

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: May 13, 2014		DATE SUBMITTED: April 17, 2014	
DEPARTMENT OF ORIGIN: Development Services		SUBMITTED BY: Maggie Dalton	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> CONSENT	<input checked="" type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input checked="" 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 a 50-foot wide and 96.91-foot long portion of Bowery Street right-of-way between Lowery Street and West 17 th Street adjacent to Lots 15 and part of Lot 16 of the West Side Addition Phase 2 and Lots 8 and 9 in Block 2 of the Zimmerman Addition in Bryan, Brazos County, Texas.			
SUMMARY STATEMENT: A 50-foot wide and 96.91-foot long portion (4,845sf) of Bowery Street public right-of-way adjacent to Lots 15 and part of Lot 16 of the West Side Addition Phase 2 and Lots 8 and 9 in Block 2 of the Zimmerman Addition was originally platted in 1928 and has remained unimproved. Mr. Diektrich Morgan owns Lots 15 and part of 16 in the West Side Phase 2 Addition on the southeast side of the subject right-of-way, and Mr. Lucio Garcia and Mr. Kenneth Pitlik own Lots 8 and 9, respectively, in the Zimmerman Addition to the northwest of the subject right-of-way. Most of the right-of-way requested to be abandoned has been functionally integrated with adjacent properties. An unnamed tributary of Still Creek crosses the northeastern portion of the subject right-of-way, before it flows under a bridge at its intersection with West 17 th Street.			
Mr. Morgan began approaching the City in March 2013 regarding the possible abandonment of this un-improved street right-of-way so that the land could be integrated with his ownership of adjacent land. The request is just now moving forward, as the City has had a long-planned drainage improvement project planned for the tributary that flows under the West 17 th Street bridge, which also involves the Bowery Street right-of-way that is requested to be abandoned. The project, a drainage structure that is intended to help reduce the effects flooding downstream from this location, has not been fully designed. The attached surveys showing the subject right-of-way and the three parcels into which it is proposed to be divided were commissioned by the City and completed in March 2014.			
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: Excess right-of-way burdens the public with possible continued maintenance, liability concerns, and is an inefficient use of urban land. This section of Bowery Street is a 50-foot wide right-of-way that has never been improved with a driving surface. The right-of-way requested to be abandoned has been functionally integrated with adjacent properties and the requested abandonment would allow that this land is formally integrated with adjacent land. While abandoning this unimproved street segment will not interfere with traffic circulation, the City of Bryan has plans for drainage improvements to the Still Creek tributary that crosses this right-of-way. Therefore, suitable easements over existing public utilities as well as planned public drainage improvements will need to be reserved to ensure continued public access.			
During its meeting on April 17, 2014, the Planning and Zoning Commission concurred with the staff's recommendation and <u>unanimously recommended approving</u> this request to abandon this 50-foot wide and 96.91-foot long portion of Bowery Street right-of-way, <u>subject to the condition</u> that public drainage and public utility easements			

be reserved over the entire right-of-way to be abandoned. The recommended rearrangement of land is expected to 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 P&Z meeting minutes; and
4. staff report to the Planning & Zoning Commission.

FUNDING SOURCE: N/A

APPROVALS: Kevin Russell, 3-21-14; Joey Dunn, 4-23-14; Hugh R. Walker, 04/24/2014

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 5/2/2014

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 5/05/2014

Revised 04/2013

LOCATION MAP:



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, PROVIDING FOR THE ABANDONMENT OF THE FOLLOWING PUBLIC RIGHT-OF-WAY, TO WIT: A 0.112-ACRE (4,845 SQUARE-FOOT) PORTION OF BOWERY STREET RIGHT-OF-WAY LOCATED BETWEEN WEST 17TH STREET AND LOWERY STREET AND ADJACENT TO LOT 15 AND PART OF LOT 16 IN THE WEST SIDE ADDITION PHASE 2 AND LOTS 8 AND 9 OF THE ZIMMERMAN ADDITION; 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 owner of Lot 15 and part of Lot 16 in the West Side Addition Phase 2 has requested the abandonment of 0.112 acre section of public street right-of-way located adjacent to said lots; and

