

### **3. Limiting the towns liability while making the area structurally sound** *(an opportunity for the town council to protect the town)*

## The "A-DOT" study

Since January we have met with planning and zoning, design review board and town council on multiple occasions. More than a dozen times we've met and more than a dozen times the ADOT study on potential landslides on the 89A.

This study was created for a symposium by three junior staff members from geotechnical studies done in the 1960's and 1970's.

The towns legal council has repeated warned council member, board members and staff from using this study for non-highway discussion.

Regardless, the compiled study primarily uses testing in JT-1 and JT-2 test sites.

The JT-1 test site showed the most potential for slide, primarily caused by blasting from the mine in the 1950's. Whereas JT-2 test site, in the center of the paid parking lot, had limited potential for slide.

IF the town uses this study as a benchmark every building surrounding JT-1 would need to have retrofitting and in some cases to be demolished. This could mean closing town most businesses in town for up to two years.

To date only our property, even though is it primarily outside the slide zone, has been subjected to continual enquiry by town appointed officials.

**JT-1 Test Site**  
Noted slide

**JT-2 Test Site**  
Limited slide

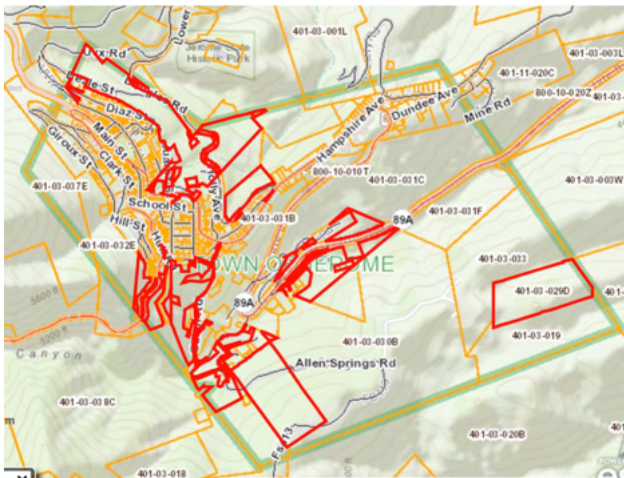


## Legal Responsibilities of the Town of Jerome

### 1. Roadways, streets and alleyways that were created on the formation of the town **MUST** be formally abandoned

If the town council does not formally abandon a road, it remains the responsibility of the town to repair, maintain and supply services on the road in question.

While the town has rerouted, changed and altered the streetscape, we have not found documentation from TOJ or Yavapai County that they have been formally abandoned. This means the town is liable for any accidents or issues (erosion) that is on that street.



Council and committee members who rent land from abutting properties (UVX) must make them known as they may have potential conflict of interest.

301.D.3 notes if one council member is disqualified from voting due to a conflict of interest, a majority of the remaining four members would be required to overrule the recommendation.

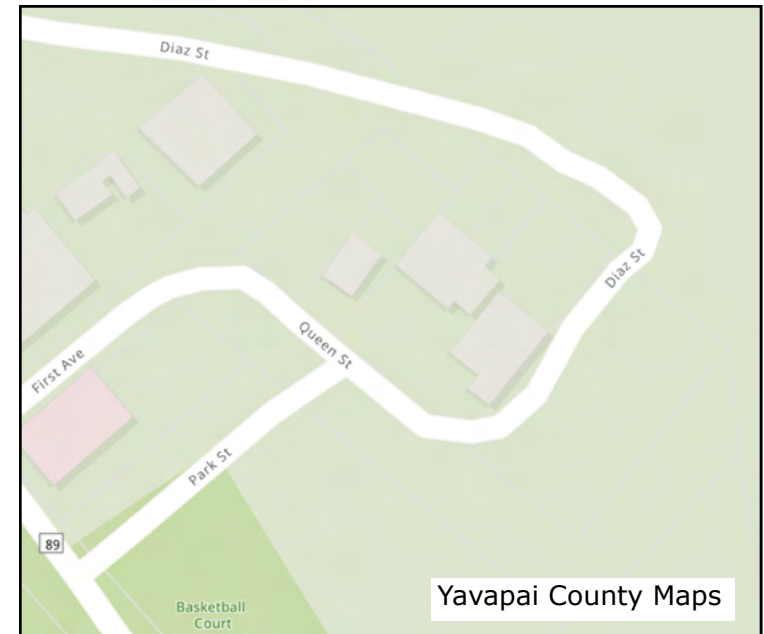




## Responsibilities of the Town of Jerome

### 2. Town of Jerome is legally responsible to ensure Yavapai County are aware and updated on any street changes and closures.

Due to the redirect and closure of streets between 1986-2017 the difference between Public Works surveys, Town of Jerome maps (and streets) and Yavapai County maps has now become a liability issue for the town, in particular regarding P&Z requirements for abutting properties.





## Current Liabilities of the Town of Jerome below sliding jail

We have worked with engineering, design and legal specialists to ensure the tax payers of Jerome are not affected by current liabilities on surrounding streets. However, we need action by the Town of Jerome to avoid 'pushing the can down the road' and costing the town.

### Primary

**Queen Street** - Maintenance, Upkeep and current erosion and collapse onto neighboring properties

Solution A: Town formally abandons Queen street at property corner (where erosion is);

**Cost to taxpayers: \$0**

Solution B: Town builds 1500 sq. ft. retaining wall. **Cost to taxpayers: \$400,000+**

Solution C: Town builds 2200 sq. ft. retaining wall. **Cost to taxpayers: \$700,000+**

### Secondary

**Conglomerate** - Maintenance, upkeep and erosion issues to UVX and neighboring properties (See solution C)

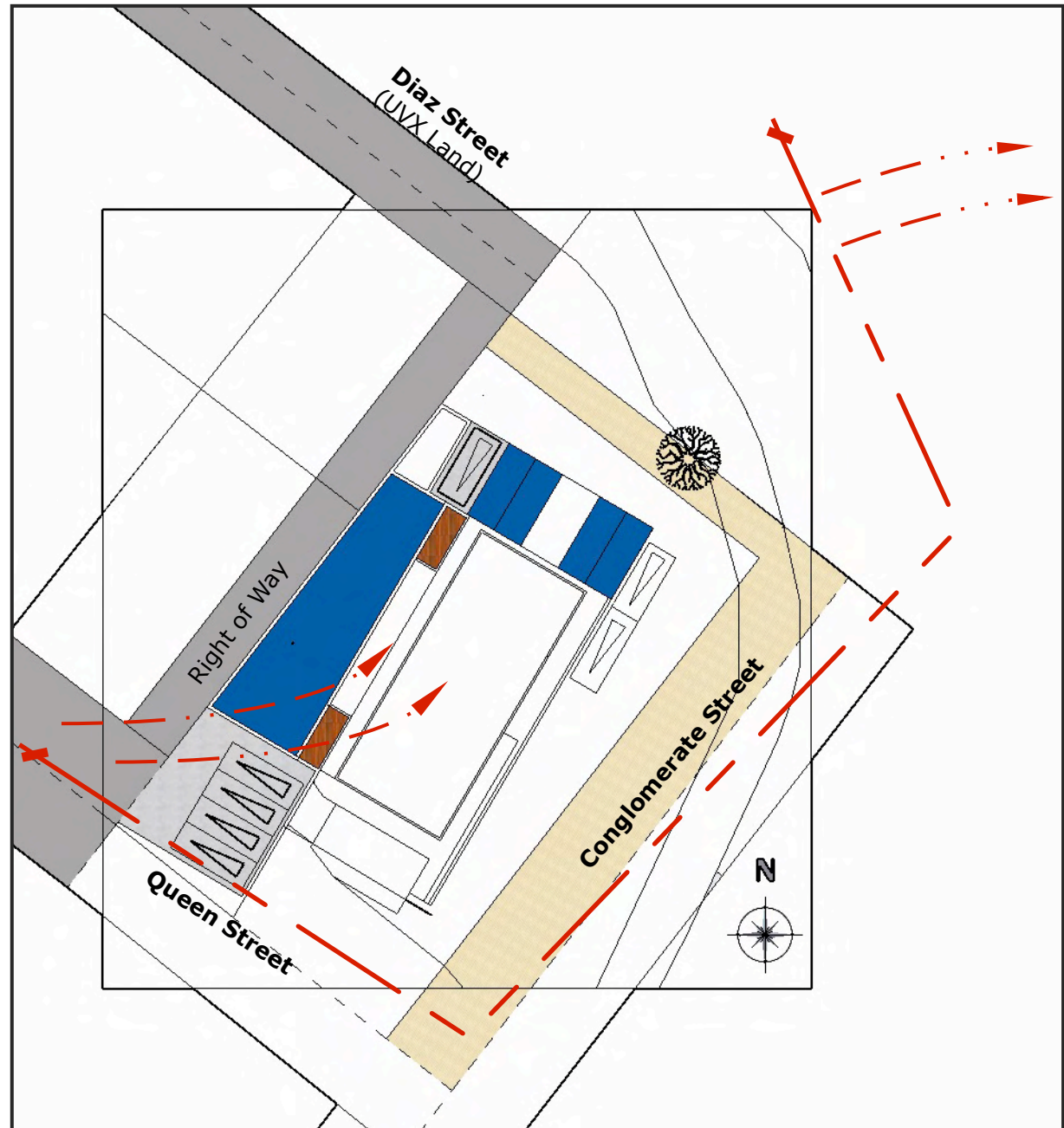
**Diaz** - Maintenance, upkeep and erosion issues to UVX and neighboring properties

