

CITY COUNCIL REPORT



Meeting Date: June 27, 2023
General Plan Element: *Land Use*
General Plan Goal: *Coordinate Planning to Balance Infrastructure*

ACTION

Khan Residence Abandonment 4-AB-2022

Request to consider the following:

1. Adopt Resolution No. 12732 to abandon the portions of the "old" E. Cholla Drive alignment, adjacent to parcel 217-27-015B, with Single-family Residential District (R1-43) zoning designation, located at 10634 E. Cholla Lane.

Goal/Purpose of Request

This request is to abandon the remnant street right-of-way adjacent to the subject site to allow the property to expand the development envelope by approximately forty (40) feet to the south. The applicant is also proposing to reserve and dedicate a Public Utility Easement, dedicate a Vehicular Non-Parking Easement, and a Traffic Control Easement.

Key Items for Consideration

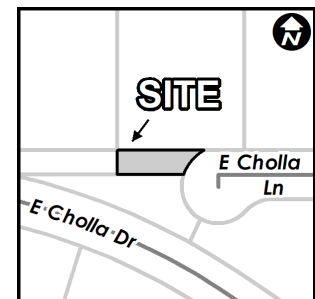
- Subject right-of-way is remnant of "old" E. Cholla Drive alignment.
- Access not impacted by this proposed abandonment.
- Conformance with the Transportation Master Plan and Local Area Infrastructure Plan for the City's roadway requirement for a local collector – suburban character.
- Owner to dedicate Public Utility Easement and Traffic Control Easement
- Owner to dedicate easement confirming not to park within proposed abandonment area as per neighborhood comments.
- Staff received public input regarding the proposed abandonment.
- Planning Commission heard this case on February 22, 2023, and recommended approval with a 7-0 vote.

OWNER

A. K. Khan
(602) 689-5187

APPLICANT CONTACT

Jeff Wagner
Wagner Architecture
(602) 689-5187



LOCATION

10634 E. Cholla Lane

BACKGROUND

General Plan

The General Plan Land Use Element designates the property as Rural Neighborhoods. This category includes the largest-lot, single-family neighborhoods. Densities in Rural Neighborhoods are usually one dwelling unit per one or more acres. The goal in Rural Neighborhoods is to retain the large-lot character while preserving desert vegetation, washes, and natural features. Rural Neighborhoods may also include equestrian or limited golf course uses.

Character Area Plan

The subject site is not located within an adopted Character Area.

Zoning

The site is zoned Single-family Residential (R1-43) District. The R1-43 zoning district is intended to promote and preserve residential development. Large lots are required to maintain a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto together with required recreational, religious and educational facilities.

The subdivision containing the subject parcel, Mary Katherine Estates, is located north of East Shea Boulevard, and west of N. 108th Street. The surrounding properties are zoned Single-family Residential (R1-43) District to the north, east, and west. The properties located to the south, within the Preston Hills Unit 1 subdivision, are zoned Single-family Residential District, Planned Residential District (R1-35/PRD).

Context

The subject forty (40) feet half-street right-of-way was dedicated in June of 1956. The subject right-of-way was dedicated as per the Mary Katherine subdivision plat (MCR 068-15). The subject property is located along the northern portion of the E. Cholla Drive (now E. Cholla Lane) alignment. The property is surrounded by established single-family communities. Please refer to context graphics attached.

Related Policies, References:

2008 Scottsdale Transportation Master Plan

APPLICANTS PROPOSAL

Development Information

The proposal includes the abandonment of the forty-feet (40-ft.) of the remnant “old” E. Cholla Drive alignment located adjacent to the subject parcel. The “old” E. Cholla Drive alignment was redirected in approximately 1980, and the existing E. Cholla Lane alignment was identified for local access only.

- Existing Use: Single-family Residence
- Proposed Use: Single-family Residence
- Parcel Size: 1.06 Acres
- Building Height Allowed: 30 feet

IMPACT ANALYSIS

Land Use

The existing single-family residential land use will remain unchanged. The density of the parcel and community will remain the same. The proposed abandonment will allow the property to expand the development envelope by approximately forty (40) feet to the south.

Traffic

Access to the development will continue to be provided by the existing dedicated E. Cholla Lane right-of-way. The redirection of the E. Cholla Drive traffic exempted the E. Cholla Lane alignment from continuing to the west (west of the subject parcel). The remaining portion of the E. Cholla Lane remnant right-of-way, adjacent to the property located to the west of this site, will remain as the adjoining property currently uses this right-of-way as access.

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 the existing E. Cholla Drive and E. Cholla Lane dedicated streets. 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 public utility easement will be retained over the area of the abandonment.

Community Involvement

Both staff and the applicant have notified those property owners within 750 feet of the property. Staff received communications regarding the abandonment from three surrounding residents. The communications revolved around questions about the request, and concerns about vehicles being parked in this general location.

Staff responded to the abandonment inquiries to the satisfaction of two of the residents. Staff stipulated, and the owner agreed, to provide a Vehicular Non-Parking easement over the subject abandonment area. This condition of the abandonment satisfied the concerns of the third resident.

Community Impact

No properties' access shall be negatively impacted by the approval of the proposed abandonment request. The right-of-way improvements required for access to surrounding properties have been established and have been in place since the development of the subdivision.

Policy Implications

The compensation amount has been compiled by City of Scottsdale staff in accordance with abandonment valuation procedure. The owner of the parcel has agreed to pay to City the total amount of \$1,656.97 as compensation to the 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. Additionally, the owner shall:

1. Dedicate a 40-foot Public Utility Easement over the proposed abandonment area.
2. Dedicate a 40-foot Vehicular Non-Parking Easement over the proposed abandonment area.
3. Dedicate a 40-foot Traffic Control Easement over the proposed abandonment area.

OTHER BOARDS & COMMISSIONS

Planning Commission:

Planning Commission heard this case on February 22, 2023, and recommended approval with a 7-0 vote.

Staff's recommendation to Planning Commission:

Staff recommended that the Planning Commission make a recommendation to City Council for approval to abandon the portions of the "old" E. Cholla Drive alignment, adjacent to parcel 217-27-015B, finding that the proposal is consistent with and conforms to the adopted General Plan, subject to the following:

1. The property owner shall pay to the City an amount to be determined as compensation to the City for the abandonment of right-of-way.
2. The property owner shall dedicate a 40-foot Public Utility Easement over the proposed abandonment area.
3. The property owner shall dedicate a 40-foot Vehicular Non-Parking Easement over the proposed abandonment area.
4. The property owner shall dedicate a 40-foot Traffic Control Easement over the proposed abandonment area.