WHEREAS, during its regular meeting on April 17, 2014, 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:

a 0.112-acre (4,845 square-foot) portion of Bowery Street right-of-way located between West 17th Street and Lowery Street and adjacent to Lot 15 and part of Lot 16 in the West Side Addition Phase 2 and Lots 8 and 9 of the Zimmerman Addition, said tract being

described and depicted more particularly in the attached Exhibits "A", "B", and "C" (quitclaim deeds).

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 a quitclaim deed conveying the above-described properties to the abutting property owners. Said deed shall specifically reserve public utility and public drainage easements over the entire length and width of the abandoned Bowery Street 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 13th day of May, 2014 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, **PASSED AND APPROVED** on the 27th day of May, 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":

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON YOU MAY 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 **Diektrich L and Wendy Morgan**, the owners of the property adjacent thereto (Grantee), all of the following tract of land described as follows:

a 25' x 96.58' (0.06 acre) portion of Bowery Street right-of-way extending southwest from its intersection with West 17th Street and adjacent to Lot 16 and part of Lot 15 of West Side Addition Phase 2, Brazos County, Texas, said tract being described more particularly by metes-and-bounds on attached Exhibit "A-1" and depicted on attached Exhibit "A-2".

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 public utility and public drainage easements over for the entire width and length of the abandoned right-of-way.

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 27, 2014.

EXECUTED this the _____ day of _____, 2014

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

Exhibit "A-1":

TRACT 1
FIELD NOTES
CITY OF BRYAN
PARTIAL STREET CLOSING
METES AND BOUNDS DESCRIPTION
OF A 0.06 ACRES TRACT
BOWERY STREET

All that certain lot, tract or parcel of land being 0.06 acres situated in the STEPHEN F. AUSTIN SURVEY, Abstract No. 63, Brazos County, Texas, and being a part of that certain called Bowery Lane described in the West Side Addition No. 2 of record in Volume 72, Page 593 of the Official Records of Brazos County, Texas said Bowery Lane being more particularly described by metes and bounds as follows:

BEGINNING at a "X" in concrete set in the southwest right-of-way line of 16th Street for the most easterly corner, said corner being the most northerly corner of Lot 15 of West Side Addition, Phase 2 as described in Volume 6613, Page 148;

THENCE S 42°02'34" W along the northwesterly line of said Lot 15 a distance of 96.91 feet to a ½" Iron Rod with Cap Set for the most southerly corner, a ½" Iron Rod found for the most westerly corner of said Lot 15 said corner being the most westerly corner of said Lot 15 bears S 42°20'34" W a distance of 9.01 feet;

THENCE N 47°55'55" W a distance of 25.00 feet to a point for the most westerly corner, said corner being located in the centerline of Bowery Lane R.O.W.;

THENCE N 42°02'34" E along the westerly line of Tract 1 a distance of 96.58 feet to an "X" in concrete set for the most northerly corner, said point being located in the southwest right-of-way line of said 17th Street;

THENCE S 48°41'13" E along said southwest right-of-way line a distance of 25.00 feet TO THE PLACE OF BEGINNING AND CONTAINING AN AREA OF 0.06 ACRES OF LANE, MORE OR LESS, according to a surveying performed on the during February 2014, under the supervision of H. Curtis Strong, Registered Professional Land Surveyor No. 4961. North orientation is based on rotating the northeast line of West Side Addition to Grid North NAD83(CORS96) Texas State Plane, Central Zone, as derived from GPS observations.