Solution A: Town formally abandons Diaz street at property corner.

Solution B: Town funds and builds retaining wall along Diaz; **Cost to taxpayers: \$30-45,000 and annual upkeep**

### Tertiary

**Queen to Diaz Right of Way** - Town committed in 1997 and 2006 to repair right of way and fix drainage issue. In 1997 the town council voted to close off access. At the time, the property owner was on town council and voted for closure.





### Current Liabilities of the Town of Jerome below sliding jail

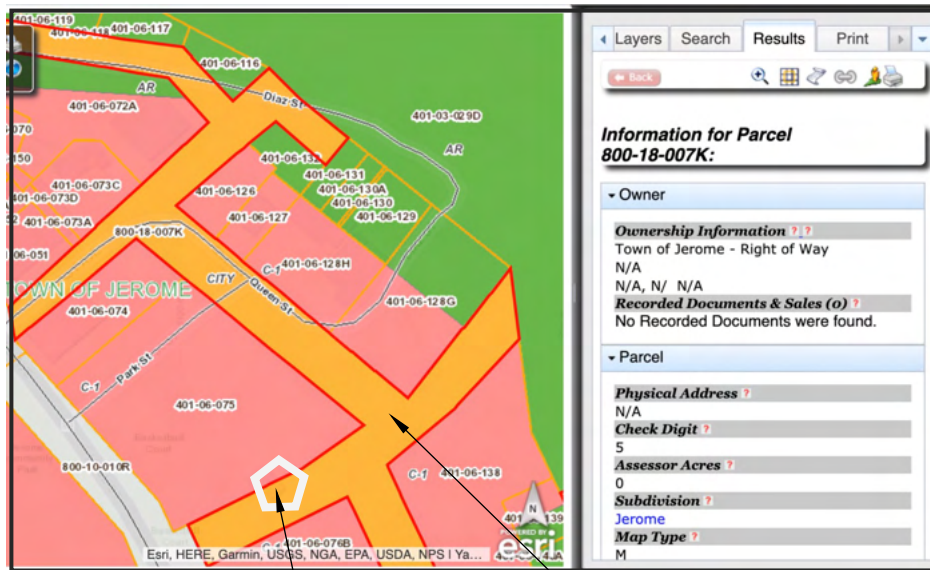
We have worked with engineering, design and legal specialists to ensure the tax payers of Jerome are not affected by current liabilities on surrounding streets. However, we need action by the Town of Jerome to avoid 'pushing the can down the road' and costing the town.



300 Queen Street



**By formally abandoning the end of Queen, the end of Diaz and Conglomerate, the town gains land and erases its' liabilities**



P.L. = Property Line

# Solutions



## A|Minimal Cost To Town\*



300 Queen Street

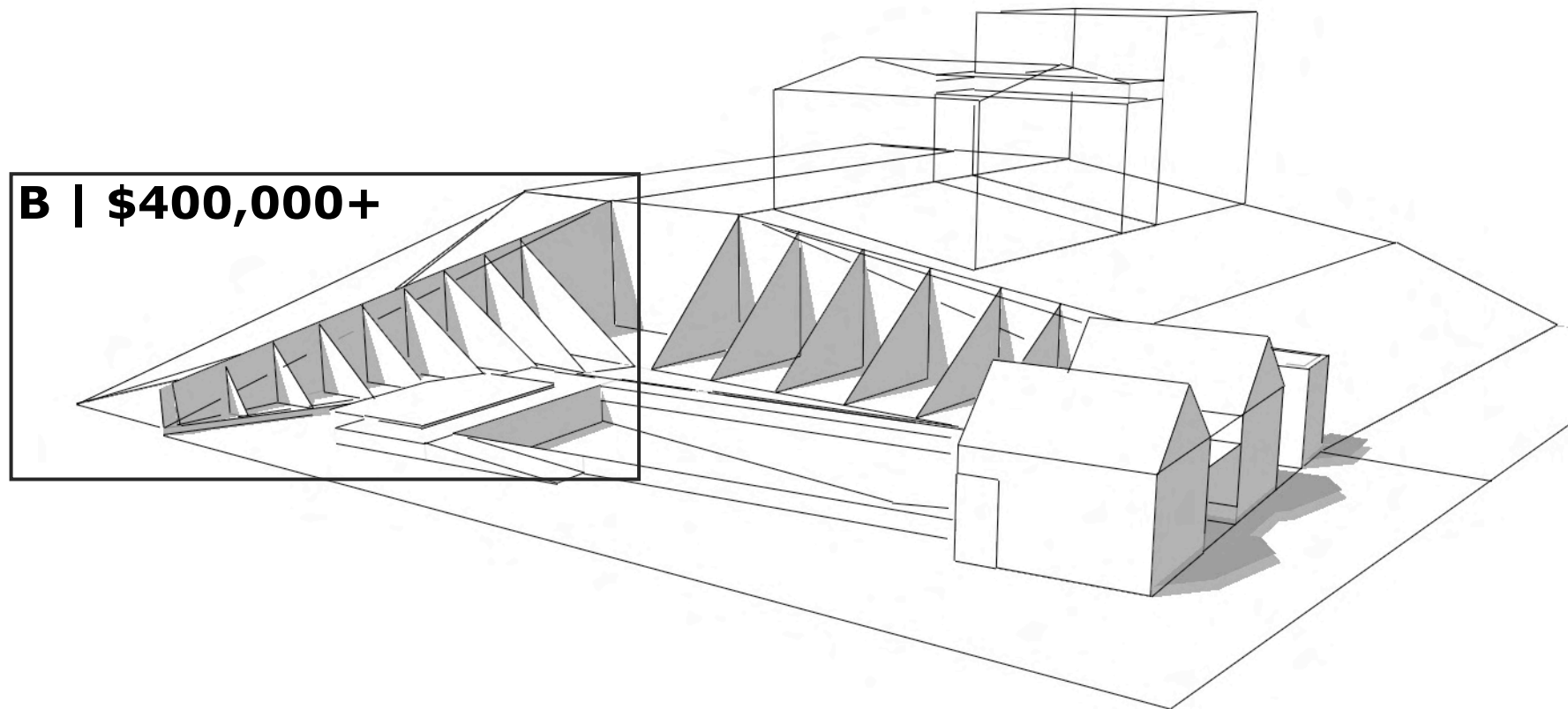
### Solution A

Town formally abandons Queen street at property corner (where erosion is). Land is then split along the centerline with the neighboring properties. The town of Jerome would gain 20' of private land, 300 Queen Street would gain 20' of private land. Conglomerate and Diaz are also abandoned at property edge.

