

ORDINANCE NO. O2024-010

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, DECLARING A PORTION OF RIGHT-OF-WAY SURPLUS FOR CITY USE AND VACATING TITLE TO THE ABUTTING PROPERTY OWNER UPON PAYMENT TO THE CITY OF FAIR MARKET VALUE AND CORRECTING A SCRIVENER'S ERROR

WHEREAS, the City of Yuma (City) is authorized pursuant to the Yuma City Charter, Article II, Section 2, to acquire and dispose of real property; and,

WHEREAS, Ordinance No. O2008-36 authorized the City to dispose of Parcels B and C, as depicted in Exhibit 1, to the Davis Family Trust; and,

WHEREAS, the legal description in Ordinance No. O2008-36 contained a scrivener's error resulting in the City erroneously retaining a strip of land approximately 8-feet wide along the northern boundary of Parcel B, as depicted in Exhibit 1; and,

WHEREAS, after obtaining title to Parcels B and C in Quitclaim deed, Fee # 2009-04227, the Davis Family Trust assumed control over all portions of Parcels B and C (including the 8-foot strip erroneously retained by the City) (the "Property") and, on August 14, 2023, sold the Property to T3AZ, LLC; and,

WHEREAS, the legal description of Parcels B and C (including the 8-foot strip erroneously retained by the City) is attached as Exhibit 2 and incorporated as part of this ordinance by reference; and,

WHEREAS, in addition to clearing the cloud on title created by the 8-foot strip, T3AZ, LLC wants the City to vacate that portion of right-of-way ("ROW") depicted and described in Exhibit 1 to facilitate the construction of a mixed-use project on the Property; and,

WHEREAS, Arizona Revised Statutes (A.R.S.) § 28-7205(2) and A.R.S. § 28-7208 authorizes the City to vacate portions of ROW to the "owners of the land abutting the vacated portion" upon payment to the City of consideration commensurate with the value of the right-of-way; and,

WHEREAS, the City Engineer believes the City has excess ROW and supports vacating to T3AZ, LLC the ROW depicted and described in Exhibit A, provided T3AZ, LLC is willing to pay fair market value as defined in A.R.S. § 12-1136 for the vacated ROW.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma as follows:

SECTION 1: The City Administrator is authorized and directed to correct the scrivener's error contained in Ordinance No. O2008-36 by recording a quitclaim deed transferring all the City's interest and ownership of the Property to T3AZ, LLC.

SECTION 2: The portion of ROW depicted and described in Exhibit 1, attached and incorporated by reference, is declared surplus for the City and public use and the City is authorized to record this Ordinance and a quitclaim deed transferring ownership of the vacated right-of-way to T3AZ, LLC upon T3AZ, LLC paying the fair market value for the surplus ROW.

SECTION 3: The City shall not issue any construction permit for the Property until such time as a lot tie of the vacated ROW to the Property shall be recorded in the records of the Yuma County Recorder.

Adopted this ____ day of March 2024.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
City Attorney

EXHIBIT 1



 **ROW Area to be vacated**

 **Area Erroneously Retained by City due to scrivener's error**

NOTE: THIS MAP IS PREPARED TO SHOW GENERAL SITE LOCATION ONLY AND REPRESENTS NO SPECIFIC DIMENSIONS RELATED TO THE SITE.



LOCATION MAP

Prepared by: Andrew McGarvie	CITY OF YUMA ENGINEERING DEPARTMENT	DATE: 2-13-2024	CIP NO.
Checked by: John LeSueur		SCALE: N.T.S	
	REVISED:		

Legal Description
(ROW to be quitclaimed)

A portion of the South half of the Southeast quarter of the Northeast quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 33, Township 8 South, Range 23 West of the Gila and Salt River Base and Meridian, City of Yuma, Yuma County, State of Arizona, also being a portion of Block 8, Sunset Heights, dated 5/19/1946, recorded in Book 3 of Plats, Page 9, Yuma County Records (YCR) and further described in Record of Survey LOTS 1-5, Block 8, Sunset Heights, dated 11/20/2008, FEE # 2008-33744, Recorded in Book 7 of Surveys, Pages 54-55, YCR, and more particularly described as follows:

Commencing at the Southeast corner of Lot 5, said Block 8, Sunset Heights subdivision;

Thence North 89°30'47" West along the South line of said Lot 5, a distance of 19.00 feet to a point, point also being the **True Point of Beginning**

Thence North 00°28'02" East along a line parallel to and 52.00 feet West of the East line of said Section 33, a distance of 75.23 Feet to a point;

Thence North 89°31'58" West, a distance of 5.00 feet to a point;

Thence North 00°28'02" East along a line parallel to and 57.00 feet West of the East line of said Section 33, a distance of 120.00 feet to a point;

Thence North 44°32'39" West a distance of 56.56 feet to a point;

Thence North 89°33'20" West along a line parallel to and 47.00 feet south of 19th Street centerline, a distance of 60.75 feet to a point lying on the West line of Lot 1, said Block 8, Sunset Heights;

Thence South 00°27'52" West along the West line of said Lot 1 a distance of 17.11 feet, to the Northwest corner of real property described as Parcel No. 1 in Quitclaim Deed, dated 2/18/2009, recorded in Fee # 2009-04227 YCR;

Thence South 89°33'20" East along the North line of said Parcel 1, a distance of 44.25 feet to a point;

Thence South 44°32'39 East along the corner triangle of said Parcel No. 1 a distance of 56.56 feet to a point;

Thence South 00°28'02 West, along the East line of Said Parcel No. 1 a distance of 106.41 feet to the Southeast corner of said Parcel No. 1, also being the Northeast corner of Parcel No. 2 described in said Quitclaim deed dated 2/18/2009, recorded in Fee # 2009-04227, YCR;

Thence South 00°28'02" West along the East line of said Parcel No. 2, a distance of 13.59 feet to a point;

Thence South 89°31'58" East a distance of 5.00 feet to a point;

Thence South 00°28'02" West along the East line of said Parcel No. 2, a distance of 58.10 feet to the Southeast corner of said Parcel No. 2;

Thence South 89°30'47" East along the South line of said Lot 5 described in said Record of Survey, a distance 16.50 feet to the **True Point of Beginning**.

Containing 5,409.045 square feet, or 0.124 acres, more or less.

Description Verified By:	Andrew McGarvie
City Engineering Department	2/13/2024

EXHIBIT 2

Legal Description

Parcels B and C (including the 8-foot strip erroneously retained by the City)

A parcel of land being a portion of lots 1 through 5, block 8, Sunset Heights subdivision, as recorded in Book 3 of Subdivision Plats, Page 9, dated March 1, 1946, records of the Yuma county Recorder, City of Yuma, Yuma County, Arizona, and being more particularly described as follows:

Beginning at the East quarter corner of Section 33, Township 8 South, Range 23 West, of the Gila and Salt River Base and Meridian;

Thence North 00°28'02" East along the section line a distance of 380.07 feet to a point on the East line of said Section 33;

Thence North 89°30'47" West a distance of 33.00 feet to the Southeast corner of Lot 5;

Thence North 89°30'47" West along the South line of Lot 5 a distance of 35.50 feet to the **True Point of Beginning**;

Thence North 00°28'02" East along a line parallel with the East line of said Section 33 a distance of 58.10 feet;

Thence North 89°31'58" West a distance of 5.00 feet;

Thence North 00°28'02" East along a line parallel with the East line of said Section 33 a distance of 120.00 feet;

Thence North 44°32'39" West a distance of 56.56 feet;

Thence North 89°33'20" West a distance of 44.25 feet to a point on the West line of Lot 1;

Thence South 00°27'52" West a distance of 218.04 to the Southwest corner of Lot 5;

Thence South 89°30'47" East along the South line of Lot 5 a distance of 89.24 feet to a point being 68.50 feet west of the East line of said Section 33 and the **True Point of Beginning**.

Containing a gross area of 17,862.20 square feet or 0.410 of an acre.

Description Verified By:	Andrew McGarvie
City Engineering Department	2/13/2024