



Report to the Board of Supervisors



Prepared by the Maricopa County Department of Transportation

Case #/Title: PAB-0027 Federal Patent Easement Abandonment

Meeting Date: July 20, 2016

Supervisor District Effected: 2

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 6444 E Montgomery Road and being identified as Assessor Parcel No. 216-67-134B.

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: Jennifer Toth, P.E.,
Director of Transportation/County Engineer

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

**APPLICATION
PROOF OF OWNERSHIP
APPLICATION 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: Caleb + Alison Shultz Tracking NO: PAB-0027
 Mailing Address: 6444 E. Montgomery Rd.
 City: Cave Creek STATE: AZ ZIP: 85331
 Telephone: (480) 747-7017
 Email: alisonshultz@gmail.com Fax No: _____

PARCEL DETAIL

- Assessor's Parcel Number: 216-67-134B
- Location of Request:** (ex: 3200 W. Dove Valley Road, Phoenix)
6444 E. Montgomery Rd. Cave Creek, AZ 85331
 - Description of Request:** (ex: Abandon Easement bordering the south side of parcel 123-45-067A)
Ammend easment on East + south sides of property to 8 ft.
 - Applicant is **REQUIRED** to be the current owner of the described property. A copy of your property deed must be attached to the application.
 - 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.
 - 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.

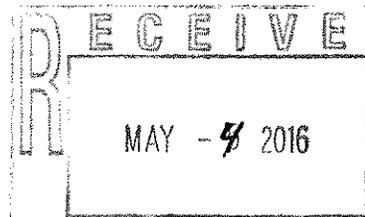
I, _____ attest that I own the subject property and that it is not encumbered by mortgage or deed of trust.

SUBSCRIBED AND SWORN to before me this

My Commission Expires:

_____ day of _____, 20____

NOTARY PUBLIC



MCDOT, DEVELOPMENT SERVICES

SIGNATURE

Caleb Shultz + Alison Shultz
Signature of Applicant

4/14/16
Date

NOTE: The application fee is NOT refundable.

THIS PORTION TO BE COMPLETED BY MCDOT

Application Fee: \$1,600.00* Total Received: <u>1,350.00</u> Check #: <u>366</u> Date: <u>5-4-16</u>	Received By: <u>KM</u>
Make check payable to: MCDOT 2901 West Durango Street Phoenix, AZ 85009	

* 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.



Cascade Financial Services
3345 S. Val Vista Dr. Suite 300
Gilbert, AZ 85297

Maricopa County DOT
2901 W Durango St
Phoenix, AZ 85009

April 13, 2016

RE: Doc Number: 20160201044
Property Address: 6444 E Montgomery Rd
Cave Creek, AZ 85331

This is in response to your request on April 8, 2016 for the abandonment of Public Utility Easement on the property located at 6444 E Montgomery Rd as described in your recorded document 20160201044. Cascade Financial Services has no objection to the abandonment as described.

If you have any questions or need additional information please contact us at 866-939-5581.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Laux", written over a vertical dashed line.

Jeff Laux
Director of Servicing
Cascade Financial Services
3345 S. Val Vista Dr. Suite 300
Gilbert, AZ 85297
Toll Free: (866) 939-5581
Fax: (480) 812-3334

Return to CenturyLink
Attn: Mary Hutton
5025 North Black Canyon Hwy
Phoenix, AZ 85015

RECORDING INFORMATION ABOVE
EASEMENT AGREEMENT

The undersigned **CALEB EZEKIEL SHULTZ and ALISON DAY SHULTZ, Co-Trustees of the SHULTZ FAMILY TRUST under Agreement dated July 12, 2014,** ("Grantor") for and in consideration of \$10.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey unto **QWEST CORPORATION D/B/A CENTURY LINK QC**, a Colorado corporation ("Grantee"), whose address is 1801 California St., Suite 5200, Denver, CO 80202, Attn: Network Vice President, and its successors, assigns, affiliates, lessees, licensees, and agents, a perpetual easement to construct, reconstruct, modify, change, add to, operate, maintain, and remove such telecommunications facilities, electrical and gas facilities, and other appurtenances, from time to time, as Grantee may require upon, over, under and across the following described property situated in the County of Maricopa, State of Arizona, which Grantor owns ("Easement Area"):

An easement which is described in its entirety on EXHIBIT "A" and "B" which is attached hereto and by this reference made a part hereof.

