

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 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 resolution authorizing the release of a portion of a 20-foot wide public utility easement (3,920 sq. ft.) extending generally east of Memorial Drive in Lot 1 of Block F of St. Joseph Regional Health Center Subdivision in the 1400 block of Memorial Drive between East 29 th and Kent Streets.			
SUMMARY STATEMENT: Only Bryan's City Council can authorize the release of easements intended for public use that were dedicated by a legal instrument other than a subdivision plat. The Planning and Zoning Commission is asked to make a recommendation to the City Council regarding all easement release requests.			
<p>In 2004, a 20-foot wide public utility easement was granted by the St. Joseph Regional Health Center to the City of Bryan as part of the replatting process (Vol. 6442, Pg. 117) for the subject property. This easement was granted to the City during the development of a new wing of the St. Joseph Hospital constructed on the east side of the property located at 2801 Franciscan Drive.</p> <p>The applicants are proposing to redevelop the existing parking lot for St. Joseph Hospital to include a new emergency room with ambulance entrances along Memorial Drive. Existing utilities located in a 3,920 sq.ft. (0.09-acre) portion of this easement will be removed and relocated with the construction of the new emergency room. Once these new utilities are installed, appropriate easements will be dedicated to the City by separate instrument to allow for continued maintenance of those utilities.</p>			
STAFF ANALYSIS AND RECOMMENDATION: During its meeting on August 21, the Planning and Zoning Commission concurred with staff and <u>unanimously recommended approving</u> this request to release a portion of this public utility easement, <u>subject to the condition</u> that the easement not be released until existing public utility infrastructure improvements are removed from the easement area and new public utility infrastructure has been installed and accepted by the City of Bryan. Releasing the easement, as requested, will help facilitate the proposed redevelopment of the St. Joseph Regional Health Center property.			
OPTIONS (In Suggested Order of Staff Preference):			
<ol style="list-style-type: none"> 1. approve; or 2. deny the requested easement release. 			
ATTACHMENTS:			
<ol style="list-style-type: none"> 1. location map; 2. draft resolution and exhibit; 			

3. excerpt from P&Z meeting minutes; and
4. staff report to the Planning & Zoning Commission.

