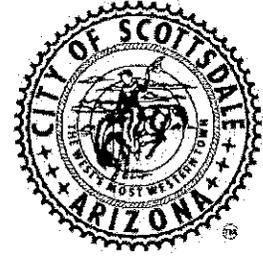


PLANNING COMMISSION REPORT



Meeting Date: October 19, 2016
General Plan Element: *Land Use*
General Plan Goal: *Coordinate Planning to Balance Infrastructure*

ACTION

Shatila Residence Abandonments 6-AB-2016

Request to consider the following:

1. A recommendation to City Council regarding a request by owner for approval to abandon the 33-foot General Land Office Patent Easement (except the easternmost 25 feet) located along the northern boundary, and the western 8 feet of the 33-foot General Land Office Patent Easement located along the eastern boundary, for the property located at 27990 N. 77th Street, with Single-family Residential, Environmentally Sensitive Lands, Foothills Overlay (R1-70 ESL FO) zoning.

Goal/Purpose of Request

The purpose of the abandonments is to relocate Natural Area Open Space (NAOS) within the subject GLOPE areas.

Key Items for Consideration

- Access not impacted or changed by the proposed abandonments.
- Conformance with the Transportation Master Plan and Local Area Infrastructure Plan.
- No public input received regarding the proposed abandonment.

OWNER

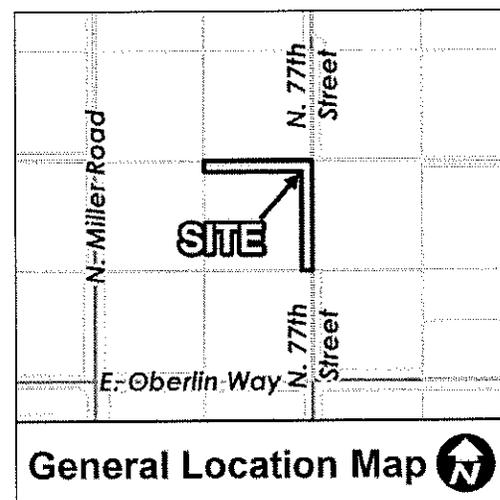
Shatila Family
480-818-1742

APPLICANT CONTACT

James Loftis
480-990-0545

LOCATION

27990 N 77th St



BACKGROUND

General Plan

The General Plan Land Use Element designates the property as Rural Neighborhoods. This category designation includes areas of relatively large lot single-family neighborhoods. Densities in Rural Neighborhoods are usually one house per acre (or more) of land. The designation and use will remain unchanged by this abandonment request.

Character Area Plan

The property is located within the Desert Foothills Character Area boundary. The Desert Foothills Character Area is designed to preserve the natural and visual qualities of the Sonoran Desert by using design qualities, building materials and construction techniques that are sensitive to the desert environment. Projects located with the Desert Foothills Character Area should preserve natural open space areas, scenic and vista corridors and support trail links and connections.

Zoning

The site is zoned Single Family Residential District, Environmentally Sensitive Lands, Foothills Overlay (R1-70 ESL FO). The R1-70/ESL/FO zoning district allows for single-family residential uses and has an Environmentally Sensitive Lands and Foothills Overlay zoning designation.

The subject parcel, 212-21-005, was annexed into the City of Scottsdale in October of 1983, through Ordinance 1611. The annexed parcel was first rezoned from the county designation to Single-Family Residential District (R1-43) through case 36-Z-1984. The parcel was then rezoned from Single-Family Residential District (R1-43) to Single-Family Residential District (R1-70) through case 113-Z-1984.

In 1991, the Environmentally Sensitive Lands (ESL) ordinance was applied to this site. In March 2003, the Foothills Overlay (FO) designation was added to this site's zoning classification. The Foothills Overlay (FO) zoning designation was in response to the Desert Foothills Character Area Plan approved by City Council in June 1999. The current ESL overly applied to this site went into effect in 2004.

Context

The subject property is generally located near the southwest corner of E. Dynamite Boulevard and N. Hayden Road. More specifically, the site is located at the southwest corner of N. 77th Street and E. Antioch Way. Please refer to context graphics attached.

The subject 33-foot General Land Office Patent (GLO) Easements are located along the northern and eastern boundary of parcel 212-21-005, and were dedicated in July of 1960, through patent serial number 1202007. The subject GLO roadway easements were reserved on the original patent deed to assure legal access. Currently the 33-foot GLO easements are unimproved, other than a dirt road; and the owner has constructed a corral-fenced area within the subject right-of-way area.

General Land Office Patent Easements (general information)

- Within the City of Scottsdale there are General Land Office (GLO) lots or parcels of various sizes created by the Federal Small Tract Act. This act was passed in 1938 and repealed in 1976.
- Most GLO lots were patented with 33 foot (or sometimes 50 foot) roadway and public utility easements typically "as near as practicable to the exterior boundaries."

