

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: August 25, 2015		DATE SUBMITTED: July 17, 2015	
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 checked="" 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: A request to abandon approximately 0.095 acres of public street rights-of-way for West 31 st Street and South Parker Avenue, adjoining the south and west sides of Block 114 of the Bryan Original Townsite at the northeast corner of South Parker Avenue and West 31 st Street in Bryan, Brazos County, Texas (RA15-02).			
SUMMARY STATEMENT: The applicants, NN Out Properties, Ltd., are requesting the official abandonment of portions of public street rights-of-way for West 31 st Street and South Parker Avenue, adjoining the south and west sides of Block 114 of the Bryan Original Townsite at the northeast corner of South Parker Avenue and West 31 st Street to formally integrate this tract with their ownership of the adjoining land. The rights-of-way requested to be abandoned are 0.095 acres in area and have never been improved as part of the adjoining roadways since originally being laid out as part of the town of Bryan in 1860.			
<p>On June 4, 2015, the Planning and Zoning Commission recommended approval of a change from Residential District – 5000 (RD-5) to Planned Development – Housing (PD-H) zoning for the adjacent property to be developed as townhomes. In order to redevelop the subject property in the manner outlined in the applicants’ plan, a chain of events must take place. The proposed development plan is a prerequisite for a replat of this property (as requested with case no. RP15-11) into 7 individual townhome lots. On July 16, 2015, the Planning and Zoning Commission unanimously approved said replat, subject to the City Council’s prior approval of the related zone change request and this request to abandon portions of public street rights-of-way.</p>			
<p>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. It should be noted that abandoning these portions of public rights-of-way will eliminate exclusive public control of this land.</p>			
STAFF ANALYSIS AND RECOMMENDATION: During its regular meeting on July 16, 2015, the Planning and Zoning Commission concurred with staff and unanimously recommended approving the requested right-of-way abandonments, subject to the condition that a formal replat encompassing all property which the applicants own or will own after abandonment of these rights-of-way is filed with the City for recording. It should be noted that abandoning these portions of public rights-of-way will eliminate exclusive public control of this land.			
OPTIONS (In Suggested Order of Staff Preference):			
<ol style="list-style-type: none"> 1. approve the proposed ordinance abandoning the rights-of-way requested; 2. approve the proposed ordinance abandoning the rights-of-way with amendments, which may require consideration at a future City Council meeting; or 			

3. do not approve the ordinance and deny the requested right-of-way abandonments.

ATTACHMENTS:

1. location map;
2. draft ordinance and exhibits;
3. excerpt from Planning and Zoning Commission meeting minutes of July 16, 2015; and
4. staff report to the Planning and Zoning Commission.

