

PLANNING COMMISSION REPORT



Meeting Date: April 13, 2022
General Plan Element: *Land Use*
General Plan Goal: *Coordinate Planning to Balance Infrastructure*

ACTION

Harbut Residence 12-AB-2021

Request to consider the following:

1. A recommendation to City Council regarding a request by owner to abandon the eastern eight (8) feet of the General Land Office Patent Easement (GLO), and portion of the half cul-de-sac, fee-simple, right-of-way located along the western boundary (N. 78th Street), and the northern fifteen (15) feet (E. Dynamite Boulevard) located along the southern boundary of parcel 216-69-156A, with Single-family Residential District, Environmentally Sensitive Lands, Foothills Overlay (R1-70/ESL/FO) zoning located 28247 N. 78th Street.

Goal/Purpose of Request

The applicant's request is to have right-of-way abandoned along the subject property's western and southern boundaries. The applicant's request will allow the subject property to come into conformance with ordinance development standards.

Key Items for Consideration

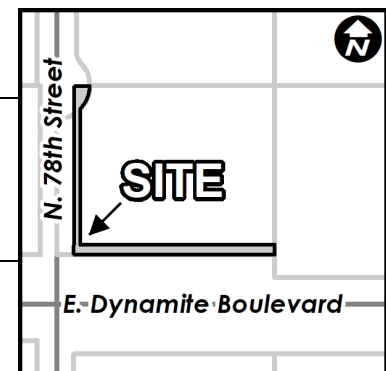
- Local Area Infrastructure Plans (LAIPS) map identifies N. 78th Street as a "through street" to complete the Transportation Master Plan street system.
- Surrounding property access not impacted by this proposed abandonment
- Conformance with the Transportation Master Plan and Local Area Infrastructure Plan
- Owner shall submit final plans for unpermitted structures
- Staff received on inquiry seeking information regarding the proposed abandonment, no comment was provided in opposition or support.

OWNER

Daniel Harbut
(847) 875-1301

APPLICANT CONTACT

Kurt Jones
Tiffany & Bosco, PA
(602) 452-2733



LOCATION

28247 N. 78th Street

BACKGROUND

General Plan

The General Plan Land Use Element designates this site as Rural Neighborhoods. This 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 Character and Design Element of the General Plan designates this site within the Rural Desert Character Type. This character type typically contains relatively low-density and large lot development, including horse privilege neighborhoods and low-density resorts as well as areas with particularly sensitive and unique natural environments. It provides a rural lifestyle that includes preservation of the desert character.

Character Area Plan

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. All non-residential structures shall respect the existing rustic, rural character and scale of the buildings across the area.

The three (3) main goals of the Desert Foothills Character Area Plan are:

- Preserve the natural, visual qualities of the lush upper desert by using desert-sensitive building techniques.
- Promote connected areas of desert open space and trails.
- Identify and celebrate the rural desert character of the Desert Foothills area.

Zoning

The site is zoned R1-70/ESL/FO. The R1-70/ESL/FO zoning district allows for single-family residential uses. The site is located within the Environmentally Sensitive Lands (ESL) and Foothills Overlay (FO) districts. The R1-70/ESL/FO zoning district allows for additional uses, with the approval of a Conditional Use Permit (CUP).

The subject site was annexed into the City of Scottsdale on October 6, 1983. After annexation from Maricopa County, the site was zoned Single-Family Residential, Hillside District (R1-70/HD), through cases 36-ZN-1984 and 113-ZN-1984.

In 1991, the Environmentally Sensitive Lands (ESL) ordinance was added as an amendment to the Hillside District overlay. Later, in March of 2003, the Foothills Overlay designation was added to this site's zoning classification. The Foothills Overlay (FO) designation was in response to the Desert Foothills Character Area Plan approved by City Council in June of 1999. The current ESL overlay took effect in 2004.

Context

The subject property is generally located on the northside of E. Dynamite Boulevard, east of N. Hayden Road. More specifically, the site is located on the northeast corner of N. 78th Street and E. Dynamite Boulevard. A majority of the local residential streets are unimproved and include waterlines within the dedicated right-of-way. The local area does not include sewer-line improvements to service this neighborhood. The surrounding areas, within a quarter-mile radius of this site, include single-family homes and undeveloped residential lots.

Please refer to context graphics attached.

The subject 33-foot General Land Office Patent Easements (GLO) located along the western boundary of 28247 N 78th Street was dedicated in January of 1960, through patent serial number 1204244. The subject GLO roadway easements were reserved on the original patent deed to assure legal access. Currently the 33 feet of GLO easement (located along N. 78th Street) contains a dirt road and drainage improvements.

The quarter right-of-way cul-de-sac located at the northwest corner of the subject property and the subject 75-foot right-of-way located along the southern boundary of 28247 N 78th Street were dedicated in February of 2004, through docket number 2004-0176809. The subject right-of-way was dedicated as a part of the development of the site. Currently the 75 feet of right-of-way (located along E. Dynamite Boulevard) contains an improved street and 10-foot cleared pull-out area.

General Land Office Patent Easements (general information)

- Within the City of Scottsdale there are General Land Office (GLO) lots or parcels of various sizes created by the Federal Small Tract Act. This act was passed in 1938 and repealed in 1976.
- Most GLO lots were patented with 33-foot (or sometimes 50-foot) roadway and public utility easements typically “as near as practicable to the exterior boundaries” of the GLO lot.
- The City has viewed these patent roadway and utility easements as assured access for these lots, 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 may be requested to be abandoned if it is in excess of the current requirements of the City’s circulation plans (including trails) or City roadway standards, and not required to ensure access to any other lot.
- 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 9-500.24 became effective. This provision 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:

Scottsdale General Plan 2001, as amended
Desert Foothills Character Area Plan
2008 Scottsdale Transportation Master Plan
Desert Foothills Area Local Area Infrastructure Plan (LAIPs)

APPLICANTS PROPOSAL

Development Information

The development proposal includes the request to abandon the eastern 8 feet of the 33-foot GLOPE and the eastern half of the quarter cul-de-sac (along the eastern half of N. 78th Street), adjacent to the subject property’s western boundary. The request includes the abandonment of both fee-simple right-of-way and GLOPE easements. The request also includes the abandonment of the northern 15 feet, of the northern 75-foot half-street, located along E. Dynamite Boulevard (property’s southern boundary). The proposed abandonment will allow the property to come further into conformance with site development.

IMPACT ANALYSIS

Land Use

The subject site was cited by the City’s code enforcement department for the development of an unpermitted structure and wall extension. The request will bring the site into conformance with ordinance requirements. The owner will be required to submit for permitting of the subject structure.

