

## ATTACHMENT B



### **City of Phoenix**

Planning and Development Department

#### **CONDITIONAL APPROVAL – V190063A**

The City Council, at the Formal Meeting on **December 18, 2019**, acted upon the appeal request of Abandonment Hearing Officer's decision, and **UPHELD CONDITIONAL APPROVAL** of the original abandonment request subject to Abandonment Hearing Officer's stipulations, **plus six additional stipulations**.

This abandonment 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 the Abandonment Coordinator at (602) 256-3487 or [abandonments@pdd.gov](mailto:abandonments@pdd.gov)** for questions and notification of your completion of the stipulations.

Upon completion of the stipulations, staff 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 18, 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

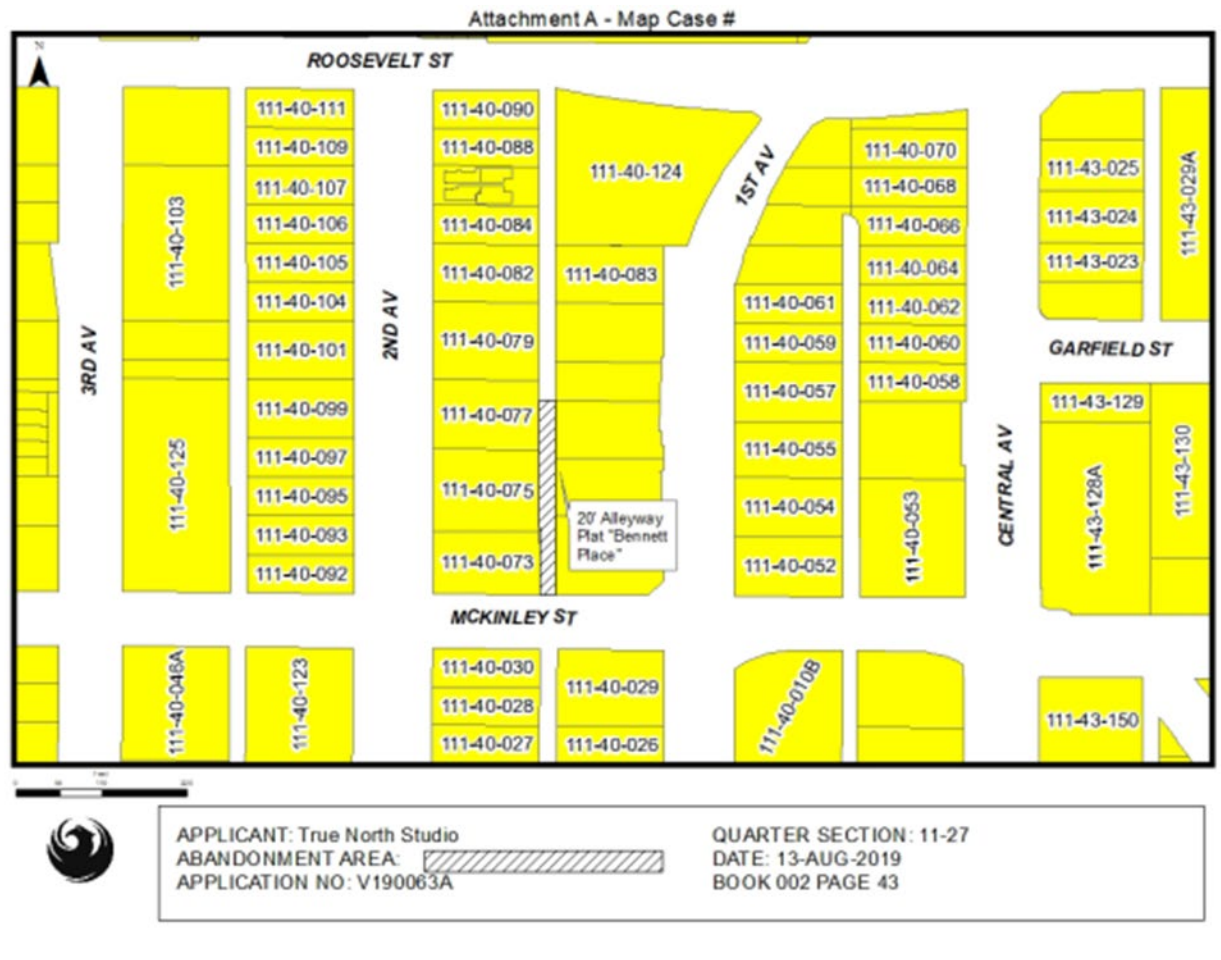
December 18, 2019

Abandonment Staff Report: **V190063A**

Project# **19-1930**

### **CITY COUNCIL APPEAL SUMMARY**

Hearing Date:	December 18, 2019 (City Council Formal)
Agenda Item #	90
Abandonment #	V190063A
Location:	Alley North of McKinley Street between 1st and 2nd Avenue
Quarter Section:	11-27
Request to Abandon:	To abandon alleyway adjacent to lots 1 – 10 per Plat, "Bennet Place"; Book 002, Page 43, recorded with Maricopa County Recorder.
Applicant:	True North Studio
Representative:	Nick Wood
Appellant:	The Roosevelt Action Association
Representative:	Bill Scheel
Abandonment Hearing Date:	November 7, 2019 (Continued from October 10, 2019 and October 24, 2019)



### **Abandonment Hearing Summary 11/7/2019**

Ms. Rocio Iniguez, the Abandonment Coordinator, introduced case 190063 by reading the abandonment request, purpose and staff research into the record.

Mr. Christopher DePerro, the Abandonment Hearing Officer explained to the hearing attendees the policy the City Council adopted to look at additional items related to request for downtown alley abandonments. Mr. DePerro also explained how the applicant submits this information and staff analyses the information. Mr. DePerro then asked the applicant's representative if they would like to present first or have the analysis read first.

Mr. Nick Wood representing the applicant True North Studio, replied by saying they would like to go through the analysis first.

Mr. DePerro then read the following:

### **Per the Downtown Alley Abandonment Criteria, staff also addresses the following five items:**

**1) Historic Character** – (Applicant) The alleyway is adjacent to two (2) historically eligible (not listed) structures, including the McKinley Medical Center (addressed as 802 North 1st Avenue). However, because the alleyway is not located within a designated historic district, this criterion

does not apply.