- The city has viewed these patent roadway and utility easements as assured access at least until a local circulation plan is established.
- As GLO lots come in for development (i.e., lot splits, subdivisions or requesting building permits) staff requires city right-of-way dedications per city circulation plans. The city's transportation plan establishes a street system to replace the grid pattern created by the GLO easements.
- Any patent easements in excess of the current requirements to the circulation plans (including trails), roadway standards, and not required to insure access to any other lot, may be requested to be abandoned.
- On 1981, City Ordinance 1386 was adopted delegating the authority for the release of GLO easements to the Engineering Services Director.
- On March 2, 1999, the City Council repealed Ordinance 1386 and adopted Ordinance 3219 which requires the abandonment of the GLO patent roadway easements to go through the same public hearing process currently used for all rights-of-way, alleys, and roadway easements. The City Attorney's office has concluded that this process for consideration of GLO roadway abandonment satisfies legal requirements.
- On August 12, 2005, Arizona Revised Statute section 9-500.4 became effective. This section gives the local municipality the right to abandon GLO patent easements, and concurs with the city's position on abandonment of GLO patent easements.

Related Policies, References:

Zoning Cases: 36-Z-1984 & 113-Z-1984
Plan check for NAOS release and rededication: 533-16
2008 Scottsdale Transportation Master Plan
Area Local Area Infrastructure Plan (LAIP)

IMPACT ANALYSIS

Traffic/Trails

Access to the development will continue to be provided by N. 77th Street. The Transportation Master plan designates the N. 77th Street alignment as a "Local Collector, with a Rural ESL Character." The half-street width requirement for a Local Collector, with a Rural ESL Character street is twenty-five (25) feet.

The Transportation Department supports the subject abandonment with the dedication of a fee simple, 25-foot half-street of right-of-way along N. 77th Street. The owner of parcel 212-21-005 will dedicate a twenty-five (25) foot half-street of right-of-way, along the N. 77th street alignment, and an eight (8) foot Public Utility Easement along the same boundary.

The Transportation Master Plan's Trails Master Plan does not show a planned trail along N. 77th Street alignment at this location (See Attachment #6).

Emergency/Municipal Services and Utilities

All existing emergency and municipal access will be provided to the properties surrounding the abandonment area and maintained through existing dedicated public right-of-way along N. 77th Street. No impacts are anticipated.

Public Utilities

The public utilities have been notified of the applicant’s request. Century Link and APS have requested the reservation and dedication of an 8-foot Public Utility Easement along N. 77th Street.

Natural Area Open Space

Currently, the NAOS easement dedicated in 1995 has been disturbed with fencing and grading. The applicant can relocate the NAOS easement to an appropriate location once the GLO easements have been abandoned.

Community Involvement

The applicant conducted a mailing to property owners within 750 feet of the proposed roadway easement abandonment. Staff has not received any correspondence expressing concerns in regard to the proposed abandonment.

Community Impact

No properties will be denied access as a result of this abandonment, and provisions for public utilities are provided.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach:

Staff recommends that the Planning Commission make a recommendation to City Council for approval to abandon the 33-foot General Land Office Patent Easement (except the easternmost 25 feet) located along the northern boundary, and the western 8 feet of the 33-foot General Land Office Patent Easement located along the eastern boundary, finding that the proposal is consistent with and conforms to the adopted General Plan, subject to the following:

1. The property owner removes all existing structures from the right-of-way.
2. The property owner removes all existing structures in the NAOS easement, or completes the release and rededication plan review in at the City.
3. The property owner dedicates twenty-five (25) feet of fee simple right-of-way along N. 77th Street.
4. The property owner reserves and dedicates an 8 foot Public Utility Easement adjacent to N. 77th Street.

