

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> November 18, 2014		<b>DATE SUBMITTED:</b> November 6, 2014	
<b>DEPARTMENT OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Maggie Dalton	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input 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
<b>AGENDA ITEM DESCRIPTION:</b> Consideration of a request to abandon an approximately 0.286 acres of unimproved public street right-of-way for Bradley Street, extending between San Jacinto Lane (State Highway 21) and North Sims Avenue adjacent to a railroad right-of-way and property addressed as 1601 North Sims Avenue in Oak Grove Park Addition No. 2 in Bryan, Brazos County, Texas.			
<b>SUMMARY STATEMENT:</b> Bradley Street was dedicated as public street right-of-way extending northwest from San Jacinto Lane (State Highway 21) for a distance of approximately 270 feet, with the recording of the Oak Grove Park Addition No. 2 in 1925. The applicant, Mr. Roy Rodriguez, owns the land adjacent to this unimproved right-of-way at 1601 North Sims Avenue. Mr. Rodriguez has requested the abandonment of this 0.286-acre portion of Bradley Street right-of-way, to integrate this land with his ownership of land adjoining this unimproved street right-of-way. Currently the adjacent land is zoned for commercial uses and is vacant. Mr. Rodriguez wishes to operate a commercial business on the adjacent property.			
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.			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> During its meeting on November 6, 2014, the Planning and Zoning Commission concurred with staff and unanimously recommended approving this right-of-way abandonment request, subject to the condition that a formal replat encompassing all property the applicant owns or will own after abandonment of these rights-of-way is filed with the City for recording.			
<ul style="list-style-type: none"> <li>• The right-of-way requested to be abandoned has never been improved with a street driving surface and has been functionally integrated with adjacent land for more than 80 years.</li> <li>• The public utility services located within this right-of-way segment are proposed to be abandoned by the Public Works Department.</li> <li>• Abandoning the subject right-of-way will not interfere with the smooth circulation of vehicular or pedestrian traffic, and will not affect the public utility network in this vicinity.</li> <li>• The recommended rearrangement of land will have the most likely long-range public benefit.</li> </ul>			
<b>OPTIONS (In Suggested Order of Staff Preference):</b>			
<ol style="list-style-type: none"> <li>1. approve the requested right-of-way abandonment;</li> <li>2. approve the requested right-of-way abandonment with modifications, which may require consideration at a future City Council meeting; or</li> </ol>			

3. deny the requested right-of-way abandonment.

**ATTACHMENTS:**

1. location map;
2. draft ordinance and exhibits;
3. excerpt from Planning and Zoning Commission meeting minutes of November 6, 2014; and
4. staff report to the Planning and Zoning Commission.

**FUNDING SOURCE: N/A**

**APPROVALS:** Kevin Russell, 10-29-14; Joey Dunn, 10-31-14; Hugh R. Walker, 11/02/2014

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 11/3/2014

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** Janis K. Hampton, 11-03-2014

Revised 04/2013

**LOCATION MAP:**



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF THE FOLLOWING PUBLIC RIGHT-OF-WAY, TO WIT: 0.286 ACRE SEGMENT OF UNIMPROVED PUBLIC STREET RIGHT-OF-WAY FOR BRADLEY STREET, EXTENDING BETWEEN SAN JACINTO LANE (STATE HIGHWAY 21) AND NORTH SIMS AVENUE ADJACENT TO A RAILROAD RIGHT-OF-WAY AND 1601 NORTH SIMS AVENUE; AUTHORIZING THE CONVEYANCE THEREOF TO THE ABUTTING PROPERTY OWNER; PROVIDING FOR THE TERMS AND CONDITIONS OF ABANDONMENT AND CONVEYANCE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the owner of portions of Lots 13 thru 18 in the Oak Grove Park Addition No. 2 has requested the abandonment of 0.286 acre section of public street right-of-way located adjacent to said lots; and

**WHEREAS**, during its regular meeting on November 6, 2014, the Bryan Planning and Zoning Commission recommended approving the request to abandon and close said portion of public street 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 owner and is of the opinion that said land is not needed for public use, and that same should be abandoned to the abutting property owner 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 owner;

**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 0.286-acre portion of unimproved public street right-of-way for Bradley Street, extending between San Jacinto Lane (State Highway 21) and North Sims Avenue adjacent to a railroad right-of-way and 1601 North Sims Avenue in the Oak Grove Park

Addition No. 2, said tract being described more particularly by metes-and-bounds on attached Exhibit "A" and depicted on attached Exhibit "B".