**Staff Evaluation:** This development is not within a historic district but contains two properties that are eligible for historic designation (800 North 1st Avenue and 801 North 2nd Avenue). The site is near many other historic properties, and adjacent to the Roosevelt Historic District to the north and west. Staff could only consider this criterion met with a commitment to preserve one or both of the eligible properties located within this proposed development.

**2) Special Circumstances** – (Applicant) True North Studio proposes creating a perpetual easement in favor of the public so that the Alleyway will retain its function as it currently exists today. This request, if approved, will not result in closure of the Alleyway. Thus, abandonment of the Alleyway will not result in (i) termination of current off-street service facilities, nor (ii) a need for on-street service facilities. Therefore, this criterion is met.

**Staff Evaluation:** This criterion requires that the site have special circumstances where equivalent off-street service facilities are provided, and where an abandonment does not result in a need for on-street servicing/loading. Staff have suggested stipulations to ensure this criterion is met.

**3) Fewer Driveways** – (Applicant) Currently, there are four (4) existing driveways (including the alleyway) that provide access to the Property, as well as to the parcels on the larger development block. The current design of the Project encourages primary vehicular access from McKinley Street through the Alleyway to an integrated parking structure (above and below grade). A new one-way driveway will be created at the north of the Project to serve as secondary vehicular access.

According to the City of Phoenix Pedestrian and Side Street Regulating Map (Zoning Ordinance Section 1202.E), 1st and 2nd Avenues are identified as a Pedestrian Streets. Therefore, this request if approved, would result in removal of three (3) existing, two-way driveways (one (1) on 2nd Avenue and two (2) on 1st Avenue) along Pedestrian Streets to be replaced by one (1) one-way driveway. It is anticipated that, by limiting vehicular trips to and from 1st and 2nd Avenues, the Project's design will promote an enhanced pedestrian experience by including public art, landscaping and pedestrian paseo entrance on 1st and 2nd Avenues. By removing driveways and creating a pedestrian-oriented environment, this criterion is met.