RESPONSIBLE DEPARTMENTS

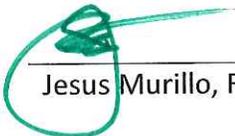
Planning and Development Services

Current Planning Services

STAFF CONTACT

Jesus Murillo
Senior Planner
480-312-7849
E-mail: jmurillo@scottsdaleAZ.gov

APPROVED BY



Jesus Murillo, Report Author

Date 10-6-16



Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

Date 10/6/2016

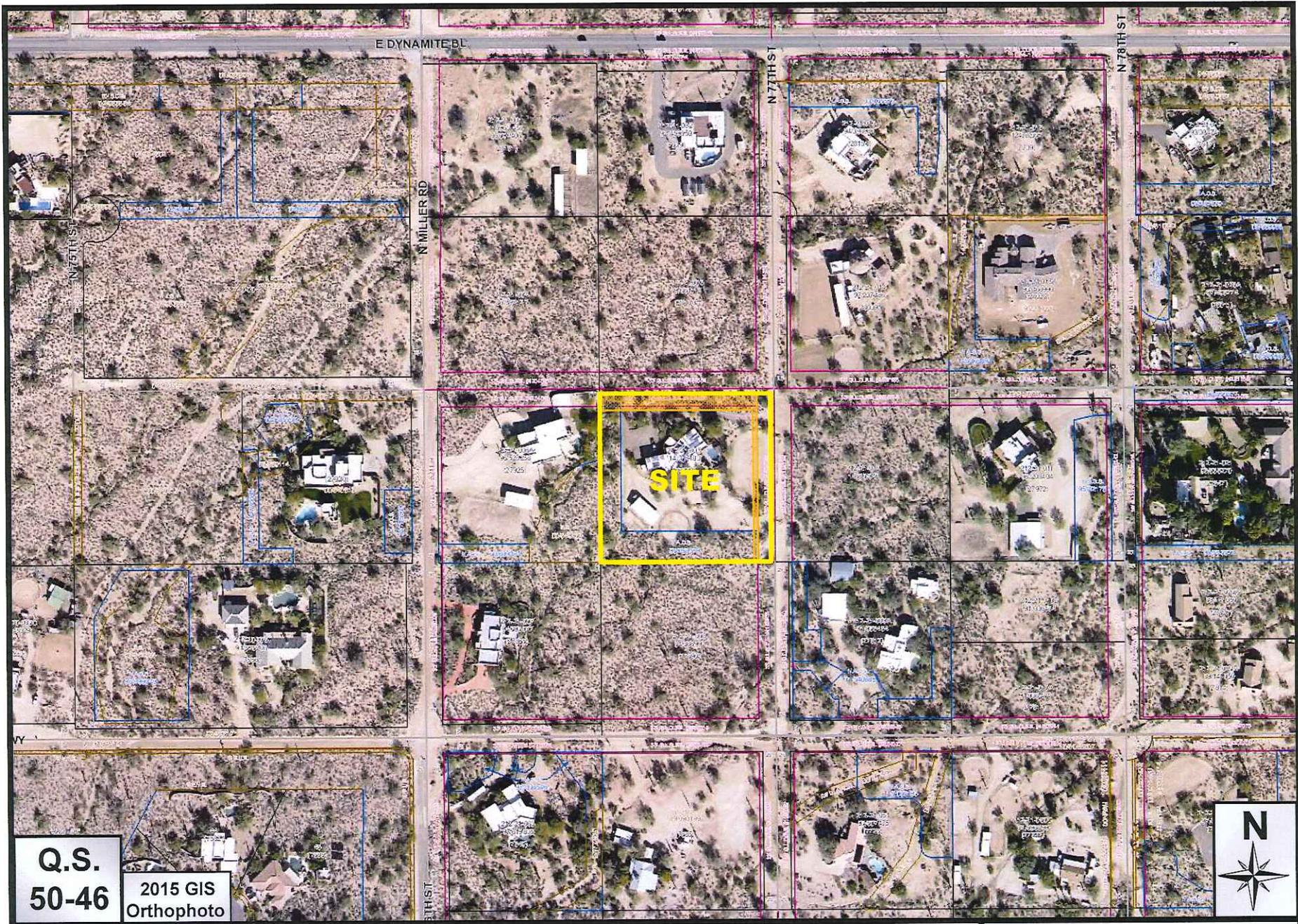


Randy Grant, Director
Planning and Development Services
480-312-2664, rgrant@scottsdaleaz.gov

Date 10/11/16

ATTACHMENTS

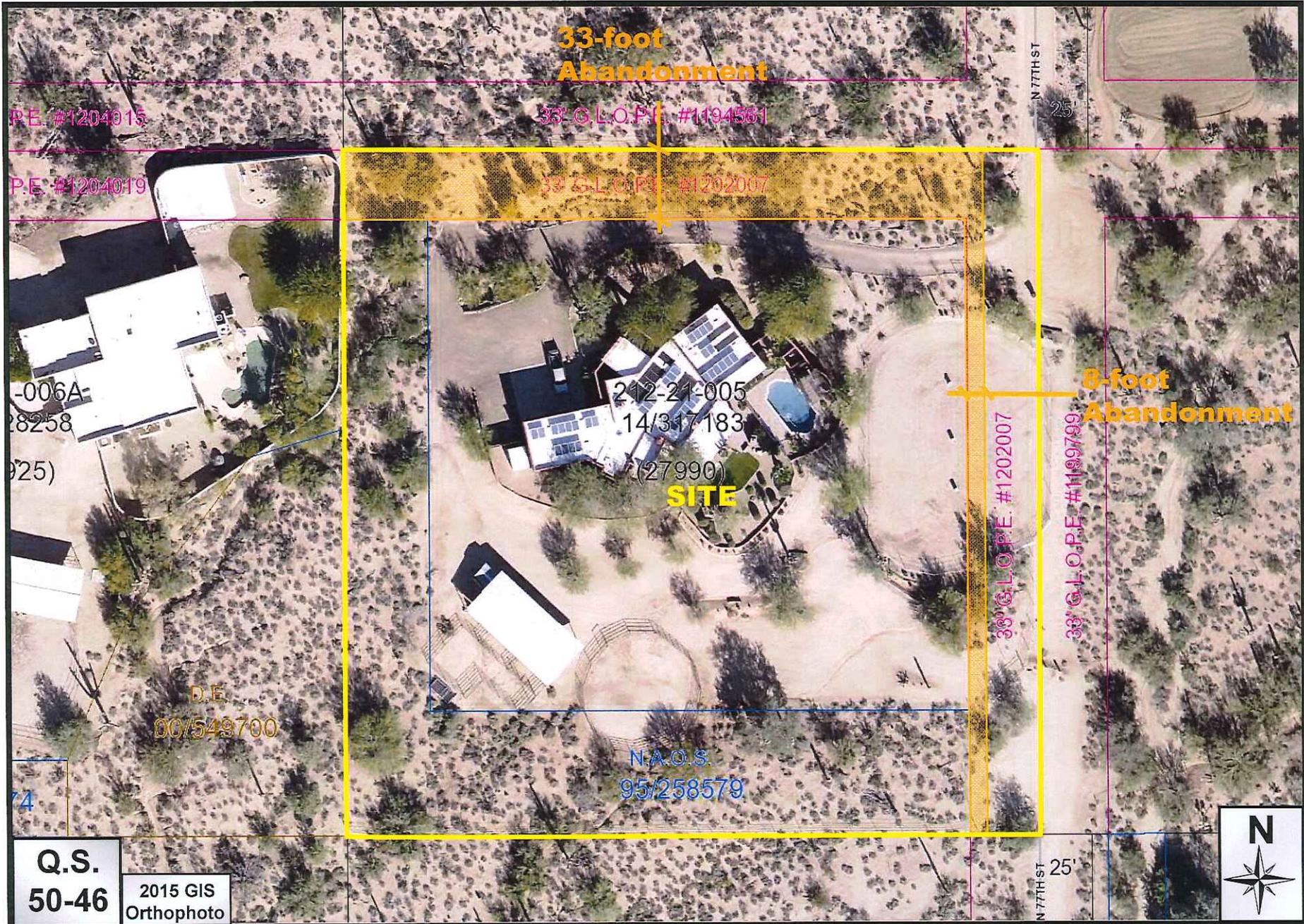
1. Context Aerial
2. Detail Aerial
3. Applicant's Narrative
4. Dimensioned Aerial
5. Legal Description and Graphic Abandonment Area
6. Local Area Infrastructure Plan (LAIP)
7. GLOPE Patent No. 1202007
8. City Notification Map



