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Approved Minutes
Approved Reports**

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Planning Commission: 06/13/2018

City Council: 10/16/2018

Case History: 729-PA-2016

4-AB-2018

Sereno Canyon

PLANNING COMMISSION REPORT



Meeting Date	August 22, 2018
General Plan Element	<i>Land Use</i>
General Plan Goal	<i>Coordinate Planning to Balance Infrastructure</i>

ACTION

Portions of N 71st Street Abandonment 11-AB-2017

Request to consider the following:

- 1 A recommendation to City Council regarding a request by owner to abandon the two 33-foot General Land Office Patent Easements (GLOPE) and the underlying 20 feet of fee-simple street right-of-way located along N 71st Street, between parcels 216-67-191 and 216-67-162, and the southern 13 feet of GLOPE located along the northern boundary of the two parcels (N Lowden Drive), with Single-family Residential Environmentally Sensitive Lands, Foothills Overlay (R1-70/ESL/FO) zoning, located at 7107 E Lowden Drive, consistent with the city's Transportation Master Plan and the Foothills Overlay Local Area Infrastructure Plan

Goal/Purpose of Request

This request is to bring the site closer into conformance with the zoning development standards

Key Items for Consideration

- The Transportation Master Plan's Local Area Master Planned Streets (LAIPS) plan does not require N 71st Street as a north/south connection between E Lowden Drive and E Wildcat Drive
- Access to surrounding properties not impacted by this proposed abandonment
- All utility companies were notified of the abandonment request – a fee-simple quarter cul-de-sac will be dedicated in the northeast corner of parcel 216-67-162 to accommodate for an existing utility box and street turn-around
- Natural Area Open Space (NAOS) violation will be corrected prior to the recordation of the abandonment resolution
- The proposed abandonment will bring portions of the property further into zoning setback conformance, yet will still require wall location improvements to be brought into conformance with zoning setbacks

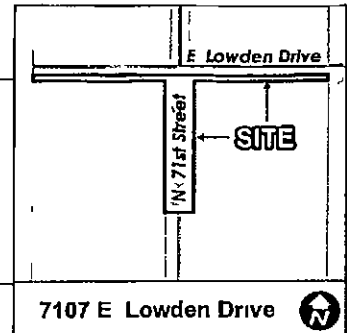
OWNER

Donald and Rosemarie Hagerman
480-595-7617

David and Sheryl Werner
480-585-3100

APPLICANT CONTACT

Josh G Funkhouser, Esq
Davidson and Kaffer
480-585-3100



LOCATION

7107 E Lowden (including the parcel immediately adjacent to the west)

7107 E Lowden Drive 

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 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 within the Desert Foothills Character Area should preserve natural open space areas, scenic and vista corridors, and support trail links and connections.

Zoning

The subject sites are zoned Single-Family Residential, 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 parcels, 216-67-191 and 216-67-162E, were annexed into the City of Scottsdale in December 1983. The annexed parcels were rezoned from the county designation to Single-Family Residential, Hillside District (R1-43/HD/HC) through case 36-ZN-1984. The then rezoned from the Single-Family Residential, Hillside District (R1-43/HD/HC) to Single-Family Residential, Hillside District (R1-70/HD/HC) through case 113-ZN-1984.

In 1991, the Environmentally Sensitive Lands (ESL) ordinance was adopted as an amendment to the Hillside District overlay. Later, in March 2003, the Foothills Overlay designation was added to this site's zoning classification in response to the Desert Foothills Character Area Plan approved by City Council in June 1999. The current ESL overlay took effect in 2004. The ESL ordinance categorized these parcels within their most current zoning: Residential Single-Family, Environmentally Sensitive Lands, Foothills Overlay (R1-70/ESL/OF).

Context

The subject properties are generally located at the southwest corner of E Lone Mountain Road and N Scottsdale Road. More specifically, the parcels straddle the N 71st Street alignment, south of E Lowden Road. Please refer to context graphics attached.

The subject 13 feet of General Land Office Patent Easements (GLO) are located along the northern boundaries of 216-67-191 and 216-67-162, and the subject 66 feet of GLO, and 20 feet of fee-simple right-of-way, are located between the same two parcels. The subject GLO easements were dedicated through patent serial numbers 1206489 and 1197966, and the fee-simple right-of-way through docket number 1996-558911. The subject GLO roadway easements were reserved on the original patent deed to assure legal access. Currently the majority of the GLO easements and fee-simple right-of-way are unimproved, containing minimal improvements of asphalt and grading.

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

2008 Scottsdale Transportation Master Plan

Desert Foothills Area Local Area Infrastructure Plan (LAIP)

APPLICANTS PROPOSAL

Development Information

One of the owners, owner of parcel 7107 E Lowden Drive, received a compliance notice for creating improvements within the existing Natural Area Open Space (NAOS). With the review of that compliance notice, fencing was discovered to have been constructed within the subject abandonment area. The review also identified that the parcel contains an accessory structure that was approved without the knowledge, or consideration, of the GLOPE. The owner has since removed that accessory structure. The proposed abandonment will bring the subject parcel closer into conformance, but the owner will be required to relocate fences, or replace existing fences with corrals, to meet the ordinance requirements for wall locations.

IMPACT ANALYSIS

Land Use

The proposed land use for this subject site is in conformance with the General Plan designated land use for this site.

Traffic/Trails

The Transportation Master Plan's Local Area Infrastructure Planned Streets (LAIPS) plan does not show a planned/existing N 71st Street, north/south, right-of-way connection between E Lowden Drive and E Montgomery Road. The LAIPS plan does not have required right-of-way or public trail planned along N 71st Street, and therefore does not require N 71st Street as a planned street connection. This request is consistent with the City's roadway requirement for a Local Collector, with a Rural ESL Character and trail. The Transportation Department supports the abandonment of N 71st Street as proposed in this request.

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 E Lowden Drive. No impacts are anticipated.

Public Utilities

The public utilities have been notified of the applicant's request. The utility companies have indicated that there are no conflicts with the proposed abandonment and support the abandonment. A waterline easement will be reserved, and dedicated, along the east side of the N 71st Street abandonment area, and a public utility easement along E Lowden Drive.

Open space

The owner of parcel 216-67-162 will be required to submit an application for NAOS revegetation (NAOS Enhancement Application) and/or a release and rededication of the NAOS easement. In either case, the submittal will require a NAOS revegetation plan to come into compliance with the ordinance in regards to the existing NAOS disturbance violation.

The owner of parcel 216-67-191 will be required to dedicate NAOS at the time of permitting and development of the subject site.

Community Involvement

The applicant conducted a mailing to property owners located within 750 feet of the proposed roadway easement abandonment. The City staff has also conducted a mailing to property owners within 750 feet of the proposed roadway easement abandonment. Staff was first made aware of NAOS disturbances and walls located within the right-of-way areas from a neighbor's complaint.

City staff has received phone calls from other concerned GLOPE property owners. The concerned owners are considering the abandonment process for the GLOPE easements located on their property. Neither the owners, nor owner's representatives, have provided written comments in regards to the subject abandonment application.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

Staff recommends that the Planning Commission make a recommendation to City Council for approval to abandon the two 33-foot General Land Office Patent Easements (GLOPE), and the underlying 20 feet of fee-simple right-of-way, located along N 71st Street, between parcels 216-67-191 and 216-67-162, and the southern 13 feet of GLOPE located along the northern boundary of the two parcels (N Lowden Drive), finding that the proposal is consistent with and conforms to the adopted General Plan, subject to the following:

- 1 The property owner of parcel 216-67-191 will dedicate twenty (20 ft) feet of fee-simple right-of-way along the subject property's E Lowden Road frontage.
- 2 The property owner of parcel 216-67-191 will reserve and dedicate an eight-foot (8-ft) public utility easement along the subject property's E Lowden Road frontage.
- 3 The property owner of parcel 216-67-191 shall pay to the City an amount to be determined as compensation to the City for the abandonment of right-of-way.
- 4 The property owner of parcel 216-67-162 will reserve and dedicate a twenty-foot (20-ft) waterline easement along the subject property's N 71st Street alignment.
- 5 The property owner of parcel 216-67-162 will reserve and dedicate an eight-foot (8-ft) public utility easement along the subject property's E Lowden Road frontage.
- 6 The property owner of parcel 216-67-162 will dedicate a quarter cul-de-sac in the northeastern corner of the subject property.
- 7 The property owner of parcel 216-67-162 will be required to revegetate the disturbed NAOS areas back to a natural state to the satisfaction of the Ordinance.
- 8 The property owner of parcel 216-67-162 will remove any walls, fences, or hedges that do not meet the requirements of the underlying zoning district, ESL, and FO.
- 9 The property owner of parcel 216-67-162 shall pay to the City an amount to be determined as compensation to the City for the abandonment of right-of-way.

