



In accordance with Section 31-70, Article V of the City Code, the decision of the Abandonment Hearing Officer regarding the abandonment of public rights-of way may be appealed. Any decision of the Abandonment Hearing Officer shall be considered final unless a person aggrieved thereby, files a written Notice of Abandonment Appeal with the Planning & Development Department within fifteen calendar days after the decision is made. The completed abandonment appeal form and filing fee* must be submitted to the Planning & Development Department, Check-In/Information Counter, located at 200 West Washington Street, 2nd floor, Phoenix, Arizona 85003.

*All fees are pursuant to the current Fee Schedule contained in Appendix A.2. of the Phoenix City Code.

Appellant's Name: Benjamin Graff, Quarles & Brady, LLP on Behalf of Kim Komando & Barry Young
Address: 2 N. Central Avenue, 6th Floor City: Phoenix State: AZ Zip: 85004
Phone: (602) 229-5683 Email: Benjamin.Graff@Quarles.com
Affiliation: Attorney for Appellant

Appeal to City Council

Be specific as to what you are appealing. Include the rationale for your appeal. Attachments may be included.

Abandonment # v-ABND 220011 Date Heard: April 14, 2022

Located at approximately: 4640 E Camelback Heights Way, Phoenix AZ 85018

Abandonment Hearing Officer: [X] Approved [] Denied

Appealing Decision: Request to Deny Abandonment. See attached Notice of Abandonment Appeal Narrative.

Appealing Stipulation:

Appealing Stipulation:

Appealing Stipulation:

Staff Use Only

Received By: MDE Receipt #: Date: 4/29/2022
Reviewed By: MDE Receipt #: Date: 4/29/2022

An applicant may receive a clarification from the city of its interpretation or application of a statute, ordinance, code or authorized substantive policy statement. To request clarification or to obtain further information on the application process and applicable review time frames, please call 602-262-7811 or visit our website at http://phoenix.gov/pdd/licensetimes.html. This publication can be made available in alternate formats (Braille, large print, or digital media) upon request. Contact Planning & Development at (602) 262-7811 voice or (602) 534-5500 TTY.



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Naples
Phoenix
Tampa
Tucson
Washington, D.C.

April 29, 2022

VIA EMAIL

Phoenix City Council
City of Phoenix
200 West Washington Street
Phoenix, AZ 85003
Mayor.Gallego@phoenix.gov
Council.District.6@phoenix.gov

RE: Formal Notice of Abandonment Appeal: ABND 220011

Honorable Mayor Gallego, Councilmember DiCiccio, and Councilmembers,

Our firm represents Ms. Kim Komando and Mr. Barry Young (EK Holdings Delaware, LLC) (the "Appellant"), the owners of the property located at 4655 E Camelback Heights Way, Phoenix, AZ 85018 within Phoenix Council District 6, in regard to this Notice of Abandonment Appeal of the April 14, 2022 Hearing Officer approval of Case No. ABND 220011 (the "Abandonment Application"). In accordance with Section 31-70, Article V of the City Code, the decision of the Abandonment Hearing Officer regarding the abandonment of public rights-of way may be appealed. Any decision of the Abandonment Hearing Officer shall be considered final unless a person aggrieved thereby, files a written Notice of Abandonment Appeal with the Planning & Development Department within fifteen calendar days after the decision is made. Here, the Appellant has submitted the requested appeal and requisite filing fee in a timely manner before the April 29, 2022 5:00 PM deadline.

The subject of the abandonment is a portion of land at North Camelback Canyon Drive and East Camelback Heights Way, located directly across from the Appellant's home (the "Abandonment Area"). See Aerial Maps Attached at **Tab A**. The abandonment was approved on April 14, 2022, despite opposition from the Appellant and a request to continue the case to allow for further discussions between the neighbors. The Applicant would not agree to a continuance and the Hearing Officer forwarded a recommendation of approval to the City Council. Since April 14, 2022, the entire neighborhood along Camelback Heights Way (six parcel owners in total), have expressed opposition. See Opposition Map Attached at **Tab B**. 100% of the property owners located along Camelback Heights Way, with the exception of the Applicant, and an additional

property owner on Camelback Canyon Drive (directly north of the Applicant's home) have joined in this appeal and respectfully request the Phoenix City Council overturn the Hearing Officer's approval and deny the requested abandonment. See Letters of Opposition from Six Parcel Owners Attached at **Tab C**.

Site History

City records show the subject right-of-way was dedicated through the Camelback Heights Plat, recorded on December 16, 1956 on docket 69, page 49 of the Maricopa County Recorder. If abandoned, the right-of-way will be conveyed back in ownership to the Applicant. This appeal does not question to whom the abandoned area should be conveyed to if approved, but instead, that the loss of naturally vegetated public right-of-way combined with the Applicant's intended use of the Abandonment Area, is detrimental to the surrounding neighborhood. As is further discussed, the proposed abandonment also conflicts with the goals of the neighborhood as a whole to privatize Camelback Heights Way and install a private access gate.

The Abandonment Should be Denied for Lack of Proper Notice, Petition Signatures, and Failure to Communicate with the Appellant Prior to the April 14, 2022 Abandonment Hearing.

The City of Phoenix Abandonment process does not include a robust notification procedure, which frequently results in concerned neighbors being informed of abandonments at the last minute by signage or through word-of-mouth. However, the City also requires an abandonment petition to be signed by "one hundred percent of the property owners in and/or abutting the affected area." See Abandonment, Right-of-Way Petition included within Applicant's Application Attached at **Tab D**. In this case, the Appellant's home (Parcel No. 171-16-017A), as well as Parcel Nos. 171-16-007 and 171-16-006, are located directly adjacent to the Abandonment Area. In fact, the Appellant's home and view looking directly Northwest includes the Abandonment Area. Despite these facts, the Abandonment Petition provided by the Applicant only includes a single signature – the Applicant's signature. The petition fails to include signatures from the other affected parcels and therefore the Applicant failed to provide proper notice.

Additionally, prior to the April 14, 2022 Abandonment Hearing, the Applicant informed the Appellant that their son would be contacting them prior to the hearing to discuss the abandonment. But as the hearing began on April 14th, the Appellant had not received any communication from the Applicant.

Finally, it should be noted that during the April 14, 2022 Abandonment Hearing, the Appellant requested a continuance to allow the parties time to discuss the request, before it was forwarded to the City Council for final approval. The Applicant refused to agree to a continuance and the Hearing Officer forwarded a recommendation of approval to the City Council, notwithstanding the strong opposition present the hearing. The refusal to allow for a continuance forced the hand of the Appellant, and the other six surrounding property owners, to file this appeal. Now, the only equitable measure is for the City Council to deny the requested abandonment before the resulting use and disturbance of the area creates irreparable harm to the neighborhood.

The Neighbors Are Opposed to the Proposed Use of the Right-of-Way, the Detrimental Impact on the Neighborhood, and the Interference With the Long-Term Goal of Privatizing Camelback Heights Way

The property owners along Camelback Heights Way have recently begun discussions to privatize this road and construct a private access gate near the convergence of Camelback Canyon Drive and Camelback Heights Way. See Map of Approximate Locations of the Access Gate Attached at **Tab A**. The Applicant was fully aware of this intent prior to submitting the abandonment application. The privatization of the road will require coordination between the neighbors and notably, coordination with the City of Phoenix on the use (via a revocable permit) and abandonment of any public right-of-way to allow for the privatization of the road and the construction of the access gate. Despite these ongoing discussions, the Applicant's request seeks to utilize the public right-of-way for the Applicant's sole benefit, while also moving the Applicant's driveway closer to the intersection of Camelback Canyon Drive and Camelback Heights Way in conflict with possible locations for the access gate. The requested abandonment should be denied thereby allowing all property owners along Camelback Heights Way to discuss and agree upon what is beneficial for the neighborhood, rather than this unilateral request which only benefits the Applicant.

The Abandonment Should be Denied Because Applicant's Abandonment Narrative and Submitted Site Plans Confirm the Applicant's Intent to Use the Abandonment Area for an Access Driveway, Guest Parking, and Disturbed/New Vegetation.

