

CITY COUNCIL REPORT



Meeting Date: March 18, 2014
 General Plan Element: *Land Use*
 General Plan Goal: *Safely, Effectively, and Efficiently Move People, Goods, & Information*

ACTION

Gardner Abandonment
 6-AB-2010

Request to consider the following:

1. Adopt Resolution No. 9674 extending the time to fulfill the conditions for abandoning the east thirteen (13) feet of the thirty-three (33) foot GLO easement located along the east half of N. 78th Street and the south thirteen (13) feet of the thirty-three (33) foot GLO easement located along the south half of E. Redbird Road along with the entire thirty-three (33) feet of the east fifty-five point eight (55.8) feet of the GLO easement located along the south half of E. Redbird Road for the site located at 26838 N. 78th Street (consisting of parcels 212-22-047A & 212-22-047B).

OWNER

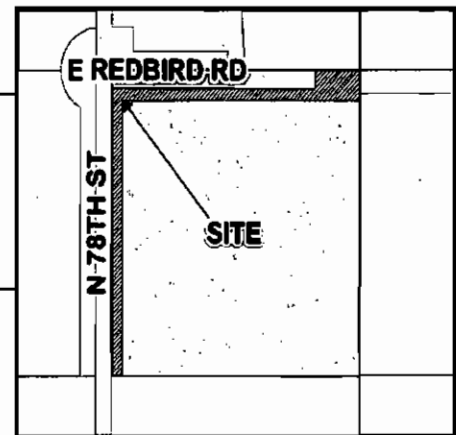
John Gardner
 402-493-4992

APPLICANT CONTACT

Andrew Santorios
 602-432-1641

LOCATION

26838 N 78th St



BACKGROUND

This case was heard and approved by the City Council on March 19, 2013. The applicant has been working on meeting the requirements stipulated by the previously approved abandonment resolution (Resolution No. 9340). The requested areas to be abandoned and all the conditions remain the same as previously approved.

Zoning

The site is zoned Single-Family Residential district, Environmentally Sensitive Lands overlay, and Foothills Overlay (R1-70 ESL FO). The R1-70 ESL FO zoning district allows for single-family residential uses. This area was annexed into the City of Scottsdale in 1983 under Ordinance No. 1611. The R1-70 zoning was applied to the area in 1984, the Environmentally Sensitive Lands (ESL) zoning overlay was adopted in 1991 and then amended to its current version in 2004, and the Foothills Overlay (FO) was applied in 2003.

Context

The subject 33 feet of GLO roadway easement, located along the northern and western boundaries of the site, was dedicated in 1959. The west half of the existing forty (40) foot wide right-of-way for N. 78th Street was dedicated in 1988 from the subject site.

The subject site currently consists of two single-family residential parcels and is located at the south east corner of E Redbird Road and N 78th Street. It is surrounded by un-subdivided single-family residential properties, zoned R1-70 ESL FO, with existing single-family residences constructed upon them.

The subject GLO roadway easements were reserved on the original patent deed to assure legal access. Currently the portions of the GLO easements that are requested to be abandoned are unimproved.

General Land Office Patent Easements (general information).

- Within the City of Scottsdale there are General Land Office (GLO) lots or parcels of various sizes created by the Federal Small Tract Act. This act was passed in 1938 and repealed in 1976.
- Most GLO lots were patented with 33 foot (or sometimes 50 foot) roadway and public utility easements typically "as near as practicable to the exterior boundaries."
- The city has viewed these patent roadway and utility easements as assured access at least until a local circulation plan is established.
- As GLO lots come in for development (i.e., lot splits, subdivisions or requesting building permits) staff requires city right-of-way dedications per city circulation plans. The city's transportation plan establishes a street system to replace the grid pattern created by the GLO easements.
- Any patent easements in excess of the current requirements to the circulation plans (including trails), roadway standards, and not required to insure access to any other lot, may be requested to be abandoned.
- In 1981, City Ordinance 1386 was adopted delegating the authority for the release of GLO easements to the Engineering Services Director.
- On March 2, 1999, the City Council repealed Ordinance 1386 and adopted Ordinance 3219 which requires the abandonment of the GLO patent roadway easements to go through the same public hearing process currently used for all rights-of-way, alleys, and roadway easements. The City Attorney's office has concluded that this process for consideration of GLO roadway abandonment satisfies legal requirements.
- On August 12, 2005, Arizona Revised Statute section 9-500.4 became effective. This section

gives the local municipality the right to abandon GLO patent easements, and concurs with the city's position on abandonment of GLO patent easements.

Related Policies, References:

- 2008 Scottsdale Transportation Master Plan
- Desert Foothills Character Area Plan
- Desert Foothills - Local Area Infrastructure Plan (LAIP)
- 1-PC-2009 - Associated property assemblage case

APPLICANTS PROPOSAL

Goal/Purpose of Request

The applicant is requesting a one (1) year extension to the previously approved resolution (Resolution No. 9340) in order to fulfil the conditions outlined within the resolution.

The previous approval included the abandonment of:

- The east thirteen (13) feet of the thirty-three (33) foot GLO easement located along the east half of N. 78th Street.
- The south thirteen (13) feet of the thirty-three (33) foot GLO easement located along the south half of E. Redbird Road.
- A thirty-three (33) foot by fifty-five point eight (55.8) foot area of the GLO easement located at the northeast corner of the site.

Along with the reservation and dedication of:

- A new twenty (20) foot wide public Right-of-Way (ROW) extending two-hundred and seventy-five (275) feet west from the centerline of N. 78th Street, to serve as the south half of E. Redbird Road.
- An eight (8) foot Public Utility Easement (PUE) over the abandoned GLO area along both the street frontages of the subject site, along with a twenty-eight (28) foot by fifty-five point eight (55.8) foot PUE at the portion of the abandoned GLO area at the northeast corner of the subject site.
- A twenty (20) foot wide Public Non-Motorized Access Easement (PNMAE) along to the N. 78th Street ROW, a twenty-five (25) foot PNMAE along to the E. Redbird Road ROW, and a thirty-three (33) foot by fifty-five point eight (55.8) foot PNMAE at the abandoned GLO area at the northeast corner of the subject site.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach:

1. Adopt Resolution No. 9674 extending the time to fulfill the conditions for abandoning the east thirteen (13) feet of the thirty-three (33) foot GLO easement located along the east half of N. 78th Street and the south thirteen (13) feet of the thirty-three (33) foot GLO easement

City Council Report | Gardner Abandonment (6-AB-2010)

located along the south half of E. Redbird Road along with the entire thirty-three (33) feet of the east fifty-five point eight (55.8) feet of the GLO easement located along the south half of E. Redbird Road for the site located at 26838 N. 78th Street (consisting of parcels 212-22-047A & 212-22-047B).

RESPONSIBLE DEPARTMENT(S)

Planning, Neighborhood and Transportation
Current Planning Services & Traffic Engineering

STAFF CONTACTS (S)

Jeff Barnes
Planner
480-312-2376
E-mail: jbarnes@ScottsdaleAZ.gov

APPROVED BY


Jeff Barnes, Report Author

3/3/2014
Date


Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

3/3/2014
Date


Randy Grant, Administrator
Planning, Neighborhood and Transportation
480-312-2664, rgrant@scottsdaleaz.gov

3/3/14
Date

ATTACHMENTS

1. Resolution No. 9674
2. March 19, 2013 City Council report (for reference)

RESOLUTION NO. 9674

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, MODIFYING PRIOR RESOLUTION NO. 9340 ABANDONING, SUBJECT TO CONDITIONS AND RESERVATIONS, CERTAIN INTERESTS IN A PORTION OF THE PUBLIC RIGHT-OF-WAY FOR REDBIRD ROAD EAST OF 78TH STREET AND FOR 78TH STREET SOUTH OF REDBIRD ROAD

(6-AB-2010)

WHEREAS:

A. On March 19, 2013, the city council of the City of Scottsdale ("City") adopted Resolution No. 9340 (the "Original Resolution") relating to abandonment of certain right-of-way described in the Original Resolution.

B. Paragraph 3 of the Original Resolution provided that the Original Resolution would be void unless certain conditions (collectively the "Conditions") occurred within one year after the date of the Original Resolution.

C. The Original Resolution will become void because the Conditions will not be satisfied and the Original Resolution will not be properly recorded within the time period set out in the Original Resolution.

D. City now desires to extend the time for satisfying the Conditions.

NOW, THEREFORE, BE IT RESOLVED by the city council of the City of Scottsdale, Arizona, as follows:

1. Modification. The Original Resolution is hereby modified as follows:

1.1 The one year period set out in paragraph 3.6 of the Original Resolution is extended to one year after the date of this resolution.

1.2 The City Clerk is directed to immediately mark the Original Resolution to indicate that it has been modified by this resolution.

1.3 If and when the Original Resolution is recorded, this resolution shall be recorded with the Original Resolution.

PASSED AND ADOPTED by the City Council of the City of Scottsdale this _____ day of _____, 20_____.

CITY OF SCOTTSDALE, an Arizona municipal corporation

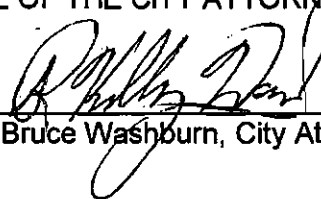
W. J. "Jim" Lane, Mayor

ATTEST:

By: _____
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

By:  Kelly, Ward

Bruce Washburn, City Attorney

CITY COUNCIL REPORT



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OWNER

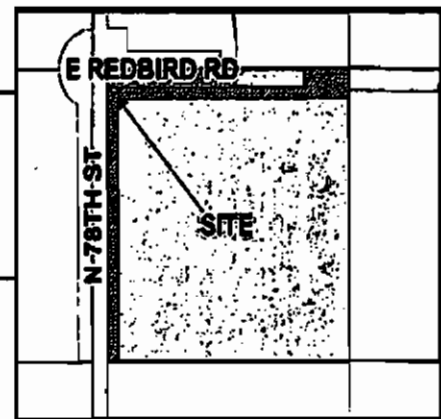
John Gardner
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APPLICANT CONTACT

Andrew Santorios
 602-432-1641

LOCATION

26838 N 78th St



BACKGROUND

General Plan

The General Plan Land Use Element designates the property as Rural Neighborhoods. This category includes areas of relatively large lot single-family neighborhoods. Densities in Rural Neighborhoods are usually one house per one acre (or more) of land. The designation and use will remain unchanged by this abandonment request.

Action Taken: APPROVED ON CONSENT

Character Area Plan

This site is located within the Desert Foothills Character area and the proposal is consistent with the character area plan.