RESPONSIBLE DEPARTMENTS

Planning and Development Services

Current Planning Services

STAFF CONTACTS

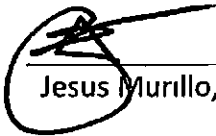
Jesus Murillo

Senior Planner

480-312-7849

E-mail jmurillo@scottsdaleAZ.gov

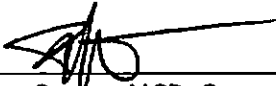
APPROVED BY



Jesus Murillo, Report Author

8/16/18

Date

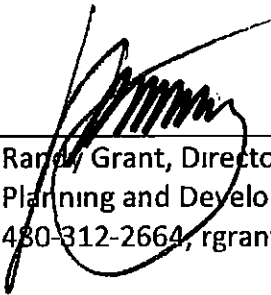


Tim Curtis, AICP, Current Planning Director

480-312-4210, tcurtis@scottsdaleaz.gov

8/16/2018

Date



Randy Grant, Director

Planning and Development Services

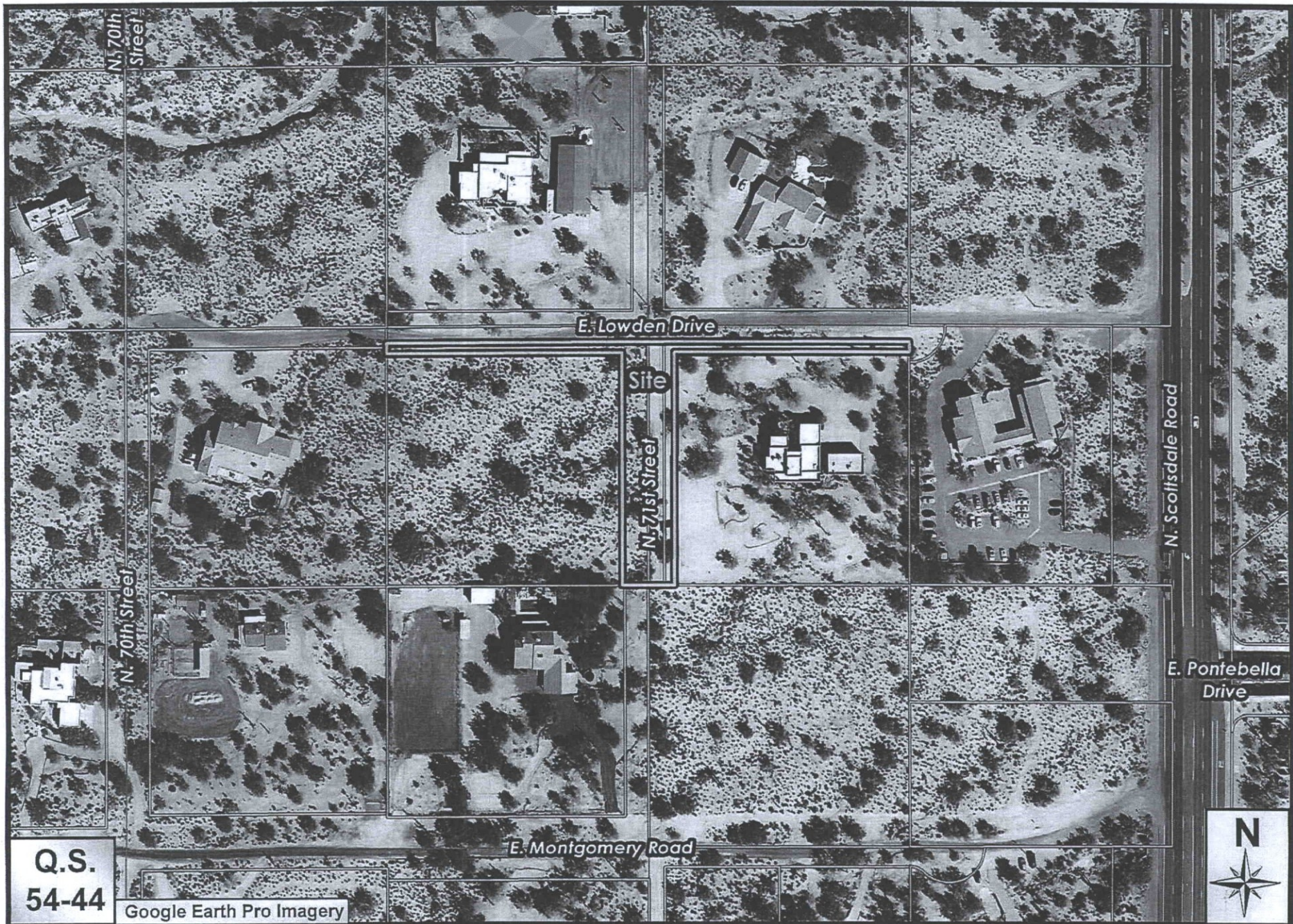
480-312-2664, rgrant@scottsdaleaz.gov

8/16/18

Date

ATTACHMENTS

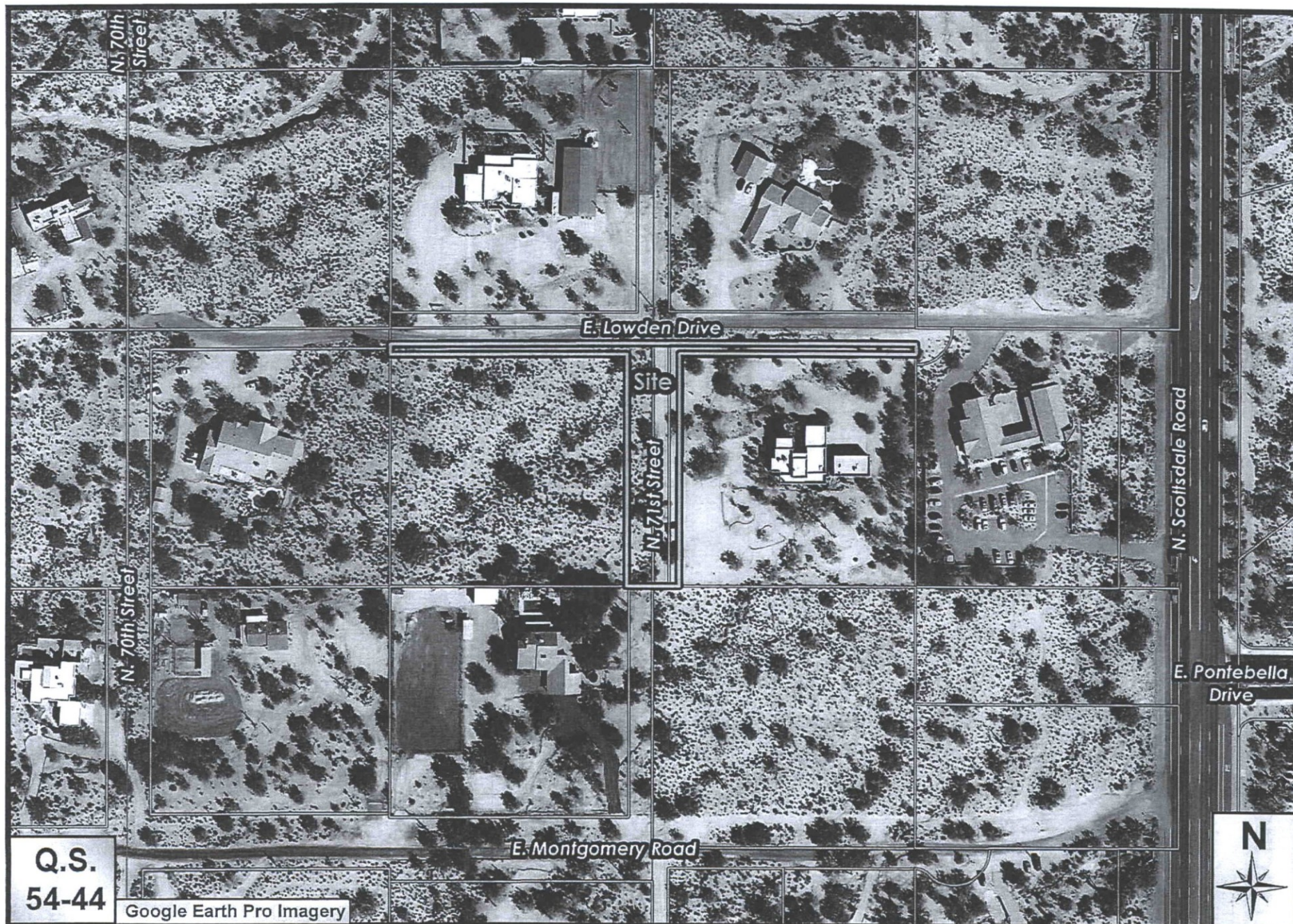
- 1 Context Aerial
- 2 Detail Aerial
- 3 Applicant's Narrative
- 4 Local Area Infrastructure Plan (LAIP)
- 5 Legal Description and Graphic Abandonment Area
- 6 Neighborhood Involvement / Citizen Input
- 7 City Notification Map



Portions of N. 71st Street Abandonment

ATTACHMENT #1

11-AB-2017



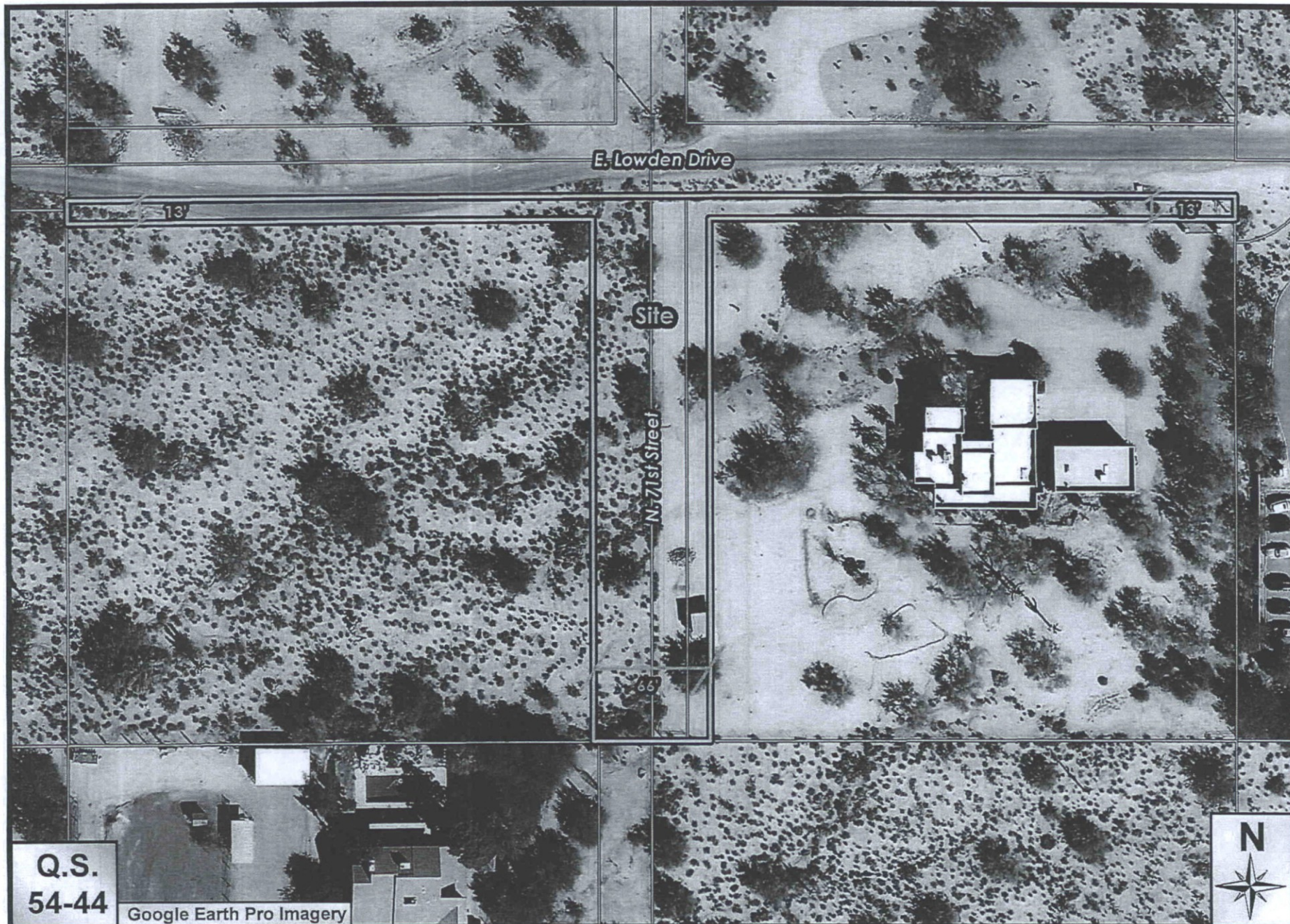
Q.S.
54-44

Google Earth Pro Imagery

Portions of N. 71st Street Abandonment

ATTACHMENT #1

11-AB-2017



Portions of N. 71st Street Abandonment

ATTACHMENT #2

11-AB-2017

Davidson & Kaffer, PLLC

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12 June 2018

Jesus Murillo
Planner/Project Coordinator
City of Scottsdale
7447 East Indian School Road
Scottsdale, Arizona 85251

Re: Pre-Application Number 494-PA-2017

Dear Mr. Murillo

As you know, I represent the owners of the properties that are the subject of the above-referenced GLO abandonment application (the “Application”). The Application relates to the following property owners and properties:

- | | | |
|---|----------|--|
| 1 | Owners | R. Donald Hagerman and Rosemary Hagerman, Trustees of the R. Donald Hagerman and Rosemary Hagerman Revocable Trust, dated May 23, 1996 |
| | Property | 7107 East Lowden Drive Scottsdale, Arizona 85266 (the “Hagerman Property”) |
| 2 | Owners | David Holden Werner and Sheryl Ann Werner Revocable Trust Dated August 4, 2011 |
| | Property | APN 216-67-191 (the “Werner Property”) |

Discussion

On December 11, 2017, the City of Scottsdale provided Mr. and Mrs. Hagerman and Mr. and Mrs. Werner with a letter in response to the Application. A copy of that letter is attached as **Exhibit A**. The City subsequently provided a redlined version of the legal description and graphic for the Hagerman portion of the Application. A copy of that redline is included herewith as **Exhibit B**. This correspondence is in response to the City’s December 11, 2017 letter, various clarifications that the City has provided, and the redlined legal and graphic.

In the City’s letter, the City set forth eight numbered paragraphs which each identify a particular issue related to the Application. Each paragraph is addressed below.

1 Summary of Feedback from Neighborhood Outreach Notification for the Werner Property

After posting the initial Early Notification of Project Under Consideration, or “white sign,” relative to the Werner Property, I received two inquiries regarding the matter. First, on October 30, 2017, Sandra Lynch contacted me. Upon information and belief, Sandra Lynch is an owner, in her capacity as trustee, of the property known as 7224 East Visao Drive, Scottsdale, Arizona 85266. Ms. Lynch requested an explanation of the nature of a GLO easement in general, and the purpose of Mr. and Mrs. Werners’ abandonment application. I provided Ms. Lynch with an explanation and Ms. Lynch indicated to me that she understood, did not feel that the GLO abandonment would be a problem for her, and did not otherwise feel that the abandonment would affect her negatively. Ms. Lynch also mentioned that she does not want to disrupt Mr. and Mrs. Werners’ application process.

Additionally, on November 6, 2017, I received a telephone inquiry from Mark Gale who is a paralegal with the law firm Beus Gilbert PLLC. Mr. Gale, on behalf of his firm’s client(s), the identity of whom we did not discuss, requested clarification as to whether Mr. and Mrs. Werner are seeking to abandon the portion of the GLO overlapping the paved portion of Lowden Drive. I provided Mr. Gale with an email and highlighted the graphic included with the Werner portion of the Application, in an effort to show Mr. Gale that Mr. and Mrs. Werner are not seeking to abandon the northern 20’ half street on Lowden Drive. Mr. Gale responded to my email by indicating “Thank you. All of my questions have been answered.” Included herewith as **Exhibit C** is a copy of the complete email thread between Mr. Gale and me, including the attachment to my email.

2 Documentation of all NAOS dedicated areas to be revegetated to zoning ordinance requirements for the Hagerman Property prior to recordation of the abandonment resolution

Attached as **Exhibit D** is a copy of Mr. and Mrs. Hagermans’ revegetation plan along with the plans for the new NAOS that Mr. and Mrs. Hagerman propose. Mr. and Mrs. Hagerman intend to revegetate the Hagerman Property to the condition identified in Exhibit D, upon the City’s approval of such revegetation plans.

3 One-quarter cul-de-sac dedication by Mr. and Mrs. Hagerman

Mr. and Mrs. Hagerman will entertain discussions related to dedicating the cul-de-sac in consideration for the GLO abandonment once the City has provided additional details relative to the cul-de-sac.

4 Consideration under review by the City

Mr. and Mrs. Hagerman and Mr. and Mrs. Werner will respond after the City provides its analysis regarding the consideration the City seeks in exchange for granting the abandonment application.

5 *20-foot waterline easement along E Mariposa Grande alignment*

In clarifying the City's request for the 20-foot waterline easement, you provided the graphic included in the email attached as **Exhibit E**, that depicts in green the location of the waterline easement the City is requesting. Mr. and Mrs. Hagerman will entertain discussions related to conveying such a waterline easement, however, until the terms of such proposed waterline easement and the costs associated therewith are specifically identified, Mr. and Mrs. Hagerman cannot at this time provide a meaningful response accepting or rejecting such proposal. Accordingly, Mr. and Mrs. Hagerman make no assurances, but are certainly willing to engage with the City to come to a reasonable conclusion with regard to the Application and the proposed waterline easement.

6 *Hagermans to provide documentation of conformance with all ordinances and policies before the abandonment resolution is to be recorded*

Please see response to item 2 above. Mr. and Mrs. Hagerman intend to revegetate the Hagerman Property to the condition identified in Exhibit D, upon the City's approval of such revegetation plans.

7 *Abandonment of the southern 8 feet of the GLOPE located along the Lowden Drive frontage of the properties*

It is Mr. and Mrs. Werners' and Mr. and Mrs. Hagermans' understanding that the City has revised the City's request and now prefers that Mr. and Mrs. Hagerman and Mr. and Mrs. Werner request that the southern 13 feet, rather than the previously-requested 8 feet, of the GLOPE located along the Lowden Drive frontage of the properties be included in the Application. See Exhibit E graphic. To that end, a revised legal description and graphic which includes reference to the southern 13 feet of the GLOPE along the Lowden Drive frontage of the Hagerman Property, is included herewith as **Exhibit F**.

