

Overview of Abandonment Process

Abandonment of public property within the Town of Payson is governed by Town Ordinance No. 606 and portions ARS Title 28. The abandonment process requires notification of the proposed abandonment to all utility companies, Town of Payson Department Heads, and all property owners within 300 feet of the property to be abandoned.

The Arizona Revised Statutes allow for right of way to be abandoned. ARS §28-7205(3) requires that if a roadway is vacated, "...title to the vacated roadway vests in the owners of the abutting land and each abutting owner takes to the center of the roadway...". If the abutting property owner does not want the property then it can be sold to some other person or entity. In this case it is the Home Owner's Association that is requesting the abandonment so it appears that the intent is that the HOA would be the property owner. According to ARS §28-7208 vesting of title "...is subject to the giving of consideration from the owner of the abutting property to the governing body in an amount deemed by the governing body to be commensurate with the value of the abandoned roadway."

Current Abandonment Request

Lakeview Drive has been anticipated for several years as a connector between Green Valley Parkway and the Gold Nugget area. A portion of Lakeview Drive was dedicated with the Green Valley Estates Subdivision which was recorded in the Gila County Recorder's Office on December 5, 2005 as Map No. 765. Subsequent to that recording the developer constructed the underground improvements and the new street with curb, gutter, sidewalk and asphalt pavement. The improvements were accepted by the Town of Payson and brought under Town maintenance on November 16, 2006. The remaining property that Lakeview Drive crosses is still un-subdivided. The intent has always been to continue Lakeview Drive as a public road from its' current south end to Gold Nugget Lane to provide additional and better access to that area.

On December 15, 2008 the Town received an initial application from Hallie Jackman, representing the Green Valley Estates Home Owners Association, to abandon a portion of the existing Lakeview Drive. However, that initial was not complete. The complete application was received on October 22, 2010. At that time the Town began the Abandonment Request process as dictated by Ordinance No. 606. The request is to abandon approximately 738 linear feet of 60 foot wide right of way (See attached map and legal description). It is our understanding that if this request is approved the HOA intends to install a gate at the north end of the abandoned property to control traffic. The existing Lakeview Drive would remain a private road and traffic would be limited to invited guests. This request leaves a segment of roadway over 360 feet long that is a dead end without further opportunity for extension. Therefore, a turn-a-round of some type needs to be constructed to meet the fire department requirements within 150 feet of the proposed gate.

Notices were sent to all affected Town of Payson Departments, all local utility companies, and to all property owners within 300 feet of the right of way requested for abandonment. We received a response from all Town Departments, three of the six utility companies, and three property owners.

Responses to Request

All Town Departments and the utility companies recommended disapproval of this request. The reasons given were that the public roadway was needed for public uses and safety and that the preference was that the existing utilities remain in a public roadway. A copy of the response summary is attached. In addition to these response's we received letters from three property owners in the area. All of the responding property owners recommended disapproval of this request. A copy of each letter is included.

Recommendation

Based on our review of the request and the responses that have been received, staff believes it is in the best interest of the Town of Payson to retain Lakeview Drive as a public road. Therefore, staff recommends that the Planning and Zoning Commission recommend that the Town Council deny this request.

If the Town Council denies this request then nothing changes from the present condition.

If the Town Council approves this request then a value for the property must be determined. The Town of Payson recently (October, 2010) disposed of a piece of property using a sealed bid process. The minimum acceptable bid for that property was \$2.00 per square foot. The successful bidder submitted a bid of \$2.01 per square foot. The last time the Town of Payson disposed of right of way was in 2008. The price paid for that right of way was \$2.50 per square foot. Considering the current economy and the recent bid for Town property, a cost of \$2.00 per square foot seems reasonable. The total area requested to be abandoned is 44,431.2 square feet. That equates to a total value of \$88,862.40 at \$2.00 per square foot.

In addition, if the Town Council approves this request, staff recommends that a condition be included that requires the HOA to install a turn-a-round that meets fire department requirements within 150 feet of the proposed gate.