An Examination of the Applicant's Abandonment Application and Narrative

The proposed Abandonment Application No. ABND 220011 requested to abandon a portion of land where North Camelback Canyon Drive and East Camelback Heights Way meet, as shown on the attached Abandonment Aerial Map Exhibit at **Tab A**. The Applicant provided a narrative along with the abandonment application which provided justifications for the request. See Applicant's Narrative Dated February 14, 2022 Attached at **Tab D**. The City of Phoenix also issued a Staff Report. See Abandonment Staff Report Dated April 14, 2022 Attached at **Tab E**.

As is discussed in detail in this section, the Appellant was surprised by the discrepancies between the written narrative and the Applicant's statements made during the April 14th, 2022 Hearing. The Applicant's testimony also directly conflicts with the site plan submitted to the City by the Applicant, which is further discussed in this appeal. While the Applicant stated during the hearing that the Abandonment Area would be left undisturbed with its existing natural desert vegetation, the Applicant's own narrative and site plan tell the story of significant disturbance and an extended driveway within the Abandonment Area. After a review of the Abandonment Application, Staff Report, Hearing and prior submittals, the Appellant is able to clarify the Applicant's intent for the Abandonment Area.

First, the Applicant's Right-of-Way Petition states the Applicant supports the abandonment because it "allows access from the driveway to occur directly from the street right-of-way instead of across the additional City-owned land." In response to this and similar statements within the Applicant's narrative, the City's Staff Report also states, "[t]he applicant states [the purpose is] to

allow access to the private residence directly from the roadway right-of-way, to place responsibility to maintain vegetation upon the property owner instead of the City, and to allow the property owner to provide guest parking on their property instead of the street.” See the Abandonment Application attached at **Tab D** and Staff Report attached at **Tab E**.

Regarding parking and the expansion of the driveway, Applicant’s Abandonment Application states, “[i]ncorporating the City’s right-of-way into the subject property will allow a longer driveway with room for a guest parking area that will increase safety for all residents in this area and their visitors.” Contrary to the Applicant’s own narrative, the Applicant stated during the Hearing that there would be no additional disturbance, driveway expansion, or parking in the proposed Abandonment Area. Based on the Applicant’s testimony, the Hearing Officer forwarded his recommendation of approval to City Council. But it is the Appellant’s position that if the Hearing Officer had been provided copies of the Applicant’s site plan, the proposed driveway extension and disturbed land within the Abandonment Area shown on the plan may have resulted in a recommendation of denial.

An Examination of the Applicant’s Site Plan Submittals to the City of Phoenix

In order to accurately compare the hearing testimony with the proposed construction of Applicant’s home, the Appellant made two separate requests to the Applicant to provide copies of the most current proposed site plan for the Applicant’s home and driveway configuration. Each time the Applicant stated the site plans would be provided. However, as of the date of this appeal, the Applicant has not provided any documents or site plans to the Appellant. After filing a public records request with the City and confirming with City Staff, the Appellant was able to locate the most recent site plan dated September 20, 2021. This site plan was reviewed during the Applicant’s prior Hillside Waiver (DSAP 21252) Hearing on January 19, 2022. See Site Plan Dated September 20, 2021 Attached at **Tab F**. Three months have passed since the DSAP Hearing and based on available public records, the Applicant has not submitted a more recent site plan. We were also able to locate an identical site plan submitted by the Applicant as part of Zoning Adjustment Case No. ZA-570-21, which requested a setback variance along the eastern property line. The site plan for this variance case also shows the same expanded driveway and disturbed area. See Variance Site Plan Dated September 20, 2021 Attached at **Tab G**. All written statements in the Applicant’s Abandonment Application Narrative regarding the expanding driveway, guest parking, and disturbed vegetation are consistent with the site plans submitted as part of Case Nos. DSAP 21252 and ZA-570-21. As mentioned above, the Applicant’s testimony during the Abandonment Hearing stated there would be no additional disturbance, driveway, or parking in the proposed Abandonment Area. However, after examining the Desert Sky Residence Survey ROW diagram provided by City of Phoenix Abandonment Staff with the most recent site plan, it is clear the proposed driveway runs through the proposed abandonment area. See Survey ROW & Site Plan Comparison attached at **Tab H**. This comparison exhibit shows the Applicant intends to remove the natural vegetation within the abandonment area and install an elongated mass of pavement to serve as a driveway and additional parking. Thus, after a review of the facts, Applicant’s purpose for the abandonment request within the Abandonment Hearing Application

and prior site plan submittals does not align with the statements made at the April 14th, 2022 Hearing.

The Applicant's proposed use of public right-of-way, which currently benefits all residents, also does not align with the goals of the united property owners along Camelback Heights Way. The Appellant and the six additional property owners joining in this appeal firmly believe the disturbance and replacement of this naturally vegetated area with the proposed driveway will only serve as a detriment which is incompatible with the goal to beautify and privatize Camelback heights Way.

Conclusion

This Notice of Abandonment Appeal serves to memorialize and provide evidence of the differences between the Applicant's verbal testimony which lead to the Hearing Officer's approval, and the documented intent of the Applicant to not only remove vegetation from the Abandonment Area, but also place an elongated driveway within the same area. After a review of the facts and confirmation of evidence showing the discrepancy between Applicant's testimony and the narrative/site plans submitted to the City, we respectfully request that the Phoenix City Council reverse the decision of the Abandonment Hearing Officer and deny the Abandonment Application. Our firm can provide additional information as requested by the City. Thank you for your time and consideration.