**Cost to taxpayers: Minimal, Total Loss: Administrative time and filing fee with Yavapai County**

\*Needs to be managed and implemented from Town of Jerome within the next three months (for recording purposes)

## Primary Liability Solutions.



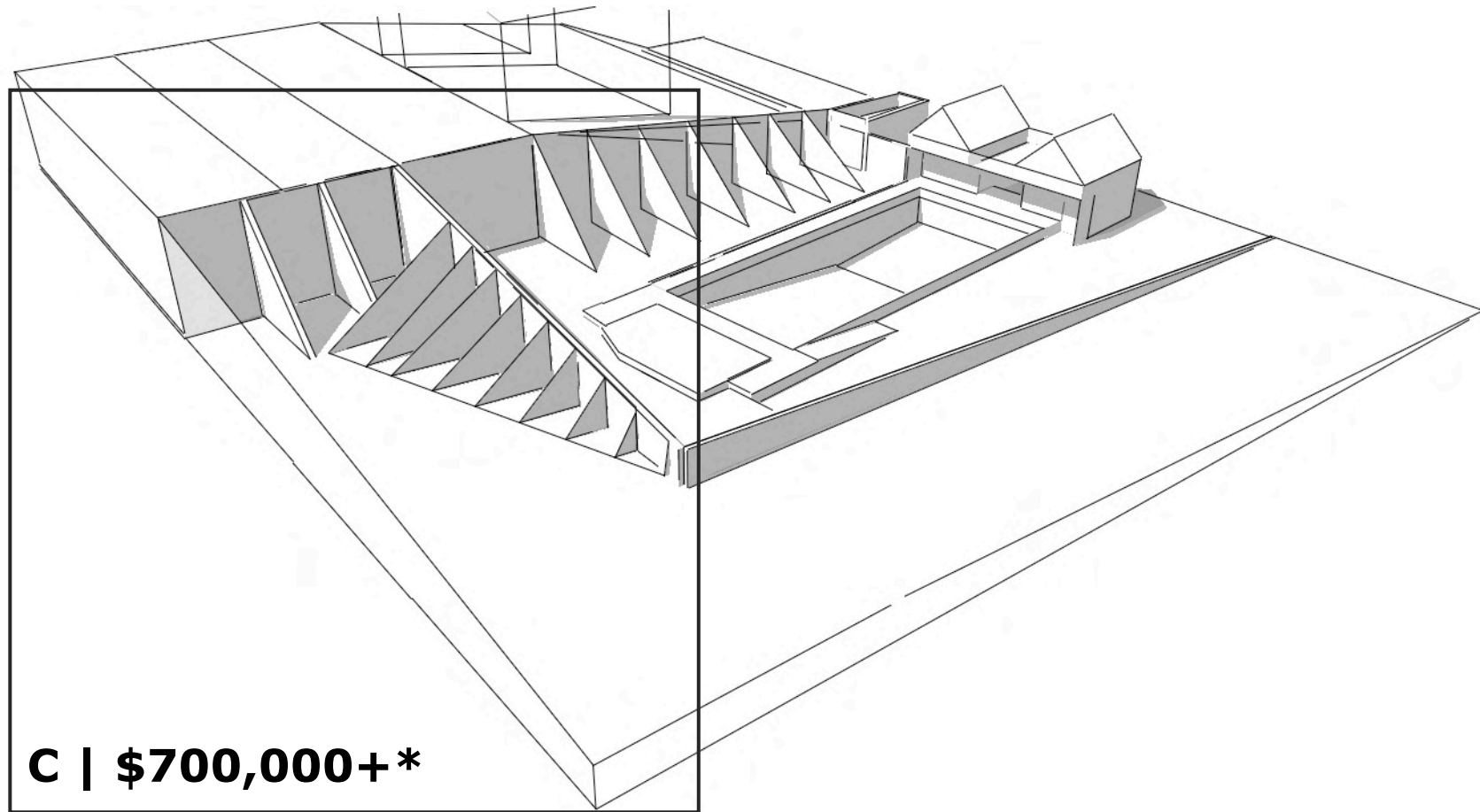
### Solution B

Town funds and builds 1500 sq. ft. Retaining wall (10 inch minimum w/ support struts). Any retaining feature that takes away land from neighboring property owners must be compensated either financially or with appropriate land.

**Cost to taxpayers: \$350-375,000, Annual maintenance and brush clearance. Loss of town-owned land. Total loss \$400K**



## Primary Liability Solutions.



### Solution C

Town keeps Queen and Conglomerate Street as legal streets within Town of Jerome.

Town funds and builds 2200+ sq. ft. Retaining wall (12 inch w/ buttress support struts) along Queen Street and Conglomerate. Also potentially liable for retaining wall along Diaz (town will need to work with UVX directly. Queen and Conglomerate Street to be removed to grade, 21' concrete structural support plus 6' foundations.

**Cost to taxpayers: \$600-650,000, Annual maintenance and brush clearance. Total loss \$700K+**

NB. In 2016 the town was warned repeatedly this would cost at least \$450,000 just for Queen Street repairs.

Queen Street Ends.  
No change in address  
of current properties •

• Guth Property  
(Art Gallery)

Queen Street can  
become pedestrian  
alleyway to  
Conglomerate •

Town works with us  
to create access to  
historic pool property •

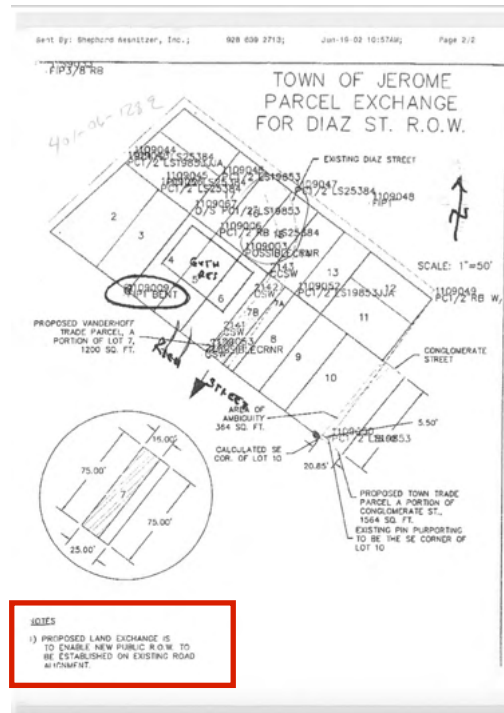
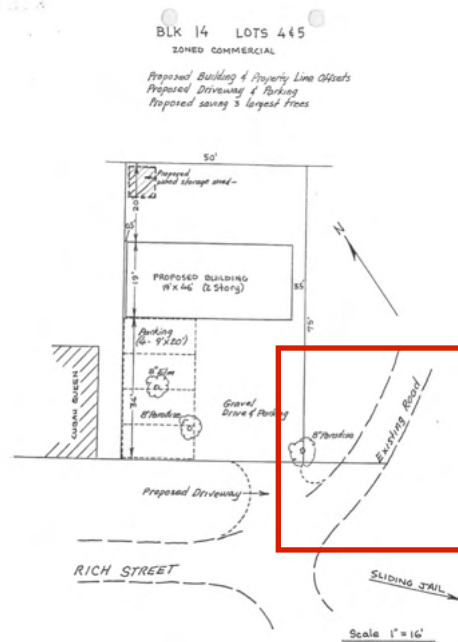
• Full retaining walls funded  
by property owners

300 Queen Street



**4. Formally recognizing the public right of way on Guth property.**

## The Diaz-Queen Connection



300 Queen Street

Guth buys land

Guth initiates a land swap deal with town to create public right of way out of part of conglomerate street.

No record of public hearing or community meeting but deal goes ahead.

Town sells land it legally has no right to sell unless it formally abandons street.

Town allows Guth's to encroach build on land in exchange to keep the newly formed right-of-way. Passes unanimously.

Land from 'swap' shared 50% ownership with Frank Vanderhorst

Guth complains of drainage and street maintenance issues.

Town Council votes to allow Guth to 'temporarily' close road for repairs. Nb. Guth on council and votes.

