strategic Objective supported by this item: Safe, secure, and healthy communities.

PREVIOUS ACTION

June 2, 2016 Board of Adjustment. After conducting a public hearing and taking public testimony, the Board of Adjustment, by a unanimous vote, denied an appeal to reverse an

AGENDA ITEM # _____

administrative decision by the Director of the Planning and Development Division to reject an application to abandon the privately owned roadway Mil Drae Lane for being incomplete.

August 9, 2016 Board of County Commissioners. After conducting a public hearing, taking public testimony and discussion the Board of County Commissioners reversed the Board of Adjustment's denial of an appeal of the Director of Planning and Development's decision to reject the abandonment application to abandon Mil Drae Lane.

September 6, 2016 Planning Commission. After conducting a public hearing, taking public testimony and discussing the proposed abandonment, the Planning Commission, by a unanimous vote, denied Abandonment Case Number AB16-001 by virtue of their decision not to accept the offer of dedication of Mil Drae Lane. (Planning Commission Staff Report is included as Attachment B to this report.)

BACKGROUND

The appellants are asking the Washoe County Commissioners to reverse the denial of the Planning Commission and accept the dedication of Mil Drae Lane (APN: 040-581-20) and then abandon Mil Drae lane to seven (7) adjacent properties owners, refer to Attachment E (Abandonment Site Plan – Abandonment Application). The roadway was first offered for dedication to the county when the subdivision was created. Offers of dedication of roadways generally remain open and can be accepted by the county indefinitely. The appellants are proposing that easements will be granted to the three (3) additional Mil Drae Country Estates property owners described in the Mil Drae Country Estates Supplemental Declaration of Restriction dated December 3, 1981, refer to Attachment E; but specifically excluding the property owners to the south of Mil Drae Lane that were not part of the original Mil Drae Country Estates (the Bennetts).

On page one of the supplemental information within the application packet it states that the same application was submitted and approved for Milabar Way (Allyene Way) as shown on the attached Resolution and Order of Abandonment dated October 8, 2008, refer to Attachment E. Milabar Way was a ±233 foot long roadway “stub” that extended from Mil Drae Lane to the southern border of Anderson Park. Milabar Way was paved but the pavement stopped approximately 42 feet from the Anderson Park property line; no driveways accessed off of Milabar Way.

The roadway that is subject to this abandonment request is a privately owned parcel with a regulatory zone of high density rural (HDR). According to current Assessor's records, Mil Drae Lane is owned by a number of different property owners, many of whom differ from the original seven adjacent property owners shown on the Mil Drae Country Estates Subdivision Tract Map #1568.

The owners of the property south of Mil Drae Lane (Darrell and Wilma Bennett) oppose the application. Among other things, they claim to currently own a 15% fee interest in Mil Drae Lane, by virtue of a deed granted to them during the course of this dispute from a prior owner within the subdivision, and also claim to have used Mil Drae Lane to access the rear of their property for the past two decades. Additionally, Mil Drae Lane is the sole source of ingress and egress for the property immediately east of the Bennett's property (APN: 040-582-12), which has recently been sold to the Dolan family.

Regardless of who owns it, if the abandonment is granted, a condition would be necessary to allow parcel number APN: 040-582-12 continued access to Mil Drae in order to avoid creating a land-locked parcel.

Abandonments are governed by NRS 278.480 and WCC 110.806.15, which follows the statutory framework. In order to approve an abandonment, this Commission would first have to be satisfied that it would not materially injure the public. If approved, the order of abandonment could be made conditional. For example, the Board could order the abandonment and condition it on giving access to the two parcels south of Mil Drae that were not part of the original subdivision (APN's: 040-582-11 & 12). Abandonment would not take effect until any such conditions were first fulfilled.

Furthermore, if an abandonment is granted, the law sets forth the way title to the abandoned property is then passed. Generally speaking, it goes to the property owners abutting the abandoned property in the proportion that they first dedicated it. The governing NRS provision is set out below.

NRS278.480 (7)

*The order must be recorded in the office of the county recorder, if all the conditions of the order have been fulfilled, and upon the recordation, title to the street or easement **reverts to the abutting property owners in the approximate proportion that the property was dedicated by the abutting property owners or their predecessors in interest...***

Should the County Commission reverse the Planning Commission decision, staff recommends that Mil Drae Lane be abandoned to all of the property owners who abut the roadway in the approximate proportion that the roadway was dedicated by the abutting owners or their predecessors in interest, and that property owners negotiate an agreement for the maintenance of the roadway.

FISCAL IMPACT

None

RECOMMENDATION

It is recommended that the Board of County Commissioners review the record and take one of the following three actions:

1. Affirm the decision of the Planning Commission and deny Abandonment Case Number AB16-001; or
2. Reverse the decision of the Planning Commission, and approve Abandonment Case Number AB16-001 as proposed by the applicant with conditions as presented by staff; or
3. Reverse the decision of the Planning Commission, and approve Abandonment Case Number AB16-001 but modify the request and abandon Mil Drae Lane to all of the property owners who abut the roadway with conditions as presented by staff.

POSSIBLE MOTIONS

Should the Board of County Commissioners **agree** with the Planning Commission's action to deny Abandonment Case Number AB16-001, staff offers the following motion:

“Move to confirm the Planning Commission's decision to deny Abandonment Case Number AB16-001. This denial is based on this Board's review of the written materials and oral testimony at the public hearing, and this Board's interpretation of the findings made by the Planning Commission.”

Should the Board of County Commissioners **disagree** with the Planning Commission's action to deny Abandonment Case Number AB16-004, staff offers the following motions:

“Move to reverse the Planning Commission's decision to deny Abandonment Case Number AB16-001 and approve the abandonment of Mil Drae Lane with conditions as presented by staff. This action is based on this Board's review of the written materials and oral testimony at the public hearing, and this Board's interpretation of the relevant findings.”

OR

“Move to reverse the Planning Commission's decision to deny Abandonment Case Number AB16-001 and approve the abandonment of Mil Drae Lane but modify the request and abandon Mil Drae Lane to all of the property owners who abut the roadway with conditions as presented by staff. This action is based on this Board's review of the written materials and oral testimony at the public hearing, and this Board's interpretation of the relevant findings.”

Attachments:

- A. Planning Commission Action Order
- B. Planning Commission Staff Report
- C. Appeal Application
- D. Planning Commission Draft Minutes
- E. Correspondence

xc: Applicant/Owner: Pete Ernaut, 500 Mil Drae Ln, Reno, NV 89511
 Ryan M. Dolan, 460 Mil Drae Ln, Reno, NV 89511
 James and Maureen Nunnally, 490 Mil Drae Ln, Reno, NV 89511
 Roland and Tina Scarselli, 470 Mil Drae Ln, Reno, NV 89511
 Lance Faulstich, 510 Mil Drae Ln, Reno, NV 89511
 Herbert and Susan Nichols, 495 Mil Drae Ln, Reno, NV 89511

Representative: Lewis Roca Rothgerber, LLP, 50 West Liberty Street, Suite 410,
 Reno, NV 89501



Planning Commission Action Order

Abandonment Case Number AB16-001

Decision: **Denial**

Decision Date: September 6, 2016

Mailing/Filing Date: September 8, 2016

Property Owner: Pete Ernaut, 500 Mil Drae Ln, Reno, NV 89511
Ryan M. Dolan, 460 Mil Drae Ln, Reno, NV 89511
James and Maureen Nunnally, 490 Mil Drae Ln, Reno, NV 89511
Roland and Tina Scarselli, 470 Mil Drae Ln, Reno, NV 89511
Lance Faulstich, 510 Mil Drae Ln, Reno, NV 89511
Herbert and Susan Nichols, 495 Mil Drae Ln, Reno, NV 89511

Assigned Planner: Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Planning and Development Division
Phone: 775.328.3620
E-Mail: tlloyd@washoecounty.us

Abandonment Case Number AB16-001 (Mil Drae Lane Abandonment) – Hearing, discussion, and possible action to (1) accept dedication of Mil Drae Lane and following the acceptance of dedication to (2) abandon Mil Drae Lane to the seven adjacent properties shown on the Mil Drae Country Estates Subdivision Tract Map #1568.

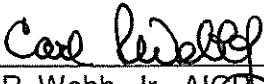
- Applicants/Property Owners: Ryan M. Dolan Family Trust
Roland and Tina Scarselli
Nunnally Family Trust
Ernaut Family Trust
Faulstich Family Trust
Herbert and Susan H Family Trust
- Location: Mil Drae Lane, approximately 1,500 feet north of the intersection of Huffaker and Del Monte
- Assessor's Parcel Number(s): 040-581-20
- Parcel Size: 2.523 acres
- Master Plan Category: Rural Residential (RR)
- Regulatory Zone: High Density Rural (HDR)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Article 806
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 1, T18N, R19E, MDM, Washoe County, NV

To: Ernaut, Dolan, Nunnally, Scarselli, Faulstich, and Nichols
Subject: AB16-001
Date: September 8, 2016
Page: 2

Notice is hereby given that the Washoe County Planning Commission denied the acceptance of the dedication of Mil Drae Lane. Because the Planning Commission denied acceptance of the dedication, no action was taken specific to the abandonment request.

Anyone wishing to appeal this decision to the Washoe County Board of County Commissioners may do so within 10 calendar days after the Mailing/Filing Date shown on this Action Order. To be informed of the appeal procedure, call the Planning staff at **775.328.6100**. Appeals must be filed in accordance with Section 110.912.20 of the Washoe County Development Code.

Washoe County Community Services Department
Planning and Development Division



Carl R. Webb, Jr., AICP
Secretary to the Planning Commission

CRW/TL/ks

xc:

Applicants/Owners: Pete Ernaut, 500 Mil Drae Ln, Reno, NV 89511
Ryan M. Dolan, 460 Mil Drae Ln, Reno, NV 89511
James and Maureen Nunnally, 490 Mil Drae Ln, Reno, NV 89511
Roland and Tina Scarselli, 470 Mil Drae Ln, Reno, NV 89511
Lance Faulstich, 510 Mil Drae Ln, Reno, NV 89511
Herbert and Susan Nichols, 495 Mil Drae Ln, Reno, NV 89511

Representative: Lewis, Roca, Rothgerber, Christie; Attn: Garrett Gordon, 50 W. Liberty Street #410, Reno, NV 89501

Action Order xc: Nathan Edwards, District Attorney's Office; Keirsten Beck, Assessor's Office (CAAS); Josh Wilson, Assessor's Office; John Cella, Sewer, Utilities; Leo Vesely and Dwayne Smith, Engineering Division; Amy Ray, Truckee Meadows Fire Protection District; Nevada Division of Environmental Protection, 901 South Stewart Street, Suite. 4001, Carson City, NV 89701-5249; Regional Transportation Commission, Attn: Rebecca Kapuler; Truckee Meadows Regional Planning Agency; South Truckee Meadows/Washoe Valley Citizen Advisory Board, Chair



Planning Commission Staff Report

Meeting Date: September 6, 2016

Subject: Abandonment Case Number: AB16-001

Applicant(s): Peter Ernaut, Ryan Dolan, James and Maureen Nunnally, Roland and Tina Scarselli, Lance Faulstich and Herbert and Susan Nichols

Agenda Item Number 8B

Summary: To accept dedication of Mil Drae Lane and, following the acceptance of dedication, to abandon Mil Drae Lane to the seven adjacent properties shown on the Mil Drae Country Estates Subdivision.

Recommendation: No Recommendation

Prepared by: Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Division of Planning and Development

Phone: 775.328.3620
E-Mail: tlloyd@washoecounty.us

Description

Abandonment Case Number AB16-001 (Mil Drae Lane Abandonment) – Hearing, discussion, and possible action to (1) accept dedication of Mil Drae Lane and following the acceptance of dedication to (2) abandon Mil Drae Lane to the seven adjacent properties shown on the Mil Drae Country Estates Subdivision Tract Map #1568.

- Applicants/Property Owners: Ryan M. Dolan Family Trust
Roland and Tina Scarselli
Nunnally Family Trust
Ernaut Family Trust
Faulstich Family Trust
Herbert and Susan H Family Trust
- Location: Mil Drae Lane, approximately 1,500 feet north of the intersection of Huffaker and Del Monte
- Assessor's Parcel Number(s): 040-581-20
- Parcel Size: 2.523 acres
- Master Plan Category: Rural Residential (RR)
- Regulatory Zone: High Density Rural (HDR)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Article 806
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 1, T18N, R19E, MDM, Washoe County, NV

Staff Report Contents

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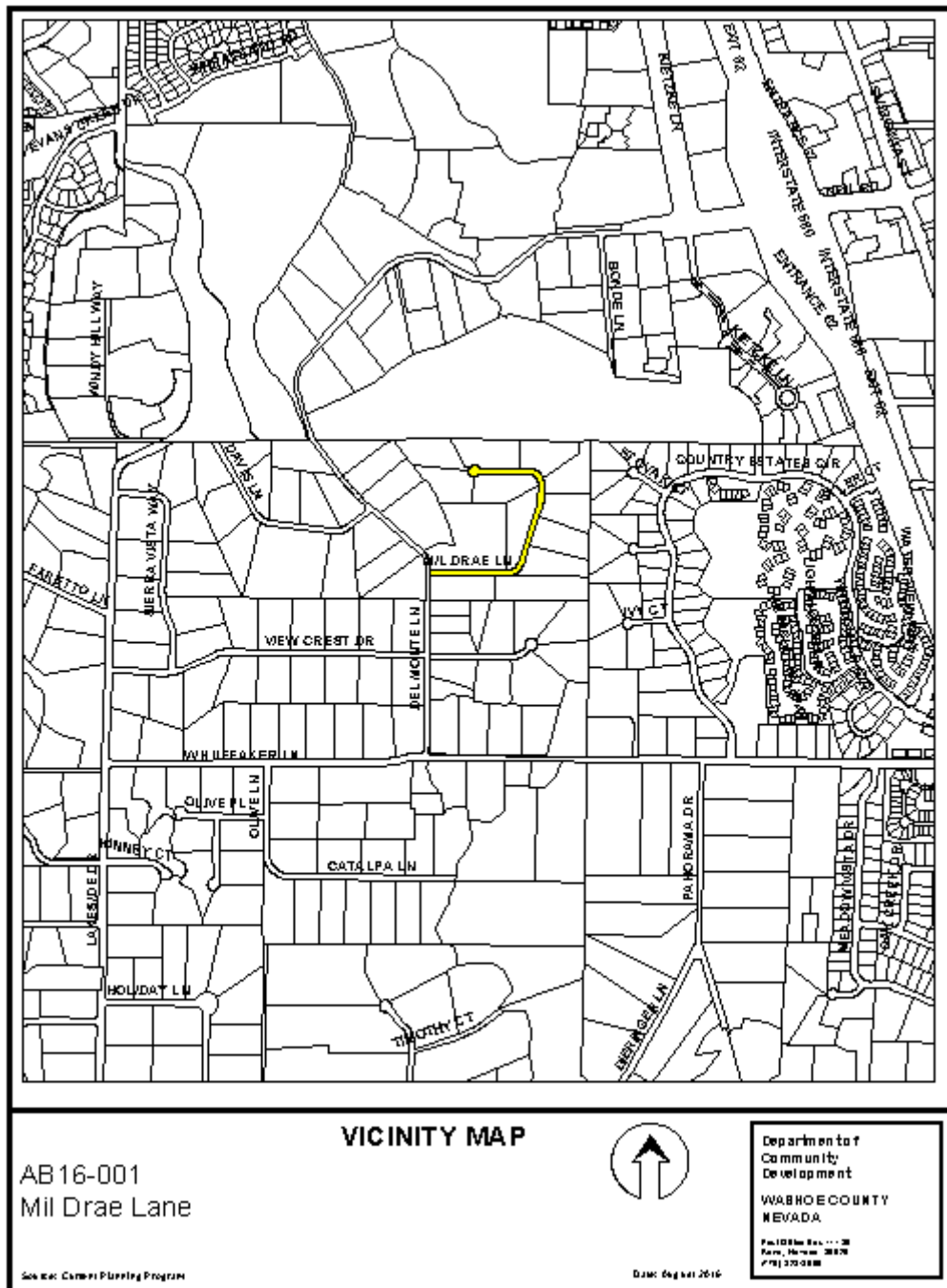
Exhibits Contents

Conditions of Approval..... Exhibit A
Abandonment Site Plan Exhibit B
Health District Letter..... Exhibit C
Engineering and Capital Projects Letter Exhibit D
Engineering and Capital Projects – Traffic Comments Exhibit E
Regional Transportation Commission Letter Exhibit F
Project Application Exhibit G

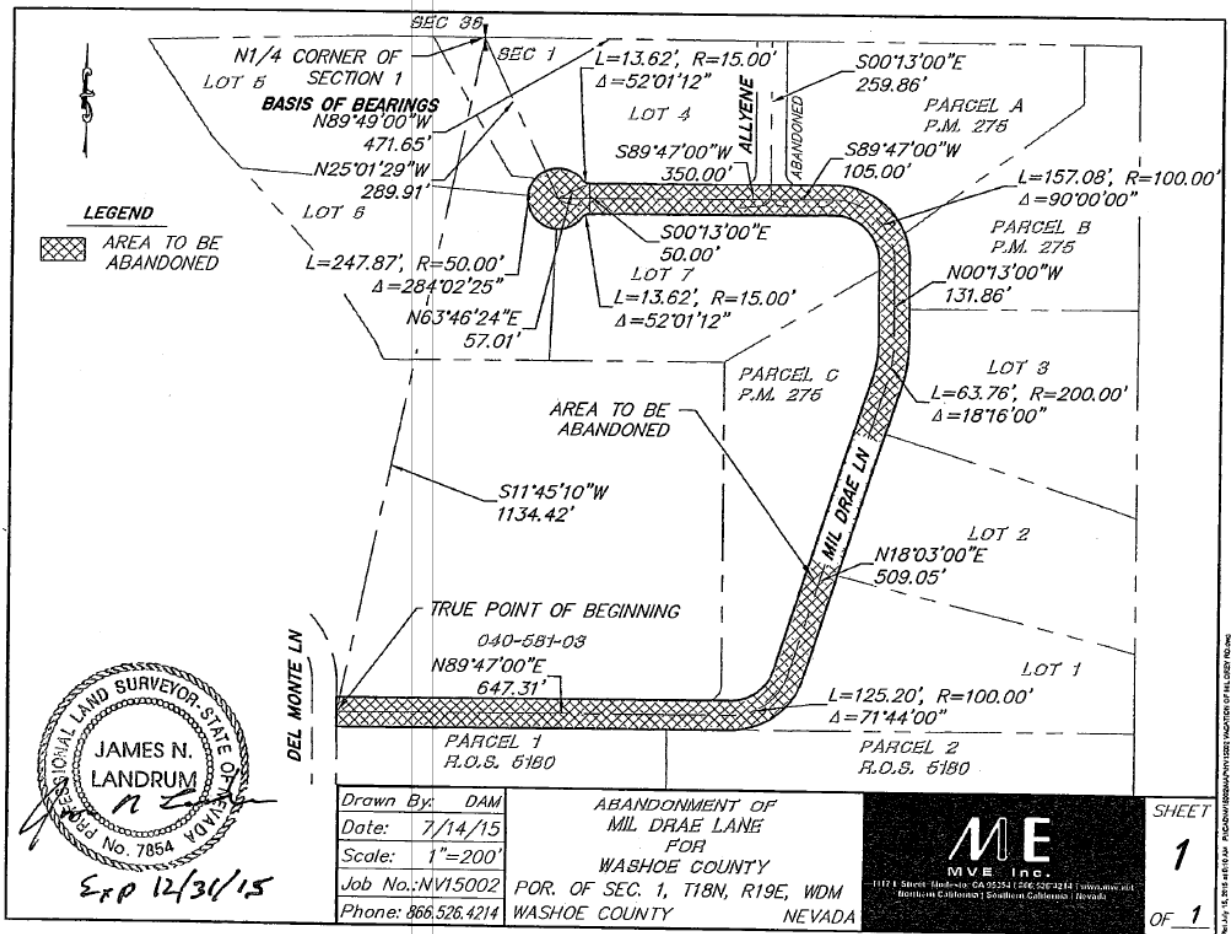
Abandonment Definition

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 applicants 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.