Traffic/Trails

The site is located on the northeast corner of N. 78th Street and E. Dynamite Boulevard. North 78th Street is classified as a Local Residential Street, Rural/ESL Character. The Local Area Infrastructure Plan (LAIP) for this area identifies N. 78th Street to be utilized for access to the single-family homes in the vicinity. North 78th Street is located one-quarter mile west of N. Hayden Road; therefore, its intersection with E. Dynamite Boulevard will likely never be controlled (installation of a stop sign or traffic signal on E. Dynamite Boulevard). East Dynamite Boulevard provides access from Phoenix, located to the west, to Hayden Road, which as a mile street could potentially be controlled at E. Dynamite Boulevard in the future, allowing easier access for left-turn movements onto the arterial street. Currently, N. 78th Street is an unpaved, dirt road.

East Dynamite Boulevard was originally classified as a “parkway street.” Over time the classification has been downgraded to the current “minor arterial” Street. The existing right-of-way dedication along the site frontage is 75 feet, which is the standard for “parkways” and “major arterial” streets. The “minor collector” street classification requires a 55-foot right-of-way dedication. Previous direction had been provided for these situations to keep the excess right-of-way along some major street corridors to provide a greater setback and preserve the natural desert, however some recent cases the City Council has allowed an abandonment to 60 feet of right-of-way. East Dynamite Boulevard is currently improved with only one lane in each direction along this section. There is currently no left-turn lane on E. Dynamite Boulevard for vehicles turning onto N. 78th Street.

There is a public trail planned along the N. 78th Street alignment north and south of E. Dynamite Boulevard; however, the trail is not currently improved. The owner will be providing a 25-foot half-

street right-of-way dedication along the properties N. 78th Street boundary. This dedication, along with the existing 25-foot half-street right-of-way dedication will accommodate for the future trail alignment. The site already contains a dedicated 15-foot trail easement along E. Dynamite Boulevard.

Emergency/Municipal Services and Utilities

All existing emergency and municipal access will be provided to the properties surrounding the abandonment area and maintained through existing dedicated public right-of-way along N. 78th Street. 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.

Open space, Scenic Corridor

The owner will dedicate a Scenic Corridor Easement over the subject abandonment area located along E. Dynamite Boulevard.

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 received an inquiry regarding the abandonment. There were no comments provided in support or opposition to the request.

STAFF RECOMMENDATION

Recommended Approach:

Staff recommends that the Planning Commission make a recommendation to City Council for approval to abandon the eastern 8 feet of GLOPE located along the western boundary of the subject property, finding that the proposal is consistent with and conforms to the adopted General Plan, subject to the following:

1. The property owner shall dedicate a 15-foot Scenic Corridor Easement over the subject abandonment area, along the southern boundary of the subject parcel (E. Dynamite Boulevard intersection).
2. The property owner shall dedicate a 15-foot Public Utility Easement over the subject abandonment area, along the southern boundary of the subject parcel (E. Dynamite Boulevard intersection).
3. The property owner shall dedicate a 10-foot Water Facilities Easement along the western boundary of the subject parcel (along N. 78th Street), and a 5-foot radius Water Facilities Easement over the existing water meter box.
4. The owner shall dedicate, as fee-simple right-of-way, a 25-foot half-street (approximately 4,000 square-feet in size), along the western boundary of the subject parcel (northwest corner of N. 78th Street and E. Dynamite Boulevard intersection).
5. The property owner pay to the city the combined total amount determined by City Council as compensation to the city for the abandonment of right-of-way.

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

3/25/2022

Date



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

3/27/2022

Date



Randy Grant, Executive Director
Planning, Economic Development, and Tourism
Phone: 480-312-2664 Email: rgrant@scottsdaleaz.gov

3/27/2022

Date

ATTACHMENTS

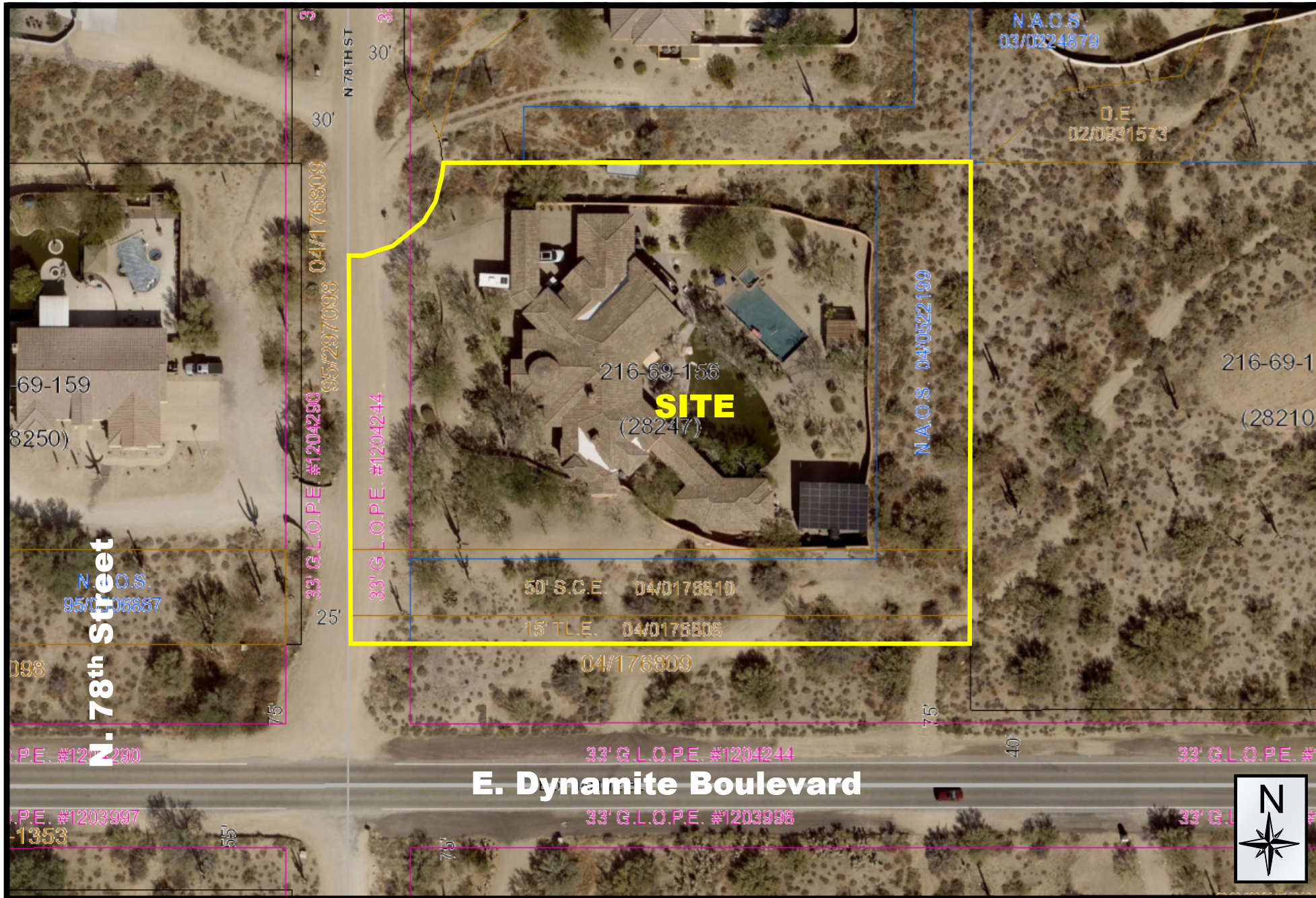
1. Context Aerial
- 1A. Aerial Close-Up
2. Applicant's Narrative
3. Resolution No. 12442
 - Exhibit A: Legal Graphic
 - Exhibit B: Legal Description
 - Exhibit C: Depiction of subject parcel
4. Proposed Abandonment Areas Map
5. Required Dedications Map
6. Transportation Master Plan - Local Area Infrastructure Plans Map (LAIPS)
7. Neighborhood Outreach
8. City Notification Map