FUNDING SOURCE: N/A

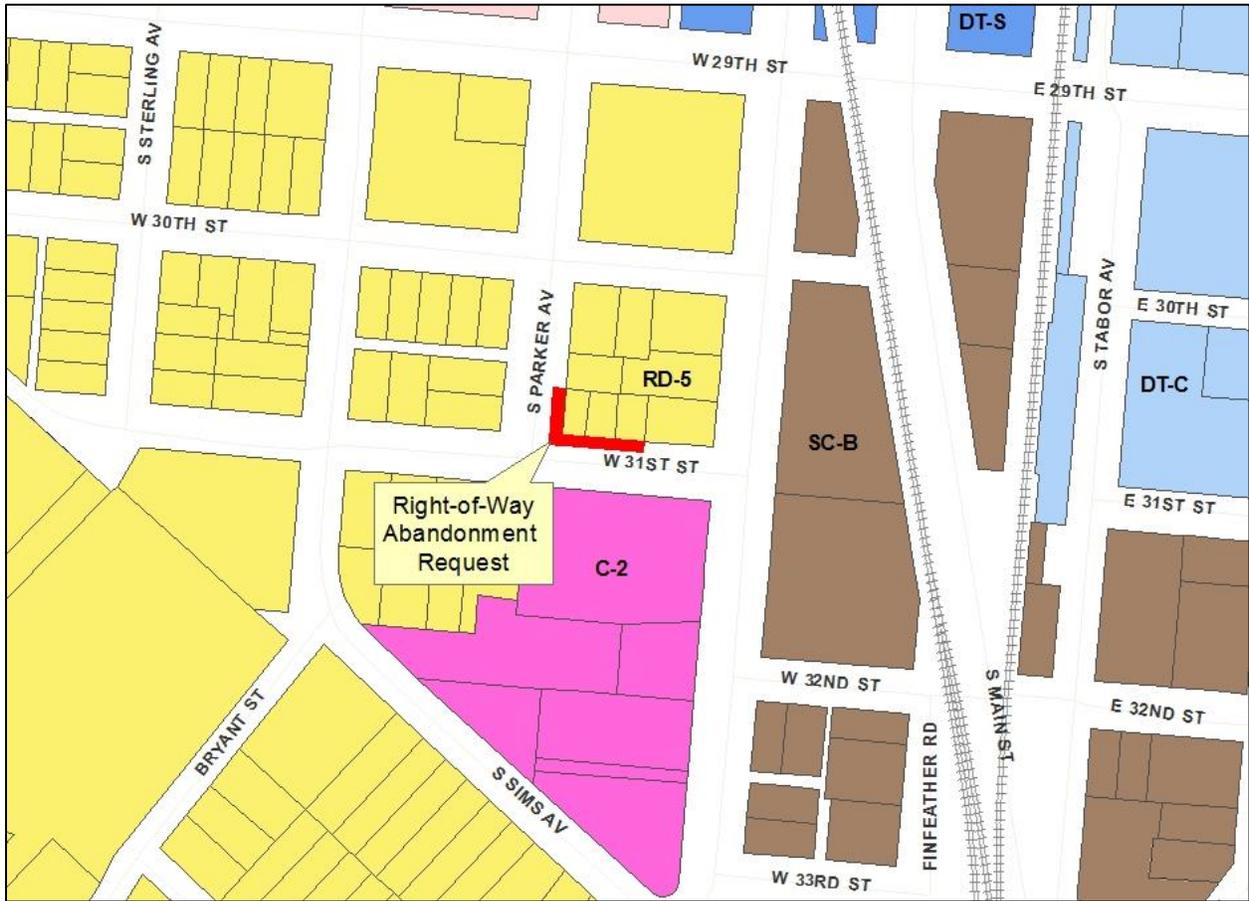
APPROVALS: Kevin Russell, 7-17-15; Joey Dunn, 7-20-15; Hugh R. Walker, 07/22/2015

APPROVED FOR SUBMITTAL: CITY MANAGER

APPROVED FOR SUBMITTAL: CITY ATTORNEY

Revised 05/2013

LOCATION MAP:



ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF THE FOLLOWING PUBLIC RIGHT-OF-WAY, TO WIT: APPROXIMATELY 0.095 ACRES OF PUBLIC STREET RIGHTS-OF-WAY FOR WEST 31ST STREET AND SOUTH PARKER AVENUE, ADJOINING THE SOUTH AND WEST SIDES OF BLOCK 114 OF THE BRYAN ORIGINAL TOWNSITE AT THE NORTHEAST CORNER OF SOUTH PARKER AVENUE AND WEST 31ST STREET IN BRYAN, BRAZOS COUNTY, TEXAS; 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 owners of the south portions of Lots 1 through 3 in Block 114 of the Bryan Original Townsite have requested the abandonment of approximately 0.095 acres of public rights-of-way located adjacent to said lots; and

WHEREAS, during its regular meeting on July 16, 2015, the Bryan Planning and Zoning Commission recommended approving the request to abandon and close said portions of public rights-of-way, subject to the condition that a formal replat encompassing all property which the applicants own or will own after abandonment of these rights-of-way is filed with the City for recording; 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 portions; and

WHEREAS, said above recited considerations are of at least equal value to the appraised market value of these right-of-way portions; 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:

approximately 0.095 acres of public street rights-of-way for West 31st Street and South Parker Avenue, adjoining the south and west sides of Block 114 of the Bryan Original

Townsite at the northeast corner of South Parker Avenue and West 31st Street in Bryan, Brazos County, Texas Brazos County, Texas, said tracts 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 applicants own and/or will own after abandonment of these public rights-of-way.

6.

That this ordinance shall take effect immediately upon its second and final reading and passage.

