



MEMORANDUM

Date: November 20, 2019

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator 

Re: **November 5, 2019 Board of Supervisors Call to the Audience – Mr. Steven Washburn**

At the November 5, 2019 Board of Supervisors Meeting, Mr. Washburn addressed the Board at Call to the Audience to discuss certain interactions with Transportation staff. Deputy County Administrator Carmine DeBonis and I asked the Transportation Director to review Mr. Washburn's concerns and respond accordingly.

Enclosed is a November 19, 2019 memorandum from Transportation Director Ana Olivares providing history on this subject. I believe this response adequately addresses Mr. Washburn's concerns.

CHH/anc

Attachment

c: Carmine DeBonis, Jr., Deputy County Administrator for Public Works
Ana Olivares, Director, Transportation Department

DATE: November 19, 2019



FROM: Ana M. Olivares, P.E.
Director

TO: C.H. Huckelberry
County Administrator

SUBJECT: November 5, 2019 Board of Supervisor Meeting “Call to the Audience – Mr. Steven Washburn”

During “Call to the Audience” of the November 5, 2019 Board of Supervisors meeting, Mr. Steven Washburn spoke in regards to right of way (ROW) work for his home site at 5875 S. Camino de la Tierra and his concerns of the ROW permitting process. Subsequent to the BOS meeting, Mr. Washburn expressed his concerns in an email to the Clerk of the Board on November 8, 2109. In response to Mr. Washburn’s concerns, the Department of Transportation (DOT) has researched activities associated with the property at 5875 S. Camino de la Tierra. Area map is attached.

History:

Mr. Washburn started this project before DOT established a Standard Operating Procedure (SOP) on unimproved County ROW. There was some discussion regarding the level of improvements allowed in ROW. Mr. Washburn was originally told that he would have to improve the ROW to County standards. He did not want to do that and neither did the neighbors. He was therefore advised to work with neighbors before providing an alternative to the County standard. They were fine with the dirt road. Since this time, DOT has established an SOP that outlines the process for improvements.

The following is a chronology of activity at this property:

- Until 2018, this property was owned by Las Cien Casas, LLC.
- September 20, 2018, Annabelle Valenzuela, DOT, was contacted by Ms. Lanham, address 5900 S. Camino de La Tierra, and Mr. Curtis, address 5949 S. Camino de la Tierra, about grading within the ROW and questioned whether it was permitted. Both were most concerned by a change in drainage from the grading that is taking place in the ROW. Both Chris Poirier, DSD, and Ms. Valenzuela met with Ms. Lanham on separate occasions to explain zoning issues.
- September 26, 2018, Martin Landin, DOT, issued a stop work order for any activity within DOT ROW.
- September 27, 2018, Mr. Washburn submitted a ROW permit application, P18RW01645. That permit record remains in “Request for Corrections” status.

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- January 22, 2019, Site Work Permit P19BP00430 was submitted by Sonoran Design Group for grading in the ROW to provide a private driveway to the house. It was approved on 9/23/2019.
- September 24, 2019, ROW Permit P19RW01774 was submitted to cover the ROW work and was approved on 9/28/2019.
- October 31 - November 1, 2019 – Brian Crowninshield, DOT, inspected the ROW and met with Ms. Lanham. While inspecting the site and reassuring Ms. Lanham the drainage would not change, Mr. Washburn met them and showed a copy of the approved permit.

There have been difficult interactions between the two neighbors resulting in the Sheriff Department visits.

- November 5, 2019, per notes in Accela for grading inspection by Charles Escobar, “Inspector Daniel Lopez Jr. met with Mr. Washburn on Friday November 1, 2019 for pre-construction meeting. They discussed the grading of the driveway and Daniel mentioned to Mr. Washburn to not change the direction of the water flow. I met with Mr. Washburn yesterday November 4, 2019. Mr. Washburn mentioned to me he is all done with the grading of the driveway. Area is in good condition.”
- November 7, 2019 – Brian Crowninshield received three texts from Mr. Washburn. The first text was a picture of the Sheriff’s Department brochure “Information for Victims of Crime” The second text was “Reminder: Sandra Lanham is ordered by Pima County Sheriff to stay off the ROW permitted area (beyond the caution tape) until November 11th expiration.” The third text was, “Other neighbors present received the same order”.