Very truly yours,

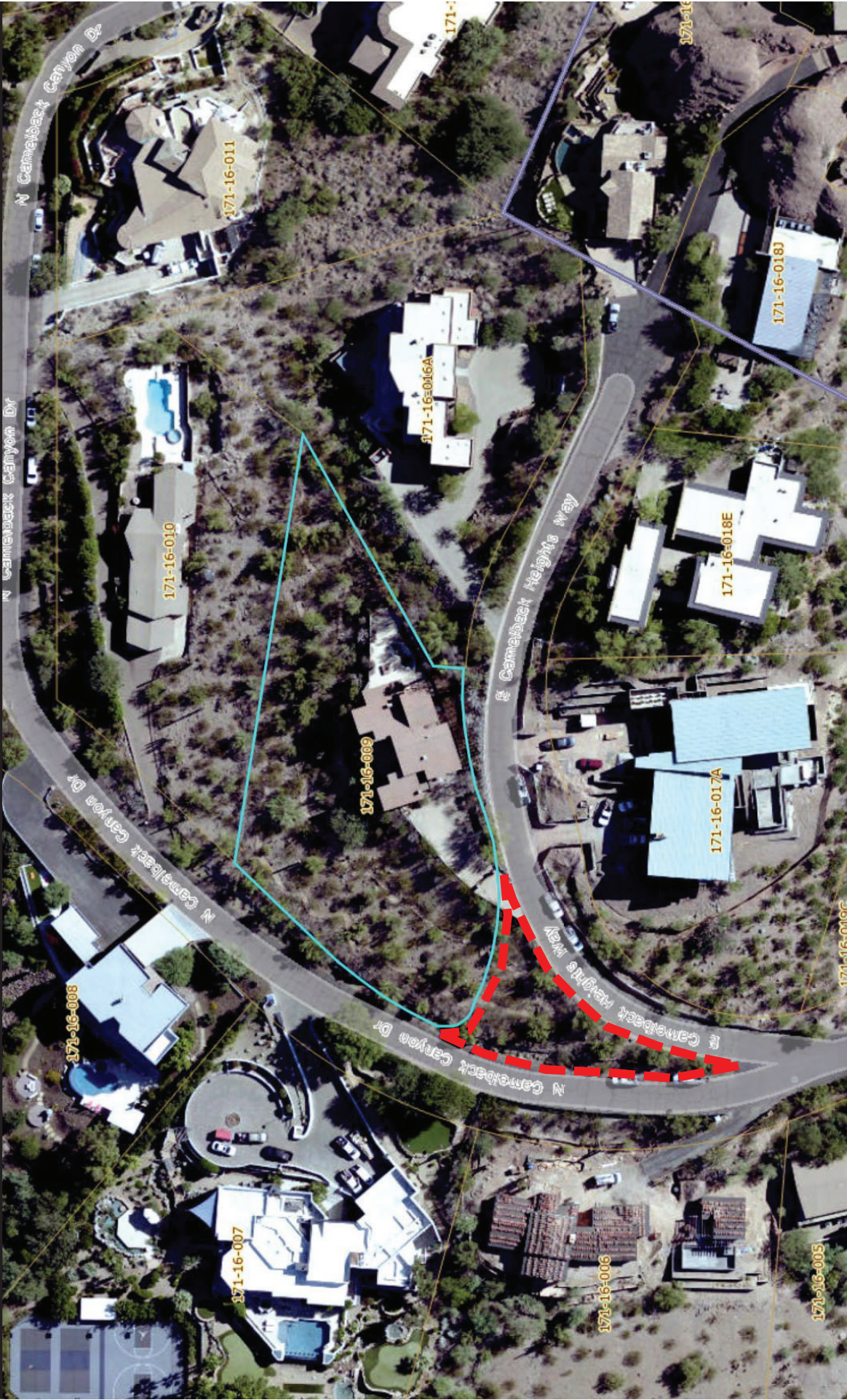
QUARLES & BRADY LLP

A handwritten signature in black ink, appearing to read 'B. Graff', written in a cursive style.

Benjamin W. Graff

TAB A

APPLICANT'S PROPOSED ABANDONMENT AREA AERIAL MAP



ABANDONMENT APPLICANT APN: 171-16-009

4640 E CAMELBACK HEIGHTS WAY PHOENIX ARIZONA 85018

APPLICANT'S APPROVED ABANDONMENT AREA AERIAL MAP



ABANDONMENT APPLICANT APN: 171-16-009

4640 E CAMELBACK HEIGHTS WAY PHOENIX ARIZONA 85018

APPELLANT'S PROPERTY VS APPELLANT'S PROPERTY



APPLICANT APN: 171-16-009
APPELLANT APN: 171-16-017A

OPTIONS FOR LOCATIONS OF NEW ACCESS GATE



ABANDONMENT APPLICANT APN: 171-16-009
4640 E CAMELBACK HEIGHTS WAY PHOENIX ARIZONA 85018

TAB B

OPPOSED NEIGHBORS AERIAL MAP



APN: 171-16-017A; 171-16-018E; 171-16-018J; 171-16-018K; 171-16-018L; 171-16-018M; 171-16-018N; 171-16-018O; 171-16-018P; 171-16-018Q; 171-16-018R; 171-16-018S; 171-16-018T; 171-16-018U; 171-16-018V; 171-16-018W; 171-16-018X; 171-16-018Y; 171-16-018Z; 171-16-019A; 171-16-019B; 171-16-019C; 171-16-019D; 171-16-019E; 171-16-019F; 171-16-019G; 171-16-019H; 171-16-019I; 171-16-019J; 171-16-019K; 171-16-019L; 171-16-019M; 171-16-019N; 171-16-019O; 171-16-019P; 171-16-019Q; 171-16-019R; 171-16-019S; 171-16-019T; 171-16-019U; 171-16-019V; 171-16-019W; 171-16-019X; 171-16-019Y; 171-16-019Z; 171-16-020A; 171-16-020B; 171-16-020C; 171-16-020D; 171-16-020E; 171-16-020F; 171-16-020G; 171-16-020H; 171-16-020I; 171-16-020J; 171-16-020K; 171-16-020L; 171-16-020M; 171-16-020N; 171-16-020O; 171-16-020P; 171-16-020Q; 171-16-020R; 171-16-020S; 171-16-020T; 171-16-020U; 171-16-020V; 171-16-020W; 171-16-020X; 171-16-020Y; 171-16-020Z

TAB C

April 19, 2022

Phoenix City Council
City of Phoenix
200 West Washington Street
Phoenix, AZ 85003
mayor.gallego@phoenix.gov
Council.district.6@phoenix.gov

RE: Formal Opposition and Appeal of Abandonment Application: ABND 220011

Dear Mayor Gallego and Councilmember DiCiccio:

As the owner of the property located at 5647 N Camelback Canyon Drive, Phoenix, AZ 85018, I formally oppose the Abandonment Application No. ABND 220011 for the abandonment of a triangular portion of land at North Camelback Canyon Drive and East Camelback Heights Way. The abandonment was approved on April 14, 2022 despite opposition from the neighborhood. The proposed abandonment will alter the existing hillside and natural vegetation in a detrimental manner. Therefore, we are joining our neighbors Kim Komando and Barry Young (owners of the home located at 4655 E Camelback Heights Way, Phoenix, AZ 85018) in filing a formal appeal of the abandonment approval and respectfully request that the Phoenix City Council reverse the decision of the Abandonment Hearing Officer and deny the abandonment application.

Thank you for your consideration of our request.

Sincerely,
Elaine Shay Revocable Deed of Trust



Heather Shay-Herzig, P/O/A Elaine Shay

Cc:

Alan Stephenson, Deputy City Manager and Planning Director
Maggie Dellow, Planner II, Abandonment Coordinator
Benjamin W. Graff, Quarles & Brady LLP

April 19, 2022

Phoenix City Council
City of Phoenix
200 West Washington Street
Phoenix, AZ 85003
mayor.gallego@phoenix.gov
Council.district.6@phoenix.gov

RE: Formal Opposition and Appeal of Abandonment Application: ABND 220011

Dear Mayor Gallego and Councilmember DiCiccio:

As the owner of the property located at 4704 E Camelback Heights Way, Phoenix, AZ 85018, I formally oppose the Abandonment Application No. ABND 220011 for the abandonment of a triangular portion of land at North Camelback Canyon Drive and East Camelback Heights Way. The abandonment was approved on April 14, 2022 despite opposition from the neighborhood. The proposed abandonment will alter the existing hillside and natural vegetation in a detrimental manner. Therefore, we are joining our neighbors Kim Komando and Barry Young (owners of the home located at 4655 E Camelback Heights Way, Phoenix, AZ 85018) in filing a formal appeal of the abandonment approval and respectfully request that the Phoenix City Council reverse the decision of the Abandonment Hearing Officer and deny the abandonment application.

Thank you for your consideration of our request.

Sincerely,
David Alan Oursland



Cc:

Alan Stephenson, Deputy City Manager and Planning Director
Maggie Dellow, Planner II, Abandonment Coordinator
Benjamin W. Graff, Quarles & Brady LLP

April 19, 2022

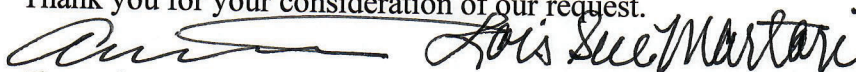
Phoenix City Council
City of Phoenix
200 West Washington Street
Phoenix, AZ 85003
mayor.gallego@phoenix.gov
Council.district.6@phoenix.gov

RE: Formal Opposition and Appeal of Abandonment Application: ABND 220011

Dear Mayor Gallego and Councilmember DiCiccio:

As the owner of the property located at 4705 E Camelback Heights Way, Phoenix, AZ 85018, I formally oppose the Abandonment Application No. ABND 220011 for the abandonment of a triangular portion of land at North Camelback Canyon Drive and East Camelback Heights Way. The abandonment was approved on April 14, 2022 despite opposition from the neighborhood. The proposed abandonment will alter the existing hillside and natural vegetation in a detrimental manner. Therefore, we are joining our neighbors Kim Komando and Barry Young (owners of the home located at 4655 E Camelback Heights Way, Phoenix, AZ 85018) in filing a formal appeal of the abandonment approval and respectfully request that the Phoenix City Council reverse the decision of the Abandonment Hearing Officer and deny the abandonment application.

Thank you for your consideration of our request.