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 abandonment and conveyance provided for herein shall not be completed until the City of Bryan has approved and recorded a formal replat encompassing all property which the applicant owns and/or will own after abandonment of this public 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 18<sup>th</sup> day of November, 2014 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, **PASSED AND APPROVED** on the 2<sup>nd</sup> day of December, 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":**  
**METES AND BOUNDS DESCRIPTION**  
**OF A 0.286 ACRE TRACT**  
**STEPHEN F. AUSTIN LEAGUE NO. 10, A-63**  
**BRYAN, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF PARCEL OF LAND LYING AND BEING SITUATED IN THE STEPHEN F. AUSTIN LEAGUE NO. 10, ABSTRACT NO. 63, BRYAN, BRAZOS COUNTY, TEXAS. SAID TRACT BEING THE REMAINDER OF A 50' WIDE STREET RIGHT-OF-WAY LABELED AS "BRADLEY STREET" AS SHOWN ON THE PLAT OF OAK GROVE PARK ADDITION RECORDED IN VOLUME 38, PAGE 640 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS.

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** AT AN "X" SET IN CONCRETE ON THE EAST LINE OF N. SIMS AVENUE MARKING THE NORTH CORNER OF LOT 18 OF SAID OAK GROVE PARK ADDITION. FOR REFERENCE, A ½ INCH IRON ROD FOUND BEARS: S 07° 26' 05" W FOR A DISTANCE OF 171.50 FEET;

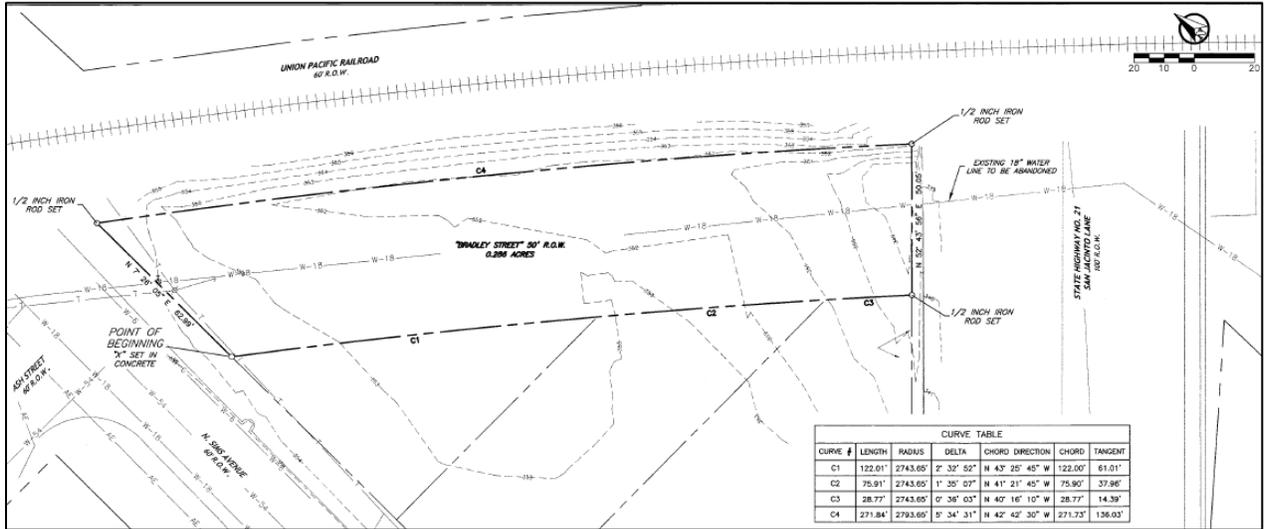
**THENCE:** S 07° 26' 05" E ALONG THE EAST LINE OF N. SIMS AVENUE FOR A DISTANCE OF 62.99 FEET TO A ½ INCH IRON ROD SET ON THE NORTHEAST LINE OF SAID 50' RIGHT-OF-WAY AND THE SOUTHWEST LINE OF THE UNION PACIFIC RAILROAD (60' R.O.W.). SAID IRON ROD SET MARKING THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 2793.65 FEET (THIS CURVE IS BASED ON AN OFFSET OF 30 FEET FROM THE CENTERLINE OF THE UNION PACIFIC RAILROAD TRACKS);