Grantor further conveys to Grantee the right of ingress and egress over and across Grantor's lands to and from the Easement Area and the right to clear and keep cleared all trees and other obstructions as may be necessary for Grantee's use and enjoyment of the Easement Area.

Grantee shall indemnify Grantor for all damages caused to Grantor as a result of Grantee's negligent exercise of the rights and privileges herein granted. Grantee shall have no responsibility for pre-existing environmental contamination or liabilities or those not caused by Grantee.

Grantor reserves the right to occupy, use and cultivate the Easement Area for all purposes not inconsistent with the rights herein granted.

Grantor covenants that Grantor is the fee simple owner of the Easement Area and that Grantor will warrant and defend title to the Easement Area against all claims.

Grantor hereby covenants that no excavation, building, structure or obstruction will be constructed, erected, built or permitted on the Easement Area and no change will be made by grading or otherwise to the surface or subsurface of the Easement Area or to the ground immediately adjacent to the Easement Area.

The rights, conditions and provisions of this Easement Agreement will run with the land and will inure to the benefit of and be binding upon Grantor and Grantee and their respective successors and assigns.

**PATENT EASEMENT ABANDONMENT
APPLICATION
CHECKLIST**

Application ID: PAB-0027

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

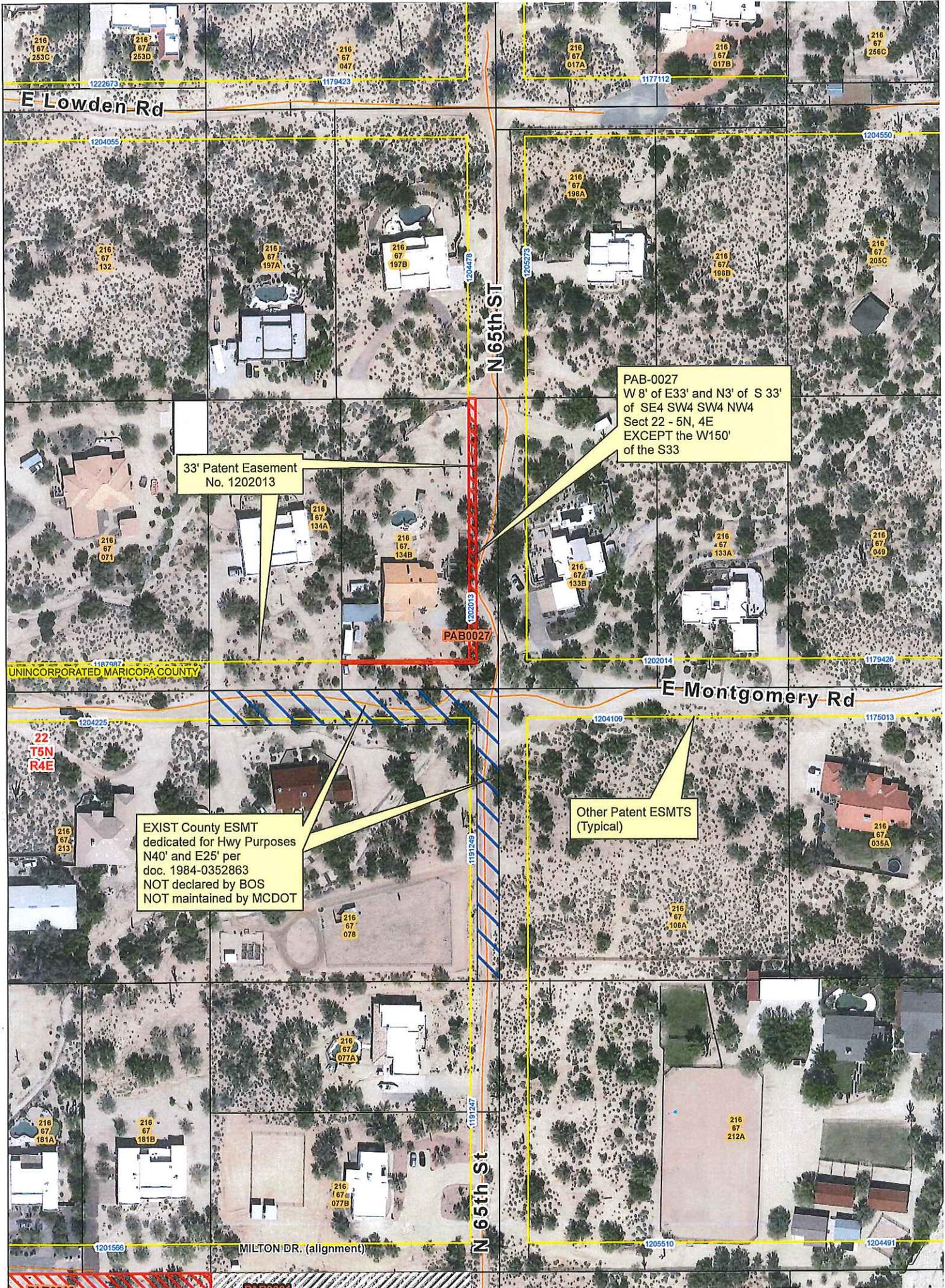
Statement of fact and Documentation for Items identified as not meeting abandonment requirements:

		REVIEWER	COMMENT	DISQUALIFYING CRITERIA
	MCDOT	Bob Woodring	N/R	
		David Fritz	No Objection	
		Angela Horn	No Objection – abandon rev to N3 of S33 and W8 of E33	
		Kevin Kottmer	No Objection	
		Nicolaas Swart	N/R	
b	COUNTY	P&D	No Objection	
		Real Estate	No Objection	
		Parks	No Objection	
		FCD	N/R	
c	UTILITIES	APS	No Objection	
		Century Link	No Objection	
		Cox	No Objection	
		SRP	N/A	
		SWG	N/A	
		Scottsdale Water	No Objection	
	Town of Cave Creek water	N/A		
d	GOV AGENCIES	N/A		
e	MUNICIPALITIES / TRIBES	N/A		

DATE: 5/25/2016

INIT: KG

AERIAL EXHIBIT
PATENT EASEMENT
REPLACEMENT EASEMENT



E Lowden Rd

N 65th St

E Montgomery Rd

N 65th St

MILTON DR. (alignment)

33' Patent Easement
No. 1202013

PAB-0027
W 8' of E33' and N3' of S 33'
of SE4 SW4 SW4 NW4
Sect 22 - 5N, 4E
EXCEPT the W150'
of the S33

EXIST County ESMT
dedicated for Hwy Purposes
N40' and E25' per
doc. 1984-0352863
NOT declared by BOS
NOT maintained by MCDOT

Other Patent ESMTs
(Typical)

UNINCORPORATED MARICOPA COUNTY

22
T5N
R4E

PAB0010

PAB0009

216
67
253C

216
67
253D

216
67
047

216
67
017A

216
67
017B

216
67
256C

1222673

1178423

1177112

1204550

1204055

216
67
197A

216
67
197B

1204476

216
67
198A

216
67
198B

216
67
205C

216
67
071

216
67
134A

216
67
134B

PAB0027

216
67
135B

216
67
133A

216
67
049

1187997

1202014

1179426

1204225

1204109

1175013

216
67
213

216
67
078

216
67
106A

216
67
035A

1201566

216
67
181A

216
67
181B

216
67
077A

1191247

216
67
077B

216
67
212A

1201566

1205510

1204491

Return to CenturyLink
Attn: Mary Hutton
5025 North Black Canyon Hwy
Phoenix, AZ 85015

MCI
Ga.