Sincerely,

Martori Arthur J/Louis Sue Tr

Cc:

Alan Stephenson, Deputy City Manager and Planning Director
Maggie Dellow, Planner II, Abandonment Coordinator
Benjamin W. Graff, Quarles & Brady LLP

April 19, 2022

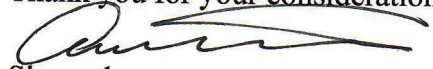
Phoenix City Council
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200 West Washington Street
Phoenix, AZ 85003
mayor.gallego@phoenix.gov
Council.district.6@phoenix.gov

RE: Formal Opposition and Appeal of Abandonment Application: ABND 220011

Dear Mayor Gallego and Councilmember DiCiccio:

As the owner of the property located at 4707 E Camelback Heights Way, Phoenix, AZ 85018, I formally oppose the Abandonment Application No. ABND 220011 for the abandonment of a triangular portion of land at North Camelback Canyon Drive and East Camelback Heights Way. The abandonment was approved on April 14, 2022 despite opposition from the neighborhood. The proposed abandonment will alter the existing hillside and natural vegetation in a detrimental manner. Therefore, we are joining our neighbors Kim Komando and Barry Young (owners of the home located at 4655 E Camelback Heights Way, Phoenix, AZ 85018) in filing a formal appeal of the abandonment approval and respectfully request that the Phoenix City Council reverse the decision of the Abandonment Hearing Officer and deny the abandonment application.

Thank you for your consideration of our request.



Sincerely,

Martori Arthur J

Cc:

Alan Stephenson, Deputy City Manager and Planning Director
Maggie Dellow, Planner II, Abandonment Coordinator
Benjamin W. Graff, Quarles & Brady LLP

April 19, 2022

Phoenix City Council
City of Phoenix
200 West Washington Street
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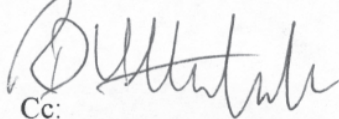
RE: Formal Opposition and Appeal of Abandonment Application: ABND 220011

Dear Mayor Gallego and Councilmember DiCiccio:

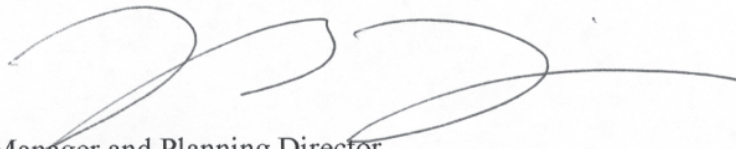
As the owner of the property located at 4720 E Camelback Heights Way, Phoenix, AZ 85018, I formally oppose the Abandonment Application No. ABND 220011 for the abandonment of a triangular portion of land at North Camelback Canyon Drive and East Camelback Heights Way. The abandonment was approved on April 14, 2022 despite opposition from the neighborhood. The proposed abandonment will alter the existing hillside and natural vegetation in a detrimental manner. Therefore, we are joining our neighbors Kim Komando and Barry Young (owners of the home located at 4655 E Camelback Heights Way, Phoenix, AZ 85018) in filing a formal appeal of the abandonment approval and respectfully request that the Phoenix City Council reverse the decision of the Abandonment Hearing Officer and deny the abandonment application.

Thank you for your consideration of our request.

Sincerely,
Robert Utterback & Jennifer Fried



Cc:



Alan Stephenson, Deputy City Manager and Planning Director
Maggie Dellow, Planner II, Abandonment Coordinator
Benjamin W. Graff, Quarles & Brady LLP

April 19, 2022

Phoenix City Council
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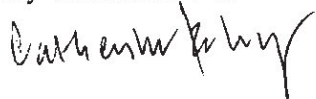
RE: Formal Opposition and Appeal of Abandonment Application: ABND 220011

Dear Mayor Gallego and Councilmember DiCiccio:

As the owner of the property located at 4713 E Camelback Heights Way, Phoenix, AZ 85018, I formally oppose the Abandonment Application No. ABND 220011 for the abandonment of a triangular portion of land at North Camelback Canyon Drive and East Camelback Heights Way. The abandonment was approved on April 14, 2022 despite opposition from the neighborhood. The proposed abandonment will alter the existing hillside and natural vegetation in a detrimental manner. Therefore, we are joining our neighbors Kim Komando and Barry Young (owners of the home located at 4655 E Camelback Heights Way, Phoenix, AZ 85018) in filing a formal appeal of the abandonment approval and respectfully request that the Phoenix City Council reverse the decision of the Abandonment Hearing Officer and deny the abandonment application.

Thank you for your consideration of our request.

Sincerely,
Ivy Catherine E Tr



Cc:

Alan Stephenson, Deputy City Manager and Planning Director
Maggie Dellow, Planner II, Abandonment Coordinator
Benjamin W. Graff, Quarles & Brady LLP

TAB D



This application must be submitted to start the process to abandon any public rights-of-way and/or easements controlled by the city of Phoenix. A completed application must be submitted, together with a sketch of the area to be abandoned and the appropriate fee to the Planning & Development Department, 200 West Washington Street (2nd floor), Phoenix, Arizona 85003. For additional information, call (602) 256-3487.

Applicant: Lauren Proper Potter - Huellmantel & Affiliates

Address: P.O. Box 1833

City: Tempe State: Arizona Zip: 85280-1833

Phone: (480) 921-2800 Email: lauren.proper@huellmantel.com

Contact (If other than Applicant): _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

APN# of Parcel(s) Adjacent to Requested Abandonment: 171-16-009

Name of Street(s) to be abandoned: N/A

Location/Description of Alley(s) or Easement(s) to be Abandoned (please be specific):
Triangular portion of land where N. Camelback Canyon Drive and E. Camelback Heights Way meet. Please see the attached exhibit.

Quarter Section #: Q20-38 Zoning District: RE-35 Village: Camelback East

Reason to Abandon (additional pages may be attached): Please see the attached justification

----- Staff Use Only -----

Abandonment #: _____ Folder #: _____ Total Abandonment Application Fee: \$ 1075

Submittal Date: 2/14/2022 Informal Abandonment (w/o hearing): \$ _____

Reviewed By: MDE Abandonment, Non-Single Family: \$ _____

Annexation Date: November 2, 1961 Abandonment, Single Family: 1075

City Council District #: 6 Complexity Fee \$ _____

Site Plan # (if applicable): 99-34593 | SDEV 9902634 Appraisal Section Notified: Yes No N/A

An applicant may receive a clarification from the city of its interpretation or application of a statute, ordinance, code or authorized substantive policy statement. To request clarification or to obtain further information on the application process and applicable review time frames, please call 602-262-7811 or visit our website at <http://phoenix.gov/pdd/licensetimes.html>. This publication can be made available in alternate formats (Braille, large print, or digital media) upon request. Contact Planning & Development at (602) 262-7811 voice or (602) 534-5500 TTY.

4640 E. CAMELBACK HEIGHTS WAY

ABANDONMENT



HUELLMANTEL
AFFILIATES

P.O. Box 1833, Tempe, Arizona 85280-1833 ✦ T: (480) 921-2800 ✦ E: lauren.proper@huellmantel.com

REASON TO ABANDON

The property owner at 4640 E. Camelback Heights Way seeks the abandonment of the City right-of-way between Camelback Canyon Drive and Camelback Heights Way to allow access to the private residence directly from the roadway right-of-way.

The right-of-way the property owner seeks to abandon appears to be a remnant leftover from a previous 1973 abandonment (V-66-73) to accommodate the realignment of Camelback Heights Way – previously Porter Drive – into its current configuration. The image below depicts the subject property outlined in teal and the right-of-way the property owner seeks to have abandoned outlined with a yellow dashed line.



The subject property is located along Camelback Heights Way and currently has a portion of its driveway located in the adjacent right-of-way due to the extreme grade of Camelback Heights Way, which increases nearly 40' along the frontage of the property, particularly as the street continues up the mountain. This area appears to be a portion of the originally-planned alignment of Camelback Heights Way based on the 1956 plat shown below:

Lastly, the abandonment would allow the property owner to provide guest parking on their property instead of the street. Although it is permitted that guests of all properties may park on the public street, the extreme slope and narrow configuration of Camelback Heights Way leads to unsafe conditions as the street is not wide enough to accommodate two-way traffic when there are vehicles parked on the street. The curvature of the roadway and elevation negatively impacts visibility when vehicles are located on the street. Incorporating the City's right-of-way into the subject property will allow a longer driveway with room for a guest parking area that will increase safety for all residents in this area and their visitors.

