

Attachment B



City of Phoenix

Planning and Development Department

CONDITIONAL APPROVAL – 170033C

Your closure request was granted **CONDITIONAL APPROVAL** by the 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 Cathy Chapman at (602) 495-0156** for questions and notification of your completion of the stipulations.

Upon completion of the stipulations Cathy Chapman will schedule your request 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 September 7, 2019**), 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

September 7, 2017

Preliminary Closure Staff Report: **V170033C (Original Townsite)**

Project# **17-367**

Quarter Section: **10-28**

Location:

Central Ave and Jefferson St

Applicant:

CentriCity Real Estate c/o Nick Wood

Request to close:

The remaining 25-foot Alley Right-of-Way bounded by Central Avenue, Jefferson, Madison, and 1st Streets.

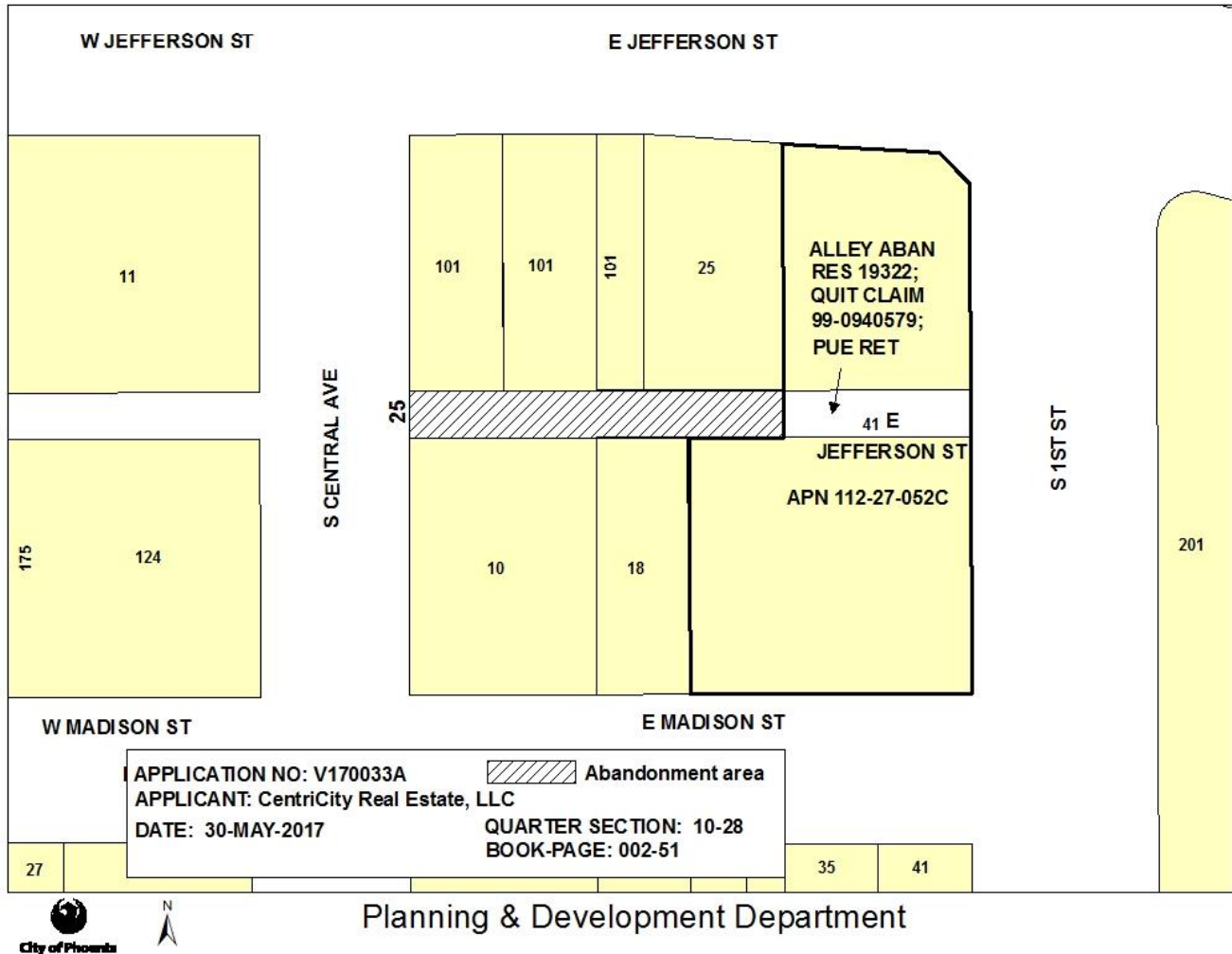
Purpose of request:

The applicant states: See attached letter. Alley abandonment needed for future development of site into residential condominiums and some mixed use development.

