

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: September 23, 2014		DATE SUBMITTED: September 2, 2014	
DEPARTMENT OF ORIGIN: Development Services		SUBMITTED BY: Matthew Hilgemeier	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input checked="" type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input checked="" type="checkbox"/> INFRASTRUCTURE
			<input type="checkbox"/> QUALITY OF LIFE
AGENDA ITEM DESCRIPTION: Consideration of a request to abandon an approximately 50-foot wide and 196-foot long segment of public street right-of-way for Koch Street and an approximately 50-foot wide and 200-foot long segment of public street right-of-way for De Lee Street, extending generally west of Memorial Drive between Kent and 29 th Streets.			
SUMMARY STATEMENT: In 1964, both De Lee Street and Koch Street rights-of-ways were dedicated to the City of Bryan as part of the Professional Complex Subdivision plat. This plat also created the various lots which would eventually make up the St. Joseph Regional Health Center Campus. Over the years, the original Professional Complex Subdivision has been replatted and renamed to the St. Joseph Regional Health Center Subdivision. In 1994, a 50-foot wide, 490-foot long portion of De Lee Street, running south from East 29 th Street to Franciscan Drive, was abandoned to allow for the expansion of the St. Joseph Hospital facility.			
Now St. Joseph Hospital and adjacent property owners wish to abandon a 50-foot wide, 196-foot long portion of Koch Street and a 50-foot wide, 300-foot long portion of De Lee Street located at the southeast corner of the subject property near Memorial Drive. A total of 0.50 acres is being requested to be abandoned. The purpose of this request to abandon this portion of public right-of-way is to allow for the development of a new emergency room facility at the St. Joseph Regional Health Center. The new emergency room facility will take access to Memorial Drive, and the portion of right-of-way being abandoned will allow the hospital to relocate existing patient parking and include additional ambulance parking closer to the new facility.			
Acting on behalf of the general public, only Bryan's City Council is authorized to officially abandon all or portions of rights-of-way dedicated for public use. The Planning and Zoning Commission hears and makes a recommendation on proposals to abandon any such rights-of-way.			
STAFF ANALYSIS AND RECOMMENDATION: During its meeting on August 21, 2014, the Planning and Zoning Commission concurred with staff and unanimously recommended approving this right-of-way abandonment request, <u>subject to the following conditions:</u>			
<ol style="list-style-type: none"> 1. That a formal replat encompassing all property which the applicants own or will own after abandonment of these rights-of-way is filed with the City for recording. 2. That a public utility easement be reserved over the entire area of the right-of-way to be abandoned, to accommodate existing public utility facilities. <ul style="list-style-type: none"> • While these portions of De Lee Street and Koch Street are technically public right-of-way, they basically function as drive aisles in the St. Joseph Regional Health Center parking area. Abandoning the subject right-of-way will allow this land to be formally integrated with adjacent property owned by St. Joseph Regional Health Center. Retention of a public utility easement, as recommended, will allow the City continued access to existing public utilities that will be left in place. 			

- Excess right-of-way burdens the public with possible continued maintenance, liability concerns, and is an inefficient use of urban land. The right-of-way requested to be abandoned will be functionally integrated with adjacent properties once the development of the new emergency room facilities is completed.
- The recommended rearrangement of land will have the most likely long-range public benefit.

OPTIONS (In Suggested Order of Staff Preference):

1. approve the requested right-of-way abandonment;
2. approve the requested right-of-way abandonment with modifications, which may require consideration at a future City Council meeting; or
3. deny the requested right-of-way abandonment.

ATTACHMENTS:

1. location map;
2. draft ordinance and exhibits;
3. excerpt from Planning and Zoning Commission meeting minutes of August 21, 2014; and
4. staff report to the Planning and Zoning Commission.