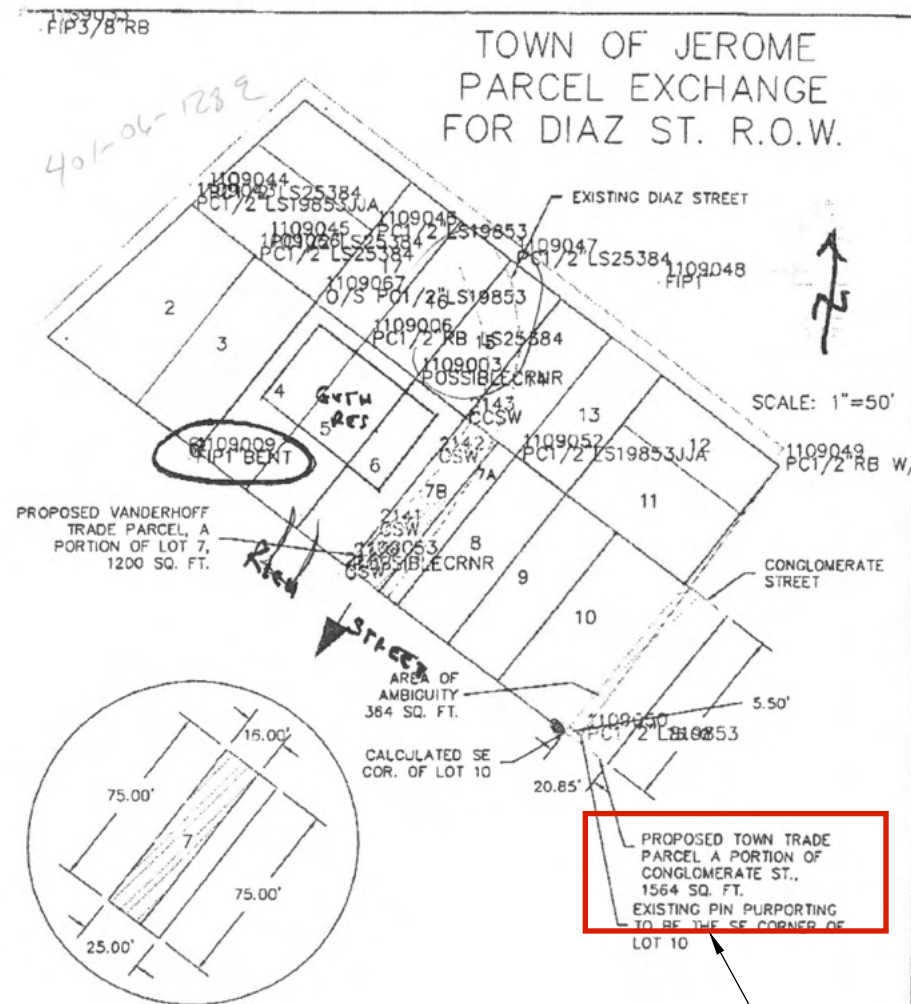


Town never fixes or formally reopens right-of-way but unanimously allows Guth's to have ADA compliant exit for future restaurant. Guth's gain liquor license and town does not object.

As a result the town now needs to maintain an ADA compliant right-of-way. This would mean regrading at 6% slope.

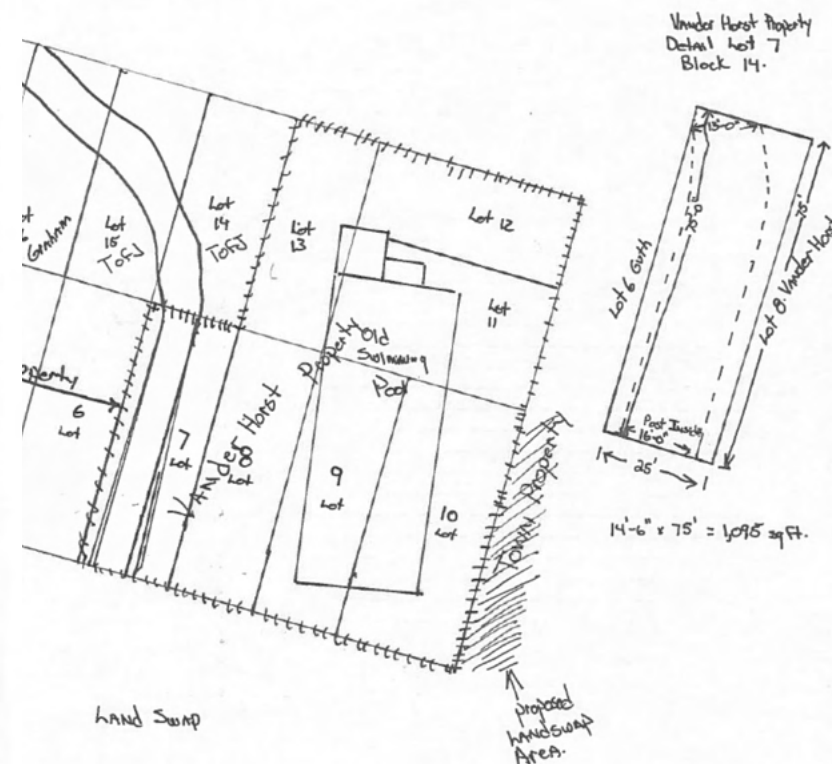
# The Diaz-Queen Connection

Sent By: Shepherd Wesnitzer, Inc.; 928 839 2713; Jun-19-02 10:57AM; Page 2/2



## NOTES

- 1) PROPOSED LAND EXCHANGE IS TO ENABLE NEW PUBLIC R.O.W. TO BE ESTABLISHED ON EXISTING ROAD ALIGNMENT.



- THIS WAS NOT LEGAL. A TOWN CANNOT SELL OR SWAP A STREET TO A PRIVATE CITIZEN IN EXCHANGE FOR A NEW RIGHT OF WAY.

THEN FOUR YEARS LATER THE CITIZEN (AND COUNCIL MEMBER) THEN BUILDS ON



## The Diaz-Queen Connection

Mr. & Mrs. J. E. Guth  
310 Queen Street  
P. O. Box 88  
Jerome, AZ 8633

November 6, 1996



To: Planning & Zoning Commission

Subject: Request to be placed on the Agenda of the next Regular Meeting of the P&Z Commission - Application of 9/12/96 for Addition to Art Gallery "side lot line"

At the Nov. 5, 1996 Regular Commission meeting, discussion was held on the above application concerning the definition of the side lot line between Lots 6 & 7 - see Location (Vicinity) Map and Site Plan, previously submitted. No conclusion was reached. The Commission voted to require us to submit a detailed building plan.

We intend to comply with all requirements of the Commission, and all Ordinances. However, in order to submit our detailed building plan it is necessary for us to know the Commission's position on the subject Lot Line.

As stated at the meeting, we do not intend to cut off the unimproved road used by some of our neighbors and residents down on Diaz Street, although it cuts through 15 feet of the front of our 25 foot wide lot. Nor do we intend to enter into dispute over the legalities of the road.

For your consideration the following Ordinances appear to address the subject:

Sec. 507 "C" - 1<sup>st</sup> ZONE, GENERAL COMMERCIAL.

5. Yards

b. Side Yard:

(1) Where the side lot line is in common with the side lot line of a property in a commercial or industrial zone, no side yard shall be required on that side.

(2) Where a side lot line abuts a street, the side yard shall be considered a front yard for the purpose of determining width.

Article II DEFINITIONS

Sec. 201 STREET - A public or private way permanently dedicated or reserved as a primary means of access to abutting property.

Our position, and we hope that of the Commission, is that since the road has never been dedicated or reserved as a primary means of access to abutting property, no side yard is required on our property (Lot 6). The property owner of Lot 7 obviously has the greater concern with this non dedicated way.

### ITEM #4 QUEEN'S NEIGHBOR GALLERY AND RESIDENCE EXPANSION AT 310 QUEEN STREET #401-06-128

Mr. Jack Guth requests a second review of his site plan and drawings for an expansion of his residence and gallery adjacent to the Cuban Queen structure and across from the Lower Park. His proposal reflects his responses to your earlier preliminary review.

#### Staff Report

Randy Russell reported that he had conducted a site visit, and that his review of the current application packet seemed technically complete and responsive to previous comments and questions by the Commission.

#### Applicant Presentation

Mr. Guth gave a history of the site in context, explained why a road through Lot #7 had been closed, discussed area drainage concerns, described his ownership of parcels and those of close relatives, made some suggestions about future Town efforts to control drainage in the area, showed his parking space allocation and layout with access points, answered questions about maximum building height, and showed plans of the eventual

2

slope of a private driveway accessing the interior of the parcels. There was concern expressed by the Commission about having a drainage plan.

#### Public Comment

Gil Robinson commented that a drainage plan is required as part of a site plan for a building permit, and would be reviewed by the Building Inspector.