Zoning

The site is zoned Single-Family Residential district, Environmentally Sensitive Lands overlay, and Foothills Overlay (R1-70 ESL FO). The R1-70 ESL FO zoning district allows for single-family residential uses. This area was annexed into the City of Scottsdale in 1983 under Ordinance No. 1611. The R1-70 zoning was applied to the area in 1984, the Environmentally Sensitive Lands (ESL) zoning overlay was adopted in 1991 and then amended to its current version in 2004, and the Foothills Overlay (FO) was applied in 2003.

Context

The subject 33 feet of GLO roadway easement, located along the northern and western boundaries of the site, was dedicated in 1959. The west half of the existing forty (40) foot wide right-of-way for N. 78th Street was dedicated in 1988 from the subject site.

The subject site currently consists of two single-family residential parcels and is located at the south east corner of E Redbird Road and N 78th Street. It is surrounded by un-subdivided single-family residential properties, zoned R1-70 ESL FO, with existing single-family residences constructed upon them.

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- The city has viewed these patent roadway and utility easements as assured access at least until a local circulation plan is established.
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- Any patent easements in excess of the current requirements to the circulation plans (including trails), roadway standards, and not required to insure access to any other lot, may be requested to be abandoned.
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City Attorney's office has concluded that this process for consideration of GLO roadway abandonment satisfies legal requirements.

- On August 12, 2005, Arizona Revised Statute section 9-500.4 became effective. This section gives the local municipality the right to abandon GLO patent easements, and concurs with the city's position on abandonment of GLO patent easements.

Key Items for Consideration

- Access not impacted by the proposed abandonment
- Consistent with the Transportation Master Plan and Local Area Infrastructure Plan
- Dedicating new Right-of-Way, Public Utility Easements, and Public Non-Motorized Access Easements.
- Planning Commission heard this case on February 27, 2013 and recommended approval with a unanimous vote of 7-0.

Related Policies, References:

2008 Scottsdale Transportation Master Plan
Desert Foothills Character Area Plan
Desert Foothills - Local Area Infrastructure Plan (LAIP)
1-PC-2009 - Associated property assemblage case

APPLICANTS PROPOSAL

Goal/Purpose of Request

In accordance with the City's roadway requirement for a Local Residential street with Rural/ESL character with Trails and with the Local Area Infrastructure Plan (LAIP) for this area, this request includes the abandonment of:

- The east thirteen (13) feet of the thirty-three (33) foot GLO easement located along the east half of N. 78th Street.
- The south thirteen (13) feet of the thirty-three (33) foot GLO easement located along the south half of E. Redbird Road.
- A thirty-three (33) foot by fifty-five point eight (55.8) foot area of the GLO easement located at the northeast corner of the site.

Along with the reservation and dedication of:

- A new twenty (20) foot wide public Right-of-Way (ROW) extending two-hundred and seventy-five (275) feet west from the centerline of N. 78th Street, to serve as the south half of E. Redbird Road.
- An eight (8) foot Public Utility Easement (PUE) over the abandoned GLO area along both the street frontages of the subject site, along with a twenty-eight (28) foot by fifty-five point eight (55.8) foot PUE at the portion of the abandoned GLO area at the northeast corner of the subject site.

- A twenty (20) foot wide Public Non-Motorized Access Easement (PNMAE) along to the N. 78th Street ROW, a twenty-five (25) foot PNMAE along to the E. Redbird Road ROW, and a thirty-three (33) foot by fifty-five point eight (55.8) foot PNMAE at the abandoned GLO area at the northeast corner of the subject site.

IMPACT ANALYSIS

Land Use

The subject site currently consists of two undeveloped single-family residential parcels (212-22-047A & 212-22-047B). The applicant's intention is to combine them into one single-family residential parcel for a future single-family residence, which will be processed via separate applications.

Traffic/Trails

The proposed reservations and dedications address the access and trail needs in accordance with the Local Area Infrastructure Plan (LAIP) for that area.

Public utilities

The proposed reservations and dedications address the PUE needs for that area.

The public utility companies have been notified of the applicant's request. The utility companies have indicated that there are no conflicts with the proposed abandonment request.

Open space, scenic corridors

Natural Area Open Space (NAOS) dedications will be required at the time of development of the proposed Single-Family home on the site.

Community Involvement

Notification postcards were sent out to property owners within 750 feet of the subject site. Staff initially received feedback on this application regarding the proposed Redbird Road alignment connecting 78th Street to 79th Street, as was indicated on the LAIP at the time this application was made. Following up on those comments, the Transportation Department had subsequent contact with the neighborhood resulting in an update to the LAIP for the area resolving the concerns of the surrounding neighborhood. Since that action, staff has not received additional public comments regarding this application.

Community Impact

The proposed abandonment will not restrict or remove access to the surrounding properties and the associated dedications will provide needed Right-of-Way, PNMAE, and PUE alignments consistent with the LAIP for the area.

OPTIONS & STAFF RECOMMENDATION

Planning Commission

Planning Commission heard this case on February 27, 2013 and recommended approval with a unanimous vote of 7-0.

Staff Recommendation to Planning Commission

Staff recommended that the Planning Commission make a recommendation to City Council for approval of the abandonment of the east thirteen (13) feet of the thirty-three (33) foot GLO easement located along the east half of N. 78th Street and the south thirteen (13) feet of the thirty-three (33) foot GLO easement located along the south half of E. Redbird Road and the entire thirty-three (33) feet of the east fifty-five point eight (55.8) feet the of the GLO easement located along the south half of E. Redbird Road for the site located at 26838 N. 78th Street (consisting of parcels 212-22-047A & 212-22-047B), subject to the reservation and dedication of the following:

1. A new twenty (20) foot wide public Right-of-Way (ROW) extending two-hundred and seventy-five (275) feet west from the centerline of N. 78th Street, to serve as the south half of E. Redbird Road.
2. An eight (8) foot Public Utility Easement (PUE) over the abandoned GLO area along both the street frontages of the subject site, along with a twenty-eight (28) foot by fifty-five point eight (55.8) foot PUE at the portion of the abandoned GLO area at the northeast corner of the subject site.
3. A twenty (20) foot wide Public Non-Motorized Access Easement (PNMAE) along to the N. 78th Street ROW, a twenty-five (25) foot PNMAE along to the E. Redbird Road ROW, and a thirty-three (33) foot by fifty-five point eight (55.8) foot PNMAE at the abandoned GLO area at the northeast corner of the subject site.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach:

1. Adopt Resolution No. 9340 to abandon the east thirteen (13) feet of the thirty-three (33) foot GLO easement located along the east half of N. 78th Street and the south thirteen (13) feet of the thirty-three (33) foot GLO easement located along the south half of E. Redbird Road along with the entire thirty-three (33) feet of the east fifty-five point eight (55.8) feet of the GLO easement located along the south half of E. Redbird Road for the site located at 26838 N. 78th Street (consisting of parcels 212-22-047A & 212-22-047B) with Single-Family Residential district, Environmentally Sensitive Lands overlay, Foothills Overlay (R1-70 ESL FO) zoning.


RESPONSIBLE DEPARTMENT(S)

Planning, Neighborhood and Transportation
Current Planning Services & Traffic Engineering

STAFF CONTACTS (S)

Jeff Barnes
Planner
480-312-2376
E-mail: jbarnes@ScottsdaleAZ.gov

APPROVED BY



Jeff Barnes, Report Author

3/4/2013


Date



Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

3/1/2013

Date



Randy Grant, Administrator
Planning, Neighborhood and Transportation
480-312-2664, rgrant@scottsdaleaz.gov

3/4/13

Date

ATTACHMENTS

1. Resolution No. 9340
2. Applicant's Narrative
3. Context Aerial
- 3A. Aerial Close-Up
4. Right-of-Way Abandonment Graphic
- 4A. Right-of-Way Abandonment Graphic Close-Up
5. Zoning Map
6. Local Area Infrastructure Plan (LAIP)
7. Abandonment History Map
8. City Notification Map
9. February 27, 2013 Planning Commission Minutes

RESOLUTION NO. 9340

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ABANDONING, SUBJECT TO CONDITIONS AND RESERVATIONS, CERTAIN INTERESTS IN A PORTION OF THE PUBLIC RIGHT-OF-WAY FOR REDBIRD ROAD EAST OF 78TH STREET AND FOR 78TH STREET SOUTH OF REDBIRD ROAD

(6-AB-2010)

WHEREAS:

A. A.R.S. Sec. 28-7201, et seq., and A.R.S. §9-500.24 provide that a city may dispose of a public roadway or portion thereof that is no longer necessary for public use.

B. After notice to the public, the City of Scottsdale ("City") planning commission and City Council have held hearings on the proposed abandonment of a certain portion of the street right-of-way and other interests (collectively the "Abandonment Right-of-way").

C. The Abandonment Right-of-way is described on Exhibit "A" and Exhibit "B" attached hereto.

D. The Abandonment Right-of-way falls within, serves, affects or is near the following parcels depicted on the map (the "Map") attached hereto as Exhibit "C":

1. The parcel (the "North Parcel") comprising approximately 1.25 acres at the southeast corner of Redbird Road and 78th Street as shown on the Map and as described on Exhibit "D" attached hereto.

2. The parcel (the "South Parcel") comprising approximately 1.25 acres at the south side of the North Parcel as shown on the Map, and as described on Exhibit "E" attached hereto.

E. All or a portion of the Abandonment Right-of-way lies within the area of a General Land Office (GLO) easement created by patent reservation.

F. The owners of the North Parcel and the South Parcel (collectively "Owner") has executed and acknowledged an "Agreement and Release by GLO Abandonment Parcel Owner". Such document is attached hereto as Exhibit "F". Such document provides that:

1. City is releasing only its interest in the General Land Office (GLO) easement, and other persons or entities may claim that this resolution does not completely extinguish the General Land Office (GLO) easement.

2. Owner releases City from any and all damages or harm relating to any of such claims.

3. Owner warrants and represents that all holders of fee title, leaseholds, liens, exclusive easements, or options affecting Owner's property, if any, have executed and acknowledged an "Agreement and Release by Lender, Tenant, or Other Interest Holder". The preceding sentence does not apply to ordinary leases to individual residential rental unit tenants.

4. Owner warrants and represents that there are no other holders of fee title, leaseholds, liens, exclusive easements, or options affecting Owner's property. The preceding sentence does not apply to ordinary leases to individual residential rental unit tenants.

G. The City Council finds that, subject to the conditions, requirements, reservations and limitations of this resolution, the Abandonment Right-of-way is no longer necessary for public use.

H. The City Council has considered the City expenditure authorized by this resolution and the direct consideration that City will receive and finds that there is a clearly identified public purpose for City's expenditure and that City will receive direct consideration substantially equal to its expenditure.

I. The City Council finds that consideration and other public benefit commensurate with the value of the interests in the Abandonment Right-of-way being abandoned, giving due consideration to its degree of fragmentation and marketability, will be provided to City by the owners of the abutting property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Arizona, as follows:

1. Abandonment. Subject to the reservations and conditions below, City's interests comprising the Abandonment Right-of-way are hereby abandoned.