Vicinity Map



Site Plan

Project Evaluation

The applicants are asking Washoe County to accept the dedication of Mil Drae Lane (APN: 040-581-20) and then abandon Mil Drae Lane to seven (7) adjacent property owners; refer to Exhibit B (Abandonment Site Plan). The applicants are proposing that easements will be granted to the three (3) additional Mil Drae Country Estates property owners described in the Mil Drae Country Estates Supplemental Declaration of Restriction dated December 3, 1981, refer to Exhibit C; but specifically excluding the property owners to the south of Mil Drae Lane that were not part of the original Mil Drae Country Estates.

On page one of the supplemental information within the application packet, it states that the same application was submitted and approved for Milabar Way (Allyene Way) as shown on the attached Resolution and Order of Abandonment dated October 8, 2008; refer to Exhibit D. Milabar Way was a ±233 foot long roadway “stub” that extended from Mil Drae Lane to the southern border of Anderson Park. Milabar Way was paved but the pavement stopped approximately 42 feet from the Anderson Park property line; no driveways were accessed off of Milabar Way.

The roadway that is subject to this abandonment request is a privately owned parcel with a regulatory zone of High Density Rural (HDR). According to current Assessor’s records, Mil Drae Lane is owned by a number of different property owners, many of whom differ from the seven original adjacent property owners shown on the Mil Drae Country Estates Subdivision Tract Map #1568.

No recommendation has been provided as staff cannot support the application as requested, as it would violate state law, specifically NRS 278.480(7) [See excerpt below], which makes it clear that an individual's right to claim a reversionary interest in the Lane, should it be abandoned, is not defined by his or her property’s inclusion within the 1976 Subdivision Map (Tract Map #1568). The owners of the properties south of Mil Drae Lane (Darrell and Wilma Bennett) currently claim to own a fee interest in Mil Drae Lane and have used Mil Drae Lane to access the rear of their property for the past two decades. Additionally, Mil Drae Lane is the sole source of ingress and egress for the eastern Bennett property (APN: 040-582-12). For these reasons, the application as submitted cannot meet the second required finding of No Detriment, as the proposed request would result in a material injury to the Darrell and Wilma Bennett.

NRS 278.480 (7) (excerpt and bold highlighted text added for emphasis)

*The order must be recorded in the office of the county recorder, if all the conditions of the order have been fulfilled, and upon the recordation, title to the street or easement **reverts to the abutting property owners in the approximate proportion that the property was dedicated by the abutting property owners or their predecessors in interest...***

Should the Planning Commission approve the proposed abandonment request, staff recommends that Mil Drae Lane be abandoned to all of the property owners who abut the roadway and that maintenance of the roadway shall be equally shared by each property owner.

Previous Action

The application was originally rejected by staff due lack of information required for the application; specifically the application did not contain all of the signed owner affidavits of the subject property (Mil Drae Lane). The applicants appealed the decision to the Board of Adjustment who confirmed the director’s decision and denied the appeal at their June 2, 2016 meeting. The item was then appealed to the Board of County Commissioners, who at their

August 9, 2016 meeting overturned the Board of Adjustment's denial and caused the abandonment application to proceed to the Planning Commission for final action.

South Truckee Meadows – Washoe Valley Citizen Advisory Board

Pursuant to Article 806, *Vacations and Abandonments of Easements and Streets*, proposals for abandonments or vacations are not required to be noticed to Citizen Advisory Boards.

Reviewing Agencies

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

- Washoe County Community Services Department
 - Engineering and Capital Projects
 - Planning and Development
 - Utilities
 - Traffic
- Washoe County Health District
- Truckee Meadows Fire Protection District
- Regional Transportation Commission
- Washoe-Storey Conservation District

Three out of the eight above listed agencies/departments provided comments and/or recommended conditions of approval in response to their evaluation of the project application. A **summary** of each agency's comments and/or recommended conditions of approval and their contact information is provided. The Conditions of Approval document is attached to this staff report and will be included with the Action Order should the Planning Commission approve the requested abandonment.

- Washoe County Planning and Development addressed access to adjoining properties.
Contact: Trevor Lloyd, 328-3620, tlloyd@washoecounty.us
- Engineering and Capital Projects addressed the need to maintain access, drainage and utility easements, and engineering requirements to record the abandonment.
Contact: Leo Vesely, 325-8032, lvesley@washoecounty.us
- Engineering and Capital Projects, Traffic stated need to maintain access to abutting properties, and addressed need to maintain stop sign and street sign.
Contact: Clara Lawson, 954-4648, clawson@washoecounty.us

Staff Comments on Required Findings

Washoe County Code 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.

1. Master Plan. The abandonment or vacation is not consistent with the policies, action programs, standards and maps of the Master Plan and the Southwest Truckee Meadows Area Plan.

Staff Comments: *The abandonment as proposed is not consistent with the policies, action programs and standards of the Master Plan and the Southwest Truckee Meadows Area Plan.*

2. No Detriment. The abandonment or vacation does results in a material injury to the public.

Staff Comments: *As proposed, the abandonment would materially injure the public, specifically; it would remove the sole access to APN: 040-582-12.*

3. 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: *Existing public utility easements can be reasonably relocated.*

Staff cannot make a recommendation based on staff's determination that the requested abandonment does not meet the criteria of findings one and two; therefore staff is offering motions for both approval and denial.

Motion for Approval

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 AB16-001 for Mil Drae Lane, having made all three findings in accordance with Washoe County Code Section 110.806.20:

1. 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
2. No Detriment. The abandonment or vacation does not result in a material injury to the public; and
3. Existing Easements. Existing public utility easements in the area to be abandoned or vacated can be reasonably relocated to provide similar or enhanced service.

Motion for Denial

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 deny Abandonment Case Number AB16-001 for Mil Drae Lane, having been unable to make all three required findings in accordance with Washoe County Code Section 110.806.20:

1. Master Plan. The abandonment or vacation is not consistent with the policies, action programs, standards and maps of the Master Plan and the Southwest Truckee Meadows Area Plan; and
2. No Detriment. The abandonment or vacation results in a material injury to the public; and
3. Existing Easements. Existing public utility easements in the area to be abandoned or vacated cannot 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 Development Division within 10 calendar days after the written decision is filed with the Secretary to the Planning Commission and mailed to the applicant(s).

xc: Applicants/Owners: Pete Ernaut, 500 Mil Drae Ln, Reno, NV 89511
Ryan M. Dolan, 460 Mil Drae Ln, Reno, NV 89511
James and Maureen Nunnally, 490 Mil Drae Ln, Reno, NV 89511
Roland and Tina Scarselli, 470 Mil Drae Ln, Reno, NV 89511
Lance Faulstich, 510 Mil Drae Ln, Reno, NV 89511
Herbert and Susan Nichols, 495 Mil Drae Ln, Reno, NV 89511

Representatives: Lewis, Roca, Rothgerber, Christie; Attn: Garrett Gordon, 50 W. Liberty Street #410, Reno, NV 89501

Community Services Department
Planning and Development
APPEAL APPLICATION



ATTN: TREVOR LYOD

Community Services Department
Planning and Development
1001 E. Ninth St., Bldg A
Reno, NV 89520

Telephone: 775.328.3600

AX16-006

Washoe County Appeal of Decision Application

Appeal of Decision by (Check one)

<input type="checkbox"/> Board of Adjustment	<input type="checkbox"/> Hearing Examiner
<input type="checkbox"/> Design Review Committee	<input type="checkbox"/> Parcel Map Review Committee
<input type="checkbox"/> Director of Building & Safety (NRS 278.310)	<input checked="" type="checkbox"/> Planning Commission
<input type="checkbox"/> Director of Planning and Development	<input type="checkbox"/> Code Enforcement Officer

Appellant Information

Name: Ernaut, Dolan, Nunnally, Scarselli, Faulstich and Nichols	Phone: 775-321-3420
Address: c/o Garrett D. Gordon, Esq. Lewis Roca Rothgerber Christie LLP	Fax: 775-829-2929
50 W. Liberty Street, Suite 410	Email: ggordon@lrrc.com
City: Reno State: NV Zip: _____	Cell: 775-762-6765
Original Application Number: AB16-001	
Project Name: Mil Drae Lane Abandonment	
Project Location: Mil Drae Lane (040-581-20)	

Date of decision for which appeal is being filed: [September 6, 2016](#)

State the specific action you are appealing:

[The denial of AB16-001 by the Washoe County Planning Commission.](#)

State the reasons why the decision should or should not have been made:

[The legal findings were clearly satisfied to approve AB16-001 based on the application materials, staff report and applicant's presentation.](#)

For Staff Use Only

Appeal Number:	Date Stamp
Notes:	Staff: _____

Appellant Information (continued)	
Cite the specific outcome you are requesting under the appeal: This appeal requests that the Board of County Commissioners approve AB16-001.	
State how you are an affected individual entitled to file this appeal: This appeal is filed by the applicants and signed by Garrett D. Gordon, Esq. as their attorney-in-fact.	
Did you speak at the public hearing when this item was considered?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Did you submit written comments prior to the action on the item being appealed?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

For time limitations imposed for the various types of appeals, please refer to the Washoe County Development Code (WCC Chapter 110) and Nevada Revised Statutes Chapter 278 (NRS 278).

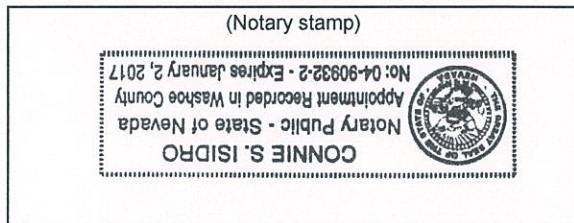
APPELLANT AFFIDAVIT

STATE OF NEVADA)
)
COUNTY OF WASHOE)

I, GARRETT D. GORDON, ESQ.,
being duly sworn, depose and say that I am an appellant seeking the relief specified in this petition and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by staff of the Planning and Development.

Signed *Garrett Gordon*
Address 50 W. Liberty St., #410
RENO, NV 89501

Subscribed and sworn to before me this
15 day of September, 2016.
Connie S. Isidro
Notary Public in and for said county and state
My commission expires Jan 2, 2017





WASHOE COUNTY PLANNING COMMISSION Meeting Minutes

Planning Commission Members

James Barnes, Chair
Sarah Chvilicek, Vice Chair
Larry Chesney
Francine Donshick
Philip Horan
Greg Prough
Carl R. Webb, Jr., AICP, Secretary

Tuesday, September 6, 2016
6:30 p.m.

Washoe County Commission Chambers
1001 East Ninth Street
Reno, NV

The Washoe County Planning Commission met in a scheduled session on Tuesday, September 6, 2016, in the Washoe County Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

Chair Barnes called the meeting to order at 6:30 p.m. The following Commissioners and staff were present:

Commissioners present: James Barnes, Chair
Sarah Chvilicek, Vice Chair
Larry Chesney
Francine Donshick
Philip Horan

Commissioners absent: Greg Prough

Staff present: Carl R. Webb, Jr., AICP, Secretary, Planning and Development
David Solaro, Arch., P.E., Director of Community Services Department
Kelly Mullin, Planner, Planning and Development
Trevor Lloyd, Senior Planner, Planning and Development
Nathan Edwards, Deputy District Attorney, District Attorney's Office
Kathy Emerson, Recording Secretary, Planning and Development
Katy Stark, Office Support Specialist, Planning and Development

2. *Pledge of Allegiance

Commissioner Chesney led the pledge to the flag.

3. *Ethics Law Announcement

Deputy District Attorney Edwards provided the ethics procedure for disclosures.

4. *Appeal Procedure

Secretary Webb recited the appeal procedure for items heard before the Planning Commission. He stated that all five of the cases being heard that evening were public hearing items. The

appeal procedure pertains to Items 8A, 8B, and 8C. The Development Code Amendments are appealable only if the Planning Commission denies the recommended amendment. If the Planning Commission recommends approval of the Development Code Amendment, then it moves forward to the County Commission.

5. *Public Comment

Chair Barnes opened the Public Comment period.

Garth T. Elliott, a 45 year resident of Washoe County, stated that he has been struggling with his identification. That night he changed it to a well-armed infidel. He referenced Black Lives Matter and White Lives Matter. He added the concept that Gray Lives Matter. He thinks that he earned his gray life when his kid broke his arm, when he lost a job that he did not expect, and when his wife surprised him with something. Mr. Elliott told the Planning Commission that they are the last bastion of hope for a lot of issues that come in front of Washoe County's citizens. He came to praise them. He believes that they hear a lot of appeals and things like that, which arise because County staff has somehow gone awry. He feels that this happens often, and a recent case was with the sign code. He stated that six foot is the maximum sign that you can have in Washoe County. He does not believe that is reasonable. At one of the last meetings he had with personnel, they said they worked on it for two years. Mr. Elliott said that if they had worked on it for two years, he believes they should have gotten it right. He sees big problems with the sign code. He hopes to bring one of them to the Planning Commission in the weeks to come. It is a land use issue in a sign. He looks forward to coming before the Planning Commission and stated that they perform a very important task in the stream of things.

6. Approval of Agenda

Due to the large portion of the audience present for cargo containers, Vice Chair Chvilicek moved that Item 8D be moved forward and heard first. Commissioner Chesney seconded the motion, which passed with a vote of five for, one absent.

In accordance with the Open Meeting Law, Commissioner Chesney moved to approve the agenda for the September 6, 2016 meeting as amended. Commissioner Donshick seconded the motion, which passed with a vote of five for, one absent.

7. Approval of August 2, 2016 Draft Minutes

Vice Chair Chvilicek moved to approve the minutes for the August 2, 2016, Planning Commission meeting as written. Commissioner Donshick seconded the motion, which passed with a vote of five for, one absent.

8. Public Hearings

B. Abandonment Case Number AB16-001 (Mil Drae Lane Abandonment) – Hearing, discussion, and possible action to (1) accept dedication of Mil Drae Lane and following the acceptance of dedication to (2) abandon Mil Drae Lane to the seven adjacent properties shown on the Mil Drae Country Estates Subdivision Tract Map #1568.

- Applicant/Property Owners: Ryan M. Dolan Family Trust
Roland and Tina Scarselli
Nunnally Family Trust
Ernaut Family Trust
Faulstich Family Trust
Herbert and Susan H Family Trust

- Location: Mil Drae Lane, approximately 1,500 feet north of the intersection of Huffaker and Del Monte
- Assessor's Parcel Number: 040-581-20
- Parcel Size: 2.523 acres
- Master Plan Category: Rural Residential (RR)
- Regulatory Zone: High Density Rural (HDR)
- Area Plan: Southwest Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Article 806
- Commission District: 2 – Commissioner Lucey
- Section/Township/Range: Section 1, T18N, R19E, MDM, Washoe County, NV
- Prepared by: Trevor Lloyd, Senior Planner
Washoe County Community Services Department
Division of Planning and Development
- Phone: 775.328.3620
- E-Mail: tlloyd@washoecounty.us

Mr. Webb provided a brief description of the item.

Chair Barnes called for disclosures of ethics or ex-parte communications by Commissioners. There were none.

Chair Barnes opened the public hearing.

Trevor Lloyd presented his staff report, dated August 17, 2016. Mr. Lloyd stated that there was a recent sale or negotiation of sale that he found out about that morning. The parcel as it stands right now would adhere to the Reasons for No Recommendation by staff. If the request were modified to grant access to all abutting properties along Mil Drae Lane, staff could support the request. Mr. Lloyd said that although Mil Drae Lane is privately owned, because it has been offered for dedication, the County looks at that as "public access". Mr. Lloyd let the Commission know that the applicant's representative is present, as is a representative for the Bennett's.