FUNDING SOURCE: N/A

APPROVALS: Kevin Russell, 9-3-14; Joey Dunn, 9-3-14; Hugh R. Walker, 09/04/2014

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 09-03-2014

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 09-15-14

LOCATION MAP:



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, PROVIDING FOR THE ABANDONMENT OF THE FOLLOWING PUBLIC RIGHT-OF-WAY, TO WIT: APPROXIMATELY 50-FOOT WIDE AND 196-FOOT LONG SEGMENT OF PUBLIC STREET RIGHT-OF-WAY FOR KOCH STREET AND AN APPROXIMATELY 50-FOOT WIDE AND 200-FOOT LONG SEGMENT OF PUBLIC STREET RIGHT-OF-WAY FOR DE LEE STREET, EXTENDING GENERALLY WEST OF MEMORIAL DRIVE BETWEEN KENT AND 29TH STREETS; AUTHORIZING THE CONVEYANCE THEREOF TO THE ABUTTING PROPERTY OWNER; PROVIDING FOR THE TERMS AND CONDITIONS OF ABANDONMENT AND CONVEYANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the owners of Lots 1R of Block F St. Joseph Regional Health Center Subdivision and Lot 1 in Block D of the Professional Complex Subdivision have requested the abandonment of an approximately 0.5 acre section of public street right-of-way located adjacent to said lots; and

WHEREAS, during its regular meeting on August 21, 2014, the Bryan Planning and Zoning Commission recommended approving the request to abandon and close said portion of public street right-of-way; and

WHEREAS, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration a part of which being the discontinuance of the obligations of the City of Bryan to maintain said right-of-way portion; and

WHEREAS, said above recited considerations are of at least equal value to the appraised market value of this right-of-way portion; and

WHEREAS, the City Council of the City of Bryan, acting pursuant to law, deems it advisable to abandon and convey this tract of land to the abutting property owner and is of the opinion that said land is not needed for public use, and that same should be abandoned to the abutting property owner as hereinafter provided; and

WHEREAS, the City Council of the City of Bryan is of the opinion that the best interest and welfare of the public will be served by abandoning and conveying same to the abutting property owner;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN:

1.

That all language contained in the preambles to this Ordinance shall be incorporated into the text of the Ordinance as if set forth verbatim herein.

2.

That the following described tract in the City of Bryan, Brazos County, Texas be and the same is hereby abandoned, vacated and closed insofar as the right and title of the public are concerned: approximately 50-foot wide and 196-foot long segment of public street right-of-way for Koch Street and an approximately 50-foot wide and 200-foot long segment of public street right-of-way for De Lee Street, extending generally west of Memorial Drive

between Kent and 29th Streets, said tract being described more particularly by metes-and-bounds on attached Exhibit "A" and depicted on attached Exhibit "B".

3.

That the abandonment and conveyance provided for herein is made and accepted subject to all present zoning and deed restrictions, if the latter exist, and all existing easements, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise.

4.

That the abandonment and conveyance provided for herein shall extend only to the public right, title, easement and interest and shall be construed to extend only to the interest which the governing body for the City of Bryan may legally and lawfully abandon and vacate.

5.

That the abandonment and conveyance provided for herein shall not be completed until the City of Bryan has approved and recorded a formal replat encompassing all property which the applicant owns and/or will own after abandonment of this public right-of-way. Said replat shall specifically reserve a public utility easement over the entire abandoned right-of-way.

6.

That this ordinance shall take effect immediately upon its second and final reading and passage.

