

# COUNCIL DECISION REQUEST

SUBJECT: Lakeview Drive Abandonment Request

MEETING DATE: 01-06-11

PAYSON GOAL: NEW:            EXISTING:

ITEM NO.:

TENTATIVE SCHEDULE:

SUBMITTED BY: LaRon G. Garrett, Pub. Wks. Dir. AMOUNT BUDGETED: \$0

SUBMITTAL TO AGENDA

EXPENDITURE REQUIRED: \$0

APPROVED BY TOWN MANAGER

CONT. FUNDING REQUIRED: \$0

  
\_\_\_\_\_

EXHIBITS (If Applicable, To Be Attached): Map and Legal Description of Requested Abandonment

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## POSSIBLE MOTION

I move to deny the request to abandon the S. Lakeview Drive right of way within the Green Valley Estates Subdivision.

Or

I move to approve the request to abandon the S. Lakeview Drive right of way within the Green Valley Estates Subdivision and direct staff to prepare the necessary resolution for said abandonment subject to the following stipulations: (1) The minimum price to be paid to the Town of Payson for said right of way is \$2.00 per square foot; (2) A Public Utility Easement be retained over the entire area that is abandoned; (3) Access be provided to all properties south of this abandoned area as currently allowed; and (4) A turn-a-round be constructed by the HOA to fire department standards prior to abandonment to address the dead end street situation created by this abandonment.

## SUMMARY OF THE BASIS FOR POSSIBLE MOTION:

### 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. ARS §28-7206 allows for the right of way to be abandoned to the HOA under certain conditions. Also, 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 street between Green Valley Parkway and the Gold Nugget area. A portion of Lakeview Drive was dedicated with the Green Valley Estates Subdivision which was

## ***COUNCIL DECISION REQUEST***

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 through Council action on November 16, 2006. The remaining property that the future 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 application 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 in the abandoned area would become a private road and traffic would be limited to owners, invited guests, etc.. This request leaves a segment of roadway over 360 feet long that is a dead end without further opportunity for extension. Therefore, if approved, a turn-a-round of some type needs to be constructed to meet the fire department requirements to eliminate the dead end situation.

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 safety and public access 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.

### Conclusion

Based on the responses that have been received, staff believes it is in the best interest of the Town of Payson and residents to retain S. Lakeview Drive as a public road.

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, staff believes a cost of \$2.00 per square foot is 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.

If the Town Council approves this request, staff recommends that the following conditions be included: (1) The minimum price to be paid to the Town of Payson for said right of way is \$2.00 per square foot; (2) A Public Utility Easement be retained over the entire area that is abandoned; (3) Access be provided to all properties south of this abandoned area as currently allowed; and (4) A turn-a-round be constructed by the HOA to fire department standards prior to abandonment to address the dead end street situation created by this abandonment.

# ***COUNCIL DECISION REQUEST***

**PROS:** (1) The Town will no longer be responsible for maintenance of this portion of roadway; (2) The Town will receive compensation for the right of way.

**CONS:** The Towns Transportation Planning has anticipated this public road since the late 1980's to provide additional and better public access to exiting Town residents. If approved, this public access will no longer be available.

**PUBLIC INPUT (if any):**

A notice of the Planning and Zoning Commission Public Hearing was sent to all property owners within 300 feet of the right of way requested for abandonment. We received three written comments from property owners. A copy of those letters is attached. One of those property owner's also provided input at the public hearing requesting that the Planning and Zoning Commission recommend denial of this application.

