

RESOLUTION NO. 23-37

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, DECLARING A FEDERALLY PATENTED EASEMENT LOCATED AT 7TH AVENUE (ALIGNMENT) FROM CONESTOGA ROAD TO CORTEZ ROAD, IS NO LONGER NECESSARY FOR PUBLIC USE AS A FEDERALLY PATENTED EASEMENT AND IS HEREBY EXTINGUISHED AS PRESENT AND FUTURE PUBLIC RIGHT-OF-WAY.

WHEREAS, upon incorporation, the City of Apache Junction, an Arizona municipal corporation, became the holder of roadway easements, also known as federally patented easements ("FPEs") pursuant to the Small Tract Act of 1938 (52 Stat. 609, as amended, 43 U.S.C. 682a-682e), as more fully described in Exhibit A and depicted in Exhibit B; and

WHEREAS, an FPE may be extinguished by a local municipal government pursuant to A.R.S. §§ 9-500.24 and 28-7214; and

WHEREAS, on October 24th, 2023 the applicant paid the required non-refundable application and filing fee for the extinguishment request pursuant to Apache Junction City Code, Vol. I, § 13-2-4 (H); and

WHEREAS, the reason for the FPE extinguishment request is for future development acknowledging that utility extinguishments will be required; and

WHEREAS, pursuant to Apache Junction City Code, Vol. I, § 13-2-4, the director of public works on November 29th, 2023, submitted copies of the application for comment to the development services director, the public safety director, the Superstition Fire and Medical District, as well as all public utility providers; and

WHEREAS, the extinguishment request, if approved, would not leave a parcel in separate ownership without access to an established public roadway or easement connecting such lands with another public roadway or easement; and

WHEREAS, the city engineer has determined that the FPE in question, because of its location, topography, and encroachments therein, have no or *de minimis* public value.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION ARIZONA, AS FOLLOWS:

- 1) The mayor and city council of the City of Apache Junction find that the FPE, as described in legal description and map set forth in the attached exhibits, is classified as a local street on the street classification plan and is no longer necessary for public roadway purposes, has no or *de minimis* public value, and is hereby extinguished for public roadway purposes.
- 2) Nothing in this approval extinguishes any utility easement interest of any public utility agency or entity on the subject FPE.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS ____ DAY OF _____, 20__.

SIGNED AND ATTESTED TO THIS ____ DAY OF _____, 20__.

WALTER "CHIP" WILSON
Mayor

ATTEST:

JENNIFER PENA
City Clerk

APPROVED AS TO FORM:

RICHARD J. STERN
City Attorney

EXHIBIT A

PARCEL 1 (Adjacent to parcel 103-04-051B)

The South thirty-three feet (33') of the Northeast quarter of the Southeast quarter of the Southeast quarter of the Southwest quarter of Section 22, Township 1 North, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT the West thirty-three feet (33') and East forty feet (40') THEREOF; AND

PARCEL 2 (Adjacent to parcel 103-04-069B)

The East thirty-three feet (33') of the North thirty-three feet (33') of the Southwest quarter of the Southeast quarter of the Southeast quarter of the Southwest quarter of Section 22, Township 1 North, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

