ACTION FORM
BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING:	April 23, 2013	**DATE SUBMITTED:**	April 1, 2013
DEPARTMENT OF ORIGIN:	Development Serv.	**SUBMITTED BY:**	Maggie Dalton

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
☐ BCD	☐ PUBLIC HEARING	☒ 1ST READING	☐ DIVERSITY
☐ SPECIAL	☐ CONSENT	☐ 2ND READING	☐ EDUCATION
☒ REGULAR	☒ STATUTORY		☐ GROWTH
☐ WORKSHOP	☐ REGULAR		☒ IMAGE
			☒ INFRASTRUCTURE
			☒ PUBLIC SAFETY

AGENDA ITEM DESCRIPTION: Consideration of a request to abandon an approximately 0.06 acre section of public right-of-way extending along properties at 1800 Beck Street adjacent to Lots 1-3 and part of Lot 4 in Block 4 of Woodlawn Addition, with conveyance conditioned upon easement dedication.

SUMMARY STATEMENT: The street right-of-way located adjacent to properties in the 1800 block of Beck Street was originally obtained by the City of Bryan for infrastructure and street improvements in the 1980s. The applicant/owner, Mr. Manuel Lopez, wishes to have the portion of right-of-way in front of his property abandoned for future development of his property. The infrastructure improvements are now in place along Beck Street and presently the City has no use for the additional right-of-way at this location.

During the Site Development Review Committee's review of this request, the Public Works Department identified an existing public water line located near this street segment. If this right-of-way were abandoned, then a 10-foot easement over existing public utility facilities will need to be reserved. Such an easement will help ensure access for repairing and replacing public utilities and help prevent buildings that could interfere with access to these utilities.

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:

A. PROS: Approving the requested right-of-way abandonment would relieve the City of possible continued maintenance and liability concerns, and would improve an inefficient use of urban land. The right-of-way requested to be abandoned will be functionally integrated with adjacent land and made available for development.

B. CONS: Staff is unable to discern any other factors related to this abandonment request that will adversely affect health, safety, morals, or general welfare. However, approval of the request will reduce the City's right-of-way inventory.

STAFF'S RECOMMENDATION (Including Rationale and Justification): Staff recommends approving the request to abandon this right-of-way portion, subject to the condition that a 10-foot public utility easement be reserved for the entire length of the abandoned street right-of-way to accommodate existing public utility facilities. Abandoning the subject right-of-way, as recommended, will allow this land to be integrated with adjacent lots and relieve the public from continued maintenance responsibilities. The proposed rearrangement of land is believed to have the most long-range public benefit. During its meeting on March 21, 2013, the Planning and Zoning Commission concurred with staff and unanimously recommended approving this request to abandon this right-of-way portion.

OPTIONS (In Suggested Order of Staff Preference):

1. approve the requested right-of-way abandonment, subject to the recommended condition;

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 P&Z meeting minutes; and 4. staff report to the Planning & Zoning Commission.
FUNDING SOURCE: N/A
APPROVALS: Lindsey Guindi, 4/3/13; Joey Dunn, 4-3-13; Hugh R. Walker 04/04/2013
APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 04/16/2013
APPROVED FOR SUBMITTAL: CITY MANAGER

Revised 11/08

LOCATION MAP:

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF THE FOLLOWING PUBLIC RIGHT-OF-WAY, TO WIT: 0.06 ACRE SECTION OF PUBLIC STREET RIGHT-OF-WAY EXTENDING ALONG PROPERTIES AT 1800 BECK STREET ADJACENT TO LOTS 1-3 AND PART OF LOT 4 IN BLOCK 4 OF WOODLAWN ADDITION IN BRYAN, BRAZOS COUNTY, TEXAS; AUTHORIZING THE CONVEYANCE THEREOF TO THE ABUTTING PROPERTY OWNERS; PROVIDING FOR THE TERMS AND CONDITIONS OF ABANDONMENT AND CONVEYANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the owners of property located in Block 4 in the Woodlawn Addition have requested the abandonment of 0.06 acre section of public street right-of-way extending along properties at 1800 Beck Street adjacent to Lots 1-3 and part of Lot 4 in Block 4 of Woodlawn Addition; and

WHEREAS, during its regular meeting on March 21, 2013, the Bryan Planning and Zoning Commission recommended approving the request to abandon and close said portion of public 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 owners and is of the opinion that said land is not needed for public use, and that same should be abandoned to the abutting property owners 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 owners;

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:

> 0.06 acre section of public street right-of-way extending along properties at 1800 Beck Street adjacent to Lots 1-3 and part of Lot 4 in Block 4 of Woodlawn Addition, Bryan, Brazos County, Texas, more particularly described in the attached Exhibit "1" (quitclaim deed).