8 *Updated legals and graphics including redline revisions*

Please see the attached Exhibit F.

Conclusion

Mr. and Mrs. Hagerman and Mr. and Mrs. Werner look forward to continuing the application process and resolving the identified issues quickly and efficiently. Should you have any questions, please do not hesitate to contact me.

Regards,

Josh G. Funkhouser

Josh G. Funkhouser, Esq.
For the Firm

Desert Foothills Area 2 Local Area Infrastructure Plan



	Parcels		City Boundary		Feet
	Preserve		Existing Trail	0	155 310 620
	Proposed Street		Planned Trail		
			Water/Sewer ROW		

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.



Document Path: V:\Transportation\TransportationWorkgroups\TransportationGIS\LAIPS\Desert Foothills\LAIPS_DesertFoothills2_7-1-2016_r.mxd

Exhibit A
Legal Description
Right of Way for Roadway and Public Utilities Purposes
Abandonment & Release

Abandonment and Release of a portion of the Right of Way for Roadway and Public Utilities Purposes described in Patent Number 1197966 of the General Land Office Records of the Bureau of Land Management, in the city of Scottsdale, county of Maricopa, state of Arizona described as follows

The West 33 feet of the Northwest quarter of the Southeast quarter of the Southeast quarter of the Northeast quarter of Section 22, Township 5 North, Range 4 East of the Gila and Salt River Meridian

EXCEPT the North 20 feet thereof

AND

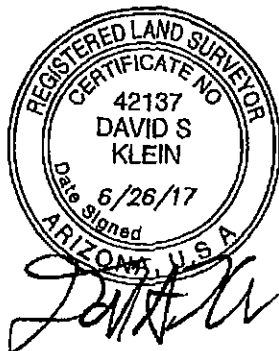
The South 13 feet of the North 33 feet of the Northwest quarter of the Southeast quarter of the Southeast quarter of the Northeast quarter of Section 22, Township 5 North, Range 4 East of the Gila and Salt River Meridian

AND

The West 20 feet of the Right of Way dedicated by document number 1996-055891

EXCEPT the North 20 feet thereof

Comprising 6,199 square feet more or less, subject to all easements of record



EXPIRES 3/31/20



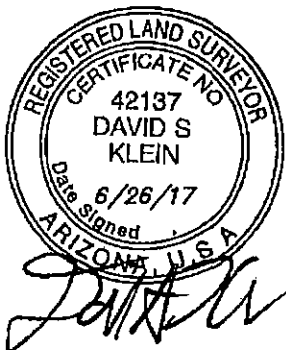
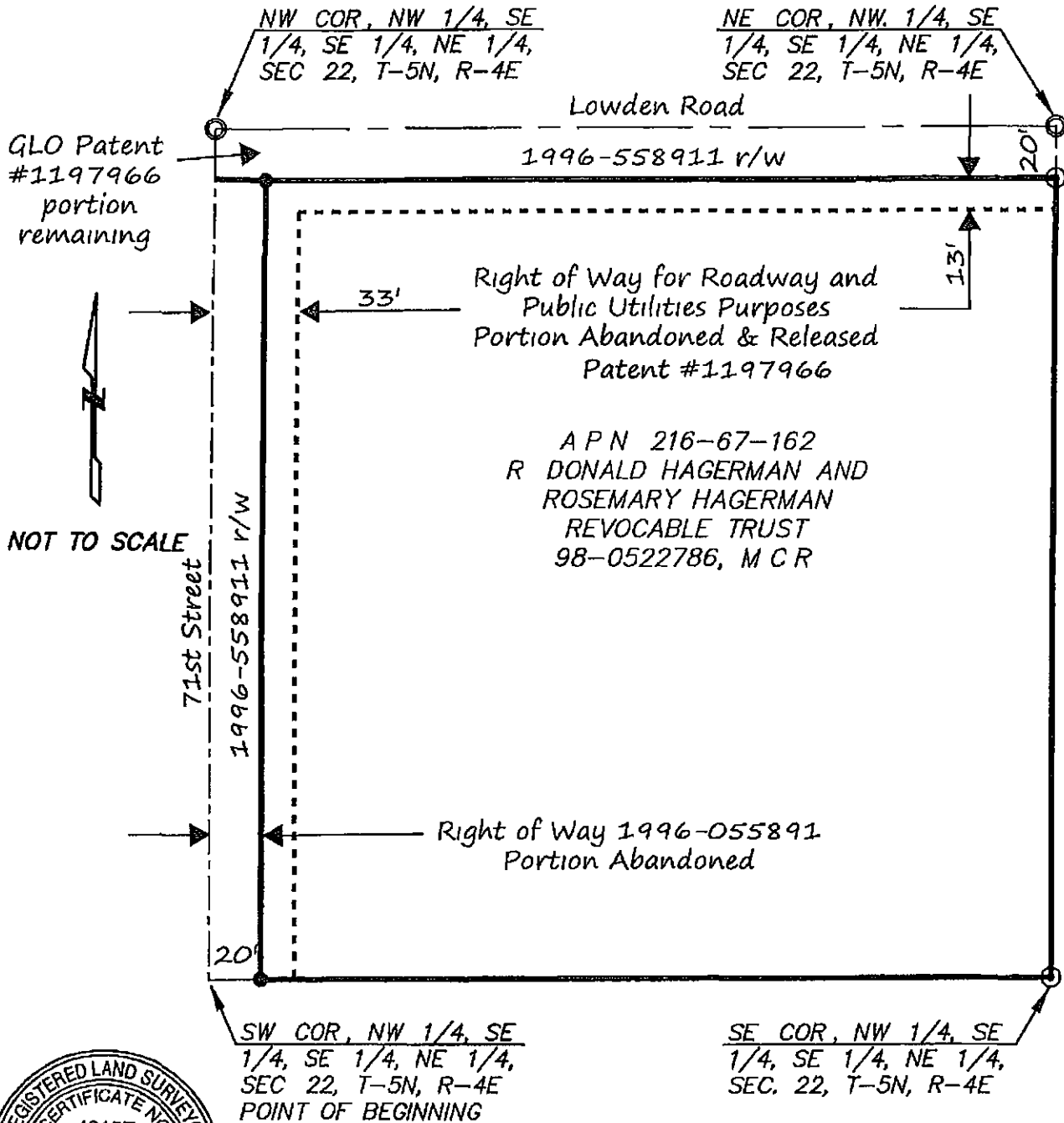
DATE 5/19/16

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623-869-0726 (fax)
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info@superiorsurveying.com

JOB NO

11-AB-2017
10/9/2017

Exhibit B
Right of Way for Roadway and Public Utilities Purposes
Abandonment & Release



EXPIRES 3/31/20

SUPERIOR
 SURVEYING SERVICES, INC

DATE: 5/19/16

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 info@superiorsurveying.com

JOB NO.

11-AB-2017
 10/9/2017

Exhibit C
Legal Description
Right of Way for Roadway and Public Utilities Purposes
Abandonment & Release

Abandonment and Release of a portion of the Right of Way for Roadway and Public Utilities Purposes described in Patent Number 1206489 of the General Land Office Records of the Bureau of Land Management, in the city of Scottsdale, county of Maricopa, state of Arizona described as follows

The East 33 feet of the Northeast quarter of the Southwest quarter of the Southeast quarter of the Northeast quarter of Section 22, Township 5 North, Range 4 East of the Gila and Salt River Meridian

EXCEPT the North 20 feet thereof

AND

The South 13 feet of the North 33 feet of the Northeast quarter of the Southwest quarter of the Southeast quarter of the Northeast quarter of Section 22, Township 5 North, Range 4 East of the Gila and Salt River Meridian

Comprising 6,199 square feet more or less, subject to all easements of record



EXPIRES 3/31/20



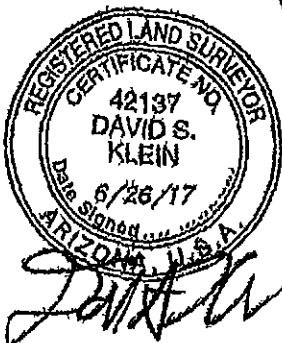
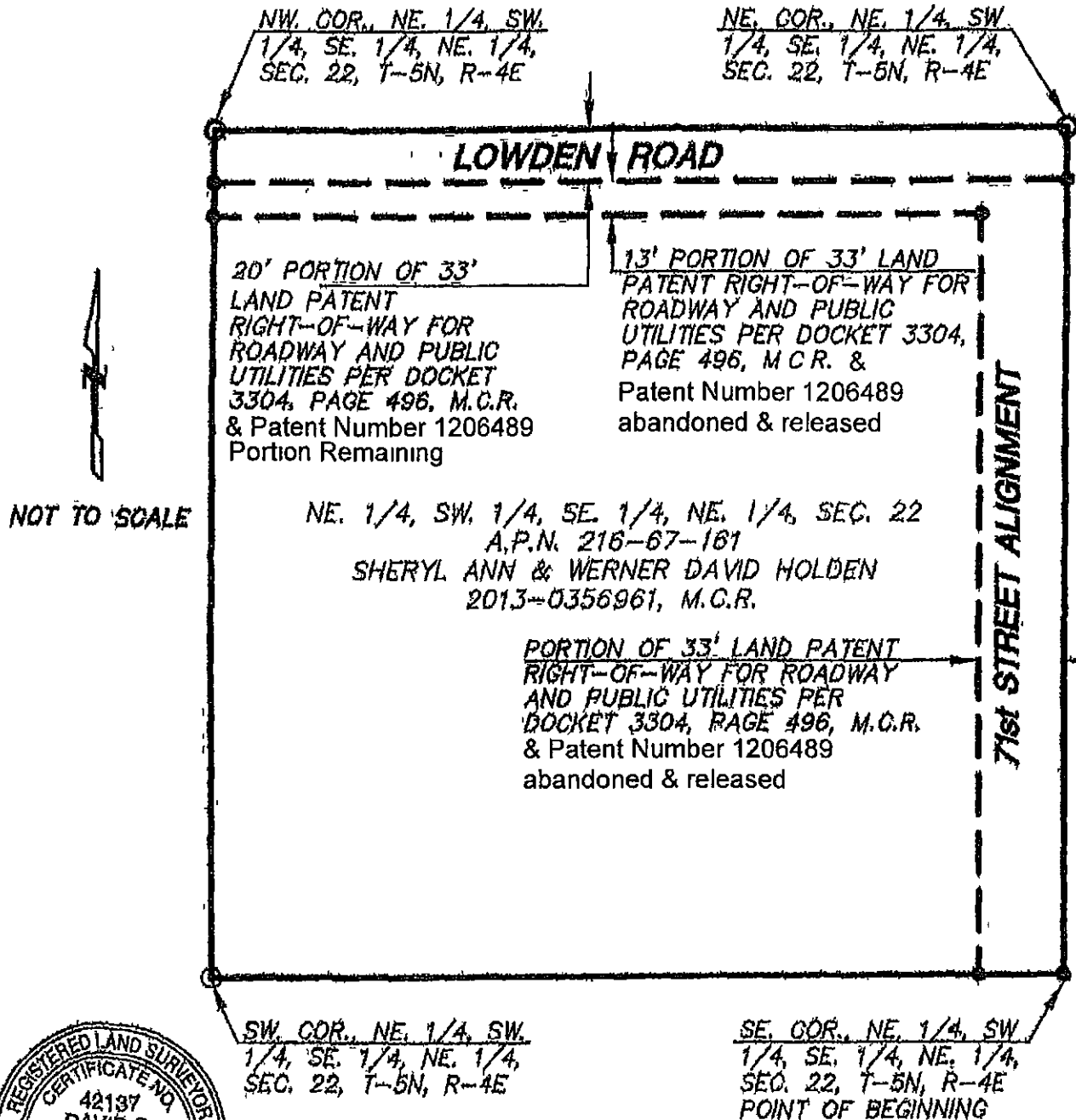
DATE. 5/19/16

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JOB NO

11-AB-2017
10/9/2017

Exhibit D
Legal Description
Right of Way for Roadway and Public Utilities Purposes
Abandonment & Release



EXPIRES 3/31/20

SUPERIOR
SURVEYING SERVICES, INC.

DATE: 5/16/16

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11-AB-2017
6/12/2018

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Chad R. Kaffer
Admitted to Practice Arizona
Josh G. Funkhouser, Of Counsel
Admitted to Practice Arizona and Ohio

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October 9, 2017

Jesus Murillo
Planner/Project Coordinator
City of Scottsdale
7447 East Indian School Road
Scottsdale, Arizona 85251

Re: 7017 East Lowden Drive Scottsdale, Arizona 85266 (the "Hagerman Property")
NEIGHBORHOOD NOTIFICATION REPORT
Pre-Application Number 494-PA-2017

Dear Mr. Murillo

Please accept this letter and its enclosures on behalf of our clients, R. Donald Hagerman and Rosemary Hagerman, Trustees of the R. Donald Hagerman and Rosemary Hagerman Revocable Trust, dated May 23, 1996 (the "Applicants"), as the Neighborhood Notification Report (this "Report") required for the abandonment of the GLOPE that is the subject of the above-referenced Pre-Application. In support of this Report, please find the following documents enclosed herewith:

- 1 A copy of the letter sent to neighboring property owners/neighborhood associations which letter is dated July 27, 2017 and which was sent by first-class U.S. mail. Please note that the parties notified were either neighborhood associations or owners of property located within 750 feet of the Hagerman Property.
- 2 A list of the names, addresses and parcel numbers of the neighborhood associations and homeowners notified via the letter dated July 27, 2017.
- 3 A copy of the Neighborhood Notification Checklist relative to this application,
- 4 A photograph of the Early Notification sign posted at the Hagerman Property on September 14, 2017,
- 5 An aerial view depicting the sign location, and
- 6 A copy of the Affidavit of Posting executed by an agent of Scottsdale Sign-A-Rama.

