

Attachment B - Hearing Report



City of Phoenix

Planning and Development Department

DENIAL – V190054A

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

A summary of the hearing is included in this report.

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: November 22, 2019). Please contact the Abandonment Coordinator, Rocio Iniguez, at (602) 256-3487, or abandonments@phoenix.gov, for questions regarding appeals.



City of Phoenix

Planning and Development Department

November 7, 2019

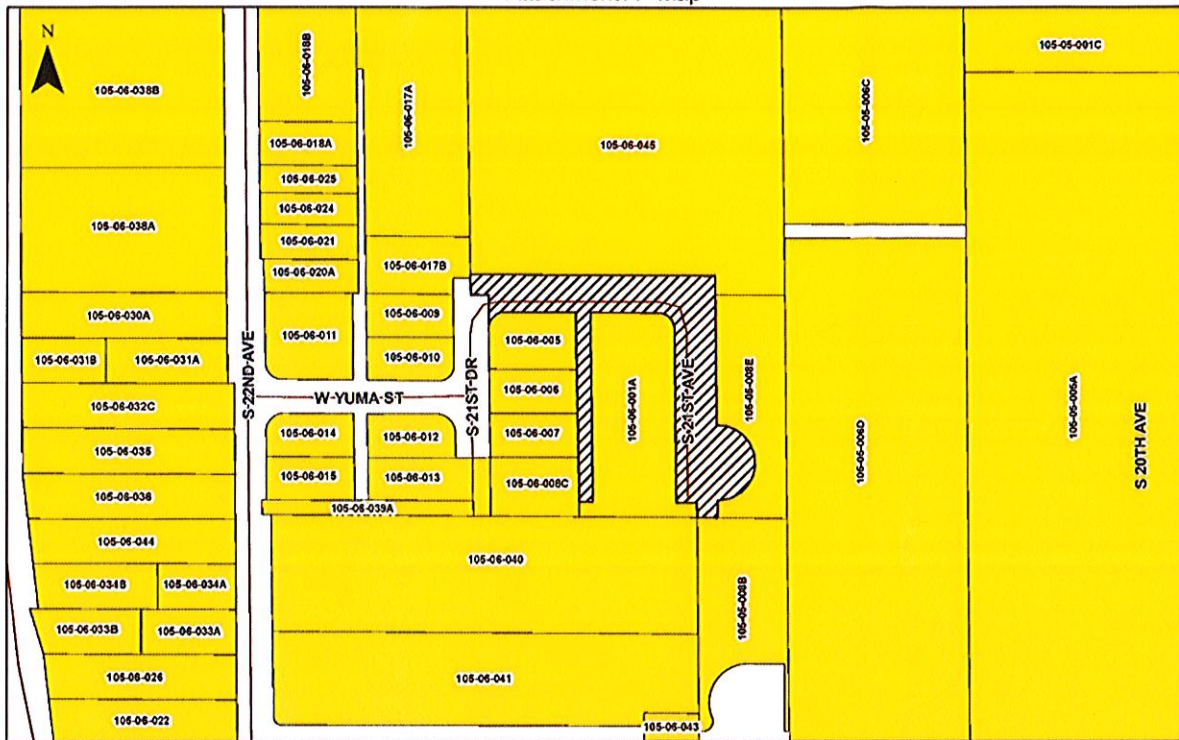
Abandonment Staff Report: **V190054A**


Project# **11-4174**

Quarter Section: **8-24**

<u>Location:</u>	Yuma Street from 21st Drive to 21st Avenue & 21st Avenue South of Yuma Street
<u>Applicant:</u>	Dennis Zwagerman Associates, Inc; Dennis Zwagerman, ACIP
<u>Request to abandon:</u>	To abandon 25-feet of right-of-way along Yuma Street and 30-feet of right-of-way along 21st Avenue.
<u>Purpose of request:</u>	The applicant states: roadways are isolated, unimproved, no turn-a-round, debris dumping site and possible access issues for emergency response vehicles.
<u>Hearing date:</u>	November 7, 2019 (Continued from October 10, 2019)

Attachment A - Map



APPLICANT: DENNIS ZWAGERMAN, AICP, DENNIS ZWAGERMAN ASSOC, INC.
 ABANDONMENT AREA: 
 APPLICATION NO: V190054A

QUARTER SECTION: 8-24
 DATE: 15-JUL-2019
 BOOK 42 PAGE 20



City Staff Recommended Stipulations of Approval

The request of abandonment, if approved by the Abandonment Hearing Officer, will be subject to the following stipulations:

1. Either a or b shall be complied with:
 - a. All utilities shall be relocated to locations approved by each affected utility company. All work is to be done by each affected utility company at no expense to the affected utility company.
 - b. All right-of-way shall be retained as a public utilities easement with 24-hour vehicle maintenance access. No structure of any kind and/or block wall shall be constructed or placed within the easement except removable type fencing and/or paving. No planting except grass and/or approved ground cover shall be placed within the easement. It shall be further understood that the City of Phoenix shall not be required to replace any obstructions, paving or planting that must be removed during the course of required maintenance, reconstruction and/or construction.
2. Consideration which provides a public benefit to the City is required in accordance with City Code Art. 5, Sec. 31-64 and Ordinance G-5332. Cost for abandoned Right-of-Way adjacent to

property not zoned single family residential will be \$500 OR Fair Market Value whichever is greater. Cost for property zoned single family residential is \$1.00 a square foot for the first 500 square feet, \$0.10 a square foot thereafter; OR Fair Market Value at the option of the Planning and Development Director or designee. The applicant shall submit calculation and fee to Planning and Development Department. The applicant shall request a selection of approved appraisers from the current list maintained by the Real Estate division of the Finance Department.

3. The applicant shall dedicate and construct a 50' radius cul-de-sac at the termination of Yuma Street and 21st Drive.
4. All landlocked parcels shall be replatted, legally combined, or have an alternate legal access provided (private ingress/egress easement) to a public street.
5. All stipulations must be completed within **one year** from the Abandonment Hearing Officer's decision.

Hearing Summary

Mr. Christopher DePerro, the Hearing Officer called the hearing to order at 9:35 a.m. and started off the hearing with staff introductions.

Ms. Rocio Iniguez, the Abandonment Coordinator read the abandonment request, purpose and City staff research into the record.

Mr. DePerro then asked the applicant to introduce himself for the record.

Mr. Dennis Zwagerman, representing the applicant Larry Trauscht owner of parcel APN 105-06-045 and parcel APN 105-06-001. Mr. Zwagerman stated that they requested 5 dedications be abandoned by the City of Phoenix, West Yuma Street from 21st Drive to South 21st Avenue, the whole length of the Yuma Street, 21st Avenue south of Yuma Street, the alley south of Yuma Street, the conditional dedication north of Yuma Street on parcel APN 105-06-045 and the conditional dedication east of 21st Avenue parcel APN 105-05-008E. Mr. Zwagerman also stated that he knows there has been a lot of discussion amongst staff and maybe some confusion, maybe even on his part as to what can and cannot be abandoned from their requested list. Mr. Zwagerman then went on to say he was told early on before the application by two members of the City of Phoenix Street Transportation Department that the City code does not required signatures of one hundred percent of the adjacent property owners to abandon a public right-of-way. Mr. Zwagerman also stated that a percentage is not even mentioned in the City code, however a Planning and Development policy concerning abandonments does require one hundred percent.

Mr. DePerro then interjected to tell Mr. Zwagerman the Planning and Development policy concerning abandonment petition does not require one hundred percent, it would be seventy-five percent and that is not was what staff would have told him.

Mr. Zwagerman went on to state together with the Street Transportation Department they reviewed all the dedications and a mutual decision was made to request an abandonment of all the dedications, get rid of all these unnecessary public dedications. Mr. Zwagerman then stated the bottom line is that these 5 dedicated areas are not serving any public service in the way of access because they are dead-end and go nowhere, they have been a nuisance for a long time because of illegal dumping as well as other illegal activities. Mr. Zwagerman also stated lastly, they are not aware of any adjacent property owners that are opposed to these abandonments.

Mr. DePerro then discussed the stipulations regarding the landlock parcels. This stipulation would hold all property owners to replat, legally combine or have alternate legal access provided.

Mr. Zwagerman stated they have no control over the other property owners of the other parcels.

Mr. DePerro then stated he cannot approval this abandonment request without requiring stipulation number 4, which reads, "All landlocked parcels shall be replatted, legally combined, or have an alternate legal access provided (private ingress/egress easement) to a public street."

Mr. Zwagerman then stated the prior abandonments approved this twice without requiring this.

Mr. DePerro replied to Mr. Zwagerman by stating he is the current hearing officer and he will not approve this without this stipulation.

Mr. Zwagerman then stated this is worthless.

Mr. DePerro stated none of this can be abandoned because the one parcel will be landlocked.

Mr. Zwagerman replied with go ahead and deny it, we will appeal.

The Hearing Officer denied the abandonment request per the request of the applicant due to disagreement with proposed stipulation of approval.

The Hearing Officer has DENIED this abandonment request based on the applicant's unwillingness to accept the proposed stipulations of approval.

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: November 22, 2019). Please contact the Abandonment Coordinator, Rocio Iniguez, at (602) 256-3487, or abandonments@phoenix.gov, for questions regarding appeals.

This report and decision has been reviewed by the Abandonment Hearing Officer.

Hearing Officer Signature:



Date:

12.3.19

REPORT SUBMITTED BY: Alyssa Villarreal, Abandonment Secretary

cc: Applicant/Representative, Dennis Zwagerman Associates, Inc; Dennis Zwagerman, ACIP
Christopher DePerro, Abandonment Hearing Officer