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 Mayor of the City of Bryan is hereby authorized to execute and deliver quitclaim deeds conveying the above-described property to the abutting property owners. Said deeds shall specifically reserve a public utility easement over the entire length and width of the abandoned right-of-way.

Said deeds shall furthermore conform to all other conditions and restrictions herein set out and are attached hereto as Exhibit "1" and incorporated herein by this reference for all purposes.

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 April, 2013 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 May, 2013 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 "1":

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON YOU AY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVERS LICENSE NUMBER.

QUITCLAIM DEED

THE STATE OF TEXAS §
COUNTY OF BRAZOS § KNOW ALL PERSONS BY THESE PRESENTS:

That the CITY OF BRYAN TEXAS a municipal corporation existing by and under the laws of the STATE OF TEXAS acting by and through its duly elected mayor (Grantor) does by these presents RELEASE AND FOREVER QUIT CLAIM unto **J. Manuel Lopez**, the owner of the property adjacent thereto (Grantee), all of the following tract of land described as follows:

> 0.06 acre section of public street right-of-way extending along properties at 1800 Beck Street adjacent to Lots 1-3 and part of Lot 4 in Block 4 of Woodlawn Addition, Bryan, Brazos County, Texas, said tract being more particularly described by metes-and-bounds on attached Exhibit "A" and depicted on attached Exhibit "B".

This conveyance is subject to all present zoning and deed restrictions, if the latter exist Grantor expressly reserves all easements whether apparent or non-apparent, aerial, surface, underground or otherwise. Save and except this conveyance is subject to the reservation of a public utility easement over for the entire width and length of the abandoned alley right-of-way, as depicted on attached Exhibit "B".

Subject to the above reservation, Grantor quitclaims to Grantee all of Grantor right, title and interest in and to such tract of land, to have and to hold it to Grantee, Grantee's heirs successors and assigns forever. Neither Grantor nor Grantor's successors or assigns will have, claim or demand any right or title to the property or any part of it and this deed is given to relinquish and release any right, title, and interest the Grantor its successors and assigns may have in the above-described property. When the context requires singular nouns and pronouns include the plural.

This conveyance is authorized by an ordinance of the governing body for the City of Bryan as approved and adopted on May 14, 2013.

EXECUTED this the _____ day of _____. 2013

ATTEST: **CITY OF BRYAN:**

_____ _____
Mary Lynne Stratta, City Secretary Jason P. Bienski, Mayor

APPROVED AS TO FORM:

_____
Janis K. Hampton, City Attorney

THE STATE OF TEXAS §
COUNTY OF BRAZOS §

This instrument was acknowledged before a notary public on _____ by Jason P. Bienski, Mayor of the City of Bryan, a municipal corporation, on behalf of said Municipal Corporation.