FUNDING SOURCE: N/A

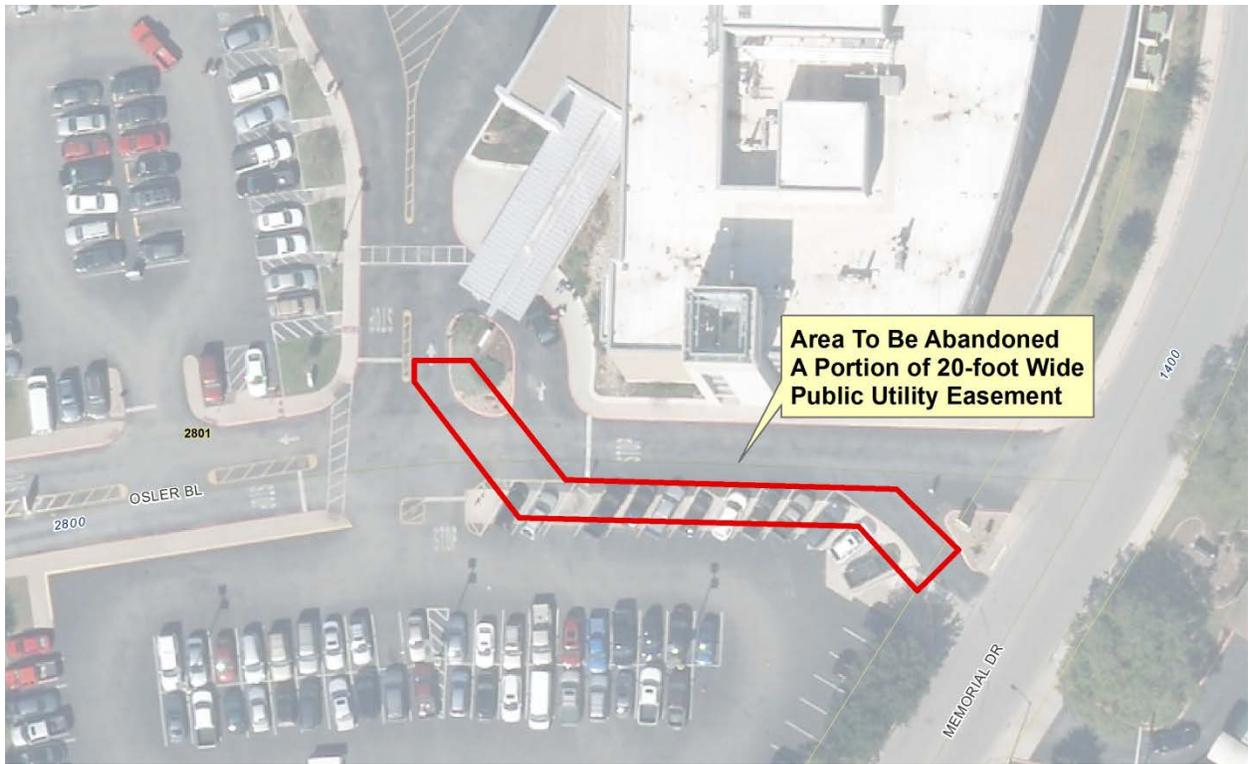
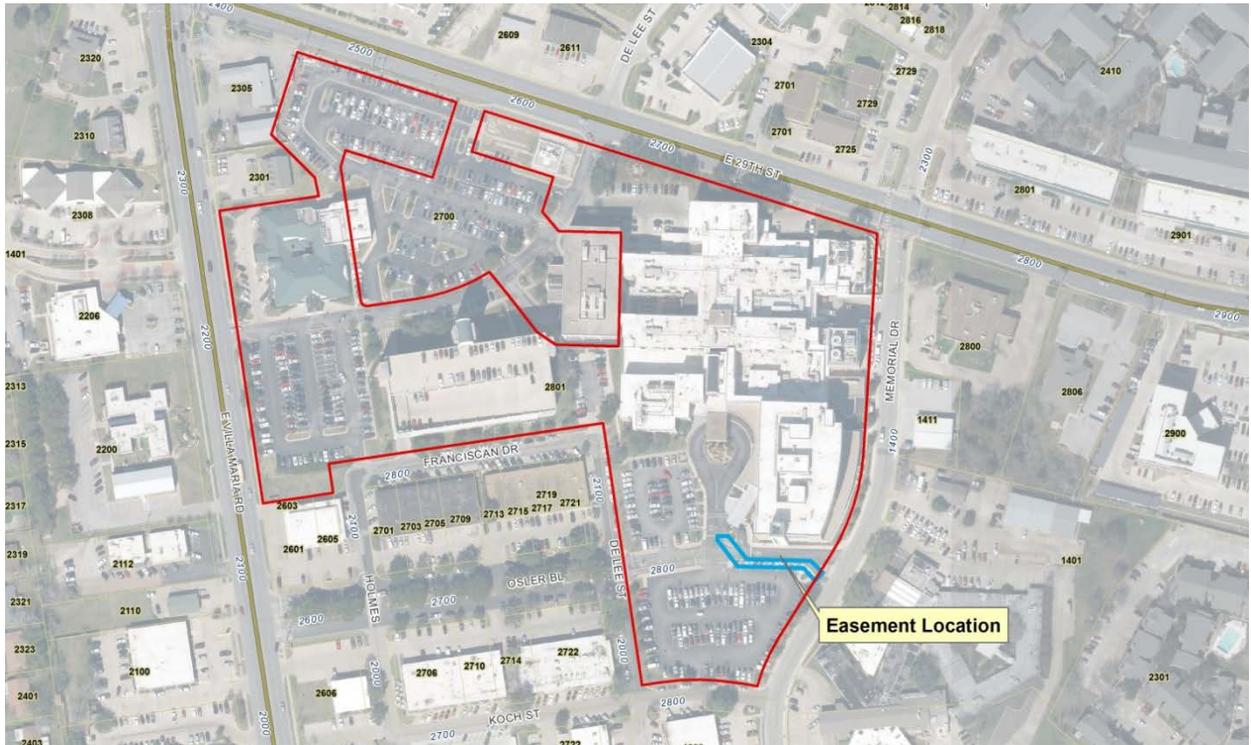
APPROVALS: Kevin Russell, 9/3/14; Joey Dunn, 9-3-14; Hugh R. Walker, 09/04/2014

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

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 09-15-2014

Revised 04/2013

LOCATION MAP:



RESOLUTION NO _____

A RESOLUTION OF THE CITY OF BRYAN, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE THE RELEASE OF THE FOLLOWING PUBLIC UTILITY EASEMENT, TO WIT: A PORTION OF A 20-FOOT WIDE PUBLIC UTILITY EASEMENT (3,920 SQ. FT.) EXTENDING GENERALLY EAST OF MEMORIAL DRIVE IN LOT 1 OF BLOCK F OF ST. JOSEPH REGIONAL HEALTH CENTER SUBDIVISION IN THE 1400 BLOCK OF MEMORIAL DRIVE BETWEEN EAST 29TH AND KENT STREETS IN BRYAN, BRAZOS COUNTY, TEXAS; AND PROVIDING FOR AN EFFECTIVE DATE;

WHEREAS, the City of Bryan is a home rule city with the specific and general powers of such under the Constitution and laws of the State of Texas; and

WHEREAS, the City of Bryan is the owner of a public utility easement more specifically described in Volume 96, Page 818 of the Official Records of Brazos County; and

WHEREAS, said public utility easement is located within Block F of St. Joseph Regional Health Center Subdivision; and

WHEREAS, the owners of said tract of land, St. Joseph Regional Health Center, have requested the release of a portion of the aforementioned public utility easement; and

WHEREAS, the City of Bryan currently uses said public utility easement for the purpose of constructing and maintaining public utilities; and

WHEREAS, the City of Bryan Planning and Zoning Commission recommended releasing a portion of said public utility easement, subject to certain conditions, during its regular meeting on August 21, 2014; and

WHEREAS, the City of Bryan deems it in the best interest of its citizens to release, vacate, and abandon a portion of said public easement;

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

1.

That the Mayor is hereby authorized to execute the instrument attached hereto as Exhibit "A" releasing the following public utility easement, to wit: a portion of a 20-foot wide public utility easement (3,920 sq. ft.) extending generally east of Memorial Drive in Lot 1 of Block F of St. Joseph Regional Health Center Subdivision in the 1400 block of Memorial Drive between East 29th and Kent Streets, in Bryan, Brazos County, Texas.

2.

That the instrument releasing the public utility easement, as provided for herein, shall not be recorded until existing public utility infrastructure improvements are removed from the easement area and new public utility infrastructure has been installed and accepted by the City of Bryan.

3.

It is hereby found and determined that the meeting at which this resolution was adopted was open to the public as required by law and notice of time, place, and purpose of said meeting was given required by Chapter 551, Texas Government Code.

4.

That this resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED by the City Council of the City of Bryan, at a regular meeting on the 23rd day of September, 2014.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney

Exhibit "A":

RELEASE OF A PORTION OF A 20-FOOT WIDE PUBLIC UTILITY EASEMENT (3,920 SQ. FT.) EXTENDING GENERALLY EAST OF MEMORIAL DRIVE IN LOT 1 OF BLOCK F OF ST. JOSEPH REGIONAL HEALTH CENTER SUBDIVISION IN THE 1400 BLOCK OF MEMORIAL DRIVE BETWEEN EAST 29TH AND KENT STREETS

THE STATE OF TEXAS §

COUNTY OF BRAZOS § KNOWN 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, present legal and equitable owner of a public utility easement, retained by the City of Bryan, Texas, in an instrument recorded in Volume 6442, Page 117 of the Official Public Records of Brazos County, Texas, for a good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does by these presents RELEASE and ABANDON the following public utility easement:

 a portion of a 20-foot wide public utility easement (3,920 sq. ft.) extending generally east of Memorial Drive in Lot 1 of Block F of St. Joseph Regional Health Center Subdivision in the 1400 block of Memorial Drive between East 29th and Kent Streets in Bryan, Brazos County, Texas as depicted and described in attached Exhibits "A-1" and "A-2"

This document in no way releases affects or abandons any other utility easement or other property interests of the City of Bryan dedicated by plat or by separate instruments, other than the easement hereby released.

This easement release is authorized by a resolution of the governing body for the City of Bryan, as approved and adopted on September 23, 2014.

