

## ATTACHMENT B



### **City of Phoenix**

Planning and Development Department

#### **CITY COUNCIL APPEAL SUMMARY – ABND 190089**

The City Council, at the Formal Meeting on **September 2, 2020**, **APPROVED** the appeal to **UPHOLD CONDITIONAL APPROVAL** of the original abandonment request subject to Abandonment Hearing Officer's stipulations, **deleting stipulation number 6.**

This abandonment request will NOT be complete until all the stipulations have been met and the request is formally adopted by City Council. It is the **APPLICANT'S RESPONSIBILITY** to ensure that all stipulations are satisfied. **Please contact Robert G. Martinez at (602) 495-0806** for questions and notification of your completion of the stipulations.

Upon completion of the stipulations Robert G. Martinez will schedule your request for final City Council action.

If the stipulations of abandonment are not completed within **one year** from the date of your conditional approval (**your expiration date is September 2, 2021**), 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**

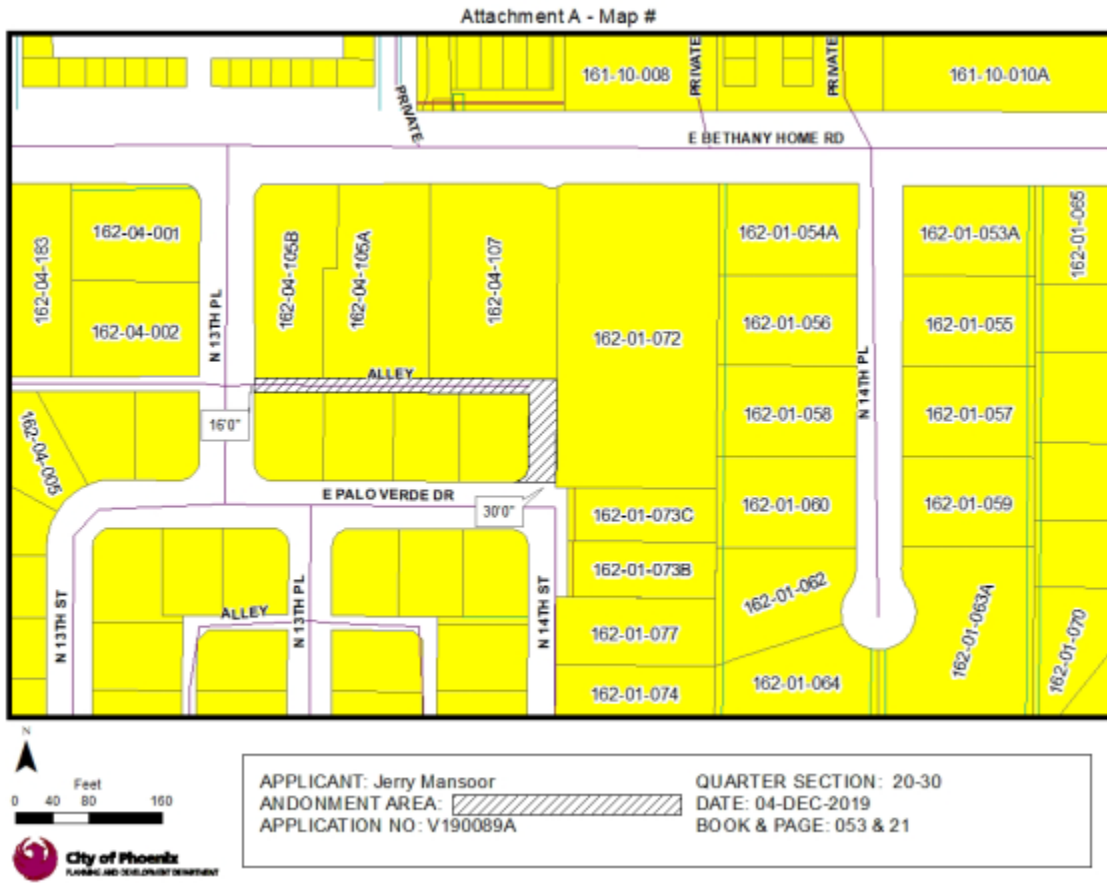
Planning and Development Department

September 2, 2020

Project# 00-6427

### **CITY COUNCIL APPEAL SUMMARY**

Hearing Date:	September 2, 2020 (City Council Formal)
Agenda Item #	38
Abandonment #	ABND 190089
Location:	Northeast corner of 13th Place and Palo Verde Drive
Quarter Section:	20-30
Request to Abandon:	To abandon 16'0" alleyway and 30'0" 14th Street right-of-way adjacent to APN 162-04-061; located in the Northeast corner of 13th Place and Palo Verde Drive; recorded on Subdivision Plat "McAdams Manor"; Book 053, Page 21, Maricopa County Recorder.
Applicant:	Jerry Mansoor, 1332 East Palo Verde Drive
Representative:	Bill Lally; Tiffany & Bosco P.A.
Appellant:	MaryAnn Fielder, 1415 East Bethany Home Road
Representative:	Benjamin Graff; Quarles & Brady LP



### **City Council Public Hearing Results**

The hearing was held. A motion was made by Councilman DiCiccio, seconded by Vice Mayor Guardado, to uphold the Abandonment Hearing Officer's decision with deletion of Stipulation 6.

The motion carried by the following vote:

Yes:8 - Councilman DiCiccio, Councilmember Garcia,  
 Councilman Nowakowski, Councilwoman Pastor,  
 Councilwoman Stark, Councilwoman Williams, Vice  
 Mayor Guardado and Mayor Gallego

No: 1 - Councilman Waring