2. Reservations. City reserves to itself and excludes from this abandonment all of the following cumulative, perpetual interests:

2.1 A perpetual public non-motorized access easement as follows:

2.1.1 The easement shall be upon, over, under and across the portions of the Abandonment Right-of-way included within the larger area (the "Non-motorized Easement Parcel") described on Exhibit "G" and Exhibit "H" attached hereto.

2.1.2 The purpose of the easement is for all forms of non-motorized transportation together with motorized emergency, law enforcement, and service vehicles, and for construction, operation, use, maintenance, repair, modification and replacement from time to time of improvements related thereto.

2.2 A perpetual public utility easement as follows:

2.2.1 The easement shall be upon, over, under and across the portion of the Abandonment Right-of-way (the "Public Utility Easement Parcel") described on Exhibit "I" and Exhibit "J" attached hereto.

2.2.2 The purpose of the easement is for electricity, water, wastewater, storm water, drainage, telecommunications, and all other manner of utilities, and for construction, operation, use, maintenance, repair, modification and replacement from time to time of improvements related thereto.

2.3 Any and all interests in the Abandonment Right-of-way that this resolution or any related application, zoning case, plat, lot split, use permit, or other land use regulatory process or requirements may require to be dedicated to City.

2.4 Any of the following in favor of City that may already have been imposed on the Abandonment Right-of-way prior to this resolution, if any:

2.4.1 Any V.N.A.E. or other vehicular non-access easement or covenant.

2.4.2 Any N.A.O.S. or other open space or similar easement or covenant.

2.4.3 Any scenic corridor, setback or similar easement or covenant.

2.5 An easement for all existing utilities, if any.

2.6 Such rights and interests, if any, as are required to be reserved by A.R.S. Sec. 28-7210 and A.R.S. Sec. 28-7215.

3. Effective Date.

This resolution shall not be recorded or become effective until all of the following conditions are satisfied in accordance with all applicable laws, regulations and policies and at no expense to City:

3.1 The owners of the North Parcel and the South Parcel (and all lenders, tenants, and other interest holders in such parcels) shall convey to City using City specified forms a public non-motorized access easement covering the entire Non-motorized Easement Parcel

3.2 The owners of the North Parcel and the South Parcel (and all lenders, tenants, and other interest holders in such parcels) shall convey to City using City specified forms a public utility easement covering the entire Public Utility Easement Parcel.

3.3 The owners of the North Parcel and the South Parcel (and all lenders, tenants, and other interest holders in such parcels) shall convey to City using City specified forms a street right-of-way in fee simple covering the parcel described on Exhibit "K" and Exhibit "L" attached hereto.

3.4 The owners of the North Parcel and the South Parcel (and all lenders, tenants, and other interest holders in such parcels) shall convey to City using City specified forms each of the real estate interests specifically described in this resolution as having been reserved in

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favor of City. For example, if this resolution reserves to City a water line easement over a portion of the Abandonment Right-of-way, then this paragraph requires the identified persons to rededicate such water line easement. If such interest was originally dedicated in a manner that a portion of such interest falls within such parcels but outside the boundaries of the Abandonment Right-of-way, then the new dedication required by this paragraph shall also include such additional portion of the interest.

3.5 The zoning administrator executes the certificate at the bottom of this resolution indicating that the above conditions have been satisfied.

3.6 If any of the foregoing conditions are not satisfied prior to the first annual anniversary of this resolution, or if this resolution is not recorded prior to the end of that period, then the city clerk shall mark this resolution to indicate that this resolution is void.

PASSED AND ADOPTED by the Council of the City of Scottsdale this _____ day of _____, 20_____.

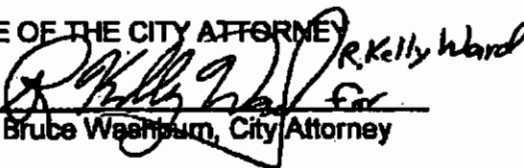
City of Scottsdale, an Arizona municipal corporation

W. J. "Jim" Lane, Mayor

ATTEST:

By: _____
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY
By:  R. Kelly Ward
Bruce Washburn, City Attorney

CERTIFICATE

I am the zoning administrator of the City of Scottsdale. I certify that I have confirmed that the conditions stated in paragraph 3 of the abandonment resolution above have been fulfilled and the resolution is ready to be recorded and become effective.

DATED this _____ day of _____, 20_____.

signature

name printed

LEGAL DESCRIPTION

ABANDONMENT OF A PORTION OF THE 33-FOOT G.L.O. PATENT EASEMENT AS RECORDED IN INSTRUMENT # 1193998.

THE EAST 13 FEET OF THE WEST 33 FEET AND THE SOUTH 13 FEET OF THE NORTH 33 FEET OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

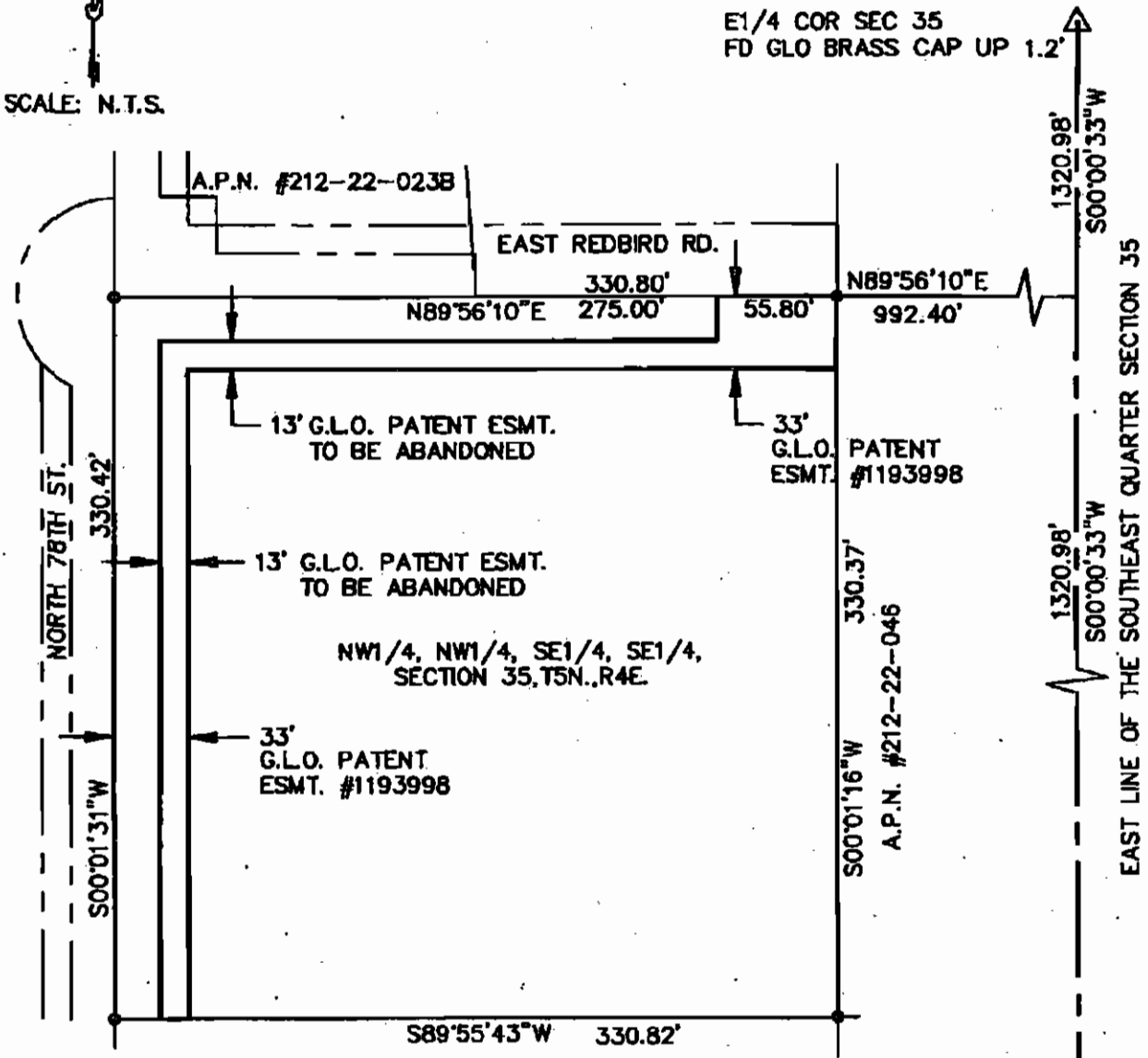
TOGETHER WITH:

THE EAST 55.80 FEET OF THE NORTH 33.00 FEET OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

EXPIRES 9-30-13

EXHIBIT
ABANDONMENT OF A PORTION OF THE
33-FOOT G.L.O. PATENT EASEMENT

SCALE: N.T.S.