Context Aerial

12-AB-2021

ATTACHMENT #1



Aerial Close-Up

12-AB-2021

ATTACHMENT #1A



May 20, 2021

Planning and Development Services
City of Scottsdale
7447 E. Indian School Rd., Ste. 105
Scottsdale, Arizona 85251

**RE: Hardship Exemption & Special Exception
28247 N. 78th Street, Scottsdale, Arizona 85266**

Planning and Development Services Staff:

Please accept this letter to serve as the Applicant's narrative in response to Staff's comment review letter dated May 18, 2021. Staff's comment review letter pertains to 1-SX-2021 and 1-HE-2021.

The subject property is located at 28247 N. 78th Street, Scottsdale, Arizona 85266 (APN: 216-69-156A) (the "Property"). See **Exhibits 1 & 2**. The Property is zoned R1-70, Single Family Residential ("R1-70") and is situated in both the Lower Desert and Upper Desert Landform areas of the ESLO ordinance.

REQUEST OVERVIEW

The request is to dedicate land located on the Property if the City abandons land located next to the Property. The Applicant initially requested a Hardship Exemption and a Special Exception to rectify a nonconforming structure and a setback violation. After the Applicant's initial submittal, Staff indicated neither the Hardship Exemption nor the Special Exception would be necessary if the Applicant dedicated the 25-foot half street along 78th and if the City abandoned a 15-foot portion of E. Dynamite Blvd. and a portion of the quarter cul-de-sac located at the northwest corner of the Property.

The Applicant would like to proceed with the 25-foot half street dedication if the City abandons the aforementioned property and the property referenced in Staff's comment review letter dated May 18, 2021. Therefore, please allow this letter to serve as the Applicant's dedication narrative.

To discuss this request further, please contact Kurt A. Hones at kajones@tblaw.com or (602) 452-2729 or contact John T. Oliver at joliver@tblaw.com or (602) 452-2733.



Exhibit 1 – Context Map Aerial
28247 N. 78th Street, Scottsdale, AZ 85266



Exhibit 2 -- Parcel Map Aerial
28247 N. 78th Street, Scottsdale, AZ 85266

RESOLUTION NO. 12442

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 PROPERTY LOCATED AT 28247 N 78th STREET

(12-AB-2021)
(Harbut Residence)

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”) 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 depicted on **Exhibit “B”**, and attached hereto, an area approximately 7,500 square-feet in size.

E. The Abandonment Right-of-way falls within, serves, affects or is near a parcel comprising approximately 1.89 acres, 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 Right-of-way is 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. ’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:

19386290v1

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 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 The owner shall dedicate a 15-foot Scenic Corridor Easement over the subject abandonment area, along the southern boundary of the subject parcel (E. Dynamite Boulevard intersection).

3.2 The owner shall dedicate a 15-foot Public Utility Easement over the subject abandonment area, along the southern boundary of the subject parcel (E. Dynamite Boulevard intersection).

3.3 The owner shall dedicate a 10-foot Water Facilities Easement along the western boundary of the subject parcel (along N. 78th Street), and a 5-foot radius Water Facilities Easement over the existing water meter box.

3.4 The owner shall dedicate, as fee-simple right-of-way, a 25-foot half-street (approximately 4,000 square-feet in size), along the western boundary of the subject parcel (northwest corner of N. 78th Street and E. Dynamite Boulevard intersection).

3.5 Owner shall pay to the City the amount of ONE THOUSAND FOUR HUNDRED AND FIFTY DOLLARS and 00/100 Dollars (\$1,450.00) as compensation to the City of 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.

3.6 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 _____, 2022.

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 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.

**Legal Description
Right of Way Abandonment**

A portion the Southwest quarter of the Southwest quarter of the Southeast quarter of the Southeast quarter of Section 26, Township 5 North, Range 4 East of the Gila and Salt River Meridian, county of Maricopa, state of Arizona. The said portion of the easement described as follows:

Commencing at the southeast corner of said "the parcel";

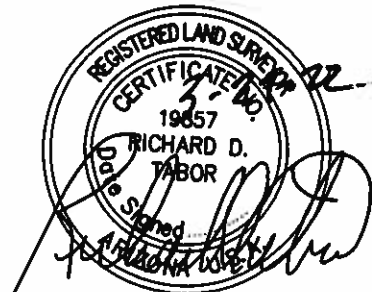
thence N. 00-01-03 W. 75.00 ft. along the east line of said "the parcel";

thence S. 89-58-32 W. 297.50 ft. parallel with the south line of the SW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ of said section 26 to the point of beginning;

thence continuing S. 89-58-32 W. 8.00 ft.;

thence N. 00-01-19 W. 255.35 ft. 25.00 ft. east and parallel with the west line of the SW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ of said section 26 to the north line of said "the parcel";

thence N. 89-58-25 E. 25.00 ft. along the north line of said "the parcel";

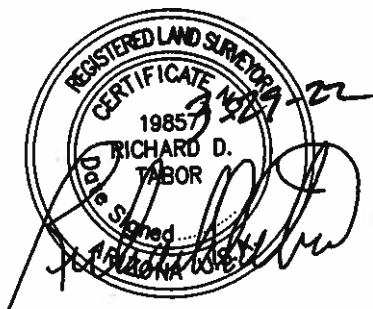


GRAHAM SURVEYING & ENGINEERING INC.
POST OFFICE BOX 1240
CAREFREE, ARIZONA 85377
OFFICE (480) 488-4393
FAX (480) 488-2488

thence along a curve to the. RIGHT, having a radius of 50.00 ft., an arc length of 42.50 ft., a delta angle of 48-42-15 and whose long chord bears S. 24-19-33 W. 41.23 ft.;

thence S. 00-01-19 E. 217.78 ft. to the point of beginning.