PRESENTED AND GIVEN first reading the 23rd day of September, 2014 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, **PASSED AND APPROVED** on the 14th day of October, 2014 by a vote of _____ yeses and _____ noes at a regular meeting of the City Council of the City of Bryan, Texas.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney

EXHIBIT "A":

Right-of-way Abandonment of a portion of De Lee Street – 50' right-of-way
And Koch Street – 50' right-of-way
Professional Complex – First Installment
Vol. 240, Pg. 649
John Austin Survey, A-2
Bryan, Brazos County, Texas

Field notes of a 50' wide strip or parcel of land, lying and being situated in the John Austin Survey, Abstract No. 2, Bryan, Brazos County, Texas, and being the southern portion of De Lee Street – 50' wide right-of-way, and the eastern portion of Koch Street – 50' wide right-of-way, as shown on the plat of the Professional Complex – First Installment, recorded in Volume 240, Page 649, of the Deed Records of Brazos County, Texas, and being more particularly described as follows:

BEGINNING at a ½" iron rod and cap found marking the southeast corner of Lot 1R, Block F, 13.374 acres, according to the Replat of St. Joseph Regional Health Center recorded in Volume 6442, Page 117, of the Official Records of Brazos County, Texas, said ½" iron rod also being in the northeast right-of-way line of Memorial Drive – 50' wide right-of-way, same being a curve, concave to the east, having a radius of 295.34 feet;

THENCE Southerly continuing along said curve, for an arc distance of 49.28 feet to the end of this curve, lying in a projection of the south right-of-way line of Koch Street – 50' wide right-of-way, the chord bears S 13° 08' 06" W – 49.22 feet;

THENCE N 77° 36' 17" W for a distance of 1.03 feet to a ½" iron rod and cap set at the northeast corner of Lot 2, Block E, Professional Complex, according to the plat recorded in Volume 510, Page 751, of the Deed Records of Brazos County, Texas;

THENCE along the common line between Koch Street – 50' wide right-of-way, and the beforementioned Lot 2, Block E, Professional Complex, and Lot 3, Block E, Professional Complex, according to the plat recorded in Volume 691, Page 783, of the Official Records of Brazos County, Texas, as follows:

N 77° 36' 17" W for a distance of 26.05 feet to a ½" iron rod and cap set at the beginning of a curve concave to the south, having a radius of 401.59 feet,
Westerly along said curve, for an arc distance of 125.42 feet to a pk nail set in asphalt pavement at the end of this curve, the chord bears N 86° 33' 06" W – 124.91 feet,
S 84° 30' 04" W for a distance of 78.20 feet to a ½" iron rod and cap set at the intersection of the west right-of-way line of De Lee Street, with the south right-of-way line of Koch Street;

THENCE N 05° 28' 18" W along the west right-of-way line of De Lee Street and its projection for a distance of 249.63 feet to a ½" iron rod and cap set in the centerline of Osler Blvd – 100' wide right-of-way;

THENCE N 84° 31' 42" E along a projection of the centerline of Osler Blvd, across De Lee Street, for a distance of 50.00 feet to a pk nail set in the east right-of-way line of De Lee Street;

THENCE S 05° 28' 18" E along the east right-of-way line of the beforementioned De Lee Street for a distance of 199.82 feet to a ½" iron rod and cap found marking the southwest corner of the beforementioned Lot 1R, Block F, 13.374 acres, same being the intersection of the east right-of-way line of De Lee Street with the north right-of-way line of Koch Street;

THENCE along the common line between the beforementioned Lot 1R, Block F, 13.374 acres, and Koch Street – 50' wide right-of-way, as follows:

N 84° 28' 50" E for a distance of 29.30 feet to a ½" iron rod and cap found marking the beginning of a curve concave to the south, having a radius of 437.67 feet,
Easterly along said curve, for an arc distance of 141.51 feet to a ½" iron rod and cap found marking the end of this curve, the chord bears S 86° 15' 25" E – 140.89 feet,
S 76° 59' 40" E for a distance of 26.05 feet to the **PLACE OF BEGINNING**, containing 0.50 acre of land, more or less.



