



## Legislation Text

---

**File #:** 19-387, **Version:** 1

---

**TO:** Mayor Bien-Willner and Town Council Members

**FROM:** Jill Keimach, Town Manager  
Dawn-Marie Buckland, Deputy Town Manager  
Jeremy Knapp, Community Development Director  
Paul Michaud, Senior Planner

**DATE:** November 7, 2019

**DEPARTMENT:** Community Development

Paul Michaud, Senior Planner, 480-348-3574

**AGENDA TITLE:**

**Discussion of Possible Right-of-Way Abandonment of 5664 N Homestead Lane**

**REQUEST:**

The Town Community Development Department received an application request from the property owner, Nineteen Trust c/o Joshua Kesselman, of 5664 N Homestead Lane (Assessor Parcel No. 170-03-026C) to vacate (abandon) an approximate 1,331 square-foot strip of right-of-way (approximately 10' wide by 135' long) adjoining 5664 N Homestead Lane. Homestead Lane is designated a local road. The right-of-way width adjoining the subject property is 60 feet. The typical right-of-way width for a local road is 50 feet.

The property owner is seeking to abandon this right-of-way for the purpose of increasing the size of this property to two net acres in order to have four horses. Section 502 of the Zoning Ordinance restricts the number of horses to two per full net acre. The property is currently 1.98 net acres. The right-of-way abandonment would increase the property to slightly over two net acres. The application material is in Attachment A.

**BACKGROUND:**

Prior Discussion

The Town Council was given a brief overview of the requested right-of-way abandonment at an executive session on May 23, 2019. The Council gave staff direction that the property owner could proceed in making this application. There was some concern about the possibility of the property owner being able to split the site as the property size after right-of-way abandonment will be 2.01 acres (87,487 square feet). It should be noted that there are several development standards such as the lot configuration test (each lot accommodating a 165' diameter circle touching at the front 40' setback line on a lot with only 135' of lineal frontage) and each lot requiring roadway access (such as the requirement of a 50' wide private road right-of-way to access a rear lot) that will make it difficult to split the property without Council having to approve several development standard deviations. If

necessary, the property owner is agreeable to a stipulation restricting the ability to split the property. The draft resolution does not address this lot split matter. Direction to staff would be needed.

#### Subject Parcel

5664 N Homestead Lane is not in a recorded subdivision plat. It is zoned R-43 and presently 1.978 acres (86,156 square feet). The property was annexed into the Town in 1962. There was an existing home on the property prior to annexation. Not many building permits were issued on the property from the time of annexation until the home was demolished in 2013. A new home is under construction, with the building permit approved in 2018.

#### General Plan/Zoning:

The subject property has a General Plan designation of Low Density Residential (Up to one house per four acres) according to the Town's General Plan Land Use Map. The subject property is zoned R-43 Single Family Residential District, minimum one-acre lots.

#### Access/Homestead Lane

The requested abandonment will not negatively affect access or travel on Homestead Lane. The paved travel lanes of the existing roadway will not change, only the right-of-way line. Homestead Lane has a total right-of-way width of 60'. When the Town approved the adjoining Palo Verde Foothill Estates Unit 3 subdivision plat in 1978, it allowed for 20' deeded right-of-way dedication west of the centerline of Homestead Lane and 30' deeded right-of-way east of the centerline. Mr. Kesselman is requesting the same right-of-way treatment for his property that adjoins Palo Verde Foothill Estates Unit 3.

#### Right-of-Way/Roadway Design

The Town's General Plan suggests local streets have a minimum right-of-way of 50', with a minimum paved roadway of 22', with optional 2' wide ribbon curb on each side. The road pavement from the subject parcel north is 28' in width, with ribbon curb. As part of the single-family home building permit at 5664 N Homestead Lane, the owner is required to install ribbon curb along Homestead Lane adjoining his lot to match up with the existing curb north of the subject parcel. The roadway pavement south of the subject parcel is generally 20' in width with no curbing. The Homestead Lane pavement is skewed east and not centered in the middle of the right-of-way north of Harding Drive near the subject site. This skew in pavement results in a wider landscape area from back of curb to the adjoining residential property line for the properties along the west side of Homestead Lane.

#### Fire Protection:

Reduction of the right-of-way will not impact fire protection to the site. There is an existing fire hydrant at the southwest corner of Homestead Lane and Rancho Drive. This fire hydrant is 316' from the subject property which meets the 400' distance standard by the Town Code.