### **Abandonment Hearing Summary**

Abandonment case ABND 190089 was continued from the Abandonment Hearing on May 7, 2020. Mr. Jerry Mansoor the applicant and the opposition Mrs. Marianne Fielder did not agree upon the abandonment request of the portion of the 30-foot right-of-way on 14th Street and Palo Verde Drive. Due to the strong opposition during the hearing, the Hearing Officer decided to allow both parties to open a conversation to be able to agree upon a solution to pursue the abandonment request. The Hearing Officer gave a time frame from May 7, 2020 to this new hearing date of June 4, 2020.

Ms. Wendy Turner, the Abandonment Coordinator read the abandonment request, purpose and staff research into the record.

Mr. Christopher DePerro, the Hearing Officer asked Mr. Bill Lally representative for the applicant Mr. Jerry Mansoor, if he would like to present on the abandonment case.

Mr. Lally responded to Mr. DePerro by stating he wanted to introduce who was with him today before presenting. Mr. Lally then introduced his client Mr. Jerry Mansoor as the applicant for abandonment case ABND 190089, and Mr. Jay Swart, who would be speaking in favor of the abandonment request. Mr. Lally then stated how the abandonment case was here before the Hearing Officer 30 days ago. At that time the request from Mr. Benjamin Graff, representing the adjacent property owners (the Fielders, 1415 E. Bethany Home Road), was for a continuance for both parties to get together to work out a potential resolution. Mr. Lally specified that this was also when Mr. Mansoor and his team were made aware that the Fielders' property was for sale and that there was a developer intending to redevelop the property. Mr. Lally then said he had reached out to Mr. Graff and that Mr. Graff provided a tentative site plan or draft site plan from the developer, who Mr. Graff does not represent. Mr. Lally then stated he reached out to Mr. Graff to be able to work together on the access point to make it less impactful on his client Mr. Mansoor so that Mr. Mansoor could pursue the abandonment and purchase the property to work with the developer on an access point that works for everyone. Mr. Lally went on to state that his client Mr. Mansoor reached out to the developer Mr. Marty Hall and that Mr. Hall told Mr. Mansoor they were pursuing the site plan approval with the access points the way they are today with no intent to really modify things as they exist today. Mr. Lally also stated that the compromise Mr. Graff proposed was the removal of the 14th Street portion of the abandonment request and that would make them happy. Mr. Lally then turned over the discussion to Mr. Mansoor.

