

**NOTICE OF REGULAR MEETING
OF THE CAREFREE TOWN COUNCIL**

WHEN: TUESDAY, JULY 5, 2022

WHERE: CAREFREE TOWN COUNCIL CHAMBERS
33 EASY STREET, CAREFREE, AZ 85377

LIVESTREAM: [HTTPS://ZOOM.US/](https://zoom.us/j/3229729660)
MEETING ID 322 972 9660
PASSCODE 12345

TIME: 5:00 P.M.

Pursuant to A.R.S. 38-431.02, notice is hereby given to the members of the Town Council of the Town of Carefree, Arizona and to the general public that the members of the Town Council will hold a meeting open to the public. For any item listed on the agenda, the Council may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to Arizona Revised Statutes §38-431.03.

The agenda for the meeting is as follows:

CALL TO ORDER

ROLL CALL

A members of the Council may participate by technological means or methods pursuant to A.R.S. §38-431(4).

PLEDGE OF ALLEGIANCE

CONSENT AGENDA

All items listed hereunder are considered to be routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a council member so requests, in which event the item will be removed from the consent agenda and will be discussed separately:

ITEM #1 Acceptance into the public record of the June, 2022 paid bills.

ITEM #2 Acceptance of the cash receipts and disbursements report for May, 2022.

CALL TO THE PUBLIC

ITEM #3 Call to the Public: Consideration of comments from the public. Pursuant to Section 2-4-7(G) of the Town Code and A.R.S. 38-431.01(H), those wishing to address the Council need not request permission in advance. The public may address the Council on matters not on the agenda. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter, direct staff to study the matter, reschedule the matter for further consideration and decision at a later date, or may ask that a matter be put on a future agenda. However, the Council may not discuss or take legal action at this time. Please limit your comments to not more than 3 minutes.

REGULAR AGENDA:

ITEM #4 Current Events.

ITEM #5 PUBLIC HEARING: Discussion and possible action to approve Resolution 2022-14: Vacating portions of a Vehicular Non-Access Easement (VNAE) for lots 6 and 9 of the Nighthawk on Black Mountain Subdivision and abandoning of the existing access and utility easements shared between these lots.

ITEM #6 Adjournment.

DATED this 29th day of June, 2022.

TOWN OF CAREFREE

BY: Kandace French Contreras
Kandace French Contreras, Town Clerk/Treasurer

Items may be taken out of sequence

Council meeting will be broadcast via our Town of Carefree Zoom channel:

LIVESTREAM: [HTTPS://ZOOM.US/](https://zoom.us/j/3229729660)
MEETING ID 322 972 9660
PASSCODE 12345

Or Join Zoom Meeting Direct Link
<https://us02web.zoom.us/j/3229729660?pwd=aHBnS3N5L1JRRG8wRGNFT25Ic2hGUT09>

Meeting ID: 322 972 9660
Passcode: 12345

For telephone audio
1.669.900.6833 or 1.253.215.8782



FOR SPECIAL ACCOMMODATIONS

Please contact the Town Clerk, 8 Sundial Circle (PO Box 740), Carefree, AZ 85377; (480) 488-3686, at least three working days prior to the meeting if you require special accommodations due to a disability.

Check Register Report

JUL - 2 2022

ALL CHECKS JUNE 2022

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Date: 06/24/2022

Time: 11:39 am

Town Of Carefree

BANK: NATIONAL BANK OF ARIZONA

Page: 1

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
NATIONAL BANK OF ARIZONA Checks							
48355	06/03/2022	Printed		3595	AMAZON CAPITAL SERVICES	May 22 Town Office Supplies	492.52
48356	06/03/2022	Printed		0389	CAREFREE WATER COMPANY, INC	June 22 Water All Depts	2,996.30
48357	06/03/2022	Printed		3299	CIRCLE K UNIVERSAL	May 22 Gasoline All Depts	1,547.72
48358	06/03/2022	Printed		1329	COLONIAL SUPPLEMENTAL INS	May 22 Supplemental Ins	111.56
48359	06/03/2022	Printed		1238	DESERT FOOTHILLS AIR CONDITION	Repair AC Water Co	508.00
48360	06/03/2022	Printed		1320	KARSTEN'S ACE HARDWARE	Pub Works Supplies	107.15
48362	06/03/2022	Printed		3221	NATIONAL BANK OF ARIZONA	May22 Off Supplie,St Lite LEDs	1,118.65
48363	06/03/2022	Printed		866	ROADRUNNER PAVING AND	Road Striping on Tom Darl	2,625.00
48364	06/03/2022	Printed		2047	ROADSAFE TRAFFIC-PHOENIX	Curb Paint Yellow & Red	657.03
48365	06/03/2022	Printed		1794	STAPLES ADVANTAGE	Office Supplies Court	241.95
48366	06/03/2022	Printed		3226	TECH 4 LIFE COMPUTERS	June 22 Web Host visitcarefree	150.00
48367	06/03/2022	Printed		3461	TITAN COMMERCIAL CLEANING	May 22 Town, Gardens Cleaning	7,305.00
48368	06/03/2022	Printed		3623	TITAN STUCCO	Restucco East side of Gardens	9,500.00
48369	06/03/2022	Printed		3115	VERIZON WIRELESS	May 22 Mobile Phones All	470.92
48370	06/03/2022	Printed		3051	ZUMAR INDUSTRIES, INC. ARIZONA	20 Streets Barricades&50Cones	2,574.02
48371	06/10/2022	Printed		3693	AMERICAN PUBLIC WORKS ASSN	Dues Mark Milstone	242.00
48372	06/10/2022	Printed		0300	ARIZ PUBLIC SERVICE	June 22 Electric All Depts	2,689.28
48373	06/10/2022	Printed		3686	AXON ENTERPRISES, INC.	Court Taser Maiint Agreement	518.64
48374	06/10/2022	Printed		1470	BROWN & ASSOCIATES	May 22 Bld Inspect 96.5 Hrs	6,986.56
48375	06/10/2022	Printed		3463	BUSTAMANTE & KUFFNER PC	April 2022 Town Prosecutor Ser	3,700.00
48376	06/10/2022	Printed		1313	CAVE CREEK WELDING	Skid Mower Materials	30.60
48377	06/10/2022	Printed		1460	COX COMMUNICATIONS	June 22 Town Internet & Phones	1,000.81
48378	06/10/2022	Printed		3167	CRANE, JOHN	Memorial Day Celebration Expen	151.13
48379	06/10/2022	Printed		2059	DESERT FOOTHILLS LANDSCAPE	June 22 Gardens Maintenance	2,000.00
48380	06/10/2022	Printed		2059	DESERT FOOTHILLS LANDSCAPE	June 22 Medians Maintenance	4,955.00
48381	06/10/2022	Printed		3606	DYNAMITE SIGNS	Upd Pub Notice Sign #20-09-AB	119.46
48382	06/10/2022	Printed		1640	FOOTHILLS CARING CORPS	Valey Metro Grant Passsthrough	9,287.00
48383	06/10/2022	Printed		3397	LANGUAGE LINE SERVICES, INC.	May 22 Court Interpreting	14.75
48384	06/10/2022	Printed		3360	LAW OFFICES OF KEVIN BREGER	Public Defender Service to 6/8	325.00
48385	06/10/2022	Printed		1876	LOWE'S	May 22 Pub Wrks Supplies	346.01
48386	06/10/2022	Printed		3619	MILSTONE, MARK	Reimb Flat Tire Repair	31.92
48387	06/10/2022	Printed		3053	QUADIANT, INC	Postage Machine Lease	97.71
48388	06/10/2022	Printed		3010	REPUBLIC SERVICES #753	June 22 Trash PU 8 Sundial Cir	530.01
48389	06/10/2022	Printed		3425	RURAL ARIZ GROUP HEALTH	June 22 Medical,Dental,Vis Ins	16,857.53
48390	06/10/2022	Printed		0668	RURAL METRO FIRE DEPT.	MAy 2022 Fire Truck Diesel	701.68
48391	06/10/2022	Printed		3236	SHARP BUSINESS SYSTEMS	Court Copier Maintenance	168.81
48392	06/10/2022	Printed		1691	SPARKLETTS	May 22 Bottled Water All	183.47
48393	06/10/2022	Printed		3287	TOSHIBA BUSINESS SOLUTIONS	Town Copier Main t& Lease	349.76
48394	06/10/2022	Printed		352	WESTERN STATES PETROLEUM INC.	MAy 22 Pub Wrks Diesel	315.47
48395	06/14/2022	Printed		3551	ARCHIVESOCIAL, INC.	FY23 1 Yr Social Media Archive	2,988.00
48396	06/14/2022	Printed		3624	AZGRASSMAN	450SqFt Pet Turf+Deodorizer GD	4,082.73
48397	06/14/2022	Printed		3181	BRIDGE-DENZAK, STACEY	Reimb Tree Council Class 6-12	75.00
48398	06/14/2022	Printed		1460	COX COMMUNICATIONS	June 22 Internet 33 Easy St.	129.00
48399	06/14/2022	Printed		2096	DAVE BANG ASSOCIATES, INC.	Fix Playground Surface Holes	470.00
48400	06/14/2022	Printed		3584	KIMLEY-HORN AND ASSOCIATES,INC	CF Sign Plan to May 31, 2022	10,330.00
48401	06/14/2022	Printed		3578	LIBERTY UTILITIES	May 22 Gardens Sewer	892.13
48402	06/14/2022	Printed		3105	PETERSON, LES	Lunch Meeting 5/17/22	53.12
48403	06/14/2022	Printed		3403	PROSKILL PLUMBING, HEATING	Plumbing to connect Fire Dryer	875.00
48404	06/14/2022	Printed		3403	PROSKILL PLUMBING, HEATING	Run Electric New Fire Dryer	840.00
48405	06/14/2022	Printed		0668	RURAL METRO FIRE DEPT.	June 22 Fire Contract	129,451.74
48406	06/14/2022	Printed		1794	STAPLES ADVANTAGE	Office Supplies Court	232.02