Containing 2,486 s.f.



GRAHAM SURVEYING & ENGINEERING INC.
POST OFFICE BOX 1240
CAREFREE, ARIZONA 85377
OFFICE (480) 488-4393
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Resolution 12442
EXHIBIT "A"
Page 2 of 3

EXHIBIT "A"
Legal Description
15 foot Right of Way Abandonment

A portion the Southwest quarter of the Southwest quarter of the Southeast quarter of the Southeast quarter of Section 26, Township 5 North, Range 4 East of the Gila and Salt River Meridian, county of Maricopa, state of Arizona. The said portion of the easement described as follows:

Commencing at the southeast corner of said "the parcel";

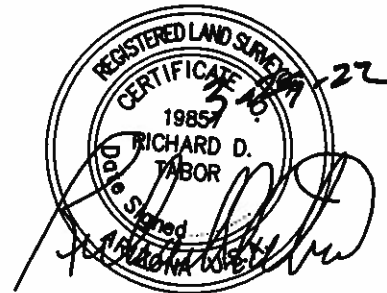
thence N. 00-01-03 W. 75.00 ft. along the east line of said "the parcel" to the point of beginning;

thence S. 89-58-32 W. 297.50 ft. parallel with the south line of the SW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ of said section 26;

thence N. 00-01-19 W. 15.00 ft.;

thence N. 89-58-32 E. 297.50 ft. parallel with and 15 ft. from the south line of the SW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ of said section 26;

thence S. 00-01-03 E. 15.00 ft. to the point of beginning.

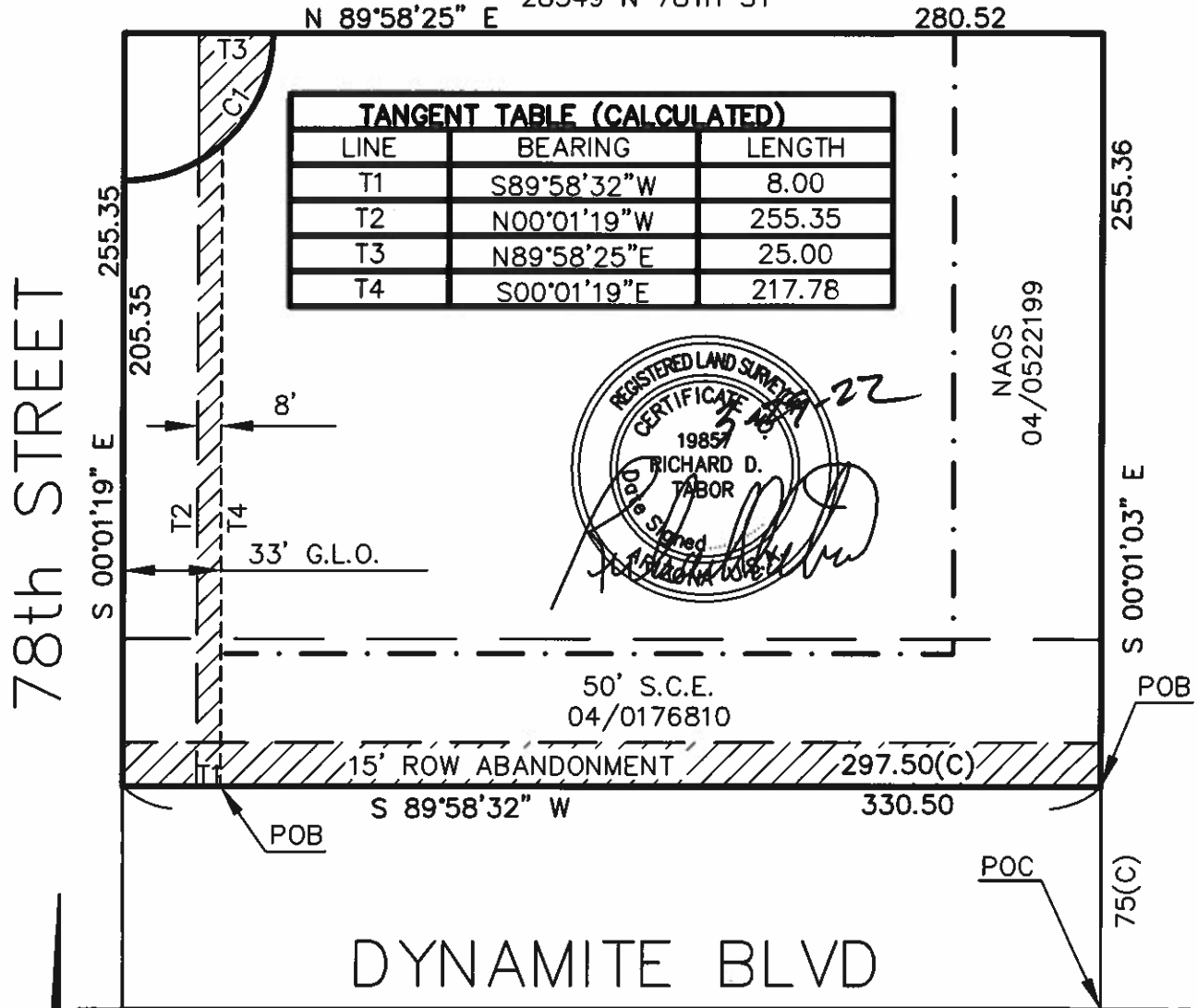


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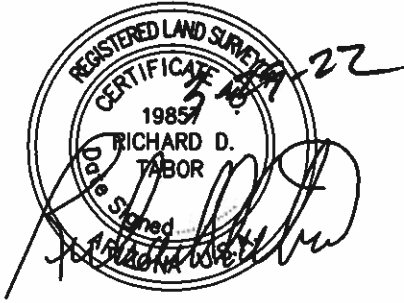
RIGHT OF WAY ABANDONMENT