Hearing date:

July 18, 2017

**TAKEN OUT FROM UNDER ADVISEMENT AND
APPROVED, WITH STIPULATIONS, ON
SEPTEMBER 7, 2017.**



City Staff Comments:

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

PDD Streets Department – Alan Hilty

Proposed closure approved, subject to the following stipulations:

1. No right-of-way within 40 feet of the Central Avenue monument line may be abandoned.
2. The applicant shall provide continued egress from Lot 8 (18 E Madison Street).

PDD Planning Department – Craig Messer

Combine all lots or parcels once abandoned, amend initial site plan.

Street Lights – Antoinette Christian

Recommends approval.

Community and Economic Development – Eric Johnson

Recommends approval. This is Original Townsite land within the alley, work with Law Department on proper Resolution language.

Neighborhood Services Department – Lynda Dodd

Recommend approval.

PDD Civil Department – Derek Fancon

Recommend approval.

Utility Comments:

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

Cox – Kenny Hensman

Recommend approval.

Southwest Gas – Diane Litch

Recommend approval.

APS – David Schlieff

APS has existing underground electric facilities in the area; therefore, APS cannot concur to the release of said ROW unless and until existing APS facilities are de-energized and relocated or a PUE is retained in place of said ROW.

CenturyLink – Karen Caime

Recommend approval.

Salt River Project – Sherry Wagner

No objection.

Staff Research:

This site is within the Original Townsite of the City of Phoenix ("Townsite"), platted on October 22nd 1895. The 100 eastern feet of the alley was closed in September of 1999 via Resolution 19322. The alley was then quit-claimed to John Garretson, owner of the abutting properties, in October of 1999.

Rights-of-way located within the Townsite are different from other rights-of-way outside of the Townsite. Alley ROW within the original Townsite cannot be abandoned through the abandonment process set forth in Phoenix City Code Sec. 31-64; rather, a closure may be approved. Upon approval of a closure to public use, an alley ROW in original Townsite may be disposed by the City per standard property disposal processes.

This closure is requested for the development of Jefferson Place, a project that proposes a 20-story residential tower, retail, renovation of historic Barrister Building, and private parking garage. The project was filed under PAPP 1700466 on February 22, 2017. The proposed project depicts the building being erected overtop of the alleyway.

Since this is an alley within the Downtown Code area (Chapter 12 of the Zoning Ordinance) there are additional criteria that must be considered:

1) Historic Character. Alleys located within designated historic districts should not be abandoned if the alley is part of the historic character of the district.

- The alley is adjacent to the Barrister Building, a building built in 1915 that is historically protected. All of the alley is within Downtown Code- Business Core, and a portion of the alley adjacent to the Barrister Building is located within an HP-zoned district. The applicant's proposal would retain the alley as a service entrance, and visually would not appear significantly different where adjacent to the historic Barrister Building.

2) Special Circumstances. Abandonment of alleys should be avoided, and occur only in special

circumstances where equivalent off-street service facilities are provided, and where such abandonment does not result in a need for on-street servicing/loading.

- The current proposed site plan keeps the service access to the development within the area that is requested for closure to public use. In addition, the prior closure of the eastern portion of the same alley has created a one-way alley with no legal turnaround.

3) Fewer Driveways. Alley abandonments should only be approved when they result in fewer driveways along Pedestrian Streets while promoting a pedestrian friendly block pattern (City of Phoenix Zoning Ordinance Section 1207.K).

- Central Avenue, directly west of the alley is defined as a Pedestrian Street according to section 1202 of the City of Phoenix Ordinance. The proposed building calls for implementation of the alley for ingress into the site. Both ingress and egress is also proposed at the southern end of the block, connecting to Madison Street.

4) Block Length. Alleys located on long blocks greater than 300-feet should not be abandoned and if abandoned an access easement should be retained.

- This alley is located on a 300-foot-long block. The eastern closure of the alley has left roughly 220 feet of active alley.

