

7-10-13

RE: ABND V130015A

Dear Mr. Behrana,

Included is a copy of the Preliminary Report for the Abandonment V130015A. Keep in mind that this is just a preliminary. At the hearing, the Abandonment Officer will discuss the stipulations and delete, add or modify stipulations if necessary. The Hearing will occur on July 17, 2013, at 10:00 AM Conference Room 10E located on the tenth floor of City Hall at 200 W. Washington Street.

The procedure at the hearing will be as follows:

- 1) The Abandonment Hearing Officer will open the hearing
- 2) I will call the first case
- 3) The Abandonment Hearing Officer will ask the applicant why they wish to abandon the right-of-way. If you have documentation to back up your request you are encouraged to bring it along (i.e. Exhibits, site plans, blue prints, photos etc). After he/she listens to the applicant's reason for the abandonment request he/ she will ask if anyone else wishes to speak in favor of the abandonment.
- 4) The Abandonment Hearing Officer will then hear anyone in opposition.
- 5) The applicant will have the final rebuttal after which the Abandonment Hearing Officer will make a decision. This could be approval, denial or a continuance while more research is done.

There is a 15 day appeal period during which anyone can appeal the Abandonment Hearing Officer's decision. There is a fee of \$1,050.00 to file the appeal. This would then be taken to Council to decide to uphold or reverse the Abandonment Hearing Officer's decision.

Thank you,

Mani Kumar, P.E., PTOE, PMP  
Civil Engineer/Abandonment Coordinator



## **City of Phoenix**

Planning and Development Department

July 16, 2013  
Preliminary Abandonment Staff Report: **V130015A**  
Project# **04-204**  
Quarter Section: **11-27**

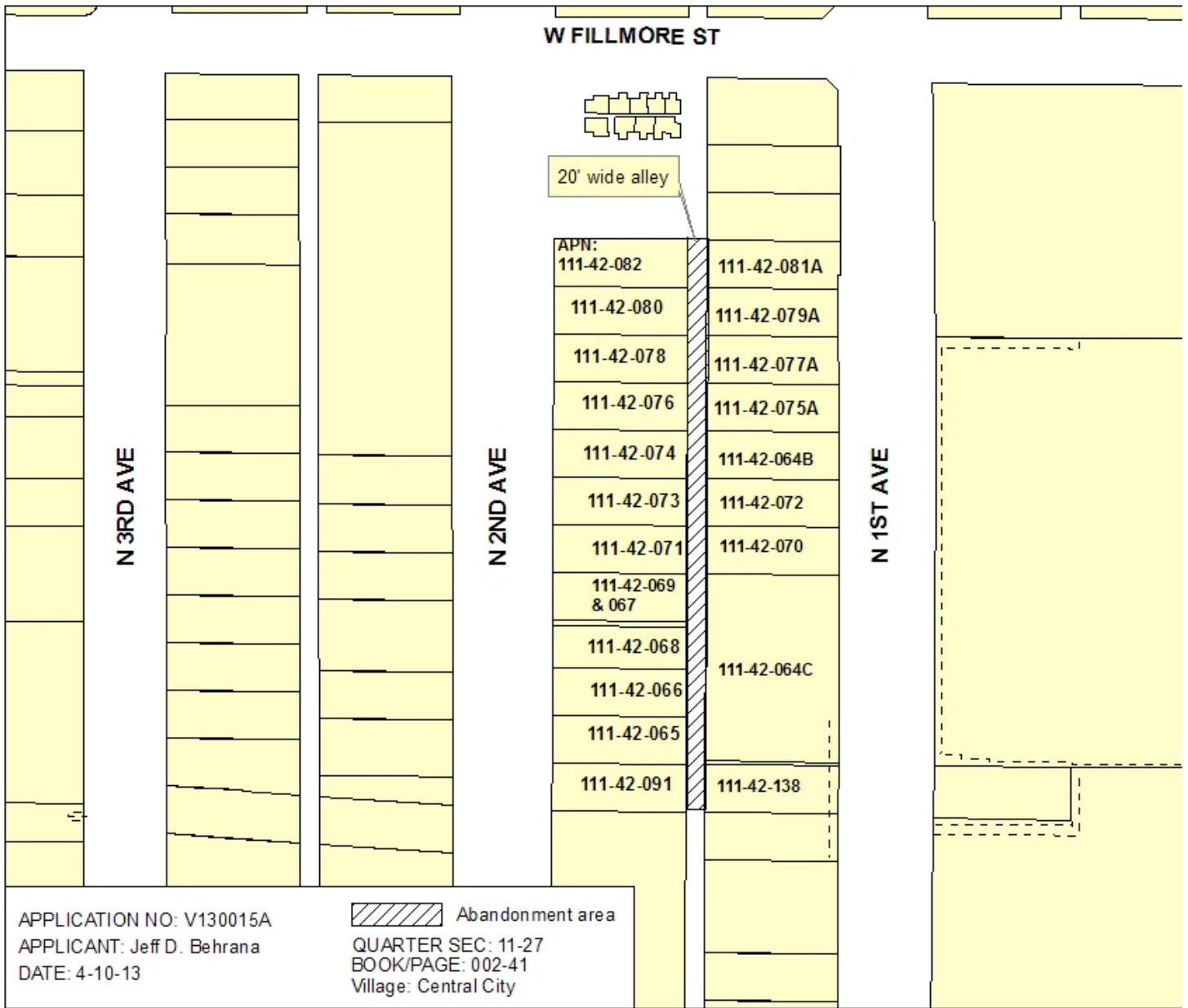
**Location:** South of Fillmore St. and North of Van Buren St., between 1st & 2nd Ave.

