

PLANNING COMMISSION REPORT



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

ACTION

Carder Abandonment 7-AB-2021

Request to consider the following:

1. A recommendation to City Council regarding a request by owner to abandon the 33' wide GLO roadway easement along the north property line and a 13-foot portion of the GLO roadway easement along the west property line for a parcel located at 26795 N 77th St with Single-family Residential zoning (R1-70 ESL FO).

Goal/Purpose of Request

This request is to abandon the excess portions of the Government Land Office (GLO) easements along the northern and western boundary to eliminate unnecessary roadway and unencumber the parcel. As conditions of the abandonment, the applicant will also be dedicating required 10 foot wide water easement along the west property line, a 15 foot wide water and sewer easement dedication along the north property line, and a 5 foot radius water easement around the water meter.

Key Items for Consideration

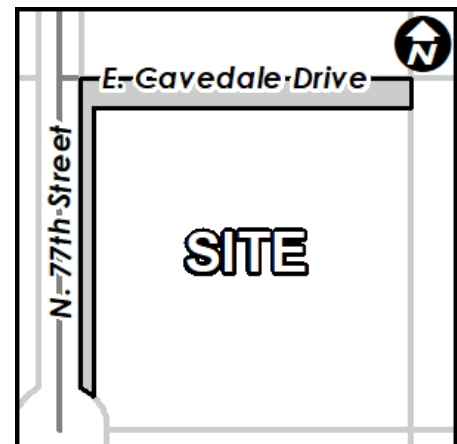
- Removes excess and unnecessary GLO roadway easements
- Conformance with Water Resources requirements

OWNER

David Carder
(602) 540-8974

APPLICANT CONTACT

Michele Hammond
Berry Riddell
480-385-2753



LOCATION

26795 N 77th St

BACKGROUND

General Plan

The General Plan Land Use Element designates the property as Rural Neighborhoods. This category includes areas of relatively large lot single-family neighborhoods. Densities in Rural Neighborhoods are usually one house per acre (or more) of land. Native desert vegetation predominates many areas and special care is required to preserve the area's open desert character and environmental features. Much of the terrain includes gentle to moderate slopes and rolling ground, intersected by several washes. Grading often requires extra care in areas with moderate slopes.

Character Area Plan

This property falls within the Desert Foothills Character Area Plan. The Desert Foothills Area is generally bound by Dixileta Road to the north, Jomax Road to the south, the City's western boundary, and 96th Street to the east. The area consists of low-density residential lots ranging from one to five acres.

Zoning

The property was annexed into the City of Scottsdale in 1983 and rezoned to R1-70, Single-family Residential. The district is intended to promote and preserve large lot and low-density residential development. The principal land use is single-family dwellings but accessory uses like religious and educational facilities are also permitted.

Context

The subject property is located north east of the East Jomax Road and North 76th Street intersection. The site is generally surrounded by other medium to large sized single-family parcels with paved and unpaved public street access. The subject site is approximately 2.34 acres and received a permit for construction of a single-family residence in 2020. Please refer to context graphics attached.

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

Zoning Ordinance

4-AB-2020 (case to the north, abandoned adjacent GLO easements)

IMPACT ANALYSIS

Subject GLO Easements

The 33-foot-wide General Land Office Patent (GLO) Easements are located along the north and west property lines on the subject site. The subject GLO roadway easements were dedicated in 1961 through patent serial number 1217122 and were reserved on the original patent deed to assure legal access until a local circulation plan is established. A 20-foot-wide fee simple right-of-way is located along the western boundary of the site, overlapping the western GLO easement and was dedicated in 2020 via docket 20/0182691. Currently the GLO easements and right-of-way are improved surfaces.

Request

The applicant is requesting to abandon the 33-foot GLO easement along the north property line and 13-feet of the 33-foot GLO easement along the western boundary abutting North 77th Street (see attachment #6. The subject abandonment areas are deemed as excess and unnecessary because the GLO easement along the west property line is wider than the required street width by the Transportation Master Plan and there is no future proposed street along the north property line according to the Transportation Master Plan.

Transportation

Per the Transportation Planning Department, a street is no longer needed along the north property line to connect North 77th Street to the east. Thus, the 33-foot GLO roadway easement is not needed and can be abandoned.

Engineering

Per the Engineering Department, the subject site is required to dedicate a 15-foot wide water and sewer easement along the north property line, a 10-foot wide water easement along the west property line and a 5-foot radius water and sewer easement around the water meter. The easements will provide access to existing and future water and sewer infrastructure.

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 North 77th 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. A water and sewer easement will be retained over portions of the abandonment.

Community Involvement

Property owners located within 750-feet of the site were notified of this abandonment application by the city and applicant. In addition, there has been a hearing sign posted at the site. Staff has not received any comments on the abandonment case as of the writing of this report.

Community Impact

The proposed abandonment does not restrict access to any surrounding properties. The subject property will maintain access to North 77th Street. As compensation for the abandonment, the property owner will pay the City an amount to be determined by city council.

STAFF RECOMMENDATION

Recommended Approach:

Staff recommends that the Planning Commission make a recommendation to City Council for approval to abandon the GLO roadway easements finding that the proposal is consistent with and conforms to the adopted General Plan, subject to the following:

1. The property owner dedicate a 15-foot water and sewer easement along the north property line via a Map of Dedication.
2. The property owner dedicate a 10-foot water easement along the west property line and a 5-foot radius water easement around the water meter via a Map of Dedication.
3. The property owner pay to the city the combined total amount to be determined by city council as compensation to the city for the abandonment of right-of-way.