**Staff Evaluation:** The existing site currently has a total of 8 driveways (including the alley) that provide access to numerous parcels. The proposed plan shows access points through the alley and is proposing to shift one of the existing drives on 1st Avenue and eliminate one drive along 2nd Avenue and one along 1st Avenue. Two new pullouts are proposed along McKinley Street for loading and parking, both of which would require the historic palms to be removed and to reduce the required streetscape zone (per DTC). Both 1st Avenue and 2nd Avenue are designated a Pedestrian Street under Zoning Ordinance Section 1202.E. The intent of the Downtown Code is to promote a pedestrian friendly block pattern with fewer drives. Staff does not think this criterion is met as proposed, but has suggested stipulations which would bring it into compliance.

**4) Block Length** – (Applicant) The alleyway is approximately 250 feet long, however, the larger development block is approximately 650 feet long per the subdivision plat of record. As noted above, True North Studio proposes creating a perpetual access easement in favor of the public so that the alleyway will retain its function as it currently exists today. Because there is no loss

of connectivity for cross street pedestrian movements and access easements will be retained, this criterion is met. In fact, abandonment of the Alleyway will facilitate the creation of a pedestrian paseo component of the project, thus, creating an enhanced environment for pedestrian movements from 1st Avenue to 2nd Avenue.

**Staff Evaluation:** The current block measures approximately 710' x 396'. If the alley is abandoned, the development should change the abandoned portion of the alley from functioning as it currently does. Staff have suggested stipulations to make sure the alley still has the same functionality.

**5) Development Viability** – (Applicant) Abandonment of the Alleyway would not negatively impact the development viability of surrounding properties within the same development block. Because a perpetual access easement is proposed, abandonment of the Alleyway is not anticipated to significantly impact surrounding properties within the development block, as visitors of the adjacent properties will be able to utilize the alleyways as they do today. Therefore, this criterion is met.

**Staff Evaluation:** The intent of the applicant is to construct a building that spans the width of the existing alley at the building's upper floors. If two-way access is not interrupted for the developments on the north by keeping an access easement and the design does not impact the public realm the development would not create a negative impact. Staff have suggested stipulations to make sure the alley still has the same functionality.

After Mr. DePerro read the Downtown Alley Abandonment Criteria he went over and explained each drafted stipulation. Mr. DePerro then turned the discussion over to the applicant.

Mr. Wood began his presentation by stating how the property currently is part of the downtown form code and it is permitted 250 feet of height. Mr. Wood then discussed how the property was platted in 1894 when no one ever envisioned a 250-foot-tall building, especially since two and three stories were significantly tall back then. Mr. Wood explained the challenges in today's world when trying to build a high rise building when you have small parcels, particularly very narrow parcels. Referencing the depth of the property parcels being 140 feet, from property line on either side of 1<sup>st</sup> and 2<sup>nd</sup> avenues to the back of the alley. Mr. Wood then discussed the different design options and specifically explaining the option that the abandonment request of the alley would be needed for. This option would be to activate the alley by allowing the design to build over the alley with air rights, this would be a more respectful design considering the alley is not inviting. Mr. Wood then discussed the width of the alley and how their design would widen the alley to about 26 feet on their property. Mr. Wood also discussed the improvements their design would make, based off of the input of the neighbor's.

Mr. DePerro then opened the hearing to hear from the attendees in favor or opposition of the abandonment request.

Mr. Bill Scheel with the Roosevelt Action Association, stated how the neighbor is a pro-development neighborhood that is in favor of a good process that engages the neighbor which leads to a good product. And looks forward to more engagement with the development team to get a project that is appropriate to the neighborhood. Mr. Scheel also stated they feel this has been a rushed process.

Ms. Andrea Abkarian, President with the Roosevelt Action Association, stated she wanted to re-

enforce what Mr. Scheel stated about this process. That there has been a pattern of very poor, untimely and unclear communication from the very beginning when they found out about the project through the grape vine and had to approach the applicant's attorney to get the information. It has been under development for quite some time. Ms. Abkarian then stated she would ask the Hearing Officer to consider the elements in the letter and there was a gentleman's and gentlewoman's agreement that they would work until the end of the year and the case would not be heard until then. Ms. Abkarian also expressed that she was very surprised to receive an email stating that the case would not be continued, and the applicant intended to make their presentation. Ms. Abkarian then read her letter of opposition.