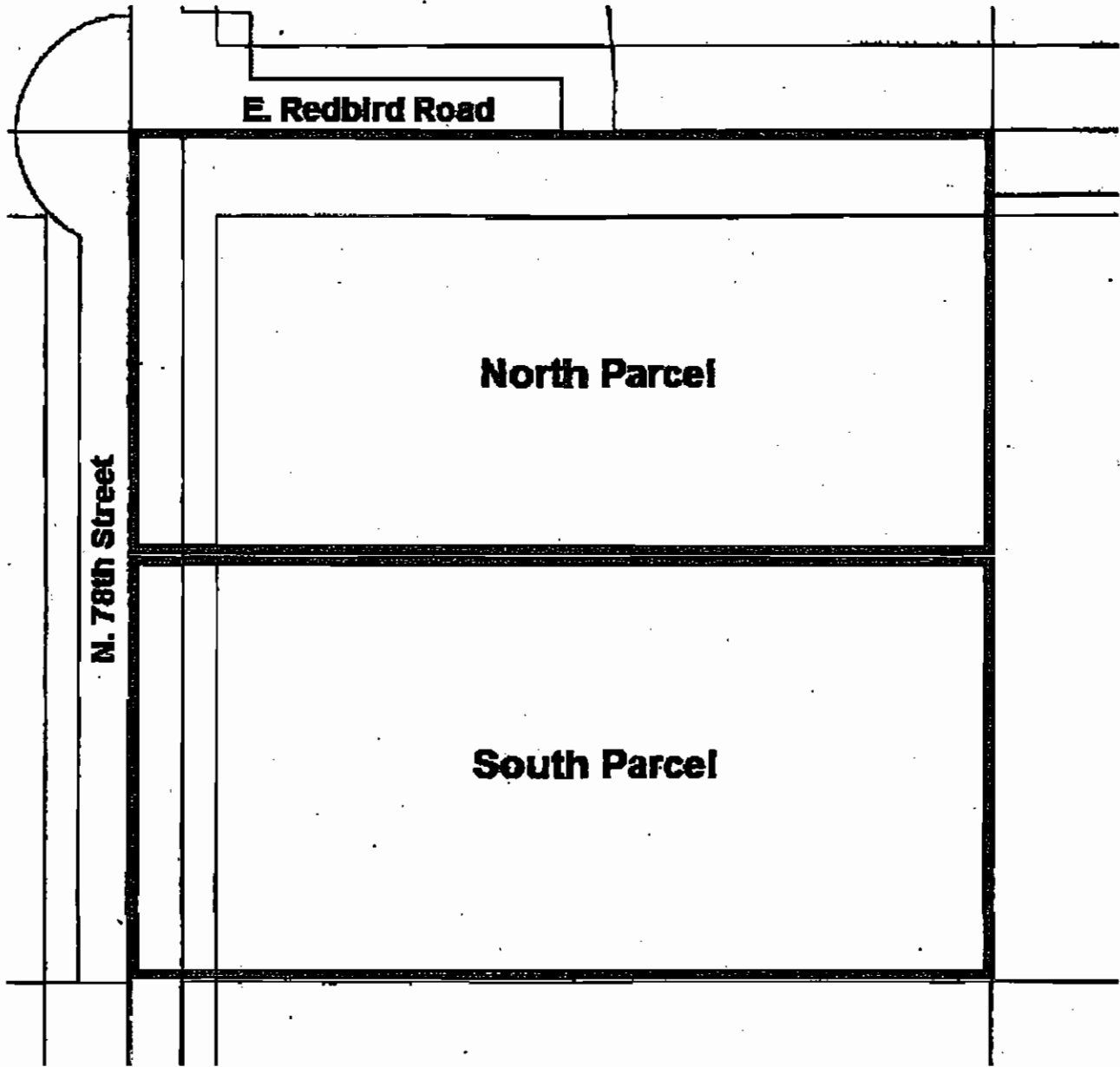
△ S89°54'24"W 2647.13'
 JOMAX RD & MILLER RD.
 FD. 1/2" REBAR W/ALUM. CAP
 DWN 0.3' ASP

△ JOMAX RD. & HAYDEN RD.
 SE COR SEC 35
 FD. 1/2" ID PIPE DWN .2' ASP.



EXTREME LAND SURVEYING, INC.
 16620 North 54th Street Scottsdale, Arizona 85046
 Phone: 602-574-6171 Fax 602-482-0299
 E-mail: m3jennings@cox.net

EXPIRES 9-30-13



E. Redbird Road

North Parcel

N. 78th Street

South Parcel

Exhibit D

North Parcel

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE
NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE
SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH,
RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN,
MARICOPA COUNTY, ARIZONA.

Exhibit E

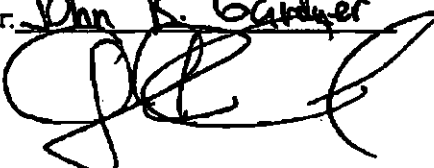
South Parcel

THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

AGREEMENT AND RELEASE BY GLO ABANDONMENT PARCEL OWNER

As an inducement to the City of Scottsdale to approve abandonment resolution No. 9340, the undersigned ("Owner") hereby warrants and represents to be the owner of the fee title to the land across which the General Land Office (GLO) easement passes. Owner also makes certain acknowledgements, warranties and agreements (collectively, the "Assurances") in favor of City as follows:

1. Owner acknowledges that:
 - a. Some or all of the right-of-way covered by the resolution is an easement created by a federal General Land Office (GLO) patent reservation.
 - b. The City of Scottsdale's intent by the resolution is to abandon only the City of Scottsdale's specified interests in the land.
 - c. Other persons or entities may claim that the resolution does not completely extinguish the General Land Office (GLO) easement or may claim rights for themselves or others to use the land for various purposes and/or to prevent any improvement or use of the land that is affected by the resolution.
2. Owner agrees that:
 - a. Owner shall proceed entirely at Owner's own risk as to any damages, delays, loss, difficulties, injury or other harm of any nature that Owner or any third party may now or hereafter suffer due to the existence or abandonment of the easement or due to the resolution or the issues recited above. Owner completely, unconditionally and irrevocably releases the City of Scottsdale from any and all legal or other responsibility for any such harm.
 - b. All of the Assurances run with the land in favor of the City of Scottsdale upon the right-of-way covered by the resolution and upon Owner's land adjoining such right-of-way.
 - c. The City of Scottsdale would not have approved the resolution without the Assurances.
3. Owner makes the Assurances on behalf of Owner and Owner's heirs, successors and assigns, and the Assurances are binding upon all of them.
4. Owner warrants and represents that Owner has delivered to City of Scottsdale an "Agreement and Release by GLO Abandonment Parcel Lender, Tenant or Other Interest Holder" from each lender, tenant and holder of other interests in the land.

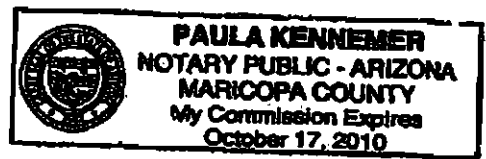
Owner: John R. Gardner


STATE OF ARIZONA)
) ss.
County of Maricopa)

Subscribed, sworn to and acknowledged before me by John R. Gardner
this 30th day of June 2010.

Paula Kennemer
Notary Public

My Commission Expires:
10.17.10



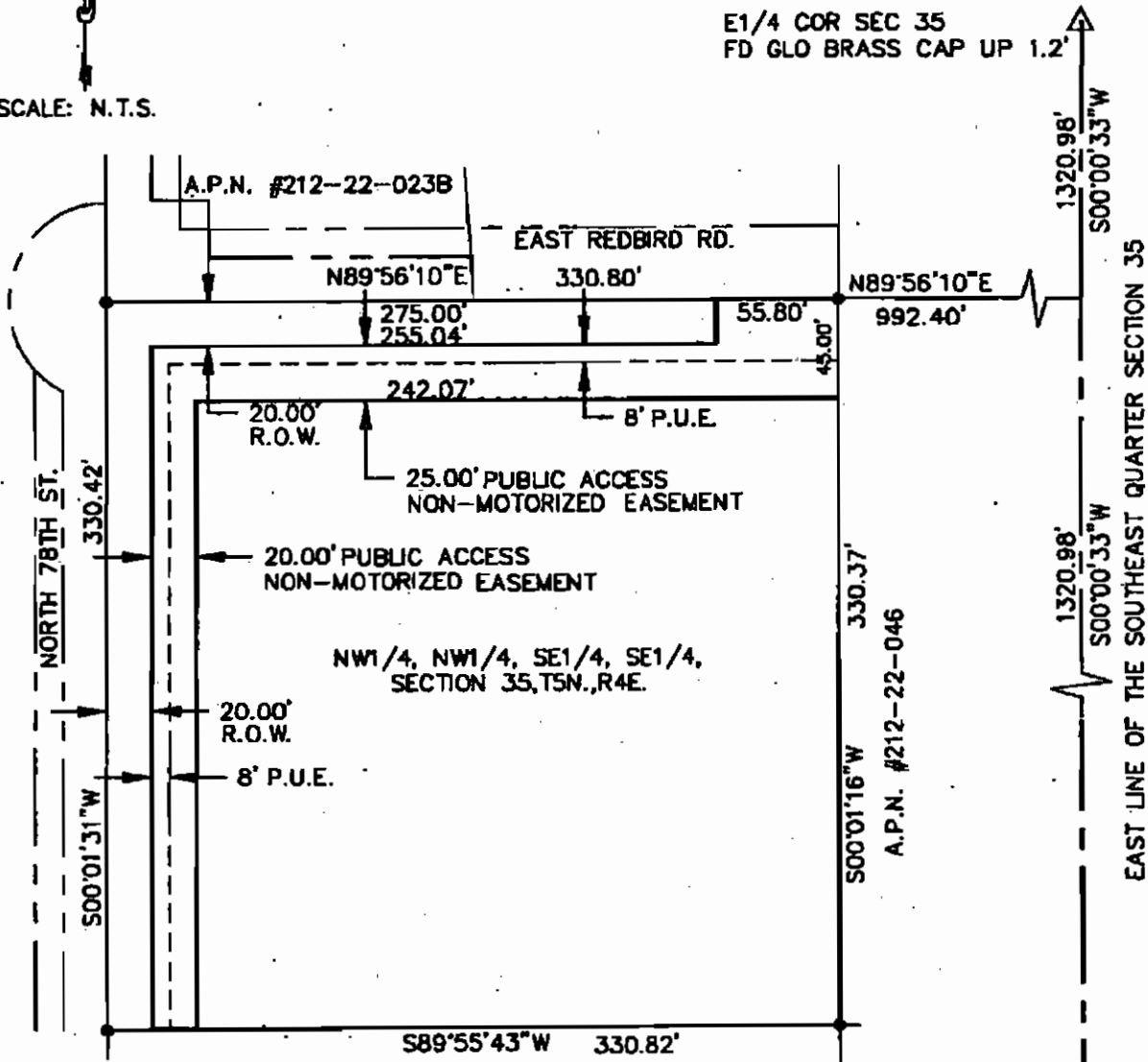
**LEGAL DESCRIPTION
PUBLIC ACCESS NON-MOTORIZED EASEMENT**

**THE EAST 20.00 FEET OF THE WEST 40.00 FEET AND THE SOUTH 25.00 FEET OF THE
NORTH 45.00 FEET OF THE WEST 330.80 FEET OF THE NORTHWEST QUARTER OF THE
NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST
QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND
SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.**

EXPIRES 9-30-13

EXHIBIT
PUBLIC ACCESS NON-MOTORIZED
TRAIL EASEMENT

SCALE: N.T.S.