**TOWN OF PAYSON
PLANNING AND ZONING COMMISSION OR
BOARD OF ADJUSTMENTS APPLICATION**

The undersigned Applicant(s) hereby applies for:

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Abandonment Request | <input type="checkbox"/> General Plan or Land Use Plan Amendment | <input type="checkbox"/> Guest Quarters |
| <input type="checkbox"/> Administrative Appeal | <input type="checkbox"/> Minor Land Division | <input type="checkbox"/> ADU |
| <input type="checkbox"/> Code Amendment | <input type="checkbox"/> P & Z Commission Appeals | |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Preliminary Subdivision Plat | |
| <input type="checkbox"/> Development Master Plan | <input type="checkbox"/> Temporary Use Permit | |
| <input type="checkbox"/> Devel. Agreement, PAD & SPD | <input type="checkbox"/> Variance | |
| <input type="checkbox"/> Final Subdivision Plat | <input type="checkbox"/> Zone Change | |

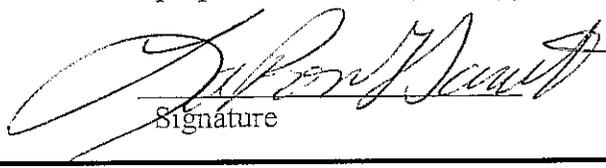
Aug, 2009

Project Address: 1008-1019 S Lakeview Dr Tax Parcel Number: N/A - Public R/W
 Subdivision: Green Valley Estates Lot Number: N/A
 Name of Applicant(s): TOWN OF PAYSON Phone #: 928-474-5242
 Mailing Address: 303 N. Beeline Hwy Town: Payson St: AZ Zip: 85541
 Name of Property Owner(s): TOWN OF PAYSON
 Mailing Address: 303 N Beeline Hwy Town: PAYSON St: AZ Zip: 85541
 Contact Person: LaRon Garrett Phone #: 928-474-5242x283 Fax #: 928-472-7490
 Payson Business License # N/A Sales Tax # N/A

Detailed Description of Request:
TO Abandon a portion of the S. Lakeview Drive Right of Way
between the south line of 1008 and the south line of 1019.

(Note: Additional Description area can be included in an attachment)

Certification: I hereby certify that the data submitted on or with this application is true and correct, that I am the Owner of the property at this address, or that for the purpose of obtaining this approval I am an authorized agent in his behalf.

LaRon G. Garrett  10-28-10
 Print Name Signature Date

STAFF USE ONLY - PERTINENT DATA			
APPLICATION	DATE	INITIALS	APPLICATION FEE:
DATE FILED	10-28-10	Sld	Abandonment Request Fee: \$250. ⁰⁰
COMPLETED APPLICATION	10-28-10	Sld	
NEWSPAPER PUBLICATION	11-26-10	Sld	
300' NOTIFICATION MAILOUT	10-28-10	Sld	
POSTING DATE	11-22-10	Sld	
			CHECK NUMBER: 041446 DATE: 10/28/10

RECOMMENDATION	DECISIONS
By: _____ Date: _____	By: _____ Date: _____

0901

EASEMENT/RIGHT OF WAY
ABANDONMENT APPLICATION

Applicant:

Name: GREEN VALLEY ESTATES Address: P.O. BOX 576
HOME OWNER ASSOC. INC

Town: PAYSON State: ARIZONA Phone: 928 238 0091

Item to be abandoned: Easement Right of Way

Detailed Description of Request: WE (THE PROPERTY OWNERS) ARE
REQUESTING THAT A PORTION OF SOUTH LAKEVIEW DRIVE, BE
ABANDONED BY THE TOWN OF PAYSON. THE ABANDONMENT WOULD
BE 45 FEET NW OF PROPERTY LINE N 71 56' 86" E, AS MARKED
ON ATTACHED PLAT.