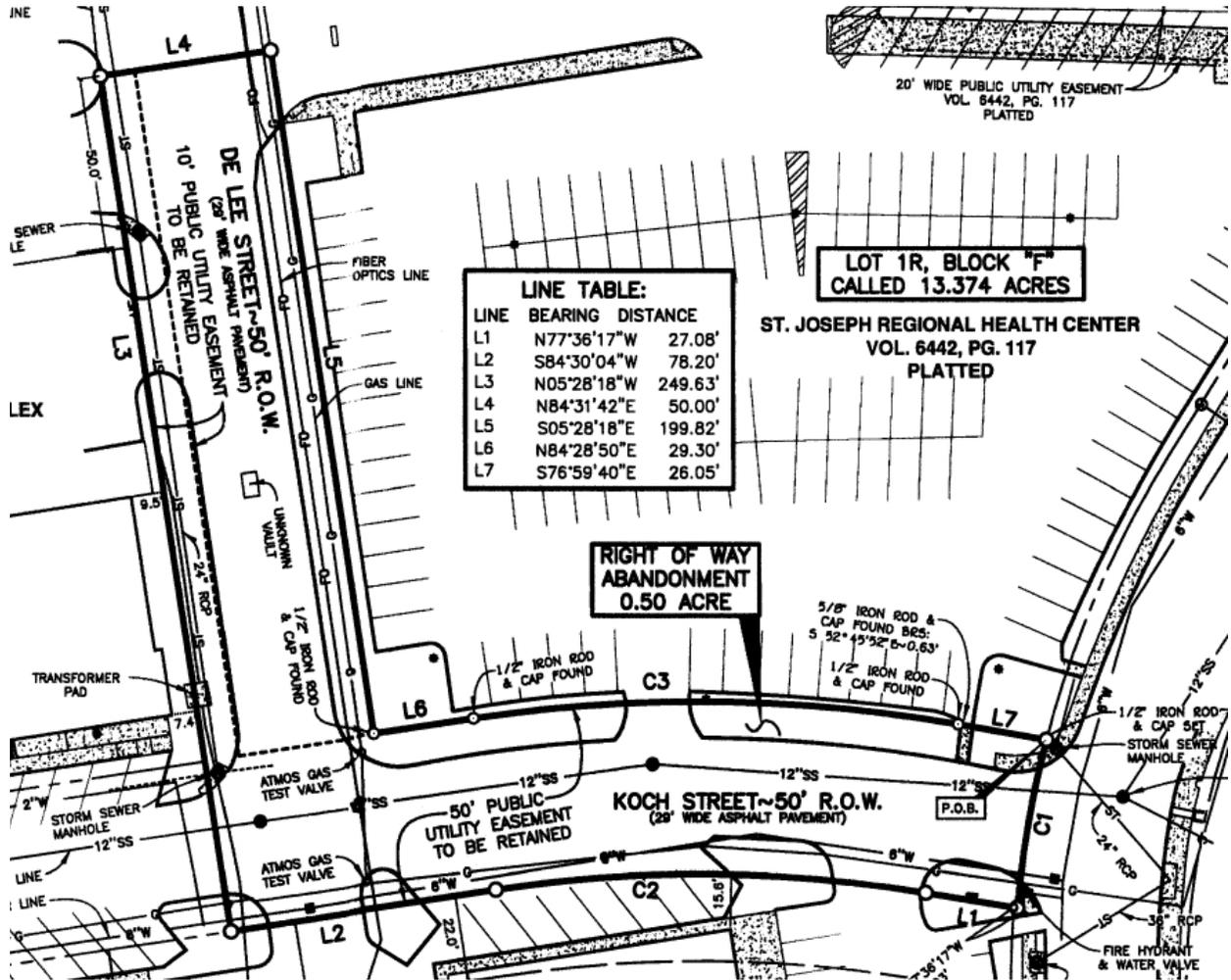
Surveyed: July, 2014

By:

S.M.K.
S. M. Kling
R.P.L.S. No. 2003

Prepared 07/11/14
Kes2014-St. Joseph DeLee & Koch 50' row abandonment – 0.50ac - 464502

EXHIBIT "B":



LOT 1R, BLOCK "F"
CALLED 13.374 ACRES

ST. JOSEPH REGIONAL HEALTH CENTER
VOL. 6442, PG. 117
PLATTED

RIGHT OF WAY
ABANDONMENT
0.50 ACRE

50' PUBLIC
UTILITY EASEMENT
TO BE RETAINED

P.O.B.

