



City of Phoenix

Planning and Development Department

CONDITIONAL APPROVAL – ABND 240036

Your abandonment request was granted **CONDITIONAL APPROVAL** by **Craig Messer, 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 Dru Maynus at 602-262-7403** 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 September 26, 2026**), 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 26, 2024
Preliminary Abandonment Staff Report: **ABND 240036**
Project# **24-831**
Quarter Section: **13-9**
District#: **5**

Location: 1700 North 81st Avenue

Applicant: Zen Investing, LLC

Request: To abandon an irregular triangular portion of ROW totaling to approximately 4,430 square feet of ROW that abuts 1700 N 81st Avenue.

Purpose of request: Applicant states the purpose of the abandonment will duplicate a right-of-way dedication that was approved on the east side of 81st Avenue. To add, the abandonment will allow for the property to the west to be developed.

Hearing date: **September 26, 2024** (Continued from September 12, 2024)



City Staff Research

City Staff research shows that eastern 25-foot street right-of-way along 81st Avenue was dedicated as part of the City of Phoenix, City Council Ordinance No. S-16988 (Docket 10973, page 1292), dated January 6, 1987, and passed by City Council on March 11, 1987. To add, the southwestern additional 8-foot 81st Avenue that makes up the remaining 33-foot right-of-way was dedicated as part of the City of Phoenix, City Council Ordinance No. S-18136, dated September 12, 1988, and passed by City Council on November 9, 1988. If the request is abandoned, the irregular triangular portion of right-of-way located along 81st Avenue will be conveyed back to adjacent property owners.

City Staff Comments

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

Street Transportation Department – Josh Rogers

1. No right-of-way shall be abandoned on 81st Avenue resulting in less than the minimum required right-of-way to accommodate a 30-foot-wide flared western half-street, tapered to a 25-foot-wide half-street, as generally illustrated on Sheet 3 of the Zen at Desert Sky paving exhibit, dated September 25, 2024, as approved by the Street Transportation Department.
2. No right-of-way shall be abandoned within 65-feet of the McDowell Road monument line.

3. No right-of-way shall be abandoned within three feet of the back of any existing or proposed curb ramp.

Street Transportation Utility Coordination Department– Marina Smith

No comment for this abandonment.

PDD Traffic Department – Derek Fancon

Recommend approval.

PDD Planning Department – Zachary Werdean

In the right-of-way area, they are required per rezoning case, Z-17- 23, to provide public open space and have art within the open space area located at McDowell Road and 81st Avenue, this could include a sculpture, artistic shade structures, murals, or other art features that activate the space. This will serve as a place to enjoy and rest for pedestrians traversing to and from the light rail station.

Shade along McDowell Road and 81st Avenue will be accomplished with City approved large shade trees and structures and there will be a minimum of 75% shade on McDowell Road, measured at full maturity of trees, unless utility or other similar conflicts occur.

They should follow the narrative in Z-17-23 for landscape standards on 81st Ave and McDowell Rd. 5' minimum sidewalk on each frontage. And a 3' landscape strip on 81st Ave between curb and sidewalk.

The developer shall dedicate right-of-way and construct a bus stop pad on westbound McDowell Road. The bus stop pad shall be constructed according to City of Phoenix Standard Detail P1260 with a minimum depth of 10 feet. The bus stop pad shall be spaced from 81st Avenue according to City of Phoenix Standard Detail P1258. Trees shall be placed to provide 50 percent shade coverage to the bus stop pad

Streetlights – Jason Fernandez

Recommend approval.

Water Services – Don Reynolds

WSD has No Stipulation for this Abandonment.

PDD Village Planner – Sarah Stockham

No comment received.

PW Solid Waste Services – Megan Sheets

Recommend approval.

Public Transit Dept – Skitch Kitchen

Public Transit has no comment on this project.

PDD Civil Department – Roxanne Tapia

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 – Zach Lawson

I have reviewed the abandonment request for APN 102-37-008B in Phoenix, AZ. Based upon the supplied drawings/exhibits that you've submitted it has been determined that COX has no facilities within the PUE 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 – Susan R. Mulanax

After reviewing the documents for the above-referenced abandonment, it has been determined that there are no apparent conflicts between the Southwest Gas system and your proposed abandonment as shown on the letter you sent. Permission is granted to abandon the right-of-way located at the above-referenced location.

Arizona Public Service – Kim Paxon

APS has no objection to this abandonment as the subject property is located outside of APS service territory.

CenturyLink – Tori Jacoby

CenturyLink of Arizona, Inc. d/b/a CENTURYLINK ("CenturyLink") has reviewed the request for the subject Vacate/Abandonment and has determined that to protect its facilities CenturyLink must deny the request at this time for the abandonment of a portion of ROW located at the NWC of N 81st Avenue & W McDowell Road along the West side of N 81st Avenue.

Lumen has active facilities located within the ROW of N 81st Avenue – buried cables. Recommend having Lumen facilities located on a Results of Survey and resubmit for reconsideration.

In the event Lumen facilities need to be removed, all associated costs will be at the expense of the sponsoring agency/owner.

If you would like to discuss possible alternative resolutions to this request for Vacate/Abandonment, please contact Tori Jacoby at tori.jacoby@lumen.com.

Salt River Project – Michael Laguna

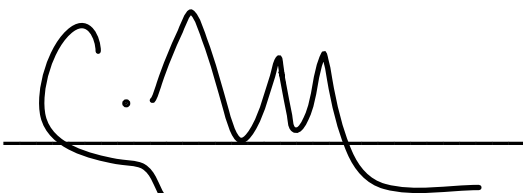
Salt River Project has no objection of the abandonment of the right-of-way along 81st Avenue and McDowell Road as shown on the exhibit dated July 1, 2024, with the following conditions. The City of Phoenix and the developer acknowledges Salt River Project's existing easement along 81st Avenue and McDowell Road recorded under MCR 2009-0706488. No development is allowed within the existing easement. The developer is instructed to submit all plans through SRP's IPR process to avoid conflicts.

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. Applicant shall submit and obtain City approval of a legal description of the abandonment area prior to City Council approval of ABND 240033.
3. 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.
4. No right-of-way shall be abandoned on 81st Avenue resulting in less than the minimum required right-of-way to accommodate a 30-foot-wide flared western half-street, tapered to a 25-foot-wide half-street, as generally illustrated on Sheet 3 of the Zen at Desert Sky paving exhibit, dated September 25, 2024, as approved by the Street Transportation Department.
5. No right-of-way shall be abandoned within 65-feet of the McDowell Road monument line.
6. No right-of-way shall be abandoned within three feet of the back of any existing or proposed curb ramp.
7. 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: October 21, 2024

REPORT SUBMITTED BY: Dru Maynus, Abandonment Coordinator.

cc: Applicant/Representative, Justin McCarty
Applicant/Representative, Shelby Duplessis
Craig Messer, 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.