



Report to the Board of Supervisors



Prepared by the Maricopa County Department of Transportation

Case #/Title: PAB0004 Federal Patent Easement Abandonment

Meeting Date: September 24, 2014 to set the hearing date.

Supervisor District Effected: 4

Applicant: Department of Transportation

Request: Approve the abandonment of that portion of the Patent easement as proposed by the owner of the property located at unassigned address east of 10110 W. Avenida Del Sol and being identified as Assessor Parcel No. 201-08-048D.

Support/Opposition: Request for comment has been circulated to all affected parties pursuant to County Ordinance P-34, Section 2d.
No comments in opposition have been received.

Discussion: Laws 2013, Chapter 46 amended Arizona Revised Statutes, Section 11-251.16 to allow a county, at the request of a property owner, to abandon a federal patent easement established by the Small Tract Act of 1938. On May 7, 2014 the Maricopa County Board of Supervisors (BOS) approved Ordinance No. P-34, adopting procedures for the abandonment of federal patent easements. The Maricopa County Department of Transportation (MCDOT) has considered and processed this request for abandonment in strict accordance with A.R.S. Section 11-251.16 and Ordinance No. P-34.

Department Recommendation:

Having no known opposition and having not received any written comments in opposition from other County departments, other agencies, any utility or the public, the Department of Transportation (MCDOT), in accordance with Ordinance P-34, is recommending that the BOS approve the abandonment as requested.

Presented by: John B. Hauskins, P.E., Director

Attachments: Application / Proof of ownership / Application response checklist
Aerial Exhibit / Patent Easement
Initial Determination request / letter to requestor / Initial response checklist



Maricopa County Department of Transportation

Engineering Division

2901 West Durango Street • Phoenix, AZ 85009
Phone: (602) 506-8609 • Fax: (602) 506-4009

PATENT EASEMENT ABANDONMENT APPLICATION

Applicant Name: Carle Kurtz Tracking NO: PAB- 0004
 Mailing Address: 8768 W Villa Hermosa
 City: Peoria STATE: AZ ZIP: 85383
 Telephone: 602-390-3478
 Email: CKurtz@dbsi-inc.com Fax No: _____

PARCEL DETAIL

Assessor's Parcel Number: 20108048 D

1. **Location of Request:** (ex: 3200 W. Dove Valley Road, Phoenix)

TBD upon building permit approval

2. **Description of Request:** (ex: Abandon Easement bordering the south side of parcel 123-45-067A)

Abandon Easement on West side of property running North & South only.

3. Applicant is **REQUIRED** to be the current owner of the described property. A copy of your property deed must be attached to the application.
4. If you have a mortgage, deed of trust, upon your property you are **REQUIRED** to provide a letter from the lender approving your request to abandon a patent easement. Applications submitted without lender approval will not be processed.
5. If you don't have a mortgage or deed of trust on the subject property, you will need to sign, before a notary, the affidavit below attesting to that status.

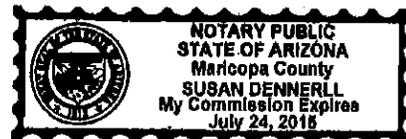
[Signature] attest that I own the subject property and that it is not encumbered by mortgage or deed of trust.

SUBSCRIBED AND SWORN to before me this

My Commission Expires:

19 day of MAY, 2014

[Signature]
NOTARY PUBLIC



SIGNATURE

Signature of Applicant

Date

5/19/14

NOTE: The application fee is NOT refundable.

THIS PORTION TO BE COMPLETED BY MCDOT

Application Fee: \$1,600.00*

Total Received: \$1250.00

Received By:

Check #: 2181

Date: 07-30-2014

TR

Make check payable to: MCDOT
2901 West Durango Street
Phoenix, AZ 85009

DS 2014 3324

* Application Fee will be \$1,350 (\$1,600 less \$250) if Initial Determination letter is provided; demonstrating an initial review of the parcel was conducted by the County within the last six months.