RESPONSIBLE DEPARTMENT

Current Planning Services

STAFF CONTACT

Desirae Mayo
Planner
480-312-4218
E-mail: dmayo@ScottsdaleAZ.gov

APPROVED BY



Desirae Mayo, Planner, Report Author

3/24/2022

Date



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

3/27/2022

Date



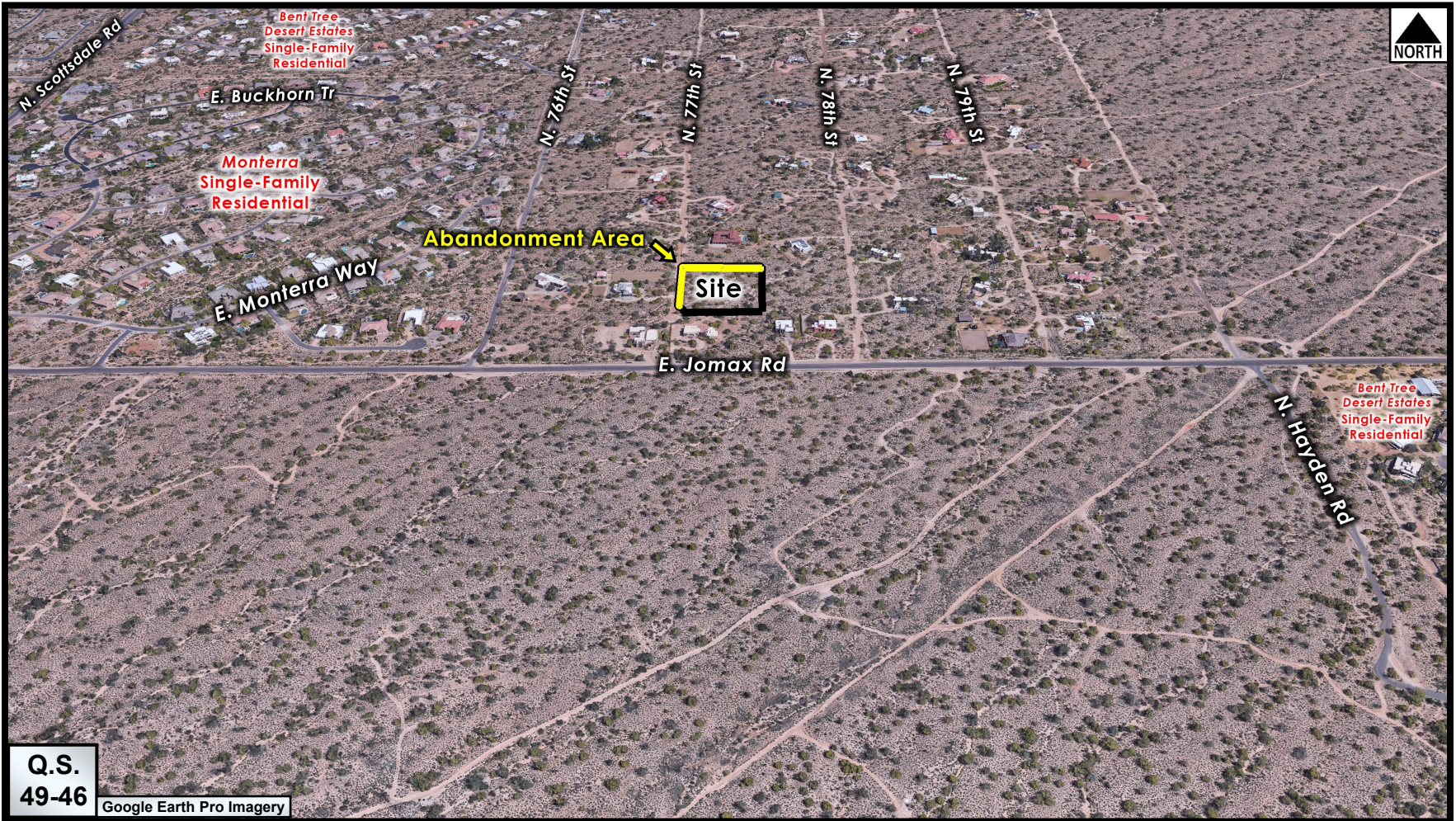
Randy Grant, Executive Director
Planning, Economic Development, and Tourism
Phone: 480-312-2664 Email: rgrant@scottsdaleaz.gov

3/27/2022

Date

ATTACHMENTS

1. Context Aerial
2. Close-Up Aerial
3. Zoning Aerial
4. Applicant's Narrative
5. Resolution No. 12443
 - Exhibit A: Legal Description of GLO Abandonment
 - Exhibit B: Legal Graphic of GLO Abandonment
 - Exhibit C: Depiction of Subject Parcel
 - Exhibit D: Legal Description of Water and Sewer Utility Easement Dedication
 - Exhibit E: Legal Graphic of Water and Sewer Utility Easement Dedication
6. Abandonment Summary Graphic
7. City Notification Map

