SUMMARY OF AGENDA ITEM

DATE: 07-07-07 **SUBMITTED BY: LaRon Garrett**

RESOLUTION/ORDINANCE # 2282

TITLE: ARESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA ACCEPTING A DRAINAGE EASEMENT FROM LINDA McCRARY

PURPOSE:

To accept a drainage easement in the vicinity of Aero Drive and Ash Street to allow Town Crews to install underground storm drain to address a drainage issue.

SUMMARY OF CHANGES TO ACCOMPLISH THIS PURPOSE:

Provide Town personnel the right to install and maintain an underground storm drain system on private property.

RECOMMENDED COUNCIL ACTION:

Approval of this Resolution

BACKGROUND:

For some time there has been a drainage issue in the vicinity of E. Aero Drive and S. Ash Street. Drainage from the Pinon Ridge and Elk Ridge subdivision flows through a natural drainage channel along the rear of several lots along Ash Street. Several years ago a private property owner attempted to address this issue by installing a pipe from the rear of their lot to Ash Street so the water could flow down Ash Street to Aero. Subsequently, they built a garage over the pipe. Unfortunately, this pipe is way undersized and cannot accommodate the flows in that area, causing this lot and others to flood at times. These easements will allow the Town to install underground storm drain from the entrance of the undersized pipe, continuing along the rear of adjacent lots, across Aero and into a channel that has been designed to accommodate these flows. Ultimately, these flows will still empty at E. Main Street and Highway 87 just as they do today.

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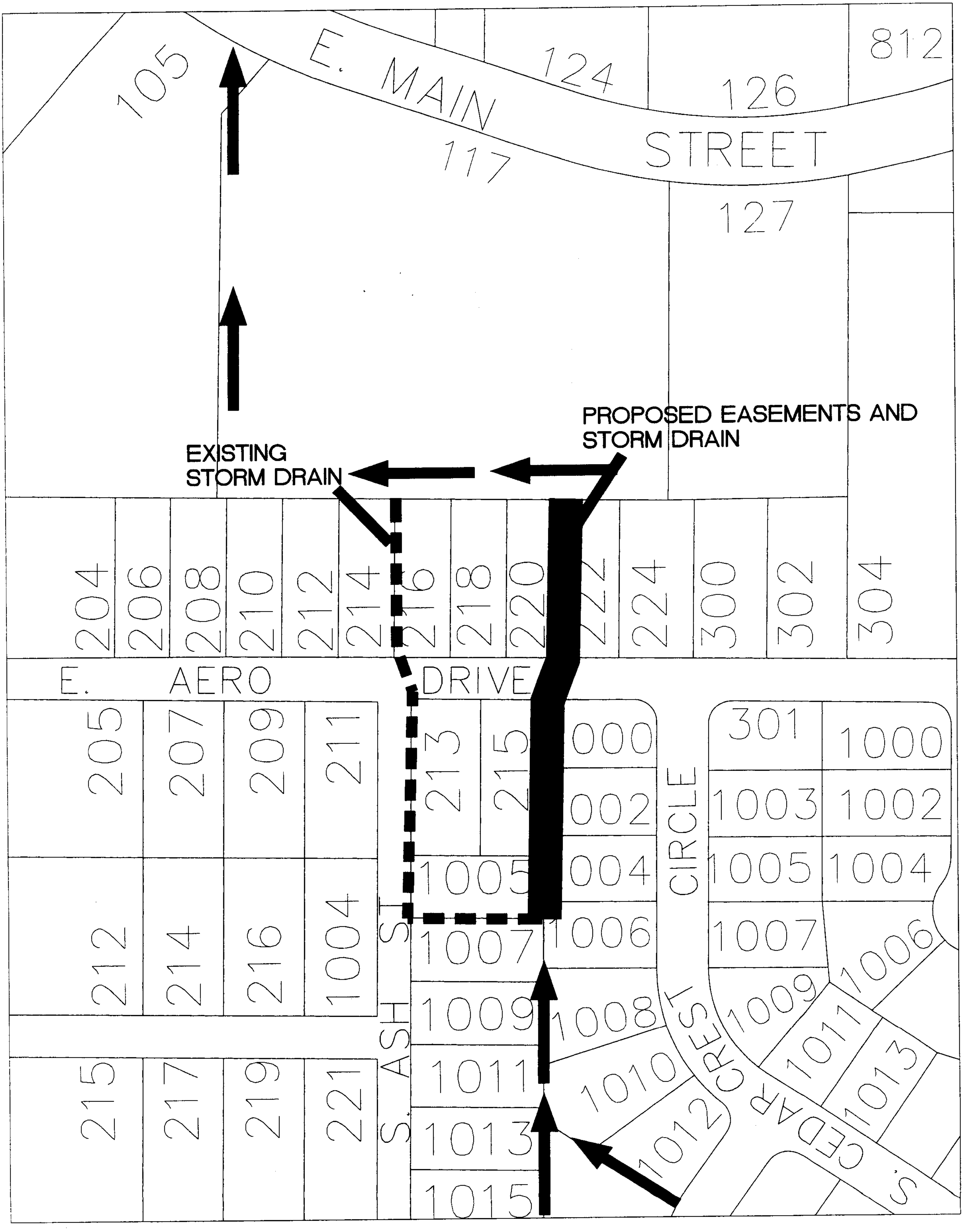
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EXISTING STORM DRAIN
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RESOLUTION NO. 2282