Shatila Residence

ATTACHMENT #1

6-AB-2016



Q.S.
50-46

2015 GIS
Orthophoto

Shatila Residence

ATTACHMENT #2

6-AB-2016

NARRATIVE

27990 North 77th Street, Scottsdale, Arizona

Narrative:

Request:

The applicant is requesting the abandonment of the GLO easements crossing their personal property. GLO easements were added to the land by the federal government many years ago, long before roads or any developments were planned. These easements were put in place until such time they can be either used for utility and/or access ways or replaced by newer utility easements and/or right-of-ways that reflect the contemporary use of the land. The latter is the case with this submittal. The applicant is asking for the abandonment of the GLO easements, all except the east 25 feet of the property. The east 25 feet of the property will be retained for a GLO Easement and in addition the owner/applicant will dedicate the same east 25 feet for a half street for 77th Street. In addition, the owner/applicant is providing an 8 foot Public Utility Easement, PUE, along the west side of the future dedication.

The existing plans on the property or surrounding properties do not need the GLO easements, especially along the north side of their property. The applicant has other uses for the property that are being restricted by the GLO easements. The applicant's use is the refinement of the equestrian set-up on the subject site. A site plan showing the easements to be abandoned is included for your convenience.

Location:

The property is located at 27990 North 77th Street, Scottsdale, AZ. The location is also described as Maricopa County Assessor parcel #212-21-005. The single family residential lot is zoned R1-70 ESL FO, located in the City of Scottsdale's "Lower Desert".

Summary and Consideration:

The abandonment of the GLO easements will not restrict the existing or future access on 77th Street or the utilities in the area. The applicant is giving the customary east 25 feet of the subject property for the 77th Street half-street right-of-way, plus the addition of an 8 foot Public Utility Easement. This 25 feet will be used for a "Local Collector with Rural /ESL Character" that will result in a half street of right-of-way" as stated in the City of Scottsdale's review of this application. This dedication, along with the PUE will provide the necessary space for roadways and utilities. The utility companies have been notified and each company has given their clearance to abandon these easements as requested as part of this application.

The Natural Area Open Space (NAOS) easements are affected by this transition. These spaces have been redrawn and the net effect is there is an equal area before and after the change. In addition, any enclosed structures or sheds that may have been in the future NAOS, ROW or PUE will be removed.

The applicant is offering as consideration \$0.20/SF for the abandoned GLO easement(s). The consideration is calculated at \$0.20/SF x 12,460 SF, or \$2,420. The owner of the property is also providing an easement to be dedicated for 77th Street. The surveyor calculated this area as 8,261 SF.