RECORDING INFORMATION ABOVE
EASEMENT AGREEMENT

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RECORDING INFORMATION ABOVE

GRANTOR(S):

CALEB EZEKIEL SHULTZ and ALISON DAY SHULTZ, Co-Trustees of the SHULTZ FAMILY TRUST under Agreement dated July 12, 2014

Name: Caleb Ezekiel Shultz

Name: Alison Day Shultz

STATE OF Arizona)
) ss:
COUNTY OF MARICOPA)

Unofficial Document

The foregoing instrument was acknowledged before me this 22nd day of March, 2016, by Caleb Ezekiel Shultz and Alison Day Shultz of Trustee of **CALEB EZEKIEL SHULTZ and ALISON DAY SHULTZ, Co-Trustees of the SHULTZ FAMILY TRUST under Agreement dated July 12, 2014,**

Witness my hand and official seal:



Donald F. Coats, Jr.

Notary Public

My commission expires: June 6, 2017

R/W# _____
Exchange: CAVECREEK County: Maricopa
NW ¼ of Section: 22 Township: 5N Range: 4E

EXHIBIT A

8' CENTURY LINK EASEMENT
AT APN 216-67-134B

6444 E. MONTGOMERY RD., CAVE CREEK, AZ
BEING A PART OF THE NORTHWEST QUARTER OF SECTION 22,
TOWNSHIP 5 NORTH , RANGE 4 EAST, GILA AND SALT RIVER MERIDIAN,
MARICOPA COUNTY, ARIZONA.

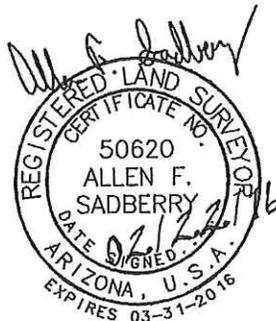
8' CENTURY LINK EASEMENT

THE EAST 8.00 FEET AND THE SOUTH 8.00 FEET OF THE FOLLOWING
DESCRIBED PROPERTY;

THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST
QUARTER OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 5 NORTH,
RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA
COUNTY, ARIZONA;

EXCEPT THE WEST 150 FEET THEREOF; AND
EXCEPT ALL OIL, GAS AND OTHER MINERAL DEPOSITS AS RESERVED TO THE
UNITED STATES OF AMERICA IN THE PATENT TO SAID LAND.