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ACCEPTING THE DRAINAGE EASEMENT DESCRIBED IN THE DOCUMENT ATTACHED HERETO AS EXHIBIT "1".

WHEREAS, A.R.S. § 9-241 provides that the Town of Payson may receive real property necessary or proper to carry out the purposes of the municipal corporation, within or without its limits; and

WHEREAS, that certain real property interest described on Exhibit "1" attached hereto has been offered to the Town of Payson by Linda McCrary; and

WHEREAS, said real property is located within the corporate limits of the Town of Payson,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the Town of Payson does hereby accept the drainage easement, described in Exhibit "1" attached hereto and incorporated herein as though set forth in full at this point.

Section 2. That the Town of Payson shall perform any and all other acts necessary or appropriate to accept said drainage easement and to the use and control thereof, including, but not limited to, the maintenance thereof.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2007, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
F. Robert Edwards, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney

Prepared by Town of Payson Legal Department
SIS:drs May 25, 2007 (11:07AM)
C:\MyFiles\Resolutions\2282 Accepting Drainage Easements from McCrary.wpd

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EXHIBIT "1"

to Resolution No. 2282

When recorded, return to:
Silvia Smith, Town Clerk
Town of Payson
303 North Beeline Highway
Payson, Arizona 85541

DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

In consideration of one dollar ($1.00) and other valuable considerations paid to Linda McCrary, a single women, (hereinafter referred to as GRANTORS) by the Town of Payson, an Arizona municipal corporation, the receipt of which is hereby acknowledged, GRANTORS do hereby grant, bargain, sell, transfer and convey unto the Town of Payson, an Arizona municipal corporation (hereinafter referred to as GRANTEE), its successors and assigns, a perpetual easement with the right to install and maintain drainage improvements, together thereafter with a right to use, operate, inspect, repair, maintain, alter or remove trees and shrubs to the extent necessary, replace and remove facilities as necessary, together with the rights of ingress, egress and access over, across and through the land of the GRANTORS described on Exhibit "A" attached hereto and made a part hereof.

The consideration herein above recited shall constitute payment in full for the value of the interest granted herein and for any damages to the land of GRANTORS, their successors and assigns, by reason of the installation, operation and maintenance of the structures or improvements referred to herein. GRANTEE covenants to maintain the easement in good repair so that no unreasonable damage will result from its use to the adjacent land of GRANTORS, their successors and assigns.

The grant and other provisions of this easement shall constitute a covenant running with the land for the benefit of GRANTEE, their successor and assigns.

IN WITNESS WHEREOF, the GRANTORS have executed this instrument this 1st day of May, 2007.

Linda L McCrary
GRANTOR

STATE OF ARIZONA)
) ss.
County of Gila)

The drainage easement was acknowledged before me this 1st day of May, 2007, by Linda McCrary.

R. Christine Floyd
Notary Public

My commission expires: Oct. 9, 2009

OFFICIAL SEAL
R CHRISTINE FLOYD
Notary Public - State of Arizona
GILA COUNTY
My Comm. Expires Oct. 9, 2009

EXHIBIT "A"

The West 14 feet of Lot 4 of Pine Ridge Manor on Map No. 447 in the office of the Recorder of Gila County, Arizona.

Reference: McCrarylegal