EXHIBIT "A"

**LEGAL DESCRIPTION
FOR
GLO PATENT EASEMENT ABANDONMENT**

The GLO Patent Easement recorded in Docket 3343, Page 141 records of Maricopa County Recorder over the North 33.00 feet and the East 33.00 feet of the Northeast quarter of the Southwest quarter of the Northwest quarter of the Northeast quarter of Section 35, Township 5 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

Except the East 25.00 feet, thereof



**EVERETTALAN
{ GROUP }**

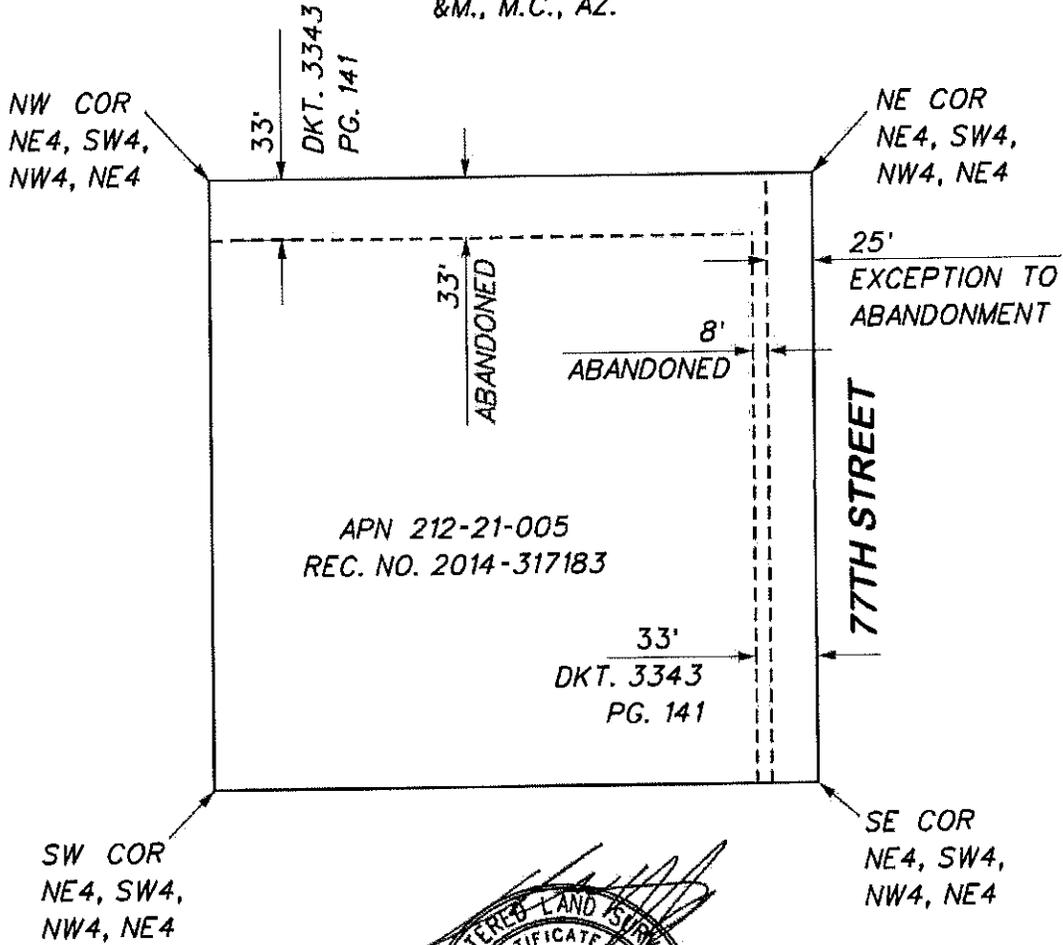
6300 E. Cave Creek Road, Ste. 202 □ Cave Creek, Arizona 85331
Phone 480.990.0545 □ Fax 480.994.9097 □ www.EverettAlanGroup.com
Job No. 151213

ATTACHMENT #5

EXHIBIT "B"

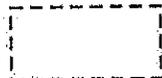
GLO PATENT EASEMENT ABANDONMENT OF

NE4, SW4, NW4, NE4, SEC. 35, T.5N., R.4E., OF THE G.&S.R.B.
&M., M.C., AZ.



EXP. 9-30-2019

INDICATES GLO PATENT
EASEMENT ABANDONED



EVERETTALAN
{ GROUP }

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

JOB NO.
151213

EXHIBIT "A"

***LEGAL DESCRIPTION
FOR
PUBLIC UTILITY EASEMENT DEDICATION***

A PUBLIC UTILITY EASEMENT LYING WITHIN THE WEST 8 FEET OF THE EAST 33 FEET OF THAT CERTAIN PARCEL RECORDED IN DOCUMENT 2015-091990 DESCRIBED AS THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.



**EVERETTALAN
{ GROUP }**

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Job No. 151213

EXHIBIT "B"

PUBLIC UTILITY EASEMENT DEDICATION
OF

NE4, SW4, NW4, NE4, SEC. 35, T.5N., R.4E., OF THE G.&S.R.B.
&M., M.C., AZ.