RECORDING REQUESTED BY
DRIGGS TITLE AGENCY, INC.
WHEN RECORDED MAIL TO:
D & D 182 Cloud LLC
18225 E Cloud Road
Gilbert, AZ 85298

13
ch.

Escrow No. 13-04-65416JD 3/3

Warranty Deed

For the consideration of Ten Dollars, and other valuable considerations, I or we, Gheorghe Varga, a married man as his sole and separate property as grantors do/does hereby convey to

D & D 182 Cloud LLC, an Arizona limited liability company as grantees the following real property situated in Maricopa County, Arizona:

SEE EXHIBIT "A" ATTACHED

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record. And I or we do warrant the title against all persons whomsoever, subject to the matters set forth above.

Dated: May 10, 2013

Grantor:
Gheorghe Varga by Daniela Avram
as his attorney in fact
Gheorghe Varga

State of ARIZONA } ss:

County of MARICOPA } ss:

On 5/10/13, before me the undersigned,
personally appeared ~~Gheorghe Varga~~ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. WITNESS my hand and official seal. *Daniela Avram

Signature

My Commission Expires 7/24/16

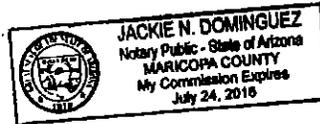


Exhibit "A"

The West Half of the West Half of the South Half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 8, Township 4 North, Range 1 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

EXCEPT all oil, gas, and other mineral deposits as reserved in Patent from the United States of America.

APN: 201-08-048D

**PATENT EASEMENT ABANDONMENT
APPLICATION
CHECKLIST**

Application ID: PAB0004

A "YES" checked on any item on this list shall result in the letter of Initial Determination stating that pursuant to Section 5 of County ordinance (P-34) certain criteria do not meet abandonment requirements.

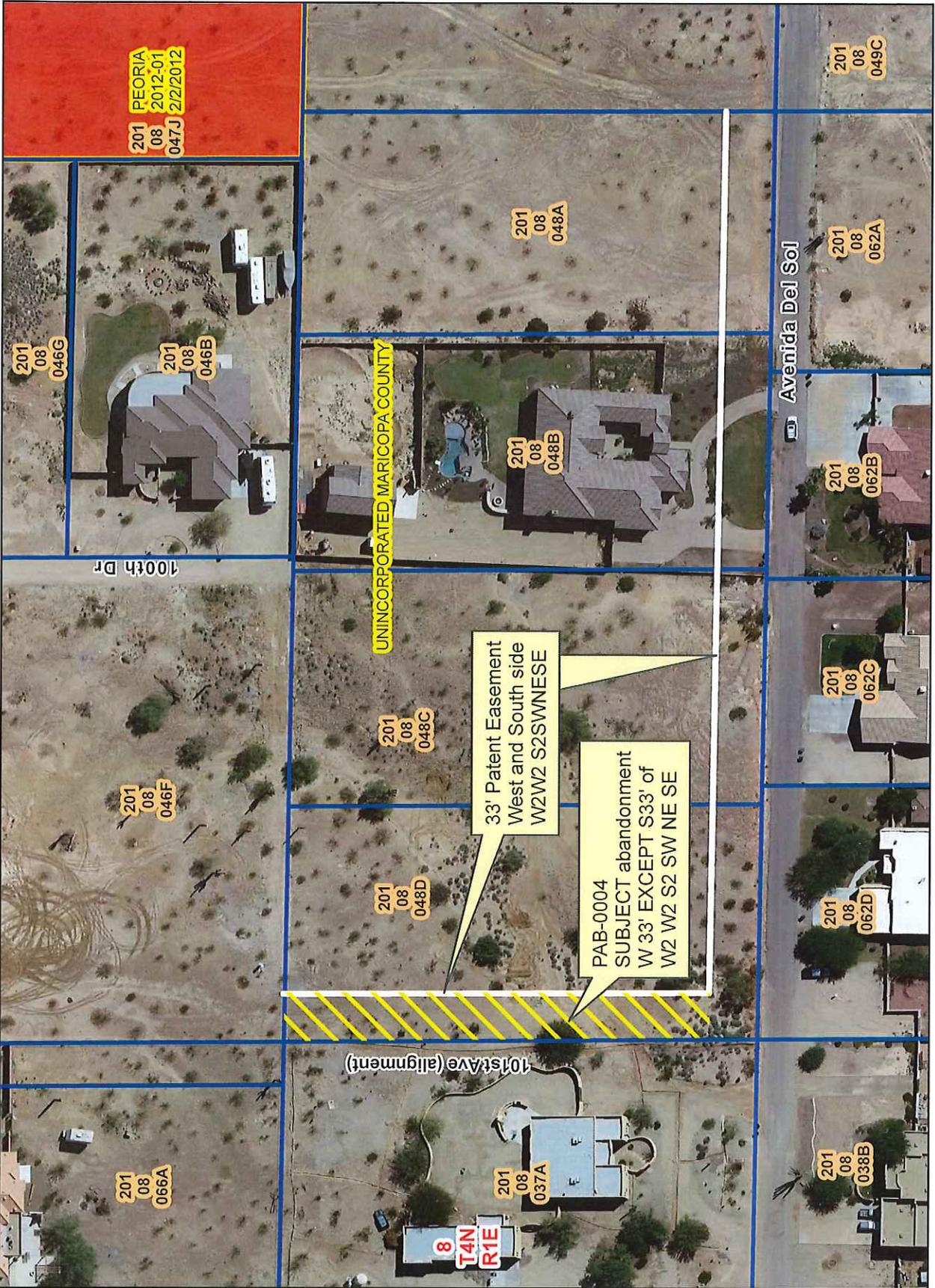
Disqualification Criteria	YES	NO
Road alignment has been Declared (Sect 5a)		X
Road alignment is maintained by MCDOT		X
Road alignment is needed for future r/w		X
Prop abandon shares border and is parallel to row dedicated to County or public (Sect 5b)		X
Objection from any affected utility, Arizona State land, BLM or BOR (Sect 5d)		X
Objection from any Municipality or Tribe, (Sect 5e)		X