RECOMMENDATION

Recommended Approach:

Adopt Resolution No. 12732 to abandon the portions of the "old" E. Cholla Drive alignment, adjacent to parcel 217-27-015B, with Single-family Residential District (R1-43) zoning designation, located at 10634 E. Cholla Lane.

RESPONSIBLE DEPARTMENT

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

June 7, 2023

Date



Tim Curtis, AICP, Current Planning Director
Planning Commission Liaison
Phone: 480-312-7713 Email: tcurtis@scottsdaleaz.gov

6/7/2023

Date



Erin Perreault, AICP, Executive Director
Planning, Economic Development, and Tourism
Phone: 480-312-7093 Email: eperreault@scottsdaleaz.gov

06/09/2023

Date

ATTACHMENTS

1. Context Aerial
- 1A. Aerial Close-Up
2. Applicant's Narrative and Neighborhood Outreach
3. Resolution No. 12732
 - Exhibit A: Legal Description
 - Exhibit B: Legal Graphic
 - Exhibit C: Depiction of subject parcel
4. Zoning Aerial
5. Proposed Abandonment Areas Map
6. Required Dedications Map
7. Legal Description and Graphic of Abandonment Area
8. City Notification Map
9. February 22, 2023, Planning Commission Approved Meeting Minutes



Context Aerial

ATTACHMENT # 1

4-AB-2022



Aerial Close-Up

ATTACHMENT # 1A

4-AB-2022

Narrative

October 18, 2022

Re: 4-AB-2022

Khan Residence Land Addition

The owner is seeking to purchase the city owned property to the south of his property at 10634 East Cholla Lane through the abandonment process. (See the attached Site Plan showing the parcel in question) The city's abandonment property purchase with the associated additional land and new building setbacks will allow for the extension of the existing residence structure to the south. This will permit expansion of the Garage to the south and the addition of game-room/office space. It will also allow more room to maneuver recreation vehicles. The current angle of the driveway presents a great challenge to back the RV to the west side of the residence, and when left in the front of the driveway, the RVs have met with some feedback from drive by/nearby resident/neighbors. Over time, the difficulty of the existing angle has been somewhat offset by the increased skill and has allowed the owner to consistently park RV and the boat on the west side between the site wall and residence on the west portion of the property, away from open sight (see aerial photograph which confirms this). The neighbor directly to the east of the owner's residence had expressed to the city a concern regarding the owner's purchase of the property to be abandoned / purchased. The owner has had a meeting with those neighbors (Jeff and Marija Langhorst) and explained the plans for the abandoned property. The Langhorsts were positive about the project goals and are fully on board with the extension of the garage / living structure and the Khan family's effort to complete the land purchase.

It is further submitted for your consideration that the owner has a family of five children, three of them driving age and a boy 10 and a girl 8, which currently results in minimum of five household drivers/ vehicles. It is anticipated that the home structure addition would increase the number of needed garage spaces from 3 to 4/ 5 and/or perhaps some additional game-room or office space which is much needed by the family.

The owner pleads for the City's approval of this sale/purchase of the abandoned land property adjacent to the 10634 E Cholla lane property.

RESOLUTION NO. 12732

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 RIGHTS-OF-WAY FOR PROPERTY LOCATED 10634 E CHOLLA LANE

(4-AB-2022)

(Khan Residence Land Additions)

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 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 Rights-of-way").

D. The Abandonment Rights-of-way are legally described on **Exhibit "A"** and depicted on **Exhibit "B"** attached hereto, and comprise an area of approximately 46,373 square-feet.

E. The Abandonment Rights-of-way fall within, serve, affect or are near a parcel comprising approximately 1.06 acres ("Owner's Parcel"), as depicted on **Exhibit "C"** attached hereto.

F. The Council finds that, subject to the conditions, requirements, reservations and limitations of this resolution, the Abandonment Rights-of-way are no longer necessary for public use.

G. The 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.

H. The 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 Rights-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 Rights-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 Rights-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 drainage or flood control easement or similar easement or covenant.

2.2.3 Any public non-motorized access easement or trail easement or similar easement or covenant.

2.2.4 Any scenic corridor, setback or similar easement or covenant.

2.3 An easement for all existing utilities, if any.

2.4 The City shall retain a public utility easement, over the proposed abandonment area, along the E. Cholla Lane frontage.

2.5 The City shall retain a traffic control easement, over the proposed abandonment area, along the E. Cholla Lane frontage to allow traffic control signs.

2.6 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 the Zoning Administrator determines that 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 The owner of the parcel shall pay to City the total amount of One Thousand Six Hundred Fifty-six and 97/100 (\$1,656.97) as compensation to the 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.

3.2 The owner has delivered to City a deed, plat or other instrument that dedicates to City, in accordance with City specifications, a Public Utility Easement over the proposed abandonment area.

3.3 The owner has delivered to City a deed, plat or other instrument that dedicates to City, in accordance with City specifications, a Motorized Non-Parking Easement over the proposed abandonment area.

3.4 The owner has delivered to City a deed, plat or other instrument that dedicates to City, in accordance with City specifications, a Traffic Control Easement over the proposed abandonment area.

3.5 As proof of satisfaction of the conditions set forth in Section 3, The Zoning Administrator shall execute the certificate at the bottom of this resolution indicating that the Conditions have been satisfied.

3. Administration of Conditions. If the foregoing Conditions are not all satisfied prior to the second annual anniversary of this resolution, the Zoning Administrator shall report the same to the City Clerk and then the City Clerk shall mark this resolution to indicate that this resolution is void.

4. 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 _____, 2023.

CITY OF SCOTTSDALE, an Arizona municipal corporation

David D. Ortega, Mayor

ATTEST:

By: _____
Ben Lane, City Clerk

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

Sherry R. Scott, City Attorney
By: Eric C. Anderson, Senior Asst. 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 Subject Parcel. |

PARCEL 3 LEGAL DESCRIPTION

RIGHT-OF-WAY CHOLLA STREET 68-15 M.C.R.

