



Board of Adjustment Staff Report

Meeting Date: June 2, 2016

Subject: Appeal of Administrative Decision Case Number AX16-002
Appellant(s): Garrett Gordon, Lewis, Roca, Rothgerber, Christie, LLP
Agenda Item Number: 8E
Project Summary: Appeal of the administrative decision by the Director of the Planning and Development Division to reject an abandonment application for Mil Drae Lane
Recommendation: Denial
Prepared by: Trevor Lloyd, Senior Planner
Planning and Development Division
Washoe County Community Services Department
Phone: 775.328.3620
E-Mail: tlloyd@washoecounty.us

Description

Appeal of Administrative Decision Case Number AX16-002 (Mil Drae Lane) – Hearing, discussion, and possible action on an appeal to reverse an 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.

- **Appellant:** Lewis, Roca, Rothgerber, Christie, LLP
Attn: Garrett Gordon
- **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:** Authorized in Article 806, Vacations and Abandonments of Easements or Streets
- **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

Appeal Letter dated March 24, 2016 and appeal materials Exhibit A

Incomplete Application Letter from Washoe County Exhibit B

Background

On February 16, 2016, the firm of Lewis, Roca, Rothgerber, Christie, LLP, on behalf of several property owners, submitted an application to abandon a 2.523 acre property identified as Mil Drae Lane, which is used as a roadway/access for up to 13 parcels.

The abandonment application involved a two part request. The first part of the request asked Washoe County to accept an offer of dedication for the subject property - Mil Drae Lane. The second part of the request involved Washoe County abandoning Mil Drae Lane immediately after accepting the dedication. The abandonment application requested that Mil Drae Lane be abandoned to the following seven abutting properties/owners:

- 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)

As to the abandonment request, Nevada law generally allows any property owner to file a petition for the abandonment of any street or easement owned by the city or county. The local government is empowered to create a procedure for the processing of abandonment requests. Once a valid request is filed, the matter is set for a hearing and the local government can abandon the property if it determines the public will not be materially injured by the proposed abandonment.

As to the request to accept the offer of dedication for the roadway itself, when a final subdivision map is filed, Washoe County generally must accept or reject all offers of dedication in the map. If rejected, however, the County can rescind its rejection at any time and accept the offer of dedication by action of the Planning Commission or governing body per NRS 278.390. To date, Washoe County has not accepted the offer of dedication for Mil Drae Lane and it is currently held in private ownership.

The Director of the Washoe County Planning and Development Division rejected the abandonment application due to insufficient submittal requirements. Specifically, the application did not contain the required signed owner affidavits for the property subject to the abandonment request. Washoe County Code (WCC) Section 110.806.10 enables the Director to prepare supplemental guidelines for the submission of applications for abandonments. Submittal requirement number 3, of the Abandonment Development Application Submittal Requirements sheet, states that "*the Owner Affidavit must be signed and notarized by all owners of the property subject to the application request.*" The owners of record, as specified by the Washoe County Assessor's records, differ greatly from the owners identified within the application. As shown below, the names of the signed owner affidavits (numbered 1 to 7 above) differ greatly from the official ownership records provided by the Washoe County Assessor's Office. The Assessor's Office lists Mil Drae Lane (APN: 040-581-20) under the following ownership:

- 1) Ernaut Family Trust (appears on the signed affidavit)
- 2) Darrell Bennett
- 3) Wilma Bennett
- 4) Timothy and Marsha Grant
- 5) Herbert and Susan Nichols Family Trust (appears on the signed affidavit)
- 6) Robert and Jerrady Hawkins

- 7) Larry D. Klaich Family Trust
- 8) William and Sally Burrows
- 9) William and Catherine Lore
- 10) Allyene Milabar

WCC Section 110.806.05 states “No application shall be processed when the information necessary to review and decide upon it is deemed incomplete by the Director.” Therefore, the Director of the Planning and Development Division has rejected the application as incomplete (see Exhibit B).