Mr. DePerro then read a letter submitted by Ms. Sherry Rampy, Associate Broker with Brokers Hub Realty in support of the abandonment request.

Mr. Ryan Oberholtzer, resident at 208 West Portland, #156 in favor of the abandonment request. Mr. Oberholtzer expressed how the alley is very uninviting right now and stated how he feels personally that this would be a great addition.

Mr. DePerro then read a letter submitted by Mr. Matthew Seaman, Managing Member with Metrowest Development in opposition of the abandonment request.

Mr. David Vanslyke, resident at 816 North 2<sup>nd</sup> Avenue, stated him and his family are opposed to the abandonment request based upon to it not adhering to the character of 2<sup>nd</sup> Avenue. More discussion is needed to the development itself.

Mr. Wood then addressed some of the concerns of those in opposition.

Mr. DePerro stated he heard a lot of good things from both sides, going over the Downtown Alley Abandonment Criteria and how each Staff Evaluation had been met based off the design and presentation provided by the applicant. Mr. DePerro then added two stipulations, one referring to the parking garage and the second referring to the elevations and the replatting of the property.

The Hearing Officer granted a conditional approval with revised stipulations.

### **City Council Public Hearing Summary 12/18/2019**

Planning and Development Director Alan Stephenson stated this was a public hearing appeal for abandonment of right-of-way for an alley between the northwest corner of 1st Avenue and McKinley Street. He displayed a map that showed the area and said True North Development was proposing to redevelop the area and the alley abandonment would accommodate them in building over the top of the alley. He advised the applicant requested to abandon the right-of-way and preserve a utility easement as well as public access through the alley. He indicated the alley would be privately maintained and owned by True North and its development interests with public access and utility easements to permit trash pick-up and utility services. He referenced another aerial that showed the McKinley parcel which was proposed to be preserved with a 30-year perpetual conservation easement as part of this project, plus the building over the top with proposed mixed-use development. He noted staff recommended approval per the Abandonment Hearing Officer's decision with additional stipulations in a memo dated today. He stated the applicant worked with the Roosevelt Action Association to address the frontage along 2nd Avenue and improvements done with that to ensure the residential which wrapped around was significantly improved from what was originally proposed.

Mayor Gallego declared the public hearing open.

Bill Scheel, representing Roosevelt Action Association, spoke in favor of the City's policy to not abandon alleys. He appreciated the opportunity to interact with the developer to improve this project, noting his mission was to protect the historic streetscape along 2nd Avenue. He stated he also appreciated the efforts of Shepley Bulfinch who was the architect that worked with his association to make these improvements. He applauded the preservation of the McKinley Club and looked forward to having that developed into a productive part of the project. He requested that Council approve the additional stipulations as recommended by staff. Nick Wood, representing of True North Studios, noted he spent a lot of time working with Mr. Scheel and Andie Abkarian on design and design solutions which was the way problems were resolved. Mr. Wood thanked Mr. Scheel and Ms. Abkarian as well as staff for their assistance and requested that Council sustain the hearing officer's approval subject to the new stipulations.

Mayor Gallego stated Anita Leung and Paul Marquez submitted comment cards for the record in favor of this item. Mayor Gallego added the following comment cards were submitted for the record in opposition of this item:

Omar Bailey  
Dorina Bustamante  
Nate Sonoskey  
Mitch Pinckard  
Oz Friedmann  
William Norris

Noting no one else wished to speak, Mayor Gallego declared the public hearing closed.

Councilman Nowakowski thanked staff as well as True North and the Roosevelt Action Association for working things out. He moved approval per the abandonment hearing officer's recommendation, subject to the stipulations in the memo from the Planning and Development Director dated today, Dec. 18, 2019.

Councilwoman Stark seconded the motion.

Councilwoman Pastor expressed she was happy to hear that the McKinley Club was being saved as that was a priority to her because it was a beautiful building. She thanked Mr. Scheel, Mr. Wood and everyone else for working out the stipulations.