DOT has developed a couple of Standard Operating Procedures (SOP) to assist with residential developments. Both are attached:

1. SOP 670.04 – Unimproved County ROW
2. SOP 330.02 – Private Residential Driveway Policy

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Summary

It appears Mr. Washburn first started working in the non-maintained County ROW without a permit. When it was brought to his attention that a permit was required, he complied. The permit was approved and the final work met the requirements of the permit. Per inspection reports, the graded driveway work did not change the existing flow of the water.

Mr. Washburn's primary concern related to interactions among neighboring property owners in regards to maintaining and modifying non-maintained ROW and a claim that the Pima County process "...pits neighbors, constituents, Citizens against each other...". The above referenced SOPs address this concern by providing clear direction in clarifying expectations and requirements for property owners.

Additionally, Mr. Washburn suggested that DOT should have conducted the work and used the Transportation Impact Fee to offset this cost. Pima County DOT does not have a mandate or resources to construct improvements in unmaintained ROW. Furthermore, impact fees are used to offset capacity increases due to new development on the regional arterial system and not to improve infrastructure needed to connect the development to the roadway network.

I will communicate this response to Mr. Washburn.

AMO:dg

Attachments

c: Carmine DeBonis, Jr., Deputy County Administrator
Yves Khawam, PhD, Assistant County Administrator

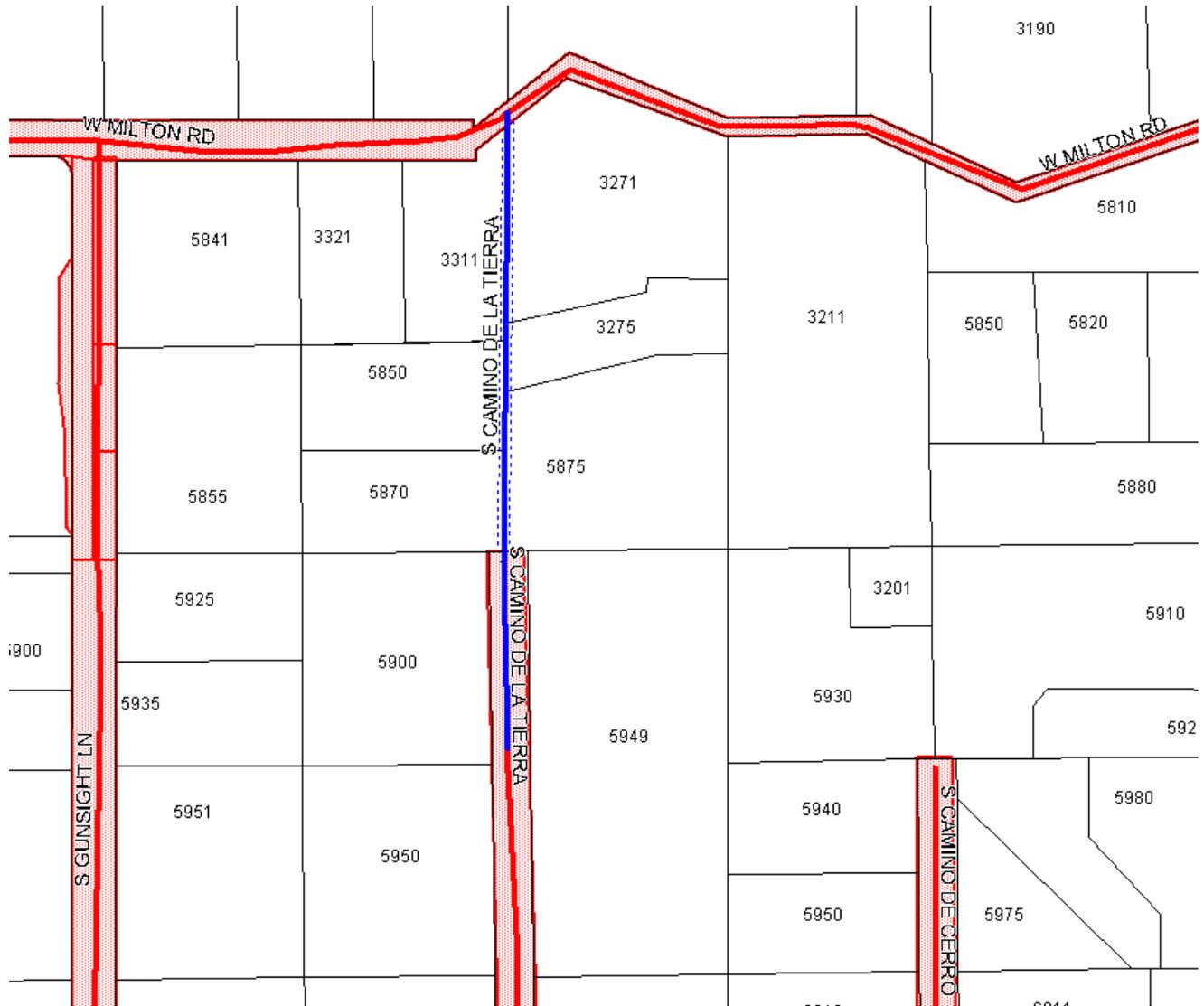
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Area Map:



- Road Rights;
- Blue Dashed Line – Parcel Access
- Blue Line – Non-Maintained
- Red Line – Paved Road County Maintained
- 5875 – Parcel Address



TRANSPORTATION

STANDARD OPERATING POLICY AND PROCEDURE

Subject: Unimproved County Right-of-Way	Number: 670.04	Page: 1 of 4	Effective Date: 09/26/19
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Approval: Ana M. Olivares, P.E., Director *Ana M. Olivares*

PURPOSE

To provide policy, procedure, and guidelines for construction and maintenance of unimproved County right-of-way.

DEFINITIONS

1. "Roadway" means that portion of a right-of-way used for vehicular travel.
2. "Road" means a long, narrow part of the roadway with a smoothed surface for travel by motor vehicles.
3. "Right-of-way" means a permission to use land for travel or pass through a width between boundary lines of every way that is open for use by means of motor vehicles or that provides travel between places by means of motor vehicles.
4. "County Highway" means a public road that is constructed and maintained by a county.
5. "County right-of-way" means a right-of-way for public roadway purposes established by a road proceeding, improvement district, or legal subdivision.
6. "Improved road, improved right-of-way" means a public road or right-of-way completed to standard County engineering road specifications.
7. "Unimproved road, unimproved right-of-way" means a public road or right-of-way not completed to standard County engineering road specifications.

REGULATIONS AND AUTHORITY

The following statutes and ordinances provide the basis for the Standard Operating Policy and Procedure:

- A.R.S. § 28-101 – *Definitions*.
- A.R.S. § 28-6701 – *Establishing, altering, or abandoning local highway*. Grants Board of Supervisors (BOS) authority to establish public roads in the county and other legal subdivisions.

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- A.R.S. § 28-6705 – *Pubic road and street maintenance*. Allows and sets criteria for the spending of public funds on public roads for maintenance.
- A.R.S. § 28-6706 – *Primitive roads*. Grants BOS authority to designate a roadway as primitive, signage requirement, and limits liability for damages and injuries from public use.
- A.R.S. § 11-822 – *Subdivision approval; platting regulations; violation; classification; easement vesting*. Approval of a plat does not necessarily constitute acceptance of any street into the County maintenance system.
- County Code 10.44 – *Construction in County Right-of-Way*. User responsibilities and permitting requirement.
- County Code 18.81 – *Grading Standards*. Establishes grading and permitting requirements.

GUIDELINES

These guidelines are intended to provide flexibility in the layout and construction of unimproved County right-of-way. Maintenance of improvements under these guidelines is not the responsibility of the County.

- Roadway width (travel surface plus shoulders) should be 22' but no less than 20'.
- The road surface should be smooth natural ground, free of any features or materials that would present a hazard to the motoring public or preclude or restrict use of the roadway.
- Rock products, gravel, and processed materials may be added to the base of the road to stabilize the riding surface.
- The use of asphaltic concrete (2" minimum thickness) as a road surface will require approval of a simple majority of the property owners along the full length of the street (i.e. between intersections or end of street to intersection) whether the full length of the street is to be paved or not.
- Surface treatment is to be applied across the full width of the riding surface and should ultimately provide for a consistent and continuous surface along the length of right-of-way.
- Roadway cuts should be 1.5:1 to 2:1 or flatter; fills 2:1 to 3:1 or flatter.
- Horizontal curve radius - 50-foot minimum.
- Vertical curves should be of sufficient length to prevent bottoming out or damage to the type of vehicle anticipated to use the roadway.
- Grading is to be compatible with the existing upstream and downstream drainage conditions, conform to the Grading Design Manual (Ordinance 1990-61), and not adversely impact surrounding properties.
- Cross slope should be 4% for pervious road surfaces (natural ground) and 2% for impervious surfaces (asphaltic concrete).
- The road should be centered as much as practicable within the right-of-way.
- Roadside ditches are to be outside of the vehicle travel way.