5) Development Viability. Alley abandonments that would negatively impact the development viability of surrounding properties within the same development block should not be approved.

- The alley is a dead end alley, since the property to the east is now a private piece of land.

The applicant was required to hold two neighborhood meetings. They occurred on June 26th and 27th, respectively on the 19th floor of 400 East Van Buren Street in Phoenix. The applicant was also required to notify for the neighborhood meetings to all property owners within 200 feet of block 35 via first-class mail. A total of 18 notice letters were sent; 14 of those were sent to property owners of record, and four were sent to members of the City identified registered neighborhood organizations. The applicant has met all requirements set forth in the City of Phoenix for Downtown Alley Abandonment process.

Staff Recommended Abandonment Stipulations of Approval

The request for closure, if approved by the Hearing Officer, is recommended to be approved 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 by the affected utilities with 24-hour vehicle maintenance access.
2. An appropriate performance agreement, in an approved form and cost amount, must be posted with the Planning and Development Department to guarantee the improvements above.
3. No right-of-way within 40' of the monument line of Central Avenue may be closed.

4. The closed alley will function as a service entrance and utility access for the development, with a minimum 20' wide accessway, in general conformance with the site plan submitted with the PDD Development Pre-Application dated 2.22.17 and approved by PDD.
5. An agreement shall be executed with the City to purchase the parcel resulting from the closure of the alley. The agreement shall be approved by the Community and Economic Development Department (CEDD) upon the inclusion of satisfactory provisions for the following:
 - a. Incorporation of the parcel into the Jefferson Place development, in general conformance with the PDD Development Pre-Application dated 2.22.17.
 - b. Other provisions as may be deemed necessary by CEDD.
6. All stipulations must be completed within two years from the Abandonment Hearing Officer's decision.

Hearing Officer Decision

The request for closure of the alley was **APPROVED**, subject to the following stipulations:

1. The applicant shall comply with either of option 1a or 1b:
 - a. All utilities shall be relocated to locations approved by the affected utility company. All work is to be done by the affected utility company at no expense to the affected utility company.
 - 1) The existing sewer main may be abandoned in place within the requested abandonment area by any of the methods listed below. The sewer must be abandoned from the existing manhole #110 in the center of 1st Street to the edge of the property on the west side (Central Avenue). This will require the consent of all users of the main to be abandoned.

Abandonment Methods, per Water Design Standards 2017:

 - Total removal of pipe.
 - Crush pipe in place by mechanical means. This cannot be applied to asbestos cement pipe.
 - Leave in place and fill with strength grout.

No other methods are acceptable.

Any questions contact Don Reynolds at (602) 534-3953 or donald.reynolds@phoenix.gov.
 - 2) The APS facilities located within the requested abandonment area must be deenergized and removed at the applicant's expense. Should you have further questions concerning this matter, please contact David Schlief at (602) 371-7295 or david.schlief@aps.com.
 - b. Sufficient right-of-way shall be retained as a public utility easement, as approved by the affected utilities, with 24-hour vehicle maintenance access.
2. The applicant shall provide either option 2a or 2b to serve the Garretson Property, which consists of the following parcels: 41 E Jefferson Street, APN 112-27-052C (Parts of Lots 1 and 3, Block 35, Original Phoenix Townsite), and 42 E Madison Street, APN 112-27-053E (Parts of Lots 2,4, and 6, Block 35, Original Phoenix Townsite):

- a. Dedicate private ingress/egress easements across the alley to allow access from the Garretson Property to Central Avenue, OR
- b. Construct one additional driveway in the Madison Street ROW to serve the Garretson Property, east of the existing driveway, as approved by the Street Transportation Department but not exceeding 24' in width. An appropriate performance agreement, in an approved form and cost amount, must be posted with the Planning and Development Department for all work completed within the ROW. Alternatively, in lieu of constructing the driveway, the applicant may provide a payment/funds in escrow to the City to construct the driveway on the applicant's behalf. The payment must cover all City costs to construct the driveway.

The applicant shall retain the right to choose between option 2a or 2b.