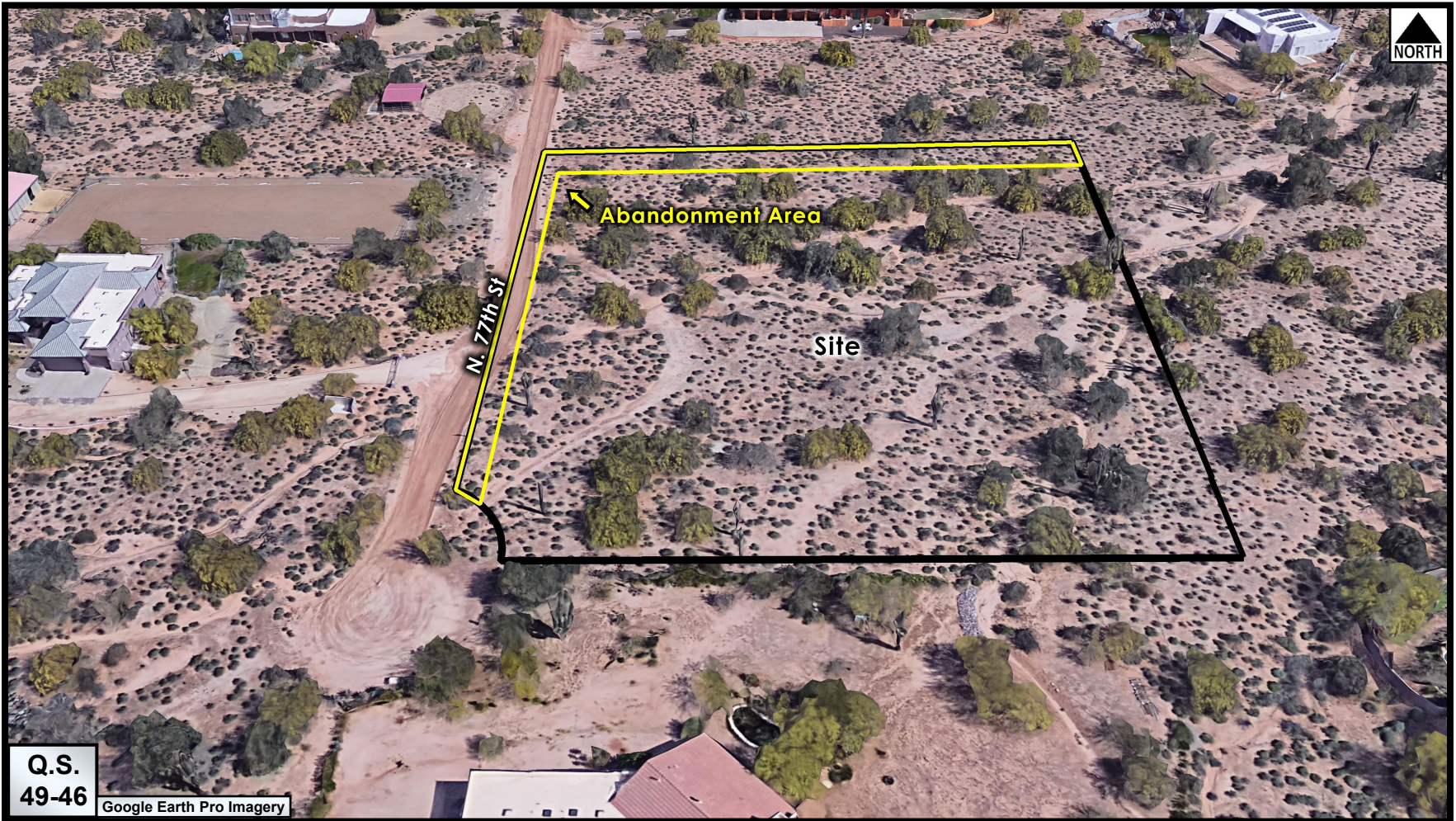


Q.S.
49-46

Google Earth Pro Imagery

Context Aerial

7-AB-2021



Close-up Aerial

7-AB-2021



E. Cavedale Drive

N. 77th Street

R1-70 ESL FO

Site



NORTH

Q.S.
49-46

Aerial

Zoning Aerial

7-AB-2021

Carder Abandonment
7-AB-2021

Project Narrative

Prepared by:

Berry Riddell, LLC
6750 E. Camelback Road, Suite 100
Scottsdale, Arizona 85251
480-385-2753