For the reasons set forth, we believe this request for an abandonment is appropriate. Thank you for your consideration.



A signed right-of-way abandonment petition must be submitted when filing your abandonment application. Please read the entire form before signing. For additional information, contact the Planning and Development Department at (602) 256-3487.

We, as property owners, support the proposed abandonment for the following reasons:

- It will help to increase security,
- It will increase the buildable area of the lot(s),
- It will remove unnecessary right-of-way or easements to permit development of the property, or
- Other: allows access from the driveway to occur directly from the street right-of-way instead of across additional City-owned land

We, as property owners, understand that if there are public utilities located within the area to be abandoned, all right-of-way within the proposed abandonment area shall be retained as a public utilities easement (PUE) or as may be modified by the affected utility companies with 24-hour vehicle maintenance access. We further understand that no structure of any kind shall be constructed or placed within the easement except removable-type fencing and/or paving. Removable type fencing must not require the installation of footers within the PUE. No planting within the PUE unless approved by the City of Phoenix. **The affected utility company 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.**

Or

We, as property owners, understand that we may choose to relocate all utilities affected by the abandonment. If we choose this alternative, we understand that we, as the property owners, would be responsible for the cost of relocating any affected utilities to locations approved by that utility company.

To ensure continued maintenance and repairs of the street, the public rights-of-way would be abandoned to the adjacent individual property owner(s) or a Homeowners Association where one exists. The Homeowners Association or adjacent individual property owners would assume all liability and maintenance cost of the abandoned public right-of-way and any improvements.

We, as the property owners, understand that if the abandonment of the public right-of-way is approved, the Homeowners Association (or individual property owners) shall purchase all streetlights from the City of Phoenix in the proposed abandonment area, or the Homeowners Association (or individual property owners) will be responsible for replacing them with private lighting. This will be done at no expense to the City of Phoenix. We also understand that the Homeowners Association (or individual property owners) will be responsible for and set up their own electric account with the proper electric company in order to assume the responsibility of payment of the electric costs.

We, as the property owners, understand that there may be additional costs incurred due to required improvements to provide code compliant entrances/gating, etc. Requirements may include, but are not limited to, gates, provisions for fire apparatus, dedicated right-of-way for required turnarounds, etc.

Any and all requirements and costs will be the responsibility of the Homeowners Association (or individual property owners). All required improvements within the proposed abandonment area, as required by the stipulations of the approved abandonment, will be completed at no expense to the City of Phoenix.

Per Phoenix City Code, Section 31-64 (e), **if** the request of abandonment is approved there will be a consideration fee due and payable after the Abandonment Hearing Officer's decision. Consideration fees are the costs associated with purchasing land within the abandoned right-of-way from the City of Phoenix and are calculated as follows:

Non-single family zoned right-of-way the greater of \$500 or Fair Market Value (FMV)¹ of abandoned right-of-way
Single family residential zoned right-of-way \$1 per square foot for first 500 square feet, \$0.10 per square foot thereafter; or FMV of abandoned right-of-way, as determined by City²

Notes:

¹ If the area to be abandoned is within or adjacent to an established redevelopment area, consideration may be given in determining the FMV.

² For the area to be abandoned, consideration may be given to the transfer of ongoing property maintenance responsibilities in determining the Abandonment Consideration Fee.

This publication can be made available in alternate formats (Braille, large print, computer diskette, or audiotape) upon request. Contact the Planning & Development Department at (602) 262-7811 voice or (602) 534-5500 TTY.

Neighborhood Notification Petition Requirement (required prior to filing for abandonment)

One hundred percent of the property owners in and/or abutting the affected area, as determined by the Street Transportation Department, must be notified.

Street Abandonment Petition Requirement (signatures verified upon application for abandonment)

- One hundred percent of property owners abutting the proposed abandonment must sign the petition in support if four or fewer properties are immediately impacted.
- Two-thirds of the residential property owners or a majority of the commercial property owners abutting the proposed right-of-way abandonment must sign the petition in support if more than four properties are immediately impacted.

Compliance with the above petition requirement does not guarantee approval of the request. It only allows for the submittal of the Abandonment Application.

We, as the adjacent property owners, do hereby support the abandonment of: _____

the right-of-way between Camelback Heights Way and Camelback Canyon Drive

as shown in the attached map dated _____

ADDRESS	LOT NO.	PRINT NAME	SIGNATURE
4640 E. Camelback Heights Way	9	Brenda van der Hout	<i>BvderHout</i>

Does not include signatures from other adjacent property owners

By abandoning the public right-of-way after all stipulations have been met, the City of Phoenix relinquishes its ownership and future obligations.

TAB E



City of Phoenix

Planning and Development Department

April 14, 2022

Preliminary Abandonment Staff Report: **ABND 220011**

Project# **99-3459**

Quarter Section: **20-38**

Council District: **6**

Location: 4640 East Camelback Heights Way

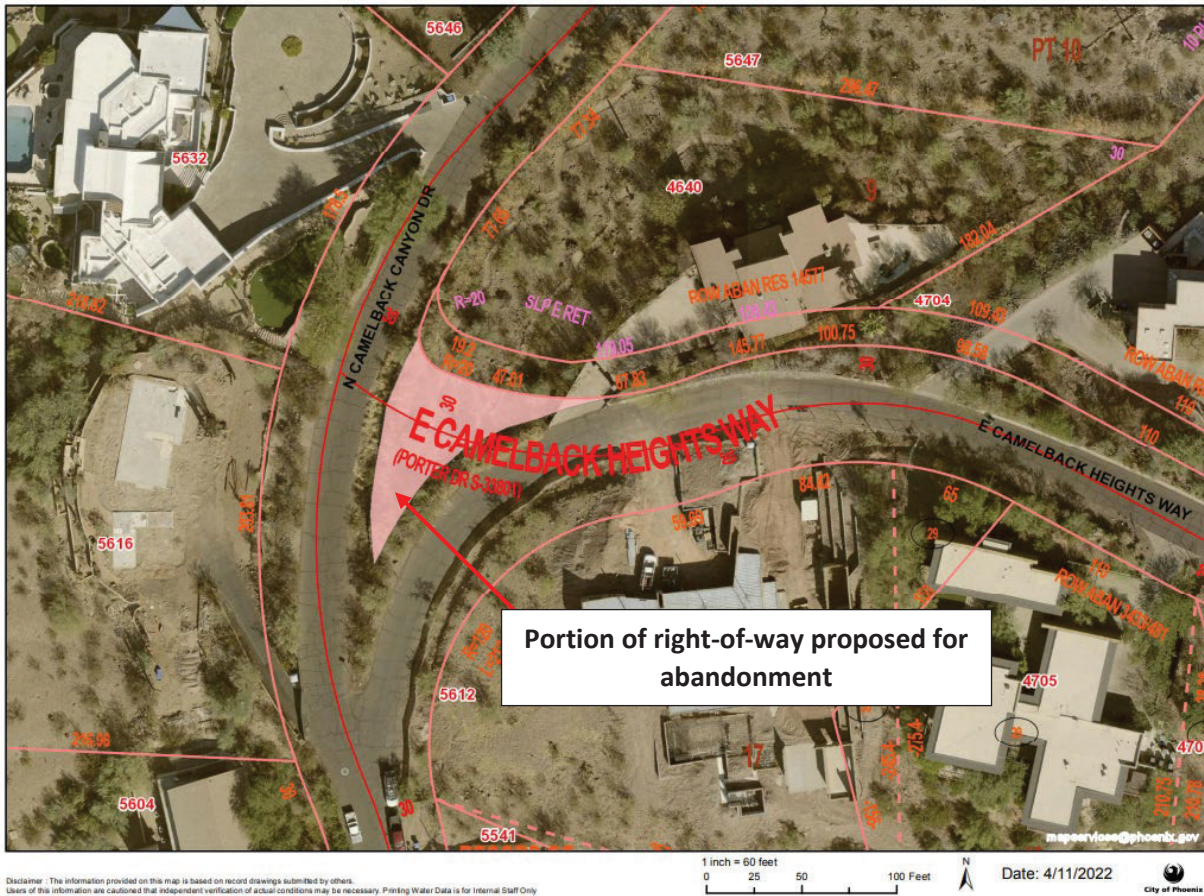
Applicant: Lauren Proper Potter

Request to abandon: The triangular portion of land where North Camelback Canyon Drive and East Camelback Heights Way meet as illustrated on the attached exhibit.