Please note that I have not yet received any written comments, letters or correspondence related to the above-referenced letters.

Regards,

Josh G. Funkhouser

Josh G. Funkhouser, Esq.
For the Firm

ATTACHMENT 6

11-AB-2017
10/9/2017

Donald and Rosemary Hagerman
7107 E Lowden Drive
Scottsdale, AZ 85266

July 27th, 2017

Dear Property Owner and/or Neighborhood Association

This letter serves as formal notification that an application is being submitted to the City of Scottsdale by Donald and Rosemary Hagerman, owners of property at 7107 E Lowden Drive (APN 216-67-162) (the "Property"). The Property is currently designated for zoning purposes as R1-70. We are requesting a G L O P E abandonment along the 71st Street alignment and Lowden alignment which runs along our North and West borders.

Abandonment of 71st Street will allow us better design and improvement of our property and ensure the property's compliance with the City's zoning ordinance.

Please be advised that no public hearings have been scheduled as of yet. A sign will be posted on the property in the future with meeting dates in accordance with City of Scottsdale requirements.

We would be happy to answer any questions or hear any concerns that you may have regarding this request. You may reach us at (602) 881-8204 or drdhagerman@gmail.com. You may also reach the City of Scottsdale Project Coordinator, Jesus Murillo, at (480) 312-7849 or jmurillo@scottsdaleaz.gov. After the formal submittal, project information will be available at <https://eservices.scottsdaleaz.gov/Services/Cases>.

Regards,
Don and Rosemary Hagerman

11-AB-2017
10/9/2017

Arnold, Joe Warren TR 7070 E Lowden DR Scottsdale AZ 85266 APN 216-67-252

Comolli, Charles Jr 15180 N 90th PL Scottsdale AZ 85260 APN 216-67-192

Yuhas, John & Debra 7029 E Lowden DR Scottsdale, AZ 85266 APN 216-67-163

Werner, David & Sheryl 6050 E Cambridge Ave Scottsdale, AZ 85257 APN 216-67-191

Kraft, Margaret TR 7120 E Lowden DR Scottsdale, AZ 85266 APN 216-67-161

Hill, Revocable TR 5102 E Sharon DR Scottsdale AZ 85254 APN 216-67-186

Black Mt Community Church 30600 N Scottsdale RD, Scottsdale, AZ 85266 APN 21667-001A

Gray, Benjamin & John 7466 E Black Rock RD Scottsdale, AZ 85266 APN 216-67-165

Harding, Eric 7111 E Wildcat DR Scottsdale, AZ 85266 APN 216-67-159

Gustafson, Bo & Jorene 7077 E Wilcat DR Scottsdale, AZ 85266 APN 216-67-160

Kuklocsky, Don & Kathy 7025 E Wildcat DR, Scottsdale, AZ 85266 APN 216-67-243

Strieby Matthew & Collette 7030 E Montgomery RD Scottsdale, AZ 85266 APN 216-67-164

Trautman, Jon 7100 E Montgomery RD Scottsdale, AZ 85266 APN 216-67-081

Blake, Kenyon 27614 N Hayden Scottsdale, AZ 85262 APN 216-67-128

Mance, Joseph PO Box 27663 Scottsdale, AZ 85255 APN 216-67-182

Kretchun, Theresa 7125 E Montgomery RD Scottsdale, AZ APN 216-67-085B

Wedge Gregory & Kathleen 7171 E Montgomery RD Scottsdale, AZ 85266 APN 216-67-085A

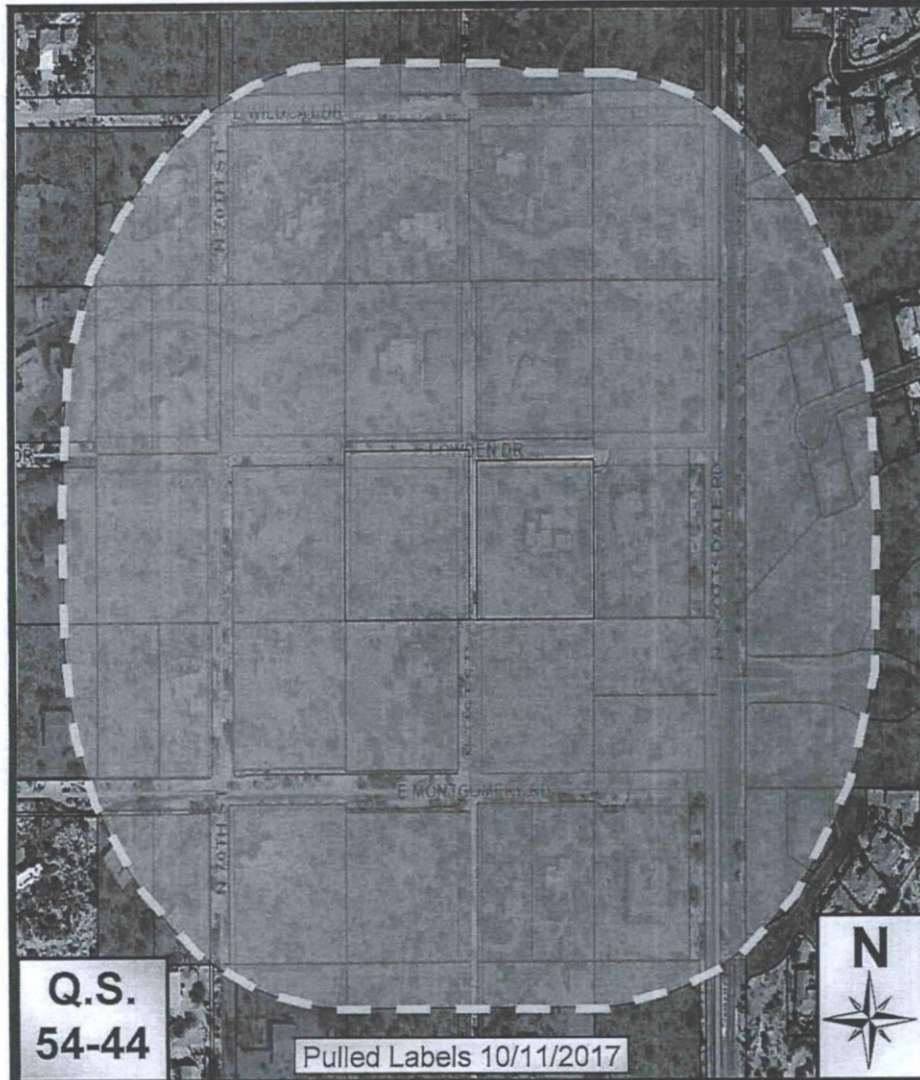
SHM Properties LLC 4126 E Prickly Pear TRL Phoenix, AZ 85050 APN 216-67-245

Soto, Rudy 2234 Oceanview RD Oceanside, CA 92056 APN 226-67-244

Bellaser Community 7740 N 16th ST #300 Phoenix, AZ 85020 APN 216-66-288

Almanza, Martinez TR 7340 E Sweetwater DR Scottsdale, AZ 85260 APN 216-67248A

City Notifications – Mailing List Selection Map



Map Legend:

- Site Boundary
- == Properties within 750-feet
- 83 Postcards

Additional Notifications:

- Interested Parties List
- Adjacent HOA's
- P&Z E-Newsletter
- Facebook
- Twitter
- Nextdoor.com
- City Website-Projects in the hearing process

11-AB-2017

Portions of N. 71st Street Abandonment

ATTACHMENT #7

CITY COUNCIL REPORT



Meeting Date	October 16, 2018
General Plan Element	<i>Land Use</i>
General Plan Goal	<i>Coordinate Planning to Balance Infrastructure</i>

ACTION

Portions of N. 71st Street Abandonment 11-AB-2017

Request to consider the following:

Adopt Resolutions No 11252 and 11273 abandoning the two 33-foot General Land Office Patent Easements (GLOPE) and the underlying 20 feet of fee-simple street right-of-way located along N 71st Street, between parcels 216-67-191 and 216-67-162, and the southern 13 feet of GLOPE located along the northern boundary of the two parcels (N Lowden Drive), with Single-family Residential Environmentally Sensitive Lands, Foothills Overlay (R1-70/ESL/FO) zoning, located at 7107 E Lowden Drive, consistent with the city's Transportation Master Plan and the Foothills Overlay Local Area Infrastructure Plan

Goal/Purpose of Request

This request is to bring the site closer into conformance with the zoning development standards

Key Items for Consideration

- The Transportation Master Plan's Local Area Master Planned Streets (LAIPS) plan does not require N 71st Street as a north/south connection between E Lowden Drive and E Wildcat Drive
- Access to surrounding properties not impacted by this proposed abandonment
- All utility companies were notified of the abandonment request – a fee-simple quarter cul-de-sac will be dedicated in the northeast corner of parcel 216-67-162 to accommodate for an existing utility box and street turn-around
- Natural Area Open Space (NAOS) violation will be corrected prior to the recordation of the abandonment resolution
- The proposed abandonment will bring portions of the property further into zoning setback conformance, yet will still require wall location improvements to be brought into conformance with zoning setbacks
- Planning Commission heard this case on August 22, 2018 and recommended approval with a 7-0 vote

OWNER

Donald and Rosemarie Hagerman
480-595-7617

David and Sheryl Werner
480-585-3100

APPLICANT CONTACT

Josh G Funkhouser, Esq
Davidson and Kaffer
480-585-3100

LOCATION

7107 E Lowden (including the parcel immediately adjacent to the west)

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 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 within the Desert Foothills Character Area should preserve natural open space areas, scenic and vista corridors, and support trail links and connections.

Zoning

The subject sites are zoned Single-Family Residential, 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 parcels, 216-67-191 and 216-67-162E, were annexed into the City of Scottsdale in December 1983. The annexed parcels were rezoned from the county designation to Single-Family Residential, Hillside District (R1-43/HD/HC) through case 36-ZN-1984. They then rezoned from the Single-Family Residential, Hillside District (R1-43/HD/HC) to Single-Family Residential, Hillside District (R1-70/HD/HC) through case 113-ZN-1984.

In 1991, the Environmentally Sensitive Lands (ESL) ordinance was adopted as an amendment to the Hillside District overlay. Later, in March 2003, the Foothills Overlay designation was added to this site's zoning classification in response to the Desert Foothills Character Area Plan approved by City Council in June 1999. The current ESL overlay took effect in 2004. The ESL ordinance categorized these parcels within their most current zoning: Residential Single-Family, Environmentally Sensitive Lands, Foothills Overlay (R1-70/ESL/FO).

Context

The subject properties are generally located at the southwest corner of E Lone Mountain Road and N Scottsdale Road. More specifically, the parcels straddle the N 71st Street alignment, south of E Lowden Road. Please refer to context graphics attached.

The subject 13 feet of General Land Office Patent Easements (GLO) are located along the northern boundaries of 216-67-191 and 216-67-162, and the subject 66 feet of GLO, and 20 feet of fee-simple right-of-way, are located between the same two parcels. The subject GLO easements were dedicated through patent serial numbers 1206489 and 1197966, and the fee-simple right-of-way through docket number 1996-558911. The subject GLO roadway easements were reserved on the original patent deed to assure legal access. Currently the majority of the GLO easements and fee-simple right-of-way are unimproved, containing minimal improvements of asphalt and grading.

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:

2008 Scottsdale Transportation Master Plan

Desert Foothills Area Local Area Infrastructure Plan (LAIP)

APPLICANTS PROPOSAL

Development Information

One of the owners, owner of parcel 7107 E Lowden Drive, received a compliance notice for creating improvements within the existing Natural Area Open Space (NAOS). With the review of that compliance notice, fencing was discovered to have been constructed within the subject abandonment area. The review also identified that the parcel contains an accessory structure that was approved without the knowledge, or consideration, of the GLOPE. The owner has since removed that accessory structure. The proposed abandonment will bring the subject parcel closer into conformance, but the owner will be required to relocate fences, or replace existing fences with corrals, to meet the ordinance requirements for wall locations.

IMPACT ANALYSIS

Land Use

The proposed land use for this subject site is in conformance with the General Plan designated land use for this site.

Traffic/Trails

The Transportation Master Plan's Local Area Infrastructure Planned Streets (LAIPS) plan does not show a planned/existing N 71st Street, north/south, right-of-way connection between E Lowden Drive and E Montgomery Road. The LAIPS plan does not have required right-of-way or public trail planned along N 71st Street, and therefore does not require N 71st Street as a planned street connection. This request is consistent with the City's roadway requirement for a Local Collector, with a Rural ESL Character and trail. The Transportation Department supports the abandonment of N 71st Street as proposed in this request.

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 E Lowden Drive. No impacts are anticipated.

Public Utilities

The public utilities have been notified of the applicant's request. The utility companies have indicated that there are no conflicts with the proposed abandonment and support the abandonment. A waterline easement will be reserved, and dedicated, along the east side of the N 71st Street abandonment area, and a public utility easement along E Lowden Drive.

Open space

The owner of parcel 216-67-162 will be required to submit an application for NAOS revegetation (NAOS Enhancement Application) and/or a release and rededication of the NAOS easement. In either case, the submittal will require a NAOS revegetation plan to come into compliance with the ordinance in regards to the existing NAOS disturbance violation.

