

Prepared by:

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ACCESS AND UTILITY EASEMENT AGREEMENT

**Burdened Property: 13.251 acre parcel of vacant land
created via Plan Book 93, Starting Page 237,
Part of GIS Parcel 12-2344149-346537-0000**

**Part of GIS Parcel 12-2342870-347307
Benefitted Property: 2.318 acre parcel of improved land,
captioned "Residual Lands," created via Plan Book 93, Starting Page 237,
Part of GIS Parcel 12-2344149-346537-0000**

This Access and Utility Easement Agreement is dated for convenience as of the 3rd day of August, 2020, by and between:

Rain L. Buck, Executrix of the Estate of Joan Lee Bernhardt, deceased, legal owner of all of the property set forth above, party of the first part (the "Estate"); and

Bryant Bernhardt, adult individual, and Christopher S. Stahley, adult individual, equitable owners of the portion of the property set forth above identified as the "Burdened Property", party of the second part (collectively, "Stahley").

BACKGROUND:

- A. Estate has subdivided the residential dwelling commonly known as 60 Anthracite Road, Lebanon, Cornwall Borough, Lebanon County, PA, part of GIS parcel number 12-2334149-346537-0000, by way of that certain Final Lot Annexation Plan prepared by Steckbeck Engineering & Surveying, Inc., recorded in Plan Book 93, Starting Page 237, as Instrument Number 202006363 (the "Lot Annexation Plan").
- B. The existing single family dwelling (the "Existing SFD") is located on the parcel identified as "Residual Lands" on the Lot Annexation Plan and has access to Anthracite Road by way of an existing asphalt driveway located within that area captioned "Proposed Access Easement" extending from the "Residual Lands" to Anthracite Road, as detailed on the Lot Annexation Plan (the "Access Easement"). The Access Easement is reproduced on Exhibit "A", which is attached hereto and incorporated herein by reference.
- C. At the time the Lot Annexation Plan was being processed, it was thought that the Existing SFD on the Residual Lands discharges sanitary sewage effluent via a lateral located within the area captioned "Proposed Sanitary Easement" on the Lot Addition Plan. It has since been determined that the actual sanitary sewage lateral is located completely on the Residual Lands, connecting to the public sewer line in Anthracite Road. As a result, the "Proposed Sanitary Easement" described and depicted on the Lot Addition Plan is unnecessary and null, void and of no effect.
- D. The public water line serving the Existing SFD was not identified on the Lot Addition Plan. The water line connects to the publicly owned water line in Anthracite Road and is located within the area described as "Actual Water Easement" on Exhibit "B", which is attached hereto, and incorporated herein by reference.
- E. The Existing SFD on the Residual Lands is serviced by utilities via lines and other apparatus located within the area captioned "Proposed Utility Easement" on the Lot Addition Plan, extending from the Residual Lands to lands now or formerly of Pennsylvania Lines, LLC, GPIN 12-2342026-348844-0000 (the "Utility Easement"). The Utility Easement is reproduced on Exhibit "C", which is attached hereto and incorporated herein by reference.
- F. After conveyance to him by the Estate, Stahley may further subdivide the balance of the property, and any additional lots may, but are not required to, utilize the easements created hereby.
- G. By this Agreement, the parties desire to formally establish the existence of the Access, Sanitary and Utility Easements to and for the benefit of the Residual Lands.

WITNESSETH:

Stahley, for and in consideration of the sum of One Dollar (\$1.00), lawful money of the United States of America, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, well and truly paid by Estate at and before the sealing and delivery of these presents, has granted, bargained and sold, and by these presents does grant, bargain and sell unto Estate, its heirs, successors and assigns:

- A. the non-exclusive, free and uninterrupted use, liberty and privilege of, and passage in and along the Access Easement for purposes of ingress, egress and regress to the Residual Lands (Exhibit "A"); and
- B. the non-exclusive, free and uninterrupted use, liberty and privilege of installing, repairing, maintaining and replacing water lines and related appurtenances on, under and through the Actual Water Easement as detailed on Exhibit "B" to and for the benefit of the Residual Lands; and
- C. the non-exclusive, free and uninterrupted use, liberty and privilege of installing, repairing, maintaining and replacing water, gas, electric, telephone and cable television lines and related appurtenances on, under and through the Utility Easement as detailed on the Lot Addition Plan to and for the benefit of the Residual Lands (Exhibit "C"); and
- D. the non-exclusive, free and uninterrupted use, liberty and privilege of installing, repairing, maintaining and replacing any storm water management facilities on, under and through the Access, Water and Utility Easements that are subsequently required by Cornwall Borough in connection with the Pennsylvania Department of Environmental Protection's ("PADEP") Municipal Separate Storm Sewer (MS4) Program, or similar federal or state program.

