

## Legislation Details (With Text)

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<b>File #:</b>	21-1022	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>	Passed
<b>File created:</b>	9/28/2021	<b>In control:</b>	City Council
<b>On agenda:</b>	10/11/2021	<b>Final action:</b>	10/11/2021

**Title:** Approval of the second and final reading of an ordinance regarding the proposed abandonment of approximately 7,231 square feet (0.166 acres) of unimproved public right-of-way, located between Hill Avenue and the terminus of Garden Street.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Aerial Map, 2. Garden ROW land use maps, 3. Survey, 4. Photographs, 5. PC Draft Minutes 9-8-21, 6. Ordinance

Date	Ver.	Action By	Action	Result
10/11/2021	1	City Council	approved	Pass

**PRESENTER:**

Christopher J. Looney, AICP; Planning and Development Services Director

**SUBJECT:**

Approval of the second and final reading of an ordinance regarding the proposed abandonment of approximately 7,231 square feet (0.166 acres) of unimproved public right-of-way, located between Hill Avenue and the terminus of Garden Street.

**DEPARTMENT:** Planning and Development Services

**COUNCIL DISTRICTS IMPACTED:** City Council District 6

**BACKGROUND INFORMATION:**

Case No.: CS21-0093

Owner/Applicants:	James Farley 416 S Hill Avenue New Braunfels, TX 78130 Jamesfarley86@gmail.com	Guillermina Espinosa 386 S Hill Avenue New Braunfels, TX 78130 eamerica63@gmail.com
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Staff Contact: Holly Mullins  
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**On September 27, 2021 City Council unanimously approved the first reading of the applicant's requested ordinance. (7-0-0)**

The subject property is approximately 7,231 square feet (0.166 acres) of unimproved right-of-way located between Hill Avenue/Union Pacific railroad tracks and Academy Avenue. Garden Street does not cross the railroad tracks, and the portion between the railroad tracks and Castell Avenue was incorporated into the

adjacent rail yard and former city hall complex decades prior. The subject property is a remaining portion of the Garden Street right-of-way that once was intended to connect Academy Avenue to Hill Avenue. In 1987 City Council approved the abandonment of a portion of Garden Street where a single-family residence, 397 Academy Avenue, was subsequently built.

Surrounding property is zoned SND-1 Special Neighborhood District and consists primarily of single-family homes, and the Sophienburg Museum.

The applicants each own the lots on both sides of Garden Street right-of-way. They are requesting to purchase the right-of-way and divide the land among themselves and the property owners of 397 Academy Avenue. The configuration will be reviewed as part of the required platting of the property if approved.

The request was reviewed by the City's Public Works, Parks, Police and Fire Departments as well as New Braunfels Utilities, AT&T, Spectrum and CenterPoint Energy. There was no objection to the abandonment; however, NBU did identify existing utilities within the right-of-way that will require easements if the property is sold and platted.

An appraisal was conducted by an independent appraiser at the City's request. After accounting for multiple easements and encumbrances within the right-of-way, staff and the applicants have agreed on a value of \$25,268. The applicants have agreed to pay this amount if the abandonment is approved by City Council.

If approved, the abandoned right-of-way must be incorporated into the adjacent properties through the platting process within 180 days of City Council's approval. This is to ensure taxpayers are receiving the current value of the property. If not accomplished within this time frame, a new appraisal must be performed.

*Surrounding Zoning and Land Use:*

North - SND-1 HD/ Single-family residence

South - SND-1 HD/ Single-family residence

East - Across Hill Avenue and railroad tracks, M-1/ Rail yard, City Municipal Building

West - SND-1 HD/ Single-family residence

**ISSUE:**

The proposed abandonment is consistent with the following actions from Envision New Braunfels:

- Action 1.3: Encourage balanced and fiscally responsible land use patterns.
- Action 1.6: Incentivize infill development and redevelopment to take advantage of existing infrastructure.

**FISCAL IMPACT:**

The addition of \$25,268 from the sale of unimproved right-of-way, plus the addition of 0.166 of an acre to the tax rolls.

**RECOMMENDATION:**

On September 8, 2021 the Planning Commission recommended approval of the request. (8-0-0) with Commissioner Gibson absent.

Multiple City departments and NBU reviewed the request and have no objection to the abandonment if the required utility easements are created with the new plat. Staff recommends approval with the following

conditions:

1. The subject property must be included in a plat of the adjacent properties owned by the applicants in compliance with the City's Subdivision Platting standards within 180 days.
2. The plat shall include the following easements:
  - a. A minimum 20-foot wide utility easement, 10 feet on either side of the existing water and wastewater lines.
  - b. A minimum 10-foot wide utility easement for the existing electric secondary line.
3. Ownership transfer of the property will occur by a Deed Without Warranty after the final plat has been approved by the City.
4. Recordation of the final plat will occur after the transfer of ownership of the property.

*Resource Links:*

Chapter 118-56 Closure, abandonment, and sale of public right-of-way:

[https://library.municode.com/tx/new\\_braunfels/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH118SUPL\\_ARTIVDEST\\_S118-56CLABSAPURI-W](https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances?nodeId=PTIICOOR_CH118SUPL_ARTIVDEST_S118-56CLABSAPURI-W)

*Attachments:*

Aerial Map

Land Use Maps (Zoning, Existing and Future Land Use)

Survey of Subject Property

Photograph

Draft Planning Commission Minutes

Ordinance