Reason for Abandonment Request: WE (THE PROPERTY OWNERS) ARE
EXPERIENCING A HIGH RATE OF LOITERING, LITTERING (SMALL TRASH)
DUMPING OF PLANT/TREE CUTTINGS, CONCRETE DEBRIS, EXCESSIVE
SPEEDING, THEFT, VANDALISM, UNDER AGE DRINKING AND
OUTDOOR SEXUAL MISCONDUCT.

Property Owners (PLEASE SEE ATTACHED LIST).

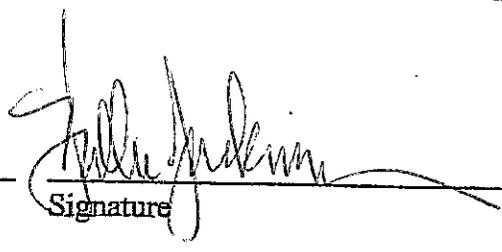
Name: _____ Address: _____

Town: _____ State: _____ Phone: _____

Certification:

I hereby certify that the above information and data submitted on or with this application is true and correct.

HALLIE JACKMAN
Printed Name



12-15-08
Date

FOR TOWN USE ONLY:

Items Submitted with Application:

Acceptable Legal Description (and Survey if Required):

Letters for 300' Radius Property Owners:

Stamped and Addressed Envelopes:

Application Fee of \$250:

Received By: _____

Date: _____



DEC 15 2008

October 24 th, 2008

The Honorable Kenny Evans
Town of Payson
303 N. Beeline Hwy
Payson, AZ 85541

We the property owners on West Skyline Circle, and portion of South Lakeview, Payson, Arizona, are petitioning to have a portion of South Lakeview Drive to be abandoned by the Town of Payson, so we may gate the street and keep our neighborhood safe and crime free.

We are experiencing a high rate of loitering, littering, dumping of trash and debris, excessive speeding, thief, vandalism, under age drinking and outdoor sexual misconduct.

James K. Shaw
Name

901 W. LAKEVIEW Cir. (lot 11)
Address 472-3323

Harlan W. Green
Name attorney in fact for
Roy Adams

814 N Beeline Suite L (lots 1, 8 & 9)
Address 474-6701 Payson

Kelly Hadrian
Name

10516 High Ridge Pl NE (lot 12, 13 & 14)
Address 460 NW 87111
505-259-8070

Richards
Name

904 W. Lakeview Cir Payson (lot 7)
Address 928-978-2373

Byron Lee
Name

6516 High Ridge Pl NE
Albuquerque NM 87111 (lots 12, 13 & 14)
Address 505-259-8070

Byron Lee, proxy for John & Jean Whiteside
Name

10424 Rosafinch NW (lot 4)
Albuquerque NM 87114
Address 505-259-8070

John Johnson

7037A WEST MAIN ST, PO BOX 576
Payson, Az 85541 (lot 2, 3, 5, 4
+ 10)
238-0091



Town of Payson
303 N. Beeline Highway
Payson, Arizona, 85541-4306

Town Hall	(928) 474-5242
Police Dept.	(928) 474-5177
Water Dept.	(928) 474-5242
TDD	(928) 472-6449
Fax	(928) 474-4610

October 28, 2010

Dear Property Owner:

The Town of Payson has received a request to abandon a portion of S. Lakeview Drive. (See the enclosed map and legal description). A part of the abandonment process is to notify all property owners within 300 feet of the affected property to see if they have any comments concerning the potential action. If you have any comments concerning this possible easement abandonment please provide them to LaRon Garrett at the Town of Payson no later than 5:00 PM on Monday, December 6, 2010. A public hearing before the Town Planning and Zoning Commission is tentatively scheduled for December 13, 2010 at 3:00 PM.

If you have any questions please contact me.