TO HAVE AND TO HOLD all and singular the privileges aforesaid to Grantee, his heirs, successors and assigns forever.

UNDER AND SUBJECT to the obligations and agreements on the part of Stahley to:

- A. Install, construct or otherwise complete all improvements required by the Lot Addition Plan or any further subdivision plan of the Burdened Property at his sole cost and expense.
- B. Hold Estate, its heirs, successors and assigns, harmless from and against any and all loss related to the installation, construction or completion of any improvements required by the Lot Addition Plan or any further subdivision of the Burdened Property, including, without limitation, the payment of court costs and attorneys' fees.

UNDER AND SUBJECT to the obligations and agreements on the part of Estate to:

- A.** To pay one hundred percent (100%) of all costs incurred in maintaining all utilities located within, as well as the surface area of, the Water and Utility Easement areas that service the existing SFD. These easement areas shall be maintained at all times in accordance with the requirements of any governmental body or agency, or utility provider, having jurisdiction or control over the utility line or lines and equipment within these easement areas.
- B.** To pay one hundred percent (100.00%) of all costs incurred in maintaining, mending or repairing all improvements within the Access Easement, including, without limitation, the entire driveway used for vehicular access to Anthracite Road and any storm water management facilities on, under and through the Access Easement that are subsequently required by the Cornwall Borough Stormwater Management Ordinance, PADEP's MS4 Program, or similar federal or state program. This obligation shall include, without limitation, all costs incurred in removing snow and other routine maintenance, such as repairing potholes and other dangerous conditions, or the restoration or repair of damage due to explosion, accident or natural disaster ("Maintenance").
- C.** To pay one hundred percent (100.00%) of all costs incurred in the widening, overlaying, reclaiming, repaving or other significant voluntary reconstruction or improvement of all improvements within the Access Easement not required by the Lot Addition Plan or further subdivision of the Burdened Property, including, without limitation, the entire driveway used for vehicular access to Anthracite Road and any storm water management facilities on, under and through the Access Easement that are subsequently required by the Cornwall Borough Stormwater Management Ordinance, PADEP's MS4 Program, or similar federal or state program ("Reconstruction").
- D.** If Stahley, his heirs, successors or assigns, is still the owner of any portion of the Burdened Property, then, following reasonable notice to Estate, Stahley shall select, or approve, the person or company (other than Estate) to perform Maintenance or Reconstruction of the entire Access Easement area. If Estate performs any required Maintenance prior to any other lot owners utilizing the Access Easement, then Estate shall not be liable for any costs or expenses incurred by Stahley without his written consent. Thereafter, in the absence of unanimous agreement, the effected property utilizing the Access Easement having the oldest owner (or co-owner) shall select the person or company to perform all Maintenance and Reconstruction. In the event an owner or co-owner of any of the effected lots is not a natural person, the owner or co-owner's age shall be computed from the entity's date of incorporation or organization.
- E.** As long as the Stahley is the owner of any portion of the Burdened Property, he reserves the right to approve the nature of any Maintenance and Reconstruction, and no voluntary Reconstruction may be performed without the written consent of the Stahley as long as he is the owner of any portion of the Burdened Property.

Thereafter, no voluntary Reconstruction may be performed without the written consent of a majority of the lot owners obligated to pay for the Reconstruction.

F. If Stahley, his successors, heirs or assigns, subdivides a lot or lots from the Burdened Property which utilize the Access, Water or Utility Easements for their respective purposes, then:

1. the owner or owners of each of these newly created lots shall contribute to the costs of all Maintenance and/or Reconstruction, in proportion to the number of lots utilizing the respective easements, for example, if three properties utilize the Access Easement, then each of those properties shall each contribute one-third ($\frac{1}{3}$) of all Maintenance and Reconstruction costs;
2. Any utilities that serve a single lot shall be the sole responsibility of that lot owner; and
3. the owner or owners of the newly created lots shall be bound by all of the other terms and conditions set forth herein.