Combined Trial Balance - All Funds
May 31, 2022

Assets

Checking - National Bank of AZ	2,697,849
Local Gov't Investment Pool - AZ	12,953,829
Petty Cash	700
Advances to the Water Company	2,710,391
Total Assets	\$ 18,362,769

Liabilities

Accounts Payable	-791
Bonds	38,510
Sales Tax Remittance	
Long Term Deferred Revenue	2,710,391
Total Liabilities	\$2,748,110

Fund Balance

Fund Balance-Beginning of Year	13,767,123
Year-to-date change in Fund Balance	1,847,547
Total Fund Balance	15,614,670
Total Liabilities and Fund Balance	\$ 18,362,769

Contingency Reserve Fund	\$2,500,000
Capital Fund	\$12,890,241
Total	\$15,390,241

Town of Carefree Reconciled Cash Receipts and Cash Disbursements as of May 31, 2022

Revenues	FY2020	FY2021	FY2022	2021 vs 2022	Budget	May 22	% of Budget
	YTD May	YTD May	Y-T-D	% (+/-)			
Local Sales Taxes (1 month lag)	\$2,108,407	\$ 2,365,126	\$ 3,196,023	35.1%	2,500,000	474,326	127.8%
State Sales Taxes (1 month lag)	354,817	405,385	451,569	11.4%	461,000	40,880	98.0%
Building Fees	347,692	337,852	485,692	43.8%	400,000	55,503	121.4%
State Income Tax	459,454	514,455	450,384	-12.5%	512,000	40,554	88.0%
Fines	98,915	161,659	163,448	1.1%	130,100	2,336	125.6%
Court Service Fees	152,247	158,339	163,263	3.1%	178,106	14,842	91.7%
Town Clerk-Misc. Sales	554	211	40	0.0%	500	0	8.0%
Town Clerk-Permits & Sol Fees	600	1,020	1,650	61.8%	700	1,000	235.7%
Water Company Reimbursements	633,546	599,900	599,900	0.0%	692,105	57,675	86.7%
33 Easy St Rent	14,201	13,902	11,302	0.0%	15,600	0	72.4%
Miscellaneous Income & Donations	80,785	389,973	25,817	-93.4%	51,000	6	50.6%
Interest Income	176,873	16,825	(56,201)	0.0%	21,419	5,152	0.0%
Utility Franchise Fees (1 month lag)	264,801	282,066	280,141	-0.7%	350,000	31,434	80.0%
County Lieu Tax (1 month lag)	143,917	160,870	157,021	-2.4%	182,000	13,325	86.3%
General Fund & All Funds Reserve Contribution(Below)	0	0	0	0.0%	4,108,945	0	0.0%
Special Events	413,322	40,667	57,573	41.6%	40,000	7,545	143.9%
County & State Grants	11,252	107,930	0	0.0%	209,798	0	0.0%
Court Enhancement, GAP, MJCEF	12,468	16,210	17,239	6.3%	22,400	2,283	77.0%
HURF (1 month lag)	415,022	225,006	240,033	6.7%	261,000	26,722	92.0%
Cemetery	550	500	1,950	0.0%	600	100	325.0%
CPR Ed Fund	868	0	0	0.0%	200	0	0.0%
CARES Fund Grants	0	450,846	655,770	0.0%	468,521	0	140.0%
Utility Capital Improvement Fund	23,737	25,170	32,953	30.9%	22,400	0	147.1%
Fire Reimb Income & Ins Reimb	45,821	44,410	113,138	0.0%	53,600	5,628	211.1%
Fire Fund-L Sales Tax (1 month lag)	1,054,204	1,182,565	1,598,012	35.1%	1,250,000	237,163	127.8%
Total Revenues	6,814,053	7,500,887	8,646,716	15.3%	11,931,994	1,016,473	72.5%
Expenses							
Mayor & Council	14,969	15,401	6,451	-58.1%	214,375	398	3.0%
Town Clerk	272,351	275,634	304,425	10.4%	330,534	21,507	92.1%
Court	239,682	243,296	231,373	-4.9%	285,532	17,602	81.0%
Administration	388,777	397,158	478,610	20.5%	571,832	43,383	83.7%
Claims & Losses	0	12,900	0	0.0%	10,000	0	0.0%
Legal	264,581	206,087	148,400	-28.0%	160,000	1,711	92.8%
Risk Management	64,491	70,374	82,661	17.5%	120,000	0	68.9%
Planning & Development	178,136	201,306	213,535	6.1%	304,622	16,621	70.1%
Building Safety	200,541	204,220	269,388	31.9%	275,177	20,280	97.9%
Law Enforcement	432,920	466,064	483,746	3.8%	539,392	47,507	89.7%
Code Enforcement	49,996	54,483	88,266	62.0%	81,895	4,746	107.8%
Engineering	34,618	29,563	132,388	347.8%	269,684	15,058	49.1%
Public Works - Streets & Gardens	712,546	620,122	691,798	11.6%	898,723	48,900	77.0%
Debt Service WIFA	244,523	244,378	244,227	-0.1%	244,226	0	100.0%
33 Easy St	23,092	23,782	24,301	0.0%	27,750	2,499	87.6%
Capital Improvement Program (See Below)	0	0	0	0.0%	-	0	0.0%
Public Safety Fire General Fund	279,668	42,735	279,733	0.0%	279,733	0	100.0%
Economic Development	654,149	155,312	173,862	11.9%	320,003	13,994	54.3%
Contingencies	7,107	114,282	0	0.0%	200,000	0	0.0%
Court Enhancement, GAP, MJCEF	12,067	10,741	(252)	0.0%	1,437	0	0.0%
HURF (See Below)	0	0	0	0.0%	-	0	0.0%
Cemetery	0	0	0	0.0%	600	0	0.0%
CPR - Education Fund	0	0	0	0.0%	202	0	0.0%
AZ CARES Fund Expense	0	450,904	0	0.0%	468,621	0	0.0%
Utility Capital Improvement Fund (See Below)	0	0	0	0.0%	-	0	0.0%
Transfers Out	0	100	655,812	100.0%	-	0	0.0%
Fire Fund	1,122,175	1,037,581	1,184,779	14.2%	1,304,300	132,558	90.8%
Total Expenses without Capital Expense	5,196,389	4,876,425	5,693,503	16.8%	6,908,638	386,764	82.4%
Net without Capital Expense	\$ 1,617,664	\$ 2,624,463	\$ 2,953,213		\$ 5,023,356	\$ 629,709	58.8%
All Capital Projects	1,149,133	851,847	1,105,666	29.8%	5,000,000	0	22.1%
Total Expenses with Capital Expense	6,345,522	5,728,272	6,799,169	18.7%	\$11,908,638	\$386,764	57.1%
Net with Capital Expense	468,531	1,772,616	1,847,547	4.2%	23,356	629,709	7910.4%

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TOWN OF CAREFREE
INFORMATION SUMMARY
MEETING DATE: July 5, 2022

SUBJECT: Vacate portions of a Vehicular Non-Access Easement (VNAE) for lots 6 and 9 of the Nighthawk on Black Mountain Subdivision and vacate the existing access shared between these lots.

APPLICANT: Mr. Aaron Huber, Huber Barney PLLC, 4915 East Baseline Road, #150 Gilbert, AZ, 85234, representing the owner of Lot 9

LOCATIONS: The west side of Never Mind Trail adjacent to and included upon Lot 6 (Tax Parcel #216-28-070) and Lot 9 (Tax Parcel #216-28-073), Nighthawk on Black Mountain Subdivision.