NW COR
NE4, SW4,
NW4, NE4

NE COR
NE4, SW4,
NW4, NE4

8' P.U.E.
DEDICATED

APN 212-21-005
REC. NO. 2014-317183

77TH STREET

33.00

25.00

SW COR
NE4, SW4,
NW4, NE4

SE COR
NE4, SW4,
NW4, NE4



EXP. 9-30-2019

1" = 100'

EVERETTALAN
{ GROUP }

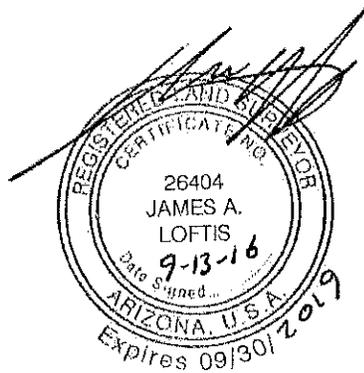
6300 East Cave Creek Road, Suite 202
Cave Creek, Arizona 85331
Phone 480.990.0545 Fax 480.994.9097
www.EverettAlanGroup.com

JOB NO.
151213

EXHIBIT "A"

***LEGAL DESCRIPTION
FOR
RIGHT-OF-WAY DEDICATION***

A RIGHT-OF-WAY IN FEE DEDICATION OVER THE EAST 25 FEET OF THAT CERTAIN PARCEL RECORDED IN DOCUMENT 2015-091990 DESCRIBED AS THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.



**EVERETTALAN
{ GROUP }**

6300 E. Cave Creek Road, Ste. 202 ☐ Cave Creek, Arizona 85331
Phone 480.990.0545 ☐ Fax 480.994.9097 ☐ www.EverettAlanGroup.com
Job No. 151213

EXHIBIT "B"

RIGHT-OF-WAY DEDICATION
OF

NE4, SW4, NW4, NE4, SEC. 35, T.5N., R.4E., OF THE G.&S.R.B.
&M., M.C., AZ.

NW COR
NE4, SW4,
NW4, NE4

NE COR
NE4, SW4,
NW4, NE4

25' R-O-W
DEDICATION

APN 212-21-005
REC. NO. 2014-317183

77TH STREET

SW COR
NE4, SW4,
NW4, NE4

SE COR
NE4, SW4,
NW4, NE4



EXP. 9-30-2019

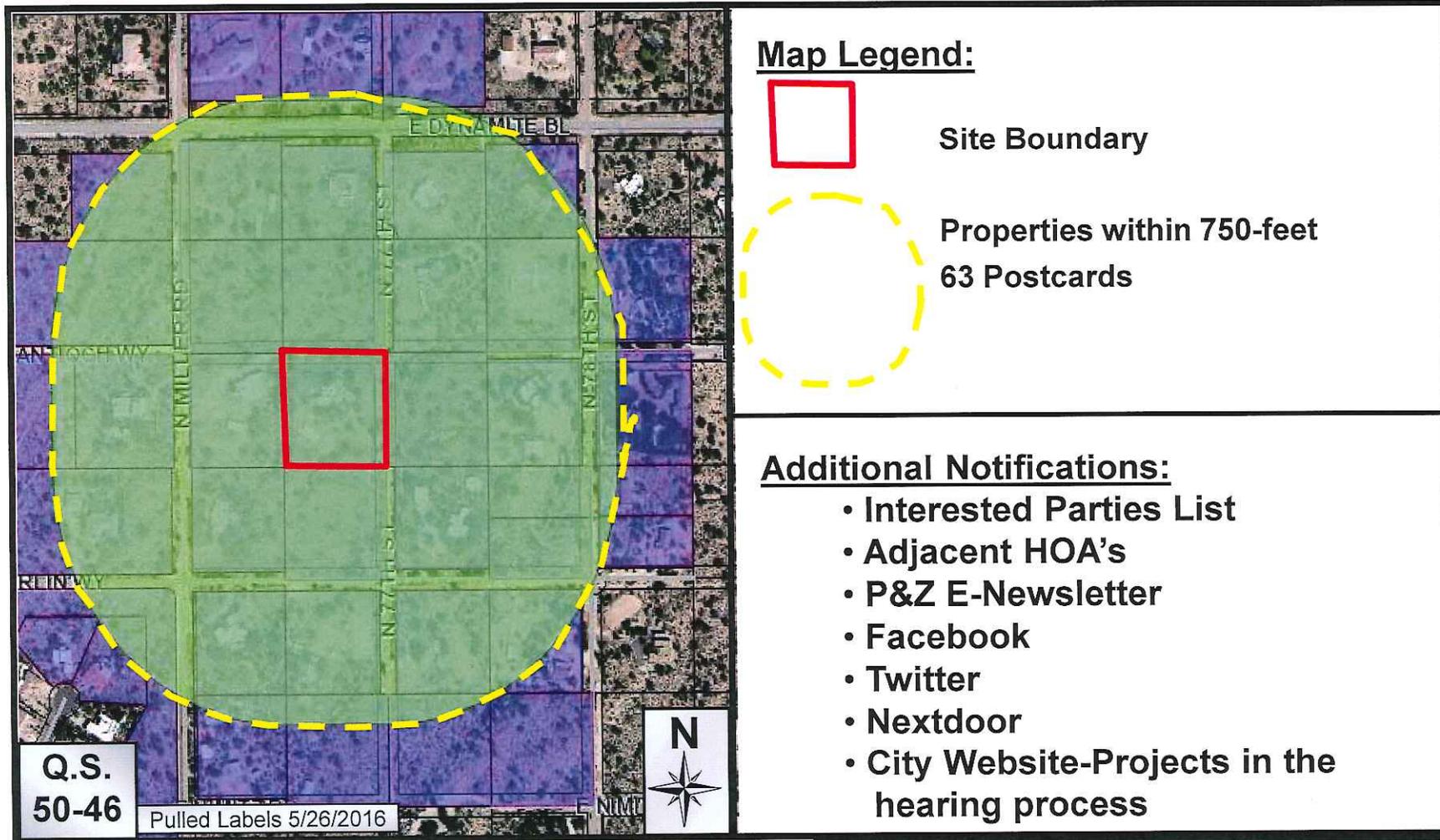
1" = 100'