COMMENCING AT THE SOUTHWEST CORNER OF MARY KATHERINE ESTATES SUBDIVISION AS RECORDED IN BOOK 68 OF MAPS, PAGE 15, MARICOPA COUNTY RECORDS, MARICOPA COUNTY ARIZONA;

SAID COMMENCEMENT POINT BEING A BRASS CAP FLUSH AT THE INTERSECTION OF 106TH STREET AND CHOLLA STREET;

THENCE ALONG CHOLLA STREET S89°52'33"E, 497.73 FEET MEASURED (S89°54'E, 497.25 FEET RECORD) TO THE POINT OF BEGINNING(POB);

THENCE N00°02'02"W, 40.00 FEET MEASURED (N00°00'W, 40.00 FEET RECORD);

THENCE S89°52'33"E, 102.15 FEET MEASURED TO A POINT ON A CURVE CONCAVE TO THE SOUTHEAST FROM WHENCE THE RADIUS BEARS S25°39'46"E, 50.00 FEET MEASURED;

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 58°26'59", ARC LENGTH OF 51.01 FEET TO A POINT ON THE CENTERLINE OF CHOLLA STREET;

THENCE ALONG THE CENTERLINE OF CHOLLA STREET N89°52'33"W, 74.04 FEET MEASURED TO THE POINT OF BEGINNING(POB);

SAID PARCEL BEING IN THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA AND COMPRISING AN AREA OF 3,313.93 SQUARE FEET OR 0.076 ACRES

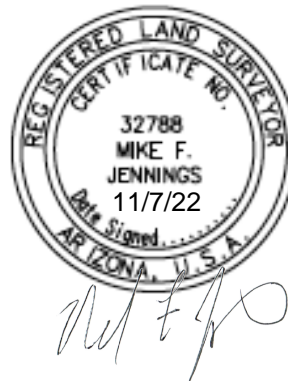


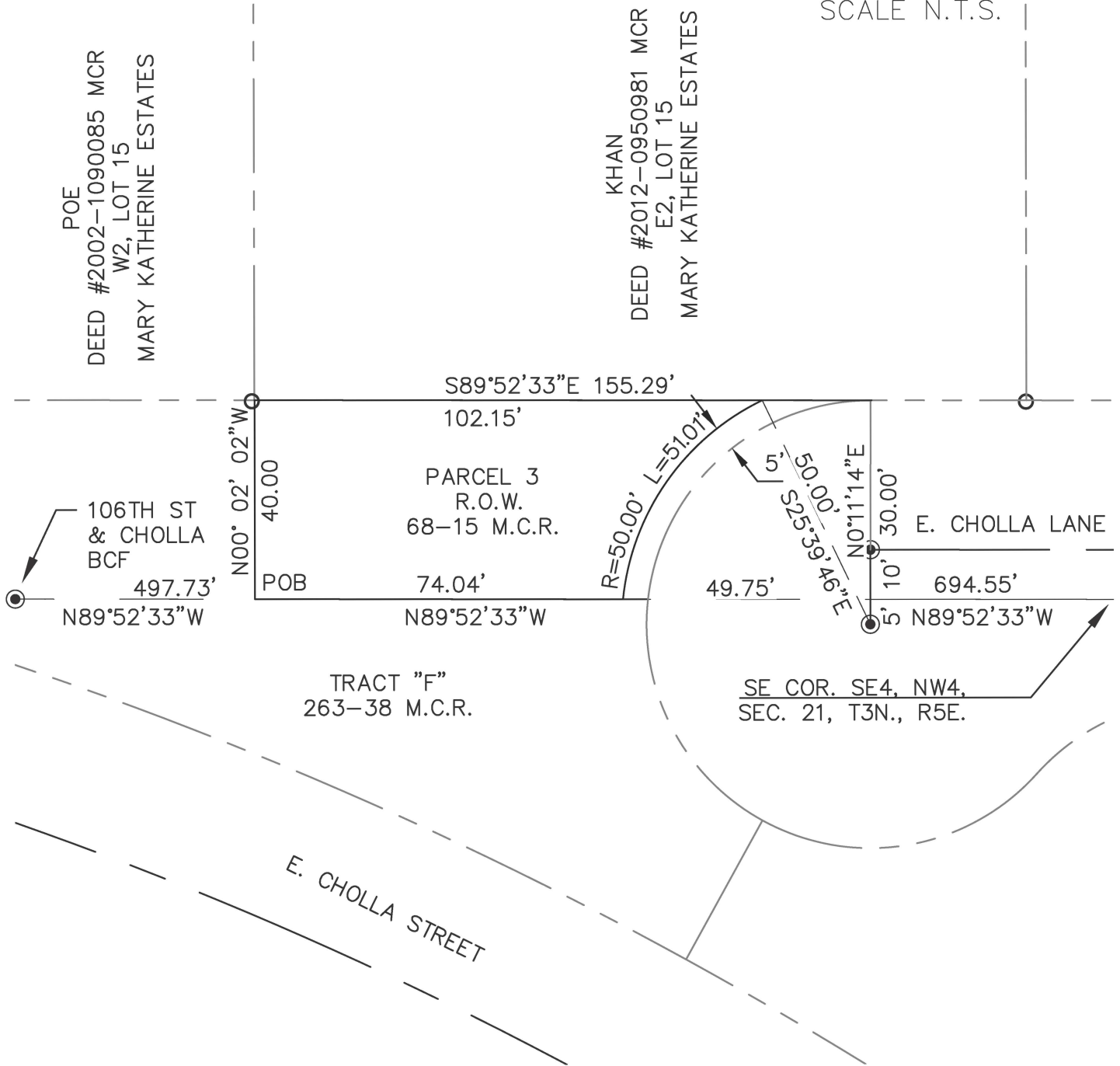
EXHIBIT "B"
PARCEL 3
RIGHT-OF-WAY
CHOLLA STREET
68-15 M.C.R.



SCALE N.T.S.

POE
 DEED #2002-1090085 MCR
 W2, LOT 15
 MARY KATHERINE ESTATES

KHAN
 DEED #2012-0950981 MCR
 E2, LOT 15
 MARY KATHERINE ESTATES



TRACT "F"
 263-38 M.C.R.