ATTACHMENTS:

- Proposed Resolution 2022-14
- Narrative
- Traffic Study
- Citizen Participation Report

SUMMARY

A Vehicular Non-Access Easement or VNAE is used to restrict motorized vehicle access to or from a parcel by not allowing vehicles to cross at the property line or sometimes between lots. Typically, you will see a VNAE around a subdivision when initially platted to help mitigate potential traffic impacts to nearby neighborhoods. When the Nighthawk on Black Mountain subdivision was originally platted in 2004, it included a VNAE along Never Mind Trail thereby allowing for vehicle access only at the internal private road, Nighthawk Way. Access to lots 6 and 9 was provided by an access and utility easement between lots 3, 5, and 6 (see Diagram 1: MCR 721-35, Final Plat of Nighthawk on Black Mountain).

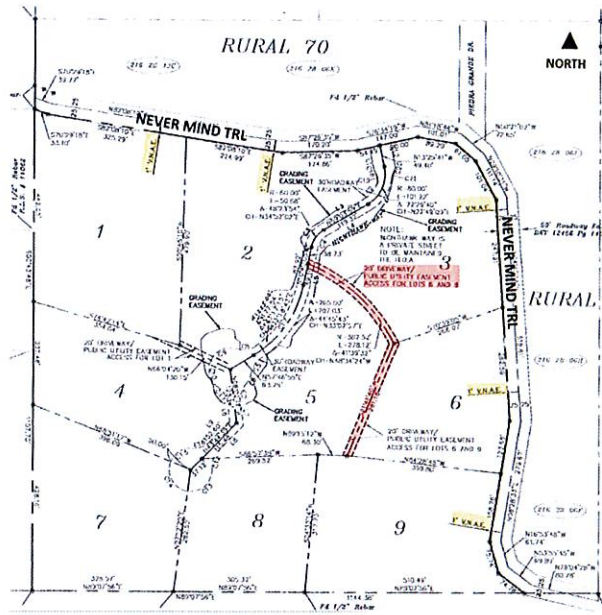


Diagram 1

Often when land is subdivided, easements and other paper rights do not always coincide with what is happening on the ground. In 2006, Nighthawk on Black Mountain was replatted to provide for one point of access to/from Never Mind Trail (including utility rights) between lots 6 and 9 thereby creating a shared driveway and utility corridor. Doing so would minimize future disturbance at the existing easement where steep slopes, boulders, rock outcroppings, and a wash exist (see Diagram 2: MCR 857-28, Replat of Nighthawk on Black Mountain). The trade-off was an access point at Never Mind Trail. Today, the owner of Lot 9 prefers a different access location into his lot based on minimizing retaining walls and extra disturbance when developing his lot.

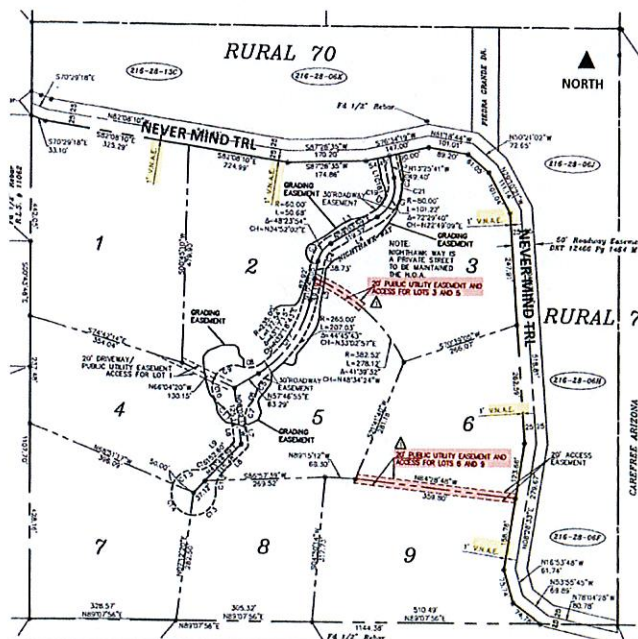


Diagram 2

The abandonment request is two-fold: Remove portions of the 1-foot VNAE at the frontages of lots 6 and 9, then narrow the 20-foot wide access/utility easement to 10 feet for utility service only; all driveway rights will be extinguished. The breaks in the VNAE are sized to allow for flexibility during the design of the properties. Once a driveway location is determined, prior to the issuance of a building permit, the VNAE will be rededicated, except for 20 feet at each driveway entrance. This will eliminate any circular or potential separate driveways in the future.

However, the request includes maintaining utility rights and existing infrastructure. This concerns staff, as utilities require maintenance and occasional repairs. A vehicle may then need access to tend to those issues. Revegetation will constantly be compromised; the burden would then fall on the Town to continually address. The original point of relocating the easement at the replat was to minimize disturbance. The replat added one driveway access point. This VNAE request abandonment adds another. Allowing for utilities to remain essentially adds a third with long-term disruption to revegetation efforts. This was discussed with the applicant and owner at great length. Early in the process staff determined that the abandonment of the utility easement (and associated infrastructure in place) along with the access easement is required for staff's agreement with the request.

Coordination has since occurred with Arizona Public Service (APS) and Southwest Gas (SWG). However, prior to such abandonments, APS requires approved plans showing that the utility easement will not be needed or used by Lots 6 or 9 before agreeing to such abandonment. Lot 9 is ready to develop; Lot 6 is not. APS concurs that the approved plans and documents required under the Mountainside process for each lot will suffice for them to proceed at their end with the process of removing the existing lines and cabinets. The final abandonment of the easement rights will follow. Staff, therefore, suggests that this abandonment request be conditioned upon the following:

1. Finalization of the abandonment of the utility easement shall occur after the approval of the Mountainside development application for the second of the two lots to be developed (Lot 6), which shall include an electrical service design;
2. All utility services shall be from Never Mind Trail;
3. All utility lines shall be located underneath or within 5 feet of each driveway;
4. Prior to issuance of a building permit, each property owner shall record a new document that rededicates the VNAE except for 20 feet at each driveway entrance;
5. The existing disturbance shall be revegetated with native plants that conform to the density of plants in the surrounding natural environment following utility removals.

The Cave Creek Water Company (currently the water service provider) in conjunction with the Carefree Water Company (future water service provider) has no issue with abandoning rights to the easement. Rural Metro has no objections to the abandonments either. No other utilities are affected.

Should the Town Council consider approval, staff suggests that this approval be conditioned as stated above. While these abandonment processes are time consuming, it is reasonable to require its finalization prior to the issuance of the second Mountainside permit approval. Staff is confident that APS will fulfill their formal abandonment obligation once lot 6 (the second lot to develop) has its Mountainside approval and the existing infrastructure is removed. The owners of lot 9 and lot 6 are in agreement with the proposed abandonments and associated conditions of approval.

PUBLIC PROCESS

The applicant has fulfilled the requirements for Citizen Participation as outlined in Town Code. The applicant sent two mailings to surrounding property owners within 500 feet of the sites at the time of application. The Town mailed out public hearing notifications to property owners within 500 feet of the subject sites, placed the required legal ads in The Record Reporter, and posted the properties for the hearing and for the two deferred hearing dates. The Town has received no opposition to this request at the time of publication of this report.

At the Planning and Zoning Commission hearing held June 13, 2022, Commissioner Burns questioned staff regarding the project timeline, and existing easement disturbance and revegetation as it relates to Lot 6. Staff responded that the timeline has been longer than usual for this type of request due to the interruption from Covid and coordination with the utility companies, in particular, APS. The owners of Lot 9 and 6 have an agreement in place that the corridor will be planted once all abandonments are complete. The Town will be the authority ensuring revegetation occurs. The Planning & Zoning Commission voted unanimously to recommend approval of all abandonments subject to the conditions as stated herein.

ACTION NEEDED

This is a public hearing item. Attached is proposed Resolution 2022-14 including recommended conditions of approval for Town Council consideration.

**TOWN OF CAREFREE, ARIZONA
RESOLUTION 2022-14**

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE
TOWN OF CAREFREE, MARICOPA COUNTY, ARIZONA,
DECLARING THAT CERTAIN PORTIONS OF A VEHICULAR NON-ACCESS
EASEMENT AND ALL PORTIONS OF A 20-FOOT ACCESS EASEMENT AND
10-FOOT UTILITY EASEMENT IS NO LONGER NECESSARY FOR PUBLIC USE
WITHIN THE TOWN AND DECLARING SUCH EASEMENTS ABANDONED AND
PORTIONS THEREOF TO THE PROPERTY OWNERS**

WHEREAS, the owners of lots 6 and 9 of Nighthawk on Black Mountain subdivision have requested the abandonment portions of a vehicular non-access easement and all portions of a combined 20-foot access easement and 10-foot utility easement located along Never Mind Trail; and

WHEREAS, these lots are located within the corporate limits of the Town of Carefree; and

WHEREAS, the Planning Director and Town Engineer have assessed the potential for future improvements along this segment of Never Mind Trail and have determined that these easements and partial easements are no longer necessary for public purposes; and

WHEREAS, the Town of Carefree's Planning and Zoning Commission, on June 13, 2022, considered the issues, voted to recommend approval of the Application, and forward such recommendation to the Town Council, and

WHEREAS, after reviewing all the facts and testimony given, the Council finds that these easements and partial easements are not necessary for the public welfare, use, and convenience;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CAREFREE, ARIZONA,

1. That certain easements associated with the Nighthawk on Black Mountain Subdivision recorded in Docket 2006-1068285, Records of Maricopa County, Arizona, and more particularly described and shown in Exhibit "A", are hereby declared abandoned subject to conditions of approval described and shown in Exhibit "B".