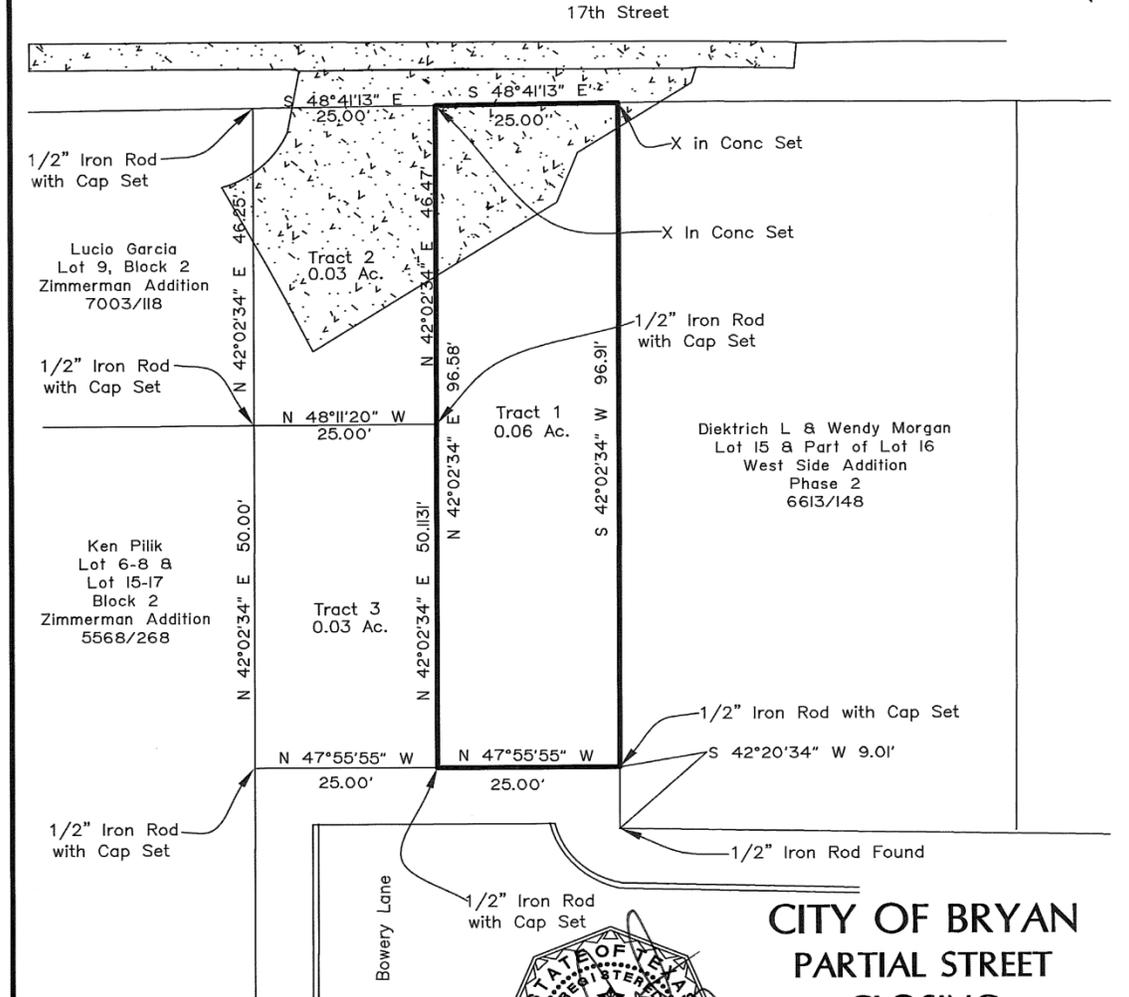
Exhibit "A-2":


STRONG SURVEYING
 Firm No. 10093500 email: curtis@strongsurveying.com

1722 Broadmoor, Suite 105
 Bryan, Texas 77802
 Phone: (979) 776-9836
 Fax: (979) 731-0096

NOTES:
 North Orientation is based on rotating the northeast line of West Side Addition to Grid North Texas State Plane Central Zone NAD83(CORS96) by utilizing GPS methods.

NOTES:
 A Public Drainage and Utility Easement is reserved by the City of Bryan across the entire tract.