Statement of fact and Documentation for Items identified as not meeting abandonment requirements:

		REVIEWER	COMMENT	DISQUALIFYING CRITERIA
	MCDOT	Bob Woodring	No objection	
		Denise Lacey	NR	
		Ed Williams	NR	
		Jack Lorbeer	NR	
		Jeff Kramer	No objection	
		Gerald Toscano	No objection	
		Jamie Winterstien	NR	
		Nicolaas Swart	NR	
		Paul Driver	NR	
		Tricia Brown	NR	
b	COUNTY	P&D	No objection	
		Real Estate Services	No objection	
		Parks	No objection	
		FCD	No objection	
c	UTILITIES	APS	No objection	
		Century Link	No objection	
		Scottsdale Water	N/A	
		Cave Creek Water	N/A	
		Cox	No Response	
		SRP	N/A	
	SWG	N/A		
d	GOV AGENCIES	N/A	N/A	
e	MUNICIPALITIES / TRIBES	N/A	N/A	

DATE: 9/2/2014

INIT: KG



201 PEORIA
08 2012-01
047J 2/2/2012

201 08 046G

201 08 046B

100th Dr

201 08 046F

UNINCORPORATED MARICOPA COUNTY

201 08 048A

201 08 048B

201 08 048C

201 08 048D

33' Patent Easement
West and South side
W2W2 S2SWNESE

PAB-0004
SUBJECT abandonment
W 33' EXCEPT S33' of
W2 W2 S2 SW NE SE

101st Ave (alignment)

201 08 066A

201 08 037A

8
T4N
R1E

201 08 049C

201 08 052A

Avenida Del Sol

201 08 062B

201 08 062C

201 08 062D

201 08 038B

Arizona 011592

The United States of America,
To all whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Land Office at **Phoenix, Arizona,** has been issued showing that full payment has been made by the claimant **Elizabeth Delia E. Mills,** pursuant to the provisions of the Act of Congress approved June 1, 1938 (52 Stat. 609), entitled "An Act to provide for the purchase of public lands for home and other sites," and the acts supplemental thereto, for the following-described land:

Gila and Salt River Meridian, Arizona.