2. That the Town Clerk is hereby authorized and directed to record a copy of this Resolution with the Maricopa County Recorder evidencing the abandonment of said easements.

PASSED AND ADOPTED BY the Mayor and Common Council of the Town of Carefree, Arizona, this _____ day of _____, 2022.

Les Peterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Kandace French Contreras, Town Clerk

Michael Wright, Town Attorney

The following exhibits are attached hereto and incorporated herein:

1. Exhibit "A"
2. Exhibit "B"

EXHIBIT A: LEGAL INSTRUMENTS

Legal Description
For
Exclusive Vehicular Non-Access Easement
Abandonment

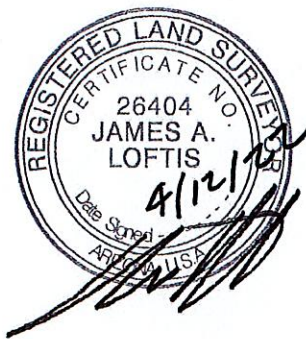
LOT 6 V.N.A.E. ABANDONMENT

That certain Vehicular Non-Access Easement (V.N.A.E.) lying along the Easterly boundary of Lot 6 as shown on **NIGHTHAWK ON BLACK MOUNTAIN**, a Subdivision Plat recorded in Book 857 of Maps, Page 28, records of Maricopa County, Arizona, lying in the Northeast quarter of Section 34, Township 6 North, Range 4 East of the Gila and Salt River base and Meridian.

LOT 9 V.N.A.E. ABANDONMENT

That certain Vehicular Non-Access Easement (V.N.A.E.) lying along the Easterly boundary of Lot 6 as shown on **NIGHTHAWK ON BLACK MOUNTAIN**, a Subdivision Plat recorded in Book 857 of Maps, Page 28, records of Maricopa County, Arizona, lying in the Northeast quarter of Section 34, Township 6 North, Range 4 East of the Gila and Salt River base and Meridian.

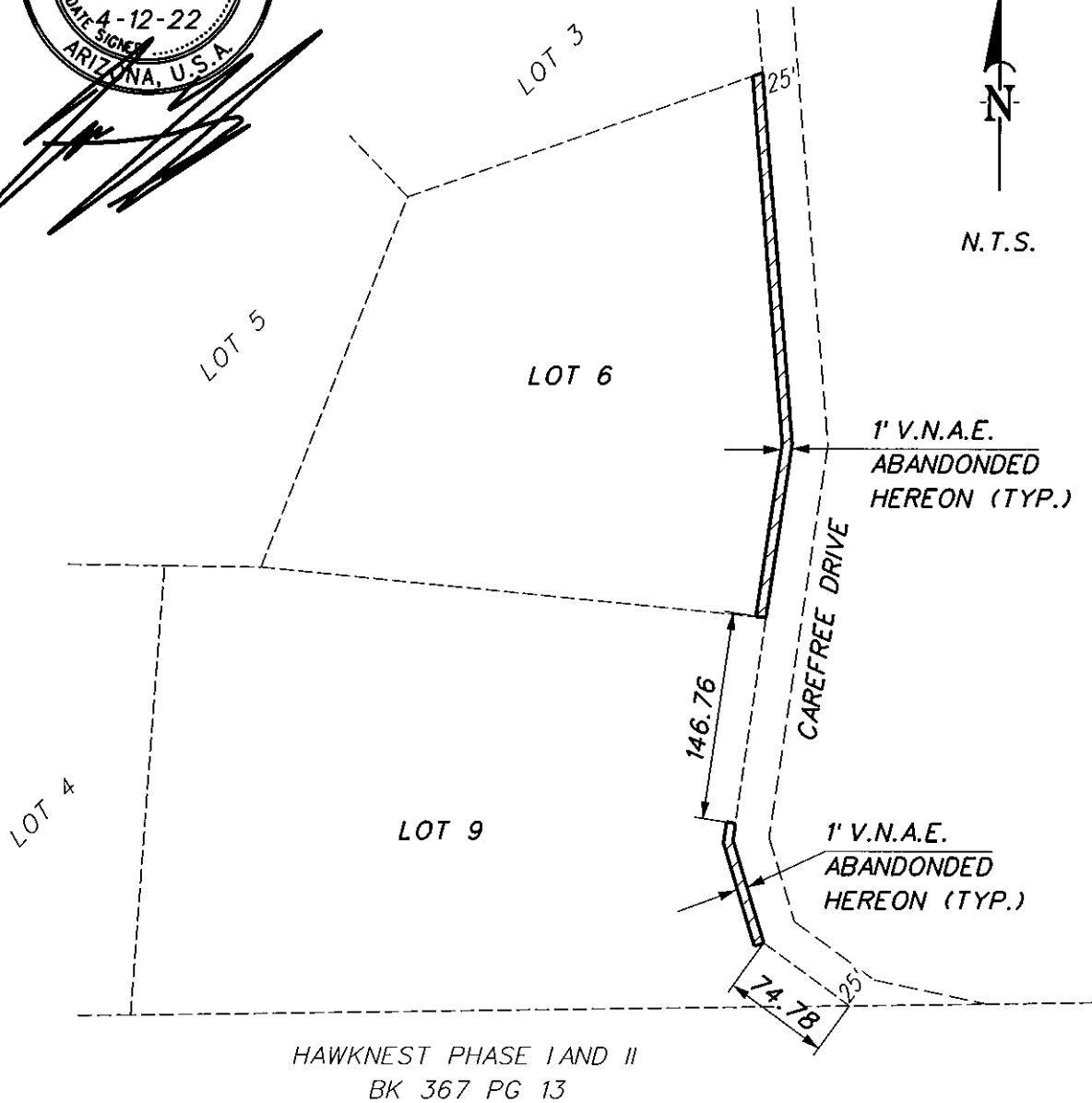
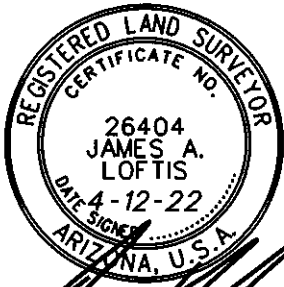
Except the North 146.76 feet and the South 74.78 feet thereof. (as measured along said Easterly boundary)



EVERETTALAN
{ GROUP }

EXHIBIT "B"

LOT 6 AND 9 FINAL PLAT OF
NIGHTHAWK ON BLACK MOUNTAIN
BK 721, PG 35 M.C.R.



V.N.A.E. - VEHICULAR NON-ACCESS EASEMENT

EVERETTALAN
{ GROUP }

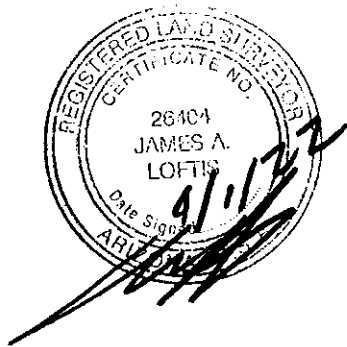
6300 East Cave Creek Road, Suite 202
Cave Creek, Arizona 85331
Phone 480.990.0545 Fax 480.994.9097
www.EverettAlanGroup.com

JOB NO.
200622

EXHIBIT "A"

Legal Description
For
20' Utility and Access Easement Abandonment
for Lots 6 and 9

That certain 20' Access Easement lying between Lot 6 and Lot 9 as shown on **NIGHTHAWK ON BLACK MOUNTAIN**, a Subdivision Plat recorded in Book 857 of Maps, Page 28, records of Maricopa County, Arizona, lying in the Northeast quarter of Section 34, Township 6 North, Range 4 East of the Gila and Salt River base and Meridian.