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF AUGUST 21, 2014:**

5. CONSENT AGENDA.

d. Right-of-Way Abandonment RA14-04: Koch and De Lee Streets

A request to abandon an approximately 50-foot wide and 196-foot long segment of public street right-of-way for Koch Street and an approximately 50-foot wide and 200-foot long segment of public street right-of-way for De Lee Street, extending generally west of Memorial Drive between Kent and 29th Streets in Bryan, Brazos County, Texas. (M. Hilgemeier)

Commissioner Bienski moved to approve the Consent Agenda. Commissioner Krolczyk seconded the motion, and the motion passed unanimously.

**PLANNING AND ZONING COMMISSION
STAFF REPORT**



August 21, 2014

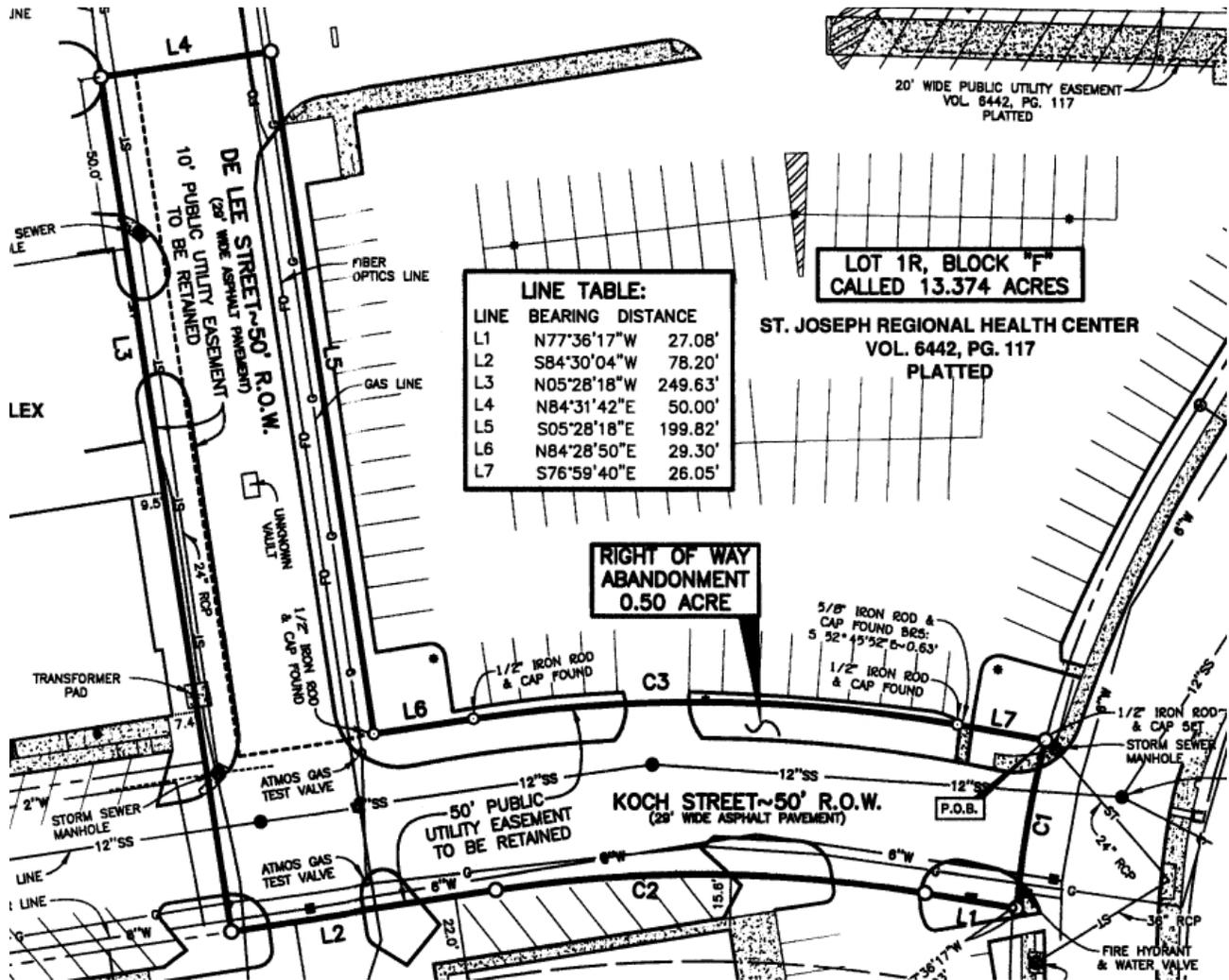
Right-of-way Abandonment case no. RA14-04: portions of Koch Street and De Lee Street