EXECUTED this the _____ day of _____, 2014.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

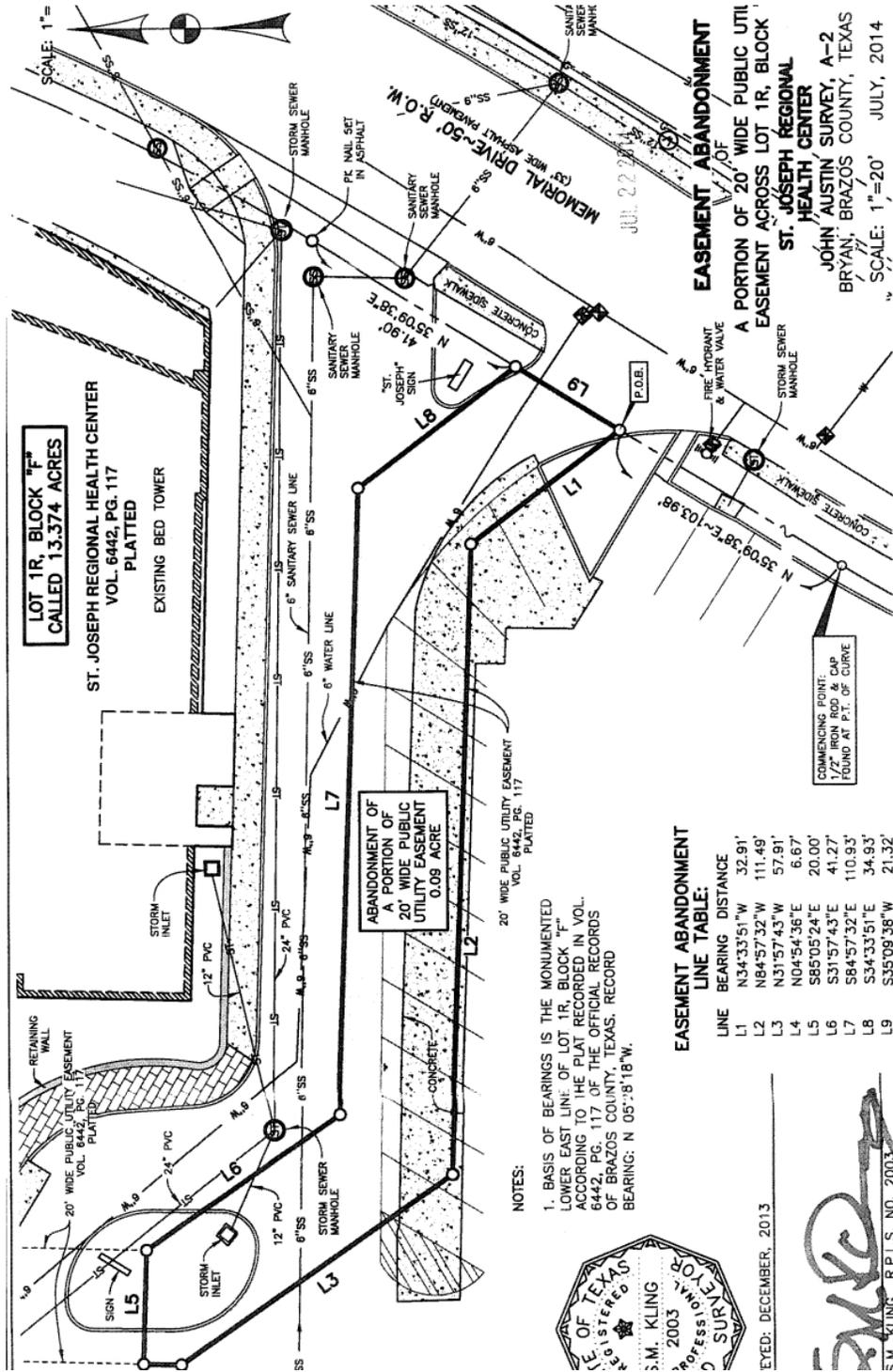
Janis K. Hampton, City Attorney

THE STATE OF TEXAS §
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the _____ day of _____, 2013, by Jason P. Bienski, Mayor of the City of Bryan, Texas, a municipal corporation, on behalf of said Municipal Corporation.