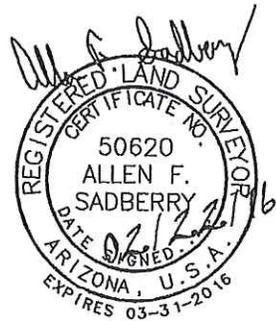
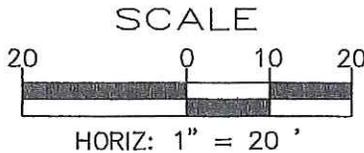
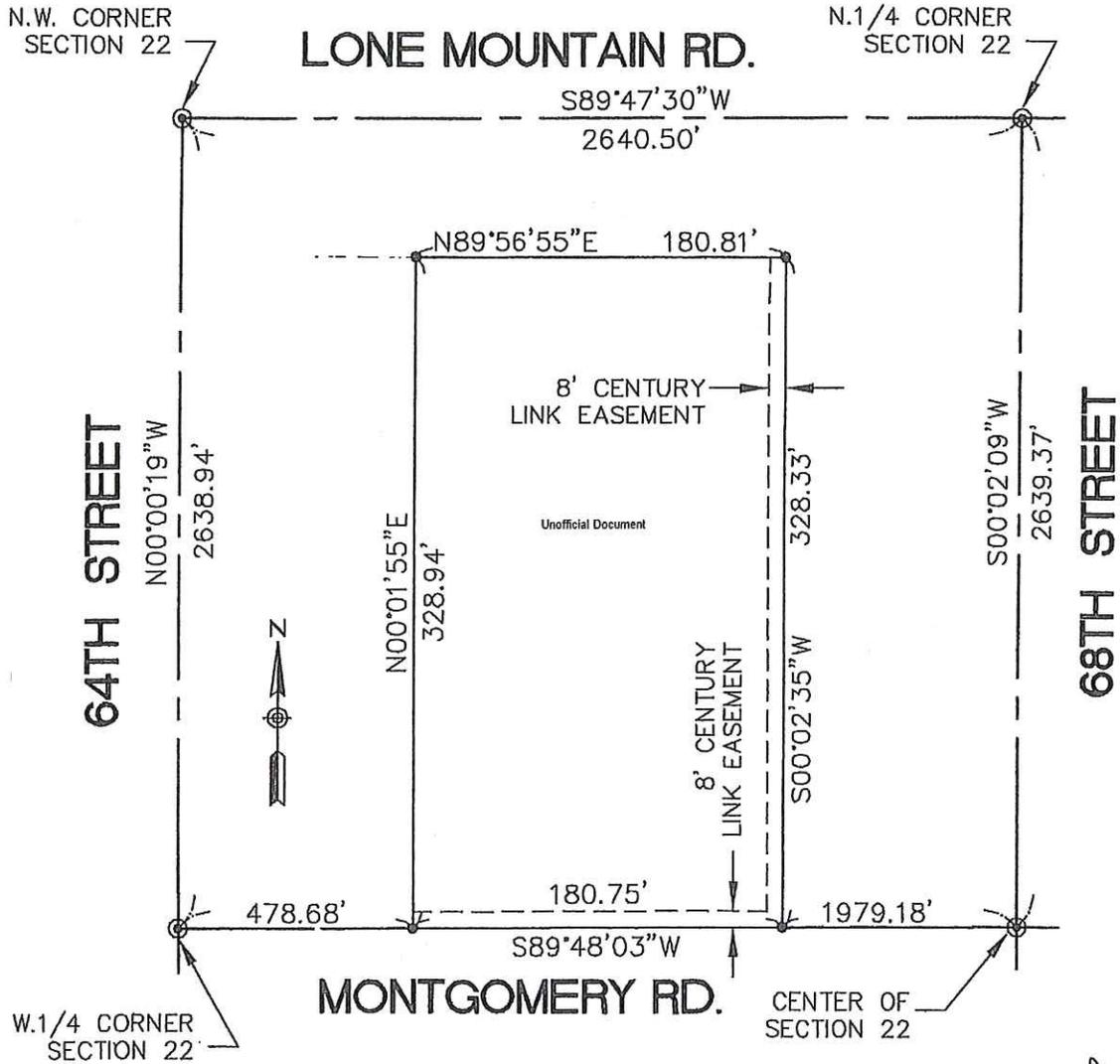
Unofficial Document



TO ACCOMPANY EXHIBIT B

EXHIBIT B

8' CENTURY LINK EASEMENT
 AT APN 216-67-134B
 6444 E. MONTGOMERY RD., CAVE CREEK, AZ
 BEING A PART OF THE NORTHWEST QUARTER OF SECTION 22,
 TOWNSHIP 5 NORTH , RANGE 4 EAST, GILA AND SALT RIVER MERIDIAN,
 MARICOPA COUNTY, ARIZONA.