T. 4 N., R. 1 E.,

Sec. 8, S²SW¹NE¹SE¹.

The area described contains **5.00** acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said claimant and to the heirs of the said claimant the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States. Excepting and reserving, also, to the United States all oil, gas and other mineral deposits, in the land so patented, together with the right to prospect for, mine, and remove the same according to the provisions of said Act of June 1, 1938. This patent is subject to a right-of-way not exceeding **33** feet in width, for roadway and public utilities purposes, to be located **along the south, west and east boundaries of said land.**

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in the District of Columbia, the **FIFTH** day of **AUGUST** in the year of our Lord one thousand nine hundred and **FIFTY-NINE** and of the Independence of the United States the one hundred and **EIGHTY-FOURTH.**

[SEAL]

For the Director, Bureau of Land Management.

By *M. Beall*
Chief, Patents Section.

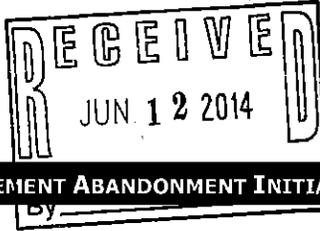
Patent Number 1197957



Maricopa County Department of Transportation

Engineering Division

2901 West Durango Street • Phoenix, AZ 85009
Phone: (602) 506-8609 • Fax: (602) 506-4009



PATENT EASEMENT ABANDONMENT INITIAL DETERMINATION REQUEST

Applicant Name: Corde Kurtz Tracking NO: _____
 Mailing Address: 8768 W Villa Hermosa
 City: Peoria STATE: AZ ZIP: 85383
 Telephone: 602-369-4997
 Email: CordeKurtz@hotmail.com Fax No: _____

PARCEL DETAIL

Assessor's Parcel Number: 201-08-048D

1. **Location of Request:** (ex: 3200 W. Dove Valley Road, Phoenix)

2. **Description of Request:** (ex: Abandon Easement bordering the south side of parcel 123-45-067A)

Abandon Patent Easement. 33ft easement located within the South and West Property Line

SIGNATURE

Signature of Applicant*

5-21-14

Date

* Applicant is NOT required to be the current owner of the described property.

NOTE: The fee for this review is NOT refundable.

THIS PORTION TO BE COMPLETED BY MCDOT

Initial Determination Fee: \$250.00 Make check payable to: MCDOT 2901 West Durango Street Phoenix, AZ 85009	Total Received: _____	Received By: _____
	Check #: _____ Date: _____	



Maricopa County
Department of Transportation

June 31, 2014

2901 W. Durango St
Phoenix, AZ 85009
Phone: 602-506-8609
Fax: 602-506-4009
www.maricopa.gov

Corde Kurtz
6950 West Morelos place
Chandler, AZ 85226

Attn: Corde Kurtz

Mr. Kurtz,

The Maricopa County Department of Transportation (MCDOT) has completed the Initial Review request for possible abandonment of the Federal patent Easement on your property identified as PAB0004.

The Department has determined the following:

- 1) MCDOT has Objection, citing Avenida Del Sol will be needed for a County road in the future.
- 2) Section 5d of the ordinance states that no patent easement abandonment shall be granted over objection by any utility. Century Link has objected.

You should carefully consider the above findings to base your decision to proceed with the abandonment or not. If all of the issues cited above are not resolved, then proceeding with the application to abandon will have the same disqualifying conditions and will be denied pursuant to Ordinance P-34, Section 5.

To remove the disqualifying conditions cited above, the following actions would need to be addressed:

- 1) Regarding the MCDOT objection, contact Bob Woodring at 602-506-1766.
- 2) You would need to contact Century Link (602-630-7778) to convey a replacement utility easement to their requirement and acceptance.