**BOARD/COMMITTEE/COMMISSION ACTIONS/RECOMMENDATIONS (if any) (give dates and attach minutes):**

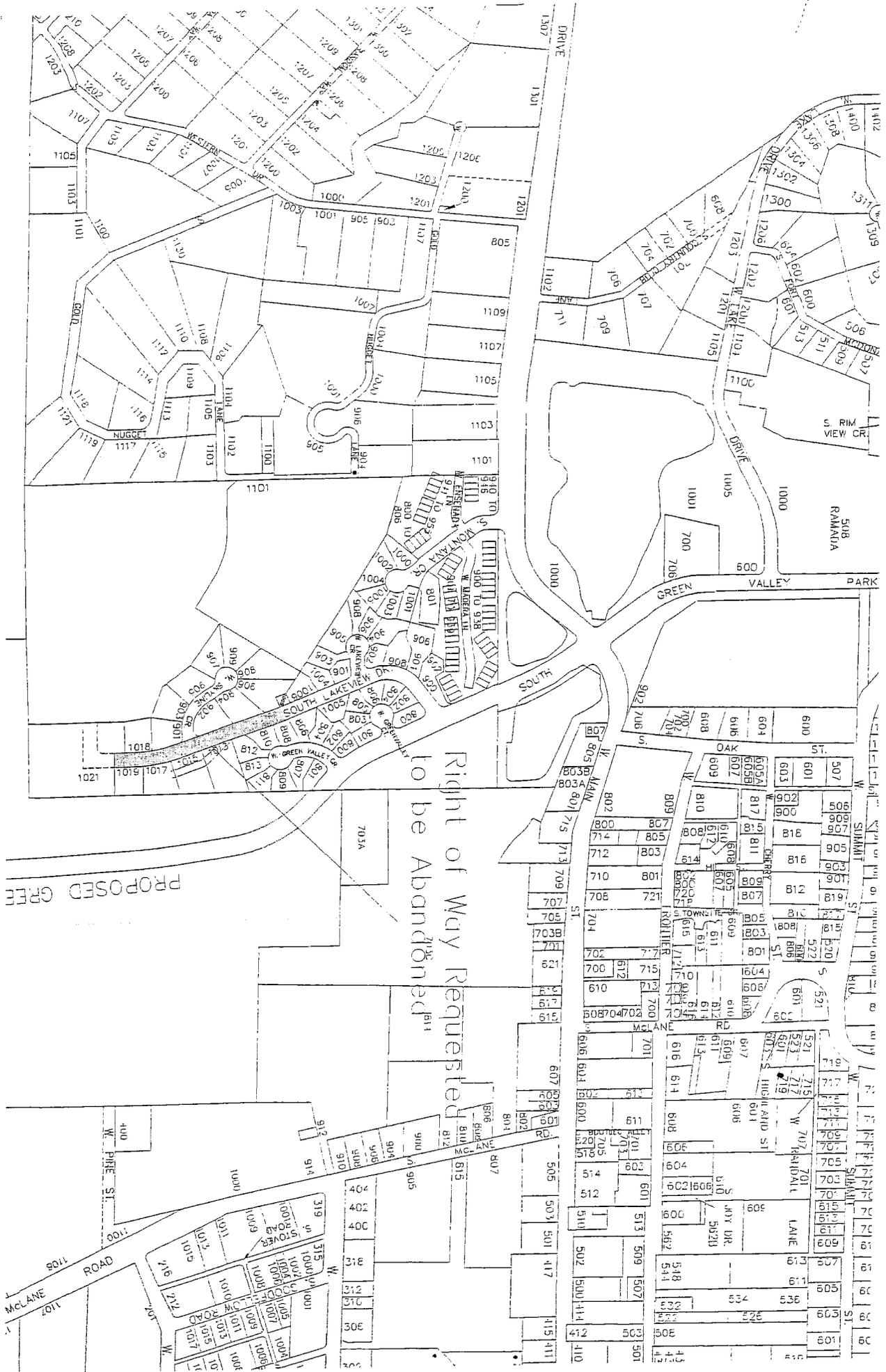
The Planning and Zoning Commission held a public hearing on this issue at their December 13, 2010 meeting. The vote at that meeting was 7-0 to recommend to the Town Council to deny this abandonment request. A copy of the Notice of Action from that meeting is attached.

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**FUNDING:**

Acct:	Budget:	Available	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:

3A: \_\_\_\_\_ Date: \_\_\_\_\_



PROPOSED GREEN

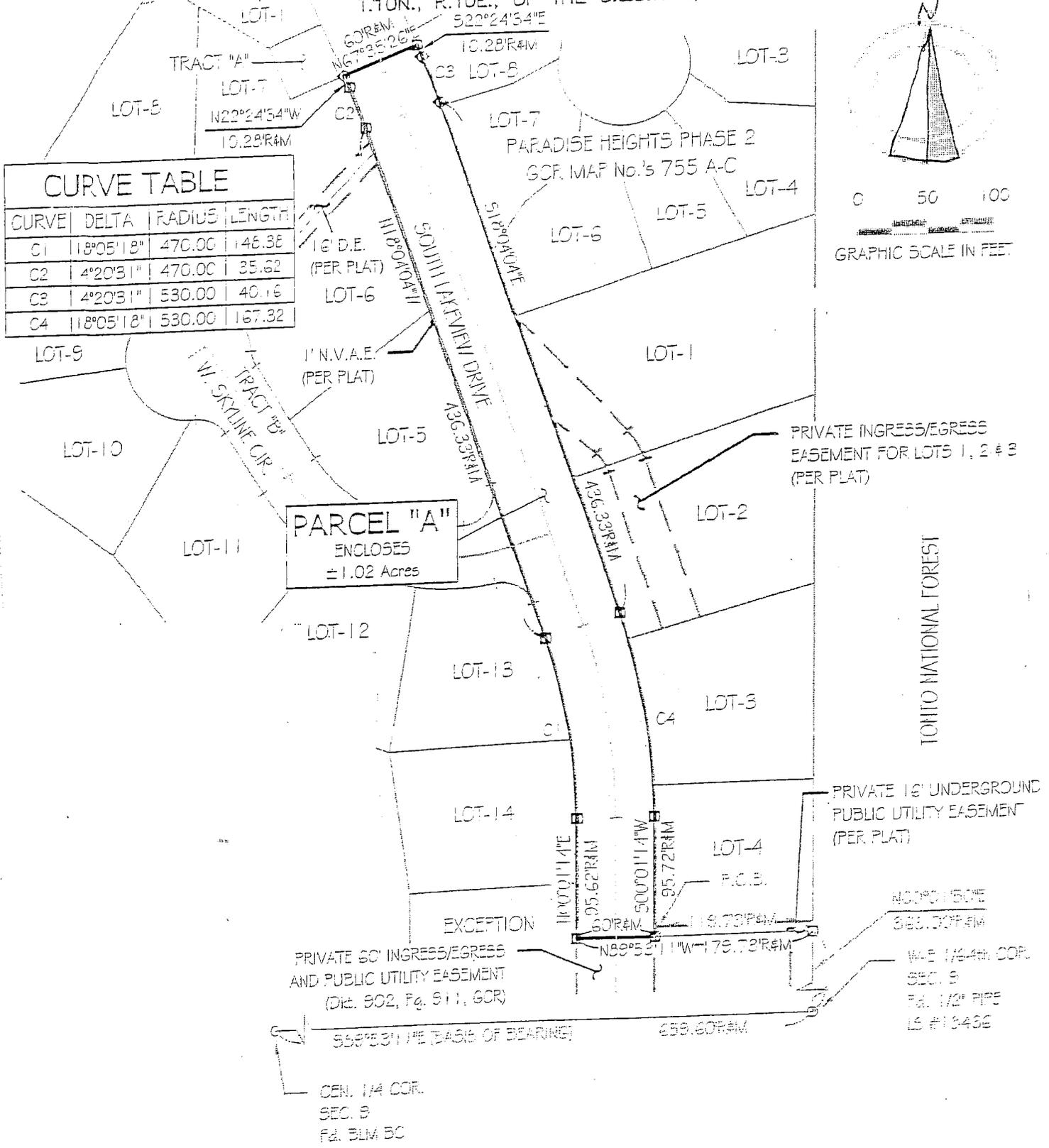
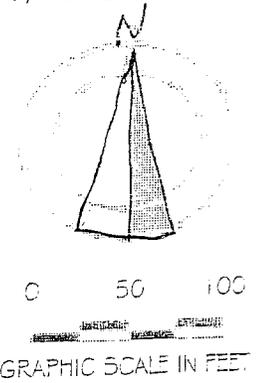
Right of Way Requested  
to be Abandoned



PARADISE HEIGHTS  
GCR MAP No.'s 744 A-B

A PORTION OF GREEN VALLEY ESTATES, G.C.R. MAP No.'s 755 A&B,  
SITUATE IN A PORTION OF THE NORTHWEST QUARTER OF SECTION 9,  
T.10N., R.10E., OF THE G.&S.R.M., GILA COUNTY, ARIZONA

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	118°05'18"	470.00	146.38
C2	4°20'31"	470.00	35.62
C3	4°20'31"	530.00	40.16
C4	118°05'18"	530.00	167.32



**PARCEL "A"**  
ENCLOSES  
≈ 1.02 Acres

PRIVATE 60' INGRESS/EGRESS  
AND PUBLIC UTILITY EASEMENT  
(Dic. 902, Pg. 911, GCR)

PRIVATE INGRESS/EGRESS  
EASEMENT FOR LOTS 1, 2 & 3  
(PER PLAT)