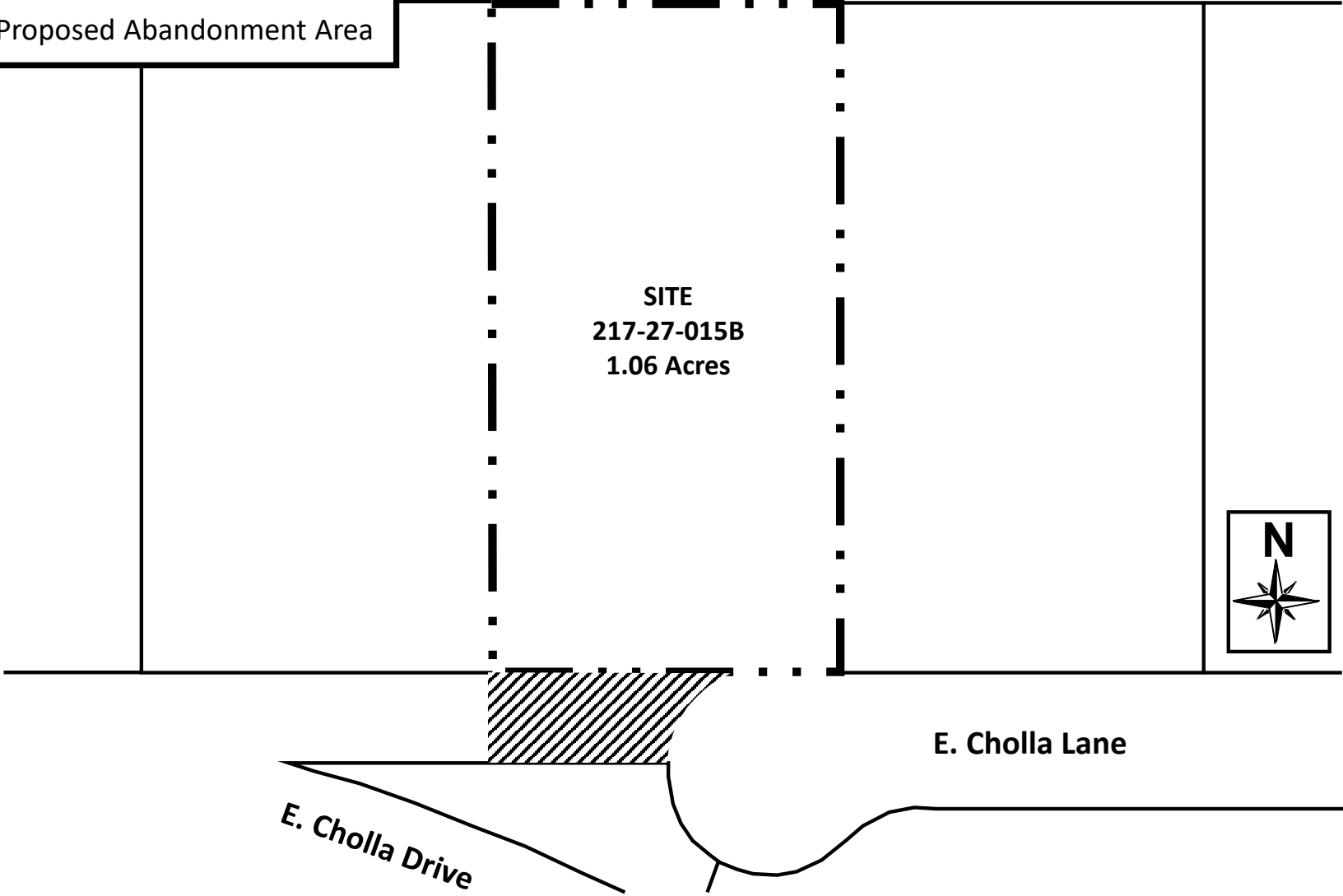
SE COR. SE4, NW4,
 SEC. 21, T3N., R5E.