STAHLEY COVENANTS AND AGREES to utilize the Access Easement created hereby as the exclusive means of access to the Burdened Property, including any lots created from it, and he agrees not to construct any additional drive or access way to any additional lots created from the Burdened Property.

ESTATE COVENANTS AND AGREES to utilize the Access Easement created hereby as the exclusive means of access to the Residual Lands unless and until Estate, its successors or assigns, constructs another access drive to serve the Existing SFD. Estate shall be solely responsible for all costs and expenses incurred in connection therewith and shall hold Stahley harmless from and against any loss with regard to same, including, without limitation, the payment of court costs and attorneys' fees. If Estate, its successors or assigns, constructs another access drive to serve the Existing SFD and physically severs connection to, and the use of, the driveway within the Access Easement, then Estate's rights, and corresponding obligations, with regard to the Access Easement shall automatically terminate.

THE PARTIES FURTHER COVENANT AND AGREE that should any party be in default of its or his obligations, limitations, covenants or agreements hereunder, the owners of any portion of the other property subject to this Easement Agreement shall be entitled to enforce said obligations or limitations in any court of competent jurisdiction, in which event the losing party shall be obligated to pay all of the prevailing party's costs and expenses incurred in connection therewith, including, without limitation, court costs and actual attorneys' fees.

COVENANT TO HOLD HARMLESS - CORNWALL BOROUGH. In the event of litigation concerning the easements created hereby, the current owners of the properties subject to this Easement Agreement, for themselves, their personal representatives, heirs, successors and assigns, covenant and agree not to sue or cause Cornwall Borough to become a party to said litigation. Cornwall Borough shall constitute an intended third-party beneficiary of this

provision. In the event Cornwall Borough becomes a party to any such litigation, the current owners of the properties subject to this Easement Agreement shall, jointly and severally, hold Cornwall Borough harmless from any and all loss, cost and/or expense incurred in investigating and/or defending the matter, including, without limitation, actual engineering, surveying and attorneys' fees, costs and expenses.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals the day and year first written above.

**ESTATE OF JOAN LEE BERNHARDT,
DECEASED**

Rain L. Buck, Executrix

By: Rain L. Buck, Executrix

State Ohio

~~COMMONWEALTH OF PENNSYLVANIA~~

Hamilton : ss
COUNTY OF ~~LEBANON~~ me :

On this 13th day of August, 2020, before me, a Notary Public, the undersigned officer, personally appeared Rain L. Buck, Executrix of the Estate of Joan Lee Bernhardt, Deceased, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes, and in the capacity, therein contained and stated and desired the same might be recorded as such.

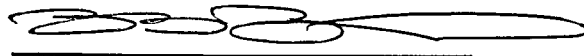
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Signature]
Notary Public



MADISON COLEMAN
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION
EXP: 05/16/2024

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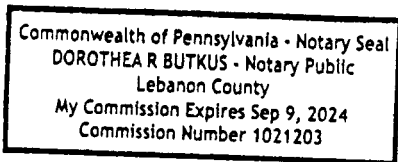
Bryant Bernhardt

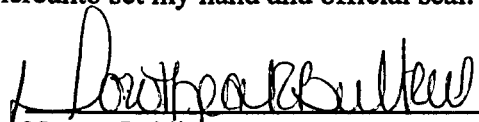
COMMONWEALTH OF PENNSYLVANIA }
 }
COUNTY OF LEBANON }
 }


ss:

On this, the 8th day of September, 2020, before me the undersigned officer personally appeared, Bryant Bernhardt, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.