Commissioner Chvilicek asked Mr. Lloyd if he is suggesting that the motion for approval is to modify it to grant access to all property owners? Mr. Lloyd said he is recommending that if the Planning Commission approves the project, they would add the condition (and it is listed in the conditions) to grant access to all properties.

Commissioner Chvilicek asked legal counsel and staff how this case got to the Planning Commission. Mr. Lloyd said the applicant will answer that question.

Garrett Gordon of the law firm Lewis Roca Rothgerber, the applicant's representative, stated he is representing the six applicants (One applicant owns two properties). In 1976, the parcel map was approved for seven lots. Mil Drae Lane and Milabar Way was given its own parcel. All the property owners had an interest in it or an easement. They all had an interest in it to use the road. There were also CC&R's recorded on the property. There were a number of important factors in the CC&R's: 1) only one single family dwelling may be located on there; also listed are items concerning trailers, minimum ground floor area, architectural approval, certain setbacks, no industrial uses; discussion about sewer disposal and water rights; no subdividing or future zone changes. Finally listed is the ability to maintain the road. The seven property

owners would divide snow removal and maintenance of the road. After the map was recorded, there were three other parcels added to this development and also to the CC&R's. Now you have 10 properties that are part of the Mil Drae Country Estates and are all subject to the CC&R's. Initially, the 10 property owners thought they owned it (the road), they get a tax bill every year and they put money in to maintain it. They realized through research and asking him (Mr. Garrett) that they don't own it. The Dolan family has purchased the Bennett's back property. Talking with the Bennett's, there was a dispute with them wanting to use the road. They wanted to use the road without being part of the CC&R's, without paying any maintenance obligations. On the backs of the ten property owners, they were attempting to assert an ownership right to the road that the applicants believed to be inaccurate. So, there are seven property owners asking the County to accept the road and then right away, abandon it. What will happen after certain conditions are met: the road will go pro rata to the seven property owners, under state law; number two they've agreed to give easements to three property owners. Given that Dolans have purchased the back property, they've agreed, which has always been their position, as long as you are subject to the CC&R's and you agree to pay your fair share of road maintenance, you're in. They will amend the CC&R's, have eleven property owners subject to the CC&R's, all paying one eleventh of the road. Mr. Garret has two changes to the staff report. On page 2 of 2, currently the condition of approval is that access is granted to all abutting property owners. They do not believe they should be obligated to grant an easement to the front Bennett parcel. One, they are not agreeing to be subject to the CC&R's. Two, they are not agreeing to be subject to the CC&R's to chip in and maintain the road. Most importantly, number three, they are on Del Monte and they have a Del Monte address – 2570 Del Monte Lane. They have always accessed their home off Del Monte. Mr. Garrett stated they hope the Planning Commission would approve the dedication and the abandonment, and amend the condition on page 2 of 2, condition 1.b. that ends with “ and replacement of private access for everyone along Mil Drae, except APN 040-582-11”. Condition of Approval 2.d. that requires a 50 foot public utility and access easement to all abutting property owners. This parcel doesn't need access, they have Del Monte and they would ask that it be carved out. Mr. Garrett asked to reserve rebuttal time after the Bennett's speak. They (the applicants) think it's a fair deal. Also, the Planning Commission could say, they could be granted an easement if the Bennett's agree to be part of the CC&R's, which includes the road maintenance agreement. At that point, they could come in and be part of the community. Mr. Garrett showed an email from himself to the Bennett's legal counsel, which set out that offer to please come in if you are subject to the CC&R's and payment. There was never any response.

Dan Church, Professional Land Surveyor, President of Sierra Land Surveying, stated he was asked by Wilma Bennett to review the map and the application. Mr. Church said the disturbing thing about this application is that, as stated, the “now owners” of the seven original parcels of Mil Drae Country Estates are petitioning for this to be abandoned. They are willing to include the three parcels that were included in the Mil Drae Parcel Map which makes a total of ten. They want to use this as a stick to force the Bennett's to become part of the CC&R's and a road maintenance agreement. The Bennett's have said all along that they are willing to share in the road maintenance agreement but they do not want to be a part of the CC&R's. They are more than willing to pay their fair share of the road maintenance. They have lived in the house since 1977, the house has been there since the 50's. It has long had access to their garage off of Mil Drae Lane. The Bennett's own a 15% fee simple interest in the road. They are the second largest interest holders in the road. The Nichols own 20%. The Bennett's 15% was deeded to them from Mick Drago, one of the original subdividers. The Bennett's are part of the original subdivision, as successors in title. They (the applicants) argued that none of the parcels owned by the Bennett's had legal access. They also argued that two County surveyors and County Counsel were wrong in approving this map in 2009. Now, Parcel number two had been bought by Mr. Dolan and gifted to his son Ryan. That argument has suddenly gone away. They are using this as a stick to force his client to become part of the CC&R's. They would willingly

participate in the road maintenance agreement but are not interested in being part of the CC&R's.

Chair Barnes asked for Commission questions. Mr. Webb informed the Commission that Dwayne Smith, Director of Engineering and Capital Projects can speak to the creation of parcel number two and access to parcel number two that was just referred to.

Dwayne Smith, Division Director for Engineering and Capital Projects said the roadway is privately owned, privately maintained and publicly accessed. With this action tonight to abandon the roadway is the process to remove that future consideration for Washoe County accepting the roadway. In the condition of the road now, the County would not accept the road. It would have to be brought to County standards. When the consideration for the parcel map was made a few years ago, for abandoning the access off of Del Monte to the second, further back, parcel, it still complied with the NRS requirements. What he is hearing tonight is that the applicant is willing to condition it to allow for access to that parcel that would now be landlocked. From the County Engineer's position, Mr. Smith appreciates the fact that they are willing to provide permanent access through an easement, a recorded document, which will be reviewed through his office, to allow access to that second parcel. He doesn't want to get into the conditions of who is required for maintenance. He will leave that to the good judgment of the people who live there.

Commissioner Horan asked for clarification that the road is actually a parcel? Mr. Smith replied that the road is a parcel and has an Assessor's parcel number associated with it. The parcel is given a tax bill every year. Commissioner Horan asked if the tax bill goes out and is paid by a group of people? Mr. Smith replied that yes, that is his understanding.

Commissioner Chvilicek asked again why this case is being heard by the Planning Commission tonight? Mr. Webb replied that all abandonments are heard by the Planning Commission. Commissioner Chvilicek asked if the Board of Adjustment (BOA) voted to deny it? Mr. Webb replied that the BOA never heard it. All abandonments go to the Planning Commission. Mr. Lloyd offered clarification. The application was brought to staff and rejected by the Director of Planning and Development. The appeal process, where the director rejects an application, goes to the Board of Adjustment. The application was rejected because the Director did not feel staff had all of the necessary Owner Affidavits, as identified by the Assessor's Office. The BOA upheld the Director's decision. That decision was appealed to the Washoe County Board of Commissioners. The County Commission overturned the decision, feeling that the application had enough information. Staff was directed to bring the abandonment forward to the Planning Commission. Mr. Webb wanted to make it clear that, everything else withstanding, all abandonments are heard by the Planning Commission. In this case there were some steps in-between having to do with processing the application, but all abandonments are heard by the Planning Commission.

Commissioner Chvilicek asked since Parcel two has been sold to the adjacent property owner, is Parcel One landlocked? Mr. Smith replied that Parcel One's primary access is off of Del Monte. It is his understanding that they have secondary access off of Mil Drae. Mr. Smith wants to be sure that there is no landlocked parcel created through this process. He appreciates the applicant putting on record that they would provide an easement for the second parcel off of Mil Drae. If they don't provide an easement, the other alternative would be to do a Boundary Line Adjustment to combine the two parcels. In all conditions, staff wants to make sure they don't create a landlocked parcel. Commissioner Chvilicek asked for confirmation that parcel two will soon be owned by Dolan? Mr. Gordon responded that the reason they went to the BOA and the BCC is because they did not believe the Bennett's back parcel had a legal right to the road. The back parcel is now owned by Dolan. Dolan agreed to bring the back

parcel under both the CC&R's and the road maintenance agreement to be able to access Mil Drae and participate financially. He tried to make clear with the amended condition that the front Bennett parcel, in his and his clients opinions – there was always a dispute over the back parcel. The front parcel has a Del Monte address and uses Del Monte. There was an allegation tonight that they have agreed to pay but they are only agreeing to pay for the beginning of the road, not the whole road. They don't want to be part of the CC&R's that the whole other community is part of. They have access off Del Monte. Mr. Gordon feels the whole issue is now moot because Dolan owns both and has agreed to be part of the CC&R's and the road maintenance agreement. He would ask that in the motion – to carve out the front Bennett parcel for the reasons he has stated.

Commissioner Chesney asked what is the value and importance of having them conform to the CC&R's if they are willing to pay (for part of the road maintenance)? Mr. Gordon replied that they sent an email over and never got a reply back. Talking with one of the Bennett's attorneys before, they were only willing to pay for the first say 100 feet of the road that addresses their properties but not the whole road. He doesn't know how you would allocate that fee. The CC&R's are very important because when someone is buying a property, they know what they and their neighbors have a right to do. Arguably if they were mandated to give them an easement and they never agreed to the CC&R's , there's nothing stopping them from asking for a rezoning and splitting their parcel up into three. Then there would be access to three properties instead of the one. The land uses in the CC&R's are very important. Also, the setbacks are very important. The properties have setbacks to be far away from their neighbors. Mr. Garrett said they have offered them to join the community and play by their rules, if not, they have access off of Del Monte and they all go their separate ways and be good neighbors.

Mr. Webb clarified that CC&R's are not the purview for a dedication or abandonment. What is before the Commission is a request to dedicate and then to abandon. Regardless of the name of the owner of the second parcel, as Mr. Smith has stated, the access for that parcel is from Mil Drae Lane. Mr. Smith also stated that if the parcels were combined and that parcel was to go away, that would be a different story. That is not what is before the Commission today.

Commissioner Horan said there was a statement before that the Bennett's own 15% of the road? Trevor Lloyd answered, yes, according to the Assessor's records, the Bennett's own fee interest in 15% of the road. Mr. Gordon stated that this is disputed. In their opinion, the back parcel was created (no longer relevant because it's been sold) unlawfully without access.

Commissioner Donshick made a clarification on the document provided to the Commissioners. The first property 040-58-211 was never in question in this abandonment process. It was only the back property. On page 6 of 9 on the abandonment case. They are talking about a property that was not in the discussion to begin with.

Chair Barnes asked for any further questions. With none, he closed the public hearing.

Chair Barnes called for Commission discussion. Commissioner Horan said it is a very confusing case. It seemed to him that they should let the private parties work this out and when all the legal niceties are done, they can come back and ask for the abandonment.

With no further discussion, Chair Barnes called for a motion. Commissioner Horan made the following 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 deny Abandonment Case Number AB16-001 for Mil Drae Lane, having been unable to make all three required findings in accordance with Washoe County Code

Section 110.806.20:

1. Master Plan. The abandonment or vacation is not consistent with the policies, action programs, standards and maps of the Master Plan and the Southwest Truckee Meadows Area Plan; and
2. No Detriment. The abandonment or vacation results in a material injury to the public; and
3. Existing Easements. Existing public utility easements in the area to be abandoned or vacated cannot be reasonably relocated to provide similar or enhanced service.

DDA Edwards stated that Commissioner Horan's motion would need to address the possible acceptance of the dedication as well as the abandonment.

Commissioner Horan amended his motion to deny the acceptance of the dedication. DDA Edwards stated that there is nothing to abandon at that point.

Commissioner Donshick made a second to the motion. The motion for denial of the acceptance of the dedication passed unanimously (five in favor of denial, one absent)

Carl R. Webb, Jr., AICP
Secretary to the Planning Commission

Washoe County Development Application

Your entire application is a public record. If you have a concern about releasing personal information, please contact Planning and Development staff at 775.328.3600.

Project Information		Staff Assigned Case No.: _____	
Project Name: Mil Drae Lane Abandonment			
Project Description: This application requests Washoe County to accept the offer of dedication of Mil Drae Lane as described on Subdivision Tract Map #1568 (the "Tract Map"), then to abandon Mil Drae Lane to the original seven property owners as shown on the Tract Map.			
Project Address: Mile Drae Lane; APN 040-581-20			
Project Area (acres or square feet): 2.523 acres			
Project Location (with point of reference to major cross streets AND area locator): Mil Drae Lane (cross street is Del Monte Lane)			
Assessor's Parcel No.(s):	Parcel Acreage:	Assessor's Parcel No(s):	Parcel Acreage:
APN 040-581-20	2.523		
Section(s)/Township/Range: POR. N 1/2 SEC. 1, T18N - R19E			
Indicate any previous Washoe County approvals associated with this application:			
Case No.(s). Abandonment Case No. AB07-005			
Applicant Information (attach additional sheets if necessary)			
Property Owner:		Professional Consultant:	
Name: See attached property owners affidavits		Name: Lewis Roca Rothgerber Christie	
Address: 615 Riverside Drive		Address: 50 W. Liberty Street #410	
Reno, Nevada	Zip: 89503	Reno, Nevada	Zip: 89501
Phone: 775-323-1611	Fax:	Phone: 775-321-3420	Fax: 775-321-5569
Email: pete.ernaut@rrpartners.com		Email: ggordon@lrrc.com	
Cell:	Other:	Cell: 775-762-6765	Other:
Contact Person: Pete Ernaut		Contact Person: Garrett Gordon, Esq.	
Applicant/Developer:		Other Persons to be Contacted:	
Name: See attached property owners affidavits		Name:	
Address: 615 Riverside Drive		Address:	
Reno, Nevada	Zip: 89503		Zip:
Phone: 775-323-1611	Fax:	Phone:	Fax:
Email: pete.ernaut@rrpartners.com		Email:	
Cell:	Other:	Cell:	Other:
Contact Person: Pete Ernaut		Contact Person:	
For Office Use Only			
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)

Chapter 110 of the Washoe County Code is commonly known as the Development Code. Specific references to vacations and abandonments may be found in Article 806, Vacations and Abandonments of Easements or Streets.

1. What is the abandonment being requested?

This is a request for Washoe County to accept dedication of Mil Drae Lane (APN 040-581-20), then abandon Mil Drae Lane to the seven (7) adjacent properties shown on the Mil Drae Country Estates Subdivision Tract Map #1568. This is supported by NRS 278.480(7).

The same application was submitted and approved for Milabar Way (Allyene Way) as shown on the attached Resolution and Order of Abandonment dated October 8, 2008 (attached as Exhibit A).

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

Mil Drae Country Estates Subdivision Tract Map #1568 (attached as Exhibit B)

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

Mil Drae Lane will be used as a private driveway for the ten (10) properties located in the Mil Drae Country Estates.

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

Easements will be granted to the three (3) additional Mil Drae Country Estates property owners described in the Mil Drae Country Estates Supplemental Declaration of Restrictions dated December 3, 1981 attached hereto Exhibit C.

The initial Mil Drae Country Estates Declaration of Covenants, Restrictions, Easements and Reservations dated April 22, 1976 is attached hereto as Exhibit D.

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?

The ten (10) properties in the Mil Drae Country Estates will each have access to Mil Drae Lane. Other properties in the vicinity have legal access to Del Monte Lane.

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

**Abutting Property Owners Dedicating
Mil Drae Lane (APN 040-581-20)
As Shown on Mil Drae Lane Country Estates Subdivision Tract Map #1568**

1. Ryan M. Dolan Family Trust (APN 040-582-02)
 2. Roland and Tina Scarselli (APN 040-582-03)
 3. Nunnally Family Trust (APN 040-582-04)
 4. Ernaut Family Trust (APN 040-581-19)
 5. Faulstich Family Trust (APN 040-581-12)
 6. Herbert and Susan H Family Trust (APN 040-581-13)
 7. Herbert and Susan H Family Trust (APN 040-581-14)
-

Property Owner Affidavit

Applicant Name: Ryan M. Dolan

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
COUNTY OF WASHOE)

I, Ryan M Dolan
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 040-582-02

Printed Name Ryan M. Dolan

Signed [Signature]

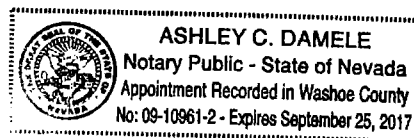
Address 460 MILORAE LN
RENO, NV 89511

Subscribed and sworn to, before me this 13th day of August, 2015.

(Notary Stamp)

Ashley C. Damele
Notary Public in and for said county and state

My commission expires: 9/25/17



*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of recorded document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Property Owner Affidavit

Applicant Name: ROLAND AND TINA SCARSELLI

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
COUNTY OF WASHOE)

I, TINA SCARSELLI
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 040-582-03

Printed Name TINA SCARSELLI

Signed Tina Scarselli

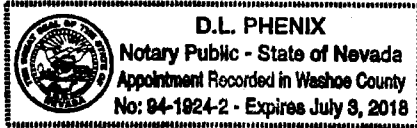
Address 470 Mildrae Lane
Reno, No. 89511

Subscribed and sworn to before me this 14th day of October, 2015

D.L. Phenix WASHOE NV
Notary Public in and for said county and state

My commission expires: July 3, 2018

(Notary Stamp)



*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of recorded document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Property Owner Affidavit

Applicant Name: ROLAND AND TINA SCARSELLI

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
COUNTY OF WASHOE)

I, ROLAND SCARSELLI
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 040-582-03

Printed Name ROLAND SCARSELLI

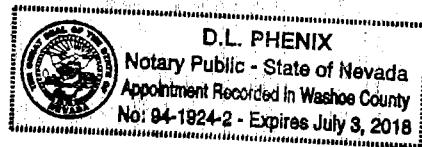
Signed Roland Scarselli

Address 470 MILDRAE LANE
RENO, NV, 89511

Subscribed and sworn to before me this 14th day of October, 2015

D.L. Phenix WASHOE NV
Notary Public in and for said county and state
My commission expires July 3, 2018

(Notary Stamp)



*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of recorded document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Property Owner Affidavit

Applicant Name: James Edwin NUNNALLY

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
COUNTY OF WASHOE)

I, James Edwin NUNNALLY (please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 040-582-04

Printed Name James Edwin NUNNALLY

Signed James Edwin Nunnally

Address 490 MIDRAE LANE

RENO, NV 89511

State of Nevada, County of Washoe

Subscribed and sworn to before me this 2 day of September, 2015.