PRESENTED AND GIVEN first reading the 4th day of August, 2015 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 25th day of August, 2015 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
0.095 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 S. PARKER AVENUE AND W. 31ST STREET ADJOINING A PORTION OF LOTS 1, 2, AND 3, BLOCK 114, BRYAN ORIGINAL TOWNSITE ACCORDING TO THE PLAT RECORDED IN VOLUME 'H', PAGE 721 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS. SAID PORTION OF LOTS 1, 2, AND 3 BEING THE SAME ACRE TRACT OF LAND AS DESCRIBED AS TRACTS ONE, TWO, AND THREE BY A DEED TO NN OUT PROPERTIES, LTD. RECORDED IN VOLUME 12571, PAGE 90 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

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

BEGINNING AT A POINT ON THE NORTH LINE OF W. 31ST STREET (80' R.O.W.) AND THE EAST LINE OF S. PARKER AVENUE (100' R.O.W.) MARKING THE SOUTHWEST CORNER OF SAID LOT 1;

THENCE: S 85° 03' 41" E ALONG THE NORTH LINE W. 31ST STREET FOR A DISTANCE OF 135.62 FEET TO A 3/4 INCH IRON ROD FOUND MARKING THE SOUTHWEST CORNER OF A CALLED 0.198 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO ANGELICA MARIA PEREZ RECORDED IN VOLUME 7560, PAGE 141 AND 145 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. FOR REFERENCE, THE CITY OF BRYAN GPS MONUMENT NO. 35 BEARS: N 70° 35' 26" E FOR A DISTANCE OF 5156.58 FEET AND A 1 INCH SQUARE IRON ROD FOUND MARKING THE NORTHWEST CORNER OF SAID 0.198 ACRE TRACT BEARS: N 04° 25' 57" E FOR A DISTANCE OF 74.70 FEET;

THENCE: THROUGH W. 31ST STREET FOR THE FOLLOWING CALLS:

S 04° 25' 57" W FOR A DISTANCE OF 16.69 FEET TO A POINT;

N 85° 13' 31" W FOR A DISTANCE OF 121.28 FEET TO A POINT;

N 85° 26' 31" W FOR A DISTANCE OF 34.33 FEET TO A POINT IN THE INTERSECTION OF W. 31ST STREET AND S. PARKER AVENUE;

THENCE: THROUGH S. PARKER AVENUE FOR THE FOLLOWING CALLS:

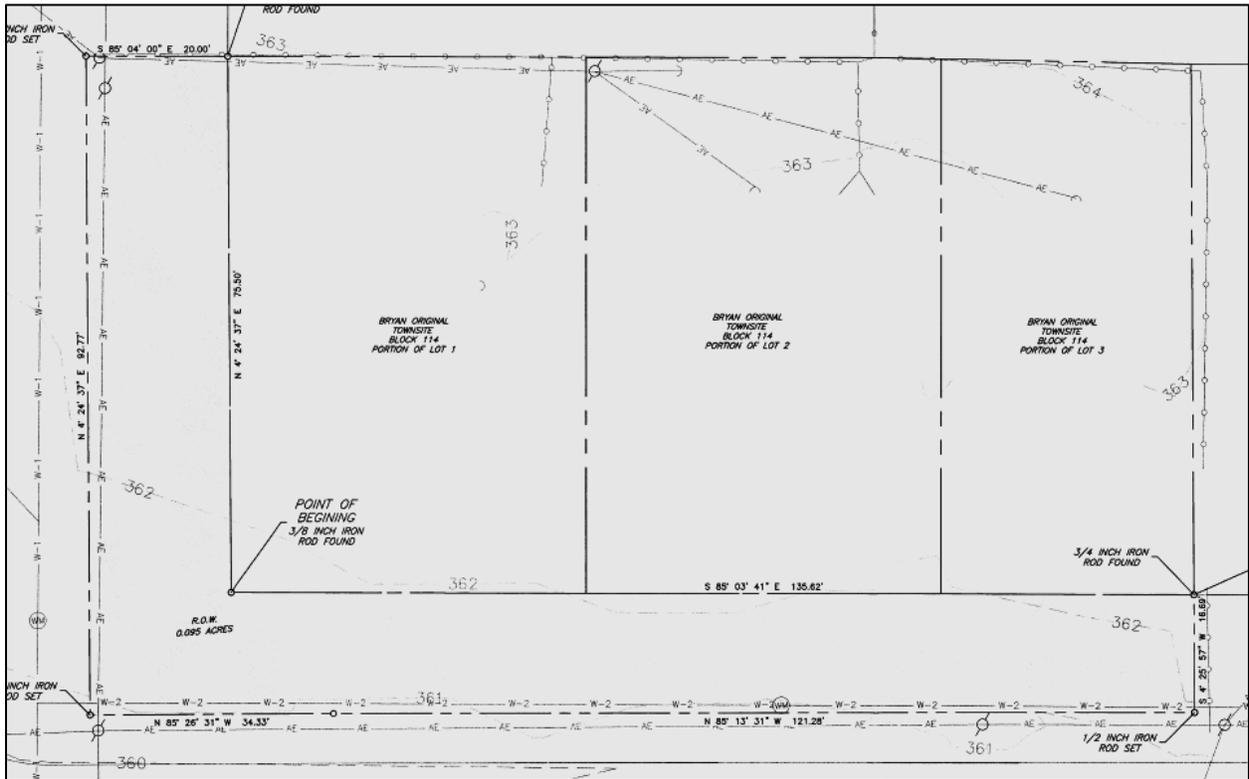
N 04° 24' 37" E FOR A DISTANCE OF 92.77 FEET TO A POINT;