Abandonment Request

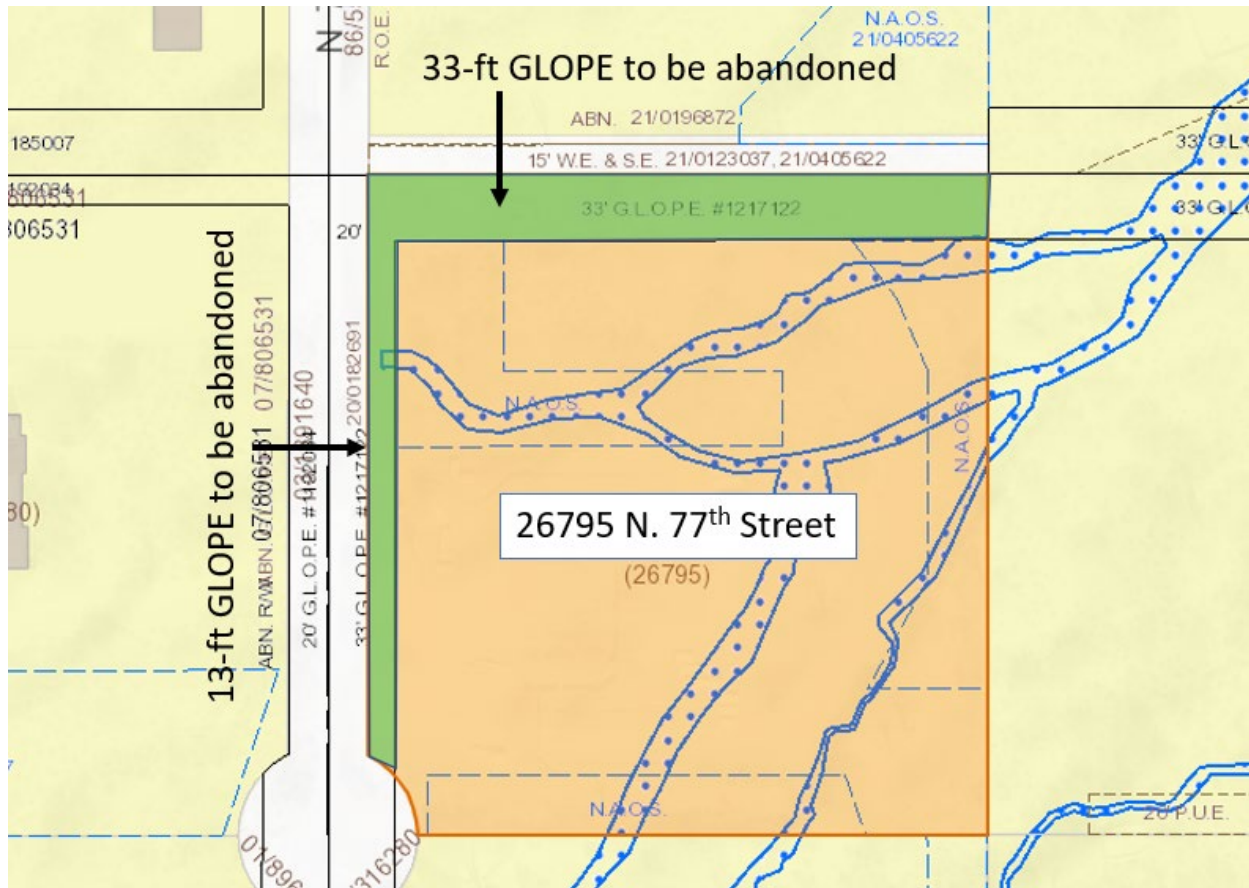
The request is for abandonment of a portion of the Government Land Office or "GLO" easements on a property located 26795 N. 77th Street (APN #212-22-053A).

The areas to be abandoned are depicted below.

- 13' wide portion of GLOPE along the west
- 33' GLOPE along the north

This abandonment request does not impact or change the current street system or traffic flow. If approved, the request will remove remnant, unused GLO easements on the developed single-family property. Utility companies have been contacted regarding the proposed abandonment (APS, Century Link, COS, Cox, SW Gas). Correspondence is included with the application documents. COS is requesting a 15-ft wide water/sewer easement to be dedicated along the northern boundary.

Areas to be Abandoned



Context Aerial



Consideration for the Abandonment

It has been determined as a result of the Arizona "gift clause" legislation that monetary consideration to the City is required for the abandonment of decayed right-of-way including GLO easements. Based on the City's established valuation factor for single family lots, the GLO areas are valued at \$0.50 per square foot. The total consideration amount minus the value of the water/sewer easement is \$5,852. A value of \$0.20/s.f. was factored for the offset of the water/sewer easement consistent with case 4-AB-2020.

- GLO: $13,656 \text{ s.f.} \times 0.50 = \$6,828$, MINUS water/sewer easement: $4,880 \text{ s.f.} \times 0.20 = \976
 - *Water/sewer: $4,661 \text{ s.f.} + 219 \text{ s.f.} = 4,880 \text{ s.f.}$*
- **Total: $\$6,828 - \$976 = \$5,852$**

RESOLUTION NO. 12443

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 26795 N. 77TH STREET.

(7-AB-2021)
(GLO Abandonment)

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 13,656 square-feet.

E. The Abandonment Rights-of-way fall within, serve, affect or are near a parcel comprising approximately 2.34 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 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 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 has delivered to City a deed, plat or other instrument that dedicates to City, in accordance with City specifications, water and sewer facilities easements as described on **Exhibit "D"** and depicted on **Exhibit "E"**.

3.2 Owner shall pay to the City the amount of \$5,852 as compensation to City for the Abandonment Rights-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.

3.3. 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.

4. 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.

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 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
D	3.1	Legal description of water and sewer easement to be dedicated
E	3.1	Scaled and dimensioned drawing to accompany legal description of water and sewer easement to be dedicated

Memo Regarding Abandonment Resolution

To: City Clerk
From: Desirae Mayo
Re: Abandonment Resolution No. 12443 Re: 7-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. If the zoning administrator notifies you that the conditions have not been satisfied before the two-year anniversary of the city council hearing to approve the resolution, then the resolution should be considered void.

I will monitor the conditions and inform you when the conditions are satisfied. About twenty-one 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 may still be satisfied within the last three months so that the resolution can be recorded and become effective.
2. The conditions appear not likely to be timely satisfied, but Zoning Administrator intends to schedule a council agenda item to change the conditions or extend the time for satisfying the conditions.
3. The conditions are not likely to be timely satisfied, and the Zoning Administrator does not intend to seek any changes or extensions and two things are likely to 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 and confirm the status of the abandonment on or shortly after the two year anniversary.

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

Desirae Mayo, 2-4218

EXHIBIT A

GLOPE ABANDONMENT LEGAL DESCRIPTION

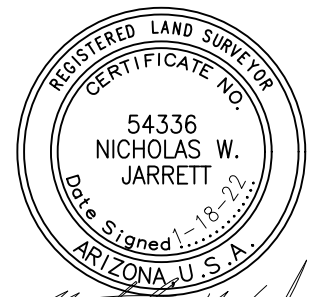
A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER MERIDIAN, COUNTY OF MARICOPA, STATE OF ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTH 33 FEET AND THE WEST 33 FEET OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 35.