THE SOUTHWEST ¼, OF THE SOUTHWEST ¼ OF THE SOUTHEAST ¼,
OF THE SOUTHEAST ¼, OF SECTION 26, TOWNSHIP 5 NORTH,
RANGE 4 EAST, OF THE GILA & SALT RIVER BASE, & MERIDAIN.
MARICOPA COUNTY, ARIZONA

APN: 216-69-127a
28349 N 78TH ST



TANGENT TABLE (CALCULATED)		
LINE	BEARING	LENGTH
T1	S89°58'32"W	8.00
T2	N00°01'19"W	255.35
T3	N89°58'25"E	25.00
T4	S00°01'19"E	217.78



CURVE TABLE (CALCULATED)						
CURVE	RADIUS	DELTA	LENGTH	TANGENT	CHORD BEARING	CHORD DISTANCE
C1	50.00	48°42'15"	42.50	22.63	S24°19'33"W	41.23

GRAHAM SURVEYING & ENGINEERING INC.
Civil Engineers & Land Surveyors

P.O. BOX 1240, Carefree, Arizona 85377
(480) 488-4393

DATE: 08-19-21

JOB #21-226

Resolution 12442

EXHIBIT "B"

Page 1 of 1

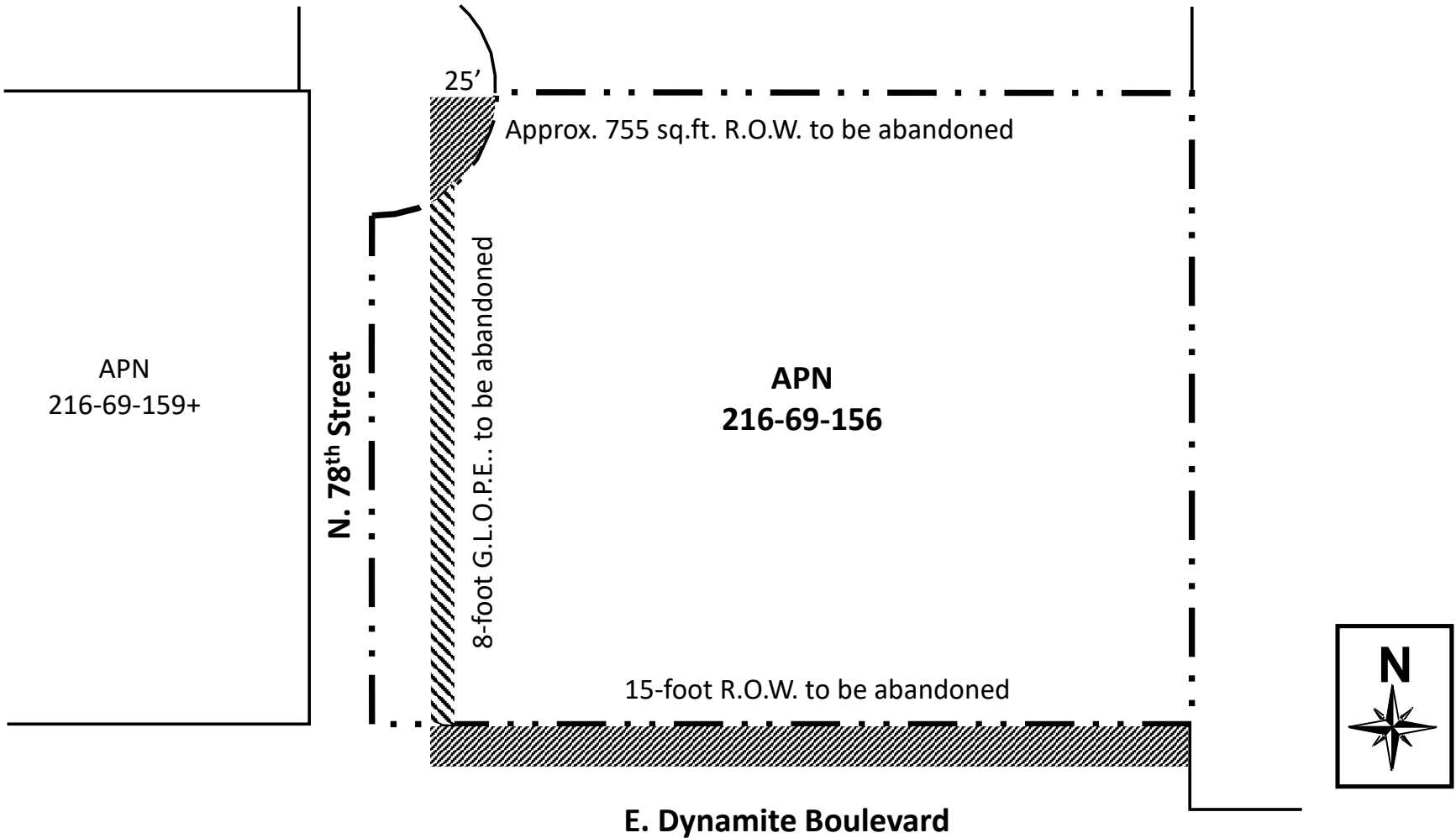
SCALE: 1" = 60'



LEGEND

 GLOPE areas to be abandoned

 Fee-Simple Right-Of-Way areas to be abandoned



Memo Regarding Abandonment Resolution

To: City Clerk
From: Jesús Murillo
Re: Abandonment Resolution No. 12374 Re: 10324 E. Cactus Road,
abandonment case no. 4-AB-2021)

I am the project coordinator for this abandonment.

According to paragraph 3 of this abandonment resolution, **this resolution is not to be recorded until the conditions are satisfied.**

Please do not record this abandonment resolution until the zoning administrator signs the certificate confirming that the conditions have been satisfied. The resolution will be void if the resolution is not recorded before the two-year anniversary of the city council hearing to approve the resolution.

I will monitor the conditions and inform you when the conditions are satisfied. About ten months after the hearing, if the zoning administrator has not already signed and delivered to you the certificate confirming that the conditions have been satisfied, I will contact you to give you a status report. At that time, one of the following three possibilities will be true:

1. The conditions will be satisfied at the last minute so that the resolution can be recorded and become effective.
2. The conditions will not be satisfied, but I will schedule a council agenda item to change the conditions or extend the time for satisfying the conditions.
3. The conditions will not be satisfied, and two things will happen as described in paragraph 3:
 - a. The abandonment will not become effective.
 - b. You will need to mark the resolution to indicate that it is void.