In their appeal, the appellants contend that owner affidavits are not necessary because the application was submitted as a two-step process and there is an existing offer of dedication for Mil Drae Lane and that Washoe County has the authority to accept the offer of dedication without the owner affidavits. The appellants also contend that a similar abandonment was approved on a short roadway off of Mil Drae Lane, known as Milabar Way several years ago, and that any abutting property owner can petition Washoe County for such an abandonment. See Exhibit A for the complete letter and materials for this appeal.

Staff does not agree with the appellants’ contention that the owner affidavits are not necessary. Even though there is an offer of dedication for Mil Drae Lane, Washoe County has not accepted that offer of dedication. At this time, the property is privately owned and Washoe County cannot proceed with a discretionary permit application without the written approval of all required owners of the property for the proposed action (i.e., the abandonment).

Per WCC Section 110.912.10, the Board may reverse, modify or remand a decision (of the Planning Director) if the decision:

- (a) Was made contrary to the constitution, a statute, an ordinance, or regulation, or the law of the case;
- (b) Exceeds the jurisdiction or statutory authority of the deciding official or body;
- (c) Was made on unlawful procedure;
- (d) Is affected by an erroneous interpretation or other error of law;
- (e) Is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) Is arbitrary or capricious or characterized by abuse of discretion

Recommendation

After a thorough analysis and review, Appeal Case Number AX16-002 is being recommended for denial. Staff offers the following motion for the Board’s consideration.

Motion

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment deny Appeal Case Number AX16-002 for Lewis, Roca, Rothgerber, Christie LLP and affirm the decision by the Director of the Planning and Development Division to reject an application to abandon the privately owned roadway, Mil Drae Lane.

Appeal Process

Board of Adjustment action will be effective 10 calendar days after the written decision is filed with the Secretary to the Board of Adjustment and mailed to the original applicant, 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 Board of Adjustment and mailed to the original applicant.

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

Other Contacts: 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

Lewis Roca Rothgerber Christie LLP
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Suite 410
Reno, NV 89501

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775.823.2929 fax
lrrc.com

Garrett D. Gordon
Admitted in Nevada
775.321.3420 direct
775.321.5569 fax
ggordon@lrrc.com

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.

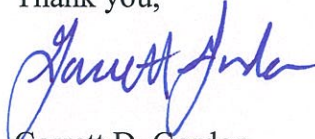
Based upon the above, we appeal the determination that the application in Abandonment Case No. AB16-001 is insufficient. First, we contend that the County may still proceed with the dedication. Second, the Planning and Development Director erred in concluding that signed owner affidavits from Mil Drae 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

**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 type="checkbox"/> Planning Commission
<input checked="" type="checkbox"/> Director of Planning and Development	<input type="checkbox"/> Code Enforcement Officer

Appellant Information

Name: Garrett Gordon, Lewis Roca Rothgerber Christie		Phone: 775-321-3420
Address: 50 W. Liberty Street Ste 410		Fax: 775-321-5569
		Email: ggordon@lrrc.com
City: Reno	State: NV	Zip:
Cell: 775-762-6765		
Original Application Number: Abandonment Case Number AB16-001		
Project Name: Mil Drae Lane Abandonment		
Project Location: Mil Drae Lane APN 040-581-20		

Date of decision for which appeal is being filed: March 24, 2016

State the specific action you are appealing:
Determination that abandonment application is incomplete due to insufficient submittal requirements

State the reasons why the decision should or should not have been made:
See attached letter:
1. County can accept dedication of Mil Drae Lane at any time; 2. All owners took title to Mil Drae Lane subject to potential dedication; 3. Abandonment application can proceed with just one abutting property owner's signature under NRS 278.480(1)

For Staff Use Only

Appeal Number:	Date Stamp
Notes: <i>No fees! Appeal of staff decision</i>	Staff: <u>TRZ</u>