#### Discussion and Possible Action

Based on the representations of the Applicant, Motion Margie Hardie, Second Kelley Foy to grant final approval for the expansion of the Queen's Neighbor residence and gallery. 5 'Aye,' No 'Nay.'

#### DRAINAGE

Since the purchase of our land (Lots 4 & 5) in March 1990 two major Town alterations to Town property, abutting ours, have seriously affected the natural drainage onto our property, which now includes Lots 6 & 7, and the Vander Horst - Jay Guth (VH-J) property, which abuts ours on the east side. The first was the major land fill to the Sliding Jail Park (SJP) started in 1995, and the second was the fill at the corner of 1st St. and Queen St. in 2003.

These Town construction projects were never discussed with us, nor were we given consideration of how they would affect the drainage into ours and the adjoining Vander Horst - Jay Guth (VH-J) property.

The SJP parking area was a major construction project using the excavated earth from the renovation of the Grand Hotel. This fill project cut off all previous natural drainage from adjoining properties into the ravine waterway down hill to the east. The elevated new Town parking area, up against ours and VH-J property, except for a narrow unfinished road where the previous Rich St. once was, separates our property from Town property.

The second Town fill project was in 2003 at the corner of 1st St. and Queen St. (formerly Rich St.), which diverted drainage down Queen St. Historically drainage down 1st St. from Hwy 89A continued down 1st St. across Queen St. down the hill through Town property, across Diaz street and into the ravine.

These divergences have caused flooding into ours, the VH-J, and the "Cuban Queen" properties during monsoon periods.

We have had communication with the Town for several years expressing our concerns and offering solutions for correcting the situations (documented). We were told the situation would be corrected - it never has been.

Before this drainage situation, brought on by the Town's construction projects, can be resolved, the drainage problem remains in limbo. Any further delays in our construction will present an additional hardship to us. Therefore we request the Town to take appropriate action to resolve the problem before any unnecessary conflict takes place. We will make ourselves available to discuss the situation and offer agreeable solutions.

In the mean time we wish to receive permission to begin preliminary excavation of Queen St. and our proposed driveway, with Town inspection and approval, so that we will have access to our property for construction (see PARKING).

#### PARKING

The parking space requirement for the existing Queen's Neighbor Art Gallery and Residence, plus the Addition of Gallery, Studio and Guest Suite are as shown of the Upper and Lower Floor Plans.

An ongoing lease of one acre for additional parking has been in effect for four years with United Verde, with the "first right of refusal" if the property is sold. The acre abuts the Vander Horst - Jay Guth property at the County line (proposed Annexation Property). The acre also abuts the end of the proposed driveway, which is jointly shared by Vander Horst - Jay Guth and us.

The leased acre access used for additional parking has been in limbo for over a year because of the Town's speculation for a possible construction and connection of Diaz and Conglomerate Streets. The continued Town delay of plans for location and repair of Diaz St. has handicapped our design and use of the leased acre. Therefore it is not practical to design and develop the additional parking without cooperation from the Town.

It should also be pointed out that not repairing Diaz St. has limited ours and the Town's access to clear the acre of brush and prevent a potential fire to our property and the Town property.

## 1996

Guth's recognized the 'unimproved road' that runs on their property as part of land swap deal.

Guth notes the right of way was never formally dedicated, therefore they do not need a setback onto the road. Permission was granted to build gallery to run along line of alleyway.

## 2000

Guth's given unanimous approval to build gallery next to the 'Queen's Neighbor'. Motion by Margie Hardie, Seconded by Kelley Foy.

Members do not question why Guth, while acting on the council, voted to allow himself to close access right-of-way (and most of Diaz).

## 2002

Guth complains about drainage issues on Queen Street. Notes the towns commitment to fix drainage Queen, the right of way and Diaz.

Guth explains the leased acre from UVX will be used for parking and town needs to maintain and repair Diaz.

**Whoever buys the Guth property must be made aware of public right of way that runs through property and to adhere to legal settlement made with prior owners. If town abandons Queen, Conglomerate and Diaz street, it is legally obligated to provide a public right of way to land owners along Queen and Diaz**



## The Diaz-Queen Connection



300 Queen Street



## 2011: Land swap deal on land that should never have been used as collateral

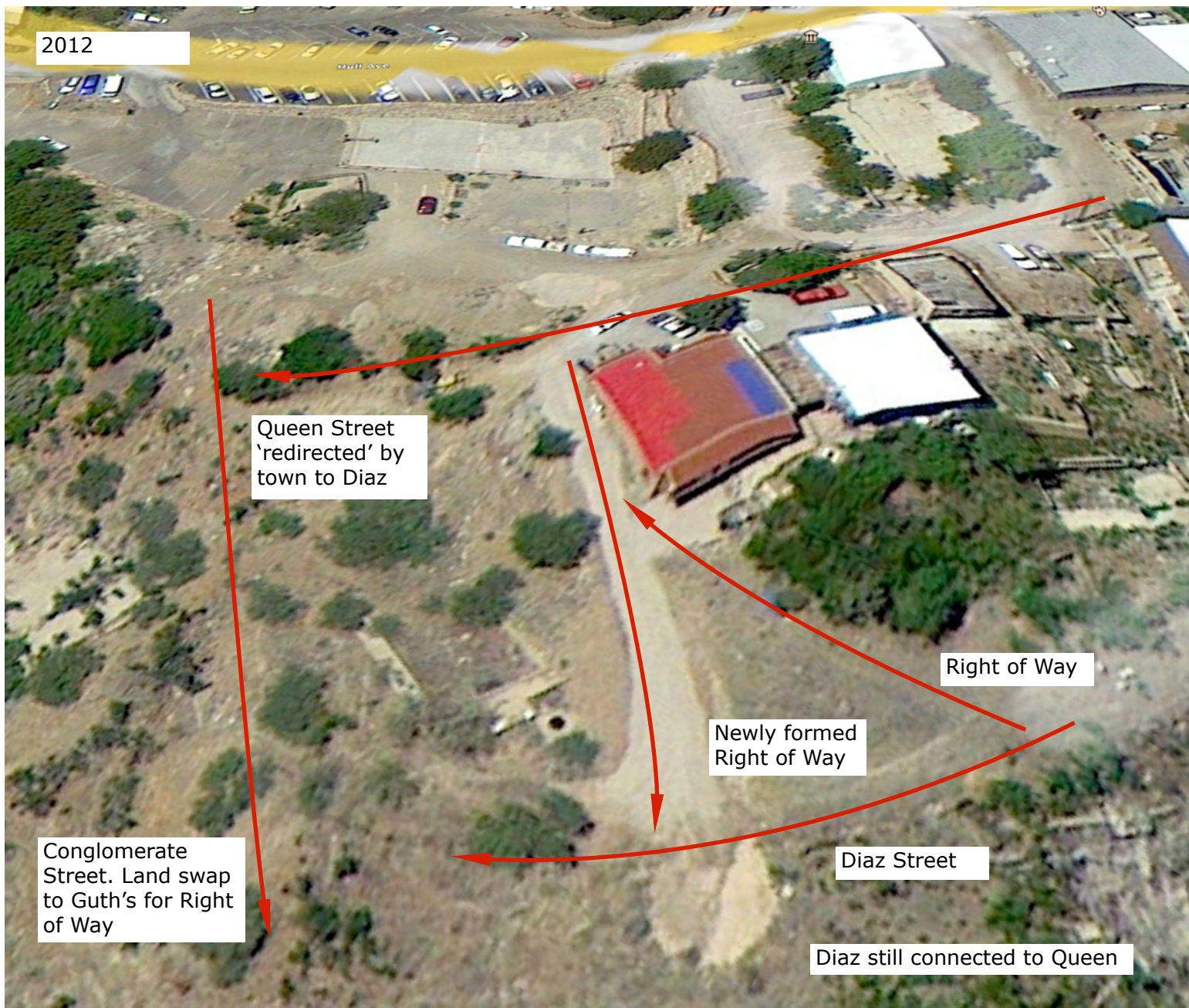


300 Queen Street





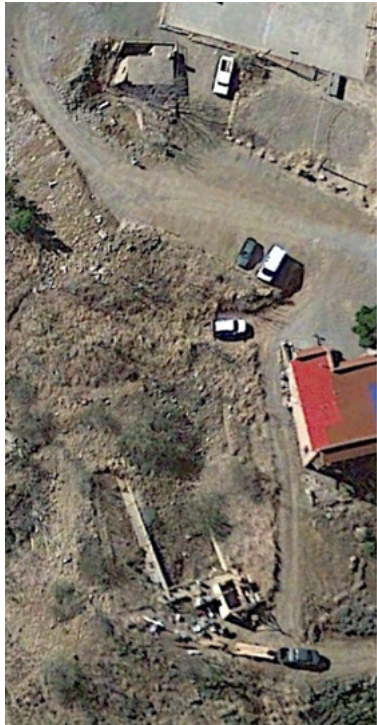
## 2012: Town redirects Queen Street down new right of way to Diaz



300 Queen Street



2014: Town redirects Queen Street again, this time around Sliding Jail for more parking.



