

## Legislation Text

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**File #:** 21-667, **Version:** 1

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**PRESENTER:**

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

**SUBJECT:**

Approval of the second and final reading of an ordinance regarding the requested abandonment of a 0.366-acre portion of Tolle Street Right-of-Way, located between South Gilbert Avenue and the terminus of Tolle Street.

**DEPARTMENT:** Planning and Development Services

**COUNCIL DISTRICTS IMPACTED:** City Council District 5

**BACKGROUND INFORMATION:**

**Owner/Applicant:** IAKOBO Four LP (Monique Weston)  
690 Laurel Lane  
New Braunfels, TX 78130  
(830) 237-3220      moniquetweston@gmail.com

**Agent:** NBS Real Estate Consulting (Todd Olson)  
4949 Meadows Road, Suite 490  
Lake Oswego, OR 97035  
(210) 913-0860      toolson@nbsreconsulting.com

**Staff Contact:** Matt Greene  
(830) 221-4053      mgreene@nbtexas.org

**City Council held a public hearing on June 28, 2021 and unanimously approved the first reading of the applicant's request with recommended conditions (7-0-0).**

The subject right-of-way is located east of the intersection of Tolle Street and South Gilbert Avenue, consists of 0.366 of an acre with improved street pavement and curbs, and is abutting property zoned "C-4" Resort Commercial District. All adjacent properties, with the exception of 515 Napoleon Street (the condominiums), are owned by the applicant. The applicant is requesting to purchase the right-of-way to incorporate it into her adjacent properties. She intends to provide a 24-foot wide vehicular access easement and fire lane and a 10-foot wide pedestrian access easement to the condominium property. Most of the pedestrian access easement will be located on the applicant's adjacent property to the southeast. The greater part of the subject right-of-way is currently encumbered with several easements including sanitary sewer, water, electric, gas and communication easements.

The City's Comprehensive Plan, Envision New Braunfels, includes goals/strategies requiring environmentally sound development utilizing tools such as but not limited to low impact development (LID). Due to the subject

property's proximity to the Comal River, staff is recommending any development of the property include LID techniques to address water quality and stormwater runoff. Effective LID designs attempt to make use of natural landscape features to best manage runoff and maximize onsite storage and infiltration and can reduce the need for downstream structural practices that concentrate stormwater flows and contaminants into the river at the end of a pipe or ditch.

An appraisal was conducted at the City's request and the appraiser valued the property at \$115,000, which accounted for the multiple easements and encumbrances within the right-of-way. The applicant did not concur with the City's appraisal and hired their own appraiser. The applicant's appraiser valued the land at \$60,955. Staff agreed to use the value indicated by the applicant's appraiser, however, did not agree with the appraiser's adjustments. After modifying the adjustments, staff proposed a counteroffer of \$102,000, which the applicant has agreed to pay if the abandonment is approved by City Council.

*Surrounding Zoning and Land Use:*

North - C-4 / Condominiums

South - Across S. Gilbert Ave., C-4 and C-2 / Offices and single-family residences

East - C-4 / Parking lot and single-family residence

West - C-4 / 44Tubing Company, a vacant commercial building and parking lot

**ISSUE:**

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

- Action 7.38: Identify possible additional parking areas for Downtown, Gruene, tourist areas and high demand events such as Wurstfest.
- Action 7.43: Consider locating parking on underutilized parcels city-wide and within core attraction corridors through collaboration with private property owners, including but not limited to areas along Mill Street as well as areas behind buildings on Seguin Avenue.
- Action 7.47: Increase parking to improve access to the Comal River and Guadalupe River.

**FISCAL IMPACT:**

The sale of improved right-of-way, addition of 0.366 of an acre to the tax rolls, and less asphalt and curb for the taxpayers to maintain.

**RECOMMENDATION:**

**Committee Recommendation**

On June 1, 2021, the Planning Commission recommended approval of the proposed right-of-way abandonment with staff recommendations. (8-0-0 with Commissioner Meyer absent)

**Staff Recommendation**

Multiple City departments reviewed the request and have no objections with the dedication of the identified easements to continue to provide necessary utilities and access. Staff recommends approval with the following conditions:

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. Provide 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 120 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.

*Resource Links:*

Chapter 118-56 Closure, abandonment, and sale of public right-of-way of the City’s Code of Ordinances:

[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  
Photographs of Subject Property  
Easement Exhibit  
Appraisal Summary Sheet  
Staff’s Counteroffer Adjustments Exhibit  
Draft Planning Commission Meeting Minutes  
Ordinance