Appellant Information (continued)	
Cite the specific outcome you are requesting under the appeal: Application should be submitted; County should proceed with accepting dedication of Mil Drae Lane	
State how you are an affected individual entitled to file this appeal: We represent the seven property owners that filed the initial abandonment application,	
Did you speak at the public hearing when this item was considered?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Did you submit written comments prior to the action on the item being appealed?	<input type="checkbox"/> Yes <input checked="" 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 Gordon
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 _____

Subscribed and sworn to before me this
24th day of March, 2016
Connie S. Isidro
Notary Public in and for said county and state
My commission expires: Jan. 2, 2017

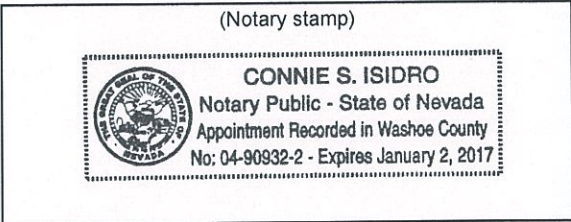
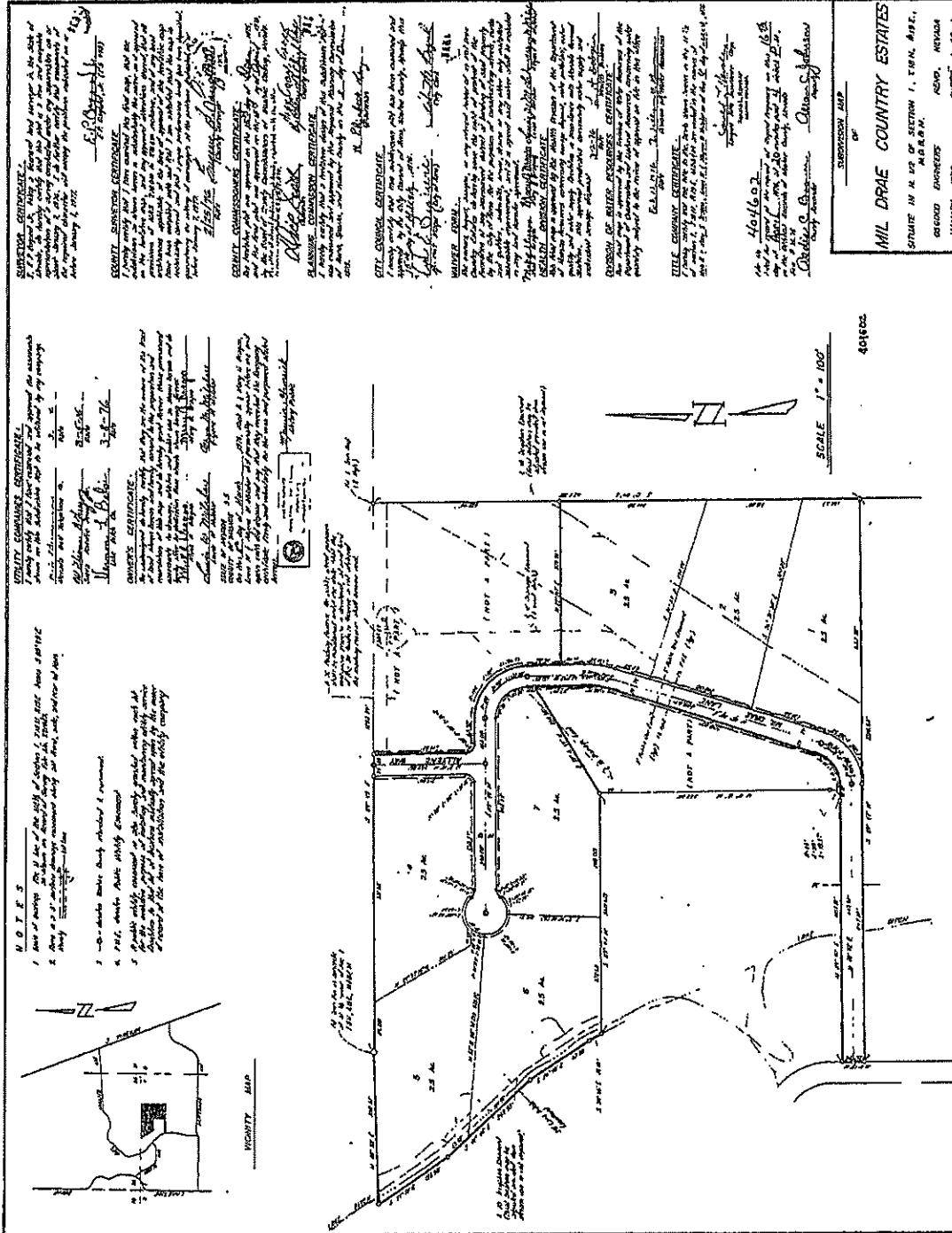