Notary Public, State of Texas

Exhibit "A-1"



**LOT 1R, BLOCK "F"
CALLED 13.374 ACRES**

**ST. JOSEPH REGIONAL HEALTH CENTER
VOL. 6442, PG. 117
PLATTED
EXISTING BED TOWER**

**ABANDONMENT OF
A PORTION OF
20' WIDE PUBLIC
UTILITY EASEMENT
0.09 ACRE**

NOTES:
1. BASIS OF BEARINGS IS THE MONUMENTED LOWER EAST LINE OF LOT 1R, BLOCK "F" ACCORDING TO THE PLAT RECORDED IN VOL. 6442, PG. 117 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS. RECORD BEARING: N 05°18'18"W.

**EASEMENT ABANDONMENT
LINE TABLE:**

LINE	BEARING	DISTANCE
L1	N34°33'51"W	32.91'
L2	N84°57'32"W	111.49'
L3	N31°57'43"W	57.91'
L4	N04°54'36"E	6.67'
L5	S85°05'24"E	20.00'
L6	S31°57'43"E	41.27'
L7	S84°57'32"E	110.93'
L8	S34°33'51"E	34.93'
L9	S35°09'38"W	21.32'

COMMENCING POINT:
FOR L1, L2 & L3
FOUND AT P.I. OF CURVE



EYED: DECEMBER, 2013

S.M. KLING
S.M. KLING R.P.L.S. NO. 2003

Exhibit "A-2"

Abandonment of a Portion of 20' Public Utility Easement
Part of Lot 1R, Block F – 13.374 Acres
St. Joseph Regional Health Center
John Austin Survey, A-2
Bryan, Brazos County, Texas

Field notes of the southern portion of a 20' wide public utility easement, lying and being situated in the John Austin Survey, Abstract No. 2, Bryan, Brazos County, Texas, as shown on the Replat of Lot 1R, Block F, St. Joseph Regional Health Center, according to the plat recorded in Volume 6442, Page 117, of the Official Records of Brazos County, Texas, and being more particularly described as follows:

BEGINNING at a pk nail set at the south corner of the beforementioned 20' wide public utility easement in the northwest right-of-way line of Memorial Drive – 50' wide right-of-way and located N 35° 09' 38" E – 103.98 feet from a ½" iron rod and cap found marking the end of a Memorial Drive curve;

THENCE along the southwest line of the beforementioned 20' wide public utility easement, as follows:

N 34° 33' 51" W	for a distance of 32.91 feet,
N 84° 57' 32" W	for a distance of 111.49 feet,
N 31° 57' 43" W	for a distance of 57.91 feet,
N 04° 54' 36" E	for a distance of 6.67 feet to a pk nail set;

THENCE S 85° 05' 24" E across the 20' wide public utility easement, for a distance of 20.00 feet and corner at an angle point in the said 20' wide public utility easement;

THENCE along the northeast line of the beforementioned 20' wide public utility easement, as follows:

S 31° 57' 43" E	for a distance of 41.27 feet,
S 84° 57' 32" E	for a distance of 110.93 feet,
S 34° 33' 51" E	for a distance of 34.93 feet to a 60d nail set in the northwest right-of-way line of Memorial Drive right-of-way, from which a pk nail set at the beginning of a Memorial Drive right-of-way curve, bears N 35° 09' 38" E – 41.90 feet;

THENCE S 35° 09' 38" W along the northwest right-of-way line of the beforementioned Memorial Drive, for a distance of 21.32 feet to the **PLACE OF BEGINNING**, containing 0.09 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 20' ezmt abandonment – Lot 1R Blk F – 0.09ac - 464502

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

4. CONSENT AGENDA.

e. Easement Release ER14-01: St. Joseph Regional Health Center

*A request to release a portion of a 20-foot wide (3,920 sq. ft.) public utility easement that extends generally east from Memorial Drive, north from its intersection with Koch Street, in Lot 1 of Block F of the St. Joseph Regional Health Center Subdivision 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.