Sincerely,

LaRon G. Garrett, P.E.
Public Works Director

LEGAL DESCRIPTION PARCEL "A"

A portion of Green Valley Estates according to Plat Map No.'s 765 A&B, Gila County Records, situate in a portion of the Northwest Quarter of Section 9, Township 10 North, Range 10 East of the Gila & Salt River Meridian, Town of Payson, Gila County, Arizona, being described as follows:

Commencing at a found B.L.M. Brass Capped Monument being the Center 1/4 corner of aforesaid Section 9;

- Thence: $S89^{\circ}53'11''E$ [Basis of Bearing] along the East-West Mid-Section line of aforesaid Section 9, a distance of 659.60 feet to a found 1/2" pipe w/tag marked "LS #18436" being the W-E 1/64th corner of aforesaid Section 9 and the Southeast corner of aforesaid Green Valley Estates;
- Thence: $N00^{\circ}01'50''E$ along the Easterly boundary of aforesaid Green Valley Estates, a distance of 363.00 feet to a found 5/8" rebar w/tag marked "LS #12314";
- Thence: $N89^{\circ}53'11''W$ leaving the aforesaid Easterly boundary, a distance of 119.73 feet to a found 5/8" rebar w/tag marked "LS #12314" being on the Easterly Right-of-Way line of South Lakeview Drive, G.C.R. and the **Point of Beginning**;
- Thence: Continuing $N89^{\circ}53'11''W$ leaving the aforesaid Right-of-Way line, a distance of 60.00 feet to a found 5/8" rebar w/tag marked "LS #12314" being on the Westerly Right-of-Way line of South Lakeview Drive, G.C.R.;
- Thence: $N00^{\circ}01'14''E$ along the aforesaid Right-of-Way line, a distance of 95.62 feet to a found 5/8" rebar w/tag marked "LS #12314" being a point of Curvature of a Curve to the Left, Concave the Southwest, having a Radius of 470.00 feet a Delta Angle of $18^{\circ}05'18''$ and a Radial Bearing of $N89^{\circ}58'46''W$;
- Thence: Along the Arc of the aforesaid Curve, a distance of 148.38 feet to a found 5/8" rebar w/tag marked "LS #12314";
- Thence: $N18^{\circ}04'04''W$ a distance of 436.33 feet to a found 5/8" rebar w/tag marked "LS #12314" being a point of Curvature of a Curve to the Left, Concave the Southwest, having a Radius of 470.00 feet a Delta Angle of $04^{\circ}20'31''$ and a Radial Bearing of $S71^{\circ}55'56''W$;

- Thence: Along the Arc of the aforesaid Curve, a distance of 35.62 feet to a found 5/8" rebar w/tag marked "LS #12314";
- Thence: N22°24'34"W a distance of 10.28 feet to a found 1/2" rebar w/tag marked "LS #23955" being on the Northerly boundary of aforesaid Green Valley Estates;
- Thence: N67°35'26"E leaving the aforesaid Right-of-Way line and along the aforesaid Northerly boundary, a distance of 60.00 feet to a found 1/2" rebar w/tag marked "LS #23955" being on the Easterly Right-of-Way line of South Lakeview Drive, G.C.R.;
- Thence: S22°24'34"E leaving the aforesaid Northerly boundary and along the aforesaid Right-of-Way line, a distance of 10.28 feet to a found 5/8" rebar w/tag marked "LS #12314" being a point of Curvature of a Curve to the Right, Concave to the Southwest, having a Radius of 530.00 feet a Delta Angle of 04°20'31" and a Radial Bearing of S67°35'25"W;
- Thence: Along the Arc of the aforesaid Curve, a distance of 40.16 feet to a found 5/8" rebar w/tag marked "LS #12314";
- Thence: S18°04'04"E a distance of 436.33 to a found 5/8" rebar w/tag marked "LS #12314" being a point of Curvature of a Curve to the Right, Concave to the Southwest, having a Radius of 530.00 feet a Delta Angle of 18°05'18" and a Radial Bearing of S71°55'56"W;
- Thence: Along the Arc of the aforesaid Curve, a distance of 167.32 feet to a found 5/8" rebar w/tag marked "LS #12314";
- Thence: S00°01'14"W a distance of 95.72 feet to the **Point of Beginning**.

Encloses ±1.02 Acres.

All as shown on attached Exhibit "B", made a part hereof by this reference.

