

ORDINANCE NO. 2021 - _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING ORDINANCE NO. 2021-55, AUTHORIZING ABADONMENT OF 0.366 ACRES OF PUBLIC STREET RIGHT-OF-WAY LOCATED BETWEEN SOUTH GILBERT AVENUE AND THE TERMINUS OF TOLLE STREET; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels, Texas, at the request of IAKOBO Four LP, approved the abandonment of a 0.366 acre tract of land, more or less, being public street right-of-way, located between South Gilbert Avenue and the terminus of Tolle Street, and said street right-of-way being in the City of New Braunfels, Texas; and

WHEREAS, after determining that there is no need for the City of New Braunfels or any other surrounding property owners to retain the street right-of-way, the City Council of the City of New Braunfels took action to approve the release of right-of-way property to IAKOBO Four LP in the proper and legal manner; and

WHEREAS, the fair market value of the land was determined to be ONE HUNDRED TWO THOUSAND DOLLARS and NO CENTS (\$102,000.00), and

WHEREAS, after considering adjustments to the appraised value, the City of New Braunfels and IAKOBO Four LP accepted the fair market value of the land to be ONE HUNDRED TWO THOUSAND DOLLARS and NO CENTS (\$102,000.00) and thus by making the sale of the land to the abutting property owner, the City of New Braunfels will be complying with all sections of said Chapter 253, Section 253.001, and that the sale of said land in this particular instance has been determined by a fair appraisal and is conclusive of the fair market value thereof; and

WHEREAS, the City of New Braunfels, having received a request from IAKOBO Four LP petitioning the City of New Braunfels to consider an amendment to Ordinance No. 2021-55, Section 1 and Section 2-3; pertaining to the requirement to execute a Deed Without Warranty within 120 days of approval of the right-of-way abandonment ordinance; and

now, therefore:

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS,
TEXAS**

SECTION 1

That the City of New Braunfels, acting by and through its City Manager shall execute a Deed Without Warranty to IAKOBO Four LP, conveying all of its right, title and interest in and to the public right-of-way and all rights in and to a 0.366 acre tract of land, more or less, being public street right-of-way located between South Gilbert Avenue and the terminus of Tolle Street, and said street right-of-way being in the City of New Braunfels, Texas. A survey of the property to be conveyed is attached as Exhibit 'A' and is described in the attached Exhibit 'B'. If said Deed Without Warranty is not executed within one hundred and eighty (180) days of the second and final reading of this ordinance, this ordinance shall become null and void and a new application for abandonment shall be required.

SECTION 2

That the following conditions apply to the said abandonment:

1. The subject property must be included within a plat with at least one of the adjacent properties owned by the applicant in compliance with the City's Subdivision Platting standards.
2. The plat shall include the following easements:
 - a. A minimum 15-foot wide Utility Easement along the southeast side of Tolle Street from Gilbert Avenue to the condominiums for electric infrastructure;
 - b. A 20-foot wide Utility Easement for the existing water infrastructure;
 - c. A 20-foot wide Utility Easement for the existing wastewater infrastructure;
 - d. A minimum 24-foot wide vehicular access easement from South Gilbert Avenue to the condominium project (Lot 1R, Summer Home Subdivision) and 454 Tolle Street (North 62 feet of Lots 4 and 5, City Block 1044); and
 - e. A minimum 10-foot wide pedestrian access easement from Gilbert Avenue to the condominium property. To be included on the plat or by separate instrument if located outside the plat boundary.
3. Ownership transfer will occur after the final plat has been approved by a Deed Without Warranty, which must be executed within 180 days of the second and final reading of this ordinance.
4. Recordation of the final plat will occur subsequent to the transfer of ownership of the property.

5. Amend the Parking by Permit Ordinance to delete this street section once abandoned.
6. Provide signage at the new terminus of Tolle Street stating “City maintenance ends here” unless otherwise authorized by staff through the permitting process for the reconstruction of the abandoned roadway into a parking lot.
7. The applicant shall utilize low impact development (LID) techniques in the water quality control treatment to minimize stormwater runoff as part of the redevelopment of the right-of-way into a parking lot.
8. New development, including a parking lot, shall be developed in compliance with development standards in place at the time of permit issuance.

SECTION 3

That all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 4

That all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 5

That if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 6

THIS ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this 22nd day of November, 2021.

PASSED AND APPROVED: Second reading this 13th day of December, 2021.

CITY OF NEW BRAUNFELS

RUSTY BROCKMAN, Mayor

ATTEST:

CAITLIN KROBOT, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney

SURVEY PLAT

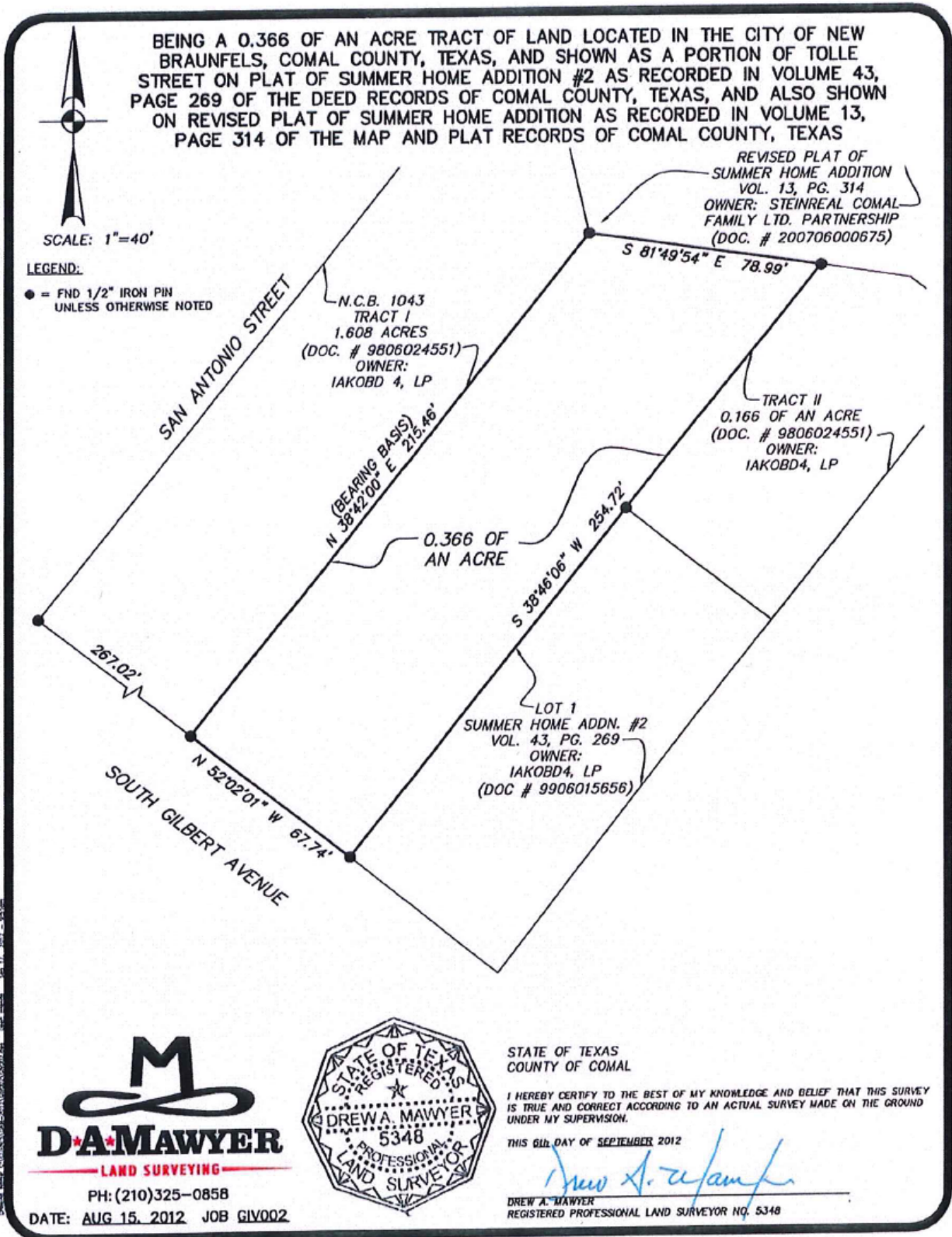


EXHIBIT 'A'



METES AND BOUNDS DESCRIPTION
FOR A
0.366 OF AN ACRE TRACT OF LAND

Being a 0.366 of an acre tract of land located in the City of New Braunfels, Comal County, Texas, and shown as a portion of Tolle Street on plat of Summer Home Addition #2 as recorded in Volume 43, Page 269 of the Deed Records of Comal County, Texas, and also shown on Revised Plat of Summer Home Addition as recorded in Volume 13, Page 314 of the Map and Plat Records of Comal County, Texas, and said 0.366 of an acre portion of Tolle Street being more particularly described as follows:

Beginning at a 1/2" iron pin found for the Southerly corner of a 1.608 acre tract of land described as Tract I, and recorded in Document No. 9806024551 of the Official Public Records of Comal County, Texas, and being in the Northeasterly line of South Gilbert Avenue, the Northwestern line of existing Tolle Street, for the Point Of Beginning of this herein described 0.366 of an acre tract of land;

Thence departing South Gilbert Avenue, and with the Southeasterly line of said 1.608 acre tract of land,

N 38° 42' 00" E, a distance of 215.46 feet to a 1/2" iron pin found for an Easterly corner of said 1.608 acre tract of land, a Southwesterly corner of said Revised Plat of Summer Home Addition, and a Northwestern corner of said Tolle Street for the Northwestern corner of this herein described 0.366 of an acre tract of land;

Thence departing said 1.608 acre tract of land, and with a Southerly line of said Revised Plat of Summer Home Addition, S 81° 49' 54" E, a distance of 78.99 feet to a 1/2" iron pin found for the Northwestern corner of a 0.166 of an acre tract of land described as Tract II and recorded in Document No. 9806024551 of the Official Public Records of Comal County, Texas, and being the Northeasterly corner of this herein described 0.366 of an acre tract of land;

Thence departing said Southerly line of Revised Plat of Summer Home Addition, and with the Northwestern line of said 0.166 of an acre of land, passing the Westerly corner of said 0.166 acre tract of land, the Northerly corner of Lot 1 of said Summer Home Addition #2 at 104.70 feet, and continuing with the Northwestern line of Lot 1, a total distance of 254.72 feet to a 1/2" iron pin found for the Southwesterly corner of said Lot 1, and being in the Northeasterly line of said South Gilbert Avenue for the most Southerly corner of this herein described 0.366 of an acre tract of land;

Thence departing the Southwesterly corner of Lot 1, and crossing said Tolle Street with the Northeast line of South Gilbert Avenue, N 52° 02' 01" W, a distance of 67.74 feet to the Point of Beginning and containing a 0.366 of an acre tract of land.

Bearings based on the Southeasterly line of a 1.608 acre tract of land as described in Document No. 9806024551 of the Official Public Records of Comal County, Texas.

Survey drawing prepared this 17th day of September, 2012.


Drew A. Mawyer
Registered Professional Land Surveyor No. 5348
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