

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: May 28, 2013		DATE SUBMITTED: May 7, 2013	
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 checked="" 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 request to abandon a 20-foot wide and 50-foot long portion of public alley right-of-way located south of property at 210 West 23 rd Street and extending west from a public alley right-of-way that extends north-to-south in Block 121 of Bryan Original Townsite between West 23 rd and West 24 th Streets.			
SUMMARY STATEMENT: This 1,000 square foot undeveloped alley right-of way portion is located in Block 121 of the Bryan Original Townsite between West 23 rd and West 24 th Streets, and Bryan and Parker Avenues. The applicant, Mr. John Patterson, owns land adjoining both sides of the subject right-of-way. The right-of way has never been improved with a driving surface or public infrastructure and has been functionally integrated with the adjoining parcels for many years.			
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: Staff recommends approving the request to abandon this alley right-of-way portion. Approving the requested abandonment would relieve the City of continued maintenance and liability concerns, and would improve an inefficient use of urban land. The right-of-way requested to be abandoned will be formally integrated with adjacent land through a replat that has already been approved by the Planning and Zoning Commission, subject to the City Council's approval of this request. The proposed rearrangement of land is believed to have the most long-range public benefit.			
During its meeting on May 2, 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;			
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: Joey Dunn, 5-14-13; Hugh R. Walker, 05/15/2013
APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 05-17-2013
APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 05-20-2013

Revised 04/2013

LOCATION MAP:



ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF THE FOLLOWING PUBLIC RIGHT-OF-WAY, TO WIT: A 20-FOOT WIDE AND 50-FOOT LONG PORTION OF PUBLIC ALLEY RIGHT-OF-WAY BEING 0.023 ACRES IN SIZE AND LOCATED SOUTH OF PROPERTY AT 210 WEST 23RD STREET AND EXTENDING WEST FROM A PUBLIC ALLEY RIGHT-OF-WAY THAT EXTENDS NORTH-TO-SOUTH BETWEEN WEST 23RD AND WEST 24TH STREETS IN BLOCK 121 OF BRYAN ORIGINAL TOWNSITE 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 121 in the Bryan Original Townsite have requested the abandonment of 0.023 acre section of public alley right-of-way located adjacent to Lots 6 and 9 in Block 121 of the Bryan Original Townsite; and

WHEREAS, during its regular meeting on May 2, 2013, the Bryan Planning and Zoning Commission recommended approving the request to abandon and close said portion of public alley 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 20-foot wide and 50-foot long portion of public alley right-of-way being 0.023 acres in size and located south of property at 210 West 23rd Street (Lot 6, Block 121, Bryan

Original Townsite) and extending west from a public alley right-of-way that extends north-to-south between West 23rd and West 24th Streets in Block 121 of Bryan Original Townsite in Bryan, Brazos County, Texas, said tract being described and depicted more particularly described on attached Exhibits "A" and "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 a formal replat encompassing all property which the applicants owns and/or will own after abandonment of this 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 28th day of May, 2013 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 11th day of June, 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 "A":

**METES AND BOUNDS DESCRIPTION
OF A 0.023 ACRE TRACT
BRYAN ORIGINAL TOWNSITE
BRYAN, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN BRYAN, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF A 20' ALLEY ADJOINING LOTS 6 AND 9, BLOCK 121, BRYAN ORIGINAL TOWNSITE ACCORDING TO THE PLAT RECORDED IN VOLUME 'H', PAGE 721 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS.

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

COMMENCING at an 'X' found in concrete on the north line of W. 24th Street (80' R.O.W.) marking the southeast corner of said Lot 9;

THENCE N 04° 46' 21" E along the common line of said Lot 9 and said 20' alley for a distance of 115.00 feet (plat call and measured distance) to a point marking the northeast corner of said Lot 9 and the POINT OF BEGINNING of this herein described tract;

THENCE N 85° 13' 39" W continuing along said common line for a distance of 50.00 feet to a point marking the southwest corner of this herein described tract. For reference, an 'X' found in concrete on the north line of W. 24th Street bears: S 04° 46' 21" W for a distance of 115.00 feet;