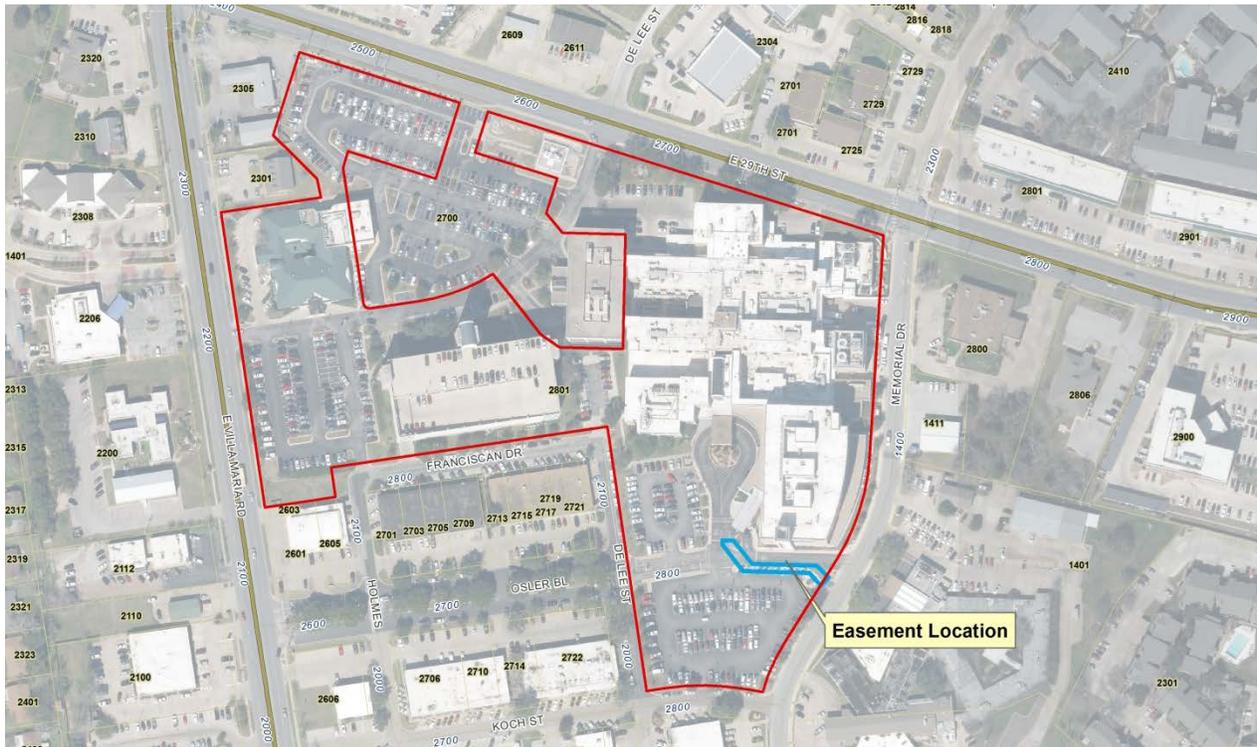
**PLANNING AND ZONING COMMISSION
STAFF REPORT**

August 21, 2014



Easement Release case no. ER14-01: St. Joseph Regional Health Center

- CASE DESCRIPTION:** a request to release a portion of a 20-foot wide public utility easement (3,920 sq. ft.) extending generally east of Memorial Drive in Lot 1 of Block F of St. Joseph Regional Health Center Subdivision
- LOCATION:** 1400 block of Memorial Drive between East 29th and Kent Streets
- APPLICANT(S):** St. Joseph Healthcare Center
- AGENT:** Mitchell & Morgan, LLP
- STAFF CONTACT:** Matthew Hilgemeier, Staff Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** the requested easement release, **subject to a condition.**



BACKGROUND:

Only Bryan's City Council can authorize the release of easements intended for public use that were dedicated by a legal instrument other than a subdivision plat. The Planning and Zoning Commission is asked to make a recommendation to the City Council regarding all easement release requests.

In 2004, a 20-foot wide public utility easement was granted by the St. Joseph Regional Health Center to the City of Bryan as part of the replatting process (Vol. 6442, Pg. 117) for the subject property. This easement was granted to the City during the development of a new wing of the St. Joseph Hospital constructed on the east side of the property located at 2801 Franciscan Drive. The 0.09 acre (3,920 square feet) portion of the easement depicted in the illustrations above is now proposed to be released.

The applicants are proposing to redevelop the existing parking lot to include a new emergency room with ambulance entrances along Memorial Drive which requires the abandonment of the easement. Existing utilities located in this easement will be removed and replaced in new locations with the construction of the new Emergency Room. Once these new utilities are installed, the appropriate easements will be dedicated to the City by separate instrument.

The Site Development Review Committee and staff **recommend approving** the release of this portion of the easement, **subject to the condition** that the easement not be released until existing public utility infrastructure improvements are removed from the easement area and new public utility infrastructure has been installed and accepted by the City of Bryan.