Purpose of request: The applicant states to allow access to the private residence directly from the roadway right-of-way, to place responsibility to maintain vegetation upon the property owner instead of the City, and to allow the property owner to provide guest parking on their property instead of the street.

Hearing date: **April 14, 2022**

Planning and Development



City Staff Research

Staff research shows that the subject right-of-way was dedicated through the Camelback Heights Plat, recorded on December 16, 1956 on docket 69, page 49 of the Maricopa County Recorder. If abandoned, the right-of-way will be conveyed back in ownership to the abutting property owner.

City Staff Comments

This request was routed to various City departments for their recommendations. Listed below are the responses from each department.

Street Transportation Department – Maja Brkovic

1. No right-of-way within 25-feet of the Camelback Canyon Drive monument line may be abandoned.
2. No right-of-way with 25-feet of the Camelback Heights Way monument lines may be abandoned.

PDD Traffic Department – Derek Fancon
“Recommend approval.”

PDD Site Planning – Maggie Dellow

“PDD Site Planning would like to ensure the customer understands the abandonment will not grant any additional disturbance. The Hillside Waiver (DSAP 21252) for this site approved a total disturbance of 16,680 sf. The abandonment will not increase this allowance. If the customer wants more disturbance, the City would require a new hillside waiver submittal.”

Street Lights – Jason Fernandez

“Recommend approval.”

Water Services – Don Reynolds

“A 25’ ft. portion of the right of way shall be retained as water easement for the existing water main with 24-hour maintenance access subject to the following standard stipulation:

No structure of any kind and/or block wall shall be constructed or placed within the easement except wood or wire 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.”

PDD Village Planner – Sarah Stockham

No comments received.

Public Transit Department – Michael Dwyer

“The abandonment will not affect solid waste service.”

PDD Civil Department – Todd Coy

“Recommend approval.”

Neighborhood Services – Lynda Lee

No comments received.

Utility Comments

The request was also routed to outside utility companies for their input. Listed below are the responses from each utility.

Cox – Zach Lawson

“I have reviewed the abandonment request at **ABND 220011 4640 E CAMELBACK HEIGHTS WAY** in Phoenix, {Maricopa County}, AZ. Based upon the supplied drawings/exhibits that you’ve submitted it has been determined that COX has no facilities within the easements and therefore we approve your request to abandon.”

Please note that although Cox Communications approves this abandonment, we do so with the understanding that we will not assume any construction, relocation and/or repairs costs associated or in result of this abandonment.”

Southwest Gas – Tami Garcia

“After reviewing the plans for the above-referenced project, it has been determined that a gas line lies within the area in question. We require that a clearance of at least two feet be maintained between the gas line and other underground facilities. The procedure requires calling Blue Stake at 602-263-1100 and following their excavation instructions to determine the

exact location of the gas line. Permission is granted to abandon a portion of the right-of-way on the area located at the above-referenced location under those conditions.”

Arizona Public Service – James Generoso

“APS has no objection to the abandonment proposed in ABND220011.”

CenturyLink – Mary Hutton

“Qwest Corporation d/b/a CENTURYLINK QC (“CenturyLink”) has reviewed the request for the subject vacation/abandonment and has determined that it has no objections with respect to the areas proposed at this project site.

It is the intent and understanding of CenturyLink that this notice shall not reduce our rights to any other existing easement or rights we have on this site or in the area.

This vacation response is submitted WITH THE STIPULATION that if CenturyLink facilities are found within the vacated area as described, the Applicant will relocate the facilities at Applicant's expense and within guidelines set by CenturyLink and all regulating entities. All relocations will be done under the supervision of a CenturyLink Inspector.”

Salt River Project – Sherry Wagner

“Salt River Project has no objection the abandonment of the triangular portion of land where Camelback Canyon Drive and Camelback Heights Way meet as shown in your application ABND220011. This is in the Arizona Public Service serving area”

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. 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.
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 Camelback Canyon Drive monument line may be abandoned.
4. No right-of-way south of the existing monument line of Camelback Heights Way may be abandoned.
5. The right-of-way shall be retained as a slope easement.
6. All stipulations must be completed within two years from the Abandonment Hearing Officer's decision.

For assistance regarding the above stipulations, please contact the Abandonment Coordinator at 602-256-3487.

REPORT SUBMITTED BY: Maggie Dellow, Abandonment Coordinator

cc: Lauren Proper Potter, Applicant/Representative
Christopher DePerro, Abandonment Hearing Officer

If the area to be abandoned is within or adjacent to a redevelopment area established pursuant to A.R.S.§36-1471 ET.SEQ., Consideration may be given to the restrictions upon the property and the covenants, conditions and obligations assumed by the redeveloper in the determination of fair market value.

TAB F



Phoenix City Code Section 32-32

Please be advised if there is a rezoning case in process on the subject property a Technical Appeal cannot be filed until the case has been acted on by City Council.

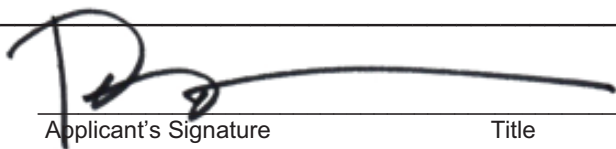
Note that an appeal meeting with staff will be arranged in approximately 1 week. Please indicate your preference in attending this meeting: Yes No

PROJECT NAME		PROJECT ADDRESS OR LOCATION	DATE
OWNERS NAME	ADDRESS	ZIP CODE	DSAP #
APPLICANT'S NAME (NOT COMPANY NAME)	APPLICANT'S ADDRESS	SUITE NUMBER	PHONE
APPLICANT'S E-MAIL ADDRESS	P&D STAFF FAMILIAR WITH PROJECT		

RELATIONSHIP TO PROJECT AND COMPANY NAME

A request is hereby made for an appeal, to Section(s) _____ of the Ordinance and/or Code, which require(s) that: **(use attachment if necessary):**

State the factual and/or legal basis for the appeal. Include the alternate design and design parameters based on a recognized standard and the reason(s) why the proposed appeal meets the intent of the Phoenix City Code Section 32-32 C (5)(d)(1):
(use attachment if necessary): _____



If applicant is not the owner or the owner's architect or engineer, owner's signature must appear on line above

Applicant's Signature

Title

FOR CITY USE ONLY

Technical Lead Print Name _____ Fee Code _____

APPROVED **APPROVED WITH STIPULATIONS** **DENIED**

Attendees: _____

DATE

CITY MANAGER'S REPRESENTATIVE OR DELEGATE

An applicant may receive a clarification from the city of its interpretation or application of a statute, ordinance, code or authorized substantive policy statement. To request clarification or to obtain further information on the application process and applicable review time frames, please call 602-262-7811 or visit our website at <http://phoenix.gov/pdd/licensetimes.html>. This publication can be made available in alternate formats upon request. Contact Planning & Development at (602) 262-7811 voice or (602) 534-5500 TTY.

Pre-log Checklist:

Hillside Grading Waiver

Phoenix City Code Section 32-32.