3. No right-of-way within 40' of the monument line of Central Avenue may be closed.
4. The closed alley will function as a service entrance and utility access for the development, with a minimum 20' wide access way, in general conformance with the site plan signed and dated by the Abandonment Hearing Officer on September 7, 2017.
5. An agreement shall be executed with the City to purchase the parcel resulting from the closure of the alley. The agreement shall be approved by the Community and Economic Development Department (CEDD) upon the inclusion of satisfactory provisions for the following:
 - a. Incorporation of the parcel into the Jefferson Place development, in general conformance with the site plan signed and dated by the Abandonment Hearing Officer on September 7, 2017.
 - b. Other provisions as may be deemed necessary by CEDD.
6. All stipulations must be completed within two years of the Abandonment Hearing Officer's decision.

Hearing Officer Findings:

In this application for closure of this alley, I find that two primary issues exist: the desire of the applicant to find sufficient area to provide on-site parking, service areas, and utility access for the proposed Jefferson Place development, and the desire of the neighboring property owner to have access to Central Avenue, which is currently available through the existing alley. The closure and development of the alley (if subsequently purchased from the City by the applicant) would prevent access to Central Avenue from the Garretson Property, which is the surface parking area located directly to the east of the proposed alley closure and more specifically defined in Stipulation 2.

In approving this closure with stipulations, I considered quite a few mitigating factors, as follows:

- Existing Alley Conditions. The alley is no longer continuously dedicated between Central Avenue and 1st Street; the easternmost 100' of the alley connecting with 1st Street was closed with City Council Resolution 19322, and title subsequently transferred to the Garretson Property. A public utility easement was retained over this closed portion of the alley. This condition essentially makes the alley a "dead end" if traveling from Central Avenue.
- Downtown Alley Abandonment Review Criteria. I considered the criteria and agree with the staff analysis provided in this report. The existing alley condition as a dead end negates much of the ability to retain connectivity through the alley, as intended from the criteria. However, the

proposed development does propose use of the closed alley for parking and service access, as preferred by the criteria.

- Existing Use of the Alley by the Garretson Property. The Garretson Property, currently used for commercial surface parking, has used the alley for access to Central Avenue, and a portion of the alley for on-site maneuvering between the different rows of parking. Prior permission to use the alley for on-site maneuvering was not conclusively determined. It is my opinion that a different on-site connection between the rows of parking can be provided which does not use the alley, and that any parking spaces “lost” to this change can likely be made up where the access to the alley is currently provided. In addition, representatives of the Garretson Property have stated in submitted documentation to the City that, while access to Central Avenue primarily for egress after an event is of paramount importance, alternative access to Central via an additional Madison Street connection could be an acceptable alternative.
- Downtown Code (DTC) Requirements. The DTC (Chapter 12 of the Zoning Ordinance) designates 1st Street as a Side Street, and Madison Street as a Pedestrian Street. Section 1206 of the DTC discourages access to Pedestrian Streets when access to a Side Street is available. Having said that, the City approved the closure of the alley through the Garretson Property prior to adoption of the DTC, which limited potential future vehicular access points. Because of this pre-existing condition, it is my opinion that an additional driveway may be provided from Madison to the Garretson Property while remaining in compliance with the DTC. This in turn would allow for additional access to Central Avenue (via Madison Street) from the Garretson Property, which I feel is an acceptable alternative to access via the alley, as discussed in the previous point and provided for in Stipulation 2. The maximum 24’ driveway width is stipulated to maintain compliance with the DTC requirements for new driveways.
- Public Utility Issues. The applicant proposes to install and/or maintain public utilities within the closed alley, but at the same time build a parking garage over part of the closed alley that would have utility lines. This is typically problematic for the utility companies, who require access and clearances around utility installations. However, the alley is 25’ wide, which is wider than many public utilities require for maintenance access. Stipulation 1a therefore allows for retention of a public utility easement of a size approved by the affected utilities, with the intent of letting the applicant negotiate the easement size and clearances required to allow the construction of the parking garage within the closed alley. It is up to the applicant, however, to find a workable solution with the utility companies.

In conclusion, this approval to close the alley subject to the stipulations provided is intended to allow development of Jefferson Place as proposed, while maintaining public utility continuity and vehicular access from the Garretson Property to Central Avenue, albeit with possible changes from the existing conditions.

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

REPORT SUBMITTED BY: Jordan Greenman, Abandonment Coordinator.

FINALIZED BY: Christopher DePerro, Abandonment Hearing Officer

cc: Applicant/Representative, Nick Wood
Christopher DePerro, Abandonment Hearing Officer