**THENCE:** ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05° 34' 31" FOR AN ARC DISTANCE OF 271.84 FEET (CHORD BEARS: S 42° 42' 30" E – 271.72 FEET) TO A HALF INCH IRON ROD SET ON THE NORTHWEST LINE OF STATE HIGHWAY NO. 21 – SAN JACINTO LANE (100' R.O.W.);

**THENCE:** S 52° 43' 56" W ALONG THE NORTHWEST LINE OF STATE HIGHWAY NO. 21 FOR A DISTANCE OF 50.05 FEET TO A ½ INCH IRON ROD SET ON THE SOUTHWEST LINE OF SAID 50' RIGHT-OF-WAY MARKING THE EAST CORNER OF THE REMAINDER OF LOT 16 OF SAID OAK GROVE PARK ADDITION. SAID IRON ROD SET MARKING THE BEGINNING OF A COUNTER-CLOCKWISE CURVE HAVING A RADIUS OF 2743.65 FEET. FOR REFERENCE, A ½ INCH IRON ROD SET ON THE NORTHWEST LINE OF STATE HIGHWAY NO. 21 BEARS: S 52° 43' 56" W FOR A DISTANCE OF 208.38 FEET, FROM WHICH, THE CITY OF BRYAN GPS MONUMENT NO. 117 BEARS: S 58° 18' 31" W – 2718.08 FEET;

**THENCE:** ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04° 44' 02" FOR AN ARC DISTANCE OF 226.69 FEET (CHORD BEARS: N 42° 20' 10" W – 226.62 FEET) TO THE **POINT OF BEGINNING** CONTAINING 0.29 OF AN ACRE OF LAND (12,465 SQUARE FEET), MORE OR LESS, AS SURVEYED ON THE GROUND SEPTEMBER, 2014. AWW PLAT PREPARED SEPTEMBER, 2014, FOR MORE DESCRIPTIVE INFORMATION. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION.

## EXHIBIT "B":



**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING  
MINUTES OF NOVEMBER 6, 2014:**

**5. CONSENT AGENDA.**

**f. Right-of-Way Abandonment RA14-07: Oak Grove Park Addition No. 2**

*A request to abandon approximately 0.286 acres of unimproved public street right-of-way for Bradley Street, extending between San Jacinto Lane (State Highway 21) and North Sims Avenue adjacent to a railroad right-of-way and property addressed as 1601 North Sims Avenue in Oak Grove Park Addition No. 2 in Bryan, Brazos County, Texas. (M. Dalton)*

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

PLANNING AND ZONING COMMISSION  
STAFF REPORT

November 6, 2014



**Right-of-way Abandonment case no. RA 14-07: Oak Grove Park Addition, No 2**

**SIZE AND LOCATION:** a request to abandon approximately 0.286 of unimproved public street right-of-way for Bradley Street, adjoining the northeast side of 1601 North Sims Avenue, between San Jacinto Lane (SH 21) and North Sims Avenue in Oak Grove Park Addition No. 2