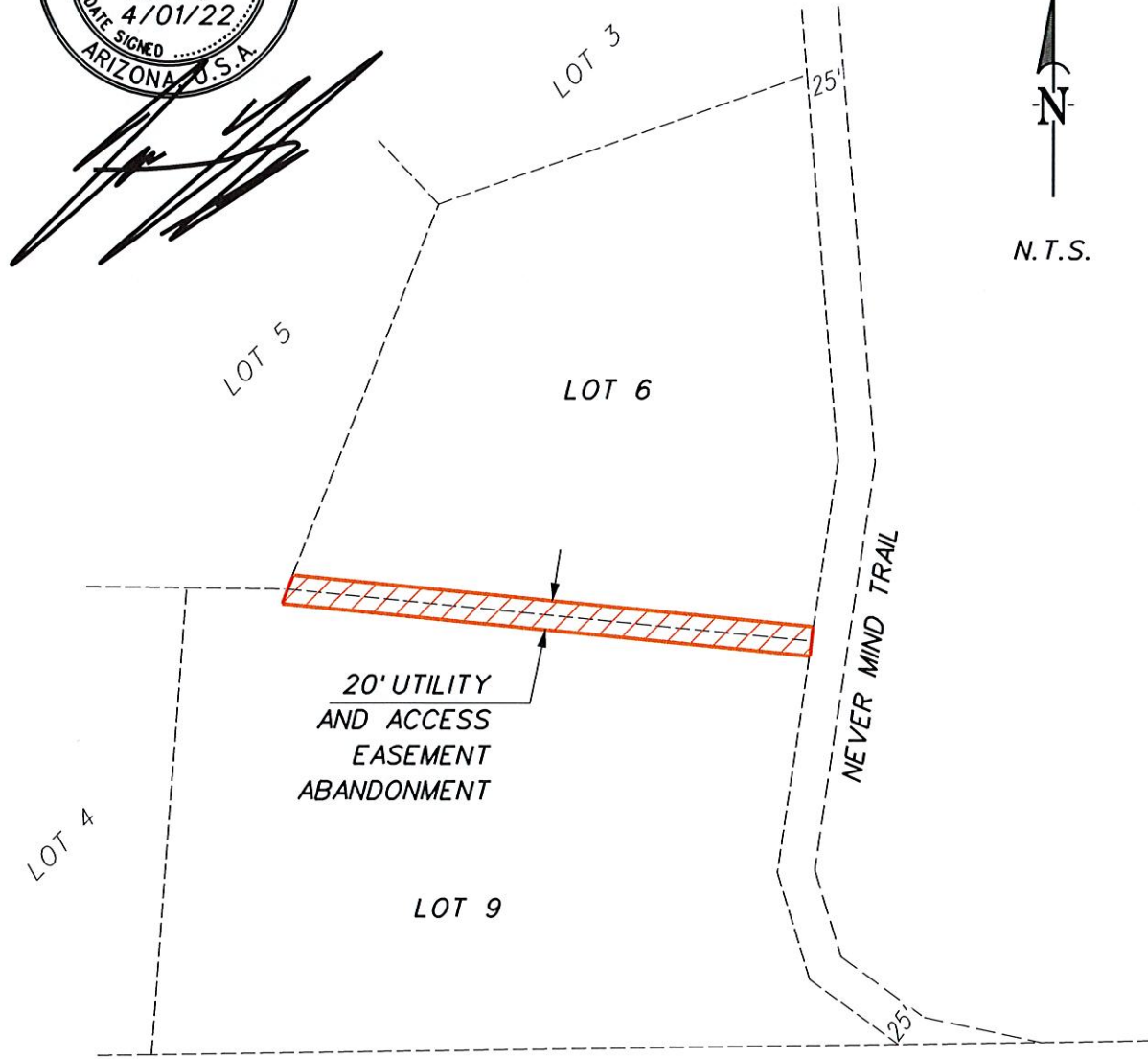


EVERETTALAN
{ GROUP }

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Job No. 200622

EXHIBIT "B"

LOT 6 AND 9 FINAL PLAT OF
NIGHTHAWK ON BLACK MOUNTAIN
BK 857, PG 28 M.C.R.



HAWKNEST PHASE I AND II
BK 367 PG 13

EVERETT ALAN
{ GROUP }

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Cave Creek, Arizona 85331
Phone 480.990.0545 Fax 480.994.9097
www.EverettAlanGroup.com

JOB NO.
200622

EXHIBIT "A"

Legal Description
For
10' Utility Easement Abandonment
for Lots 6 and 9

That certain 10' Utility Easement lying between Lot 6 and Lot 9 of NIGHTHAWK ON BLACK MOUNTAIN, a Subdivision Plat recorded in Book 721 of Maps, Page 35, AND created by Instrument 2005-1453813, records of Maricopa County, Arizona, lying in the Northeast quarter of Section 34, Township 6 North, Range 4 East of the Gila and Salt River base and Meridian.

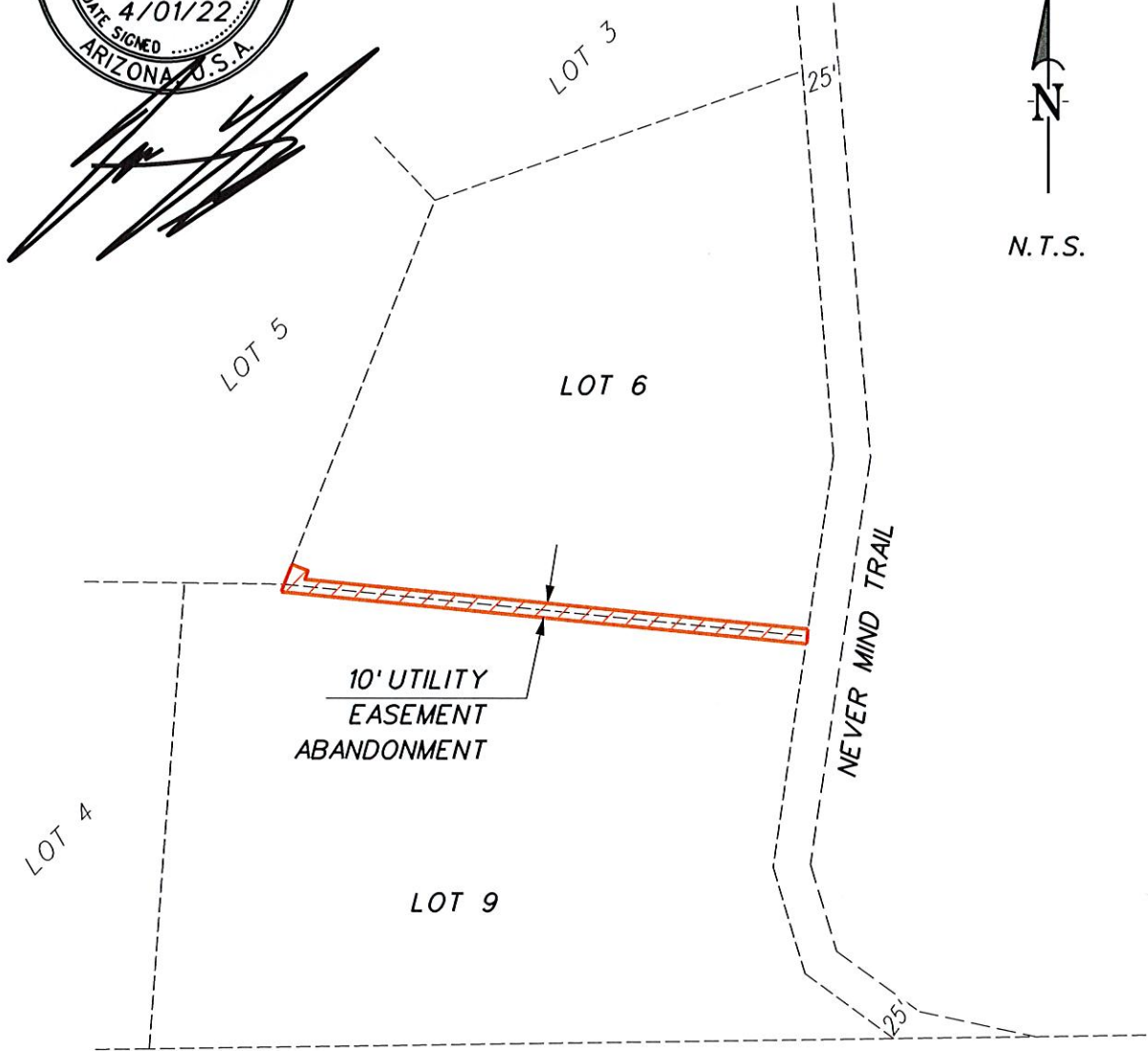


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{ GROUP }

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Job No. 200622

EXHIBIT "B"

LOT 6 AND 9 FINAL PLAT OF
NIGHTHAWK ON BLACK MOUNTAIN
BK 857, PG 28 M.C.R.



HAWKNEST PHASE I AND II
BK 367 PG 13

EVERETTALAN
{ GROUP }

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Cave Creek, Arizona 85331
Phone 480.990.0545 Fax 480.994.9097
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JOB NO.
200622

EXHIBIT B: CONDITIONS OF APPROVAL

These abandonments shall be conditioned upon the following:

1. Finalization of the abandonment of the utility easement shall occur after the approval of the Mountainside development application for the second of the two lots to be developed (Lot 6), which shall include an electrical service design;
2. All utility services shall be from Never Mind Trail;
3. All utility lines shall be located underneath or within 5 feet of each driveway;
4. Prior to issuance of a building permit, each property owner shall record a new document that rededicates the VNAE except for 20 feet at each driveway entrance;
5. The existing disturbance shall be revegetated with native plants that conform to the density of plants in the surrounding natural environment following utility removals.



