

ATTACHMENT B



City of Phoenix

Planning and Development Department

CONDITIONAL APPROVAL – ABND 200558

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 Maggie Dellow at (602) 262-7399** for questions and notification of your completion of the stipulations.

Upon completion of the stipulations Robert Martinez 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 December 10, 2022**), 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.



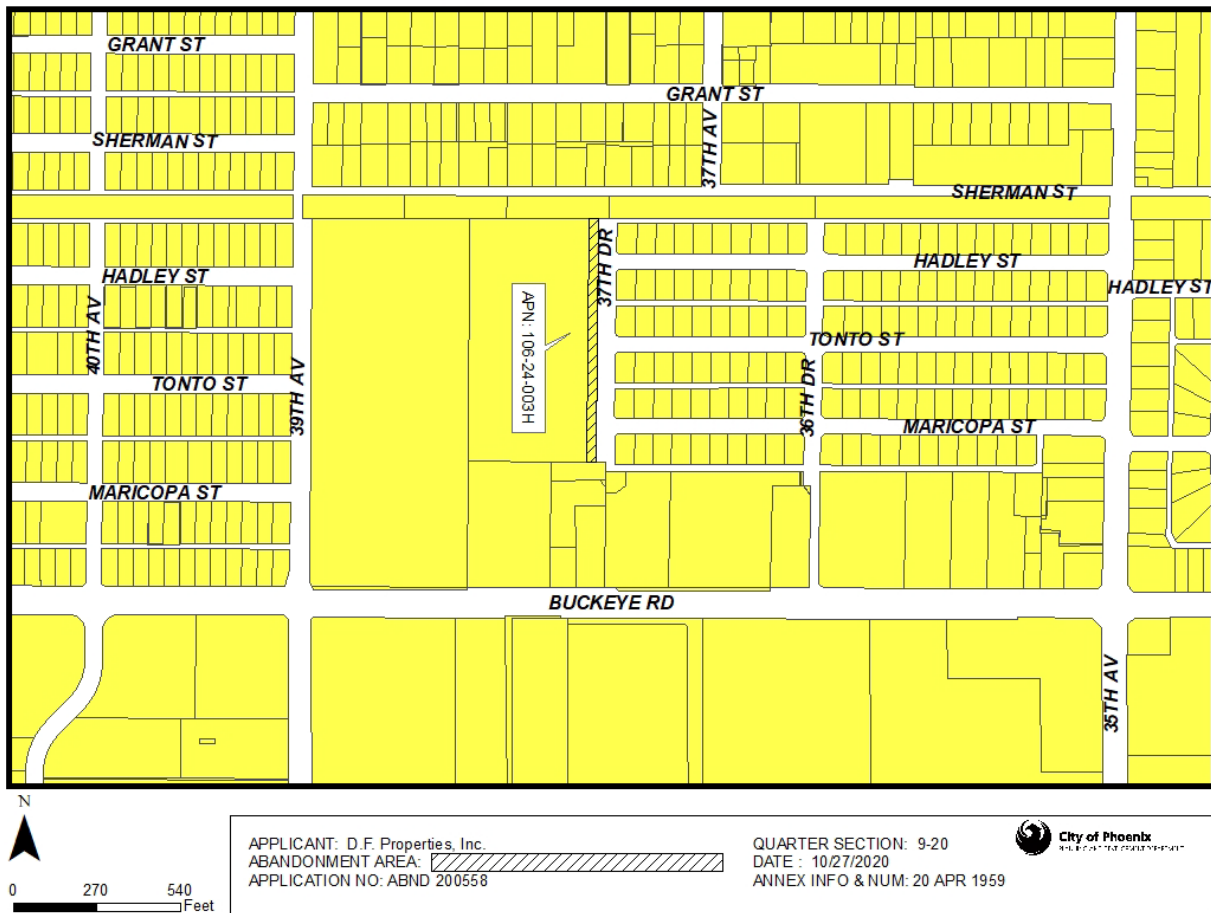
City of Phoenix

Planning and Development Department

December 10, 2020
Preliminary Abandonment Staff Report: **ABND 200558**
Project# **00-810**
Quarter Section: **9-20**

<u>Location:</u>	930 South 37th Drive
<u>Applicant:</u>	D.F. Properties Inc
<u>Request to abandon:</u>	To abandon the 1' vehicular non-access easement dedicated with Ordinance S-12908, together with the 33' wide right-of-way easement for the west side of 37th Drive located adjacent the property addressed 930 South 37th Drive.
<u>Purpose of request:</u>	The applicant states to return subject property to original owner, D.F. Properties Inc., which dedicated it to the City of Phoenix via quit-claim deed on November 5, 1981.
<u>Hearing date:</u>	December 10, 2020

ATTACHMENT A -- MAP



Hearing Summary

Mr. Christopher DePerro, the Hearing Officer called the hearing to order at 9:32 AM on December 10, 2020. Mr. DePerro then opened the hearing by introducing the staff. The Abandonment Coordinator, Ms. Wendy Turner, then read the abandonment case into the record by stating the applicant, location, abandonment request, and purpose of the request, as well as City staff research.

