



City of Phoenix
Planning and Development Department

CONDITIONAL APPROVAL – ABND 220065

Your abandonment request was granted **CONDITIONAL APPROVAL** by **Christopher DePerro, Abandonment Hearing Officer**.

This request will NOT be completed until all the stipulations have been met and this request is formally adopted by City Council. It is the **APPLICANT'S RESPONSIBILITY** to ensure that all stipulations are satisfied. **Please contact Alyssa Neitzel at 602-534-7321** for questions and notification of your completion of the stipulations.

Upon completion of the stipulations your request will be scheduled for City Council action.

If the stipulations of abandonment are not completed within **two years** from the date of your conditional approval (**your expiration date is April 6, 2025**), this request will then expire. At that time a new submittal will be required along with the required payment for the abandonment process. A one time, **one year** extension can be requested prior to the expiration date, with applicable extension fee due.



City of Phoenix

Planning and Development Department

April 6, 2023

Abandonment Staff Report: **ABND 220065**

Project# **00-3091**

Quarter Section: **15-38**

Council District: **6**

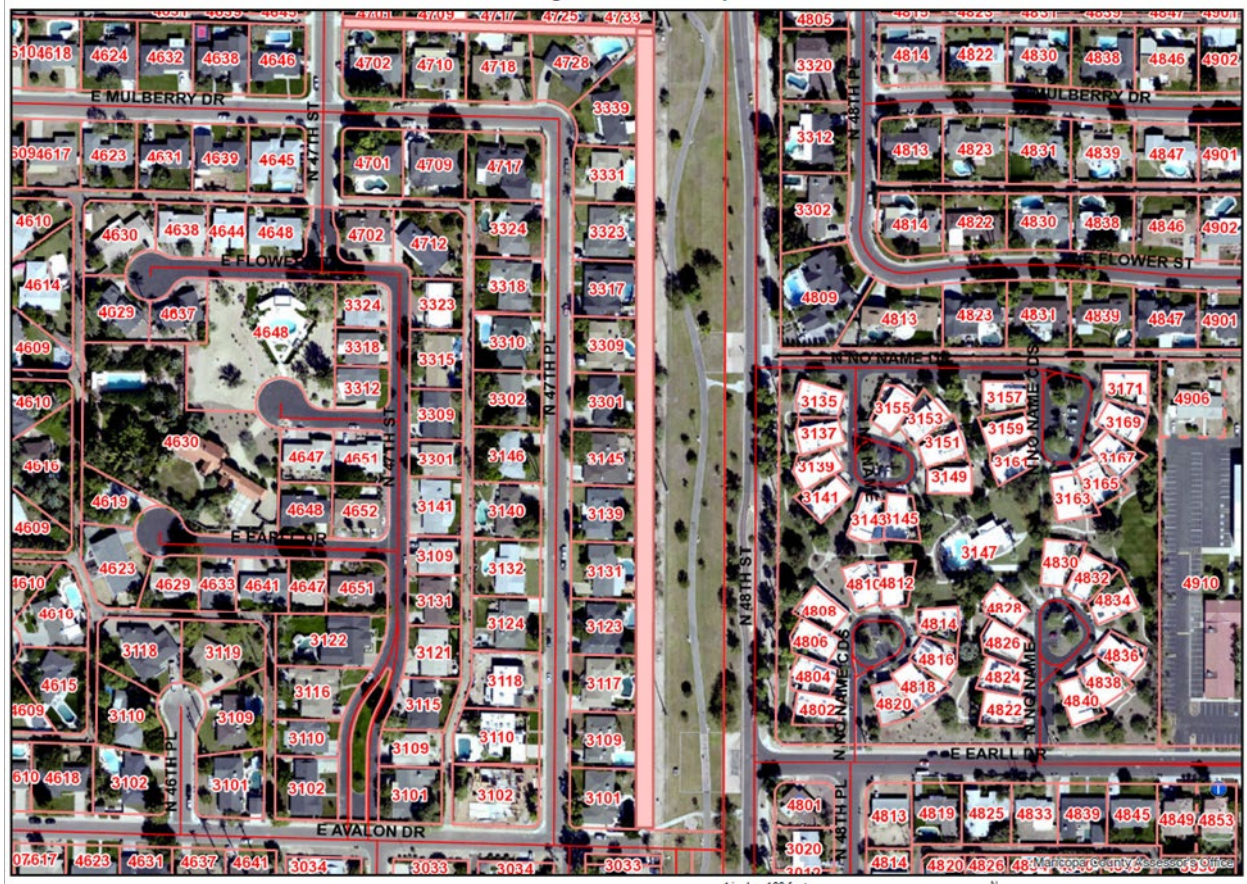
Location: North 47th Street and East Mulberry Drive

Applicant: Residents of El Coronado Estates AMD

Request: To abandon the alley north of East Mulberry Drive and east North 47th Street, the alley then continues to go south between North 47th Place and the crosscut canal per exhibit provided.