Nighthawk on Black Mountain Lots 6 & 9 Easement Abandonment Narrative

This narrative accompanies a request to amend the Final Plat impacting lots 6 and 9 of the Nighthawk on Black Mountain subdivision, approximately located at the northwest corner of the intersection of Carefree Drive and Never Mind Trail in the Town of Carefree. The two abandonments are described below:

Abandonment 1: Remove a portion of the one-foot Vehicle Non-Access Easement (VNAE) across the frontages of lots 6 and 9 to permit a more direct access (i.e. driveway) from the public street (Never Mind Trail) to the future homes. We are proposing to remove an approximate 91-foot section along the frontage of lot 6 and an approximate 76-foot section along the frontage of lot 9. This abandonment will allow the future vehicular points of access to these lots to be installed in a manner more consistent with the Town's Mountainside Design Guidelines by eliminating several hundred square feet of mountainside scarring and desert landscape disturbance that could occur utilizing the existing 20-foot wide by 360-foot long access easement (7,200 sf). In addition to less desert disturbance and paving, this abandonment will result in the protection of view corridors from adjacent properties due to the more direct and significantly shorter driveways that will be possible for these two lots.

Abandonment 2: Remove the 20-foot wide by 360-foot long access easement that straddles the shared property line of lots 6 and 9 (while maintaining the 10-foot utility easement). This easement will become unnecessary once the VNAE is abandoned (as described in abandonment 1 above) and all of the planned utilities will fit within the remaining 10-foot utility easement. The benefit of the removal of this easement are the same as for abandonment 1 with the additional benefit of returning unencumbered land to the adjacent lot owners.

This proposal will have no detrimental impact to the provision of utilities, area traffic, or quality of life for area residents.



October 2, 2020

Mr. Aaron Huber
4915 E. Baseline Road
Gilbert, Arizona 85234

Subject: Traffic Statement for the Residential Driveways Modification
Never Mind Trail northwest of Carefree Drive
Carefree, Arizona

This *Traffic Statement* letter has been completed in support of your request to the Town of Carefree to remove all or a portion of a Vehicle Non-Access Easement (VNAE) along lots 6 and 9 of the Nighthawk on Black Mountain subdivision; the subject lots being located on Never Mind Trail approximately 300 feet (Lot 9) and 500 feet (Lot 6) northwest of Carefree Drive.

REQUEST DESCRIPTION

It is my understanding a one-foot VNAE exists along all or a portion of the property frontage to Never Mind Trail of the subject properties. The original purpose of this VNAE was to align a single shared driveway access connecting to Never Mind Trail along the shared property line between the subject sites. Each parcel would then have a branch driveway connection from each future home to this shared driveway.

The purpose of the request will be to allow separate driveway connections to Never Mind Trail for each of the subject lots. According to the Pre-Application Narrative, these abandonments will allow the driveways for the lots to be placed in a manner more consistent with the Town's Mountainside Design Guidelines by shortening the driveways and eliminating several hundred feet of mountainside scarring and desert landscape disturbance.

SITE DESCRIPTION

In its existing condition, Never Mind Trail is a local road having an approximate 25 foot paved section, lacking striping, curb/gutter, and sidewalk. The posted speed limit of Never Mind Trail within the subdivision is 25 miles per hour. Between Piedra Grande Drive in the north to Carefree Drive in the south, Never Mind Trail has an approximate 7% slope (rising from the north to the south).

As shown in the attached *Figure 1*, the subject lots are located on Never Mind Trail northwest of Carefree Drive. The attached *Figure 2* depicts the potential locations of the proposed separate driveway connections to Never Mind Trail for Lot 6 and Lot 9. The lots are slightly elevated from Never Mind Trail; therefore, the proposed driveways will have a slight downgrade at their intersection with Never Mind Trail.

SIGHT DISTANCE

Sufficient sight distance at the proposed driveway locations is necessary to give drivers exiting the lots a clear view of oncoming traffic on Never Mind Trail. Sight triangles should be provided and maintained - the landscape and hardscape within the sight triangles must not obstruct the driver's view of the adjacent travel lanes.



Per AASHTO's A Policy on Geometric Design of Highways and Streets manual, 2018, the sight distance along the major road (Never Mind Trail) at the proposed potential driveway locations of lots 6 and 9 is determined by the following formula:

$$SD = 1.47 \times V_{\text{major}} \times t_g$$

Where:

V_{major} = design speed (=posted speed) on Never Mind Trail (25 miles per hour)

t_g = time gap. For crossing a two-lane roadway, the time gap for left-turns (looking right) is 7.5 seconds for passenger vehicles; the time gap for right-turns (looking left) is 6.5 seconds for passenger vehicles.

Assuming a flat grade for the driveways (the driveways will have a minor downgrade; no upgrade), the required sight distance at the site's driveways for left-turns from a stop (looking right) is 280 feet; the required sight distance at the site's driveways for right-turns from a stop (looking left) is 240 feet. The required sight distance at each driveway is shown in the attached Figure 2.

CONCLUSIONS

As shown in Figure 2, at the potential driveway locations for Lot 6 and Lot 9, the available sight distance meets or exceeds the required sight distance depending on the exact final locations of the driveways. In addition, low speeds and very low traffic volumes on Never Mind Trail exist. Therefore, the removal of the VNAE to allow for individual driveways on Lot 6 and Lot 9 is not anticipated to cause detrimental impacts to Never Mind Trail and the surroundings. Proper intersection sight distance and sight triangles should be provided and maintained at the final driveway locations.

This *Traffic Statement* letter is based on a variety of assumptions related to the proposed potential locations of the driveways at the subject sites. If alternate plans are ultimately proposed, this analysis and the resulting conclusions may not remain valid. If you have any questions, please feel free to contact our office at 602-265-6155.

Sincerely,
Keith A. Winney, PE
United Civil Group



Attachments:

Figure 1: Aerial View and Vicinity

Figure 2: Sight Distance



Figure 1: Aerial View and Vicinity

LEGEND

- Potential Driveway Location
- Sight Distance
- ⋯ Line of Sight



Figure 2: Sight Distance



Nighthawk Plat Amendment – Abandonment Case #20-09-AB

Citizen Participation Report

PURPOSE

The purpose of this Citizen Participation Report is to document the steps and results of the completion of the citizen participation plan related to our plat amendment request. The participation plan ensured that citizens, property owners, neighborhood associations, agencies, schools, and businesses in the vicinity of the site were notified and involved in the ongoing process and actions related to this request. Iplan Consulting, on behalf of the ownership group, initiated a Plat Amendment for the Nighthawk subdivision located at the along Never Mind Trail. The intent of the proposal is to replace one larger shared point of access along Never Mind Trail with two smaller separate points of access for lots 6 and 9.

CONTACT

All questions and/or comments related to this proposal should be directed to:

Iplan Consulting - Greg Davis
3317 S. Higley Road #114-622
Gilbert, AZ 85297
Phone: (480) 227-9850
Email: Greg@iplanconsulting.com

NOTIFICATION

In order to provide effective citizen participation in regards to this application, the following actions were taken to provide adequate opportunity to adjacent landowners or any other potentially affected individuals, agencies, or organizations to learn of and address any and all real or perceived impacts this proposed overlay may have on individuals, properties, or the community:

- A. A contact list (attached as Exhibit A) was created for all property owners along Never Mind Trail within 500' of the site (500' map attached as Exhibit B) for the purpose of mailing information and notifications of the proposal.
- B. A 1st neighborhood outreach effort was held on September 30, 2020. An informational letter with exhibits (attached as Exhibit C) was sent to each property owner within 500-feet of the subject site. The letter solicited questions or comments and included the applicant and Town contact information allowing interested parties to stay informed.
- C. A 2nd neighborhood outreach effort was held on January 22, 2022 which is more than 15-days prior to the Planning and Zoning Commission hearing. An informational letter with exhibits (attached as Exhibit C) was sent to each property owner within 500-feet of the subject site as well as the Town of Carefree (21 letters total). The letter solicited questions or comments and included the applicant and Town contact information allowing interested parties to stay informed.

No comments or questions have been received to date, therefore there is no summary of public comments to report or respond to. If any comments are received between now and the public hearing, our team will alert Town staff and amend this report to accommodate those comments.