Mr. DePerro then started the discussion by asking the applicant if they would like to add any additional comments regarding the abandonment request.

Mr. Brian McNamara, with DF Properties Inc, stated that he did not have any additional information to add, but indicated that he did have some concerns regarding the stipulations that he would like to discuss further during the hearing. Ms. Sarah Sanz, with DF Properties Inc., agreed with this statement.

Mr. DePerro began the discussion by sharing GIS imaging of the map and invited staff reviewers to share with the applicants some of the issues on site. Ms. Maja Brkovic with the

Streets Transportation Department shared that the Streets Department could not support the full abandonment of the 33' half-street right-of-way as proposed, since a full 50' street dedication is required per street classification maps. As an alternative, Ms. Brkovic indicated that the department could support the abandonment of the western most 8' of the right-of-way, which would enable the fully required right-of-way to be maintained.

Mr. McNamara shared that a block wall has separated the western half of the right-of-way from the eastern half of the right-of-way for a significant amount of time and that the street currently functions with just 25' of right-of-way.

Ms. Brkovic share zoning history on the site and explained that in spite of current site conditions, the proposed abandoned area is classified as right-of-way and must maintain the required right-of-way width as required by the Street Classification map. Ms. Brkovic further explained that it was always the intention of the City to develop the west side of the dedicated right-of-way as roadway.

Mr. McNamara asked if it would be possible to dedicate the required street back at a later time when deemed necessary.

Mr. DePerro explained that it would not be possible to required rededication the right-of-way at a later date without a legislative act such as a rezoning. As such, the City could not allow the present abandonment of the right-of-way. Mr. Chris Kowalsky explained that by abandoning the half street in light of present site conditions, the City would risk setting a precedent for future half street abandonments that would be in conflict with the Street Classification Map.

Mr. DePerro then invited Ms. Rosemary Aguirre, a relative of a resident living in the directly adjacent neighborhood to the east, to speak. Ms. Aguirre indicated that she would not like to see the right-of-way maintained and developed into roadway in a way that removes the existing site wall, or creates additional access points, citing possible negative impacts on the neighborhood such as increased traffic and crime.

Mr. McNamara asked if the City had any current plans to expand or improve the existing western half of the right-of-way. Ms. Brkovic indicated that there were no current plans. Mr. McNamara inquired about the possibility of abandoning the right-of-way back to the owner to the wet, with the stipulation that future development may require a rededication of right-of-way. Mr. Kowalsky explained that if the City previously deemed it possible to abandon the right-of-way, imposing a stipulation for rededication would be potentially indefensible.

Mr. McNamara indicated he did not agree with the policy. Mr. DePerro asked Mr. McNamara for more details on what the applicant was trying to do with this abandonment. Mr. McNamara indicated that that the abandonment is vital for the full utilization of the property.

Mr. McNamara expressed concern over what would result if the request to abandon the entire have street was denied. Mr. McNamara inquired if there would be an opportunity to continue using the land as currently used, even if the full abandonment is not approved. Mr. Kowalsky indicated that this may be possible through a revocable permit with the streets department.

Mr. McNamara reiterated that he did not feel the full right-of-way was necessary and that he believe the highest and best use for the land is to be conveyed back to the property on the west as developable land.

Ms. Sanz echoed Mr. McNamara and added that she felt the current state of the right-of-way was preferred.

Mr. McNamara asked if the City had ever abandoned a half-street right-of-way. Mr. DePerro indicated that it was extremely unlikely.

Mr. McNamara asked about the appeal process. Mr. DePerro explained how the appeal process would work, if sought.

Mr. McNamara expressed frustration over the fact that he felt lead to believe a half-street abandonment would be permitted. Mr. DePerro indicated that the applicant did still have the option to: 1) get conditional approval of the abandonment of the first 8' feet of right-of-way on the west side of the street, and get a revocable permit for the existing site wall as a part of the abandonment; or 2) obtain conditional approval of the abandonment and choose to never finish out the application.

Mr. DePerro then reviewed the draft stipulations with the applicant.

The Hearing Officer granted a conditional approval with stipulations.

Stipulations of Conditional 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 25' of the 37th Drive monument line shall be abandoned.
4. Dedicate a new 1' vehicular non-access easement for the length of the property line adjacent to the remaining 37th Drive right-of-way.
5. Either a or b shall be complied with:

- a. The two existing 2-inch water meter(s) shall be relocated onto the public right of way in accordance with plans submitted to and approved by the Planning and Development Department. All work is to be done by City forces at no expense to the City of Phoenix.
 - b. Dedicate a minimum of 3-foot by 3-foot water easements around the existing water meters.
6. 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: 1/21/21

REPORT SUBMITTED BY: Alyssa Neitzel, Abandonment Secretary

cc: Applicant/Representative, JS Song Properties, LLC
Christopher DePerro, Abandonment Hearing Officer