If the above issues are resolved and your decision is to proceed, go to the MCDOT website and open up the Patent Easement Link at the left side of the page. Print the Abandonment Application and submit it as instructed in the application along with all documentation required in the application, along with proof that the aforementioned utility easement issues have been resolved, as well as the adjacent County easement matter.

If you choose to pursue this further, upon receipt of the application, documentation, and payment of the fee, a notice by letter will be sent to all abutting property owners. The proposed abandonment area will have a notice posted. The abutting owners and other public users of the road have the right to object in writing or appear before the Board of Supervisors.

Sincerely,

Edmund Williams
Engineering Division, Manager .

Mike Wilson
Real Estate Div. Mngr.
Ph: 602-506-4706

Identification Initials : KG, kg

Enclosure:

cc: PAB-0004 - file

**PATENT EASEMENT ABANDONMENT
INITIAL DETERMINATION
CHECKLIST**

Application ID: PAB0004

A "YES" checked on any item on this list shall result in the letter of Initial Determination stating that pursuant to Section 5 of County ordinance (P-34) certain criteria do not meet abandonment requirements.

Disqualification Criteria	YES	NO
Road alignment has been Declared (Sect 5a)		X
Road alignment is maintained by MCDOT		X
Road alignment is needed for future r/w (See Bob Woodring below)	X	
Prop abandon shares border and is parallel to row dedicated to County or public (Sect 5b)		X
Objection from any affected utility, Arizona State land, BLM or BOR (Sect 5d) (SEE Item "C" below)	X	
Objection from any Municipality or Tribe, (Sect 5e)		X

Statement of fact and Documentation for Items identified as not meeting abandonment requirements:

		REVIEWER	COMMENT	DISQUALIFYING CRITERIA
	MCDOT	Bob Woodring	No Objection 101 st Ave Objection – Avenida Del Sol will be needed for county road in future	YES
		Denise Lacey	NR	
		Ed Williams	NR	
		Jack Lorbeer	NR	
		Jeff Kramer	No Objection	
		Karl Rockwell	NR	
		Nicolaas Swart	NR	
		Paul Driver	NR	
		Tricia Brown	No Objection	
b	COUNTY	P&D	D Gerrard – No Objection K Situ – NR	NO
		RE Services	D Lindsey – No Objection	
		Parks	L Johnson – NR RJ Cardin – No Objection	
		FCD	M Wilson – No Objection	
c	UTILITIES	APS	APS1 – No Objection APS2 - NR	YES
		Century Link	OBJECTION	
		Scottsdale Water	N/A	
		Cox	NO Response	
		SRP	N/A	
		SWG	N/A	
d	GOV AGENCIES	N/A	N/A	N/A
e	MUNICIPALITIES / TRIBES	N/A	N/A	N/A

DATE: 6/30/2014

INIT: KG



PUBLIC NOTICE
[Illegible text and image on sign]

9/25/2014

PUBLIC NOTICE

MARICOPA COUNTY, ARIZONA PATENT EASEMENT ABANDONMENT PAB-0004

NOTICE IS HEREBY GIVEN that Pursuant to A.R.S §11-251.16, a public hearing will be held before the Board of Supervisors of Maricopa County, Arizona, on the **10th day of December**, 2014, at **9:00 a.m.**, in the Supervisors' Auditorium, 205 West Jefferson, Phoenix, Arizona, to consider the abandonment of a portion of a Patent Easement **PAB-0004** being in the vicinity of **101st Avenue and Avenida Del Sol at 603 W. Restin Road**.



All persons wishing to appear for or against said Patent Easement Abandonment PAB-0004 are directed to attend the hearing or file a statement in writing with the Maricopa Department of Transportation, Attention: Ken Green, 2901 W Durango St, Phoenix, Arizona, 85009, prior to the hearing.

DATED this **25th** day of **September, 2014**



10110

PUBLIC NOTICE

9/25/2014