(Notary Stamp)

[Signature]
Notary Public in and for said county and state

My commission expires: 9 Oct. 2018



*Owner refers to the following: (Please mark appropriate box.)

- Owner (checked)
Corporate Officer/Partner
Power of Attorney
Owner Agent
Property Agent
Letter from Government Agency with Stewardship

Property Owner Affidavit

Applicant Name: Maureen J Nunnally

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
COUNTY OF WASHOE)

I, MAUREEN J NUNNALLY
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 040-582-04

Printed Name Maureen J. Nunnally

Signed [Signature]

Address 490 Mildrae Lane

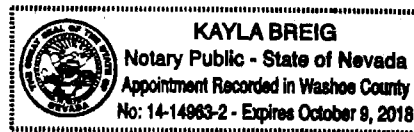
Reno, NV. 89511

State of Nevada, County of Washoe

Subscribed and sworn to before me this 2 day of September 2015.

(Notary Stamp)

[Signature]
Notary Public in and for said county and state



My commission expires: 9 Oct. 2018

*Owner refers to the following: (Please mark appropriate box.)

- Owner
 Corporate Officer/Partner (Provide copy of recorded document indicating authority to sign.)
 Power of Attorney (Provide copy of Power of Attorney.)
 Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
 Property Agent (Provide copy of record document indicating authority to sign.)
 Letter from Government Agency with Stewardship

Property Owner Affidavit

Applicant Name: PETE ERNALT

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
COUNTY OF WASHOE)

I, PETE ERNALT
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 040-581-19

Printed Name PETE ERNALT

Signed [Signature]

Address 500 W. ISRAEL LN
RENO, NV 89511

Subscribed and sworn to before me this 13th day of August, 2015.

Washoe County, NV
Notary Public in and for said county and state

My commission expires: 9/25/2017

(Notary Stamp)
Ashley C. Damele
ASHLEY C. DAMELE
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 09-10961-2 - Expires September 25, 2017

*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of recorded document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Property Owner Affidavit

Applicant Name: Lance Faulstich

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
COUNTY OF WASHOE)

I, Lance Faulstich
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 040 - 581 - 12

Printed Name LANCE FAULSTICH

Signed [Signature]

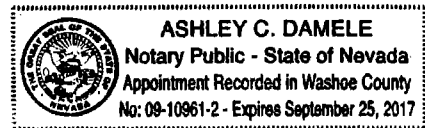
Address 510 MILDRAE LANE
RENO NV. 89511

Subscribed and sworn to before me this 14th day of October, 2015

(Notary Stamp)

[Signature]
Notary Public in and for said county and state

My commission expires: September 25, 2017



*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of recorded document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Property Owner Affidavit

Applicant Name: HERBERT AND SUSAN NICHOLS

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
COUNTY OF WASHOE)

I, HERBERT L NICHOLS
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 04058113

Printed Name HERBERT L NICHOLS

Signed [Signature]

Address 495 MILDRAE LANE
RENO, NV 89511

Subscribed and sworn to before me this 13 day of Aug, 2015.

[Signature]
Notary Public in and for said county and state
Krista R Lawson
My commission expires: 11/18/2018



*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of recorded document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Property Owner Affidavit

Applicant Name: HERBERT AND SUSAN Nichols

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
COUNTY OF WASHOE)

I, SUSAN H NICHOLS
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 04058113

Printed Name SUSAN H NICHOLS

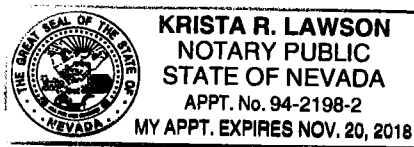
Signed Susan H. Nichols

Address 495 MILDRAE LANE
RENO, NV 89511

Subscribed and sworn to before me this 13 day of Aug, 2015.

Krista R. Lawson
Notary Public in and for said county and state
My commission expires: 11/20/18

(Notary Stamp)



*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of recorded document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Property Owner Affidavit

Applicant Name: Herbert and Susan Nichols

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
COUNTY OF WASHOE)

I, Susan H Nichols
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 04058114

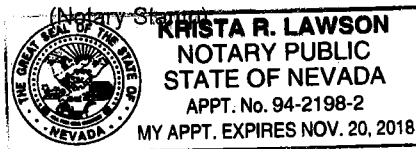
Printed Name Susan H Nichols

Signed Susan H. Nichols

Address 495 MILDRAE LANE
RENO, NV 89511

Subscribed and sworn to before me this 13 day of Aug 2015.

Krista R Lawson
Notary Public in and for said county and state
My commission expires: 11/20/18



*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of recorded document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Property Owner Affidavit

Applicant Name: HERBERT AND SUSAN NICHOLS

The receipt of this application at the time of submittal does not guarantee the application complies with all requirements of the Washoe County Development Code, the Washoe County Master Plan or the applicable area plan, the applicable regulatory zoning, or that the application is deemed complete and will be processed.

STATE OF NEVADA)
COUNTY OF WASHOE)

I, HERBERT L NICHOLS
(please print name)

being duly sworn, depose and say that I am the owner* of the property or properties involved in this application as listed below and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of Planning and Development.

(A separate Affidavit must be provided by each property owner named in the title report.)

Assessor Parcel Number(s): 04058114

Printed Name HERBERT L NICHOLS

Signed [Signature]

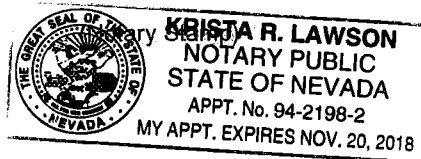
Address 495 MILDRAE LANE
RENO, NV 89511

Subscribed and sworn to before me this 13 day of Aug, 2015

[Signature]

Notary Public in and for said county and state

Krista R. Lawson
My commission expires: 11/20/2018



*Owner refers to the following: (Please mark appropriate box.)

- Owner
- Corporate Officer/Partner (Provide copy of recorded document indicating authority to sign.)
- Power of Attorney (Provide copy of Power of Attorney.)
- Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- Property Agent (Provide copy of record document indicating authority to sign.)
- Letter from Government Agency with Stewardship

Washoe County
Legal Description
APN 040-581-20

ABANDONMENT OF MIL DRAE LANE

All that certain real property, situate within a portion of Section 1, Township 18 North, Range 19 East, Mount Diablo Meridian, County of Washoe, State of Nevada, being Mil Drae Lane as shown on that certain "Subdivision Tract Map of Mil Drae Estates", recorded on April 16, 1976, as Subdivision Tract Map No. 1568, File No. 404602, Official Records of Washoe County, Nevada, the centerline of which is more particularly described as follows:

COMMENCING at the North One Quarter corner of said Section 1, thence South $11^{\circ}45'10''$ West a distance of 1134.42 feet to the intersection of the centerline of said Mil Drae Lane and the Easterly right of way line of Del Monte Lane and the **TRUE POINT OF BEGINNING**;

Thence along the centerline of the 50.00 foot wide Mil Drae Lane, said right of way being 25.00 feet each side of centerline, North $89^{\circ}47'00''$ East a distance of 647.31 feet to the beginning of a 100.00 foot radius curve concave Northwesterly;

Thence along said 100.00 foot radius curve to the left, through a delta angle of $71^{\circ}44'00''$ and an arc length of 125.20 feet to a point of tangent;

Thence North $18^{\circ}03'00''$ East a distance of 509.05 feet to the beginning of a 200.00 foot radius curve concave Westerly;

Thence along said 200.00 foot radius curve to the left, through a delta angle of $18^{\circ}16'00''$ and an arc length of 63.76 feet to a point of tangent;

Thence North $00^{\circ}13'00''$ West a distance of 131.86 feet to the beginning of a 100.00 foot radius curve concave Southwesterly;

Thence along said 100.00 foot radius curve to the left, through a delta angle of $90^{\circ}00'00''$ and an arc length of 157.08 feet to a point of tangent;

Thence South $89^{\circ}47'00''$ West a distance of 105.00 feet to the intersection of the previously abandoned centerline of Allyene Way (also known as Milabar Way);

Thence continuing along the centerline of Mil Drae Lane South $89^{\circ}47'00''$ West a distance of 350.00 feet to the center of a 50.00 foot radius Cul-de-Sac and the Northwesterly end of Mil Drae Lane.

The Right of Way abandonment of the Cul-de-Sac at the Northwesterly end of Mil Drae Lane is further described as follows:

COMMENCING at the center of said 50.00 foot Cul-de-Sac of Mil Drae Lane, thence North 63°46'24" East a distance of 57.01 to a point on the Northerly Right of Way line of Mil Drae Lane and the beginning of a 15.00 foot curve concave to the Northeast and the **TRUE POINT OF BEGINNING** of said Cul-de-Sac Right of Way abandonment;

Thence along said 15.00 foot radius curve to the right, through a delta of 52°01'12" and an arc length of 13.62 feet to the point of reverse curvature and a 50.00 foot radius curve concave to the East;

Thence along said 50.00 foot radius curve through a delta of 284°02'25" and an arc length of 247.87 feet to the point of reverse curvature and a 15.00 foot radius curve concave to the Southeast;

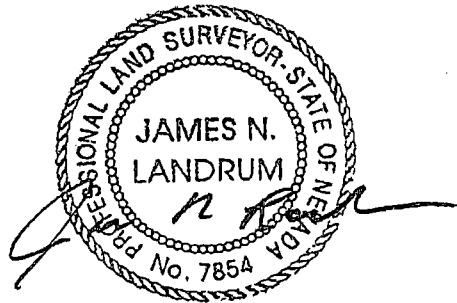
Thence along said 15.00 foot radius curve to the right, through a delta of 52°01'12" and an arc length of 13.62 feet to a point on the Southerly Right of Way line of Mil Drae Lane; said point also being South 00°13'00" East a distance of 50.00 feet from the **TRUE POINT OF BEGINNING** of said Cul-de-Sac Right of Way abandonment;

Said Mil Drae Lane abandonment shall include any necessary extension or reduction of both sides of said 50.00 foot wide Mil Drae Lane Right of Way Lines to match the Easterly Right of Way line of Del Monte Lane, the 50.00 foot radius Cul-de-Sac and 15.00 foot reverse curves at the Northwesterly end of Mil Drae Lane as shown on the attached Exhibit.

This abandonment of Mil Drae Lane containing an area of 109,943 square feet of land, more or less.

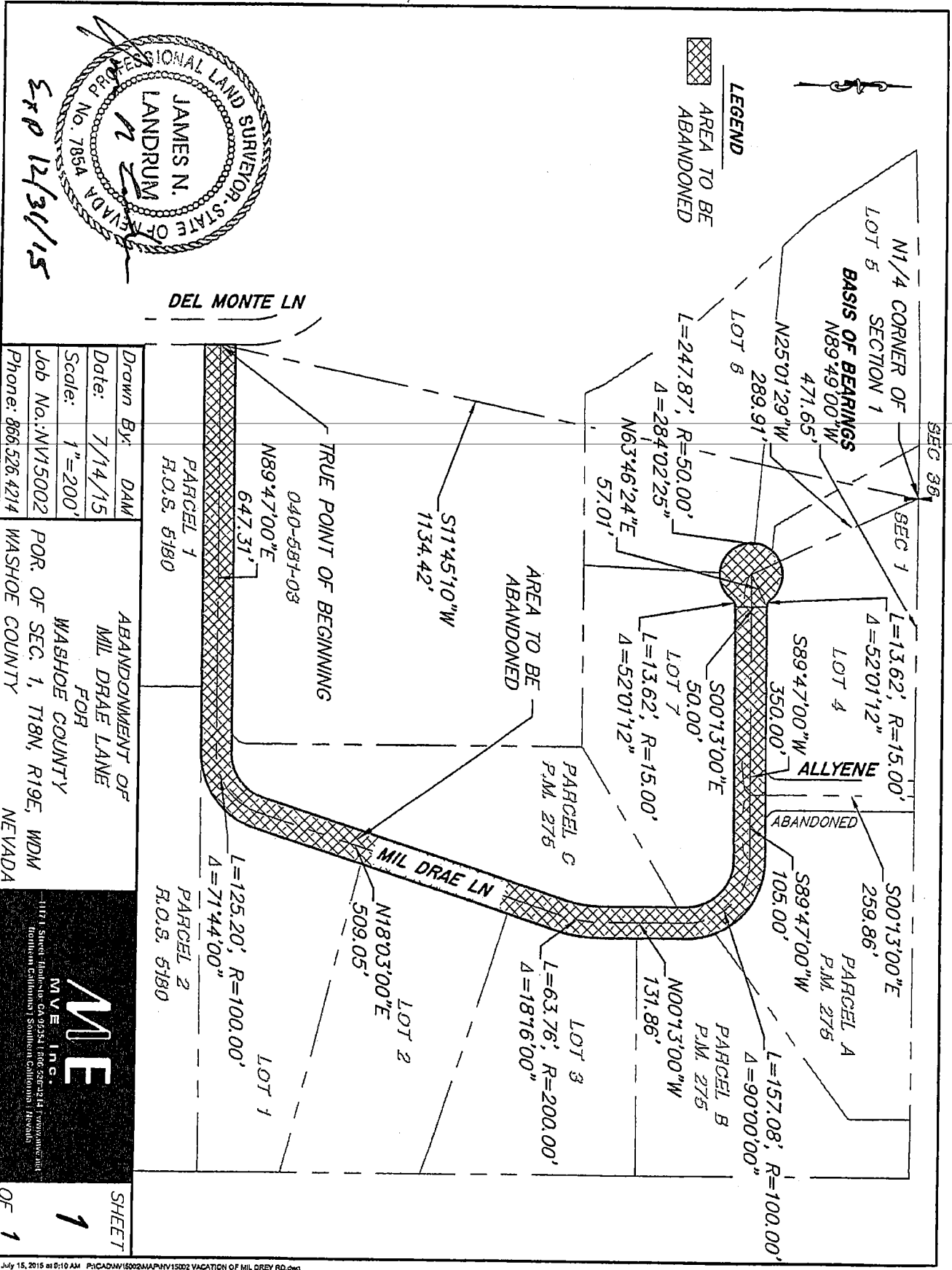
BASIS OF BEARINGS: The North line of the Northeast Quarter of said Section 1 as shown on the "Subdivision Tract Map of Mil Drae Estates", recorded on April 16, 1976, as Subdivision Tract Map No. 1568, File No. 404602, Official Records of Washoe County, Nevada, shown as North 89°49'00" West.

Prepared by:
James N. Landrum, PLS 7854
1117 L Street
Modesto, Ca. 95354
866-526-4214



Expires 12/31/2015

Dated: July 15, 2015



JAMES N. LANDRUM
 PROFESSIONAL LAND SURVEYOR - STATE OF NEVADA
 No. 7854
 Exp 12/30/15

Drawn By: DAM
 Date: 7/14/15
 Scale: 1"=200'
 Job No.: N115002
 Phone: 866.526.4214

ABANDONMENT OF
 MIL DRAE LANE
 FOR
 WASHOE COUNTY
 POR. OF SEC. 1, T18N, R19E, WDM
 WASHOE COUNTY
 NEVADA

MVE INC.
 1171 Street Home Ave. CA 92541, 1866-526-1214
 Fontana, California | Southern California | Nevada

SHEET
1
 OF 1

EXHIBIT "A"

DOC # 3694825

10/08/2008 08:18:23 AM
Requested By
WASHOE COUNTY ENGINEERING DIV
Washoe County Recorder
Kathryn L. Burke - Recorder
Fee: \$0.00 RPTT:
Page 1 of 5

APN: 040-581-15

When recorded return to:
Washoe County Engineering Division
Attn: Kimble Corbridge, P.E.



RESOLUTION AND ORDER OF ABANDONMENT

WHEREAS, the Washoe County Planning Commission did receive a petition to abandon the right-of-way of Milabar Way (formerly Allyene Way) as shown on Tract Map No. 1568. The area is designated High Density Rural in the Southwest Truckee Meadows Area Plan and situated in the NE ¼ of Section 1, T18N, R19E, M.D.B. & M. Washoe County, Nevada; and

WHEREAS, pursuant to NRS 244.276 and 278.480 the County of Washoe has the power to vacate the right-of-way; and

WHEREAS, the utility companies relinquished their rights to the public utility easement per Document No. 3678534 recorded in Washoe County; and

WHEREAS, upon evidence presented by the County Engineer and other interested persons, the Washoe County Planning Commission finds 1) that the abandonment request is not inconsistent with the land use map and policies of the Southwest Truckee Meadows Area Plan; and 2) that the public will not be materially injured by the proposed vacation; and 3) that any other existing easements in the area are not affected by the proposed vacation; and 4) that the Commissioners gave reasoned consideration to the information contained within the staff report and information received during the meeting; and

WHEREAS, the Washoe County Planning Commission ordered on June 7, 2007, the abandonment of the above-mentioned right-of-way.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE WASHOE COUNTY PLANNING COMMISSION that the following described right-of-way be abandoned and that this Order of Abandonment be recorded in the Office of the Washoe County Recorder pursuant to NRS 278.480.