Purpose of request: The applicant states that the city has removed the large community trash bins from the alley that the residents used and has given each one their own. There is no longer a need for the easement and residents would like the option to extend their fences/backyard into that space.

Hearing date: **April 6, 2023 (Continued from February 23, 2023)**



Hearing Summary

From the **February 23, 2023** Abandonment Hearing:

Ms. Alyssa Neitzel, the Abandonment Coordinator, introduced ABND 220065 and read the case into the record by stating the applicant, location, and purpose of the request, as well as city staff research.

Mr. Christopher DePerro, the Abandonment Hearing Officer calls on the applicant for ABND 220065.

Ms. Karen Palecek, attorney representing the applicant states there was issues involving Southwest Gas and requests a continuance to review the stipulation and determine where the gas line is and have it marked.

Mr. DePerro asks the applicant what the goal is for this abandonment request as it may be possible in some areas and not in others.

Ms. Palecek states the goal for those along forty-seventh place is to take down and expand fences and increase lot size. It is not being used by the city for any purpose and will increase security and protect that area.

Mr. DePerro asks Ms. Neitzel to show the East/West portion of the request. He informs the applicant of the sewer line within that area and how it will need to remain due to the costly alternative of removing and adding two gas lines on Mulberry Drive and Osborn Street. There would need to be a utility easement retained over the East/West portion with a gate.

Mr. DePerro asks call-in users for any objections to continuing the case.

Ms. Catherine Matthews, neighbor, has no objection to continuance.

Mr. Ben Tate, who plans to represent Mr. Mike Moldoveanu, neighbor has no objection and would like to discuss a new date.

Mr. DePerro asks Ms. Neitzel what the next hearing date would be for continuance.

Mr. Tate and Ms. Palecek are amenable to April 6, 2023, date.

Mr. DePerro continued case to April 6, 2023.

From the **April 6, 2023**, Abandonment Hearing:

Mr. Christopher DePerro, the Abandonment Hearing Officer calls the meeting to order on April 6, 2023.

Ms. Alyssa Neitzel, the Abandonment Coordinator, introduced abandonment ABND 220065 and read the case into the record by stating the applicant, location, and purpose of the request, as well as City staff research.

Mr. DePerro asks the applicant if they would like to add comment.

Ms. Karen Palecek, attorney representing applicant, discusses stipulations with Southwest Gas as it relates to the abandonment if it were to be approved.

Mr. Ben Tate, attorney representing a resident discusses issues as they relate to alley access and utility companies.

Mr. Al Zubi, Streets Transportation Department Representative has no issue with the proposed alley way access.

Mr. David Azevedo, discusses some potential solutions for truck access to the East/West alleyway.

Mr. DePerro states that if any of public utility easements are retained, the requirement would be to get an encroachment and permissions from each utility company. Recommended a private easement between applicants and SWG. Later explains the modifications to stipulations that can be made to add an additional number three. A signed agreement would need to be presented prior to city council approval.

Mr. Tate is amenable to the proposed private easement and stipulation.

Ms. Neitzel reads stipulations and comments from various City departments and presents report.

Mr. DePerro edits number one b. to state "All right-of-way shall be retained as a public utilities easement with 24-hour vehicle maintenance access unless private easements can be obtained from the utilities which currently have facilities within the alley." An amendment to stipulation number four to add "the exact termination of the alley to be abandoned shall be determined by the size, turn-around or access required." Stipulation number five to be removed.

Both Mr. Tate and Ms. Palecek are in agreement with revised stipulations.

The Abandonment Hearing Officer grants conditional approval for abandonment 220065 subject to stipulations in the staff report with modifications.

Stipulations of Conditional Approval

The request of abandonment is conditionally approved by the Abandonment Hearing Officer. The following stipulations will need to be met:

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. An appropriate performance agreement, in an approved form and cost amount, must be posted with the Planning and Development Department to guarantee the improvements.
 - b. All right-of-way shall be retained as a public utilities easement with 24-hour vehicle maintenance access unless private easements can be obtained from the utilities which currently have facilities within the alley.
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. No right-of-way within 30-feet of the monument line along Avalon Drive may be abandoned.
4. No portion of the alley located between 47th Street and the SRP Cross-Cut Canal right-of-way shall be abandoned, and an exit or turnaround shall be provided on the east side through the canal right-of-way as approved by the Water Services Department and the Street Transportation Department. The exact termination of the alley to be abandoned shall be determined by the size, turnaround or access required.
5. All stipulations must be completed within **two years** from the Abandonment Hearing Officer's decision.

This conditional approval has been reviewed and approved by the Abandonment Hearing Officer.

Hearing Officer Signature:  _____ Date: 5/2/23

REPORT SUBMITTED BY: Paulina Hernandez, Abandonment Secretary

cc: Applicant/Representative, Residents of El Coronado Estates AMD
Christopher DePerro, Abandonment Hearing Officer