EXHIBIT 1

1568



NOTES

1. Area of project shown on map is approximately 1,100,000 sq. ft. (25 acres).
2. Area of 2.5 acres shown on map is reserved for a park, and will be owned and managed by the City of Los Angeles.
3. 100-foot wide utility easement shown on map is for water, gas, and electric lines.
4. 100-foot wide utility easement shown on map is for water, gas, and electric lines.
5. 100-foot wide utility easement shown on map is for water, gas, and electric lines.
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8. 100-foot wide utility easement shown on map is for water, gas, and electric lines.
9. 100-foot wide utility easement shown on map is for water, gas, and electric lines.
10. 100-foot wide utility easement shown on map is for water, gas, and electric lines.

CERTIFICATE OF TITLE

I, the undersigned, being a duly qualified and sworn-in surveyor of the State of California, do hereby certify that the above described land is the same as shown on the subdivision map filed for record in the office of the County Clerk of Los Angeles County, California, on this 15th day of January, 1958.

CERTIFICATE OF SURVEY

I, the undersigned, being a duly qualified and sworn-in surveyor of the State of California, do hereby certify that the above described land is the same as shown on the subdivision map filed for record in the office of the County Clerk of Los Angeles County, California, on this 15th day of January, 1958.

CERTIFICATE OF MORTGAGE

I, the undersigned, being a duly qualified and sworn-in surveyor of the State of California, do hereby certify that the above described land is the same as shown on the subdivision map filed for record in the office of the County Clerk of Los Angeles County, California, on this 15th day of January, 1958.

1568

Subdivision - Tract Map # 1568

EXHIBIT 2



Community Development

"Dedicated to Excellence in Public Service"

Adrian P. Freund, AICP, Community Development Director



Agenda Item No: 3-A (06/05/2007)

Staff Recommendation: **NO RECOMMENDATION**

Agenda Item No: 3-B (06/05/2007)

Staff Recommendation: **NO RECOMMENDATION**

**WASHOE COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT**

To: Members of the Washoe County Planning Commission

Re: Abandonment Case No. AB07-005 (MILABAR WAY)

Date: May 25, 2007

Prepared By: Roger D. Pelham, Senior Planner

GENERAL INFORMATION SUMMARY

Applicants: Peter and Wendy Ernaut

Requested Actions:

A - To consider offer of dedication of a private right-of-way, approximately 50 feet wide and 233 feet long, as shown on Tract Map No. 1568, commonly known as Milabar Way (formerly known as Allyene Way) consisting of a portion of Assessor's Parcel Number 040-581-15, offered for dedication with the "Subdivision Map of Mil Drae County Estates" on April 16, 1976, and to consider executing a resolution accepting Dedication;

And, if approved,

B - To abandon the right-of-way, approximately 50 feet wide and 233 feet long, as shown on Tract Map No. 1568, commonly known as Milabar Way (formerly known as Allyene Way), consisting of a portion of Assessor's Parcel Number 040-581-15, offered for dedication with the "Subdivision Map of Mil Drae County Estates" on April 16, 1976. Abandonments are authorized pursuant to Article 806 of the Washoe County Development Code.