The owner of parcel 216-67-191 will be required to dedicate NAOS at the time of permitting and development of the subject site.

Community Involvement

The applicant conducted a mailing to property owners located within 750 feet of the proposed roadway easement abandonment. The City staff has also conducted a mailing to property owners within 750 feet of the proposed roadway easement abandonment. Staff was first made aware of NAOS disturbances and walls located within the right-of-way areas from a neighbor's complaint.

City staff had received phone calls from an immediate neighbor. The resident was concerned about the termination of E Lowden Drive, prior to reaching N Scottsdale Road. Transportation staff confirmed that E Lowden Drive will continue through, east, to N Scottsdale Road. The resident stated that they no longer had concerns.

OTHER BOARDS AND COMMISSIONS

Planning Commission:

Planning Commission heard this case on August 22, 2018 and recommended approval with a 7-0 vote.

Staff's Recommendation to the Planning Commission:

Staff recommended that the Planning Commission make a recommendation to City Council for approval to abandon the two 33-foot General Land Office Patent Easements (GLOPE), and the underlying 20 feet of fee-simple right-of-way, located along N 71st Street, between parcels 216-67-191 and 216-67-162, and the southern 13 feet of GLOPE located along the northern boundary of the two parcels (N Lowden Drive), finding that the proposal is consistent with and conforms to the adopted General Plan, subject to the following:

1. The property owner of parcel 216-67-191 will dedicate twenty (20 ft) feet of fee-simple right-of-way along the subject property's E Lowden Drive frontage.
2. The property owner of parcel 216-67-191 will reserve and dedicate an eight-foot (8-ft) public utility easement along the subject property's E Lowden Drive frontage.
3. The property owner of parcel 216-67-191 shall pay to the City \$838,200, as compensation, to the City for the abandonment of right-of-way.
4. The property owner of parcel 216-67-162 will reserve and dedicate a twenty-foot (20-ft) waterline easement along the subject property's N 71st Street alignment.
5. The property owner of parcel 216-67-162 will reserve and dedicate an eight-foot (8-ft) public utility easement along the subject property's E Lowden Road frontage.
6. The property owner of parcel 216-67-162 will be required to revegetate the disturbed NAOS areas back to a natural state to the satisfaction of the Ordinance.
7. The property owner of parcel 216-67-162 will remove any walls, fences, or hedges that do not meet the requirements of the underlying zoning district, ESL, and FO.
8. The property owner of parcel 216-67-162 shall pay to the City \$467,820, as compensation, to the City for the abandonment of right-of-way.

RECOMMENDATION

Recommended Approach:

Adopt Resolutions No 11252 and 11273 abandoning the two 33-foot General Land Office Patent Easements (GLOPE) and the underlying 20 feet of fee-simple street right-of-way located along N 71st Street, between parcels 216-67-191 and 216-67-162, and the southern 13 feet of GLOPE located along the northern boundary of the two parcels (N Lowden Drive), with Single-family Residential Environmentally Sensitive Lands, Foothills Overlay (R1-70/ESL/FO) zoning, located at 7107 E Lowden Drive, consistent with the city's Transportation Master Plan and the Foothills Overlay Local Area Infrastructure Plan

RESPONSIBLE DEPARTMENTS

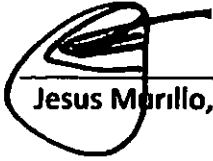
Planning and Development Services

Current Planning Services

STAFF CONTACTS

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


APPROVED BY



Jesus Morillo, Report Author

9-19-18

Date



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

9/20/2018

Date



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

9/20/18

Date

ATTACHMENTS

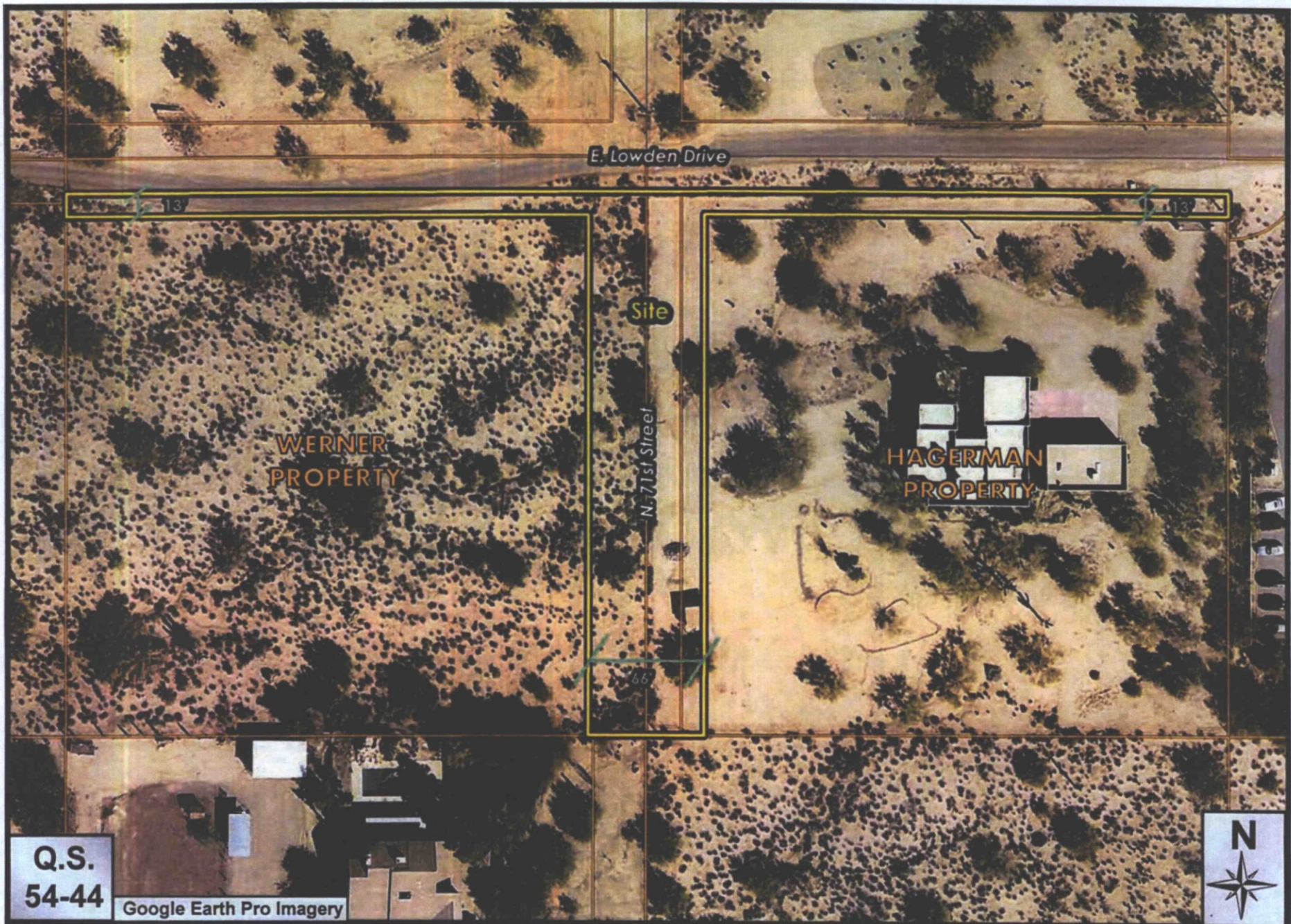
- 1 Context Aerial
- 2 Detail Aerial
- 3 Resolution No 11252
- 4 Resolution No 11273
- 5 Applicant's Narrative
- 6 Local Area Infrastructure Plan (LAIP)
- 7 Proposed Abandonment Areas
- 8 Proposed Dedication Requirements
- 9 Neighborhood Involvement / Citizen Input
- 10 City Notification Map
- 11 August 22, 2018 Planning Commission Minutes



Portions of N. 71st Street Abandonment

ATTACHMENT #1

11-AB-2017



Portions of N. 71st Street Abandonment

ATTACHMENT #2

11-AB-2017

RESOLUTION NO 11252

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ABANDONING, SUBJECT TO CONDITIONS AND RESERVATIONS, CERTAIN INTERESTS IN A PORTION OF THE PUBLIC RIGHT-OF-WAY FOR NORTH 71ST STREET AND A PORTION OF THE GLO RIGHT OF WAY FOR THE NORTH 71ST STREET ALIGNMENT AND FOR EAST LOWDEN DRIVE

(11-AB-2017)
(Hagerman)

WHEREAS

A A R S Sec 28-7201, et seq , and A R S §9-500 24 provide that a city may dispose of a public roadway or portion thereof that is no longer necessary for public use

B Scottsdale Revised Code §2-221 and other applicable laws provide that the City may dispose of other real property interests

C After notice to the public, the City of Scottsdale ("City") City's planning commission and City Council have held hearings on the proposed abandonment of a certain portion of the street right-of-way and other interests (collectively the "Abandonment Right-of-way")

D The Abandonment Right-of-way is described on **Exhibit "A"** and **Exhibit "B"** attached hereto

E The Abandonment Right-of-way falls within, serves, affects or is near the parcel (the "Hagerman Parcel") comprising approximately 2.25 acres at the southeast corner of E Lowden Drive and N 71st Street alignment as depicted on **Exhibit "C"** attached hereto

F A portion of the Abandonment Right-of-way lies within the area of a General Land Office (GLO) easement created by patent reservation

G City's city council finds that, subject to the conditions, requirements, reservations and limitations of this resolution, the Abandonment Right-of-way is no longer necessary for public use

H City's city council has considered the City expenditure, if any, authorized by this resolution and the direct consideration that City will receive and finds that there is a clearly identified public purpose for City's expenditure, if any, and that City will receive direct consideration substantially equal to its expenditure

1 City's city council finds that consideration and other public benefit commensurate with the value of the interests in the Abandonment Right-of-way being abandoned, giving due consideration to its degree of fragmentation and marketability, will be provided to City by the owners of the abutting property

NOW, THEREFORE, BE IT RESOLVED by the city council of the City of Scottsdale, Arizona, as follows

1 Abandonment Subject to the reservations and conditions below, City's interests comprising the Abandonment Right-of-way are hereby abandoned

2 Reservations City reserves to itself and excludes from this abandonment all of the following cumulative, perpetual interests

2 1 Any and all interests in the Abandonment Right-of-way that any related application, zoning case, plat, lot split, use permit, or other land use regulatory process or requirements may require to be dedicated to City

2 2 Any of the following in favor of City that may already have been imposed on the Abandonment Right-of-way prior to this resolution, if any

2 2 1 Any V N A E or other vehicular non-access easement or covenant

2 2 2 Any N A O S or other open space or similar easement or covenant

2 2 3 Any scenic corridor, setback or similar easement or covenant

2 3 An easement for all existing utilities, if any

2 4 Such rights and interests, if any, as are required to be reserved by A R S Sec 28-7210 and A R S Sec 28-7215

3 Effective Date This resolution shall not be recorded or become effective until all of the following conditions (the "Conditions") are satisfied in accordance with all applicable laws, regulations and policies and at no expense to City

3 1 Owner shall dedicate using City specified forms a 20 foot water line easement along the western boundary of the Hagerman parcel

3 2 The owner shall dedicate using City specified forms an 8 foot perpetual public utility easement along the entire northern boundary of the Hagerman parcel for the purposes of electricity, water, wastewater, storm water, drainage, telecommunications, and all other manner of utilities, and for construction, operation, use, maintenance, repair, modification and replacement from time to time of improvements related thereto

3 3 The owners of the Hagerman Parcel shall pay to City the total amount of Four Thousand Six Hundred Seventy Eight and 20/100 Dollars (\$4,678 20) (the "Payment Amount") as compensation to City for the Abandonment Right-of-way, in addition to any application fees or other amounts related to this resolution and in addition to any other amounts payable to City

16101737v3

3.4 The zoning administrator executes the certificate at the bottom of this resolution indicating that the Conditions have been satisfied.

4. Administration of Conditions. If the foregoing Conditions are not all satisfied prior to the second annual anniversary of this resolution, or if this resolution is not recorded prior to that deadline, then the city clerk shall mark this resolution to indicate that this resolution is void.

5. Exhibit Labeling. The text of this resolution controls any conflict with the exhibits as to the nature of the interests created, reserved or otherwise affected by this resolution. For example, if the text of this resolution indicates that City is reserving a particular type of easement, but the exhibit text or labels indicate a different type of real estate interest, then the text controls.

PASSED AND ADOPTED by the City Council of the City of Scottsdale this ____ day of _____, 20____.

CITY OF SCOTTSDALE, an Arizona municipal corporation

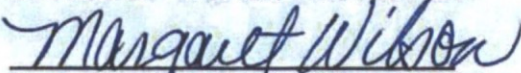
W. J. "Jim" Lane, Mayor

ATTEST:

By: _____
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY



Bruce Washburn, City Attorney

By: Margaret Wilson, Senior Assistant City Attorney

CERTIFICATE

I am the zoning administrator of the City of Scottsdale. I certify that I have confirmed that the conditions stated in paragraph 3 of the abandonment resolution above have been fulfilled and the resolution is ready to be recorded and become effective.