TENTATIVE SCHEDULE

Initial Neighborhood Outreach – September 2020

Formal Filing – January 2021

Citizen Participation Plan Initial Submittal – January 2021

Citizen Participation Report – January 2022

Post Property (if needed)

Public Hearing Notification – To be Coordinated by Town staff February 2022

Planning and Zoning Commission Meeting – 3/14/2022

Exhibit A - 500' Buffer Notification List

AGUILERA GABRIEL/CONKLIN CODY
6979 E HAWKSNEST RD
CAREFREE, AZ85377

ALLEN SHERI ELIZABETH TR
PO BOX 5651
CAREFREE, AZ85377

BICKERDYKE H PAUL/SUE
P O BOX 5688
CAREFREE, AZ85377

BRANDY LAND LIMITED PARTNERSHIP
137 MARCO BAY RD
SOMERS, MT59932

BULLINGTON JULIS D TR
3409 E CLAREMONT
PARADISE VALLEY, AZ85253

CAREFREE CASITA LLC
39 POLECAT DR
ASPEN, CO81611

DAGOSTINO NICOLINO/KRISTEN E
107 BESSBOROUGH DR
EAST YORK, ON M3G 3J5
CANADA

DAVE BLACK
7336 E SOARING EAGLE WY
SCOTTSDALE, AZ 85266

DEMARCO FAMILY TRUST (8-27-90)
PO BOX 3226
CAREFREE, AZ 85377

DOW STEPHEN/JANET ELIZABETH
1184 NORTHOVER DR
BLOOMFIELS HILLS, MI 48304

FLORES NICHOLAS E
36780 N LONE EAGLE POINT
CAREFREE, AZ 85377

FOWLER ANDREW
7002 CAREFREE DR
CAREFREE, AZ 85377

INNER SUNRISE LLC
PO BOX 5250
CAREFREE, AZ 85377

JACKSON WILLIAM/ELSA
28629 58 AVENUE
ABBOTSFORD, BC V4X2E8
CANADA

KUMMERLE KYLE
PO BOX 5296
CAREFREE, AZ 85377

LRN AZ-17 PERSONAL RESIDENCE TRUST
8585 E HARTFORD DR STE 115
SCOTTSDALE, AZ 85255

NIGHTHAWK ON BLACK MTN LLC
3409 E CLAREMONT
PARADISE VALLEY, AZ 85253

POLLACK TODD H/CAROL ANN
PO BOX 2082
CAREFREE, AZ 85377

REBOLLO ROBERT G/JOANNE H
PO BOX 5623
CAREFREE, AZ 85377

Town of Carefree - Planning Dept
PO BOX 740
Carefree, AZ 85377

YOUNG WILLIAM DUSTIN/KIMBERLEE
800 S MEDEA WAY
DENVER, CO 80209

EXHIBIT B - 500' Notification Buffer Map

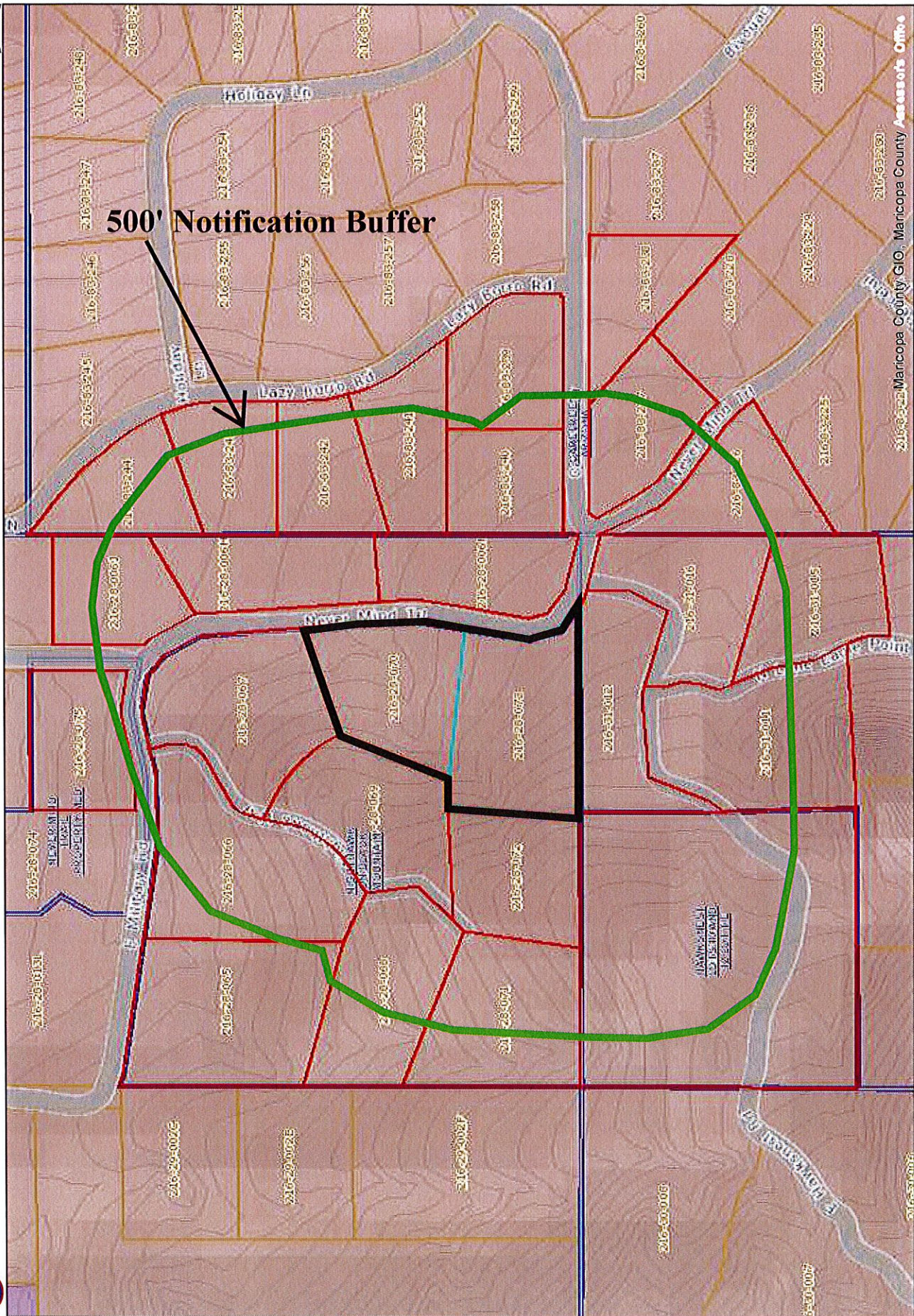


Exhibit C - 1st Neighborhood Outreach Letter

Notice of Development Nighthawk Lots 6 & 9

Dear Neighbor,

The owners of lots 6 and 9 of the Nighthawk on Black Mountain subdivision are preparing an application to the Town of Carefree for a minor Plat Amendment. The proposal includes two amendments to two different easements on the Nighthawk approved plat which are described below. The Nighthawk on Black Mountain subdivision is located at the northwest corner of where Carefree Drive becomes Never Mind Trail.

Amendment 1: Remove a portion of the one-foot Vehicle Non-Access Easement (VNAE) across the frontages of lots 6 and 9 to permit a more direct access (i.e. driveway) from the public street (Never Mind Trail) to the future homes. This amendment will allow the driveways to be placed and designed in a manner more consistent with the Town's Mountainside Design Guidelines by eliminating several hundred feet of mountainside scarring and desert landscape disturbance. In addition to less desert disturbance and overall paving, this abandonment will result in the better protection of view corridors from adjacent properties due to the more direct and significantly shorter driveways for these two lots.

Amendment 2: Remove the 20-foot wide access easement that straddles the shared property line of lots 6 and 9. This easement becomes unnecessary with amendment 1 and allows the desert to reclaim this scraped and barren strip of land which is unsightly and not in keeping with the character of the area. An area of approximately 3,500 square feet will be returned to natural desert landscape versus becoming a long 20-foot wide stretch of pavement.

A vicinity map and detailed site exhibit are attached to this letter to provide a visual representation of the amendments proposed. We invite you to review this information and reach out to us should you have any questions about what is being proposed.

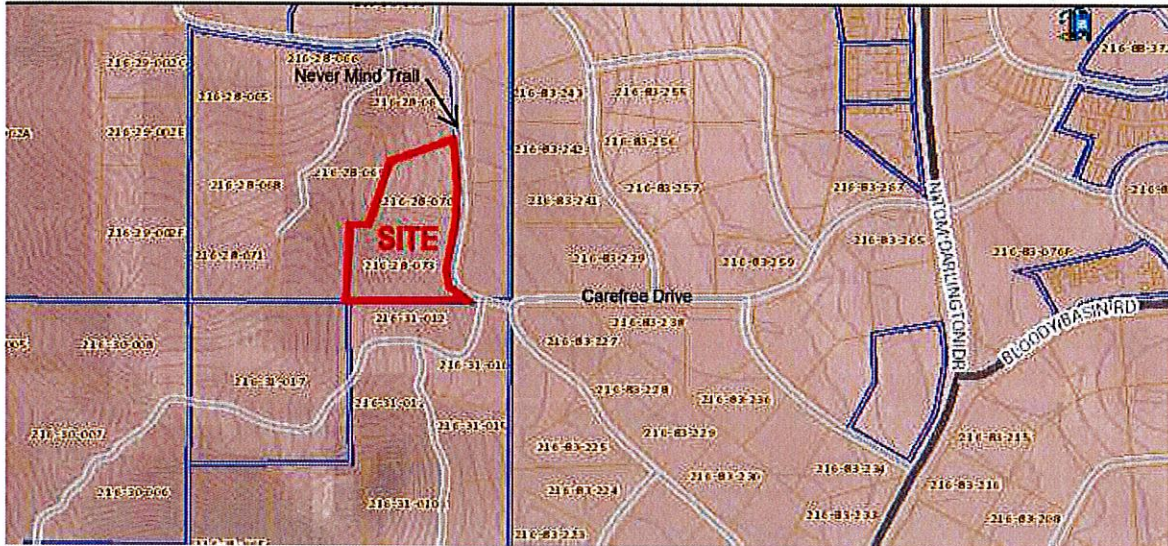
This notice is being sent to all property owners (per Maricopa County Assessor's office) within 500-feet of the subject properties. As part of the plat amendment process, Public Hearings will be held at the Carefree Town Council Center at 33 Easy Street (time and date to be noticed with additional letters). These meetings will provide an additional opportunity for public input relative to the proposed plat amendment.

