

RESOLUTION NO. 21-28

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, DECLARING A FEDERALLY PATENTED EASEMENT LOCATED AT FOREST STREET FROM HILTON ROAD TO GOLDFIELD 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 July 26th, 2021 the applicant paid the required non-refundable application and filing fee for the extinguishment request pursuant to Apache Junction City Code § 13-2-4 (H); and

WHEREAS, the reason for the FPE extinguishment request is to, increase the buildable space for a home using the property line as the starting point for the 40 foot setback measurement instead of the existing FPE boundary line; and

WHEREAS, pursuant to Apache Junction City Code § 13-2-4, the director of public works on August 2, 2021, 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 Exhibit A and depicted in Exhibit B, 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

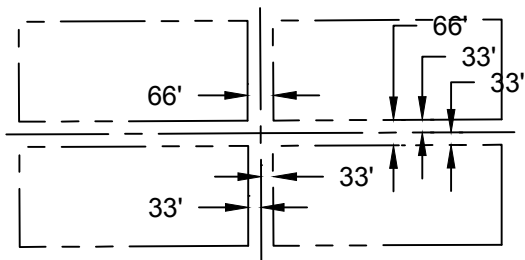
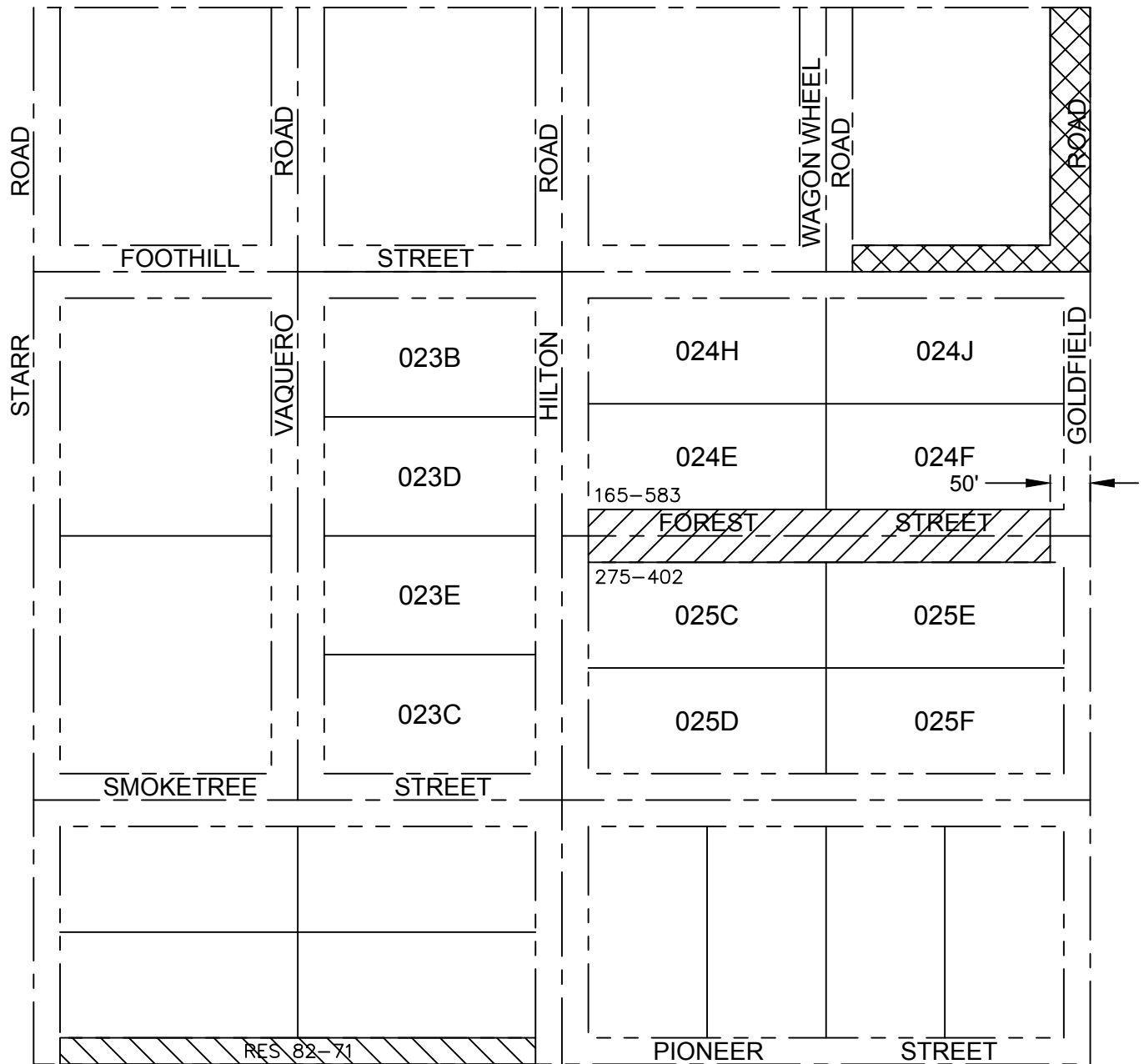
PARCEL 1 (Adjacent to parcels 100-24-024E and 100-24-024F)
The South thirty-three feet (33') of the North half of the Northeast quarter of the Southeast quarter of the Northeast quarter of Section 15, Township 1 North, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT the East fifty feet (50') THEREOF; AND

PARCEL 2 (Adjacent to parcel 100-24-025C and 100-24-025E)
The North thirty-three feet (33') of the South half of the Northeast quarter of the Southeast quarter of the Northeast quarter of Section 15, Township 1 North, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;






EXCEPT the East fifty feet (50') 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)
-  N
 S