DATED this ____ day of _____, 20____.

signature

name printed

Table of Exhibits

<u>Exhibit</u>	<u>Paragraph</u>	<u>Description</u>
A	D	Legal description of street right-of-way to be abandoned
B	D	Scaled and dimensioned drawing to accompany legal description of street right-of-way to be abandoned
C	E	Depiction of Hagerman parcel

LEGAL DESCRIPTION
RIGHT OF WAY FOR ROADWAY AND PUBLIC UTILITIES PURPOSES
ABANDONMENT & RELEASE

Abandonment and Release of a portion of the Right of Way for Roadway and Public Utilities Purposes described in Patent Number 1197966 of the General Land Office Records of the Bureau of Land Management, in the city of Scottsdale, County of Maricopa, State of Arizona described as follows:

The East 13 feet of the West 33 feet of the Northwest quarter of the Southeast quarter of the Southeast quarter of the Northeast quarter of Section 22, Township 5 North, Range 4 East of the Gila and Salt River Meridian

EXCEPT the North 33 feet thereof

AND


The South 13 feet of the North 33 feet of the Northwest quarter of the Southeast quarter of the Southeast quarter of the Northeast quarter of Section 22, Township 5 North, Range 4 East of the Gila and Salt River Meridian

EXCEPT the West 20 feet thereof.

Comprising 7,894 square feet more or less, subject to all easements

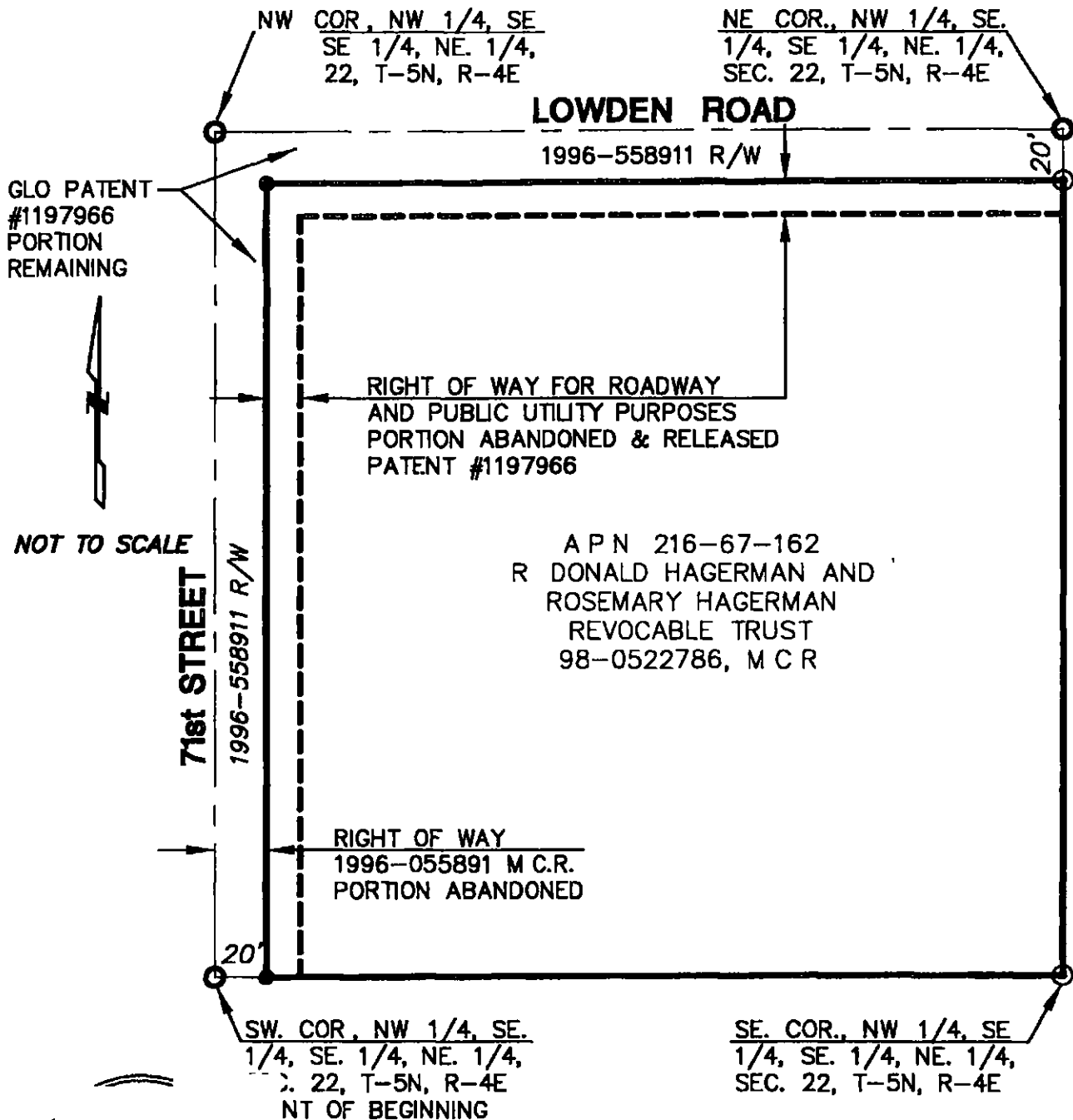


Resolution No 11252
Exhibit A
Page 1 of

 SUPERIOR SURVEYING SERVICES, INC.	2122 W. Lone Coctus Dr Ste 11, Phoenix, AZ 85027 623-869-0223 (office) 623-869-0726 (fax) www.superiorsurveying.com info@superiorsurveying.com
	JOB NO.: 170475

DATE: 8/9/18

RIGHT OF WAY FOR ROADWAY AND PUBLIC UTILITIES PURPOSES
ABANDONMENT & RELEASE



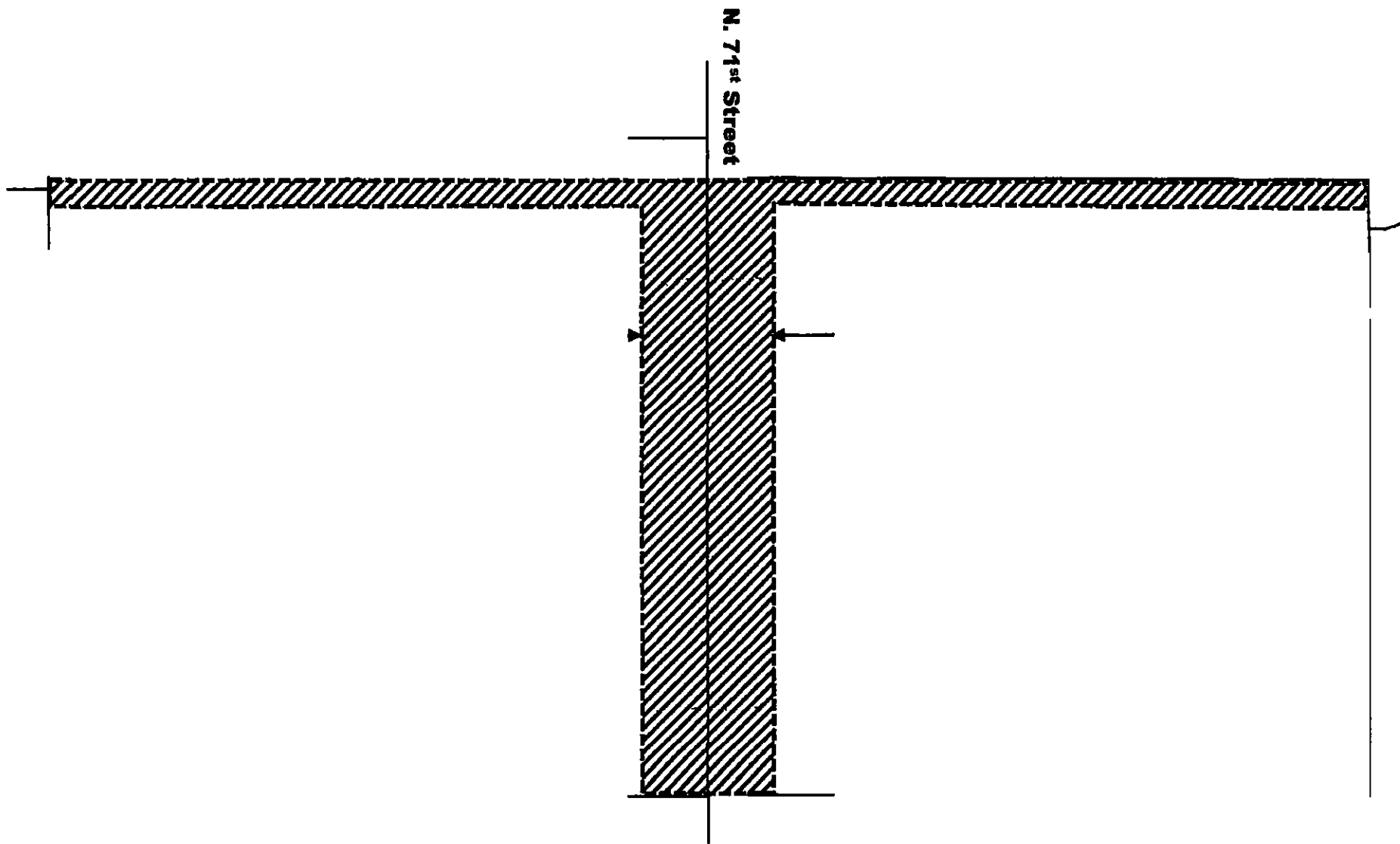
42137
DAVID S
KLEIN
Date signed
8/9/18
ARIZONA, U.S.A.
David S. Klein

SUPERIOR
SURVEYING SERVICES, INC.

2122 W Lone Cactus Dr
Ste 11, Phoenix, AZ 85027
623-869-0223 (office)
623-869-0726 (fax)
www.superiorsurveying.com
info@superiorsurveying.com

DATE. 8/9/18

JOB NO.. 170475



Resolution 11252
Exhibit C
Page 1 of 1



RESOLUTION NO 11273

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE,
MARICOPA COUNTY, ARIZONA, ABANDONING, SUBJECT TO
CONDITIONS AND RESERVATIONS, CERTAIN INTERESTS IN A
PORTION OF THE GLO RIGHT OF WAY FOR THE NORTH 71ST
STREET ALIGNMENT AND FOR EAST LOWDEN DRIVE**

**(11-AB-2017)
(Werner)**

WHEREAS

A A R S Sec 28-7201, et seq , and A R S §9-500 24 provide that a city may dispose of a public roadway or portion thereof that is no longer necessary for public use

B Scottsdale Revised Code §2-221 and other applicable laws provide that the City may dispose of other real property interests

C After notice to the public, the City of Scottsdale ("City") City's planning commission and City Council have held hearings on the proposed abandonment of a certain portion of the street right-of-way and other interests (collectively the "Abandonment Right-of-way")

D The Abandonment Right-of-way is described on **Exhibit "A" and **Exhibit "B"** attached hereto**

E The Abandonment Right-of-way falls within, serves, affects or is near the parcel (the "Werner Parcel") comprising approximately 2.5 acres at the southwest corner of E Lowden Drive and N 71st Street alignment as depicted on **Exhibit "C" attached hereto**

F A portion of the Abandonment Right-of-way lies within the area of a General Land Office (GLO) easement created by patent reservation

G City's city council finds that, subject to the conditions, requirements, reservations and limitations of this resolution, the Abandonment Right-of-way is no longer necessary for public use

H City's city council has considered the City expenditure, if any, authorized by this resolution and the direct consideration that City will receive and finds that there is a clearly identified public purpose for City's expenditure, if any, and that City will receive direct consideration substantially equal to its expenditure

I City's city council finds that consideration and other public benefit commensurate with the value of the interests in the Abandonment Right-of-way being abandoned, giving due

consideration to its degree of fragmentation and marketability, will be provided to City by the owners of the abutting property

NOW, THEREFORE, BE IT RESOLVED by the city council of the City of Scottsdale, Arizona, as follows

1 Abandonment Subject to the reservations and conditions below, City's interests comprising the Abandonment Right-of-way are hereby abandoned

2 Reservations City reserves to itself and excludes from this abandonment all of the following cumulative, perpetual interests

2 1 Any and all interests in the Abandonment Right-of-way that any related application, zoning case, plat, lot split, use permit, or other land use regulatory process or requirements may require to be dedicated to City

2 2 Any of the following in favor of City that may already have been imposed on the Abandonment Right-of-way prior to this resolution, if any

2 2 1 Any V N A E or other vehicular non-access easement or covenant

2 2 2 Any N A O S or other open space or similar easement or covenant

2 2 3 Any scenic corridor, setback or similar easement or covenant

2 3 An easement for all existing utilities, if any

2 4 Such rights and interests, if any, as are required to be reserved by A R S Sec 28-7210 and A R S Sec 28-7215

3 Effective Date This resolution shall not be recorded or become effective until all of the following conditions (the "Conditions") are satisfied in accordance with all applicable laws, regulations and policies and at no expense to City

3 1 Owner shall dedicate, using City specified forms, a 20 foot right-of-way in fee along the northern boundary of the Werner parcel

3 2 The owner shall dedicate, using City specified forms, an 8 foot perpetual public utility easement along the northern boundary of the Werner parcel for the purposes of electricity, water, wastewater, storm water, drainage, telecommunications, and all other manner of utilities, and for construction, operation, use, maintenance, repair, modification and replacement from time to time of improvements related thereto

3 3 The owners of the Werner Parcel shall pay to City the total amount of Eight Hundred Thirty Eight and 20/100 Dollars (\$838 20) (the "Payment Amount") as compensation to City for the Abandonment Right-of-way, in addition to any application fees or other amounts related to this resolution and in addition to any other amounts payable to City

3 4 The zoning administrator executes the certificate at the bottom of this resolution indicating that the Conditions have been satisfied

4 Administration of Conditions If the foregoing Conditions are not all satisfied prior to the second annual anniversary of this resolution, or if this resolution is not recorded prior to that deadline, then the city clerk shall mark this resolution to indicate that this resolution is void

