



## Legislation Text

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**File #:** ID 17-407, **Version:** 1

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**DEPARTMENT:** Capital Projects

**ACM:** Jon Fortune

**Date:** April 18, 2017

### **SUBJECT**

Consider adoption of an ordinance abandoning and vacating 0.025 acre of Hickory Street, as dedicated by The Original Town of Denton Texas plat as recorded in Cabinet A Page 200, Plat Records, Denton County, Texas and as conveyed to the City of Denton as recorded in Volume 341, Page 527 of the Real Property Records of Denton County, Texas, and located in the H. Cisco survey, Abstract No. 1184, to resolve the building encroachment within Hickory Street; and declaring an effective date. [Partial abandonment of Hickory Street - adjacent to and the front of the Denton Record Chronicle Building located along Hickory Street]

### **BACKGROUND**

Headliner Investments, Ltd., property owner of 314 E. Hickory Street, has made a formal request for the City of Denton to abandon a portion of Hickory Street as it affects its building that encroaches into said Street. The property owner purchased the property in May of 2016 from Denton Publishing Company. During the transaction it was discovered that a portion of the existing building encroached into the right-of-way Hickory Street. The property owner then contacted City Staff to discuss the encroachment issue. At that time Staff recommended they define the abandonment tract and request an abandonment by way of the formal City Right-of-Way Abandonment process. In order to resolve and cure the encumbrance, the property owner is requesting a portion of Hickory Street be abandoned.

In 1947 the main parent building on the property was erected. An addition to the facade of the main building was made in 1971 which created the Hickory Street encroachment. It was discovered in May of 2016 that the front portion of building has been in its current configuration and has encroached into the right-of-way of Hickory Street since 1971. The building site is also known as the Denton Record Chronicle building, which was previously owned by Denton Publishing Company. The current property owner, Headliner Investments desires to retain the building frontage without demolition to the building. In order to resolve the encroachment issue without demolition, the property owner is inclined to purchasing the subject abandonment tract from the City of Denton.

The abandonment tract is a combination of a 1947 conveyance and a portion of the original 80 foot Hickory Street 1857-1858 right-of-way dedication. The 1947 conveyance was from Mrs. Etta Johnson Barnhart and husband H. Daniel Barnhart, and J. Holford Russell and H.B. Newman to the City of Denton as recorded in Volume 341 Page 527, Deed Records, Denton County, Texas. The portion of the 80 foot right-of-way dedication was by the Original Town of Denton Texas plat as recorded in Cabinet A Page 200, Plat Records, Denton County, Texas. Both areas are encroached upon by the existing building as shown by the attached

boundary survey exhibit 2. The total area of the abandonment tract is 0.025 acres and is approximately 5.75 feet wide by 187.90 feet long.

The Hickory Street area was recently enhanced with public improvements by the Hickory Street Grand project and the subject abandonment tract was not required for the project. The abandonment tract is not planned for any future public projects. No public or franchised utilities exist within the subject right-of-way abandonment tract. The abandonment tract will have no impact regarding traffic and pedestrian mobility for the area. The abandonment tract was appraised by certified real estate appraiser which staff and petitioner mutually agreed upon to utilize. The Appraiser valued the abandonment tract at \$21,600.00.

Staff recommends the approval of the abandonment upon the condition that the applicant pay the City of Denton the appraised amount of \$21,600.00.

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

- Is the right-of-way tract requested for abandonment considered “excess right-of-way?”
- Does the right-of-way tract that is requested for abandonment have a continued public use?
- Is it in the best interest of the general public to abandon the government’s rights in the subject abandonment tract?
- Would the granting of this request establish a precedent for right-of-way abandonment for future requests?

Staff findings on this analysis are as follows:

1. The requested right-of-way abandonment tract fits the criteria of “excess right-of-way.” Typically, excess right-of-way is defined as: Property acquired or used by the City for right-of-way subsequently declared excess (not needed for any public project, the continuation of operation and maintenance of public facilities, and/or no foreseeable utility application in the future). In this situation with the property owner is resolving an encumbrance that has affected its property since 1971. Also the abandonment tract has not been utilized by the public for general public use, i.e., vehicular / pedestrian travel or placement of franchise utilities.
2. The right-of-way abandonment has not been utilized and has no future general public use, i.e., vehicular / pedestrian travel or placement of franchise utilities.
3. The right-of-way abandonment is in the public interest, because the area for the subject abandonment is not needed by the general public or franchise utilities.
4. This abandonment will not set precedent, because the above three standards have been met.

## **OPTIONS**

1. Approve the proposed ordinance.
2. Not approve the proposed ordinance.
3. Table for future consideration.

## **RECOMMENDATION**

The Development Review Committee recommends approval of this request.

## **ESTIMATED SCHEDULE OF PROJECT**

Spring of 2017.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

Development Review Committee recommended approval on January 26, 2017.

**FISCAL INFORMATION**

Staff recommends the sale of the abandonment tract to the property owner for the appraised value of \$21,600.00.

**STRATEGIC PLAN RELATIONSHIP**

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

**Related Key Focus Area:**     **Public Infrastructure**

**Related Goal:**                **1.1 Manage financial resources in a responsible manner**

**EXHIBITS**

1. Location Map
2. Boundary Survey, 314 E. Hickory Street
3. Applicant project narrative letter
4. Real Estate Appraisal
5. Ordinance

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