S 85° 04' 00" E FOR A DISTANCE OF 20.00 FEET TO A 3/4 INCH IRON ROD FOUND MARKING THE SOUTHWEST CORNER OF A CALLED 60' x 91' TRACT OF LAND AS DESCRIBED AS A PORTION OF SAID LOTS 1 AND 2 AND THE ADJOINING 20' ALLEY BY A DEED TO JOE GALINDO AND ROSE GALINDO RECORDED IN VOLUME 10212,

PAGE 19 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. FOR REFERENCE, A 3/4 INCH IRON ROD FOUND MARKING THE NORTHWEST CORNER OF SAID GALINDO TRACT BEARS: N 04° 49' 58" W FOR A DISTANCE OF 59.97 FEET AND A 3/4 INCH IRON ROD FOUND MARKING THE SOUTHEAST CORNER OF SAID GALINDO TRACT BEARS: S 85° 04' 00" E FOR A DISTANCE OF 91.05 FEET;

THENCE: S 04° 24' 37" W ALONG THE EAST LINE OF S. PARKER AVENUE AND THE WEST LINE OF SAID LOT 1, FOR A DISTANCE OF 75.50 FEET TO THE **POINT OF BEGINNING** CONTAINING 0.095 OF AN ACRE OF LAND (4,144 SQ. FT.), MORE OR LESS, AS SURVEYED ON THE GROUND MAY, 2015. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED BY GPS OBSERVATION.

EXHIBIT "B":



**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF JULY 16, 2015:**

5. CONSENT AGENDA.

b. Right-of-way Abandonment RA15-02: S. Parker Avenue and W. 31st Street

A request to abandon approximately 0.095 acres of public street rights-of-way for West 31st Street and South Parker Avenue, adjoining the south and west sides of Block 114 of the Bryan Original Townsite at the northeast corner of South Parker Avenue and West 31st Street in Bryan, Brazos County, Texas Brazos County, Texas. (R. Haynes)

Commissioner Gutierrez moved to approve the Consent Agenda. Commissioner Madison seconded the motion and the motion passed unanimously.