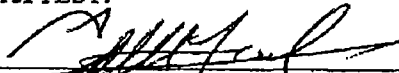
See attached Exhibit "A" - Abandonment of Milabar Way

WASHOE COUNTY PLANNING COMMISSION
WASHOE COUNTY, NEVADA

By: Christy Magers
CHRISTY MAGERS, Chair

10/7/08
Date

ATTEST:


ADRIAN P. FREUND, AICP
Secretary to the Planning Commission

Milabor Way Resolution and Order of Abandonment.doc

EXHIBIT A

Washoe County
Legal Description
Portion of APN 040-581-15
Abandonment of Milabar Way

All that certain real property, situate within a portion of Section 1, T18N, R19E, MDM, County of Washoe, State of Nevada, being Allyene Way (now Milabar Way) as shown on that certain "Subdivision Tract Map of Mil Drae Country Estates", recorded on April 16, 1976, as Subdivision Tract Map No. 1568, File No. 404602, Official Records of Washoe County, Nevada, more particularly described as follows:

BEGINNING at the northeast corner of Lot 4 as shown on said Subdivision Tract Map No. 1568, said point also the northwest corner of said Allyene Way;

Thence along the northerly line of said Allyene Way, S 89°49'00" E, 50.00 feet;

Thence along the easterly line of said Allyene Way, S 00°13'00" E, 214.67 feet;

Thence along the arc of a tangent curve to the left, having a radius of 20.00 feet, through a central angle of 90°00'00" and an arc length of 31.42 feet;

Thence departing said easterly line, S 89°47'00" W, 90.00 feet to the westerly line of said Allyene Way;

Thence along the arc of a non-tangent curve to the left, from a tangent which bears N 89°47'00" E, having a radius of 20.00 feet, through a central angle of 90°00'00" and an arc length of 31.42 feet;

Thence N 00°13'00" W, 215.04 feet to the Point of Beginning.

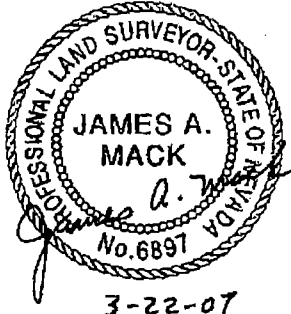
Containing an area of 11,915 square feet of land, more or less.

BASIS OF BEARINGS: "Subdivision Tract Map of Mil Drae Country Estates", recorded on April 16, 1976, as Subdivision Tract Map No. 1568, File No. 404602, Official Records of Washoe County, Nevada.

NOTE: Milabar Way was originally offered for dedication by Subdivision Tract Map No. 1568 as Allyene Way and was solely a part of said Tract Map. Subsequently, it passed into private ownership, offered again for dedication, and is hereby abandoned by Washoe County.

Prepared by:
James A. Mack, PLS 6897
130 Vine St.
Reno, Nevada 89503
775-329-2911

G:\07026.00\Docs\LEGAL ABANDONMENT.doc



3-22-07

exp. 12-31-07

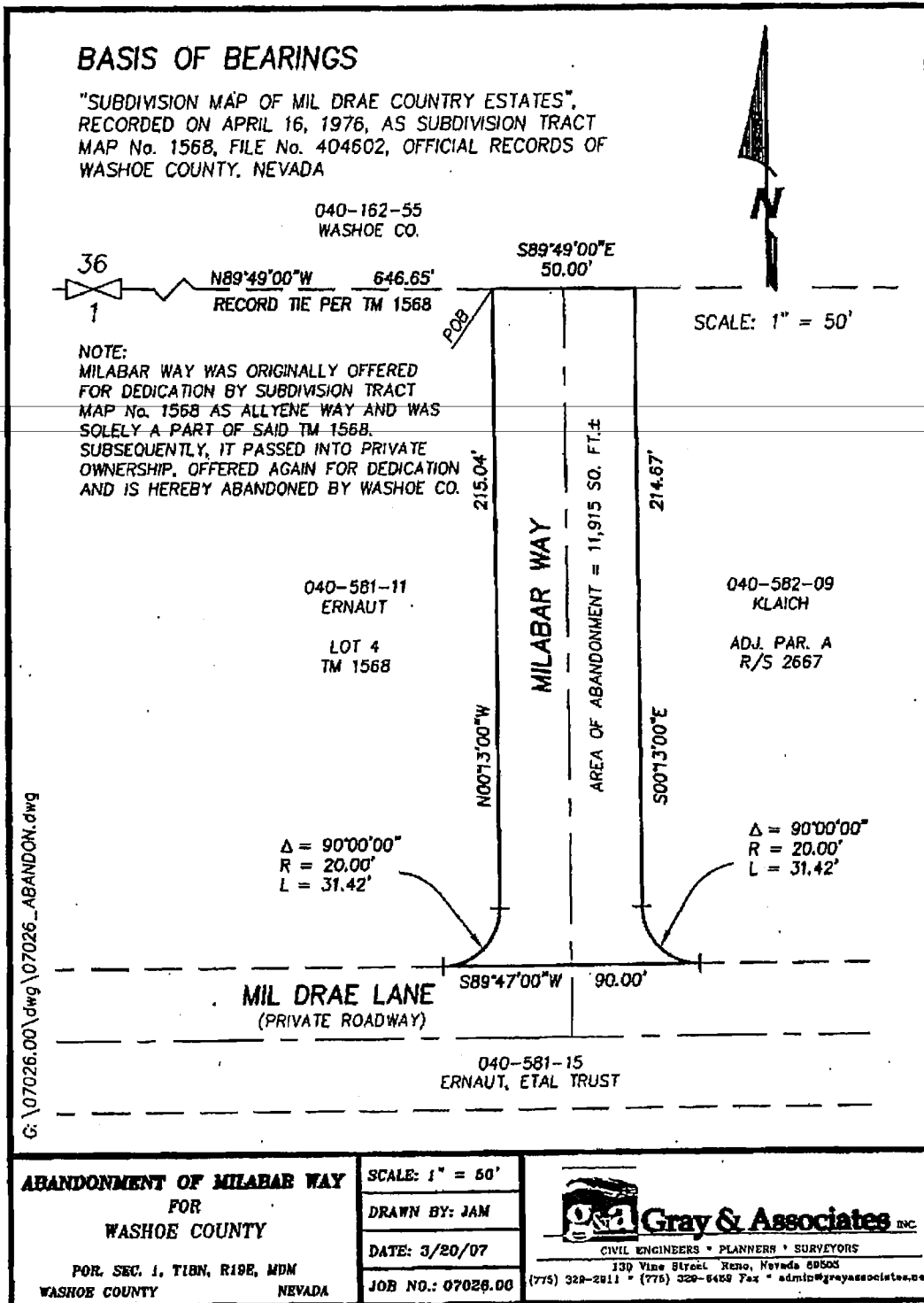
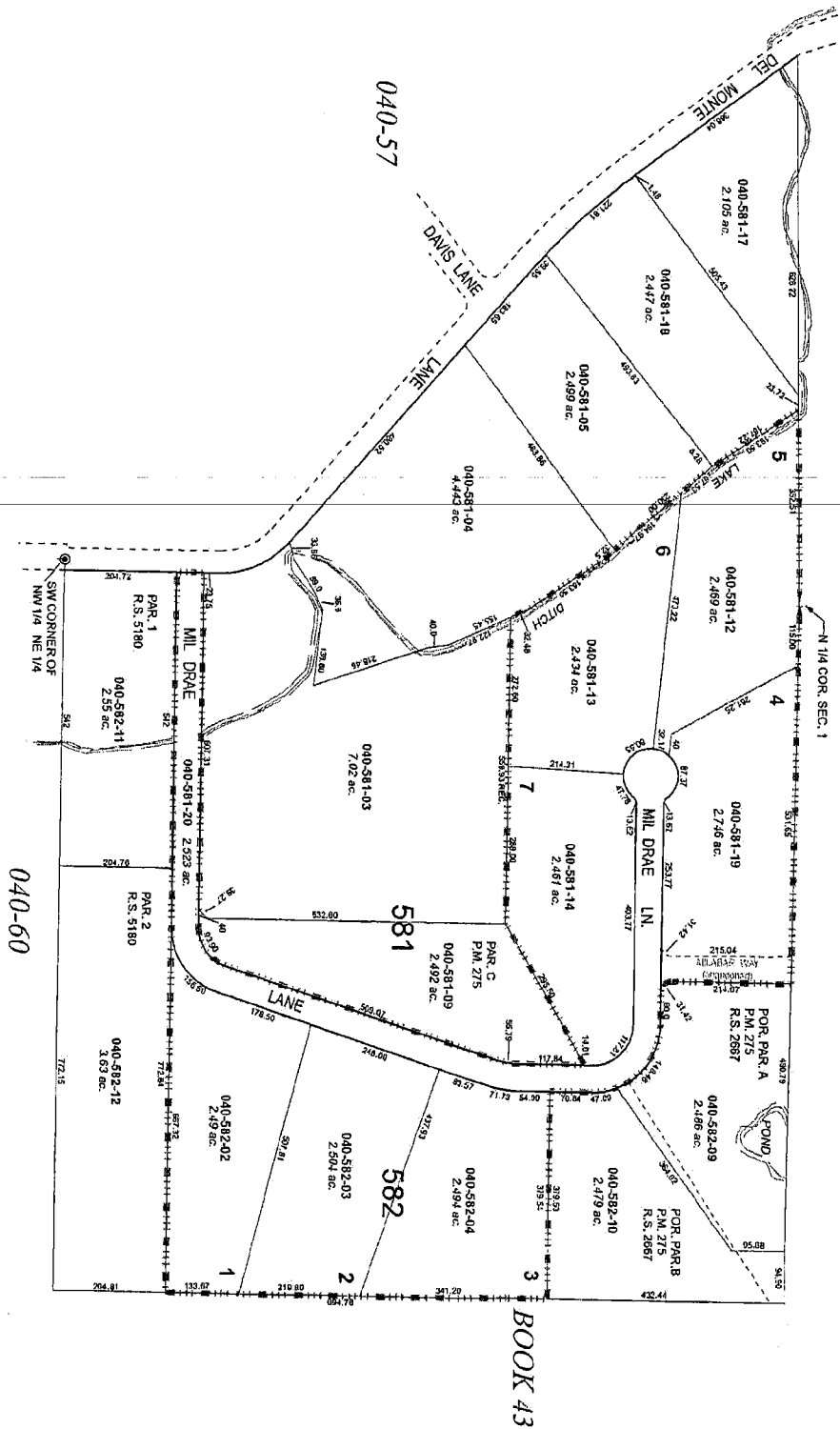


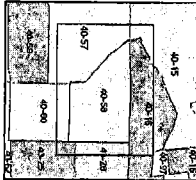
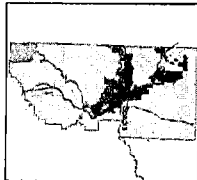
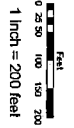
EXHIBIT "B"

(#1568)
MIL DRAE COUNTRY ESTATES
 POR. N 1/2 SEC. 1, T18N - R19E
 040-16



Assessor's Map Number
040-58

STATE OF NEVADA
WASHOE COUNTY
 ASSESSOR'S OFFICE
 Joshua G. Wilson, Assessor
 1001 East Main Street
 Reno, Nevada 89512
 (775) 324-2211



created by: **CFB 04/03/2009**
 last updated: **NLH 01/14/2009**
 map previously shown on map(s)

NOTE: This map was prepared for the use of the Washoe County Assessor's Office. It is not intended for any other purpose. No liability is assumed by the Assessor's Office for any errors or omissions. The Assessor's Office is not responsible for any loss or damage resulting from the use of this map.

EXHIBIT “C”

778051

SUPPLEMENTAL
DECLARATION OF RESTRICTIONS
MIL-DRAE COUNTRY ESTATES

JAN 2 1982

THIS DECLARATION made this 3rd day of December, 1981,
by the undersigned property owners being all of the property
owners in that subdivision known as Mil Drae Country Estates
(hereinafter referred to as DECLARANTS), and more particularly
described as follows:

All those lots and parcels within the exterior
boundaries of the MIL DRAE COUNTRY ESTATES SUB-
DIVISION as shown on the map thereof filed in the
office of the County Recorder of Washoe County,
State of Nevada, on April 16, 1976, as Document
No. 404602.

And, between three contiguous property owners, to wit:

Property Owner No. 1:

William P. Lore and Catherine H. Lore, joint tenants, as to:

Parcel C as shown on Parcel Map No. 275, filed
in the office of the County Recorder of Washoe
County, State of Nevada, on June 28, 1976, under
Filing No. 414322, Official Records,

TOGETHER WITH an undivided one-tenth interest in
the area designated as Mil Drae Lane and Allyene
Way of Mil Drae Country Estates.

Property Owner No. 2:

Stan Goodin and Kathie Goodin, joint tenants, as to:

Parcel B as shown on Parcel Map No. 275 filed in
the office of the County Recorder of Washoe County,
Nevada, on June 28, 1976, Filing No. 414322,
Official Records,

TOGETHER WITH an undivided one-tenth interest in
the area designated as Mil Drae Lane and Allyene
Way of Mil Drae Country Estates.

Property Owner No. 3:

Joe M. Hathaway and Marlyn A. Hathaway, joint tenants, as

to:

Parcel A as shown on Parcel Map No. 275, filed in
the office of the County Recorder of Washoe County,
State of Nevada, on June 28, 1976, under Filing
No. 414322, Official Records,

TOGETHER with an undivided one-tenth interest in
the area designated as Mil Drae Lane and Allyene
Way of Mil Drae Country Estates.

81710P0748

*after recording
return to:*

DWAYNE G. SCHUMACHER
ATTORNEYS AT LAW
408 HILL STREET
WENO, NEVADA 89099

778051

W I T N E S S E T H:

WHEREAS, there are presently seven parcels of real property subject to the Declaration of Covenants, Restrictions, Easements and Reservations as to Mil Dree Country Estates, said Declaration of Covenants, Restrictions, Easements and Reservations being recorded as Document No. 406254 on April 16, 1976 in the Office of the County Recorder, Washoe County, State of Nevada (hereinafter referred to as DECLARATION).

JAN 2 1982

WHEREAS, three contiguous property owners as described hereinabove agree to be bound by, and subject to the hereinabove described DECLARATION, and this Supplemental Declaration of Restrictions (hereinafter referred to as SUPPLEMENT).

WHEREAS, the hereinabove seven property owners within Mil Dree Country Estates subdivision, being all of the property owners within Mil Dree Country Estates subdivision, desire to bind, and subject the three contiguous parcels to the DECLARATION; and to this SUPPLEMENT.

B1710P0749

WHEREAS, all of the property owners within Mil Dree Country Estates subdivision, and the three additional hereinabove described contiguous property owners, desire that all ten parcels be brought within and subject to the conditions, restrictions, easements and reservations of the hereinabove DECLARATION, and this SUPPLEMENT for the general benefit of all of said property owners, and further with the intention that all of said lots continue to be used for residential purposes, and that said DECLARATION and SUPPLEMENT shall inure to and pass with each parcel, and shall apply to and bind the respective successors in interest thereof, and further, all and each covenant, restriction, easement and reservation imposed on all or any parcel are imposed on each and every lot as a servitude in favor of each and every other lot or parcel as the dominant tenement or tenements.

WHEREAS, the undersigned intend that this SUPPLEMENT, and the DECLARATION, shall be read together, but that as to any conflict the more restrictive shall control, with the understanding that if any covenant, restriction, easement or reservation shall be declared invalid by any court of law, that the remaining covenants, restrictions, easements and reservations shall continue in existence.

JAN 22 1982

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That DECLARANTS and property owner Nos. 1, 2 and 3 hereby certify and declare that the property described hereinabove as Mill Dae Country Estates subdivision, and as parcels A, B, and C of parcel map No. 275, have a general plan for the protection, maintenance, development and improvement of all parcels described hereinabove; that the DECLARATION, and this SUPPLEMENT, are designed for the mutual benefit of all the hereinabove described parcels and that DECLARANTS and property owners 1, 2 and 3 have fixed and do hereby fix DECLARATION and SUPPLEMENT and the provisions, restrictions, covenants, easements and reservations thereon upon and subject to which all of the above-described parcels and portions of parcels shall be improved or sold or conveyed by them as owners, each and all of which are for the benefit of each parcel, and owner of parcel above-described, or any interest therein, and shall inure to and pass each and every parcel, and shall be a burden upon each parcel sold, and bind the respective successors in interest of the present owner or owners thereof, and are imposed upon said each and every lot therein as a servitude in favor of each and every other parcel as the dominant tenement or tenements, as follows, to-wit:

B1710P0750

1. That all the covenants, restrictions, easements and reservations of the hereinabove referred to DECLARATION, and of the hereinabove referred to SUPPLEMENT, shall be read together, but that as to any conflict, the more restrictive shall control, with the understanding that if any covenant, restriction, easement, or reservation shall be declared invalid by any court of law, that the remaining covenants, restrictions, easements and reservations shall continue in existence.

JAN 22 1982

2. That henceforth, all of said property owners hereby agree that they shall meet at least once a year, preferably in April; to assess all of said property owners for the care and maintenance of Mil Drae Lane and Allyene Way, both being streets abutting to and contiguous with said property owners. By way of further description of Mil Drae Lane and Allyene Way, said undersigned property owners declare that said streets are shown in the subdivision map of Mil Drae Country Estates as a cul-de-sac, and as a dead end street, respectively, said property owners declaring that their agreement to be bound by assessments for said streets is only applicable to that portion thereof within the boundaries of the subdivision recorded as Mil Drae Country Estates and of the boundaries of property owners 1, 2 and 3.

B1710P0751

3. All of said property owners further agree that they shall be assessed as to the care, maintenance and insuring of Mil Drae Lane and Allyene Way on an equal basis, and that the size of their own individual parcels shall be nondeterminative as to an assessment. Each property owner hereby agreeing that each parcel shall be considered and shall be subject to an assessment equal to one-tenth (1/10th) of the total assessment for the care, maintenance and insuring of said streets. Said property owners agree that a vote as to an assessment shall be by a majority, and that each parcel shall be considered as having one vote, no matter how many actual owners are listed for an individual parcel. As

a general guideline for those items deemed falling within the care, maintenance and insuring of said streets, said property owners intend by way of illustration to assess for snow removal and sanding, taxes, signage, maintenance of abutting ditches, insurance and the actual grading, paving and caring of the roadway. Said parcel owners further declare and agree that if any individual parcel owner is grossly negligent or willfully at fault for any damage to the hereinabove described streets, that said parcel owner upon a three-quarter (3/4) majority vote of the parcel owners be individually assessed damage caused by said property owner or owners, as the case may be.