Initial Appeal to City Manager's Representative

- 3 copies of narrative and graphic exhibit describing applicant proposal and basis for appeal.
- Photographs: On-site, adjacent to site within 300.'
- ~~List of property owners within 300' of site. Please contact Maricopa County Assessors website at <http://www.maricopa.gov/Assessor/GIS/Map.html>.~~
- ~~Install Autodesk MapGuide (R) Viewer Active X Control to obtain a list of property owners.~~
- Verification must be provided that owners have been notified by certified letter at least 15 days prior to the hearing.
- Dimensioned single-family plot plan or site plan/subdivision.
- Hillside calculations (See Hillside Grading Waiver Submittal Requirements).
Total Lot Area: _____ SF Total Hillside Area: _____ SF
Total Area under Roof: _____ SF (From total lot) _____ %
Proposed Under Roof: _____ SF
Total Area Disturbed Beyond Roof: _____ SF
Total % of Hillside Disturbed: _____ %
- If administrative approval to be done by City Manager Representative, the property must be posted for a period of 15 days prior to the administrative approval date. It shall be the responsibility of the applicant to ensure that the posting remains in place for the entire 15 day period.
- Fee(s) per Chapter 9, Appendix A.2 of Phoenix City Code are:
 - \$600.00 first appeal item plus - **SPAPPCM**
 - \$300.00 each additional appeal item

Subsequent Appeal to Development Advisory Board

- Must submit appeal request within 10 days of the CMR decision.
- 1 copy of City Manager's Representative decision.
- Fee(s) per Chapter 9, Appendix A.2 of Phoenix City Code are:
 - \$600.00 first appeal item plus - **SPAPPDAB**
 - \$300.00 each additional appeal item



KENDLE DESIGN
COLLABORATIVE
6115 NORTH CATALINA TRACK
SCOTTSDALE, ARIZONA 85250
PH: 480.975.8550
WWW.KENDLEDESIGN.COM

Desert Sky
Residence
4640 E Camelback Heights Way
Phoenix, AZ 85018

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MARK	DATE	DESCRIPTION
Δ		
Δ		
Δ		
Δ		
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VARIANCE SUBMITTAL 5-10-21

PROJECT NO.

CADD DWG FILE

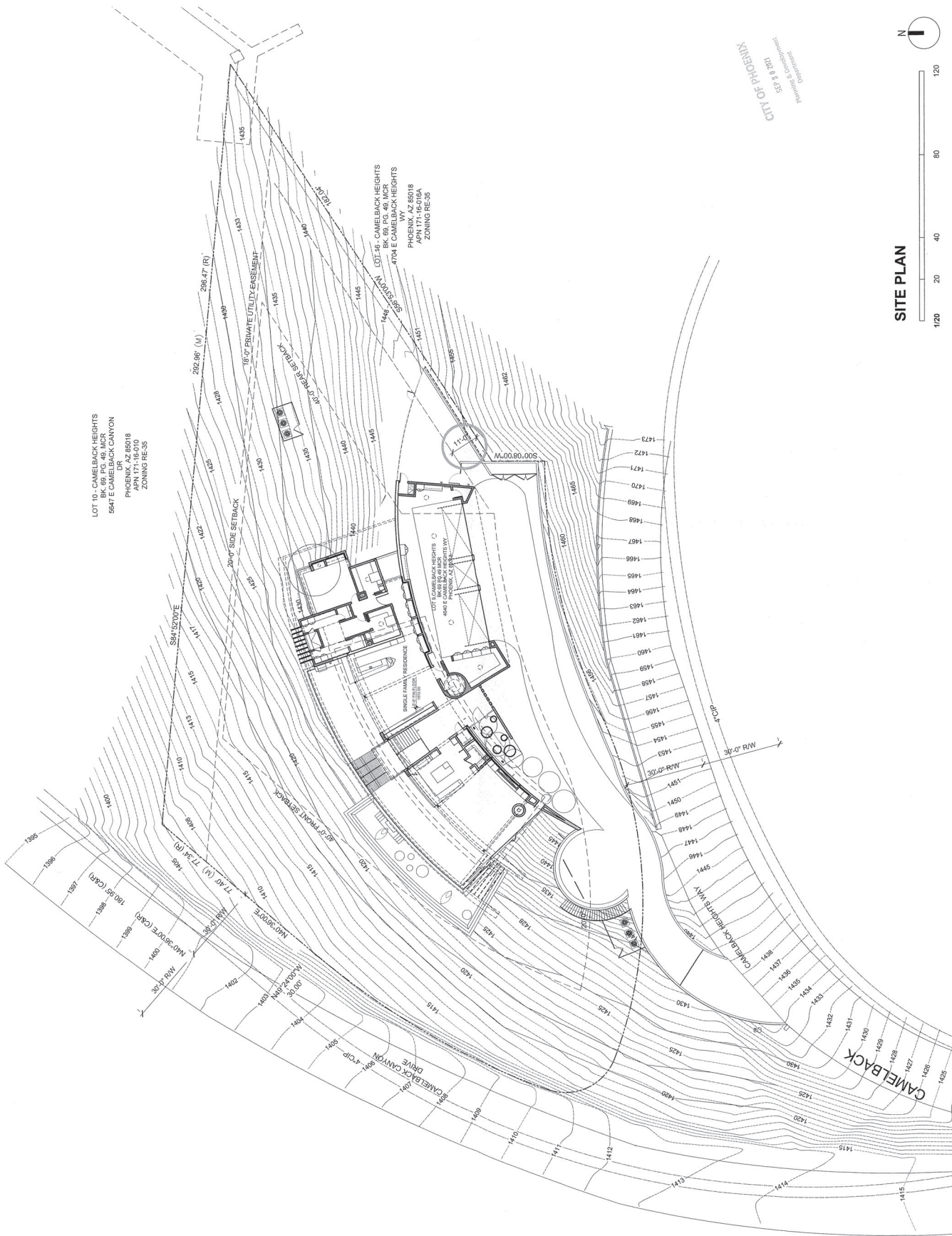
DRAWN BY: CK

CHECKED BY: BK

SHEET TITLE:

ARCHITECTURAL
SITE PLAN

A-1.0



DATE: 08.23.21
DRAWN BY: CK
CHECKED BY: BK
PROJECT NO. 100-00-0000
VARIANCE SUBMITTAL 5-10-21

SITE PLAN



TAB G



City of Phoenix

PLANNING AND DEVELOPMENT DEPARTMENT

APPLICATION FOR ZONING ADJUSTMENT

APPLICATION NO: ZA-570-21

CASE TYPE: Variance
DATE FILED: 9/20/2021

COUNCIL DISTRICT: 6
CASE STATUS: Pending

EXISTING ZONING: RE-35
FILING STAFF: jbraswell

Fee	Fee Waived	Fee Date	Receipt	Purpose
\$490.00	\$0.00	09/20/2021		Original Filing Fee

HEARING DATES

ZA: 12/23/2021 9:00 AM LOCATION: Meeting will be held virtually.

BOA:

PROPERTY LOCATION: 4640 East Camelback Heights Way

LEGAL DESCRIPTION: See attached

CONTACT INFORMATION

NAME	ADDRESS	PHONE	FAX	EMAIL
4640 East Camelback Heights LLC (Owner)	4640 E Camelback Heights Way Phoenix AZ 85018			
4640 East Camelback Heights LLC (Applicant)	10679 N Frank Lloyd Wright Boulevard, 103 Scottsdale AZ 85259			bzanx5@gmail.com
Brent Kendle Kendle Design Collaborative (Representative)	6115 N Cattletrack Drive Scottsdale AZ 85250	(480) 951-8558		brent@kendledesign.com brent@kendledesign.com

If, during the course of review of a pending application, the applicant submits one or more additional applications that are related to the pending application, then and in such event, the substantive review time frame shall be reset on all related applications. In this event there shall be one applicable substantive review time for all of the related applications and the time frame shall be revised to be the longest substantive review time frame that was applicable to any one of the related applications. As a result, the entire substantive review time frame for the related applications shall start over, and a fee may be charged.

An applicant may receive a clarification from the city of its interpretation or application of a statute, ordinance, code or authorized substantive policy statement. To request clarification or to obtain further information on the application process and applicable review time frames, please call 602-262-7131 (option 6), email zoning.mailbox@phoenix.gov or visit our website at <http://phoenix.gov/pdd/licensetimes.html>.

In making this application, I understand that the filing of this application and payment of fees does not entitle me to the relief requested. (See Sec. 307 of City of Phoenix Zoning Ordinance for standards by which the hearing officer will review the application.) I understand the approval of this request does not replace the need for acquiring the appropriate building permits, site plan approval, liquor license or any other licenses required by governmental agencies. I also understand that in the case of liquor request approval of a use permit does not guarantee the CITY OF PHOENIX will recommend approval of the liquor license.