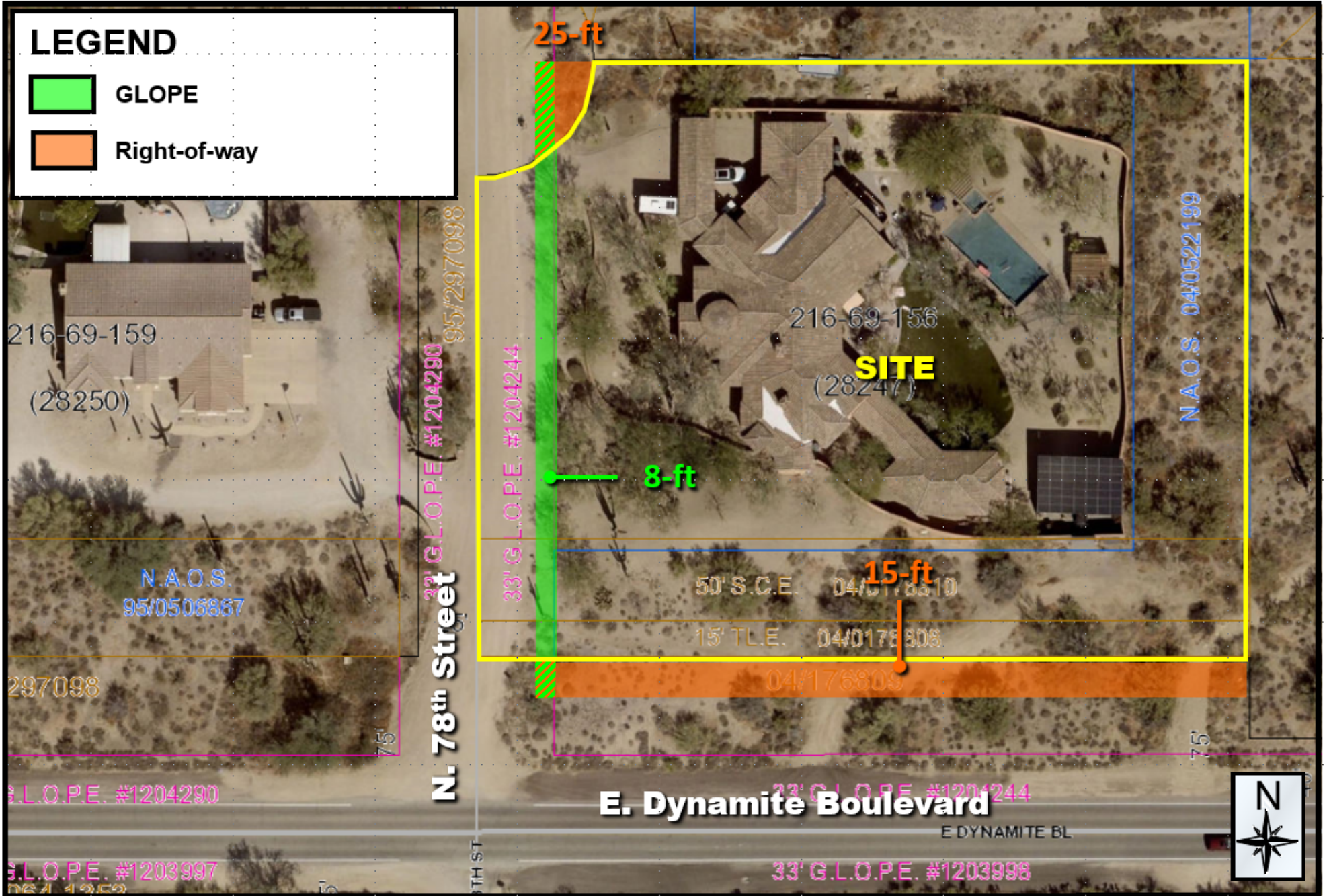
In any event, I will personally call you about 30 days before the two-year anniversary to inform you of the status of this abandonment.

If you have any questions, please do not hesitate to call me. Thank you.