EXCEPT THE RIGHT OF WAY DEDICATED IN MARICOPA COUNTY OFFICIAL RECORD, BOOK 1512, PAGE 33.

EXHIBIT 1B MADE APART BY REFERENCE HEREON.

AREA OF DESCRIPTION 13656+/- SQFT. OR 0.313+/- ACRES



Nicholas W. Jarrett

RESOLUTION NO. 12443
PAGE 1 OF 1



6859 E. Rembrandt Ave, 124
Phoenix, AZ 85212
Ph: (480) 223-8573
landcorconsulting.com

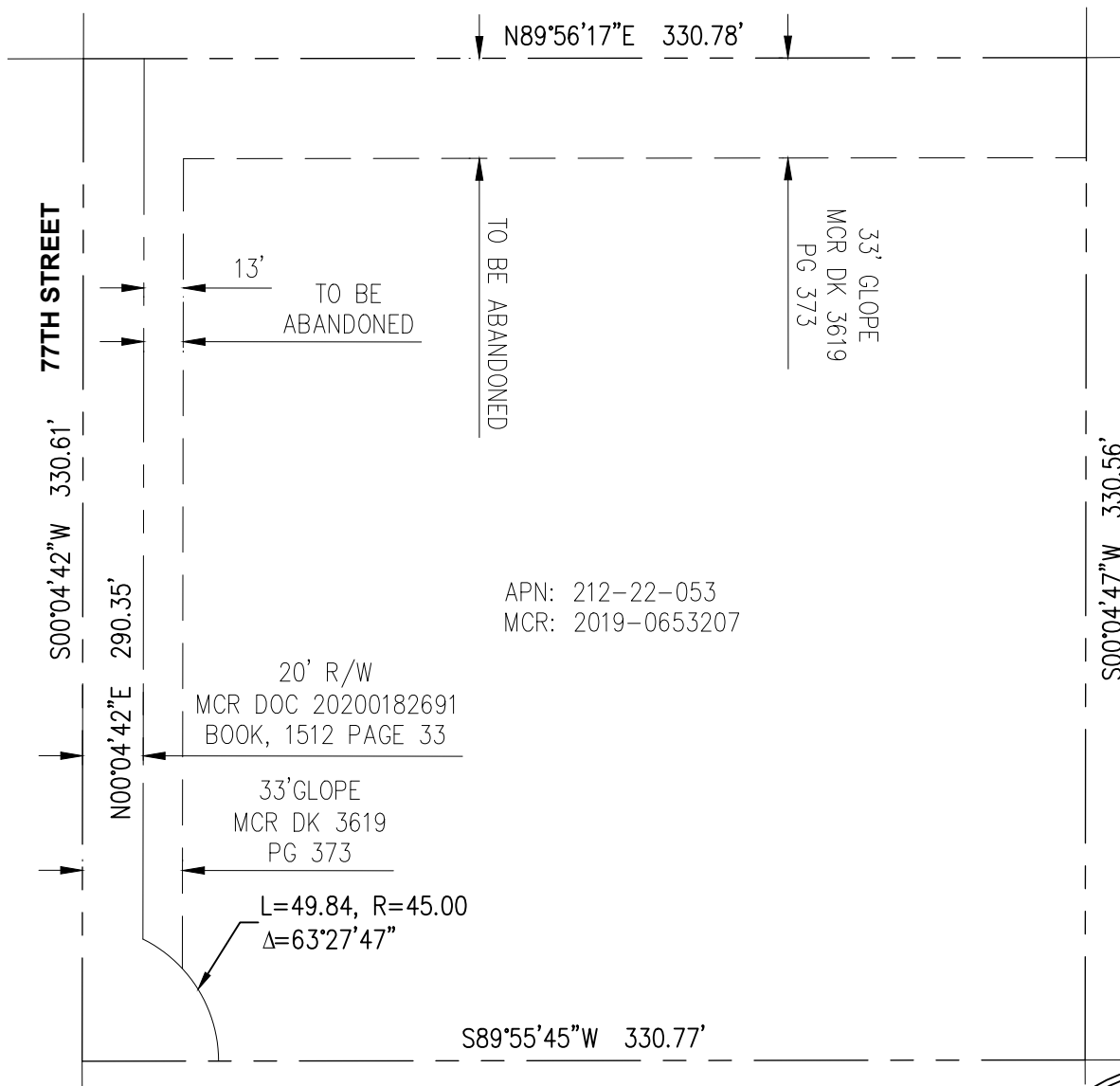
DATE: 1-18-22

SCALE: N.T.S.

LEGAL DESCRIPTION

JOB NO.
1649

EXHIBIT B GLOPE ABANDONMENT



APN: 212-22-053
MCR: 2019-0653207

20' R/W
MCR DOC 20200182691
BOOK, 1512 PAGE 33

33' GLOPE
MCR DK 3619
PG 373

L=49.84, R=45.00
 $\Delta=63^{\circ}27'47''$

LEGEND

- PROPERTY BOUNDARY
- EASEMENT LINES
- RIGHT OF WAY LINE

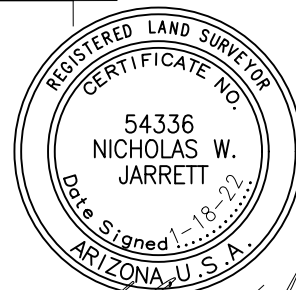


EXHIBIT 1A MADE APART BY REFERENCE HEREON

Nicholas W. Jarrett



6859 E. Rembrandt Ave, 124
Phoenix, AZ 85212
Ph: (480) 223-8573
landcorconsulting.com

RESOLUTION NO. 12443
PAGE 1 OF 1

DATE: 1-18-22

SCALE: N.T.S.