S89°54'24"W 2647.13' JOMAX RD. & HAYDEN RD.
 SE COR SEC 35
 FD. 1/2" ID PIPE DWN .2' ASP.
 JOMAX RD & MILLER RD.
 FD. 1/2" REBAR W/ALUM. CAP
 DWN 0.3' ASP



EXTREME LAND SURVEYING, INC.
 16620 North 54th Street Scottsdale, Arizona 85046
 Phone: 602-574-6171 Fax: 602-482-0299
 E-mail: m3kjennings@cox.net

EXPIRES 9-30-13

**LEGAL DESCRIPTION
PUBLIC UTILITY EASEMENT**

THE EAST 8.00 FEET OF THE WEST 28.00 FEET AND THE SOUTH 8.00 FEET OF THE NORTH 28.00 FEET OF THE WEST 275.00 FEET OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

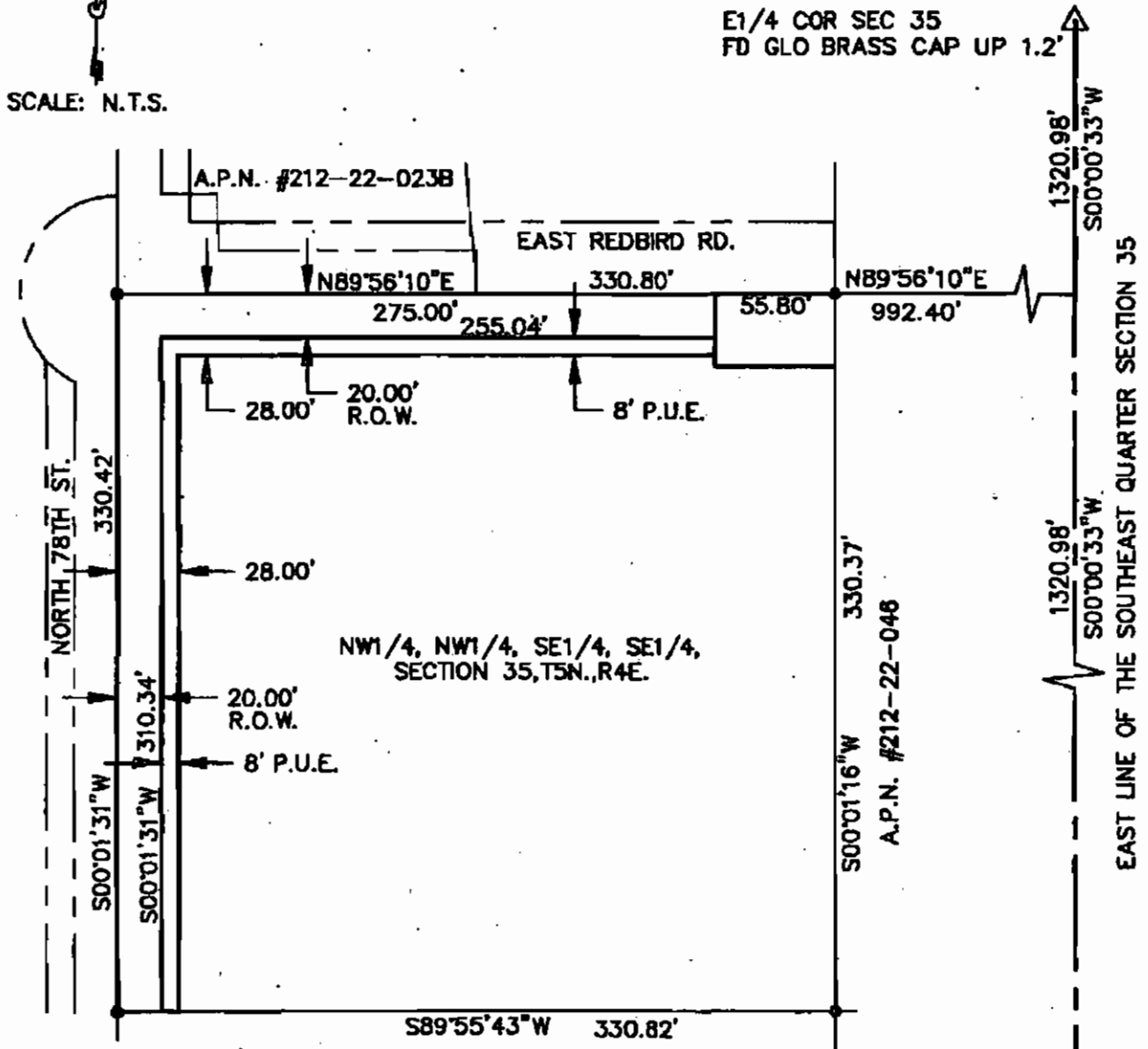
TOGETHER WITH:

THE EAST 55.80 FEET OF THE NORTH 33.00 FEET OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

EXPIRES 9-30-13

**EXHIBIT
8-FOOT PUBLIC UTILITY
EASEMENT**

SCALE: N.T.S.



JOMAX RD & MILLER RD.
FD. 1/2" REBAR W/ALUM. CAP
DWN 0.3' ASP

JOMAX RD. & HAYDEN RD.
SE COR SEC 35
FD. 1/2" ID PIPE DWN .2' ASP.



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P.O. BOX 31118 PHOENIX, ARIZONA 85046
PHONE: 602-574-6171 FAX: 602-482-0299
E-MAIL: m3kennings@cox.net

EXPIRES 9-30-10

Mike

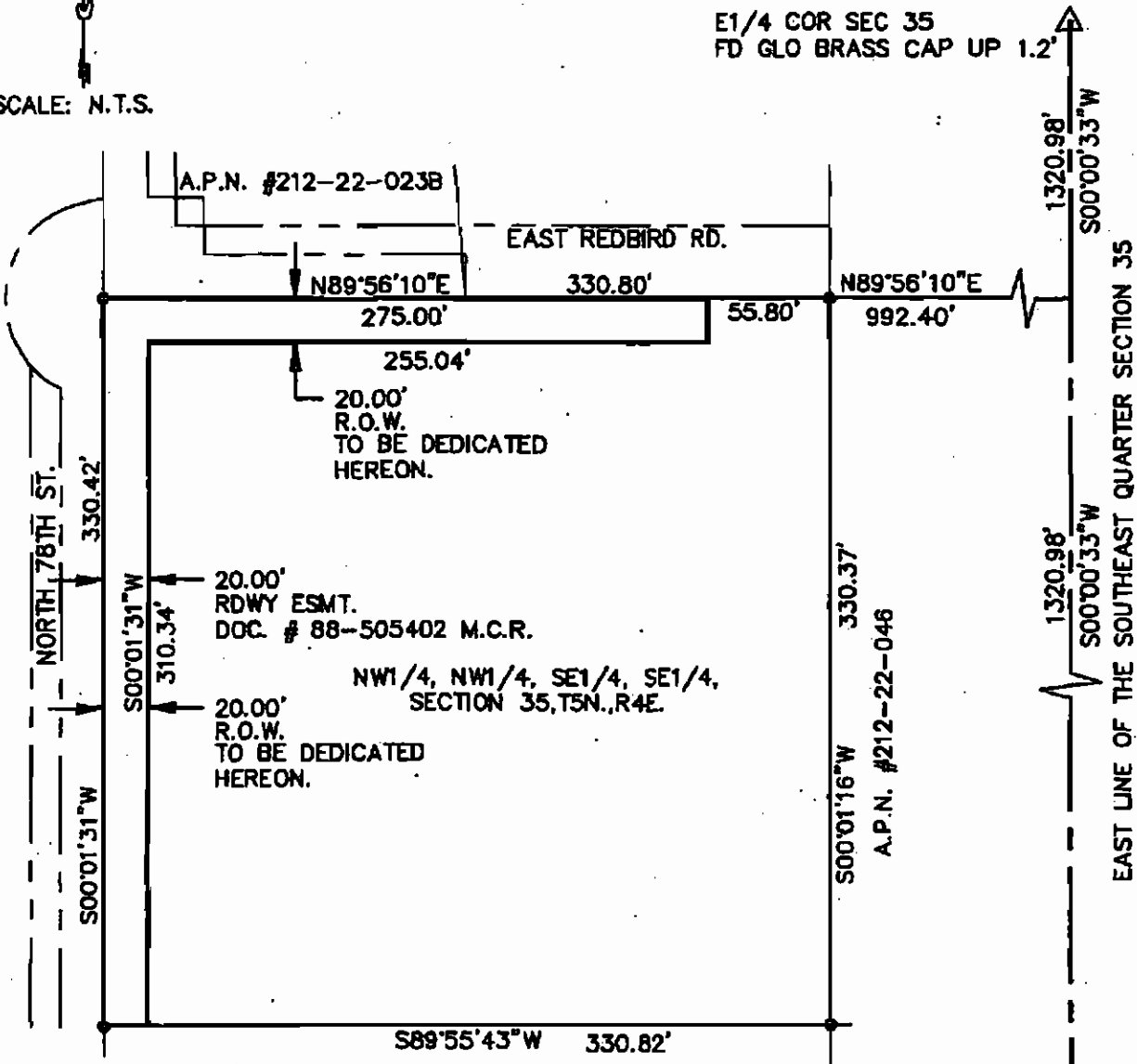
**LEGAL DESCRIPTION
RIGHT-OF-WAY**

**THE WEST 20.00 FEET AND THE NORTH 20.00 FEET OF THE WEST 275.00 FEET OF THE
NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST
QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH,
RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERDIAN, MARICOPA
COUNTY, ARIZONA.**

EXPIRES 9-30-13

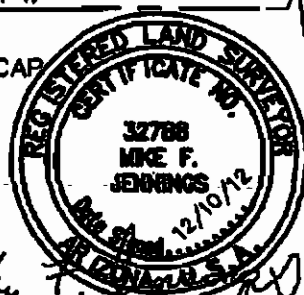
**EXHIBIT
RIGHT-OF-WAY**

SCALE: N.T.S.



△ SB9°54'24"W
JOMAX RD & MILLER RD.
FD. 1/2" REBAR W/ALUM. CAP
DWN 0.3' ASP

2647.13'
JOMAX RD. & HAYDEN RD.
SE COR SEC 35
FD. 1/2" ID PIPE DWN .2' ASP.