I H. Curtis Strong, Registered Professional Land Surveyor No. 4961, do hereby certify that the above plat is true and correct and represents the results of an on the ground survey performed on the ground under my supervision during the month of February, 2014 and is true and correct to the best of my knowledge.



CITY OF BRYAN
PARTIAL STREET
CLOSING
BOWERY LANE
 STEPHEN F. AUSTIN SURVEY, A-63
 SCALE 1"=20' MARCH 31, 2014

EXHIBIT "B":

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON YOU MAY 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 **Lucio Garcia**, the owners of the property adjacent thereto (Grantee), all of the following tract of land described as follows:

a 25' x 46.47' (0.03 acre) portion of Bowery Street right-of-way extending southwest from its intersection with West 17th Street and adjacent to Lot 9 in Block 2 of Zimmerman Addition, Brazos County, Texas, said tract being described more particularly by metes-and-bounds on attached Exhibit "B-1" and depicted on attached Exhibit "B-2".

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 public utility and public drainage easements over for the entire width and length of the abandoned right-of-way.

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 27, 2014.

EXECUTED this the _____ day of _____, 2014

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

Exhibit "B-1":

TRACT 2
FIELD NOTES
CITY OF BRYAN
PARTIAL STREET CLOSING
METES AND BOUNDS DESCRIPTION
OF A 0.03 ACRES TRACT
BOWERY STREET

All that certain lot, tract or parcel of land being 0.03 acres situated in the Stephen F. Austin Survey, Abstract No. 63, Brazos County, Texas, and being a part of that certain called Bowery Lane described in the Zimmerman Addition of record in Volume 120, Page 97 of the Official Records of Brazos County, Texas, said Bowery Lane being more particularly described by metes and bounds as follows:

BEGINNING at a ½" Iron Rod with Cap Set in the southwest right-of-way line of 17th Street for the most northerly corner, said corner being the calculated easterly corner of said Lot 9, Block 2, Zimmerman Addition as described in Volume 120, Page 97;

THENCE S 48°41'13" E along the southwest right-of-way line of said 17th Street a distance of 25.00 feet to an "X" in concrete set for the most easterly corner, said corner being located in the calculated centerline of Bowery Lane R.O.W.;

THENCE S 42°02'34" W along the calculated centerline for said Bowery Lane R.O.W. a distance of 46.47 feet to a ½" Iron Rod with Cap set for the most southerly corner;

THENCE N 48°11'20" W a distance of 25.00 feet to a ½" Iron Rod with Cap Set for the most westerly corner, said corner being the calculated most southerly corner of said Lot 9, Block 2, Zimmerman Addition;

THENCE N 42°02'34" E along the southeasterly line of said Lot 9, Block 2 a distance of 46.35 feet TO THE PLACE OF BEGINNING AND CONTAINING 0.03 ACRES OF LAND, MORE OR LESS, according to a survey performed on the ground during February 2014, under the supervision of H. Curtis Strong, Registered Professional Land Surveyor No. 4961. North orientation is based on rotating the northeast line of West Side Addition to Grid North NAD83(CORS96) Texas State Plane, Central Zone, as derived by GPs observations.

Exhibit "B-2":

