



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 0.784 acre portion of an Electric Easement granted to Brazos River Transmission Electric Cooperative, Inc., by County Clerk file number 1949-4017, Deed Records, Denton County, Texas and assigned to the City of Denton by County Clerk file number 1990-9563, Real Property Records, Denton County, Texas; providing for the quitclaim thereof to Mayhill Road Associates, LLC., a Texas limited liability company; 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

Mayhill Road Associates, LLC., a Texas limited liability company ("Owner"), is the record owner of 32.775 acres slated for the future development known as the Mayhill Multifamily Development Addition and has requested the City of Denton to abandon and release its Public Electric Easement encumbering its property ("Subject Easement"). Said 32.775 acres is located westerly and adjacent to Mayhill, north of Colorado Boulevard, south of Spencer Road and is west of the City Landfill.

The Subject Easement requested for abandonment was established in 1947 for the benefit of Brazos River Transmission Electric Cooperative, Inc. "Brazos" by way of an Electric Easement from M.A. Haggard and wife Wilma Haggard, recorded in Volume 357 Page 54, Deed Records, Denton County, Texas. After that time the City of Denton purchased the Electrical improvements and easements from Brazos in 1990 drawing funds from the Electric Bond funds. At the time of purchase the City was assigned the subject easement by way of an Assignment from Brazos Electric Power Cooperative, Inc., to the City of Denton, recorded in Volume 2736, Page 825, Real Property Records, Denton County, Texas. The intent of the Subject Easement was to serve the electrical interests of the area of the time.

In 2021 the Owner purchased the 32.775 acres with the intent to develop the area for multi-family use. The proposed development has received approval of its Preliminary Plat "PP23-0014" and its Zoning Compliance Plan "ZCP22-0036", and its Civil Engineering Plans "CEP23-0046" are currently under review by Staff. Since the subject easement is slated for Electrical improvements only, City Staff has received confirmation from Denton Municipal Electric that the previous electrical improvements have been removed from the site and that the easement is no longer needed for any current or future Electric Transmission Project.

In accordance with Texas Local Government Code, section 272 an independent appraisal of the slated Abandonment Area was obtained. The fair market value at Eighty-Six Thousand One Hundred Three and 00/100 Dollars (\$86,103.00); and

Staff recommends abandoning and releasing the Abandonment Area upon payment of the appraised fair market value of Eighty-Six Thousand One Hundred Three and 00/100 Dollars (\$86,103.00) as the City acquired the easement and other electrical improvements in 1990 from Brazos River Transmission Electric Cooperative using Electric Bond funds of the Five-Year Capital Improvement Plan.

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 electric 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 electric transmission project, the continuation of operation and maintenance of public utilities, and/or no foreseeable public electric transmission improvement applications in the future).
2. No, the public electric easement Abandonment Area is not slated for utilization for any future public electric transmission facilities.
3. Abandoning easement Abandonment Area is in the public’s best interests, because the area is no longer needed for public electric transmission 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

Prepared by:
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Respectfully submitted:
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Development Services-Real Estate