GLOPE ABANDONMENT

JOB NO.
1649

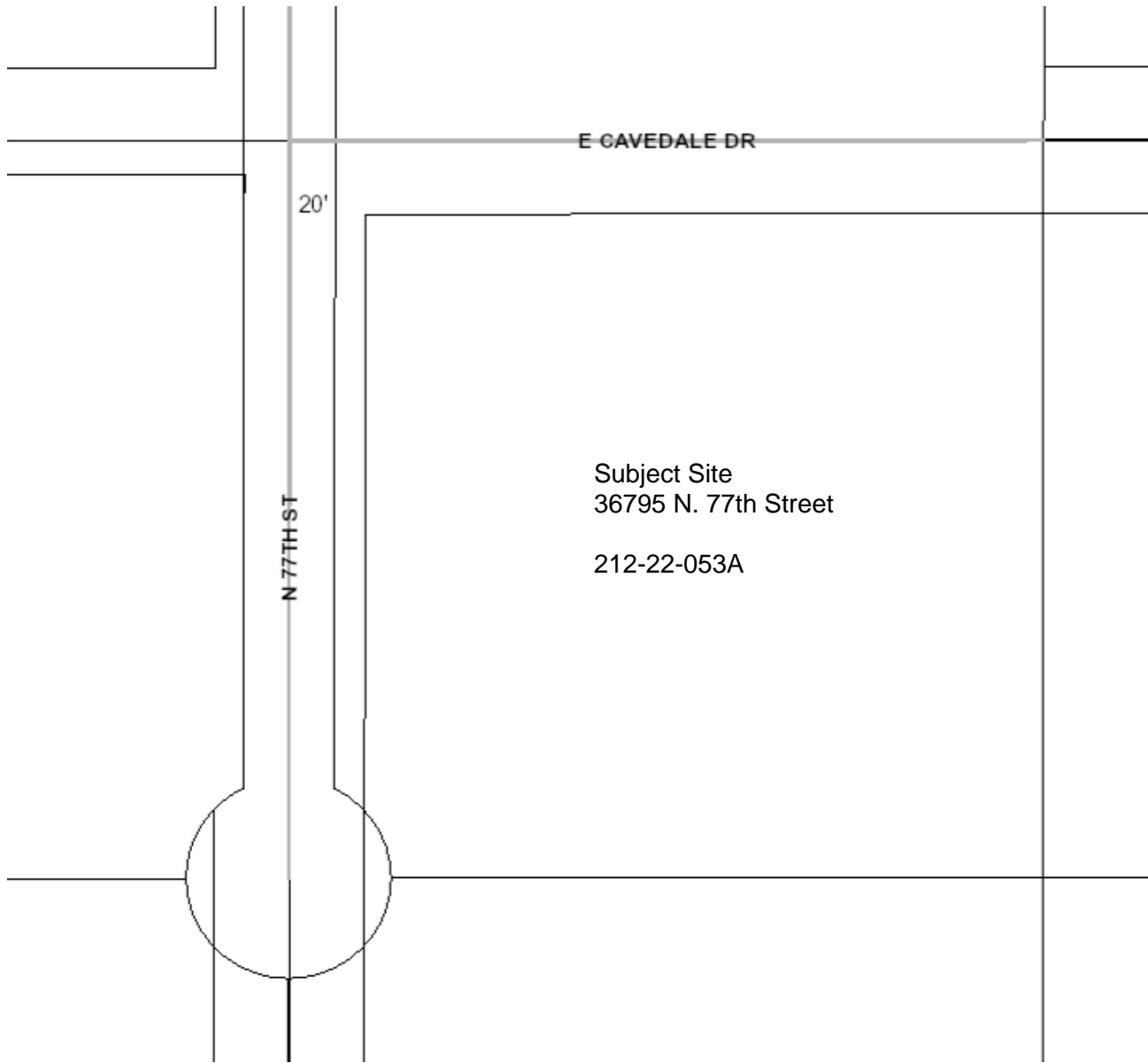


EXHIBIT D

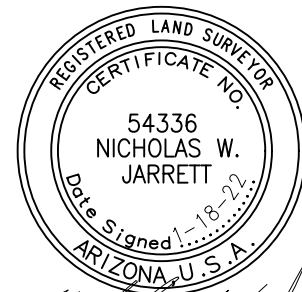
WATER & SEWER UTILITY LEGAL DESCRIPTION

A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER MERIDIAN, COUNTY OF MARICOPA, STATE OF ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTH 15 FEET OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 35.

AREA OF DESCRIPTION; 4661+/- SQFT OF 0.107+/- ACRES.

EXHIBIT 2B MADE APART BY REFERENCE HEREON.



Nicholas W. Jarrett

RESOLUTION NO. 12443
PAGE 1 OF 2



6859 E. Rembrandt Ave, 124
Phoenix, AZ 85212
Ph: (480) 223-8573
landcorconsulting.com

DATE: 1-18-22

SCALE: N.T.S.

