

# Attachment B

## Exhibit B



### **City of Phoenix**

Planning and Development Department

#### **DENIAL – ABND 200545**

Your abandonment request was **DENIED** by **Christopher DePerro, Abandonment Hearing Officer.**

A summary of the hearing, and the Hearing Officer's findings and rationale, are included in this letter.

You have the right to appeal this decision to City Council if an appeal application is received by the Planning and Development Department within 15 calendar days of this decision (latest appeal date: **December 4, 2020**). Please contact the Abandonment Coordinator, Wendy Turner, at (602) 256-3487, or [abandonments@phoenix.gov](mailto:abandonments@phoenix.gov), for questions regarding appeals.



## **City of Phoenix**

Planning and Development Department

October 8, 2020

Abandonment Staff Report: **ABND 200545**

Project# **00-1490**

Quarter Section: **17-41**

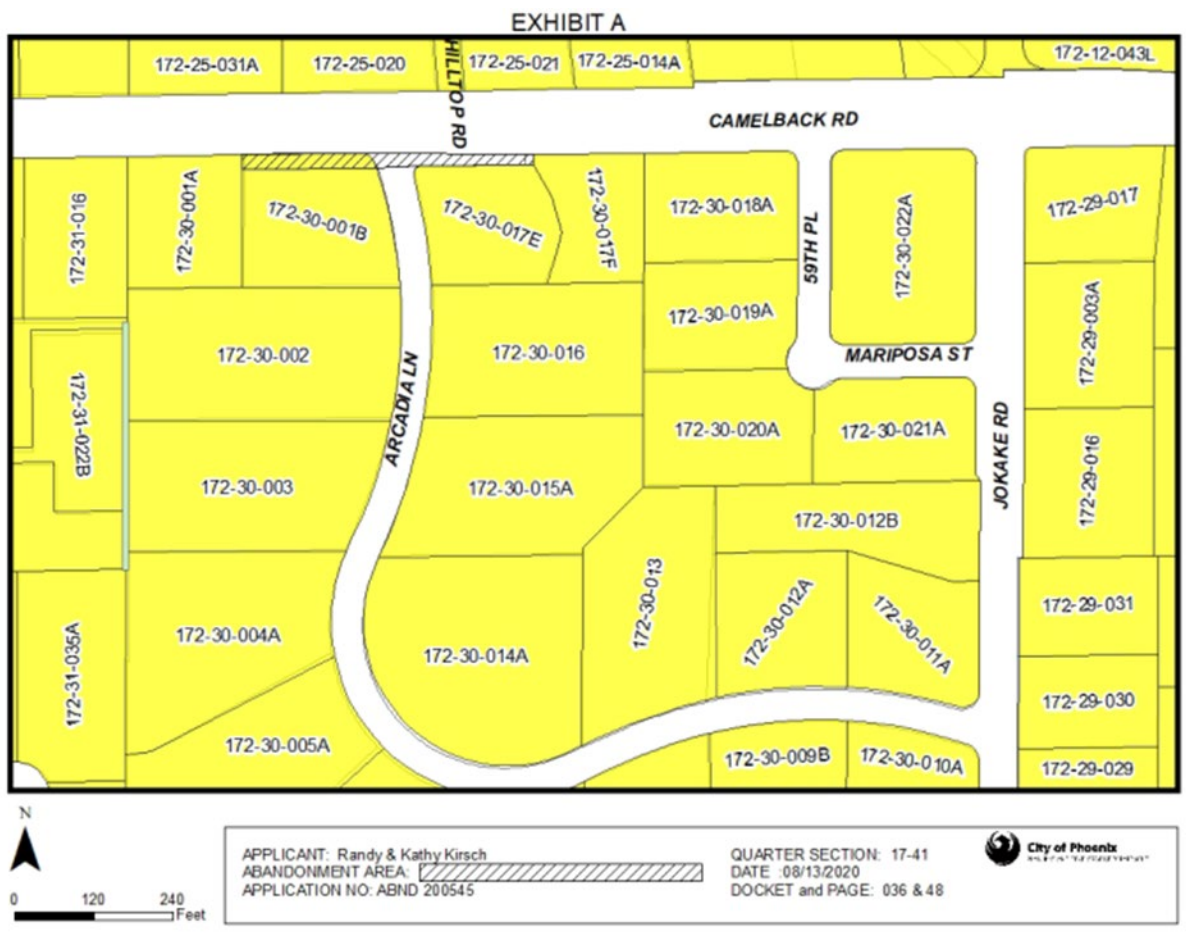
**Location:** 4430 & 4431 North Arcadia Lane

**Applicant:** Randall and Katherine Kirsch

**Request to abandon:** To abandon the north end of the deeded right-of-way entry of Arcadia Lane off Camelback Road, the 22-foot right-of-way easement on the north side of 4430 North Arcadia Lane dedicated with Ordinance S-11792, and the 15-foot deeded right-of-way on the north side of 4431 North Arcadia Lane dedicated with Ordinance S-11837.

**Purpose of request:** The applicant states: All of the homes on Arcadia Lane wish to close access to Camelback Road and end Arcadia Lane with an 80' cul-de-sac. We would close the North end with a wall and add a fire hydrant. This would add a barrier to entry, which would reduce crime and provide a fire hydrant at the end of cul-de-sac and add response time for fire.

