

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: September 23, 2014		DATE SUBMITTED: September 2, 2014	
DEPARTMENT OF ORIGIN: Development Services		SUBMITTED BY: Randy Haynes	
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 20-foot wide by 125-foot long public utility easement extending across Block 142 in the Bryan Original Townsite, being 2,500 square feet of land located between North Parker Avenue and North Sims Avenue midway between West 23 rd and West 24 th 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.			
In December 1978, the Bryan City Council closed, abandoned and quitclaimed the public alley in Block 142 to the adjoining property owners, retaining for future use of the City a public utility easement over the entire tract quitclaimed. The applicant is the current owner of one half of the area abandoned and quitclaimed by the City in 1978, and is proposing to redevelop his property. No public facilities are currently located within this easement and City staff does not foresee a future need for possible future use of this easement for public purposes.			
STAFF ANALYSIS AND RECOMMENDATION: The Site Development Review Committee and staff recommend <u>approving</u> the release of the public utility easement as requested. Retention of this specific easement will serve no future public purpose and will hinder redevelopment of the subject property. Releasing the subject easement, as recommended, will allow this land to be redeveloped.			
During its meeting on August 21, 2014, the Planning and Zoning Commission concurred with staff and unanimously recommended approving this request to release this public utility easement.			
OPTIONS (In Suggested Order of Staff Preference):			
1. approve; or			
2. deny the requested easement release.			
ATTACHMENTS:			
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, 09/03/2014
APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 09-03-2014
APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 09-15-14

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 20-FOOT WIDE BY 125-FOOT LONG PUBLIC UTILITY EASEMENT EXTENDING ACROSS BLOCK 142 IN THE BRYAN ORIGINAL TOWNSITE, BEING 2500 SQUARE FEET OF LAND LOCATED BETWEEN NORTH PARKER AVENUE AND NORTH SIMS AVENUE MIDWAY BETWEEN WEST 23RD AND WEST 24TH 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 142 of the Bryan Original Townsite; and

WHEREAS, the owners of said tract of land, Harriet Development LTD, have requested the release of the aforementioned public utility easement; and

WHEREAS, the City of Bryan does neither currently use or anticipate using 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 said public utility easement during their 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 said 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 20-foot wide by 125-foot long public utility easement extending across Block 142 in the Bryan Original Townsite, being 2,500 square feet of land located between North Parker Avenue and North Sims Avenue midway between West 23rd and West 24th Streets in Bryan, Brazos County, Texas, said easement being more specifically described in Volume 96, Page 818 of the Official Records of Brazos County, Texas.

2.

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.

3.

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 20-FOOT WIDE BY 125-FOOT LONG PUBLIC UTILITY EASEMENT
EXTENDING ACROSS BLOCK 142 IN THE BRYAN ORIGINAL TOWNSITE, BEING 2,500
SQUARE FEET OF LAND LOCATED BETWEEN NORTH PARKER AVENUE AND NORTH
SIMS AVENUE MIDWAY BETWEEN WEST 23RD STREET AND WEST 24TH STREET**

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 96, Page 818 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 20-foot wide by 125-foot long public utility easement extending across Block 142 in the Bryan Original Townsite, being 2,500 square feet of land located between North Parker Avenue and North Sims Avenue midway between West 23rd Street and West 24th Street in Bryan, Brazos County, Texas.

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 _____, 2014, 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

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

5. CONSENT AGENDA.

b. Easement Release ER14-03: Block 142 Bryan Original Townsite

A request to release a 20-foot wide and 125-foot long public utility easement that extends west from North Parker Avenue between West 23rd and West 24th Streets in Block 142 of the Bryan Original Townsite in Bryan, Brazos County, Texas. (R. Haynes)

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. ER14-03: Chris Lawrence

- CASE DESCRIPTION:** a request to release a 20-foot wide by 125-foot long Public Utility Easement extending across Block 142 in the Bryan Original Townsite
- LOCATION:** 2500 square feet of land located between North Parker Avenue and North Sims Avenue midway between West 23rd Street and West 24th Street
- APPLICANT(S):** Chris Lawrence
- STAFF CONTACT:** Randy Haynes, Senior Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** the release of this public utility easement, as requested.



