

**ORDINANCE NO. 22-R-24**

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS, CLOSING AND ABANDONING TO THE ABUTTING PROPERTY OWNERS A PORTION OF AVIATION AVENUE RIGHT-OF-WAY APPROXIMATELY 918 FEET EAST FROM FARM TO MARKET ROAD (FM) 1518 TO OAK STREET, A PORTION OF MITCHELL AVENUE RIGHT-OF-WAY APPROXIMATELY 857 FEET EAST FROM FM 1518 TO OAK STREET, AND APPROXIMATELY 806 FEET OF POPLAR STREET RIGHT-OF-WAY NORTH OF AERO AVENUE EXTENDING 161 FEET NORTH OF THE INTERSECTION OF AVIATION AVENUE AND POPLAR STREET; ESTABLISH AN EFFECTIVE DATE HEREOF.**

**WHEREAS**, the City of Schertz, Texas, a home rule municipality, has established a public right-of-way, Aviation Avenue, approximately 918 feet east from Farm to Market Road (FM) 1518 to Oak Street, a portion of Mitchell Avenue Right-Of-Way approximately 857 feet east from FM 1518 to Oak Street, and approximately 806 feet of Poplar Street Right-of-way north of Aero Avenue extending 161 feet north of the intersection of Aviation Avenue and Poplar Street; described in the Exhibit A attached herein (herein after, the “Subject Area”); and

**WHEREAS**, The Subject Area is located entirely within the Aviation Heights Subdivision; and

**WHEREAS**, the Subject Area is abutted to the north by platted property as part of the Gesche Subdivision and the Barvarian Village and to the south by platted right of way, more specifically Aero Avenue; and

**WHEREAS**, pursuant to Section 311.007 of the Texas Transportation Code, a home-rule municipality may vacate, abandon, or close a street or alley; and

**WHEREAS**, no detriment or hazard to the City of Schertz or its citizens has been found; and

**WHEREAS**, on June 7, 2022, a Public Hearing was held to allow members of the public to give testimony, and comment, on the merits of the Subject Area abandonment.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:**

Section 1. That the recitals contain in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgement and findings of the Council.

Section 2. That the City Council finds that such closure and abandonment as requested will cause no harm or injury to the City of Schertz or its citizens, said portion of right of way is not needed for public purpose and it is in the public interest to abandon said portion of right of way.

Section 3. That the Subject Area as depicted on Exhibit “A”, is hereby closed, abandoned and vacated insofar as the right, title or easement of the public is concerned and shall only extend

to the public right, title and easement that the City may legally and lawfully abandon, subject to the conditions of Section 4.

Section 4. That the Subject Area is abandoned to the abutting owners, as authorized by Section 311.007 of the Texas Transportation Code and Section 272.001 (b)(2) of the Texas Local Government Code condition upon the Subject Area being replatted into the property of the abutting property owners within 12 months. The replat must not create any non-conforming lots.

Section 5. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 6. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 7. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 8. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 9. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Section 10. This Ordinance shall be cumulative of all other ordinances of the City of Schertz, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Schertz except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Approved on first reading the 7<sup>th</sup> day of June, 2022.

PASSED, APPROVED AND ADOPTED on final reading the 14<sup>th</sup> day of June, 2022.

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Ralph Gutierrez, Mayor

ATTEST:

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Brenda Dennis, City Secretary

(SEAL OF THE CITY)

Exhibit "A"  
Subject Property