_____
Notary Public, State of Texas

<u>Exhibit "A":</u>

METES AND BOUNDS DESCRIPTION
OF A 0.06 ACRE TRACT

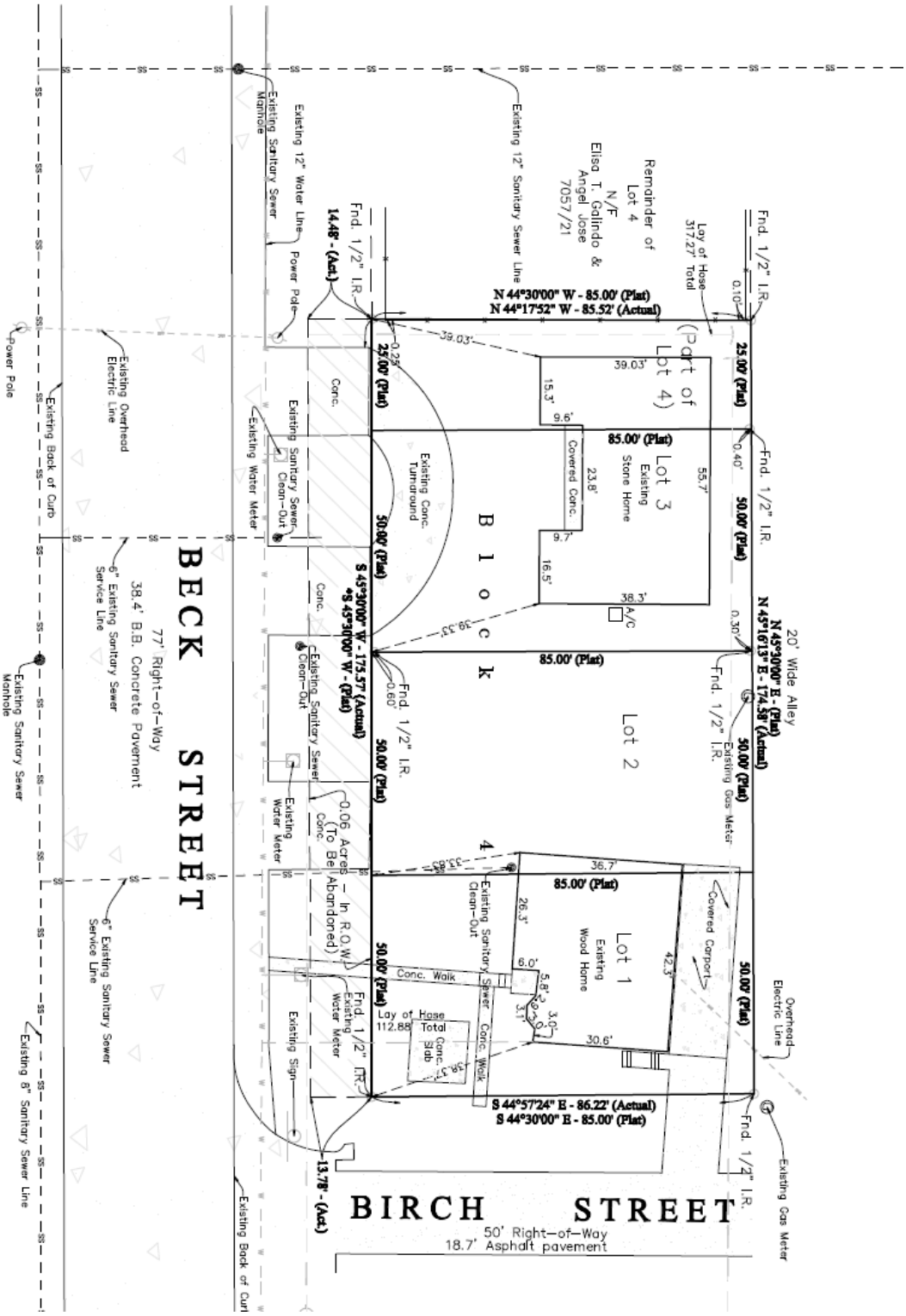
BEGINNING at a ½" iron rod found at the most easterly common corner of this tract and Lot 1, Block 4 of said subdivision;

THENCE S 44° 57' 24" E – 13.78 feet along the common line between said Lot 1, and said Birch Street Right-Of-Way across said Beck Street Right-Of-Way line to a ½" iron rod found for the most southerly corner of this tract;

THENCE N 45° 16' 15" W – 175.73 feet and N 44° 17' 52" W – 14.48 feet across said Beck Street Right-Of-Way line to a ½" iron rod found for the most northwesterly corner of this tract; same being in the common line between this tract, said Lot 2 and said Lot 4 remainder tract;

THENCE N 45° 30' 00" E – 175.57 feet along the common line between this tract, said Lots 1, 2, 3, part of Lot 4, Block 4 to the PLACE OF BEGINNING; and containing 0.06 acres of land, more or less, according to a survey made on the ground under the supervision of Donald Garrett, Registered Professional Land Surveyor, No. 2972 on October 4, 2012.

