

ATTACHMENT B



**City of Phoenix**

Planning and Development Department

**CONDITIONAL APPROVAL – ABND 220003**

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 the Abandonment Coordinator at (602) 256-3487** 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 March 24, 2024**), 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, **two-year** extension can be requested prior to the expiration date, with applicable extension fee due.



## **City of Phoenix**

Planning and Development Department

March 24, 2022  
Preliminary Abandonment Staff Report: **ABND 220003**  
Project# **21-5688**  
Quarter Section: **11-28**  
Council District: **7**

**Location:** 601 North Central Avenue

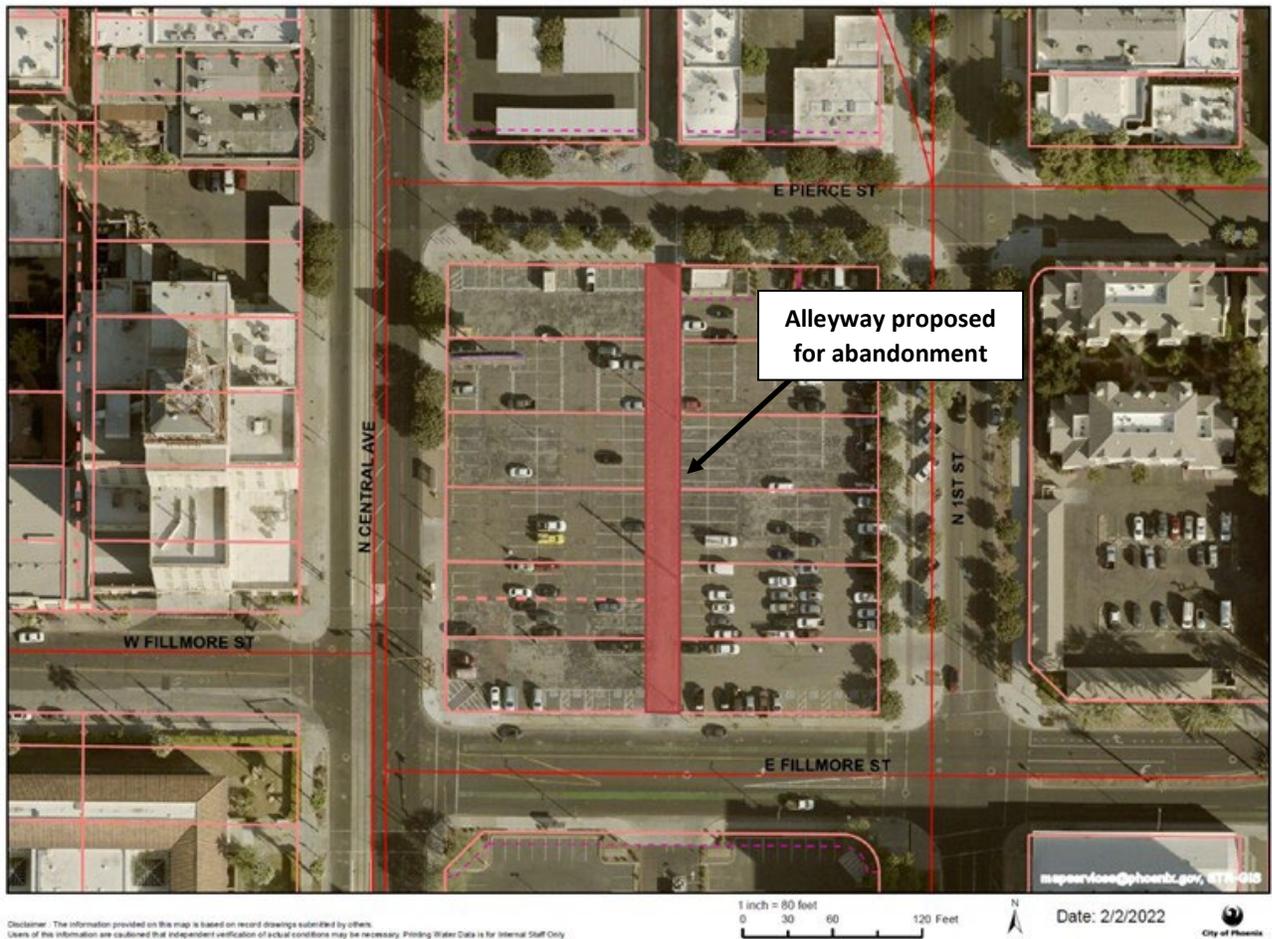
**Applicant:** Nick Wood, Snell & Wilmer, LLP

**Request to abandon:** The alleyway located between East Pierce Street on the north, North 1st Street on the east, East Fillmore Street on the south, and North Central Avenue on the west.

**Purpose of request:** The applicant states it is for multifamily development.

**Hearing date:** **March 24, 2022**

## Planning and Development



### **Hearing Summary**

Mr. Christopher DePerro, the Abandonment Hearing Officer, called the hearing to order at 9:32 am on March 24, 2022.

Ms. Maggie Dellow, the Abandonment Coordinator introduced the abandonment case ABND 220003 by reading 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. Nick Wood discussed the proposed project at this site and explained why the alley was proposed for abandonment. Mr. Wood reviewed each of the criterion for Downtown Alley abandonments and explained how he felt each was met.

Ms. Dellow reviewed the Downtown Alley Abandonment Criteria and provided an analysis of how those criteria were met per the applicant's response.

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.

**Applicant response:** The Alleyway is not located within a designated historic district. Therefore, this criterion does not apply.

**Staff response:** City staff agrees that criterion 1 does not apply since the alley is not located within a designated historic district.

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.