LEGAL DESCRIPTION

JOB NO.
1649

EXHIBIT D

WATER UTILITY LEGAL DESCRIPTION

A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER MERIDIAN, COUNTY OF MARICOPA, STATE OF ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER FORM WHICH THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER BEARS SOUTH 00°04'42" WEST A DISTANCE OF 330.61 FEET:

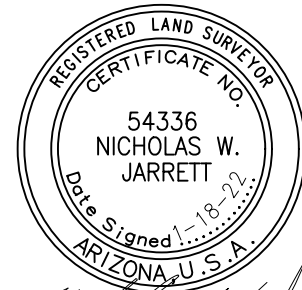
THENCE ALONG THE WEST LINE OF SAID NORTHWEST QUARTER SOUTH 00°04'42" WEST A DISTANCE OF 151.07 FEET;

THENCE SOUTH 89°55'18" EAST A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING OF THE CENTERLINE OF A 10.00 FEET WIDE STRIP OF LAND, THE SIDE LINES OF WHICH EXTEND TO THE RIGHT OF WAY DESCRIBED IN MCR DOCUMENT 2020-0182691;

THENCE ALONG SAID CENTERLINE SOUTH 89°55'18" EAST A DISTANCE OF 18.00 FEET TO TERMINATION SO SAID CENTER LINE AND CENTER POINT OF A 5.00 FEET RADIUS TO END DESCRIBED STRIP OF LAND.

AREA OF DESCRIPTION; 219+/- SQFT OF 0.005+/- ACRES.

EXHIBIT 2B MADE APART BY REFERENCE HEREON.



Nicholas W. Jarrett

RESOLUTION NO. 12443
PAGE 2 OF 2



6859 E. Rembrandt Ave, 124
Phoenix, AZ 85212
Ph: (480) 223-8573
landcorconsulting.com

DATE: 1-18-22

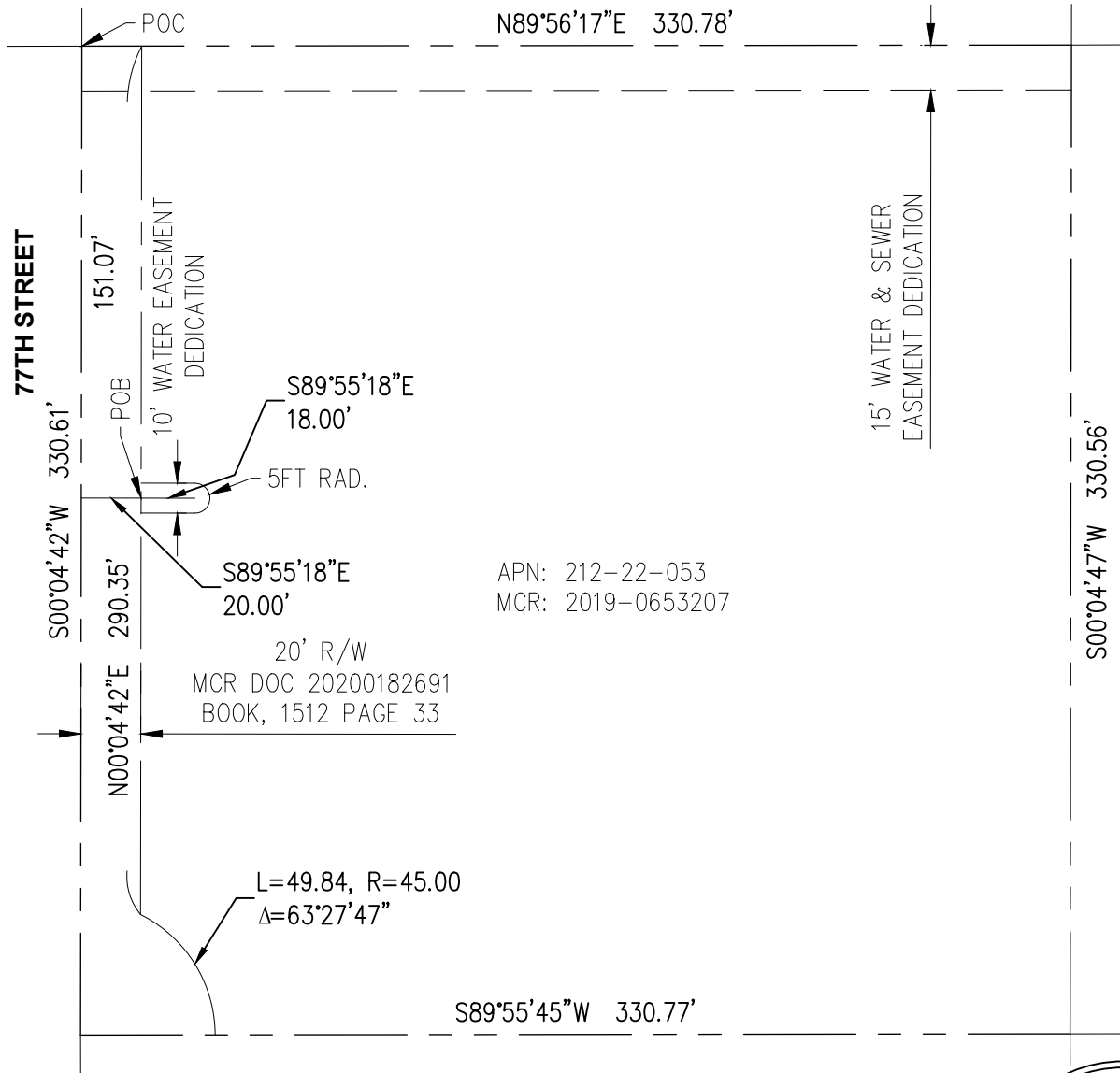
SCALE: N.T.S.