Exhibit "B":


Fnd. 1/2" I.R.
Lay of Hose 317.27' Total
Remainder of Lot 4
N/F Elisa T. Galindo & Angel Jose 7057/21
Existing 12" Sanitary Sewer Line
N 44°30'00" W - 85.00' (Plat)
N 44°17'52" W - 85.52' (Actual)
(Part of Lot 4)
25.00' (Plat)
39.03'
85.00' (Plat)
Lot 3
Existing Stone Home
Covered Conc.
Existing Conc. Turnaround
Block 4
50.00' (Plat)
S 45°30'00" W - 175.57' (Actual)
S 45°30'00" W - (Plat)
Lot 2
20' Wide Alley
N 45°30'00" E - (Plat)
N 45°16'13" E - 174.58' (Actual)
Existing Gas Meter
Existing Sanitary Sewer Clean-Out
Existing Water Meter
Existing Sanitary Sewer
0.06 Acres - In R.O.W. (To Be Abandoned)
Conc. Walk
Lot 1
Existing Wood Home
Covered Carport
Overhead Electric Line
Lay of Hose 112.88
Total Conc. Slab
S 44°57'24" E - 86.22' (Actual)
S 44°30'00" E - 85.00' (Plat)
13.78' - (Act.)
Existing Sign
BIRCH STREET
50' Right-of-Way
18.7' Asphalt pavement
Existing Back of Curb
Existing 8" Sanitary Sewer Line
Existing Sanitary Sewer Manhole
Power Pole
Existing 12" Water Line
Existing Sanitary Sewer
14.48' - (Act.)
BECK STREET
77' Right-of-Way
38.4' B.B. Concrete Pavement
Existing Overhead Electric Line
6" Existing Sanitary Sewer Service Line

FROM PLANNING AND ZONING COMMISSION MEETING MINUTE RECORD OF MARCH 21, 2013:

4. CONSENT AGENDA.

A. Approval of minutes from the workshop and regular meetings on March 7, 2013.

B. Right of Way Abandonment RA13-02: M. Dalton
A request to abandon an approximately 0.06 acre section of public street right-of-way extending along properties at 1800 Beck Street adjacent to Lots 1-3 and part of Lot 4 in Block 4 of Woodlawn Addition in Bryan, Brazos County, Texas.

Commissioner Jones moved to approve the consent agenda. Commissioner Bienski seconded the motion. The motion passed 8-0.

PLANNING AND ZONING COMMISSION
STAFF REPORT

March 21, 2013

CITY OF BRYAN

Right-of-way Abandonment case no. RA13-02: Woodlawn Addition – Block 4

LOCATION:	a request to abandon an approximately 0.06 acre section of public street right-of-way extending along properties at 1800 Beck Street adjacent to Lots 1-3 and part of Lot 4 in Block 4 of Woodlawn Addition
APPLICANT(S):	Manuel Lopez
STAFF CONTACT:	Maggie Dalton, Staff Planner

BACKGROUND AND ANALYSIS:

The Right-of-Way adjacent to the of property at 1800 Beck Street was originally obtained by a Fee Simple Deed in order to make improvements to Beck Street and the existing infrastructure. The current adjoining property owner/applicant, Mr. Manuel Lopez, wishes to have a portion of the street right-of-way officially abandoned in order ensure minimum lot requirements are met for future development of his property. Related to this right-of-way abandonment are Replat case RP13-02 and Conditional Use Permit CU13-01.

During the Site Development Review Committee's review of this request, the Public Works Department identified an existing public water line located near the proposed abandonment. If this right-of-way were abandoned, then an easement over existing public utility facilities will need to be reserved. Such an easement will help ensure access for repairing and replacing public utilities and help prevent buildings which interfere with access to these utilities.

RECOMMENDATION:

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.

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 has been improved with a street improvements and infrastructure, and the remainder has been functionally integrated with adjacent land. Formally abandoning the subject right-of-way, therefore, will not interfere with the smooth circulation of vehicular and pedestrian traffic.

The Site Development Review Committee and staff recommend **approving** the request to abandon the portion of this public alley right-of-way, as requested, **subject to the following condition:**

- **that a 10' public utility easement be reserved for the length of the abandoned street right-of-way to accommodate existing public utility facilities.**

Abandoning the subject right-of-way, as recommended, will allow this land to be formally integrated with adjacent land. Staff contends that the recommended rearrangement of land will have the most likely long-range public benefit.