300 Queen Street



## 2015: Redirected Queen Street collapses onto UVX, Guth and Vander Horst Properties

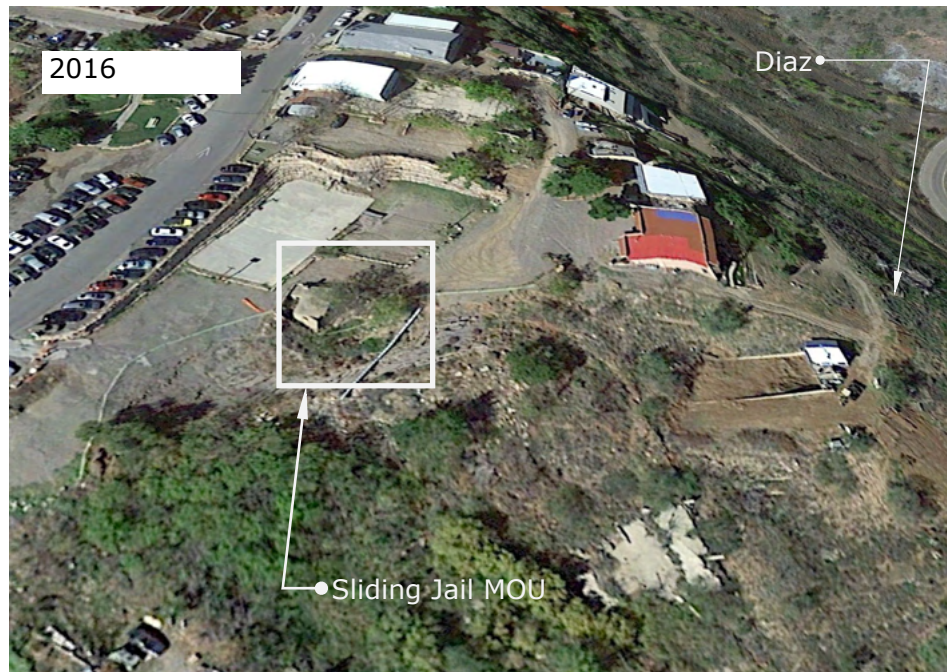


300 Queen Street

During 2015, during the collapse of the parking area into Queen Street, the town council was focused with the 'leaning wall', hiring a zoning administrator and trying to select an engineer. Only when the Jerome Historic Society requested the Sliding Jail back, then TOJ responded.



## 2016: The year the town fought over the Sliding Jail



In 1993 the Local, Regional and State Parks Fund gave \$21,000 to the Sliding Jail Park as part of a \$42,000 grant. Over the years state and federal funds have been appropriated for both the Sliding Jail park and Diaz Street. Then “the slide” happened. There was never a full independent investigation into how the slide happened. Most residents at the time believe it is due to the road being redirected

Instead of focusing on a mitigation plan, the town found itself torn between the Town of Jerome and Jerome Historical Society over the Sliding Jail. The town spent late 2016 debating this issue. In these debates it becomes very apparent that the repairs were not done correctly, despite engineers warnings.

### October 11 2016 (5 YEARS AGO TODAY!)

MOU noted Jerome Historical Society would be obligated to relocate the culvert, and **bear the liability** if the relocation caused damage to adjacent property owners. What ensues is an extremely heated debate between council members, representatives from the Jerome Historical Society and members of the public.

### October 25 2016

Vice Mayor Freund mentions an engineering study **with a \$450,000 cost estimate for repairs**. Freund noted “It is nothing less than good old fashioned western land grab, and the Town would be foolish to relinquish any portion of the property deeded in 1964” explaining that Conglomerate Street and Rich (Queen) Street right-of-ways belong to the Town and the citizens of Jerome”

In this meeting various members of the community explained the poor repair done to the slide area. Jay Kinsella noted in-fill was done with huge red rocks taken from the Grand Hotel, asphalt, concrete, dirt projects and everything else. Denise Guth, a Jerome resident, asked “Why is this MOU so far reaching? Why isn’t it focused on the problem issue?” Jane Moore recommended selling land in Clarkdale to fix collapse around and below sliding jail. During an earlier meeting on the town budget Moore asked about the possibility of using some of the money from the increased taxes to fix the subsidence. Mayor Currier says **“When the lawsuits start coming down, we will be the target, so we have to be careful about what we do.”** When Mayor Currier asked three times if any Council member wished to make a motion on this issue. No one spoke. Motion was tabled.

**November 10 2016** Meeting on MOU abandoned. Mayor Vanderhorst noted he owns property near the slide area, “and the dirt from the sliding jail is about to hit my property, so I will have to recuse myself.” Quorum is broken. Motion is tabled.

[https://www.jerome.az.gov/documents/76/2016-10-25\\_special\\_meeting\\_CBG\\_edit.pdf](https://www.jerome.az.gov/documents/76/2016-10-25_special_meeting_CBG_edit.pdf)

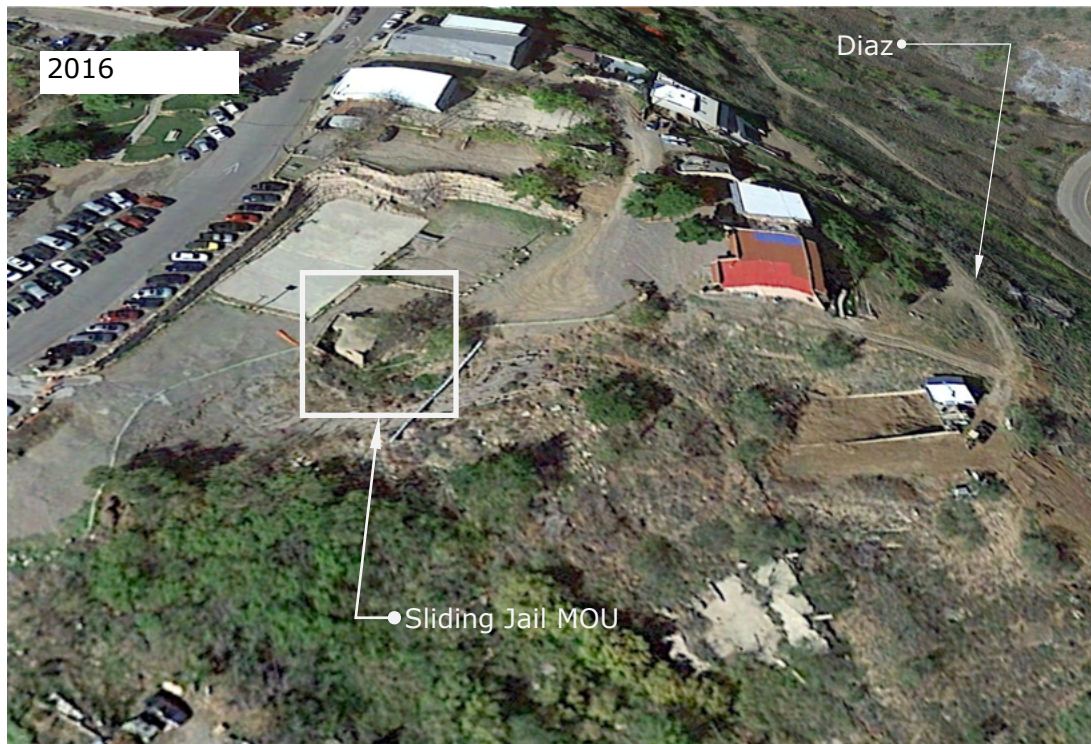
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[https://d2umhuunwbec1r.cloudfront.net/gallery/asp-archive/publications/downloads/2013\\_SCORP\\_Appendices.pdf](https://d2umhuunwbec1r.cloudfront.net/gallery/asp-archive/publications/downloads/2013_SCORP_Appendices.pdf)

## 2016: The year the town kept fighting (MOU passes 2-1)



### December 13 2016

Mr. Currier said that he visited the slide area 10 days ago from Mayor Vander Horst's property. Mr. Vander Horst's survey marker has been buried by the slide. Currier noted "We don't want to go to court," he said, "but we all would like to see that area cleaned up."