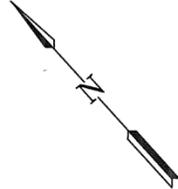


STRONG
SURVEYING

Firm No. 10093500 email: curtis@strongsurveying.com

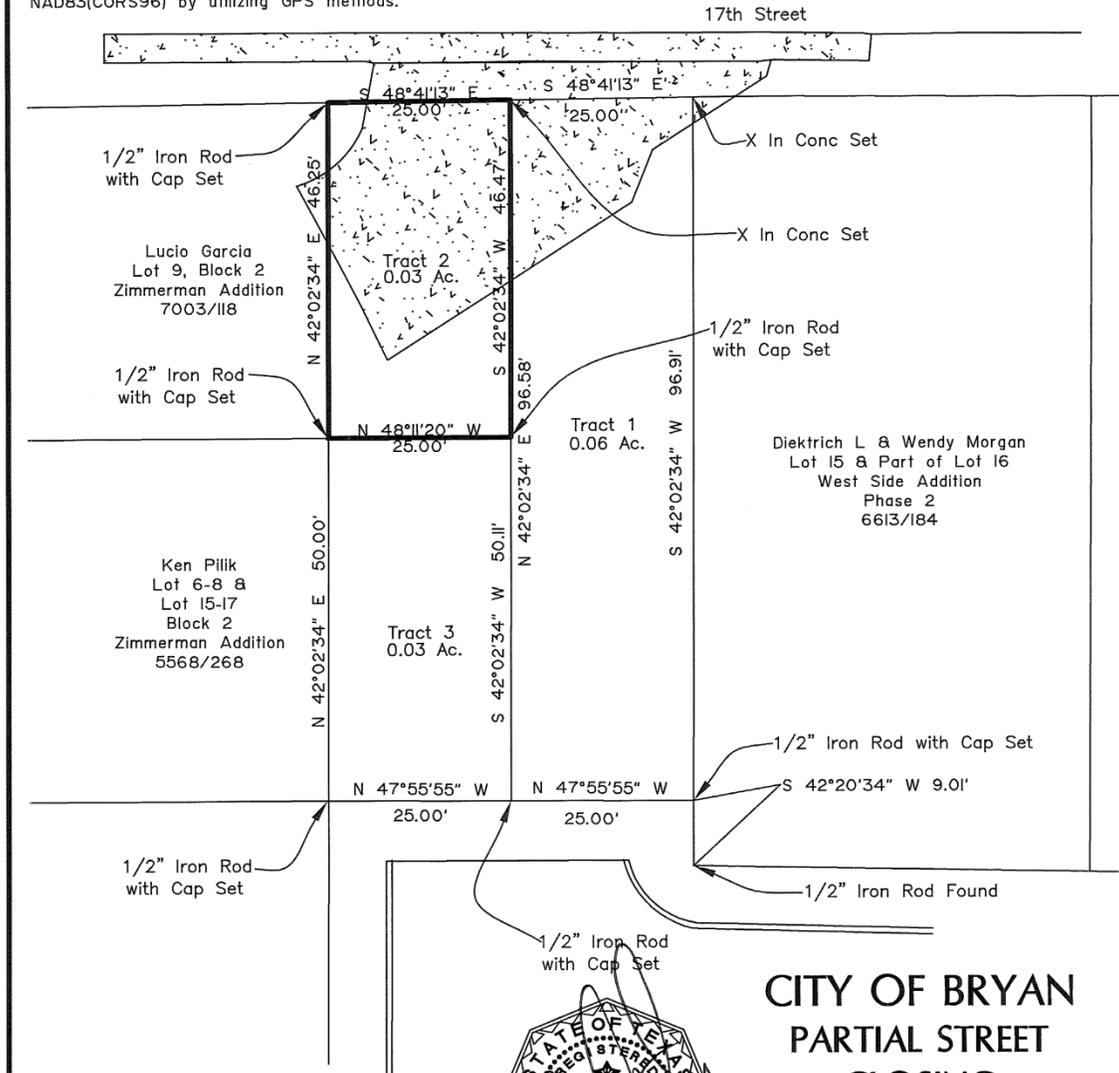
1722 Broadmoor, Suite 105
Bryan, Texas 77802
Phone: (979) 776-9836
Fax: (979) 731-0096





NOTES:
North Orientation is based on rotating the northeast line of West Side Addition to Grid North Texas State Plane Central Zone NAD83(CORS96) by utilizing GPS methods.

NOTES:
A Public Drainage and Utility Easement is reserved by the City of Bryan across the entire tract.