Notary Public

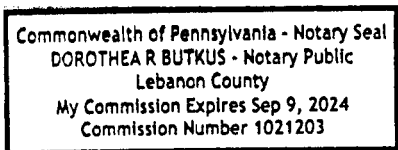

Christopher S. Stahley

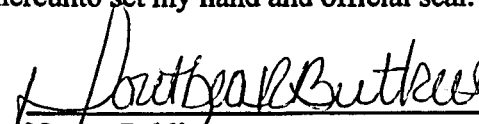
COMMONWEALTH OF PENNSYLVANIA }
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COUNTY OF LEBANON }
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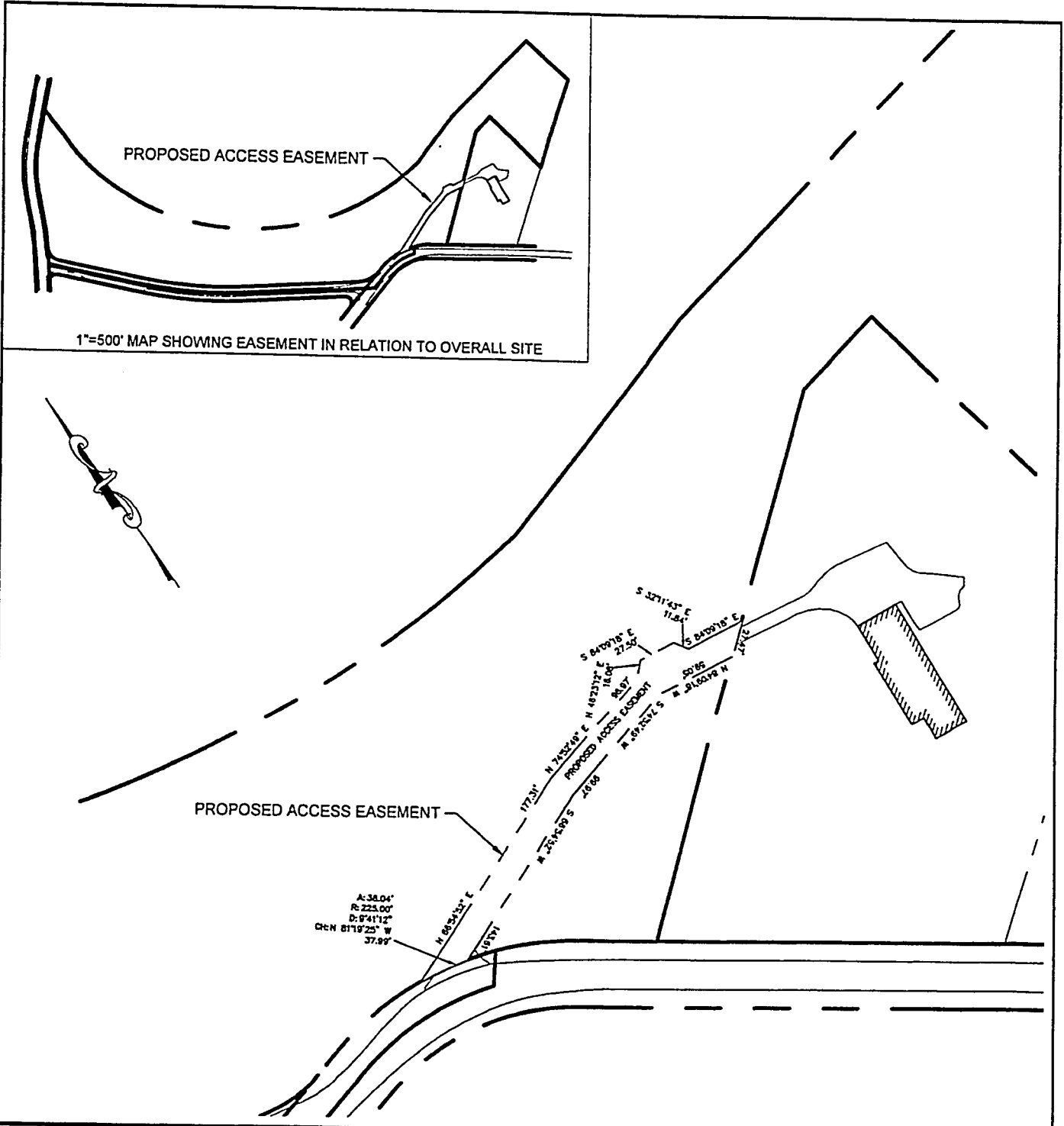
ss:

On this, the 8th day of September, 2020, before me the undersigned officer personally appeared, Christopher S. Stahley, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