JAN 22 1982

4. Said property owners further agree that at the annual meeting the latest addition of Robert's Rules of Order shall control as to the conducting of the annual meeting, or any other meetings that may be necessary and proper. Said parcel owners agree that written notice as to a meeting, shall be mailed to the last known addresses of parcel owners not less than ten (10) days before a meeting. Said written notice shall briefly describe the areas to be covered at a meeting. Any parcel owner that appears at a meeting waives any objection as to late or non-notice.

B1710P0752

5. Said parcel owners further certify and declare that the hereinabove referred to DECLARATION and this SUPPLEMENT are imposed upon said property for the direct benefit thereof and that said covenants, restrictions, easements and reservations shall run with the land and shall be binding upon the parcels within Mill Dae Country Estates and the three (3) contiguous property owners, to-wit, property owner 1, 2 and 3, all as described hereinabove, and upon all persons claiming under them or under their successors for the time period as set forth in the DECLARATION. Said property owners further declare and certify that said DECLARATION and this SUPPLEMENT may be amended, modified, abrogated or rescinded by recordation in the Office of the County Recorder of

a Supplemental Declaration of Restrictions duly executed and acknowledged by not less than seventy-five percent (75%) of all parcel owners, and their successors in interest (each parcel being entitled to one (1) vote). A parcel owner is defined as all parcels within Mil Dree Country Estates subdivision, and the three (3) contiguous parcels described hereinabove.

JAN 22 1982

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands this 3 day of December, 1981, in the County of Washoe, State of Nevada.

DECLARANTS:

<u>Mick R. Drago</u> MICK R. DRAGO	<u>Mary G. Drago</u> MARY G. DRAGO
<u>Lewis W. Milabar</u> LEWIS W. MILABAR	<u>Allyene M. Milabar</u> ALLYENE M. MILABAR
<u>Timothy Grant</u> TIMOTHY GRANT	<u>Marsha M. Grant</u> MARSHA M. GRANT
<u>Robert B. Hawkins</u> ROBERT B. HAWKINS	<u>Jerady A. Hawkins</u> JERADY A. HAWKINS
<u>Steven Humphrey</u> STEVEN HUMPHREY	<u>Lois L. Humphrey</u> LOIS L. HUMPHREY
<u>Ruth Nichols Richardson</u> RUTH NICHOLS RICHARDSON, as her sole and separate property	<u>Herbert L. Nichols</u> HERBERT L. NICHOLS
<u>Carol Susan Haines Nichols</u> CAROL SUSAN HAINES NICHOLS	

PROPERTY OWNER NO. 1:

<u>William F. Lore</u> WILLIAM F. LORE	<u>Catherine H. Lore</u> CATHERINE H. LORE
---	---

PROPERTY OWNER NO. 2:

<u>Stan Goodin</u> STAN GOODIN	<u>Kathy Goodin</u> KATHY GOODIN
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PROPERTY OWNER NO. 3:

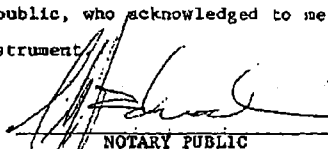
<u>Joe M. Hathaway</u> JOE M. HATHAWAY	<u>Marlyn A. Hathaway</u> MARLYN A. HATHAWAY
---	---

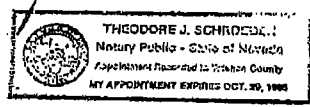
B1710P0753

STATE OF NEVADA,)
COUNTY OF WASHOE.) ss.

On December 3, 1981, personally appeared Mick R. Drago, Mary G. Drago, Lewis W. Milabar, Allyene M. Milabar, Timothy Grant, Marsha M. Grant, Steven Humphrey, Lois L. Humphrey, Herbert L. Nichols, Carol Susan Haines Nichols, William P. Lore, Catherine H. Lore, Stan Goodin, Kathie Goodin, Joe M. Hathaway, and Marilyn A. Hathaway, before me, a notary public, who acknowledged to me that they executed the foregoing instrument

JAN 22 1982

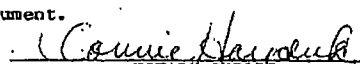

NOTARY PUBLIC

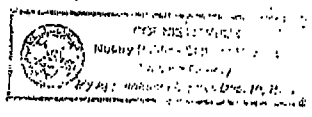


81710P0754

STATE OF NEVADA,)
COUNTY OF WASHOE.) ss.

On December 10, 1981, personally appeared before me, a notary public, Ruth Nichols Richardson, who acknowledged to me that she executed the foregoing instrument.


NOTARY PUBLIC



SHAR & SCHROEDER
ATTORNEYS AT LAW
400 HILL STREET
RENO, NEVADA 89501

81710P0751

STATE OF CALIFORNIA,)

COUNTY OF Orange) ss.

On ~~January 6, 1982~~ ^{18th} ~~December~~ ^{18th} 1981, personally appeared before me, a notary public, Robert B. Hawkins and Jerady A. Hawkins, who acknowledged to me that they executed the foregoing instrument.

JAN 2 1982

Barbara J. Brennan
NOTARY PUBLIC



81710P0755

OFFICIAL RECORDS
CLERK OF COUNTY OF NEVADA
RECORD REQUESTED BY
Sinai + Schroeder
82 JAN 22 P 3: 44

JOE MELCHER
COUNTY CLERK
FILE 1100 23

SINAI & SCHROEDER
ATTORNEYS AT LAW
440 HILL STREET
RENO, NEVADA 89501

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EXHIBIT "D"

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h/s.

APR 29 1976

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DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS
AND RESERVATIONS

MIL DRAE COUNTRY ESTATES

KNOW ALL MEN BY THESE PRESENTS:

That MIL DRAE COUNTRY ESTATES, comprised of MICK R. DRAGOO and MARY G. DRAGOO, his wife, and LEWIS MILABAR and ALLYENE M. MILABAR, his wife, hereinafter referred to as Declarant, is the owner of certain real property, together with the tenements, hereditaments and appurtenances thereunto belonging, situate in Washoe County, Nevada, more particularly described as follows:

All those lots and parcels within the exterior boundaries of the MIL DRAE COUNTRY ESTATES SUB-DIVISION as shown on the map thereof filed in the office of the County Recorder of Washoe County, State of Nevada, on April 16, 1976, as Document No. 404602.

Declarant does hereby certify and declare that it has established and does hereby establish a general and integrated plan for the improvement and development of said lots and does hereby establish the provisions, restrictions, covenants, easements and reservations upon and subject to which all the above described lots and portions of lots shall be improved or sold, or conveyed by it as such owner, each and all of which are for the benefit of each lot and owner of land above described or any interest therein and shall inure to and pass with each and every lot and shall be a burden upon each lot sold and bind the respective successors in interest of the present owner or owners thereof, and are imposed upon said each and every lot therein as a servitude in favor of each and every other lot or parcel as the dominant tenement or tenements as follows, to-wit:

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SANFORD, MANFORD & SCORZ
ATTORNEYS AT LAW
425 NORTH BERNAL STREET
RENO, NEVADA 89504

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APR 29 1968

1 1. The purpose of these restrictions is to insure the use
2 of the property for attractive residential purposes only, to
3 prevent nuisances, to prevent the impairment of the attractiveness
4 of the property, to maintain the desired tone of the community,
5 and thereby to secure to each subsequent site owner the full
6 benefit and enjoyment of his home, with no greater restriction upon
7 the free and undisturbed use of his site than is necessary to
8 insure the same advantages to the other site owners. Anything
9 tending to detract from the attractiveness and value of the

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APR 29 1968

10 property for residence purposes will not be permitted. The
11 covenants, restrictions, easements and reservations herein con-
12 tained are a part of a general plan for the improvement and
13 development of all the lots in said subdivision, and said covenants
14 and restrictions are for the benefit of said lots and each and
15 every parcel of land therein as the dominant tenement or tenements.

16 2. The undersigned declare and covenant for themselves,
17 and their heirs, executors, administrators and assigns or successors
18 in interest that all parcels or portions of said property which
19 may be hereinafter sold, leased, transferred in any way, by
20 operation of law or otherwise, shall be and remain subject to the
21 restrictions, covenants and conditions herein set forth. This
22 declaration constitutes a covenant running with the land, and all
23 successive owners shall have the same right to invoke and enforce
24 its provisions as the original declarant.

25 3. Only single family dwelling units used solely for
26 residential purposes, including private garages used in connection
27 with said residences, together with guest or servants quarters and
28 other outbuildings, only as expressly provided hereinafter, shall
29 be permitted.

30 4. No business or commercial enterprise shall be performed

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RENO, NEVADA 89501

APR 29 1960

1 or conducted upon any lot or within any dwelling or outbuilding
2 within the subdivision. The only exception hereunder shall be the
3 permissibility of construction office facilities during the develop-
4 ment of the property.

5 5. No temporary structure of any form or type, including
6 self-contained camper trailer units, shall be permitted as a
7 dwelling unit on any lot or parcel. No garage or outbuilding shall
8 be constructed before commencing construction of the main dwelling
9 unit, and further, no trailer, garage, basement, outbuilding or
10 other structure other than the completed main dwelling unit shall
11 be used for temporary or permanent living quarters.

12 6. Upon commencement of construction of any dwelling unit
13 within the subdivision, all reasonable speed and diligence shall
14 be employed by the owner to complete said construction, and said
15 construction shall in all cases be completed within twelve (12)
16 months.

17 7. No existing, used, constructed, or partially constructed
18 structure of any type or nature shall be moved from another place
19 to the subdivision for any purpose whatsoever without the consent
20 of the Architectural Committee.

21 8. Dwelling units to be constructed within the subdivision
22 shall have a minimum ground floor area, exclusive of garage,
23 porches, patios and terraces, of not less than 2200 square feet,
24 unless a smaller area is approved by the Architectural Committee.
25 No two-story dwelling unit shall have a vertical elevation above
26 mean lot grade exceeding twenty-five (25) feet.

27 9. No unattached garage, servants quarters or other out-
28 building shall be constructed without prior approval of the
29 Architectural Committee hereunder specified.

30 10. No animals, livestock, fowl or poultry of any kind

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APR 29 1960

1 shall be raised, bred, maintained or kept on any lot within the
 2 subdivision for sale or commercial purposes. Only such horses,
 3 cattle, sheep or waterfowl as are for personal use may be kept on
 4 any lot, and which do not interfere with the safety, health, con-
 5 venience or comfort of the occupants or owners of any other lots,
 6 may be kept within the subdivision. However, livestock, horses,
 7 cattle and sheep which are raised in connection with a 4-H Club
 8 project may be kept in the subdivision. Under no circumstances,
 9 whether in connection with a 4-H project, personal use, or otherwise,
 10 shall any pigs or goats or domestic fowl be kept or maintained on
 11 any lot at any time for any purpose. Owners shall not allow their
 12 property to be overgrazed so as to destroy ground cover. This
 13 section is not meant to apply to small household pets which are
 14 customarily kept within the house. Owners shall at all times keep
 15 their property properly irrigated.

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16 11. No use of any lot or structure within the subdivision
 17 shall annoy or adversely affect the use, value, occupation and
 18 enjoyment of any adjoining property or the general neighborhood.
 19 Final determination within these bounds shall be left to the
 20 decision of the Architectural Committee.

21 12.

22 (a) No building, garage, fence, wall, retaining wall,
 23 drainage ditch or system, or any other structure shall be commenced,
 24 erected, placed or altered on any lot in this subdivision until two
 25 complete sets of the building plans and specifications thereof,
 26 including front, side and rear elevations, color scheme thereof,
 27 and plot plan indicating and fixing the exact location of such
 28 structure or structures on the building site and lot, topography
 29 and finished ground elevation, have been submitted to and approved
 30 in writing as to conformity and harmony of external design with

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RENO, NEVADA 89504

APR 29 1946

1 the existing structures in the subdivision, and as to location of
 2 the building with respect to topography and finished ground elevation,
 3 by an Architectural Committee composed of MICK R. DRAGOO, LEWIS
 4 MILABAR and HERB NICHOLS, or any two of them or a committee of at
 5 least two persons appointed by them, shall hereby be authorized to
 6 act for the purposes mentioned in this paragraph. In the event of
 7 the death or resignation of any member of said Architectural
 8 Committee, the remaining members or member shall have the power
 9 and authority to designate successor members. No construction
 10 shall be started or continued until written approval is given or
 11 until thirty (30) days after submission of said plans and specifi-
 12 cations (whichever is earlier) as required herein. In the event
 13 said Committee, or its designated representatives, shall fail to
 14 approve such design or disapprove such design and location within
 15 thirty (30) days after said plans and specification have been
 16 submitted to it, or in any event, if no suits to enjoin the con-
 17 struction of such improvements have been commenced prior to the
 18 completion thereof, such approval will not be required and this
 19 covenant shall be deemed to have been fully complied with.

20 (b) After such plans and specifications and other
 21 data submitted have been approved by said Committee, no building,
 22 garage, fence, wall, retaining wall, or other structure of any
 23 kind shall be erected, constructed, placed, altered, or maintained
 24 upon said property unless the same shall be erected, constructed,
 25 or altered in conformity with the plans and specifications, color
 26 scheme, and plot plan theretofore approved by said Committee, or
 27 its duly appointed agents. If any building, garage, fence, wall,
 28 retaining wall, or other structure of any kind shall be erected,
 29 constructed, placed, altered, or maintained on said property other
 30 than in accordance with the plans and specifications, color scheme

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 45 NORTH SECOND STREET
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BOOK 969 PAGE 608

APR 29 1966

1 and plot plan theretofore approved by said Committee, such erection
2 construction, placing, alterations and maintenance shall be deemed
3 to have been undertaken without the approval of the said Committee
4 ever having been obtained.

5 (c) Any agent or member of the Architectural Committee
6 may, after prior notice, at any reasonable time, enter and inspect
7 any building under construction or being altered on any portion of
8 the property hereby conveyed, or any building which any member of
9 said Committee, or agent of said Committee, may believe is in
10 violation of the covenants, restrictions, reservations and servitudes
11 herein expressed. The right of entry upon said property and the
12 building sites included therein, is also hereby reserved by
13 Declarant in favor of itself, its assigns and the Architectural
14 Committee or their respective agents, servants, or employees, for
15 the purpose of inspecting, cleaning, maintaining and repairing at
16 lot owner's expense any ditches and devices used in connection there-
17 with located upon said property. The Architectural Committee
18 and/or Declarant and/or any agent or officer of either, shall not
19 thereby be deemed guilty of any manner of trespass or incur any
20 liability whatsoever to the owner or the occupant for such entry
21 or inspection.

22 (d) Neither the members of such Committee nor its
23 designated representative or representatives shall be entitled to
24 any compensation for architectural approval services performed for
25 the original purchaser of a lot in this subdivision. The powers
26 and duties of such Committee shall extend from the date of the
27 recording of this Declaration of Restructions until the term of
28 these restrictions, together with any extensions thereof,
29 terminates.

30 ////

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SANFORD, SANFORD & REECE
ATTORNEYS AT LAW
41 NORTH SEOLA STREET
MEMO, KENTUCKY 40304

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APR 29 1966

BOOK 969 PAGE 700

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1 13.

2 (a) Excepting for the purpose of actual construction

3 upon said lot, no sand, gravel or soil shall be removed from any

4 lot in said property, provided, however, that the Declarant, its

5 successor or assigns, in carrying out the improvements and develop-

6 ment of said property, shall have the right to remove or add to any

7 soil or any lot in said subdivision and shall have the right of

8 ingress and egress upon all lots for the purpose of grading and

9 excavating therein, of constructing and completing the street

10 improvements and installation of public utilities, and to do any

11 and all other things necessary to complete the said general plan

12 of improvement. Unless suitable retaining walls are constructed

13 to support the earth, the natural angle of repose of the ground

14 shall not be altered by excavation within ten (10) feet from any

15 boundary line of any lot in said property by other than a slope of

16 one and one-half (1 1/2) feet horizontal to one (1) foot vertical,

17 provided, however, that nothing in this paragraph shall be con-

18 structed to prevent any such alteration in any manner, with or with-

19 out retaining walls, by the Declarant, its successors or assigns,

20 in carrying out the development and improvement of said property.

21 (b) No dwelling shall be constructed or maintained upon

22 any parcel or lot which shall have a ground floor area of less than

23 2200 square feet exclusive of porches, patios, attached and

24 detached garages, outbuildings, breezeways or walks. "Servants"

25 quarters and "guest" quarters as defined below, may have a ground

26 floor area of less than 2200 square feet, but such servants'

27 quarters and guest quarter cannot be occupied until the principal

28 residential dwelling is completed and occupied.

29 (c) No building, structure, or improvement shall be

30 constructed, erected, altered, placed or permitted to remain on

APR 29 1976

1 any of said building sites on said property other than one (1)
2 dwelling designed for residential occupation for not more than one
3 (1) family, together with such related outbuildings and facilities
4 pertinent to said single family residential use. The words "related
5 outbuildings and facilities" shall include servants quarters to be
6 occupied only by permanent, paid employees and guest quarters to be
7 occupied only by non-paying family guests, and animal facilities
8 for sheltering and holding animals.