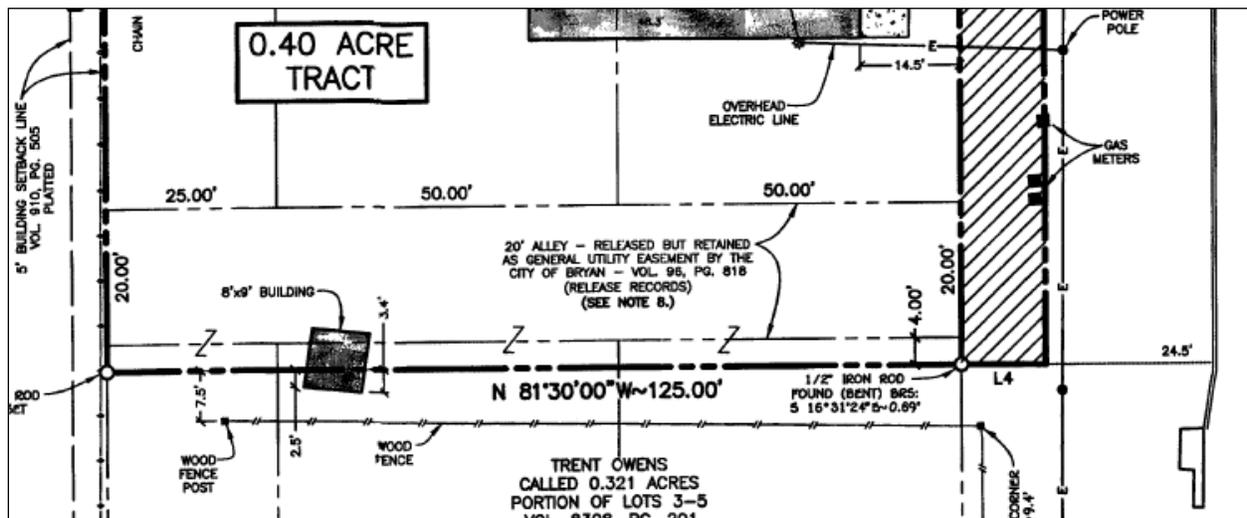
BACKGROUND:

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 December 1978 the Bryan City Council closed, abandoned and quitclaimed the public alley in Block 142 to the adjoining property owners, retaining for future use of the city a public utility easement over the entire tract quitclaimed. Please see Ordinance 309 below.

The applicant is the current owner of one half of the area abandoned and quitclaimed by the City in 1978, and is proposing to redevelop his property. No public facilities are currently located within this easement and City staff does not foresee a future need for possible future use of this easement for public purposes.

DETAIL OF PROPOSED REPLAT DRAWING (CASE NO. RP14-11) SHOWING THE AREA OF PUBLIC UTILITY EASEMENT REQUESTED TO BE ABANDONED:



RECOMMENDATION:

The Site Development Review Committee and staff recommend **approving** the release of the public utility easement as requested.

ORDINANCE NO. 309

AN ORDINANCE CLOSING, ABANDONING, AND VACATING AN ALLEY IN BLOCK 142, OLD TOWNSITE, BRYAN, BRAZOS COUNTY, TEXAS; AUTHORIZING THE MAYOR TO EXECUTE A RELEASE TO THE ABUTTING PROPERTY OWNERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, all of the owners abutting the alley have requested by petition that the alley be abandoned by the City; and

WHEREAS, the alley is not now needed for public street purposes, and will not be needed in the future for public street purposes, except to the extent reserved and excepted in the Release; and

WHEREAS, the closing, abandoning and vacating of said alley will relieve the City of any responsibility to maintain the alley which is of at least equal value to the appraised market value of the alley;

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

1.

That said alley described as follows:

Being an alley in Block 142, Old Townsite, S. F. Austin No. 9 League, Bryan, Brazos County, Texas, and being more particularly described as follows:

BEGINNING at a point in the east right-of-way line of Sims Avenue, said point also being the southwest corner of Lot 10, Block 142, in the Old Townsite as recorded in Volume H, Page 721 of the Deed Records of Brazos County, Texas;

THENCE southeast with the southwest property line of the aforementioned Lot 10, for a distance of 250 feet to a point in the west right-of-way line of Parker Avenue, said point also being in the southeastern corner of Lot 6, Block 142, in the Old Townsite as recorded in Volume H, Page 721 of the Deed Records of Brazos County, Texas;