**The hearing was held. A motion was made by Councilman Nowakowski, seconded by Councilwoman Stark, that this item be approved per the Abandonment Hearing Officer's recommendation, subject to stipulations per the Dec. 18, 2019 memo from the Planning and Development Director.**

## **Stipulations of Conditional Approval—Per Council Approval 12/18/21**

The request of abandonment is conditionally approved City Council. Stipulations with **ALL CAPS AND IN BOLD** were added or revised at the City Council hearing. The following stipulations will need to be met:

1. 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.
2. All stipulations apply to the subject site, which are the properties adjacent to the portion of the alley requested to be abandoned, and identified as follows:
  - a. 800 N 1<sup>st</sup> Avenue, Phoenix, AZ 85003, APN 111-40-074A
  - b. 810 N 1<sup>st</sup> Avenue, Phoenix, AZ 85003, APN 111-40-076A
  - c. 814 N 1<sup>st</sup> Avenue, Phoenix, AZ 85003, APN 111-40-078A
  - d. 801 N 2<sup>nd</sup> Avenue, Phoenix, AZ 85003, APN 111-40-073
  - e. 805 N 2<sup>nd</sup> Avenue, Phoenix, AZ 85003, APN 111-40-075
  - f. 813 N 2<sup>nd</sup> Avenue, Phoenix, AZ 85003, APN 111-40-077
3. No right-of-way within 35 feet of the McKinley Street monument line may be abandoned.
4. The existing driveway where the alley intersects with McKinley Street shall be reconstructed in accordance with driveway detail P1255-2, as may be approved or modified by the Street Transportation Department.
5. On both McKinley Street and 2<sup>nd</sup> Avenue, the existing curb lines, palms, and trees in the ROW shall be maintained in place, and no pull-outs for parking, loading, or drop offs/rideshare shall be allowed. This stipulation does not prohibit parking or drop offs/ride share in the ROW adjacent to the existing curbs, as may be approved by the Street Transportation Department. Additionally, the existing turf between the sidewalks and the curbs shall be maintained, except for limited hardscape for parking and drop offs on McKinley Street in accordance with Downtown Code streetscape requirements.
6. All service areas (utility equipment, trash, loading areas, etc.) for the development shall have access solely from the abandoned alley, and shall not be directly accessed from McKinley Street, 2<sup>nd</sup> Avenue, or 1<sup>st</sup> Avenue. No commercial loading areas shall be provided within any public ROW adjacent to this development.
7. All overhead utility lines located within the alley ROW to be abandoned shall be relocated underground, as approved by each applicable utility.
8. The following easements shall be retained over all portions of the abandoned alley ROW:



- a. A public utility easement (PUE) with 24-hour maintenance access.
  - b. A traffic control easement.
  - c. A public ingress-egress easement which ensures 24-hour access for the general public and other properties having access to the alley located between McKinley Street and Roosevelt Street.
9. The abandoned portion of the alley shall remain open to two-way traffic, unless the Street Transportation Department approves a one-way system for the entire length of the alley from McKinley Street to Roosevelt Street. No access controls (gates or similar) shall be allowed that restrict access of any type within the portion of the alley to be abandoned.
10. A perpetual conservation easement, in accordance with the requirements of the City's Historic Preservation Office, shall be dedicated over the following property (which is a portion of this site), known as the "McKinley Club":
  - 800 N 1<sup>st</sup> Avenue, Phoenix, AZ 85003, APN 111-40-074A
11. Provide minimum 10' x 20' visibility triangles (in which there shall be no obstructions between 3' and 10' above grade) in the following locations:
  - a. On both sides of the garage entrance(s) from the alley/drive aisle as determined through site plan review.
  - b. Alternative traffic safety measures such as but not limited to mirrors, speed humps, or etc. may be approved in lieu of item "a" as approved by the Planning and Development and Street Transportation Departments.
12. The final 2nd Avenue frontage elevations shall not provide any visual evidence (including lighting, mechanical equipment, and vents) of a parking garage. **SUCH ELEVATIONS SHALL ALSO EXTEND FROM 2ND AVENUE TO THE FIRST 50 FEET OF THE NORTH PARKING GARAGE FRONTAGE.** Any garage adjacent to 2nd Avenue (**AND INCLUDING THE FIRST 50 FEET OF THE NORTH FRONTAGE**) shall be fully integrated into the overall building design and not appear to be a garage, as determined by the Planning and Development Department through the site plan review process.
13. This abandonment shall not be sent to Council for final approval until such time that 1) preliminary site plan approval for the subject site, including building elevations, has been obtained from PDD, and 2) a replat of the subject property is approved concurrently.
14. All stipulations must be completed within **two years** from the Abandonment Hearing Officer's decision.
- 15. THE DEVELOPER WILL PROVIDE A LETTER TO THE PLANNING AND DEVELOPMENT DEPARTMENT THAT CONTAINS A REQUEST FOR A**