Milabar Way is a "stub street" located to the north side of Mil Drae Lane, approximately 1/3 mile north of the intersection of Mil Drae Lane and Del Monte Lane. The ±2.55 acre parcel is designated High Density Rural (HDR) in the Southwest Truckee Meadows Area Plan, is within the NE4 of Section 1, T18N, R19E, MDM, Washoe County, Nevada. The abandonment application is within the boundaries of the Southwest Truckee Meadows Citizen Advisory Board, but not subject to its review; and is in Washoe County Commission District No. 2. (APN 040-581-15)

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Telephone: 775.328.3600 – Fax: 775.328.3648

www.washoecounty.us/comdev/

"Your Community Development Department"

To: Washoe County Planning Commission
Re: AB07-005 Milabar Way, Peter and Wendy Ernaut
Date: May 25, 2007
Page: 2

RECOMMENDATION / FINDINGS

Should the Planning Commission determine that it is appropriate to execute a resolution accepting Milabar Way for the purposes of abandonment only the following motion may be utilized:

I move that the Washoe County Planning Commission accept and execute the resolution attached to Abandonment Case No. AB07-005, for the purpose of immediate abandonment of the right of way only.

Should the Planning Commission determine that it is not appropriate to execute a resolution accepting Milabar Way for the purposes of abandonment only the following motion may be utilized:

I move that the Washoe County Planning Commission not accept the resolution attached to Abandonment Case No. AB07-005. The offer of dedication as indicated on the "Subdivision Map of Mil Drae County Estates" dated April 16, 1976, shall remain rejected at this time but shall remain open under NRS 278.390.

RECOMMENDATION/FINDINGS

Staff recommends neither approval nor denial of the request and recommends that the Planning Commission hold a public hearing to allow other interested parties who may have an interest in the use of Milabar Way, now or in the future, to express their wishes and concerns to the Commission.

Should the Planning Commission determine that the abandonment request is appropriate, having already executed the attached resolution accepting Milabar Way, the following motion has been provided for your consideration:

I move that the Washoe County Planning Commission conditionally approve the vacation of the portion of Assessors Parcel Number 040-581-15 that is approximately 50 feet wide and 233 feet long, as shown on Tract Map No. 1568, commonly known as Milabar Way for Abandonment Case No. AB07-005 having made the findings:

1. That the abandonment request is not inconsistent with the land use map and policies of the Southwest Truckee Meadows Area Plan;
2. That the public will not be materially injured by the proposed vacation;
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.

To: Washoe County Planning Commission
Re: AB07-005 Milabar Way, Peter and Wendy Ernaut
Date: May 25, 2007
Page: 3

LAND USE SUMMARY

Land Use Designation:

High Density Rural (HDR).

Area Plan Modifiers:

None Applicable.

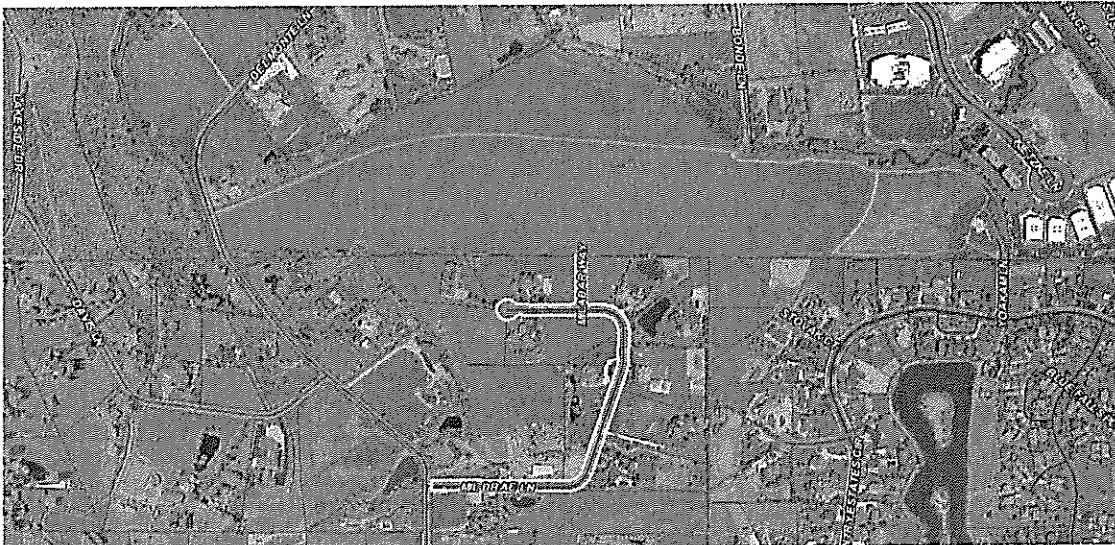
Development Suitability Constraints:

None.

ANALYSIS

This abandonment request would relinquish a private right-of-way, approximately 50 feet wide and 233 feet long, as shown on Tract Map No. 1568, commonly known as Milabar Way (formerly known as Allyene Way) consisting of a portion of Assessor's Parcel Number 040-581-15, to the abutting property owners Pete and Wendy Ernaut. Typically abandonment of a 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, the Ernauts. The result of the abandonment would be an increase in the Ernaut's parcel by approximately 11,915 square feet resulting in a parcel approximately 2.75 acres in size.

Milabar Way is a private roadway "stub" between Mil Drae Lane and the southern border of Anderson Park, as can be seen on the photo below.



To: Washoe County Planning Commission
Re: AB07-005 Milabar Way, Peter and Wendy Ernaut
Date: May 25, 2007
Page: 4

AGENCY COMMENTS

Due to an abbreviated review for this project comments have not been received from all reviewing agencies prior to finalization of this staff report. Staff will provide agency comments at the public hearing on this item. Conditions of approval from the Engineering Division are included with this staff report.

CITIZEN ADVISORY BOARD COMMENTS

Abandonment requests are not submitted to Citizen Advisory Boards for comment.

APPLICABLE REGULATIONS

Nevada Revised Statutes 278.240 and 278.480; Washoe County Code Article 806.

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Attachments: Conditions
 Site Plan Showing Area Proposed for Abandonment
 Resolution

XCs:

Property Owners: Peter and Wendy Ernaut, 615 Riverside Drive, Reno, NV
 89509

Professional Consultant: Garrett Gordon, 5355 Kietzke Lane, Suite 200, Reno, NV
 89511

CAB: Southwest Truckee Meadows Citizen Advisory Board

To: Washoe County Planning Commission
Re: AB07-005 Milabar Way, Peter and Wendy Ernaut
Date: May 25, 2007
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**CONDITIONS
for
ABANDONMENT CASE NO. AB07-005**

(As provided by Department of Community Development and attached to Staff Report dated May 25, 2007)

***** IMPORTANT -- PLEASE READ *****

A COPY OF ALL AGREEMENTS, EASEMENTS, OR OTHER DOCUMENTATION REQUIRED BY THESE CONDITIONS SHALL BE FILED WITH THE DEPARTMENT OF PUBLIC WORKS AND/OR DEPARTMENT OF COMMUNITY DEVELOPMENT.

FOR THE PURPOSES OF CONDITIONS IMPOSED BY WASHOE COUNTY, "MAY" IS PERMISSIVE AND "SHALL" OR "MUST" IS MANDATORY.

COMPLETION OF THE FOLLOWING CONDITIONS SHALL BE DETERMINED BY THE COUNTY ENGINEER, PRIOR TO RECORDATION OF THE ORDER OF ABANDONMENT.

1. Prior to recordation of the Order of Abandonment, the applicant must submit to the County Engineer for review and approval legal descriptions prepared by a registered professional for the area of abandonment.
2. Retention of all public utility easements or relocations of all public utility easements to the satisfaction of and at no expense to Washoe County or the existing public utilities that originally accepted and approves said easement as well as any other public utilities now in existence that currently utilize said easements. Said relocations shall be evidenced by recordation of properly executed documents reflecting the grant of the new easements (if required) to said public utilities and relinquishment of said public utilities of their former easements.
3. The applicant shall comply with all conditions necessary to effect the Resolution and Order of Abandonment within two years from the date of the action by the Planning Commission or this conditional abandonment will be null and void.
4. Should the applicants fail to complete the Order of Abandonment within two years from the date of action of Washoe County, the acceptance of the easement by Washoe County shall become null and void.