Resolution No. 12732
Exhibit "B"
Page 1 of 1



Mike F. Jennings

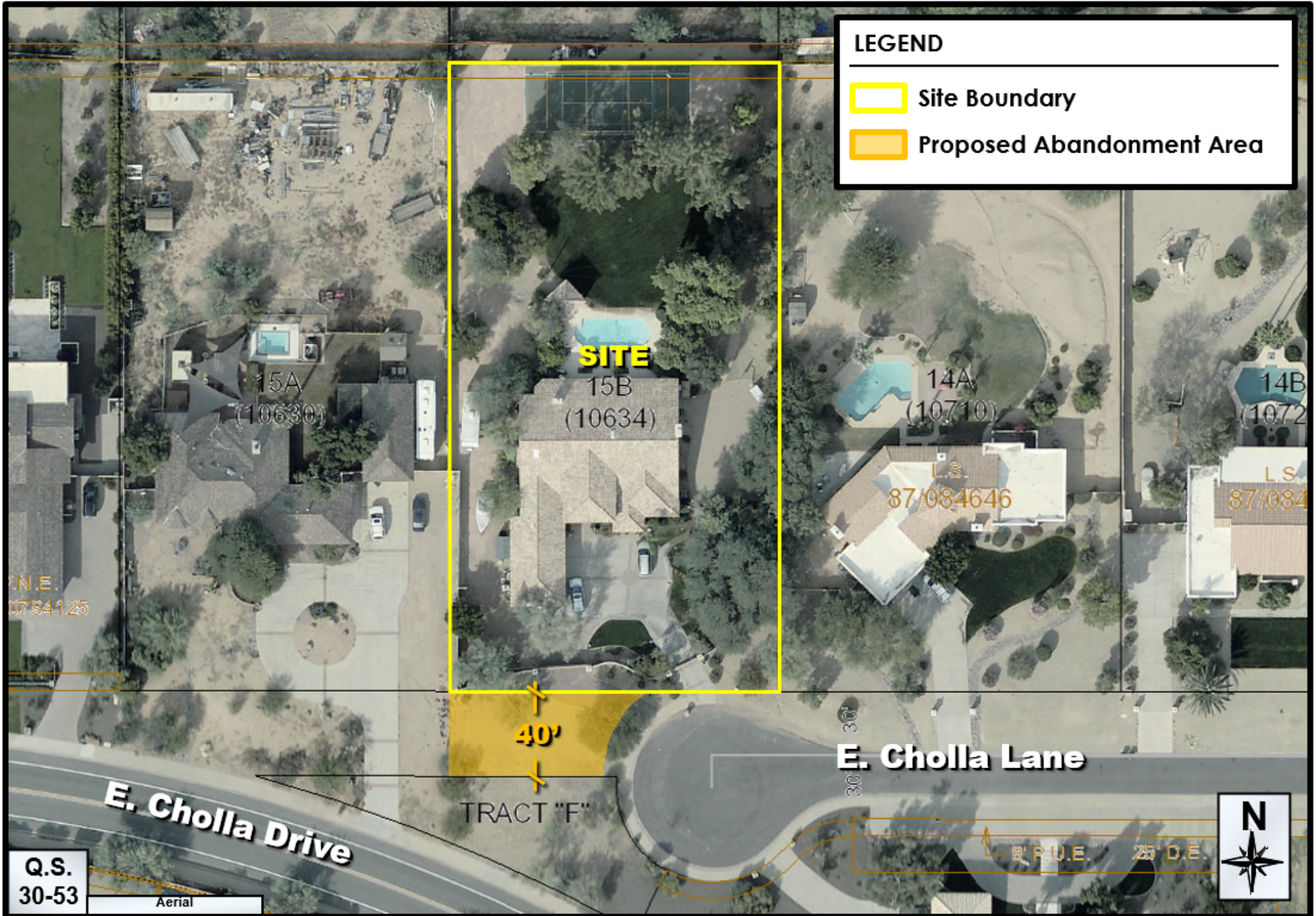
LEGEND
 Proposed Abandonment Area





Zoning Aerial

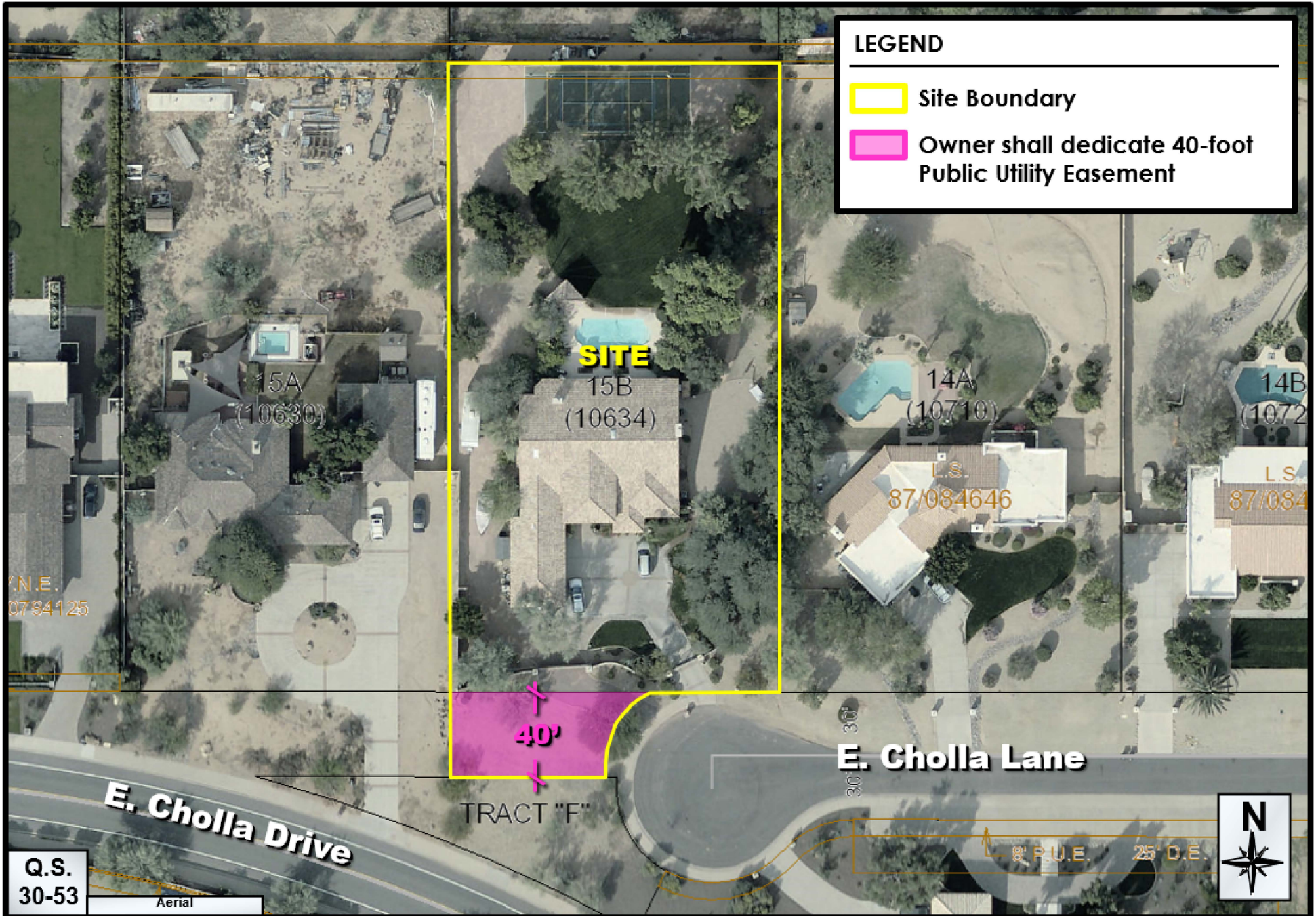
4-AB-2022



Proposed Abandonment Area

ATTACHMENT #5

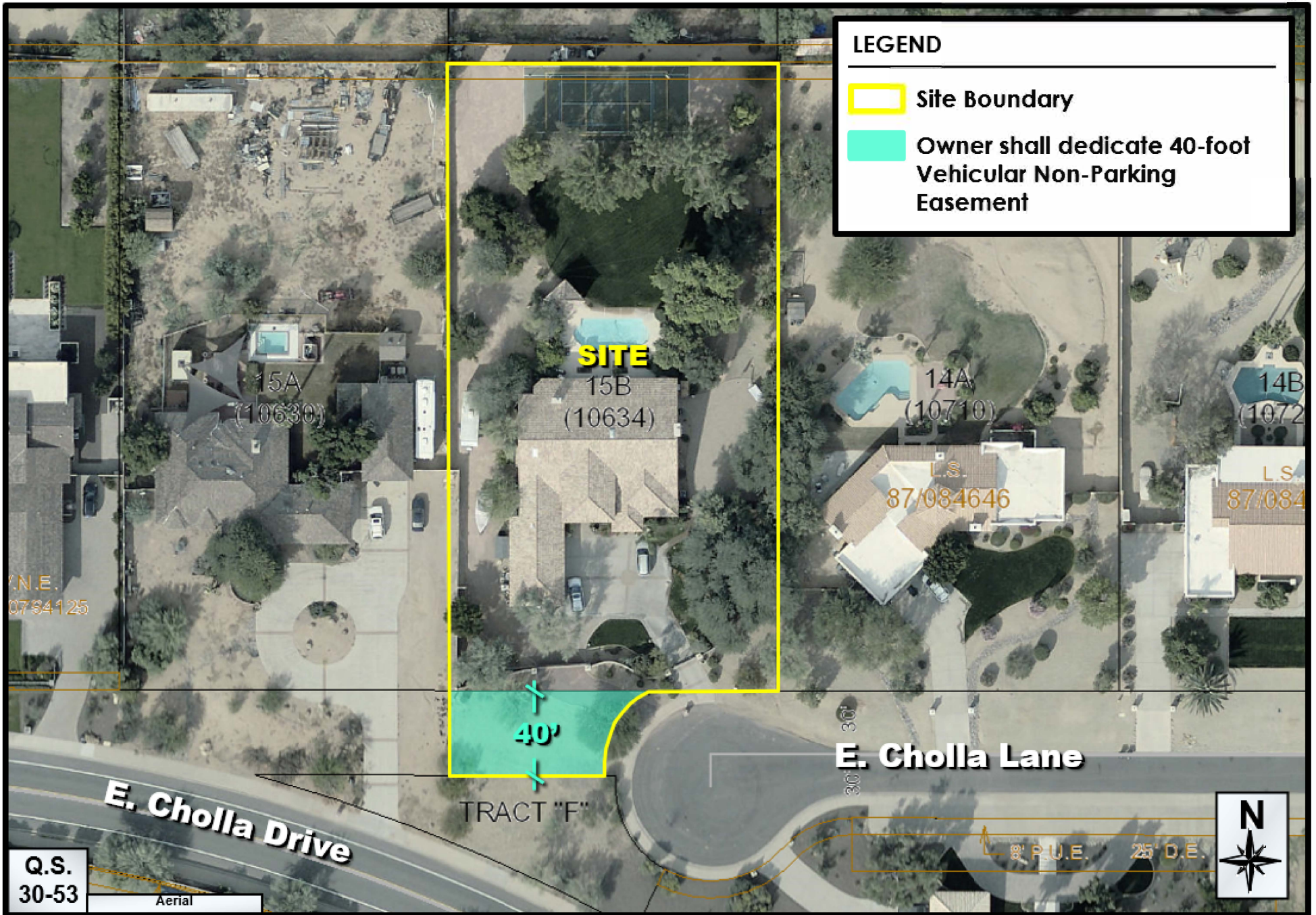
4-AB-2022



Required Dedications Map

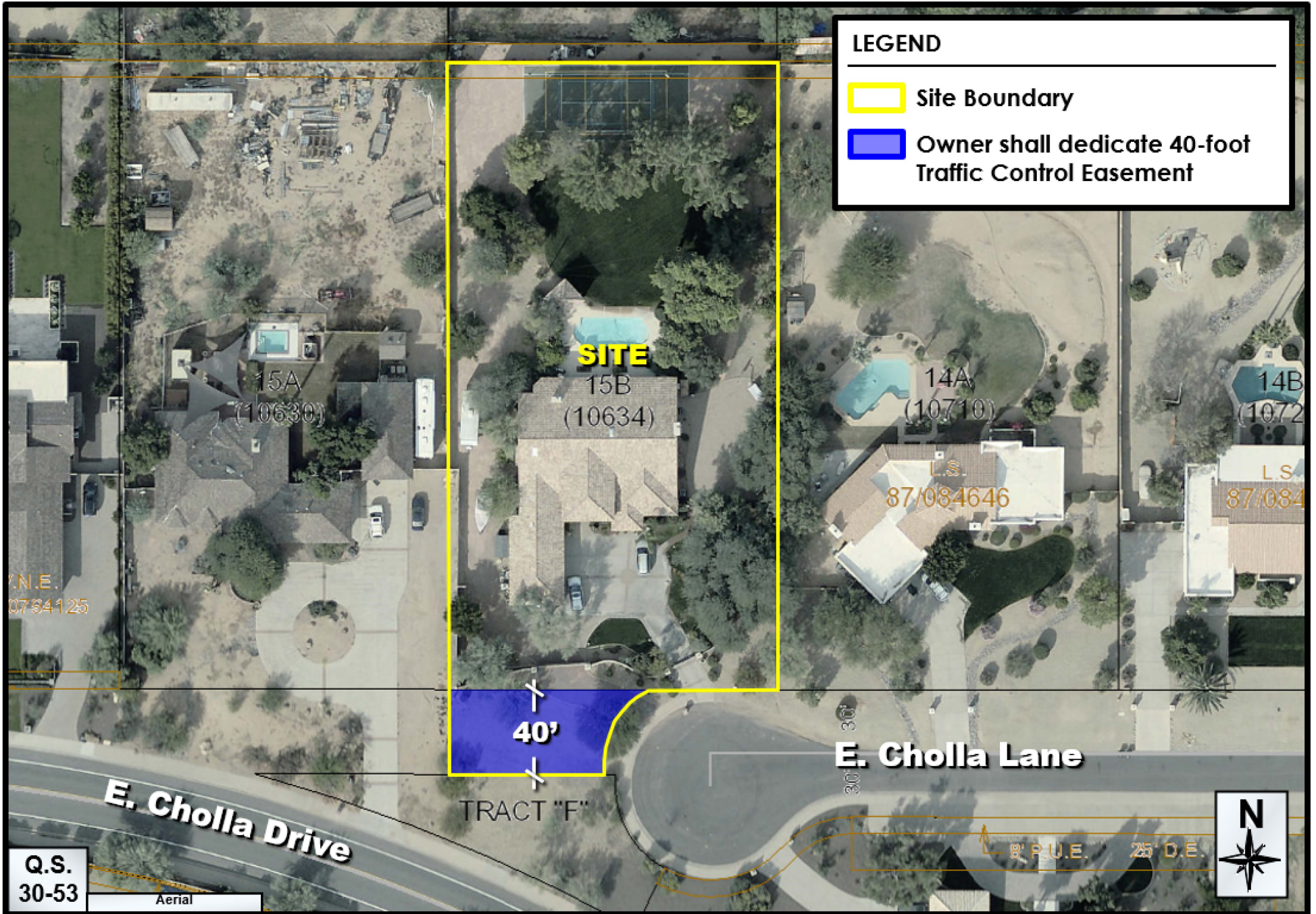