EXTREME LAND SURVEYING, INC.
16620 North 54th Street Scottsdale, Arizona 85048
Phone: 602-574-6171 Fax: 602-482-0299
E-mail: m3jennings@cox.net

EXPIRES 9-30-13

June 28, 2010

City of Scottsdale

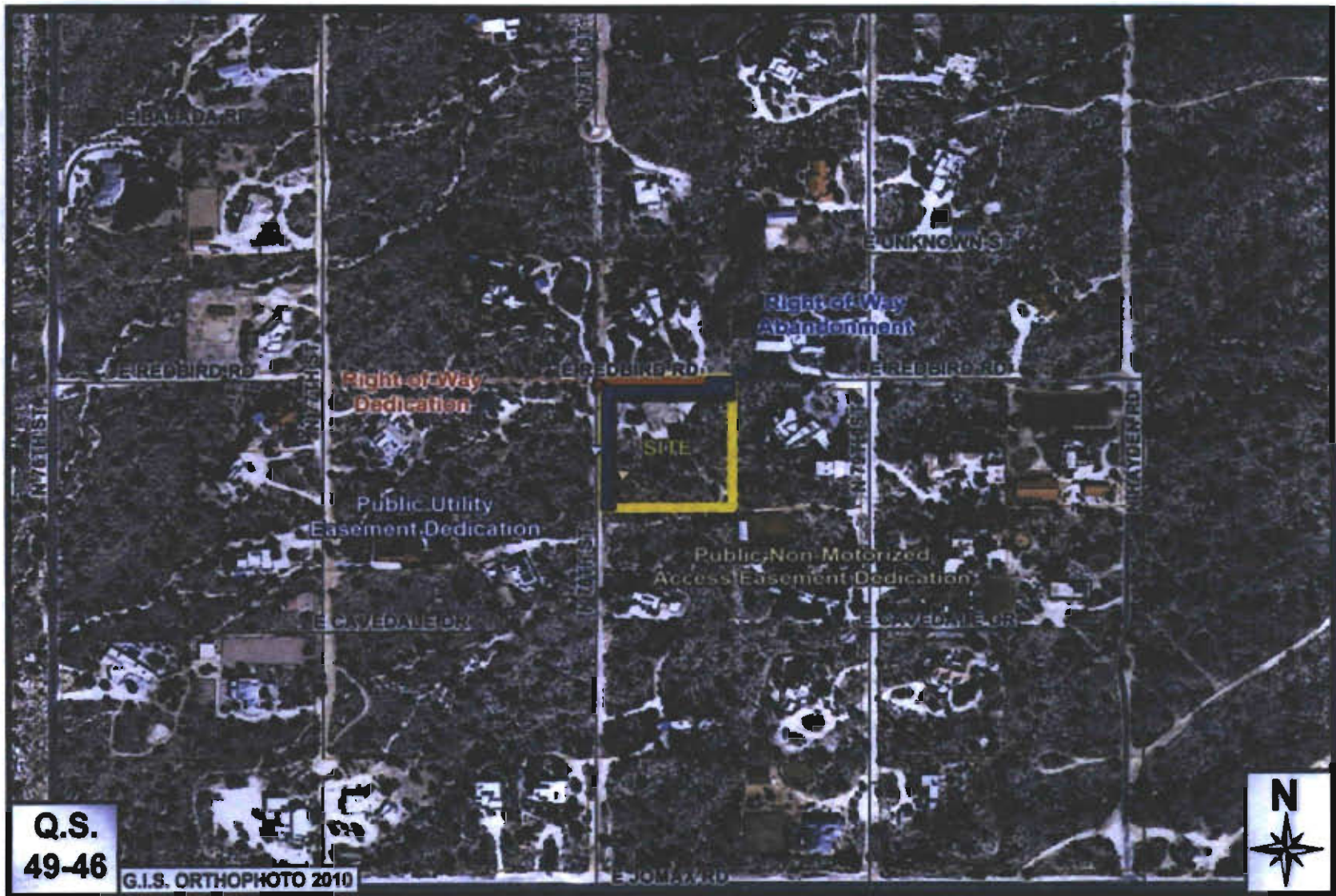
We are abandoning the GLO easements on APN numbers 212-22-047-A and 212-22-047-B and rededicating the City of Scottsdale Public Utility Easement, City of Scottsdale Non-Motorized Access Easement, and City of Scottsdale Public Right-Of-Way Dedication on said properties. The physical address of the property is 26838 North 78th Street Scottsdale, Arizona 85262.

By doing this it gives a bigger buildable lot and provides the building setbacks from the newly dedicated 20' right of way. We have notified all neighbors within a 750 (seven hundred fifty) foot radius of our intent on doing so. This was done in accordance with the City of Scottsdale's Neighborhood Information Packet.