THENCE southwest with the said west right-of-way line of Parker Avenue for a distance of 20 feet to a point in the northeast corner of Lot 5, Block 142, in the Old Townsite as recorded in Volume H, Page 721 of the Deed Records of Brazos County, Texas;

THENCE northwest with the northeast property line of the aforementioned Lot 5 for a distance of 250 feet to a point in the east right-of-way line of Sims Avenue, said point also being the northwest corner of Lot 1, Block 142, in the Old Townsite as recorded in Volume H, Page 721 of the Deed Records of Brazos County, Texas;

Alley Closing Ordinance
Block 142, Old Townsite

THENCE northeast along the said east right-of-way line of Sims Avenue for distance of 20 feet to a point; said point being the place of beginning, and containing 0.115 of an acre of land, more or less;

be and the same is hereby closed, abandoned, and vacated for public use, and the same is hereby closed, abandoned, and vacated insofar as all public right, title and interest in and to said described alley is concerned except to the extent excepted in the attached Release.

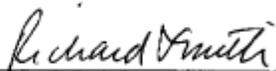
2.

That the Mayor is hereby authorized to execute on behalf of the City of Bryan a Release substantially in the form attached hereto as Exhibit "A."

3.

That this ordinance shall become effective in accordance with the terms and provisions of the Charter of the City of Bryan.

PRESENTED AND GIVEN first reading the 11th day of December, 1978, at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, passed and approved on the 18th day of December, 1978, by a vote of 7 ayes and 0 nays at a regular meeting of the City Council of the City of Bryan, Texas.


Richard Smith, Mayor

ATTEST:


Joe Evans, City Secretary

APPROVED AS TO FORM:


Charles K. Bluntzer, City Attorney

R E L E A S E

THE STATE OF TEXAS ◊

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF BRAZOS ◊

That the City of Bryan, a municipal corporation by and through its Mayor, as authorized by Ordinance, in consideration of the premises has this day and does by these presents Release, Discharge and Quitclaim unto each of the owners of the underlying fee simple interest, to-wit: GIRLS CLUB OF BRAZOS COUNTY, INC. and TONY BARCELONA ESTATE, and their heirs and assigns, subject to the reservations hereinafter described, all the right, title, interest and estate to the alley of the City of Bryan described as follows:

Being an alley in Block 142, Old Townsite, S. F. Austin No. 9 League, Bryan, Brazos County, Texas, and being more particularly described as follows:

BEGINNING at a point in the east right-of-way line of Sims Avenue, said point also being the southwest corner of Lot 10, Block 142, in the Old Townsite as recorded in Volume H, Page 721 of the Deed Records of Brazos County, Texas;

THENCE southeast with the southwest property line of the aforementioned Lot 10, for a distance of 250 feet to a point in the west right-of-way line of Parker Avenue, said point also being in the southeastern corner of Lot 6, Block 142, in the Old Townsite as recorded in Volume H, Page 721 of the Deed Records of Brazos County, Texas;

THENCE southwest with the said west right-of-way line of Parker Avenue for a distance of 20 feet to a point in the northeast corner of Lot 5, Block 142, in the Old Townsite as recorded in Volume H, Page 721 of the Deed Records of Brazos County, Texas;

THENCE northwest with the northeast property line of the aforementioned Lot 5 for a distance of 250 feet to a point in the east right-of-way line of Sims Avenue, said point also being the northwest corner of Lot 1, Block 142, in the Old Townsite as recorded in Volume H, Page 721 of the Deed Records of Brazos County, Texas;

THENCE northeast along the said east right-of-way line of Sims Avenue for a distance of 20 feet to a point; said point being the place of beginning, and containing 0.115 of an acre of land, more or less.

Save and except for the following easements to be retained by the City of Bryan:

A general utility easement for under, on or above ground utilities covering the same tract of property released above with a right of ingress and egress to such property and a right to remove any trees, shrubs, fences or other such improvements constructed in the above described utility easement area for the purpose of construction, maintenance, removal or repair of such utilities. No permanent improvements can be constructed by the abutting property owners in the utility easement area.

WITNESS MY HAND this the 18th day of December, 1978.

CITY OF BRYAN

By _____
Richard Smith, Mayor

ATTEST:

Joe E. Evans, City Secretary