APPLICANT'S SIGNATURE: _____

DATE: 9.30.2021

NOTE TO APPLICANT: SUCH USE PERMITS AND VARIANCES AS ARE GRANTED BY THE ZONING ADMINISTRATOR SHALL BE VOID IF THE USE IS NOT COMMENCED OR IF A BUILDING PERMIT IS NOT OBTAINED 60 DAYS OF SUCH GRANTING OR WITHIN THE TIME STIPULATED BY THE ADMINISTRATOR.

APPEALS OF DECISIONS OF THE ZONING ADMINISTRATOR MAY BE MADE BY ANY PERSON TO THE BOARD OF ADJUSTMENT WITHIN 15 DAYS AFTER THE DATE OF ACTIONS.

REQUEST

1. Variance to reduce the required side yard (east) setback to 11 feet. Minimum 20 feet required.

ZONING ORD. SECTIONS
609.B.Table

GEOGRAPHIC INFORMATION

APN: 171-16-009

Qtr Section(Map Index): 20-38(I11)

ZA CASE NO: ZA-570-21

Date: 12/23/21 9AM

Zoning Administrator Action

Appeal Date:

Approved Denied Denied, as filed Stipulations

Under Advisement Withdrawn Other
 Cont: _____

STIPULATIONS:

1) 2 years to apply and pay for building permits.

2) For the setback reduction as shown on the site plan dated September 20, 2021.

Must appeal by January 7, 2022.

12-23-21

DATE

Kim Dolarowski

BY

ZONING ADMINISTRATOR

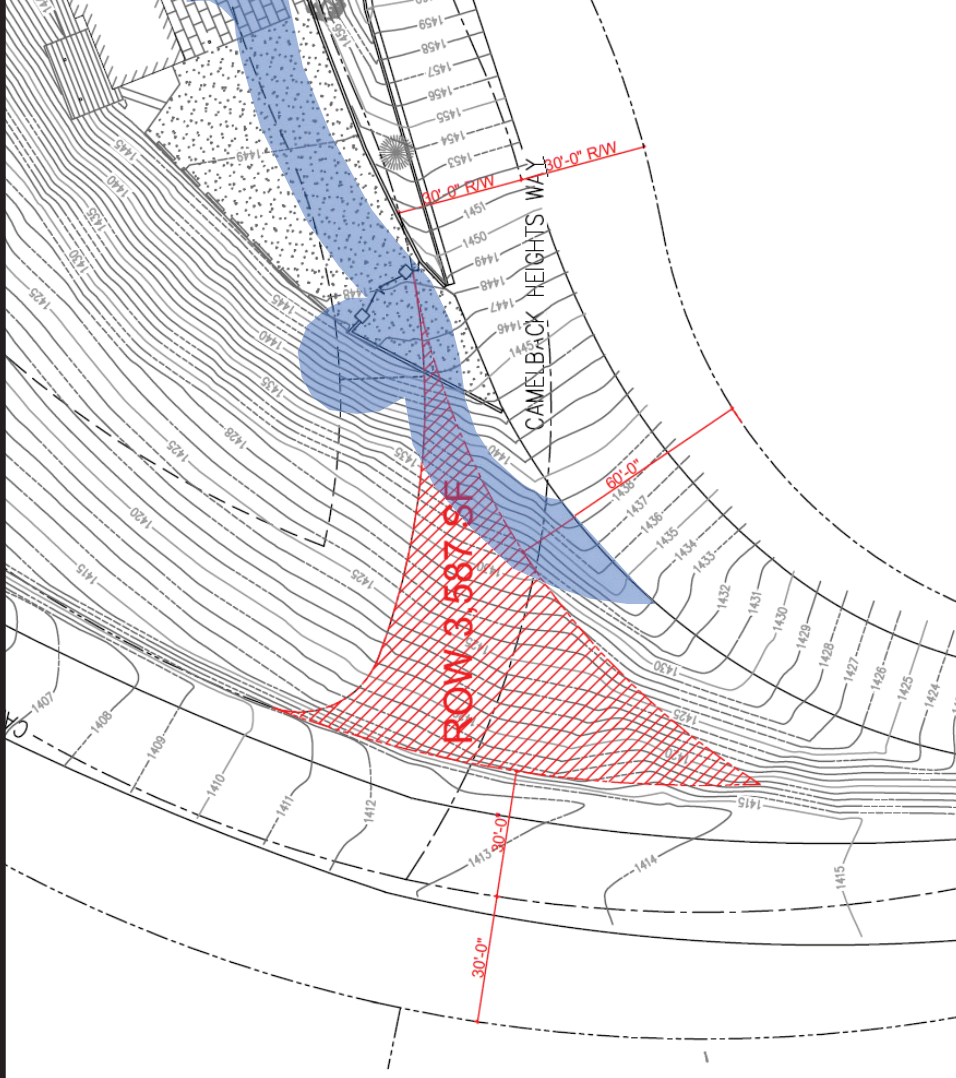
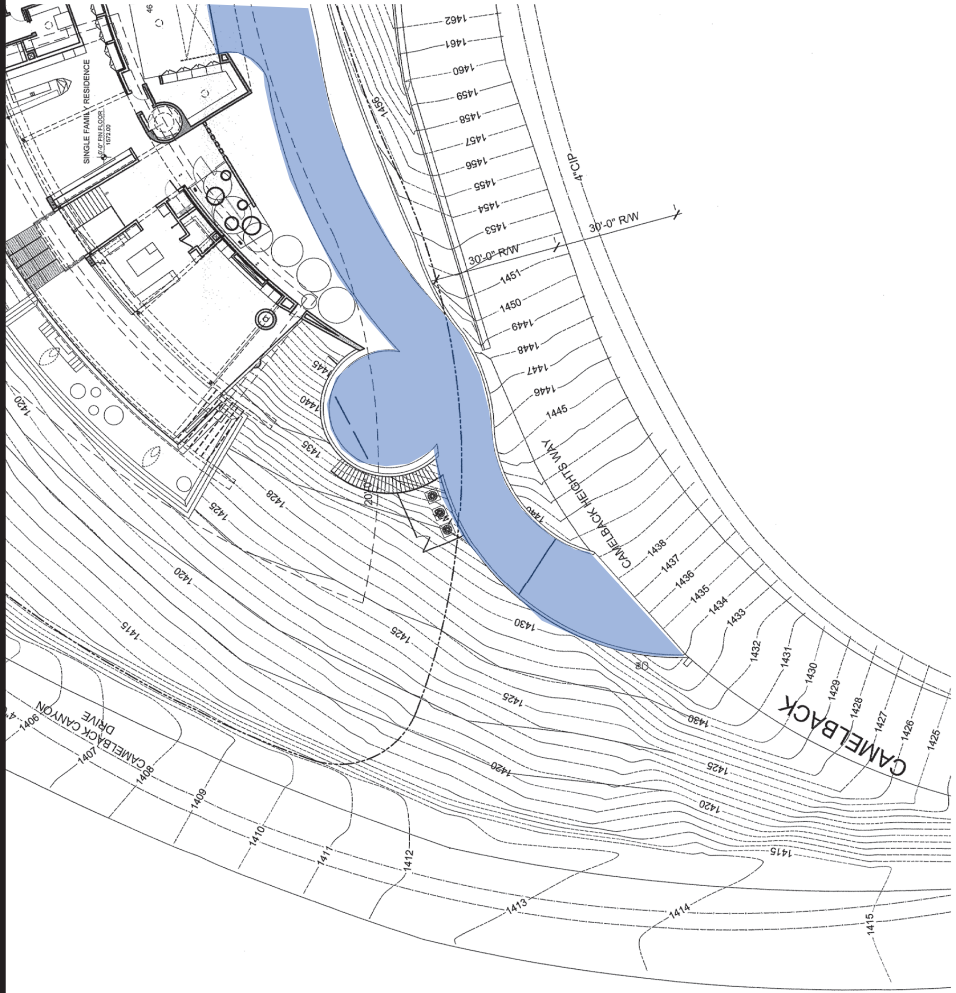
Support Present Opposition Present

STIPULATIONS MET:

YES/NO

TAB H

SITE PLAN VS ROW EXHIBIT
APPROXIMATE LOCATION OF DRIVEWAY



APN: 171-16-009
4640 E CAMELBACK HEIGHTS WAY PHOENIX AZ 85018