



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 a 1.287 acre Public Utility Easement granted to the City of Denton by Selwyn School, a corporation organized and maintained under the laws of the State of Texas recorded by County Clerk file number 1986-4670, Real Property Records, Denton County, Texas; providing for the quitclaim thereof to DIN1 Land Ltd, a Texas limited partnership; 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

DIN1 Land ("Owner"), is the record owner of Lot 1, Block A, Selwyn School Addition and has requested the City of Denton to abandon and release its Public Utility Easement encumbering its property ("Subject Easement"). Said Lot 1 is located west of I-35N and is adjacent to and south of US 380 aka University Drive.

The Subject Easement requested for abandonment was established in 1986 for the benefit of the Selwyn School, Recorded by County Clerk File number 1986-4670, Real Property Records, Denton County, Texas. The intent of the Subject Easement was to serve the utility interests of the school only, however records indicate that only a sanitary sewer line was ever constructed within the easement.

In 2022 the Lot was purchased by DIN1 Land Ltd., a Texas limited partnership and demolished the school for the benefit of a new Commercial development. New buildings have been erected on site and the previous sanitary sewer line have been removed. New Public sanitary sewer improvements have been constructed and located within a newly conveyed Public Sanitary Sewer Easements. All public improvements have been approved and accepted by City Staff. And with the addition of the new sanitary sewer improvements, the need and purpose of the Subject Easement has been dissolved and is no longer necessary for the benefit of the Public.

Additionally, to make note, the Owner has constructed public drainage improvements at a cost of \$62,080.00, public sanitary sewer improvements at a cost of \$252,950.00, and public water improvements at a cost of \$111,389.00 at a cost of \$356,495.60, for a total estimated cost of \$ 426,419.00 in public improvements made for the development of the Selwyn School Addition aka "West University Industrial". And with the constructed public improvements, the Owner has dedicated by separate instrument new easements for the approved public infrastructure.

In accordance with Texas Local Government Code, section 272 an independent appraisal of the slated Abandonment Area was obtained. The fair market value of the abandonment area was appraised at One Hundred Thousand Dollars and Zero Cents (\$100,000.00).

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 Easement is no longer necessary to address previous public utility 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 utility easement area 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 utility easement Abandonment Area is 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 utilities 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

Prepared by:
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Respectfully submitted:
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Development Services-Real Estate