**EASEMENT / RIGHT OF WAY
ABANDONMENT RESPONSES**

Project Name: LACEVIEW DRIVE ABANDONMENT Project No. _____

AGENCY	RESPONSE		DATE
	APPROVED	DISAPPROVED	
Arizona Public Service (Electric)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>10-29-10</u>
Semstream(Propane)	<input type="checkbox"/>	<input type="checkbox"/>	_____
Northern Gila County Sanitary Dist.	<input type="checkbox"/>	<input type="checkbox"/>	_____
Qwest (Telephone)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>11-2-10</u>
Cablevision (Cable TV)	<input type="checkbox"/>	<input type="checkbox"/>	_____
Town of Payson (Water)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>10-27-10</u>
Town of Payson (Engineering)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>10-27-10</u>
Town of Payson (Transportation)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>10-27-10</u>
Town of Payson (Community Dev.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>12-1-10</u>
Town of Payson (Fire Department)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>10-29-10</u>
Town of Payson (Town Manager)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>10-28-10</u>

Daniel C. Jaeger
1006 S. Lakeview Dr.
Payson, AZ 85541

Nov. 1, 2010

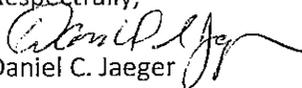
Town of Payson
303 N. Beeline Hwy
Payson, AZ 85541

To whom it may concern,

This letter is to voice my opposition to the proposed construction of a gate on S. Lakeview Dr. The driveway to my residence would be the closest place to "turn around".

Additionally, I own property above the proposed gate and my partners and I never would vote for such a gate.

Respectfully,


Daniel C. Jaeger

BYRON McKEAN

1015 N MUD SPRINGS RD.
PAYSON, AZ 85541

Byron Cell 928-474-7097
Coyla Cell 928-595-2086

byronmck33@hotmail.com
coyla7@hotmail.com

November 10, 2010

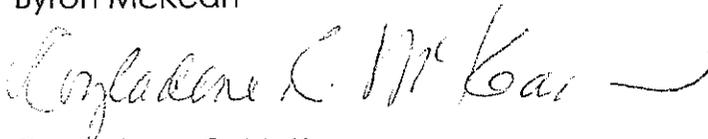
LaRon Garrett
Town of Payson
303 N. Beeline Highway
Payson, AZ 85541-4306

Re.: Request to abandon a portion
of S. Lakeview Drive

Coyla McKean and I are opposed to the proposal to abandon a portion
of S. Lakeview Drive as described in your letter of October, 28, 2010.



Byron McKean



Coyladene C. McKean

Mr. LaRon Garrett-Reference abandonment of right away South Lakeview drive. The request for this should be denied for many reasons and I herby voice (per Our phone conversation 11/18/2010) and in letter express those reasons.

#1-The City has already approved the roadway and the plot designs, Why, Reinvent the wheel. The Plan that now exists has been approved, roadway is in why in the world do a costly undo and a new expenditure cost to redo. That is not good planning and is another burden the Taxpayer should shoulder.

#2-The 17 acres to the south west of that property when developed would have to Force ingress and egress from Gold Nugget Lane. Gold Nugget lane is inadequate for the traffic it now handles. To further burden this street ,would be a very costly improvement for the Taxpayers of this City.

#3-Realizing that any Citizen has the right to petition (even if for Personal Greed) does not mean that they should always be accommodated in the positive.

#4-the property owned by Coyla and Byron McKean to the west of said request and just South and East of our property 904 west gold nugget lane could also be built into 30 housing units. Again, ingress and egress would have to be on Gold Nugget Lane. This property should no be allowed to do this for the same reasons that apply to the 17 acres first mentioned.

I Rich L Mack and my wife Leeta M Mack do respectfully herby, strongly voice our opinion and request to deny the proposed abandonment per your letter of October 28,2010.

**Rich L Mack 904 West Gold Nugget Lane Payson Arizona--85541-5210.
Phone---928-468-0213---or cell---480-991-6019**