5 Exhibit Labeling The text of this resolution controls any conflict with the exhibits as to the nature of the interests created, reserved or otherwise affected by this resolution. For example, if the text of this resolution indicates that City is reserving a particular type of easement, but the exhibit text or labels indicate a different type of real estate interest, then the text controls

PASSED AND ADOPTED by the City Council of the City of Scottsdale this ____ day of _____, 20____

CITY OF SCOTTSDALE, an Arizona municipal corporation

W J "Jim" Lane, Mayor

ATTEST

By

Carolyn Jagger, City Clerk

APPROVED AS TO FORM

OFFICE OF THE CITY ATTORNEY



Bruce Washburn, City Attorney

By Margaret Wilson, Senior Assistant City Attorney

CERTIFICATE

I am the zoning administrator of the City of Scottsdale. I certify that I have confirmed that the conditions stated in paragraph 3 of the abandonment resolution above have been fulfilled and the resolution is ready to be recorded and become effective

DATED this ____ day of _____, 20____

signature

name printed

Table of Exhibits

<u>Exhibit</u>	<u>Paragraph</u>	<u>Description</u>
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LEGAL DESCRIPTION
RIGHT OF WAY FOR ROADWAY AND PUBLIC UTILITIES PURPOSES
ABANDONMENT & RELEASE

Abandonment and Release of a portion of the Right of Way for Roadway and Public Utilities Purposes described in Patent Number 1206489 of the General Land Office Records of the Bureau of Land Management, in the City of Scottsdale, County of Maricopa, State of Arizona described as follows:

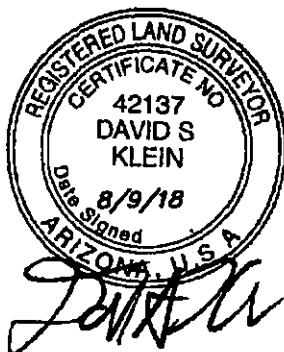
The East 33 feet of the Northwest quarter of the Southwest quarter of the Southeast quarter of the Northeast quarter of Section 22, Township 5 North, Range 4 East of the Gila and Salt River Meridian.

EXCEPT the North 20 feet thereof

AND

The South 13 feet of the North 33 feet of the Northeast quarter of the Southwest quarter of the Southeast quarter of the Northeast quarter of Section 22, Township 5 North, Range 4 East of the Gila and Salt River Meridian.

Comprising 14,088 square feet more or less, subject to all easements

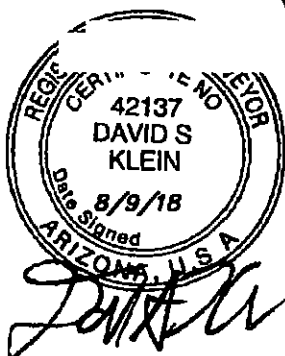
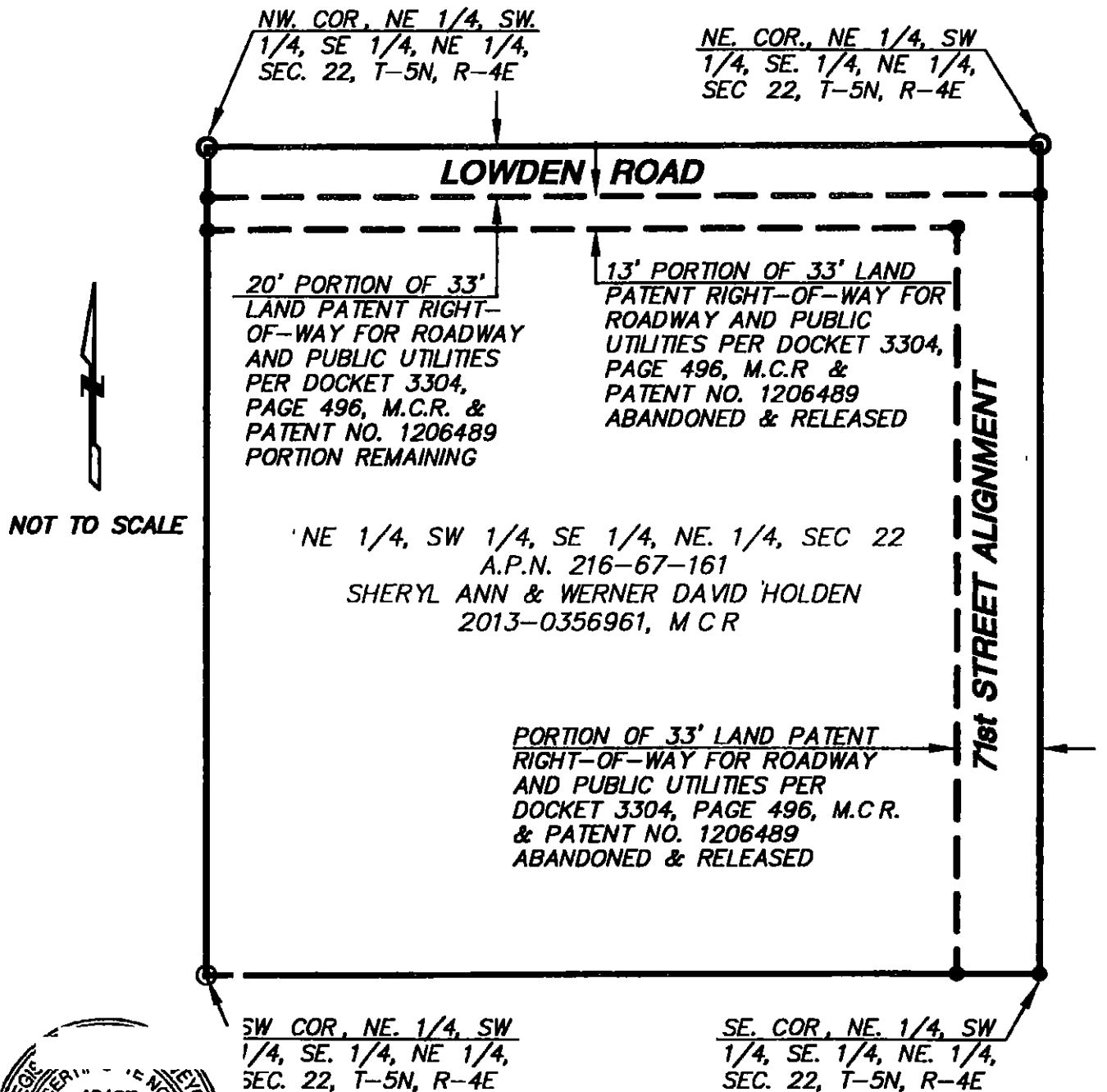


Resolution No 11273
Exhibit A
Page 1 of 1

 SUPERIOR SURVEYING SERVICES, INC.	2122 W Lone Cactus Dr Ste 11, Phoenix, AZ 85027 623-869-0223 (office) 623-869-0726 (fax) www.superiorsurveying.com info@superiorsurveying.com
	JOB NO.: 170475

DATE: 8/9/18

RIGHT OF WAY FOR ROADWAY AND PUBLIC UTILITIES PURPOSES
ABANDONMENT & RELEASE



Resolution No 11273
Exhibit B
Page 1 of 1

SUPERIOR
SURVEYING SERVICES, INC.

DATE: 8/9/18

2122 W Lone Cactus Dr
Ste 11, Phoenix, AZ 85027
623-869-0223 (office)
623-869-0726 (fax)
www.superiorsurveying.com
info@superiorsurveying.com

JOB NO : 170475

N. 71st Street

E. Lowden Drive

Proposed
Abandonment
Areas

WERNER
PROPERTY

Hagerman
Property

Resolution 11273
Exhibit C
Page 1 of 1



Davidson & Kaffer, PLLC

"Applying Practical Business Experience to the Practice of Law"

Frederick E. Davidson
Admitted to Practice: Arizona, Colorado and New Jersey
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12 June 2018

Jesus Murillo
Planner/Project Coordinator
City of Scottsdale
7447 East Indian School Road
Scottsdale, Arizona 85251

Re: Pre-Application Number 494-PA-2017

Dear Mr. Murillo:

As you know, I represent the owners of the properties that are the subject of the above-referenced GLO abandonment application (the "Application"). The Application relates to the following property owners and properties:

1. Owners: R. Donald Hagerman and Rosemary Hagerman, Trustees of the R. Donald Hagerman and Rosemary Hagerman Revocable Trust, dated May 23, 1996

Property: 7107 East Lowden Drive Scottsdale, Arizona 85266 (the "Hagerman Property")
2. Owners: David Holden Werner and Sheryl Ann Werner Revocable Trust Dated August 4, 2011

Property: APN 216-67-191 (the "Werner Property")

Discussion

On December 11, 2017, the City of Scottsdale provided Mr. and Mrs. Hagerman and Mr. and Mrs. Werner with a letter in response to the Application. A copy of that letter is attached as **Exhibit A**. The City subsequently provided a redlined version of the legal description and graphic for the Hagerman portion of the Application. A copy of that redline is included herewith as **Exhibit B**. This correspondence is in response to the City's December 11, 2017 letter, various clarifications that the City has provided, and the redlined legal and graphic.

In the City's letter, the City set forth eight numbered paragraphs which each identify a particular issue related to the Application. Each paragraph is addressed below:

ATTACHMENT 5

11-AB-2017
6/12/2018

1 Summary of Feedback from Neighborhood Outreach Notification for the Werner Property

After posting the initial Early Notification of Project Under Consideration, or "white sign," relative to the Werner Property, I received two inquiries regarding the matter. First, on October 30, 2017, Sandra Lynch contacted me. Upon information and belief, Sandra Lynch is an owner, in her capacity as trustee, of the property known as 7224 East Visao Drive, Scottsdale, Arizona 85266. Ms. Lynch requested an explanation of the nature of a GLO easement in general, and the purpose of Mr. and Mrs. Werners' abandonment application. I provided Ms. Lynch with an explanation and Ms. Lynch indicated to me that she understood, did not feel that the GLO abandonment would be a problem for her, and did not otherwise feel that the abandonment would affect her negatively. Ms. Lynch also mentioned that she does not want to disrupt Mr. and Mrs. Werners' application process.

Additionally, on November 6, 2017, I received a telephone inquiry from Mark Gale who is a paralegal with the law firm Beus Gilbert PLLC. Mr. Gale, on behalf of his firm's client(s), the identity of whom we did not discuss, requested clarification as to whether Mr. and Mrs. Werner are seeking to abandon the portion of the GLO overlapping the paved portion of Lowden Drive. I provided Mr. Gale with an email and highlighted the graphic included with the Werner portion of the Application, in an effort to show Mr. Gale that Mr. and Mrs. Werner are not seeking to abandon the northern 20' half street on Lowden Drive. Mr. Gale responded to my email by indicating "Thank you. All of my questions have been answered." Included herewith as **Exhibit C** is a copy of the complete email thread between Mr. Gale and me, including the attachment to my email.

2 Documentation of all NAOS dedicated areas to be revegetated to zoning ordinance requirements for the Hagerman Property prior to recordation of the abandonment resolution

Attached as **Exhibit D** is a copy of Mr. and Mrs. Hagermans' revegetation plan along with the plans for the new NAOS that Mr. and Mrs. Hagerman propose. Mr. and Mrs. Hagerman intend to revegetate the Hagerman Property to the condition identified in Exhibit D, upon the City's approval of such revegetation plans.

3 One-quarter cul-de-sac dedication by Mr. and Mrs. Hagerman

Mr. and Mrs. Hagerman will entertain discussions related to dedicating the cul-de-sac in consideration for the GLO abandonment once the City has provided additional details relative to the cul-de-sac.

4 Consideration under review by the City

Mr. and Mrs. Hagerman and Mr. and Mrs. Werner will respond after the City provides its analysis regarding the consideration the City seeks in exchange for granting the abandonment application.

5 *20-foot waterline easement along E Mariposa Grande alignment*

In clarifying the City's request for the 20-foot waterline easement, you provided the graphic included in the email attached as Exhibit E, that depicts in green the location of the waterline easement the City is requesting. Mr. and Mrs. Hagerman will entertain discussions related to conveying such a waterline easement, however, until the terms of such proposed waterline easement and the costs associated therewith are specifically identified, Mr. and Mrs. Hagerman cannot at this time provide a meaningful response accepting or rejecting such proposal. Accordingly, Mr. and Mrs. Hagerman make no assurances, but are certainly willing to engage with the City to come to a reasonable conclusion with regard to the Application and the proposed waterline easement.

6 *Hagermans to provide documentation of conformance with all ordinances and policies before the abandonment resolution is to be recorded*

Please see response to item 2 above. Mr. and Mrs. Hagerman intend to revegetate the Hagerman Property to the condition identified in Exhibit D, upon the City's approval of such revegetation plans.

7 *Abandonment of the southern 8 feet of the GLOPE located along the Lowden Drive frontage of the properties*

It is Mr. and Mrs. Werners' and Mr. and Mrs. Hagermans' understanding that the City has revised the City's request and now prefers that Mr. and Mrs. Hagerman and Mr. and Mrs. Werner request that the southern 13 feet, rather than the previously-requested 8 feet, of the GLOPE located along the Lowden Drive frontage of the properties be included in the Application. See Exhibit E graphic. To that end, a revised legal description and graphic which includes reference to the southern 13 feet of the GLOPE along the Lowden Drive frontage of the Hagerman Property, is included herewith as Exhibit F.

8 *Updated legals and graphics including redline revisions*

Please see the attached Exhibit F.