9 (d) No building or structure shall be located on any
10 parcel nearer than:

- 11 (1) twenty (20) feet to any side lot line;
- 12 (2) twenty-five (25) feet to any rear lot line;
- 13 (3) forty (40) feet to any front lot line;
- 14 (4) regardless of the foregoing, wherever the
- 15 rear lot line of one lot forms the side lot
- 16 line of another lot, no structure for use by
- 17 animals and/or fowl may be erected on such
- 18 lot within forty (40) feet of such rear lot
- 19 line;
- 20 (5) no such structure for fowl and/or animals may
- 21 be erected on any part of any lot except upon
- 22 the rear portion thereof.
- 23 (6) If, because of precipitous terrain, setbacks
- 24 prove to be impractical, the architect may
- 25 permit variances of the setbacks.
- 26 (7) No portion of any structure shall be built on
- 27 any part of any drainage easement without the
- 28 specific prior written approval of the
- 29 Architectural Committee.

30 14. No clothesline shall be constructed or erected which

BOOK 989 PAGE 701

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ATTORNEYS AT LAW
43 NORTH SIERRA STREET
RENO, NEVADA 89504

APR 29 1968

1 would be visible from any front or side street. In such event that
2 the nature of the lot and the building site thereon render place-
3 ment of such lines impractical, then it is incumbent upon the lot
4 owner or owners to provide suitable enclosures for said clothesline
5 so as to render them invisible from either front or side streets.

6 15. No building, any part of which is designed for dwelling
7 purposes, shall be in any manner occupied while in the course of
8 original construction or until it is completed and complies with

9 all requirements, conditions and restrictions applicable thereto.
10 The construction of any building or structure shall be prosecuted
11 with reasonable diligence continuously from the time of commencement
12 until fully completed. Only materials approved by the Architectural
13 Committee shall be used in the construction of any building herein.

BOOK 969 PAGE 702

14 16.

15 (a) No dwelling house erected upon any lot in this
16 subdivision shall be occupied for residence purposes until the same
17 shall be provided with a sewage disposal system consisting of
18 individual septic tanks or other equally sanitary structure for
19 the storage or disposal of sewage, constructed, located and
20 connected with a disposal field, in a manner first approved in
21 writing by the appropriate State or County Health Authority, or
22 such other approval as may be required by law. No cesspool or
23 outside toilet shall be permitted.

24 (b) All septic tanks and sewerage disposal facilities
25 including leach lines shall have been constructed and maintained in
26 accordance with the rules and regulation os the Nevada State
27 Department of Health, Division of Public Health Engineering,
28 applicable thereto.

29 (c) In the interest of public health and sanitation,
30 and in order that the land described herein and all lots in the

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APR 29 1968

1 said subdivision may be benefited by a decrease in the hazards of
2 pollution of subterranean and surface waters, the lot owners, their
3 heirs, successors and assigns, covenant and agree not to use any
4 of the property described herein in any manner or for any purpose
5 that would result in the drainage or dumping of any refuse, sewage
6 or other material which might tend to pollute surface or subter-
7 ranean waters.

8 (d) To promote public health and sanitation, the lot
9 owners, their heirs, successors and assigns, shall not in any way
10 oppose directly or indirectly the establishment of a sewer, water,
11 or general improvement district.

12 (e) In the event of the installation of a general
13 domestic water supply system and/or a general domestic sewage dis-
14 posal system, all lot owners, their heirs, successors and assigns,
15 shall forthwith join in such improvement district and connect their
16 property with the domestic water supply system and/or sewage
17 disposal system.

18 17.

19 (a) Said property and the building sites included
20 therein are subject to the easement and rights of way for con-
21 structing, maintaining and operating public sewers and drainage
22 systems, and for poles, conduit, power vaults and wires for
23 lighting, heating, power, telephone, television and any other
24 methods of conducting and performing any public or quasi-public
25 utility service or function, as such easements and rights of way
26 are shown and designated on the filed map of MIL DRAE COUNTRY
27 ESTATES SUBDIVISION, Washoe County, Nevada, referred to above.

28 (b) There are also hereby reserved for the purposes of
29 installing and maintaining public, quasi-public and/or private
30 utility easements, drainage, and for such other purposes incident

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ATTORNEYS AT LAW
42 NORTH SIERRA STREET
RENO, NEVADA 89504

APR 29 1976

1 to the development of the property, certain easements, all of
2 which are shown on the filed subdivision map or plat. In addition
3 thereto, Declarant irrevocably reserves for itself, its successors
4 and assigns, the right to grant and create easements and rights of
5 way for public utility use, for drainage purposes, for ditches and
6 appurtenant structures carrying irrigation water and storm and land
7 drainage water, television cables, or any one or more of the same,
8 across any lot in said subdivision, provided, however, that such
9 easements and rights of way shall be located between the perimeter
10 boundary of the lot and the building setback line.

800A 969 PAGE 704

11 (c) An easement is hereby reserved to enable the free
12 and unobstructed flow of irrigation and drainage water from the
13 Lake Ditch. No structure shall be constructed to impede or inter-
14 fere with irrigation or drainage. Declarant reserves to itself,
15 and those who may be entitled to do so, in the opinion of Declarant,
16 the right to enter upon all lots traversed by irrigation and drainage
17 ditches in order to maintain said ditches and conduct irrigation and
18 drainage.

19 (d) Declarant reserves the right to use all natural
20 drainage courses traversing the property hereby conveyed for the
21 purpose of conducting surface waters that may drain from other
22 properties, and in this connection Declarant reserves the right to
23 enlarge any or all of said drainage courses and to install pipes
24 therein with the right to reasonable ingress to and egress from
25 all lots or portions thereof that may be necessary for the main-
26 tenance, enlargement, or other improvement of said drainage course.

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43 NORTH SIERRA STREET
RENO, NEVADA 89504

27 (e) No lot owner shall be permitted to change the
28 location, size or depth of any irrigation ditches or drainage
29 ditches encompassed within or serving said lots or parcels nor
30 shall the owner of any lot in said subdivision be permitted to

APR 29 1978

1 change the natural flow of water over any parcel of land contained
2 therein, except with the written permission of the Declarant
3 having been first obtained, or, in an emergency, for the purposes
4 of protecting from damage structures built within the setback lines.
5 18.

6 (a) No rubbish, brush, weeds, undergrowth, uncultivated,
7 diseased or infected vegetation or debris of any kind or character
8 shall ever be placed or permitted to accumulate upon any building
9 site or portion thereof. Should owner fail to keep said building
10 site free of rubbish, brush, weeds, undergrowth, diseased or
11 infected vegetation or debris of any character, Declarant or any
12 lot owner, after ten (10) days written notice to the owner thereof
13 (at his last known address) of its intention to do so, may enter
14 upon said building site and clean, spray, destroy and remove any
15 rubbish, weeds, undergrowth, uncultivated, diseased or infected
16 vegetation or debris of any character and keep the building site
17 neat and in good order, at the expense of the owner of the subject
18 lot, and Declarant, or any lot owner, shall not thereby be deemed
19 guilty of trespass for such entry, abatement or removal.

20 (b) No garbage, refuse or obnoxious or offensive
21 material shall be permitted to accumulate on any of said lots, and
22 the owner thereof shall cause all garbage and other like material
23 to be disposed of by and in accordance with accepted sanitary
24 practice. All garbage or trash containers, oil tanks, bottled gas
25 tanks and other such facilities must be underground or placed in
26 walled-in areas so that they shall be invisible from the adjoining
27 properties, or from the streets.

28 19. No building or garage damaged by fire or otherwise so
29 that it becomes unsightly shall be permitted to remain on any of
30 the above described lots. Such structures shall either be promptly

800-989 FINE 705

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MEMPHIS, TENNESSEE 38102

APR 29 1976

1 rebuilt or refinished or torn down and removed.

2 20. No noxious or offensive activity shall be carried on or
3 maintained upon any of said property, nor shall anything be done
4 thereon which constitutes or may become a nuisance or annoyance to
5 the neighborhood.

6 21. No signs or other advertising devise of any character
7 shall be erected or maintained upon any part of said property,
8 except that: (1) on any one lot one sign, not larger than five (5)
9 square feet, advertising the property for sale, may be erected and
10 maintained behind the setback line of such lot as to any street;
11 and (2) without regard to the foregoing Declarant may erect and
12 maintain on said property such signs and other advertising devices
13 as they may deem necessary or proper in connection with the conduct
14 of their operations for the development, improvement, subdivision
15 and sale of said property; or, except such as may hereafter be
16 authorized by the Declarant should any of said lots or parcels be
17 designated as commercial and so approved by the appropriate govern-
18 mental agencies.

19 22. All domestic water wells on said lots shall be drilled
20 and maintained in accordance with the rules and regulations of
21 the Nevada State Department of Health, Division of Public Health
22 Engineering, applicable thereto.

23 23. There shall be no deed, conveyance, agreement or other
24 document executed by the terms of which there shall be a separation
25 into different ownerships of surface and subsurface rights within
26 any portion of the property hereby conveyed.

27 24. Radio transmitting and receiving antennas for short
28 wave or ham radio installations will not be installed on any lot
29 or parcel without the express written permission of the Architec-
30 tural Committee. Television antennas will be allowed; however,

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RENO, NEVADA 89504

BOOK 989 PAGE 706

APR 29 1966

1 the height of such antennas will not exceed ten (10) feet above
2 highest point of roof.

3 25. Every single family dwelling unit constructed within
4 the subdivision shall have on the same lot or parcel enough covered
5 automobile storage space for at least two automobiles, but not
6 located within the front, rear or sideyard setback area of a
7 principal structure.

8 26. Regardless of any action of any governmental agency,
9 (a) no lot may be divided, subdivided or re-subdivided
10 to a size less than the present size of said lot;
11 (b) the zoning and use of any of the lots in this sub-
12 division may not be changed and amended to multiple
13 residential use and/or commercial use;
14 without first obtaining the prior written consent and approval of
15 Declarant, which approval to become effective shall be first
16 recorded in the office of the County Recorder of Washoe County,
17 Nevada, as a modification of the Original Restrictions.

18 27.
19 (a) In construing this Declaration, or any part thereof,
20 stipulations which are necessary to make this Declaration, or any
21 of its terms or provisions, reasonable shall be implied.

22 (b) The determination by any court that any of the
23 provisions of this Declaration are unlawful or void shall not affect
24 the validity of any of the other provisions hereof.

25 (c) The breach of any of said covenants shall not
26 defeat, affect or render invalid the lien of any mortgage or
27 trust made in good faith and for value upon any lot or lots or
28 portions of lots in said subdivision, but such covenants and re-
29 structions shall be binding upon and effective against any owner
30 thereof whose title is acquired by foreclosure, trustee's sale or

BOOK 969 PAGE 787

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48 NORTH MAIN STREET
RENO, NEVADA 89504

APR 29 1968

1 otherwise as to any subsequent breach; however, no right or
2 reversion shall accrue to Declarant or anyone else by reason of
3 the violation, breach, or attempted violation or breach of any of
4 the covenants or conditions set out herein.

5 28. The conditions, restrictions or covenants herein
6 contained shall bind and inure to the benefit of and be enforceable
7 by Declarant, their successor and assigns, or by the owner or
8 owners of any of the hereinabove described lots, and it shall be
9 lawful, not only for Declarant, or their successors or assigns,
10 but also for the owner or owners of any of said lots, to institute
11 and prosecute any proceeding at law or in equity, against any
12 person, firm, or corporation violating or threatening to violate
13 any of the covenants, conditions or restrictions herein contained,
14 and such action may be maintained for the purpose of preventing
15 the violation or to recover damages for a violation or for both
16 of such purposes.

17 29. All of the covenants and restrictions set forth in
18 this Declaration of Restrictions are imposed upon said property
19 to the extent herein contained for the direct benefit thereof as
20 a part of the general plan of development and improvement thereof
21 hereby adopted by Declarant. Said covenants and restrictions shall
22 run with the land and shall be binding upon Declarant and upon all
23 persons claiming under Declarant or under their successors or
24 assigns for a period of twenty-five (25) years from the date these
25 covenants are recorded, after which time said covenants shall be
26 automatically extended for successive periods of ten (10) years
27 unless an instrument signed by the then owners of a majority of
28 the lots has been recorded, agreeing to change said covenants in
29 whole or in part, provided, however, that these covenants may be
30 amended, modified, abrogated or rescinded by recordation in the

BOOK 969 PAGE 708

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RENO, NEVADA 89504

APR 29 1976

1 office of the County Recorder, of a Supplemental Declaration of
2 Restrictions duly executed and acknowledged by the owners of not
3 less than seventy-five (75%) per cent of the above described lots.

4 30. No delay or failure to exercise any power or right
5 shall operate as a waiver thereof and such rights and powers shall
6 be deemed continuous, nor shall a partial exercise preclude full
7 exercise thereof, and no right to remedy shall be deemed abridged
8 or modified by any course of conduct and no waiver thereof shall
9 be predicated thereon, nor shall failure to exercise any such
10 power or right be subject to any liability.

11 31. Nothing herein contained shall be construed as preventing
12 the application of any remedies given by law against a nuisance,
13 public or private, or otherwise, but the remedies herein contained
14 shall be in addition to any other remedies given by law.

15 32. The result of every act or omission whereby any con-
16 dition or restriction herein contained is violated, in whole or in
17 part, is hereby declared to be and constitutes a nuisance, and
18 every remedy allowed by law or equity against a nuisance, either
19 public or private, shall be applicable against every such result,
20 and may be exercised by Declarant, or any lot owner, for the en-
21 forcement, or to restrain a violation of this Declaration, or any
22 provisions hereof, the losing party or parties shall pay the
23 attorney's or attorneys' fees of the winning party or parties in
24 such amount as may be fixed by the court in such proceeding. Such
25 remedies shall be deemed cumulative and not exclusive. However,
26 nothing contained in this Declaration or in any form of deed which
27 may be used by Declarant or its successors or assigns in selling
28 said property, or any part thereof, shall be deemed to vest or
29 reserve in Declarant or the lot owner any right of reversion for
30 breach or violation of any one or more of the provisions hereof,

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RENO, NEVADA 89501

APR 29 1976

1 and any such reversionary right is hereby expressly waived by
2 Declarant, its successors and assigns.

3 IN WITNESS WHEREOF, the parties hereto have hereunto set
4 their hands this 22nd day of April
5 1976, in the City of Reno, Washoe County, Nevada.

6 MIL DRAE COUNTRY ESTATES

7
8 By: Mick R. Drago
9 MICK R. DRAGOO

10
11 By: Mary G. Drago
12 MARY G. DRAGOO

13
14 By: Lewis Milabar
15 LEWIS MILABAR

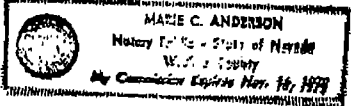
16
17 By: Allyene M. Milabar
18 ALLYENE M. MILABAR

18 STATE OF NEVADA)
19 County of Washoe) SS:

20 On this 22nd day of April, 1976,
21 before me, a notary public in and for the said County and State,
22 personally appeared MICK R. DRAGOO and MARY G. DRAGOO, his wife,
23 who acknowledged they executed the above and foregoing instrument
24 for the uses and purposes therein stated.

25 Mattie C. Anderson
26 Notary Public

27 My commission expires:



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ATTORNEYS AT LAW
48 NORTH BERKELEY STREET
RENO, NEVADA 89501

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30

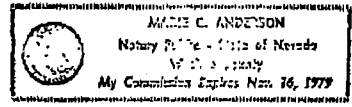
APR 29 1976

1 STATE OF NEVADA)
2 County of Washoe) ss:

3 On this 22nd day of April, 1976,
4 before me, a notary public in and for the said County and State,
5 personally appeared LEWIS MILABAR and ALLYENE M. MILABAR, his wife,
6 who acknowledged they executed the foregoing instrument for the
7 uses and purposes therein stated.

M. C. Anderson
Notary Public

8 My commission expires:
9



BOOK 969 PAGE 711

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OFFICIAL RECORDS
WASHOE COUNTY, NEV.
APR 29 4 31 PM '76
Sanford Sanford, et al

ARDIS BROWN
COUNTY RECORDER
FEE 20.00 DEF *San*

SANFORD, SANFORD & MOORE
ATTORNEYS AT LAW
48 NORTH BRIDGES BLVD
RENO, NEVADA 89502

30

Washoe County Treasurer
Tammi Davis

Washoe County Treasurer
P.O. Box 30039, Reno, NV 89520-3039
ph: (775) 328-2510 fax: (775) 328-2500
Email: tax@washoecounty.us

Account Detail

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Washoe County Parcel Information		
Parcel ID	Status	Last Update
04058120	Active	2/16/2016 2:09:30 AM
Current Owner: ERNAUT FAMILY TRUST		SITUS: 0 MIL DRAE LN WCTY NV
500 MIL DRAE LN RENO, NV 89511		
Taxing District 4000	Geo CD:	
Legal Description Township 18 Section 1 Lot ST Block Range 19 SubdivisionName MIL DRAE COUNTRY ESTATES		

Pay Online

No payment due for this account.

\$0.00

Pay By Check

Please make checks payable to:
WASHOE COUNTY TREASURER

Mailing Address:
P.O. Box 30039
Reno, NV 89520-3039

Overnight Address:
1001 E. Ninth St., Ste D140
Reno, NV 89512-2845

Tax Bill (Click on desired tax year for due dates and further details)					
Tax Year	Net Tax	Total Paid	Penalty/Fees	Interest	Balance Due
2015	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2014	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2014	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2014	\$5.70	\$5.70	\$0.00	\$0.00	\$0.00
2013	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2012	\$5.50	\$5.50	\$0.00	\$0.00	\$0.00
2011	\$5.16	\$5.16	\$0.00	\$0.00	\$0.00
Total:					\$0.00

Important Payment Information

- **ALERTS:** If your real property taxes are delinquent, the search results displayed may not reflect the correct amount owing. Please contact our office for the current amount due.
- For your convenience, online payment is available on this site. E-check payments are accepted without a fee. However, a service fee does apply for online credit card payments. See Payment Information for details.

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This site is best viewed using Google Chrome, Internet Explorer 11, Mozilla Firefox or Safari.