LEGAL DESCRIPTION

JOB NO.
1649

EXHIBIT E

WATER & SEWER UTILITY EASEMENT



APN: 212-22-053
MCR: 2019-0653207

LEGEND

- PROPERTY BOUNDARY
- EASEMENT LINES
- RIGHT OF WAY LINE

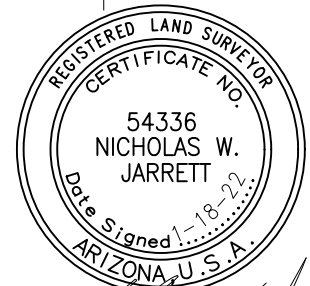


EXHIBIT 2A MADE APART BY REFERENCE HEREON



6859 E. Rembrandt Ave, 124
Phoenix, AZ 85212
Ph: (480) 223-8573
landcorconsulting.com

RESOLUTION NO. 12443
PAGE 1 OF 1

DATE: 1-18-22

SCALE: N.T.S.

WATER & SEWER EASEMENT

JOB NO.
1649



33' G.L.O.P.E. #1185007
15' G.L.O.P.E. #1192034
ABN. R/W 07/806531

20' 20'

33' G.L.O.P.E. #1204001

33' G.L.O.P.E. #1204008

E. Cavedale Dr

33' G.L.O.P.E. #1217122

33' G.L.O.P.E. #1204456

13'
GLO

N 77th St

ABN. R/W 07/806531

20' G.L.O.P.E. #1192034

33' G.L.O.P.E. #1217122

Site

R1-70 ESLFO

Q.S.
49-46

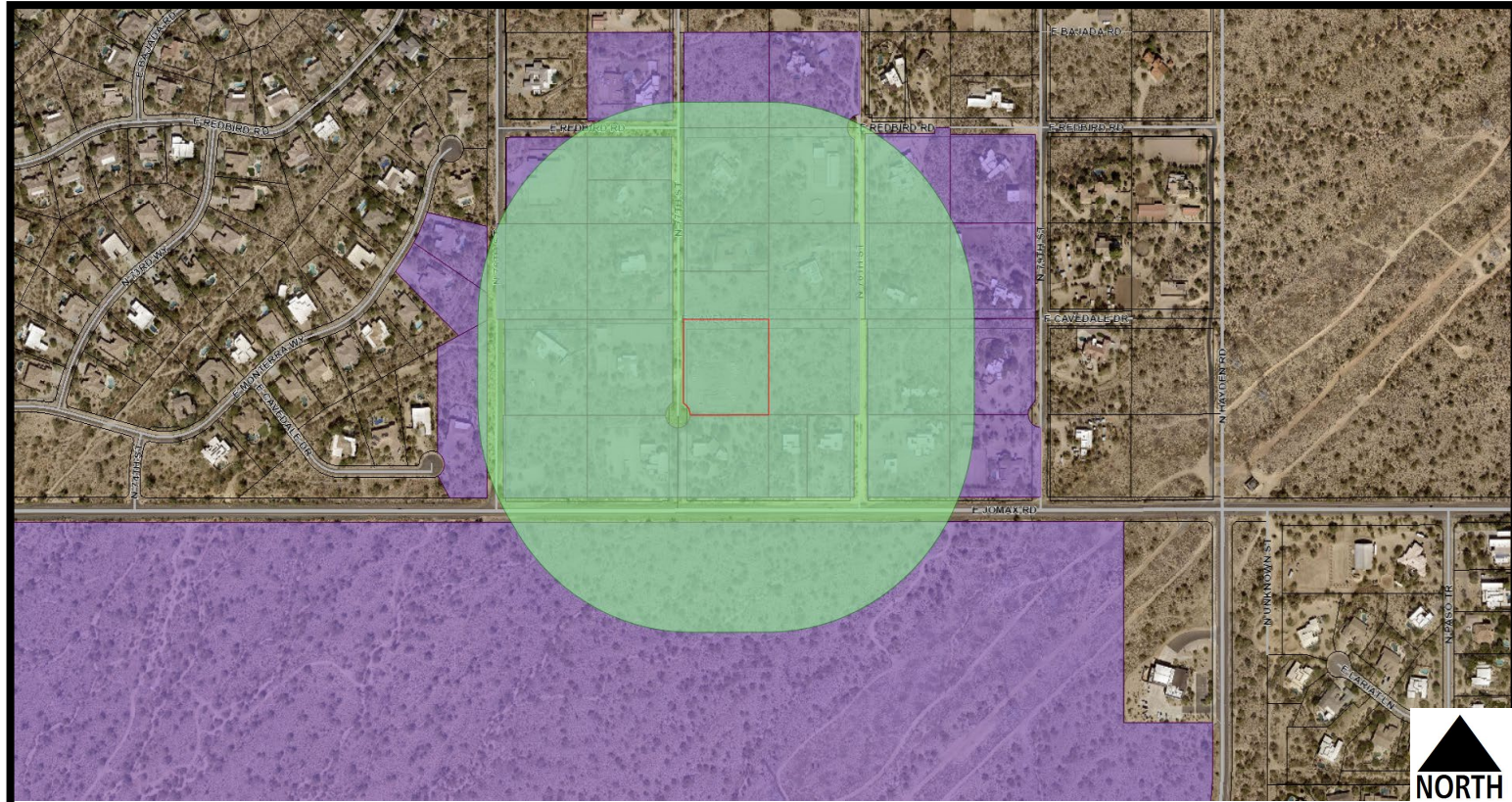
Aerial

Zoning

7-AB-2021

City Notifications – Mailing List Selection Map

Carder Abandonment


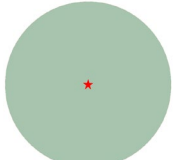


Additional Notifications:

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

Labels Pulled
October 26, 2021

Map Legend:

-  Site Boundary
-  Properties within 750-feet

Postcards: **97**

7-AB-2021