"The drainage study looked at that area and said, for \$450,000, we can fix this thing well. I believe what they were talking about is going down to bedrock and reconstructing the hillside. So, that was the long-term plan as soon as we've come up with \$450,000."

Council-member Barber said. "If the Historical Society takes it over, is it their liability if it falls on Frank's property?"

"Yes," Councilmember Currier replied.

Mike Harvey asked if we are going to change the form of the land. He said that he has done construction his entire life, and the only way he's seen this resolved is by terracing or **putting in a retaining wall**. Mr. Harvey added that he believes the liability is on Phelps Dodge.

Mr. Harvey mentioned the water that runs down First Avenue "**that is running into the pool,**" and said that he believes that the parking that had been put in has caused the change in the flow of the water, and that he believes the Town should consider that because the liability there would be on the Town. Council-member Bachrach said, "Mr. Vander Horst's swimming pool area is definitely threatened." **Mr. Sims noted the town does have exposure.**

### December 27 2016 - Sliding Jail MOU (passes 2-1 with 2 abstaining)

"I don't want to sign an MOU that is going to put a bunch of cars back on there after **three of our engineers have told us not to do that**"  
Mayor Alex Barber

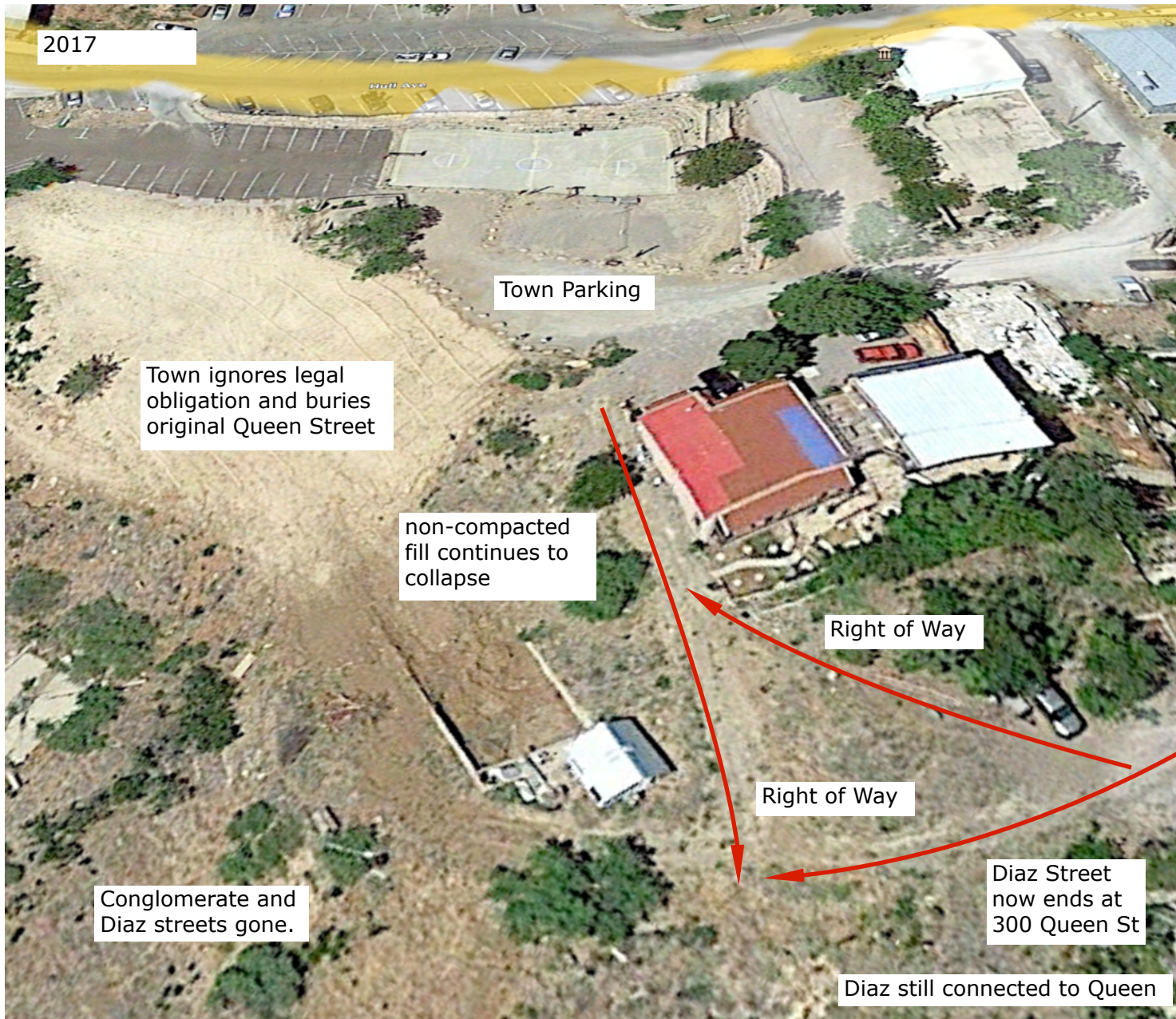
"There is a moral aspect here, and that's the issue we're both concerned about." Sage Harvey (private resident)

"When the slide occurred, the engineers had told the Town to wait... **...who would be liable?**" Jane Moore (private resident)

Town gives Sliding Jail back to JHS who does repairs and protects only Sliding Jail (as was its' right) but not the rest of the subsidence area.



**2017: Town ignores engineers, JHS and legal obligations. Buries Queen Street and cuts off Conglomerate & Diaz**



300 Queen Street



4/2021

Town Parking

Queen Street gone.

Right of Way

Diaz still connected to Queen

Conglomerate and  
Diaz streets gone.

Diaz Street ends

Town of Jerome zoning administrator and town council notes that Queen Street, Conglomerate and Diaz are all active streets. Only residents of 300 Queen Street were required to use setback regulations based on these live roads..

Town council members pressure property owners to assume liabilities from actions taken by Town from 1993 to 2017.