LOCATION: a request to abandon an approximately 50-foot wide and 196-foot long segment of public street right-of-way for Koch Street and an approximately 50-foot wide and 200-foot long segment of public street right-of-way for De Lee Street, extending generally west of Memorial Drive between Kent and 29th Streets

APPLICANT(S): St. Joseph Health Center

STAFF CONTACT: Matthew Hilgemeier, Staff Planner





BACKGROUND:

In 1964, both De Lee Street and Koch Street rights-of-ways were dedicated to the City of Bryan as part of the Professional Complex Subdivision plat. This plat also created the various lots which would eventually make up the St. Joseph Regional Health Center Campus. Over the years, the original Professional Complex Subdivision has been replatted and renamed to the St. Joseph Regional Health Center Subdivision. In 1994, a 50-foot wide, 490-foot long portion of De Lee Street, running south from East 29th Street to Franciscan Drive, was abandoned to allow for the expansion of the St. Joseph Hospital facility.

Now St. Joseph Hospital and adjacent property owners wish to abandon a 50-foot wide, 196-foot long portion of Koch Street and a 50-foot wide, 300-foot long portion of De Lee Street located at the southeast corner of the subject property near Memorial Drive. A total of 0.50 acres is being requested to be abandoned. The purpose of this request to abandon this portion of public right-of-way is to allow for the development of a new emergency room facility at the St. Joseph Regional Hospital. The new emergency room facility will take access to Memorial Drive, and the portion of right-of-way being abandoned will allow the hospital to relocate existing patient parking and include additional ambulance parking closer to the new facility.

ANALYSIS:

While these portions of De Lee Street and Koch Street are technically public right-of-way, they basically function as drive aisles in the St. Joseph Hospital parking area. Abandoning the subject right-of-way will allow this land to be formally integrated with adjacent property owned by St. Joseph Regional Health Center. Staff recommends that a 50-foot wide public utility easement will be retained in the area requested to be abandoned, to allow the City continued access to existing public utilities that will be left in place.

RECOMMENDATION:

The Site Development Review Committee and staff recommend **approving** this request to abandon this 50-foot wide 300-foot long portion of De Lee Street and 50-foot wide 196-foot long portion of Koch Street right-of-way, **subject to the following conditions:**

- **That a formal replat encompassing all property which the applicants own or will own after abandonment of these rights-of-way is filed with the City for recording.**
- **That a public utility easement be reserved over the entire area of the right-of-way to be abandoned, to accommodate existing public utility facilities.**

Excess right-of-way burdens the public with possible continued maintenance, liability concerns, and is an inefficient use of urban land. The right-of-way requested to be abandoned will be functionally integrated with adjacent properties once the development of the new emergency room facilities is completed.

Staff contends that the recommended rearrangement of land will have the most likely long-range public benefit.