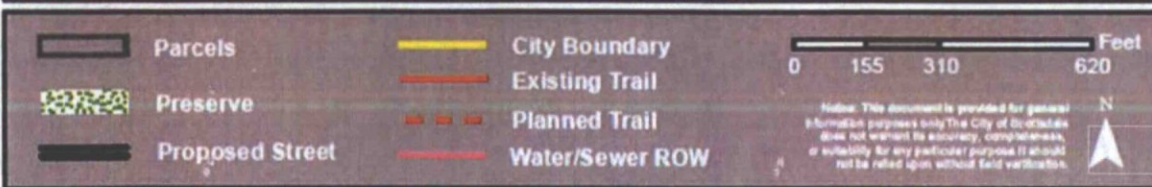
Conclusion

Mr. and Mrs. Hagerman and Mr. and Mrs. Werner look forward to continuing the application process and resolving the identified issues quickly and efficiently. Should you have any questions, please do not hesitate to contact me.

Regards,

Josh G. Funkhouser

Josh G. Funkhouser, Esq.
For the Firm

[illegible]

CITY OF
SCOTTSDALE
Last Updated: 8/21/2017



Portions of N. 71st Street Abandonment

ATTACHMENT #7

11-AB-2017



Davidson & Kaffer, PLLC

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Scottsdale, Arizona 85255
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October 9, 2017

Jesus Murillo
Planner/Project Coordinator
City of Scottsdale
7447 East Indian School Road
Scottsdale, Arizona 85251

Re: 7017 East Lowden Drive Scottsdale, Arizona 85266 (the "Hagerman Property")
NEIGHBORHOOD NOTIFICATION REPORT
Pre-Application Number 494-PA-2017

Dear Mr. Murillo:

Please accept this letter and its enclosures on behalf of our clients, R. Donald Hagerman and Rosemary Hagerman, Trustees of the R. Donald Hagerman and Rosemary Hagerman Revocable Trust, dated May 23, 1996 (the "Applicants"), as the Neighborhood Notification Report (this "Report") required for the abandonment of the GLOPE that is the subject of the above-referenced Pre-Application. In support of this Report, please find the following documents enclosed herewith:

1. A copy of the letter sent to neighboring property owners/neighborhood associations which letter is dated July 27, 2017 and which was sent by first-class U.S. mail. Please note that the parties notified were either neighborhood associations or owners of property located within 750 feet of the Hagerman Property.
2. A list of the names, addresses and parcel numbers of the neighborhood associations and homeowners notified via the letter dated July 27, 2017.
3. A copy of the Neighborhood Notification Checklist relative to this application;
4. A photograph of the Early Notification sign posted at the Hagerman Property on September 14, 2017;
5. An aerial view depicting the sign location; and
6. A copy of the Affidavit of Posting executed by an agent of Scottsdale Sign-A-Rama.

Please note that I have not yet received any written comments, letters or correspondence related to the above-referenced letters.

Regards,
Josh G. Funkhouser
Josh G. Funkhouser, Esq.
For the Firm

ATTACHMENT 9

11-AB-2017
10/9/2017

Donald and Rosemary Hagerman
7107 E Lowden Drive
Scottsdale, AZ. 85266

July 27th, 2017

Dear Property Owner and/or Neighborhood Association:

This letter serves as formal notification that an application is being submitted to the City of Scottsdale by Donald and Rosemary Hagerman, owners of property at 7107 E. Lowden Drive (APN: 216-67-162) (the "Property"). The Property is currently designated for zoning purposes as R1-70. We are requesting a G.L.O.P.E. abandonment along the 71st Street alignment and Lowden alignment which runs along our North and West borders.

Abandonment of 71st Street will allow us better design and improvement of our property and ensure the property's compliance with the City's zoning ordinance.

Please be advised that no public hearings have been scheduled as of yet. A sign will be posted on the property in the future with meeting dates in accordance with City of Scottsdale requirements.

We would be happy to answer any questions or hear any concerns that you may have regarding this request. You may reach us at (602) 881-8204 or drdhagerman@gmail.com. You may also reach the City of Scottsdale Project Coordinator, Jesus Murillo, at (480) 312-7849 or jmurillo@scottsdaleaz.gov. After the formal submittal, project information will be available at <https://eservices.scottsdaleaz.gov/eServices/Cases>.

Regards,
Don and Rosemary Hagerman

11-AB-2017
10/9/2017

Arnold, Joe Warren TR. 7070 E Lowden DR. Scottsdale. AZ. 85266 APN:216-67-252

Cornolli, Charles Jr. 15180 N 90th PL. Scottsdale. AZ. 85260 APN:216-67-192

Yuhas, John & Debra 7029 E Lowden DR. Scottsdale, AZ. 85266 APN:216-67-163

Werner, David & Sheryl 6050 E Cambridge Ave. Scottsdale, AZ. 85257: APN 216-67-191

Kraft, Margaret TR. 7120 E Lowden DR. Scottsdale, AZ. 85266. APN: 216-67-161

Hill, Revocable TR. 5102 E Sharon DR. Scottsdale. AZ. 85254. APN: 216-67-186

Black Mt. Community Church 30600 N Scottsdale RD, Scottsdale, AZ 85266 APN: 21667-001A

Gray, Benjamin & John 7466 E Black Rock RD. Scottsdale, AZ 85266 APN: 216-67-165

Harding, Eric 7111 E Wildcat DR. Scottsdale, AZ 85266 APN:216-67-159

Gustafson, Bo & Jorene 7077 E Wilcat DR. Scottsdale, AZ. 85266 APN: 216-67-160

Kuklowsky, Don & Kathy 7025 E Wildcat DR, Scottsdale, AZ 85266 APN: 216-67-243

Strieby Matthew & Collette 7030 E Montgomery RD. Scottsdale, AZ 85266 APN: 216-67-164

Trautman, Jon 7100 E Montgomery RD. Scottsdale, AZ 85266 APN: 216-67-081

Blake, Kenyon 27614 N Hayden Scottsdale, AZ 85262 APN: 216-67-128

Mance, Joseph P.O.Box 27663 Scottsdale, AZ 85255 APN: 216-67-182

Kretchun, Theresa 7125 E Montgomery RD. Scottsdale, AZ APN: 216-67-085B

Wedge Gregory & Kathleen 7171 E Montgomery RD. Scottsdale, AZ 85266 APN: 216-67-085A

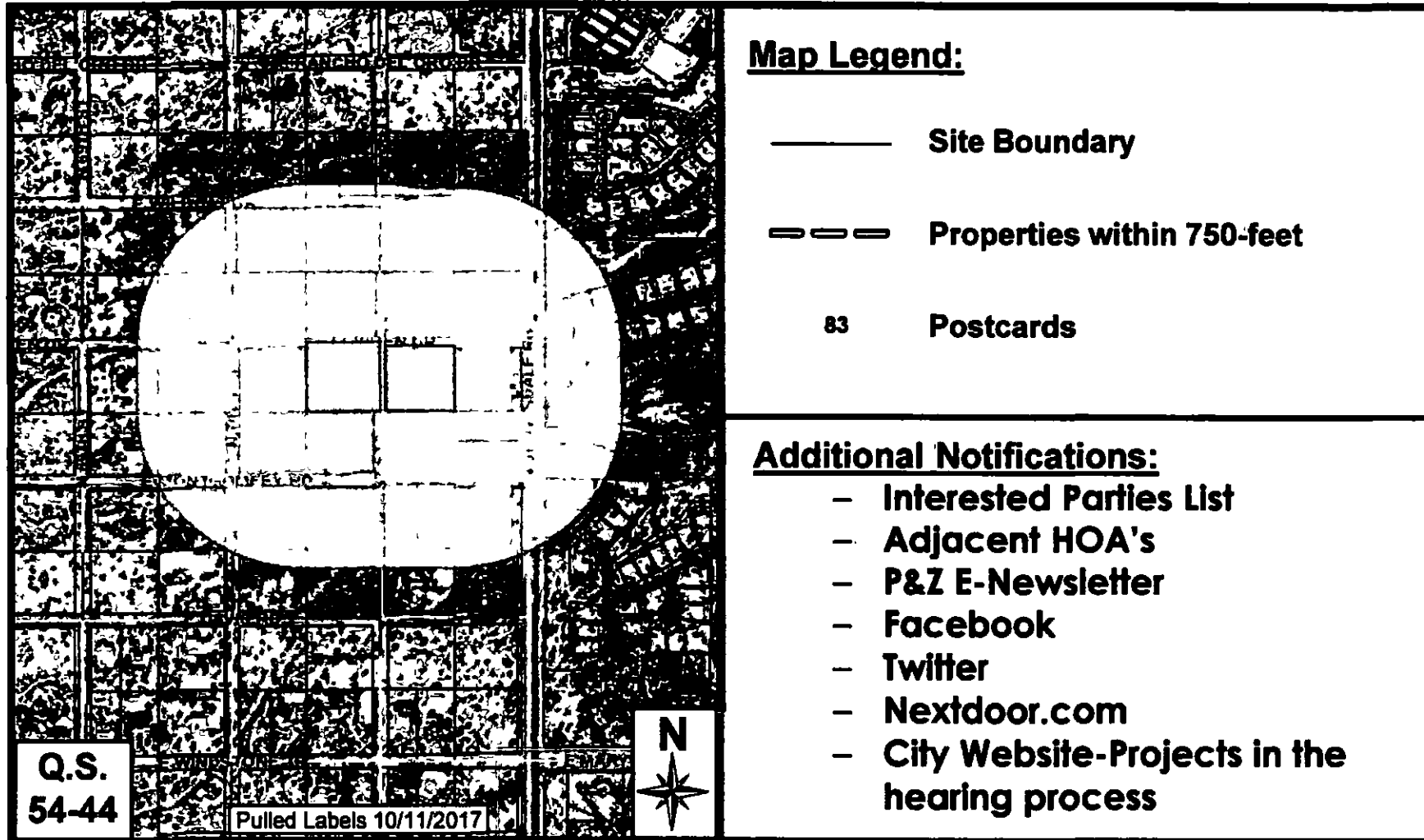
SHM Properties LLC 4126 E Prickly Pear TRL. Phoenix, AZ 85050. APN:216-67-245

Soto, Rudy 2234 Oceanview RD. Oceanside, CA 92056 APN: 226-67-244

Bellasera Community 7740 N 16th ST #300 Phoenix, AZ. 85020 APN: 216-66-288

Almanza, Martinez TR. 7340 E Sweetwater DR. Scottsdale, AZ 85260 APN: 216-67248A

City Notifications – Mailing List Selection Map



11-AB-2017

Portions of N. 71st Street Abandonment

ATTACHMENT 10



**SCOTTSDALE PLANNING COMMISSION
CITY HALL KIVA
3939 N DRINKWATER BOULEVARD
SCOTTSDALE, AZ 85251**

WEDNESDAY, AUGUST 22, 2018

***SUMMARIZED MEETING MINUTES ***

PRESENT Paul Alessio, Chair
Ali Fakh, Vice Chair
Larry S. Kush, Commissioner
Prescott Smith, Commissioner
Kelsey Young, Commissioner
Kevin Bollinger, Commissioner
Christian Serena, Commissioner

STAFF Tim Curtis
Joe Padilla
Jesus Murillo
Katie Posler

CALL TO ORDER

Chair Alessio called the regular session of the Scottsdale Planning Commission to order at 5:00 p.m.

ROLL CALL

A formal roll call was conducted confirming members present as stated above.

MINUTES REVIEW AND APPROVAL

1. Approval of the August 8, 2018 Regular Meeting Minutes including Study Session
Commissioner Kush moved to approve the August 8, 2018 Regular Meeting Minutes, including Study Session, Seconded by Commissioner Smith
The motion carried unanimously with a vote of seven (7) to zero (0), by Chair Alessio, Vice Chair Fakh, Commissioner Kush, Commissioner Smith, Commissioner Serena, Commissioner Young and Commissioner Bollinger

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission page on ScottsdaleAZ.gov, search "Planning Commission".

EXPEDITED AGENDA

- 2 11-AB-2017 (Portions of N 71st Street Abandonment)
Request by owner to abandon the two 33-foot General Land Office Patent Easements (GLOPE) and the underlying 20 feet of fee-simple street right-of-way located along N 71st Street, between parcels 216-67-191 and 216-67-162, and the southern 13 feet of GLOPE located along the northern boundary of the two parcels (N Lowden Drive), with Single-family Residential Environmentally Sensitive Lands, Foothills Overlay (R1-70/ESL/FO) zoning, located at 7107 E Lowden Drive, consistent with the city's Transportation Master Plan and the Foothills Overlay Local Area Infrastructure Plan. Staff contact person is Jesus Murillo, 480-312-7849. Applicant contact person is Josh G. Funkhouser, 480-585-3100.
- 3 12-AB-2018 (Shaw Abandonment)
Request by owner to abandon the twenty-five (25) foot wide Easement for Future Roadway along the northern property line located at 7629 E Thunderbird Road with Single-family Residential zoning (R1-35). Staff contact person is Katie Posler, 480-312-2703. Applicant contact person is Chris Shaw, (602) 550-7638.

Item No's 2 & 3- Recommended City Council approve cases 11-AB-2017 and 12-AB-2018, Motion by Commissioner Serena, per the staff recommended stipulations, based upon the finding that the Abandonments are consistent and conform with the adopted General Plan, Seconded by Commissioner Kush

The motion carried unanimously with a vote of seven (7) to zero (0), by Chair Alessio, Vice Chair Fakih, Commissioner Kush, Commissioner Smith, Commissioner Serena, Commissioner Young and Commissioner Bollinger

Adjournment – 5 05 P M

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission page on ScottsdaleAZ.gov, search "Planning Commission".