Sincerely,
Andrew Santoricos

ATTACHMENT #2

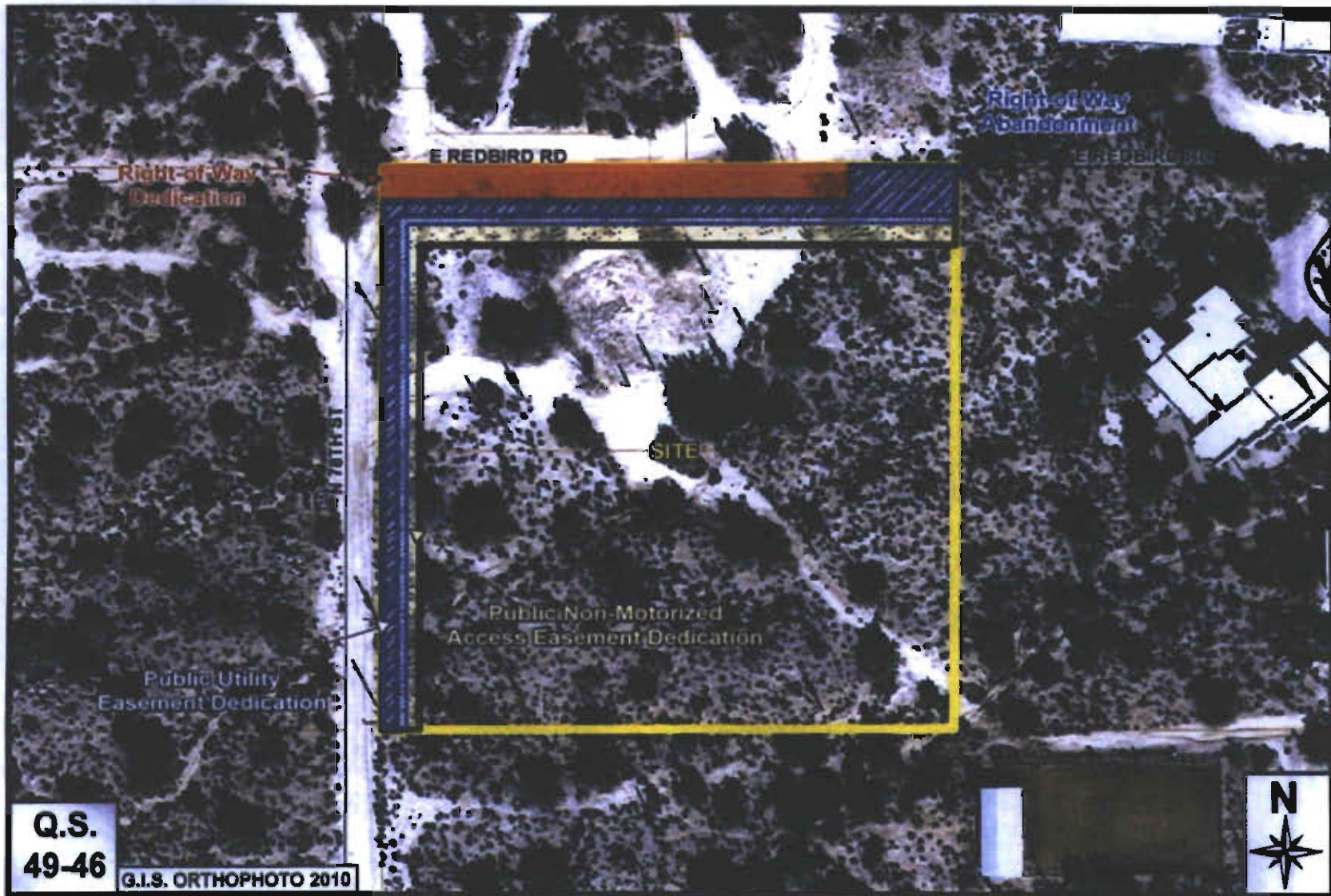
6-AB-2010
1st: 7/2/2010



Gardner Abandonment

6-AB-2010

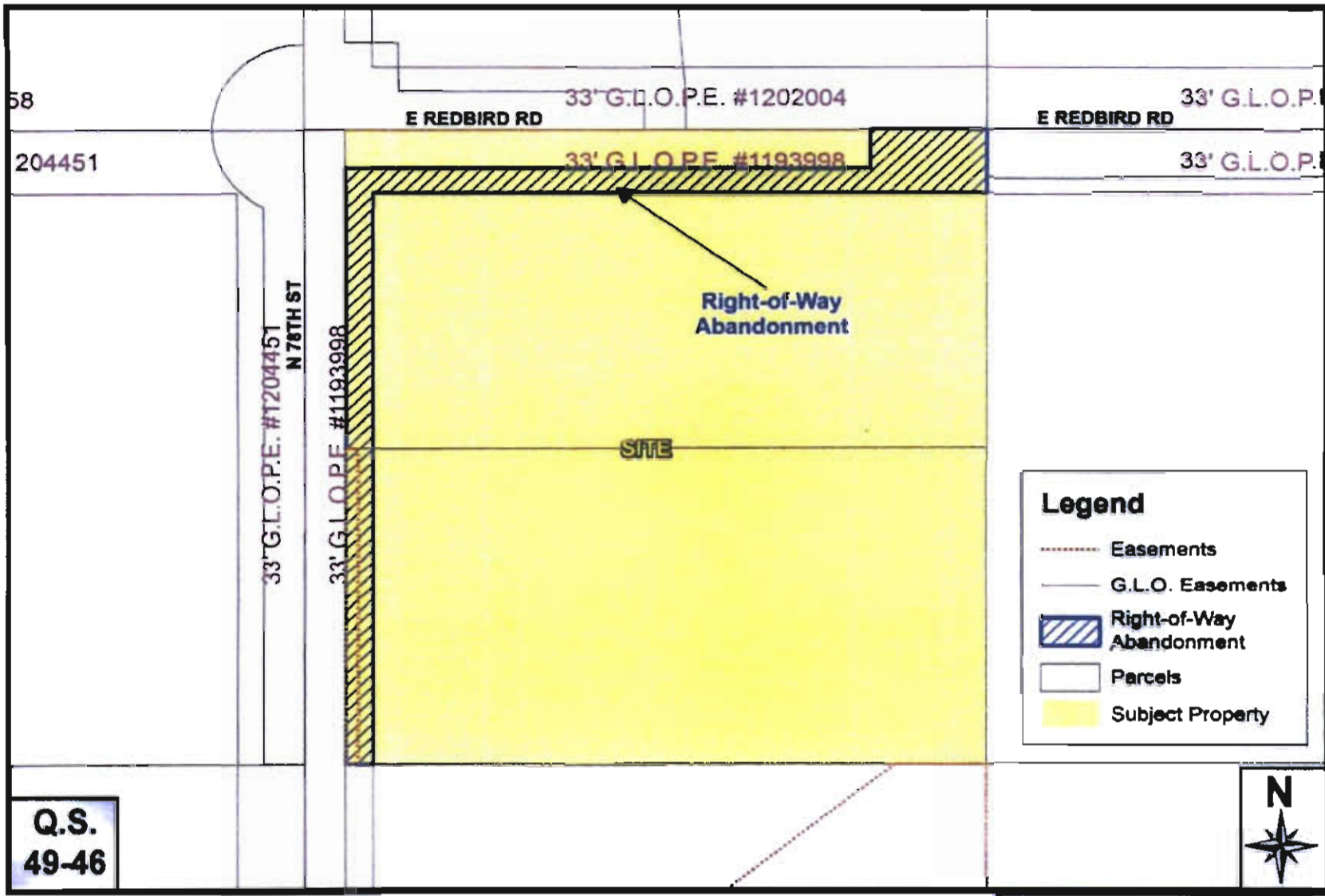
ATTACHMENT #3



Gardner Abandonment

6-AB-2010

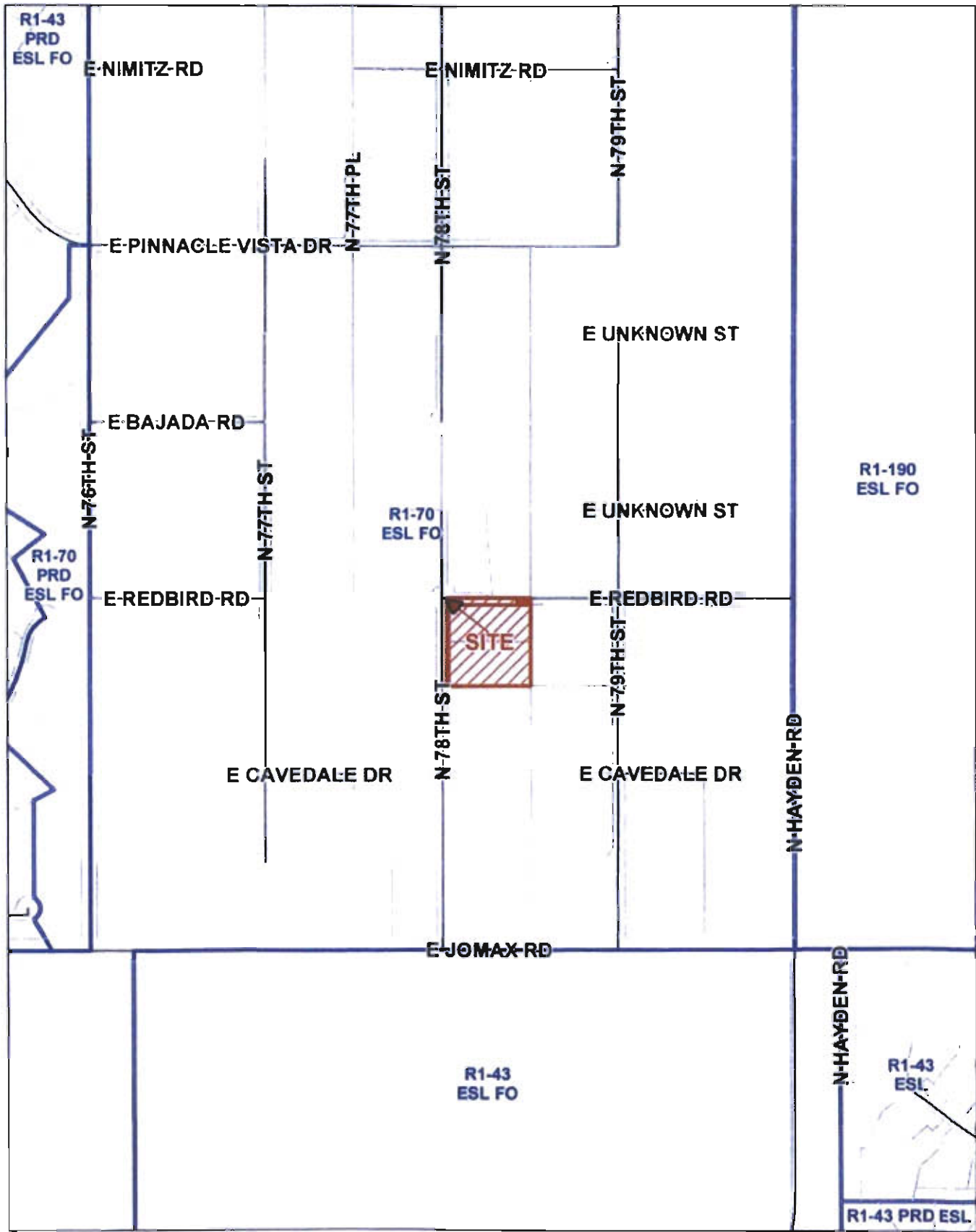
ATTACHMENT #3A



**Q.S.
49-46**

Gardner Abandonment

6-AB-2010



6-AB-2010

ATTACHMENT #5



Local Area Infrastructure Plan

Desert Foothills Area 9B

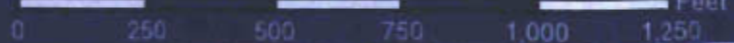


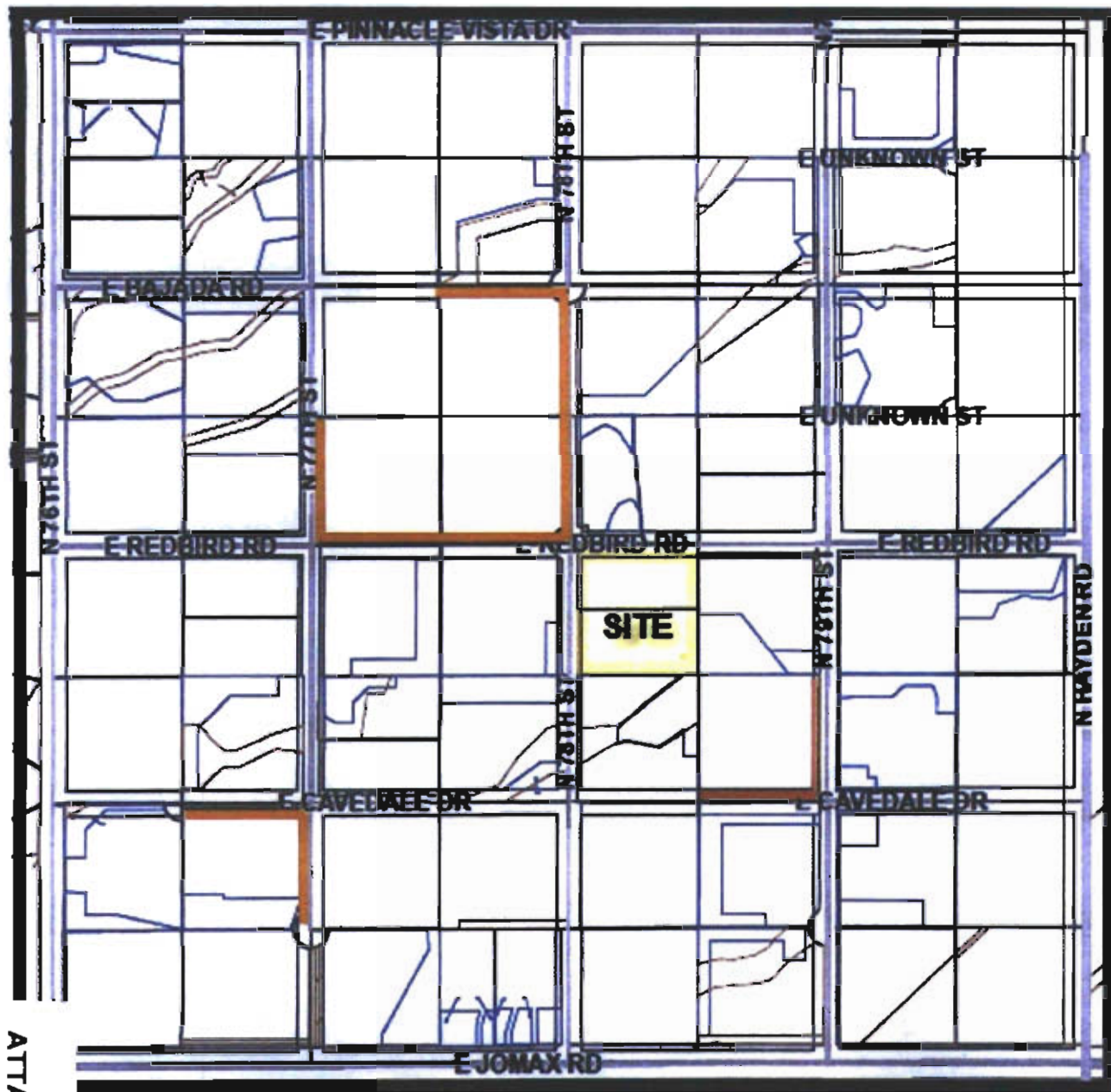
ATTACHMENT #6

- Parcels
- Preserve
- Proposed Street
- City Boundary
- Existing Trail
- Planned Trail
- Water/Sewer ROW

Note: This document is provided for informational purposes only. The City of Scottsdale does not warrant its accuracy, completeness or timeliness for any particular project. It should not be relied upon without further review.