**** END OF CONDITIONS ****



Community Development

"Dedicated to Excellence in Public Service"

Adrian P. Freund, AICP, Community Development Director



Post Office Box 11130, Reno, NV 89520-0027 – 1001 E. Ninth St., Reno, NV 89512

Telephone: 775.328.3600 – Fax: 775.328.3648

www.washoecounty.us/comdev/

"Your Community Development Department"

**AX16-002
EXHIBIT A**

INSTRUCTIONS ONLY. DO NOT INCLUDE WITH APPLICATION SUBMITTAL.

Appeal of Decision Development Application Submittal Requirements

1. **Fees:** See fee sheet included in application packet.
2. **Development Application:** A completed Washoe County Appeal of Decision Application form.
3. **Appellant Affidavit:** The Appellant Affidavit must be signed and notarized.
4. **Application Materials:** The completed Appeal of Decision Application materials.
5. **Packets:** Either one electronic packet (DVD or flash drive) with 2 paper copies **OR** 10 paper copies. **If packet on DVD or flash drive is incomplete, a replacement or additional paper copies will be required.**



Washoe County
COMMUNITY SERVICES DEPARTMENT
Planning and Development Division

March 8, 2016

Garrett Gordon
Lewis Rocca Rothgerber Christie
50 W. Liberty Street #410
Reno, NV 895010

Re: Incomplete Application for Abandonment Case Number AB16-001

Mr. Gordon,

Washoe County Planning and Development has determined that the abandonment application for APN: 040-581-20 (Mil Drae Lane) is incomplete due to insufficient submittal requirements. Specifically, the application is missing the necessary signed owner affidavits for the property (street) subject to the abandonment request. Please refer to the attached Washoe County Assessor Property Data sheet for a complete list of owners of APN 040-581-20.

You are welcome to resubmit the application with the completed submittal requirements including the owner affidavits for all property owners of record as identified by Washoe County. You should receive a refund for the application fees in the amount of \$1,758 shortly.

If you have any questions regarding the application requirements please do not hesitate to call me at 328-3617 or Trevor Lloyd at 328-3620.

Sincerely,

William H. Whitney
Planning and Development Director

cc: Pete Ernaut
Ryan M. Dolan
James and Maureen Nunnally
Roland and Tina Scarselli
Lance Faulstich
Herbert and Susan Nichols

	WASHOE COUNTY ASSESSOR PROPERTY DATA	03/02/2016
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APN: 040-581-20 Card 1 of 1

Owners for 040-581-20		
Owner Name	Owner Description	Percent
ERNAUT FAMILY TRUST	TRUST AND ETAL OWNERSHIP	7.5%
ERNAUT TRUSTEES, PETER G & WENDY S	TRUSTEE	
BENNETT, DARRELL		7.5%
BENNETT, WILMA		7.5%
GRANT, TIMOTHY & MARSHA		10%
NICHOLS FAMILY TRUST, HERBERT & SUSAN		20%
NICHOLS TRUSTEES, HERBERT L & SUSAN C	TRUSTEE	
HAWKINS, ROBERT & JERRADY		10%
KLAICH FAMILY TRUST, LARRY D		10%
KLAICH TRUSTEE, LARRY D	TRUSTEE	
BURROWS, WILLIAM & SALLY		10%
LORE, WILLIAM & CATHERINE		10%
MILABAR, ALLYENE		7.5%

All parcel data on this page is for use by the Washoe County Assessor for assessment purposes only. Zoning information should be verified with the appropriate planning agency. Summary data may not be a complete representation of the parcel. All Parcels are reappraised each year. This is a true and accurate copy of the records of the Washoe County Assessor's Office as of 03/01/2016. **NOTE:** The 2016/2017 values are preliminary values and subject to change.