EVERETTALAN
{ GROUP }

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JOB NO.
151213

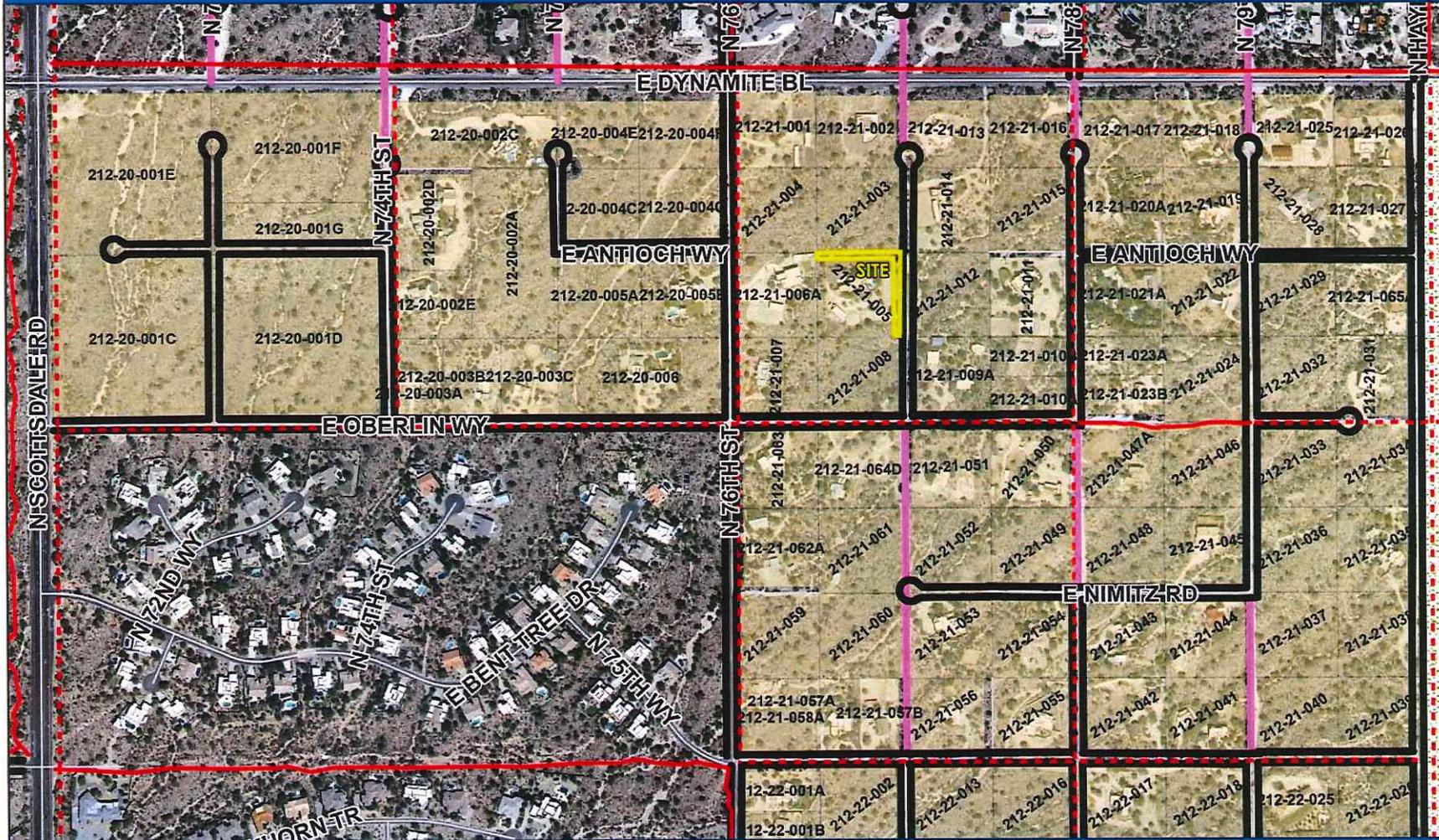
City Notifications – Mailing List Selection Map



Shatila Abandonment

Local Area Infrastructure Plan

Desert Foothills Area 9A



Parcels	City Boundary	Water/Sewer ROW
Preserve	Existing Trail	
Proposed Street	Planned Trail	

Notice: This document is provided for general information purposes only. The City of Scottsdale does not warrant its accuracy, completeness, or suitability for any particular purpose. It should not be relied upon without field verification.