ATTACHMENT #6

4-AB-2022



Required Dedications Map

4-AB-2022



Required Dedications Map

4-AB-2022

PARCEL 3 LEGAL DESCRIPTION

RIGHT-OF-WAY CHOLLA STREET 68-15 M.C.R.

COMMENCING AT THE SOUTHWEST CORNER OF MARY KATHERINE ESTATES SUBDIVISION AS RECORDED IN BOOK 68 OF MAPS, PAGE 15, MARICOPA COUNTY RECORDS, MARICOPA COUNTY ARIZONA;

SAID COMMENCEMENT POINT BEING A BRASS CAP FLUSH AT THE INTERSECTION OF 106TH STREET AND CHOLLA STREET;

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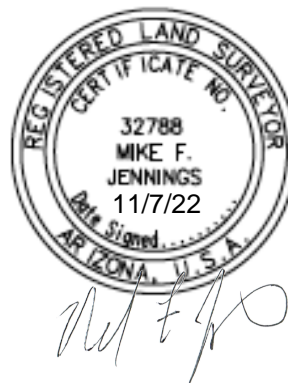


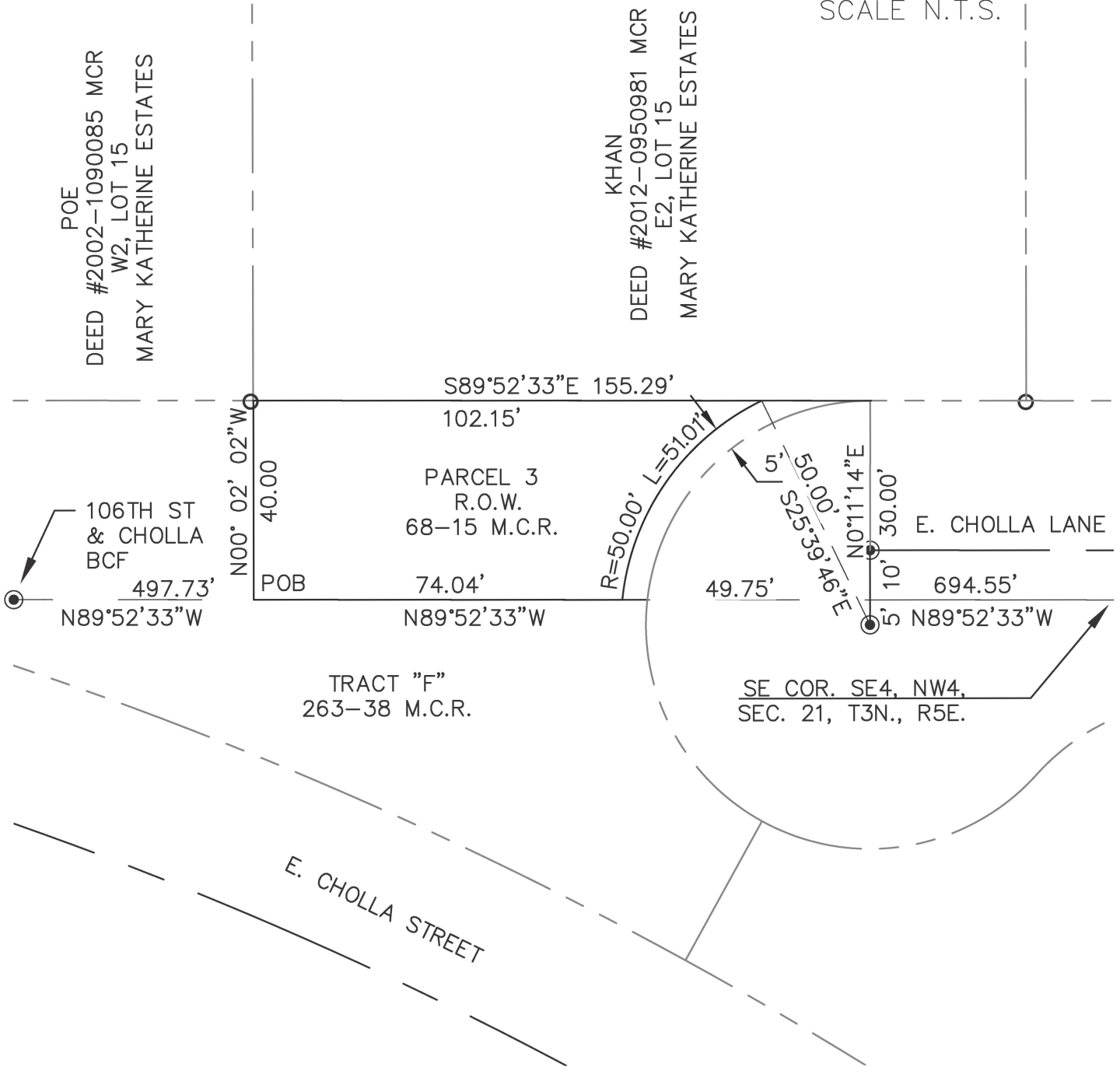
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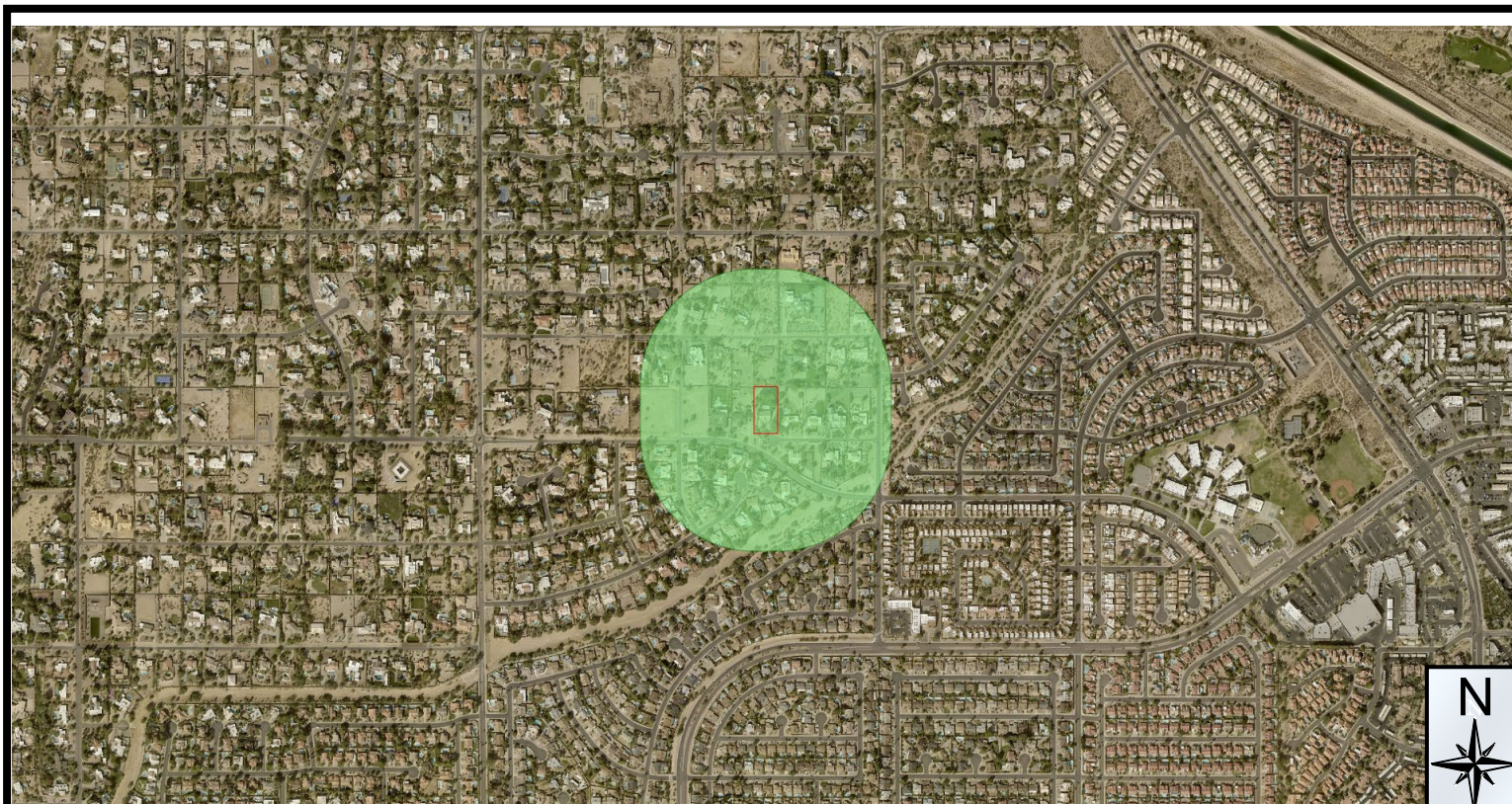
SE COR. SE4, NW4,
 SEC. 21, T3N., R5E.