**TEMPORARY HOLD ON THE ISSUANCE OF A DEMOLITION PERMIT FOR THE BUILDING ADDRESSED AS 801 N. 2ND AVENUE (APN 111-40-037) UNTIL A GRADING PERMIT FOR THE PROJECT HAS BEEN ISSUED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. SUCH LETTER SHALL BE DEEMED AUTOMATICALLY REVOKED IF THE CITY COUNCIL DENIES THE FINAL ABANDONMENT.**

- 16. THE 2ND AVENUE FRONTAGE ELEVATIONS SHALL BE DESIGNED IN GENERAL CONFORMANCE TO THE ELEVATION PRESENTED TO ROOSEVELT ACTION ASSOCIATION REPRESENTATIVES AND DATE STAMPED DECEMBER 18, 2019 AND SHALL INCLUDE (I) THE INDICATED TWO-STORY GROUND-LEVEL RESIDENTIAL UNITS ALONG SECOND AVENUE AND (II) THE INTEGRATION OF THE PARKING GARAGE FAÇADE ON 2ND AVENUE INTO THE OVERALL 2ND AVENUE FAÇADE DESIGN, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.**
- 17. PARKING SPACES FOR RESIDENTIAL UNITS SHALL BE LIMITED TO NO MORE THAN 1.5 SPACES PER RESIDENTIAL UNIT.**
- 18. PRIOR TO THE FINAL APPROVAL OF THE ABANDONMENT, THE DEVELOPER SHALL SEND PLANS OF THE BACKFLOW PREVENTION EQUIPMENT SHOWING ITS LOCATION ON THE SITE PLAN, SCREENING OF THE EQUIPMENT AND ITS DIMENSIONS TO ROOSEVELT ACTION ASSOCIATION REPRESENTATIVES PRIOR TO THE PRELIMINARY SITE PLAN APPROVAL MEETING. PROJECT PLANS WILL MINIMIZE, TO THE EXTENT PRACTICAL, THE VISUAL PROMINENCE OF THIS EQUIPMENT WITHIN THE 2ND AVENUE BUILDING SETBACK AREA WITH A DESIGN GOAL OF MAINTAINING A LINE OF SIGHT DOWN 2ND AVENUE WITH MINIMAL TALL INTRUSIONS. IRRESPECTIVE OF THIS DESIGN GOAL, THE FINAL DESIGN, PLACEMENT AND SCREENING OF THIS EQUIPMENT IS SUBJECT THE APPROVAL OF THE PLANNING AND DEVELOPMENT DEPARTMENT AND SHALL COMPLY WITH ALL CITY ORDINANCES AND CODES.**
- 19. PRIOR TO FINAL APPROVAL OF THE ABANDONMENT, ANY APPLICATIONS FOR A COMPREHENSIVE SIGN PLAN UNDER SECTION 705.E.2 FOR THE PROJECT SHALL BE NOTICED VIA A LETTER SENT VIA US MAIL TO ROOSEVELT ACTION ASSOCIATION REPRESENTATIVES.**
- 20. PRIOR TO FINAL APPROVAL OF THE ABANDONMENT, DEVELOPER SHALL NOTIFY AND INVITE ROOSEVELT ACTION ASSOCIATION REPRESENTATIVES (WHO MAY BRING ANY OF THEIR INVITEES) TO ANY AND ALL FORMAL PLANNING AND DEVELOPMENT DEPARTMENT MEETINGS REGARDING DEVELOPMENT OF THE PROJECT, INCLUDING PRELIMINARY SITE PLAN REVIEW, DESIGN REVIEW, AND/OR HISTORIC PRESERVATION MEETINGS.**

**This conditional approval has been reviewed by the Abandonment Hearing Officer.**

Hearing Officer Signature:  \_\_\_\_\_ Date: 2/4/2020

REPORT SUBMITTED BY: Alyssa Villarreal, Abandonment Secretary

cc: Applicant/Representative, True North Studio  
Christopher DePerro, Abandonment Hearing Officer