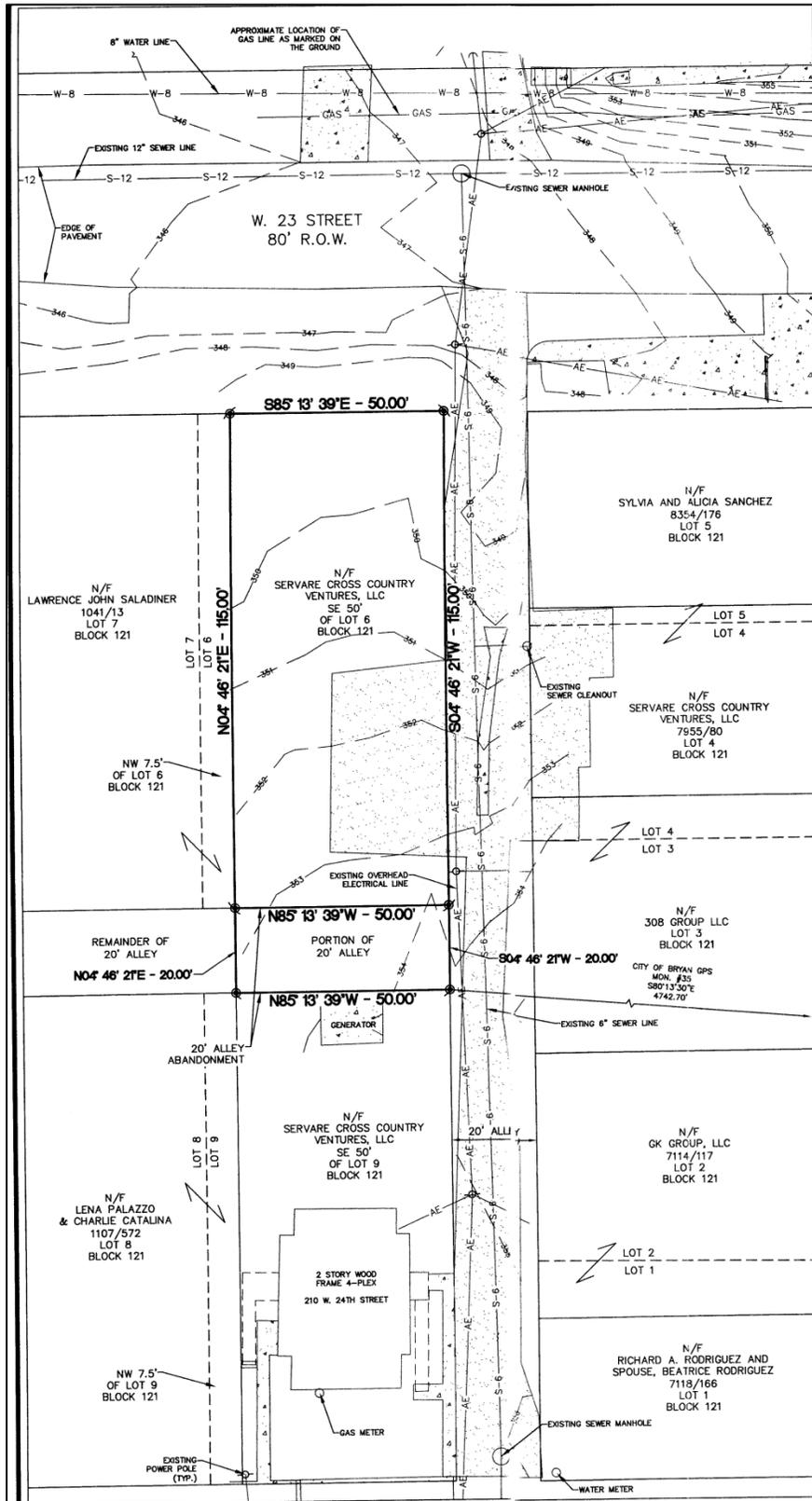
THENCE N 04° 46' 21" E through said 20' alley for a distance of 20.00 feet (plat call and measured distance) to a point on the south line of said Lot 6 marking the northwest corner of this herein described tract. For reference, a ½ inch iron rod found on the south line of W. 23rd Street and the north line of said lot 6 bears: N 04° 46' 21" E for a distance of 115.00 feet;

THENCE N 85° 13' 39" E along the common line of said lot said and said 20' alley for a distance of 50.00 feet to a point marking the southeast corner of said Lot 6. For reference, a ½ inch iron rod found on the south line of W. 23rd Street marking the northeast corner of said lot 6 bears: N 04° 46' 21" E for a distance of 115.00 feet;

THENCE S 04° 46' 21" W through said 20' alley for a distance of 20.00 feet (plat call and measured distance) to the POINT OF BEGINNING containing 0.023 of an acre of land (1000 sq. ft.), more or less, as surveyed on the ground August, 2012. See plat prepared February, 2013 for more descriptive information. Bearing system shown herein is based on grid north as established by GPS observation

Brad Kerr
Registered Professional
Land Surveyor No. 4502

Exhibit "B":



**EXCERPT FROM PLANNING AND ZONING COMMISSION MEETING MINUTE RECORD
OF MAY 2, 2013:**

4. CONSENT AGENDA.

A. Approval of minutes from the workshop and regular meetings on April 18, 2013.

B. Right of Way Abandonment RA13-03: Block 121 of Bryan Original Townsite M. Dalton
A request to abandon a 20-foot wide and 50-foot long portion of public alley right-of-way located south of property at 210 West 23rd Street and extending west from a public alley right-of-way that extends north-to-south in Block 121 of Bryan Original Townsite between West 23rd and West 24th Streets in Bryan, Brazos County, Texas.

Commissioner Jones moved to approve the Consent Agenda. Commissioner Gonzales seconded the motion. The motion passed 6-0.

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

May 2, 2013



Right-of-way Abandonment case no. RA13-03: Block 121 of Bryan Original Townsite

LOCATION: a request to abandon a 20-foot wide and 50-foot long portion of public alley right-of-way located south of property at 210 West 23rd Street and extending west from a public alley right-of-way that extends north-to-south in Block 121 of Bryan Original Townsite between West 23rd and West 24th Streets

APPLICANT(S): John Patterson

STAFF CONTACT: Maggie Dalton, Staff Planner



BACKGROUND AND ANALYSIS:

This 20-foot wide and 50-foot long portion of public alley right-of-way in Block 121 of the Bryan Original Townsite was originally platted in 1898 and has never been improved. Mr. John Patterson own land adjoining both sides of the subject right-of-way. The right-of way has never been improved with a driving surface and has been functionally integrated with the adjoining parcels.

Mr. Patterson is requesting that the City officially abandons this right-of-way portion to integrate this land with his ownership of adjoining land. There are currently no public or private utility services located within this alley segment. Mr. Patterson has submitted a replat showing these 1000 square feet to be combined with 50 feet of Lot 6 that he owns and that adjoin the alley to the north. That replat request is also scheduled for consideration by the Planning and Zoning Commission during its meeting on May 2, 2013 (case no. RP13-08).

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.

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