TO ACCOMPANY EXHIBIT A

INITIAL DETERMINATION REQUEST

LETTER TO REQUESTOR

INITIAL RESPONSE CHECKLIST

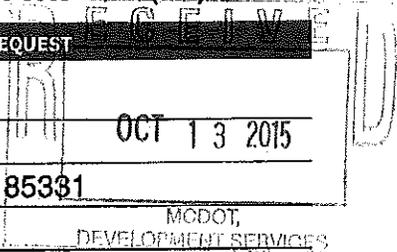


Maricopa County Department of Transportation
Engineering Division

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

PATENT EASEMENT ABANDONMENT INITIAL DETERMINATION REQUEST

Applicant Name: Alison and Caleb Shultz Tracking NO: _____
 Mailing Address: 6444 E Montgomery Rd
 City: Cave Creek STATE: AZ ZIP: 85331
 Telephone: (480) 747-7017
 Email: alisonshultz@gmail.com Fax No: (480) 505-3076



PARCEL DETAIL

Assessor's Parcel Number: 216-67-134B

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

6444 E Montgomery Rd
Cave Creek, AZ 85331

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

Abandon Easement boarding the east side and the south size of parcel 216-67-134B

SIGNATURE

AS
 Signature of Applicant*

10/7/15^{as}
 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: <u>250.00</u>	Received By: _____
	Check #: <u>250</u> Date: <u>10/13/2015</u> <u>DS20153600</u>	



Maricopa County
Department of Transportation

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

November 3, 2015

Alison & Caleb Shultz
6444 E Montgomery Rd
Cave Creek, AZ 85331

Attn: Mr. & Ms Shultz

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 Assessor Parcel 216-67-134B and identified as tracking No. PAB-0027.

The Department of Transportation has determined the following:

MCDOT has no objection to the proposed abandonment.

No objections have been received from other County Departments.

Objection has been received from Century Link.

Section 5d of Maricopa County ordinance P-34 states that No abandonment of a patent easement can occur over objection from any Utility. Since a Utility has objected you will need to Contact Mary Hutton by phone at 602-630-7778 or email Mary.Hutton1@centurylink.com to resolve the objection. To view County ordinance P-34, go to: <http://www.mcdot.maricopa.gov/easements/home.htm> and click on the "Ordinance P-34" hyperlink.

After the utility objection has been resolved and you wish to proceed with the abandonment, go to the MCDOT website at <http://www.mcdot.maricopa.gov/easements/home.htm> and open up the Patent Easement Link at the left side of the page. Print the Abandonment Application in Step 2 and submit it as instructed in the application along with all documentation required in the application.

NOTE:

Be advised, that all reviewing entities reserve the right to change their original review position, which may affect the final recommendation to the Board of Supervisors to approve or deny the application.

Upon receipt of the application 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,

Denise Brewer
Permitting, Construction and Inspections
Div. Mngt.

Dennis P. Lindsey
Deputy Chief Real Estate Officer
Ph: 602-506-1067

Enclosure:
Aerial Exhibit

cc: PAB-0027 - file

**PATENT EASEMENT ABANDONMENT
INITIAL DETERMINATION
CHECKLIST**

Application ID: PAB0027

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.

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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