#### Utilities:

Based on the utility response letters, there are existing utilities west of the Homestead Lane pavement along the subject property. As these utilities are not proposed to be relocated, staff recommends conditioning approval that the property owner grant a perpetual public utility easement over the entire 10' wide abandonment area which he is amenable to granting. A public utility easement on private property is common. The Town Code generally requires each lot have an 8' wide public utility easement along the front yard.

Existing utilities include five above-ground utility boxes. There are several underground utilities lines for telephone, cable, natural gas, and electricity west of the Homestead Lane pavement along the subject property. Attachment B includes the acknowledgment of the request from all the known utility providers. The applicant is still awaiting responses about the request from Century Link, Cox, and SRP. As a perpetual utility easement over the entire abandonment area is recommended, even without the responses from the remaining utility companies their interest will be covered with a perpetual public utility easement. If necessary, any new utility lines will be located underground and the property owner will be responsible for all costs associated with any relocation or installation of new utilities related to the abandonment of right-of-way.

Electric (SRP) Phone (Century Link) Cable (Cox)	<i>Impact, Existing Lines/Equipment.</i> From site data electric lines/equipment are within part of the abandonment area. A perpetual public utility easement will allow these improvements to remain. These providers responded they received the request, but have yet to provide what utilities are within the area.
Water (Phoenix)	<i>Impact, Existing Lines.</i> A water meter box exists in the abandonment area. A perpetual public utility easement will allow these improvements to remain.
Natural Gas (SW Gas)	<i>Impact, Existing Utilities.</i> Gas lines are within the abandonment area. Southwest Gas requests a perpetual public utility easement.
Sewer/Septic (Phoenix/Maricopa County)	<i>No impact.</i> The new home will be on septic as at the time of permitting the new home the scope of work did not meet Town criteria to connection to sewer. Existing sewer lines are within Rancho Drive north of the subject site at a higher elevation than the property and approximately 1,000 feet south of the property within Homestead Lane.

Commensurate Value:

The appraisal proposes a commensurate value of \$22,000 (\$16.53/sf). This appraisal was based on the value of the land once incorporated into the subject property, not as an isolated strip of land. The appraisal is in Attachment C.

The requested abandonment may warrant consideration based on the following circumstances:

- 1) The requested abandonment will not directly impact the access to any of the adjacent properties other than the subject lot at 5664 N Homestead Lane.
- 2) The property owner is agreeable to pay a commensurate value for the right-of-way to be abandoned.
- 3) The property owner at his expense will install the required curbing adjoining his property per the active building permit approval.
- 4) The removal of the 10' of right-of-way width adjoining 5664 N Homestead Lane maintains the suggested 50' right-of-way width for a local road per the General Plan and matches the right-of-way condition north of 5664 N Homestead Lane.
- 5) A perpetual public utility easement over the abandonment area will be granted.
- 6) Abandonment would provide the Town certain benefits, including revenues obtained at the time of the transfer of ownership, a decrease in the amount of right-of-way the Town has to

maintain, and a decrease in the Town's liability exposure for the area to be abandoned.

Direction/Next Steps

Town Council action is tentatively set for December 5, 2019. Attachment E includes the draft resolution. Noticing to adjoining property owners and property posting will be completed prior to the hearing date. Council will have opportunity to approve, deny or continue the request at that meeting.

Should the abandonment request be approved, the next steps are administrative. These steps include the following:

- 1) The Town records the resolution approving the request.
- 2) The property owner submits for Town review and approval an Administrative Land Modification to combine the abandonment area with the existing subject property and show the applicable easements.
- 3) The Town reviews several documents, along with actions by the property owner, with recordation of such documents to secure conveyance as noted below:
  - a. The property owner provides the Town payment of commensurate value as approved by Town Council for the abandonment area.
  - b. The Town records by deed the subject abandonment area to the property owner after receiving commensurate value.
  - c. The Town records the signed Administrative Land Modification plat map.
  - d. A perpetual public utility easement is secured on the property along Homestead Lane.

**ATTACHMENT(S):**

Attachment A	Application
Attachment B	Utility Correspondence
Attachment C	Appraisal
Attachment D	Historical Aerials
Attachment E	Draft Resolution
Attachment F	Presentation