**Applicant:** DTR 25, LLC (contact: Jeff D. Behrana of Optimus Civil Design Group LLC)

**Request to abandon:** Partial abandonment of a 20' wide north/south alley situated south of Fillmore Street, between 1st & 2nd Avenues, from the northern boundaries of the parcels identified as APN 111-42-082 and 111-42-081A to the southern boundary of the parcel identified as APN 111-42-091.

**Purpose of request:** Future development as requested by adjacent owner.

**Hearing date:** 7-17-13



**Planning & Development Department**

The information provided is submitted by others and is not verified

### City Staff Recommendations

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

<b>PDD Civil Reviewer</b>	Recommends approval with stipulations.
<b>PDD Planner</b>	Recommends approval.
<b>Historic Preservation</b>	Recommends approval.
<b>PDD Village Planner</b>	Recommends denial.
<b>Parks Department</b>	No response.
<b>Fire</b>	No response.
<b>Street</b>	Recommends approval with stipulations.
<b>Street ( Street lights)</b>	Recommends approval.
<b>Street (Floodplain)</b>	No response.
<b>Solid Waste</b>	Recommends approval.
<b>Water Services</b>	Recommends approval with stipulations.
<b>PDD Traffic Reviewer</b>	Recommends approval with stipulations.
<b>CED</b>	General comments.
<b>Council District 7</b>	Recommends approval.

### Utility Recommendations

The request was also routed to outside utility companies for their input. The following table outlines their responses.

<b>APS</b>	Recommends approval with the stipulation – Retain PUE per ARS 28-7210. APS is currently working with developer to relocate its facilities and will have remaining facilities in the area of the abandonment after the relocation. APS project # is WA115190. Contact Mike Caglio of APS Land Services for any questions on this item.
<b>Cox</b>	Recommends approval – since it has no facilities in the area.
<b>Century Link</b>	Recommends approval.
<b>SRP</b>	Not applicable (It lies in APS' jurisdiction).
<b>SWG</b>	Recommend approval with stipulation that the area need to be retained as a PUE since the gas facilities exist in the requested abandonment area.

### Stipulations of Approval

The request of abandonment, if approved by the Abandonment Hearing Officer, will be subject to the following stipulations:

1. All right-of-way shall be retained as a public utilities easement or as may be modified by the affected utilities with 24 hour vehicle maintenance access subject to the following standard stipulation:

*"No structure of any kind shall be constructed on, over, or placed within a public utility easement, drainage easement, sanitary sewer easement, or water easement except as noted below. Paving and removable type fences, with no continuous footing, are allowed in public utility easements, sewer easements, and water easements with approval from the Planning and Development Department. No vegetation shall be planted within any easement without prior approval from the Planning and Development Department Landscape Architect. Public sanitary sewer or water mains shall be placed in the appropriate water and sewer easement. Water mains that are placed within an easement are required to be Ductile Iron Pipe per the Water Services Department "Design Standards for Water Distribution Main". It shall be further understood that the City of Phoenix shall not be required to replace any obstructions, paving, or vegetation that becomes damaged or must be removed during the course of maintenance, construction, reconstruction, or repair. The City of Phoenix may, but is not required to, construct and/or maintain, at its sole discretion, drainage facilities on or under the land in the drainage easements."*

**OR**.....the alternative is stipulation number 2.

2. All utilities shall be relocated to locations approved by the affected utility company. All work is to be done by the affected utility company at no expense to the affected utility company.

**Civil:**

Maintain historical flow pattern and retain the required retention of the abandoned area on the developed site.

**CEDD:**

CEDD is not supportive of abandonments for assemblage purposes without a specific active development project related to such requests. However, CEDD is not recommending denial of the application. CEDD's concerns are: maintaining access to all respective YMCA facilities (doors, utilities, etc.), recognition of the future connection of Taylor Mall through this block, and is concerned that the property owners of APN#s 111-42-077A, 079A, and 081A could be negatively impacted by the abandonment.