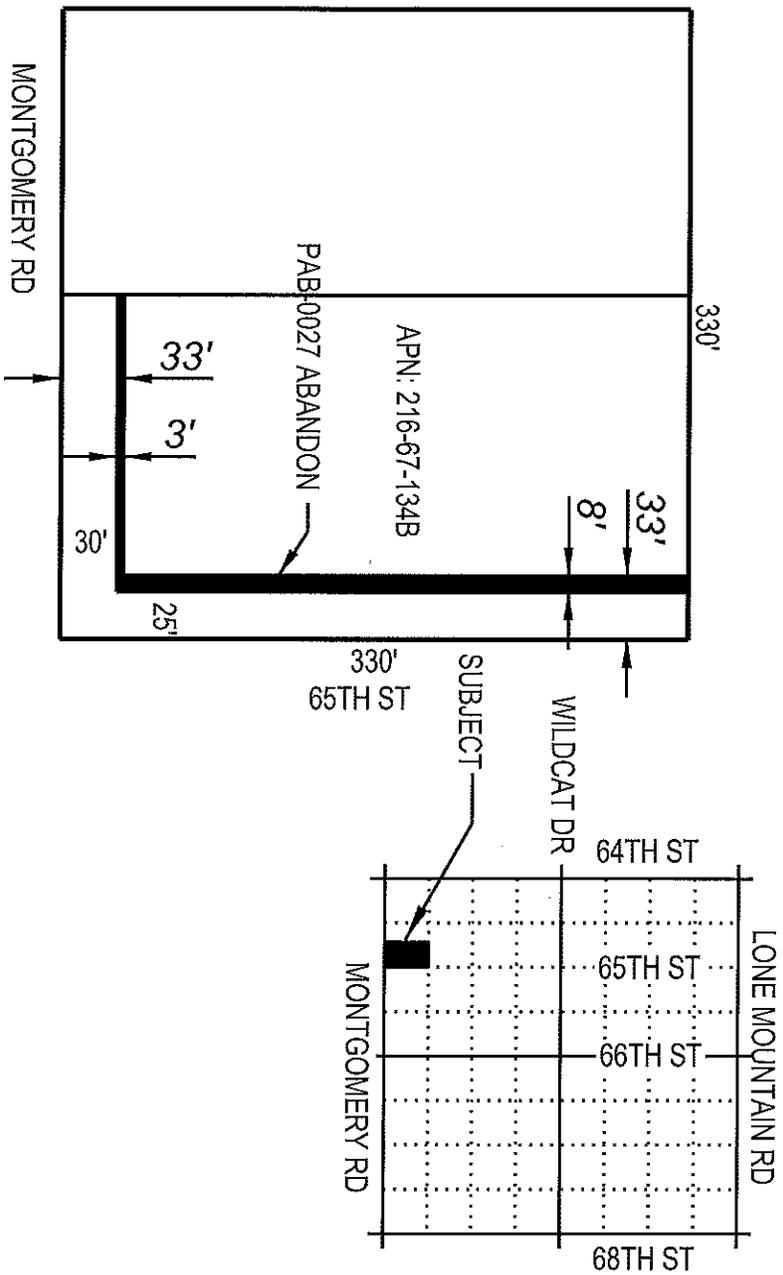
Statement of fact and Documentation for Items identified as not meeting abandonment requirements:

		REVIEWER	COMMENT	DISQUALIFYING CRITERIA
	MCDOT	Bob Woodring	No Objection	
		Denise Brewer	No response	
		Denise Lacey	No response	
		David Fritz	No Objection	
		Gary Scott	No response	
		Kevin Kottmer	No response	
		Nicolaas Swart	No response	
b	COUNTY	P&D	No Objection	
		Real Estate	No Objection	
		Parks	No Objection	
		FCD	No response	
c	UTILITIES	APS	No Objection	Sect 5d
		Century Link	OBJECTION	
		Cox	No Objection	
		SRP	N/A	
		SWG	N/A	
		Scottsdale Water	No Objection	
		Town of Cave Creek water	N/A	
d	GOV AGENCIES	N/A		
e	MUNICIPALITIES / TRIBES	N/A		

DATE: 11/03/2015

INIT: KG

PATENT EASEMENT ABANDON FILE NO. PAB-0027



Section 22, T5N, R4E

W.O. No. P00102

Sheet 1 of 1

EXHIBIT

LEGAL DESCRIPTION
PAB-0027

EXHIBIT "A"

Assessor Parcel No. 216-67-134B

A portion of the easement described in Patent 1202013, lying in the SE4 SW4 SW4 NW4 of Section 22 – T5N, R4E, of the Gila and Salt River Meridian, Maricopa County, Arizona. EXCEPT the West 150 thereof.

Said portion being described as the North 3 feet of the south 33 feet and the West 8 feet of the East 33 feet thereof.