In making owners of 300 Queen Street use setbacks from 'live streets' the town

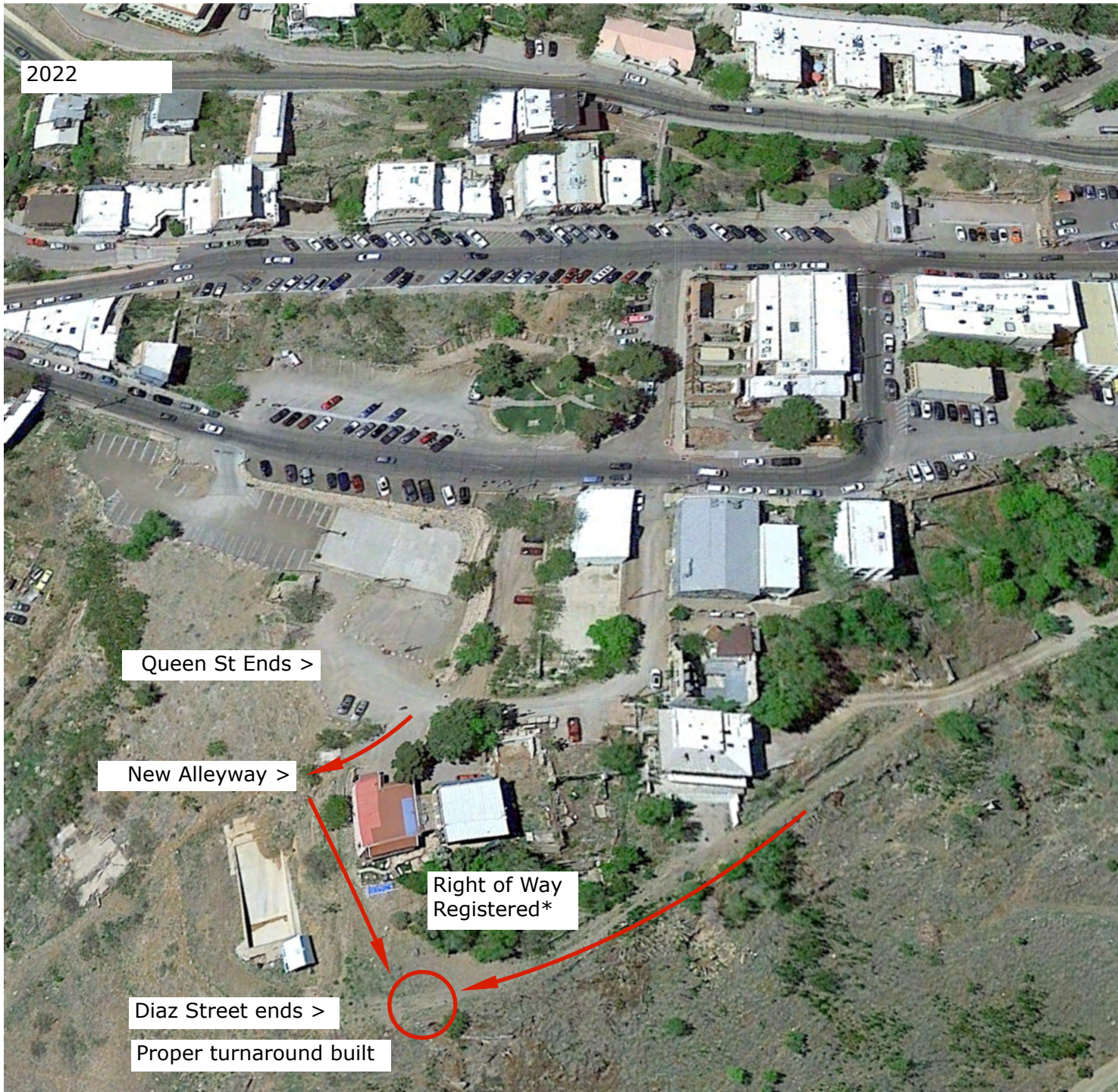
300 Queen Street



## Current Responsibilities on Diaz







## Solution A (Page 30) Minimal Cost To Town

For over 8 years the Public Works Department has treated the areas below the parking area as private roads only. Therefore little to no maintenance has been done to date.

You have the opportunity to do nothing, abandon ghost street and register the right of ways. Saving the town upwards of \$3/4M and annual upkeep.

\* pedestrianized with vehicle access to abutting properties only

300 Queen Street



## 4. An idea to support pedestrian-centric and dog friendly Jerome.

301.C.2 - Prior to publishing a petitioned Zoning Map change, the Planning and Zoning Commission may, on its own motion, delimit or extend the boundaries of such area, so as to constitute a more reasonable zone district boundary.

301.C.3. The Planning and Zoning Commission may on its own motion propose any amendments to this ordinance and map. After holding a public hearing as required by this section, the Commission shall either:

a. Transmit such proposal to the Council which shall thereupon proceed as set forth herein for any other amendment, or

b. Vote to quash the Commission initiated proposal, in which case no further action need be taken by the Commission or Council.

## A vision for a safer and more resilient Jerome.

### 1. Pedestrianize unsafe roads

Pedestrianize all areas around the 'Queen Street' District. Streets uses only pet friendly paving with potential of dog park south of Diaz Street.

Paid for by Queen Street Alliance and current federal funding for Diaz Street.

### 2. Abandon Ghost Streets

Limit the liability on the town budget and future litigation by formally abandoning 'ghost streets'.

### 3. Limit Vehicles in Slide Zones

Queen and Diaz Street to become car access for residents and emergency vehicles only.

### 4. Diversify visitors

Less day-trippers and 'ghost' related tourism for more diversified visitors. Embrace artist residencies

### 5. Encourage commerce for residents

Town should create tax incentives/breaks for business owners who cater to local residents.

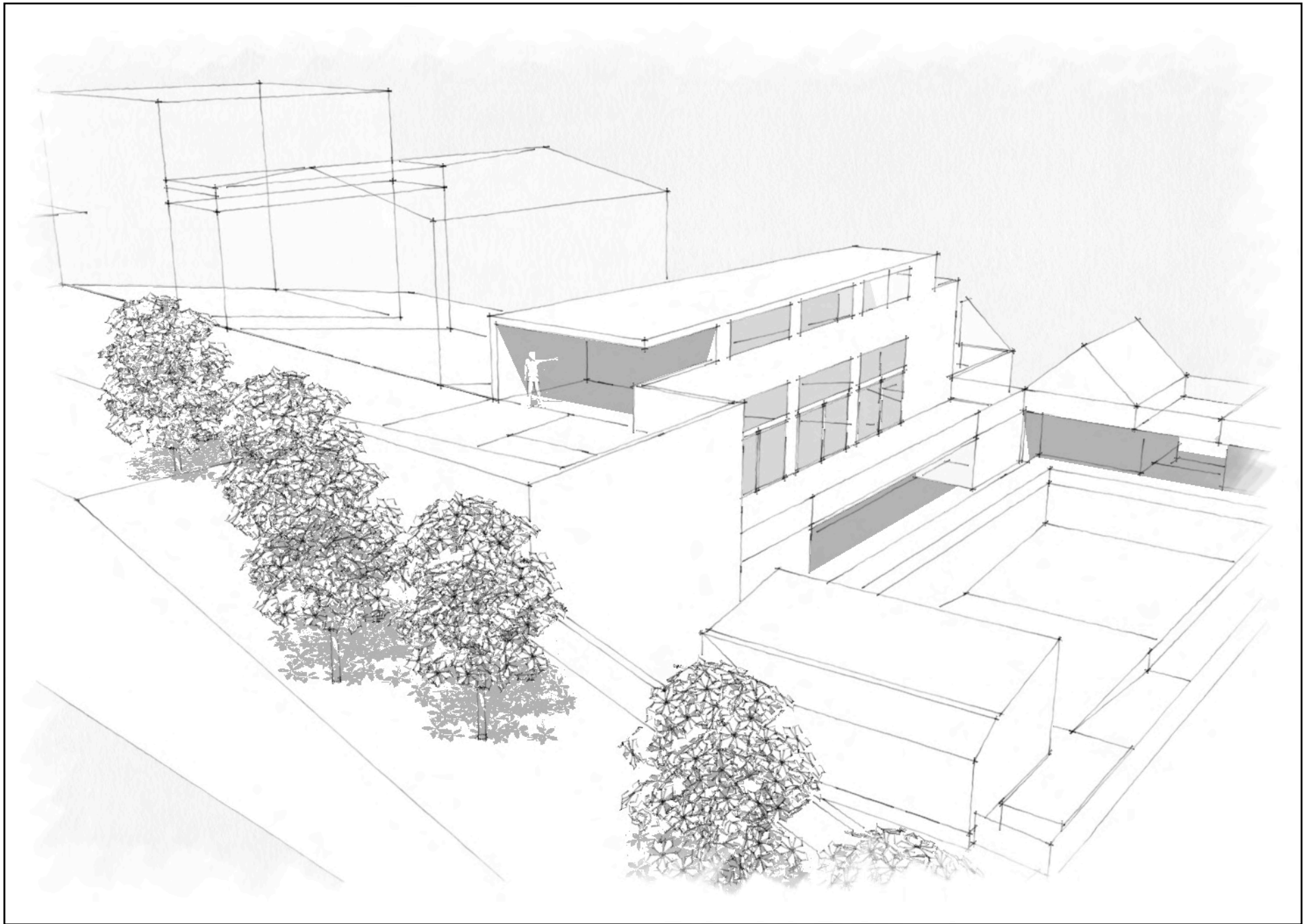
### 6. Build Workforce Housing

The town has been exploring affordable and workforce housing on a lot it owns in Clarkdale. This lot was originally gifted as a cemetery during the Spanish Flu. By selling this property the town could build a dozen homes in town for the local workforce.

However the surrounding land owners have offered land to build housing inside and adjacent to the town limits. By using existing foundations, we could build housing at a fraction of the price for the town's workforce.







*"Respect for the past, looking forward to the future"*