



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Development Services, Real Estate

ACM: Cassandra Ogden

DATE: March 19, 2024

SUBJECT

Consider adoption of an Ordinance of the City of Denton providing for the abandonment, relinquishment, and quitclaim of 1) a 0.106 acre tract and a 0.184 tract, both areas being portions of the Public Utility easement granted to the City of Denton by Allegiance Hillview, L.P., a New York limited partnership recorded by County Clerk file number 2008-11630, Real Property Records, Denton county, Texas and 2) a 1.088 acre tract being a portion of the waterline easement granted to the City of Denton by Allegiance Hillview, L.P., a New York limited partnership recorded by County Clerk file number 2008-11630, Real Property Records, Denton County, Texas; providing for the quitclaim thereof to Home Depot U.S.A. Inc., a Delaware corporation; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the indemnification of the City of Denton against damages arising out of the abandonment herein; providing for the consideration to be paid to the City of Denton; providing for severability and an effective date.

BACKGROUND

Home Depot U.S.A., Inc., a Delaware corporation ("Owner"), is the record owner of Lot 11, Rayzor Ranch North and has requested the City of Denton to abandon and release two areas (0.106 acres and 0.184 acres) of its Public Utility Easement and 1.088 acres of its Waterline Easement encumbering its property ("Subject Easement"). Said Lot 11 is located east and adjacent to I-35N and is north of US 380 aka University Drive.

The Subject Easements requested for abandonment were established in 2008 for the benefit of the Rayzor Ranch North Addition, Recorded by County Clerk File number 2008-127846, Plat Records, Denton County, Texas. The intent of the Subject Easements was required to serve the utility interests of the developing area. The subject Lot was not developed upon and only the public utilities were constructed within the Lot.

In 2022 Home Depot purchased the subject Lot with the intent to fit its building within the lot. In order to do this the existing public facilities, needed to be relocated to different areas so that the slated building and public improvements would not be in conflict. The Owner submitted Construction Plans for the relocation of the Public Facilities and has conveyed new easements for them to be located within. All public improvements for the Development have been approved and accepted by City Staff. With the acceptance of the Public facilities the, the need and purpose of the Subject Easements have dissolved and are no longer necessary for the benefit of the Public.

Additionally, to make note, the Owner has constructed public sanitary sewer improvements at a cost of \$59,650.00, and public water improvements at a cost of \$223,860 for a total estimated cost of \$ 283,510.00 in public improvements made for the development of Lot 11, Rayzor Ranch North Addition aka "The Home

Depot at University”. And with the constructed public improvements, the Owner has dedicated by separate instrument and by Replat, new easements for the approved public infrastructure.

In accordance with Texas Local Government Code, section 272 an independent appraisal of the Subject Easements area was provided by the Owner and it lists the fair market value at Four Hundred Fifty Thousand, Three hundred One Dollar and 00/100 Dollars (\$450,301.00).

Staff recommends abandoning and releasing the Subject Easements at no cost to the Owner as the area has been developed in such a manner that the Subject Easements are no longer necessary to address the previous public improvements on the property or for any current or future public utility projects.

Staff performs an analysis on the request for abandonments as follows:

- Is the Easement considered “excess easement”? Excess easement is defined as: Property rights acquired or used by the City but later deemed not needed for any public project, the continuation of operation and maintenance of public infrastructure, and/or no foreseeable public improvements in the future.
- Does the easement have a current, continued, or identified future public use?
- Is it in the best interest of the public to abandon the City’s rights in the easement?

Staff findings on this analysis are as follows:

1. The requested public easement areas known as the Abandonment Area, does fit the criteria of “excess easement.” Excess easement is defined as: Property rights acquired or used by the City for easement subsequently declared excess (not needed for any public utility project, the continuation of operation and maintenance of public utilities, and/or no foreseeable public utility improvement applications in the future).
2. No, the public easement Abandonment Areas are not slated for utilization for any future public utility facilities.
3. Abandoning easement Abandonment Area is in the public’s best interests, because the area is no longer needed for public facilities and the area encumbered can be freed up for other uses.

If a Council member determines that he or she has a conflict of interest pursuant to the Ethics Ordinance, he or she may contact the City Attorney’s Office to have a Recusal Form prepared prior to consideration of this agenda item.

OPTIONS

1. Approve proposed ordinance
2. Decline to approve proposed ordinance

RECOMMENDATION

Staff recommends approval of the Ordinance.

ESTIMATED SCHEDULE OF PROJECT

Spring of 2024

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

N/A

FISCAL INFORMATION

All costs associated with the processing of the abandonment request are being borne by the Applicant.

EXHIBITS

Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Location Map

Exhibit 3 - Site Map

Exhibit 4 - Secretary of State Corporation members list

Exhibit 5 - Ordinance

Respectfully submitted:

Deanna Cody, Deputy Director

Development Services-Real Estate

Prepared by:

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Senior Real Estate Specialist