July 16, 2015

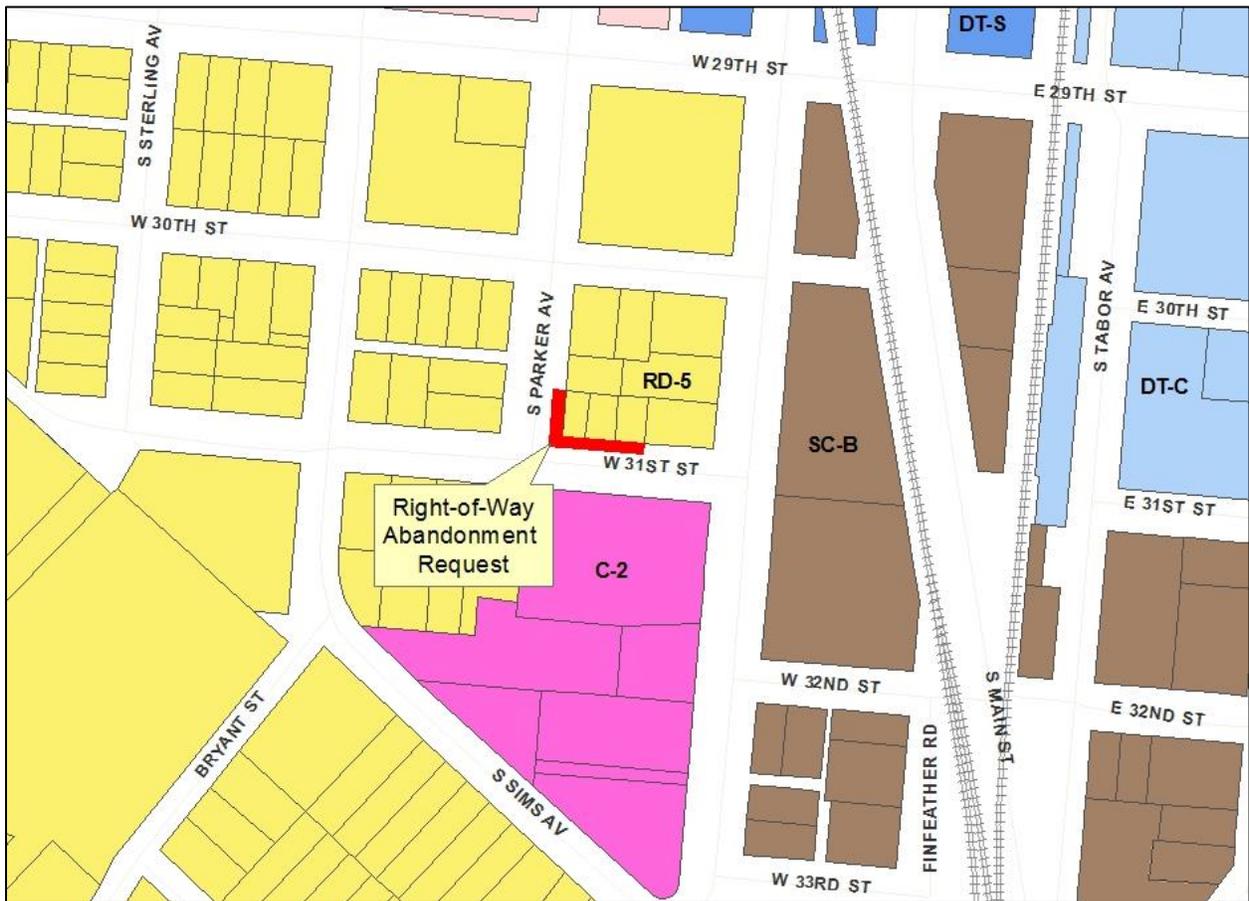
**Right-of-way Abandonment case no. RA15-02:
Portions of West 31st Street and South Parker Avenue**

SIZE AND LOCATION: approximately 0.095 acres of public street rights-of-way for West 31st Street and South Parker Avenue, adjoining the south and west sides of Block 114 of the Bryan Original Townsite at the northeast corner of South Parker Avenue and West 31st Street