**Hearing date:** **October 8, 2020**  
**TAKEN OUT FROM UNDER**  
**ADVISEMENT ON NOVEMBER 19, 2020**



**Hearing Summary**

Mr. Christopher DePerro, the Abandonment Hearing Officer opened the hearing and provided instructions.

Ms. Wendy Turner, the Abandonment Coordinator, read the case into the record

Mr. DePerro then stated he would be turning the hearing over to the applicant to explain more of the details.

Ms. Kathy Kirsch, the applicant explained that her and her neighbors would like to close Arcadia Lane at Camelback Road and put in a cul-de-sac. Ms. Kirsch stated they have one hundred percent support of the neighbors and that they have the ability to pay for the undertaking. Ms. Kirsch also stated this would make a giant improvement by bringing a waterline and fire hydrant onto the street closer than the existing one across Cameback Road, which would lower the City's liability. Ms. Kirsch went on to explain how the design of a cul-de-sac would benefit the neighborhood by helping prevent crime and how it would help with the current traffic issues, such as cut through traffic and visibility at the intersection of Arcadia Lane with Camelback Road. Ms. Kirsch then stated how the addition of the fire hydrant would benefit the neighborhood and the Fire Department by increasing response times to potential fires.

Mr. Rod Jarvis, with Earl & Curley, spoke on behalf of a neighbor who lives on Arcadia Lane. He showed some examples on the GIS map of some nearby cul-de-sacs which were smaller than the City's standard, which was what was being proposed by the applicant. Mr. DePerro pointed out that it was not within his authority to permit a non-standard cul-de-sac as part of an abandonment approval, and if approved, a subsequent request would have to be submitted to PDD and Streets.

Ms. Kathryn Shannon, 5916 E Arcadia Lane, then spoke in opposition to the abandonment, and stated her disbelief that 100% of the neighbors supported the request, since she did not. Mr. DePerro confirmed that her husband had indeed signed the petition in favor of the abandonment. Ms. Shannon stated she still was concerned about the additional traffic which would pass her house if the abandonment were approved.

Mr. DePerro then asked Mr. Chris Kowalsky with the Street Transportation Department if he had anything to add.

Mr. Kowalsky discussed how the Streets Transportation department is very cautious when it comes to connectivity and the impacts it may have and how this abandonment would compromise the connectivity throughout the larger neighborhood. He also stated that he felt that approval of the abandonment request would create a 'de facto' private street, where only the residents of Arcadia Lane would benefit from its use, but would still be maintained by Streets, which he did not feel was appropriate. He stated that if the entirety of Arcadia Lane were requested for abandonment, with maintenance by the homeowners, Streets could support the request.

After some more discussion on the same points regarding connectivity, maintenance and the proposed cul-de-sac, the Hearing Officer took case ABND 200545 under advisement.

### **Hearing Officer Decision and Findings**

The applicant made an excellent presentation regarding this request to close Arcadia Lane at Camelback Road, citing concerns with crime, cut-through traffic, and offering an incentive of installing a new fire hydrant located on Arcadia Lane. Subsequent to taking this case under advisement, the Hearing Officer advised the applicant to contact the Street Transportation Department to discuss potential options (other than abandonment) for traffic mitigation. The applicant, Kathy Kirsch, confirmed in an email that the meeting did occur, and that not much came from the meeting other than a reiteration from Streets that they cannot support a closure of a public street, but that Streets would not oppose a complete privatization of Arcadia Lane, if requested. The Street Transportation Director, Kini Knudson, and Special Projects Administrator Chris Kowalsky, reported in emails that Street Transportation offered to conduct studies related to perceived traffic issues on Arcadia Lane, but that the applicant declined such requests, and therefore Streets could not support the abandonment without a demonstrated need for traffic mitigation. Mr. Kowalsky also stated that the applicant eventually requested the abandonment be denied so that it could instead be considered directly by City Council through an appeal request.

Per City Code, Chapter 31, Article V, the criteria provided for evaluation of a request to abandon right of way is whether the ROW is still necessary for public use as a roadway. The Hearing Officer evaluated the main points of discussion as follows:

New Fire Hydrant. While the provision of a new fire hydrant would be a benefit, it is not so problematic now that the Fire Department deems this currently unacceptable. The current closest hydrant is located on the north side of Camelback Road opposite the intersection of Arcadia Lane and Camelback Road. The Hearing Officer notes that it is entirely possible to provide an additional fire hydrant without abandoning any right of way; consequently this line of reasoning seems quite unrelated to the request and does not satisfy the requirement to determine that the ROW is no longer necessary for use as a roadway.

Crime and Traffic Issues: The applicant has not presented data or evidence of either crime or traffic issues caused by this intersection, or in the broader neighborhood. It has also not been successfully demonstrated that closing Arcadia Lane at Camelback Road would mitigate such issues, if they do exist. Street Transportation staff also testified that they have not been requested to do any studies for the street or intersection nor do they have any complaints of record regarding traffic issues in this area. There is currently not enough evidence regarding crime or traffic issues to determine that this ROW is no longer necessary for public use as a roadway.

**The Hearing Officer has therefore concluded that the ROW requested for abandonment is still necessary for public use of the ROW as a roadway, and has DENIED this request.**

Hearing Officer Signature:  \_\_\_\_\_ Date: 11/19/2020

REPORT SUBMITTED BY: Alyssa Neitzel, Abandonment Secretary

cc: Applicant/Representative, Randall and Katherine Kirsch  
Christopher DePerro, Abandonment Hearing Officer