I H. Curtis Strong, Registered Professional Land Surveyor No. 4961, do hereby certify that the above plat is true and correct and represents the results of an on the ground survey performed on the ground under my supervision during the month of February, 2014 and is true and correct to the best of my knowledge.



**CITY OF BRYAN
PARTIAL STREET
CLOSING
BOWERY LANE
STEPHEN F. AUSTIN SURVEY, A-63
SCALE 1"=20' MARCH 31, 2014**

EXHIBIT "C":

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON YOU MAY 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 **Ken Pitlik**, the owners of the property adjacent thereto (Grantee), all of the following tract of land described as follows:

a 25' x 50.1131' (0.03 acre) portion of Bowery Street right-of-way extending northeast from its intersection with Lowery Street and adjacent to Lot 8 in Block 2 of Zimmerman Addition, Brazos County, Texas, said tract being described more particularly by metes-and-bounds on attached Exhibit "C-1" and depicted on attached Exhibit "C-2".

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 public utility and public drainage easements over for the entire width and length of the abandoned right-of-way.

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 27, 2014.

EXECUTED this the _____ day of _____, 2014

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

Exhibit "C-1":

TRACT 3
FIELD NOTES
CITY OF BRYAN
PARTIAL STREET CLOSING
METES AND BOUNDS DESCRIPTION
OF A 0.03 ACRES TRACT
BOWERY STREET

All that certain lot, tract or parcel of land being 0.03 acres situated in the Stephen F. Austin Survey, Abstract No. 63, Brazos County, Texas, and being a part of that certain called Bowery Lane described in the Zimmerman Addition of record in Volume 120, Page 97 of the Official Records of Brazos County, Texas, said Bowery Lane being more particularly described by metes and bounds as follows:

BEGINNING at a ½" Iron Rod with Cap Set for the most northerly corner, said corner being the calculated most easterly corner of Lot 8, Block 2 of said Zimmerman Addition, said corner being located in the calculated northwest right-of-way line of Bowery Lane;

THENCE S 48°11'20" E a distance of 25.00 feet to a ½" Iron Rod with Cap Set in the centerline of said Bowery Lane R.O.W. for the most easterly corner;

THENCE S 42°02'34" W along said centerline a distance of 50.11 feet to a ½" Iron Rod with Cap Set for the most southerly corner;

THENCE N 47°55'55" W a distance of 25.00 feet to a ½" Iron Rod with Cap Set for the most westerly corner, said corner being the calculated most southeasterly line of said Zimmerman Addition and also being located in the calculated northwest right-of-way line of said Bowery Lane;

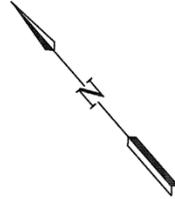
THENCE N 42°02'34" E along the southeasterly line of said Zimmerman Addition and the calculated northwesterly right-of-way line of said Bowery Lane a distance of 50.00 feet TO THE PLACE OF BEGINNING AND CONTAINING 0.03 ACRES OF LAND, MORE OR LESS, according to a survey performed on the ground during February 2014, under the supervision of H. Curtis Strong, Registered Professional Land Surveyor No. 4961. North orientation is based on rotating the northeast line of West Side Addition to Grid North NAD83(CORS96) Texas State Plane, Central Zone, as derived by GPs observations.

Exhibit "C-2":