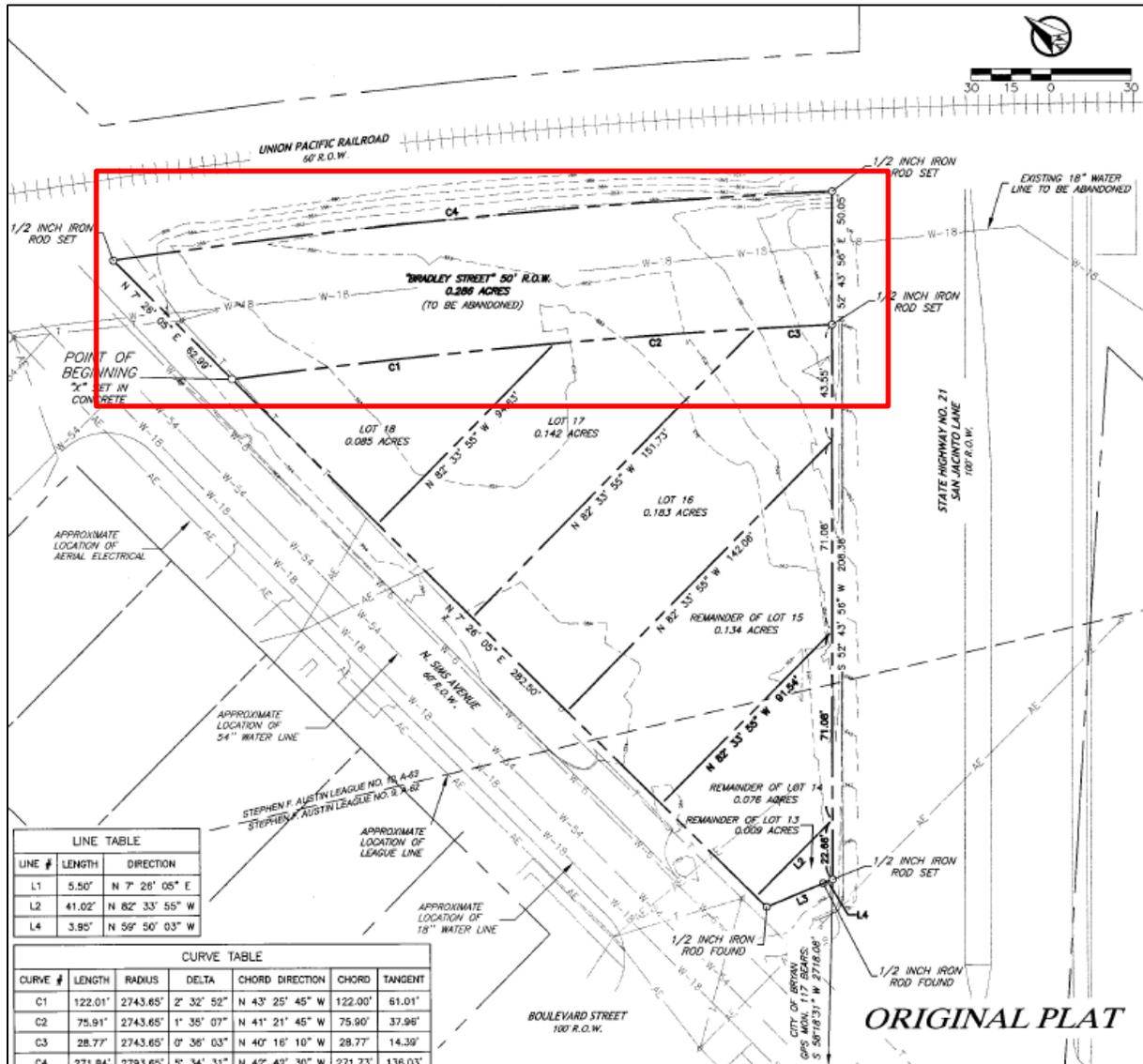
**APPLICANT(S):** Roy Rodriguez

**STAFF CONTACT:** Maggie Dalton, Staff Planner

**SUMMARY RECOMMENDATION:** Staff recommends **approving** the requested right-of-way abandonment.



**DETAIL OF PROPOSED REPLAT DRAWING (case no. RP14-26) SHOWING THE AREA OF RIGHT-OF-WAY REQUESTED TO BE ABANDONED:**



**BACKGROUND:**

The applicant, Mr. Roy Rodriguez, is requesting that 0.286 acres of Bradley Street right-of-way be abandoned and platted with related replat case (RP case no. RP14-26). The replat request is scheduled to be considered by the Planning and Zoning Commission during their regular meeting November 6<sup>th</sup>, 2014. Mr. Rodriguez has purchased the property with the intent to develop the land with a commercial business. In the process of surveying the property for the replat, the Bradley Street right-of-way adjacent to the railroad was discovered. When Oak Grove Park Addition, No. 2 was platted in 1925, a different Bradley Street within the city limits had been constructed and the proposed Bradley Street was never marked on the official city street map for this reason. Relating to and in preparation for the replat procedure, the applicant is requesting that specific right-of-way adjacent to the lot owned by Mr. Rodriguez be abandoned by the City Council.

Mr. Rodriguez is requesting the official abandonment of public street right-of-way adjacent to Lots 16-18 of the Oak Grove Park Addition, No. 2. The subsequent replat will formally integrate these tracts with Mr. Rodriguez's ownership of the adjoining land. The right-of-way requested to be abandoned is 0.286 acres in area and has never been improved as a driving surface. There is currently an 18-inch waterline located within the right-of-way, however the Public Works Department is abandoning said line and therefore no easement will be required over the requested abandonment.

**ANALYSIS AND 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 rights-of-way requested to be abandoned has been functionally integrated with adjacent land for many years. Abandoning the subject rights-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 this segment of Bradley Street right-of-way, as requested. Abandoning the subject rights-of-way, as recommended, will allow this land to be integrated with the adjacent lot and relieve the public from continued maintenance responsibilities. Staff contends that the recommended rearrangement of land will have the most likely long-range public benefit.