Mr. Mansoor stated that he concurred with what Mr. Lally had stated and made it known that there has not been any delivery service or guests driving through that access point in the 18 years he has lived there. Mr. Mansoor also stated that in the letter of opposition Mr. Graff references the abandonment application as being an inappropriate application, in which he does not understand what that means. Mr. Mansoor then turned the discussion over to Mr. Jay Swart.

Mr. Jay Swart resident at 4430 North 47th Place stated that he has known Mr. Mansoor and his family for 10 years, he is his friend and as a community leader he wanted to come speak today in favor of Mr. Mansoor. Mr. Swart then stated that alleyways are one of the most vulnerable spots because they are often the point of entry for burglars to come in and victimize homes. Mr. Swart also stated that he would like to see the alleyways awarded to Mr. Mansoor, so his family can enjoy it and play in it, that this is really the intent on these alleys.

Mr. DePerro then turned the hearing over to the opposition's representative Mr. Graff.

Mr. Graff began by stating he is representing Mrs. Marianne Fielder, the neighbor directly to the east and truly the only one to benefit from this 14th Street portion. Mr. Graff went on to point out how Mrs. Fielder has lived on this property since 1972, and that she has had access personally to this alley for 48 years. Mr. Graff then stated how he and Mr. Lally had tried to brainstorm some "win-win" scenarios, but that Mr. Mansoor had rejected them at this time or has not had enough time to evaluate them. And that there has been a conversation in the right direction, but unfortunately as of today their formal request is a denial or a denial as filed with an approval of the 16-foot alley. Mr. Graff also stated another issue is the intent of Mr. Mansoor would be to

obtain ownership of the alley and to negotiate his new private property for sale for an access point. Mr. Graff stated he thinks this is problematic order of operation, that this is currently a public right-of-way benefitting the public and Mrs. Fielder. And he does not think the City should abandon an alley for a benefit of a private transaction in the future. Mr. Graff then turned the discussion over to the Fielders.

Mrs. Fielder stated that the alley has been used by her and her family but due to changes from the City with bulk trash pickup it has not been used as much.

Mr. Craig Fielder, son of Marianne Fielder stated that the alley has been a vital part of the property.

Mr. DePerro stated he sees a lot of room for discussion still. And that he would only be comfortable making a decision on the east-west alley, not the 14<sup>th</sup> Street portion. Mr. DePerro then stated that he could continue again and leave to further discussion, but since both parties do agree on not wanting to continue again he will add a stipulation that reads, no portion of the 14th Street right-of-way, east of the east lot line of lot 62 of "McAdams Manor" can be abandoned.

The Hearing Officer granted a Conditional Approval with revised stipulations.

### **Stipulations of Conditional Approval**

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

1. Either a or b shall be complied with:
  - a. All utilities shall be relocated to locations approved by each affected utility company. All work is to be done by each affected utility company at no expense to the affected utility company. An appropriate performance agreement, in an approved form and cost amount, must be posted with the Planning and Development Department to guarantee the improvements.
  - b. All right-of-way shall be retained as a public utilities easement with 24-hour vehicle maintenance access.
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' of the 13th Place monument line may be abandoned.
4. No right-of-way within 25' of the Palo Verde Drive monument line may be abandoned.

5. The applicant shall close the alley entrances with new curb, gutter and sidewalk as per plans approved by the City, unless otherwise approved by the Street Transportation Department.
6. ~~No portion of the 14th Street right of way, east of the east lot line of lot 62 of "McAdams Manor", Book 53, Page 21, MCR, may be abandoned.~~ **DELETED BY CITY COUNCIL ON SEPTEMBER 2, 2020**
7. All stipulations must be completed within **one year** from the Abandonment Hearing Officer's decision.

REPORT SUBMITTED BY: Alyssa Neitzel, Abandonment Secretary

cc: Applicant/Representative, Jerry Mansoor  
Christopher DePerro, Abandonment Hearing Officer