STRONG SURVEYING
 Firm No. 10093500 email: curtis@strongsurveying.com

1722 Broadmoor, Suite 105
 Bryan, Texas 77802
 Phone: (979) 776-9836
 Fax: (979) 731-0096

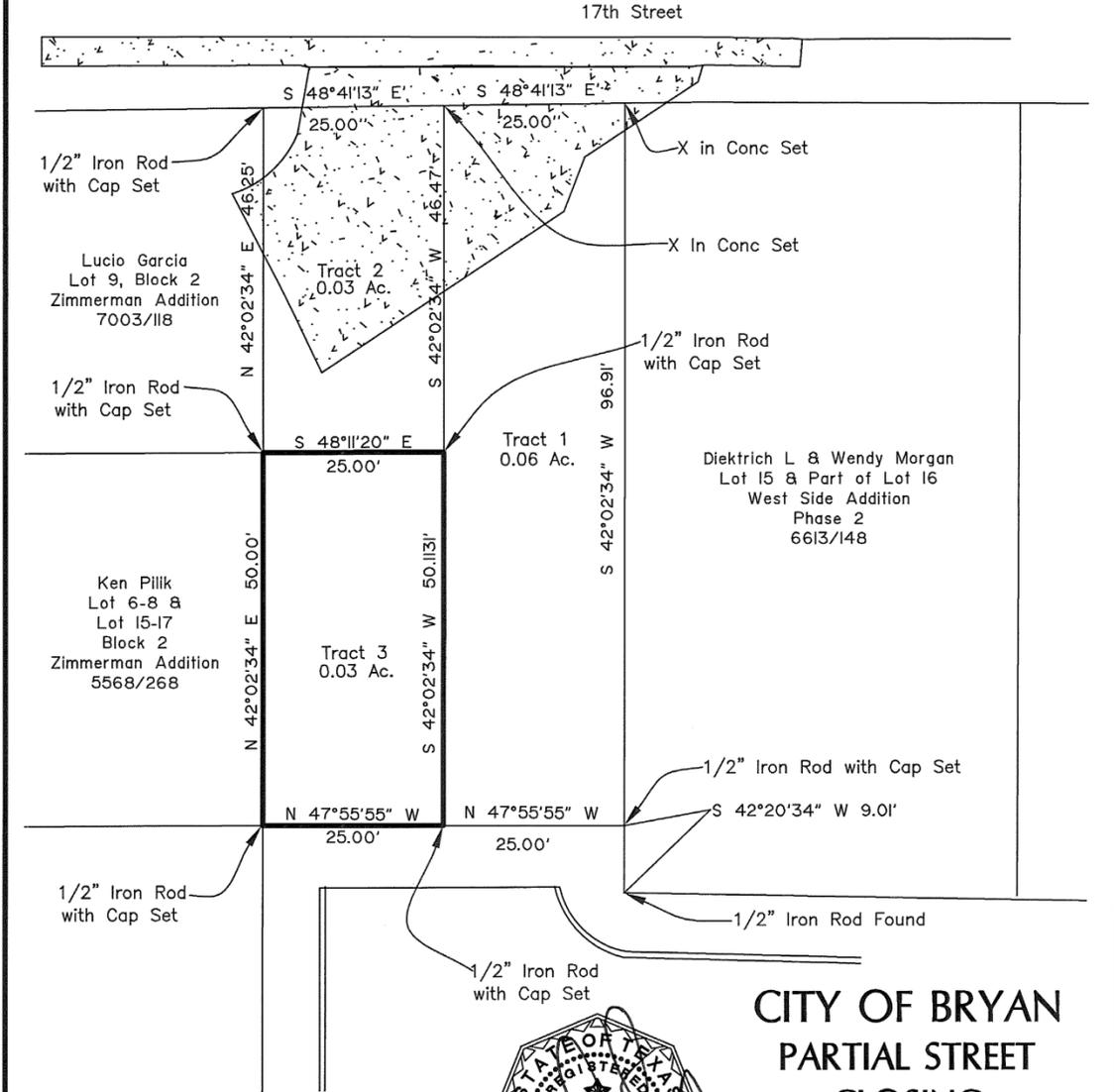


NOTES:

North Orientation is based on rotating the northeast line of West Side Addition to Grid North Texas State Plane Central Zone NAD83(CORS96) by utilizing GPS methods.

NOTES:

A Public Drainage and Utility Easement is reserved by the City of Bryan across the entire tract.



I H. Curtis Strong, Registered Professional Land Surveyor No. 4961, do hereby certify that the above plat is true and correct and represents the results of an on the ground survey performed on the ground under my supervision during the month of February, 2014 and is true and correct to the best of my knowledge.