Jesús Murillo, 2-7849

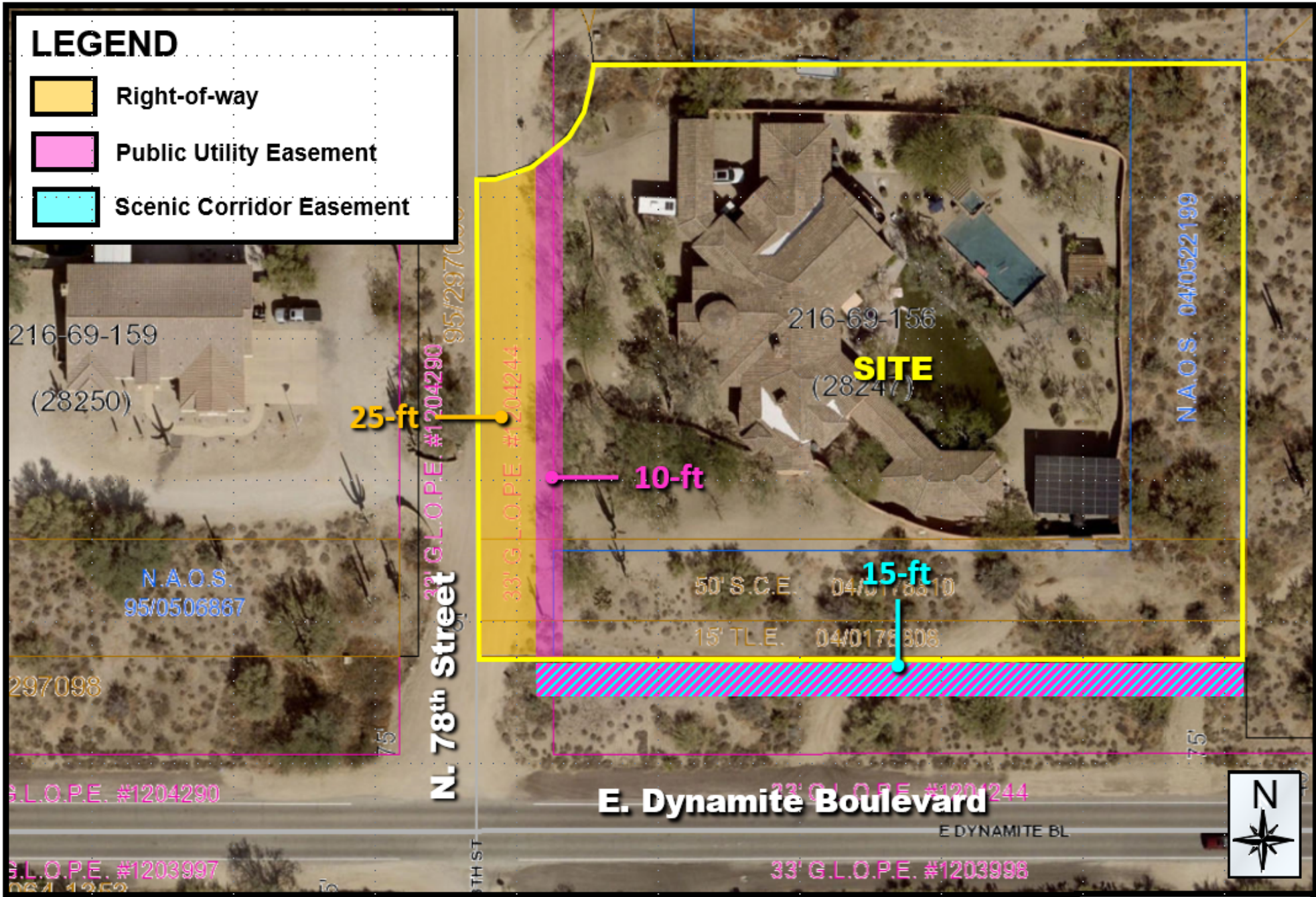
LEGEND

-  GLOPE
-  Right-of-way



Abandonment Areas Map

12-AB-2021

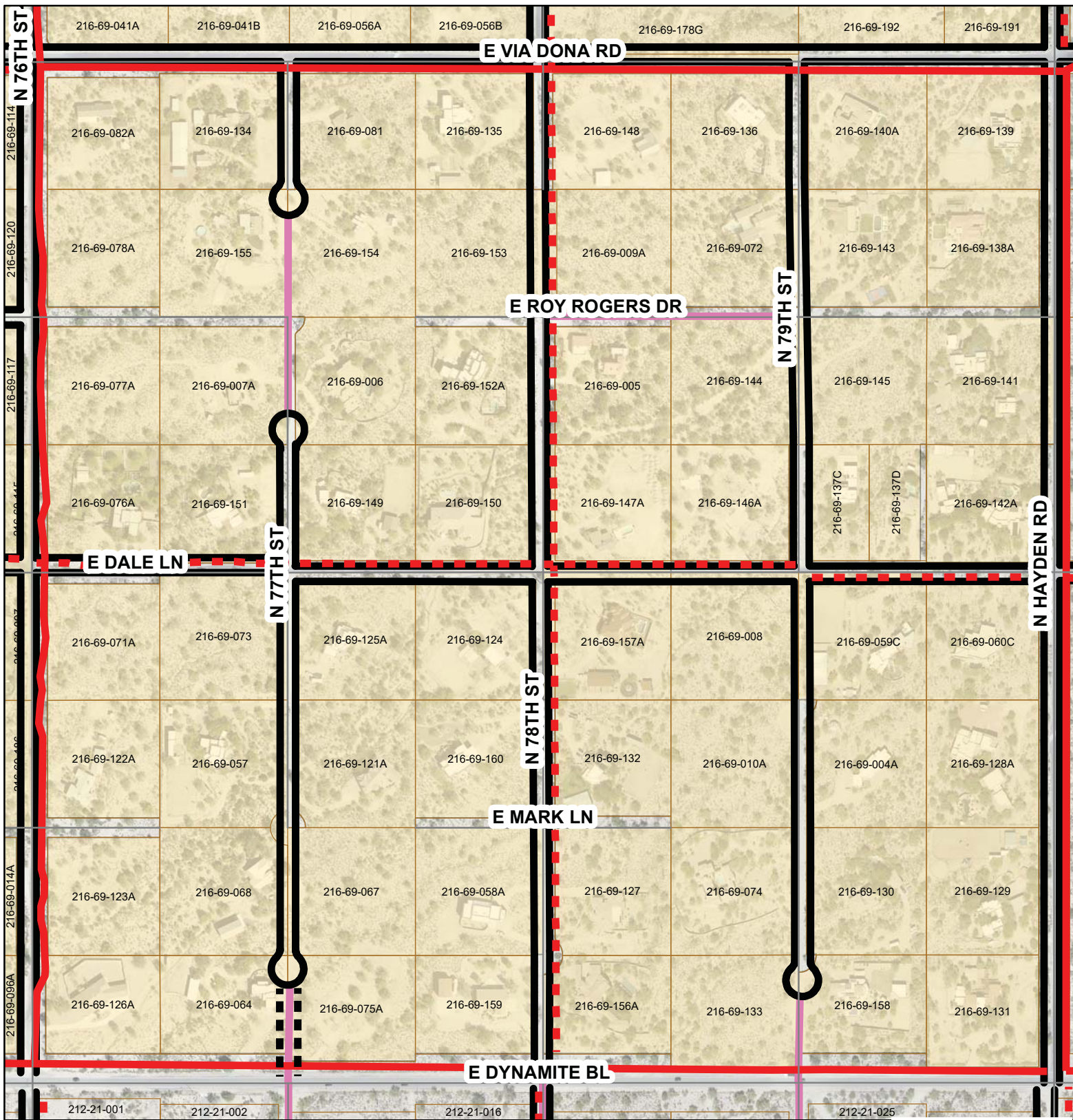


Required Dedications Map

12-AB-2021

Desert Foothills Area 5D

Local Area Infrastructure Plan



Parcels	Existing Trail	0 150 300 600	Feet
City Boundary	Planned Trail		
Preserve	Proposed Street		
Water/Sewer ROW	Proposed Street Alternative		

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.



**TIFFANY
& BOSCO**
P.A.

February 26, 2021

Planning and Development Services
City of Scottsdale
7447 E. Indian School Rd., Ste. 105
Scottsdale, Arizona 85251

**RE: Public Participation Report
28247 N. 78th Street, Scottsdale, Arizona 85266**

Planning and Development Services Staff:

All property owners, interested parties, and homeowner associations within 750 feet of the property located at 28247 N. 78th Street, Scottsdale, Arizona 85266 (the "Property") have been notified according to the Special Exemption and Hardship Exemption checklists provided by the City of Scottsdale Planning and Development Services staff.

Please allow this letter to serve as our confirmation that the City of Scottsdale's notification procedures have been followed. Attached for your records is mailing list and the notification letter, which was sent out on February 23, 2021. If you have any questions or would like to discuss this letter further, do not hesitate to contact me at (602) 452-2733 or joliver@tblaw.com.

Respectfully,

A handwritten signature in blue ink that reads 'John T. Oliver'.