**Applicant response:** LG Development Group 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 response:** City staff agrees with the applicant that criterion 2 is met. Because the abandonment area will retain its current function as an alley, no new needs for on-street servicing/loading will be created as a result of abandonment. Additionally, the applicant's conceptual site plan illustrates that all service and loading areas are located interior to the site with access from the abandoned alley area, away from public streets.

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).

**Applicant response:** Currently, there are four (4) existing driveways (including the Alleyway) that provide access to the Property. The current design of the Project proposes to eliminate the existing driveways on Central Avenue and 1st Street, which will help to improve the pedestrian conditions around the perimeter of the Property by reducing the amount of pedestrian and vehicular conflicts along public rights-of-way immediately adjacent to the Property.

According to the City of Phoenix Pedestrian and Side Streets Regulating Map (Zoning Ordinance Section 1202.E), Central Avenue and 1st Street are identified as Pedestrian Streets. Therefore, this request, if approved, would result in removal of two existing driveways along Pedestrian Streets—one on Central Avenue and one on 1st Street. It is anticipated that, by limiting vehicular trips to and from Central Avenue and 1st Street, the Project's design will promote an enhanced pedestrian experience. The adjacent pedestrian realm will also be significantly improved via the Project's use of public art, landscaping and a ground floor public open space. By removing driveways and creating a pedestrian-oriented environment, this criterion is met.

**Staff response:** Staff agrees with the applicant that criterion 3 is met. Per the proposed conceptual site plan. The existing driveway entrances at Central Ave and 1st street will be eliminated, the existing alley driveway entrances will be maintained, and no new driveway entrances will be introduced. When proposed with the conceptual site plan, this abandonment will result in fewer driveways along pedestrian streets, and thus promote a pedestrian friendly block pattern.

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.

**Applicant response:** The Alleyway is approximately 300 feet long per the subdivision plat of record.1 As noted above, LG Development Group 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 because an access easement will be retained, this criterion is met.

**Staff response:** Staff agrees with the applicant that criterion 4 is met. The applicant intends to retain an access easement for the length of the abandoned 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.

**Applicant response:** As noted above, the Property is comprised of an entire City block. As a result, there are no surrounding properties within the same development that would be impacted by approval of this request. In addition, because a perpetual access easement is proposed, abandonment of the Alleyway is not anticipated to significantly impact surrounding properties adjacent to the Property, as visitors of the Property, as well as adjacent properties, will be able to utilize the alleyway as they do today. Therefore, this criterion is met.

**Staff response:** Staff agrees with the applicant that criterion 5 is met. There are no adjacent parcels who use the alley and therefore no properties' development viability will be negatively impacted by its abandonment.

Mr. DePerro invited Mr. Ryan Boyd representing Urban Phoenix Project Foundation to make public comment. Mr. Boyd explained that Urban Phoenix Project was not taking a position of opposition in relation to the abandonment and project and was appreciative to see the preservation of pedestrian accessibility. Mr. Boyd expressed that he was not in support of the abandonment because he believes there should be alternatives to permanent alley abandonment.

Mr. DePerro then asked Mr. Wood what the plans were for the existing sewer line running through the alley. Mr. Wood stated they are working with the Water Department to abandon the sewer line.

Ms. DePerro stated that although the retention of the pedestrian accessway has been negotiated, he did question whether it was actually necessary. Mr. Wood stated that in discussions with stakeholders the issue of maintain public access to alleyways is paramount. Mr. Wood explained that the pedestrian accessway maintained in this alley would be an inviting

pathway and provide a respite from hot summer days. Mr. Boyd further explained that the maintenance of this pedestrian accessway could help the downtown area avoid the development of superblocks.

Ms. Dellow reviewed the city staff and utility provider comments.

The Hearing Officer reviewed the staff proposed stipulations of conditional approval and granted the abandonment conditional approval subject to the stipulations stated in the staff report, with revisions to stipulations # 1.b., #3, and the inclusion of two new stipulations between current stipulations #6 and #7.

### **Staff 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. 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. The developer shall record a public ingress/egress easement over the entire abandonment area for pedestrian and vehicular usage.
4. No right-of-way within 55' of the centerline of Pierce Street shall be abandoned.
5. No right-of-way within 40' of the centerline of Fillmore Street shall be abandoned.
6. Remove or abandon sewer main and services as approved by the Water/Sewer Department.
7. All work in public right-of-way is to be done in accordance with plans approved by the Planning and Development Department and at no cost to the City.
8. All stipulations must be completed within **two years** from the Abandonment Hearing Officer's decision.

### Hearing Officer Findings:

The Hearing Officer finds that this requests meets all of the Downtown Alley Abandonment criteria set forth by the City Council, when implemented with the stipulations listed below.

### Hearing Officer Decision

The request for closure of the alley was **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. 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 or easements, as determined appropriate by the affected utilities, shall be dedicated by plat concurrent with the completion of the abandonment.
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. The developer shall dedicate a public ingress/egress easement over the entire abandonment area for pedestrian and vehicular usage.
4. No right-of-way within 55' of the centerline of Pierce Street shall be abandoned.
5. No right-of-way within 40' of the centerline of Fillmore Street shall be abandoned.
6. Remove or abandon sewer main and services as approved by the Water/Sewer Department.
7. The abandonment shall run concurrent with the plat.
8. The abandonment shall not be completed until such time that a preliminary site plan approval is obtained which demonstrates service and loading access from the abandonment area, as may be modified or approved by the Planning and Development Department.
9. All work in public right-of-way is to be done in accordance with plans approved by the Planning and Development Department and at no cost to the City.
10. 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: 7/26/22

REPORT SUBMITTED BY: Maggie Dellow, Abandonment Coordinator

cc: Nick Wood, Snell & Wilmer, LLP, Applicant/Representative  
Christopher DePerro, Abandonment Hearing Officer