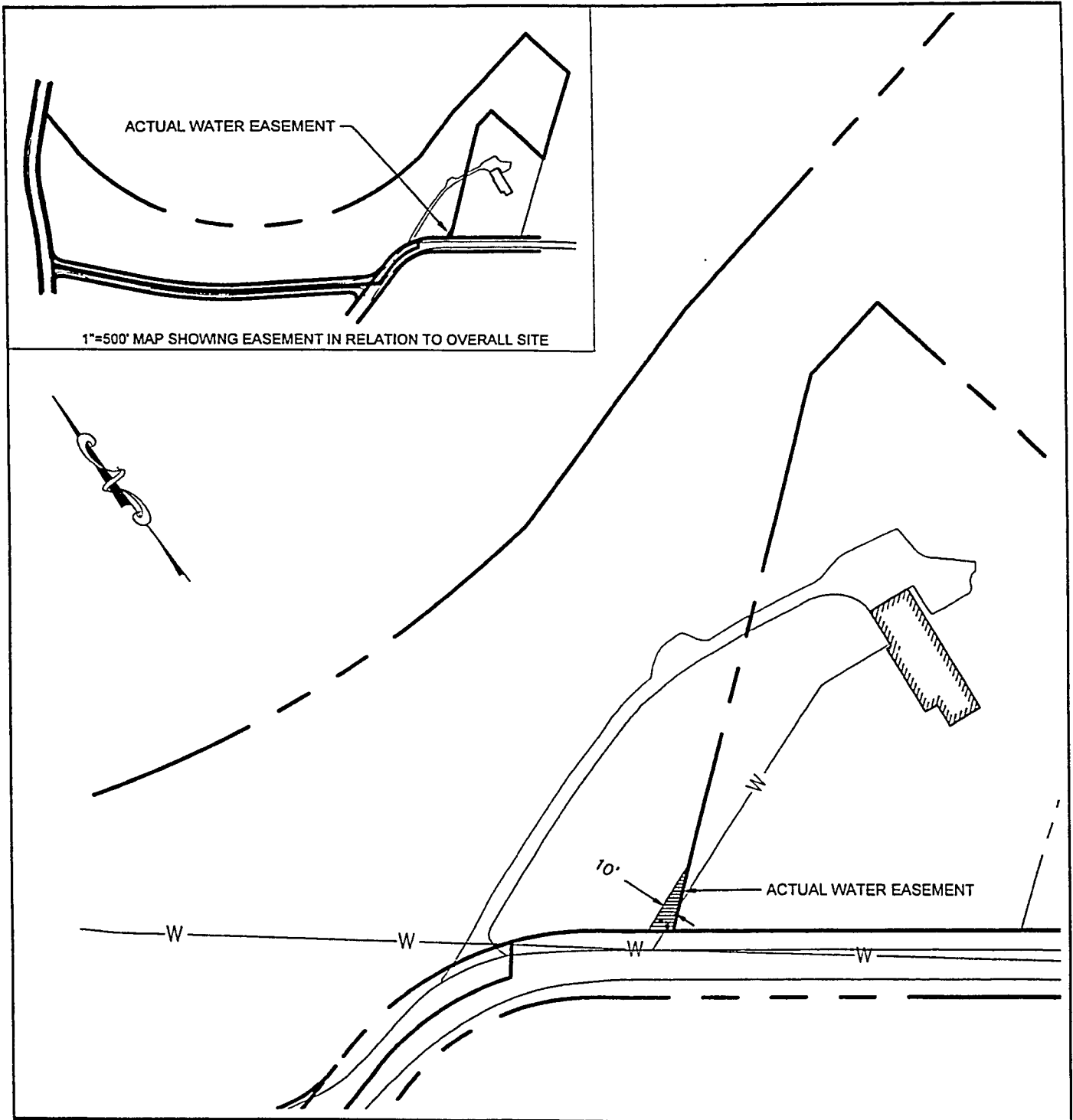

Notary Public



Steckbeck Engineering & Surveying Inc.
 279 N Zinns Mill Rd. Suite A
 Lebanon, PA 17042
 Phone: 717.272.7110
 Fax: 717.272.7348