APPLICANT(S): NN Out Properties, Ltd

STAFF CONTACT: Randy Haynes, Senior Planner

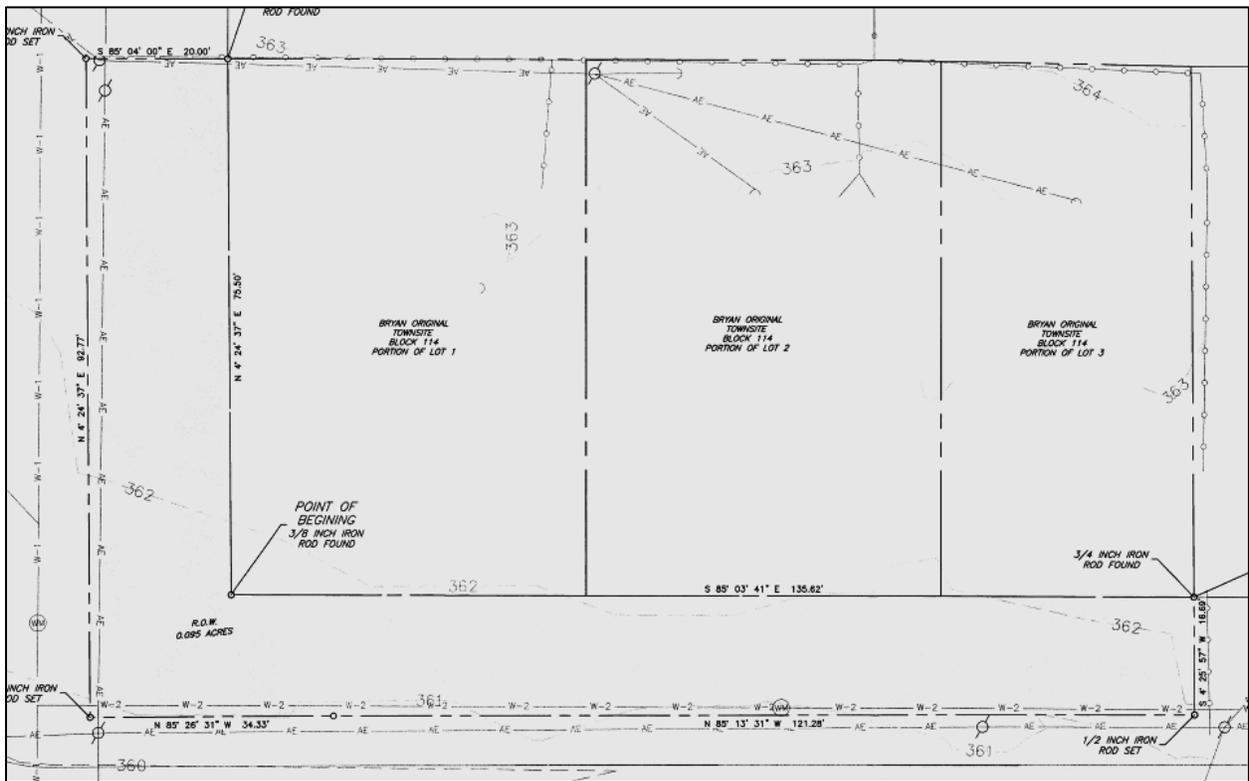
SUMMARY RECOMMENDATION: Staff recommends **approving** the requested right-of-way abandonment.



AERIAL, 2013:



DETAIL OF DRAWING SHOWING THE AREA OF RIGHT-OF-WAY REQUESTED TO BE ABANDONED:



RIGHT-OF-WAY REQUESTED TO BE ABANDONED:

The applicant, NN Out Properties, Ltd, is requesting the official abandonment of portions of public street rights-of-way for West 31st Street and South Parker Avenue, adjoining the south and west sides of Block 114 of the Bryan Original Townsite at the northeast corner of South Parker Avenue and West 31st Street; to formally integrate this tract with their ownership of the adjoining land. The rights-of-way requested to be abandoned are 0.095 acres in area and have never been improved as part of the adjoining roadways since originally being laid out as part of the town of Bryan in 1860.

On June 4th, 2015, the Planning and Zoning Commission recommended approval of a change from Residential District – 5000 (RD-5) to Planned Development – Housing (PD-H) zoning for the adjacent property. In order to redevelop the subject property in the manner outlined in the applicant’s plan, a chain of events must take place. The proposed development plan is a prerequisite for a replat of this property (RP15-11) into the 7 individual townhome lots. That replat request, scheduled for consideration on the July 16th P&Z regular meeting agenda, is contingent upon prior approval by the City Council of this right-of-way abandonment request along both West 31st Street and Parker Avenue.

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 AND RECOMMENDATION:

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 will be functionally integrated with adjacent land and made available for development. Abandoning the subject rights-of-way, 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 these portions of public street right-of-way, **subject to the condition that a formal replat encompassing all property which the applicant owns or will own after abandonment of these rights-of-way is filed with the City for recording.** Abandoning the subject rights-of-way, as recommended, will allow this land to be integrated with adjacent land and, therefore allow efficient and orderly urban development. Staff contends that the recommended rearrangement of land will have the most likely long-range public benefit.