**CITY OF BRYAN
 PARTIAL STREET
 CLOSING
 BOWERY LANE
 STEPHEN F. AUSTIN SURVEY, A-63
 SCALE 1"=20' MARCH 31, 2014**

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF APRIL 17, 2014:**

5. CONSENT AGENDA.

c. Right-of-Way Abandonment RA13-04: Bowery Street at W. 17th Street

A request to abandon a 50-foot wide and 96.91-foot long portion of Bowery Street right-of-way between Lowery Street and West 17th Street adjacent to Lots 15 and part of Lot 16 of the West Side Addition – Phase 2, and Lots 8 and 9 in Block 2 of the Zimmerman Addition in Bryan, Brazos County, Texas. (M. Dalton)

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

**PLANNING AND ZONING COMMISSION
STAFF REPORT**



April 17, 2014

Right-of-way Abandonment case no. RA13-04: Partial Bowery Street Closing

LOCATION: a request to abandon a 50-foot wide and 96.91-foot long portion of Bowery Street right-of-way between Lowery Street and West 17th Street adjacent to Lots 15 and part of Lot 16 of the West Side Addition Phase 2 and Lots 8 and 9 in Block 2 of the Zimmerman Addition

APPLICANT(S): Diektrich Morgan

AGENT: Strong Surveying

STAFF CONTACT: Maggie Dalton, Staff Planner



BACKGROUND:

This 50-foot wide and 96.91-foot long portion (4,845sf) of Bowery Street public right-of-way adjacent to Lots 15 and part of Lot 16 of the West Side Addition Phase 2 and Lots 8 and 9 in Block 2 of the Zimmerman Addition was originally platted in 1928 and has remained unimproved. Mr. Diektrich Morgan owns Lots 15 and part of 16 in the West Side Phase 2 Addition on the southeast side of the subject right-of-way, and Mr. Lucio Garcia and Kenneth Pitlik own Lots 8 and 9, respectively, in the Zimmerman Addition to the northwest of the subject right-of-way.

Most of the right-of-way requested to be abandoned has been functionally integrated with adjacent properties. An unnamed tributary of Still Creek crosses the northeastern portion of the subject right-of-way, before it flows under a bridge at its intersection with West 17th Street.

Mr. Morgan began approaching the City in March 2013 regarding the possible abandonment of this unimproved street right-of-way so that the land could be integrated with his ownership of adjacent land. The request is just now moving forward, as the City has had a long-planned drainage improvement project planned for the tributary that flows under the West 17th Street bridge, which also involves the Bowery Street right-of-way that is requested to be abandoned. The project, a drainage structure that is intended to help reduce the effects flooding downstream from this location, has not been fully designed. The attached surveys showing the subject right-of-way and the three parcels into which it is proposed to be divided were commissioned by the City and completed in March 2014.

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.

ANALYSIS:

This section of Bowery Street is a 50-foot wide right-of-way. The City of Bryan has plans for drainage improvements to the Still Creek tributary that crosses this dedicated street right-of-way that has never been improved with a driving surface, most likely due to the creek that crosses it. Abandoning the subject right-of-way, therefore, will not substantially interfere with the smooth circulation of vehicular traffic.

In light of the planned drainage improvements in the area, suitable easements over existing public utilities as well as planned public drainage improvements will need to be reserved. These easements will ensure continued public access for repairing and replacing utilities and help prevent the construction of new buildings which may interfere with access to these utilities and/or drainage structures.

RECOMMENDATION:

The Site Development Review Committee and staff recommend **approving** this request to abandon this 50-foot wide and 96.91-foot long portion of Bowery Street right-of-way, **subject to the following condition:**

- **That public drainage and public utility easements be reserved over the entire right-of-way to be abandoned.**

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 functionally

integrated with adjacent properties. Yet the public will benefit from planned improvements to the drainage channel that crosses this subject right-of-way, which is why staff recommends the aforementioned reservation of drainage and utility easements. 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.