PRIVATE 16' UNDERGROUND  
PUBLIC UTILITY EASEMENT  
(PER PLAT)

W&E 1/64th COR.  
SEC. 9  
7.5" 1/2" PIPE  
LS #13436

CEN. 1/4 COR.  
SEC. 9  
P&L 31M BC

TONTON NATIONAL FOREST

## 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°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 1/64<sup>th</sup> corner of aforesaid Section 9 and the Southeast corner of aforesaid Green Valley Estates;
- Thence: N00°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°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°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°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°05'18" and a Radial Bearing of N89°53'46"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°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°23'31" and a Radial Bearing of S71°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 ABAND. 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

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

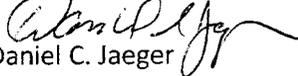
Nov. 1, 2010

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

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byronmck33@hotmail.com  
coyla7@hotmail.com

November 10, 2010

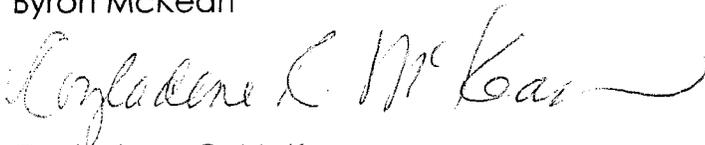
LaRon Garrett  
Town of Payson  
303 N. Beeline Highway  
Payson, AZ 85541-4306

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

Garrett, LaRon

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From: rm300@mackoneinc.com  
Sent: Thursday, November 18, 2010 3:14 PM  
To: Garrett, LaRon  
Subject: abandonment of right away SO Lakeview drive.

**Mr. LaRon Garrett--Reference abandonment of right away South Lakeview drive. The request for this should be denied for many reasons and I hereby 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 hereby, strongly voice our opinion and request to ~~deny the proposed~~ deny the proposed ~~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**



COMMUNITY DEVELOPMENT DEPARTMENT  
TOWN OF PAYSON  
303 N. BEELINE HIGHWAY  
PAYSON, ARIZONA 85541-4306  
PHONE: (928) 474-5242 X. 263 • FAX: (928) 472-7490 • TDD: (928) 472-6449

### NOTICE OF ACTION

December 14, 2010

Green Valley Estates Home Owner Association  
Attn: Hallie Jackman  
P O Box 576  
Payson, AZ 85541

Re: Abandonment request for South Lakeview Drive

Dear Ms. Jackman,

On December 13, 2010, the Planning and Zoning Commission held a public hearing on your application A10-001. The Planning and Zoning Commission recommended (7-0) that the Town Council deny this request and retain Lakeview Drive as a public road. Your request is scheduled for Town Council consideration January 6, 2011 at 5:30 p.m.

If you have any questions, please feel free to contact me at your convenience.

Sincerely,

Ray Erlandsen,  
Community Development Director



## LEGAL NOTICE

The Town of Payson Planning & Zoning Commission will hold a public hearing at 3:00 P.M. on Monday, December 13, 2010, and the Town Council will hold a public hearing at 5:30 P.M. on Thursday, January 6, 2011 in the Town Council Chambers at 303 North Beeline Highway on the following items:

**A10-001** Application filed by the Town of Payson; Public Works Engineer, LaRon Garrett; a request to abandon a portion of the S. Lakeview Drive right of way between the south line of 1008 S. Lakeview Dr. and the south line of 1019 S. Lakeview Dr., Green Valley Estates Subdivision.

**P10-008** Amendment to the Unified Development Code (UDC) creating reasonable zoning regulations limiting registered nonprofit medical marijuana dispensaries pursuant to A.R.S. 36-2806.01 as adopted by Section 3 of Proposition 203 (Arizona Medical Marijuana Act).

All interested persons are invited to attend this hearing and comment on these proposed requests. Materials relating to the above-referenced hearing items are available at the Town of Payson website, [www.paysonaz.gov](http://www.paysonaz.gov) or at the Community Development Department at 303 N. Beeline Highway, Payson, Arizona 85541, a minimum of 48 hours prior to the scheduled hearing. This department welcomes written comments at the address listed above.

The Town of Payson endeavors to make all public meetings accessible to persons with disabilities. With 48 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call 474-5242 (voice) or 472-6449 (TDD) to request an accommodation to participate in the meeting.

**PUBLISH PAYSON ROUNDUP: November 26, 2010**

**Ray Erlandsen, Community Development Director**