Mike F. Jennings

City Notifications – Mailing List Selection Map

Khan Residence Land Additions



Additional Notifications:

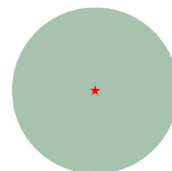
Interested Parties List
Adjacent HOA's
P&Z E-Newsletter
Facebook
Nextdoor.com
City Website-Projects in the hearing process

Pulled Labels
March 25, 2022

Map Legend:



Site Boundary



Properties within 750-feet

Postcards: 137

4-AB-2022



Approved 3/8/2023 (cg)

**SCOTTSDALE PLANNING COMMISSION
KIVA-CITY HALL
3939 DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA**

WEDNESDAY, FEBRUARY 22, 2023

***SUMMARIZED MEETING MINUTES ***

PRESENT: Renee Higgs, Chair
Joe Young, Vice Chair
Barney Gonzales, Commissioner
Diana Kaminski, Commissioner
George Ertel, Commissioner
William Scarbrough, Commissioner
Christian Serena, Commissioner

STAFF: Brad Carr
Joe Padilla
Jesús Murillo
Becca Cox
Caitlyn Gulsvig
Jason McWilliams

CALL TO ORDER

Chair Higgs 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 January 25, 2023 [Regular Meeting Minutes](#).

Vice Chair Young moved to approve the January 25, 2023 regular meeting minutes. Seconded by Commissioner Kaminski, the motion carried unanimously with a vote of seven (7) to zero (0) by Chair Higgs, Vice Chair Young, Commissioner Gonzales, Commissioner Kaminski, Commissioner Ertel, Commissioner Scarbrough and Commissioner Serena.

ATTACHMENT #9

* 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"

CONSENT AGENDA

2. [4-AB-2022 \(Khan Residence Land Additions\)](#)
Request by owner to abandon portions of the "old" E. Cholla alignment, adjacent to parcel 217-27-015B, with Single-family Residential District (R1-43) zoning designation, located at 10634 E. Cholla Lane. Staff contact person is Jesús Murillo, (480) 312-7849. **Applicant contact person is Jeff Wagner, (602) 689-5187.**

Item No. 2 moved to the regular agenda; Commissioner Serena moved to make a recommendation to City Council for approval of case 4-AB-2022 per the staff recommended stipulations, based upon the finding that the Abandonment is consistent and conforms with the adopted General Plan. Seconded by Commissioner Ertel, the motion carried unanimously with a vote of seven (7) to zero (0) by Chair Higgs, Vice Chair Young, Commissioner Gonzales, Commissioner Kaminski, Commissioner Ertel, Commissioner Scarbrough and Commissioner Serena.

ADJOURNMENT

With no further business to discuss, the regular session of the Planning Commission adjourned at 5:16 p.m.