Feet



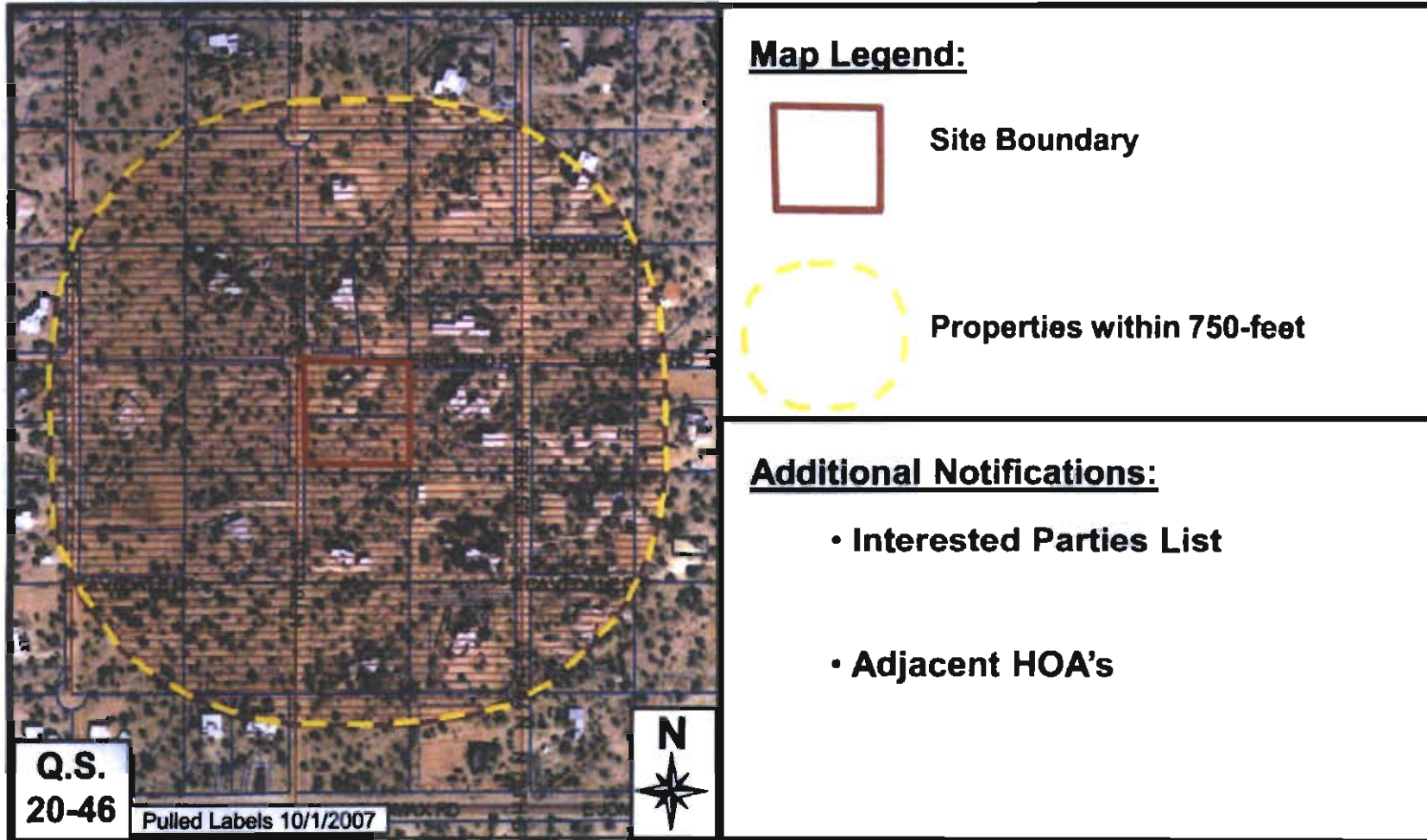


Abandonment History Map

-  33' GLO Abandoned
-  25' Right-of-Way Abandoned
-  5' Right-of-Way Abandoned



City Notifications – Mailing List Selection Map



Gardner Abandonment

6-AB-2010

ATTACHMENT #8



**SCOTTSDALE PLANNING COMMISSION
KIVA-CITY HALL
3939 DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA**

WEDNESDAY, FEBRUARY 27, 2013

DRAFT SUMMARIZED MEETING MINUTES

PRESENT: Michael D'Andrea, Chairman
Ed Grant, Vice-Chair
Erik Filsinger, Commissioner
David Brantner, Commissioner
Matt Cody, Commissioner
Michael Edwards, Commissioner
Jay Petkunas, Commissioner

STAFF: Tim Curtis
Joe Padilla
Jeff Barnes
Meredith Tessier
Brad Carr
Bryan Cluff

CALL TO ORDER

Chair D'Andrea called the regular session of the Scottsdale Planning Commission to order at 5:00 p.m.

ROLL CALL

A formal roll call was conducted confirming members present as stated above.

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at:
www.scottsdaleaz.gov/boards/PC.asp

MINUTES REVIEW AND APPROVAL

1. Approval of January 23, 2013 Regular Meeting Minutes including Study Session.
2. Approval of February 13, 2013 Regular meeting Minutes including Study Session.

COMMISSIONER BRANTNER MOVED TO APPROVE THE JANUARY 23, 2013 AND THE FEBRUARY 13, 2013 REGULAR MEETING MINUTES, INCLUDING STUDY SESSION. SECONDED BY COMMISSIONER FILSINGER, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

EXPEDITED AGENDA

3. 6-AB-2010 (Gardner Abandonment)

4. 9-AB-2012 (City of Grace)

VICE CHAIR GRANT MOVED TO MAKE A RECOMMENDATION TO CITY COUNCIL, FOR APPROVAL OF CASE 6-AB-2010 AND 9-AB-2012, PER THE STAFF RECOMMENDED STIPULATIONS, SECONDED BY COMMISSIONER EDWARDS. THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

5. 17-ZN-2012 (Miller Plaza Redevelopment, AKA Fry's Replacement)

MOVED TO REGULAR. COMMISSIONER FILSINGER MOVED TO MAKE A RECOMMENDATION TO CITY COUNCIL FOR APPROVAL OF CASE 17-ZN-2012, PER THE STAFF RECOMMENDED STIPULATIONS, AND AFTER DETERMINING THAT THE PROPOSED ZONING MAP AMENDMENT IS CONSISTENT AND CONFORMS WITH THE ADOPTED GENERAL PLAN. SECONDED BY COMMISSIONER PETKUNAS, THE MOTION CARRIED WITH A VOTE OF SEVEN (7) TO ZERO (0).

Francien Randall, Wayne Randall, Fran Bills, Gin Klee, Dora Tsantilas, Deede Williams and Dave MacDonald provided comments.

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at:
www.scottsdaleaz.gov/boards/PC.asp

REGULAR AGENDA

6. 7-TA-2012 (PRC Text Amendment)

COMMISSIONER FILSINGER MOVED TO MAKE A RECOMMENDATION TO CITY COUNCIL FOR APPROVAL OF CASE 7-TA-2012, PER THE STAFF RECOMMENDED STIPULATIONS, AND AFTER DETERMINING THAT THE PROPOSED TEXT AMENDMENT IS CONSISTENT AND CONFORMS WITH THE ADOPTED GENERAL PLAN. SECONDED BY COMMISSIONER EDWARDS, THE MOTION CARRIED WITH A VOTE OF SIX (6) TO ZERO (0). COMMISSIONER PETKUNAS RECUSED.

ADJOURNMENT

With no further business to discuss, the regular session of the Planning Commission adjourned at 6:29 p.m.

Jagger, Carolyn

From: leon spiro <leon_spiro@yahoo.com>
Sent: Friday, March 08, 2013 7:41 AM
To: Carr, Brad; Jagger, Carolyn; City Council; chh@pima.gov; Littlefield, Robert; guyrphillips@gmail.com; Korte, Virginia; Washburn, Bruce
Cc: leon_spiro@yahoo.com; sam@samjwest.com; john@reactionresearch.com; margart@earthlink.com; copperphillips@cox.net; howard.myers@cox.net
Subject: Fw: #6-AB-2010. Abandonment of Only Cities Interest for Federal Patent Roadway and Public Utilities Easements

From: leon spiro <leon_spiro@yahoo.com>
Subject: #6-AB2019 Abandonment of Only Cities Interest for Federal Patent Roadway and Public Utilities Easements
To: bcarr@scottsdaleaz.gov, citycouncil@scottsdaleaz.gov
Cc: cjagger@scottsdaleaz.gov, jlane@scottsdaleaz.gov, lmilhaven@scottsdaleaz.gov, vkorte@scottsdaleaz.gov, gphillips@scottsdaleaz.gov, rlittlefield@scottsdaleaz.gov, drobbins@scottsdaleaz.gov, sklapp@scottsdaleaz.gov, bwashburn@scottsdaleaz.gov, jpadilla@scottsdaleaz.gov, sscott@scottsdaleaz.gov, jmurillo@scottsdaleaz.gov, leon_spiro@yahoo.com, john@reactionresearch.com, sam@samjwest.com, chh@pima.gov, district1@pima.gov, district2@pima.gov, district3@pima.gov, district4@pima.gov, district5@pima.gov, nanette.slusser@pw.pima.gov

From: leon spiro <leon_spiro@yahoo.com>
Subject: 6-AB-2010 , Abandonment of Only Cities Interest for Federal Patent Roadway and Public Utilities Easements.
Members of the Scottsdale City Council and Planning Commission: Please have this enclosed, "for the record, written material comment", read and recorded on the Council floor, for all in attendance to hear this comment, for this Meeting Agenda Item". There is "no objection to this request", regarding the "abandonment of only the Cities Interest", for this "abandonment request(s)" by the applicant, for these referenced Small Tract Act of 1938, roadway and public utilities easements. This patent easement "interest right", in favor of City use, was decided in an Appellate Court Case, "Kennedy v. City of Phoenix", commonly referred to as, "Kennedy One", 138 Ariz. 406,675 P. 2d 293 (App). 1983(I). It is opinioned that upon the relinquishment of the "Cities Interests only", in these "patent roadway easements", that these roadway and public utilities easements, now revert back to "private roadway easements". We believe, if approved, this legal action taken by the Scottsdale City Council, with this recorded abandonment Resolution, "will now 'exclude' the public" from the "use of these now private roadways". If this request is approved, these private roadways, we believe, are now for the sole use of all Federal Land Patent Parcel Owners, or owners of portions of these patent parcels, due to Lot Splits", who are owners of parcels or parts of parcels, that were sold under the "Classification Order that created these Federal Land Patent Parcel Areas". "Please become familiar with the wording of this issued Federal Land Patent, that encumbers this parcel, for this could well become "an integrity issue for all Council Members, Planning Commission Members and City Staff"? Also, in the Arizona Appellate Court Case Bernal v. Loeks, please be advised , contrary to what many respected persons may have said, in reference to the Bernal v. Loeks Case, it is written for the record , that "Bernal 'was not' land locked", A question for the Scottsdale City Attorney is this? Does the "City of Scottsdale, "after abandonment of the Cities Interest in these roadway easements", have the Legal Right", even with the signaturing of the "City required agreements", by owner, by lender and by interested parties, which are titled: "AGREEMENT AND RELEASE BY GLO ABANDONMENT PARCEL OWNER, and City document titled, AGREEMENT AND RELEASE BY GLO ABANDONMENT PARCEL LENDER, TENANT OR-OTHER INTEREST HOLDER, does the City "have the Legal Right to then approve, and authorize, and permit any encroachment-or construction upon these, now, private patent roadway easements"? We ask, is the City now a labeled party , in the event that there is ever a "third party legal action" taken, due to the City Council or City Staff authorizing and permitting encroachment and construction upon these now private roadway easements? We ask, does the owner of a property encroaching upon this Small Tract Act of 1938 Patent Parcel easement , now own a property with a "title defect? We suggest further consideration regarding this abandonment approval request, that is now

before the Scottsdale City Council . We suggest further review of Arizona Appellate Court Case #1 CA-CV 06-0756, commonly referred to as Neal v. Brown, which has been referenced in a previously approved City of Scottsdale Federal Land Patent Roadway and Public Utilities Abandonment Request , Case, #22-AB-2005, for possible errors ? . "Due to a handicap, which prevents my attendance at this meeting", I once again, request that this presented comment material, by E Mail correspondence, be mentioned and read to those in attendance at this Council Meeting Session , in order that all "concerned and involved citizens" may become aware of possible City Council and City Staff Legal Action, that will permit encroachment, construction, and NAOS dedications, upon these "now, patent deeded private roadway easements". We understand, according to the wording of each Federal Patent, that these Federal Land Patent Roadway "deeded" Easements, "can be used only for roadway and public utilities purposes, and can not be legally assembled". I reference "Congressional Hearings before a Special Subcommittee of the Committee on Interior and Insular Affairs of the House of Representatives" , that was held 1 October 1957 and 7 October 1957. We await answers to questions asked. Comment submitted by Leon Spiro, A Citizen of Scottsdale and a Federal Land Patent Parcel Homeowner.