**Fire:**

None

**PDD Village Planner:**

Central City Village Planner recommends denial of the proposed alley abandonment request application as it is contrary to the intent of the Downtown Code (Chapter 12) of the Zoning Ordinance. 1<sup>st</sup> Avenue is designated as a light rail/ pedestrian street and 2<sup>nd</sup> Avenue is designated as a pedestrian street (1202.E.). The Code discourages access to parking and loading from a pedestrian street if alley or side street access is available (1206.E.2.a.). Driveways should not be on pedestrian streets [1206.E.2.b.(3)]. Alleys should be used for service, loading and other associated vehicular access points that are not consistent with

creating a walkable pedestrian environment. Alley abandonments should only be approved when they result in fewer driveways along pedestrian streets while promoting a pedestrian friendly block pattern (1207.K.3 and 1207.K.4).

The Taylor Street Pedestrian Paseo traverses a portion of this alley (north side of YMCA). A 20-foot wide public pedestrian easement (Paseo) would need to be dedicated in accordance with the approved alignment (1209.C.). Abandonment of this alley would likely necessitate access to the adjacent sites to be solely from the pedestrian streets. Additionally, loss of access through the alley will severely hinder refuse pick-up for adjacent properties as well as properties yet to be developed. 2nd Avenue adjacent to this request is the site of significant City of Phoenix and federal transportation funds investment for the 2nd Avenue Pedestrian Streetscape Enhancements. Additionally, 1st Avenue is likewise a pedestrian street which also has light rail. The City of Phoenix and federal investment in this transportation and pedestrian infrastructure is also significant. Provisions in the Downtown Code are designed to protect these investments and the City's liability to the federal government for the improvements. Therefore, the City of Phoenix is unlikely to support utility relocation to 1st or 2nd Avenues, or refuse pick up and other service related activities to 1st or 2nd Avenues, which are highly improved transit and pedestrian streets.

**PDD Traffic:**

Dead-end alleys are not permitted. Dedicate an outlet for the alley to a public street.

**Public Works- Solid Waste:**

None

**Water Services Department:**

There is an existing 8-inch sewerline located within the alley to be abandoned. All work is to be done by a licensed contractor at no expense to the City of Phoenix. After further review the Water Services Department has determined that a sewer easement in this area is not warranted and we request that if the alley is abandoned that the existing sewer line taps be relocated to either 1st or 2nd Avenues. WSD records currently indicate that there are 52-taps located on the sewerline.

Before Water Services Department Approval, applicant will need to please provide a detail/site plan on how the sewer taps will be relocated to Daniel Davison (602) 261-8237 or e-mail [danny.davison@phoenix.gov](mailto:danny.davison@phoenix.gov). Any questions please feel free to contact me.

**Street Transportation Department:**

1. Only the alley between lots 2 and 20 may be abandoned, exclude the alley adjacent to lots 22 and 32.
2. The applicant shall dedicate and construct an alley connecting the remaining alley to 2<sup>nd</sup> Avenue on lots 22 and 32.
3. 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.

4. The applicant shall provide documentation that access issues (vehicular, pedestrian and utilities) have been resolved with the owners of 372 and 376 N. 1st Avenue.

Should you have any questions regarding these comments, please contact Alan Hilty at (602) 262-6193.

**General:**

1. An appropriate performance agreement, in an approved form and cost amount, must be posted with the Development Services Department to guarantee the improvements above.
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<sup>1</sup> **whichever is greater**. And for single family residential zoned ROW \$1 per sq. ft. for 1st 500 s.f., \$0.10 per s.f. thereafter; or FMV of abandoned right-of-way, as determined by City<sup>2</sup>.
3. For the area to be abandoned, consideration may be given to the transfer of ongoing property maintenance responsibilities for said abandoned Right-Of-Way with the maintenance consideration off-setting any other form of financial consideration as determined by the Planning and Development Director, or designee.
4. The above stipulations **must be completed within one year** from the Abandonment Hearing Officer's decision dated June 5, 2013.

**For assistance regarding the above stipulations, please contact the Abandonment Coordinator at 602-256-3487.**

REPORT SUBMITTED BY: Mani Kumar, Abandonment Coordinator.

- c: Applicant  
Derek Fancon, Abandonment Hearing Officer

---

<sup>1</sup> If the area to be abandoned is within or adjacent to a redevelopment area established pursuant to A.R.S. §§36-1471 ET.SEQ., Consideration may be given to the restrictions upon the property and the covenants, conditions and obligations assumed by the redeveloper in the determination of fair market value.