PROPOSED ACCESS EASEMENT
 FOR
 60 ANTHRACITE ROAD
 SITUATED IN
 CORNWALL BOROUGH, LEBANON COUNTY, PA

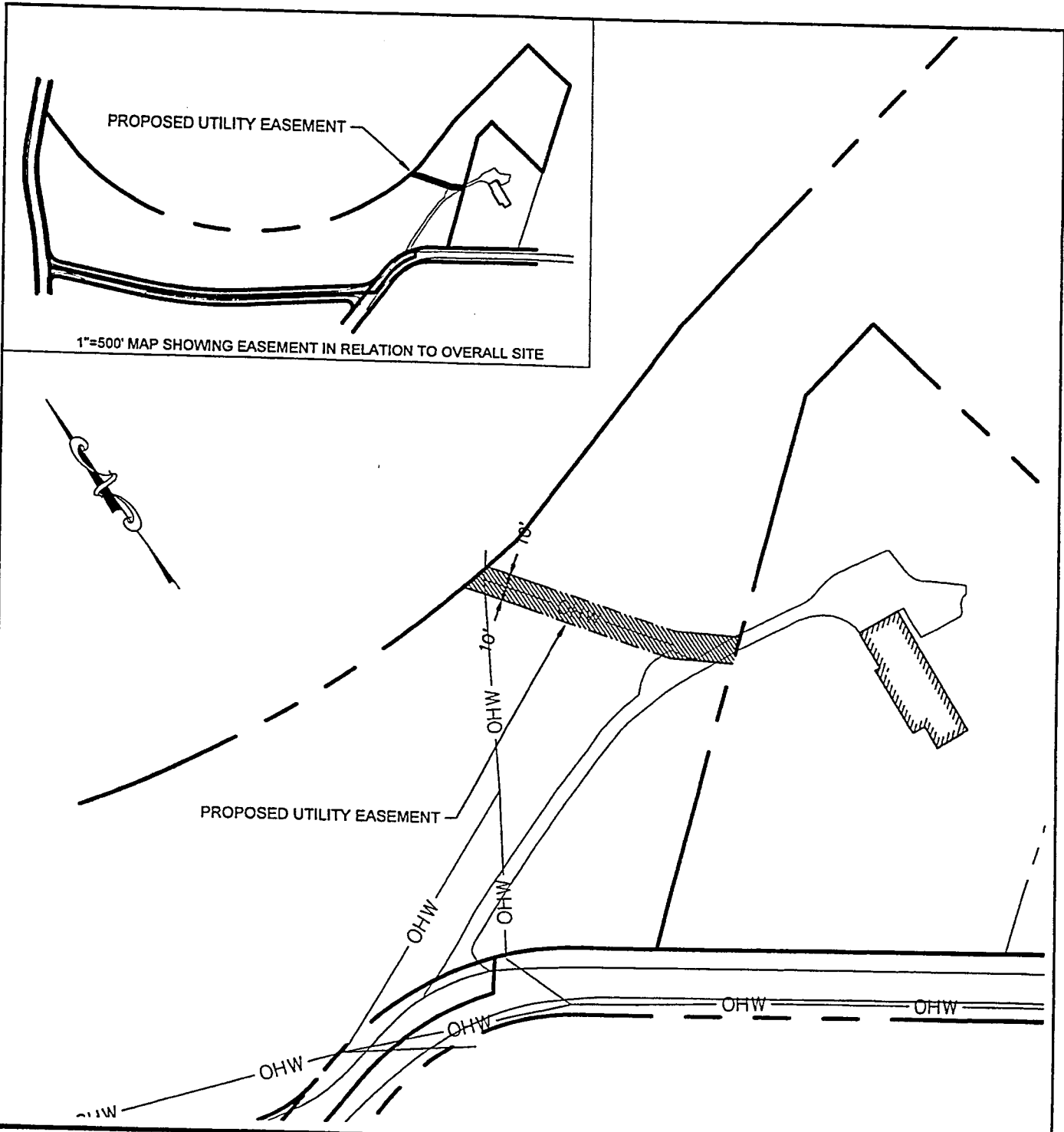
DRAWN:	ABK
DESIGN:	JDS
DATE:	7/21/20
SCALE:	1"=100'
PROJECT #:	216-17-001



Steckbeck Engineering & Surveying Inc.
 279 N Zinns Mill Rd. Suite A
 Lebanon, PA 17042
 Phone: 717.272.7110
 Fax: 717.272.7348

ACTUAL WATER EASEMENT
 FOR
 60 ANTHRACITE ROAD
 SITUATED IN
 CORNWALL BOROUGH, LEBANON COUNTY, PA

DRAWN:	ABK
DESIGN:	JDS
DATE:	7/21/20
SCALE:	1"=100'
PROJECT #:	216-17-001



SESI
 Steckbeck Engineering & Surveying Inc.
 279 N Zinns Mill Rd. Suite A
 Lebanon, PA 17042
 Phone: 717.272.7110
 Fax: 717.272.7348

PROPOSED UTILITY EASEMENT
 FOR
60 ANTHRACITE ROAD
 SITUATED IN
 CORNWALL BOROUGH, LEBANON COUNTY, PA

DRAWN:	ABK
DESIGN:	JDS
DATE:	7/21/20
SCALE:	1"=100'
PROJECT #:	216-17-001