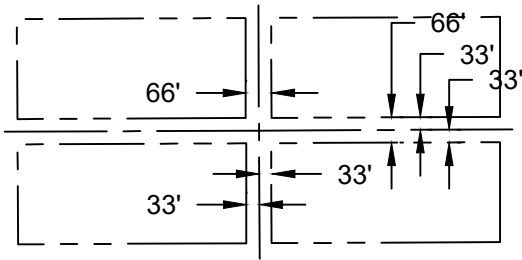
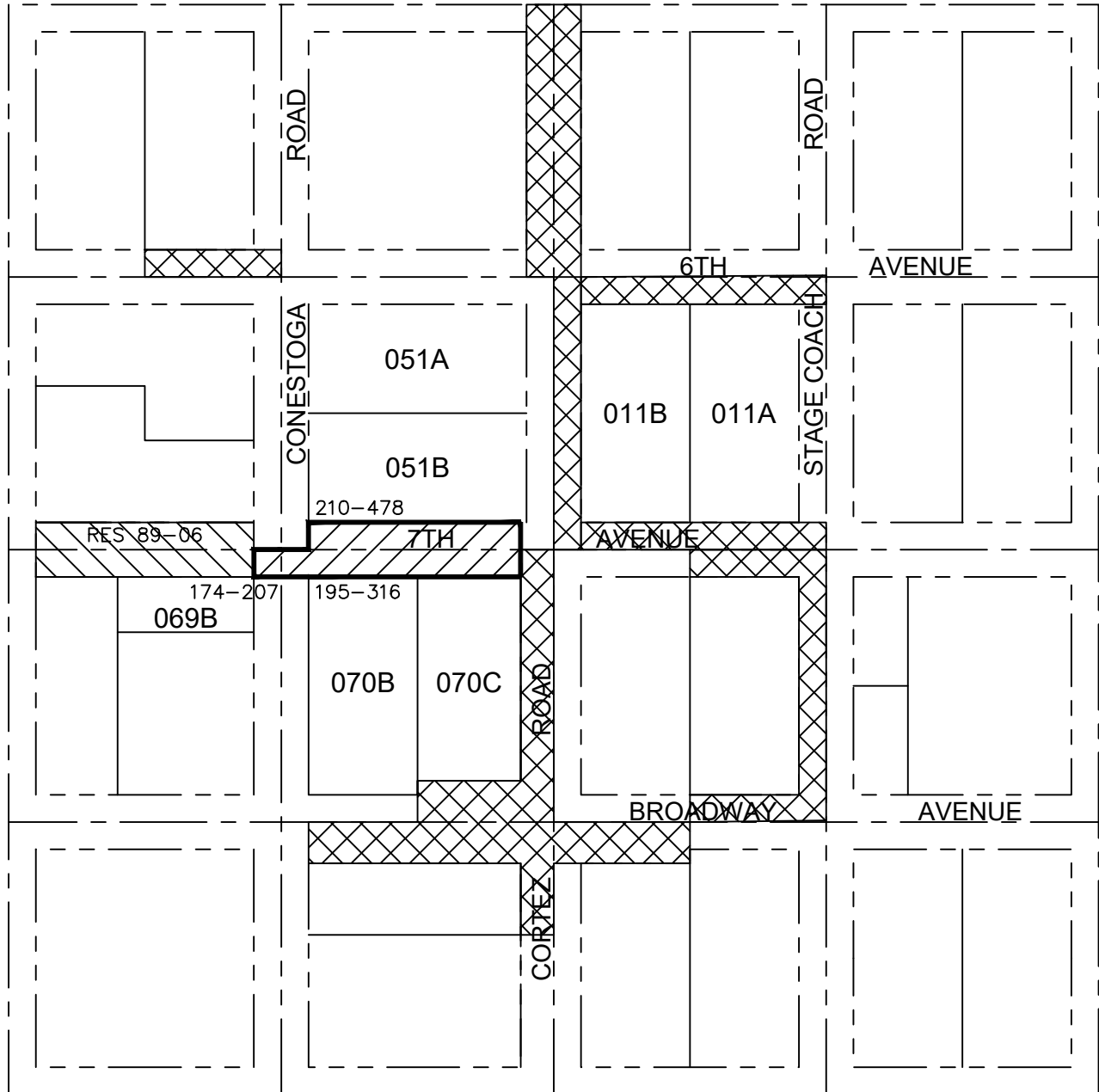
AND

PARCEL 3 (Adjacent to parcel 103-04-070B and 103-04-070C)

The North thirty-three feet (33') of the Southeast quarter of the Southeast quarter of the Southeast quarter of the Southwest quarter of Section 22, Township 1 North, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;








EXCEPT the East forty feet (40') THEREOF;

EXHIBIT "B"



TYPICAL FPE/ROW DIMENSION
(UNLESS OTHERWISE NOTED)

LEGEND

-  PROPOSED EXTINGUISHMENT
-  PREVIOUSLY EXTINGUISHED
-  DEDICATED RIGHT-OF-WAY (TO REMAIN)
-  ROAD CENTERLINE
-  FEDERAL PATENT EASEMENT
-  PROPERTY LINE
-  119-086 PATENT DEED(S)