If you have any questions at any time throughout the process, feel free to contact me at greg@iplanconsulting.com or 480-227-9850.

Sincerely,

Greg Davis
Planner

Vicinity Map



Site Exhibit





Notice of Development Nighthawk Lots 6 & 9

1/22/2022

Dear Neighbor,

This is a courtesy 2nd notice that follows an original notice sent on 9/30/2020 in an effort to keep our neighbors informed of our proposed development. The owners of lots 6 and 9 of the Nighthawk on Black Mountain subdivision have prepared an application to the Town of Carefree for a minor Plat Amendment. The proposal includes two amendments to two different easements on the Nighthawk approved plat which are described below. The Nighthawk on Black Mountain subdivision is located at the northwest corner of where Carefree Drive becomes Never Mind Trail.

Amendment 1: Remove a portion of the one-foot Vehicle Non-Access Easement (VNAE) across the frontages of lots 6 and 9 to permit a more direct access (i.e. driveway) from the public street (Never Mind Trail) to the future homes. This amendment will allow the driveways to be placed and designed in a manner more consistent with the Town's Mountainside Design Guidelines by eliminating several hundred feet of mountainside scarring and desert landscape disturbance. In addition to less desert disturbance and overall paving, this abandonment will result in the better protection of view corridors from adjacent properties due to the more direct and significantly shorter driveways for these two lots.

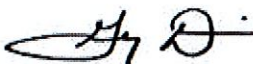
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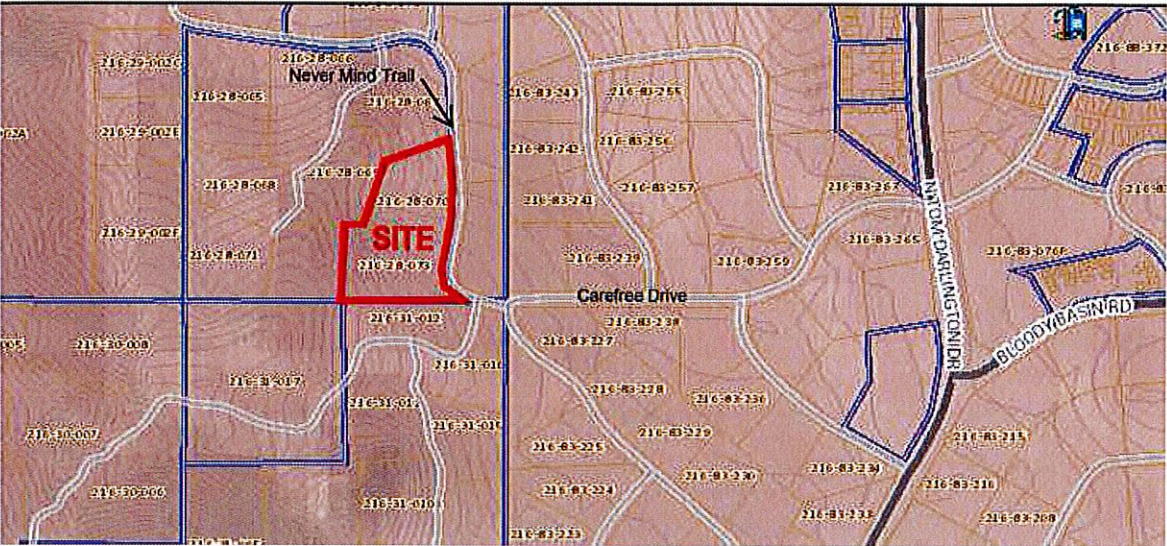
If you have any questions at any time throughout the process, feel free to contact me at greg@iplanconsulting.com or 480-227-9850.

Sincerely,



Greg Davis
Planner

Vicinity Map



Site Exhibit





October 2, 2020

Mr. Aaron Huber
4915 E. Baseline Road
Gilbert, Arizona 85234

Subject: Traffic Statement for the Residential Driveways Modification
Never Mind Trail northwest of Carefree Drive
Carefree, Arizona

This *Traffic Statement* letter has been completed in support of your request to the Town of Carefree to remove all or a portion of a Vehicle Non-Access Easement (VNAE) along lots 6 and 9 of the Nighthawk on Black Mountain subdivision; the subject lots being located on Never Mind Trail approximately 300 feet (Lot 9) and 500 feet (Lot 6) northwest of Carefree Drive.

REQUEST DESCRIPTION

It is my understanding a one-foot VNAE exists along all or a portion of the property frontage to Never Mind Trail of the subject properties. The original purpose of this VNAE was to align a single shared driveway access connecting to Never Mind Trail along the shared property line between the subject sites. Each parcel would then have a branch driveway connection from each future home to this shared driveway.

The purpose of the request will be to allow separate driveway connections to Never Mind Trail for each of the subject lots. According to the Pre-Application Narrative, these abandonments will allow the driveways for the lots to be placed in a manner more consistent with the Town's Mountainside Design Guidelines by shortening the driveways and eliminating several hundred feet of mountainside scarring and desert landscape disturbance.

SITE DESCRIPTION

In its existing condition, Never Mind Trail is a local road having an approximate 25 foot paved section, lacking striping, curb/gutter, and sidewalk. The posted speed limit of Never Mind Trail within the subdivision is 25 miles per hour. Between Piedra Grande Drive in the north to Carefree Drive in the south, Never Mind Trail has an approximate 7% slope (rising from the north to the south).

As shown in the attached *Figure 1*, the subject lots are located on Never Mind Trail northwest of Carefree Drive. The attached *Figure 2* depicts the potential locations of the proposed separate driveway connections to Never Mind Trail for Lot 6 and Lot 9. The lots are slightly elevated from Never Mind Trail; therefore, the proposed driveways will have a slight downgrade at their intersection with Never Mind Trail.

SIGHT DISTANCE

Sufficient sight distance at the proposed driveway locations is necessary to give drivers exiting the lots a clear view of oncoming traffic on Never Mind Trail. Sight triangles should be provided and maintained - the landscape and hardscape within the sight triangles must not obstruct the driver's view of the adjacent travel lanes.



Per AASHTO's A Policy on Geometric Design of Highways and Streets manual, 2018, the sight distance along the major road (Never Mind Trail) at the proposed potential driveway locations of lots 6 and 9 is determined by the following formula:

$$SD = 1.47 \times V_{\text{major}} \times t_g$$

Where:

V_{major} = design speed (=posted speed) on Never Mind Trail (25 miles per hour)

t_g = time gap. For crossing a two-lane roadway, the time gap for left-turns (looking right) is 7.5 seconds for passenger vehicles; the time gap for right-turns (looking left) is 6.5 seconds for passenger vehicles.

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CONCLUSIONS

As shown in Figure 2, at the potential driveway locations for Lot 6 and Lot 9, the available sight distance meets or exceeds the required sight distance depending on the exact final locations of the driveways. In addition, low speeds and very low traffic volumes on Never Mind Trail exist. Therefore, the removal of the VNAE to allow for individual driveways on Lot 6 and Lot 9 is not anticipated to cause detrimental impacts to Never Mind Trail and the surroundings. Proper intersection sight distance and sight triangles should be provided and maintained at the final driveway locations.

This *Traffic Statement* letter is based on a variety of assumptions related to the proposed potential locations of the driveways at the subject sites. If alternate plans are ultimately proposed, this analysis and the resulting conclusions may not remain valid. If you have any questions, please feel free to contact our office at 602-265-6155.

Sincerely,
Keith A. Winney, PE
United Civil Group



Attachments:

Figure 1: Aerial View and Vicinity

Figure 2: Sight Distance



Figure 1: Aerial View and Vicinity

LEGEND

- Potential Driveway Location
- Sight Distance
- Line of Sight



Figure 2: Sight Distance