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- Improvements and materials shall be in conformance with the latest edition of the Pima County Association of Governments Standard Specifications for Public Improvements and Pima County Department of Transportation Supplemental Specifications.
<http://webcms.pima.gov/cms/one.aspx?portalId=169&pageId=63368>

MAINTENANCE

The County may expend public monies for maintenance purposes on two categories of roads: County Highways established pursuant to law and other public roads and streets that meet any of the following:

- (A) Laid out, opened and constructed in accordance with standard engineering road specifications adopted by the BOS at no cost to the County;
- (B) Laid out, opened and constructed in accordance with standard engineering road specifications adopted by the BOS at no cost to the County through the formation of an improvement district;
- (C) Completed pursuant to an approved recorded plat and written specifications made by the BOS. The County shall accept the street into the County maintenance system within one year of completion. (Note: Until such time that a platted street or road is completed in accordance with standard engineering road specifications and accepted by the County, no public monies may be spent for maintenance);
- (D) Laid out, constructed, and opened before June 13, 1990, and was not constructed in accordance with County standards.

Unimproved public right-of-way that is in use but has not been accepted into the County maintenance system, as well as, "paper" rights-of-way that have been granted to the public in an easement or other recorded document are not the maintenance responsibility of the County. However, if conditions exist within a public right-of-way that place a motorist in harm's way or precludes legal property access, the County Engineer should be contacted for direction on the appropriate course of action.

Maintenance requests for unimproved County right-of-way may be submitted to the County for consideration either by phone at (520) 724-6410 or on-line
<https://webcms.pima.gov/cms/One.aspx?portalId=169&pageId=56489>

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IMPROVEMENT DISTRICTS

Improvements to unimproved right-of-way may be accomplished through the establishment of an improvement district. For more information, contact the Improvement District Office, Pima County Finance and Risk Management Department, 33 N. Stone, Mailstop BAB6-407, Tucson, Arizona, 85701 or email ImprovementDistrict@pima.gov or call (520)724-8579.

PRIMITIVE ROAD SIGNAGE

Unimproved County right-of-way may be designated by the BOS as a primitive road should all of the following be met:

1. Not a state or county highway.
2. Opened before June 13, 1990.
3. Not constructed in accordance with County standards.

Primitive roads shall be signed as "PRIMITIVE ROAD, CAUTION, USE AT YOUR OWN RISK, THIS SURFACE IS NOT REGULARLY MAINTAINED".

PERMITTING PROCESS

A right-of-way use permit is required for the construction and maintenance of any unimproved or improved County right-of-way. The right-of-way permitting requirements and process may be found at <http://webcms.pima.gov/cms/One.aspx?portalId=169&pageId=54569> or call 724-9000.

When improving a road surface comprised of natural ground with asphalt, concrete, or other similar materials, the applicant is required to submit the following:

1. Names, addresses and contact information of the property owners along the street to receive the requested work.
2. Written approval of greater than 50% of the property owners fronting the segment of road to receive the improved surface.

The permit fee is 5.5% of the cost of construction or \$285 whichever is greater.



STANDARD OPERATING POLICY AND PROCEDURE

Subject: Private Residential Driveway Policy	Number: 330.02	Page: 1 of 1	Effective Date: 06/26/19
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Approval: Ana M. Olivares, Director 

Purpose:

The purpose of this policy is to document the historical practice, previously captured in the Pima County Roadway Design Manual, of the establishment and maintenance of private residential driveways within road right-of-way. Residential driveway provides access to a single-family residence, a maximum of four joint use properties, a duplex, or an apartment building containing five or fewer dwelling units.

Construction Requirements:

Private residential driveways are to comply with the driveway standards in Chapter 2, Elements of Design, Section 2.5 Driveways, of the Pima County Department of Transportation, *Roadway Design Manual*:

<http://webcms.pima.gov/cms/one.aspx?portalId=169&pageId=63368>

Anyone desiring to construct, reconstruct, or regrade a driveway within public right-of-way will be required to obtain a no cost right-of-way use permit:

<http://webcms.pima.gov/cms/one.aspx?portalId=169&pageId=54569>

Maintenance:

Maintenance and repair of driveways and all driveway infrastructure, including but not limited to pavement, aggregate base, culverts, and embankment slopes shall be the responsibility of the property owner.

Revised 7/10/19.