Date: 4/26/2012

Shatila Residence

ATTACHMENT #6

6-AB-2016

11-28-58
STATE OF ARIZONA, County of Maricopa, ss.
I do hereby certify that the within instrument was filed and recorded in
at
1960 JUL 11 2 45 (141) 3343 PAGE 141
Records of Maricopa County, Arizona.
WITNESS my hand and official seal the day and year first above written
N. O'NEILL
By *Charles N. Keyler* Deputy.
4540 *Charles St.*
Phoenix, Pa.
Arizona 012021

The United States of America,

To all whom these presents shall come, Greeting:

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

1/4 Sec. 10, T. 1 N., R. 1 E.,
S. 10, E. 1/4, S. 10, E. 1/4.

The area described contains 2.50 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said claimant and to the heirs of the said claimant the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States. Excepting and reserving, also, to the United States all oil, gas and other mineral deposits, in the land so patented, together with the right to prospect for, mine, and remove the same according to the provisions of said Act of June 1, 1938. This patent is subject to a right-of-way not exceeding 5 feet in width, for roadway and public utilities purposes, to be located along the north and east boundaries of said land.

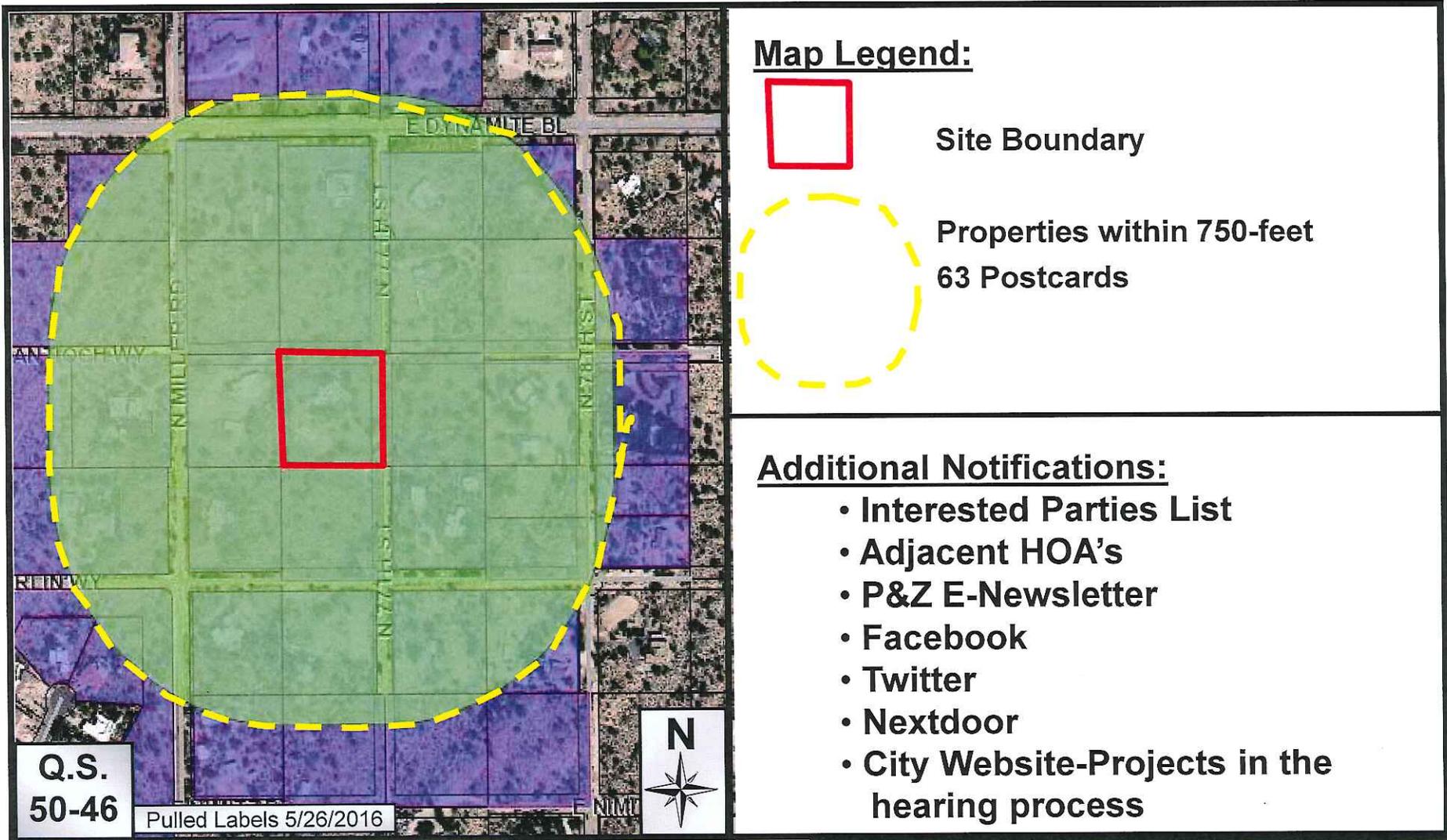
IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

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

For the Director, Bureau of Land Management.
By *Ruth W. Talley*
Acting Chief, Patents Section.

Patent Number 1202007

City Notifications – Mailing List Selection Map



Shatila Abandonment

6-AB-2016

ATTACHMENT #8