John T. Oliver

ATTACHMENT #7



**TIFFANY
& BOSCO**
P.A.

February 23, 2021

To: Property Owner within 750'
Interested Parties and
Registered Homeowners Associations

**Re: Special Exemption & Hardship Exemption
28247 N. 78th Street, Scottsdale, Arizona 85266**

Dear Property Owner, Interested Party, or Homeowner Association:

Tiffany & Bosco, P.A. has been retained by Daniel Harbut (the "Applicant") to obtain a special exemption and a hardship exemption for his property located at 28247 N. 78th Street, Scottsdale, Arizona 85266 (the "Property"). The Property is located on the northeast corner of Dynamite Blvd. and 78th St. and is less than two acres in size.

The special exemption is to deviate from the development standards of the Foothills-Overlay District delineated by the City of Scottsdale Zoning Ordinance. Section 6.1004(B) of the Zoning Ordinance does not permit "walls, fences, or hedges" to exceed 6' in height unless a special exemption is obtained. An 8' high wall is located on the Property. Accordingly, a special exemption is requested to allow an already constructed wall to exceed 6' in height.

The hardship exemption is to deviate from the development standards of the Environmentally Sensitive Lands Overlay District delineated by the City of Scottsdale Zoning Ordinance. Section 6.1004.B.2 of the Zoning Ordinance requires walls over 3' to be setback 60 feet from the Dynamite Blvd. right-of-way. However, here, the wall on the Property is setback 48.5 from the Dynamite Blvd right-of-way. Accordingly, a hardship exemption is requested to allow an already constructed wall to encroach upon the required setback.

As stated above, the wall in question is already constructed and has harmoniously existed on the Property since it's construction. Neither the special exemption nor the hardship exemption will alter any structure or wall on the Property as it currently stands today. Approval of these exemptions **will not** permit new construction. An aerial depicting the wall is included.

If you have any questions or would like to discuss our exemption requests further, please do not hesitate to contact me at (602) 452-2733 or joliver@tblaw.com. Although a neighborhood meeting is not required, if enough interest arises, I am happy to conduct one to ensure each person understands the scope of the exemptions. If you contact the City of Scottsdale seeking information, please refer to project number 956-PA-2020.

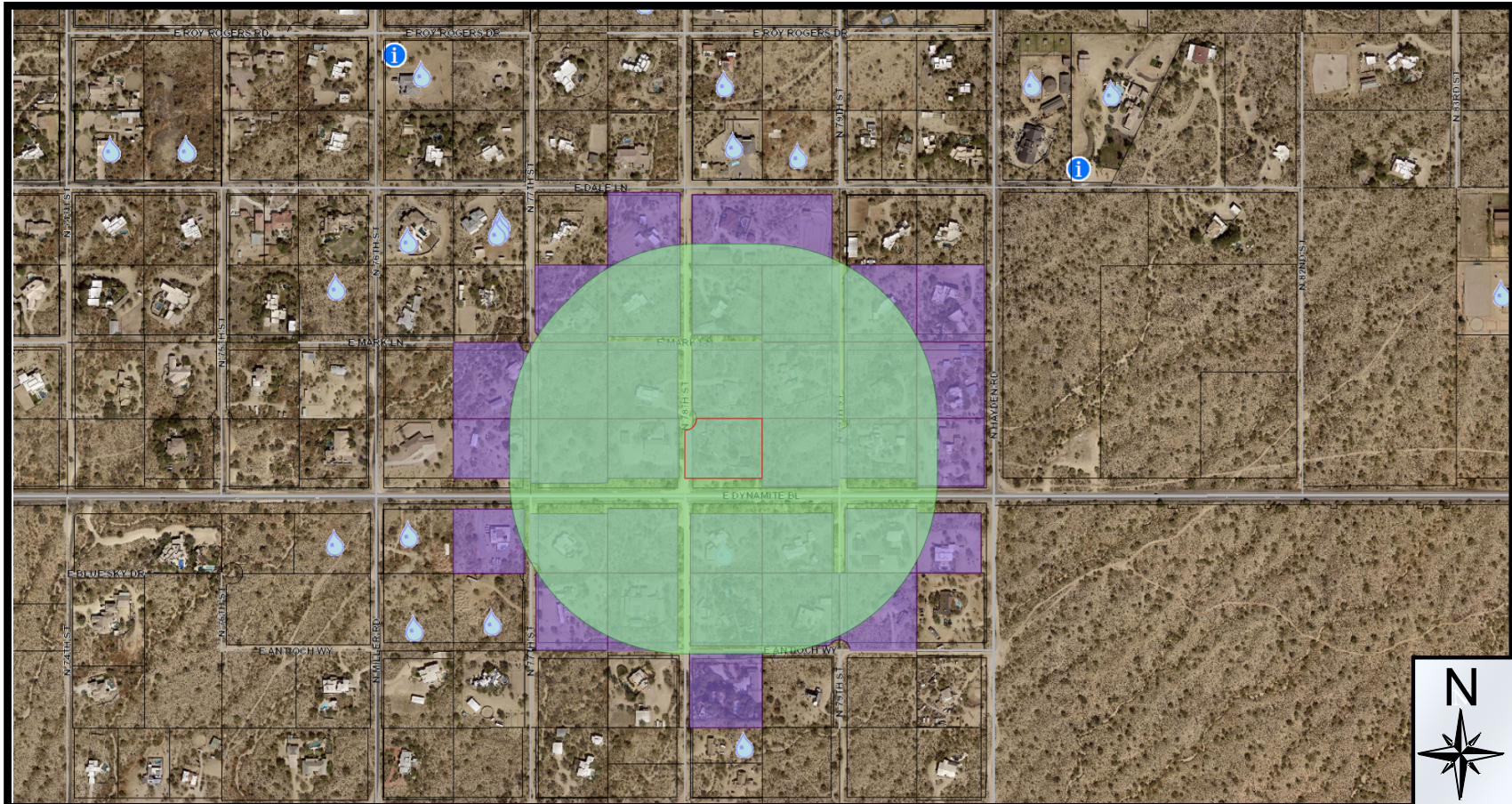
Sincerely,

A handwritten signature in blue ink that reads "John T. Oliver".

John T. Oliver



City Notifications – Mailing List Selection Map Harbut Residence



Additional Notifications:

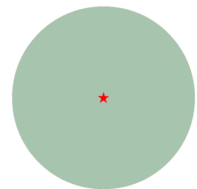
- Interested Parties List
- Adjacent HOA's
- P&Z E-Newsletter
- Facebook
- Nextdoor.com
- City Website-Projects in the hearing process

Pulled Labels
January 12, 2022

Map Legend:



Site Boundary



Properties within 750-foot

Postcards: 99

12-AB-2021