March 24, 2016

VIA HAND DELIVERY

Washoe County Board of Adjustment
1001 E. 9th Street
P.O. Box 11130
Reno, Nevada 89520-0027

Re: Appeal of Staff Determination of Incomplete Application
for Abandonment Case Number AB16-001

Dear Members of the Washoe County Board of Adjustment,

Pursuant to Washoe County Development Code §§ 110.914.05 (f), and 110.912.10, we¹ are appealing the decision received March 14, 2016 in Abandonment Case Number AB16-001.

Originally, we submitted the abandonment application as part of a two-step process. First, we were asking the County to accept the dedication of Mil Drae Lane (APN 040-581-20). Second, once the County accepted the dedication, we would pursue an abandonment application. The letter received from Mr. Whitney indicates that the abandonment application is incomplete because of insufficient signed-owner affidavits. While we disagree that further owner signatures are required for the application as more fully described below, we maintain that the County can still accept the dedication of Mil Drae Lane during this appeal process.

A brief bit of history is necessary: Mil Drae Lane provides access to homes in the Mil Drae subdivision. At the time of this subdivision's final map recordation almost 40 years ago, there were seven abutting property owners to Mil Drae Lane. *See* Mil Drae Country Estates Subdivision Tract Map No. 1568 (Apr. 16, 1976) (hereinafter "1976 Final Map") (attached hereto as Exhibit 1). And at the time of the 1976 Final Map, the County rejected the dedication offer of Mil Drae Lane. *See id.* at County Commissioner's Certificate dated Apr. 15, 1976. The Board of County Commissioners, however, indicated that "[t]he offer of street dedication is hereby rejected *with the offer to remain open under NRS 278.390.*" *Id.* (emphasis added).

¹ For purposes of the application and the appeal, "we" refers to the following property addresses, owners and parcel numbers as shown on the Mil Drae Lane Country Estates Subdivision Tract Map No. 1568: 460 Mil Drae Lane, Ryan M Dolan Trust, 040-582-02; ; 470 Mil Drae Lane, Roland G & Tina L Scarselli, 040-582-03; 490 Mil Drae Lane, Nunnally Family Trust, 040-582-04; 500 Mil Drae Lane, Ernaut Family Trust, 040-581-19; 510 Mil Drae Lane, Faulstich Family Trust 040-581-12; 515 Mil Drae Lane, Herbert & Susan Nichols Family Trust, 040-581-13; 495 Mil Drae Lane, Herbert & Susan Nichols Family Trust, 040-581-14.

Thus, under both the 1976 Final Map's language and the statute it references, the offer of dedication remains open today. To be clear, NRS 278.390² provides that, because rejected dedication offers remain open, counties may accept the dedication at a later time. Moreover, NRS 278.390 does not require *any* action by the subdivider (or any other party for that matter) to accept the dedication—the County may simply rescind its previous rejection and accept the street. Accordingly, though technically no action is required on our part, we are asking the County to accept the dedication of Mil Drae Lane by resolution and place this item on the next available agenda.

Second, we disagree that the Planning and Development Director's rejection of the abandonment application in this case. The abandonment requested here is remarkably similar to a previous abandonment within the same subdivision, AB07-005 Milabar Way (Allyene Way), and cited in our original Abandonment Case Number AB16-001 Application. There, a property owner situated east of a roadway sought abandonment of the roadway to expand his parcel size. The Washoe County Department of Community Development Staff noted that

[t]ypically abandonment of a roadway would require that the abandoned roadway would require that the abandoned roadway revert to the ownership of *both* of the abutting property owners equally. In this case, the parcel to the east of the roadway *was created by a different map* and did not dedicate land for the creation of the roadway originally so the entire roadway will revert to the property owner to the west.

Washoe Cty. Dep't of Cmty. Dev. Staff Report Analysis at 3, Washoe Cty. Planning Comm'n, Abandonment Case No. AB07-005 (Milabar Way) (May 25, 2007) (emphasis added) (attached as Exhibit 2). In other words, the County looks to the *original map* that created the dedication to determine the abutting property owners. Consequently, title would only revert to these abutting property owners.

² NRS 278.390 provides that

[t]itle to property dedicated or accepted for streets and easements passes when the final map is recorded. *If at the time the final map is approved any streets are rejected, the offer of dedication shall be deemed to remain open and the governing body or planning commission may by resolution at any later date, and without further action by the subdivider, rescind its action and accept and open the streets for public use.* Such an acceptance must be recorded in the office of the county recorder and be so noted by the recorder on the subdivision plat, if the county recorder does not maintain a cumulative index for such plats and amendments. If such an index is maintained, the county recorder shall direct an appropriate entry for the acceptance or amendment.

(Emphasis added.)

Indeed, the County's conclusion in the Milabar abandonment is consistent with Nevada law. Under NRS 278.480(7):

The order [of abandonment] must be recorded in the office of the county recorder, if all the conditions of the order have been fulfilled, and upon the recordation, *title to the street or easement reverts to the abutting property owners in the approximate proportion that the property was dedicated by the abutting property owners or their predecessors in interest.*

Thus, upon abandonment, a property reverts back proportionately to the abutting property owners at the time of dedication.

Like the Milabar abandonment, the original map that provides the dedication must be consulted to determine the abutting property owners. Here, the 1976 Final Map that provided the dedication reveals the seven original abutting property owners: Parcel Numbers 040-582-02; 040-582-03; 040-582-04; 040-581-19; 040-581-12; 040-581-13; 040-581-14.³ Affidavits from all of these owners were provided with the original abandonment application.⁴ Thus, return of the application is inappropriate as the *only* parties that will have an interest in Mil Drae Lane after the abandonment are the property owners of the seven parcels on the original 1976 Final Map.

Moreover, the return of the abandonment application is also improper, as *any* abutting property owner can petition for abandonment. See NRS 278.480(1) ("Except as otherwise provided in subsections 11 and 12, *any abutting owner* or local government *desiring the vacation or abandonment of any street* or easement owned by a city or a county, or any portion thereof, shall file a petition in writing with the planning commission or the governing body having jurisdiction."). Thus, it was also improper for the return of the abandonment application here without an affidavit from *every* abutting property owner.

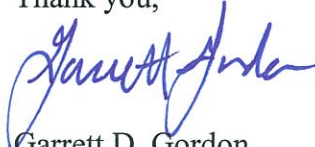
Based upon the above, we appeal the determination that the application in Abandonment Case No. AB16-001 is insufficient. First, we contend that the County may still proceed with the dedication. Second, the Planning and Development Director erred in concluding that signed owner affidavits from Mil Drae Lane's owners are required: because the County may accept the dedication at any time, signatures from all "owners" of the street is not necessary. And, importantly, affidavits from all abutting property owners as shown on the 1976 Final Map at the

³ To be sure, because the County may accept the dedication offer at any time, the cited "ownership" of Mil Drae Lane that the County is concerned with is essentially irrelevant. Any alleged owner of Mil Drae Lane took title *subject to* the 1976 Final Map and is therefore on notice of potential dedication.

⁴ As stated in the original application, easements will be granted to the three additional property owners within the subdivision.

time of dedication were included in the application. Lastly, because *any* abutting property owner can petition for abandonment, the return of the abandonment application here was improper.

Thank you,



Garrett D. Gordon
Lewis Roca Rothgerber Christie LLP

GDG/ns

cc: Mr. William H. Whitney, Planning and Development Director
Pete Ernaut
Ryan M. Dolan
James and Maureen Nunnally
Roland and Tina Scarselli
Lance Faulstich
Herbert and Susan Nichols

• MIKE PAVLAKIS
KAREN A. PETERSON
JAMES R. CAVILIA
CHRIS MACKENZIE
DAWN ELLERBROCK
RYAN D. RUSSELL
JOEL W. LOCKE

JUSTIN TOWNSEND
THORAN TOWLER
S. JORDAN WALSH
KYLE A. WINTER



ALLISON · MACKENZIE

GEORGE V. ALLISON
ANDREW MACKENZIE
PATRICK V. FAGAN
CHARLES P. COCKERILL
JOAN C. WRIGHT
OF COUNSEL

MIKE SOUMBENIOTIS
(1932-1997)

May 25, 2016

Washoe County Board of Adjustment
c/o Trever Lloyd, Senior Planner
Washoe County
Planning & Development Division
PO Box 11130
Reno, NV 89520-0027

Via Hand Delivery and via Email Transmission

RE: Mil Drae Lane Abandonment
Case No.: AX16-001
Appeal to be heard June 2, 2016

To the Members of the Washoe County Board of Adjustment:

Our firm has been retained by Darrell and Wilma Bennett (collectively “Bennett”) to oppose the Application for Dedication and Abandonment of the parcel known as Mil Drae Lane, APN: 040-581-20, filed with the Washoe County Planning & Development Division (the “Division”), and the resulting Appeal that is presently pending before the Board, Case No. AX16-001. We are writing today to offer our support for the Staff Report, dated May 12, 2016, prepared by the Planning and Development Division related to this matter (the “Staff Report”), and to respectfully request the Board to deny the Appeal.

I. Background Facts

While we agree with the facts set out in the Staff Report, we would like to take this opportunity to present the following additional facts to the Board:

Most of the lot owners who purchased one or more of the ten (10) lots within the Mil Drae Estates Subdivision (the “Subdivision”) from the Subdivisions’ subdividers were granted non-exclusive easements in Mil Drae Lane (APN: 040-581-20)(the “Lane”) for the purpose of ingress and egress. Additionally, we are informed that individual property owners whose properties abutted the Lane, but were not included within the Subdivision¹, own easements in the Lane, including the Bennetts and the Yamamotos. However, some of the lot owners were

¹ Ronald I. Yamamoto and Jane K. Yamamoto, collectively “Yamamoto,” are owners of a parcel of real property abutting the Lane. Their deed, dated May 10, 1967, Document No. 87626, was recorded with the Washoe County Recorder’s Office grants a 50 foot easement over what is believed became Mil Drae Lane on the 1976 Map

granted fee interests in the Lane. Where the subdividers granted an easement instead of a fee interest in the Lane, the subdividers retained the fee interest in the Lane and its associated water rights.

Bennett owns two parcels of real property in Washoe County, Nevada which abut the Lane. Bennett uses the Lane as the sole source of ingress and egress for one of the properties, and for occasional access to the other. Bennett has used the Lane for this purpose for a number of decades. On June 7, 2014, one of the subdividers, Mr. Mick R. Dragoo (“Dragoo”), executed a quitclaim deed in favor of Bennett which transferred all of Dragoo’s interest in the Lane to Bennett exclusive of water rights. At the time, Dragoo still retained a fifteen percent (15%) fee interest in the Lane, and its associated water rights. Thus Bennett now holds a fifteen percent (15%) interest in the Lane and Dragoo owns the associated water rights.

II. Discussion

We agree with Appellants and County Staff that once an offer of dedication is made no further action is necessary for the County to accept the dedication. NRS 278.390. Additionally, we agree that under NRS 278.390, an offer of dedication remains open until accepted. However, we disagree with the Appellants’ argument because it misstates and misapplies the law related to dedications and abandonments. In the following, we will review the Appeal, and conclude that the County’s decision is valid, and the Appeal should be denied.

A. The County Properly Denied the Application for Dedication

The County has not accepted the Lane in dedication. Therefore, the County cannot begin to consider the abandonment application for the Lane. Instead, it must first look at the property to determine whether it is appropriate to accept the dedication. The Nevada Legislature has granted local governments, like the County, sole discretion in determining whether to accept or reject an offer of dedication. This assertion is supported by the fact that the Legislature has provided no statutory guidelines or requirements for reaching decisions related to an offer of dedication. For this reason, the County may implement any procedures that it deems necessary for the application process in the context of offers of dedication.

Although the Appellants are correct that anyone may request a municipality to accept a dedication, they fail to recognize that the County’s receipt of their application does not compel the County to comply with their request. The County has decided that it would like Appellants to show that all abutting property owners have agreed to the plan presented within the Application; namely that they agree with the acceptance of dedication and subsequent abandonment. To accomplish this, the County required Appellants to submit additional documentation showing that every abutting property owner consents to the plan. Because there is no statute or regulation that prevents the County from imposing this application requirement, the request is a reasonable requirement imposed by the County to determine whether it should accept the Lane in dedication.

As noted, the decision to accept a dedication is purely discretionary. Using this discretion, the County is free to require applicants to submit any information that it believes will

shed light on the decision. As there is no limit on what the County may request from applicants in the context of this review process, the County's request is well within the scope of its authority. Accordingly, based on Appellants' refusal to comply with the County's consent requirement the decision to reject the Application as incomplete is valid, and should be upheld.

B. The County's Return of the Abandonment Application was Not Improper

Next, we support Staff's argument that the Washoe County Code § 110.806.10 enables the Director of the Division to prepare supplemental guidelines for abandonment applications. While, Appellants' argument is correct, there are no requirements under the NRS which specifically require applicants to submit written consent from all abutting property owners when submitting an application for abandonment, their argument ultimately fails because NRS 278.480(2) allows the County to institute and apply its own local requirements in the context of deciding whether to approve an application for abandonment.

NRS 278.480(5) requires the County to make a finding that the public will not be materially injured by a proposed abandonment. To assist local governments in accomplishing this task, the Legislature enacted NRS 278.480(2) which allows local governments to establish local requirements that they deem necessary for reaching a determination on the possible injuries that may be sustained by the public in relation to a proposed abandonment.

Here, the County's requirement that Appellants submit consent from all abutting property owners is simply a local requirement created in accordance with NRS 278.480(2) for the purpose of helping the County reach its determination on the possible material injuries that may be sustained by the public as a result of the proposed abandonment. Therefore, this requirement is a valid exercise of the County's authority under NRS 278.480 and the Washoe County Code § 110.806.10. Accordingly, Appellants' failure to comply with the submission requirement is a reasonable basis for the County to determine that the Application is incomplete.

Based on the foregoing, it is clear that the County's denial of Appellants' Application is not based on a requirement that an application be brought by all abutting property owners as suggested by the Appeal. Instead, the denial is based on Appellants' failure to comply with the submission requirement created by the County in order to reach a decision about material public injuries. Because the County's denial of the Application is based on the Appellants' failure to submit an application that complies with the County's requirements, the County's decision to deny the Application was reasonable and should be upheld.

C. Appellants' Argument Regarding Ownership Should be Disregarded

The issue before the Board is whether the County properly denied the Application after finding that it was incomplete. However, Appellants attempt to confuse the issue by proposing that ownership interests in the Subdivision are the only rights that may be considered by the County when reviewing the Application. Specifically, Appellants assert that because all seven (7) lot owners within the Subdivision allegedly took title to the Lane subject to potential dedication, there can be no other interested parties to consider in the application process.

Appellants base this argument entirely the County's approval of the dedication and abandonment of Milabar Way in 2008. There, the County approved the plan presented by the lot owners without requiring consent from any other abutting property owner. This occurred because the County determination that only those property owners who dedicate land for the creation of the roadway were entitled to claim a reversionary interest at abandonment. Using this abandonment as an example, Appellants' now seek to have the Lane abandoned in the same manner (i.e. they argue that the County's decision in Milabar establishes that reversionary interests in the Lane revert only to the lot owners because no other parties were included within the 1976 Subdivision Map). *See* Appeal at Exhibit 2, pg. 3.

Without diving too deeply into the ownership issue, we assert that this argument misstates the law, and assert that the decision in Milabar was flawed and should not be considered the best practice for conducting abandonments. We base this statement on the fact that Nevada's courts are directed to look at ownership interests in a dedicated parcel at the time that the offer of dedication is accepted to determine who receives a reversionary interest in the parcel upon its abandonment. *See Peterson v. City of Reno*, 84 Nev. 60, 66-67 (1968). Once this determination is made, interests in the abandoned parcel revert back to these individuals on the basis of the proportion of the parcel that was supplied for dedication by the individual or their successor in interest. *Id.*; NRS 278.480(7)². Accordingly, courts necessarily look to whose interests are impacted by dedication to determine the reversionary interests at the time of the parcel's abandonment. In short, at the time of abandonment, a person is entitled to a reversionary interest that is equal to the interest he or she contributed to the public at the time of the dedication.

In 2014, Drago executed the quitclaim deed in favor of Bennett transferring his interests in the Lane, excluding his interest in the associated water rights. At that time of the transfer, Drago held a fifteen percent (15%) interest in the Lane. Therefore, Bennett is entitled to a reversionary interest that is equal to that interest upon abandonment. Similarly, each of the property owners granted a one tenth (1/10) fee interest in the Lane will be entitled to a reversionary interest equal to that interest. Finally, each of the individual property owners who hold easements in the Lane, including Yamamoto and the Bennets, are entitled to claim a reversionary interest upon abandonment in the Lane.

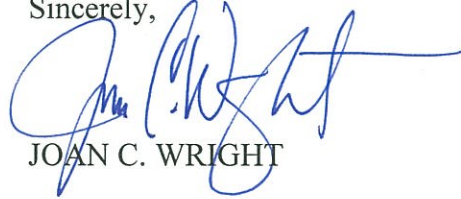
Regardless of what the County decided in the Milabar abandonment, both the decision in *Peterson* and the plain language of NRS 278.480(7) make it clear that in this case, an individual's right to claim a reversionary interest in the Lane, should it be abandoned, is not defined by his or her property's inclusion within the 1976 Subdivision Map, it is defined by the rights held at the time of dedication. All of the parties who hold those interests have not applied to the County.

² In relevant part, NRS 278.480(7) reads as follows: "title to the street or easement reverts to the abutting property owners in the approximate proportion that the property was dedicated by the abutting property owners or their predecessors in interest."

III. CONCLUSION

Based on the foregoing Bennett respectfully requests the Board to deny Appellants Appeal.

Sincerely,



Handwritten signature of Joan C. Wright in blue ink, consisting of a stylized 'J' and 'W' followed by a horizontal line.

JOAN C. WRIGHT

JCW/jb
cc: Client

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